



AGENDA FOR THE HEARING EXAMINER

Friday, May 24, 2019

9:00 AM

Council Chambers

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. PDP19-0001*; Address: 877 Cape Coral Pkwy E & 826 SE 47th Ter; Applicant: Downtown Village Square, LLC, Downtown Village Square II, LLC, Red Rock Land, Corp
- B. (Withdrawn by Applicant) Continued from 3/19/2019 Case # VA18-0021* ; Address: 1205 SW 10th Terrace; Applicant: Michael and Julie Kayatta

3. DATE AND TIME OF NEXT HEARINGS

- A. Tuesday, June 4, 2019, at 9:00 a.m., in Council Chambers

4. ADJOURNMENT

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

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

PLEDGE OF CIVILITY

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

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

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

Item Number: 2.A.
Meeting Date: 5/24/2019
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

PDP19-0001*;Address: 877 Cape Coral Pkwy E & 826 SE 47th Ter; Applicant:Downtown Village Square, LLC, Downtown Village Square II, LLC, Red Rock Land, Corp

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? No

If Yes, Priority Goals Supported are listed below.

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The owners, Downtown Village Square, LLC, Downtown Village Square II, LLC, and Red Rock Land Corporation request amending Ordinance 42-10 which approved a planned development project in the City of Cape Coral entitled "Downtown Village Square" for property described as Block 62A, Unit 6 Part 1, and Block 62A, Unit 8, Cape Coral Subdivision, including a vacated alley; property located between SE 47th Terrace to the north, SE 9th Place to the east, Cape Coral Parkway to the south, and SE 8th Court to the west; extending the project buildout date; amending the phasing plan of the project and conditions of approval.

LEGAL REVIEW:

EXHIBITS:

See attached backup materials

PREPARED BY:

Shawn Baker Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description	Type
▢ Backup Materials 1	Backup Material
▢ Backup materials 2	Backup Material
▢ Backup materials 3	Backup Material
▢ Backup materials 4 - Staff Report	Backup Material



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

PROPERTY OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY (LLC),
LIMITED COMPANY (LC), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUST

Project Name: Downtown Village Square Amendment to Existing Ordinance 42-10

Project Number: Prior Planned Development Project PDP 08-0080006

Properties Owned by Downtown Village Square LLC: 877 Cape Coral Parkway E, & 826 SE 47th Terrace Cape Coral, FL 33904

To help prepare this application, the applicant should obtain copies of the following:

- Land Use and Development Regulations (this document is linked)
 1. Land Development Regulations (Article 4)
 2. Parking Requirements (Article 5.1)
 3. Landscape Ordinance (Article 5.2)
 4. Sign Ordinance (Article 7)
- NFPA 1 Fire Prevention Code
- Engineering Design Standards

The advisory review is conceptual only and any staff comments are subject to change based on detailed information with an application to the City of Cape Coral. Formal review may result in additional changes not noted at this time. The final design or project must comply with the Land Use and Development Regulations, Engineering Design Standards, City Code of Ordinances, Comprehensive Plan and other applicable laws and regulations.

ACKNOWLEDGEMENT

I, Robert A. Lee Jr., as the owner of this property or the duly Authorized Representative, agree to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State and County laws, and certify that all information supplied is correct to the best of my knowledge.

In addition, I understand that prior to the issuance of the Certificate of Occupancy for this development, the engineer of record must supply the Department of Community Development with record drawings and a letter of substantial compliance for the project.

In addition, I authorize the staff of the City of Cape Coral to enter upon the property for purposes of investigating and evaluating the request made through this application.

Please note: Advertising fees must be paid in full at least 10 days prior to public hearing or the item may be pulled from the agenda and continued to a future date once the fees have been paid.

(Name of Entity)

* Downtown Village Square LLC Robbie A. Lee Jr., MGRM

By: NAME AND TITLE (PLEASE TYPE OR PRINT)

SIGNATURE

STATE OF N.Y., COUNTY OF Suffolk (SIGNATURE MUST BE NOTARIZED)

Sworn to (or affirmed) and subscribed before me this 1 day of May, 2019, by Robert A. Lee Jr. who is personally known or produced Driver's License as identification.

Exp. Date: 3/23/23 Commission Number: _____

NOTARY STAMP HERE

Signature of Notary Public:

Printed name of Notary Public:

*Please include additional pages for multiple property owners.

PP Application June, 2014

Richard J. Chertock
 RICHARD J. CHERTOCK
 NOTARY PUBLIC, State of New York
 No. 4989788
 Qualified in Nassau County
 Commission Expires 3/23/23
 authorized representative
 or property owner's initials

MAY 3 '19 PM 11:53

**Authorization to Represent Property Owner(s) –
Property Owner is a Corporation, Limited Liability Company (LLC),
Limited Company (LC), Partnership, Limited Partnership, or Trustee**

Please be advised that Downtown Village Square LLC , and AMB Planning Consultants Inc.
(Name of Authorized Representative(s) and business entity, if any)

is authorized to submit an application and represent me in the hearing(s) to the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals and /or City Council for a Planned Development Project.

Unit 6 & 8 Block 62A Lot See Legal Tract B plus Subdivision Cape Coral

Or Legal Description: ☒ (described as an exhibit A in Microsoft Word format and attached hereto)

Downtown Village Square LLC
** Name of Entity (Corporation, Partnership, LLC, etc)

MGRM
Title of Signatory

[Signature]
Signature

Robert A. Lee Jr.
Name (Please print or type)

STATE OF NY, COUNTY OF Suffolk
(SIGNATURE MUST BE NOTARIZED)

Sworn to (or affirmed) and subscribed before me this 1 day of May, 2015, by
Robert A. Lee Jr. who is personally known or produced Driver's License
as identification.

Exp. Date: 3/23/23 Commission Number: _____

NOTARY STAMP HERE

Signature of Notary Public: [Signature]
Printed name of Notary Public: _____

*Please include additional pages for multiple property owners.

****Notes:**

If the applicant is a corporation, then it is executed by the corp. pres. or v. pres, sec, tres, or a director.
If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should be signed by the Company's "Managing Member."
If the applicant is a partnership, then a partner can sign on behalf of the partnership.
If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.
If the applicant is a trust, then they must include their title of "trustee."
In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

RICHARD J. CHERTOCK
NOTARY PUBLIC, State of New York
No. 4889768
Qualified in Nassau County
Commission Expires 3/23/23

[Signature] authorized representative
or property owner's Initials

PDP Applicant Checklist

Project Name: Downtown Village Square

Applicant must submit the completed application and the associated documentation listed below, collated into 17 separate packets (one (1) original and 16 copies). These are minimum requirements for all PDP applications. Based on the nature of your project, additional items may be required by staff.

Incomplete submittals will not be accepted

- ☐ All application pages must be initialed by the property owner or their authorized representative
- ☐ 24" x 36" engineered PDP Development Plans, including landscape buffer areas and building elevations – See pages 7 – 10 for further information
- ☐ Certified Boundary Surveys, in NGVD 1929, completed within the last six (6) months showing elevations – See page 7 for further information
- ☐ PDP application fees paid in full at time of application – See page 11 for further information
- ☒ Letter of Intent (LOI) – See page 6 for further instructions
- ☐ Environmental Survey/Report – See page 7 for further instructions
- ☐ Warranty or Quit Claim Deed – Applicant shall provide a copy of Warranty or Quit Claim Deed for one hundred (100) percent of the property comprising the Planned Development Project.
- ☐ Vacation of Plat requests must include letter of "No Objection" from the electric company, the telephone company, and the cable company – See page 9 for further instructions
- ☒ Page 1 must be signed and notarized by either all property owner(s) or the authorized agent
- ☒ The "Authorization to Represent Property Owners", page of the application, must be signed by all property owner(s) and notarized
- ☒ Properties owned by corporations, limited liability companies, limited partnerships, general partnerships, and trustees must provide legal documentation (For example, the Articles of Incorporation) listing persons authorized to sign for the entity and in these situations the property owner(s) must sign all applicable PDP forms in their corporate capacity.

As an alternative to submitting everything in paper format, the applicant may opt to submit the following:

- ☐ 11 sets of plans, in paper format, as described above
- ☐ 11 signed and sealed Boundary Surveys, in paper format, as described above
- ☐ One (1) copy of the application & all other documents you are submitting for review
- ☐ 1 CD/DVD with PDFs of documents you are submitting:
 - o Each document you are submitting needs to be a separate PDF, appropriately identified by name. For example, the application will be one PDF, titled "Application", the Letter of Intent will be another PDF, titled "Letter of Intent", plans, boundary surveys, etc.

GENERAL INFORMATION

Project Name: Downtown Village Square
Applicant: Red Rock Land Corporation, Downtown Village Square LLC and Downtown Village Square II LLC
Address: 845, 851, 859, and 877 Cape Coral Parkway E., and 826 SE 47th Terrace, Cape Coral FL 33904
Phone: 516 903-6400 Fax: _____ E-Mail: robertaleejr@aol.com

*Property Owner: Downtown Village Square LLC
Address: 3505 Veterans Memorial Highway, Suite D, Ronkonkoma, N
Phone: _____ Fax: _____ E-Mail: specbuilder996@aol.com

Authorized Representative Downtown Village Square LLC and AMB Planning Consultants Inc.
Address: 3505 Veterans Memorial Pkwy, Suite D, Ronkonoma, NY 11779 & P.O. Box 3495, N. Fort Myers FL 33918
Phone: Robbie Lee: 516 903-6400 Fax: _____ E-Mail: robbertaleejr@aol.com
Annette Barbaccia 239 850-8301 abarbaccia@ambpl.com
Location

Unit 6 & 8 Block 62A Lot(S) Tract B and Portions See Legal
Subdivision Cape Coral Strap Number(s) 18-45-24-C1-00012.0000 and 07-45-24-C4-00008.0000

Legal Description ☒ (Described as Exhibit A In Microsoft Word Format and attached hereto)

Property Address: 877 Cape Coral Parkway E. & 826 SE 47th Terrace, Cape Coral, FL 33904
Plat Book 11 Page 46 Current Zoning SC Future Land Use DM

This application includes the following requests: (Please check all that apply)			
<input type="checkbox"/> Subdivision	<input type="checkbox"/> Special Exception	<input type="checkbox"/> Rezoning	<input type="checkbox"/> Variance
<input type="checkbox"/> Deviation to Landscaping	<input type="checkbox"/> Deviation to Non-residential Design Standards	<input type="checkbox"/> Deviation to Engineering Design Standards (EDS)	All Other Deviation Requests <input checked="" type="checkbox"/> Amendment to Existing Development Order
<input type="checkbox"/> Borrow Pit	<input type="checkbox"/> Vacation of Plat		

*Please include additional pages for multiple property owners.

PROPERTY and PROJECT DEVELOPMENT DATA **Note: No Changes to Existing PDP & Ordinance**

- | | | | | |
|----|--|-------|---------|-----------------|
| a. | Zoning District | _____ | | |
| b. | Future Land Use Class | _____ | | |
| c. | Area of Subject Property | _____ | acres | |
| d. | Type of Development | _____ | | |
| e. | Estimated Number of Employees | _____ | | |
| | Number of Seats in Assembly | _____ | | |
| f. | Parking Spaces Required | _____ | | |
| g. | Parking Spaces Provided | _____ | | |
| h. | Parking and Street Area | _____ | sq. ft. | _____ % of Site |
| i. | Ground Floor Building Area | _____ | sq. ft. | _____ % of Site |
| j. | Total Floor Area | _____ | sq. ft. | _____ % of Site |
| k. | Building Heights | _____ | feet | _____ stories |
| l. | Total Proposed Impervious Surface Area | _____ | sq. ft. | _____ % of Site |
| m. | Permanent Open Space | _____ | sq. ft. | _____ % of Site |
| | Landscaped Area | _____ | sq. ft. | _____ % of Site |
| n. | Recreation Area | _____ | sq. ft. | _____ % of Site |

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans.

- | | | | | |
|----|---|-------|------------|---------------|
| o. | Number of Dwelling Units (du) | _____ | | |
| p. | Gross Density (du/acres) | _____ | | |
| q. | Number, Type, and Floor Area of each Dwelling Unit: | | | |
| 1. | Efficiency | _____ | Floor Area | _____ sq. ft. |
| 2. | 1 Bedroom | _____ | Floor Area | _____ sq. ft. |
| 3. | 2 Bedroom | _____ | Floor Area | _____ sq. ft. |
| 4. | 3 Bedroom | _____ | Floor Area | _____ sq. ft. |
| 5. | 4 Bedroom | _____ | Floor Area | _____ sq. ft. |

LETTER OF INTENT

Please include a Letter of intent (LOI), stipulating your request, addressed to the Community Development Director. This letter must specify all applicable requests. Such requests may include any and/or all of the following:

- a. General purpose and intent of the PDP
- b. Subdivision requests – See Article 4.1 and 4.2.5
- c. Rezoning requests specifying the actual request and explanation of need for the rezoning
- d. Special exception requests and explanation of need for the special exception
- e. Variance requests specifying the actual request and explanation of need. All variance requests must address the five (5) criteria for the granting the a variance, per Land Use and Development Regulations, section 8.10. Note: Variances run with the land.
- f. Vacation of Plat as outlined in section 8.11 and explanation of vacation request
- g. Borrow pit requests as outlined in section 3.23, 4.2.5, and 8.3.2

DEVIATION REQUEST LETTER(S)

Applicant must complete a separate deviation request letter for each deviation type requested. Please ensure that proper justification for the requested deviation accompanies each request. Staff will not analyze any requested deviation that does not include justification for the deviation sought and this may result in a rejection of your application. Refer to the appropriate section of the LUDRs for guidance on the criteria for which a particular deviation may be sought. Note: Deviations do not run with the land.

- Landscaping Deviations shall be in accordance with Section 5.2.19
- Non-residential Design Standards Deviations shall be in accordance with Section 5.6.10 Deviation,
- Engineering Design Standards (EDS) Deviations in accordance with sheet 1, "Foreword" paragraph 5,
- All Other Deviation Requests, shall be in accordance with Section 4.2.4.K

TRAFFIC GENERATION ESTIMATE **No Changes to Trip Generation**

The following will determine the need of a Traffic Impact Statement. Trip Generation Estimate, based on the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation manual:

ITE Code _____ Is estimate based on locally collected data? _____

Regression equation (if used) _____

Independent Variable _____

Daily Two Way Trip Estimate _____


Peak Hour (of generator) Entering _____

Peak Hour (of generator) Exiting _____

Total Peak Hour (of generator) _____

Peak Hour Entering and Exiting trips greater than 300 trips _____

If the total peak hour traffic exceeds 300 trips, a Traffic Impact Statement (TIS) will be required. A methodology meeting with the City staff is required prior to submitting the TIS. The methodology meeting will be scheduled after the initial submittal of the PDP application.

 _____
authorized representative
or property owner's initials

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Note: No Changes to existing subdivision plan

Sheet # of
submitted
plans

The Subdivision Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following with accurate dimensions to the nearest one-hundredth of a foot. If flexibility is requested for property lines prior to Plat recording, this request must be requested in the Letter of Intent (LOI).

- _____ 1. Contours at an interval of not greater than one foot.
- _____ 2. Access roads and their relationship to existing and proposed streets, alleys and other public ways.
- _____ 3. Setback lines, permanent open space, recreation areas, separation strips, existing and proposed landscape areas and general land use activity areas.
- _____ 4. Location of areas and their acreages, if any, to be reserved or dedicated for public parks, playgrounds, schools, or other public uses, including bikeways or walks.
- _____ 5. Proposed lot numbers, lot lines, lot dimensions, lot areas, lot descriptions, lot locations, minimum yard requirements, and any other appropriate data and information for areas or parcels within the project property lines which have been designated for subdivision for any purpose or use.
- _____ 6. Utility locations on and adjacent to the project showing proposed dimensions and connections to existing utility systems.
- _____ 7. All dimensions, angles, bearings and similar data on the plan shall be tied to primary control points approved by the City Engineer. The location and description of said control points shall be given.
- _____ 8. Approximate location of proposed and existing surface water management system components including treatment, storage, conveyance, and discharge locations.
- _____ 9. Project boundary lines, right-of-way lines of streets, waterways, easements and other rights-of-way. Bearings or deflection angles, radii, arcs and central angles of all curves with dimensions to the nearest minute shall be provided for the center line of all streets and easements. Block corner radii dimensions shall also be shown.
- _____ 10. Name of each street, waterway, easement or other right-of-way and the designation of all buildings, parking areas, access roads, permanent open spaces, recreation areas, separation strips, landscaped areas, dedication or reserved areas, and other land use activity areas by name, use, purpose or other appropriate method as well as by width, length, land area or floor area devoted to such use or purpose.
- _____ 11. Certification of title and dedication, on plat, showing that the applicant is the owner and a statement by such owner dedicating streets, rights-of-way and any other sites for public use, if any.
- _____ 12. Certification by the City Engineer, on plat, that a surety bond, certified check or other guarantee has been posted with the City in sufficient amount to assure completion of all such required site improvements.
- _____ 13. Certificate of approval for recording, on plat, suitable to be signed by the Mayor as applicable, to indicate that the plan has been approved for recording.
- _____ 14. Any other appropriate certification required by the Governing Body or Necessary to comply with Florida Statutes, Chapter 177.


Planned Development Project (PDP) Application Fees *

Administrative Review		Fees	Your Costs
<input type="checkbox"/>	PDP - without Subdivision	\$2,525.00	\$
<input type="checkbox"/>	** Additional charge for PDP's in excess of ten (10) acres: _____ acres x \$55.00 for each acre or portion thereof in excess of 10 acres.	(with maximum cap of \$3,625.00 for additional acres)	\$
<input type="checkbox"/>	PDP - with Subdivision	\$2,815.00	\$
<input type="checkbox"/>	** Additional charge for PDP's in excess of ten (10) acres: _____ acres x \$55.00 for each acre or portion thereof in excess of 10 acres.	(with maximum cap of \$3,915.00 for additional acres)	\$
Fire Review			
<input type="checkbox"/>	Fire review (mandatory)	\$104.00	\$
Public Hearing			
<input type="checkbox"/>	PDP - without Subdivision	\$665.00	\$
<input type="checkbox"/>	PDP - with Subdivision	\$1,415.00	\$
<input type="checkbox"/>	Zoning Amendment within PDP	\$1,165.00	\$
<input type="checkbox"/>	Vacation of Plat within PDP	\$880.00	\$
<input type="checkbox"/>	Variance/Deviation within PDP	\$1,250.00	\$
<input type="checkbox"/>	Special Exception within PDP	\$1,365.00	\$
<input type="checkbox"/>	Borrow Pit within PDP	\$1,725.00	\$
		Total	\$

* Advertising fees will be due at time of advertising.

** PDP – Acres x \$55.00 for each acre or portion thereof in excess of 10 acres (i.e. A 20.2 acre of land is calculated as follows.

20.2 – 10.00 = 10.2, then the 10.2 acres is rounded up to 11 acres)


 authorized representative
 or property owner's initials



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

PROPERTY OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY (LLC), LIMITED COMPANY (LC), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUST

Project Name: Downtown Village Square Amendment to Existing Ordinance 42-10
Project Number: Prior Planned Development Project PDP 08-0080006

Property Owned by Downtown Village Square II LLC: 859 Cape Coral Parkway, Cape Coral, FL 33904

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(Name of Entity)

Downtown Village Square II LLC Robbie A. Lee Jr., MGRM

By: NAME AND TITLE (PLEASE TYPE OR PRINT)

SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF NY, COUNTY OF Suffolk

Sworn to (or affirmed) and subscribed before me this 1 day of May, 2019, by Robert A. Lee Jr. who is personally known or produced Driver's License as identification.

Exp. Date: 3/23/23 Commission Number:

NOTARY STAMP HERE

Signature of Notary Public:

Printed name of Notary Public:

*Please include additional pages for multiple property owners.

RICHARD J. CHERTOCK
NOTARY PUBLIC, State of New York
No. 4889768
Qualified in Nassau County 3/23/23
Commission Expires authorized representative or property owner's initials

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(Name of Authorized Representative(s) and business entity, if any)

is authorized to submit an application and represent me in the hearing(s) to the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals and /or City Council for a Planned Development Project.

Unit 6 Block 62A Lot 6-15 + Por VAC ALLEY Subdivision Cape Coral

Or Legal Description: ☐ (described as an exhibit A in Microsoft Word format and attached hereto)

Downtown Village Square II LLC MGRM
** Name of Entity (Corporation, Partnership, LLC, etc) Title of Signatory

[Signature] Robert A. Lee Jr.
Signature Name (Please print or type)

STATE OF NY, COUNTY OF SARATOGA (SIGNATURE MUST BE NOTARIZED)

Sworn to (or affirmed) and subscribed before me this 1 day of May, 2019, by
Robert A. Lee Jr. who is personally known or produced
as identification.

Exp. Date: 3/23/23 Commission Number: [Signature]

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Signature of Notary Public: [Signature]
Printed name of Notary Public:

*Please include additional pages for multiple property owners.

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RICHARD J. CHERTOCK
NOTARY PUBLIC, State of New York
No. 4889768
Qualified in Nassau County
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PDP Applicant Checklist

Project Name: Downtown Village Square

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- ☒ The "Authorization to Represent Property Owners", page of the application, must be signed by all property owner(s) and notarized
- ☒ Properties owned by corporations, limited liability companies, limited partnerships, general partnerships, and trustees must provide legal documentation (For example, the Articles of Incorporation) listing persons authorized to sign for the entity and in these situations the property owner(s) must sign all applicable PDP forms in their corporate capacity.

As an alternative to submitting everything in paper format, the applicant may opt to submit the following:

- ☐ 11 sets of plans, in paper format, as described above
- ☐ 11 signed and sealed Boundary Surveys, in paper format, as described above
- ☐ One (1) copy of the application & all other documents you are submitting for review
- ☐ 1 CD/DVD with PDFs of documents you are submitting:
 - o Each document you are submitting needs to be a separate PDF, appropriately identified by name. For example, the application will be one PDF, titled "Application", the Letter of Intent will be another PDF, titled "Letter of Intent", plans, boundary surveys, etc.

GENERAL INFORMATION

Project Name: Downtown Village Square
Applicant: Red Rock Land Corporation, Downtown Village Square LLC and Downtown Village Square II LLC
Address: 845, 851, 859, and 877 Cape Coral Parkway E., and 826 SE 47th Terrace, Cape Coral FL 33904
Phone: 516 903-6400 Fax: _____ E-Mail: robertaleejr@aol.com

*Property Owner: Downtown Village Square II LLC

Address 3505 Veterans Memorial Highway, Suite D, Ronkonkoma, New York, 11779
Phone 516 903-6400 Fax _____ E-Mail robertaleejr@aol.com

Authorized Representative Downtown Village Square II LLC and AMB Planning Consultants Inc.

Address 3505 Veterans Memorial Pkwy, Suite D, Ronkonoma, NY 11779 & P.O. Box 3495, N. Fort Myers FL 33918

Phone Robbie Lee: 516 903-6400 Fax _____ E-Mail robbertaleejr@aol.com
Annette Barbaccia 239 850-8301 abarbaccia@ambpl.com

Location

Unit 6 Block 62A Lot(S) 6 thru 15 + POR VAC ALLEY

Subdivision Cape Coral Strap Number(s) 18-45-24-C1-00011.0000

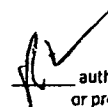
Legal Description ☒ (Described as Exhibit A in Microsoft Word Format and attached hereto)

Property Address: 859 Cape Coral Parkway E., Cape Coral, FL 33904

Plat Book 11 Page 46 Current Zoning SC Future Land Use DM

This application includes the following requests: (Please check all that apply)			
<input type="checkbox"/> Subdivision	<input type="checkbox"/> Special Exception	<input type="checkbox"/> Rezoning	<input type="checkbox"/> Variance
<input type="checkbox"/> Deviation to Landscaping	<input type="checkbox"/> Deviation to Non-residential Design Standards	<input type="checkbox"/> Deviation to Engineering Design Standards (EDS)	All Other Deviation Requests <input checked="" type="checkbox"/> Amendment to Existing Development Order
<input type="checkbox"/> Borrow Pit	<input type="checkbox"/> Vacation of Plat		

*Please include additional pages for multiple property owners.

 authorized representative
or property owner's initials

PROPERTY and PROJECT DEVELOPMENT DATA **Note: No Changes to Existing PDP & Ordinance**

- a. Zoning District _____
- b. Future Land Use Class _____
- c. Area of Subject Property _____ acres
- d. Type of Development _____
- e. Estimated Number of Employees _____
 Number of Seats in Assembly _____
- f. Parking Spaces Required _____
- g. Parking Spaces Provided _____
- h. Parking and Street Area _____ sq. ft. _____ % of Site
- i. Ground Floor Building Area _____ sq. ft. _____ % of Site
- j. Total Floor Area _____ sq. ft. _____ % of Site
- k. Building Heights _____ feet _____ stories
- l. Total Proposed Impervious Surface Area sq. ft. _____ % of Site _____
- m. Permanent Open Space sq. ft. _____ % of Site _____
 Landscaped Area _____ sq. ft. _____ % of Site _____
- n. Recreation Area _____ sq. ft. _____ % of Site _____

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans.

- o. Number of Dwelling Units (du) _____
- p. Gross Density (du/acres) _____
- q. Number, Type, and Floor Area of each Dwelling Unit:
 - 1. Efficiency _____ Floor Area _____ sq. ft. _____
 - 2. 1 Bedroom _____ Floor Area _____ sq. ft. _____
 - 3. 2 Bedroom _____ Floor Area _____ sq. ft. _____
 - 4. 3 Bedroom _____ Floor Area _____ sq. ft. _____
 - 5. 4 Bedroom _____ Floor Area _____ sq. ft. _____

LETTER OF INTENT

Please include a Letter of intent (LOI), stipulating your request, addressed to the Community Development Director. This letter must specify all applicable requests. Such requests may include any and/or all of the following:

- a. General purpose and intent of the PDP
- b. Subdivision requests – See Article 4.1 and 4.2.5
- c. Rezoning requests specifying the actual request and explanation of need for the rezoning
- d. Special exception requests and explanation of need for the special exception
- e. Variance requests specifying the actual request and explanation of need. All variance requests must address the five (5) criteria for the granting the a variance, per Land Use and Development Regulations, section 8.10. Note: Variances run with the land.
- f. Vacation of Plat as outlined in section 8.11 and explanation of vacation request
- g. Borrow pit requests as outlined in section 3.23, 4.2.5, and 8.3.2

DEVIATION REQUEST LETTER(S)

Applicant must complete a separate deviation request letter for each deviation type requested. Please ensure that proper justification for the requested deviation accompanies each request. Staff will not analyze any requested deviation that does not include justification for the deviation sought and this may result in a rejection of your application. Refer to the appropriate section of the LUDRs for guidance on the criteria for which a particular deviation may be sought. Note: Deviations do not run with the land.

- Landscaping Deviations shall be in accordance with Section 5.2.19
- Non-residential Design Standards Deviations shall be in accordance with Section 5.6.10 Deviation,
- Engineering Design Standards (EDS) Deviations in accordance with sheet 1, "Foreword" paragraph 5,
- All Other Deviation Requests, shall be in accordance with Section 4.2.4.K

TRAFFIC GENERATION ESTIMATE No Changes to Trip Generation

The following will determine the need of a Traffic Impact Statement. Trip Generation Estimate, based on the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation manual:

ITE Code _____ Is estimate based on locally collected data? _____

Regression equation (if used) _____

Independent Variable _____

Daily Two Way Trip Estimate _____

Peak Hour (of generator) Entering _____

Peak Hour (of generator) Exiting _____

Total Peak Hour (of generator) _____

Peak Hour Entering and Exiting trips greater than 300 trips _____

If the total peak hour traffic exceeds 300 trips, a Traffic Impact Statement (TIS) will be required. A methodology meeting with the City staff is required prior to submitting the TIS. The methodology meeting will be scheduled after the initial submittal of the PDP application.

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Note: No Changes to existing subdivision plan

Sheet # of
submitted
plans

The Subdivision Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following with accurate dimensions to the nearest one-hundredth of a foot. If flexibility is requested for property lines prior to Plat recording, this request must be requested in the Letter of Intent (LOI).

- _____ 1. Contours at an interval of not greater than one foot.
- _____ 2. Access roads and their relationship to existing and proposed streets, alleys and other public ways.
- _____ 3. Setback lines, permanent open space, recreation areas, separation strips, existing and proposed landscape areas and general land use activity areas.
- _____ 4. Location of areas and their acreages, if any, to be reserved or dedicated for public parks, playgrounds, schools, or other public uses, including bikeways or walks.
- _____ 5. Proposed lot numbers, lot lines, lot dimensions, lot areas, lot descriptions, lot locations, minimum yard requirements, and any other appropriate data and information for areas or parcels within the project property lines which have been designated for subdivision for any purpose or use.
- _____ 6. Utility locations on and adjacent to the project showing proposed dimensions and connections to existing utility systems.
- _____ 7. All dimensions, angles, bearings and similar data on the plan shall be tied to primary control points approved by the City Engineer. The location and description of said control points shall be given.
- _____ 8. Approximate location of proposed and existing surface water management system components including treatment, storage, conveyance, and discharge locations.
- _____ 9. Project boundary lines, right-of-way lines of streets, waterways, easements and other rights-of-way. Bearings or deflection angles, radii, arcs and central angles of all curves with dimensions to the nearest minute shall be provided for the center line of all streets and easements. Block corner radii dimensions shall also be shown.
- _____ 10. Name of each street, waterway, easement or other right-of-way and the designation of all buildings, parking areas, access roads, permanent open spaces, recreation areas, separation strips, landscaped areas, dedication or reserved areas, and other land use activity areas by name, use, purpose or other appropriate method as well as by width, length, land area or floor area devoted to such use or purpose.
- _____ 11. Certification of title and dedication, on plat, showing that the applicant is the owner and a statement by such owner dedicating streets, rights-of-way and any other sites for public use, if any.
- _____ 12. Certification by the City Engineer, on plat, that a surety bond, certified check or other guarantee has been posted with the City in sufficient amount to assure completion of all such required site improvements.
- _____ 13. Certificate of approval for recording, on plat, suitable to be signed by the Mayor as applicable, to indicate that the plan has been approved for recording.
- _____ 14. Any other appropriate certification required by the Governing Body or Necessary to comply with Florida Statutes, Chapter 177.

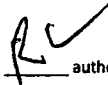
Planned Development Project (PDP) Application Fees *

	Administrative Review	Fees	Your Costs
<input type="checkbox"/>	PDP - without Subdivision	\$2,525.00	\$
<input type="checkbox"/>	** Additional charge for PDP's in excess of ten (10) acres: _____ acres x \$55.00 for each acre or portion thereof in excess of 10 acres.	(with maximum cap of \$3,625.00 for additional acres)	\$
<input type="checkbox"/>	PDP - with Subdivision	\$2,815.00	\$
<input type="checkbox"/>	** Additional charge for PDP's in excess of ten (10) acres: _____ acres x \$55.00 for each acre or portion thereof in excess of 10 acres.	(with maximum cap of \$3,915.00 for additional acres)	\$
Fire Review			
<input type="checkbox"/>	Fire review (mandatory)	\$104.00	\$
Public Hearing			
<input type="checkbox"/>	PDP - without Subdivision	\$665.00	\$
<input type="checkbox"/>	PDP - with Subdivision	\$1,415.00	\$
<input type="checkbox"/>	Zoning Amendment within PDP	\$1,165.00	\$
<input type="checkbox"/>	Vacation of Plat within PDP	\$880.00	\$
<input type="checkbox"/>	Variance/Deviation within PDP	\$1,250.00	\$
<input type="checkbox"/>	Special Exception within PDP	\$1,365.00	\$
<input type="checkbox"/>	Borrow Pit within PDP	\$1,725.00	\$
		Total	\$

* Advertising fees will be due at time of advertising.

** PDP – Acres x \$55.00 for each acre or portion thereof in excess of 10 acres (i.e. A 20.2 acre of land is calculated as follows.

20.2 – 10.00 = 10.2, then the 10.2 acres is rounded up to 11 acres)



 _____ authorized representative
 or property owner's Initials



MAY 31 9 AM 11.53

PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

PROPERTY OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY (LLC), LIMITED COMPANY (LC), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUST

Project Name: Downtown Village Square Amendment to Existing Ordinance 42-10

Project Number: PDP19-0001

Properties Owned by Red Rock Land Corporation: 845 and 851 Cape Coral Parkway E, Cape Coral, FL 33904

To help prepare this application, the applicant should obtain copies of the following:

- Land Use and Development Regulations (this document is linked)
 1. Land Development Regulations (Article 4)
 2. Parking Requirements (Article 5.1)
 3. Landscape Ordinance (Article 5.2)
 4. Sign Ordinance (Article 7)
- NFPA 1 Fire Prevention Code
- Engineering Design Standards

The advisory review is conceptual only and any staff comments are subject to change based on detailed information with an application to the City of Cape Coral. Formal review may result in additional changes not noted at this time. The final design or project must comply with the Land Use and Development Regulations, Engineering Design Standards, City Code of Ordinances, Comprehensive Plan and other applicable laws and regulations.

ACKNOWLEDGEMENT

I, Daniel Kummer, as the owner of this property or the duly Authorized Representative, agree to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State and County laws, and certify that all information supplied is correct to the best of my knowledge.

