AGENDA FOR THE HEARING EXAMINER

Tuesday, July 2, 2019
9:00 AM
Council Chambers

1. HEARINGS CALLED TO ORDER

2. HEARINGS

A. Case #* VP19-0008; Address:5084 Sorrento Ct; Applicant: Daniel and Cornelia Huwiler

B. Case # *VP19-0009; Address: 4740 NW 36th St; Applicant: Joseph M Walden

C. Case#* DE19-0011; Address: 5231 SW 5th Pl; Applicant: Thomas Baracksai

D. Case# *ZA19-0005; Address:1914-2014 SE 16th Pl; Applicant: Mehmet Ozer, Serife Ozer and Tuncay Ozer

3. DATE AND TIME OF NEXT HEARINGS

A. Tuesday, July 16, 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:	**7/2/2019**
Item Type:	**HEARINGS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Case #* VP19-0008; Address:5084 Sorrento Ct; Applicant: Daniel and Cornelia Huwiler

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:
WHAT THE ORDINANCE ACCOMPLISHES:
The owner requests vacating 608 sq. ft. of canal right-of-way (ROW) and all underlying easements, and 408 sq . ft. of platted easements in Lots 34 and 35, Block 101.

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	Backup Material

DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0008

INSTRUCTIONS - APPLICATION FOR VACATION OF A
PLAT, STREET, ALLEY, CANAL, RIGHT OF WAY or EASEMENT

1. Application, Acknowledgement Form, Authorization to Represent.
   a. *All forms must be filled out completely.*
   b. *All forms must be signed by the property owner(s) and must be notarized.*
   c. *If the Authorized Representative is an attorney, the Application and the Acknowledgement form may be signed by the attorney and an Authorization to Represent Property Owner is not required.*
2. Letter of intent identifying your request.
3. Proof of title to the tract or parcel of land covered by the plat or, of the plat of which vacation is sought.
4. Letters of approval from the following:

Lee County Electric Cooperative, Inc.	*Century Link (Telephone)*	*Comcast (Cable)*
(239) 656-2112	*(239) 336-2031*	*(239) 415-4744*
Russell Goodman	*Century Link*	*Paul Bahizi*
Project Coordinator-Land Acquisition	*ATTN: Engineering Manager*	*Comcast*
LCEC	*8441 Littleton Rd.*	*12641 Corporate Lakes Dr*
PO Box 3455	*N. Ft Myers, FL 33903*	*Fort Myers, FL 33913*
North Ft Myers, FL 33918-3455		

5. A sketch and legal description of the area proposed to be vacated area.
6. If there are any deed restrictions on the property, a copy of the restrictions will be required.
7. Certified topographic survey (done within the past six (6) months), and showing all pavement, utility and drainage features in said area, including but not limited to water, sewer and irrigation lines and manholes; power, cable and utility lines and poles; catch basins, inlets, pipes, and swales. In the case where no features exist, a signed, sealed and dated certification by a Florida registered Professional Engineer can be submitted which certifies that there are no such roadway, utility or drainage features within the limits of and adjacent to the proposed vacated area.
8. Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.
9. IT IS REQUIRED THAT APPLICANT AND/OR REPRESENTATIVE ATTEND HEARINGS BEFORE BOTH THE HEARING EXAMINER AND THE CITY COUNCIL.

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # VP19-0008

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

REQUEST TO PLANNING & ZONING COMMISION AND COUNCIL FOR A VACATION OF PLAT

FEE: $843.00 – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise case will be pulled from public hearing.

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

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

OWNER OF PROPERTY

Daniel & Cornelia Huwiler Living Trust

Address: Saentisstrasse 98
City: Waedenswil, Switzerland State: ____ Zip 8820
Phone: ____

APPLICANT

Daniel Huwiler, trustee

EMAIL conny.huwiler@me.com

Address: same
City: ____ State: ____ Zip ____
Phone: ____

AUTHORIZED REPRESENTATIVE

Scott J. Hertz, Esq.

EMAIL shertz@js4law.com

Address: 1222 SE 47th Street, Ste. C1
City: Cape Coral State: FL Zip 33904
Phone: 239-244-2346

Unit 2 part 2 Block 101 Lot(s) 34 & 35 Subdivision Cape Coral

Address of Property 5084 Sorrento Ct, Cape Coral, FL

Current Zoning R-1 Plat Book 11 , Page 96-98

Strap Number 134523C4001010340

DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # VP19-0008

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

CORPORATION/COMPANY NAME
Daniel Huwiler, Trustee
Daniel & Cornelia Huwiler Living Trust

PROPERTY OWNER (PLEASE TYPE OR PRINT)

PROPERTY OWNER'S SIGNATURE

STATE OF _____, COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20__, by _____ who is personally known or produced _____ as identification.

Exp. Date: _____ Commission Number: _____

Signature of Notary Public: _____

Printed name of Notary Public: _____

(SIGNATURE MUST BE NOTARIZED)

Official Certification

Seen for authentication of the reverse side signature, affixed in our presence by

Mr. **Daniel HUWILER**, born 8th June 1964, Swiss citizen of Thalwil ZH, according to his information residing at Säntisstrasse 98, 8820 Wädenswil,
identified by identity card.

Schlieren, 17th April 2019
BK no. 818
Fee CHF 20.00

NOTARIAT SCHLIEREN Kt. Zürich

NOTARIAT SCHLIEREN

Beat Hirt, Notariatsassistent

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # VP19-0008

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

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.

Daniel Huwiler, Trustee
Daniel & Cornelia Huwiler Living Trust

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF_____ COUNTY OF_____

Sworn to (or affirmed) and subscribed before me on this _____ day of _____, 20___ by _____, who is personally known or who has produced _____ as identification.

Exp. Date _____
Commission #_____

Signature of Notary Public

Print Name of Notary Public

Official Certification

Seen for authentication of the reverse side signature, affixed in our presence by

Mr. **Daniel HUWILER**, born 8th June 1964, Swiss citizen of Thalwil ZH, according to his information residing at Säntisstrasse 98, 8820 Wädenswil, identified by identity card.

Schlieren, 17th April 2019
BK no. 819
Fee CHF 20.00

NOTARIAT SCHLIEREN
Kt. Zürich

NOTARIAT SCHLIEREN

Beat Hirt, Notariatsassistent

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # VP19-0008

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

(SIGNATURE MUST BE NOTARIZED)

Daniel Huwiler, Trustee
Daniel & Cornelia Huwiler Living Trust
APPLICANT NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF _____, COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20__, by _____ who is personally known or produced _____ as identification.

Exp. Date: _____ Commission Number: _____

Signature of Notary Public: _____

Printed name of Notary Public: _____

Official Certification

Seen for authentication of the reverse side signature, affixed in our presence by

Mr. **Daniel HUWILER**, born 8th June 1964, Swiss citizen of Thalwil ZH, according to his information residing at Säntisstrasse 98, 8820 Wädenswil, identified by identity card.

Schlieren, 17th April 2019
BK no. 820
Fee CHF 20.00

NOTARIAT SCHLIEREN
Kt. Zürich

NOTARIAT SCHLIEREN

Beat Hirt, Notariatsassistent

INTELLIGENT SOLUTIONS LAW FIRM, PLLC

1222 SE 47th Street
Suite C1
Cape Coral, FL 33904
DIRECT DIAL: 239.244.2346
shertz@is4law.com
www.is4law.com

April 18, 2019

Mike Struve
City of Cape Coral
Planning Division
1015 Cultural Park Boulevard
Cape Coral, FL 33990
Email: mstruve@capecoral.net

Re: Vacation of Plat application for 5084 Sorrento Ct, Cape Coral, FL 33904

Mr. Struve:

As you are aware, my client, the (Owner), is applying for a vacation of plat as a result of the accretion of land resulting from a seawall installation with the City of Cape Coral. The seawall, which was recently replaced under Permit #B18-30507 is in line with the seawalls of the two adjacent properties. This vacation will only affect the rear property line of the lot as depicted in the attached sketches and site plan. We are requesting the right-of-way at the West lots 34-35 of Block 101 in Unit 2 Part 2 be vacated along with all underlying easements. The Owner will provide a new 6' PUE extending along the length of the new property line, as set forth in the enclosed sketches and descriptions. The resulting condition will match what has been done on similar lots in this area of the City, where the rear lot was extended as a result of the land accreted during seawall construction.

Vacating the requested land will return this land to the tax rolls and improve the City by enabling full development of these parcels, thus increasing the value of the land and taxable income to the City. As the easement is currently unused and being simply moved back with the property line, and there are no objections from any of the utilities using them, there will no negative impact to the City or any of the adjoining or neighboring properties. The current right-of-way design is unusual, and the requested vacations will improve the use of the land without causing any detrimental effects.

We will provide all of the requested documents set forth in the application packet and look forward to working with the City to accomplish this vacation. Requests have been made to the utility providers specified, but we have not yet received responses. Documents being provided at this time include the following site plan, surveys, sketches, and descriptions:

5084 Sorrento Survey - CC-U2-101-34

Exhibit A – ROW to be Vacated

Exhibit B – PUE to be Vacated

Exhibit C – PUE to be Created

Exhibit D – Underlying Easements to be vacated

SP-1 Site Plan

Deed evidencing the Daniel & Cornelia Huwiler Living Trust's Ownership of Property

Very truly yours,

INTELLIGENT SOLUTIONS LAW FIRM, PLLC

Scott J. Hertz, Esq.

SJH/me

INSTR # 2018000209152, Doc Type D, Pages 4, Recorded 08/30/2018 at 10:05 AM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D $0.70 Rec. Fee $35.50 Deputy Clerk PSMITH

This instrument prepared by:
(without title examination or opinion)
KEVIN F. JURSINSKI, Esq.
KEVIN F. JURSINSKI, P.A.
15701 S. Tamiami Trail
Ft. Myers, Florida 33908

Parcel ID # 13-45-23-C4-00101.0340
Consideration: $10.00

QUIT CLAIM DEED

THIS QUIT-CLAIM DEED, executed this 10th day of August, 2018, by **Daniel Huwiler and Cornelia Huwiler**, husband and wife, first party, to **Daniel Huwiler & Cornelia Huwiler, Trustees, or their successors in interest, of the Daniel & Cornelia Huwiler Living Trust dated July 31, 2018, and any amendments thereto, with full power and authority to protect, conserve and to sell, or to lease, or to encumber, or otherwise to manage and dispose of the real property described herein,** second party, whose address is:

Saentisstrasse 98
Waedenswil, Switzerland 8820

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

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

Lots 34 and 35, Block 101, Cape Coral Unit Two Amended Part Two, a Subdivision, according to the Plat thereof as recorded in Plat Book 11, page(s) 96 through 98, inclusive, of the Public Records of Lee County Florida.

Which property address is: 5084 Sorrento Court, Cape Coral, Florida 33904.

The property is not the homestead of the grantor; it does not adjoin the homestead of the grantor; no member of the grantor's family resides therein and grantor presently resides at: Saentisstrasse 98, Waedenswil, Switzerland 8820.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behalf of the said second party forever.

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

Signed, sealed and delivered
in the presence of:

Witness signature

Justin Mooney
Witness printed name

Witness signature

Janine Marie Decker
Witness printed name

Cornelia Huwiler

STATE OF FLORIDA

SS:

COUNTY OF LEE

I HEREBY CERTIFY that the foregoing instrument was sworn to and acknowledged before me, an officer duly authorized in the State and County aforesaid, to take acknowledgements, this 10 day of Aug, 2018, by **Cornelia Huwiler**, who is personally known to me (or who has produced passport as identification) and who executed the foregoing instrument and who did take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 10 day of Aug, 2018.

NOTARY PUBLIC

Notary Public State of Florida
Janine Marie Decker
My Commission GG 145620
Expires 09/24/2021

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behalf of the said second party forever.

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

Signed, sealed and delivered
in the presence of:

Witness signature

Alexander Böhnke
Witness printed name

Witness signature

Monique Rimensberger
Witness printed name

Daniel Huwiler

STATE OF Switzerland

SS:

COUNTY OF Zuerich

I HEREBY CERTIFY that the foregoing instrument was sworn to and acknowledged before me, an officer duly authorized in the State and County aforesaid, to take acknowledgements, this 21 day of August, 2018, by **Daniel Huwiler**, who is personally known to me (or who has produced Passport (identity card) as identification) and who executed the foregoing instrument and who did take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2018.

NOTARY PUBLIC

Official Certification

Seen for authentication of the reverse side signature, affixed in our presence by

Mr. **Daniel HUWILER**, born 8th June 1964, Swiss citizen of Thalwil, according to his information residing at Säntisstrasse 98, 8820 Wädenswil,
identified by identity card.

SCHLIEREN, 21st August 2018
BK no. 1533
Fee CHF 20.00

NOTARIAT SCHLIEREN

Beat Hirt, Notariatsassistent

NOTARIAT SCHLIEREN
Kt. Zürich

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

PORTION OF SAN CARLOS CANAL, CAPE CORAL UNIT 2, PART 2,

SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST,
(PLAT BOOK 11, PAGES 96-98)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY
THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
A PLOT OR PORTION OF SAN CARLOS CANAL RIGHT OF WAY, CAPE CORAL UNIT TWO, PART TWO, AS RECORDED IN PLAT BOOK 11, PAGE 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 34, BLOCK 101 AND THE EAST RIGHT OF WAY OF SAN CARLOS CANAL, CAPE CORAL UNIT TWO, PART TWO AS RECORDED IN PLAT BOOK 11, PAGES 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN SOUTH TO THE SOUTHWEST CORNER OF LOT 35, SAID BLOCK 101 FOR 80.00 FEET; THENCE RUN WEST TO A POINT ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 7.60 FEET; THENCE RUN NORTH ALONG SAID WATERS EDGE FACE OF CONCRETE SEAWALL FOR 80.00 FEET; THENCE RUN EAST TO THE AFORESAID NORTHWEST CORNER OF LOT 34, BLOCK 101 FOR 7.60 FEET TO THE POINT OF BEGINNING.

CONTAINING: 608.0 SQ. FT±, MORE OR LESS.

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
03/12/2019

CC-U2-101-34

HARRIS-JORGENSEN, LLC.
3048 DEL PRADO BLVD. .S
#100
CAPE CORAL, FL. 33904
239-257-2624

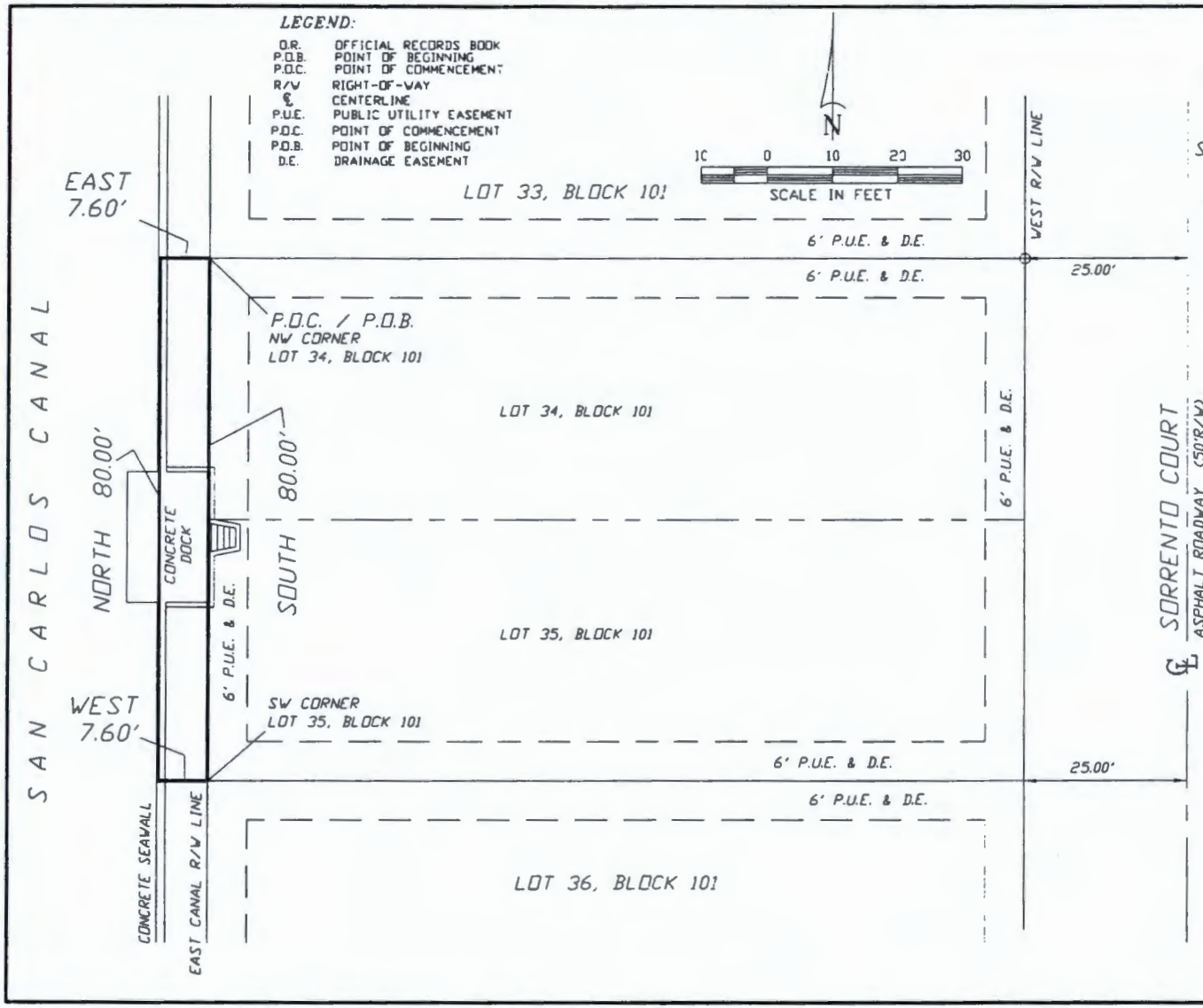
SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

SKETCH TO ACCOMPANY DESCRIPTION

PORTION OF SAN CARLOS CANAL, CAPE CORAL UNIT 2, PART 2,

SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST,
(PLAT BOOK 11, PAGES 96-98)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "A" SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF SORRENTO COURT, AS BEING SOUTH.
2. FIELD NOTES IN CAPE CORAL, BLOCK 101.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 8 ½ x 14", 20 SCALE DRAWING.

NOT A BOUNDARY SURVEY
CC-U2-101-34

HARRIS-JORGENSEN, LLC.
3048 DEL PRADO BLVD. S
#100
CAPE CORAL, FL. 33904
239-257-2624

EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH (PROPOSED)

VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT, LYING IN LOTS 34 AND 35, BLOCK 101, CAPE CORAL UNIT 2, PART 2,

SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST,
(PLAT BOOK 11, PAGES 96-98)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
A PLOT OR PORTION OF LAND LYING LOTS 34 AND 35, BLOCK 101, CAPE CORAL UNIT TWO, PART TWO, AS RECORDED IN PLAT BOOK 11, PAGE 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 34, BLOCK 101 AND THE EAST RIGHT OF WAY OF SAN CARLOS CANAL, CAPE CORAL UNIT TWO, PART TWO AS RECORDED IN PLAT BOOK 11, PAGES 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN SOUTH 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN EAST FOR 6.00 FEET; THENCE RUN SOUTH 68.00 FEET; THENCE RUN WEST TO A POINT ALONG THE WEST LINE OF SAID LOT 35, BLOCK 101 FOR 6.00; THENCE RUN NORTH ALONG WEST LINES OF SAID LOTS 35 AND LOT 34 BLOCK 101 FOR 68.00 FEET TO THE POINT OF BEGINNING.

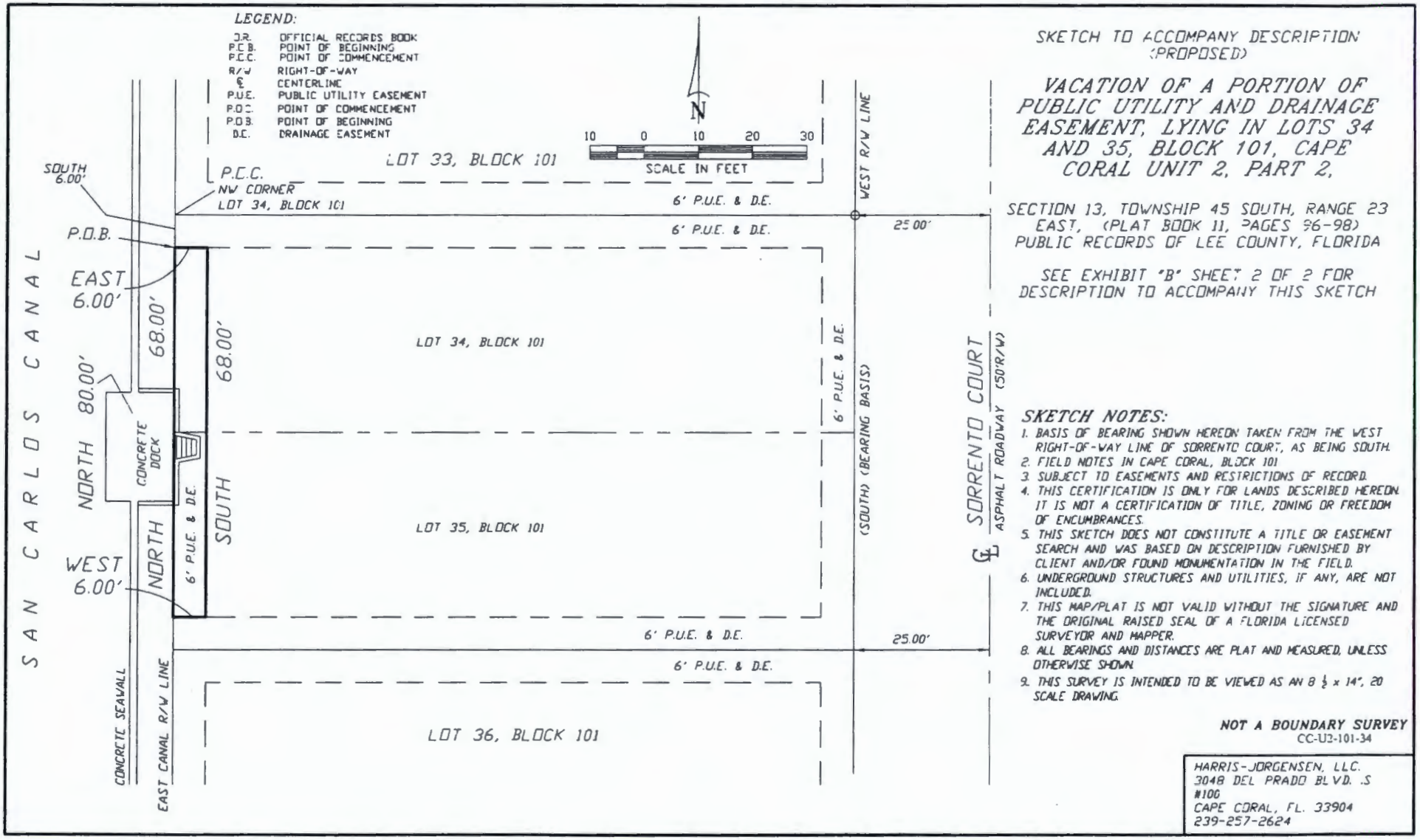
CONTAINING: 408.0 SQ. FT±, MORE OR LESS.

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
03/12/2019

CC-U2-101-34

HARRIS-JORGENSEN, LLC.
3048 DEL PRADO BLVD. S
#100
CAPE CORAL, FL. 33904
239-257-2624

SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION



SKETCH TO ACCOMPANY DESCRIPTION
(PROPOSED)

VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT, LYING IN LOTS 34 AND 35, BLOCK 101, CAPE CORAL UNIT 2, PART 2,

SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST, (PLAT BOOK 11, PAGES 96-98) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "B" SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF SORRENTO COURT, AS BEING SOUTH.
2. FIELD NOTES IN CAPE CORAL, BLOCK 101
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 8 ½ x 14", 20 SCALE DRAWING.

NOT A BOUNDARY SURVEY
CC-U2-101-34

HARRIS-JORGENSEN, LLC.
3048 DEL PRADO BLVD. S
#100
CAPE CORAL, FL. 33904
239-257-2624

EXHIBIT "C"

DESCRIPTION TO ACCOMPANY SKETCH (PROPOSED)

PUBLIC UTILITY AND DRAINAGE EASEMENT, LYING IN A PORTION OF SAN CARLOS CANAL RIGHT OF WAY, CAPE CORAL UNIT 2, PART 2,

SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST, (PLAT BOOK 11, PAGES 96-98)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:
A PLOT OR PORTION OF LAND LYING IN SAN CARLOS CANAL RIGHT OF WAY, CAPE CORAL UNIT TWO, PART TWO, AS RECORDED IN PLAT BOOK 11, PAGE 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 34, BLOCK 101 AND THE EAST RIGHT OF WAY OF SAN CARLOS CANAL, CAPE CORAL UNIT TWO, PART TWO, AS RECORDED IN PLAT BOOK 11, PAGES 96-98, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN SOUTH 6.00 FEET; THENCE RUN WEST FOR 1.60 FEET; THENCE RUN SOUTH ALONG A LINE 1.60 FEET WEST AND PARALLEL WITH THE WEST LINES OF LOT 34 AND 35, BLOCK 101, OF THE AFORESAID CAPE CORAL UNIT 2, PART 2, FOR 68.00 FEET; THENCE RUN EAST TO A POINT ALONG THE WEST LINE SAID LOT 35, BLOCK 101 FOR 1.60 FEET; THENCE RUN SOUTH TO THE SOUTHWEST CORNER OF SAID LOT 35, BLOCK 101, FOR 6.00 FEET; THENCE RUN WEST TO A POINT ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 7.60 FEET; THENCE RUN NORTH ALONG SAID CONCRETE SEAWALL FOR 80.00 FEET; THENCE RUN EAST TO THE NORTHWEST CORNER OF SAID LOT 34, BLOCK 101 FOR 7.60 FEET TO THE POINT OF BEGINNING.

CONTAINING: 499.20 SQ. FT., MORE OR LESS.

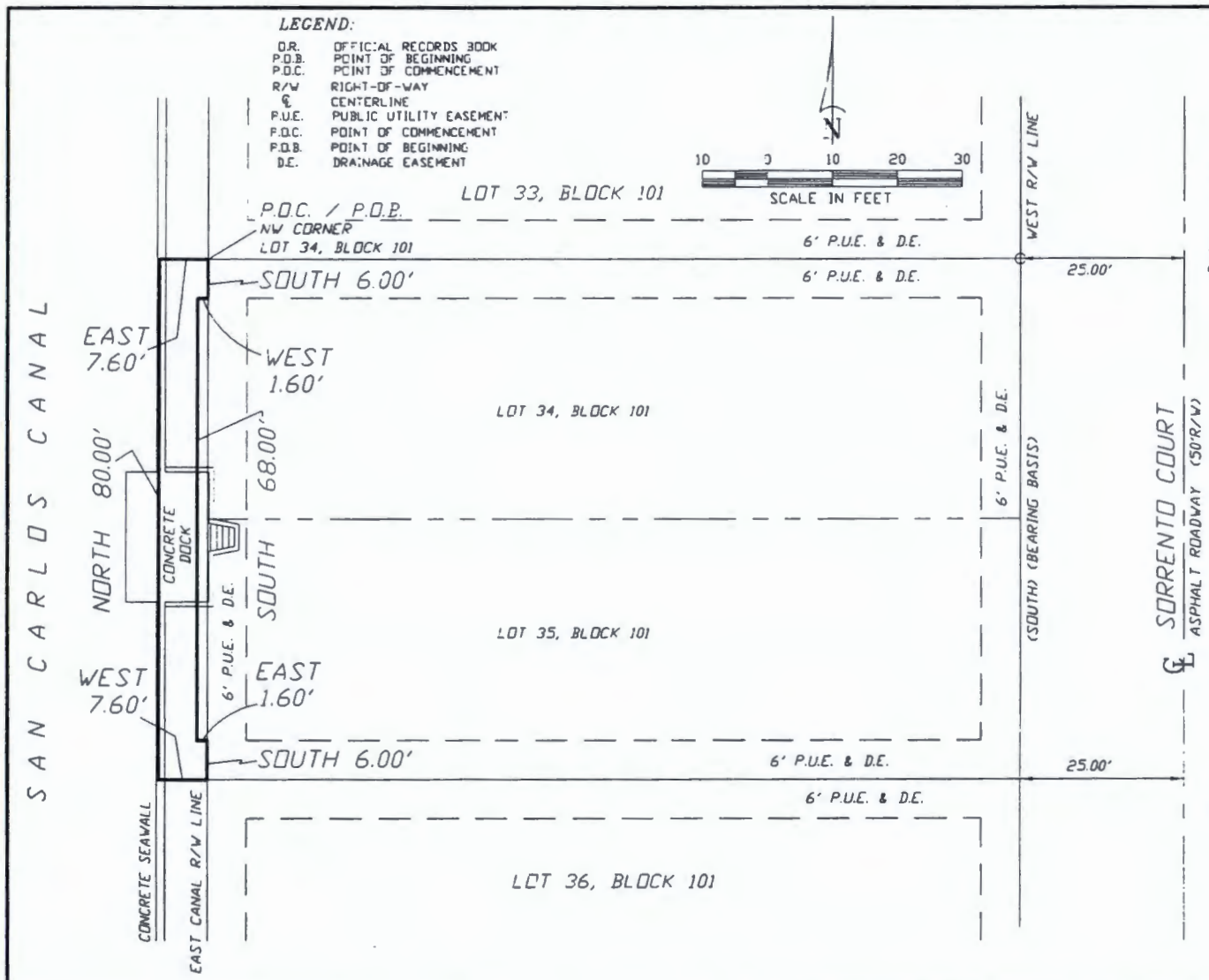
Phillip M Mould

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
03/12/2019

CC-U2-101-34

HARRIS-JORGENSEN, LLC.
3048 DEL PRADO BLVD. .S
#100
CAPE CORAL, FL. 33904
239-257-2624

SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION



SKETCH TO ACCOMPANY DESCRIPTION
(PROPOSED)

PUBLIC UTILITY AND DRAINAGE EASEMENT, LYING IN A PORTION OF SAN CARLOS CANAL RIGHT OF WAY, CAPE CORAL UNIT 2, PART 2,

SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST, (PLAT BOOK 11, PAGES 96-98) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "C" SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF SORRENTO COURT, AS BEING SOUTH.
2. FIELD NOTES IN CAPE CORAL, BLOCK 101.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
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NOT A BOUNDARY SURVEY
CC-U2-101-34

HARRIS-JORGENSEN, LLC.
3046 DEL PRADO BLVD. S
#100
CAPE CORAL, FL. 33904
239-257-2624

CenturyLink™

May 14, 2019

Scott J. Hertz, Esq.
Intelligent Solutions Law Firm, PLLC
1222 SE 47th Street, STE C1
Cape Coral, FL 33904
shertz@is4law.com

Re: ROW vacation request for 5084 Sorrento Ct, Cape Coral, FL 33904 Strap: 134523C4001010340

Dear Mr. Hertz:

Embarq Corporation, Inc. (d/b/a CenturyLink) has reviewed the document for the above referenced property. Based on the review, we have no objections to the proposed vacation of Right-of-Way and PUE along San Carlos Canal shown on the plats provided.

If you should require additional information, please contact me at 239 336-2012.

Sincerely,

John C. Schroeder

John C. Schroeder
Engineer
Fort Myers District
CenturyLink
John.schroeder@centurylink.com

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

May 15, 2019

Re: 5084 Sorrento Ct, Cape Coral, Fl. 33904

Dear Scott Hertz,

This letter will serve to inform you that Comcast has no objection to your proposed vacation of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 432-1805.

Cordially,

Mark Cook
Project Coordinator

Lee County Electric Cooperative, Inc.
Post Office Box 3455
North Fort Myers, FL 33918-3455
(239) 995-2121 ▪ Fax (239) 995-7904
www.lcec.net

April 30, 2019

Mr. Scott J. Hertz, Esq.
Intelligent Solutions Law Firm, PLLC
1222 SE 47th Street, STE C1
Cape Coral, FL 33904

Re: Letter of No Objection to Vacation of Utility Easement and Canal right of Way 5084 Sorrento Court, Cape Coral, FL 33904; Owners: Daniel & Cornelia Huwiler Living Trust; Strap: 134523C400101.0340.

Dear Mr. Hertz:

You have opened up negotiations, on behalf of your client, the Huwiler's.

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

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

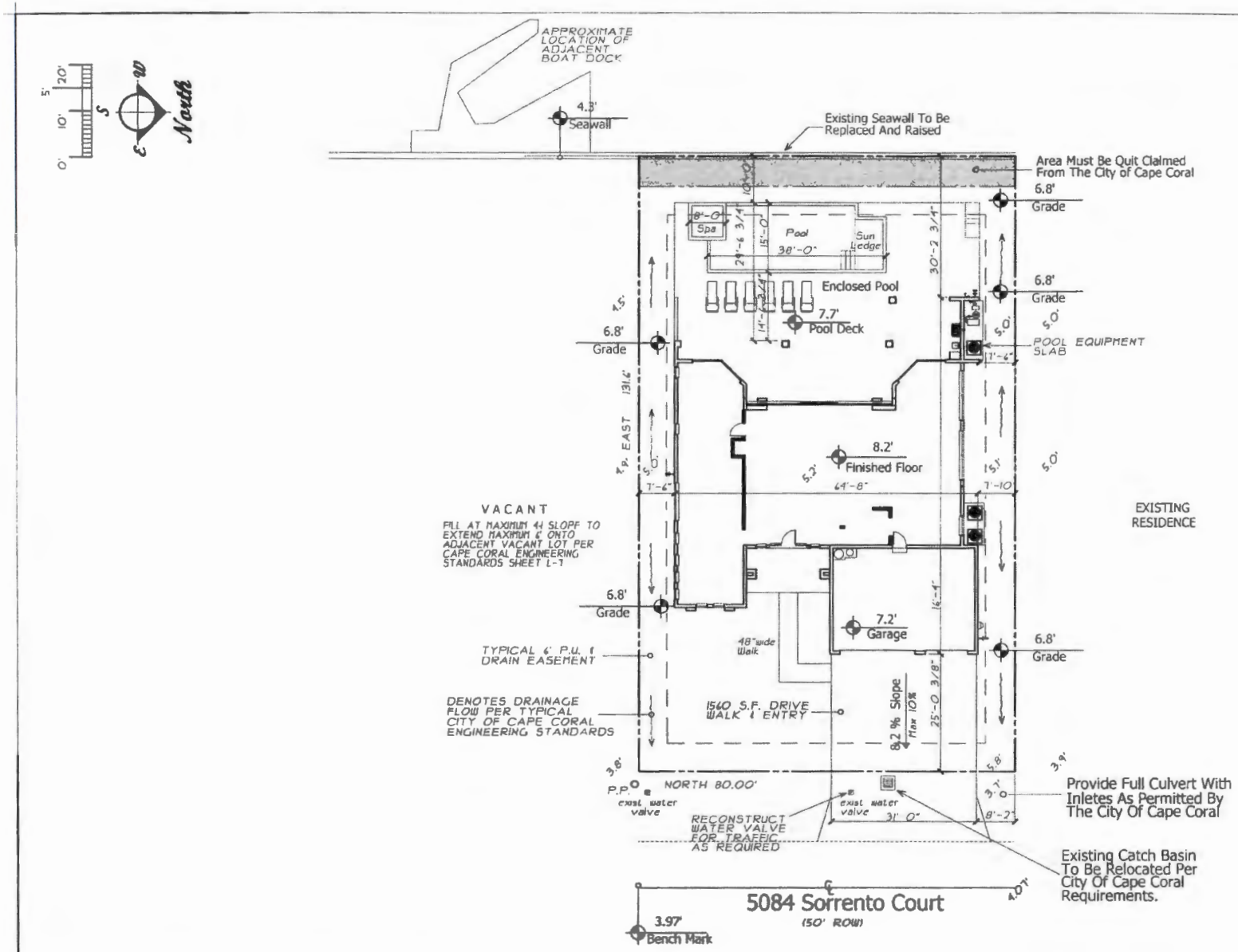
Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at russel.goodman@lcec.net.

Very truly yours,

Russ Goodman, SR/WA

Digitally signed by Russ Goodman, SR/WA
Date: 2019.04.30 15:48:41 -04'00'

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



PROJECT

Huwiler Residence

5084 SORRENTO COURT, CAPE CORAL
UNIT: 2 part 2, BLOCK: 101, LOTS: 34/35
STRP #13-45-23-C4-00101.0340

DRAWN: H. VOLZ
DATE: 1-20-18 SCALE: 20

REVISIONS	
7-27, 7-30, 8-22, 12-3	
12-12, 12-17, 1-7-19, 4-16	

cinnamon design

319 Miramar Street, Suite 201 Cape Coral, FL 33904 Ph. 239.5408332
www.cinnamon.com

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SITE PLAN

SP-1

U.S. DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency
National Flood Insurance Program

OMB No. 1660-0008
Expiration Date: November 30, 2018

ELEVATION CERTIFICATE

Important: Follow the Instructions on pages 1–9.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A – PROPERTY INFORMATION		FOR INSURANCE COMPANY USE
A1. Building Owner's Name DANIEL & CORNELIA HUWILER		Policy Number:
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 5084 SORRENTO COURT		Company NAIC Number:
City CAPE CORAL	State FLORIDA	ZIP Code 33904
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) 13-45-23-C4-00101.0340		

A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) RESIDENTIAL

A5. Latitude/Longitude: Lat. 26.554275 Long. -81.973647 Horizontal Datum: ☐ NAD 1927 ☒ NAD 1983

A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.

A7. Building Diagram Number 1B

A8. For a building with a crawlspace or enclosure(s):

a) Square footage of crawlspace or enclosure(s) 0 sq ft

b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade 0

c) Total net area of flood openings in A8.b 0 sq in

d) Engineered flood openings? ☐ Yes ☒ No

A9. For a building with an attached garage:

a) Square footage of attached garage 717 sq ft

b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade 0

c) Total net area of flood openings in A9.b 0 sq in

d) Engineered flood openings? ☐ Yes ☒ No

SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP Community Name & Community Number	B2. County Name	B3. State
CITY OF CAPE CORAL 125095	LEE COUNTY, INDEPENDENT CITY	FLORIDA

B4. Map/Panel Number	B5. Suffix	B6. FIRM Index Date	B7. FIRM Panel Effective/ Revised Date	B8. Flood Zone(s)	B9. Base Flood Elevation(s) (Zone AO, use Base Flood Depth)
12071C0415	F	8/28/08	8/28/08	AE	7

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9:
☐ FIS Profile ☒ FIRM ☐ Community Determined ☐ Other/Source:

B11. Indicate elevation datum used for BFE in Item B9: ☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source:

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? ☐ Yes ☒ No
Designation Date: ☐ CBRS ☐ OPA

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expiration Date: November 30, 2018

IMPORTANT: In these spaces, copy the corresponding information from Section A.

FOR INSURANCE COMPANY USE

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.
5084 SORRENTO COURT

Policy Number:

City	State	ZIP Code
CAPE CORAL	FLORIDA	33904

Company NAIC Number

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on. ☒ Construction Drawings* ☐ Building Under Construction* ☐ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO. Complete Items C2.a–h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: GPS FPRN Vertical Datum: NAVD 1988

Indicate elevation datum used for the elevations in items a) through h) below.

☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source:

Datum used for building elevations must be the same as that used for the BFE.

		Check the measurement used.
a) Top of bottom floor (including basement, crawlspace, or enclosure floor)	8.0	☒ feet ☐ meters
b) Top of the next higher floor	N/A	☒ feet ☐ meters
c) Bottom of the lowest horizontal structural member (V Zones only)	N/A	☒ feet ☐ meters
d) Attached garage (top of slab)	7.0	☒ feet ☐ meters
e) Lowest elevation of machinery or equipment servicing the building (Describe type of equipment and location in Comments)	7.0	☒ feet ☐ meters
f) Lowest adjacent (finished) grade next to building (LAG)	6.5	☒ feet ☐ meters
g) Highest adjacent (finished) grade next to building (HAG)	7.8	☒ feet ☐ meters
h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support	N/A	☒ feet ☐ meters

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.
I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? ☒ Yes ☐ No ☐ Check here if attachments.

Certifier's Name	License Number
ERIC C DAVIS OR CHARLES E DAVIS	5544 or 4839

#5544 OR #4839

Title
PROFESSIONAL SURVEYOR AND MAPPER

Company Name
DAVIS SURVEYING, INC

Address
4536 SE 16th PLACE

City	State	ZIP Code
CAPE CORAL	FLORIDA	33904

2/06/19

Signature	Date	Telephone
	2/06/19	239-549-6454

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including type of equipment and location, per C2(e), if applicable)
SECTIONC2, ITEM e REFERS TO THE A/C PLATFORM OR PAD

JOB #19-0280

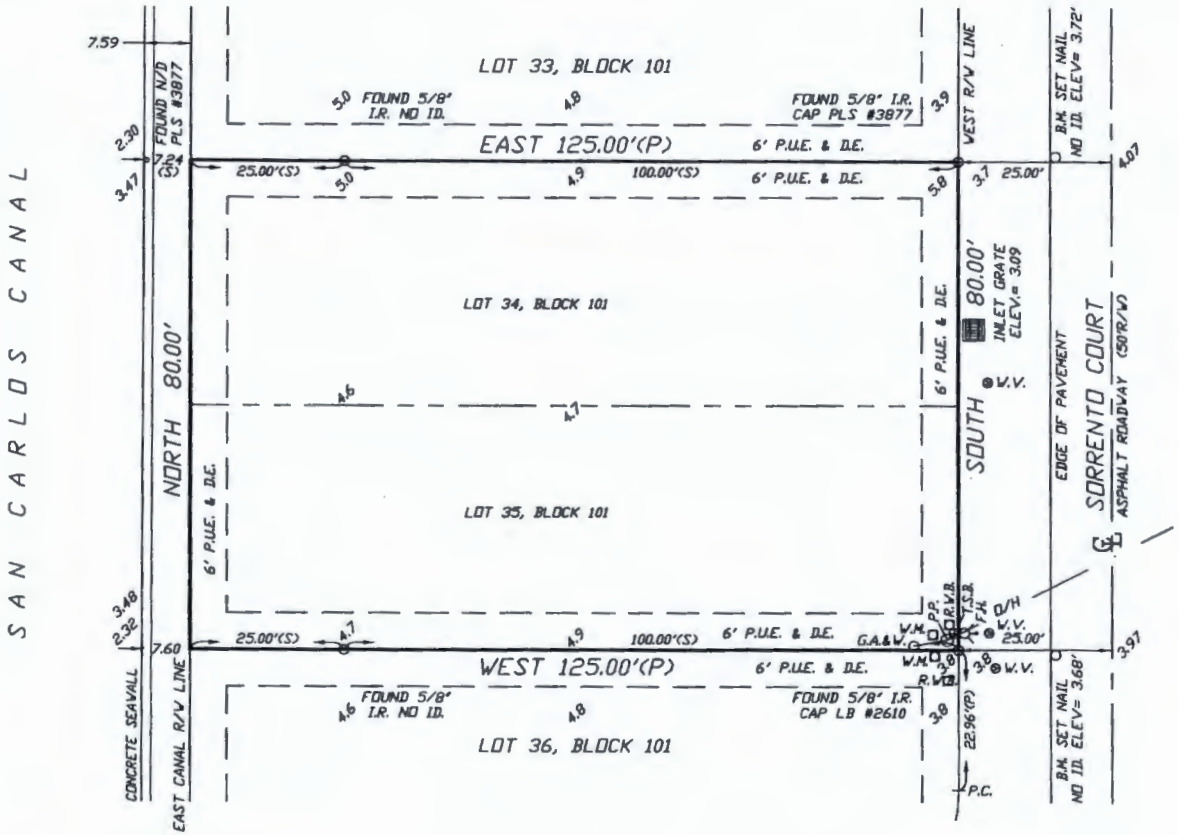
NOT FOR PERMITTING OR CONSTRUCTION WITHOUT WRITTEN CONTRACT WITH SURVEYOR.

BENCHMARK BASED ON NAVD, NO CONVERSION NECESSARY

BOUNDARY SURVEY OF

LOTS 34 & 35, BLOCK 101
CAPE CORAL, UNIT 2 PART TWO

SECTION 13, TOWNSHIP 45 SOUTH, RANGE 23 EAST
(PLAT BOOK 11, PAGES 96-98)
LEE COUNTY, FLORIDA



LEGEND:

●	SET #4 IRON ROD (CAP LB #6921)	R.W.B.	RECLAIM WATER BOX
○	FOUND IRON ROD (I.R.)	W.M.	WATER METER
□	CONCRETE MONUMENT (C.M.)	O/H	OVERHEAD POWER
P.R.M.	PERMANENT REFERENCE MONUMENT	P.P.	POWER POLE
P.U.E.	PUBLIC UTILITY EASEMENT	G.A.&W.	GUY ANCHOR & WIRE
D.E.	DRAINAGE EASEMENT	T.S.B.	TELEPHONE SERVICE BOX
P.C.	POINT OF CURVATURE	N/D	NAIL & DISK
O.R.	OFFICIAL RECORDS BOOK	N/T.T.	NAIL & TINTAB
(S)	AS PER SURVEY	ELEV.	ELEVATION
(P)	AS PER PLAT	B.M.	BENCHMARK
E.B.	ELECTRIC BOX	✥	TYPICAL ELEVATION
L1	LINE NUMBER	A/C	AIR CONDITIONER
R/W	RIGHT-OF-WAY	F.H.	FIRE HYDRANT
℄	CENTERLINE	P.E.	POOL EQUIPMENT
			CONCRETE

SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF SORRENTO COURT, AS BEING "".
2. FIELD NOTES IN CAPE CORAL, BLOCK 101.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
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7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. ISSUANCE OF THIS DRAWING, FROM THIS FIRM SHALL NOT RELIEVE THE BUILDER AND/OR CONTRACTORS OF THE RESPONSIBILITY TO REVIEW AND VERIFY ALL NOTES, DIMENSIONS, ELEVATIONS, AND ADHERENCE TO APPLICABLE BUILDING CODES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION. BUILDER MAY NEED TO ADJUST ELEVATION AND/OR SETBACKS PRIOR TO CONSTRUCTION IF OTHER RESTRICTIONS EXIST.
10. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 11X17, 20 SCALE DRAWING.
11. BENCHMARK DERIVED FROM CAPE CORAL BENCHMARK NUMBER 441-21-06, ELEVATION 4.90' N.G.V.D., 3.72' N.A.V.D.
12. ELEVATIONS ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D.)

FLOOD ZONE: "AE" ELEVATION: 7.00' N.A.V.D.
COMMUNITY No.: 125095 PANEL No.: 0415
SUFFIX --- F REVISION DATE: 8/28/08
MAP NUMBER: 12071C0415F

THIS SURVEY IS CERTIFIED TO:
DANIEL AND CONNY HUWILER

N

10 0 10 20 30
SCALE IN FEET

SAFE UPLAND ELEVATION= 0.7'
PER LETTER FROM LAMAR EVERS, FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DATED: FEBRUARY 15, 2019

REVISED:	DESCRIPTION:	BY:
2/14/19	ADDED SEAWALL:	RBH

DATE OF LAST FIELD WORK: 2/14/19

DRAWN:	CHECK:	SCALE	PROJ. #
GSM	PMM	1'=20'	CC-U2-101-34
SURVEY DATE		FILE NO.	SHT.- 1
7/3/18		45-23-13	OF - 1

PHILLIP M. HOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA

HARRIS-JORGENSEN, L.L.C.
3048 DEL PRADO BLVD. S., SUITE 100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

FLORIDA CERTIFICATE OF AUTHORIZATION LB #6921

Planning Division Case Report VP 19-0008

Review Date: June 19, 2019

Property Owner: Daniel and Cornelia Huwiler Living Trust dated July 31, 2018

Owner Address: Saentisstrase 98
Waedenswil, Switzerland 8820

Request: The owner requests vacating 608 sq. ft. of canal right-of-way (ROW) and all underlying easements, and 408 sq. ft. of platted easements in Lots 34 and 35, Block 101.

Property Location: 5084 Sorrento Court
Lots 34 and 35, Block 101, Unit 2, Part 2, Cape Coral Subdivision
Strap number: 13-45-23-C4-00101.0340

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

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

Recommendation: **Approval with conditions**

Urban Service Infill

Property Description:

The applicant owns a two-lot platted site in southeastern Cape Coral. The rear of the site is along the San Carlos Canal. The San Carlos Canal is a saltwater canal with a platted width of 200 feet at the owner's site. The site has a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning, and all properties within 2,000 feet share the same future land use and zoning classifications.

The site had a single-family residence that was demolished in 2018. A new seawall was installed in 2019. A permit (B19-04100) for a two-story, single-family dwelling with a living area of 4,614 sq. ft. was issued by the City on March 21, 2019.

Request

A surveyor sketch of the site shows a ±7.6-foot wide strip of canal ROW between the western property line and the outer edge of the seawall. For most platted water-front sites in the City, the rear property line extends to the edge of the canal. The applicant seeks to vacate this strip of ROW that totals 608 sq. ft. to extend the site to the edge of the seawall.

Zoning History of Block 101

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

Analysis:

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

Request No. 1: Vacate 608 sq. ft. of ROW Adjacent to the San Carlos Canal

The applicant requests to vacate 608 sq. ft. of canal ROW between the west property line of the site and the edge of the seawall. The applicant owns Lots 34 and 35 that abut this ROW and is therefore eligible to request this vacation. The ROW consists of a 7.6-foot wide strip of land at the rear of the site. This ROW is too narrow to provide a tangible benefit to the public. As a result, there is no apparent reason for the City to maintain this strip of land as ROW. This vacation will enlarge the site by 608 feet and will provide uninterpreted ownership of land between the front property line and the edge of the canal as depicted by the approved subdivision plat for Unit 2.

Request No. 2: Vacate 608 sq. ft. of Easements Underlying the Subject ROW

The applicant requests to vacate 608 sq. ft. of easements underlying the ROW described above in Request No. 1. CenturyLink, Comcast, and LCEC lack facilities in these easements. None of these providers object to this request. The City also lacks facilities within this easement. A perimeter easement will be sufficient for future utility installation and maintenance purposes.

Request No. 3: Vacate 408 sq. ft. of Easements in Lots 34-35, Block 101

The applicant requests to vacate 408 sq. ft. of platted easements near the western property line of Lots 34 and 35. The City lacks drainage facilities in this easement. CenturyLink, Comcast, and LCEC also lack facilities in this easement. All three providers have no objection to this request. LCEC does request a new six-foot wide easement be provided along the west property line of the expanded site. Consistent with that request, the owner will provide the City with a six-foot wide replacement easement adjacent to the new western property line for maintaining a continuous easement around the site.

Consistency with the Comprehensive Plan

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

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

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

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

Staff comment: This request is consistent with Policy 1.15.a as the site is 10,608 sq. ft. following the ROW vacation and the property will have one single-family home. This equates to a density of 4.1 dwelling units per acre, less than the maximum density allowed in this future land use classification.

Recommendation:

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

Conditions of Approval

1. The vacation of the 608 sq. ft. of ROW and all underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC entitled *"Portion of San Carlos Canal, Cape Coral Unit 2, Part 2"*, dated March 12, 2019.

2. The vacation of the 408 sq. ft. of easements in Lots 34 and 35, Block 101 shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC entitled *"Vacation of a Portion of Public Utility and Drainage Easement, Lying in Lots 34 and 35, Block 101, Cape Coral Unit 2, Part 2"*, dated March 12, 2019.

3. Within 60 days from the date of adoption of this vacation, the owners shall provide to the City an easement deed for a six-foot wide easement consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC, dated March 12, 2019, entitled *"Public Utility and Drainage Easement, Lying in a portion of San Carlos Canal Right of Way, Cape Coral Unit 2, Part 2."* This deed shall be approved by the City Property Broker prior to execution.

4. This resolution shall be recorded with the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the owner provides the City with an easement deed as described in Condition #3 above and reimburses the City for all recording fees associated with this resolution and the easement deed.

Staff Contact Information
Mike Struve, AICP, LEED Green Associate, Development Management Team Coordinator
PH: 239-242-3255
Email: mstruve@capecoral.net

The News-Press media group
news-press.com A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Ad No.: 0003639690

Net Amt: $348.86

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/22/19

Text of Ad:

NOTICE OF PUBLIC HEARING ADVERTISEMENT

CASE NUMBER: VP19-0008

REQUEST: A vacation of plat for a portion of San Carlos Canal right-of-way and the underlying public utility and drainage easements located adjacent to Lots 34-35, Block 101, Unit 2, Part 2, Cape Coral Subdivision; and a vacation of plat for public utility and drainage easements associated with Lots 34-35, Block 101, Unit 2, Part 2, Cape Coral Subdivision; property located at 5084 Sorrento Court.

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

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on July 2, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of
Kimberly Bruns, CMC
City Clerk
REF # VP19-0008
AD#3639690 JUNE 22, 2019

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Daniel & Cornelia Humiler TR

APPLICATION NO: VP19-0008

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 24th day of June, 2019.

Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 24th day of June, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

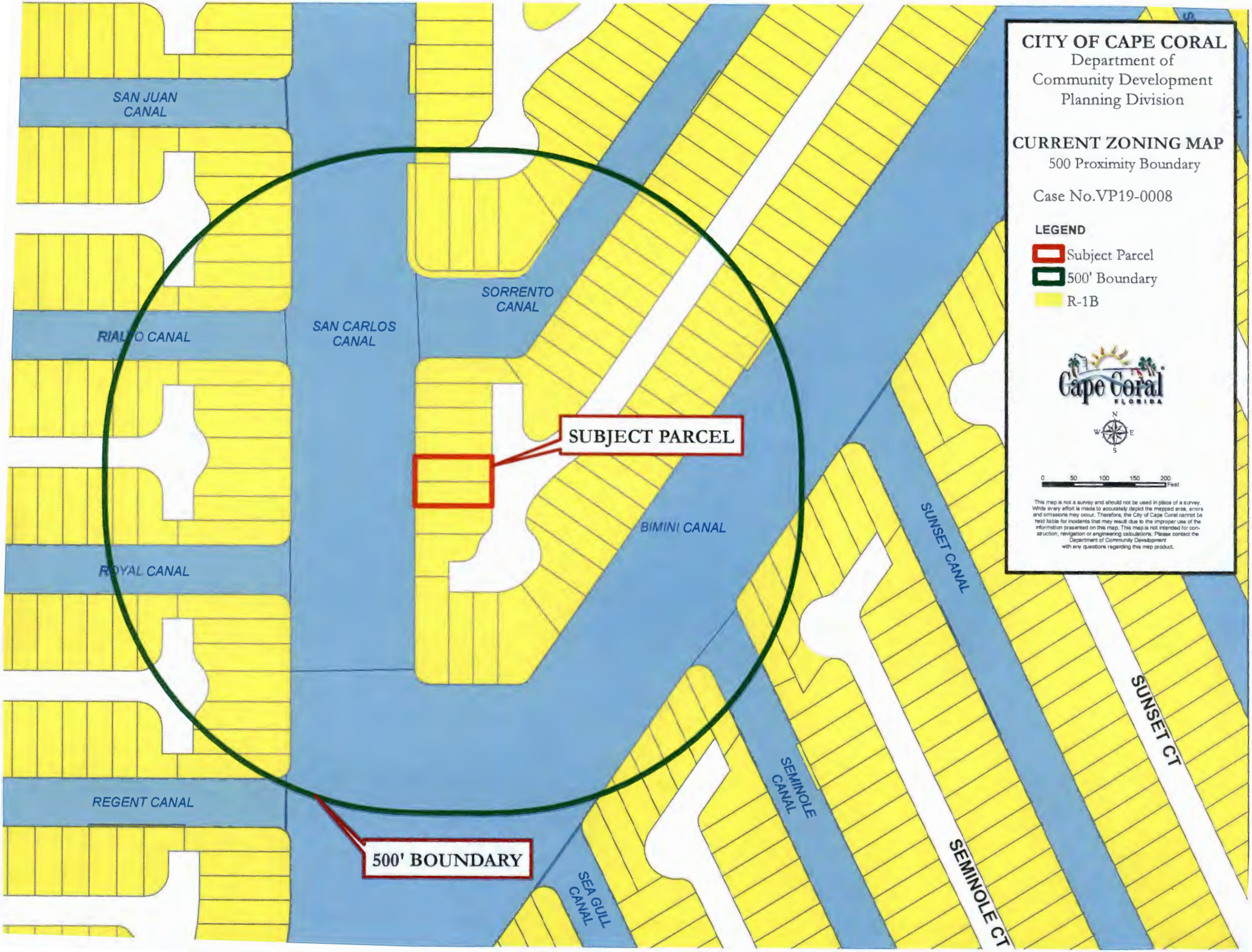
Exp. Date 12/6/20 Commission # GG030474

ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public

SORRENTO CANAL
RIALTO CANAL
SUBJECT PARCEL
SAN CARLOS CANAL
SORRENTO CT
ROYAL CANAL
BIMINI CANAL
SEMINOLE CANAL
CITY OF CAPE CORAL
Department of Community Development Planning Division
AERIAL MAP
Case No. VP19-0008
LEGEND
Subject Parcel
Cape Coral FLORIDA
N
W
E
S
0 20 40 80 80 Feet
This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.


CITY OF CAPE CORAL
Department of
Community Development
Planning Division
CURRENT ZONING MAP
500 Proximity Boundary
Case No.VP19-0008
LEGEND
Subject Parcel
500' Boundary
R-1B
Cape Coral
FLORIDA
N
W
E
S
0 50 100 150 200
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.
SAN JUAN CANAL
RIALTO CANAL
ROYAL CANAL
REGENT CANAL
SAN CARLOS CANAL
SORRENTO CANAL
BIMINI CANAL
SEA GULL CANAL
SEMINOLE CANAL
SUNSET CANAL
SEMINOLE CT
SUNSET CT
SUBJECT PARCEL
500' BOUNDARY

Item Number:	**2.B.**
Meeting Date:	**7/2/2019**
Item Type:	**HEARINGS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Case # *VP19-0009; Address: 4740 NW 36th St; Applicant: Joseph M Walden

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:
WHAT THE ORDINANCE ACCOMPLISHES: To vacate two six-foot wide public utility and drainage easements along the common lot-line where Lots 73 and 74 meet and the shared lot-line between Lots 73 and 74, interior-to the subject property.

LEGAL REVIEW:

EXHIBITS:
See attached backup materials

PREPARED BY:

Shawn Baker	Division- Planning	Department-	Community Development

SOURCE OF ADDITIONAL INFORMATION:
Katherine Woellner, Planner, 239-574-0605, kwoellner@capecoral.net

ATTACHMENTS:

	Description	Type
	Backup material	Backup Material

DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0009

REQUEST TO PLANNING & ZONING COMMISION AND COUNCIL FOR A VACATION OF PLAT

FEE: $843.00 – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise case will be pulled from public hearing.

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

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

OWNER OF PROPERTY
JOSEPH M & AMY L. WALDEN

Address: 4740 NW 36th ST.
City: CAPE CORAL State: FL Zip 33993
Phone: H: 239 282 1260 C: 239 224 8663

APPLICANT
JOSEPH M. WALDEN

Address: 4740 NW 36th ST.
City: CAPE CORAL State: FL Zip 33993
Phone: H 239-282-1260 C: 239 224 8663

EMAIL
MIKE.JWALDEN@GMAIL.COM

AUTHORIZED REPRESENTATIVE
KATIE SMITH SYLVIA

Address: 3512 SW 6th STREET
City: CAPE CORAL State: FL Zip 33993
Phone: 239 789 5351

EMAIL KESMITH@SMITHTEAMSELLS.COM

Unit 90 Block 5483 Lot(s) 73/74 Subdivision CAPE CORAL

Address of Property 4740 NW 36th STREET

Current Zoning 01 - SINGLE FAMILY Plat Book 32 , Page 55

Strap Number 24-43-22-C1-05483.0730

DEPARTMENT OF COMMUNITY DEVELOPMENT **Case #** _____

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT KATIE SMITH SYLVIA
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR

_____

UNIT 90 BLOCK 5483 LOT(S) 73 ; 74 SUBDIVISION CAPE CORAL

OR LEGAL DESCRIPTION 4740 NW 36th ST.
CAPE CORAL, FL 33993 STRAP 24-43-22-C1-05483.0730

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

JOSEPH M. WALDEN
PROPERTY OWNER (Please Print)

AMY L. WALDEN
PROPERTY OWNER (Please Print)

Joseph M. Walden
PROPERTY OWNER (Signature & Title)

Amy L. Walden
PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 11 day of MAY, 2019, by Joseph M Walden & Amy L Walden who is personally known or produced Known as identification.

Exp. Date: 6/13/20 Commission Number: FF 995691

Signature of Notary Public: Debbie Marcinek

Printed name of Notary Public: Debbie Marcinek

DEBBIE MARCINEK
Notary Public - State of Florida
Commission # FF 995691
My Comm. Expires Jun 13, 2020

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

DEPARTMENT OF COMMUNITY DEVELOPMENT **Case #** _____

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

(SIGNATURE MUST BE NOTARIZED)

JOSEPH M. WALDEN
APPLICANT NAME (PLEASE TYPE OR PRINT)
AMY L. WALDEN

Joseph M. Walden
APPLICANT'S SIGNATURE
Amy L. Walden

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 11 day of MAY, 20~~19~~20 by Joseph M Walden & Amy L Walden who is personally known or produced Known as identification.

DEBBIE MARCINEK
Notary Public - State of Florida
Commission # FF 995691
My Comm. Expires Jun 13, 2020

Exp. Date: 6/13/20 Commission Number: FF 995691

Signature of Notary Public: Debbie Marcinek

Printed name of Notary Public: Debbie Marcinek

DEPARTMENT OF COMMUNITY DEVELOPMENT **Case #** _____

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

CORPORATION/COMPANY NAME

AMY L. WALDEN
JOSEPH M. WALDEN

PROPERTY OWNER (PLEASE TYPE OR PRINT)

Amy L. Walden
Joseph M. Walden

PROPERTY OWNER'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 11 day of MAY, 2019, by Joseph M Walden & Amy L Walden who is personally known or produced known as identification.

DEBBIE MARCINEK
Notary Public - State of Florida
Commission # FF 995691
My Comm. Expires Jun 13, 2020

Exp. Date: 6/13/20 Commission Number: FF 995691

Signature of Notary Public: Debbie Marcinek

Printed name of Notary Public: Debbie Marcinek

(SIGNATURE MUST BE NOTARIZED)

DEPARTMENT OF COMMUNITY DEVELOPMENT **Case #** _____

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

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.

AMY L. WALDEN
JOSEPH M. WALDEN
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL **COUNTY OF** Lee

Sworn to (or affirmed) and subscribed before me on this 11 day of MAY, 2019 by Joseph M Walden, who is personally known or who has produced Known as identification.

Exp. Date 6/13/2020
Commission # FF995691

Signature of Notary Public

Debbie Marcinek
Print Name of Notary Public

DEBBIE MARCINEK
Notary Public - State of Florida
Commission # FF 995691
My Comm. Expires Jun 13, 2020

DEPARTMENT OF COMMUNITY DEVELOPMENT **Case #** _____

VACATION OF PLAT APPLICATION

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

AMY L. WALDEN
JOSEPH M. WALDEN
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

Amy R. Walden
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL **COUNTY OF** Lee

Sworn to (or affirmed) and subscribed before me on this 11 day of MAY, 2019 by Amy L Walden, who is personally known or who has produced _____ as identification.

Exp. Date 6/13/2020
Commission # FF 995691

Debbie Marcinek
Signature of Notary Public

Debbie Marcinek
Print Name of Notary Public

DEBBIE MARCINEK
Notary Public - State of Florida
Commission # FF 995691
My Comm. Expires Jun 13, 2020

May 17, 2019

Cape Coral Community Development

Letter of Intent for Vacation of Easement and Property Dividing Line

Property Address: 4740 NW 36th Street Cape Coral, FL 33993 - Strap # 24-43-22-C1-05483.0730

To Whom It May Concern:

This Letter is for the Vacation of Easement and Property Dividing Line at 4740 NW 36th Street or Strap# 24-43-22-C1-05483.0730 for the purpose of refinancing a home mortgage.

We purchased the 2 lots in October 2017 (with Wyatt Daltry's help on zoning) and immediately applied to have them combined. When that was approved by the City of Cape Coral, and Lee County we thought everything that we needed to do was done and that there were no "issues" with the property. We received one strap number, one address and one bill for property tax purposes.

Subsequently, we retained a builder (Groff Building Contractors) and commenced building our home directly in the middle of our (combined) piece of property. We secured a construction loan with no problems or issues, Groff obtained all necessary construction permits with no problems or issues, and the home was built. During the build numerous inspections were performed on not only the home, but also the lot and we were in full compliance with every requirement.

Not once during this entire process, was anything even mentioned by the builder, the City of Cape Coral inspectors, or Lee County inspectors about there being any "problems or issues" with this combined property.

Also during the building process, for utilities, we had to pay $10,000 to LCEC for them to run electric poles and service to even reach this property. Further, CenturyLink charged us $2,000 to run cable for internet to this property. We were told flat out by Comcast that they would not run service to this property. So we can assure you that they have no interest in this property, and would have charged us greatly to even provide service out to our home.

Further, we completed all final inspections, and received CO on the home and property with no problem. Once that was complete, we also applied for Homestead Exemption (a Lee County property appraiser physically came to the home, introduced herself, and examined the entire house and property) and Homestead was also granted with no exceptions or problems.

All we are trying to do is just refinance the existing loan on this house with the proceeds from the sale of our previous home. We are not trying to add, change, or alter in any way our property or home as it currently exists. For this to happen we need to remove the 6 ft. easement on both sides of the previous property line (currently running underneath our existing home) and to have that property line removed.

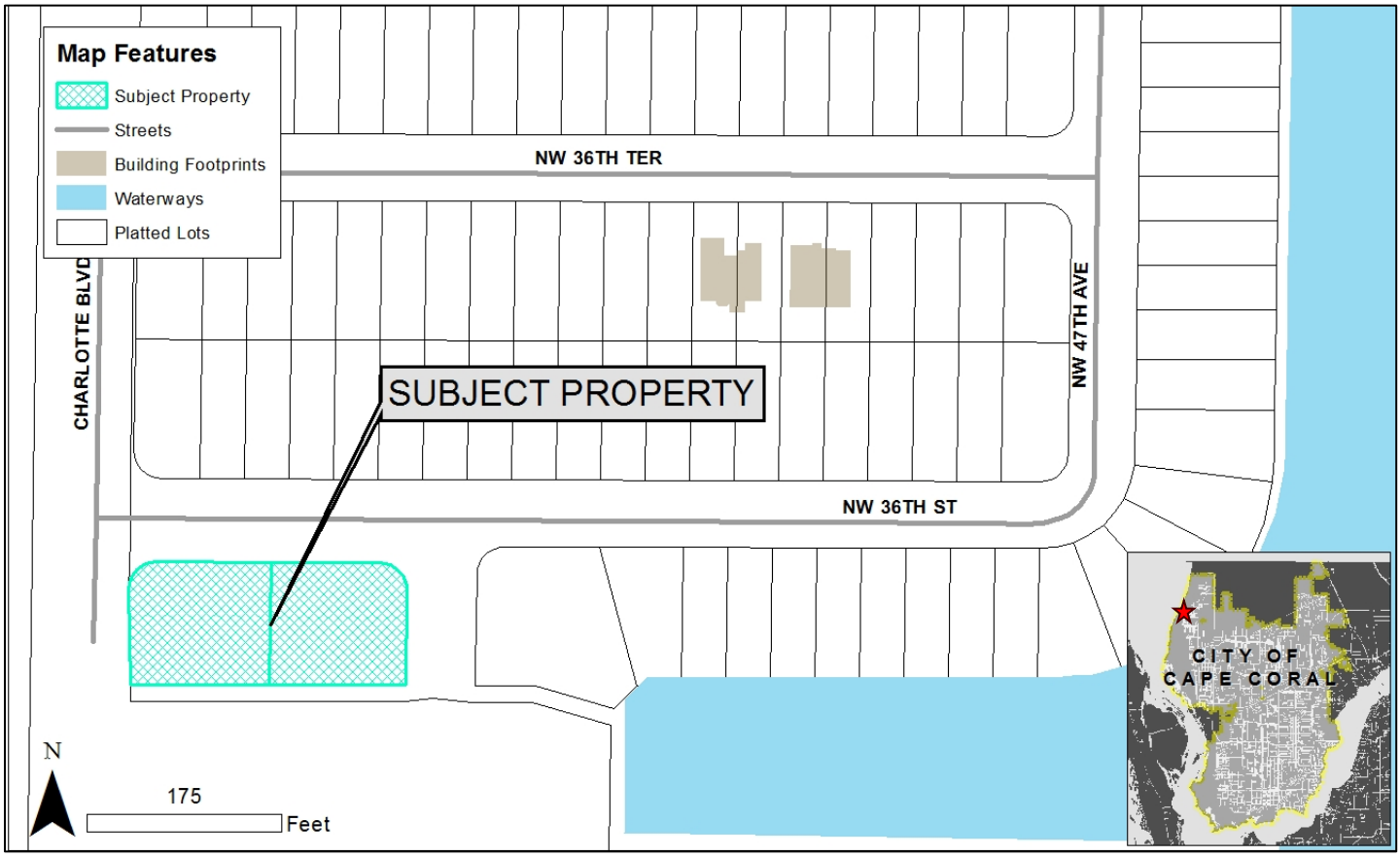
If we would have had any idea that there were existing issues we would have addressed them immediately.

Again, we appreciate all that every individual involved is doing and ask again, respectfully, for your continued help and support so that we are able to complete the refinance of our home.

Sincerely, Joseph and Amy Walden

VACATION OF PLAT

PLANNING DIVISION CASE REPORT VP19-0009



HEARING DATE:	July 2, 2019
REQUEST:	To vacate two six-foot wide public utility and drainage easements along the common lot-line where Lots 73 and 74 meet and the shared lot-line between Lots 73 and 74, interior-to the subject property.

SITE ADDRESS:	4740 NW 36th St
STRAP NUMBER:	24-43-22-C1-05483.0730
LEGAL DESCRIPTION:	Cape Coral Unit 90 Blk 5483 Lots 73 + 74
APPLICANT(S):	Joseph M. Walden
PROPERTY OWNER(S):	Joseph M. Walden; Amy L. Walden
AUTHORIZED AGENT(S):	N/A

FUTURE LAND USE:	Single-Family & Multi-Family (SM)
ZONING DESIGNATION:	Residential (R-1B)
URBAN SERVICE AREA:	Reserve
CODE COMPLIANCE CASE:	N/A

PREPARED BY:	Katherine Woellner, Planner
APPROVED BY:	Mike Struve, Planning Coordinator, AICP
RECOMMENDATION:	Approval

BACKGROUND

The 30,975 sqft site contains a single-family residence built in 2018 on two platted lots of record, Lots 73 and 74 along NW 36th St. The applicant is requesting to vacate the underlying easements to clarify the title for refinancing the property.

REQUEST

The applicant is requesting the vacation of two six-foot wide public utility and drainage easements (P.U.E.s) and the common property line where Lots 74 and 73 meet (See Figure 1 on Page 3). The easements and lot-line are interior to the site. All of the perimeter easements will remain. Utilities are absent in the platted easement proposed for vacation.

ZONING HISTORY

The site in question has a Residential (R-1B) zoning designation and Single-Family and Multi-Family (SM) Future Land Use. This site is surrounded on three sides by rights-of-way and to the south, by a Preservation District (PRFLU).

In 2017 the current property owner combined Lots 73 and 74 of Block 5483 to create the current configuration of the site. Lot combinations do not vacate the common lot-line or underlying easements associated with both sides of the common lot-line. After the lots were combined, the property owners constructed a single-family home in the middle of the site, over the platted easements and common property line. The City has always allowed homes to be constructed over these easements and property lines when the lots are in common ownership. This why the easements and property line were not an issue during the construction process.

ANALYSIS

Staff analyzed this request with the standards found in the Land Use and Development Regulations, Section 8.11, *"Vacation of plats, rights-of-way and other property*" and Policy 5.5 of the Land Use Element in the Comprehensive Plan regarding vacations.

Comprehensive Plan

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

Land Use and Development Regulations (LUDR)

This application was analyzed consistent with LUDR, Section 8.11, *"Vacation of plats, rights-of-way and other property*."

The site will not be enlarged with the proposed easement vacation. The vacation will only impact the formally recorded easements and property line that remain after the lot combination. The area proposed for vacation runs through the middle of the site which has already been developed with a single-family dwelling.
Lee County Electric Cooperative, Inc. (LCEC), Embarq Corporation, Inc. (Century Link), Comcast, and the City of Cape Coral have stated that they have ***no utilities in the easement*** proposed to be vacated and have ***no objection*** to the vacation. The six-foot easement along the front, rear, and sides of the property will remain.

The subject easement is not needed to meet or fulfill any foreseeable public purpose. The easements proposed for vacation are in the middle of the site under the existing single-family residence where the two platted lots of record that comprise this site meet. Approval of this request will not be harmful to the community.

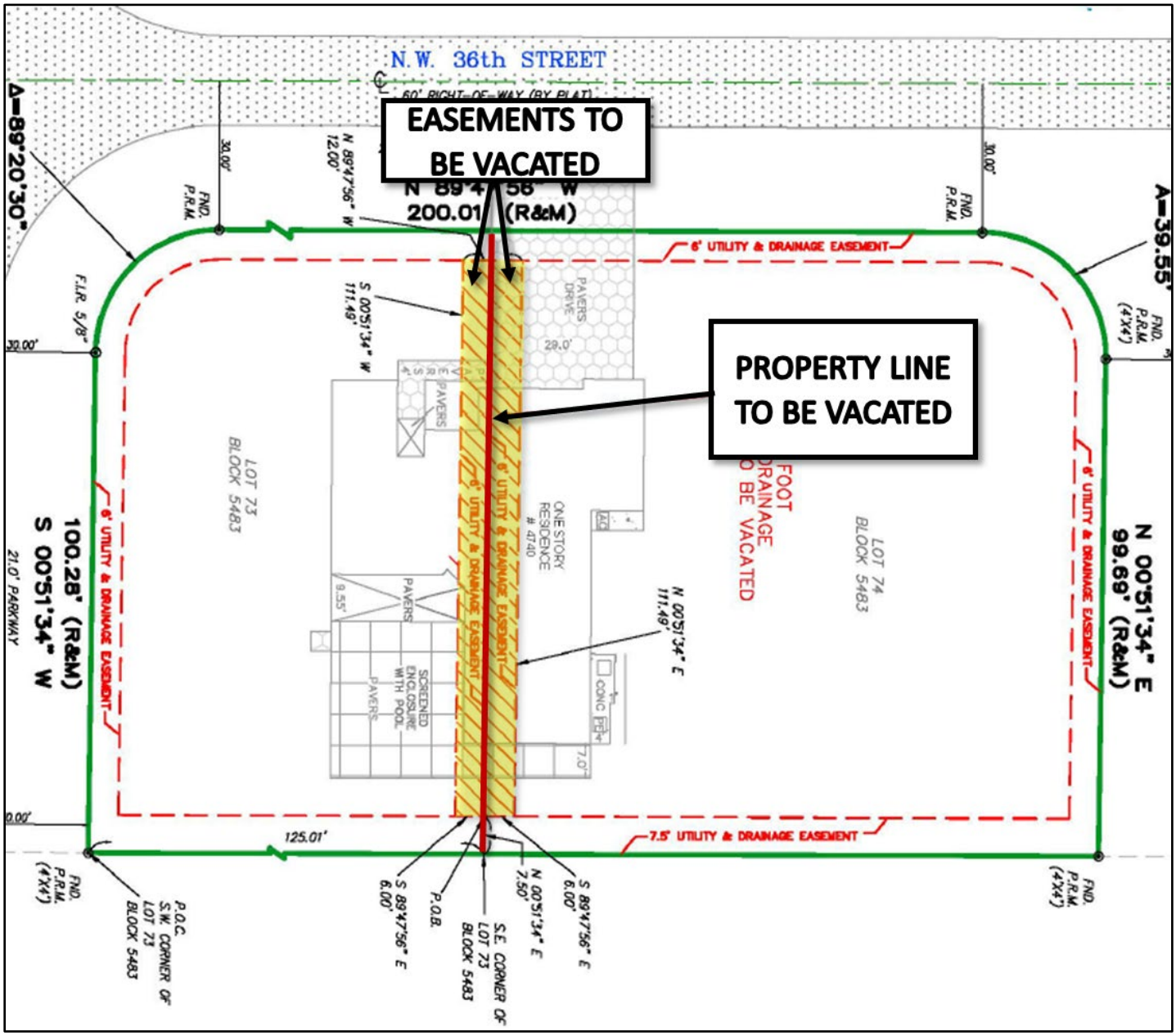


Figure 1: Diagram of Proposed Vacations

RECOMMENDATION

Based on the above analysis, staff recommends **APPROVAL** with the following conditions.

<u>Conditions of Approval</u>

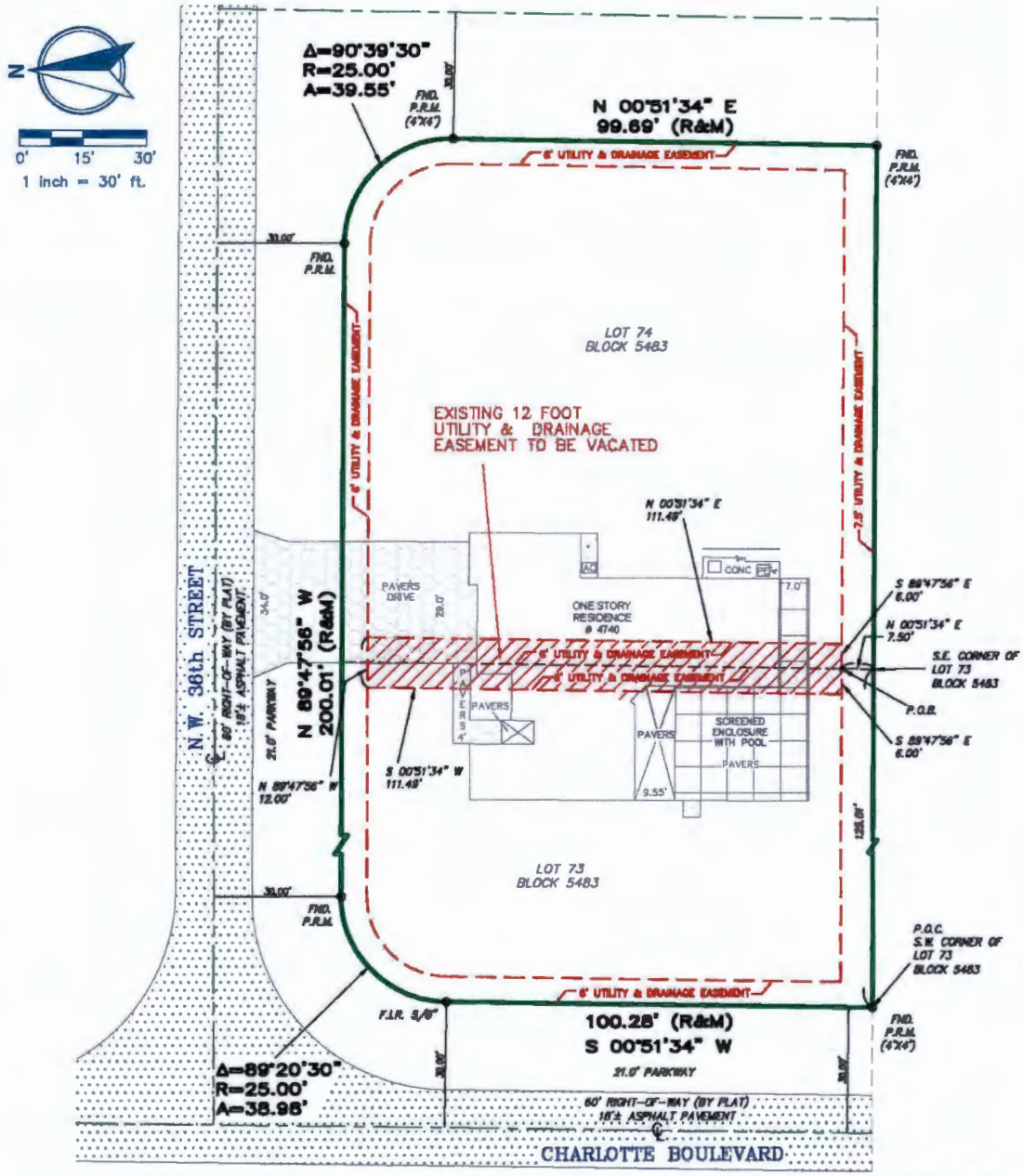
1. The vacation of the two six-foot wide platted public utility and drainage easements along the common lot-line where Lot 73 and 74 meet within the site shall be consistent with that shown in the sketch and

accompanying legal description prepared by Miguel Espinosa, dated May 3, 2019, and entitled *"Specific Purpose Sketch: 4740 NW 36th St., Cape Coral, FL, 33993"*.

2. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant reimburses the Department of Community Development for all recording fees associated with this resolution.

Staff Contact Information

Katherine Woellner, Planner
PH: 239-574-0605
Email: kwoellner@capecoral.net



NOTE: THE PURPOSE OF THIS SKETCH IS TO SHOW THE EXISTING 12 FOOT UTILITY & DRAINAGE EASEMENT TO BE VACATED. THIS IS NOT A BOUNDARY SURVEY.

POINTS OF INTEREST:

SPECIFIC PURPOSE SKETCH

Property Address:

4740 NW 36TH ST.
CAPE CORAL, FL 33993

OnlineLand SURVEYORS, INC.

15271 NW 60 AVE, Suite 206
Miami Lakes, FL 33014
www.OnlineLandSurveyors.Com

SURVEYOR'S CERTIFICATION: I HEREBY CERTIFY THAT THIS "SPECIFIC PURPOSE SKETCH" IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PREPARED UNDER MY DIRECTION

CERTIFICATE No. 5101 STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER

SIGNED _____ FOR THE FIRM

MIGUEL ESPINOSA *P.S.M. No. 5101*
STATE OF FLORIDA

NOT VALID WITHOUT AN AUTHENTIC ELECTRONIC SIGNATURE AND AUTHENTICATED ELECTRONIC SEAL AND/OR THIS MAP IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSE SURVEYOR AND MAPPER.

LOCATION MAP N.T.S.

PROPERTY FRONT VIEW

JOSEPH M. WALDEN & AMY L. WALDEN

FLOOD INFORMATION:

Community Number:	CITY OF CAPE CORAL 125095
Panel Number:	12071C0230F
Suffix:	F
Date of Firm Index:	8/28/2008
Flood Zone:	AE
Base Flood Elevation:	8.0
Date of Survey:	4/19/2019

LEGAL DESCRIPTION: (PLEASE SEE PAGE 3)

Surveyor's Legend

PROPERTY LINE	
STRUCTURE	
CONC. BLOCK WALL	
CHAIN-LINK or WIRE FENCE	
WOOD FENCE	
IRON FENCE	
EASEMENT	
CENTER LINE	
WOOD DECK	
CONCRETE	
ASPHALT	
BRICK/TILE	
WATER	
APPROXIMATE EDGE OF WATER	
COVERED AREA	

	TREE
P.P.	POWER POLE
C.B.	CATCH BASIN
C.U.E.	COUNTY UTILITY ESMT.
I.E./E.E.	INGRESS/ EGRESS ESMT.
U.E.	UTILITY EASEMENT
FND. OR F	FOUND IRON PIPE/ PIN AS NOTED ON PLAT
LB#	LICENSE # – BUSINESS
LS#	LICENSE # – SURVEYOR
CALC	CALCULATED POINT
SET	SET MONUMENT
▲	CONTROL POINT
■	CONCRETE MONUMENT
ELEV	ELEVATION
P.T.	POINT OF TANGENCY
P.C.	POINT OF CURVATURE
P.R.M.	PERMANENT REFERENCE MONUMENT
P.C.C.	POINT OF COMPOUND CURVATURE
P.R.C.	POINT OF REVERSE CURVATURE
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
P.C.P.	PERMANENT CONTROL POINT
M	FIELD MEASURED
P	PLATTED MEASURMENT
D	DEED
C	CALCULATED

L.M.E.	LAKE or LANDSCAPE MAINT. ESMT.
R.O.E.	ROOF OVERHANG EASEMENT
P.P.	POOL PUMP
PL	PLANTER OR PROPERTY LINE
I.D.	IDENTIFICATION
B.C.	BLOCK CORNER
B.R.	BEARING REFERENCE
Δ	CENTRAL ANGLE or DELTA
R	RECORD OR RADIUS
RAD.	RADIAL
N.R.	NON RADIAL
TYP.	TYPICAL
I.R.	IRON ROD
I.P.	IRON PIPE
N&D	NAIL & DISK
PK NAIL	PARKER-KALON NAIL
D.H.	DRILL HOLE
●	WELL
	FIRE HYDRANT
M.H.	MAN HOLE
O.H.L.	OVERHEAD LINES
TX	TRANSFORMER
CATV	CABLE TV. RISER
W.M.	WATER METER
P/E	POOL EQUIPMENT
CONC	CONCRETE SLAB

ESMT.	EASEMENT
D.E.	DRAINAGE EASEMENT
L.B.E.	LANDSCAPE BUFFER ESMT.
L.A.E.	LIMITED ACCESS EASEMENT
TEL.	TELEPHONE FACILITIES
U.P.	UTILITY POLE
E.U.B.	ELECTRIC UTILITY BOX
SEP.	SEPTIC TANK
D.F.	DRAIN FIELD
AC	AIR CONDITIONER
CSW	CONC SIDEWALK
DWY	DRIVEWAY
SCR.	SCREEN
GAR.	GARAGE
ENCL.	ENCLOSURE
N.T.S.	NOT TO SCALE
F.F.	FINISHED FLOOR
T.O.B.	TOP OF BANK
E.O.W.	EDGE OF WATER
E/P OR E.O.P.	EDGE OF PAVEMENT
C.V.G.	CONCRETE VALLEY GUTTER
B.S.L.	BUILDING SETBACK LINE
S.T.L.	SURVEY TIE LINE
℄	CENTER LINE
R/W	RIGHT OF WAY
R.O.E.	PUBLIC UTILITY EASEMENT
C.M.E.	CANAL MAINTENANCE EASEMENT
A.E.	ANCHOR EASEMENT

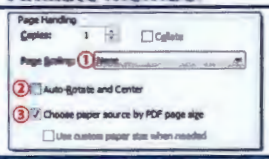
GENERAL NOTES:

1) *LEGAL DESCRIPTION PROVIDED BY OTHERS.*
2) *EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING PROPERTY.*
3) *THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENT OR OTHER RECORDED ENCUMBERANCES NOT SHOWN ON THE PLAT.*
4) *THE PURPOSE OF THIS SKETCH IS TO SHOW THE EXISTING 12 FOOT UTILITY & DRAINAGE EASEMENT TO BE VACATED.*
   THIS IS NOT A BOUNDARY SURVEY.
5) *UNDERGROUND PORTIONS OF FOOTINGS, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.*
6) *ONLY VISIBLE AND ABOVE GROUND ENCROACHMENTS LOCATED.*
7) *FENCE OWNERSHIP NOT DETERMINED.*
8) *WALL TIES ARE TO THE FACE OF THE WALL.*
9) *BEARINGS ARE BASE ON AN ASSUMED MERIDIAN.*
10) *SPECIFIC PURPOSE SKETCH MEANS A DRAWING AND/OR GRAPHIC REPRESENTATION OF THE SKETCH WORK PERFORMED IN THE FIELD, COULD BE DRAWN AT A SHOWN SCALE AND/OR NOT TO SCALE.*
11) *NO IDENTIFICATION FOUND ON PROPERTY CORNERS UNLESS NOTED.*
12) *NOT VALID UNLESS SEALED WITH THE SIGNING SURVEYORS EMBOSSED OR ELECTRONIC SEAL.*
13) *DIMENSIONS SHOWN ARE PLAT AND MEASURED UNLESS OTHERWISE SHOWN.*
14) *ELEVATIONS IF SHOWN ARE BASED UPON N.G.V.D. 1929 UNLESS OTHERWISE NOTED.*
15) *THIS IS NOT A BOUNDARY SURVEY UNLESS OTHERWISE NOTED.*
16) *THIS SPECIFIC PURPOSE SKETCH HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON, THE CERTIFICATIONS DO NOT EXTEND TO ANY UNNAMED PARTIES.*

Florida Land Title Association
FLTA
Affiliate Member

Printing to Scale:

1. Select "None" from Page Scaling
2. Deselect "Auto-Rotate and Center"
3. Select "Choose paper source by PDF page size"



FIELD WORK:	4/18/2019
DRAWN BY:	C.S.
CHECKED BY:	M.E.
FINAL REVISION:	05/03/2019
COMPLETED:	4/19/2019
SCALE:	1' = 30"
SURVEY CODE:	O-51291

CERTIFICATE No. 5101 STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER

LB# 7904

OnlineLand SURVEYORS, INC.
15271 NW 60 AVE, Suite 206
Miami Lakes, FL 33014
Phone: (305) 910-0123
Fax: (305) 675-0999
www.OnlineLandSurveyors.Com

LEGAL DESCRIPTION:

A PORTION OF LOTS 73 AND 74, BLOCK 5483, OF CAPE CORAL, SPREADER WATERWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 32, PAGES 48 THROUGH 111, INCLUSIVE ,OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID LOT 73, BLOCK 5483, THENCE SOUTH 89°47'56" EAST, ALONG THE SOUTHERLY BOUNDARY LINE OF LOT 73, 125.01 FEET TO THE SOUTHEAST CORNER OF LOT 73 AND THE SOUTHWEST CORNER OF LOT 74; THENCE NORTH 00°15'34" EAST, ALONG THE COMMON LINE OF LOTS 73 AND 74 FOR 7.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°47'56" EAST FOR 6.00 FEET; THENCE NORTH 00°51'34" EAST FOR 111.49 FEET; THENCE NORTH 89°47'56" WEST, FOR 12.00 FEET; THENCE SOUTH 00°51'34" WEST, FOR 111.49 FEET; THENCE SOUTH 89°47'56" EAST, FOR 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1355.88 +/- SQUARE FEET OF LAND.

SURVEYOR'S CERTIFICATION. I HEREBY CERTIFY THAT THIS 'sSKETCH' IS A TRUE AND CORRECT REPRESENTATION OF A SKETCH PREPARED UNDER MY DIRECTION.

CERTIFICATE No. 5101 STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER

SIGNED _____ FOR THE FIRM

MIGUEL ESPINOSA ***P.S.M. No. 5101***
STATE OF FLORIDA

NOT VALID WITHOUT AN AUTHENTIC ELECTRONIC SIGNATURE AND AUTHENTICATED ELECTRONIC SEAL AND/OR THIS MAP IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSE SURVEYOR AND MAPPER.

OnlineLand SURVEYORS,INC.

15271 NW 60 AVE, Suite 206
Miami Lakes, FL 33014
Phone: (305) 910-0123
Fax: (305) 675-0999
LB #: 7904
www.OnlineLandSurveyors.Com

Accepted By: _____

12600 Westlinks Drive Suite 4
Fort Myers Fl. 33913
Phone: 239-432-1805

May 14, 2019

Re: 4740 NW 36th St, Cape Coral Fl. 33993

Dear Mike Walden,

This letter will serve to inform you that Comcast has no objection to your proposed vacation easement of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 432-1805.

Cordially,

Mark Cook
Project Coordinator

CenturyLink™

May 8, 2019

Mike Walden
4740 NW 36TH Street
Mike.jwalden@gmail.com

Re: Vacation of Easements – 4740 NW 36th ST, CAPE CORAL FL

Dear Mr. Walden:

Embarq Corporation, Inc. (d/b/a CenturyLink) has reviewed the document for the above referenced information. Based on the review, we have no objections to the proposed vacation of public utility easements shown on the plats provided.

If you should require additional information, please contact me at 239 336-2012.

Sincerely,

John C. Schroeder

John C. Schroeder
Engineer
Fort Myers District
CenturyLink
John.schroeder@centurylink.com

Lee County Electric Cooperative, Inc.
Post Office Box 3455
North Fort Myers, FL 33918-3455
(239) 995-2121 ▪ Fax (239) 995-7904
www.lcec.net

May 9, 2019

Mr. Joseph M. Walden
Amy L. Walden
4740 NW 36th Street
Cape Coral, FL 33993

Re: Letter of No Objection to Vacation of Utility Easement between Lots 73 and Lot 74 , 4740 NW 36th Street, Cape Coral, Florida 33993; Owner: Joseph Walden and Amy Walden, husband and wife; Strap#:244322C105483.0730

Dear Mr. Walden
Mrs. Walden:

You have opened up negotiations, on behalf of yourselves, concerning the vacation of a certain side utility easements at Lots 73 and 74, Block 5483, Spreader Waterway, Plat Book 32 Pages 48-111, inclusive. A sketch and description was created by Miguel Espinosa, PSM, of Online Land Surveyors, Inc., dated 5/3/2019, Sketch Code O-51291 which was most helpful.

We have reviewed the Plat, the request submitted, and our internal records. LCEC has **no objection** to the vacation as submitted and reflected in the request.

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

Very truly yours,

Russ Goodman, SR/WA

Digitally signed by Russ Goodman, SR/WA
Date: 2019.05.09 14:59:14 -04'00'

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

The News-Press media group
news-press.com A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Ad No.: 0003639642

Net Amt: $374.69

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/22/19

Text of Ad:

NOTICE OF PUBLIC HEARING ADVERTISEMENT

CASE NUMBER: VP19-0009

REQUEST: To vacate two six-foot wide public utility and drainage easements along the common lot-line where Lots 73 and 74 meet and the shared lot-line between Lots 73 and 74, interior-to the subject property.

LOCATION: 4740 NW 36th St

CAPE CORAL STAFF CONTACT: Katherine Woellner, Planner – 239-574-0605 or kwoellner@capecoral.net

PROPERTY OWNER(S): Joseph M. Walden; Amy L. Walden

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00AM on July 2, 2019 on the above-mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.
After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding

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

by order of
Kimberly Bruns, CMC
City Clerk
REF # VP19-0009
AD#3639642 JUNE 22, 2019

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Joseph and Amy Walden

APPLICATION NO: VP19-0009

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 24th day of June, 2019.

Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

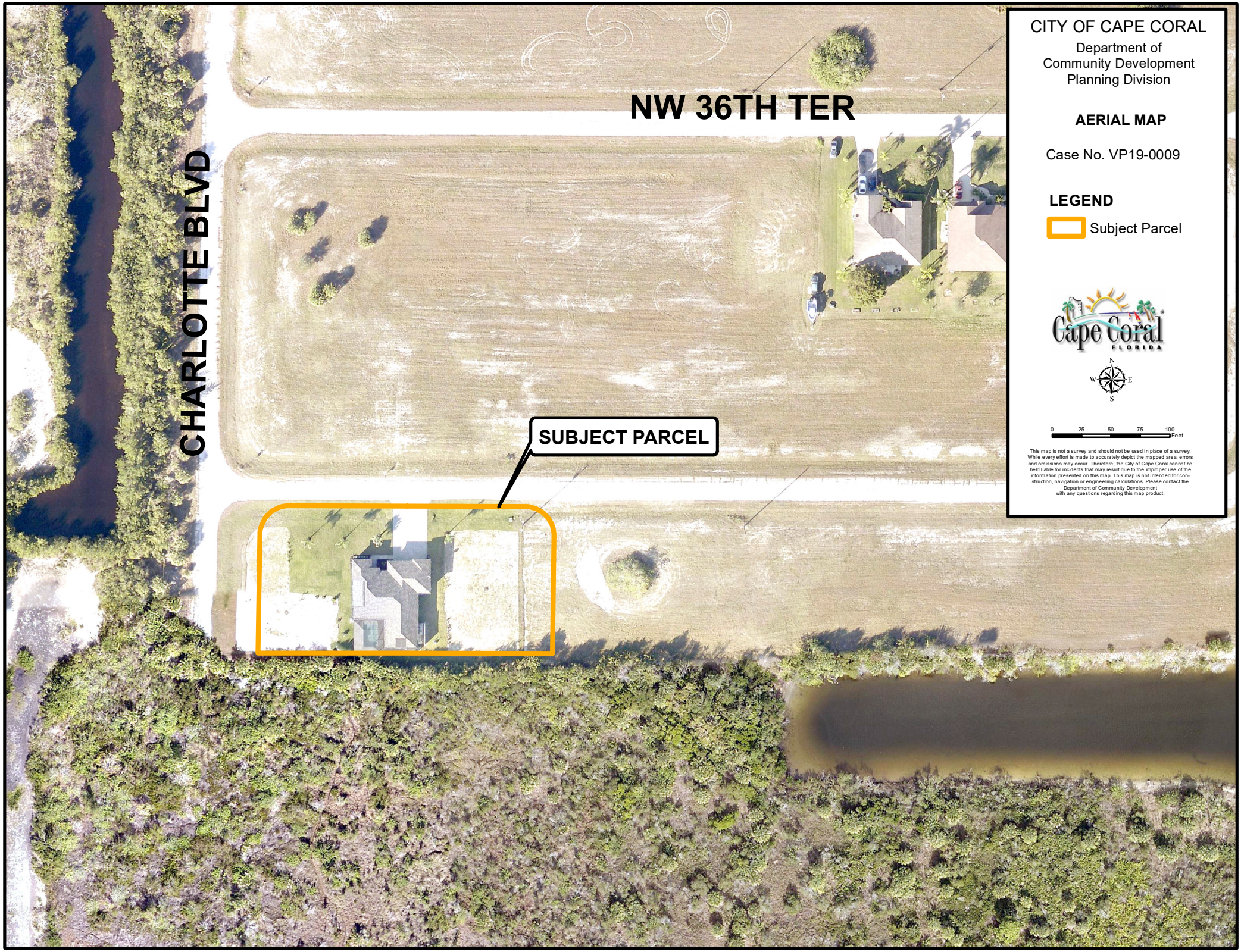
The foregoing instrument was acknowledged before me this 24th day of June, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

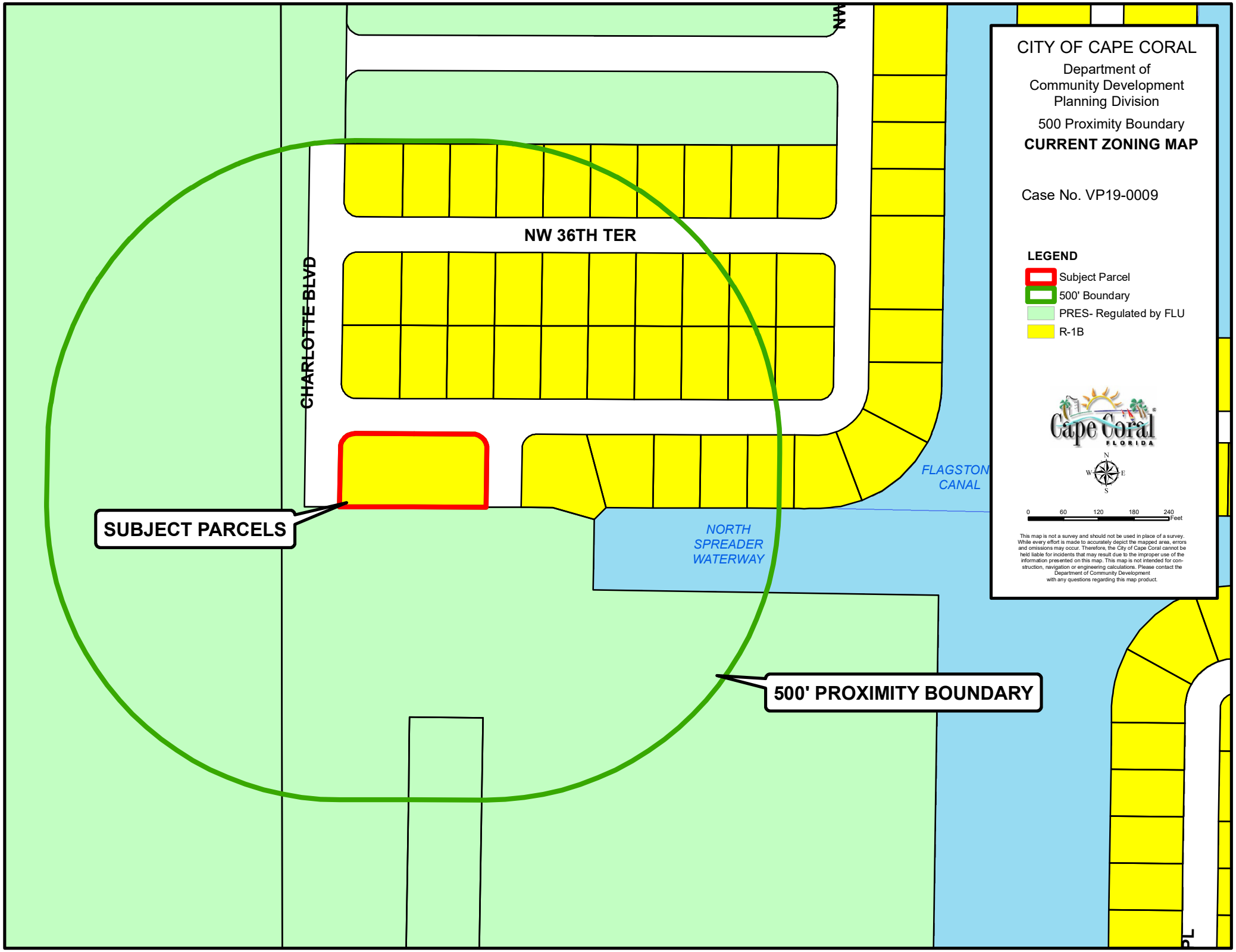
Exp. Date 12/6/20 Commission # GG030474

ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public


NW 36TH TER
CHARLOTTE BLVD
SUBJECT PARCEL
CITY OF CAPE CORAL
Department of
Community Development
Planning Division
AERIAL MAP
Case No. VP19-0009
LEGEND
Subject Parcel
Cape Coral
FLORIDA
N
W
E
S
0
25
50
75
100
Feet
This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.


CITY OF CAPE CORAL
Department of
Community Development
Planning Division
500 Proximity Boundary
CURRENT ZONING MAP
Case No. VP19-0009
LEGEND
Subject Parcel
500' Boundary
PRES- Regulated by FLU
R-1B
Cape Coral
FLORIDA
N
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S
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60
120
180
240
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.
NW 36TH TER
CHARLOTTE BLVD
SUBJECT PARCELS
500' PROXIMITY BOUNDARY
NORTH SPREADER WATERWAY
FLAGSTON CANAL

Item Number:	**2.C.**
Meeting Date:	**7/2/2019**
Item Type:	**HEARINGS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Case#* DE19-0011; Address: 5231 SW 5th Pl; Applicant: Thomas Baracksai

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:
WHAT THE ORDINANCE ACCOMPLISHES:
A 735-sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations {LUDR) to allow a marine improvement with an area of 1,935 sq. ft.

LEGAL REVIEW:

EXHIBITS:
See backup materials

PREPARED BY:

Shawn Baker	Division- Planning	Department-	Community Deleopment

SOURCE OF ADDITIONAL INFORMATION:
Justin Heller, Senior Planner, 239-574-0587, jheller@capecoral.net

ATTACHMENTS:

	Description	Type
	Backup material	Backup Material

APR 17 '19 PM 3:32

DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO BOARD OF ZONING ADJUSTMENT & APPEAL
FOR A DEVIATION TO MARINE IMPROVEMENT STANDARDS

Case # DE 19-0011

RESIDENTIAL FEE $150.00; COMMERCIAL FEE $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 permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

APPLICANT/OWNER OF PROPERTY
THOMAS BARACKSAI

Email Address baracskaisr@gmail.com

Address
5231 SW 5TH PL

City CAPE CORAL State FL Zip Code 33914

Phone 440-463-1119

AUTHORIZED REPRESENTATIVE
HONC DOCKS & LIFTS

Email Address humberto@honcdocks.com

Address
1130-C PONDELLA ROAD

City CAPE CORAL State FL Zip Code 33909

Phone 239-772-8181

Location: Unit 44 Block 4536 Lot(s) 18-19-20-21 Subdivision Cape Coral

Legal Description CAPE CORAL UNIT 44 PT 1 BLK 4536 PB 21 PG 116 LOTS 18 THRU 21

Address of Property 5231 SW 5TH PL Cape Coral FL 33914 Plat Book 21, Page 116

Current Zoning RESIDENTIAL Strap Number 14-45-23-C4-04536.0180

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS
The owner of this property, or his authorized representative 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.

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

THOMAS BARACSKAI
Name (Type or Print)

Applicant's Signature

STATE OF FL COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 15th day of April 2019, by Thomas Baracksai, who is personally known or has produced _____ as identification.

Exp. Date 9/1/19 Commission # FF915013

DANI MICHELLE TURNBULL
MY COMMISSION # FF 915013
EXPIRES: September 1, 2019
Bonded Thru Notary Public Underwriters

Signature of Notary Public

Dani Turnbull
Print Name of Notary Public

Revised 06/20/2016

DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO BOARD OF ZONING ADJUSTMENT & APPEAL

ACKNOWLEDGEMENT FORM

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

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals, and Council.

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

I understand that I am responsible for recording the approved Resolution/Ordinance with the Lee County Clerk of Circuit Courts and providing a copy of the recorded Resolution/Ordinance to the City of Cape Coral Planning Division.

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.

THOMAS BARACSKAI
PROPERTY OWNER (PLEASE PRINT)

Thomas V Baracskai
PROPERTY OWNER (SIGNATURE)

STATE OF FL COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 15th day of April 20 19, by Thomas Baracskai, who is personally known or has produced _____ as identification.

Exp. Date 9/1/19 Commission Number FF915013

DANI MICHELLE TURNBULL
MY COMMISSION # FF 915013
EXPIRES: September 1, 2019
Bonded Thru Notary Public Underwriters

Dani Turnbull
Signature of Notary Public

Dani Turnbull
Print Name of Notary Public

Revised 06/20/2016

DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO BOARD OF ZONING ADJUSTMENT & APPEAL

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT DANIEL STOVALL / HONC DOCKS AND LIFTS
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE APPEAL TO THE PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR

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

BLOCK 4536 LOTS 18-19-20-21 UNIT 44 SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION CAPE CORAL UNIT 44 PT 1 BLK 4536 PB 21 PG 116 LOTS 18 THRU 21

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

THOMAS BARACSKAI
PROPERTY OWNER (PLEASE PRINT)

PROPERTY OWNER (SIGNATURE)

STATE OF FL COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 5 day of April 2019, by Thomas Baracskai, who is personally known or has produced _____ as identification.

Exp. Date 9/1/19 Commission Number FF915013

DANI MICHELLE TURNBULL
MY COMMISSION # FF 915013
EXPIRES: September 1, 2019
Bonded Thru Notary Public Underwriters

Signature of Notary Public

Dani Turnbull
Print Name of Notary Public

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

Revised 06/20/2016

DEPARTMENT OF COMMUNITY DEVELOPMENT
PROCEDURE LIST FOR MARINE IMPROVEMENT DEVIATION REQUEST

1. Application, Acknowledgement Form and Authorization to Represent Form must be signed by the **property owner** and signature notarized. (If applicant is being represented by an attorney, the "Authorization to represent form" is not required.)

2. Signature on Acknowledgement form must be notarized.

3. Letter of intent stating the following:

   a. Actual request
   b. Why this request is being made
   c. Hardship created by ordinance, if applicable

4. **Development plan drawn to scale (not less than 1" = 50') and containing the following:**

   a. Site layout showing dimensions, boundary lines, North directional arrow and complete legal description of the property.
   b. The location and dimensions of all existing and/or proposed buildings and structures, including additions and eaves, overhangs, porches and patios.
   c. The setback distance from all buildings, additions on structure to property lines. Indicate the square footage associated with each existing and proposed use of buildings.
   d. Location and dimensions of driveways. Show parking areas with layout and number of spaces and traffic flow.

5. Certified survey done within past six months MAY be required.

Please note that any advisory comments provided by staff regarding approval or permits are conceptual only and are subject to change. Official review may result in additional changes not noted in the advisory process prior to submission of application. 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.

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 received prior to hearing.

It is required that applicant and/or representative attend Board of Zoning Adjustment and Appeals meeting.

INFORMATION SHEET

Sec. 5-3 Public Hearings

Continuance of any application is subject to an additional fee of twenty-five (25%) percent. Council may waive this fee for just cause.

D.O.T. approval is required on any project that will access onto a County-maintained road or State road.

HONC DOCKS & LIFTS, INC.
1130-C PONDELLA ROAD
CAPE CORAL, FL 33909
239-772-8181
FAX 239-772-8981

CBC 1252755

April 15, 2019

City of Cape Coral
P O Box 150027
Cape Coral, FL 33915-0027

RE: Thomas Baracskai Dock Deviation
5231 SW 5Th Pl
Cape Coral, FL. 33914
Strap # 14-45-23-C4-04536.0180

Dear Director,

The purpose of this request is to obtain a deviation of 735 sq. ft. from the Marine Improvement area as specified in section 3.16.2.D.2 of the City of Cape Coral's Land Use & Development Regulations (LUDR) this limits the maximum area of a marine improvement to 1,200 sq.ft, in order to allow a marine improvement that is 1,935 sq. ft. TOTAL.

The deviation requested is to build a dock addition (804 sq.ft) to an existing 1,131 wood dock with 2 slips (total slip = 2). The property is zoned Single Family Residential.

The issuance of this deviation will not give Mr. Baracskai any special privileges. As specified in section 3.16.2.D.1. of the City of Cape Coral's (LUDR), the formula for determining the dock deck surface area is based on water frontage. Mr. Baracskai owns (4) lots with a water frontage of +/- 295 lin.ft within the 190' wide canal and Brittannia lake. Therefore, the following formula will be used to calculate the maximum size of the marine improvement.

295' L.F. (water frontage) – 20 x 30'(max proj.) x .5 (allowed square footage) = 4,125 S.F.

The granting of this Deviation will be in harmony with the general intent and purpose of the Marine Improvement ordinance, and that such Deviation will not be injurious to the area involved or otherwise detrimental to the public welfare.

Sincerely,

Humberto Cerapio Rojas
Permitting/ CAD Agent
Honc Dock & Lifts, Inc.
239-772-8181
Humberto@honcdocks.com

HONC DOCKS & LIFTS, INC.
1130-C PONDELLA ROAD
CAPE CORAL, FL 33909
239-772-8181
FAX 239-772-8981

CBC 1252755

April 15, 2019

City of Cape Coral
PO BOX 150027
Cape Coral, FL 33990

RE: Legal Description for Marine Improvement Deviation for 5231 SW 5TH PL
CAPE CORAL FL 33914

CAPE CORAL UNIT 44 PT 1
BLK 4536 PB 21 PG 116
LOTS 18 THRU 21

Respectfully,

HUMBERTO CERAPIO ROJAS
Permitting Officer
Honc Docks & Lifts
1130-C Pondella Road, Cape Coral, FL 33909
(239) 772-8181 humberto@honcdocks.com

HONC DOCKS & LIFTS, INC.
1130-C PONDELLA ROAD
CAPE CORAL, FL 33909
239-772-8181
FAX 239-772-8981

CBC 1252755

LUDR, Section 3.16.9 allows for deviations to marine improvements based upon the following general standards:

1. The deviation **is not** contrary to the public interest.

   Response: The deviation will not be contrary to the public interest as the proposed marine improvement will not impair navigability and should not affect neighboring views. The marine improvement will be on >190-foot wide canal and Brittannia lake, an ample space for boat navigability will be available after construction of the improvement. Also the small width of the marine improvement should not detract from waterway views from surrounding properties.

2. The deviation **will be** in harmony with the general intent and purpose of this section.

   Response: The intent of the ordinance is to restrict the size of marine improvements on standard sized properties because these sites may not be able to accommodate large marine improvements. The site has over twice the amount of water frontage than standard sized properties and the additional frontage allows for a larger marine improvement area.

3. Conditions **do not** exist which are the result of the applicant.

   Response: The site is a platted property located at on a local street. The current owner is not entitled to a large marine improvement given the size of the property, however, there is a reasonable expectation that larger properties can support larger improvements if they do not affect the health, safety and welfare of the community.

4. A literal enforcement of the regulations involved **would** result in unnecessary or undue hardship.

   Response: The formula in LUDR would allow the applicant to have a marine improvement that is nearly two times the stated maximum improvement size. The inability to construct an improvement that is just slightly larger than the maximum could be considered a hardship because the formula considers factors that affect navigability and safety. The size of the improvement would be appropriate for the site and does not affect the waterways, therefore, the applicant's inability to construct the improvement can be considered an undue hardship.

+/- 295' L.F. (water frontage) – 20 x 30'(max proj.) x .5 (allowed square footage) = 4,125 S.F.

LUDR, Section 3.16.9 allows for deviations to marine improvements based upon the following specific standards:

1. Effect of the proposed deviation on navigability of the waterway involved.

HONC DOCKS & LIFTS, INC.
1130-C PONDELLA ROAD
CAPE CORAL, FL 33909
239-772-8181
FAX 239-772-8981

CBC 1252755

Response: The site has frontage of +/- 295' on 190' wide canal and Britannia lake. The proposed improvement will have a maximum projection of 30' feet from face of seawall cap into the 190' wide canal and Britannia lake. Due to the size of the canal/lake and the projection of the improvement, the navigability of the canals will not be adversely affected.

2. Design, size, and proposed location of the marine improvement for which the deviation is sought.

   Response: The Owner proposes to build a marine improvement by adding a 804 sq.ft dock additon to an existing 1,131 sq.ft dock with 2 slips along the south end corner boundary of the site (total slips= 2). The expansion will have a maximum projection of 30' into the 190' wide canal and Britannia lake.

3. Effect, if any, that the proposed deviation would have on any extant marine improvements in the subject waterway.

   Response: The proposed improvement will have no effect on surrounding marine improvements.

4. Is this the minimum deviation from the provisions of the applicable section necessary to avoid the unnecessary or undue hardship required herein?

   Response: The proposed deviation is not necessarily the minimum deviation, however, the deviation of 735 sq. ft. is relatively small considering the size of the site's water frontage and the width of the canals.

The intent of the marine improvement ordinance is to protect the navigability of canals and the aesthetics of waterfront properties by restricting the area of marine improvements through the application of a formula that factors in canal width and the length of linear water frontage. However, the same section of the ordinance states that no marine improvement shall be larger than 1,200 sq. ft. The proposed marine improvement would not negatively affect the surrounding community or navigability because the marine improvement will not project further than +/- 30' feet into the 190' wide canal and Britannia lake. The projection of the marine improvement will not hinder the navigability on the 190' wide canal and Britannia lake or any nearby properties. The size of requested deviation, 804 square feet dock addition, is relatively modest considering that applicant has 295 feet of water frontage and would be allowed a marine improvement exceeding 4,125 sq. ft. if the formula in Section 3.16 was applied.

Planning Division Case Report
DE19-0011

Review Date:	May 21, 2019
Owner/Applicant:	Thomas Baracksai
Authorized Representative:	Honc Docks and Lifts, Inc.
Request:	A 735-sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations (LUDR) to allow a marine improvement with an area of 1,935 sq. ft.
Location:	5231 SW 5th Place
Prepared By:	Justin Heller, Senior Planner
Reviewed By:	Mike Struve, AICP, Planning Team Coordinator
Approved By:	Robert Pederson, AICP, Planning Manager
Recommendation:	**Approval**

Property Description:

The 23,497-sq. ft. site is improved with a single-family home. Existing marine improvements include a seawall and a 1,131 sq. ft. wood dock with two boat slips. The site is on Britannia Lake and has about 295 ft. of water frontage. The lake width at the site is about 190 ft. as measured on GIS. The surrounding area consists primarily of single-family homes. The site and all adjacent properties have a Single Family (SF) Future Land Use Classification and Single Family Residential (R-1B) Zoning.

Project Description:

The applicant proposes to add a new dock and captains walk to their existing dock. A sketch of the proposed marine improvements is provided in Exhibit 1.

LUDR, Section 3.16.2.D restricts marine improvements to a maximum area of 1,200 sq. ft. The applicant requests a 735-sq. ft. deviation to allow a marine improvement that is 1,935 sq. ft. LUDR, Section 3.16.2.D.1 states:

"For parcels with more than 40 feet of water frontage, the maximum deck surface area coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus 20 feet times one-half times the linear feet of the maximum projection into the waterway (25% of the calculated width of the waterway or 30 feet, whichever is less). However, the maximum deck surface area allowed under this section shall not exceed 1,200 square feet for marine improvements which project from parcels utilized for single-family residential dwelling units in R-1B, RD, RE, and/or RX zoning districts."

The site has about 295 ft. of water frontage and a maximum allowable projection of 30 ft. into Britannia Lake. Applying the water frontage and allowable projection for the site, the following formula calculates the maximum area for a marine improvement.

(295 feet of Frontage) – 20 x ½ (30 foot projection) = 4,125 sq. ft.

Analysis:

The Planning Division has reviewed this application based on LUDR, Section 3.16, Marine Improvements, and offers the following analysis:

LUDR, Section 3.16.9.C allows for deviations for marine improvements based upon the following general standards:

1. *The deviation is not contrary to the public interest.*

   The proposed dock complies with the maximum allowable projection into the lake. These improvements also comply with the 12 ft. side setbacks. There is sufficient width in the lake to accommodate the dock, and the dock should not interfere with navigability or views of the waterway.

2. *The deviation will be in harmony with the general intent and purpose of this section.*

   The intent of the regulation is to protect the navigability of waterways and the aesthetics of waterfront properties by limiting the maximum area of marine improvements through the application of a formula that considers waterbody width and water frontage of a site. Based solely on the formula in LUDR, Section 3.16.2.D.1, the site would be allowed a marine improvement with a maximum area of 4,125 sq. ft.

   The regulation also states that no marine improvement shall exceed 1,200 sq. ft. Staff notes that this ordinance was likely intended for two-lot platted sites with 80-100 feet of water frontage and does not take into account properties with greater water frontage, similar to the subject site.

3. *Conditions do not exist which are the result of the applicant.*

The applicant has a property with about 295 ft. of water frontage, which is about three and a half times that of most platted, two-lot sites. It can be reasonably expected that a larger marine improvement could be accommodated on the site. Therefore, conditions do not exist which are a result of the applicant.

4. *A literal enforcement of the regulations involved would result in unnecessary or undue hardship.*

   The property owner could reasonably expect to construct a larger marine improvement to fully utilize the property. The application of the formula in LUDR, Section 3.16.2.D.1 would allow the applicant to construct a marine improvement well over 1,200 sq. ft. Thus, the inability to construct an improvement over the 1,200 sq. ft. could be considered a hardship because the formula considers factors that affect navigability and safety. The area of the improvement would be appropriate for the site and will not adversely affect the waterways or surrounding properties.

Specific Deviation Review Criteria Pursuant to LUDR Section 3.16.9.C

1. *Effect of proposed deviation on navigability of the waterway involved.*

   The proposed dock will project 25% of the waterway width or 30 ft. into Britannia Lake. The dock will have no detrimental effect on the ability of others to navigate in this lake.

2. *Design, size and proposed location of the marine improvement for which the deviation is sought.*

   The design and location of the proposed improvements meet City code requirements. The collective area of the dock does not exceed the maximum area of 4,125 sq. ft. as calculated by the formula provided in Section 3.16.2.D.1.

3. *Effect, if any, that the proposed deviation would have on any extant marine improvements in the subject waterway.*

   The proposed dock meets all setback requirements. The dock should have no negative effect on existing marine improvements in the lake.

4. *Is the minimum deviation from the provisions of the applicable section necessary to avoid the unnecessary or undue hardship required herein.*

   The proposed deviation is not necessarily the minimum deviation, however, a 1,935 sq. ft. dock is considerably less than the 4,125 sq. ft. improvement that would be permitted

using the formula in Section 3.16.2.D.1. The area of the marine improvement would be appropriate for the site given the large amount of water frontage and the width of Britannica Lake.

Comprehensive Plan:

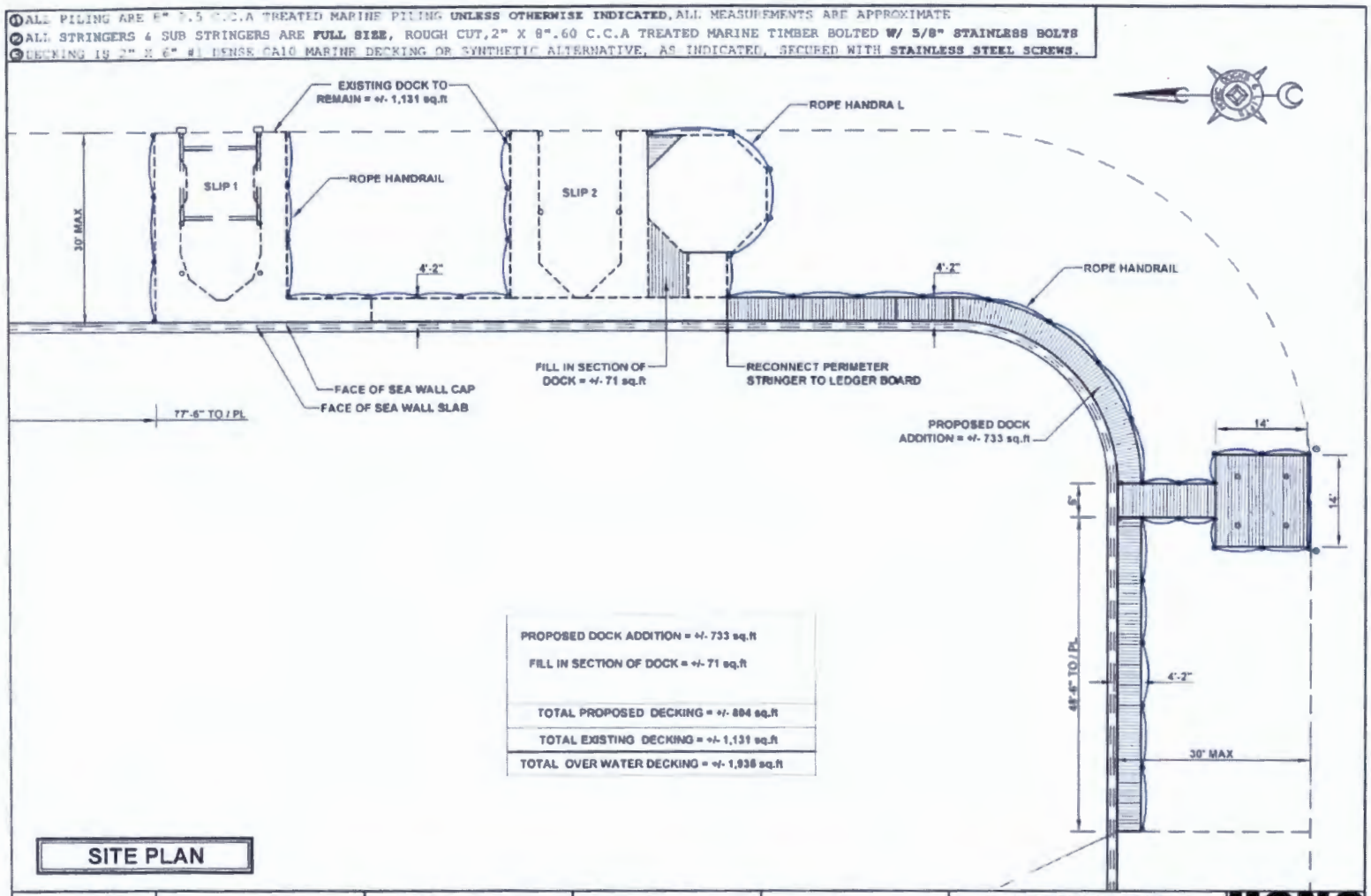
The project is consistent with Objective 1.3 and Policy 1.3.5 of the Conservation and Coastal Management Element of the Comprehensive Plan. The deviation does not propose introducing any new fueling or repair facilities in a residential area.

Recommendation:

Planning staff finds that the proposed deviation meets the intent of the LUDRs and the requirements for a deviation under LUDR, Section 3.16.9.B.2. Staff recommends **approval** with the following condition.

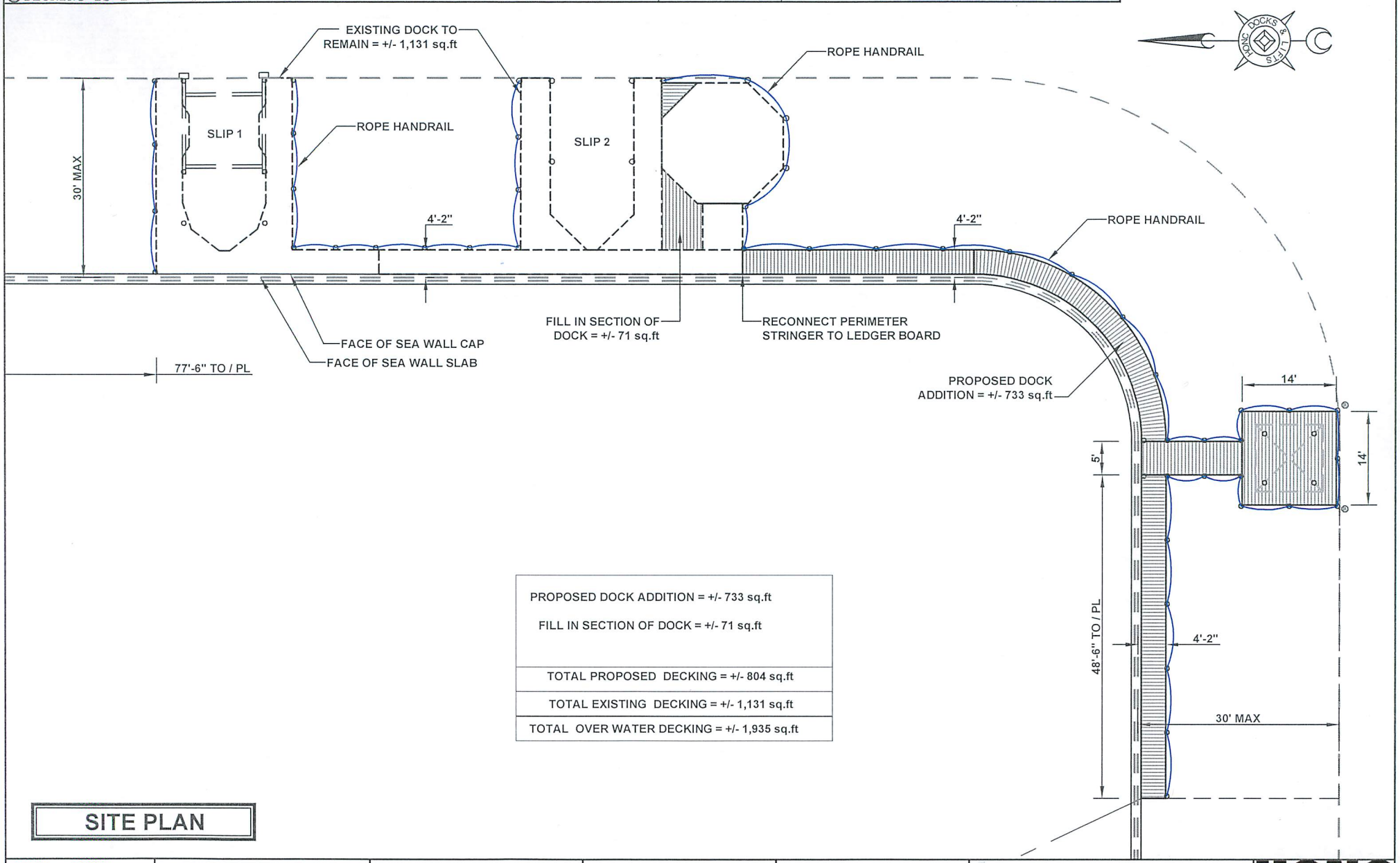
1) The dock shall be consistent with the sketch plan shown in Exhibit 1, dated 3/31/2019, provided by Honc Docks and Lifts, Inc.

Exhibit 1:



SKETCH: C	DATE: 03/13/2019	BLOCK:4536	LOT:18 thru 21	DRAWN BY: HC	HONC DOCKS & LIFTS 1130-C PONDELLA RD. CAPE CORAL,FL 33909 PHONE#(239)772-8181 FAX# (239)772-8981
CUSTOMER:	THOMAS BARACSKAI		CUSTOMER APPROVAL_____	ALL MEASUREMENTS ARE FROM FACE OF SEAWALL SLAB	
ADDRESS:	5231 SW 5TH PLACE,CAPE CORAL		DATE_____		
PHONE:	440-463-1119				

①ALL PILING ARE 8" 2.5 C.C.A TREATED MARINE PILING **UNLESS OTHERWISE INDICATED**,ALL MEASUREMENTS ARE APPROXIMATE
②ALL STRINGERS & SUB STRINGERS ARE **FULL SIZE**, ROUGH CUT,2" X 8".60 C.C.A TREATED MARINE TIMBER BOLTED **W/ 5/8" STAINLESS BOLTS**
③DECKING IS 2" X 6" #1 DENSE CA10 MARINE DECKING OR SYNTHETIC ALTERNATIVE, AS INDICATED, SECURED WITH **STAINLESS STEEL SCREWS.**



PROPOSED DOCK ADDITION = +/- 733 sq.ft FILL IN SECTION OF DOCK = +/- 71 sq.ft
TOTAL PROPOSED DECKING = +/- 804 sq.ft
TOTAL EXISTING DECKING = +/- 1,131 sq.ft
TOTAL OVER WATER DECKING = +/- 1,935 sq.ft

SITE PLAN

SKETCH: C	DATE: 03/13/2019	BLOCK:4536	LOT:18 thru 21	DRAWN BY: HC	HONC DOCKS & LIFTS 1130-C PONDELLA RD. CAPE CORAL,FL 33909 PHONE#(239)772-8181 FAX# (239)772-8981
CUSTOMER:	THOMAS BARACSKAI		CUSTOMER APPROVAL_____ DATE_____	ALL MEASUREMENTS ARE FROM FACE OF SEAWALL SLAB	
ADDRESS:	5231 SW 5TH PLACE,CAPE CORAL				
PHONE:	440-463-1119				

P:\2019 DB\Baracskai 5231 SW 5th Place MM\C-Drawings\5231 SW 5TH PL CAPE CORAL.dwg, 4/15/2019 4:30:36 PM, SAVIN MP C2003 PCL 5c, HUMBERTO CERAPIO

①ALL PILING ARE 8" 2.5 C.C.A TREATED MARINE PILING **UNLESS OTHERWISE INDICATED**,ALL MEASUREMENTS ARE APPROXIMATE
②ALL STRINGERS & SUB STRINGERS ARE **FULL SIZE**, ROUGH CUT,2" X 8".60 C.C.A TREATED MARINE TIMBER BOLTED **W/ 5/8" STAINLESS BOLTS**
③DECKING IS 2" X 6" #1 DENSE CA10 MARINE DECKING OR SYNTHETIC ALTERNATIVE, AS INDICATED, SECURED WITH **STAINLESS STEEL SCREWS.**

SKETCH: C	DATE: 03/13/2019	BLOCK:4536	LOT:18 thru 21	DRAWN BY: HC	**HONC DOCKS & LIFTS** 1130-C PONDELLA RD. CAPE CORAL,FL 33909 PHONE#(239)772-8181 FAX# (239)772-8981
CUSTOMER:	THOMAS BARACSKAI		CUSTOMER APPROVAL_____ DATE_____	ALL MEASUREMENTS ARE FROM FACE OF SEAWALL SLAB	
ADDRESS:	5231 SW 5TH PLACE,CAPE CORAL				
PHONE:	440-463-1119				

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① ALL PILING ARE 8" 2.5 C.C.A TREATED MARINE PILING **UNLESS OTHERWISE INDICATED**, ALL MEASUREMENTS ARE APPROXIMATE
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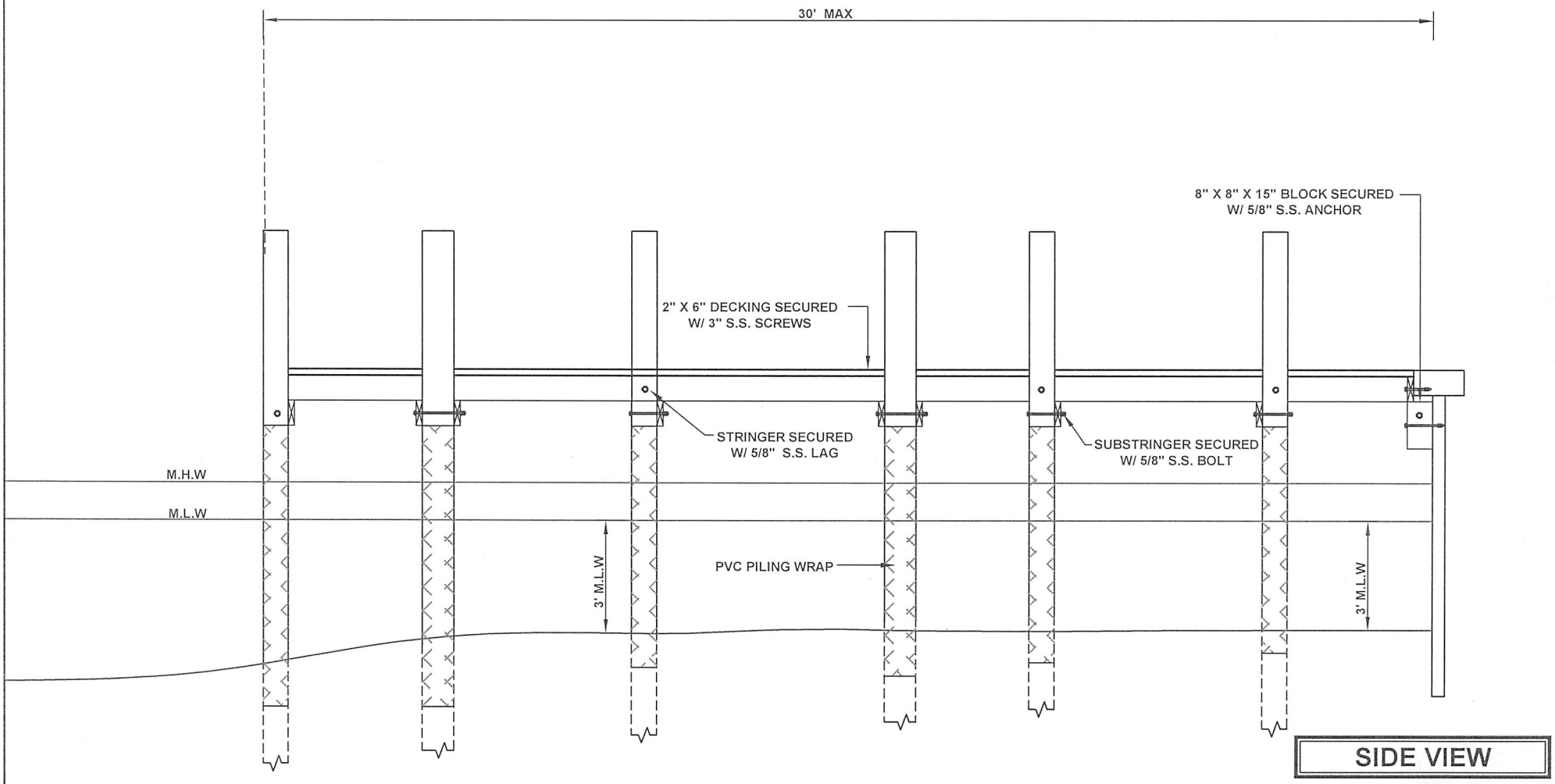

SKETCH: C-SIDE	DATE: 04/12/2019	BLOCK:4536	LOT:18 thru 21	DRAWN BY: HC	**HONC DOCKS & LIFTS** 1130-C PONDELLA RD. CAPE CORAL,FL 33909 PHONE#(239)772-8181 FAX# (239)772-8981
CUSTOMER:	THOMAS BARACSKAI		CUSTOMER APPROVAL_____	ALL MEASUREMENTS ARE FROM FACE OF SEAWALL SLAB	
ADDRESS:	5231 SW 5TH PLACE,CAPE CORAL		DATE_____		
PHONE:	440-463-1119				

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①ALL PILING ARE 8" 2.5 C.C.A TREATED MARINE PILING **UNLESS OTHERWISE INDICATED**,ALL MEASUREMENTS ARE APPROXIMATE
②ALL STRINGERS & SUB STRINGERS ARE **FULL SIZE**, ROUGH CUT,2" X 8".60 C.C.A TREATED MARINE TIMBER BOLTED **W/ 5/8" STAINLESS BOLTS**
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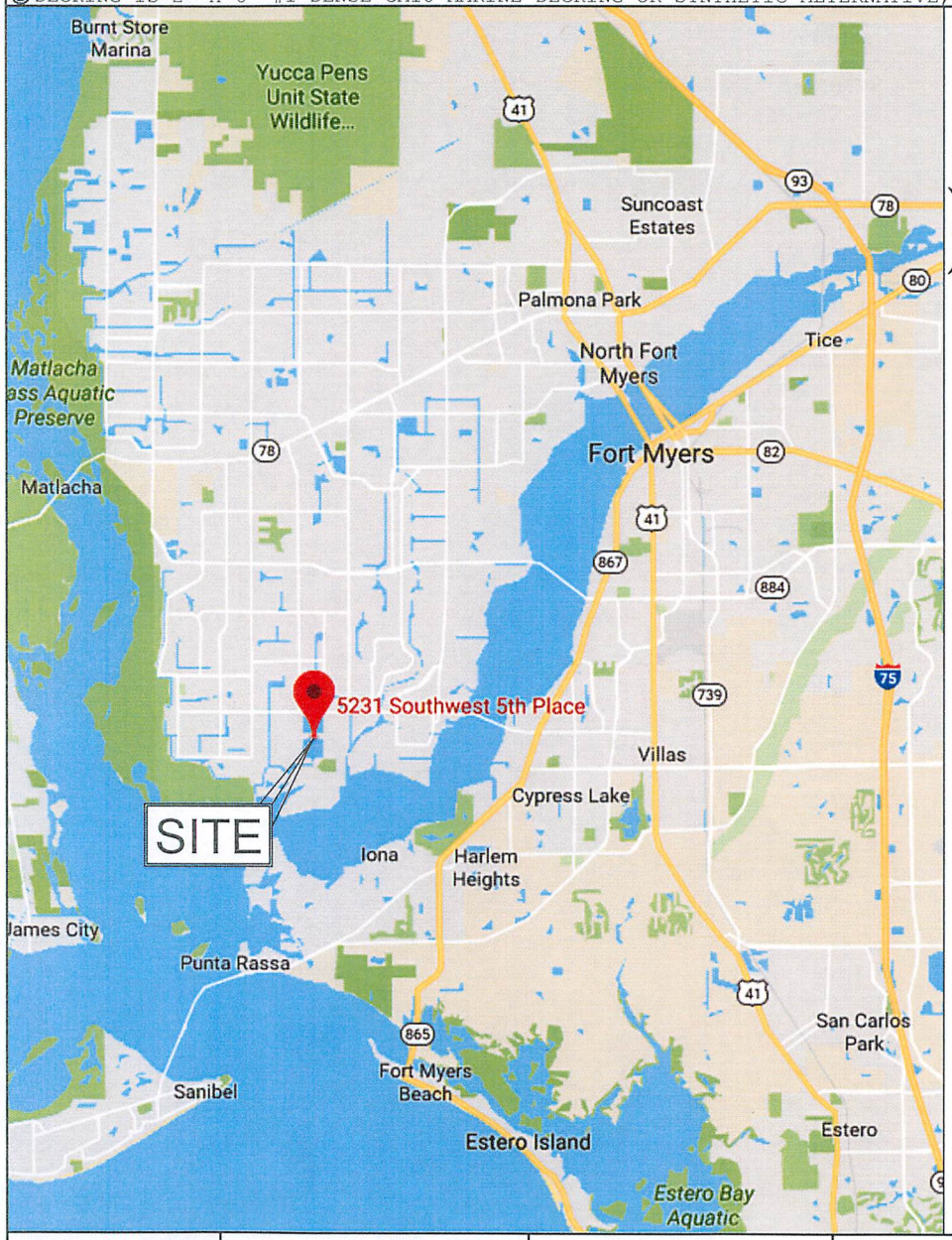


SKETCH: C-MAP	DATE: 04/12/2019	BLOCK:4536	LOT:18 thru 21	DRAWN BY: HC	**HONC DOCKS & LIFTS** 1130-C PONDELLA RD. CAPE CORAL,FL 33909 PHONE#(239)772-8181 FAX# (239)772-8981
CUSTOMER:	THOMAS BARACSKAI		CUSTOMER APPROVAL_____ DATE_____	ALL MEASUREMENTS ARE FROM FACE OF SEAWALL SLAB	
ADDRESS:	5231 SW 5TH PLACE,CAPE CORAL				
PHONE:	440-463-1119				

P:\2019 DB\Baracskai 5231 SW 5th Place MMC-Drawings\5231 SW 5TH PL CAPE CORAL.dwg, 4/15/2019 4:32:01 PM, SAVIN MP C2003 PCL 5c, HUMBERTO CERAPIO

Lee County Property Appraiser

Tax Year

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

Property Data

STRAP: 14-45-23-C4-04536.0180 Folio ID: 10113311

Owner Of Record - Tenants by Entirety

BARACSKAI THOMAS S + BRYN E
5231 SW 5TH PL
CAPE CORAL FL 33914

Site Address

5231 SW 5TH PL
CAPE CORAL FL 33914

Property Description

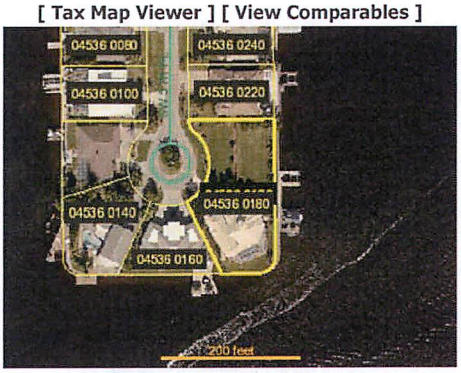
Do not use for legal documents!

CAPE CORAL UNIT 44 PT 1
BLK 4536 PB 21 PG 116
LOTS 18 THRU 21

Classification / DOR Code

SINGLE FAMILY RESIDENTIAL / 01

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

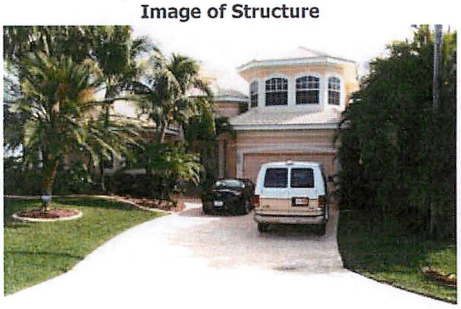
Current Working Values

Just	957,692	As Of	07/16/2018

Attributes

Land Units Of Measure	UT
Units	2.00
Total Number of Buildings	1
Total Bedrooms / Bathrooms	4 / 3.0
Total Living Area	4,274
1st Year Building on Tax Roll	1998
Historic District	No

Image of Structure



10113311 1 02/01/2008

Photo Date February of 2008 View other photos

Last Inspection Date: 02/26/2018

+ Exemptions

+ Values (2018 Tax Roll)

+ Taxing Authorities

+ Sales / Transactions

+ Building/Construction Permit Data

+ Parcel Numbering History

+ Location Information

+ Solid Waste (Garbage) Roll Data

+ Flood and Storm Information

The News-Press media group
news-press.com A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Ad No.: 0003639684

Net Amt: $385.76

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/22/19

Text of Ad:

NOTICE OF PUBLIC HEARING ADVERTISEMENT

CASE NUMBER: DE19-0011

REQUEST: A 735-sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations (LUDR) to allow a marine improvement with an area of 1,935 sq. ft.

LOCATION: 5231 SW 5th Place
Unit 44, Block 4536, Lots 18-21

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

PROPERTY OWNER(S): Thomas Baracksai

AUTHORIZED REPRESENTATIVE: Honc Docks and Lifts, Inc.

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, July 2, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.
After Hearing Examiner has made a written recommendation, the case may be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice if this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

by order of
Kimberly Bruns, CMC
REF # DE19-0011
AD #3639684 JUNE 22, 2019

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Thomas S +Bryn E Baracskia

APPLICATION NO: DE19-0011

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 24th day of June, 2019.

Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

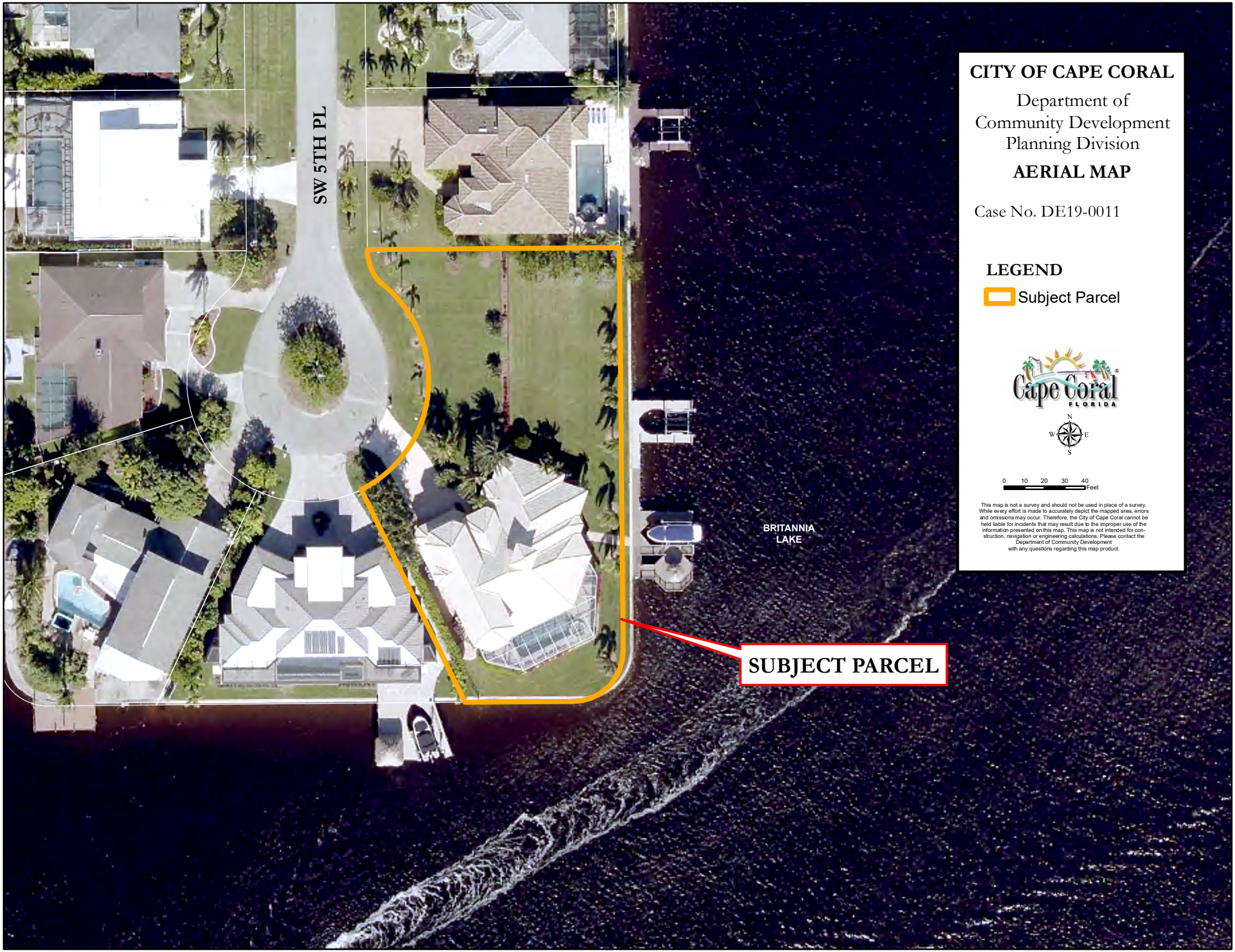
The foregoing instrument was acknowledged before me this 24th day of June, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

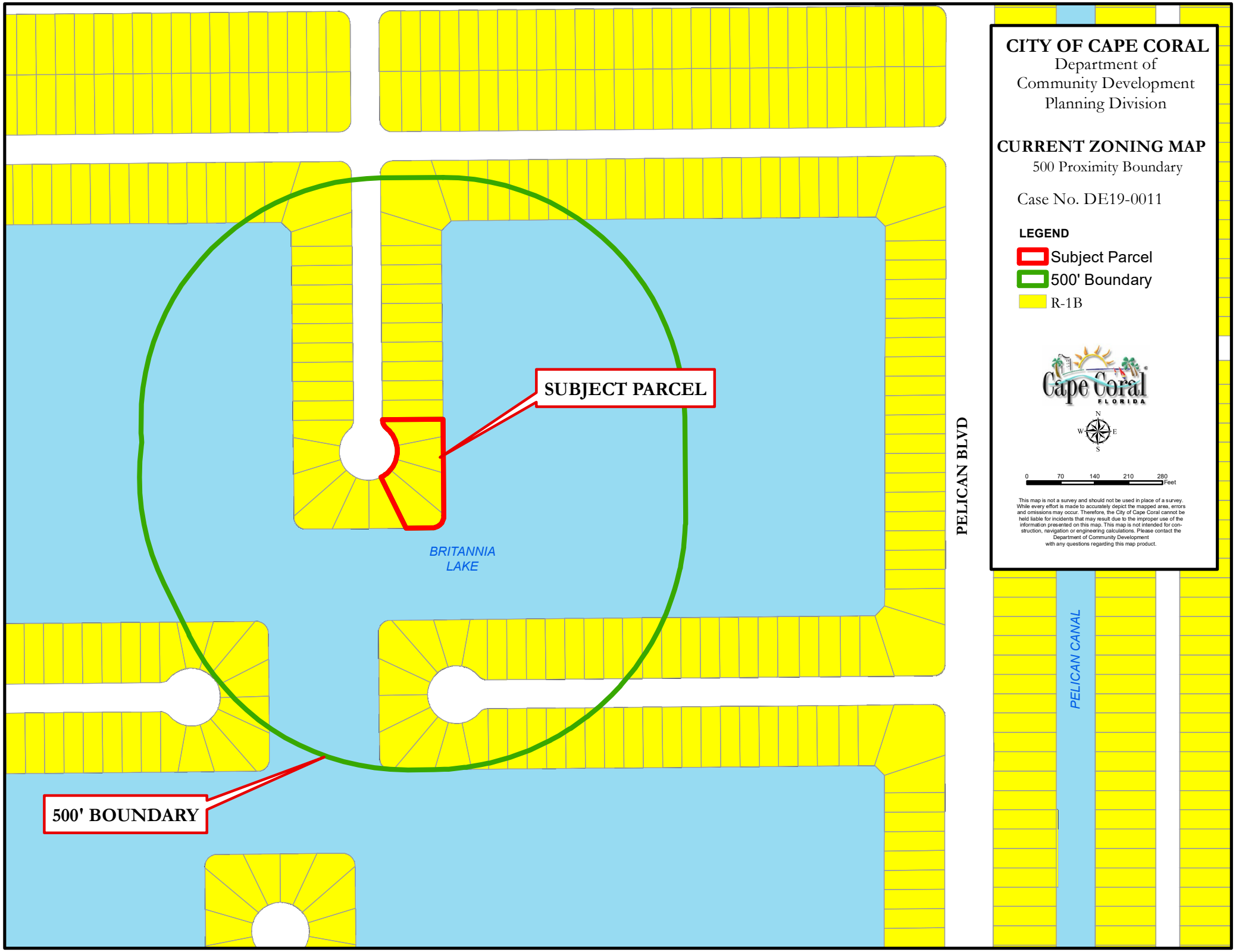
Exp. Date 12/16/20 Commission # GG030474

ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public


SW 5TH PL
BRITANNIA LAKE
SUBJECT PARCEL
CITY OF CAPE CORAL
Department of Community Development Planning Division
AERIAL MAP
Case No. DE19-0011
LEGEND
Subject Parcel
Cape Coral FLORIDA
N
W
E
S
0 10 20 30 40 Feet
This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.


CITY OF CAPE CORAL
Department of
Community Development
Planning Division
CURRENT ZONING MAP
500 Proximity Boundary
Case No. DE19-0011
LEGEND
Subject Parcel
500' Boundary
R-1B
Cape Coral
FLORIDA
N
W
E
S
0
70
140
210
280
Feet
This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.
SUBJECT PARCEL
BRITANNIA
LAKE
PELICAN BLVD
PELICAN CANAL
500' BOUNDARY

Item Number:	**2.D.**
Meeting Date:	**7/2/2019**
Item Type:	**HEARINGS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Case# *ZA19-0005; Address:1914-2014 SE 16th Pl; Applicant: Mehmet Ozer, Serife Ozer and Tuncay Ozer

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:
WHAT THE ORDINANCE ACCOMPLISHES:
The applicant requests a rezone from Professional Office (P-1) to Pedestrian Commercial (C-1) for eight parcels totaling 116,844 sq. ft. (2.68 acres.)

LEGAL REVIEW:

EXHIBITS:
See attached Backup Materials

PREPARED BY:

Shawn Baker	Division- Planning	Department-	Community Development

SOURCE OF ADDITIONAL INFORMATION:
Chad Boyko, AICP, Principal Planner, 239-573-3162, cboyko@capecoral.net

ATTACHMENTS:

Description	Type
Backup material	Backup Material

Cape Coral FLORIDA

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

Case # ZA19-0005

APR 5'19 PM2:53

REQUEST FOR A REZONING

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

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

OWNER OF PROPERTY

Tuncay Ozer

Address: 5019 SW 5TH PL
City Cape Coral State: FL Zip 33914
Email: tuncay@comcast.net Phone: 239-4642688

AUTHORIZED REPRESENTATIVE

Address: 1934-1938-2002-2008-2014 SE 16TH PL
City Cape Coral State: FL Zip 33990
Email: Phone:

Unit 89 Block 5386 Lot(s) 54 to 64 Subdivision
Address of Property
Current Zoning P1 Plat Book , Page
Proposed Zoning CP Strap Number 5386.0540, 5386.560, 5386.580, 5386.610, 5386.640

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS
The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

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

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

Case # _____

(SIGNATURE MUST BE NOTARIZED)

Tuncay Ozer
NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 14th day of December, 2018, by _____ who is personally known or produced _____ as identification.

Exp. Date: 2-21-21 Commission Number: 66 75656

NOTARY STAMP HERE

Signature of Notary Public: _____

Printed name of Notary Public: Jessica L. Gonzalez

SIGNATURE MUST BE NOTARIZED)

JESSICA L GONZALEZ
Notary Public - State of Florida
Commission # GG 75656
My Comm. Expires Feb 21, 2021
Bonded through National Notary Assn.

Case # _____

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

I hereby acknowledge that I have read and understood the above affidavit on the ___ day of _____, 20 _____

Tuncay Ozer
NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 14th day December, 2018, by _____ who is personally known or _____ as identification.

Exp. Date: 2.21.21 Commission Number: 6675656

JESSICA L GONZALEZ
Notary Public - State of Florida
Commission # GG 75656
My Comm. Expires Feb 21, 2021
Bonded through National Notary Assn.

Signature of Notary Public: _____

Printed name of Notary Public: Jessica L. Gonzalez

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.

Tuncay Ozer
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL **COUNTY OF** Lee

Sworn to (or affirmed) and subscribed before me on this 14th day of December, 2018
by _____, who is personally known or who has produced _____ as identification.

Exp. Date 2-21-21
Commission # 66755656

Signature of Notary Public

Jessica L Gonzalez
Print Name of Notary Public

JESSICA L GONZALEZ
Notary Public – State of Florida
Commission # GG 75656
My Comm. Expires Feb 21, 2021
Bonded through National Notary Assn.

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

Case # ZA19-0005

APR 5 '19 PM2:53

REQUEST FOR A REZONING

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

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

OWNER OF PROPERTY
MEHMET OZER
Address: 5019 SW 5TH PL
City Cape Coral State: FL Zip 33914
Email: m.ozer@tuncmatik.com
Phone: 305-934 44 69

AUTHORIZED REPRESENTATIVE
Address:
City State: Zip
Email:
Phone:

Unit 89 Block 5386 Lot(s) 44 to 53 Subdivision
Address of Property 1914 - 1918 - 1926 SE 16TH PL CAPE CORAL 33990
Current Zoning P1 Plat Book , Page
Proposed Zoning C1 Strap Number 5386.0480, 5386.0440, 5386.0460

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS
The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

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

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

Case # _____

(SIGNATURE MUST BE NOTARIZED)

MEHMET ÖZER
NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 11th day of Dec, 2018, by Mehmet Ozer who is personally known or produced Passport as identification.

Exp. Date: 2-21-21 Commission Number: 6675656

NOTARY STAMP HERE

Signature of Notary Public:

Printed name of Notary Public: Jessica L Gonzalez

SIGNATURE MUST BE NOTARIZED)

JESSICA L GONZALEZ
Notary Public - State of Florida
Commission # GG 75656
My Comm. Expires Feb 21, 2021
Bonded through National Notary Assn.

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

Case # _____

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

Mehmet Özer
NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF FL. COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 11th day Dec, 2018, by Mehmet Ozer who is personally known or Passport as identification.

Exp. Date: 2-21-21 Commission Number: GG75656

JESSICA L GONZALEZ
Notary Public - State of Florida
Commission # GG 75656
My Comm. Expires Feb 21, 2021
Bonded through National Notary Assn.

Signature of Notary Public:

Printed name of Notary Public: Jessica L. Gonzalez

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.

MEHMET ÖZER _____ _____
OWNER/APPLICANT (PLEASE TYPE OR PRINT) OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL **COUNTY OF** Lee

Sworn to (or affirmed) and subscribed before me on this 11th day of Dec, 20 18
by Mehmet Ozer, who is personally known or who has produced Passport as identification.

Exp. Date 2-21-21
Commission # 66675656

_____
Signature of Notary Public

Jessica L. Gonzalez
Print Name of Notary Public

JESSICA L GONZALEZ
Notary Public - State of Florida
Commission # GG 75656
My Comm. Expires Feb 21, 2021
Bonded through National Notary Assn.

4/5/2019

CITY OF CAPE CORAL

Department of Community Development,

LETTER OF INTENT

We are the owners of following land in Cape Coral and we are willing to develope commercial buildings on our property which is already CP zoning on the future land use map of Cape Coral. For this reason, we are willing to change the zoning from PI to CP.

Strap #	Block	Lot
294424C1053860440	5386	44
460	"	46
480	"	48
540	"	54
560	"	56
580	"	58
610	"	61
640	"	64

B. Regards,

Mehmet Özer

Tuncay Özer

Strap	Owner Strap	Block	Lot	Street Number	Site Address
294424C1053860440	294424C1053860440	5386	44	1914	1914 SE 16TH PL
294424C1053860460	294424C1053860460	5386	46	1918	1918 SE 16TH PL
294424C1053860480	294424C1053860480	5386	48	1926	1926 SE 16TH PL
294424C1053860540	294424C1053860540	5386	54	1934	1934 SE 16TH PL
294424C4053860560	294424C4053860560	5386	56	1938	1938 SE 16TH PL
294424C4053860580	294424C4053860580	5386	58	2002	2002 SE 16TH PL
294424C4053860610	294424C4053860610	5386	61	2008	2008 SE 16TH PL
294424C4053860640	294424C4053860640	5386	64	2014	2014 SE 16TH PL

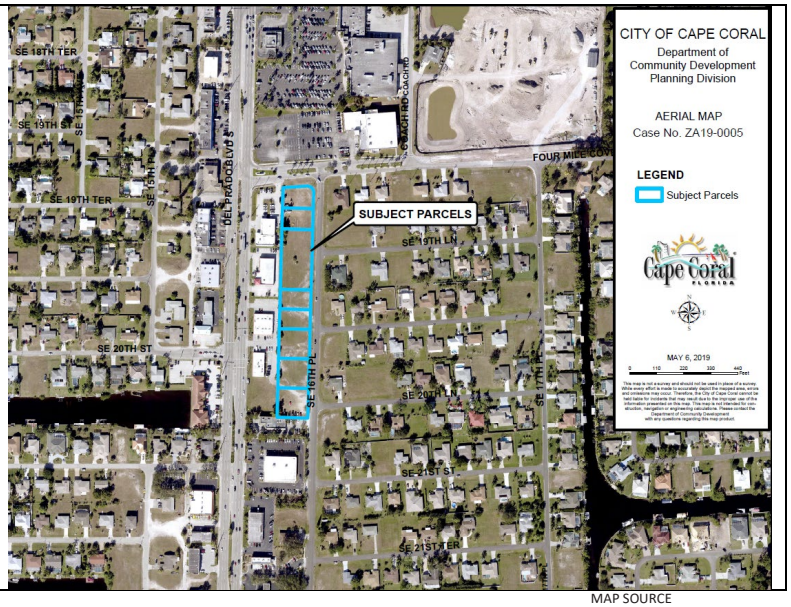
PLANNING DIVISION STAFF REPORT
ZA19-0005

Staff Report prepared by Chad Boyko, AICP, Principal Planner

SITE ADDRESSES Multiple Addresses	**APPLICANT/PROPERTY OWNER** Mehmet Ozer, Serife Ozer and Tuncay Ozer
AUTHORIZED REPRESENTATIVE Mehmet Ozer (owner)	

SUMMARY OF REQUEST

The applicant requests a rezone from Professional Office (P-1) to Pedestrian Commercial (C-1) for eight parcels totaling 116,844 sq. ft. (2.68 acres.)



MAP SOURCE

STAFF RECOMMENDATION: **Approval**

Positive Aspects of Application:	Rezone will allow for expanded commercial uses in a commercially developed block. Expanded uses will allow for new development, redevelopment, or expansion of existing uses.
Negative Aspects of Application:	The site lacks frontage along an arterial or collector roadway.
Mitigating Factors:	The site has similar ownership to two adjacent parcels that are have frontage along Del Prado Boulevard.

SITE INFORMATION

Location/
STRAP Numbers: Unit 44. Block 5386. Lots 44 through 64.
Eastern half of block at intersection of Del Prado Boulevard and Four Mile Cove Parkway

1914 SE 16th Place – 29-44-24-C1-05386.0440
1918 SE 16th Place – 29-44-24-C1-05386.0460
1926 SE 16th Place – 29-44-24-C1-05386.0480
1934 SE 16h Place – 29-44-24-C1-05386.0540
1938 SE 16th Place – 29-44-24-C1-05386.0560
2002 SE 16th Place – 29-44-24-C1-05386.0580
2008 SE 16th Place – 29-44-24-C1-05386.0610
2014 SE 16th Place – 29-44-24-C1-05386.0640

Site Area: 116,844 sq. ft. (2.68 acres.)

Site:	***Future Land Use***	***Zoning***
Current:	**Commercial/Professional (CP)**	**Professional Office (P-1)**
Proposed:	**N/A**	**Pedestrian Commercial (C-1)**
	Surrounding Future Land Use	***Surrounding Zoning***
North:	**CP**	**C-1**
South:	**CP**	**P-1**
East:	**Single-Family Residential (SF)**	**Single-Family Residential (R-1B)**
West:	**CP**	**C-1**

Urban Service
Area: Infill

City Water/Sewer: Yes

FINDINGS OF FACT

The 2.68 acre site is comprised of eight platted parcels in Block 5386 in southeastern Cape Coral. The site has 105 feet of frontage on Four Mile Cove Parkway (a collector street) and 915 feet of frontage on SE 16th Place (a local street). The site comprises approximately 25% of Block 5386. Surrounding development consists of commercial development[1] to the north, south, and west (across Del Prado Boulevard) and single-family homes to the east. Block 5386 has frontage on Del Prado Boulevard (a principal arterial). The block has retained the Commercial/Professional (CP) future land use designation since 1989. The block has been zoned Professional Office (P-1) since 1990.

The applicant is seeking the rezone to allow commercial development. The applicant owns two adjacent commercial buildings[2] on the western half of the block. These two buildings in addition to the site provide the opportunity to develop a compact, full block commercial site. The rezone could allow new commercial development, expansion of the existing

[1] Bowling alley, office, retail, and service businesses.
[2] At 1929 and 1939 Del Prado Boulevard.

commercial development or redevelopment of the applicant's other sites by utilizing the rezone sites as parking, landscaping, or surface water retention.

ANALYSIS

Comprehensive Plan

The City's Comprehensive Plan underwent several text changes that were adopted by City Council on February 15, 2019. A portion of these text changes amended the Commercial/Professional (CP) land use classification in conjunction with a planned repeal of the LUDR and an adoption of a Land Development Code (LDC). After adoption of the amendment, the Comprehensive Plan changes went to the state's Department of Economic Opportunity (DOE) for a 30-day review period. After the conclusion of the state's review period, the Comprehensive Plan changes underwent a 30-day appeal cycle. The Comprehensive Plan amendment was not fully adopted upon the applicant's application for the rezone on April 5th, 2019, therefore, the rezone was analyzed for Comprehensive Plan Consistency under the previous iteration of Chapter 4, Future Land Use Element.

The following Comprehensive Plan policy is applicable to ZA19-0005:

Chapter 4 Future Land Use Element, Policy 1.15.C, Commercial/Professional (CP):

"Intensities of use in the Commercial/Professional land use classification shall not exceed a lot floor area ratio (FAR) of 1.0…"

> **Response: The site is not currently developed. When the site is developed, all development will be limited to a FAR of 1.0.**

"Permitted uses will ultimately depend upon the zoning district of the subject parcel. Generally, three zoning districts are found in the Commercial/Professional future land use classification…"

> **Response: The applicant is requesting a rezone to Pedestrian Commercial (C-1).**

"The Pedestrian Commercial (C-1) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C-1 district range from a variety of small or neighborhood-based commercial uses to larger retail or service uses, which may serve a relatively large trade area and, which may be developed as major shopping facilities. As many commercial uses have the potential to generate relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred location for the C-1 district have direct access onto arterial or collector and adequate depth (a minimum of 250 feet) for larger-scale development…"

> **Response: The applicant is requesting a rezone to Pedestrian Commercial (C-1). The site lacks the preferred adequate depth, however, the site is adjacent to two parcels with frontage on Del Prado Boulevard that are under common ownership.**

"In certain locations, fragmented ownership of relatively small properties, or other factors, may preclude the creation of larger properties with access onto a collector or arterial roadway. Under such circumstances, it may be appropriate for the C-1 Zoning District to place additional limits on the intensities of commercial development on these properties. It may also be appropriate, under certain circumstances to place restriction on some commercial uses, such as those with high trip generation rates, adverse aesthetic attributes, and generation of disturbing noises or odors. Factors to consider

when establishing such limits on intensities or uses include the following: the depth of the property, whether the property is adjacent to a waterway, whether the property is adjacent to or proximate to future land use classifications or zoning districts that allow residential uses, and/or the functional classification of street(s) available for street access. The placement of limitations upon the types and intensities of uses allowed within the C-1 zoning district, in accordance with the factors described above, is intended to reduce the conflicts between the C-1 District and adjacent or nearby residential zoning districts…"

Response: The site is within the Urban Services Infill Area and municipal utilities to are available to the site. The site is undeveloped, however, future development will be limited to the maximum FAR of 1.0 or 116,844 sq. ft. The rezone to C-1 will be consistent with the CP future land use designation.

Land Use and Development Regulations

The Planning Division reviewed this request based on the ten General Standards in LUDR, Section 8.7.3.B and offers the following analysis for consideration:

1. The extent to which the property is diminished by the proposed zoning of the property:

Response: The requested C-1 zoning should increase the value of the property. The C-1 district allows 73 permitted uses and 19 special exception uses, while the P-1 district allows 21 permitted uses and 18 special exception uses. The greater number of uses allows a wider range of development options for current or future owners of the site. Additionally, many commercial uses are allowed in the C-1 whereas most uses allowed in the P-1 district are office or public service uses.

2. The extent to which the removal of a proposed change in zoning depreciates the value of other property in the area:

Response: All the nearby development to the north, south, or west consists of C-1 zoning and commercial uses. The rezone would not have a negative on these developments because the site will develop with similar uses. Single-family homes are to the east of the site across a two-lane street. The homes are approximately 120 feet away from the site. The homes are in close proximity, however, the impact of commercial development will be reduced by landscape buffers that are required by LUDR, Section 5.3. Buffers may include substantial landscaping or a wall along the east side of new development.

3. The suitability of the property for the zoning purpose:

Response: Planning staff finds that the site is well-suited for the C-1 zoning district due to its location in a block with frontage along a principal arterial. Del Prado Boulevard is a principal arterial and most parcels along this road are zoned P-1 or C-1. The majority of Block 5386 is already zoned C-1. Additionally, the property to the north of the site is zoned C-1. Planning staff finds that the property does not have ideal depth for the C-1 zoning district, however, the district has regulations that offset the site's lack of depth. If the site is redeveloped or the if the development on the site expands, the C-1 district requires a PDP or an enhanced buffer from the residential property to the east.

4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed zoning:

Response: The surrounding area to the north, south, and west is developed with commercial uses such as office, retail, and service industries. The area to the east is developed with single-family homes. The rezone is likely to result in commercial development that occurs along Del Prado Blvd. Planning staff finds that any new commercial development is likely to be an expansion of existing uses or office uses[3]. Planning staff notes that some additional traffic and noise could be generated from the site as the C-1 district allows a wider range of commercial uses compared to the P-1 district. Uses such as restaurants, retail, and some service industries are more intense than most office uses. If the sites are developed individually as these uses, there will likely be an increase in traffic and noise.

5. The relative gain to the community as compared to the hardship, if any imposed, from rezoning said property:

Response: Planning staff finds that the C-1 zoning district will allow for a greater variety of commercial uses along a commercial corridor. The rezone will also allow for expansion or redevelopment of the existing commercial development which will provide additional retail, office, and service uses to the community, which is a positive gain.

6. The community need for the use proposed by the zoning:

Response: As noted in the Future Land Use Element of the City of Cape Coral Comprehensive Plan, the City has identified a need for increasing commercial uses within Cape Coral. The rezone will allow a wider range of commercial development in an existing commercial area.

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

Response: Block 5386 has retained the Commercial/Professional (CP) future land use designation since 1989. The block has been zoned Professional Office (P-1) since 1990.

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

Response: The proposed zoning is consistent with the City Comprehensive Land Use Plan, therefore, the change will assist with the long-term vision of adding or expanding commercial land at an appropriate location. The proposed rezone will not negatively affect the health, safety, or welfare of the community because other properties with commercial zoning are already in the general proximity of the site.

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

Response: The site is in the City Urban Service Infill Area. The site has access to the City water, sewer, and irrigation network where sufficient capacity exists.

10. Whether the proposed zoning is consistent with the City of Cape Coral's Comprehensive Land Use Plan.

[3] Site does not have frontage along Del Prado Blvd. Retail not likely to develop without arterial frontage.

Response: The proposed rezone is consistent with the City Comprehensive Plan Policy 1.15 as the Future Land Use classification is CP. Properties with the CP future land use are compatible with the C-1, Professional Office (P-1) and the Professional Business (P-2) zoning districts. Staff finds that the requested C-1 zoning is appropriate for the site[4].

ECONOMIC DEVELOPMENT MASTER PLAN ANALYSIS

The rezone is supported by the City Economic Development Master Plan. The site is not within an Economic Opportunity Area, however, the rezone will ensure that commercial development is built in the future.

PUBLIC NOTIFICATION

This case will be publicly noticed as required by LUDR, Section 8.3.2.A and 8.3.4 as further described below.

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

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

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

RECOMMENDATION

Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, the proposed rezone to Pedestrian Commercial (C-1) zoning is consistent with the Comprehensive Plan, the Land Use and Development Regulations, and is compatible with the surrounding area, therefore, Planning Division staff recommends **approval** of the rezone request.

[4] If the rezone to C-1 is approved, and if the proposed Land Development Code is adopted, the zoning would be changed to Commercial (C).

The News-Press media group
news-press.com A GANNETT COMPANY

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Ad No.: 0003639651

Net Amt: $371.00

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/22/19

Text of Ad:

NOTICE OF PUBLIC HEARING ADVERTISEMENT

CASE NUMBER: ZA19-0005

REQUEST: The applicant requests a rezone from Professional Office (P-1) to Pedestrian Commercial
(C-1) for eight parcels totaling 116,844 sq. ft. (2.68 acres.)

LOCATION: 1914 – 2014 SE 16th PL

CAPE CORAL STAFF CONTACT: Chad Boyko, AICP, Principal Planner, 239-574-3162, cboyko@capecoral.net

PROPERTY OWNER(S): Mehmet Ozer, Serife Ozer and Tuncay Ozer

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00AM on July 2, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.
After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources

Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of
Kimberly Bruns, CMC
City Clerk
REF # ZA19-0005
AD#3639651 JUNE 22, 2019

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Mehmet Ozer and Tuncay Ozer

APPLICATION NO: ZA19-0005

STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

DATED this 24th day of June, 2019.

Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

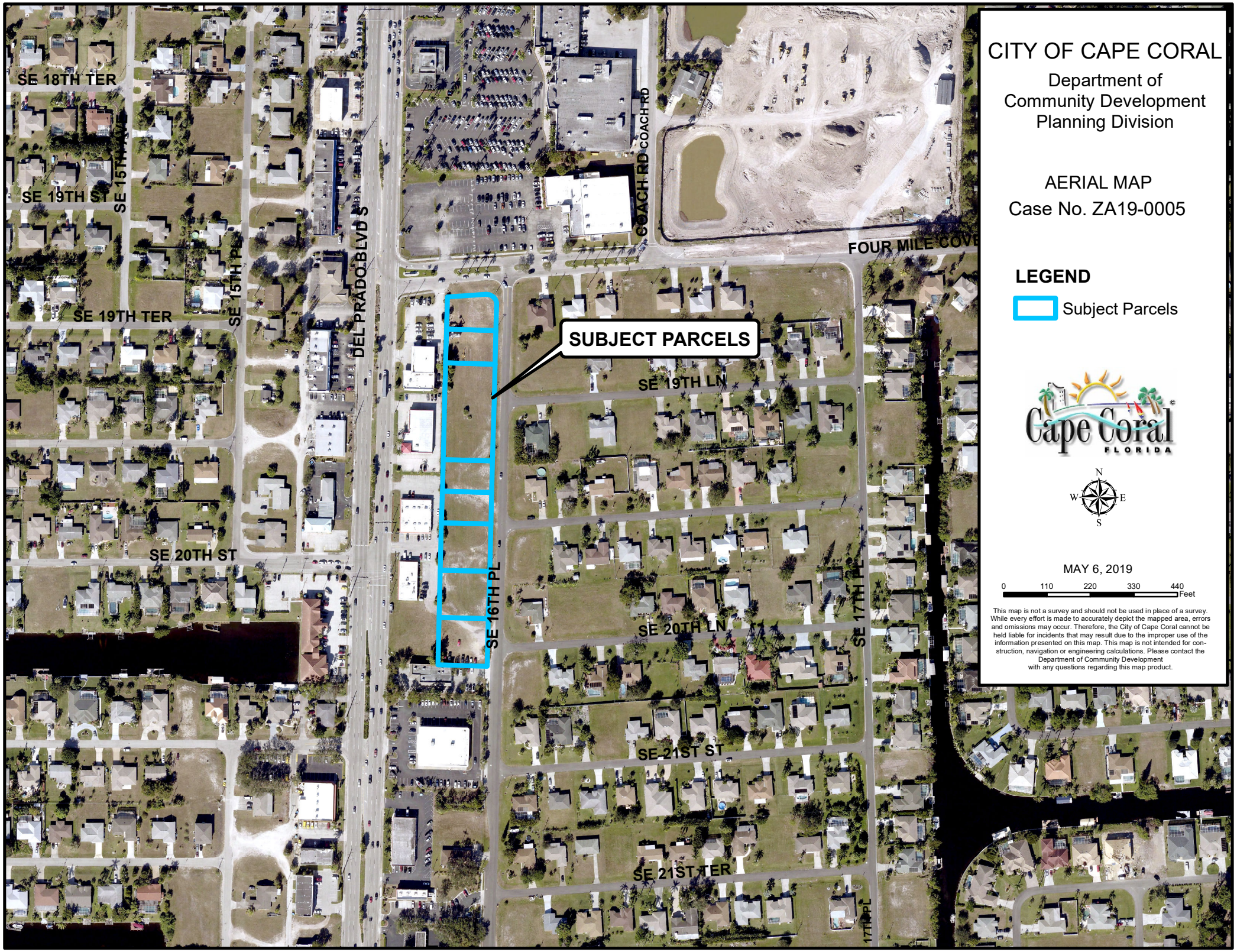
The foregoing instrument was acknowledged before me this 24th day of June, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/16/20 Commission # GG030474

ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public



CITY OF CAPE CORAL

Department of
Community Development
Planning Division

AERIAL MAP

Case No. ZA19-0005

LEGEND

Subject Parcels

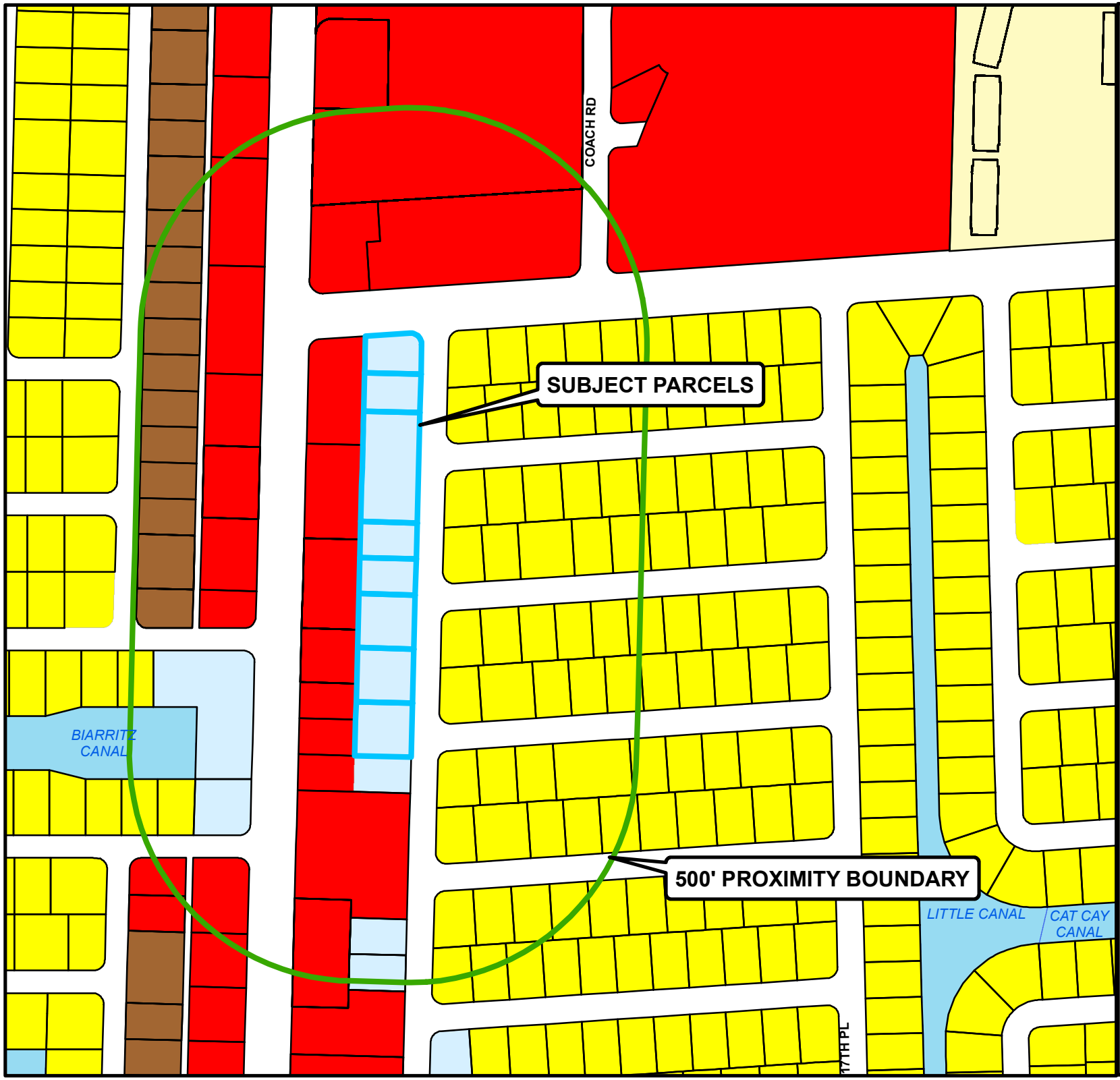
Cape Coral
FLORIDA

N
W E
S

MAY 6, 2019

0 110 220 330 440 Feet

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



CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP

500 Proximity Boundary

Case No. ZA19-0005

LEGEND

- Subject Parcels
- 500' Boundary
- C-1
- P-1
- R-1B
- R-3
- RD

Cape Coral FLORIDA

N W E S

MAY 6, 2019

0 110 220 330 440 Feet

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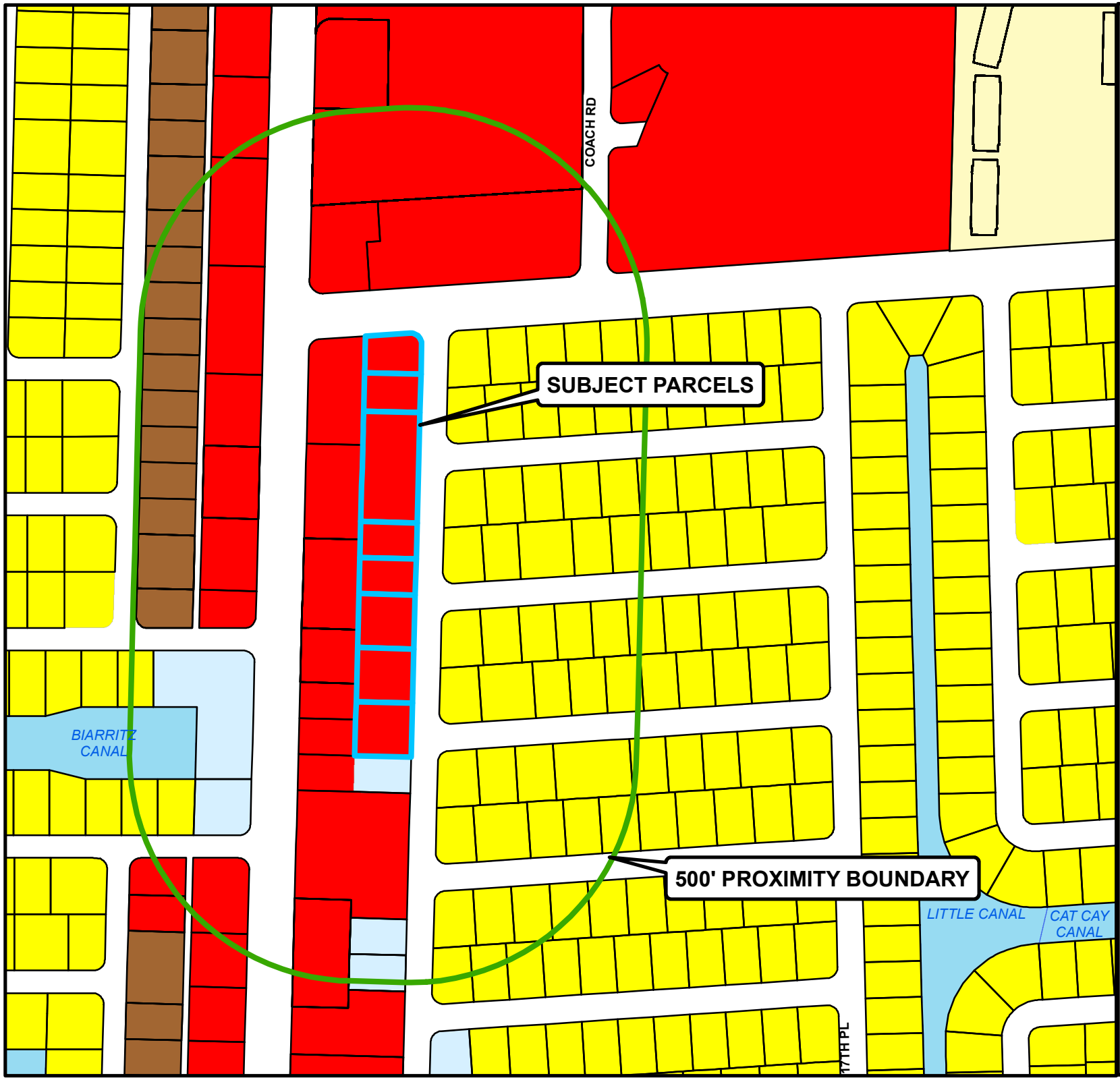
KRKA



CITY OF CAPE CORAL

Department of
Community Development
Planning Division

PROPOSED ZONING MAP

500 Proximity Boundary

Case No. ZA19-0005

LEGEND

- Subject Parcels
- 500' Boundary
- C-1
- P-1
- R-1B
- R-3
- RD

N
W E
S

MAY 6, 2019

0 110 220 330 440 Feet

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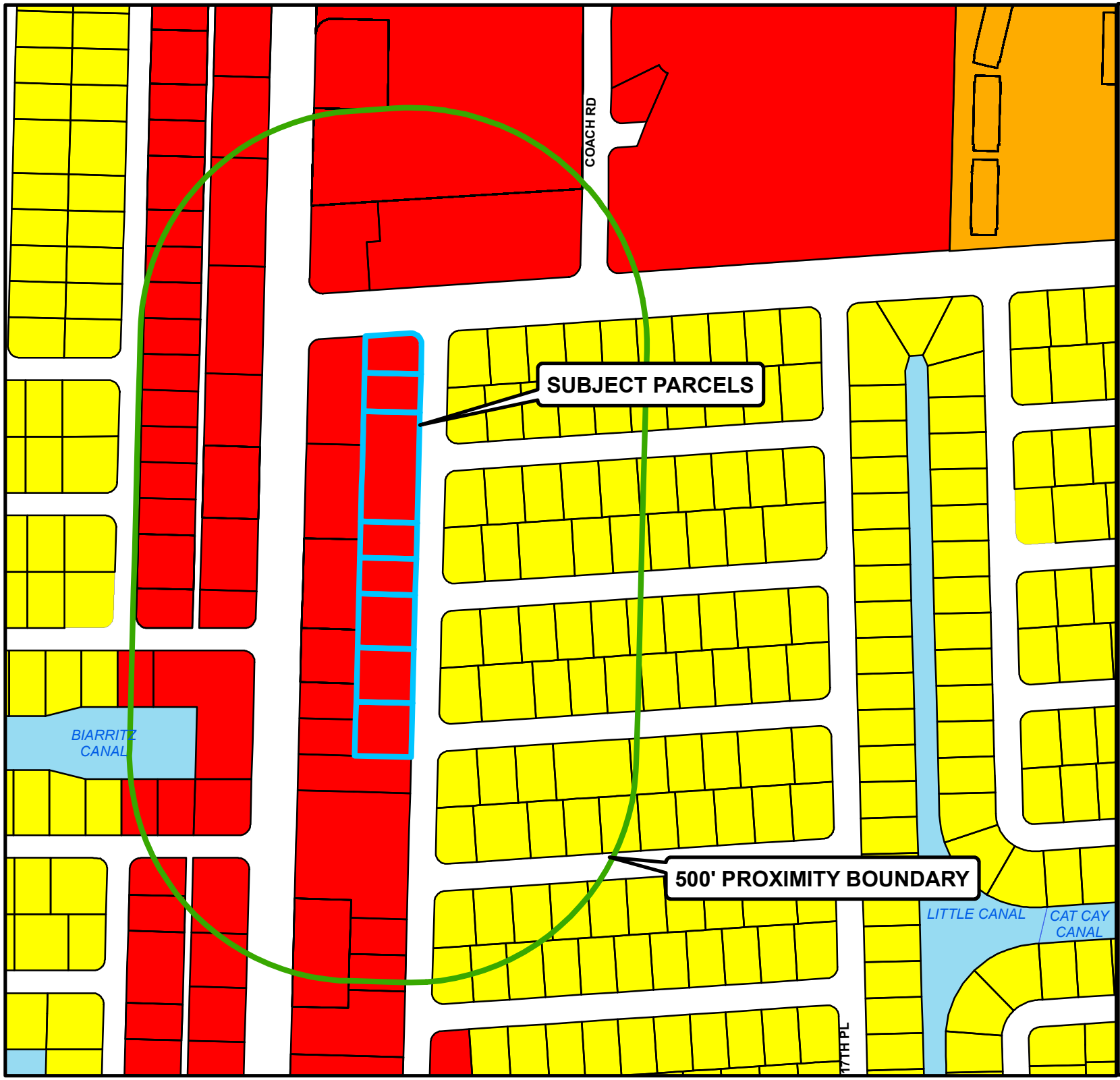
KRKA



CITY OF CAPE CORAL

Department of
Community Development
Planning Division

FUTURE LAND USE MAP

500 Proximity Boundary

Case No. ZA19-0005

LEGEND

- Subject Parcels
- 500' Boundary
- SF
- MX
- CP

N
W E
S

MAY 6, 2019

0 110 220 330 440 Feet

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KRKA

Item Number:	**3.A.**
Meeting Date:	**7/2/2019**
Item Type:	**DATE AND TIME OF NEXT MEETING**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Tuesday, July 16, 2019, at 9:00 a.m., in Council Chambers

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

   If Yes, Priority Goals Supported are listed below.

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:
WHAT THE ORDINANCE ACCOMPLISHES:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:
Division- Department-

SOURCE OF ADDITIONAL INFORMATION: