Mayor

Joe Coviello

Council Members

District 1: John Gunter

District 2: John M. Carioscia Sr.

<u>District 3</u>: Marilyn Stout <u>District 4</u>: Jennifer I. Nelson <u>District 5</u>: Dave Stokes <u>District 6</u>: Richard Williams <u>District 7</u>: Jessica Cosden



1015 Cultural Park Blvd. Cape Coral, FL City Manager
John Szerlag
City Attorney
Dolores Menendez
City Auditor
Andrea R. Butola
Interim City Clerk
Kimberly Bruns

AGENDA FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

May 6, 2019 4:30 PM Council Chambers

PLEDGE OF CIVILITY

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

1. MEETING CALLED TO ORDER

- A. MAYOR COVIELLO
- 2. INVOCATION/MOMENT OF SILENCE
 - A. COUNCILMEMBER CARIOSCIA
- 3. PLEDGE OF ALLEGIANCE
 - A. KAYLIE BERGE OASIS ELEMENTARY SCHOOL
- 4. ROLL CALL
 - A. MAYOR COVIELLO, COUNCIL MEMBERS CARIOSCIA, COSDEN, GUNTER, NELSON, STOKES, STOUT, WILLIAMS
- 5. CHANGES TO AGENDA/ADOPTION OF AGENDA
- 6. RECOGNITIONS/ACHIEVEMENTS
 - A. FDEP Environmental Stewardship Award Presented to Brooke Bascomb by Jon Iglehart, FDEP South District Director
 - B. Fleet Department Recognition Ranked No. 15 by the 100 Best Fleets in North America program - Presented by City Manager Szerlag
 - C. Donation presentation in the amount of \$8,200 from Cape Coral Community Foundation to the City of Cape Coral for the purchase

of Bike Racks in the South Cape. Resolution 92-19 A Resolution to accept a donation from the Cape Coral Community Foundation for the purpose of purchasing Bicycle Racks to be placed in the newly renovated Downtown Cape Coral area; Department: Public Works; Donation Value: \$8,200

7. APPROVAL OF MINUTES

A. Regular Meeting - April 15, 2019

8. BUSINESS

A. PUBLIC COMMENT - CONSENT AGENDA

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

B. CONSENT AGENDA

- (1) Resolution 67-19 Approve the Purchase of a 2019 F550 Crane Truck to Alan Jay Fleet Sales by piggybacking Sourcewell, formerly NJPA (National Joint Powers Alliance), cooperative Contract No.120716-NAF at a delivered price of \$132,474; Authorize the use of Unassigned Water & Sewer Reserves; And Authorize the City Manager or designee to execute the contract, renewals, purchase orders, and corresponding documents; Department: Public Works; Estimated Dollar Value: \$132,474; (Unassigned Water & Sewer Reserves)
- (2) Resolution 68-19 Award ITB-PW19-27/AP Coronado Parkway Resurfacing FY2019 to Pavement Maintenance, LLC., for the asphalt resurfacing of Coronado Parkway, as the lowest responsive, responsible bidder, in the amount of \$490,000 with a 10% City Controlled contingency of \$49,000 for a total of \$539,000 and authorize the City Manager or Designee to execute the agreement, renewals, amendments and Purchase Orders; Department: Public Works; Dollar Value: \$539,000; (General Fund \$530,695 / Water & Sewer \$8,305).
- (3) Resolution 70-19 Award ITB-PW19-39/MM Purchase of sod to GCE Services Inc. and H.P. Sod Inc., for the purchase of sod to restore job sites to their original condition, as the lowest responsive responsible bidder, at the square foot prices indicated in the bid, for each respective areas, for an estimated annual amount of \$250,000 not to exceed budgetary limits and authorize the City Manager to execute the contract and renewals; Approximate usage by Departments: Stormwater \$125,000, General Fund (Parks and Rec) \$75,000, UCD \$37,500, and Sidewalk Grants \$12,500.
- (4) Resolution 84-19 Approval of Contract for Purchase of Lots 7 through 9, Block 2161, Unit 32, Cape Coral Subdivision, 902 Kismet Parkway East, Cape Coral, for a future drinking water

- well site, for the purchase price of \$22,500 plus closing costs not to exceed \$1,800; Department: Financial Services / Real Estate Division; Dollar Value: \$24,300; (Water/Sewer Fund) Note: Trade offer rejected by Seller.
- (5) Resolution 85-19 Rejection of Contract for Purchase of Lots 3 and 4, Block 2161, Unit 32, Cape Coral Subdivision, 822 Kismet Parkway East, Cape Coral, for a future drinking water well site as the location does not meet Florida Department of Environmental Protection set back distance requirements for drinking water supply wells serving public water systems; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)
- (6) Resolution 86-19 Acceptance of Drainage Easement in a portion of 1526 Chiquita Boulevard South (Strap #21-44-23-C3-04819.A010), to provide access to and maintenance of City drainage facilities at this location, as conditioned in site plan review SP18-0002 – 7-Eleven Project at Trafalgar Parkway & Chiquita Boulevard South; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)
- (7) Approve Settlement Agreement and General Release in the matter of City of Cape Coral v. ElectriCom, LLC and L & S Cable, LLC, Case No. 2018-CA-2066, and authorize the Mayor to execute the Settlement Agreement and General Release.

C. CITIZENS INPUT TIME

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

D. PERSONNEL ACTIONS

(1) Resolution 83-19 Requesting approval to add one regular fulltime Permitting Customer Service Supervisor position in the Department of Community Development. Department: Human Resources; Remainder of FY2019 Dollar Value: \$38,221; (Building Fund/Special Revenue Fund)

E. PETITIONS TO COUNCIL

(1) NONE

F. APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

- (1) Select City Recommendation for FLC Board of Directors Nominee
- (2) Appoint Youth Council Members- Eight Vacancies (7 Junior and 1 Senior) Councilmember Williams

9. ORDINANCES/RESOLUTIONS

- A. Public Hearings
 - (1) Resolution 75-19 (VP 19-0001*) Public Hearing *Quasi-Judicial, All Persons Testifying Must Be Sworn In WHAT THE RESOLUTION ACCOMPLISHES: A resolution providing for the vacation of plat for an alley and the underlying public utility and drainage easements located between Lots 5-24 and Lots 25-44, Block 4383, Cape Coral Unit 63; providing for the vacation of plat for the platted public utility and drainage easements along the east property line of Lots 5-24 and the west property line of lots 25-44, Block 4383, Cape Coral Unit 63; property is located northwest of the intersection of Veterans Memorial Parkway and Skyline Boulevard. (Applicant: Acorn Skyline, LLC) Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions contained in VP HEX Recommendation Order 4-2019. City Management Recommendation: City Management recommends approval of all vacations requested by the applicant with conditions.
 - (2) Ordinance 18-19 Second and Final Public Hearing WHAT THE ORDINANCE ACCOMPLISHES: An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.1, Establishment of Zoning Districts, and Section 2.7, District Regulations, to establish the Seven Islands (MX7) zoning district. (Applicant: City of Cape Coral) Planning & Zoning Commission Recommendation: At their April 3, 2019 Regular meeting, the Planning & Zoning Commission voted unanimously to recommend approval of Ordinance 18-19. City Management Recommendation: City Management recommends adoption.
 - (3) Ordinance 19-19 (ZA 19-0001*) Second and Final Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property located in Unit 76, Cape Coral Subdivision, as more particularly described herein, from Single-Family Residential (R-1A), Single-Family Residential (R-1B), and Residential Development (RD) to Seven Islands (MX7) zone; property is located at 106 Old Burnt Store Road, 606 Old Burnt Store Road, and 4100 Tropicana Parkway West. (50.72 acres) (Applicant: City of Cape Coral) Hearing Examiner Recommendation: The Hearing Examiner

recommends approval of the application for rezoning. City Management Recommendation: City Management recommends adoption.

B. Introductions

(1) Resolution 80-19 (VP 19-0004*) Set Public Hearing Date for May 13, 2019

*Quasi-Judicial, All Persons Testifying Must be Sworn In WHAT THE RESOLUTION ACCOMPLISHES:
A resolution providing for the vacation of plat for a portion of Lafayette Canal and Malibu Basin rights-of-way and the underlying public utility and drainage easements located adjacent to Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision; providing for the vacation of plat for public utility and drainage easements associated with Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision; property is located at 5362 Malibu Court. (Applicant: Michael and Carolyn Mitch) Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions as set forth in Recommendation 5-2019.

City Management Recommendation: City Management recommends approval subject to the conditions that appear in Resolution 80-19.

- (2) Ordinance 6-19 Set Public Hearing Date for June 3, 2019
 WHAT THE ORDINANCE ACCOMPLISHES:
 The ordinance amends Chapter 2, Administration, of the Code of Ordinances to establish Article VIII entitled "General Union Health Benefits Trust", and provides for the creation of a Health Benefits Trust and the appointment of a Health Benefits board.
 (Applicant: Brought forward by City Management.)
- (3) Ordinance 8-19 Set Public Hearing Date for June 3, 2019
 WHAT THE ORDINANCE ACCOMPLISHES:
 The ordinance amends the City of Cape Coral Code of
 Ordinances, Chapter 2, Administration, Article IV, Travel
 Expenses and Auto Allowances, to update provisions for
 reimbursement for travel when on City business, to provide for
 establishing a travel policy as an administrative regulation rather
 than by resolution, and repealing resolution 22-05 which set
 forth the travel policy previously. (Applicant: Brought forward
 by City Management)
- (4) Ordinance 22-19 Set First Public Hearing Date for May 13, 2019

WHAT THE ORDINANCE ACCOMPLISHES: An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .15, South Cape Downtown District (SC), by eliminating the South Cape Redevelopment Incentive Program (SCRIP), amending the maximum floor area ratio, maximum residential density, and maximum building height in the South Cape Downtown District, establishing regulations to allow certain architectural elements in City easements and rights-of-way in the South Cape Downtown District, and establishing regulations to allow outdoor dining on public rights-of-way and City-owned parking lots in the South Cape Downtown District.

NOTE: Ordinance 22-19 is a City-initiated change to Section 2.7.15, Land Use and Development Regulations (South Cape Downtown Zoning District). The changes will increase the maximum density to 75 units per acre, increase the maximum Floor Area Ratio to 4.0, and increase the maximum height to 160'. This will allow more design flexibility in downtown Cape Coral to encourage economic development. With these changes the South Cape Redevelopment Incentive Program (SCRIP) regulations are no longer needed. This change also permits architectural improvements such as colonnades and balconies to project into public easements and rights-of-way. Regulations for outdoor dining are also included. (Applicant: Brought forward by City Management.)

P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 22-19. City Management Recommendation: City Management recommends approval.

(5) Ordinance 23-19 Set Public Hearing Date for Transmittal for May 13, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending Policy 1.15 of the Future Land Use Element.

NOTE: Ordinance 23-19 changes Policy 1.15 of the Future Land Use (Comprehensive Plan) by removing affordable housing density doubling language and reducing Commercial Activity Center residential densities from 25 to 16 units/acre per direction received in the February Council public hearings. In addition, Downtown Mixed residential densities are proposed to be increased from 75 to 125 units/acre per City Manager direction (Applicant: Brought forward by City Management.)

P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 23-19.

City Management Recommendation: City Management recommends approval.

(6) Ordinance 24-19 Set Public Hearing Date for June 3, 2019 WHAT THE ORDINANCE ACCOMPLISHES: An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .13, Corridor District (CORR), to remove the maximum building height regulations of 45 feet for non-residential buildings in the Corridor District. Building heights will be regulated by floor area ration rather than a fixed height. This change will also greater flexibility in project design and architectural features for non-residential projects, particularly for hotel development. (Applicant: Brought forward by City Management.) P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 24-19.

City Management Recommendation: City Management recommends approval.

10. UNFINISHED BUSINESS

- A. Water Quality Update
- B. Follow Up Items for Council
- C. Dixie Roadhouse Extended Hours Proposal Brought forward by Mayor Coviello (Continued from the April 15, 2019 Regular Meeting) Resolution 91-19 A Resolution lifting the suspension of the Colosseum LLC d/b/a Dixie Roadhouse Extended Hours Permit subject to the conditions specified herein; Department: Police
- D. Discussion of Traffic Safety Features at the Oasis School Complex
 Brought forward by Mayor Coviello Continued from 4/15/2019
- E. Establish Budget and Funding Source for Upcoming China Trip -Brought forward by Mayor Coviello; Resolution 96-19 A Resolution approving the funding for a Business Trade and Cultural Trip to Sister City Baise, China

11. NEW BUSINESS

- A. Resolution 93-19 A Resolution of the City of Cape Coral approving the terms of the Rotary Club - School Bus Stop Bench Pilot Program; Department: Public Works
- 12. REPORTS OF THE MAYOR AND COUNCIL MEMBERS
- 13. REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

14. TIME AND PLACE OF FUTURE MEETINGS

A. A Regular Meeting of the Cape Coral City Council is Scheduled for Monday, May 13, 2019 at 4:30 p.m. in Council Chambers

15. MOTION TO ADJOURN

GENERAL RULES AND PROCEDURES REGARDING THE CAPE CORAL CITY COUNCIL AGENDA

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

Persons wishing to address Council under Citizens Input or the Consent Agenda may do so during the designated times at each meeting. No prior scheduling is necessary. All speakers <u>must</u> have their presentations approved by the City Clerk's office no later than 3:00 PM the day of the meeting.

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

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

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

*PUBLIC HEARINGS DEPARTMENT OF COMMUNITY DEVELOPMENT CASES

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

- 1. The applicant, as well as witnesses offering testimony or presenting evidence, will be required to swear or affirm that the testimony they provide is the truth.
- The order of presentation will begin with the City staff report, the
 presentation by the applicant and/or the applicant's
 representative; witnesses called by the applicant, and then
 members of the public.

- 3. Members of the City Council may question any witness on relevant issues, by the applicant and/or the applicant's representative, City staff, or by any member of the public.
- 4. The Mayor may impose reasonable limitations on the offer of testimony or evidence and refuse to hear testimony or evidence that is not relevant to the issue being heard. The Mayor may also impose reasonable limitations on the number of witnesses heard when such witnesses become repetitive or are introducing duplicate testimony or evidence. The Mayor may also call witnesses and introduce evidence on behalf of the City Council if it is felt that such witnesses and/or evidence are necessary for a thorough consideration of the subject.
- 5. After the introduction of all-relevant testimony and evidence, the applicant shall have the opportunity to present a closing statement.
- 6. If a person decides to appeal any decision made by the City Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Item Number: 6.A.

Meeting 5/6/2019

Date:

Item RECOGNITIONS/ACHIEVEMENTS

Type:





TITLE:

FDEP Environmental Stewardship Award - Presented to Brooke Bascomb by Jon Iglehart, FDEP South District Director

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The Florida Department of Environmental Protection would like to present Ms. Brooke Bascomb with the Department's Environmental Stewardship Achievement Award for her work in cleaning up a canal in Cape Coral. Just to clarify, this is not a scholarship. Rather, this is a program that recognizes those who are working alongside DEP to "Protect Florida Together" by safeguarding the state's natural resources and enhance its ecosystems.

Jon Iglehart, FDEP South District Director will be presenting the award.

Brooke Bascomb, age 12, is the recipient of the award.

LEGAL REVIEW	!:		
EXHIBITS:			
PREPARED BY:			
	Council		Council

PT

SOURCE OF ADDITIONAL INFORMATION:

Item 6.B. Number:

Meeting 5/6/2019

Date:

Item **RECOGNITIONS/ACHIEVEMENTS**

Type:



AGENDA



TITLE:

Fleet Department Recognition - Ranked No. 15 by the 100 Best Fleets in North America program - Presented by City Manager Szerlag

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division-Department-

SOURCE OF ADDITIONAL INFORMATION:

Item Number: 6.C.

Meeting 5/6/2019

Date:

Item RECOGNITIONS/ACHIEVEMENTS

Type:

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Donation presentation in the amount of \$8,200 from Cape Coral Community Foundation to the City of Cape Coral for the purchase of Bike Racks in the South Cape. Resolution 92-19 A Resolution to accept a donation from the Cape Coral Community Foundation for the purpose of purchasing Bicycle Racks to be placed in the newly renovated Downtown Cape Coral area; Department: Public Works; Donation Value: \$8,200

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

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

ELEMENT A: INCREASE ECONOMIC DEVELOPMENT AND REDEVELOPMENT IN THE CITY

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

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The Cape Coral Community Foundation will present the city with a \$8,200 check. The funds will be used to purchase additional bike racks for SE 47th Terrace, complementing the street furniture being installed as part of the streetscape project.

LEGAL REVIEW:

N/A

EXHIBITS:

Resolution 92-19

PREPARED BY:

Persides Zambrano, Planning and

Permitting Manager

Division- Planning and Permitting

Department-Public Works

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description Type

Resolution 92-19Backup Material

RESOLUTION 92 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL ACCEPTING A DONATION FROM THE CAPE CORAL COMMUNITY FOUNDATION FOR THE PURPOSE OF PURCHASING BICYCLE RACKS TO BE PLACED IN THE NEWLY RENOVATED DOWNTOWN CAPE CORAL AREA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Cape Coral Community Foundation's mission is to foster a healthy and dynamic community where individuals are inspired to support, strengthen, and enrich quality of life through generosity and civic engagement; and

WHEREAS, the Cape Coral Community Foundation desires to donate \$8,200 to the City of Cape Coral for the purchase of bicycle racks to be placed in the newly renovated SE 47th Terrace area of downtown Cape Coral to encourage cyclists to visit the downtown area and enjoy its many amenities.

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

Section 1. The City Council hereby accepts the donation of \$8,200 from the Cape Coral Community Foundation for the purchase of bicycle racks to be placed in the newly renovated SE 47th Terrace area of downtown Cape Coral.

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

	HE CITY COUNCIL (ON THIS DA		APE CORAL AT ITS REGU, 2019.	ULAF
		JOE COVIELLO, MAYOR		
VOTE OF MAYO	R AND COUNCILM	EMBERS:		
COVIELLO GUNTER CARIOSCIA STOUT		NELSON STOKES WILLIAMS COSDEN		
ATTESTED TO A	AND FILED IN MY (OFFICE THIS	DAY OF	
			RLY BRUNS M CITY CLERK	 -

APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY

res/Accept Donation-CCCF SE 47th Terrace Bike Racks

Item

7.A.

Number:

Meeting

5/6/2019

Date:

Item Type:

APPROVAL OF

MINUTES

AGENDA REQUEST **FORM** CITY OF CAPE CORAL



TITLE:

Regular Meeting - April 15, 2019

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?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Regular Meeting - April 15, 2019

PREPARED BY:

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

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns Interim City Clerk 1-239-574-0417

ATTACHMENTS:

Description Type

Regular Meeting - April 15, 2019 **Backup Material**



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MINUTES FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

April 15, 2019

Council Chambers

4:30 p.m.

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

Invocation/Moment of Silence - Councilmember Williams

Pledge of Allegiance - Payton Meade - Caloosa Elementary School

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

CHANGES TO AGENDA/ADOPTION OF AGENDA

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

Councilmember Stout moved, seconded by Councilmember Williams, to adopt the agenda, as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." All "ayes." Motion carried 8-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

Regular Meeting - April 1, 2019

Councilmember Stokes moved, seconded by Councilmember Gunter, to approve the minutes for the April 1, 2019 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

John Jacobs, President, NWNA, appeared to discuss their opposition to Resolution 72-19. The concern was that by partnering with the State Housing Program it would obligate our City to sponsor building Government-subsidized housing throughout the City. Approving this Consent Agenda item would negatively affect the residential property owners. He requested a better plan be developed on locations before the City enters into any type of partnership regarding low income housing. That plan should be presented to the residents and decided by a ballot initiative presented to the voters.

Bonnie Schnell, Cape Coral Housing Development Corporation (CCHDC), appeared to voice her support for Resolution 72-19. She noted the CCHDC has been in existence since 1992 when the Sadowski Act came into law. She explained how CCHDC has helped homeowners with owner-occupied rehab or affordable attainable housing. She continued to discuss how they help homeowners who have lost a spouse and cannot afford to upkeep their house and may need a new roof or air conditioning. She mentioned how badly the SHIP dollars are needed.

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PAGE: 111
APRIL 15, 2019

Steve Averbach stated he was a realtor and full-time resident of the Yacht Club area. He appeared to voice his concern from the neighborhood group, Save our Community, on Resolution 65-19. Recently they learned that the City was in the process of moving the Yacht Club Tennis Courts to Lake Kennedy. Also, the existing parking for the Tennis Courts is being converted to a raised parking garage that will have a restaurant on the top floor. He noted how the surrounding residents were not informed of these changes.

Randy Landers, President, Southwest Cape Coral Action Committee, appeared to discuss thanks for delaying action on the Four Corners. He noted this group was opposed to Resolution 72-19 due to the manner it was presented on the agenda. He stated it was their belief that approval would negatively impact the residential property values now and more so in the future. This should be presented on a ballot initiative and presented to the voters of Cape Coral.

Kitty Green, CEO and President of Habitat for Humanity of Lee and Hendry Counties, urged Council to approve Resolution 72-19. She discussed how SHIP Funding has been a staple of affordable housing in the State of Florida for many years.

Don Sheldon asked Council to reconsider the proposal to move the Yacht Club Tennis Courts and not build a parking garage on that site.

Blanca Contreras stated she was a realtor that works with first-time homebuyers. She spoke in favor of Resolution 72-19. She explained the benefits of SHIP funding. She noted how these homebuyers would add beauty to our City with the care of their homes and gardens.

Jim Jeskie, Southwest Cape Coral resident, voiced his opposition to Resolution 72-19. He opined that it should come before the citizens of Cape Coral for a vote.

Mary Beth Hill, resident, stated she attended the recent Town Hall meeting by Councilmember Stokes. She appeared to discuss how there were not that many pickleball courts in the City, and there needed to be more to coincide with the population growth expected. She volunteered to paint some extra lines on the existing courts, along with City Parks and Recreation staff. She hoped the City would pay for the paint, but the group would offer to provide their own nets. 500 people had signed a petition which had been presented to Parks and Recreation.

Carlton Howell, resident of the Yacht Club area, appeared to discuss the historic district that he lives in. He noted his opposition to the building of a multi-level parking garage in the Yacht Club area. He mentioned his support for keeping the Yacht Club Tennis Courts in its present location.

CONSENT AGENDA

- 1) Resolution 61-19 Award ITB-PW19-25/AP Purchase and Delivery of Stormwater Pipe, for the purchase of High Density Polyethylene (HDPE) pipe or Corrugated Aluminum Pipe (CAP) used in maintenance and capital work involving the City's stormwater drainage systems to Core & Main, LP and Ferguson Enterprises, Inc., as the lowest responsive, responsible bidder for their respective awarded groups, at the unit price bid, respectively, for an estimated annual dollar value of \$250,000 not to exceed budgetary limits and authorize the City Manager or designee to execute the agreement, renewals, amendments and Purchase Orders; Department: Public Works; Estimated Annual Dollar Value: \$250,000; (Stormwater Fund)
- 2) Resolution 62-19 Approve the piggyback of Tampa Bay Water Contract #2019-005 with Odyssey Manufacturing Co. for the purchase and delivery of Sodium Hypochlorite at a delivered unit price of \$0.462 per gallon with an

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estimated annual cost of \$462,000, not to exceed budgetary limits and authorize the City Manager or Designee to execute the contract, amendments, renewals, and any other related documents; Department: Utilities; Estimated Dollar Value: \$462,000; (Water and Sewer Fund)

- 3) Resolution 65-19 Approve the Selection Advisory Committee (SAC) ranking for the Request for Proposal (RFP) RFP-PW19-45/AP to engage the following firms: Kimley-Horn and Associates, Inc. and AECOM Technical Services, Inc. to provide professional design services for the Design of the Neighborhood & Community Parks GO Bond project Kimley-Horn and Associates, Inc. is ranked #1 for the Community Parks and AECOM Technical Services, Inc. is ranked #1 for the Neighborhood Parks; And authorize the City Manager or Designee to enter into negotiation with the respective number one ranked firm for each category. Department: Public Works/Parks & Recreation Dollar Value: N/A; (Fund: N/A)
- 4) Resolution 72-19 State Housing Initiative Partnership Program (SHIP) Local Housing Assistance Plan; Department: Community Development; Dollar Value: N/A; (Local Housing Trust Fund)
- 5) Resolution 73-19 Housing Opportunities for Persons with AIDS (HOPWA) Redesignation Agreement between the City of Cape Coral, the State of Florida and US Department of Housing and Urban Development; Department: Community Development; Dollar Value: \$485,000; (Fund: N/A)
- 6) Resolution 77-19 Acceptance of Utility Easement in a portion of Lot 1, Block 8037 Entrada Subdivision, 3332 Acapulco Circle (Strap #21-43-24-C3-00937.0010), to provide access to and maintenance of the City lift station facility at this location; Department: Financial Services / Real Estate Division: Dollar Value: N/A (Fund: N/A)

<u>Councilmember Stokes</u> requested that the Parks and Recreation Director address the questions concerning tennis courts and pickleball courts.

City Manager Szerlag stated there was a five-step process in the \$60 million Bond Issue:

- Step One was to have the voters approve it.
- Step Two is to select the firms tonight to have advertised neighborhood meetings regarding the concept plans and obtain public input.
- Once input is received, Step Three would be to have Council approval on those plans.
- Step Four would be to award the actual construction.
- Step Five is to make it happen within three years.

<u>Councilmember Stokes</u> inquired of the Parks and Recreation Director of an estimate on how many pickleball courts were planned in the \$60 million Parks Plan.

Parks and Recreation Director Runyon stated she did not have an estimate. They are engineering plans. She noted they were going to build pickleball courts, just like tennis courts, next to each other, with an area for expansion for more pickleball courts.

<u>Councilmember Stokes</u> questioned if there were more planned than what was in the current Master Plan.

Director Runyon stated when you see that concept plan, for each tennis court there are a couple of pickleball courts. This number is not set in stone. She noted they hoped to get 10 to 12 with an area for future expansion.

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<u>Councilmember Stokes</u> asked if it would be possible to convert some tennis courts into pickleball courts until we can get them built. Would it be possible to convert them back?

Director Runyon stated once we convert them, we will not convert them back. There will be extra space. She noted where the conversions have occurred in the past year at Burton Park and Jim Jeffers Park.

Mayor Coviello stated how concept plans were presented before the vote took place on the \$60 million GO Bond to give the residents an idea of potentially what could happen. He stated he never heard of any restaurant being planned on the top of the parking garage. Initially, the concept plan showed one level of parking, not multilevels, but would need to be reviewed by Council. All of these plans will be calibrated with the residents in the area on where and what is going to be done.

Director Runyon stated once the engineering firms are in place, staff will move forward to get input from different neighborhoods, homeowners' associations, and the pickleball community. She explained that engineering plans will need to be approved by Council.

<u>Councilmember Gunter</u> noted how two different firms would be approved for design in Resolution 65-19, one for Neighborhood Parks, and the other for Community Parks. He requested to hear more from staff about Resolution 72-19 and if there was any difference from a similar Resolution that has been in effect for the last three years.

Housing Coordinator Yearsley stated there was little difference from what is in place currently and what the new plan shows. She explained how this plan needs to be approved by May 2, 2019 in order for the City to receive State funding. Since 1992, these plans have been presented every three years. She presented the following slides:

- City of Cape Coral Local Housing Assistance Plan 2019-2022 Resolution 72-19
- Local Housing Assistance Plan
- LHAP Housing Strategies
- Additional Information Included in LHAP (carried over from previous LHAP)
- LHAP Timeline

Councilmember Stout noted how many phases would be involved in the planning of the GO Bond. She agreed that the Tennis Courts need to remain at the Yacht Club, but tennis courts are also needed in the middle of the City and north of Pine Island Road as the City grows. She also envisioned a parking garage, possibly just one level, and has never heard of any plans for a restaurant there.

<u>Councilmember Stokes</u> questioned the presentation by Ms. Yearsley regarding Resolution 72-19. Does that mean we can only designate properties that are already in the Water/Sewer area if Council adopts this Resolution?

Ms. Yearsley stated it funds a program for properties that come online and need to have that mandatory connection to connect to the City Water and Sewer. During the last expansion, the City assisted 62 low-income households in order to avoid fines for not connecting within that 180-day period.

<u>Councilmember Stokes</u> questioned if this program would be limited to properties that are on Water and Sewer.

Ms. Yearsley stated each program stands on its own. Water and Sewer has its own program requirements. This sets the framework for having the program in place. She stated it has been done in the Southwest and anticipated funding it for the Northwest and Northeast when Expansion Areas 2 and 1 come online.

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<u>Mayor Coviello</u> asked if the Council wanted to pull any Consent Agenda items. There were none.

Councilmember Nelson moved, seconded by Councilmember Stout, to approve items 8(B)(1), 8(B)(2), 8(B)(3), 8(B)(4), 8(B)(5), and 8(B)(6), as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." All "ayes." Motion carried 8-0.

CITIZENS INPUT TIME

John Jacobs, NWNA, thanked the City for sending the Police Department's Resource Officers, Marine Officers, and the Code Enforcement team to help with the Northwest on the Trash Bash.

Joe Mazurkiewicz, on behalf of the Cape Coral Rotary Club, displayed a photo of a recycled plastic bench. The Rotary Club made a presentation to Council a few weeks ago regarding the opportunity to partner with the City to use recycled plastic benches throughout the City. There have been successful meetings with the staffs from the City and the School Board. The City Manager has put together a small committee going forward. The Rotary Club would like to know if Council is interested in this Pilot Program. These 200 benches would be deployed in some fashion with concurrence from the Public Works engineers, as well as the School Board. He requested a motion from Council to direct staff and the City Attorney to prepare a Resolution to establish the criteria and grant a City-wide permit for the Rotary to deploy 200 school bus stop benches throughout the City of Cape Coral as a Pilot Program to be reviewed and looked at in the future if it needs to be expanded. This will be at no cost to the City as the Rotary has funding in place and the manpower to construct and deploy.

Randy Cantrell appeared to discuss his attendance at the February 25th Council meeting where he spoke about the proposed rezoning of the lot that he displayed on the overhead projector from Residential Development to RML. He had a meeting at his home with over 40 members from his community who were adamantly opposed to this lot being zoned RML. This rezone did not fit into the community which is comprised of single-family homes. He pointed to a property that is owned by the City and how taxpayer dollars were used to purchase the property. He requested those in favor of rezoning to residential to stand.

Tim McShane appeared to discuss the property he purchased west of Burnt Store Road on a salt water, direct Gulf access canal. He noted the proposed rezoning of some of the City-owned properties adjacent to his community would upset the flavor of the existing community. He mentioned they had an issue with the blanket approach on the one size fits all.

Cheryl Mashuga appeared to discuss her home in the Northwest and the great camaraderie among the neighbors. She was told when she bought her home that any new development would match with the current neighborhood of single-family homes. There was no reason to introduce multi-family housing into this particular community.

Katherine Horn appeared to discuss living in the Northwest. She noted how her husband used to live on a gulf-access property in the 70's on Savona off of Del Prado. She discussed how properties west of Burnt Store Road need to remain as single-family usage. Allowing multi-family housing in this area will severely devalue our property value and change the character of our neighborhood.

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Cheryl Anderson, Cape Coral Wildlife Trust, displayed two pictures of a gopher tortoise. There are thousands of these in our City. City Council is currently working on a gopher tortoise Ordinance. The gopher tortoise is nature's landlord. She discussed the gopher tortoise lots purchased by the Cape Coral Friends of Wildlife last year and requested some Utility Assessment charges on those lots due to non-use of utilities. Due to the UEP, the gopher tortoises have grown from 40 to 75. She requested the City put a conservation easement on a 6.1-acre City-owned parcel zoned for Parks at the northernmost limit of the City where there are over 300 burrows. The plan was to eventually set up a permanent gopher tortoise nature preserve in the Northwest Cape.

Lori Haus, Board Member of Cape Coral Wildlife Trust and Cape Coral Friends of Wildlife, appeared to discuss the plans to create a gopher tortoise preserve park in the Northwest Cape. She encouraged Council to support this endeavor. She displayed an article from the News Press regarding the history of the group.

Terry Brennan, Cape Coral Friends of Wildlife, displayed a photo of the overview City area, north of Durden Parkway, which is the area discussed by some of the prior speakers. He stated there were over 390 gopher tortoise burrows in this area. He noted it would be logical to make this area a preserve. The group would take care of the maintenance.

Allison Harris continued to discuss the displayed photo of the area mentioned by the prior speaker. She stated in the last four years she and her husband who is a wildlife conservation photographer have been documenting the wildlife in this area and helping to put up the posts where the burrows are located. She also noted the other wildlife that has been attracted to this area. She encouraged Council to preserve this property.

Carlene Brennan appeared to discuss the wildlife in the Northwest that included the burrowing owls and the gopher tortoises. She encouraged Council to support having this property being discussed be preserved.

Steve Dunn appeared to discuss rezoning of an 18-acre plot of land on Tropicana and requested Council to reverse their vote.

Karl Deigert, Matlacha Civic Association President, discussed Ordinance 19-19, the rezoning of the Seven Islands project. He displayed a memo to Council regarding this rezoning which the Matlacha Civic Association opposes.

Michael Hannon, Matlacha resident, appeared to discuss his opposition of the rezoning of the Seven Islands project.

Jamie Brushdeleecie appeared to discuss her opposition to the rezoning of the Seven Islands project in the Northwest. She mentioned the losses of vital fish over the years. She asked Council to consider the small guys on Pine Island and the fisheries.

Steve Averbach appeared to discuss the supposed restaurant on the top of the parking garage in the Yacht Club. He noted he obtained this information from the capecoral.net website which refers to a parking structure with a rooftop restaurant bar with views of the river.

Corey Dye thanked the Rotary Club for the benches. He stated there should not be any advertisements on these bus stop benches.

Williams Potts appeared to discuss his dislike for rezoning his house and property to RML.

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Roger Posthumus appeared to discuss the serenity of living in the Northwest. He referred to the 20-acre proposal which only has one way to get in and out and that is Tropicana. He was opposed to multi-family housing in that area due to the lack of infrastructure.

Carl Veaux, Cape Coral Wildlife Trust, appeared to discuss reports of vanishing wildlife. He explained this is why greenspace is needed. He requested that space be kept in the Seven Islands area for the wildlife. He also discussed a law in New Jersey where developers have to build 20% of their projects for affordable housing and suggested that staff look into that law.

Anora Seidler, Pine Island resident, voiced her concern about the Seven Islands project and how water from Cape Coral is affecting their wildlife.

Jeff Justin appeared to discuss his home in the Northwest, noting before moving to Cape Coral how he served five terms on a City Council in another state. He discussed his experience with developers in the past. He urged Council to keep the area he lives in as single-family homes.

Barbara Hollingsworth stated she has lived in the Northwest for the past seven years; prior to that she lived in St. Thomas in the Virgin Islands and experienced many hurricanes. She noted if multi-housing is built on that plot, hurricane evacuation would be impossible.

Gary Eidson appeared to discuss the character of the City. It could be defined either by the environment we want to live in and the types of house we want to be surrounded by. Do we want to be known for dollar stores or gopher tortoises and owls? The State of Florida is thriving on ecotourism.

John Karcher appeared to discuss his living on the Spreader Canal for the past 12 years.

MaryAnne Sweeney appreciated the work of the Rotary for providing school bus stop benches. She voiced her opinion against advertising on the benches. She disagreed with the children being in the dark waiting for school buses and that the school system should operate in a proper timeframe. She requested that the City Administrator look into the legal aspects of placing benches on properties.

Richard Osman appeared to discuss the speed signs in many residential areas. He liked the signs that blink and let drivers know their speed.

Joyce Easton appeared to discuss support for the Chief of Police regarding the Dixie Roadhouse issue and not to reinstate the permit until all issues have been resolved. She noted there was an article in the Breeze concerning the trip to China stating that the trip was still a go but was going to be postponed. Then it says it's not really a postponement because the trip was never officially been approved by Council, just discussed. She stated the article continues that the trip is expected to happen at the end of May or beginning of June. She questioned the economic benefit to the taxpayers of sending anyone to China.

Linda Prince appeared to discuss options the community can consider. She discussed how many are expected to live in Cape Coral at buildout and how everyone deserves the best of the best.

City Attorney Menendez stated some of the citizens spoke about an Ordinance that is set to have a Public Hearing tonight. It would have been preferable if they had reserved their comments until then.

<u>Councilmember Stokes</u> thanked John Karcher from the NWNA and agreed that the Northwest Cape was beautiful. He agreed with Mr. Karcher how the Northwest Cape

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has worked on its parks, bald eagle ordinance, owls, Parks Plan, and putting homes on City sewer and water to eliminate the septic tanks. He commented that the Matlacha Civic Association should work on their own septic tanks to help their water issue. He thanked Joe Mazurkiewicz and the Rotary Club for the bus benches and confirmed that there be no advertising on them. The benches would have a slab and would be safer for the hurricanes; they will be in 200 spots. He asked for City support by doing a Resolution so that the Rotary can move forward.

Mayor Coviello stated there have been some stakeholders' meetings and noted that the Rotary was looking for a consensus from Council so that they can work with staff to move forward.

City Manager Szerlag read a letter he wrote to a stakeholder group he assembled who met last Wednesday. Some of the attendees included Dr. Greg Adkins, Superintendent of Lee County School District, our Superintendent of Schools for the Charter Schools system, and also Roger Desjarlais, Lee County Manager. He noted there was a PowerPoint presentation which he will make public by putting it on the City's website. The goal is to present recommendations to the City of Cape Coral Council at the May 20, 2019 Committee of the Whole meeting.

<u>Mayor Coviello</u> asked City Manager Szerlag if the items to be proposed at the May 20th meeting may include more recommendations, not just the benches by the Rotary Club.

City Manager Szerlag responded in the affirmative.

<u>Mayor Coviello</u> agreed with signs on benches such as Rotary, Kiwanis, etc. but what signs to be included or not should be discussed. Ongoing maintenance also needs to be discussed as well as locations of the benches.

City Manager Szerlag requested that Traffic Engineer Bill Corbett come to the podium. Mr. Szerlag asked him if there will be another sub-committee meeting soon with the Rotarians, Engineering, Police, School District, and the County. He stated the next step would be to obtain a recommendation from that sub-committee to be brought to the stakeholders' group. That information should then be presented at the COW meeting.

Traffic Engineer Corbett stated they were working on scheduling that sub-committee meeting as soon as possible to gather information on the donation of the benches that is being proposed by the Rotary Club. There are various aspects that they would like to vet before they go and approve the full program. They want to prioritize locations and look at maintenance issues, as well as comply with all Procurement regulations regarding accepting donations.

Mayor Coviello stated one of the things that we are looking for tonight is a consensus from Council to allow the Rotary Club to work with City staff to come up with some proposals as far as getting the benches out. He asked if there were any objections. There were no objections.

City Manager Szerlag stated the Rotary Club was already part of the stakeholders' group and part of the sub-committee as well.

Mayor Coviello questioned if they can work with staff to get benches out prior to the May 20th meeting since they have the benches, concrete pads, and the means ready, as well as a company who will install.

City Manager Szerlag stated they will have a total package available. Their objective is to have these benches in place before the start of the next school year.

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<u>Mayor Coviello</u> asked if there was a chance that at least this phase of the project will be on the agenda for Council's approval at the May 6th meeting.

City Manager Szerlag stated he would have to ask Mr. Corbett. He noted they needed to look at the logistics and the standards.

<u>Mayor Coviello</u> asked if Council could get information regarding the Rotary Club's benches at the next meeting.

City Manager Szerlag asked Bill Corbett and Joe Mazurkiewicz to address that.

Traffic Engineer Corbett stated once they have their first meeting, they will have a better idea as far as logistics of getting the donations and benches by Rotary. There is also the liability aspect that needs to be explored.

Mayor Coviello asked to get something in the works sooner rather than later.

Traffic Engineer Corbett stated that was the goal of the sub-committee to make sure this is done the right way as soon as possible.

Mr. Mazurkiewicz displayed a picture of a recycled plastic bench and confirmed there would be no advertising. He stated six weeks are needed to order benches. If we are going to deploy by the beginning of the new school year, we need an official commitment from Council sooner rather than later. The Rotary Club will not order benches until a Resolution is passed.

Mayor Coviello responded in the affirmative.

Mr. Mazurkiewicz continued that they would look for the first 200 non-restrictive bus stops and will work with City staff to find them. He noted this was how a Pilot Program works by identifying how it works and what we can do to make it better. He stated they stand ready with the May 6th deadline of having something back from staff.

<u>Mayor Coviello</u> asked for confirmation that the slab and attached bench was still portable.

Mr. Mazurkiewicz responded in the affirmative. It was their intention that this would be the final design for moving as bus stops change.

<u>Councilmember Stokes</u> thanked everyone who worked on this project. He noted that Chief of Police Newlan would provide LED lights for the students' backpacks. He also noted that Council would be asking for more money for sidewalks and streetlights in the upcoming budget season. He hoped that the Lee County School Board will be reducing Elementary School Choice and especially look at start times for the elementary schools.

City Manager Szerlag confirmed there will be an agenda item for May 6th that pertains to item 3 on the letter he wrote to the stakeholders. This program will be in conjunction with various staffs from the City, the School, the County, and the Rotary Club. Information to be presented will include associated costs, as well as criteria for prioritizing the City locations.

<u>Councilmember Gunter</u> stated he was 100% on board with the benches with no advertising. He noted there were comments during Citizens' Input regarding a particular lot going from RD (Residential Development) to RML (Residential Multi-Family Low Density). He asked DCD Director Cautero to explain the difference between the two.

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DCD Director Cautero stated the only difference between the RML and the current RD zoning is that the RD requires a Planned Development, the RML does not. The density is still the same, maximum 16 units per one acre. The City-owned parcels that were discussed tonight by citizens are being addressed so that the current zoning and land use will match. He noted that residential zoning for multi-family and single-family allow a variety of uses.

<u>Councilmember Gunter</u> requested an update on the Utility Assessment Relief questioned by the Friends of Wildlife.

Assistant City Manager Barron stated that she has had several conversations with Mr. Veaux regarding the Wildlife Conservation status that they want to have placed on some properties which included burrowing owls and gopher tortoises. City staff will be meeting on Wednesday to discuss this process and the proposals. Staff hopes to finalize some sort of plan moving forward on how we can establish the Wildlife Conservation Areas. Also, to be discussed is what can be done with regard to the Water and Sewer Assessments on a particular property that they own in the North 2 area. Ultimately, City Council will have to decide on how and if they want to do that.

<u>Councilmember Williams</u> questioned if a PDP was required for condo or apartment development on the six-acre piece being discussed by Tropicana.

Director Cautero stated it would be yes for today. Under the new zoning, they would not have to. There is still time to change the zoning to a lower density.

<u>Councilmember Williams</u> discussed how services such as gas stations, restaurants, etc. will be needed as the City grows, especially as the North expands with more housing for the growth expected. The public needs to be kept aware of what is happening.

<u>Councilmember Cosden</u> requested clarification on the property being discussed that is currently zoned RD which means today someone could build a multi-family development there. Do we know how long it has been zoned that way?

Director Cautero stated it was probably since the Comprehensive Plan and Zoning Ordinance was adopted in the 90's.

<u>Councilmember Cosden</u> stated she wanted clarification on record for the speakers tonight that it was never single-family. It did not make sense to have a City-owned multi-family parcel. She suggested it be pulled out of the rezoning or down zone it.

Mayor Coviello stated the difference here from some of the other multi-family issues we have been dealing with is that the City owns the property. There were plenty of places to put multi-family in the City, but it is a no-brainer when there is City-owned property that does not fit in the middle of a residential neighborhood.

<u>Councilmember Cosden</u> questioned if this would be discussed at a future meeting or if a motion was needed to pull it or change it.

Director Cautero stated staff will bring this to the Hearing Examiner, as well as the Planning and Zoning Commission, and then back to Council in July and August. Staff will make the requested change. He noted there was another piece on Kismet where the change has not been made yet to single-family zoning.

<u>Councilmember Cosden</u> addressed the question about the China trip. She stated Council discussed this item at two meetings and there was a consensus.

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<u>Mayor Coviello</u> stated more discussion will take place on May 6th. He explained this trip would be undertaken to explore potential business opportunities and how a Memo of Understanding may be established between the two potential Sister Cities.

Councilmember Nelson agreed that the zoning discussed needs to be the right fit.

<u>Councilmember Stokes</u> thanked Councilmember Cosden for bringing up the zoning question. He wanted to give the residents certainty by making a motion.

Councilmember Stokes moved, seconded by Councilmember Cosden, to go ahead and make that property single-family.

City Attorney Menendez stated what Councilmember Stokes wanted was to ask staff to bring forward an Ordinance that would rezone that property as single family.

Councilmember Stokes responded in the affirmative.

Councilmember Cosden questioned if we would have to change the land use as well

Councilmember Stokes stated to put that in the Ordinance too.

City Attorney Menendez confirmed zoning will have to match the land use.

Mayor Coviello questioned what the exact motion was.

<u>Councilmember Stokes</u> stated it was to change the land use and the zoning to single family for that piece of property.

Mayor Coviello stated there was a lot going forward that was grouped and questioned if that would have an impact on it.

Director Cautero stated there was a lot being fast-tracked right now. He noted if Council wants a separate Ordinance, it probably will not come forward much earlier than a week before August 5th. If Council directs staff to put it in the rezone package, that would be a lot easier.

Mayor Coviello agreed.

Councilmember Cosden withdrew her second.

<u>Mayor Coviello</u> stated it would make sense to include it in the package to rezone that property.

City Attorney Menendez stated it can be brought forward that way. She stated it would not be a done deal to rezone, but that Council was asking that it be brought forward for Council's consideration in that form.

Mayor Coviello responded in the affirmative.

Councilmember Stokes withdrew his motion.

Recessed at 6:43 p.m. and reconvened at 7:02 p.m.

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

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APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

None.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Resolution 74-19 Public Input

WHAT THE RESOLUTION ACCOMPLISHES:

A Resolution pursuant to the City of Cape Coral Code of Ordinances § 2-155 and Section 166.0451, Florida statutes, identifying and describing certain real property to which the City holds title in fee simple, as appropriate for use as affordable housing. (Applicant: Brought forward by City Management.)

Interim City Clerk Bruns read the title of the Resolution.

Housing Coordinator Yearsley explained the purpose of the Resolution. She displayed the following slides:

- Resolution 74-19
- Background Obligations
- Who lives in affordable housing?
- Background Obligations Comprehensive Plan
- · Background Requirement
- · Background -The List
- Elimination Strategy
- Resulting Properties
- Resulting Properties (continued)
- Map Triennial Review of City Owned Surplus Land Resulting Properties
- Buyer Profile
- Buyer Profile (continued)
- Other Houses (Habitat for Humanity)
- Questions

Public Hearing opened.

John Jacobs, NWNA President, appeared to discuss their opposition to this Ordinance. They objected to the City Manager designating and donating any Cityowned properties as affordable housing for Government-subsidized building. They were not against affordable housing, just not in support of the current process. This is something that should be voted on by ballot-initiative.

Bonnie Schnell, Executive Director, Cape Coral Housing Development Corporation (CCHDC), appeared to discuss her thanks to the City for their continued assistance through the years. She noted how these homeowners achieved a dream that they thought they never could have and take a lot of pride in their homes.

Mitch Hutchcraft stated he serves on the Lee County Attainable Housing Coalition. He noted the Coalition consists of employers, businesses, realtors' associations, Chambers of Commerce, and representatives from local municipalities, all who are interested in attainable affordable housing in our community. He encouraged Council to support Resolution 74-19.

Steve Collins appeared to discuss how approval of this Resolution would erode home equity and property values. His concern was multi-family dwellings in his neighborhood. He noted his opposition to this Resolution.

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John Karcher, NWNA, appeared to discuss a letter sent to Council from the NWNA. He noted that there are over 850 properties that the City owns. Identify what we don't need, sell them, and use that money for our sidewalks and street lights.

Jim Jeskie appeared to discuss the three properties and questioned if the City bought them to save the eagles. Would conservation need to be involved in these properties?

Kitty Green, CEO and President of Habitat for Humanity of Lee and Hendry Counties, stated she was in favor of this Resolution. She thanked Council for making our City available to all of the City residents. She discussed how Habitat for Humanity empowers families through home ownership. She urged Council to support this Resolution.

Linda Prince stated she was an Ambassador for the City of Cape Coral, as well as a resident, homeowner, and taxpayer for 30 years. She encouraged Council to support Resolution 74-19 especially for retirees and veterans desiring to live in our City.

Public Hearing closed.

<u>Councilmember Carioscia</u> asked what the total tax dollar amount that the City was investing in this program.

City Manager Szerlag stated he would ask Property Broker Andrews if she has that information. If she doesn't, staff will get it tonight. He requested that Ms. Andrews address the comments relative to surplus properties.

Property Broker Andrews stated she did not have the information requested by Councilmember Carioscia, but she will work with Ms. Yearsley to research that.

<u>Councilmember Carioscia</u> stated his question was that the City was going to come up with money to help in the Affordable Housing Program. Do we have to put any tax dollars in it at all? If we don't, that information should be made public.

Ms. Yearsley stated the funding that is being used to provide affordable housing in the City of Cape Coral is predominantly grant funds that are received from the State and Federal Governments. We do not use ad valorem taxes to build affordable housing in the City of Cape Coral.

<u>Councilmember Carioscia</u> inquired about any financial background checks that the individuals that apply for these programs have to go through.

Ms. Yearsley stated they partner with two agencies, and both agencies were present today. They both serve two different populations, all of which go through a regular lending process. They require a certain credit score. She noted that Habitat for Humanity finances their own mortgages. Cape Coral Housing Development Corporation finances through traditional banks. They complement each other.

<u>Councilmember Carioscia</u> noted that 8 out of the 11 properties listed are in the Southwest. He asked why they were not more evenly dispersed throughout the City.

Ms. Yearsley stated in prior years most of the properties owned by the City had been earmarked for different projects. The initial list was much smaller than 1,500. We had gone through the process in recent years at Council's direction to look at the City inventory and identified surplus and potential surplus. The previous list had properties mostly in the Southeast; that list was exhausted, and the homes were or are being built. The properties were chosen because of the availability of City water and sewer. She noted that Council can accept the list in its entirety or take properties out.

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<u>Councilmember Carioscia</u> questioned if a criminal background is done on these individuals moving into that area.

Ms. Yearsley stated it may be inappropriate to do that. She noted the homebuyers are vetted, are members of the community, and have jobs.

Mayor Coviello questioned if the list included 11 or 19 homes.

Ms. Yearsley stated it was 11, adding that the initial memo sent out when the surplus land came before Council last November had identified 19 properties. That was pared back to not avoid concentration in the location of eagles' nests.

<u>Councilmember Stokes</u> asked staff if the statement made by one of the residents was correct and that none of our properties are listed on the MLS.

Ms. Andrews stated that was not accurate. There were 27 properties listed late last week that are in the Northwest on the water, north of Kismet and west of Old Burnt Store Road.

<u>Councilmember Stokes</u> asked for confirmation that they were on the MLS for sale right now.

Ms. Andrews responded in the affirmative. She addressed the comment made made by the NWNA representatives. This afternoon she received a copy of an email that was sent in reference to 889 properties that the City owns in the Northwest that should be declared surplus. She noted that staff looked over the list which included the following:

- 473 properties of those 889 are in Festival Park.
- North Cape Government Complex which is where the North RO Plant is.
- Northwest Softball Complex
- · Coral Oaks Golf Course
- Fire Station #8
- Sirenia Vista Park
- Jim Jeffers Park
- Joe Stonis Park
- Burnt Store Boat Ramp
- Several parks that were deeded and platted.
- · Crystal Lake properties that we own were also included.
- D&D Bait and Tackle
- Boat ramp area in Matlacha
- Some properties in Unit 83, Part 1, which is an undeveloped platted area that
 has properties that were declared surplus but won't be marketed right now.

Ms. Andrews noted there was a memo issued around April 1st regarding those properties. They will be put on the market later when there are some other properties east of Burnt Store Road, approximately 300 acres.

<u>Councilmember Stokes</u> inquired if we could market the other properties as soon as we can.

Ms. Andrews stated staff was working towards getting those appraised and will go on the market.

<u>Councilmember Stokes</u> questioned the values of some of these properties. He noted a lot valued at \$26,000 could be divided into three \$8,000 lots. He explained that although he supported affordable housing, he wanted to get more money for street lights and sidewalks for the kids. He was in favor of selling these properties, but he wanted to put this money towards sidewalks and street lights.

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<u>Mayor Coviello</u> stated the money would go into the General Fund and that would be a budget item to be discussed in the upcoming budget season.

Finance Director Bateman explained the funds would have to go back to whatever fund paid for the surplus land originally.

City Manager Szerlag requested that Ms. Yearsley display the slide showing how the property was acquired. He stated the three donations could be a General Fund element as opposed to Stormwater or Utility Fund. He noted he would discuss the acquisition of the Eagle Zone properties during the budget session to determine the source of the funding.

Councilmember Cosden moved, seconded by Councilmember Nelson, to approve Resolution 74-19, as presented.

<u>Councilmember Cosden</u> noted we have a definite need for sidewalks and street lights, but this is a need also. She pointed out that these properties have been sitting in the City for years and once they go to the private world, the City will collect property taxes, as well as FSA and Public Service Tax. Home values are not being eroded.

Ms. Yearsley explained these homes are sold based on comps as regular transactions, based on a one-mile radius. They are not sold on a discounted price. She displayed a list of studies done by different groups regarding this subject and would be available to anyone who requests it.

Councilmember Cosden stated this was based on data, research, and reality.

<u>Councilmember Nelson</u> appreciated all the comments made during Public Input. She agreed that street lights, sidewalks, and affordable housing were all needed. She explained why she would support this as a community need.

<u>Councilmember Gunter</u> noted that 7 or 8 parcels of the 19 listed were under \$16,000. He questioned if it would be preferable to put a \$8,600 or \$25,000 lot back on the tax roll. He noted his concern for the cluster of three close properties. He stated in the future we should try to pick lots with a lower assessed value.

<u>Councilmember Stou</u>t commented that if we did not accept the SHIP Funds from Tallahassee, some other community would.

Mayor Coviello asked how many houses are put together on a yearly basis.

Ms. Yearsley stated there are approximately 10 to 15 per year that are subsidized through our program.

<u>Councilmember Cosden</u> noted that those three properties were too close together. She requested removing one of those and asked Ms. Yearsley which one would be most appropriate.

Ms. Yearsley stated all three properties had the same value. She recommended removing the middle one, 1803 SW 39th Street.

Motion maker amended her motion to remove 1803 SW 39th Street. Second agreed.

Council polled as follows: Williams, Cosden, Coviello, Nelson, and Stout voted "aye." Carioscia, Gunter, and Stokes voted "nay." Five "ayes." Three "nays." Motion carried 5-3.

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Ordinance 12-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance adopting a Franchise Agreement between The Liquid Group LLC and the City of Cape Coral for the provision of interactive community kiosks to provide information to tourists and residents; providing terms and conditions; authorizing the City Manager to execute the Franchise Agreement. (Applicant: Brought forward by City Management.)

Interim City Clerk Bruns read the title of the Ordinance.

ITS Director Hoffmann explained the purpose of the Ordinance and displayed the following slides:

- Ordinance 12-19
- Kiosk Franchise Agreement between the City of Cape Coral and Liquid Group LLC
- Kiosk Features
- · Franchise Terms and Conditions
- Franchise Agreement Revenue Comparisons

Councilmember Stokes questioned the cost.

Director Hoffmann stated it was zero dollars to the City.

Public Hearing opened.

Joyce Easton questioned if this would include free Wi-Fi.

Director Hoffmann stated there already is free Wi-Fi on 47th Terrace; the kiosks will not have free Wi-Fi.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Williams, to adopt Ordinance 12-19, as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." All "ayes." Motion carried 8-0.

Ordinance 15-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 64-18, which adopted the City of Cape Coral Operating Budget, Revenues and Expenditures, and Capital Budget for Fiscal Year 2019, by increasing the total revenues and expenditures by a total of \$36,614,158. (Applicant: Brought forward by City Management.)

Interim City Clerk Bruns read the title of the Ordinance.

Finance Director Bateman explained the purpose of the Ordinance and displayed the following slides:

- Ordinance 15-19
- Distribution of Amendment by Fund Types
- · Summary by Fund Type
- Summary of FY18 Budget Amendment #1 All Funds
- Summary of FY19 Budget Amendment #1 General Fund

Public Hearing opened.

John Jacobs, NWNA President, appeared to discuss their objection to increase the City's Operating Budget by the \$36.6 million requested. He noted the presentation where these funds will be allocated was extremely vague.

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Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Cosden, to adopt Ordinance 15-19, as presented.

Finance Director Bateman addressed the comment made during Public Input. She noted this was not cash but strictly a budget, and this was just rolling the funds.

<u>Councilmember Williams</u> explained how we carry allocated money forward at the end of the year.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." All "ayes." Motion carried 8-0.

Ordinance 16-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends and adopts the Community Redevelopment Plan attached to the ordinance as Exhibit A. (Applicant: Brought forward by City Management.)

Interim City Clerk Bruns read the title of the Ordinance.

Housing Coordinator Yearsley explained the purpose of the Ordinance. She displayed the following slides:

- CRA Redevelopment Plan Ordinance 16-19
- · Redevelopment Plan
- Redevelopment Plan Changes
- Timeline

Public Hearing opened.

Linda Prince questioned why the curbs downtown were not painted. Could this be included in this Ordinance to have stripes painted on each curb?

Public Hearing closed.

City Manager Szerlag addressed the comments made by Ms. Prince. He noted this was a traffic engineering issue, rather than a CRA issue. He authorized Traffic Engineer Bill Corbett to look into this matter.

Councilmember Stout moved, seconded by Councilmember Gunter, to adopt Ordinance 16-19, as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." All "ayes." Motion carried 8-0.

Councilmember Williams left the dais at 8:19 p.m. and returned at 8:22 p.m.

Ordinance 18-19 First Public Hearing Set Second and Final Public Hearing for May 6, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.1, Establishment of Zoning Districts, and Section 2.7, District Regulations, to establish the Seven Islands (MX7) zoning district. (Applicant: City of Cape Coral)

Planning & Zoning Commission Recommendation: At their April 3, 2019 Regular meeting, the Planning & Zoning Commission voted unanimously to recommend approval of Ordinance 18-19.

City Management Recommendation: City Management recommends adoption.

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Interim City Clerk Bruns read the title of the Ordinance and set the second and final public hearing for May 6, 2019.

DCD Director Cautero explained the purpose of the Ordinance and displayed the following slides:

- Purpose
- Dimensional Regulations
- 7 Islands Concept Plans, Concept D-1
- Figure 1, Floor Area Ratio
- Analysis
- Analysis (continued)
- Conclusion

Public Hearing opened.

John Karcher, NWNA, questioned if the eight stories included parking.

Director Cautero explained in this particular area it is going to determine what the Floor Area Ratio really is. It does not include parking, but we would want to work with the developers in that particular area so that they would not increase that height level. The eight stories were intended for the residential units.

Mr. Karcher continued with the list of desires from the NWNA and how they wanted four stories, instead of eight, and asked Council to reconsider that.

Karl Deigert, President, Matlacha Civic Association, appeared to discuss their objection to this Ordinance. They believed the increased density will have adverse impacts on public health, safety, conservation, and navigation within the waterways of the Seven Islands.

Public Hearing closed.

Ordinance 19-19 (ZA 19-0001*) First Public Hearing Set Second and Final Public Hearing Date for May 6, 2019

*Quasi-Judicial, All Persons Testifying Must be Sworn In WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property located in Unit 76, Cape Coral Subdivision, as more particularly described herein, from Single-Family Residential (R-1A), Single-Family Residential (R-1B), and Residential Development (RD) to Seven Islands (MX7) zone; property is located at 106 Old Burnt Store Road, 606 Old Burnt Store Road, and 4100 Tropicana Parkway West. (50.72 acres) (Applicant: City of Cape Coral)

Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the application for rezoning.

City Management Recommendation: City Management recommends adoption.

Interim City Clerk Bruns read the title of the Ordinance, administered the Oath, and set the second and final public hearing for May 6, 2019.

DCD Director Cautero explained the purpose of the Ordinance and displayed the following slides:

- Background
- Aerial Site
- · Aerial and Future Land Use
- Proposed Zoning
- Analysis
- Analysis (continued)
- Comprehensive Plan/LUDR
- Conclusion

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Public Hearing opened.

Karl Deigert, President, Matlacha Civic Association, appeared to discuss their objection to this Ordinance based on the adverse impacts on conservation, navigation, public health, and safety.

Public Hearing closed.

INTRODUCTIONS

Resolution 75-19 (VP 19-0001*) Set Public Hearing Date for May 6, 2019 *Quasi-Judicial, All Persons Testifying Must Be Sworn In WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for an alley and the underlying public utility and drainage easements located between Lots 5-24 and Lots 25-44, Block 4383, Cape Coral Unit 63; providing for the vacation of plat for the platted public utility and drainage easements along the east property line of Lots 5-24 and the west property line of lots 25-44, Block 4383, Cape Coral Unit 63; property is located northwest of the intersection of Veterans Memorial Parkway and Skyline Boulevard. (Applicant: Acorn Skyline, LLC)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions contained in VP HEX Recommendation Order 4-2019.

City Management Recommendation: City Management recommends approval of all vacations requested by the applicant with conditions.

Interim City Clerk Bruns read the title of the Resolution.

The public hearing was scheduled for May 6, 2019 in Council Chambers.

Planning Team Coordinator Struve stated he would have a full presentation at the public hearing and was available if Council had any questions.

UNFINISHED BUSINESS

WATER QUALITY - UPDATE

Public Works Director Clinghan stated the releases from Lake Okeechobee averaged about 1,043 cfs this past week. Red tide remains in background concentrations in Lee County. Red drift algae are still washing up on Lee County beaches. He stated it was included in the meeting packet that the Army Corps of Engineers is looking for comments on their Lake Okeechobee System Operating Manual (LOSOM). He requested Council approval for the Mayor to sign the draft memo that was put together by Public Works.

City Manager Szerlag stated the draft letter was attached for review by Mayor and Council.

Consensus agreed to allow the Mayor to sign memo in the meeting packet to be sent to U.S. Army Corps of Engineers for the Lake Okeechobee System Operating Manual (LOSOM).

Mayor Coviello asked staff to address reports of blue green algae in the City's canals.

Director Clinghan stated City staff had received reports of blue green algae in Cape Coral canals. Upon field survey, those reports were incorrect.

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City Manager Szerlag stated he had received a telephone call over a month ago from Congressman Rooney's Office asking if we had put together a report for the Congressman relative to the adverse impacts in Cape Coral from the blue green algae as well as the red tide from an environmental, health, and economic perspective. He stated he suggested that we expand that to include Lee County. He noted that Utilities Director Pearson worked with the staffs from the City and the County. There is a preliminary report that was just sent to Lee County. If they agree, we will be sending that to City Council as well as the County Commissioners.

FOLLOW UP ITEMS REQUESTED BY COUNCIL

None.

DIXIE ROADHOUSE EXTENDED HOURS PROPOSAL BROUGHT FORWARD BY MAYOR COVIELLO

<u>Mayor Coviello</u> stated he received a proposal from our City Attorney regarding Dixie Roadhouse and the extended hours. It was decided early Friday to add this on to the agenda.

Sawyer Smith, Attorney for Dixie Roadhouse, stated they submitted a list of hot items that addresses many concerns from the Chief of Police. He questioned whether we move forward with a hearing or whether Council accepts the things that Dixie Roadhouse has done. He asked Council if they would accept the list of items being presented and make them a condition of Dixie Roadhouse's 3 a.m. permit. He noted they were willing to waive their right for a hearing and move forward and re-apply for next year's permit which is due now. These conditions can be attached to the permit for next year.

<u>Mayor Coviello</u> asked the Chief of Police if he was in agreement with the proposal presented or did he have any additions to the proposal.

Chief of Police Newlan stated there were still a few items that we have not agreed upon, and some things that still needed to be worked out.

<u>Mayor Coviello</u> stated he liked a lot in the proposal; there was some progress but that we could look at some additions. He mentioned possible wanding of people coming into Dixie Roadhouse, which would be an inexpensive solution to protect against weapons coming into Dixie.

Mr. Smith mentioned there was an incident where a person with a concealed weapon's permit brought a weapon in. There was no issue or arrest. He discussed wanding which gives a poor taste to the patrons in the night club; it was a significant issue for them.

Chief of Police Newlan stated he could provide details on more than one incident. He noted what was discussed was they were willing to do wanding on special events only. We were asking for them to be reasonable and to have wanding on Friday and Saturday nights from midnight to closing.

Mr. Smith stated we may be approaching an area where we don't need to be where negotiations that were held outside would now get revealed. He stated this body should not be the mediators.

Mayor Coviello stated he was trying to address items now for a resolution in order to move forward.

Bob Shearman, Attorney representing the Chief of Police, stated we have had a proposal from Mr. Smith to adopt the recommendations or the items that they have already implemented which have not been defined. He had some concerns over what they specifically mean, based upon our discussions outside. He noted he could

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go into details provided that Dixie will be doing the same. They were relatively close to an agreement, but there were certain issues that we could not reach an agreement on. He stated both sides were looking for Council direction. He noted that the Chief of Police would move forward with Council direction. Most of the issues are indicated in Mr. Smith's proposal, as well as his response sent on April 12th that address additional questions that the Chief had about those. Items have been narrowed down and agreement was reached on many of them. He stated at this point it reverted to the proposal that Dixie be allowed to re-open based upon actions already taken, rather than anything else that was proposed.

City Attorney Menendez added that when Mr. Shearman describes the actions already taken, it may be actions taken, but she understood it to be actions taken since December 8th. She stated Dixie through its representatives have stated that these modifications have been made to demonstrate that Dixie is a safe and responsible business member in the community that is participating in this program. If Council is satisfied with that, Council can go ahead and imposed those conditions on their current permit. The one that was suspended is now expired. It is their intention to re-apply and these would be conditions on the new permit. It can be ongoing or just during the life of the next one-year permit. In the meantime, Council would be lifting the current suspension.

<u>Mayor Coviello</u> listed some of the solid steps that were taken in this proposal: signage, scanning systems for people entering, looking at lists of undesirables, and adding over 60 cameras with monitors inside and outside.

City Attorney Menendez stated she consolidated some of the proposal items from Dixie. She noted she handed them to Mr. Shearman for his review.

<u>Mayor Coviello</u> noted that Dixie employees would complete training and that there would be additional security.

<u>Councilmember Stokes</u> stated last year when this Ordinance was brought forward, our Chief of Police opined that he felt it was not safe. He stated that is why he voted no at that time. He was willing to look at something along this line but wanted to hear from the Chief of Police that the conditions have been met.

<u>Councilmember Stout</u> echoed the comments from Councilmember Stokes. A lot of progress has been made. If they are that close, take a little more time and satisfy the comments from the Chief of Police. She questioned if the answer was needed tonight or could wait until the next Council meeting.

Mr. Smith stated if this Council directs us to go back and finish negotiating, the direction was clear and appreciated the opportunity.

Mr. Shearman stated with that direction from the Council, we have made progress and would continue with the negotiations.

<u>Mayor Coviello</u> stated we have made some strides going forward. He stated what would make the difference in a few more weeks. Will we be able to reach an agreement? Or do we just need to set a hearing?

Chief of Police Newlan stated he felt confident that an agreement will be reached if that is the direction from Council. There has been some compromise on both sides, and we're willing to do that to make it fair and safe.

<u>Mayor Coviello</u> stated his only concern was that this is four months out, and we need to get to the point where we either have a proposal or schedule a hearing.

<u>Councilmember Gunter</u> stated those were his thoughts as well. It was his hope that both parties can sit down and come up with a mutual agreement on the conditions

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for the extended bar hours. He suggested the following: specify size of signs for bikers and weapons, at least one security guard for every 100 patrons (10 security guards), access for CCPD to the monitors, last call 15 minutes prior to closing needs to be looked at and notify CCPD of any change in management and contact number. He also suggested any conditions to be implemented may need to be re-evaluated in a year.

<u>Councilmember Williams</u> stated he would be in agreement to any conditions as long as the Chief of Police was in agreement as well.

Chief of Police Newlan stated they were trying to achieve access to the outside cameras for the CCPD when working at night and questioned if that was possible.

Mr. Smith explained it was extremely invasive and it would require daily password change.

Mayor Coviello stated he understood that the City has cameras on 47th Terrace and questioned if they would also be installed in the parking lot.

City Manager Szerlag responded in the affirmative.

Mayor Coviello inquired if the CCPD could have access to our system.

ITS Director Hoffmann responded that the CCPD does have access to the cameras, and they can also put it on an IPad or IPhone.

Chief of Police Newlan stated he just wanted clarification on that question.

City Attorney Menendez stated she understood that the preference would be to see if the Chief of Police and Dixie are able to reach an agreement for the lifting and discuss this at the next Council meeting.

<u>Mayor Coviello</u> stated he would like to see them get together and come back with a resolution for this issue on May 6th.

Mr. Smith agreed.

<u>Mayor Coviello</u> noted that he would add this on to the May 6th meeting agenda. He hoped that the new proposal would be reasonable and that the Chief of Police and Mr. Shearman are comfortable with the decisions. '

Mr. Shearman questioned if in the event there is one item that they cannot agree on, should we inform Council of what has been resolved, and to narrow it down for Council.

<u>Mayor Coviello</u> stated his goal was to come forward with something that everyone can agree on. If a hearing is necessary, we will make that happen.

City Manager Szerlag asked for clarification that we are being asked to negotiate with Dixie Roadhouse through representation and come back at the next Council meeting with a slate of items that we can agree on. If there is something that we cannot agree on, the balance will be in writing for Council's review and decision.

Mayor Coviello responded in the affirmative.

Both Mr. Smith and Mr. Shearman agreed.

City Attorney Menendez asked for a motion to continue this until the next meeting.

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Councilmember Nelson moved, seconded by Councilmember Stout, to continue this item to the May 6^{th} , 2019 Council meeting.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." All "ayes." Motion carried 8-0.

NEW BUSINESS

<u>Discussion of Traffic Safety Features at the Oasis School Complex - Brought</u> forward by Mayor Coviello

Mayor Coviello explained why this item was on the agenda. Discussion on this item was started in 2015. With all the recent developments on school bus stops, this was something that Council should discuss for a solution. He noted that FDOT would be placing some flashing lights there. He noticed that when looking through the exit gate at the school complex, there is a crosswalk all the way across the parking lot, but when you get to the other side by the street, there is no marking.

Traffic Engineer Corbett discussed the following:

- Visited this topic since 2015 to establish need for a marked crosswalk across from the Oasis campus to the west side of the road
- There are sidewalks there.
- Indication by school that there is a very low number of pedestrian students
- Staff wanted to make sure the crossing would be safe for all pedestrians which included non-school hours.
- Pedestrian counts show virtually no non-school pedestrians there.
- Reluctant to mark a crossing, don't want to have a false sense of security
- Solution at that time was to improve signage and post a crossing guard during school hours, program effective, zero incidents
- There have been some requests to install marked crossing.
- Does not meet minimum warrants of Uniform Traffic Control Devices
- If we are to place that, want to make sure it is highly visible by motorists.
- Not warranted as a crosswalk if it were not a school
- No minimum warrants for a crosswalk within a school zone.
- School zone being evaluated as part of a study related to a grant by FDOT
- New requirements in the FDOT Speed Zoning Manual which include flashing beacons for speed reductions within school zones
- Waiting on FDOT to roll out the phasing of the grants and provide those materials
- If we were to explore the option of installing a marked mid-block crossing, staff recommends that it comes with pedestrian-actuated flashers which is not part of the grant but is the only way staff would be comfortable installing the crosswalk since it is not warranted in the non-school condition.

<u>Councilmember Stokes</u> stated he wanted this moved forward to keep the kids safe.

<u>Mayor Coviello</u> stated there was a cost involved of approximately \$25,000. He asked if that was the only way to have a crosswalk there.

Mr. Corbett stated there would be no way to preclude certain pedestrians during offschool hours from using it. He discussed the concern to not have a false sense of security.

<u>Mayor Coviello</u> inquired if the same type of crosswalk, such as by the Westin, "Stop When Pedestrians Present", was possible by Oasis.

Mr. Corbett stated that type of signage would accompany the crosswalk when installed. The visibility is critical. He reviewed that the cost of the solar powered flashers was less than half of the total cost. The remaining costs include some

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drainage improvements, paving, concrete, and labor to facilitate this from the east side of the road to the west side including the median to be ADA-compliant. Without the pedestrian-actuated flashers, he would not recommend installing a mid-block crossing at this location.

<u>Councilmember Cosden</u> stated she did not see a need to do anything since this location was already safe with a crossing guard, and there have been no incidents.

<u>Mayor Coviello</u> noted it may be nice to do an enhancement to the walkway with paying or concrete coming from the gate and going to the median.

Councilmember Cosden stated that would make sense.

Mayor Coviello stated he was looking for an improvement for safety and looks.

Mr. Corbett stated providing a firm surface on the median without actually marking the crosswalk is a possibility.

<u>Councilmember Nelson</u> agreed on the enhancement. She noted she heard comments about this at the last Charter School Board meeting. She questioned if there was a grant to get this work done.

Mr. Corbett stated not actually for this work. The grant that we are receiving is related to the school zone itself, and there are flashing beacons at both ends to indicate the warning of the speed reduction.

<u>Councilmember Gunter</u> questioned if that was something similar to what is on Coronado with a crossing guard and flashing light showing the speed going down from 30 mph to 20 mph.

Mr. Corbett responded in the affirmative. He noted that at Coronado serving Cape Elementary there is a crossing guard helping students to cross the major road. There is a marked crosswalk there; they have the overhead flashers which serve the same purpose as the grant provided flashers we are looking forward to receiving.

Councilmember Gunter questioned if there was a timeline on receiving the flashers.

Mr. Corbett stated all paperwork has been submitted to FDOT who are working with all local municipalities on a phased implementation.

<u>Mayor Coviello</u> inquired if we could move forward with the flashers knowing that there is a good possibility the grant will come through.

Mr. Corbett stated FDOT was providing the flashers. The City is responsible for the installation.

<u>Councilmember Stokes</u> stated there are after school clubs when the school crossing guard is not present. He suggested spending the money and put the flashers up.

Councilmember Stokes moved to put the flashers in out of the General Fund, the cost not to exceed \$25,000, at that intersection. There was no second. Motion failed.

Mayor Coviello requested a motion to pave the walkway through the gate and the median.

<u>Councilmember Cosden</u> requested this be put on a future meeting agenda so that backup would be provided.

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<u>Mayor Coviello</u> confirmed that her request was to have the Traffic Engineer bring forth a proposal and plan.

Public Works Director Clinghan agreed to the next Council meeting.

<u>Mayor Coviello</u> stated a plan should be presented from a safety and economic standpoint.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

<u>Councilmember Williams</u> – Topics: Last week he attended Heroes Welcome for the Uncommon Friends at Burroughs Home; Youth Council meeting last Friday; and Rotating interviews for the Youth Council applicants this month.

Councilmember Carioscia - Topics: No Report.

<u>Councilmember Cosden</u> – Topics: Attended the Touch-a-Truck; Pride Festival; Met with people from Lights for Layla; attended Chiquita Lock hearing; Legislative Clerk position has been posted, open until April 23rd, many applications received; Looking for a second to bring forward a Resolution supporting breast feeding, this is a request from the Lee County Department of Health. <u>Councilmember Nelson</u> provided the second.

<u>Councilmember Gunter</u> – Topics: Attended the CRA meeting; Planning and Zoning Commission meeting; and Cape Coral Touch-a-Truck.

<u>Councilmember Nelson</u> — Topics: Attended Charter School Governing Board (CSGB) meeting, discussed the portables that need to be taken down or redone or constructed in some other way, she made the recommendation that the CSGB would probably not need to come to Council with voting for additional dollars until we have the recommendation from the City Manager in terms of our options with the Charter Schools, the Charter School will come to Council to try to get the PDP extended on those portables; Canceled the Good Wheels contract, all transportation now in house; and Pride Parade.

<u>Councilmember Stokes</u> – Topics: Thanked everyone collecting money for school bus stop safety; and thanked Chief Newlan for distributing LEDs to students.

<u>Councilmember Stout</u> – Topics: Attended the Touch-a-Truck event; Police Athletic League Breakfast; MOA Breakfast Saturday morning; and Kiwanis Appreciation Dinner last night.

<u>Mayor Coviello</u> – Topics: Attended the Chamber of Commerce Leadership Group Casino Night sponsored by the Gunterberg Foundation at the Cape Coral Yacht Club; Touch-a-Truck; Special Pops Fashion Show at the Westin Convention Center; Pride Parade on SE 47th; American Heart Association Ball at the Hyatt Regency in Coconut Point; Meeting with all Mayors within the County that addressed the County Commissioner's discussion regarding mining, meeting will be taking place on Wednesday, April 17th; CCCIA Dinner meeting; and Lee County Sheriff's Office Deputy Dogs Event.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

<u>City Attorney</u>: Topics: Following up on Councilmember Nelson's comments, she checked with DCD Director Cautero regarding the PDP amendment to allow the Charter School to retain the portables. The original PDP was approved by the Planning and Zoning Commission which at this point would be the Hearing Examiner, so unless there would be an appeal, that PDP would not have to come to Council to extend the timeframe, although there may be other issues that the Council may be involved with.

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City Manager: Topics: No Report

TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole Meeting was scheduled for Monday, April 22, 2019 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 9:05 p.m.

Submitted by,

Kimberly Bruns, CMC Interim City Clerk Item Number: B.(1)

Meeting 5/6/2019 Date:

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 67-19 Approve the Purchase of a 2019 F550 Crane Truck to Alan Jay Fleet Sales by piggybacking Sourcewell, formerly NJPA (National Joint Powers Alliance), cooperative Contract No.120716-NAF at a delivered price of \$132,474; Authorize the use of Unassigned Water & Sewer Reserves: And Authorize the City Manager or designee to execute the contract, renewals. purchase orders, and corresponding documents; Department: Public Works; Estimated Dollar Value: \$132,474; (Unassigned Water & Sewer Reserves)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? No

> If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. Asset #24787 2008 F550 Crane Truck was scheduled to be replaced in the approved Asset Management Program in fiscal year 2020, but due to operational and safety concerns Public Works/Fleet Management has removed the vehicle from service.
- 2. The cost to repair and retrofit the 2008 F550 Crane Truck would not be cost effective as it is estimated at 125% of the value of the vehicle.
- 3. Staff completed a market analysis and reviewed three contracts that are available to piggyback, Sourcewell, Florida Sheriff's Association and Florida State Contract.
- 4. The result are as follows: **Sourcewell contract**, awarding to Alan Jay Fleet Sales, total price calculated at \$132.474 breakdown of cost revealed that the base cab, chassis and factory options equals \$52,085 and the up-fitting of the chassis with the crane and safety items are \$80,389. The quote of \$132,474 is a 2.5 % increase from the previous purchase price of \$129,214 in February 2018; The Florida Sheriff's Association contract did not offer the same factory options; The Florida State Contract - the total price of the replacement vehicle was calculated at \$132,593.
- 5. Staff is requesting for the purchase of a 2019 F550 Crane Truck to be awarded to Alan Jay Fleet sales by utilizing the Sourcewell Contract No. 120716-NAF.
- 6. This procurement is governed by the City of Cape Coral Code of Ordinances, Article VII, Division 1, §2-144(f) which authorizes the City to purchase goods or services from contracts

- awarded by other governmental entities by competitive bid or request for proposals.
- 7. Funding Staff is requesting to utilize Unassigned Water & Sewer Reserves. The amount will be included in Budget Amendment #2.

LEGAL REVIEW:

Purchase Order will be issued.

EXHIBITS:

Department Memo Resolution 67-19 Alan Jay Fleet Sales Quote

PREPARED BY:

Wanda Roop Division- Procurement Department-Finance

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, Public Works Director

ATTACHMENTS:

	Description	Type
D	Department Recommendation	Backup Material
D	Resolution 67-19	Resolution
D	Alan Jay Fleet Sales Quote	Backup Material

MEMORANDOM

CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

TO:

John Szerlag, City Manager

Victoria Bateman, Financial Services Director

Wanda Roop, Procurement Manager

FROM:

Paul Clinghan, Public Works Director PRC

Marilyn Rawlings, Fleet Manager

DATE:

March 21, 2019

SUBJECT:

Recommendation for Purchase of 2019 F550 Crane Truck

Background

Asset #24787, a 2008 F550 Crane Truck, has been taken out of service due to operational and safety concerns. The repair and retrofit of this vehicle would be extensive and estimated at 125% of the value of the vehicle. This crane truck was scheduled to be replaced in the approved Asset Management Program in FY20 and Fleet would like to order the truck now to minimize the amount of time the crew is without a vehicle. The production cycle of the crane truck is estimated to be seven (7) months.

A review of three available "piggyback" contracts (Sourcewell, Florida Sheriff's Association, and Florida State Contract) was performed. The following is a summary of the results:

- Under the Sourcewell contract, utilizing Alan Jay Fleet Sales, the total price was calculated at \$132,474.25. A breakdown of the costs revealed that the base cab, chassis and factory options equals \$52,085.00 and the upfitting of the chassis with the crane and safety items equals \$80,389.25 for a total of \$132,474.25. The quote of \$132,474.25 is a 2.5% increase from the previous purchase price of \$129,214.25 in February 2018.
- The Florida Sheriff's Association contract did not offer the same factory options.
- Under the Florida State contract, the total price of the replacement vehicle was calculated at \$132,592.85.

Fund Availability

Funding is available from FY19 unassigned reserves. The original funding in the FY20 budget in business unit 401750.664102 would be reduced accordingly.

Recommendation

Fleet Staff recommends using Sourcewell, the low bidder meeting specifications, and issue a purchase order with Alan Jay Fleet Sales.

PC/MR:gm

CC:

Jeff Pearson, Utilities Director

Gary Manning, Fleet Superintendent

RESOLUTION 67 - 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE PURCHASE OF A 2019 F550 CRANE TRUCK FROM ALAN JAY FLEET SALES IN ACCORDANCE WITH SOURCEWELL (FORMERLY NJPA) CONTRACT #2019-120716-NAF; AUTHORIZING THE FUNDING OF THE PURCHASE FROM FY2019 UNASSIGNED RESERVES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE PURCHASE ORDER(S); PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City's 2008 F550 Crane Truck (Asset #24787) was scheduled to be replaced in fiscal year 2020 in the approved Asset Management Program; and

WHEREAS, Public Works/Fleet Management has removed the vehicle from service due to operational and safety concerns; and

WHEREAS, the expense to repair and retrofit the vehicle, estimated at 125 percent of the value of the vehicle, is not cost-effective; and

WHEREAS, to minimize the time the crew is without a vehicle, Fleet Management is requesting approval to purchase a 2019 F550 Crane Truck from Alan Jay Fleet Sales, in accordance with Sourcewell (formerly NJPA) Contract #2019-120716-NAF, in the amount of \$132,474, utilizing FY2019 Unassigned Reserves; and

WHEREAS, Section 2-144(f) of the City of Cape Coral Code of Ordinances authorizes the City to purchase goods or services from contracts awarded by other governmental entities by competitive bid; and

WHEREAS, the Procurement Manager has made the determination required by Section 2-144(f) of the City of Cape Coral Code of Ordinances that time and expense factors make it financially advantageous for the City to purchase from a contract awarded by another governmental entity; and

WHEREAS, the Procurement Manager has considered the requirements stated in Section 2-144(f) of the Code of Ordinances in making her recommendation to use the Sourcewell (formerly NJPA) contract; and

WHEREAS, the City Council desires to approve the purchase of a 2019 F550 Crane Truck from Alan Jay Fleet Sales, in accordance with Sourcewell (formerly NJPA) Contract #2019-120716-NAF, at a cost of \$132,474, and to authorize the funding of the purchase of the truck from FY2019 Unassigned Reserves.

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

Section 1. The City Council hereby approves the purchase of a 2019 F550 Crane Truck from Alan Jay Fleet Sales, in accordance with Sourcewell (formerly NJPA) Contract #2019-120716-NAF at a cost of \$132,474.

Section 2. The City Council hereby authorizes the funding of the purchase of the truck from FY2019 Unassigned Reserves.

Section 3. The City Council hereby authorizes the City Manager or his designee to execute the purchase order(s).

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

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

JOE COVIELLO, MAYOR

COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN	
ATTESTED TO AND FILED IN MY OI 2019.	FFICE THIS	DAY OF
	KIMBERLY INTERIM (Y BRUNS CITY CLERK
APPROVED AS TO FORM:		
DOLORES D. MENENDEZ CITY ATTORNEY res/Piggyback Sourcewell-Alan Jay Fleet Sales		

VOTE OF MAYOR AND COUNCILMEMBERS:





Awarded Contract

Call Us first, for all of your Fleet Automotive, & Light Truck needs.

Quote

WWW.ALANJAY.COM 19035-2 DIRECT 863-385-9610 PHONE (800) ALANJAY (252-6529) Mailing P.O. BOX 9200 Corporate 2003 U.S. 27 South MOBILE 904-838-4999 Address Sebring, FL 33871-9200 Office Sebring, FL 33870 FAX 863-402-4221

ORIGINAL QUOTE DATE 2/27/2019

QUICK QUOTE SHEET

REVISED QUOTE DATE 3/19/2019

REQUESTING AGENCY CAPE CORAL, CITY OF GMANNING@CAPECORAL.NET CONTACT PERSON **GARY MANNING EMAIL**

CONTACT PERSON	239-574-0703	MOBILE	FAX	
PHONE				oFlootGroup com
SOURCEWELL	. (FORMERLY NJPA	A) CONTRACT # 2019-120716-	NAF WWW.NationalAut	PROBLEMON - INCOME MATERIA
MODEL	X5H		MSRP	\$54,220.00
	2019 FORD F-550 SUPER DIESEL (X5H 660A)	CAB CHASSIS DRW 4WD XL 84"CA 192"	WB	
CUSTOMER ID	CRANE TRUCK		NJPA PRICE	\$46,485.00
BED LENGTH	84" CA			
CANCEL STATE OF THE STATE OF TH	ordered white w/ darkest inte	erior unless clearly stated otherwise on purcl	hase order.	
FACTORY OPTION		DESCRIPTION		
Z1 AS		MEDIUM EARTH GRAY, HD VINYL 40/20/40 SPLI	T BENCH SEAT- Inc: Center armrest, cuphold	er, \$0.00
99T 44W	6.7L 32V POWER STRO	KE V8 DIESEL W/ 6 SPD HD AUTOMATIC TRANSM	MISSION	\$0.00
18B	BLACK PLATFORM RUN			\$440.00
213	SHIFT ON THE FLY			\$180.00
43C	110V/400W OUTLET			\$170.00
52B	ELECTRIC BRAKE CONT	ROLLER		\$265.00
535	High Capacity Trailer Toller Toller	ow Package -inc: Trailer brake controller not incl	luded, Increases GCW from 31,000 lbs, to 40	,000 \$575.00
59H	CENTER HIGH MOUNT	STOP LAMP (CHSML)		\$0.00
585	Radio: AM/FM Stereo/ recognition w/911 Ass controls	'MP3 -inc: 4-speakers, SYNC Communications & ist, 4.2" LCD center stack screen, AppLink, 1 sma	Entertainment System, enhanced voice art-charging USB port and steering wheel aud	\$545.00 lio
62R	PTO PROVISION			\$275.00
67A	DUAL ALTERNATORS (I	requires 99T, & 43C or 473)		\$0.00
67X	EXTRA HD FRONT SUSI	PENSION PACKAGE (INCREASES FRONT AXLE TO	7,000LBS)	\$120.00
68M	19,500LB PAYLOAD UP	PGRADE PACKAGE		\$1,145.00
872	FACTORY REAR VIEW (INSTALLATION AFTER	CAMERA & PREP KIT WITH ELECTROCHROMIC M BODY INSTALL.	IIRRIOR, CAMERA SHIPS LOOSE FOR	\$410.00
90L	POWER WINDOWS, LO	OCKS, REMOTE KEYLESS, POWER GLASS MIRRO	RS WITH MANUAL TELESCOPING FEATURE.	\$910.00
TGK	(Ford Factory) Tires: 22 front, Not recommend spare is 225/70Rx19.5	25/70Rx19.5G BSW Traction (TGK) -inc: 4 tractio led for over the road applications; could incur irr G BSW traction	n tires on the rear and 2 traction tires on the regular front tire wear and/or NVH, Optional	\$210.00
X8L	4:88 AXLE RATIO LIMIT	TED SLIP REAR DIFFERENTIAL		\$355.00
			FACTORY OPTIO	NS \$5,600.00
CONTRACT OPTIO	ONS	DESCRIPTION		with a
MJYAWAWP		E (AMBERWHITE) LIGHT BAR		\$979.0
DTF 4 TRK	DEEP TINT FILM 4 DOC	ORS AND BACK GLASS EXT/CREW CAB TRUCK		\$235.0
3K		OGRAMMED THIRD KEY		\$75.0
L-SPOT		FT HAND SPOT LAMP WITH HALOGEN BULB.		\$495.0
W-VERTEX-TRUCK		ORNER HIDE AWAY LED STROBES INSTALLED (2) I R HIGH ON BACK OF UTLITY BODIES	NSIDE HEADLAMPS OR GRILLE (2) INSTALLED	
IMT DOM I		KAGE FOR CAPE CORAL (See attached for compl	ete specifications)	\$77,990.0
LBM		JNT TABS FOR WHELEN MINI-JUSTICE.		\$0.0
AUX SWITCHES		TS THE FOLLOWING SWITCH CONFIGURATION: , HTS, AUX 3 - PTO SWITCH, AUX 4 - COMPRESSOI		
NOTE	PLEASE MAKE SURE TI	HE AUX SWITCH INSTRUCTIONS WIND UP ON AL	AN JAY & IMT PO'S.	\$0.0





TEMP	TEMPORARY TAG				\$45.2
EWD	EXTENDED WARRANTY D	DECLINED			\$0.0
			(CONTRACT OPTIONS	\$80,389.2
		9			
TRADE IN				OTAL COST	\$132,474.2
	YES WE TAKE TRAD	E INS ~~~ ASK ABOUT MUNICIPAL FINAI	NCING ~~~		\$0.
		TOTAL COST LESS T		QTY 1	\$132,474.2
Estimate	ed Annual payments f	or 60 months paid in advance: \$29,141.	16 ender approval	WAC.	
	iviunicipal fin	idince for any essential use venicle, requires i	citaci appioval,		

"I Want to be Your Fleet Provider"

I appreciate the opportunity to submit this quotation. Please review it carefully. If there are any errors or changes, please feel free to contact me at any time.

I am always happy to be of assistance.



EQUIPMENT QUOTE

QUOTE NUMBER: ALAN191190 V.4

Date Created: 02/28/19 8:58:07 Date Updated: 03/19/19 13:41:44

PREPARED FOR:

Chris Wilson

(863) 402-4234 (office) (863) 381-3411 (cell) chris.wilson@alanjay.com

Alan Jay PO Box 9200

Sebring, FL 33871

YOUR QT CONTACT:

Chris Ross

IMT Equipment Specialist (800) 758-2410 (office)

(813) 394-9932 (cell)

(330) 724-3386 (fax)

cross@qtequipment.com

Cape Coral 2019

EQUIPMENT

DESCRIPTION

Chassis

F550

Body

DOMINATOR 1: IMT Series 3 Crane Body. Heavy duty galvannealed steel construction with standard right rear crane mount. 21" workbench bumper with through compartment, 1/4 inch plate work surface and recess for pintle hitch and hitch receiver tube. Electrical system is fully integrated and sealed incorporating an automotive style harness system with power and function distribution box. Body Primed and Painted. Standard Paint unless otherwise stated is Sherwin Williams Genesis. Inside of compartments are painted with IMT compartment coating and understructure is undercoated. Crane body rating of 52,000 ft-lbs. CONFIGURATION: 11' Body with 44" high compartments with raised right front first and second compartments to 60".

INCLUDED:

- Body Installation Kit for 19,500 GVW Chassis
- 10" Fold Down Tailgate with single hand latch
- Light Kit. LED High Intensity
- Compartment Lights and (2) LED work lights
- Install electrical harness
- ICC Safety Kit

Crane

IMT Model 7500 Series 3 Telescopic mechanic field service crane. 5 Sided Penta Boom design. Double acting cylinders with integral holding and/or counterbalance valves. Four section remote control valve. Proportional radio remote control. Planetary Winch boom mounted 60 ft/min. Flip sheave boom tip. Return filters, snatch block, anti-two-block device. Hydraulic overload shutdown system, decals and mounting kit. Crane is factory painted white with Axalta Imron Elite paint.

Max Lift: 7,500 lbs. Max Reach: 22'

Rotation: 400 Degrees

INCLUDES:

- Boom Support
- Single Proportional Radio Remote (Toggle Switches)
- LED Overload Indicator Lights
- (1) Short and (1) Long Radio Elimination Cable.
- LED Boom Tip Lights

Compressor

Boss BA440 Reciprocating Air Compressor. 40 CFM @ 100 PSI. 20 Gallon hotdog air tank kit. Reelcraft hose reel, 50' x 1/2". 1/2" Moisture Separator/Pressure Regulator/Oiler

Hydraulics

PTO, single stage pump, selector valve, 40 gallon hydraulic reservoir and return filter. (1) High pressure filter off the pump. Engine function module.

Suspension

Level Spring Suspension, Crane Side. Will level within 2" on empty truck.

Compartments

LV1: (1) IMT Toolbox. 26W 2-5, 1-7, 5-3 41H LV2: (3) Standard Vertical 17.5" Shelf LH: (1) Standard Horizontal 49.5" Shelf LR: (1) Standard Vertical 25.5" Shelf

RV1: (1) Divider Package. Oxy/Acet Bracket. Full Height Compartment Divider. (3) 17.5" Shelves.

RV2: (3) Standard Vertical 17.5" Shelf RH: (1) Standard Horizontal 49.5" Shelf

Outriggers

Hydraulic down (both sides) and hydraulic out (crane side) rear outriggers for Dominator 1 package. Front outriggers.

Paint

Class: Single stage whites.

Color: Paint Code:

Body painted in house with Sherwin Williams products.

Bedliner

Standard: Black, Sherwin Williams polyurea applied to top of sidepacks, inside of load space and top of workbench bumper.

Warranty

All new equipment comes with a one year parts and labor warranty. Mileage charges for on-site service are not covered. OEM warranties may extend longer than one year. All warranty repairs must be performed by QT Equipment unless written approval is obtained in advance.

Accessories

- (1) QT Headache Rack Location:
- (1) LED Boom Tip Light Kit (2 lights) Location:
- (1) Master lock system for 11ft RF and LF RSD body Location:

[Fleet] 2019 Ford Super Duty F-550 DRW (X5H) XL 4WD SuperCab 192" WB 84" CA (10)



Note:Photo may not represent exact vehicle or selected equipment.

Window Sticker

SUMMARY

[Fleet] 2019 Ford Super Duty F-550 DRW (X5H) XL 4WD SuperCab 192" WB 84" CA

MSRP:\$45,100.00

Interior: Medium Earth Gray, HD Vinyl 40/20/40 Split Bench Seat

Exterior 1:Oxford White

Exterior 2:No color has been selected.

Engine: 6.7L 4V OHV Power Stroke V8 Turbo Diesel B20

Transmission: TorqShift 6-Speed Automatic

OPTIONS

CODE	MODEL	MSRP
X5H	[Fleet] 2019 Ford Super Duty F-550 DRW (X5H) XL 4WD SuperCab 192" WB 84" CA	\$45,100.00
	OPTIONS	
18B	Platform Running Boards	\$445.00
213	4x4 Electronic-Shift-On-The-Fly (ESOF)	\$185.00
43C	110V/400W Outlet	\$175.00
44W	Transmission: TorqShift 6-Speed Automatic	\$0.00
52B	Trailer Brake Controller	\$270.00

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535	High Capacity Trailer Tow Package	\$580.00
585	Radio: AM/FM Stereo/MP3	\$550.00
59H	Center High-Mounted Stop Lamp (CHMSL)	\$0.00
62R	Transmission Power Take-Off Provision	\$280.00
660A	Order Code 660A	\$0.00
67A	Dual Alternators (Total 332-Amps)	\$0.00
67X	Extra Heavy-Service Suspension Package	\$125.00
68M	GVWR: 19,500 lb Payload Plus Upgrade Package	\$1,155.00
872	Rear View Camera & Prep Kit	\$415.00
90L	Power Equipment Group	\$915.00
99T	Engine: 6.7L 4V OHV Power Stroke V8 Turbo Diesel B20	\$9,010.00
AS	Medium Earth Gray, HD Vinyl 40/20/40 Split Bench Seat	\$0.00
TGK	Tires: 225/70Rx19.5G BSW Traction (TGK)	\$215.00

Limited Slip w/4.88 Axle Ratio

Oxford White

SUBTOTAL

TOTAL PRICE

[Fleet] 2019 Ford Super Duty F-550 DRW (X5H) XL 4WD SuperCab 192" WB 84" CA (10)

Adjustments Total	\$0.00
Destination Charge	\$1,595.00

FUEL ECONOMY

X8L

Z1

Est City:N/A

Est Highway: N/A

Est Highway Cruising Range: N/A

Standard Equipment

Mechanical	
	Engine: 6.8L 3-Valve SOHC EFI NA V10 (STD)
	Transmission: TorqShift 6-Speed Automatic (6R140) -inc: SelectShift (STD)
	4.88 Axle Ratio (STD)
	50-State Emissions System
	Transmission w/Oil Cooler
	Manual Transfer Case

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\$360.00

\$59,780.00

\$61,375.00

\$0.00



[Fleet] 2019 Ford Super Duty F-550 DRW (X5H) XL 4WD SuperCab 192" WB 84" CA (10)

Mechanical	
	Part-Time Four-Wheel Drive
	78-Amp/Hr 750CCA Maintenance-Free Battery w/Run Down Protection
	HD 240 Amp Alternator
	Towing Equipment -inc: Harness and Trailer Sway Control
	10530# Maximum Payload
	GVWR: 18,000 lbs Payload Package
	HD Shock Absorbers
	Front And Rear Anti-Roll Bars
	Firm Suspension
	Hydraulic Power-Assist Steering
	40 Gal. Fuel Tank
	Single Stainless Steel Exhaust
	Dual Rear Wheels
	Manual Locking Hubs
	Front Suspension w/Coil Springs
	Leaf Rear Suspension w/Leaf Springs
	4-Wheel Disc Brakes w/4-Wheel ABS, Front And Rear Vented Discs and Brake Assist
	Upfitter Switches
Exterior	
	Wheels: 19.5" Argent Painted Steel -inc: manual locking hubs
	Tires: 225/70Rx19.5G BSW A/P -inc: Optional spare is 225/70Rx19.5G BSW A/P (STD)
	Clearcoat Paint
	Black Front Bumper w/Black Rub Strip/Fascia Accent and 2 Tow Hooks
	Black Fender Flares
	Black Side Windows Trim and Black Front Windshield Trim
	Black Door Handles
	Black Manual Side Mirrors w/Manual Folding
	Manual Extendable Trailer Style Mirrors
	Fixed Rear Window
	Light Tinted Glass

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Exterior	
	Variable Intermittent Wipers
	Aluminum Panels
	Front Splash Guards
	Black Grille
	Front License Plate Bracket
	Reverse Opening Rear Doors
	Fully Automatic Aero-Composite Halogen Daytime Running Lights Preference Setting Headlamps w/Delay-Off
	Cab Clearance Lights
Entertainment	
	Radio w/Seek-Scan
	Radio: AM/FM Stereo -inc: 4 speakers
	Fixed Antenna
	1 LCD Monitor In The Front
nterior	
	4-Way Driver Seat -inc: Manual Recline and Fore/Aft Movement
	4-Way Passenger Seat -inc: Manual Recline and Fore/Aft Movement
	60-40 Folding Split-Bench Front Facing Fold-Up Cushion Rear Seat
	Manual Tilt/Telescoping Steering Column
	Gauges -inc: Speedometer, Odometer, Oil Pressure, Engine Coolant Temp, Tachometer, Transmission Fluid Temp, Engine Hour Meter, Trip Odometer and Trip Computer
	Fixed Rear Windows
	Manual Air Conditioning
	HVAC -inc: Underseat Ducts
	Illuminated Locking Glove Box
	Interior Trim -inc: Chrome Interior Accents
	Full Cloth Headliner
	Urethane Gear Shift Knob
	HD Vinyl 40/20/40 Split Bench Seat -inc: center armrest, cupholder, storage and driver's side manual lumbar
	Day-Night Rearview Mirror
	Passenger Visor Vanity Mirror
	2 12V DC Power Outlets

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[Fleet] 2019 Ford Super Duty F-550 DRW (X5H) XL 4WD SuperCab 192" WB 84" CA (10)

Interior	
	Full Overhead Console w/Storage and 2 12V DC Power Outlets
	Front Map Lights
	Fade-To-Off Interior Lighting
	Full Vinyl/Rubber Floor Covering
	Underhood Lights
	Instrument Panel Bin and Covered Dashboard Storage
	Manual 1st Row Windows
	Systems Monitor
	Trip Computer
	Outside Temp Gauge
	Analog Display
	Manual Adjustable Front Head Restraints and Manual Adjustable Rear Head Restraints
	Air Filtration
Safety-Mechanical	
	Driveline Traction Control
Safety-Exterior	
	Side Impact Beams
Safety-Interior	
	Dual Stage Driver And Passenger Seat-Mounted Side Airbags
	Dual Stage Driver And Passenger Front Airbags w/Passenger Off Switch
	Outboard Front Lap And Shoulder Safety Belts -inc: Height Adjusters
	Safety Canopy System Curtain 1st And 2nd Row Airbags
WARRANTY	
	Basic Years: 3

Basic Miles/km: 36,000

Drivetrain Years: 5

Drivetrain Miles/km: 60,000

Corrosion Years: 5

Corrosion Miles/km: Unlimited Roadside Assistance Years: 5

Roadside Assistance Miles/km: 60,000

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PURCHASE ORDER #

CHARGE TO COMPANY 1

ETA ESTIMATED TIME OF ARRIVAL **CUSTOMER** CAPE CORAL, CITY OF VEHICLE TYPE ORDER# VEHICLE ORDER NUMBER STOCK NUMBER FVIN# DATE OF ISSUE March 7, 2019

LINE	QTY	CODE	DESCRIPTION	P	ER UNIT	EXTENDED
1	1		WHELEN MINI JUSTICE (AMBERWHITE) LIGHT BAR	\$	890.89	\$890.89
			DEEP TINT FILM 4 DOORS AND BACK GLASS EXT/CREW CAB			
2	1		TRUCK	\$	213.85	\$213.85
3	1		DEALER PROVIDED PROGRAMMED THIRD KEY	\$	68.25	\$68.25
			DEALER INSTALLED LEFT HAND SPOT LAMP WITH			
4	1		HALOGEN BULB.	\$	450.45	\$450.45
			WHELEN VERTEX 4 CORNER HIDE AWAY LED STROBES			
			INSTALLED (2) INSIDE HEADLAMPS OR GRILLE (2)			
1			INSTALLED INSIDE TAIL LAMPS OR HIGH ON BACK OF			
5	1		UTLITY BODIES	\$	518.70	\$518.70
			CUSTOMERS REQUESTS THE FOLLOWING SWITCH			
			CONFIGURATION: AUX 1 - VERTEX & MINI JUSTICE, AUX 2 -			
			BODY MOUNTED WORK LIGHTS, AUX 3 - PTO SWITCH, AUX 4			
6	1		- COMPRESSOR.	\$	=	\$0.00
			PLEASE MAKE SURE THE AUX SWITCH INSTRUCTIONS WIND			
7	1		UP ON ALAN JAY & IMT PO'S.	\$	11=	\$0.00
8	1		TEMPORARY TAG	\$	45.25	\$45.25
						\$0.00
					TOTAL =	\$2,187.39

THE ABOVE PURCHASE ORDER HAS BEEN ISSUED TO: ALAN JAY CHEVY/GMC/CADILLAC

phone: 863-402-4228

email: KEVIN.SLIMM@ALANJAY

fax: #N/A

address: 441 US 27 SOUTH, SEBRING, FL

Please direct all inquiries on this Purchase Order to: **CHRISTY SELF**

5330 US HWY 27 SOUTH P.O. BOX 9200

Sebring, FL 33870 Sebring, FL 33871-9200 PHONE #:8633859610

FAX # 863-402-4221

EMAIL:christy.self@AlanJay.com





Welcome Visitor

Edit My Profile | LOG OFF

This is only a Quote, in order for us to place an order, we must receive your purchase order. Step 6 of 8

Please click to view your quotation

Sourcewell Price

Exclusive Sourcewell Price

Florida

Configured Total MSRP Price

\$61,375.00

Sourcwell Price

\$52,292.06

View and print your Sourcwell contract quote letter without Lease Options

Estimated Lease Options Per Unit

36 Months

\$1,584.45

48 Months

\$1,207.95

60 Months

\$988.32

View and print your Sourcwell contract with Lease Options

MAKE/MODEL DETAIL

Model Year

2019

Model Name

Super Duty F-550 DRW

Manufacturer Model Code

XSH

Series/Sub-Model Name

XL 4WD SuperCab 192" WB 84" CA

Body Style

Extended Cab Chassis-Cab

Vehicle Configuration Options

ENGINE

Code	Description	MSRP	Invoice Cost	Markup %	Sourcewell Price
99T	ENGINE: 6.7L 4V OHV POWER STROKE V8 TURBO DIESEL B20, -inc: Diesel Exhaust Fluid (DEF) tank, Intelligent Oil-Life Monitor, manual push-button engine-exhaust braking and split-shaft calibration compatibility, 220 Amp Extra Heavy Duty Alternator, Dual 78-AH 750 CCA Batteries, 4.10 Axle Ratio	9010	8199	2	\$8,362.98

TRANSMISSION

Code	Description	MSRP	Invoice Cost	Markup %	Sourcewell Price
44W	TRANSMISSION: TORQSHIFT 6-SPEED AUTOMATIC, -inc: (6R140), SelectShift	0	0	2	\$0.00

TIRES

Code	Description	MSRP	Invoice Cost	Markup %	Sourcewell Price
TGK	TIRES: 225/70RX19.5G BSW TRACTION (TGK), -inc: 4 traction tires on the rear and 2 traction tires on the front, Not recommended for over the road applications; could incur irregular front tire wear and/or NVH. Optional spare is 225/70RX19.5G. BSW tractions.	215	195	2	\$198.90

PRIMARY PAINT

Code	Description	MSRP	Invoice Cost	Markup %	Sourcewell Price
Z1	OXFORD WHITE	0	0	2	\$0.00

PAINT SCHEME

Code	Description	MSRP	Invoice Cost	Markup %	Sourcewe
	STANDARD PAINT	0	0	2	\$0.00
SEAT TYPE				1.15	
Code	Description	MSRP	Invoice Cost	Markup %	Sourcewell Price
AS	MEDIUM EARTH GRAY, HD VINYL 40/20/40 SPLIT BENCH SEAT, -inc. center armrest, cupholder, storage and driver's side manual lumbar	₂ 0	0	2	\$0.00
AXLE RATIO					
Code	Description	MSRP	Invoice Cost	Markup %	Sourcewell Price
X8L	LIMITED SLIP W/4.88 AXLE RATIO	360	328	2	\$334.56
ADDITIONAL	EQUIPMENT				
Code	Description	MSRP	Invoice Cost	Markup %	Sourcewell Price
90L	POWER EQUIPMENT GROUP, -inc: Deletes passenger side lock cylinder, upgraded door-trim panel, Accessory Delay, Advanced Security Pack, SecuriLock Passive Anti-Theft System (PATS) and inclination/intrusion sensors, MyKey, owner controls feature, Remote Keyless Entry, Trailer Tow Mirrors w/Power Heated Glass, manual telescoping, heated convex spotter mirror and integrated clearance lamps/turn signals, Power Front & Rear Side Windows, 1-touch up/down driver/passenger window, Power Locks	915	832	2	\$848.64
62R	TRANSMISSION POWER TAKE-OFF PROVISION, -inc: transmission mounted live drive and stationary mode PTO	280	254	2	\$259.08
213	4X4 ELECTRONIC-SHIFT-ON-THE-FLY (ESOF), -inc: manual-locking hubs and auto rotary control on instrument panel	185	169	2	\$172.38
67A	DUAL ALTERNATORS (TOTAL 332-AMPS)	0	0	2	\$0.00
52B	TRAILER BRAKE CONTROLLER, -inc: smart trailer tow connector, Verified to be compatible w/electronic actuated drum brakes only	270	246	2	\$250.92
535	HIGH CAPACITY TRAILER TOW PACKAGE, -inc: Trailer brake controller not included, Increases GCW from 31,000 lbs, to 40,000 lbs, Note: Salesperson's Portfolio or Trailer-Towing Guide should be consulted for specific trailer-towing or camper limits and corresponding required equipment, axle ratios and model availability, See Supplemental Reference for vehicle height consideration	580	527	2	\$537.54
68M	GVWR: 19,500 LB PAYLOAD PLUS UPGRADE PACKAGE, -inc: upgraded frame, rear-axle and low deflection/high capacity springs, Increases max RGAWR to 14, 706, Note: See Order Guide Supplemental Reference for further details on GVWR	1155	1051	2	\$1,072.02
67X	EXTRA HEAVY-SERVICE SUSPENSION PACKAGE, -inc: pre-selected extra heavy-service front springs (see Order Guide Supplemental Reference for springs/FGAWR of specific vehicle configurations), Recommended only on vehicles which will permanently utilize aftermarket equipment such as heavy-duty winches, brush guards or other apparatus which loads the front axle to the specified Gross Axle Weight Rating (GAWR), Note 1: May result in a deterioration of ride quality, Note 2: Vehicle ride height will increase withe addition of this package	125	114	2	\$116.28
18B	PLATFORM RUNNING BOARDS	445	405	2	\$413.10
59H	CENTER HIGH-MOUNTED STOP LAMP (CHMSL)	0	0	2	\$0.00
585	RADIO: AM/FM STEREO/MP3, -inc: 6 speakers, SYNC Communications & Entertainment System, enhanced voice recognition w/911 Assist, 4.2" LCD center stack screen, AppLink, 1 smart-charging USB port and steering wheel audio controls	550	501	2	\$511.02
872	REAR VIEW CAMERA & PREP KIT, -inc: cab wiring	415	377	2	\$384.54
43C	110V/400W OUTLET, -inc: 1 in-dash mounted outlet	175	159	2	\$162.18
OPTION PAC	KAGE				
Code	Description	MSRP	Invoice Cost	Markup %	Sourcewell Price
660A	ORDER CODE 660A	0	0	2	\$0.00
Base Price		\$45100	42846	2	\$37,072.92
Manufacturer Destination Charge		\$1595			\$1,595.00
Total Options Price		\$14680	13357	2	\$13,624.14
Total Price	MSRP only. Not your Sourcwell member price.	\$61375			\$52,292.06

Item Number: B.(2)

Meeting 5/6/2019 Date:

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 68-19 Award ITB-PW19-27/AP Coronado Parkway Resurfacing FY2019 to Pavement Maintenance, LLC., for the asphalt resurfacing of Coronado Parkway, as the lowest responsive, responsible bidder, in the amount of \$490,000 with a 10% City Controlled contingency of \$49,000 for a total of \$539,000 and authorize the City Manager or Designee to execute the agreement, renewals, amendments and Purchase Orders; Department: Public Works; Dollar Value: \$539,000; (General Fund \$530,695 / Water & Sewer \$8,305).

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- Coronado Parkway Resurfacing FY2019 is for the asphalt resurfacing of Coronado Parkway from the north side of the Cape Coral Parkway intersection to the south side of the SE 46th Terrace intersection.
- 2. On January 30, 2019, Invitation to Bid #ITB-PW19-27/AP was issued for the Coronado Parkway Resurfacing FY2019 and sixteen (16) vendors obtained the Bid.
- 3. On March 8, 2019, two (2) responses were received, in alphabetical order, from: Ajax Paving Industries of Florida, LLC. and Pavement Maintenance, LLC.
- 4. After evaluation, Staff recommends awarding a contract to Pavement Maintenance, LLC as the lowest responsive responsible bidder meeting the requirements and specifications outlined in the bid documents.
- 5. If approved, the contract is to be completed in 90 days for a contract amount of \$490,000 with a 10% City controlled contingency of \$49,000 for a total of \$539,000.
- 6. The Project Manager is requesting a City Controlled Contingency: The expenditure of contingency, if any, will be subject to approval of specific change orders by City's Project

- Manager, if justified, upon identified needs with an appropriate scope and cost to address specific needs.
- 7. Funding information: Funding for the total Project including contingency is outlined below (Government Capital Projects/General Fund) The funds from business units 3010916 and 4050076 will be transferred as part of Budget Amendment #2.
 - Business Unit #3010916.663101 (Public Works Department/Local Road Resurfacing) \$464,963 for Coronado Parkway Resurfacing plus 10% City Controlled Contingency of \$46,496 for a total of \$511,459
 - Business Unit 130125.653101 (Public Works Department/Traffic Ops) \$17,488 for Coronado Parkway Resurfacing plus 10% City Controlled Contingency of \$1,478 for a total of \$19,236
 - Business Unit #4050076.662601 (Utilities Department/UCD-Road Resurfacing) \$7,550 for Manhole & Valve Adjustments plus 10% City Controlled Contingency of \$755 for a total of \$8,305.

LEGAL REVIEW:

Legal reviewed the Contract

EXHIBITS:

Department Recommendation Resolution 68-19 Aerial of the Project Area Bid Tabulation ITB-PW19-27/AP

PREPARED BY:

Wanda Roop Division- Procurement Department-Finance

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, Public Works Director

ATTACHMENTS:

	Description	Туре
ם	Department Recommendation	Backup Material
ם	Resolution 68-19	Resolution
ם	Aerial of the Project Area	Backup Material
ם	Bid Tabulation ITB-PW19-27/AP	Backup Material

MEMORANDUM

CITY OF CAPE CORAL DEPARTMENT OF PUBLIC WORKS

TO: John Szerlag, City Manager

FROM: Victoria Bateman, Financial Services Director

Wanda Roop, Procurement Manager

Paul Clinghan, Public Works Director DA &

Stephanie Smith, PW Design & Construction Manager

DATE: March 20, 2019

SUBJECT: Coronado Parkway Resurfacing FY2019 Bid Recommendation

BACKGROUND:

Coronado Parkway Resurfacing FY219 involves resurfacing of Coronado Parkway from the north side of the Cape Coral Parkway intersection to the south side of the SE 46th Terrace intersection. This project includes related work such as milling, utilities adjustments, structural repairs, and restriping. Structural repairs are to be performed from the north side of the SE 47th Terrace intersection plus additional locations as needed. An aerial of the project area is attached.

RECOMMENDATION:

An Invitation to Bid was advertised and two (2) bids were submitted and opened on March 8, 2019. Based upon the bid opening results, the Public Works Department recommends awarding the Coronado Parkway Resurfacing FY2019 contract to PMI, the lowest responsible, responsive bidder. The contract includes a substantial completion time frame of sixty (60) days after the notice to proceed is issued.

Staff recommends awarding the contract for the submitted bid of \$490,000 for Coronado Parkway Resurfacing and related items. The contract price including a 10% City controlled contingency of \$49,000 is \$539,000.

If you have any questions regarding this request, please contact James Breakfield, Principal Engineer, Public Works at 239-574-0588 or jbreakfi@capecoral.net.

FUND AVAILABILITY:

Transportation: Business Unit 3010916 - \$464,963 plus 10% contingency for \$511,459; Traffic: Business Unit 130125 - \$17,488 plus 10% contingency for \$19,236; Utilities: Business Unit 4050076 - \$7,550 plus 10% contingency for \$8,305 for a total of \$490,000 plus 10% contingency for a total of \$539,000.

PC/SS:ip

Attachments: Coronado Parkway Resurfacing Aerial

RESOLUTION 68 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR CORONADO PARKWAY RESURFACING FY2019 TO PAVEMENT MAINTENANCE, LLC; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT DOCUMENTS BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 30, 2019, INVITATION TO BID ITB-PW19-27/AP was issued for Coronado Parkway Resurfacing FY2019 for the asphaltic concrete resurfacing of Coronado Parkway from the north side of the Cape Coral Parkway intersection to the south side of the SE 46th Terrace intersection; and

WHEREAS, having received two bids, the City Manager recommends the award of the bid to Pavement Maintenance, LLC, as the lowest qualified responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid, in the amount of \$490,000, subject to a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

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

Section 1. The City Council hereby awards the bid for Coronado Parkway Resurfacing FY2019 to Pavement Maintenance, LLC, in the amount of \$490,000, subject to a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

Section 2. The City Council hereby approves Contract #ITB-PW19-27/AP between the City of Cape Coral and Pavement Maintenance, LLC, for Coronado Parkway Resurfacing FY2019, and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

Section 3. The City Council hereby authorizes the City Manager or the City Manager's designee to enter into change orders for work required other than as contemplated in the contract documents with an appropriate scope and cost to address those needs, subject to payment of a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

Section 4. This Resolution shall take effect immediately upon its adoption.

	ON THIS DA		OF CAPE CORAL AT TI , 2019.	'S REGULAR
		JOE CO	OVIELLO, MAYOR	National States
VOTE OF MAYO	R AND COUNCILM	EMBERS:		
COVIELLO GUNTER CARIOSCIA STOUT		NELSON STOKES WILLIAMS COSDEN		
ATTESTED TO A	AND FILED IN MY C	FFICE THIS	DAY OF	, 2019.
			RLY BRUNS IM CITY CLERK	

APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY

res/Bid Award-Pavement Maintenance LLC

THIS CO	NTR/	ACT is	made	e this		day of						201	by and
between	the	CITY	OF	CAPE	CORAL,	FLORID	A , herei	nafter	called	"CITY",	and	PAV	<u>EMENT</u>
MAINTE	NANC	E, LL	<u>C</u> , lo	cated at	1640 Bei	nchmark	Avenue,	Fort	Myers,	FL 33905	, here	inafte	r called
"CONTR	ACT	R"							-				

WITNESSETH: For and in consideration of the payments and agreements mentioned hereinafter:

- 1. The CONTRACTOR **will provide** Coronado Parkway Resurfacing FY2019 in accordance with the Contract Documents.
- 2. The CONTRACTOR **will furnish** all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the services described in the Contract Documents. Time is of the essence in the performance of this Contract.
- 3. The CONTRACTOR **will commence** work as required by the CONTRACT DOCUMENTS within ten (10) calendar days after the receipt of the written Notice to Proceed and will complete the same in 90 calendar days. Substantial completion shall be achieved within 60 calendar days after receipt of the written Notice to Proceed. Time is of the essence in performance of this agreement.
- 4. The CONTRACTOR **agrees** to perform all of the WORK described in the CONTRACT DOCUMENTS for a total price of Four Hundred Ninety Thousand dollars and Zero Cents (\$490,000.00) as listed in Exhibit A during the term of the contract.
- 5. The **term** of the contract to be awarded as a result of this bid shall be for ninety (90) calendar days from the written Notice to Proceed.
- 6. This Contract **may be terminated** by the CITY for its convenience upon thirty (30) calendar days prior written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract. Such amount shall be paid by the CITY after inspection of the work to determine the extent of performance under this Contract, whether completed or in progress.
- 7. The Term "Contract Documents" shall include this Contract, Addenda, Contractor's Bid except when it conflicts with any other contractual provision, the Notice to Proceed, Certificates, and the Bid Package number ITB-PW19-27/AP prepared and issued by the City. In the event of conflict between any provision of any other document referenced herein as part of the contract and this Contract, the terms of this Contract shall control.
- 8. <u>Assignment:</u> This Contract may not be assigned except with the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
- 9. <u>Disclosure:</u> The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the Contract.
- Administration of Contract: The <u>Public Works Director</u>, or his representative, shall administer this Contract for the CITY.

- 11. **Governing Law:** The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible for its own reasonable costs and attorney's fees.
- 12. **Amendments:** No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties.
- 13. Payment Procedures: CONTRACTOR shall submit Applications for Payment in accordance with Article 15 of the General Conditions of the bid document. Applications for Payment will be processed by the OWNER as provided in the General Conditions.

Progress Payments: As long as progress on the Work is satisfactory according to the CONTRACTOR'S Work schedule, the OWNER shall make payments on account of the contract as follows:

On no later than the fifth day of every month the CONTRACTOR shall present to the OWNER an invoice covering the total quantities under each item of work that have been completed from the start of the job up to and including the last day of the preceding month, and the value of the work so completed is in accordance with the schedule of unit prices.

All such invoices are approximate only and are subject to corrections by the final estimate. Measures shall be in accordance with Paragraph 15.1 of the General Conditions. No later than thirty (30) days after submittal by the CONTRACTOR and approval by OWNER, the OWNER shall, after deducting previous payments made, pay the CONTRACTOR 90% of the amount of the invoice. The 10% retained percentage shall be held by the OWNER until final completion. When 50 percent of the contract sum specified in section 4 of this contract, together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in this contract is expended, thereafter the retainage shall be reduced to 5%.

Substantial Completion: The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of the OWNER'S Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work, refer to Substantial Completion thereof. The OWNER'S Engineer will issue a "Certificate of Substantial Completion" establishing the date of substantial completion.

Final Payment: Upon final completion and acceptance of the Work in accordance with Paragraph 15.7 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 15.7.

14. <u>Contractor's Representations:</u> In order to induce CITY to enter into the Contract CONTRACTOR makes the following representations:

CONTRACTOR has been familiarized with the Contract Documents and the nature and extent of the work required to be performed, locality, local conditions, and Federal, State, and Local laws, ordinances, rules and regulations that in any manner may affect costs, progress or performance of the work.

CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the

Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

CONTRACTOR has given CITY written notice of all conflicts, errors or discrepancies that have been discovered in the CONTRACT DOCUMENTS and the written resolution thereof by CITY is acceptable to CONTRACTOR.

- 15. <u>Indemnity:</u> To the extent permitted by law (F.S. 768.28), the CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
- 16. <u>Damage Liability:</u> The awarded CONTRACTOR shall be responsible for all claims filed for damage to private property, windows, screen enclosures, real estate signs, etc. Additionally, the CONTRACTOR shall be responsible for damage to all public property or utility property, fire hydrants, catch basins, guy wires telephone pedestals, etc. Copies of all damage claims shall be submitted to the Procurement Division.
- 17. <u>Liquidated Damages:</u> The CONTRACTOR agrees that liquidate damages in the amount of \$1,665.00 per calendar day for each calendar day that contract is not completed beyond the completion date required by the CONTRACT DOCUMENTS.
- 18. <u>Invalid Provision:</u> The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- 19. Record Keeping: The CONTRACTOR shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting methods, and the CITY reserves the right to determine the record-keeping method in the event of non-conformity. These records shall be maintained for five (5) years after final payment has been made and shall be readily available to CITY personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

The City intends to reuse all plans at some future time, in accordance with Section 287.055(11), Florida Statutes. There shall be no public notice requirement or utilization of the selection process when the city reuses the plans.

20. <u>Public Records:</u> Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Consultant, refuses to allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with this contract, unless the records are exempt from disclosure.

21. Safety and OSHA Compliance:

- A. The Contractor shall comply in all respects with all Federal, State and Local safety and health regulations. Copies of the Federal regulations may be obtained from the U.S. Department of Labor, Occupation Safety and Health Administration (OSHA), Washington, DC 20210 or their regional offices.
- B. The Contractor shall comply in all respects with the applicable Workman's Compensation Laws.

- 22. <u>Insurance:</u> Unless otherwise specified, CONTRACTOR shall, at its own expense, carry and maintain the following minimum insurance coverage, as well as any insurance coverage required by law:
 - a. Workers' Compensation Insurance with limits that comply with statutory requirements and Employer's Liability Insurance with a lower limit of \$1,000,000 per occurrence, including, without limitation, coverage for Occupational Diseases, to provide for the payment of benefits to its employees employed on or in connection with the Work covered by this Agreement and/or to their dependents.
 - b. Broad Form Commercial General Liability Insurance (on an occurrence basis), with a minimum combined single limit for Bodily Injury, including Death of \$1,000,000 per occurrence and for Property Damage of at least \$1,000,000 per occurrence.
 - c. Business Auto Liability Insurance with minimum Bodily Injury and Death Limit per accident of \$1,000,000 and a minimum Property Damage Limit per accident of \$1,000,000.
 - d. CONTRACTOR shall require its subcontractors to provide for such benefits and carry and maintain the foregoing types of insurance at no expense to CITY.
 - e. CITY shall be named as an "Additional Insured" under the CONTRACTOR'S General Liability Insurance Policy with respect to the services performed by the CONTRACTOR or by the OWNER.
 - f. Prior to commencing any Work under this Agreement, CONTRACTOR shall submit to CITY a certificate or certificates of insurance evidencing that such benefits have been provided, and that such insurance is being carried and maintained. Such certificates shall stipulate that the insurance will not be cancelled or materially changed without thirty (30) days prior written notice by certified mail to CITY, and shall also specify the date such benefits and insurance expire. CONTRACTOR agrees that such benefits shall be provided and such insurance carried and maintained until the Work has been completed and accepted by CITY.
 - g. Such benefits and such coverage as are required herein, or in any other document to be considered a part hereof, shall not be deemed to limit CONTRACTOR's liability under the Agreement.
- 23. <u>Unauthorized Aliens:</u> The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. This applies to any sub-contractors used by the Contractor as well.
- 24. Annual Appropriation Contingency: Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.

- 25. Public Construction Bond: Any Contractor entering into a contract for the construction of a public building or public work, or for any repairs upon a building or public work shall, before commencing work, execute, deliver to the City of Cape Coral, and record in the public records of Lee County, Florida, a public construction bond issued by a surety authorized to do business in the State of Florida. The amount of the bond shall be 100% of the contract amount.
- 26. <u>Entire Agreement</u>: This Contract constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed, by their duly authorized officials this Contract in <u>one</u> counterpart which shall be deemed an original on the date last signed as below written:

(CITY SEAL) ATTEST:	CITY OF CAPE CORAL:
Signature	Signature Signature
Kimberly Bruns, CMC Name	A. John Szerlag Name
Interim City Clerk Title	City Manager Title
	Date
	CITY LEGAL REVIEW: Polores Mehendez City Attorney Date
WITNESS CONTRACTOR:	CONTRACTOR:
Signature may	Pavement Maintenance, LLC. Signature
Marco Comez- Typed Name	Typed Name
Fstimator Title	Title
4 15 19	<u>4/15/19</u>

EXHIBIT A

	OFFICIAL BID 1	ABULATIO	N		
	Coronado Parkway R	esurfacing FY2	2019		
	(Cape Coral Parkway	to SE 46th Ter	race)		
tem#	Item Description	Quantity	Unit	· Unit Price	Extended Price
1 .	Mobilization	1	LS	\$ 37,092.50	\$ 37,092.50
2	Maintenance of Traffic	1	LS	\$ 14,000.00	\$ 14,000.00
3	Milling Ex Asphalt Pavement (0"-2" Avg Depth)	8,500	SY	\$ 9.50	\$ 80,750.00
4	Roadway Excavation, max depth 22.5"	1,900	CY	\$ 25.00	\$ 47,500.00
5	Stabilized Subgrade, max depth 12"	2,000	TN	\$ 14.00	\$ 28,000.00
6	Limerock base, max depth 8"	1,400	TN	\$ 32.00	\$ 44,800.00
7	Structural Repair	500	SY	\$ 55.00	\$ 27,500.00
8	Superpave SP-12.5 Asphalt Base	240	TN	\$ 125.00	\$ 30,000.00
9	Superpave SP-9.5 Asphalt Overlay	1,080	TN	\$ 120.00	\$ 129,600.00
10	Asphalt Testing	1	LS	\$ 7,500.00	\$ 7,500.00
11	6" Thermoplastic Pavement Markings, SOLID	14,000	LF	\$ 1.00	\$ 14,000.00
12	6" Thermoplastic Pavement Markings, SKIP	2,100	LF	\$ 1.00	\$ 2,100.00
13	Thermoplastic Bike Lane Marking (Bike & Arrow)	2	EA	\$ 340.00	\$ 680.00
14	Thermoplastic Standard Directional Arrow	20	EA	\$ 60.00	\$ 1,200.00
15	Thermoplastic "ONLY"	4	EA	\$ 60.00	\$ 240.00
16	RPM'S	225	EA	\$ 3.50	\$ 787.50
17	Traffic Loop Detectors, 6' X 40'	10	EA	\$ 1,670.00	\$ 16,700.00
18	Valve Box Cover Level and Adjust	10	EA	\$ 500.00	\$ 5,000.00
19	Valve Box Replacement	2	EA	\$ 650.00	\$ 1,300.00
20	Manhole Cover Adjustment	1	EA	\$ 1,250.00	\$ 1,250.00
				TOTAL	\$ 490,000.00

It is the sole responsibility of the contractor to field verify all quantities prior to bidding. Any discrepancies are the contractor's responsibility to address. Please note under General Conditions, Section 1.5.1 in reference to question submittal requirements.

By Signing, you assume all risk regarding the quantities in your bid.

Submitted by Signature:	- Colord	
Name Printed:	Joseph Ward	
Title:	Manager	
Company:	Pavement Maintenance, LLC	
Date:	3/8/2019	

THIS PAGE MUST BE COMPLETED AND SIGNED BY AN AUTHORIZED SIGNER AND RETURNED AS PART OF YOUR BID.

Florida Department of State

DIVISION OF CORPORATIONS



Department of State / Division of Corporations / Search Records / Detail By Document Number /

Detail by Entity Name

Florida Limited Liability Company PAVEMENT MAINTENANCE, LLC

Filing Information

Document Number

L12000012332

FEI/EIN Number

45-4792573

Date Filed

01/25/2012

State

FL

Status

ACTIVE

Last Event

LC AMENDMENT

Event Date Filed

07/24/2017

Event Effective Date

NONE

Principal Address

1640 BENCHMARK AVE

FT. MYERS, FL 33905

Changed: 05/29/2012

Mailing Address

1640 BENCHMARK AVE

FT. MYERS, FL 33905

Changed: 05/29/2012

Registered Agent Name & Address

GREEN, BRUCE D

1380 ROYAL PALM SQUARE BLVD.

FT. MYERS, FL 33919

Authorized Person(s) Detail

Name & Address

Title MGR

MCKNIGHT, LARRY E

1640 Benchmark Ave.

FT. MYERS, FL 33905

Title MGR

WARD, JOSEPH

1640 Benchmark Ave. FT. MYERS, FL 33905

Title MGR

WILLIS, ETHEL 1640 BENCHMARK AVE FT. MYERS, FL 33905

Annual Reports

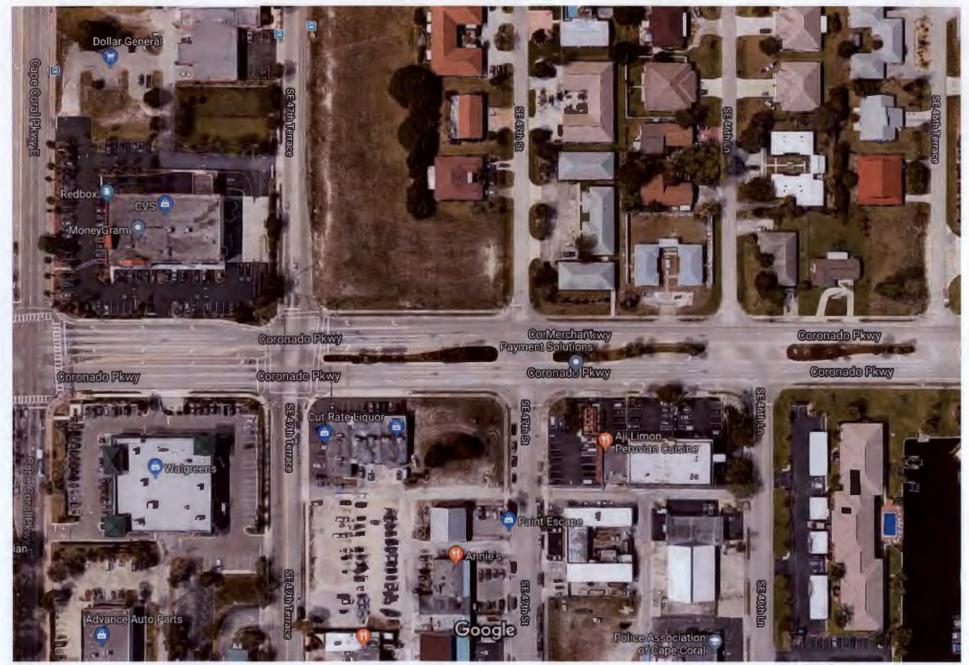
Report Year	Filed Date
2017	02/17/2017
2018	01/09/2018
2019	02/18/2019

Document Images

02/18/2019 ANNUAL REPORT	View image in PDF format
01/09/2018 ANNUAL REPORT	View image in PDF format
07/24/2017 LC Amendment	View image in PDF format
02/17/2017 ANNUAL REPORT	View image in PDF format
01/13/2016 ANNUAL REPORT	View image in PDF format
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01/17/2014 ANNUAL REPORT	View image in PDF format
04/05/2013 ANNUAL REPORT	View image in PDF format
05/08/2012 LC Amendment	View image in PDF format
04/02/2012 LC Name Change	View image in PDF format
01/25/2012 Florida Limited Liability	View image in PDF format

Florida Department of State, Division of Corporations

Google Maps



Imagery @2019 Google, Map data @2019 Google

100 ft I

2/8/2019

Bid Schedule - ITB-PW19-27/AP Bid Opening: March 8, 2019

OFFICIAL BID TABULATION

Coronado Parkway Resurfacing FY2019 (Cape Coral Parkway to SE 46th Terrace)

		1 (50.65.5)	1	1	ay to 3L 40til I	-		1			
					Ajax Pavii	ng I	ndustries		Pavement	t Ma	nintenance LLC
Item #	Item Description	Quantity	Unit		Unit Price		Extended Price		Unit Price		Extended Price
1	Mobilization	1	LS	\$	40,963.34	\$	40,963.34	\$	37,092.50	\$	37,092.50
2	Maintenance of Traffic	1	LS	\$	50,000.00	\$	50,000.00	\$	14,000.00	\$	14,000.00
3	Milling Ex Asphalt Pavement (0"-2" Avg Depth)	8,500	SY	\$	3.65	\$	31,025.00	\$	9.50	\$	80,750.00
4	Roadway Excavation, max depth 22.5"	1,900	CY	\$	38.93	\$	73,967.00	\$	25.00	\$	47,500.00
5	Stabilized Subgrade, max depth 12"	2,000	TN	\$	22.74	\$	45,480.00	\$	14.00	\$	28,000.00
6	Limerock base, max depth 8"	1,400	TN	\$	18.46	\$	25,844.00	\$	32.00	\$	44,800.00
7	Structural Repair	500	SY	\$	169.90	\$	84,950.00	\$	55.00	\$	27,500.00
8	Superpave SP-12.5 Asphalt Base	240	TN	\$	181.15	\$	43,476.00	\$	125.00	\$	30,000.00
9	Superpave SP-9.5 Asphalt Overlay	1,080	TN	\$	126.34	\$	136,447.20	\$	120.00	\$	129,600.00
10	Asphalt Testing	1	LS	\$	12,306.88	\$	12,306.88	\$	7,500.00	\$	7,500.00
11	6" Thermoplastic Pavement Markings, SOLID	14,000	LF	\$	0.98	\$	13,720.00	\$	1.00	\$	14,000.00
12	6" Thermoplastic Pavement Markings, SKIP	2,100	LF	\$	0.98	\$	2,058.00	\$	1.00	\$	2,100.00
13	Thermoplastic Bike Lane Marking (Bike & Arrow)	2	EA	\$	369.21	\$	738.42	\$	340.00	\$	680.00
14	Thermoplastic Standard Directional Arrow	20	EA	\$	61.54	\$	1,230.80	\$	60.00	\$	1,200.00
15	Thermoplastic "ONLY"	4	EA	\$	61.54	\$	246.16	\$	60.00	\$	240.00
16	RPM'S	225	EA	\$	3.69	\$	830.25	\$	3.50	\$	787.50
17	Traffic Loop Detectors, 6' X 40'	10	EA	\$	1,833.73	\$	18,337.30	\$	1,670.00	\$	16,700.00
18	Valve Box Cover Level and Adjust	10	EA	\$	769.18	\$	7,691.80	\$	500.00	\$	5,000.00
19	Valve Box Replacement	2	EA	\$	984.55	\$	1,969.10	\$	650.00	\$	1,300.00
20	Manhole Cover Adjustment	1	EA	\$	1,926.03	\$	1,926.03	\$	1,250.00	\$	1,250.00
					TOTAL	\$	593,207.28			\$	490,000.00

Item Number: B.(3)

Meeting 5/6/2019 Date:

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 70-19 Award ITB-PW19-39/MM Purchase of sod to GCE Services Inc. and H.P. Sod Inc., for the purchase of sod to restore job sites to their original condition, as the lowest responsive responsible bidder, at the square foot prices indicated in the bid, for each respective areas, for an estimated annual amount of \$250,000 not to exceed budgetary limits and authorize the City Manager to execute the contract and renewals; Approximate usage by Departments: Stormwater \$125,000, General Fund (Parks and Rec) \$75,000, UCD \$37,500, and Sidewalk Grants \$12,500.

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?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. Invitation to Bid #PW19-39/MM was issued to secure a contract with supplier(s) to supply sod for the City Departments such as Parks & Recreation, Utilities and Public Works.
- 2. The purchase of sod is to restore job sites to their original condition, after repairing swales, drain pipes, catch basins, sidewalk installation, City's Parks, athletic fields and any other similar City projects.
- 3. Most of the sod is used in the swale re-grading project. The purpose of the swale project is to remedy drainage problems by eliminating pooling and flooding in areas of intersections, roads and driveways. In most cases, sod must be dug up and the swale must be set to proper elevations. Sod is replaced with the same type of sod that was removed and where possible, sod is reused.
- 4. On January 30, 2019, Invitation to Bid # ITB-PW19-39/MM was issued for the Purchase of Sod and seven (7) vendors obtained the bid.
- 5. On February 28, 2019, two (2) bids were received from the following suppliers; GCE Services Inc and H.P. Sod Inc.
- 6. The bid requested unit pricing per square foot for Floritam, Bahia and Bermuda 419 sod to be picked up by City staff and/or delivered by Supplier.
- 7. Staff recommend awarding to both GCE Services and H.P. Sod Inc as both bidders meet the terms and conditions of the bid documents.

- 8. The suppliers will be awarded their respective areas in which they are the lowest; however, If one supplier cannot meet the demand of the City, the other supplier will be utilize to meet the demand and fulfill the City's requirements.
- 9. If approved, the term of the contract is for three (3) years with one three-year renewal.
- 10. This is a budgeted item.
- 11. Funding Information: Approximate usage by Departments: Stormwater \$125,000, General Fund (Parks and Rec) \$75,000, UCD \$37,500, and Sidewalk Grants \$12,500.

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Department Recommendation Resolution 70-19 Tabulation Matrix - ITB-PW19-39/MM

PREPARED BY:

Wanda Roop Division- Procurement Department-Finance

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, Public Works Director

ATTACHMENTS:

	Description	Туре
D	Department Recommendation	Backup Material
D	Resolution 70-19	Resolution
D	Tabulation Matrix - ITB-PW19-39/MM	Backup Material

MEMORANDUM

CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

TO: John Szerlag, City Manager

Victoria Bateman, Financial Services Director

Wanda Roop, Procurement Manager

FROM: Paul Clinghan, Public Works Director PRU

Michael Ilczyszyn, Senior Public Works Manager

Gary Gasperini, PW Maintenance Manager

DATE: March 21, 2019

SUBJECT: Bid Recommendation for Purchase and Delivery of Muck Grown Sod

(ITB-PW19-39/MM)

Background

Multiple City Departments routinely purchase sod for park maintenance, swale restorations, sidewalk installations, utility repairs and similar projects on a continual basis. With the pending expiration of our current supply contract, the sod contract was recently rebid. The bids have been reviewed and it has been determined that the prices submitted are responsive and acceptable for the City. The City would continue to pick up Floritam and Bahia sod from HP Sod, with GCE Services continuing to deliver Bermuda sod to the City. These contracts will be used mutually by the Public Works Department, Utilities Department, and Parks and Recreation Department to satisfy the various sod needs for projects and services performed by each department.

Fund Availability

Funds have been budgeted annually for these services, per department. Funding for this contract will be the following:

Account No.: 440023.652125 PW Stormwater Operations/Swale Regrading Account No.: 3011510.652125 PW Sidewalks/Sod, Seed, Sand and Soil

Account No.: 401024.653107 Utility Collection/Distribution

Account No.:172001.652125 General Fund/Parks Maint./Sod, Seed, Sand & Soil

Recommendation

The bid package submitted by HP Sod and GCE Services, Inc are complete, and they have successfully provided identical services to the City in the past. Our recommendation is to have Council approve staff spending up to \$250,000 annually on sod services, spread between the Public Works, Utilities, and Parks and Recreation Departments.

GG/gg:(sodrecommendationmemoFY2019)

C: Jeff Pearson, Utilities Director
Kerry Runyon, Parks and Recreation Director
Mark Milkovich, Procurement Specialist
Tristan Reiber, PW Accounts Coordinator



City of Cape Coral		
Purchase of Muck Sod		
ITB-PW19-39/MM		
Bids Due: 2/28/2019	Suppliers (alp	habetical order)
	GCE Services Cape Coral, FL	H.P. Sod Moore Haven, FL
FLORITAM		
FLORITAM / PICKED UP		
LESS THAN 5,600 SQ. FT.	No Bid	\$0.25
COST PER SQUARE FOOT	- 1 - 1	
FLORITAM / PICKED UP		
TRUCKLOAD (5,600 SQ. FT. & UP)	No Bid	\$0.25
COST PER SQUARE FOOT	140 Bid	40.20
FLORITAM / DELIVERED		
LESS THAN 7,200 SQ. FT.	No Bid	No Bid
COST PER SQUARE FOOT		
EL ODITAM / DEL N/EDED		
FLORITAM / DELIVERED	No Bid	No Bid
TRUCKLOAD (7,200 SQ. FT. & UP)	INO BIG	INO BIG
COST PER SQUARE FOOT		7.00
FLORITAM / DELIVERED		
AND INSTALLED		No. of the last
LESS THAN 7,200 SQ. FT.	\$0.52	No Bid
COST PER SQUARE FOOT		
FLORITAM / DELIVERED		
AND INSTALLED	\$0.44	No Bid
TRUCKLOAD (7,200 SQ. FT. & UP)	Ψ0.44	140 DIG
COST PER SQUARE FOOT		

ВАНІА		
BAHIA / PICKED UP LESS THAN 5,600 SQ. FT. COST PER SQUARE FOOT	\$0.11	\$0.08
BAHIA / PICKED UP TRUCKLOAD (5,600 SQ. FT. & UP) COST PER SQUARE FOOT	\$0.11	\$0.08
BAHIA / DELIVERED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.35	No Bid
BAHIA / DELIVERED TRUCKLOAD (7,200 SQ. FT. & UP) COST PER SQUARE FOOT	\$0.25	No Bid
BAHIA / DELIVERED AND INSTALLED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.32	No Bid
BAHIA / DELIVERED AND INSTALLED TRUCKLOAD (7,200 SQ. FT. & UP) COST PER SQUARE FOOT	\$0.29	No Bid

BERMUDA 419		
BERMUDA 419/ DELIVERED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.48	No Bid
BERMUDA 419/ DELIVERED MORE THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.42	No Bid
BERMUDA 419/ DELIVERED AND INSTALLED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.58	No Bid
BERMUDA 419/ DELIVERED AND INSTALLED MORE THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.53	No Bid
RETURN PALLET CREDIT PER PALLET	\$8.00	\$8.00

RESOLUTION 70 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR THE PURCHASE OF MUCK GROWN SOD TO H.P. SOD, INC., AND GCE SERVICES, INC.; AUTHORIZING THE RENEWAL OF THE CONTRACTS FOR ONE ADDITIONAL THREE-YEAR PERIOD; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT DOCUMENTS AND ANY FUTURE RENEWALS BY THE CITY MANAGER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 30, 2019, INVITATION TO BID (ITB) #PW19-39/MM was issued for the Purchase of Muck Grown Sod; and

WHEREAS, two (2) bids were submitted and opened on February 28, 2019; and

WHEREAS, the City Manager recommends the award of the bid to both H.P. Sod, Inc., and GCE Services, Inc., as the lowest qualified responsible and responsive bidders meeting the requirements and specifications set forth in the invitation to bid, in the amount of \$250,000 annually; and

WHEREAS, the term of the contracts is for three years, with an option to renew for one additional three-year period; and

WHEREAS, the City Council desires to award the bid for the Purchase of Muck Grown Sod to both H.P. Sod, Inc., and GCE Services, Inc., and to approve the renewal of the contracts for one additional three-year period, if the City Manager deems the renewal to be in the best interest of the City.

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

Section 1. The City Council hereby awards the bid for the Purchase of Muck Grown Sod to both H.P. Sod, Inc., and GCE Services, Inc., in the total amount of \$250,000 annually, not to exceed budgetary limits.

Section 2. The City Council hereby approves the contracts between the City of Cape Coral and H.P. Sod, Inc., and between the City of Cape Coral and GCE Services, Inc., for the Purchase of Muck Grown Sod, and authorizes the City Manager to execute the contracts, attached hereto as Exhibit 1 and Exhibit 2.

Section 3. The City Council hereby authorizes the City Manager to approve the renewal of the contracts for one additional three-year period and authorizes the City Manager to execute any future contract documents associated with such renewal, should the City Manager deem it to be in the best interest of the City.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY T	HE CITY COU	NCIL OF THE CITY OF	FCAPE CORAL AT ITS REGULAR
COUNCIL SESSI	ON THIS	DAY OF	, 2019.
			•
		JOE (COVIELLO, MAYOR
VOTE OF MAYO	OR AND COUN	ICILMEMBERS:	
COVIELLO		_ NELSON	
GUNTER		_ STOKES	
CARIOSCIA		WILLIAMS	
STOUT		COSDEN	

ATTESTED TO AND FILED IN MY OFFICE 7 2019.	THIS DAY OF
	KIMBERLY BRUNS INTERIM CITY CLERK
APPROVED AS TO FORM:	
DOLORES D. MENENDEZ CITY ATTORNEY res/Bid Award-GCE Services & HP Sod	

THIS CONTRACT is made this ____day of _____,2019 by and between the CITY OF CAPE CORAL, FLORIDA, hereinafter called "CITY", and H.P. SOD, INC., located at 29795 US Hwy 27, Moore Haven, FL 33471, hereinafter called "CONTRACTOR".

WITNESSETH: For and in consideration of the payments and agreements mentioned hereinafter:

- The CONTRACTOR will supply the <u>Purchase of Muck Grown Sod</u> in accordance with the Contract Documents.
- The CONTRACTOR agrees to supply Muck Grown Sod at the prices outlined in Attachment A, attached hereto and made a part hereof.
- The term of this agreement shall be for three (3) years from the Council award date. The contract may be renewed for one (1) additional, three (3) year period, upon mutual agreement by the CITY and the CONTRACTOR.
- Delivery: All orders placed shall be delivered within the City of Cape Coral as per the location listed on the Invitation to Bid documents and shall occur between the hours of 7:30am and 2:30pm.
- <u>Pick-up</u>: The CITY may decide to pick-up materials from the CONTRACTOR. Arrangements for pickup date and time will be made by mutual agreement with the CONTRACTOR.
- The CONTRACTOR agrees to supply the product, within 3 (three) business days, as described in the bid documents. If delivery is not made within 3 (three) business days after the placement of an order, the CITY reserves the right to utilize other available contracts.
- 7. This Contract may be terminated for convenience by either party upon thirty (30) days prior written notice to either party. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract. Such amount shall be paid by the CITY after inspection of the work to determine the extent of performance under this Contract, whether completed or in progress.
- 8. Annual Appropriation Contingency: Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Councif. This contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminated appropriations.
- 9. The Term "Contract Documents" means and includes the following:
 - A. Bid Specifications prepared and issued by the CITY;
 - B. Submitted Response of CONTRACTOR to the CITY, except when it conflicts with any contractual provision; and
 - C. This contract as well as all other documents attached hereto and/or referenced herein.

This agreement constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

In the event of conflict between any provision of any other document referenced herein as part of the contract and this agreement, the terms of this agreement shall control.

Page 1 of 4

Exhibit 1

10. All time limits listed in the contract documents are of the essence in the performance of this agreement.

11. Record Keeping

The awarded bidder shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City of Cape Coral reserves the right to determine the record-keeping method in the event of non-conformity. If a Public Construction Bond is required records shall be maintained for ten (10) years, after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

Records of the Contractor's personnel, sub-consultants, and the costs pertaining to the Project shall be kept in accordance with generally accepted accounting practices.

Contractor shall keep full and detailed accounts and financial records pertaining to the provision of services for the City. Prior to commencing work, Contractor shall review with and obtain the City's approval of the accounting procedures and records to be utilized by the Contractor on the Project. Contractor shall preserve the aforementioned Project records for a period of ten (10) years after final payment, or for such longer period as may be required by law.

12. Public Records

Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Contractor, refuses to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this contract, unless the records are exempt from disclosure.

- 13. <u>Assignment:</u> This agreement may not be assigned except with the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
- 14. <u>Disclosure:</u> The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or CONTRACTOR, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission percentage, gift, or other compensation contingent upon or resulting from the award or making of the agreement.
- 15. <u>Unauthorized Aliens</u>: The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. This applies to any sub-contractors used by the Contractor as well.
- Administration of Contract: The <u>Project Manager</u>, or their representative, shall administer this agreement for the CITY.
- 17. Governing Law: The validity, construction and effect of this Contract shall be governed by the laws of the State of Fiorida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible to pay for its own reasonable costs and attorney fees.
- 18. <u>Amendments:</u> No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties.

- Payments: CITY shall make payment and CONTRACTOR shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice unless, within a fifteen (15) day period, CITY notifies CONTRACTOR in writing of its objection to the amount of such invoice, together with CITY'S determination of the proper amount of such invoice. CITY shall pay any undisputed portion of such invoice within such thirty (30) day period. If CITY shall give such notice to the CONTRACTOR within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, CITY shall promptly pay the CONTRACTOR the amount so determined, less any amounts previously paid by CITY with respect to such invoice. In the event it is determined that CITY has overpaid such invoice, the CONTRACTOR shall promptly refund to the CITY the amount of such overpayment.
- 20. Indemnity: The CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or Intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
- 21. <u>Invalid Provision:</u> The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- 22. <u>Insurance:</u> Without limiting its liability, the CONTRACTOR shall be required to procure and maintain at its own expense during the life of the Contract, insurance of the types and in the minimum amounts as specified in the Contract Documents which will protect the CONTRACTOR, from claims which may arise out of or result from the CONTRACTOR'S execution of the project, whether such execution by himself or by any sub-consultant, or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable. Any questions regarding the insurance requirements should be directed to the Risk Manager, (239) 574-0529. The CITY shall be listed as additional insured on General Liability policies.
- 23. Entire Agreement: This Contract constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed, by their duly authorized officials this Contract in one counterpart which shall be deemed an original on the date last signed as below written:

ATTEST:	CITY:
	City of Cape Coral, Florida
Signature:	Signature:
Typed Name: Kimberly Bruns, CMC	Printed Name: A. John Szerlag
Title: Interim City Clerk	Title: City Manager
	Date:
	Dolores Menendez City LEGAL REVIEW: 3/21/19 Dolores Menendez City Attorney
WITNESS CONTRACTOR:	CONTRACTOR: Company: H.P. Sod Tac.
Signature: Some Perer	Signature: Horacis Paracis
-	^
Typed Name: Sonia Perein	Typed Name: Horacis Percing
Title: Arcts Payable	Title: owner
	Date: 3 22/19

ATTACHMENT A

ITB-PD19-39/MM

OFFICIAL BID PROPOSAL

COMPANY NAME: HP. Sod Inc.

PLANT LOCATION: Huy 78 Octom (Flority)

DATESTIMES OF PLANT OPERATION: Sunday - Foldey 7-5

BID PRICING:

FLORITAM		BAHIA	
FLORITAM / PICKED UP LESS THAN 5,800 SQ. FT. COST PER SQUARE FOOT	254	BAHIA / PICKED UP LESS THAN 5,600 SQ. FT. COST PER SQUARE FOOT	: × t
FLORITAM / PICKED UP TRUCKLOAD (5,600 SQ. FT. & UP) COST PER SQUARE FOOT	s 25¢	BAHIA / PICKED UP TRUCKLOAD (5, 500 SQ. FT. & UP) COST PER SQUARE FOOT	\$ 8¢
FLORITAM / DELIVERED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$	BAHIA / DELIVERED LESS THAN 7,200 SO. FT. COST PER SQUARE FOOT	s
FLORITAM / DELIVERED TRUCKLOAD (7,200 SQ. FT. & UP) COST PER SQUARE FOOT	s	BAHIA / DELIVERED TRUCKLOAD (7, 200 SQ. FT. & UP) COST PER SQUARE FOOT	
FLORITAM / DELIVERED AND INSTALLED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT		BAHIA / DELIVERED AND INSTALLED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	5
FLORITAM / DELIVERED AND INSTALLED TRUCKLOAD (7,200 SQ. FT. & UP) COST PER SQUARE FOOT		BAHIA / DELIVERED AND INSTALLED TRUCKLOAD (7,200 SQ. FT. & UP) COST PER SQUARE FOOT	s

COMPANY'S NAME H. P. Sod Inc

OFFICIAL BID PROPOSAL

BERMUDA 419	
BERMUDA 419/ DELIVERED LESS THAN 7,200 SQ. FT.	
COST PER SQUARE FOOT	<u>\$</u>
BERMUDA 419/ DELIVERED	
MORE THAN 7,200 SQ. FT.	
COST PER SQUARE FOOT	\$
BERMUDA 419/ DELIVERED AND	
INSTALLED	
LESS THAN 7,200 SQ. FT.	
COST PER SQUARE FOOT	<u>\$</u>
BERMUDA 419/ DELIVERED AND	
INSTALLED	
MORE THAN 7,200 SQ. FT.	
COST PER SQUARE FOOT	\$
RETURN PALLET	
CREDIT PER PALLET	\$ 800

COMPANY'S NAME: H.P. Sod Inc

PRICE SCHEDULE SUBMITTED BY: Horaus Pereira

AUTHORIZED SIGNATURE: POSSUS PEROIT

OFFICIAL BID PROPOSAL

	 4144	

THIS CONTRACT is	made this	day of					between				
CORAL, FLORIDA,	hereinafter	called "CITY",	and GCE	SERVI	CES	, INC.	, located	at 16	11 Sa	nta	Barbara
Blvd., Suite 100, Ca											

WITNESSETH: For and in consideration of the payments and agreements mentioned hereinafter:

- The CONTRACTOR will supply the <u>Purchase of Muck Grown Sod</u> in accordance with the Contract Documents.
- The CONTRACTOR agrees to supply Muck Grown Sod at the prices outlined in Attachment A, attached hereto and made a part hereof.
- The term of this agreement shall be for three (3) years from the Council award date. The contract may be renewed for one (1) additional, three (3) year period, upon mutual agreement by the CITY and the CONTRACTOR.
- Delivery: All orders placed shall be delivered within the City of Cape Coral as per the location listed on the Invitation to Bid documents and shall occur between the hours of 7:30am and 2:30pm.
- Pick-up: The CITY may decide to pick-up materials from the CONTRACTOR. Arrangements for pickup date and time will be made by mutual agreement with the CONTRACTOR.
- 6. The CONTRACTOR agrees to supply the product, within 3 (three) business days, as described in the bid documents. If delivery is not made within 3 (three) business days after the placement of an order, the CITY reserves the right to utilize other available contracts.
- 7. This Contract may be terminated for convenience by either party upon thirty (30) days prior written notice to either party. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract. Such amount shall be paid by the CITY after inspection of the work to determine the extent of performance under this Contract, whether completed or in progress.
- 8. Annual Appropriation Contingency: Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminated appropriations.
- The Term "Contract Documents" means and includes the following:
 - A. Bid Specifications prepared and issued by the CITY;
 - Submitted Response of CONTRACTOR to the CITY, except when it conflicts with any contractual provision; and
 - C. This contract as well as all other documents attached hereto and/or referenced herein.

This agreement constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

In the event of conflict between any provision of any other document referenced herein as part of the contract and this agreement, the terms of this agreement shall control.

Page 1 of 4

10. All time limits listed in the contract documents are of the essence in the performance of this agreement.

11. Record Keeping

The awarded bidder shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City of Cape Coral reserves the right to determine the record-keeping method in the event of non-conformity. If a Public Construction Bond is required records shall be maintained for ten (10) years, after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

Records of the Contractor's personnel, sub-consultants, and the costs pertaining to the Project shall be kept in accordance with generally accepted accounting practices.

Contractor shall keep full and detailed accounts and financial records pertaining to the provision of services for the City. Prior to commencing work, Contractor shall review with and obtain the City's approval of the accounting procedures and records to be utilized by the Contractor on the Project. Contractor shall preserve the aforementioned Project records for a period of ten (10) years after final payment, or for such longer period as may be required by law.

12. Public Records

Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Contractor, refuses to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this contract, unless the records are exempt from disclosure.

- 13. <u>Assignment:</u> This agreement may not be assigned except with the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
- 14. <u>Disclosure:</u> The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or CONTRACTOR, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission percentage, gift, or other compensation contingent upon or resulting from the award or making of the agreement.
- 15. <u>Unauthorized Aliens:</u> The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. This applies to any sub-contractors used by the Contractor as well.
- Administration of Contract: The <u>Project Manager</u>, or their representative, shall administer this agreement for the CITY.
- 17. Governing Law: The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible to pay for its own reasonable costs and attorney fees.
- 18. Amendments: No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties.

Page 2 of 4

- 19. Payments: CITY shall make payment and CONTRACTOR shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice unless, within a fifteen (15) day period, CITY notifies CONTRACTOR in writing of its objection to the amount of such invoice, together with CITY'S determination of the proper amount of such invoice. CITY shall pay any undisputed portion of such invoice within such thirty (30) day period. If CITY shall give such notice to the CONTRACTOR within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, CITY shall promptly pay the CONTRACTOR the amount so determined, less any amounts previously paid by CITY with respect to such invoice. In the event it is determined that CITY has overpaid such invoice, the CONTRACTOR shall promptly refund to the CITY the amount of such overpayment.
- 20. Indemnity: The CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or Intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
- 21. <u>Invalid Provision:</u> The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- 22. <u>Insurance:</u> Without limiting its liability, the CONTRACTOR shall be required to procure and maintain at its own expense during the life of the Contract, insurance of the types and in the minimum amounts as specified in the Contract Documents which will protect the CONTRACTOR, from claims which may arise out of or result from the CONTRACTOR'S execution of the project, whether such execution by himself or by any sub-consultant, or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable. Any questions regarding the insurance requirements should be directed to the Risk Manager, (239) 574-0529. The CITY shall be listed as additional insured on General Liability policies.
- 23. Entire Agreement: This Contract constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed, by their duly authorized officials this Contract in <u>one</u> counterpart which shall be deemed an original on the date last signed as below written:

ATTEST:	CITY:
	City of Cape Coral, Florida
Signature:	Signature:
Typed Name: Kimberly Bruns, CMC	Printed Name: A. John Szerlag
Title: Interim City Clerk	Title: City Manager
	Date:
	Dolores Menendez City Attorney Date
Signature: Marisari Typed Name: Marisari Title: Aam, Assistant	CONTRACTOR: Company: OCE Services, Inc Signature Typed Name: Carolyn Ead S Title: Presidut Date: 3/22/19

ATTACHMENT A

OFFICIAL BID PROPOSAL

COMPANY NAME: GCE Services, Inc.
PLANT LOCATION: N/A
DATES/TIMES OF PLANT OPERATION: N/A

BID PRICING:

FLORITAM BAHIA FLORITAM / PICKED UP BAHIA / PICKED UP LESS THAN 5,600 SQ. FT. LESS THAN 5,600 SQ. FT. \$ 0.11* s N/A COST PER SQUARE FOOT **COST PER SQUARE FOOT** FLORITAM / PICKED UP BAHIA / PICKED UP TRUCKLOAD (5,600 SQ. FT. & UP) TRUCKLOAD (5,600 SQ. FT. & UP) \$ N/A 0.11* COST PER SQUARE FOOT COST PER SQUARE FOOT FLORITAM / DELIVERED **BAHIA / DELIVERED** LESS THAN 7,200 SQ. FT. LESS THAN 7,200 SQ. FT. s N/A \$ 0.35 COST PER SQUARE FOOT **COST PER SQUARE FOOT** BAHIA / DELIVERED FLORITAM / DELIVERED TRUCKLOAD (7,200 SQ. FT. & UP) TRUCKLOAD (7,200 SQ. FT. & UP) COST PER SQUARE FOOT \$ 0.25 COST PER SQUARE FOOT \$ N/A **BAHIA / DELIVERED AND** FLORITAM / DELIVERED INSTALLED AND INSTALLED LESS THAN 7,200 SQ. FT. LESS THAN 7,200 SQ. FT. \$ 0.52 COST PER SQUARE FOOT \$ 0.32 COST PER SQUARE FOOT BAHIA / DELIVERED AND FLORITAM / DELIVERED INSTALLED AND INSTALLED TRUCKLOAD (7,200 SQ. FT. & UP) TRUCKLOAD (7,200 SQ. FT. & UP) \$ 0.29 \$ 0.44 COST PER SQUARE FOOT COST PER SQUARE FOOT

COMPANY'S NAME	GCE Services, Inc.	
Committee of the state of		

OFFICIAL BID PROPOSAL

BERMU	DA 4	19
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AUTHORIZED SIGNATURE:

BERMUDA 419	
BERMUDA 419/ DELIVERED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$ 0.48
BERMUDA 419/ DELIVERED MORE THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$ 0.42
BERMUDA 419/ DELIVERED AND	5
LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$ 0.58
BERMUDA 419/ DELIVERED AND INSTALLED	
MORE THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$ 0.53
RETURN PALLET CREDIT PER PALLET	§ Even exchange / \$8.00 per pallet **
COMPANY'S NAME: GCE Service	ces, Inc.
PRICE SCHEDULE SUBMITTED BY	Y: Gary Eads

OFFICIAL BID PROPOSAL

REMARKS BY BIDDER
If there are any deviations, they MUST be listed below, otherwise none will be allowed. If additional space is
required, attach another sheet to this Bid Proposal. If nothing is listed below, it will be interpreted as meaning
NO DEVIATIONS.
*Field within 50 miles of Cape Coral or can be picked up at 2814 South Street, Fort Myers, FL for a charge
of \$0.05 SF.
**\$8.00 charge if not returned, otherwise even exchange
We will also deliver the sod to the City of Cape Coral yard off of Del Prado for \$0.05 SF and the city's truck
can distribute from that point.
All Bahia sod is TSA Certified by the State of Florida.
. In Julius Court Countries Co. 110 State Cr. 1010th.
COMPANY'S NAME: GCE Services, Inc.



City of Cape Coral

FLORITAM / DELIVERED

COST PER SQUARE FOOT

TRUCKLOAD (7,200 SQ. FT. & UP)

AND INSTALLED

Purchase of Muck Sod		
ITB-PW19-39/MM		
Bids Due: 2/28/2019	Suppliers (alphabetical order)	
	GCE Services Cape Coral, FL	H.P. Sod Moore Haven, FL
FLORITAM		
FLORITAM / PICKED UP LESS THAN 5,600 SQ. FT. COST PER SQUARE FOOT	No Bid	\$0.25
FLORITAM / PICKED UP TRUCKLOAD (5,600 SQ. FT. & UP) COST PER SQUARE FOOT	No Bid	\$0.25
FLORITAM / DELIVERED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	No Bid	No Bid
FLORITAM / DELIVERED TRUCKLOAD (7,200 SQ. FT. & UP) COST PER SQUARE FOOT	No Bid	No Bid
FLORITAM / DELIVERED AND INSTALLED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.52	No Bid

\$0.44

No Bid



City of Cape Coral	
Purchase of Muck Sod	
ITB-PW19-39/MM	
Bids Due: 2/28/2019	

ITB-PW19-39/MM		
Bids Due: 2/28/2019	Suppliers (alph	nabetical order)
	GCE Services	H.P. Sod
	Cape Coral, FL	Moore Haven, FL
	-	
BAHIA		
BAHIA / PICKED UP		
LESS THAN 5,600 SQ. FT.	\$0.11	\$0.08
COST PER SQUARE FOOT		
DAULA (DIOKED UD	7	
BAHIA / PICKED UP	¢0.44	¢0.00
TRUCKLOAD (5,600 SQ. FT. & UP) COST PER SQUARE FOOT	\$0.11	\$0.08
COST FER SQUARE FOOT		
BAHIA / DELIVERED	1	
LESS THAN 7,200 SQ. FT.	\$0.35	No Bid
COST PER SQUARE FOOT		
BAHIA / DELIVERED		
TRUCKLOAD (7,200 SQ. FT. & UP)	\$0.25	No Bid
COST PER SQUARE FOOT		
BAHIA / DELIVERED AND	7	
INSTALLED		
LESS THAN 7,200 SQ. FT.	\$0.32	No Bid
COST PER SQUARE FOOT		
	J [
BAHIA / DELIVERED AND		
INSTALLED	\$0.29	No Bid
TRUCKLOAD (7,200 SQ. FT. & UP)	φυ.∠9	INO DIU
COST PER SQUARE FOOT	11	



City of Cape Coral	
Purchase of Muck Sod	
ITB-PW19-39/MM	
Bids Due: 2/28/2019	

	- 1-1	
	GCE Services Cape Coral, FL	H.P. Sod Moore Haven, FL
	_	
BERMUDA 419		
BERMUDA 419/ DELIVERED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.48	No Bid
BERMUDA 419/ DELIVERED MORE THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.42	No Bid
BERMUDA 419/ DELIVERED AND		
INSTALLED LESS THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.58	No Bid
BERMUDA 419/ DELIVERED AND INSTALLED MORE THAN 7,200 SQ. FT. COST PER SQUARE FOOT	\$0.53	No Bid
RETURN PALLET	\$8.00	\$8.00
CREDIT PER PALLET	\$8.00	ა ბ.სს

Suppliers (alphabetical order)

Item Number: B.(4)

Meeting 5/6/2019 Date:

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 84-19 Approval of Contract for Purchase of Lots 7 through 9, Block 2161, Unit 32, Cape Coral Subdivision, 902 Kismet Parkway East, Cape Coral, for a future drinking water well site, for the purchase price of \$22,500 plus closing costs not to exceed \$1,800; Department: Financial Services / Real Estate Division; Dollar Value: \$24,300; (Water/Sewer Fund) Note: Trade offer rejected by Seller.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of

the Strategic Plan?

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. In 2006, the City of Cape Coral purchased several sites along the southside of Kismet Parkway for the construction of drinking water wells to supply raw water to the North Reverse Osmosis Water Treatment Plant. Staff has determined an additional production well is required.
- 2. Several criteria are routinely evaluated when siting new drinking water wells. The criteria includes spacing between existing wells and raw water mains. Staff also considered the location of a newly constructed 7-Eleven and the distance to its new fuel storage tanks. State law prohibits drinking water wells from being constructed to close to fuel storage tanks. Of the available properties, this parcel offers the best new well site location and exceeds the recommended 500 feet fuel tank setback for drinking water wells.
- 3. The subject property is a three-lot site and is currently listed for sale at \$28,500. Staff submitted a contract in the amount of \$22,500 based on the price per square foot of a recent appraisal of a similar site with the CAC Land Use and MR Zoning designations along Kismet

Parkway by an independent state-certified appraiser.

- 4. City Staff began negotiating with the property owner who finally accepted the City's contract offer. The contract requires the City to pay the closing costs incurred by the title company.
- 5. Staff recommends approval of the purchase contract to purchase Lots 7 through 9, Block 2161, Unit 32, Cape Coral Subdivision, for the purchase price of \$22,500 plus closing costs not to exceed \$1,800.

LEGAL REVIEW:

EXHIBITS:

Resolution 84-19 Property Appraiser Sheet Location Map Appraisal

PREPARED BY:

Dawn Y. Andrews, Property
Broker

DivisionReal
Estate

DepartmentFinancial
Services

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director 239-574-0709

Dawn Y. Andrews, Property Broker Financial Services / Real Estate Division 239-574-0735

Joan Estinval, Property Acquisition Agent Financial Services / Real Estate Division 239-573-3072

ATTACHMENTS:

	Description	Туре
D	Resolution 84-19	Resolution
D	PA Sheet - Block 2161, Lots 7-9	Backup Material
D	Location Map - Lots 7-9, Block 2161	Backup Material
ם	Appraisal - Blk 2161, Lots 1-2	Backup Material

RESOLUTION 84 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING THE CITY MANAGER TO ENTER INTO A "CONTRACT FOR SALE AND PURCHASE" BETWEEN JOHN EL. TAKTOUK AND THE CITY OF CAPE CORAL FOR THE PURCHASE OF LOTS 7-9, BLOCK 2161, UNIT 32, CAPE CORAL SUBDIVISION, FOR A FUTURE PRODUCTION RAW WATER WELL SITE; PROPERTY LOCATED AT 902 KISMET PARKWAY EAST; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the subject property will be utilized for the construction of a production water well to supply raw water to the North Reverse Osmosis Water Treatment Plant; and

WHEREAS, the City has obtained a recent appraisal pursuant to Section 2-152 of the City of Cape Coral Code of Ordinances; and

WHEREAS, City staff recommends that the City purchase the subject property pursuant to the terms and price set forth in the contract; and

WHEREAS, the City Manager requests approval to enter into the "Contract for Sale and Purchase."

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

Section 1. The City Council hereby authorizes the City Manager or his designee to execute a "Contract for Sale and Purchase" between John El. Taktouk and the City of Cape Coral for the purchase of Lots 7-9, Block 2161, Unit 32, Cape Coral Subdivision, as more fully described in the Contract, in the amount of \$22,500, plus closing costs not to exceed \$1,800. The property is located at 902 Kismet Parkway East. A copy of the "Contract for Sale and Purchase" is attached hereto as Exhibit A.

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

ADOPTED BY THE CITY COUNCIL C				
COUNCIL SESSION THIS DAY	Y OF	, 2019.		
	IOE CO	JOE COVIELLO, MAYOR		
	JOH GO	, in the second second		
VOTE OF MAYOR AND COUNCILME	MRFRS.			
VOIL OF MITTORING GOOTGILMEN	MDLICO.			
COVIELLO	NELSON			
CLINITED	STOKES			
CARIOSCIA	WILLIAMS			
STOUT	COSDEN			
	COSDEN			
ATTECTED TO AND EILED IN MY	DEFICE THE	DAYOF		
ATTESTED TO AND FILED IN MY (DELICE THIS	DAY OF		
2019.				
		NI I DDIDIO		
KIMBERLY BRUN INTERIM CITY CI				
		M CITY CLERK		

APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY

Res/Purchase Real Property-Well Site L7-9 B2161

CONTRACT FOR SALE AND PURCHASE

THIS IS A LEGALLY BINDING CONTRACT WHEN PROPERLY COMPLETED AND EXECUTED. IF NOT FULLY UNDERSTOOD, SEEK LEGAL ADVICE BEFORE SIGNING.

PARTIES: John El. Taktouk 9003 SW 212th Lane, Miami, FL 33189 as "SELLER", and City of Cape Coral, a Florida Municipal Corporation, P.O. Box 150027, Cape Coral, Florida 33915-0027, successors or assigns, as "BUYER", hereby agree that the SELLER shall sell and BUYER shall buy the following (hereinafter referred to as "PROPERTY") described property upon the following terms and conditions:

LEGAL DESCRIPTION of real estate located in Lee County, Florida:
 Lots 7 thru 9, Block 2161, Unit 32, Cape Coral Subdivision, as recorded in Plat
 Book 16, Pages 11-12, inclusive of the Public Records of Lee County, Florida.

2. PURCHASE PRICE

\$22,500.00

3. CONDITIONAL CONTRACT. This contract for sale and purchase is a binding contract once it is executed by the SELLER and by the City Manager on behalf of the BUYER. However, this contract is expressly subject to approval by the Cape Coral City Council. If the Cape Coral City Council fails or refuses to approve the purchase within 45 calendar days of the date when the City Manager has signed this contract, then this contract shall be null and void. This contract is subject to applicable Florida probate proceedings, if required. BUYER and SELLER understand and agree that in the event probate proceedings are necessary, SELLER shall be solely responsible for any and all expenses necessary to complete said probate proceedings.

- 4. **EFFECTIVE DATE & CLOSING DATE.** The Effective Date of this contract shall be the date of Council authorization. This contract shall be closed and the deed shall be delivered within 30 business days after Council authorization unless extended by other provisions of this contract. Such other provisions shall include, but not be limited to, paragraph 7. Possession shall be granted on the day of closing unless otherwise agreed in writing.
- 5. **CONVEYANCE. SELLER** shall convey title to the property to **BUYER** by Warranty Deed subject only to matters contained in this contract and taxes for the year of closing.
- 6. RESTRICTIONS AND EASEMENTS. BUYER shall take title subject to:
 - (a) Zoning and restrictions and prohibitions imposed by governmental authority;
 - (b) Restrictive covenants of record;
 - (c) Public utility easements of record, provided however said easements are located along the perimeter of the property and are not more than six feet (6') in width;
 - (d) Taxes for the year of closing and subsequent years;

Provided, however, that none of the foregoing shall prevent use of the entire property for the purpose of right-of-way or any other governmental purpose.

shall at BUYER'S expense, obtain a title insurance binder issued by a qualified title insurer of its choice, agreeing to issue to BUYER, upon the recording of the deed hereafter mentioned, a title insurance policy in the amount of the purchase price insuring the title to that real property.

BUYER shall have fifteen (15) days from the date of receiving the evidence of title to examine same. If title is found to be defective, BUYER or closing agent shall, within said period of time, notify SELLER in writing specifying defects that need to be cured. For purposes of this contract, a requirement by the title insurer that the SELLER institute and complete a quiet title action shall be deemed to be a title defect that shall be cured by SELLER. If said defects render the title unmarketable or uninsurable SELLER shall have ninety (90) days from the receipt of such notice to cure the defects, and if after said period SELLER shall not have cured the

- defects, then **BUYER** shall have the option of (1) accepting the title as it then is; (2) affording **SELLER** additional time to cure the defect(s); or (3) terminate the contract by providing written notice to the **SELLER**.
- 8. **EXISTING MORTGAGES. SELLER** shall furnish estoppel letters from mortgagee(s) setting forth the principal balance, escrow balance, method of payment, and whether the mortgage is in good standing. It shall be **SELLER'S** obligation to obtain any satisfactions of mortgage required for closing.
- 9. SURVEY. If BUYER desires a survey, BUYER shall have the property surveyed at its expense prior to closing date. If the survey shows an encroachment, the same shall be treated as a title defect.
- 10. **OTHER AGREEMENTS.** No agreements or representations, unless incorporated in this contract, shall be binding upon any of the parties, unless they be in writing and agreed to by all parties.
- 11. **MECHANIC'S LIENS. SELLER** shall execute an affidavit that there have been no improvements to the subject property and that **SELLER** has not entered any contracts for the provision of goods or services that could give rise to a mechanic's lien for the ninety (90) days immediately preceding the date of closing.
- 12. TIME IS OF THE ESSENCE in the performance of this contract.
- 13. **DOCUMENTS FOR CLOSING. SELLER** shall execute a Warranty Deed, Seller's Affidavit and other necessary closing documents provided by closing agent.
- 14. **EXPENSES.** Documentary stamps, title insurance, title search, title exam and settlement fees shall be paid by **BUYER**.
- 15. PRORATION OF TAXES (REAL AND PERSONAL). Taxes shall be prorated based upon the current year's tax without regard to discount. If the closing takes place and the current year's taxes are not fixed, and the current year's assessment is available, taxes will be prorated

based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax, provided, however, if there is a completed improvement of the subject premises by January 1 of the year of closing, then the taxes shall be prorated to the date of closing based upon the prior year's millage. It is further agreed that should, upon receipt of current tax statement, the taxes be different by more than Ten Dollars (\$10.00) than those estimated, the proration shall be adjusted.

- 16. **ATTORNEY'S FEES AND COSTS.** In connection with any litigation arising out of the contract, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees. The parties agree to venue in Lee County, Florida for any action arising out of this Contract.
- 17. **DEFAULT BY SELLER.** If **SELLER** fails to perform any of the covenants of this contract other than the failure of **SELLER** to render his title marketable after diligent effort **BUYER** may proceed at law or in equity to enforce its legal rights under this contract, including, but not limited to, the right to bring suit for specific performance.
- 18. All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.
- 19. This agreement shall be interpreted, construed, and governed according to the Laws of the State of Florida.
- 20. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid and unenforceable provisions were omitted.
- 21. **SELLER** and **BUYER** hereby agree that this contract to purchase the real property described above is for a proper municipal purpose and grants the **BUYER** the right to enter the real property described above for the purpose of surveying, soil borings, or any other work as deemed necessary by the **BUYER**. The parties herein further agree that the purchase of this

- property does not destroy or cause any damage whatsoever to **SELLER** or his successor or assigns with respect to any commercial or residential property owned by them whose lands are being so purchased or located upon adjoining lands.
- 22. The place of closing and delivery of the deed to **BUYER** shall be at any office designated by **BUYER**.
- 23. ENVIRONMENTAL AUDIT. BUYER may perform or have performed, at BUYER'S expense, an environmental audit of the property. If such an audit identifies environmental problems unacceptable to the BUYER then BUYER may elect to accept the property in its existing condition or BUYER may terminate this Contract without obligation.
- 24. REAL ESTATE COMMISSIONS. BUYER and SELLER understand and agree that in the event BUYER has knowledge of any listing agreement for the subject property, then BUYER, at its option, may elect to notify and provide a copy of this contract to the Listing Broker. SELLER shall be solely responsible for any Broker compensation, Realtor notification or any other terms and conditions of any listing agreement. SELLER shall also be responsible for any Realtor transaction fee or administration fee.
- 25. **DISCLOSURE OF BENEFICIAL INTERESTS. SELLER** agrees to comply with the provisions of Section 286.23(1), Florida Statutes. Said section requires that, before property that is owned by a partnership, limited partnership, corporation, trust or any other form of representative capacity whatsoever for others, is conveyed to a governmental unit, the representative of the owner/entity shall make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury, which shall state the names and addresses of every person having a beneficial interest in the Real Property, however small or minimal.

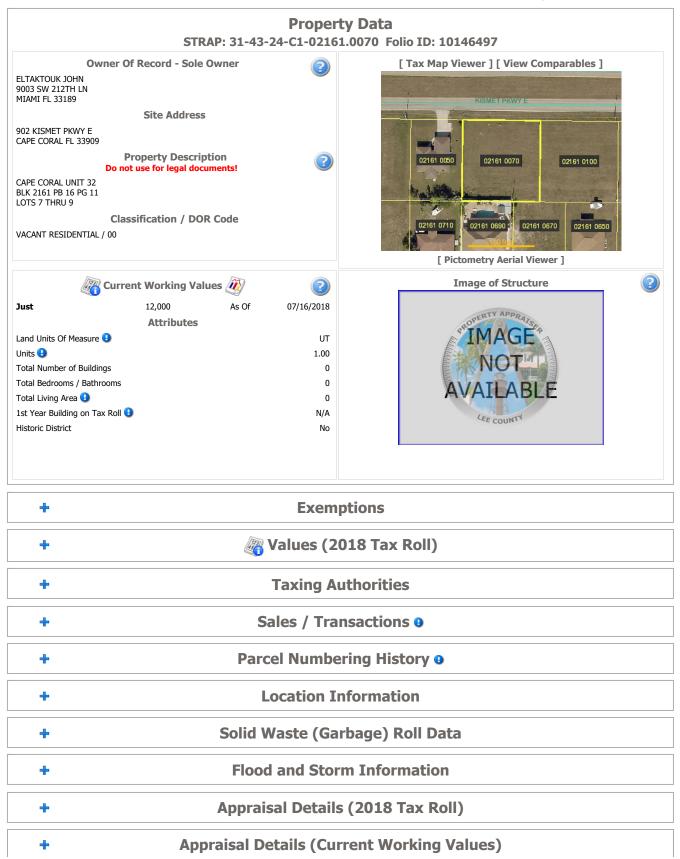
IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

	CITY OF CAPE CORAL, FLORIDA				
Witness to A. John Szerlag	BY: A. John Szerlag City Manager	Date			
Witness to Kimberly Bruns	BY: Kimberly Bruns Interim City Clerk	Date			
Witness Print Name:	BY: <u>John El-Fak-Fouk</u> John El. Taktouk	3/19/2019 2:40 PM EDT Date			
Witness Print Name:					
APPROVED AS TO FORM:					
Dolores D. Menendez, City Attorney					

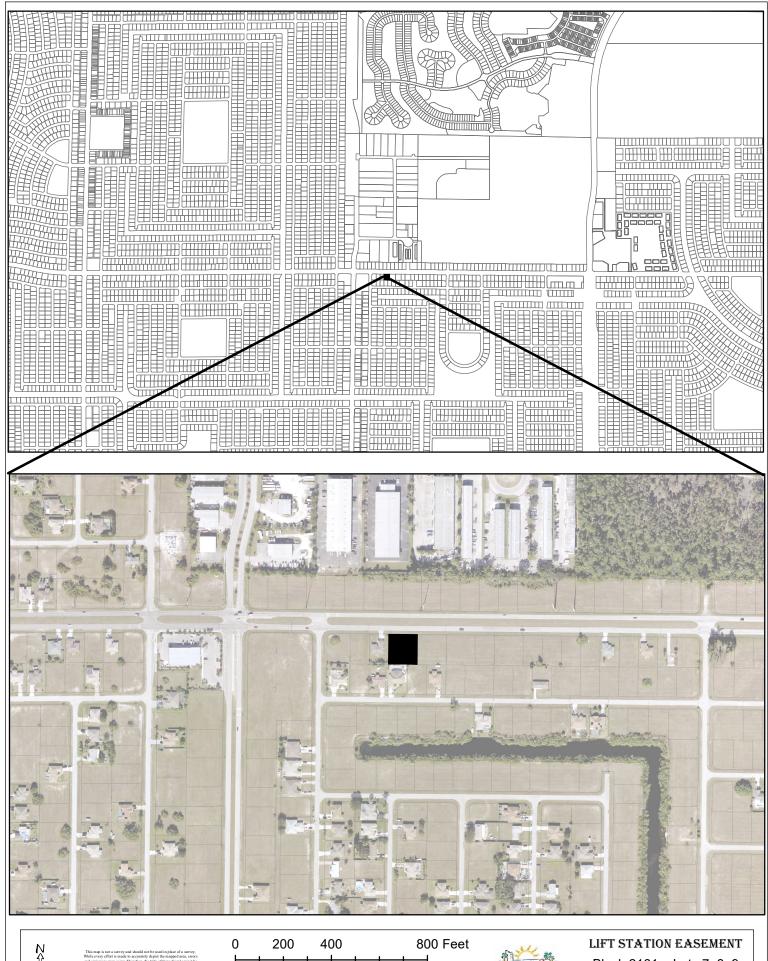


Tax Year 🔽

Next Parcel Number Previous Parcel Number Tax Estimator Cape Coral Fees Tax Bills Print



TRIM (proposed tax) Notices are available for the following tax years [2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 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 Const cannot be filled liable for its cidents that may result due to the impoper use of the information presented on this map. This map is not intended for construction, may igation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

The product of the Construction of CAPE CORA I. And Listate Division-Gregory L. Spive.



LIFT STATION EASEMENT Block 2161 Lots 7, 8, 9 902 Kismet Parkway E

File No.: 19025302

APPRAISAL OF REAL PROPERTY



Date of Valuation:

02/13/2019

Located At:

818 Kismet Pkwy E Lots 1-2, Block 2161, Unit 32, Cape Coral, PB 16, PG 11 Cape Coral, FL 33909

For:

City of Cape Coral Post Office Box 152007, Cape Coral, FL 33915

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Maxwell, Hendry & Simmons, LLC 12600 World Plaza Lane, Suite 1 Fort Myers, Florida 33907 www.MHSappraisal.com

February 14, 2019

City of Cape Coral Post Office Box 152007 Cape Coral, FL 33915

Re: Property: 818 Kismet Pkwy E

Cape Coral, FL 33909

Borrower: N/A

File No.: 19025302

In accordance with your request, we have appraised the above referenced property. The report of that appraisal is attached.

The purpose of this appraisal is to estimate the market value of the property described in this appraisal report, as vacant, in unencumbered fee simple title of ownership.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The value conclusions reported are as of the effective date stated in the body of the report and contingent upon the certification and limiting conditions attached.

It has been a pleasure to assist you. Please do not hesitate to contact me or any of my staff if we can be of additional service to you.

Sincerely,

Matthew H. Caldwell Associate Appraiser Cert Gen RZ 2901 LAND APPRAISAL REPORT File No.: 19025302

	Property Address: 818 Kismet Pkwy E City: Cape Coral State: FL Zip Code: 33909
	County: Lee Legal Description: Lots 1-2, Block 2161, Unit 32, Cape Coral, PB 16, PG 11
능	Assessor's Parcel #: 31-43-24-C1-02161.0010 Tax Year: 2018 R.E. Taxes: \$ 576.14 Special Assessments: \$ 0.00
SUBJECT	Market Area Name: Cape Coral Map Reference: 15980 Census Tract: 0102.03
NB	Current Owner of Record: Elsa Alvarez Trust Borrower (if applicable): N/A
S	Project Type (if applicable): PUD De Minimis PUD Other (describe) HOA: \$ per year per month
	Are there any existing improvements to the property? X No Yes If Yes, indicate current occupancy: Owner Tenant Vacant Not habitable
	If Yes, give a brief description:
	The purpose of this appraisal is to develop an opinion of: Market Value (as defined), or other type of value (describe)
l.	This report reflects the following value (if not Current, see comments): Current (the Inspection Date is the Effective Date) Retrospective Prospective
ASSIGNMENT	Property Rights Appraised: X Fee Simple Leasehold Leased Fee Other (describe)
ME	Intended Use: The function or intended use of this appraisal is understood to be for use as a basis of value for possible acquisition purposes. Any other use is
S S	considered to be an unintended use.
SSI	Intended User(s) (by name or type): This appraisal is made for the exclusive use of our client and its use by others is strictly prohibited.
ĕ	
	Client: City of Cape Coral Address: Post Office Box 152007, Cape Coral, FL 33915
	Appraiser: Matthew H. Caldwell Address: 12600 World Plaza Lane, Suite 1, Fort Myers, FL 33907
	Characteristics Predominant One-Unit Housing Present Land Use Change in Land Use
	Location: Urban Suburban Rural Occupancy PRICE AGE One-Unit 40 % Not Likely
	Built up: ☐ Over 75% 25-75% ☐ Under 25%
	Growth rate: Rapid Stable Slow Tenant 150 Low 0 Multi-Unit 2 % * To:
	Property values: Increasing Stable Declining Vacant (0-5%) 750 High 45 Comm'l 5%
	Demand/supply: ☐ Shortage ☑ In Balance ☐ Over Supply ☐ Vacant (>5%) 225 Pred 20 Parks, Etc. 10 %
	Marketing time: ☐ Under 3 Mos. 🔀 3-6 Mos. ☐ Over 6 Mos. ☐ Vacant 40 %
_	Factors Affecting Marketability
Ó	<u>Item</u> Good Average Fair Poor N/A <u>Item</u> Good Average Fair Poor N/A
PI	Employment Stability Adequacy of Utilities \(\square\) \(\times\)
굕	Convenience to Employment Property Compatibility
SS	Convenience to Shopping Protection from Detrimental Conditions
ᆷ	Convenience to Schools Police and Fire Protection
×	Adequacy of Public Transportation General Appearance of Properties General Appearance of Properties
AREA DESCRIPTION	Recreational Facilities Appeal to Market
	Market Area Comments: The market area is bound by Wilmington Parkway to the north, Pine Island Road to the south, Chiquita Boulevard to the west, and
MARKET	Del Prado Boulevard to the east. The neighborhood is composed primarily of average to good quality residential uses of varying design and appeal, with
A R	
Ž	commercial facilities such as banks, schools, emergency centers, and other commercial uses located along major roads such as Del Prado Boulevard and Pine
	Island Road. Waterfront properties represent the upper end of the one-unit housing price range. There were substantial increases in property values from 2011
	through most of 2015. Since that time, prices have mostly stabilized for vacant land. Exposure Time in this area is similar to Marketing Time at 3 to 6 months.
	Dimensions: 95'x125' Site Area: 11,875 Sq.Ft.
	Zoning Classification: MR/CAC converting to C/CP Description: The MR/CAC designations allow for general commercial
	development and are not highly dissimilar from C/CP, to which the subject is being converted per Ordinance_4-19ZA18-0013, et al.
	Do present improvements comply with existing zoning requirements?
	Uses allowed under current zoning: Both the existing and converted designations primarily allow for broad commercial uses.
	Are CC&Rs applicable? Yes No Unknown Have the documents been reviewed? Yes No Ground Rent (if applicable) \$/
	Comments:
	Highest & Best Use as improved:
	Actual Use as of Effective Date: Speculative Holding Use as appraised in this report: Speculative Holding
	Summary of Highest & Best Use: Speculative holding for commercial development is considered the highest and best use as vacant, based on the
lõ	legally permissible, physically possible, and financially feasible uses of the site. This property would likely need to be combined with adjacent parcels
ΙL	to realize feasible development.
泛	
SC	Utilities Public Other Provider/Description Off-site Improvements Type Public Private Frontage Appears Adequate
ᆷ	Electricity
SITE DESCRIPTION	Gas Needs Private Tank Width 100' Size Average
S	Water Needs Well Surface Paved - Asphalt Shape Mostly Rectangular
	Sanitary Sewer
	Storm Sewer
	Telephone
	Multimedia Comcast/Available Alley None
	Other site elements: Inside Lot Corner Lot Cul de Sac Underground Utilities Other (describe)
	FEMA Spec'l Flood Hazard Area 🗌 Yes 🔀 No FEMA Flood Zone \chi FEMA Map # 12071C0255F FEMA Map Date 8/28/2008
	Site Comments: No survey was provided and therefore easements, encroachments or other adverse conditions could not be determined. Furthermore, no
	environmental reports were provided. This appraisal assumes there are no adverse easements, encroachments or other adverse environmental conditions
	associated with the subject property.



	AND APP My research did		Sales or transfers of the sub	ject property for the	e three years prior to	the effe		ile No.: 19025302 appraisal.	
HISTORY	Data Source(s): Lee C	ounty Property Apprais	ser, Local Multiple Listin	g Service (MLS)), and/or parties re	elated			
5	1st Prior Subject S	Sale/Transfer Ana	alysis of sale/transfer history	and/or any current	agreement of sale/lis	sting:	There we	re no previous transf	ers to analyze.
2	Date: Price:								
	Source(s):								
IKANSFEK	2nd Prior Subject	Sale/Transfer							
\$	Date:								
H	Price:								
	Source(s): FEATURE	SUBJECT PROPERTY	T COMPADABLE	- NO 1	COMPA	DADLE	NO 0	I COMPARAI	DIENO 2
ŀ	Address 818 Kismet Pk		COMPARABLE 1840 Diplomat Pkwy E		COMPA 813 Kismet Pkwy		INU. Z	COMPARAI 1505 NW 15th Ter	SLE NU. 3
	Cape Coral, Fl		Cape Coral, FL 33909		Cape Coral, FL 3	•		Cape Coral, FL 339	09
l	Proximity to Subject		1.52 miles SE		0.05 miles NW			3.22 miles W	
-	Sale Price	\$ N/A	\$	85,000		\$	43,000		22,500
	Price/ Sq.Ft.	\$	\$ 2.29		\$ 1.2	_		\$ 1.50	
	Data Source(s) Verification Source(s)		ML#217074680		ML#218042805, IN#2018000212		ė al	ML#218064349	
ŀ	VALUE ADJUSTMENT	DESCRIPTION	IN#2018000140254 DESCRIPTION	+(-) % Adjust	DESCRIPTION		+ (-) % Adjust	IN#2018000257761 DESCRIPTION	+(-) % Adjust
ŀ	Sales or Financing		Cash	. () /8 / (0)	Cash		. () / > / ()	Cash	. () /8 / (0)
Ę	Concessions		None		None			None	
A	Date of Sale/Time	N/A	06/2018	0	08/2018		0	10/2018	(
칟	Rights Appraised	Fee Simple	Fee Simple		Fee Simple	00		Fee Simple	
<u>.</u>	Location Site Area (in Sq.Ft.)	Cape Coral Unit 32	Cape Coral Unit 33		Cape Coral Unit	32	1450/	Cape Coral Unit 41	C
	Zoning/FLU	11,875 MR/CAC : C/CP	37,125 C-1/CP		35,640 C-1/CP			15,000 MR/CAC : C/CP	
200	Exposure	Collector	Collector		Collector			Local Street	+10%
Ĭ									
COMPARISON									
I	Net Adjustment (Total, in \$	<u> </u> 	<u> </u>	-21,254	X +	- \$	6,469	X +	3 2,250
	Net Adjustment (Total, in	<i>,</i>	Net 25.0 %	(-25 % of \$/Sq.Ft.)		_	(15 % of \$/Sq.Ft.)		(10 % of \$/Sq.Ft.
3	Adjusted Sale Price (in \$ /		Gross 55.0 %\$		Gross 15.0			Gross 10.0 %	
	Summary of Sales Compar	ison Approach <u>Ea</u>	ach of these sales are	similar parcels	with a Highest &	Best	Use of specula	tive holding. Each	of these
	PROJECT INFORMATION	FOR PUDs (if applicable) The Subject	is part of a Planned	d Unit Development.				
	Legal Name of Project: Describe common element	s and recreational facilities	:						
	Indicated Value by: Sales	Comparison Approach	\$ 17,813	or\$	1.5 per \$	Sq.Ft.			
Ī			ables, the opinion of va				813, rounded to	\$18,000.	
<u>z</u>	This considers to make N	Z Handall and David	to a to the fellow to a conduct						
4	This appraisal is made	x "as is", or sub	ject to the following condition	ins:					
5									
Š			etical Conditions and/or E						
RECONCILIATION	Based upon an inspec	ction of the subject p	roperty, defined Scope	of Work, Staten	nent of Assumption	ons a	nd Limiting Co	nditions, and Apprais	er's Certifications
	my (our) Opinion of 18.0		other specified value as of:	type), as defin		e rea		s the effective date	
	If indicated above, this	Opinion of Value is	subject to Hypothetical	Conditions and/o	or Extraordinary A		ptions included	in this report. See	attached addenda.
Ę.			ins <u>14</u> pages, includi ormation contained in the						
ALIACH.	Limiting cond./Certi			Location Map(s		_	d Addendum	Additiona	
4	Photo Addenda	Parcel N		Hypothetical Co			ordinary Assumpt		
	Client Contact: Joan E		•	Client Na					
	E-Mail: jestinval@cape	ecoral.net			ot Office Box 1520				
	APPRAISER	Michalli			IPERVISORY AF			ed)	
	14			Of	CO-APPRAISEF	i (II a	ipplicable)		
	11/	7/Vale							
L	Appraiser Name: Mattl	hew H. Caldwell			ervisory or Appraiser Name:				
5	Company: Maxwell, H		 C		npany:				
Ž	Phone: (239) 337-0555	; Fax	(239) 337-5950		one:			Fax:	
<u>0</u>	E-Mail: mattc@MHSap				lail:	\.			
	Date of Report (Signature): License or Certification #:		Ctot		e of Report (Signatur ense or Certification a	,			State:
	Designation:	Cert Gen RZ2901	oldli		moo or oortiiioalioil 1	ır.			
				l Des	signation:				
	Expiration Date of License	or Certification: 11	/30/2020		signation: iration Date of Licens	se or Co	ertification:		
	Inspection of Subject:	or Certification: $\frac{11}{2}$ Did Inspect $\frac{2}{13}$	/30/2020 Did Not Inspect (Desktop	Exp		se or Co	ertification: Did Inspect	☐ Did Not Inspect	

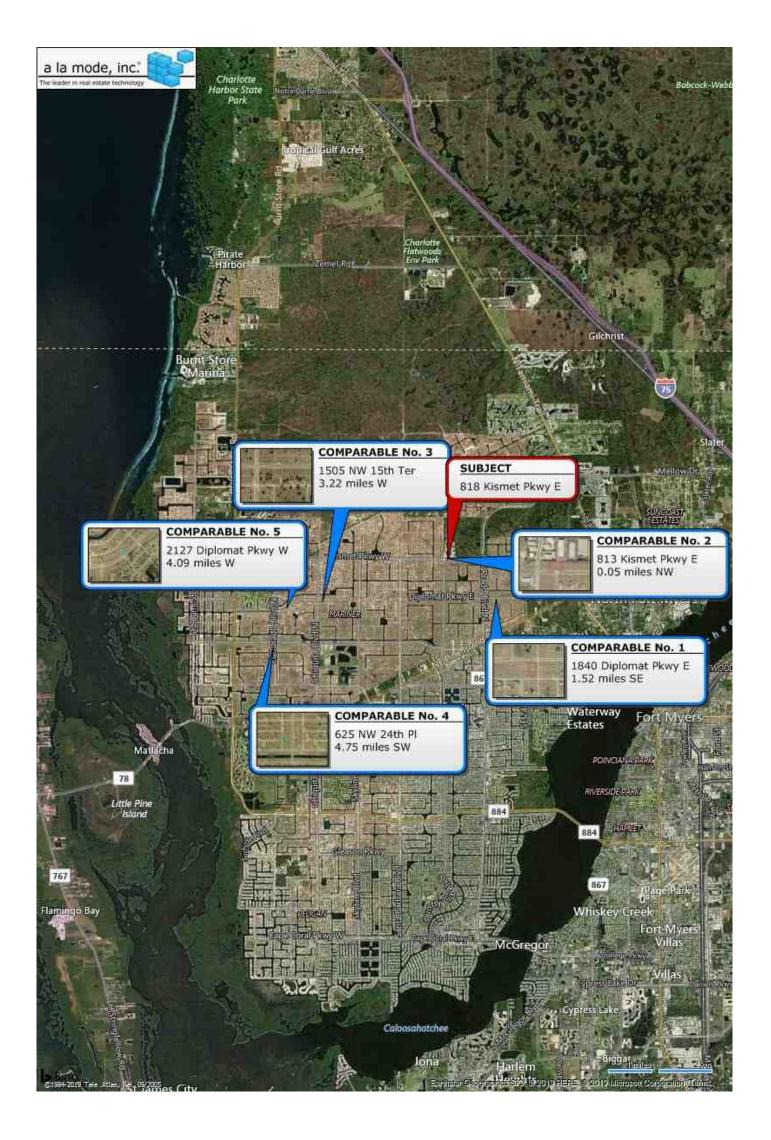


DDITIONAL	L COMPAR	ABLE SAL	ES		F	ile No.: 19025302	
FEATURE	SUBJECT PROPERTY	COMPARABLE	NO. 4	COMPARABLE	NO. 5	COMPARABL	E NO. 6
Address 818 Kismet Pk		625 NW 24th PI		2127 Diplomat Pkwy V			
Cape Coral, F	L 33909	Cape Coral, FL 33993	i	Cape Coral, FL 33993			
Proximity to Subject Sale Price	ф	4.75 miles SW		4.09 miles W		\$	
Price/ Sq.Ft.	\$ N/A	\$ 1.00	10,000	\$ 1.54	15,900	\$	
Data Source(s)	Ψ	ML#218068449		ML#218063256		Ψ	
Verification Source(s)		Pending Sale		Active Listing			
VALUE ADJUSTMENT	DESCRIPTION	DESCRIPTION	+(-) % Adjust	DESCRIPTION	+(-) % Adjust	DESCRIPTION	+(-) % Adjust
Sales or Financing		N/A		N/A			
Concessions		N/A		N/A			
Date of Sale/Time	N/A	Pend./DOM:119		Active/DOM:140			
Rights Appraised Location	Fee Simple	Fee Simple		Fee Simple			
Site Area (in Sq.Ft.)	Cape Coral Unit 32 11,875	Cape Coral Unit 55 10,000		Cape Coral Unit 53 10,300	0		
Zoning/FLU	MR/CAC : C/CP	MR/CAC : C/CP	0	MR/CAC : C/CP	0		
Exposure	Collector	Local Street	+10%	Collector			
Net Adjustment (Total, in \$	<u>'</u>	X + □ - \$	1,000			+	
Net Adjustment (Total, in		Net 10.0 %	(10 % of \$/Sq.Ft.)			Net %	
Adjusted Sale Price (in \$ Summary of Sales Compa		Gross 10.0 %\$		Gross %\$	1.54	Gross %\$	
Sulfilliary of Sales Compa	iisuii Appiuacii Pie	ease see the previous p	age.				
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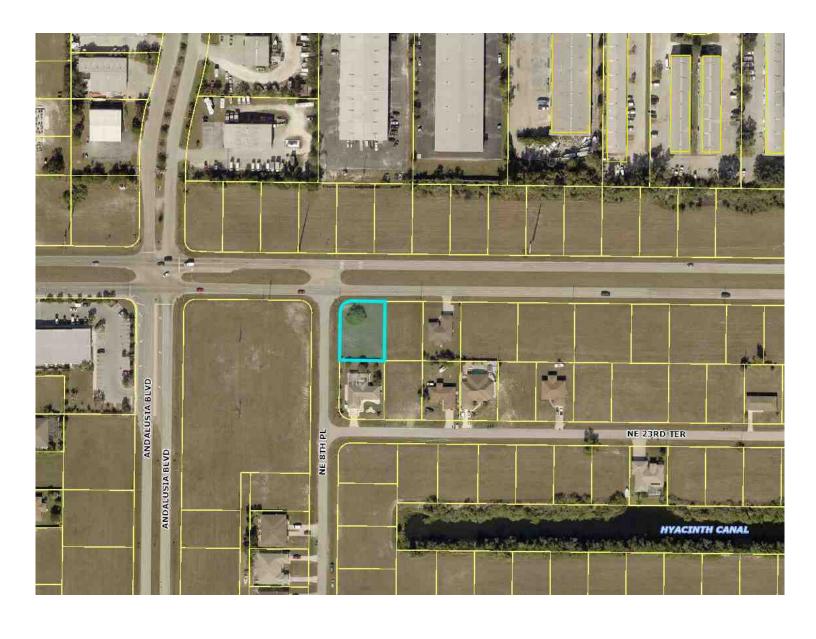


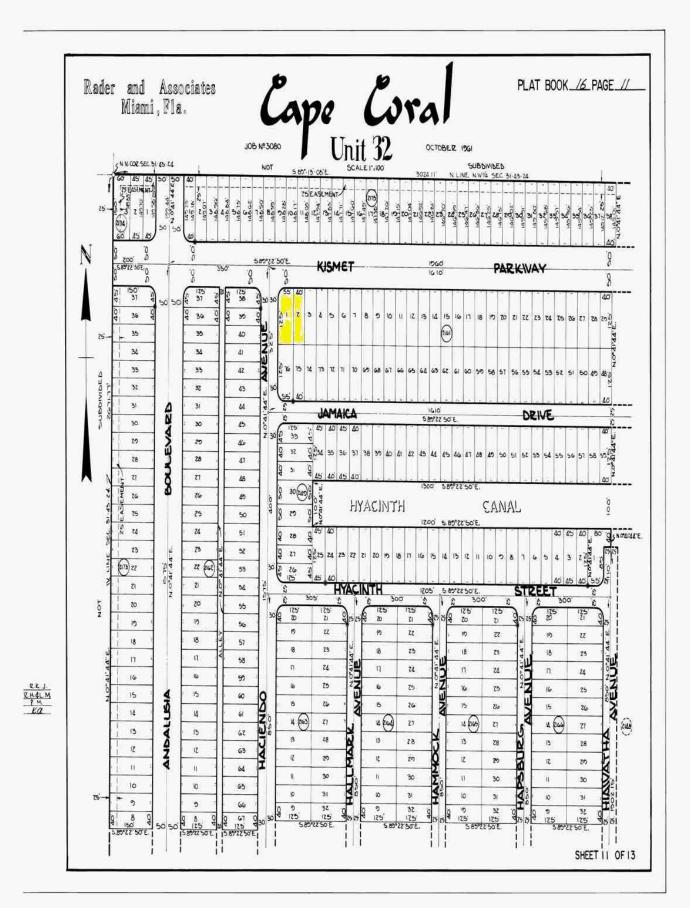
Comparable Sales Map

Owner	Elsa Alvarez Trust		
Property Address	818 Kismet Pkwy E		
City	Cape Coral	County Lee State FL Zip Coo	e 33909
Lender/Client	City of Cane Coral		



Aerial





https://or.leeclerk.org/LandMarkWeb/search/index?theme=.blue§ion=searchCriteriaBookPage&quickSearchSelection=#

1/1

Photograph Addendum

Owner	Elsa Alvarez Trust			
Property Address	818 Kismet Pkwy E			
City	Cape Coral	County Lee	State FL	Zip Code 33909
Lender/Client	City of Cane Coral			



Subject Front



Subject Street

Comparable Land Photo Page

Owner	Elsa Alvarez Trust			
Property Address	818 Kismet Pkwy E			
City	Cape Coral	County Lee	State FL	Zip Code 33909
Lender/Client	City of Cane Coral			



Comparable 1

1840 Diplomat Pkwy E

 Prox. to Subj.
 1.52 miles SE

 Sales Price
 85,000

 Date of Sale
 06/2018

 Site Area
 37,125

Location Cape Coral Unit 33

Zoning/FLU C-1/CP Exposure Collector



Comparable 2

813 Kismet Pkwy E

Prox. to Subject 0.05 miles NW
Sales Price 43,000
Date of Sale 08/2018
Site Area 35,640

Location Cape Coral Unit 32

Zoning/FLU C-1/CP Exposure Collector



Comparable 3

1505 NW 15th Ter

Prox. to Subject 3.22 miles W
Sales Price 22,500
Date of Sale 10/2018
Site Area 15,000

Location Cape Coral Unit 41
Zoning/FLU MR/CAC : C/CP
Exposure Local Street

Comparable Land Photo Page

Owner	Elsa Alvarez Trust						
Property Address	818 Kismet Pkwy E						
City	Cape Coral	County Lee	State	FL	Zip Code	33909	
Lender/Client	City of Cape Coral						



Comparable 4

625 NW 24th PI

Prox. to Subj. 4.75 miles SW Sales Price 10,000

Date of Sale Pend./DOM:119

Site Area 10,000

Location Cape Coral Unit 55
Zoning/FLU MR/CAC : C/CP
Exposure Local Street



Comparable 5

2127 Diplomat Pkwy W

Prox. to Subject 4.09 miles W
Sales Price 15,900
Date of Sale Active/DOM:140
Site Area 10,300

Location Cape Coral Unit 53
Zoning/FLU MR/CAC : C/CP
Exposure Collector

Comparable 6

Prox. to Subject Sales Price Date of Sale Site Area Location Zoning/FLU Exposure

Qualifications

QUALIFICATIONS: MATTHEW H. CALDWELL

Education & Experience

Bachelor of Arts in History, Florida Gulf Coast University, Fort Myers, Florida (2004)

Education through the Appraisal Institute, Steve Williamson's Real Estate Education Specialists, Ed Klopfer Schools of Real Estate, & McKissock, Inc. (2002-Present)

Gulf Coast Appraisal and Consulting Services, Inc., Cape Coral, Florida (2002-03) - Associate

Gulf Coast Appraisal and Associates, Inc., Cape Coral, Florida (2003) - Associate

Maxwell & Hendry Valuation Services, Inc., Fort Myers, Florida (2004-2013) - Associate

Maxwell, Hendry & Simmons, LLC, Fort Myers, Florida (2013-present) - Associate

Professional Designations & Affiliations

State-Certified General Real Estate Appraiser, RZ 2901 (2006-Present)

Other

Qualified as an expert witness in: Florida District Court: 20th Judicial Circuit U.S. District Court: Middle District of Florida

Court of Common Pleas: Sandusky County, OH

Member, Florida House of Representatives Elected 2010, 2012, 2014, & 2016

Adjunct with Florida Gulf Coast University: "Redistricting in Florida" – Fall 2011

License



USPAP ADDENDUM

File No. 190<u>25302</u> Borrower N/A Property Address 818 Kismet Pkwy E Zip Code 33909 City County Lee State FL Cape Coral Lender This report was prepared under the following USPAP reporting option: X Appraisal Report This report was prepared in accordance with USPAP Standards Rule 2-2(a). Restricted Appraisal Report This report was prepared in accordance with USPAP Standards Rule 2-2(b). Reasonable Exposure Time My opinion of a reasonable exposure time for the subject property at the market value stated in this report is: 3 to 6 months Exposure time is one of a series of conditions contained within the market value definition. Exposure time is always presumed to precede the effective date of the appraisal. Exposure period should be differentiated from marketing time, whereas exposure time is a historic event and marketing time is a period immediately after the effective date of the appraisal. The estimated market value is based on the estimated exposure time for the subject property and not the marketing time. In this situation, we estimate the exposure time for the subject property to be up to 3 to 6 months. The marketing time, which is a period immediately after the effective date of the appraisal, is also considered to be 3 to 6 months. These time estimates were based on conversations with brokers and listing agents, as well as supply and demand characteristics in this market area. **Additional Certifications** I certify that, to the best of my knowledge and belief: X I have NOT performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment. I HAVE performed services, as an appraiser or in another capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment. Those services are described in the comments below. **Additional Comments** APPRAISER: SUPERVISORY APPRAISER: (only if required) Signature: Signature: Name: Name: Matthew H. Caldwell Date Signed: <u>02/20/2019</u> Date Signed: State Certification #: <u>Cert Gen RZ2901</u> State Certification #: or State License #: or State License #: State: FL State: Expiration Date of Certification or License: 11/30/2020 Expiration Date of Certification or License: Effective Date of Appraisal: 02/13/2019 Supervisory Appraiser Inspection of Subject Property: Interior and Exterior Did Not Exterior-only from Street

Assumptions, Limiting Conditions & Scope of Work File No.: 19025302

			, , , , , , , , , , , , , , , , , , , 		002002	
Property A	Address: 818 Kismet Pkwy E		City: Cape Coral	State: FL	Zip Code: 33909	
Client:	City of Cape Coral	Address:	Post Office Box 152007, Cape	e Coral, FL 33915		
Appraiser	: Matthew H. Caldwell	Address:	12600 World Plaza Lane, Suit	te 1, Fort Myers, FL 33907		

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

- The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
- The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.
- If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
- The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
- If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.
- The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
- The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
- The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.
- If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.
- An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.
- The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.
- An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

Scope of Work

- 1. An inspection of the subject property.
- 2. Obtain measurements for the site.
- 3. Analyze the site characteristics pertaining to the subject property.
- 4. Obtain available comparable sales and listings data to compare with the subject.
- 5. Analyze the data that has been collected and apply the results appropriately to the valuation of the subject property.
- 6. Using the data collected and the analyses performed to complete the appropriate approaches to value.
- 7. Explain the reasons why any approaches to value were not completed.
- 8. Analyze each of the approaches to value that have been completed to arrive at a value for each valuation analysis.
- 9. Reconcile the approaches to value to arrive at a final estimate of value.
- 10. Relay the data collected and analyzed to the client in summary format throughout the final appraisal report.

Hypothetical Conditions

None

Extraordinary Assumptions

It is assumed that the zoning and future land use ordinances adopted by the Cape Coral City Council will be implemented, as proposed.



Certifications & Definitions

ertifications & Definitions			File No.:	19025302
Property Address: 818 Kismet Pkwy E		City: Cape Coral	State: FL	Zip Code: 33909
Client: City of Cape Coral	Address:	Post Office Box 152007, Cape Coral, FL	33915	
Appraiser: Matthew H. Caldwell	Address:	12600 World Plaza Lane, Suite 1, Fort M	yers, FL 3390	7

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
- I have made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the person(s) signing this certification.

DEFINITION OF MARKET VALUE

The opinion of value developed and reported is the market value of the subject property. Market value, as defined by the agencies that regulate financial institutions in the United States and published by 12 CFR Ch. V Part 564.2(g) Office of Thrift Supervision, Department of the Treasury,

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a. Buyer and seller are typically motivated.
- b. Both parties are well informed or well advised, and acting in what they consider their own best interests.
- c. A reasonable time is allowed for exposure in the open market.
- d. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- e. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

	Client Contact: Joan Estinval Clie	nt Name: <u>City of Cape Coral</u>
	E-Mail: jestinval@capecoral.net Address:	Post Office Box 152007, Cape Coral, FL 33915
	APPRAISER	SUPERVISORY APPRAISER (if required)
		or CO-APPRAISER (if applicable)
	Mohale	
S	#141(XI)	
RES	" 17/10 W.	Supervisory or
T	Appraiser Name: Matthew H. Caldwell	Co-Appraiser Name:
N	Company: Maxwell, Hendry & Simmons, LLC	Company:
SIG	Phone: <u>(239)</u> 337-0555 Fax: <u>(239)</u> 337-5950	Phone: Fax:
,	E-Mail: mattc@MHSappraisal.com	E-Mail:
	Date Report Signed: 02/20/2019	Date Report Signed:
	License or Certification #: Cert Gen RZ2901 State: FL	License or Certification #: State:
	Designation:	Designation:
	Expiration Date of License or Certification: <u>11/30/2020</u>	Expiration Date of License or Certification:
	Inspection of Subject: Did Inspect Did Not Inspect (Desktop)	Inspection of Subject: Did Inspect Did Not Inspect
	Date of Inspection: 02/13/2019	Date of Inspection:

Item Number: B.(5)

Meeting 5/6/2019 Date:

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 85-19 Rejection of Contract for Purchase of Lots 3 and 4, Block 2161, Unit 32, Cape Coral Subdivision, 822 Kismet Parkway East, Cape Coral, for a future drinking water well site as the location does not meet Florida Department of Environmental Protection set back distance requirements for drinking water supply wells serving public water systems; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are

listed below.

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. In 2006, the City of Cape Coral purchased several well sites along the south side of Kismet Parkway for the construction of drinking water wells to supply raw water to the North Reverse Osmosis Water Treatment Plant. Staff has determined an additional production well is required. Several criteria are routinely evaluated when siting new drinking water wells. The criteria includes spacing between existing wells and and raw water mains.
- 2. The subject property is a two-lot site along the southside of Kismet Parkway. Staff submitted a contract in the amount of \$15,000 based on a recent appraisal, by a state-certified appraiser, of a similar site with the CAC Land Use and MR Zoning designations along Kismet Parkway.
- 3. The property owner accepted the City's contract offer and returned it to the City without communicating with the City's Real Estate Division. Subsequent to the City's contract offer, the City's Professional Geologist informed staff that the site was located too close to the newly constructed fuel storage tanks at the 7-Eleven gas station just west of the site. Florida Department

of Environmental Protection requires a 500-foot setback for potable water wells from existing fuel storage tanks.

4. Staff recommends **rejection** of the contract to purchase Lots 3 and 4, Block 2161, Unit 32, Cape Coral Subdivision, for the purchase price of \$15,000 due to the close proximity of existing fuel storage tanks.

LEGAL REVIEW:

EXHIBITS:

Resolution 85-19 Property Appraiser Printout Location Map Appraisal

PREPARED BY:

Dawn Y. Andrews, Property
Broker

DivisionReal
Estate

DepartmentFinancial
Services

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director 239-574-0709

Dawn Andrews, Property Broker Financial Services / Real Estate Division 239-574-0735

Joan Estinval, Property Acquisition Agent Financial Services / Real Estate Division 239-573-3072

ATTACHMENTS:

Description

	Description	Type
D	Resolution 85-19	Resolution
D	PA Sheet - Lots 3-4, Block 2161	Backup Material
D	Location Map - Lots 3-4, Block 2161	Backup Material
D	Appraisal - Lots 1-2, Blk 2161	Backup Material

Type

RESOLUTION 85 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING THE REJECTION OF A "CONTRACT FOR SALE AND PURCHASE" BETWEEN JAMES L. HAYNES, SR., AND THE CITY OF CAPE CORAL FOR THE PURCHASE OF LOTS 3 AND 4, BLOCK 2161, UNIT 32, CAPE CORAL SUBDIVISION, FOR A FUTURE PRODUCTION RAW WATER WELL SITE; PROPERTY LOCATED AT 822 KISMET PARKWAY EAST; PROVIDING AN EFFECTIVE DATE.

WHEREAS, staff has been evaluating property located along the south side of Kismet Parkway for the construction of additional production water wells to supply raw water to the North Reverse Osmosis Water Treatment Plant; and

WHEREAS, staff submitted an offer of \$15,000 to the property owner of the subject site based on a recent appraisal of a similar site; and

WHEREAS, the property owner signed and returned the City's contract offer without communicating with the City's Real Estate Division; and

WHEREAS, the subject site is in close proximity to a newly constructed 7-Eleven with fuel storage tanks; and

WHEREAS, subsequent to the City's contract offer, the City's Project Geologist informed staff that the subject site did not meet Florida Department of Environmental Protection setback distance requirements for potable water wells from existing fuel storage tanks; and

WHEREAS, City staff recommends the rejection of the contract for the purchase of the subject property.

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

Section 1. The City Council hereby rejects the "Contract for Sale and Purchase" between James L. Haynes, Sr., and the City of Cape Coral for the purchase of Lots 3 and 4, Block 2161, Unit 32, Cape Coral Subdivision, as more fully described in the Contract. The property is located at 822 Kismet Parkway East. A copy of the "Contract for Sale and Purchase" is attached hereto as Exhibit A.

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

ADOPTED BY THE CITY COUNC		
	JOE COV	VIELLO, MAYOR
VOTE OF MAYOR AND COUNCIL	LMEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN	
ATTESTED TO AND FILED IN 1 2019.	MY OFFICE THIS	DAY OF,
		LY BRUNS M CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY

Res/Reject Contract-Well Site L3-4 B2161

CONTRACT FOR SALE AND PURCHASE

THIS IS A LEGALLY BINDING CONTRACT WHEN PROPERLY COMPLETED AND EXECUTED. IF NOT FULLY UNDERSTOOD, SEEK LEGAL ADVICE BEFORE SIGNING.

PARTIES: James L Haynes, Sr. 2020 Chic Inn Rd., Cadwell, GA 31009 as "SELLER", and City of Cape Coral, a Florida Municipal Corporation, P.O. Box 150027, Cape Coral, Florida 33915-0027, successors or assigns, as "BUYER", hereby agree that the SELLER shall sell and BUYER shall buy the following (hereinafter referred to as "PROPERTY") described property upon the following terms and conditions:

LEGAL DESCRIPTION of real estate located in Lee County, Florida:
 Lots 3 + 4, Block 2161, Unit 32, Cape Coral Subdivision, as recorded in Plat
 Book 16, Pages 11-12, inclusive of the Public Records of Lee County, Florida.

2. PURCHASE PRICE

\$15,000.00

3. **CONDITIONAL CONTRACT.** This contract for sale and purchase is a binding contract once it is executed by the **SELLER** and by the City Manager on behalf of the **BUYER**. However, this contract is expressly subject to approval by the Cape Coral City Council. If the Cape Coral City Council fails or refuses to approve the purchase within <u>45</u> calendar days of the date when the City Manager has signed this contract, then this contract shall be null and void. This contract is subject to applicable Florida probate proceedings, if required. **BUYER** and **SELLER** understand and agree that in the event probate proceedings are necessary, **SELLER** shall be solely responsible for any and all expenses necessary to complete said probate proceedings.

- 4. **EFFECTIVE DATE & CLOSING DATE.** The Effective Date of this contract shall be the date of Council authorization. This contract shall be closed and the deed shall be delivered within 30 business days after Council authorization unless extended by other provisions of this contract. Such other provisions shall include, but not be limited to, paragraph 7. Possession shall be granted on the day of closing unless otherwise agreed in writing.
- 5. **CONVEYANCE. SELLER** shall convey title to the property to **BUYER** by Warranty Deed subject only to matters contained in this contract and taxes for the year of closing.
- 6. **RESTRICTIONS AND EASEMENTS. BUYER** shall take title subject to:
 - (a) Zoning and restrictions and prohibitions imposed by governmental authority;
 - (b) Restrictive covenants of record;
 - (c) Public utility easements of record, provided however said easements are located along the perimeter of the property and are not more than six feet (6') in width;
 - (d) Taxes for the year of closing and subsequent years;

Provided, however, that none of the foregoing shall prevent use of the entire property for the purpose of right-of-way or any other governmental purpose.

shall at BUYER'S expense, obtain a title insurance binder issued by a qualified title insurer of its choice, agreeing to issue to BUYER, upon the recording of the deed hereafter mentioned, a title insurance policy in the amount of the purchase price insuring the title to that real property.

BUYER shall have fifteen (15) days from the date of receiving the evidence of title to examine same. If title is found to be defective, BUYER or closing agent shall, within said period of time, notify SELLER in writing specifying defects that need to be cured. For purposes of this contract, a requirement by the title insurer that the SELLER institute and complete a quiet title action shall be deemed to be a title defect that shall be cured by SELLER. If said defects render the title unmarketable or uninsurable SELLER shall have ninety (90) days from the receipt of such notice to cure the defects, and if after said period SELLER shall not have cured the

- defects, then **BUYER** shall have the option of (1) accepting the title as it then is; (2) affording **SELLER** additional time to cure the defect(s); or (3) terminate the contract by providing written notice to the **SELLER**.
- 8. **EXISTING MORTGAGES. SELLER** shall furnish estoppel letters from mortgagee(s) setting forth the principal balance, escrow balance, method of payment, and whether the mortgage is in good standing. It shall be **SELLER'S** obligation to obtain any satisfactions of mortgage required for closing.
- 9. **SURVEY.** If **BUYER** desires a survey, **BUYER** shall have the property surveyed at its expense prior to closing date. If the survey shows an encroachment, the same shall be treated as a title defect.
- 10. **OTHER AGREEMENTS.** No agreements or representations, unless incorporated in this contract, shall be binding upon any of the parties, unless they be in writing and agreed to by all parties.
- 11. **MECHANIC'S LIENS. SELLER** shall execute an affidavit that there have been no improvements to the subject property and that **SELLER** has not entered any contracts for the provision of goods or services that could give rise to a mechanic's lien for the ninety (90) days immediately preceding the date of closing.
- 12. **TIME IS OF THE ESSENCE** in the performance of this contract.
- 13. **DOCUMENTS FOR CLOSING. SELLER** shall execute a Warranty Deed, Seller's Affidavit and other necessary closing documents provided by closing agent.
- 14. **EXPENSES.** Documentary stamps, title insurance, title search, title exam and settlement fees shall be paid by **BUYER**.
- 15. **PRORATION OF TAXES (REAL AND PERSONAL).** Taxes shall be prorated based upon the current year's tax without regard to discount. If the closing takes place and the current year's taxes are not fixed, and the current year's assessment is available, taxes will be prorated

based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax, provided, however, if there is a completed improvement of the subject premises by January 1 of the year of closing, then the taxes shall be prorated to the date of closing based upon the prior year's millage. It is further agreed that should, upon receipt of current tax statement, the taxes be different by more than Ten Dollars (\$10.00) than those estimated, the proration shall be adjusted.

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- 16. **ATTORNEY'S FEES AND COSTS.** In connection with any litigation arising out of the contract, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees. The parties agree to venue in Lee County, Florida for any action arising out of this Contract.
- 17. **DEFAULT BY SELLER.** If **SELLER** fails to perform any of the covenants of this contract other than the failure of **SELLER** to render his title marketable after diligent effort **BUYER** may proceed at law or in equity to enforce its legal rights under this contract, including, but not limited to, the right to bring suit for specific performance.
- 18. All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.
- 19. This agreement shall be interpreted, construed, and governed according to the Laws of the State of Florida.
- 20. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid and unenforceable provisions were omitted.
- 21. **SELLER** and **BUYER** hereby agree that this contract to purchase the real property described above is for a proper municipal purpose and grants the **BUYER** the right to enter the real property described above for the purpose of surveying, soil borings, or any other work as deemed necessary by the **BUYER**. The parties herein further agree that the purchase of this

- property does not destroy or cause any damage whatsoever to **SELLER** or his successor or assigns with respect to any commercial or residential property owned by them whose lands are being so purchased or located upon adjoining lands.
- 22. The place of closing and delivery of the deed to **BUYER** shall be at any office designated by **BUYER**.
- 23. **ENVIRONMENTAL AUDIT. BUYER** may perform or have performed, at **BUYER'S** expense, an environmental audit of the property. If such an audit identifies environmental problems unacceptable to the **BUYER** then **BUYER** may elect to accept the property in its existing condition or **BUYER** may terminate this Contract without obligation.
- 24. **REAL ESTATE COMMISSIONS. BUYER** and **SELLER** understand and agree that in the event **BUYER** has knowledge of any listing agreement for the subject property, then **BUYER**, at its option, may elect to notify and provide a copy of this contract to the Listing Broker. **SELLER** shall be solely responsible for any Broker compensation, Realtor notification or any other terms and conditions of any listing agreement. **SELLER** shall also be responsible for any Realtor transaction fee or administration fee.
- 25. **DISCLOSURE OF BENEFICIAL INTERESTS. SELLER** agrees to comply with the provisions of Section 286.23(1), Florida Statutes. Said section requires that, before property that is owned by a partnership, limited partnership, corporation, trust or any other form of representative capacity whatsoever for others, is conveyed to a governmental unit, the representative of the owner/entity shall make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury, which shall state the names and addresses of every person having a beneficial interest in the Real Property, however small or minimal.

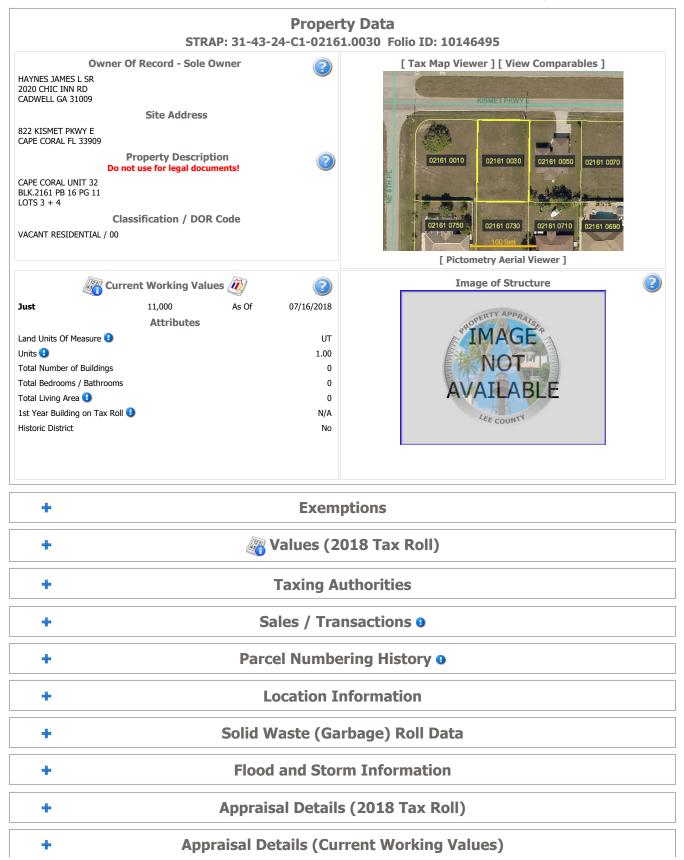
IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

	CITY	RIDA	
Witness to A. John Szerlag	BY: _	A. John Szerlag City Manager	Date
	BY:		
Witness to Kimberly Bruns		Kimberly Bruns Interim City Clerk	Date
Witness Print Name: Texone Edward	BY:_	James L. Haynes, Sr	_ 3-21-10 Date
Print Name: Jerome Edanke Beroeden Hayno Witness Print Name: Geraldine Haynes			
APPROVED AS TO FORM:			
Dolores D. Menendez, City Attorney			

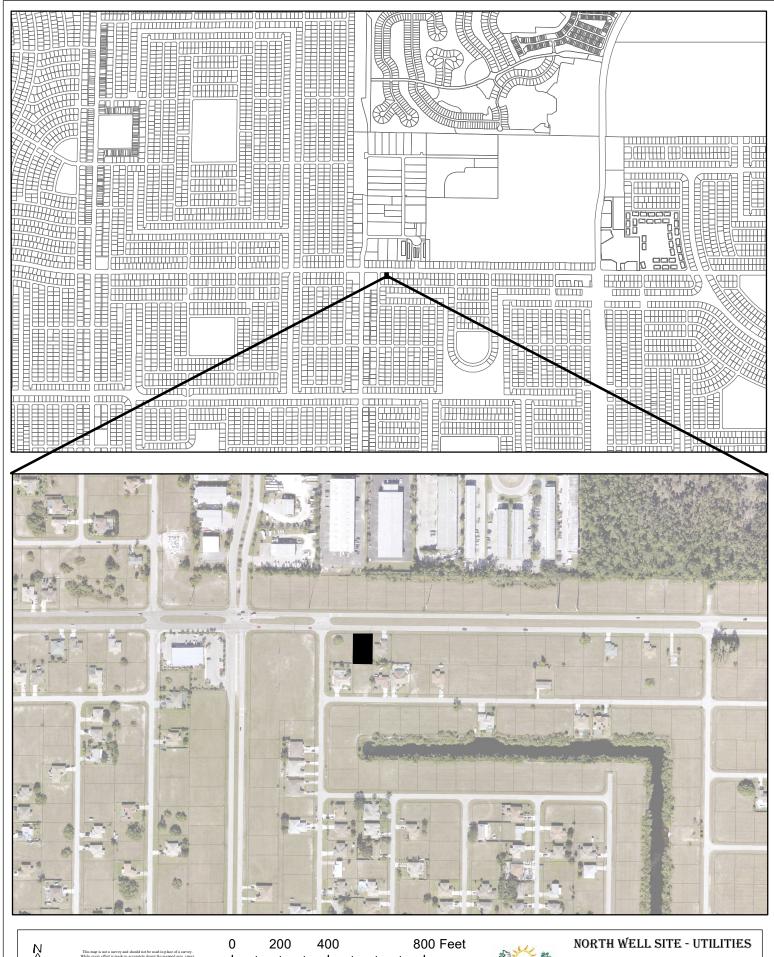


Tax Year 🔽

Next Parcel Number Previous Parcel Number Tax Estimator Cape Coral Fees Tax Bills Print



TRIM (proposed tax) Notices are available for the following tax years [2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018]





This imp is not a survey and should not be used in place of a survey. While every effort is made to accumptely depict the mapped aroa, enors and omissions may occur. Therefore, the City of Cape Coral cannot held liable for incidents that may result due to the improper use of the afformation presented on this map. This map is not intended for construction, manyjation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product. parend by: The City of CAPE CORAL Ruel Estate Division-Gregory L. Spire. 

IORTH WELL SITE - UTILITIES
Block 2161 Lots 3-4
822 Kismet Parkway E

File No.: 19025302

APPRAISAL OF REAL PROPERTY



Date of Valuation:

02/13/2019

Located At:

818 Kismet Pkwy E Lots 1-2, Block 2161, Unit 32, Cape Coral, PB 16, PG 11 Cape Coral, FL 33909

For:

City of Cape Coral Post Office Box 152007, Cape Coral, FL 33915

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Maxwell, Hendry & Simmons, LLC 12600 World Plaza Lane, Suite 1 Fort Myers, Florida 33907 www.MHSappraisal.com

February 14, 2019

City of Cape Coral Post Office Box 152007 Cape Coral, FL 33915

Re: Property: 818 Kismet Pkwy E

Cape Coral, FL 33909

Borrower: N/A

File No.: 19025302

In accordance with your request, we have appraised the above referenced property. The report of that appraisal is attached.

The purpose of this appraisal is to estimate the market value of the property described in this appraisal report, as vacant, in unencumbered fee simple title of ownership.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The value conclusions reported are as of the effective date stated in the body of the report and contingent upon the certification and limiting conditions attached.

It has been a pleasure to assist you. Please do not hesitate to contact me or any of my staff if we can be of additional service to you.

Sincerely,

Matthew H. Caldwell Associate Appraiser Cert Gen RZ 2901

Maxwell, Hendry & Simmons, LLC AND APPRAISA<u>L REPORT</u> File No · 19025302 State: FL Property Address: City: Cape Coral Zip Code: 33909 County: Lee Legal Description: Lots 1-2, Block 2161, Unit 32, Cape Coral, PB 16, PG 11 Assessor's Parcel #: Tax Year: 2018 R.E. Taxes: \$ 576.14 Special Assessments: \$ 31-43-24-C1-02161.0010 Market Area Name: Map Reference: Census Tract: 15980 0102.03 Cape Coral Current Owner of Record: Elsa Alvarez Trust Borrower (if applicable): N/A PUD De Minimis PUD Other (describe) HOA: \$ Project Type (if applicable): per year per month **X** No If Yes, indicate current occupancy: Are there any existing improvements to the property? ☐ Yes Owner Tenant Vacant Not habitable If Yes, give a brief description: The purpose of this appraisal is to develop an opinion of: Market Value (as defined), or other type of value (describe) Current (the Inspection Date is the Effective Date) This report reflects the following value (if not Current, see comments): Retrospective ☐ Prospective Property Rights Appraised: Fee Simple Leasehold Leased Fee Other (describe) Intended Use: The function or intended use of this appraisal is understood to be for use as a basis of value for possible acquisition purposes. Any other use is considered to be an unintended use. Intended User(s) (by name or type): This appraisal is made for the exclusive use of our client and its use by others is strictly prohibited. Client: City of Cape Coral Address: Post Office Box 152007, Cape Coral, FL 33915 Appraiser: 12600 World Plaza Lane, Suite 1, Fort Myers, FL 33907 Matthew H. Caldwell Characteristics Predominant One-Unit Housing Change in Land Use Present Land Use Occupancy Location: Not Likely Urban **Suburban** Rural **PRICE** AGE One-Unit 40 % Built up: Under 25% \$(000) 3 % Over 75% 25-75% **X** Owner (yrs) 2-4 Unit Likelv * In Process * X Stable 2 % Slow Multi-Unit Growth rate: Rapid Tenant Iow To: 150 0 Increasing X Stable Declining **X** Vacant (0-5%) High 5 % Property values: Comm'l 750 45 In Balance Shortage Over Supply ∇acant (>5%) Pred Demand/supply: 225 20 Parks, Etc 10 % Marketing time: Under 3 Mos Over 6 Mos 40 % Vacant **Factors Affecting Marketability** <u>Item</u> **Item** Average Poor N/A Average N/A Good Good **Employment Stability** Adequacy of Utilities X **Property Compatibility** X Convenience to Employment Convenience to Shopping Protection from Detrimental Conditions Convenience to Schools X Police and Fire Protection Adequacy of Public Transportation General Appearance of Properties Recreational Facilities Appeal to Market Market Area Comments: The market area is bound by Wilmington Parkway to the north, Pine Island Road to the south, Chiquita Boulevard to the west, Del Prado Boulevard to the east. The neighborhood is composed primarily of average to good quality residential uses of varying design and appeal, with commercial facilities such as banks, schools, emergency centers, and other commercial uses located along major roads such as Del Prado Boulevard and Pine Island Road. Waterfront properties represent the upper end of the one-unit housing price range. There were substantial increases in property values from 2011 through most of 2015. Since that time, prices have mostly stabilized for vacant land. Exposure Time in this area is similar to Marketing Time at 3 to 6 months Site Area: Dimensions: 95'x125' 11 875 Sa.Ft. Zoning Classification: Description: MR/CAC converting to C/CP The MR/CAC designations allow for general commercial development and are not highly dissimilar from C/CP, to which the subject is being converted per Ordinance 4-19 ZA18-0013, et al Yes No No Improvements Do present improvements comply with existing zoning requirements? Uses allowed under current zoning: Both the existing and converted designations primarily allow for broad commercial uses. Yes X No Unknown Have the documents been reviewed? Are CC&Rs applicable? Yes No Ground Rent (if applicable) Comments: Highest & Best Use as improved: resent use, or Other use (explain)



	AND APP My research did		Sales or transfers of the sub	ject property for the	three years prior t	o the eff		ile No.: 19025302 ppraisal.	
HISTORY	Data Source(s): Lee C	ounty Property Apprais	ser, Local Multiple Listin	g Service (MLS	, and/or parties	related			
5	1st Prior Subject S	Sale/Transfer Ana	alysis of sale/transfer history	and/or any current	agreement of sale,	/listing:	There we	re no previous transf	ers to analyze.
2	Date: Price:								
	Source(s):								
IKANSFEK	2nd Prior Subject	Sale/Transfer							
\$	Date:								
H	Price:								
	Source(s): FEATURE	SUBJECT PROPERTY	COMPARABLE	- NO 1	I COME	PARABLE	NO 0	COMPARAE	U.F.NO. 2
ŀ	Address 818 Kismet Pk		1840 Diplomat Pkwy E		813 Kismet Pk		I NU. Z	1505 NW 15th Ter	DLE NU. 3
	Cape Coral, Fl		Cape Coral, FL 33909		Cape Coral, FL	-	1	Cape Coral, FL 339	09
l	Proximity to Subject		1.52 miles SE		0.05 miles NW			3.22 miles W	
-	Sale Price	\$ N/A	\$	85,000		\$	43,000	9	22,500
	Price/ Sq.Ft.	\$	\$ 2.29			.21		\$ 1.50	
	Data Source(s) Verification Source(s)		ML#217074680		ML#218042805 IN#201800021			ML#218064349 IN#2018000257761	
ŀ	VALUE ADJUSTMENT	DESCRIPTION	IN#2018000140254 DESCRIPTION	+(-) % Adjust	DESCRIPTION DESCRIPTION		+ (-) % Adjust	DESCRIPTION	+(-) % Adjust
ŀ	Sales or Financing		Cash	. () /8 / (0)	Cash		. () /	Cash	. () /2 / ()
Ę	Concessions		None		None			None	
A	Date of Sale/Time	N/A	06/2018	0	08/2018		0	10/2018	(
칟	Rights Appraised	Fee Simple	Fee Simple		Fee Simple			Fee Simple	
<u>.</u>	Location Site Area (in Sq.Ft.)	Cape Coral Unit 32	Cape Coral Unit 33		Cape Coral Un	ıt 32	1450/	Cape Coral Unit 41	C
	Zoning/FLU	11,875 MR/CAC : C/CP	37,125 C-1/CP		35,640 C-1/CP			15,000 MR/CAC : C/CP	
200	Exposure	Collector	Collector		Collector			Local Street	+10%
Ĭ									
COMPARISON									
I	Net Adjustment (Total, in \$	<u> </u> 	□ + X - \$	-21,254	X +	- \$	6,469	X +	3 2,250
	Net Adjustment (Total, in '	,	Net 25.0 %	(-25 % of \$/Sq.Ft.)		0 %	(15 % of \$/Sq.Ft.)		(10 % of \$/Sq.Ft.
3	Adjusted Sale Price (in \$ /	• •	Gross 55.0 %\$) % \$		Gross 10.0 %	
	Summary of Sales Compar	ison Approach <u>Ea</u>	ch of these sales are	similar parcels	with a Highest	& Best	Use of specula	tive holding. Each	of these
	PROJECT INFORMATION	FOR PUDs (if applicable	The Subject	is part of a Planne	d Unit Development				
	Legal Name of Project: Describe common element	s and recreational facilities	<u> </u>						
	Indicated Value by: Sales	Comparison Approach	\$ 17,813	or\$	1.5 pe	r Sq.Ft.			
Ī			ables, the opinion of va					\$18,000.	
5	This appraisal is made.	✓ llog ioll ox	iont to the following against	no:					
RECONCILIATION	This appraisal is made	▲ as is , or ☐ SUD	ject to the following conditio						
3									
5			etical Conditions and/or E						
찕	Based upon an inspec	ction of the subject p	roperty, defined Scope	of Work, Stater	nent of Assump	tions a	and Limiting Cor	nditions, and Apprais	er's Certifications
	\$ 18,0	, 00	other specified value as of:	02/13/2	019		, which i	s the effective date	of this appraisal.
			subject to Hypothetical	Conditions and/	or Extraordinary				
E			ins <u>14</u> pages, includi ormation contained in the						
ALIACH.	Limiting cond./Certi			Location Map(s			d Addendum	Additional	
∢	Photo Addenda	Parcel N		Hypothetical Co			aordinary Assumpt		
	Client Contact: <u>Joan E</u>	stinval		Client Na	me: <u>City of</u>	Cape C	Coral		
	E-Mail: jestinval@cape	ecoral.net	-				Cape Coral, FL 3		
	APPRAISER	Makelle			IPERVISORY <i>A</i> CO-APPRAISE		ISER (if requir	ea)	
	19	4411/		lor	OU-AFFRAISI	-n (II &	appiicable)		
	11/	7/Vale							
ES	Appraiser Name: Mattl	hew H. Caldwell			ervisory or Appraiser Name:				
-1	Company: <u>Maxwell, H</u>				npany:				
X	Phone: <u>(239)</u> 337-0555	Fax	(239) 337-5950		ne:			Fax:	
2	E-Mail: mattc@MHSap	praisal.com		E-N					
	Date of Report (Signature): License or Certification #:		Ct-t-		e of Report (Signat ense or Certificatior	,			State:
	Designation:	Cert Gen RZ2901	State		ense or Certification ignation:	1#.			_ Slate
	Expiration Date of License	or Certification: 11/	30/2020			0			
		1 17		I LVE	iration Date of Lice	nse or c	ertification:		·
	Inspection of Subject: Date of Inspection: 02	又 Did Inspect	Did Not Inspect (Desktop	n) Ins	iration Date of Lice pection of Subject: e of Inspection:	nse or c	ertification: Did Inspect	Did Not Inspect	

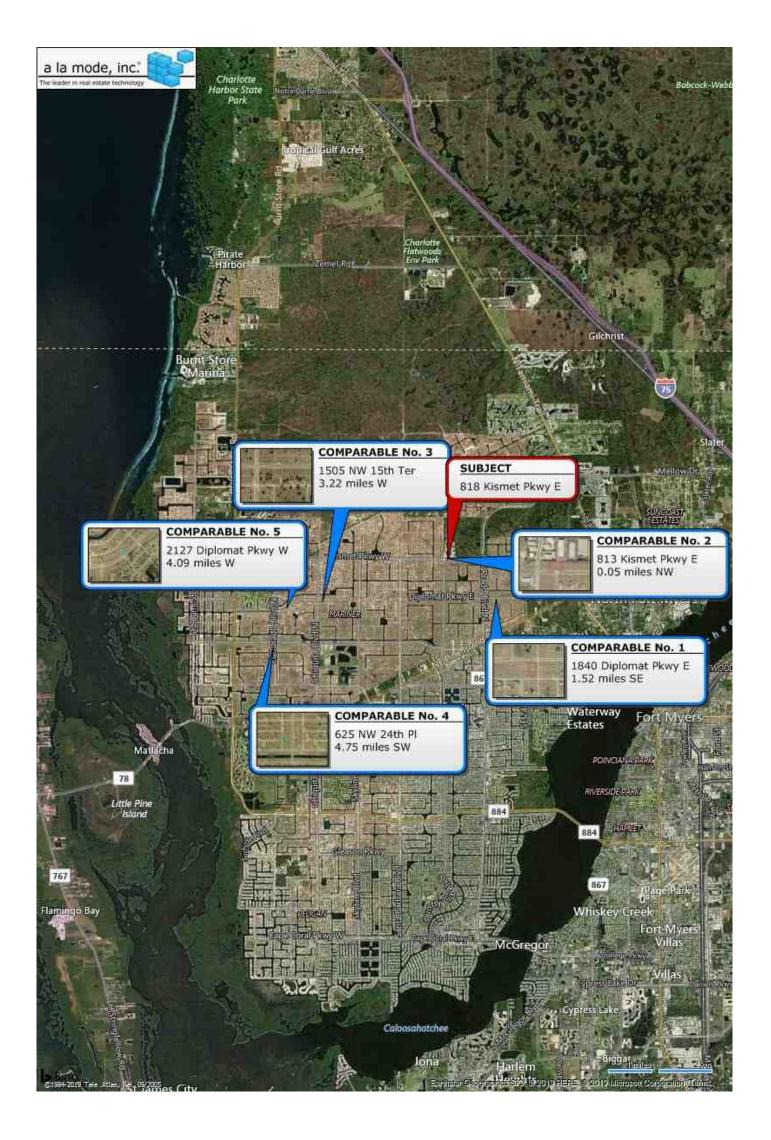


DDITIONAL	L COMPAR	ABLE SAL	ES	File No.: 19025302				
FEATURE	SUBJECT PROPERTY	COMPARABLE NO. 4		COMPARABLI	E NO. 5	COMPARABLE NO. 6		
Address 818 Kismet Pk		625 NW 24th PI		2127 Diplomat Pkwy V				
Cape Coral, F	L 33909	Cape Coral, FL 33993	i	Cape Coral, FL 33993				
Proximity to Subject Sale Price	ф	4.75 miles SW		4.09 miles W		\$		
Price/ Sq.Ft.	\$ N/A	\$ 1.00	10,000	\$ 1.54	15,900	\$		
Data Source(s)	Ψ	ML#218068449		ML#218063256		Ψ		
Verification Source(s)		Pending Sale		Active Listing				
VALUE ADJUSTMENT	DESCRIPTION	DESCRIPTION	+ (-) % Adjust	DESCRIPTION	+ (-) % Adjust	DESCRIPTION	+(-) % Adjust	
Sales or Financing		N/A		N/A				
Concessions		N/A		N/A				
Date of Sale/Time	N/A	Pend./DOM:119		Active/DOM:140				
Rights Appraised Location	Fee Simple	Fee Simple		Fee Simple				
Site Area (in Sq.Ft.)	Cape Coral Unit 32 11,875	Cape Coral Unit 55 10,000		Cape Coral Unit 53 10,300	0			
Zoning/FLU	MR/CAC : C/CP	MR/CAC : C/CP	0	MR/CAC : C/CP	0			
Exposure	Collector	Local Street	+10%	Collector				
Not Adicatos and (Tabel in 6								
Net Adjustment (Total, in \$	<u>'</u>	X + □ - \$	1,000			+ - \$		
Net Adjustment (Total, in Adjusted Sale Price (in \$		Net 10.0 % Gross 10.0 %\$	(10 % of \$/Sq.Ft.)		4.54	Net %		
Summary of Sales Compa		Gross 10.0 %\$ ease see the previous p		Gross %\$	1.54	Gross %\$		
Cultimary of Galoo Gompa	110	ease see the previous p	aye.					
<u> </u>								
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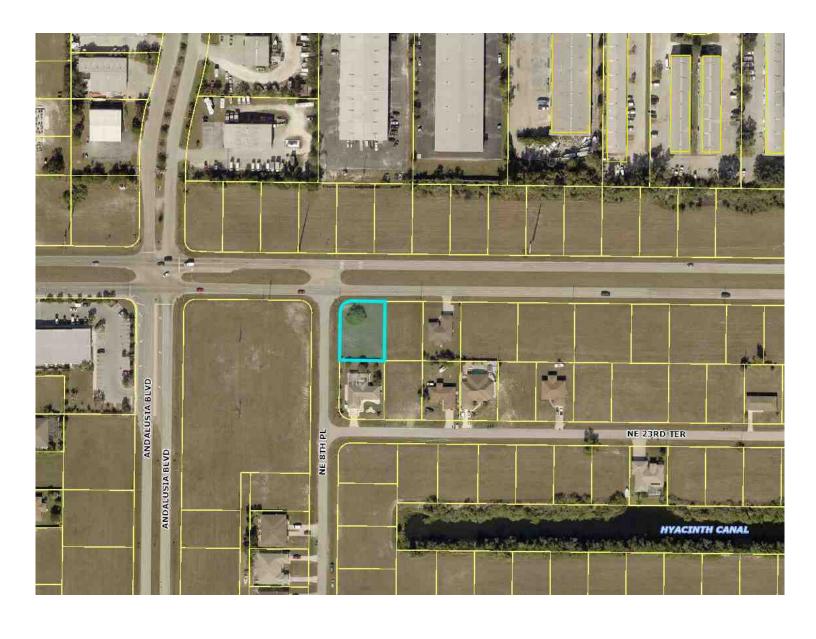


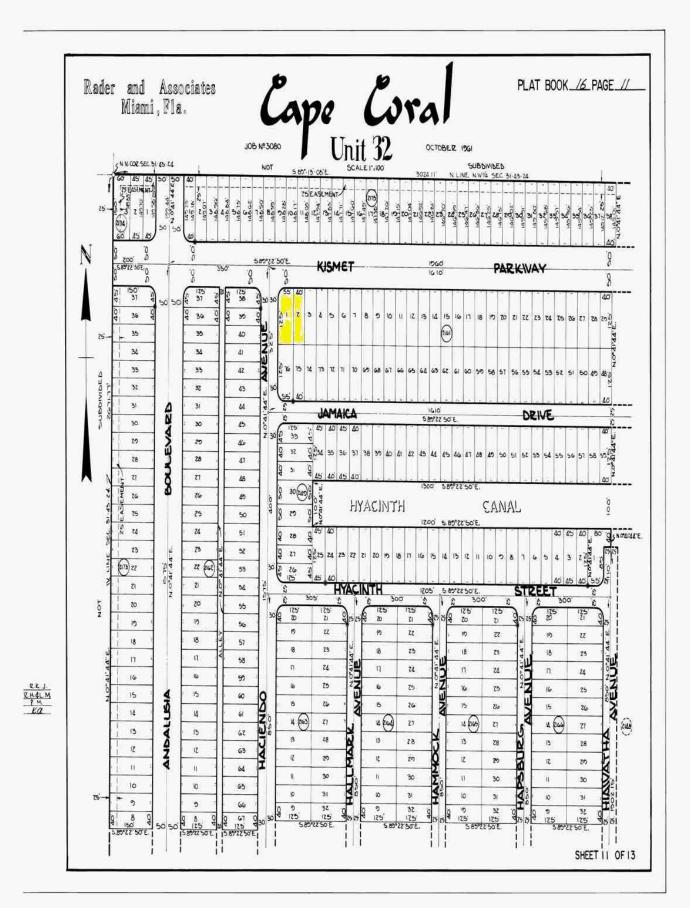
Comparable Sales Map

Owner	Elsa Alvarez Trust		
Property Address	818 Kismet Pkwy E		
City	Cape Coral	County Lee State FL Zip Coo	e 33909
Lender/Client	City of Cane Coral		



Aerial





https://or.leeclerk.org/LandMarkWeb/search/index?theme=.blue§ion=searchCriteriaBookPage&quickSearchSelection=#

1/1

Photograph Addendum

Owner	Elsa Alvarez Trust			
Property Address	818 Kismet Pkwy E			
City	Cape Coral	County Lee	State FL	Zip Code 33909
Lender/Client	City of Cane Coral			



Subject Front



Subject Street

Comparable Land Photo Page

Owner	Elsa Alvarez Trust			
Property Address	818 Kismet Pkwy E			
City	Cape Coral	County Lee	State FL	Zip Code 33909
Lender/Client	City of Cane Coral			



Comparable 1

1840 Diplomat Pkwy E

 Prox. to Subj.
 1.52 miles SE

 Sales Price
 85,000

 Date of Sale
 06/2018

 Site Area
 37,125

Location Cape Coral Unit 33

Zoning/FLU C-1/CP Exposure Collector



Comparable 2

813 Kismet Pkwy E

Prox. to Subject 0.05 miles NW
Sales Price 43,000
Date of Sale 08/2018
Site Area 35,640

Location Cape Coral Unit 32

Zoning/FLU C-1/CP Exposure Collector



Comparable 3

1505 NW 15th Ter

Prox. to Subject 3.22 miles W
Sales Price 22,500
Date of Sale 10/2018
Site Area 15,000

Location Cape Coral Unit 41
Zoning/FLU MR/CAC : C/CP
Exposure Local Street

Comparable Land Photo Page

Owner	Elsa Alvarez Trust						
Property Address	818 Kismet Pkwy E						
City	Cape Coral	County Lee	State	FL	Zip Code	33909	
Lender/Client	City of Cape Coral						



Comparable 4

625 NW 24th PI

Prox. to Subj. 4.75 miles SW Sales Price 10,000

Date of Sale Pend./DOM:119

Site Area 10,000

Location Cape Coral Unit 55
Zoning/FLU MR/CAC : C/CP
Exposure Local Street



Comparable 5

2127 Diplomat Pkwy W

Prox. to Subject 4.09 miles W
Sales Price 15,900
Date of Sale Active/DOM:140
Site Area 10,300

Location Cape Coral Unit 53
Zoning/FLU MR/CAC : C/CP
Exposure Collector

Comparable 6

Prox. to Subject Sales Price Date of Sale Site Area Location Zoning/FLU Exposure

Qualifications

QUALIFICATIONS: MATTHEW H. CALDWELL

Education & Experience

Bachelor of Arts in History, Florida Gulf Coast University, Fort Myers, Florida (2004)

Education through the Appraisal Institute, Steve Williamson's Real Estate Education Specialists, Ed Klopfer Schools of Real Estate, & McKissock, Inc. (2002-Present)

Gulf Coast Appraisal and Consulting Services, Inc., Cape Coral, Florida (2002-03) - Associate

Gulf Coast Appraisal and Associates, Inc., Cape Coral, Florida (2003) - Associate

Maxwell & Hendry Valuation Services, Inc., Fort Myers, Florida (2004-2013) - Associate

Maxwell, Hendry & Simmons, LLC, Fort Myers, Florida (2013-present) - Associate

Professional Designations & Affiliations

State-Certified General Real Estate Appraiser, RZ 2901 (2006-Present)

Other

Qualified as an expert witness in: Florida District Court: 20th Judicial Circuit U.S. District Court: Middle District of Florida

Court of Common Pleas: Sandusky County, OH

Member, Florida House of Representatives Elected 2010, 2012, 2014, & 2016

Adjunct with Florida Gulf Coast University: "Redistricting in Florida" - Fall 2011

License



USPAP ADDENDUM

File No. 190<u>25302</u> Borrower N/A Property Address 818 Kismet Pkwy E Zip Code 33909 City County Lee State FL Cape Coral Lender This report was prepared under the following USPAP reporting option: X Appraisal Report This report was prepared in accordance with USPAP Standards Rule 2-2(a). Restricted Appraisal Report This report was prepared in accordance with USPAP Standards Rule 2-2(b). Reasonable Exposure Time My opinion of a reasonable exposure time for the subject property at the market value stated in this report is: 3 to 6 months Exposure time is one of a series of conditions contained within the market value definition. Exposure time is always presumed to precede the effective date of the appraisal. Exposure period should be differentiated from marketing time, whereas exposure time is a historic event and marketing time is a period immediately after the effective date of the appraisal. The estimated market value is based on the estimated exposure time for the subject property and not the marketing time. In this situation, we estimate the exposure time for the subject property to be up to 3 to 6 months. The marketing time, which is a period immediately after the effective date of the appraisal, is also considered to be 3 to 6 months. These time estimates were based on conversations with brokers and listing agents, as well as supply and demand characteristics in this market area. **Additional Certifications** I certify that, to the best of my knowledge and belief: X I have NOT performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment. I HAVE performed services, as an appraiser or in another capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment. Those services are described in the comments below. **Additional Comments APPRAISER:** SUPERVISORY APPRAISER: (only if required) Signature: Signature: Name: Name: Matthew H. Caldwell Date Signed: <u>02/20/2019</u> Date Signed: State Certification #: <u>Cert Gen RZ2901</u> State Certification #: or State License #: or State License #: State: FL State: Expiration Date of Certification or License: 11/30/2020 Expiration Date of Certification or License: Effective Date of Appraisal: 02/13/2019 Supervisory Appraiser Inspection of Subject Property: Interior and Exterior Did Not Exterior-only from Street

Assumptions, Limiting Conditions & Scope of Work File No.: 19025302

Property A	ddress: 818 Kismet Pkwy E		City: Cape Coral	State: FL	Zip Code: 33909
Client:	City of Cape Coral	Address:	Post Office Box 152007, Cape Coral, FL	33915	
Appraiser:	Matthew H. Caldwell	Address:	12600 World Plaza Lane, Suite 1, Fort M	lyers, FL 33907	

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

- The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
- The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.
- If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
- The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
- If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as
- The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
- The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
- The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.
- If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.
- An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.
- The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.
- An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

Scope of Work

- 1. An inspection of the subject property.
- 2. Obtain measurements for the site.
- 3. Analyze the site characteristics pertaining to the subject property.
- 4. Obtain available comparable sales and listings data to compare with the subject.
- 5. Analyze the data that has been collected and apply the results appropriately to the valuation of the subject property.
- 6. Using the data collected and the analyses performed to complete the appropriate approaches to value.
- 7. Explain the reasons why any approaches to value were not completed.
- 8. Analyze each of the approaches to value that have been completed to arrive at a value for each valuation analysis.
- 9. Reconcile the approaches to value to arrive at a final estimate of value.
- 10. Relay the data collected and analyzed to the client in summary format throughout the final appraisal report.

Hypothetical Conditions

None

Extraordinary Assumptions

It is assumed that the zoning and future land use ordinances adopted by the Cape Coral City Council will be implemented, as proposed.



Certifications & Definitions

ertifications & Definitions			File No.:	19025302
Property Address: 818 Kismet Pkwy E		City: Cape Coral	State: FL	Zip Code: 33909
Client: City of Cape Coral	Address:	Post Office Box 152007, Cape Coral, FL	33915	
Appraiser: Matthew H. Caldwell	Address:	12600 World Plaza Lane, Suite 1, Fort M	yers, FL 3390	7

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
- I have made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the person(s) signing this certification.

DEFINITION OF MARKET VALUE

The opinion of value developed and reported is the market value of the subject property. Market value, as defined by the agencies that regulate financial institutions in the United States and published by 12 CFR Ch. V Part 564.2(g) Office of Thrift Supervision, Department of the Treasury,

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a. Buyer and seller are typically motivated.
- b. Both parties are well informed or well advised, and acting in what they consider their own best interests.
- c. A reasonable time is allowed for exposure in the open market.
- d. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- e. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

	Client Contact: Joan Estinval Clie	nt Name: <u>City of Cape Coral</u>
	E-Mail: jestinval@capecoral.net Address:	Post Office Box 152007, Cape Coral, FL 33915
	APPRAISER	SUPERVISORY APPRAISER (if required)
		or CO-APPRAISER (if applicable)
	Mohale	
S	#141(XI)	
RES	" 17/10 W.	Supervisory or
T	Appraiser Name: Matthew H. Caldwell	Co-Appraiser Name:
N	Company: Maxwell, Hendry & Simmons, LLC	Company:
SIG	Phone: <u>(239)</u> 337-0555 Fax: <u>(239)</u> 337-5950	Phone: Fax:
,	E-Mail: mattc@MHSappraisal.com	E-Mail:
	Date Report Signed: 02/20/2019	Date Report Signed:
	License or Certification #: Cert Gen RZ2901 State: FL	License or Certification #: State:
	Designation:	Designation:
	Expiration Date of License or Certification: <u>11/30/2020</u>	Expiration Date of License or Certification:
	Inspection of Subject: Did Inspect Did Not Inspect (Desktop)	Inspection of Subject: Did Inspect Did Not Inspect
	Date of Inspection: 02/13/2019	Date of Inspection:

Item Number: B.(6)

Meeting 5/6/2019 Date:

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 86-19 Acceptance of Drainage Easement in a portion of 1526 Chiquita Boulevard South (Strap #21-44-23-C3-04819.A010), to provide access to and maintenance of City drainage facilities at this location, as conditioned in site plan review SP18-0002 – 7-Eleven Project at Trafalgar Parkway & Chiquita Boulevard South; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? No

> If Yes, Priority Goals Supported are listed below.

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. The subject site is located at the northwest corner of Trafalgar Parkway and Chiquita Boulevard South.
- 2. As a condition of the site plan review for the 7-Eleven project, the property owner is granting a drainage easement across a portion of the site's southeast corner. Acceptance of this easement will provide the City the right to access and maintain its facilities at this location.
- 3. This easement is being provided at no cost to the City. The property owner will be responsible to pay the Lee County Clerk of Court recording fees.
- 4. Recommend acceptance of the Drainage Easement in a portion of 1526 Chiquita Boulevard South (Strap #21-44-23-C3-04819.A010).

LEGAL REVIEW:

EXHIBITS:

Resolution 86-19 Property Appraiser Sheet Location Map

PREPARED BY:

Dawn Y. Andrews, Property
Broker

DivisionReal
Estate

DepartmentFinancial
Services

SOURCE OF ADDITIONAL INFORMATION:

Dawn Y. Andrews, Property Broker Financial Services / Real Estate Division 239-574-0735

ATTACHMENTS:

	Description	Туре
D	Resolution 86-19	Resolution
D	PA Sheet - 1526 Chiquita Blvd S.	Backup Material
D	Location Map - Block 4819A	Backup Material

RESOLUTION 86 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL ACCEPTING A DRAINAGE EASEMENT LOCATED IN BLOCK 4819-A, CAPE CORAL UNIT 71, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY IS LOCATED AT THE NORTHWEST CORNER OF TRAFALGAR PARKWAY AND CHIQUITA BOULEVARD SOUTH; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the subject site is located at the northwest corner of Trafalgar Parkway and Chiquita Boulevard; and

WHEREAS, as a condition of the site plan review for the 7-Eleven project, the property owner is granting a drainage easement across a portion of the site's southeast corner; and

WHEREAS, acceptance of the Drainage Easement attached hereto as Exhibit 1 will provide the City the right to access and maintain its facilities within the easement area; and

WHEREAS, the easements will be provided to the City at no cost; the property owner is to pay the Lee County recording fees.

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

Section 1. The City Council hereby accepts the Drainage Easement attached hereto as Exhibit 1.

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

COUNCIL SESSION THIS	DAY OF	, 2019.
	JOE CO	VIELLO, MAYOR
VOTE OF MAYOR AND	COUNCILMEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN	
ATTESTED TO AND FIL 2018.	ED IN MY OFFICE THIS	DAY OF

KIMBERLY BRUNS INTERIM CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY

res/Accept Drainage Easement-Trafalgar & Chiquita 7-11

DRAINAGE EASEMENT

his Grant of Easement, made this ____ day of _____, 2019 by and between SP Cape Coral, LLC, a Florida limited liability company, whose address is: 340 Tamiami Trail North, Suite 350, Naples, Florida 34102 as "Grantor", and the CITY OF CAPE CORAL, a Florida municipal corporation, as "Grantee".

WITNESSETH that said Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted and conveyed to the said Grantee, and Grantee's successors and assigns forever, a perpetual non-exclusive easement to survey, construct, operate, maintain, remove, replace or abandon drainage facilities, in, along, under, above and upon the following described land, situate, lying and being in Lee County, Florida, to wit:

A tract or parcel of land for drainage easement purposes lying in Section 21, Township 44 South, Range 23 East, Lee County, Florida and lying in Block 4819-A, Cape Coral Unit 71, as recorded in Plat Book 22 at Pages 88 through 107, of the Public Records of Lee County Florida, said parcel being more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference.

Reserving unto the Grantor, its successors and assigns forever, the right to construct, maintain, install, operate and place upon the "Easement Area" described herein, any surface improvements, excluding buildings, to include but not be limited to, sidewalks, curbing, landscaping provided that such surface improvements do not unreasonably interfere with the drainage facilities constructed within said "Easement Area". Grantor, its successors and assigns, agrees to assume all liability for any damage to any surface improvements constructed by Grantor within the above "Easement Area", which result from the actions of the Grantee, including but not limited to any construction, maintenance or repairs to the drainage facilities located within the above described "Easement Area" in accordance with Section 3.14.5 of the City of Cape Coral Land Use and Development Regulations.

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Page 1 of 2

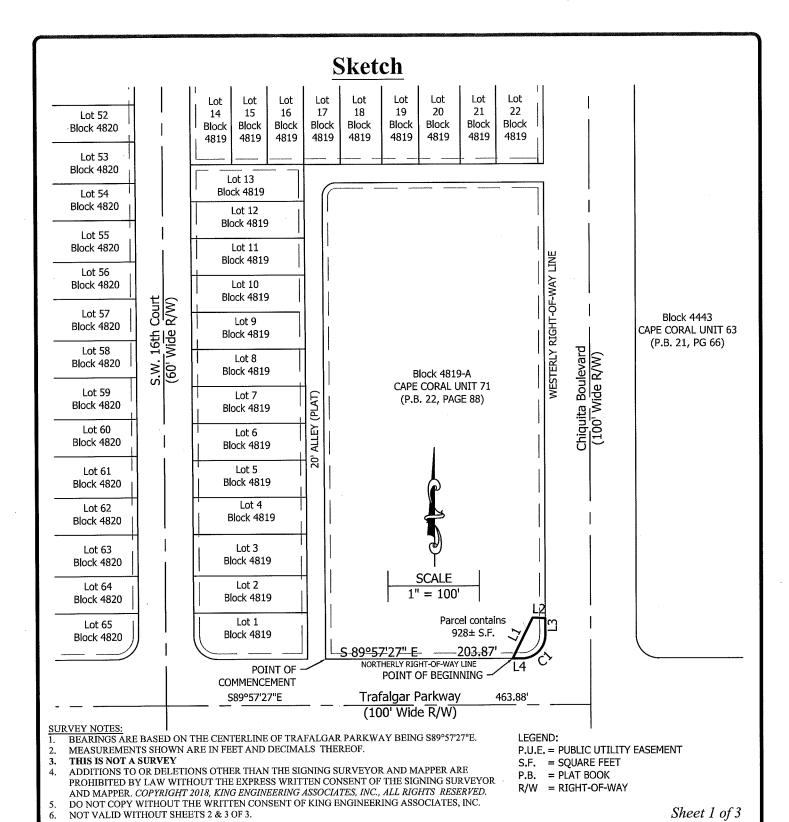
In Witness Whereof, Grantor has hereunto set their hand(s) the day and year first above written.

SP Cape Coral, LLC, a Florida limited liability company

Pam Bone	Swanson Properties, LLC, a Delaware limited liability company	
Witness - Signature PAM BUND Witness - Print or Type Name	Name: MANAGER By: MANAGER By: MANAGER	E
Witness – Signature		
Witness - Print or Type Name		
STATE OF: California §	,	
COUNTY OF: Name of s		
as LLC, a Delaware limited liability company on b	ehalf of the liability company who is / is not personally known as identification	
	Notary Signature Print Name: The Action Mando	、ス

Prepared by: CITY OF CAPE CORAL P.O. BOX 150027 CAPE CORAL, FLORIDA 33915-0027 STRAP: 21-44-23-C3-04819.A010

	VIII VIII VIII VIII VIII VIII VIII VII
A notary public or other officer completing this certific document to which this certificate is attached, and not	cate verifies only the identity of the individual who signed the the truthfulness, accuracy, or validity of that document.
State of California County of	Here Insert Name and Title of the Officer Name(s) of Signer(s)
subscribed to the within instrument and acknow	y evidence to be the person(s) whose name(s) is/are vledged to me that (ie/she/they executed the same in his/her/their signature(s) on the instrument the person(s), acted, executed the instrument.
· · · · · · · · · · · · · · · · · · ·	I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
F. MAXINE MENDOZA COMM. # 2134256 NOTARY PUBLIC - CALIFORNIA NAPA COUNTY MY COMM. EXPIRES NOV. 19, 2019	WITNESS my hand and official seal. Signature
	Signature of Notary Public
Place Notary Seal Above	
Though this section is optional, completing this	PTIONAL s information can deter alteration of the document or is form to an unintended document.
Description of Attached Document Title or Type of Document: Number of Pages: Signer(s) Other Th	Document Date:an Named Above:
Capacity(ies) Claimed by Signer(s) Signer's Name: Corporate Officer — Title(s): Partner — Limited General Individual Attorney in Fact Trustee Guardian or Conservator Other: Signer Is Representing:	Signer's Name: Corporate Officer — Title(s): Partner — Limited



Sketch to Accompany Description

Proposed Drainage Easement in Block 4819-A, CAPE CORAL UNIT 71 as recorded in Plat Book 22, Pages 88-107 lying in Section 21, Township 44 South, Range 23 East, Lee County, Florida

SHEET 1 OF 3

JOB # 17-6482 PREPARED FOR: Creighton Commercial Development

SECTION 21, TOWNSHIP 44S, RANGE 23E

THIS IS NOT A SURVEY

STOUTENCRAMER A KING ENGINEERING COMPANY

(ING ENGINEERING COMPAN)

KIII.8

CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite A, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on **December 13, 2018** is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

JEFFREY D. STOUTEN (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6584 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Tables

CURVE TABLE							
CURVE	CURVE RADIUS LENGTH DELTA CHORD BEARING CHORD LENGTH						
C1	25.00	39.27	90900'38"	S 45°2'14" W	35.36		

LINE TABLE				
LINE	BEARING	LENGTH		
L1	N 26°24'28" E	48.85'		
L2	S 87°48'42" E	13.51'		
L3	S 00°01'55" W	18.26'		
L4	N 89°57'27" W 10.1			

THIS IS NOT A SURVEY

Tables to Accompany Sketch

Proposed Drainage Easement

in Block 4819-A, CAPE CORAL UNIT 71 as recorded in Plat Book 22, Pages 88-107 lying in Section 21, Township 44 South, Range 23 East, Lee County, Florida

Not Valid without Sheets 1&3 of 3

Sheet 2 of 3

JOB # 17-6482 PREPARED FOR: Creighton Commercial Development

SECTION 21, TOWNSHIP 44S, RANGE 23E

STOUTENCRAMER

A KING ENGINEERING COMPANY

ENGINEERING ASSOCIATES, INC.

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

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on **December 13, 2018** is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 3 for Signature and Seal

JEFFREY D. STOUTEN (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6584 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Description

Subject Parcel Description:

Parcel of land lying in Section 21, Township 44 South, Range 23 East, Lee County, Florida and lying in Block 4819-A, CAPE CORAL UNIT 71, as recorded in Plat Book 22 at Pages 88 through 107, of the Public Records of Lee County, Florida being more particularly described as follows:

Commencing at the Southwest corner of said Block 4819-A, thence run S89°57'27"E, along the South line of said Block 4819-A and the Northerly right-of-way line of Trafalgar Parkway (100' Wide R/W), a distance of 203.87 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING, thence run N26°24'28"E, departing said South and Northerly line, a distance of 48.85 feet; thence run S87°48'42"E a distance of 13.51 feet to an intersection with the East line of said Block 4819-A and the Westerly right-of-way line of Chiquita Boulevard (100' Wide R/W); thence run S00°01'55"W, along said East line and Westerly line, a distance of 18.26 feet to a point of curvature; thence run 39.27 feet along the arc of said curve to the right of radius 25.00 feet, concave to the Northwest, having a delta angle of 90°00'38", a chord bearing of S45°02'14"W and a chord length of 35.36 feet to a point of tangency, being a point on the South line of said Block 4819-A and the Northerly right-of-way line of said Trafalgar Parkway; thence run N89°57'27"W a distance of 10.19 feet to the POINT OF BEGINNING.

Said Parcel Contains 928 sq. ft. (more or less)

Bearings are based on the centerline of Trafalgar Parkway being S89°57'27"E.

THIS IS NOT A SURVEY

Description to Accompany Sketch

Proposed Drainage Easement

in Block 4819-A, CAPE CORAL UNIT 71 as recorded in Plat Book 22, Pages 88-107 lying in Section 21, Township 44 South, Range 23 East, Lee County, Florida

Not Valid without Sheets 1&2 of 3

Sheet 3 of 3

JOB # 17-6482 PREPARED FOR: Creighton Commercial Development

SECTION 21, TOWNSHIP 44S, RANGE 23E

JTENCRAMER A KING ENGINEERING COMPANY

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

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 13, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida

See Sheet 1 of 3 for Signature and Seal

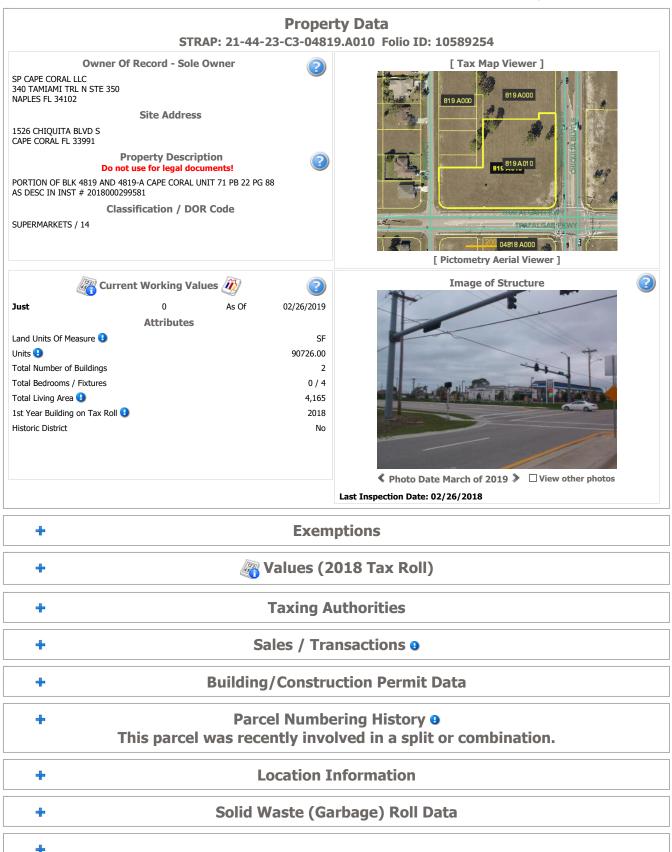
JEFFREY D. STOUTEN (FOR THE FIRM)

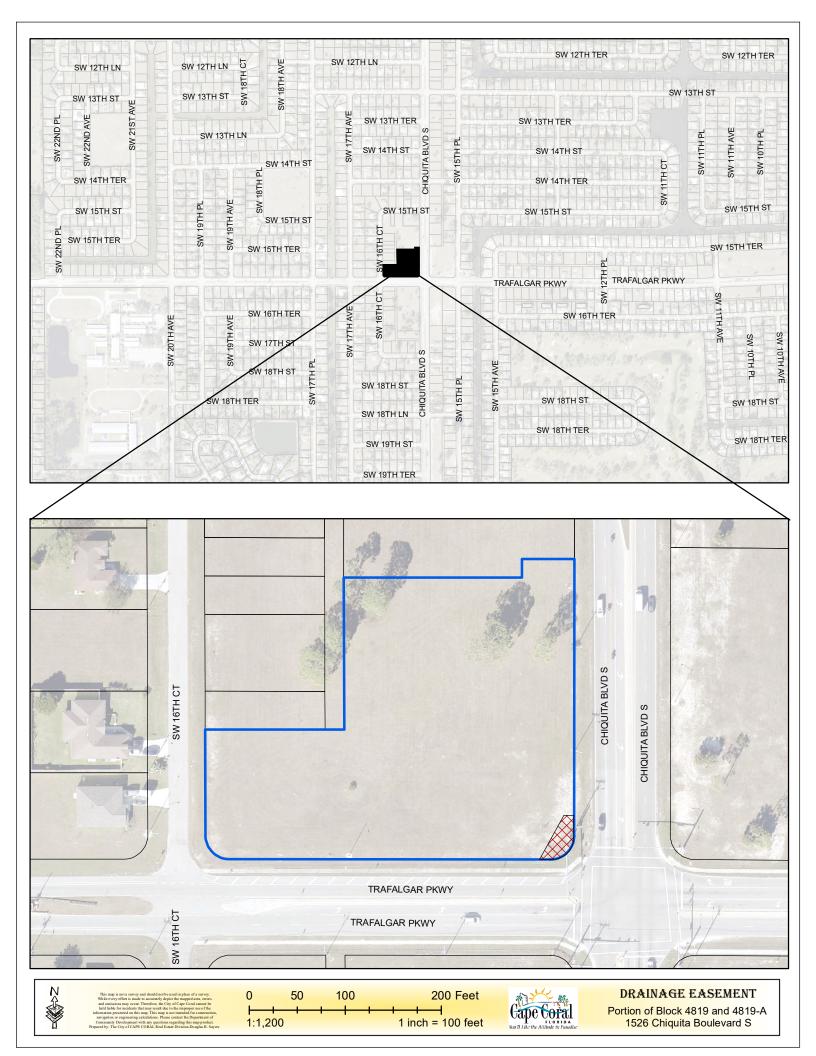
FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6584 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER



Tax Year 🔽

Next Parcel Number Previous Parcel Number Tax Estimator Cape Coral Fees Tax Bills Print





Item Number: B.(7)

Meeting 5/6/2019

Date: 3/0/2013

Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Approve Settlement Agreement and General Release in the matter of City of Cape Coral v. ElectriCom, LLC and L & S Cable, LLC, Case No. 2018-CA-2066, and authorize the Mayor to execute the Settlement Agreement and General Release.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Approve Settlement Agreement and General Release in the matter of City of Cape Coral v. ElectriCom, LLC and L & S Cable, LLC, Case No. 2018-CA-2066, and authorize the Mayor to execute the Settlement Agreement and General Release.

LEGAL REVIEW:

Steven D. Griffin, Assistant City Attorney

EXHIBITS:

Settlement Letter from Conroy Simberg Settlement Agreement and General Release

PREPARED BY:

Division- Department-City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description

- Conroy Simberg Letter
- Settlement Agreement and General Release

Туре

Backup Material Backup Material



GLENN G. GUNSTEN | ASSOCIATE

4315 METRO PARKWAY, SUITE 250
FORT MYERS, FL 33916
MAIN (239) 337-1101
FAX (239) 334-3383
ggunsten@conroysimberg.com

Steven D. Griffin, Esq. City of Cape Coral 1015 Cultural Park Blvd. Cape Coral, FL 33990-1216

Re:

CITY OF CAPE CORAL V. ELECTRICOM, LLC and L&S CABLE, LLC

Claim No.:

5710932463

Insured:

L&S Cable, LLC

Our File No.:

1826655

Dear Mr. Griffin:

This is to confirm our discussions and e-mails regarding the settlement of this matter. As discussed L&S Cable through their insurance company, North American Risk Services will pay the City of Cape Coral \$87,000.00 for damage to a gravity sewer pipe in settlement of the above captioned lawsuit. A check will be forwarded to the City in that amount within 15 days of receipt of the executed release, and filing of a stipulation dismissing the lawsuit against L&S Cable and ElectriCom.

Thank you for your help and cooperation in the resolution of this matter. If you have any questions please give me a call.

Very truly yours,

Glenn G. Gunsten

GGG/sxp

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is entered into by and between THE CITY OF CAPE CORAL, FLORIDA ("the City"), a Florida municipal corporation; L&S CABLE, LLC ("L&S"), a Florida limited liability company; and ELECTRICOM, LLC ("ElectriCom"), a Florida limited liability company, any and all parent companies, affiliates, officers, directors, employees, assignees, and successors in interest (collectively, "the Parties"). The effective date of this Agreement is the date of the last signature on this Agreement ("Effective Date").

AGREEMENT

NOW, THEREFORE, in consideration of the promises and covenants provided for herein and the sufficiency of which is hereby acknowledged, the Parties agree as follows:

- **1. Lawsuit**. The City alleged liability against L&S and ElectriCom ("Defendants") for damage to an underground City sewer main in the vicinity of SE 13th Court and SE 8th Terrace in Cape Coral during the installation of fiber conduit as more fully set forth in the lawsuit styled *City of Cape Coral v. ElectriCom, LLC and L & S Cable, LLC*, in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida, Case No. 2018-CA-002066 ("Lawsuit"). Defendants have denied liability. This case has been actively litigated.
- **2. Settlement Amount**. In lieu of further litigation, the Parties desire to settle the Lawsuit as follows: L&S shall issue payment in the amount of \$87,000.00 ("Settlement Amount") via electronic funds transfer to the City, using account number(s) to be provided by the City to L&S, or by other suitable means agreeable to the Parties. L&S shall not be liable for any additional payments to the City. ElectriCom shall not be liable for any payment.
- 3. General Release. Upon the payment of the Settlement Amount as set forth in paragraph 2 of this Agreement, the City hereby releases and forever discharges L&S and ElectriCom and their respective heirs, successors, and assigns, parent companies, affiliates, officers, directors, employees, former employees, counsel, claims service managers including but not limited to Sedgwick Claims Management Services, Inc., and insurance carriers including but not limited to North American Risk Services and XL Insurance America, Inc., from any and all claims or causes of action of any kind that have been made or could have been made, both known and unknown arising from the Lawsuit, from the beginning of time through the date of this Agreement including without limitation breach of contract, property damages, negligence, bad faith, extra-contractual damages, attorney's fees, costs, interest, compensatory damages, punitive damages, lost profits, lost sales, delay damages, loss of use, or consequential damages. It is the intent of the City in this Agreement to fully release L&S and ElectriCom to the maximum extent permitted by law.
- **4. Dismissal with Prejudice**. No later than five days after receipt of the Settlement Amount, the City shall dismiss the Lawsuit with prejudice, with each party to bear its own attorney's fees and costs.
 - 5. Cross-Claim by ElectriCom. ElectriCom filed a Cross-Claim against L&S for

contractual indemnity and common law indemnity in the Lawsuit ("Cross-Claim"). L&S shall issue payment to ElectriCom in the amount of \$10,000.00 as full and final settlement of the Cross-Claim ("Cross-Claim Amount"). Upon payment of the Cross-Claim Amount, ElectriCom hereby releases and forever discharges L&S and its heirs, successors, and assigns, parent companies, affiliates, officers, directors, employees, former employees, counsel, and insurance carriers including but not limited to North American Risk Services, from any and all claims or causes of action of any kind that have been made or could have been made, both known and unknown arising from the Lawsuit, including without limitation, the Cross-Claim, attorney's fees, costs, and interest. No later than five days after receipt of the Cross-Claim Amount, ElectriCom shall dismiss the Cross-Claim with prejudice.

- **6. Entire Agreement**. Except as expressly set forth herein, this Agreement contains all of the understandings and agreements between the Parties, and supersedes any prior understandings or agreements between them, whether written or oral, express or implied. Further, this Agreement may only be amended or modified by a writing signed by the Parties.
- **7. Acknowledgment**. The Parties acknowledge that they have read the terms of this Agreement and understand its provisions, that they have discussed or had the opportunity to discuss its terms and conditions with their respective attorneys, and that this Agreement has been fully explained to them. The Parties represent to one another that neither has sold or transferred any claim which is the subject matter of this Agreement to any person, natural or otherwise, not a party hereto.
- **8.** Counterparts. This Agreement may be executed in original counterparts, each of which shall be enforceable against the Party signing it. This Agreement is binding and enforceable only after all Parties have executed it. A facsimile or electronic copy of this Agreement and any signatures hereon shall be considered for all purposes as originals.
- **9.** Choice of Law and Venue. This Agreement will be construed under Florida Law, and venue for any action to enforce or interpret this Agreement will lie in Lee County, Florida.
- 10. Further Assurances. The Parties hereby agree to cooperate fully and to execute any and all supplementary documents and take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
- 11. Severability. If any provision of this Agreement is deemed invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions shall nevertheless remain in full force and effect.
- 12. No Ambiguity Construed Against Drafter. The Parties agree that each one of the Parties has reviewed this Agreement and has had their attorneys review it, or has had the opportunity to have their attorneys review it, and that any rule of construction to the effect that ambiguities are to be resolved against the drafter shall not apply to the interpretation of this Agreement.

- 13. No Admissions of Liability. The Parties acknowledge that neither they nor any of their respective agents, servants, or employees has or have admitted any liability in this matter whatsoever. The Parties further acknowledge that this has been a contested matter in all respects and that the settlement in this matter has been agreed to based solely on economic considerations. The Parties further agree that the execution of this Agreement shall not be deemed as an admission of liability of any of the Parties.
- **14. Authorization.** Each of the Parties hereto represents and expressly warrants that the person whose signature appears below on its behalf has full power and authority to execute this Agreement on its behalf.
- 15. Confidentiality. The Parties further acknowledge and agree that they will keep the terms, amount and facts of this Agreement completely and wholly confidential and that they will not directly or indirectly hereafter reveal, show or otherwise disclose the terms hereof to anyone not a party to this Agreement, absent express written consent of all Parties except to (a) the Parties, attorneys, and accountants on a need to know basis all of whom will be informed of and be bound to the provisions of this paragraph; (b) as may be required by the Internal Revenue Service; (c) regulatory required disclosures, (d) order by a court of competent jurisdiction; and (e) to the extent permitted under public records law.

IN WITNESS WHEREOF, the Parties, through their authorized representatives, have executed this Agreement on the dates indicated below.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

	this	day of	, 2019.
THE CITY OF CAPE CORAL,	FLORIDA		
Ву:			
Print Name:			
As its:			
WITNESS:			
Print Name:			
STATE OF FLORIDA			
COUNTY OF LEE			
The foregoing instrument wbyCITY OF CAPE CORAL, FLO execute this document on behalf of	_(name), a ORIDA, wh THE CIT	as no acknowledged the Y OF CAPE CORA	at he/she has full authority (L, FLORIDA. He/she [plea
The foregoing instrument work	(name), a DRIDA, who THE CIT sonally know her	as to acknowledged the Y OF CAPE CORA with to me, or has presented the control of the correction of the correctio	at he/she has full authority AL, FLORIDA. He/she [plead produced his/her (statement)
The foregoing instrument weby	(name), a DRIDA, who THE CIT sonally know her	as to acknowledged the Y OF CAPE CORA with to me, or has presented the control of the correction of the correctio	at he/she has full authority aL, FLORIDA. He/she [plear produced his/her (statement)
The foregoing instrument way CITY OF CAPE CORAL, FLO execute this document on behalf of check as applicable] is personal properties of his/dentification, and did not take an of the check as applicable.	(name), a ORIDA, who THE CIT sonally know her oath.	as to acknowledged the Y OF CAPE CORA with to me, or has presented the control of the correct terms of the	(title) of TI at he/she has full authority AL, FLORIDA. He/she [plead produced his/her (state type of identification)
The foregoing instrument way CITY OF CAPE CORAL, FLO execute this document on behalf of check as applicable] is personal properties of his/sidentification, and did not take an or	(name), a ORIDA, who THE CIT sonally know her bath.	no acknowledged the Y OF CAPE CORA with the me, or has provided to the correct of	
The foregoing instrument weby	(name), a ORIDA, who THE CIT sonally know her oath.	to acknowledged the Y OF CAPE CORA with to me, or has provided to the correct to	

THUS DONE AND EXECUTED in	n multiple originals at _	Pad: IN
this _	3 day of April	, 2019.
By: Stella Putt Print Name: Steven Putt As its: VP Num an Nacuvar	- -	
WITNESS: Sori Kendall Print Name: LORI KENDAU	- -	
STATE OF <u>Indiana</u> COUNTY OF <u>Orange</u>	-	Ď.
The foregoing instrument was acknowledged to be shall of ELECTRICOM, LLC, who acknowledged document on behalf of ELECTRICOM, personally known to me, or has produced	ged that he/she has full LLC. He/she [please of his/her (state) dri	all authority to execute this check as applicable] $\frac{HE}{E}$ is
(Affix Notary Stamp)	Linda S. G.	Jetherford
OFFICIAL SEAL LINDA K. RUTHERFORD NOTARY PUBLIC - INDIANA My Comm. Expires Jan. 07, 2025	NOTARY PUBLIC - S LINDA K. Ruti Print Name State of	nerford nav 1/07/2025

Item

D.(1)

Number:

Meeting

5/6/2019

Date:

PERSONNEL

Item Type: ACTIONS

AGENDA REQUEST **FORM** CITY OF CAPE CORAL



TITLE:

Resolution 83-19 Requesting approval to add one regular full-time Permitting Customer Service Supervisor position in the Department of Community Development. Department: Human Resources; Remainder of FY2019 Dollar Value: \$38,221; (Building Fund/Special Revenue Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Requesting approval to add one regular full-time Permitting Customer Service Supervisor position in the Department of Community Development, to enhance customer service and support the building industry and citizens they serve for permitting needs.

LEGAL REVIEW:

EXHIBITS:

Memo

Resolution 83-19

Current Organizational Chart

Proposed Organizational Chart

PREPARED BY:

Molly Division- Administration Department-Liebegott

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, Director of Community Development

ATTACHMENTS:

	Description	Туре
D	Memo	Backup Material
D	Resolution 83-19	Resolution
D	DCD Current Org Chart	Backup Material
D	DCD Proposed Org Chart	Backup Material

MEMORANDUM

CITY OF CAPE CORAL DEPARTMENT OF COMMUNITY DEVELOPMENT

TO:

John Szerlag, City Manager

FROM:

Vincent A. Cautero, Community Development Director Stephen Poposki Interim Building Community

Stephen Poposki, Interim Building Official

Richard Carr, Code Compliance Manager,

DATE:

April 8, 2019

SUBJECT:

FTE Request for an Additional Permitting Customer Service Supervisor

١. **Executive Summary**

To enhance customer service to the direct public for permitting needs, it has been identified that an additional customer service supervisor to focus on the permitting section is essential.

II. Background

Customer service personnel has turned over in the past few years and has resulted in less experienced staff requiring more supervision due to the complex nature of the position. The Permitting CSR position is complex and requires significant time to train new personnel and focused supervision time to ensure the accuracy of their work and development.

Currently there is one supervisor in this growing functional area. The span of control for the one supervisor in the section is 18 to 1, which has resulted in areas of difficulty in functioning effectively to efficiently support the building industry and citizens they serve. Areas affected by less than optimal supervisory ability include:

- Proper employee evaluations:
- Daily, weekly, monthly, and quarterly reports;
- Training of staff;

- Employee discipline and expectation setting;
- Handling customer complaints;
- General employee supervision and correction of deficiencies in their work;
- · Required approvals of specific paperwork; and
- Schedule monitoring and overtime use.

Each of these areas are important to customer service. We struggle each day to maintain shorter wait times for walk-in service, to process on-line permit applications, return phone messages in a timely manner, and ensure all work is done well.

Code Compliance Manager Rich Carr has been meeting with Permitting staff on a regular basis reviewing reports and assessing deficiencies with staff and identifying ways to improve efficiency and increase customer service. As a result, the recurring issue impacting all functions of the section's success points to lack of supervision. In addition, a need has been identified for more CSR's, and additional permitting CSR's will be requested in the upcoming FY20 budget cycle.

III. Proposed Changes

With an additional Permitting Customer Service Supervisor, combined with continued overtime from current staff, we can provide fast, fair, and predictable services, and this area would continue to be assessed for the need for any additional CSR positions.

Please see the attached fiscal impact statement. The cost difference for the remainder of FY2019 if the request is granted is \$38,221.34. Funds are available in the Building Special Fund to accommodate the changes.

We will make ourselves available to discuss this with you at your convenience.

VAC/SP/RC:eh (Memo CSR Supervisor 04-05-2019.doc)

C: Connie Barron, Assistant City Manager
Victoria Bateman, Finance Director
Lisa Sonego, Human Resources Director
Christopher Phillips, Management/Budget Administrator

REVIEW OF BUDGETARY IMPACT FOR POSITION CHANGE

April 1st - September 30th

Payroll Category	Current Position		Proposed Po	sition	C	ifference
Position Title			Customer Service S	upervisor		
Employee Group			Supervisory			
Grade			Gen Pay Grade 20			
Annual Rate Basis ¹			\$26.29			
Annualized Rate	\$	-	\$	27,341.60	\$	27,341.60
Holiday Pay		-		-		-
Add Pay		-		-		-
FICA		-		1,695.18		1,695.18
Medicare		-		396.45		396.45
Pension - General		-		2,370.52		2,370.52
WC		-		139.44		139.44
BCBS High Blue Options		-		5,838.50		5,838.50
LTD		-		144.36		144.36
Life		-		262.48		262.48
Life AD&D	\$	_	\$	32.81		32.81
Total	\$	-	\$	38,221.34	\$	38,221.34

NOTES:

1. Pension - Estimated normal cost only.

How will the increased budgetary needs be addressed by requesting department?

Incomplete until department provides information on how the cost increase will be addressed

Completed by	Jessica Festa (proposal)	2/25/2019	
	Budget Staff Member	Date	

RESOLUTION 83 - 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AUTHORIZING THE ADDITION OF ONE REGULAR FULL-TIME POSITION IN THE DEPARTMENT OF COMMUNITY DEVELOPMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Department of Community Development staff has determined that an additional Customer Service Representative Supervisor for the Permitting section is required to enhance customer service for the public's permitting needs; and

WHEREAS, Section 2-36.4 (b) requires City Council to approve the addition of regular full-time positions within a classification, and to increase the number of regular full-time positions per department; and

WHEREAS, the City Manager finds the addition of one full-time Permitting Customer Service Supervisor position to be in the best interest of the City.

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

SECTION 1. The City Council hereby approves the addition of one regular full-time position within the Department of Community Development pursuant to Section 2-36.4 of the Code of Ordinances. The additional position is one Permitting Customer Service Supervisor position. Funding for the position will be from the Building Special Revenue Fund.

SECTION 2. Effective Date. This Resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

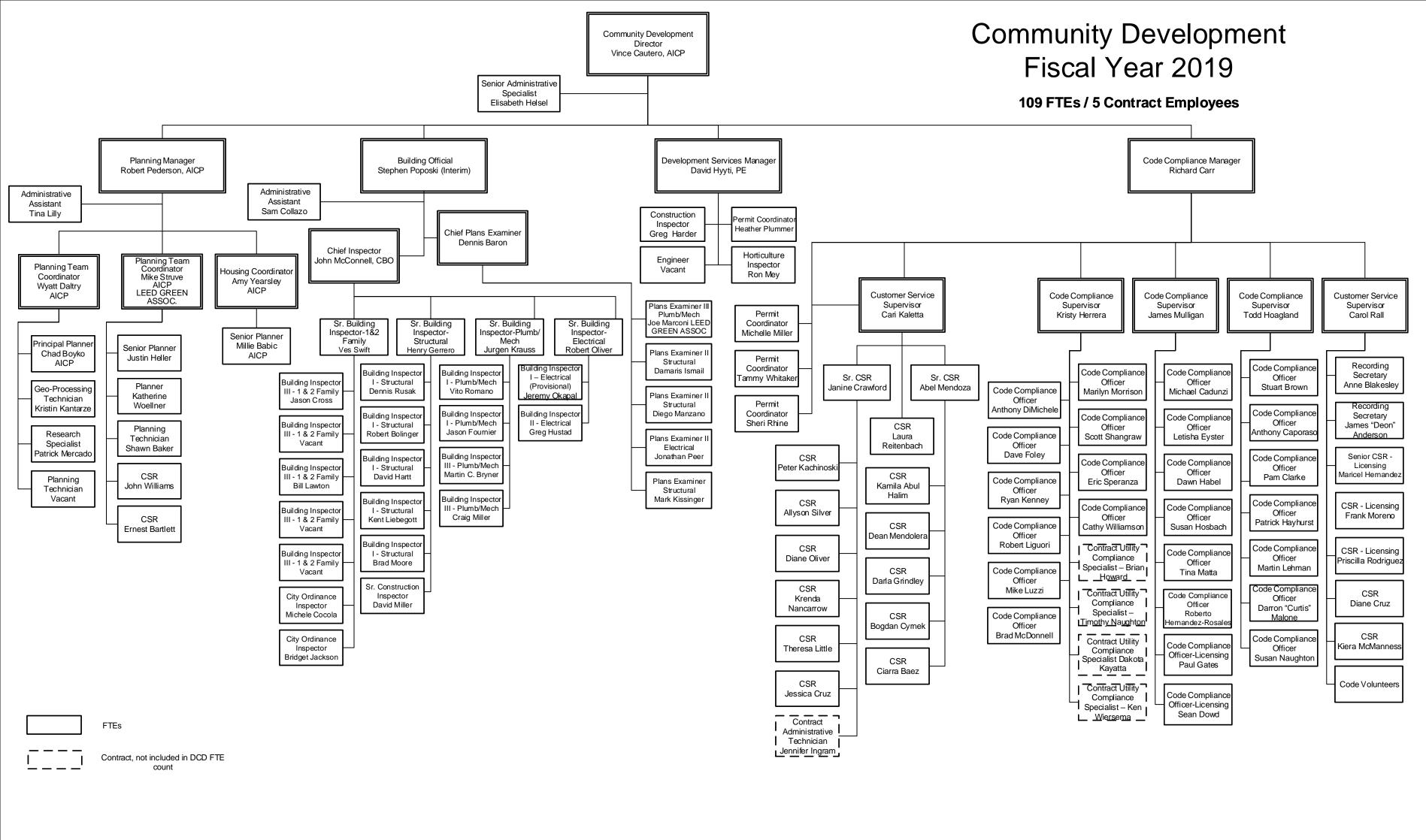
	NCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR
	JOE COVIELLO, MAYOR
VOTE OF MAYOR AND COU	CILMEMBERS:
COVIELLO GUNTER CARIOSCIA STOUT	WILL I A NAC
ATTESTED TO AND FILED 2019.	N MY OFFICE THIS DAY OF
	KIMBERLY BRUNS INTERIM CITY CLERK

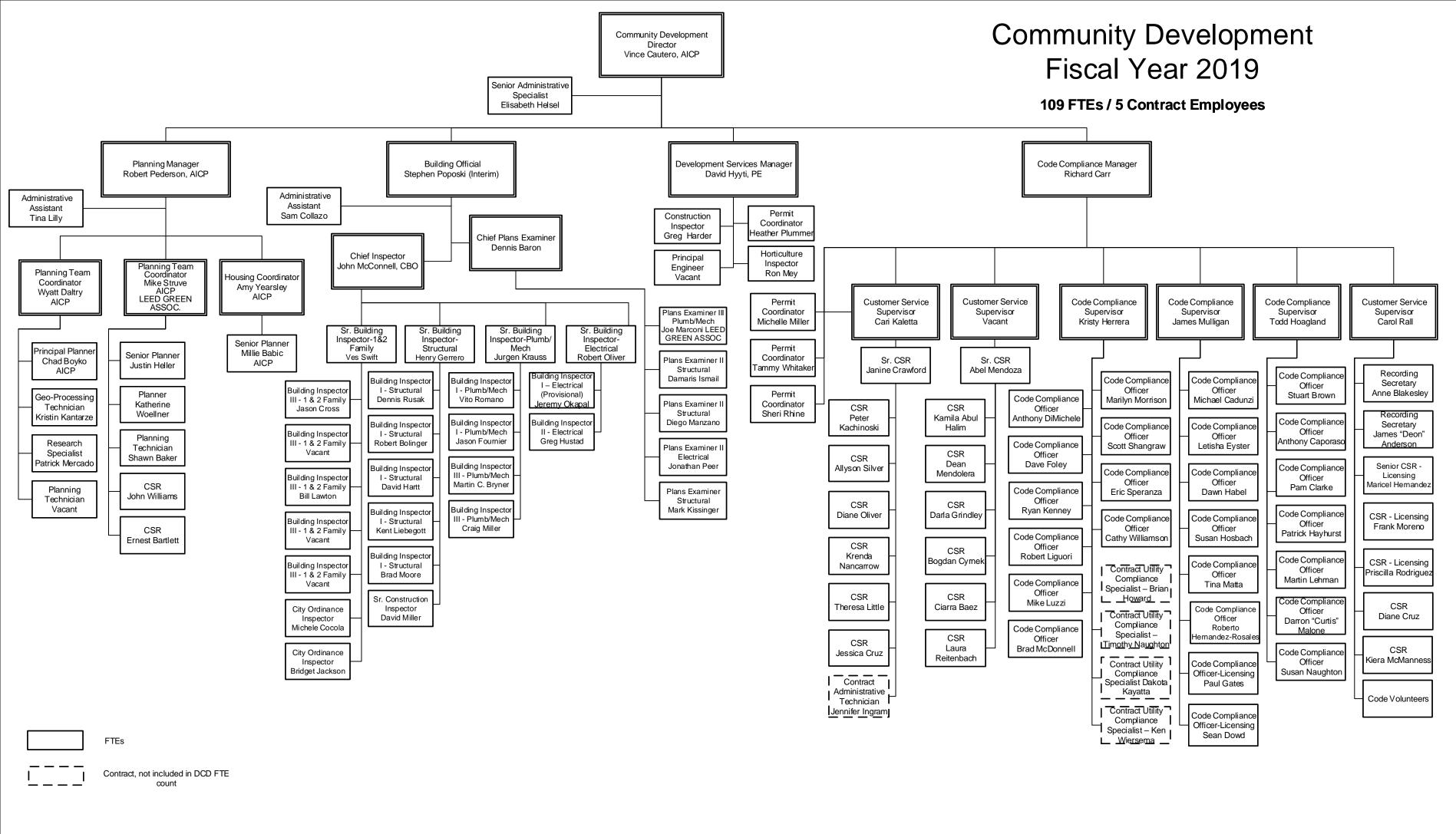
APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY

res/Position-Permitting Customer Service Supervisor





Item

Number: F.(1)

Meeting

5/6/2019

Date:

Item

APPOINTMENTS TO BOARDS /

COMMITTEES / COMMISSIONS Type:

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Select City Recommendation for FLC Board of Directors Nominee

REQUESTED ACTION:

Appoint

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

TO: Ten Most Populous Cities Board Member and contacts:

RE: 2019-2020 Florida League of Cities Board Nominations

In preparation for the FLC Nominating Committee meeting to be held August 16, 2019, in conjunction with the Florida League of Cities' annual conference, please provide the City's recommendation for the FLC Board of Directors seat for the Ten Most Populous cities. As you consider and submit this name, please bear in mind it is a recommendation to the Nominating Committee. While, historically, the committee has taken the recommendation of the city; they are not bound to do so.

Please provide this information to me before June 28, 2019 on your City's letterhead.

Thank you in advance for your consideration of this request.

Penny Mitchell, CMP

Executive Assistant Florida League of Cities, Inc. 850.701.3649 www.flcities.com

LEG	AL REVIEW:	
EXH	IBITS:	
PRE	PARED BY:	
РТ	Division- Council Offices	Department- Council Offices

SOURCE OF ADDITIONAL INFORMATION:

Item Number: F.(2)

Meeting 5/6/2019

Date:

APPOINTMENTS TO BOARDS /

Item **COMMITTEES / COMMISSIONS** Type:

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Appoint Youth Council Members- Eight Vacancies (7 Junior and 1 Senior) - Councilmember Williams

REQUESTED ACTION:

Appoint

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Vacancies: 7 Junior positions; 1 Senior position Expiration: Current Expiration date is 5/1/2019.

Applications: Ten Applications received. Cape Coral High School - Jaden Bradish; Ida S. Baker

High School - Advssa Roh; Island Coast High School - 1 application for the Junior Vacancy:

Danays Lemoine; 2 Applications for the Senior vacancy: Ryan Logan and Anthony Perez; Mariner

High School - Morgan Russell and Alisha Smaller; North Fort Myers High School - Devon Cranford; and Oasis High School - Miranda Figueroa and Michael Rusinko; At Large - None.

Advertisement: Application packets were emailed out to the contacts on file for public high schools, private high schools and the Lee County District Home School program, and given to members for distribution.

Applications were distributed to all of Council prior to the 5/6 Meeting in preparation for review and consideration.

Action Item #1 - Appoint Junior member from Cape Coral High School

Action Item #2 - Appoint Junior member from Ida S. Baker High School

Action Item #3 - Appoint Junior member from Island Coast High School

Action Item #4 - Appoint Senior member from Island Coast High School

Action Item #5 - Appoint Junior member from Mariner High School

Action Item #6 - Appoint Junior member from North Fort Myers High School

Action Item #7 - Appoint Junior member from Oasis High School

Action Item #8 - Council may choose to keep the At Large vacancy open or appoint the At Large vacancy from the remaining <u>Junior</u> applications. Cape Coral Code of Ordinances 2-120.49 contains the following clause specific to the Youth Council: Under b(4), "In the event that there is no available student from one of the other subsections (b)(1) in any given year, the City Council may appoint a substitute student from one of the other subsections (b)(1) sources to serve that applicable term.

LEGAL REVIEW:

EXHIBITS:

Cape Coral Code of Ordinances - Section 2-120.49 Recommendation Letter - Joe Mazurkiewicz

PREPARED BY:

PT Division- Department- Council Offices

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

	Description	Туре
D	Cape Coral Code of Ordinances - Section 2-120.49	Backup Material
D	Joe Mazurkiewicz recommendation letter	Backup Material

§ 2-120.49 - Youth Council.

- (a) *Creation and purpose*. There is hereby created and established a Youth Council. In order to serve the Cape Coral City Council in an advisory capacity on matters concerning the youth of the community, the Youth Council is created to make recommendations and furnish input and helpful information to the City Council to assist them in their policy making as it pertains to issues that affect the city's youth.
- (b) Composition; qualifications; and terms.
 - (1) The Youth Council shall be composed of 14 members, appointed by the City Council on or before May 1 of each year. Youth Council members shall be residents of the City of Cape Coral and enrolled in a source identified below at all times while serving on the Youth Council. The Youth Council shall be composed of one junior and one senior student from each of the following sources:
 - a. Mariner High School;
 - b. Ida Baker High School;
 - c. Island Coast High School;
 - d. Oasis High School;
 - e. Cape Coral High School;
 - f. North Fort Myers High School; and
 - g. At-large from home schooling or other source, including, but not limited to, a private school, charter school, or virtual school.
 - (2) For the initial Youth Council, seven seniors shall serve a term beginning upon appointment by the City Council until a successor is appointed on or before May 1, 2017, and seven juniors shall serve a term beginning upon appointment by the City Council until a successor is appointed on or before May 1, 2018. On or before May 1, 2017, and each year thereafter, the City Council shall appoint seven rising juniors to the Youth Council to serve a term of two years, or until a successor is appointed, unless a member is no longer qualified hereunder or is removed pursuant to subsection (e) below.
 - (3) In the event that a Youth Council member shall no longer be enrolled in the school source that the member was appointed from, the member shall immediately forfeit the member's seat and the seat shall be declared vacant.
 - (4) In the event that there is no available student applicant from a class or source identified in subsection (b)(1) in any given year, the City Council may appoint a substitute student from one of the other subsection (b)(1) sources to serve that applicable term.
 - (5) The City Council shall appoint a City Council member to serve as a liaison between the City Council and the Youth Council.
- (c) Parental consent and application. Each Youth Council member shall, as a prerequisite for

serving, complete an application and parental consent form. The format of the application and parental consent form shall be provided by the city. Notwithstanding the foregoing, a prospective member that has reached the age of majority shall not be required to complete a parental consent form. The City Council shall appoint Youth Council members from the pool of candidates submitting an application and meeting the qualifications of subsection (b) above. Prospective members' participation in the Chamber of Commerce Junior Leadership Program is strongly preferred but not required.

(Ord. <u>59-17</u>, § 1, 11-6-2017)

- (d) *Election of officers*. Members of the Youth Council shall annually elect a chairperson and vice-chairperson from among its members, each of whom shall serve until a successor is elected and qualified. Elections shall be held at the first regular meeting of the Youth Council after annual appointments are made by the City Council. The chairperson shall preside at all meetings and exercise all the usual rights, duties, and prerogatives of chairperson. The vice-chairperson shall perform the duties of the chairperson in the absence or disability of the chairperson. Vacancies of either office shall be filled by an existing Youth Council member for the unexpired term by a new election of the members.
- (e) Vacancies and removal.
 - (1) Vacancies on the Youth Council shall be filled by appointment of the City Council. In the event of vacancies on the Youth Council due to resignation, illness, death, lack of attendance, removal, or lack of qualifications, the City Council shall appoint a replacement member to serve for the remainder of that term.
 - (2) Youth Council members may be removed from the Youth Council by the City Council, for cause.
- (f) Meetings, quorum; forfeiture of office; minutes, records; and compensation.
 - (1) Regular meetings of the Youth Council shall be held every month, unless there is no business to transact by three days before a regular meeting date. Special meetings may be called by the chairperson, vice-chairperson, or by five or more members of the Youth Council.

(Ord. <u>59-17</u>, § 1, 11-6-2017)

- (2) The presence of a majority of the members of the Youth Council shall constitute a quorum for the transaction of business.
- (3) Youth Council members shall be subject to the forfeiture of office provisions of § 2-58 of this article.
- (4) Notice of the date, time, and location and the agenda for all meetings of the Youth Council shall be provided to the City Clerk in a timely manner prior to the meeting for inclusion in the notice of public meetings in order to comply with Sunshine Law

- regulations. The City Clerk shall keep minutes and records of all meetings of the Youth Council, and all meetings shall be open to the public.
- (5) Youth Council members shall serve without compensation.
- (g) Rules and regulations. Robert's Rules of Order shall govern all meetings of the Youth Council.
- (h) Duties and responsibilities. The Youth Council shall have the duty and responsibility to:
 - (1) Evaluate and review problems facing youth in the city.
 - (2) Facilitate neighborhood meetings with youth to discuss problems, needs, and suggested improvements for the community.
 - (3) Meet with the City Council to share ideas and discuss issues, concerns, and needed improvements.
 - (4) Present recommendations to the City Council for public projects and programs.
 - (5) Assist in planning youth/recreation activities.
 - (6) Evaluate and advise the City Council on issues forwarded to the Youth Council for advice.
- (i) Reporting. The Youth Council shall make recommendations to the City Council by written memoranda, on the first day of October, January, March, and May of each year, or more frequently as deemed necessary by the City Council. The Youth Council should make every effort to attend the meetings of the City Council where the recommendations or written memoranda of the Youth Council are to be presented or considered.

(Ord. <u>47-16</u>, § 4, 9-26-2016)

MEMORANDUM

CITY OF CAPE CORAL YOUTH COUNCIL ADVISOR

TO: Mayor and Council members

FROM: Joe Mazurkiewicz

DATE: April 24, 2019

SUBJECT: Youth Council selection

I had the opportunity and privilege to interview the Candidates for the City's Youth Council. All the candidates I spoke with would make excellent members of the Council.

My recommendations are as follows: Devon Cranford, NFMHS; Miranda Figueroa, OSHS; and Morgan Russell MHS.

JM/cg

Item

A.(1)

Number:

Meeting FIGURE

Date:

5/6/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Public Hearings

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 75-19 (VP 19-0001*) Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

<u>Hearing Examiner Recommendation:</u> The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions contained in VP HEX Recommendation Order 4-2019.

<u>Staff Recommendation:</u> Staff recommends approval of all vacations requested by the applicant with conditions.

SUMMARY EXPLANATION AND BACKGROUND:

A resolution providing for the vacation of plat for an alley and the underlying public utility and drainage easements located between Lots 5-24 and Lots 25-44, Block 4383, Cape Coral Unit 63; providing for the vacation of plat for the platted public utility and drainage easements along the east property line of Lots 5-24 and the west property line of lots 25-44, Block 4383, Cape Coral Unit 63; property is located northwest of the intersection of Veterans Memorial Parkway and Skyline Boulevard.

LEGAL REVIEW:

John E. Naclerio III, Assistant City Attorney

EXHIBITS:

Resolution 75-19 (VP 19-0001) Back up materials from HEX hearing Hearing Examiner Recommendation Order Staff presentation

Additional back up received

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, Planning Team Coordinator

ATTACHMENTS:

	Description	Туре
D	Resolution 75-19 (VP 19-0001)	Resolution
D	Back up material from HEX Hearing	Backup Material
D	Hearing Examiner Recommendation Order	Backup Material
D	Staff Presentation	Backup Material
D	Additional Back up received	Backup Material

RESOLUTION 75 – 19

A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR AN ALLEY AND THE UNDERLYING PUBLIC UTILITY AND DRAINAGE EASEMENTS LOCATED BETWEEN LOTS 5-24 AND LOTS 25-44, BLOCK 4383,

CAPE CORAL UNIT 63; PROVIDING FOR THE VACATION OF PLAT FOR THE PLATTED PUBLIC UTILITY AND DRAINAGE EASEMENTS ALONG THE EAST PROPERTY LINE OF LOTS 5-24 AND THE WEST PROPERTY LINE OF LOTS 25-44, BLOCK 4383, CAPE CORAL UNIT 63; PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF VETERANS MEMORAL PARKWAY AND SKYLINE BOULEVARD; PROVIDING AN EFFECTIVE DATE.

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

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

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

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

COMMENCING AT THE SOUTHWEST CORNER OF LOT 44, BLOCK 4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN S.89°34'44"W FOR 20.00 FEET; THENCE RUN N.00°12'55"E. TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) 811.89 FEET; THENCE RUN N.89°45'39"E. ALONG SAID SOUTH RIGHT OF WAY FOR 20.00 FEET; THENCE RUN S.00°12'55"W. TO THE AFORESAID SOUTHWEST CORNER LOT 44, BLOCK 4383, FOR 811.89 FEET TO THE POINT OF BEGINNING.

CONTAINING: 16,237.8 SQ. FT±

Section 2. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following described platted six-foot wide public utility and drainage easements along the east property line of Lots 5-24 are hereby vacated by the City of Cape Coral, to wit:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 5, BLOCK 4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN S.89°34'44"W FOR 6.00 FEET; THENCE RUN N.00°12'55"E. TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) 811.89 FEET; THENCE RUN N.89°45'39"E. ALONG SAID SOUTH RIGHT OF WAY FOR 6.00 FEET; THENCE RUN S.00°12'55"W. TO THE AFORESAID SOUTHEAST CORNER LOT 5, BLOCK 4383 FOR 811.89 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,871.34 SQ. FT±

Section 3. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following described platted six-foot wide public utility and drainage easements along the west property line of Lots 25-44 are hereby vacated by the City of Cape Coral, to wit:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 44, BLOCK 4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN N.00°12'55"E. TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) 811.89 FEET; THENCE RUN N.89°45'39"E. ALONG SAID SOUTH RIGHT OF WAY FOR 6.00 FEET; THENCE RUN S.00°12'55"W. TO A POINT ALONG THE SOUTH LINE SAID LOT 44 BLOCK 4383 FOR 811.89 FEET; THENCE RUN S.89°34'44"W TO THE AFORESAID SOUTHWEST CORNER OF LOT 44, BLOCK 4383 FOR 6.00 TO THE POINT OF BEGINNING.

CONTAINING: 4,871.34 SQ. FT±

Section 5. Applicant shall provide to the City an easement deed for public utility and drainage purposes, as shown in the sketch and accompanying legal description entitled "6 Foot Wide Public Utility and Drainage Easement in a Portion of Block 4383, Cape Coral, Unit 63." The property to be deeded to the City is as follows:

COMMENCING AT THE NORTHEAST CORNER OF LOT 24, BLOCK 4383, AND ALONG THE SOUTH RIGHT OF WAY LINE OF S.W. 22ND TERRACE, (60 FEET WIDE) CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN N.89°34'44"E. ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) FOR 26.00 FEET; THENCE RUN S.00°12'55"W. FOR 6.00 FEET; THENCE RUN S.89°34'44"W. ALONG A LINE 6 FEET SOUTH OF THE AFORESAID SOUTH RIGHT OF WAY LINE AS MEASURED ON A PERPENDICULAR FOR 32.00 FEET; THENCE RUN N.00°12'55"E. TO A POINT ALONG THE SAID SOUTH RIGHT OF WAY LINE OF 22ND TERRACE (60 FEET WIDE) FOR 6.00 FEET; THENCE RUN N.89°34'44"E. ALONG SAID SOUTH RIGHT OF WAY LINE FOR 6.00 FEET TO THE POINT OF BEGINNING. CONTAINING: 192.01 SQ. FT±

Section 6. Applicant shall provide to the City an easement deed for public utility and drainage purposes, as shown in the sketch and accompanying legal description entitled "6 Foot Wide Public Utility and Drainage Easement in a Portion of Block 4383, Cape Coral, Unit 63." The property to be deeded to the City is as follows:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 44, BLOCK 4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND ALONG THE NORTH RIGHT OF WAY LINE OF VETERANS PARKWAY (RIGHT OF WAY WIDTH VARIES) FOR A POINT OF BEGINNING; THENCE RUN S.89°34'44"W. FOR 26.00 FEET; THENCE RUN N.00°12'55"E. FOR 6.00 FEET; THENCE RUN N.89°34'44"E. FOR 32.00 FEET; THENCE RUN S.00°12'55"W. TO A POINT ALONG THE AFORESAID NORTH RIGHT OF WAY LINE OF VETERANS PARKWAY (RIGHT OF WAY WIDTH (VARIES) FOR 6.00 FEET; THENCE RUN S.89°34'44"W. FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN N.89°34'44"E. ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) FOR 26.00 FEET; THENCE RUN S.00°12'55"W. FOR 6.00 FEET; THENCE RUN S.89°34'44"W. ALONG A LINE 6 FEET SOUTH OF THE AFORESAID SOUTH RIGHT OF WAY LINE AS MEASURED ON A PERPENDICULAR FOR 32.00 FEET; THENCE RUN N.00°12'55"E. TO A POINT ALONG THE SAID SOUTH RIGHT OF WAY LINE OF 22ND TERRACE (60 FEET WIDE) FOR 6.00 FEET; THENCE RUN N.89°34'44"E. ALONG SAID SOUTH RIGHT OF WAY LINE FOR 6.00 FEET TO THE POINT OF BEGINNING.

Section 7. The Applicant shall meet the following terms and conditions:

CONTAINING: 192.01 SQ. FT±

- 1. The vacation of the platted alley and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated January 23, 2019, and entitled "Vacation of a Portion of a 20 Foot Wide Alley, any and all Underlying Easements Lying in Block 4383, Cape Coral, Unit 63."
- 2. The vacation of the six-foot wide platted public utility and drainage easements along the east property line of Lots 5-24 and the west property line of Lots 25-44 shall be consistent with that shown in the sketches and accompanying legal descriptions prepared by Harris-Jorgensen, LLC, dated January 23, 2019, and entitled "Vacation of a Portion of a 6 Foot Wide Public Utility and

Drainage Easement Lying in Block 4383, Cape Coral, Unit 63."

- 3. Within 60 days of the adoption of this vacation, the owner shall provide to the City with two easement deeds for providing a continuous perimeter easement around the consolidated site. The easement deeds shall be consistent with that shown in the sketches and accompanying legal descriptions prepared by Harris-Jorgensen, LLC, dated October 22, 2018, entitled "6 Foot Wide Public Utility and Drainage Easement in a Portion of Block 4383, Cape Coral, Unit 63." The easements shall be approved by the City Property Broker prior to recording.
- 4. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with the easement deeds described in Conditions #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deed.

Section 8. This Resolution shall take effect upon its recording within the Office of the Lee County Clerk of Court by the City of Cape Coral.

ADOPTED BY THE CITY COUNCIL OF THE COUNCIL SESSION THIS DAY OF	
	JOE COVIELLO, MAYOR
VOTE OF MAYOR AND COUNCILMEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN
ATTESTED TO AND FILED IN MY OFFICE 2019.	THIS, DAY OF,
APPROVED AS TO FORM: JOHN E. NACŁERIO III	KIMBERLY BRUNS INTERIM CITY CLERK
ASSISTANT CITY ATTORNEY	

res/vp19-0001

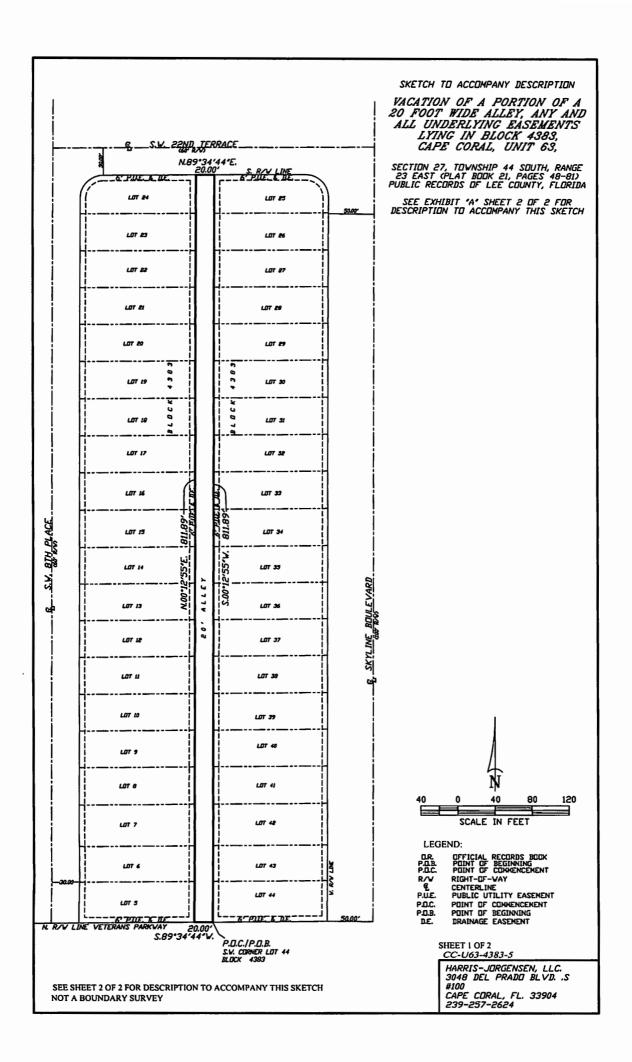


EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 20 FOOT WIDE ALLEY, ANY AND ALL UNDERLYING EASEMENTS LYING IN BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
COMMENCING AT THE SOUTHWEST CORNER OF LOT 44, BLOCK
4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21,
PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR
A POINT OF BEGINNING; THENCE RUN S.89°34'44"W FOR 20.00
FEET; THENCE RUN N.00°12'55"E. TO A POINT ALONG THE SOUTH
RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE)
811.89 FEET; THENCE RUN N.89°45'39"E. ALONG SAID SOUTH
RIGHT OF WAY FOR 20.00 FEET; THENCE RUN S.00°12'55"W. TO
THE AFORESAID SOUTHWEST CORNER LOT 44, BLOCK 4383, FOR
811.89 FEET TO THE POINT OF BEGINNING.

CONTAINING: 16,237.8 SQ. FT±

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

Lilles M Mont

#6515 - STATE OF FLORIDA

1/23/2019

CC-U63-4383-5

SHEET 2 OF 2
SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624

SKETCH TO ACCOMPANY DESCRIPTION VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383, CAPE CORAL, UNIT 63, S.W. 22ND TERRACE. N.89°34'44'E. SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA 6' PUL & ILL. LOT 24 LOT 25 SEE EXHIBIT 'B' SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH LOT 23 LOT ES LOT EE LOT 27 ध्या थ LOT 28 LOT 20 LOT 29 LDT 30 LOT 31 811.89′ 911.89 மா 17 LOT 32 LOT 16 N.00*12*55*E K. PHI II S.00*12*55*N S.V. BILL PLACE LOT 15 LOT 34 LOT 14 LOT 35 LOT 13 LOT 36 LOT 12 மா 37 цат и பா 39 LOT 10 LOT 40 LOT 9 шт в LOT 41 40 40 80 120 SCALE IN FEET LOT 42 LOT 7 LEGEND: DFICIAL RECORDS BOOK
PDINT OF BEGINNING
PUINT OF CONNENCEMENT
RIGHT-OF-VAY
CENTERLINE
PUBLIC UTILITY EASEMENT
POINT OF COMMENCEMENT
POINT OF BEGINNING
DRAINAGE EASEMENT DR. P.D.B. P.D.C. LOT 43 LOT 6 P.U.E. P.U.E. P.U.E. P.U.E. P.U.E. LOT 44 LOT 5 *ፕሮየሙ፣ ፔ ገነድ* N R/V LINE VETERANS PARKVAY S.89°34'44"W. 6.00' P.O.C. / P.O.B. SE CORNER LOT 5 BLOCK 4383 SHEET 1 OF 2 CC-U63-4383-5 HARRIS-JORGENSEN, LLC. 3048 DEL PRADO BLVD. .S #100 CAPE CURAL, FL. 33904 239-257-2624 SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH NOT A BOUNDARY SURVEY

EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
COMMENCING AT THE SOUTHEAST CORNER OF LOT 5, BLOCK
4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21,
PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR
A POINT OF BEGINNING; THENCE RUN S.89°34′44″W FOR 6.00
FEET; THENCE RUN N.00°12′55″E. TO A POINT ALONG THE SOUTH
RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE)
811.89 FEET; THENCE RUN N.89°45′39″E. ALONG SAID SOUTH
RIGHT OF WAY FOR 6.00 FEET; THENCE RUN S.00°12′55″W. TO
THE AFORESAID SOUTHEAST CORNER LOT 5, BLOCK 4383 FOR
811.89 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,871.34 SQ. FT±

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

Lilles M mont

#6515 - STATE OF FLORIDA

1/23/2019

SHEET 2 OF 2
SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

CC-U63-4383-5

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624

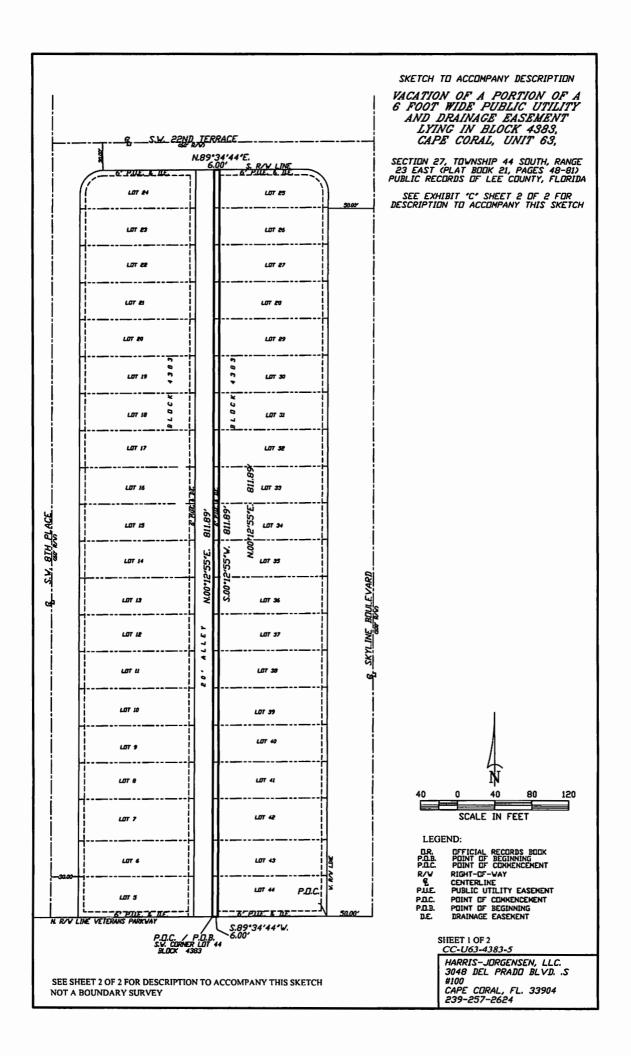


EXHIBIT "C"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 44, BLOCK 4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN N.00°12′55″E. TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) 811.89 FEET; THENCE RUN N.89°45′39″E. ALONG SAID SOUTH RIGHT OF WAY FOR 6.00 FEET; THENCE RUN S.00°12′55″W. TO A POINT ALONG THE SOUTH LINE SAID LOT 44 BLOCK 4383 FOR 811.89 FEET; THENCE RUN S.89°34′44″W TO THE AFORESAID SOUTHWEST CORNER OF LOT 44, BLOCK 4383 FOR 6.00 TO THE POINT OF BEGINNING.

CONTAINING: 4,871.34 SQ. FT±

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

Lilles M Moul

#6515 - STATE OF FLORIDA

1/23/2019

CC-U63-4383-5

SHEET 2 OF 2
SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624

SKETCH TO ACCOMPANY DESCRIPTION LEGEND: 6 FOOT WIDE PUBLIC UTILITY EASEMENT AND DRAINAGE OFFICIAL RECORDS BOOK POINT OF BEGINNING POINT OF CONVENCEMENT EASEMENT IN A PORTION OF BLOCK 4383, PLUE. RIGHT-OF-VAY
CENTERLINE
PUBLIC UTILITY EASEMENT CAPE CORAL, UNIT 63, PDC POINT OF COMENCEMENT POINT OF BEGINNING SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA DRAINAGE EASENENT SCALE IN FEET SEE EXHIBIT 'B' SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH SHEET 1 OF 2 SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH S.W. 22ND TERRACE (60° R/V) P.O.C. / P.O.B.

NE. CORNER LOT 24

BLOCK 4383 N.89°34'44°E. 6.00 N.89°34'44"E. 26.00 S. RIV LINE 6' P.U.E. & D.E. 6' P.UE. & D.E. 32.00′ | S.89°34′44″W. N.00°12°55°E. 6.00°, LOT 24 00 LOT 25 S NOT A BOUNDARY SURVEY CC-U63-4383-5 BLOCK 4383 LOT 23 HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. S LOT 26 3A4 BEL FAMBE 32904 CAPE CORAL, FL. 33904 239-257-2624

EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH

6 FOOT WIDE PUBLIC UTILITY EASEMENT AND DRAINAGE EASEMENT LYING IN A PORTION OF BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY
THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION: COMMENCING AT THE NORTHEAST CORNER OF LOT 24, BLOCK 4383, AND ALONG THE SOUTH RIGHT OF WAY LINE OF S.W. 22ND TERRACE, (60 FEET WIDE) CAPE CORAL UNIT 63. AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN N.89°34'44"E. ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) FOR 26.00 FEET; THENCE RUN S.00°12'55'W. FOR 6.00 FEET; THENCE RUN S.89°34'44'W. ALONG A LINE 6 FEET SOUTH OF THE AFORESAID SOUTH RIGHT OF WAY LINE AS MEASURED ON A PERPENDICULAR FOR 32.00 FEET; THENCE RUN N.00°12'55'E. TO A POINT ALONG THE SAID SOUTH RIGHT OF WAY LINE OF 22ND TERRACE (60 FEET WIDE) FOR 6.00 FEET; THENCE RUN N.89*34'44"E. ALONG SAID SOUTH RIGHT OF WAY LINE FOR 6.00 FEET TO THE POINT OF BEGINNING. CONTAINING: 192.01 SQ. FT#

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
10/22/18

Ilis M Moul

SHEET 2 OF 2
SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

CC-U62-3071-24

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624

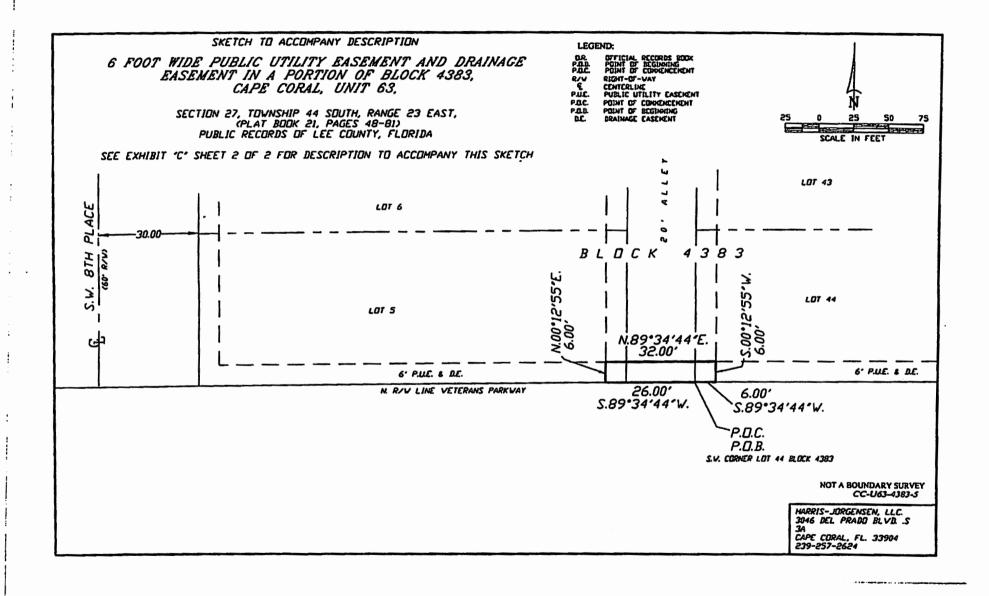


EXHIBIT "C"

DESCRIPTION TO ACCOMPANY SKETCH

6 FOOT WIDE PUBLIC UTILITY EASEMENT AND DRAINAGE EASEMENT LYING IN A PORTION OF BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY
THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION: COMMENCING AT THE SOUTHWEST CORNER OF LOT 44, BLOCK 4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND ALONG THE NORTH RIGHT OF WAY LINE OF VETERANS PARKWAY (RIGHT OF WAY WIDTH VARIES) FOR A POINT OF BEGINNING: THENCE RUN S.89°34'44"W. FOR 26.00 FEET; THENCE RUN N.00°12'55'E. FOR 6.00 FEET; THENCE RUN N.89°34'44'E. FOR 32.00 FEET; THENCE RUN S.00°12′55′W. TO A POINT ALONG THE AFORESAID NORTH RIGHT OF WAY LINE OF VETERANS PARKWAY (RIGHT OF WAY WIDTH (VARIES) FOR 6.00 FEET; THENCE RUN S.89°34'44"W. FOR 6.00 FEET TO THE POINT OF BEGINNING A POINT OF BEGINNING; THENCE RUN N.89*34'44"E. ALONG THE SDUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) FOR 26.00 FEET; THENCE RUN S.00°12'55'W. FOR 6.00 FEET; THENCE RUN S.89°34'44"W. ALONG A LINE 6 FEET SOUTH OF THE AFORESAID SOUTH RIGHT OF WAY LINE AS MEASURED ON A PERPENDICULAR FOR 32.00 FEET; THENCE RUN N.00°12'55'E. TO A POINT ALONG THE SAID SOUTH RIGHT OF WAY LINE OF 22ND TERRACE (60 FEET WIDE) FOR 6.00 FEET; THENCE RUN N.89°34'44'E. ALONG SAID SOUTH RIGHT OF WAY LINE FOR 6.00 FEET TO THE POINT OF BEGINNING. CONTAINING: 192.01 SQ. FT±

Ship M monto

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
10/22/18

CC-U62-3071-24

SHEET 2 OF 2
SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # V P 19 - 000 1

DEC 27'18 PM 2, C

REQUEST TO PLANNING & ZONING COMMISION AND COUNCIL FOR A VACATION OF PLAT

FEE: \$843.00 – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise case will be pulled from public hearing.

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

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

DWNER O	FPROPERTY	/										
Acorn S	kyline, LLC				-	Address:	1515 U	S Hwy 1, Su	ite #103			
						City: S	ebastiar	1	State:	FL	Zip	32958
						Phone:	772-589	-6350			inair-u	
APPLICAN		the same of	LC iie, Manage	er .		Address:	1515 U.	S. Hwy 1, Suit	e #103			
EMAIL	nio@noornmi	ni nom		/			bastian		State:	FL	Zip	32958
davidfahmie@acornmini.com				-	Phone: 772-589-6350				-			
Linda Mille	STATE OF THE PARTY NAMED IN COLUMN TWO IS NOT THE OWNER.					Address:	2503 D	el Prado Boule	evard Sout	th, Sui	te 200	
EMAIL linda@avaloneng.com						e Coral		State:	FL	Zip	33904	
						Phone:	239-573-	2077	-	***************************************		-
Unit 6	63	Block	4383	Lot(s)	5-44	Subdi	vision	Cape Coral				
Address o	of Property		Multiple A	Addresses -	See Att	ached Parce	Listing					
Current Z	oning		RD		1	Plat Bo	ook	21	, Page	52		
						Stran !	lumber	Multiple Stra	n Number	· San	Attack	and Parcel



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

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.

Acorn Skyline, LLC	SIGNATURE MUST BE NOTARIZED)	7
By: David Fahmie, Manager	Klas	The state of the s
APPLICANT NAME (PLEASE TYPE OR PR	INT) APPLICANT	'S SIGNATURE
David Fahmie	d before me this 18 TM day of DEC who is personally known or produced	
as identification.	Exp. Date: Nac 3 2019 Commi	ission Number: FF212858
HIMMINIMINIMINIMINIMINIMINIMINIMINIMINIM	Signature of Notary Public:	Leacy Deer
#FF212858 #FF212858 #JOBUIC, STATE OF	Printed name of Notary Public:	TRACY DUVAL

David Fahmie



VACATION	OF PL	AT APP	LICATION
----------	-------	--------	----------

Questions: 239-574-0776

Case #	

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

Acorn Skyline, LLC	
CORPORATION/COMPANY NAME	
David Fahmie, Manager	May tot
PROPERTY OWNER (PLEASE TYPE OR P	RINT) PROPERTY OWNER'S SIGNATURE
STATE OF FL , COUNTY (
	d before me this 18 day of \underline{Dec} , 2018 , by
	who is personally known or produced
as identification.	-1 1
	Exp. Date: 3/23/19 Commission Number: FF2/2858
RACY DUVALUE AND	Signature of Notary Public: Jacy Dece 70
Commission of	Printed name of Notary Public: TRACY DUNKL
23, 20 s.	(SIGNATURE MUST BE NOTARIZED)
* • • • * *	
#FF212858	
All Mough 1st State	
MANUALIC, STATE OF THE	



Case	#	
-		

VACATION OF PLAT APPLICATION

uestions: 239-574-0776					
9,,24					
	AUTHORIZATION TO REPRESENT PR	ROPERTY OWNER(s)			
PLEASE BE ADVISED THAT	Avalon Engineering, Inc				
	(Name of person giving p	resentation)			
AGENCY, BUARD OF ZONING	ADJUSTMENTS AND APPEALS AND/	INING & ZONING COMMISSION/ LOCAL PLANNING OR CITY COUNCIL FOR YING AND ADJOINING EASEMENTS			
UNIT 63 BLOCK OR LEGAL DESCRIPTION	4383 LOT(S) <u>5-44</u>	SUBDIVISION Cape Coral			
LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA. Acorn Skyline, LLC David Fahmie, Manager					
PROPERTY OWNER (Please	Print\	David Fahmie, Manager PROPERTY OWNER (Please Print)			
Marto p	1ANAGER	May for MANAGER			
PROPERTY OWNER (Signate	ıre & Title)	PROPERTY OWNER (Signature & Title)			
STATE OF, COUI	NTY OF FADIAN RIVE	ξ			
Subscribed and sworn to (or aff David Fahmie	irmed) before me this who is personally known or prod	18 day of December , 2018, by uced			
as identification IIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII	Exp. Date: 3/23/19 Comm	nission Number: FF212858			
*** **********************************	Signature of Notary Public:	Traces Deera			
#FF212858	Printed name of Notary Public:	Tracy Duval			
OBLIC, STATE OF					

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



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case	#

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

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

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

Acorn Skyline, LLC By: David Fahmie, Manager	Carl to			
OWNER/APPLICANT (PLEASE TYPE OR PRINT)	OWNER/APPLICANT SIGNATURE			
(SIGNATURE M	UST BE NOTARIZED)			
STATE OFFL COUNTY OF	DIAN RIVER			
Sworn to (or affirmed) and subscribed before me on this 18 day of December 2018 by David Fahmie, who is personally known or who has produced				
as identification. Exp. Date 3 3 19				
	nature of Notary Public			
and the same of th	racy DUVAL nt Name of Notary Public			





Department of State / Division of Corporations / Search Records / Detail By Document Number /

Detail by Entity Name

Florida Limited Liability Company ACORN SKYLINE, LLC

Filing Information

Document Number

L18000206975

FEI/EIN Number

NONE

Date Filed

08/29/2018

State

FL

Status

ACTIVE

Principal Address

1515 U.S.1,STE 103 SEBASTIAN, FL 32958

Mailing Address

1515 U.S.1,STE 103 SEBASTIAN, FL 32958

Registered Agent Name & Address

GREENE, ROBERT F, ESQ. 601 12TH STREET WEST BRADENTON, FL 34205

Authorized Person(s) Detail

Name & Address

Title MGR

FAHMIE, DAVID 1515 U.S.1,STE 103 SEBASTIAN, FL 32958

Annual Reports

No Annual Reports Filed

Document Images

08/29/2018 -- Florida Limited Liability

View image in PDF format



Avalon Engineering, Inc.

2503 Del Prado Boulevard South, Suite 200 Cape Coral, Florida 33904 Phone: (239) 573-2077 Fax: (239) 573-2076

#AA C001936 #EB 0003128

December 27, 2018

Mr. Bob Pederson, Planning Manager Department of Community Development City of Cape Coral 1015 Cultural Park Boulevard Cape Coral, Florida 33915

PROJECT:

VACATION OF AN ALLEY WITHIN BLOCK 4383

NW CORNER OF SKYLINE BLVD AND VETERANS PARKWAY

SUBJECT:

VACATION OF PLAT LETTER OF INTENT

Dear Mr. Pederson:

On behalf of the property owner, Acorn Storage, LLC, we request approval of a Vacation of Plat to vacate an existing alley and the underlying and adjoining easements within Block 4383.

Acorn Storage has obtained ownership of the remaining lots within Block 4383, Lots 5-44. Prior to development of this site, Acorn Storage is requesting approval to vacate the alley, the underlying easements and the 6' easements adjoining the alley on the west and east sides. A legal description and sketch of the area to be vacated is provided, see Exhibit A.

A 6' PUE will be maintained around the perimeter of the site when the lots are strapped together. Two legal descriptions and sketches are provided, see Exhibit B and Exhibit C.

Avalon has requested no objection letters from all of the local service providers. We are in receipt of all providers letters with the exception of Lee County Electric Cooperative.

We respectfully request approval of this Vacation of Plat Application. If you have any questions or require additional information please let me know.

Sincerely,

AVALON ENGINEERING, INC.

Linda Miller, AICP Senior Planner

c: David Fahmie, Acorn Storage, LLC

G:\2018\18-134\VACATION OF PLAT\VOP INTENT LTR.DOC

Linda Doggett, Lee County Clerk of Circuit Court

INSTR. # 2018000294021, Doc Type D, Pages 2, Recorded 12/17/2018 at 4:03 PM, Deputy Clerk WMILLER

Rec Fees: \$18.50 Deed Doc: \$7,525.00

S.S.S.

Prepared by and return to: Title Professionals of Florida 13241 University Drive, Suite 103 Fort Myers, Florida 33907

Incidental to the issuance of a title insurance policy. Parcel Identification Number: 27-44-23-C3-04383.0050

File Number: 18008589TPF

(Space Above This Line For Recording Data)

Warranty Deed

This Warranty Deed made this 13th day of December, 2018, by

Commonwealth Foundation for Cancer Research, a Virginia non-stock corporation

hereinafter called the GRANTOR, to

Acorn Skyline, LLC, A Florida Limited Liability Company

whose post office address is 1515 US Highway 1, Sulte 103, Sebastian, FL 32958 hereinafter called the 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.)

Witnesseth, that the GRANTOR, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the GRANTEE, all that certain land, situate in Lee County, Florida, viz:

Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44, Block 4383, Cape Coral Unit 63, a subdivision according to the map or plat thereof, as recorded in Plat Book 21, Pages 48 through 81, inclusive, Public Records of Lee County, Florida.

Subject property is vacant land and is not now, never has been, nor is contiguous to the homestead property of the Grantor(s)

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year 2018 and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

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 except as above noted, 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.

	IN WITHESS WHEREOF, GRANTOR has bereunto has signed and scaled these presents the data set forth above.					
	Signed, scaled and delivered in our presence: (TWO WITNESSES REQUIRED)	•				
/	Signature of Witness: Malia D'Conne Signature of Witness: Jena Driad: Signature of Witness: Jena Driad:	James A. Jones, Authoritzed Signer				
	STATE OF LICLANCE STATE OF RICLANCE STATE OF RESERVED, a Virginia non-stock corporation, known to me to be the person(s) described in and who executed the foregoing instrument, who coknowledged before me that he, she end/or they, executed the same, and one cath was not taken. (Check one) Said person(s) is/are personally known to me. Said person(s) provided the following type of identification. WITNESS my hand and official seal in the County and State last aforesaid this little state. The same state is the County and State last aforesaid this little same state.					
ν	Sherry G. Bowery Commonwealth of Virginia Notary Public Commission No. 222806 My Commission Expires 2/28/2022	Printed Names Newny G. Provided Names Newny G. Provided Names Newny G. Provided Names Newny G. Provided Names Newny G. Printed Names Newny G. Provided Names Newny G. Printed Nam				



Attention:

Linda Millar, AICP 2503 Del Prado Blvd S #200 Avalon Engineering, Inc. Phone: 239-573-2077 Linda@AVALONENG.COM

Subject: - No Objection of Vacation Alley & Re-plat

Site Address: Skyline Blvd & SW 22nd Ter & Veterans Pkwy

Strap# 27-44-23-C3-04383.0250 & Block 4383 Lots 5-44

Dear Linda Miller

Regarding the referenced property above CenturyLink has No Objection to the Re-Plat described by Avalon Engineering. The re-plat the portion of block 4383 lots 5-44 to close Alley and maintain a 6' PUE around perimeter of new proposed lot.

Sincerely

THANK YOU!

Justin Lane

OSP Engineering

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

Justin Lane



12600 Westlinks Drive Suite 4 Fort Myers, Fl. 33913 Phone: 239-432-1805

November 12, 2018

Avalon Engineering, Inc C/O Linda Miller 2503 Del Prado Blvd. So. Suite 200 Cape Coral, Florida 33904

RE: Block 4383, Lots 5-44, Northwest Corner of Skyline Blvd. and Veterans Pkwy

Dear Linda Miller.

This letter will serve to inform you that Comcast has no objection to your vacate of the easements referenced above.

Should you require additional information or assistance, please feel free to contact me here at 432-1805.

Cordially,

Mark Cook

Project Coordinator



November 28, 2018

Lynda Brooks

Avalon Engineering, Inc.

2503 Del Prado Boulevard S., #200

Cape Coral, Florida 33904

Phone: (239) 573-2077, Ext. 252

Fax: (239) 573-2076

E-mail: <u>lbrooks@avaloneng.com</u>

RE: Letter of "No Objection" for the Vacation of

Site Addresses: 2401-2317-2313-2305-2241-2233-2227 SW 8th Place STRAP: 27-44-23-C3-04383.0050, 0070, 0090, 0120, 0160, 0190, 0230

Folio: 10076603 - 10076609

Site Addresses: 2228-2234-2238-2242-2314-2318-2324-2328 Skyline Boulevard STRAP: 27-44-23-C3-04383.0250, 0270, 0300, 0320, 0340, 0360, 0380, 0410, 0430

Folio: 10076610 – 10076618 Municipality: Cape Coral

County: Lee

TECO Peoples Gas System has received and reviewed the request for a Letter of "No Objection" for the Vacation of the 6' (PUE) Public Utility Easement and Alleyway along and/or within the listed properties referenced above.

TECO Peoples Gas System currently has **Natural Gas Infrastructure** within the 6' (PUE) Public Utility Easement, Alleyway and/or Properties within **STRAP: 27-44-23-C3-04383** in Cape Coral, Lee County referenced above.

Therefore, TECO Peoples Gas System has "No Objection" to the Vacation of the 6' (PUE) Public Utility Easement and Alleyway along and/or within the listed properties referenced above in Cape Coral, Lee County

Should you have any questions or require further information, please contact me at telephone and cellular numbers (239) 690-5517, (239) 896-0812 or by e-mail at mdaloi@tecoenergy.com

Sincerely.

Marilyn D. Aloi

Gas Design Project Manager

TECO/Peoples Gas 5901 Enterprise Parkway Fort Myers, FL. 33905 Office (239) 690-5517 Fax (239) 690-5539 mdaloi@tecoenergy.com



Lee County Electric Cooperative, Inc.

Post Office Box 3455

North Fort Myers, FL 33918-3455

(239) 995-2121 • Fax (239) 995-7904

www.lcec.net

January 8, 2019

Ms. Linda Miller, AICP Avalon Engineering, Inc. 2503 Del Prado Boulevard So., #200 Cape Coral, Florida 33904

Re:

Letter of No Objection to Vacation of Alley between Lots 5 through 24, and Lots 25 through 44, Block 4383. Cape Coral Subdivision, Unit 63, Plat Book 21, Pages 48-81, inclusive: Owner: Acorn Skyline, LLC; Strap#: 27-44-23-C3-04383.0050 through 27-44-23-C3-04383.0430.

Dear Ms. Miller:

You have opened up negotiations, on behalf of your client, Acorn Skyline, LLC, concerning the vacation of a certain alley at the rear between Lots 5 through 24, and Lots 25 through 44, all contained within Block 4383 for the solely purposes of vacating the alley and the adjacent parallel easements.

We have reviewed the Plat, the request with submitted with materials, and our internal records. LCEC has no objection to the vacation as requested, provided the alley has placed upon the north end and the south end a six-foot wide 32-foot easement in order to complete the perimeter easement. This vacation is solely for the vacation of the Alley and the adjacent six-foot parallel easements.

However, should there be any substantive changes to the plans, as submitted, LCEC reserves its rights to additional review and comment with additional conditions, if necessary, consistent with its findings. If the vacation is not be submitted for jurisdictional approval within six months, this letter will be deemed void.

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

Very truly yours,

Russ Goodman, Goodman, SR/WA SR/WA

Digitally signed by Russ

Date: 2019.01.08 16:36:01

-05'00'

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

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 20 FOOT WIDE ALLEY, ANY AND ALL UNDERLYING EASEMENTS LYING IN BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
COMMENCING AT THE SOUTHWEST CORNER OF LOT 44, BLOCK
4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21,
PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR
A POINT OF BEGINNING; THENCE RUN S.89°34′44″W FOR 20.00
FEET; THENCE RUN N.00°12′55″E. TO A POINT ALONG THE SOUTH
RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE)
811.89 FEET; THENCE RUN N.89°45′39″E. ALONG SAID SOUTH
RIGHT OF WAY FOR 20.00 FEET; THENCE RUN S.00°12′55″W. TO
THE AFORESAID SOUTHWEST CORNER LOT 44, BLOCK 4383, FOR
811.89 FEET TO THE POINT OF BEGINNING.

CONTAINING: 16,237.8 SQ. FT±

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA

1/23/2019

HARRIS-JORGENSEN, LLC.

CC-U63-4383-5

HARRIS-JURGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624

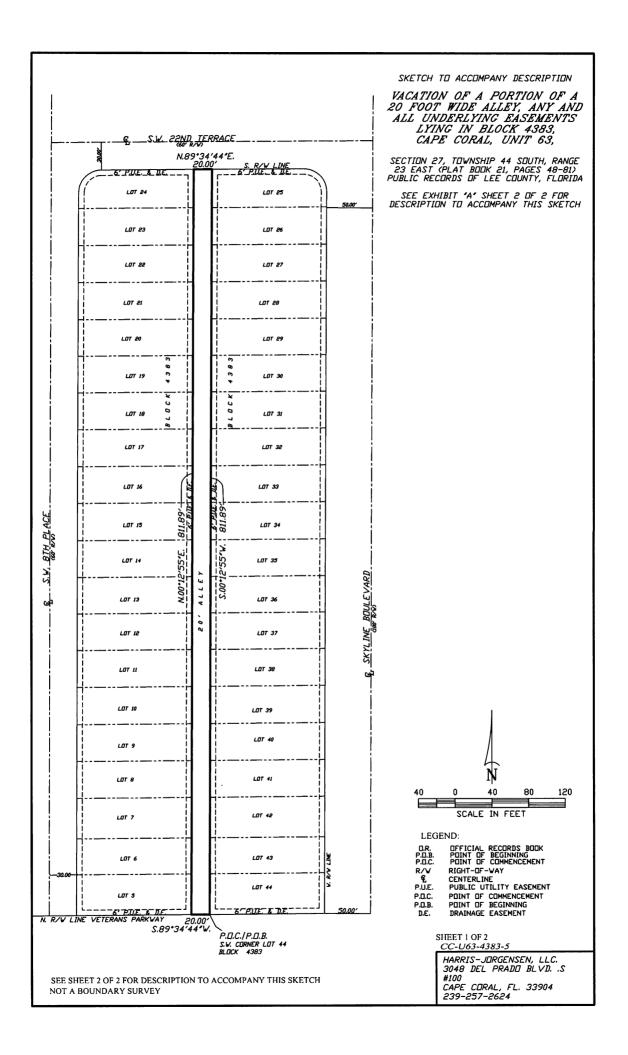


EXHIBIT "C"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
COMMENCING AT THE SOUTHEAST CORNER OF LOT 44, BLOCK
4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21,
PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR
A POINT OF BEGINNING; THENCE RUN N.00°12′55″E. TO A POINT
ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE
(60 FEET WIDE) 811.89 FEET; THENCE RUN N.89°45′39″E. ALONG
SAID SOUTH RIGHT OF WAY FOR 6.00 FEET; THENCE RUN
S.00°12′55″W. TO A POINT ALONG THE SOUTH LINE SAID LOT 44
BLOCK 4383 FOR 811.89 FEET; THENCE RUN S.89°34′44″W TO
THE AFORESAID SOUTHWEST CORNER OF LOT 44, BLOCK 4383
FOR 6.00 TO THE POINT OF BEGINNING.

CONTAINING: 4,871.34 SQ. FT±

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA

1/23/2019

CC-U63-4383-5

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624

Tilles M Moul

SKETCH TO ACCOMPANY DESCRIPTION VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383, CAPE CORAL, UNIT 63, _S.W. 22ND_TERRACE N.89°34'44°E. 6.00' S SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA 6' P.U.E. & D.E. SEE EXHIBIT 'C' SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH LOT 25 LOT 24 LOT 21 LOT 28 LOT 20 LOT 19 LOT 30 LOT 18 LOT 31 LOT 17 LOT 32 118 LOT 33 LOT 16 811.89 S.W. BIH PLACE LOT 15 LOT 34 811 N.00*12'55'E LOT 14 LOT 35 LOT 13 LOT 36 LOT 12 LOT 37 LOT II LOT 10 LOT 39 LOT 9 40 40 80 120 SCALE IN FEET LEGEND: O.R. P.O.B. P.O.C. OFFICIAL RECORDS BOOK POINT OF BEGINNING POINT OF COMMENCEMENT RIGHT-OF-WAY LOT 6 LOT 43 P.U.E. CENTERLINE
PUBLIC UTILITY EASEMENT
POINT OF COMMENCEMENT
POINT OF BEGINNING
DRAINAGE EASEMENT Р.П.С. P.O.C. P.O.B. LOT 5 TOPUE TOE. N. R/V LINE VETERANS PARKVAY S.89°34′44°W. -6.00′ P.O.C. / P.O.B. S.V. CORNER LOT 44 BLOCK 4383 SHEET 1 OF 2 CC-U63-4383-5 HARRIS-JORGENSEN, LLC. 3048 DEL PRADO BLVD. .S SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH #100 CAPE CORAL, FL. 33904 239-257-2624 NOT A BOUNDARY SURVEY

EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383. CAPE CORAL, UNIT 63.

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION: COMMENCING AT THE SOUTHEAST CORNER OF LOT 5, BLOCK 4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN \$.89°34'44"W FOR 6.00 FEET; THENCE RUN N.00°12′55″E. TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) 811.89 FEET; THENCE RUN N.89°45′39″E, ALONG SAID SOUTH RIGHT OF WAY FOR 6.00 FEET; THENCE RUN S.00°12′55″W. TO THE AFORESAID SOUTHEAST CORNER LOT 5, BLOCK 4383 FOR 811.89 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,871.34 SQ. FT±

PHILLIP M. MOULD PROFESSIONAL SURVEYOR AND MAPPER #6515 - STATE OF FLORIDA

Tillis M Moul

1/23/2019

HARRIS-JORGENSEN, LLC.

CC-U63-4383-5

3046 DEL PRADO BLVD. .S CAPE CORAL, FL. 33904 239-257-2624

SKETCH TO ACCOMPANY DESCRIPTION VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383, CAPE CORAL, UNIT 63, S.W. 22ND TERRACE. N.89°34'44°E. 6.00' SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA SEE EXHIBIT "B" SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH LOT 24 LOT 25 LOT 23 LOT 21 LOT 19 LDT 30 LOT 18 LOT 31 811 LOT 16 S.W. STH PLACE N.00 .00°S LOT 34 LOT 35 LOT 36 LOT 13 LOT 37 LOT 38 LOT II LOT 39 LOT 9 120 40 80 LOT 7 LEGEND: □.R. P.□.B. P.□.C. R/W € P.U.E. OFFICIAL RECORDS BOOK POINT OF BEGINNING POINT OF COMMENCEMENT LOT 43 RIGHT-OF-WAY CENTERLINE
PUBLIC UTILITY EASEMENT
POINT OF COMMENCEMENT
POINT OF BEGINNING
DRAINAGE EASEMENT P.O.C. P.O.C. P.O.B. D.E. LOT 5 6" P.UE" & TIE." N. R/V LINE VETERANS PARKVAY S.89°34′44°W 6.00′ SHEET 1 OF 2 CC-U63-4383-5 HARRIS-JORGENSEN, LLC. 3048 DEL PRADO BLVD. .S #100 CAPE CORAL, FL. 33904 239-257-2624 SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH NOT A BOUNDARY SURVEY

EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH

6 FOOT WIDE PUBLIC UTILITY EASEMENT AND DRAINAGE EASEMENT LYING IN A PORTION OF BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION: COMMENCING AT THE NORTHEAST CORNER OF LOT 24, BLOCK 4383, AND ALONG THE SOUTH RIGHT OF WAY LINE OF S.W. 22ND TERRACE, (60 FEET WIDE) CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN N.89°34'44"E. ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) FOR 26.00 FEET; THENCE RUN S.00°12'55'W. FOR 6.00 FEET; THENCE RUN S.89°34'44'W. ALONG A LINE 6 FEET SOUTH OF THE AFORESAID SOUTH RIGHT OF WAY LINE AS MEASURED ON A PERPENDICULAR FOR 32.00 FEET; THENCE RUN N.00°12'55'E. TO A POINT ALONG THE SAID SOUTH RIGHT OF WAY LINE OF 22ND TERRACE (60 FEET WIDE) FOR 6.00 FEET; THENCE RUN N.89°34'44"E. ALONG SAID SOUTH RIGHT OF WAY LINE FOR 6.00 FEET TO THE POINT OF BEGINNING. CONTAINING: 192.01 SQ. FT±

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
10/22/18

SHEET 2 OF 2
SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

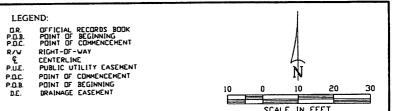
CC-U62-3071-24

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624

SKETCH TO ACCOMPANY DESCRIPTION 6 FOOT WIDE PUBLIC UTILITY EASEMENT AND DRAINAGE EASEMENT IN A PORTION OF BLOCK 4383, CAPE CORAL, UNIT 63, SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81)

PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "B" SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH



SHEET 1 OF 2 SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

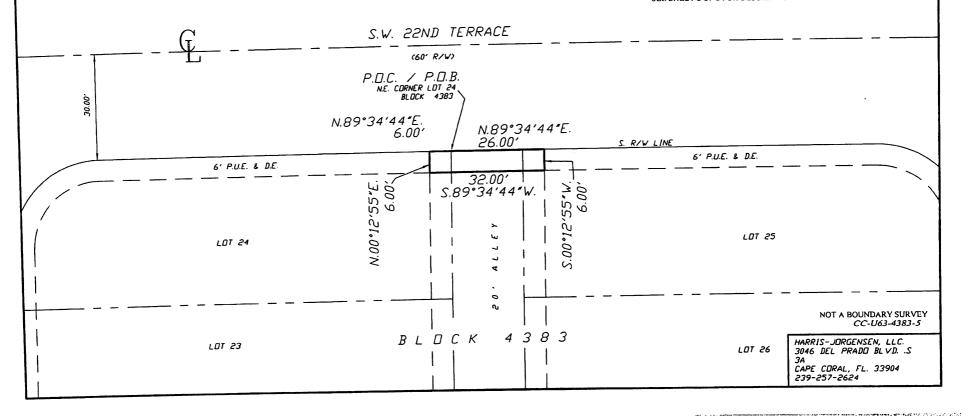


EXHIBIT "C"

DESCRIPTION TO ACCOMPANY SKETCH

6 FOOT WIDE PUBLIC UTILITY EASEMENT
AND DRAINAGE EASEMENT
LYING IN A PORTION OF
BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

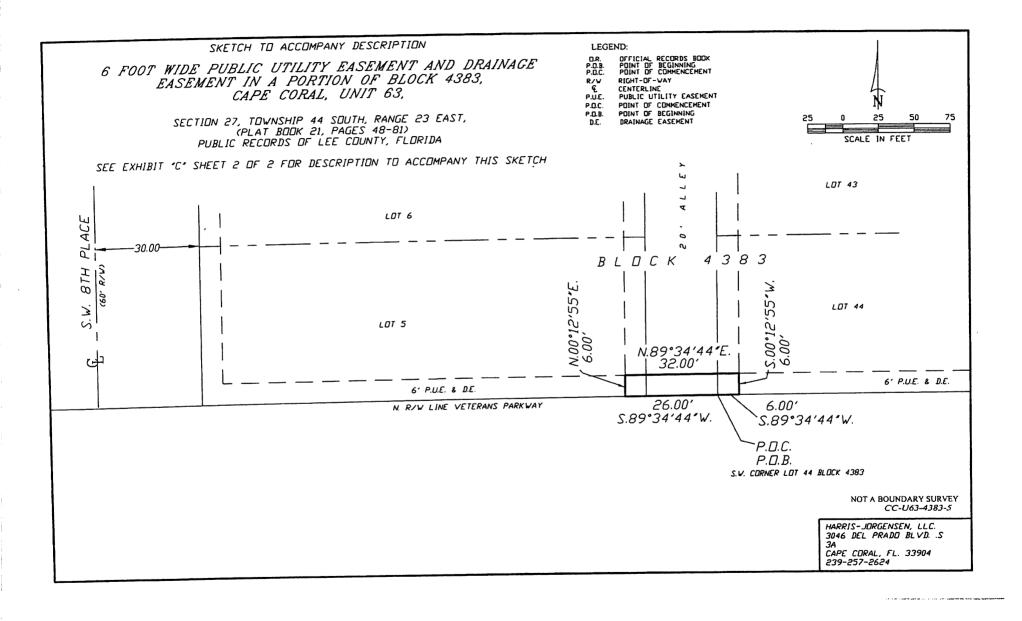
DESCRIPTION: COMMENCING AT THE SOUTHWEST CORNER OF LOT 44, BLOCK 4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND ALONG THE NORTH RIGHT OF WAY LINE OF VETERANS PARKWAY (RIGHT OF WAY WIDTH VARIES) FOR A POINT OF BEGINNING; THENCE RUN S.89°34'44"W. FOR 26.00 FEET; THENCE RUN N.00°12'55"E. FOR 6.00 FEET; THENCE RUN N.89°34'44"E. FOR 32.00 FEET; THENCE RUN S.00°12′55°W. TO A POINT ALONG THE AFORESAID NORTH RIGHT OF WAY LINE OF VETERANS PARKWAY (RIGHT OF WAY WIDTH (VARIES) FOR 6.00 FEET; THENCE RUN S.89°34'44"W. FOR 6.00 FEET TO THE POINT OF BEGINNING A POINT OF BEGINNING; THENCE RUN N.89°34'44"E. ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE) FOR 26.00 FEET; THENCE RUN S.00°12'55"W. FOR 6.00 FEET; THENCE RUN S.89°34'44"W. ALONG A LINE 6 FEET SOUTH OF THE AFORESAID SOUTH RIGHT OF WAY LINE AS MEASURED ON A PERPENDICULAR FOR 32.00 FEET; THENCE RUN N.00°12'55"E. TO A POINT ALONG THE SAID SOUTH RIGHT OF WAY LINE OF 22ND TERRACE (60 FEET WIDE) FOR 6.00 FEET; THENCE RUN N.89°34'44"E. ALONG SAID SOUTH RIGHT OF WAY LINE FOR 6.00 FEET TO THE POINT OF BEGINNING. CONTAINING: 192.01 SQ. FT±

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
10/22/18

CC-U62-3071-24

SHEET 2 OF 2
SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

HARRIS-JÜRGENSEN, LLC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624



Review Date:

February 4, 2019

Owner:

Acorn Skyline, LLC

Authorized Rep:

Avalon Engineering, Inc.

Request:

The applicant requests to vacate:

1. ±16,237.80 sq. ft. of platted alley right-of-way (ROW) and underlying easements between Lots 5-24 and Lots 25-44, Block 4383.

2. $\pm 9,742.68$ sq. ft. of platted easements along the east side of Lots 5-24 and the west side of Lots 25-44, Block 4383.

Prepared By:

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

Approved By:

Robert H. Pederson, AICP, Planning Manager

Recommendation:

Approval with conditions

Urban Service Area:

Transition

ROW Description:

The subject alley is 20 feet wide, unimproved, and runs north to south, parallel to Skyline Boulevard. This alley is between Lots 5-24 and Lots 25-44¹ in Block 4383 in central Cape Coral, near the northwest corner of Veteran's Memorial Parkway and Skyline Boulevard.

Description of Block 4383:

Block 4383 is bound by four streets: SW 22^{nd} Terrace to the north; Skyline Boulevard to the east; Veteran's Memorial Parkway to the south; and SW 8^{th} Place to the west.

The block has 16 parcels; seven west of the alley and nine to the east. The collective area is 4.65 acres. All parcels are undeveloped and under common ownership.

All parcels in Block 4383 have a Commercial/Professional Future Land Use Classification (FLUC) and Residential Development (RD) Zoning. Since the RD Zoning is not consistent with the Commercial/Professional FLUC, a rezoning is required before the block can be developed.

¹ Lots 1-4 and 45-48 at the south end of Block 4383 were previously acquired by Lee County for right-of-way for constructing Veteran's Memorial Parkway.

Figure 1. Parcels in the Block 4383 along with the 20-Foot Wide Alley Outlined in Blue.



Purpose of the Vacation

The Letter of Intent does not provide a stated purpose for the requested vacations. However, vacating the alley along with the underlying and adjacent easements will provide the following two benefits: 1) add 16,237.80 sq. ft. to the owner's site; and, 2) creat a single, unififed site that will provide greater flexability for development of this block.

Zoning History of Block 4383

The FLU Classification of Block 4383 was changed from Single Family/Multi Family to Commercial/Professional by Ordinance 44-02.

The zoning was changed from Multi-Family Residential (R-3) to RD by Ordinance 61-90.

Analysis:

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

Request to Vacate Alley Right-of-Way and Underlying Easements

The applicant owns all lots in Block 4383 and is, therefore, eligible to request these vacations.

About 16,237.80 sq. ft. of alley ROW will be vacated. All sites in Block 4383 are undeveloped. Likewise, the alley is unimproved and in this state cannot be used by motorists. Since the block is under common ownership and is bound by four streets, the alley is not needed for access. This vacation will eliminate a platted alley that serves no current or foreseeable future purpose. The alley vacation will enlarge the owner's site by over 16,000 sq. ft. By eliminating the alley, the owner could develop a single project on a 5.03-acre site with full block depth at a major intersection of the City. City maintenance obligations will be reduced by eliminating the alley. The alley vacation by enlarging the applicant's site, will add a corresponding area of land to the City tax rolls.

About 16,237.80 sq. ft. of easements underlying the alley are also requested to be vacated. All four utility providers, Century Link, Comcast, LCEC, and Tico, lack facilities in these easements. The City also lacks infrastructure in the easements. Eliminating these easements will provide greater flexibility in building placement when the block is developed. Easements at the north and south end of the block will be deeded by the owner to the City for providing a continuous perimeter easement around the consolidated site.

Request to Vacate Six-Foot Wide Adjoining Platted Easements

The applicant requests to vacate the six-foot wide platted easements along the east side of Lots 5-24 and the west side of Lots 25-44.

Century Link, Comcast, LCEC, and Tico do not have utilities within these easements. As a result, these utility providers do not object to this vacation request. The City also lacks facilities within these easements. Since the entire block is under common ownership, a perimeter easement around the block will be adquate for future utility installation and maintenance.

Consistency with the Comprehensive Plan

The project is consistent with the following policy appearing in the Comprehensive Plan.

Future Land Use Element

Policy 5.5. The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project. Staff comment: The alley vacation will allow 16 commercial properties owned by Acorn Skyline, LLC to be assembled into a single 5.03-acre site at the intersection of two major streets. This policy is supportive of this request.

Recommendation:

Staff recommends approval of all requested vacations with the following conditions:

- 1. The vacation of the platted alley and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated January 23, 2019, and entitled "Vacation of a Portion of a 20 Foot Wide Alley, any and all Underlying Easements Lying in Block 4383, Cape Coral, Unit 63."
- 2. The vacation of the six-foot wide platted public utility and drainage easements along the east property line of Lots 5-24 and the west property line of Lots 25-44 shall be consistent with that shown in the sketches and accompanying legal descriptions prepared by Harris-Jorgensen, LLC, dated January 23, 2019, and entitled "Vacation of a Portion of a 6 Foot Wide Public Utility and Drainage Easement Lying in Block 4383, Cape Coral, Unit 63."
- 3. Within 60 days of the adoption of this vacation, the owner shall provide to the City with easement deed for providing a continuous perimeter easement around the consolidated site. The easement deed shall be consistent with that shown in the sketches and accompanying legal descriptions prepared by Harris-Jorgensen, LLC, dated October 22, 2018, entitled "6 Foot Wide Public Utility"

and Drainage Easement in a Portion of Block 4383, Cape Coral, Unit 63". This easement shall be approved by the City Property Broker prior to recording.

4. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with the easement deed described in Conditions #1 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deed.

Staff Contact Information

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

Planning Division PH: 239-242-3255

Email: mstruve@capecoral.net



Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE

Local#

Email

888-516-9220

239-335-0258

FNPLegals@gannett.com

Customer:

CITY OF CAPE CORAL_DEPT OF COM

Ad No.:

0003404915

Address:

Net Amt:

\$

1015 CULTURAL PARK BLVD

CAPE CORAL FL 33990

USA

Run Times: 1

No. of Affidavits:

Run Dates: 02/23/19

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: VP19-0001

REQUEST: The applicant, Acorn Skyline, LLC, seek a vacation of plat for a platted alley right-of-way and all underlying easements between Lots 5-24 and 25-44 in Block 4383, Unit 63, and a vacation of platted easements along the east side of Lots 5-24 and the west side of Lots 25-44, Block 4383, Unit 63, property located at 2227-2401 SW 8th Place and 2228-2402 Skyline Boulevard.

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

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, March 5, 2019 on the above-mentioned case. The public hearing will be held in the Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publi chearing (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 A.M. and 4:30 P.M.

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

time to time as necessary.

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

by order of Kimberly Bruns, CMC Interim City Clerk REF # VP19-0001 AD# 3404915 Feb. 23, 2018

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: ACORN SKYLINE LLC
APPLICATION NO: VP19-0001
STATE OF FLORIDA)
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 26 day of 2 , 2019 . What U- Caute Vincent A. Cautero, AICP
STATE OF FLORIDA COUNTY OF LEE
The foregoing instrument was acknowledged before me this 26 day of 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.
FRANK MORENO MY COMMISSION # GG070536 EXPIRES February 07, 2021 Exp. Date 2/7/24 Commission # G6070536 Signature of Notary Public Frank Moreno Print Name of Notary Public

Planning Division

Case No. VP19-0001

LEGEND

Subject Parcels

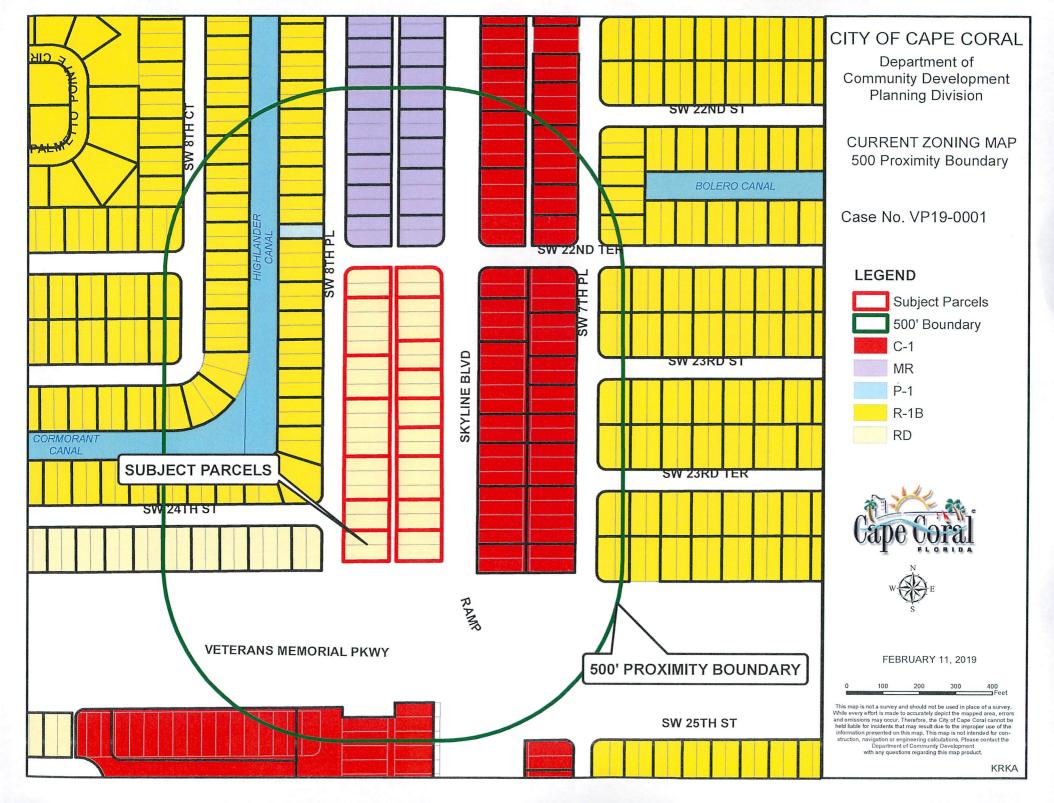


FEBRUARY 11, 2019

VETERANS MEMORIAL PKWK -

SUBJECT PARCELS

KRKA



OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL HEARING EXAMINER RECOMMENDATION

VP HEX Recommendation 4-2019

DCD CASE # VP 19-0001

Rendered March 5, 2019

APPLICATION FOR: Vacation of Platted Alley Right of Way and Underlying Easements; Additional Platted Easements

OWNER/APPLICANT: Acorn Skyline Self Storage, LLC

APPLICANT'S REPRESENTATIVE: Avalon Engineering, Inc.

LOCATION OF PROPERTY: See below (collective area of 4.65 acres)

ZONING DISTRICT: Residential Development (RD)

FUTURE LAND USE CLASSIFICATION: Commercial/Professional

URBAN SERVICE: Transition

HEARING DATE: March 5, 2019

SUMMARY OF REQUEST: The Applicant requests to vacate:

- 1. ±16,237.80 square feet of platted alley right-of-way (ROW) and underlying easements between Lots 5-24 and Lots 25-44, Block 4383; and
- 2. ±9,742.68 square feet of platted easements along the east side of Lots 5-24 and the west side of Lots 25-44, Block 4383.

1. SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends that City Council **approve** the application for the requested vacations, **subject to the conditions set forth below.**

II. NOTICE OF HEARING

Based on the testimony of City Staff Michael Struve at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, §8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

III. PARTICIPANTS IN HEARING

CITY STAFF: Michael Struve, AICP 1

CITY CLERK'S OFFICE: Patricia Sorrels

APPLICANT'S REPRESENTATIVE: Linda Miller 2

MEMBERS OF PUBLIC: none

TELEPHONE CALL FROM PUBLIC: Staff testified that he received one telephone call for information from a member of the public

IV. **EXHIBITS**

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

V. REVIEW OF LUDR REQUIREMENTS

<u>Authority.</u> The Hearing Examiner has the authority to recommend approval or denial of an application for a vacation of a plat and associated easements pursuant to LUDR §9.2.3 b.8.

Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. The Hearing Examiner must consider all competent substantial evidence in the record as defined by LUDR § 8.3.1.C.3.b.

<u>LUDR Standards.</u> The Hearing Examiner reviewed the application in accordance with the standards set forth in LUDR § 8.11, *Vacation of plats, rights-of-way and other property*, in addition to the general standards set forth in the LUDRs and the City Comprehensive Plan.

¹ Mr. Struve was recognized as an expert in land planning issues associated with this Application, based upon his prior appearances before the Hearing Examiner and his credentials which are on file with the City Clerk's Office.

² Ms. Miller was recognized as an expert in land planning issues associated with this Application, based upon her prior appearances before the Hearing Examiner and her C.V. which is on file with the City Clerk's Office.

VI. <u>TESTIMONY AT HEARING</u>

Incorporation of Staff Report and Staff Testimony by Applicant's Representative

The Applicant's Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into her presentation by reference. She requested the Hearing

Examiner to recommend that City Council find the Staff Input as findings of fact, in addition to those separately presented by her.

Incorporation of Staff Report by Staff

Staff incorporated the Staff Report into his presentation by reference.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony below is accepted by the Hearing Examiner as recommended findings of fact, unless specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision regarding this Application.

VII. **DISCUSSION**

Site, Zoning History and Surgunding Area

ROW Description:

Staff and the Applicant's Representative testified that the subject alley is 20 feet wide, unimproved, and runs north to south, parallel to Skyline Boulevard. This alley is between Lots 5-24 and Lots 25-44³ in Block 4383 in central Cape Coral, near the northwest corner of Veteran's Memorial Parkway and Skyline Boulevard.

Description of Block 4383:

Staff and the Applicant's Representative testified that Block 4383 is bound by four streets: SW 22nd Terrace to the north; Skyline Boulevard to the east; Veteran's Memorial Parkway to the stuth; and SW 8th Place to the west. The block has 16 parcels; seven west of the alley and nine to the east. The collective area is 4.65 acres. All parcels are undeveloped and under common ownership.

Staff further testified that all parcels in Block 4383 have a Commercial/Professional Future Land Use Designation and Residential Development (RD) Zoning.

³ Staff testified that Lots 1-4 and 45-48 at the south end of Block 4383 were previously acquired by Lee County for right-of-way for constructing Veteran's Memorial Parkway.

The Applicant's Representative testified that to the South and East of the subject site, the parcels are zoned Pedestrian Commercial (C-1) and have the same Future Land Use Designation as the subject property. Further, she testified that to the West of the subject property are parcels zoned R-1B (Single Family Residential) with a Commercial Professional (CP) Future Land Use Designation.

Staff testified that, since the RD Zoning is not consistent with the Commercial/ Professional FLUC, a rezoning will be required before the block can be developed.

Zoning History: Staff testified that the FLU Designation of Block 4383 was changed from Single Family/Multi Family to Commercial/Professional by Ordinance 44-02 in 2002 and that the zoning was changed from Multi-Family Residential (R-3) to RD by Ordinance 61-90 in 1990.

Review of Request

Request to Vacate Alley Right-of-Way and Underlying Easements

The Applicant's Representative testified that the Applicant owns all lots in Block 4383 and is, therefore, eligible to request these vacations. Applicant proposes to vacate approximately 16,237.80 square feet of alley ROW. All sites in Block 4383 are undeveloped and the the alley is unimproved and therefore cannot be utilized by motorists. Since the block is under common ownership and is bound by four streets, the alley is not needed for access. Staff testified that the proposed vacation would eliminate a platted alley serving no current or foreseeable future purpose.

The Applicant's Representative testified that the alley vacation would enlarge the owner's site by over 16,000 square feet. By eliminating the alley, the owner could develop a single project on a 5.03-acre site with full block depth at a major intersection of the City. Staff testified that City maintenance obligations would be reduced by eliminating the alley; further, the alley vacation, by enlarging the applicant's site, would add a corresponding area of land to the City tax rolls.

The Applicant is also requesting to vacate approximxately 16,237.80 square feet of easements underlying the alley. The Applicant's Representative testified that all four utility providers, Century Link, Comcast, LCEC, and Tico, lack facilities in these easements. The City also lacks infrastructure in the easements. Staff testified that eliminating these easements would provide greater flexibility in building placement when the block is developed. The Applicant has offered to deed easements at the north and south end of the block to the City to provide a continuous perimeter easement around the consolidated site.

Request to Vacate Six-Foot Wide Adjoining Platted Easements

The applicant requests to vacate the six-foot wide platted easements along the east side of Lots 5-24 and the west side of Lots 25-44.

Staff testified that Century Link, Comcast, LCEC, and Tico do not have utilities witthin these easements. As a result, these utility providers do not object to this vacation request. The City also lacks facilities within these easements. Since the entire block is under common ownership, a perimeter easement around the block will be adequate for future utility installation and maintenance.

Recommendation that City Council Find That Applicant Has Complied with All Requirements for the Requested Vacations, as Set Forth in LUDR §8.11

1. Applicant has color of title (LUDR §8.11.3b.1)

As set forth above, Applicant owns all properties subject to this Vacation request.

2. A copy of the plat **has** been provided, showing the portions for which vacation is sought (LUDR §8.11.3b.2)

It is attached as an Exhibit hereto.

3. and 4. Letter of Approval from LCEC and Letters of No Objection from Century Link and Comcast (LUDR §8.11.3b.3 and LUDR §8.11.3b.4-6) have been obtained.

Century Link, LCEC, TICO and Comcast do not have utilities within these easements and do not object to these vacations.

5. A copy of a recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor, has been provided, showing the area requested to be vacated; providing complete metes and bounds legal descriptions of said areas, and showing all pavement and all utility and drainage facilities in said area, including water, sewer and cable lines, utility poles, swales, ditches, manholes and catch basins. Separate drawings and metes and bounds legal descriptions will be required for each proposed vacation area when the right-of-way and easement configurations differ. (LUDR §8.11.3b.7.B)

All necessary documents are attached as Exhibit "A".

6. No Reasonably Foreseeable Public Use of the Vacated Area. (LUDR, §8.11.3 d)

Staff testified that the City has no facilities in the properties subject to this request and, for the reasons outlined above, the City has no reasonably foreseeable public use for these properties.

It is recommended that, for the above reasons, the City Council finds there is no reasonably foreseeable public use for the requested vacations.

7. City's Retention of Easements for Utilities and/or Drainage in and Upon the Vacated Area. (LUDR, §8.11.3 d)

It is recommended that the City Council retain perimeter easements for future utility installation and maintenance. The Owner, through Applicant's Representative, has agreed to this perimeter easement.

Consistency with the Comprehensive Plan (LUDR §8.11)

This request has been reviewed for consistency with the Comprehensive Plan, and specifically for consistency with Policy 5.5 of the Future Land Use Element which states:

"The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project."

Staff testified that the proposed alley vacation would allow 16 commercial properties owned by Applicant to be assembled into a single 5.03-acre site at the intersection of two major streets.

The Hearing Examiner agrees with Staff's testimony that this policy is supportive of this request.

Accordingly, it is recommended that the City Council find that the vacation requests are consistent with the City's Comprehensive Plan

Consistency with City Requirements and All Applicable Law

It is recommended that City Council find that granting the requested vacation, as conditioned below, **would be consistent** with the City Comprehensive Plan, Land Use Development Regulations, and all other applicable law.

VIII. EXHIBITS

The following Exhibits are attached hereto and hereby incorporated by reference:

- Exhibit "A": sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated January 23, 2019, and entitled "Vacation of a Portion of a 20 Foot Wide Alley, any and all Underlying Easements Lying in Block 4383, Cape Coral, Unit 63."
- Exhibit "B": sketches and accompanying legal descriptions prepared by Harris-Jorgensen, LLC, dated January 23, 2019, and entitled "Vacation of a Portion of a 6 Foot Wide Public Utility and Drainage Easement Lying in Block 4383, Cape Coral, Unit 63."
- Exhibit "C": sketches and accompanying legal descriptions prepared by Harris-Jorgensen, LLC, dated October 22, 2018, entitled "6 Foot Wide

Public Utility and Drainage Easement in a Portion of Block 4383, Cape Coral, Unit 63".

IX. RECOMMENDED CONDITIONS OF APPROVAL

City staff testified regarding recommendations for conditions of approval, set forth below. Applicant's Representative testified that Applicant has no objection to these conditions.

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

- 1. <u>Vacation of Platted Alley and Underlying Easements Consistent with Sketch and Legal Description.</u> The vacation of the platted alley and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated January 23, 2019, and entitled "Vacation of a Portion of a 20 Foot Wide Alley, any and all Underlying Easements Lying in Block 4383, Cape Coral, Unit 63."
- 2. <u>Vacation of Six-Foot Wide Platted Public Utility and Drainage Easements Consistent with Sketches and Legal Descriptions.</u> The vacation of the six-foot wide platted public utility and drainage easements along the east property line of Lots 5-24 and the west property line of Lots 25-44 shall be consistent with that shown in the sketches and accompanying legal descriptions prepared by Harris-Jorgensen, LLC, dated January 23, 2019, and entitled "Vacation of a Portion of a 6 Foot Wide Public Utility and Drainage Easement Lying in Block 4383, Cape Coral, Unit 63."
- 3. <u>Provision of Deeds for Six Foot Wide Easement to City.</u> Within 60 days of the City's Council's adoption (if any) of this vacation, the owner shall provide to the City with easement deeds (one for the north and one for the south) for a continuous perimeter easement around the consolidated site. The easement deeds shall be consistent with that shown in the sketches and accompanying legal descriptions prepared by Harris-Jorgensen, LLC, dated October 22, 2018, entitled "6 Foot Wide Public Utility and Drainage Easement in a Portion of Block 4383, Cape Coral, Unit 63". If City Council approves the vacation, this easement shall be approved by the City Property Broker prior to recording.
- 4. <u>Recording of Resolution</u>. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with the easement deed as described in Condition #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deeds.

VP HEX RECOMMENDATION 4-2019 March 5, 2019

5. <u>Compliance with Zoning District Standards and Requirements and Inclusion of LUDRs, City Ordinances and Other Applicable Law.</u> Applicant shall comply with all standards and requirements for the zoning district in which the property is located and all other requirements set forth in the LUDRs, City ordinances and all other applicable laws and regulations, which are incorporated herein by reference.

The Hearing Examiner hereby **RECOMMENDS APPROVAL** of the request for the above-referenced Vacations filed by Applicant, **WITH THE CONDITIONS** set forth above.

This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

ATTEST:

DA DA

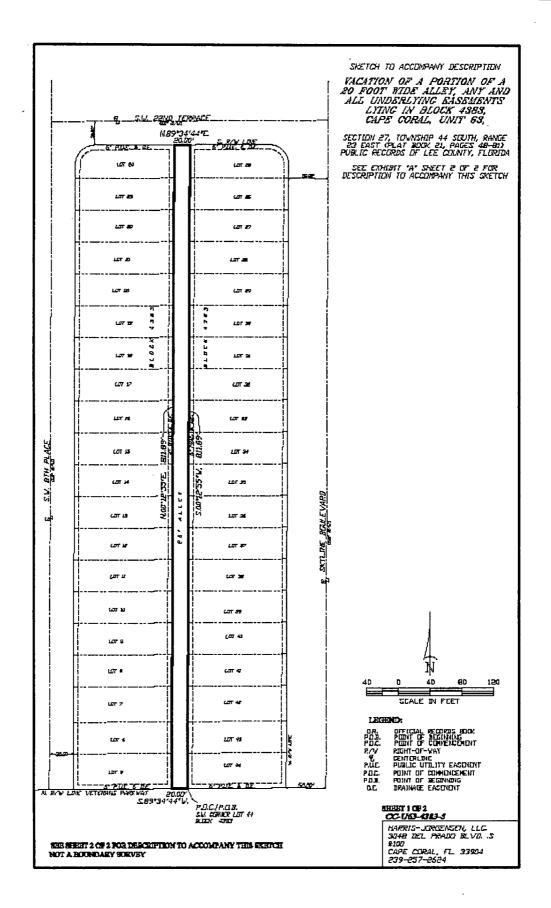


EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 20 FOOT WIDE ALLEY, ANY AND ALL UNDERLYING EASEMENTS LYING IN BLOCK 4383, CAPE CORAL. UNIT 63.

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 4**8-01**), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
COMMENCING AT THE SOUTHWEST CORNER OF LOT 44, BLOCK
4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21,
PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR
A POINT OF BEGINNING; THENCE RUN S.89*34'44'W FOR 20.00
FEET; THENCE RUN N.00*12'55'E. TO A POINT ALONG THE SOUTH
RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE)
811.89 FEET; THENCE RUN N.89*45'39'E. ALONG SAID SOUTH
RIGHT OF WAY FOR 20.00 FEET; THENCE RUN S.00*12'55'W. TO
THE AFORESAID SOUTHWEST CORNER LOT 44, BLOCK 4383, FOR
811.89 FEET TO THE POINT OF BEGINNING.

CONTAINING: 16,297.8 SQ. FT±

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA

1/23/2019

SHEET 1 OF 2
HEE BHEET 1 FOR SICEICH TO ACCUMPANY THIS DESCRIPTION

CO-2/03-4383-5

HARRIS-JORGENSEN, LLC. 3045 DEL PRADO BLVD. S 34 CAPE CORAL FL. 33904 239-257-2624

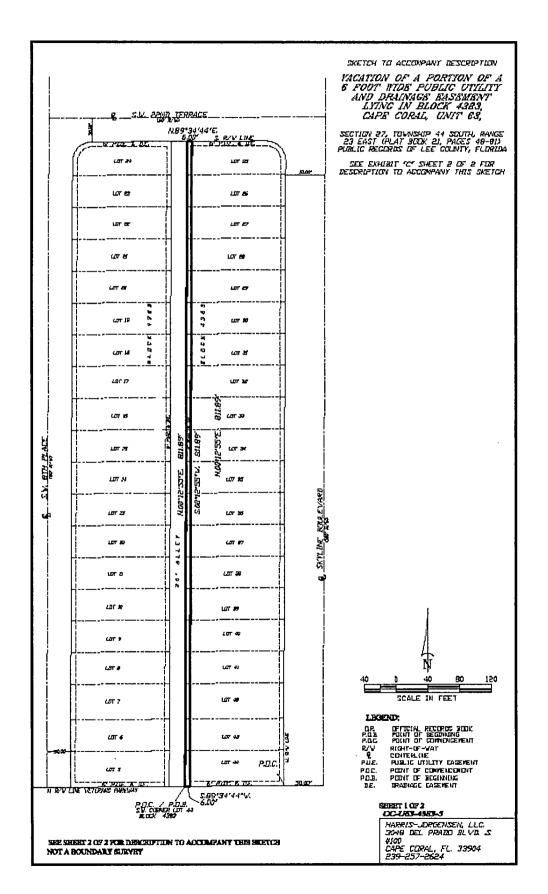


EXHIBIT "C"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
CDMMENCING AT THE SOUTHEAST CORNER OF LOT 44, BLOCK
4983, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21,
PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR
A POINT OF BEGINNING; THENCE RUN N.00°12'55'E. TO A POINT
ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE
(60 FEET WIDE) 811.89 FEET; THENCE RUN N.89°45'39°E. ALONG
SAID SOUTH RIGHT OF WAY FOR 6.00 FEET; THENCE RUN
S.00°12'55'W. TO A POINT ALONG THE SOUTH LINE SAID LOT 44
BLOCK 4383 FOR 811.89 FEET; THENCE RUN S.89°34'44°W TO
THE AFORESAID SOUTHWEST CORNER OF LOT 44, BLOCK 4383
FOR 6.00 TO THE POINT OF BEGINNING.

CONTAINING: 4,871.34 SQ. FT±

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

#6515 - STATE OF FLORIDA

1/23/2019

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HER RECEIT 1 POR RESILVE TO ACCOMPANY THIS DRECRIPTION

CC-U63-4389-5

HARRIS-JURGENSEN, LLC. 3046 DEL PRADO BLVD. 5 3A EAPE CORAL, FL. 33904 239-257-2624

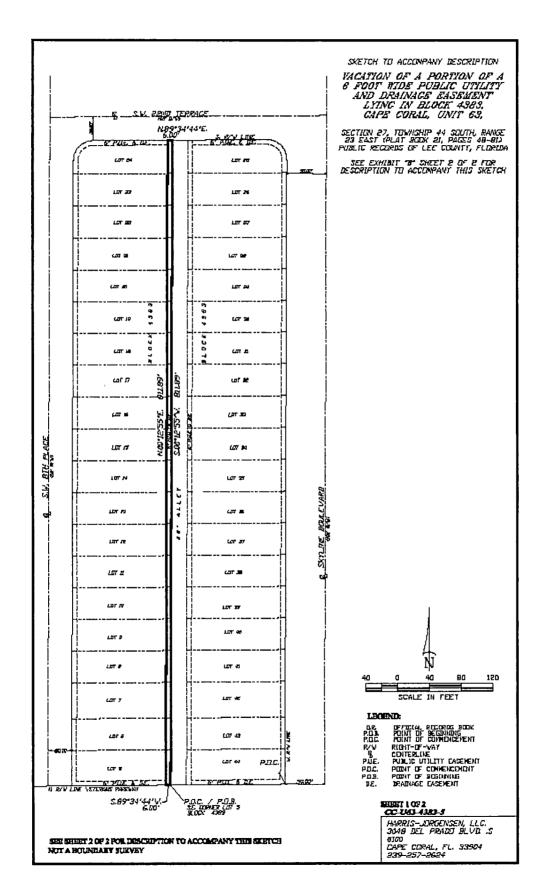


EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN BLOCK 4383, CAPE CORAL. UNIT 63.

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST, (PLAT BOOK 21, PAGES 48-81), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS

DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
COMMENCING AT THE SOUTHEAST CORNER OF LOT 5, BLOCK
4383, CAPE CORAL UNIT 63, AS RECORDED IN PLAT BOOK 21,
PAGES 48-BI, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR
A POINT OF BEGINNING; THENCE RUN S.89°34'44'W FOR 6.00
FEET; THENCE RUN N.00°12'55'E. TO A POINT ALONG THE SOUTH
RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET WIDE)
811.89 FEET; THENCE RUN N.89°45'39'E. ALONG SAID SOUTH
RIGHT OF WAY FOR 6.00 FEET; THENCE RUN S.00°12'55'W. TO
THE AFORESAID SOUTHEAST CORNER LOT 5, BLOCK 4383 FOR
811.89 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,871.34 SQ. FT±

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER

#6515 - STATE OF FLORIDA

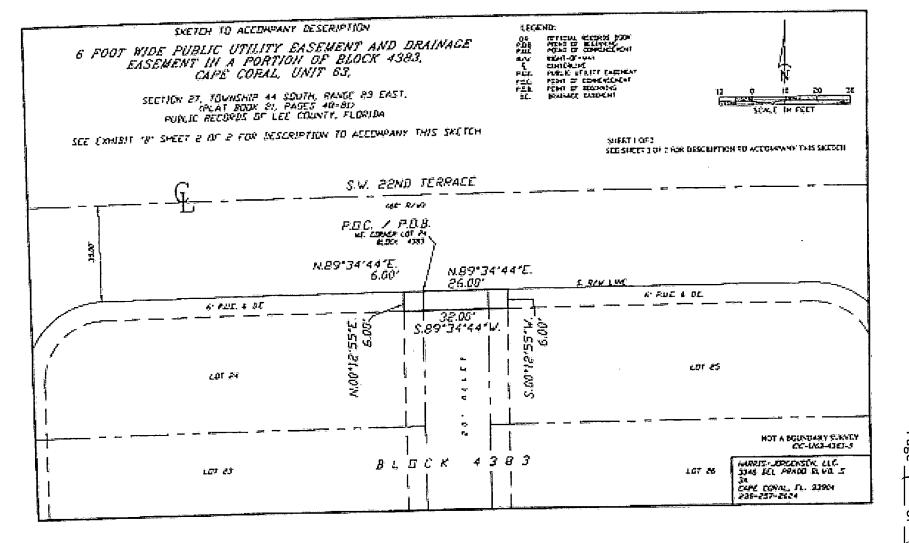
1/23/2019

SERRE JOF 2

REFERENCE I FOR SKETCH TO ACCIMPANY THIS INSCRIPTION

CC-2263-4383-5

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. .S 34 CAPE CORAL FL. 33904 239-257-2624



VP19-0001
Exhibit ______ of ____

EXHIBIT "C"

DESCRIPTION TO ACCOMPANY SKETCH

6 FOOT WIDE PUBLIC UTILITY EASEMENT AND DRAINACE EASEMENT LYING IN A PORTION OF BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET I DY 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A EDUNDARY SLRVEY

DESCRIPTION: COMMENCING AT THE SOUTHWEST CORNER OF LOT 44, BLOCK 4383, CAPE CORAL UNIT 63. AS RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND ALBNG THE NORTH RIGHT OF WAY LINE OF VETERANS PARKWAY CRIGHT OF WAY WIDTH VARIES) FOR A POINT OF BEGINNING; THENCE RUN S.89'34'44"W. FOR 26.00 FEET; THENCE RUN M.00"12"55"E. FOR 6.00 FEET; THENCE RUN N.89"34"44"E. FOR 32.00 FEET; THENCE RUN 5.00°12'55'W. TO A POINT ALONG THE AFORESAID NORTH RIGHT OF WAY LINE OF VETERANS PARKWAY CRIGHT OF WAY WIDTH (VARIES) FOR 6.00 FEET, THENCE RUN S.89°34'44'W. FOR 6.00 FEET TO THE POINT OF BEGINNING A POINT OF BEGINNING! THENCE RUN N.89°34'44"E. ALONG THE SOUTH RIGHT OF WAY LINE OF S.W 22ND TERRACE (60 FEET/ WIDE) FOR 26.00 FEET; THENCE RUN 5.00 12 55 W. FOR 6.00 FEET; THENCE RUN S.89-34'44'W. ALONG A LINE 6 FEET SOUTH OF THE AFORESAID SOUTH RIGHT OF WAY LINE AS MEASURED ON A PERPENDICULAR FOR 32.00 FEET; THENCE RUN N.00'12'55'E. ID A POINT ALONG THE SAID SOUTH RIGHT OF WAY LINE OF 22ND TERRACE (60 FEET WIDE) FOR 6.00 FEET; THENCE RUN M89'34'44'E. ALDNG SAID SOUTH RIGHT OF WAY LINE FOR 6.00 FEET TO THE POINT OF BEGINNING. CONTAINING 192.01 SO FIT

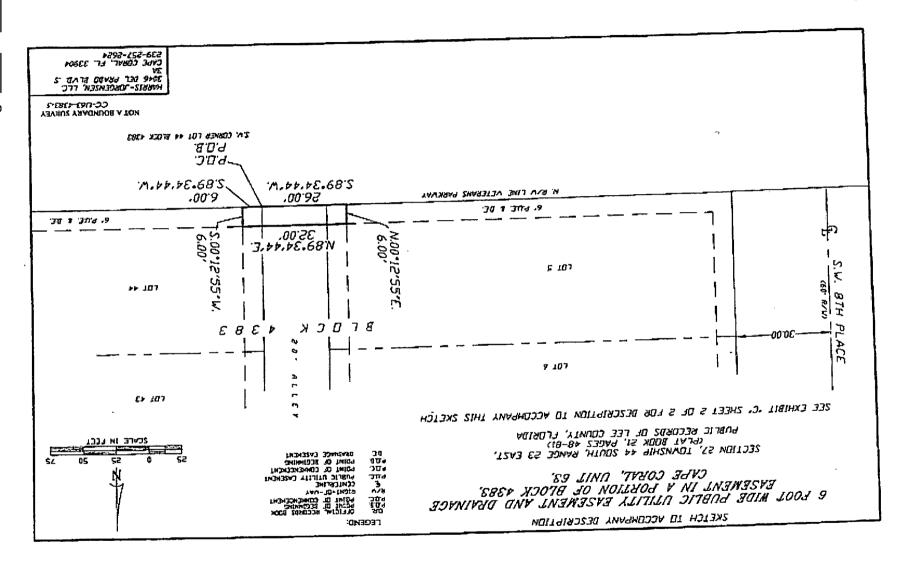
PHILLIP H. HOULD FROFESSIONAL SURVEYOR AND HAPPER #6515 - STATE OF FLORIDA

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CC-U67-3071-24

MARRIS - XORGENSIN, LLC. 3046 DEL PRAGO DE VO. S 38 CAPE CORAL, FL. 33984 339-237-2524 VP19-0001 Exhibit C



VP19-0001 Exhibit <u>C</u> Page <u>Y</u> of <u>U</u>

EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH

6 FOOT WIDE PUBLIC UTILITY EASEMENT AND DRAINAGE EASEMENT LYING IN A PORTION OF BLOCK 4383, CAPE CORAL, UNIT 63,

SECTION 27, TOWNSHIP 44 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 48-81) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET I OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
COMMENCING AT THE NORTHEAST CORNER OF LOT 24, BLOCK
4383, AND ALONG THE SOUTH RIGHT OF WAY LINE OF S.W.
22ND TERRACE, (60 FEET WIDE) CAPE CORAL UNIT 63, AS
RECORDED IN PLAT BOOK 21, PAGES 48-81, PUBLIC RECORDS
OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE
RUN N.89°34'44"E. ALONG THE SOUTH RIGHT OF WAY LINE OF
S.W 22ND TERRACE (60 FEET WIDE) FOR 26.00 FEET; THENCE
RUN S.00°12'55"W. FOR 6.00 FEET; THENCE RUN S.89°34'44"W.
ALONG A LINE 6 FEET SOUTH OF THE AFORESAID SOUTH RIGHT
ALONG A LINE AS MEASURED ON A PERPENDICULAR FOR 32.00
FEET; THENCE RUN N.00°12'55"E. TO A POINT ALONG THE SAID
SOUTH RIGHT OF WAY LINE OF 22ND TERRACE (60 FEET WIDE)
FOR 6.00 FEET; THENCE RUN N.89°34'44"E. ALONG SAID SOUTH
RIGHT OF WAY LINE FOR 6.00 FEET TO THE POINT OF
BEGINNING.
CONTAINING: 192.01 SO. FT#

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
10/22/18

SHEET 2 OF 2 SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION CC-U62-3071-24

HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD.S 3A CAPE CORAL, FL. 33904 239-257-2624

Planning Division
City of Cape Coral

RESOLUTION 75-19 VP 19-0001

Cape Coral City Council Meeting Final Public Hearing

May 6, 2019

VP19-0001

Applicant: Acorn Skyline, LLC

Requests: Vacate 16,237.80 sq. ft. of alley ROW and all

underlying easements in Block 4383.

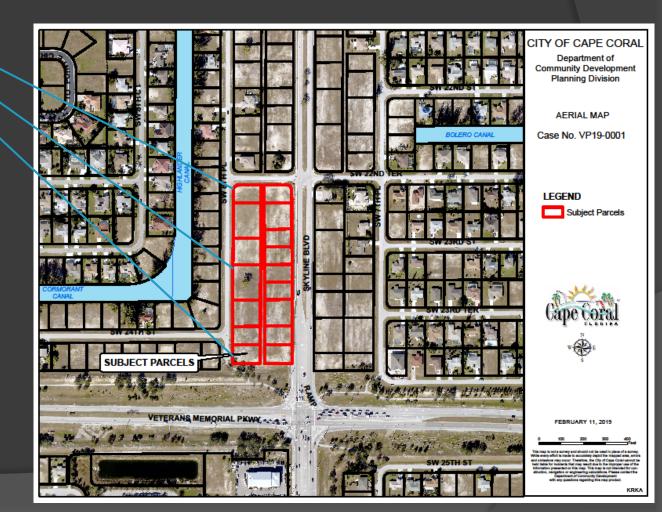
Vacate 9,742.68 sq. ft. of platted easements in

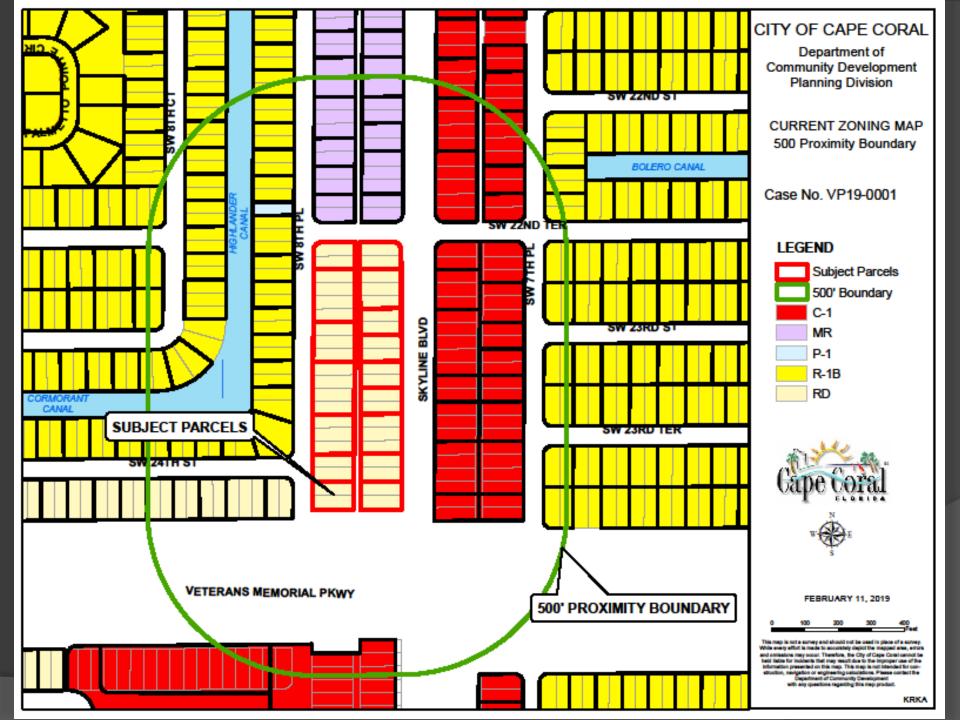
Block 4383.

Location: NW corner of Veteran's Memorial Parkway and Skyline Boulevard



VP19-0001



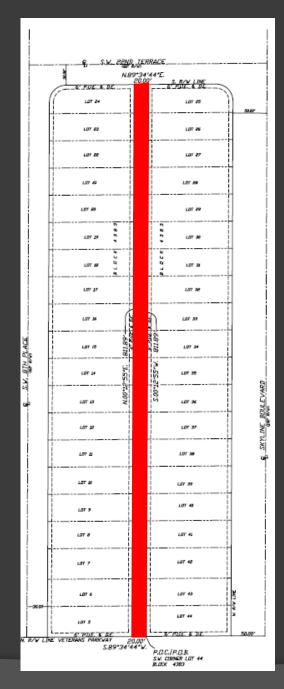


Background

• Alley is 20 feet wide and unimproved.

The subject block is undeveloped.

O Applicant owns the entire block (4.65 acres).



Analysis (LUDR, Section 8.11) Request to Vacate the Alley ROW

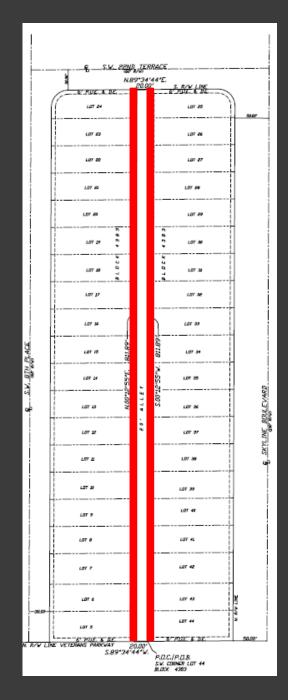
- Area is 16,237.80 sq. ft.
- Alley is unimproved.
- All sites under common ownership. Alley not needed for access.
- No foreseeable public purpose.
- Vacation will allow for an assembly at a major intersection.

Analysis (LUDR, Section 8.11) Request to Vacate Underlying Easements

Utility providers lack facilities in the alley.

The City lacks infrastructure in the alley.

 Applicant will deed easements to the City for providing a continuous easement around the block.



Analysis (LUDR, Section 8.11) Request to Vacate Easements Adjoining the Alley

Involves platted easements on the east side of Lots 5-24 and west side of Lots 25-44.

Easement area is 9,742.68 sq. ft.

Utility providers lack facilities in easements.

City lacks infrastructure in the easements.

Since the block is under common ownership, a perimeter easement will be sufficient.

Recommendations

<u>Planning Division</u> Staff recommends approval.

Hearing Examiner

A public hearing was held on March 5, 2019. The Hearing Examiner recommends approval with staff conditions. No speakers at public input.

Correspondence

One phone call – informational.



Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE

Local#

Email

888-516-9220

239-335-0258

FNPLegals@gannett.com

Customer:

CITY OF CAPE CORAL_DEPT OF COM

Ad No.:

0003511964

Address:

1015 CULTURAL PARK BLVD

CAPE CORAL FL 33990

Net Amt:

\$708.86

USA

No. of Affidavits:

Run Times: 2

Run Dates: 04/19/19, 04/26/19

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: VP19-0001

RESOLUTION 75 - 19: A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR AN ALLEY AND THE UNDERLYING PUBLIC UTILITY AND DRAINAGE EASEMENTS LOCATED BETWEEN LOTS 5-24 AND LOTS 25-44, BLOCK 4383, CAPE CORAL UNIT 63; PROVIDING FOR THE VACATION OF PLAT FOR THE PLATTED PUBLIC UTILITY AND DRAINAGE EASEMENTS ALONG THE FAST PROPERTY LINE OF LOTS 5-24 AND THE WEST PROPERTY LINE OF LOTS 5-24, BLOCK 4383, CAPE CORAL UNIT 63; PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF VETERANS MEMORAL PARKWAY AND SKYLINE BOULEVARD; PROVIDING AN EFFECTIVE DATE.

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

UPCOMING PUBLIC HEARING: Notice is hereby given that the City Council will hold a public hearing at 4:30 P.M. on Monday, May 6th, 2019 on the abovementioned case. The public hearing will be held in the Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before City Council will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 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/publ ichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 A.M. and 4:30 P.M.

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

time to time as necessary.

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

by order of Kimberly Bruns, CMC Interim City Clerk REF # VP19-0001 LEGAL AD - DCD AD# 3511964 Apr. 19, 26, 2019

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Acorn Skyline LLC
APPLICATION NO: VP19-0001
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 day of, 2019
Anta- Center
Vincent A. Cautero, AICP
STATE OF FLORIDA COUNTY OF LEE
The foregoing instrument was acknowledged before me this and who did not take an oath.
Exp. Date 12 60 Commission # 66030474

ELISABETH A DELGADO MY COMMISSION # GG030474 EXPIRES December 06, 2020

Elisabeth A. Delgado
Print Name of Notary Public





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VP19-0001

RESOLUTION 75 – 19: A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR AN ALLEY AND THE UNDERLYING PUBLIC UTILITY AND DRAINAGE EASEMENTS LOCATED BETWEEN LOTS 5-24 AND LOTS 25-44, BLOCK 4383, CAPE CORAL UNIT 63; PROVIDING FOR THE VACATION OF PLAT FOR THE PLATTED PUBLIC UTILITY AND DRAINAGE EASEMENTS ALONG THE EAST PROPERTY LINE OF LOTS 5-24 AND THE WEST PROPERTY LINE OF LOTS 25-44, BLOCK 4383, CAPE CORAL UNIT 63; PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF VETERANS MEMORAL PARKWAY AND SKYLINE BOULEVARD; PROVIDING AN EFFECTIVE DATE.

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

<u>UPCOMING PUBLIC HEARING:</u> Notice is hereby given that the City Council will hold a public hearing at 4:30 P.M. on Monday, May 6th, 2019 on the above-mentioned case. The public hearing will be held in the Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before City Council will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 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.

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

<u>HOW TO CONTACT</u>: 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.

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

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

Item

A.(2)

Number: Meeting

5/6/2019

Date:

Item

ORDINANCES/RESOLUTIONS -

Type:

Public Hearings

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 18-19 Second and Final Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Planning & Zoning Commission Recommendation: At their April 3, 2019 Regular meeting, the Planning & Zoning Commission voted unanimously to recommend approval of Ordinance 18-19.

No

Staff Recommendation: Staff recommends adoption.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.1, Establishment of Zoning Districts, and Section 2.7, District Regulations, to establish the Seven Islands (MX7) zoning district.

LEGAL REVIEW:

EXHIBITS:

Ordinance 18-19

Updated Staff Presentation for Public Hearing

PREPARED BY:

Division-Department-

SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator

ATTACHMENTS:

Description Type

□ Ordinance 18-19 Ordinance

Updated staff presentation for Public Hearing Backup Material

ORDINANCE 18 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2.1, ESTABLISHMENT OF ZONING DISTRICTS, AND SECTION 2.7, DISTRICT REGULATIONS, TO ESTABLISH THE SEVEN ISLANDS (MX7) ZONING DISTRICT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1. The City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.1, Establishment of Zoning Districts, is hereby amended as follows:

§ 2.1 Establishment of zoning districts.

The City of Cape Coral, Florida is divided into the following zoning districts as shown on the Zoning District Map, Cape Coral, Florida:

. . .

.7 Mixed-use districts.

Village District (Vill). This district is established to provide for compact urban centers and multi-use developments that would utilize consistent design themes as well as to allow for the consideration of the size of the land to be developed in determining the options for land development.

Corridor District (Corr). This district is established to promote such uses as retail, office, office/warehouse, light manufacturing, institutional, golf courses, larger scale commercial retail, and government uses such as parks and public facilities while also allowing for the consideration of the size of the land to be developed in determining the options for land development.

Marketplace-Residential District (MR). This district is established to provide a variety of pedestrian-oriented neighborhood retail, specialty retail, office, services, and residential uses within the Commercial Activity Center future land use classification. The intent of the district is to encourage multi-use development at key locations, proximate to major corridors throughout the City of Cape Coral. Additionally, the intent is to encourage land assembly and provide a range of uses compatible with surrounding development, and to serve as a receiving zone for transfers of development rights (TDRs).

Seven Islands District (MX7). This district is established to implement master plan recommendations for the Seven Islands Area consistent with the Seven Islands Sub District. A further objective is to foster a sense of place and create a destination environment in northwestern Cape Coral. To achieve these objectives, the MX7 district allows a more flexible approach to comprehensive design and coordinated development of a multi-use neighborhood than is possible under other zoning classifications.

• •

SECTION 2. The City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, is hereby amended as follows:

§ 2.7 District regulations.

. . .

.22 - Seven Islands District (MX7).

A. Purpose and Intent. This district is intended to implement master plan recommendations for the Seven Islands Area consistent with the Seven Islands Sub District. A further objective is to

foster a sense of place and create a destination environment in northwestern Cape Coral. To achieve these objectives, the MX7 district allows a more flexible approach to comprehensive design and coordinated development of a multi-use neighborhood than is possible under other zoning classifications.

В. Permitted Uses.

- Automotive parking establishment;
- Banks and financial establishments Group I;
- <u>2.</u> <u>3.</u> Bar or cocktail lounge;
- <u>4.</u> Business office - Group I;
- <u>5.</u> Cultural facilities - art galleries, libraries, museums only;
- <u>6.</u> Dwelling unit, Multi-Family;
- <u>7.</u> Essential services;
- <u>8.</u> Essential service facilities - Group II - distribution electric substation only (see § 3.27);
- <u>9.</u> Florist shop;
- <u>10.</u> Food stores - Group I;
- 11. Government Uses - Groups I and II;
- <u>12.</u> Home Occupation;
- <u>13.</u> Hotel/motels;
- Marina; <u>14.</u>
- <u>15.</u> Medical offices;
- <u>16.</u> Mortgage brokers;
- Newsstand; <u>17.</u>
- <u>18.</u> Package store;
- <u>19.</u> Parks - Group I;
- Personal Services Groups I and II; <u>20.</u>
- <u>21.</u> Pharmacies;
- 22. Recreation, commercial - Group I;
- <u>23.</u> Restaurants - Groups I, II, and III (with no drive-throughs);
- Schools, commercial dance instruction, gymnastics, and sailing and marine-oriented <u>24.</u> lifestyle only;
- Specialty retail Groups I and II; and <u>25.</u>
- 26. Studio.
- Density. The maximum allowable density is 995 dwelling units. <u>C.</u>

D. Dimensional Standards.

ZONE DISTRICT DIMENSIONS									
ZONE DISTRICT	Lot and S	<u>Structure</u>	Minimum Setbacks (feet)						<u>Maximum</u> <u>Height</u> (feet)
	Minimum Lot Area (Square ft.)	Maximum FAR	Front	Front, Cul- de- Sac	Side	Rear	Double Frontage	Corner Lot Side	
MX7	None	1	<u>15</u>	None	<u>0 or</u> <u>6</u>	<u>15</u>	<u>15</u>	<u>10</u>	115 (or 8 stories)

<u>E.</u> Minimum Dwelling Unit Size.

The minimum dwelling unit sizes are:

- Efficiency 500 square feet; <u>1.</u>
- One-bedroom 650 square feet; <u>2.</u>
- 150 square feet for each additional bedroom over one.

SECTION 3. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no

manner affect the remaining portions or Sections of and effect.	this ordinance which shall remain in full force
SECTION 4. Effective Date. This ordinance shall by the Cape Coral City Council.	become effective immediately after its adoption
ADOPTED BY THE COUNCIL OF THE CIT SESSION THIS DAY OF	
	JOE COVIELLO, MAYOR
VOTE OF MAYOR AND COUNCILMEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN
ATTESTED TO AND FILED IN MY OFFICE 2019.	THIS, DAY OF,
	KIMBERLY BRUNS INTERIM CITY CLERK
APPROVED AS TO FORM: BRIAN R. BARTOS ASSISTANT CITY ATTORNEY	

ord\Seven Islands Zoning District

Cape Coral City Council
April 15, 2019
ORDINANCE 18-19

Purpose

- This is proposed to be the new Section 2.7.22, Land Use and Development Regulations
- Ordinance includes minor change to Section 2.1, LUDR
- Purpose of ordinance is to establish the Mixed Use-Seven Islands zoning district
- When adopted, it will provide development guidance within the MX7 zoning district

Dimensional Regulations

	Minimum Lot Area (square ft.)		Front	Front, Cul-de- Sac	Side	Rear	Double Frontage		Maximum Height (feet)
MX7	None	1	15	None	0 or 6	15	15	10	115 (or 8 stories)

Analysis

- MX7 is to be placed solely on the Seven Islands site (50.72acres), which is City-owned
- Development parameters permitted in district include 995 dwelling units, 115' of height (8 stories), and a maximum FAR of 1.0.
- Twenty-six uses designed to complement a mixed-use development are proposed.

Analysis

- Zoning District is consistent with the Mixed-Use future land use
- In addition, a Sub-District was placed on the Mixed-Use future land use for the Seven Islands area, which limits development to 995 dwelling units and 110,000-square feet of nonresidential
- The MX7 rezone (Ordinance 19-19) is to be adopted parallel to this effort; when complete, site will be ready for development

Conclusion

- In conclusion, Planning Division staff recommends approval of Ordinance 18-19. We have received no correspondence.
- At the April 3, 2019 Planning and Zoning Commission meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the Ordinance. No members of the public provided testimony at the hearing.

Item

A.(3)

Number: Meeting

Date:

5/6/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Public Hearings

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 19-19 (ZA 19-0001*) Second and Final Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the application for rezoning.

Staff Recommendation: Staff recommends adoption

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property located in Unit 76, Cape Coral Subdivision, as more particularly described herein, from Single-Family Residential (R-1A), Single-Family Residential (R-1B), and Residential Development (RD) to Seven Islands (MX7) zone; property is located at 106 Old Burnt Store Road, 606 Old Burnt Store Road, and 4100 Tropicana Parkway West.

LEGAL REVIEW:

EXHIBITS:

Ordinance 19-19 (ZA 19-0001) Staff Presentation Case Report Additional back up received **HEX** recommendation Order Updated Staff Presentation for Public Hearing Additional back up received

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator

ATTACHMENTS:

	Description	Туре
D	Revised Ordinance 19-19 (ZA 19-0001) - Revised to perfect a scrivener's error on address	Backup Material
D	Case Report	Backup Material
D	Additional Backup received	Backup Material
D	Hearing Examiner Recommendation Order	Backup Material
D	Updated staff presentation for Public Hearing	Backup Material
D	Additional Back up received	Backup Material



ORDINANCE 19 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL OFFICIAL ZONING DISTRICT MAP OF ALL PROPERTY WITHIN THE LIMITS OF THE CITY OF CAPE CORAL BY REZONING PROPERTY LOCATED IN UNIT 76, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM SINGLE-FAMILY RESIDENTIAL (R-1A), SINGLE-FAMILY RESIDENTIAL (R-1B), AND RESIDENTIAL DEVELOPMENT (RD) TO SEVEN ISLANDS (MX7) ZONE; PROPERTY IS LOCATED AT 106 OLD BURNT STORE ROAD NORTH, 606 OLD BURNT STORE NORTH, 4100 TROPICANA PARKWAY WEST; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral City Council has considered testimony, evidence, documentation and the application submitted by CITY OF CAPE CORAL for rezoning the below-described property from SINGLE-FAMILY RESIDENTIAL (R-1A), SINGLE-FAMILY RESIDENTIAL (R-1B), AND RESIDENTIAL DEVELOPMENT (RD) TO SEVEN ISLANDS (MX7) ZONE, and considered the recommendations of the Hearing Examiner and City Staff, and has considered the City of Cape Coral Comprehensive Plan with this zoning request.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

Section 1. That the City of Cape Coral Official Zoning District Map of all of the property within the limits of the City of Cape Coral is hereby amended with respect to real property described as follows:

SINGLE-FAMILY RESIDENTIAL (R-1A) TO SEVEN ISLANDS (MX7) ZONE

TRACT I, BLOCK 6408, UNIT 76 CAPE CORAL SUBDIVISION, PLAT BOOK 35, PAGE 129 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

SINGLE-FAMILY RESIDENTIAL (R-1B) TO SEVEN ISLANDS (MX7) ZONE

Unit	Block	Lots	PB/PG
76	6400	12-17	PB 35 PG 124-129
76	6401	1-5	PB 35 PG 124-129
76	6402	1-7	PB 35 PG 124-129
76	6403	1-4	PB 35 PG 124-129
76	6404	1-3	PB 35 PG 124-129
76	6405	1-2	PB 35 PG 124-129
76	6408	1-4	PB 35 PG 124-129

RESIDENTIAL DEVELOPMENT (RD) TO SEVEN ISLANDS (MX7) ZONE

Unit	Block	Lots	PB/PG
76	6401	TR G	PB 35 PG 124-129
76	6402	TR F	PB 35 PG 124-129
76	6403	TRE	PB 35 PG 124-129
76	6404	TR D	PB 35 PG 124-129
76	6405	TR C	PB 35 PG 124-129
76	6406	TR B	PB 35 PG 124-129
76	6407	TR A	PB 35 PG 124-129

and the City administrative office shall amend the City of Cape Coral Official Zoning District Map to reflect this zoning change.

That the amendments to the City of Cape Coral Official Zoning District Map as prescribed herein are consistent with the City of Cape Coral Comprehensive Plan.

Section 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall become effective immediately upon passage by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITSESSION THIS DAY OF	
	JOE COVIELLO, MAYOR
VOTE OF MAYOR AND COUNCILMEMBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN
ATTESTED TO AND FILED IN MY OFFICE 2019.	THIS DAY OF
	KIMBERLY BRUNS INTERIM CITY CLERK
APPROVED AS TO FORM:	

JOHN E NACLERIO

ord\ZA19-0001

ASSISTANT CITY ATTORNEY

STAFF REPORT			
ZA19-0001	City of Cape Coral		
DOCKET/CASE/APPLICATION NUMBER	APPLICANT/PROPERTY OWNER		
	101 Old Burnt Store Road North		
Wyatt Daltry, AICP, Planning Team	606 Old Burnt Store Road North		
Coordinator (239) 573-3160,	4100 Tropicana Parkway West		
wdaltry@capecoral.net			
STAFF PLANNER	PROPERTY ADDRESS/LOCATION		

SUMMARY OF REQUEST

City-initiated rezone for three properties (50.72 acres) from Single Family Residential (R-1A and R-1B) and Residential Development (RD) to the Mixed-Use Seven Islands (MX7) zoning district.



STAFF RECOMMENDATION:

APPROVAL

Positive Aspects of Application:	 N2 UEP is bringing utilities to area Rezoning will implement adopted City Vision Plan Development of site can be a positive transformative project for NW Cape Coral
Negative Aspects of Application:	 Nearby residents may have concerns will scale, noise, and traffic for project allowable in Sub-District
Mitigating Factors:	 Old Burnt Store RD is being widened, providing additional traffic capacity for area

Additional Site Information

Urban Service Area: Transition

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

Location: Northwest Cape Coral. Unit 76, Cape Coral Subdivision.

STRAP Number	Block	Lot	Site Address
134422C200801G000	6400	12	106 OLD BURNT STORE RD N
124422C200808I000	6408	TR I	4100 TROPICANA PKWY W
124422C200807A000	6405	TR C	606 OLD BURNT STORE RD N

Area: ±50.72 acres

Zoning and Land Use Information:

Subject	Future Land Use	Zoning
Property:		
Current:	Mixed Use within the Seven Islands Sub-District	R-1A, R-1B, and RD
Proposed:	N/A	Mixed Use Seven Islands (MX7)
	Current Zoning	Surrounding Zoning
North:	Single Family/Multi-Family by PDP	R-1B, and RD
South:	Single Family Residential (SF)	R-1B, and RD
East:	SF	R-1B, and RD
West:	Natural Resources/Preservation (PRES)	Preservation – regulated by Preserve FLU (PRES)

Background

In 2013, the City of Cape Coral purchased 491 properties; most of which are north of Pine Island Road (SR 78) and have sizes from 0.25 acres to 50-acre tracts. Part of the Seven Islands were included in that transaction.

Cape Coral has long needed additional commercial and mixed-use opportunities, particularly along the waterfront. The 2013 purchase provided the City with a unique opportunity to facilitate mixed use development on the waterfront. To accomplish this, the City contracted with CPH Engineers who, with sub-consultants, developed a Seven Islands and Northwest Cape Coral Vision Plan with assistance and input from city staff and the public.

In late 2016, the City Council evaluated several development options for the Seven Islands property. Council directed City staff to move forward with implementing a vision plan, which had the following development metrics:

- 1. 995 dwelling units with up to 3 multi-family residential structures up to 8 stories in height (including parking);
- 2. 110,000 square footage of commercial space, including restaurants and hotel (240 rooms);
- 3. A marina; and
- 4. Park uses.

Subsequently, staff reviewed the Comprehensive Plan and determined that the MX future land use map classification was the land use that would best accomplish Council direction to implement the newly-adopted vision plan. Ordinances 39-18 and 40-18 were adopted last year which accomplished this task. A new zoning district is contemplated for the site, to be adopted parallel to this rezone effort.

The proposed rezone will implement the Seven Islands Vision Plan. In addition to the future land use map amendment, another parallel effort is a text amendment that will establish the Seven Islands Sub-District in the Future Land Use Element of the Comprehensive Plan.

COMPREHENSIVE PLAN ANALYSIS

Staff analyzed the Comprehensive Plan to evaluate the proposed rezone. Most direction in the Comprehensive Plan for complex, multi-use development is based in the Future Land Use Element.

Future Land Use Element

<u>Policy 1.20:</u> The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways.

Unlike many pre-platted, residential areas of Cape Coral, a mixed-use development such as the Seven Islands area has an opportunity to become an identifiable commercial district.

<u>Policy 3.1:</u> The City of Cape Coral will encourage the development of future commercial (retail, office and/or services) areas at or near transportation nodes by assigning appropriate future land use designations.

The rezone site is located at two intersections of collectors and arterial roadways (Tropicana PKWY/Old Burnt Store RD and Embers PKWY/Old Burnt Store RD).

<u>OBJECTIVE 4:</u> Location of Future Development: Future private development requiring public water and wastewater will be directed into the Urban Services Infill Area and the Urban Services Transition Area illustrated on the Future Land Use Map, unless specifically accepted by the provisions of this plan.

The site is in the Urban Services Transition Area. Utilities will be extended to this area as part of the North 2 Utility Expansion Project, which began in 2017.

<u>Policy 10.1:</u> Requests for development orders and building permits will be coordinated with governmental agencies including, but not necessarily limited to, Lee County, Charlotte County, the Regional Planning Council, the South Florida Water Management District, and other State and Federal agencies.

The City will implement this policy as part of the development review.

Conservation and Coastal Management Element

<u>Policy 1.1.8:</u> The City will (as a cooperative effort with appropriate governmental agencies) continue to investigate the effectiveness and function of the spreader waterway systems in reducing the adverse environmental impacts of surface water discharge from Cape Coral into Matlacha Pass State Aquatic Preserve, and will periodically evaluate whether improvements are needed in the spreader system to reduce measurable negative impacts on the Matlacha Pass Ecosystem.

The City continues to abide by this policy.

<u>Policy 1.3.9:</u> Marina and boat ramp siting preference shall be given to areas where water depths can accommodate vessels with a four foot, or greater, draft, and to those facilities which are to be available for public use, and where economic need and feasibility can be demonstrated.

Depths of four (4) feet or greater are present at this location.

<u>Policy 1.3.10:</u> The City will consider consistency with the countywide marina siting plan, adopted on June 29, 2004, in the permitting of marinas The City will also consider consistency with the general criteria of the Florida Fish and Wildlife Conservation Commission, Boat Facility Siting Guide, adopted August 2000:

- Expansion of existing facilities may be preferred over new facilities, if environmentally sound;
- There should be no impact to seagrass;
- Mitigation for seagrass destruction should not be allowed;
- Areas with adequate depth and good flushing which require no new dredging are preferable;
- Locations near inlets and popular boating destinations are preferable;
- Piling construction is preferred over dredge and fill techniques;

- Marinas should not be sited in essential manatee habitats; and
- Marinas should not be situated in areas with high manatee mortality occurrence.

Impact to seagrass is anticipated to be minimal due to lack of seagrass present in area. The Spreader Canal has adequate depth during most of the year, and currently indicates sufficient flushing. Seven Islands is north of former boat lift, near the canal entrance to Matlacha Pass; a popular boating destination. Seven Islands is north of Manatee Park at Sirennia Vista, which is not designated an essential manatee habitat, but a popular location for spotting manatees.

<u>Policy 1.7.16:</u> Recognizing the importance of the Matlacha Pass Preservation Area, including the Matlacha Pass State Aquatic Preserve and the Matlacha Pass National Wildlife Refuge, as representing a unique and vitally important estuarine mangrove community, the City of Cape Coral will continue to abide by all rules and regulations imposed by state authorities to ensure the protection of this area. To implement this policy the City will prohibit all development within the Preservation Area, except for providing public access for enjoyment of the natural area, and will review adjacent applications for development orders to minimize adverse impacts of development upon this unique area.

This policy is best addressed during the development of the site; however, care will be taken to ensure protection of the adjacent Aquatic Preserve. No development within the Preservation area is anticipated.

Objective 2.1: Public Access to the coast. The City will continue to maintain and/or increase public access sites to the coastal zone.

The proposed marina use and public park will provide and improve public access to the Northwest Spreader Canal.

<u>Policy 2.1.3:</u> All coastal public access development will be done in accordance with the objectives and policies of Goal 1 so as not to destroy or damage coastal natural resources.

Acknowledged.

<u>Policy 4.3.3:</u> The City shall not approve any future land use map amendment that would increase the maximum residential density within the coastal high-hazard area, unless one of the following criteria is met, in accordance with Section 163.3178(9), F.S.:

- 1. The proposed amendment would not exceed a 16-hour out-of-county hurricane evacuation time for a category 5 storm event, as measured on the Saffir-Simpson scale; or
- 2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or
- 3. Appropriate mitigation is provided that will satisfy the provisions of either of the previous two paragraphs. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. For future land use map amendments initiated by a developer, the City and the developer shall enter into a binding agreement to memorialize the mitigation plan prior to adoption of the amendment.

The City will work with Lee County to meet the third criteria of this policy, to provide additional shelter space necessary to mitigate the proposed increase of dwelling units in the Coastal High Hazard Area.

Transportation Element

<u>Policy 2.2.7:</u> The City shall discourage new strip style commercial development through efforts to promote the concentration of commercial development at the nodes of major intersections.

As discussed in Policy 3.1, Future Land Use Element, the site is located at two intersections of collector and arterial roadways (Tropicana PKWY/Old Burnt Store RD and Embers PKWY/Old Burnt Store RD). Furthermore, the Seven Islands site is not representative of "strip-style" commercial development, given the mixed-use nature and waterfront focus in the vision 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 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 RD to MX7 **would not** diminish the land value, in fact the opposite would occur because this commercial and mixed-use property is appraised as having higher value than residential property.

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. High-value commercial and mixed-use development often provides a sense of place which results in higher values for surrounding properties, irrespective of land use and zoning.

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 and Seven Islands Sub-District. The site is fairly large, which ameliorates the impacts of intense development. 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 residential character. However, the size of the property as well as its length (>6,000 feet) ameliorates any impact on the residential character. The proposed rezone is **compatible** with 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 effectuate a highly anticipated mixed-use development. Currently, the property is owned by the City, lying vacant. This portion of Cape Coral is commercially underserved, and has no developed mixed-use areas; development of this site in accordance with the Vision Plan would provide a destination for all residents, but more particularly those in NW Cape Coral. As a result, this proposed rezone **is positive** to the community.

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

NW Cape Coral is underserved by commercial uses due to the relative lack of large parcels in the community and a lack of utilities. With the advent of North 2 UEP construction, both of these impediments are removed, thereby providing an opportunity to fulfill a community need.

As the proposed rezone accurately reflects the NW Cape Coral and Seven Islands Vision Plan, the proposed rezone has a **positive** effect on the needs of the community.

7. <u>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.</u>

The property has always been vacant.

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 but neutral effect** upon the health, general welfare, safety, or morals of the community.

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

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 MX7 zoning designation is **consistent** with the upcoming Seven Islands Sub-District future land use classification.

Public Notification

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

<u>Publication:</u> 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.

<u>Written notice</u>: 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.

<u>Posting of a Sign:</u> Two large signs 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.

Staff Contact Information:

Wyatt Daltry, AICP Planning Team Coordinator Department of Community Development Planning Division (239) 573-3160

email: wdaltry@capecoral.net

CITY OF CAPE CORAL DEPARTMENT OF COMMUNITY DEVELOPMENT **MEMORANDUM**

TO:

A. John Szerlag, City Manager

FROM:

Wyatt Daltry, Planning Team Coordinator

DATE:

March 22, 2019

SUBJECT: City-initiated Rezoning Request, ZA 19-0001

Executive Summary

The City initiated this rezone to provide consistency between the Future Land Use Map classification and zoning designations of 50.72 acres in Cape Coral. This rezone is necessary to facilitate implementation of the Seven Islands site.

Background

This amendment is part of a multi-part effort to prepare the Seven Islands site for development. The component parts of this effort include:

- 1) Future Land Use Map Amendments, to establish a Mixed-Use future land use map classification with accompanying Sub-District, which was completed in 2017:
- 2) Adoption of regulations within the Land Use and Development Regulations, which is proposed in Ordinance 18-19, a parallel request to this rezone; and
- 3) This rezone request.

This rezone request will be the final Council action necessary to prepare the site for development.

Thank you for your consideration of this rezone, and feel free to contact me at (239) 573-3160 if you have any questions.

WAD/wad(ZA19-0001memoofintent) Attachment



DEPARTMENT OF COMMUNITY DEVELOPMENT REQUEST FOR REZONING APPLICATION

	Questions:	239-574-0553
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Case #

REQUEST TO PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY AND COUNCIL 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	
City of Cape Coral	Address: 1015 Cultural Park Boulevard
	City Cape Coral State: FL Zip 33915-0027
Email:	Phone: (239) 574-0776
AUTHORIZED REPRESENTATIVE	
Wyatt Daltry, Planning Team Coordinator	Address:
	City State: Zip
Email:	Phone:
Unit 76 Block 6400-6408 Lot(s)	Subdivision Cape Coral
Address of Property 106 Old Burnt Store RD N, 60	06 Old Burnt Store RD N, 4100 Tropicana PKWY W
Current Zoning R-1A, R-1B, RD	Plat Book 35 , Page 124-129
Proposed Zoning MX7 Strap Nun	nber multiple
	s to conform to all applicable laws of the City of Cape Coral and and certifies that all information supplied is correct to the best of APPLICANT'S SIGNATURE

(SIGNATURE MUST BE NOTARIZED)



RE

DEPARTMENT OF COMMONTY	DEVELOPINIENT	Case #
REQUEST FOR REZONING APPL	LICATION	
Questions: 239-574-0553		
STATE OF , COUNTY	rof hel	
Sworn to (or affirmed) and subscri	bed before me this Hay of who is personally known or produce	<u>March</u> , 20 <u>20</u> , by
as identification.		
RACHEL MURPHY	Exp. Date: 7/6/20 Comm	nission Number: 64609419
MY COMMISSION # GG00941 EXPIRES July 06, 2020	Signature of Notary Public:	Sochel Mussel
A CONTRACT OF THE PROPERTY OF	Printed name of Notary Public:	David Muschill
	Printed name of Notary Public.	Daniel Hurring



DEPARTMENT OF COMMUNITY DEVELOPMENT REQUEST FOR REZONING APPLICATION

Questions: 239-574-0553

case #	

	AUTHORI	ZATION TO REPRESENT F	PROPERTY OWNER(s)	
PLEASE BE ADVIS	ED THAT	Wyatt Daltr	У	
		(Name of perso	on giving presentation)	
	NCY, BOARD OF ZO	E IN THE REQUEST TO TH ONING ADJUSTMENTS AN		
(Type of Public	Hearing – i.e., PDF	P, Zoning, Special Except	ion, Variance, etc.)	
UNIT	BLOCK	LOT(S)	SUBDIVISION	
OR LEGAL DESCR	IPTION	See attached le	gal description	
LOCATED IN TH	E CITY OF CAPE CO	RAL, COUNTY OF LEE, FL	orida.	Sterlage
PROPERTY OW	/NER (Please Pint)		PROPERTY OWN	ER/(Please Print)
PROPERTY C	WNER (Signature 8	& Title)	PROPERTY OWN	ER (Signature & Title)
STATE OF _	COUNTY OF	hee		V
Subscribed and s	worn to (or affirme	ed) before me this	27 day of	March, 2019, by
John Ster as identification.	(ag wh	o is personally knownlor	produced	
RACHEL		Date: 7/6/200	Commission Number:	66009419
MY COMMISSION EXPIRES J		ture of Notary Public:	Aach	el Murphy
	Printe	ed name of Notary Public	: Lauhi	2 murpha

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: 239-574-0553

Casat

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 Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals, and Council.

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

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

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

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

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

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

I hereby acknowledge that I have read and understood the above affidavit on the day of	20
NAME (PLEASE TYPE OR PRINT) STATE OF PL., COUNTY OF APPLICANT'S SIGNATURE Let APPLICANT'S SIGNATURE	
Subscribed and sworn to (or affirmed) before me this 27 day March, 2019, by who is personally known or	
as identification. RACHEL MURPHY Exp. Date: 7/6/30 Commission Number: 66069419	
MY COMMISSION # GG009419 EXPIRES July 06, 2020 Signature of Notary Public:	
Printed name of Notary Public: Aahel Murphy	

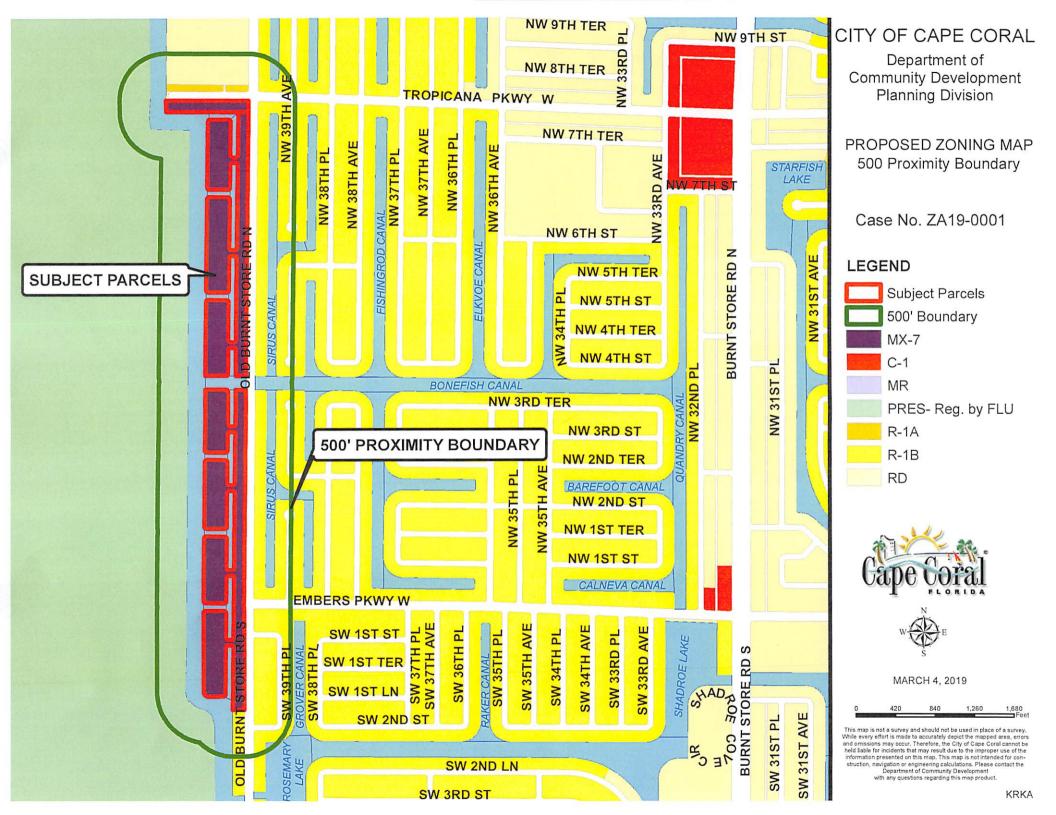
		R-1B to M	IX7
Unit	Block	Lots	PB/PG
76	6400	12-17	PB 35 PG 124-129
76	6401	1-5	PB 35 PG 124-129
76	6402	1-7	PB 35 PG 124-129
76	6403	1-4	PB 35 PG 124-129
76	6404	1-3	PB 35 PG 124-129
76	6405	1-2	PB 35 PG 124-129
76	6408	1-4	PB 35 PG 124-129

And

		RD to MX	X7
Unit	Block	Lots	PB/PG
76	6401	TR G	PB 35 PG 124-129
76	6402	TR F	PB 35 PG 124-129
76	6403	TR E	PB 35 PG 124-129
76	6404	TR D	PB 35 PG 124-129
76	6405	TR C	PB 35 PG 124-129
76	6406	TR B	PB 35 PG 124-129
76	6407	TR A	PB 35 PG 124-129

And

Tract I, Block 6408, Unit 76 Cape Coral Subdivision, Plat Book 35, Page 129 in the Public Records of Lee County, Florida.



OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL

HEARING EXAMINER RECOMMENDATION ZA HEX Recommendation 3-2019

Rendered April 2, 2019

DCD Case # ZA 19-0001

APPLICATION FOR: Rezoning of three City-owned properties (50.72 acres), initiated by the City of Cape Coral

NAME OF APPLICANT/OWNER: City of Cape Coral

APPLICANT'S REPRESENTATIVE: Wyatt Daltry, AICP, Planning Team Coordinator

PROPERTY LOCATIONS: 101 Old Burnt Store Road North, Cape Coral; and

606 Old Burnt Store Road North, Cape Coral; and 4100 Tropicana Parkway West, Cape Coral

CURRENT ZONING: Single Family Residential (R-1A and R-1B) and

Residential Development (RD)

PROPOSED ZONING: Mixed-Use Seven Islands (MX7) Zoning District

PROPOSED FUTURE LAND USE DESIGNATION: Mixed Use within the Seven Islands

Sub-District

HEARING DATE: April 2, 2019

I. SUMMARY OF REQUEST

The Applicant requests a recommendation of approval for a City-initiated rezone for three properties totaling 50.72 acres from Single Family Residential (R-1A and R-1B) and Residential Development (RD) to the Mixed-Use Seven Islands (MX7) zoning district.

ii. SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends approval of the application for rezoning.

III. NOTICE OF HEARING

Based on the testimony of City Staff Wyatt Daltry at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, Section 8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

IV. PARTICIPANTS IN HEARING

CITY STAFF/APPLICANT'S REPRESENTATIVE: Wyatt Daltry, AICP1

CITY CLERK'S OFFICE: Patricia Sorrels

MEMBERS OF PUBLIC TESTIFYING AT HEARING: Raymond Fisher and Rusty Crews

CORRESPONDENCE FROM PUBLIC: Mr. Daltry testified that he did not receive any phone calls of inquiry or correspondence regarding this Hearing.

APPLICANT'S/CITY STAFF'S EXHIBITS: previously submitted

V. REVIEW OF STATUTORY AND LUDR REQUIREMENTS

<u>Authority.</u> Section 163.3194, F.S. and LUDR §9.3.b.9 require the Hearing Examiner to review and make a recommendation to City Council about consistency of a rezoning application to the City's adopted Comprehensive Plan and whether the requested rezoning should be granted.

<u>Standard of Review of Evidence; Hearsay Evidence.</u> The Hearing Examiner's decision is based on whether the Application meets all applicable requirements of the Comprehensive Plan, City Code of Ordinances, and the LUDRs, upon review of the entirety of the record.

In rendering this Recommendation, the Hearing Examiner must consider all of competent substantial evidence in the record, as defined by LUDR § 8.3.1.C.3.b. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient by itself to support a finding unless it would be admissible over objection in court.

<u>Rezoning Standards.</u> In reviewing the rezoning application for consistency with the Comprehensive Plan of the City of Cape Coral, the Hearing Examiner must apply the general standards set forth in LUDR § 8.7.3.

VI. TESTIMONY AT HEARING

Applicant's Incorporation of Staff Report and Staff Testimony

The Applicant's Representative incorporated his Case Report, the Cape Vision Plan, prior relevant Ordinances, and the currently pending Ordinances ("Staff Input") into his presentation and requested the Hearing Examiner to recommend that the City Council find Staff Input as findings of fact.

¹ Based upon his prior testimony at zoning hearings and the prior recitation of his qualifications, certifications and education contained in his C.V. which is on file with the City Clerk's Office, the Hearing Examiner qualified Mr. Daltry as an expert witness for land planning issues relevant to this Hearing.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony referenced below is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision hereunder.

VII. **DISCUSSION**

Summary of Application

Staff testified that in 2013, the City of Cape Coral purchased 491 parcels, most of which being north of Pine Island Road (SR 78). These parcels range from 0.25 acres to 50-acre tracts in size. Part of the Seven Islands were included in that transaction.

Staff further testified Cape Coral has long needed additional commercial and mixed-use opportunities, particularly along the waterfront² and that this 2013 purchase provided the City with a unique opportunity to facilitate mixed use development on the waterfront.

To accomplish this, staff testified that the City contracted with CPH Engineers who, with sub-consultants, developed a Seven Islands and Northwest Cape Coral Vision Plan with assistance and input from city staff and the public. Thereafter, after evaluating various development options for the Seven Islands property, Council directed City staff to move forward with implementing a vision plan, with the following development metrics:995 dwelling units with up to 3 multifamily residential structures up to 8 stories in height (including parking); 110,000 square footage of commercial space, including restaurants and hotel (240 rooms); a marina; and Park uses.

Subsequently, staff reviewed the Comprehensive Plan and determined that the MX future land use map classification was the land use that would best accomplish Council direction to implement the newly-adopted vision plan. Ordinances 39-18 and 40-18 were adopted last year which accomplished this task. In addition, a new zoning district is being proposed for the site, to be adopted parallel to this rezone effort. ³

Staff testified, and the Hearing Examiner agrees, that the proposed rezone will implement the Seven Islands Vision Plan.

In addition to the future land use map amendment, staff testified that another parallel effort is a text amendment that, if adopted, would establish the Seven Islands Sub-District in the Future Land Use Element of the Comprehensive Plan.

² The Hearing Examiner notes for the record that this need for additional commercial and mixed-use opportunities has been the subject of extensive testimony in other HEX hearings on a variety of applications.

³ See caveat below regarding recommendation of approval.

Public Input

Raymond Fisher testified during public testimony, stating that he was concerned that his privately-owned parcel of land appeared to be included in this rezoning request.

On behalf of the City, Mr. Daltry testified that staff would review his STRAP number and address and determine if this parcel had been inadvertently included in the description of property proposed for this rezoning. If so, he stated, the parcel would be removed prior to City Council's consideration of this matter, as there was no intent on the part of the City to rezone privately held property. Mr. Daltry stated he would communicate with Mr. Fisher as soon as possible on this matter.

Rusty Crews testified that he has a concern about how the City intends to handle the Eagles' nest which is on the property being considered for rezoning. He testified that private parties are required to pay a significant sum of money for management issues related to eagles.

On behalf of the City, Mr. Daltry testified that the City is not exempt from the Eagle regulations and will be following all requirements in this regard.

VIII. CONSIDERATION OF GENERAL STANDARDS SET FORTH IN LUDR SECTION 8.7.3

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

Staff testified it is anticipated that the proposed rezone would increase, not decrease, the land value, since commercial and mixed-use property is generally deemed to have higher value than residential property, according to land appraisers.

Based on staff's testimony, the Hearing Examiner recommends that City Council find that the value of the properties **will not be diminished** by the rezoning.

2. <u>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.</u>

Staff testified that high-value commercial and mixed-use development often provide a sense of place, resulting in higher values for surrounding properties, irrespective of land use and zoning.

For the reason set forth above, the Hearing Examiner recommends a finding by the City Council that the proposed rezoning is **not anticipated** to depreciate the value of other properties in the area.

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

Staff testified that proposed zoning district, if approved, would be consistent with the land use classification of the Mixed Use Future Land Use Map Classification and Seven Islands Sub-District. Staff opined that the anticipated impact of intense development would be ameliorated by the large acreage of the site.

Based on such testimony, the Hearing Examiner recommends that City Council find that the properties are not suitable for the current zoning but are well suited for the proposed rezoning.

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

Staff testified that, but for the lands to the west of the subject site, the surrounding neighborhood is residential in character. However, staff testified that the size of the property as well as its length (>6,000 feet) would tend to ameliorate an impact on the residential character.

For the reasons set forth above, the Hearing Examiner recommends that City Council find the proposed rezoning is **compatible** with the character of the neighborhoods, existing uses, and zoning of nearby and surrounding properties.

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

Staff testified that the net effect of this rezoning is to effectuate a highly anticipated mixed-use development within the City of Cape Coral. Currently, the property is owned by the City, lying vacant. Staff testified that this area of Cape Coral is commercially underserved, as it has no developed mixed-use areas and limited commercial areas. Staff testified that the development of this site in accordance with the Vision Plan (as directed by Council) would provide a destination for all residents, but more particularly those in NW Cape Coral.

After considering all of the testimony herein, the Hearing Examiner recommends that City Council find the proposed rezoning would **create more gains than hardships** to the community.

6. <u>Community need for the use proposed by the zoning or land use restriction.</u>

Staff testified that the northwest area of Cape Coral is underserved by commercial uses due to the relative lack of large parcels in the community as well as a prior lack of utilities. However, through the North 2 UEP construction, staff anticipates that both impediments will be removed, thereby providing an opportunity to fulfill a community need.

Staff further opined that, as the proposed rezone accurately reflects the NW Cape Coral and Seven Islands Vision Plan, it would have a positive effect on the needs of the community.

Based on the foregoing testimony, the Hearing Examiner recommends that City Council find the **community needs** the uses proposed by the Applicant.

7. <u>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.</u>

Staff testified that the property has always been vacant.

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

Staff testified that the proposed rezoning would be neither positive nor negative to the health, safety, morals or general welfare of the community.

Based upon the foregoing, the Hearing Examiner recommends that City Council find that this rezoning **will promote** the general welfare of the community.

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

Staff testified that the impact on infrastructure for development on this site are anticipated to be negligible, since as facility capacity exists for the transportation and utility infrastructure network.

The Hearing Examiner recommends that City Council find the proposed rezoning will have **no negative impact** on level of service standards for public facilities hereunder.

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

Future Land Use Element

<u>Policy 1.20:</u> The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways.

Staff testified that this policy is supported by the creation and mapping of the proposed Mixed-Use Seven Islands (MX7) Zoning Districts, which is an identifiable mixed-use and commercial district.

<u>Policy 3.1:</u> The City of Cape Coral will encourage the development of future commercial (retail, office and/or services) areas at or near transportation nodes by assigning appropriate future land use designations.

Staff testified that the proposed rezoning site is located at two intersections of collectors and arterial roadways: Tropicana Parkway with Old Burnt Store Road and Embers Parkway with Old Burnt Store Road.

<u>Policy 10.1:</u> Requests for development orders and building permits will be coordinated with governmental agencies including, but not necessarily limited to, Lee County, Charlotte County, the Regional Planning Council, the South Florida Water Management District, and other State and Federal agencies.

Staff testified that the City is required to implement this policy as part of the development review process.

Conservation and Coastal Management Element

<u>Policy 1.1.8:</u> The City will (as a cooperative effort with appropriate governmental agencies) continue to investigate the effectiveness and function of the spreader waterway systems in reducing the adverse environmental impacts of surface water discharge from Cape Coral into Matlacha Pass State Aquatic Preserve, and will periodically evaluate whether improvements are needed in the spreader system to reduce measurable negative impacts on the Matlacha Pass Ecosystem.

Staff testified that the City continues to abide by this policy.

<u>Policy 1.3.9:</u> Marina and boat ramp siting preference shall be given to areas where water depths can accommodate vessels with a four foot, or

greater, draft, and to those facilities which are to be available for public use, and where economic need and feasibility can be demonstrated.

Staff testified that water depths of four (4) feet or greater are present at this location, thereby comply with the above siting preference.

<u>Policy 1.3.10:</u> The City will consider consistency with the countywide marina siting plan, adopted on June 29, 2004, in the permitting of marinas The City will also consider consistency with the general criteria of the Florida Fish and Wildlife Conservation Commission, Boat Facility Siting Guide, adopted August 2000:

- Expansion of existing facilities may be preferred over new facilities, if environmentally sound;
- There should be no impact to seagrass;
- Mitigation for seagrass destruction should not be allowed;
- Areas with adequate depth and good flushing which require no new dredging are preferable;
- Locations near inlets and popular boating destinations are preferable;
- Piling construction is preferred over dredge and fill techniques;
- Marinas should not be sited in essential manatee habitats; and
- Marinas should not be situated in areas with high manatee mortality occurrence.

Staff testified that there is a lack of seagrass in this area; hence any impact to seagrass would probably be minimal. He further testified that the Spreader Canal has adequate depth during most of the year, and currently indicates sufficient flushing. Staff further testified that this area, Seven Islands, is located to the north of the former boat lift, near the canal entrance to Matlacha Pass, which is a popular boating destination. He further testified that Seven Islands is located north of Manatee Park at Sirennia Vista, not designated an essential manatee habitat, but which is a popular location for spotting manatees.

<u>Policy 1.7.16:</u> Recognizing the importance of the Matlacha Pass Preservation Area, including the Matlacha Pass State Aquatic Preserve and the Matlacha Pass National Wildlife Refuge, as representing a unique and vitally important estuarine mangrove community, the City of Cape Coral will continue to abide by all rules and regulations imposed by state authorities to ensure the protection of this area. To implement this policy the City will prohibit all development within the Preservation Area, except for providing public access for enjoyment of the natural area, and will review adjacent applications for development orders to minimize adverse impacts of development upon this unique area.

Staff testified that no development within the Preservation area is anticipated.

Objective 2.1: Public Access to the coast. The City will continue to maintain and/or increase public access sites to the coastal zone.

Staff testified that the proposed marina use and public park would provide and improve public access to the Northwest Spreader Canal.

<u>Policy 2.1.3:</u> All coastal public access development will be done in accordance with the objectives and policies of Goal 1 so as not to destroy or damage coastal natural resources.

Staff testified that this Policy will be followed.

<u>Policy 4.3.3:</u> The City shall not approve any future land use map amendment that would increase the maximum residential density within the coastal high-hazard area, unless one of the following criteria is met, in accordance with Section 163.3178(9), F.S.:

- 1. The proposed amendment would not exceed a 16-hour out-ofcounty hurricane evacuation time for a category 5 storm event, as measured on the Saffir-Simpson scale; or
- 2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or
- 3. Appropriate mitigation is provided that will satisfy the provisions of either of the previous two paragraphs. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. For future land use map amendments initiated by a developer, the City and the developer shall enter into a binding agreement to memorialize the mitigation plan prior to adoption of the amendment.

Staff testified that the City will work with Lee County, especially Lee County EMS, so as to meet the third criteria of this policy, and to provide additional shelter space necessary to mitigate the proposed increase of dwelling units in the Coastal High Hazard Area.

Transportation Element

<u>Policy 2.2.7:</u> The City shall discourage new strip style commercial development through efforts to promote the concentration of commercial development at the nodes of major intersections.

As set forth above, staff testified that site is located at two intersections of collector and arterial roadways. Staff further testified that the Seven Islands site is not representative of "strip-style" commercial development, given the mixed-use nature and waterfront focus in the vision plan.

For all of the above reasons, the Hearing Examiner recommends that the City Council find the proposed rezoning to be **compatible** with the future land use classification that currently exists for the subject properties and the proposed rezoning to be **consistent** with the goals and objectives of the Comprehensive Plan.

IX. CONDITIONAL RECOMMENDATION OF APPROVAL

At the time of the HEX hearing on April 2, 2019, Ordinance 18-19 was under consideration by the City of Cape Coral. This ordinance would amend the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.1 and Section 2.7 to establish the Seven Islands (MX7) Zoning District as set forth with specificity under Sections 2.1.7 and 2.7.22.

In the event that such Ordinance is not approved by the City Council, it is recommended that the City Council **not** approve the rezoning requested by staff herein.

Based upon the testimony and documentary exhibits presented during the Hearing, and with the above caveat, the Hearing Examiner recommends that:

- 1. the City Council find the requested rezoning **is consistent** with the requirements of the Comprehensive Plan of the City of Cape Coral; and
- 2. the City Council **approve** the requested rezoning.

This Recommendation is effective on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

CITY OF EDK

DAIE

Cape Coral City Council
April 15, 2019
ORDINANCE 19-19
ZA18-0012

Background

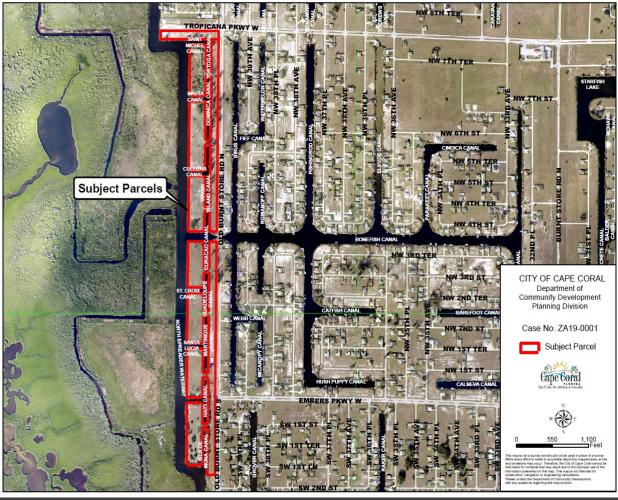
- A City-initiated rezone involving 50.72 acres
- Request is to rezone the subject property from Single-Family Residential District (R-1A and R-1B) and Residential Development (RD) to the Seven Islands District (MX7)

Site

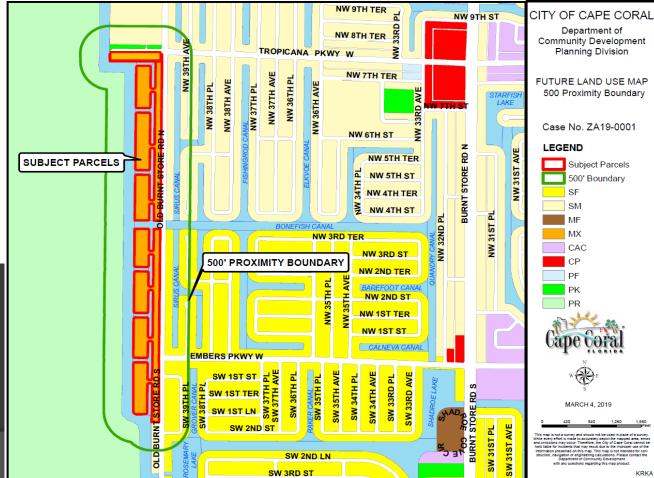


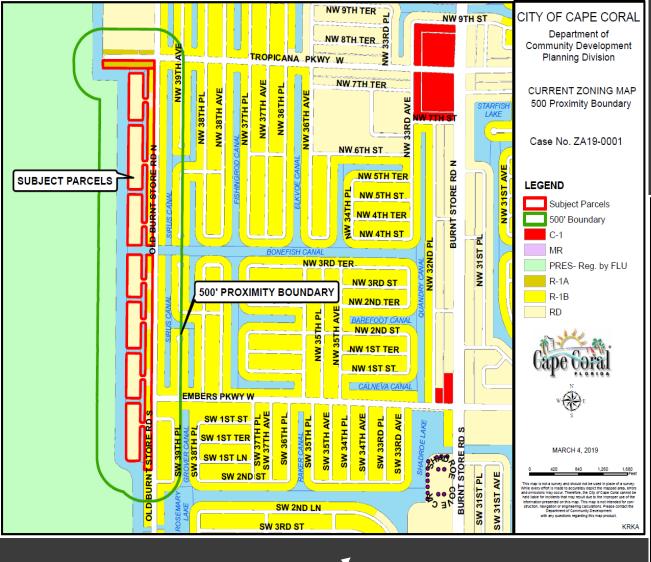
Properties located at:

106 Old Burnt Store RD North, 606 Old Burnt Store RD North, and 4100 Tropicana PKWY West



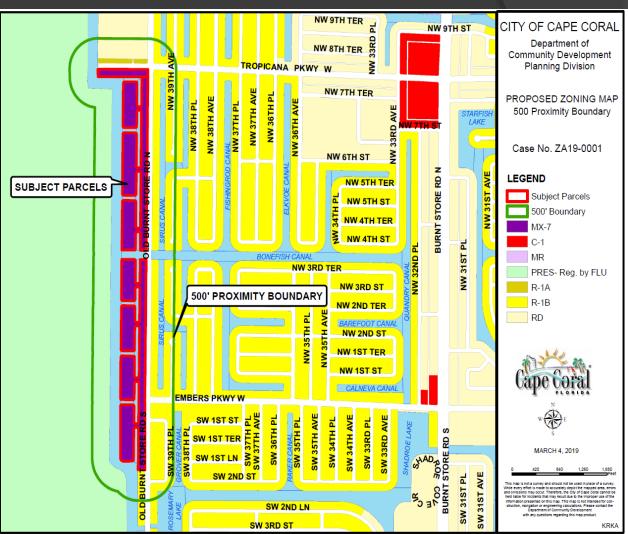
Aerial and Future Land Use





Current Zoning

Proposed Zoning



Analysis

- City owns subject site
- Property has Mixed Use within the Seven Islands
 Overlay future land use; proposed MX7 is consistent
 with future land use
- Site was subject to the Seven Islands Vision Plan, adopted by Council in late 2016

Analysis

- The Seven Islands zoning district is in process of adoption as Ordinance 18-19, to be adopted parallel with this rezone
- Development within district is limited to 995 dwelling units, 110,000 square footage of non-residential space, including restaurants and hotel (240 rooms), a marina and park uses

Comprehensive Plan/LUDR

- Staff analyzed the Comprehensive Plan to determine what policies support or undermine the proposed rezone
- The proposed zoning is consistent with multiple Future Land Use element and Conservation and Coastal Management Element policies as identified in the case report
- Staff reviewed Section 8.7.3.B.1-10 of the Land Use and Development Regulations and found the rezone to be consistent

Conclusion

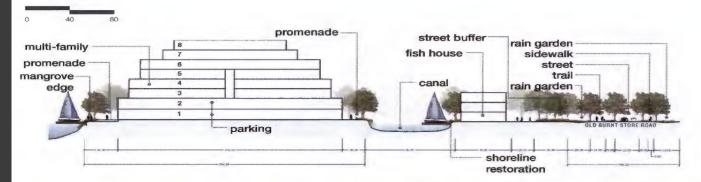
 In conclusion, staff recommends Approval of the proposed rezone request.

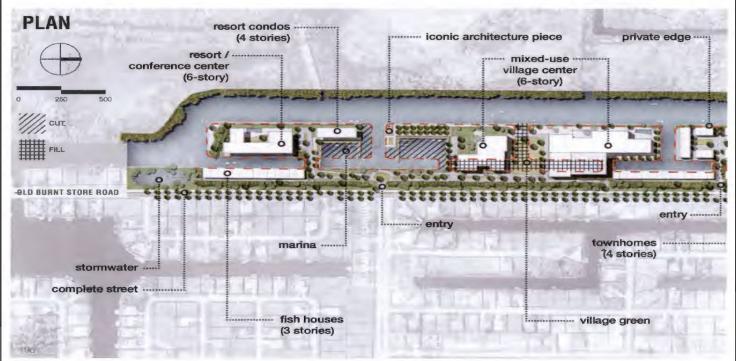
Received no correspondence

- + WITH MARINA
- + OPEN SPACE AS DEPICTED
- + WITH TROPICANA BEACH [FROM CONCEPT E]
- + WITH CUT AND FILL

CUT: 3.4 ACRES ± FILL: 2.6 ACRES ±

SECTION





Option D1, Southern Half

7 ISLANDS CONCEPT PLANS CONCEPT D-1

Concept D-1 is highlighted by a resort/marina and mixed-use village node that anchors the Islands' south end. The north end is characterized by a large publicuse complex consisting of the Community Center, an enhanced Tropicana Park, and a public marina. The proposed building height is a maximum of 8 stories.

PROGRAM

RESIDENTIAL

Multi-Family / Condo Townhomes Fish Houses Total Units

HOTEL / RESORT

Meeting Space

COMMERCIAL AMENITIES

Community Center Park Public Marina + Launch Boat Slips/Marina 890 34

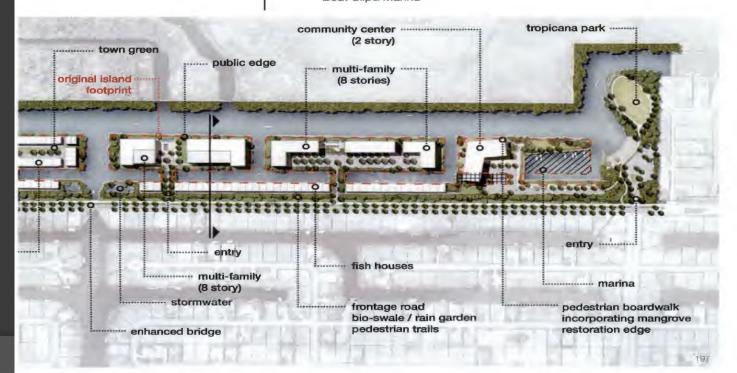
71

995 Units 240 Rooms 25,000 SF

45,000 SF

40,000 SF

280 Slips

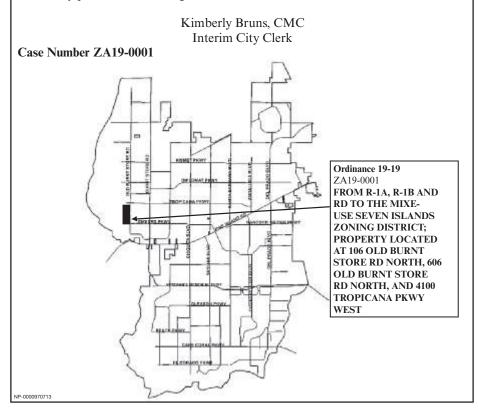


Option D1, Northern Half

NOTICE OF CHANGE OF REZONING

The City of Cape Coral proposes to adopt ORDINANCE 19-19, AN ORDINANCE AMENDING THE CITY OF CAPE CORAL OFFICIAL ZONING DISTRICT MAP OF ALL PROPERTY WITHIN THE LIMITS OF THE CITY OF CAPE CORAL BY REZONING PROPERTY LOCATED IN UNIT 76, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM SINGLE-FAMILY RESIDENTIAL (R-1A), SINGLE-FAMILY RESIDENTIAL (R-1B), AND RESIDENTIAL DEVELOMENT (RD) TO SEVEN ISLANDS (MX7) ZONE; PROPERTY IS LOCATED AT 101 OLD BURNT STORE ROAD NORTH, 606 OLD BURNT STORE NORTH, 4100 TROPICANA PARKWAY WEST; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

A public hearing on the ordinance will be held Monday, May 6, 2019 at 4:30 p.m. at the City of Cape Coral, City Hall Chambers, 1015 Cultural Park Blvd., Cape Coral, Florida 33990. At this public hearing, the Cape Coral City Council will consider the City's rezoning request. Accordingly, members of the general public and real property owners in the community are invited to appear and speak at the public hearing. Written comments filed with the Director will also be entered into the record. A copy of the map and the proposed amendment under consideration will be available for inspection and will be provided to the public at cost at the City Clerk's office between 7:30 a.m. and 4:30 p.m.. Monday through Friday excluding holidays. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that subject person 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. In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk no later than 4:00 p.m. on the day prior to the meeting.



☐ PROOF O.K. BY:	O.K. WITH CORRECTIONS BY:	
PLEASE READ CAREFULLY • SUBMIT CORRECTIO	NS ONLINE	
ADVERTISER: CITY OF CAPE CORAL_DEPT SALES PERSON: Linda Kennedy PUBLICATION: NP-DAILY SIZE: 3 col X 9.25 in	PROOF CREATED AT: 4/23/2019 1:21 PM PROOF DUE: - NEXT RUN DATE: 04/26/19	NP-0000970713.INDD





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: ZA19-0001

REQUEST: City-initiated rezone for three properties (50.72 acres) from Single-Family Residential (R-1A), Single-Family Residential (R-1B), and Residential Development (RD) to the Seven Islands (MX7) zoning district.

LOCATION: 106 Old Burnt Store Road North 606 Old Burnt Store Road North

4100 Tropicana Parkway West

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

PROPERTY OWNER(S): City of Cape Coral

<u>UPCOMING PUBLIC HEARING:</u> Notice is hereby given that the City of Cape Coral Council will hold a public hearing at 4:30 P.M. on Monday, May 6th, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

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

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

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Seven Island Rezone
APPLICATION NO: ZA19-0001
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 day of April , 2019.
Mark Cake
Vincent A. Cautero, AICP
STATE OF FLORIDA COUNTY OF LEE
The foregoing instrument was acknowledged before me this and who did not take an oath

ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Signature of Notary Public

Elisabeth A. Delando

Print Name of Notary Public

Exp. Date 6 Commission # 66030474

Item

B.(1)

Number: Meeting

E 10 10 0 4 0

Date:

5/6/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Introductions

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 80-19 (VP 19-0004*) Set Public Hearing Date for May 13, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

<u>Hearing Examiner Recommendation:</u> The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions as set forth in Recommendation 5-2019.

Staff Recommendation: Staff recommends approval subject to the conditions that appear in Resolution 80-19.

SUMMARY EXPLANATION AND BACKGROUND:

A resolution providing for the vacation of plat for a portion of Lafayette Canal and Malibu Basin rights-of-way and the underlying public utility and drainage easements located adjacent to Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision; providing for the vacation of plat for public utility and drainage easements associated with Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision; property is located at 5362 Malibu Court.

LEGAL REVIEW:

John E. Naclerio III, Assistant City Attorney

EXHIBITS:

Resolution 80-19 (VP 19-0004)
Hearing Examiner Recommendation Order
Back up materials from HEX hearing
Application
Staff Presentation

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, Planning Team Coordinator

ATTACHMENTS:

Description	Туре
Resolution 80-19 (VP 19-0004)	Backup Material
Hearing Examiner Recommendation Order	Backup Material
Back up material from HEX Hearing	Backup Material
Application	Backup Material
Staff Presentation	Backup Material
	Resolution 80-19 (VP 19-0004) Hearing Examiner Recommendation Order Back up material from HEX Hearing Application

RESOLUTION 80 - 19

A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR A PORTION OF LAFAYETTE CANAL AND MALIBU BASIN RIGHTS-OF-WAY AND THE UNDERLYING PUBLIC UTILITY AND DRAINAGE EASEMENTS LOCATED ADJACENT TO LOTS 23-25, BLOCK 29, UNIT 1, PART 2, CAPE CORAL SUBDIVISION; PROVIDING FOR THE VACATION OF PLAT FOR PUBLIC UTILITY AND DRAINAGE EASEMENTS ASSOCIATED WITH LOTS 23-25, BLOCK 29, UNIT 1, PART 2, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 5362 MALIBU COURT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Petition was filed by MICHAEL AND CAROLYN MITCH for the vacation of plat on property described herein; and

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

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

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

A parcel of land being part of the Malibu Basin and Lafayette Canal rights-of-way adjoining Lots 23, 24 and the East half of Lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida, more particularly described as follows:

Beginning at the Southwest corner of the East half of said Lot 25; Thence run S 90°00'00"E along the platted Southerly lines of the above described lots for a distance of 77.50 feet to the point of curvature of a curve to the left having for its elements a Radius of 25 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of N 45°00'00"E, 35.36 feet; Thence along said curve for a distance of 39.27 feet; Thence run N 0°00'00"E along the easterly platted line of said Lot 23 for a distance of 165.00 feet to the Northeast corner of said Lot 23; Thence run

N 90°00'00"E along the Easterly Prolongation of the North line of Lot 23 for a distance of 1.41 feet to a point on the water-face of the existing seawall; Thence run along the water-face of the existing seawall for the following three courses; S 0°12'06"E for 37.12 feet; S 0°26'28"W for 80.94 feet; and S 0°48'10"W for 55.51 feet to the point of curvature of a non-tangent curve to the right having for its elements a Radius of 19.52 feet, a Central Angle of 84°12'41" and a Chord Bearing and Distance of S 41°49'30"W, 26.18 feet; Thence run along said curve for a distance of 28.69 feet; Thence continue along said seawall S 89°20'54"W for a distance of 85.19 feet to a point on the southerly prolongation of the West line of the East Half of Lot 25; Thence run N 0°00'00"E, a distance of 4.04 feet along said southerly prolongation to the Southwest corner of the East Half of Lot 25 and the point of beginning. Parcel contains 596.8 sq. ft. +/-

Section 2. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following-described public utility and drainage easements, as shown in Exhibit B, are hereby vacated by the City of Cape Coral, to wit:

A parcel of land being part of perimeter Public Utility and Drainage easement over and across Lots 23, 24 and the East half of Lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida, more particularly described as follows:

Commencing at the Southwest corner of the East half of said Lot 25; Thence run S 90°00'00"E along the platted Southerly line said Lot 25 for a distance of 6.00 feet to the Point Beginning;

thence run N 0°00'00"E for a distance of 6.0 feet; Thence S 90°00'00"E for a distance of 71.50 feet to the point of curvature of a curve to the left having for its elements a Radius of 19.00 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of N 45°00'00"E, 26.87 feet; Thence run along said curve to the left a distance of 29.85 feet; Thence run N 0°00'00"E for a distance of 159.00 feet; thence run N 90°00'00"E for 6.00 feet to the platted east line of said lot 23; Thence run along said east line S 0°00'00"W for a distance of 159.00 feet to the point of curvature of a curve to the right having for its elements a Radius of 25.00 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of S 45°00'00"W, 35.36 feet; Thence run along said curve to the right for a distance of 39.27 feet to the point of tangency; Thence run N 90°00'00W along the south lines of Lots 23, 24 and the East half of lot 25 for a distance of 71.50 feet to the Point of Beginning. Parcel Contains 1,590.3 sq. ft. +/-

Section 3. Applicant shall provide to the City a deed for a six (6) foot wide perpetual public utility and drainage easement, as shown in Exhibit C. The deed shall be approved by the City's Property Broker prior to execution. The property to be deeded to the City is as follows:

A 6' Public Utility and Drainage easement along the quit claimed portion of the Malibu Basin and Lafayette Canal adjoining Lot 23, 24 and the East Half of lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida being more particularly described as follows:

Commencing at the Southwest corner of the East Half of said Lot 25; Thence run N 0°00'00"E for a distance of 1.96 feet to the Point of Beginning; Thence run N 89°20'54"E for a distance of 84.81 feet to the point of Curvature of a non-tangent curve to the left having for its elements a Radius of 13.52 feet, a Central Angle of 83°20' 12" and a Chord Bearing and Distance of N 41°10'09"E, 17.98 feet; Thence along said curve a distance of 19.67 feet; Thence run N 0°48' 10"E for a distance of 55.56' to an angle point; Thence run N 0°26'28"E for 80.89 feet to an angle point; Thence N 0°12'06"W for a distance of 37.11 feet to a point on the North line of said lot 23; Thence run N 90°00'00"E along said north line and the easterly extension thereof for a distance of 6.00 feet to the water-face of the existing seawall along Malibu Basin; Thence run S 0°12'06"E along said water-face for a distance of 37.12 feet to an angle point; Thence run S 0°26'28"W for a distance of 80.94 feet to an angle point; Thence run S 0°48' 10"W for a distance of 55.51 feet to the point of curvature of a non-tangent curve to the right having for its elements a Radius of 19.52 feet, a Central Angle of 84°12'41" and a Chord Bearing and Distance of S 41°49'30"W, 26.18 feet; Thence run along said curve a distance of 28.69 feet; Thence continue along said seawall S 89°20'54"W for a distance of 85.19 feet to the southerly prolongation of the west line of the east half of said lot 25; Thence run N 0°00'00"E along said prolongation for a distance of 6.00 feet to the point of beginning. Parcel contains 1,696.4 sq. ft. +/-

Section 4. The applicant shall meet the following terms and conditions:

- 1. The vacation of the 596.8 square feet of canal right-of-way and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc., dated February 13, 2019, entitled "Quit Claim Area," attached hereto as Exhibit A.
- 2. The vacation of the 1,590.3 square feet of public utility and drainage easement shall be consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc., dated December 17, 2018, entitled "Vacated 6' Public Utility and Drainage Easement," attached hereto as Exhibit B.
- 3. Within 60 days from the date of the adoption of this resolution, the owner shall provide to the City an easement deed for a six-foot wide easement consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc., December 17, 2018, entitled "New Perimeter Easement," attached hereto as Exhibit C. This deed shall be approved by the City Property Broker prior to execution.
- 4. This resolution shall be recorded with the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with an easement deed as described in Condition #3 above, and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deed.

Clerk of Court by the City of Cape Coral.	ipon its recording with	in the Office of the Lee County
ADOPTED BY THE CITY COUNCIL OF COUNCIL SESSION THIS DAY		
	JOE COVIE	LLO, MAYOR
VOTE OF MAYOR AND COUNCILMEM	IBERS:	
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN	
ATTESTED TO AND FILED IN MY OF 2018.	FFICE THIS	DAY OF,
APPROVED AS TO FORM: JOHNE. NACLERIO III ASSISTANT CITY ATTORNEY	KIMBERLY INTERIM CI	
res/vp19-0004		



Cape Coral, Florida
33904

December 18, 2018

Quit Claim Area

A parcel of land being part of the Malibu Basin and Lafayette Canal rights-of-way adjoining Lots 23, 24 and the East half of Lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida, more particularly described as follows:

Beginning at the Southwest corner of the East half of said Lot 25; Thence run S 90°00'00"E along the platted Southerly lines of the above described lots for a distance of 77.50 feet to the point of curvature of a curve to the left having for it's elements a Radius of 25 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of N 45°00'00"E, 35.36 feet; Thence along said curve for a distance of 39.27 feet; Thence run N 0°00'00"E along the easterly platted line of said Lot 23 for a distance of 165.00 feet to the Northeast corner of said Lot 23; Thence run N 90°00'00"E along the Easterly Prolongation of the North line of Lot 23 for a distance of 1.41 feet to a point on the water-face of the existing concrete seawall; Thence run along the water-face of the existing seawall for the following three courses; S 0°12'06"E for 37.12 feet; S 0°26'28"W for 80.94 feet; and S 0°48'10"W for 55.51 feet to the point of curvature of a non-tangent curve to the right having for it's elements a Radius of 19.52 feet, a Central Angle of 84°12'41" and a Chord Bearing and Distance of S 41°49'30"W, 26.18 feet; Thence run along said curve for a distance of 28.69 feet; Thence continue along said seawall S 89°20'54"W for a distance of 85.19 feet to a point on the southerly prolongation of the West line of the East Half of Lot 25; Thence run N 0°00'00"E along said southerly prolongation to the Southwest corner of the East Half of Lot 25 and the point of beginning. Parcel contains 596.8 sq. ft. +/-

SHEET 1 OF 2

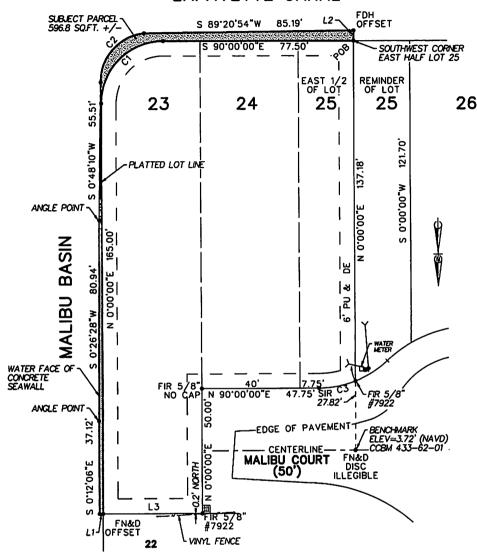
Prepared by Eric C. Davis FL PSM 5544

Phone: 239.549.6454 www.DAVISLANDSURVEYS.com Fax: 239.549.2548

CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	39.27'	90,00,00,	35.36'	N 45'00'00"E	25.00'	25.00'
C2	28.69'	84'12'41"	26.18	S 41'49'30"W	19.52'	17.64'

LINE	BEARING	DISTANCE
L1	N 90,00,00 E	1.41'
L2	N 0.00,00 E	4.04
L3	S 90'00'00"W	40.00'

LAFAYETTE CANAL



SKETCH TO ACCOMPANY LEGAL DESCRIPTION - NOT A SURVEY





4536 SE 16th Place Cape Coral, Florida 33904

December 17, 2018

Phone: 239.549.6454

VACATED 6' PUBLIC UTILITY AND DRAINAGE EASEMENT

A parcel of land being part of perimeter Public Utility and Drainage easement over and across Lots 23, 24 and the East half of Lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida, more particularly described as follows:

Commencing at the Southwest corner of the East half of said Lot 25; Thence run S 90°00'00"E along the platted Southerly line said Lot 25 for a distance of 6.00 feet to the Point Beginning; thence run N 0°00'00"E for a distance of 6.0 feet; Thence S 90°00'00"E for a distance of 71.50 feet to the point of curvature of a curve to the left having for it's elements a Radius of 19.00 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of N 45°00'00"E, 26.87 feet; Thence run along said curve to the left a distance of 29.85 feet; Thence run N 0°00'00"E for a distance of 159.00 feet; thence run N 90°00'00"E for 6.00 feet to the platted east line of said lot 23; Thence run along said east line S 0°00'00"W for a distance of 159.00 feet to the point of curvature of a curve to the right having for it's elements a Radius of 25.00 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of S 45°00'00"W, 35.36 feet; Thence run along said curve to the right for a distance of 39.27 feet to the point of tangency; Thence run N 90°00'00W along the south lines of Lots 23, 24 and the East half of lot 25 for a distance of 71.50 feet to the Point of Beginning. Parcel Contains 1590.3 SQ.FT. +/-

SHEET 1 OF 2

FL PSM 5544

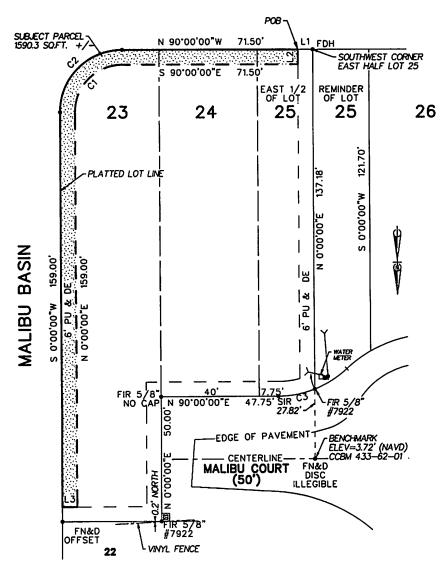
Fax: 239.549.2548

www.DAVISLANDSURVEYS.com

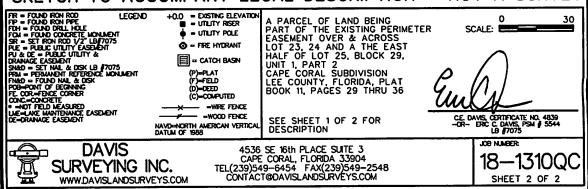
CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	29.85	90,00,00	26.87	N 45'00'00"E	19.00'	19.00'
C2	39.27	90.00,00	35.36	S 45'00'00"W	25.00'	25.00'

LINE	BEARING	DISTANCE
L1	N 90'00'00"E	6.00'
L2	N 0.00,00 E	6.00
L3	N 90'00'00"E	6.00'

LAFAYETTE CANAL



SKETCH TO ACCOMPANY LEGAL DESCRIPTION - NOT A SURVEY





4536 SE 16th Place Cape Coral, Florida 33904

December 17, 2018

NEW PERIMETER EASEMENT

A 6' Public Utility and Drainage easement along the quit claimed portion of the Malibu Basin and Lafayette Canal adjoining Lot 23, 24 and the East Half of lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida being more particularly described as follows:

Commencing at the Southwest corner of the East Half of said Lot 25; Thence run N 0°00'00"E for a distance of 1.96 feet to the Point of Beginning; Thence run N 89°20'54"E for a distance of 84.81 feet to the point of Curvature of a non-tangent curve to the left having for it's elements a Radius of 13.52 feet, a Central Angle of 83°20'12" and a Chord Bearing and Distance of N 41°10'09"E, 17.98 feet; Thence along said curve a distance of 19.67 feet; Thence run N 0°48'10"E for a distance of 55.56' to an angle point; Thence run N 0°26'28"E for 80.89 feet to an angle point; Thence N 0°12'06"W for a distance of 37.11 feet to a point on the North line of said lot 23; Thence run N 90°00'00"E along said north line and the easterly extension thereof for a distance of 6.00 feet to the water-face of the existing seawall along Malibu Basin; Thence run S 0°12'06"E along said water-face for a distance of 37.12 feet to an angle point; Thence run S 0°26'28"W for a distance of 80.94 feet to an angle point; Thence run S 0°48'10"W for a distance of 55.51 feet to the point of curvature of a non-tangent curve to the right having for it's elements a Radius of 19.52 feet, a Central Angle of 84°12'41" and a Chord Bearing and Distance of S 41°49'30"W, 26.18 feet; Thence run along said curve a distance of 28.69 feet; Thence continue along said seawall S 89°20'54"W for a distance of 85.19 feet to the southerly prolongation of the west line of the east half of said lot 25; Thence run N 0°00'00"E along said prolongation for a distance of 6.00 feet to the point of beginning. Parcel contains 1696.4 sq. ft. +/-

SHEET 1 OF 2

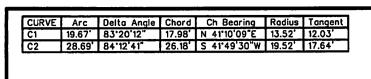
Phone: 239.549.6454

Prepared by Eric C. Davis FL PSM 5544

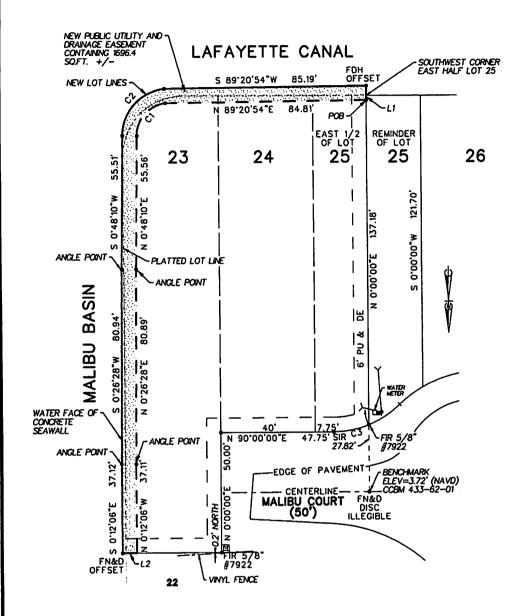
Fax: 239.549.2548

www.DAVISLANDSURVEYS.com

Exhibit C



LINE	BEARING	DISTANCE
L1	N 0.00,00 E	1.96'
L2	N 90.00,00 E	6.00



SKETCH TO ACCOMPANY LEGAL DESCRIPTION - NOT A SURVEY



OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL HEARING EXAMINER RECOMMENDATION

VP HEX Recommendation 5-2019 Rendered March 19, 2019

DCD CASE # VP 19-0004

APPLICATION FOR:

Vacation of canal right-of-way and underlying easements and

additional platted easements

NAME OF OWNERS/APPLICANTS: Michael and Carolyn Mitch

APPLICANT'S REPRESENTATIVE: Brian Haag, Windward Construction

LOCATION OF PROPERTY: 5362 Malibu Court, Cape Coral, FL 33904

Strap number: 18-45-24-C4-00029.0230 Legal description is on attached Exhibit "A"

ZONING DISTRICT: Single Family Residential (R-1B)

FUTURE LAND USE CLASSIFICATION: Single Family

URBAN SERVICE: Infill

HEARING DATE: March 19, 2019

SUMMARY OF REQUEST: Applicants requests to vacate:

- ±596.8 square feet of canal right-of-way (ROW) and all underlying easements for a portion of the Lafayette Canal and the Malibu Basin.
- ±1,590.3 square feet of platted easements associated with Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision.

SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth below.

NOTICE OF HEARING I.

Based on the testimony of City Staff Michael Struve at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, §8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

PARTICIPANTS IN HEARING II.

CITY STAFF: Michael Struve, AICP and LEED Green Associate 1

¹ Mr. Struve was recognized as an expert in land planning issues associated with this Application, based upon his prior appearances before the Hearing Examiner and his credentials which are on file with the City Clerk's Office.

CITY CLERK'S OFFICE: Patricia Sorrels

APPLICANTS' REPRESENTATIVE: Brian Haag, Windward Construction

MEMBERS OF PUBLIC: None.

CORRESPONDENCE/TELEPHONE CALLS FROM PUBLIC: None

III. EXHIBITS

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

IV. REVIEW OF LUDR REQUIREMENTS

<u>Authority.</u> The Hearing Examiner has the authority to recommend approval or denial of an application for a vacation of a plat and associated easements pursuant to LUDR §9.2.3 b.8.

Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. In rendering this recommendation, the Hearing Examiner must consider all competent substantial evidence in the record as defined by LUDR § 8.3.1.C.3.b.

<u>LUDR Standards.</u> The Hearing Examiner reviewed the application in accordance with the standards set forth in LUDR § 8.11, *Vacation of plats, rights-of-way and other property*, in addition to the general standards set forth in the LUDRs and the City Comprehensive Plan.

V. <u>TESTIMONY AT HEARING</u>

Applicants' Incorporation of Staff Report and Staff Testimony

The Applicants' Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into his presentation by reference. He requested the Hearing Examiner to recommend that City Council find the Staff Input as findings of fact, in addition to those separately presented by him.

Staff's Incorporation of Staff Report By Reference

Staff incorporated the staff report by reference into his presentation.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony referenced below is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision regarding this Application.

VI. DISCUSSION

Site. Zoning Information and Surrounding Area

Staff testified that the Applicants own an $\pm 16,218$ square foot site in southeastern Cape Coral. A single-family dwelling, constructed in 1967, was demolished in 2018. Staff testified that construction of a new seawall on the site was completed in September 2018. A permit for a new single-family dwelling was issued by the City in late August of 2018. Construction is currently underway on a 5,198-square foot single-family residence.

Staff testified that all properties within 1,500 feet share the same future land use designation and zoning classification as the subject property and that the subject property has always had the Single Family Future Land Use Designation and R-1B zoning that it currently possesses.

Reason for Application

Staff testified that the sketch of the site shows a narrow, uneven strip of canal ROW between the southern and eastern property lines and the outer edge of the seawall. It is adjacent to the Lafayette Canal and the Malibu Basin, respectively.

For most platted waterfront sites in the City, staff testified that property lines with water frontage extend to the edge of the canal. The applicants request to vacate ±596.8 square feet of canal ROW and all underlying easements for a portion of the Lafayette Canal and Malibu Basin so as to extend the site to the edge of the seawall.

The Applicants also request to vacate ±1,590.3 square feet of platted easements in Lots 23-25.

Analysis of Request in Application

• Request No. 1: Vacate ±596.8 Square Feet ROW Adjacent to the Lafayette Canal and Malibu Basin

A portion of this Application is for the vacation of 596.8 square feet of canal ROW located between the east and south property lines of the site and the edge of the seawall. Staff testified that the ROW width is not uniform and appears to be between four to five feet at the widest point.

Staff testified that the ROW is too narrow to provide a benefit to the public. As a result, there is no apparent reason for the City to maintain this strip of land as ROW.

Staff further testified that the proposed vacation would enlarge the site by about 600 square feet, and thereby provide uninterrupted ownership of land between the east and south property lines and the edge of the seawall. Staff testified that this result was intended, based on the subdivision plat for Unit 1, Part 2.

Request No. 2: Vacate ±596.8 Square Feet of Easements Underlying the Subject ROW

The Application is for the vacation of 596.8 square feet of easements underlying the ROW described above in Request No. 1. According to the letters from the utility providers, none of them have facilities in these easements and therefore none of the providers objected to this request. The City also lacks facilities within this easement.

Staff recommends that an easement be deeded by the owners to the City for providing an uninterrupted six-foot wide perimeter easement around the expanded site, as set forth in the recommended conditions, below.

• Request No. 3: Vacate ±1,590.3 Square Feet of Easements in Lots 23-25, Block 29

This section of the Application is for the vacation of $\pm 1,590.3$ square feet of platted easements in Lots 23-25, adjacent to the east and south property lines of the site.

As with the prior request, all three utility providers lack facilities in these easements and do not object to this request.

Staff testified that the City lacks facilities within this easement.

Staff recommended a finding that this easement would no longer be necessary as the owners would be providing the City with a six-foot wide replacement easement around the expanded site.

Recommendation that City Council Find That Applicants Have Complied with All Requirements for the Requested Vacations, as Set Forth in LUDR §8.11

1. Applicants have color of title (LUDR §8.11.3b.1)

Staff testified that Applicants own the subject property and is, therefore, eligible to apply for the requested vacations. In addition,

Applicants submitted a deed dated April 6, 2016, conveying the property to them and thereby showing such ownership.

- 2. A copy of the plat **has** been provided, showing the portions for which vacation is sought (LUDR §8.11.3b.2)
- 3. and 4. Letters of Approval from LCEC and Letters of No Objection from Century Link and Comcast (LUDR §8.11.3b.3 and LUDR §8.11.3b.4-6) are not necessary.

LCEC, Century Link, Comcast and Cape Coral all lack facilities in the right of way and easements which form the subject matter of this request. Accordingly, neither a letter of approval nor a letter of no objection is required from each of these providers.

Staff testified that Applicants' provision of a six-foot wide replacement easement around the expanded site would suffice for the City's purposes.

5. A copy of a recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor, has been provided, showing the area requested to be vacated; providing complete metes and bounds legal descriptions of said areas, and showing all pavement and all utility and drainage facilities in said area, including water, sewer and cable lines, utility poles, swales, ditches, manholes and catch basins. Separate drawings and metes and bounds legal descriptions will be required for each proposed vacation area when the right-of-way and easement configurations differ. (LUDR §8.11.3b.7.B)

All of the required documents have been provided.

6. No Reasonably Foreseeable Public Use of the Vacated Area. (LUDR, §8.11.3 d)

The above testimony and factual findings are incorporated into analysis of this standard by reference.

It is recommended that, for the above reasons, the City Council finds there is no reasonably foreseeable public use for the requested vacations.

7. City's Retention of Easements for Utilities and/or Drainage in and Upon the Vacated Area. (LUDR, §8.11.3 d)

It is recommended that the City Council retain a perimeter easement for utilities and/or drainage in and upon the vacated areas, as set forth

in the conditions below. The owners have agreed to this perimeter easement.

Consistency with the Comprehensive Plan (LUDR §8.11)

Staff testified that the City does not have specific Comprehensive Plan policies for vacations involving residentially zoned sites.

It is recommended that the City Council find that the vacation requests are consistent with Policy 1.15 of the Future Land Use Element of the City's Comprehensive Plan which states:

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

a. <u>Single Family Residential.</u> Sites of 10,000 square feet and greater, with densities not to exceed 4.4 units per acre.

Staff testified that this application is consistent with the above-cited Policy 1.15.a for the following reasons: the site would be $\pm 16,815.5$ square feet, were the ROW vacation to be granted by City Council; and the Applicants currently are constructing one single-family home on-site. Staff testified that this equates to a density of 2.6 dwelling units per acre, less than the maximum 4.4 dwelling units per acre allowed within this future land use classification.

Accordingly, it is recommended that City Council find that granting the requested vacations, as conditioned below, **is consistent** with the City Comprehensive Plan, Land Use Development Regulations, and all other applicable law.

VII. RECOMMENDED CONDITIONS OF APPROVAL

City staff testified regarding recommendations for conditions of approval, set forth below. Applicants' Representative testified that Applicants have no objection to these conditions.

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

1. <u>Consistency with Exhibit.</u> The vacation of the 596.8 square feet of ROW and underlying easements shall be consistent with that shown in the sketch and

accompanying legal description prepared by Davis Surveying, Inc. dated February 13, 2019, and entitled "Quit Claim Area."

- 2. <u>Consistency with Exhibit.</u> The vacation of the 1,590.3 square feet of easements in Lot 23-25, Block 29 shall be consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc., dated December 17, 2018, entitled "Vacated 6' Public Utility and Drainage Fasement."
- 3. <u>Provision of Easement Deed.</u> Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed for a six-foot wide easement that is consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc., dated December 17, 2018 and entitled "New Perimeter Easement." This deed shall be approved by the City Property Broker prior to execution.
- 4. <u>Recording of Resolution.</u> This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with an easement deed as described in Condition #3 above, and reimburses the City for all recording fees associated with this resolution.
- Compliance with Zoning District Standards and Requirements and Inclusion of LUDRs, City Ordinances and Other Applicable Law. Applicants shall comply with all standards and requirements for the zoning district in which the property is located and all other requirements set forth in the LUDRs, City ordinances and all other applicable laws and regulations, which are incorporated herein by reference.

VIII. **EXHIBITS**

The following Exhibits are attached to this Recommendation and are hereby incorporated by reference:

- EXHIBIT "A": Legal description of 5362 Malibu Court, Cape Coral, FL
- EXHIBIT "B": Sketch and accompanying Legal Description entitled "Quit Claim Area", as prepared by Davis Surveying, Inc., dated February 13, 2019, (2 pages)
- Exhibit "C": Sketch and accompanying Legal Description entitled "Vacated 6' Public Utility and Drainage Easement" as prepared by Davis Surveying, Inc., dated December 17, 2018 (2 pages)
- Exhibit "D": Sketch and accompanying Legal Description entitled "New Perimeter Easement" as prepared by Davis Surveying, Inc., dated December 17, 2018 (2 pages)

The Hearing Examiner herewith **RECOMMENDS APPROVAL** of the request for the above-referenced Vacations filed by Applicant, **WITH THE CONDITIONS** set forth above.

This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

ANNE DALTON, ESQUIRE

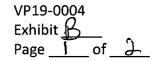
ATTEST:

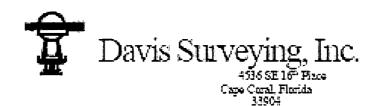
Mulle 5

VP19-0Q04	
Exhibit <u> </u>	
Page\ of	<u> </u>

LEGAL DESCRIPTION OF 5362 MALIBU COURT

Lots 23 and 24 and the east half of (E ½) of Lot 25, Block 29, Cape Coral Subdivision, Unit One, Part Two, according to the map or plat thereof, as recorded in Plat Book 11, Pages 29-36, inclusive, of the Public Records of Lee County, Florida.





February 13, 2019

Quir Claim Area

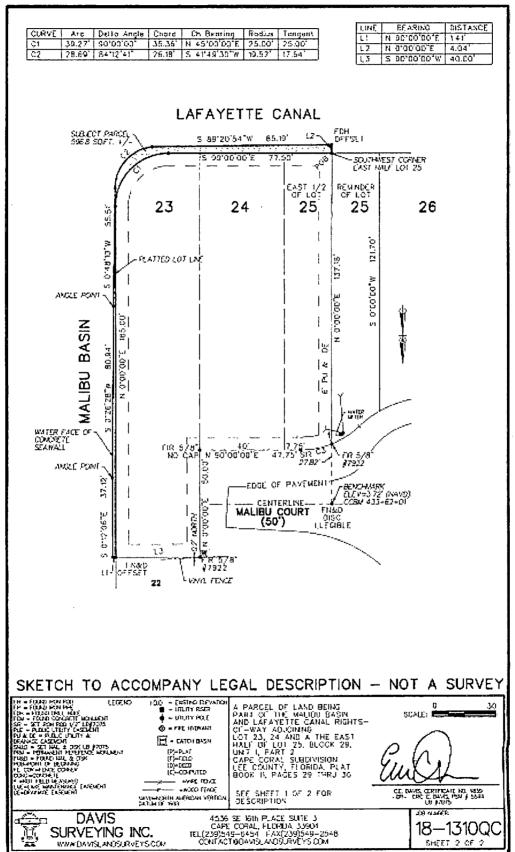
A percel of land being part of the Malibu Basin and Lafayette Canal rights-of-way adjoining Lots 23, 24 and the East half of Let 25, Block 29, Unit 1, Part 1, Cape Coral Subdivision, Plat Book 11, Pages 19 thru 36, Lee County, Florida, more particularly described as follows:

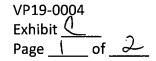
Beginning at the Southwest comer of the East half of said Lot 25; Thence run S 90°00'00'E along the planted Southerly lines of the above described lats for a distance of 77.50 feet to the point of curvature of a curve to the left having for it's elements a Radius of 25 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of N 45°00'00"E, 35.36 feet; Thence along said. curve for a distance of 39.27 feet, Thence run N 0*00'00'E along the easterly platted line of said Lot 23 for a distance of 165.00 feet to the Northeast corner of said Lot 23: Thence run N 90°00'00'E along the Easterly Prelongation of the North line of Let 23 for a distance of 1.41 feet to a point on the water-face of the existing concrete seawall: Thence run along the water-face of the existing serwall for the following three courses; S 0*12*06*E for 37.12 feet; S 0*26*28*W for 80.94 feet; and S 0°48'10"W for 55.91 feet to the point of curvature of a non-tangent curve to the right having for it's elements a Radius of 19.52 feet, a Central Angle of \$4*12*41" and a Cherd-Bearing and Distance of S 41 49 30 W., 26.18 feet; Thence run along said curve for a distance of 28.69 feet; Thence continue along said seawall S 89°20' 54' W for a distance of 85.19 feet to a point on the southerly prolongation of the West line of the East Half of Lot 25; Thence run M 0°00′00′E, a distance of 4.04 feet along said southerly prolongation to the Southwest corner of the East Half of Let 25 and the point of beginning. Percel contains 596.8 sq. ft. \pm 1-

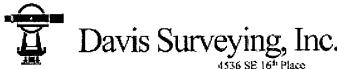
SHEET 1 OF 2

Prepared by Eric C. Davis FL PSM 5544

Phone: 239,549,6454 www.DAVISLANDSUEVEYS.com Fax: 239,549,2548







4536 SE 16th Place Cape Coral, Florida 33904

December 17, 2018

VACATED 6' PUBLIC UTILITY AND DRAINAGE EASEMENT

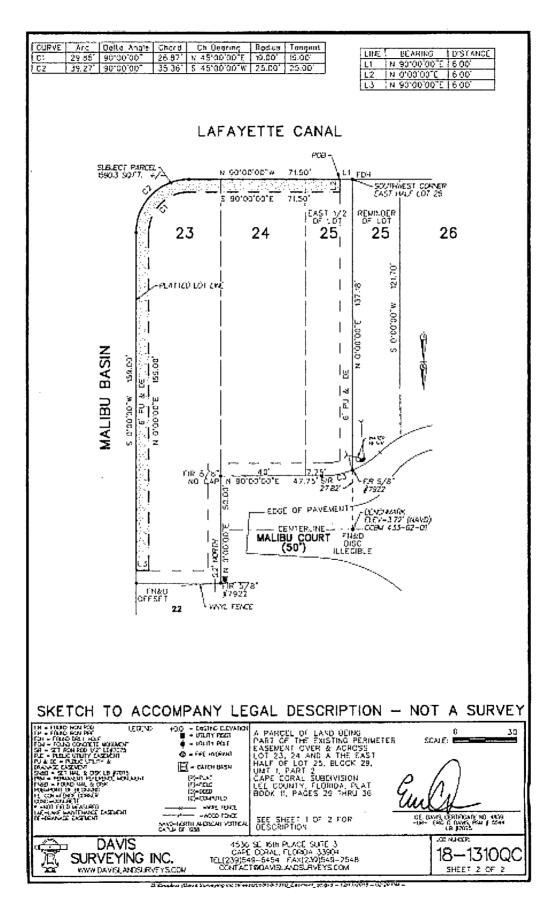
A purcel of land being part of perimeter Public Utility and Drainage easement over and across Lots 23, 24 and the East half of Lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida, more particularly described as follows:

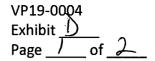
Commencing at the Southwest corner of the East half of said Lot 25; Thence run S 90°00'00"E along the platted Southerly line said Lot 25 for a distance of 6.00 feet to the Point Beginning; thence run N 0°00'00"E for a distance of 6.0 feet; Thence S 90°00'00"E for a distance of 71.50 feet to the point of curvature of a curve to the left having for it's elements a Radius of 19.00 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of N 45°00'00"E, 26.87 feet; Thence run along said curve to the left a distance of 29.85 feet; Thence run N 0°00'00"E for a distance of 159.00 feet; thence run N 90°00'00"E for 6.00 feet to the platted east line of said lot 23; Thence run along said east line S 0°00'00"W for a distance of 159.00 feet to the point of curvature of a curve to the right having for it's elements a Radius of 25.00 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of S 45°00'00"W, 35.36 feet; Thence run along said curve to the right for a distance of 39.27 feet to the point of tangency; Thence run N 90°00'00W along the south lines of Lots 23, 24 and the East half of lot 25 for a distance of 71.50 feet to the Point of Beginning, Parcel Contains 1590.3 SQ.FT. +/-

SHEET 1 OF 2

Prepared by Eric C. Davis FL PSM 5544

Phone: 239.549.6454 www.DAVISLANDSURVEYS.com - Fax: 239.549.2548







December 17, 2018

NEW PERIMETER EASEMENT

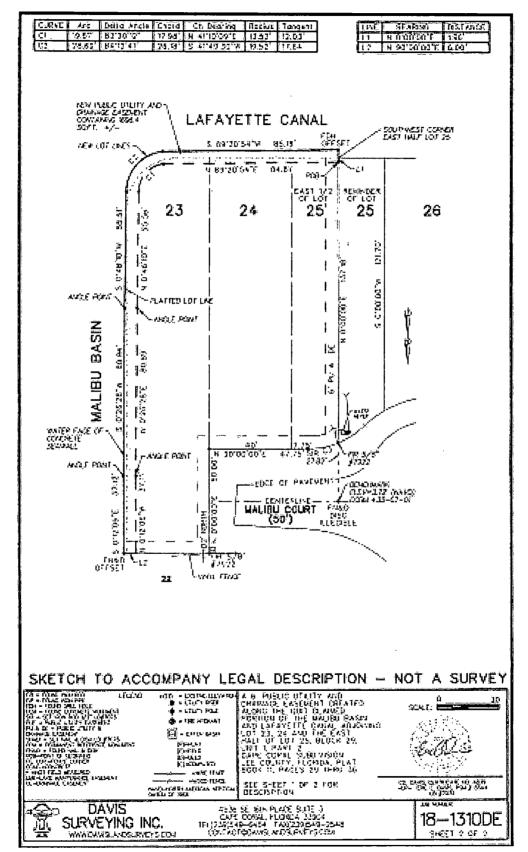
A 6' Public Utility and Drainage casement along the quit claimed portion of the Malibe Basin and Lafayette Canal adjoining Lot 23, 24 and the East Half of lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida being more particularly described as follows:

Commercing at the Southwest corner of the East Half of said Lot 25; Thence run N 0°00'00°E for a distance of 1.96 feet to the Point of Beginning: Thence run N \$9°20' 54" E for a distance of \$4.81 feet to the point of Curvature of a non-tangent curve to the left having for it's elements a Radius of 13.52 feet, a Central Angle of 83°20'12" and a Chord Bearing and Distance of N 41°10'09"E, 17.98 feet; Thence along said curve a distance of 19.67 feet; Thence run N 0°48'10"E for a distance of \$5.56' to an angle point; Thence sun N 0°26'28"E for \$0.89 feet to an angle point; Thence N 0°12'06"W for a distance of 37.41 feet to a point on the North line of said lot 23; Thence run N 90°00'00"E along said north line and the easterly extension thereof for a distance of 6.00 feet to the water-face of the existing scawall along Malibu Basin; Thouga run \$ 0°12'06°E along said water-face for a distance of 37.12 feet to an angle point; Thence run S 0°26'28"W for a distance of 80.94 feet to an angle point; Thence can S 0°48' 10"W for a distance of 55.51 feet to the point of curvature of a non-tangent curve to the right having for his elements a Radius of 19.52 feet, a Central Angle of \$4°12'41" and a Chord Bearing and Distance of S 41°49'30"W, 26.18 feet; Thence run along said curve a distance of 28.69 feet; Thence continue along said seawall S 89°20°54"W for a distance of 85, 19 feet to the southerly prolongation of the west line of the east half of said for 25; Thence run N 0°00'00"E along said prolongation for a distance of 6.00 feet to the point of beginning, Parcel contains 1696.4 sq. ft. +/-

SHEET 1 OF 2

Prepared by Eric C. Davis FL PSM 5544

Phone: 239.549.6454 www.DAVISLANDSURVEYS.com Fax: 239.549.2548





Case # VP19-0004

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

REQUEST TO PLANNING & ZONING COMMISION AND COUNCIL FOR A VACATION OF PLAT

FEE: \$843.00 – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise case will be pulled from public hearing.

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

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

Michael & CARolya Mitch	Address: <u>5362 MAlibu Ct</u> City: <u>Cape Corol</u> State: <u>F7</u> Zip <u>53704</u> Phone: <u>410-490-7263</u>
APPLICANT Michael & CARdya Mitch EMAIL MICHAEL . Insley Findical & gmanl.com	Address: 5362 MALIBY CH City: Ope Copal State: F1 Zip 33906 Phone: 410-490-7263
AUTHORIZED REPRESENTATIVE BRIAN HAAG EMAIL BH4610 @ GMail COM	Address: 1309 OAPE Coul PKW4 E. City: Ape Coul State: XL Zip 33904 Phone: 239-229-1199
Unit PART & Block 29 Lot(s) 23+24. Address of Property Current Zoning RESI LENTIAL	- Subdivision CAPE CORM - 5362 MALIBU CT, CAPE CRASH, FL Plat Book // , Page 32 Strap Number 18-45-24-64-00029-0230



Case # 199-0004

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

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.

Michael Mitch	(SIGNATURE MUST BE NOTARIZED)	
APPLICANT NAME (PLEASE TYPE OR P	RINT) APPLICANT'S	SIGNATURE
STATE OF Flonda COUNTY OF Sworn to (or affirmed) and subscribe Michael Mitch as identification.	ped before me this day of and who is personally known or produced	,
	Exp. Date:Commis	ssion Number:
	Signature of Notary Public:	Notary Public State of Florida Cindy Public State of Florida
	Printed name of Notary Public:	My Commission GG 157138 Expires 11/01/2021



Case # VP19-0004

VACATION OF PLAT APPLICATION Questions: 239-574-0776

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

CORPORATION/COMPANY NAME	
PROPERTY OWNER (PLEASE TYPE OR PRINT) PROPERTY OWNER'S SIGNATURE	1
STATE OF Florida, COUNTY OF Lee Sweet to (or affirmed) and subscribed before me this 8th day of January 2019, by	
as identification. who is personally known of produces	
Signature of Notary Public: Wotary Public State of Florida Sindy Hawkins	
Printed name of Notary Public: (SIGNATURE MUST BE NOTARIZED) Cindy Hawkins My Commission GG 157138 Expires 11/01/2021	



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0004

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



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0004

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.

Michael Notch	ME-MITTED	
Michael Mitch	OWNER/APPLICANT SIGNATURE	
OWNER/APPLICANT (PLEASE TYPE OR PRINT)	3 ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
(SIGNATURE MUST BE NOTARIZED)		
STATE OF Harda COUNTY OF	sel l	
Sworn to (or affirmed) and subscribed before me of 2019 by Mundel Witch, who is per-	ersonally known or who has produced	
as identification.	C 0 4/	
Exp. Date	Signature of Notary Public	
Commission #		
	Notary Public State of Florida Notary Public State of Florida Cindy Hawkins District Public CG 157138	
	Print Name of Notaby muthing 157138 Expires 11/01/2021	
	3	

Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$5600.00 Rec. Fee \$18.50 Deputy Clerk ERECORD

Prepared By and Return To: OmniOne Title Services, LLC 4707 SE 9th Place Cape Coral, FL 33904

File No. 0114-160

Property Appraiser's Parcel I.D. (folio) Number(s) 18-45-24-C4-00029.0230

WARRANTY DEED

THIS WARRANTY DEED dated April 6, 2016, by Colin A. Simmonds and Linda B. Simmonds, husband and wife hereinafter called the grantor, to Michael Mitch and Carolyn Mitch Husband and Wife, whose post office address is 231 Wineland Way, Stevensville, MD 21666, hereinafter called the grantee:

(Wherever 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)

WITNESSETH: That the grantor, for and in consideration of the sum of \$10.00 and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto the grantee, all the certain land situated in Lee County, Florida, viz:

Lot (s) 23 and 24 and The East Half of (E 1/2) of Lot 25, Block 29, Cape Coral Subdivision, Unit One, Part Two, according to the map or plat thereof, as recorded in Plat Book 11, Page(s) 29 to 36, inclusive, of the Public Records of Lee County, Florida.

Subject to easements, restrictions, reservations and limitations of recorded, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in any wise 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, 2015

WARRANTY DEED

(Continued)

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

Signed, sealed and delivered in the presence of: (Witness Signature) When Jevrel	Colling Simmonds Min (4 B Simmonds Linda B. Simmonds
(Witness Signature)	Beech Hill, Brightling Rd Robertsbridge (Address)
Migela Terrior	East Sussex, TN32 5EY England
	(Address)
STATE OF Florida	
COUNTY OF Lee	
I HEREBY CERTIFY that on this day, before me, a personally appeared Colin A. Simmonds and Lir personally known to me or have presented Findentification. WITNESS my hand and seal in the st 2016.	nda B. Simmonds, husband and wife who are
My Commission Expires:	
	ANGELA PETRICK COMMISSION # EE 873406 (PIRES: March 29, 2017 d Thru Notary Public Underwriters



January 14, 2019

City of Cape Coral 815 Nicholas Pkwy Cape Coral 33990

Re: Vacate of Plat 5362 Malibu Ct

To Whom it May Concern:

We respectfully request the vacation of the above referenced plat. This is a common occurance in the Yacht Club area and was for many years via a simple quit claim deed. This will be used to reposition the pool in accordance with the neighboring homes.

Brian Haag Windward Construction



Attention:

Joanne Stevens joannewindward@gmail.com 5362 Malibu Ct Cape Coral FL 33904

Subject: - No Objection Request

Site Address: 5362 Malibu Ct Cape Coral FL 33904

Strap# 18-45-24-C4-00029.0230

Dear Joanne

Regarding the referenced property above CenturyLink has **No Objection** to the Vacation 3' of the 6' utility easement along the east side and rear portion of the property between the canal /sea wall and the property.

Sincerely

THANK YOU!

Justin Lane

Local Network Engineer

Justin Lane

CPCR, NCPC, NFMY, SCST, PNIS

2820 Cargo St

Fort Myers FL 33916

Office: (239)-984-7009

justin.lane@centurylink.com



26100 Westlinks Drive Suite 4 Fort Myers, FL 33913 Phone: 239-432-1805

January 7, 2019

Windward Construction

Re: 5362 Malibu Ct. Cape Coral, Fl.33904

Dear Joanne Stevens,

This letter will serve to inform you that Comcast has no objection to your proposed vacation of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 432-1805.

Cordially,

Mark Cook

Project Coordinator

Miliha



Lee County Electric Cooperative, Inc.

Post Office Box 3455

North Fort Myers, FL 33918-3455 (239) 995-2121 = Fax (239) 995-7904

www.lcec.net

January 15, 2019

Ms. Joanne Stevens Windward Construction 4818 Coronado Parkway Cape Coral, FL 33904

Re:

Letter of No Objection to Vacation of Canal Interest; 5362 Malibu Court, Cape Coral, FL;

Owners: Michael Mitch and Carolyn Mitch, husband and wife; Strap: 18-45-24-C4-00029.0230.

Dear Ms. Stevens:

You have opened up negotiations on behalf of your customer, the Mitches.

We have reviewed the sketch, the request submitted, and our internal records. LCEC has no objection to the request. The sketch was most helpful. It produced by Eric Davis, PSM, of Davis Land Surveying. Inc.; having a job number of 18-1310QC.

However, LCEC requires a continuous perimeter easement surrounding your property in order to serve you. Therefore, in the after situation to the vacation, the petitioner will have provided to the appropriate local jurisdiction, and imposed six-foot wide easements along the seawall and the side easements so that there is a continuous perimeter easement located upon the parcel.

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

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

Very truly yours,

Russ Goodman, Goodman, SR/WA SR/WA

Digitally signed by Russ

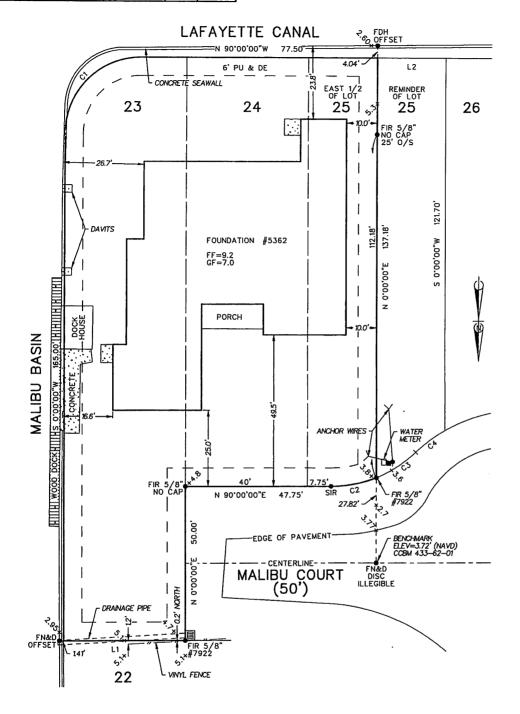
Date: 2019.01.15 11:30:29

-05'00'

Russel Goodman, SR/WA Senior Right of Way Agent - Land Rights

CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	39.27	90'00'00"	35.36	S 45'00'00"W	25.00'	25.00'
C2	15.11	21'38'19"	15.02	N 79'10'51"E	40.00'	7.64'
C1 C2 C3 C4	15.44	22'07'23"	15.35'	S 57'18'00"W	40.00	7.82
C4	12.01	13.45,45,	11.98	S 53*07'10"W	50.00	6.03'

LINE	BEARING	DISTANCE
L1	N 90.00,00 E	40.00'
L2	N 90.00,00 E	22.50'



BOUNDARY SURVEY

LOTS 23-24, EAST 1/2 OF 25 BLOCK 29, UNIT 1 PART 2

CAPE CORAL SUBDIVISION
PLAT BOOK 11, PAGES 29-36

CERTIFIED TO THE FOLLOWING ONLY: MICHAEL AND CAROLYN MITCH

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

LEE COUNTY, FLORIDA

REVISED 10/12/18 FOUNDATION LOCATED

BASIS FOR BEARINGS: MALIBU C	PANEL 1207100415	suffix F	SCALE: DATE OF FRM INDEX	0 8/28/08	20 SURVEY DATE: FRM AE	6/14/18 BASE FLOOD B ELEVATION B	DAVIS SURVEYING INC.
FR = FOUND IRON ROD LEGEND FP = FOUND IRON PIPE FDH = FOUND DRILL HOLE FOM = FOUND CONCRETE MONUMENT	+0.0 = EXISTING ELEVATION = UTILITY RISER = UTILITY POLE	THE BEST OF M	KNOWLEDGE A CERTIFICATION		0		WWW.DAVISLANDSURVEYS.COM
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4536 SE 16th Place Cape Coral, Florida 33904

February 13, 2019

Quit Claim Area

A parcel of land being part of the Malibu Basin and Lafayette Canal rights-of-way adjoining Lots 23, 24 and the East half of Lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida, more particularly described as follows:

Beginning at the Southwest corner of the East half of said Lot 25; Thence run S 90°00'00"E along the platted Southerly lines of the above described lots for a distance of 77.50 feet to the point of curvature of a curve to the left having for it's elements a Radius of 25 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of N 45°00'00"E, 35.36 feet; Thence along said curve for a distance of 39.27 feet; Thence run N 0°00'00"E along the easterly platted line of said Lot 23 for a distance of 165.00 feet to the Northeast corner of said Lot 23; Thence run N 90°00'00"E along the Easterly Prolongation of the North line of Lot 23 for a distance of 1.41 feet to a point on the water-face of the existing concrete seawall; Thence run along the water-face of the existing seawall for the following three courses; S 0°12'06"E for 37.12 feet; S 0°26'28"W for 80.94 feet; and S 0°48'10"W for 55.51 feet to the point of curvature of a non-tangent curve to the right having for it's elements a Radius of 19.52 feet, a Central Angle of 84°12'41" and a Chord Bearing and Distance of S 41°49'30"W, 26.18 feet; Thence run along said curve for a distance of 28.69 feet; Thence continue along said seawall S 89°20'54"W for a distance of 85.19 feet to a point on the southerly prolongation of the West line of the East Half of Lot 25; Thence run N 0°00'00"E, a distance of 4.04 feet along said southerly prolongation to the Southwest corner of the East Half of Lot 25 and the point of beginning. Parcel contains 596.8 sq. ft. +/-

SHEET 1 OF 2

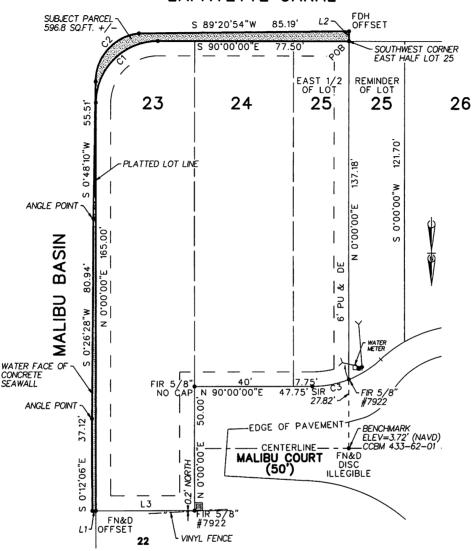
Prepared by Eric C. Davis FL PSM 5544

Phone: 239.549.6454 www.DAVISLANDSURVEYS.com Fax: 239.549.2548

CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	39.27'	90,00,00,	35.36'	N 45'00'00"E	25.00'	25.00'
C2	28.69'	84"12'41"	26.18'	S 41'49'30"W	19.52'	17.64'

LINE	BEARING	DISTANCE
L1	N 90.00,00 <u>"</u> E	1.41'
L2	N 0.00,00 E	4.04'
L3	S 90'00'00"W	40.00'

LAFAYETTE CANAL



SKETCH TO ACCOMPANY LEGAL DESCRIPTION - NOT A SURVEY





4536 SE 16th Place Cape Coral, Florida 33904

December 17, 2018

VACATED 6' PUBLIC UTILITY AND DRAINAGE EASEMENT

A parcel of land being part of perimeter Public Utility and Drainage easement over and across Lots 23, 24 and the East half of Lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida, more particularly described as follows:

Commencing at the Southwest corner of the East half of said Lot 25; Thence run S 90°00'00"E along the platted Southerly line said Lot 25 for a distance of 6.00 feet to the Point Beginning; thence run N 0°00'00"E for a distance of 6.0 feet; Thence S 90°00'00"E for a distance of 71.50 feet to the point of curvature of a curve to the left having for it's elements a Radius of 19.00 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of N 45°00'00"E, 26.87 feet; Thence run along said curve to the left a distance of 29.85 feet; Thence run N 0°00'00"E for a distance of 159.00 feet; thence run N 90°00'00"E for 6.00 feet to the platted east line of said lot 23; Thence run along said east line S 0°00'00"W for a distance of 159.00 feet to the point of curvature of a curve to the right having for it's elements a Radius of 25.00 feet, a Central Angle of 90°00'00" and a Chord Bearing and Distance of S 45°00'00"W, 35.36 feet; Thence run along said curve to the right for a distance of 39.27 feet to the point of tangency; Thence run N 90°00'00W along the south lines of Lots 23, 24 and the East half of lot 25 for a distance of 71.50 feet to the Point of Beginning. Parcel Contains 1590.3 SQ.FT. +/-

SHEET 1 OF 2

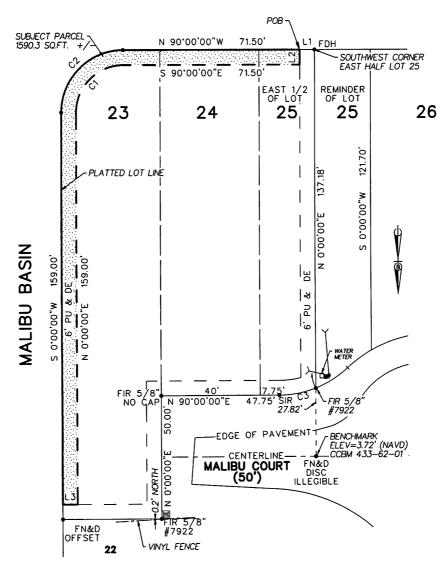
FL PSM 5544

Phone: 239.549.6454 www.DAVISLANDSURVEYS.com Fax: 239.549.2548

CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1 C2	29.85	90.00,00,	26.87	N 45'00'00"E	19.00'	19.00'
C2	39.27	90,00,00,	35.36'	S 45'00'00"W	25.00'	25.00'

LINE	BEARING	DISTANCE
L1	N 90.00,00 E	6.00'
L2	N 0.00,00 E	6.00'
L3	N 90'00'00"E	6.00'

LAFAYETTE CANAL



SKETCH TO ACCOMPANY LEGAL DESCRIPTION - NOT A SURVEY





4536 SE 16th Place Cape Coral, Florida 33904

December 17, 2018

NEW PERIMETER EASEMENT

A 6' Public Utility and Drainage easement along the quit claimed portion of the Malibu Basin and Lafayette Canal adjoining Lot 23, 24 and the East Half of lot 25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, Plat Book 11, Pages 29 thru 36, Lee County, Florida being more particularly described as follows:

Commencing at the Southwest corner of the East Half of said Lot 25; Thence run N 0°00'00"E for a distance of 1.96 feet to the Point of Beginning; Thence run N 89°20'54"E for a distance of 84.81 feet to the point of Curvature of a non-tangent curve to the left having for it's elements a Radius of 13.52 feet, a Central Angle of 83°20'12" and a Chord Bearing and Distance of N 41°10'09"E, 17.98 feet; Thence along said curve a distance of 19.67 feet; Thence run N 0°48'10"E for a distance of 55.56' to an angle point; Thence run N 0°26'28"E for 80.89 feet to an angle point; Thence N 0°12'06"W for a distance of 37.11 feet to a point on the North line of said lot 23; Thence run N 90°00'00"E along said north line and the easterly extension thereof for a distance of 6.00 feet to the water-face of the existing seawall along Malibu Basin; Thence run S 0°12'06"E along said water-face for a distance of 37.12 feet to an angle point; Thence run S 0°26'28"W for a distance of 80.94 feet to an angle point; Thence run S 0°48'10"W for a distance of 55.51 feet to the point of curvature of a non-tangent curve to the right having for it's elements a Radius of 19.52 feet, a Central Angle of 84°12'41" and a Chord Bearing and Distance of S 41°49'30"W, 26.18 feet: Thence run along said curve a distance of 28.69 feet; Thence continue along said seawall S 89°20'54"W for a distance of 85.19 feet to the southerly prolongation of the west line of the east half of said lot 25; Thence run N 0°00'00"E along said prolongation for a distance of 6.00 feet to the point of beginning. Parcel contains 1696.4 sq. ft. +/-

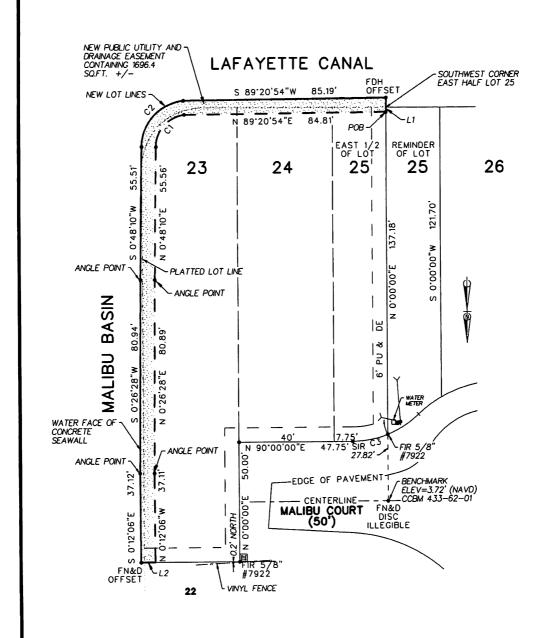
SHEET 1 OF 2

Prepared by Eric C. Davis FL PSM 5544

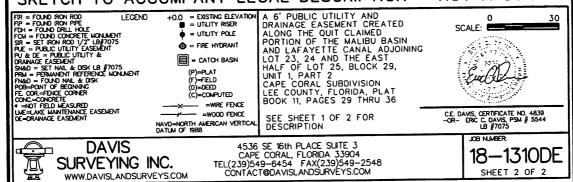
Phone: 239.549.6454 www.DAVISLANDSURVEYS.com Fax: 239.549.2548

CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	19.67'	83'20'12"	17.98'	N 41°10'09"E	13.52	12.03
C2	28.69	84'12'41"	26.18	S 41°49'30"W	19.52	17.64

LINE	BEARING	DISTANCE
L1	N 0.00,00 E	1.96'
L2	N 90.00,00 E	6.00'



SKETCH TO ACCOMPANY LEGAL DESCRIPTION - NOT A SURVEY



Planning Division Case Report

Review Date:

March 6, 2019

Applicants/

Property Owners:

Michael and Carolyn Mitch

Rep:

Brian Haag, Windward Construction

Owner Address:

5362 Malibu Court Cape Coral, FL 33904

Request:

The applicant requests to vacate:

1. ±596.8 sq. ft. of canal right-of-way (ROW) and all underlying easements for a

portion of the Lafayette Canal and the Malibu Basin.

2. ±1,590.3 sq. ft. of platted easements associated with Lots 23-25, Block 29,

Unit 1, Part 2, Cape Coral Subdivision.

Property Location:

5362 Malibu Court

Cape Coral, FL 33904

Strap number: 18-45-24-C4-00029.0230 See Exhibit "A" for legal description

Prepared By:

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

Approved By:

Robert H. Pederson, AICP, Planning Manager

Recommendation:

Approval with conditions

Urban Service

Infill

Property Description:

The applicants own an $\pm 16,218$ sq. ft. site in southeast Cape Coral. A single-family dwelling that was constructed in 1967 was recently demolished in 2018. A permit for a new single-family dwelling was issued by the City in late August of 2018 and construction is currently underway on a 5,198-sq.ft. single-family residence. Construction of a new seawall on the site was completed in September 2018.

The site has a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning and all properties within 1,500 feet share the same future land use classification and zoning.

Requests

A sketch of the site shows a narrow, uneven strip of canal ROW between the southern and eastern property lines and the outer edge of the seawall, adjacent to the Lafayette Canal the Malibu Basin, respectively. For most platted water-front sites in the City, property lines with water frontage extend to the edge of the canal. The applicants request to vacate ±596.8 sq. ft. of canal ROW and all underlying

easements for a portion of the Lafayette Canal and Malibu Basin to extend the site to the edge of the seawall. The applicants also request to vacate ±1,590.3 sq. ft. of platted easements in Lots 23-25.

Zoning History of Block 29

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

Analysis:

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

Request No. 1: Vacate ±596.8 sq. ft. of ROW Adjacent to the Lafayette Canal and Malibu Basin

The applicants request to vacate 596.8 sq. ft. of canal ROW between the east and south property lines of the site and the edge of the seawall. The applicants own the site that abuts this ROW and are therefore eligible to request this vacation. The ROW width is not uniform and appears between four to five feet at the widest point. The ROW is too narrow to provide a benefit to the public. As a result, there is no apparent reason for the City to maintain this strip of land as ROW. This vacation will enlarge the site by about 600 sq. ft. and will provide uninterpreted ownership of land between the east and south property lines and the edge of the seawall as was intended based on the subdivision plat for Unit 1, Part 2.

Request No. 2: Vacate ±596.8 sq. ft. of Easements Underlying the Subject ROW

The applicants seek to vacate 596.8 sq. ft. of easements underlying the ROW described above in Request No. 1. All three utility providers lack facilities in these easements. None of these providers object to this request. The City also lacks facilities within this easement. Staff recommends that an easement be deeded by the owners to the City for providing an uninterrupted six-foot wide perimeter easement around the expanded site.

Request No. 3: Vacate ±1,590.3 sq. ft. of Easements in Lots 23-25, Block 29

The applicants seek to vacate $\pm 1,590.3$ sq. ft. of platted easements in Lots 23-25 adjacent to the east and south property lines of the site. All three utility providers lack facilities in these easements and do not object to this request. The City lacks facilities within this easement. This easement will no longer be necessary as the owners will be providing the City with a six-foot wide replacement easement around the expanded site.

Consistency with the Comprehensive Plan

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

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

Policy 1.15: Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the

following future land use classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.

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

Staff comment: This request is consistent with Policy 1.15.a as the site will be $\pm 16,815.5$ sq. ft. following the ROW vacation. When the site is redeveloped with a new single-family dwelling, this will equate to a density of 2.6 dwelling units per acre. This density is less than the maximum 4.4 dwelling units per acre allowed within this future land use classification.

Recommendation:

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

Conditions of Approval

- 1. The vacation of the 596.8 sq. ft. of ROW and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc., dated February 13, 2019, entitled "Quit Claim Area."
- 2. The vacation of the 1,590.3 sq. ft. of easements in Lots 23-25, Block 29 shall be consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc., dated December 17, 2018, entitled "Vacated 6' Public Utility and Drainage Easement."
- 3. Within 60 days from the date of adoption of this vacation, the owners shall provide to the City an easement deed for a six-foot wide easement consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc., dated December 17, 2018, entitled "New Perimeter Easement." This deed shall be approved by the City Property Broker prior to execution.
- 4. This resolution shall be recorded with the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the owners provide the City with an easement deed as described in Condition #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deed.

Staff Contact Information

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

PH: 239-242-3255

Email: mstruve@capecoral.net

EXHIBIT A

LEGAL DESCRIPTION OF 5362 MALIBU COURT

Lots 23 and 24 and the east half of (E ½) of Lot 25, Block 29, Cape Coral Subdivision, Unit One, Part Two, according to the map or plat thereof, as recorded in Plat Book 11, Pages 29-36, inclusive, of the Public Records of Lee County, Florida.





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VP19-0004

REQUEST: The applicants, Michael and Carolyn Mitch, request a vacation of plat for a portion of the Lafayette Canal and Malibu Basin rights-of-way and the underlying public utility and drainage easements located adjacent to Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision; and request a vacation of plat for public utility and drainage easements associated with Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, property located at 5362 Malibu Court.

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

<u>UPCOMING PUBLIC HEARING:</u> Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, March 19th, 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.

After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

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

<u>HOW TO CONTACT:</u> 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.

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

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



Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE

Local#

\$

888-516-9220

239-335-0258

FNPLegals@gannett.com

Customer:

CITY OF CAPE CORAL_DEPT OF COM

Ad No.:

0003423942

Address:

1015 CULTURAL PARK BLVD

Net Amt:

CAPE CORAL FL 33990 USA

Run Times: 1

No. of Affidavits:

Run Dates: 03/09/19

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: VP19-0004

REQUEST: The applicants, Michael and Carolyn Mitch, request a vacation of plat for a portion of the Lafayette Canal and Malibu Basin rights-of-way and the underlying public utility and drainage easements located adjacent to Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision; and request a vacation of plat for public utility and drainage easements associated with Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision, property located at 5362 Malibu Court.

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

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by order of Kimberly Bruns, CMC Interim City Clerk REF # VP19-0004 AD# 3423942 Mar. 9, 2019

Department of Community Development Planning Division

AFFIDAVIT

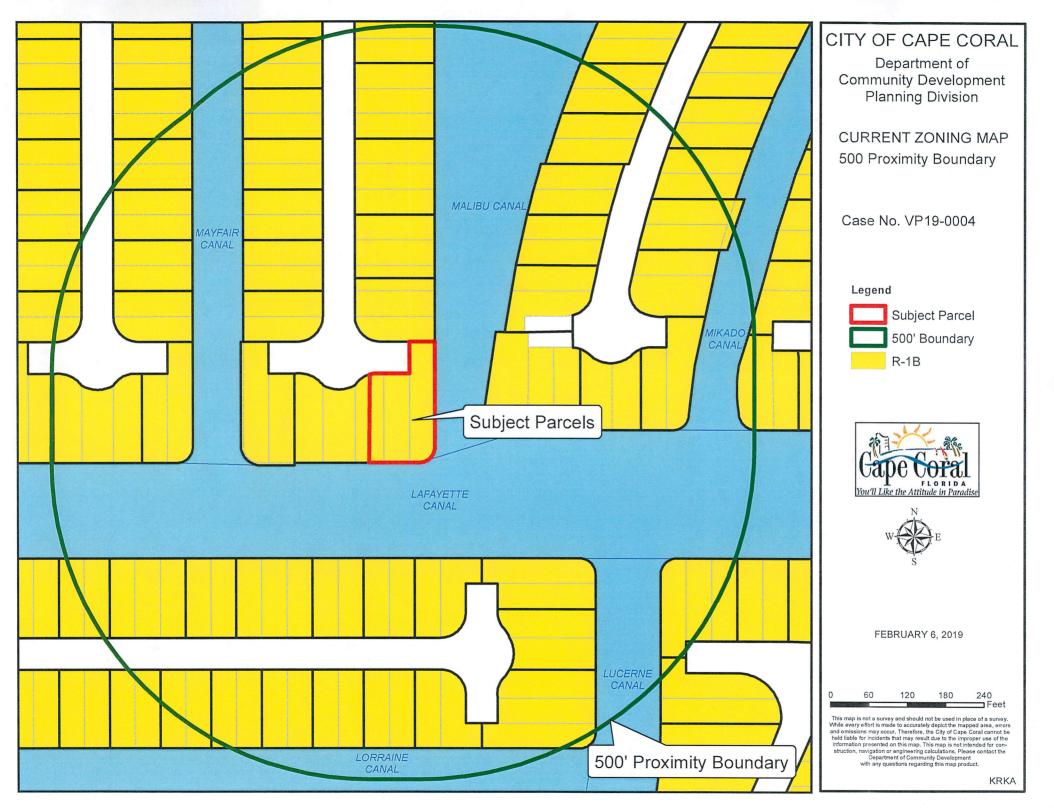
IN RE: APPLICATION OF: Michael and Carolyn Mitch
APPLICATION NO: VP19-0004
STATE OF FLORIDA)) §
COUNTY OF LEE)
I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:
That I am the Director of the Department of Community Development and responsible in 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 12th day of march, 2019.
Ash. Ca
Vincent A. Cautero, AICP
STATE OF FLORIDA COUNTY OF LEE
The foregoing instrument was acknowledged before me this <u>lath</u> day of <u>March</u> , <u>2019</u> , by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

ELISABETH A DELGADO MY COMMISSION # GG030474 EXPIRES December 06, 2020

Exp. Date 12 12 Commission # 66030474

Elisabeth A. Delgado
Print Name of Notary Public







DEPARTMENT OF COMMUNITY DEVELOPMENT VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case	#

INSTRUCTIONS - APPLICATION FOR VACATION OF A PLAT, STREET, ALLEY, CANAL, RIGHT OF WAY OF EASEMENT

- 1. Application, Acknowledgement Form, Authorization to Represent.
 - a. All forms must be filled out completely.
 - b. All forms must be signed by the property owner(s) and must be notarized.
 - c. If the Authorized Representative is an attorney, the Application and the Acknowledgement form may be signed by the attorney and an Authorization to Represent Property Owner is not required.
- Letter of intent identifying your request.
- 3. Proof of title to the tract or parcel of land covered by the plat or, of the plat of which vacation is sought.
- 4. Letters of approval from the following:

Lee County Electric Cooperative, Inc	Century Link (Telephone)	Comcast (Cable)
Russell Goodman	Justin Lane	Mark Cook
Project Coordinator-Land Acquisition	OSP Engineering	Project Coordinator
LCEC, PO Box 3455 North Ft Myers, FL 33918-3455	3301 Del Prado Blvd S. Cape Coral, FL	26100 Westlinks Drive Suite 4 Fort Myers, FL 33913
Russel.goodman@lcec.net	Justin.lane@centurylink.com	Mark_cook@comcast.com
(239) 656-2112	(239) 984-7009	(239) 432-1805

- 5. A sketch and legal description of the area proposed to be vacated area.
- 6. If there are any deed restrictions on the property, a copy of the restrictions will be required.
- 7. Certified topographic survey (done within the past six (6) months), and showing all pavement, utility and drainage features in said area, including but not limited to water, sewer and irrigation lines and manholes; power, cable and utility lines and poles; catch basins, inlets, pipes, and swales. In the case where no features exist, a signed, sealed and dated certification by a Florida registered Professional Engineer can be submitted which certifies that there are no such roadway, utility or drainage features within the limits of and adjacent to the proposed vacated area.
- 8. Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.
- 9. IT IS REQUIRED THAT APPLICANT AND/OR REPRESENTATIVE ATTEND HEARINGS BEFORE BOTH THE HEARING EXAMINER AND THE CITY COUNCIL.



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

OWNED OF DOODERS

Case	#				
		and the second second		-	-

REQUEST TO PLANNING & ZONING COMMISION AND COUNCIL FOR A VACATION OF PLAT

FEE: \$843.00 – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise case will be pulled from public hearing.

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

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

OWNER OF PROPERTY	
michael + Carolyn Mitch	Address: 5362 Malike (+
1	City: Cape Coral State: FL Zip 33904
	Phone: 410-490-7263
APPLICANT	110 410 1200
Michael + Cardyn Mitch	Address: 5362 Malika (4
EMAIL	78
michael insley financial	City: Cape Corral State: FL Zip 33904
t cmcil com	Phone: 410-490-7263
AUTHORIZED REPRESENTATIVE	
Brian HAAG	Address: 1309 Cape Conal PKWY E.
EMAIL BH4610 @ amail.com	City Or a Con O
d	
0	Phone: 239 - 229-1199
Unit part 2 Block 29 Lot(s) + E /2	Subdivision Cape Copa O
Address of Property	
Current Zoning Romando	
Kesicontal	Plat Book , Page 3 @
	Strap Number 18-45-24-04-0029-023



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case	#				
		And and Designation of the last	-	-	-

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

(SIGNATURE MUST BE NOTARIZED)

APPLICANT NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

APPLIC

STATE OF <u>CO</u>, COUNTY OF <u>Saquache</u>

Sworn to (or affirmed) and subscribed before me this 13 day of March Carden Insley-Mitch who is personally known or produced had

___ 20__ by

as identification.

FRANCES PERRIN

NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20174026517

MY COMMISSION EXPIRES JUNE 23, 2021

Exp. Date:

6.23.2021 Commission Number:

201740ab517

Signature of Notary Public:

Printed name of Notary Public:

France Poppin

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.



DEPARTMENT OF COMMUNITY DEVELOPMENT VACATION OF PLAT APPLICATION

Case	#
	11

Questions: 239-574-0776

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.

ipplication and/or the permit for which I a	am applying.			SHE OF A PROPRIESTO STATE OF A ST
STATE OF, COUNTY C)F	Soonach	Q	
CORPORATION/COMPANY NAME Sworn to (or affirmed) and subscribed	l before me t	his 13 day of	marchae 19 by	
Caray Mitch	who is persoi	nally known or p	roduced moly	mitch
PROPERTY OWNER (PLEASE TYPE OR PR	INT)	PRO	PERTY OWNER'S SIGNAT	URE /
	Exp. Date:	6.53.51	Commission Number:	20174026517
FRANCES PERPIN	Signature of	Notary Public:	Francos	Opperio

FRANCES PERRIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174026517
MY COMMISSION EXPIRES JUNE 23, 2021

Printed name of Notary Public: (SIGNATURE MUST BE NOTARIZED)



DEPARTMENT OF COMMUNITY DEVELOPMENT

vacation o	F PLAT	APPL	CATION
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Questions: 239-574-0776

Case #		
	With the last of t	

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)
PLEASE BE ADVISED THAT (Name of person giving presentation)
IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR DOCAL DEPUT LINE
UNIT paret a BLOCK 29 LOT(S) 231241E SUBDIVISION Capecoral
OR LEGAL DESCRIPTION Cape Coral Unit 1 Part 2 BIK 29 PB 11 PG 32 Lots 23+24+8 1/21 T25
LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.
Carolyn Mitch
PROPERTY OWNER (Please Print) PROPERTY OWNER (Please Print)
PROPERTY OWNER (Signature & Title) PROPERTY OWNER (Signature & Title)
STATE OF _CO, COUNTY OF _Squacho
who is personally known or produced who is personally known or produced who is personally known or produced when the sidentification.
FRINCES PERRIN NOTARY PUBLIC STATE OF COLORADO Signature of Notary Public:
STATE OF COLORADO NOTARY ID 20174026517 MY COMMISSION EXPIRES JUNE 23, 2021 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

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case	#_			
	7.3	 	-	-

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.

OWNER/APPLICANT (PLEASE TYPE OR PRINT) OWNER/APPLICANT SIGNATURE
(SIGNATURE MUST BE NOTARIZED)
STATE OF COUNTY OF Sagrado
Sworn to (or affirmed) and subscribed before me on this 13 day of March 20 19 by Caroly Mitch, who is personally known or who has produced personally known or who has personally known or who has produced personally known or who has personally known or who
Exp. Date 6 23-21 Commission # 20174020517 Signature of Notary Public
FRANCES PERRIN Print Name of Notary Public

NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20174026517 MY COMMISSION EXPIRES JUNE 23, 2021

Planning Division City of Cape Coral

RESOLUTION 80-19 VP 19-0004

Cape Coral City Council Meeting Final Public Hearing

May 13, 2019

VP 19-0004

Owners: Michael and Carolyn Mitch

Rep: Brian Haag

Request: The applicants request to vacate:

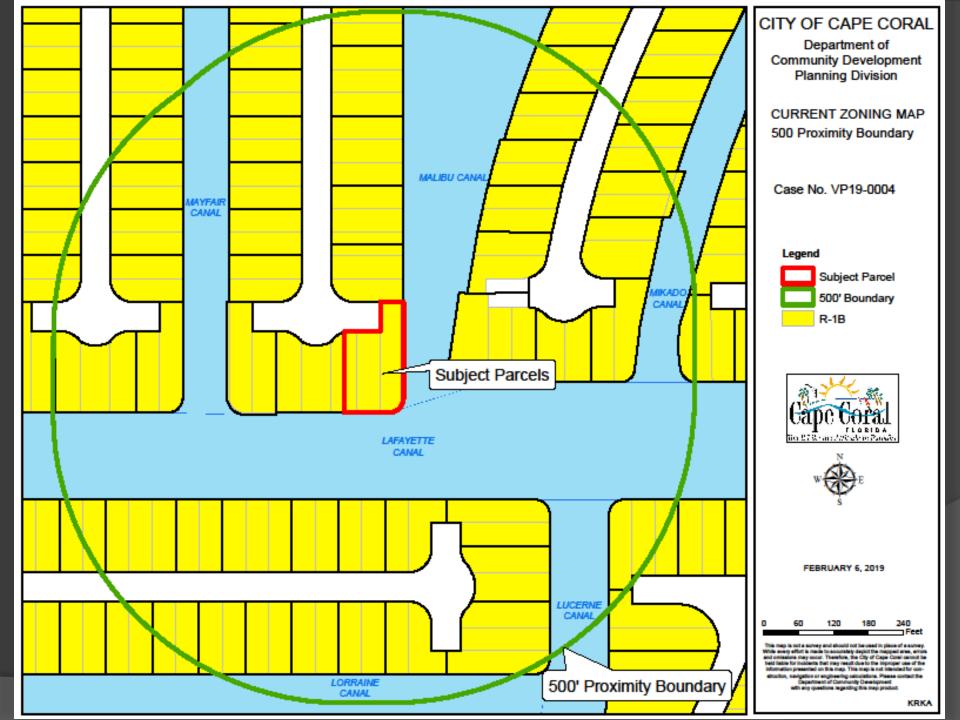
- 1. ±596.8 sq. ft. of canal ROW and all underlying easements for a portion of the Lafayette Canal and the Malibu Basin.
- 2. ±1,590.3 sq. ft. of platted easements associated with Lots 23-25, Block 29, Unit 1, Part 2.

Location: 5362 Malibu Court



VP19-0004





Background

 The site is 16,218 sq. ft. and is at the intersection of two waterways.

A house was demolished from the site in 2018.
 Construction on a new house is underway.

 The owner seeks to vacate ROW between the east and south property lines and the edge of the seawall.

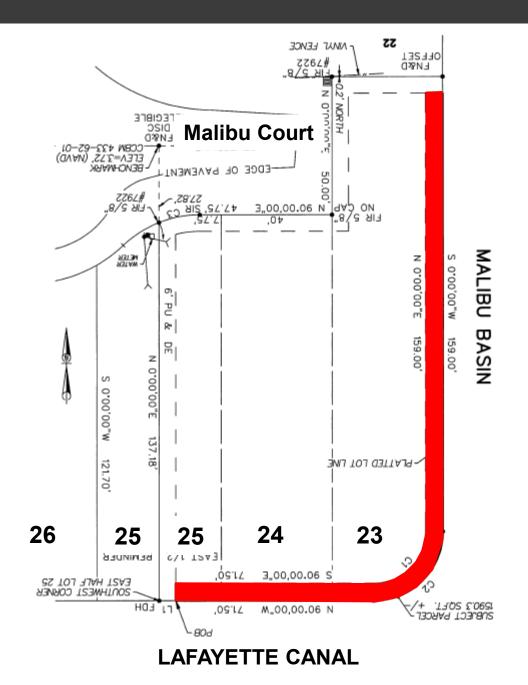
22 NIAKT EENCE T17 OFFSET ZZ62# FN&D 0"12"06"E ILLEGIBLE DISC FN&D **Malibu Court** -CCBM 422-62-01 ELEV=3.72" (NAVD) BENCHWARK FDGE OF PAVEMENT1 .12 ANCLE POINT-.8/S ≥/8, -£IB ≥/8, 27.75 SIR C NO ¢∀Ь[N 80.00,00,E FIR 5/8" CONCRETE WATER FACE OF MALIBU RETER 3,00,00,0 2 8* BASIN 문 0.00,00 M_00,00.0 ANGLE POINT אראדודם נסד נואכ 26 24 23 25 25 **BEWINDER** EV21 1/5 EAST HALF LOT 25 SOUTHWEST CORNER 3,,00,00,06 S 596.8 SQ.FT. +/-M~45,0Z.68 S FDH .61.28 LAFAYETTE CANAL

Vacate Canal ROW & Underlying Easements

Area is 596.8 sq. ft.

Analysis (LUDR, Section 8.11)

- The applicant owns the site that abuts the ROW.
- The ROW is narrow. The ROW is not needed for any foreseeable public purpose.
- The vacation will be consistent with the plat of Unit 1, Part 2.
- City and private provider utilities are absent in the underlying easements.



Vacate Existing Six Foot Wide Platted Easement

Area is 1,590.3 sq. ft.

Analysis (LUDR, Section 8.11)

- The City lacks facilities in the easements.
- Century Link, Comcast, and LCEC lack utilities in the easements.
- The owner will deed to the City new easements sufficient for providing a continuous perimeter easement.

Recommendations

<u>Planning Division</u> Staff recommends approval.

Hearing Examiner

A public hearing was held on March 19, 2019. The Hearing Examiner recommends approval with staff conditions. No speakers at public input.

Correspondence

One phone call – caller sought more information on case.

Item

B.(2)

Number:

Meeting

5/6/2019

Date:

3/0/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Introductions

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 6-19 Set Public Hearing Date for June 3, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?

2. Is this a Strategic Decision?

No No

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The City of Cape Coral has established a self-funded insurance plan to provide health benefits for its employees and retirees participating in the City's health plan. The union contract for the "General Union" states that the City will create a health benefits trust for the purpose of holding funds to be used for the exclusive purpose of providing employee health insurance benefits under the health plan to those employees covered under the collective bargaining agreement and their beneficiaries. This ordinance establishes that trust, implementing the terms of the contract.

LEGAL REVIEW:

EXHIBITS:

Memo

Ordinance 6-19

PREPARED BY:

bscheuer Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Lisa Sonego, Human Resources Director

ATTACHMENTS:

Description

□ Memo

Ordinance 6-19

Туре

Backup Material Ordinance

MEMORANDUM

CITY OF CAPE CORAL CITY MANAGER'S OFFICE

TO:

Mayor Coviello and Council Members

FROM:

John Szerlag, City Manager

Connie Barron, Assistant City Manager

Lisa Sonego, Human Resources Director

DATE:

April 18, 2019

SUBJECT: C

Ordinance 6-19. General Union Health Benefits Trust

Attached is an ordinance establishing a Health Benefits Trust pursuant to the collective bargaining agreements of International Union of Painters and Allied Trades, Local 2301 (IUPAT).

The Trust can hold funds to be used for the exclusive purpose of providing employee health insurance benefits to those employees covered under the IUPAT, Local 2301 collective bargaining agreement. The ordinance establishes a Health Benefits Trust Board to advise the City's Investment Advisory Committee on any health benefits trust funds.

This advisory board was originally drafted by the City to be comprised of four (4) City representatives and one (1) IUPAT member and, per discussions with IUPAT, City has changed the board structure to three (3) City and two (2) IUPAT members.

Investment advisory will be the primary function of the Board with funds identified by the City. Funds included could be made up of City, Employee and Retiree contributions.

Approval is requested.

JS/CB/LS:jr

Attachment: Ordinance 6-19

ORDINANCE 6 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, BY ESTABLISHING ARTICLE VIII ENTITLED "GENERAL UNION HEALTH BENEFITS TRUST", PROVIDING FOR THE CREATION OF A HEALTH BENEFITS TRUST AND THE APPOINTMENT OF A HEALTH BENEFITS BOARD; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral has established a self-funded insurance plan to provide health benefits for its employees and retirees participating in the City's health plan (the "Plan"); and

WHEREAS, it is the desire of City Council to establish a trust to hold funds to be used for the exclusive purpose of providing employee health insurance benefits under the Plan to those employees covered under the collective bargaining agreement (the "CBA") between the City and the International Union of Painters and Allied Trades AFL/CIO-District Council #78-Local Union 2301 (the "General Union") and their beneficiaries; and

WHEREAS, it is also the desire of City Council to establish a health benefits trust board to administer the health benefits trust funds.

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

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article VIII, General Union Health Benefits Trust, is hereby established as follows:

CHAPTER 2: ADMINISTRATION

• • •

ARTICLE VIII: - GENERAL UNION HEALTH BENEFITS TRUST

Sec. 2-160 Definitions.

As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated.

BOARD. The Board of Trustees of the General Union Health Benefits Trust.

BOARD MEMBER. A Trustee on the Board of the General Union Health Benefits Trust.

CITY. The City of Cape Coral, Florida.

PARTICIPANT. A benefit-eligible City employee, domestic partner, eligible dependent or other person to be determined eligible to participate in the City's health plan (the "Plan") or other self-insured City program for the management and administration of a system for direct payment of benefits, losses or claims or any combination of insurance and direct payment, and who is covered by the CBA between the City and the International Union of Painters and Allied Trades AFL/CIO-District Council #78-Local Union 2301 (the "General Union") (or was covered prior to retirement or termination of employment) or who is eligible on account of relationship to a General Union participant.

PLAN. The City's health insurance plan that provides health benefits to eligible employees and retirees.

PLAN YEAR. A 12-month period of benefits coverage under the City's Plan. This 12-month period may not be the same as the calendar year.

TRUST. The City of Cape Coral General Union Health Benefits Trust.

TRUST AGREEMENT. A separate document adopted by the City setting forth the specific terms for the administration of the City of Cape Coral General Union Health Benefits Trust.

Sec. 2-161 Creation of Trust and Contributions.

The City hereby creates the General Union Health Benefits Trust (the "Trust") to hold assets to be used for the exclusive purpose of providing benefits under the Plan, including health benefits under the Plan and insurance coverage as set forth herein. The City shall contribute \$100.00 to the Trust upon adoption of the Trust Agreement. Thereafter, the City shall make contributions only as required under the terms of the CBA; provided that in its sole and absolute discretion, the City may: (a) make such additional contributions to the Trust, if any, as it determines; and (b) permit some or all classes of Participants (such as retirees or COBRA participants) to make contributions required to maintain Plan participation in the Trust.

Sec. 2-161. Board of Trustees.

- (a) The trusteeship of the Trust is vested in a Board of Trustees composed of five (5) members, as follows: the City Finance Director, the City Human Resources Director, an Assistant City Manager, the President of the General Union and the General Union President's designee, who must be a current city employee and a member of the union. Notwithstanding the foregoing, the City Manager may specifically appoint any other City employee who is not a member of the General Union to serve as a trustee in lieu of the City Finance Director, the City Human Resources Director, or an Assistant City Manager.
- (b) The trustees shall, by majority vote, elect one trustee to serve as Chairperson. The trustees shall not receive any compensation but may receive reimbursement for reasonable expenses incurred in their function as Board Member, if such expenses are directed or approved by the City or its designee.
- (c) Each trustee shall be entitled to one vote on the Board. Three trustees shall constitute a quorum for any meeting of the Board, and three affirmative votes shall be necessary for any decision by the trustees. A trustee shall have the right to abstain from voting as a result of a conflict of interest and shall comply with the provisions of F. S. § 112.3143.
- (d) The Board shall not be required to give any bond or to qualify before, be appointed by, or account to any court of law in the exercise of its powers under this Article.
- (e) The Board shall have no discretion or authority with respect to the investment of the assets of the Trust Fund.
- (f) As soon as administratively feasible after the close of each plan year, the Board shall file with the City a written account listing all assets held in the Trust Fund.

Sec. 2-162 Responsibility of the City.

- (a) The City, or its designee, shall invest the assets of the Trust in accordance with the City of Cape Coral Investment Policy established in accordance with Section 218.415 Florida Statutes.
- (b) The City, or its designee, will maintain all accounts, books and records in relation to the Trust.
- (c) The City, or its designee, shall make payments from the Trust at such time to such Participants and in such amounts as shall be authorized by the provisions of the Plan; provided, that no payment shall be made that would cause any of the assets of the Trust to be used for or diverted to purposes other than the exclusive purpose of funding benefits for Participants under the terms of the Plan or insurance policies.

The City, or its designee, may make payments from the Trust with respect to Trust expenses (d) as provided in this Article. SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect. SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council. ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2019. JOE COVIELLO, MAYOR VOTE OF MAYOR AND COUNCILMEMBERS: COVIELLO NELSON GUNTER STOKES CARIOSCIA WILLIAMS STOUT **COSDEN** ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF ____ 2019. KIMBERLY BRUNS INTERIM CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY ord/General Health Benefits Trust

2/21/19 2/22/19 Item

B.(3)

Number:

Meeting

5/6/2019

Date: Item

ORDINANCES/RESOLUTIONS -

Type:

Introductions

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 8-19 Set Public Hearing Date for June 3, 2019

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?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The Code of Ordinances sets for regulations for travel expenses and auto allowances in Chapter 2, Article IV. Previously the code provided that a travel policy would be set forth in a resolution and incorporated in an administrative regulation. The City is now providing the same foundation for the policy in the Code of Ordinances and providing that the travel policy will be set forth in an administrative regulation. This ordinance repeals the prior resolution that adopted a travel policy.

Certain provisions are being updated, mainly to conform to the new procedures necessary after the implementation of the Concur software program used by the Finance department for submittal, approval, tracking, and reimbursement of travel.

LEGAL REVIEW:

EXHIBITS:

Ordinance 8-19

PREPARED BY:

Division-Department-Attornev

SOURCE OF ADDITIONAL INFORMATION:

Victoria Bateman, Financial Services Director Michelle Hoffman, ITS Director

ATTACHMENTS:

Description

□ Ordinance 8-19

Staff Presentation

Type

Backup Material Backup Material

ORDINANCE 8 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCE, CHAPTER 2, ADMINISTRATION, ARTICLE IV, TRAVEL EXPENSES AND AUTO ALLOWANCES, TO UPDATE PROVISIONS FOR REIMBURSEMENT FOR TRAVEL WHEN ON CITY BUSINESS, TO PROVIDE FOR ESTABLISHING A TRAVEL POLICY AS AN ADMINISTRATIVE REGULATION RATHER THAN BY RESOLUTION, AND REPEALING RESOLUTION 22-05 WHICH SET FORTH THE TRAVEL POLICY PREVIOUSLY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article IV, Travel Expenses and Auto Allowances, is hereby amended as follows:

ARTICLE IV: - TRAVEL EXPENSES AND AUTO ALLOWANCES

Section § 2-43 - Intent.

The intent of this article is to provide the opportunity for city employees to enhance their jobrelated skills and capabilities by financing reasonable costs associated with professional development as well as expenses incurred in connection with official business.

§ 2-44 - Purpose.

The purpose of this article is to establish uniform rates and methods of calculations governing the reimbursement of travel and related expenditures and for the proper application for eash advances and/or the use of city credit eards.

§ 2-45 - Applicability.

The provisions of this article shall be applicable to all individuals employed by the City of Cape Coral.

§ 2-46 - Definitions.

As used in this article, the following words or terms shall have the meanings indicated.

CITY-OWNED VEHICLE. Transportation provided by a vehicle owned or leased by the City of Cape Coral in lieu of common carrier or privately owned vehicle.

COMMON CARRIER. A person or company that provides Leong distance transportation provided by bus, train or commercial airline or other transportation method for a fee. Example: from Cape Coral to New York.

COMMUNICATIONS. Long-distance $\underline{\mathbf{t}}$ Telephone, telegraph, faxes and internet charges incurred for $\underline{\mathbf{official}}$ business $\underline{\mathbf{use}}$.

COMMUTER SERVICE. Local transportation provided bus, limousine, taxicab, subway, rental car, ferry, tram, or other commuter service. Example: from the airport to the hotel.

CONFERENCE. A congregation (usually-annually) of members of a group or association with a common purpose (e.g., similar careers or responsibilities).

MILEAGE ALLOWANCE. The fixed rate provided for by the Internal Revenue Code, as amended from time to time, per mile for use of privately owned vehicle.

MISCELLANEOUS TIPS. Gratuitous payment to individuals for services such as baggage handling and valet parking.

OFFICIAL BUSINESS. Business performed on behalf of and/or for the benefit of the City of Cape Coral by an employee, Council member or contract employee of the City of Cape Coral.

PER DIEM. The allowance for lodging (excluding taxes), meals and related incidental expenses as set forth by the United States General Services Administration.

PRIVATELY OWNED VEHICLE. Transportation provided by the employee's personal vehicle in lieu of common carrier or city owned-vehicle.

PROFESSIONAL DEVELOPMENT. Conferences, seminars, training courses, workshops or any organized event for the purpose of enhancing job-related skills and capabilities.

RENTAL CAR. Transportation provided by a rental agency.

SEMINAR. An advanced course often featuring informality and discussion.

TRAINING PROGRAM. A session designed to instruct or guide an employee in the development and/or enhancement of a skill or proficiencies that have generally recognized benefits to the city.

TRAVELER. A public officer, public employee or authorized person, when performing authorized travel.

TRAVEL EXPENSE, TRAVELING EXPENSES, NECESSARY EXPENSES WHILE TRAVELING, ACTUAL EXPENSES WHILE TRAVELING OR WORDS OF SIMILAR NATURE. The usual, ordinary and incidental expenditures necessarily incurred by a traveler.

WORKSHOP. A brief intensive educational program for a relatively small group of people that emphasizes participation in problem solving.

§ 2-47 - Travel expenses.

- All travel related expenditures must be pre-approved by the employee's department director; or, for the department directors or employees in the City Manager's Office, by the City Manager; or for employees in the City Auditor's Office, by the City Auditor; for employees in the City Attorney's office, by the City Attorney; or for employees in the City Council Office, by the Mayor or Councilmember designated to perform managerial duties. Authorization shall be granted only for those requests that are beneficial to the City and the employee's professional development, as well as expenses incurred in connection with conducting city business. City employees who have received authorization may request reimbursement pursuant to this Article and any adopted policy or Administrative Regulation consistent with this Article.
- (b) For purposes of reimbursement, the rates and methods of calculations are subject to the following:
 - (b)1. The traveler shall select the method of calculating reimbursement, in writing, or through such other method as the City may designate, prior to the travel. The traveler shall receive reimbursement based upon either of the following:
 - (1)A. The per diem dollar amount authorized by the United States General Services Administration, as amended from time to time, for lodging, meals and related incidentals; or
 - (2)B. The amounts permitted by the United States General Services Administration, as amended from time to time, for meals—plus the following expenses, if applicable: actual expenses for lodging at a single occupancy rate; common carrier expenses; mileage allowance; rental ear expense; commuter service; parking, garage and toll charges; registration—fee—and—course—materials; communications; and miscellaneous tips to be substantiated by bills paid therefore. and

related incidentals plus actual expenses for lodging at a single occupancy rate.

2. The traveler shall also be eligible for the following expenses, if applicable: common carrier expenses; mileage allowance; rental car expense; commuter service expense; parking, and toll charges; registration fees and course materials; communications; miscellaneous tips and any other City reimbursable expenses.

§ 2-48 - Automobile allowances.

At the City Manager's discretion, he or she shall be authorized to establish a fixed monthly automobile allowance for Directors of each of the administrative departments established pursuant to § 2-1.2 of the City of Cape Coral code of ordinances for use of a privately-owned vehicle on official business. The funds shall be allocated in the annual budget approved by City Council.

§ 2-49 - Travel by privately-owned vehicle.

- (a) Whenever practical, the use of a city owned vehicle or common carrier is preferred for official travel rather than use of a privately owned vehicle.
- (b) Whenever payment of mileage for the use of a privately owned vehicle is pre-approved, travel is by privately owned vehicle, the traveler shall be entitled to a mileage allowance at the fixed rate provided for by the Internal Revenue code, as amended from time to time, for travel to and from approved destination, and for reasonable travel at approved destination.
- (c) This reimbursement does not apply For travel within Lee County, mileage reimbursement will not be paid to employeestravelers receiving a monthly auto allowance, or for expenditures related to the operation, maintenance and ownership of a vehicle when privately owned vehicles are used on public business and reimbursement is made pursuant to this section. For travel outside of Lee County, travelers who receive a monthly auto allowance may have the option of using a city owned vehicle or using their privately owned vehicle and receiving reimbursement as described in Section 2-49(b) so long as the travel is in connection with official city business.
- (d) However, for travel outside of Lee County, employees who receive a monthly auto allowance may have the option of using a city owned vehicle or receiving reimbursement as described herein so long as the travel is in connection with official eity business. Prior to travel, travelers that have an assigned city vehicle must get approval of the Department Director to use any privately owned vehicle for travel for official business. Also prior to travel, the Director must either deny the use of a privately owned vehicle for travel, approve the reimbursement of mileage to the employee for the use of a privately owned vehicle pursuant to Section 2-49(b), or approve the use of a privately owned vehicle, but deny any reimbursement for mileage. In no event shall the traveler receive reimbursement for travel not related to city business.

§ 2-50 - Non-reimbursable expenses.

Employees shall not be reimbursed from city funds for any personal items, alcoholic beverages, entertainment or any expenses incurred by guests or members of the employee's family.

§ 2-51 - Travel policy.

A travel policy shall be adopted by resolution and incorporated in the city's administrative regulations in its entirety. The City shall establish a comprehensive travel policy as an Administrative Regulation in accordance with this Article.

SECTION 2. Resolution 22-05, adopted by City Council on May 31, 2005, which established a travel policy pursuant to Section 2-51 of the Code of Ordinances, is hereby repealed.

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

SECTION 4. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED B							AL AT I	TS REGU	LAR
SESSION TH	15 L	DAY OF			, 201	9.			
				JO	E COVIEL	LO, MA	YOR		_
VOTE OF M.	AYOR AND	COUNCIL	MEI	MBEF	RS:				
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APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY

ord/Travel Policy

1/31/19



Code of Ordinances Chapter 2 Administration Article IV: Travel Expenses and Travel Allowances

Summary of Changes

- Updated and/or removed definitions
- Restructured section to clarify methods of calculating reimbursement
- Added language to allow electronic submission of the selection of the method of calculating reimbursement
- Specifying that payment of mileage for the use of a privatelyowned vehicle must be pre-approved in order to be entitled to mileage allowance
- Employees that have an assigned city vehicle must get preapproval from the Department Director and the Director has the option to deny mileage reimbursement
- Removed the language referring to a resolution

Item

B.(4)

Number:

Meeting

5/6/2019

Date: Item

ORDINANCES/RESOLUTIONS -

Type:

Introductions

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 22-19 Set First Public Hearing Date for May 13, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are

listed below.

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 22-19.

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .15, South Cape Downtown District (SC), by eliminating the South Cape Redevelopment Incentive Program (SCRIP), amending the maximum floor area ratio, maximum residential density, and maximum building height in the South Cape Downtown District, establishing regulations to allow certain architectural elements in City easements and rights-of-way in the South Cape Downtown District, and establishing regulations to allow outdoor dining on public rights-of-way and City-owned parking lots in the South Cape Downtown District.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 22-19 Staff Presentation

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, DCD Director

ATTACHMENTS:

Description Type

□ Ordinance 22-19 Ordinance

Staff PresentationBackup Material

ORDINANCE 22 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2.7, DISTRICT REGULATIONS, SUBSECTION .15, SOUTH CAPE DOWNTOWN DISTRICT (SC), BY ELIMINATING THE SOUTH CAPE REDEVELOPMENT INCENTIVE PROGRAM (SCRIP), AMENDING THE MAXIMUM FLOOR AREA RATIO, MAXIMUM RESIDENTIAL DENSITY, AND MAXIMUM BUILDING HEIGHT IN THE SOUTH CAPE DOWNTOWN DISTRICT, ESTABLISHING REGULATIONS TO ALLOW CERTAIN ARCHITECTURAL ELEMENTS IN CITY EASEMENTS AND RIGHTS-OF-WAY IN THE SOUTH CAPE DOWNTOWN DISTRICT, AND ESTABLISHING REGULATIONS TO ALLOW OUTDOOR DINING ON PUBLIC RIGHTS-OF-WAY AND CITY-OWNED PARKING LOTS IN THE SOUTH CAPE DOWNTOWN DISTRICT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1. The City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .15, South Cape Downtown District, is hereby amended as follows:

.15 - South Cape Downtown District (SC).

Purpose and intent. The purpose and intent of the South Cape Downtown District is to promote and enhance the traditional commercial center of Cape Coral, otherwise known as South Cape, as a viable location for development, redevelopment and economic growth and to create a destination for both residents and visitors with daytime and nighttime activities that will serve the entire city and region. The provisions contained herein provide for the development of a wide range of uses in a compact and walkable form and encourage compound and mixed-use development. It is intended that these regulations act as a stimulus to development through provisions that permit a flexible approach to infill development on various lot sizes, as well as special provisions related to particular locations within the district. Therefore, many of the provisions contained herein, including uses and dimensional regulations, are regulated by lot size, street designation, or a combination thereof. It is further intended that these provisions incentivize compound use developments of significant size and character to serve as catalyzing forces to economic development through the South Cape Redevelopment Incentive Program (SCRIP), which provides for greater floor area ratio, residential density, and building height than that permitted by right.

For the purposes of this district, when the term LOT, or phrases including the term LOT are used, such terms or phrases shall mean and include, but not be limited to, single lots, sites or parcels, as well as adjoining, combined, or amalgamated lots, sites or parcels that are being developed simultaneously.

. .

- D. Special regulations. The following are special regulations for the South Cape Downtown District:
 - 1. Maximum floor area ratio. Maximum floor area ratio (FAR) is regulated by lot frontage/lot area and shall be as provided in Table SC-2. The South Cape Redevelopment Incentive Program (SCRIP) (§ 2.7.15.D.12.) may be utilized to achieve a higher FAR as provided in Table SC-2.

The FAR calculation for a compound use building shall not be affected by floor area in those portions of a building(s) dedicated to residential uses. For the purposes of this provision, residential uses shall include dwelling units and accessory uses to dwelling units intended solely for the use of residential use occupants and guests, such as, but not limited to, lobbies, common circulation areas, fitness and recreational facilities, and other amenities.

TABLE SC-2					
MAXIMUM FLOOR AREA RATIO					
SOUTH CAPE DOWNTOWN DISTRICT					

	,					
		Lot Area				
Applicable Lots	≤75'(a)	>75' but <125'	≥125' but <60,000 s.f.	≥60,000 s.f.		
	Maximum Floor Area Ratio					
All lots (b)	0.75	0.75 <u>1.00</u>	1.00 <u>2.00</u>	2.00 <u>4.00</u>		
Parking area sites (c)	2.00	2.00	2.00	2.00		
Lots with participation in the SCRIP or PILOP (d)	2.00	2.00	4.00	4.00		

- (a) When satellite parking is provided in accordance with § 2.7.15.D.13.b., lots with lot frontage less than or equal to 50 feet may have a maximum floor area ratio of 2.0.
 - (b) Except for parking area sites and lots participating in the SCRIP or PILOP programs.
 - (c) Parking area sites as identified in § 2.7.15.D.13.a.
- (d) Participation in the South Cape Redevelopment Incentive Program (SCRIP) shall be pursuant to § 2.7.15.D.12. Contributions to the Payment in Lieu of Parking (PILOP) Fund shall be pursuant to § 2.7.15.D.5.
 - 2. Maximum residential density. The maximum density of residential dwelling units shall be as provided in Table SC-3. As provided in the table, the South Cape Redevelopment Incentive Program (SCRIP) (§ 2.7.15.D.12.) may be utilized to achieve a higher density.

The number of residential dwelling units within the South Cape Downtown District shall be limited to those allowed within Downtown Mixed future land use classification in the Future Land Use Element (FLUE) of the Comprehensive Plan.

The following calculation shall be used to determine the maximum number of dwelling units (DU) permitted on a given parcel, with the result rounded to the nearest whole unit:

 $\left(\frac{Parcel\ Area\ in\ Square\ Feet}{43.500}\right)$ Allowable Density = Maximum Number of DU

TABLE SC-3 MAXIMUM RESIDENTIAL DENSITY SOUTH CAPE DOWNTOWN DISTRICT				
Applicable Lots	Maximum Density (dwelling units per acre)			
All lots (a)	20 <u>75</u>			
Lots with participation in the SCRIP (b)	40			
(a) Except for lots participating in the SCRIP programs.				
(b) Participation in the South Cape Redevelopment Incentive Program (SCRIP) shall be pursuant to § 2.7.15.D.12.				

- 3. Minimum size of dwelling units. Every dwelling unit shall have at least the following floor area:
 - a. Efficiency: 500 square feet.
 - b. One bedroom units: 650 square feet.

- c. For each additional bedroom: 150 square feet.
- d. At least 50% of the dwelling units in any development of more than 20 dwelling units shall be 650 square feet or more in floor area.
- 4. Maximum building height. Maximum building heights are regulated by lot frontage/lot area and shall be as provided in Table SC-4. As provided in the table, the South Cape Redevelopment Incentive Program (SCRIP) (§ 2.7.15.D.12.) may be utilized to achieve a greater building height, except as specified in § 2.7.15.D.4.e. Building heights are based on a maximum height or a maximum number of stories, whichever is less. For purposes of this subsection, stories used exclusively for parking vehicles count the same as habitable stories.
 - a. For non-residential buildings or non-residential portions of compound use buildings, the floor of the first story shall not be located any higher than one foot above that required by § 6.5.B.2.
 - b. For residential buildings or residential portions of compound use buildings, the floor of dwelling units on the first story shall not be located any lower than 18 inches above the elevation of the public sidewalk or otherwise required by § 6.5.B.1.
 - c. Except for off-street parking areas, any area under the floor of the first story shall not be counted as a story, shall not be habitable, and shall be enclosed by building walls.
 - d. Unless otherwise restricted within the South Cape Downtown District, maximum building height shall not apply to the following building components: elevator and stair bulkheads; solar energy systems; shade devices associated with parking structures or recreational amenities; skylights or similar components associated with daylighting; and mechanical equipment, provided that such equipment is architecturally screened on all sides.
 - e. Buildings or portions of buildings within 200 feet of any residential zoning district shall be limited to six stories or 95 feet, whichever is less, notwithstanding participation in the South Cape Redevelopment Incentive Program (SCRIP).

TABLE SC-4						
MAXIMUM BUILDING HEIGHT SOUTH CAPE DOWNTOWN DISTRICT						
		Lot Frontage/Lot Area				
Applicable Lots	≤75'	>75' but <125'				
	Maximum Height (stories/feet, whichever is less)					
All lots (a)	6/95 6/95 6/95 6/95 12/16					
Lots with participation in the SCRIP(b)	6/95	6/95	12/180(e)	12/180(c)		
(a) Except for lots participating in the SCRIP programs.						
(b) Participation in the South Cape Redevelopment Incentive Program (SCRIP) shall be pursuant to § 2.7.15.D.12.						

⁽ae) Buildings on lots within 200 feet of any residential zoning district are subject to the limitations of § 2.7.15.D.4.e.

- 6. Building and off-street parking area placement. Building and off-street parking area placement shall be in accordance with the following standards:
 - a. Minimum building and off-street parking area setbacks. Minimum building and off-street parking area setbacks shall be as provided in Table SC-6. For the purpose of this provision, a parking structure shall be considered a building(s); and surface parking lots and similar facilities shall be considered off-street parking areas. Minimum off-street parking area setbacks shall apply to on-site and satellite parking areas, commercial parking lots/automotive parking establishments, and similar facilities.
 - (1) Exceptions from building and off-street parking area placement provisions are permitted to protect non-exotic extant trees with diameters greater than eight inches as measured four feet up from grade. Such provisions shall only be modified to the extent necessary to protect the tree(s) as determined by a certified arborist or licensed landscape architect.
 - (2) Minimum building and off-street parking area setbacks shall not apply to commercial type trash receptacles and enclosures. Commercial type trash receptacles and enclosures shall be subject to § 2.7.15.D.11.
 - (3) The following elements are not subject to the minimum building setbacks, but shall not extend forward of a lot line, except in accordance with these regulations. Notwithstanding § 3.14 and § 3.24 of the Land Use and Development Regulations, awnings, canopies, colonnades, arcades, and balconies and may encroach into an easement or a public rightof-way if approved by the City Manager, or City Manager's designee, pursuant to the criteria provided in § 2.7.15.D.8.b.(1). If elements encroach, the city may require the property owner to enter into a formal easement agreement or right-of-way agreement in a form acceptable to the City Attorney. The property owner of the structure containing the elements encroaching into the easement or right-of-way is solely responsible for repairing any damage to encroachments in the easement or public right-of-way that result from maintenance or public infrastructure improvements.
 - (a) Architectural elements as provided in § 2.7.15.D.8.b.
 - (b) Elements lower than 42 inches in height above grade, including but limited to, retaining, landscape, and planter walls, and street furniture.
 - (c) Patios or plazas no higher than 12 inches in height above grade.
 - (d) Railings and any elements associated with ADA accessibility, regardless of height.
 - (e) Heating, air conditioning, pool, or similar equipment located in rear yards.

TABLE SC-6 MINIMUM BUILDING AND OFF-STREET PARKING AREA SETBACKS SOUTH CAPE DOWNTOWN DISTRICT				
Applicable Location Minimum Building Setbacks (feet) (a)				
Front	7			
Side	0 or 6			
Side when abutting an alley(<u>b</u> a)	17			

Rear	7			
Rear when abutting an alley (<u>b</u> a)	17			
Navigable waterway	15			
Minimum Off-Street Parking Area Setbac	ks (feet) (<u>c</u> b)			
Front	7			
Side	4(<u>d</u> e)			
Side when abutting an alley(<u>b</u> 2)	13			
Rear	5			
Rear when abutting an alley (<u>b</u> a) 13				
Navigable waterway	10			
(a) See Section 2.7.15.D.6.a.(3) for exceptions	to the aforementioned setbacks.			
(ba) Measured from abutting alley centerline.				
(cb) Measured from the face of curb abutting	the vehicular use area.			
(de) Except for shared curb cuts, joint drivew lines.	vays and shared off-street parking areas across lot			

- b. Maximum building setbacks, minimum building frontages, and off-street parking area location. Maximum building setbacks, minimum building frontages, and off-street parking area locations are regulated by lot frontage/lot area and by street designations and shall be as provided in Table SC-7 and the Street Designation Map, respectively. Portions of parking structures not concealed by liner buildings shall not serve to meet the provisions for maximum building setbacks and minimum building frontages.
 - (1) On lots at the cornet of two streets or at the corner of a street and an alley, visibility triangles shall be maintained in accordance with § 3.7. In the event that requirements for visibility triangles impact the placement of a building(s) or portion of a building(s) such that the requirements for maximum building setbacks and minimum building frontages cannot be met, those portions of the building(s) impacted by the visibility triangle shall be deemed to be in compliance with and may be counted toward maximum building setback and minimum building frontage requirements.
 - (2) Exceptions from building and off-street parking area placement provisions are permitted to protect non-exotic extant trees with diameters greater than eight inches as measured four feet above grade. The building and off-street parking area placement provisions shall only be modified to the extent necessary to protect the tree(s) as determined by a certified arborist or licensed landscape architect.
 - (3) For lots abutting three or more street designations, only two street designations shall apply for maximum building setbacks, minimum building frontages, and parking locations. When determining the applicable street designations, the highest applicable street designation shall take priority. However, the frontage designations of "parkway" and "primary" shall apply and shall not be disregarded under any circumstances.

TABLE SC-7

MAXIMUM BUILDING SETBACKS, MINIMUM BUILDING FRONTAGES, AND PERMISSIBLE OFF-STREET PARKING AREA LOCATION SOUTH CAPE DOWNTOWN DISTRICT

Street Designation (a)	A	Lot Area						
Succe Designation (a)	≤75'	>75' but <125' ≥125' but <60,000 s.f.		≥60,000 s.f.				
	Maximum Building Setbacks (feet) (b)(c)							
Parkway	20	20	20	20				
Primary	20	20	20	20				
Secondary	Not Applicable Not Applicable		Not Applicable	20				
Tertiary	Not Applicable	Not Applicable	Not Applicable	20				
	Minimum Building Frontage (% of lot frontage) (c)							
Parkway	60	40	60	60				
Primary	40	40	50	60				
Secondary	0	0	0	50				
Tertiary	0	0	0	40				
	Permissible Off-Street Parking Area Location (d)(e)							
Parkway	Rear/side(f)	Rear/side(f)	Rear/side	Rear/side				
Primary	Rear/side(f)	Rear/side(f)	Rear/side	Rear/side				
Secondary	Rear/side/front	Rear/side/front	Rear/side/front	Rear/side(g)				
Tertiary	Rear/side/front	Rear/side/front	Rear/side/front	Rear/side(g)				

(a) As provided on the Street Designation Map.

- (b) Shall apply only to first story portions of building(s) meeting minimum building frontage requirements.
 - (c) Lots abutting three or more street designations shall be pursuant to § 2.7.15.D.6.b.(3).
 - (d) Not applicable to lots utilized solely for satellite parking.
- (e) For the purposes of this provision, the terms rear, side and front shall refer to the placement of off-street parking areas between the principal building(s) and the rear, side and front lot line. The terms rear and side shall not be construed to mean rear yard, side yard, or front yard as defined in § 11.1. When rear and side parking are required, no parking spaces/stalls shall be located between the principal building(s) and front lot line.
 - (f) For lots with a width of 100 feet or less, the abutting alley in its condition at the time of application must be approved by the city for vehicular access. If not approved, this requirement must be waived administratively.
 - (g) Shall not apply to lots abutting a navigable waterway.
 - 7. Vehicular ingress/egress. Vehicular ingress and egress to parking or other vehicular circulation areas shall comply with the City of Cape Coral Engineering Design Standards and the following standards;
 - a. Curb cuts along Cape Coral Parkway are prohibited unless one of the following conditions is applicable:
 - (1) The lot frontage is 150 feet or greater and 100% of the required residential parking and 50% of the non-residential is provided on-site;
 - (2) A shared curb cut between adjacent lots is provided with a combined lot frontage of 150 feet and with a signed agreement by all property owners;

- (3) No other ingress/egress can adequately serve the lot as determined by the City Manager or the City Manager's designee.
- b. Joint driveways and vehicular access between adjacent off-street parking areas across lot lines is encouraged in order to reduce the number of curb cuts along streets.
- c. Drive-thru facilities. Drive-thru service windows are prohibited on facades that face a street, except for lots abutting more than one street designation, where drive-thru windows may be on the facade that faces the lowest applicable street designation in accordance with the Street Designation Map.
- 8. Building and off-street parking area design standards. Every building and off-street parking area shall conform to the following requirements:
 - a. Building design standards. All buildings, whether residential, nonresidential or compound use, shall conform to the design standards provided in § 5.6., except as superseded by the following requirements. This provision shall not apply to parking structures, which shall conform to § 2.7.15.D.8.d.
 - (1) Public entrances. Public entrances shall be provided as follows:
 - Any building facade that faces a street (excluding alleys) shall provide a public entrance oriented toward such street. In the case of a corner lot where more than one building facade faces a street, a corner entrance may serve to meet the requirements for the two streets that intersect and create the corner. All public entrances shall have convenient pedestrian access providing a direct connection from the street to the entrance via a walkway a minimum of four feet in width and not traversing any portion of an off-street parking area. In the event the City Manager, or the City Manager's designee determines that this provision cannot be met due to site constraints, such walkway may traverse the off-street parking area but shall be clearly delineated by a change in paving material, pavement markings, or similar treatment.
 - (b) Any building facade that faces a dedicated city parking area shall provide a public entrance oriented toward such dedicated city parking area with convenient pedestrian access providing a direct connection via a walkway a minimum of four feet in width.
 - (c) It is not the intent of these provisions to require more than two public entrances to any use intended to be occupied by a single tenant. In the event that the provisions above cumulatively require more than two public entrances, then the requirements may be reduced such that two public entrances shall be required. In determining the orientation of such public entrances. Parkway street designations and dedicated city parking areas shall have priority.
 - (2) Transparency of building walls. Except for parking structures, building walls shall contain transparent windows, doors, or any combination thereof, meeting the following standards:
 - (a) For lots abutting parkway or primary street designations, transparent windows, doors, or any combination thereof, shall cover at least 50% of the first story building wall area that faces the parkway or primary street designation. Above the first story, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination

- thereof, covering at least 25% of the entire building wall area; residential and hotel uses shall provide at least 15%.
- (b) For lots abutting secondary or tertiary street designations, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the secondary or tertiary street designations; residential and hotel uses shall provide at least 15%.
- (c) For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the dedicated city parking area; residential and hotel uses shall provide at least 15%.
- (d) Non-residential use building walls facing navigable waterways shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area.
- (e) For lots abutting parkway, primary, or secondary street designations, all window and door glass that faces such designations, shall have a visible transmittance of at least 50% and an exterior reflectance no greater than 20%. The bottom of such windows shall be no higher than 36 inches above grade, or six inches above the floor of the lowest habitable story, whichever is higher. However, if the building is designed with floodproofing panels or barriers, the bottom of such windows shall be located no higher than six inches above the top of the floodproofing panel or barrier.
- (f) The exterior of windows and doors shall remain unshuttered at all times of the day. This provision shall not apply to the following:
 - (i) Un-walled areas such as, but not limited to, dining and seating areas associated with restaurants and bars.
 - (ii) Hurricane shutters or flood-proofing panels during the time period in which a flood watch or warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of Lee County. Such shutters or panels shall be removed within a week from the time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in which case the shutters may remain up for not more than three months from the date of the incident, except for good cause shown to the City Manager or the City Manager's designee.
- (3) Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area and consisting of a single use shall meet the following requirements:
 - (a) One public entrance shall be provided for every 75 feet of overall building frontage; or
 - (b) Liner buildings meeting the following requirements shall be provided:

- (i) Liner buildings shall be provided along at least 50% of the overall building frontage.
- (ii) Liner buildings shall contain active uses with at least one public entrance provided for every 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building setbacks and building frontages.
- (iii) Liner buildings shall have an interior depth of at least 15 feet.
- (iv) Liner buildings may be detached from, attached to, or integrated into the principal building.
- (4) Garage doors associated with residential uses, when facing the front of the lot, shall be set back at least 20 feet behind the building line.
- Architectural elements design standards: awnings, canopies, colonnades, arcades, b. balconies, front porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination thereof, for at least 50% of its length/width, unless prohibited by § 2.7.15.D.9.b.(2). Architectural elements, or any combination of architectural elements, may occur forward of the minimum setback, as applicable, but shall not extend forward of a lot line, except as provided herein. Notwithstanding § 3.14 of the Land Use and Development Regulations, Aarchitectural elements, or any combination of architectural elements shall not encroach into an easement unless approved by the City Manager or the City Manager's designee. Notwithstanding § 3.24 of the Land Use and Development Regulations, awnings, canopies, colonnades, arcades, and balconies may extend forward of a lot line into the public right-of-way with the approval of the City Manager or the City Manager's designee. The city may require the property the property owner to enter into a formal easement agreement or formal right-of-way agreement in a form acceptable to the City Attorney. The property owner of the structure containing the architectural elements encroaching into the easement or right-of-way is solely responsible for repairing any damage to encroachments in the easement or public right-of-way that result from maintenance or public infrastructure improvements. The property owner must comply with the provisions of § 2.7.15.D.9, Utilities, below.
 - (1) The City Manager, or the City Manager's designee, shall consider the following criteria in determining whether to approve an architectural element, or any combination of architectural elements, that would encroach into the easement or right-of-way:
 - (a) The extent to which the architectural element would encroach into the easement or right-of-way;
 - (b) The effect of such encroachment on any utilities that are either currently located in the easement or right-of-way or that may be located in the easement or right-of-way in the future; and
 - (c) The effect of such placement on any abutting properties or streetscape and on the navigability of the public right-of-way.
 - (2) Awnings and canopies. Awnings and canopies extending from the first story, facing a street or dedicated city parking area, and serving to meet the 50% length/width requirement of § 2.7.15.D.8.b. shall conform to the following:

- (a) Depth shall be a five foot minimum projection from the building facade.
- (b) Height shall be an eight foot minimum clearance, including suspended signs.
- (3) Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area shall conform to the following:
 - (a) Depth shall be a minimum of five feet from the building wall to the inside column face.
 - (b) Height shall be an eight foot minimum clearance, including suspended signs. The lowest point on arches shall not extend below seven feet.
 - (c) Openings between piers, columns, or similar supporting elements shall be at least 50% of the colonnade or arcade facade area.
 - (d) Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above the colonnade or arcade.
- (4) Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not project beyond the rear building setback requirement, as applicable. Balconies shall be located no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city parking area shall have a height clearance of ten feet minimum from grade; their decorative or supporting elements that project from building walls shall have a clearance of seven feet from grade.
- (5) Front porches. Front porches shall be un-air-conditioned. may be screened, and shall conform to the following:
 - (a) Front porches facing a street or dedicated city parking area and serving to meet the minimum building frontage requirements of § 2.7.15.D.8.b. shall be a minimum of eight feet in depth.
 - (b) Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above front porches.
- (6) Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the required minimum building setback, as applicable. However, access to a stoop, whether by stairs, ramp, or other means, may extend forward of the minimum building setback as applicable, if approved by the City Manager, or the City Manager's designee, but shall not be located less than three feet from the front lot line.
- (7) Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal dimension and shall be limited to two per building.
- c. Off-street parking area design standards. All off-street parking areas, except dedicated city parking areas, shall comply with the following standards:
 - (1) All off-street parking areas shall comply with the City of Cape Coral Engineering Design Standards.
 - (2) Where parking spaces/stalls abut landscape areas or sidewalks, the alternate stall layout provided in the City of Cape Coral Engineering Design Standards shall be utilized.
 - (3) Off-street parking areas shall not abut building walls on front and side facades. A minimum of four feet shall be provided between off-street parking areas and such building walls and

improved as a pedestrian walkway or landscaped in accordance with § 5.2.

- d. Parking structure design standards. For the purposes of this subsection, parking structures shall be deemed to include external vehicular or pedestrian ramps, elevator shafts, stairwells, and any associated mechanical equipment, chases, or rooms. The design and placement of parking structures, except for portions of parking structures located below grade, shall comply with the following standards:
 - (1) Liner buildings. When parking structures have facades facing parkway and primary street designations, as provided on the Street Designation Map, the first story facade of the parking structure facing such street designations, except for portions of facades dedicated to pedestrian and vehicular access, shall be concealed by liner buildings complying with the following standards:
 - (a) Liner buildings shall contain active uses with at least one public entrance provided for every 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building setbacks and building frontages.
 - (b) Liner buildings shall have an interior depth of at least 15 feet.
 - (c) Liner buildings may be detached from, attached to, or integrated into the parking structure.
 - (2) Architectural treatment. For the purpose of this provision, architectural treatment shall mean the use of architectural or landscape elements on the parking structure facade that serve to visually screen or obscure the parking use(s) from adjacent streets or public areas. Parking structure facades, or portions thereof, without liner buildings and facing streets (except alleys), shall employ architectural treatments complying with the following standards:
 - (a) Architectural treatment includes, but is not limited to, the use of arbors and trellises; architectural screens, louvers and shading devices; cornices and pilasters; parapets; planter boxes and vegetated wall systems; fenestration and frames; structural components; material changes; and architectural elements that comply with § 2.7.15.D.8.b.
 - (b) Architectural treatment shall be provided to 70% of the facade area, including building walls and openings. This provision shall not be construed to mandate an enclosed parking garage or the mechanical ventilation of the parking structure. In the event that the Building Official determines that this provision has caused a parking structure to be classified as an enclosed parking garage, the required architectural treatment may be reduced to a point where the parking structure may be classified as an open garage.
- c. Streetscape design standards. Lots with applicable maximum building setbacks as provided in § 2.7.15.D.6.b., shall comply with the following standards:
 - (1) Front setback areas shall be improved with landscaping planters and appropriate sidewalk materials such as, but not limited to, concrete, architectural pavers, and stone. Developments are further encouraged to place sidewalk amenities such as benches, fountains, and outdoor dining tables within this area.

- (2) In the event that improvements are placed within the public utility easement, the city may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments within the aforesaid easement that result from maintenance of public infrastructure improvements.
- d. Administrative deviation. In the event a property owner is unable to comply with the requirements of this subsection, the owner may request an administrative deviation, in writing, from the City Manager, or the City Manager's designee. In determining whether to approve a request for an administrative deviation, the City Manager, or the City Manager's designee shall consider factors including, but not limited to, dimensions of the lot, site constraints such as existing development, impact on surrounding properties, or other location factors that may make compliance with this subsection impossible or impracticable. The determination to approve an administrative deviation shall be at the sole discretion of the City Manager or the City Manager's designee.

9. Utilities.

- For new buildings, all onsite utilities including, but not limited to, a. telephone, electric service, cable television, and other wires of all kinds shall be placed underground. However, appurtenances to these systems that require above ground installation including, but not limited to, utility panel boxes are exempt from this requirement if the appurtenances are not placed in front yards. When such appurtenances are located in utility easements abutting a platted alley, they shall be located at least ten and one-half feet from the centerline of the platted alley. These underground requirements also apply to those improvements to non-conforming structures that exceed the 50% thresholds as described in § 2.6.2. and 2.6.5. All utility infrastructure, including electric utility poles and power lines, shall be concealed from public view to the extent practicable and shall not be located on any yard area that abuts streets or sidewalks, to the extent practicable. All new electric primary and secondary distribution lines shall be located in utility easements abutting platted alleys and their utility poles shall be positioned so that a minimum clearance of ten and one-half feet from the centerline of any platted alley is maintained. For properties that do not have a rear platted alley, the electric distribution lines and utility poles shall be located in the rear utility easement wherever practicable.
- b. On certain blocks where overhead or underground utility lines have been placed in <u>any public right-of-way or</u> the front public utility easement beyond the edge of the street right-of-way (where improvements might otherwise be placed in accordance with these regulations) a property owner may choose one of the following options for the permitted construction in <u>any public right-of-way or</u> the front public utility easement:
 - (1) Relocate the utility lines to the alley or other acceptable location, at the property owner's sole expense and subject to approval by the affected utility provider(s) and the City of Cape Coral; or
 - (2) Place a concrete sidewalk, or architectural elements, on the front public utility easement. If overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or front porches may be constructed in this area. If underground utilities of any type are in place, the property owner is solely responsible for repairing any damage to lawful encroachments into the front public utility easement resulting from maintenance or improvements to utility lines.

12. Outdoor dining on public rights-of-way and City-owned parking lots.

a. Generally. Outdoor dining on public rights-of-way and City-owned parking lots may be permitted subject to the approval of an outdoor dining permit.

b. Application. An application for an outdoor dining permit shall be submitted, on a form furnished by the City, to the Director of the Department of Community Development, or the Director's designee. In the application, the applicant shall provide information to show compliance with the requirements of this Section. The Director of the Department of Community Development, or the Director's designee, may require the applicant to supplement the information initially provided, if such additional information is deemed necessary to determine whether the requirements of Section 2.7.15.D.12. are met. City Council may establish a reasonable fee to cover the cost of the permit application and annual renewals by resolution. Applications for an outdoor dining permit shall, at a minimum, contain the following information:

- (1) The name, location, and mailing address of the food service establishment.
- (2) The name, mailing address, and telephone contact information for the permit applicant.
- (3) A diagram and description of the outdoor area to be designated as available for outdoor dining, including dimensions of the designated area. The diagram shall be accurate and drawn to scale but need not be prepared by a licensed design professional.
- c. Approval. The Director of the Department of Community Development, or the Director's designee, may approve an application for an outdoor dining permit upon the determination that the subject application complies with the requirements of Section 2.7.15.D.12. The City may impose reasonable conditions on the requested permit in order to protect the health, safety, and welfare of the community.
- d. Denial. An application which fails to comply with the requirements of Section 2.7.15.D.12. shall be denied. If the Director of the Department of Community Development, or the Director's designee, denies the application, the applicant shall have 30 days from the date of the notice of denial to appeal the decision to the City Council pursuant to the appeal procedure in Section 8.9, Appeals.
- e. Standards. In order to protect the health, safety and general welfare of the public, each approved establishment shall abide by the following requirements:
 - (1) Stanchions, planters, or other features approved by the City may be used to delineate outdoor dining areas.
 - (2) The number of outdoor seats and tables shall be limited to that number that can be reasonably accommodated according to the available widths of the associated storefront and sidewalk or patio area. Only the area(s) abutting the associated storefront may be used for outdoor dining. No fixtures or furniture may be attached to the right-of-way or public property.
 - (3) Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere with ingress and egress to buildings or create an unsafe situation with street traffic.

 Public sidewalks shall be free of obstructions that prevent safe

- passage of pedestrians. All ADA-requirements must be adhered to.
- (4) In City-owned parking lots, outdoor dining may not restrict traffic and cannot be placed in travel lanes or parking spaces.
- (5) The permit holder for the outdoor dining area shall remove any seating or tables when necessary for special events, inclement weather, or when an authorized agent of the City makes such a request.
- (6) The permit holder shall properly maintain public sidewalks adjacent to any approved outdoor dining area for safety and cleanliness on a daily basis. Litter, dirt, grime, grease, and food shall not be permitted to accumulate at any time. The sidewalk must be cleaned by pressure washing no less than every 30 days or when an authorized agent of the City makes such a request. The Public Works Department must approve the method and equipment used for pressure washing.
- (7) Portable lighting may be used in the outdoor dining area.

 Extension cords may not be run from any nearby buildings.

 The use of generators is prohibited. City light poles may not be used for electrical connections. Portable heaters may be used if approved by the Fire Department.
- (8) The permit holder shall sign an indemnity agreement provided by the City and shall provide proof of public liability insurance as approved by the City Attorney.
- (9) The use of furniture with glass components is prohibited. The use of plastic or PVC furniture, wooden picnic tables, or couches and chairs designed and constructed by the manufacturer for outdoor use is prohibited. All furniture and fixtures to be used shall be specified in the outdoor dining permit and approved by the City.
- f. Revocation. The City Manager, or the City Manager's designee, may revoke an outdoor dining permit if, after notice and reasonable time in which the grounds may be corrected, the applicant fails to comply with any of the standards of Section 2.7.15.D.12., any condition of approval, or any approved diagrams or plans. If the City Manager revokes an outdoor dining permit, the permit holder shall have 30 days from the date of the notice of revocation to appeal the decision to the City Council pursuant to the appeal procedure in Section 8.9, Appeals.

South Cape Redevelopment Incentive Program (SCRIP). Development incentives are opportunities offered to property owners and applicants as a means to meet specific development goals while increasing the quality of development and providing benefits to the community at large. Such incentives shall not be considered an inherent right, but a potential opportunity if certain requirements are met. Lot and area-wide constraints, overall residential density limitations of the Downtown Mixed Future Land Use Classification, public facility capacity limitations, regulatory controls, as well as other factors may limit the achievement and availability of densities, intensities, and heights offered under this program on any particular lot.

a. In addition to the baseline allowances as permitted in § 2.7.15.D.1., 2., and 4., respectively, increases in floor area ratio, residential density, building height, or any combination thereof, may be available through participation in the South Cape Redevelopment Incentive Program (SCRIP).

- . Categories of SCRIP improvement and amenity requirements. A variety of improvements and amenities in several different categories are eligible for consideration in the SCRIP. Although some improvements and amenities may fall within more than one category, such improvements and amenities shall be considered as within only one category for purposes of satisfying this requirement, unless otherwise specified. Improvements or amenities required by any other applicable regulation are not eligible to satisfy this requirement. Improvements, amenities, or any combination thereof, shall be provided as specified in § 2.7.15.D.12.b.(1) and § 2.7.15.D.12.b.(2):
 - (1) A participant in the SCRIP shall provide improvements, amenities, or any combination thereof, from at least one of the following three categories: connectivity and orientation, uses, and public parking, in order to be eligible for increased floor area ratio, residential density, building height, or any combination thereof.
 - (a) Connectivity and orientation. The physical layout, orientation, and design of a proposed development greatly affects on site activities, connectivity to off-site uses and activities, and overall downtown character. Therefore, the placement and orientation of uses, off-street parking areas, and pedestrian circulation areas shall be oriented to maximize on site activities and enhance the connection and access to off-site uses and activities, public open spaces, and adjacent streets. For consideration in this category, developments shall provide three of the following six requirements:
 - (i) Off street parking area location. A development on lots abutting secondary or tertiary street designations as provided in the Street Designation Map, shall place off-street parking areas in the side or rear of the lot in accordance with § 2.7.15.D.6.b. For lots which abut three or more street designations, off-street parking areas may be located between the principal building and the front lot line, provided that such off-street parking area locations abut the lowest applicable street designation in accordance with the Street Designation Map.
 - (ii) Vehicular ingress/egress. Access to off-street parking areas shall be provided only via the abutting alley. Should the abutting alley not be adequate to provide suitable vehicular access, alleys or portions of alleys shall be improved pursuant to § 2.7.15.D.12.b.(2)(c)(i) to allow for such access.
 - (iii) Joint driveways. In order to reduce the number of curb cuts along streets, the development shall provide a joint driveway or vehicular access between adjacent off street parking areas across lot lines, or any combination thereof. A signed agreement by all affected properly owners shall be provided.
 - (iv) Pedestrian walkways. Developments shall provide pedestrian walkways providing a direct connection from the primary building entrance to abutting side lots. Pedestrian walkways shall extend to the lot line and, if practicable, shall connect to existing similar walkways on abutting side lots. Such walkways shall be at least four feet in width and shall not be

- permitted to traverse any portion of any offstreet parking area.
- (v) Additional building frontage. Developments shall exceed the minimum building frontage requirement as provided in § 2.7.15.D.6.b. by an additional 10%. For example, if the required building frontage according to § 2.7.15.D.6.b. is 40%, then the development shall provide at least 50% building frontage.
- Connection to public open spaces and parks. Developments on lots abutting existing public open spaces or parks or that provide public open spaces pursuant to § 2.7.15.D.12.b.(2)(a) shall provide first story active uses that face such open spaces in a manner that enhances views and pedestrian connections to the public open space or park. Pedestrian-walkways shall be provided both between the active use and the public open space or park (which may count-towards meeting the requirements of § 2.7.15.D.12.b.(1)(a)(iv) above) and between the active use and the nearest street abutting the lot on which the active use is located. Building facades of such active uses shall provide at least one entrance and transparency-complying with § 2.7.15.D.8.a.(2).
- (b) Uses. The development shall-incorporate uses that support a thriving urban center and would be beneficial to the vitality of the South-Cape Downtown District.

 The development shall provide at least one of the following uses:
 - Class A office. Developments shall provide 70,000 square feet (total net floor area) of Class A office space. In order to be counted towards the minimum area requirement, no single story on which such Class A office space is located shall-measure-less than 15,000 square feet (net floor area). For the purposes of this requirement, NET FLOOR AREA shall mean the area of a story of a single building, excluding areas associated with stairwells and elevator-shafts, equipment rooms, and interior vehicular parking or loading. TOTAL NET FLOOR AREA shall mean the total of all-net floor areas of a building or buildings within a development. Further, such Class A office space shall be serviced by no fewer than two passenger elevators, not including freight elevators. For the purposes of this requirement, Class A office shall be deemed to be office space(s) that can be characterized as having excellent location and access; high quality-building materials and amenities. High quality and significant convenient amenities such as, but not limited to, banks, lobbies on the second floor or above, covered parking, restaurants, coffee shops, and health clubs typically differentiate this office type from Class B and C office types.
 - (ii) Full service hotel. Developments shall incorporate a full service hotel with at least 200

rooms with an average floor area of at least 350 square feet per room and a standard restaurant of at least 5,000 square feet. Such standard restaurant area shall be dedicated solely to the restaurant use and shall include full kitchen facilities and food preparation areas.

- (iii) Waterfront restaurants. Developments on lots abutting a navigable waterway shall incorporate a standard restaurant of at least 3,500 square feet, of which no more than 30% may be dedicated to bar or cocktail lounge uses. Such restaurant shall be adjacent to the navigable waterway and shall provide views and pedestrian access to and from the waterfront.
- (iv) Motion picture theaters. Developments shall incorporate a first-run motion picture theater that runs primarily mainstream film from the major film companies and distributors, during the initial release period.
- Public parking. To improve the vitality of the South Cape Downtown District, promote a pedestrian friendly environment and encourage entertainment uses and special events, developments shall make at least 50% of the total non-residential off-street parking requirement available for public parking, whether or not fees are charged for parking. Such parking spaces shall be available between the hours of 6:00 p.m. and 3:00 a.m. on weekdays and 8:00 a.m. to 3:00 a.m. on weekends and shall be clearly marked and reserved as such. Public parking availability and applicable rates shall be publicly posted at the entrance of the off-street parking area. If fees are charged for parking, rates shall be generally consistent with pay-to-park rates charged by other private publically accessible off-street parking areas, lots and garages in the Cape Coral-Fort Myers, Florida Metropolitan Statistical Area at similar times of day and for special events. The design of off-street parking areas and parking structures shall comply with § 2.7.15.D.8.c. and § 2.7.15.D.8.d., respectively.
- (2) In addition to the requirements listed above, a participant in the SCRIP shall provide improvements, amenities, or any combination thereof, from at least three of the eight following categories in order to be eligible for increased floor area ratio, residential density, building height, or any combination thereof pursuant to § 2.7.15.D.1, .2, and .4.
 - Public open space. The development shall improve at least 5% of the total lot area as on-site public open space. For the purposes of this subsection, PUBLIC OPEN SPACE shall be outdoor area open to the sky; shall be located at grade; shall abut a street (excluding alleys) on at least one side; and shall provide pedestrian access from the sidewalk for the general public. This requirement may be satisfied by providing more than one public open space; however, all such public open spaces shall have an area of at least 900 square feet and an average depth of at least 15 feet. Minimum public open space areas may incorporate portions of setback areas but shall not be solely comprised of setback areas pursuant to § 2.7.15.D.6.a. For lots abutting more than one street designation, public open spaces shall abut the highest-applicable street designation in accordance

with the Street Designation Map, except for good cause shown. Public open spaces shall be improved to include landscape, hardscape, or any combination thereof in accordance with § 5.2. Where possible, public open spaces should connect to existing public parks, recreational areas, and navigable waterways and contribute to the achievement of target areas and facilities identified in the city's Master Park Plan within the South Cape Downtown District.

- Community facilities. The development shall provide at least one community facility that supports a thriving urban center and is beneficial to the vitality of the South Cape Downtown District, as determined by the City Manager or the City Manager's designee. Community facilities that would be eligible for consideration in this category may be public, private, or a combination of public and private in nature; and may include, but shall not be limited to: government and public facilities; schools: non-profit, private, public or parochial; hurricane shelters; civic centers; performing arts centers; museums; libraries; opera and drama houses; and theaters. Community facilities serving to meet this requirement may be located offsite provided that such facilities are located within the South Cape Downtown District. Further, such off-site community facilities must receive a certificate of occupancy prior to the issuance of the certificate of occupancy for the development for which the increase in floor area ratio, residential density, building height, or any combination thereof, is being requested.
- (c) Right-of-way improvements. The development shall provide right-of-way improvements that exceed in quality, quantity, or any combination thereof, those required under the city's Land Use and Development Regulations, Engineering Design Standards, or any other applicable regulations. Developments shall provide three of the following five right of-way improvements for consideration in this category:
 - (i) Alley improvements. Developments on lots abutting alleys shall improve at least the abutting portions of alleys in accordance with the city's design standards. Developments which vacate an alley or abutting portions of an alley shall be deemed to meet this provision.
 - (ii) On-street parking improvements. When permitted by the City Manager, or the City Manager's designee, developments shall improve existing on-street parking that is located within the lot's projected frontage in accordance with the city's design standards; or when on-street parking is not present, developments shall provide on-street parking for the portion of the lot's projected frontage in accordance with the city's design standards.
 - (iii) Underground utilities. When-determined by the City Manager, or the City Manager's designee, to be both beneficial to the city and practicable, developments shall place utilities located within the right-of-way underground to enhance the aesthetic value of the community and so as to provide additional protection-of

the utilities from the effects of the elements, including but not limited to, hurricanes, fires, etc.

- (iv) Streetscape improvements. Developments shall provide the following streetscape improvements within rights-of-way abutting the lot frontage, excluding alleys:
 - (aa) Canopy trees shall be provided at a maximum of 30 feet on center. In the event that the provision of canopy trees is impracticable, palm trees shall be provided at a maximum of 20 feet on center.
 - (bb) Benches shall be provided at a maximum of 60 feet on center.
 - (cc) At least one decorative trash receptacle to be maintained by the owner shall be provided.

The city has the ability to require certain types of landscape and tree species, and designate where they must be planted. The city can also require certain materials and styles, as well as type of installation and location, of benches, trash receptacles, and other street furniture offered by the developer. To qualify under this category, the City Manager, or the City Manager's designee must determine that the city has a need for the streetscape improvement and that the streetscape improvement would benefit the city.

- (v) Public amenities. To improve the quality of the public realm, developments shall provide public amenities including, but not limited to, public art, sculptures, shade structures, fountains, streetscape improvements for non-abutting portions of rights of way and otherwise meeting the provisions of § 2.7.15.D.12.b.(2)(c)(iv), or a combination thereof with a value equal to at least 1% of the total estimated construction costs for the development. To qualify under this category, the City Manager, or the City Manager's designee must determine that the City has a need for the amenity and that the amenity would benefit the city.
- (d) Enhanced waterfront access and use. Developments on lots abutting navigable waterways shall provide the following:
 - (i) Developments shall improve the navigable waterway setback areas required by § 2.7.15.D.6.a. to provide new or enhanced public access to, and for the use of, waterfront resources such as: the provision of land, facilities, or any combination thereof, that expand existing public parks and facilities; the provision of waterfront boardwalks, esplanades, pathways, or any combination thereof; the provision of sitting areas and other passive-related improvements; the provision of piers or docks; or any combination thereof; and

- (ii) Developments shall provide outdoor, public access providing a direct connection from the abutting street to the waterway. Such walkway shall be at least eight feet in width and shall not be permitted to traverse any portion of any off street parking area. Pathways should be designed to enhance the visual connection to the water from the street.
- (c) Land assemblage. The development shall require an assemblage of not less than 60,000 square feet of land. In order to be considered an assemblage of land within this category, the minimum land area must have been attained after December 1, 2005, as the result of an amalgamation of smaller lots. For purposes of this requirement, lots shall be considered to have been "assembled" even if they are separated by an alley, so long as they are to be incorporated into a single development project and would be adjacent to each other if not separated by an alley. Areas of rights-of-way-that are vacated in accordance with § 2.7.15.B. shall count towards the minimum area requirement.
- Non-residential use percentage. The development shall provide non-residential uses in at least 15% of the total net-floor area of the development, 50% of which shall be-located on the first story and be comprised of restaurants, retail uses, or any combination thereof. For the purposes of this requirement, net floor area shall be deemed to be the total of all floor areas of a building or buildings within a development, excluding areas associated with stairwells and elevator shafts, equipment rooms, and interior vehicular parking or loading. Non-residential amenities associated with Class A office uses, as required in § 2.7.15.D.12.b.(1)(b)(i) may count towards this requirement. Non-residential uses shall be located on the-highest applicable abutting street designation in accordance with the Street Designation Map.
- (g) Sustainability. The development shall incorporate four of the following six green building features:
 - (i) Bicycles racks. To reduce pollution and land development impacts from automobile use and to encourage bicycle use, non-residential and compound use developments shall provide secure bicycle racks, storage, or both, at a ratio of one-rack per every 20-required parking spaces. Such racks or storage shall be provided within the building or within 200 feet of the building entrance.
 - (ii) Fuel efficient vehicles. To reduce pollution and land development impacts from automobile use, developments shall provide preferred parking for low-emitting and fuel-efficient vehicles for at least 5% of the total off street parking requirement or ten parking spaces, whichever is less. For the purposes of this requirement, "preferred parking" refers to the parking spaces that are closest to the main entrance of the project (exclusive of spaces designated for handicapped persons) and includes the provision of special signage which indicates that the use of the preferred parking

is limited to low-emitting and fuel efficient vehicles. For the purposes of this requirement, LOW-EMITTING AND FUEL EFFICIENT VEHICLES are defined as vehicles that are either classified as Zero Emission Vehicles (ZEV) by the California Air Resources Board or have achieved a minimum green score of 40 on the American Council for an Energy Efficient Economy (ACEEE) annual vehicle rating guide, as amended from time to time.

- (iii) Daylighting. To reduce energy consumption and to provide building occupants with a connection between indoor spaces and the outdoors, daylighting shall be provided in accordance with the LEED NC Reference Guide in effect at the time of permit submittal. Developments shall provide area calculations that define the daylight zone and provide prediction calculations or daylight simulations.
- (iv) Storage and collection of recyclables. To facilitate the reduction of waste generated by building occupants that is hauled to and disposed of in landfills, developments shall provide an easily-accessible dedicated area or areas for the collection and storage of recyclable materials for the entire building, and recycling of those materials. Materials must include, at a minimum, paper, corrugated cardboard, glass, plastics and metals.
- (v) Heat island effect, roof. To aid in the reduction of the urban heat index and to improve rooftop views—from—neighboring—buildings, developments shall install a vegetated roof that covers at least 25% of the total roof area of the development.
- (vi) Landscaping. To aid in the reduction of the urban heat index, improve stormwater runoff, and to improve the overall quality and character of open spaces in the South Cape Downtown District, developments shall provide at least an additional 25% of the quantity of trees otherwise required in the Land Use Development Regulations.
- (h) Affordable housing. The development shall provide affordable housing opportunities either on site or off-site. The minimum number of affordable housing units that shall be provided by a development pursuant to this subsection shall be at least 5% of the total number of units in the development.
 - (i) Off-site affordable housing units. Affordable housing units serving to meet this requirement may be located off-site provided that such affordable housing units are located within the jurisdictional boundary of the Cape Coral Community Redevelopment Agency (CRA). Further, such off-site affordable housing units must receive a certificate of occupancy prior to the issuance of the certificate of occupancy for the development for which the increase in floor-area ratio, residential density, building

height, or any combination thereof, is being requested.

- criteria for affordable housing. The affordable housing development incentive shall be available to a development only when an affordable housing incentive development agreement has been entered into by the applicant and the City of Cape Coral and such agreement has been approved by the City Attorney and the City of Cape Coral prior to execution. Amendments to such agreement shall be executed in the same manner as the original agreement. The affordable housing incentive development agreement shall include, at a minimum, the following provisions:
 - (aa) Legal description of the land subject to the agreement and the names of its legal and equitable owners;
 - (bb) Total number of residential dwelling units in the development;
 - (ee) Minimum number of affordable housing units, categorized by level of household income, type of unit (condominium or rental), and number of bedrooms, required in the development;
 - (dd) Total number of affordable housing dwelling units permitted in the development;
 - (ee) Gross residential density of the development;
 - (ff) Amount of monthly rent for rental units, or the price and conditions under which a condominium unit will be sold, for each affordable housing unit;
 - (gg) The price of affordable housing units offered for rent or sale shall be based on the number of bedrooms in the unit and shall not exceed low income limits established annually by the United States Department of Housing and Urban Development for the Metropolitan Statistical Area which includes the Cape Coral downtown CRA;
 - (hh) No affordable housing unit in the development shall be rented or sold to a tenant whose household income has not been verified as low income family. Such verification shall be the responsibility of the owner and shall be submitted to the City Manager, or the City Manager's designee, for approval. Tenant income verification and certification shall be repeated annually to assure continued eligibility;
 - (ii) No affordable housing unit that is to be sold, leased with option to purchase, or otherwise conveyed by the

development shall be sold, leased with option to purchase, or otherwise conveyed to a buyer whose household income has not been verified and certified in accordance with this subsection as low-income family. Such verification and certification shall be the responsibility of the applicant and shall be submitted to the City Manager, or the City Manager's designee, for approval. It is the intent of this subsection to-keep-housing affordable; therefore, any person who buys an affordable housing unit must agree, in a lien instrument to be recorded with the Clerk of the Circuit Court of Lee County, Florida, that if he or she sells the property (including the land, the unit, or any combination thereof) within 15 years after his or her original purchase at a sales price-in-excess-of 5% per year of his original-purchase price that he or she will pay to the City of Cape Coral an amount equal to the sales price in excess of 5% increase per year. The lien instrument may be subordinated to a qualifying first mortgage at the option of the city. For example, a person originally buys a designated affordable-housing-unit for \$100,000 and sells it after five years for \$150,000. A 5% increase per year for five years will give a value of \$127,628. Deducting this amount from the sales price of \$150,000 gives a difference of \$22,372. The seller would then owe the City of Cape Coral \$22,372. Payment of this amount would release the first owner-from the recorded lien against the property. Such payment shall be maintained in a segregated fund, established by the city solely for affordable housing purposes, and such money shall be used solely to encourage, provide for, or promote affordable-housing in the City of Cape Coral:

- (jj) No affordable housing unit for which credit is awarded shall be occupied by the applicant, any person related to or affiliated with the applicant, or a resident manager;
- (kk) The applicant shall advertise, rent, sell, and maintain the affordable housing unit in a nondiscriminatory manner and make available all relevant information to any person who is interested in renting or purchasing such affordable housing unit. The applicant shall agree to be responsible for payment of any real estate commissions and fees. The affordable housing units in the development shall

- be identified on all building plans submitted to the city and described in the application for affordable housing development incentive;
- (ll) Except as required in this subsection, the applicant shall not disclose to persons, other than the potential tenant, buyer or lender of the particular affordable housing unit or units, which units in the development are designated as affordable housing units;
- (mm) The square footage, eonstruction and design of the affordable housing units shall be the same as market rate dwelling units in the development;
- The affordable housing units shall be integrated with, and not segregated from, the market rate dwelling units in the development. The conditions contained in the affordable housing incentive development agreement shall constitute covenants, restrictions, and conditions which shall run with the land and shall be binding upon the property and every person having any interest therein at anytime and from time to time. The affordable housing incentive development agreement-shall be recorded in the official records of Lee County, Florida, subsequent to the recording of the deed pursuant to which the applicant acquired fee simple title to the property;
- In the case where a development will occur in more than one phase, the percentage of affordable housing units to-which the applicant has committed for the total development shall-be maintained in each phase and shall be constructed as part of each phase of the development on the property. For example, if the total development's affordable housing development incentive is based on the provision of 10%-of the total dwelling units as affordable housing rental units for low income households with bedrooms per unit, then each phase shall maintain that same percentage (10% in this case) cumulatively.
- (pp) Each affordable housing unit shall be restricted to remain and be maintained as an affordable housing unit designated in accordance with the affordable housing incentive development agreement for at least 15 years from the issuance of a certificate of occupancy for such unit; and
- (qq) The applicant and owner of the development shall provide on-site

management to assure appropriate security, maintenance and appearance of the development and the dwelling units where these issues are a factor.

- (iii) A certificate of occupancy shall not be issued to any affordable unit until all affordable housing requirements applicable to that unit are satisfied. If, after the issuance of the first certificate of occupancy, the city determines any requirement in this subsection has not been met, then the city may revoke the certificate of occupancy and would subject the applicant or owner to any penalty imposed by law.
- c. Applications for development incentives. To apply for an increase in floor area ratio, residential density, building height, or any combination thereof, through the SCRIP, a property owner shall submit an application to the City's Department of Community Development. The application shall be accompanied by a fee that will be set by the City Council and that shall be an amount that is adequate and reasonable for the administrative expenses incurred by the city in the review of the application. The application shall contain the following information:
 - (1) The application shall be on a form supplied by the Department of Community Development and shall be accompanied by all applicable supporting information and attachments including, but not limited to, all applicable site plan, planned development project documents, schematic architectural drawings, floor plans, elevations and perspectives, public benefits assessment(s), or any combination thereof, related to the proposed development.
 - (2) The documentation must clearly indicate baseline floor area ratios, residential density, building height, and the proposed increase of those items.
 - (3) Proof of ownership of the land for the development together with proof of ownership or other control of any property for which—off-site—improvements—within—the—Cape—Coral Community Redevelopment Area are sought for consideration under the SCRIP.
- d. Requests for increased floor area-ratio, residential density, building height, or any combination thereof, shall only be considered with respect to a specific proposed development. If granted by the city, an increase in floor area ratio, residential density, building height, or any combination thereof, shall be applied only to the development with respect to which such increase(s) were sought. Excess floor area ratio, residential density, height, or any combination thereof, awarded under the SCRIP are not transferable.
- e. Except as otherwise provided herein, all improvements and amenities used as the basis of approval for increased floor area ratio, residential density, building height, or any combination thereof, shall remain in place throughout the life of the development, unless such basis of approval is reseinded or amended by the city or the city determines that good cause has been shown by the applicant. Except as otherwise provided herein, the owner of the property which has benefitted from the SCRIP shall be responsible for maintaining any such improvements or amenities in good condition and in accordance with any conditions of approval throughout the life of the development. Such maintenance responsibility of said owner shall not apply for improvements or amenities which are donated or dedicated to the city or for which the city has approved alternative responsibility provisions. Failure to comply with this requirement shall constitute a violation of

the City of Cape Coral's Code of Ordinances, and would subject the aforementioned party to any penalty imposed by law.

Standards for approval of an increase in floor area ratio, residential density, building height, or any combination thereof pursuant to the SCRIP. For any development project applying for an increase in floor area ratio, residential density, building height, or any combination thereof, the development incentive proposals and the issuance of any increased floor area ratio, residential density, building height, or any combination thereof, shall be determined by the City Manager, or the City Manager's designee. A request pursuant to the SCRIP shall be submitted to the Department of Community Development, reviewed by all applicable department(s), and the Community Redevelopment Agency. In the event the City Manager, or the City Manager's designee approves the request pursuant to the SCRIP for a project that is proposed to be a planned development project (PDP), such approval shall be made prior to consideration of the PDP, and shall be contingent on the approval of a PDP for the subject development by either the City Council or the Hearing Examiner.

g. The City Manager or the City Manager's designee shall prepare and submit to the City Council an annual report identifying and describing all projects and public benefits achieved through the SCRIP.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

	THE COUNCIL OF T DAY OF		PRAL AT ITS REGULAR
		JOE COVIELLO	, MAYOR
VOTE OF MAYO	OR AND COUNCILMEN	MBERS:	
COVIELLO GUNTER CARIOSCIA STOUT		NELSON STOKES WILLIAMS COSDEN	
ATTESTED TO 2019.	And filed in my c	OFFICE THIS DA	AY OF,
		KIMRERI V RRI	INIC

APPROVED AS TO FORM:

BRIAN R. BARTOS

ASSISTANT CITY ATTORNEY ord\South Cape Downtown District Amendments

INTERIM CITY CLERK

City of Cape Coral City Council ORDINANCE 22-19

Purpose

- A City-initiated change to Section 2.7.15, Land Use and Development Regulations
- Changes include elimination of the SCRIP, amending the maximum floor area ration to 4.0, increasing the maximum density to 75 units/acre, and increasing the maximum height to 160 feet
- Additional regulations include permitting architectural improvements into public easements and rights-of-way, and providing guidance for outdoor dining

Item

B.(5)

Number:

_.(0)

Meeting Date:

5/6/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Introductions

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 23-19 Set Public Hearing Date for Transmittal for May 13, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 23-19.

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending Policy 1.15 of the Future Land Use Element. This amendment removes language doubling the allowable density for multi-family residential developments with a significant affordable housing component, provides additional flexibility for development in the Downtown Mixed and Pine Island Road District Future Land Use Classifications, and decreases the maximum density within Neighborhood Commercial Development Parameters for the Commercial Activity Center Future Land Use Classification.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Revised Ordinance 23-19 Revised Staff Presentation Case Report

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, DCD Director

ATTACHMENTS:

	Description	Туре
D	Revised Ordinance 23-19	Backup Material
D	Revised Staff Presentation	Backup Material
	Case Report	Backup Material

ORDINANCE 23 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING POLICY 1.15 OF THE FUTURE LAND USE ELEMENT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section 1. The City of Cape Coral hereby adopts Comprehensive Plan amendments necessary to update the Comprehensive Plan as follows:

The amendment to Policy 1.15 of the Future Land Use Element removes language doubling the allowable density for multi-family residential developments with a significant affordable housing component, provides additional flexibility for development in the Downtown Mixed Future Land Use Classification, and removes increased density within the Neighborhood Commercial zoning district. The amendment to the Future Land Use Element is described in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. Severability. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this plan amendment shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete, or if timely challenged, the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184(3)(c)4., F.S., whichever is applicable.

ADOPTED BY THE COUNCIL O SESSION THIS DAY OF	F THE CITY OF CAPE CORAL AT ITS REGULAR, 2019.
	JOE COVIELLO, MAYOR
VOTE OF MAYOR AND COUNCIL	MEMBERS:
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN
ATTESTED TO AND FILED IN M 2019.	IY OFFICE THIS DAY OF,
	KIMBERLY BRUNS INTERIM CITY CLERK

APPROVED AS TO FORM:

BRIAN R. BARTOS

ASSISTANT CITY ATTORNEY

Comp Plan Amendment-Future Land Use Element-Bimini Density

5/1/19

FUTURE LAND USE ELEMENT

GOAL: TO PROTECT THE PUBLIC INVESTMENT BY ENCOURAGING THE EFFICIENT USE OF COMMUNITY INFRASTRUCTURE AND NATURAL RESOURCES; ASSURE THE ORDERLY, EFFICIENT GROWTH OF THE CITY BY ENCOURAGING DEVELOPMENT IN THOSE AREAS WHICH ARE BEST SERVED BY INFRASTRUCTURE AND COMMUNITY SERVICES; PROMOTE NEW LAND USES WHICH CREATE THE LEAST POSSIBLE DISRUPTION TO EXISTING USES; CREATE A STRATEGY WHICH ANTICIPATES FUTURE COMMUNITY NEEDS BY ACQUIRING AND ASSEMBLING PLATTED LANDS; AND PROTECT THE RIGHTS OF INDIVIDUAL PROPERTY OWNERSHIP, CONSISTENT WITH PUBLIC NEEDS.

OBJECTIVE 1: Managing Future Growth and Development: The City of Cape Coral will manage future growth and land development by adopting, implementing, and enforcing new regulatory vehicles. All land development regulations called for in this Plan shall be adopted and implemented in accordance with the provisions of S. 163.3202, Florida Statutes. The short-term planning timeframe shall be established as up to the year 2025, while the long-term planning horizon shall be the year 2035.

<u>Policy 1.1:</u> The City will consider the impacts of climate change and sea level rise when determining the appropriate future land use map classification for property within the City of Cape Coral.

<u>Policy 1.2:</u> The City will regulate the use of land and water to protect State-owned preservation lands, the City's system of fresh and salt-water canals, and the outlying waters of the Caloosahatchee River and Charlotte Harbor.

<u>Policy 1.3:</u> The City will adopt measures to regulate areas subject to seasonal and periodic flooding and will provide for drainage and stormwater management.

<u>Policy 1.4:</u> The City will continue to protect potable water wellfields through the placement of the wellheads in a manner which uses street rights-of-way as buffers. The wellheads will continue to be protected from physical damage by using construction techniques appropriate for their location, such as locating future wellheads adjacent to street rights-of-way. However, due to population densities, it may be necessary to place wellheads in the median in isolated circumstances. Buffering for such locations will be evaluated on an individual site basis to prevent contamination via the wellhead itself.

<u>Policy 1.5:</u> The City will continue to regulate signage to prevent visual blight.

<u>Policy 1.6:</u> The City will continue to promote healthy communities and a diverse housing stock so that all persons may have an opportunity to reside in this community. To accomplish this goal, the City supports efforts to balance single-family and multi-family residential stock.

<u>Policy 1.7:</u> The City has identified a shortfall of multi-family residential housing stock in the community. To provide better guidance in identifying properties which are appropriate for multi-family residential development, to reduce this shortfall, locational guidelines have been developed. The following locational guidelines are as follows:

1.) Proximity to major roadways.

To prevent the establishment of multi-family residential development far in the middle of predominantly single-family neighborhoods, an appropriate location for multi-family residential development is adjacent to or within ½ mile of major roadways such as arterial and collector roadways, as identified by *Figure 7 City Roadway Classifications*.

2.) Proximity to non-residential land uses.

An important consideration for siting multi-family residential development is the need for multi-family residential uses to be in proximity to major employment centers. Providing housing near commercial uses can result in shorter trips, lessened traffic generation by workers, and providing multiple transportation mode options (walking, bicycling, automobile, bus) for employees.

An appropriate location for multi-family residential development is adjacent to or within ½ mile of non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

3.) Transitioning from commercial uses to less intense uses.

Multi-family residential uses have traditionally provided a role in buffering single-family uses or neighborhoods from nearby commercial development. Multi-family residential development is often self-contained with parking lots which provide a physical barrier visually separating commercial uses, particularly the lighting and loading areas, from single-family residential uses, which is a benefit to the community.

Therefore, an appropriate location for Multi-family residential development is physically between single-family development and non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

4.) Assemblage opportunities and adjacency to existing multi-family residential.

Single, isolated pre-platted parcels provide little opportunity for larger-scale multifamily residential development, and contribute to the same ills that strip center commercial developments offer; a proliferation of driveways onto major roadways.

Therefore, an appropriate location for multi-family residential development is a collection of properties of 3-acres or greater which provide multi-family assemblage opportunities, or for properties which alone are 3-acres or greater in size. Furthermore, consideration will be

given to logical extensions from existing multi-family residential designated properties.

<u>Policy 1.8:</u> The City will maintain regulations ensuring safe and convenient on-site traffic flow and vehicle parking needs for all developed lands.

<u>Policy 1.9:</u> The City will issue no development orders or construction permits, which result in a reduction in the level of service for any affected public facility below the level of service standard adopted in this comprehensive plan.

<u>Policy 1.10:</u> The City will periodically develop a buildout analysis to assist long-range planning activities. This analysis shall be conducted no less than once per five years and will be available to the public on the City website.

<u>Policy 1.11:</u> The City will continue to conduct studies to ascertain the feasibility of implementing alternative mechanisms to aid and encourage the de-platting of platted lands, and to encourage the acquisition and assembly of land for public uses.

<u>Policy 1.12:</u> The City will continue to conduct commercial land needs studies to identify potential areas of the City, which could accommodate commercially designated land, and then amend the Future Land Use Map, consistent with the studies, findings, and recommendations, and other provisions of the Comprehensive Plan.

Policy 1.13: In establishing commercial siting guidelines, it is the intent of the City of Cape Coral to discourage new "strip commercial" development. Strip commercial development, for the purpose of this policy, is often, but not always, linear in orientation, typically generates high volumes of traffic that is often associated with separate vehicular entrances and exits for each property on the primary street, may have poor or undefined pedestrian path systems that create conflicts between pedestrian and vehicular movements, and generally lacks sufficient onsite space to accommodate normal parking and loading activities. In discouraging new strip commercial development, the City shall also seek to limit or reduce traffic conflict points along arterial and collector roadways, to promote pedestrian-friendly development, and to create synergistic, compact patterns of commercial development.

To achieve this intent, the City will utilize commercial siting guidelines as a basis for considering the appropriateness of placing the Commercial/Professional Mixed Use, Commercial Activity Center future land use classifications at various locations. "Commercial siting guidelines," in the sense used herein, refers to guidelines for evaluating potential locations for non-residential (except industrial) development within the above-referenced future land use classifications. The City will also complement its consideration of potential commercial lands; by utilizing the policies contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Finally, the City of Cape Coral's commercial siting guidelines shall be based on the ideal concept of a commercial node.

Commercial nodes may be defined as a compact concentration of commercial land within a relatively small area. Ideally, such nodes are located around or in the vicinity of intersections of major city roadways (typically, 4 or more lane divided parkways and boulevards). The City recognizes that commercial areas may periodically develop distant

from a major intersection, as some intersections may have insufficient undeveloped property in the vicinity of the intersection to allow for development of larger commercial centers. Such outlying commercial development can be useful in providing neighborhood commercial centers, professional buildings or office parks to serve a variety of local needs.

Preferably, however, commercial nodes should begin as a concentration of commercial properties adjacent to a major intersection. Once the node is established, it is difficult to define how far from the intersection subsequent commercial expansion should reach. It is also difficult to define the types of future land uses that should exist between nodes. The application of hard and fast rules is not appropriate as each area of the City is unique and has specific conditions and limitations that must be addressed.

The ideal commercial node development pattern thus would consist of commercial land located at the intersection of arterial and/or collector streets in a relatively compact manner. For purposes of this policy, "compact," relates to the form and interrelatedness of the commercial land uses within the commercial node. The commercial node should not only extend along the roadway but should also incorporate property to the rear of the road frontage. Such a pattern is referred to as "depth." The ideal pattern can be characterized by a 1:1 ratio of width to depth of the parcels (e.g., 100 feet of width per 100 feet of depth). Thus, the shape of the node can increase or decrease the potential for interrelatedness of uses. Increased depth also enables the development to accommodate adequate parking, buffering, retention, and open area for commercial development. Ideal commercial nodes provide limited access to the arterial roadway while providing interconnections between the various commercial uses within the node.

Policy 1.14: The City of Cape Coral's commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Within this broad, general context, consideration of properties proposed for conversion to a commercial future land use shall be based upon the following commercial siting guidelines:

Commercial Siting Guidelines

Major Intersection

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a new, separate commercial property or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly

represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties.

Adequate Depth

Ideally, a commercial property should extend not only along the adjacent collector or arterial roadway, but also should extend inward with adequate depth to accommodate the necessary parking, buffering, retention, and open area for the future commercial development. In Cape Coral, most City blocks are rows of back-to-back lots approximately 250 feet deep. Therefore, adequate depth is achieved if any number of contiguous properties, occupy the entire 250 feet of depth.

Compactness

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

Integration

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

Assembly

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial developments that might serve the City as shopping and/or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product.

Properties proposed for conversion to a commercial future land use, where such properties

would represent an expansion of an existing commercial area may be considered "assembled," for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

Intrusion

"Intrusion," as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no hard and fast guidelines for determining when a proposed commercial use would be intrusive to surrounding development. However, expansions of existing commercial areas are generally considered less intrusive than the establishment of new commercial areas. Commercial areas may be considered less intrusive to adjacent multi-family development than to adjacent single-family development. Commercial development that is separated from a residential area by a street, canal, a vegetative buffer, or other geographic features, may be considered less intrusive than commercial development that directly abuts a residential area. The degree of compactness (see above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties (properties proposed for conversion to a commercial future land use classification, which do not abut existing commercial properties) are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While intrusion is subjective and depends on many factors, a rule of thumb is that the proposed commercial property would not likely be intrusive if adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

Access

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Development Code refer to these as "dedicated City parking areas." These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City's interest to promote

conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant's agreement to own and manage the site.

b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

Ownership Pattern

An ideal commercial node is a cohesive, compact, interrelated network of commercial properties. Properties proposed for conversion to a commercial future land use, which properties consist of multiple parcels, or groups of parcels, under multiple ownership are unlikely to develop as a true "commercial node." Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development. Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

APPLICATION OF GUIDELINES:

Dual purpose

The dual purpose of the above guidelines is to direct commercial development to appropriate locations (commercial nodes) and to prevent the propagation of new strip commercial centers. The development of new strip commercial centers and the expansion of existing strip commercial centers should be discouraged.

Comparison to Ideal Commercial Node

In utilizing the above guidelines to evaluate a proposed commercial property, the City is, in effect, comparing each proposed commercial future land use location to the concept of an ideal "commercial node." While one of the above guidelines may sometimes be the primary factor in evaluating a potential commercial location, it is in most instances the combination of various factors that is important. It is the evaluation of this combination of factors, in order to develop an overall assessment of the subject property, which will enable Staff, the Planning and Zoning Commission and the City Council to determine whether or not the siting of a proposed commercial future land use on the subject property is consistent with the intent of the City's Comprehensive Plan.

In context with the remainder of the Comprehensive Plan

It is also important to note that consideration of the commercial siting guidelines is in addition to all other analyses required by Florida Statutes and the Florida Administrative Code for future land use map amendments. In addition to evaluating a property's consistency with the above guidelines, the City will continue to provide, or request applicants to provide, environmental and protected species analysis, transportation impact analysis and public facility capacity (concurrency) review for all future land use map amendments.

The commercial siting guidelines should be considered in light of all other factors typically evaluated within a future land use amendment request. Thus, a request, which results in an unfavorable evaluation of the commercial siting guidelines, may receive a favorable recommendation from staff, based upon other factors not considered by the guidelines. Likewise, staff may recommend denial of a project that receives a favorable evaluation of the guidelines, if other factors (again, not considered by the guidelines) appear not to be favorable.

<u>Policy 1.15:</u> Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. Table 1 shows the zoning districts which are consistent with and implement the respective future land use map classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.

Table 1:

Future Land Use	Consistent Zoning Districts
Single-Family (SF)	R-1, RE
Single-Family and Multi-Family (SM)	R-1, RML, RMM, RE, A
Multi-Family (MF)	RML, RMM
Low Density Residential (LDR)	RE, A
Commercial/Professional (CP)	C, P
Mixed Use (MX)	ALL except MXB
Downtown Mixed (DM)	SC, MXB
Pine Island Road District (PIRD)	CC
Commercial Activity Center (CAC)	NC
Light Industrial (I)	I
Natural Resources/Preservation (PRES)	PV
Public Facilities (PF)	ALL
Parks and Recreation (PK)	ALL except MX7 and MXB
Open Space (OS)	PV

Planned Unit Developments are considered to be consistent in all future land use map classifications except Natural Resources/Preservation and Open Space.

a. <u>Single-Family Residential:</u> Densities not to exceed 4.4 units per acre, except for micro-cottage communities. Densities in micro-cottage communities are restricted to 8.8 units per acre, for sites with a minimum of 3 acres.

The Single Family (R-1) District is proposed to permit a variety of single-family residential products including traditional single-family residences and microcottages.

b. <u>Multi-Family Residential</u>: Densities up to 25 units per acre are permitted in this future land use map classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down. 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.

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects (three or more units only), single-family residences, and duplexes are also permitted in this zoning district.

The Residential Multi-Family Medium (RMM) District is designed to permit higherdensity multi-family residential development. Lower-density, multi-family residential projects such as duplexes or single-family residences are not permitted in this zoning district.

Multi-family residential developments in this future land use map classification that consist of 25–50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

c. <u>Commercial/Professional</u>: Intensities of use in the Commercial/Professional (CP) land use classification shall not exceed a floor to lot area ratio (FAR) of 1.0. Zoning districts compatible with this classification may also be used in conjunction with the Mixed Use (MX) future land use classification. When used in conjunction with the MX Classification, densities, intensities and other parameters, as described for these districts may differ from those described for the CP Classification. Permitted uses will ultimately depend upon the zoning district of the subject parcel. Generally, two zoning districts are consistent with the Commercial/Professional future land use classification, identified below. However, the City may develop additional zoning districts, compatible with the CP future land use classification, in the future.

The Professional (P) District is designed to provide professional office and other compatible development in areas that are suitable for such activities. The P District is appropriate for development of both small-scale and large- scale office or professional development projects, or projects containing uses compatible with such development. The intensity of development within this district is based upon the size (including width, depth, and compactness) and location of the property, as well as on compatibility with adjacent future land use classifications and zoning districts.

The Commercial (C) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C District range from a variety of small or

neighborhood-based commercial uses to larger retail or service uses, which may serve a relatively large trade area and, which may be developed as major shopping facilities. As many commercial uses have the potential to generate relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred locations for the C District have direct access onto arterial or collector roads and adequate depth (a minimum of 250 feet) for larger- scale development.

In certain locations, fragmented ownership of relatively small properties, or other factors, may preclude the creation of larger properties with access onto a collector or arterial roadway. Under such circumstances, it may be appropriate for the C Zoning District to place additional limits on the intensities of commercial development on these properties. It may also be appropriate, under certain circumstances to place restrictions on some commercial uses, such as those with high trip generation rates, adverse aesthetic attributes, and generation of disturbing noises or odors. Factors to consider when establishing such limits on intensities or uses include the following: the depth of the property, whether the property is adjacent to a waterway, whether the property is adjacent to or proximate to future land use classifications or zoning districts that allow residential uses, or the functional classification of street(s) available for street access. The placement of limitations upon the types and intensities of uses allowed within the C Zoning District, in accordance with the factors described above, is intended to reduce conflicts between the C District and adjacent or nearby residential zoning districts.

- d. <u>Light Industrial</u>: Shall not exceed a floor to lot area ratio of 1.0.
- e. <u>Mixed-Use:</u> The mixed-use designation is intended to encourage the development of planned projects that include more than one type of use. The maximum permitted densities/intensities of various uses within the mixed-use designation will be 25 dwelling units per acre for a residential component and 1.0 FAR (Floor Area Ratio) for nonresidential uses. For example, a project combining multi-family and commercial uses would be subject to Policies 1.15.b. and/or 7.7 for the multi-family portion, and Policy 1.15.c. for the commercial portion.

The following will control the mix of uses allowed in the Mixed-Use Land Use category.

Properties less than one (1) acre: 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.

Properties one (1) acre and greater: Larger properties are prime candidates for mixed use developments. These properties shall include more than one type of use. The mix of uses may include residential, retail, office, services, light industrial or public facilities. Such uses may be mixed horizontally on a site or may be within a compound use building, (i.e. differing uses within one building or structure) consisting of residential and retail office, or services. For Mixed-Use developments

adopted after October 23, 2010, retail, office, services, light industrial, or public facilities uses may be developed up to 100% of building floor area within a Mixed-Use property; this will have the intended effect of not requiring a mix of non-residential uses for properties one (1) acre or greater in size. Stand-alone residential uses may comprise up to 20% of site area of a Mixed-Use property one (1) acre or greater in size. Compound use residences are permitted.

Notwithstanding any provisions that may be interpreted to the contrary, Mixed-Use developments approved prior to October 23, 2010 may continue to abide by the development requests granted within their respective adopted development orders or approved site plans. Furthermore, Mixed-Use properties located in the Urban Services Reserve Area require three (3) acres in order to develop a mixed-use project. Mixed Use designated property in the Urban Reserve Services Area less than three acres is limited to a single use that does not generate an estimated flow of more than 880 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended.

Multi-family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

f. <u>Single Family and Multi-Family:</u> The densities and intensities of use for this category, which is exclusively within the Urban Services Reserve Area, are 4.4 dwelling units per acre for single-family residential uses, 6 units per acre for multifamily residential uses on sites less than 3 acres. Multi-family residential uses for properties between 3 and 19.99 acres have a maximum density of 16 units per acre. Multi-family residential uses for properties greater or equal to 20 acres have a density of 25 dwelling units per acre.

Multi-family residential developments within this future land use map classification that consist of 25–50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

g. <u>Natural Resources/Preservation</u>: The areas designated on the Comprehensive Plan's Future Land Use Map for Natural Resources/Preservation primarily consist of State-owned and/or regulated land. Development in these areas is limited to activities to make them accessible to the public for research and/or recreational purposes. Such activities would include accessways, nature trails, informational signs or displays, restroom facilities, picnic tables/shelters, beaches and boat ramps.

Privately-owned properties with this future land use map classification may develop at a density of one dwelling per 20 acres.

- h. <u>Public Facilities:</u> The majority of the public facilities category consists of schools, public safety buildings, and religious establishments. Government offices must conform to the Commercial/Professional densities/intensities of use.
- i. <u>Parks & Recreation:</u> The densities/intensities of use for various parks and recreational facilities are those established in the Recreation and Open Space

Element of this Comprehensive Plan, under the Section entitled "The Plan for Recreation and Open Space in Cape Coral" and the Parks Master Plan.

- j. <u>Historical Resources:</u> As noted in the Comprehensive Plan, most identified historic resources are located within the Natural Resources/ Preservation land use designation, and are therefore subject to the densities/intensities of use specified in Future Land Use Element Policy 1.13g.
- Downtown Mixed: Intended primarily for the Downtown Community k. Redevelopment Area, to provide, a vibrant, walkable, mixed-use district in the historical heart of Cape Coral, mixed-use projects containing commercial and professional uses in conjunction with multi-family housing opportunities where practical and feasible are encouraged. To this end, commercial/professional uses may develop at a maximum Floor Area ratio of four (4) with an average area-wide FAR of two and twenty-three one hundredths (2.23) with commercial/professional uses developed at a ratio of sixty-five (65) percent commercial and thirty-five (35) percent professional, on an area-wide basis. Residential development may develop at a density of seventy-five (75) one hundred twenty-five (125) dwelling units per acre, not to exceed an aggregate of eleven thousand one hundred forty-six (11,146) dwelling units. In order to maintain these development limits, the City shall track residential and non-residential development within this future land use map classification. No further residential development will be permitted in this future land use classification should dwelling unit limits be reached. If the average area-wide FAR of two and twenty-three hundredths (2.23) is reached, the City will permit only that nonresidential development with a FAR of 2.23 or below. Development at these intensities and densities are contingent on the availability of centralized city utility services and transportation network at sufficient capacities to accommodate the development at the appropriate level of service, the availability of sufficient and convenient parking to service the project, the availability of multimodal transportation opportunities, and compatibility with adjacent existing and future land use. Special zoning designations may be established to implement this future land use classification, designed to result in a compact urban form.

Zoning districts consistent with the Downtown Mixed future land use map classification are the South Cape Downtown District and the Mixed-Use Bimini Basin zoning district.

1. <u>Pine Island Road District:</u> This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road.

Corridor: Includes such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single-family residential, multifamily residential, larger scale commercial retail (big box stores over 50,000 squarefeet) and government uses such as parks and public facilities. Multi-family residential uses may be developed at a density of twenty-five units per acre, for sites of four acres or more. Multi-family residential uses may consist of no less than fifty units or have a density no less than ten or more units per acre. No duplexes are permitted. Commercial and light manufacturing uses shall not exceed

a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Policy 1.15.h., of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.i. of the Future Land Use Element.

Multi-family residential developments within this future land use map classification that consist of 25–50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

At build-out, the mix of uses along the Pine Island Road District shall be under the following ranges:

Pine Island Road District. Build-Out Mixed-Use Ranges

RANGE					
Use	Units	From	To		
Retail	SF	3,583,500	4,379,700		
Office/warehouse/	SF	1,144,800	1,582,500		
light manufacturing					
Hotels	Rooms	700	790		
Residential	Units	3,720	5,030		

The criteria to be used for evaluating proposed Commercial Corridor zonings in relation to the intent of the City Comprehensive Plan, the Pine Island Road Master Plan and other planning principles are contained in the following tables:

Commercial Corridor Criteria

CRITERIA	PERFORMANCE	
1. Does the property abut an existing and	If yes, good candidate for	
developed corridor zoned area?	Corridor zoning.	
2. Does the property abut corridor-zoned	If yes, good candidate for	
area on two sides or more?	Corridor zoning.	
3. Is the property part of a larger tract, a	If yes, good candidate for	
portion of which is already zoned	Corridor zoning.	
Corridor?		
4. Is the parcel a large-lot assemblage of	If yes, good candidate for	
three or more acres?	Corridor zoning.	
5. Does the property front Pine Island Road	If yes, good candidate for	
on at least 180 feet?	Corridor zoning.	

m. <u>Commercial Activity Center (CAC):</u> The purpose of this future land use classification is to promote non-residential and mixed-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral in areas where a mix of uses may be developed. The Commercial Activity Center classification is a mixed-use classification designed to minimize the need for vehicle trips through the development of both residential and non-residential uses in a single project. Furthermore, the purpose of the Commercial Activity Center is to integrate all uses through landscape, site, and architectural design standards. In addition, the Commercial Activity Center land use classification is intended to provide locations that offer employment opportunities and daily goods and services to the local community and, in some instances, attract patrons from the region. Commercial Activity Centers are intended to be pedestrian friendly and interconnected with adjacent projects – whether residential or non-residential.

Pre-Existing Single-Family Residences Allowed

It is the desire of the City of Cape Coral to protect the rights of owners of single—family homes located within a Commercial Activity Center (CAC), which homes had either:

- a) Been lawfully constructed, or had applied for or received a building permit at their current locations prior to the designation of the subject as part of a CAC future land use classification; or,
- b) Been lawfully constructed, or had applied for or received a building permit at their current locations under a former CAC future land use classification.

In this classification single family residences that meet the criteria stated above may continue to be maintained, remodeled, expanded, or rebuilt, and that the owners of such properties may continue to enjoy all of the rights, privileges and responsibilities of home ownership, including the ability to sell or rent their homes to other parties. In and of themselves, pre-existing single-family residences do not necessarily constitute **Free-Standing Residential** development, unless they otherwise meet the criteria for such development, as discussed under **Use Area Allocations**, below. If pre-existing single-family residences, as defined in this section, are included as part of a larger approved development project, the pre-existing status of the residences is lost, and such residences become subject to the City Land Development Code regarding non-conforming structures.

The City has adopted the Neighborhood Commercial (NC) zoning district as consistent with the Commercial Activity Center Future Land Use Classification. Development standards in accordance with the Neighborhood Commercial zoning district are as follows:

Neighborhood Commercial Development Parameters				
	Land Area of Development Project			
	1 acre or less	1 acre – 19.99 acres	20 acres or greater	
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0	
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units 25- <u>16</u> d.u./acre	25%-80% 12 d.u./acre or 75 units 25 - <u>16</u> d.u./acre	
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR 0-100% 3 d.u./acre 12 du/acre 1.0		0-100% 12 d.u./acre or 50 units 25-16 d.u./acre 2.0	0-100% 12 d.u./acre or 75 units <u>25-16</u> d.u./acre 2.0	
Build-to / Front Setback	6 ft. – 10ft.	10 ft.	10 ft.	
Minimum Side Setback	0 or 6	0 or 6	0 or 6	
Min. Rear Setback	6	6	6	

Additional zoning districts may be developed in the future to implement this land use initiative.

Multi-family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

n. <u>Low Density Residential</u>: This land use classification allows for a maximum density of one (1) dwelling unit per 40,000 square feet, excluding right-of-way.

OPEN SPACE (OS): The Open Space Future Land Use Classification is designed to 0. designate, with the consent of the property owner, areas for purposes or activities having no dwelling units, non-residential floor area or demand for public facilities. Areas suitable for designation under this classification include, but are not limited to, the following: lakes or other waterways not platted as rights-of-way, which may be used for recreational purposes; stormwater treatment facilities; buffer areas; preserves or conservation areas; or recreation areas having no access except by owners, guests or employees of the surrounding development project. included within this future land use classification used for recreation may have amenities, including, but not limited to, boat ramps, piers, docks, open-sided picnic shelters, gazebos or pavilions. Floor areas of any such structures shall not be considered as non-residential floor area, and may not be used to support the sale or rental of any items; nor may such structures be used for office or administrative purposes. No commercial use shall be made for any recreational facilities located within the Open Space Future Land Use Classification.

Paving of areas within this future land use classification shall be limited to the construction of foot paths and floors for open-sided shelters or pavilions, basketball, tennis or other recreational courts (however, no such courts shall have associated spectator seating or administrative/maintenance structures), as well as paving associated with minimal parking areas, boat ramps, piers, docks, open-sided picnic shelters, gazebos or pavilions. Lands or areas within this future land use classification shall not be used as parking for residential, commercial or industrial areas, although minimal onsite parking, including an access drive, may be allowed to facilitate recreational use of lands under this future land use classification, or to serve as parking for nearby properties that are within the Natural Resources/Preservation Future Land Use Classification.

All zoning districts are considered compatible with this future land use classification. However, this future land use classification allows only those activities that are consistent with this classification, as delineated above, and, which have no associated density, intensity, or demand for public facilities.

p. Sub-Districts: In addition to the regulations listed above, the City of Cape Coral also has sub-districts, as a means to efficiently regulate development in particular areas of interest. These sub-districts include:

Tyson Shores Sub-District

Within the Tyson Shores Sub-District, development shall be limited to a maximum of 115 dwelling units. All property within the Tyson Shores Sub-District shall be entitled to a proportional share of the 115 dwelling units; however, the development rights may be transferred among any properties within the Tyson Shores Sub-District through mutual agreement of the affected property owners, as long as the density is consistent with all Land Development Code and other provisions of this Plan. This limitation may be amended when central water and sewer service is available to serve the site.

Judd Creek Sub-District

Within the Judd Creek Sub-District, development shall not exceed 16 dwelling units per acre on lands with a future land use map designation of Multi-Family. The number of residential dwelling units cannot exceed 1,170 units. Non-residential intensity on lands with a future land use map designation of Pine Island Road District shall not exceed 250,000 square feet of gross leasable floor area. All lands within the Judd Creek Sub-District with a future land use map designation of Pine Island Road District shall be entitled to a proportional share of the 250,000 square feet of gross leasable floor area; however, the development rights may be transferred among any properties within the Judd Creek Sub-District with a future land use map designation of Pine Island Road District through mutual agreement of the affected property owners, as long as the intensity is consistent with all Land Development Code and other provisions of this Plan. These limitations may be amended in the event that roadway network improvements are made that would allow development beyond these limitations without degradation of roadway level of service below the adopted level of service.

Paradise Preserve Sub-District

Within the Paradise Preserve Sub-District, development shall be limited to a maximum of 420 dwelling units. All property within the Paradise Preserve Sub-District shall be entitled to a proportional share of the 420 dwelling units; however, the development rights may be transferred among any properties within the Paradise Preserve Sub-District through mutual agreement of the affected property owners, as long as the density is consistent with all Land Development Code and other provisions of this Plan.

Seven Islands Sub-District

Within the Seven Islands Sub-District, development shall be limited to a maximum of 995 dwelling units and 110,000 square feet of non-residential development. A hotel of no more than 240 rooms is also permitted in addition to the aforementioned non-residential square footage. Development rights within the Sub-District may be transferred among any properties within the Seven Islands Sub-District through mutual agreement of the property owners.

This Sub-District shall be placed within the Mixed-Use future land use map classification but is not subject to Mixed-Use future land use map classification baseline densities and intensities found within Policy 1.15.e and Policy 1.23. Mixed use development is required within the Seven Islands Sub-District. Development within the Seven Islands Sub-District shall not require a PDP.

The location of the Sub-District is legally described as:

Parcels of land lying in Sections 12 and 13, Section 44 South, Range 22 East, Lee County, Florida; and being more particularly described as follows:

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All of Lots 12 through 17, Block 6400;
All of Tract "G" and all of Lots 1 through 5, Block 6401;
All of Tract "F" and all of Lots 1 through 7, Block 6402;
All of Tract "E" and all of Lots 1 through 4, Block 6403;
All of Tract "D" and all of Lots 1 through 3, Block 6404;
All of Tract "C" and all of Lots 1 and 2, Block 6405;
All of Tract "B" and all of Lots 1 through 7, Block 6406;
All of Tract "A" and all of Lots 1 through 8, Block 6407;
All of Tract "I" and all of Lots 1 through 4, Block 6408;
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All as shown on the Plat of Cape Coral, Unit 76, The Islands, recorded in Plat Book 35 at Pages 121 through 129 of the Public Records of Lee County, Florida. Subject to Easements, Reservations, and Restrictions of record.

q. Council-adopted Vision Plans

Exemptions to the development requirements are permitted for master plan or vision planning efforts that meet the following criteria:

- 1. The master or vision planning effort must be adopted by resolution or ordinance by the City Council.
- 2. Property in question is city-owned at the time of the master or vision planning effort. Transfers of property or public-private partnerships occurring after the planning effort must contain a clause requiring the future property owner(s) or developer(s) to abide by the adopted master or vision planning effort.
- 3. The master or vision planning effort must have had no fewer than two (2) public hearings discussing the provisions of the plan. Residents living within 500 feet of a property considered for a master or vision planning effort shall receive notice of these public hearings in the same manner as a rezoning for future land use map amendment.
- 4. The minimum size of the area subject to the master or vision planning effort is twenty (20) acres.
- 5. At a minimum, the master or vision planning effort must address the following impacts of the planning effort on the property and surrounding area.
 - a.) Transportation Impacts
 - b.) Environmental Impacts
 - c.) Utility Capacity Availability
 - d.) Public Safety Availability
- 6. Development options approved by Council through a master or vision planning effort may result in densities and intensities greater than those permitted elsewhere in Policy 1.15. In such instances, staff will establish a Sub-District on the Future Land Use Map and depict specific development limits for the site in the Future Land Use Element.

7. Changes to the adopted master or vision planning effort shall occur through a public hearing process identical to s.166.041(3)(c)2, F.S.

<u>Policy 1.16:</u> Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address the location and extent of both residential and non-residential land uses in accordance with the Future Land Use Map and the policies and description of types, sizes, densities, and intensities of land use contained in the "Future Land Use Map" section of this Element.

<u>Policy 1.17:</u> Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses.

<u>Policy 1.18:</u> 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.

Such development expectations are exclusive to the following:

- 1. A development order issued prior to adoption of the Cape Coral Comprehensive Plan including Planned Unit Development, Planned Development Project, special exception, and site plan approvals which have been expressly approved by the City Council in writing and where construction has been or is being diligently pursued pursuant to such approval.
- 2. A development or project that has been issued a valid building permit prior to adoption of the Cape Coral Comprehensive Plan (February 13, 1989) which has commenced construction and is continuing in good faith.

Nothing in the Cape Coral Comprehensive Plan shall limit or modify the rights of any person to complete any development that has been authorized as a Development of Regional Impact pursuant to Chapter 380, Florida Statutes.

<u>Policy 1.19:</u> The City will adopt urban corridor design guidelines and special land use regulations along the City's roadways, which serve as entry points to the City. These guidelines and regulations will identify specific signage and setback requirements, and other regulations, which will serve to prevent visual and physical blight along specified roadways. The City has adopted guidelines within the Community Redevelopment Area, which may serve as an example for future corridor design guidelines.

<u>Policy 1.20:</u> The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways.

Policy 1.21: The need for additional educational facilities and programs in the City of Cape Coral will be met through cooperation between the City and the Lee County School Board. Prospective sites shall first be evaluated on projections of residential growth in the area, the ability to serve the current school age population, and transportation needs for use of the site. The City of Cape Coral will then coordinate with the Lee County School Board to evaluate the list of prospective sites to avoid impacts on unique or regionally significant natural systems, to avoid the placement of new public facilities within the Coastal High-Hazard Area, and to ensure compatibility with adjacent land uses and concurrency with other necessary urban services.

<u>Policy 1.22:</u> The City of Cape Coral shall continue to coordinate land use policies with hazard mitigation reports generated in the aftermath of a natural or manmade disaster. Furthermore, the City will continue to coordinate with other local agencies in the placement of public buildings, such as schools, in order to ensure that such buildings are not placed within the Coastal High-Hazard Area. Finally, the City may also consider measures designed to reduce potential hazards to life and property within the Coastal High-Hazard Area. Such measures may include reduction of densities in the Coastal High-Hazard Area, public acquisition of land, increased building requirements, or any other appropriate policies recommended in future hazard mitigation reports, or otherwise determined by the City Council to be warranted.

<u>Policy 1.23:</u> Based upon increased awareness of the difficulties associated with pesticides, herbicides, water quality, and habitat loss, the City has determined that all new golf courses should be developed in a manner that is sensitive to environmental and ecological quality. New golf courses throughout the City will be developed as Planned Unit Developments in accordance with the City of Cape Coral Land Development Code. Additionally, new golf courses will be developed following the Florida Department of Environmental Protection's Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007, and be designed, constructed, certified, and then managed in accordance with the Audubon International Signature Program. Exempted from these regulations are former and existing golf course facilities in Cape Coral, otherwise known as the Coral Oaks Golf Course, Executive Golf Course, and the Palmetto Pine Golf Course. The term "golf course facilities" refers to all properties used in the operation and maintenance of golf courses, including, but not limited to, fairways, greens, bunkers, driving ranges, pathways, parking lots, clubhouses, and pro shops. The foregoing exemption from Policy 1.24 shall apply in perpetuity and run with the land.

To further ensure a high standard of golf course development in Cape Coral, natural waterways shall be left in a natural, unaltered condition and shall not be channelized, provided:

- i. If a crossing for a natural waterway, water body, or flow way is proposed, it must be designed, to the greatest extent practicable, to minimize the removal of trees and other shading vegetation;
- ii. Golf cart crossings must be designed to be permeable, be no wider than eight feet, and placed on pilings from edge of floodplain to edge of floodplain;
- iii. Created or restored flow ways and water bodies may be crossed by

bridges or culverts, or a combination thereof, if approved by the South Florida Water Management District;

- iv. An existing natural waterway may not be excavated for new lakes or ponds;
- v. Upland ponds must not expose stream channels to an increase in either the rate or duration of floodwater, unless otherwise required by the South Florida Water Management District in order to further regional water management objectives.

All fairways, greens, and tees are elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from these underdrains must be pre-treated prior to discharge into the balance of the development's water management system.

Further, to ensure water conservation, golf course irrigation systems must utilize computerized irrigation programs based on weather station information and moisture sensing systems to determine existing soil moisture and evapotranspiration rates so as to provide water efficient zone control. Where re-use water is available, new golf courses will, to the greatest extent practicable, utilize such re-use water for irrigation purposes.

Design of new golf courses will protect wildlife by: 1.) maintaining natural wildlife habitat in at least 50% of all minimally used portions of the property; 2.) connect natural areas as much as possible to improve wildlife movement throughout the golf course and from the course to neighboring natural areas; 3.) maintain a water source for wildlife with aquatic plants and shrubbery or native landscaping along the shoreline; 4.) naturalize at least 50% of out-of-play shorelines with emergent aquatic and shoreline plants; and 5.) maintain nesting boxes or other structures, when appropriate, to enhance nesting sites for birds or bats.

A Construction Management Plan will be required prior to new golf course development in accordance with the Florida Department of Environmental Protection's Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses.

New golf courses shall be monitored annually in the following areas:

- a. Surface and groundwater monitoring requirements
- b. Construction monitoring: Annual reports detailing construction activities, permitting, compliance with Audubon International Signature Standards and percent of project completed.
- c. Land management activities: Including those used on the golf course, as well as natural and preserve areas.
- d. Wildlife monitoring: An inventory of wildlife, wildlife activity, and wildlife management activities.
- e. Irrigation monitoring: A summary of the monthly irrigation withdrawal and irrigation sources.
- f. Mitigation/vegetation monitoring: Status reports on the viability of any mitigation or landscaping conducted on-site and an inventory of all fertilizers used for golf course and non-golf course areas maintained during the year.
- g. Integrated pest management monitoring: Provide a discussion on

the pest management techniques, and any pest problems that have occurred on the project.

h. If surface and/or groundwater monitoring shows degradation of water quality the City will notify the property owner that a plan, to correct the identified problem(s), must be submitted. The property owner must submit a plan of action within 30 days after receipt of written notice from the City. The plan must identify actions that will correct the problem(s) within the shortest possible time frame. This plan will be reviewed and must be found to be acceptable by the City. If the plan is not submitted as required, or is found to be unacceptable by the City, the City will require that all activities on the property cease until a plan is submitted and approved. The approved plan must be implemented by the property owner. If the City determines that the approved plan is not being implemented properly, the City can require that all activities on the property cease until the property owner comes back into compliance.

<u>OBJECTIVE 2:</u> 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.

<u>Policy 2.1:</u> The City shall encourage commercial development where it can efficiently use infrastructure, where their adverse impacts on adjacent uses are minimized and where they will effectively provide the community with desired products, services and employment opportunities.

OBJECTIVE 3: Development of Quality Commercial Centers: The City encourages development of quality commercial (retail, office, and/or services) centers on property that meets the recommended land configuration for such commercial centers and that is located proximate to an adequate trade area, relative to the size and character of the center, and necessary to ensure economic viability.

<u>Policy 3.1:</u> The City of Cape Coral will encourage the development of future commercial (retail, office and/or services) areas at or near transportation nodes by assigning appropriate future land use designations.

<u>Policy 3.2</u>: The size, location and function of commercial areas shall be related and central to the population, market area and the transportation network system. The distribution and size of commercial areas shall be spatially located to meet neighborhood, community and regional needs and to reduce vehicle trip lengths.

<u>Policy 3.3:</u> Application of the commercial areas along and proximate to commercial corridors at key locations is intended to address the projected demand for commercial development as summarized in the Table below, or other subsequent analysis.

Commercial Centers by Corridor					
<u>Corridor Name</u>	Total Projected Demand For Commercial Acres of Land	Neighborhood Shopping Center	Community Shopping Center	Power Center	Regional Shopping Center
Burnt Store Road	295	2	2*		
Del Prado Boulevard North	307	1	2*		
Del Prado Boulevard South	243	2	2*		
Chiquita Boulevard South	129	0			
Chiquita Boulevard North	129	2			
Cape Coral Parkway (east of Palm Tree)	144	1			
Cape Coral Parkway (west of Palm Tree)	94	1	1*		
Santa Barbara North	120	2	2*		
Santa Barbara South	56	0			
Santa Barbara (Formerly Juanita Boulevard)	79	1	1*		
Veterans Parkway	189	2	1*	1	
Kismet Parkway	151	1			
Skyline Boulevard	148	2			
Diplomat Parkway	136	2			
Tropicana Parkway	117	1			
Cultural Park Boulevard	109	0			
Hancock Bridge Parkway	85	0			
Andalusia Boulevard	75	0			
Embers Parkway	73	0			
Nicholas Parkway	50	0			
Viscaya Parkway	27	0			
Pine Island Road	399(1) 299	3			2

Source: Based on information from the Commercial Corridor Study, dated April 30, 2003, City of Cape Coral, Planning Division (2003)

^(*) Asterisk indicates that the center has a dual function as a community commercial center and neighborhood commercial center.

There may be more than one Super Community/Power Center in the City of Cape Coral. (1) Adjusted on pro rata basis for incorporation of a regional commercial center on Pine Island Road

- <u>Policy 3.4:</u> The City shall initiate and/or consider 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.
- <u>Policy 3.5:</u> Commercial development shall include bicycle parking areas, and when appropriate, bus bays and bus shelters in order to encourage alternative transportation modes.
- <u>Policy 3.6:</u> The City will adhere to the Pine Island Road Corridor Master Plan to provide guidance, standards, and to direct growth and development along the Pine Island Road Corridor.
- <u>Policy 3.7:</u> The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project.
- <u>Policy 3.8:</u> The City of Cape Coral may develop other zoning districts that are compatible with the Commercial/Professional future land use classification.
- <u>OBJECTIVE 4:</u> Location of Future Development: Future private development requiring public water and wastewater will be directed into the Urban Services Infill Area and the Urban Services Transition Area illustrated on the Future Land Use Map, unless specifically accepted by the provisions of this plan.
- <u>Policy 4.1:</u> Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas.
- <u>Policy 4.2:</u> Exemption from the provisions of Policy 4.1 will be made only in extraordinary cases where the physical size, potentially disruptive nature, or geographic needs of the project would make strict adherence unreasonable. These projects include developments of regional impact, utilities plants, airports, public schools, technical schools, community colleges, parks and other government facilities.
- <u>Policy 4.3:</u> The City will continue to periodically review its Economic Development Master Plan to identify emerging trends and encourage large-scale commercial, professional, and industrial types of development within the City.
- <u>Policy 4.4:</u> Completed and city-accepted private initiatives to utility service, such as onsite sewage treatment plants and developer-extended utilities, shall be considered as extensions to the Urban Services Transition Area.
- <u>OBJECTIVE 5:</u> Extension of Infrastructure and Services in the Urban Services Infill Area: Infrastructure and community services will be extended to serve 100 percent of the anticipated functional population of the Urban Services Infill Area.
- <u>Policy 5.1:</u> Land use regulations, whether adopted or revised pursuant to this plan, shall provide incentives to encourage infill of residential, commercial, and other appropriate uses within the Urban Services Infill Area and Transition Area.

<u>Policy 5.2:</u> The City will amend the Future Land Use Map using the plan amendment process, to annex Urban Services Transition Area lands into the Urban Services Infill Area as soon as those lands are found to be served with the adopted level of infrastructure and community services.

<u>Policy 5.3:</u> New commercial development shall meet all of the requirements for adequate facilities based on the level of service standards adopted for roads, potable water and sanitary sewer, solid waste, storm water facilities and other services in this plan.

<u>Policy 5.4:</u> In addition to the facilities for which level of service standards are adopted as part of the concurrency management system of this plan; other services that should be considered to serve new commercial and mixed-use development include fire, police and emergency medical protection.

OBJECTIVE 6: Extension of Infrastructure and Services in the Urban Services Transition Area: Infrastructure and community services will be extended to serve 100 percent of the anticipated functional population of the Urban Services Transition Area at the same level of service standards available within the Urban Services Infill Area.

<u>Policy 6.1:</u> Future extension of utilities will be located and timed to attain a reasonable balance between the following factors:

Protection of public health, safety, and welfare.

Protection of the environment from contamination.

Protection of potable water aquifers from excessive withdrawal and/or saline-water intrusion.

Projected population increases.

Enhancement of economic development resulting from the provision of services.

Continuity with the future plans for utilities within the extension area and adjacent areas.

Collection and distribution facilities will only be extended with consideration given to the capacities of the aquifers, water wells, treatment plants, or disposal facilities capacities to provide the adopted levels of service.

Property value and financial impacts on property owners.

Financial feasibility of the utility expansion.

<u>Policy 6.2:</u> The City will continue to identify a portion of the Urban Services Transition Area for future land banking opportunities.

<u>OBJECTIVE 7:</u> Development in the Urban Services Reserve Area: The City will discourage premature "leap-frog" development within the Urban Services Reserve Area.

Policy 7.1: The City will amend the Future Land Use Map through the plan amendment process to annex Urban Services Reserve Area lands into the Urban Services Transition Area as a prerequisite to the extension of infrastructure and community services. Amendments of this type may take place only after the Urban Services Infill and Transition Areas are reevaluated as a whole and the City determines that the additional land is appropriate in size and location to meet the needs of the projected population. Per Policy 2.3.3 of the Infrastructure Element, extension of centralized potable water and wastewater infrastructure services beyond the Urban Services Infill and Transition Areas may be undertaken if such services are provided by a developer, independent utility franchise, or through the developer-financed extension of City utilities.

<u>Policy 7.2:</u> The City will concentrate its long-range land acquisition and assembly efforts within the Urban Services Reserve Area.

<u>Policy 7.3:</u> The City will provide incentives to individual property owners, builders, and developers to assemble parcels of land for future private uses, and will encourage the use of zero lot line (ZLL) and cluster type of development to improve lot layout, drainage, and stormwater retention.

<u>Policy 7.4:</u> Developers of lands within the Urban Services Reserve Area, shall bear the costs of extending water and wastewater infrastructure if onsite systems are impracticable.

Policy 7.5: Reserved.

<u>Policy 7.6:</u> Notwithstanding any provisions in this element which may be interpreted to the contrary, the right to a development order to build one (1) single family dwelling unit in the Urban Services Reserve Area on a property of 10,000 square feet or more, or to build no more than 4.4 single family dwelling units per developable acre, shall be permitted for privately-owned lands if classified as Park and Recreation Facilities or Public Facilities on the Future Land Use Map.

<u>Policy 7.7:</u> As an incentive to the assembly, holding, and development of sizable tracts of land in the Urban Services Reserve Area, tracts of the following sizes may be developed at the following residential densities, subject to (i) adopted performance standards capable of allowing residential development at such densities; (ii) any applicable concurrency requirements; (iii) applicable standards of other governmental agencies; and (iv) any other applicable goals, objectives and policies in the Cape Coral Comprehensive Plan:

ACREAGE	DU/ACRE
3-4.99	8
5-9.99	10
10-14.99	12
15-19.99	14
20	16

Policy 7.8: Platted lots in the Urban Services Reserve Area zoned for Commercial or

Professional use prior to the February 13, 1989 Cape Coral Comprehensive Plan that are now designated for Residential use, if they (i) are below the minimum size for Residential use, and (ii) adjoin City-owned property, may be conveyed to the City for an impact fee credit that may be lawfully granted by the City equal to their fair market value at the time of conveyance, based on their Commercial or Professional zoning prior to the adoption of the February 13, 1989 Cape Coral Comprehensive Plan.

<u>Policy 7.9:</u> Development of properties or projects that have access to city utilities and are divided by or adjacent to the Urban Services boundary may be developed, at the density or intensity of land use as designated on the Future Land Use Map. Such development must proceed as one compact and unified development and shall be governed by the rules for development in the Urban Services Infill and Transition Areas and be subject to the intensities and densities of policy 1.16.

<u>Policy 7.10:</u> The City shall discourage illogical and inefficient leapfrog development, by encouraging and directing development to areas adjacent to section of the City served by existing centralized utilities, and that the extension of centralized utilities will abide by Policy 1.1.6 of the Infrastructure Element.

<u>OBJECTIVE 8:</u> Restrictions upon Incompatible Land Uses: The City will prohibit land uses which are incompatible or inconsistent with the Future Land Use Map.

<u>Policy 8.1:</u> The City will prohibit the expansion or replacement of land uses which are inconsistent with the Future Land Use Element.

<u>Policy 8.2:</u> Land development regulations, adopted pursuant to s.163.3202, F.S., will require the buffering of incompatible land uses.

<u>Policy 8.3:</u> Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial developments (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive use of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored.

<u>Policy 8.4:</u> The City shall encourage transitions from commercial uses to less intensive land uses and site design that considers the following preferred characteristics to attain compatibility with adjacent residential uses:

a. Site Orientation

i. Vehicular access should be from a collector, arterial, access street, or an alley if the subject uses are located within the Downtown Community Redevelopment Area.

- ii. Pedestrian access should be designed to provide internal and external circulation from adjacent neighborhoods.
- iii. Streets should be designed with elements to provide visual or physical buffering may serve as boundaries between different intensities of land uses.
- iv. Site improvements within commercial areas such as lighting, signage and landscaping should be designed and coordinated in order to create a positive identity and visual image throughout the development area.
- b. Site design should promote the preservation and integration of mature trees, natural vegetation, natural and environmentally sensitive areas whenever feasible.
- c. Screening and landscaping
 - i. Creative and extensive use of landscaping and berming techniques for natural transitions between differing intensities of land uses is encouraged.
 - ii. Fences should not be used as a sole method of providing screening and buffering between differing intensities of land uses.
 - iii. The City shall review and revise landscaping and signage standards for commercial development to enhance the visual and physical environment to foster its integration of other land uses.
- d. Lighting used to illuminate parking areas, signs or structures should be placed and designed to deflect light away from adjoining property or public streets through fixture type, height, orientation and location.

<u>Policy</u> <u>8.5:</u> The City encourages the use of multi-family residential, compound buildings, professional offices, and parks as transitional uses between commercial development and low-density residential neighborhood. Such development should include:

- a. Design elements such as: height and scale compatible with the surrounding residential uses;
- b. Site design that is compatible with surrounding residential neighborhoods with consideration given to extensive screening, architectural features, building and parking orientation, and preservation of natural features; and
- c. Primary site access provided from arterials, collectors or access streets in order to discourage traffic from directly entering residential areas.

<u>Policy 8.6:</u> Commercial developments and compound buildings shall be encouraged to preserve substantial areas of natural vegetation.

<u>OBJECTIVE 9:</u> Coastal Development: The City will coordinate coastal area population densities with the Southwest Florida Comprehensive Hurricane Evacuation Plan.

<u>Policy 9.1:</u> The City will encourage the development of infrastructure in the northeastern portion of the community to take advantage of high elevations and opportunities for rapid evacuation.

Policy 9.2: The City will utilize the 2017 Climate Change Resiliency Strategy, and other strategies as updated, for the placement of public infrastructure in order to better prepare for sea level rise.

<u>OBJECTIVE 10:</u> Charlotte Harbor Management Plan: The City will coordinate its planning efforts with the provisions of the Charlotte Harbor Management Plan.

<u>Policy 10.1:</u> Requests for development orders and building permits will be coordinated with governmental agencies including, but not necessarily limited to, Lee County, Charlotte County, the Regional Planning Council, the South Florida Water Management District, and other State and Federal agencies.

<u>OBJECTIVE 11:</u> Protection of Marine, Estuarine, and Upland Environments: Cape Coral will continue to protect marine and estuarine communities and will continue its protection to include the ownership and maintenance of a significant example of an upland ecological community.

<u>Policy 11.1:</u> The City will own and maintain a minimum of 200-acre tract of upland for use as a major park emphasizing passive recreation and nature study.

<u>Policy 11.2:</u> The City will continue to use inland sites for dredge spoil to protect marine and estuarine communities. The identification of subsequent spoil sites will begin within two years of the existing site reaching capacity.

<u>OBJECTIVE 12:</u> Protection of Historic Resources: The City will continue to identify all historic resources within the City's jurisdiction, and will adopt regulations to preserve and protect those resources for future enjoyment.

<u>Policy 12.1:</u> The Department of Community Development will be the designated body responsible for preserving the City's historic resources and the identification of historic homes and structures within the City's jurisdictional boundaries.

<u>Policy 12.2:</u> Cape Coral will continue to cooperate with State and Federal agencies to protect identified historical and archaeological resources from vandalism and desecration, and will preserve these resources in a manner which promotes an understanding of historic peoples and their times.

<u>OBJECTIVE 13:</u> Renewal of Blighted Areas: The City will pursue the redevelopment and renewal of blighted areas in the downtown area consistent with the provisions of the Community Redevelopment Area (CRA) plan.

<u>Policy 13.1:</u> The City will continue the redevelopment of the Community Redevelopment Area (CRA) in downtown Cape Coral according to the schedule of the CRA plan as adopted by Council.

<u>Policy 13.2:</u> The City will, as part of its CRA planning process, investigate innovative market opportunities to property owners in blighted areas to remodel, rebuild and replat their buildings and properties.

<u>Policy 13.3:</u> In order to encourage and facilitate development and redevelopment and the provision of housing, employment, service and shopping opportunities in a compact area currently served by public facilities, mixed-use development shall be allowed in the Downtown Community Redevelopment Area. Such mixed-use development shall conform to the Community Redevelopment Area Plan, as same may be amended, and shall be reviewed in accordance with the City's Land Development Code.

Objective 14: In order to promote the economic viability of Downtown Cape Coral, the City of Cape Coral shall establish the Downtown Transportation Concurrency Exception Area (Downtown TCEA). Establishment of the TCEA will enhance the ability of the City to undertake the following activities:

Urban redevelopment;

Urban infill development;

Increasing retail and commercial services, as well as employment opportunities within the downtown area, thereby reducing the City's reliance on travel across bridges to reach such land uses;

Providing residents of, and visitors to, the downtown area with a variety of transportation choices and opportunities including automotive, pedestrian, bicycle and transit;

The creation and implementation of desirable urban design and form in the downtown area;

The creation of a broader mix of residential and non-residential uses in the downtown area;

Implementing streetscaping and landscaping improvements in the downtown area; and

Increasing comfort, safety and convenience for pedestrian, bicycle and transit users in the downtown area.

<u>Policy 14.1:</u> The City of Cape Coral hereby establishes the Downtown CRA Transportation Concurrency Exception Area (Downtown TCEA) to aid in the revitalization and redevelopment of the properties within the Community Redevelopment Agency (CRA) area. The purpose of the TCEA shall be to provide incentives for revitalization, infill development and redevelopment by eliminating or minimizing transportation concurrency requirements, in exchange for the implementation of sound land use and transportation planning techniques, which enhance mobility within the downtown area.

<u>Policy 14.2:</u> The City of Cape Coral Downtown CRA TCEA shall have boundaries as depicted on the Future Land Use Map. The general boundaries of the area are as follows: SE 44th Street and SE 46th Lane on the North, SE 17th Place, Waikiki Avenue, and the Caloosahatchee River on the East, Miramar Street, Bimini Basin Canal, and Norfolk Canal on the South, and Tudor Canal, Palm Tree Boulevard, Coronado Parkway and the alley in Block 396 on the West.

Policy 14.3: New development, redevelopment and infill development projects located within the City of Cape Coral Downtown Transportation Concurrency Exception Area (Downtown TCEA) may elect to be exempt from transportation concurrency requirements through implementation of the mitigation strategies described in Policy 14.5 of this Element. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project elects to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5, or elects to be subject to standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development.

<u>Policy 14.4:</u> The City of Cape Coral and the Cape Coral Community Redevelopment Agency (CRA) will work with Lee County Transit (LeeTran), or other local transit provider, and the Lee County Metropolitan Planning Organization (MPO) to expand and/or otherwise improve the public transportation system within the Downtown TCEA in an effort to reduce the demand on the existing transportation network by reducing the number of trips on the roadways within the Downtown TCEA.

<u>Policy 14.5:</u> In order to be exempt from link specific concurrency and to support mobility enhancement within the Downtown TCEA, all new development, redevelopment, or infill development projects may opt to incorporate any five of the following provisions:

Preferential parking for carpools, vanpools, and/or multiple occupancy vehicles with the object of increasing the average vehicle occupancy for trips generated by the development.

Parking price structures favoring carpools, vanpools, and/or multiple occupancy vehicles, with the object of increasing either the average vehicle occupancy for trips generated by the development, or increasing transit ridership.

Flexible work schedules for employees of the development, with the object of decreasing peak hour automobile trips generated by the development.

Payment of a subsidy to LeeTran to support an increased level of transit service within the TCEA.

Payment into one or more funds, to be established by the City or the CRA. Monies collected by such fund(s) shall be used to support programs and/or capital projects designed to provide additional parking and/or to enhance bicycle, pedestrian, and transit mobility within the TCEA.

The provision of transit shelters, built to City of Cape Coral specifications, within the development.

The provision of a safe and convenient internal pedestrian and bicycle circulation system within the development, including the placement of bicycle racks or bike lockers.

The provision of transit turn out lanes on heavily traveled roadways.

The provision of structured parking for use by residents, patrons and employees of the development.

Clustering buildings within the development, or otherwise designing the development to achieve maximum residential density or non-residential intensity at the development site in a manner, which preserves open space, enhances multi-modal opportunities and provides transit oriented densities or intensities.

Where feasible, the construction of new roadway or alleyway facilities to reduce congestion on major roadways and to provide alternate access to the development.

Any other innovative transportation related modifications or standards submitted by the developer and acceptable to and approved by the City of Cape Coral.

<u>Objective 15:</u> Downtown TCEA Administration: The City shall develop and implement strategies and programs designed to achieve the purposes of the City of Cape Coral Downtown CRA Transportation Concurrency Exception Area (TCEA).

<u>Policy 15.1:</u> The Community Redevelopment Plan for the Community Redevelopment Area (CRA) provides information regarding funding of redevelopment within the CRA. As provided for by Florida's Community Redevelopment Act, the principal source of funding for the Community Redevelopment Agency will be through the Tax Increment Trust Fund. Other sources of funding may include the sale or lease of acquired property, Enterprise Fund Revenue Bonds, one or more funds for mobility enhancement, as described in Policy 14.5, above, and Federal, State and Regional Grants.

<u>Policy 15.2:</u> In order to promote new development, redevelopment and infill development within the Downtown TCEA, funding for multimodal transportation modifications and identified improvements (not otherwise provided by the developer, as per Policy 14.5, above) will be provided to the maximum extent feasible by the City, the CRA, Lee County, state and/or federal governments, developers and other outside sources such as grant funds.

<u>Policy 15.3:</u> Within the Downtown TCEA, the City of Cape Coral and the Community Redevelopment Agency will continuously work to improve other forms of mobility such as pedestrian, bicycle and transit service and to implement connectivity between all modes so as to promote lower vehicular traffic.

Policy 15.4: The City of Cape Coral and the Community Redevelopment Agency will

implement sidewalk, or other pedestrian, and bicycle improvements to increase the Level of Service of these facilities within the downtown area. Pedestrian projects designed to increase the pedestrian level of service may include but shall not be limited to:

Construction of new or expanded sidewalk facilities to service streets or portions of streets not currently served by sidewalks;

A reduction in the number of physical obstructions within the sidewalk network;

Improvements to pedestrian crosswalk signalization;

The designation of one or more local streets as pedestrian only areas; and/or

The provision of shading, sitting areas and other streetscape amenities.

<u>Policy 15.5:</u> The City and the CRA will cooperate with Lee County Transit (LeeTran) to maintain/improve the transit facilities and transit level of service within the Downtown TCEA. In addition to developer-implemented strategies, as described in Policy 14.5 of this Element, strategies that may be implemented include, but may not necessarily be limited to, improving the density, intensity and mix of development in the downtown area, improving route headways, improving service time spans, and reducing the interval distance between stops.

Objective 16: The Cape Coral Downtown CRA Transportation Concurrency Exception Area (Downtown TCEA) will be administered in a manner that supports the Community Redevelopment Agency's goals concerning urban design, the preservation of open spaces, streetscaping and the removal of blighting factors.

<u>Policy 16.1:</u> With regard to open space and street layout within the Community Redevelopment Area, the intent of the City, in implementing the Downtown TCEA, is to create a high-intensity, yet pedestrian friendly, urban area that is served by multi-modal circulation systems, which are designed to ensure that visitors, employees, and residents can easily find their way, park, and enjoy their walk to their destinations.

<u>Policy 16.2:</u> Within the Downtown TCEA, the City shall utilize regulatory controls and incentives to provide appropriate limitations on the type, size, height and use of buildings in order to stimulate and attract private investment in real property and property improvements in the redevelopment area. Such investment and improvements will be directed toward the elimination of blighting factors, the improvement of the economic health of the City and the County, increasing employment opportunities within the downtown area, providing better services to residents, businesses, and tourists, and improving the tax base.

<u>Policy 16.3:</u> In regulating residential development (including, but not necessarily limited to, affordable housing) within the Downtown TCEA, the City will continuously seek to increase the number of people that both live and work downtown in order to promote the creation of pedestrian-friendly shopping areas, provide employment opportunities for downtown residents, and decrease automobile use in the downtown area.

Policy 16.4: In order to enhance the visual characteristics of roadways within the Downtown

TCEA, and to create an appealing environment that supports multi-modal transit opportunities, the City and the CRA will develop streetscaping guidelines and/or plans for roadways within the downtown area.

<u>Policy 16.5:</u> The City will include right of way and median landscaping as part of any major roadway modification program carried out within the Downtown TCEA.

<u>Policy 16.6:</u> The City of Cape Coral shall coordinate with the CRA, Lee County, and the Lee County Metropolitan Planning Organization to balance the need for and design of roadway improvements within the Downtown TCEA with the CRA's need for quality urban design concepts for all revitalization, redevelopment and infill development.

<u>Policy 16.7:</u> Land use intensities and densities within the Downtown TCEA shall be consistent with the goals objectives and policies of the City's Comprehensive Plan. In particular, Policy 1.15 (k) of this Element, describing the Downtown Mixed Future Land Use Classification, defines the allowable intensities and densities within the Downtown TCEA.

Objective 17: Downtown TCEA Network Connectivity: In implementing various mobility strategies and infrastructure projects within the Downtown TCEA, the City of Cape Coral and the Community Redevelopment Agency will seek to establish network connectivity within and between all modes of transportation within the downtown area.

<u>Policy 17.1:</u> In reviewing requests for vacation of streets within the downtown area, the City of Cape Coral shall consider the following:

Whether the loss of the street will adversely impact current or future bicycle/pedestrian mobility;

Whether the loss of the street will prevent access to adjacent land uses or transit stops; and,

Whether the loss of the street is necessary for the construction of high density, mixed use projects containing both residential and non-residential uses or projects that permit residential and non-residential uses to be constructed in close proximity to each other.

<u>Policy 17.2:</u> Within the Downtown TCEA, development plans for the placement of new parking structures and/or surface parking lots as a principal or accessory use shall:

Minimize conflicts between pedestrian, motor vehicle, and bicycle travel routes; and,

Utilize locations and designs, which discourage commercial vehicle access through residential streets.

Cape Coral City Council
May 6, 2019
ORDINANCE 23-19
TXT19-0001

Purpose

- A City-initiated change to Policy 1.15, Future Land Use Element of the Comprehensive Plan
- Makes some changes amending language adopted in Ordinance 71-18

Specifics

- Removes affordable housing density doubling language
- Increases residential densities from 75 to 125 units/acre in the Downtown Mixed future land use
- Reduces residential densities from 25 to 16 units/acre in the Commercial Activity Center future land use
- Staff recommends Approval
- We have received no correspondence

Planning Division Staff Report

TXT19-0001

Review Date: March 1, 2019

Prepared by: Wyatt Daltry, AICP, Planning Team Coordinator

Request: Amends the Future Land Use Element in preparation for updates to the

Future Land Use Map, Land Development Code, and Zoning Map.

STAFF RECOMMENDATION:

APPROVAL

Positive Aspects of Application:	 Removes an unintended consequence connected to doubling densities for developments with a significant affordable housing component Provides additional flexibility for development in the Downtown Mixed future land use map classification Removes increased density within Neighborhood Commercial zoning, an as-yet unmapped district, and returns the density (16/acre) to its former level, limiting increased impacts of development
Negative Aspect of Application:	 Amendment quickly follows up a major change to Comprehensive Plan (Ordinance 71-18), which may cause confusion
Mitigating Factors:	 Adoption of updates to the Plan will better prepare the community for the 21st century.

Background

In 2016, the City embarked upon the overhaul and complete rewrite of the Land Use and Development Regulations (LUDR). During this time, the City recognized adoption of a new zoning code (LDC) that will require changes to the text of the Comprehensive Plan, the Future Land Use Maps, and the Zoning Map. Changes to the Comprehensive Plan through Ordinance 71-18 were adopted on February 4, 2019.

Some additional changes were identified not long after Ordinance 71-18 was adopted, and the proposed amendments address concerns that were raised. Fortunately, this request's timing in relation to the recent adoption to Ordinance 71-18, which is not in effect as of the time of this report, mitigates impacts on development and private-property rights.

The following section identifies and analyzes the policies affected by this amendment.

Summary and Analysis of the Proposed Changes by Element

Note: Additions are indicated in <u>underline</u> format, while deletions are indicated by strikethrough.

FUTURE LAND USE ELEMENT

AMENDMENT 1: Removal of affordable housing doubling language in the following policies:

FLUE Policies 1.15.b, e, f, l, m

b. <u>Multi-Family Residential</u>: Densities up to 25 units per acre are permitted in this future land use map classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down. 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.

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects (three or more units only), single-family residences, and duplexes are also permitted in this zoning district.

The Residential Multi-Family Medium (RMM) District is designed to permit higher-density multi-family residential development. Lower-density, multi-family residential projects such as duplexes or single-family residences are not permitted in this zoning district.

Multi-family residential developments in this future land use map classification that consist of 25-50%workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

. . .

e. <u>Mixed-Use:</u> The mixed-use designation is intended to encourage the development of planned projects that include more than one type of use. The maximum permitted densities/intensities of various uses within the mixed-use designation will be 25 dwelling units per acre for a residential component and 1.0 FAR (Floor Area Ratio) for nonresidential uses. For example, a project combining multi-family and commercial uses would be subject to Policies 1.15.b. and/or 7.7 for the multi-family portion, and Policy 1.15.c. for the commercial portion.

The following will control the mix of uses allowed in the Mixed-Use Land Use category.

Properties less than one (1) acre: 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.

Properties one (1) acre and greater: Larger properties are prime candidates for mixed use developments. These properties shall include more than one type of use. The mix of uses may include residential, retail, office, services, light industrial or public facilities. Such uses may be mixed horizontally on a site or may be within a compound use building, (i.e. differing uses within one building or structure) consisting of residential and retail office, or services.

For Mixed-Use developments adopted after October 23, 2010, retail, office, services, light industrial, or public facilities uses may be developed up to 100% of building floor area within a Mixed-Use property; this will have the intended effect of not requiring a mix of non-residential uses for properties one (1) acre or greater in size. Stand-alone residential uses may comprise up to 20% of site area of a Mixed-Use property one (1) acre or greater in size. Compound use residences are permitted.

Notwithstanding any provisions that may be interpreted to the contrary, Mixed-Use developments approved prior to October 23, 2010 may continue to abide by the development requests granted within their respective adopted development orders or approved site plans. Furthermore, Mixed-Use properties located in the Urban Services Reserve Area require three (3) acres in order to develop a mixed-use project. Mixed Use designated property in the Urban Reserve Services Area less than three acres is limited to a single use that does not generate an estimated flow of more than 880 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended.

Multi-family residential developments in this future land use map classification that consist of 25-50%workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

f. <u>Single Family and Multi-Family:</u> The densities and intensities of use for this category, which is exclusively within the Urban Services Reserve Area, are 4.4 dwelling units per acre for single-family residential uses, 6 units per acre for multi-family residential uses on sites less than 3 acres. Multi-family residential uses for properties between 3 and 19.99 acres have a maximum density of 16 units per acre. Multi-family residential uses for properties greater or equal to 20 acres have a density of 25 dwelling units per acre.

Multi-family residential developments in this future land use map classification that consist of 25-50%workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

. . .

l. <u>Pine Island Road District:</u> This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road.

Corridor: Includes such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single-family residential, multi-family residential, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Multi-family residential uses may be developed at a density of twenty-five units per acre, for sites of four acres or more. Multi-family residential uses may consist of no less than fifty units or have a density no less than ten or more units per acre. No duplexes are permitted. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Policy 1.15.h., of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.i. of the Future Land Use Element.

Multi-family residential developments in this future land use map classification that consist of 25-50%workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

. . .

m. Commercial Activity Center (CAC): The purpose of this future land use classification is to promote non-residential and mixed-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral in areas where a mix of uses may be developed. The Commercial Activity Center classification is a mixed-use classification designed to minimize the need for vehicle trips through the development of both residential and non-residential uses in a single project. Furthermore, the purpose of the Commercial Activity Center is to integrate all uses through landscape, site, and architectural design standards. In addition, the Commercial Activity Center land use classification is intended to provide locations that offer employment opportunities and daily goods and services to the local community and, in some instances, attract patrons from the region. Commercial Activity Centers are intended to be pedestrian friendly and interconnected with adjacent projects – whether residential or non-residential.

Pre-Existing Single-Family Residences Allowed

It is the desire of the City of Cape Coral to protect the rights of owners of single-family homes located within a Commercial Activity Center (CAC), which homes had either:

- a) Been lawfully constructed or had applied for or received a building permit at their current locations prior to the designation of the subject as part of a CAC future land use classification; or,
- b) Been lawfully constructed or had applied for or received a building permit at their current locations under a former CAC future land use classification.

In this classification single family residences that meet the criteria stated above may continue to be maintained, remodeled, expanded, or rebuilt, and that the owners of such properties may continue to enjoy all of the rights, privileges and responsibilities of home ownership, including the ability to sell or rent their homes to other parties. In and of themselves, pre-existing single-family residences do not necessarily constitute **Free-Standing Residential** development, unless they otherwise meet the criteria for such development, as discussed under **Use Area Allocations**, below. If pre-existing single-family residences, as defined in this section, are included as part of a larger approved development project, the pre-existing status of the residences is lost, and such residences become subject to the City Land Development Code regarding non-conforming structures.

The City has adopted the Neighborhood Commercial (NC) zoning district as consistent with the Commercial Activity Center Future Land Use Classification. Development standards in accordance with the Neighborhood Commercial zoning district are as follows:

Neighborhood Commercial Development Parameters				
	Land Area of Development Project			
	1 acre or less	1 acre – 19.99 acres	20 acres or greater	
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0	
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units 25 16 d.u./acre	25%-80% 12 d.u./acre or 75 units 25 16 d.u./acre	
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre or 50 units 25 16 d.u./acre 2.0	0-100% 12 d.u./acre or 75 units 25 16 d.u./acre 2.0	
Build-to/Front Setback	6 ft. – 10ft.	10 ft.	10 ft.	
Minimum Side Setback	0 or 6	0 or 6	0 or 6	
Min. Rear Setback	6	6	6	

Additional zoning districts may be developed in the future to implement this land use initiative.

Multi-family residential developments in this future land use map classification that consist of 25-50%workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

An un-intended consequence of the proposed-to-be-removed language is the doubling of densities in areas, such as our Multi-Family and Single-Family/Multi-Family future land use map classifications, which are viewed as too dense even without this opportunity to double densities. The Cape Coral City Council has identified other avenues than density increases to attract affordable housing.

AMENDMENT 2: Increased maximum density within the Downtown Mixed future land use map classification to 125 dwelling units per acre:

FLUE Policy 1.15.k

k. <u>Downtown Mixed:</u> Intended primarily for the Downtown Community Redevelopment Area, to provide, a vibrant, walkable, mixed-use district in the historical heart of Cape Coral, mixed-use projects containing commercial and professional uses in conjunction with multi-family housing opportunities where practical and feasible are encouraged. To this end, commercial/professional uses may develop at a maximum Floor Area ratio of four (4) with an average area-wide FAR of two and twenty-three one hundredths

(2.23) with commercial/professional uses developed at a ratio of sixty-five (65) percent commercial and thirty-five (35) percent professional, on an area-wide basis. Residential development may develop at a density of seventy-five (75) dwelling units per acre, or at a density of one hundred twenty-five (125) dwelling units per acre not to exceed an aggregate of eleven thousand one hundred forty-six (11,146) dwelling units. In order to maintain these development limits, the City shall track residential and non-residential development within this future land use map classification. No further residential development will be permitted in this future land use classification should dwelling unit limits be reached. If the average area-wide FAR of two and twenty-three hundredths (2.23) is reached, the City will permit only that nonresidential development with a FAR of 2.23 or below. Development at these intensities and densities are contingent on the availability of centralized city utility services and transportation network at sufficient capacities to accommodate the development at the appropriate level of service, the availability of sufficient and convenient parking to service the project, the availability of multimodal transportation opportunities, and compatibility with adjacent existing and future land use. Special zoning designations may be established to implement this future land use classification, designed to result in a compact urban form.

Zoning districts consistent with the Downtown Mixed future land use map classification are the South Cape Downtown District and the Mixed-Use Bimini Basin zoning district.

This proposed amendment would provide additional densities within a newly-created zoning district in downtown Cape Coral. The long-standing cap of 11,146 dwelling units within the Downtown Mixed future land use map classification is unaffected, ensuring that there is no increase in maximum development impacts in this area

AMENDMENT 3: Decreased density within the Commercial Activity Center from twenty-five units per acre to sixteen units per acre per changes to the Neighborhood Commercial Development Parameters table.

FLUE Policy 1.15.m

Neighborhood Commercial Development Parameters				
	Land Area of Development Project			
	1 acre or less	1 acre – 19.99 acres	20 acres or greater	
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0	
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units 25 16 d.u./acre	25%-80% 12 d.u./acre or 75 units 25 16 d.u./acre	
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre or 50 units 25 16 d.u./acre 2.0	0-100% 12 d.u./acre or 75 units 25 16 d.u./acre 2.0	
Build-to/Front Setback	6 ft. – 10ft.	10 ft.	10 ft.	
Minimum Side Setback	0 or 6	0 or 6	0 or 6	
Min. Rear Setback	6	6	6	

The Cape Coral City Council has indicated a desire to keep residential densities unchanged within the Commercial Activity Center, at the level of the soon-to-be-former Marketplace Residential zoning district (16 units/acre).

Recommendation

Staff recommends approval of the proposed text amendments.

Item

B.(6)

Number: Meeting

E/6/2040

Date:

5/6/2019

Item

ORDINANCES/RESOLUTIONS -

Type:

Introductions

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Ordinance 24-19 Set Public Hearing Date for June 3, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

<u>P&Z Recommendation:</u> At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 24-19.

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .13, Corridor District (CORR), to remove the maximum building height regulations for non-residential buildings in the Corridor District.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 24-19 Staff Presentation

PREPARED BY:

Division- Department-City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, DCD Director

ATTACHMENTS:

Description

o Ordinance 24-19

Staff Presentation

Туре

Ordinance

Backup Material

ORDINANCE 24 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2.7, DISTRICT REGULATIONS, SUBSECTION .13, CORRIDOR DISTRICT (CORR), TO REMOVE THE MAXIMUM BUILDING HEIGHT REGULATIONS FOR NON-RESIDENTIAL BUILDINGS IN THE CORRIDOR DISTRICT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1. The City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .13, Corridor District (CORR), is hereby amended as follows:

.13 - Corridor District (Corr).

A. Purpose and intent. This district is established to:

- 1. Implement the recommendations of the Pine Island Road Master Plan;
- 2. To promote such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), residential, golf courses, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities;
- 3. To provide design guidelines for large scale retail; and
- 4. Otherwise implement this ordinance.

The nature of the development(s) that can be built within the Corridor district is determined by the size of the land to be developed. As the property size increases, so do the options for development.

E. Dimensional regulations. All development within the Corridor District shall be limited to the following:

Tract Size			
Less than 45,000	Non-residential uses only		
45,000 s.f. and greater	Non-residential		
	Residential: (minimum 20 acres)		
	Single family		
	Duplex multi-family		
	Conjoined residential structure		
	Multi-use (minimum 30 acres)		

The dimensional regulations by type of development are as follows:

1. Dimensional Regulations (Corr District) Residential				
Single- Family Duplex Multi- Family Family Conjoined Residential Structure				
Minimum area of the entire tract under development (a)	20 acres	20 acres	20 acres	20 acres
Minimum lot area within the tract under development	6,500 s.f.	8,000 s.f.	12,000	An average of 4,000 s.f. per unit

Maximum density	5.5 DU/Acre	8 DU/Acre	(b)	8 DU/Acre
Minimum yards for the entire tract	(c)	(c)	(c)	(c)
Minimum yards within the tract under development				
Front	20	20	20	20
Side	5	5	7.5	(d)
Rear	15	15	20	15
Minimum width at building line (e)	180	180	180	180
Minimum depth (e)	125	125	125	125
Maximum building height	30	38(f)	45(f)(g)	38(f)
Minimum living area	1,000 s.f. (h)	1,000 s.f. (h)	750 s.f. (i)	1,000 s.f. (h)
Each additional bedroom	100 s.f.	100 s.f.	150 s.f.	100 s.f.

- (a) Minimum area of the entire tract under development is for the entire residential component of the development which may consist of single-family, duplex, multi-family, or conjoined residential structure or a combination of different residential products.
- (b) The following table shall be used to determine the maximum number of dwelling units based on the parcel size:

Acreage	D.U./Acre
Less than 9.99	16
10 - 14.99	18
15+	20

- (c) A minimum yard of 25 feet shall be provided around the perimeter of the entire residential development. If a masonry wall is provided the minimum yard in the side/front and/or rear of the property, where the wall is provided, can be reduced to 15 feet.
- (d) For conjoined residential structures, zero-lot line between units and/or clustering of a group of structures providing side yard only between the structures located at the ends, are permitted provided that the structures meet all requirements and standards of the building code.
- (e) Minimum lot width and depth apply to the entire tract to be developed. Within the development there is no minimum lot width or depth required for each dwelling unit.
- (f) Up to 15 feet of additional height will be allowed when under-unit parking or garage with a minimum capacity of at least 60% of the required parking spaces are provided within the area to be developed.
- (g) One additional foot in height is permitted when one additional foot is added to the minimum required front, side and rear yards. This condition only applies when the building subject to the additional height allowance is not closer to any other vertical structure than the minimum total yards required to permit the additional height.
- (h) Minimum living area shall apply for up to two bedrooms units.
- (i) Minimum living area shall apply for efficiency and one bedroom units.

2. Dimensional Regulation	ns (Corr District) Non-Resid	ential
Minimum area of the entire tract under	Less than 45,000 s.f.	45,000 s.f. and more
development	(h)	(h)
Maximum floor area ratio	1.00	1.00
Minimum yards (a)		
Front	25 ft. (h) (i)	25 ft. (h) (i)
Side	None (b) (c) (e) (f)	15 ft. (b) (d) (f)
Rear	10 ft. (g) (c)	25 ft (g) (c)
Minimum width at building line	50 ft. (h)	150 ft (h)
Minimum depth	None (h)	None (h)
Maximum building Height	45 ft. None (k j)	45 ft. None (i) (k)

- (a) Minimum yards are for separation between abutting developments.
- (b) See Article III, §§ 3.7 and 3.8 for corner lot yards.

- (c) All non-residential uses on parcels less than 45,000 s.f. which are located on lots abutting a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, shall maintain a minimum yard requirement for all structures of 25 feet in the side or rear yard abutting the residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor. All non-residential uses shall be permanently buffered from abutting and adjacent Residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, with a properly maintained landscaped buffer yard on the rear or side(s) of the use which actually abuts or is adjacent to the Residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor. In addition, non-residential uses which are separated at the front, side or rear lines from a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, by only a street containing not more than two lanes for motor vehicle traffic also shall be permanently buffered with a properly maintained landscaped buffer yard on such front, side and rear lot lines. For purposes of this subsection, a bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. (See Article V, § 5.2. for landscaping requirements.) (d) All non-residential uses on parcels 45,000 s.f. or greater which are located on lots abutting a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, shall maintain a minimum yard requirement for all structures of 35 feet in the side or rear yard abutting the residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor. All non-residential uses shall be permanently buffered from abutting and adjacent Residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, with a properly maintained landscaped buffer yard on the rear or side(s) of the use which actually abuts or is adjacent to the Residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor. In addition, non-residential uses which are separated at the front, side or rear lines from a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, by only a street containing not more than two lanes for motor vehicle traffic also shall be permanently buffered with a properly maintained landscaped buffer yard on such front, side and rear lot lines. For purposes of this subsection, a bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. (See Article V, § 5.2, for landscaping requirements.) (e) A structure built on the lot line shall be designed to the following standards:
- 1. Water runoff shall be diverted to an approved retention area;
- 2. The structure shall be built so that there shall be no open compartments or cavities between structures on the property line; and
- 3. The roof shall be designed and built in such a manner as to prohibit water runoff to the adjacent site.
- (f) For properties abutting an alley, a ten-foot side yard from such alley shall be provided. A single row of parallel parking spaces may be permitted adjacent to the side alley.
- (g) If a property owner opts to provide a minimum of 30-foot rear a single row of parking may be allowed in the yard, providing, however, that the parking placed directly to the rear of the structure.
- (h) Within the Deer Run Commercial Park subdivision, the minimum lot area, the minimum lot depth, and the minimum lot frontage shall be as approved and recorded in the subdivision plat dated May 27, 1988, Plat Book 40, Pages 71 and 72.
- (i) Within the Deer Run Commercial Park subdivision, the minimum front yard shall be 50 feet.
- (j) Up to 15 feet of additional height will be allowed when under-unit parking or garage with a minimum capacity of at least 60% of the required parking spaces are provided within the area to be developed.
- (k) The maximum height of a communication tower shall be 140 feet as stated hereinabove.

3. Dimensional Regulations (Corr District) Multi-Use		
Minimum area of the tract under unified control	30 acres	
Residential use maximum density	(a)	
Non-residential use floor area ratio	1.00	
Minimum yards	none within the development (b)	
Maximum building height	45 ft. (c) (d) (e)	

3

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect. SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council. ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS ______ DAY OF ______, 2019. JOE COVIELLO, MAYOR VOTE OF MAYOR AND COUNCILMEMBERS: COVIELLO NELSON GUNTER STOKES CARIOSCIA WILLIAMS STOUT COSDEN ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF ____ KIMBERLY BRUNS INTERIM CITY CLERK

APPROVED AS TO FORM:

BRIAN R. BARTOS

ASSISTANT CITY ATTORNEY ord\Corridor Maximum Building Height

Ordinance 24-19

PLANNING AND ZONING COMMISSION – MAY 1
CITY COUNCIL INTRODUCTION – MAY 6
CITY COUNCIL – JUNE 3

Ordinance 24-19

- ► AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2.7, DISTRICT REGULATIONS, SUBSECTION .13, CORRIDOR DISTRICT (CORR), TO REMOVE THE MAXIMUM BUILDING HEIGHT REGULATIONS FOR NON-RESIDENTIAL BUILDINGS IN THE CORRIDOR DISTRICT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.
- Removes the height limitation in the Corridor Zoning District for nonresidential buildings
- ► Currently 45'
- Consistent with the proposed new code that generally removes height regulation in commercial areas and regulates based on floor area ratio (FAR)

Item

10.A.

Number:

Meeting

5/6/2019

Date:

UNFINISHED

Item Type: **BUSINESS**

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Water Quality - Update

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Water Quality Memo

PREPARED BY:

Division-Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description **Type**

Water Quality Memo **Backup Material**

MEMORANDUM

CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

TO:

John Szerlag, City Manager

FROM:

Paul Clinghan, Public Works Director PR C

Michael Ilczyszyn, Senior Public Works Manager

Maya Robert, Environmental Resources Manager MR

DATE:

May 3, 2019

SUBJECT: Lake Okeechobee Level and Release Information

As of Friday, May 3, 2019, the elevation of Lake Okeechobee was 11.17 ft. The outflows measured at the Franklin Lock & Dam (S-79) were 637 cfs and averaged 953 cfs for the past week. On May 4, 2019 the US Army Corps of Engineers (USACOE) will start a new pulse release schedule. Target 7-days average flows to the Caloosahatchee will be reduced from 800 cfs to 600 cfs at S-79. The St Lucie estuary will continue to not receive any flow at S-80.

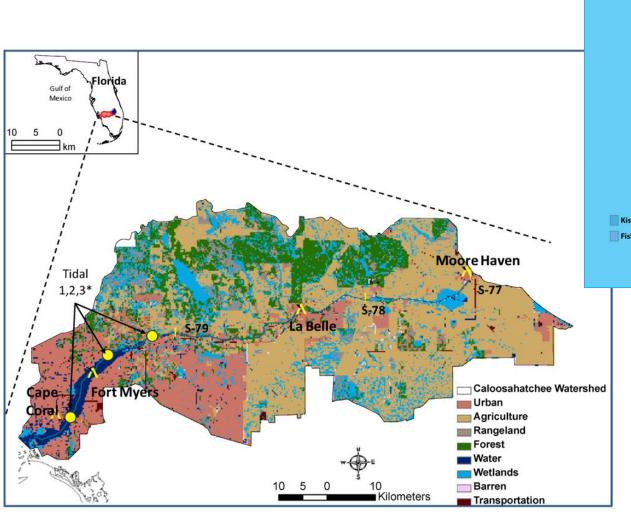
Blue Green Algae is still present in Lake Okeechobee and along the Caloosahatchee. Samples from last week did not contain toxins. Toxins results for this week are pending. Blue Green Algae blooms have been reported in multiple areas of the St Johns River.

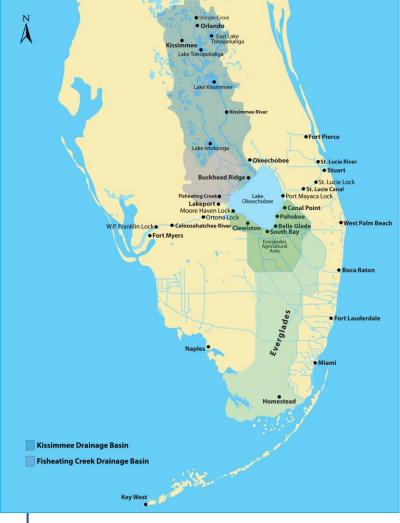
This past week, City staff received a few reports of algae. After surveying several canals, especially in the Southwest Cape, staff determined it was nontoxic, filamentous algae, often seen in canals during the dry season. While the volume of residents' calls is comparable to previous years; residents express their concern for Blue Green Algae this vear.

There have been no Red Tide observed in Lee County.

Attached is a map showing drainage basins of the Lake Okeechobee and the current Lake's inflows and outflows from the USACOE.

PC/MI:mr (Weekly Lake Okeechobee Level and Release Information) Attachments; Lake Okeechobee drainage basins, USACOE inflows and outflows report





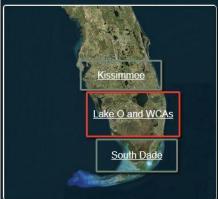


Daily averages for 03 May 2019

Lake Okeechobee stage: 11.17 ft
Previous day: 11.17 ft
One week ago: 11.38 ft
(1965-2007 avg for today): 13.57 ft

Total Structure/Creek Inflows: 335 cfs Total Structure Outflow: 980 cfs

Area	Stages (hover for notes)	Schedule
WCA-1	Site 1-8C: 15.81 ft 3-Station: 15.91 ft	15.86 ft
WCA-2A	Site 2-17: 11.71 ft S-11B HW: 10.71 ft	11.00 ft
WCA-3A	9.21 ft	9.69 ft

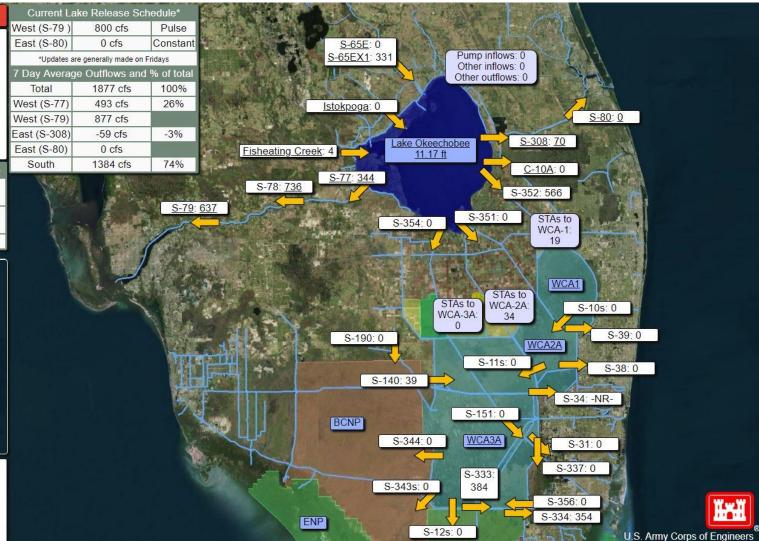


Water Management Main Page Status Update Archives Elevations are ft-NGVD.

Flows are average daily CFS.

Data is provisional and subject to revision.

Report generated: 03 MAY 2019 @ 08:10



Item

10.C.

Number:

Meeting

5/6/2019

Date:

UNFINISHED

Item Type: **BUSINESS**

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Dixie Roadhouse Extended Hours Proposal - Brought forward by Mayor Coviello (Continued from the April 15, 2019 Regular Meeting) Resolution 91-19 A Resolution lifting the suspension of the Colosseum LLC d/b/a Dixie Roadhouse Extended Hours Permit subject to the conditions specified herein; Department: Police

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Email to Mayor and Council Agreement Resolution 91-19

PREPARED BY:

Division-Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description

- Email to Mayor and Council
- **a** Agreement
- n Resolution 91-19

Туре

Backup Material Backup Material Backup Material

Kimberly Bruns

To:

Kimberly Bruns

Subject:

FW: Dixie Roadhouse Extended Bar Hours Agreement

Attachments:

Dixie Roadhouse.pdf

From: Phyllis Demarco On Behalf Of John Szerlag

Sent: Friday, April 26, 2019 10:26 AM

To: Dave Stokes < dstokes@capecoral.net >; Jennifer I. Nelson < inelson@capecoral.net >; Jessica Cosden

< icosden@capecoral.net >; Joe Coviello < icoviell@capecoral.net >; John Carioscia < icariosc@capecoral.net >; John Gunter

< igunter@capecoral.net >; Marilyn Stout < mstout@capecoral.net >; Richard Williams < rwilliam@capecoral.net >

Cc: Dolores Menendez (dmenende@capecoral.net) < dmenende@capecoral.net>; David M. Newlan

<dnewlan@capecoral.net>; Connie Barron <cbarron@capecoral.net>; Connie Griglin <cgriglin@capecoral.net>; Pearl

Taylor <ptaylor@capecoral.net>

Subject: Dixie Roadhouse Extended Bar Hours Agreement

Good morning, Mayor and Council.

At the April 15, 2019 City Council Meeting, we were directed by you to work out mutually agreeable terms with Dixie Roadhouse regarding extended bar hours. We were also instructed to bring back any items we could not agree upon. We're pleased to say we have reached agreement on all terms and, upon your approval, Dixie Roadhouse can apply for a new extended bar hours permit.

Attached is the final Agreement signed by both parties. This will be added to the May 6, 2019 Regular Council Meeting Agenda.

Best regards,

John Szerlag, City Manager David Newlan, Chief of Police



Post Office Box 280 • Fort Myers, FL 33902-0280

<u>Tel: 239.344.1100• Fax; 239.344.1200• www.henlaw.com</u>

Bonita Sprinas • Sanibel

Reply to Robert C. Shearman Board Certifled Civil Trial Lawyer E-Mail: robert.shearman@henlaw.com

April 24, 2019

VIA E-MAIL ONLY

Sawyer Smith, Esquire Wilbur Smith Attorneys At Law 2200 Broadway, 3rd Floor Fort Myers, FL 33901

Re:

Dixie Roadhouse

Dear Sawyer:

After extensive discussion based upon the directions given by the Cape Coral City Council on April 15, 2019, the principles of Dixie Roadhouse and Cape Coral Police Chief David Newlan have reached agreement on the following matters related to the incident on December 8, 2018 and the emergency suspension of Dixie Roadhouse's after-hours permit.

SIGNAGE

A "no colors" sign has been posted and a broader policy prohibiting biker colors and displays of gang affiliation has been implemented.

CAMERAS

Dixie Roadhouse has installed a total of 60 cameras. In addition to the 20 original cameras, 12 Secuiritech 1 cameras and 28F DT cameras have been installed. 44 of the cameras include night-vision, pan-tilt-zoom, high definition, Wi-Fi, motion sensing, micro SD and DVR recording (preserved for 2 months), and two-way audio capabilities. In addition to the cameras, a new security office has been made which houses two 43 inch monitors capable of displaying up to 25 cameras each. The cameras can also be played back on the manager's cell phone, laptop, or tablet. Dixie Roadhouse owners have also installed home monitors creating the capacity to review the venue from their home. Dixie Roadhouse agrees to maintain these cameras and features as outlined in this paragraph and take reasonable measures to ensure they remain in good repair and operating order.

Sawyer Smith, Esquire April 24, 2019 Page 2

WANDING

Dixie Roadhouse agrees to wand patrons entering Dixie Roadhouse for weapons a minimum of four nights (Fridays and Saturdays) from midnight until closing of doors for the first month immediately following reopening for extended hours, and subsequently wand patrons entering Dixie Roadhouse for weapons a minimum of two nights per month (Fridays and Saturdays) for the next 11 months. The wanding will be conducted on a random basis and Dixie Roadhouse agrees to provide the Chief a calendar in advance designating wanding nights. Additionally Dixie Roadhouse agrees to wand patrons for special events.

WESCAN ID

Dixie Roadhouse utilizes Aloha Point-of-Sale terminals and has implemented the WeScan ID system. With a dedicated terminal at the front doors of each venue, WeScan allows driver licenses from all 50 states to be scanned, instantly verifying a person's age, and determining whether that individual is on the "banned list." Dixie Roadhouse also uses an internal "banned list," as well as in an internal video system, which provides a picture of a person's face on the driver's license. Further Dixie Roadhouse agrees to work with CCPD to identify felons or gang members who should be added to the banned list.

SECURITY DETAIL

The City Ordinance requires a ratio of one officer to every 150 occupants (based upon approved occupancy—not actual occupancy) from 11:00 PM to 3:00 AM. Dixie currently has seven security personnel per the City Ordinance. Dixie Roadhouse has agreed to provide nine security personnel from 11:00 PM until 2:00 AM on dates the venue is open for extended hours, and to shift an additional security person from the Rockade to Dixie Roadhouse at 2:00 AM, bringing the total security personnel at Dixie Roadhouse to 10 from 2:00 AM through 3:00 AM on evenings the venue is open for extended hours.

TRAINING AND POLICIES TO AVOID OVER-SERVING INTOXICATED PATRONS

Dixie Roadhouse requires employees to complete responsible vendor training quarterly. All staff participate in ongoing training to prevent over-serving and identify patrons who have been over-served to make sure they have a safe ride home. Additionally, Dixie Roadhouse agrees to limit patron drink orders to 2 drinks at one time. For any order more than two drinks, the bartender or server will ask to see the individuals for whom the drinks are intended to avoid over-serving intoxicated patrons.

Sawyer Smith, Esquire April 24, 2019 Page 3

RIDE SERVICES

Dixie Roadhouse has a house account with Uber available to managers. Security personnel and managers will ensure that any persons deemed to be over-intoxicated by staff will have a safe ride home arranged for them. Additionally, Dixie Roadhouse has negotiated a dedicated Nickel Ride vehicle for Dixie Roadhouse customers. The service operates on both weekdays and weekends.

BUSINESS MODEL

Dixie Roadhouse agrees to focus on its core business and will not actively seek to provide live music concerts, but remains open to the potential for hosting an act if approached by a promoter.

CLOSING TIME

Dixie Roadhouse agrees to lock the front incoming doors by at 2:40 AM, and discontinue serving alcohol by 2:45 AM.

MANAGER ON DUTY

Lynn Pippinger is Dixie Roadhouse's General Manager. She will remain on property for late-night bar hours. Dixie Roadhouse agrees to carefully vet any new General Manager hired, introduce him/her to CCPD at the monthly BAR meeting, provide contact information, and assist in transitioning from Lynn Pippinger to the new General Manager to ensure familiarity with these agreements.

COVER CHARGE

Dixie Roadhouse has agreed to maintain its \$5 cover charge from 11:00 PM until closing.

Based upon the direction provided by the City Council at its April 15, 2019 meeting, Dixie Roadhouse and Chief Newlan have reached agreement on the items outlined above, and present this agreement to the City Council for its consideration with regard to Dixie Roadhouse's request to lift the emergency suspension of its after-hours permit.

Sawyer Smith, Esquire April 24, 2019 Page 4

Dixie Roadhouse and Chief Newlan request that this matter be brought before the City Council at its next regularly scheduled meeting for consideration in connection with Dixie Roadhouse's request to lift the emergency suspension of its after-hours permit.

Very truly yours,

/s/ Robert C. Shearman

Robert C. Shearman

I hereby agree to all terms and arrangements set forth in the letter and acknowledge that understanding and acceptance in my signature below.

Sawyer Smith

Dated

RESOLUTION 91 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL LIFTING THE SUSPENSION OF THE COLOSSEUM LLC d/b/a DIXIE ROADHOUSE EXTENDED HOURS PERMIT SUBJECT TO THE CONDITIONS SPECIFIED HEREIN; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 3-2(c)(7)(b) of the City of Cape Coral Code of Ordinances provides that the Cape Coral Police Chief may summarily order the emergency suspension of an extended hours permit if the Chief believes that an immediate serious danger to the public health, safety or welfare requires such a suspension: and

WHEREAS, on December 12, 2018, the Cape Coral Police Chief ordered an emergency suspension of the Colosseum d/b/a Dixie Roadhouse/Rockade extended hours permit based on events that occurred on December 8, 2018, pursuant to Section 3-2(c)(7)b of the City of Cape Coral Code of Ordinances; and

WHEREAS, the permit holder, Colosseum LLC d/b/a Dixie Roadhouse/Rockade ("Dixie Roadhouse"), has requested a public hearing before the City Council challenging the emergency suspension as provided in Section 3-2(c)(7)b of the City of Cape Coral Code of Ordinances; and

WHEREAS, the Dixie Roadhouse extended hours permit has expired, but City Council understands that Dixie Roadhouse intends to apply for renewal of its extended hours permit; and

WHEREAS, the Cape Coral Police Chief and Dixie Roadhouse have reached an agreement regarding the lifting of the suspension of the extended hours permit subject to certain conditions that shall apply to the Dixie Roadhouse extended hours permit and to any renewals of that permit; and

WHEREAS, the agreed upon conditions for the reinstatement of the Dixie Roadhouse extended hours permit are attached hereto as Exhibit 1; and

WHEREAS, the City Council desires to lift the suspension of the Dixie Roadhouse extended hours permit, subject to the conditions specified in Exhibit 1.

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

Section 1. The City Council hereby lifts the suspension of the Colosseum LLC d/b/a Dixie Roadhouse/Rockade extended hours permit subject to the conditions specified in Exhibit 1, attached hereto.

Section 2. In accordance with Section 3.2 of the Code of Ordinances, City Council shall consider violation of any of the conditions in Exhibit 1 or non-compliance with any of the requirements of Section 3.2 as grounds for suspending, revoking, or taking any other appropriate action with respect to the permit.

Section 3. The conditions specified in Exhibit 1 shall apply to any extended hours permit issued to the Colosseum d/b/a Dixie Roadhouse/Rockade, unless otherwise approved by City Council.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUL COUNCIL SESSION THIS			S REGULAR
	JOE (COVIELLO, MAYOR	

VOTE OF MAYOR AND COUNCILMEN	MBERS:
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN
ATTESTED TO AND FILED IN MY OF 2019.	FICE THIS DAY OF
	KIMBERLY BRUNS INTERIM CITY CLERK
APPROVED AS TO FORM:	
DOLORES D. MENENDEZ CITY ATTORNEY res/Dixie Roadhouse-Lift Suspension with Conditions	oli de la companya del companya de la companya del companya de la

- 1. Dixie Roadhouse ("Dixie") has established and will maintain and enforce a policy prohibiting biker colors and displays of gang affiliation during all hours that Dixie Roadhouse is open for business. At least one (1) "no colors" sign shall be prominently displayed in the Dixie premises in a location that is clearly visible to patrons and staff.
- 2. Dixie has installed and will maintain in good operating condition 60 cameras in or about the premises. In addition to the 20 original cameras, 12 Securitech1 cameras and 28 DT cameras have been installed. 44 of the cameras include night-vision, pan-tilt-zoom, high definition, Wi-Fi, motion sensing, micro SD and DVR recording (preserved for 2 months), and two-way audio capabilities.

In addition to the cameras, Dixie has established an internal security office that houses two 43" monitors capable of displaying up to 25 cameras each. The cameras can also be played back on the manager's cell phone, laptop or tablet. Dixie owners have installed home monitors creating the capacity to review the venue from their homes.

The owners, operators, representatives, agents, and employees of Dixie shall allow access to the recordings by authorized city code enforcement and law enforcement officers without court subpoena and without prior notice during all hours that Dixie is open for business.

3. Dixie will wand patrons entering Dixie for weapons a minimum of four nights during the first month immediately following reopening for extended hours (on Fridays and Saturdays) from midnight until closing of doors. In the subsequent 11 months, Dixie will wand patrons entering Dixie for weapons a minimum of two nights per month (on Fridays and Saturdays). Dixie will conduct the wanding on a random basis and will provide to the Police Chief a calendar of designated wanding nights in advance.

Dixie will also wand patrons for all special events.

4. Dixie has implemented the use of "WeScan," a driver's license scanning system, which allows driver's licenses from all fifty (50) states to be scanned to verify a person's age to prevent the sale of restricted products to underage individuals and to determine whether an individual is on the "banned list." Dixie uses an internal "banned list" as well as an internal video system, which provides a picture of a person's face on the driver's license. Dixie will continue to use "We Scan" or another substantially similar driver's license scanning system during all hours that Dixie is open for business. No fewer than two (2) dedicated system terminals will be located and in use at the doors into Dixie.

Dixie will work with the CCPD to identify felons or gang members who should be added to the "banned list."

5. Section 3.2 of the Code of Ordinances requires that Dixie provide a minimum of seven interior security personnel (at a ratio of one officer for every 150 allowed occupancy from 11:00 p.m. to 3:00 a.m.) Dixie will provide nine security personnel from 11:00 p.m. until 2:00 a.m. on dates the venue is open for extended hours, and will shift an additional security person from

- the Rockade to Dixie at 2:00 a.m., for a total of ten security personnel at Dixie from 2:00 a.m. to 3:00 a.m. on evenings the venue is open for extended hours.
- 6. In addition to fully complying with the Florida Responsible Vendor Act as set forth in Section 561.701 -.706, Florida Statutes, as same may be amended, all Dixie employees will attend and satisfactorily complete ABT training.
 - Additionally, Dixie will limit patron orders to two drinks at one time. For any order more than two drinks, the bartender or server will ask to see the individuals for whom the drinks are intended to avoid over-serving intoxicated patrons.
- 7. Dixie will, through its managers and employees, exert its best efforts to prevent overintoxication by its patrons and to ensure that impaired patrons have a safe means of departing
 without operation of a vehicle or otherwise. Dixie shall provide its customers with alternative
 means for safe travel when able to. Dixie has a house account with Uber available to managers.
 Additional, Dixie has negotiated a dedicated Nickel Ride vehicle for Dixie customers. The
 service operates on both weekdays and weekends.
- 8. Dixie will take all steps necessary to ensure that experienced and responsible individuals are employed in management positions in the business operations. Dixie's current general manager will remain on property for extended hours. Dixie will carefully vet any new general manager hired, introduce him or her to CCPD at the monthly BAR meeting, provide contact information, and assist in transitioning any new management positions to ensure familiarity with these conditions.
- 9. Dixie will focus on its core business and will not actively seek to provide live music concerts, but will consider hosting live entertainment if approached by a promoter. Dixie will maintain and ensure a safe environment to its customers when live entertainment concerts do take place.
- 10. Dixie will lock the front incoming doors at 2:40 a.m. and discontinue serving alcohol by 2:45 a.m. on extended hours evenings.
- 11. Dixie will maintain its \$5 cover charge from 11:00 p.m. until closing.

Item

10.D.

Number:

Meeting

5/6/2019

Date:

UNFINISHED

Item Type: BUSINESS

AGENDA REQUEST **FORM** CITY OF CAPE CORAL



TITLE:

Discussion of Traffic Safety Features at the Oasis School Complex - Brought forward by Mayor Coviello - Continued from 4/15/2019

REQUESTED ACTION:

Staff Direction

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

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

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Oasis School Complex Crossing concerns Staff Presentation - Oasis Schools Campus School Zone Enhancement alternatives

PREPARED BY:

PT Division- Council Offices Department- Council Offices

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

DescriptionTypeDOasis School Complex Crossing ConcernsBackup MaterialDStaff Presentation - Oasis Schools Campus
School Zone Enhancement alternativesBackup Material



Mr. Murch,

Since 2015, the City of Cape Coral Charter School administration and Public Works Department received multiple requests for the installation of a marked crosswalk within the Oasis Charter School Campus existing school zone. As a result of these requests the City Manager, Public Works Director, Charter School Superintendent, Oasis Charter School principals, Chief of Police, City Traffic Engineer, and City Council members met in September 2016 to discuss the need for a marked crossing. During this meeting, school staff indicated there are a minimal number of students who walk or ride their bicycle to school on a daily basis, approximately 25 per day including both morning arrival and afternoon departure.

Current Situation:

While there are no minimum warrants for a mid-block crossing within a school zone, staff expressed concern that the installation of a mid-block crossing in this location could provide a false sense of security for pedestrians using the crosswalk during off-school hours. As a result of the meeting, staff recommended and completed the following:

- Installed new signage indicating the presence of pedestrians in the school zone in accordance with the Manual on Uniform Traffic Control Devices.
- Installed new signs indicating school zone hours. These signs replace the existing "When Children Present" signs.
- The Cape Coral Police Department hired a full-time crossing guard for this campus. The crossing guard is responsible for the safe crossing of Oasis Boulevard by students at a single location. The crossing guard works during morning and afternoon times and accompanies all student pedestrians while crossing the roadway.

Based on recent discussions with Charter School Transportation staff, the crossing guard is very effective in providing students a safe location to cross while escorting them across Oasis Boulevard. Public Works reviewed the crash history at this location and there is no history of any crashes attributed to the school zone or crossing movement. School transportation staff expressed no further concerns with students crossing Oasis Boulevard in the current configuration. Staff recommends continuing the use of the crossing guard to safely escort student pedestrians and bicycle riders across Oasis Boulevard.

Future School Zone Speed Reduction Warning Signage:

The State of Florida recently updated the requirements for traffic control devices within a school zone. A flashing beacon is now required in all school zones to notify drivers of the speed reduction within the school zone. The City of Cape Coral is currently working with the Florida Department of Transportation to acquire flashing beacons through a state

grant to provide the equipment to municipalities at no cost and installation will be completed by the City of Cape Coral. At this time, there is no timeline on the installation of the flashing beacons. The FDOT is still working on identifying the phasing of providing the beacons to local jurisdictions.

Mid-Block Crosswalk Request:

The addition of a marked mid-block crosswalk raises staff's concern of a false sense of security for pedestrians, using the crosswalk during off-school hours, that a vehicle will stop. For a driver, the presence of a marked crosswalk without regular users will cause a driver to become complacent and could result in the failure to recognize a pedestrian attempting to cross.

If a mid-block crosswalk is installed, staff recommends the installation of a pedestrian activated flashing beacon to notify drivers of the crossing pedestrian. The pedestrian activated beacon is a standard traffic control device which is used successfully at mid-block crossings across the Country. The proposed cost for the installation of the pedestrian activated flashing beacons and the roadway improvements necessary to facilitate the installation of the crosswalk is approximately \$25,000. The improvements include the flashing beacons, minor drainage improvements, curbing, ramps, sidewalk and markings. There is also an annual fee of approximately \$700 associated with the routine maintenance of the flashers. Minor changes will be required on-site to complete the pedestrian route from campus to the marked crosswalk.

If a marked crosswalk is pursued, it can be installed in approximately four to six months. The installation of the marked crosswalk and associated flashers would be City funded and not associated with the school zone speed reduction signage which will be grant funded and installed in accordance with the schedule determined by the FDOT.

Thank you.

Sincerely, PUBLIC WORKS DEPARTMENT

William Corbett, P.E., PTOE Public Works Traffic Engineer

Stephanie R. Smith, P.E. Public Works Design and Construction Manager

Paul R. Clinghan, P.E. Public Works Director

Oasis Schools Campus

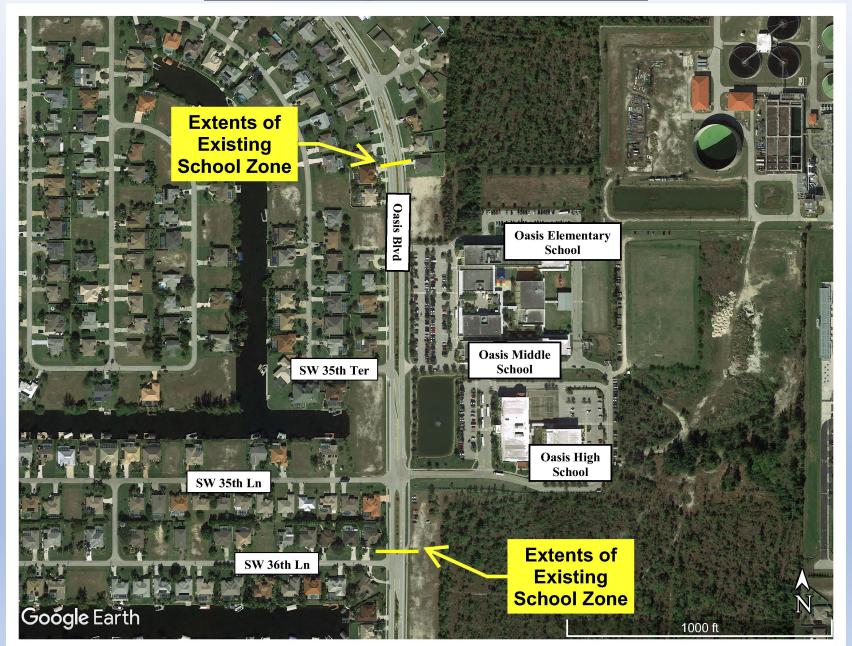
School Zone Enhancement Alternatives



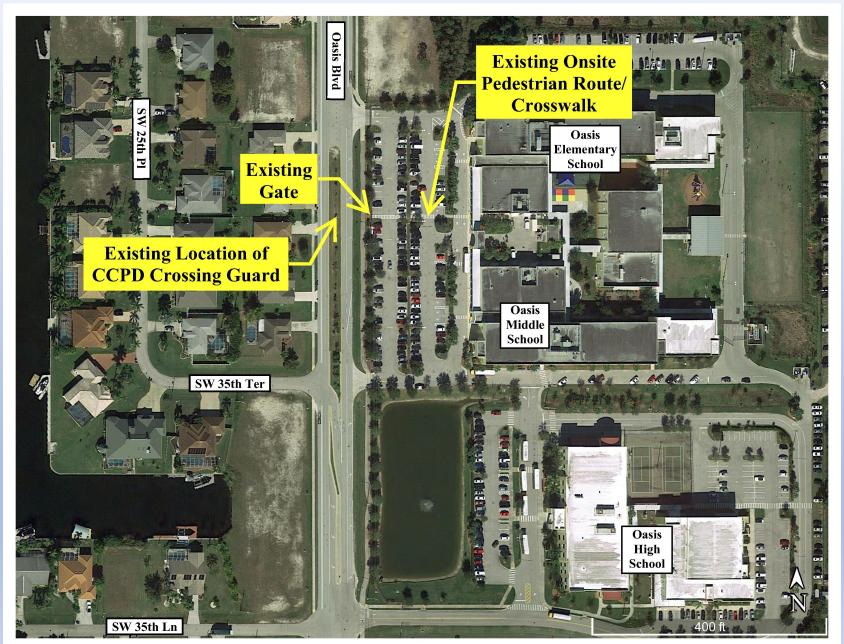
Existing Conditions

- The existing traffic safety features at the Oasis School Campus include:
 - A marked school zone with a speed reduction during school hours.
 - Signage indicating the presence of pedestrians in the school zone in accordance with the Manual on Uniform Traffic Control Devices.
 - A full time crossing guard for the campus during school hours. The
 crossing guard is responsible for the safe crossing of Oasis
 Boulevard by students at a single location. The crossing guard
 works during morning and afternoon times and accompanies all
 student pedestrians while crossing the roadway.

Existing Conditions



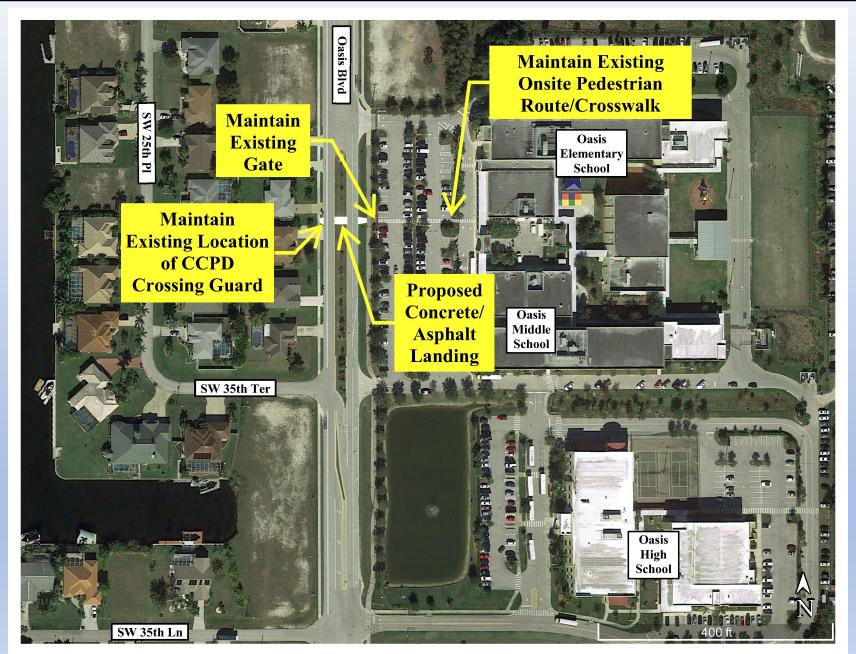
Existing Conditions



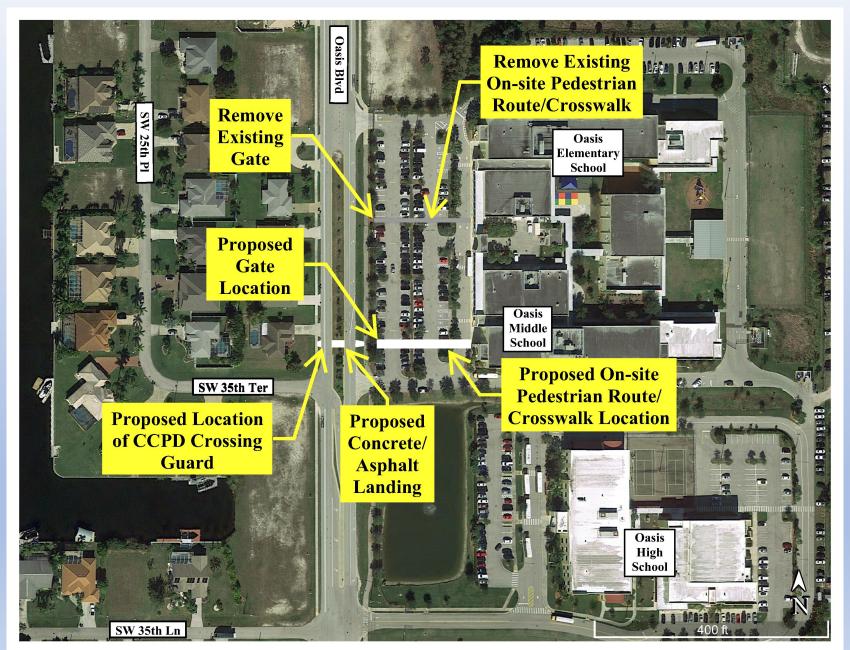
School Zone Enhancements

 City Council requested staff to provide alternatives to enhance the existing school zone and crossing location. Three alternatives were developed for consideration.

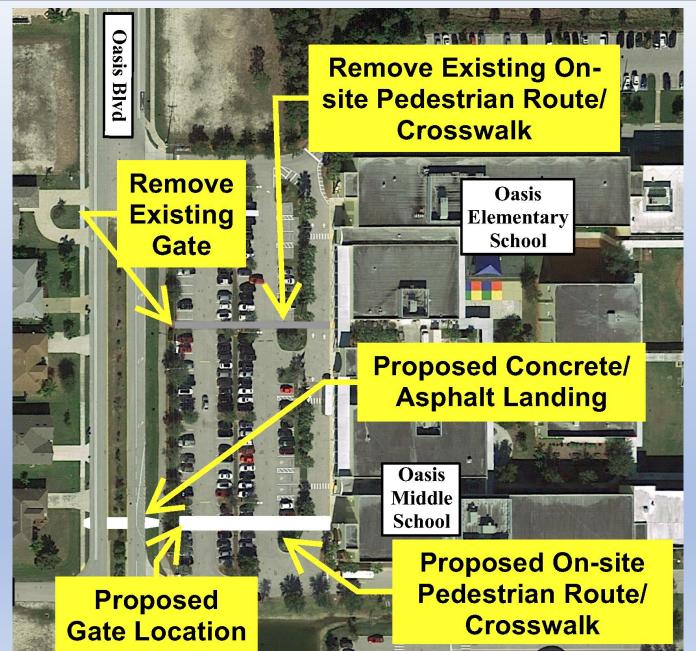
School Zone Enhancements – Alt. 1 \$6,500



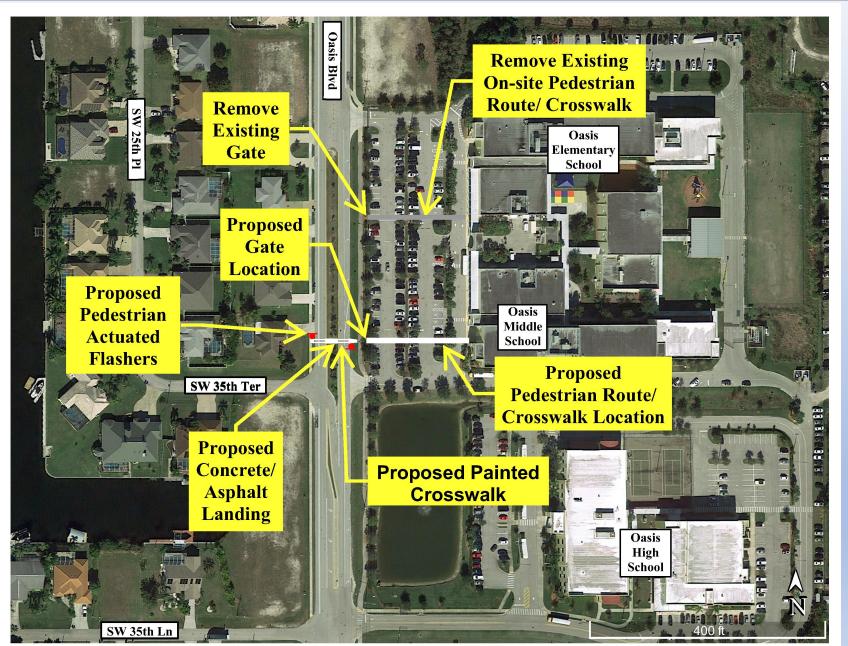
School Zone Enhancements – Alt. 2 \$8,000



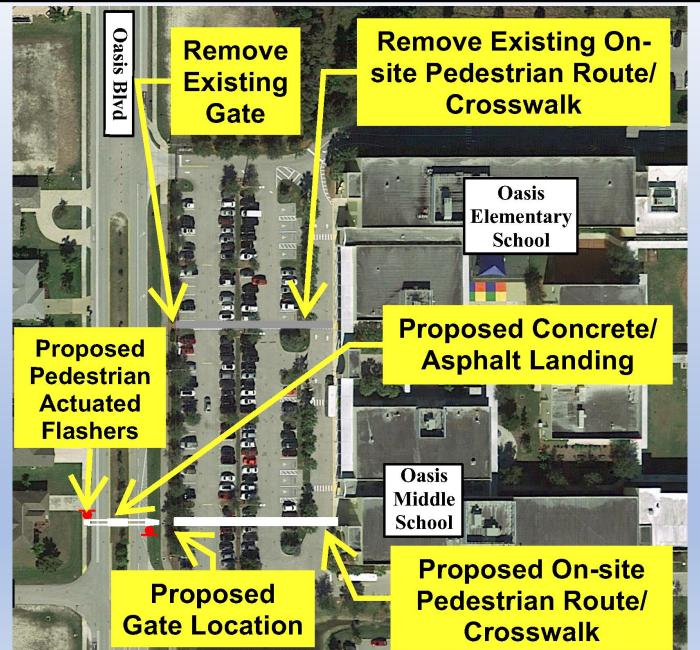
School Zone Enhancements – Alt. 2 \$8,000



School Zone Enhancements – Alt. 3 \$25,000



School Zone Enhancements – Alt. 3 \$25,000



Questions?

Item

10.E.

Number: Meeting

Date:

5/6/2019

Item Type:

UNFINISHED

BUSINESS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Establish Budget and Funding Source for Upcoming China Trip - Brought forward by Mayor Coviello; Resolution 96-19 A Resolution approving the funding for a Business Trade and Cultural Trip to Sister City Baise, China

REQUESTED ACTION:

Staff Direction

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

No

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Memo - Costs Associated with Planned China Trip Resolution 96-19

PREPARED BY:

PT Division- Council Department- Council Offices

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description Type

Memo - Costs Associated with Planned China Trip Backup Material

Resolution 96-19 Backup Material

MEMORANDUM

CITY OF CAPE CORAL OFFICE OF ECONOMIC DEVELOPMENT

TO:

John Szerlag, City Manager

FROM:

Vince Cautero, Community Development Director

Ricardo Noguera, Economic Development Manager

DATE:

May 1, 2019

SUBJECT: Costs Associated with Planned China Trip

RECOMMENDATION

Staff is requesting a total not to exceed \$17,000 for a total of five (5) individuals to complete a "Business Trade and Cultural Trip" to Baise, China from May 31, 2019 through June 7, 2019. (Note: Travel takes one full day each way to China.)

INTRODUCTION

For the past few years, the City of Cape Coral has been exploring and researching opportunities to establish both a Sister City for cultural purposes as well as economic development/trade mission opportunities in China. Through relations with a local resident, JoAnne Killion, the City was able to establish communications with the City of Baise, located in southern China. Baise has a population of nearly 4 million and offers a host of cultural, economic, and trade opportunities for the City of Cape Coral. In late February 2019, a contingent of governmental officials from Baise, China visited Cape Coral to commence the Sister City process and tour various facilities throughout the city. The next step calls for Cape Coral officials to visit Baise and finalize the Sister City relationship and commence exploration of trade opportunities.

LOGISTICS AND COSTS ASSOCIATED WITH THE TRIP

The five (5) individuals to participate on the trip include:

Mayor Joseph Coviello; Pearl Taylor, Legislative Executive Assistant to the Mayor: Vince Cautero, Community Development Director; Ricardo Noguera, Economic Development Manager; and JoAnne Killion (the only private representative). Pearl will be providing administrative support for the Mayor and the two other City staff. JoAnne

City Manager – Costs Associated with Planned China Trip May 1, 2019 Page 2 of 3

will provide both translation services, as well as serving as an official guide and cultural and economic coordinator for the City of Cape Coral.

The agenda will include meetings with governmental officials, tours of industrial parks, meetings with chamber of commerce, private developers, and business representatives in Baise. Additionally, this may also include traveling to Chengdu to meet with government and business representatives.

The two key components of the trip will involve:

- 1. Memorializing the Sister City Partnership; and
- 2. Meetings with business and development representatives.

City staff will bring a copy of the video prepared and presented with the Baise delegation when they visited here in late February, as well as a PowerPoint presentation, which will highlight trade opportunities with manufacturers based in Cape Coral, as well as development and investment opportunities in our city. The ultimate goal of the trip is to promote the sale, purchase of goods, and recruitment of developers to Cape Coral. We expect a follow-up trip from governmental officials and private developers to visit Cape Coral in the next several months and a return trip to Baise next year to include representatives from the local business community at their own expense.

The costs associated with this trip will cover airfare, visas, ground transportation, incidentals and possible hotel and meals in the event we travel to Chengdu. Funding is available in the Economic Development Incentives budget.

If you wish, we will make ourselves available to meet with you at your convenience.

VC/RN:kr (Memo For Trip To China 050119.doc)

I concur with the recommendations set forth in this memo.

John Szerlag, City Manager

Date

RESOLUTION 96 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING THE FUNDING FOR A BUSINESS TRADE AND CULTURAL TRIP TO SISTER CITY BAISE, CHINA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral has been exploring and researching opportunities to establish a Sister City in China for cultural purposes and economic development/trade opportunities; and

WHEREAS, in February 2019, a contingent of government officials from the city of Baise, China, visited Cape Coral to commence the Sister City process and tour various facilities throughout the City; and

WHEREAS, the City desires to send a contingent of five individuals to visit Baise to finalize the Sister City relationship and to commence exploration of trade opportunities; and

WHEREAS, the five individuals who will participate in the trip are Mayor Joseph Coviello; Pearl Taylor, Legislative Executive Assistant to the Mayor, who will provide administrative support for the Mayor and the other two City Staff members on the trip; Vince Cautero, Community Development Director; Ricardo Noguera, Economic Development Manager; and local resident JoAnne Killion, who will provide translation services and serve as an official guide and cultural and economic coordinator for the City of Cape Coral; and

WHEREAS, the planned agenda for the trip includes meeting with government officials, tours of industrial parks, meetings with the chamber of commerce, private developers and business representatives in Baise, and a possible visit to the city of Chengdu to meet with government and business representatives; and

WHEREAS, the costs associated with this trip to cover airfare, visas, ground transportation, incidentals, and possible hotel and meals in the event the contingent also visits the city of Chengdu, are estimated at an amount not to exceed \$17,000; and

WHEREAS, the funds to cover the cost of the trip are available in the Economic Development Incentives fund; and

WHEREAS, City Council desires to approve the funding of the costs for five individuals to travel to Baise, China, in an amount not to exceed \$17,000 from the Economic Development Incentives fund.

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

Section 1. The City Council hereby approves the funding of the costs for Mayor Joseph Coviello, Pearl Taylor, Vince Cautero, Ricardo Noguera, and JoAnne Killion to travel to Baise, China, in an amount not to exceed \$17,000, from the Economic Development Incentives fund, for the purpose of memorializing the Sister City Partnership with Baise and meeting with business and development representativess.

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

ADOPTED BY THE CITY CO	UNCIL OF THE CITY O	F CAPE CORAL AT IT	S REGULAR
COUNCIL SESSION THIS	DAY OF	, 2019.	
	IOE.	COVIELLO MAYOR	

VOTE OF MAYOR AND COUNCILMEM	BERS:		
COVIELLO GUNTER CARIOSCIA STOUT	NELSON STOKES WILLIAMS COSDEN		
ATTESTED TO AND FILED IN MY OFFICE THIS DAY OF2019.			
		LY BRUNS I CITY CLERK	
APPROVED AS TO FORM:			
Dolores D. Menendez CITY ATTORNEY res/China Trip			

Item Number: 11.A.

Meeting Date: 5/6/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 93-19 A Resolution of the City of Cape Coral approving the terms of the Rotary Club - School Bus Stop Bench Pilot Program; Department: Public Works

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Memo to Mayor and Council Letter from Dr. Gregory K. Adkins Resolution 93-19 with agreement attached

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

	Description	Type
D	Memo to Mayor and Council	Backup Material
D	Letter from Dr. Gregory K. Adkins	Backup Material
D	Resolution 93-19 with agreement attached	Backup Material

MEMORANDUM

CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

TO:

Mayor Coviello and Council Members

FROM:

John Szerlag, City Manager

Paul Clinghan, Public Works Director PRC

Persides Zambrano, Planning and Permitting Manager

William Corbett, Traffic Engineer

DATE:

May 1, 2019

SUBJECT:

School Bus Stop Bench Pilot Project

The Rotary Club offered to donate 200 benches at no cost to the City for placement at school bus stops to provide children a place to sit outside of the roadway. At the April 15, 2019 City Council meeting, City Council directed staff to work with the Rotary Club to facilitate the donation of the bus stop benches. The City Manager initiated a stakeholder's group consisting of City staff, Rotary members, Lee County School District staff and Lee County staff to develop solutions including bus stop seating.

The stakeholder's group developed a pilot project to deploy the donated benches at select bus stops throughout the City. The City, Rotary Club and Lee County School District have agreed to terms for the pilot project and is presenting these terms to City Council for approval on May 6, 2019 in conjunction with Resolution 93-19. The School Bus Stop Bench Pilot Project term sheet and letter of acknowledgement from the Lee County School District are attached for reference.

JS/PC/PZ/WC:sk



THE SCHOOL DISTRICT OF LEE COUNTY

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SUPERINTENDENT
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CHAIRMAN, DISTRICT 5 CHRIS N. PATRICCA VICE CHAIRMAN, DISTRICT 3 MARY FISCHER DISTRICT 1 MELISA W. GIOVANNELLI DISTRICT 2 **DEBBIE JORDAN** DISTRICT 4 BETSY VAUGHN DISTRICT 6 CATHLEEN O'DANIEL MORGAN DISTRICT 7 GREGORY K. ADKINS, ED. D. SUPERINTENDENT ROBERT DODIG, ESQ.

BOARD ATTORNEY

GWYNETTA S. GITTENS

April 29, 2019

Mr. John Szerlag, City Manager City of Cape Coral City Hall 1015 Cultural Park Boulevard Cape Coral, Florida 33990

Dear Mr. Szeriag,

Thank you for facilitating the Bus Stop Benches' Pilot Program, which will occur from August 12, 2019 - December 1, 2019. We are grateful to the City of Cape Coral and the Rotary Club of Cape Coral for spearheading this project, and wholeheartedly support this endeavor.

To ensure the safety and wellbeing of our students, The School District of Lee County is committed to the following actions in support of this program:

- a. Providing a list of school bus stop locations which qualify as semi-permanent, pick up and drop off times, the number of student riders broken down by elementary, middle and high, in addition to other data as needed;
- b. Surveying bus drivers and parents/guardians of student bus riders and/or bus riders regarding the pilot program's success;
- c. Collecting data regarding complaints received regarding the program;
- d. Sharing data regarding Items B and C with the City of Cape Coral; and
- e. Continuing bus stop safety education for bus riders and their parents/guardians.

Keeping our students safe is of highest priority and the responsibility of everyone in our community. We are appreciative of this partnership, and thank you for your ongoing support to make our students as safe as possible.

Sincerely,

Gregory K. Adkins, Ed.D

Superintendent

RESOLUTION 93 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING THE TERMS OF THE ROTARY CLUB - SCHOOL BUS STOP BENCH PILOT PROGRAM; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to institute a School Bus Bench Pilot Program together with the Rotary Club in accordance with the term sheet attached hereto as Exhibit 1.

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

Section 1. The City Council hereby approves the Rotary Club - School Bus Stop Bench Pilot Project Term Sheet attached hereto as Exhibit 1.

Section 2. This R	esolution shall take effe	ct immediately upon i	s adoption.	
	THE CITY COUNCIL OF T		APE CORAL AT ITS REGU, 2019.	JLAR
		JOE CO	VIELLO, MAYOR	_
VOTE OF MAY	OR AND COUNCILM	IEMBERS:		
COVIELLO GUNTER CARIOSCIA STOUT		NELSON STOKES WILLIAMS COSDEN		
ATTESTED TO 2019.	AND FILED IN MY	OFFICE THIS	DAY OF	
		•	RLY BRUNS M CITY CLERK	

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY

res/Accept Donation-Rotary Club School Bus Stop Benches

Rotary Club School Bus Stop Bench Pilot Project

General Terms

- 1. All benches donated by the Rotary Club shall meet or exceed the following specifications:
 - a. The bench shall not display any advertisement, writing, logos or references to businesses or commercial entities. A plaque acknowledging the donation by an individual, family or 501(C)(3) may be permitted. The acknowledgement plaque shall not exceed 3" x 9" (or 3" diameter).
 - b. The benches shall be the Norwood Commercial Furniture Recycle Plastic Bench 6-ft length, or equal.
 - c. The bench shall be made of recyclable materials with a 20-year warranty.
 - d. The bench shall meet all ADA requirements for seating, if applicable.
 - e. The bench shall be anchored to the concrete base.
 - f. The bench and concrete base shall be portable.
 - g. The concrete base shall be 3,000 psi with a standard dimension of 4 ft. by 6 ft. Dimension of concrete base may be altered if necessary due to existing site conditions. Changes to standard dimensions shall be approved by the City of Cape Coral.
 - h. The concrete base shall be placed on a firm stable surface outside of the roadside clear zone.
 - i. The bench shall not obstruct intersection sight distance.
 - j. The bench and concrete base shall not obstruct stormwater runoff, including catch basins, swales, culverts, etc.
 - k. The bus bench site shall meet all ADA requirements for pedestrian accessibility, if applicable, as determined by the City of Cape Coral (site specific).
- 2. The benches shall be installed prior to August 10, 2019. The pilot program shall start on August 10, 2019 and shall end on December 20, 2019. Upon completion of the pilot program the City, the School District and Rotary Club shall assess the success of the pilot program. If upon completion of the pilot period the program is determined unsuccessful, the Rotary will donate all benches to the City of Cape Coral and Lee County School District.
- 3. Success of the pilot program will be measured through the following metrics:
 - a. Number of benches deployed and in use throughout the pilot period.
 - b. Visual inspection of bench usage.
 - c. Survey of the parents/ guardians and students on the success of the program.

- d. Survey of the bus drivers on the success of the program comparing pilot locations with benches vs locations without benches (control group).
- e. Complaints received regarding the program.
- f. Number of benches relocated during the pilot program.

Parties responsible for each performance measure are identified below in this agreement.

Rotary Club Responsibilities

- 1. Rotary Club shall provide, at no cost to the City, two hundred (200) benches and concrete bases to the City of Cape Coral.
- 2. Rotary Club shall install the benches and the concrete bases at the locations determined by the City in conjunction with the Lee County School District. The City shall inspect the installation of the benches and concrete bases. Benches and concrete bases shall not be placed on private property without written permission from the owner. The City will assist with deployment of the benches and concrete bases if determined necessary to meet implementation deadline.
- 3. In the event a bench is damaged during the pilot program, the City and Rotary will determine if the bench shall be repaired/replaced and the responsible entity.

City of Cape Coral Responsibilities

- Location of the benches and concrete bases shall be determined at the sole
 discretion of the City. The City will coordinate with the Lee County School
 District to identify priority locations for placement. The City will assist with
 deployment of the benches and concrete bases if determined necessary to meet
 implementation deadline.
- 2. Preference will be provided to school bus stop locations that qualify as semipermanent school bus stops as determined by the Lee County School District.
- 3. The City shall maintain the adjacent areas surrounding the benches and concrete base within the Right-of-Way during the pilot program. The City shall cut the grass, trim weeds, spray for pests and remove trash around the bench area.
- 4. The City will collect and share the following data throughout the pilot period:
 - a. Number of benches deployed.
 - b. Visual inspection on bench usage.
 - c. Complaints received regarding the program.

- d. Number of benches relocated during the pilot program.
- 5. In the event of a bus stop relocation, the City shall relocate benches and concrete bases within 10 business days of written notification from the School District.

Lee County School District Responsibilities

- The Lee County School District will provide the City the school bus stop locations that qualify as semi-permanent, as well as the locations where drop-offs or pickups are expected to occur during dark hours (before 7 AM and after 6:30 PM). The information provided shall include ridership data including elementary, middle and high schools.
- 2. Lee County School District will collect and share the following data:
 - a. Survey of the parents/guardians and students on the success of the program.
 - a. Survey of the bus drivers on the success of the program comparing pilot locations with benches vs locations without benches (control group).
 - b. Complaints received regarding the program.
- 3. The Lee County School District will continue educating students and parents/ guardians regarding school bus stop safety.

<u>Date</u>

John Szerlag Cape Coral City Manager Elmer Tabor Rotary Club Date 5/1/19