In addition, I understand that prior to the issuance of the Certificate of Occupancy for this development, the engineer of record must supply the Department of Community Development with record drawings and a letter of substantial compliance for the project.

In addition, I authorize the staff of the City of Cape Coral to enter upon the property for purposes of investigating and evaluating the request made through this application.

Please note: Advertising fees must be paid in full at least 10 days prior to public hearing or the item may be pulled from the agenda and continued to a future date once the fees have been paid.

(Name of Entity)

• Red Rock Land Corporation Daniel Kummer, President

By: NAME AND TITLE (PLEASE TYPE OR PRINT)

SIGNATURE

President

(SIGNATURE MUST BE NOTARIZED)

STATE OF New York, COUNTY OF Suffolk

Sworn to (or affirmed) and subscribed before me this 1st day of May, 2019, by Daniel Kummer who is personally known or produced drivers license

as id Donna Lee Sinram
Notary Public, State of New York
No. 10515012093

Qualified in Nassau County
My Commission Exp. June 15, 2019
NOTARY STAMP HERE

Exp. Date: June 15, 2019 Commission Number: 10515012093

Signature of Notary Public:

Printed name of Notary Public:

Donna Lee Sinram
Donna Lee Sinram

*Please include additional pages for multiple property owners.

[Signature] authorized representative
or property owner's initials

**Authorization to Represent Property Owner(s) –
Property Owner is a Corporation, Limited Liability Company (LLC),
Limited Company (LC), Partnership, Limited Partnership, or Trustee**

Please be advised that Downtown Village Square LLC , and AMB Planning Consultants Inc.
(Name of Authorized Representative(s) and business entity, if any)

is authorized to submit an application and represent me in the hearing(s) to the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals and /or City Council for a Planned Development Project.

Unit 6 Block 62A Lot 1-5, por vac alley Subdivision Cape Coral

Or Legal Description: ☐ (described as an exhibit A in Microsoft Word format and attached hereto)

Red Rock Land Corporation

** Name of Entity (Corporation, Partnership, LLC, etc)

President

Title of Signatory

Daniel Kummer

Name (Please print or type)


Signature

(SIGNATURE MUST BE NOTARIZED)

STATE OF New York, COUNTY OF Suffolk

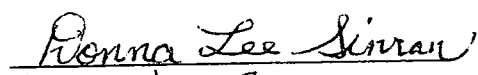
Sworn to (or affirmed) and subscribed before me this 1st day of May, 2019 by Daniel Kummer
who is personally known or produced drivers license
as identification.

Donna Lee Sinram
Notary Public, State of New York
No. 10515012093
Qualified in Nassau County
My Commission Exp. June 15, 2019

Exp. Date: June 15, 2019 Commission Number: 10515012093

Signature of Notary Public:

Printed name of Notary Public:


Donna Lee Sinram

*Please include additional pages for multiple property owners.

****Notes:**

If the applicant is a corporation, then it is executed by the corp. pres. or v. pres, sec, tres, or a director, .

If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should be signed by the Company's "Managing Member."

If the applicant is a partnership, then a partner can sign on behalf of the partnership.

If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.

If the applicant is a trust, then they must include their title of "trustee."

In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

PDP Applicant Checklist

Project Name: Downtown Village Square

Applicant must submit the completed application and the associated documentation listed below, collated into 17 separate packets (one (1) original and 16 copies). These are minimum requirements for all PDP applications. Based on the nature of your project, additional items may be required by staff.

Incomplete submittals will not be accepted

- ☐ All application pages must be initialed by the property owner or their authorized representative
- ☐ 24" x 36" engineered PDP Development Plans, including landscape buffer areas and building elevations – See pages 7 – 10 for further information
- ☐ Certified Boundary Surveys, in NGVD 1929, completed within the last six (6) months showing elevations – See page 7 for further information
- ☐ PDP application fees paid in full at time of application – See page 11 for further information
- ☒ Letter of Intent (LOI) – See page 6 for further instructions
- ☐ Environmental Survey/Report – See page 7 for further instructions
- ☐ Warranty or Quit Claim Deed – Applicant shall provide a copy of Warranty or Quit Claim Deed for one hundred (100) percent of the property comprising the Planned Development Project.
- ☐ Vacation of Plat requests must include letter of "No Objection" from the electric company, the telephone company, and the cable company – See page 9 for further instructions
- ☒ Page 1 must be signed and notarized by either all property owner(s) or the authorized agent
- ☒ The "Authorization to Represent Property Owners", page of the application, must be signed by all property owner(s) and notarized
- ☒ Properties owned by corporations, limited liability companies, limited partnerships, general partnerships, and trustees must provide legal documentation (For example, the Articles of Incorporation) listing persons authorized to sign for the entity and in these situations the property owner(s) must sign all applicable PDP forms in their corporate capacity.

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GENERAL INFORMATION

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 Phone: 516 903-6400 Fax: _____ E-Mail: robertaleejr@aol.com

*Property Owner: Daniel Kummer, President of Red Rock Land Corporation
 Address: 1019 Fort Salonga Road, Suite 10-237, Northport, NY 11768
 Phone: 516 375-7247 Fax: 631-961-8844 E-Mail: specbuilder996@aol.com
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Annette Barbaccia 239 850-8301 abarbaccia@ambpl.com
 Location _____

Unit 6 Block 62A Lot(S) 1 thru 5 + POR OF VAC ALLEY
 Subdivision Cape Coral Strap Number(s) 18-45-24-C1-00009.0000 and 18-45-24-C1-00010.0000

Legal Description ☒ (Described as Exhibit A in Microsoft Word Format and attached hereto)

Property Address: 845 and 851 Cape Coral Parkway E. , Cape Coral, FL 33904
 Plat Book 11 Page 46 Current Zoning SC Future Land Use DM

This application includes the following requests: (Please check all that apply)			
<input type="checkbox"/> Subdivision	<input type="checkbox"/> Special Exception	<input type="checkbox"/> Rezoning	<input type="checkbox"/> Variance
<input type="checkbox"/> Deviation to Landscaping	<input type="checkbox"/> Deviation to Non-residential Design Standards	<input type="checkbox"/> Deviation to Engineering Design Standards (EDS)	All Other Deviation Requests <input checked="" type="checkbox"/> Amendment to Existing Development Order
<input type="checkbox"/> Borrow Pit	<input type="checkbox"/> Vacation of Plat		

*Please include additional pages for multiple property owners.

PROPERTY and PROJECT DEVELOPMENT DATA

Note: No Changes to Existing PDP & Ordinance

- | | | | |
|----|--|---------------|-----------------|
| a. | Zoning District | _____ | |
| b. | Future Land Use Class | _____ | |
| c. | Area of Subject Property | _____ | acres |
| d. | Type of Development | _____ | |
| e. | Estimated Number of Employees | _____ | |
| | Number of Seats in Assembly | _____ | |
| f. | Parking Spaces Required | _____ | |
| g. | Parking Spaces Provided | _____ | |
| h. | Parking and Street Area | _____ sq. ft. | _____ % of Site |
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| | Landscaped Area | _____ sq. ft. | % of Site _____ |
| n. | Recreation Area | _____ sq. ft. | % of Site _____ |

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans.

- o. Number of Dwelling Units (du) _____
- p. Gross Density (du/acres) _____
- q. Number, Type, and Floor Area of each Dwelling Unit:
- | | | | | | | |
|----|------------|-------|------------|-------|---------|-------|
| 1. | Efficiency | _____ | Floor Area | _____ | sq. ft. | _____ |
| 2. | 1 Bedroom | _____ | Floor Area | _____ | sq. ft. | _____ |
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| 4. | 3 Bedroom | _____ | Floor Area | _____ | sq. ft. | _____ |
| 5. | 4 Bedroom | _____ | Floor Area | _____ | sq. ft. | _____ |

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- a. General purpose and intent of the PDP
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TRAFFIC GENERATION ESTIMATE **No Changes to Trip Generation**

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If the total peak hour traffic exceeds 300 trips, a Traffic Impact Statement (TIS) will be required. A methodology meeting with the City staff is required prior to submitting the TIS. The methodology meeting will be scheduled after the initial submittal of the PDP application.

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Note: No Changes to existing subdivision plan

- Sheet # of
submitted
plans
- _____ 1. Contours at an interval of not greater than one foot.
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Planned Development Project (PDP) Application Fees *

	Administrative Review	Fees	Your Costs
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20.2 – 10.00 = 10.2, then the 10.2 acres is rounded up to 11 acres)



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

Detail by Entity Name

Florida Limited Liability Company
DOWNTOWN VILLAGE SQUARE, LLC

Filing Information

Document Number L05000105297
FEI/EIN Number 20-3886600
Date Filed 10/27/2005
State FL
Status ACTIVE

Principal Address

877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Changed: 04/28/2011

Mailing Address

877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Changed: 04/27/2017

Registered Agent Name & Address

SCHUMACHER, RICHARD
877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Name Changed: 04/28/2011

Address Changed: 04/28/2011

Authorized Person(s) Detail

Name & Address

Title MGRM

Lee,, Robert A., Jr.
3505 Veterans Memorial Hwy.
Suite D
Ronkonkoma, NY 11779

Title MGRM

DiFede, Michael A.
15 Carleton Ave.
East Islip, NY 11730

Title MGRM

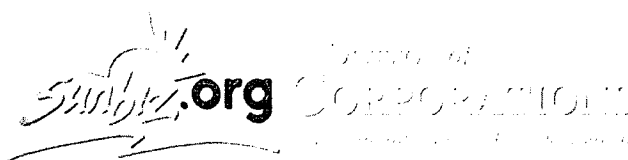
Schumacher, Richard
173 Gothic Circle
Manorville, NY 11949

Annual Reports

Report Year	Filed Date
2017	04/27/2017
2018	04/19/2018
2019	04/19/2019

Document Images

<u>04/19/2019 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/19/2018 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/27/2017 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/11/2016 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/17/2015 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/09/2014 -- ANNUAL REPORT</u>	View image in PDF format
<u>03/29/2013 -- ANNUAL REPORT</u>	View image in PDF format
<u>03/10/2012 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/28/2011 -- ANNUAL REPORT</u>	View image in PDF format
<u>03/08/2010 -- ANNUAL REPORT</u>	View image in PDF format
<u>03/06/2009 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/14/2008 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/25/2007 -- ANNUAL REPORT</u>	View image in PDF format
<u>12/06/2006 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/26/2006 -- ANNUAL REPORT</u>	View image in PDF format
<u>10/27/2005 -- Florida Limited Liabilites</u>	View image in PDF format



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Detail by Entity Name

Florida Limited Liability Company
DOWNTOWN VILLAGE SQUARE II LLC

Filing Information

Document Number	L14000080796
FEI/EIN Number	46-5694873
Date Filed	05/19/2014
Effective Date	05/19/2014
State	FL
Status	ACTIVE

Principal Address

877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Mailing Address

877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Registered Agent Name & Address

SCHUMACHER, RICHARD
877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Authorized Person(s) Detail

Name & Address

Title MGRM

LEE, ROBERT A, JR.
3505 Veterans Memorial Hwy.
Suite D
Ronkonkoma, NY 11779

Title MGRM

DIFEDE, MICHAEL A
15 CARLETON AVENUE
EAST ISLIP, NY 11730

Title MGRM

SCHUMACHER, RICHARD

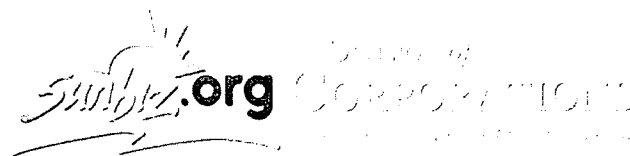
CONTRACTOR, RONALD
173 GOTHIC CIRCLE
MANORVILLE, NY 11949

Annual Reports

Report Year	Filed Date
2017	04/27/2017
2018	04/19/2018
2019	04/19/2019

Document Images

<u>04/19/2019 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/19/2018 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/27/2017 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/11/2016 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/17/2015 -- ANNUAL REPORT</u>	View image in PDF format
<u>05/19/2014 -- Florida Limited Liability</u>	View image in PDF format



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Detail by Entity Name

Florida Profit Corporation
RED ROCK LAND CORPORATION

Filing Information

Document Number	P07000021379
FEI/EIN Number	11-3459553
Date Filed	02/15/2007
Effective Date	10/27/1998
State	FL
Status	ACTIVE

Principal Address

1019 Fort Salonga Rd
Suite 10-237
NORTHPORT, NY 11768

Changed: 04/14/2016

Mailing Address

1019 Fort Salonga Rd
Suite 10-237
NORTHPORT, NY 11768

Changed: 04/14/2016

Registered Agent Name & Address

SCHUTT, DARRIN RESQ.
12601 New Brittany Blvd
Building 19
Ft Myers, FL 33907

Address Changed: 04/14/2016

Officer/Director Detail

Name & Address

Title PD

KUMMER, DANIEL
1019 Fort Salonga Rd
Suite 10-237
NORTHPORT, NY 11768

Annual Reports

Report Year	Filed Date
2017	03/16/2017
2018	02/19/2018
2019	02/27/2019

Document Images

<u>02/27/2019 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/19/2018 -- ANNUAL REPORT</u>	View image in PDF format
<u>03/16/2017 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/14/2016 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/19/2015 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/20/2014 -- ANNUAL REPORT</u>	View image in PDF format
<u>03/04/2013 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/27/2012 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/24/2011 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/26/2010 -- ANNUAL REPORT</u>	View image in PDF format
<u>01/29/2009 -- ANNUAL REPORT</u>	View image in PDF format
<u>03/06/2008 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/15/2007 -- Domestic Profit</u>	View image in PDF format

AMB Planning Consultants Inc.

May 3, 2019

Vince Cautero, Director
Department of Community Development
1015 Cultural Park Boulevard
City of Cape Coral
Cape Coral, FL 33909

Re: Letter of Intent – Amendment to Downtown Village Square Planned Development
Project (PDP) Ordinance 42-10

Dear Mr. Cautero:

On behalf of the property owners of the Downtown Village Square Project, Downtown Village Square LLC., Downtown Village Square II LLC. and Red Rock Land Corporation, I am submitting a proposed amendment to the Downtown Village Square Planned Development Project and Ordinance 42-10, approved April 26, 2010. See attached PDP applications signed by all three property owners. The properties included in this PDP amendment are: 845, 851, 859 and 877 Cape Coral Parkway E. and 826 SE 47th Terrace, Cape Coral, FL 33904.

The amendment reflects discussions with City staff, elected officials and the South Cape Community Redevelopment Board over the past few months, regarding a time extension for all related approvals for the Downtown Village Square project and key project milestone dates. The proposed amendment also includes some changes that have occurred since the approval of Ordinance 42-10 that include: changes in ownership, execution of the Affordable Housing Agreement and the completion of the SE 47th Terrace Streetscape Project. This Letter of Intent describes the proposed changes to Ordinance 42-10.

The extension of the PDP and related approvals is predicated on achieving certain deliverables by specified dates and obtaining 95% of the eligible Tax Increment Financing for the project.

One of the challenges of the Downtown Village Square property is keeping the property clean and allowing parking needed by surrounding restaurants, shops, as well as City events to continue on the property until it is developed. The property owners have received code compliance notices associated with litter created by events and related parking. There is also a homeless population in the downtown they can congregate on the property and create nuisance issues. The owners also allowed the City's Contractor to use their property as a staging area for the SE 47th Terrace Streetscape Project. The Contractor left rocks, dirt and other debris on the property, and the owners are currently seeking a full clean up by the Contractor. In discussing the matter, the owners feel that it is important to have eyes on the property. They feel that cleaning up the Car Wash building and keeping it operated by a Tenant who would be responsible for maintaining the property in its entirety would be the best solution, since it would not need to be removed until a later phase of

development. The owners feel that demolition of the existing retail/office building at 851 Cape Coral Parkway E. and the bank building at 859 Cape Coral Parkway E. by December 31, 2019 is appropriate, since that would be needed for the first and second phase of development.

The deliverables and time frames previously discussed, as well as the retention, maintenance and use of the Car Wash until later stages of development proposed are as follows:

Deliverable	Due Date
1. A. Amend Ordinance & Update PDP for HEX Hearing and Council Hearing to be held on July 22, 2019	July 22, 2019
1. B. Tax Increment Financing Restored to 95% upon the completion of Phase 1, CRA Board to consider a TIF contract amendment to that extent by September 10, 2019. Needed for the project to proceed.	By September 10, 2019
2. Submit demolition permits for Retail/Office Bldg. & Bank Bldg.	By October 1, 2019
3. Complete demolition of Retail/Office Bldg. & Bank Bldg.	By December 30, 2019
4. Developer secures Site Plan from City	By March 31, 2020
5. Submit Building Plans for Phase 1	By March 31, 2020
6. City finalizes Building Plans for Phase 1 Building A	June 30, 2020
7. Developer breaks ground on Phase 1 and infrastructure	July 1, 2020
8. If Building Official deems Phase 1 50% complete then City reimburses Developer for 50% Impact Fees and Building Application Fee	By January 1, 2021
9. Developer completes Phase 1 with all building and fire code requirements met	By July 21, 2021
10. CRA considers extending TIF Agreement from 2035 to 2046	By October 20, 2021
11. Developer submits complete set of building plans for Phase 2 Building B and Building D (Parking Structure)	By March 31, 2021

Proposed Changes to Ordinance 42-10:

Add: The Downtown Village Square Planned Development Project is extended in accordance with the time frames noted above, with full build out by November 30, 2025. All other terms and conditions except those changed in this amendment remain the same.

Page 2: "WHEREAS, an application from Downtown Village Square LLC. And Red Rock Land Corporation, with authorization from Fifth Third Bank has been received requesting approval of a Planned Development Project (PDP) for "Downtown Village Square"; requesting rezoning, vacation of plat, deviations from the City of Cape Coral Land Use and Development Regulations, site plan approval and development plan approval;" **Add: Downtown Village Square II LLC is the owner of 859 Cape Coral Parkway E., Cape Coral, FL 33904 and has assumed the responsibilities of Fifth Third Bank in this amended PDP.**

Page 3. Section II A. First paragraph “.... The development will occur in five phases with a build out in ten years.” **The development will occur in five phases with a build out in five years.**

Pg 3. Section II A 1. “Phase 1 shall include” **Change to Phase 1A shall include:**

a. Demolishing the existing Fifth Third Bank Canopy, **Building and Retail/Office Building at 851 and 877 Cape Coral Parkway E., Cape Coral, FL 33904**

Pg. 4. **Add: Phase 1B shall include: Change items b. to i. to a. to h.**

Pg. 4 “Phase 2 shall include: **delete 2. a. Change 2. b. to 2. A, 2.c. to 2.b. and 2.d. to 2.c.**

Pg. 5. Section II B. “The name(s) of the legal owner(s) are Downtown Village Square LLC, Red Rock Land Corporation and Fifth Third Bank. Downtown Village Square LLC has entered into a vacant land contract to purchase that parcel described as Tract B, Block 62A, Cape Coral Subdivision, Unit 8, according to Plat Book 13, Page 64, Public Records of Lee County, Florida which is currently owned by the City of Cape Coral.”

Change to: “The name(s) of the legal owner(s) are Downtown Village Square LLC, Red Rock Land Corporation and **Downtown Village Square II LLC. Downtown Village Square LLC has purchased and is now owner of the parcel** described as Tract B, Block 62A, Cape Coral Subdivision, Unit 8, according to Plat Book 13, Page 64, Public Records of Lee County, Florida.

Pg. 6. Section III:

“NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled that the Planned Development Project application for development approval submitted by Downtown Village Square LLC, and Red Rock Land Corporation, with authorization from Fifth Third Bank, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.” **Add: Downtown Village Square II LLC is the owner of 859 Cape Coral Parkway E., Cape Coral, FL 33904 and has assumed the responsibilities of Fifth Third Bank in this amended PDP.**

Pg. 10. Section III N. General Considerations

Delete 1.a.(1), (2) and (3) and 1.b.

Add new. The Developer has entered into an Affordable Housing Agreement with the City of Cape Coral, Resolution 150-17 approved by the City Council on September 18, 2017. Pursuant to this Agreement and Ordinance 42-10, the Developer shall pay \$25,000 per unit for five (5) affordable housing units, totaling \$125,000 towards the affordable housing

program which shall be applied towards housing offsite but within the boundaries of the CRA. The Developer shall pay the funds no later than at the time of the issuance of a certificate of occupancy for a maximum of 80 residential units located within the project.

Sincerely,



Annette M. Barbaccia, President
AMB Planning Consultants Inc.
P.O. Box 3495
N. Fort Myers, FL 33918
Tel. (239) 850-8301 Email: abarbaccia@ambpl.com






Cc: Robert A. Lee Jr., Michael DiFede, Richard Schumacher, Daniel Kummer,
Robert Pederson, Mike Struve

REVISED
3/28/19

MEMORANDUM

CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager 
Connie Barron, Assistant City Manager 
Vincent A. Cautero, Community Development Director 
Ricardo Noguera, Economic Development Manager 
Terri Hall, Community Redevelopment Coordinator 

DATE: March 27, 2019

SUBJECT: Village Square Planned Development Project (PDP)

The developer of the Village Square Planned Development Project (PDP) has requested another extension to the condition in the PDP that requires building permits for Phase 1, Building A (65,000 square feet Class A Office Building with 7,000 square feet of retail space) be issued by April 12, 2019.

This project was originally approved by City Council April 26, 2010 and required that substantial construction commence within two years from the date of approval. This requirement has been extended several times. It was extended through several requests made by the developer and approved by City Council. Other extensions were approved administratively pursuant to section 252.363, FS.

If Council approves a resolution extending the April 12, 2019, deadline to June 11, 2019, this additional time will enable City staff to bring forth an amendment to the ordinance that approved the PDP. This amendment will further extend the date to receive building permits for Phase 1, Building A and change the phasing plan included in the PDP. More importantly, it will include additional project performance benchmarks that must be met by the developer for the project to proceed. These benchmarks are included in the term sheet attached. Please know that if any of these terms are not met within the timeframe indicated, the agreement is null and void.

Options for Council to Consider

1. **No Action.** If Council chooses not to extend the requirement for building permits, then the entire project becomes null and void on April 12, 2019. However, there are some consequences associated with "no action" from an economic standpoint. While this project has sat idle for nearly a decade, it can serve as a "potential catalyst," to attract more investment in the South Cape. It has been staff's intention to induce development with the demolition and eventual groundbreaking and then reach out to developers to promote infill development elsewhere in the South

Cape. But if this project does not advance, it could result in a negative impact to the entire South Cape and deter potential developers and investors from the area. Plus, the properties could continue to sit idle and in a blighted state for years to come and negatively impact the surrounding area.

2. **Approval of Extension.** Extending the building permit issuance and strengthening deliverables required of the developer in the PDP will demonstrate to the development community that the project is advancing. Staff can leverage the PDP amendment and proactively pursue other developers to acquire infill, undeveloped sites throughout the South Cape. If approved, this extension can serve as a catalyst to attract developers and investors elsewhere throughout the South Cape. It provides additional marketing opportunities and will help breathe vitality in the area. Ultimately, the developer completes construction of a Class A Office building in the South Cape by June 30, 2021, which will attract office tenants and serve to further revitalize the area.

We recommend the approval to extend the date of the building permit issuance (substantial construction) to allow enough time to amend the PDP to include these project performance benchmarks. We anticipate having the proposed PDP amendment to Council for consideration no later than ~~June 10, 2019~~.

July 22, 2019 RL

Mar 27, 2019

Please know that Mr. Robbie Lee concurs with the attached term sheet and amended resolution; both of which comports with our recommendations contained in this memorandum.

Please feel free to contact us with any questions or concerns.

JS/VAC:ay (Staff Memo Extension 040119)

Attachments: Term Sheet
PDP Extension History

C: CRA Board of Commissioners
Dolores Menendez, City Attorney
Robert A. Lee, Jr. Managing Member

REVISED
3/28/19

Village Square – City of Cape Coral Term Sheet
March 27, 2019

The project will be null and void if the developer fails to meet all terms and deadlines contained herein.

Issue #	Date	Issue	Terms
1	4/1/2019	Resolution for Council	Approval extending the date of building permit issuance (substantial construction definition) If this does not occur see Issue #3
2	4/2/2019	Present to CRA Board	CRA Board to concur with Issue #13 provided all terms and deadlines are met
3	4/12/2019	Non-Compliance	Project does not meet condition of approval - project is null and void on this date if Issue #1 (the resolution) fails
4	6/10/2019 7/22/2019	Public Hearing R 2 Mar 27, 2019	Amend PDP to establish performance benchmarks and extend PDP expiration date to 4/26/2021
5	12/31/2019	Demolition of site structures	Car Wash and former Fifth-Third Bank
6	3/31/2020	Site Plan (Horizontal Engineering)	All fees paid, and permit issued
7	3/31/2020	Building A (Class-A office) Plans	Submit complete set of building plans that meet current code
8	6/30/2020	Building Plan Approval of Building A (Class A – Office)	Absent extensive revisions/alterations City will finalize review
9	7/1/2020	Building Permit(s) to commence construction	Upon payment of all fees permit(s) will be issued
10	1/1/2021	Initiate extension of the PDP - current PDP expires 4/26/2021	Upon evidence of inspections completed on vertical construction

Village Square – City of Cape Coral Term Sheet (Con't)

Issue #	Date	Issue	Terms
11	TBD	50% Reimbursement of fees associated with Phase 1, Building A	When in the opinion of the building official the structure is 50% complete, the City will reimburse up to 50% of all fees for Phase 1, Building A
12	6/30/2021	Construction complete associated with Phase 1, Building A	Certificate of Completion issued, the City will reimburse the remaining 50% of fees for Phase 1, Building A
13	6/30/2021	Tax Increment Funding (TIF)	Recommend Tax Increment Funding (TIF) reinstated to 95% when Phase 1, Building A is complete

This document sets forth the terms agreed upon by the Administration of the City of Cape Coral and the Managing Member of Downtown Village Square, LLC., all of which is subject to City Council approval.

All terms, modifications or revisions shall be approved by City Council in Resolution 71-19.

CITY OF CAPE CORAL, FLORIDA

A. John Szerlag, City Manager

Date: 3/27/19

DOWNTOWN VILLAGE SQUARE, LLC

Robert A. Lee, Jr., Managing Member

Date:

RESOLUTION 71 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, PROVIDING AN EXTENSION TO THE DOWNTOWN VILLAGE SQUARE PLANNED DEVELOPMENT PROJECT ("PDP") TO JULY 22, 2019, TO COMMENCE SUBSTANTIAL CONSTRUCTION AND TO AMEND THE PDP; PROVIDING CONSIDERATION FOR THE EXTENSION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 26, 2010, City Council adopted Ordinance 42-10 which approved the planned development project entitled "Downtown Village Square"; and

WHEREAS, pursuant to Section 4.2.3.H. of the City of Cape Coral Land Use and Development Regulations, substantial construction of a planned development project shall commence within two years from the date of approval, or the PDP approval is considered null and void, with certain exceptions; and

WHEREAS, on October 19, 2011, an extension was granted pursuant to House Bill 7207, to allow substantial construction to commence no later than April 26, 2014; and

WHEREAS, on April 21, 2014, City Council granted the developer's request for an extension to April 26, 2016, for the requirement of commencement of substantial construction, with the condition that the developer submit financial information to enable the City to determine the economic viability of the project prior to the issuance of any building permits, and that the developer owns 100% of the property subject to the development order; and

WHEREAS, on July 20, 2015, City Council adopted Resolution 102-15, providing an extension to May 18, 2016, for the Developer to provide evidence to the City Manager, or the City Manager's designee, that the Developer has obtained approval from the federal government of the EB-5 regional center, known as Southwest Florida Regional Center, LLC, and an extension to May 18, 2017 to commence substantial construction and meet all other requirements set forth in the development order prior to being issued permits; and

WHEREAS, the Developer provided evidence of economic viability to the City by submitting the federal government's approval of the EB-5 regional center, known as Southwest Florida Regional Center, LLC; and

WHEREAS, on May 15, 2017, the City Council adopted Resolution 81-17, providing a one hundred twenty (120) day extension from May 18, 2017, until September 15, 2017, to commence substantial construction and meet all other requirements set forth in the development order prior to being issued permits; and

WHEREAS, on September 4, 2017, the Governor signed Executive Order Number 17-235 declaring a State of Emergency due to Hurricane Irma which automatically extended the time to commence substantial construction, pursuant to section 252.363, FS, from September 15, 2017 to May 4, 2018; and

WHEREAS, on April 16, 2018, the City Council approved a one hundred twenty (120) day extension from May 4, 2018, until September 1, 2018, to commence substantial construction and meet all other requirements set forth in the development order prior to being issued permits; and

WHEREAS, on August 31, 2018, the Community Development Director of the City of Cape Coral, pursuant to the Governor's signed disaster declaration on August 13, 2018, granted a six-month extension of the Downtown Village Square planned development order and related approvals until April 12, 2019; and

WHEREAS, on January 21, 2019, eighty-one (81) days in advance of the extension ending date of April 12, 2019, a request for extension was transmitted to the City Manager, the Community Development Director, and Finance Director by Downtown Village Square LLC pursuant to the minimum forty-five (45) day extension request time frame included in the August 31, 2018 approval letter of extension; and

WHEREAS, City Council desires to allow the Developer until July 22, 2019 to begin substantial construction on the project provided certain conditions are met; otherwise, the project will be deemed

null and void, with certain exceptions, due to the inability to commence substantial construction on the project.

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

Section 1. The City Council hereby approves an extension to July 22, 2019 for the Developer of the Downtown Village Square planned development project to commence substantial construction, to meet conditions set forth in this resolution, and meet all other requirements set forth in the development order prior to being issued permits.

Section 2. The Developer's request to extend the deadline to commence substantial construction shall be treated as an application to amend the PDP. Unless further extended by the City Council, the amendment to the PDP shall be brought forth to the City Council by July 22, 2019. The contemplated amendment to the Planned Development Project may further extend the deadline to commence substantial construction, revise the phasing plan, and set forth additional development parameters that shall be met by the Developer.

Section 3. The Developer has waived its right to complete the sidewalk improvements adjacent to the project site by November 15, 2018, as delineated in Resolution 81-17, in favor of the City installing the streetscape improvements. The rights and obligations of the Developer and the City regarding such streetscape improvements and the costs of such improvements, as identified in Resolution 81-17, remain unchanged.

Section 4. Subject to all other provisions of this Resolution, and unless otherwise extended by the City Council, if the Developer does not commence substantial construction by receiving a building permit by July 22, 2019, the planned development project Development Order approved in Ordinance 42-10 shall be deemed null and void, except that any rezoning(s), vacation(s) of plat, or variances approved in Ordinance 42-10 shall remain in full force and effect.

Section 5. 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 REGULAR COUNCIL SESSION THIS 15th DAY OF April, 2019


JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

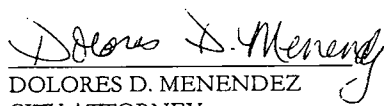
COVIELLO aye
GUNTER aye
CARIOSCIA aye
STOUT aye

NELSON aye
STOKES aye
WILLIAMS aye
COSDEN aye

ATTESTED TO AND FILED IN MY OFFICE THIS 9th DAY OF April, 2019.


KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
res\ Village Square Extension
4/1/19

Village Square Property
Post Construction Cost Estimate
4/11/2019

PAY ITEM DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
Roadway				
MOBILIZATION*	0.08	LS	\$ 511,777.70	\$ 38,383.33
MAINTENANCE OF TRAFFIC*	0.08	LS	\$ 163,532.39	\$ 12,264.93
CLEARING & GRUBBING	0.27	AC	\$ 11,355.00	\$ 3,009.08
REMOVAL OF EXIST. CONCRETE PAVEMENT (SIDEWALKS AND CURBS)	359.50	SY	\$ 32.20	\$ 11,575.90
SINGLE POST SIGN, F&I, >12SF	1.00	EA	\$ 410.00	\$ 410.00
SINGLE POST SIGN, RELOCATE	1.00	EA	\$ 110.00	\$ 110.00
REGULAR EXCAVATION	367.00	CY	\$ 15.90	\$ 5,835.30
TYPE B STABILIZATION	951.11	SY	\$ 9.90	\$ 9,415.99
OPTIONAL BASE GROUP 06	951.11	SY	\$ 17.75	\$ 16,882.20
SUPERPAVE ASPH CONC, TRAF C, PG 76-22 (2")	104.03	TN	\$ 139.50	\$ 14,511.86
ASPHALT CONC. FC, TRAFFIC C, FC-9.5, PG 76-22 (1")	74.31	TN	\$ 133.63	\$ 9,929.44
CONCRETE CURB AND GUTTER, TYPE 'F'	652.00	LF	\$ 13.75	\$ 8,965.00
BOLLARDS, REMOVABLE ROADWAY	10.00	EA	\$ 1,240.00	\$ 12,400.00
INLET X-2	1.00	EA	\$ 6,355.00	\$ 6,355.00
INLET S-107	1.00	EA	\$ 12,780.00	\$ 12,780.00
INLET S-108	1.00	EA	\$ 12,780.00	\$ 12,780.00
INLET S-115	1.00	EA	\$ 6,050.00	\$ 6,050.00
JUNCTION BOX	1.00	EA	\$ 5,450.00	\$ 5,450.00
PIPE CULV, OPT MATL, ROUND, 18" SD	50.00	LF	\$ 119.00	\$ 5,950.00
CONCRETE, 6" THICK (DRIVEWAYS / ROUNDABOUT APRON)	39.86	SY	\$ 47.25	\$ 1,883.39
CONCRETE, 6" RIBBON CURB (SIDEWALKS)	1,766.00	LF	\$ 16.50	\$ 29,139.00
CONCRETE, 12" RIBBON CURB (CROSSWALKS)	268.00	LF	\$ 18.50	\$ 4,958.00
PAVER, ARCHITECTURAL, ROADWAY (CROSSWALK)	148.89	SY	\$ 104.85	\$ 15,611.12
PAVER, ARCHITECTURAL, ROADWAY (DRIVEWAY/RAMPS)	43.47	SY	\$ 75.60	\$ 3,286.33
PAVER, ARCHITECTURAL, SIDEWALK	888.91	SY	\$ 44.10	\$ 39,200.93
DETECTABLE WARNING	40.00	SF	\$ 22.50	\$ 900.00
				\$ 288,036.79
Landscaping				
SHADE TREES	2.00	EA	\$ 605.00	\$ 1,210.00
PALMS	9.00	EA	\$ 1,260.00	\$ 11,340.00
ORNAMENTAL TREES	3.00	EA	\$ 963.00	\$ 2,889.00
SHRUBS	45.00	EA	\$ 12.60	\$ 567.00
GROUND COVER	323.00	EA	\$ 9.55	\$ 3,084.65
PERFORMANCE TURF, SOD	145.00	SY	\$ 3.15	\$ 456.75
BENCH	1.00	EA	\$ 3,235.40	\$ 3,235.40
TRASH RECEPTACLE	1.00	EA	\$ 1,626.20	\$ 1,626.20
EXCAVATION FOR STRUCTURAL SOIL	92.37	CY	\$ 37.00	\$ 3,417.69
STRUCTURAL SOIL	92.37	CY	\$ 144.00	\$ 13,301.28
IRRIGATION	1,060.40	SF	\$ 4.23	\$ 4,485.49
				\$ 45,613.46

Street Lighting				
Light Fixtures and Poles (w/ 2 GFCI Outlets per Pole)	5.00	EA	\$ 4,354.00	\$ 21,770.00
Light Pole Bases (1.67' x 5')	5.00	EA	\$ 576.00	\$ 2,880.00
Pullbox, Traffic Rated, 16" x 22", In-Ground, Embossed with "Lighting" or "Power"	6.00	EA	\$ 750.00	\$ 4,500.00
Copper Ground Rod (5/8"x10')	6.00	EA	\$ 30.00	\$ 180.00
Copper Ground Rod (3/4"x10')	5.00	EA	\$ 50.00	\$ 250.00
Pea Gravel	1.00	CY	\$ 50.00	\$ 50.00
Conduit, 1", Schedule 80 PVC	400.00	LF	\$ 2.00	\$ 800.00
Conduit 1-1/4" Schedule 80 PVC	1,280.00	LF	\$ 2.20	\$ 2,816.00
Panel, 100A, 208V, 1Ph, MCB	1.00	EA	\$ 150.00	\$ 150.00
#10 AWG, Stranded, THWN, CU Wire	5,490.00	LF	\$ 0.40	\$ 2,196.00
#8 AWG, Stranded, THWN, CU Wire	2,405.00	LF	\$ 0.50	\$ 1,202.50
#6 AWG, Stranded, THWN, CU Wire	2,040.00	LF	\$ 0.75	\$ 1,530.00
Breakers, 20A, 1P	8.00	EA	\$ 50.00	\$ 400.00
Enclosure, 72"H x 24"W x 18"D	1.00	EA	\$ 3,470.00	\$ 3,470.00
Pullbox, Traffic Rated, 48" x 36", In-Ground, Split Top	1.00	EA	\$ 3,000.00	\$ 3,000.00
Outlets, GFCI, Weather Resistant (Includes In-Use Weatherproof Covers)	11.00	EA	\$ 35.00	\$ 385.00
Outlet Pedestal, Stainless Steel, NEMA 3R, w/ Lockable Covers	11.00	EA	\$ 810.00	\$ 8,910.00
				\$ 54,489.50
Fiber Optic Conduit & Boxes				
Conduit 1-1/4" HDPE (4 in bundle; different colors)	2,536.00	LF	\$ 5.00	\$ 12,680.00
Inground 36"x48x36" Pullbox, Traffic Rated, Embossed with "Fiber Optic"	1.00	EA	\$ 2,000.00	\$ 2,000.00
Copper Ground Rod (5/8"x10')	1.00	EA	\$ 30.00	\$ 30.00
#12 AWG, Solid, THWN, CU Tone Wire	634.00	LF	\$ 0.50	\$ 317.00
				\$ 15,027.00

Miscellaneous:	\$ 65,753.23
Roadway:	\$ 77,939.79
Storm Drain:	\$ 49,365.00
Sidewalks:	\$ 94,978.76
Landscaping:	\$ 45,613.46
Lighting/Fiber:	\$ 69,516.50
Construction Total:	\$ 403,166.75

CMAR Fees, Bonds, and Insurance (7.5% of Total):	\$ 54,761.12
CMAR General Conditions (7.5% of Total):	\$ 81,160.80
Design (7.5% of Total):	\$ 47,693.17
Survey (7.5% of Total):	\$ 4,960.50
CMAR/Design Total:	\$ 188,575.59

Project Total: \$ 591,742.34

Notes:

Cost does not include construction of Water, Sewer, or Reuse mains.

Does not include cost for developer improvements to SE 8th Court and SE 9th Place that will be needed south of the currently constructed 47th Terrace Streetscape limits.

See attached plan showing limits of improvements on SE 47th Terrace from SE 8th Court to SE 9th Place.

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Village Square

APPLICATION NO: PDP19-0001


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.

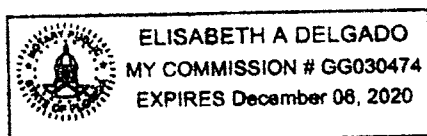
DATED this 14th day of May, 2019.



Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 14th day of May, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.



Exp. Date 12/8/20 Commission # GG030474



Signature of Notary Public

Elisabeth A. Delgado

Print Name of Notary Public

Subject Parcels

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. PDP19-0001

Legend

 Subject Parcels



0 60 120 Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

SE 8TH CT

SE 47TH TER

SE 9TH PL

CAPE CORAL BLVD

CHESTER ST

CANDIA ST

CITY OF CAPE CORAL
Department of
Community Development
Planning Division
500 Proximity Boundary
CURRENT ZONING MAP

Case No. PDP19-0001

LEGEND

-  Subject Parcel
-  500' Boundary
-  R-3
-  SC



0 70 140 210 280 Feet

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SE 46TH LN

SUBJECT PARCELS

SE 47TH TER

CAPE CORAL PKWY E

SE 8TH CT

CHESTER ST

CANDIA ST

LEONARD ST

MILTON ST

MIRAMAR ST

500' PROXIMITY BOUNDARY

COUNCILMEMBER McCLAIN PDP 08-00800006
03/26/10
03/30/10
04/05/10
04/07/10
04/20/10
04/26/10

ORDINANCE 42 - 10

AN ORDINANCE APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "DOWNTOWN VILLAGE SQUARE" FOR CERTAIN PROPERTY DESCRIBED AS BLOCK 62A, UNIT 6 PART 1, AND BLOCK 62A, UNIT 8, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROPERTY LOCATED BETWEEN SE 47TH TERRACE TO THE NORTH, SE 9TH PLACE TO THE EAST, CAPE CORAL PARKWAY TO THE SOUTH, AND SE 8TH COURT TO THE WEST; REZONING THE SUBJECT PROPERTY FROM DOWNTOWN EDGE (DE) DISTRICT TO DOWNTOWN CORE (DC) DISTRICT; GRANTING A VACATION OF PLAT FOR INTERIOR LOT LINES, PUBLIC UTILITY AND DRAINAGE EASEMENTS, AND ALLEY RIGHT OF WAY AND UNDERLYING EASEMENTS LOCATED WITHIN THE SUBJECT PROPERTY WHILE MAINTAINING PERIMETER LOT LINES AND EASEMENTS; GRANTING A DEVIATION FROM THE REQUIREMENT THAT ALL OPENINGS IN THE FAÇADE OF A PARKING STRUCTURE BE TALLER THAN WIDE TO ALLOW OPENINGS IN THE FAÇADE OF THE PARKING STRUCTURE ASSOCIATED WITH BUILDING "D" TO BE WIDER THAN TALL; GRANTING A DEVIATION TO ALLOW THE PROPERTY TO DEVELOP WITHOUT THE MINIMAL LANDSCAPING BETWEEN AN OFF-STREET PARKING AREA AND ABUTTING RIGHT-OF-WAY ON THE NORTH AND WEST SIDES OF THE BUILDING CONTAINING THE PARKING GARAGE; GRANTING A DEVIATION FROM THE REQUIREMENT THAT OFF-STREET PARKING AREAS SHALL HAVE AT LEAST TEN SQUARE FEET OF INTERIOR ISLAND LANDSCAPING FOR EACH PARKING SPACE AND ONE TREE FOR EACH FIVE PARKING SPACES TO ALLOW THE PROJECT TO DEVELOP WITH NO INTERIOR ISLAND LANDSCAPING AND NO TREES LOCATED WITHIN THE OFF-STREET PARKING AREA; GRANTING A DEVIATION FROM THE REQUIREMENT OF A SEVEN TO SEVENTEEN FOOT BUILD-TO ZONE TO ALLOW BUILDINGS "A", "C", AND "E" TO BE BUILT UP TO FORTY-ONE FEET FROM THE PROPERTY LINE IN CERTAIN AREAS AS DESCRIBED HEREIN; GRANTING A DEVIATION FROM THE REQUIREMENT THAT THE FIRST STORY OF A BUILDING'S FRONTAGE CONSTITUTE AT LEAST 75% OF THE LOT'S WIDTH TO ALLOW BUILDINGS "C" AND "E" TO CONSTITUTE A LESSER PERCENTAGE ALONG SE 9TH PLACE AS DESCRIBED HEREIN; GRANTING A DEVIATION TO ALLOW BUILDING "D" AND "E" TO EXCEED THE SIX STORY MAXIMUM AND BUILDING "D" TO EXCEED THE MAXIMUM HEIGHT OF EIGHTY-FIVE FEET; GRANTING A DEVIATION FROM THE REQUIREMENT THAT PROHIBITS TREES IN FRONT YARDS TO ALLOW THE PROJECT TO DEVELOP WITH TREES LOCATED WITHIN FRONT YARDS; GRANTING A DEVIATION TO ALLOW AWNINGS AND CANOPIES APPLIED TOWARD MANDATORY ARCHITECTURAL ELEMENTS TO VARY IN TYPE AND COLOR; GRANTING A DEVIATION TO ALLOW BUILDING "C" TO HAVE DOORS WITH SPACING OF 90 AND 98 FEET ALONG THE EAST AND SOUTH ELEVATIONS OF THE BUILDING, RESPECTIVELY; GRANTING A DEVIATION FROM SHEET G-17 OF THE ENGINEERING AND DESIGN STANDARDS, TO ALLOW THE PROJECT TO DEVELOP WITHOUT THE REQUIRED THREE FOOT GRASS STRIP BETWEEN THE CURB AND SIDEWALK ON CERTAIN STREETS; GRANTING A DEVIATION FROM SHEETS G-21 AND G-22 OF THE ENGINEERING AND DESIGN STANDARDS, THAT REQUIRE A TEN (10) FOOT VISIBILITY TRIANGLE AT THE INTERSECTION OF THE PROJECT DRIVEWAY AND A LOCAL STREET, AND A FORTY-FIVE (45) FOOT VISIBILITY TRIANGLE AT THE INTERSECTION OF A COLLECTOR AND LOCAL ROAD, TO ALLOW THE USE OF THE FDOT MUMSDCMS SITE DISTANCE REQUIREMENTS FOR DRIVEWAYS AND INTERSECTIONS FOR CERTAIN STREETS; GRANTING SITE PLAN APPROVAL FOR PURPOSES OF DEVELOPMENT PLAN

APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, an application from Downtown Village Square, LLC, and Red Rock Land Corporation, with authorization from Fifth Third Bank has been received requesting approval of a Planned Development Project (PDP) for "Downtown Village Square"; requesting rezoning, vacations of plat, deviations from the City of Cape Coral Land Use and Development Regulations, site plan approval and development plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION I. PDP APPROVAL, REZONING, VACATIONS, DEVIATIONS, AND SITE PLAN.

Having reviewed the application requesting approval of a Planned Development Project for "Downtown Village Square" PDP, requesting a rezoning of the subject property from Downtown Edge District (DE) to Downtown Core (DC) District; granting a vacation of plat for all interior lot lines and six foot wide public utility and drainage easements and all platted alley rights-of-way and underlying easements located within the subject property, while retaining a six foot wide public utility and drainage easement coincident with the resultant parcel perimeter as more particularly described in Exhibit "B"; granting a deviation from the requirement that all openings in the façade of a parking garage be taller than wide pursuant to Section 5.1.8.C.2.b.(1) of the City of Cape Coral Land Use and Development Regulations, to allow the project to develop with openings in the façade of the parking garage associated with Building "D" that are wider than tall; granting a deviation from the requirement for minimum landscaping between abutting right-of-way and an off-street parking area pursuant to Section 5.2.9.C.1 of the City of Cape Coral Land Use and Development Regulations, to allow the project to develop without the minimal landscaping along the north and west sides of the building containing the parking garage; granting a deviation from the requirement that off-street parking areas shall have at least ten square feet of interior island landscaping for each parking space and one tree for each five parking spaces pursuant to Section 5.2.9.D.1 of the City of Cape Coral Land Use and Development Regulations, to allow the project to develop with no interior island landscaping and no trees located with the off-street parking area; granting a deviation from the requirement that new buildings be constructed within a seven to seventeen foot build-to zone pursuant to Section 2.7.15.D.1.a of the City of Cape Coral Land Use and Development Regulations, to allow a portion of Building "A" near the SW corner, a portion of Building "C" near the SE corner, and a portion of Building "E" near the NE corner to be located twenty-four feet, seventeen feet, and four feet, respectively, outside the build-to zone; granting a deviation from the requirement that the first story of a building's frontage constitute at least 75% of the lot's width pursuant to Section 2.7.15.D.1.f.(1) of the City of Cape Coral Land Use and Development Regulations, to allow the project to be constructed with buildings "C" and "E" collectively comprising 68.5% of the lot's width along SE 9th Place; granting a deviation of eight stories and 76.5 feet from the requirement that limits buildings to six stories and a maximum height of 85 feet pursuant to Section 2.7.15.D.2.a of the City of Cape Coral Land Use and Development Regulations, to allow Building "E" to develop with 14 stories and a maximum height of 161.5 feet; granting a deviation from the requirement that limits buildings in the Downtown Core Zoning District to a maximum of six stories pursuant to Section 2.7.15.D.1.a of the City of Cape Coral Land Use and Development Regulations, to allow Building "E" to have seven stories; granting a deviation from the requirement that prohibits trees in front yards pursuant to Section 2.7.15.D.17.1.(4) of the City of Cape Coral Land Use and Development Regulations, to allow the project to develop with trees located within front yards; granting a deviation from the requirement that all architectural elements used to satisfy this requirement to be of the same color and style pursuant to Section 2.7.15.E.1.b.(3) of the City of Cape Coral Land Use and Development Regulations, to allow the awnings and canopies applied toward

mandatory architectural elements to vary in the type and color; granting a deviation from the requirement that entrances for public access shall be provided at intervals of at least 75 feet pursuant to Section 2.7.15.G.4.b.(3) of the City of Cape Coral Land Use and Development Regulations, to allow Building "C" to have doors with spacing of 90 and 98 feet along the east and south sides of the building, respectively; granting a deviation from the Engineering and Design Standards, Sheets G-17 that requires a three (3) foot strip of grass to be located between the curb and sidewalk within the right-of-way for streets with sixty (60) foot rights-of-way to allow the project to develop without a grass strip along SE 8th Court, SE 9th Place, and SE 47th Terrace; granting a deviation from the Engineering and Design Standards, Sheets G-21 and G-22, visibility triangles, that require a ten (10) foot visibility triangle at the intersection of the project driveway and a local street, and require a forty-five (45) foot visibility triangle at the intersection of a collector and local road, to allow the project to develop using the Florida Department of Transportation Standard Index 546 (Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways for the State of Florida) site distance requirements, allowing the project to develop without visibility triangles for all project driveways and intersections on SE 8th Court, SE 9th Place, and SE 47th Terrace; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approve development plan including site plan, in accordance with plan set, Sheets C-1 through C-7, D-1 through D-7, EG-1 through EG-3, L-1, PP-1, and SC dated April 23, 2008, and bearing a revision date of March, 2010, prepared by DEI and Sheets A-1 through A-4, B-1 through B-4, C-1 through C-4, D-1 through D-3, and E-1 through E-4 bearing a revision date of September 21, 2009 prepared by Bradford and Company Design Group, Inc. for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The "Downtown Village Square" development is a Mixed Use Planned Development Project (PDP). This development consists of 3.94 acres of land located on property being rezoned to Downtown Core (DC) zoning district at 845, 859, 869 and 877 Cape Coral Parkway East on property that is more particularly described as a parcel of land located in Block 62A, Unit 6 Part 1, and Block 62A, Unit 8, Cape Coral Subdivision, as more particularly described in Exhibit "A." The proposed development will contain 251,546 square feet of nonresidential uses and a maximum of 152 residential units. The development will occur in five phases with a build out in ten years.

The Downtown Village Square development consists of five buildings as depicted on Sheet C-4 labeled "Site Plan" and is described as follows: a six story building containing retail and professional office uses, two (2) six story compound use buildings, a seven story compound use building, and a 14 story compound use building containing six floors of structured parking. Building "D," which includes a parking garage, will have covered cross-overs located on the third floor that connect to the other four buildings of the project. An additional covered cross-over will connect the third floors of Building "A" with Building "B." Except for limited parking spaces on floors 2, 3 and 4 reserved for employees working at the project, the first four floors of the parking garage will be available for public use, including a minimum of 127 parking spaces located on the first floor. Parking located on the first floor of the parking garage will be available free of charge unless the City Council approves a request from the Developer for charging a fee associated with this use.

An eight foot wide brick sidewalk will be constructed along the perimeter of the subject property. Several walkways will connect this sidewalk with an east-west central square that bisects Block 62A. Both the central square and the majority of the walkways will be composed of brick.

Several buildings are oriented within the development to allow for small public gathering places. These areas include patios with fountains located in front of Building "A" and between Buildings "B" and "C." Building "E" contains an atrium that also includes a central fountain. Three outdoor seating areas are situated between Buildings "C" and "E."

Project phasing is depicted on Sheets C-4A and C-4B labeled "Phasing Plan" and "Temporary Parking Layouts for Phase I and II", respectively, and is summarized below.

1. Phase 1 shall include:

- a. Demolishing the existing Fifth Third Bank canopy.
 - b. Constructing the temporary parking at ground level within the footprint of the parking garage.
 - c. Constructing a temporary trash enclosure located at the northwest corner of the Phase 2 temporary parking area.
 - d. Constructing Building "A", installing landscaping associated with Building "A", and constructing utilities for Building "A".
 - e. Constructing the fountain associated with Building "A".
 - f. Constructing access from Cape Coral Parkway, SE 47th Terrace and SE 8th Court as shown on the Phasing Plan, Sheet C-4A.
 - g. Installing the pavers located within the public square surrounding Building "A".
 - h. Constructing all right-of-way improvements, including installing pavers along SE 47th Terrace and SE 8th Court and to the eastern edge of the Cape Coral Parkway entrance except for the existing driveway access points for the existing Fifth Third Bank and the existing car wash.
 - i. Constructing the main portion of the stormwater system which does not conflict with future phases as delineated on the Phasing Plan, Sheet C-4A.
2. Phase 2 shall include:
- a. Demolishing the existing Fifth Third Bank and temporary trash enclosure.
 - b. Constructing Building "B", installing landscaping associated with Buildings "B" and "D", and constructing utilities for Building "B".
 - c. Demolishing the temporary parking area and constructing the entire parking garage of Building "D" and installing all abutting landscaping. The two residential towers may be built in this Phase 2, or may be deferred until Phase 5.
 - d. Constructing all right-of-way improvements abutting Building "B".
3. Phase 3 shall include:
- a. Demolishing the existing car wash.
 - b. Constructing Building "C", installing abutting landscaping associated with Building "C", and constructing utilities for Building "C".
 - c. Constructing the remaining stormwater systems.
 - d. Constructing the temporary trash enclosure for Building "E".
 - e. Constructing all right-of-way improvements abutting Building "C" including the two access points along SE 9th Place.
4. Phase 4 shall include:
- a. Removing the temporary trash enclosure associated with Building "E" that was installed in Phase 3.
 - b. Constructing Building "E" and remaining utilities.
 - c. Installing all remaining landscaping and site improvements.

5. Phase 5 shall include constructing the two residential towers associated with Building "D" that are located on the upper portion of the parking garage, unless built as part of Phase 2.
 6. The developer shall complete all elements of Phase 1 of this project in its entirety before work on Phases 2, 3, 4 or 5 can begin. With the exception of Phases 1 and 2, the enumeration of phases in this section is not intended to indicate an order of development. For example, the development of Phase 3 is not required to either begin or be completed prior to the development of Phase 4.
- B. The name(s) of the legal owner(s) are Downtown Village Square, LLC, Red Rock Land Corporation, and Fifth Third Bank. Downtown Village Square, LLC has entered into a Vacant Land Contract to purchase that parcel described as Tract B, Block 62A, Cape Coral Subdivision, Unit 8, according to Plat Book 13, Page 64, Public Records of Lee County, Florida, which is currently owned by the City of Cape Coral.
- C. The legal description of the property is as set forth in Exhibit "A" attached hereto and incorporated herein by reference.
- D. 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 in Exhibit "A" and the City administrative office shall amend the City of Cape Coral Official Zoning District Map to reflect this zoning change.

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.

- E. The requests for vacation of plat and alley right-of-way 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 requests be granted. The following are hereby vacated by the City of Cape Coral, to wit:

All interior lot lines and all interior six foot public utility and drainage easements located within the subject property as more particularly described in Exhibit "A."

All of a 15 foot wide alley right-of-way including the underlying and adjoining easements located within the subject property as more particularly described in Exhibit "A."

Less and Excepting Therefrom: The City of Cape Coral will retain a six (6) foot wide public utility and drainage easement coincident with the resultant parcel perimeter.

These vacations shall take effect upon the recording of an easement by Developer, which shall occur no more than 60 days from the date of the adoption of this ordinance.

The Developer shall deed to the City a utility easement for a sanitary sewer and lift station located along the southerly boundary of Block 62A, Unit 8, Cape Coral, as recorded in Plat Book 13, Pages 1 through 6 of said public records as more particularly described in Exhibit "B". The Developer shall execute and record the deed within 180 days of the date of approval of this Planned Development Project.

- F. The "Downtown Village Square" PDP subject parcel has 3.94 acres zoned Downtown Core (DC), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 3.94 acres with a Future Land Use designation of Downtown Mixed.
- G. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Downtown Core (DC) zoning district of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. However, the project has qualified and been awarded by the Cape Coral City Council increased density of 19 additional residential units per acre per

Resolution 10-10 under the Downtown CRA Redevelopment Incentive Program (RIP). This increase in 19 residential units per acre will allow the project to develop with an overall density of 39 residential units per acre consistent with the RIP and the Downtown Core Zoning District. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

- H. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- I. The "Downtown Village Square" PDP, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, the City of Cape Coral Community Redevelopment Plan for the Downtown Redevelopment Areas, and the City of Cape Coral Land Use and Development Regulations.
- J. The term Developer for purposes of this development order shall mean and refer to Downtown Village Square, LLC, its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for development approval submitted by Downtown Village Square, LLC, and Red Rock Land Corporation, with authorization from Fifth Third Bank, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

A. DRAINAGE/WATER QUALITY

- 1. Prior to the issuance of any site plan for the construction of the surface water management system, a South Florida Water Management District (SFWMD) construction permit for the proposed improvements shall be obtained and a copy provided to the City.
- 2. If the SFWMD construction permit plan differs from the plan submitted to the City for PDP approval, the Developer will not be required to amend the PDP unless a substantial deviation occurs as provided in Section IV.G.
- 3. At completion of construction of the required site improvements, the Developer shall provide certification by the Engineer of Record that all required surface water management infrastructure improvements have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral. The certification shall include the wording "Construction Compliance Certification."

B. ENERGY

- 1. The Developer shall incorporate at a minimum the following energy conservation measures into this development, through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Cape Coral City Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the first alternative shall be utilized and the following features must be included:
 - a. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
 - b. Use of energy efficient features in window design (e.g., tinting and exterior shading).
 - c. Use of operable windows and ceiling fans, where appropriate.

- d. Installation of energy-efficient appliances and equipment.
- e. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).
- f. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Cape Coral Department of Community Development.
- g. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
- h. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- i. Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- j. Consideration by the project architectural review committee(s) if any exists, of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with the above conditions.
- k. Provision of bicycle/pedestrian system connecting all land uses to be placed along arterial and collector roads within the project. The system is to be consistent with local government requirements.
- l. Provision of bicycle racks or storage facilities in recreational, commercial, and multi-family residential areas.

C. HURRICANE EVACUATION/SHELTERING

- 1. Prior to issuance of the building permits, the Developer shall meet with Lee County Emergency Management, and Cape Coral emergency management officials to discuss and identify (if appropriate) any areas in the common portion of the project that may be utilized as public shelter. A letter documenting this meeting shall be submitted to the City.
- 2. The Developer shall encourage actual site users and developers to incorporate within their building design the sheltering demands of the employees and their families.

D. WETLANDS, VEGETATION, AND WILDLIFE

- 1. Ongoing control and removal of nuisance exotic plants onsite is required, including but not limited to, *Casuarina* sp. (Australian Pine), *Melaleuca quinquenervia* (melaleuca), *and* *schinus terebinthifolius* (Brazilian Pepper), all Category I invasive exotic plants listed by the Florida Exotic Pest Plant Council.
- 2. All landscaping and screening required in the subject development by either this Development Order or the City Code of Ordinances or the City Land Use and Development Regulations shall be maintained in good condition throughout the life of this development.
- 3. The Developer shall comply with the State of Florida regulations pertaining to the protection of gopher tortoise burrows located on the site and a protective barrier composed of stakes, silt fence, and rope or other suitable materials shall be placed around all gopher tortoise burrows, including any that are discovered during the life of the project. This requirement shall be waived if the Developer provides the City with evidence of a funded permit prior to the issuance of any City of Cape Coral permit. The Developer shall seek a gopher tortoise relocation permit for some or all of the gopher tortoises that must be removed from the site, if such permit is

available at the time of development. Only as a last resort shall the Developer seek a gopher tortoise take permit. Entombment of tortoise is strictly prohibited at all times, regardless of the type of permit procured by the applicant.

4. In the event all or a portion of the subject property is located within an Eagle Nest Management Zone, the developer shall comply with all City laws, regulations, and guidelines that are currently in effect or that may be hereafter adopted by the City concerning the protection and management of bald eagle nests including, but not limited to Chapter 23 of the City Code of Ordinances. No development shall occur on any portion of the subject property that is within an Eagle Nest Management Zone except in accordance with a Bald Eagle Management Plan that has been approved by the City. Once an Eagle Management Plan has been approved by the City for all or a portion of the property, the Developer's ability to develop in accordance with such Plan shall not be affected by any amendment to the City's regulations concerning eagle nests, so long as no additional or "new" eagle nest need to be accommodated. In the event, however, that one or more eagle nests are hereafter established or determined to be active in locations that result in all or a portion of the subject property being located in a new or expanded Eagle Nest Management Zone, then no development shall occur in such new zone except in accordance with an Eagle Management Plan that has been approved by the City for such zone.

E. FIRE PROTECTION

1. Fire impact fees shall be paid as provided in Section III.N.16. herein.
2. The Developer shall review site development plans with the Cape Coral Fire Department to incorporate fire protection design recommendations into the project.

F. WATER CONSERVATION

1. The Developer shall incorporate the use of water conserving devices as required by state law (Section 553.14, Florida Statutes).
2. For the purpose of non-potable water conservation, the development should require, through the use of deed restriction, the utilization of Florida Yards and Neighborhoods (FYN) and other xeriscape principals, where feasible, in the design and installation of the project's landscaping. FYN materials and assistance are available through the Planning Division and Environmental Resources Division.
3. Irrigation will be accomplished in accordance with City Ordinance(s) or South Florida Water Management District mandate as applicable.

G. SOLID WASTE

1. The Developer and tenants of the project should investigate methods of reducing solid waste volume at the project.
2. The Developer and tenants of the project shall identify to the City, the presence of and the proper on-site handling and temporary storage procedures for hazardous waste that may be generated on-site, in accordance with local, regional, and state hazardous waste programs.
3. The Developer will require that an EPA/DEP approved holding storage tank be provided on-site along with the proper monitoring devices if a prospective user has the potential for producing toxic or industrial waste. These wastes shall be disposed of off-site by a company licensed to dispose of such wastes.
4. The Developer shall inform the waste hauler and disposer of the nature of any hazardous waste on the site, to determine if, and the extent of, any special precautions that may be necessary.
5. No solid waste disposal facilities shall be located on site.

6. The Developer will participate in recycling programs.
7. Solid waste disposal shall be provided through Lee County, Florida pursuant to Special Act, Chapter 85-447. Current and planned facilities have sufficient capacity to meet the demands of this development.

H. WASTEWATER MANAGEMENT

1. Wastewater (sewer) service is available to the site.
2. The Developer shall design, construct and install all improvements required by the City to connect to the City's wastewater system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Wastewater containing hazardous materials shall be segregated and handled in accordance with Florida Department of Environmental Protection (DEP) criteria. Wastewater entering the City system shall meet quality limitations as specified by City Ordinance(s).
4. Wastewater impact fees shall be paid as provided in Section III.N.16. herein.
5. The Developer shall connect to City wastewater facilities as specified by City Ordinance.
6. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the Wastewater system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

I. WATER SERVICE

1. Water service is available to the site.
2. The Developer shall design, construct and install all improvements required by the City to connect to the City's water system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Water impact fees shall be paid as provided in Section III.N.16. herein.
4. The Developer shall connect to City water facilities as specified by City Ordinance.

J. IRRIGATION SERVICE

1. Irrigation service is available to the site.
2. Developer shall connect to the City's irrigation system as prescribed by City Ordinance. The Developer shall design, construct, and install all improvements required by the City to connect to the City's irrigation system in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Irrigation impact fees shall be paid as provided in Section III.N.16. herein.

K. AIR QUALITY

1. If any of the individual tract owners/developers create a complex source of pollution as defined by DEP rules, they shall apply directly to DEP for permitting.
2. Each individual tract development will be required to comply with all federal, state and local laws and codes governing air quality and emissions.

L. HISTORICAL/ARCHAEOLOGICAL

During the life of the project, if any historical or archaeological sites are uncovered, work in the vicinity shall cease until the proper authorities can be contacted and an evaluation of the site carried out.

M. TRANSPORTATION

1. The "Downtown Village Square" project is located within a Transportation Concurrency Exception Area (TCEA). To provide consistency with Policy 14.5 of the Future Land Use Element contained within the City's Comprehensive Plan, the Developer will implement five transportation improvement projects, identified below, that will support mobility enhancement within the Downtown TCEA.
 - a. Preferential parking for carpools, vanpools, or multiple occupancy vehicles. The Developer will provide and designate five spaces on the third level of the parking deck for these vehicles. These parking spaces will be identified with signs and will be located near one or more crossovers. These spaces will be reserved for employees working at businesses located within the Downtown Village Square development. Employees will be provided a form by their respective employers that validates the employee arrived at work with two or more occupants that day. The form will be displayed on the front dashboard of the vehicle.
 - b. Parking price structures to favor carpools, vanpools, and multiple occupancy vehicles to increase vehicle occupancy. The Developer will provide free parking for these vehicles on the third level of the parking deck.
 - c. Safe and convenient internal pedestrian and bicycle circulation in the development.
 - d. Structured parking for residents, patrons and employees. The Developer will provide a six story parking garage as part of the project.
 - e. Cluster buildings within the development or design the development to achieve maximum density that preserves open space, enhances multi-modal opportunities, and provides transit oriented densities.
2. Road impact fees shall be paid as provided in Section III.N.15. herein.
3. Developer shall convey to the City the component parts of the transportation infrastructure constructed by the Developer and being transferred to the City on a form acceptable to the City Attorney, together with such other evidence as may be required by the City that the transportation infrastructure is free of all liens and encumbrances.

N. GENERAL CONSIDERATIONS

1. Within 90 days of the approval of this development order, the Developer shall execute an affordable housing agreement with the City of Cape Coral. This agreement shall secure a minimum of five (5) affordable housing units for the project, or their monetary equivalent as provided herein. It shall be the Developer's option whether to provide housing in the project or their monetary equivalent.
 - a. If Developer elects to provide housing within the project, the agreement shall contain provisions generally consistent with those outlined within LDR, Section 5.7.G. The affordable housing agreement shall contain the following provisions:
 - (1) No affordable housing unit in the development shall be rented or sold to a tenant whose household income has not been verified as moderate, low, or very 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.

- (2) No affordable housing unit that is to be sold, leased with option to purchase, or otherwise conveyed in 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 section as moderate, low, or very low income family. Such verification and certification shall be the responsibility of the developer and shall be submitted to the City Manager or the City Manager's designee for approval. It is the intent of this section 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 and/or the unit) 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.
 - (3) No more than two affordable housing units shall be located within a single building or single tower of Building "D".
- b. If the Developer chooses to pay to the City a monetary amount for each housing unit not provided in the development, the agreement shall contain, at a minimum, the following provisions:
- (1) In lieu of providing the five onsite housing units, the Developer shall pay \$25,000 per unit for each unit not located within the development. The Developer shall pay the funds no later than at the time of issuance of a certificate of occupancy for a maximum of 80 residential units located within the project.
 - (2) Any unit for which the Developer pays a monetary amount shall be located within the boundaries of the CRA.
2. The Developer shall dedicate to the City a minimum of two thousand (2,000) sq. ft. of building space located on the ground floor of Building "D" for a police substation, and an additional 2,000 sq. ft. for governmental use. The City shall have 18 months beginning with the issuance of a certificate of occupancy for this building to determine whether the City wishes to utilize this space. If the City, at its option, decides it does not wish to utilize this site, this area shall be available to the Developer for use. Alternatively, in the event the area is initially utilized by the City and subsequently left vacant by the City for a minimum of nine months, the Developer may at his option provide written notification to the City Manager regarding the City's intentions for using this space. If within 90 days of receipt of this letter the City does not respond or acknowledges to the Developer that it does not intend to use this space, this area may be utilized by the Developer. If the City intends to use this space, it shall notify Developer within 90 days of receipt of the letter. For as long as the City chooses to utilize the aforementioned 4,000 sq. ft., the City will receive this space free of rent, but will be responsible for typical maintenance-related expenses and monthly utility payments.
 3. Within a building, awnings and canopies having similar dimensions and located within the same floor of said building shall be of the same color and style. This provision shall apply only to floors exclusively containing residential dwelling units and to all six floors of the parking garage. This requirement does not apply to any floor of the development that contains nonresidential uses, nor shall it apply to the liner buildings located directly adjacent to the parking garage.
 4. The Developer shall provide a minimum of 127 parking spaces located on the ground floor of Building "D" as depicted on Sheet C-4 that shall be reserved for public use in perpetuity. Parking located on the ground floor of the parking garage

will be available free of charge unless the City Council approves a request from the Developer for charging a fee associated with this use.

5. In no event shall the total parking demand for the project as determined by the City exceed the minimum number of parking spaces provided by the Developer for the mix of uses supported by the Downtown Village Square project.
6. The Downtown Village Square project at build out shall contain a minimum of 251,546 square feet of nonresidential uses.
7. All creditable features of the Downtown CRA Redevelopment Incentive Program (RIP) used for the basis of approval for increased density above the baseline density shall remain in place throughout the life of the development, unless such basis of approval for increased density is rescinded or amended by the City. Except as otherwise provided herein, the owner, of the real property on which the density above the baseline density is approved shall be responsible for maintaining any such creditable feature 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 to creditable features 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.
8. Approval of the increase in density under the RIP runs with the land and is transferable to any future owner of the land, but it cannot be transferred to a different site or a different project on the same site. If a site plan or PDP Development Plan expires, any award of increased density also expires at the same time.
9. All buildings of the Downtown Village Square development shall be constructed consistent with the building elevations prepared by Bradford & Company Design Group, Inc., as depicted in Sheets A-1 through A-4, B-1 through B-4, C-1 through C-4, D-1 through D-3, and E-1 through E-4 bearing a revision date of September 21, 2009 prepared by Bradford and Company Design Group, Inc.
10. Prior to issuance of a permit, the Developer shall enter into an agreement, in a form acceptable to the City Attorney, regarding obligations resulting from landscaping located in utility easements.
11. Prior to receiving a building permit for Building "A", the Developer shall provide LCEC with a private easement for relocating LCEC facilities from the vacated six foot wide public utility easement located immediately north of the 15 foot wide alley that is centrally located within Block 62A and is proposed to be vacated by the Developer.
12. The City will pay up to \$265,000 for the costs and fees associated with relocating the transmission pole at the northwest corner of the property. Any additional costs and fees associated with the relocation of the pole shall be paid by the Developer.
13. Nothing in this development order shall prevent the Developer from granting any utility provider with one or more private utility easements for servicing the Downtown Village Square development. This development order contemplates that minor alterations to the site and building plans may be necessary, and therefore shall be allowed, to accommodate these easements for the purpose of locating utility facilities for providing service to the project.
14. The City agrees to waive the building permit fees for the construction of Buildings A, B, C, D, and E, including the parking structure and two towers associated with Building D, if not constructed simultaneously.
15. The Developer is not required to pay the City's impact fees for this development. This includes only impact fees charged by the City; impact fees or any other fees

charged by other entities but collected by the City are not included. The City will pay all City impact fees that Developer is not required to pay.

16. Certificates of Occupancy for the residential units shall be limited to 122 units until such time as certificates of occupancy for Buildings A, B, and D, in their entirety, are issued and the existing carwash is demolished. After the Developer has received the certificates of occupancy for Buildings A, B, and D, and the carwash is demolished, another 24 residential units may be developed within Building C and another 6 residential units may be developed within Building E.
17. The Developer shall incorporate into all structures within the project a firefighter breathing air replenishment system (FBARS) for high-rise buildings. The system shall contain, at a minimum, an air filling control panel, an emergency air monitoring system, an RA-4 air filling station, an exterior mobile air connection, an emergency air storage system and a series of air standpipes.

O. CONCURRENCY

1. The "Downtown Village Square" PDP is concurrent for sewer, water, drainage, solid waste, and parks based on the analysis of the proposed development and specific mitigation programs specified herein.
2. The "Downtown Village Square" project is located within a Transportation Concurrency Exception Area (TCEA) and therefore is subject to the provisions contained within Section III.M. of this ordinance.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Downtown Village Square" PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the "Downtown Village Square" PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review, unless it is found by the City Council, after due notice and hearing, that one or more substantial deviation(s), or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City have occurred. Substantial deviations include but are not limited to:

1. Any change which requires a variance to code and above those specifically incorporated herein.
2. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
3. An expiration of the period of effectiveness of this Development Order as herein provided.
4. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved, and all local approvals have been obtained.

- H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.

- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

SECTION V. 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 VI. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 10th DAY OF April, 2010.

John J. Sullivan
JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	<u>may</u>
McCLAIN	<u>aye</u>
BRANDT	<u>aye</u>
DEILE	<u>aye</u>
CHULAKES-LEETZ	<u>aye</u>
KUEHN	<u>aye</u>
McGRAIL	<u>aye</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 17th DAY OF May, 2010.

Rebecca van Deutekom
REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
ord/pdp088-6

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality, that this is a true and correct copy of Ordinance 142-10.

Rebecca van Deutekom
City Clerk

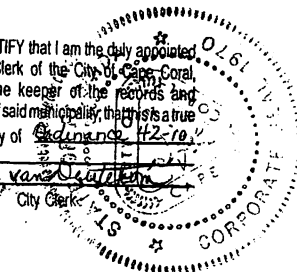


EXHIBIT "A"

Downtown Village Square
City of Cape Coral, Lee County, Florida
(Basis of Bearings - SE 47th Terrace - Due East)

Legal Description
(Description for Overall Property *After* Vacation)

All of Block 62A, Unit 6, Part I, Cape Coral, as recorded in Plat Book 11, Pages 45 through 47 of the Public Records of Lee County, Florida; and
All of Block 62A, Unit 8, Cape Coral, as recorded in Plat Book 13, Pages 1 through 6 of the Public Records of Lee County, Florida; and all alleys within and in-between said Blocks.

Further described as follows: Commencing at the Northwest corner of Section 18, Township 45 South, Range 24 East, City of Cape Coral, Lee County, Florida, thence S89°03'21"E for a distance of 676.08 feet along the Northerly line of said section to the Easterly line of the sixty foot wide right-of-way known as Southeast 8th Court (aka Chester Street) and the Point of Beginning of the parcel described herein:

Thence due North a distance of 111.14 feet along said Easterly line, to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of N45°00'00"E, a chord distance of 35.36 feet, a central angle of 90°00'00", for an arc distance of 39.27 feet to the Southerly line of the sixty foot wide right-of-way known as Southeast 47th Terrace (aka Marina Drive); thence due East a distance of 524.00 feet along said Southerly line to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of S45°00'00"E, a chord distance of 35.36 feet, a central angle of 90°00'00", for an arc distance of 39.27 feet to the Westerly line of the sixty foot wide right-of-way known as Southeast 9th Place (aka Candida Street); thence due South along said Westerly line a distance of 252.81 feet to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of S45°18'00"W, a chord distance of 35.54 feet, a central angle of 90°35'59", for an arc distance of 39.58 feet to the Northerly line of the 100 foot wide right-of-way known as Cape Coral Parkway East; thence N89°24'01"W for a distance of 524.03 feet to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of N44°42'01"W, a chord distance of 35.17 feet, a central angle of 89°24'01", for an arc distance of 39.01 feet to the Easterly line of the sixty foot wide right-of-way known as Southeast 8th Court (aka Chester Street); thence due North along said Easterly line for a distance of 136.19 feet returning to the Point of Beginning.

171,711.4394 sq.ft. or ±3.9420 Acres

EXHIBIT " B "

Downtown Village Square
City of Cape Coral, Lee County, Florida
(Basis of Bearings - SE 47th Terrace - Due East)

Legal Description
(New Sanitary Sewer and Lift Station Easement)

A sanitary sewer and lift station easement along the Southerly boundary of Block 62A, Unit 8, Cape Coral, as recorded in Plat Book 13, Pages 1 through 6 of said Public Records.

Further described as follows: Commencing at the Northwest corner of Section 18, Township 45 South, Range 24 East, City of Cape Coral, Lee County, Florida, thence S89°03'21"E for a distance of 676.08 feet along the Northerly line of said section to the Easterly line of the sixty foot (60') wide right-of-way known as Southeast 8th Court (aka Chester Street); thence continue S89°03'21"E for a distance of 6.00 feet to the Easterly line of a 6' wide public utility and drainage easement and the Point of Beginning of the easement described herein:

Thence continue S89°03'21"E for a distance of 562.06 feet along said section line to the Westerly line of a 6.00 foot public and utility easement; thence due South a distance of 15.00 feet along the Westerly line of said easement; thence N89°03'21"W a distance of 538.06 feet, a distance of 15.00 feet from and parallel to said section line; thence due South a distance of 15.00 feet, a distance of 30.00 feet from and parallel with the Easterly line of the sixty foot (60') wide right-of-way known as Southeast 8th Court (aka Chester Street); thence N89°03'21"W a distance of 24.00 feet, a distance of 30.00 feet from and parallel with said section line, to the Easterly line of a 6.00 foot public and utility easement; thence N00°00'00"E a distance of 30.00 feet along the Easterly line of said easement returning to the Point of Beginning.

8,790.9244 sq.ft. or ±0.2018 Acres

DOWNTOWN VILLAGE SQUARE, LLC.
4002 DEL PRADO BLVD
CAPE CORAL FL, 33904
239-274-7000
CONTACT: ROBERT A. LEE, JR.
e-mail: ROBERTALEEJR@AOL.COM

CITY OF CAPE CORAL
1017 CULTURAL PARK BLVD.
CAPE CORAL, FL 33990
PH (239) 574-7722

EMBARQ FLORIDA, INC.
2820 CARGO STREET, BUILDING A
FORT MYERS, FLORIDA 33916
PHONE (739) 336-2049

L.C.E.C.
4980 BAYLINE DRIVE
NORTH FORT MYERS, FL 33917
PH (239) 656-2300

COMCAST
- 26102 BONITA GRANDE DRIVE
BONITA SPRINGS, FL 34145
PH (239) 732-3805 FAX (239) 498-5456

WASTE MANAGEMENT
HWY 82 EAST
FT MYERS FL 33913
PH 239-33434115

CITY OF CAPE CORAL
815 NICHOLAS PARKWAY
CAPE CORAL, FL 33990
PH (239) 574-3311

MEASUREMENT SCIENCE CORPORATION
11810 ISLE PALMS DRIVE
FORT MYERS BEACH, FLORIDA 33931
PHONE (239) 437-7405

ISLAND DEVELOPMENT, LLC.
4002 DEL PRADO BLVD., SOUTH
CAPE CORAL, FLORIDA 33904
PHONE (239) 274-7000 FAX (239) 945-1105

AMB PLANNING CONSULTANTS, INC.
P.O. BOX 3495 NORTH FORT MYERS, FLORIDA 33918
PHONE (239) 850-8301

[illegible]

LOCATION MAP
SCALE: 0 986170

DEI PROJECT NO.: 07-121-01

877 CAPE CORAL PKWY E
CAPE CORAL FL 33904

3.9400 ACRES

C.R.A. EDGE DISTRICT (PROPOSED CORE DISTRICT)

DOWNTOWN MIXED USE

07-45-24-C4-00062 A00B
1B-45-24-C1-01062 A160
1B-45-24-C1-01062 A140
1B-45-24-C1-01062 A060
1B-45-24-C1-01062 A040
1B-45-24-C1-01062 A010

SHEET NUMBER	DESCRIPTION
C-1	COVER SHEET
C-2	EXISTING CONDITIONS
C-3	DEMO PLAN
C-4	SITE PLAN
DA	PARKING PLAN
C-5	PHASE 1 AND 2 TEMP. PARKING PLAN
C-6	DRAINAGE PLAN
C-8	GRADING PLAN
C-7	UTILITY PLAN
PP-1	PLAN & PROFILE SHEET
L-1	LANDSCAPE PLAN
D-1	DETAILS
D-2	DETAILS
D-3	DETAILS
D-4	DETAILS
D-5	DETAILS
D-6	DETAILS
D-7	CAPE CORRAL E.D.S. DETAILS
SC	STORMWATER DETAILS
EC-1	EROSION CONTROL NOTES
EC-2	EROSION CONTROL DETAILS
EC-3	EROSION CONTROL DETAILS



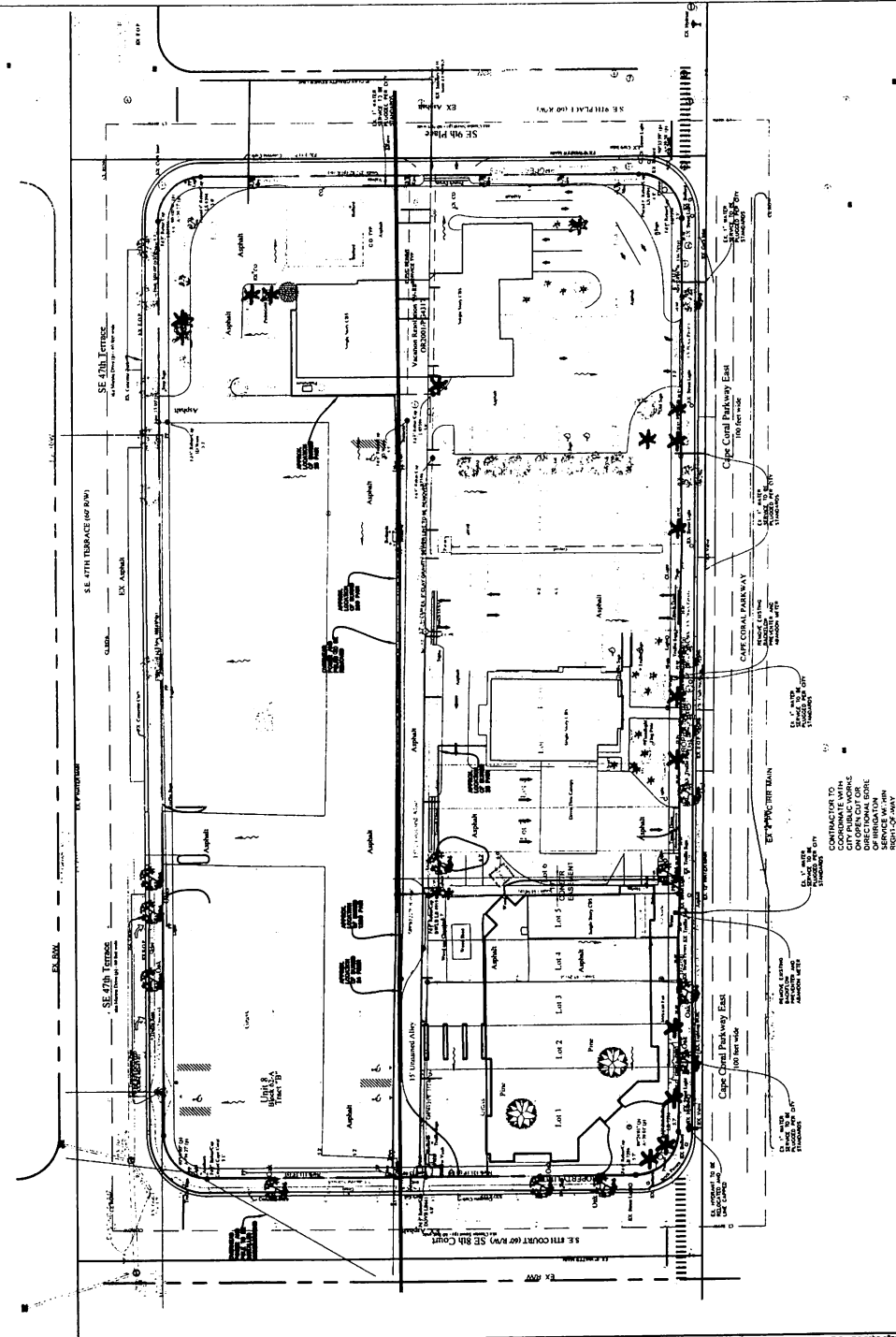
Civil Engineers & Planners

Certificate of Authorization NO. 25460
1216 4th Street, Suite 4, Cape Coral, FL 33991
(239) 945-0551 Fax (239) 772-0141 E-mail: Steve@Cei-fla.com

REGISTERED PROFESSIONAL ENGINEER
FLORIDA CERTIFICATE NO. 45190

STEVEN L. DARBY, P.E.

DATE _____



① Found Ruler or Pipe
 ② Placed Ruler as Cap
 ③ Found Concrete Monument
 ④ Found Nail in Washer
 ⑤ Found Nail in Washer
 ⑥ Spot Elevation of Survey Point
 ⑦ Water Valve or Meter
 ⑧ Manhole
 ⑨ Fire Hydrant
 ⑩ Wood/Metal Pole
 ⑪ Concrete Pole
 ⑫ (CU) - Cleanout
 (d) - per deed
 (p) - per plat
 (c) - calculated
 (m) - as measured
 CH - Offsite Line
 DB - Plat Record
 DB - Deed Book
 PG - Pole
 E - Existing Spot Elevation
 6.7 - Elevation

PROPERTY DESCRIPTION

[illegible]

SITE NOTES

1. BEARINGS SHOWN HEREON REFER TO THE CENTERLINE OF S.E. 8TH PLACE OF 140°00'00"E
2. BENCHMARK ORIGIN CITY OF CAPE CORAL, T.B.M. #102-47-01, ELEV.=6.01'
3. THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE A4, HAVING A BASE FLOOD ELEVATION OF 8' PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP # 125096 004-C DATED SEPTEMBER 10, 1985
4. ELEVATIONS REFER TO THE NATIONAL GEODESIC VERTICAL DATUM OF 1929

PERSON BY	DATE	SCALE	1" = 30'	PERMIT REVIEW SET		REVISIONS
				MARCH 2006		
DESIGNED BY						
CHECKED BY						
DATE						
CHECKED BY						
DATE						

DOWNTOWN VILLAGE SQUARE LLC
4002 DEL PRADO BLVD
CAPE CORAL FL 33904
PHONE 239 274 7000 FAX 239 645 1166

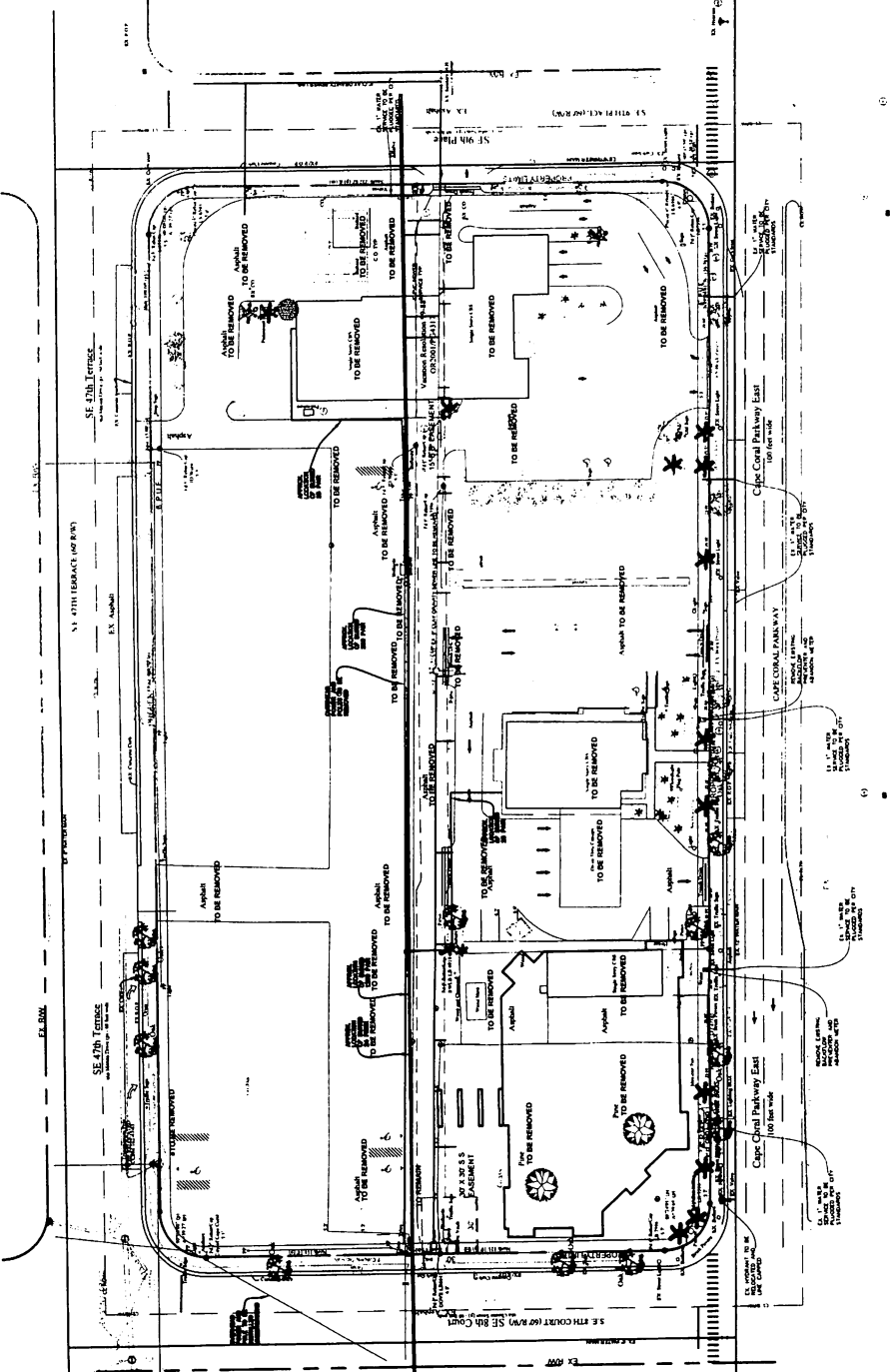
STEVEN L. DARBY, P.E.
FL REG # 46190





(State) **Illinois** Certificate of Authorization NO. 26460
 210 4th Street Suite 4, Cape Coral FL 33991

VILLAGE SQUARE

DEI PROJECT NO. 07-121-01
SHEET NO. C-2



**EXISTING MANHOLES AND DRAINAGE STRUCTURES TO
REMAIN UNLESS NOTED**

 DEI 	STEVEN L. DUBBY, P.E. FLS REG #45190 407 WILSON BLVD SUITE 100 WEST PALM BEACH, FL 33411 TEL: (561) 832-1111 FAX: (561) 832-1140	100% Building Solutions & Innovations Certificate of Accreditation HQ 264 1218 W. State Street, Suite 130 West Palm Beach, FL 33411 Tel: (561) 832-1111 Fax: (561) 832-1140
REVISIONS	DOWNTOWN VILLAGE SQUARE LLC 1000 N. MILITARY AVE SUITE 1000 WEST PALM BEACH, FL 33401 PHONE 335-274-7000 FAX 335-274-1906	SCALE 1" = 30' DRAWN BY: ON DATE: MARCH 2010 CHECKED BY: BLD
MARCH 2008	PRELIM REVIEW SET	

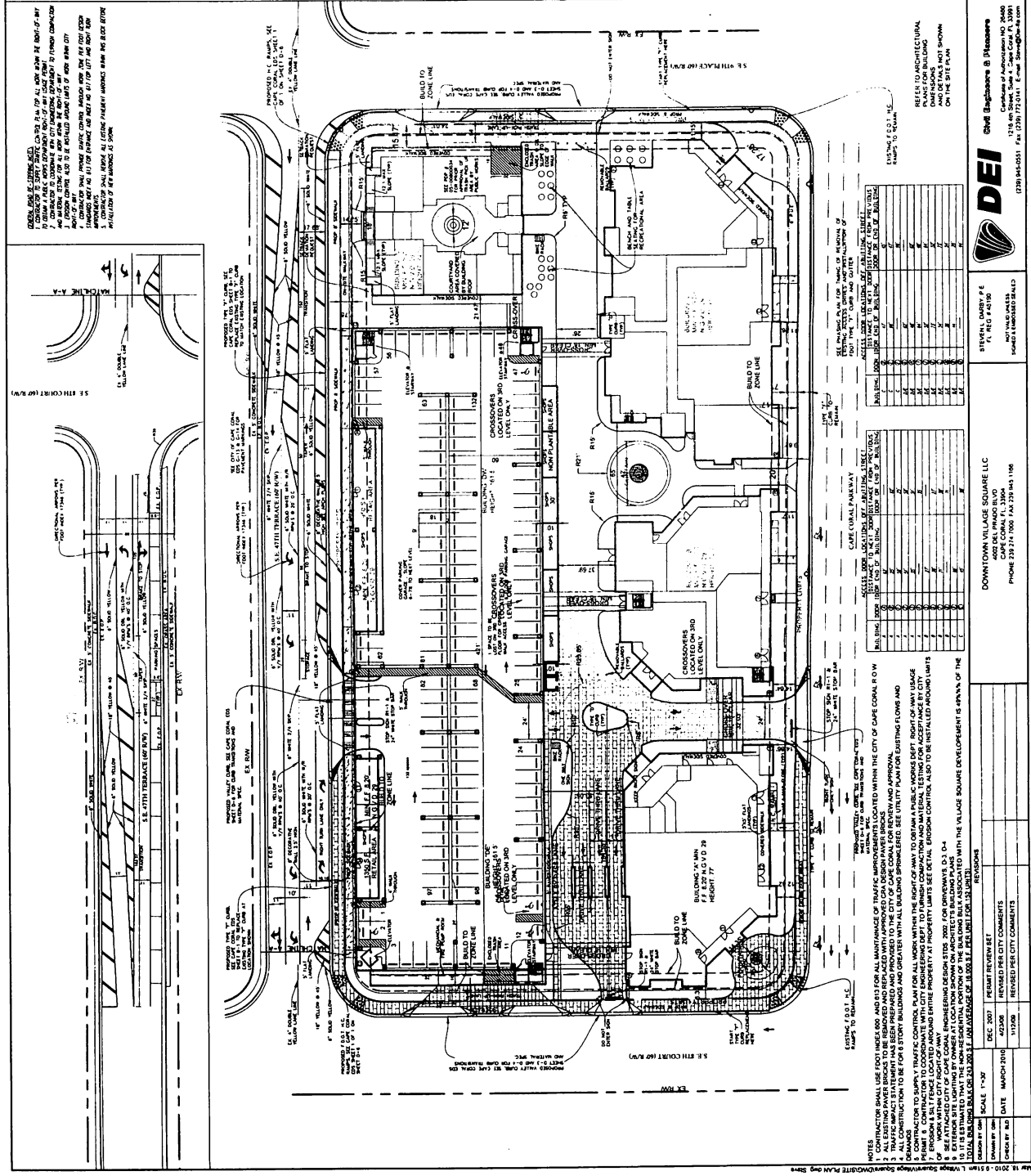
DEI

1216 48 Street, Suite 4, Cape Canaveral, FL 32926
(320) 944-0861 Fax: (320) 772-0111 E-mail: Steve@dei-usa.com

Copyright of Amusement World 2004


1216 48 Street, Suite 4, Cape Canaveral, FL 32926
(320) 944-0861 Fax: (320) 772-0111 E-mail: Steve@dei-usa.com

VILLAGE SQUARE	DE PROJECT NO 07-127-01
DEMO PLAN	SHEET NO C-3

[illegible]

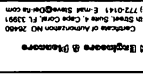
A horizontal scale bar with alternating black and white segments. It is marked with '0' at the left end, '20' in the middle, and '40' at the right end.



DESIGN BY: CH DRAWING NO: 63000-1 CHECKED BY: SLD		SCALE: 1"=20' DATE: MARCH 2010		REVISIONS DEC 2007 PERMIT REVIEW SET		DOWNTOWN VILLAGE SQUARE LLC 4002 DEL PRADO BLVD CAPE CORAL FL 33904 PHONE 239 274 7300 FAX 239 945 1165		STEVEN L. DARRY, P.E. FL REG. # 45190 NOT VALID UNLESS SIGNED & EMPOWERED SEALED		 DEI Civil Engineers & Planners Certificate of Authorization NO. 25460 1216 4th Street, Suite 4, Cape Coral, FL 33991 (239) 945-0551 Fax: (239) 772-0141 E-mail: Steve@Dei-Fa.com		VILLAGE SQUARE TEMPORARY PARKING LAYOUTS FOR PHASE I AND II		DEI PROJECT NO. 07-121-01 SHEET NO. C-4B	
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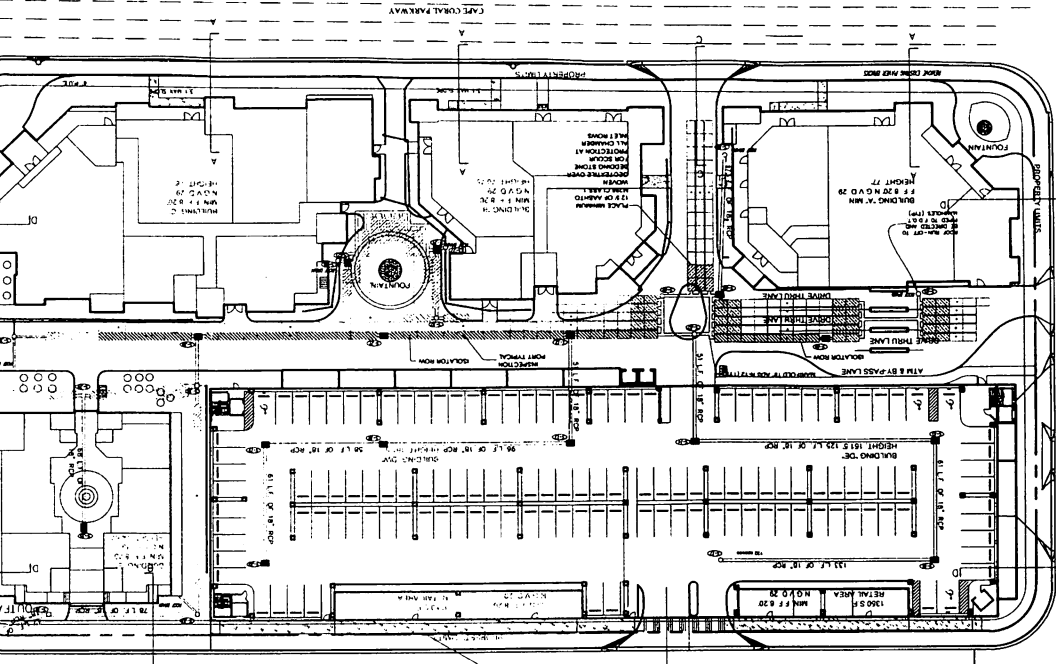
DOWNTOWN VILLAGE SQUARE LLC
4002 DEL PRADO BLVD
CAPE CORAL FL 33904
PHONE 238 274 7000 FAX 238 945 1166

TOTAL SITE	*	17174 SF	3.94 AC	100.0 %
PERVIOUS	*	23510.00 SF	0.94 AC	13.7 %
PAVKS	*	25874 SF	0.60 AC	15.1 %
PAVEMENT	*	10810 SF	0.23 AC	6.4 %
BUILDING	*	111299 SF	2.56 AC	64.8 %



SHEET NO.

21-01

[illegible][illegible]

LEGEND

DRAINAGE GRADING ARROW

PROPOSED INLET AND DRAINAGE PIPE

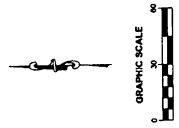
REFINFORCED CONCRETE PIPE

PROPOSED DRAINAGE STRUCTURE

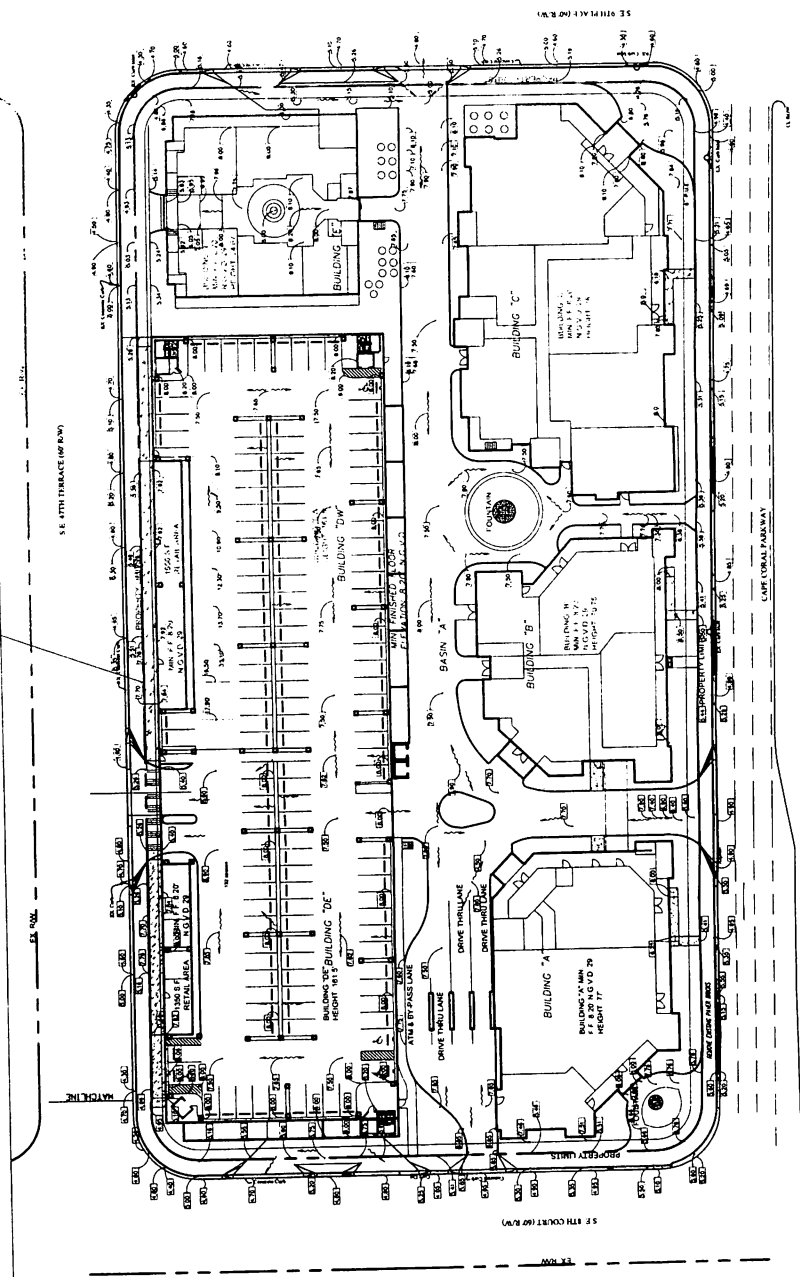
PROPOSED GRADE ELEVATION

EXISTING GRADE ELEVATION





PLEASE 3' OFFSET FROM PROPERTY SEDIMENT & EROSION CONTROL
LIMITS SHOWN ON SHEET EC-1 THRU EC-3 LIMITS AROUND
ENTIRE PROPERTY.



LEGEND

- 15" ROP
- PROPOSED DRAINAGE STRUCTURE
- PROPOSED GRADE ELEVATION
- EXISTING GRADE ELEVATION

EROSION CONTROL NOTES:

1. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY, APPROPRIATE EROSION CONTROL DEVICES SHALL BE INSTALLED TO CONTROL EROSION AND TO MAINTAIN THE STABILITY OF THE DISTURBED AREAS. THE EROSION CONTROL DEVICES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD AND SHALL BE REMOVED ONLY AFTER THE DISTURBED AREAS HAVE BEEN RESTORED TO ORIGINAL OR BETTER CONDITION.
2. THE FOLLOWING MINIMUM REQUIREMENTS ARE RECOMMENDED:
 - a) TEMPORARY GRAVEL CONSTRUCTION ENTRANCE
 - b) SALT FENCE
 - c) SALT FENCE TO BE MAINTAINED AS NECESSARY
 - d) SALT FENCE TO BE MAINTAINED AS NECESSARY
3. SALT FENCE TO BE MAINTAINED AS NECESSARY

NOTE: CONTRACTOR RESPONSIBLE FOR CHANGING, ADJUSTING, AND MAINTAINING THE EROSION CONTROL DEVICES AND STABILIZING THE DISTURBED AREAS IN COMPLIANCE WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) - NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) POLLUTION PREVENTION PLAN (P3) AND THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) - NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) POLLUTION PREVENTION PLAN (P3) AND THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) - NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) POLLUTION PREVENTION PLAN (P3).

VILLAGE SQUARE
GRADING PLAN

DEI
Civil Engineers & Planners
11111 N. 11th Ave., Suite 100
Miami, FL 33150
Phone: 305.444.1111
Fax: 305.444.1111

DOWNTOWN VILLAGE SQUARE LLC
4002 DEL PRADO BLVD
MIAMI, FL 33146
PHONE 305.274.1000 FAX 305.444.1100

DATE	SCALE	BY	REVISIONS
SEPT 2007	1" = 30'	7/25/08	PERMIT REVIEW SET
MARCH 2010			REVISED PER SPWM COMMENT
			REVISED PER SPWM COMMENT
			REVISED PER SPWM COMMENT

PROJECT NO. 07-121-01
SHEET NO. C-6

DESIGNER: CH2M HILL	DATE: MARCH 2010	REVISIONS
SCALE: AS SHOWN	MARCH 2008 PERMIT REVIEW SET	
	7/25/08 REVISED PER SHAW COMMENT	

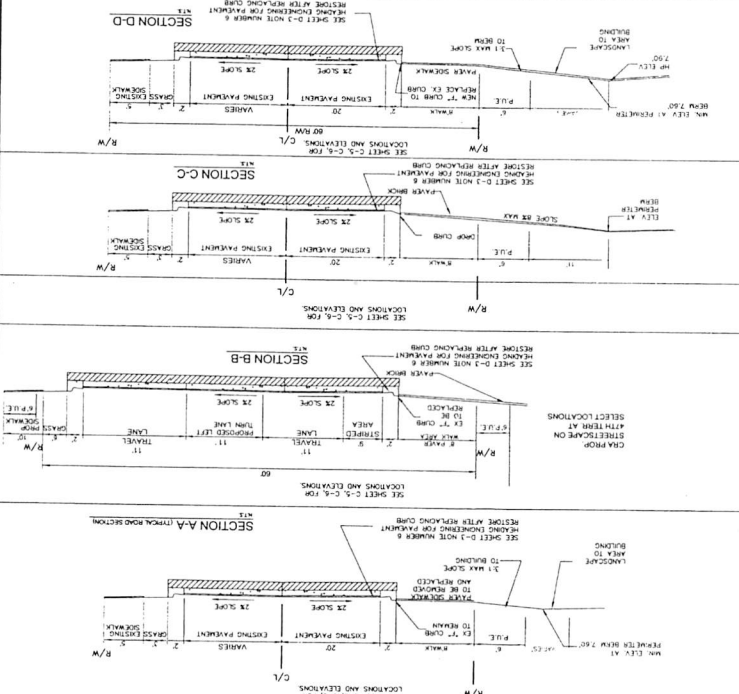
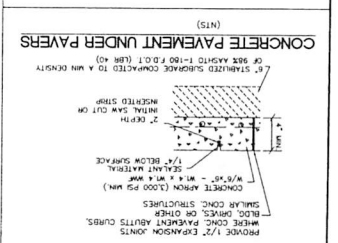
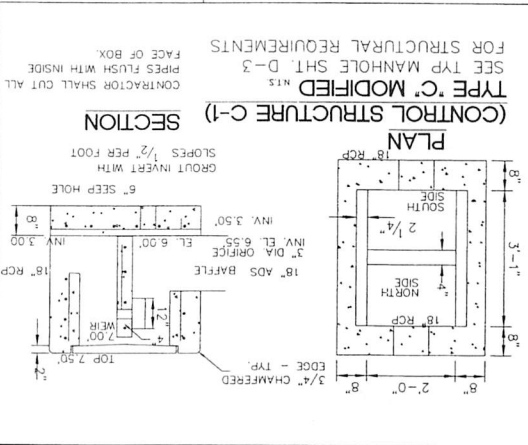
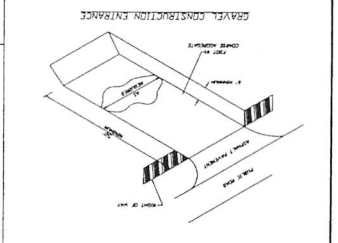
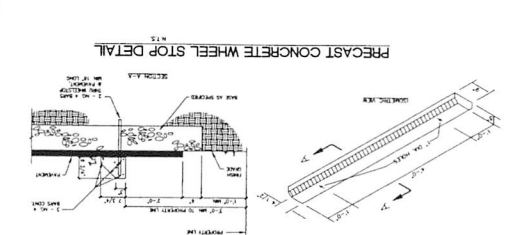
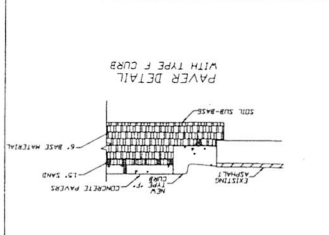
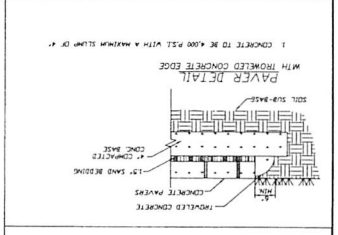
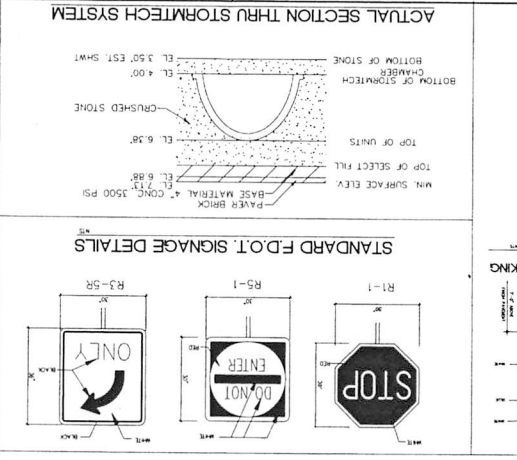
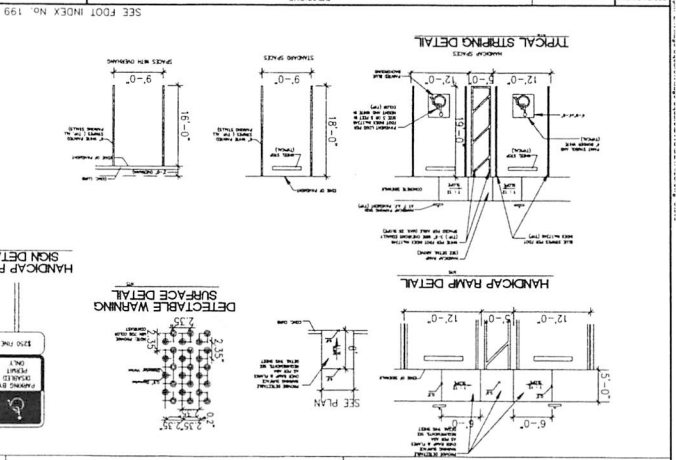
DOWNTOWN VILLAGE SQUARE LLC
 4002 DEL. PARKWAY RD.
 CLARK COUNTY, FL 33064
 PHONE 239 274 7000 FAX 239 345 1090
 STURTELL COMPANY P.C.
 1716 SW 5TH AVE. SUITE 4
 MIAMI, FL 33135
 (305) 345-0551 FAX (305) 772-0141 Email: sturteell@ch2m.com

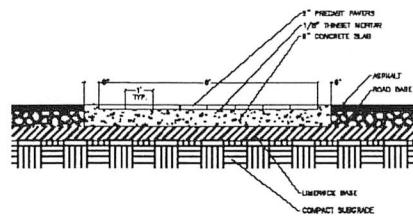


CH2M HILL
 1716 SW 5TH AVE. SUITE 4
 MIAMI, FL 33135
 (305) 345-0551 FAX (305) 772-0141 Email: sturteell@ch2m.com

DETAILS

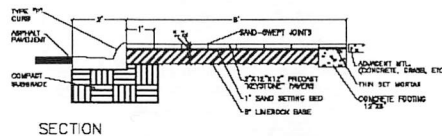
SHEET NO. D-1
 DE PROJECT NO. 07-121-01



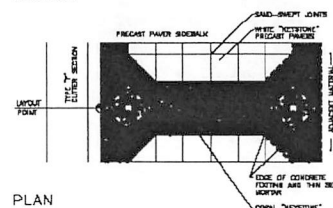


1 PEDESTRIAN CROSSWALK

SCALE: 3/4"=1'-0"



SECTION

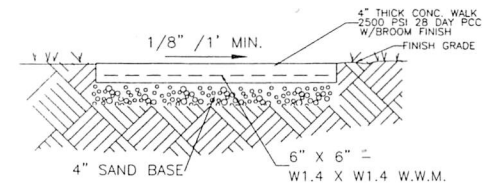


PLAN

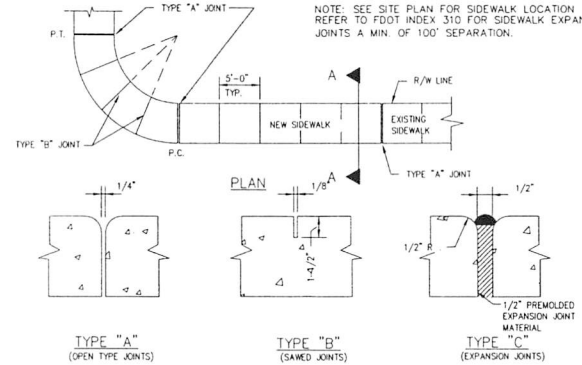
2 PRECAST PAVER SIDEWALK

SCALE: 3/4"=1'-0"

SIDEWALK CONSTRUCTION DETAIL WITHIN R/W
NOT TO SCALE



NOTE: SEE SITE PLAN FOR SIDEWALK LOCATION
REFER TO FOOT INDEX 310 FOR SIDEWALK EXPANSION
JOINTS A MIN. OF 100' SEPARATION.



TYPE "A"
(OPEN TYPE JOINTS)

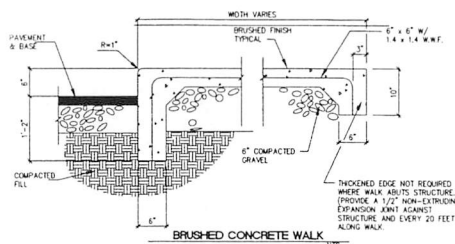
TYPE "B"
(SAVED JOINTS)

TYPE "C"
(EXPANSION JOINTS)

TABLE OF SIDEWALK THICKNESS-T"	
LOCATION	T"
RESIDENTIAL AREAS	4"
AT DRIVEWAYS AND OTHER AREAS	6"

TABLE OF SIDEWALK JOINTS	
TYPE	LOCATION
"A"	P.C. AND P.T. OF CURVES JUNCTION OF EXISTING AND NEW SIDEWALKS
"B"	5'-0" CENTER TO CENTER ON SIDEWALKS
"C"	WHERE SIDEWALK ABUTS CONCRETE CURBS, DRIVEWAYS AND SIMILAR STRUCTURES

SIDEWALK CONSTRUCTION DETAIL
NOT TO SCALE



GENERAL NOTES:

1. RESIDENCE IS SET BACK MORE THAN 10' FROM THE EDGE OF
PAVEMENT. SPECIAL CONDITIONS MAY APPLY.
2. REPLACEMENT OF NONSTRUCTURAL MATERIAL (E.G., PAVEMENT, UNPAVED
CONCRETE, SPECIAL CURBS, ETC.) IN WHICH AN IN PART BY THE CITY
FOR RESIDENTS' CONVENIENCE OR STREET REPAIRS SHALL BE
REPAIRED BY THE OWNER AT THEIR EXPENSE.

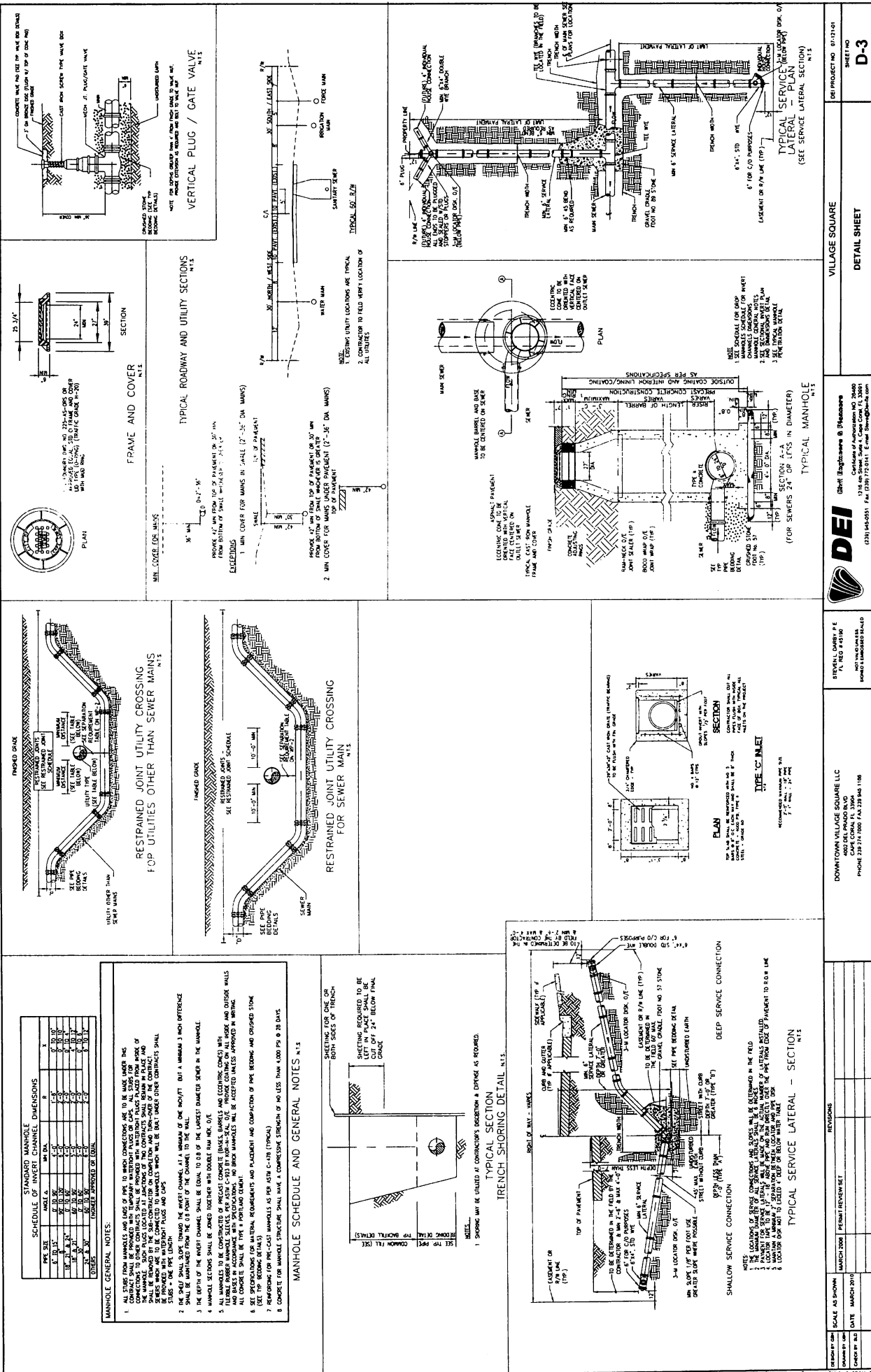
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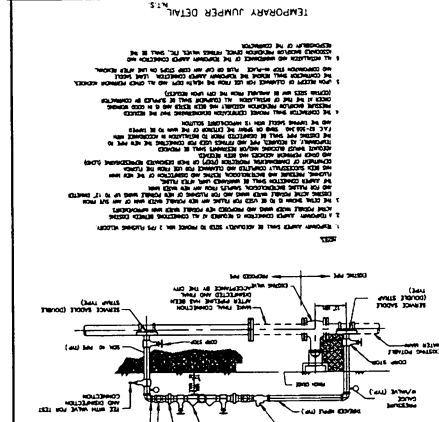
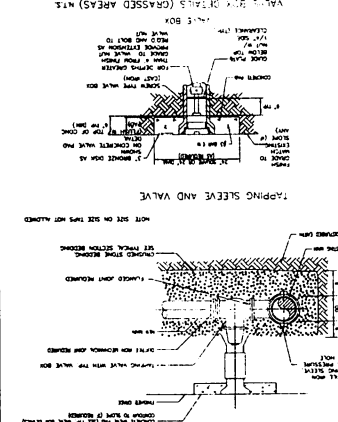
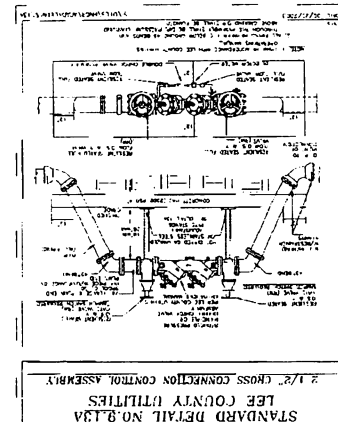
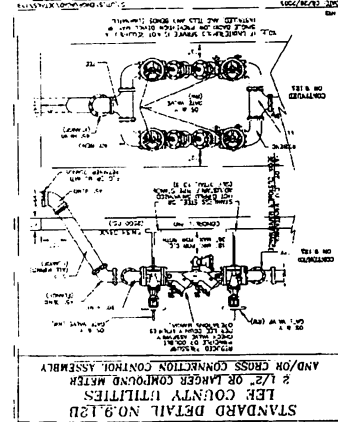
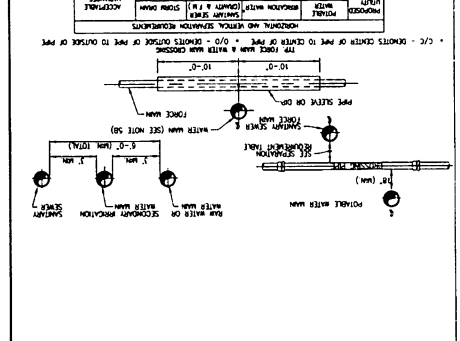
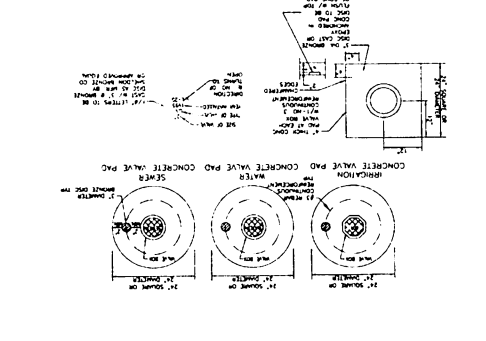
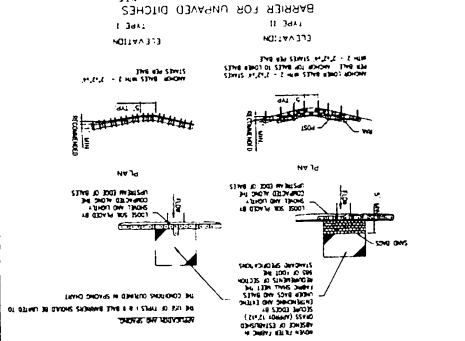
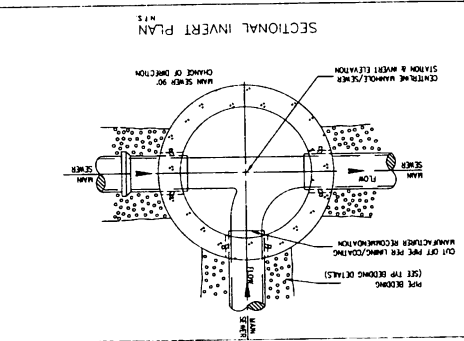
1. INSPECTIONS OF SIDEWALK CONSTRUCTION IS REQUIRED BY THE ENGINEERING DIVISION
AFTER FORMING AND BEFORE POURING.
2. INSPECTIONS OF SIDEWALKS ARE REQUIRED AS FOLLOWS:
1) STAKE OUT INSPECTION - TO INTERVIEW GRADES FOR FLOW.
2) FORM INSPECTION - INSURE AFTER FORMING INSPECTION APPROX. AND ON
SIDEWALKS FOR COMPLIANCE OF CITY SPECIFICATIONS.
3) CONCRETE INSPECTION - INSURE REINFORCEMENT OF ALL STRUCTURAL AREAS.
3. ALL INSPECTIONS SHALL BE SCHEDULED THROUGH A & B RECORDED AT 300-4100 AS
INDICATED ON THE PERMIT CARDS.

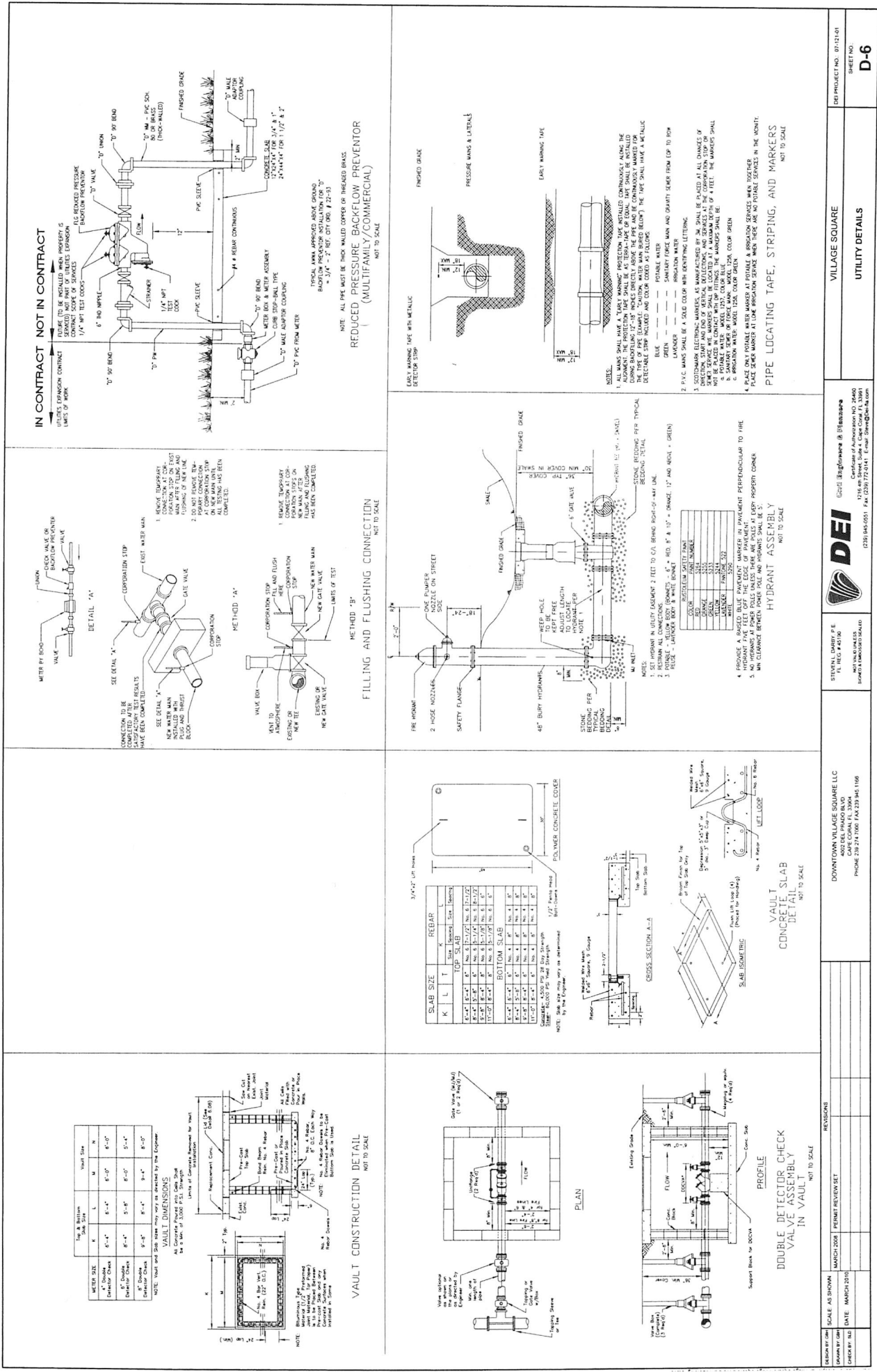
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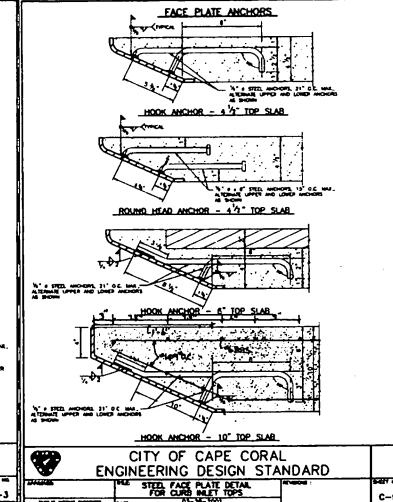
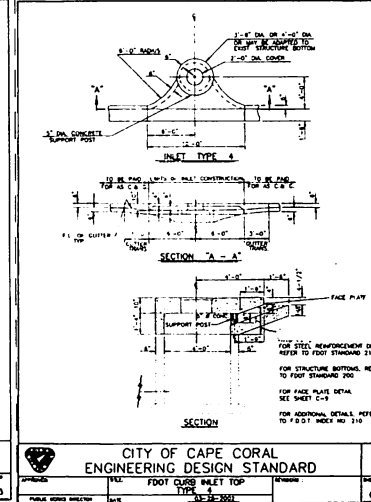
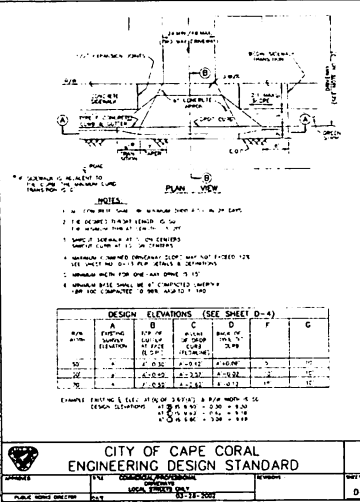
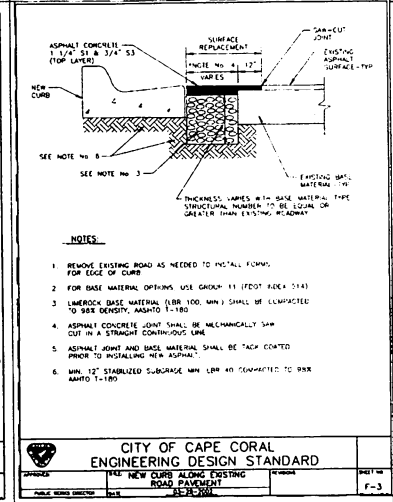
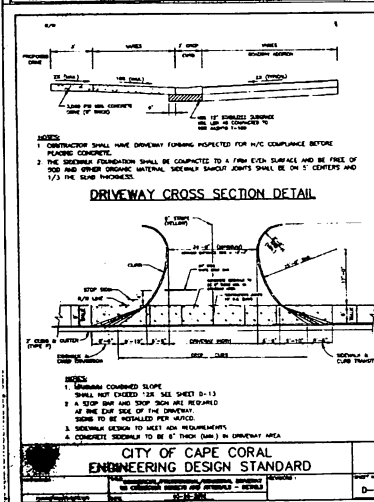
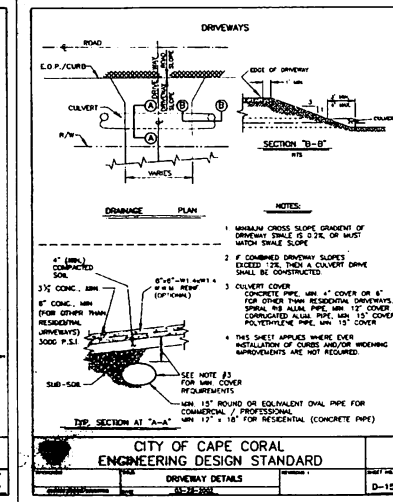
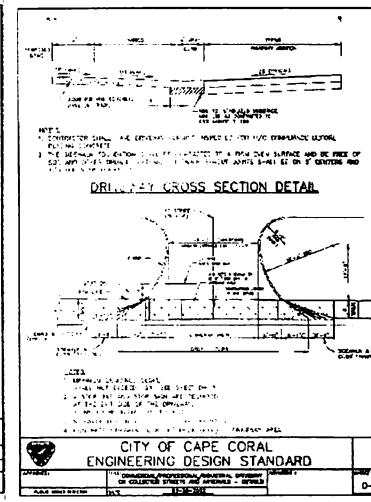
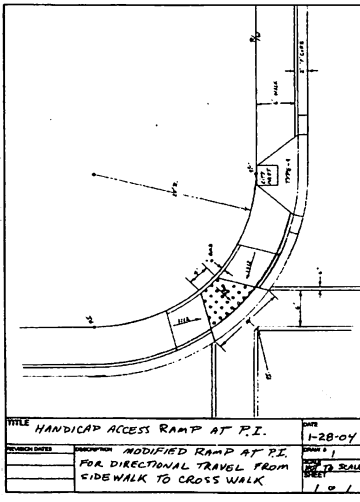
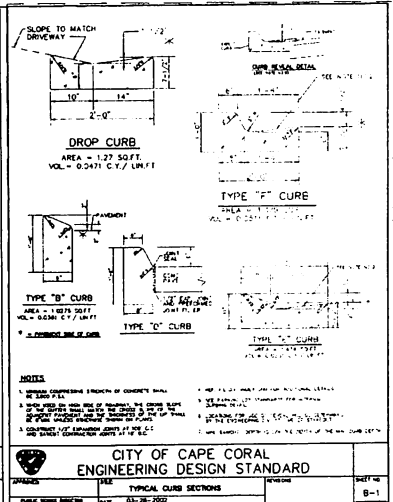
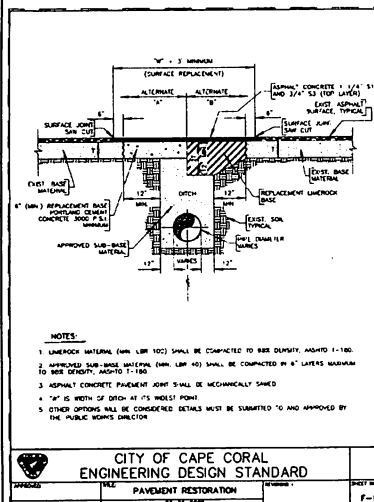
1. TYPICAL SLOPE OR SAW CUT WALKS 1 1/2" DEEP, 5'-10" O.C., 4" THICK SIDEWALK - 6"
THICK THROUGH DRIVEWAY.
2. CONCRETE: FOOT CLASS 1, 3000 P.S.I. MIN. MAX. SLOPE 4" OR FIRMER CONCRETE ACCEPTED.
3. NO REINFORCING IN CONCRETE IN RIGHT-OF-WAY SIDEWALKS FINISH TO BE BROOM
FINISH. ALL DRIVEWAY AREAS MUST BE REINFORCED TO MATCH ORIGINAL SLOPE. IF NO
ORIGINAL SLOPE THEN SEE PERMITS AND STRIPS.
4. NO PATCHING OF ANY KIND WILL BE ALLOWED IN CONCRETE WORK.
5. A RIGHT-OF-WAY PERMIT IS REQUIRED FROM ENGINEERING DIVISION FOR DRIVEWAY
CONSTRUCTION. DRIVEWAY PERMITS ARE REQUIRED FOR SINGLE FAMILY AND DUPLEX ONLY.
6. DRIVEWAYS ON STATE ROADS - PERMITS OBTAINED FROM FOOT. DRIVEWAYS ON LEE COUNTY
ROADS - PERMITS OBTAINED FROM LEE COUNTY DOT.
7. ASPHALT DRIVEWAYS SHALL BE CONSTRUCTED OF 4" COMPACTED LIME/ROCK BASE OVER A SUFFICIENTLY
COMPACTED SUBGRADE AND SURFACED WITH 1 1/2" OF ASPHALT CONCRETE.
8. DRIVEWAYS MUST BE FIVE FEET FROM PROPERTY LINE AND TEN FEET FROM RIGHT-OF-WAY
LINE AS SHOWN ON UNLESS OTHERWISE NOTED ON EXISTING DOCUMENT.

DESIGN BY: GMA	SCALE: AS SHOWN	REVISIONS	DOWNTOWN VILLAGE SQUARE LLC 4002 DEL PRADO BLVD CAPE CORAL FL 33904 PHONE 239 274 7000 FAX 239 545 1166	STEVEN L. DABRY P.E. FL REG # 45190 NOT VALID UNLESS SIGNED & EMBOSSED SEALED	DEI Engineering & Construction Certificate of Authorization NO. 26400 1210 4th Street Suite A Cape Coral, FL 33991 (239) 945-0551 Fax: (239) 372-0141 E-mail: Steve@Dei-Fl.com	VILLAGE SQUARE DETAILS	DEI PROJECT NO.: 07-121-01 SHEET NO: D-2
CHECK BY: GMA	DATE: MARCH 2010	MARCH 2008 PERMIT REVIEW SET					









DESIGN BY	SCALE	DATE	REVISIONS
SCALE: N.T.S.	MARCH 2007	PERMIT REVIEW SET	
DATE: MARCH 2011			
CHECK BY: RLD			

DOWNTOWN VILLAGE SQUARE, LLC
4001 DEL PRADO BLVD
CAPE CORAL, FLORIDA 33904
PHONE: 239 274 7000 FAX: 239 945 1100

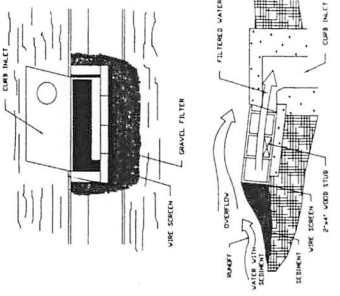


CITY OF CAPE CORAL
DEPARTMENT OF PUBLIC WORKS
P.O. BOX 150017
CAPE CORAL, FLORIDA 33915-0017

VILLAGE SQUARE
CAPE CORAL E.D.S.

DEI PROJECT NO: 07-121-01
SHEET NO: D-7

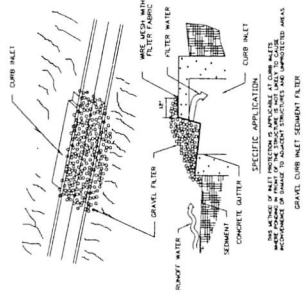
[illegible][illegible]



SPECIFIC APPLICATION:
This filter is used to catch sediment and debris from runoff water before it enters the storm drain system. It is recommended for use in areas with high sediment runoff.

BLOCK & GRAVEL CURB INLET SEDIMENT FILTER

N.T.S.



SPECIFIC APPLICATION:
This filter is used to catch sediment and debris from runoff water before it enters the storm drain system. It is recommended for use in areas with high sediment runoff.

GRAVEL INLET SEDIMENT TRAP

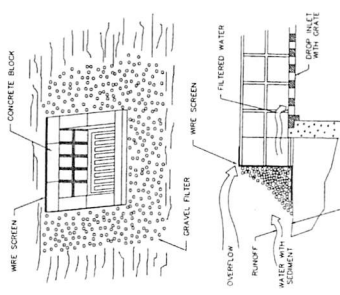
N.T.S.



SPECIFIC APPLICATION:
This filter is used to catch sediment and debris from runoff water before it enters the storm drain system. It is recommended for use in areas with high sediment runoff.

GRAVEL CURB INLET SEDIMENT FILTER

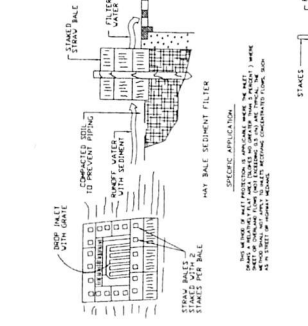
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SPECIFIC APPLICATION:
This filter is used to catch sediment and debris from runoff water before it enters the storm drain system. It is recommended for use in areas with high sediment runoff.

BLOCK & GRAVEL DROP INLET SEDIMENT FILTER

N.T.S.



SPECIFIC APPLICATION:
This filter is used to catch sediment and debris from runoff water before it enters the storm drain system. It is recommended for use in areas with high sediment runoff.

GRAVEL CURB INLET SEDIMENT FILTER

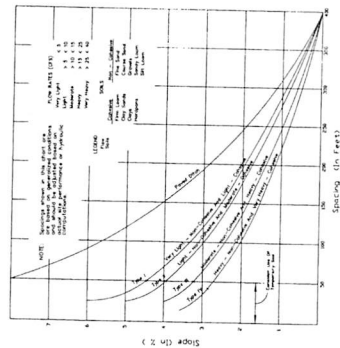
N.T.S.



SPECIFIC APPLICATION:
This filter is used to catch sediment and debris from runoff water before it enters the storm drain system. It is recommended for use in areas with high sediment runoff.

GRAVEL CURB INLET SEDIMENT FILTER

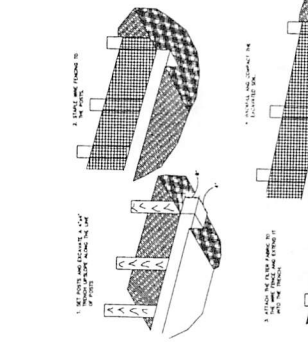
N.T.S.



RECOMMENDED SPACING FOR 1/4, 1/2, AND 3/4 INCH MESH BALE BARRIERS AND TYPE 19 SILT FENCES AND PAVED DITCH MESH BALE BARRIERS

SPACING RECOMMENDATION FOR SILT FENCES & HAY BALES

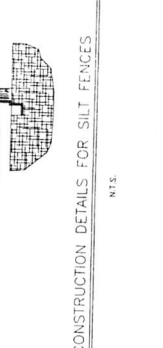
N.T.S.



CONSTRUCTION OF A FILTER BARRIER

FILTER BARRIER CONSTRUCTION DETAIL

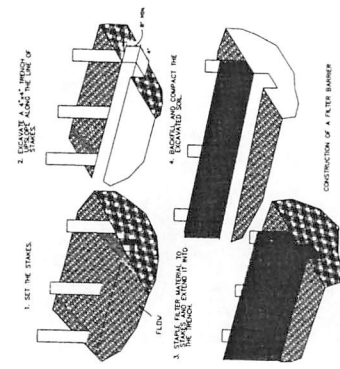
N.T.S.



CONSTRUCTION OF A FILTER BARRIER

FILTER BARRIER CONSTRUCTION DETAIL

N.T.S.



CONSTRUCTION OF A FILTER BARRIER

FILTER BARRIER CONSTRUCTION DETAIL

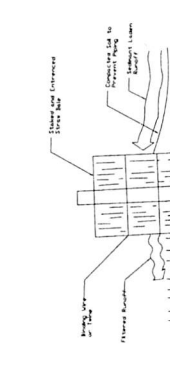
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CONSTRUCTION OF A FILTER BARRIER

FILTER BARRIER CONSTRUCTION DETAIL

N.T.S.



CONSTRUCTION OF A FILTER BARRIER

FILTER BARRIER CONSTRUCTION DETAIL



N.T.S.



CONSTRUCTION OF A FILTER BARRIER

FILTER BARRIER CONSTRUCTION DETAIL

N.T.S.

<div>SECTION 05 00 SCALE: AS SHOWN</div> <div>DESIGNED BY: DMJ CHECKED BY: DMJ DATE: MARCH 2010</div>		<div>REVISIONS</div> <table><tr><td>MARCH 2008</td><td>PERMIT REVIEW SET</td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr></table>		MARCH 2008	PERMIT REVIEW SET							<div>DOWNTOWN VILLAGE SQUARE LLC 107 VALLEY LANE SUITE 100 CAPE CORAL, FL 33901 PHONE: 239-274-1000 / FAX: 239-945-1106</div>		<div><div>STEVENS & GARVEY P.E. P.L. REG. # 45190 107 VALLEY LANE SUITE 100 CAPE CORAL, FL 33901 PHONE: 239-274-1000 / FAX: 239-945-1106</div></div>		<div><div>DEI Daniel, Mann, Johnson & Mendenhall 118 4th Street, Suite 400 Cape Coral, FL 33901 (239) 844-5551 Fax: (239) 712-5741 E-mail: dmj@dei.com</div></div>		<div>VILLAGE SQUARE</div> <div>EROSION CONTROL DETAILS</div>		<div>DEI PROJECT NO. 07-121-01</div> <div>SHEET NO.</div> <div>EC-3</div>	
MARCH 2008	PERMIT REVIEW SET																				

SYMBOL	TREE #	PLANT #	# OF GROUPS
LA-2	CP-2, RP-1	PL = 26	2
LA-3	IR-2	LA = 10, FR = 11	9
LA-5	IR-2, M-2	PL = 26	9
LA-6	DH = 1	TV = 19	6
LA-7	SP = 1	LA = 7	11
LA-8	SP = 1	BU = 8	20
LA-10	CP-2	AR = 24, LA = 10	6

DESIGN BY: GMB	SCALE: 1" = 30'	SEPT. 2007	PERMIT REVIEW SET	REVISIONS
DRAWN BY: GMB	DATE: MARCH 2010	423308	REVISED PER CITY COMMENTS	
CHECK BY: BLD		1/12/09	REVISED PER CITY COMMENT	

RESOLUTION 10 - 10

A RESOLUTION OF THE CAPE CORAL CITY COUNCIL PURSUANT TO THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; APPROVING AN APPLICATION FOR ENHANCED DENSITY, PURSUANT TO THE DOWNTOWN CRA REDEVELOPMENT INCENTIVE PROGRAM, FOR A PROPOSED PROJECT ENTITLED "DOWNTOWN VILLAGE SQUARE" LOCATED IN THE DOWNTOWN CORE (DC) ZONING DISTRICT ON PROPERTY DESCRIBED AS BLOCK 62A, UNIT 6 PART 1, AND BLOCK 62A, UNIT 8, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROPERTY LOCATED BETWEEN SE 47TH TERRACE TO THE NORTH, SE 9TH PLACE TO THE EAST, CAPE CORAL PARKWAY TO THE SOUTH, AND SE 8TH COURT TO THE WEST; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral has established a Redevelopment Incentive Program (RIP) for development within the Downtown Community Redevelopment Area (CRA); and

WHEREAS, the RIP offers development incentive opportunities to property owners and developers as a means to meet specific development goals while increasing the quality of development and providing benefits to the community at large; and

WHEREAS, the regulations for the zoning districts located within the Downtown CRA set forth the criteria to be met in order to receive development incentives in the form of increased residential density and/or non-residential intensity (FAR); and

WHEREAS, development incentives must be provided from at least three of the nine categories of RIP development incentives in order to qualify for enhanced density and/or intensity; and

WHEREAS, an application has been received from Downtown Village Square, LLC, Red Rock Land Corporation, with authorization from Fifth Third Bank requesting enhanced density for including in a project certain development incentives that would provide public benefit(s); and

WHEREAS, the request has been reviewed by the Community Redevelopment Agency; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

WHEREAS, the City Council has considered the recommendations of the Community Redevelopment Agency and the Planning and Zoning Commission/Local Planning Agency.

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

Section 1. In addition to considering the recommendations of the Community Redevelopment Agency and the Planning and Zoning Commission/Local Planning Agency, the City Council has considered the presentation made by the Applicant, the criteria set forth in Section 2.7.15 of the Land Use and Development Regulations as it pertains to the Downtown Core (DC) zoning district, and all other evidence presented to the City Council concerning Applicant's request to exceed the baseline density in the DC by nineteen dwelling units for that project known as "DOWNTOWN VILLAGE SQUARE", a proposed Planned Development Project (PDP). Because the baseline density of the DC zoning district allows 20 dwelling units per acre and the applicant is seeking an additional 19 dwelling units per acre through the RIP, this request, if approved, would result in this project having a density of 39 dwelling units per acre which would equate to a total of 152 dwelling units for the "DOWNTOWN VILLAGE SQUARE" project.

Section 2. The "DOWNTOWN VILLAGE SQUARE" project will be located in the Downtown Core (DC) zoning district at 845, 859, 869 and 877 Cape Coral Parkway East on property that is more particularly described as a parcel of land located in Section 18, Township 45 South, Range 24

East, Cape Coral, Lee County, Florida as more particularly described in Exhibit "A." The "DOWNTOWN VILLAGE SQUARE" project is proposed to consist of five (5) buildings that are described as follows: a six story building containing retail and professional office uses, two (2) six story compound use buildings, a seven story compound use building, and a 14 story compound use building containing six floors of structured parking. Because the DC zoning district restricts the height of buildings to 85 feet and six stories, the seven and 14 story buildings proposed for this project can only be approved by the awarding of a height deviation from the City Council through the Planned Development Project (PDP) process.

Section 3. The baseline density in the DC zoning district is 20 dwelling units per acre and the intensity (Floor Area Ratio) is 2.0 FAR. Additional residential density and commercial intensity, up to a maximum of 40 dwelling units per acre and a FAR of 4.0, respectively, may only be achieved through applicant participation in the RIP.

Section 4. The City Council finds that Applicant is proposing to provide development incentives from at least three (3) categories of RIP development incentives, as follows:

Category (1) Superior site design and quality development (as demonstrated in attached Exhibits "B", "C", and "D")

- (a) Connectivity. The five (5) buildings will be connected by covered cross-overs located on the third floor. The Developer will provide a series of walkways that will connect the eight foot wide sidewalk surrounding the site to a central square that provides a pedestrian link between SE 8th Court with SE 9th Place.
- (b) Exterior design and materials. The buildings associated with the Downtown Village Square Development contain a number of aesthetic enhancements that exceed the architectural requirements of the DC Zoning District. All buildings within the project have balconies, walls with ornamental details and display varied roof lines. Buildings A, B and C will contain stoops. The perimeter sidewalk and the majority of walkways located within the project along with the east-west central square that bisects Block 62A will be constructed of brick pavers. Collectively, the incorporation of these design features into the project will add greater visual appeal to the site than if the project simply was developed following the minimum standards contained within the DC Zoning District. Additionally, several of the architectural features mentioned above will assist in reducing building massing and thereby create a more inviting pedestrian-oriented scale associated with the project.
- (c) Orientation. Several buildings are oriented within the development to allow for small public gathering places. These areas include the patio located in front of Building A and the patio located between Building B and C, both of which contain fountains. Building E is designed to contain an atrium that also includes a central fountain. Three outdoor seating areas are located between Buildings C and E.
- (d) Underground utilities. Utilities, as well as the surface management system, will be located underground.

Within this category, the Village Square project meets four of five subsections. While this project does not meet the provisions of the clustering subsection, due to the quality and quantity of the enhancements provided in Sections a., b. and c. above, this project substantially meets the requirements of the Superior Site Design and Quality Development Category.

Category (3) Public Open Space and Recreational Areas (as demonstrated by Exhibit "E")

- (a) The project contains an east-west central square about 360 feet long and 26 feet wide that will provide for passive recreational opportunities.
- (b) The project will exceed the landscaping requirements by providing more than 1,000 plantings over the amount required by City code. The majority of

these plantings will be located around the periphery of Buildings A, B, C and E.

Category (4) Community Facilities (as demonstrated by Exhibit "F")

- (a) The project will have structured parking devoted to six floors of the 14-story building. Except for limited parking spaces on floors 2, 3 and 4 reserved for employees working at the project, the first four floors of the parking garage will be available for public use, including a minimum of 127 parking spaces located on the first floor.
- (b) Two thousand (2,000) sq. ft. of building space will be available on the ground floor of Building D for a City of Cape Coral police substation. The City shall have 18 months beginning with the issuance of a certificate of occupancy for this building to determine whether the City wishes to utilize this space. If the City, at its option, decides it does not wish to utilize this site, this action will not affect the awarding of enhanced density. Alternatively, in the event the space for the police substation is initially utilized by the City and subsequently the City decides not to utilize this space, the area must remain unoccupied by the City for a minimum of 12 consecutive months before this space would revert back to the Developer for his use. Should the City chose to vacate this area as described above, this action will not affect the awarding of enhanced density. For as long as the City wishes to utilize the aforementioned 2,000 ft² of area for a police substation, the City will receive this space free of rent, but will be responsible for maintenance-related expenses.

Category (5) Affordable Housing

Within 90 days of the approval of the development order, the Developer shall execute an affordable housing agreement with the City of Cape Coral. This agreement shall secure a minimum of five (5) affordable housing units for the project, or their monetary equivalent as provided herein. It shall be the Developer's option whether to provide housing in the project or their monetary equivalent.

- a. If Developer elects to provide housing within the project, the agreement shall contain provisions generally consistent with those outlined within LDR, Section 5.7.G. The affordable housing agreement shall contain the following provisions:
 - (1) No affordable housing unit in the development shall be rented or sold to a tenant whose household income has not been verified as moderate, low, or very 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.
 - (2) No affordable housing unit that is to be sold, leased with option to purchase, or otherwise conveyed in 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 section as moderate, low, or very low income family. Such verification and certification shall be the responsibility of the developer and shall be submitted to the City Manager or the City Manager's designee for approval. It is the intent of this section 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 and/or the unit) 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.
 - (3) No more than two affordable housing units shall be located within a single building or single tower of Building "D".

- b. If the Developer chooses to pay to the City a monetary amount for each housing unit not provided in the development, the agreement shall contain, at a minimum, the following provisions:

In lieu of providing the five onsite housing units, the Developer shall pay \$25,000 per unit for each unit not located within the development. The Developer shall pay the funds no later than at the time of issuance of a certificate of occupancy for a maximum of 80 residential units located within the project.

Because the number of affordable housing units provided by the Developer is below 10% of the total number of housing units proposed for the development, the applicant partially meets the requirements of the Affordable Housing Category.

Category (8) Land Assemblage (as demonstrated in Exhibit "G")

Six parcels collectively yielding over three acres have been assembled by the applicant after December 1, 2005. The development site includes a 15 foot wide alley that is proposed to be vacated by the applicant thereby providing for a single, consolidated building site. The six assembled parcels will, if the alley is vacated as proposed, constitute an entire City block with over 250 feet in depth.

Category (9) Non-Residential Use Percentage (as demonstrated in Exhibit "H")

At buildout, about 51% of the net floor area of the project will be devoted to nonresidential uses.

Section 5. City Council hereby approves an increased density in the amount of nineteen (19) residential units per acre for the "DOWNTOWN VILLAGE SQUARE" planned development project which will award the development with an overall density of 39 residential units per acre.

Section 6. The enhanced density granted herein is contingent on the approval of a Planned Development Project (PDP) for the subject development by the City Council (or the Planning and Zoning Commission/Board of Adjustment and Appeals if the approval of the City Council is not required for the approval of the PDP). The PDP application includes a rezoning request from the Downtown Edge (DE) to the Downtown Core (DC) district. If a PDP Development Order is not approved by the City for the subject property in accordance with the enhanced density approved here, then the development of the subject property shall comply with the baseline density for the DC zoning district.

Section 7. All development incentives provided for the award of enhanced density through the RIP program must be maintained throughout the life of the development, except that the area set aside for a police substation shall only be required to be maintained for as long as the City of Cape Coral, in its sole discretion, maintains a police substation in that area. The relocation or removal of the police substation by the City of Cape Coral, at its sole option, shall not affect the award of enhanced density herein approved. The enhanced density granted herein is applicable only to the "DOWNTOWN VILLAGE SQUARE" development on property described as a parcel of land located in Block 62A, Unit 6 Part 1, and Block 62A, Unit 8, Cape Coral Subdivision, as more particularly described in Exhibit "A". The increased density granted herein runs with the land and is transferable to any future owner of the land, but it cannot be transferred to a different site or a different project on the same site. If a PDP Development Plan approved for the "DOWNTOWN VILLAGE SQUARE" Development expires, the award of increased density shall also expire at the same time.

Section 8. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR
COUNCIL SESSION THIS 26th DAY OF April, 2010.

John J. Sullivan
JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	<u>aye</u>
McCLAIN	<u>aye</u>
BRANDT	<u>aye</u>
DEILE	<u>aye</u>
CHULAKES-LEETZ	<u>aye</u>
KUEHN	<u>aye</u>
McGRAIL	<u>aye</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 6th DAY OF May,
2010.

Rebecca van Deutekom
REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
res/VillageSquareRIP

EXHIBIT "A"

Downtown Village Square

City of Cape Coral, Lee County, Florida
(Basis of Bearings - SE 47th Terrace - Due East)

Legal Description

(Description for Overall Property *After* Vacation)

All of Block 62A, Unit 6, Part I, Cape Coral, as recorded in Plat Book 11, Pages 45 through 47 of the Public Records of Lee County, Florida; and
All of Block 62A, Unit 8, Cape Coral, as recorded in Plat Book 13, Pages 1 through 6 of the Public Records of Lee County, Florida; and all alleys within and in-between said Blocks.

Further described as follows: Commencing at the Northwest corner of Section 18, Township 45 South, Range 24 East, City of Cape Coral, Lee County, Florida, thence S89°03'21"E for a distance of 676.08 feet along the Northerly line of said section to the Easterly line of the sixty foot wide right-of-way known as Southeast 8th Court (aka Chester Street) and the Point of Beginning of the parcel described herein:

Thence due North a distance of 111.14 feet along said Easterly line, to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of N45°00'00"E, a chord distance of 35.36 feet, a central angle of 90°00'00", for an arc distance of 39.27 feet to the Southerly line of the sixty foot wide right-of-way known as Southeast 47th Terrace (aka Marina Drive); thence due East a distance of 524.00 feet along said Southerly line to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of S45°00'00"E, a chord distance of 35.36 feet, a central angle of 90°00'00", for an arc distance of 39.27 feet to the Westerly line of the sixty foot wide right-of-way known as Southeast 9th Place (aka Candida Street); thence due South along said Westerly line a distance of 252.81 feet to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of S45°18'00"W, a chord distance of 35.54 feet, a central angle of 90°35'59", for an arc distance of 39.58 feet to the Northerly line of the 100 foot wide right-of-way known as Cape Coral Parkway East; thence N89°24'01"W for a distance of 524.03 feet to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of N44°42'01"W, a chord distance of 35.17 feet, a central angle of 89°%D24'01", for an arc distance of 39.01 feet to the Easterly line of the sixty foot wide right-of-way known as Southeast 8th Court (aka Chester Street); thence due North along said Easterly line for a distance of 136.19 feet returning to the Point of Beginning.

171,711.4394 sq.ft. or ±3.9420 Acres

Exhibit "B": Superior Design and Quality Development: Connectivity

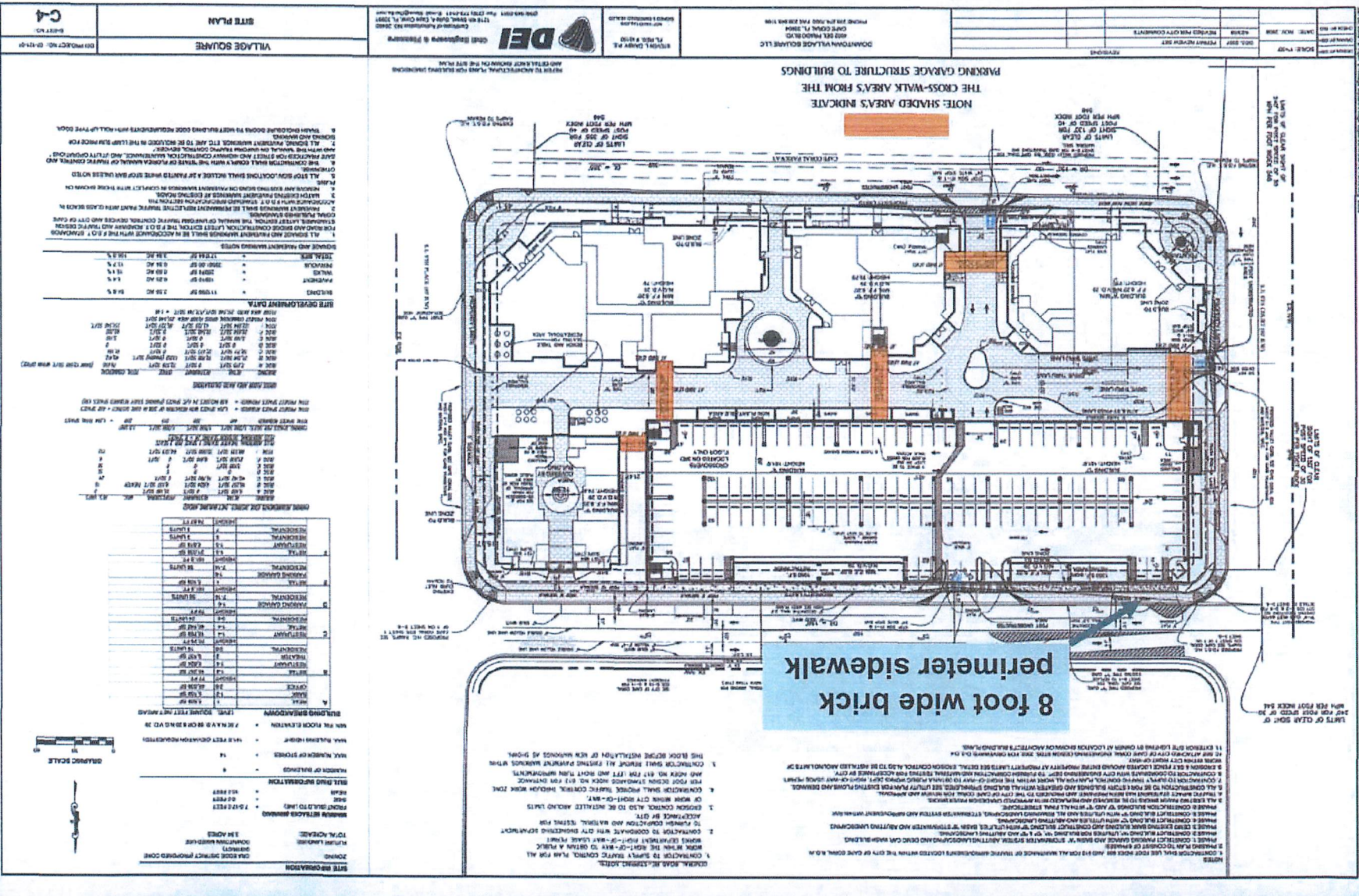
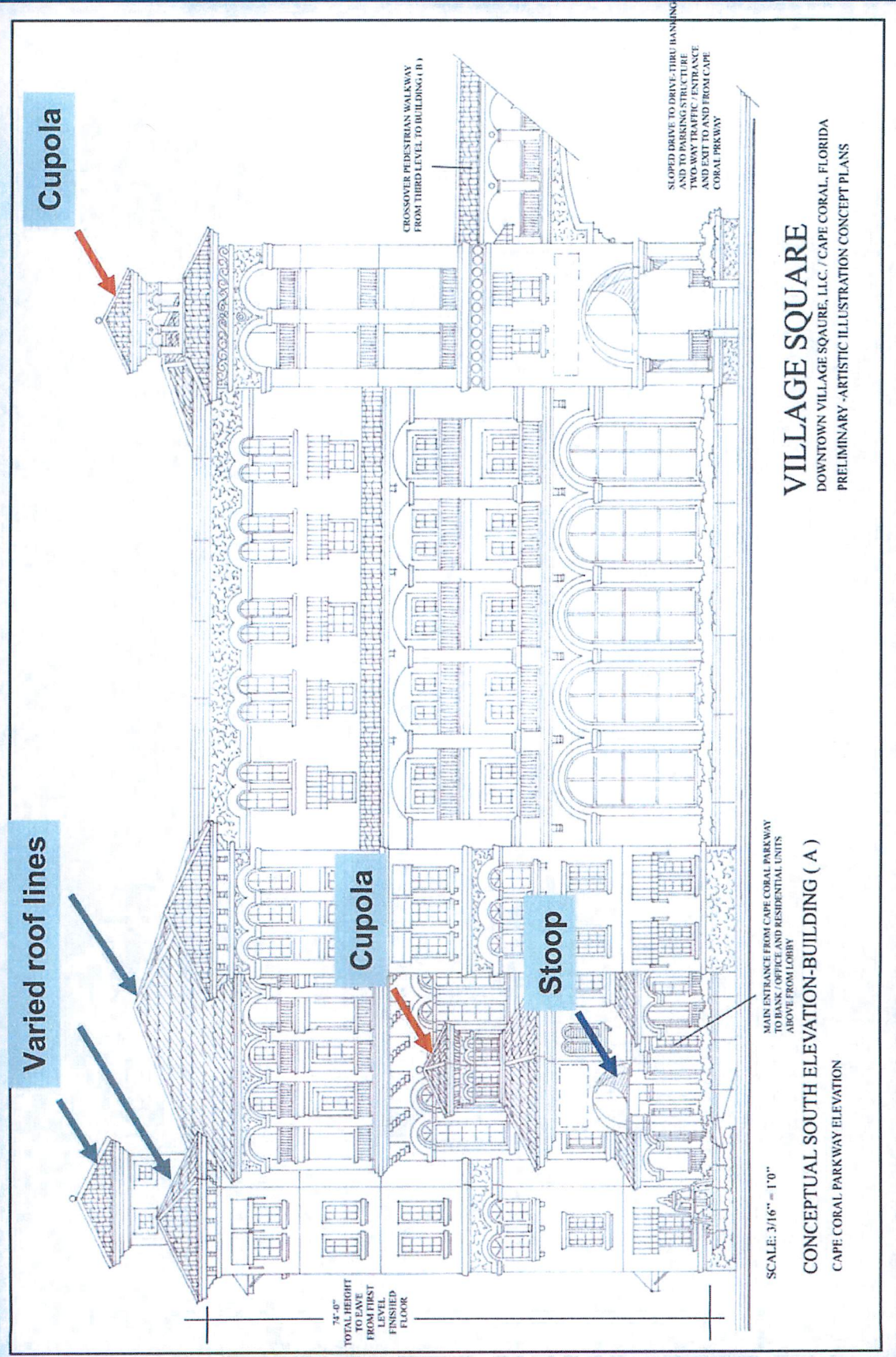


Exhibit "C"

RIP Category #1: Superior Design and Quality Development: Exterior Design and Materials



RIP Category #1: Superior Design and Quality Development: Orientation

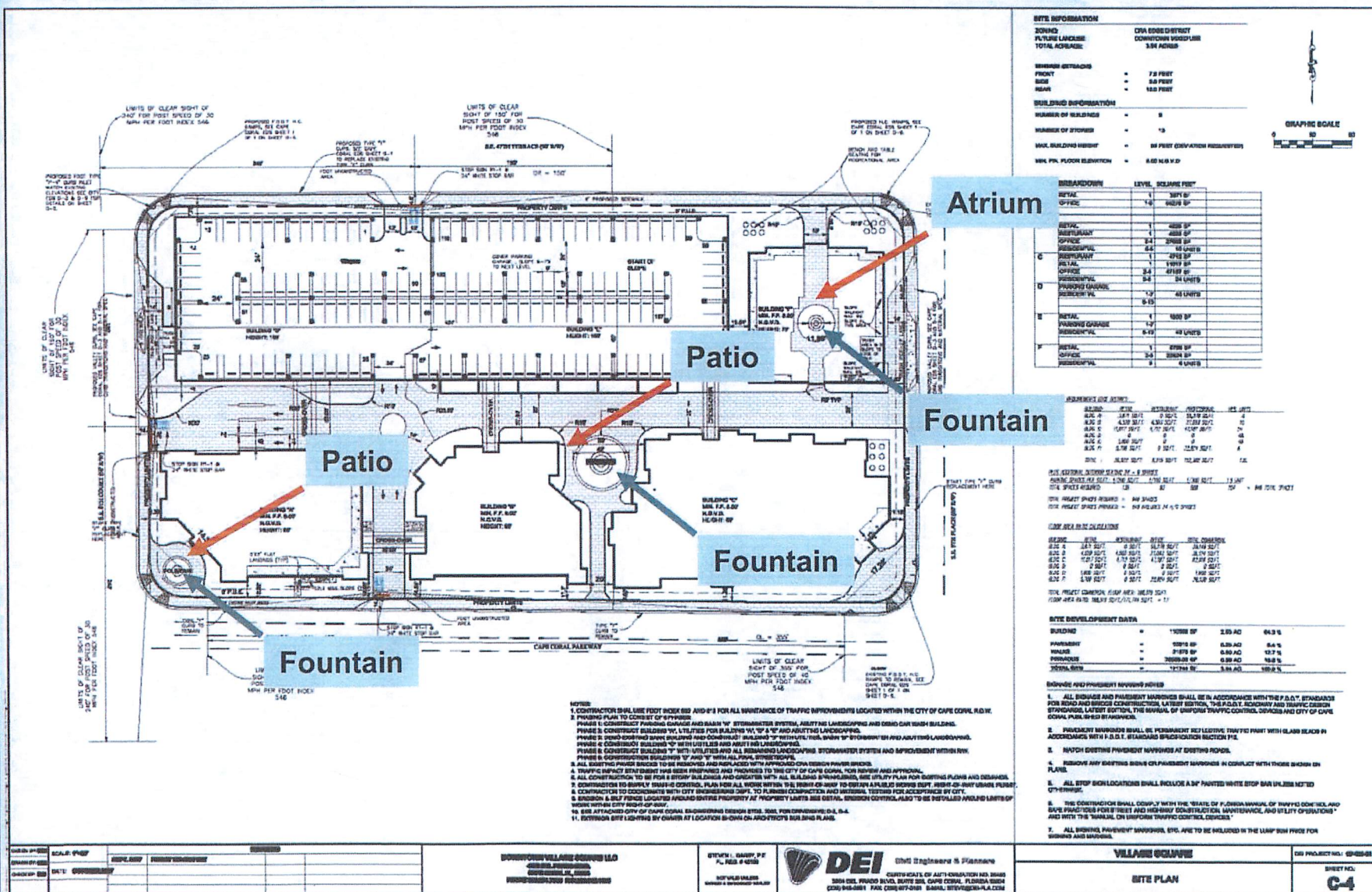


Exhibit "E"

The Developer is providing over 1,000 plantings that is not required by the City's landscaping regulations.

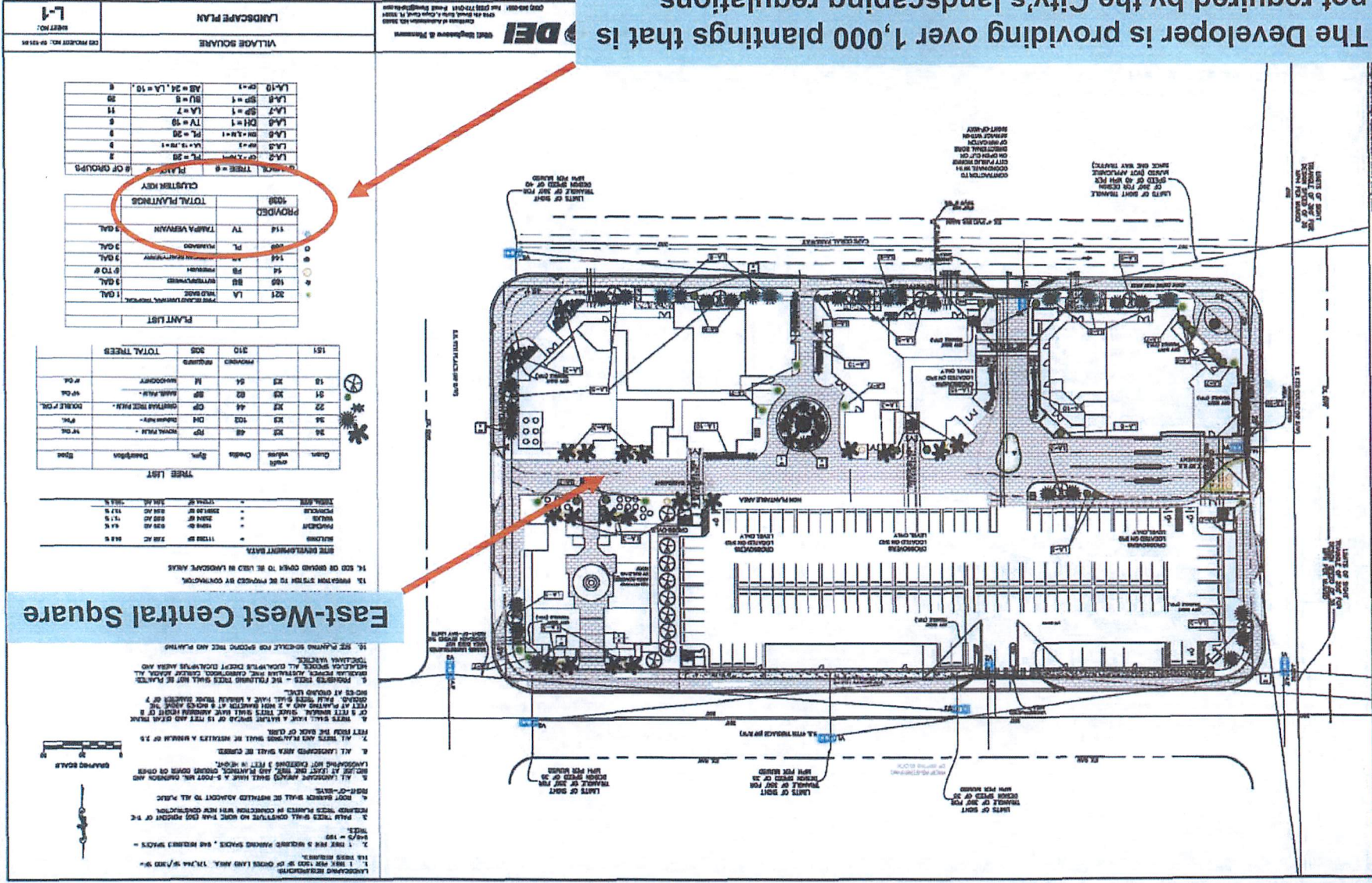


Exhibit "F"

Note: Space totaling 2,000 ft² located within the project will be reserved for City of Cape Coral Police Department use.

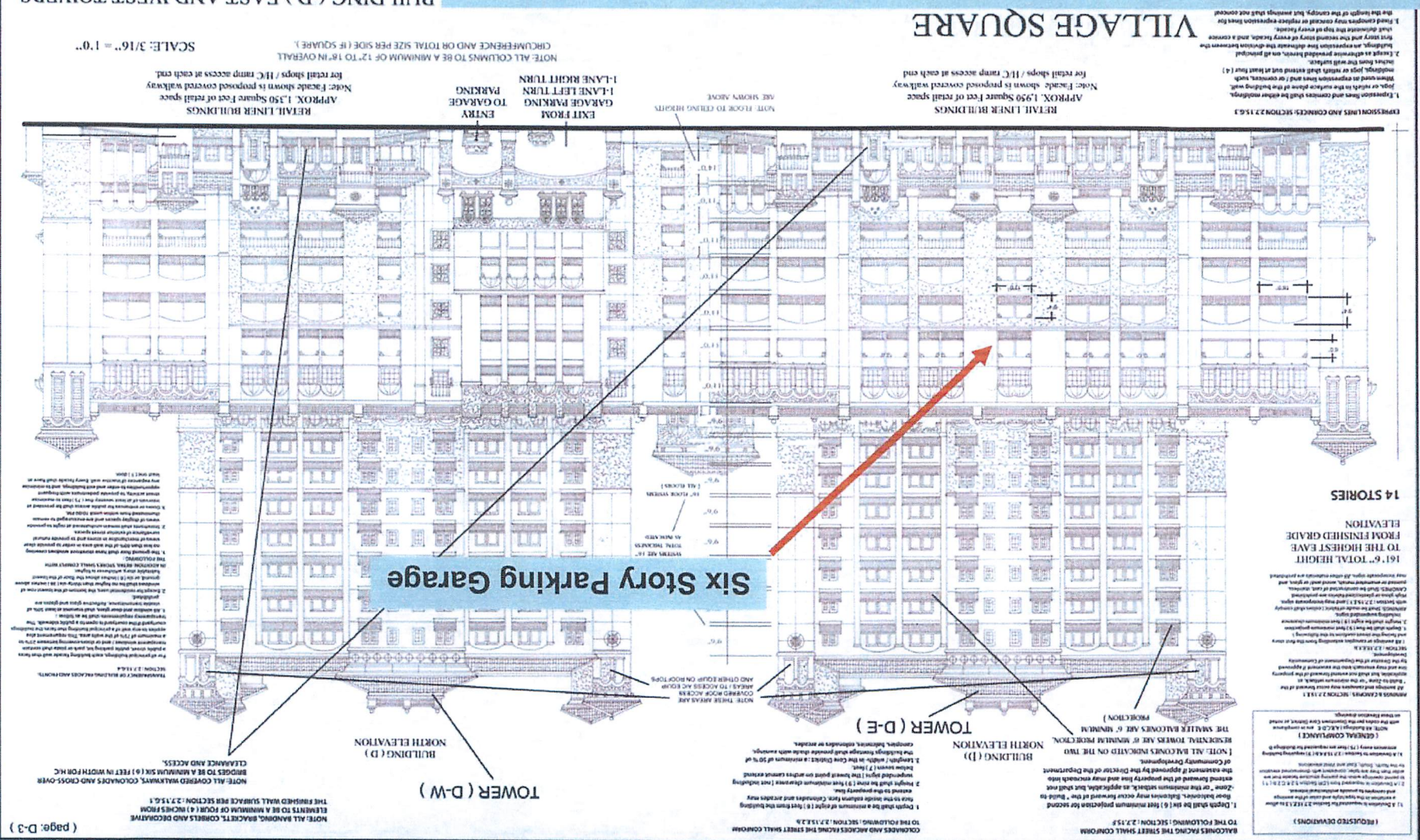


Exhibit "H"
RIP Category #9: Non-Residential Use Percentage

	Area (ft ²)	Percentage (%)
Commercial	251,546	51
Residential	243,200	49
Total	494,746	100

PROJECT SUMMARY	
PROJECT:	Downtown Village Square PDP Amendment
CASE NUMBER:	PDP19-0001
REQUESTS:	Amend Ordinance 42-10 to extend project buildout date, revise the phasing plan, and amend development order conditions
SITE ADDRESSES:	845-877 Cape Coral Parkway East and 826 SE 47 th Terrace
STRAP NUMBERS:	Multiple properties involved
LEGAL DESCRIPTION:	Block 62A, Unit 6, Part 1, and Block 62A, Unit 8, Cape Coral Subdivision, plus a vacated alley
PROPERTY OWNERS:	Downtown Village Square, LLC, Downtown Village Square II, LLC, Red Rock Land Corporation
AUTHORIZED AGENT:	Annette M. Barbaccia, AMB Planning Consultants, Inc.
FUTURE LAND USE:	Downtown Mixed
ZONING DESIGNATION:	South Cape Downtown (SC) District
URBAN SERVICE AREA:	Infill
CODE COMPLIANCE CASE:	N/A
PREPARED BY:	Mike Struve, AICP, Planning Team Coordinator
APPROVED BY:	Robert H. Pederson, AICP, Planning Manager
RECOMMENDATION:	Approval with conditions

PURPOSE

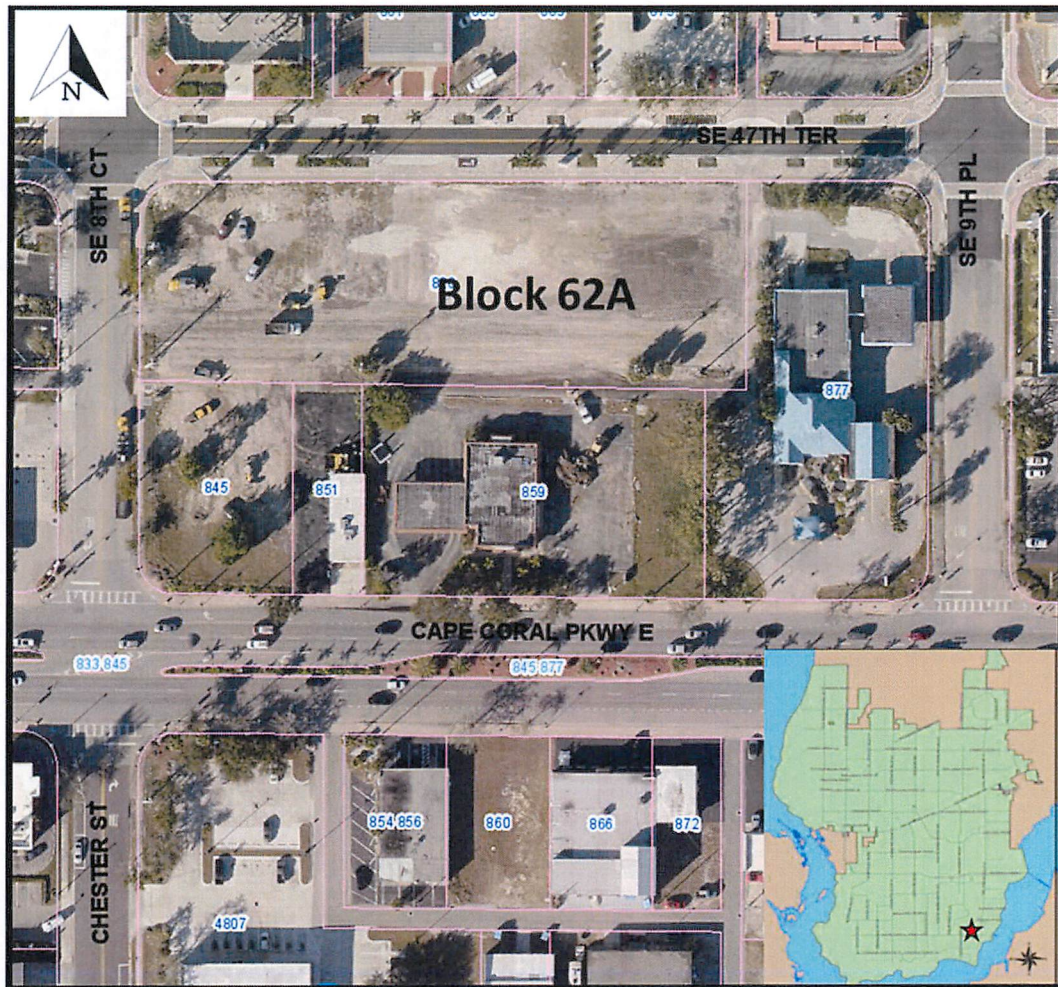
This report provides a single, consolidated review for a Planned Development Project (PDP) amendment entitled "Downtown Village Square." Within this report the following topics are addressed:

- Description of the site.
- Previously approved entitlements for the site.
- Description of the Downtown Village Square Project.
- Project Extensions and the Need for the PDP amendment.
- Changes to the Project Associated with the PDP amendment.
- Analysis of general standards and requirements for PDPs.
- Concurrency review.
- Consistency with the South Cape Downtown Community Redevelopment Plan.
- Consistency with the Comprehensive Plan.
- Project recommendation.

DESCRIPTION OF THE SITE

The 3.94-acre site is in the Community Redevelopment Area (CRA) in southeast Cape Coral. The site has frontage on four streets; SE 47th Terrace (to the north), SE 9th Place (east), Cape Coral Parkway (south), and SE 8th Court (west) (Figure 1). Cape Coral Parkway is classified as a major arterial and SE 47th Terrace is classified as a collector. Both SE 8th Court and SE 9th Place are classified as local streets. The site is in the Urban Services Infill Area.

Figure 1. Aerial of Block 62A – the site of the Downtown Village Square Development.



The site consists of Block 62A and includes five parcels. Three of the parcels have buildings.

All parcels in Block 62A have a Downtown Mixed Future Land Use Classification (FLUC) and South Cape (SC) Downtown Zoning. All surrounding sites within about 800 feet of this block share the same FLUC and zoning.

Permitted and special exception uses as well as some development standards in the SC District are based on a street designation system. The site is bound by streets with three different street designations: Parkway (Cape Coral Parkway), Secondary (SE 47th Terrace), and Tertiary (SE 8th Court and SE 9th Place).

PREVIOUSLY APPROVED ENTITLEMENTS FOR THE SITE

A PDP for the site was approved 2010 for a project entitled "Downtown Village Square." Ordinance 42-10 granted the following:

- A rezone from the Downtown Edge to the Downtown Core (DC) District;
- A vacation of plat for interior lot lines, public utility and drainage easements, and alley right-of-way (ROW); and,

- Multiple deviations to the Land Use and Development Regulations (LUDR) and the Engineering and Design Standards.

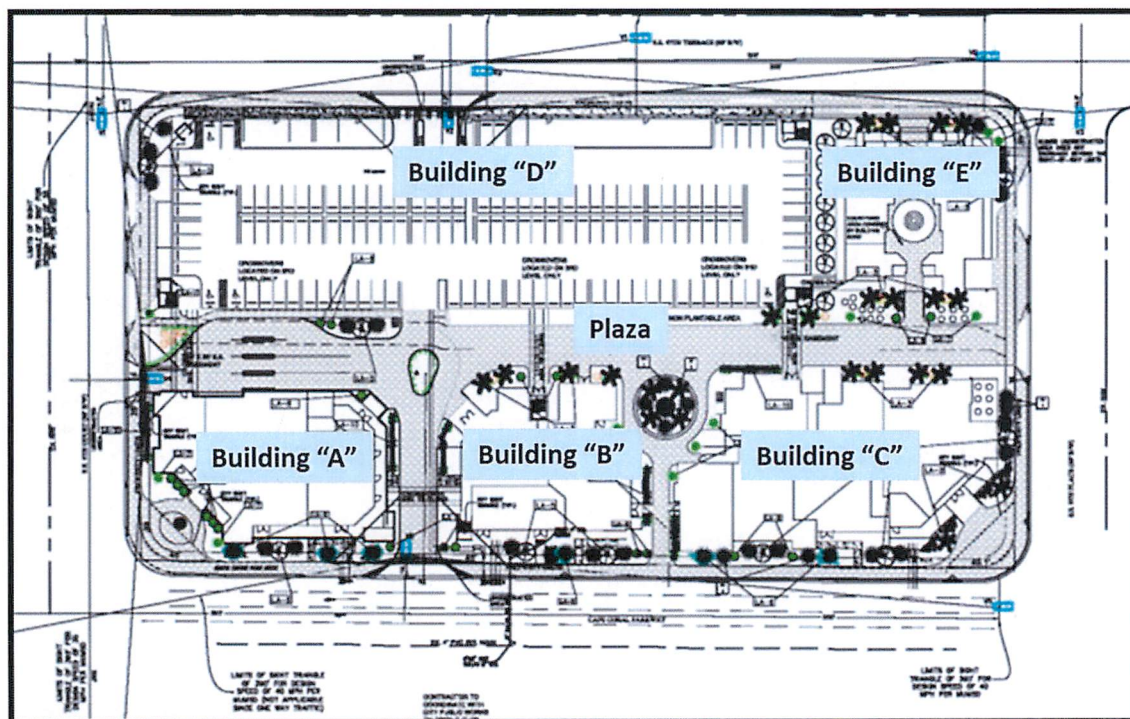
Prior to PDP approval, the developers received approval from the City Council for a bonus density of 19 additional dwelling units (DU) per acre above the baseline density in the DC District of 20 DU/acre. This increase in density was achieved through the former Redevelopment Incentive Program and was approved by Resolution 10-10.

Following PDP approval, the site was later rezoned from the DC to the SC District by Ordinance 18-12. Since the project was originally entitled under the DC zoning requirements when approved in 2010, this development continues to be governed by the DC regulations.

DESCRIPTION OF THE DOWNTOWN VILLAGE SQUARE PROJECT

Downtown Village Square is a mixed-use project that at buildout will be comprised of six buildings. The project will feature 251,546 sq. ft. of nonresidential uses that will include commercial, office, and restaurant space. The project will also include 152 residential units. A parking deck will be constructed at the northwest corner of the site and will provide 938 spaces with a minimum of 127 spaces reserved for public use. Residential towers will be constructed on the east and west ends on top of the parking garage.

Figure 2. Site design of the Downtown Village Square Project. Building "D" includes the parking garage with residential towers on top of the garage at the east and west ends.



PROJECT EXTENSIONS AND THE NEED FOR THE PDP AMENDMENT

The Downtown Village Square Project was approved in 2010 by Ordinance 42-10. Construction has not yet begun. Subsequent to the adoption of Ordinance 42-10, the project has been extended twice by the State of Florida through state of emergency declarations issued by the Governor, and four times (Resolutions 102-15, 81-17, 91-18, and 71-19) by the City of Cape Coral. The most recent extension of the project by the City Council, Resolution 71-19, extended the deadline for substantial construction to July 22, 2019, and stated that the developers' request to extend this deadline shall be treated as an application to amend the PDP. The most recent extension included a term sheet signed by the City Manager and Robert A. Lee, Jr. that memorialized changes to the project including deadlines for key milestones.¹ This term sheet was part of the City Council agenda package associated with Resolution 71-19.

CHANGES TO THE PROJECT ASSOCIATED WITH THE PDP AMENDMENT

This PDP amendment: 1) extends the buildout date of the project and the deadline for commencing substantial construction; 2) revises the phasing schedule; and 3) updates and revises conditions of approval in the amended development order consistent with the executed term sheet.

1. Extending the project

Resolution 71-19 extended the Downtown Village Square Project to July 22, 2019 to allow time for the current PDP amendment to be scheduled for hearing. This PDP amendment establishes target dates for several key milestones that include the demolition of three existing buildings on the site (December 31, 2019) and commencement of substantial construction for the project (July 1, 2020). Substantial construction means that a valid building permit has been issued for construction of the main building or buildings of the development (LUDR, Section 4.2.4.H). For this project, substantial construction will be achieved when the developer is issued a building permit for Building "A." The amendment also extends the buildout date of the project to April 26, 2021.

2. Revising the phasing schedule

Several changes to the phasing schedule are proposed. These changes include:

- Eliminating an outdated reference to the demolition of the Fifth Third Bank and referring to this building more generally.
- Requiring the demolition of three buildings on the site before other work can occur in Phase 1. The demolition of the former bank building and the existing car wash building was originally scheduled to be demolished in Phases 2 and 3, respectively.
- Clarifying that the developer shall complete all elements of Phase I, and then complete all elements of Phase 2 before work can begin on Phases 3, 4, and 5.
- Eliminating language in Phase I that previously required the developer to install pavers in the SE 47th Terrace ROW. These pavers were installed in 2018 by the City as part of the SE 47th Terrace streetscape improvement project.
- Clarifying that a Certificate of Use shall not be issued for any building or any unit within a building until parking exists to meet the minimum parking standards for the building or unit in question.

3. Revising conditions of approval

Conditions appearing in Ordinance 42-10 that have been revised include the following:

¹ Robert A. Lee, Jr. is the Managing Member of Downtown Village Square, LLC and Downtown Village Square II, LLC.

- Eliminating a requirement that the City pay a maximum of \$265,000 for the costs and fees for relocating a transmission pole at the northwest corner of the site. Because streetscape improvements in the SE 47th Terrace ROW made by the City exceeded \$265,000, the developer is now responsible for all costs for relocating this pole.
- Requiring pavers that will be installed along SE 8th Court and SE 9th Place be of the same color, shape, and pattern as those installed by the City along SE 47th Terrace.
- Requiring new pavers to be installed along Cape Coral Parkway to match pavers along SE 47th Terrace, SE 8th Court, and SE 9th Place unless a different design is approved by the Public Works Director.
- Requiring to developer to consult with Public Works on the selection of pavers for hardscape areas within the project (e.g., plaza and walkways).
- Clarifying that damage incurred to existing pavers in the SE 47th Terrace and Cape Coral Parkway ROW during construction shall be replaced by the developer at the developer's expense.
- Establishing deadlines for the following: demolition of the existing three buildings on the site; submittal of building plans for Building "A"; commencement of substantial construction; and completion of construction on Building "A."

ANALYSIS OF GENERAL STANDARDS AND REQUIREMENTS FOR PDPS

This project was evaluated for compliance with general standards and requirements found in LUDR, Section 4.2, provided below.

- Environmental control standards:* This PDP amendment involves extending the deadline to commence substantial construction on the project. While changes to the phasing plan and conditions of approval are proposed, the amendment does not approve any additional commercial intensity or residential density beyond that which was previously approved by Ordinance 42-10. Prior to a demolition permit being issued for the site, the developer will need to submit a burrowing owl and gopher tortoise affidavit to the City identifying the number of each protected species on the site. If owls or tortoises inhabit the site and cannot be protected, the developer will need permits also from the Florida Fish and Wildlife Conservation Commission.
- Maintenance of improvements:* A condition appearing in the Wetlands, Vegetation, and Wildlife Section of Ordinance 42-10 requires all landscaping and screening required in the Downtown Village Square project to be maintained in good condition throughout the life of the development.
- Consistency with Comprehensive Plan:* This project is consistent with several policies in the Comprehensive Plan discussed in greater detail later in this report.
- Financial Responsibility:* This standard is not applicable as the owners are not required to post a security bond or a certified check to assure the installation of any required improvements.
- Dimensional requirements:* The project received several deviations to the former DC District when the project was approved by Ordinance 42-10. Except for those granted deviations, the project complies with all dimensional requirements of the DC District.
- Maximum density:* This project includes 152 residential units on the 3.94 acre site or 39 DU/acre. The former DC District allowed a maximum of 20 DU/acre. The developer received an additional

19 DU/acre in density by qualifying and being approved for the former Redevelopment Incentive Program.

- G. *Minimum parcel size:* The former DC District did not have a minimum parcel area. The project is not in the Urban Services Reserve Area.
- H. *Time limitation:* Since project approval in 2010, several extensions have been granted by either the City or the state of Florida for extending the period for substantial construction.
- I. *Ownership requirements:* Three owners are involved in this PDP amendment: Red Rock Land Corporation; Downtown Village Square, LLC; and Downtown Village Square II, LLC. All three owners are parties to this PDP amendment.
- J. *Special exceptions:* This project does not involve a special exception use.
- K. *Deviations:* Multiple deviations were granted from LUDR and the Engineering and Design Standards by the City Council in approving Ordinance 42-10.
- L. *Underground Utilities:* New utilities serving the site will be placed underground.

CURRENCY REVIEW

The project was found to meet concurrency requirements when the Downtown Village Square Project was reviewed during 2008-2010. The site is in a Transportation Concurrency Exception Area (TCEA). As a result, the Developer is required to implement a minimum of five transportation improvement projects that are identified in Ordinance 42-10 to support mobility enhancement in the Downtown TCEA.

CONSISTENCY WITH THE SOUTH CAPE DOWNTOWN COMMUNITY REDEVELOPMENT PLAN

The project is consistent with several policies identified below that appear in the SC CRA Plan that was last amended in 2019.

3.1 Open Space and Street Layout

Policy 3.1.5

"Utilize incentive regulations and the developer negotiation process to create plaza areas aesthetically and functionally related to adjacent uses and the pedestrian and open space network." **Staff comments: The project includes a central plaza providing for pedestrian connectivity among the buildings on the site.**

Policy 3.1.7

"Encourage and provide incentives for new projects to use structured parking to optimize green and open space." **Staff comments: The project includes a six-story parking garage. A minimum of 127 spaces will be reserved for public use. The parking garage was used in part as a basis for justifying the approval of residential density above the baseline levels otherwise allowed in the former DC District.**

3.2 Limitations on Size, Height, Number and Use of Buildings

Policy 3.2.1

"Assemble property as necessary where conditions of title, diverse ownership, lot layouts or other conditions prevent proper development in strategic areas where the City's redevelopment efforts can be successfully and effectively leveraged." **Staff comments: Six parcels (over three acres) were assembled by the developers. The site includes a vacated alley and constitutes an entire block.**

Policy 3.2.6

"Encourage the revitalization of all properties as high quality mixed-use or commercial projects." **Staff comments: The project will involve the redevelopment of several single-use sites into a larger, cohesive mixed-use development.**

Policy 3.2.7

"Encourage and provide incentives for the development of mixed-use buildings that include restaurants, outdoor cafes, specialty retail, and entertainment complexes to create attractive pedestrian oriented streets." **Staff comments: The project includes over 33,000 sq. ft. of restaurant uses and over 95,000 sq. ft. of retail. A movie theater is proposed for Building "B."**

3.3 Property Intended for Use as Public Parks and Recreation Areas

Policy 3.4.1

"Encourage the development of pocket parks and/or plazas for redevelopment projects." **Staff comments: The project includes an east-west central plaza that provides a pedestrian link between SE 8th Court and SE 9th Place.**

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The project is consistent with the following goals and policies.

Housing Element

GOAL

"To provide good quality housing in safe, clean neighborhoods, offering a broad choice of options in both type (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status." **Staff comments: The project was approved for 152 multi-family residential units. The developer has signed an affordable housing agreement with the City to provide a minimum of five affordable housing units onsite.**

Future Land Use Element

Policy 1.9

"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." **Staff comments: The project was deemed concurrent with City services when approved in 2010.**

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 (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..." **Staff comments: The Downtown Village Square site consists of Block 62A. The site has a depth of about 300 feet.**

Policy 1.15.1

"Downtown Mixed: 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 areawide basis. Residential development may develop at a density of forty (40) dwelling units per acre, not to exceed an aggregate of eleven thousand one hundred forty-six (11,146) dwelling units nor two hundred (200) dwelling units within the coastal high hazard area. 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." **Staff comments: At the time of project approval in 2010, the site was zoned DC that was consistent with the Downtown Mixed FLUC. This site, along with most other sites in the CRA, was rezoned to the SC District in 2012. The SC District is consistent with the Downtown Mixed FLUC.**

Policy 4.1

"Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas." **Staff comments: The site is in the City Urban Services Infill Area.**

Policy 5.3

"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." **Staff comments: The project was found to be concurrent with City services when approved in 2010.**

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 comments: The site includes a vacated alley that provides a single, unified site with about 300 feet of depth along a major arterial street (Cape Coral Parkway).**

Policy 5.6

"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." **Staff comments:** As a condition of approval appearing in Ordinance 42-10, the developer will provide the City with a minimum of 2,000 sq. ft. on the ground floor of Building "D" for a police substation, and an additional 2,000 sq. ft. for a governmental use.

Policy 7.3

"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." **Staff comments:** The assembly of the site, originally comprised of six parcels, was used in part for justifying the approval of residential density above the baseline levels allowed in the former DC District.

Policy 8.3

"Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial development (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored." **Staff comments:** All parking on the site will be in a parking garage. The base of the parking garage along SE 47th Terrace will be fronted by a liner building. Open space will be incorporated into the project by providing a centrally located plaza that includes a fountain and walkways to buildings in the development.

Policy 13.3

"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 Use and Development Regulations." **Staff comments:** The Downtown Village Square project is a mixed-use development that includes over 250,000 sq. ft. of nonresidential uses and a maximum of 152 dwelling units.

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.” **Staff comments:** The developer has elected to implement five transportation improvement projects, specified in Ordinance 42-10, that will support mobility enhancement within the Downtown TCEA.

Policy 14.5

“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 ... 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.”* **Staff comments:** The developer has incorporated five of the provisions provided above (Bullets 1,2,7,9, and 10) into the project to satisfy requirements of the TCEA.

Policy 16.7

“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 (I) of this Element, describing the Downtown Mixed Future Land Use Classification, defines the allowable intensities and densities within the Downtown TCEA.” **At the time of project approval, commercial/professional uses in this FLUC could develop at a FAR of 4. Residential development could develop at a maximum density of 40 DU/acre.**

Transportation Element

Policy 1.1.7

“New development, redevelopment and infill development projects located within the City of Cape Coral Downtown CRA Transportation Concurrency Exception Area (TCEA) may be exempt from transportation

concurrency requirements, so long as said new development, redevelopment or infill development opts to mitigate impacts to transportation levels of service through the strategies described Policy 14.5 of the Future Land Use Element of this comprehensive plan. 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 agrees to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5 or opts 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."

Staff comments: Staff comments: The developer has elected to implement five transportation improvement projects that will support mobility enhancement within the Downtown TCEA.

Policy 2.1.5

"The City shall continue to require new development to incorporate design elements to accommodate and protect bicyclists and pedestrians." **Staff comments: The developer will install pavers within the project ROW along SE 8th Court and SE 9th Place to match those pavers installed earlier by the City along SE 47th Terrace. Pavers will be installed by the developer in the project area on a plaza and on walkways between buildings to promote pedestrian activity.**

Policy 2.2.6

"In order to promote bicycling, walking, and other alternative modes of transportation, the City shall provide incentives for the development of mixed use projects, commercial activity centers and alternative subdivision design and lot layouts." **Staff comments: The developer received a density bonus through the Redevelopment Incentive Program by incorporating elements into the project that included superior site design, public open space and recreational areas, affordable housing, and non-residential use percentage.**

Policy 2.3.1

"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 the Future Land Use 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." **Staff comments: The developer elected to meet transportation concurrency requirements by implementing five strategies established for the TCEA as described Policy 14.5 of the Future Land Use Element.**

PROJECT RECOMMENDATION

Staff finds that this PDP amendment with conditions is consistent with the City LUDRs and Comprehensive Plan. This amendment is also consistent with Resolution 71-19 that most recently extended this project, and the term sheet term sheet signed by the City Manager and Mr. Lee that memorialized changes to the project including deadlines for several key milestones.

Item Number: 2.B.
Meeting Date: 5/24/2019
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

(Withdrawn by Applicant)Continued from 3/19/2019 Case # VA18-0021* ; Address: 1205 SW 10th Terrace; Applicant: Michael and Julie Kayatta

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant requests a variance from City of Cape Coral Land Use and Development Regulations, Section 3.10 "Swimming Pools" which requires that all swimming pools be constructed behind a single-family home.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Materials"

PREPARED BY:

Kristin
Kantarze Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description	Type
Backup Materials	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # VA 18-0021

REQUEST TO HEARING EXAMINER FOR A VARIANCE

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

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

OWNER OF PROPERTY
Julie Kayatta

Address: 1205 SW 10th Terr
City: Cape Coral State: FL Zip 33991
Phone: 239-621-2639

APPLICANT

Same

Address: _____

EMAIL

Julie@body-as-one.com

City: _____ State: _____ Zip _____
Phone: _____

AUTHORIZED REPRESENTATIVE

Gary Ketter

Address: _____

EMAIL

Gary@ketterbois.com

City: _____ State: _____ Zip _____
Phone: _____

Unit W3 Block 4464 Lot(s) 34-37 Subdivision N/A
Address of Property 1205 SW 10th Terr Cape Coral FL 33991
Current Zoning SF Plat Book 21, Page 74
Strap Number 224423C1044040360

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

CASE # _____

APPLICATION FOR VARIANCE

Questions: 239-574-0776

JULIE KAYATTA

APPLICANT NAME (PLEASE TYPE OR PRINT)

Julie Kayatta

APPLICANT'S SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FLORIDA, COUNTY OF

LEE

Sworn to (or affirmed) and subscribed before me this 20th day of August, 2018, by

Julie Kayatta

who is personally known or produced

as identification.

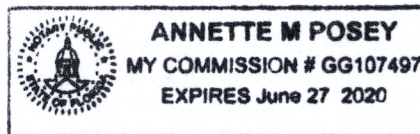
Exp. Date: June 27, 2020 Commission Number: GG107 497

NOTARY STAMP HERE

Signature of Notary Public:

Printed name of Notary Public:

Annette M. Posey
Annette M. Posey





DEPARTMENT OF COMMUNITY DEVELOPMENT

CASE # _____

APPLICATION FOR VARIANCE

Questions: 239-574-0776

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

Gary Heller Heller Pools Construction
(Name of person giving presentation)

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

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

UNIT

BLOCK

LOT(S)

SUBDIVISION

OR LEGAL DESCRIPTION

Cape Coral Unit 63, BIK 4464, PB 21
PG 74, LOTS 34 Thru 37

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

MICHAEL KAYATTA

PROPERTY OWNER (Please Print)

Michael Kayatta
PROPERTY OWNER (Signature & Title)

JULIE KAYATTA

PROPERTY OWNER (Please Print)

Julie Kayatta
PROPERTY OWNER (Signature & Title)

STATE OF FLORIDA, COUNTY OF

LEE

Subscribed and sworn to (or affirmed) before me this

20th

day of

August

, 2019, by

Michael Kayatta who is personally known or produced
as identification.

Julie Kayatta

NOTARY STAMP HERE

Exp. Date: June 27, 2020 Commission Number:

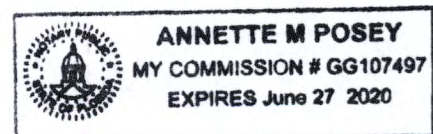
GG107497

Signature of Notary Public:

Printed name of Notary Public:

Annette M. Posey
Annette M. Posey

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





DEPARTMENT OF COMMUNITY DEVELOPMENT

CASE # _____

APPLICATION FOR VARIANCE

Questions: 239-574-0776

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

(SIGNATURE MUST BE NOTARIZED)

CORPORATION/COMPANY NAME

JULIE KAYATTA

PROPERTY OWNER (PLEASE TYPE OR PRINT)

Julie Kayatta
PROPERTY OWNER'S SIGNATURE

STATE OF FLORIDA, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 20th day of August, 2018, by
Julie Kayatta who is personally known or produced
as identification

Exp. Date: June 27, 2022 Commission Number: GG-107497

NOTARY STAMP HERE

Signature of Notary Public:

Printed name of Notary Public:

Annette M. Posey
Annette M. Posey



DEPARTMENT OF COMMUNITY DEVELOPMENT
APPLICATION FOR VARIANCE
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.

JULIE KAYATTA
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

Julie Kayatta
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FLORIDA COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me on this 20th day of August,
2018 by Julie Kayatta, who is personally known or who has produced _____ as
Identification.

Exp. Date June 27, 2020
Commission # GG107497

Annette M. Posey
Signature of Notary Public
Annette M. Posey
Print Name of Notary Public



City of Cape Coral Variance Request Letter of Intent

We, Michael and Julie Kayatta, are requesting a zoning variance in the matter of the non-conforming pool in our adjacent lot on the east side of our home. Our property is at 1205 SW 10th Terrace, Cape Coral, FL. 33991 and the Code Case # is VA18-0021. We purchased our home in 1995 and married the adjacent corner lot in 2010, with a future plan to build a beautiful pool project. We also planted a hedge around the entire additional property that exceeds 9 foot height for privacy with the intent of our pool project not impacting our neighborhood. We have contracted Keller Pools Construction Inc. to design and build a pool and spa at our home.

We request that a variance be approved that would allow the pool to be built on the side of our home on our married adjacent lot.

The special condition that exists is that the two oak trees were planed in accordance with ordnance and in memory of past family members. Over the years, our children have climbed and played in these trees, we look forward to our grandchildren having the same opportunity. The oak trees grew to be quite large and have extreme sentimental value and would be extremely costly to remove. Also, in addition to that, the space provided in our backyard would not allow this project to be completed.

We feel that applying for the zoning variance we are using the legal option that is available to many people who have used this avenue to clear similar problems. We have seen other properties in the City of Cape Coral that have their pools on the side of their homes. We an provide those addresses for you, if requested.

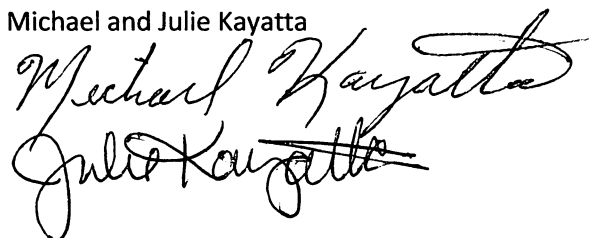
The hardship that would result from a denial of the variance request for us may sound small, be we have always wanted at pool to enjoy with our family and now to watch our grandchildren enjoy, making priceless memories. The hedge encloses the area and allows our neighbors to be unburned by the pool on the side of the house. The significant price of removing the very large sentimental oak trees would be financially detrimental.

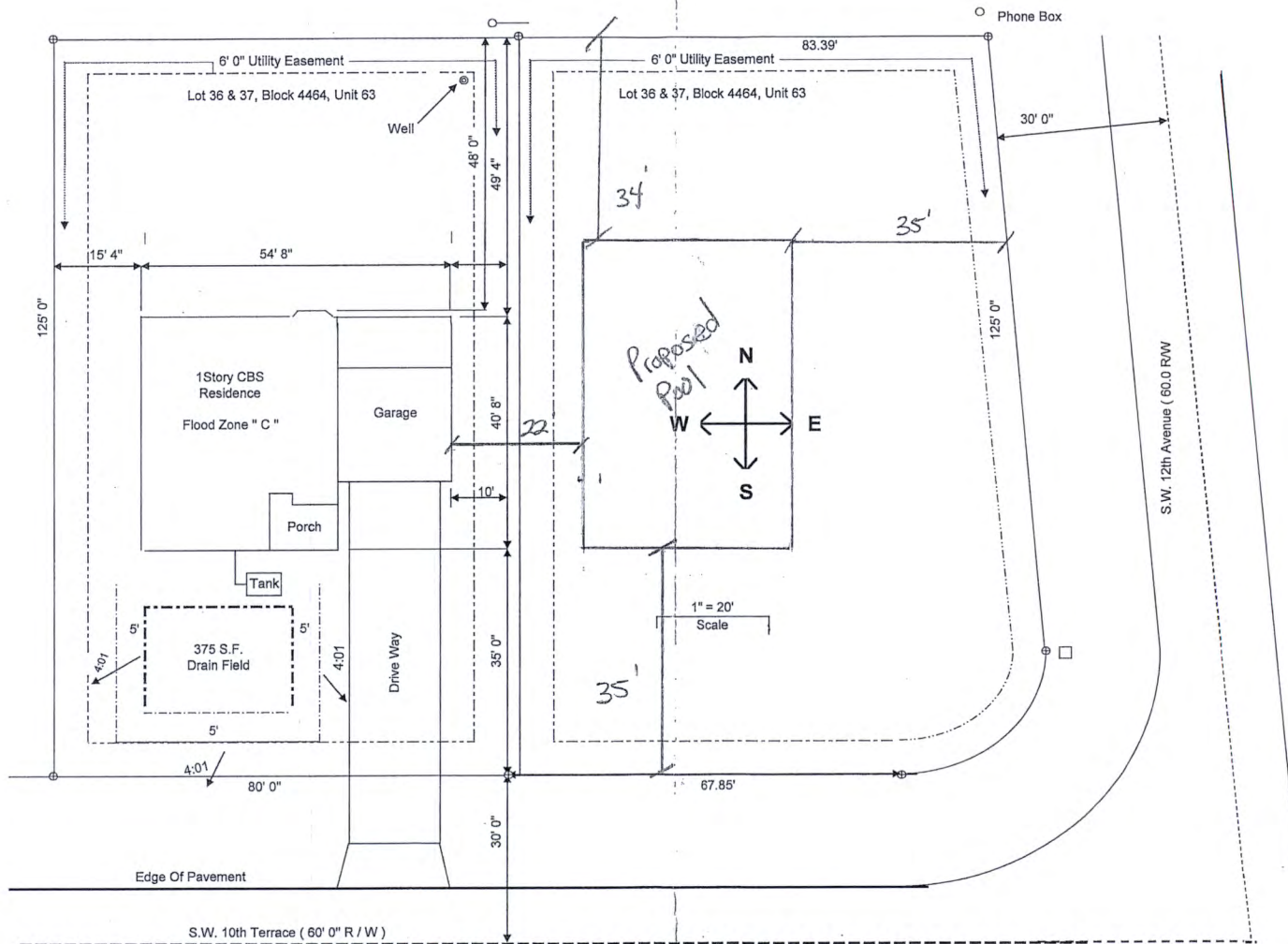
The minimum variance we are requesting is to allow the pool and spa to be built on our married adjacent corner lot.

The granting of this variance will not be injurious to the area and as you can see by signed letter from our closest neighbors, they have no objections to the building of our dream pool and spa.

Thank you for considering our request,

Michael and Julie Kayatta

Handwritten signatures of Michael and Julie Kayatta. The signature of Michael Kayatta is written in a cursive script, and the signature of Julie Kayatta is written below it, also in a cursive script.



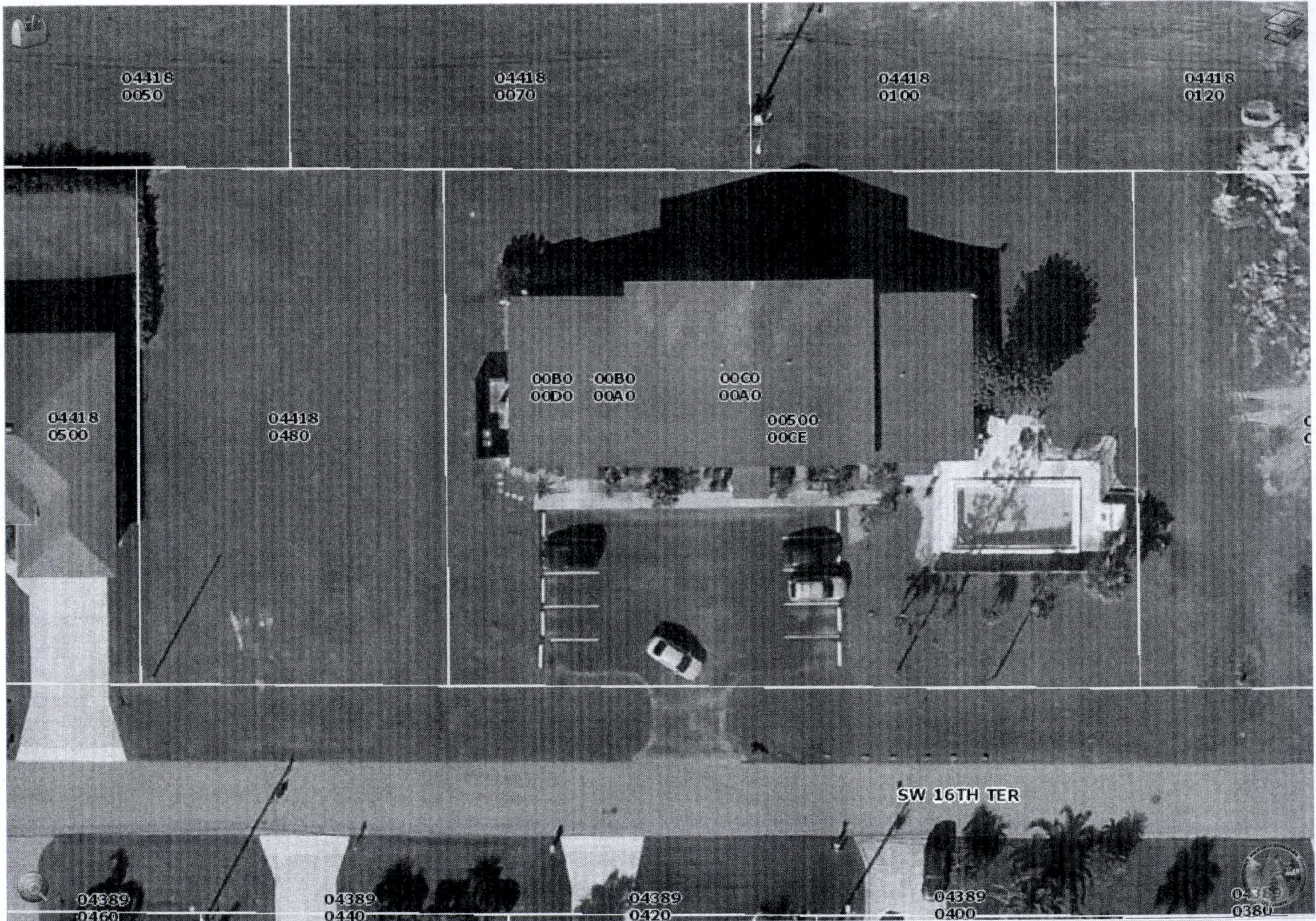








✕	STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans.
			Steven & Maria Mullins	1422 SW 4th Ave		



STRAP

Folio

Owner Name

Site Address

Last Trans. Date

Last Trans.

SW 16TH TER

Review Date: December 18, 2018

**Applicant/
Property Owner:** Michael and Julie Kayatta
1205 SW 10th Terrace
Cape Coral, FL 33991

Authorized Rep: Gary Keller, Keller Pools Construction

Request: The applicant requests a variance from City of Cape Coral Land Use and Development Regulations, Section 3.10 "Swimming Pools" which requires that all swimming pools be constructed behind a single-family home.

Location: 1205 SW 10th Terrace
Cape Coral, FL 33991
Strap number: 22-44-23-C1-04464.0360
Unit 63, Block 4464, Lots 34-37

Prepared By: Chad Boyko, AICP, Principal Planner

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

Recommendation: Denial

Findings of Fact/Background:

The site is a 21,019 sq. ft. parcel in the southwest quadrant of the City. The site improved with a single-family home and is at the intersection of SW 10th Terrace and SW 12th Avenue¹. The site is four lots and the single-family home is on western side of the property. The site has a Single-Family (SF) future land use designation and a Single-Family Residential (R-1B) zoning designation. The surrounding area is single-family homes and scattered, undeveloped lots in all directions.

Similar Variances Cases within Block 4464

City records show there have been no variances awarded to properties in Block 4464 or within 500 feet of the site.

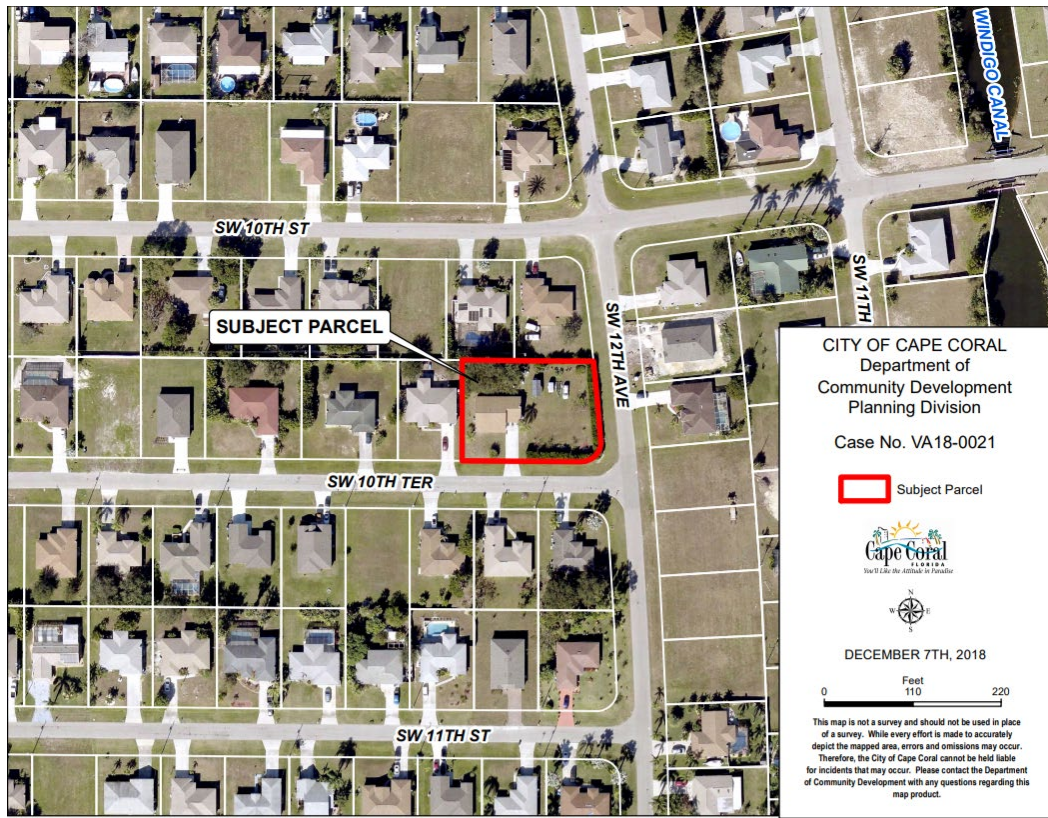
Applicable Regulation:

LUDR, Section 3.10.1.A: *Location of pools; fencing, safety rails; solar screens*

"The construction of a swimming pool/spa/hot tub is prohibited in the front or side of any single-family or duplex residential structure except as permitted in the RE district."

The applicant is requesting the variance to construct a swimming pool in the side yard of the site. The swimming pool would be approximately 22 feet away from the house. The applicant has provided a site plan that is attached to this report as "Exhibit A".

¹ Both local streets.

Site Aerial:**Analysis:**

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

Staff has reviewed this application based on the regulations regarding swimming pools in LUDR, Section 3.10, and the five standards for variances in LUDR, Section 8.10.3a-e and offers the following analysis:

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

Staff determination and analysis: Standard NOT MET by the applicant.

The 20,019-sq. ft. site is flat and primarily rectangular, typical of most platted home sites in the City. The site is at the corner of two local streets and the corner portion of the site is

slightly widened due to a curve in the street. The applicants states that a special condition exists due to two large oak trees in the rear of the property that are sentimental and would be costly to remove. Staff acknowledges that the location and size of the oak trees would make construction of a pool in the rear yard difficult. The applicant has indicated that 18-20 feet of space is between the home and the two trees. While it may be possible to construct a small pool in the space available, other factors such as roots and tree canopy could make the construction difficult or impractical. While the trees would make placement of a pool difficult, the trees were planted by the applicant, therefore this condition is a result of the applicant's actions. Additionally, while staff acknowledges that the trees are sentimental to the applicant, the trees could be removed for construction of a pool that meets all applicable location requirements.

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

Staff determination and analysis: Standard NOT MET by the applicant.

Swimming pools are not allowed in the side yards of any single-family residential property in Cape Coral. The granting of the variance to allow a swimming pool would grant a special privilege to the applicant by allowing for the construction of a pool that is in the side yard of the site. The applicant provided a few examples where swimming pools have been constructed in a property's side yard. These examples are outliers and the vast majority of swimming pools in Cape Coral are built to the applicable regulations.

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

Staff determination and analysis: Standard NOT MET by the applicant.

The applicant would not be denied reasonable use of the site if the variance is not granted. The applicant built and has lived in a single-family home on the site for over 20 years. The applicant is requesting the variance to build a swimming pool which is an accessory feature to a single-family. While many single-family homes include swimming pools, the pools are not a requirement for reasonable use. Additionally, the applicant has the space available for construction of a swimming pool if the trees were removed. Developing a swimming pool in the side yard of a property is not a right that is commonly enjoyed by sites in the R-1B zoning district.

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

Staff determination and analysis: Standard NOT MET by the applicant.

The variance sought by the applicant is the not minimum variance necessary to allow construction of a swimming pool. The plan submitted by the applicant shows a swimming

pool that is completely detached from the single-family home. The applicant could reduce the scale of their variance request by tying the swimming pool in with the single-family home or placing a portion of the pool behind the home. Staff also finds that the applicant currently has reasonable use of the site with the construction of the single-family home.

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

Staff determination and analysis: Standard PARTIALLY MET by the applicant.

Accessory structures and features such as swimming pools have setbacks to ensure separation and compatibility with surrounding residences. Swimming pools are required to be constructed behind a single-family home to create a consistent look within single-family neighborhoods. The site does include some unique features that would make the pool more compatible with the surrounding area. The proposed location of the swimming pool is buffered on three sides by an opaque hedge row that is between eight and 10 feet tall. The hedge would screen most of the pool from the view of surrounding properties. The site is also on a corner which increases separation from neighboring homes. Staff notes that while the hedge row currently provides adequate screening, the hedges could be removed at any time by the current or future owner of the site. If the hedges were removed, the swimming pool would be in plain sight from all directions. Staff finds that with the hedge row in place, the pool would be adequately screened and would not be injurious or detrimental to the public welfare.

Consistency with the Comprehensive Plan

This request is consistent with the following objective and policy.

Future Land Use Element

Policy 1.15a:

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

Staff comment: The site has R-1B Zoning that is consistent with the Single Family Future Land Use Classification of the site. The site is 20,019 sq. ft. and has a single-family home. The site is well under the maximum density of 4.4 units per acre. The project is consistent with this policy.

Recommendation:

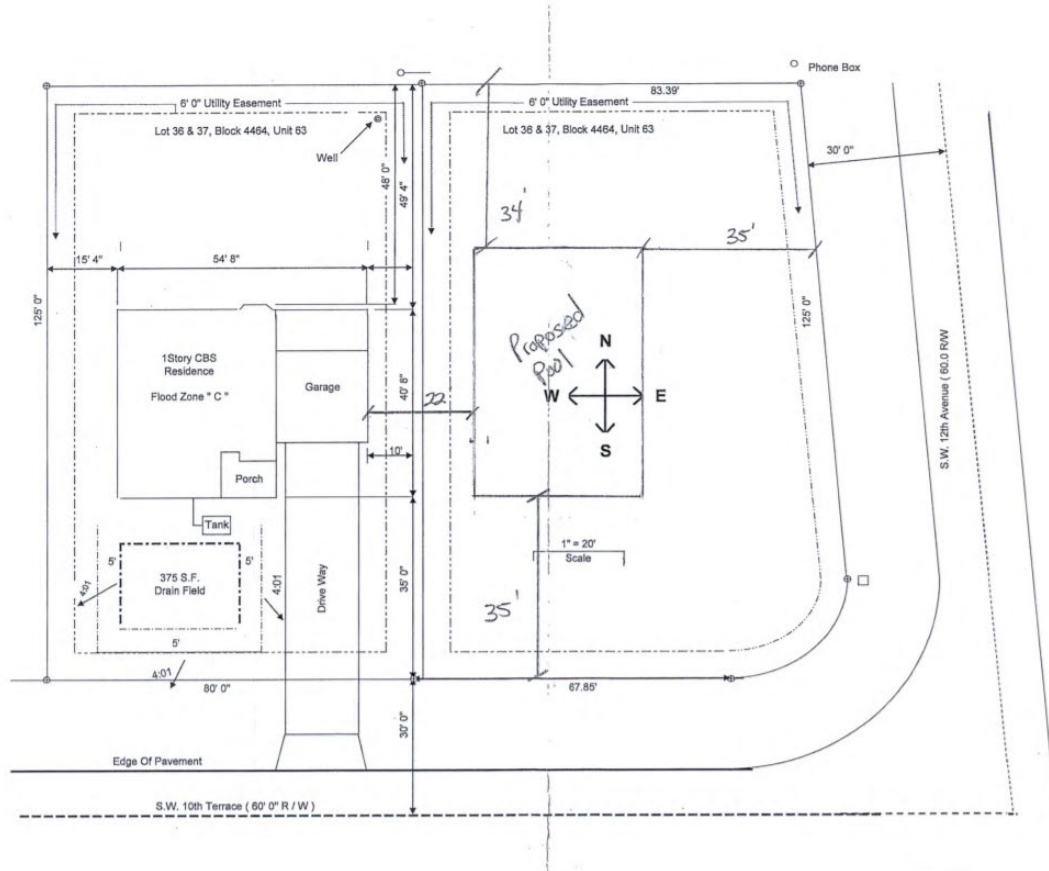
Staff finds that this variance meets one of the five standards established for variances. Since this request does not meet all five standards, staff recommends **denial**.

Staff Contact Information

Chad Boyko, AICP, Principal Planner

PH: 239-573-3162/Email: cboyko@capecoral.net

Exhibit "A"





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VA18-0021

REQUEST: The applicant requests a variance from City of Cape Coral Land Use and Development Regulations, Section 3.10 "Swimming Pools" which requires that all swimming pools be constructed behind a single-family home.

LOCATION: 1205 SW 10th Terrace

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

PROPERTY OWNER(S): Michael and Julie Kayatta

AUTHORIZED REPRESENTATIVE: Gary Keller, Keller Pools Construction

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, February 5, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

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

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

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No. of Affidavits: 1

Run Dates: 01/26/19

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: VA18-0021

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by order of
Kimberly Bruns, CMC
Interim City Clerk
REF # VA18-0021
AD# 3357057 Jan. 26, 2019

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: KAYATTA MICHAEL K + JULIE R

APPLICATION NO: VA18-0021

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 28th day of January, 2019.

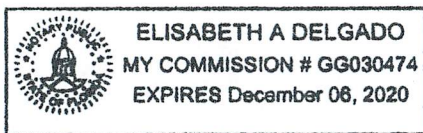


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of January, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/16/20 Commission # GG030474




Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public



CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. VA18-0021

 Subject Parcel



DECEMBER 7TH, 2018




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

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Boundary

Case No. VA18-0021

LEGEND

 500' Proximity Boundary

 Subject Parcel

Zoning

 R-1B

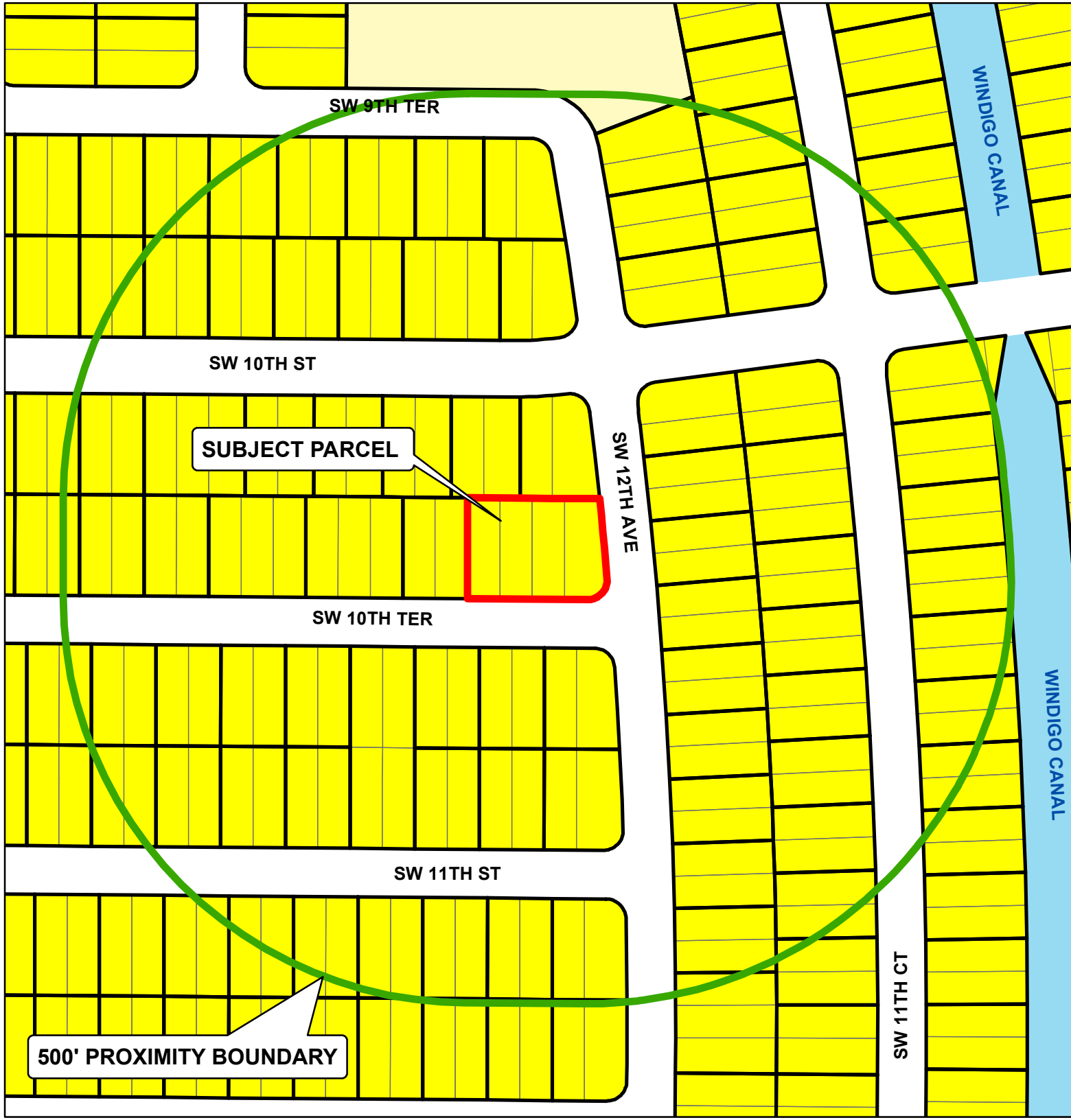
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DECEMBER 7TH, 2018



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Item Number:	3.A.
Meeting Date:	5/24/2019
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Tuesday, June 4, 2019, at 9:00 a.m., in Council Chambers

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION: