

Mayor

Joe Coviello

Council Members

District 1: John Gunter

District 2: John M. Carioscia Sr.

District 3: Marilyn Stout

District 4: Jennifer I. Nelson

District 5: Dave Stokes

District 6: Richard Williams

District 7: Jessica Cosden



1015 Cultural Park Blvd.
Cape Coral, FL

City Manager

John Szerlag

City Attorney

Dolores Menendez

City Auditor

Andrea R. Butola

City Clerk

Kimberly Bruns

**AGENDA FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

July 22, 2019

4:30 PM

Council Chambers

PLEDGE OF CIVILITY

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

VIDEO

1. MEETING CALLED TO ORDER

A. MAYOR COVIELLO

2. INVOCATION/MOMENT OF SILENCE

A. COUNCILMEMBER CARIOSCIA

3. PLEDGE OF ALLEGIANCE

A. BROOKLYNN ROGALINER - DIPLOMAT ELEMENTARY
SCHOOL

4. ROLL CALL

A. MAYOR COVIELLO, COUNCIL MEMBERS CARIOSCIA,
COSDEN, GUNTER, NELSON, STOKES, STOUT, WILLIAMS

5. CHANGES TO AGENDA/ADOPTION OF AGENDA

6. RECOGNITIONS/ACHIEVEMENTS

A. NONE

7. APPROVAL OF MINUTES

A. Regular Meeting - June 3, 2019

B. Regular Meeting - June 10, 2019

C. Special Meeting - June 17, 2019

8. BUSINESS

A. PUBLIC COMMENT - CONSENT AGENDA

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

B. CONSENT AGENDA

- (1) Resolution 120-19 Approve the contract Extension with Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers for Pre-Employment and Wellness Physicals for the Police Department Bi-Annual Physicals and Fire Department Pre-Employment and Bi-Annual Physicals at the unit prices contracted for an estimated amount of \$160,000 not to exceed budgetary limit for an additional one year term while a competitive solicitation is issued and authorize the City Manager or designee to execute the contract extension and any related documents. This service is exempt from the City of Cape Coral Procurement Ordinance; Department: Police and Fire; Estimated Annual Dollar Value: \$160,000; (General Fund)
- (2) Resolution 121-19 Approve contract renewal with Saba Software, Inc. for a Talent Management System (Learning Management System) to include Open Sesame and Saba Publisher in the amount of \$90,432.36 and approve the purchase of the recurring annual software support not to exceed budgetary limit and authorize the City Manager or designee to execute the contract renewals, amendments and corresponding documents; Department: Human Resources/ITS; Estimated Annual Dollar Value \$90,433; (General Fund)
- (3) Resolution 138-19 Award ITB-PW19-66/MM Hurricane Irma Tree Replacements – Phase 1 to DeAngelo Brothers, LLC., d/b/a Aquagenix as the lowest responsive responsible bidder, to replace palms and trees in various medians throughout the City, in the amount of \$84,820 with a City Controlled contingency of \$8,500 for a total project cost of \$93,320 and authorize the City Manager or Designee to execute the agreements, amendment and any renewals; Department: Public Works; Dollar Value \$93,320; (Transportation Capital Project Fund)
- (4) Resolution 140-19 Approve the use of General Fund Reserves to fund the construction of the Jean Inman Sculpture Pavilion, at an estimated total dollar value of \$24,959; Department: Parks and Recreation; Estimated Dollar value \$24,959; (General Fund reserves)
- (5) Resolution 146-19 Award ITB-PR19-65/MM Parks and Recreation: Pavilions to Sussman Enterprises Southern

Division Inc, as the lowest responsive responsible bidder, to install four (4) pavilion shade structures in the amount of \$189,000 with a City controlled contingency of \$11,000 for a total project cost of \$200,000 and authorize the City Manager or Designee to execute the agreements, amendment and any renewals; Department: Parks and Recreation; Dollar Value \$200,000; (Governmental Capital Project Fund-funded by GO Bond)

- (6) Resolution 147-19 Award Bid #UT19-28/MC to Odyssey Manufacturing Co as the lowest, responsive and responsible bidder for the Sodium Hypochlorite Tank Replacement and Containment Structure Rehabilitation Project, at the bid price of \$99,070 with a 10% City controlled contingency of \$9,907 for a total amount of \$108,977 and authorize the City Manager or his designee to execute the contract, amendments, purchase orders, change orders and all required documents; Department: Utilities; Estimated Dollar Value: \$108,977; (Water and Sewer unassigned/reserve Fund)
- (7) Resolution 148-19 Award ITB-UT19-49/KR Everest Water Reclamation Facility (WRF) – Clarifier 1, 2 & 4 Duct Bank Replacement Project to Cogburn Bros, Inc. of Jacksonville, FL to provide construction modifications to the existing Duct Bank and electrical service serving clarifiers 1, 2 and 4 at the Everest WRF, as the lowest responsive, responsible bidder, in the amount of \$1,328,550 with a City controlled contingency of 10% (\$132,855) for a total amount of \$1,461,405 and authorize the City Manager or designee to execute the contract, amendments, change orders required to complete the work; Department: Utilities; Dollar Value: \$1,461,405; (Water and Sewer unassigned reserves)
- (8) Resolution 149-19 Approve Staff Cost Proposal (SCP) SCP AI-08 with AECOM Technical Services, Inc. to provide professional engineering services for the Design, Bidding assistance and Construction Management of the Gleason Parkway Waste Activated Sludge (WAS) line and Fiber Optic Conduit Project for a Not to Exceed Fee of \$167,561 and authorize the City Manager or designee to execute the agreement; Department: Utilities; Dollar Value: \$167,561; (Water & Sewer Fund)
- (9) Resolution 150-19 Approve Agreement CON-PW19-45/AP-1(CP) for Professional Design Services for the Community Park project with Kimley-Horn and Associates, Inc. for a not to exceed cost of \$3,204,076 with a 5% City controlled contingency for additional services, if needed, of \$160,204 for a total cost \$3,364,280. The ranking was approved by City Council on 4/15/19 via Resolution 65-19; Department: Public Works/Parks & Recreation; Dollar Value: \$3,364,280; (Governmental Capital Project Fund-funded by GO Bond)

- (10) Resolution 151-19 Approve a Change Order in the amount of \$20,000 to Purchase Order (PO) #51180 to Sam Galloway Ford increasing said Purchase Order to \$69,000. This PO was established for preventative maintenance and repairs for fleet vehicles, in October 2018, by piggybacking Lee County Contract No. B180548TJM, Ford Vehicle Service & Repairs which expires in April 23, 2020; And authorize the City Manager or Designee to sign the change order and purchase order; Department: Public Works; Estimated dollar value \$20,000 for increase; (Total \$69,000 - Fleet Internal Service Fund)
- (11) Resolution 245-19 Federal Fiscal Year (FFY) 2018 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - JAG Countywide-State Solicitation; Department: Police
- (12) Resolution 246-19 Approve Burnt Store Centre Plat; Department: DCD; Dollar Value: N/A; (Fund: N/A)
- (13) Resolution 252-19 Approval of American Tower's request for consent to modify T-Mobile equipment at the communication tower located at Fire Station #6 on Chiquita Boulevard and authorization for the City Manager to execute said consent letter; Department: Financial Services / Real Estate; Dollar Value: N/A; (Fund: N/A))
- (14) Resolution 253-19 Approval of American Tower's request for consent to install upgraded fiber equipment for Verizon Wireless at the communication tower located at Fire Station #6 on Chiquita Boulevard and authorization for the City Manager to execute said consent letter; Department: Financial Services / Real Estate; Dollar Value: N/A; (Fund: N/A)
- (15) Resolution 254-19 Approval of Contract for Purchase of an improved property located at 1121-1123 NE 22nd Terrace, Cape Coral (Lots 21 and 22, Block 2158, Unit 32, Cape Coral Subdivision), for the Lake Meade Park Expansion project for the purchase price of \$223,000 plus closing costs not to exceed \$4,000; Department: Financial Services / Real Estate Division; Dollar Value: \$227,000; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- (16) Resolution 255-19 Approval of Contract for Purchase of Lots 93 and 94, Block 3025, Unit 43, Cape Coral Subdivision, 1305 NW 27th Street, Cape Coral, for the Festival Park project for the purchase price of \$12,000 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$13,500; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- (17) General Release in the case of Lambert's Cable Splicing Company, LLC v. L&S Cable, LLC

C. CITIZENS INPUT TIME

A maximum of 60 minutes is set for input of citizens on matters concerning the City Government to include Resolutions appearing in

sections other than Consent Agenda or Public Hearing; 3 minutes per individual.

D. PERSONNEL ACTIONS

- (1) Selection of Legislative Clerk to Council

E. PETITIONS TO COUNCIL

- (1) NONE

F. APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

- (1) Budget Review Committee - 1 Vacancy

9. ORDINANCES/RESOLUTIONS

A. Public Hearings

- (1) Resolution 114-19 Public Input Initial Assessment Resolution for Lot Mowing Services

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution relates to the funding of lot mowing services within Lot Mowing Assessment Areas (Districts 1, 2, 3, & 4), determines that certain real property will be specially benefited by the lot mowing services, establishes the terms and conditions of proposed special assessments to fund the lot mowing services, establishes a public hearing to consider imposition of the proposed special assessments and the method of their collection, and directs the provision of notice in connection therewith. (Applicant: Brought forward by City Management.)

- (2) Resolution 115-19 Public Input Solid Waste Preliminary Assessment Resolution

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution relates to the collection and disposal of solid waste in the city and establishes the estimated assessment rate for solid waste service assessments against assessed property located within the city for the fiscal year beginning October 1, 2019, directs the preparation of an assessment roll, authorizes a public hearing, and directs the provision of notice thereof. (Applicant: Brought forward by City Management.)

- (3) Resolution 116-19 Public Input Fire Protection Assessment Preliminary Resolution

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution relates to the provision of fire protection services, facilities, and programs in the City of Cape Coral; establishes the estimated fire protection assessed cost and assessment rates for the Fiscal Year beginning October 1, 2019; directs the preparation of an assessment roll; and authorizes a public hearing to consider the adoption of the annual assessment resolution. (Applicant:

Brought forward by City Management.)

- (4) Resolution 117-19 Public Input Stormwater Fee for FY 2019-2020

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution approves a stormwater fee for FY 2019-2020 that exceeds the maximum amount established for FY 2018-2019, authorizes a public hearing, and directs the provision of notice thereof. (Applicant: Brought forward by City Management.)

- (5) Ordinance 17-19 First Public Hearing (After 5:00 p.m.) Set Second and Final Public Hearing Date for August 5, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance repealing Articles I - X and XII and amending Article XI of the City of Cape Coral Land Use and Development Regulations; establishing Article 1, General Provisions; Article 2, Decision Making and Administrative Bodies; Article 3, Development Review; Article 4, Zoning Districts; Article 5, Development Standards; Article 6, Parking; Article 7, Sign Regulations; Article 8, Nonconformities and Lawfully Existing Uses; Article 9, Floodplain Management; Article 10, Subdivisions; Article 12, Building Code and Engineering Design Standards; and Article 13, Reasonable Accommodation & Dispute Resolution, of the new City of Cape Coral Land Development Code; incorporating Article XI, as amended, into the new City of Cape Coral Land Development Code as Article 11, Definitions. (Applicant: Brought forward by City Management)

Planning & Zoning Recommendation: At their June 5, 2019 Regular Meeting, the Planning & Zoning Commission voted 7-0 to recommend approval of Ordinance 17-19.

City Management Recommendation: City Management recommends approval.

- (6) Ordinance 4-19 (ZA 18-0013) First Public Hearing Set Second and Final Public Hearing Date for August 5, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning approximately 9,786 acres to be consistent with the changes to the Future Land Use Map, the Comprehensive Plan, and the new Land Development Code. (Applicant: City of Cape Coral) (9,786 acres)

Hearing Examiner Recommendation: To be added after the Recommendation is issued as a result of the Hearing on June 18, 2019.

City Management Recommendation: City Management recommends approval.

- (7) Ordinance 23-19 Final Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

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

NOTE: Ordinance 23-19 changes Policy 1.15 of the Future Land Use (Comprehensive Plan) by removing affordable housing density doubling language and reducing Commercial Activity Center residential densities from 25 to 16 units/acre per direction received in the February Council public hearings. In addition, Downtown Mixed residential densities are proposed to be increased from 75 to 125 units/acre per City Manager direction (Applicant: Brought forward by City Management.) P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 23-19.

City Management Recommendation: City Management recommends approval.

(8) Ordinance 29-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 12, "Offenses and Miscellaneous Provisions," Article II, "Offenses Creating Nuisances," by repealing and replacing Section 12-22, "Noise Control," providing for short title, providing for findings and purpose, providing for definitions, providing for prohibitions of unreasonably excessive noise, providing for exemptions, providing for enforcement and penalties. (Applicant: Brought forward by City Management.)

(9) Ordinance 33-19 (PDP 19-0001*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 42-10, which approved a Planned Development Project entitled "Downtown Village Square" for certain property described as Block 62A, Unit 6, Part 1, and Block 62A, Unit 8, Cape Coral Subdivision, extending the project buildout date, amending the phasing schedule and conditions of approval; property is located between SE 47th Terrace to the north, SE 9th Place to the east, Cape Coral Parkway to the south, and SE 8th Court to the west. (Applicants: Red Rock Land Corporation, Downtown Village Square, LLC, and Downtown Village Square II, LLC) Hearing Examiner Recommendation: The Hearing Examiner recommends approval with staff conditions.

City Management Recommendation: City Management recommends approval with no modifications to the existing term sheet.

(10) Ordinance 35-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance authorizing the City Manager to sell municipal surplus real property described as Lots 53-54, Block 5195, Unit 83 Cape Coral Subdivision, pursuant to Section 2-155 of the Code of Ordinances; authorizing and directing the Mayor and Clerk to execute a deed conveying the surplus real property to Daniel Lynn Nuckolls and Sandra Kay Nuckolls. (Applicant: Daniel Lynn Nuckolls and Sandra Kay Nuckolls)

B. Introductions

- (1) Resolution 142-19 (VP 19-0006*) Set Public Hearing Date for July 29, 2019

Quasi-Judicial, All Persons Testifying Must Be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for the 7.5-foot wide platted public utility and drainage easement located along the south property line of Lot 5 and the 7.5-foot wide platted public utility and drainage easement located along the north property line of Lot 4, both in Block 6400, Cape Coral, Unit 76, The Islands; property located at 218 Old Burnt Store Road South. (Applicant: Marion Mochrie, Trustee)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 7-2019.

City Management Recommendation: City Management recommends approval.

- (2) Resolution 143-19 (VP 18-0008*) Set Public Hearing Date for July 29, 2019

Quasi-Judicial, All Persons Testifying Must Be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for a street right-of-way and the underlying public utility and drainage easement being a part of Sorrento Court, located between Lots 37 and 39, Block 101, Cape Coral Unit 2, Part 2; providing for the vacation of plat for a portion of the public utility and drainage easement associated with Lot 37, Block 101, Cape Coral Unit 2, Part 2; providing for the vacation of plat for a street right-of-way being a part of Sorrento Court, located along lots 36 and 37, Block 101, Cape Coral Unit 2, Part 2; property located at 5088 and 5095 Sorrento Court. (Applicants: Wilhelm Vullriede and Jerome and Catherine Lievre)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX recommendation 8-2019.

City Management Recommendation: City Management recommends approval.

- (3) Resolution 244-19 Set First Public Hearing Date for July 29, 2019

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution adopting the 2019-2020 One Year Action Plan for the Community Development Block Grant Entitlement Program including the Regional Analysis of Impediments to Fair Housing Choice 2019-2023; authorizing and directing the City Manager to prepare and submit the One Year Action Plan for the 2019-2020 fiscal year including the Regional Analysis of Impediments to Fair Housing Choice 2019-2023 to the United States Department of Housing and Urban Development (HUD); authorizing the City Manager or his designee to accept and execute the grant agreement for the 2019-2020 CDBG program when received from HUD; authorizing the City Manager or his designee to accept and execute grant agreements with subrecipients. (Applicant: Brought forward by City Management.)

- (4) Resolution 251-19 (VP 19-0009*) Set Public Hearing Date for July 29, 2019

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for the platted interior lot line and public utility and drainage easements located between Lots 73 and 74, Block 5483, Cape Coral Unit 90; property is located at 4740 NW 36th Street. (Applicant: Joseph and Amy Walden)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the applications for the requested vacations, subject to the conditions set forth in Hearing Recommendation Order 10-2019.

City Management Recommendation: City Management recommends approval with conditions.

- (5) Ordinance 55-18 Set Public Hearing Date for July 29, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, to allow exempt employees to earn additional pay during a declared emergency subject to terms and conditions. (Applicant: Brought forward by City Management.)

10. UNFINISHED BUSINESS

- A. Water Quality - Update
- B. Follow Up Items for Council

11. NEW BUSINESS

- A. Resolution 157-19 Resolution of Necessity - Crystal Lake - Lot 2,

Block 5477, Unit 90

- B. Resolution 158-19 Resolution of Necessity - Crystal Lake Lots 5 and 6, Block 5477, Unit 90
- C. Resolution 159-19 Resolution of Necessity - Crystal Lake Lots 7 and 8, Block 5477, Unit 90
- D. Resolution 160-19 Resolution of Necessity - Crystal Lake Lots 34 and 35, Block 5482, Unit 90
- E. Resolution 161-19 Resolution of Necessity - Lake Meade Lots 66, 67 and 68, Block 2149, Unit 32
- F. Resolution 162-19 Resolution of Necessity - Lake Meade Lots 1 and 2, Block 2150, Unit 32
- G. Resolution 163-19 Resolution of Necessity - Lake Meade Lots 3 and 4, Block 2156, Unit 32
- H. Resolution 164-19 Resolution of Necessity - Lake Meade Lots 9 and 10, Block 2156, Unit 32
- I. Resolution 165-19 Resolution of Necessity - Lake Meade Lots 11 and 12, Block 2156, Unit 32
- J. Resolution 166-19 Resolution of Necessity - Lake Meade Lots 5 and 6, Block 2158, Unit 32
- K. Resolution 167-19 Resolution of Necessity - Lake Meade Lots 21 and 22, Block 2158, Unit 32
- L. Resolution 168-19 Resolution of Necessity - Lake Meade Lots 29 and 30, Block 2158, Unit 32
- M. Resolution 169-19 Resolution of Necessity - Lake Meade Lots 27 and 28, Block 2159, Unit 32
- N. Resolution 170-19 Resolution of Necessity - Lake Meade Lots 1 and 2, Block 2152, Unit 32
- O. Resolution 171-19 Resolution of Necessity - Lake Meade Lots 27 and 28, Block 2152, Unit 32
- P. Resolution 172-19 Resolution of Necessity - Lake Meade Lots 31, 32 and 33, Block 2152, Unit 32
- Q. Resolution 173-19 Resolution of Necessity - Lake Meade Lot 1, Block 2153 and Lot 36, Block 2152, Unit 32
- R. Resolution 174-19 Resolution of Necessity - Lake Meade Lots 13 and 14, Block 2156, Unit 32
- S. Resolution 175-19 Resolution of Necessity - Lake Meade Lots 13 and 14, Block 2158, Unit 32
- T. Resolution 176-19 Resolution of Necessity - Festival Park Lots 3 and 4, Block 3003, Unit 43
- U. Resolution 177-19 Resolution of Necessity - Festival Park Lots 14 and 15, Block 3003, Unit 43
- V. Resolution 178-19 Resolution of Necessity - Festival Park Lots 16 and 17, Block 3003, Unit 43
- W. Resolution 179-19 Resolution of Necessity - Festival Park Lots 18

and 19, Block 3003, Unit 43

- X. Resolution 180-19 Resolution of Necessity - Festival Park Lots 22, 23 and 24, Block 3003, Unit 43
- Y. Resolution 181-19 Resolution of Necessity - Festival Park Lots 27 and 28, Block 3003, Unit 43
- Z. Resolution 182-19 Resolution of Necessity - Festival Park Lots 29 and 30, Block 3003, Unit 43
- AA. Resolution 183-19 Resolution of Necessity - Festival Park Lots 31 and 32, Block 3003, Unit 43
- AB. Resolution 184-19 Resolution of Necessity - Festival Park Lots 39 and 40, Block 3003, Unit 43
- AC. Resolution 185-19 Resolution of Necessity - Festival Park Lots 41 and 42, Block 3003, Unit 43
- AD. Resolution 186-19 Resolution of Necessity - Festival Park Lots 43 and 44, Block 3003, Unit 43
- AE. Resolution 187-19 Resolution of Necessity - Festival Park Lots 47 and 48, Block 3003, Unit 43
- AF. Resolution 188-19 Resolution of Necessity - Festival Park Lots 49 and 50, Block 3003, Unit 43
- AG. Resolution 189-19 Resolution of Necessity - Festival Park Lots 53 and 54, Block 3003, Unit 43
- AH. Resolution 190-19 Resolution of Necessity - Festival Park Lots 55 and 56, Block 3003, Unit 43
- AI. Resolution 191-19 Resolution of Necessity - Festival Park Lots 67 and 68, Block 3003, Unit 43
- AJ. Resolution 192-19 Resolution of Necessity - Festival Park Lots 69 and 70, Block 3003, Unit 43
- AK. Resolution 193-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3009, Unit 43
- AL. Resolution 194-19 Resolution of Necessity - Festival Park Lots 3 and 4, Block 3009, Unit 43
- AM. Resolution 195-19 Resolution of Necessity - Festival Park Lots 14 and 15, Block 3009, Unit 43
- AN. Resolution 196-19 Resolution of Necessity - Festival Park Lots 16 and 17, Block 3009, Unit 43
- AO. Resolution 197-19 Resolution of Necessity - Festival Park Lots 20 and 21, Block 3009, Unit 43
- AP. Resolution 198-19 Resolution of Necessity - Festival Park Lots 22, 23 and 24, Block 3009, Unit 43
- AQ. Resolution 199-19 Resolution of Necessity - Festival Park Lots 7 and 8, Block 3013, Unit 43
- AR. Resolution 200-19 Resolution of Necessity - Festival Park Lots 11 and 12, Block 3013, Unit 43

- AS. Resolution 201-19 Resolution of Necessity - Festival Park Lots 15 and 16, Block 3013, Unit 43
- AT. Resolution 202-19 Resolution of Necessity - Festival Park Lots 23 and 24, Block 3013, Unit 43
- AU. Resolution 203-19 Resolution of Necessity - Festival Park Lots 25 and 26, Block 3013, Unit 43
- AV. Resolution 204-19 Resolution of Necessity - Festival Park Lots 27 and 28, Block 3013, Unit 43
- AW. Resolution 205-19 Resolution of Necessity - Festival Park Lots 29 and 30, Block 3013, Unit 43
- AX. Resolution 206-19 Resolution of Necessity - Festival Park Lots 45 and 46, Block 3013, Unit 43
- AY. Resolution 207-19 Resolution of Necessity - Festival Park Lots 53 and 54, Block 3013, Unit 43
- AZ. Resolution 208-19 Resolution of Necessity - Festival Park Lots 59 and 60, Block 3013, Unit 43
- BA. Resolution 209-19 Resolution of Necessity - Festival Park Lots 75 and 76, Block 3013, Unit 43
- BB. Resolution 210-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3014, Unit 43
- BC. Resolution 211-19 Resolution of Necessity - Festival Park Lots 12 and 13, Block 3014, Unit 43
- BD. Resolution 212-19 Resolution of Necessity - Festival Park Lots 14 and 15, Block 3014, Unit 43
- BE. Resolution 213-19 Resolution of Necessity - Festival Park Lots 18 and 19, Block 3014, Unit 43
- BF. Resolution 214-19 Resolution of Necessity - Festival Park Lots 20 and 21, Block 3014, Unit 43
- BG. Resolution 215-19 Resolution of Necessity - Festival Park Lots 37 and 38, Block 3014, Unit 43
- BH. Resolution 216-19 Resolution of Necessity - Festival Park Lots 39 and 40, Block 3015, Unit 43
- BI. Resolution 217-19 Resolution of Necessity - Festival Park Lots 55 and 56, Block 3015, Unit 43
- BJ. Resolution 218-19 Resolution of Necessity - Festival Park Lots 12 and 13, Block 3019, Unit 43
- BK. Resolution 219-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3021, Unit 43
- BL. Resolution 220-19 Resolution of Necessity - Festival Park Lots 21 and 22, Block 3021, Unit 43
- BM. Resolution 221-19 Resolution of Necessity - Festival Park Lots 35 and 36, Block 3021, Unit 43
- BN. Resolution 222-19 Resolution of Necessity - Festival Park Lots 37 and 38, Block 3021, Unit 43
- BO. Resolution 223-19 Resolution of Necessity - Festival Park Lots 1

- and 2, Block 3022, Unit 43
- BP. Resolution 224-19 Resolution of Necessity - Festival Park Lots 55 and 56, Block 3022, Unit 43
- BQ. Resolution 225-19 Resolution of Necessity - Festival Park Lots 59 and 60, Block 3022, Unit 43
- BR. Resolution 226-19 Resolution of Necessity - Festival Park Lots 17 and 18, Block 3025, Unit 43
- BS. Resolution 227-19 Resolution of Necessity - Festival Park Lots 19, 20 and 21, Block 3025, Unit 43
- BT. Resolution 228-19 Resolution of Necessity - Festival Park Lots 31, 32 and 33, Block 3025, Unit 43
- BU. Resolution 229-19 Resolution of Necessity - Festival Park Lots 34 and 35, Block 3025, Unit 43
- BV. Resolution 230-19 Resolution of Necessity - Festival Park Lots 58 and 59, Block 3025, Unit 43
- BW. Resolution 231-19 Resolution of Necessity - Festival Park Lots 64 and 65, Block 3025, Unit 43
- BX. Resolution 232-19 Resolution of Necessity - Festival Park Lots 78 and 79, Block 3025, Unit 43
- BY. Resolution 233-19 Resolution of Necessity - Festival Park Lots 80 and 81, Block 3025, Unit 43
- BZ. Resolution 234-19 Resolution of Necessity - Festival Park Lots 91 and 92, Block 3025, Unit 43
- CA. Resolution 235-19 Resolution of Necessity - Festival Park Lots 93 and 94, Block 3025, Unit 43
- CB. Resolution 236-19 Resolution of Necessity - Festival Park Lots 101 and 102, Block 3025, Unit 43
- CC. Resolution 237-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3028, Unit 43
- CD. Resolution 238-19 Resolution of Necessity - Festival Park Lots 11, 12 and 13, Block 3028, Unit 43
- CE. Resolution 239-19 Resolution of Necessity - Festival Park Lots 14 and 15, Block 3028, Unit 43
- CF. Resolution 240-19 Resolution of Necessity - Festival Park Lots 36 and 37, Block 3028, Unit 43
- CG. Resolution 241-19 Resolution of Necessity - Festival Park Lots 38 and 39, Block 3028, Unit 43
- CH. Resolution 242-19 Resolution of Necessity - Festival Park Lots 42 and 43, Block 3028, Unit 43
- CI. Resolution 243-19 Resolution of Necessity - Festival Park Lots 46, 47 and 48, Block 3028, Unit 43

12. REPORTS OF THE MAYOR AND COUNCIL MEMBERS

13. REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

14. TIME AND PLACE OF FUTURE MEETINGS

- A. A Regular Meeting of the Cape Coral City Council is Scheduled for Monday, July 29, 2019 at 4:30 p.m. in Council Chambers

15. MOTION TO ADJOURN

GENERAL RULES AND PROCEDURES REGARDING THE CAPE CORAL CITY COUNCIL AGENDA

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

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

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

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

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

***PUBLIC HEARINGS DEPARTMENT OF COMMUNITY DEVELOPMENT CASES**

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

1. The applicant, as well as witnesses offering testimony or presenting evidence, will be required to swear or affirm that the testimony they provide is the truth.
2. The order of presentation will begin with the City staff report, the

presentation by the applicant and/or the applicant's representative; witnesses called by the applicant, and then members of the public.

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

**MINUTES FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

June 3, 2019

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Pro Tem Carioscia at 4:30 p.m.

Invocation/Moment of Silence – Councilmember Gunter

Pledge of Allegiance – Urijah Vickery – Skyline Elementary School

Roll Call: Mayor Pro Tem Carioscia, Councilmembers Gunter, Nelson, Stokes, and Stout were present. Mayor Coviello and Councilmembers Cosden and Williams were excused.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Pro Tem Carioscia asked if anyone had any changes to the agenda.

Councilmember Gunter moved, seconded by Councilmember Stout, to adopt the agenda, as presented (Resolution 118-19 was removed at the request of City Management).

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

RECOGNITIONS/ACHIEVEMENTS

City of Cape Coral employees placed 1st in the Million Mile Movement sponsored by Healthy Lee Coalition

Kristen Collins, Executive with Oversight of the Healthy Lee Coalition, along with colleague Cheryl, thanked the City of Cape Coral for once again being on top of the Leaderboard and rallying their employees in a health and wellness movement. This is the third year that Healthy Lee has sponsored the Million Mile Movement, and this year collectively over the 90-day challenge, Lee County moved 450,000 miles of which the employees of the City of Cape Coral had just under 74,000 miles. Ms. Collins recognized the recipient of the cruise drawing, Chris Lucas, who moved over 45 miles individually.

Human Resources Director Sonego accepted the cruise award on behalf of Chris Lucas. She discussed how fortunate the City was to have a community partner in Healthy Lee Coalition. She noted that the City has a robust wellness program and highly participates in anything the Coalition puts together. She recognized our wellness coordinator, Deana Watson, who serves as a great ambassador for these events.

APPROVAL OF MINUTES

Regular Meeting – May 6, 2019

Councilmember Stokes moved, seconded by Councilmember Nelson, to approve the minutes for the May 6, 2019 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

Regular Meeting – May 13, 2019

Councilmember Nelson moved, seconded by Councilmember Stout, to approve the minutes for the May 13, 2019 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

Dennis Winchester requested additional details for Resolution 108-19. The amount was lowered by the State Appropriations and that amount was unknown at this time of how much we would get of that \$2.7 million request. He requested information on when this money would be received to help fund this project and when will the plans be developed. What kind of contingency will be available to cover the shortfall? He discussed the 2019-2021 proposed budget where the Police Impact Fee Reserves show approximately \$5.2 million versus the \$5.5 million. He questioned how those shortfalls would be handled through contingency plans.

City Manager Szerlag explained this was a request to approve the design of the Police Facility and when funds become available, there would be a budget request to construct the facility at that point in time.

Financial Services Director Bateman stated that \$650,000 is available today for the design. There is more than enough money in the Police Impact Fee Fund. There will also be approximately \$5 million or \$6 million available after next year in the Impact Fee Fund, and there is a state grant coming.

Chief of Police Newlan confirmed that we applied to State Appropriations which has been approved. There is no exact amount available at this time. He noted that the City can apply again as we're going through the process next December as well. The main objective is to get the concept and design done to get an exact cost. The estimated cost is about \$8 million.

Director Bateman confirmed that they would have the necessary funding.

Councilmember Stout stated she initially had doubts about approving this Resolution, but with a growing City, it needs to be designed regardless of when it is built. Having State Funds to help do this is a good direction.

Councilmember Stokes agreed with Councilmember Stout. He would support this to keep the public safe.

City Attorney Menendez stated she wanted the record to be clear that item 8(B)(8) has been removed and was no longer part of the agenda.

Mayor Pro Tem Carioscia responded in the affirmative.

CONSENT AGENDA

- 1) Resolution 78-19 Approve Agreement CON-UT18-97/MC for Professional Design Services for the Southwest Water Reclamation Facilities Operations Building project with Stantec Consulting Services Inc. for a not to exceed cost of \$1,202,904 with a 10% City controlled contingency in the amount of \$120,290 for a total project cost of \$1,323,194. The ranking was approved by City Council on December 10, 2018 via Resolution 260-18; Department: Utilities; Dollar Value: \$1,323,194; (Water & Sewer Fund)
- 2) Resolution 81-19 Award ITB-PW19-61/MM Palm Additions to Yacht Club Medians to Brent's Lawn and Tree Service, Inc., as the lowest responsive responsible bidder, to install palms and trees in the medians leading to the Yacht Club in the amount of \$73,935 with a 10% City controlled contingency of \$7,394 for a total project cost of \$81,329 and authorize the City Manager or Designee to execute the agreements, amendment and any renewals; Department: Public Works; Dollar Value \$81,329; (General Fund)

- 3) Resolution 94-19 Award ITB-PW19-44/AP Channel Grates & Drains to Core & Main, LP and TWC Distributors, Inc. as the lowest responsive, responsible bidder in the respective awarded areas, for the Purchase of Channel Grates & Drains which are used in swale grading projects to expedite the stormwater flow to the adjacent swales, at the unit price bid, respectively, for an estimated annual dollar value of \$100,000 not to exceed budgetary limits and authorize the City Manager or Designee to execute the agreement, renewals, amendments and Purchase Orders; Department: Public Works; Estimated Annual Dollar Value: \$100,000; (Stormwater Fund).
- 4) Resolution 105-19 Award ITB-PW19-55/CV FY2019 Local Road Resurfacing Phase II to Community Asphalt Corporation, for the milling, resurfacing, and select structural repairs on streets in Cape Coral in the area bordered by Del Prado Blvd on the west, the Caloosahatchee River on the east, Everest Parkway on the north and the Moody Canal on the south, as the lowest responsive, responsible bidder, in the amount of \$1,849,000 with a 10% city controlled contingency of \$184,900 for a total project cost of \$2,033,900; Authorize the use of Fund Balance/Reserves from the Transportation Capital Project (6-cents gas tax) and the W&S Capital Project Reserves; And authorize the City Manager or Designee to execute the agreement, renewals, amendments and Purchase Orders; Department: Public Works; Dollar Value: \$2,033,900; (General Fund - \$1,785,850/Water & Sewer-\$248,050 Fund balance reserves)
- 5) Resolution 108-19 Approve the use of Police Impact Fee Reserves to fund the Design of the Police Department Gun Range at an estimated total dollar value of \$650,000. The corresponding contract will be brought forward, for approval, at a later Council meeting after the procurement is completed; Department: Police Department; Estimated Dollar Value \$650,000; (Impact Fee Reserve Fund)
- 6) Resolution 109-19 Approve Staff Cost Proposal (SCP) SCP JE-11 with Johnson Engineering, Inc. to provide Professional Engineering Services for Weir 29 Improvements project including Design, Construction Specifications, Drawings, Administration, Inspection, and Permitting Services for a Not-to-Exceed (NTE) amount of \$165,500 and authorize the City Manager or designee to execute the agreement; Department: Utilities; Dollar Value \$165,500; (Water and Sewer Fund)
- 7) Resolution 110-19 Approve the use of \$15,000 from the Yacht Basin Enterprise Fund for the inspection of 580 linear feet of seawall at the Cape Coral Yacht Club (north and east of the boat ramp parking) and the review of a report/inspection of 585 feet of seawall east of the Harbor Master's office; Department: Public Works; Dollar Value \$15,000; (Yacht Basin Enterprise Fund)
- 8) REMOVED AT THE REQUEST OF CITY MANAGEMENT Resolution 118-19 Discretionary letter of intent between City of Cape Coral and Phelan Brands, providing limited authorization to Phelan Family Brands; Department: City Manager; EDO Division; Dollar Value: N/A; (Fund N/A)
- 9) Resolution 119-19 Approving a Right of Entry & Hold Harmless Agreement for the benefit of Lee County Electric Cooperative (LCEC) which authorizes the City to enter the Everest Parkway LCEC Substation site to maintain and paint the exterior perimeter wall of the City's Everest Facility; and authorizing the City Manager to execute said Agreement. Department: Financial Services / Real Estate Division; Dollar Value: N/A (Fund: N/A)

Councilmember Gunter moved, seconded by Councilmember Stokes, to approve items 8(B)(1), 8(B)(2), 8(B)(3), 8(B)(4), 8(B)(5), 8(B)(6), 8(B)(7), and 8(B)(9), as presented.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

CITIZENS INPUT TIME

Richard Osman appeared to discuss last year's drought and how the City brought water in from Charlotte County for our canals. He mentioned the low level of the canal off of Nicholas Parkway where he launches his kayak. He questioned if it was in the plans again to buy water from Charlotte County to keep our canals maintained at a decent level.

Lynne Rosko appeared to discuss Council Rules and Procedures regarding speakers that address Council. She displayed page 7 from that document. She also discussed the trip to China and questioned dealing with a communist country in the middle of a major trade war.

Craig Owings appeared to discuss procedural issues about the trip to China. He discussed how the Resolution was not on the agenda for the meeting when the vote was taken. Technically, that was not a violation of Section 286.011 of Florida's Government in the Sunshine Laws, but it appeared to be a violation of 286.014 Paragraph 2 which he read into the record.

Joyce Easton appeared to discuss Resolution 87-19. She noted there were a few changes requested by the Mayor to change the verbiage of "good cause" to "extraordinary circumstances." She questioned the reason for that request and others such as no applause and Council Reports. She requested that Councilmembers use prayers for invocation rather than a moment of silence. She discussed the trip to China regarding the discrepancy in ticket prices and using a travel agency from Georgia. Resolution 22-05 notes that economy rates shall be used.

Jay Goshito appeared to discuss the violation with drones in neighborhoods and the lack of privacy in your yards. He requested the creation of an Ordinance for drone usage in order to have a reasonable expectation of privacy.

Lou Navarra displayed a letter addressed to him regarding proper performance of duty and an excerpt from his false arrest, as well as a letter from the Fort Myers Police Department. He stated he would be sending a letter to all of Council that he would be sending to the Governor about qualifications for police officers and teachers. He also displayed A.R. Number 25 regarding gratuities accepted by City of Cape Coral employees which he felt needed to be updated.

MaryAnne Sweeney discussed the recent efforts in the City to protect our children. She mentioned an article in the paper concerning a bracelet for finding lost people with dementia. The County was dropping this program although Cape Coral was keeping it. She pointed out that the media should be brought in to bring average citizens up to date on some of the programs that are offered in the City. She stated Cape Coral needed to be recognized at the airport, just like the welcome signs for all the surrounding cities.

Mitch McCowan appeared to discuss the need to ban the use of Roundup in order to protect our waterways. He questioned getting a bond for the sidewalks and streetlights.

Unknown speaker discussed the police shooting range and whether or not the public would be able to use it.

Andrew Gerk appeared to discuss the blue green algae problem. Does the City have any plans for a combatant for this issue? He questioned if there were any plans for improvement or additions for soccer fields and basketball courts. He inquired if there were any plans to bring multi-cultural sports into Cape Coral.

John Karcher appeared to discuss the recent real estate rates released by the Property Appraiser. Real estate values in Cape Coral show an increase in taxable values of 6.48%, the highest in Lee County. Budget season is just around the corner and Council should start thinking about it. He hoped that Council would get more engaged than ever in this year's budget process and to provide adequate time for public input at meetings. He stated the residents needed complete transparency for funding. He discussed the rollback rate history. He stated there was a \$3.8 million overage in the General Fund which should come back to the taxpayers with substantial rollback this year. He requested that Council make a substantial rollback a top priority.

Renee Schiele stated this has been the fourth Council meeting she has attended where she discussed the loss of her seawall after the hurricane. She requested assistance for the failed repairs that the City did. Her property is the only one with a storm drain on her entire street. She discussed the investigation by the Public Works Director which has been going on for ages with no conclusion. She stated she has a sinkhole in her backyard, and the front yard is disintegrating.

Councilmember Stout discussed why she voted yes on the trip to China, noting how the number of people going was reduced from eight to five. She opined that the Mayor should go since the China delegation came here.

Councilmember Gunter requested that Chief Newlan address Mr. Navarra's charges.

Chief of Police Newlan discussed the charges against Mr. Navarra. He noted it was not a false arrest; he was arrested for burglary. He noted Mr. Navarra pleaded trespass and got diversion. He discussed the list of complaints Mr. Navarra had against some officers, and they were continuing to look into them.

Councilmember Gunter requested that Chief Newlan discuss the diversion program.

Chief of Police Newlan explained the program was pleading to a lesser charge and would still be on the record.

Councilmember Gunter requested that Public Works Director Clinghan address the seawall issue.

Public Works Director Clinghan stated they hired an independent structural engineer to evaluate the seawall. The report determined that it was not on the City to fix that seawall. He noted they had a meeting with Ms. Schiele and re-investigated. That report from the independent structural engineer is forthcoming, and he will expedite that as soon as he can.

Councilmember Nelson requested that the Chief of Police address Ms. Sweeney's concern about the dementia program.

Chief of Police Newlan explained Project Lifesaver, a program that has been in place for years. GPS devices are distributed to those who have Alzheimer's so in the event they wander off the property, they can be tracked and located. He stated he will work with Public Affairs staff to get the word out to the public.

Councilmember Nelson provided an update on the fertilizer ordinance and to keep a policy that would be consistent in our region. She explained why they cannot ban the sale of fertilizer in stores. She stated they have not finalized the rewrite of that ordinance, and she has asked the Assistant City Manager to work out with staff when that will happen. The Roundup piece should be addressed in it. She hoped it would come forward when Council returns from hiatus. She addressed Mr. Gerk's question about the long-term effects of blue green algae and asked Mr. Gerk to contact her about their expert from FGCU who is working on the Governor's Blue Green Algae Task Force.

She noted that Festival Park will have soccer fields by 2023, and there may be the possibility of adding soccer fields at Academic Village. She was excited about opportunities with China.

Mayor Pro Tem Carioscia suggested that City Manager Szerlag may want to consider putting some of the available programs in *On the Move*.

City Manager Szerlag responded in the affirmative.

Councilmember Stokes stated it was great that our property values went up 6.5%. He addressed the request about the rollback rate, noting that there was \$17 million that has not been received yet from FEMA. He stated three members were missing from Council tonight, and he would request that the discussion on Council Rules and Procedures be continued until there is a full Council present.

City Attorney Menendez clarified that Ordinance 8-19 only applied to City employees.

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Select City Recommendation for FLC Board of Directors Nominee

Mayor Pro Tem Carioscia stated since the Mayor and two other Councilmembers were not present tonight that a motion be entertained to continue this to June 10, 2019.

Councilmember Stokes moved, seconded by Councilmember Nelson, to continue the item on the FLC Board of Directors Nominee to the June 10, 2019 regular Council meeting.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Youth Council - 2 Vacancies

City Clerk Bruns explained that there were two vacancies to be filled. The first one is for the Junior At Large (seat expires 5/1/2021). One application was received from Payton Zeigler from Canterbury School (10th grader).

Councilmember Stout moved, seconded by Councilmember Stokes, to appoint Payton Zeigler from Canterbury School to the Youth Council as Junior At Large.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

City Clerk Bruns stated the second action item was for the Oasis High School vacancy for their senior member, noting how this position was not anticipated due to Junior Member Zivkovic graduating. Oasis has not submitted any applications as of yet. The options are to keep the vacancy open or make a selection from the remaining applicants that have applied for the other position.

Youth Council – Vacancies

Applicants:

Shannon Dougherty/Cape Coral High School (10th grader)
Isabelle Jobe/Island Coast High School (11th grader)
Alisha Smaller/Mariner High School 10th grader)

Michael Rusinko /Oasis High School (10th grader)

City Clerk Brunns compiled a tally for the applicants, Shannon Dougherty, Isabelle Jobe, Alisha Smaller, and Michael Rusinko.

Councilmember Gunter – Dougherty, Councilmember Nelson – Smaller, Councilmember Stokes – Dougherty, Councilmember Stout – Dougherty, Mayor Pro Tem Carioscia – Dougherty

The results were as follows: 4 for Dougherty, and 1 for Smaller.

Councilmember Stout moved, seconded by Councilmember Gunter, to appoint Shannon Dougherty to the Youth Council as Oasis Rising Senior Member.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Ordinance 6-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Chapter 2, Administration, of the Code of Ordinances to establish Article VIII entitled "General Union Health Benefits Trust" and provides for the creation of a Health Benefits Trust and the appointment of a Health Benefits board. (Applicant: Brought forward by City Management.)

City Clerk Brunns read the title of the Ordinance.

Human Resources Director Sonego and Assistant City Manager Barron were available for any questions concerning Ordinance 6-19.

Public Hearing opened.

Lora Guglielmini, Treasurer, Executive Board of the General Employees of IUPAT Local 2301, read an email into the record that was sent by Richard Jones to the Councilmembers who was out of town and unavailable to attend the Council meeting. The main objection was the composition for this Board of Trustees. The Ordinance states that there will be three City representatives and two Union representatives. She noted they disagreed with this configuration and believe it should be two City representatives, two Union representatives, and one representative selected by the Board of Trustees. This is identical to the makeup of the Pension Board. She noted they also objected to the requirement that the General Union's President's designee be a current City employee and a member of the Union. They believed if the requirement is going to be restricted, it should require that the General Union's President's designee be a participant as defined by this Ordinance. The makeup should not be on the heavy side of City management who should not be the deciding factor alone on how these funds be used without equal input from the employees who will be contributing to this fund.

Public Hearing closed.

Councilmember Stokes moved to adopt Ordinance 6-19, with an amendment. There was no second; motion died.

Councilmember Stokes agreed with the suggestions from Ms. Guglielmini, noting how well the composition of the Pension Boards has worked very well for the past 20 years. He mentioned allowing retirees to be on this Board because of their vast experience.

Councilmember Nelson asked Assistant City Manager Barron to clarify where the money for this comes from.

Assistant City Manager Barron stated at this point there was no revenue identified to actually fund the trust. This Board is an advisory board and does not have any true decision-making authority. This is a committee who would make recommendations to the Financial Investment Committee established by Ordinance. The Investment Committee would then determine where funds get invested as far as long-term gains. She discussed the City's self-insured medical plan.

Councilmember Nelson asked for clarification about the main difference between this Board and the Pension Board.

Assistant City Manager Barron responded that the Pension Board does have decision making abilities regarding where pension funds are invested.

Councilmember Nelson questioned the concern about the composition of this Board is to make sure that since it is 85% City money that we have the majority deciding.

Assistant City Manager Barron stated this is a Board created by the City and agreed to in previous Union negotiations. They had previously proposed four City administrators and one Union rep because the agreement did not specify the number. She discussed the compromise of the City's 4-1 versus the Union's 2-2-1. The City then came back with 3-2, and the Union was firm on their 2-2-1.

Councilmember Nelson questioned how both groups would vote on that one and may come to a consensus faster.

Financial Services Director Bateman stated there was no money in the trust and won't be for years. The Union would like for this trust to manage the Self-Insurance Fund. The Self-Insurance Fund has \$27 million and about \$18 million in claims. The concern was to allow this Board to advise the City on how to do a Self-Insurance Program. This Board will allow the Financial Advisory Committee which she chairs with an outside investment firm. The idea initially is for the Board to advise her on how to invest \$100; the pool is about \$229 million invested. Any funds that go into this trust for the benefit of the Health Trust Plan would go into the pooled investments. This is not for the Board to do what the Union wants and that is to have a say on our insurance proceeds, claims, and premiums.

Councilmember Nelson asked for clarification that this Board would only give recommendations.

Director Bateman stated they would only be giving recommendations if the City or through Union negotiations decides to put money into this trust. This Board would advise the Financial Advisory Committee on whether or not to invest the money. The concern is if the City is not controlling this Board, they might say they want more money from the Self-Insurance Fund into the Trust.

Councilmember Nelson still questioned the Board's authority to do that.

Director Bateman responded that she wanted to provide Council with the background from past discussions that she has had with Ms. Barron and Human Resources Director Sonogo during Union negotiations. A Self-Insurance Fund needs to be in business for 8-10 years before they have money. The purpose of this Advisory Board would be to advise the Public Financial Advisor on how to invest the money.

Discussion held regarding the differences between certain boards.

Councilmember Stout stated when she spoke with Ms. Barron and Ms. Sonego earlier today, she was leaning towards the 2-2-1 prior to that. Afterwards when she learned that our City's employee's total health care is covered by our General Fund, that led her to support the City's proposal. She inquired if it was proper to make a motion to approve.

Mayor Pro Tem Carioscia stated there were a few more Councilmembers wanting to provide their input at this point before Councilmember Stout makes that motion.

Councilmember Stokes stated this 2-2-1 scenario for our pensions has made our pension funds more financially stable and healthier than a lot of cities in Florida. He was in favor of going with the same formula for this advisory board. He stated when it was appropriate to do so, he wanted to make a motion with the amendment.

Councilmember Gunter wanted to know how many City employees are in this self-insured health care program.

Assistant City Manager Barron stated there were 3,000 in the fund which included dependents.

Councilmember Gunter asked how many people in the General Union use this plan.

Assistant City Manager Barron stated about 75% of the General Union employees participate; Fire has their own plan.

City Attorney Menendez stated pursuant to the Council rules, it states that there shall be no discussion by City Council on the Ordinance until a motion is made and seconded. It does not have to be a motion to approve; it could be a motion to deny. In this case, Councilmember Stokes was wanting to do a motion to approve the Ordinance with a modification or an amendment to the Ordinance before you. That motion would be proper for Councilmember Stokes to make if he so chooses.

Councilmember Stokes clarified his motion to adopt Ordinance 6-19, as amended, with the following changes: 2-2-1 (two employees, two from management, and one they agree on between them), and that retirees be allowed to be a participant (they don't have to be a current employee and a current member of the union). There was no second. Motion died.

Mayor Pro Tem Carioscia asked if there were any other motions.

Councilmember Stout moved, seconded by Councilmember Gunter, to adopt Ordinance 6-19, as presented.

Council polled as follows: Gunter and Stout voted "aye." Nelson, Stokes, and Carioscia voted "nay." Two "ayes." Three "nays." Motion failed 2-3.

City Attorney Menendez stated if there is no other motion, then this Ordinance will not be approved this evening, and it will be denied. She encouraged Council to try and see if they can reach some decision. The creation of this Board was something that was stated in our Collective Bargaining Agreement with the Union. The composition of the Board was not a part of it, other than there was going to be Union representation.

Councilmember Gunter asked if Council could entertain the idea where we have two City employees, two General Union employees, and a fifth person that is voted on by all persons that are outside of both of those organizations.

Councilmember Stout questioned if Council could determine the fifth person.

Councilmember Gunter questioned if this could be similar to a Board where there is a voting member.

City Attorney Menendez questioned Council appointing a fifth person.

Councilmember Gunter clarified that a Councilmember would be on as the fifth person.

Councilmember Stout explained that she meant Council would vote for who that fifth person would be, but she agreed with Councilmember Gunter's idea.

City Attorney Menendez stated this may not be a Board where you want to have a Councilmember on since they are ultimately making recommendations as to how the money should be spent and Council will already have a role in that at some point. She understood that Councilmember Gunter is suggesting that the composition of the Board be revised to be two members that are appointed by the City Manager. Currently it identifies the three positions, but it does not have to identify the three. It could be two that are appointed by the City Manager or Council, two appointed by the General Union, and Council is willing to have that composition. She noted it should be addressed whether those can be retirees. Those four would then appoint a fifth, that fifth member would not fall into any of those categories. They would not be a City employee, retiree, or a participant in the plan. She asked Councilmember Gunter if that was his intent.

Councilmember Gunter stated that could be one scenario; the other could be for Council to appoint that fifth person. He was comfortable either way.

City Attorney Menendez stated the other two management seats would be appointed by the City Manager.

Councilmember Gunter stated there would be two people from the City, two people from the General Union, and City Council would appoint the fifth person.

Councilmember Stokes agreed.

City Attorney Menendez asked if he was open to those two people from the General Union to be as stated in the draft Ordinance where it is limited to a current employee and a current union member or would he be open to a retiree.

Councilmember Stokes stated it would be up to Council.

Councilmember Nelson stated currently the way it is written they are current employees and Union members.

Councilmember Gunter stated he would be inclined to leave that alone. He stated if Council decides to put a fifth person in there and it's a retiree, Council could decide at that time.

City Attorney Menendez clarified that if a retiree is a participant in the plan, then it would not be total non-involvement. She asked for clarification on that fifth person. If you want two appointed by the City Manager, two appointed by the Union who have to be current Union members and/or current participants, the fifth can be anyone else appointed by Council. She asked if Council wanted to limit on who that fifth person can or cannot be. Should it be a participant in the plan? Retirees are participants in the plan as are other people who have a relationship to other members in the plan. Does Council want any restriction on the fifth person?

Councilmember Gunter asked for more input from Council before he finalized his motion.

City Manager Szerlag stated the fifth person could be someone selected by the other four members on the Board and not be a participant of the plan (no employee or retiree). He asked Ms. Bateman what professional qualifications a fifth member needs.

Director Bateman stated a fifth member should have a background in investments and would require investment training every year according to State Statute.

City Manager Szerlag stated that person could be selected by the City Council given a set of criteria that we recommend so that person would be knowledgeable and not have any skin in the game in terms of any direct benefit. It could be a CPA, financial planner or financial consultant and could be selected by the governing body or by the four members on the Advisory Board (two selected by management and two selected by the Union).

Councilmember Gunter agreed. He liked the idea of having an independent person and not being affiliated with the General Union or the City.

Councilmember Stout agreed.

Councilmember Nelson also agreed since it offered a balance.

City Attorney Menendez asked if Councilmember Gunter's motion was to have two members appointed by the City Manager, two members that are appointed by the General Union President, and those two members would have to be current employees and current members of the Union, not necessarily the President and the President's designee but any two appointed by the Union. She questioned who would appoint the fifth person.

Councilmember Gunter stated he liked the idea of the fifth person to be appointed by the four members on the Board.

City Attorney Menendez asked about the criteria for that fifth person. Would it be that they are not a participant in the plan? Not a current employee? Do they have any special requirements such as a CPA or Certified Financial Advisor? Is that part of the motion?

Councilmember Gunter stated that would only benefit that Board and agreed that they should have some type of finance background, whether it be a Financial Planner or a CPA.

City Attorney Menendez asked for more clarification.

Councilmember Gunter stated it should be a Certified Financial Advisor or a CPA.

Director Bateman stated to be certified is very costly, but someone that is experienced in investments usually has a CPA or Licensed Financial Analyst.

Councilmember Gunter agreed to go that route.

City Attorney Menendez asked for clarification whether that would be a Licensed Financial Analyst.

Councilmember Gunter stated it would be a licensed individual in the finance industry.

Assistant City Manager Barron stated she saw that Ms. Guglielmini nodded.

Mayor Pro Tem Carioscia stated there was a motion on the floor. Councilmember Stokes seconded.

City Attorney Menendez stated ***the motion on the floor is to have two appointed by the City Manager, two appointed by the Union President who have to be current employees and members of the Union, and those four would select the fifth and that fifth cannot be a current employee or participant which includes retirees, and they have to be either a CPA or licensed in the financial industry.***

Councilmember Gunter agreed to adopt Ordinance 6-19 with those amendments. Councilmember Stokes (second) agreed.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Resolution 27-19 Public Input Adopt Declaration of Trust for the General Union Health Benefits Trust

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution approves the Declaration of Trust for the City of Cape Coral General Union Health Benefits Trust for the purpose of holding assets and income to be used for providing employee benefits for employees in the General Union. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Resolution.

Assistant City Manager Barron stated this Resolution established the Health Care Trust.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Nelson, to approve Resolution 27-19, as presented.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Ordinance 8-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article IV, Travel Expenses and Auto Allowances, to update provisions for reimbursement for travel when on City business, to provide for establishing a travel policy as an administrative regulation rather than by resolution, and repealing resolution 22-05 which set forth the travel policy previously. (Applicant: Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

Financial Services Director Bateman stated this related to the City's travel policy, not Council's and was cleanup language. She explained the following displayed slides:

- Code of Ordinances, Chapter 2 Administration Article IV: Travel Expenses and Travel Allowances
- Summary of Changes

Public Hearing opened.

Joyce Easton questioned the definition of a traveler which can be a public official, public employee, or authorized person when performing authorized travel and if that included City Council.

Public Hearing closed.

Councilmember Stokes moved, seconded by Councilmember Stout, to adopt Ordinance 8-19, as presented.

City Attorney Menendez explained what the Ordinance states under applicability and that it included all individuals employed by the City of Cape Coral. Council has a separate travel policy. She stated when this Ordinance has been voted on, there is a need to go back to Resolution 27-19 and address the composition of the trust.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Resolution 27-19 Public Input Adopt Declaration of Trust for the General Union Health Benefits Trust

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution approves the Declaration of Trust for the City of Cape Coral General Union Health Benefits Trust for the purpose of holding assets and income to be used for providing employee benefits for employees in the General Union. (Applicant: Brought forward by City Management.)

City Attorney Menendez pointed out to Council that the attached trust agreement has an Article 6.a. relating to the trusteeship of the trust. Currently, it matches Ordinance 6-19 as it was presented to Council prior to the vote on the amendments regarding membership. It would be appropriate to seek reconsideration of the motion to approve Resolution 27-19 and to change the composition to match what was just approved in Ordinance 6-19.

Mayor Pro Tem Carioscia questioned the verbiage to use for clarification.

City Attorney Menendez stated it would be a motion to reconsider the vote on Resolution 27-19.

Councilmember Stokes moved, seconded by Councilmember Nelson, to reconsider Resolution 27-19 so that it will match Ordinance 6-19.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

City Attorney Menendez stated technically the motion to approve is back on the floor.

Councilmember Gunter moved, seconded by Councilmember Nelson, to approve Resolution 27-19.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "nay." Five "nays." Motion failed 5-0.

City Attorney Menendez stated it would be appropriate at this time to have a motion to approve Resolution 27-19 with the amendments to the composition of the Trusteeship to coincide with the changes that were just made to Ordinance 6-19.

Councilmember Gunter moved, seconded by Councilmember Stout, to approve Resolution 27-19 with the amendments to the composition of the Trusteeship to coincide with the changes that were just made to Ordinance 6-19.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Ordinance 22-19 Second and Final Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .15, South Cape Downtown District (SC), by eliminating the South Cape Redevelopment Incentive Program (SCRIP), amending the maximum floor area ratio, maximum residential

density, and maximum building height in the South Cape Downtown District, establishing regulations to allow certain architectural elements in City easements and rights-of-way in the South Cape Downtown District, and establishing regulations to allow outdoor dining on public rights-of-way and City-owned parking lots in the South Cape Downtown District.

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

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

City Management Recommendation: City Management recommends approval.

City Clerk Brunns read the title of the Ordinance.

Planning Team Coordinator Daltry explained the purpose of the Ordinance. He displayed the following slides:

- Ordinance 22-19
- Purpose
- Conclusion

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Gunter, to adopt Ordinance 22-19, as presented.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Ordinance 24-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .13, Corridor District (CORR), to remove the maximum building height regulations of 45 feet for non-residential buildings in the Corridor District. Building heights will be regulated by floor area ratio rather than a fixed height. This change will also greater flexibility in project design and architectural features for non-residential projects, particularly for hotel development. (Applicant: Brought forward by City Management.)

P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 24-19.

City Management Recommendation: City Management recommends approval.

City Clerk Brunns read the title of the Ordinance.

Planning Team Coordinator Daltry explained the purpose of the Ordinance. He displayed the following slides:

- Ordinance 24-19
- Ordinance 24-19 (continued)

Mayor Pro Tem Carioscia asked if there was any correspondence.

Mr. Daltry responded that there were no letters of correspondence received.

Public Hearing opened.

John Karcher questioned if this referred to the example of 14 ft. ceilings and that was the reason for taking away the 45 ft. away. Was there a height limitation?

Mr. Daltry explained using Floor Area Ratio (FAR) as a height limitation as opposed to just a standard number.

Public Hearing closed.

Councilmember Stokes moved, seconded by Councilmember Nelson, to adopt Ordinance 24-19, as presented.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Ordinance 26-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance approving and granting to South Florida Water Management District a perpetual Conservation Easement upon property owned by the City located in the area of the Academic Village; authorizing and directing the Mayor to execute the Deed of Conservation Easement - Passive Recreational Uses. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained the purpose of the Ordinance. She displayed an aerial of the site which is located at the northwest corner of Del Prado Boulevard and Kismet Parkway.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Nelson, to adopt Ordinance 26-19, as presented.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Ordinance 27-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance authorizing the City Manager to exchange municipal surplus property described as Lots 27 and 28, Block 5162, Unit 83, Cape Coral Subdivision, for real property described as Lot 25, Block 5162, Unit 83, Cape Coral Subdivision; authorizing the conveyance of surplus real property described herein pursuant to Section 2-155 of the City of Cape Coral Code of ordinances; authorizing and directing the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained the purpose of the Ordinance. She displayed an aerial of the site and noted this was located along the North Spreader Waterway.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Nelson moved, seconded by Councilmember Gunter, to adopt Ordinance 27-19, as presented.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

Ordinance 30-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 12 1/2, "Parks and Recreation," Article I, "Regulations," Section 12 1/2-2, "Definitions," and Section 12 1/2-4, "Rules and Regulations," to regulate commercial activity in City parks. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Parks and Recreation Director Runyon explained the purpose of the Ordinance and noted the changes that would be made to definitions to add boats or watercraft. Under Section 2 Rules and Regulations, there is the addition of commercial activity without approval from the City.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Stout, to adopt Ordinance 30-19, as presented.

Councilmember Gunter noted why this was added because of some of the boat rental places at the Yacht Club where access area was taken away from the general public.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

INTRODUCTIONS

Ordinance 31-19 (ZA 19-0004*) Set Public Hearing Date for June 10, 2019

*Quasi-Judicial, All Persons Testifying Must Be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Zoning District Map by rezoning property located at 244 Santa Barbara Boulevard South from Single-Family Residential (R-1B) to Pedestrian Commercial (C-1) zone. (Applicant: Cape Coral Lodge No. 367 Free and Accepted Masons of Florida) (3.63 acres)

HEX Recommendation: The Hearing Examiner recommends the City Council grant the requested rezone.

City Management Recommendation: City Management recommends approval of the rezone request.

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 10, 2019 in Council Chambers.

Planning Team Coordinator Daltry stated he was available if Council had any questions.

Ordinance 32-19 Set Public Hearing Date for June 10, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Conservation and Coastal Management Element, Infrastructure Element, and Intergovernmental Coordination Element by adopting policies to provide consistency with the Cape Coral Water Supply Facilities Work Plan; adopting the 2017 Cape Coral Water Supply Facilities Work Plan as Appendix "A" to the Comprehensive Plan. (Applicant: City of Cape Coral)

Planning & Zoning Recommendation: The Planning & Zoning Commission recommendation to be added after their meeting on June 5, 2019.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 10, 2019 in Council Chambers.

Planning Team Coordinator Daltry stated he was available if Council had any questions.

UNFINISHED BUSINESS

WATER QUALITY – UPDATE

Public Works Director Clinghan provided the Water Quality Update. He noted the release schedules being done by the Army Corps of Engineers over the last few months have been beneficial. The levels of Lake Okeechobee are approximately 11 feet now; typically, the high is 16 ft. and the minimum is 10.5 ft. They are releasing approximately 450 cfs.

FOLLOW UP ITEMS REQUESTED BY COUNCIL

None.

Resolution 87-19 Amend City Council Rules of Procedure

The resolution amends Resolution 3-01, as amended, which adopted Rules of Procedure for the City Council Agendas and Meeting, to provide clarification in scheduling of various items, and types of meetings; to provide for attendance at meetings remotely by electronic means; and to establish guidelines for Council reports. (Applicant: Brought forward by Councilmember Cosden)

Mayor Pro Tem Carioscia requested that this be continued to June 10, 2019 since the Mayor and two Councilmembers were not present.

Councilmember Stokes moved, seconded by Councilmember Gunter, to continue Resolution 87-19 to June 10, 2019.

Council polled as follows: Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Five "ayes." Motion carried 5-0.

NEW BUSINESS

Discussion Regarding Drones - Brought Forward by Mayor Pro Tem Carioscia

Mayor Pro Tem Carioscia stated four years ago an Ordinance was put together regarding drones. He noted constituents have contacted him who are concerned about drones in the area. He requested a second so that the City Attorney's Office can research this topic.

Councilmember Stout provided the second.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Gunter – Topics: No Report

Councilmember Nelson – Topics: Participated in the Memorial Day Parade by driving a 93-year old veteran.

Councilmember Stokes – Topics: No Report

Councilmember Stout – Topics: No Report

Councilmember Williams – Topics: Excused

Councilmember Cosden – Topics: Excused

Mayor Pro Tem Carioscia – Topics: No Report

Mayor Coviello – Topics: Excused

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: Topics: No Report

City Manager: Topics: No Report

TIME AND PLACE OF FUTURE MEETINGS

A Regular Meeting of the Cape Coral City Council was scheduled for Monday, June 10, 2019 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:45 p.m.

Submitted by,

Kimberly Bruns, CMC
City Clerk

**MINUTES FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

June 10, 2019

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Coviello at 4:30 p.m.

Invocation/Moment of Silence – Councilmember Nelson

Pledge of Allegiance – Mayor Coviello

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

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Coviello requested moving item 11A under New Business to follow immediately after voting on the adoption of the agenda.

Councilmember Stout moved, seconded by Councilmember Nelson, to adopt the agenda, as amended, to move 11A to follow directly after changes to the agenda.

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

**Lee County Clerk of Courts - Days of Operation/Services 5 days a week and
Office Updates - Linda Doggett**

Lee County Clerk of Courts Doggett announced that the Cape Coral Branch is being restored to five days a week beginning on Monday, July 1, 2019. On November 1, 2016 she was forced to close the Cape Coral Branch to three days a week due to significant budget reductions. In addition, her office struggled with long wait lines in the Justice Center's downtown lobby and unbearably long phone wait times. In response, better technology solutions have been implemented, as well as improving efficiencies and customer service online and on the phone. She noted the long-awaited approval from our legislature to use some of the excess revenues to fund critical operations.

Ms. Doggett noted the following services will be available, some of which are new:

- Pay traffic fines
- Pay other court fees and fines including probation
- Clear driver's license suspensions
- Purchase driver's history records
- Request court dates
- Submit traffic school compliance certificates
- Ability to file civil cases (eviction, small claims, divorce)
- Record documents into the official records
- Apply for marriage licenses and have marriage ceremonies at that branch office

Ms. Doggett stated that computers will be available for residents to do their online research to look at electronic court case files, public records, and other documents. She encouraged the use of online services for all customers so that they can save time and help the government be more efficient.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

None.

**BUSINESS
PUBLIC COMMENT - CONSENT AGENDA**

No speakers.

CONSENT AGENDA

- 1) Resolution 90-19 Award to Pavement Maintenance, LLC., the Saratoga Lake Park Shoreline Improvement project in the amount of \$29,500; and award to Northeast Products and Services, Inc. the purchase of an Adaptive Kayak Launch in the amount of \$38,600 for a total of \$68,100 and approve a City controlled contingency of \$3,950 (\$2,950 for the Shoreline improvement and \$1,000 for the Kayak Launch) for a total project cost of \$72,050 and authorize the City Manager or Designee to execute the contract, contract amendment, purchase order and any related documents for the project. The Grant #12-00653 Saratoga Lake Park Improvements project awarded by the State of Florida Department of Environmental Protection Land and Water Conservation Fund Program for a maximum amount of \$143,000 was accepted by Council via Resolution 60-16 on 5/9/16; Department: Parks and Recreation; Estimated dollar value: \$72,050; (Government Capital Project Fund)
- 2) Resolution 103-19 Award ITB-PW19-40/MM Re-Roof of Fleet Management Building to Crowther Roofing and Sheet Metal of Florida, Inc., as the lowest responsive responsible bidder, to replace the Cape Coral Fleet Management's Building roof in the amount of \$109,000 with a 10% City Controlled contingency of \$10,900 for a total project cost of \$119,900 and authorize the City Manager or Designee to execute the agreements, amendment and any renewals; Department: Public Works; Dollar Value \$119,900; (Fleet Internal Service Fund)
- 3) Resolution 104-19 Approve the Selection Advisory Committee (SAC) ranking of the Request for Proposal (RFP) RFP-UT19-29/MC to engage a firm to provide Professional Engineering Services for the Comprehensive Utilities Master Plan Update project and authorize the City Manager or Designee to enter into negotiation with the number one ranked firm, AECOM Technical Services, Inc.; Department: Utilities; Dollar Value: N/A; (Fund: N/A)
- 4) Resolution 111-19 - UEP North 2 FDEP Total Maximum Daily Load (TMDL) Grant to assist with the offsetting North 2 UEP Stormwater Improvement costs and will enhance water quality in the City's canal system and Pine Island Sound; Department: Public Works (UEP); FDEP Grant Dollar Value: \$310,000; (Matching Stormwater Fund: \$310,000)
- 5) Resolution 113-19 Award ITB-UT19-50/KR Southwest Reverse Osmosis (RO) Water Treatment Plant (WTP) Roadway Repaving Project to Pavement Maintenance, LLC of Fort Myers, FL to replace approximately of 5,831 square yards (SY) of existing asphalt pavement for parking lot and drainage improvements, as the lowest responsive, responsible bidder, in the amount of \$351,692 with a City controlled contingency of 10%, \$35,169 for a total \$386,861 dollars; Authorize use of reserves/unassigned fund balance; and authorize City Manager or designee to execute the contract, amendments, change orders required to complete the work. Department: Utilities Dollar Value: \$386,861 (W&S- reserves/unassigned fund balance)
- 6) Resolution 123-19 Approve the Selection Advisory Committee (SAC) ranking of the Request for Proposal RFP-PW19-20/KR to engage a firm to provide Professional Engineering Services for the Design of the Reclaimed Water Transmission Main Caloosahatchee River Crossing and authorize the City Manager or Designee to enter into negotiation with the number one ranked firm, Cardno, Inc. Department: Utilities; Dollar Value: N/A; (Fund: N/A)

- 7) Resolution 129-19 Accepting a 15-foot wide Temporary Right of Entry & Construction Easement within the southern portion of the parcel located at the northwest corner of Pine Island Road and Chiquita Boulevard (Strap #16-44-23-C3-00005.0000) for the installation of utilities associated with the North 2 Utilities Extension Project; Department: Financial Services / Real Estate Division; Dollar Value: NTE \$50 (Fund: Water and Sewer Fund)
- 8) Resolution 130-19 Approval of Seller's counter offer to purchase Lots 5, 6 and 7, Block 2159, Unit 32, Cape Coral Subdivision, 1110 NE 22nd Terrace, Cape Coral, for the Lake Meade Park Expansion project for the purchase price of \$16,500 plus closing costs not to exceed \$1,800; Department: Financial Services / Real Estate Division; Dollar Value: \$18,300 (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- 9) Resolution 131-19 Approval of Contract for Purchase of Lots 21 and 22, Block 2152, Unit 32, Cape Coral Subdivision, 2205 NE 12th Avenue, Cape Coral, for the Lake Meade Park Expansion project for the purchase price of \$21,000 plus closing costs not to exceed \$1,800; Department: Financial Services / Real Estate Division; Dollar Value: \$22,800 (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- 10) Resolution 132-19 Acceptance of Edward Byrne Memorial Justice Assistance Grant (JAG) Program- Countywide funding to purchase crime analyst software and training; Department: Police; Dollar Value \$42,300; no match
- 11) Resolution 134-19 Approve increase of the City Controlled Contingency allocation, for contract #CON-PW16-64/GM in the amount of \$65,000, for the Greenscape Median Landscape Maintenance project, which was approved on September 26, 2016 under Resolution 163-16 and amended on October 2, 2017 via Resolution on 184-17 and authorize the City Manager or Designee to utilize the contingency funds for issuance of additional funding to the existing purchase orders. The vendors awarded were as follows: Brent's Lawn and Tree Service, Inc; Superior Landscape Lawn Services, Inc. and John Fideli Landscape, LLC. The project is for ongoing irrigation system repairs and landscaping replacement due to accidents and for replacement of landscaping that reached the full lifecycle. Department: Public Works Department Dollar Amount \$65,000. (General Fund)
- 12) Resolution 136-19 Acceptance of Drainage Easement in a portion of Lots 16 and 17, plus the vacated alley, in Block 3236, Cape Coral Unit 66, 3321-3409 SW 8th Place (Strap #03-45-23-C2-03236.0130), to provide access to and maintenance of City drainage facilities at this location, as conditioned in site plan SP18-0050; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)
- 13) Resolution 137-19 Approval of Contract for Purchase of Lots 25 and 26, Block 3028, Unit 43, Cape Coral Subdivision, 1313 Wilmington Parkway, Cape Coral, for the Festival Park project for the purchase price of \$12,500 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$14,000 (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller
- 14) Approve a General Release for all claims arising from the damage done to a City water main located at or near 1615 NE 2nd Street, on August 26, 2017, and authorize the Mayor to execute the General Release.

Councilmember Carioscia moved, seconded by Councilmember Stokes, to approve items 8(B)(1), 8(B)(2), 8(B)(3), 8(B)(4), 8(B)(5), 8(B)(6), 8(B)(7), 8(B)(8), 8(B)(9), 8(B)(10), 8(B)(11), 8(B)(12), 8(B)(13), and 8(B)(14), as presented.

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

CITIZENS INPUT TIME

Carl Veaux inquired about using Cape High Schools as hurricane shelters.

Lou Navarra displayed letters on the overhead that he sent to Council on how he was never charged with a felony burglary, as well as a letter he was sending to the Governor. He discussed his desire to have the CCPD sit down with him and review the body cams. He also commented on the recent China trip.

John Karcher appeared to discuss three meetings coming up: June 18th, July 22nd, and August 5th. He questioned why the current online zoning map on the City's website is dated 2018. He requested 100% transparency and that Council direct staff to include full complete accurate details for all three meetings.

Dennis Winchester displayed four properties in the Northwest that shows specific details using the City's Land Use and Zoning Map that have been previously discussed in this meeting and others. He reinforced that Council has the continued support of the NWNA for these properties as long as there are no changes.

Joyce Easton requested the definitions of "good cause" and "extraordinary circumstances" in Resolution 87-19. She agreed it was a good addition to address only issues relevant to City business under Section V Councilmember Reports. She also discussed Resolution 133-19 and if there was any effect on the properties that were already required by the City under Resolution 5-05. She questioned the travel details on the trip to China. She also questioned if the City was covering Joanne Killion's extended stay in China.

Renee Schihl appeared to discuss the storm drain issue on her property. She stated she was contacted this morning by Gary Gasperini who provided her with papers from the engineer who examined her situation. She noted the findings were that the City was not responsible. She mentioned this was her third seawall failure; the City fixed it twice previously. It all originated from the dredging. She opined that the City needs to take another look at her problem since initially it was never fixed correctly.

Councilmember Stokes requested that the City Manager address the situation regarding Renee Schihl's seawall.

PW Director Clinghan stated the City hired an independent consultant who concluded that the entire 80 ft. of seawall has failed along the subject property due to extreme hydrostatic and saturated soil pressures in combination with the absence of canal waters during the hurricane. This type of failure along the seawall is similar in nature to the over 300 other seawall failures. It was the consultant's professional opinion that neither the stormwater outfall pipe nor canal dredging contributed in any way to the seawall failure.

Councilmember Stokes questioned the City replacing the seawall twice before.

Director Clinghan recalled that the last time was in 2004. He reiterated that there were over 300 other seawall failures due to the extreme hydrostatic pressure.

Councilmember Stokes requested that Mr. Clinghan forward that information to him.

Director Clinghan stated he sent the report this past weekend.

City Manager Szerlag stated staff has been analyzing this issue after Hurricane Irma. At that time the number of damaged seawalls was unknown. He stated there are about 60 left that need a disposition of how they would be fixed. He noted that there has been discussion which would require Council's approval to have a Special Assessment on

seawalls for homeowners who meet certain low-income criteria to be reviewed confidentially by the Finance Department. He discussed how this Revolving Fund would work.

Councilmember Nelson questioned if there was any way to assist these residents who are in similar situations. She inquired when Ms. Schihl's seawall failed in the past, was it also due to the similar situation we had with Hurricane Irma?

Director Clinghan stated he did not have the information available on what occurred to Ms. Schihl's property in 2004 and prior to that. He discussed the surveying of the canal, and it was determined that the dredging did not cause this failure.

Councilmember Nelson asked the City Manager if any discussion has been made with the lobbyists since Hurricane Irma to see if there could be any type of insurance reform state-wide to help out homeowners with seawalls.

City Manager Szerlag stated they have been working on that since Hurricane Irma. He noted they have been unable to find an insurance carrier willing to handle issues of this type. He noted he would talk to the lobbyists to see if the insurance industry, upon an inspection of a seawall, would determine if there could be a rider on a homeowner's policy.

Councilmember Nelson addressed Mr. Veaux's question concerning shelters in Cape Coral. She noted that FEMA has stated that there cannot be shelters in Cape Coral because of the storm surge and the lack of elevation.

City Manager Szerlag responded that it was his understanding as well. A storm shelter needs to have an elevation higher than the storm surge in any particular zone.

Councilmember Nelson asked if information could be posted online and on social media that would educate the residents on the nearest storm shelter.

City Manager Szerlag responded that they would work with the Fire Department to make that information available. He noted it was important to educate the public about storm surge.

Mayor Coviello asked if the ability to provide shelters were the City's or County's responsibility.

City Manager Szerlag stated it was his understanding that shelters are approved by the County. He asked Fire Chief Lamb to respond to this matter.

Fire Chief Lamb displayed new maps for 2019 on storm zones titled Proposed New Evacuation Zones. He confirmed that the County manages the shelters. He stated he had a conversation with Lee Mayfield, Lee County Public Safety Director, about the possibility of Cape Coral getting an additional shelter. However, because of the geography of our community, it is being studied more significantly. There are a lot of people in a vulnerable zone. He stated there was no need to run to Georgia; we just need to get outside of those surge zones. There is a lot of information being posted on our social media, and there are pieces on our website. A hurricane seminar was just held a few weeks ago, and another one is coming up at Mohawk Library. They will continue to advertise those as well.

Mayor Coviello inquired what the contingency plan was if we are faced with another storm surge threat and cannot use the shelters in Cape Coral.

Fire Chief Lamb stated the County has taken the lead on shelters through FEMA hazard mitigation grants. Opening some shelters as a last resort is not something we like to advocate on a consistent basis. There is a deficit of shelters throughout Lee County, but they are working with FEMA to improve or harden structures in Lee County.

Councilmember Gunter discussed Special Assessments for the repairs of seawalls and inquired if there were any entities willing to participate in the PACE program. He suggested looking at that again.

City Manager Szerlag stated they would be happy to do that.

Councilmember Williams commented on watching the meetings as a resident and not a council person. He asked Mr. Karcher to make an appointment to meet with him in his office. He confirmed that meeting packets are posted online for the public's review.

Councilmember Stout addressed the seawall issue and discussed her own experience with a damaged seawall. She suggested that Ms. Schihl contact her homeowner's insurance provider.

Mayor Coviello addressed the questions concerning the recent trip to China. He stated he did not have all that information available at the meeting but asked Ms. Easton to make an appointment to meet with him.

PERSONNEL ACTIONS

Resolution 125-19 Approval and ratification of the Collective Bargaining Agreement between the City of Cape Coral and the International Union of Painters and Allied Trades, AFL/CIO District Council #78 - Local Union 2301 (General Union - Blue Collar)

City Clerk Bruns read the title of the Resolution.

Councilmember Stokes moved, seconded by Councilmember Nelson, to approve Resolution 125-19, as presented.

City Manager Szerlag stated this Resolution was a testament to the good relations that we have with the collective bargaining groups. He called the following to the podium: HR Director Lisa Sonego, Union President Richard Jones, as well as others who were involved in the negotiation process. Besides this blue-collar agreement, there are also subsequent resolutions relating to the white collar, the non-supervisory professional unit, and the supervisory unit. He noted that he was informed by the City Attorney that a motion could be made for all four resolutions.

Resolution 126-19 Approval and ratification of the Collective Bargaining Agreement between the City of Cape Coral and the International Union of Painters and Allied Trades, AFL/CIO District Council #78 - Local Union 2301 (General Union - White Collar)

Resolution 127-19 Approval and ratification of the Collective Bargaining Agreement between the City of Cape Coral and the International Union of Painters and Allied Trades, AFL/CIO District Council #78 - Local Union 2301 (General Union - Non-supervisory Professional Unit)

Resolution 128-19 Approval and ratification of the Collective Bargaining Agreement between the City of Cape Coral and the International Union of Painters and Allied Trades, AFL/CIO District Council #78 - Local Union 2301 (General Union - Supervisory Unit)

Councilmember Stokes amended his motion to approve all four Resolutions (125-19, 126-19, 127-19, and 128-19) as presented. Councilmember Nelson (the second) agreed.

Mayor Coviello asked the City Attorney if it was appropriate to approve all four Resolutions in one motion.

City Attorney Menendez responded in the affirmative if that was the intent of the motion maker and second to approve Resolutions 125-19, 126-19, 127-19, and 128-19.

Councilmembers Stokes and Nelson agreed.

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

Resolution 139-19 Approval for funding an additional .25% in payroll for Police and Fire unions, and non-bargaining employees (excluding contract employees) effective October 1, 2018.

City Clerk Bruns read the title of the Resolution.

City Manager Szerlag explained what this Resolution would accomplish. He recommended approving an additional .25% for the Police and Fire unions, as well as non-bargaining employees effective October 1, 2018. He noted a memorandum explaining that was included in the meeting packet.

City Attorney Menendez clarified that there would be no further action by Council for the non-bargaining employees. However, for the police and fire unions, Council would be authorizing that the money be made available, and an amendment to the contract would be required.

City Manager Szerlag explained that management and the unions will determine the best way to apportion that .25%.

Councilmember Stokes moved, seconded by Councilmember Gunter, to approve Resolution 139-19, as presented.

Councilmember Stokes commented that he was glad that our City was keeping up with the national economy in order to be competitive in the labor market.

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

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Select City Recommendation for FLC Board of Directors Nominee - Continued from the June 3, 2019 Regular Meeting

Mayor Coviello stated Councilmember Williams has expressed an interest in remaining on this seat through his memo sent to all of Council.

Councilmember Gunter moved, seconded by Councilmember Nelson, to appoint Councilmember Williams as the FLC Board of Directors Nominee.

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

Councilmember Williams thanked all for their support. He stated he has learned a lot being on this Board and will continue to do a good job for the City.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Resolution 88-19 (VP 19-0005*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must Be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for public utility and drainage easements underlying a previously vacated alley located between Lots 26-31 and Lots 42-47, Block 1484, Cape Coral Unit 17; providing for the vacation of plat for public utility and drainage easements along the east side of Lots 26-31 and the west side of Lots 42-47, Block 1484, Cape Coral Unit 17; property located at 112 Del Prado Boulevard North. (Applicant: Floriland Real Estate Investments, LLC)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in HEX Recommendation Order 6-2019.

City Management Recommendation: City Management recommends approval of both vacation requests with conditions. Conditions of approval recommended by staff mirror the conditions of approval recommended by the Hearing Examiner for this case.

City Clerk Bruns read the title of the Resolution and administered the oath.

Planning Team Coordinator Struve explained the purpose of this Resolution. He displayed the following slides:

- Resolution 88-19 VP 19-0005
- VP 19-0005, applicant, requests, location
- Aerial Site, Subject Parcel
- Current Zoning Map
- Background
- Vacation Requests
- Analysis (LUDR, Section 8.11), Vacate Underlying and Adjacent Easements to the Vacated Alley ROW
- Recommendations
- Correspondence – One informational phone call

Public Hearing opened.

Linda Miller, Senior Planner, Avalon Engineering, authorized representative, explained the reason for this request. She thanked Mr. Struve for his presentation and was available for any questions.

Public Hearing closed.

Councilmember Carioscia moved, seconded by Councilmember Gunter, to approve Resolution 88-19, as presented.

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

Resolution 106-19 (AP 19-0001*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution either affirming or reversing the decision of the Hearing Examiner rendered on January 18, 2019, in DE HEX Order 1-2019, that denied a deviation of nine (9) feet from the minimum side setback requirement of twelve (12) feet for marine improvements that extend more than six (6) feet into a waterway to allow a side setback of three (3) feet for expansion of an existing dock in a Single-Family Residential (R-1B) zone; property located at 2523 SE 23rd Place. (Applicant: Donald C. Frick)

City Clerk Bruns read the title of the Resolution and administered the oath.

Senior Planner Heller explained the purpose of this Resolution. He displayed the following slides:

- Resolution 106-19 AP 19-0001
- Appellant, Rep, Location, Request
- Subject Parcel
- Current Zoning Map
- Background
- Proposed dock addition
- Hearing Examiner's Findings of Fact (6 slides)
- Findings and Conclusions
- Recommendation
- Correspondence – one informational phone call

Planning Manager Pederson summarized the request of the appellant. The Code requires a 12 ft. side setback on this lot for a dock, and the applicant is requesting a 9 ft. deviation which results in a 3 ft. setback.

Public Hearing opened.

Joe Mazurkiewicz, President, BJM Consulting, Inc., authorized representative, addressed the issues specifically raised by the Hearing Examiner. This was not contrary to the public interest, and the deviation would be in harmony with the general intent and purpose of the regulations. The only reason it was denied because conditions exist in the eyes of the Hearing Examiner that are a result of the owner of the property. He displayed the subject property showing the existing boat dock, boat lift, and boat cover. All was put in by the prior owner. He explained how a workaround dock required could be built to the south and not infringe on the setback at all. He noted it would cost \$8,000 to \$10,000 to remove the pre-existing marine infrastructure. He believed that the Hearing Examiner erred when determining the difference what a hardship is and is not. He requested that Council passes the Resolution to reverse the Hearing Examiner's order and grant the deviation of 9 ft. to the side setback in the marine improvement area.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Williams, to approve Resolution 106-19, as presented, reversing the Decision of the Hearing Examiner.

Councilmember Williams stated he hated to overturn decisions, but he opined that this one should be reversed. He explained that he had a similar situation on his own property.

City Attorney Menendez clarified that the motion was to reverse the decision of the Hearing Examiner and approve the requested deviation of 9 ft.

Motion maker and second agreed.

Councilmember Stout stated she also did not like to go against the decision of staff and the Hearing Examiner. She stated the feelings of the neighbor to the north should be considered and since he is agreeable, it makes sense to approve the deviation.

Councilmember Nelson echoed the prior statements from other Councilmembers. She asked staff about how the Hearing Examiner denied this while remarking about harmonious situations.

Planning Manager Pederson explained there is not always unanimity in deviation standards. He stated finding a fit in that geographic space can be a challenge.

Councilmember Nelson stated she would support the reversal of the Hearing Examiner's decision.

City Attorney Menendez elaborated on the several criteria that need to be met for deviation regulations. She noted how the conditions were not the result of the applicant.

Mayor Coviello questioned if there was enough room on the property to the south to have a dock built.

Mr. Mazurkiewicz stated there was no home currently on the property to the south. He explained that from the existing boat lift, the navigation for making the move into the lift does not start until the property owner would get behind his property. There is no negative impact on the adjoining marine improvement properties.

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

Ordinance 20-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 23, "Protected Species," Article II, "Burrowing Owl Protection," by renaming Article II to read "Burrowing Owl and Gopher Tortoise Protection," and to include protections for gopher tortoises located in the city. (Applicant: Brought forward by Councilmember Carioscia)

City Clerk Bruns read the title of the Ordinance.

Planning Manager Pederson stated this was parallel to the Ordinance recently adopted for the protection of the burrowing owls in the City where we mirrored the State guidelines. It allows flexibility for the CCPD and Code Enforcement to take any action if there is a violation. This extends the same protection to the gopher tortoise which is a protected species.

Public Hearing opened.

Mitchell Cohen appeared to discuss the excitement from children and the unique ecology of having Burrowing Owls in the City. He supported approval of this Ordinance.

Public Hearing closed.

Councilmember Carioscia moved, seconded by Councilmember Cosden, to adopt Ordinance 20-19, as presented.

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

Ordinance 21-19 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 6, "Contractors and Construction Regulation Board," Article I, "General Provisions," Section 6-10.1, pertaining to disciplinary proceedings for contractor violations in the City. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Planning Manager Pederson explained that this Ordinance eliminates a step in the process which should lead to clear and quick decision-making. This Ordinance would eliminate the provision for a probable cause hearing before an actual hearing and go directly to a hearing. This change was reviewed by the Board (Construction Regulation Board) who unanimously approved this.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Williams, to adopt Ordinance 21-19, as presented.

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

Ordinance 28-19 (VP 18-0007*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance providing for the release of the right-of-way easement reserved by the City within Ordinance 56-02; authorizing the Mayor to execute a Release of said easement; providing for the vacation of plat for a portion of Rose Canal right-of-way and the underlying public utility and drainage easements located adjacent to Lot 23, Block 4944, Unit 74, Cape Coral Subdivision, as more particularly described herein; providing for the vacation of plat for public utility and drainage easements associated with Lot 23, Block 4944, Unit 74, Cape Coral Subdivision, as more particularly described herein; property located at 4033 Oasis Boulevard. (Applicants: Keith D. Finkelstein and Elizabeth A. Macguidwin)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations and release, subject to the conditions set forth in VP HEX Recommendation 3-2019.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance and administered the oath.

Planning Team Coordinator Struve explained the purpose of this Ordinance. He displayed the following slides:

- Ordinance 28-19 VP 18-0007
- VP 18-0007, applicants, requests, location
- Aerial Site, Subject Parcel
- Current Zoning Map
- Background
- Aerial of Site
- Analysis (LUDR, Section 8.11) Request to Vacate ROW of "Quit Claim" Area
- Request to Vacate Underlying Easements of the "Quit Claim" Area
- Easements to be Deeded to the City from the Owners
- Request to Vacate Platted Easements Along the North Property Line of Lot 23
- Request to Release Easements Associated with the "Quit Claim" Area
- Recommendations
- Correspondence – one phone call – additional information sought

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Gunter, to adopt Ordinance 28-19, as presented.

Councilmember Williams questioned if there was any agreement from the owner, upon receiving that piece of property, to be required to put a seawall in.

Mr. Struve stated the intention here is that the owner would put a seawall in for the entire perimeter that follows the water frontage line. There are plans to construct a single-

family home on that property. He noted that a seawall cannot be installed unless the City vacates that right of way area.

Keith Finkelstein, property owner, stated there was a seawall constructed (not by him) in 2002 that goes around the entire perimeter.

Mayor Coviello asked if the property owner was responsible for the seawall going forward.

Mr. Struve stated they would certainly be if it becomes part of their property.

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

Council recessed at 6:11 p.m. and reconvened at 6:28 p.m.

Ordinance 31-19 (ZA 19-0004*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must Be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Zoning District Map by rezoning property located at 244 Santa Barbara Boulevard South from Single-Family Residential (R-1B) to Pedestrian Commercial (C-1) zone. (Applicant: Cape Coral Lodge No. 367 Free and Accepted Masons of Florida) (3.63 acres)

HEX Recommendation: The Hearing Examiner recommends the City Council grant the requested rezone.

City Management Recommendation: City Management recommends approval of the rezone request.

City Clerk Bruns read the title of the Ordinance and administered the oath.

Planning Team Coordinator Daltry explained the purpose of this Ordinance. He displayed the following slides:

- Background
- Site
- Aerial view of subject parcel
- Current Zoning Map
- Proposed Zoning Map
- Future Land Use Map
- Analysis
- Comprehensive Plan/LUDR
- Conclusion
- Received no correspondence

Public Hearing opened.

Bill Counts appeared to discuss his approval of the Ordinance. He noted the lack of communication regarding the City's Future Land Use and the real estate community. He noted that he has been a lot salesman in the City for over 35 years, and many of his clients look to him for confirmation on the current and proposed zoning. He stated for the past two years the realtors have been waiting for the Comprehensive Map to be completed. He stated in his office he has a 4x4 map of Future Land Use going back from 2002. When he tried to buy a new map, he was told that they were no longer printing these maps, and he would have to go to an outside source to get it. He asked Council to reconsider this and possibly go back to selling these land use maps in City Hall so that he would have current information.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Nelson, to adopt Ordinance 31-19, as presented.

Councilmember Williams suggested the City should start selling City maps again.

City Manager Szerlag stated we are going to a brand-new Land Use Development Code which may be an indication of why the maps are not being sold at this point in time. He requested Planning Manager Pederson to address why the maps are not being sold and when they can expect to be sold again.

Mr. Pederson stated they would be happy to print a map for Mr. Counts. Sales of these maps has usually been through the Clerk's Office. We've encouraged people not to go to the extent of printing one out if it is going to change soon. The last change was April 1st for the land use maps.

Mayor Coviello questioned using the map on our website with today's advanced technology.

Mr. Pederson stated anyone can go to our website at www.capecoral.net and search any property in the City of Cape Coral and get the accurate future land use and zoning. Nine out of ten realtors go to www.leepa.com which uses the Department of Revenue's codes which is not the land use for the City. That information is available and accessible on our website. He stated staff always coaches people on what links to follow.

Councilmember Gunter stated that hopefully by the middle of August it should be crystal clear exactly what our zoning and future land use is. Possibly at that time the maps can be updated and make sure that it is available to the public.

Mr. Counts stated it was evident that anyone can use the GIS system. However, in his business it is difficult to show someone on a monitor that their future home is not sitting in a commercial future land use zone. He stated that was the purpose of the 4x4 maps that the City has had for years that he was able to purchase. He reiterated that it would be a great benefit to the Real Estate Community to be able to point out on a map. He stated he has sold over 12,000 lots in this City. He mentioned Dawn Andrews could verify that he has been here a long time.

City Clerk Brunns noted that in the past the City Clerk's Office has been in charge of the sale of maps. The cost at that time was \$20.00 apiece. It is something that we would work with I.T. with a large format printer. When the large format printer had phased out and was no longer able to be serviced, it was determined that the cost was less for the resident to have it printed at an outside service.

Mayor Coviello asked the City Clerk if Mr. Counts could contact her office to find out how to get the map he was seeking.

City Clerk Brunns stated currently it would not come from the City Clerk's Office since we don't have a large format printer. She had the link that could be accessed on a flash drive or through email.

Mayor Coviello stated to figure out how to get that done and make it available and known to the real estate community.

Councilmember Stokes thanked Mr. Counts for bringing 12,000 new residents to the community.

City Manager Szerlag mentioned it was time for us to buy a new printer.

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

Ordinance 32-19 Public Hearing for Transmittal

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Conservation and Coastal Management Element, Infrastructure Element, and Intergovernmental Coordination Element by adopting policies to provide consistency with the Cape Coral Water Supply Facilities Work Plan; adopting the 2017 Cape Coral Water Supply Facilities Work Plan as Appendix "A" to the Comprehensive Plan. (Applicant: City of Cape Coral)

Planning & Zoning Recommendation: At their June 5, 2019 Regular Meeting, the Planning & Zoning Commission voted 7-0 to recommend approval of Ordinance 32-19.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

Planning Team Coordinator Daltry explained the purpose of this Ordinance. He displayed the following slides:

- Purpose (two slides)
- Conclusion
- No correspondence received

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Nelson, to adopt Ordinance 32-19, as presented.

City Attorney Menendez clarified that this was being approved for transmittal.

Councilmember Stout responded in the affirmative.

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

INTRODUCTIONS

Ordinance 17-19 Set First Public Hearing Date for July 22, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance repealing Articles I - X and XII and amending Article XI of the City of Cape Coral Land Use and Development Regulations; establishing Article 1, General Provisions; Article 2, Decision Making and Administrative Bodies; Article 3, Development Review; Article 4, Zoning Districts; Article 5, Development Standards; Article 6, Parking; Article 7, Sign Regulations; Article 8, Nonconformities and Lawfully Existing Uses; Article 9, Floodplain Management; Article 10, Subdivisions; Article 12, Building Code and Engineering Design Standards; and Article 13, Reasonable Accommodation & Dispute Resolution, of the new City of Cape Coral Land Development Code; incorporating Article XI, as amended, into the new City of Cape Coral Land Development Code as Article 11, Definitions. (Applicant: Brought forward by City Management)

Planning & Zoning Recommendation: At their June 5, 2019 Regular Meeting, the Planning & Zoning Commission voted 7-0 to recommend approval of Ordinance 17-19.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

The first public hearing was scheduled for July 22, 2019 in Council Chambers.

Planning Team Coordinator Daltry stated he was available if Council had any questions.

Ordinance 4-19 (ZA 18-0013) Set First Public Hearing Date for July 22, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning approximately 9,786 acres to be consistent with the changes to the Future Land Use Map, the Comprehensive Plan, and the new Land Development Code. (Applicant: City of Cape Coral) (9,786 acres)

Hearing Examiner Recommendation: To be added after the Recommendation is issued as a result of the Hearing on June 18, 2019.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

The first public hearing was scheduled for July 22, 2019 in Council Chambers.

Ordinance 29-19 Set Public Hearing Date for July 22, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 12, "Offenses and Miscellaneous Provisions," Article II, "Offenses Creating Nuisances," by repealing and replacing Section 12-22, "Noise Control," providing for short title, providing for findings and purpose, providing for definitions, providing for prohibitions of unreasonably excessive noise, providing for exemptions, providing for enforcement and penalties. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for July 22, 2019 in Council Chambers.

Ordinance 33-19 (PDP 19-0001*) Set Public Hearing Date for July 22, 2019

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 42-10, which approved a Planned Development Project entitled "Downtown Village Square" for certain property described as Block 62A, Unit 6, Part 1, and Block 62A, Unit 8, Cape Coral Subdivision, extending the project buildout date, amending the phasing schedule and conditions of approval; property is located between SE 47th Terrace to the north, SE 9th Place to the east, Cape Coral Parkway to the south, and SE 8th Court to the west. (Applicants: Red Rock Land Corporation, Downtown Village Square, LLC, and Downtown Village Square II, LLC)

Hearing Examiner Recommendation: The Hearing Examiner recommends approval with staff conditions.

City Management Recommendation: City Management recommends approval with no modifications to the existing term sheet.

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for July 22, 2019 in Council Chambers.

Councilmember Gunter asked for a report prior to the July 22nd meeting regarding the economic viability of this project. There were benchmarks for the first phase of this project noted and asked if the benchmarks would be added for the remainder of this five-year project.

City Manager Szerlag stated he spoke with Planning Staff today, and it is possible to articulate benchmarks for the next five years, once the PDP is approved. Then it can be identified on what we want to see for each subsequent year. He stated that Economic Development Manager Noguera and DCD Director Cautionero have been in contact with the developer to negotiate the benchmarks. Regarding the economic viability, he understood that we are allowed to ask for that to make sure that we are allowed to require that. If not, he will find a way to make it a requirement for this project. He believed that if Finance does not receive the information they request, the application is not complete.

City Attorney Menendez explained economic viability of any particular project is not part of a normal PDP. Economic viability came into play with regard to Village Square because the City partnered with them in a way. As part of hoping that this was going to be a transformational project for the downtown area, the City agreed in that PDP to bear the cost of all of the permitting fees and to relocate the electric pole up to a certain amount of money. There were some other commitments as well. When that project did not develop in a timely manner a few years ago, the City was concerned about their commitments and were not persuaded of the economic viability of the project. There were references in a few resolutions when extensions were given contingent on the economic viability. She stated we would have to look into whether or not economic viability was continued into the current process.

City Manager Szerlag stated he assumed because we wanted to have economic viability for the first part of the project which had a PDP several years ago, that we would just automatically make that same slate of assumptions. We did sell the property at a very cheap price. There still were some incentives for the developer by the City. There was a request for 95% of the TIF revenues to make the project viable. He would ask the Attorney's Office to indicate that we would need to acquire a statement from the Finance Director and the Economic Development Manager that this is a viable project, based on the financial portfolio of the developer. If we don't get a complete application, it was his position that we don't have an application.

City Attorney Menendez recollected from one of the previous resolutions that it dealt with the EB5 and the applicant met that. This most recent PDP is based on the term sheet that the Council approved which was entered into with the applicant and the City Manager brought forward to Council. She did not recall if economic viability was part of that term sheet. If it wasn't, it may not have been incorporated, but she will check on that.

Mayor Coviello stated this project has gone on for nine years and makes us question whether there is financial stability in order to move that project forward. It was not unreasonable for us to request information to inform us whether or not we should continue on this path or make some changes.

City Attorney Menendez pointed out that the TIF agreement is not with the City, but with the CRA. She understood that if these changes are made to the PDP, that the applicant will have to go back to the CRA to ask them to amend the TIF agreement. The TIF agreement is still in effect, but it has already reduced the 90% down to about 50% because of the timing and the failure to meet certain benchmarks already.

Ordinance 34-19 (ZA 19-0007*) Set First Public Hearing Date for July 29, 2019

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning Map by rezoning property located at the intersection of Agualinda Boulevard and Beach Parkway from Marketplace Residential (MR) to Residential Multi-Family Low (RML) and Commercial (C) zones. (4.54 acres) (Applicant: City of Cape Coral)

Hearing Examiner Recommendation: Hearing Examiner recommendation to be added after the recommendation is issued.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

The first public hearing was scheduled for July 29, 2019 in Council Chambers.

Ordinance 35-19 Set Public Hearing Date for July 22, 2019**WHAT THE ORDINANCE ACCOMPLISHES:**

An ordinance authorizing the City Manager to sell municipal surplus real property described as Lots 53-54, Block 5195, Unit 83 Cape Coral Subdivision, pursuant to Section 2-155 of the Code of Ordinances; authorizing and directing the Mayor and Clerk to execute a deed conveying the surplus real property to Daniel Lynn Nuckolls and Sandra Kay Nuckolls. (Applicant: Daniel Lynn Nuckolls and Sandra Kay Nuckolls)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for July 22, 2019 in Council Chambers.

Property Broker Andrews stated she was available if Council had any questions.

UNFINISHED BUSINESS**WATER QUALITY – UPDATE**

Public Works Director Clinghan provided the Water Quality Update. As of June 7th, the elevation of Lake Okeechobee was approximately 11 ft. which is 2 ft. below average. The Army Corps of Engineers was releasing a 7-day average of 657 cfs. Last May we had a lot of rain so last June they were releasing 4,000 cfs. The fertilizer ban was in effect on June 1st and will continue until September 30th. Red tide remains below background concentration.

FOLLOW UP ITEMS REQUESTED BY COUNCIL

None.

Resolution 87-19 Amend City Council Rules of Procedure - Continued from the June 3, 2019 Regular Meeting

The resolution amends Resolution 3-01, as amended, which adopted Rules of Procedure for the City Council Agendas and Meeting, to provide clarification in scheduling of various items, and types of meetings; to provide for attendance at meetings remotely by electronic means; and to establish guidelines for Council reports. (Applicant: Brought forward by Councilmember Cosden)

Councilmember Cosden stated this Resolution remains in its original form. Nothing has changed since no consensus was reached the last time we discussed this Resolution. She stated more discussion was needed.

Mayor Coviello asked if anyone had any input. There was none.

Councilmember Cosden moved to approve Resolution 87-19, as presented. Councilmember Gunter provided the second for discussion.

Mayor Coviello stated he noticed other areas where the words "good cause" were exchanged with "extraordinary circumstances." The biggest concern he had was that we already had the right to do what this document is saying. Any Councilmember can already request to call in and exercise our voting rights, provided there is a quorum.

Councilmember Gunter agreed with Mayor Coviello that the policy in place gives Council the ability to do what is already stated in the Council Rules. The circumstances for not attending a meeting should be extraordinary and should be handled on a case by case basis. The Charter states that Councilmembers must attend meetings. He was not in favor of approving the Resolution since what we have now is working.

Councilmember Stokes stated his only concern was one sentence and requested that it be stricken. It referred to V. Councilmember Reports that states "to report or address issues or actions that have no relevance to City business."

Councilmember Cosden stated she tested the call-in system a couple of weeks ago that she hopes to use in the next couple of months. This change provides for at least two days' notice, if not longer. She inquired from staff how much notice they needed to set up the system or if it could be a last-minute decision in cases of an emergency. She asked the City Attorney what this would do for Council if we add this section regarding remote attendance.

City Attorney Menendez stated she believed the intention was to provide more of a route, even though these types of requests are infrequent. It would provide a vehicle for everyone to be prepared. She noted that sometimes you can't always get a request two days ahead of time. Electronic does not mean it has to be Skype or video and can be a basic telephone conference call.

Mayor Coviello stated if a Councilmember calls in the morning of the Council meeting and informs the Clerk where there is a situation that they cannot attend the meeting, a determination can be made at the beginning of the meeting that day.

City Attorney Menendez stated participating electronically is just like participating in person.

Mayor Coviello asked for confirmation that the Council could vote at the meeting for the electronic participation to occur.

City Attorney Menendez responded in the affirmative.

Mayor Coviello asked Assistant City Manager Barron how long it would take for set up for a Councilmember to phone in to the meeting.

Assistant City Manager Barron responded that if we knew by noon, we would be able to set something up. Once a process is in place, it would be pretty easy to do. She preferred the Skype option better than the phone in option which is more challenging.

Councilmember Cosden mentioned that if someone knows that they will be out of town and still wants to participate at the Council meeting, they can plan ahead. She was fine with removing this section if it made everyone comfortable.

Mayor Coviello asked Councilmember Cosden if she would agree with striking Section C. 1.

Councilmember Cosden stated Section 1, but not 2 since it refers to unexcused absences.

Mayor Coviello clarified that we would strike C.(1) (a), (b), (c), and (4 but should be d). He questioned if the next paragraph starting with "good cause" should be removed.

Councilmember Cosden opined that it was relevant, but it was up to Council to determine if it was "good cause" or "extraordinary circumstances." Council already had the discretion to decide between excused or unexcused absences.

Councilmember Cosden amended her motion to remove C. (1) (a through d). The two paragraphs following (d) belong to (d). No second received.

City Attorney Menendez stated the sentence immediately following (1)(a-d) starting with "good cause" should be removed as well: "Good cause means that the member cannot attend in person due to illness, personal or family matter, absence from the area, unavoidable scheduling conflict, or other good reason." The only other issue would be if you want to leave that one sentence in that starts with "when appearing remotely, the member is by law deemed to be present for all purposes and has all participation rights and voting privileges as if physically present." If you rely on State Law which authorizes

you to be able to do this, that sentence is not needed. She stated if Council removes (1)(a-d), any part of (1) will not serve a purpose. She recommended keeping (2) as part of C but now the numbers and letters will flow better and (2) will become just "C" – absences.

Mayor Coviello asked if there was a consensus with the removal of the sentence that Councilmember Stokes referred to which he agreed with. If everyone agreed, he suggested that this document be brought back. He informed Councilmember Cosden that currently she has the right to call in. He asked that the document be revised to remove that section and strike that one sentence that Councilmember Stokes requested.

Councilmember Cosden asked if everyone agreed.

City Attorney Menendez inquired if Council was good with taking out C (as Councilmember Cosden indicated she would be fine with) and only leaving the language you currently have at the end of the document which would move to C regarding Councilmember absences and with deleting that second sentence in Part V regarding Reports relating to "report or address issues or actions that have no relevance to City business." If those are the only two changes that Council wishes to make to this document and Council is comfortable with doing that, then we can accomplish that tonight with a motion to approve Resolution 87-19 with those two changes.

Councilmember Gunter asked if a revised document could be brought back to a proposed special meeting next Monday.

City Attorney Menendez stated it was recommended that special meetings have only one topic. If Council is not comfortable with this Resolution, this can be brought back. If the only concerns are those two changes, they could be addressed with Council's direction tonight.

Councilmember Cosden agreed. She asked for input regarding the sentence concerning reports.

Councilmember Stokes stated he was the only Councilmember who wanted that removed.

Councilmember Cosden assumed no comment meant to remove that sentence.

Councilmember Cosden amended her motion, seconded by Councilmember Williams, to approve Resolution 87-19 removing Section C.1 in its entirety, striking the line in Section V. stating "Councilmembers shall not use this time to report on or address issues or actions that have no relevance to City business."

Councilmember Gunter stated he was the original second for discussion, but he agreed as well for the amendment.

Councilmember Stokes stated it would be hard who would decide what the definition of City business is.

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

Resolution 133-19 Repeal Resolution 5-05, a resolution of necessity for the acquisition of certain properties for the purpose of creating and developing "Festival "Park": Department: Finance/Real Estate Division/City Attorney; Dollar Value: N/A; (Fund: N/A)

Property Broker Andrews explained what this Resolution would accomplish. It would repeal 2005's Resolution of Necessity in Festival Park. She displayed the following slides:

- Resolution 133-19
- Festival Park Background
- Aerial Map

City Attorney Menendez addressed Ms. Easton's question concerning the acquisition. There are currently no problems that we know of with regard to any of the properties that had been acquired previously. There are 68 properties still outstanding for which Council will receive 68 Resolutions to consider on July 22nd.

Councilmember Williams moved, seconded by Councilmember Gunter, to approve Resolution 133-19, as presented.

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

NEW BUSINESS

Lee County Clerk of Courts - Days of Operation/Services 5 days a week and Office Updates - Linda Doggett
Moved to immediately after Council's vote on adoption of agenda

Mayor Coviello requested a motion to approve a Special Meeting of the Cape Coral City Council at 4:30 p.m. on Monday, June 17, 2019, in Council Chambers. The item appearing on that agenda for voting is Resolution 135-19 which is the agreement for Professional Design Services for the design of Neighborhood and Community Park Projects. The previously scheduled COW meeting will follow immediately after the Special Meeting.

Councilmember Stout moved, seconded by Councilmember Gunter, to approve a Special Meeting on 6/17/2019 at 4:30 p.m. in Council Chambers for Resolution 135-19; the COW meeting to follow directly after; topic: Resolution 135-19.

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

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Nelson – Topics: Attended the largest ALS Bucket Challenge yesterday at Cape Coral High School. Asked Councilmember Gunter if he would be willing to take over as liaison for the Budget Review Committee since her schedule would not allow her to attend all meetings.

Councilmember Gunter agreed to take on being Council Liaison to the Budget Review Committee.

Councilmember Nelson stated she would be fine taking this seat back after the budget season.

Councilmember Stokes moved, seconded by Councilmember Stout, to switch Councilmember Nelson with Councilmember Gunter as Liaison for the Budget Review Committee.

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

Councilmember Stokes – Topics: Encouraged residents to take their kids to Sun Splash.

Councilmember Stout – Topics: No Report

Councilmember Williams – Topics: Informed everyone why he had taken time off due to a minor stroke on May 6th.

Councilmember Carioscia – Topics: No Report

Councilmember Cosden – Topics: Attended Coral Ridge's Memorial Day Service; First Memorial Day Parade; Charlotte Harbor National Estuary Program Policy Committee meets quarterly, name change to Coastal and Heartland National Estuary Program; She recalled a second (Councilmember Williams) in the past to work on an Ordinance allowing for Medical Marijuana use by City employees, staff has worked on it, but it will be placed on hold pending more information. She stated this was the last regular meeting before hiatus; the baby is due within the next 4-6 weeks. She asked Council to excuse her up to three meetings and up to three regular meetings to call or Skype in. Within that time period to include any workshops for remote attendance. She asked the City Attorney if a vote was needed.

City Attorney Menendez stated it was appropriate to ask for a vote if the intention was to participate electronically.

Councilmember Stokes moved, seconded by Councilmember Nelson, to allow enough time for Councilmember Cosden to perform her good mothering duties at her discretion.

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

Councilmember Gunter – Topics: Attended the CRA Workshop and the CRA regular meeting, Planning and Zoning Commission regular meeting; Budget Review Committee meeting; will be in Orlando Thursday and Friday to participate on the FLC's Land Use and Economic Development Committee.

Mayor Coviello – Topics: Attended the Regional Luncheon hosted by Senator Benacquisto on May 15th; Guest Speaker at Do the Right Thing; CRA meeting; 7-Eleven Ribbon Cutting; Oasis High School Graduation at FGCU; Issued a Safe Boating Week Proclamation; Unveiling of the DUI Car by CCPD at the Dodge Chrysler Dealership; Iraqi War Monument Remembrance Ceremony on Memorial Day at Eco Park, as well as the dedication of the Merchant Marine Monument; speaker at the Coral Ridge Memorial Day Remembrance; Also participated in the Memorial Day Parade hosted by the Military Museum; Grand Opening Ribbon Cutting at Dunkin Donuts; Annual Do the Right Thing Scholarship Luncheon; CCCIA Dinner Meeting; May 31-June 7 in China in the cities of Baise and Chengdu, strengthened relationships there, have a signed Memorandum of Understanding that refers to a year from now the potential to become a Sister City, report being created for the public that will be available shortly.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: Topics: Mentioned the vote for the Special Meeting at 4:30 on June 17th. The COW Meeting is scheduled for 4:30. She understood that it was Council's intention that the Special Meeting occur at 4:30 and that the COW would follow immediately. It would be appropriate if Council so desired that the Special Meeting be advertised for 4:30 and when the COW meeting is noticed, that it also be indicated for 4:30 but indicate that it will occur at the close of the Special Meeting. She asked if that was the Council's intention.

Mayor Coviello responded in the affirmative.

City Manager: Topics: Advised that he has instructed the Planning Manager to work with the City Clerk to purchase a large-scale format printer to reinstate the printing and sale of current and future land use maps.

TIME AND PLACE OF FUTURE MEETINGS

A Special Council Meeting was scheduled for Monday, June 17, 2019 at 4:30 p.m. in Council Chambers.

A Committee of the Whole Meeting was scheduled for Monday, June 17, 2019 to immediately follow at the close of the Special Meeting in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 7:49 p.m.

Submitted by,

Kimberly Bruns, CMC
City Clerk

Item Number:	7.C.
Meeting Date:	7/22/2019
Item Type:	APPROVAL OF MINUTES

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Special Meeting - June 17, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Special Meeting Minutes - June 17, 2019

PREPARED BY:

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

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns
City Clerk
1-239-574-0417

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Special Meeting - June 17, 2019	Backup Material

MINUTES FOR THE SPECIAL MEETING OF THE
CAPE CORAL CITY COUNCIL

June 17, 2019

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Coviello at 4:33 p.m.

Invocation/Moment of Silence – Councilmember Nelson

Pledge of Allegiance

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

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Coviello asked if anyone had any changes to the agenda.

Councilmember Gunter moved, seconded by Councilmember Nelson, to adopt the agenda, as presented.

Council polled as follows: Stokes, Stout, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

CITIZENS INPUT TIME

Steve Dimino appeared to discuss questionable surveys that were being done in the northwest part of the Cape. He stated he spoke to the Parks and Recreation Department who knew nothing of these surveys. He stated he and a few of his neighbors had concerns about the draft of the park and wanted to know when they could provide input.

Pauline Zolick appeared to discuss questions about Crystal Lake Park. She stated the original plan before voting on the GO Bond was beautiful. However, she was now concerned about the proposed rest room which would be in front of her house, as well as a parking lot on the other side.

Karen Konszierski read a letter she sent to the City Council and the Parks and Recreation Director concerning the \$60M Bond for designing new neighborhood and/or improvements to existing parks. She stated it completely ignored the one type of recreation you would expect in Florida – swimming.

Yolonda Olsen appeared to discuss her pleasure for a park planned in the Southwest. She inquired why there was no space for an owl habitat in that park.

Mayor Coviello noted that the neighborhood parks would be subject to community meetings. He inquired who was out in the City performing surveys.

City Manager Szerlag stated he was not aware of any surveys being done. He addressed comments regarding the methodology of the \$60M GO Bond. He noted that the City showed concepts to the residents as opposed to a blank slate. On the agenda tonight is a Resolution to award a contract to AECOM whose primary role is to go from a concept to an actual design. AECOM is required to generate neighborhood meetings before any design work is performed. The next step would be to take public input and bring it to Council. He stated he has asked Michael Ilczynszyn to be the Project Manager for all of the parks inherent in the GO Bond.

Mayor Coviello stated if we were still in the design phase and we don't know the surveyors that were out there, chances are they are not affiliated with the City.

He stated this should be looked into. He noted possibly it had to do with the School Bus Stop Program looking for the right-of-way for the location of a bench.

Councilmember Cosden inquired if there would also be meetings for the four community parks.

City Manager Szerlag responded in the affirmative and added that recommendation would be provided on July 22, 2019. He stated he would have Parks and Recreation Director Runyon get together with the residents who had questions tonight and provide a report to Council.

NEW BUSINESS

Resolution 135-19 Approve Agreement CON-PW19-45/AP for Professional Design Services for the Neighborhood Park project with AECOM Technical Services, Inc. for a not to exceed amount of \$2,929,890 with a 5% City Controlled Contingency for additional services, if needed, of \$149,494 for a total amount of \$3,076,384. The agreement for the Community Parks will be brought forward at the next available Council meeting for approval. The ranking was approved by City Council on April 15, 2019 via Resolution 65-19 Department(s): Public Works/Parks & Recreation Dollar value: \$3,076,384 (Governmental Capital Project Fund – funded by GO Bond).

Senior Public Works Manager Ilcyszyn stated he has been appointed the Project Manager for the Parks and Rec GO Bond, both community and neighborhood. He discussed the following:

- On the agenda tonight for Council's consideration is the contract with AECOM Technical Services, Inc. which will be the design firm for the seven neighborhood parks.
- Included in their scope of work will be shade shelters and pavilions at some of the existing parks.
- It has been broken up into several phases.
- The first phase will be the Master Planning and public engagement where there will be community meetings, gathering input, and reviewing the concept and input.
- They will develop one alternative concept or plan that will be brought to Council for approval.
- If Council approves, AECOM will move forward with designing that final concept which will basically be a culmination of these concept plans and all the community input, as well as stakeholder input.
- These concepts were developed based on the items that were in the Master Plan, and some items can be moved around such as the rest rooms.
- Once we get to the final concept that comes out of the public engagement and Master Plan and Council approves, that is what will be designed.
- The public should have plenty of time to provide input.
- Some things that need to happen prior to the design is the survey and the environmental assessment.
- While we're doing the public engagement and the Master Planning, there will be surveyors out in the field gathering the data that we need to actually start the design.
- In order to meet the schedule of December 2021, some procedures will be done in tandem.
- All of that will be communicated.
- For consideration tonight is the design of the seven neighborhood parks, and some improvements at existing parks to be done by AECOM.

Councilmember Gunter inquired about supplying criteria to the company doing the public announcements as far as how many meetings and how they will be posted so that the public hears about it.

Mr. Ilczyszyn stated that was in the contract within Exhibit A: Consultant's Scope of Professional Services. Within that exhibit, there is a section for public engagement, section 2.2.5, page 15 of 36 which specifically identifies any tenants on the property and preparing a fact sheet for distribution to the City. Staff is planning on sending information out to the individual homes within a certain area (1-2 miles depending on location). He also noted more information could be found on 2.2.5. through 2.2.8, pages 15 and 16.

Mayor Coviello inquired about the procurement process in selecting AECOM, and if this was just addressing the seven neighborhood parks and not the three community parks.

Mr. Ilczyszyn stated when staff brought forward the resolutions for the community and the neighborhood parks, there was a ranking. The ranking for the #1 firm for the community parks was Kimley-Horn, and the ranking for the #1 firm for the neighborhood parks was AECOM. Negotiations have been completed with AECOM, and that is why the contract is being presented tonight for Council's approval. There are still some items outstanding with Kimley-Horn, and it is the intention to present that to Council when they return from hiatus.

Councilmember Stout moved, seconded by Councilmembers Carioscia to approve Resolution 135-19, as presented.

Council polled as follows: Stokes, Stout, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole Meeting was scheduled for Monday, June 17, 2019 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 4:55 p.m.

Submitted by,

Kimberly Bruns, CMC
City Clerk

Item Number: B.(1)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 120-19 Approve the contract Extension with Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers for Pre-Employment and Wellness Physicals for the Police Department Bi-Annual Physicals and Fire Department Pre-Employment and Bi-Annual Physicals at the unit prices contracted for an estimated amount of \$160,000 not to exceed budgetary limit for an additional one year term while a competitive solicitation is issued and authorize the City Manager or designee to execute the contract extension and any related documents. This service is exempt from the City of Cape Coral Procurement Ordinance; Department: Police and Fire; Estimated Annual Dollar Value: \$160,000; (General Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. Life Extension Clinics, Inc., d/b/a Life Scan Wellness Center currently provides physicals for the Fire Department, and Police Department providing a detailed physical designed specifically for public safety personnel, providing great success.
2. The contract was approved on July 28, 2014 under Resolution 57-14 for Fire Department Bi-Annual Physicals at an estimated annual dollar value of \$58,000 and amended on March 28, 2016 under Resolution 20-16 to include Fire Department Pre-Employment and the Police Department Bi-Annual Physicals increasing the estimated annual amount to \$150,000.
3. The original term of this agreement started in July 28, 2014 through July 27, 2017 with two one year renewals, with the final renewal ending on July 27, 2019.
4. If approved, the contract extension with Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers will be for an estimated amount of \$160,000 for up to an additional year.
5. Health Services is a service exempt from competitive solicitation per the City of Cape Coral Procurement Ordinance, Section 2-141 (12) Health services involving examination, diagnosis, treatment, prevention, medical consultation or administration. Even though this

service is exempt, a competitive solicitation will be forthcoming.

6. This is a budgeted item.

7. Funding Source: From the respective Department budget – Fire Department and Police Department

LEGAL REVIEW:

Agreement reviewed by Legal

EXHIBITS:

Resolution 120-19

Fire Department Recommendation

Police Department Recommendation

Resolution 57-14 and Resolution 20-16

PREPARED BY:

Wanda
Roop

Division- Procurement

Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Ryan Lamb, Fire Chief

David Newlan, Chief of Police

ATTACHMENTS:

Description	Type
▣ Fire Department Recommendation	Backup Material
▣ Police Department Recommendation	Backup Material
▣ Resolution 120-19	Resolution
▣ Resolution 57-14	Backup Material
▣ Resolution 20-16	Backup Material



CITY OF CAPE CORAL
OFFICE OF THE FIRE CHIEF

TO: John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Ryan W. Lamb, Fire Chief 

DATE: June 27, 2019

SUBJECT: Life Extension Clinics, Inc., dba Life Scan Wellness Centers, Contract Extension

Background

The Collective Bargaining Agreement (CBA) between the City of Cape Coral and the Cape Coral Professional Firefighters Local 2424 of the International Association of Firefighters Representing Supervisory and Rank & File Bargaining Units, Article 13, Section 2, specifies that all certified personnel of the Cape Coral Fire Department (CCFD) complete a full and comprehensive biennial physical exam. The City shall bear the cost of this biennial physical.

The City of Cape Coral entered into an agreement with Life Scan for providing the City a non-exclusive basis pre-employment and wellness physicals on July 28, 2014. The initial term of the contract was three years from the date of award, ending on July 27, 2017, with two additional one-year optional periods, upon mutual agreement by the City and Life Scan. The City has optioned both additional years, and the contract will expire on July 27, 2019.

Recommendation

The CCFD recommends that the current contract be extended until a new contract is in place through the issuance of a competitive solicitation. Until a contract is awarded, the extended contract would be utilized to comply with the CBA.

Life Scan has agreed to extend contract pricing until a contract is awarded. Physicals cost \$712 each for biennial or hazmat and \$689 for new hires. There are an estimated total of 136 physicals to be performed in the fiscal year 2020, 16 of which will be new hire, for a total cost of \$96,464.

Fund Availability

Funds are budgeted annually to perform the required physicals from account #122301.634110.

RWL/SRO:ekk



CAPE CORAL POLICE DEPARTMENT

Office of the Chief of Police

TO: John Szerlag, City Manger
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Anthony Sizemore, Acting Chief of Police 

DATE: June 26, 2019

SUBJECT: Life Scan Wellness Centers Contract Extension Request

Background

The Cape Coral Police Department currently utilizes Life Scan Wellness Centers (Life Scan) for sworn personnel bi-annual physical evaluations. The current contract, dated August 11, 2014, approved by Council on July 28, 2014 per Resolution 57-14 and amended on April 5, 2016 per Resolution 20-16 to include the Police Department, is set to expire on July 27, 2019.

Recommendation

The department is recommending to extend the current contract for one additional year, during which time an RFP will be conducted jointly by the Cape Coral Police and Fire Departments.

If extended, all terms and conditions and specifications of the Contract dated August 11, 2014, Contract Amendment #1 dated April 5, 2016, and Contract Renewal #1 dated July 28, 2017, and Contract Renewal #2 dated July 28, 2018 would be incorporated herein by reference and remain in full force and effect.

Due to a recent market analysis, Life Scan is still the lowest, most responsive, and responsible vendor. The estimated contract value for the department's FY2020 bi-annual physicals is \$63,700.

Fund Availability

Funding is available in the FY2020 Proposed Budget under 121101.634111.

AS:tg

Attachments: Market Analysis

Occupational Health Services
1682 NE Pine Island Rd
Cape Coral, FL 33909
239-424-1693

City of Cape Coral Police Department
Attention: Detective Enrique Lopez

Thank you for allowing LPG Occupational Health Service an opportunity to be of service to the City of Cape Coral Police Department. Please see the estimated charges for male and female officer physicals below.

Female Officers - Physical, Labs and Ultrasound cost of \$1156.00

*Additional cost for stress test, mammogram (optional) and chest x-ray (every 5 years) - All inclusive cost of \$1481.00

Male Officers Physical, Labs and Ultrasound cost of \$1187.00

*Additional cost for stress and chest x-ray (every 5 years) - All inclusive cost of \$1427.00.

Please contact me with any questions or concerns,

Kind regards,

Nikki Jewett
Practice Manager
239-424-1645
nikki.jewett@leehealth.org

Cape Coral PD Physical Check-Off Sheet – Male Annual

Name: _____ Employee Number: _____ Age: _____ Date: _____

<p>Medical History</p> <p><input type="checkbox"/> Personal and family</p> <p><input type="checkbox"/> Occupational</p> <p><input type="checkbox"/> Physical activities</p> <p>Physical Exam</p> <p><input type="checkbox"/> Vitals Signs</p> <p><input type="checkbox"/> HEENT</p> <p><input type="checkbox"/> Neck</p> <p><input type="checkbox"/> Cardiovascular</p> <p><input type="checkbox"/> Pulmonary</p> <p><input type="checkbox"/> Breast</p> <p><input type="checkbox"/> Gastrointestinal</p> <p style="padding-left: 20px;"><input type="checkbox"/> Rectal exam</p> <p style="padding-left: 20px;"><input type="checkbox"/> Rectal exam (clinically indicated)</p> <p><input type="checkbox"/> Genitourinary</p> <p style="padding-left: 20px;"><input type="checkbox"/> Testicular exam</p> <p><input type="checkbox"/> Hernia</p> <p><input type="checkbox"/> Lymph nodes</p> <p><input type="checkbox"/> Neurological- Reflex Testing</p> <p><input type="checkbox"/> Musculoskeletal</p> <p><input type="checkbox"/> Skin (includes cancer screen)</p> <p><input type="checkbox"/> Vision</p> <p style="padding-left: 20px;"><input type="checkbox"/> Color Perception</p> <p style="padding-left: 20px;"><input type="checkbox"/> Depth Perception</p> <p style="padding-left: 20px;"><input type="checkbox"/> Distance Acuity</p> <p style="padding-left: 20px;"><input type="checkbox"/> Peripheral Acuity</p> <p>Blood tests</p> <p><input type="checkbox"/> Comprehensive Metabolic 14 Panel</p> <p><input type="checkbox"/> CBC with Differential/Platelet</p> <p><input type="checkbox"/> Lipid Panel with LDL/HDL Ratio</p> <p><input type="checkbox"/> Thyroid Panel</p> <p><input type="checkbox"/> Hemoglobin A1C</p> <p><input type="checkbox"/> Glucose</p> <p><input type="checkbox"/> Prostate Specific Antigen</p> <p><input type="checkbox"/> Testosterone Serum</p> <p><input type="checkbox"/> Personnel Consultation Review</p> <p>Urine tests</p> <p><input type="checkbox"/> Dipstick analysis</p> <p><input type="checkbox"/> Microscopic analysis (if abnormal dip)</p>	<p><input type="checkbox"/> Audiology-(Gross Screening)</p> <p><input type="checkbox"/> Pulmonary Function Test (Spirometer)</p> <p><input type="checkbox"/> 2 View Chest (every 5 years)</p> <p>12 lead EKG</p> <p style="padding-left: 20px;"><input type="checkbox"/> Resting</p> <p style="padding-left: 20px;"><input type="checkbox"/> Stress</p> <p>Infection disease screening</p> <p style="padding-left: 20px;"><input type="checkbox"/> PPD or TB Gold (circle one)</p> <p style="padding-left: 20px;"><input type="checkbox"/> Hepatitis C Antibody</p> <p style="padding-left: 20px;"><input type="checkbox"/> Hepatitis B Surface Antigen</p> <p style="padding-left: 20px;"><input type="checkbox"/> HIV Screen- Optional</p> <p>Colon Cancer screen -Digital Rectal Exam</p> <p style="padding-left: 20px;"><input type="checkbox"/> Fecal occult test (40 and under)</p> <p style="padding-left: 20px;">Hemoccult sample card</p> <p>Ultrasound Screening</p> <p style="padding-left: 20px;"><input type="checkbox"/> Carotid Artery</p> <p style="padding-left: 20px;"><input type="checkbox"/> Echocardiogram</p> <p style="padding-left: 20px;"><input type="checkbox"/> Thyroid</p> <p style="padding-left: 20px;"><input type="checkbox"/> Aorta and Aortic Valve</p> <p style="padding-left: 20px;"><input type="checkbox"/> Bladder</p> <p style="padding-left: 20px;"><input type="checkbox"/> Testicles/ Prostate</p> <p style="padding-left: 20px;"><input type="checkbox"/> Liver</p> <p style="padding-left: 20px;"><input type="checkbox"/> Pancreas</p> <p style="padding-left: 20px;"><input type="checkbox"/> Gall Bladder</p> <p style="padding-left: 20px;"><input type="checkbox"/> Kidneys</p> <p style="padding-left: 20px;"><input type="checkbox"/> Spleen</p> <p>Wellness Fitness Evaluation</p> <p style="padding-left: 20px;"><input type="checkbox"/> Body fat calipers</p> <p style="padding-left: 20px;"><input type="checkbox"/> Strength</p> <p style="padding-left: 20px;"><input type="checkbox"/> Endurance</p> <p style="padding-left: 20px;"><input type="checkbox"/> Flexibility</p> <p style="padding-left: 20px;"><input type="checkbox"/> Functional Movement Screening</p> <p style="text-align: right; padding-right: 20px;"><input type="checkbox"/> Diet and Nutrition</p> <p style="text-align: right; padding-right: 20px;"><input type="checkbox"/> Personal Exercise Prescription</p>
---	--

• Only optional tests can be refused. Optional tests are highlighted in grey.

Physical Evaluation Provider Signature _____ Date: _____ / _____ / _____ Employee Signature _____

Cape Coral PD Physical Check-Off Sheet – Female Annual

Name: _____ Employee Number: _____ Age: _____ Date: _____

<p>Medical History</p> <ul style="list-style-type: none"> <input type="checkbox"/> Personal and family <input type="checkbox"/> Occupational <input type="checkbox"/> Physical activities <p>Physical Exam</p> <ul style="list-style-type: none"> <input type="checkbox"/> Vitals Signs <input type="checkbox"/> HEENT <input type="checkbox"/> Neck <input type="checkbox"/> Cardiovascular <input type="checkbox"/> Pulmonary <input type="checkbox"/> Breast <input type="checkbox"/> Gastrointestinal <input type="checkbox"/> Hernia <input type="checkbox"/> Lymph nodes <input type="checkbox"/> Neurological-Reflex testing <input type="checkbox"/> Musculoskeletal <input type="checkbox"/> Skin (includes cancer screen) <input type="checkbox"/> Vision <ul style="list-style-type: none"> <input type="checkbox"/> Color Perception <input type="checkbox"/> Depth Perception <input type="checkbox"/> Distance Acuity <input type="checkbox"/> Peripheral Acuity <p>Blood tests</p> <ul style="list-style-type: none"> <input type="checkbox"/> Comprehensive Metabolic 14 Panel <input type="checkbox"/> CBC with Differential/Platelet <input type="checkbox"/> Lipid Panel with LDL/HDL Ratio <input type="checkbox"/> Thyroid Panel <input type="checkbox"/> Hemoglobin A1C <input type="checkbox"/> Glucose <input type="checkbox"/> CA-125 Ovarian Cancer Marker <input type="checkbox"/> Personal Consultation Review <p>Urine tests</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dipstick analysis <input type="checkbox"/> Microscopic analysis (if abnormal dip) 	<ul style="list-style-type: none"> <input type="checkbox"/> Audiology-(Gross Screening) <input type="checkbox"/> Pulmonary Function Test (Spirometry) <input type="checkbox"/> 2 View Chest X-ray (every 5 years) 12 lead EKG <ul style="list-style-type: none"> <input type="checkbox"/> Resting <input type="checkbox"/> Stress Mammogram Performed with physician <ul style="list-style-type: none"> <input type="checkbox"/> Mammogram- Optional Infection disease screening <ul style="list-style-type: none"> <input type="checkbox"/> PPD or TB Gold (circle one) <input type="checkbox"/> Hepatitis C Antibody <input type="checkbox"/> Hepatitis B Surface Antigen <input type="checkbox"/> HIV Screen- Optional Ultrasound Screening <ul style="list-style-type: none"> <input type="checkbox"/> Carotid Artery <input type="checkbox"/> Echocardiogram <input type="checkbox"/> Thyroid <input type="checkbox"/> Aorta and Aortic Valve <input type="checkbox"/> Bladder <input type="checkbox"/> Ovaries/ Uterus <input type="checkbox"/> Liver <input type="checkbox"/> Pancreas <input type="checkbox"/> Gall Bladder <input type="checkbox"/> Kidneys <input type="checkbox"/> Spleen IAFF/ IAFC Wellness Fitness Evaluation <ul style="list-style-type: none"> <input type="checkbox"/> Body fat calipers <input type="checkbox"/> Strength <input type="checkbox"/> Endurance <input type="checkbox"/> Flexibility <input type="checkbox"/> Functional Movement Screening <ul style="list-style-type: none"> <input type="checkbox"/> Diet and Nutrition <input type="checkbox"/> Personal Exercise Prescription
--	---

* Only optional tests can be refused. Optional tests are highlighted in grey.

Date: _____ / _____

Physical Evaluation Provider Signature

Employee Signature

RESOLUTION 120 - 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE EXTENSION OF THE TERMS OF THE CONTRACT BETWEEN LIFE EXTENSION CLINICS, INC., D/B/A LIFE SCAN WELLNESS CENTERS AND THE CITY OF CAPE CORAL THROUGH JULY 27, 2020; AUTHORIZING EXECUTION OF THE CONTRACT EXTENSION BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 28, 2014, City Council adopted Resolution 57-14, approving a contract with Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers for pre-employment and wellness physicals for the Fire Department for a term of three years with two additional one-year renewals; and

WHEREAS, on March 28, 2016, City Council adopted Resolution 20-16, approving an amendment to the contract to include annual physicals for the Police Department; and

WHEREAS, the final contract renewal expires on July 27, 2019; and

WHEREAS, although health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration are exempt from City procurement procedures, staff will be conducting a competitive solicitation for Fire and Police Department physicals; and

WHEREAS, staff has requested an extension of the current contract with Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers for an additional year, during which time a competitive solicitation will be conducted; and

WHEREAS, the Police and Fire Departments recommend that the contract between Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers and the City of Cape Coral be extended through July 28, 2019, at an estimated cost of \$160,000.

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

Section 1. The City Council hereby approves the extension of the contract between Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers and the City of Cape Coral through July 27, 2020, at an estimated cost of \$160,000.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the Contract Extension, attached hereto as Exhibit A.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Contract Extension-Life Scan Wellness Centers

CITY OF CAPE CORAL
CONTRACT EXTENSION
LIFE EXTENSION CLINICS, INC., dba LIFE SCAN WELLNESS CENTERS

Reference is made to the contract entered into between the City of Cape Coral and Life Extension Clinics, Inc., doing business as Life Scan Wellness Centers for providing Pre-employment and Wellness Physicals.

All terms and conditions and specifications of the aforementioned Contract dated August 11, 2014, Contract Amendment #1 dated April 5, 2016, Contract Renewal #1 dated July 28, 2017 and Contract Renewal #2 dated July 25, 2018, and the contractor's offer are incorporated herein by agreement of both contracting parties, this contract is hereby extended at the unit prices outlined in the Contract Documents effective July 28, 2019 through July 27, 2020.

Amended to include:

Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.

ATTEST:

Signature: _____

Signature: Kimberly Bruns, CMC

Title: City Clerk

CITY:

City of Cape Coral, Florida

Signature: _____

Typed Name: A. John Szerlag

Title: City Manager

Date: _____

City Legal Review

Date: 7/10/19

for Dolores Menendez, City Attorney

CONTRACTOR:

Life Extension Clinics, Inc.

d/b/a Life Scan Wellness Centers

Signature: *Patricia Johnson*

Printed Name: Patricia Johnson

Title: CEO

Date: 7/19/2019

RESOLUTION 57 - 14

A RESOLUTION OF THE CITY OF CAPE APPROVING THE CONTRACT WITH LIFE EXTENSION CLINICS, INC., D/B/A LIFE SCAN WELLNESS CENTERS FOR PRE-EMPLOYMENT & WELLNESS PHYSICALS FOR THE FIRE DEPARTMENT AT THE UNIT PRICES IDENTIFIED IN THE CONTRACT; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT AND ANY FUTURE RENEWALS BY THE CITY MANAGER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pre-employment physicals and bi-annual wellness check are provided to Fire Department personnel per the rank and file contract; and

WHEREAS, based on research, it has been concluded that a more detailed physical designed specifically for public safety personnel would be beneficial; and

WHEREAS, the department, on a trial basis, utilized the services of Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers with great success. The physicals were specific to the Fire Department along with basic fitness profiles and diagnostic testing; and

WHEREAS, the services are provided onsite with minimal impact to the City, e.g., down time, travel issues and the turnaround time for testing are greatly reduced; and

WHEREAS, the City estimates a not-to-exceed yearly amount of \$58,000; and

WHEREAS, pursuant to Section 2-141(b) of the City of Cape Coral Code of Ordinances, contracts for health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration are excepted from the purchasing and procurement requirements of Chapter 2, Administration, Article VII, Purchase and Sale of Real and Personal Property; and

WHEREAS, the City Manager recommends the approval of the contract from Life Extension Clinics, Inc. d/b/a Life Scan Wellness.

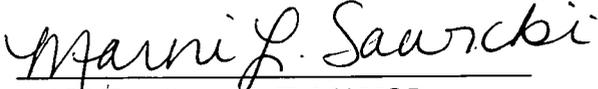
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the contract between the City of Cape Coral and Life Extension Clinics, Inc. d/b/a Life Scan Wellness Centers, for the Pre-Employment & Wellness Physicals in the estimated amount of \$58,000, subject to the availability of funds lawfully appropriated for this purpose in the City's budget.

Section 2. The City Council hereby authorizes the City Manager or City Manager's designee to execute the contract between the City of Cape Coral and Life Extension Clinics, Inc. d/b/a Life Scan Wellness Centers and authorizes the City Manager or his designee to approve and execute any authorized contract amendments or renewals to this Contract, provided that any such renewal or amendment does not exceed \$50,000 during any one year period.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS 28th DAY OF July, 2014.


MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	<u>Aye</u>
BURCH	<u>Aye</u>
CARIOSCIA	<u>Aye</u>
NESTA	<u>Aye</u>
LEON	<u>Aye</u>
ERBRICK	<u>Aye</u>
WILLIAMS	<u>Aye</u>
DONNELL	<u>Aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 30th DAY OF July,
2014.

Rebecca van Deutekom
REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
res/Life Scan Wellness Center

RESOLUTION 20-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING AMENDMENT #1 TO THE LIFE SCAN WELLNESS CENTERS CONTRACT FOR PRE-EMPLOYMENT AND WELLNESS PHYSICALS BETWEEN LIFE EXTENSION CLINICS, INC., D/B/A LIFE SCAN WELLNESS CENTERS AND THE CITY OF CAPE CORAL IN ORDER TO INCREASE THE CONTRACT AMOUNT TO \$150,000 PER YEAR; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT AMENDMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 28, 2014, the City Council approved a contract with Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers, for pre-employment and wellness physicals for the Fire Department in an amount not to exceed \$58,000 per year for a period of three years; and

WHEREAS, the Police Department is currently utilizing Lee Memorial Health Systems for annual physicals, but finds that Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers provides a more detailed physical designed specifically for public safety personnel; and

WHEREAS, in order to utilize Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers rather than Lee Memorial Health Systems for their annual physicals, the Police Department has requested an amendment to the Contract with Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers to increase the Contract amount to an annual amount not to exceed \$150,000; and

WHEREAS, pursuant to Section 2-141(b) of the City of Cape Coral Code of Ordinances, contracts for health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration are excepted from the purchasing and procurement requirements of Chapter 2, Administration, Article VII, Purchase and Sale of Real and Personal Property; and

WHEREAS, the City Manager recommends amending the Contract with Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers, to increase the contract amount to a total annual amount of \$150,000, not to exceed budgetary limits, for physical examinations for both fire and police personnel.

WHEREAS, the City Council desires to approve Amendment #1 to the contract between the City of Cape Coral and Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers, increasing the estimated annual amount to \$150,000.

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

Section 1. The City Council hereby approve Amendment #1 to the contract between the City of Cape Coral and Life Extension Clinics, Inc., d/b/a Life Scan Wellness Centers, increasing the estimated annual amount to \$150,000, not to exceed budgetary limits, and authorizes the City Manager to execute Amendment #1, attached hereto as Exhibit A.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS 28th DAY OF March, 2016.


MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI aye
BURCH aye
CARIOSCIA aye
STOUT aye

LEON aye
ERBRICK aye
WILLIAMS aye
COSDEN aye

ATTESTED TO AND FILED IN MY OFFICE THIS 6th DAY OF April,
2016.


REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
Amend Contract-Life Scan Wellness Centers

CONTRACT – LIFE SCAN WELLNESS CENTERS

THIS CONTRACT is made this 11th day of August, 2014 by and between the CITY OF CAPE CORAL, FLORIDA, hereinafter called "CITY", and LIFE EXTENSION CLINICS, INC., d/b/a LIFE SCAN WELLNESS CENTERS hereinafter called "CONTRACTOR".

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

1. The Contractor will provide on a non-exclusive basis Pre-employment and Wellness Physicals in accordance with the Contract Documents. The City reserves the right to engage other providers at its sole discretion to provide the Pre-employment and Wellness Physicals for its employees.
2. The Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the services described in the Contract Documents. The Contractor to come to designated City facility to provide service described in the Contract Documents.
3. The Contractor agrees to perform services described in the Contract Documents at the unit prices identified in Exhibit A, attached hereto and made a part hereof.
4. The term of the contract to be awarded shall be for three years from date of award by City Council starting on JULY 28, 2014 and ending on JULY 27, 2017 and may be renewed for two additional, one-year periods upon mutual agreement by the City and the Contractor.
5. The Contract sum is a not to exceed amount of \$58,000 per year.
6. The City Manager or his designee shall have the authority to approve and execute any authorized Contract Amendments or Renewals to this Contract, provided that any such Renewal or Amendment does not exceed \$50,000, during any one year period.
7. This Contract may be terminated by the City for its convenience upon thirty (30) days prior written notice to the Contractor. In the event of termination, the Contractor shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract.
8. The Term "Contract Documents" shall include this Contract and the Contractor's offer, more specifically "Exhibit A".
9. **Assignment:** This Contract may not be assigned except with the written consent of the City, and if so assigned, shall extend and be binding upon the successors and assigns of the Contractor.
10. **Disclosure:** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the Contract.
11. **Administration of Contract:** The Fire Chief, or their representative, shall administer this Contract for the City.
12. **Governing Law:** The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this

Contract, the prevailing party shall be entitled to recover from the non-prevailing party reasonable costs and attorney's fees.

13. **Amendments:** No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties.
14. **Indemnity:** City and Contractor agree to indemnify each other to the extent permitted by law. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of section 768.28, Florida Statutes.
15. **Invalid Provision:** The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
16. **Project Records:** The Contractor shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City reserves the right to determine the record-keeping method in the event of non-conformity. These records shall be maintained for five (5) years after final payment has been made, and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

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

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

17. **Public Records:** The City is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:
 - Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service;
 - Provide the public with access to such public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed that provided in chapter 119, FS, or as otherwise provided by law;
 - Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law;
 - Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the Contractor upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the agency.

The failure of Contractor to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement and the City shall enforce the Default in accordance with the provisions set forth in Article 21.

18. **Insurance:** The following insurance will be required by the CITY OF CAPE CORAL. Any questions regarding the insurance requirements should be directed to the Risk Manager, (239) 574-0529.

Workers' Compensation: Coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws.

Comprehensive General Liability: Shall have minimum limits of \$1,000,000.00 per occurrence. Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include Premises and/or Operations, Independent Contractors and Products and/or Completed Operations, Broad Form Property Damage, XCU Coverage, and a Contractual Liability Endorsement.

Certificate of Insurance: The City of Cape Coral is to be specifically included as an additional insured. This does not pertain to Workers' Compensation.

Notification of expiration of insurance shall be provided to the additional named insured as per the certificate of insurance.

Unless otherwise specified, it shall be the responsibility of the contractor to ensure that all subcontractors comply with the same insurance requirements spelled out above.

All certificates of insurance must be on file with and approved by the City of Cape Coral before the commencement of any work activities.

19. **Unauthorized Aliens:**

The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. This applies to any sub-contractors used by the Contractor as well.

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

(this section intentionally left blank)

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

WITNESS CITY:

Signature: Rebecca van Deutekom
Typed Name: Rebecca van Deutekom
Title: City Clerk

CITY:

City of Cape Coral, Florida
Signature: A. John Szelag
Typed Name: A. John Szelag
Title: City Manager
Date: 8/11/14

CITY LEGAL REVIEW:

William Pustay for 07/15/14
Dolores Menendez Date
City Attorney

WITNESS CONTRACTOR:

Signature: Michael Terrera
Printed Name: Michael Terrera
Title: CEO

CONTRACTOR:

Company: Life Extension Clinics, Inc.,
d/b/a Life Scan Wellness Centers
Signature: Patricia Johnson
Printed Name: Patricia Johnson
Title: CEO
Date: 7/20/14

EXHIBIT A

Life Scan Wellness Centers Public Safety Physical Exam	
Physical Exam (NFPA 1582 compliant)	included
Vision (Titmus)	included
Hearing Exam	included
Skin cancer assessment	included
Personal Consultation with review of testing results	included
Cardio Pulmonary Assessment	
Echocardiogram (Heart Ultrasound)	included
Resting EKG	included
Treadmill Stress Test with EKG	included
Carotid Arteries Ultrasound	included
Aortic Aneurysm Ultrasound	included
Pulmonary Function Test	included
Cancer and Disease Assessment	
Thyroid Ultrasound	included
Liver, Pancreas, Gall Bladder, Spleen, & Kidney Ultrasounds	included
Bladder Ultrasound	included
Pelvic Ultrasound for Women (external, Ovaries and Uterus)	included
Testicular Ultrasound for Men	included
Prostate Ultrasound for Men	Included
Blood and Laboratory Tests	
Hemoccult Test	included
Urinalysis	included
Lipid Panel	included
Diabetes Tests (Hemoglobin A1C and Glucose)	included
Complete Blood Count	included
Comprehensive Metabolic Panel	included
Thyroid Panel	included
PSA (men)	included
CA-125 (women)	included
Fitness Program (NFPA 1582 Guidelines)	
Fitness and Agility Evaluation	included
Body Composition Analysis	included
Stretching/Flexability/Endurance Analysis	included
Nutrition and Diet Recommendations	included
Personal Fitness Recommendations	included
Medical Clearances	
OSHA Respirator Medical Clearance	included
Firefighter Medical Clearance	included
TOTAL	\$370.00

Additional Tests Available	
Quantiferon Gold (TB Blood Test)	60.00
Hepatitis C Test	50.00
Hepatitis B Test	50.00
Hepatitis A Test	50.00
Chest X-Ray 2-view with Radiologist review	62.00
Lumbar X-Ray 2-view with Radiologist review	64.00
Urine Drug Screen, DOT 10 Panel	50.00
Urine Drug Screen, 10 Panel, I-Cup in office	35.00
Drug Rescreen with confirmation	45.00
Medical Review Officer (MRO) as indicated	50.00
Hepatitis A, B, or C test each	50.00
Hepatitis Vaccines each shot (A=2 shot series, B=3 shot series)	50.00
Hep B Titers (as needed)	25.00
PPD	10.00
HIV	25.00
OSHA Respirator Mask Fit Testing SCBA (Portacount)	28.00
OSHA Respirator Mask Fit Testing N95 (Portacount)	28.00
Cholinestrase and Heavy Metals (Hazmat)	120.00
Tetnus/DP	20.00
Nicotine/Cotinine Screening	60.00
CT Angiogram	350.00
Post Offer Police and Firefighter Examinations	TBD based on testing requirements

EXHIBIT "A"

Res. 20-16
3-28-16

**CONTRACT AMENDMENT #1
LIFE SCAN WELLNESS CENTERS**

Reference is made to the contract entered into between the City of Cape Coral and Life Extension Clinics, Inc., d/b/a Life Scan on August 11, 2014, for providing the City a non-exclusive basis Pre-Employment and Wellness Physicals in accordance with the Contract Documents.

All terms, conditions and specifications of the aforementioned Contract and the Contractor's offer are incorporated herein by reference and remain in full force and effect.

Contract is amended to an estimated amount of \$150,000 per year.

WITNESS CITY:

CITY:

Signature: Rebecca van Deutekom
Signature: Rebecca van Deutekom
Title: City Clerk

City of Cape Coral, Florida
Signature: Kelley Fernandez
Typed Name: for John Szerlag
Title: City Manager
Date: 4/5/16

WITNESS CONTRACTOR:

[Handwritten Signature]

CONTRACTOR:

Life Extension Clinics, Inc.
d/b/a Life Scan Wellness Centers
Signature: [Handwritten Signature]
Typed Name: Patricia Johnson
Title: CEO
Date: 3/11/16

CITY LEGAL REVIEW:

William Burtroy for 03/11/16
Dolores Menendez, City Attorney

Item Number: B.(2)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 121-19 Approve contract renewal with Saba Software, Inc. for a Talent Management System (Learning Management System) to include Open Sesame and Saba Publisher in the amount of \$90,432.36 and approve the purchase of the recurring annual software support not to exceed budgetary limit and authorize the City Manager or designee to execute the contract renewals, amendments and corresponding documents; Department: Human Resources/ITS; Estimated Annual Dollar Value \$90,433; (General Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. Request for Proposal RFP-HR16-34/KS was issued for a Talent Management System for the Human Resources Department to enter into a multi year contract for software implementation services for an employee training system. Staff evaluated the proposals and vetted Saba Software as the #1 ranked firm.
2. The contract and subscription services were included as part of Resolution 107-15 approved by Council on August 3, 2015, in the amount of \$122,000.
3. This request is to authorize approval of the contract renewal and future recurring annual software support for an annual estimated amount of \$90,433 not to exceed budgetary limits.
4. This request includes the following amounts for the remainder of FY19: Saba Cloud Talent Package subscription in the amount of \$8,847.55; Open Sesame Package \$4,328.64 and Saba Publisher Inspire in the amount of \$310.68, for a total for FY19 in the amount of \$13,486.87.
5. The request for FY20 includes Saba Cloud Talent Package subscription in the amount of \$50,458.70; Open Sesame in the amount of \$24,686.79 and Saba Publisher Inspire in the amount of \$1,800, for a total for FY20 in the amount of \$76,945.49
6. This item is budgeted
7. Funding: The funding is available in the respective ITS and HR related budget: 118201.652122 ITS Business Application and 125501.652122 HR Employee Development

LEGAL REVIEW:

Legal reviewed the agreements

EXHIBITS:

Department Recommendation Memo

Resolution 121-19

Resolution 107-15

PREPARED BY:

Wanda

Roop

Division- Procurement

Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Lisa Sonogo, Human Resources Director

Michelle Hoffmann, ITS Director

ATTACHMENTS:

Description	Type
▣ Department Recommendation	Backup Material
▣ Resolution 121-19	Resolution
▣ Resolution 107-15	Backup Material

MEMORANDUM

CITY OF CAPE CORAL
HUMAN RESOURCES DEPARTMENT

TO: John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Lisa Sonogo, Human Resources Director
Michelle Hoffman, IT Director
Holly Deleppo, Training & Development Specialist



DATE: June 26, 2019

SUBJECT: Contract Renewal of SABA Learning Management System, SABA Publisher Inspire and OpenSesame Plus 25 – Order Q00024635

The Human Resources and IT Departments are requesting approval to renew the maintenance agreements for our learning management system within the current contract parameters, SABA, its course content, OpenSesame Plus 25 and SABA Publisher Inspire.

Background

In 2016, the City performed a formal Request for Proposal for a learning management system which resulted in the selection of SABA. This contract includes SABA Cloud talent package with OpenSesame content for 1430 users with SABA Publisher Inspire for 3 users.

In 2017, the City reached a need for additional/enhanced learning content. A cost and services comparison was performed and OpenSesame was recognized as the best value and ease of use. Due to this content already having been utilized in the first SABA contract, a short-term contract was permitted to coordinate with the next SABA contract renewal.

Recommendation

Staff recommends a contract renewal with SABA, SABA Publisher Inspire, and OpenSesame Plus 25. Contract time frame of 15-months to bring the timeframe in line with the City's fiscal year budgeting for a total cost of \$90,432.36 (\$13,486.87 in FY19 and \$76,945.49 in FY20).

Funds Availability

Funds are currently available in the FY2019 budget in the following structure:

\$8,847.55 for SABA – General Fund / BU 118201, Account 652122;
\$ 310.68 for SABA Publisher Inspire – General Fund / BU 118201, Account 65122; and
\$4,328.64 for OpenSesame – General Fund / BU 125501, Account 652122.

Funds are allocated in the FY2020 budgets in the following structure:

\$50,458.70 for SABA – General Fund / BU 118201, Account 652122;
\$ 1,800.00 for SABA Publisher Inspire – General Fund / BU 118201, Account 65122; and
\$24,686.79 for OpenSesame – General Fund / BU 125501, Account 652122.

LS:jr

RESOLUTION 121 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING RENEWAL OF THE CONTRACT WITH SABA SOFTWARE, INC., AND THE PURCHASE OF RECURRING ANNUAL SOFTWARE SUPPORT; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT RENEWAL AND CORRESPONDING DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Request for Proposal RFP-HR16-34/KS was issued for a Talent Management System for the Human Resources Department for a multi-year contract for software implementation services for an employee training system; and

WHEREAS, staff evaluated the proposals and ranked Saba Software, Inc., as the #1 firm; and

WHEREAS, the Saba Software, Inc. contract and subscription services were included in Resolution 107-15, in the amount of \$122,000; and

WHEREAS, staff is requesting approval to renew the contract with Saba Software, Inc., and to purchase future recurring annual software support for the Saba Cloud Talent Package, Open Sesame Package, and Saba Publisher Inspire through the end of FY2020 in the estimated total amount of \$90,433, not to exceed budgetary limits; and

WHEREAS, the City Council desires to authorize the renewal of the contract with Saba Software, Inc., and the purchase of future recurring annual software support for the Saba Cloud Talent Package, Open Sesame Package, and Saba Publisher Inspire through the end of FY2020, as specified in the attached Exhibit 1.

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

Section 1. The City Council hereby approves the renewal of the contract with Saba Software, Inc., and the purchase of the recurring annual software support as specified in the attached Exhibit 1, in the estimated total amount of \$90,433, not to exceed budgetary limits.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the contract renewal, attached hereto as Exhibit 1, and any necessary corresponding documents.

Section 3. This Resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

for 

DOLORES D. MENENDEZ
CITY ATTORNEY
Res\Contract Renewal-Saba



4120 Dublin Boulevard Suite 200
 Dublin, CA 94568 USA
 (650) 581 - 2500

Order Q-00024635

Order Date: 7/29/2019	Customer: City of Cape Coral	Account Executive: Tina Carroll
Bill to Customer: City of Cape Coral Kim Swartz kswartz@capecoral.net (239) 574-0845 Attn: Finance-Accounts Payable PO Box 150027 Cape Coral, Florida 33915-0027 United States	Ship to Customer: City of Cape Coral Kim Swartz kswartz@capecoral.net (239) 574-0845 1015 Cultural Park Boulevard Cape Coral, Florida 33990 United States	Contract Number: 18-S-3067-AMD 18-S-2926-SPC Order Type: Renewal Currency: USD PO#: Ship via: Electronic Download Location: Florida

Products and Services

SKU	Product Name	QTY	UOM	Term	Total Price
CLD-SPC-303	Saba Cloud Talent Package	1,430	Employees	7/29/2019 - 9/30/2019	\$8,847.55
The Saba Cloud Talent Package includes Recruiting@Work, Learning@Work, Performance@Work, Succession@Work, Compensation@Work, Advanced Testing and Assessment, Collaboration, and Basic Organizational Charting features within Saba Cloud. There is a concurrency restriction that applies to the Saba Meeting / Classroom / Webinar features within Saba Cloud that limits the number of users that are allowed to attend a meeting, classroom, or webinar session at any one time. A Saba Cloud Talent Package subscription includes a flat 500 concurrent users. If the customer anticipates a higher number of participants will be attending future parallel meetings or classroom sessions, then the customer will need to also license additional concurrent users to meet their needs (use SKU CLD-SPC-450 for additional meeting, classroom, and webinar users).					
CNT-OPS-005	OpenSesame Plus 25 - Selected Courses. Minimum of 180 days between course selection changes.	1,400	Per Concurrent User	7/29/2019 - 9/30/2019	\$4,328.64
Customer's subscription includes up to 25 courses curated from the OpenSesame Plus bundle					
MKT-OPS-101	OpenSesame Connector for 501-1500 Users	1	Each	7/29/2019 - 9/30/2019	\$0.00
Only sell 1 connector per organization. The connector enables customers to search, sync, and manage OpenSesame content (content is purchased separately). Customers must purchase content from OpenSesame.					
CLD-SPC-303	Saba Cloud Talent Package	1,430	Employees	10/01/2019 - 9/30/2020	\$50,458.70
The Saba Cloud Talent Package includes Recruiting@Work, Learning@Work, Performance@Work, Succession@Work, Compensation@Work, Advanced Testing and Assessment, Collaboration, and Basic Organizational Charting features within Saba Cloud. There is a concurrency restriction that applies to the Saba Meeting / Classroom / Webinar features within Saba Cloud that limits the number of users that are allowed to attend a meeting, classroom, or webinar session at any one time. A Saba Cloud Talent Package subscription includes a flat 500 concurrent users. If the customer anticipates a higher number of participants will be attending future parallel meetings or classroom sessions, then the customer will need to also license additional concurrent users to meet their needs (use SKU CLD-SPC-450 for additional meeting, classroom, and webinar users).					
CNT-OPS-005	OpenSesame Plus 25 - Selected Courses. Minimum of 180 days between course selection changes.	1,400	Per Concurrent User	10/01/2019 - 9/30/2020	\$24,686.79
Customer's subscription includes up to 25 courses curated from the OpenSesame Plus bundle					
MKT-OPS-101	OpenSesame Connector for 501-1500 Users	1	Each	10/01/2019 - 9/30/2020	\$0.00
Only sell 1 connector per organization. The connector enables customers to search, sync, and manage OpenSesame content (content is purchased separately). Customers must purchase content from OpenSesame.					

TOTAL: 88,321.68 USD

Terms:

The terms and conditions of any purchase order shall not apply. The pricing included in this Order is not valid unless an executed copy of this Order is received by Saba on or before 7/29/2019. The above-listed pricing is exclusive of all taxes, duties, withholdings and similar charges. Customer acknowledges that this Order is not reliant or contingent upon the delivery, or promise of delivery, of any future functionality, features, or products. This Order is subject to the terms and conditions of the Saba Cloud Subscription Agreement located at: <http://www.saba.com/legal/Saba-Cloud-Subscription-Agreement-201512.pdf> (the "Agreement"). Open Sesame Content is governed by the terms set out in the City of Cape Coral Contract Amendment #1, inclusive of all exhibits and attachments thereto, dated October 31, 2018.

Notwithstanding anything to the contrary in the Agreement:

(1) The validity, construction and effect of the Agreement and this Order shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida.



4120 Dublin Boulevard Suite 200
Dublin, CA 94568 USA
(550) 581 - 2500

Order
Q-00024635

(2) Section 8.2 of the Agreement is amended, to read as follows:

8.2 To the extent permitted by law, Customer shall defend or settle, at Customer's expense, any Claim brought against Saba that (a) any Content infringes any copyright, trade secret, patent or other proprietary right of a third party, or (b) is a result of personal injury or death caused by Customer's negligence or willful misconduct; and Customer shall pay all final judgment awards against Saba or settlement costs in connection with such Claim.

Payments will be invoiced on the Order Date and no more than 30 days in advance of the anniversary date thereof and are due 30 days after invoice date.

Payment Schedule is:

Order Date (7/29/2019): 13,176.19

10/01/2019: 75,145.49

Purchase Order is Required <input type="checkbox"/>	
Signature:	Signature: <i>Dave Laser</i> <small>DocuSigned by:</small>
Name:	Name: Dave Laser
Title:	Title: Associate General Counsel
Date:	Date: July 10, 2019

APPROVED AS TO FORM:
By: *[Signature]*
City Attorney's Office
Date: 6/13/2019





4120 Dublin Boulevard Suite 200
Dublin, CA 94568 USA
(650) 581 - 2500

Order
Q-00024542

Order Date:	Customer: City of Cape Coral	Account Executive: Jon Moreno
Bill to Customer: City of Cape Coral Kim Swartz	Ship to Customer: City of Cape Coral Kim Swartz	Contract Number: 16-S-1600-SOF
kswartz@capecoral.net (239) 574-0845 Attn: Finance-Accounts Payable PO Box 150027 Cape Coral Florida 33915-0027 United States	kswartz@capecoral.net (239) 574-0845 1015 Cultural Park Boulevard Cape Coral Florida 33990 United States	Order Type: Renewal for Support Currency: USD PO#: Ship via: Electronic Download Location: Florida

Support

SKU	Product Name	QTY	UOM	Term	Total Price
MAI-STD-003	Contract# 16-S-1600-SOF Standard Maintenance & Support Renewal Saba Publisher Inspire v12 3 Named Users	1	Each	7/29/2019 - 9/30/2019	\$310.68
Saba Standard Maintenance & Support (Renewal; Annually adjusted)					
MAI-STD-003	Contract# 16-S-1600-SOF Standard Maintenance & Support Renewal Saba Publisher Inspire v12 3 Named Users	1	Each	10/01/2019 - 9/30/2020	\$1,800.00
Saba Standard Maintenance & Support (Renewal; Annually adjusted)					

TOTAL: 2,110.68 USD

Terms and Conditions:

Per Saba Agreement cancellation, approval acceptance and PO MUST be made and received by Saba no later than 30 days before the service expiration date.

Payment Terms: Net 30 Payment

Frequency: Annual - Up Front

Expiration Date:

July 31, 2019

To ensure you receive uninterrupted support and are not charged any reinstatement fees, payment must be received on or prior to the period of performance end date. This quote is for support and maintenance fees for the above services period pursuant to the agreement between Saba and you (the "Agreement"). These support fees entitle you to receive software updates and enhancements, as well as access to Saba Customer Support and services, in accordance with the Agreement. Any applicable taxes are not included. All terms and conditions agreed upon in the Agreement still apply unless otherwise stated in this quote. Lapsed support agreements are subject to all back-due support costs at 150% of the annual fees.

To accept this quotation, simply reply via email indicating your acceptance

ATTACHMENT A

OpenSesame Content Terms and Conditions

With respect to any OpenSesame course content created and/or made available by OpenSesame and resold by Saba Software, Inc. ("Saba") pursuant to an Order (collectively, "OS Courses"), use of such OS Courses is subject to the following terms and conditions. For the avoidance of doubt, in the event of any conflict or inconsistency between the below and the Agreement in place between Saba and Customer, only the below will apply with respect to the OS Courses:

Terms and Conditions

What Customer Is Buying and Usage

When Customer purchases an OS Course, Customer is purchasing a non-exclusive license to use that OS Course consistent with the purchased license type. Ownership of all intellectual property rights, including all copyright, trademarks, designs and patents whether registered or unregistered, and all other intellectual property, software and goodwill relating to the OS Course will remain with OpenSesame. All OS Course seats are sold for single person usage only and not to be broadcast, or otherwise shared.

Customer agrees not to copy, record, edit or alter or otherwise interfere with the OS Courses. This shall include without limitation: a) not using recording equipment to record during playback of the OS Courses; b) not overlaying the OS Courses with other audio, video or images or distorting the quality of the training programs; and c) not removing, editing or otherwise interfering with (or attempting to remove, edit or otherwise interfere with) any names, marks, logos or branding on the OS Courses.

Customer agrees not to (or attempt to) interfere with or disrupt the proper operation of Saba's or OpenSesame's software, hardware, systems or networks or the OS Courses, including (but not limited to) not knowingly or negligently transmitting files that may interrupt, damage, destroy or limit the functionality of any computer software, hardware, systems or networks, including (without limitation) corrupted files or files that contain viruses, trojans, worms, spyware or other malicious content.

Customer may not use the OS Courses for any purpose other than for the purpose for which it has been provided and Customer agrees not to use the OS Courses for illegal or inappropriate purposes. In particular, Customer agrees that Customer will not use the OS Courses to do any of the following: a) convey any false, unlawful, harassing, defamatory, abusive, hateful, racial, threatening, harmful, vulgar, obscene, seditious or otherwise objectionable or offensive material of any kind or nature; b) carry out any commercial business, send any unsolicited commercial emails, advertise or offer to sell any goods or services or conduct or forward surveys, contests or chain letters; or c) falsify the origin or source of any content or other material.

Customer's right to access and use the OS Courses may not be assigned, transferred or sublicensed by Customer, except that Customer may sublicense to Affiliates, as permitted pursuant to the Agreement between Saba and Customer.

Warranty; Indemnity; Liability; Security

Warranty. With respect to the OS Courses, the below warranty supersedes and replaces any warranty provision in the Agreement between Saba and Customer:

OpenSesame warrants that each OS Course will conform in all material respects with OpenSesame's standard end user documentation for such OS Course.

OpenSesame further warrants that (i) it has the legal right and authority to permit Saba to enter into this Agreement and perform its obligations hereunder, (ii) it will not introduce into the OS Courses any virus, worm, Trojan horse, time bomb, or other malicious or harmful code and (iii) the performance of its obligations hereunder and delivery and use of the OS Courses will not violate any applicable laws or regulations (including without limitation those related to privacy, security, and/or the collection, use, transmission and/or retention of data within or between any jurisdiction(s)).

OpenSesame further warrants that the OS Courses will be Available (as defined and further described in Exhibit A hereto) at least 99.9% of the time, measured monthly, as further described in the Service Level Agreement set forth in Exhibit A hereto. For any breach of the foregoing warranty, OpenSesame will provide a Service Credit, as defined and further described in Exhibit A.

Except as expressly set forth herein, OpenSesame and Saba do not make, and hereby disclaim, any and all other express and/or implied warranties with respect to the OS Courses. Customer is responsible for conducting its own research before choosing a course. This is the case even in the event that Customer requests assistance from OpenSesame or Saba in selecting courses.

Indemnity. With respect to the OS Courses, the below indemnity supersedes and replaces any indemnity provision in the Agreement between Saba and Customer:

OpenSesame shall defend or settle, at its expense, any claim or action ("Claim") against Saba and/or Customer that the OS Courses, as made available by OpenSesame, infringe any copyright, trade secret, patent or other proprietary right; and OpenSesame shall pay all final judgment awards against Saba and/or Customer, or settlement costs in connection with such Claim.

With respect to any OS Course(s) that are found to be infringing, or in Saba's opinion are likely to be found infringing, OpenSesame may, at its option, (a) obtain the right for Customer to continue using the OS Course(s); (b) replace or modify the OS Course(s) so they are no longer infringing but still provide substantially similar functionality, or (c) terminate the applicable OS Course(s). In the event of such termination, OpenSesame will refund any subscription fees pre-paid by Customer for the terminated OS Course(s), pro-rated for the remainder of Customer's subscription term after the effective date of termination.

Liability. With respect to the OS Courses, the below limit on liability supersedes and replaces any limit on liability set out in the Agreement between Saba and Customer:

Excepting OpenSesame's obligations to indemnify and defend, as set forth herein, OpenSesame's and Saba's cumulative liability for any claim will be limited to the fees received via the sale of OS Courses to Customer over the preceding 12 months.

Security. With respect to the OS Courses and any Customer Confidential Information stored or accessed by OpenSesame related thereto, the below security obligations supersede and replace any obligations related to security set out in the Agreement between Saba and Customer:

The security obligations applicable to the OS Courses is set forth in Exhibit B hereto.

Course Substitutions

OS Courses OpenSesame Plus and OpenSesame Basics are licensed per user on annual term(s) and licensed Customers may access all licensed OS Courses on an unlimited basis during the annual term.

The OpenSesame Plus and OpenSesame Basics libraries are specific subsets of OS Courses and are subject to change from time to time at OpenSesame's discretion.

EXHIBIT A

OS COURSES SERVICE LEVEL AND SUPPORT AGREEMENT

1. Definitions

- a. "Available" or "Availability" shall mean that the OS Courses are responsive and available for use. Availability is measured 24x7, on a calendar monthly basis. Unavailability does not mean an inability to connect to the OS Courses due to (i) a failure between Customer's computer(s) and the Internet; (ii) factors outside of OpenSesame's reasonable control; (iii) any action or inaction of Customer; or (iv) scheduled maintenance periods (every Monday 8PM-11:59PM US Pacific Time) and necessary but unscheduled maintenance of which Customer has reasonable notice.
- b. "Availability Assurance" means 99.9% for OS Courses resold by Saba.
- c. "Severity 1" shall mean that the all OS Courses are not Available (i.e. a "system down" support issue).
- d. "Report" shall mean submitting the reported issue via the electronic interface to OpenSesame's support tracking system, or in a telephonic or chat conversation with an OpenSesame support representative.
- e. "Resolve" or "Resolution" shall mean that OpenSesame has tested the affected OS course(s) and has notified Saba electronically or telephonically that the OS Course is accessible and usable.
- f. "Respond" or "Response" shall mean an electronic or telephonic notification to Saba, confirming that OpenSesame has logged the reported issue in OpenSesame's support tracking system.
- g. "Service Credit" shall mean a credit calculated in accordance with Section 3 below. A Service Credit shall be issued by discounting Customer's next payment for the OS Courses by the amount of the Service Credit.

2. Service Level Agreement. OpenSesame warrants that the OS Courses will perform in accordance with and subject to this Service Level Agreement.

2.1 Availability SLA. OpenSesame's target is 100% Availability of the OS Courses. If Customer experiences a Severity 1 issue or issues resulting in less than the applicable Availability Assurance, Saba is eligible to offer a Service Credit to Customer as set forth in Section 3.1 below.

2.2 Response and Resolution SLA. For a Severity 1 issue for OS Courses, OpenSesame commits to Respond to the issue within thirty (30) minutes and to Resolve the issue within forty-three (43) minutes after receiving a Report from Saba. If OpenSesame does not Respond to and/or Resolve a Severity 1 issue within the applicable defined time interval, OpenSesame shall issue Saba a Service Credit.

3. Service Credits.

3.1 Severity 1 / Unavailability. The amount of the Service Credit shall be calculated by multiplying Customer's pro-rated monthly fees for the OS Courses for the calendar month in which the Service Credit was incurred, by the percentage shown in the table below that corresponds to the actual Availability of the OS Courses during that month.

Availability Percentage	Percentage Credit
99% or over, but below 99.9%	25%
95% or over but below 99%	50%
Below 95%	100%

3.2 Service Credits apply only for OS Courses used in Customer production environment(s), and not to any development, staging, testing, QA or other non-production environment. Response and Resolution shall be measured from the time-stamp recorded at the time that the issue is submitted electronically by Saba.

EXHIBIT B
INFORMATION SECURITY

OpenSesame's ("Service Provider") security efforts will include, without limitation:

Logical Access Controls: Service Provider agrees to employ effective logical access control measures over all systems used to create, transmit, or process Customer Confidential Information, including but not limited to:

- User authentication must use unique identifiers ("User ID's") consistent with individual accountability;
- A complex password policy, including the prohibition of clear-text credentials must be enforced;
- User access rights/privileges to information resources containing Customer Confidential Information must be granted on a need-to-know basis consistent with role-based authorization.
- User access to Customer Confidential Information must be removed immediately upon user separation or role transfer eliminating valid business need for continued access.
- Default passwords and security parameters must be changed in third-party products/applications used to support Customer Confidential Information.

Network Security Architecture: Service Provider agrees to employ effective network security control measures over all systems used to create, transmit, or process Customer Confidential Information including but not limited to:

- Firewalls shall be operational at all times and shall be installed at the network perimeter between Service Provider's Internal (private) and public (Internet) networks.
- Properly configured and monitored IDS/IPS (Intrusion Detection/Prevention Systems) must be used on Service Provider's network.
- Databases or any data domains storing Customer data must be logically or physically separated from the web server, and the database may not reside on the same host as the web server, where applicable.
- The database and other information systems used for the purposes of processing Customer Confidential Information must have only those services/processes and ports enabled to perform routine business. All other services/processes on the host must be disabled.
- All information systems, repositories, etc. used for Customer by Service Provider, or its business partners, must be physically located in a controlled data center environment used for the purpose of protecting information systems.
- Secure channels (e.g., SSL, SFTP, SSH, IPSEC, etc.) must be used at all times for administering devices.

Physical Access Controls: Service Provider agrees to maintain servers, databases, and other hardware and/or software components that store information related to Customer's business activities in an access controlled and consistently monitored Data Center secured by appropriate alarm systems. The facility storing Customer data must follow best practices for infrastructure systems to include fire extinguishing, temperature control and employee safety.

Risk Assessment/Audit: Service Provider agrees to perform regular security vulnerability assessments. To the extent applicable, Service Provider agrees to maintain appropriate PCI certifications of its data security controls.

Security Policy: Service Provider agrees to maintain and enforce security policies consistent with security best practices, and all applicable regulatory and legal security and privacy requirements, including but not limited to ISO 27001, NIST 800-53 or other applicable laws communicated by Saba from time to time.

Training and Awareness: Service Provider agrees to provide necessary training to ensure security awareness in Service Provider personnel that are directly or indirectly engaged in handling Customer Confidential Information and systems, onsite or remotely, upon hire and at least annually.

Protection of Confidential Information: Service Provider agrees to protect all Customer Confidential Information as it would its own.

Additionally, Service Provider agrees to adhere to the following controls surrounding the use and protection of Customer Confidential Information:

- Customer Confidential Information must be encrypted with key sizes of 256-bit for symmetric and 2048-bit for asymmetric encryption.
- Clear text (ftp, telnet, etc.) protocols may not be used to access or transfer Customer Confidential Information. Customer Confidential Information must be encrypted when stored on portable media, which by way of example shall include USB Sticks, Portable hard drives, Laptops, DVD/CDs, and when transmitted on wireless networks or across public networks.
- Customer Confidential Information may not be copied, sold or used for solicitation purposes by the Service Provider or its business partners. Customer Confidential Information may only be used in conjunction with and within the scope of the Agreement to which this Exhibit is attached.
- Customer data must be segregated from other Service Provider customers, systems, or applications unrelated to Customer. Appropriate data security controls must be used over data at rest, including, access controls and encryption.
- Where applicable, Payment Card information must be masked on display rendering in a manner consistent with the Payment Card Industry Data Security Standard (PCI-DSS), the Fair and Accurate Credit Transaction Act (FACTA) and all other applicable laws and regulations.
- Service Provider must disclose where Customer data will be stored and processed. Storage and Processing of Customer Confidential Information shall take place within the agreed geographies between Saba and Service Provider.

System Monitoring: Service Provider agrees to regularly audit and monitor information systems to ensure the protection of Customer Confidential Information. Monitoring includes, but is not limited to, potential breaches or hacking activity and access to devices. Service Provider has defined processes for security alerting, escalation and remediation. Service Provider will ensure that event logs with Customer data are not provided to

other subscribers. If Service Provider uses virtual machines, it must ensure there is granular monitoring of traffic that is crossing the virtual machine backplanes.

Vulnerability Management Controls: Service Provider agrees to employ effective vulnerability management control measures over all of its systems used to create, transmit, or process Customer Confidential Information, including; but, not limited to:

- Deploy and maintain currency of up-to-date commercially available anti-virus, anti-spam, anti-malware software on all information system components including personal computers, laptops, and interconnecting networks, where applicable, used for the purpose of managing Customer Confidential Information. Additionally, provide for regular scanning for viral infections and update virus signature files frequently.
- Maintain a standard patch management process and practice to ensure the protection of any devices used to access, process or store Customer Confidential Information.
- Regularly auditing and monitoring to ensure the protection of Customer Confidential Information.

Data Destruction: Service Provider shall ensure that residual magnetic, optical, or electrical representation of Customer Confidential Information that has been deleted may not be retrieved or reconstructed when storage media is transferred, become obsolete or is no longer usable or required by Customer.

- Service Provider data retention and destruction will comply with applicable laws or regulations.
- Confidential information stored on Service Provider media (e.g., hard drive, optical discs, digital media, tapes, paper, etc.) will be rendered unreadable or unattainable using the NIST Guidelines for Media Sanitization (Special Pub 800-88), prior to the media being recycled, disposed of, or moved off-site.

RESOLUTION 107 - 15

A RESOLUTION OF THE CITY OF CAPE CORAL CITY COUNCIL APPROVING THE PURCHASE BY THE CITY MANAGER OF VEHICLE AND EQUIPMENT CAPITAL ASSETS FUNDED BY THE GENERAL FUND AND IDENTIFIED IN THE ATTACHED EXHIBIT A, AND TO DISPOSE OF ANY CITY-OWNED SURPLUS TANGIBLE PERSONAL PROPERTY THAT IS NO LONGER NEEDED BY THE CITY AS THE RESULT OF THE PURCHASE OF SUCH CAPITAL ASSETS FROM THE AFOREMENTIONED PURCHASES IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2-154 OF THE CITY CODE AND THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City staff has identified the need for the purchase of new and replacement vehicles, equipment, and software for the Police Department, Fire Department, Department of Community Development, Public Works, Parks and Recreation, and ITS, as outlined in the attached Exhibit A; and

WHEREAS, pursuant to the Code of Ordinances, Section 2-142(e), the City Manager has the authority to execute all procurement-related purchase orders, contracts, contract amendments and contract renewals in excess of \$50,000 after City Council approval; and

WHEREAS, pursuant to the Code of Ordinances, Section 2-141(c), the City Council may authorize the waiver of procurement procedures upon the recommendation of the City Manager that it is in the City's best interest to do so to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors; and

WHEREAS, the Code of Ordinances, Section 2-154 identifies the procedures and requirements for the proper disposition of surplus City-owned tangible personal property; and

WHEREAS, the City Manager requests City Council approval to purchase the vehicles, equipment, and software identified in the attached Exhibit A, to be funded by the General Fund; and

WHEREAS, the City Manager requests City Council to authorize the waiver of procurement procedures for the purchase of the items identified in Exhibit A if the City Manager finds that it is in the City's best interest to do so to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors; and

WHEREAS, the City Council finds that, in order to avoid unnecessary delays due to vehicle and equipment failures and to eliminate redundancy in the administrative process, it is in the best interest of the City to approve at this time the execution by the City Manager of all procurement-related purchase orders, contracts, contract amendments and contract renewals in excess of \$50,000, and to authorize the waiver of procurement procedures if the City Manager finds that it is in the City's best interest to do so for the purchase of any and all of the new and replacement equipment, vehicles, and software identified in the attached Exhibit A.

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

Section 1. The City Council hereby approves the execution by the City Manager of all procurement-related purchase orders, contracts, contract amendments and contract renewals in excess of \$50,000 for the purchase of new and replacement equipment, vehicles and software identified in the attached Exhibit A, pursuant to Section 2-142(e).

Section 2. The City Council hereby approves the waiver of procurement procedures in the event the City Manager believes that it would be in the City's best interest to obtain any equipment, vehicles or software identified in the attached Exhibit A outside of the normal procurement procedures identified in Section 2-144 of the City Code, pursuant to Section 2-141(c).

Section 3. If, as the result of a purchase of a replacement capital asset identified in the attached Exhibit A, the City Manager determines that any City-owned tangible personal property is surplus,

the City Manager is hereby authorized to dispose of the surplus property as provided in Section 2-154(c) of the City Code of Ordinances. Pursuant to Section 2-154(c)(6), a periodic report shall be submitted for any items sold at auction.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS 3rd DAY OF AUGUST, 2015.

Marni L. Sawicki
MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	<u>aye</u>
BURCH	<u>aye</u>
CARIOSCLA	<u>aye</u>
NESTA	<u>aye</u>
LEON	<u>aye</u>
ERBRICK	<u>aye</u>
WILLIAMS	<u>no</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 13th DAY OF August, 2015.

Rebecca van Deutekom
REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
res/Purchase Capital Equipment & Vehicles
7/23/15

FY 2014 & 2015 NON-FLEET EQUIPMENT

Item #	FY	Dept	Description	BUSINESS UNIT	Ord. 29-15 Items
57	2015	Parks & Rec	Playground Equipment Replace - Burton	172001	58,000
58	2015	Police	FRED-Forensic Recovery Unit (Replacement)	121103	6,000
59	2015	Police	License Plate Readers (Replacement)	121202	22,000
60	2015	Police	In-Car Video Cameras (Replacement)	121203	55,000
61	2015	ITS	CRW Enhancements	118201	5,000
62	2015	ITS	Learning Management System for Human Resources	118201	122,000
63	2015	ITS	Image Trend Purchase for Fire Department	118201	28,000
64	2015	ITS	BlueBeam Revu/CRW Workflow Enhancements	118201	5,000
65	2015	ITS	One-time cost migration Hyland OnBase to Cloud Hosting in 2016		9,500
66	2015	ITS	Provision for OnBase Enhancements	118201	29,450
67	2015	ITS	CRW CivicTRAK - set-up & first year maintenance -		26,600
68	2015	ITS	Provision for Kronos (Electronic timekeeping) Hardware/Clocks/Other	118201	25,550
69	2015	ITS	Backup System Upgrade - Media Server(s)	118301	50,000
70	2015	ITS	Data Recovery & Backup	118301	350,000
71	2015	ITS	Routers Upgrade	118301	50,000
72	2015	ITS	Server & Virtualization Upgrade	118301	1,000
73	2015	ITS	SAN Upgrade	118301	50,000
74	2015	ITS	Switches & Routers Upgrade	118301	150,000
75	2015	ITS	Blade Server Upgrade	118302	45,000
76	2015	ITS	Cable Plant Infrastructure	118303	20,000
77	2015	ITS	VO/IP Infrastructure	118303	30,910
78	2015	ITS	Server Infrastructure	180601	90,000
			FY 2015 GENERAL FUND ITEMS		1,520,019
79	2015	Parks & Rec	Air Handler Condensing Unit-Rotary	272016	4,000
80	2015	Parks & Rec	Electronic/Game Equipment Replacement	272026	5,000
81	2015	Parks & Rec	Paragon 240volt GL-44 kiln	272021	5,500
82	2015	Parks & Rec	Pool Vacuum Replacement	272023	5,500
83	2015	Parks & Rec	Stage Back Drop, Front Skirt and Sidewalls	272015	6,000
84	2015	Parks & Rec	Convection Oven-double	272013	6,325
85	2015	Parks & Rec	3 Ton Air Handler Condensing Unit - Special Pops	272012	7,000
86	2015	Parks & Rec	5 Ton Air Handler & Conditioner - Special Pops	272012	7,000
87	2015	Parks & Rec	Hydraulic Replacement on Stage	272015	8,000
88	2015	Parks & Rec	Electric Press (Jewelry Lab)	272021	8,000
89	2015	Parks & Rec	Replace obsolete filtration controller	272023	8,500
90	2015	Parks & Rec	All Purpose Deck and Z Stands Drum Riser	272015	9,000
91	2015	Parks & Rec	A/c Replacement (Daycare) - Four Freedoms	272022	9,430
92	2015	Parks & Rec	AC Unit Replace - Rotary	272016	10,000
93	2015	Parks & Rec	Lake Kennedy 3 Ton A/C Replacement-	272019	10,000
94	2015	Parks & Rec	Replace 5 ton Air handler & condenser bldg #2 Art Studio	272021	10,000
95	2015	Parks & Rec	Replacement/Repair of Equipment	272027	10,000
96	2015	Parks & Rec	Mini split a/c system for YC office	272025	10,400
97	2015	Parks & Rec	A/c Replacement (Daycare) - Four Freedoms	272022	12,000
98	2015	Parks & Rec	Replace 7.5 ton AH & Condensing unit - Rotino	272018	12,250
99	2015	Parks & Rec	Admin. Building #2 5 Ton Rooftop Package A/C Replacement	272021	14,000
100	2015	Parks & Rec	Ballroom Chairs	272025	18,600
101	2015	Parks & Rec	A/C Replacement- Main Building Four Freedoms	272022	20,000
102	2015	Parks & Rec	Replacement of AC Units Youth Cents	272026	20,000
103	2015	Parks & Rec	Replace obsolete filtration controller	272023	20,236
104	2015	Parks & Rec	A/C Replacement- Main Building Four Freedoms	272022	30,000
105	2015	Parks & Rec	Replacement of AC Units Youth Center	272026	40,000
			Total Other P&R		326,741

TOTAL ALL NON-FLEET EQUIPMENT FY 2014 & 2015

3,035,658

FY 2014 & 2015 NON-FLEET EQUIPMENT

Item #	FY	Dept	Description	BUSINESS UNIT	Ord. 29-15 Items
1	2014	City Clerk	WorkGroup Scanner(s) 26394,26933	120201	6,000
2	2014	ITS	GIS Server Infrastructure Upgrades	180601	46,500
3	2014	ITS	ArcGIS Extensions purchase	180601	10,000
4	2014	ITS	Server Upgrade (Legacy Applications)	118301	40,000
5	2014	ITS	Firewall Upgrade	118301	25,000
6	2014	ITS	WiFi Systems Upgrade	118302	25,000
7	2014	ITS	Access & Monitoring Systems Upgrade - Cameras; Video Storage	118301	30,000
8	2014	ITS	Police Toughbook Replacements (31)	118302	71,920
9	2014	ITS	SAN Shelves/Drives	118301	40,000
10	2014	ITS	Blade Server Upgrade	118301	40,000
11	2014	ITS	Blade Server Upgrade	118302	40,000
12	2014	ITS	Security Enhancements	118301	50,000
13	2014	ITS	Upgrade Kronos WFC from version 6.2 to 6.4	118201	57,470
14	2014	ITS	Routers Upgrade	118301	100,000
15	2014	ITS	Switches Upgrade	118301	300,000
16	2014	Parks & Rec	Sod Cutter - #21365	172001	7,000
17	2014	Police	SWAT Vests (Replacement)	121203	6,500
18	2014	Police	SWAT Gas Masks / Helmets (Replacement)	121203	12,150
19	2014	Police	Weapons (Replacement)	121101	36,000
20	2014	Police	In-Car Video Cameras (Replacement)	121203	55,000
21	2014	Public Works	Replace computer (K. Lynch)	130121	1,325
22	2014	Public Works	Replace computer (T. Miller)	130127	1,325
23	2014	Public Works	Additional traffic turn movement counter (1)	130127	1,500
24	2014	Public Works	Replace 1996 Gas Post Cutter # 13590	130125	1,533
25	2014	Public Works	Replace compactor plate type #23520	130103	1,835
26	2014	Public Works	New Earth Hydraulic Auger #25443	130125	3,114
27	2014	Public Works	Replace Grinder/Planer #24080	130125	3,713
28	2014	Public Works	Replace Traffic Tech Laptops #22195	130125	4,458
29	2014	Public Works	Replace Bitrminus Machine #25432	130125	5,791
30	2014	Public Works	Replace Thermo Crane #19111	130125	6,558
31	2014	Public Works	Replace 1990 PM Eraser/Grinder #11440	130125	8,538
32	2014	Public Works	Replace GIS Plotter #20132	130129	10,000
33	2014	Public Works	Replace Sign Shop Plotter #19947	130125	12,731
34	2014	Public Works	New Ice Machine #22155	130103	8,187
			TOTAL GENERAL FUND		1,069,148
35	2014	Parks & Rec	Rotary Park office 4 ton a/c replacement	272016	5,250
36	2014	Parks & Rec	Floor Scrubber Replacement	272022	6,000
37	2014	Parks & Rec	Pool Heaters (4, Main Pool)	272023	7,000
38	2014	Parks & Rec	Replacement/Repair of Equipment	272027	8,000
39	2014	Parks & Rec	New Computer for Eco Kayak Shack w/ wifi	272016	9,000
40	2014	Parks & Rec	3T AC Package - Skate Park	272027	10,000
41	2014	Parks & Rec	Admin Bldg 6 1/2 T Rooftop Package A/C Replacement Art Studio	272021	12,000
42	2014	Parks & Rec	Replace Transition Plates	272027	16,500
43	2014	Parks & Rec	A/C replacement (1.5T A/H CU) - Lake Kennedy	272019	20,000
44	2014	Parks & Rec	25 Ton Condensing Unit - Yacht Club	272025	26,000
			TOTAL OTHER P&R		119,750
			GENERAL FUND		
45	2015	City Clerk	Blueprint Scanner(s) 26318/25248	120201	14,600
46	2015	City Attorney	Case Management Software	112001	32,000
47	2015	Fire	Gear Washer/Extractor	122301	8,500
48	2015	Fire	Repl/Outboard motor M-3 (ID #19169)	122101	15,000
49	2015	Fire	(2)Thermal Imaging camera - (5 yr. exp. Life)	122301	23,310
50	2015	Fire	Breathing Air Compressor for HP System	122301	35,000
51	2015	Fire	Hydraulic Rescue	122301	57,963
52	2015	Fire	Physio Control (2-FY2014 & 4-FY2015)	122191	70,000
53	2015	Human Resources	Heavy Duty Scanner Replacement (#24516) Admin.	125101	5,636
54	2015	Parks & Rec	Misc. Small Equip. Replacements	172001	6,000
55	2015	Parks & Rec	Playground Equipment Replace - Giuffrida	172001	8,000
56	2015	Parks & Rec	Playground Safety Surface Replace - Yacht Club Beach	172001	15,000

FLEET LISTING FY 2014 NON-FIRE PLUS BALANCE OF FY 2015

Business Unit		EQ #	Year	Make	Model	In Service Date	Meter Info	Maint Info	Est Repl Cost
130103	10000 PW Maintenance	26170	2010	CUB CADET	C460	Dec 21, 10	1,181	\$14,671.16	\$18,637
130103	10000 PW Maintenance	19306	2002	NEW HOLLAND	TN65	Aug 22, 02	1,280	\$13,528.88	\$45,000
130103	10000 PW Maintenance	19307	2002	NEW HOLLAND	TN65	Aug 22, 02	294	\$12,415.34	
130123	10000 PW Survey	20085	2003	FORD	E250	May 16, 03	103,473	\$10,922.08	\$75,000
130125	10000 PW Traffic Operations	20667	2003	MGS	P-Trailer	Mar 02, 04		\$12,617.77	\$95,000
130125	10000 PW Traffic Operations	21109	2004	FORD	F350	Aug 01, 04	96,843	\$13,219.92	\$65,000
130125	10000 PW Traffic Operations	22929	2007	FORD	F450	Aug 07, 06	95,213	\$35,167.11	\$95,000
130125	10000 PW Traffic Operations	22271	2006	FORD	F150	Jan 01, 06	49,457	\$3,637.57	\$24,000
171001	10000 Parks and Rec General Adm	17409	2000	GMC	SONOMA	Apr 01, 00	123,278	\$9,478.09	\$24,000
172001	10000 Parks Maintenance	21713	2005	TORO	SANDPRO 3020	Apr 21, 05	1,288	\$5,049.99	\$20,000
172001	10000 Parks Maintenance	22633	2006	TORO	SANDPRO 3020	Mar 31, 06	1,124	\$6,235.04	\$20,000
172001	10000 Parks Maintenance	22629	2006	TORO	SANDPRO 3020	Mar 31, 06	2,376	\$9,059.21	\$20,000
172001	10000 Parks Maintenance	20648	2004	CHEVROLET	SILVERADO 1500	Feb 01, 04	117,848	\$9,475.83	\$25,000
172001	10000 Parks Maintenance	19964	2003	FORD	F250	Mar 04, 03	119,280	\$8,524.72	\$25,000
172001	10000 Parks Maintenance	19985	2003	FORD	F250	Apr 01, 03	114,160	\$6,454.62	\$25,000
172001	10000 Parks Maintenance	20395	2003	FORD	F350	Nov 01, 03	137,120	\$13,867.40	\$30,000
172001	10000 Parks Maintenance	20405	2003	FORD	F350	Nov 06, 03	137,023	\$8,780.28	\$30,000
172001	10000 Parks Maintenance	19235	2002	TORO	328-D	Aug 01, 02	580	\$1,574.16	\$20,000
SUBTOTAL									\$2,589,637
272020	27200 Transportation	18289	2001	FORD	E450	May 07, 01	204,445	\$64,197.07	\$75,000
272020	27200 Transportation	17376	2000	CHEVROLET	ASTRO	Mar 07, 00	113,543	\$15,127.18	\$27,000
272020	27200 Transportation	20043	2003	FORD	WINDSTAR	Apr 11, 03	174,480	\$23,449.58	\$27,000
SUBTOTAL									\$129,000
TOTAL FY 2014 NON FIRE FLEET									\$2,718,637
DCD Inspector Vehicle									\$29,000
Equipment for Fire Ladder Truck (FY 2014 Listing)									\$20,000
Equipment for Fire Pumper Truck (FY 2014 Listing)									\$20,000
Additional Fire Vehicle									\$30,666
Equipment for New Fire Vehicle									\$10,000
SUBTOTAL BALANCE OF FY 2015 FLEET									\$109,666
TOTAL FLEET									\$2,828,303
EQUIPMENT ATTACHMENT TOTAL									\$3,035,658
TOTAL									\$5,863,961

FLEET LISTING FY 2014 NON-FIRE PLUS BALANCE OF FY 2015

Business Unit	EQ #	Year	Make	Model	In Service	Meter Info	Maint Info	Est Repl	
					Date			Cost	
120101	10000 Communications	22777	2006	FORD	FREESTAR	Jun 01, 06	138,000	\$9,751.39	\$30,000
121101	10000 Police Support Administration	23826	2004	CHEVROLET	SILVERADO 2500	Mar 26, 04	128,878	\$12,997.67	\$30,000
121101	10000 Police Support Administration	23779	2007	FORD	CROWN VICTORIA	Mar 08, 07	112,992	\$13,785.88	\$43,000
121101	10000 Police Support Administration	23786	2007	FORD	CROWN VICTORIA	Mar 09, 07	111,582	\$17,594.35	\$43,000
121101	10000 Police Support Administration	22563	2006	FORD	CROWN VICTORIA	Apr 06, 06	111,153	\$20,699.29	\$43,000
121101	10000 Police Support Administration	23780	2007	FORD	CROWN VICTORIA	Feb 27, 07	110,404	\$11,958.88	\$43,000
121101	10000 Police Support Administration	23625	2007	FORD	CROWN VICTORIA	Mar 02, 07	110,252	\$18,549.28	\$43,000
121101	10000 Police Support Administration	22548	2006	FORD	CROWN VICTORIA	Apr 01, 06	110,239	\$20,464.08	\$43,000
121101	10000 Police Support Administration	23772	2007	FORD	CROWN VICTORIA	Mar 08, 07	108,801	\$14,002.26	\$43,000
121101	10000 Police Support Administration	23785	2007	FORD	CROWN VICTORIA	Mar 09, 07	108,516	\$12,993.21	\$43,000
121101	10000 Police Support Administration	22555	2006	FORD	CROWN VICTORIA	Apr 01, 06	107,602	\$13,336.55	\$43,000
121101	10000 Police Support Administration	23620	2007	FORD	CROWN VICTORIA	Mar 02, 07	107,338	\$14,804.92	\$43,000
121101	10000 Police Support Administration	23615	2007	FORD	CROWN VICTORIA	Mar 02, 07	106,214	\$16,279.66	\$43,000
121101	10000 Police Support Administration	22559	2006	FORD	CROWN VICTORIA	Apr 06, 06	106,004	\$10,652.09	\$43,000
121101	10000 Police Support Administration	22552	2006	FORD	CROWN VICTORIA	Apr 01, 06	105,890	\$12,337.26	\$43,000
121101	10000 Police Support Administration	23621	2007	FORD	CROWN VICTORIA	Mar 02, 07	105,345	\$10,837.58	\$43,000
121101	10000 Police Support Administration	22573	2006	FORD	CROWN VICTORIA	May 01, 06	104,564	\$19,580.47	\$43,000
121101	10000 Police Support Administration	22553	2006	FORD	CROWN VICTORIA	Apr 01, 06	104,192	\$14,818.47	\$43,000
121101	10000 Police Support Administration	22695	2006	DODGE	CHARGER	May 03, 06	102,484	\$35,566.78	\$43,000
121101	10000 Police Support Administration	24900	2008	FORD	CROWN VICTORIA	Feb 13, 08	101,695	\$15,575.29	\$43,000
121101	10000 Police Support Administration	23787	2007	FORD	CROWN VICTORIA	Mar 14, 07	101,507	\$12,141.08	\$43,000
121101	10000 Police Support Administration	23778	2007	FORD	CROWN VICTORIA	Mar 08, 07	101,205	\$16,521.61	\$43,000
121101	10000 Police Support Administration	22568	2006	FORD	CROWN VICTORIA	May 01, 06	100,400	\$16,784.44	\$43,000
121101	10000 Police Support Administration	22566	2006	FORD	CROWN VICTORIA	Apr 06, 06	99,213	\$15,066.67	\$43,000
121101	10000 Police Support Administration	23826	2007	CHEVROLET	TAHOE	Mar 20, 07	95,506	\$30,234.97	\$45,000
121101	10000 Police Support Administration	22538	2006	FORD	EXPEDITION	Mar 09, 06	122,848	\$13,898.19	\$50,000
121101	10000 Police Support Administration	22231	2006	CHEVROLET	TAHOE	Jan 01, 06	110,700	\$23,852.06	\$50,000
121101	10000 Police Support Administration	22232	2006	CHEVROLET	TAHOE	Jan 01, 06	110,510	\$28,844.84	\$50,000
121101	10000 Police Support Administration	22848	2006	CHEVROLET	IMPALA	Jul 01, 06	106,232	\$11,892.90	\$27,500
121101	10000 Police Support Administration	23592	2007	CHEVROLET	IMPALA	Mar 01, 07	101,427	\$17,053.66	\$27,500
121101	10000 Police Support Administration	22706	2006	DODGE	CHARGER	May 10, 06	92,339	\$22,352.23	\$27,500
121101	10000 Police Support Administration	22696	2006	DODGE	CHARGER	May 03, 06	82,236	\$24,849.85	\$27,500
127401	10000 Code Compliance	20646	2004	FORD	TAURUS	Feb 05, 04	93,460	\$13,205.89	\$24,000
127401	10000 Code Compliance	20645	2004	FORD	TAURUS	Feb 03, 04	92,600	\$11,444.52	\$24,000
130103	10000 PW Maintenance	16785	1999	FORD	F250	Jun 23, 99	120,592	\$15,743.82	\$25,000
130103	10000 PW Maintenance	17897	2001	FORD	F350	Jan 01, 01	123,454	\$22,450.97	\$32,000
130103	10000 PW Maintenance	19984	2003	INTERNATIONAL	4400	Mar 01, 03	175,795	\$112,043.67	\$190,000
130103	10000 PW Maintenance	17392	2000	CASE	621C	Mar 20, 02	8,367	\$108,620.82	\$140,000
130103	10000 PW Maintenance	18782	2002	CARLTON	3500D	Jan 01, 02	638	\$24,380.73	\$49,000
130103	10000 PW Maintenance	24071	2007	HUSTLER	4600	Jun 01, 07	1,791	\$24,094.76	\$23,000
130103	10000 PW Maintenance	24072	2007	HUSTLER	4600	Jun 01, 07	1,276	\$28,741.36	\$23,000
130103	10000 PW Maintenance	24073	2007	HUSTLER	4600	Jun 01, 07	1,968	\$38,374.11	\$23,000
130103	10000 PW Maintenance	24773	2007	DIXIE CHOPPER	XWD-3500-60	Nov 19, 07	512	\$10,531.04	\$23,000
130103	10000 PW Maintenance	25330	2008	GRASSHOPPER	930D	Oct 01, 08	1,416	\$19,187.24	\$23,000
130103	10000 PW Maintenance	25331	2008	GRASSHOPPER	930D	Oct 01, 08	1,068	\$22,453.92	\$23,000

Exhibit A

Item Number: B.(3)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 138-19 Award ITB-PW19-66/MM Hurricane Irma Tree Replacements – Phase 1 to DeAngelo Brothers, LLC., d/b/a Aquagenix as the lowest responsive responsible bidder, to replace palms and trees in various medians throughout the City, in the amount of \$84,820 with a City Controlled contingency of \$8,500 for a total project cost of \$93,320 and authorize the City Manager or Designee to execute the agreements, amendment and any renewals; Department: Public Works; Dollar Value \$93,320; (Transportation Capital Project Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. This project is to replace 114 palms and trees in various medians throughout the City. The scope includes the replacement of palms, trees, installing bracing, supports, banding, straps, removal of miscellaneous stumps, adding additional irrigation line to install bubblers, leveling or grading, augment soil and disposal of all debris. A large quantity of these palms and trees were loss resultant the wind and effect of Hurricane Irma in September 2017.
2. On April 3, 2019, the City issued Invitation to Bid ITB-PW19-66/MM for experienced and qualified firms to replace the palms and trees.
3. On May 10, 2019, two (2) firms responded to the Invitation to Bid. The two (2) firms in alphabetical order are: DeAngelo Brothers, LLC., d/b/a Aquagenix and Superior Landscaping & Lawn Service, Inc.
4. After evaluation and review, Staff recommends award to DeAngelo Brothers, LLC., d/b/a Aquagenix as the lowest responsive, responsible bidder meeting the requirements and specifications outlined in the bid documents.
5. If approved, the contract amount is for \$84,820 with a city-controlled contingency of \$8,500 for a total of \$93,320 to be substantially completed within 90 days from the City issuing a Notice to Proceed
6. The Department is requesting a City Controlled Contingency. The expenditure of the contingency, if any, will be subject to approval of specific change orders by the Project manager, if justified upon identified needs with an appropriate scope and cost to address

specific needs.

7. This is a budgeted item

8. Funding: Business Unit 3010610 Median Maintenance

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Department Recommendation

Resolution 138-19

Bid Matrix – ITB-PW19-66/MM

PREPARED BY:

Wanda

Roop

Division- Procurement

Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, Public Works Director

ATTACHMENTS:

Description	Type
▢ Department Recommendation	Backup Material
▢ Resolution 138-19	Resolution
▢ Bid Matrix - ITB-PW19-66/MM	Backup Material

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

FINANCE

MAY 21 2019

RECEIVED

TO: John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Paul Clinghan, Public Works Director *PRC*
Stephanie Smith, PW Design and Construction Manager *SBS*

DATE: May 15, 2019

SUBJECT: Hurricane Irma Tree Replacements – Phase 1 Bid No. ITB-PW19-66/MM

BACKGROUND: This project is to replace a total of 114 palms and trees in various medians throughout the City, lost as a result of Hurricane Irma in September 2017. Nursery stock, also damaged during the hurricane, is more widely available now.

RECOMMENDATION: An Invitation to Bid was advertised and two (2) bids were submitted and opened on May 10, 2019. Based upon the bid opening results, the Public Works Department recommends awarding the Hurricane Irma Tree Replacements-Phase 1 to Aquagenix. A check of Aquagenix's references showed a satisfactory rating. The contract includes a substantial completion time frame of ninety (90) days after the notice to proceed is issued.

Staff recommends awarding the contract in the amount of \$84,820 for the Hurricane Irma Tree Replacements-Phase 1 project. The contract price including a City controlled contingency of \$8,500 totaling \$93,320.

If you have any questions regarding this request, please contact John Castle, Senior Project Manager, Public Works at 239-242-3945 or jcastle@capecoral.net.

FUND AVAILABILITY: Transportation-Capital Improvements: Business Unit 3010610-\$84,820 plus a City controlled contingency of \$8,500 for a total project cost of \$93,320.

PC/SS:jc

RESOLUTION 138 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR HURRICANE IRMA TREE REPLACEMENTS – PHASE I TO DEANGELO BROTHERS, LLC D/B/A AQUAGENIX; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT DOCUMENTS BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 3, 2019, INVITATION TO BID ITB-PW19-66/MM was issued for the replacement of 114 palms and trees in various medians throughout the City lost as a result of Hurricane Irma; and

WHEREAS, having received two bids, the City Manager recommends the award of the bid to DeAngelo Brothers, LLC d/b/a Aquagenix as the lowest qualified responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid, in the amount of \$84,820, subject to a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

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

Section 1. The City Council hereby awards the bid for Hurricane Irma Tree Replacements – Phase I to DeAngelo Brothers, LLC d/b/a Aquagenix in the amount of \$84,820, subject to a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

Section 2. The City Council hereby approves Contract #CON-PW19-66/MM between the City of Cape Coral and DeAngelo Brothers, LLC d/b/a Aquagenix for Hurricane Irma Tree Replacements – Phase I, and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

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

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Bid Award-DeAngelo Brothers dba Aquagenix

City of Cape Coral
HURRICANE IRMA TREE REPLACEMENTS – PHASE 1
Contract CON-PW19-66/MM

THIS CONTRACT is made this _____ day of _____, 2019 by and between the CITY OF CAPE CORAL, FLORIDA, hereinafter called "CITY", and DEANGELO BROTHERS, LLC., d/b/a AQUAGENIX, doing business as a corporation, located at 100 North Conahan Drive, Hazelton, PA 18201 hereinafter called "CONTRACTOR"

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

1. Contractor shall install additional palms and trees as shown on the Site Plans. This work will include installing bracing, supports, banding, straps, removal of miscellaneous stumps, adding additional irrigation line to install bubblers and disposal of all debris in accordance with the Contract Documents.
2. The CONTRACTOR will commence work as required by the CONTRACT DOCUMENTS within 10 calendar days after the receipt of the written Notice to Proceed and will complete the same in accordance within ninety (90) days unless otherwise amended in writing.
3. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS for the total lump sum price of \$84,820.00 said amount being the Total quoted amount as listed on the CONTRACTOR'S Official Bid Proposal Form for this project, specifically Exhibit A hereto and made a part hereof. At the City's discretion items listed as Additional Bid Items in the Contract Documents may or may not be purchased.
4. This Contract may be terminated by the CITY for its convenience upon thirty (30) days prior written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract. Such amount shall be paid by the CITY after inspection of the work to determine the extent of performance under this Contract, whether completed or in progress.
5. The Term "Contract Documents" shall include this Contract, addenda, Contractor's Bid except when it conflicts with any other contractual provision, the Notice to Proceed, the Bonds, and the Bid Package which includes the Site Plans for the tree replacements prepared and issued by the City. In the event of conflict between any provision of any other document referenced herein as part of the contract and this Contract, the terms of this Contract shall control.
6. Assignment. This Contract may not be assigned except with the written consent of the CITY and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
7. Disclosure. The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage gift, or other compensation contingent upon or resulting from the award or making of the Contract.
8. Administration of Contract. The Public Works Director or his representative, shall administer this Contract for the CITY.

1
Exhibit 1

City of Cape Coral
HURRICANE IRMA TREE REPLACEMENTS – PHASE 1
Contract CON-PW19-66/MM

9. Governing Law: The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible to pay for its own reasonable costs and attorney fees.
10. Amendments: No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties
11. Payments
CITY shall make payment and CONTRACTOR shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice unless, within a fifteen (15) day period, CITY notifies CONTRACTOR in writing of its objection to the amount of such invoice, together with CITY'S determination of the proper amount of such invoice. CITY shall pay any undisputed portion of such invoice within such thirty (30) day period.
- If CITY shall give such notice to the CONTRACTOR within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, CITY shall promptly pay the CONTRACTOR the amount so determined, less any amounts previously paid by CITY with respect to such invoice. In the event it is determined that CITY has overpaid such invoice, the CONTRACTOR shall promptly refund to the CITY the amount of such overpayment.
12. Contractor's Representations: In order to induce CITY to enter into the Contract CONTRACTOR makes the following representations
- CONTRACTOR has been familiarized with the Contract Documents and the nature and extent of the work required to be performed, locality, local conditions, and Federal, State, and Local laws, ordinances, rules and regulations that in any manner may affect costs, progress or performance of the work.
- CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract
- Documents, and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes
- CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- CONTRACTOR has given CITY written notice of all conflicts, errors or discrepancies that have been discovered in the CONTRACT DOCUMENTS and the written resolution thereof by CITY is acceptable to CONTRACTOR
13. Indemnity: To the extent permitted by law (F.S. 768.28), the CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract

City of Cape Coral
HURRICANE IRMA TREE REPLACEMENTS - PHASE 1
Contract CON-PW19-66/MM

14. Damage Liability. The awarded CONTRACTOR shall be responsible for all claims filed for damage to private property, windows, screen enclosures, real estate signs, etc. Additionally, the CONTRACTOR shall be responsible for damage to all public property or utility property, fire hydrants, catch basins, guy wires, telephone pedestals, etc. Copies of all damage claims shall be submitted to the Procurement Division.
15. Invalid Provision. The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
16. Project Records. The CONTRACTOR shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting methods, and the CITY reserves the right to determine the record-keeping method in the event of non-conformity. These records shall be maintained for three (5) years after final payment has been made and shall be readily available to CITY personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.
17. Insurance. Without limiting its liability under this contract, CONTRACTOR shall procure and continuously maintain, without interruption, at its own expense the following insurance (limits and specifications) during the life of this Contract:
 - a. Worker's Compensation Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The policy must include Employer's Liability with a minimum limit of \$1,000,000.00 for each accident.
 - b. Comprehensive General Liability coverage shall have minimum limits of \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. This shall include Premises and/or Operations, Independent Contractors and Products and/or Completed Operations, Broad Form Property Damage, and Contractual Liability Endorsement.
 - c. Business Vehicular Liability coverage shall have minimum limits of \$1,000,000.00 per occurrence. Combined Single Limit for Bodily Injury Liability, and Property Damage Liability. This shall include Owned Vehicles, Hired and non-Owned Vehicles and Employees Non-Ownership.
 - d. The City shall be listed as an Additional Insured on all policies. In the event the insurance coverage expires prior to completion of the project, a renewal certificate shall be issued 30 days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy.
 - e. Unless otherwise specified, it shall be the responsibility of the proposing firm to ensure that all sub-Contractors comply with the same insurance requirements herein. All certificates of insurance must be on file with and approved by the City before the commencement of work activities. Waivers of subrogation shall also be provided upon approval of the applicable insurers.
 - f. The proposing firm shall "flow down" the requirements of this provision to all sub-Contractors.
 - g. The limits of insurance required above must be retained throughout the term of the contract. The proposing firm must notify the City immediately if any of the required coverage limits are reduced due to claim activity or for any other reason.

City of Cape Coral
HURRICANE IRMA TREE REPLACEMENTS – PHASE 1
Contract CON-PW19-66/MM

18. Annual Appropriation Contingency: Pursuant to Florida Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.
19. Unauthorized Aliens: The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this ITB. This applies to any sub-contractors used by the Contractor as well.
20. Entire Agreement: This Contract constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

City of Cape Coral
HURRICANE IRMA TREE REPLACEMENTS – PHASE 1
Contract CON-PW19-66/MM

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

(SEAL)
ATTEST:

Kimberly Bruns, CMC
City Clerk

CITY:
CITY OF CAPE CORAL

A. John Szerlag
City Manager

Date

WITNESS CONTRACTOR

Helen Jones
Signature
Helen Jones
Name (Print)
Admin. Asstant
Title

Date

CONTRACTOR:

DeAngelo Brothers LLC. d/b/a Agairgenix
Company
George Bowling
Signature
George Bowling
Name (Print)
New Business Manager
Title

Date

LEGAL REVIEW

DL 5/28/19
Dolores Menendez
City Attorney

EXHIBIT A

Official Bid Proposal

Bid Sheet

Page 2 of 3

Item	Common name	Scientific Name	Height	Spread	Caliber	Quantity	Units	Unit Price	Extended Price
	Celtis Gunda	Padium thorne	4-8' DA	14' max	7A	0	EA	\$480.00	\$0.00
	East Palmetto Holly	Re. attenuata Swingle	8-10' DA	14' max	11' max	11	EA	\$480.00	\$14,880.00
	Green Buttonwood	Conocarpus erectus	4-8' DA	4' max	11' max	7	EA	\$480.00	\$3,360.00
	Gumbo Limbo	Bursera simaruba	10-12' DA	Not to exceed 20'	NA	14	EA	\$480.00	\$11,520.00
	Jamaican Blueberry	Flemingia strobilifera	4-8' DA	4' max	11' max	14	EA	\$720.00	\$10,080.00
	Liquidambar	Liquidambar styraciflua	4-8' DA	4' max	7A	4	EA	\$480.00	\$2,880.00
	Liver Tree	Quercus virginiana	12-14' DA	4' max	NA	1	EA	\$800.00	\$1,600.00
	Pigeon Plum	Coccoloba diversifolia	8-10' DA	4' max	11' max	4	EA	\$800.00	\$2,560.00
	Royal Palm	Roystonea regia	20-25' DA 6" DBH	Not to exceed 20'	NA	4	EA	\$3,800.00	\$14,400.00
	Sabal Palm Smooth Single Trunk	Sabal palmetto	18-24' DA 3 1/2" DBH	4' max	11' max	20	EA	\$650.00	\$13,000.00
	See Group Tree Palm	Coccoloba unifera	4' DA	4' max	NA	2	EA	\$720.00	\$1,440.00
	Slash Pine	Pinus strobus	10-12' DA	4' max	11' max	1	EA	\$480.00	\$1,440.00
Other Bid Items									
	Maintenance	Not to exceed 5% of total project cost							\$6,800.00
	Maintenance of Light	Not to exceed 1% of total project cost							\$2,500.00
All inclusive total lump sum price per requirements as stated in the scope of work and bid documents.									\$84,820.00
									\$84,820.00



HURRICANE IRMA TREE REPLACEMENTS - PHASE 1
ITB-PW19-66/MM
Bid Due Date: 5/10/19

								Aquagenix Ft Myers, FL		Superior Landscaping & Lawn Service, Inc Miami FL	
Item	Common name	Scientific Name	Height	Spread	Caliber	Quantity	Units	Unit Price	Extended Price	Unit Price	Extended Price
1	Cattley Guava	<i>Psidium littorale</i>	6'-8' OA	14' max	N/A	2	EA	\$480.00	\$960.00	\$966.00	\$1,932.00
2	East Palatka Holly	<i>Ilex x attenuata 'Savannah'</i>	8'-10' OA	14' max	11" max	31	EA	\$480.00	\$14,880.00	\$1,196.00	\$37,076.00
3	Green Buttonwood	<i>Conocarpus erectus</i>	6'-8' OA	14' max	11" max	2	EA	\$480.00	\$960.00	\$506.00	\$1,012.00
4	Gumbo Limbo	<i>Bursera simaruba</i>	10'-12' OA	Not to exceed 20'	N/A	24	EA	\$480.00	\$11,520.00	\$704.00	\$16,896.00
5	Japanese Blueberry	<i>Elaeocarpus decipens</i>	6'-8' OA	14' max	11" max	14	EA	\$720.00	\$10,080.00	\$672.00	\$9,408.00
6	Ligustrums	<i>Ligustrum japonicum</i>	6'-8' OA	14' max	N/A	6	EA	\$480.00	\$2,880.00	\$1,050.00	\$6,300.00
7	Live Oak	<i>Quercus virginiana-Cathederal</i>	12'-14' OA	14' max	N/A	2	EA	\$800.00	\$1,600.00	\$1,610.00	\$3,220.00
8	Pigeon Plum	<i>Coccoloba diversifolia</i>	8'-10' OA	14' max	11" max	4	EA	\$640.00	\$2,560.00	\$736.00	\$2,944.00
9	Royal Palm	<i>Roystonea regia</i>	20'-22' OA, 6' Gray wood	Not to exceed 20'	N/A	4	EA	\$3,600.00	\$14,400.00	\$1,840.00	\$7,360.00
10	Sabal Palm-Smooth Single Trunk	<i>Sabal palmetto</i>	16'-18' OA	14' max	11" max	20	EA	\$640.00	\$12,800.00	\$460.00	\$9,200.00
11	Sea Grape (Tree Form)	<i>Coccoloba uvifera</i>	4' CT	14' max	N/A	2	EA	\$720.00	\$1,440.00	\$276.00	\$552.00
12	Slash Pine	<i>Pinus elliotii</i>	10'-12' OA	14' max	11" max	3	EA	\$480.00	\$1,440.00	\$1,196.00	\$3,588.00
Other Bid Items											
13	Mobilization	Not to exceed 9% of total project cost				1	LS		\$6,800.00		\$8,953.92
14	Maintenance of Traffic	Not to exceed 3% of total project cost				1	LS		\$2,500.00		\$2,984.64
All inclusive total lump sum price per requirements stated in the scope of work and bid documents					Total Trees/Palms	114		\$84,820.00		\$111,426.56	

A math error was found on Line Item #10 on the original Bid Sheet for Aquagenix. The unit price of \$640 was correct but the extended price was listed as \$12,860, and the total was listed as \$84,880, a \$60 error. Aquagenix confirmed the error and revised the extended price to read \$12,800 and a total price of \$84,820.

Item Number: B.(4)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 140-19 Approve the use of General Fund Reserves to fund the construction of the Jean Inman Sculpture Pavilion, at an estimated total dollar value of \$24,959; Department: Parks and Recreation; Estimated Dollar value \$24,959; (General Fund reserves)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. On February 28, 2011, City Council approved Resolution 6-11 accepting a \$50,000 bequest from the estate of the late Norma Jean Inman for the purpose of of improving and advancing the stone sculpture program within the Parks and Recreation Arts Studio fine arts program.
2. The Parks and Recreation department is requesting release of funds to construct a well ventilated pavilion that is conducive to the work involved in the stone sculpting program such as chiseling, sanding, grinding and polishing. The estimated cost of the pavilion is \$24,959
3. The funding is available in General Fund Undesignated Reserves, which will be reimbursed by the Cape Coral Community Foundation upon completion of project.
4. Staff is requesting City Council to approve the use of General Fund Reserves to fund this project which is available in 185006.699901 Undesignated Reserve / Unassigned Fund Balance. If approved, the funding will be added to budget amendment #2

LEGAL REVIEW:

EXHIBITS:

Department Recommendation Memo
Resolution 140-19
Resolution 6-11

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Kerry Runyon, Parks & Recreation Director

ATTACHMENTS:

Description	Type
▣ Department Memo	Backup Material
▣ Resolution 140-19	Resolution
▣ Resolution 6-11	Backup Material

CITY OF CAPE CORAL
Parks and Recreation

TO: John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Kerry Runyon, Parks and Recreation Director 
Keith Locklin, Recreation Superintendent 
Julie Gerhard, Arts Studio Recreation Program Supervisor 

DATE: July 3, 2019

SUBJECT: Jean Inman Sculpture Pavilion

Background

The Stone sculpture program is in desperate need of a protected outdoor workspace that is conducive to their processes which includes chiseling, sanding, grinding and polishing, all which must take place outdoors in a ventilated area. Resolution 6-11 of the City of Cape Coral accepted the bequest from the late Norma Jean Inman for improving and advancing the stone sculpture program at the City's Arts Studio. She was recognized for her many years of devoted teaching, imparting her skills to many students. Her work and accomplishments as a team leader are evident in the sculpture, "The Florida Panther" that graces the foyer of City Hall. This project is intended to enhance the Stone Sculpture program and recognize the generocity and wishes Norma Jean Inman.

Recommendation

The Cape Coral Parks and Recreation Department requests funds in the total of \$24,959.00 to cover the construction of the Norma Jean Inman Bequest to construct a 20' Charleston hexagon pavilion, the "Jean Inman Sculpture Pavilion". The bequest funds are held by the Cape Coral Community Foundation and require a "Certificate of Use" be issued prior to releasing funds. The project to be constructed and completed by Playmore Recreational Products and Services. The City of Cape Coral Facilities Division will connect the structure to water and electric. Playmore has an active contract with the School Distric of Manatee Manatee County 16-0025-MR.

Project total: \$24,959.00

Fund Availability

Funding is available in 185006.699901 and will be reimbursed by the Cape Coral Community Foundation, Norma Jean Inman Bequest.

JG/jg

RESOLUTION 140 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL CITY COUNCIL APPROVING THE USE OF GENERAL FUND UNDESIGNATED RESERVES FOR THE CONSTRUCTION OF THE JEAN INMAN SCULPTURE PAVILION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 28, 2011, City Council adopted Resolution 6-11, accepting a bequest from the late Norma Jean Inman for the purpose of improving and advancing the stone sculpture program of the City's Arts Studio; and

WHEREAS, the Parks and Recreation Department is requesting a release of funds to construct a pavilion that is conducive to the work involved in the sculpting program, such as chiseling, sanding, grinding and polishing, at an estimated cost of \$24,959; and

WHEREAS, funding is available in the General Fund Undesignated Reserves, which will be reimbursed by the Cape Coral Community Foundation, which holds the Norma Jean Inman bequest funds, upon completion of the project; and

WHEREAS, City Council desires to approve the use of General Fund Undesignated Reserves for the funding of the Jean Inman Sculpture Pavilion project, to be reimbursed by funds from the Norma Jean Inman Memorial Trust held by the Cape Coral Community Foundation upon completion of the project.

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

Section 1. The City Council hereby approves the use of General Fund Undesignated Reserves for the funding of the Jean Inman Sculpture Pavilion project, in the estimated amount of \$24,959, to be reimbursed by funds from the Norma Jean Inman Memorial Trust held by the Cape Coral Community Foundation upon completion of the project.

Section 2. Effective Date. This resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Approve Funding-Jean Inman Sculpture Pavilion

RESOLUTION 6 - 11

A RESOLUTION OF THE CITY OF CAPE CORAL ACCEPTING A BEQUEST FROM THE LATE NORMA JEAN INMAN FOR THE PURPOSE OF IMPROVING AND ADVANCING THE STONE SCULPTURE PROGRAM OF THE CITY'S ARTS STUDIO; ACKNOWLEDGING AND RECOGNIZING HER SERVICE TO THE CITY OF CAPE CORAL'S FINE ARTS PROGRAM IN THE AREA OF STONE SCULPTURE; RECOGNIZING HER MANY YEARS OF DEVOTED TEACHING IMPARTING HER SKILLS TO HER MANY STUDENTS; ACKNOWLEDGING HER WORK AND ACCOMPLISHMENTS AS THE TEAM LEADER OF THE PROJECT TEAM THAT SCULPTED THE SCULPTURE OF THE FLORIDA PANTHER THAT GRACES THE FOYER OF CITY HALL; PROVIDING TERMS AND CONDITIONS FOR USE OF THE BEQUEST: PROVIDING AN EFFECTIVE DATE.

WHEREAS, the late Norma Jean Inman provided instruction in stone sculpture to numerous students for 18 years at the City's Arts Studio and,

WHEREAS, she was truly an inspiration to many students and patrons of the arts and unselfishly gave of her time and talents and,

WHEREAS, she continued to serve as an inspiration and example by continuing to teach even when her eye sight was failing due to macular degeneration and,

WHEREAS, an example of her great talent is exemplified by her leading the project team that produced the stunning sculpture of the Florida panther that graces the foyer of city hall and is admired by all visitors and,

WHEREAS, Norma Jean Inman's devotion to the City Arts Studio is continued by her generous bequest in support of the sculpting program and,

WHEREAS, as a result of her bequest the City desires to support the City Arts Studio stone sculpture program by establishing the Norma Jean Inman Memorial Fund (Fund).

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

Section 1. City Council authorizes the City of Cape Coral to accept the generous \$50,000 bequest from the estate of the late Norma Jean Inman and establish the Norma Jean Inman Memorial Fund (Fund). The Finance Director is authorized to establish a separate line item in the City's budget to be designated as The Norma Jean Inman Memorial Trust (Trust). All income earned from the bequest shall be deposited in the Trust to be used solely for the purposes prescribed by this resolution. The Cape Coral Community Foundation is authorized to invest the funds of the bequest in interest bearing instruments that yield the highest income consistent with prudence, safety, and the purposes of the bequest. All income generated by the bequest funds shall be segregated and set apart from other City funds. The City will not charge any fees for managing the funds of the bequest.

Section 2. The interest from the corpus may be used to support any activities or functions of the City Art Studio's sculpting program including but not limited to purchase of supplies, equipment, materials, holding exhibitions and paying prizes for works submitted, providing financial support to students, bringing renowned artists to instruct, commissioning sculptured works, or for any other purpose that fosters appreciation of, benefits, or enhances the City Art Studio's sculpting program. Where funds from the corpus or income generated from the bequest is used to support the sculpting program, the City will provide appropriate acknowledgement that the support was made possible by funds from the Norma Jean Inman Memorial Fund.

Section 3. Only the income generated from the corpus will be used to support the City Art Studio's sculpting programs. However, the corpus of the Fund may be invaded in whole or in part and the funds used to renovate, remodel, create, equip or construct a portion of a building or a structure such as a room, studio, or exhibition gallery, or to construct a separate structure or

building dedicated to the art of sculpting. In any event, the buildings or any part thereof for which monies from the corpus of the Fund are used shall be dedicated in the memory of and named after the decedent, Norma Jean Inman.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS 28th DAY OF FEBRUARY, 2011.

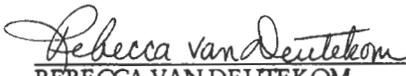


JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	<u>Aye</u>
MCCLAIN	<u>Aye</u>
BRANDT	<u>Aye</u>
DEILE	<u>Aye</u>
CHULAKES-LEETZ	<u>Aye</u>
KUEHN	<u>Aye</u>
MCGRAIL	<u>Aye</u>
DONNELL	<u>Aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 3rd DAY OF March, 2011.



REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/inman bequest

Item Number: B.(5)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 146-19 Award ITB-PR19-65/MM Parks and Recreation: Pavilions to Sussman Enterprises Southern Division Inc, as the lowest responsive responsible bidder, to install four (4) pavilion shade structures in the amount of \$189,000 with a City controlled contingency of \$11,000 for a total project cost of \$200,000 and authorize the City Manager or Designee to execute the agreements, amendment and any renewals; Department: Parks and Recreation; Dollar Value \$200,000; (Governmental Capital Project Fund-funded by GO Bond)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. This project is to install two (2) pavilion shade structures at the Northwest Softball Complex and two (2) at Horton Park as part of the GO Bond Park Improvement Plan. These pavilion structures will provide shade for residents attending sporting events and for families using the adjacent playgrounds.
2. On April 17, 2019, the City issued Invitation to Bid ITB-PR19-65/MM for experienced and qualified firms to install pavilions at the Northwest Softball Complex and Horton Park.
3. On May 22, 2019, three (3) firms responded to the Invitation to Bid. The three (3) firms in alphabetical order are: Playmore West, Inc., Sussman Enterprises Southern Division, Inc., and ZEP Construction, Inc..
4. After evaluation, Staff recommends award to Sussman Enterprises Southern Division, Inc as the lowest responsive, responsible bidder meeting the requirements and specifications outlined in the bid documents.
5. If approved, the contract amount is for \$189,000 with a City-controlled contingency of \$11,000 for a total of \$200,000 to be completed within 60 days from the written Notice to Proceed.
6. The Department is requesting an \$11,000 City Controlled Contingency. The expenditure of

the contingency, if any, will be subject to approval of specific change orders by the Project manager, if justified upon identified needs with an appropriate scope and cost to address specific needs.

7. Funding Information: Governmental Capital Project Fund- funded by GO Bond - Business Units: 3112002 Northwest Softball Complex and 3112003 Horton Park - Funded through General Obligation debt proceeds and to approve the expenditure appropriation, it will be presented with Budget Amendment # 2

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Resolution 146-19
Department Recommendation
Bid Matrix – ITB-PR19-65/MM

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Kerry Runyon, Parks and Recreation Director

ATTACHMENTS:

Description	Type
▢ Resolution 146-19	Resolution
▢ Department Recommendation	Backup Material
▢ Bid Matrix – ITB-PR19-65/MM	Backup Material

RESOLUTION 146 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR THE PARKS AND RECREATION: PAVILIONS PROJECT TO SUSSMAN ENTERPRISES SOUTHERN DIVISION INC.; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT DOCUMENTS BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 17, 2019, INVITATION TO BID ITB-PR19-65/MM was issued for the installation of two pavilion shade structures at the Northwest Softball Complex and two pavilion shade structures at Horton Park; and

WHEREAS, having received three bids, the City Manager recommends the award of the bid to Sussman Enterprises Southern Division Inc. as the lowest qualified responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid, in the amount of \$189,000, subject to a City-controlled contingency amount not to exceed \$11,000.

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

Section 1. The City Council hereby awards the bid for the Parks and Recreation: Pavilions project for the installation of two pavilion shade structures at the Northwest Softball Complex and two pavilion shade structures at Horton Park to Sussman Enterprises Southern Division Inc. in the amount of \$189,000, subject to a City-controlled contingency amount not to exceed \$11,000.

Section 2. The City Council hereby approves Contract #CON-PR19-65/MM between the City of Cape Coral and Sussman Enterprises Southern Division Inc. for the Parks and Recreation: Pavilions project, and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

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

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Bid Award-Sussman Enterprises Southern Division

City of Cape Coral
PARKS AND RECREATION: PAVILIONS
Contract CON-PW19-65/MM

THIS CONTRACT is made this _____ day of _____, 2019 by and between the CITY OF CAPE CORAL, FLORIDA, hereinafter called "CITY", and SUSSMAN ENTERPRISES SOUTHERN DIVISION INC., doing business as a corporation, located at 9349 Hialeah Terrace, Port Charlotte, FL 33981 hereinafter called "CONTRACTOR".

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

1. The CONTRACTOR will commence and complete the Parks and Recreation: Pavilions project in accordance with the Contract Documents.
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the project described in the Contract Documents.
3. The CONTRACTOR will commence work as required by the CONTRACT DOCUMENTS as stipulated in the written NOTICE TO PROCEED and will complete the same within sixty (60) calendar days from and including the date of commencement unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS. Time is of the essence in the performance of this agreement.
4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS for a total sum of \$189,000.00, said amount being the Total Bid Amount as listed on the CONTRACTOR'S Official Bid Proposal Form as submitted for this project, specifically Exhibit A hereto and made a part hereof.
5. This agreement may be terminated by the CITY for its convenience upon thirty (30) days prior written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this agreement. Such amount shall be paid by the CITY after inspection of the work to determine the extent of performance under this agreement, whether completed or in progress.
6. The Term "Contract Documents" shall include this Contract, addenda, Contractor's Bid except when it conflicts with any other contractual provision, the Notice to Proceed, the Bonds, the Bid Package prepared and issued by the CITY, the General Conditions, the Specifications and Drawings AS-SQ20-04-MG and AS-SQ20-04 Sheets 1, 2 and 3, any Special Conditions, together with all Written Amendments, Change Orders, Work Change Directives or Field Orders. In the event of conflict between any provision of any other document referenced herein as part of the contract and this agreement, the terms of this agreement shall control.
7. Assignment: This agreement may not be assigned except with the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
8. Disclosure: The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the agreement.
9. Administration of Agreement: The Public Works Director or his representative shall administer this agreement for the CITY.

City of Cape Coral
PARKS AND RECREATION: PAVILIONS
Contract CON-PW19-65/MM

10. Governing Law: The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible to pay for its own reasonable costs and attorney's fees.
11. Amendments: No Amendments or variation of the terms or conditions of this agreement shall be valid unless in writing and signed by the parties.
12. Payment Procedures: CONTRACTOR shall submit Applications for Payment in accordance with PART 17, General Conditions of the Invitation to Bid. Applications for Payment will be processed by the CITY as provided in the General Conditions.

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

On no later than the fifth (15) day of every month the CONTRACTOR shall present to the CITY an invoice covering the total quantities under each item of work that have been completed from the start of the job up to and including the last day of the preceding month, and the value of the work so completed is in accordance with the schedule of unit prices.

All such invoices are approximate only and are subject to corrections by the final estimate. Measures shall be in accordance with Paragraph 17.1 of the General Conditions. No later than thirty (30) days after submittal by the CONTRACTOR and approval by CITY, the CITY shall, after deducting previous payments made, pay the CONTRACTOR 90% of the amount of the invoice. The 10% retained percentage shall be held by the CITY until final completion. When 50 percent of the contract sum specified in section 4 of this contract, together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in this contract is expended, thereafter the retainage shall be reduced to 5%.

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

Final Payment: Upon final completion and acceptance of the Work in accordance with Paragraph 17.7 of the General Conditions, CITY shall pay the remainder of the Contract Price as recommended by A/E as provided in paragraph 17.7 of the Invitation to Bid.

13. Contractor's Representations: In order to induce CITY to enter into the Agreement CONTRACTOR makes the following representations:

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

City of Cape Coral
PARKS AND RECREATION: PAVILIONS
Contract CON-PW19-65/MM

CONTRACTOR has studied carefully all reports of investigations and tests of subsurface, and latent physical conditions at the site which may affect cost, progress or performance of the Work. This information was relied upon by ENGINEER in the preparation of the Drawings and Specifications.

CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

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

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

14. Indemnity: The CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
15. Other Provisions: The CITY reserves unto itself sole authority to execute and authorize the issuance of change order(s), directives, or other documents to the CONTRACTOR which impact on or change the contract time or price. These actions by the CITY will be taken after due consideration of the recommendations and analysis of the ENGINEER. This provision supersedes any other contradictory provisions within the Contract Documents.
16. Invalid Provision: The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
17. Record Keeping: The awarded bidder shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City of Cape Coral reserves the right to determine the record-keeping method in the event of non-conformity. If a Public Construction Bond is required records shall be maintained for ten (10) years, after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

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

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

City of Cape Coral
PARKS AND RECREATION: PAVILIONS
Contract CON-PW19-65/MM

18. Public Record: Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Consultant, refuses to allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with this contract, unless the records are exempt from disclosure.
19. Unauthorized Aliens: The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this ITB. This applies to any sub-contractors used by the Contractor as well.
20. Guarantee: The Contractor shall warrant all materials furnished and work performed for a period of one year from the date of written acceptance by the City or by the date on the substantial completion letter. The making and acceptance of final payment shall not waive any claim for faulty work appearing after final payment or for failure to adhere strictly to the Construction Documents. If any part of the project is guaranteed for a longer period, such longer period shall prevail. Except as otherwise specified, all work shall be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment or workmanship for one year from the date of final completion and acceptance by the City.
21. Annual Appropriation Contingency: Pursuant to Florida Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.
22. Entire Agreement: This Contract constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

City of Cape Coral
PARKS AND RECREATION: PAVILIONS
Contract CON-PW19-65/MM

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

(CITY SEAL)

ATTEST:

CITY:

CITY OF CAPE CORAL

Kimberly Bruns, CMC

City Clerk

A. John Szerlag

City Manager

Date

CONTRACTOR:

Company: SUSSMAN Enterprises INC

Signature: Jeff Sussman

Printed Name: Jeff Sussman

Title: President

Date: 6/18/2019

CITY LEGAL REVIEW:

[Signature]
Dolores Menendez
City Attorney

Date: 6/13/2019

EXHIBIT A

CITY OF CAPE CORAL OFFICIAL BID PROPOSAL

BID FORM

Parks & Recreation: Pavilions

Per Scope and Specifications	All Inclusive, Lump Sum Cost per Park
City of Cape Coral Park:	
NW Softball Complex:	\$94,500. ⁰⁰
Horton Park:	\$94,500. ⁰⁰
	TOTAL:
All Inclusive, Lump Sum Project Cost:	\$189,000. ⁰⁰

Remarks by Bidder:

If there are deviations, they **MUST** be listed below, otherwise none will be allowed. If additional space is required, attach a second sheet to this Bid Proposal Form. If nothing is listed below, it will be interpreted as meaning NO DEVIATIONS.

SUSSMAN Proposes to use Shelters by
 RCD. MFG please see enclosed Spec + plans
 As Submitted Equal

BIDDER: Jeff Silssman COMPANY NAME: Jeff Silssman

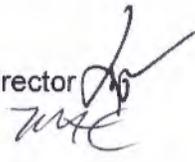
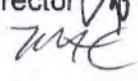
DATE: 2/20/2019

MEMORANDUM

CITY OF CAPE CORAL
PARKS AND RECREATION DEPARTMENT

FINANCE
JUN 03 2019
RECEIVED

TO: John Szerlag, City Manager
Vicki Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Kerry Runyon, Parks and Recreation Director 
Matthew Creed, Parks Superintendent 

DATE: June 3, 2019

SUBJECT: Pavilions – Northwest Softball and Horton Park

The Parks Division is requesting approval to purchase pavilions at Northwest Softball Complex and Horton Park from Sussman Enterprises, Inc. in the amount of \$189,000.

Background

The Cape Coral Parks Department would like to add two (2) pavilion shade structures at NW Softball Complex and two (2) pavilion shade structures at Horton Park as part of the GO Bond Park Improvement Plan. These pavilion structures will provide shade for residents attending sporting events and families using the adjacent playgrounds.

Recommendation

The Procurement Division advertised this project via formal bidding process. The pavilion design and construction documents went out for Invitation to Bid and received three competitive bids. The City of Cape Coral received bids from Zep Construction, Inc. at a total cost of \$297,198.00, Playmore Recreational Products and Services at a total cost of \$261,040.00, and Sussman Enterprises, Inc. Southern Division at a total cost of \$189,000.00.

It is the recommendation of the Parks Division to accept the bid from Sussman Enterprises, Inc. for the total cost of \$189,000.00 to complete construction of the four (4) pavilions at NW Softball Complex and Horton Park. Also, requesting a City Controlled Contingency in the amount of \$11,000.

The Procurement Division has vetted Sussman Enterprises, Inc. and found it to be a fair bid and is justified for scope of project.

Funds Availability

Funds for these projects have been budgeted in the Go Bond Park Improvement Plan.

Business Unit 3112002 (Northwest Softball Complex)
Business Unit 3112003 (Horton Park)

If you have any questions and/or need any additional information on a specific item(s) please let me know.

MC/kep



City of Cape Coral
Parks & Recreation: Pavilions
ITB-PR19-65/MM
Bids Due: 05/22/2019

Parks & Recreation: Pavilions	Playmore West, Inc Ft Myers, FL	Sussman Enterprises Inc Port Charlotte, FL	ZEP Construction Ft Myers, FL
Per Scope and Specifications	Lump Sum Cost	Lump Sum Cost	Lump Sum Cost
NW Softball Complex	\$129,320.00	\$94,500.00	\$142,599.00
Horton Park	\$131,720.00	\$94,500.00	\$154,599.00
All Inclusive, Lump Sum Project Cost:	\$261,040.00	\$189,000.00	\$297,198.00

Item Number: B.(6)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 147-19 Award Bid #UT19-28/MC to Odyssey Manufacturing Co as the lowest, responsive and responsible bidder for the Sodium Hypochlorite Tank Replacement and Containment Structure Rehabilitation Project, at the bid price of \$99,070 with a 10% City controlled contingency of \$9,907 for a total amount of \$108,977 and authorize the City Manager or his designee to execute the contract, amendments, purchase orders, change orders and all required documents; Department: Utilities; Estimated Dollar Value: \$108,977; (Water and Sewer unassigned/reserve Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The Sodium Hypochlorite Tank Replacement and Containment Structure Rehabilitation project consists of replacing two existing Sodium Hypochlorite tanks with temporary tanks while rehabilitating the containment area then installing two new City owned tanks at the Everest Water Reclamation Facility. The work includes any required maintenance of traffic, demolition of existing tanks, repair, restoration of the site and installation of new tanks in compliance with City specifications.
2. Invitation to Bid #ITB-UT19-28/MC was issued on May 1, 2019 to secure a contractor to replace the two existing Sodium Hypochlorite Tanks at the Everest Water Reclamation Facility. Thirty vendors obtained the bid and ten vendors obtained all documents.
3. On June 5, 2019, one bid was received. The bidder is Odyssey Manufacturing Co of Tampa, FL.
4. The other bidders were polled regarding their "no bid" reasons which ranged from current workloads at capacity, manufacturer's representative, work being outside normal scope of services, size of project and being a bid service.

5. After evaluation, City staff recommends awarding the bid to Odyssey Manufacturing Co, as the lowest, responsive and responsible bidder having met the requirements and specifications outlined in the bid documents.
6. If approved, the term of the contract will be for approximately 120 calendar days.
7. This is a budgeted item.
8. Funding: Funding for this project has been included in the Utilities Department's proposed revised FY19 CIP Budget and will be forthcoming from the Water & Sewer unassigned fund balance which will be reflected in the Budget Department's amendment #2.

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Resolution 147-19
Department Recommendation
Bid Tabulation # ITB-UT19-28/MC

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director

ATTACHMENTS:

Description	Type
▢ Department Recommendation	Backup Material
▢ Resolution 147-19	Resolution
▢ Bid Tabulation # ITB-UT19-28/MC	Backup Material



TO: John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM : Jeff Pearson, Utilities Director
Pat Long, Manager, Water Reclamation Facilities
William H. Sperry, PE, Principal Engineer PE, Utilities

DATE: June 21, 2019

SUBJECT: Utilities Department's Recommendation of Award for the Sodium Hypochlorite Tank Replacement and Secondary Containment Structure Rehabilitation, ITB-UT19-28/MC

Project Scope:

This Contract is for the construction necessary to replace the two existing 11,800-gallon Fiberglass Reinforced Plastic (FRP) sodium hypochlorite tanks with two new 10,500 Snyder High Density Linear Polyethylene (HDLPE) tanks including the replacement of the existing chemical feed pump skid and associated piping and appurtenances. The Work shall consist of, but is not limited to, the following:

- Acquire and install two temporary double-walled tanks (6,550-gal./each, minimum).
- Acquire and install a temporary triplex pump skid.
- Install all temporary piping, power and control wiring to make the system operational.
- Remove existing FRP sodium hypochlorite tanks and select piping and appurtenances.
- Prepare and recoat the secondary containment area.
- Install the new HDLPE tanks and associated piping and appurtenances.
- Test the new system for proper operation prior to placing into full operation.
- Remove the temporary double-wall tanks and temporary triplex pump skid.

Project Bids:

On Wednesday, June 5, 2019, the City of Cape Coral received one (1) Bid from a qualified contractor for the Sodium Hypochlorite Tank Replacement and Secondary Containment Structure Rehabilitation, ITB-UT19-28/MC. The Bid was received from: Odyssey Manufacturing Company out of Tampa, Florida. The bid item extensions and the summation of the bid items was checked for accuracy.

The Total Estimated Construction Cost was as follows:

Odyssey Manufacturing Company	\$99,070.00
-------------------------------	-------------

Utilities Department Recommendation:

The Procurement Department reviewed the bid total and the bidder's qualifications as submitted along with additional requested documentation and has determined that Odyssey Manufacturing Company is a responsive responsible bidder for the Sodium Hypochlorite Tank Replacement and Secondary Containment Structure Rehabilitation, ITB-UT19-28/MC. The Utilities Department concurs with the Procurement Department's determination that Odyssey Manufacturing Company is a responsive responsible bidder. The Utilities Department therefore recommends award of the Sodium Hypochlorite Tank Replacement and Secondary Containment Structure Rehabilitation, ITB-UT19-28/MC to Odyssey Manufacturing Company for the Total Estimated Construction Cost of \$99,070.00.

Contingency Funds:

In conjunction with recommending the award of the Sodium Hypochlorite Tank Replacement and Secondary Containment Structure Rehabilitation Project, the Utilities Department requests a contingency amount of ten percent (10%) of the Total Estimated Construction Cost be allocated for this project. The project involves working around existing infrastructure. With this type of work, the Utilities Department may encounter unforeseen obstacles requiring extra attention on behalf of the contractor. The Utilities Department must be prepared to deal with these situations in a timely manner to assure the project is completed in an expeditious manner thereby minimizing disruption to Everest Water Reclamation Facility. Additional costs requested by the contractor will be reviewed by the Utilities Department prior to the work being performed.

Fund Availability:

The construction cost of \$99,070.00 plus the city controlled contingency amount of \$9,907.00 totals \$108,977.00 for the project. Funding for this project has been included in the Utilities Department's proposed Revised FY19 CIP Budget and will be forthcoming from the Water and Sewer-reserves/unassigned fund balance.

Thank you for your attention to this important matter. Should you have any questions or if we can be of further assistance please give William H. (Bill) Sperry, PE a call at 574-0729.

RESOLUTION 147 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR THE SODIUM HYPOCHLORITE TANK REPLACEMENT AND CONTAINMENT STRUCTURE REHABILITATION PROJECT TO ODYSSEY MANUFACTURING CO.; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT DOCUMENTS BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 1, 2019, INVITATION TO BID ITB-UT19-28/MC was issued for the Sodium Hypochlorite Tank Replacement and Containment Structure Rehabilitation Project; and

WHEREAS, having received one bid, the City Manager recommends the award of the bid to Odyssey Manufacturing Co. as the lowest qualified responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid, in the amount of \$99,070, subject to a City-controlled contingency amount not to exceed ten (10) percent.

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

Section 1. The City Council hereby awards the bid for the Sodium Hypochlorite Tank Replacement and Containment Structure Rehabilitation Project to Odyssey Manufacturing Co., in the amount of \$99,070, subject to a City-controlled contingency amount not to exceed ten (10) percent.

Section 2. The City Council hereby approves Contract CON-UT19-28/MC between the City of Cape Coral and Odyssey Manufacturing Co., for the Sodium Hypochlorite Tank Replacement and Containment Structure Rehabilitation Project and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

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

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

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

JOE COVIELLO, MAYOR

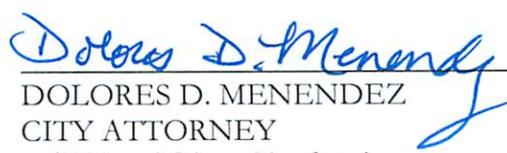
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Bid Award-Odyssey Manufacturing

CITY OF CAPE CORAL
CON-UT19-28/MC
SODIUM HYPOCHLORITE TANK REPLACEMENT
AND CONTAINMENT STRUCTURE REHABILITATION
Page 1 of 5

THIS CONTRACT is made this ____ day of _____, 2019 by and between the **CITY OF CAPE CORAL, FLORIDA**, hereinafter called "**OWNER**", and Odyssey Manufacturing Co., 1484 Massaro Blvd, Tampa, FL 33619 doing business as a corporation, hereinafter called "**CONTRACTOR**".

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

1. The CONTRACTOR will commence and complete the Sodium Hypochlorite Tank Replacement and Containment Structure Rehabilitation project in accordance with the Contract Documents.
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the project described in the Contract Documents.
3. The CONTRACTOR will commence work as required by the CONTRACT DOCUMENTS as stipulated in the written NOTICE TO PROCEED and the Work will be substantially complete within Ninety (90) calendar days from the date Contract Times commence to run and be completed and ready for final payment within One-hundred twenty (120) calendar days from the date Contract Times commence to run. The CONTRACTOR agrees that liquidated damages will be assessed in the amount of Three-Hundred Fifty Dollars (\$350.00) per calendar day for each calendar day that contract is not completed beyond the completion date required by the CONTRACT DOCUMENTS.

Any sums due and payable hereunder by the CONTRACTOR shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the OWNER, estimated at the time of executing this Contract. When the OWNER reasonably believes that Completion will be inexcusably delayed, the OWNER shall be entitled, but not required, to withhold from any amounts otherwise due the CONTRACTOR an amount then believed by the OWNER to be adequate to recover liquidated damages applicable to such delays. If and when the CONTRACTOR overcomes the delay in achieving Completion, or any part thereof, for which the OWNER has withheld payment, the Owner shall promptly release to the CONTRACTOR those funds withheld, but no longer applicable, as liquidated damages.

4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS for a total sum of Ninety-Nine Thousand Seventy Dollars (\$99,070), said amount being the Total Bid Amount as listed on the CONTRACTOR'S Official Bid Proposal Form (Attachment A) as submitted for this project. The OWNER reserves the right to negotiate additional related services.
5. This agreement may be terminated by the OWNER for its convenience upon thirty (30) days prior written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this agreement. Such amount shall be paid by the OWNER after inspection of the work to determine the extent of performance under this agreement, whether completed or in progress.
6. The Term "Contract Documents" shall include this Contract, addenda, Contractor's Bid except when it conflicts with any other contractual provision, the Notice to Proceed, the Bonds (if applicable), the Bid Package prepared and issued by the Owner, the General Conditions, the General Requirements, the Specifications and Drawings, any Special Conditions, together with all Written Amendments, Change Orders, Work Change Directives or Field Orders. In the event of conflict between any provision of any other document referenced herein as part of the contract and this agreement, the terms of this agreement shall control.
7. Assignment: This agreement may not be assigned except with the written consent of the OWNER, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.

CON-UT19-28/MC
SODIUM HYPOCHLORITE TANK REPLACEMENT
AND CONTAINMENT STRUCTURE REHABILITATION
Page 2 of 5

8. Disclosure: The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the agreement.

9. Administration of Agreement: The Utilities Director or his representative shall administer this agreement for the OWNER.

10. Governing Law: The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, the prevailing party shall be entitled to recover from the non-prevailing party reasonable costs and attorney's fees.

11. Amendments: No Amendments or variation of the terms or conditions of this agreement shall be valid unless in writing and signed by the parties.

12. Payment Procedures: OWNER shall make payment and Contractor(s) shall be in receipt of all sums properly invoiced within thirty (30) days of the OWNER's receipt of such invoice unless, within a fifteen (15) day period, OWNER notifies Contractor(s) in writing of its objection to the amount of such invoice, together with OWNER's determination of the proper amount of such invoice. OWNER shall pay any undisputed portion of such invoice within such thirty (30) day period.

If OWNER shall give such notice to the Contractor(s) within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, OWNER shall promptly pay the Contractor(s) the amount so determined, less any amounts previously paid by OWNER with respect to such invoice. In the event it is determined that OWNER has overpaid such invoice, the Contractor(s) shall promptly refund to the OWNER the amount of such overpayment.

13. Contractor's Representations: In order to induce OWNER to enter into the Agreement CONTRACTOR makes the following representations:

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

CONTRACTOR has studied carefully all reports of investigations and tests of subsurface, and latent physical conditions at the site which may affect cost, progress or performance of the Work. This information was relied upon by Project Manager in the preparation of the Drawings and Specifications.

CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

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

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

CON-UT19-28/MC
SODIUM HYPOCHLORITE TANK REPLACEMENT
AND CONTAINMENT STRUCTURE REHABILITATION
Page 3 of 5

14. Indemnity: The CONTRACTOR shall indemnify and hold harmless the OWNER, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
15. Other Provisions: The OWNER reserves unto itself sole authority to execute and authorize the issuance of change order(s), directives, or other documents to the CONTRACTOR which impact on or change the contract time or price. These actions by the OWNER will be taken after due consideration of the recommendations and analysis of the Project Manager. This provision supersedes any other contradictory provisions within the Contract Documents.
16. Damage Liability: The awarded CONTRACTOR shall be responsible for all claims filed for damage to all private property, including but not exclusive of, windows, screen enclosures, real estate signs. Additionally, the CONTRACTOR shall be responsible for damage to all public property or utility property, including but not exclusive of, fire hydrants, catch basins, guy wires and telephone pedestals. Copies of all damage claims shall be submitted to the Procurement Division.
17. Invalid Provision: The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
18. Project Records: The Contractor shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting methods, and the City of Cape Coral reserves the right to determine the record-keeping method in the event of non-conformity. These records shall be maintained for five (5) years, and ten (10) years on capital projects, after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.
19. Public Records: Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Contractor refuses to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this contract, unless the records are exempt from disclosure.
20. Performance and Payment Bond (If Applicable): Any Contractor entering into a contract for the construction of a public building or public work, or for any repairs upon a building or public work shall, before commencing work, execute, deliver to the City of Cape Coral, and record in the public records of Lee County, Florida, a public construction bond issued by a surety authorized to do business in the State of Florida. The amount of the bond shall be 100% of contract amount.
21. Unauthorized Aliens: The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this ITB. This applies to any sub-contractors used by the Contractor as well.
22. Warranty: The Contractor shall warrant all materials furnished and work performed in accordance to General Project Requirements Section XI: Warranties and Bonds
23. Annual Appropriation Contingency: Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.

CON-UT19-28/MC
SODIUM HYPOCHLORITE TANK REPLACEMENT
AND CONTAINMENT STRUCTURE REHABILITATION
Page 4 of 5

24. **Insurance:** Unless otherwise specified, Contractor shall, at its own expense, carry and maintain the following minimum insurance coverage, as well as any insurance required by law.

Workers' Compensation: Submitting firm shall have Workers Compensation Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The policy must include Employer's Liability with a minimum limit of \$1,000,000.00 for each accident.

Comprehensive General Liability: Shall have minimum limits of \$1,000,000 per occurrence, combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include Premises and/or Operations, Independent Contractors and Products and/or Completed Operations, Broad Form Property Damage, and a Contractual Liability Endorsement.

Business Vehicular Liability: Shall have minimum limits of \$1,000,000 per occurrence. Combined Single Limit for Bodily Injury and Property Damage Liability. This shall include Owned Vehicles, Hired and Non-Owned Vehicles, and Employees' Non-Ownership.

Pollution Liability: Covering a transporter moving hazardous products or waste as cargo aboard the transporter's truck. Shall have a minimum limit of \$1,000,000 per occurrence. Combined Single Limit for Bodily Injury, Property Damage Liability and Cleanup, including wrongful delivery. This shall include owned vehicles, hired and non-owned vehicles

Certificate of Insurance: The City of Cape Coral is to be specifically included as an additional insured on the General Liability policy and the contract number (CON-UT19-28/MC) shall be listed under the comments section. This does not pertain to Workers' Compensation.

In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued thirty (30) days prior to said expiration date.

The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy.

Unless otherwise specified, it shall be the responsibility of the contractor to ensure that all subcontractors comply with the same insurance requirements spelled out above.

All certificates of insurance must be on file with and approved by the City of Cape Coral before the commencement of any work activities.

25. **Safety and OSHA Compliance:** The Contractor shall comply in all respects with all Federal, State and Local Safety and health regulations. Copies of the Federal regulations may be obtained from the U.S. Department of Labor, Occupation Safety and Health Administration (OSHA), Washington DC 20210 or their regional offices.

The Contractor shall comply in all respects with the applicable Workman's Compensation Laws.

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

(END OF SECTION)

CON-UT19-28/MC
SODIUM HYPOCHLORITE TANK REPLACEMENT
AND CONTAINMENT STRUCTURE REHABILITATION
Page 5 of 5

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

(CITY SEAL)
ATTEST:

OWNER:

City of Cape Coral, Florida _____

Signature: _____

Signature: _____

Typed Name: Kimberly Bruns, CMC

Typed Name: A. John Szlerag

Title: Interim City Clerk

Title: City Manager

Date: _____

Date: _____

CITY LEGAL REVIEW:

[Signature] 6/21/19
Dolores Menendez Date
City Attorney

WITNESS CONTRACTOR:

CONTRACTOR:

Signature: [Signature]

Company: Odyssey Manufacturing Co.

Typed Name: Linnea Ison

Signature: [Signature]

Title: Construction Coordinator

Typed Name: Patrick H. Allman

Title: General Manager

Date: 6.27.19

ATTACHMENT A

ITB-UT19-28/MC

BID PROPOSAL FORM

PAGE 1 OF 3

BID SCHEDULE

**SODIUM HYPOCHLORITE TANK REPLACEMENT
AND CONTAINMENT STRUCTURE REHABILITATION**

(1) Item No.	(2) Item Description	(3) Est. Qty. (A)	(4) Unit	(5) Unit Price (B)	(6) TOTAL ITEM COST (A x B)
1.	Mobilization / Demobilization (Not to exceed 5% of Total Bid Price)	1	LS	\$ 4,570	\$ 4,570
2.	Install Temporary Sodium Hypochlorite Pump Skid, Two Temporary Double-Wall Tanks, Piping and Appurtenances	1	LS	\$ 15,000	\$ 15,000
3.	Remove Existing Tanks (2 EA) and Appurtenances and Associated Piping	1	LS	\$ 5,000	\$ 5,000
4.	Rehabilitation of Secondary Containment Areas (Tank Area and Pump Skid Area)	1	LS	\$ 35,000	\$ 35,000
5.	Installation of City Supplied 10,500-gallon Snyder HDLPE Tanks (2 EA) and Appurtenances	1	LS	\$ 9,000	\$ 9,000
6.	Install New Piping and Appurtenances and Connect to City Installed Sodium Hypochlorite Pump Skid	1	LS	\$ 24,000	\$ 24,000
7.	Remove Temporary Sodium Hypochlorite Pump Skid and the Two Temporary Double-Wall Tanks and Associated Piping and Appurtenances.	1	LS	\$ 5,000	\$ 5,000

BID PROPOSAL FORM
PAGE 2 OF 3

BID SCHEDULE (CON'T)

(1) Item No.	(2) Item Description	(3) Est. Qty. (A)	(4) Unit	(5) Unit Price (B)	(6) TOTAL ITEM COST (A x B)
GENERAL BID ITEMS:					
8.	Allowance for Local Government Permits and Fees	1	LS	\$1,500.00	\$1,500.00
TOTAL COMBINED CONSTRUCTION COST FOR FURNISHING ALL LABOR, EQUIPMENT AND MATERIALS FOR THE SODIUM HYPOCHLORITE TANK REPLACEMENT AND SECONDARY CONTAINMENT STRUCTURE REHABILITATION AT THE EVEREST WATER RECLAMATION FACILITY. (Summation of Column 6, Line Item Nos. 1 thru 8)					\$99,070⁰⁰

Ninety Nine thousand Seventy Dollars



(TOTAL ESTIMATED CONSTRUCTION COST INCLUDING ALLOWANCES - IN WORDS)

CONTRACT TIME

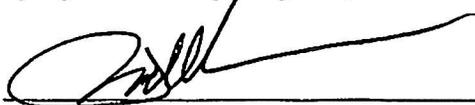
- A. The Bidder agrees that the Work will be substantially complete within Ninety (90) calendar days from the date Contract Times commence to run and be completed and ready for final payment within One-Hundred Twenty (120) calendar days from the date Contract Times commence to run. No work shall be performed prior to the issuance of a fully executed Purchase Order (PO) and a Notice to Proceed (NTP).
- B. Bidder accepts the provisions of the Contract as to liquidated damages in the amount of three hundred fifty (\$350.00) dollars per calendar day for each day the work is not completed within Ninety (90) calendar days of the commencement date indicated in the Notice to Proceed.

ITB-UT19-28/MC

BID PROPOSAL FORM
PAGE 3 OF 3

Prices quoted shall be effective for One Hundred Eighty (180) days from bid opening date, and if accepted by the City, for the period specified herein.

Odyssey Manufacturing Company
COMPANY
1484 Massaro Blvd.
ADDRESS
Tampa, Fl. 33619
CITY, STATE, ZIP CODE
813/635-0339
PHONE NUMBER
813/630-2589
FAX NUMBER


SIGNATURE
Patrick Allman
NAME (PRINTED)
General Manager
TITLE
5/20/19
DATE
pallman@odysseymanufacturing.com
E-MAIL ADDRESS

Federal Employer Identification Number or Social Security Number 65-0846345
(Social Security Number required for one or more of the following purposes: identification and verification; credit worthiness; billing and payment; data collection, reconciliation, tracking, benefit processing and tax reporting. Social Security Numbers are also used as a unique numeric identifier and may be used for such purposes.)

REMARKS BY BIDDER

If there are any deviations, they **MUST** be listed below, otherwise none will be allowed. If additional space is required, attach another sheet to this Bid Proposal. If nothing is listed below, it will be interpreted as meaning NO DEVIATIONS.

BIDDER: Patrick Allman

DATE: 5/20/19 Company Name: Odyssey Manufacturing Company

City of Cape Coral
Bid Tabulation for ITB-UT19-28/MC
Sodium Hypochlorite Tank Replacement and Containment Structure Rehabilitation
Due Date: June 5, 2019

Odyssey Manufacturing Co.

1484 Massaro Blvd.
Tampa, FL 33619

CGC1516698, CFC057182

ITEM NO.	DESCRIPTION	EST. BID		UNIT PRICE	TOTAL
		QUANTITY	UNIT		ITEM COST
1	Mobilization / Demobilization	1	LS	\$4,570.00	\$4,570.00
2	Install Temporary Sodium Hypochlorite Pump Skid, Two Temporary Double-Wall Tanks, Piping and Appurtenances	1	LS	\$15,000.00	\$15,000.00
3	Remove Existing Tanks (2 EA) and Appurtenances and Associated Piping	1	LS	\$5,000.00	\$5,000.00
4	Rehabilitation of Secondary Containment Areas (Tank Area and Pump Skid Area)	1	LS	\$35,000.00	\$35,000.00
5	Installation of City Supplied 10,500-gallon Snyder HDLPE Tanks (2 EA) and Appurtenances	1	LS	\$9,000.00	\$9,000.00
6	Install New Piping and Appurtenances and Connect to City Installed Sodium Hypochlorite Pump Skid	1	LS	\$24,000.00	\$24,000.00
7	Remove Temporary Sodium Hypochlorite Pump Skid and the Two Temporary Double-Wall Tanks and Associated Piping and Appurtenances.	1	LS	\$5,000.00	\$5,000.00
8	Allowance for Local Government Permits & Fees	1	LS	\$1,500.00	\$1,500.00
TOTAL ESTIMATED CONSTRUCTION COST					\$99,070.00

Item Number: B.(7)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 148-19 Award ITB-UT19-49/KR Everest Water Reclamation Facility (WRF) – Clarifier 1, 2 & 4 Duct Bank Replacement Project to Cogburn Bros, Inc. of Jacksonville, FL to provide construction modifications to the existing Duct Bank and electrical service serving clarifiers 1, 2 and 4 at the Everest WRF, as the lowest responsive, responsible bidder, in the amount of \$1,328,550 with a City controlled contingency of 10% (\$132,855) for a total amount of \$1,461,405 and authorize the City Manager or designee to execute the contract, amendments, change orders required to complete the work; Department: Utilities; Dollar Value: \$1,461,405; (Water and Sewer unassigned reserves)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The proposed project is located at the Everest Water Reclamation Facility (WRF) and is for construction modifications to the existing Duct Bank and electric service serving Clarifiers 1, 2 and 4. The work will generally be comprised of removal and replacement of all power, instrumentation and control conduits, conductors and cables.
2. On February 27, 2019, Invitation to Bid, ITB-UT19-49/KR, was issued, for the Everest WRF – Clarifiers 1, 2 and 4 Duct Bank Replacement. There were 40 plan holders that reviewed the documents. The City held two separate pre-bid meetings to ensure all questions were addressed.
3. On May 15, 2019, one (1) bid was received, from Cogburn Bros, Inc., of Jacksonville, Florida.
4. Cogburn Bros, Inc. of Jacksonville, Florida was deemed the lowest responsive and responsible bidder meeting all requirements as outlined in the bid documents.
5. If approved, the contract amount is for \$1,328,550 plus a requested 10% City controlled

contingency in the amount of \$132,855 for a project total of \$1,461,405.00

6. The Department Director is requesting 10% City Controlled Contingency. The expenditure of contingency funds, if any, will be subject to approval of a specific change order request by the Utilities Department Director, if justified upon identified needs with an appropriate scope and cost to address the specific need(s).
7. If approved, the term of this Contract shall be for 365 days for Substantial completion and 395 days for Final completion.
8. This Item is a budgeted item.
9. Funding: Funding for this project has been included in the Utilities Department's Revised FY19 CIP Budget Business Unit 4050182.662601, WRE-10 MCC Blower Conduit to Clarifiers with an unencumbered balance of \$351,558 and the additional funding in the amount of \$1,109,847 will come from the W&S unassigned fund balance which will be reflected in Budget amendment #2.

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Department Memo
Resolution 148-19
Bid Tabulation – ITB-UT19-49KR

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director

ATTACHMENTS:

Description	Type
▢ Department Memo	Backup Material
▢ Resolution 148-19	Resolution
▢ Bid Tabulation – ITB-UT19-49KR	Backup Material



TO: John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Jeff Pearson, Utilities Director 
William H. Sperry, PE, Principal Engineer PE, Utilities 
Dennis Morgan, Senior Project Manager, Utilities 

DATE: June 6, 2019

SUBJECT: Utilities Department's Recommendation of Award for the
Everest WRF Clarifier Ductbank Replacement, ITB-UT19-49/KR

Project Scope:

This Contract is for the construction modifications to the existing duct bank and electrical service serving clarifiers 1,2 and 4 at the City of Cape Coral's Everest Water Reclamation Facility (WRF). The Work shall consist of, but is not limited to, the following:

- Remove and replace all power, instrumentation and control conduit, conductors and cables to existing clarifiers 1, 2 and 4. Power will be maintained to existing clarifiers throughout construction.
- Construction of new red colored concrete encased ductbank systems to clarifiers 1, 2 & 4 along with installation of wall mounted power and instrumentation pull boxes.
- Removal and replacement of all hangers, supports, fasteners from clarifier structures and building ceilings and walls. Patching and painting of all existing ceilings and walls.
- Install applicable conduit, wire and field connections for all motors, motor controllers, control devices, control panels and electrical.
- Remove and replace select concrete slabs and asphalt paving.
- Complete applicable site work and restoration including, but not limited to, sodding, paving, mulching, and grading.

Project Bids:

On Wednesday, May 15, 2019, the City of Cape Coral received one (1) Bid from a qualified contractor for the Everest WRF Clarifier Ductbank Replacement Project, ITB-UT19-49/KR. The Bid was received from: Cogburn Bros., Inc. out of Jacksonville, Florida. The bid item extensions and the summation of the bid items was checked for accuracy.

The Total Estimated Construction Cost was as follows:

Cogburn Bros., Inc.	\$1,328,550.00
---------------------	----------------

A copy of the Procurement Department's Bid Tabulation is included as an attachment.

Utilities Department Recommendation:

The Procurement Department reviewed the bid total and the bidder's qualifications as submitted along with additional requested documentation and has determined that Cogburn Bros., Inc is a responsive responsible bidder for the Everest WRF Clarifier Ductbank Replacement Project, ITB-UT19-49/KR. The Utilities Department concurs with the Procurement Department's determination that Cogburn Bros., Inc. is a responsive responsible bidder. The Utilities Department therefore recommends award of the Everest WRF Clarifier Ductbank Replacement Project, ITB-UT19-49/KR to Cogburn Bros., Inc. for the Total Estimated Construction Cost of \$1,328,550.00. References were checked by the Utilities Department as a part of the review process.

Contingency Funds:

In conjunction with recommending the award of the Everest WRF Clarifier Ductbank Replacement Project, the Utilities Department requests a contingency amount of ten percent (10%) of the Total Estimated Construction Cost be allocated for this project. The project involves working around existing infrastructure. With this type of work, the Utilities Department may encounter unforeseen obstacles requiring extra attention on behalf of the contractor. The Utilities Department must be prepared to deal with these situations in a timely manner to assure the project is completed in an expeditious manner thereby minimizing disruption to Everest Water Reclamation Facility. Additional costs requested by the contractor will be reviewed by the Engineer and the Utilities Department prior to the work being performed.

Fund Availability:

Funding for this project has been included in the Utilities Department's Revised FY19 CIP Budget, Business Unit 4050182.662601, WRE-10 MCC Blower Conduit to Clarifiers and is presented as a line item in the proposed Revised FY2019 Budget. The WRE-10 MCC Blower Conduit to Clarifiers account has an unencumbered balance of \$351,558.00. Additional funding in the amount of \$1,109,847.00 will come from the Water and Sewer-reserves/unassigned fund balance. The combined funding (\$1,461,405.00) will be sufficient to cover the construction cost of \$1,328,550.00, plus the 10% contingency amount of \$132,855.00 equaling the entire project cost of \$1,461,405.00.

Thank you for your attention to this important matter. Should you have any questions or if we can be of further assistance please give William H. (Bill) Sperry, PE a call at 574-0729.

Attachment: Procurement Department's Bid Tabulation for:
Everest WRF Clarifier Ductbank Replacement Project, ITB-UT19-49/KR

RESOLUTION 148 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR THE EVEREST WATER RECLAMATION FACILITY CLARIFIER 1, 2 & 4 DUCT BANK REPLACEMENT PROJECT TO COGBURN BROS, INC.; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT DOCUMENTS BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 27, 2019, INVITATION TO BID ITB-UT19-49/KR was issued for the Everest Water Reclamation Facility Clarifier 1, 2 & 4 Duct Bank Replacement Project; and

WHEREAS, having received one bid, the City Manager recommends the award of the bid to Cogburn Bros, Inc., as the lowest qualified responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid, in the amount of \$1,328,550, subject to a City-controlled contingency amount not to exceed ten (10) percent.

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

Section 1. The City Council hereby awards the bid for the Everest Water Reclamation Facility Clarifier 1, 2 & 4 Duct Bank Replacement Project to Cogburn Bros, Inc., in the amount of \$1,328,550, subject to a City-controlled contingency amount not to exceed ten (10) percent.

Section 2. The City Council hereby approves Contract CON-UT19-49/KR between the City of Cape Coral and Cogburn Bros, Inc., for the Everest Water Reclamation Facility Clarifier 1, 2 & 4 Duct Bank Replacement Project and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

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

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Bid Award-Cogburn Brothers

SECTION 00500
AGREEMENT
CON-UT19-49/KR
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between **City of Cape Coral, Florida** ("Owner") and

Cogburn Bros, Inc.
3300 Faye Road
Jacksonville, FL 32226

("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, and is generally described as follows:

TYPE OF WORK: It is the intent of this project to remove and replace all power, instrumentation and control conduit, conductors and cables to existing clarifiers 1, 2 and 4. General outline as shown below:

1. Maintain power & control to existing clarifiers throughout construction.
2. Demolition of existing non-encased clarifier 4 ductbank systems.
3. Full or partial demolition of existing concrete encased clarifier 1&2 ductbank systems.
4. Maintain all existing clarifier electrical & control systems unless noted otherwise. Including but not limited to existing electrical equipment, field instrumentation and lighting.
5. Construction of new red colored concrete encased ductbank systems to clarifiers 1,2 & 4.
6. Installation of wall mounted power and instrumentation pull boxes.
7. Removal and replacement of scum pit float switches.
8. Provide and install Scum pit pump combination motor starter disconnect panels.
9. Installation of flush on grade underground power and instrumentation pull boxes.
10. Complete removal and replacement of all hangers, supports, fasteners etc. from clarifier structures and building ceilings and walls. Patching and painting of all existing ceilings and walls.
11. Paint exterior surfaces of modified walls to match existing buildings or structures.
12. Removal and restoration of site and landscaping to facilitate construction of above.
13. Construction of all ancillary facilities required to demo and place into service the systems described above.
14. Construct above such that plant is fully operational with both stand-by and Utility power sources available the entire duration of construction

15. Conduit, wire and field connections for all motors, motor controllers, control devices, control panels and electrical.
16. Conduit, wiring and terminations for all existing field mounted instruments, including process instrumentation primary elements, transmitters, local indicators and control panels. Lightning and surge protection equipment wiring at process instrumentation transmitters.
17. Power and signal surge suppression systems.
18. Select concrete pump slab removal and replacement.
19. Select asphalt driveway removal and replacement.
20. Instrumentation and control conduit and wiring systems and installation of field instrumentation.
21. Lightning protection, bonding and grounding systems.
22. Complete applicable site work and restoration including, but not limited to, sodding, paving, mulching, and grading.

The Work to be performed shall consist of furnishing all tools, equipment, materials, supplies, and manufactured articles, furnishing all labor, supervision, transportation, and services, including but not limited to fuel, power, water, essential communications, and performing all Work or other operations required in accordance with the Drawings and Bid Specifications. The Work shall be complete, and all Work, materials, and services not expressly indicated or called for in the Contract Documents, which may be necessary for the complete and proper construction of the Work, in good faith shall be provided by the Contractor as though originally so indicated, at no increase in cost to the City.

ARTICLE 3 – ENGINEER

- 3.01 The Owner has retained RKS Consulting Engineers, Inc. (“Engineer”) to assist the Owner and act in limited capacity as the Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to the Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.
- 3.02 The Contract Documents; Division 00 – Bidding and Contract Requirements have been prepared by the City of Cape Coral. The Division 01 – General Requirements have been prepared by the City of Cape Coral and RKS Consulting Engineers, Inc. and, Divisions 02-26 – Technical Specifications have been prepared by RKS Consulting Engineers, Inc.

ARTICLE 4 – CONTRACT TIMES

- 4.01 *Time of the Essence*
 - A. All time limits for Milestones, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 *Contract Times: Days*
 - A. The Work will be substantially completed within 365 calendar days after the date when contract times commence to run as provided in Paragraph 4.01 of the General Conditions (Section 00700); and, all Work will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 395 days of Notice to Proceed.
- 4.03 *Liquidated Damages*
 - A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02.A above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties

involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 *Special Damages*

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02.A for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02.A for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

For all work, at the prices stated in the Contractor's bid, a total bid cost of: **\$1,328,550.00** (One-Million, Three-Hundred Twenty-Eight Thousand, Five-Hundred Fifty Dollars and zero cents in words). – **Not to Exceed Amount** All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about 25 business days after the date on which the payment request or invoice is stamped as received by the Engineer. Payment for the Work shall be as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be

measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 90 percent of Work completed (with the balance being retainage). If the Work has been completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon 50 percent Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 5 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of one-percent (1.0%) per month.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
 - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the

As Shown in ITB-UT19-49/KR – Specification Section 800 - Supplementary Conditions and Provide Certificate of Insurance including all required insurance coverage(s) with The City of Cape Coral named as an additional insured shown under Description of Operations on Certificate of Insurance include contract number – CON-UT19-49/KR – Everest WRF – Clarifier 1, 2 & 4 – Ductbank Replacement Including waivers of subrogation and certificate of insurance endorsements.

POST CONTRACT EXECUTION – Included as Reference ONLY

6. General Conditions (pages 1 to 65, inclusive) (Section 00700) AND Supplementary Conditions (pages 1 to 25, inclusive) (Section 00800), plus the following exhibits:

As Shown in ITB-UT19-49/KR – Reference Only (February 2019)

- a. Exhibit A – Pricing of Construction Contract Change Orders
- b. Exhibit B – Right of Audit – Examination of Records
- c. Exhibit C – Record Keeping

As shown in ITB-UT19-49/KR – REFERENCE ONLY – February 2019

7. Specifications as listed in the ITB-UT19-49/KR table of contents of the Project Manual [Division 00, Division 01, and Divisions 02-17 as prepared by the City of Cape Coral].

As shown in ITB-UT19-49/KR – REFERENCE ONLY – February 2019

8. Drawings with each sheet bearing the following general title: The City of Cape Coral, Everest WRF – Clarifier Ductbank Replacement:

As shown in ITB-UT19-49/KR – REFERENCE ONLY – February 2019

9. Addenda (numbers 1 to 4 , inclusive):

Signed Acceptance of Addendum included with submitted DIV 0 – Bid Form 00300

As shown in ITB-UT19-49/KR – REFERENCE ONLY – February 2019

10. Fully Executed Purchase Order - POST CONTRACT EXECUTION

**Issuance of Signed Purchase Order will follow
Contract execution, Payment & Performance Bond Recording,
Insurance Certificate acceptance. No work is to be performed
Prior to Issuance of Fully Executed Purchase Order and Notice to Proceed**

11. Documents to this Agreement (enumerated as follows):

- a. Contractor’s Bid Submittal (Division 0, Section 00300).
**Completed Signed Bid Form 00300 - Original Submittal with bidders
Information Statement Questionnaire and attachments.
-Reference Only (February 2019)**
- b. Business Ethics Requirements (Division 0, Section 00481).
**Signed Acceptance of Form 00481 - Attachment Included
Included with Submitted Bid Form 00300
Reference Only (February 2019)**
- c. Corporate Resolution Form (Division 0, Section 00420)
**Signed Corporate Resolution Form – Attachment included
With submittal 00300**

POST CONTRACT EXECUTION – Included as Reference ONLY

12. The following which may be delivered or issued on or after the Effective Date of the Fully Executed Contract and are not attached hereto:
- a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Appropriations*

A. Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City, if the City Council reduces or eliminates appropriations.

10.06 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.07 Other Provisions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.
- B. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 11 – PUBLIC RECORDS

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

END OF SECTION

IN WITNESS WHEREOF, OWNER AND CONTRACTOR HAVE SIGNED THIS AGREEMENT. THIS AGREEMENT WILL BE EFFECTIVE ON _____ (WHICH IS THE EFFECTIVE DATE OF THE CONTRACT).

OWNER:

City of Cape Coral, Florida

Signature: _____

Typed Name: A. John Szerlag

Title: City Manager

Date: _____

Signature Attest: _____

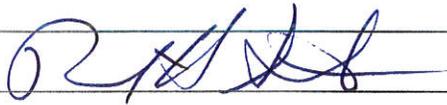
Title: City Clerk

Typed Name: Kimberly Bruns, CMC

Date: _____

Address for giving notices:
City of Cape Coral (Attn: Procurement)
1015 Cultural Park Blvd.
2nd Floor
Cape Coral, FL 33990

CONTRACTOR: COGBURN BROS, INC.

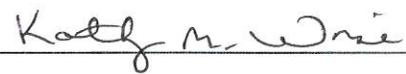
Signature: 

Typed Name: Raymond H. Smith

Title: Vice President

Date: June 20, 2019

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign with corporate resolution.)

Signature Attest: 

Title: Corporate Secretary

Typed Name: Kathy M. Wise

Date: June 20, 2019

Address for giving notices:
3300 Faye Road
Jacksonville, FL 32226
904-358-7344
State of Florida
Contractor License No.: EC0001120
(as applicable)

LEGAL REVIEW:

Signature: _____

Typed Name:  Dolores Menendez, ESQ.

Title: City Attorney

Date: 6/17/19

SECTION 00300
BID FORM

ORIGINAL

CITY OF CAPE CORAL
Everest WRF – Clarifier Ductbank Replacement
ITB-UT19-49/KR

ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

City of Cape Coral, Procurement Division, 1015 Cultural Park Blvd., 2nd Floor, Cape Coral, FL 33990

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

1.03 EXECUTION OF BID: The Official Bid Form must contain a manual signature of an authorized representative. Bid must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made by bidder to his/her bid price must be initialed.

AWARD: The City Council reserves the right to waive minor variations to specifications, informalities, irregularities and technicalities in any bids; to reject any and all bids in whole or in part with or without cause, and/or to accept bids that in its judgment will be in the best interest of the City. Following complete investigation of each bid received by the City, the City Council reserves the right to make awards on a multiple, lump sum, or individual item basis or in combination as shall best serve the interest of the City. The City reserves the right to negotiate additional related services.

1.04 PRICES: Bidder warrants by virtue of bidding that any orders placed within the bid period shall be honored at the prices, items and conditions quoted in his/her Official Bid Form. When a yearly quote is being obtained, bidder must contractually commit that bid amount on bid form is firm with no escalation in unit price or otherwise for 365 days from award date. Prices must be stated in units of quantity specified in the bid specifications. In case of discrepancy in computing the amount of the bid, the unit price will prevail.

1.05 LIABILITY INSURANCE: Where bidders are required to enter City property to deliver materials or perform work or service as a result of bid award, the bidder assumes full duty obligation and expense of obtaining all necessary insurance and associated licenses and/or permits. Insurance requirements are identified in SC-Article 6 of the Supplementary Conditions (Section 00800).

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 120 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner. All bids will be publicly opened at the designated time and location specified within the Legal Notice.

**SECTION 00300
BID FORM**

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>No. 1</u>	<u>3/11/2019</u>
<u>No. 2</u>	<u>4/2/2019</u>
<u>No. 3</u>	<u>4/18/2019</u>
<u>No. 4</u>	<u>5/13/2019</u>

- B. Bidder meets the minimum qualifications as set forth in Specification Section 00100, Article 3 – Qualifications of Bidders and all required verifiable documentation and/or information is contained in Specification Section 00301, Bidder’s Information Statement and Questionnaire submitted herewith as a part of this bid package. EACH member of a partnership or qualifying joint venture has completed and submitted as a part of the Bid package, a completed Bidder’s Information Statement and Questionnaire (Specification Section 00301).
- C. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- D. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- E. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- F. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder’s safety precautions and programs.
- G. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.

**SECTION 00300
BID FORM**

- H. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- K. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER’S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

SECTION 00300
 BID FORM
BID SCHEDULE

Everest WRF – Clarifier Ductbank Replacement

ITEM	DESCRIPTION	ESTIMATED QUANTITY (A)	UNIT	UNIT PRICE (B)	TOTAL ITEM COST (AxB)
1	General Requirements, Indemnification, Construction Permits	1	LS	100,000.00	100,000.00
2	Mobilization/Demobilization (Maximum 5% of Total Bid Price)	1	LS	62,500.00	62,500.00
3	Demolition and Disposal	1	LS	54,380.00	54,380.00
4	Asphalt, Concrete (Slab) & Site	1	LS	135,250.00	135,250.00
5	Underground Electrical	1	LS	332,800.00	332,800.00
6	Above Ground Electrical, Electrical Equipment & Installation	1	LS	487,320.00	487,320.00
7	Lightning Protection	1	LS	89,800.00	89,800.00
8	As-Built Drawings, O&M Manuals & As-Built Survey	1	LS	66,500.00	66,500.00
TOTAL CONSTRUCTION COST:					1,328,550.00

(TOTAL CONSTRUCTION COST INCLUDING ALLOWANCES WRITTEN IN
 WORDS ON LINES BELOW):

one million three hundred twenty-eight thousand five hundred fifty dollars and no cents

**SECTION 00300
BID FORM**

Time of Completion

- 5.02 Bidder agrees that the Work will be substantially completed within 365 calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions (Section 00700) and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within -395 calendar days of Notice to Proceed. No work is to begin prior to the issuance of a fully executed Purchase Order (PO) and a Notice to Proceed (NTP).
- 5.03 Bidder accepts the provisions of the Agreement (Section 00500) as to liquidated damages in the amount of \$500.00 for each day.

ARTICLE 6 – ATTACHMENTS TO THIS BID

6.01 The City of Cape Coral **requires** the following signed documents to be returned with all bids in order for a bid to be considered "Responsive": Please provide the documents in the following order for ease of verification of completeness of your bid package.

- A. Section 00300 – Bid Form
 - Subcontractor Listing
 - Sworn Statement on Public Entity Crimes
 - Form 3A – Interest In Competitive Bid For Public Business
 - Drug Free Work Place Certification
 - Trench Safety Form
 - Acknowledgement of Insurance Requirements
 - Contractor's Self-Performed Work Evaluation Form
 - Scrutinized Companies Certification

- B. Section 00301 - Bidder's Information Statement and Questionnaire and applicable Attachments (Each member of a partnership or qualifying joint venture must submit a completed Bidder's Information Statement and Questionnaire, Section 00301.)
Financial Statements – To be provided in a Separate Sealed Envelope

- C. Section 00410 Bid Bond

- D. Section 00420 Corporate Resolution

- E. Section 00480 Non-Collusion Affidavit

- F. Section 00481 Business Ethics Requirements

One (1) original and two (2) hard copies, and one (1) electronic copy (CD, flash drive, or DVD), exactly mirroring the entire Bid Proposal Package is required to be submitted with the Bid Package.

FAILURE TO RETURN ALL OF THE ABOVE REQUIRED ITEMS WITH A BID MAY RESULT IN YOUR BID BEING CONSIDERED NON-RESPONSIVE AND WILL NOT BE CONSIDERED FOR AWARD.

SECTION 00300
BID FORM

ARTICLE 7 – DEFINED TERMS

7.01 The terms used in this Bid beginning with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 8 – BID SUBMITTAL

BIDDER: *[Indicate correct name of bidding entity]*

Cogburn Bros., Inc.

By:
[Signature]



[Printed name]

Raymond H. Smith

Title:

Vice President

Attest:
[Signature]



[Printed name]

Doug Cogburn

Title:

Vice President

Submittal Date:

5-23-2019

Address for giving notices:

Cogburn Bros., Inc.

3300 Faye Road

Jacksonville, FL 32226

Telephone Number:

904-358-7344

Fax Number:

904-358-2805

Contact Name and e-mail address:

Raymond H. Smith

rhsmith@cogburnbros.com

Bidder's License No.:

EC0001120

(where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

SECTION 00480
NONCOLLUSION AFFIDAVIT

STATE OF Florida

COUNTY OF Duval

Raymond H. Smith, being first duly sworn deposes and says that:

1. He (it) is the Vice President of Cogburn Bros., Inc., the Bidder that has submitted the attached Bid;
2. He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such Bid is genuine and is not a collusive or sham Bid;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affidavit, have in any way, colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted; or to refrain from bidding in connection with such Contract; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Bidder, firm, or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit, or cost elements of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Contract;
5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any other of its agents, representatives, owners, employees or parties in interest, including this affidavit.

By [Signature]

Sworn and subscribed to before me this 22nd day of May, 2019, in the State of Florida, County of Duval.

[Signature] Notary Public
My Commission Expires: 02/11/22



END OF SECTION

SECTION 00481

BUSINESS ETHICS REQUIREMENTS

1. During the course of pursuing contracts with Owner and while performing contract work in accordance with this agreement, Contractor agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the Owner best interests.
2. Contractor shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Owner's best interests. These obligations shall apply to the activities of contractor employees, agents, subcontractors, subcontractor employees, consultants of contractor, etc.

Contractor employees, agents, subcontractors, material suppliers (or their representatives) should not make or cause to be made any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to Owner's representatives, employees or their relatives.

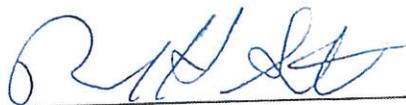
Contractor employees, agents or subcontractors (or their relatives) should not receive any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from representatives of subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the project.

3. Contractor agrees to notify a designated Owner representative within 48 hours of any instance where the Contractor becomes aware of a failure to comply with the provisions of this article.
4. The e-mail address and/or telephone number to report any concerns related to any possible violations of the Owner's Business Ethics Expectations are as follows:

E-mail: Kathy Rose, krrose@capecoral.net Telephone: 239-242-3679

5. Upon request by Owner, Contractor agrees to provide a certified Management Representation Letter executed by selected Contractor representatives in a form agreeable to Owner stating that they are not aware of any situations violating the business ethics expectations outlined in this contract or any similar potential conflict of interest situations.
6. Contractor agrees to include this clause in all contracts with subcontractors and material suppliers receiving more than \$25,000 in funds in connection with the Owner's project.
7. Contractor shall permit interviews of employees, reviews and audits of accounting or other records by Owner representative(s) to evaluate compliance with the business ethics standards. Such reviews and audits will encompass all dealings and activities of Contractor's employees, agents, representatives, vendors, subcontractors, and other third parties paid by Contractor in their relations with Owner's current or former employees or employee relatives.
8. Contractor agrees to implement a program requiring their employees sign acknowledgements that they have read and understand Owner's Business Ethics Expectations and the related obligations outlined in this contract exhibit.

Signature _____



Date 5/22/2019

ITB-UT19-49/KR

Everest WRF - Clarifier 1, 2 & 4 Ductbank Replacement

**Bid Receipt Date: May 23, 2019 - 1:00 PM Bid Opening 1:30 PM
(Room 252-City Hall)**

Bid Tabulation Detail Line Items

**Cogburn Bros., Inc.
3300 Faye Road
Jacksonville, FL 32226**

ITEM	DESCRIPTION	ESTIMATED QUANTITY (A)	UNIT	UNIT PRICE (B)	TOTAL ITEM COST (AxB)
1	General Requirements, Indemnification, Construction Permits	1	LS	\$100,000.00	\$100,000.00
2	Mobilization/Demobilization (Maximum 5% of Total Bid Price)	1	LS	\$62,500.00	\$62,500.00
3	Demolition and Disposal	1	LS	\$54,380.00	\$54,380.00
4	Asphalt, Concrete (Slab) & Site	1	LS	\$135,250.00	\$135,250.00
5	Underground Electrical	1	LS	\$332,800.00	\$332,800.00
6	Above Ground Electrical, Electrical Equipment & Installation	1	LS	\$487,320.00	\$487,320.00
7	Lightning Protection	1	LS	\$89,800.00	\$89,800.00
8	As-Built Drawings, O&M Manuals & As-Built Survey	1	LS	\$66,500.00	\$66,500.00
Total Construction Cost 				\$1,328,550.00	

Item Number: B.(8)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 149-19 Approve Staff Cost Proposal (SCP) SCP AI-08 with AECOM Technical Services, Inc. to provide professional engineering services for the Design, Bidding assistance and Construction Management of the Gleason Parkway Waste Activated Sludge (WAS) line and Fiber Optic Conduit Project for a Not to Exceed Fee of \$167,561 and authorize the City Manager or designee to execute the agreement; Department: Utilities; Dollar Value: \$167,561; (Water & Sewer Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. On August 8, 2016, Resolution 106-16 was approved by City Council creating a Miscellaneous Professional Engineering Services Library. It allows any project specific contract via a SCP, which is greater than \$50,000 but less than the Florida Statute (287.055) (g) threshold, which is currently \$200,000, to be brought to Council for approval.
2. Staff is requesting to utilize AECOM Technical Services, Inc. from the Miscellaneous Professional Engineering Services Library to provide design, permitting, surveying, bid, plan and specification document development, construction management and bidding assistance for the Gleason Parkway Waste Activated Sludge (WAS) line and Fiber Optic Conduit Project.
 1. Staff has reviewed and negotiated the tasks, deliverables, and associated fee and is recommending the award to AECOM Technical Services, Inc. for a Not-to Exceed (NTE) fee of \$167,561 for the scope of services
 2. If approved, the SCP, with AECOM Technical Services, Inc., to perform the outlined services noted above would be for a not-to-exceed fee in the amount of \$167,561.
 3. The time for completion of the Staffing Cost Proposal after the Notice to Proceed is 430

days.

4. This is a budgeted item.

5. Funding Source: Water & Sewer Fund: Business Unit Number 4050178.662601 (ADM-63 WAS Line – Improvements Other Than Buildings).

LEGAL REVIEW:

Staff Cost Proposal reviewed by Legal

EXHIBITS:

Department Recommendation Memo
Resolution 149-19

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director

ATTACHMENTS:

Description	Type
▣ Department Recommendation	Backup Material
▣ Resolution 149-19	Resolution

MEMORANDUM

CITY OF CAPE CORAL
UTILITIES DEPARTMENT

TO: Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager
Kathy Rose, Procurement Specialist

FROM: Jeff Pearson, Utilities Director *(AP) FOR JEFF PEARSON*
James Diviesta, Contract Administrator - Utilities *JD*

DATE: June 11, 2019

SUBJECT: AECOM SCP# AI-08 Gleason Parkway Waste Activated Sludge and
Fiber Optic Conduit Project

PROJECT DESCRIPTION

The scope of services provides for the engineering & design, permitting, and any additional required surveying, associated with the installation of the WAS line, and Fiber-Optics conduit, between SW 15th Avenue and Santa Barbara Boulevard.

The CITY previously installed a 6-inch waste activated sludge (WAS) line from the Everest Water Reclamation Facility (EWWRF) west along Gleason Parkway to Pelican Boulevard. As part of the current 42" Force Main (FM) Replacement projects, the CITY is working to install a 6-inch Waste Activated Sludge (WAS) line and Fiber Optics conduit from the Southwest Water Reclamation Facility (SWWRF) east to SW 15th Avenue & Gleason Pkwy.

With completion of the current project, there is still a portion required, which includes approximately 1.4-mile section of WAS line between SW 15th Avenue and Pelican Boulevard and an approximate 1.8-mile section of Fiber-Optics conduit between SW 15th Avenue and Santa Barbara Blvd required to link the two lines between the Everest WRF and Southwest WRF.

AECOM Technical Services, Inc. has submitted a Not – to – Exceed fee in the amount of One-Hundred, Sixty-Seven Thousand, Five-Hundred and Sixty-One Dollars and No Cents (\$167,561.00).

This design SCP is budgeted in FY19 and will come out of JDE Account Business Unit/Object Number 4050178.662601 (ADM-63 WAS Line – Improvements Other Than Buildings) which has an unencumbered balance of \$1,364,686.00. If you have any questions, please feel free to contact Jim Diviesta at x3693.

JD/jd

Attachment(s) AECOM Technical Services, Inc., SCP# AI-08

RESOLUTION 149 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING STAFFING AND COST PROPOSAL NO. AI-08 BETWEEN THE CITY OF CAPE CORAL AND AECOM TECHNICAL SERVICES, INC., FOR PROFESSIONAL ENGINEERING SERVICES FOR THE GLEASON PARKWAY WASTE ACTIVATED SLUDGE LINE AND FIBER OPTIC CONDUIT PROJECT; PROVIDING FOR SUBSEQUENT EXECUTION OF THE STAFFING AND COST PROPOSAL BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 8, 2016, the City Council adopted Resolution 106-16, creating a Miscellaneous Professional Engineering Services Library of firms to be utilized on an as-needed basis, by various City Departments, for project-specific contracts via Staffing and Cost Proposals negotiated with the best qualified firms for each particular project and providing that any project with an estimated cost exceeding \$50,000, but below the threshold set by Florida Statute, will be brought back to Council for approval; and

WHEREAS, a Staffing and Cost Proposal for professional engineering services including engineering and design, permitting, and any additional required surveying associated with the Gleason Parkway Waste Activated Sludge line and Fiber-Optics conduit project was obtained from AECOM Technical Services, Inc., for an amount not to exceed \$167,561; and

WHEREAS, the Staffing and Cost Proposal is governed by the City's Miscellaneous Engineering Services Contract #CON UT15-21/KR-B with AECOM Technical Services, Inc.; and

WHEREAS, the City Manager recommends the approval of Staffing and Cost Proposal AI-08 between the City of Cape Coral and AECOM Technical Services, Inc., for an amount not to exceed \$167,561 for professional engineering services for the Gleason Parkway Waste Activated Sludge line and Fiber-Optics conduit project.

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

Section 1. The City Council hereby approves Staffing and Cost Proposal AI-08 between the City of Cape Coral and AECOM Technical Services, Inc., for professional engineering services for the Gleason Parkway Waste Activated Sludge line and Fiber-Optics conduit project for an amount not to exceed \$167,561, and authorizes the City Manager or his designee to execute Staffing and Cost Proposal AI-08. A copy of the Staffing and Cost Proposal is attached hereto as Exhibit 1.

Section 2. Effective Date. This resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

For


DOLORES D. MENENDEZ
CITY ATTORNEY

res/SCP-AECOM Technical Services

STAFFING and COST PROPOSAL NO. AI-08

AGREEMENT for MISCELLANEOUS PROFESSIONAL ENGINEERING SERVICES

Between

The City of Cape Coral

and

AECOM Technical Services, Inc.

THIS DOCUMENT, executed this day of , 2019, is STAFFING COST PROPOSAL (SCP) No. AI-08, following all terms and conditions per Master Contract Agreement, CON-UT15-21/KR-B, Miscellaneous Professional Engineering Services executed between the City of Cape Coral (CITY) and **AECOM Technical Services, Inc.** (Engineer) on August 31st, 2016, (hereafter called "Agreement") shall be in effect for the time noted in this agreement, or as mutually agreeable to meet the requirements of the Staffing Cost Proposal.

A. GENERAL

The CITY and ENGINEER have entered into an Agreement to provide professional engineering services for the Design, Bidding, and Construction Management, in connection with the City's water, wastewater and irrigation system improvements. The Agreement provides for services to be performed on the basis of a Staffing and Cost Proposal (SCP) to be prepared by the ENGINEER. The SCP will be executed once ENGINEER and CITY have a fully signed Staffing Cost Proposal and a Purchase Order has been provided to the ENGINEER by the CITY for services described in the Staffing Cost Proposal. The CITY's expectation is for work under this Staffing Cost Proposal to be self-performed by the ENGINEER, whenever possible.

B. DESCRIPTION OF ASSIGNMENT

ENGINEER is to provide professional engineering services for the Design, Bidding and Construction Management of the Gleason Pkwy Waste Activated Sludge (WAS) Line and Fiber Optic Conduit project.

C. PROJECT OVERVIEW:

The CITY previously installed a 6-inch waste activated sludge (WAS) line from the Everest Water Reclamation Facility (EVWRF) west along Gleason Parkway to Pelican Boulevard. As part of the current 42" Force Main (FM) Replacement projects, the CITY is working to install a 6-inch Waste Activated Sludge (WAS) line and Fiber Optics conduit from the Southwest Water Reclamation Facility (SWWRF) east to SW 15th Avenue & Gleason Pkwy.

With completion of the current project, there is still a portion required, which includes approximately 1.4-mile section of WAS line between SW 15th Avenue and Pelican Boulevard and an approximate 1.8-mile section of Fiber-Optics conduit between SW 15th Avenue and Santa Barbara Blvd required to link the two lines between the Everest WRF and Southwest WRF.

D. SCOPE OF SERVICES

The scope of services below provides for the engineering & design, permitting, and any additional required surveying, associated with the installation of the WAS line, and Fiber-Optics conduit, between SW 15th Avenue and Santa Barbara Boulevard.

E. PROJECT TASKS

Design Requirements

The use of the CITY's Utility Standards will be required for all water, wastewater, and irrigation utility projects within the City of Cape Coral unless authorized by the CITY's Utilities Department. The City of Cape Coral has established a comprehensive set of Utility Standards which consist of the Design Procedures Manual, Front End Documents, Technical Specifications, and Standard Utility Drawings & Details, to provide for the planning and design of utility infrastructure within the CITY. The ENGINEER will review all documents relevant to the project and contact the CITY's Utilities Department with any questions, concerns, or clarifications, of the Utility Standards. Additional CITY guidelines; Qualified Products List (QPL), Engineering Design Standards. Project documents may be required to be submitted under a CITY selected Project Management Information System (PMIS).

Task 1 – Preliminary Design

After written authorization to proceed, the ENGINEER shall;

- a. Inspect the designated route and consult with the CITY to clarify and define the requirements for the project.
- b. Perform surveying to GIS support level or engineering required level, to perform final design of the project.
- c. Review available data, including, but not limited to record drawings, GIS, pump specifications, run time data, any existing survey data, and/or geotechnical reports.
- d. Scopes of work for Geotechnical, Subsurface Utility Exploration, survey, for the remainder length to be surveyed and Listed Species Survey were requested from Subconsultants and secured. See attached.
- e. Design Management
 - i. ENGINEER will prepare for and conduct kick-off meeting with project team and CITY staff. The meeting will be attended by the project manager and the project engineer. Meeting minutes will be prepared.
 - ii. Coordinate project activities – ENGINEER will perform project coordination and management functions for the duration of the project.

Task 2 - Final Design & Permitting

- a. Prepare for incorporation in the Contract Documents, drawings which provide the general scope, extent and character of the work to be furnished, and performed by the Contractor. Design submittals shall proceed to and be submitted to the CITY at the 30-, 60-, and 90-percent completion stages. 100-percent will arrive from the final approved 90% drawings. Design will be based on data to be provided by the CITY for surveying, subsurface utility exploration and geotechnical. Submittals for review will be made electronically in PDF format. Documents shall include drawings and specifications ready for bidding:
 - General Sheets consisting of:
 - i. Cover Sheet
 - ii. General Notes Sheet
 - iii. Legend Sheet
 - iv. Key Map
 - v. Fiber Optics Master Plan
 - Civil plan & profile sheets for the proposed force main and fiber optic improvements between SW 15th Avenue and Santa Barbara Blvd. Sheet layouts will be at 1:30-scale, prepared for 22x34 inch drawings sheets (to allow for production at half scale on 11x17 inch sheets while maintaining a 1:60 scale). – 14 sheets anticipated
 - Detail sheets including MOT, connection details to existing force main and related standard details and picture data (as available) for the SUE efforts performed by others.
- b. Advise the CITY of any adjustments to the latest preliminary opinion of probable construction costs based on changes in general scope, extent or character or design requirements of the project. Furnish to the CITY a revised preliminary opinion of probable construction costs based on the drawings and specifications at the 60- and 100-percent completion stages of design.
- c. Develop and provide technical specifications to the CITY for incorporation with the City-prepared front-end documents (the Division 00 documents to be sent to Procurement). The CITY will assemble the bidding documents.
- d. Perform permitting services required with the Florida Department of Environmental Protection (FDEP) regarding the proposed project. Permitting efforts will include preparation and submittal of the required FDEP wastewater permit application and required signed/sealed design documents along with addressing requests for additional information related to the proposed improvements to be permitted. The ENGINEER has based the level of effort and fee upon the premise that the proposed project will be processed by FDEP using Form 62-604.300(8)(a), FAC and by the United States Army Corps of Engineers through the Pre-Construction Notification (PCN) process as a Nationwide Permit 12 to authorize work under waters of the United States. The ENGINEER will conduct a desktop review of readily available Geographic Information Systems (GIS) data layers to establish the existing conditions narrative required to generate permit applications. Wetland and/or listed species impacts and compensatory mitigation are not anticipated. All permit fees are to be paid for by the CITY.

- e. Conduct four (4) project design meetings between CITY and the ENGINEER to review comments from the CITY on the draft contract documents.

Task 3 – Bidding

1. Bidding Services

With the exception of the following, bidding services will be performed by the CITY.

ENGINEER will assist with the following:

- a. Attend a Pre-Bid meeting for the project to describe the proposed improvements.
- b. Answer bidder questions through preparation of addenda for each project. The ENGINEER will address those technical items associated with design, with the CITY addressing administrative/contractual questions and releasing documents through addenda.
- c. Attend (1) Bid -Opening and review bids/make a recommendation of award.

Task 4 – Construction Management

1. Pre-Construction Phase

Following procurement of the Construction Contractor, the ENGINEER shall perform the following:

- a. ENGINEER Meetings –
 - i. Attend (1) pre-construction meetings as necessary to review construction procedures and material requirements establish party contacts and familiarize all party members with goals and manner in which they should be accomplished.
 - ii. Attend (1) internal meetings to review the proposed shop drawings with the CITY.
- b. ENGINEER shall review and approve shop drawings, samples and other data which Contractor is required to submit for conformance with the design concept of the project and compliance with the information given in the Contract Documents.
- c. ENGINEER shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor.

2. Construction and Closeout Phase

During the Construction Phase, ENGINEER shall provide general administration of the construction contract, which shall include the following services:

- a. Meetings – Schedule and attend progress meetings in order to review the project progress with the CITY and Contractor. This scope of services considers that bi-weekly progress meetings will be held for a total of ten (10) progress meetings.

- b. ENGINEER shall make visits to the construction site at intervals appropriate to the various stages of construction in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of contractor's work. Based on information obtained during such visits and on such observations, ENGINEER will determine if such work is proceeding in accordance with the Contract Documents and ENGINEER shall keep the CITY informed of the work's progress. The purpose of ENGINEER's visits to the sites will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for the CITY with a greater degree of confidence that the completed work of Contractor will conform to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor. ENGINEER will not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over Contractor work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor furnishing and performing their work.
- c. ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare for the CITY's and ENGINEER's signatures any work directive changes and change orders as required.
- d. ENGINEER will, with the CITY's concurrence, have authority as the CITY's representative, to require special inspection or testing of the work, and will receive and review all certificates of inspections, testing and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents to determine that their content complies with the Contract Documents. CONTRACTOR responsible for material testing and submittal of results to ENGINEER for approval.
- e. ENGINEER shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of the CITY and Contractor relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work.
- f. Based on ENGINEER's on-site observations as an experienced and qualified design professional, ENGINEER will review applications for payment and the accompanying data and schedules. ENGINEER will determine the amounts owing to Contractor and recommend in writing to the CITY, payments to Contractor in such amounts. Such recommendations of payment will constitute a representation to the CITY, based on such observations and input from the CITY's field inspector and periodic visits to the project by ENGINEER, that the work has progressed to the point indicated, and that, to the best of ENGINEER's knowledge, information and belief, the quality of such work is in accordance with the Contract Documents. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).

- g. ENGINEER shall receive and review for adequacy, schedules, guarantees, bonds and certificates of inspection, tests and approvals assembled by Contractor in accordance with the Contract Documents and forward to the CITY.
- h. ENGINEER shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor and give written notice to the CITY and the Contractor that the work is acceptable.
- i. ENGINEER shall prepare a set of reproducible Record Drawings showing those changes made during the construction process, based on the marked-up prints, drawings, surveys and other data furnished by Contractor to ENGINEER and which the ENGINEER and the CITY considers significant.
- j. ENGINEER shall prepare and submit certifications of completion of construction as may be required by the regulatory agencies issuing permits for the project.
- k. ENGINEER shall coordinate manufacturer's startup and/or training. (if required)

Additional Services

Should the CITY request assistance that is outside of the scope of services as described above, that work would need to be addressed under a separate proposal.

Items to Be Furnished at No Expense to the ENGINEER

The CITY will assist the ENGINEER by furnishing, at no cost to the ENGINEER, available pertinent information including data relative to performance of the above services for the project including but not limited to: pump design data, any known survey data, as-built and GIS information available for the existing wastewater, potable water, and/or irrigation, systems in the vicinity of the proposed project. It is agreed and understood that the accuracy and veracity of said information and data may be relied upon by ENGINEER without independent verification of the same.

F. DELIVERABLES

The following deliverables are anticipated:

- 1. Copies of Meeting Minutes.
- 2. Four (4) sets of record drawing prints plus reproducible, one copy to be 36" x 24".
- 3. An electronic file of record drawing.
- 4. Copies of all test and/or start-up forms.
- 5. Copies of certification of completion forms.
- 6. All survey documents/data.

G. PROPOSED STAFFING

(Firm's staffing summary)

The following staff is proposed for performing the services authorized in this SCP. These position titles and fees should match those shown in the Master Agreement for Miscellaneous Professional Services.

Labor Classification	Assignment
Principal in Charge \$258/hr.	Design, Permitting, Bidding and Construction Management – Tasks 1, 2, 3 and 4
Project Manager \$189/hr.	Design, Permitting, Bidding and Construction Management – Tasks 1, 2, 3 and 4
Engineer 2 \$129/hr.	Design, Permitting, Bidding and Construction Management – Tasks 1, 2, 3 and 4
CADD Technician 2 \$112/hr.	Design, Permitting, Bidding and Construction Management – Tasks 1, 2, 3 and 4
Project Administrator \$76/hr.	Design, Permitting, Bidding and Construction Management – Tasks 1, 2, 3 and 4

(Proposed Sub-consultants' staff)

Sub consultant assignment:

Labor Classification	Assignment
RWA Engineering	Survey – Task 1 Preliminary Design
GFA International	Geotechnical – Task 1 Preliminary Design
Passarella & Associates, Inc.	Environmental/Permitting – Task 1

H. TIMELINES by TASK

- Task 1 - 90 days
- Task 2 - 90 days
- Task 3 - 30 days
- Task 4 - 220 days
- Completion – 430 days

I. SCHEDULE

The services described herein will commence upon receipt by the ENGINEER of a Purchase Order from the CITY. Receipt of the Purchase Order will serve as ENGINEER'S Notice to Proceed.

J. CITY RESPONSIBILITIES

The CITY will designate Dennis Morgan, Senior Project Manager, as the CITY'S representative and primary contact for the ENGINEER. The ENGINEER will rely on the CITY'S designated project representative for instructions and approval of ENGINEER'S'S services.

K. COMPENSATION

Based on the scope of services and the schedule outlined above, ENGINEER has prepared a detailed labor disaggregation for the proposed tasks. Summarized in **Attachment A** – (hereby attached and incorporated herein) is a summary spreadsheet that details the man-hours for each task for ENGINEER'S personnel titles as shown in the contract and sub-consultants service fees. All anticipated other direct expenses are outlined in spreadsheet. Sub-consultant fees are also shown on the spreadsheet and additional attachment on Sub-consultant's Letterhead as an attachment to the

Staffing Cost Proposal. No Mark-up on Sub-consultant fees will be accepted. All fees will be shown as "Not to Exceed". No LUMP SUM fees will be accepted.

For the professional services as set forth in this SCP, the CITY shall pay ENGINEER a not-to-exceed fee in the amount of (\$167,561) as displayed in the attached price proposal. Payment is estimated to be distributed to the Firm in monthly progress payments based on work performed during each monthly billing period. Certain assumptions have been made in developing the fees for services. To the extent possible, all fees are shown in the proposal. If changes to the work should result in changes in the level of effort presented in this proposal the scope of services and fee budget will be revised by mutual agreement and will follow CITY guidelines for authorization and approval.

L. All Other Direct Cost (ODC):

All other direct costs (Examples Include: Travel, Hotel, Mileage, Meals, Copies, Equipment Rental, etc.) will be shown at actual cost as shown in Master Agreement for miscellaneous professional services. No mark up on Sub-consultant Services or Other Direct Cost Expenses will be accepted.

Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City, if the City Council reduces or eliminates appropriations.

(END OF SECTION)

IN WITNESS WHEREOF, the parties hereto have executed STAFFING COST PROPOSAL No. AI-08 to be effective as of this day _____ of _____ 2019.

ATTEST:

FIRM NAME: AECOM TECHNICAL SERVICES, INC.

Signature: _____

Signature: 

Typed Name: _____

Typed Name: Ronald R. Cavalieri, P.E., BCEE

Date: _____

Date: 6/11/2019

ATTEST:

CITY OF CAPE CORAL

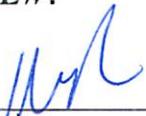
By: _____
Kimberly Burns, CMC, City Clerk

Signature: _____
A. John Szerlag, City Manager
(if over \$25,000)
Wanda Roop, Procurement Manager or
Victoria Bateman, Financial Services
Director
(if under \$25,000)

Date: _____

Date: _____

LEGAL REVIEW:

By: 
 Dolores Menendez
City Attorney

Date: 6/19/19

Attachment A - Project Budget - 06-08-2019

AECOM Technical Services Inc.	STAFFING PLAN (HOURS) for Prime Firm						STAFFING RESOURCE COST				
	Hours and Fees by Position and Task						TOTAL COST				
Direct Labor Rates	\$ 258.00	\$ 189.00	\$ 129.00	\$ 112.00	\$ 76.00						
Summary of Cost for Staffing Cost Proposal	Principal In Charge	Project Manager	Engineer 2	CADD Technician 2	Project Administrator	Total Hours	AECOM Fees	Sub-Consultant	ODC	TOTAL FEES	
Task# 1.00 Preliminary Design											
Inspect Route, Define Requirements and Consult with City	1	8	8	4	4	25	\$ 3,554			\$ 3,554	
Survey		1		2		3	\$ 413	12,500		\$ 12,913	
Geotechnical		1		2		3	\$ 413	6,990		\$ 7,403	
SUE		1		2		3	\$ 413	3,800		\$ 4,213	
Listed Species Survey		1				1	\$ 189	4,700		\$ 4,889	
Design Management	8	24	8		24	64	\$ 9,456			\$ 9,456	
Subtotal	9	36	16	10	28	99	\$ 14,438	27,990		\$ 42,428	
Task # 2.00 Final Design & Permitting											
Prepare and Submit 30% Design Plans & Specifications	2	16	40	100	4	162	\$ 20,204			\$ 20,204	
Prepare and submit 60% Design Plans & Specifications & Cost Estimate	2	12	24	80	4	122	\$ 15,144			\$ 15,144	
Prepare and submit 90% Design Plans & Specifications	2	12	24	80	4	122	\$ 15,144			\$ 15,144	
Prepare and submit 100% design Plans & Specifications & Cost Estimate	8	12	12	40	4	64	\$ 7,844		500	\$ 8,344	
Permitting (FDEP ERP Application, USACE PCN)		8	24	24	40	96	\$ 10,336			\$ 10,336	
Conduct Four (4) Design Meetings	4	30	2	2	2	40	\$ 7,336		200	\$ 7,536	
Subtotal	10	86	126	326	58	606	\$ 76,008		700	\$ 76,708	
Task # 3.00 Bidding											
Attend Pre-Bid Meeting		1	6		1	8	\$ 1,039			\$ 1,039	
Respond to Questions & Prepare Addenda	1	2	8		4	15	\$ 1,972			\$ 1,972	
Attend Bid Opening		1	8		1	10	\$ 1,297			\$ 1,297	
Review Bids Prepare Recommendation of Award	1	3			1	5	\$ 901			\$ 901	
Subtotal	2	7	22	0	7	38	\$ 5,209			\$ 5,209	
Task # 4.00 Construction Management											
Attend Pre-construction Meeting	1	2	8		1	12	\$ 1,744			\$ 1,744	
Attend Shop Drawing Review Meeting	1	2	8		1	12	\$ 1,744			\$ 1,744	
Review & Approve Shop Drawings (16)		16	32		32	80	\$ 9,584			\$ 9,584	
Attend Progress of Construction Meetings (10)	4	10	60		10	84	\$ 11,422			\$ 11,422	
Site Visits (10)		10	20			30	\$ 4,470			\$ 4,470	
Respond to RFI's (8)	1	2	16	8	8	35	\$ 4,204			\$ 4,204	
Review and Approve Pay Applications (8)		1	10		1	12	\$ 1,555			\$ 1,555	
Review Schedules, Guarantees, Bonds		1	8		1	10	\$ 1,297			\$ 1,297	
Substantial Completion Inspection		2	8		1	11	\$ 1,486			\$ 1,486	
Final Inspection	1	2	8		1	12	\$ 1,744			\$ 1,744	
Closeout Permit		1	4	1	1	7	\$ 893			\$ 893	
Prepare As-built/Record Drawings		1	4	16	1	22	\$ 2,573		500	\$ 3,073	
Subtotal	8	50	186	25	58	327	\$ 42,716		500	\$ 43,216	
Totals	29	179	350	361	151	1070	\$ 138,371	\$ 27,990	\$ 1,200	\$ 167,561	

Summary of ODC's

- Task 2 - Final Design and Permitting
- Printing: 500 copies x \$1.00 per sheet
- mileage: 345 miles x \$0.58 per mile
- Task 4 - Construction Management
- Printing: 500 copies x \$1.00 per sheet

\$ 7,482.00 \$ 33,831.00 \$ 45,150.00 \$ 40,432.00 \$ 11,476.00

\$138,371

\$ 167,561



PASSARELLA & ASSOCIATES INC

June 10, 2019

Mr. Francisco J. Bohórquez
AECOM
7650 West Courtney Campbell Causeway
Tampa, Florida 33607-1462

RE: Cape Coral WAS Force Main and Fiber Optic Project
City of Cape Coral Listed Species Survey
Project No. 19AEC3070

Dear Francisco:

Passarella & Associates, Inc. (Consultant) is pleased to offer the following services to AECOM (Client) for Cape Coral WAS Force Main and Fiber Optic Project located in Sections 2, 3, 34, and 35; Township 44 and 45 South; Range 23 East; Lee County, Florida. The services to be provided are as follows:

<u>Task</u>	<u>Description</u>	<u>Cost</u>
1.0	City of Cape Coral Listed Species Survey	\$3,500.00
1.1	Conduct updated listed species survey per City of Cape Coral standards.	
1.2	Prepare map showing approximate location of listed species documented during survey.	
1.3	Prepare report summarizing results of survey per City of Cape Coral requirements.	
2.0	General Consultation and Meetings	\$1,200.00
2.1	Attend meeting and/or conference calls with Project team.	

The total fee for Tasks 1.0 and 2.0 is four thousand seven hundred dollars (\$4,700.00). Invoicing will be monthly based on percentage of the work completed.

In witness whereof the parties hereto have made and executed this contract as of the day and year above written.

Client:
AECOM

Consultant:
Passarella & Associates, Inc.

Francisco J. Bohórquez

Kenneth C. Passarella, President

Date

Date

BB/ag

Offices in Florida and South Carolina



May 9, 2019

Francisco J. Bohorquez, PE
Senior Engineer
AECOM
7650 West Courtney Campbell Causeway
Tampa, Florida 33607-1462

Press Subject: Professional Service Proposal for Design Survey, along Gleason Parkway, Pelican Boulevard to Santa Barbra Boulevard (RWA Project No. 190054.00.00)

Dear Fransico,

RWA, Inc. is pleased to submit the following proposal for land surveying services associated with the development of the subject project. Outlined below is our understanding of the project profile and the assumptions we have used to develop our scope and associated fees in response to your request for proposal. The deliverable will be a CADD file, with the data overlaid on the best available aerial photograph, and a signed and sealed Surveyor's Report.

PROJECT PROFILE

- The project is generally located in Section 02 Township 45 South, Range 23 East, City of Cape Coral, in Lee County, Florida.
- The Client desires to retain the services of RWA, Inc. (Consultant) and proceed with the Project as described within this proposal.
- All surveying activities to be performed under the direct supervision of a licensed Professional Surveyor & Mapper and shall adhere to Chapter 472, Florida Statutes, and the Standards of Practice as specified in section 5J-17, Florida Administrative Code.

PROJECT ASSUMPTIONS

- The Client will make available all pertinent information, permits, and documents associated with the required Project, including, but not limited to, existing surveys, title policies, O&E reports and engineering/civil plans in Auto CADD electronic format, if any exist.
- This proposal includes performing all services described within on a one-time basis.
- Client will assist RWA with access to the site during normal working hours. If we foresee the need to work after hours, or on the weekend, we will notify the client to insure access.

- The vertical and horizontal datum will be Florida State Plane Coordinates, Florida West Zone, and NGVD 29. The survey provided as a basis for this task, prepared by Hole Montes, dated Dec. 2018, is noted to be in NGVD 29. We can show either datum on the deliverable, and also list the conversion from NGVD 29 to NAVD 88.
- There is no Boundary Survey component to this project.

SCOPE OF SERVICES

1.0 Limited Topographic Survey

The project area is along Gleason Parkway, between Pelican Boulevard, extending easterly approximately 2,700 feet to the intersection with Santa Barbara Boulevard.

- 1.1. RWA will recover or establish a baseline along Gleason Parkway, from Pelican Boulevard to the intersection with Santa Barbara. This will be the basis for the topographic survey, and will give us a basis to compare the data we collect, with that shown on the Hole Montes survey.
- 1.2. RWA shall locate existing platted property corners, along the southerly right of way line of Gleason Parkway. This will be used as a basis for establishing the basemap for the project area. RWA will then use the recorded plat to establish the lot lines of the properties adjacent to the southern right of way line. We will also mine the Lee County Property Appraisers website to obtain the lot number, names of the owners and strap numbers of those adjacent properties.
- 1.3. RWA shall collect topographic information on the existing improvements on the southern right of way, from the center median, to the right of way line, within the project limits. This shall include any fixed improvements such as evidence of utilities, driveway aprons, signage, mail boxes, light, signal or utility poles, and sidewalks. We will collect information the visible existing utilities, hard surfaces and drainage swales.
- 1.4. RWA shall set up to four (4) new horizontal control points and up to (6) benchmarks in the project area.
- 1.5. RWA shall locate both horizontally and vertically, the utilities uncovered and marked by CARDNO, and add that data to the survey

2.0 Subsurface Utility Locations

RWA shall employ the services of CARDNO as a subcontractor, to perform six (6) pot hole excavations.

2.1 Limits of Investigation:

The test hole locations will be determined by the client but generally understood to be located as follows: 2 at Gleason / SW 15th Avenue, 2 at Gleason / Pelican and 2 at Gleason and Santa Barbara.

Scope of Services:

1. Cardno will complete six test holes in the locations as described above.
2. Photographs will be taken at each location showing the exposed utility.
3. Measurements will be taken from a reference point set next to each test hole.
4. All data will be recorded on data sheet including utility type, size and depth.

3.0 Reimbursable Expenses

- 3.1 Expenses for copies, blueprints, reproduction services, overnight or express delivery and, services not specifically specified herein shall be reimbursable to RWA, Inc.

PROFESSIONAL SERVICE FEES

The professional service fees for the associated scope of services are listed below:

<u>Scope of Service</u>	<u>Fee</u>	<u>Type</u>
1.0 Limited Topographic Survey	\$ 12,500.00	Fixed
2.0 Subsurface Utility Locates	\$ 3,700.00	Fixed
3.0 Reimbursable Expenses	\$ 100.00	T/M/E

EXCLUDED SERVICES

The professional services to be provided by the Consultant are limited to those described in the Scope of Services. All other services are specifically excluded. Listed below are some excluded services that may be required or desired by the Client:

- Jurisdictional Wetland line determination/surveys
- Title/Official Record Searches
- Legal description preparation
- As-built record verifications
- Construction Staking
- As-Built Surveys
- FEMA Certificates

These services will appear on future invoices as *Limited Topographic Survey* Please sign this authorization on page 3 and return it to our office as notice to proceed with the work. Please feel free to contact me at (239) 597-0575 if you have any questions or require additional information.

Sincerely,



Michael A. Ward, PLS
Vice President, Director of Survey

GFA International, Inc.

Florida's Leading Engineering Source

Francisco J. Bohorquez, P.E.
AECOM

7650 West Courtney Campbell Causeway
Tampa, FL 33607

Phone: (813) 636-2103

Email: francisco.bohorquez@aecom.com

Proposal for Geotechnical Exploration

Gleason Parkway WAS FO Installation

Gleason Pkwy. from SW 15th Ave. to Santa Barbara Blvd.

Proposal No. 19-3484.00

May 8, 2019





GFA International, Inc.

Florida's Leading Engineering Source

Environmental ★ Geotechnical ★ Construction Materials Testing ★ Inspections ★ Code Compliance ★ Environmental Health & Safety

LEHIGH ACRES (FORT MYERS)
201 Waldo Avenue North
Lehigh Acres, Florida 33971
Phone: (239) 489-2443 Fax: (239) 489-3438

teamgfa.com

May 8, 2019

Mr. Francisco J. Bohorquez, P.E.

AECOM

7650 West Courtney Campbell Causeway
Tampa, FL 33607
Phone: (813) 636-2103
Email: francisco.bohorquez@aecom.com

**RE: Proposal for Geotechnical Exploration
Gleason Parkway WAS FO Installation
Gleason Pkwy. from SW 15th Ave. to Santa Barbara Blvd.
Proposal No. 19-3484.00**

Dear Mr. Bohorquez:

GFA International, Inc. (GFA) appreciates the opportunity to become a part of your project team. Our team of professionals are dedicated to making this project a success, both on schedule and within budget. We are proud of our commitment to maintaining the highest levels of customer service and client satisfaction, and respectfully submit the following for your consideration.

PROJECT DESCRIPTION

GFA understands that the project will consist of the installation of approximately 1.4 miles of 6-inch force main and 1.8 miles of fiber optics conduit along Gleason Parkway from SW 15th Avenue to Pelican Boulevard (6-inch force main) and Santa Barbara Boulevard (fiber optics conduit) in Cape Coral, Lee County, Florida. We also understand that most of the installation will consist of cut-and-cover operations, with the exception of canal crossings and major intersections where installation will consist of directional drilling. Project documentation provided to GFA was a Topographic Survey dated 4/2/19 prepared by Hole Montes along Gleason Parkway from SW 15th Avenue to Pelican Boulevard. No other documents were provided at this time.

Per the City of Cape Coral Drilling requirements, the owner of the property (Gleason Parkway Right-of-way) must authorize drilling for the referenced site in order for the drilling permit to be obtained. The attached Owner's Authorization Form must be completed and returned before any work can be performed. Absence of this form will delay scheduling of the project.

SCOPE OF SERVICES

GFA anticipates that the following services will be required for this project:

1. Geotechnical Drilling and Engineering Services

1. GEOTECHNICAL DRILLING AND ENGINEERING SERVICES

The objective of GFA's services on this project will be to collect site and subsurface data along the proposed project route and summarize test results in the form of a Geotechnical Engineering Report. GFA anticipates that the following services will be required:

- Where applicable, GFA will obtain city drilling and county right-of-way permits for proposed work listed above.
- A representative from GFA's office will locate the borings in the field based on measured and estimated distances from existing site features.
- GFA will contact Sunshine State One Call to have any known utilities at the test boring locations identified. Utility locates will take a minimum of 72 hours for completion. GFA cannot be responsible for underground utilities or structures not identified to us.
- Mobilize a truck-mounted drill rig. **This proposal is based on the site being accessible to our truck-mounted drilling equipment.**
- GFA will perform seven (7) Standard Penetration Test (SPT) borings advanced to a depth of twenty-five (25) feet and five (5) SPT borings advanced to a depth of ten (10) feet below the existing site grade. (Please note that the number and depths of borings may be adjusted in the field based on existing soil conditions.)
- GFA will visually classify and stratify the soil/rock samples recovered and perform laboratory testing as necessary to facilitate classification of samples.
- Summarize our activities on this project in the form of a Geotechnical Engineering Report, which will include the test procedures used, the data collected, a discussion of project specific geotechnical concerns, our engineering evaluation and recommendations, a site plan showing the test locations, and a software generated log of each test boring.

We have assumed that the current property owner(s) and/or current property user(s) will grant site access to our personnel for the performance of the work. If this assumption is incorrect, we must be notified prior to the start of our work.

An Estimated Budget for the scope of services detailed above is presented below:

Description	Rate	Est. Qty.	Estimated Total
Field Services**			
Cape Coral Drilling Permit	\$330.00 Each	2	\$660.00
Cape Coral Right-of-way Permit (if required)	\$100.00 Each	2	\$200.00
Mobilization of Drilling Equipment	\$500.00 Each	1	\$500.00
Drilling and Grouting of Borings*	\$16.00 Foot	225	\$3,600.00
Staff Engineer for permits and utility locates	\$85.00 Hour	8	\$680.00
Laboratory Services			
Gradation Testing (if required)	\$55.00 Each		TBD
#200 Wash (if required)	\$50.00 Each		TBD
Organic Content (if required)	\$50.00 Each		TBD
Engineering Services			
Project Engineer	\$135.00 Hour	2	\$270.00
Staff Engineer	\$85.00 Hour	8	\$680.00
CAD Technician	\$55.00 Hour	6	\$330.00
Admin. Asst.	\$35.00 Hour	2	\$70.00
ESTIMATED TOTAL:			\$6,990.00

*Billing will be based on actual work performed and the unit rates shown.

**If MOT services are required, a daily rate of \$2,000 per day will be incurred. If private locating services are required a daily rate of \$1,000 per day will be incurred.

We will not exceed the fee stated above unless unsuitable and/or unstable soil conditions are encountered. If casing is required due to loss of drilling fluid circulation during drilling operations – an additional fee of \$5.00 per foot of casing required will be charged. If unsuitable and/or unstable soil conditions are encountered, the boring depth will be increased to obtain sufficient data to provide geotechnical recommendations.

CONDITIONS AND QUALIFICATIONS

Please note that GFA’s services do not include supervision or direction of the actual work. Also, be aware that neither the presence of our field representative nor the observation and testing by our firm shall imply GFA’s responsibility for defects discovered in the construction work. It is understood that GFA will not be responsible for job or site safety on this project. Job site safety will be the sole responsibility of the contractor.

In this proposal the words “inspection” and “verify” are used to mean observation of the work and the conducting of tests by GFA to determine substantial compliance with plans, specifications and design concepts.

These services include an engineering technician or inspector, field sampling, travel, test equipment and a typed report signed and sealed by a State of Florida Registered Professional Engineer. The rates for professional engineering services apply to report review, site visits and meetings, consultations, engineering letters, and letters of intent and certification.

The overall cost of construction quality control programs is dependent upon the contractor’s scheduling, weather and other factors beyond our control. However, you will only be invoiced for services rendered. Hourly rates will be charged in whole hour increments with fractions of an hour rounded up to the next full hour. All hourly labor rates are portal to portal.

GFA will provide detailed invoices on a bi-weekly basis for services rendered. Our terms are C.O.D. (credit cards are accepted) unless a credit application has been approved or credit has been previously established. If credit is established, our terms will be net-30 days. All GFA services must be paid in full, including final letter, prior to delivery of any Final Letters of Compliance. The pricing contained herein is subject to change if this proposal is not authorized within 90 days from the date of this proposal. If more than 90 days have passed since the date of this proposal, please contact us for an updated proposal. Additional items not listed in this proposal will be quoted upon request.

Reports will be distributed promptly to a maximum of three (3) interested parties without charge (Ex: Building Department, Owner, and Contractor). Additional reports will be billed at 1% of the monthly invoice for each additional party. All GFA services must be paid in full, including final letter, prior to delivery of any Final Letters of Compliance.

AUTHORIZATION

All services will be conducted in accordance with this proposal and attached Terms and Conditions. To initiate services, please complete and return the included Proposal Acceptance Agreement form. The Terms and Conditions are part of this agreement. **The signed proposal acceptance agreement form must be received by GFA via fax or email prior to any work being performed, and an original copy must be received before completed reports can be distributed.**

CLOSING

GFA appreciates the opportunity to submit this proposal and looks forward to working with you as a member of the project team. Please contact the undersigned at 239.489.2443 if you have any questions or comments.

From our team to yours,

GFA International, Inc.
CA#4930



Adam Dornacker, P.E.
Geotechnical Department Manager



J.R. Gibbs
Director of Business Development

Attachments: Exhibit "A" – GFA International Inc.'s Standard Terms & Conditions

Item Number: B.(9)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 150-19 Approve Agreement CON-PW19-45/AP-1(CP) for Professional Design Services for the Community Park project with Kimley-Horn and Associates, Inc. for a not to exceed cost of \$3,204,076 with a 5% City controlled contingency for additional services, if needed, of \$160,204 for a total cost \$3,364,280. The ranking was approved by City Council on 4/15/19 via Resolution 65-19; Department: Public Works/Parks & Recreation; Dollar Value: \$3,364,280; (Governmental Capital Project Fund-funded by GO Bond)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

ELEMENT G: WORK TOWARD EFFICIENT AND COST-EFFECTIVE SOLUTIONS TO PROTECT AND CONSERVE NATURAL RESOURCES, WHILE PROMOTING ENVIRONMENTAL AWARENESS AND SUSTAINABILITY IN THE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. On February 4, 2019 Request for Proposal RFP-PW19-45/AP was issued seeking qualified firms to provide Professional Design Services for the Design of Neighborhood & Community Park project.
2. On March 1, 2019, five (5) firms responded to the RFP. The five (5) firms in alphabetical order are: AECOM Technical Services, Inc.; CPH, Inc.; Kimley-Horn and Associates, Inc.; Q. Grady Minor & Associates, P.A.; and Stantec Consulting Services, Inc.
3. Proposals were evaluated based on City of Cape Coral, Code of Ordinance Article VII: Purchase and Sale of Real and Personal Property Section 2-144 (h) Consultant's Competitive Negotiation Act.
4. Firms that were shortlisted were asked to present to the Selection Advisory Committee on March 26, 2019 for Neighborhood Parks and on March 27, 2019 for Community Parks. The firms shortlisted were, in alphabetical order: AECOM Technical Services, Inc.; Kimley-Horn

and Associates, Inc; and Stantec Consulting Services, Inc.

5. On March 26 and 27, the Selection Advisory Committee (SAC) interviewed the three (3) firms recommended by the evaluation committee. The SAC ranked the firms in the following order #1 Kimley-Horn and Associates, Inc.; #2 AECOM Technical Services, Inc.; #3 Stantec Consulting Services, Inc.
6. On April 15, 2019, via Resolution 65-19, City Council approved the ranking and authorized the City Manager to enter into contract negotiations with the #1 ranked firm for the Neighborhood and Community Parks – and Rank #1 AECOM Technical Services, Inc and Rank #1 Kimley-Horn and Associates, Inc., respectively
7. The Agreement for the Community Parks with Kimley-Horn and Associates, if approved, is for a not to exceed cost of \$3,204,076 with a 5% City Controlled Contingency for any additional services of \$160,204 for a total cost \$3,364,280. This agreement includes the design of four (4) community parks.
8. The Department Director is requesting City Controlled contingency for additional services, if needed. The Expenditure of Contingency, if any, will be subject to approval of specific change orders by the Project Manager, if justified upon identified needs with an appropriate scope and cost to address specific needs.
9. Funding Information: Governmental Capital Project Fund- funded by GO Bond. Business units have been created for the four (4) Community Parks; four (4) Community Parks. Funded through General Obligation debt proceeds to approve the expenditure appropriation, to be presented with Budget Amendment # 2

LEGAL REVIEW:

Agreement reviewed by Legal

EXHIBITS:

Department Memo
Resolution 150-19

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, Public Works Director
Kerry Runyon, Parks & Recreation Director

ATTACHMENTS:

Description	Type
▢ Department Recommendation Memo	Backup Material
▢ Resolution 150-19	Resolution

FINANCE

JUL 5 2019

RECEIVED

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: John Szerlag, City Manager
Victoria Bateman, Finance Director
Wanda Roop, Procurement Manager

FROM: *pot* Paul Clinghan, Public Works Director *PC*
Kerry Runyon, Parks and Recreation Director *AA-1/5/19*

DATE: July 5, 2019

SUBJECT: Design of Community Parks GO Bond Project: Kimley-Horn and Associates, Inc.

BACKGROUND:

In November 2018 the electorate approved the use of General Obligation funding to deliver up to \$60 million in parks improvements identified in the 2016 Parks and Recreation Master Plan. The City Council passed Ordinance 54-19, authorizing the issuance of \$10.2M to begin purchasing improvements at existing parks and to fund the design work at 11 other parks—seven (7) neighborhood and four (4) community parks.

The City issued a request for proposal (RFP) to various engineering firms to review and identify the most qualified firm(s) to perform the work. Upon closure of the RFP the SAC ranked the firms for award and, subsequently, City Council approved Resolution 65-19, ranking the firms for negotiations as follows: Community Parks-Kimley Horn and Neighborhood Parks-AECOM. City Administration has completed its negotiations with Kimley-Horn and Associates for the master planning, design, and development of bid documents needed to construct the four (4) community parks for a total amount of \$3,204,076, with a 5% city-controlled contingency in the amount of \$160,204. The total amount including contract contingency and the possible additional services is \$3,364,280.

RECOMMENDATION:

The City and Kimley-Horn and Associates have entered into an Agreement to provide professional engineering services in connection with the Civil Site Design Improvements for the following four (4) community parks: 1) Festival Park, 2) Lake Kennedy Park, 3) The Yacht Club, and 4) Yellow Fever Creek Park. The agreement provides for various professional services to be performed including the following: 1) master planning, 2) public engagement, 3) design services, 4) bidding, and 5) engineer of record.

Staff recommends awarding the contract based on the agreement provided. If you have any questions regarding this request, please contact Michael Ilczyszyn, Senior Public Works Manager at 239-574-0457 or milczysz@capecoral.net.

FUND AVAILABILTY:

GO Bond - Parks & Recreation: Festival Park 3112032, Lake Kennedy Park 3112033, Yacht Club 3112031, and Yellow Fever Creek Park 3112034

PC/KR:ip

RESOLUTION 150 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING AGREEMENT CON-PW19-45/AP-1 (CP) FOR PROFESSIONAL DESIGN SERVICES FOR THE COMMUNITY PARKS PROJECT BETWEEN THE CITY OF CAPE CORAL AND KIMLEY-HORN AND ASSOCIATES, INC.; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 4, 2019, the City issued Request for Proposal RFP-PW19-45/AP for Professional Design Services for the Design of Neighborhood Parks & Community Parks General Obligation (GO) Bond Project; and

WHEREAS, the City received five (5) proposals; and

WHEREAS, the proposals were evaluated based on the criteria set forth in the City of Cape Coral Code of Ordinances, Section 2-144(h), Consultants' Competitive Negotiation Act; and

WHEREAS, on March 26, 2019, and March 27, 2019, the SAC interviewed the top three firms and ranked the firms as follows: Kimley-Horn and Associates, Inc., ranked #1; AECOM Technical Services, Inc., ranked #2; and Stantec Consulting Services, Inc., ranked #3; and

WHEREAS, the SAC further ranked the firms for the two separate projects as follows: AECOM Technical Services, Inc., ranked #1 for the Design of the Neighborhood Parks GO Bond Project; and Kimley-Horn and Associates, Inc., ranked #1 for the Design of the Community Parks GO Bond Project; and

WHEREAS, based on the SAC ranking, which was approved by City Council on April 15, 2019, via Resolution 65-19, staff began negotiations with Kimley-Horn and Associates, Inc., the #1 ranked firm for the Design of Community Parks; and

WHEREAS, based on the negotiations, the City Manager recommends the approval of Agreement CON-PW19-45/AP-1 (CP) between the City of Cape Coral and Kimley-Horn and Associates, Inc., for the Design of Community Parks for an amount not to exceed \$3,204,076, subject to a City-controlled contingency amount not to exceed five (5) percent of the total amount of the contract.

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

Section 1. The City Council hereby approves Agreement CON-PW19-45/AP-1 (CP) between the City of Cape Coral and Kimley-Horn and Associates, Inc., for Professional Design Services for the Community Parks GO Bond Project for an amount not to exceed \$3,204,076, subject to a City-controlled contingency amount not to exceed five (5) percent of the total amount of the contract, and authorizes the City Manager or his designee to execute Agreement CON-PW19-45/AP-1 (CP). A copy of the Agreement is attached hereto as Exhibit 1.

Section 2. The City Council hereby authorizes the City Manager or the City Manager's designee to enter into change orders for work required other than as contemplated in the contract documents with an appropriate scope and cost to address those needs, subject to payment of a City-controlled contingency amount not to exceed five (5) percent of the total amount of the contracts.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

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

JOE COVIELLO, MAYOR

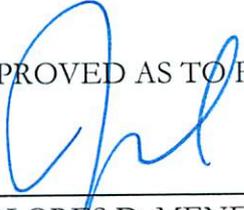
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



for DOLORES D. MENENDEZ
CITY ATTORNEY
res/Contract- Kimley-Horn

CITY OF CAPE CORAL

PROFESSIONAL SERVICES

AGREEMENT

for

Design of Neighborhood Parks and
Community Parks
Part 3: Community Parks

CON-PW19-45/AP-1 (CP)



INDEX OF
ARTICLES

<u>ARTICLE</u>	<u>PAGE</u>
Article 1: Recitals.....	4
Article 2: Definitions.....	5
Article 3: Scope of Basic Professional Services.....	6
Article 4: Contract Modifications.....	6
Article 5: Additional Professional Services.....	6
Article 6: Time for Performance.....	7
Article 7: Quality Control.....	8
Article 8: Consultant's Personnel.....	8
Article 9: Subconsultants and Subcontractors.....	9
Article 10: Cooperation with Project Participants.....	10
Article 11: Compensation.....	10
Article 12: Insurance.....	13
Article 13: Indemnification.....	16
Article 14: Drafting Formats and Standards.....	16
Article 15: Copyrights and Licenses.....	16
Article 16: Permits.....	16
Article 17: City's Responsibilities.....	17
Article 18: Consultant's Representation.....	17
Article 19: Accuracy, Technical Sufficiency of Services Provided by Consultant.....	18
Article 20: Termination or Suspension of Agreement.....	19
Article 21: Special Provisions.....	20
Article 22: Consultant's Records.....	23
Article 23: Right of Audit - Examination of Records.....	24
Article 24: Claims and Disputes.....	26
Article 25: Annual Appropriation Contingency.....	27
Article 26: Damage to Property.....	27
Article 27: Safety and OSHA Compliance.....	27
Article 28: Equal Employment Opportunity.....	27
Article 29: Proprietary Information.....	28
Article 30: Compliance with Immigration Laws.....	28
Article 31: Compliance Scrutinized Companies.....	28
Article 32: Observance of Laws, Rules, Regulations, Codes and Ordinances.....	28
Article 33: Publicity.....	29
Article 34: Miscellaneous.....	29

INDEX OF EXHIBITS

Exhibit “A”	Consultant’s Scope of Professional Services
Exhibit “B”	Schedule of Values
Exhibit “C”	Consultant’s Work Schedule
Exhibit “D”	Personnel Hourly Rates
Exhibit “E”	Reimbursable Expenses
Exhibit “F”	Project Map
Exhibit “G”	Total Project Cost (NTE)
Exhibit “H”	Title Classifications
Exhibit “I”	Truth-in-Negotiations
Exhibit “J”	Business Ethics Requirements

PROFESSIONAL
SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the City of Cape Coral, Florida, a municipal corporation of the State of Florida, hereinafter referred to as the “City” and “Kimley-Horn and Associates, Inc.” a North Carolina incorporated company, hereinafter referred to as “Consultant” or “Engineer”.

WITNESSETH:

WHEREAS, the City is a municipality providing to its citizens a comprehensive range of municipal services including general government, public safety, community development, public works, planning, utilities, and parks and recreation; and

WHEREAS, the City desires to contract with the Consultant to provide Professional Design Services for the Design of Four (4) Community Parks. The Consultant shall include all work necessary for the master planning, design, permitting, bidding assistance and optional Construction Engineering Inspection (CEI) services of the project per the scope of professional services; and

WHEREAS, the Consultant hereby certifies that it has been granted and possesses valid, current licenses to do business in the State of Florida, Lee County, Florida and the City of Cape Coral, issued by the respective agencies responsible for regulating and licensing the professional services to be provided and performed by the Consultant pursuant to this Agreement; and

WHEREAS, Consultant has reviewed the professional services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth; and

WHEREAS, the selection and engagement of the Consultant has been made by the City in accordance with the provisions of the Consultant’s Competitive Negotiation Act, Section 287.055, Florida Statutes, and in accordance with the provisions of all City procurement standards.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Consultant, intending to be legally bound, covenant and agree as follows:

ARTICLE 1
RECITALS

The recitals set forth above are true and correct and are incorporated herein by reference.

ARTICLE 2
DEFINITIONS

- 2.1 City: The term “City” shall mean the City of Cape Coral
- 2.2 Consultant: The term “Consultant” shall mean prime consultant “Kimley-Horn”, with professional design services for this project being performed by personnel located at 1777 Main Street, Ste 200, Sarasota, FL.
- 2.3 Contract Documents: The term “Contract Documents” shall mean this Agreement, the City’s Request for Proposals for the Project (“RFP-PW19-45/AP-1 (CP)”), the Consultant’s responses and submissions to the RFP, and all drawings and specifications prepared and/or adopted by Consultant and its sub-consultants. Any special conditions, together with all written amendments, change orders, addendums, attached exhibits and signed forms will become a part of this agreement and are incorporated herein.
- 2.4 Work: The term “Work” shall mean everything expressly or implicitly required to be furnished or performed for the design of a fully, constructible, operational and functioning Project, including but not limited to, that work described in Exhibit “A” - “Consultant’s Scope of Professional Services” as attached hereto.
- 2.5 Construction: The term “Construction” shall mean everything expressly or implicitly required to construct a fully operational and functioning Project.
- 2.6 Project: The term “Project” shall mean the Professional Design Services for the Design of Four (4) Community Parks.
- 2.7 Project Area: The term “Project Area” shall mean the established geographical boundaries within the City of Cape Coral, or other areas, that will be defined by “City and/or City’s Project Manager”, see Exhibit “F” – “Project Map”.
- 2.8 Substantial Completion: Completion of the Services outlined in the Scope of Professional Services with completion and readiness for final payment, as set forth in this Agreement, as per Scope of Services and per the timelines as outlined in Exhibit “C” – “Consultant’s Work Schedule”.
- 2.9 Final Completion of Design: Acceptance of Work in accordance with this Agreement and designated City Project Manager, with any necessary corrections completed, so that the Professional Services can be utilized for the purposes for which it is intended.
- 2.10 Contract Duration: The time for this agreement will be “910” calendar days for substantial completion which shall be completed as required in Exhibit “C” – “Consultant’s Work Schedule”.

ARTICLE 3
SCOPE OF PROFESSIONAL SERVICES

Consultant hereby agrees to provide and perform the professional services required and necessary to complete the services and Work as set forth in Exhibit “A”, entitled “Consultant’s Scope of Professional Services” as indicated in said exhibit which is attached hereto and made a part of this Agreement (“Professional Services”). Consultant shall be responsible for providing and performing all services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks and work set forth in the “Consultant’s Scope of Professional Services” as attached hereto as Exhibit “A”. The purpose of the Scope of Work for the Professional Services is to Design Four (4) Community Parks.

ARTICLE 4
CONTRACT MODIFICATIONS

The City reserves the right to make any contract modifications it so desires, including but not limited to the deletion or removal of specific tasks or activities from the scope of the Work to be performed hereunder. All contract modifications shall be performed in accordance with the terms and conditions of this Agreement. No extra Work shall be performed unless ordered in writing by the City prior to the installation of such Work and upon the terms agreed to in advance by the City.

ARTICLE 5
ADDITIONAL PROFESSIONAL SERVICES

The City may, without invalidating this Agreement, require that Consultant perform professional services (“Additional Professional Services”) in addition to those identified as Professional Services in this Agreement. If the Consultant believes a professional service to be beyond those included in the Professional Services, Consultant shall notify the City in writing, and obtain the City’s written authorization to proceed with such service as an Additional Professional Service for such service to be considered an Additional Professional Service. These Additional Professional Services shall be provided by the Consultant if directed and authorized in advance, in writing, by the City and if Consultant is reasonably qualified to provide the services. Additional Professional Services shall be performed under and governed by the terms and provisions of this Agreement. The City shall pay Consultant for all Additional Professional Services directed and authorized in writing and in advance by the City, except that the City shall not be obligated to pay for any such Additional Professional Services or any other services which result from or are caused by Consultant’s breach of its obligations under this Agreement.

Furthermore, and notwithstanding the foregoing and the City’s right to require performance of Additional Professional Services under this Agreement, the City may desire to enter into subsequent agreement(s) with Consultant for Consultant to provide further construction bidding services and inspection services. In such event, the City and Consultant will negotiate and endeavor to enter into subsequent agreement(s) for the furnishing of such further services.

ARTICLE 6
TIME FOR PERFORMANCE

- 6.1 Following the execution of this Agreement by both parties and after Consultant has complied with the insurance requirements set forth herein, the City shall issue to Consultant a written notice to proceed. Following the issuance of such a written notice to proceed, Consultant shall commence Work within fourteen (14) calendar days and shall carry on all services and work in a timely and diligent manner to substantial completion within nine-hundred and ten (910) calendar days, which shall be completed as required in Exhibit “C” – “Consultant’s Work Schedule”.
- 6.2 Should Consultant be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of Consultant, or its subconsultants and/or subcontractors and not due to their fault or neglect, Consultant shall notify the City, in writing, within five (5) calendar days after the commencement of such delay stating the cause(s) thereof and requesting an extension of Consultant’s time of performance. Upon receipt of Consultant’s request for an extension of time, the City shall grant the extension if the City, in its sole discretion, determines that the delay(s) encountered by Consultant or its sub consultant(s) and/or subcontractor(s), is due to unforeseen causes and not attributable to their fault or neglect.
- 6.3 Consultant shall be required as a condition of this Agreement to prepare and submit to the City, Consultant’s Work schedule. The Consultant’s Work schedule shall set forth in an understandable fashion the schedule for all the various phases and/or tasks required to perform and complete all the services set forth or described in Exhibit “C” – “Consultant’s Work Schedule”. The Consultant’s Work schedule of planned and actual Work progress shall be updated and submitted by Consultant to the City no later than the tenth day of each month, commencing with the issuance of the notice to proceed.
- 6.4 Consultant’s services shall be performed as expeditiously as is consistent with professional skill and care in the orderly progress of the Project. Consultant represents to the City that it shall deliver its services in accordance with the Consultant’s Schedule of Work established for the Project which is attached hereto as Exhibit “C” - “Consultant’s Work Schedule” and shall appropriately adjust the delivery of its services if necessary and approved by the City, as the Project proceeds. Consultant acknowledges that time is of the essence with respect to the delivery of its services hereunder and that the time limits set forth in the City’s schedule shall not, except for a written determination by the City that reasonable cause exists for the schedule to be exceeded by Consultant.
- 6.5 NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, CONSULTANT SHALL NOT BE ENTITLED TO RECOVER ANY MONETARY DAMAGES IT MAY SUSTAIN AS A RESULT OF ANY DELAY CAUSED BY THE CITY, ANY SEPARATE DESIGN PROFESSIONAL EMPLOYED BY THE CITY, CONSULTANT OR ANY OTHER CAUSES WHATSOEVER. CONSULTANT FURTHER AGREES THAT IT SHALL MAKE NO CLAIM FOR COMPENSATION FOR SUCH

DELAYS AND WILL ACCEPT IN FULL SATISFACTION FOR SUCH DELAYS ANY EXTENSIONS OF TIME WHICH ARE GRANTED TO IT BY THE CITY.

ARTICLE 7
QUALITY CONTROL

Consultant shall develop and employ a comprehensive quality control program designed to protect the City from patent or latent defects in any Work related to the Project or in Construction Work performed at the Project by third parties. At a minimum, Consultant will follow guidelines listed in the Consultant's most recent quality control and/or practices manual, and any subsequent revisions or updates, provided such guidelines do not conflict with any of the Contract Documents.

ARTICLE 8
CONSULTANT'S PERSONNEL

- 8.1 Licensing. Consultant agrees to obtain and maintain throughout the period this Agreement is in effect, all such licenses as are required to do business in the State of Florida, Lee County, Florida and the City of Cape Coral, including but not limited to, licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the professional services provided and performed by Consultant pursuant to this Agreement. Consultant is required to notify City within five (5) calendar days of any pending, or newly initiated, disciplinary or other actions imposed on Consultant or its subconsultants by any regulatory or licensing authority.
- 8.2 Qualified Personnel. Consultant agrees when the services to be provided and performed related to a professional service(s) which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all Basic Professional Services and Additional Professional Services to be provided pursuant to this Agreement as attached hereto as Exhibit "H" – "Title Classifications".
- 8.3 Consultant's Project Manager. Consultant agrees to employ and designate in writing, a qualified, and if required by law, a licensed professional to serve as the Consultant's Project Manager. Consultant's Project Manager shall be authorized and responsible to act on behalf of Consultant with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement. Consultant's Project Manager shall have full authority to bind and obligate Consultant on any matters arising under this Agreement unless substitute arrangements have been furnished and agreed to with the City in writing. Consultant agrees that the Project Manager shall devote whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by Consultant throughout the entire period this Agreement is in effect. During the term of the Project, Consultant's Project Manager shall neither have nor undertake any other assignment or engagement on behalf of Consultant other than serving as Project Manager in connection with the Project, if such assignment interferes with the abilities of Project Manager to complete the work on this assignment or unless otherwise agreed in advance by the City. The

person selected to serve as Consultant's Project Manager shall be subject to the prior approval and acceptance of the City.

- 8.4 Removal of Personnel. Consultant agrees, within ten (10) calendar days of receipt of a written request from the City, to promptly remove and replace the Consultant's Project Manager or any other personnel employed or retained by Consultant or any personnel of a sub consultant or subcontractor engaged by Consultant to provide and/or perform services and or Work pursuant to the requirements of this Agreement, who the City shall request in writing to be removed, which request may be made by the City with or without cause.

ARTICLE 9 SUBCONSULTANTS AND SUBCONTRACTORS

- 9.1 Definition. A subconsultant or subcontractor is a person or organization who has a direct contract with Consultant to perform any part of the Work associated with the Project. Nothing contained in this Agreement shall create any type of contractual relationship between the City and any subcontractor and/or subconsultant.
- 9.2 Consultant's Selection of Subcontractors and Subconsultants. Consultant, within fourteen (14) calendar days after execution of this Agreement, shall furnish, in writing to the City, the names of persons or entities proposed to be subconsultants and/or subcontractors on the Project (referred to in this paragraph as "subconsultants"), along with copies of proposals and contracts between Consultant and such subconsultant(s). The City shall promptly reply to Consultant in writing whether the City, after due investigation, has reasonable objections to any such proposed person or entity. Failure of the City to reply within fourteen (14) days after its receipt of such information shall constitute notice of no reasonable objection. All subconsultants shall be duly licensed pursuant to any applicable requirements and regulations of the State of Florida. Consultant shall use its best efforts to propose and retain subconsultants appropriately qualified, locally based (Cape Coral - Fort Myers - Lee County, Florida) and/or minority owned and operated Consultants with experience in the Lee County area. Consultant shall not, without reasonable cause and after obtaining the approval of the City (which approval shall not be unreasonably withheld) change a subconsultant or its role which has been previously selected and approved by the City. Consultant shall be responsible to the City for the damages to the extent caused by the negligent acts or omissions of, or services provided by or through its subconsultants. The City's review, approval or rejection of proposed subconsultants or their respective proposals or contracts will not relieve Consultant of its responsibilities under this Agreement, or for the actions or omissions of such subconsultants.
- 9.3 Sub-contractual Relations. By an appropriate written agreement, Consultant shall require each subcontractor or subconsultant, to the extent of the Work to be performed by the subcontractor or subconsultant, to be bound to Consultant by the terms of this Agreement and to assume toward Consultant all obligations and responsibilities which Consultant, by this Agreement, assumes towards the City. Consultant shall make available to each proposed subcontractor or subconsultant prior to the execution of any such agreement, a copy of this Agreement.

- 9.4 Responsibilities for Acts and Omissions. Consultant shall be responsible to the City for the acts and omissions of its employees and agents and its subcontractors and/or subconsultants, their agents and employees, and all other persons performing any Work or supplying any service under a contract with Consultant.

ARTICLE 10
COOPERATION WITH PROJECT PARTICIPANTS

- 10.1 Consultant shall cooperate with the City, and others working on the Project to avoid interference, inconvenience or damage. To aid in avoiding conflicts, Consultant, without additional charge or compensation, shall make all reasonable modifications in its services or the scheduling of its services as may be directed by the City. Consultant agrees that it has become familiar with the Project and accepts responsibility for all necessary coordination of its services with the work of other parties working on the Project or any adjacent projects affected thereby.
- 10.2 Consultant will assume primary coordination of its Work with the work of others. As part of said service, Consultant shall be primarily responsible for the coordination and compilation of all design documents pertaining to the Project.
- 10.3 In the event of a dispute between Consultant and others working on the Project, Consultant and the others working on the project shall present their dispute to the City, who shall make a decision with respect to the matter in dispute. Consultant agrees to proceed with the furnishing of its services in accordance with any decision which is rendered by the City.

ARTICLE 11
COMPENSATION

11. Contract Price. The City shall pay to the Consultant in full and complete satisfaction for all professional services, construction and administrative services, inspection services, sub-consultation services, suppliers, vendors, materials and equipment, transportation, furnished by the Consultant under the terms of this Agreement for the not to exceed total fee sum of Three million two hundred four thousand seventy-six dollars and 24/100, as per the attached Exhibit "B" – "Schedule of Values" Total – Not to Exceed Amount. Any additional services for work required by the City will be negotiated and authorized as necessary and will utilize the hourly rates shown in Exhibit "D" – "Personnel Hourly Rates" contained in this agreement.

Billing and Payment of Contract Price.

- 11.1 Basic Compensation. Subject to the Not to Exceed Price and the satisfaction of the conditions precedent set forth in paragraph 11.3 below, and in exchange for the proper performance of the Basic Professional Services, Consultant shall be compensated on an hourly basis in conformity with the "Personnel Hourly Rates" -

Exhibit “D” wherein such rates are fixed for the duration of this contract. Exhibit “D” shall set forth the name of the identity of each individual performing services on the Project for which compensation shall be paid to Consultant by the City together with the corresponding billable rate for each individual. The City shall not be liable to Consultant for payment of services performed by any individual not identified on Exhibit “D” – “Personnel Hourly Rates” absent written approval by the City prior to the individual performing services. The billable rate for each individual who is an employee of the Consultant is based upon actual hourly rate of compensation paid by Consultant to the employee as set forth in Exhibit “D” times the agreed upon multiplier. Notwithstanding the foregoing or any provision of Exhibit “D”, the Consultant shall not be entitled to recover any mark-up on services furnished by Consultant’s subcontractors or other third parties provided.

- 11.2 Schedule of Values. The Consultant billing shall be based on Exhibit “B” - “Schedule of Values” establishing a separate estimated amount for each Task of the Consultant’s work. In no event, shall the Consultant be entitled to receive compensation in excess of the amount ascribed to any task unless otherwise previously approved by the City in writing. The not to exceed amounts set include not only the fees to the Consultant for its services to be performed but also any third-party costs associated with a Task. Reimbursable Expenses incurred by Consultant are defined in Exhibit “E” – “Reimbursable Expenses”.
- 11.3 Applications for Payment. The Consultant shall deliver to the City an Application for Payment reflecting the tasks completed in Exhibit “B” - “Schedule of Values”, which shall be approved in writing. Provided the Application for Payment is received not later than the last day of the month, the City shall make payment to the Consultant not later than the last day of the following month. With each Application for Payment, the Consultant shall submit such evidence as may be necessary, in the opinion of the City, to demonstrate the work performed during such month and the percentage of completion of each category of the Work. In no event, shall the cost of the Work exceed the Contract Price referred to in Article 11 shown above.
- 11.4 Certification and Release Documentation. In each Application for Payment, the Consultant shall certify that there are no known claims outstanding at the date of this application, that all due and payable bills with respect to the Work have been paid to date or shall be paid from the proceeds of this Application for Payment, and that there is no known basis for the filing of any claims on account of the Work, and that all work has been performed in strict conformity with the requirements of the Contract Documents and that the Consultant is unaware of any defective work. This certification will include that all subconsultants have been paid for outstanding work. Concurrent with each Application for Payment, the Consultant shall execute and furnish waiver of claims through the effective date of the previous Application for Payment.
- 11.5 Joint Checks and or Direct Payments. The City reserves the right to issue joint checks to the Consultant and its subcontractors and materialmen, or, to make direct payments to the Consultant’s subcontractors or materialmen, if, in the City’s sole

judgment, it is necessary to do so to ensure payment to the aforesaid parties. The amounts of said joint or direct checks shall be deducted from the Contract Price.

- 11.6 Final Payment. Provided that the Consultant has fully performed its obligations hereunder, final payment, including retainage amounts, shall be made by the City to the Consultant on or about thirty (30) calendar days following final performance of all Work and the Consultant's submittal of a final Application for Payment therefore and final Affidavit. In this regard, it is further agreed that the final Application for Payment shall not be made until the Consultant has fully and finally completed all tasks and delivers to the City a complete release of all claims arising or which could arise out of this Agreement. The acceptance of final payment by the Consultant shall constitute a waiver of all claims by the Consultant except those previously made in writing and identified by the Consultant as unsettled at the time of the final Application for Payment.
- 11.7 Payment is Not Acceptance. The payment of any Application for Payment by the City, including the final Application for Payment does not constitute approval of, or acceptance of that portion of the Work to which such payment relates nor shall such payment relieve the Consultant of its obligations nor constitute a waiver of any claim which the City may then have or thereafter discover.
- 11.8 Payments Withheld. The City may decline to pay an application for payment submitted by Consultant, in whole or in part, to the extent reasonably necessary to protect the City if:
- 11.8.1 Consultant is not entitled to payment in the amount specified in the application for payment;
 - 11.8.2 Consultant is in default of its obligations hereunder;
 - 11.8.3 Appropriate backup data and documentation required by the City is not submitted with the application for payment;
 - 11.8.4 The application for payment is not otherwise appropriately substantiated;
 - 11.8.5 Any known or alleged, willful, wanton or negligent act, error or omission of Consultant which gives rise to a claim by the City or by some other party against the City; or
 - 11.8.6 Any other reason the City is permitted to withhold payment under any other provision of this Agreement.
- 11.9 Interest. In the event of a bona fide dispute by the City for any sums for which payment has been requested, no interest shall be due on such disputed sums until the dispute is resolved, provided that all undisputed sums shall have been paid in due course.
- 11.10 Compensation for Additional Professional Services. For Additional Professional Services of Consultant directed and authorized in writing in advance by the City, as described in Article 5, the City shall pay to Consultant a Not to Exceed Amount, as mutually agreed upon in writing by the parties which shall be the sole and exclusive compensation payable to Consultant in connection with the performance of such Additional Professional Services.

ARTICLE 12
INSURANCE

Consultant shall, at all times during the performance of this Agreement, provide and maintain the following types of insurance protecting the interests of the City of Cape Coral, including their employees and officers, and the Consultant with coverages and limits of liability not less than those set forth below:

12.1 Workers Compensation Insurance. Consultant shall maintain worker's compensation insurance, insuring its liability under the Workers Compensation and Occupational Disease Laws of the State of Florida, in accordance with Chapter 440 F.S., with limits of liability not less than the minimum statutory limits imposed by applicable State and Federal laws. The worker's compensation insurance policy must include employer's liability with a minimum limit of \$1,000,000.00 for each accident and shall cover all employees engaged in any work under the agreement.

12.2 Comprehensive General Liability Insurance. Consultant shall maintain comprehensive general liability insurance which shall be written on an "occurrence" basis and afford the following coverages:

12.2.1 Premises – operation

12.2.2 Explosion, collapse and underground property damage (XCU)

12.2.3 Products/completed operations

12.2.4 Blanket contractual liability

12.2.5 Personal injury

12.2.6 Advertising injury

12.2.7 Premises medical payments

12.2.8 Property damage

12.2.9 Additional insureds - employees and temporary workers

12.2.10 Newly acquired organizations

12.2.11 Property damage liability

12.2.12 Independent contractors

12.2.13 The commercial general liability insurance to be maintained by Consultant must include products and completed operations, and contractual liability. The City of Cape Coral shall be named as an additional, named insured on the comprehensive general liability policy. The limits of liability associated with Consultant's comprehensive general liability policy shall not be less than the following:

12.2.13.1 \$4,000,000.00 each occurrence

12.2.14 Notwithstanding anything contained herein to the contrary, the coverages under the comprehensive general liability policy to be furnished by Consultant must be afforded on a policy form no more restrictive than the

last edition of the commercial general liability policy filed by the Insurance Services Office.

- 12.3 Vehicular Liability Insurance. Consultant shall maintain business vehicular liability insurance covering all owned, non-owned, and hired vehicles used in connection with the Work to be provided hereunder with combined minimum limits of \$1,000,000.00 single limit for bodily injury and property damage per occurrence/aggregate.
- 12.4 Excess Liability Insurance. Consultant shall maintain excess liability insurance in an amount not less than \$4,000,000 combined single limit bodily/property damage, in excess of the general liability insurance described above.
- 12.5 Professional Liability Insurance. Consultant shall maintain professional liability insurance with a minimum level of liability coverage of not less than \$4,000,000.00 per occurrence insuring the City against losses arising out of the delivery of professional services by Consultant and its sub-consultants. Consultant shall also ensure that each of its subconsultants shall maintain professional liability insurance with minimum limits of liability coverage not less than \$1,000,000.00 per occurrence insuring the City against losses arising out of the provision of professional services by each in connection with the Project. The deductibles associated with the professional liability insurance policies to be furnished by Consultant and its subconsultants shall be the responsibility of the Consulting firm and/or their Sub-Consultant. Consultant shall provide to the City certificates reflecting the City of Cape Coral as a certificate holder with respect to the professional liability insurance policies maintained by Consultant and subconsultants.
- 12.6 Property Insurance. It is Consultant's responsibility to carry its own property insurance including insurance on equipment that will not become an integral part of the Project.
- 12.7 Certificate of Insurance. Prior to performing any services hereunder, Consultant shall file with the City a certificate of insurance in a form acceptable to the City. The certificate of insurance shall reflect the City of Cape Coral as an additional named insured, and its employees and officers on Consultant's comprehensive general liability, excess liability, and business vehicular liability policies. In addition, the City of Cape Coral shall be reflected as the certificate holder with respect to Consultant's professional liability and worker's compensation insurance. The certificate of insurance furnished by Consultant shall contain a provision that the coverages afforded under the policy described thereon will not be cancelled until at least thirty (30) days prior written notice has been given to the City. **Also, to be included on the policy for the Certificate of Insurance under the "Description of Operations /Locations/Vehicles/Exclusions added by endorsement/Special Provisions" section, the Contract Number "CON-PW19-45/AP-1 (CP)" and Title of Project - "Design of Community Parks Project".**

- 12.8 Ratings of Companies. All companies issuing the policies provided for herein shall be licensed or approved by the Department of Insurance, State of Florida, and shall have a financial rating no lower than II and a policy holder surplus rating no lower than (A) as listed in A.M. Best TK Rating Guide, current edition or interim report. Companies with ratings lower than those specified herein will be acceptable only upon the written consent of the City.
- 12.9 Primary Coverage. The insurance required hereunder is primary and direct and shall apply to any loss prior to any insurance coverage carried by the City or any other party.
- 12.10 Extent of Coverages. The insurance coverages referred to above are set forth in full in their respective policy forms. The foregoing descriptions of such policies are not intended to be complete or to limit any provision of the actual policies and should said description be narrower than the coverages afforded under the actual policies of insurance, the provisions of the actual policies of insurance shall govern.
- 12.11 Waiver of Subrogation. Consultant's insurance policies shall be endorsed to provide that the insurers waive their rights of subrogation against the City of Cape Coral and to provide that the policies afford primary coverage over any other applicable insurance coverage.
- 12.12 Subconsultant Insurance Requirements. Except as otherwise specified herein, Consultant shall require that all subconsultants and subcontractors performing Work on the Project to maintain the same coverages and policy limits as Consultant is required to furnish hereunder. An insurance provision, including waivers of subrogation, identical to the provisions of Article 12 of this Agreement and shall be included by Consultant in each written subcontract or subconsultant agreement issued by it in conjunction with the Project.
- 12.13 Deductibles: The City of Cape Coral is exempt from, and are in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible(s) shall be the sole responsibility of the firm providing such insurance.

In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued thirty (30) days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy.

ARTICLE 13
INDEMNIFICATION

In consideration of the first One Hundred and No/100 Dollars (\$100.00) to be paid hereunder and to the fullest extent permitted by law, Consultant agrees to indemnify and hold harmless the City of Cape Coral, and its agents, servants and employees, from and against any and all claims, costs, expenses, damages, or liability (including reasonable attorneys' fees and costs of defense) to the extent caused by, attributable to, arising out of, or resulting from Consultant's negligence, recklessness, or intentional wrongful conduct in the performance of professional services under this Agreement and those of its subconsultants, agents and employees. Consultant is not obligated to indemnify the City in any manner whatsoever for the City's own negligence. This indemnity provision shall be considered a material part of the specifications governing Consultant's performance under this Agreement. This indemnity provision is intended to comply with Florida laws on indemnity and, specifically, to comply with Sections 725.06 and 725.08, Florida Statutes, and is to be interpreted in such a manner as to be enforceable.

ARTICLE 14
DRAFTING FORMATS AND STANDARDS

In performing professional services hereunder, Consultant shall review and incorporate the City's drafting formats and office drafting standards into any drawings and specifications generated in connection with the provisions of this Agreement.

ARTICLE 15
COPYRIGHTS AND LICENSES

All drawings, sepias, electronic media and specifications prepared in connection with the Project shall remain the property of the City and Consultant shall not be entitled to a repeat design fee or any other compensation should the City elect to utilize said drawings, sepias, electronic media and specifications in connection with additional alterations or remodeling or additions to the Project to which said design documents originally pertain. Consultant hereby assigns to the City any and all right, title, and interest it may possess in the design documents and materials produced in connection with this Agreement, including but not limited to, all statutory and common law copyrights it possesses in said documents and materials. The future use of said materials shall be at the sole discretion of the City. The City agrees to hold Consultant harmless from any claims based upon the future use of said materials in connection with any purpose other than the Project or future maintenance or support of the Project.

ARTICLE 16
PERMITS

Consultant will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the City in obtaining all reviews, approvals and permits, with respect to the Consultant's design, the Existing Design, drawings and specifications required by any governmental body having authority over the Project. Consultant will be similarly responsible for preparing and submitting all required

specifications and other supportive information necessary to assist the City in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect. The City shall, at Consultant's request, assist in obtaining required signatures and provide Consultant with all information known to be available to the City to assist the Consultant in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

ARTICLE 17 CITY'S RESPONSIBILITIES

- 17.1 The City's Representative. The City shall designate a Project Representative who shall be fully acquainted with the Project and shall define the lines of City authority to approve changes in the Project. He or she shall render decisions promptly and furnish information expeditiously.
- 17.2 Lines of Authority. The City shall establish and maintain lines of authority for its personnel and shall provide this definition to the Consultant and all other affected parties.
- 17.3 Existing Design. The City shall provide to Consultant all design documentation in its possession pertaining to the Project.
- 17.4 Funding. The City shall furnish reasonable evidence satisfactory to Consultant that sufficient funds will be available and committed for the cost of the Project.
- 17.5 Project Fault or Defect. If the City becomes aware of any fault or defect in the Project, or in the specifications or drawings for the Project, it shall give prompt written notice thereof to Consultant.

ARTICLE 18 CONSULTANT'S REPRESENTATIONS

In order to induce the City to enter this Agreement, Consultant makes the following express representations:

- 18.1 Consultant has reviewed and confirmed that the basis and approach taken by the City in its Project planning represents sound programming and provides an adequate basis for the performance of Consultant's services hereunder.
- 18.2 Consultant has familiarized itself with the Scope of Work and the nature and extent of the Work to be performed, local conditions, and federal, state and local laws, ordinances, rules and regulations that in any manner affect costs, progress or performance of the work.

- 18.3 Consultant represents that the Work can be performed within the time frames contemplated in the Consultant's Work Schedule, a copy of which is attached hereto as Exhibit "C".
- 18.4 Consultant has reviewed the Scope of Work and has provided the City with written notice of all conflicts, errors or discrepancies it has discovered in the Scope of Work and the cost to the City of addressing such conflicts, errors or discrepancies.
- 18.5 Consultant has familiarized itself with the nature and the extent of the proposed Project contemplated under the City's program and local field conditions and affirmatively represents that no field conditions are known to exist which would have a cost or scheduling impact on the Project.

ARTICLE 19
ACCURACY, TECHNICAL SUFFICIENCY OF SERVICES
PROVIDED BY CONSULTANT

- 19.1 Notwithstanding anything contained herein to the contrary, it is understood and agreed between the parties that the City is not examining any data, surveys, studies, designs, specifications, calculations, plans, drawings, or any other documents furnished hereunder by Consultant for accuracy and technical sufficiency and is not under any obligation to inspect the Project. Furthermore, it is understood and agreed between the parties that neither the review, approval, nor acceptance by the City of data, surveys, studies, designs, specifications, calculations, plans, drawings, or any other documents furnished hereunder by Consultant shall in any way relieve Consultant of responsibility for the adequacy, completeness, and accuracy of its work, and in no event shall the City's review, approval, acceptance of or payment for such services be construed to operate as a waiver of any of the City's rights under this Agreement or of any cause of action it may have, arising out of the performance of this agreement.
- 19.2 Consultant further acknowledges that it, alone, is responsible for the accuracy, completeness, and technical sufficiency of all Work performed under this Agreement, and that the information contained in the City's Request for Proposals and Project descriptions does not relieve, release, or in any way whatsoever diminish the Consultant's ultimate responsibility for the accuracy, completeness, and technical sufficiency of the Project and any work performed hereunder.
- 19.3 Consultant agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, adoption and coordination of all data, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments and other services, work and materials performed, provided and/or furnished by Consultant or by any subconsultant retained or engaged by Consultant pursuant to this Agreement. Consultant shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction

documents and instruments, and other services or materials resulting from the negligent act, errors or omissions or any intentional misconduct of Consultant or any subconsultants engaged by Consultant.

ARTICLE 20
TERMINATION OR SUSPENSION OF AGREEMENT

- 20.1 The City reserves the right to terminate this Agreement without cause and without regard to fault or breach upon ten (10) calendar days written notice to Consultant, effective immediately, unless otherwise provided in said notice. In the event of a termination for the City's convenience, the Consultant shall only be due those sums which are due for Work performed as of the date of termination. Upon Consultant's receipt of such payment, the parties shall have no further obligation hereunder. It is understood and agreed that no fee or other compensation or payment shall be due and payable to Consultant for unperformed Work associated with this Agreement.
- 20.2 If the City fails to make payment on conforming or non-disputed invoices when due for Consultant's services and expenses, Consultant may, upon ten (10) calendar days written notice to the City, suspend performance of services under this Agreement. Unless payment in full is received by Consultant within ten (10) calendar days from the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, Consultant shall have no liability to the City for delay or damages caused the City because of such suspension of services. Should the City fail to satisfy the payment due Consultant within sixty (60) calendar days from the date the payment was originally due, Consultant shall be entitled to terminate this Agreement for cause. If Consultant fails to perform the services described herein or fails to respond with responsible promptness to the City, the City, without waiving the City's right to terminate as a result thereof, may suspend performance of the City's obligations under this Agreement (including, but not limited to, the City's obligation to make payment) on ten (10) calendar days written notice to Consultant.
- 20.3 Notwithstanding anything contained herein to the contrary, the City shall be entitled to terminate this Agreement for cause should Consultant fail to perform the services contemplated herein, perform any of its obligations hereunder, or otherwise fail to respond with reasonable promptness to the requests of the City. In the event of such a termination for cause, the City shall be entitled to recover from Consultant such additional costs as it incurs in procuring performance of Consultant's remaining obligations hereunder. If the City terminates this Agreement hereunder and it is determined, for any reason, that sufficient ground did not exist for the City to terminate this Agreement hereunder, the Consultant as its sole and exclusive remedy shall be entitled to and due only those sums which are due for Work performed as of the date of termination as if the termination were for no fault or breach.

ARTICLE 21
SPECIAL PROVISIONS

- 21.1 Consultant accepts the relationship of trust and confidence established between it and the City by this Agreement.
- 21.2 Consultant warrants that it has not employed or retained any company or person, other than an employee working solely for Consultant, to solicit or secure this Agreement and that it has not paid any person, company, corporation, individual or Consultant, other than a bona fide employee working solely for Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.
- 21.3 Any person or affiliate who has been placed on the Convicted Vendor List following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract or subcontract with a public entity, for construction or repair of a public building or public work, may not submit bids or leases of real property to a public entity, may not be awarded or perform any Work a contractor, supplier, subcontractor, or Consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY 2 for a period of thirty-six (36) months from the date of being placed on the Convicted Vendors List. Consultant agrees not to use any subconsultants whose names appear on the Convicted Vendors List.
- 21.4 Consultant represents to the City that it is experienced in design and that it will perform its services under this Agreement in a skillful and competent manner.
- 21.5 Consultant represents that it presently has no interest and shall acquire no interest either direct or indirect, which would conflict in any manner with the performance of services required hereunder. Consultant further agrees that no person having any such interest shall be employed or engaged by Consultant for said performance. If Consultant, for itself or on behalf of its subconsultants, is about to engage in representing another client, which it in good faith believes would result in a conflict of interest with the Work being performed by Consultant or such subconsultant under this Agreement, then it will promptly bring such potential conflict of interest to the City's attention, in writing. The City will advise Consultant in writing, within ten (10) calendar days as to the period of time required by the City to determine if such a conflict of interest exists. If the City determines there is a conflict of interest, Consultant or such subconsultant shall decline the representation upon written notice by the City. If the City determines that there is not such a conflict of interest, then the City shall give its written consent to such representation.
- 21.6 If Consultant or subconsultant accepts such a representation without obtaining the City's prior written consent, and if the City subsequently determines that there is a conflict of interest between such representation and the Work being performed

by Consultant or such subconsultant under this Agreement, then Consultant or such subconsultant agrees to promptly terminate such representation. Consultant shall require each of its subconsultants to comply with the provisions of this section. Should the Consultant fail to advise or notify the City as provided herein above, of representation which could, or does, result in a conflict of interest, or should Consultant fail to discontinue such representation, the City may consider such failure a justifiable cause to terminate this Agreement.

21.7 Consultant agrees to maintain the business ethics expected by the City. In that regard, Consultant shall:

21.7.1 During the course of pursuing contracts with City and while performing contract work in accordance with this agreement, Consultant agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the City's best interests. Consultant shall take reasonable actions to prevent any conditions which could result in a conflict with the City's best interests. These obligations shall apply to the activities of Consultant's employees, agents, subconsultants, subcontractor employees, etc. Consultant employees, agents, subcontractors, material suppliers (or their representatives) should not make or cause to be made any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to the City's representatives, employees or their relatives. Consultant's employees, agents, or subcontractors (or their relatives) should not receive any cash payments, commissions, employment, gifts entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from contractors, representatives of contractors, subcontractors, representatives of subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the Project. Consultant agrees to notify the City within 48 hours of any instance where the Consultant becomes aware of a failure to comply with these provisions. The email address to report any concerns related to any possible violations is apearce@capecoral.net. Upon request of the City, Consultant agrees to provide a certified Management Representation Letter executed by selected Consultant representatives in a form agreeable to City stating that they are not aware of any situations violating the business ethics expectations outlines above or any similar potential conflict of interest situations. Consultant agrees to include this clause in all contracts with subconsultants and suppliers receiving more than twenty-five thousand (\$25,000) dollars in funds in connections with the City's project. Consultant shall permit interviews of employees, reviews and audits of accounting or other records by City representative(s) to evaluate compliance with the business ethics standards. Such reviews and audits will encompass all dealings and activities of Consultant's employees, agents, representatives, vendors, subconsultants, and other third parties paid by Consultant in their relations with the City's current or former employees or

employee relatives. This provision survives the expiration of this Agreement. Consultant agrees to implement a program requiring their employees sign acknowledgements that they have read and understand City's business ethics expectations and the related obligation outlined in this contract.

21.7.2 Consultant, subconsultants, subcontractors, contractors, suppliers, and other entities connected with this Project shall permit interviews of employees, reviews and audits of accounting or other records by authorized City representative(s) to evaluate compliance with the business ethics expectations stated in this article. Such reviews and audits will encompass all dealings and activities of Consultant's employees, agents, representatives, vendors, subconsultants, subcontractors, suppliers, and other third parties paid by Consultant in their relations with the City's current or former employees or employee relatives.

21.7.3 Consultant, subconsultants, subcontractors, contractors, suppliers, and other entities connected with this Project agree to implement a program requiring their key employees in any connection with this Project to read and understand the City's Business Ethics Expectations and related obligations outlined in this article. The Prime Firm's signed Business Ethics Requirements Form is included as an attachment to this agreement and is shown as Exhibit "J".

21.7.4 Consultant, by execution of this Agreement, represents that it possesses that degree of care, learning, skill, ability and is properly licensed and qualified to perform the Basic Professional Services and any Additional Professional Services (as directed and approved in Article 3 hereof) and that it and its subconsultants and/or subcontractors, and suppliers will undertake to use the degree of skill and care of performance of obligations under this Agreement, which are utilized by professionals in the same field performing the same or similar services under the same or similar circumstances for similar infrastructure projects. Consultant acknowledges that all professional services provided under this Agreement will meet or exceed the requirements of this Agreement, including without limitation, the standard of care required by this Agreement; that any design documents prepared by Consultant with respect to the Project will meet or exceed the City's Project requirements as specified in this Agreement or otherwise provided by the City to Consultant. Consultant agrees to use the services of competent, qualified personnel, and, when required by law, properly licensed subconsultants and other professionals for the execution of its services. Consultant will use commercially reasonable efforts and skill to endeavor to protect the interests of the City and the City's residents at all times.

ARTICLE 22
CONSULTANT'S RECORDS

- 22.1 Records of the Consultant's personnel, subconsultants, suppliers, and the costs pertaining to the Project shall be kept in accordance with generally accepted accounting practices.
- 22.2 Consultant shall keep full and detailed accounts and financial records pertaining to the provision of services for the City. Prior to commencing work, Consultant shall review with and obtain the City's approval of the accounting procedures and records to be utilized by the Consultant on the Project. Consultant shall preserve the Project records for a period of ten (10) years after final payment, or for such longer period as may be required by law.
- 22.3 As the City is subject to the public records requirements of Chapter 119, Florida Statutes, the Consultant shall comply with Florida's Public Records Law. Specifically, the Consultant shall:
- 22.3.1 Keep and maintain public records required by the City to perform the service.
- 22.3.2 Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- 22.3.3 Ensure that public records that are exempt or confidential and from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Consultant does not transfer the records to the City.
- 22.3.4 Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-574-0411, cityclk@capecoral.net, City of Cape Coral, 1015 Cultural Park Boulevard, Cape Coral, FL 33990

ARTICLE 23
RIGHT OF AUDIT
EXAMINATION OF RECORDS

Records for all contracts, specifically including but not limited to “Not to Exceed” subcontracts (i.e. fixed price or stipulated sum contracts, unit price, costs plus or time & material contracts with or without a guaranteed maximum (or not-to-exceed amounts) shall upon seven (7) calendar days written notice from the City shall be open to inspection and subject to audit, scanning, and/or reproduction during normal business working hours. Such audits may be performed by any City representative or any outside representative engaged by the City for the purpose of examining such records. Such records must be complete and made available at Consultant’s offices located in Lee County, Florida. The City or its designee may conduct such audits or inspections throughout the term of this Agreement and for a period of four (4) years after final payment or longer if required by law. The City’s representatives may (without limitation) conduct verifications such as counting employees at the construction site, witnessing the distribution of payroll, verifying information and amounts through interviews and written confirmations with Consultant’s employees, field and agency labor, subcontractors and vendors.

23.1 Consultant’s “records” as referred to in this Agreement shall include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the City’s judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any contract document. Such records shall include (hard copy, as well as computer readable data if it can be made available), written policies and procedures; time sheets, payroll registers, payroll records; cancelled payroll checks, subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, negotiation notes, etc.); original bid estimates; estimating worksheets; correspondence; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; invoices and related payment documentation; general ledger, information detailing cash and trade discounts earned, insurance rebates and dividends; and any other Consultant records which may have a bearing on matters of interest to the City in connection with the Consultant’s dealings with the City (all foregoing hereinafter referred to as “records”) to the extent necessary to adequately permit evaluation and verification of any and all of the following:

- 23.1.1 Compliance with contract requirements for deliverables;
- 23.1.2 Compliance with approved plans and specifications;
- 23.1.3 Compliance with the City’s business ethics expectations;
- 23.1.4 Compliance with contract provisions regarding the pricing of change orders;

- 23.1.5 Accuracy of Consultant's representations regarding the pricing of invoices; and
 - 23.1.6 Accuracy of Consultant representations related to claims submitted by Consultant or any of its payees.
- 23.2 Consultant shall require all payees (examples of payees include subconsultants, subcontractors, material suppliers, insurance carriers, etc.) to comply with the provisions of this article by including the requirements hereof in a written contract agreement between Consultant and payee. Consultant will ensure that all payees (including those entering into lump sum contracts) have the same right to audit provisions contained in this Agreement.
- 23.3 Owner authorized representative(s) shall have reasonable access to Consultant's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with this article.
- 23.4 If an audit inspection or examination in accordance with this article discloses overpricing or overcharges to the City (of any nature) by Consultant and/or Consultant's subcontractors and/or subconsultants the City shall be entitled to adjustment and reimbursement or recovery in the amount of such overpricing or overcharging. If the amount of the overpricing or overcharging is determined, in addition to making adjustments for the overcharges, the reasonable actual cost of the City's audit shall be reimbursed to the City by Consultant. Any adjustments and/or payments which must be made as a result of any such audit or inspection of Consultant's invoices and/or record shall be made within a reasonable amount of time (not to exceed thirty (30) calendar days) from presentation of the City's findings to Consultant. This provision shall survive the expiration of this Agreement.
- 23.5 In addition to the normal paperwork documentation Consultant typically furnishes to the City, in order to facilitate efficient use of the City's resources when reviewing and/or auditing Consultant's billings and related reimbursable cost records, Consultant agrees to furnish (upon request) the following types of information in the specified computer (PC) readable file format(s):

Type of Record	PC Readable File Format
Monthly Job Cost Detail	.pdf and Excel
Detailed job Cost History To Date	.pdf and Excel
Monthly Labor Distribution detail (if not already separately detailed in the Job Cost Detail)	.pdf and Excel
Total Job to date Labor Distrubution detail (if not already included in the detailed Job Cost History to date)	.pdf and Excel
Employee Timesheets documenting time worked by all individuals who charge reimbursable time to the project	.pdf
Weely Task Reports listing names and hours and tasks of personnel who worked on Project	.pdf
Weekly Project Manager Reports	.pdf
Detailed Subcontractor/Subconsultant Status Reports (showing original subcontract value, approved subcontract change orders, subcontractor invoices, payment to subcontractors, etc.	.pdf and Excel
Copies of Executed Subcontracts with all Subcontractors	.pdf
Copies of all executed change orders issued to Subcontractors	.pdf
Copies of all documentation supporting all reimbursable job costs (subcontractor payment applications, vendor invoices, internal cost charges, etc.)	.pdf

ARTICLE 24
CLAIMS AND DISPUTES

24.1 Prior to the filing of any litigation by the City or Consultant against the other (and, except as described below, as a precondition to any such filing), the City and Consultant shall engage in pre-suit non-binding mediation. Such mediation may be requested by either party, at any time, and shall be conducted the same as if such mediation were ordered by a Florida Circuit Court (i.e., in accordance with, and subject to, all of the laws and rules applicable to court-ordered mediation). Such mediation shall be conducted within a reasonable period of time after the same is requested in writing by either party. If the parties are unable to agree upon the selection of a mediator, either party may petition or request that the Circuit Court in Lee County, Florida (or the Mediation Coordinator for the Courts of Lee County, Florida) appoint a mediator. A mediator who is so appointed may only be challenged for cause, and not peremptorily. While the request for and the conducting of such a mediation may be a precondition to the filing of a civil action, in the event either party is in jeopardy of losing its right to sue (e.g., the statute of limitations is about to expire), then suit may be filed before a mediation is conducted provided that mediation is requested before, or simultaneously with the filing of such suit, and is conducted before the named defendant in the suit is required to respond to the complaint. If the scheduling of the mediation requires, the plaintiff in the suit shall grant the defendant an appropriate extension of time to respond to the complaint so as to permit the mediation to be conducted before the defendant

must so respond. The mediation contemplated hereunder shall be conducted, unless otherwise agreed by the parties, in Lee County, Florida. The parties shall bear the mediator's fee and any filing fees associated with the mediation equally.

- 24.2 The City and Consultant agree that any litigation between them arising out of, resulting from, or relating to this Agreement or the Project shall be a venue in a state court of competent jurisdiction in Lee County, Florida.

ARTICLE 25
ANNUAL APPROPRIATION CONTINGENCY

Pursuant to Florida Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.

ARTICLE 26
DAMAGE TO PROPERTY

Consultant shall be responsible for all claims filed for damage to private property owned by third parties as well as all damage to public property relating in any fashion whatsoever to Consultant's performance of Work hereunder. The Consultant will work cooperatively with the City in establishing a damage claim program acceptable to the City for processing and satisfying property damage which arises during the course of the Project.

ARTICLE 27
SAFETY AND OSHA COMPLIANCE

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

ARTICLE 28
EQUAL EMPLOYMENT OPPORTUNITY

During the term of the Agreement, Consultant agrees it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age or national origin. Consultant shall comply with all aspects of the Americans with Disabilities Act ("ADA") during the performance of this Agreement.

ARTICLE 29
PROPRIETARY INFORMATION

Except as otherwise provided in this Agreement, Consultant agrees not to divulge, furnish, or make available to any third parties, Consultant or organization, without the City's prior written consent, or unless instant to the proper performance of Consultant's obligations hereunder, or in the course of any judicial or legislative proceeding where such information has been properly subpoenaed, any nonpublic information concerning services to be rendered by Consultant or any of its subconsultants or subcontractors under this Agreement.

ARTICLE 30
COMPLIANCE WITH IMMIGRATION LAWS

The City will not intentionally award contracts to any party who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 A(e) Section 274 A(e) of the Immigration and Nationality Act ("INA"). The City may consider the employment by Consultant of unauthorized aliens to be a violation of Section 274 A(e) of the INA. Such violation by Consultant of the employment provisions contained in Section 274 A(e) of the INA shall be grounds for unilateral termination of this Agreement by the City. Consultant affirmatively represents to the City that it is fully compliant with all applicable immigration laws, including but not limited to, the 1986 Immigration Act and subsequent amendments.

ARTICLE 31
COMPLIANCE SCRUTINIZED COMPANIES

The Consultant affirms and attests that they are eligible to enter into this agreement and are not prohibited against contracting, base on not being a scrutinized company as outlined in Florida Statutes 287.012; Florida Statute 215.473 and Florida Statute 215.4725. The consultant further agrees that if they are included on the list of scrutinized firms list in the future, located at (<http://www.sbafla.com>), that this agreement may be terminated at the City's option. The Consultant firm understands that pursuant to section 287.125, Florida Statutes, the submission of a false certification may subject the Consultant to civil penalties, attorney's fees, and/or costs.

ARTICLE 32
OBSERVANCE OF LAWS,
RULES, REGULATIONS, CODES
AND ORDINANCES

Consultant shall observe and at all times fully comply with all applicable laws, rules, regulations, codes and ordinances of any federal, state or local government agency or regulatory body which in any manner affect or apply to the Work or Consultant's performance hereunder. Consultant shall require all of its agents, representatives,

employees and sub-consultants to observe and comply with the said laws, rules, regulations, codes and ordinances.

ARTICLE 33
PUBLICITY

Publicity and public announcements pertaining to the Project shall be approved by the City in writing prior to release.

ARTICLE 34
MISCELLANEOUS

- 34.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- 34.2 No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, signed by the parties against whom the enforcement of such modification, waiver, amendment, discharge, or change is sought.
- 34.3 Nothing contained in this Agreement shall create a contractual relationship or cause of action in favor of a third party against either the City or Consultant.
- 34.4 This Agreement and the Exhibits attached hereto constitute the entire Agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged herein.
- 34.5 This Agreement shall be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.
- 34.6 All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular, or plural as the identity of the person(s) or entity may require.
- 34.7 In the event of any conflict between the terms of this Agreement and any other Contract Documents including Specifications for the Project, the provisions of this Agreement shall govern and control.
- 34.8 If any provision or any portion of any provision of this Agreement or the application of any such provision or portion thereof to any person or circumstance shall be held invalid or unenforceable, the remaining portion of such provision and the remaining provisions of this Agreement, or the application of such provision held invalid, or unenforceable to persons or circumstances other than those to which it has been invalid or unenforceable, shall not be affected thereby.

- 34.15 The parties hereto shall, at any time and from time to time following the execution hereof, execute and deliver all such further instruments and take all such further action as may be reasonably necessary or appropriate in order to carry out more effectively the purposes of this Agreement.
- 34.16 Every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning and shall not be strictly construed for or against any party.

END OF SECTION

IN WITNESS, WHEREOF, OWNER AND CONTRACTOR HAVE SIGNED THIS AGREEMENT. THIS AGREEMENT WILL BE EFFECTIVE ON _____ (WHICH IS THE EFFECTIVE DATE OF THE CONTRACT).

OWNER:

City of Cape Coral, Florida

Signature: _____

Typed Name: A. John Szerlag

Title: City Manager

Date: _____

Signature Attest: _____

Title: City Clerk

Typed Name: Kimberly Bruns, CMC

Date: _____

Address for giving notices:
City of Cape Coral (Attn: Procurement)
P.O. Box 150027
2nd Floor
Cape Coral, FL 33915

CONTRACTOR:

Kimley-Horn and Associates, Inc.

Signature: 

Typed Name: Gary J. Nadeau

Title: Senior Vice President

Date: July 10, 2019

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign with corporate resolution.)

Signature Attest: 

Title: Assistant Secretary

Typed Name: Kelley Klepper

Date: July 10, 2019

Address for giving notices:
1777 Main St.
Suite 200
Sarasota, FL 34236
State of Florida
Contractor License No.: _____
(as applicable)

LEGAL REVIEW:

Signature: 

Typed Name: Dolores Menendez, ESQ.

Title: City Attorney

Date: 7/8/2019

CONTRACT EXHIBITS

Exhibit "A"	Consultant's Scope of Professional Services
Exhibit "B"	Schedule of Values
Exhibit "C"	Consultant's Work Schedule
Exhibit "D"	Personnel Hourly Rates
Exhibit "E"	Reimbursable Expenses
Exhibit "F"	Project Maps
Exhibit "G"	Total Project Cost – NTE
Exhibit "H"	Title Classifications
Exhibit "I"	Truth-in-Negotiations
Exhibit "J"	Business Ethics Requirements

EXHIBIT “A”

Consultant’s Scope of Professional Services

CAPE CORAL YACHT CLUB

Rev. 7 – 6/26/2019

A. Assumptions and Clarifications

The following list of assumptions are intended to clarify CONSULTANT'S understanding of the Yacht Club project:

1. No modifications to the existing seawall are included.
2. The site is assumed to not have soil or groundwater contamination, or historical use of landfill, dumping, or hazardous activities.
3. Existing water and sewer are available to service the site.
4. Submerged Resource Survey. All areas where proposed changes will be made are examined by divers to verify the presence or absence of protected resources (sponges, oysters, scallops, corals (hard/soft). Any resources found will be identified and mapped by CONSULTANT.
5. Dock/Boat Ramp Plans & Permit Drawings. CONSULTANT'S Marine engineers will prepare plans and permit drawings for new/renovated docks and a new boat ramp (if that design is chosen).
6. Bathymetric surveys required for both the docks and the ramp/new channel shall be provided by the CITY.
7. Location of boat ramp / launch may be shifted to an interior location within the basin area.
8. Coordination on the Manatee Protection Plan. CONSULTANT will coordinate with Lee County, the CITY and FWC regarding the use of additional linear feet shoreline in other locations to increase onsite slip counts.
9. New Channel Marker Coordination and Permitting. If the boat ramp is moved and a new entrance channel designed, then new channel markers will have to be approved and permitted by FWC and the U.S. Coast Guard (USCG).
10. FDEP, USACE, and USCG Water Park Coordination. Over water construction out in the water will require State Lands and USACE authorizations with USCG input for navigational issues.
11. ERP Permitting. CONSULTANT will prepare the environmental permit packages needed to permit the approved plan. Once submitted CONSULTANT will process these applications with the appropriate agencies and respond to questions from the various groups (agency and NGO) that comment. It is expected that the CITY will pay application fees directly if needed.
12. Requirements of permitting of State Lands Fill (Beach extension) to be determined upon completion and acceptance of final concept plan.
13. Construction and permitting documents exclude Future Phase items as identified on the Opinion of Probable Cost.

14. Final topographic survey limits to be based on approved master plan and Phase 1 implementation.
15. Survey Project Area: The parcels that make up this Survey Project Area are as follows: Lots 1-17, Block 8; Lots 49-52, Block 12; Lots 1-7, Block 13; and the "Yacht Club Area" all as shown on the Cape Coral Unit One Part Two subdivision plat (Plat Book 11, Pages 29-36), Public Records of Lee County, Florida.

B. Program Elements

The following program and architectural elements are included in the design and construction documents of the scope of work:

1. Vehicular circulation modifications including parking lots, drive aisles and a parking deck
2. Pedestrian sidewalks and multi-use paths
3. Boat slip extension
4. Day dock expansion
5. Boat ramp launch
6. Boat trailer parking lot
7. Beach area expansion picnic shelters with grills (park and beach area)
8. Re-alignment of Dolphin Dr. to allow for the new boat trailer parking
9. Large picnic pavilions (prefabricated, to match existing CITY structures)
10. Small picnic pavilions (prefabricated, to match existing CITY structures)
11. Event area with utility infrastructure adjacent to boat ramps
12. Multi-purpose open space with picnic areas
13. Yacht basin parking lot
14. Shade structure for playground (prefabricated, to match existing CITY structures)
15. Site lighting
16. Stormwater management facilities
17. Splashpad
18. Finger piers

Architectural Elements:

1. Improvements to include the following:
 - Harbor Master Building with Office Space for Staff and Restrooms (2,500 SF)
 - New beachfront restroom building to replace the existing (with showers, restrooms, wash stations, 500 SF)
 - Large Picnic Pavilion
 - (9-10) Picnic Shelter (with grills selected and located by Landscape Architect)
 - Parking Deck – one-story parking deck, approximately 200 Stalls
 - CONSULTANT to provide parking garage functional design and full structural engineering (including foundations). CONSULTANT will also

provide aesthetic enhancements, stairs/elevator design, life safety design, and MEPF design.

2. Construction budget for vertical improvements is \$1,350,000
3. Construction budget for parking deck is \$3,600,000.00
4. Picnic shelters are assumed to be prototypical. Services include design of (1) shelter

C. Existing to Remain (Not Included in Design)

The following existing site elements are understood to remain in place with no modifications (unless specifically noted), and will be incorporated into the overall park design:

1. Tony Rotino Senior Center
2. Maintenance Building
3. Office Building
4. Yacht Club Aquatic Center
5. Boat House Tiki Bar and Grill
6. Fishing Pier
7. Boat Slips and Day Docks
8. Pool and Toddler Pool
9. Driftwood Parkway
10. Racquetball Courts
11. Parking Lot and Vehicular Circulation surrounding Racquetball Courts, Yacht Club Building, and Pool
12. Playgrounds (Beach and Pool Area)
13. Fountain in Center Island of Yacht Club Building Drop Off Roundabout

SCOPE OF SERVICES OUTLINE

The scope of services outlined below represents the scope and process CONSULTANT will undertake through the design process.

Task 1 - Project Administration and Meetings

- A. Includes project set up, scheduling, status reports, budgeting and invoicing.
- B. Quality assurance / quality control.
- C. Meetings and coordination with sub CONSULTANTS.
- D. Kick-off meeting
- E. Monthly progress report and meeting with CITY Staff
- F. Quarterly progress report for City Council / public dissemination by CITY.

- G. Misc. correspondence with the CITY, assumed to be one (1) conference call every two weeks to review project status throughout the design process.
- H. Preparation for, and attendance at up to four (4) City Council meetings throughout the design process.
- I. Meetings and coordination with Construction Manager (assumed to commence at start of construction documents).

Task Deliverables will include:

- a. Monthly progress update with proposed schedule outlook for upcoming period;
- b. Meeting minutes
- c. Written responses to CITY comments at each design submittal stage via letter or email no later than fourteen (14) calendar days after receiving the comments.

Task 2 – Boundary and Topographic Survey

Prepare a Boundary and Topographic Survey of the above described lands which will include the following tasks:

- A. Recover or re-establish the perimeter boundary corners of the combined parcels described above based on found monumentation, recorded subdivision plats, deeds of record and current title work (the latter two to be provided by CITY).
- B. Show rights-of-ways and platted easements per the recorded subdivision plats or as shown in current title work to be provided by CITY.
- C. Locate above ground and visible improvements within the Survey Project Area. This will include buildings, pools/decks, playground areas, shelters, road pavement, curbs, medians, driveways, sidewalks, parking lots (and parking space lines and types), fences, seawalls, docks, street signs, light poles, power poles, drainage swales, drainage structures, culvert pipes, sanitary sewer manholes, fire hydrants, water valves, water meters, telephone and cable service boxes.
- D. The approximate locations of underground utilities will be shown within the existing adjacent roadways based on investigations and markings set by CONSULTANT'S subsurface utility locating company, based on Electromagnetic and GPR methodologies. Confirmations of these locations by soft-dig excavation methods is not included in this scope but can be provided as an additional service if needed.
- E. Elevations will be obtained for the Survey Project Area on a 50-foot grid and will also include the locations of grade breaks, ditches, swales and other features as needed to reflect the existing terrain. The area 100 feet beyond the Survey Project Area will also be included except for single family lots where only ground elevations and finished floor elevations will be

obtained and except for the canals where the elevations will only be obtained 5 feet off the edge of the seawalls and except for within the Godman Yacht Basin area where elevations will only be obtained in the boat slip extension area and except for the shoreline where elevations will be obtained to the Mean High-Water Line.

- F. Approximately four project control points will be set (and noted on the survey) for use during the construction phase of the project. The horizontal datum to be used for this project is NAD 83 (CORS) and the vertical datum to be used is NGVD 1929.
- G. Pipe sizes, materials and invert elevations as measured from manhole openings and catch basins will be obtained when possible (depth of pipes, recessed pipes, lack of access due to covering or excessive debris may sometimes prevent the obtaining of this data).
- H. Locate and show trees 6" or larger in diameter (DBH). Clusters or rows of trees will be located along the perimeter edges.
- I. Show Flood Zone Classification, gross land area and names of adjoining land owners.
- J. Provide a signed and sealed Boundary and Topographic Survey along with an Autocad Drawing file (Civil3D 2018), DTM Surface file and a Point file.
- K. Provide a signed and sealed Sketch and Legal Description of Floridian Court and a portion of Dolphin Drive for vacating purposes.

Task Deliverables to include:

- a. Signed and sealed copies of the Boundary and Topographic Survey
- b. Autocad drawing file with ground surface contours/TIN in Civil 3D format
- c. Text file of survey data collected showing, Point Number, Northing, Easting, Description, and Elevation

Task 3 – Stakeholder and Community Engagement

- A. Kickoff meeting with CITY to review community engagement process.
- B. Set up and administration of online survey. Prepare a draft on-line survey questionnaire, for use by the CITY to solicit residents' input regarding proposed improvements. Submit the draft to the CITY for review and comment, and revise and resubmit the survey for the CITY'S use. The CITY will host the survey on the CITY'S website, and use social media and other communications to encourage residents to participate.
- C. Focus Group / Interviews (Public Works, Parks and Rec, Emergency Services Stakeholder Meetings; City Council One on One Interviews). CONSULTANT will facilitate up to two (2) contiguous days of interviews and focus group meetings to identify residents' needs and priorities for the park. Meetings and interviews will be scheduled on the hour from 8 am – 12

noon, and 1 pm – 5 pm. The CITY will be responsible for all logistics, including meeting space reservations, participant invitations and confirmations, and scheduling.

- D. Public Workshop: Review and input on existing concept plan.
- E. Development of One (1) alternate concept plan to include digital design vignettes incorporating stakeholder input.
- F. Prepare a preliminary Opinion of Probable Construction Cost (OPCC) for concept plan.
- G. Public Workshop: Present alternate concept plan for public feedback in an open house format.
- H. Refine concept plan into a consolidated final concept plan including 3D model with static images and video fly-through.
- I. Prepare Opinion of Probable Construction Cost (OPCC) final concept plan.
- J. Present final concept plan and OPCC to City Council for approval. Comments on the final concept plan will be incorporated into 30% construction documents.

Task Deliverables to include:

- a. Copy of online survey questionnaire
- b. Summary of online survey results, interviews, and public workshop input.
- c. One (1) electronic alternate concept plan in “pdf” format
- d. One (1) preliminary opinion of probable construction cost for alternate concept plan
- e. 3D model static images.
- f. One (1) electronic set of final concept plan in “pdf” format
- g. One (1) preliminary opinion of probable construction cost for final concept plan

Task 4 – Environmental Due Diligence and Permitting

A. Data Collection

- 1. Listed species survey (upland). All listed species will be documented if found onsite. Cost includes Listed Species Report. Listed Species Report will also include aquatic species such as West Indian manatee, smalltooth sawfish, swimming sea turtles, etc.
- 2. Submerged Resource Survey. All areas where proposed changes will be made are examined by divers to verify the presence or absence of protected resources (seagrasses, sponges, oysters, scallops, corals (hard/soft)). Any resources found will be identified and mapped.

3. FLUCFCS Mapping of Existing Conditions using the Florida Land Use Cover Forms Classification System. Map will be required for all future permitting.
4. Inspect condition of existing seawall to determine if it has reached or is nearing its life expectancy.

B. Marine Design

1. Dock/Boat Ramp Plans & Permit Drawings. CONSULTANT will prepare plans and permit drawings for new/renovated docks and a new/renovated boat ramp. Signage and information needed to address manatee and smalltooth sawfish provisions will also be included.

C. Permitting

1. Pre-Application Meetings. Once the scope and plan are finalized, CONSULTANT will take the plan and meet with state and federal agencies, or whichever agencies might be needed for final authorizations. With the potential for State Lands involvement and a wide scope of issues in this project a second set of pre-app meetings will be held once the applications have been prepared to ensure everything needed has been provided.
2. Coordination on the Manatee Protection Plan. CONSULTANT will coordinate with Lee County, the CITY and FWC regarding the use of additional linear feet shoreline in other locations to increase onsite slip counts.
3. FDEP, USACE, and USCG Water Park Coordination. Over water construction out in the water will require State Lands and USACE authorizations with USCG input for navigational issues.

Note: channel realignment may be required depending on bathymetry and site plan chosen. This task is not included per CITY comments.

4. ERP Permitting. CONSULTANT will prepare the environmental permit packages needed to permit the approved plan. It is expected that the CITY will pay application fees directly if needed.
5. ERP Processing. Once submitted CONSULTANT will process these applications with the appropriate agencies and respond to questions from the various groups (agency and NGO) that comment.
6. Coordinate with National Marine Fisheries on Smalltooth Sawfish.
7. Permitting of State Lands Fill (Beach extension) dependent on final concept. CONSULTANT will coordinate with the state to get them to allow us to fill state lands

by extending the beach to meet the new boat ramp. Potential mitigation of some kind may be required.

Task Deliverables to include:

- a. Copy of each submittal package to the governing agencies.
- b. Copy of written responses to requests for additional information letter from the governing agencies.

Task 5 – Site Civil Due Diligence

- A. Provide coordination with following Governmental Agencies and CITY departments for design parameters of the Project and pre-application meetings:
 1. City of Cape Coral Fire Department
 2. City of Cape Coral Community Development
 3. City of Cape Coral Public Works
 4. City of Cape Coral Utilities
 5. FDEP
 6. SFWMD
 7. FDOH
- B. Review readily available data pertinent to the project: existing construction plans, existing SFWMD permits, as-built information, and existing utility locates or record drawings, as provided by the CITY.
- C. Site visit to review and document existing conditions.
- D. Zoning review.
- E. Coordinate with Geotech subconsultant for the following geotechnical services:
 1. Contact the local underground utility clearance agency prior to beginning the field exploration
 2. Perform SPT test borings for Pond design: The test borings for the pond will be performed at a depth of 25 feet below existing grade surface. The soil samples from the pond test borings will be tested for soil classification, evaluate fill suitability for the project site development. Based on the results for the test borings and soils classification, an estimate of the deep confining layer will be determined.

CONSULTANT assumes a scope of twelve (12) SPT borings for the pond areas for each park site.

3. Perform SPT test borings for Building structures: The test borings for the building structures will be performed to a depth of 20 feet below existing grade surface. The building test borings will be used to evaluate the soils condition, soils classification and soil bearing capacity to support the structures. CONSULTANT assumes a scope of ten (10) borings for the building structures for each park site.
4. Perform hand augers borings: Hand auger borings will be performed to a depth of 5 feet below existing grades. These borings will be used to evaluate the seasonal high groundwater levels for the pond area for the sites. Hand augers will also be performed for pavement areas to test subgrade soils for pavement section recommendations. CONSULTANT assumes a scope of twenty (20) hand auger borings for pavement areas and seasonal high groundwater evaluation for each park site.
5. Perform Double Ring Infiltrometer Tests: The DRI test is performed in general accordance with ASTM D 3385, "Standard Test Method for Infiltration Rate of Soils in Filed Using Double Ring Infiltrometer". CONSULTANT assumes a scope of four (4) DRI tests for each park site.
6. All boring locations will be backfilled/grouted to grade upon work completion.
7. Visually classify the soil samples at each test interval and place them in clean containers which are labeled for future identification. Groundwater levels will be obtained in the boring upon initial encounter.
8. The soil samples will be transported for visual classification testing, and to evaluate the pertinent engineering properties. At the completion of the field and laboratory testing services we will prepare a report under the direction of a registered professional engineer which contains the following information at a minimum:
 - Soil boring logs and visual soil classifications
 - Existing groundwater levels
 - Estimated seasonal high groundwater level
 - Settlement estimates, total and differential
 - Foundation recommendations and soil bearing capacity
 - Site preparation recommendations
 - DRI test results
 - Laboratory testing results
 - Pavement Recommendations

F. Coordinate with SUE subconsultant to obtain existing utility locations and depths.

G. Traffic Analysis

Task Deliverables to include:

- a. Summary report indicating data found including source and date of information.
- b. Two (2) copies of geotech report.

Task 6 – Site Construction Documents

A. Schematic Design (30%) Plan Package

1. Preparation of 30% plans based on the approved final concept plan. The 30% plan set will be utilized on the initial permit submittals for USACE permitting.
2. Attendance at a site visit to observe and confirm existing conditions and design assumptions.
3. 30% Plans will include Preliminary Landscape and Hardscape Plans with appropriate design studies/enlargements and site feature selections/cut sheets; Preliminary Master Site Plan; Preliminary Master Paving, Grading and Drainage Plans; and Preliminary Utility Plan.
4. The 30% plans will incorporate parking layout; locations of proposed site features; ingress/egress into the park; locations of buildings and other structures; alignment of sidewalks and pathways; and other hardscape/landscape features.
5. Specifications will be provided as notes on plans. Written specification book not included.
6. Preparation of preliminary drainage calculations to establish pre/post conditions, location of storm water management facilities, and storm pipe layout.
7. Confirm location of existing utilities and capacity to serve the site. Prepare preliminary calculations for water and sewer demands for the project.
8. Confirm design and permitting requirements for the utility services to the park.
9. Confirm design and permitting requirements for the storm water treatment, attenuation, and incorporation where possible of Low Impact Design (LID) practices for the park.
10. Incorporation of zoning, tree preservation, and environmental constraints for the park.
11. Attendance at pre-application meetings with governing agencies.

12. Preparation of an Engineer's Opinion of Probable Construction Cost (EOPC) based on the 30% plans.
13. QA/QC of 30% plans and EOPC.

B. Design Development (60%) Plan Package

1. Preparation of 60% plans based on CITY comments during the 30% plan review process. The 60% plan set will be utilized on the initial permit submittals to the governing agencies.
2. 60% plans will include the following sheets: Existing Conditions, Site plan, Paving Grading and Drainage Plans, Storm Water Management Facility Plans and details, Utility Plans, Best Management Practices Plans and details, Pavement Marking and Signage Plans, Lighting Plans and details, Landscape and Hardscape Plans and details; Tree mitigation plans; Schematic irrigation plans.
3. Preliminary Drainage Calculations modified per any modifications from the 30% plans.
4. Utility Pipe Routing adjusted per any modifications from the 30% plans.
5. Preparation of an EOPC based on the 60% plans.
6. QA/QC of 60% plans and EOPC.

C. Final Plans Package

1. Preparation of 100% plans based on the 60% plans, CITY comments during the 60% plan review process and any remaining comments from the governing agencies.
2. Establishment of finalized quantities, and bid proposal form.
3. Constructability review of plans.
4. CITY coordination.
5. Preparation of final specifications including CITY front-end contract documents.
6. Preparation of final EOPC.
7. QA/QC of final 100% plans package and EOPC.

Task Deliverables

The CONSULTANT shall provide the following deliverables to the CITY during the design and permitting phase:

- A. Preliminary Design (30%)
 - 1. One (1) electronic set of construction documents in "pdf" format
 - 2. Two (2) 24"x36" sets of construction documents
 - 3. One (1) 30% opinion of probable construction cost with bid quantities
- B. Intermediate Design (60%)
 - 1. One (1) electronic set of construction documents in "pdf" format
 - 2. Two (2) 24"x36" sets of construction documents
 - 3. One (1) electronic set of outline specifications in "pdf" format
 - 4. One (1) updated opinion of probable construction cost with bid quantities
- C. Final Design (100%)
 - 1. One (1) electronic set of construction documents for permitting and bidding.
 - 2. Two (2) sets of Signed and Sealed 24"x36" construction documents
 - 3. One (1) electronic set of specifications in "pdf" format
 - 4. One (1) final opinion of probable construction cost with bid quantities

Task 7 - Architectural Design, Construction Plans, Permitting and Coordination

CONSULTANT to provide professional architectural design services as described in the following phases. Each phase shall be approved by the CITY in writing prior to beginning the next phase of work. CONSULTANT'S services include the following engineering consultant services for the vertical construction only.

- A. Structural Engineering
 - 1. Structural Engineering services will be performed as part of the phases outlined below for vertical construction. Structural Engineering scope to include:
 - a. Foundation plans and load bearing component design
 - b. Floor and roof framing plans
 - c. Structural member sizing and type of construction
 - d. Footing inverts and top of wall and/or steel elevations
 - e. Technical specifications
- B. Mechanical, Electrical, Plumbing & Fire Protection Engineering (MEPFP)
 - 1. MEPFP Engineering services will be performed as part of the phases outlined below. MEPFP Engineering scope to include:
 - 2. Mechanical scope:
 - a. Floor plans showing all ductwork and piping layouts

- b. Equipment room layouts and sizes of ductwork
- c. Fixtures and equipment selection and schedule
- d. Controls systems selection
- e. Technical specifications
- 3. Electrical scope:
 - a. Electrical distribution plans and riser diagrams
 - b. Fixtures and equipment schedules
 - c. Lighting plans
 - d. Electrical equipment room layouts
 - e. System details and location of receptacles and fixed appliances
 - f. Technical specifications
- 4. Plumbing scope:
 - a. Plumbing plans, fixtures and locations
 - b. Hot and cold-water generation systems
 - c. Sanitary system design (to 5' outside building)
 - d. Plumbing isometric diagrams
- 5. Fire Protection scope:
 - a. Fire suppression system and/or specification design where required by code.
 - b. Fire Alarm system design where required by code.

A. SCHEMATIC DESIGN (30%)

1. CONSULTANT shall review the program and other information furnished by the CITY, and shall review codes and regulations applicable to CONSULTANT'S services.
2. CONSULTANT shall prepare a preliminary evaluation of the CITY'S program, schedule, budget, site, and the proposed procurement or delivery method, and other initial information, to ascertain the requirements of the project. CONSULTANT shall notify the CITY of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.
3. CONSULTANT shall present its preliminary evaluation to the CITY and shall discuss with the CITY alternative approaches to design and construction. CONSULTANT shall reach an understanding with the CITY regarding the requirements of the project.
4. Based on the Project's requirements agreed upon with the CITY, CONSULTANT shall prepare and present for the CITY approval a preliminary design illustrating the scale and relationship of the Project components.
5. Based on the CITY'S approval of the preliminary design, CONSULTANT shall prepare Schematic Design Documents for the CITY'S approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, section and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary narrative selections of major building systems and construction materials shall be noted on the drawings or described in writing.

6. CONSULTANT shall submit the Schematic Design Documents to the CITY, and request the CITY'S approval.
7. CONSULTANT will attend (1) stakeholder engagement meeting.
8. During Schematic Design Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.

B. DESIGN DEVELOPMENT (60%)

1. Based on the CITY'S approval of the Schematic Design Documents, and on the CITY'S authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, CONSULTANT shall prepare Design Development Documents for the CITY'S approval.
2. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.
3. CONSULTANT will submit the Design Development Documents to the CITY and request the CITY'S approval.
4. During Design Development Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.

C. CONSTRUCTION DOCUMENTS (Final Plans Package, 100%)

1. Based on the CITY'S approval of the Design Development Documents, and on the CITY'S authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, CONSULTANT shall prepare Construction Documents for the CITY'S approval.
2. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the work, in a manner consistent with locally accepted standards for professional skill and care.
3. CONSULTANT will incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.
4. The CITY and CONSULTANT acknowledge that in order to construct the Work the CONTRACTOR will provide additional information, including Shop Drawings, Product Data,

Samples and other similar submittals, which CONSULTANT shall review in accordance with the Construction Administration Phase outlined below.

5. The CONSULTANT will submit the Construction Documents to the CITY and request the CITY'S approval.
6. During Construction Document Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.

D. BIDDING AND PERMITTING

1. Based upon CITY'S approval of the Construction Documents, provide permitting assistance necessary (unless specifically excluded below) to achieve signed/sealed drawings ready for the CONTRACTOR'S bidding process and/or construction.
2. Submission of Construction Documents to applicable agencies for permit processing [OR, submit to CONTRACTOR for submission to applicable agencies for permit processing].
3. Answer review questions required by permitting agencies and CONTRACTOR Assembly of addenda material and information as may be required to clarify issues.
4. Assist the CITY and CONTRACTOR in bid evaluation, as requested.

E. CONSTRUCTION ADMINISTRATION

1. Monthly site visits during construction to determine, in general, if the work observed is being performed in a manner that, when completed, will be in accordance with the contract documents. Agreement includes a total of (18) site visits during construction. Additional requested site visits will be billed as Additional Services.
2. Review and respond to CONTRACTOR requests for information (RFIs) and Submittals during construction.
3. Review CONTRACTOR Certificates for Payment.
4. At Project Completion, review Punch List prepared by CONTRACTOR and issue Certificate of Substantial Completion when appropriate.
5. Certify a final Certificate for Payment based upon a final site visit indicating the work complies with the requirements of the contract documents.

Task Deliverables

CONSULTANT will provide the following deliverables to the CITY during the design and permitting phase:

- A. Schematic Design (30%)

1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) 30% opinion of probable construction cost with bid quantities
- B. Design Development (60%)
1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) electronic set of outline specifications in "pdf" format
 4. One (1) updated opinion of probable construction cost with bid quantities
- C. Construction Documents (100%)
1. One (1) electronic set of construction documents for permitting and bidding.
 2. Two (2) sets of Signed and Sealed 24"x36" construction documents
 3. One (1) electronic set of specifications in "pdf" format
 4. One (1) final opinion of probable construction cost with bid quantities

Task 8 – Site Civil Permit Application Packages

- A. Preparation of the required plans, applications, and supporting documents for submittal to the following agencies:
1. City Site Development Permit
 2. City Right-of-Way Vacation and Platting
 3. South Florida Water Management District
 4. Florida Department of Environmental Protection (FDEP)
 5. Florida Department of Health (FDOH)
 - Water
 - Sewer
 6. National Pollutant Discharge Elimination System (NPDES)
 7. Army Corps of Engineers (USACE) Permitting for Marine Improvements
- B. Respond to requests for information (RAI) from the governing agencies.

- C. Scheduling and attendance at follow up meetings with agency reviewers to clarify comments.
- D. Preparation of revised plans, response letters, and resubmittal packages.
- E. QA/QC of permit application packages.

Task Deliverables to include:

- a. Copy of each submittal package to the governing agencies.
- b. Copy of written responses to requests for additional information letter from the governing agencies

Task 9 – Construction Phase Services

CONSULTANT will provide professional construction phase services for the purpose of providing assistance to CITY during construction. The following services will be conducted for the project as follows:

- A. *Bid Document Preparation and Contractor Notification.* It has been assumed that this task will be completed by the CITY except for quantity review and verification, should this be requested by the CITY.
- B. *Contract Documents Preparation.* It has been assumed that this task will be completed by the CITY.
- C. *Pre-Construction Conference.* CONSULTANT will attend a Pre-Construction Conference with the CITY and CONTRACTOR prior to commencement of Work at the Site.
- D. *Wire Utilities.* The CITY will contact wire utilities (power, telephone, CATV, and natural gas). CONSULTANT will prepare a composite drawing comprised of road crossing data provided by each of the utility companies. CONSULTANT will also add road crossing data as provided by the CITY that pertain to street lighting, irrigation and controls, and entrance features. CONSULTANT will provide the various utilities necessary drawings and AutoCAD disks for their design. This agreement assumes that the CITY will contact and follow-up with each of the wire utilities in order to obtain the required information for the preparation of a crossing plan for the project.
- E. *Construction Progress Meetings.* CONSULTANT'S field representative will attend will attend progress meeting as established by the CITY.
- F. *Visits to Site and Construction Observation.* CONSULTANT will provide on-site construction observation services during the construction phase. CONSULTANT will make visits twice a month, in addition to site visits required for testing, to observe the progress of the duration of

the project. Observations will vary depending on the type of work being performed by the CONTRACTORS, the location, and the CONTRACTOR'S schedules.

Such visits and observations by CONSULTANT are not intended to be exhaustive or to extend to every aspect of CONTRACTOR'S work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on CONSULTANT'S exercise of professional judgment. Based on information obtained during such visits and such observations, CONSULTANT will evaluate whether CONTRACTOR'S work is generally proceeding in accordance with the Contract Documents, and CONSULTANT shall keep CITY informed of the general progress of the Work.

The purpose of CONSULTANT'S visits to the site will be to enable CONSULTANT to better carry out the duties and responsibilities assigned in this Agreement to CONSULTANT during the construction phase by CITY, and, in addition, by the exercise of CONSULTANT'S efforts, to provide CITY a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by CONTRACTOR. CONSULTANT shall not, during such visits or as a result of such observations of CONTRACTOR'S work in progress, supervise, direct, or have control over CONTRACTOR'S work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by CONTRACTOR, for safety precautions and programs incident to CONTRACTOR'S work, nor for any failure of CONTRACTOR to comply with laws and regulations applicable to CONTRACTOR'S furnishing and performing the Work. Accordingly, CONSULTANT neither guarantees the performance of any CONTRACTOR nor assumes responsibility for any CONTRACTOR'S failure to furnish and perform its work in accordance with the Contract Documents.

- G. *Shop Drawings and Samples.* CONSULTANT will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which CONTRACTOR is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to accuracy or completeness of details or construction means or methods. CONSULTANT is not responsible for any deviations from the Contract Documents not brought to CONSULTANT'S attention in writing by the CONTRACTOR.
- H. *Clarifications and Interpretations.* CONSULTANT will respond to reasonable and appropriate CONTRACTOR requests for information and issue necessary clarifications and interpretations of the Contract Documents to CITY. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field Orders authorizing variations from the requirements of the Contract Documents will be made by CITY. Responses to CONTRACTOR requests for information that are due to an error in the plans or missing

information will not be billed under this task to the CITY but rather included with the design effort of the project.

- I. *Inspections and Tests.* CONSULTANT may require such special inspections or tests of CONTRACTOR'S work as the CONSULTANT deems appropriate, and receive and review certificates of inspections within the CONSULTANT'S area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. The CONSULTANT'S review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. CONSULTANT shall be entitled to rely on the results of such tests and the facts being certified. Any retesting that is required due to initial test failure will be considered and additional service. This Agreement is based on a single site visit for the water main testing, and a single site visit for the sewer system testing, and a single visit for the lift station startup.
- J. *Applications for Payment.* Based on CONSULTANT'S observations and on review of applications for payment and accompanying supporting documentation:

CONSULTANT will determine and recommend to the CITY the amounts that CONTRACTOR be paid. Such recommendations of payment will be in writing and will constitute CONSULTANT'S representation to CITY, based on such observations and review, that, to the best of CONSULTANT'S knowledge, information and belief, CONTRACTOR'S work has progressed to the point indicated, such work-in-progress is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to CONTRACTOR'S being entitled to such payment appear to have been fulfilled insofar as it is CONSULTANT'S responsibility to so determine. In the case of unit price work, CONSULTANT'S recommendations of payment will include final determinations of quantities and classifications of CONTRACTOR'S work, based on observations and measurements of quantities provided with pay requests.

By recommending any payment, CONSULTANT shall not thereby be deemed to have represented that observations made by CONSULTANT to check CONTRACTOR'S work as it is performed and furnished have been exhaustive, extended to every aspect of CONTRACTOR'S work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to CONSULTANT in this Agreement. Neither CONSULTANT'S review of CONTRACTOR'S work for the purposes of recommending payments nor CONSULTANT'S recommendation of any payment including final payment will impose on CONSULTANT responsibility to supervise, direct, or control CONTRACTOR'S work in progress or for the means, methods, techniques, equipment choice and usage, sequences, or procedures of construction of safety precautions or programs incident thereto, nor CONTRACTOR'S compliance with Laws and Regulations applicable to CONTRACTOR'S

- furnishing and performing the Work. It will also not impose responsibility on CONSULTANT to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to CITY free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between CITY and CONTRACTOR that might affect the amount that should be paid.
- K. *Record Drawings.* CONSULTANT will review CONTRACTOR'S or CITY'S surveyor's record drawings for compliance to the approved Construction Drawings and applicable regulatory agency standards. Provide Surveyor and or CONTRACTOR with comments on the draft record drawings and one follow up set of comments. Coordinate with Surveyor to receive final sets of record drawings consistent to the requirements of the appropriate regulatory agency. This task includes the initial review and coordination with the surveyor and or CONTRACTOR and follow-up reviews.
- L. *Certification Documents.* Based on the results of the final observations of the site, test reports, record drawings, and other documentation pertinent to the project CONSULTANT will prepare and submit to the appropriate regulatory agency the certificates of completion of construction.
- M. *Change Orders.* CONSULTANT will recommend Change Orders to CITY, as appropriate. CONSULTANT will also review and make recommendations related to Change Orders submitted or proposed by the CONTRACTOR.
- N. *Substitutes and "or-equal."* CONSULTANT will evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by CONTRACTOR in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- O. *Substantial Completion.* Promptly after notice from CONTRACTOR that CONTRACTOR considers the entire Work ready for its intended use, in company with CITY and CONTRACTOR, CONSULTANT will conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of CITY, CONSULTANT considers the Work substantially complete; CONSULTANT shall notify CITY and CONTRACTOR.
- P. *Final Notice of Acceptability of the Work.* CONSULTANT will conduct a final site visit to determine if the completed Work of CONTRACTOR is generally in accordance with the Contract Documents and the final punch list so that CONSULTANT may recommend, in writing, final payment to CONTRACTOR. Accompanying the recommendation for final payment, CONSULTANT shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of CONSULTANT'S knowledge, information, and belief and based on the extent of the services provided by CONSULTANT under this

Agreement and based upon information provided to CONSULTANT upon which it is entitled to rely.

- Q. *Limitation of Responsibilities.* CONSULTANT shall not be responsible for the acts or omissions of any CONTRACTOR, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. CONSULTANT shall not have the authority or responsibility to stop the work of any CONTRACTOR.

Task Deliverables to include:

- a. Copy of electronic bid form and bid package consisting of plans, copies of permits, and book specifications to include measurement and payment sections.
- b. Bid Tabulation Results
- c. Copy of construction progress meeting minutes.
- d. Copy of Permit Certification Packages to the governing agencies.
- e. Record drawing deliverable to the CITY to include:
 - One (1) electronic set of record drawings in "pdf" format.
 - One (1) sets of certified 24"x36"" record drawings;
 - One (1) CD (or flash drive) with record drawing base files, including text fonts, in AutoCAD "dwg

Additional Services

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates, or for a negotiated fee prior to commencing additional services work. Additional services we can provide include, but are not limited to, the following:

1. Permitting services beyond those outlined in the scope of services above.
2. Additional responses to agency comments, beyond those identified in the scope of services above.
3. Revisions to the plans or preparation of applications for permit modification based on CITY requested revisions.
4. Services required by additional governmental regulations, which might be put into effect after the date of this agreement.
5. Public meetings and hearings notices, beyond those identified in the scope of services.
6. Attendance at additional meetings beyond those specified.
7. Comprehensive plan or zoning changes.
8. Transportation/traffic engineering related services.
9. Enhanced landscape, hardscape plans or amenity design.
10. Planning, design, or permit applications for off-site improvements.
11. Traffic signal study or design.

12. Construction Phase Services
13. Archeological services
14. Preparation of a SWFWMD Water Use Permit for irrigation
15. Construction phase services associated with one or two-year warranty inspections as called for by the CITY or regulatory agency
16. Interior Design services not otherwise expressly indicated in Scope of Services
17. Furniture selections and procurement
18. LEED consulting and certification services
19. 3D physical presentation model
20. Tide Study to determine Mean High-Water Line elevation
21. Bathymetric Surveying of canals, basins, river
22. Submerged Land Lease Surveys
23. Location of Fishing Pier
24. Soft-dig excavations for location and/or confirmation of underground utilities
25. Sketches and Legal Descriptions for additional street or easement vacations or creations, easements, etc.
26. Subdivision platting
27. Any surveying services other than those described above
28. Seawall Inspection for integrity
29. Meeting with cabinet aides and Governor / Cabinet for the filling of state lands or the creation of a new entrance channel. If a hearing is to take place, CONSULTANT will attend the hearing in Tallahassee upon written approval by CITY.

FESTIVAL PARK

Rev. 7 – 6/26/2019

A. Assumptions / Clarifications

The following list of assumptions are intended to clarify CONSULTANT'S understanding of the Festival Park project:

1. Utility Service Extensions to Park will be required to accommodate the approved master plan. Assumes +/- 1/2-mile water main extension, onsite distribution and collection system, and lift station
2. ROW Vacation of +/- 12 existing streets and Wilmington Parkway
3. Re-platting of parcels
4. Property acquisition of existing residential houses / lots will need to be coordinated by CITY Staff.
5. The site is assumed to not have soil or groundwater contamination, or historical use of landfill, dumping, or hazardous activities.
6. Onsite fill material to be reused onsite.
7. FAA radius setback criteria for Seahawk Air Park to be provided to CONSULTANT.
8. Construction and permitting documents exclude Future Phase items as identified on the Opinion of Probable Cost.
9. Final topographic survey limits to be based on approved master plan and Phase 1 implementation.
10. The proposed portion of the park area to be surveyed is located within the lands bounded by the Gator Slough Canal on the north, Zanzibar Canal on the east, Northwind Canal on the south and NW 14th Avenue, NW 27th Street and Chiquita Boulevard on the west. This total area is made up of Blocks 3000–3002, 3009, 3013-3028 and part of Block 3003, all as shown on the Cape Coral Unit 43 subdivision plat (Plat Book 17, Pages 48-57), Public Records of Lee County, Florida.

B. Program Elements

The following program and architectural elements are included in the design and construction documents of the scope of work:

1. Pedestrian Sidewalks, access and circulation
2. Parking for 2,500+/- spaces
3. Overflow Parking Area (grass)
4. Vehicular Circulation for Parking
5. Six (6) Natural Turf Soccer Fields
6. Open Space North of the Seahawk Air Park

7. Recreation Trail
8. ERP permitting for canal / lake enhancements (stormwater treatment area conversion)
9. Site lighting
10. Stormwater management facilities

Architectural Elements:

1. Improvements to include the following:
 - Restroom Building with Concessions @ 3,800 square feet
 - Concessions will be “grab and go”. No commercial cooking equipment or commercial hood system. Food Service consultant/design services are not included.
 - (1) Large Pavilion @ 1,000 square feet each (foundations only)
 - (2) Small Pavilions @ 400 square feet each (foundations only)
2. Construction budget for vertical improvements is \$1,160,000.00

C. Existing to Remain (Not Included in Design):

The following existing site elements are understood to remain in place with no modifications (unless specifically noted) and be incorporated into the overall park design:

1. Seahawk Air Park with the exception of the Clubhouse

SCOPE OF SERVICES OUTLINE

The scope of services outlined below represents the scope and process CONSULTANT will undertake through the design process.

Task 1 - Project Administration and Meetings

- A. Includes project set up, scheduling, status reports, budgeting and invoicing.
- B. Quality assurance / quality control.
- C. Meetings and coordination with sub consultants.
- D. Kick-off meeting
- E. Monthly progress report and meeting with CITY Staff
- F. Quarterly progress report for City Council / public dissemination by CITY.

- G. Misc. correspondence with the CITY, assumed to be one (1) conference call every two weeks to review project status throughout the design process.
- H. Preparation for, and attendance at up to four (4) City Council meetings throughout the design process.
- I. Meetings and coordination with CONTRACTOR (assumed to commence at start of construction documents).

Task Deliverables will include:

- a. Monthly progress update with proposed schedule outlook for upcoming period;
- b. Meeting minutes
- c. Written responses to CITY comments at each design submittal stage via letter or email no later than fourteen (14) calendar days after receiving the comments.

Task 2 – Boundary and Topographic Survey

Prepare a Topographic Survey of a portion of the above described lands (the limits of which will be determined at a later date) which will include some or all of the following tasks:

- A. Recover or re-establish the boundary corners based on found monumentation, recorded subdivision plats, deeds of record and current title work (the latter two to be provided by the CITY).
- B. Show rights-of-ways and platted easements per the recorded subdivision plats or as shown in current title work to be provided by CITY.
- C. Locate above ground and visible improvements within the Survey Project Area to be determined. This will potentially include buildings, rc airstrip, picnic shelters, road pavement, medians, driveways, boat ramps, spoil piles, fences, street signs, light poles, power poles, drainage swales, drainage structures, culvert pipes, sanitary sewer manholes, fire hydrants, water valves, water meters, telephone and cable service boxes.
- D. The approximate locations of underground utilities will be shown within the existing adjacent roadways based on investigations and markings set by the CONSULTANT'S subsurface utility locating company, based on Electromagnetic and GPR methodologies. Confirmations of these locations by soft-dig excavation methods is not included in this scope but can be provided as an additional service if needed.
- E. Elevations will be obtained for the Survey Project Area on a 50-foot grid and will also include the locations of grade breaks, ditches, swales and other features as needed to reflect the existing terrain. The area 100 feet beyond the Survey Project Area will also be included except for single family lots where only ground elevations and finished floor elevations will be

obtained and except for the canals where the elevations will only be obtained 5 feet off the edge of the top of banks.

- F. Approximately four project control points will be set (and noted on the survey) for use during the construction phase of the project. The horizontal datum to be used for this project is NAD 83 (CORS) and the vertical datum to be used is NGVD 1929.
- G. Pipe sizes, materials and invert elevations as measured from manhole openings and catch basins will be obtained when possible (depth of pipes, recessed pipes, lack of access due to covering or excessive debris may sometimes prevent the obtaining of this data).
- H. Obtain cross-sections of existing ponds within the proposed project area.
- I. Locate wetland delineation lines and seasonal high-water table marks (to be set by others).
- J. Locate and show trees 6" or larger in diameter (DBH). Clusters or rows of trees will be located along the perimeter edges.
- K. Show Flood Zone Classification, gross land area and names of adjoining land owners.
- L. Provide a signed and sealed Topographic Survey along with an Autocad Drawing file (Civil3D 2018), DTM Surface file and a Point file.
- M. Provide a signed and sealed Sketch and Legal Description of road rights-of-way (number of which to be determined).

Task Deliverables to include:

- a. Signed and sealed copies of the Boundary and Topographic Survey
- b. AutoCAD drawing file with ground surface contours/TIN in Civil 3D format
- c. Text file of survey data collected showing, Point Number, Northing, Easting, Description, and Elevation

Task 3 – Stakeholder and Community Engagement

- A. Kickoff meeting with CITY to review community engagement process.
- B. Set up and administration of online survey. Prepare a draft on-line survey questionnaire, for use by the CITY to solicit residents' input regarding proposed improvements. Submit the draft to the CITY for review and comment, and revise and resubmit the survey for the CITY's use. The CITY will host the survey on the CITY's website, and use social media and other communications to encourage residents to participate.

- C. Focus Group / Interviews (Public Works, Parks and Rec, Emergency Services Stakeholder Meetings; City Council One on One Interviews). CONSULTANT will facilitate up to two (2) contiguous days of interviews and focus group meetings to identify residents' needs and priorities for the park. Meetings and interviews will be scheduled on the hour from 8 am – 12 noon, and 1 pm – 5 pm. The CITY will be responsible for all logistics, including meeting space reservations, participant invitations and confirmations, and scheduling.
- D. Public Workshop: Review and input on existing concept plan.
- E. Development of One (1) alternate concept plan to include digital design vignettes incorporating stakeholder input.
- F. Prepare a preliminary Opinion of Probable Construction Cost (OPCC) for concept plan.
- G. Public Workshop: Present alternate concept plan for public feedback in an open house format.
- H. Refine concept plan into a consolidated final concept plan including 3D model with static images and video fly-through.
- I. Prepare Opinion of Probable Construction Cost (OPCC) final concept plan.
- J. Present final concept plan and OPCC to City Council for approval. Comments on the final concept plan will be incorporated into 30% construction documents.

Task Deliverables to include:

- a. Copy of online survey questionnaire
- b. Summary of online survey results, interviews, and public workshop input.
- c. One (1) electronic alternate concept plan in "pdf" format
- d. One (1) preliminary opinion of probable construction cost for alternate concept plan
- e. 3D model static images.
- f. One (1) electronic set of final concept plan in "pdf" format
- g. One (1) preliminary opinion of probable construction cost for final concept plan

Task 4 – Environmental Due Diligence and Permitting

- A. Data Collection
 - 1. Listed species survey. Primarily concerned with gopher tortoises and burrowing owls, but all listed species will be documented if found onsite. Existing permits, such as Scrub Jay will be reviewed as well. Cost includes Listed Species Report. Listed

species survey does not include acoustic monitoring for Florida bonneted bats. If required by FWS, acoustic monitoring will be conducted under a separate scope.

2. FLUCFCS Mapping of Existing Conditions using the Florida Land Use Cover Forms Classification System. Map will be required for all future permitting.

B. Permitting

1. Pre-Application Meetings. Once the scope and plan are finalized, CONSULTANT will meet with state and federal agencies, or whichever agencies might be needed for final authorizations along with the engineering and design team.
2. CONSULTANT will provide the Environmental supplement needed for the agency applications. Due to the reconfiguration of the embayment, we anticipate permit applications with both the state and federal permitting agencies. The type of federal permit required will be dependent on the area of reconfiguration and the amount of material to be dredged out or filled in. We have anticipated having to submit for an Individual permit with the USACE. Scope and costs will be reduced if the work qualifies for a nationwide authorization instead of the individual permit.
3. Once submitted, CONSULTANT will work with the team to coordinate with appropriate agencies and respond to questions from the various groups (agency and NGO) that comment.
4. Listed Species Permitting. If listed species are found during the initial data collection phase, then permit applications to remove/relocation those species will be made to the Florida Fish and Wildlife Conservation Commission (FWC). Those permits could entail flushing and collapsing burrowing owl nests and/or removal of gopher tortoises from the site. Application fees are dependent on the numbers of burrows and type of species and mitigation bank fees also vary. It is expected that the CITY will pay application fees and mitigation bank fees directly if needed.

C. Listed Species Physical Relocation

1. Gopher Tortoises. Any tortoise relocation will be conducted either by hand, digging, bucket trapping, or backhoe extraction depending on the number and status of the burrow(s). CONSULTANT'S FWC approved Gopher Tortoise Agent is certified in the use of the backhoe for burrow excavation if needed. We have provided a single day's rate assuming there are enough burrows to require a day of labor with CONSULTANT running a backhoe and two biologists assisting with the manual labor. If there are no burrows requiring relocation, then the fees associated with this work will be zero (\$0).

Once the tortoises are collected, CONSULTANT will house them and care for them until they can be transferred to the permitted recipient site. Upon release, CONSULTANT will then close out the FWC tortoise permit with an after-action report.

2. Burrowing Owls. Once it is established that the burrow is not active (no eggs or young) then the adults may be flushed out of the burrow by a biologist and the burrow then will be collapsed. One biologist can perform this task and close the permit out with FWC.

Task Deliverables to include:

- a. Copy of each submittal package to the governing agencies.
- b. Copy of written responses to requests for additional information letter from the governing agencies.

Task 5 – Site Civil Due Diligence

- A. Provide coordination with following Governmental Agencies and CITY departments for design parameters of the Project and pre-application meetings:
 1. City of Cape Coral Fire Department
 2. City of Cape Coral Community Development
 3. City of Cape Coral Public Works
 4. City of Cape Coral Utilities
 5. FDEP
 6. SFWMD
 7. FDOT
- B. Review readily available data pertinent to the project: existing construction plans, existing SFWMD permits, as-built information, and existing utility locates or record drawings, as provided by the CITY.
- C. Site visit to review and document existing conditions.
- D. Zoning review.
- A. Coordinate with Geotech for the following geotechnical services:

1. Contact the local underground utility clearance agency prior to beginning the field exploration
2. Perform SPT test borings for Pond design: The test borings for the pond will be performed at a depth of 25 feet below existing grade surface. The soil samples from the pond test borings will be tested for soil classification, evaluate fill suitability for the project site development. Based on the results for the test borings and soils classification, an estimate of the deep confining layer will be determined. CONSULTANT assumes a scope of twelve (12) SPT borings for the pond areas for each park site.
3. Perform SPT test borings for Building structures: The test borings for the building structures will be performed to a depth of 20 feet below existing grade surface. The building test borings will be used to evaluate the soils condition, soils classification and soil bearing capacity to support the structures. CONSULTANT assumes a scope of ten (10) borings for the building structures for each park site.
4. Perform hand augers borings: Hand auger borings will be performed to a depth of 5 feet below existing grades. These borings will be used to evaluate the seasonal high groundwater levels for the pond area for the sites. Hand augers will also be performed for pavement areas to test subgrade soils for pavement section recommendations. CONSULTANT assumes a scope of twenty (20) hand auger borings for pavement areas and seasonal high groundwater evaluation for each park site.
5. Perform Double Ring Infiltrometer Tests: The DRI test is performed in general accordance with ASTM D 3385, "Standard Test Method for Infiltration Rate of Soils in Filed Using Double Ring Infiltrometer". CONSULTANT assumes a scope of four (4) DRI tests for each park site.
6. All boring locations will be backfilled/grouted to grade upon work completion.
7. Visually classify the soil samples at each test interval and place them in clean containers which are labeled for future identification. Groundwater levels will be obtained in the boring upon initial encounter.
8. The soil samples will be transported for visual classification testing, and to evaluate the pertinent engineering properties. At the completion of the field and laboratory testing services we will prepare a report under the direction of a registered professional engineer which contains the following information at a minimum:
 - Soil boring logs and visual soil classifications
 - Existing groundwater levels

- Estimated seasonal high groundwater level
- Settlement estimates, total and differential
- Foundation recommendations and soil bearing capacity
- Site preparation recommendations
- DRI test results
- Laboratory testing results
- Pavement Recommendations

E. Coordinate with SUE subconsultant to obtain existing utility locations and depths.

F. Traffic Analysis; including on-site traffic circulation and emergency response.

Task Deliverables to include:

- a. Summary report indicating data found including source and date of information.
- b. Two (2) copies of geotech report.

Task 6 – Site Construction Documents

A. Schematic Design (30%) Plan Package

1. Preparation of 30% plans based on the approved final concept plan. The 30% plan set will be utilized on the initial permit submittals for USACE permitting.
2. Attendance at a site visit to observe and confirm existing conditions and design assumptions.
3. 30% Plans will include Preliminary Landscape and Hardscape Plans with appropriate design studies/enlargements and site feature selections/cut sheets; Preliminary Master Site Plan; Preliminary Master Paving, Grading and Drainage Plans; and Preliminary Utility Plan.
4. The 30% plans will incorporate parking layout; locations of proposed site features; ingress/egress into the park; locations of buildings and other structures; alignment of sidewalks and pathways; and other hardscape/landscape features.
5. Specifications will be provided as notes on plans. Written specification book not included.
6. Preparation of preliminary drainage calculations to establish pre/post conditions, location of storm water management facilities, and storm pipe layout.
7. Design / sizing of the on-site septic system.

8. Confirm location of existing utilities and capacity to serve the site. Prepare preliminary calculations for water and sewer demands for the project.
9. Confirm design and permitting requirements for the utility services to the park.
10. Confirm design and permitting requirements for the storm water treatment, attenuation, and incorporation where possible of Low Impact Design (LID) practices for the park.
11. Incorporation of zoning, tree preservation, and environmental constraints for the park.
12. Attendance at pre-application meetings with governing agencies.
13. Preparation of an Engineer's Opinion of Probable Construction Cost (EOPC) based on the 30% plans.
14. QA/QC of 30% plans and EOPC.

B. Design Development (60%) Plan Package

1. Preparation of 60% plans based on CITY comments during the 30% plan review process. The 60% plan set will be utilized on the initial permit submittals to the governing agencies.
2. 60% plans will include the following sheets: Existing Conditions, Site plan, Paving Grading and Drainage Plans, Storm Water Management Facility Plans and details, Utility Plans, Best Management Practices Plans and details, Pavement Marking and Signage Plans, Lighting Plans and details, Landscape and Hardscape Plans and details; Tree mitigation plans; Schematic irrigation plans.
3. Preliminary Drainage Calculations modified per any modifications from the 30% plans.
4. Utility Pipe Routing adjusted per any modifications from the 30% plans.
5. Preparation of an EOPC based on the 60% plans.
6. QA/QC of 60% plans and EOPC.

C. Final Plans Package

1. Preparation of 100% plans based on the 60% plans, CITY comments during the 60% plan review process and any remaining comments from the governing agencies.
2. Establishment of finalized quantities, and bid proposal form.

3. Constructability review of plans.
4. CITY coordination.
5. Preparation of final specifications including CITY front-end contract documents.
6. Preparation of final EOPC.
7. QA/QC of final 100% plans package and EOPC.

Task Deliverables

The CONSULTANT shall provide the following deliverables to the CITY during the design and permitting phase:

- A. Preliminary Design (30%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) 30% opinion of probable construction cost with bid quantities
- B. Intermediate Design (60%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) electronic set of outline specifications in "pdf" format
 4. One (1) updated opinion of probable construction cost with bid quantities
- C. Final Design (100%)
 1. One (1) electronic set of construction documents for permitting and bidding.
 2. Two (2) sets of Signed and Sealed 24"x36" construction documents
 3. One (1) electronic set of specifications in "pdf" format
 4. One (1) final opinion of probable construction cost with bid quantities

Task 7 - Architectural Design, Construction Plans, Permitting and Coordination

CONSULTANT to provide professional architectural design services as described in the following phases. Each phase shall be approved by the CITY in writing prior to beginning the next phase of

work. CONSULTANT'S services include the following engineering consultant services for the vertical construction only.

A. Structural Engineering

1. Structural Engineering services will be performed as part of the phases outlined below for vertical construction. Structural Engineering scope to include:
 - a. Foundation plans and load bearing component design
 - b. Floor and roof framing plans
 - c. Structural member sizing and type of construction
 - d. Footing inverts and top of wall and/or steel elevations
 - e. Technical specifications

B. Mechanical, Electrical, Plumbing & Fire Protection Engineering (MEPFP)

1. MEPFP Engineering services will be performed as part of the phases outlined below. MEPFP Engineering scope to include:
2. Mechanical scope:
 - a. Floor plans showing all ductwork and piping layouts
 - b. Equipment room layouts and sizes of ductwork
 - c. Fixtures and equipment selection and schedule
 - d. Controls systems selection
 - e. Technical specifications
3. Electrical scope:
 - a. Electrical distribution plans and riser diagrams
 - b. Fixtures and equipment schedules
 - c. Lighting plans
 - d. Electrical equipment room layouts
 - e. System details and location of receptacles and fixed appliances
 - f. Technical specifications
4. Plumbing scope:
 - a. Plumbing plans, fixtures and locations
 - b. Hot and cold-water generation systems
 - c. Sanitary system design (to 5' outside building)
 - d. Plumbing isometric diagrams
5. Fire Protection scope:
 - a. Fire suppression system and/or specification design where required by code.
 - b. Fire Alarm system design where required by code.

A. SCHEMATIC DESIGN (30%)

1. CONSULTANT shall review the program and other information furnished by the CITY, and shall review codes and regulations applicable to CONSULTANT'S services.
2. CONSULTANT shall prepare a preliminary evaluation of the CITY'S program, schedule, budget, site, and the proposed procurement or delivery method, and other initial information, to ascertain the requirements of the project. CONSULTANT shall notify the CITY of (1) any

- inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.
3. CONSULTANT shall present its preliminary evaluation to the CITY and shall discuss with the CITY alternative approaches to design and construction. CONSULTANT shall reach an understanding with the CITY regarding the requirements of the project.
 4. Based on the Project's requirements agreed upon with the CITY, CONSULTANT shall prepare and present for the CITY approval a preliminary design illustrating the scale and relationship of the Project components.
 5. Based on the CITY'S approval of the preliminary design, CONSULTANT shall prepare Schematic Design Documents for the CITY'S approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, section and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary narrative selections of major building systems and construction materials shall be noted on the drawings or described in writing.
 6. CONSULTANT shall submit the Schematic Design Documents to the CITY, and request the CITY'S approval.
 7. CONSULTANT will attend (1) stakeholder engagement meeting.
 8. During Schematic Design Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.
- B. DESIGN DEVELOPMENT (60%)
1. Based on the CITY'S approval of the Schematic Design Documents, and on the CITY'S authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, CONSULTANT shall prepare Design Development Documents for the CITY'S approval.
 2. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

3. CONSULTANT will submit the Design Development Documents to the CITY and request the CITY'S approval.
 4. During Design Development Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.
- C. CONSTRUCTION DOCUMENTS (Final Plans Package, 100%)
1. Based on the CITY'S approval of the Design Development Documents, and on the CITY'S authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, CONSULTANT shall prepare Construction Documents for the CITY'S approval.
 2. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the work, in a manner consistent with locally accepted standards for professional skill and care.
 3. CONSULTANT will incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.
 4. The CITY and CONSULTANT acknowledge that in order to construct the Work the CONTRACTOR will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which CONSULTANT shall review in accordance with the Construction Administration Phase outlined below.
 5. The CONSULTANT will submit the Construction Documents to the CITY and request the CITY'S approval.
 6. During Construction Document Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.
- D. BIDDING AND PERMITTING
1. Based upon CITY'S approval of the Construction Documents, provide permitting assistance necessary (unless specifically excluded below) to achieve signed/sealed drawings ready for the CONTRACTOR'S bidding process and/or construction.
 2. Submission of Construction Documents to applicable agencies for permit processing [OR, submit to CONTRACTOR for submission to applicable agencies for permit processing].
 3. Answer review questions required by permitting agencies and CONTRACTOR. Assembly of addenda material and information as may be required to clarify issues.

4. Assist the CITY and CONTRACTOR in bid evaluation, as requested.

E. CONSTRUCTION ADMINISTRATION

1. Monthly site visits during construction to determine, in general, if the work observed is being performed in a manner that, when completed, will be in accordance with the contract documents. Agreement includes a total of (18) site visits during construction. Additional requested site visits will be billed as Additional Services.
2. Review and respond to CONTRACTOR requests for information (RFIs) and Submittals during construction.
3. Review CONTRACTOR Certificates for Payment.
4. At Project Completion, review Punch List prepared by CONTRACTOR and issue Certificate of Substantial Completion when appropriate.
5. Certify a final Certificate for Payment based upon a final site visit indicating the work complies with the requirements of the contract documents.

Task Deliverables

CONSULTANT shall provide the following deliverables to the CITY during the design and permitting phase:

- A. Schematic Design (30%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) 30% opinion of probable construction cost with bid quantities
- B. Design Development (60%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) electronic set of outline specifications in "pdf" format
 4. One (1) updated opinion of probable construction cost with bid quantities
- C. Construction Documents (100%)
 1. One (1) electronic set of construction documents for permitting and bidding.

2. Two (2) sets of Signed and Sealed 24"x36" construction documents
3. One (1) electronic set of specifications in "pdf" format
4. One (1) final opinion of probable construction cost with bid quantities

Task 8 – Site/Civil Permit Application Packages

- A. Preparation of the required plans, applications, and supporting documents for submittal to the following agencies:
 1. City Site Development Permit
 2. City Right-of-Way Vacation and Platting
 3. South Florida Water Management District
 - Environmental Resource Permit (ERP)
 - Irrigation Water use
 - Construction Dewatering
 4. Florida Department of Environmental Protection (FDEP)
 5. Florida Department of Health (FDOH)
 - Water
 - Sewer
 6. National Pollutant Discharge Elimination System (NPDES)
- B. Respond to requests for information (RAI) from the governing agencies.
- C. Scheduling and attendance at follow up meetings with agency reviewers to clarify comments.
- D. Preparation of revised plans, response letters, and resubmittal packages.
- E. QA/QC of permit application packages.

Task Deliverables to include:

- a. Copy of each submittal package to the governing agencies.
- b. Copy of written responses to requests for additional information letter from the governing agencies

Task 9 – Construction Phase Services

CONSULTANT will provide professional construction phase services for the purpose of providing assistance to CITY during construction. The following services will be conducted for the project as follows:

- A. *Bid Document Preparation and Contractor Notification.* It has been assumed that this task will be completed by the CITY except for quantity review and verification, should this be requested by the CITY.
- B. *Contract Documents Preparation.* It has been assumed that this task will be completed by the CITY.
- C. *Pre-Construction Conference.* CONSULTANT will attend a Pre-Construction Conference with the CITY and CONTRACTOR prior to commencement of Work at the Site.
- D. *Wire Utilities.* The CITY will contact wire utilities (power, telephone, CATV, and natural gas). CONSULTANT will prepare a composite drawing comprised of road crossing data provided by each of the utility companies. CONSULTANT will also add road crossing data as provided by the CITY that pertain to street lighting, irrigation and controls, and entrance features. CONSULTANT will provide the various utilities necessary drawings and AutoCAD disks for their design. This agreement assumes that the CITY will contact and follow-up with each of the wire utilities in order to obtain the required information for the preparation of a crossing plan for the project.
- E. *Construction Progress Meetings.* CONSULTANT'S field representative will attend will attend progress meeting as established by the CITY.
- F. *Visits to Site and Construction Observation.* CONSULTANT will provide on-site construction observation services during the construction phase. CONSULTANT will make visits twice a month, in addition to site visits required for testing, to observe the progress of the duration of the project. Observations will vary depending on the type of work being performed by the CONTRACTORS, the location, and the CONTRACTOR'S schedules.

Such visits and observations by CONSULTANT are not intended to be exhaustive or to extend to every aspect of CONTRACTOR'S work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on CONSULTANT'S exercise of professional judgment. Based on information obtained during such visits and such observations, CONSULTANT will evaluate whether CONTRACTOR'S work is generally proceeding in accordance with the Contract Documents, and CONSULTANT shall keep CITY informed of the general progress of the Work.

- The purpose of CONSULTANT'S visits to the site will be to enable CONSULTANT to better carry out the duties and responsibilities assigned in this Agreement to CONSULTANT during the construction phase by CITY, and, in addition, by the exercise of CONSULTANT'S efforts, to provide CITY a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by CONTRACTOR. CONSULTANT shall not, during such visits or as a result of such observations of CONTRACTOR'S work in progress, supervise, direct, or have control over CONTRACTOR'S work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by CONTRACTOR, for safety precautions and programs incident to CONTRACTOR'S work, nor for any failure of CONTRACTOR to comply with laws and regulations applicable to CONTRACTOR'S furnishing and performing the Work. Accordingly, CONSULTANT neither guarantees the performance of any CONTRACTOR nor assumes responsibility for any CONTRACTOR'S failure to furnish and perform its work in accordance with the Contract Documents.
- G. *Shop Drawings and Samples.* CONSULTANT will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which CONTRACTOR is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to accuracy or completeness of details or construction means or methods. CONSULTANT is not responsible for any deviations from the Contract Documents not brought to CONSULTANT'S attention in writing by the CONTRACTOR.
- H. *Clarifications and Interpretations.* CONSULTANT will respond to reasonable and appropriate CONTRACTOR requests for information and issue necessary clarifications and interpretations of the Contract Documents to CITY. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field Orders authorizing variations from the requirements of the Contract Documents will be made by CITY. Responses to CONTRACTOR requests for information that are due to an error in the plans or missing information will not be billed under this task to the CITY but rather included with the design effort of the project.
- I. *Inspections and Tests.* CONSULTANT may require such special inspections or tests of CONTRACTOR'S work as the CONSULTANT deems appropriate, and receive and review certificates of inspections within the CONSULTANT'S area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. The CONSULTANT'S review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or

approvals comply with the requirements of the Contract Documents. CONSULTANT shall be entitled to rely on the results of such tests and the facts being certified. Any retesting that is required due to initial test failure will be considered and additional service. This Agreement is based on a single site visit for the water main testing, and a single site visit for the sewer system testing, and a single visit for the lift station startup.

- J. *Applications for Payment.* Based on CONSULTANT'S observations and on review of applications for payment and accompanying supporting documentation:

CONSULTANT will determine and recommend to the CITY the amounts that CONTRACTOR be paid. Such recommendations of payment will be in writing and will constitute CONSULTANT'S representation to CITY, based on such observations and review, that, to the best of CONSULTANT'S knowledge, information and belief, CONTRACTOR'S work has progressed to the point indicated, such work-in-progress is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to CONTRACTOR'S being entitled to such payment appear to have been fulfilled insofar as it is CONSULTANT'S responsibility to so determine. In the case of unit price work, CONSULTANT'S recommendations of payment will include final determinations of quantities and classifications of CONTRACTOR'S work, based on observations and measurements of quantities provided with pay requests.

By recommending any payment, CONSULTANT shall not thereby be deemed to have represented that observations made by CONSULTANT to check CONTRACTOR'S work as it is performed and furnished have been exhaustive, extended to every aspect of CONTRACTOR'S work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to CONSULTANT in this Agreement. Neither CONSULTANT'S review of CONTRACTOR'S work for the purposes of recommending payments nor CONSULTANT'S recommendation of any payment including final payment will impose on CONSULTANT responsibility to supervise, direct, or control CONTRACTOR'S work in progress or for the means, methods, techniques, equipment choice and usage, sequences, or procedures of construction of safety precautions or programs incident thereto, nor CONTRACTOR'S compliance with Laws and Regulations applicable to CONTRACTOR'S furnishing and performing the Work. It will also not impose responsibility on CONSULTANT to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to CITY free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between CITY and CONTRACTOR that might affect the amount that should be paid.

- K. *Record Drawings.* CONSULTANT will review CONTRACTOR'S or CITY'S surveyor's record drawings for compliance to the approved Construction Drawings and applicable regulatory agency standards. Provide Surveyor and or CONTRACTOR with comments on the draft record drawings and one follow up set of comments. Coordinate with Surveyor to receive final sets of record drawings consistent to the requirements of the appropriate regulatory agency. This task includes the initial review and coordination with the surveyor and or CONTRACTOR and follow-up reviews.
- L. *Certification Documents.* Based on the results of the final observations of the site, test reports, record drawings, and other documentation pertinent to the project CONSULTANT will prepare and submit to the appropriate regulatory agency the certificates of completion of construction.
- M. *Change Orders.* CONSULTANT will recommend Change Orders to CITY, as appropriate. CONSULTANT will also review and make recommendations related to Change Orders submitted or proposed by the CONTRACTOR.
- N. *Substitutes and "or-equal."* CONSULTANT will evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by CONTRACTOR in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- O. *Substantial Completion.* Promptly after notice from CONTRACTOR that CONTRACTOR considers the entire Work ready for its intended use, in company with CITY and CONTRACTOR, CONSULTANT will conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of CITY, CONSULTANT considers the Work substantially complete; CONSULTANT shall notify CITY and CONTRACTOR.
- P. *Final Notice of Acceptability of the Work.* CONSULTANT will conduct a final site visit to determine if the completed Work of CONTRACTOR is generally in accordance with the Contract Documents and the final punch list so that CONSULTANT may recommend, in writing, final payment to CONTRACTOR. Accompanying the recommendation for final payment, CONSULTANT shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of CONSULTANT'S knowledge, information, and belief and based on the extent of the services provided by CONSULTANT under this Agreement and based upon information provided to CONSULTANT upon which it is entitled to rely.
- Q. *Limitation of Responsibilities.* CONSULTANT shall not be responsible for the acts or omissions of any CONTRACTOR, or of any of their subcontractors, suppliers, or of any other

individual or entity performing or furnishing the Work. CONSULTANT shall not have the authority or responsibility to stop the work of any CONTRACTOR.

Task Deliverables to include:

- a. Copy of electronic bid form and bid package consisting of plans, copies of permits, and book specifications to include measurement and payment sections.
- b. Bid Tabulation Results
- c. Copy of construction progress meeting minutes.
- d. Copy of Permit Certification Packages to the governing agencies.
- e. Record drawing deliverable to the CITY to include:
 - One (1) electronic set of record drawings in "pdf" format.
 - One (1) sets of certified 24"x36"" record drawings;
 - One (1) CD (or flash drive) with record drawing base files, including text fonts, in AutoCAD "dwg

Additional Services

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates, or for a negotiated fee prior to commencing additional services work. Additional services we can provide include, but are not limited to, the following:

1. Permitting services beyond those outlined in the scope of services above.
2. Additional responses to agency comments, beyond those identified in the scope of services above.
3. Revisions to the plans or preparation of applications for permit modification based on Client requested revisions.
4. Services required by additional governmental regulations, which might be put into effect after the date of this agreement.
5. Public meetings and hearings notices beyond those identified in the scope of services above.
6. Attendance at additional meetings beyond those specified.
7. Comprehensive plan or zoning changes.
8. Transportation/traffic engineering related services beyond those identified in the scope of services above.
9. Enhanced landscape, hardscape plans or amenity design.
10. Planning, design, or permit applications for off-site improvements beyond those identified in the scope of services above.
Traffic signal study or design.
11. Archaeological services

12. Preparation of a SWFWMD Water Use Permit for irrigation
13. Construction phase services associated with one or two-year warranty inspections as called for by the client or regulatory agency
14. Interior Design services not otherwise expressly indicated in Scope of Services
15. Furniture selections and procurement
16. LEED consulting and certification services
17. 3D physical presentation model
18. Tide Study to determine Mean High-Water Line elevation
19. Bathymetric Surveying of canals, basins, river
20. Submerged Land Lease Surveys
21. Location of Fishing Pier
22. Soft-dig excavations for location and/or confirmation of underground utilities
23. Sketches and Legal Descriptions for additional street or easement vacations or creations, easements, etc.
24. Subdivision platting
25. Surveying services other than those described above
26. Seawall Inspection for integrity
27. Meeting with cabinet aides and Governor / Cabinet for the filling of state lands or the creation of a new entrance channel. If a hearing is to take place, CONSULTANT will attend the hearing in Tallahassee, upon written approval of CITY.

LAKE KENNEDY PARK

REV. 7 – 6/26/2019

A. Assumptions / Clarifications

The following list of assumptions are intended to clarify CONSULTANT'S understanding of the Lake Kennedy Park project:

1. ROW Vacation of SW 3rd Place south of SW 4th Street, SW 4th Terrace, and SW 5th Street
2. The site is assumed to not have soil or groundwater contamination, but is known to have historical use of landfill, dumping, or hazardous activities.
 - This scope of services does not include specialized geotechnical or engineering services for landfill conditions, landfill remediation, permitting, methane monitoring or methane venting system design for structures.
3. Existing water and sewer is available to service the site
4. No proposed changes to W Lake Kennedy Drive or changes to Lake Kennedy Senior Center and Special Populations Parking lots.
5. Construction and permitting documents exclude Future Phase items as identified on the Opinion of Probable Cost.
6. Final topographic survey limits to be based on approved master plan and Phase 1 implementation.
7. The proposed portion of the park area to be surveyed is located within the lands bounded by the Lake Kennedy on the west and south, Santa Barbara Boulevard on the east and SW 4th Street (along with its easterly and westerly extensions) and the northerly line of the current Lake Kennedy Park parcel boundary on the north (excluding the current Sun Splash Family Waterpark development). This total area is made up of a portion of Section 14, Township 44 South, Range 23 East, as well as Blocks 1955-1956 and parts of Blocks 1957 and 1958, all as shown on the Cape Coral Unit 29 subdivision plat (Plat Book 16, Pages 15-25), Public Records of Lee County, Florida.

B. Program Elements

The following program and architectural elements are included in the design and construction documents of the scope of work:

1. Vehicular circulation modifications including parking lots and drive aisles
2. Pedestrian sidewalks and access throughout site
3. Multiuse path
4. Sun splash parking pay booth and driveway modifications

5. W. Lake Kennedy Dr. Alignment modifications from sun splash to south Florida canoe / kayak club
6. Six (6) tennis courts
7. Twelve (12) pickleball courts
8. Covered spectator seating over center court (on sides above seating only, not entire court)
9. Court parking
10. Outdoor covered dining area outside concession / café
11. Multi-purpose open space east of tennis courts
12. Site lighting
13. Stormwater management facilities

Architectural Elements

1. Improvements to include the following:
 - Ticket booth (300 SF)
 - Pro Shop with restrooms and maintenance storage and outdoor covered dining area (2,500 SF)
 - Covered tournament court seating is assumed to be a prefabricated structure (roof /no walls) designed by others. CONSULTANT to provide foundation design only
 - Concession building (500 SF)
 - Concessions will be “grab and go”. No commercial cooking equipment or commercial hood system. Food Service consultant/design services are not included.
2. Construction budget for all vertical improvements is assumed at \$835,000

C. Existing to Remain (Not Included in Design)

The following existing site elements are understood to remain in place with no modifications (unless specifically noted), and will be incorporated into the overall park design:

- Community Center
- Cape Coral Special Populations
- Sun Splash Family Waterpark
- Boardwalk south of Sun Splash Family Waterpark

SCOPE OF SERVICES

The scope of services outlined below represents the scope and process CONSULTANT will undertake through the design process.

Task 1 - Project Administration and Meetings

- A. Includes project set up, scheduling, status reports, budgeting and invoicing.
- B. Quality assurance / quality control.
- C. Meetings and coordination with sub consultants.
- D. Kick-off meeting
- E. Monthly progress report and meeting with CITY Staff
- F. Quarterly progress report for City Council / public dissemination by CITY.
- G. Misc. correspondence with the CITY, assumed to be one (1) conference call every two weeks to review project status throughout the design process.
- H. Preparation for, and attendance at up to four (4) City Council meetings throughout the design process.
- I. Meetings and coordination with CONTRACTOR (assumed to commence at start of construction documents).

Task Deliverables will include:

- a. Monthly progress update with proposed schedule outlook for upcoming period;
- b. Meeting minutes
- c. Written responses to CITY comments at each design submittal stage via letter or email no later than fourteen (14) calendar days after receiving the comments.

Task 2 – Boundary and Topographic Survey

- A. Recover or re-establish the perimeter boundary corners of the combined parcels described above based on found monumentation, recorded subdivision plats, deeds of record and current title work (the latter two to be provided by the CITY).
- B. Show rights-of-ways and platted easements per the recorded subdivision plats or as shown in current title work to be provided by the CITY).
- C. Locate above ground and visible improvements within the Survey Project Area. This will include buildings, pools/decks, playground areas, shelters, road pavement, curbs, medians, driveways, sidewalks, parking lots (and parking space lines and types), fences, seawalls, docks, street signs, light poles, power poles, drainage swales, drainage structures, culvert pipes, sanitary sewer manholes, fire hydrants, water valves, water meters, telephone and cable service boxes.

- D. The approximate locations of underground utilities will be shown within the existing adjacent roadways based on investigations and markings set by the CONSULTANT'S subsurface utility locating subconsultant company, based on Electromagnetic and GPR methodologies. Confirmations of these locations by soft-dig excavation methods is not included in this scope but can be provided as an additional service if needed.
- E. Elevations will be obtained for the Survey Project Area on a 50-foot grid and will also include the locations of grade breaks, ditches, swales and other features as needed to reflect the existing terrain. The area 100 feet beyond the Survey Project Area will also be included except for single family lots where only ground elevations and finished floor elevations will be obtained and except for the canals where the elevations will only be obtained 5 feet off the edge of the seawalls.
- F. Approximately four project control points will be set (and noted on the survey) for use during the construction phase of the project. The horizontal datum to be used for this project is NAD 83 (CORS) and the vertical datum to be used is NGVD 1929
- G. Pipe sizes, materials and invert elevations as measured from manhole openings and catch basins will be obtained when possible (depth of pipes, recessed pipes, lack of access due to covering or excessive debris may sometimes prevent the obtaining of this data).
- H. Locate and show trees 6" or larger in diameter (DBH). Clusters or rows of trees will be located along the perimeter edges.
- I. Obtain cross-sections of existing ponds within the proposed project area.
- J. Locate wetland delineation lines and seasonal high-water table marks (to be set by others).
- K. Provide a signed and sealed Topographic Survey along with an Autocad Drawing file (Civil3D 2018), DTM Surface file and a Point file.
- L. Provide a signed and sealed Sketch and Legal Description of road rights-of-way (number of which to be determined).
- M. Show Flood Zone Classification, gross land area and names of adjoining land owners.

Task Deliverables to include:

- a. Signed and sealed copies of the Boundary and Topographic Survey
- b. Autocad drawing file with ground surface contours/TIN in Civil 3D format
- c. Text file of survey data collected showing, Point Number, Northing, Easting, Description, and Elevation

Task 3 – Stakeholder and Community Engagement

- A. Kickoff meeting with CITY to review community engagement process.
- B. Set up and administration of online survey. Prepare a draft on-line survey questionnaire, for use by the CITY to solicit residents' input regarding proposed improvements. Submit the draft to the CITY for review and comment, and revise and resubmit the survey for the CITY'S use. The CITY will host the survey on the CITY'S website, and use social media and other communications to encourage residents to participate.
- C. Focus Group / Interviews (Public Works, Parks and Rec, Emergency Services Stakeholder Meetings; City Council One on One Interviews). CONSULTANT will facilitate up to two (2) contiguous days of interviews and focus group meetings to identify residents' needs and priorities for the park. Meetings and interviews will be scheduled on the hour from 8 am – 12 noon, and 1 pm – 5 pm. The CITY will be responsible for all logistics, including meeting space reservations, participant invitations and confirmations, and scheduling.
- D. Public Workshop: Review and input on existing concept plan.
- E. Development of One (1) alternate concept plan to include digital design vignettes incorporating stakeholder input.
- F. Prepare a preliminary Opinion of Probable Construction Cost (OPCC) for concept plan.
- G. Public Workshop: Present alternate concept plan for public feedback in an open house format.
- H. Refine concept plan into a consolidated final concept plan including 3D model with static images and video fly-through.
- I. Prepare Opinion of Probable Construction Cost (OPCC) final concept plan.
- J. Present final concept plan and OPCC to City Council for approval. Comments on the final concept plan will be incorporated into 30% construction documents.
- K. CONSULTANT'S Racquet Center Operations subconsultant will provide the following services as part of the concept development phase:
 1. **Kick-off Meeting** (Conference Call)
 - a. Project overview and update
 - b. Identify constraints and parameters including
 - Market
 - Site/location
 - Mission and goals
 - c. Review operational goals including revenue generation
 2. **Programming Assistance**
 - a. Project component recommendation/prioritization

- Validate or adjust any existing facility program
 - Determine sizing and space allocation requirements
 - Component relationships and interaction
 - b. Review of program options and or phasing plan
 - Determine preferred option
 - Operational impact
- 3. Concept Plan Review**
- a. Review of initial design and lay-out of the center
 - Sizing and adjacencies
 - b. Written documentation of plan review
- 4. Revised Concept Plan Review**
- a. Review any changes made to the initial concept plan.
 - b. Provide a systematic review of the final concept plans.
 - c. Determination of potential operational impacts
 - d. Written documentation of plan review
- 5. Operations and Maintenance Recommendations**
- a. Provide recommendations on operations of the facility
 - Management structure
 - Maintenance policies
 - Programs and services
 - Fees and charges
 - b. Written documentation of recommendations
- 6. Other**
- a. Conference Calls (up to 6)
 - b. Site visit (1)

Task Deliverables to include:

- a. Copy of online survey questionnaire
- b. Summary of online survey results, interviews, and public workshop input.
- c. One (1) electronic alternate concept plan in “pdf” format
- d. One (1) preliminary opinion of probable construction cost for alternate concept plan
- e. 3D model static images
- f. One (1) electronic set of final concept plan in “pdf” format
- g. One (1) preliminary opinion of probable construction cost for final concept plan
- h. Electronic copy of written documentation of plan review
- i. Electronic copy of written documentation of recommendations

Task 4 – Environmental Due Diligence and Permitting

A. Data Collection

1. Listed species survey. Primarily concerned with gopher tortoises and burrowing owls. While initial investigation showed neither of these present on the project lands, they are present on nearby properties and could relocate. Any listed species will be documented if found onsite. Cost includes Listed Species Report needed for State and Federal applications
2. FLUCFCS Mapping of Existing Conditions using the Florida Land Use Cover Forms Classification System. Map will be required for all future permitting.

B. Permitting

1. Pre-Application Meetings. Once the scope and plan are finalized, we will meet with state and federal agencies, or whichever agencies might be needed for final authorizations along with the engineering and design team.
2. The most recent scope indicated that the boardwalk and kayak launch would be undertaken in a later phase so no overwater or in water work is included in this revised scope. If all work is kept on the uplands, then federal authorizations from the Corps of Engineers will not be needed.
3. CONSULTANT will provide the Environmental supplement needed for the agency applications.
4. Once submitted CONSULTANT will work with the team to coordinate with appropriate agencies and respond to questions from the various groups (agency and NGO) that comment.
5. Listed Species Permitting. Since no tortoises or burrowing owls have been documented currently on the project site, no listed species permitting (tortoise relocation, burrowing owl take, etc) is expected or included in this scope.

Task Deliverables to include:

- a. Copy of each submittal package to the governing agencies.
- b. Copy of written responses to requests for additional information letter from the governing agencies.

Task 5 – Site Civil Due Diligence

- A. Provide coordination with following Governmental Agencies and City departments for design parameters of the Project and pre-application meetings:
 1. City of Cape Coral Fire Department
 2. City of Cape Coral Community Development

3. City of Cape Coral Public Works
 4. City of Cape Coral Utilities
 5. FDEP
 6. SFWMD
 7. FDOT
- B. Review readily available data pertinent to the project: existing construction plans, existing SFWMD permits, as-built information, and existing utility locates or record drawings, as provided by the CITY.
- C. Site visit to review and document existing conditions.
- D. Zoning review.
- E. Coordinate with Geotech subconsultant for the following geotechnical services:
1. Contact the local underground utility clearance agency prior to beginning the field exploration
 2. Perform SPT test borings for Pond design: The test borings for the pond will be performed at a depth of 25 feet below existing grade surface. The soil samples from the pond test borings will be tested for soil classification, evaluate fill suitability for the project site development. Based on the results for the test borings and soils classification, an estimate of the deep confining layer will be determined. CONSULTANT assumes a scope of twelve (12) SPT borings for the pond areas for each park site.
 3. Perform SPT test borings for Building structures: The test borings for the building structures will be performed to a depth of 20 feet below existing grade surface. The building test borings will be used to evaluate the soils condition, soils classification and soil bearing capacity to support the structures. CONSULTANT assumes a scope of ten (10) borings for the building structures for each park site.
 4. Perform hand augers borings: Hand auger borings will be performed to a depth of 5 feet below existing grades. These borings will be used to evaluate the seasonal high groundwater levels for the pond area for the sites. Hand augers will also be performed for pavement areas to test subgrade soils for pavement section recommendations. CONSULTANT assumes a scope of twenty (20) hand auger borings for pavement areas and seasonal high groundwater evaluation for each park site.
 5. Perform Double Ring Infiltrometer Tests: The DRI test is performed in general accordance with ASTM D 3385, "Standard Test Method for Infiltration Rate of Soils in

Filed Using Double Ring Infiltrometer". CONSULTANT assumes a scope of four (4) DRI tests for each park site.

6. All boring locations will be backfilled/grouted to grade upon work completion.
7. Visually classify the soil samples at each test interval and place them in clean containers which are labeled for future identification. Groundwater levels will be obtained in the boring upon initial encounter.
8. The soil samples will be transported for visual classification testing, and to evaluate the pertinent engineering properties. At the completion of the field and laboratory testing services we will prepare a report under the direction of a registered professional engineer which contains the following information at a minimum:
 - Soil boring logs and visual soil classifications
 - Existing groundwater levels
 - Estimated seasonal high groundwater level
 - Settlement estimates, total and differential
 - Foundation recommendations and soil bearing capacity
 - Site preparation recommendations
 - DRI test results
 - Laboratory testing results
 - Pavement Recommendations

F. Coordinate with SUE subconsultant to obtain existing utility locations and depths.

G. Traffic Analysis

Task Deliverables to include:

- a. Summary report indicating data found including source and date of information.
- b. Two (2) copies of geotech report.

Task 6 – Site Construction Documents

A. Schematic Design (30%) Plan Package

1. Preparation of 30% plans based on the approved final concept plan. The 30% plan set will be utilized on the initial permit submittals for USACE permitting.
2. Attendance at a site visit to observe and confirm existing conditions and design assumptions.
3. 30% Plans will include Preliminary Landscape and Hardscape Plans with appropriate design studies/enlargements and site feature selections/cut sheets; Preliminary Master

Site Plan; Preliminary Master Paving, Grading and Drainage Plans; and Preliminary Utility Plan.

4. The 30% plans will incorporate parking layout; locations of proposed site features; ingress/egress into the park; locations of buildings and other structures; alignment of sidewalks and pathways; and other hardscape/landscape features.
5. Specifications will be provided as notes on plans. Written specification book not included.
6. Preparation of preliminary drainage calculations to establish pre/post conditions, location of storm water management facilities, and storm pipe layout.
7. Confirm location of existing utilities and capacity to serve the site. Prepare preliminary calculations for water and sewer demands for the project.
8. Confirm design and permitting requirements for the utility services to the park.
9. Confirm design and permitting requirements for the storm water treatment, attenuation, and incorporation where possible of Low Impact Design (LID) practices for the park.
10. Incorporation of zoning, tree preservation, and environmental constraints for the park.
11. Attendance at pre-application meetings with governing agencies.
12. Preparation of an Engineer's Opinion of Probable Construction Cost (EOPC) based on the 30% plans.
13. QA/QC of 30% plans and EOPC.

B. Design Development (60%) Plan Package

1. Preparation of 60% plans based on CITY comments during the 30% plan review process. The 60% plan set will be utilized on the initial permit submittals to the governing agencies.
2. 60% plans will include the following sheets: Existing Conditions, Site plan, Paving Grading and Drainage Plans, Storm Water Management Facility Plans and details, Utility Plans, Best Management Practices Plans and details, Pavement Marking and Signage Plans, Lighting Plans and details, Landscape and Hardscape Plans and details; Tree mitigation plans; Schematic irrigation plans.
3. Preliminary Drainage Calculations modified per any modifications from the 30% plans.
4. Utility Pipe Routing adjusted per any modifications from the 30% plans.

5. Preparation of an EOPC based on the 60% plans.
 6. QA/QC of 60% plans and EOPC.
- C. Final Plans Package
1. Preparation of 100% plans based on the 60% plans, CITY comments during the 60% plan review process and any remaining comments from the governing agencies.
 2. Establishment of finalized quantities, and bid proposal form.
 3. Constructability review of plans.
 4. CITY coordination.
 5. Preparation of final specifications including CITY front-end contract documents.
 6. Preparation of final EOPC.
 7. QA/QC of final 100% plans package and EOPC.

Task Deliverables

The CONSULTANT shall provide the following deliverables to the CITY during the design and permitting phase:

- A. Preliminary Design (30%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) 30% opinion of probable construction cost with bid quantities
- B. Intermediate Design (60%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) electronic set of outline specifications in "pdf" format
 4. One (1) updated opinion of probable construction cost with bid quantities
- C. Final Design (100%)
 1. One (1) electronic set of construction documents for permitting and bidding.
 2. Two (2) sets of Signed and Sealed 24"x36" construction documents
 3. One (1) electronic set of specifications in "pdf" format

4. One (1) final opinion of probable construction cost with bid quantities

Task 7 - Architectural Design, Construction Plans, Permitting and Coordination

CONSULTANT to provide professional architectural design services as described in the following phases. Each phase shall be approved by the CITY in writing prior to beginning the next phase of work. CONSULTANT'S services include the following engineering consultant services for the vertical construction only.

A. Structural Engineering

1. Structural Engineering services will be performed as part of the phases outlined below for vertical construction. Structural Engineering scope to include:
 - a. Foundation plans and load bearing component design
 - b. Floor and roof framing plans
 - c. Structural member sizing and type of construction
 - d. Footing inverts and top of wall and/or steel elevations
 - e. Technical specifications

B. Mechanical, Electrical, Plumbing & Fire Protection Engineering (MEPFP)

1. MEPFP Engineering services will be performed as part of the phases outlined below. MEPFP Engineering scope to include:
2. Mechanical scope:
 - a. Floor plans showing all ductwork and piping layouts
 - b. Equipment room layouts and sizes of ductwork
 - c. Fixtures and equipment selection and schedule
 - d. Controls systems selection
 - e. Technical specifications
3. Electrical scope:
 - a. Electrical distribution plans and riser diagrams
 - b. Fixtures and equipment schedules
 - c. Lighting plans
 - d. Electrical equipment room layouts
 - e. System details and location of receptacles and fixed appliances
 - f. Technical specifications
4. Plumbing scope:
 - a. Plumbing plans, fixtures and locations
 - b. Hot and cold-water generation systems
 - c. Sanitary system design (to 5' outside building)
 - d. Plumbing isometric diagrams
5. Fire Protection scope:
 - a. Fire suppression system and/or specification design where required by code.
 - b. Fire Alarm system design where required by code.

A. SCHEMATIC DESIGN (30%)

1. CONSULTANT shall review the program and other information furnished by the CITY, and shall review codes and regulations applicable to CONSULTANT'S services.

2. CONSULTANT shall prepare a preliminary evaluation of the CITY'S program, schedule, budget, site, and the proposed procurement or delivery method, and other initial information, to ascertain the requirements of the project. CONSULTANT shall notify the CITY of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.
 3. CONSULTANT shall present its preliminary evaluation to the CITY and shall discuss with the CITY alternative approaches to design and construction. CONSULTANT shall reach an understanding with the CITY regarding the requirements of the project.
 4. Based on the Project's requirements agreed upon with the CITY, CONSULTANT shall prepare and present for the CITY approval a preliminary design illustrating the scale and relationship of the Project components.
 5. Based on the CITY'S approval of the preliminary design, CONSULTANT shall prepare Schematic Design Documents for the CITY'S approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, section and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary narrative selections of major building systems and construction materials shall be noted on the drawings or described in writing.
 6. CONSULTANT shall submit the Schematic Design Documents to the CITY, and request the CITY'S approval.
 7. CONSULTANT will attend (1) stakeholder engagement meeting.
 8. During Schematic Design Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.
- B. DESIGN DEVELOPMENT (60%)
1. Based on the CITY'S approval of the Schematic Design Documents, and on the CITY'S authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, CONSULTANT shall prepare Design Development Documents for the CITY'S approval.
 2. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

3. CONSULTANT will submit the Design Development Documents to the CITY and request the CITY'S approval.
 4. During Design Development Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.
- C. CONSTRUCTION DOCUMENTS (Final Plans Package, 100%)
1. Based on the CITY'S approval of the Design Development Documents, and on the CITY'S authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, CONSULTANT shall prepare Construction Documents for the CITY'S approval.
 2. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the work, in a manner consistent with locally accepted standards for professional skill and care.
 3. CONSULTANT will incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.
 4. The CITY and CONSULTANT acknowledge that in order to construct the Work the CONTRACTOR will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which CONSULTANT shall review in accordance with the Construction Administration Phase outlined below.
 5. The CONSULTANT will submit the Construction Documents to the CITY and request the CITY'S approval.
 6. During Construction Document Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.
- D. BIDDING AND PERMITTING
1. Based upon CITY'S approval of the Construction Documents, provide permitting assistance necessary (unless specifically excluded below) to achieve signed/sealed drawings ready for the CONTRACTOR'S bidding process and/or construction.
 2. Submission of Construction Documents to applicable agencies for permit processing [OR, submit to CONTRACTOR for submission to applicable agencies for permit processing].
 3. Answer review questions required by permitting agencies and CONTRACTOR Assembly of addenda material and information as may be required to clarify issues.
 4. Assist the CITY and CONTRACTOR in bid evaluation, as requested.

E. CONSTRUCTION ADMINISTRATION

1. Monthly site visits during construction to determine, in general, if the work observed is being performed in a manner that, when completed, will be in accordance with the contract documents. Agreement includes a total of (18) site visits during construction. Additional requested site visits will be billed as Additional Services.
2. Review and respond to CONTRACTOR requests for information (RFIs) and Submittals during construction.
3. Review CONTRACTOR Certificates for Payment.
4. At Project Completion, review Punch List prepared by CONTRACTOR and issue Certificate of Substantial Completion when appropriate.
5. Certify a final Certificate for Payment based upon a final site visit indicating the work complies with the requirements of the contract documents.

Task Deliverables

CONSULTANT shall provide the following deliverables to the CITY during the design and permitting phase:

- A. Schematic Design (30%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) 30% opinion of probable construction cost with bid quantities
- B. Design Development (60%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) electronic set of outline specifications in "pdf" format
 4. One (1) updated opinion of probable construction cost with bid quantities
- C. Construction Documents (100%)
 1. One (1) electronic set of construction documents for permitting and bidding.
 2. Two (2) sets of Signed and Sealed 24"x36" construction documents
 3. One (1) electronic set of specifications in "pdf" format
 4. One (1) final opinion of probable construction cost with bid quantities

Task 8 – Site/Civil Permit Application Packages

- A. Preparation of the required plans, applications, and supporting documents for submittal to the following agencies:
 - 1. City Site Development Permit
 - 2. South Florida Water Management District
 - 3. Florida Department of Environmental Protection (FDEP)
 - 4. National Pollutant Discharge Elimination System (NPDES)
- B. Respond to requests for information (RAI) from the governing agencies.
- C. Scheduling and attendance at follow up meetings with agency reviewers to clarify comments.
- D. Preparation of revised plans, response letters, and resubmittal packages.
- E. QA/QC of permit application packages.

Task Deliverables to include:

- a. Copy of each submittal package to the governing agencies.
- b. Copy of written responses to requests for additional information letter from the governing agencies

Task 9 – Construction Phase Services

CONSULTANT will provide professional construction phase services for the purpose of providing assistance to CITY during construction. The following services will be conducted for the project as follows:

- A. *Bid Document Preparation and Contractor Notification.* It has been assumed that this task will be completed by the CITY except for quantity review and verification, should this be requested by the CITY.
- B. *Contract Documents Preparation.* It has been assumed that this task will be completed by the CITY.
- C. *Pre-Construction Conference.* CONSULTANT will attend a Pre-Construction Conference with the CITY and CONTRACTOR prior to commencement of Work at the Site.
- D. *Wire Utilities.* The CITY will contact wire utilities (power, telephone, CATV, and natural gas). CONSULTANT will prepare a composite drawing comprised of road crossing data provided by each of the utility companies. CONSULTANT will also add road crossing data as provided

- by the CITY that pertain to street lighting, irrigation and controls, and entrance features. CONSULTANT will provide the various utilities necessary drawings and AutoCAD disks for their design. This agreement assumes that the CITY will contact and follow-up with each of the wire utilities in order to obtain the required information for the preparation of a crossing plan for the project.
- E. *Construction Progress Meetings.* CONSULTANT'S field representative will attend will attend progress meeting as established by the CITY.
- F. *Visits to Site and Construction Observation.* CONSULTANT will provide on-site construction observation services during the construction phase. CONSULTANT will make visits twice a month, in addition to site visits required for testing, to observe the progress of the duration of the project. Observations will vary depending on the type of work being performed by the CONTRACTORS, the location, and the CONTRACTOR'S schedules.

Such visits and observations by CONSULTANT are not intended to be exhaustive or to extend to every aspect of CONTRACTOR'S work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on CONSULTANT'S exercise of professional judgment. Based on information obtained during such visits and such observations, CONSULTANT will evaluate whether CONTRACTOR'S work is generally proceeding in accordance with the Contract Documents, and CONSULTANT shall keep CITY informed of the general progress of the Work.

The purpose of CONSULTANT'S visits to the site will be to enable CONSULTANT to better carry out the duties and responsibilities assigned in this Agreement to CONSULTANT during the construction phase by CITY, and, in addition, by the exercise of CONSULTANT'S efforts, to provide CITY a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by CONTRACTOR. CONSULTANT shall not, during such visits or as a result of such observations of CONTRACTOR'S work in progress, supervise, direct, or have control over CONTRACTOR'S work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by CONTRACTOR, for safety precautions and programs incident to CONTRACTOR'S work, nor for any failure of CONTRACTOR to comply with laws and regulations applicable to CONTRACTOR'S furnishing and performing the Work. Accordingly, CONSULTANT neither guarantees the performance of any CONTRACTOR nor assumes responsibility for any CONTRACTOR'S failure to furnish and perform its work in accordance with the Contract Documents.

- G. *Shop Drawings and Samples.* CONSULTANT will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which CONTRACTOR is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project

as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to accuracy or completeness of details or construction means or methods. CONSULTANT is not responsible for any deviations from the Contract Documents not brought to CONSULTANT'S attention in writing by the CONTRACTOR.

- H. *Clarifications and Interpretations.* CONSULTANT will respond to reasonable and appropriate CONTRACTOR requests for information and issue necessary clarifications and interpretations of the Contract Documents to CITY. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field Orders authorizing variations from the requirements of the Contract Documents will be made by CITY. Responses to CONTRACTOR requests for information that are due to an error in the plans or missing information will not be billed under this task to the CITY but rather included with the design effort of the project.
- I. *Inspections and Tests.* CONSULTANT may require such special inspections or tests of CONTRACTOR'S work as the CONSULTANT deems appropriate, and receive and review certificates of inspections within the CONSULTANT'S area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. The CONSULTANT'S review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. CONSULTANT shall be entitled to rely on the results of such tests and the facts being certified. Any retesting that is required due to initial test failure will be considered and additional service. This Agreement is based on a single site visit for the water main testing, and a single site visit for the sewer system testing, and a single visit for the lift station startup.
- J. *Applications for Payment.* Based on CONSULTANT'S observations and on review of applications for payment and accompanying supporting documentation:

CONSULTANT will determine and recommend to the CITY the amounts that CONTRACTOR be paid. Such recommendations of payment will be in writing and will constitute CONSULTANT'S representation to CITY, based on such observations and review, that, to the best of CONSULTANT'S knowledge, information and belief, CONTRACTOR'S work has progressed to the point indicated, such work-in-progress is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to CONTRACTOR'S being entitled to such payment appear to have been fulfilled insofar as it is CONSULTANT'S responsibility to so determine. In the case of unit price work, CONSULTANT'S recommendations of payment will include final determinations of quantities and classifications of CONTRACTOR'S work, based on observations and measurements of quantities provided with pay requests.

- By recommending any payment, CONSULTANT shall not thereby be deemed to have represented that observations made by CONSULTANT to check CONTRACTOR'S work as it is performed and furnished have been exhaustive, extended to every aspect of CONTRACTOR'S work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to CONSULTANT in this Agreement. Neither CONSULTANT'S review of CONTRACTOR'S work for the purposes of recommending payments nor CONSULTANT'S recommendation of any payment including final payment will impose on CONSULTANT responsibility to supervise, direct, or control CONTRACTOR'S work in progress or for the means, methods, techniques, equipment choice and usage, sequences, or procedures of construction of safety precautions or programs incident thereto, nor CONTRACTOR'S compliance with Laws and Regulations applicable to CONTRACTOR'S furnishing and performing the Work. It will also not impose responsibility on CONSULTANT to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to CITY free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between CITY and CONTRACTOR that might affect the amount that should be paid.
- K. *Record Drawings.* CONSULTANT will review CONTRACTOR'S or CITY'S surveyor's record drawings for compliance to the approved Construction Drawings and applicable regulatory agency standards. Provide Surveyor and or CONTRACTOR with comments on the draft record drawings and one follow up set of comments. Coordinate with Surveyor to receive final sets of record drawings consistent to the requirements of the appropriate regulatory agency. This task includes the initial review and coordination with the surveyor and or CONTRACTOR and follow-up reviews.
- L. *Certification Documents.* Based on the results of the final observations of the site, test reports, record drawings, and other documentation pertinent to the project CONSULTANT will prepare and submit to the appropriate regulatory agency the certificates of completion of construction.
- M. *Change Orders.* CONSULTANT will recommend Change Orders to CITY, as appropriate. CONSULTANT will also review and make recommendations related to Change Orders submitted or proposed by the CONTRACTOR.
- N. *Substitutes and "or-equal."* CONSULTANT will evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by CONTRACTOR in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- O. *Substantial Completion.* Promptly after notice from CONTRACTOR that CONTRACTOR considers the entire Work ready for its intended use, in company with CITY and CONTRACTOR, CONSULTANT will conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory

completion of all items with the exception of those identified on a final punch list. If after considering any objections of CITY, CONSULTANT considers the Work substantially complete; CONSULTANT shall notify CITY and CONTRACTOR.

- P. *Final Notice of Acceptability of the Work.* CONSULTANT will conduct a final site visit to determine if the completed Work of CONTRACTOR is generally in accordance with the Contract Documents and the final punch list so that CONSULTANT may recommend, in writing, final payment to CONTRACTOR. Accompanying the recommendation for final payment, CONSULTANT shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of CONSULTANT'S knowledge, information, and belief and based on the extent of the services provided by CONSULTANT under this Agreement and based upon information provided to CONSULTANT upon which it is entitled to rely.
- Q. *Limitation of Responsibilities.* CONSULTANT shall not be responsible for the acts or omissions of any CONTRACTOR, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. CONSULTANT shall not have the authority or responsibility to stop the work of any CONTRACTOR.

Task Deliverables to include:

- a. Copy of electronic bid form and bid package consisting of plans, copies of permits, and book specifications to include measurement and payment sections.
- b. Bid Tabulation Results
- c. Copy of construction progress meeting minutes.
- d. Copy of Permit Certification Packages to the governing agencies.
- e. Record drawing deliverable to the CITY to include:
 - One (1) electronic set of record drawings in "pdf" format.
 - One (1) sets of certified 24"x36"" record drawings;
 - One (1) CD (or flash drive) with record drawing base files, including text fonts, in AutoCAD "dwg

Additional Services

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates, or for a negotiated fee prior to commencing additional services work. Additional services we can provide include, but are not limited to, the following:

1. Permitting services beyond those outlined in the scope of services above.
2. Additional responses to agency comments, beyond those identified in the scope of services above.
3. Revisions to the plans or preparation of applications for permit modification based on Client requested revisions.

4. Services required by additional governmental regulations, which might be put into effect after the date of this agreement.
5. Public meetings and hearings notices beyond those identified in the scope of services above.
6. Attendance at additional meetings beyond those specified.
7. Comprehensive plan or zoning changes.
8. Transportation/traffic engineering related services, beyond those identified in the scope of services above.
9. Enhanced landscape, hardscape plans or amenity design.
10. Planning, design, or permit applications for off-site improvements.
11. Traffic signal study or design.
12. Archaeological services
13. Preparation of a SWFWMD Water Use Permit for irrigation
14. Post-Construction phase services associated with one or two-year warranty inspections as called for by the client or regulatory agency
15. Interior Design services not otherwise expressly indicated in Scope of Services
16. Furniture selections and procurement
17. LEED consulting and certification services
18. 3D physical presentation model
19. Tide Study to determine Mean High-Water Line elevation
20. Bathymetric Surveying of canals, basins, river
21. Submerged Land Lease Surveys
22. Location of Fishing Pier
23. Soft-dig excavations for location and/or confirmation of underground utilities
24. Sketches and Legal Descriptions for additional street or easement vacations or creations, easements, etc.
25. Subdivision platting
26. Surveying services other than those described above
27. Seawall Inspection for integrity

YELLOW FEVER CREEK PRESERVE

Rev. 7 – 6/26/2019

A. Assumptions / Clarifications

The following list of assumptions are intended to clarify CONSULTANT'S understanding of the Yellow Fever Creek Preserve project:

1. It is assumed that design and construction improvements are to occur on the City of Cape Coral owned parcels (+/- 200 AC). The Lee County owned parcels (+/- 340 AC) will be included in the master plan, but it is not anticipated to be included in the construction documents or permitting based on current Phase 1 Budget.
2. Lee County involvement and coordination for the improvements on their part of the parcel is unknown based on available information at this time, but will need to be defined with the final scope and fee.
3. The site is assumed to not have soil or groundwater contamination, or historical use of landfill, dumping, or hazardous activities.
4. The extension of 24th Avenue is not included in this project and is to be considered a future extension planned beyond the construction of this project. Improvements to vehicular circulation are only to serve access to new parking lots as shown on the concept plan from Del Prado Blvd.
5. Lighting shall be provided in small localized areas around proposed buildings / parking areas for site security only. Lighting of trails not included.
6. Survey limits need to be identified and updated based on final master plan. It is anticipated that the limits of survey will coincide with the final limits of improvements.
7. Due to the adjacent presence of Florida Bonneted Bat colonies on parcel immediately to the north, it will be a federal review requirement to establish the presence of any bat roosts onsite through a site inspection. Acoustical survey can be provided as an additional service.
8. If listed species are found during the initial data collection phase that cannot be avoided, then permit applications to remove/relocation those species will be made to the Florida Fish and Wildlife Conservation Commission (FWC). Those permits could entail flushing and collapsing burrowing owl nests and/or removal of gopher tortoises from the site. Application fees are dependent on the numbers of burrows and type of species and mitigation bank fees also vary. It is expected that the CITY will pay application fees and mitigation bank fees directly if needed.
9. Bald Eagle Nest Surveying will be required due to a new, currently unlisted nest just off the southeast corner of the site. Coordination with USFWS will be likely required to ensure compliance with the Migratory Bird Protection Act. If the eagle nest does have an effect on the project, then coordination with USFWS will be needed to ensure the project does not violate the Bald and Golden Eagle Protection Act or Migratory Bird Treaty Act.

10. ERP permitting will be required for any impacts to jurisdictional wetlands. The design of the park is a Preserve and will entail avoidance of wetland impacts and species to the greatest extent possible. If unavoidable, wetland impacts and associated permitting can be provided as an additional service.
11. Site utilities to be provided by well and septic.
12. Construction and permitting documents exclude Future Phase items as identified on the Opinion of Probable Cost.
13. Final topographic survey limits to be based on approved master plan and Phase 1 implementation.
14. The proposed portion of the park area to be surveyed is located within the lands having the Tax I.D. Numbers of 30-43-24-C2-00004.0020, 29-43-24-C1-00001.0010, 20-43-24-C3-00002.0000 and 28-43- 24-00-00001.0010.
15. This Topographic Survey will only include a portion of the perimeter park boundary and therefore will not be a complete Boundary Survey.

B. Program Elements:

The following program and architectural elements are included in the design and construction documents of the scope of work:

1. Equestrian Trailhead Parking Lot
2. Equestrian Trails
3. Walking Trails
4. Wayfinding and Trail Marking Signage
5. Entry Boulevard Road to Welcome Center and Dog Park Areas.
6. Del Prado Boulevard Modifications for Two (2) Park Entries
7. Welcome Center Parking Lot
8. One (1) Naturalized Stormwater Ponds with Created Wading Bird Habitat
9. 18 Hole Frisbee Golf Course
10. Primitive Camping Area with Camp Sites
11. (4) Shade Pavilions (400 SF ea., prefabricated)

Architectural Elements:

1. Improvements to include the following:
 - Camp ground restrooms (500 SF)
 - (4) Shade Pavilions @ 400 square feet each
 - Welcome/Environmental Center @ 6,000 square feet
 - Exhibit design services are excluded. Signage design will be code minimum.
2. Construction budget for vertical improvements is \$1,700,000.00

C. Existing to Remain (Not Included in Design)

The following existing site elements are understood to remain in place with no modifications (unless specifically noted) and be incorporated into the overall park design:

1. Wetlands and Vegetation (To the greatest extent possible)
2. Existing listed species habitat such as gopher tortoise burrows, burrowing owl locations, Bald Eagle nests, and Bonneted Bat roosts.

SCOPE OF SERVICES OUTLINE

The scope of services outlined below represents the scope and process CONSULTANT will undertake through the design process.

Task 1 - Project Administration and Meetings

- A. Includes project set up, scheduling, status reports, budgeting and invoicing.
- B. Quality assurance / quality control.
- C. Meetings and coordination with sub consultants.
- D. Kick-off meeting
- E. Monthly progress report and meeting with CITY Staff
- F. Quarterly progress report for City Council / public dissemination by CITY.
- G. Misc. correspondence with the CITY, assumed to be one (1) conference call every two weeks to review project status throughout the design process.
- H. Preparation for, and attendance at up to four (4) City Council meetings throughout the design process.
- I. Meetings and coordination with CONTRACTOR (assumed to commence at start of construction documents).

Task Deliverables will include:

- a. Monthly progress update with proposed schedule outlook for upcoming period;
- b. Meeting minutes
- c. Written responses to CITY comments at each design submittal stage via letter or email no later than fourteen (14) calendar days after receiving the comments.

Task 2 – Boundary and Topographic Survey

Prepare a Boundary and Topographic Survey of the above described lands which will include the following tasks:

- A. Recover or re-establish the perimeter boundary corners of the combined parcels described above based on found monumentation, recorded subdivision plats, deeds of record and current title work (the latter two to be provided by the CITY).
- B. Show rights-of-ways and platted easements per the recorded subdivision plats or as shown in current title work to be provided by the CITY.
- C. Locate above ground and visible improvements within the Survey Project Area. This will include buildings, pools/decks, playground areas, shelters, road pavement, curbs, medians, driveways, sidewalks, parking lots (and parking space lines and types), fences, seawalls, docks, street signs, light poles, power poles, drainage swales, drainage structures, culvert pipes, sanitary sewer manholes, fire hydrants, water valves, water meters, telephone and cable service boxes.
- D. The approximate locations of underground utilities will be shown within the existing adjacent roadways based on investigations and markings set by the CONSULTANT'S subsurface utility locating company, based on Electromagnetic and GPR methodologies. Confirmations of these locations by soft-dig excavation methods is not included in this scope but can be provided as an additional service if needed.
- E. Elevations will be obtained for the Survey Project Area on a 50-foot grid and will also include the locations of grade breaks, ditches, swales and other features as needed to reflect the existing terrain. The area 100 feet beyond the Survey Project Area will also be included except for single family lots where only ground elevations and finished floor elevations will be obtained.
- F. Approximately four project control points will be set (and noted on the survey) for use during the construction phase of the project. The horizontal datum to be used for this project is NAD 83 (CORS) and the vertical datum to be used is NGVD 1929
- G. Pipe sizes, materials and invert elevations as measured from manhole openings and catch basins will be obtained when possible (depth of pipes, recessed pipes, lack of access due to covering or excessive debris may sometimes prevent the obtaining of this data).
- H. Locate and show trees 6" or larger in diameter (DBH). Clusters or rows of trees will be located along the perimeter edges.
- I. Obtain cross-sections of existing ponds within the proposed project area.

- J. Locate wetland delineation lines and seasonal high-water table marks (to be set by others).
- K. Provide a signed and sealed Topographic Survey along with an Autocad Drawing file (Civil3D 2018), DTM Surface file and a Point file.
- L. Provide a signed and sealed Sketch and Legal Description of road rights-of-way (number of which to be determined).

Task Deliverables to include:

- a. Signed and sealed copies of the Topographic Survey
- b. AutoCAD drawing file with ground surface contours/TIN in Civil 3D format
- c. Text file of survey data collected showing, Point Number, Northing, Easting, Description, and Elevation

Task 3 – Stakeholder and Community Engagement

- A. Kickoff meeting with CITY to review community engagement process.
- B. Set up and administration of online survey. Prepare a draft on-line survey questionnaire, for use by the CITY to solicit residents' input regarding proposed improvements. Submit the draft to the CITY for review and comment, and revise and resubmit the survey for the CITY'S use. The CITY will host the survey on the CITY'S website, and use social media and other communications to encourage residents to participate.
- C. Focus Group / Interviews (Public Works, Parks and Rec, Emergency Services Stakeholder Meetings; City Council One on One Interviews). CONSULTANT will facilitate up to two (2) contiguous days of interviews and focus group meetings to identify residents' needs and priorities for the park. Meetings and interviews will be scheduled on the hour from 8 am – 12 noon, and 1 pm – 5 pm. The CITY will be responsible for all logistics, including meeting space reservations, participant invitations and confirmations, and scheduling.
- D. Public Workshop: Review and input on existing concept plan.
- E. Development of One (1) alternate concept plan to include digital design vignettes incorporating stakeholder input.
- F. Prepare a preliminary Opinion of Probable Construction Cost (OPCC) for concept plan.
- G. Public Workshop: Present alternate concept plan for public feedback in an open house format.
- H. Refine concept plan into a consolidated final concept plan including 3D model with static images and video fly-through.
- I. Prepare Opinion of Probable Construction Cost (OPCC) final concept plan.

- J. Present final concept plan and OPCC to City Council for approval. Comments on the final concept plan will be incorporated into 30% construction documents.

Task Deliverables to include:

- a. Copy of online survey questionnaire
- b. Summary of online survey results, interviews, and public workshop input.
- c. One (1) electronic alternate concept plan in “pdf” format
- d. One (1) preliminary opinion of probable construction cost for alternate concept plan
- e. 3D model static images.
- f. One (1) electronic set of final concept plan in “pdf” format
- g. One (1) preliminary opinion of probable construction cost for final concept plan

Task 4 – Environmental Due Diligence and Permitting

A. Data Collection

1. Listed species survey. On-site field investigations and surveys will be conducted to look for evidence of listed species utilization. Species of increased concern on this property include gopher tortoises, burrowing owls, and Florida bonneted bats but the site could potentially host several other species as well. Cost includes the field investigations as well as the Listed Species Report. It is important to note that this site has been previously used as a tortoise relocation recipient site, so a thorough population count may need to be established, especially if trying to relocate tortoises out of the development area into other on-site locations. It could potentially still serve as a bank depending the population count, quality of habitat and type of habitat.
2. Florida Bonneted Bat Survey. Lands directly north of this site under conservation are known to having Florida Bonneted Bat colonies, therefore it will likely be a federal review requirement to establish the presence of any bat roosts onsite. The cost provided includes inspection of the site for cavity trees and other potential roosting locations. The listed species survey does not include acoustic monitoring for Florida bonneted bats. FWS may want acoustic surveying conducted if the scope and location of the Preserve improvements (buildings, paths, campsites, boardwalks, etc.) warrant. Cost for the acoustic surveying across the entire project site is provided as an optional service in case it is required by FWS. It is probable that even if the acoustic monitoring is required by FWS, the areal extent of the survey could be limited to the immediate development areas and the provided cost would be adjusted down accordingly.
3. Bald Eagle Nest Surveying. A new bald eagle nest has been built just off the southeast corner of the project on other lands. It is not currently known whether the location of the nest will affect the project in any way, but if any of it lies within the

primary or secondary protection zones then a nesting survey may have to be performed if the proposed park activities could impact the nest. It is also possible that the eagle pair could re-build on the project site if their nest is lost to storms, overtaken by owls or found unsuitable for other reasons. The nest monitoring will also be helpful to establish and deal with any unexpected changes.

4. FLUCFCS Mapping of Existing Conditions using the Florida Land Use Cover Forms Classification System. Map will be required for all future permitting.
5. Jurisdictional Determinations. It is already known that there are both upland and wetland habitats onsite. Their boundaries will be delineated by CONSULTANT, mapped, wetland data sheets will be produced and then requests for state and federal determinations will be made. CONSULTANT will also walk with the agencies onsite to verify the wetland lines.
6. Inspect condition of existing seawall to determine if it has reached or is nearing its life expectancy.

B. Permitting

1. The design of this park as primarily a preserve will entail avoidance of wetland impacts and species to the greatest extent possible. The scope provided is in response to the comments that master planning will be done to avoid all wetland impacts except for potentially stormwater outfalls. The CONSULTANT will provide federal permitting with USACE for a potential Nationwide or Letter of Permission authorization. Costs for a full Individual permit with the USACE as an additional service should the CITY decide to expand the scope of impacts may be provided.
2. Pre-Application Meetings. Once the scope and plan are finalized, CONSULTANT will meet with state and federal agencies, or whichever agencies might be needed for final authorizations along with the engineering and design team.
3. ERP Permitting. CONSULTANT will provide the Environmental supplement needed for the agency applications and assist the design team with the respective agency submittals.
4. Once submitted CONSULTANT will coordinate with appropriate agencies and respond to questions from the various groups (agency and NGO) that comment.
5. Listed Species Permitting. If listed species are found during the initial data collection phase that cannot be avoided, then permit applications to remove/relocation those species will be made to the Florida Fish and Wildlife Conservation Commission (FWC). Those permits could entail flushing and collapsing burrowing owl nests and/or removal of gopher tortoises from the site. Application fees are dependent on the numbers of burrows and type of species and mitigation bank fees also vary. It is

expected that the CITY will pay application fees and mitigation bank fees directly if needed.

6. Bald Eagle Coordination. If the eagle nest does have an effect on the project, then coordination with USFWS will be provided by CONSULTANT to ensure the project does not violate the Bald and Golden Eagle Protection Act or Migratory Bird Treaty Act.

C. Listed Species Physical Relocation

1. Gopher Tortoises. Any tortoise relocation will be conducted either by hand, digging, bucket trapping, or backhoe extraction depending on the number and status of the burrow(s). CONSULTANT'S Gopher Tortoise Agent is certified with FWC in the use of the backhoe for burrow excavation if needed. A single day's rate is estimated assuming there are enough burrows to require a day of labor with a backhoe and two biologists assisting with the manual labor. If there are no burrows requiring relocation, then the fees associated with this work will be zero (\$0).
2. Once the tortoises are collected, CONSULTANT will house them and care for them until they can be transferred to the permitted recipient site. Upon release, CONSULTANT will then close out the FWC tortoise permit with an after-action report.
3. Burrowing Owls. Once it is established that there are no young in the burrow then the adults may be flushed out of the burrow by a biologist and the burrow then will be collapsed. One biologist can perform this task and close the permit out with FWC.
4. Bonneted Bats. Once the new pathways/structures have been staked, any cavity trees to be removed will likely have to be peeped prior to clearing.

Task Deliverables to include:

- a. Copy of each submittal package to the governing agencies.
- b. Copy of written responses to requests for additional information letter from the governing agencies.

Task 5 – Site Civil Due Diligence

- A. Provide coordination with following Governmental Agencies and City departments for design parameters of the Project and pre-application meetings:
 1. City of Cape Coral Fire Department
 2. City of Cape Coral Community Development
 3. City of Cape Coral Public Works

4. City of Cape Coral Utilities
 5. FDEP
 6. FDOH
 7. SFWMD
 8. Lee County
 9. USACOE
- B. Review readily available data pertinent to the project: existing construction plans, existing SFWMD permits, as-built information, and existing utility locates or record drawings, as provided by the CITY.
- C. Site visit to review and document existing conditions.
- D. Zoning review.
- E. Coordinate with Geotech subconsultant for the following geotechnical services:
1. Contact the local underground utility clearance agency prior to beginning the field exploration
 2. Perform SPT test borings for Pond design: The test borings for the pond will be performed at a depth of 25 feet below existing grade surface. The soil samples from the pond test borings will be tested for soil classification, evaluate fill suitability for the project site development. Based on the results for the test borings and soils classification, an estimate of the deep confining layer will be determined. CONSULTANT assumes a scope of twelve (12) SPT borings for the pond areas for each park site.
 3. Perform SPT test borings for Building structures: The test borings for the building structures will be performed to a depth of 20 feet below existing grade surface. The building test borings will be used to evaluate the soils condition, soils classification and soil bearing capacity to support the structures. CONSULTANT assumes a scope of ten (10) borings for the building structures for each park site.
 4. Perform hand augers borings: Hand auger borings will be performed to a depth of 5 feet below existing grades. These borings will be used to evaluate the seasonal high groundwater levels for the pond area for the sites. Hand augers will also be performed for pavement areas to test subgrade soils for pavement section recommendations. CONSULTANT assumes a scope of twenty (20) hand auger borings for pavement areas and seasonal high groundwater evaluation for each park site.

5. Perform Double Ring Infiltrometer Tests: The DRI test is performed in general accordance with ASTM D 3385, "Standard Test Method for Infiltration Rate of Soils in Filed Using Double Ring Infiltrometer". CONSULTANT assumes a scope of four (4) DRI tests for each park site.
6. All boring locations will be backfilled/grouted to grade upon work completion.
7. Visually classify the soil samples at each test interval and place them in clean containers which are labeled for future identification. Groundwater levels will be obtained in the boring upon initial encounter.
8. The soil samples will be transported for visual classification testing, and to evaluate the pertinent engineering properties. At the completion of the field and laboratory testing services we will prepare a report under the direction of a registered professional engineer which contains the following information at a minimum:
 - Soil boring logs and visual soil classifications
 - Existing groundwater levels
 - Estimated seasonal high groundwater level
 - Settlement estimates, total and differential
 - Foundation recommendations and soil bearing capacity
 - Site preparation recommendations
 - DRI test results
 - Laboratory testing results
 - Pavement Recommendations

F. Coordinate with SUE subconsultant to obtain existing utility locations and depths.

G. Traffic Analysis (internal to project site and external to adjacent streets).

Task Deliverables to include:

- a. Summary report indicating data found including source and date of information.
- b. Two (2) copies of geotech report.

Task 6 – Site Construction Documents

A. Schematic Design (30%) Plan Package

1. Preparation of 30% plans based on the approved final concept plan. The 30% plan set will be utilized on the initial permit submittals for USACE permitting.
2. Attendance at a site visit to observe and confirm existing conditions and design assumptions.

3. 30% Plans will include Preliminary Landscape and Hardscape Plans with appropriate design studies/enlargements and site feature selections/cut sheets; Preliminary Master Site Plan; Preliminary Master Paving, Grading and Drainage Plans; and Preliminary Utility Plan.
 4. The 30% plans will incorporate parking layout; locations of proposed site features; ingress/egress into the park; locations of buildings and other structures; alignment of sidewalks and pathways; and other hardscape/landscape features.
 5. Specifications will be provided as notes on plans. Written specification book not included.
 6. Preparation of preliminary drainage calculations to establish pre/post conditions, location of storm water management facilities, and storm pipe layout.
 7. Design and sizing of an on-site septic system.
 8. Confirm location of existing utilities and capacity to serve the site. Prepare preliminary calculations for water and sewer demands for the project.
 9. Confirm design and permitting requirements for the utility services to the park.
 10. Confirm design and permitting requirements for the storm water treatment, attenuation, and incorporation where possible of Low Impact Design (LID) practices for the park.
 11. Incorporation of zoning, tree preservation, and environmental constraints for the park.
 12. Attendance at pre-application meetings with governing agencies.
 13. Preparation of an Engineer's Opinion of Probable Construction Cost (EOPC) based on the 30% plans.
 14. QA/QC of 30% plans and EOPC.
- B. Design Development (60%) Plan Package**
1. Preparation of 60% plans based on CITY comments during the 30% plan review process. The 60% plan set will be utilized on the initial permit submittals to the governing agencies.
 2. 60% plans will include the following sheets: Existing Conditions, Site plan, Paving Grading and Drainage Plans, Storm Water Management Facility Plans and details, Utility Plans, Best Management Practices Plans and details, Pavement Marking and Signage Plans, Lighting Plans and details, Landscape and Hardscape Plans and details; Tree mitigation plans; Schematic irrigation plans.

3. Preliminary Drainage Calculations modified per any modifications from the 30% plans.
 4. Utility Pipe Routing adjusted per any modifications from the 30% plans; including septic field.
 5. Preparation of an EOPC based on the 60% plans.
 6. QA/QC of 60% plans and EOPC.
- C. Final Plans Package
1. Preparation of 100% plans based on the 60% plans, CITY comments during the 60% plan review process and any remaining comments from the governing agencies.
 2. Establishment of finalized quantities, and bid proposal form.
 3. Constructability review of plans.
 4. CITY coordination.
 5. Preparation of final specifications including CITY front-end contract documents.
 6. Preparation of final EOPC.
 7. QA/QC of final 100% plans package and EOPC.

Task Deliverables

CONSULTANT shall provide the following deliverables to the CITY during the design and permitting phase:

- A. Preliminary Design (30%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) 30% opinion of probable construction cost with bid quantities
- B. Intermediate Design (60%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) electronic set of outline specifications in "pdf" format
 4. One (1) updated opinion of probable construction cost with bid quantities
- C. Final Design (100%)

1. One (1) electronic set of construction documents for permitting and bidding.
2. Two (2) sets of Signed and Sealed 24"x36" construction documents
3. One (1) electronic set of specifications in "pdf" format
4. One (1) final opinion of probable construction cost with bid quantities

Task 7 - Architectural Design, Construction Plans, Permitting and Coordination

CONSULTANT to provide professional architectural design services as described in the following phases. Each phase shall be approved by the CITY in writing prior to beginning the next phase of work. CONSULTANT'S services include the following engineering consultant services for the vertical construction only.

A. Structural Engineering

1. Structural Engineering services will be performed as part of the phases outlined below for vertical construction. Structural Engineering scope to include:
 - a. Foundation plans and load bearing component design
 - b. Floor and roof framing plans
 - c. Structural member sizing and type of construction
 - d. Footing inverts and top of wall and/or steel elevations
 - e. Technical specifications

B. Mechanical, Electrical, Plumbing & Fire Protection Engineering (MEPFP)

1. MEPFP Engineering services will be performed as part of the phases outlined below. MEPFP Engineering scope to include:
2. Mechanical scope:
 - a. Floor plans showing all ductwork and piping layouts
 - b. Equipment room layouts and sizes of ductwork
 - c. Fixtures and equipment selection and schedule
 - d. Controls systems selection
 - e. Technical specifications
3. Electrical scope:
 - a. Electrical distribution plans and riser diagrams
 - b. Fixtures and equipment schedules
 - c. Lighting plans
 - d. Electrical equipment room layouts
 - e. System details and location of receptacles and fixed appliances
 - f. Technical specifications
4. Plumbing scope:
 - a. Plumbing plans, fixtures and locations
 - b. Hot and cold-water generation systems
 - c. Sanitary system design (to 5' outside building)
 - d. Plumbing isometric diagrams
5. Fire Protection scope:
 - a. Fire suppression system and/or specification design where required by code.
 - b. Fire Alarm system design where required by code.

A. SCHEMATIC DESIGN (30%)

1. CONSULTANT shall review the program and other information furnished by the CITY, and shall review codes and regulations applicable to CONSULTANT'S services.
2. CONSULTANT shall prepare a preliminary evaluation of the CITY'S program, schedule, budget, site, and the proposed procurement or delivery method, and other initial information, to ascertain the requirements of the project. CONSULTANT shall notify the CITY of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.
3. CONSULTANT shall present its preliminary evaluation to the CITY and shall discuss with the CITY alternative approaches to design and construction. CONSULTANT shall reach an understanding with the CITY regarding the requirements of the project.
4. Based on the Project's requirements agreed upon with the CITY, CONSULTANT shall prepare and present for the CITY approval a preliminary design illustrating the scale and relationship of the Project components.
5. Based on the CITY'S approval of the preliminary design, CONSULTANT shall prepare Schematic Design Documents for the CITY'S approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, section and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary narrative selections of major building systems and construction materials shall be noted on the drawings or described in writing.
6. CONSULTANT shall submit the Schematic Design Documents to the CITY, and request the CITY'S approval.
7. CONSULTANT will attend (1) stakeholder engagement meeting.
8. During Schematic Design Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.

B. DESIGN DEVELOPMENT (60%)

1. Based on the CITY'S approval of the Schematic Design Documents, and on the CITY'S authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, CONSULTANT shall prepare Design Development Documents for the CITY'S approval.
2. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents

- including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.
3. CONSULTANT will submit the Design Development Documents to the CITY and request the CITY'S approval.
 4. During Design Development Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.
- C. CONSTRUCTION DOCUMENTS (Final Plans Package, 100%)
1. Based on the CITY'S approval of the Design Development Documents, and on the CITY'S authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, CONSULTANT shall prepare Construction Documents for the CITY'S approval.
 2. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the work, in a manner consistent with locally accepted standards for professional skill and care.
 3. CONSULTANT will incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.
 4. The CITY and CONSULTANT acknowledge that in order to construct the Work the CONTRACTOR will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which CONSULTANT shall review in accordance with the Construction Administration Phase outlined below.
 5. The CONSULTANT will submit the Construction Documents to the CITY and request the CITY'S approval.
 6. During Construction Document Phase, CONSULTANT will attend (1) on-site design meeting per month. Additional design meetings will be attended via web or conference call.
- D. BIDDING AND PERMITTING
1. Based upon CITY'S approval of the Construction Documents, provide permitting assistance necessary (unless specifically excluded below) to achieve signed/sealed drawings ready for the CONTRACTOR'S bidding process and/or construction.
 2. Submission of Construction Documents to applicable agencies for permit processing [OR, submit to CONTRACTOR for submission to applicable agencies for permit processing].

3. Answer review questions required by permitting agencies and CONTRACTOR Assembly of addenda material and information as may be required to clarify issues.
4. Assist the CITY and CONTRACTOR in bid evaluation, as requested.

E. CONSTRUCTION ADMINISTRATION

1. Monthly site visits during construction to determine, in general, if the work observed is being performed in a manner that, when completed, will be in accordance with the contract documents. Agreement includes a total of (18) site visits during construction. Additional requested site visits will be billed as Additional Services.
2. Review and respond to CONTRACTOR requests for information (RFIs) and Submittals during construction.
3. Review CONTRACTOR Certificates for Payment.
4. At Project Completion, review Punch List prepared by CONTRACTOR and issue Certificate of Substantial Completion when appropriate.
5. Certify a final Certificate for Payment based upon a final site visit indicating the work complies with the requirements of the contract documents.

Task Deliverables

CONSULTANT shall provide the following deliverables to the CITY during the design and permitting phase:

- A. Schematic Design (30%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) 30% opinion of probable construction cost with bid quantities
- B. Design Development (60%)
 1. One (1) electronic set of construction documents in "pdf" format
 2. Two (2) 24"x36" sets of construction documents
 3. One (1) electronic set of outline specifications in "pdf" format
 4. One (1) updated opinion of probable construction cost with bid quantities
- C. Construction Documents (100%)
 1. One (1) electronic set of construction documents for permitting and bidding.

2. Two (2) sets of Signed and Sealed 24"x36" construction documents
3. One (1) electronic set of specifications in "pdf" format
4. One (1) final opinion of probable construction cost with bid quantities

Task 8 – Site/Civil Permit Application Packages

- A. Preparation of the required plans, applications, and supporting documents for submittal to the following agencies:
 1. City Site Development Permit
 2. South Florida Water Management District (SWFWMD)
 - Environmental Resource Permit (ERP)
 - Irrigation Water Use
 - Construction Dewatering
 3. Florida Department of Environmental Protection (FDEP)
 - Water
 - Sewer
 4. National Pollutant Discharge Elimination System (NPDES)
- B. Respond to requests for information (RAI) from the governing agencies.
- C. Scheduling and attendance at follow up meetings with agency reviewers to clarify comments.
- D. Preparation of revised plans, response letters, and resubmittal packages.
- E. QA/QC of permit application packages.

Task Deliverables to include:

- a. Copy of each submittal package to the governing agencies.
- b. Copy of written responses to requests for additional information letter from the governing agencies

Task 9 – Construction Phase Services

CONSULTANT will provide professional construction phase services for the purpose of providing assistance to CITY during construction. The following services will be conducted for the project as follows:

- A. *Bid Document Preparation and Contractor Notification.* It has been assumed that this task will be completed by the CITY except for quantity review and verification, should this be requested by the CITY.
- B. *Contract Documents Preparation.* It has been assumed that this task will be completed by the CITY.
- C. *Pre-Construction Conference.* CONSULTANT will attend a Pre-Construction Conference with the CITY and CONTRACTOR prior to commencement of Work at the Site.
- D. *Wire Utilities.* The CITY will contact wire utilities (power, telephone, CATV, and natural gas). CONSULTANT will prepare a composite drawing comprised of road crossing data provided by each of the utility companies. CONSULTANT will also add road crossing data as provided by the CITY that pertain to street lighting, irrigation and controls, and entrance features. CONSULTANT will provide the various utilities necessary drawings and AutoCAD disks for their design. This agreement assumes that the CITY will contact and follow-up with each of the wire utilities in order to obtain the required information for the preparation of a crossing plan for the project.
- E. *Construction Progress Meetings.* CONSULTANT'S field representative will attend will attend progress meeting as established by the CITY.
- F. *Visits to Site and Construction Observation.* CONSULTANT will provide on-site construction observation services during the construction phase. CONSULTANT will make visits twice a month, in addition to site visits required for testing, to observe the progress of the duration of the project. Observations will vary depending on the type of work being performed by the CONTRACTORS, the location, and the CONTRACTOR'S schedules.

Such visits and observations by CONSULTANT are not intended to be exhaustive or to extend to every aspect of CONTRACTOR'S work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on CONSULTANT'S exercise of professional judgment. Based on information obtained during such visits and such observations, CONSULTANT will evaluate whether CONTRACTOR'S work is generally proceeding in accordance with the Contract Documents, and CONSULTANT shall keep CITY informed of the general progress of the Work.

The purpose of CONSULTANT'S visits to the site will be to enable CONSULTANT to better carry out the duties and responsibilities assigned in this Agreement to CONSULTANT during the construction phase by CITY, and, in addition, by the exercise of CONSULTANT'S efforts, to provide CITY a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by CONTRACTOR. CONSULTANT shall not, during such visits or as a result of such observations of CONTRACTOR'S work in progress, supervise, direct,

- or have control over CONTRACTOR'S work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by CONTRACTOR, for safety precautions and programs incident to CONTRACTOR'S work, nor for any failure of CONTRACTOR to comply with laws and regulations applicable to CONTRACTOR'S furnishing and performing the Work. Accordingly, CONSULTANT neither guarantees the performance of any CONTRACTOR nor assumes responsibility for any CONTRACTOR'S failure to furnish and perform its work in accordance with the Contract Documents.
- G. *Shop Drawings and Samples.* CONSULTANT will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which CONTRACTOR is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to accuracy or completeness of details or construction means or methods. CONSULTANT is not responsible for any deviations from the Contract Documents not brought to CONSULTANT'S attention in writing by the CONTRACTOR.
- H. *Clarifications and Interpretations.* CONSULTANT will respond to reasonable and appropriate CONTRACTOR requests for information and issue necessary clarifications and interpretations of the Contract Documents to CITY. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field Orders authorizing variations from the requirements of the Contract Documents will be made by CITY. Responses to CONTRACTOR requests for information that are due to an error in the plans or missing information will not be billed under this task to the CITY but rather included with the design effort of the project.
- I. *Inspections and Tests.* CONSULTANT may require such special inspections or tests of CONTRACTOR'S work as the CONSULTANT deems appropriate, and receive and review certificates of inspections within the CONSULTANT'S area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. The CONSULTANT'S review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. CONSULTANT shall be entitled to rely on the results of such tests and the facts being certified. Any retesting that is required due to initial test failure will be considered additional service. This Agreement is based on a single site visit for the water main testing, and a single site visit for the sewer system testing, and a single visit for the lift station startup.
- J. *Applications for Payment.* Based on CONSULTANT'S observations and on review of applications for payment and accompanying supporting documentation:

CONSULTANT will determine and recommend to the CITY the amounts that CONTRACTOR be paid. Such recommendations of payment will be in writing and will constitute CONSULTANT'S representation to CITY, based on such observations and review, that, to the best of CONSULTANT'S knowledge, information and belief, CONTRACTOR'S work has progressed to the point indicated, such work-in-progress is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to CONTRACTOR'S being entitled to such payment appear to have been fulfilled insofar as it is CONSULTANT'S responsibility to so determine. In the case of unit price work, CONSULTANT'S recommendations of payment will include final determinations of quantities and classifications of CONTRACTOR'S work, based on observations and measurements of quantities provided with pay requests.

By recommending any payment, CONSULTANT shall not thereby be deemed to have represented that observations made by CONSULTANT to check CONTRACTOR'S work as it is performed and furnished have been exhaustive, extended to every aspect of CONTRACTOR'S work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to CONSULTANT in this Agreement. Neither CONSULTANT'S review of CONTRACTOR'S work for the purposes of recommending payments nor CONSULTANT'S recommendation of any payment including final payment will impose on CONSULTANT responsibility to supervise, direct, or control CONTRACTOR'S work in progress or for the means, methods, techniques, equipment choice and usage, sequences, or procedures of construction of safety precautions or programs incident thereto, nor CONTRACTOR'S compliance with Laws and Regulations applicable to CONTRACTOR'S furnishing and performing the Work. It will also not impose responsibility on CONSULTANT to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to CITY free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between CITY and CONTRACTOR that might affect the amount that should be paid.

- K. *Record Drawings.* CONSULTANT will review CONTRACTOR'S or CITY'S surveyor's record drawings for compliance to the approved Construction Drawings and applicable regulatory agency standards. Provide Surveyor and or CONTRACTOR with comments on the draft record drawings and one follow up set of comments. Coordinate with Surveyor to receive final sets of record drawings consistent to the requirements of the appropriate regulatory agency. This task includes the initial review and coordination with the surveyor and or CONTRACTOR and follow-up reviews.
- L. *Certification Documents.* Based on the results of the final observations of the site, test reports, record drawings, and other documentation pertinent to the project CONSULTANT will

prepare and submit to the appropriate regulatory agency the certificates of completion of construction.

- M. *Change Orders.* CONSULTANT will recommend Change Orders to CITY, as appropriate. CONSULTANT will also review and make recommendations related to Change Orders submitted or proposed by the CONTRACTOR.
- N. *Substitutes and "or-equal."* CONSULTANT will evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by CONTRACTOR in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- O. *Substantial Completion.* Promptly after notice from CONTRACTOR that CONTRACTOR considers the entire Work ready for its intended use, in company with CITY and CONTRACTOR, CONSULTANT will conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of CITY, CONSULTANT considers the Work substantially complete; CONSULTANT shall notify CITY and CONTRACTOR.
- P. *Final Notice of Acceptability of the Work.* CONSULTANT will conduct a final site visit to determine if the completed Work of CONTRACTOR is generally in accordance with the Contract Documents and the final punch list so that CONSULTANT may recommend, in writing, final payment to CONTRACTOR. Accompanying the recommendation for final payment, CONSULTANT shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of CONSULTANT'S knowledge, information, and belief and based on the extent of the services provided by CONSULTANT under this Agreement and based upon information provided to CONSULTANT upon which it is entitled to rely.
- Q. *Limitation of Responsibilities.* CONSULTANT shall not be responsible for the acts or omissions of any CONTRACTOR, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. CONSULTANT shall not have the authority or responsibility to stop the work of any CONTRACTOR.

Task Deliverables to include:

- a. Copy of electronic bid form and bid package consisting of plans, copies of permits, and book specifications to include measurement and payment sections.
- b. Bid Tabulation Results
- c. Copy of construction progress meeting minutes.
- d. Copy of Permit Certification Packages to the governing agencies.
- e. Record drawing deliverable to the CITY to include:
 - One (1) electronic set of record drawings in "pdf" format.

- One (1) sets of certified 24"x36"" record drawings;
- One (1) CD (or flash drive) with record drawing base files, including text fonts, in AutoCAD ".dwg"

Additional Services

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates, or for a negotiated fee prior to commencing additional services work. Additional services we can provide include, but are not limited to, the following:

1. Permitting services beyond those outlined in the scope of services above.
2. Additional responses to agency comments, beyond those identified in the scope of services above.
3. Revisions to the plans or preparation of applications for permit modification based on Client requested revisions.
4. Services required by additional governmental regulations, which might be put into effect after the date of this agreement.
5. Public meetings and hearings notices, beyond those identified in the scope of services above.
6. Attendance at additional meetings beyond those specified.
7. Comprehensive plan or zoning changes.
8. Transportation/traffic engineering related services, beyond those identified in the scope of services above.
9. Enhanced landscape, hardscape plans or amenity design.
10. Planning, design, or permit applications for off-site improvements, beyond those identified in the scope of services above.
11. Traffic signal study or design.
12. Archaeological services
13. Preparation of a SFWMD Water Use Permit for irrigation
14. Construction phase services associated with one or two-year warranty inspections as called for by the client or regulatory agency
15. Interior Design services not otherwise expressly indicated in Scope of Services
16. Furniture selections and procurement
17. LEED consulting and certification services
18. 3D physical presentation model
19. Tide Study to determine Mean High-Water Line elevation
20. Bathymetric Surveying of canals, basins, river
21. Submerged Land Lease Surveys

22. Location of Fishing Pier
23. Soft-dig excavations for location and/or confirmation of underground utilities
24. Sketches and Legal Descriptions for additional street or easement vacations or creations, easements, etc.
25. Subdivision platting
26. Surveying services other than those described above
27. Seawall Inspection for integrity

EXHIBIT “B”

Schedule of Values

Exhibit B

SCHEDULE OF VALUES (Kimley-Horn)

The following values are **Not To Exceed (NTE) Dollar amounts.**

Task Number	Task Name	Lake Kennedy Park	Yacht Club	Yellow Fever Creek Preserve	Festival Park	Summary Fee (incl. Kimley-Horn, subs & ODC's)
1	Project Administration and Meetings	\$53,943.60	\$108,870.03	\$53,181.48	\$52,011.84	\$268,006.95
2	Boundary and Topographic Survey	\$33,465.36	\$48,919.97	\$33,606.71	\$53,491.71	\$169,483.75
3	Stakeholder and Community Engagement	\$77,351.68	\$109,839.29	\$55,779.24	\$59,392.31	\$302,362.52
4	Environmental Due Diligence and Permitting	\$19,028.36	\$131,667.97	\$159,859.71	\$46,434.71	\$356,990.75
5	Site Civil Due Diligence	\$25,980.16	\$38,375.11	\$24,940.18	\$27,962.53	\$117,257.98
6	Site Construction Documents	\$149,610.87	\$467,888.85	\$132,646.02	\$182,726.10	\$932,871.84
7	Architectural Design, Construction Plans, Permitting and Coordination	\$70,741.36	\$255,440.97	\$104,479.71	\$93,441.71	\$524,103.75
8	Site Civil Permit Application Packages	\$15,190.41	\$44,255.22	\$11,600.52	\$19,805.46	\$90,851.61
9	Construction Phase Services	\$55,846.23	\$170,621.73	\$62,356.43	\$65,322.70	\$354,147.09
Reimbursables		\$22,000.00	\$22,000.00	\$22,000.00	\$22,000.00	\$88,000.00
Total Not-to-Exceed Fee for 4 Community Parks		\$523,158.03	\$1,397,879.14	\$660,450.00	\$622,589.07	\$3,204,076.24

*Note: Optional Services totaling \$140,105 for surveying services are included in the summary fee. These fees will be expended only at the City's request.

EXHIBIT “C”

Consultant’s Work Schedule

EXHIBIT C

City of Cape Coral

Community Parks - Initial Project Schedule
(shown in calendar days)



ID	Text1	Task Name	Duration	Start	Finish	Predecessors	Q2	Q3	Q4	2020 Q1	Q2	Q3	Q4	2021 Q1	Q2	Q3	Q4	2022 Q1
1	Task 1	Project Administration and Meetings	910 days	Tue 8/6/19	Fri 12/31/21			[Gantt bar spanning from Q3 2020 to Q4 2021]										
2		Kick-off Meeting	1 day	Tue 8/6/19	Tue 8/6/19													
3	Task 2	Boundary and Topographic Survey	174 days	Tue 8/6/19	Mon 1/20/20			[Gantt bar spanning from Q3 2020 to Q1 2021]										
4	Task 3	Stakeholder and Community Engagement	134 days	Wed 8/7/19	Sat 12/14/19			[Gantt bar spanning from Q3 2020 to Q4 2020]										
5		Public Engagement	43 days	Wed 8/7/19	Tue 9/17/19	2												
6		Draft Master Plan Prep	84 days	Tue 9/17/19	Sat 12/7/19	5												
7		City Council Approvals	7 days	Sat 12/7/19	Sat 12/14/19	6												
8	Task 4	Environmental Due Diligence and Permitting	612 days	Wed 8/7/19	Fri 3/19/21			[Gantt bar spanning from Q3 2020 to Q4 2021]										
9		Environmental Assessment	120 days	Wed 8/7/19	Sat 11/30/19	2												
10		Environmental Permitting	402 days	Tue 2/25/20	Fri 3/19/21	13				[Gantt bar spanning from Q1 2021 to Q4 2021]								
11	Task 5	Site Civil Due Diligence	120 days	Wed 8/7/19	Sat 11/30/19	2												
12	Task 6	Site Construction Documents	290 days	Sat 12/14/19	Sat 9/19/20				[Gantt bar spanning from Q4 2020 to Q3 2021]									
13		Schematic Design - 30%	76 days	Sat 12/14/19	Tue 2/25/20	7												
14		Schematic Design Review / Refinement	25 days	Tue 2/25/20	Fri 3/20/20	13												
15		Design Development - 60%	77 days	Sat 3/21/20	Wed 6/3/20	14												
16		Design Development Review / Refinement	25 days	Wed 6/3/20	Sat 6/27/20	15												
17		Final Plans - 100%	61 days	Sat 6/27/20	Tue 8/25/20	16												
18		City Council Approval of Final Plans	26 days	Tue 8/25/20	Sat 9/19/20	17												
19	Task 7	Architectural Design, Construction Plans, Permitting and Coordination	290 days	Sat 12/14/19	Sat 9/19/20				[Gantt bar spanning from Q4 2020 to Q3 2021]									
20		Schematic Design - 30%	76 days	Sat 12/14/19	Tue 2/25/20	7												
21		Schematic Design Review / Refinement	25 days	Tue 2/25/20	Fri 3/20/20	13												
22		Design Development - 60%	77 days	Sat 3/21/20	Wed 6/3/20	14												
23		Design Development Review / Refinement	25 days	Wed 6/3/20	Sat 6/27/20	15												
24		Final Plans - 100%	61 days	Sat 6/27/20	Tue 8/25/20	16												
25		City Council Approval of Final Plans	26 days	Tue 8/25/20	Sat 9/19/20	17												
26	Task 8	Site Civil Permit Applications	120 days	Wed 6/3/20	Sun 9/27/20	15												
27	Task 9	Construction Phase Services	485 days	Sat 9/19/20	Fri 12/31/21								[Gantt bar spanning from Q3 2021 to Q4 2022]					
28		Bid & Construction Selection	90 days	Sat 9/19/20	Tue 12/15/20	25												
29		Construction	395 days	Tue 12/15/20	Fri 12/31/21	28								[Gantt bar spanning from Q4 2021 to Q1 2022]				

EXHIBIT “D”

**PERSONNEL HOURLY
RATES**

Exhibit D

PERSONNEL HOURLY RATES

Kimley-Horn and Associates, Inc.

(Please include all positions associated with this project) Table MUST match with Project Cost Spreadsheet – Costs Shown for/Tasks by Position, Qualifications of Individuals – Shown in Schedule C Overall Project Schedules and Exhibits Must Match)

Firm Name	Employee Name	Task(s) Associated	Billing Title	Current Hourly Rate	Multiplier	Billable Hourly Rate
Kimley-Horn	Hatton, Christopher C.	1, 3, 5, 6	Senior Engineer 3	\$79.33	3.0	\$237.99
Kimley-Horn	Paquet, Dean	1, 2, 3, 4, 5, 6, 7, 8, 9	Senior Engineer 3	\$68.27	3.0	\$204.81
Kimley-Horn	Van Buskirk, Peter	1, 2, 3, 4, 5, 6, 7, 8, 9	Senior Engineer 3	\$73.56	3.0	\$220.68
Kimley-Horn	Good, Brian A.	1, 5, 6, 7, 8, 9	Senior Engineer 2	\$83.17	3.0	\$249.51
Kimley-Horn	Leep, Jordan	1, 3, 5, 6, 8, 9	Project Engineer 2	\$56.73	3.0	\$170.19
Kimley-Horn	Brennan, Devin	1, 2, 3, 4, 5, 6, 7, 8, 9	Project Engineer 1	\$41.83	3.0	\$125.49
Kimley-Horn	Clark, Kellie	1, 3, 4, 5, 6, 8, 9	Project Engineer 1	\$50.48	3.0	\$151.44
Kimley-Horn	Fearon, Kelly	1, 3, 5, 6	Project Engineer 1	\$41.59	3.0	\$124.77

Exhibit D - Continued

PERSONNEL HOURLY RATES

Firm Name	Employee Name	Task(s) Associated	Billing Title	Current Hourly Rate	Multiplier	Billable Hourly Rate
Kimley-Horn	Healy, Patrick	1, 2, 3, 4, 5, 6, 7, 8, 9	Project Engineer 1	\$41.35	3.0	\$124.05
Kimley-Horn	Marajh, Chelsea	1, 5, 6, 8, 9	Project Engineer 1	\$40.87	3.0	\$122.61
Kimley-Horn	Strackbein, Trenton	1, 2, 3, 4, 5, 6, 7, 8, 9	Project Engineer 1	\$41.11	3.0	\$123.33
Kimley-Horn	Wishman, Drew	1, 2, 3, 4, 5, 6, 7, 8, 9	Project Engineer 1	\$34.13	3.0	\$102.39
Kimley-Horn	Harvey, Christian	1, 2, 3, 4, 5, 6, 7, 8, 9	Engineer 2	\$37.98	3.0	\$113.94
Kimley-Horn	Kraemer, Addie	1, 3, 5, 6	Engineer 2	\$36.54	3.0	\$109.62
Kimley-Horn	O'neall, John	1, 2, 3, 4, 5, 6, 7, 8, 9	Engineer 2	\$35.10	3.0	\$105.30
Kimley-Horn	Rocklein, Brett	1, 2, 3, 4, 5, 6, 7, 8, 9	Engineer 2	\$39.66	3.0	\$118.98
Kimley-Horn	Kender, Madeline	1, 2, 3, 4, 5, 6, 7, 8, 9	Engineer 1	\$35.58	3.0	\$106.74
Kimley-Horn	Lynch, Deirdre	1, 2, 3, 4, 5, 6, 7, 8, 9	Engineer 1	\$32.21	3.0	\$96.63

Exhibit D - Continued

PERSONNEL HOURLY RATES

Firm Name	Employee Name	Task(s) Associated	Billing Title	Current Hourly Rate	Multiplier	Billable Hourly Rate
Kimley-Horn	Pluta, Andrew	1, 2, 3, 4, 5, 6, 7, 8, 9	Engineer 1	\$32.93	3.0	\$98.79
Kimley-Horn	Kuchcicki, Rich	2, 5, 6, 8, 9	Senior CAD Designer	\$49.52	3.0	\$148.56
Kimley-Horn	Letarte, Jaime	2, 5, 6, 8, 9	Senior CAD Designer	\$39.18	3.0	\$117.54
Kimley-Horn	Lugo, Carlos	2, 5, 6, 8, 9	Senior CAD Designer	\$40.14	3.0	\$120.42
Kimley-Horn	DiMaria Jr., Philip G.	1, 3, 5, 6, 8	Planner	\$29.33	3.0	\$87.99
Kimley-Horn	Ehrmann, James	1, 3, 5, 6, 8	Planner	\$30.77	3.0	\$92.31
Kimley-Horn	Cianfaglione, Christopher D.	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$49.04	3.0	\$147.12
Kimley-Horn	Daoulas, Jennifer L.	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$38.94	3.0	\$116.82
Kimley-Horn	Dean, Edward M.	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$41.59	3.0	\$124.77
Kimley-Horn	Dunn, Matt	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$32.93	3.0	\$98.79

Exhibit D - Continued

PERSONNEL HOURLY RATES

Firm Name	Employee Name	Task(s) Associated	Billing Title	Current Hourly Rate	Multiplier	Billable Hourly Rate
Kimley-Horn	Harrison, Ally	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$31.49	3.0	\$94.47
Kimley-Horn	Noel, Norbourn W. 'Bruz'	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$57.69	3.0	\$173.07
Kimley-Horn	Pankonin, James	1, 2, 3, 4, 5, 6, 7, 8, 9	Project Manager, Landscape Designer	\$58.17	3.0	\$174.51
Kimley-Horn	Shines, Cydnie	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$32.93	3.0	\$98.79
Kimley-Horn	Shy, Kelsie	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$31.01	3.0	\$93.03
Kimley-Horn	Tichenor, Patrick	1, 2, 3, 4, 5, 6, 7, 8, 9	Landscape Designer	\$27.40	3.0	\$82.20
Kimley-Horn	Angerami, Rocco	1, 5, 6, 9	Construction Manager 2	\$38.70	3.0	\$116.10
Kimley-Horn	Gomez, David	1, 2, 3, 4, 5, 6, 7, 8, 9	Project Analyst	\$30.77	3.0	\$92.31
Kimley-Horn	Marianacci, Joe	1	Project Analyst	\$24.76	3.0	\$74.28
Kimley-Horn	Stone, Heather	1	Project Analyst	\$49.52	3.0	\$148.56

Exhibit D - Continued

PERSONNEL HOURLY RATES

Firm Name	Employee Name	Task(s) Associated	Billing Title	Current Hourly Rate	Multiplier	Billable Hourly Rate
Kimley-Horn	Arriaga, Brooke	1, 2, 3, 4, 5, 6, 8, 9	Senior Clerical	\$26.92	3.0	\$80.76
Kimley-Horn	Johnson, Susan	1, 2, 3, 4, 5, 6, 8, 9	Senior Clerical	\$23.46	3.0	\$70.38

EXHIBIT ‘E’

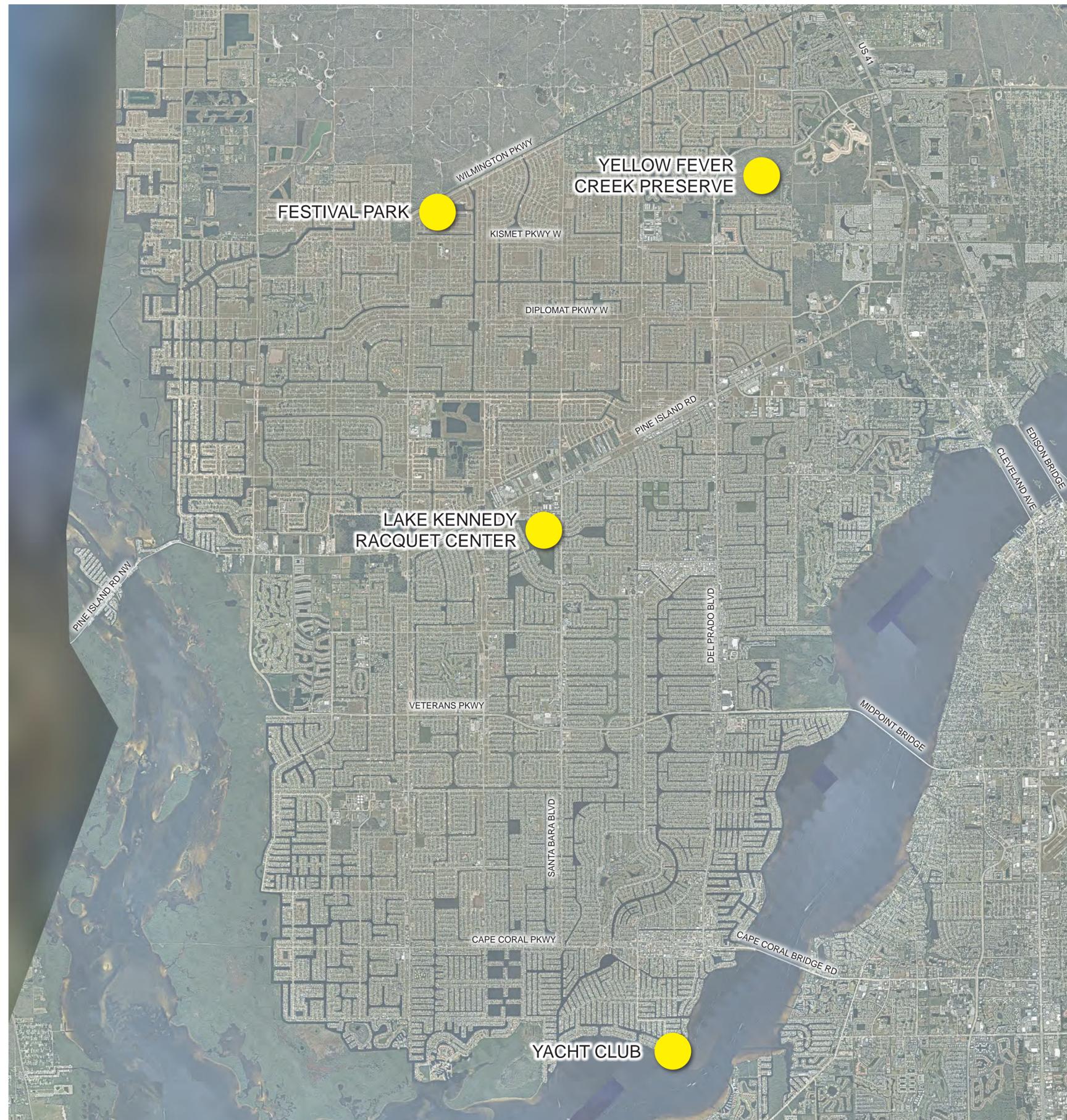
Reimbursement Expenses

Exhibit E
REIMBURSABLE EXPENSES
Kimley-Horn

Reimbursable Expenses	
ITEM	BASIS OF CHARGE
Telephone (Long Distance)	Actual Cost
Postage and Shipping	Actual Cost
Commercial Air Travel	Actual Cost (Coach)
Vehicle Travel Allowance (or)	\$0.54 /Mile or Current IRS Rate
Vehicle Rental/Gas	Actual Cost
Lodging (Per Person)	Actual Cost or NTE \$120.00
**MEALS:	In accordance with the GSA M&IE schedule for Travel utilizing the "Fort Myers, Florida" rates **
Breakfast	\$9.00 **
Lunch	\$13.00 **
Dinner	\$24.00 **
Reproduction (Photocopy) 8 ½" x 11" B&W	\$0.15/Page
8 ½" x 11" Color	\$0.20/Page
8 ½" x 14" B&W	\$0.20/Page
8 ½" x 14" Color	\$0.25/Page
11" x 14" B&W	\$0.35/Page
11" x 14" Color	\$0.40/Page
Reproduction (Blue/White Prints)	\$0.25/SF
Printing/Binding	Actual Cost
Mylar Sheets	Actual Cost
Photographic Supplies & Services	Actual Cost
Bond Expenses	Actual Cost
Tolls	Actual Cost
Permit Fees	Actual Cost
11"x17" B&W	\$0.45/Page
11"x17" Color	\$0.50/Page
24"x36" B&W	\$2.00/Sheet
24"x36" Color	\$2.50/Sheet
CD/DVD	\$2.00/Sheet
Aerials	\$3.00/Sheet
Courier Service	Actual Cost
Sub-consultants Fees on their LETTERHEAD	Actual Cost – No Markup

EXHIBIT “F”

Project Maps



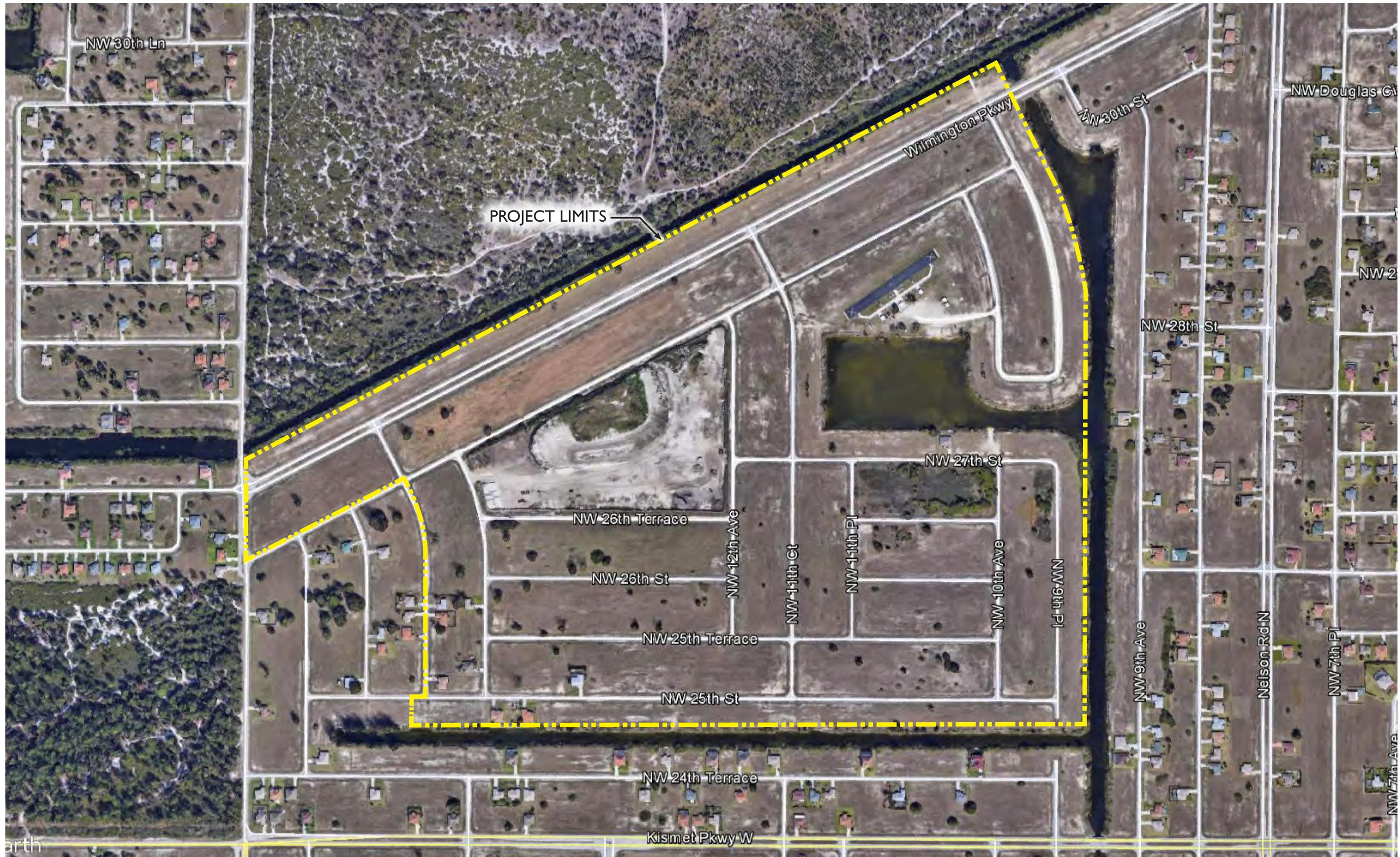








EXHIBIT “G”

Total Project Cost (NTE)

EXHIBIT G

Task Number	Task Name	Lake Kennedy Park	Yacht Club	Yellow Fever Creek Preserve	Festival Park	Summary Fee (incl. Kimley-Horn, subs & ODC's)
1	Project Administration and Meetings	\$53,943.60	\$108,870.03	\$53,181.48	\$52,011.84	\$268,006.95
2	Boundary and Topographic Survey	\$33,465.36	\$48,919.97	\$33,606.71	\$53,491.71	\$169,483.75
3	Stakeholder and Community Engagement	\$77,351.68	\$109,839.29	\$55,779.24	\$59,392.31	\$302,362.52
4	Environmental Due Diligence and Permitting	\$19,028.36	\$131,667.97	\$159,859.71	\$46,434.71	\$356,990.75
5	Site Civil Due Diligence	\$25,980.16	\$38,375.11	\$24,940.18	\$27,962.53	\$117,257.98
6	Site Construction Documents	\$149,610.87	\$467,888.85	\$132,646.02	\$182,726.10	\$932,871.84
7	Architectural Design, Construction Plans, Permitting and Coordination	\$70,741.36	\$255,440.97	\$104,479.71	\$93,441.71	\$524,103.75
8	Site Civil Permit Application Packages	\$15,190.41	\$44,255.22	\$11,600.52	\$19,805.46	\$90,851.61
9	Construction Phase Services	\$55,846.23	\$170,621.73	\$62,356.43	\$65,322.70	\$354,147.09
Reimbursables		\$22,000.00	\$22,000.00	\$22,000.00	\$22,000.00	\$88,000.00
Total Not-to-Exceed Fee for 4 Community Parks		\$523,158.03	\$1,397,879.14	\$660,450.00	\$622,589.07	\$3,204,076.24
<p>Note: Optional Services totaling \$140,105 for surveying services are included in the summary fee. These fees will be expended only at the City's request.</p>						

EXHIBIT ‘H’

Title Classifications

DESIGN OF NEIGHBORHOOD & COMMUNITY PARKS: TITLE CLASSIFICATIONS

Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
Engineer 1	0	BS or BA & EIT or PE Required	Entry level, EIT Certification with BS degree. Performs calculations and design tasks under immediate and daily supervision.
Engineer 2	3	BS or BA & EIT or PE Required	Typically has 3-5 years of experience. Trusted developing engineer, preparing for PE registration. Capable of performing tasks with general guidance and minimal supervision.
Project Engineer 1	5	BS or BA & PE Required	Newly registered PE and/or has PHD, taking leadership and ownership of projects or significant project tasks. Responsible for direct client interface on questions of technical nature. Heavily relied on by Project Manager. Limited project management responsibilities on small projects.
Project Engineer 2	10	BS or BA & PE Required	Has significant coordination responsibility for large project tasks and/or various engineering disciplines.
Sr. Engineer 1	15	BS or BA & PE Required	Relied on for design team leadership & QA on complex projects. May be designated as the Project Manager on less complex projects.
Sr. Engineer 2	20	BS or BA & PE Required	Typically, responsible for the most complex technical designs and has QA oversight for the entire project. Provides a higher level of expertise in specialized areas.
Sr. Engineer 3	25	BS or BA & PE Required	Considered a regional expert in a specialized discipline of engineering. Provides highest level of QA/QC and engineering design leadership for the most complex projects.
Sr. Project Manager	15	BS or BA & PE or PG Required	Primary interface with client. Entrusted to function independently on behalf of firm with regard to contracts, change orders, business development with existing and new clients, critical decisions and negotiations with clients. Coordinating and leading project teams. Clients see as a preferred point of contact.
Architect	10	BS or BA & AIA Registration Req.	Typically has 10 years or more experience, licensed architect with diverse knowledge of architecture principles and practices. Responsible for finished plans, specifications and material approvals. Is also responsible for large project tasks and/or deliverables. May supervise a small staff of architects and technicians.
Construction Administrator	8	High School or GED; Associates degree preferred	Responsible for handling and organizing administrative documentation associated with construction services. Responsible for reviewing status of construction services being provided against timelines and schedules.

Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
Construction Project Representative 1	5	High School or GED	With routine supervision, evaluates construction projects. Determines compliance with building codes, ordinances, zoning regulations and contract specifications.
Construction Project Representative 2	10	High School or GED	Evaluates construction projects to determine compliance with building codes, ordinances, zoning regulations and contract specifications. Works with less on-site supervision, however, reports directly to a more experienced construction project representative.
Construction Manager 1	15	High School or GED	Responsible for supervision of construction project representatives on large scale projects. Duties may also include training and mentoring, balancing workload and making project recommendations.
Construction Manager 2	20	High School or GED	Responsible for supervision of construction project representatives on large scale projects. Duties may also include training and mentoring, balancing workload and making project recommendations. Has more senior experience than a Construction Manager 1.
Survey Technician	2	High School or GED	Rodman or surveying capable of performing with less detailed instruction. Works under the direction of a survey crew chief.
Survey Crew Chief	5	High School or GED	Supervisor of survey crew working under the direction of a Licensed Surveyor.
Sr. Land Surveyor	10	PLS Required	Must be licensed Land Surveyor in the State of Florida; Involved in survey data/drawings production process under guidance of engineers or more senior survey staff. Provides Survey Leadership to Technicians, CAD staff, and or less experienced Surveyors for production of survey data/drawings for clients. Responsible for QA/QC of own work and work of others.
Sr. CAD Designer	10	High School or GED; Associates Degree Preferred	Performs many of the less complex tasks typically performed by engineers/architects with significant independence; typically spending 70% of the time actually designing for engineer/architect's approval; designs at a level comparable to an experienced EIT or non-licensed architect; works with clients and consultants to ensure that deliverables will be properly formatted and all data can be exchanged efficiently. Prepares complete set(s) of complex drawings.

Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
CAD Technician 1	2	High School or GED	Performs standard CAD assigned duties. Performs some more advanced CAD duties as part of training and development. Resolves routine questions and problems and defers more complex issues to higher levels.
CAD Technician 2	5	High School or GED; Associates preferred	Edits to plan sheets are more advanced, yet still supervised; produces exhibits, details and maps from concept drawings or sketches, performs unsupervised simple calculations; more advanced calculations are supervised; detailed instruction provided only on new work assignments; begins to get non-routine assignments; able to recognize gaps in knowledge and proactively seeks guidance. Duties and tasks are frequently non-routine. Resolves most questions and problems and refers only the most complex issues to higher level.
Project Administrator	8	High School or GED; Associates preferred	Integrated with the technical production process and is relied on to understand the needs of the project team and apply skill set to areas of need without instructed to do so.
Project Analyst	5	High School or GED Associates preferred	Typically, responsible for an accounting process such as Accounts Payable or Accounts Receivable.
Scientist	3	BS or BA Required	Trusted "junior" scientist. Becoming a relied upon resource for technical work product.
Sr. Scientist 1	5	BS or BA Required	Takes on leadership and ownership of projects or significant project tasks and deliverables. Management comfortable with employee having direct client interface. Heavily relied on by Project Manager.
Sr. Scientist 2	10	BS or BA Required	Clearly understands/grasps the implications of scientific findings and their relationship to engineering solutions.
Project Manager	10	BS or BA & PE or PG Required	Coordinates and leads project teams. Demonstrates high level of competency in project accounting. Functions independently with regard to contracts and change orders.
Operations Manager	20	BS or BA & PE Required	Responsible for ensuring project quality and client satisfaction with specific geographic, client and/or market sectors. Coordinates with and/or supervises project managers or other professionals performing work within the programs.

Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
GIS Specialist I	0-3	High School or GED; A.A.S. preferred in GIS or other related technical field of study	Performs skilled digital mapping involving preparation and maintenance of digital maps, converting hand drawn maps into a digital format for use in a Geographic Information System (GIS), managing data in such a way that historical records will reflect changes; ArcGIS experience including but not limited to constructing polygons using coordination geometry, heads up digitizing over imagery, mixed project creation, use and manipulation of geodatabases.
GIS Specialist II	3-5	High School or GED; A.A.S. in GIS or other related technical field of study and plus 3-5 years of experience	Performs all of the duties of a GIS Specialist I with less guidance and supervision, plus: the ability to perform more advanced editing functions and query related operations; performs more of a supervision/mentor role to those in the position of GIS Specialist I.
Sr. GIS Analyst	6	BS or PA plus 6 years if no degree, 8 years of experience	4-year degree (or equivalent combination of education and experience) that includes GIS coursework with typically 6+ years of experience, including responsible ownership of GIS projects or significant tasks. Has strong understanding of GIS methodologies and GIS technology. Able to mentor and supervise other GIS analysts and review and direct their work.
I&C Project Manager	5	BS or BA & PE or if no degree 5 years of experience in related field	Coordinates and leads project teams. Demonstrates high level of competency in project accounting. Functions independently with regard to contracts and change orders. Has knowledge of industrial control systems or motor control centers or security/surveillance systems or power generating equipment.
I&C Engineer 3	3	BS or BA & PE Required	Typically has 3-5 years of experience. Trusted developing engineer. Capable of performing tasks with general guidance and minimal supervision. Has knowledge of industrial control systems or motor control centers or security/surveillance systems.
I&C Sr CAD Designer	5	High School or GED; Associates Preferred	Performs many of the less complex tasks typically performed by engineers with significant independence; typically spending 70% of the time actually designing for engineer approval; works with clients and consultants to ensure that deliveries will be properly formatted, and that data can be exchanged efficiently; prepare complete sets of complex drawings.

Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
I&C Field Engineer	5	BS or PA plus 6 years if no degree, 8 years of experience	Responsible for installation and/or maintenance of industrial control systems, analytic systems, high power equipment, electronic surveillance and access control. Coordinates with city personnel and contractors to perform work outlined in contracts.
* Hydrogeologist 1	0-3	BS or BA Required	Entry level with BS degree. Performs calculations and design tasks under immediate and daily supervision.
Hydrogeologist 2	3	BS or BA & preparing for PG	Typically has 3-5 years of experience. Trusted developing engineer, preparing for PG registration. Capable of performing tasks with general guidance and minimal supervision.
* Project Scientist 1	5	BS or BA & PG Required	Newly registered PG and/or has PHD, taking leadership and ownership of projects or significant project tasks. Responsible for direct client interface on questions of technical nature. Heavily relied on by Project Manager. Limited project management responsibilities on small projects.
* Project Scientist 2	10	BS or BA & PG Required	Has significant coordination responsibilities for large project tasks and deliverables for various engineering disciplines.
* Sr. Hydrogeologist 1	15	BS or BA & PG Required	Relied on for design team leadership & QA on complex projects. May be designated as the project Manager on less complex projects.
* Sr. Hydrogeologist 2	20	BS or BA & PG Required	Typically has responsibility for the most complex technical designs and has QA oversight for the work project. Provides higher level expertise in specialized areas.
* Sr. Hydrogeologist 3	25	BS or BA & PG Required	Considered a regional expert in a specified discipline of engineering. Provides highest level of QA/QC and engineering design leadership for the most complex projects.
Surface/Ground Water Hydrogeologist	3	BS or BA & PG or PE	Typically has 3-5 years of experience. Trusted developing engineer, registered as PG or PE. Has specialized experience in integrated surface/ground water modeling. Capable of performing tasks with general guidance and minimal supervision.
* Sr. Surface/Ground Water Hydrogeologist 1	15	MS & PG or PE Required	Relied on for design team leadership & QA on complex projects. Has specialized experience in integrated surface/ground water modeling. May be designated as the project Manager on less complex projects.
* Sr. Surface/Ground Water Hydrogeologist 2	20	MS & PG or PE Required	Typically has responsibility for the most complex technical designs and has QA oversight for the work project. Has specialized experience in integrated surface/ground water modeling. Provides higher level expertise in specialized areas.

Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
Clerical	0-3 yrs	High School or GED	Receives Direction and review from Project Team Members to assist with clerical tasks; Assists to prepare and organize visual exhibits. Engaged in Office Work
Senior Clerical	3-5 yrs.	High School or GED; Associates Preferred	Provide complete administrative support to department or project. Approves clerical staff work.
Principal in Charge	20	BS or BA & PE Required	The Principal in Charge is a Registered Professional Engineer who holds full project responsibility and authority to represent the firm. It is his responsibility to assure that all necessary corporate and staff resources are available. The authority of the Principal in Charge, combined with an extensive understanding of the work to be performed, provides the project team and staff with strong leadership, technical direction and expert supervisory guidance of all work undertaken by the firm. The Principal is ultimately the lead for the firm.
Landscape Designer		BA in Landscape Architecture	May supervise other design staff. Responsible for creating a rough design, working on drawing, concentrating on specs and significant factors, and determining the overall expenses involved in the project. They contribute widely in the development of state parks, recreational sites, and landscape design of highway roadsides. Their obligations also include drafting a long-term outline of a project and creating an elaborated strategy with the help of certain specifications in building sites which very well matched with the landscape. They may conduct an on-field investigation to guide the environmental design. They utilize their creative skills to blend the construction with the beauty of nature for developing a suitable, pleasant, and esthetically delighting piece of area. These areas may be customized lawns, parks, walks, main roads, etc. Landscape designers carry out detailed construction site examinations which include analysis of soil, grown plants and trees, natural and landscape lighting, visual conception, and architectural style of the intended project or property.
Ecologist	2	Bachelor of Science in Biology, Environmental Science or Similar	Certified Ecologist. Ecologist are scientists who study the environment. Using knowledge of a variety of scientific disciplines, ecologists may collect, examine, and report information on the quality of soil, food, air, and water. Some typical tasks of ecologist include conducting field research, which comprises scientific processes to examine animals over a long period of time and observe characteristics sch as the animals' life history patterns, population numbers, diet, behavior, and habitat use; analyze laboratory data; prepare written reports; monitor animal population; may supervise work of technicians and technologists' and advise clients.

Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
Professional Surveyor	0	Licensed Surveyor & Mapper, State of Florida Registered Land Surveyor	Plans, organizes, and direct work of one or more survey parties engaged in surveying earth's surface to determine precise location and measurements of points, elevations, lines, areas, and contours for construction, mapmaking, land division, titles, mining or other purposes. Researches previous survey evidence, maps, deeds, physical evidence, and other records to obtain data needed for surveys. Develops new data from photogrammetric records. Determines methods and procedures for establishing or re-establishing survey control. Keeps accurate notes, records, sketches to describe and certify work performed. Coordinates findings with work of engineering and architectural personnel, clients and other concerned with project. Assumes legal responsibility for work.

EXHIBIT “I”

Truth-in-Negotiations

TRUTH-IN-NEGOTIATIONS

Negotiated Fees (FS 287.055)

(DESIGNER – ENGINEER – CONSTRUCTION MANAGER)

The undersigned hereby certifies under the penalties of perjury that the wage rate and other costs used to support its compensation are accurate, complete and current at the time of contracting. The undersigned agrees that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the City determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

Company Name (Typed): Kimley-Horn and Associates, Inc.

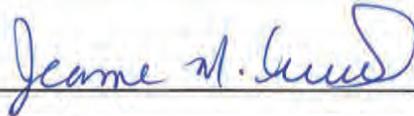
City of Cape Coral Project Title: Design of Community and Neighborhood Parks – RFP-PW19-45/AP

Authorized Name: M. Scott Mingonet, PLA, AICP
Printed Name

Representative Title: Senior Vice President
Printed Title

Representative Signature: 

Date Signed: 2/28/2019
Date

Notary Name: Jeanne M. Doucet 
Printed Name

Notary Address: 189 South Orange Avenue, Suite 1000
Orlando, FL 32801

Florida County: Orange

Notary Date: 2/28/2019
Date

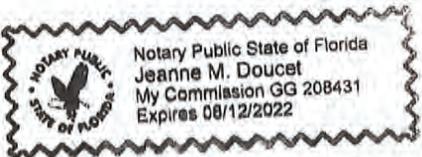
Notary Seal: 

EXHIBIT I

TRUTH-IN-NEGOTIATIONS

Negotiated Fees (FS 287.055)

(DESIGNER- ENGINEER - CONSTRUCTION MANAGER)

The undersigned hereby certifies under the penalties of perjury that the wage rate and other costs used to support its compensation are accurate, complete and current at the time of contracting. The undersigned agrees that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the City determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

Company Name (Typed): Sweet Sparkman Architects _____

City of Cape Coral Project Title: Design of Neighborhood & Community Parks – RFP-PW19-45/AP

Authorized Name: JOHN W. BRYANT
Printed Name

Representative Title: PRINCIPAL
Printed Title

Representative Signature: *John W. Bryant*

Date Signed: 6.10.19
Date

Notary Name: Michele Demperio
Printed Name

Notary Address: 826 41st St
Sarasota, FL 34234

Florida County: Sarasota

Notary Date: 6.10.19 Michele HEPNER DEMPERIO
Date

Notary Seal:



EXHIBIT I

TRUTH-IN-NEGOTIATIONS

Negotiated Fees (FS 287.055)

(DESIGNER- ENGINEER - CONSTRUCTION MANAGER)

The undersigned hereby certifies under the penalties of perjury that the wage rate and other costs used to support its compensation are accurate, complete and current at the time of contracting. The undersigned agrees that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the City determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

Company Name (Typed): TLC Engineering Solutions, Inc.

City of Cape Coral Project Title: Design of Neighborhood & Community Parks – RFP-PW19-45/AP

Authorized Name: Lawrin T. Ellis, PE
Printed Name

Representative Title: Managing Principal
Printed Title

Representative Signature: *[Handwritten Signature]* *

Date Signed: 17 June 2019
Date

Notary Name: *Lisa N. Latkowski*
Printed Name

Notary Address: 13099 S Cleveland Ave
Suite 500
Fort Myers, FL 33907

Florida County: Lee

Notary Date: 17-June-2019
Date * is personally known.

Notary Seal:

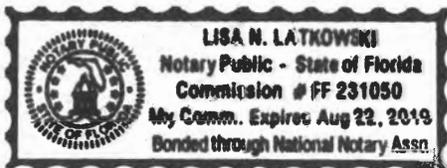


EXHIBIT I

TRUTH-IN-NEGOTIATIONS

Negotiated Fees (FS 287.055)

(DESIGNER- ENGINEER - CONSTRUCTION MANAGER)

The undersigned hereby certifies under the penalties of perjury that the wage rate and other costs used to support its compensation are accurate, complete and current at the time of contracting. The undersigned agrees that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the City determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

Company Name (Typed): Turrell, Hall & Associates, Inc.

City of Cape Coral Project Title: Design of Neighborhood & Community Parks – RFP-PW19-45/AP

Authorized Name: Marielle Nageon de Lestang
Printed Name

Representative Title: Treasurer & Operations Manager
Printed Title

Representative Signature: *Marielle*

Date Signed: 5/31/19
Date

Notary Name: Julie Valdez
Printed Name

Notary Address: 3584 Exchange Ave
Naples, FL 34104

Florida County: Collier

Notary Date: 5/31/19
Date

Notary Seal:

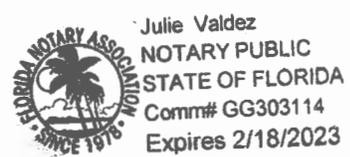


EXHIBIT “J”

Business Ethics Requirements

BUSINESS ETHICS REQUIREMENTS

1. During the course of pursuing contracts with Owner and while performing services in accordance with this agreement, Consultant and/or Contractor agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the Owner best interests.
2. Consultant and/or Contractor shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Owner's best interests. These obligations shall apply to the activities of contractor employees, agents, subcontractors, subcontractor employees, sub-consultants of consultant and/or contractor, etc.

Consultant and/or Contractor employees, agents, subcontractors, material suppliers (or their representatives) should not make or cause to be made any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to Owner's representatives, employees or their relatives.

Consultant and/or Contractor employees, agents or subcontractors (or their relatives) should not receive any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from representatives of subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the project.

3. Consultant and/or Contractor agrees to notify a designated Owner representative within 48 hours of any instance where the Contractor becomes aware of a failure to comply with the provisions of this article.
4. The e-mail address and/or telephone number to report any concerns related to any possible violations of the Owner's Business Ethics Expectations are as follows:

E-mail: Alicia Pearce, apearce@capecoral.net Telephone: 239-574-0841

5. Upon request by Owner, Consultant and/or Contractor agrees to provide a certified Management Representation Letter executed by selected Consultant and/or Contractor representatives in a form agreeable to Owner stating that they are not aware of any situations violating the business ethics expectations outlined in this contract or any similar potential conflict of interest situations.
6. Consultant and/or Contractor agrees to include this clause in all contracts with subcontractors and material suppliers receiving more than \$25,000 in funds in connection with the Owner's project.
7. Consultant and/or Contractor shall permit interviews of employees, reviews and audits of accounting or other records by Owner representative(s) to evaluate compliance with the business ethics standards. Such reviews and audits will encompass all dealings and activities of Consultant and/or Contractor's employees, agents, representatives, vendors, subcontractors, and other third parties paid by Contractor in their relations with Owner's current or former employees or employee relatives.
8. Consultant and/or Contractor agrees to implement a program requiring their employees sign acknowledgements that they have read and understand Owner's Business Ethics Expectations and the related obligations outlined in this contract exhibit.

Signature _____


Date 2/28/2019

Item Number: B.(10)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 151-19 Approve a Change Order in the amount of \$20,000 to Purchase Order (PO) #51180 to Sam Galloway Ford increasing said Purchase Order to \$69,000. This PO was established for preventative maintenance and repairs for fleet vehicles, in October 2018, by piggybacking Lee County Contract No. B180548TJM, Ford Vehicle Service & Repairs which expires in April 23, 2020; And authorize the City Manager or Designee to sign the change order and purchase order; Department: Public Works; Estimated dollar value \$20,000 for increase; (Total \$69,000 - Fleet Internal Service Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. A Purchase Order (PO#51180) was established for preventative maintenance and repairs for fleet vehicles with Sam Galloway Ford in October 2018 by piggybacking Lee County Contract No. B180548TJM, Ford Vehicle Service & Repairs, expiring April 23, 2020.
2. The initial purchase order was issued in the amount of \$25,000 and has been subject to two change orders to increase the value to \$49,000. As vehicle repair and maintenance is subject to a variety of conditional factors and is difficult to predict, there has been an increased need for services over the projection for this fiscal year.
3. This procurement was conducted by utilizing Lee County Contract B180548TJM which is governed by the City of Cape Coral Code of Ordinances, Article VII, Division 1, §2-144(f) which authorizes the City to purchase goods or services from contracts awarded by other governmental entities by competitive bid or request for proposal
4. The Public Works Department is requesting an increase of \$20,000 which would make the value of the PO \$69,000. This increase will cover the needed repairs until the end of FY19.
5. Funding: Account 500241.634120 – Fleet Outside Services

LEGAL REVIEW:

EXHIBITS:

Department Memo
Resolution 151-19

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Department Memo	Backup Material
▣ Resolution 151-19	Resolution

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

FINANCE

JUN 17 2019

RECEIVED

TO: John Szerlag, City Manager
Victoria Bateman, Finance Director
Wanda Roop, Procurement Manager

FROM: Paul Clinghan, Public Works Director
Marilyn Rawlings, Fleet Manager *MR PRL*

DATE: June 3, 2019

SUBJECT: Open Purchase Order over \$50,000 – Sam Galloway Ford

Background

An open purchase order was established for preventative maintenance and repairs for fleet vehicles with Sam Galloway Ford in October 2018 by piggybacking on Lee County Contract No. B180548TJM, *Ford Vehicle Service & Repairs*, expiring April 23, 2020. The initial purchase order was issued in the amount of \$25,000 and has been subject to two change orders to increase the value to \$49,000. As vehicle repair and maintenance is subject to a variety of conditional factors and is difficult to predict, there has been an increased need for services over the projection this fiscal year. It is anticipated that Fleet may require an additional \$30,000 in services from Sam Galloway Ford the remainder of FY19.

Actual expenses and work in progress to date equals \$36,041 leaving an unencumbered balance of \$12,959. As the Ford fleet ages and warranties expire, it is difficult to accurately estimate repair expenses. The current fiscal year has exceeded the previous 3-year average of \$31,325. This year we have experienced 3 unusual repairs totaling \$30,690.

Sam Galloway Ford provides factory trained technicians and Ford factory parts for services and repairs. Under Lee County Contract No. B180548TJM, the City is provided services at an \$80 per hour labor rate and a flat 10% markup on parts.

Recommendation

Fleet Management recommends the increase of Purchase Order 51180 from \$49,000 to \$69,000.

Funding Availability

Fleet Management will utilize Sam Galloway Ford for preventative maintenance and repairs by piggybacking on the Lee County Contract No. B180548TJM, *Ford Vehicle Service & Repairs*, expiring April 23, 2020. The budgeted \$69,000 is in account 500241.634120 (Fleet-Outside Services).

PC/MLR:gm

RESOLUTION 151 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING A CHANGE ORDER TO PURCHASE ORDER #51180 TO SAM GALLOWAY FORD IN ACCORDANCE WITH LEE COUNTY CONTRACT #B180548TJM; AUTHORIZING THE EXECUTION OF THE CHANGE ORDER AND PURCHASE ORDER BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in October 2018, Purchase Order #51180 was issued in the amount of \$25,000 to Sam Galloway Ford for preventative maintenance and repairs for fleet vehicles by piggybacking Lee County Contract #B180548TJM, Ford Vehicle Service & Repairs; and

WHEREAS, vehicle repairs and maintenance are subject to a variety of factors and difficult to predict, and there has been an increased need for services over the initial projection for this fiscal year; and

WHEREAS, two change orders have previously been issued, increasing the amount of the initial purchase order to \$49,000; and

WHEREAS, the Public Works Department is requesting approval of an additional change order in the amount of \$20,000 to cover the needed repairs through the end of Fiscal Year 2019, bringing the total value of Purchase Order #51180 to \$69,000.

WHEREAS, Section 2-144(f) of the City of Cape Coral Code of Ordinances authorizes the City to purchase goods or services under a contract awarded by another governmental entity by competitive bid; and

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

WHEREAS, the Procurement Manager has considered the requirements stated in Section 2-144(f) of the Code of Ordinances in making her determination to use the Lee County Contract.

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

Section 1. The City Council hereby approves a Change Order in the amount of \$20,000 to Purchase Order #51180 to Sam Galloway Ford for preventative maintenance and repairs for fleet vehicles, in accordance Lee County Contract #B180548TJM, increasing the total amount of the purchase order to \$69,000, and authorizes the City Manager or his designee to execute the change order and purchase order.

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



for DOLORES D. MENENDEZ
CITY ATTORNEY
res/Change Order to PO-Sam Galloway Ford

Item Number: B.(11)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 245-19 Federal Fiscal Year (FFY) 2018 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - JAG Countywide-State Solicitation; Department: Police

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The Edward Byrne JAG program is an annual state solicitation passed through the U.S. Department of Justice for state and local law enforcement initiatives.
2. The Police Department on behalf of the City, will apply for funding in the amount of \$93,616, for Fiscal Year 2020.
3. There are no matching funds required.
4. Funds will be used to purchase license plate readers.
5. The Police Department is requesting approval for the Mayor to execute the letter of support.
6. Upon being awarded, documents will be presented to Council for approval at a later date.

LEGAL REVIEW:

EXHIBITS:

Resolution 245-19
Letter of Support
Byrne Grant Synopsis

PREPARED BY:

Shannon
Northorp Division- Administration Department- Police

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Resolution 245-19	Resolution
▣ Letter of Support	Backup Material
▣ Byrne Grant Synopsis	Backup Material

RESOLUTION 245 - 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE PROPOSED DISTRIBUTION OF FUNDS FROM THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE A LETTER OF APPROVAL OF THE GRANT FUNDED PROJECTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Edward Byrne Memorial Justice Assistance Grant program is a federal program that provides grant funds to counties in Florida and all eligible agencies within the county; and

WHEREAS, the City of Cape Coral is seeking \$93,616 for the purpose of purchasing license plate readers; and

WHEREAS, a condition of participation in the grant program is that local units of government reach a consensus on the expenditure of the funds; and

WHEREAS, the Police Chief recommends that the Mayor approve the proposed distribution of grant funds within Lee County.

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

Section 1. The City Council hereby approves the proposed distribution of grant funds from the Edward Byrne Memorial Justice Assistance Grant program and authorizes the Mayor to sign a letter of approval. The City of Cape Coral is requesting \$93,616 for the purchase of license plate readers. A copy of the letter of approval is attached hereto as Exhibit A.

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY

July 22, 2019

Ms. Rona Kay Cradit
Bureau Chief
Office of Criminal Justice Grants
Florida Department of Law Enforcement
P.O Box 1489
Tallahassee, Florida 32302-1489

Dear Ms. Cradit:

In compliance with State of Florida *Rule 11D-9*, F.A.C., the City of Cape Coral approves the distribution of \$188,768 (total allocation available) of the Federal Fiscal Year 2018 Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds for the following projects within Lee County:

<u>SUBGRANT (City or County)</u>	<u>Title of Project</u>	<u>Federal funds</u>
City of Cape Coral (Law Enforcement)	Purchase of license plate readers	\$93,616
City of Fort Myers (Law Enforcement)	Purchase of license plate readers	\$45,652
Lee County Port Authority (Law Enforcement)	Purchase of license plate readers	\$22,000
Lee County Port Authority (Law Enforcement)	Purchase of evidence storage locker and two radar units for vehicles	\$10,787
Lee County (Human and Veteran Services)	Lee County Triage Center/Low Demand Shelter Operation	\$27,500
	Total:	\$188,768

Sincerely,

Joe Coviello
Mayor, City of Cape Coral

DATE

Ms. Rona Kay Cradit
Bureau Chief
Office of Criminal Justice Grants
Florida Department of Law Enforcement
P.O Box 1489
Tallahassee, Florida 32302-1489

Dear Ms. Cradit:

In compliance with State of Florida *Rule 11D-9*, F.A.C., the City of Cape Coral approves the distribution of \$188,768 (total allocation available) of the Federal Fiscal Year 2018 Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds for the following projects within Lee County:

<u>SUBGRANT (City or County)</u>	<u>Title of Project</u>	<u>Federal funds</u>
City of Cape Coral (Law Enforcement)	Purchase of license plate readers	\$93,616
City of Fort Myers (Law Enforcement)	Purchase of license plate readers	\$45,652
Lee County Port Authority (Law Enforcement)	Purchase of license plate readers	\$22,000
Lee County Port Authority (Law Enforcement)	Purchase of evidence storage locker and two radar units for vehicles	\$10,787
Lee County (Human and Veteran Services)	Lee County Triage Center/Low Demand Shelter Operation	\$27,500
	Total:	\$188,768

Sincerely,

Joe Coviello
Mayor, City of Cape Coral

The Florida Department of Law Enforcement has allocated Lee County \$188,768 in FY 18 Edward Byrne Memorial Justice Assistance Grant Program funding. Eligible applicants met June 20, 2019, to reach consensus on the allocation of those funds. Below are the recommended proposals and allocation amounts:

Cape Coral Police Department

Amount: \$93,616

Funding will be used to purchase license plate readers for agency operations. Cape Coral Police Department, Fort Myers Police Department, Lee County Sheriff's Office and the Port Authority Police, all access the same software application, providing for a countywide collaboration.

Fort Myers Police Department

Amount: \$45,652

Funding will be used to purchase license plate readers for agency operations. Cape Coral Police Department, Fort Myers Police Department, Lee County Sheriff's Office and the Port Authority Police, all access the same software application, providing for a countywide collaboration.

Lee County Port Authority Police

Amount: \$22,000

Funding will be used to purchase license plate readers for agency operations. Cape Coral Police Department, Fort Myers Police Department, Lee County Sheriff's Office and the Port Authority Police, all access the same software application, providing for a countywide collaboration.

Lee County Human and Veteran Services

Amount \$27,500

Funding will be used to pay a portion of the per diem rate to house individuals at the Bob Janes Triage Center/Low Demand Shelter. The Triage Center is a single point of entry that allows an alternative to incarceration for individuals at risk of being charged with minor ordinance violation or non-violent offenses and to provide access to behavioral health services. Many individuals brought to the Triage Center are homeless and have a substance use disorder or mental illness, often an underlying reason for the nuisance type crimes that brought them to the attention of law enforcement.

Item Number: B.(12)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 246-19 Approve Burnt Store Centre Plat; Department: DCD; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. On February 9, 2015 Council Approved Ordinance 45-14 for Burnt Store Centre.
2. A copy of the final plat presented for approval is attached.

LEGAL REVIEW:

EXHIBITS:

Resolution 246-19

PREPARED BY:

David A. Hyyti, Development
Services Manager 573-3184

Division- Development
Services

Department- Community
Development

SOURCE OF ADDITIONAL INFORMATION:

David A. Hyyti

ATTACHMENTS:

Description	Type
□ Resolution 246-19	Resolution

RESOLUTION 246 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE PLAT FOR THE BURNT STORE CENTRE SUBDIVISION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 177, Florida Statutes, and Sections 4.2.5.H. and 4.2.5.I. of the Land Use and Development Regulations set forth the regulations and procedures for the subdivision of land and the final subdivision plat approval; and

WHEREAS, after the adoption of a planned development project, the City of Cape Coral requires the submission of a final subdivision plat for review by the Department of Community Development for compliance with all regulations; and

WHEREAS, before a plat is offered for recording, the Plat must be approved by the City Council; and

WHEREAS, upon approval of the subdivision plat by City Council, the Mayor shall indicate the approval by signing the certificate of approval for recording; and

WHEREAS, an approved subdivision plat shall be recorded at the expense of the applicant with the Lee County Clerk of Court; and

WHEREAS, the City of Cape Coral adopted Ordinance 45-14 on February 9, 2015, approving the "Burnt Store Centre Subdivision" planned development project which included the subdivision of property; and

WHEREAS, the Director of Community Development has approved the plat attached hereto as Exhibit A as being in conformance with the approved development plan and all other applicable regulations.

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

Section 1. The City Council hereby approves the plat for the Burnt Store Centre Subdivision as being substantially in accordance with the approved Subdivision Plan as set forth in Ordinance 45-14 and all other applicable regulations. A copy of the proposed "Burnt Store Centre Subdivision" plat is attached hereto as Exhibit A.

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY

res/Plat Approval-Burnt Store Centre

KING ENGINEERING ASSOCIATES, INC.
 324 NICHOLAS PARKWAY WEST, SUITE A
 CAPE CORAL, FLORIDA 33991
 PHONE 239-673-9541 FAX 239-424-8181
 FLORIDA AUTHORIZATION NO. LB6210

BURNT STORE CENTRE

INSTRUMENT # _____

A REPLAT OF BLOCK 4192-A OF CAPE CORAL, UNIT 59 AS RECORDED IN PLAT BOOK 19, PAGES 140
 THROUGH 153 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, LYING IN SECTION 7, TOWNSHIP 44
 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

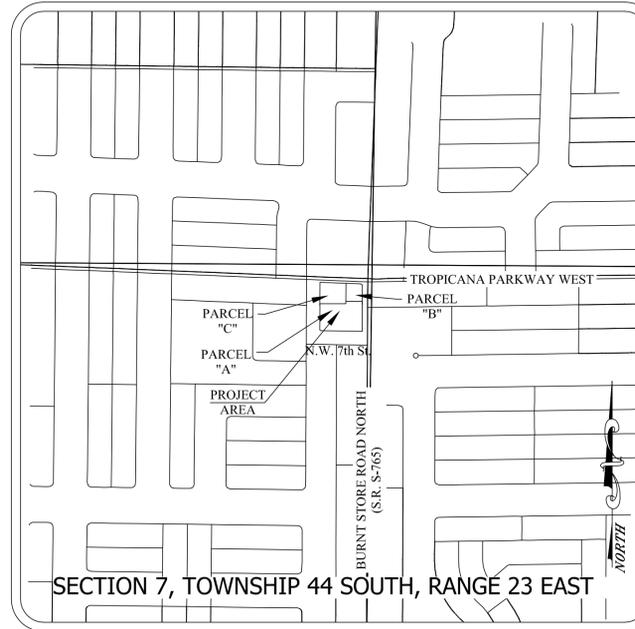
DESCRIPTION:

ALL OF BLOCK 4192-A, CAPE CORAL UNIT 59, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 19, PAGE 140, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID BLOCK 4192-A, THENCE RUN S87°41'44"E, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF TROPICANA PARKWAY WEST (100' R/W), A DISTANCE OF 522.93 FEET TO A POINT OF CURVATURE; THENCE RUN 38.69 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT OF RADIUS 25.00 FEET, CONCAVE TO THE SOUTHWEST, HAVING A DELTA ANGLE OF 88°39'56", A CHORD BEARING OF S43°21'46"E AND A CHORD LENGTH OF 34.94 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF BURNT STORE ROAD NORTH (S.R. S-765)(200' R/W), BEING A POINT OF REVERSE CURVATURE; THENCE RUN 237.20 FEET, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID REVERSE CURVE TO THE LEFT OF RADIUS 17,256.73 FEET, CONCAVE TO THE EAST, HAVING A DELTA ANGLE OF 00°47'15", A CHORD BEARING OF S00°34'34"W AND A CHORD LENGTH OF 237.20 FEET TO A POINT OF TANGENCY; THENCE RUN S00°10'57"W, CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 344.50 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF AN UNIMPROVED 20 FOOT WIDE ALLEY AS RECORDED IN SAID CAPE CORAL UNIT 59, BEING THE SOUTHEAST CORNER OF SAID BLOCK 4192-A; THENCE RUN THE FOLLOWING THREE (3) COURSES AND DISTANCES ALONG THE NORTHERLY AND EASTERLY LINE OF SAID 20 FOOT WIDE ALLEY, (1) N89°16'12"W A DISTANCE OF 530.18 FEET TO A POINT OF CURVATURE; (2) THENCE RUN 23.42 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT OF RADIUS 15.00 FEET, CONCAVE TO THE NORTHEAST, HAVING A DELTA ANGLE OF 89°27'09", A CHORD BEARING OF N44°32'37"W AND A CHORD LENGTH OF 21.11 FEET TO A POINT OF TANGENCY; (3) THENCE RUN N00°10'57"E A DISTANCE OF 606.32 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 7.68± ACRES

BEARINGS ARE BASED ON THE SOUTH LINE OF TROPICANA PARKWAY WEST BEING S87°41'44"E.



LOCATION MAP
 NOT TO SCALE

NOTICE:
 THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

NOTICE:
 LANDS DESCRIBED IN THIS PLAT MAY BE SUBDIVIDED BY THE DEVELOPER WITHOUT THE ROADS, DRAINAGE, WATER AND SEWER FACILITIES BEING ACCEPTED FOR MAINTENANCE BY THE CITY OF CAPE CORAL OR LEE COUNTY. ANY PURCHASER OF A LOT IN THIS SUBDIVISION IS ADVISED TO DETERMINE WHETHER THE LOT MAY BE SUBJECT TO ASSESSMENT OR CALLED UPON TO BEAR A PORTION OR ALL OF THE EXPENSE OF CONSTRUCTION, MAINTENANCE OR IMPROVEMENT OF ROADS, DRAINAGE, WATER AND SEWER FACILITIES.

SURVEYORS NOTES:

- BEARINGS ARE BASED ON THE SOUTH LINE OF TROPICANA PARKWAY WEST, BEING S 87°41'44" E.
- ALL LOT LINES ARE RADIAL UNLESS OTHERWISE NOTED.
- MONUMENTS WILL BE SET PER FLORIDA STATUTE CHAPTER 177.091.
- PROPERTY IS SUBJECT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF 714 BURNT STORE ROAD RECORDED IN INSTRUMENT NUMBER 2014000077405, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WHICH CONTAIN PROVISIONS CREATING BUILDING AND USE RESTRICTIONS, MAINTENANCE OBLIGATIONS, EASEMENTS AND ASSESSMENTS.
- PROPERTY IS SUBJECT TO A PERPETUAL RIGHT-OF-WAY EASEMENT IN FAVOR OF LEE COUNTY ELECTRIC COOPERATIVE, INC. A FLORIDA NON-PROFIT CORPORATION AS RECORDED IN INSTRUMENT 2006000328921 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. (BLANKET IN NATURE, UNABLE TO PLOT GRAPHICALLY)

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF BURNT STORE CENTRE, SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, WAS PREPARED UNDER MY DIRECTION AND SUPERVISION AND COMPLIES WITH ALL OF THE SURVEY REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES. I FURTHER CERTIFY THAT THE PERMANENT REFERENCE MONUMENTS (PRMs) HAVE BEEN PLACED AT THE LOCATIONS SHOWN ON THE PLAT.

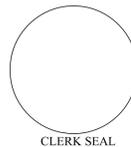
JEFFREY D. STOUTEN, PSM (FLORIDA CERTIFICATE NO. 6584)
 KING ENGINEERING ASSOCIATES, INC. (L.B. 2610)
 324 NICHOLAS PARKWAY WEST, SUITE A
 CAPE CORAL, FLORIDA 33991
 PHONE 239-673-9541 FAX 239-424-8181
 FLORIDA AUTHORIZATION NO. LB 2610



CLERK'S CERTIFICATE

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF BURNT STORE CENTRE A SUBDIVISION LOCATED IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, WAS FILED FOR RECORD THIS _____ DAY OF _____, 2019 AND DULY RECORDED AS INSTRUMENT # _____ IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LINDA DOGGETT CLERK OF
 THE CIRCUIT COURT IN AND
 FOR LEE COUNTY, FLORIDA



CITY OF CAPE CORAL APPROVALS

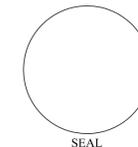
DOLORES D. MENENDEZ
 CITY ATTORNEY

VINCENT CAUTERO, AICP
 COMMUNITY DEVELOPMENT DIRECTOR

THIS PLAT OF BURNT STORE CENTRE WAS ACCEPTED AND APPROVED FOR RECORD THIS _____ DAY OF _____, 2019 IN AN OPEN MEETING OF THE CITY COUNCIL OF CAPE CORAL, LEE COUNTY, FLORIDA.

JOE COVIELLO, MAYOR

KIMBERLY BRUNS, CMC
 CITY CLERK



CITY SURVEYORS CERTIFICATION

A REVIEW BY THE DESIGNATED CITY PSM DETERMINED THAT THIS PLAT CONFORMS TO THE REQUIREMENTS OF FLORIDA STATUTES CHAPTER 177, PART 1.

BY: _____ DATE: _____
 MARK G. WENTZEL, PSM
 FLORIDA CERTIFICATION NO. 5247

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT 714 BURNT STORE ROAD, LLC, A FLORIDA LIMITED LIABILITY COMPANY AND SILENT PARTNER GRANTS, INC., A CALIFORNIA NON-PROFIT CORPORATION, THE OWNERS OF THE HEREIN DESCRIBED LANDS HAVE CAUSED THIS PLAT OF BURNT STORE CENTRE, A SUBDIVISION IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST TO BE MADE.

714 BURNT STORE ROAD, LLC AND SILENT PARTNER GRANTS, INC. DO HEREBY DEDICATE:

- TO 714 BURNT STORE ROAD PROPERTY OWNERS' ASSOCIATION, INC., A FLORIDA NON-PROFIT CORPORATION:
 - ALL ACCESS, DRAINAGE AND UTILITY EASEMENTS DEPICTED HEREON FOR THEIR RESPECTIVE USES WITH RESPONSIBILITY FOR MAINTENANCE.
- TO FEDERAL, STATE AND LOCAL GOVERNMENTAL AGENCIES AND DEPARTMENTS AND TO ALL PUBLIC UTILITIES AS DEFINED BY FLORIDA LAW, AS AMENDED FROM TIME TO TIME, WHETHER PRIVATELY OR GOVERNMENTALLY OWNED, FOR USE IN DISCHARGING OF THEIR RESPECTIVE OFFICIAL DUTIES AND OBLIGATIONS TO PROVIDE UTILITY AND OTHER GOVERNMENTAL SERVICES.
 - ALL PUBLIC UTILITY AND DRAINAGE EASEMENTS DEPICTED HEREON WITHOUT RESPONSIBILITY FOR MAINTENANCE.

ACKNOWLEDGEMENT

IN WITNESS WHEREOF, M. DAN CREIGHTON, AS MANAGER OF 714 BURNT STORE ROAD, LLC, A FLORIDA LIMITED LIABILITY COMPANY, HAS EXECUTED AND CAUSED THIS DEDICATION TO BE MADE AND SIGNED THIS _____ DAY OF _____, 2019.

PRINTED NAME: _____
 AS _____ OF _____

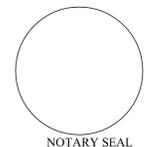
WITNESS _____
 PRINTED NAME _____
 WITNESS _____
 PRINTED NAME _____

NOTARY ACKNOWLEDGEMENT

STATE OF FLORIDA)
 COUNTY OF LEE) SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2019 BY M. DAN CREIGHTON AS MANAGER OF 714 BURNT STORE ROAD, LLC, A FLORIDA LIMITED LIABILITY COMPANY, WHO IS PERSONALLY KNOWN TO ME OR HAS PROVIDED _____ AS IDENTIFICATION.

NOTARY SIGNATURE _____
 PRINT NAME OF NOTARY _____
 COMMISSION NO. _____
 MY COMMISSION EXPIRES _____



ACKNOWLEDGEMENT

IN WITNESS WHEREOF, _____, AS _____ OF SILENT PARTNER GRANTS, A CALIFORNIA NON-PROFIT CORPORATION, HAS EXECUTED AND CAUSED THIS DEDICATION TO BE MADE AND SIGNED THIS _____ DAY OF _____, 2019.

PRINTED NAME: _____
 AS _____ OF _____

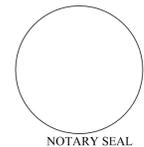
WITNESS _____
 PRINTED NAME _____
 WITNESS _____
 PRINTED NAME _____

NOTARY ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
 COUNTY OF LOS ANGELES) SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2019 BY _____ AS _____ FOR SILENT PARTNER GRANTS, A CALIFORNIA NON-PROFIT CORPORATION, WHO IS PERSONALLY KNOWN TO ME OR HAS PROVIDED _____ AS IDENTIFICATION.

NOTARY SIGNATURE _____
 PRINT NAME OF NOTARY _____
 COMMISSION NO. _____
 MY COMMISSION EXPIRES _____

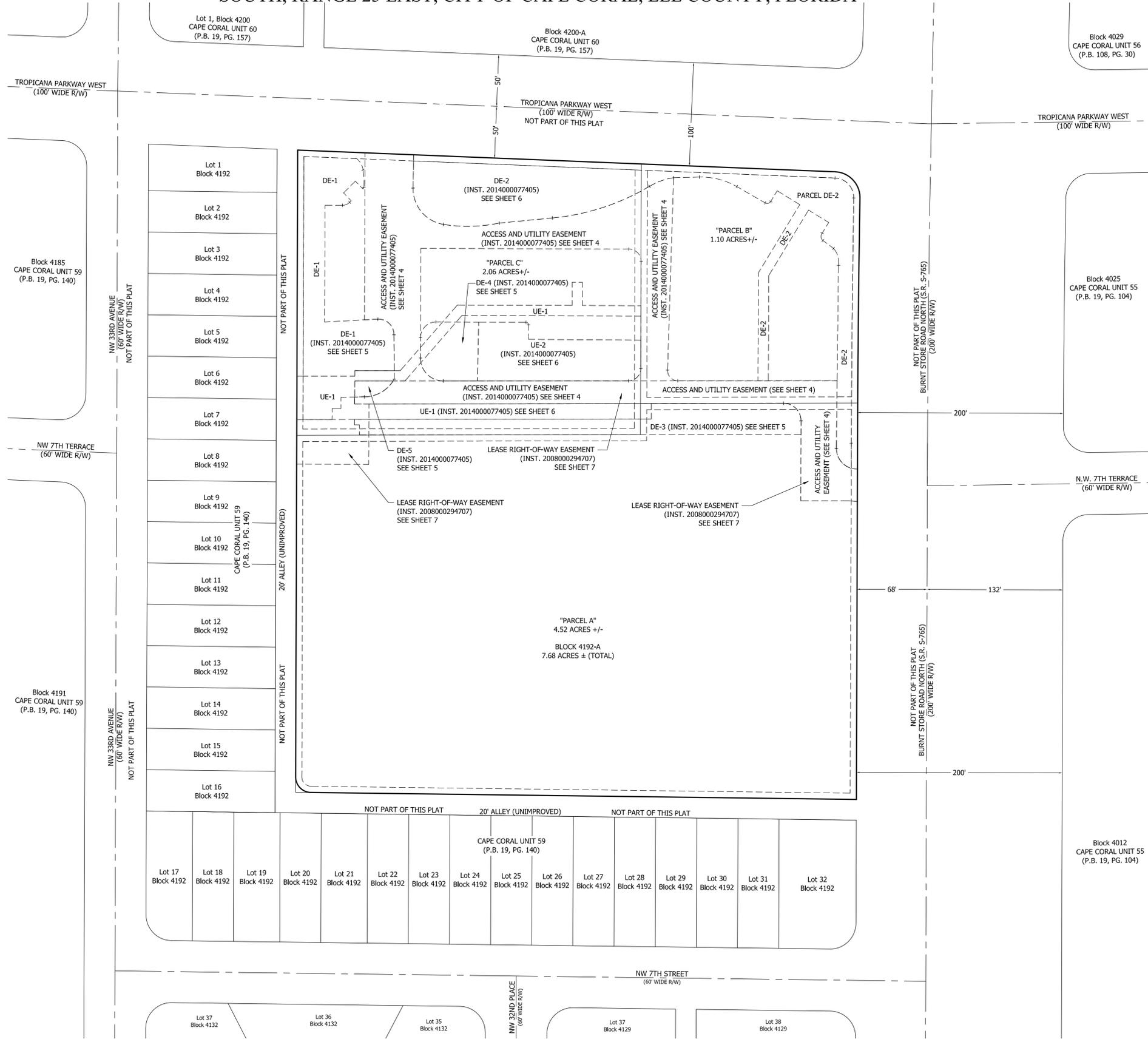


DOS 2019 - / PLT 2019 -

BURNT STORE CENTRE

INSTRUMENT # _____

A REPLAT OF BLOCK 4192-A OF CAPE CORAL, UNIT 59 AS RECORDED IN PLAT BOOK 19, PAGES 140 THROUGH 153 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, LYING IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



NOT PART OF THIS PLAT																	20' ALLEY (UNIMPROVED)		NOT PART OF THIS PLAT																
NOT PART OF THIS PLAT																	CAPE CORAL UNIT 59 (P.B. 19, PG. 140)		NOT PART OF THIS PLAT																
Lot 17	Lot 18	Lot 19	Lot 20	Lot 21	Lot 22	Lot 23	Lot 24	Lot 25	Lot 26	Lot 27	Lot 28	Lot 29	Lot 30	Lot 31	Lot 32																				
Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192	Block 4192																			

LEGEND	
◆	FOUND NAIL AND TAB
△	SET NAIL AND TAB "P.C.P. LB 2610"
●	FOUND STEEL PIN
○	SET 5/8" IRON ROD AND CAP "P.R.M. LB 2610"
■	CONCRETE MONUMENT
SQ. FT.	SQUARE FEET
CONC.	CONCRETE
MON.	MONUMENT
R/W	RIGHT OF WAY
INST.	INSTRUMENT NUMBER
D.E.	DRAINAGE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
A.E.	ACCESS EASEMENT
P.B.	PLAT BOOK
PG.	PAGE
C1	CURVE NUMBER (TYPICAL)
L1	LINE NUMBER (TYPICAL)
(D)	DEED MEASUREMENT
(C)	CALCULATED MEASURED

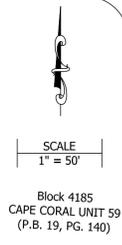
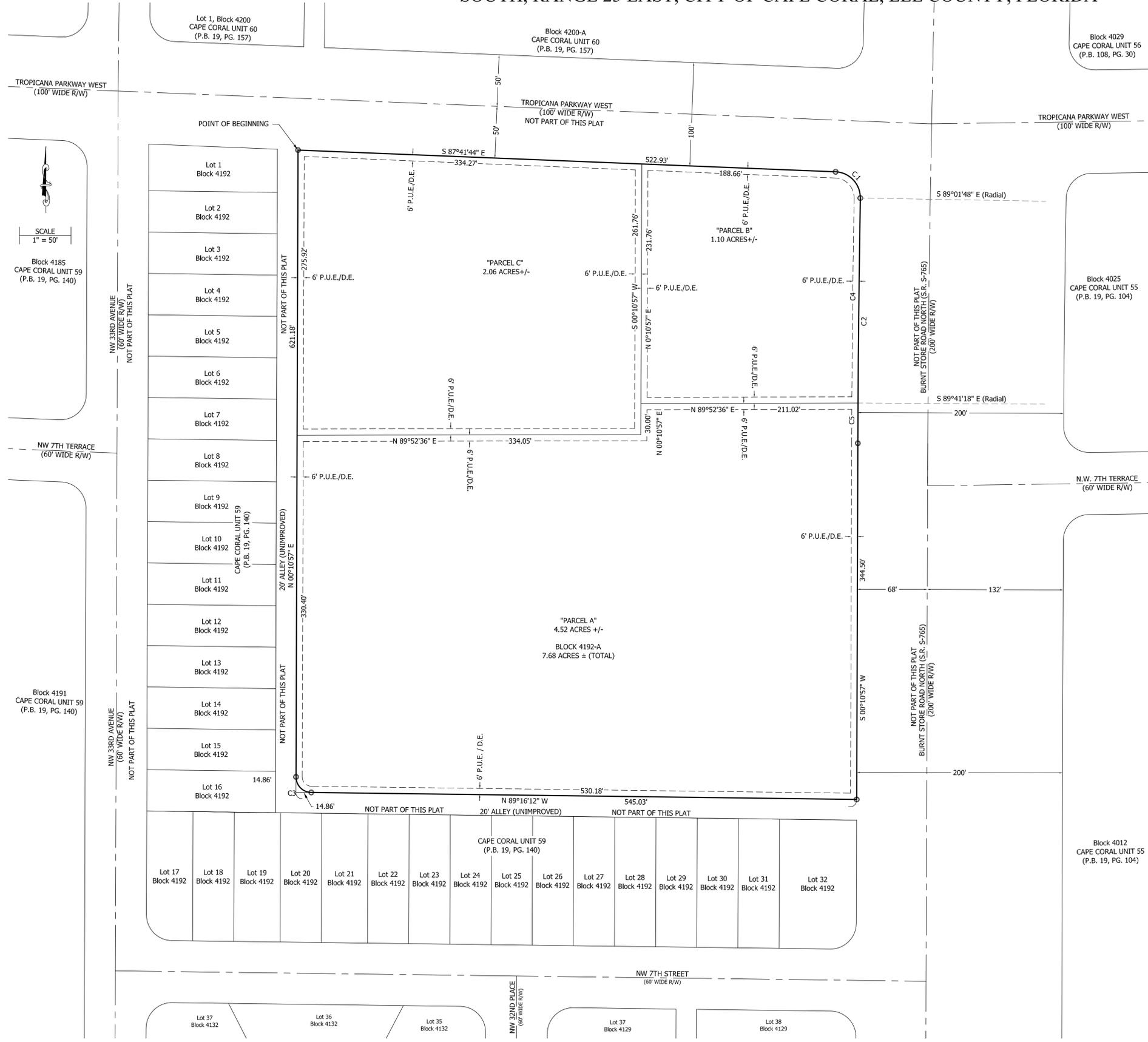
KEY MAP

DOS 2019 - / PLT 2019 -

BURNT STORE CENTRE

INSTRUMENT # _____

A REPLAT OF BLOCK 4192-A OF CAPE CORAL, UNIT 59 AS RECORDED IN PLAT BOOK 19, PAGES 140 THROUGH 153 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, LYING IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	38.69	25.00	88°39'56"	S 43°21'46" E	34.94
C2	237.20	17256.73	00°47'15"	S 00°34'34" W	237.20
C3	23.42	15.00	89°27'09"	N 44°32'37" W	21.11
C4	198.33	17256.73	00°39'31"	S 00°38'27" W	198.33
C5	38.87	17256.73	00°07'45"	S 00°14'49" W	38.87

LEGEND	
	FOUND NAIL AND TAB
	SET NAIL AND TAB "P.C.P."
	FOUND STEEL PIN
	SET 5/8" IRON ROD AND CAP
	"P.R.M. LB 2610"
	CONCRETE MONUMENT
SQ. FT.	SQUARE FEET
CONC.	CONCRETE
MON.	MONUMENT
R/W	RIGHT OF WAY
INST.	INSTRUMENT NUMBER
D.E.	DRAINAGE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
A.E.	ACCESS EASEMENT
P.B.	PLAT BOOK
PG.	PAGE
C1	CURVE NUMBER (TYPICAL)
L1	LINE NUMBER (TYPICAL)
(D)	DEED MEASUREMENT
(C)	CALCULATED MEASURED

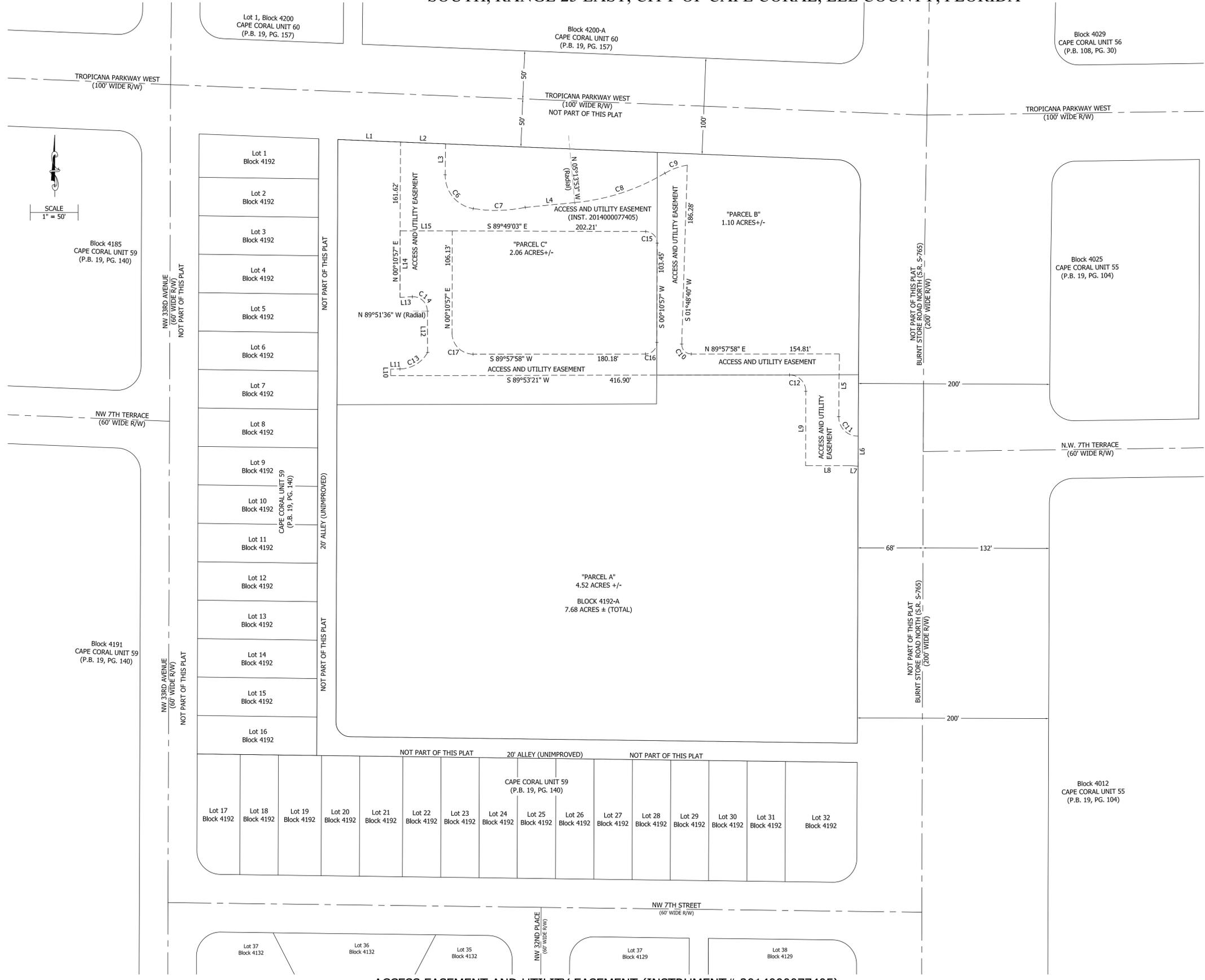
DOS 2019 - / PLT 2019 -

PLAT BOUNDARY AND LOTS

BURNT STORE CENTRE

INSTRUMENT # _____

A REPLAT OF BLOCK 4192-A OF CAPE CORAL, UNIT 59 AS RECORDED IN PLAT BOOK 19, PAGES 140 THROUGH 153 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, LYING IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



LINE TABLE

LINE	BEARING	LENGTH
L1	S 87°41'44" E	65.56'
L2	S 87°41'44" E	47.25'
L3	S 00°55'56" W	32.23'
L4	N 84°30'03" E	51.93'
L5	S 00°38'31" W	65.33'
L6	S 00°10'57" W	31.30'
L7	N 85°35'22" W	8.50'
L8	S 89°57'47" W	46.47'
L9	N 00°11'42" E	77.37'
L10	N 00°06'39" W	6.75'
L11	N 88°59'34" E	9.66'
L12	N 00°27'39" W	42.90'
L13	S 86°56'10" W	12.86'
L14	N 00°10'57" E	69.31'
L15	S 89°49'03" E	54.51'
L16	S 00°10'57" W	6.23'

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C6	50.00	35.00	81°51'04"	S 39°59'36" E	45.86
C7	54.59	150.00	20°51'08"	N 88°39'18" E	54.29
C8	100.00	225.00	25°27'53"	N 72°02'11" E	99.18
C9	25.00	65.00	22°02'13"	S 70°19'21" W	24.85
C10	16.03	10.00	91°50'42"	S 44°06'41" E	14.37
C11	32.09	20.00	91°55'47"	S 45°19'23" E	28.76
C12	26.79	17.00	90°18'21"	N 44°57'29" W	24.11
C13	35.36	34.00	59°35'00"	N 59°12'04" E	33.79
C14	24.40	15.00	93°12'14"	N 46°27'43" W	21.80
C15	18.85	12.00	90°00'00"	S 44°49'03" E	16.97
C16	18.80	12.00	89°47'01"	S 45°04'27" W	16.94
C17	34.64	22.00	90°12'59"	N 44°55'33" W	31.17

LEGEND

- ⊕ FOUND NAIL AND TAB
- △ SET NAIL AND TAB "P.C.P. LB 2610"
- ⊙ FOUND STEEL PIN
- SET 5/8" IRON ROD AND CAP "P.R.M. LB 2610"
- CONCRETE MONUMENT
- SQ. FT. SQUARE FEET
- CONC. CONCRETE
- MON. MONUMENT
- R/W RIGHT OF WAY
- INST. INSTRUMENT NUMBER
- D.E. DRAINAGE EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- A.E. ACCESS EASEMENT
- P.B. PLAT BOOK
- PG. PAGE
- C1 CURVE NUMBER (TYPICAL)
- L1 LINE NUMBER (TYPICAL)
- (D) DEED MEASUREMENT
- (C) CALCULATED MEASURED

DOS 2019 - / PLT 2019 -

BURNT STORE CENTRE

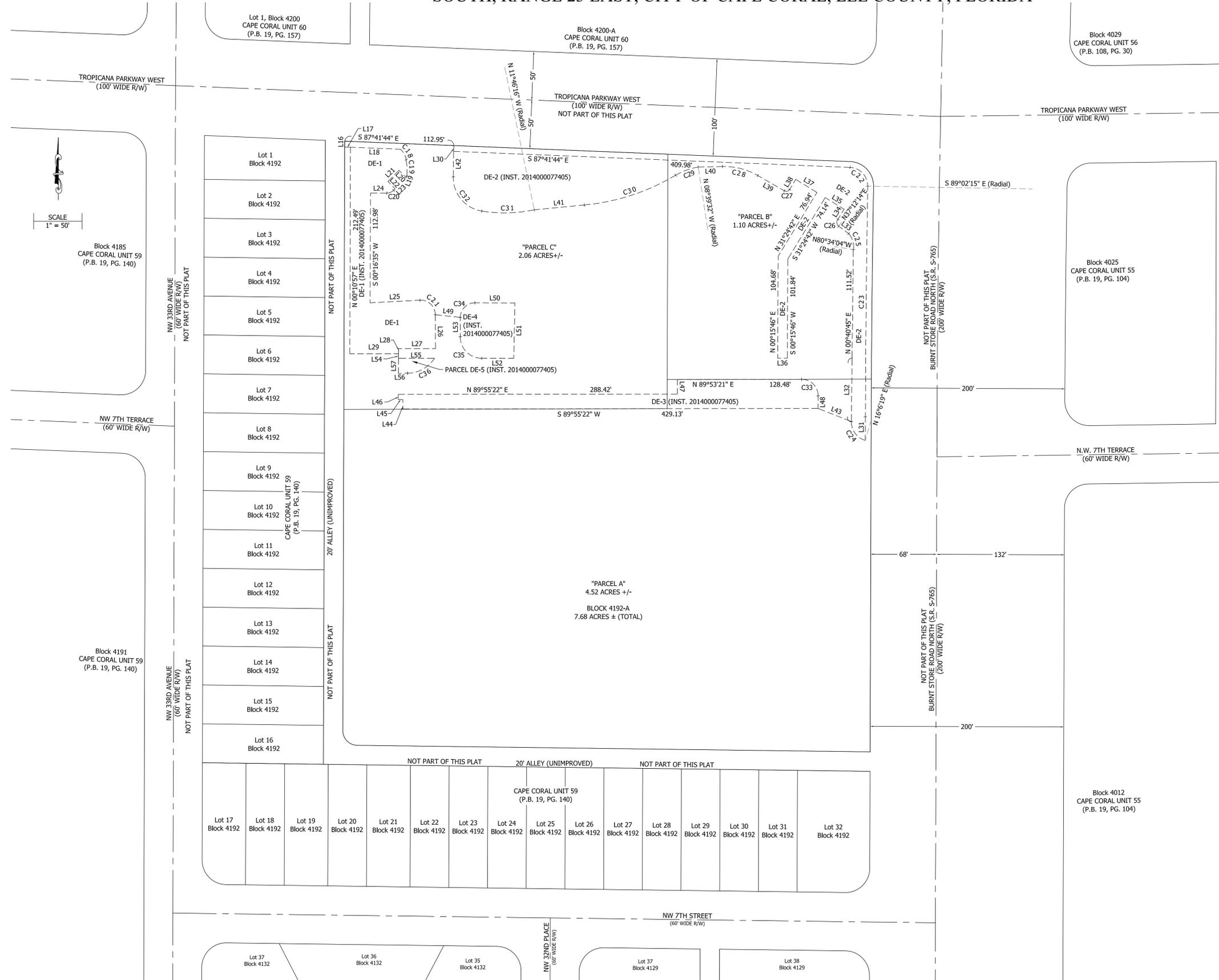
INSTRUMENT # _____

A REPLAT OF BLOCK 4192-A OF CAPE CORAL, UNIT 59 AS RECORDED IN PLAT BOOK 19, PAGES 140 THROUGH 153 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, LYING IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

LINE TABLE		
LINE	BEARING	LENGTH
L16	S 00°10'57" W	6.23'
L17	S 89°49'03" E	6.00'
L18	S 87°41'44" E	51.55'
L19	S 23°11'23" W	1.94'
L20	N 44°28'46" W	10.70'
L21	S 45°31'14" W	16.19'
L22	S 44°28'46" E	10.73'
L23	S 45°31'14" W	2.16'
L24	N 89°42'32" W	16.78'
L25	N 86°56'10" E	51.75'
L26	S 00°27'39" E	34.76'
L27	S 89°57'58" W	38.34'
L28	S 00°02'02" E	5.34'
L29	S 89°57'58" W	50.27'
L30	S 02°18'16" W	6.00'
L31	S 00°10'57" W	24.34'
L32	N 00°38'31" E	65.33'
L33	N 53°19'15" W	12.90'
L34	N 31°30'12" E	12.16'
L35	N 58°29'48" W	22.95'
L36	S 89°57'58" W	10.00'
L37	N 58°29'48" W	25.71'
L38	S 31°24'39" W	12.11'
L39	N 60°12'08" W	31.73'
L40	S 88°37'00" W	25.03'
L41	S 84°30'03" W	51.93'
L42	N 00°55'56" E	26.23'
L43	N 68°35'35" W	36.92'
L44	N 00°11'42" E	9.72'
L45	N 89°48'18" W	4.79'
L46	N 00°22'19" E	5.26'
L47	N 00°06'39" W	15.00'
L48	S 00°11'42" W	12.99'
L49	S 84°10'01" E	25.95'
L50	S 89°47'12" E	41.40'
L51	S 01°12'03" W	56.89'
L52	S 89°57'58" W	33.32'
L53	N 00°10'57" E	20.02'
L54	S 00°02'02" E	4.66'
L55	N 89°57'58" E	37.27'
L56	S 88°46'18" W	9.48'
L57	N 00°22'19" E	15.62'

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C18	12.60	17.00	42°27'19"	S 29°30'54" E	12.31
C19	16.94	88.93	10°54'42"	S 02°49'53" E	16.91
C20	7.81	10.00	44°46'14"	S 67°54'21" W	7.62
C21	24.40	15.00	93°12'14"	S 46°27'43" E	21.80
C22	29.35	19.00	88°30'43"	S 43°26'23" E	26.52
C23	237.27	17262.73	00°47'15"	S 00°34'52" W	237.27
C24	26.02	20.00	74°32'12"	S 36°37'35" E	24.22
C25	17.75	19.76	51°27'46"	N 16°17'57" W	17.16
C26	7.92	4.81	94°20'29"	S 05°37'31" E	7.06
C27	6.17	4.00	88°23'13"	N 75°36'15" E	5.58
C28	38.09	70.00	31°10'52"	N 75°47'34" W	37.63
C29	25.00	65.00	22°02'13"	S 70°19'21" W	24.85
C30	100.00	225.00	25°27'53"	N 72°02'11" E	99.18
C31	54.59	150.00	20°51'08"	N 88°39'18" E	54.29
C32	50.00	35.00	81°51'04"	S 39°59'36" E	45.86
C33	26.79	17.00	90°18'21"	N 44°57'28" W	24.11
C34	23.57	15.00	90°01'51"	S 45°11'53" W	21.22
C35	34.63	22.02	90°05'56"	S 44°55'33" E	31.17
C36	33.18	34.00	55°54'20"	N 61°02'24" E	31.87

LEGEND	
⊕	FOUND NAIL AND TAB
△	SET NAIL AND TAB "P.C.P. LB 2610"
⊙	FOUND STEEL PIN
○	SET 5/8" IRON ROD AND CAP "P.R.M. LB 2610"
■	CONCRETE MONUMENT
SQ. FT.	SQUARE FEET
CONC.	CONCRETE
MON.	MONUMENT
R/W	RIGHT OF WAY
INST.	INSTRUMENT NUMBER
D.E.	DRAINAGE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
A.E.	ACCESS EASEMENT
P.B.	PLAT BOOK
PG.	PAGE
C1	CURVE NUMBER (TYPICAL)
L1	LINE NUMBER (TYPICAL)
(D)	DEED MEASUREMENT
(C)	CALCULATED MEASURED



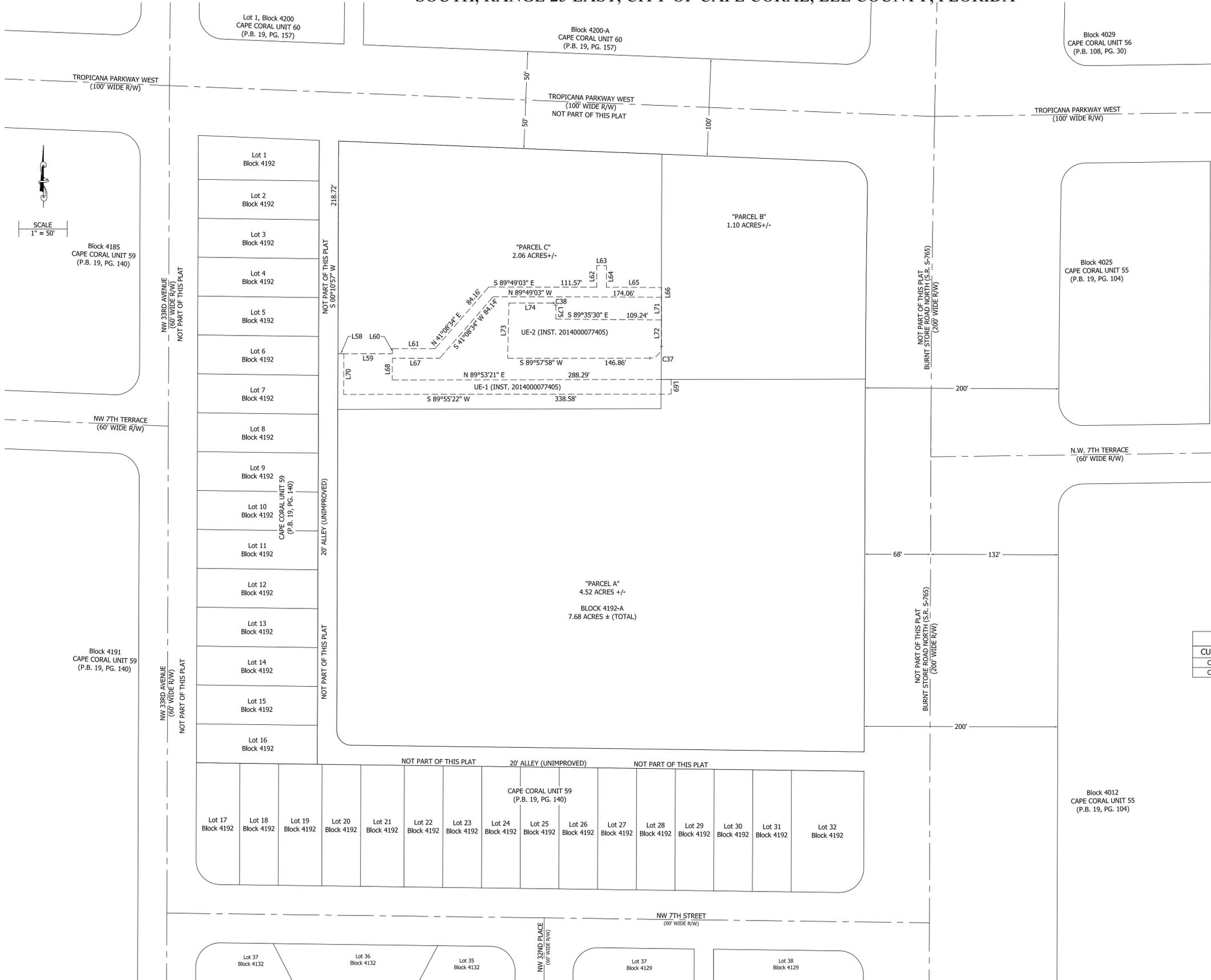
DOS 2019 - / PLT 2019 -

DRAINAGE EASMENTS (INSTRUMENT # 201400077405)

BURNT STORE CENTRE

INSTRUMENT # _____

A REPLAT OF BLOCK 4192-A OF CAPE CORAL, UNIT 59 AS RECORDED IN PLAT BOOK 19, PAGES 140 THROUGH 153 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, LYING IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



LINE TABLE		
LINE	BEARING	LENGTH
L58	S 89°49'03" E	6.00'
L59	N 89°57'58" E	50.27'
L60	N 00°02'02" W	5.34'
L61	N 89°57'58" E	44.20'
L62	N 00°10'57" E	22.38'
L63	S 89°49'03" E	10.00'
L64	S 00°10'57" W	22.38'
L65	S 89°49'03" E	57.05'
L66	S 00°10'57" W	10.00'
L67	S 89°57'58" W	48.74'
L68	S 00°22'19" W	22.33'
L69	S 00°06'39" E	15.00'
L70	N 00°10'57" E	41.86'
L71	S 00°10'57" W	23.36'
L72	S 00°10'57" W	27.36'
L73	N 01°12'03" E	56.89'
L74	S 89°47'12" E	45.99'
L75	S 00°06'36" E	14.02'

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C37	18.80	12.00	89°47'01"	N 45°04'28" E	16.94
C38	3.91	2.50	89°40'36"	N 44°56'54" W	3.53

LEGEND	
	FOUND NAIL AND TAB
	SET NAIL AND TAB "P.C.P."
	FOUND STEEL PIN
	SET 5/8" IRON ROD AND CAP
	CONCRETE MONUMENT
	SQ. FT.
	CONCRETE
	MONUMENT
	R/W
	INST.
	D.E.
	P.U.E.
	A.E.
	P.B.
	PG.
	C1
	L1
	(D)
	(C)

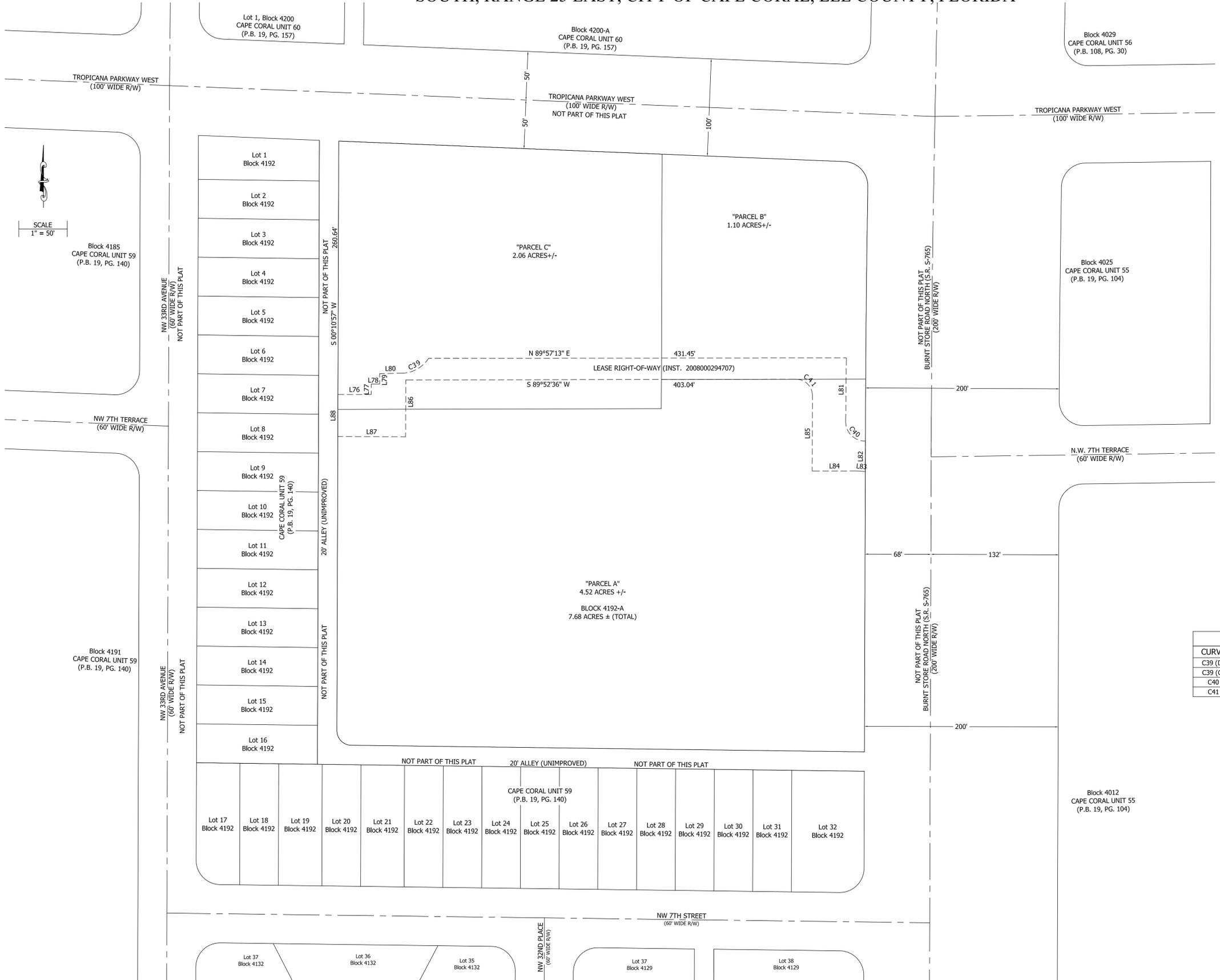
DOS 2019 - / PLT 2019 -

UTILITY EASEMENTS (INSTRUMENT# 2014000077405)

BURNT STORE CENTRE

INSTRUMENT # _____

A REPLAT OF BLOCK 4192-A OF CAPE CORAL, UNIT 59 AS RECORDED IN PLAT BOOK 19, PAGES 140 THROUGH 153 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, LYING IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



LINE TABLE		
LINE	BEARING	LENGTH
L76	N 90°00'00" E	34.31'
L77	N 00°10'57" E	10.74'
L78	S 89°49'03" E	8.61'
L79	N 00°00'00" E	10.75'
L80	N 88°58'49" E	22.89'
L81	S 00°37'46" W	65.33'
L82	S 00°10'57" W	31.31'
L83	N 85°35'22" W	8.43'
L84	S 89°57'47" W	46.47'
L85	N 00°10'57" E	77.37'
L86	S 00°10'57" W	58.37'
L87	N 89°49'03" W	70.00'
L88 (D)	N 00°10'57" E (D)	45.16' (D)
L88 (C)	N 00°10'57" E (C)	43.20' (C)

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C39 (D)	33.16 (D)	34.00 (D)	55°54'20" (D)	N 61°02'25" E (D)	31.86 (D)
C39 (C)	33.16 (C)	34.00 (C)	55°52'49" (C)	N 61°02'25" E (C)	31.86 (C)
C40	32.03	20.00	91°45'47"	S 45°15'08" E	28.72
C41	26.79	17.00	90°18'21"	N 44°58'13" W	24.11

LEGEND	
⊕	FOUND NAIL AND TAB
△	SET NAIL AND TAB "P.C.P. LB 2610"
⊙	FOUND STEEL PIN
○	SET 5/8" IRON ROD AND CAP "P.R.M. LB 2610"
■	CONCRETE MONUMENT
SQ. FT.	SQUARE FEET
CONC.	CONCRETE
MON.	MONUMENT
R/W	RIGHT OF WAY
INST.	INSTRUMENT NUMBER
D.E.	DRAINAGE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
A.E.	ACCESS EASEMENT
P.B.	PLAT BOOK
PG.	PAGE
C1	CURVE NUMBER (TYPICAL)
L1	LINE NUMBER (TYPICAL)
(D)	DEED MEASUREMENT
(C)	CALCULATED MEASURED

DOS 2019 - / PLT 2019 -

LEASE RIGHT-OF-WAY EASEMENT (INSTRUMENT# 2008000294707)

Item Number: B.(13)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 252-19 Approval of American Tower's request for consent to modify T-Mobile equipment at the communication tower located at Fire Station #6 on Chiquita Boulevard and authorization for the City Manager to execute said consent letter; Department: Financial Services / Real Estate; Dollar Value: N/A; (Fund: N/A))

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The City entered into a Ground Lease with PrimeCo Personal Communications, L.P. in February 1997, which was subsequently assigned to American Tower Corporation.
2. In July 2009, City Council approved the Second Amendment to Ground Lease Agreement between the City of Cape Coral and American Tower Corporation.
3. American Tower is requesting the City's consent to modify T-Mobile's equipment at the tower site and will obtain all necessary permits for these modifications.
4. Pursuant to Section 3 of the Second Amendment to Ground Lease Agreement, which governs the site, the City must approve any modifications or substitutions of equipment.
5. Staff recommends approval of and authorization for the City Manager to execute American Tower's consent letter requesting the modification of T-Mobile's equipment within the existing leased tower premises.

LEGAL REVIEW:

EXHIBITS:

Resolution 252-19

PREPARED BY:

Dawn Y. Andrews, Property
Broker

Division- Real
Estate

Department- Financial
Services

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description	Type
□ Resolution 252-19	Resolution

RESOLUTION 252 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING AMERICAN TOWER'S REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF EQUIPMENT FOR T-MOBILE AT THE COMMUNICATION TOWER LOCATED AT FIRE STATION #6; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 1997 the City adopted Ordinance 4-97, authorizing the leasing of City property to PrimeCo Personal Communications, L.P., for the construction of a communication tower at Fire Station #6; and

WHEREAS, in 2009 the City Council adopted Ordinance 40-09, approving the Second Amendment to Ground Lease Agreement between the City and American Tower, L.P., successor in interest to PrimeCo Personal Communications, L.P.; and

WHEREAS, American Tower has requested the City's consent to modify T-Mobile's equipment at the tower site and will obtain all necessary permits for the modification; and

WHEREAS, pursuant to Section 3 of the Second Amendment to Ground Lease Agreement, the City must consent to any modifications or substitutions of equipment; and

WHEREAS, staff recommends approval of American Tower's Request for Approval of Proposed Installation of Equipment requesting the modification of T-Mobile's equipment within the existing leased tower premises.

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

Section 1. The City Council hereby approves American Tower's request to modify T-Mobile's equipment at the communication tower located at Fire Station #6. A copy of the Request for Approval of Proposed Installation of Equipment is attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the Request for Approval of Proposed Installation of Equipment for T-Mobile's equipment at the communication tower located at Fire Station #6.

Section 3. This Resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

Fon 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/American Tower FS#6-TMobile Equipment Modification



City of Cape Coral
Real Estate Division for the City of Cape Coral FL
P.O Box 150027
Cape Coral FL, 33915-0027

June 7, 2019

REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF EQUIPMENT

SITE NUMBER	SITE NAME	PROJECT NUM.	CUSTOMER*
24578	CAPE CORAL FL	12629418	T-MOBILE
SITE ADDRESS		GROUND AGREEMENT	
Cape Coral, Florida 33914-6357 4540 CHIQUITA BLVD. SOUTH		Ground Lease Agreement dated February 3, 1997 (as amended)	

* any reference to T-MOBILE includes one or more of its related entities

Dear Landlord:

We, Tower Alliance, are assisting American Tower in the management of this site, including requesting consent from landlords on behalf of American Tower when such consent is required. We are writing to request your approval of a proposed equipment installation by T-MOBILE, at this site. T-MOBILE is an existing user of the tower at this site, however pursuant the ground agreement we are required to obtain your approval before we allow them to install their equipment. Specifically, T-MOBILE will be undertaking the following installations:

At a RAD height of 140':

- Removing (9) nine Panels and (6) six RRUs
- Installing (9) nine Panels and (9) RRUs

As wireless technology and coverage demands continue to change, providers routinely replace and upgrade equipment. Below are a few answers to frequently asked questions we receive from landlords on this type of project:

- All work will take place within the existing compound and on the existing tower.
- The overall appearance of the tower will remain similar.
- The modification of T-MOBILE's equipment will not change the overall height of the tower.
- You may receive revenue share pursuant to the ground lease as a result of this equipment modification.

If you could please approve of this proposed equipment modification by signing this letter below and returning it to my attention, either by mail or email, I would appreciate it. American Tower values our relationship with you so if there are any questions please do not hesitate to contact me directly.

Exhibit A

Thank you for your time.

Sincerely,

Melanie Catanese

Melanie Catanese

Lease Consultant

Tower Alliance

MCatanese@toweralliancellc.com

561-705-0139 (Direct)

Approval

I approve of the proposed modification of equipment by T-MOBILE at the site referenced above.

Signature: _____ Date: _____

Print Name: _____

Title: _____

REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF EQUIPMENT
CAPE CORAL FL/ 24578
ATC Project 12629418
T-MOBILE collocation

Item Number: B.(14)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 253-19 Approval of American Tower's request for consent to install upgraded fiber equipment for Verizon Wireless at the communication tower located at Fire Station #6 on Chiquita Boulevard and authorization for the City Manager to execute said consent letter; Department: Financial Services / Real Estate; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The City entered into a Ground Lease with PrimeCo Personal Communications, L.P. in February 1997, which was subsequently assigned to American Tower Corporation.
2. In July 2009, City Council approved the Second Amendment to Ground Lease Agreement between the City of Cape Coral and American Tower Corporation.
3. American Tower is requesting the City's consent to remove the existing fiber equipment and install upgraded fiber equipment for Verizon Wireless at the tower site. American Tower, or its contractors, will obtain all necessary permits for these modifications.
4. Pursuant to Section 3 of the Second Amendment to Ground Lease Agreement, which governs the site, the City must approve any modifications or substitutions of equipment.
5. Staff recommends approval of and authorization for the City Manager to execute American Tower's consent letter requesting consent to install upgraded fiber equipment within the existing leased tower premises.

LEGAL REVIEW:

EXHIBITS:

Resolution 253-19

PREPARED BY:

Dawn Y. Andrews, Property
Broker

Division- Real
Estate

Department- Financial
Services

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description	Type
□ Resolution 253-19	Resolution

RESOLUTION 253 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING AMERICAN TOWER’S REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF BACKHAUL FIBER EQUIPMENT FOR VERIZON WIRELESS AT THE COMMUNICATION TOWER LOCATED AT FIRE STATION #6; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 1997 the City adopted Ordinance 4-97, authorizing the leasing of City property to PrimeCo Personal Communications, L.P., for the construction of a communication tower at Fire Station #6; and

WHEREAS, in 2009 the City Council adopted Ordinance 40-09, approving the Second Amendment to Ground Lease Agreement between the City and American Tower, L.P., successor in interest to PrimeCo Personal Communications, L.P.; and

WHEREAS, American Tower has requested the City’s consent to remove the existing fiber equipment and install upgraded fiber equipment for Verizon Wireless at the tower site and will obtain all necessary permits for the modification; and

WHEREAS, pursuant to Section 3 of the Second Amendment to Ground Lease Agreement, the City must consent to any modifications or substitutions of equipment; and

WHEREAS, staff recommends approval of American Tower’s Request for Approval of Proposed Installation of Backhaul Fiber Equipment requesting approval to install upgraded fiber equipment for Verizon Wireless within the existing leased tower premises.

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

Section 1. The City Council hereby approves American Tower’s request for consent to install upgraded fiber equipment for Verizon Wireless at the communication tower located at Fire Station #6. A copy of the Request for Approval of Proposed Installation of Backhaul Fiber Equipment is attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the Request for Approval of Proposed Installation of Backhaul Fiber Equipment for Verizon Wireless’s equipment at the communication tower located at Fire Station #6.

Section 3. This Resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MENENDEZ
CITY ATTORNEY



AMERICAN TOWER™
CORPORATION

City of Cape Coral FL
Real Estate Division
PO Box 150027
Cape Coral, FL 33915

May 30, 2019

REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF BACKHAUL FIBER EQUIPMENT

SITE NUMBER	SITE NAME	PROJECT NUM.	CUSTOMER*
24578	CAPE CORAL FL	12960666	VERIZON WIRELESS
SITE ADDRESS		GROUND AGREEMENT	
Cape Coral, Florida 33914-6357 4540 CHIQUITA BLVD. SOUTH		Ground Lease Agreement dated February 3, 1997 (as amended)	

* any reference to VERIZON WIRELESS includes one or more of its related entities

Dear Landlord:

We, Tower Alliance, are assisting American Tower in the management of this site, including requesting consent from landlords on behalf of American Tower when such consent is required. We are writing to request your approval of a proposed installation of backhaul fiber equipment by VERIZON WIRELESS, at this site. VERIZON WIRELESS is an existing user of the tower at this site, however pursuant the ground agreement we are required to obtain your approval before we allow them to install their equipment.

Included for your convenience please find the associated Construction Drawings for this work.

As wireless technology and coverage demands continue to change, providers routinely upgrade their equipment. In allowing our customers to make such upgrades we ensure that all work will take place within the existing lease and/or easement area(s) and that any disturbance to the site will be minimal. We will also ensure that the site is returned to its current condition after the installation is completed.

If you could please approve of this proposed equipment modification by signing this letter below and returning it to my attention, either by mail or email, I would appreciate it.

American Tower values our relationship with you so if there are any questions please do not hesitate to contact me directly.

Thank you for your time.

Sincerely,

Melanie Catanese

Melanie Catanese

Lease Consultant

Tower Alliance LLC

MCatanese@toweralliancellc.com

Direct Line: 561-705-0139

Exhibit A

Approval

I approve of the proposed installation of backhaul fiber equipment by VERIZON WIRELESS* at the site referenced above.

Signature: _____ Date: _____

Print Name: _____

Title: _____

REQUEST FOR APPROVAL OF PROPOSED INSTALLATION OF BACKHAUL FIBER EQUIPMENT
CAPE CORAL FL/ 24578
ATC Project 12960666
VERIZON WIRELESS collocation

DARK FIBER PACKAGE

Prepared For:

Prepared By:



APPROVED

By Jillian Iannacci at 9:52 am, May 21, 2019

Date of Survey: 3/27/2019	VZW Site Name: ATC Cape Coral Fire Station #6	Site Address: 4540 Chiquita Blvd
Survey By: Josh Stewart	VZW Site #: 735	Cape Coral, FL 33914
Tower Owner: ATC	Site Name: Cape Coral	Site #: FL-24578
Coordinates (Field Verify): Latitude: 26.5667 Longitude: -82.0073	Site Access: Gate Combo: 3422 Equipment Combo: 2153	Special Access Instructions:
Verizon Wireless Contact: Mary Bowen	Title: Construction Project Mngr	Phone: (954) 616-7359
Excell Contact: Joshua Stewart	Title: Manager of Eng. Production	Phone: (205) 612-1180
Tower Owner/LL Contact:	Title:	Phone:
		Email: mary.bowen@verizonwireless.com
		Email: joshstewart@excellcommunications.com

Fiber Design: <input type="checkbox"/> Fiber Only	<input type="checkbox"/> CDS on Rack	<input type="checkbox"/> CDS on Rack (FXDS)	<input type="checkbox"/> Cabinet (FXDS)	<input checked="" type="checkbox"/> Cabinet
Site Type: <input type="checkbox"/> Shelter	<input checked="" type="checkbox"/> Cabinet			
If Shelter, DC Power Plant: <input type="checkbox"/> Yes	<input type="checkbox"/> No			
Conduit: <input checked="" type="checkbox"/> New	<input type="checkbox"/> Existing			
Existing Fiber Provider: CenturyLink	Generator Type: <input checked="" type="checkbox"/> Diesel	<input type="checkbox"/> Propane	<input type="checkbox"/> Natural Gas	
	Generator Location: <input type="checkbox"/> Indoor	<input checked="" type="checkbox"/> Outdoor		
	Tank Size: 225 Gallons			

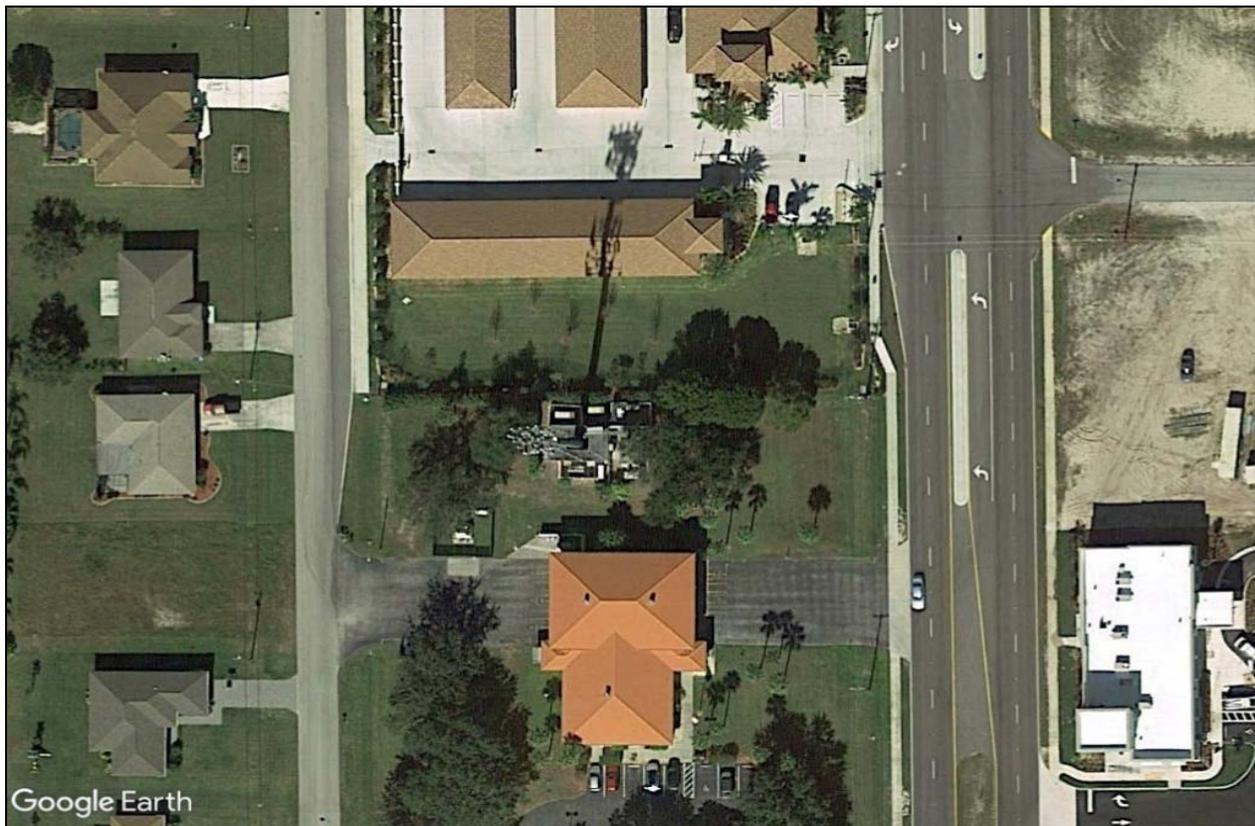
SOW for Dark Fiber

Provide and install (1) new Verizon Wireless hand hole (17"x30"x24") at compound, as shown on attached drawing.
 GC to provide and install new dark fiber cabinet on existing H-frame, as shown on attached drawing.
 Provide and install (2) new 2" conduits with mule tape (80' +/-) from new hand hole at compound to new dark fiber cabinet, as shown on attached drawing.
 Provide and install (1) new rigid 2" conduit with mule tape (5' +/-) from new dark fiber cabinet to existing telco box for fiber jumper.
 GC to utilize existing conduit from existing telco box to BTS cabinet for fiber jumper.
 Provide and install (1) new 1" rigid conduit (10' +/-) from new dark fiber cabinet to existing power panel for power.
 Provide and install (1) new 1P, 30A breaker in power panel, as shown on attached drawing.

Additional Comments:

Tower owner will be notified at least 24 hours prior to construction
 Ground conditions will be restored to existing or better conditions

ATC Cape Coral Fire Station #6_735



Google Earth

ATC Cape Coral Fire Station #6 (MIAW_735_719097) VZW FL - DFTTC Project



AMERICAN TOWER®
 A.T. ENGINEERING SERVICE, PLLC
 3500 REGENCY PARKWAY
 SUITE 100
 CARY, NC 27518
 PHONE: (919) 466-0112

THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATION AS INSTRUMENTS OF SERVICE ARE THE EXCLUSIVE PROPERTY OF LESSOR/SITE OWNER AND THEIR USE AND PUBLICATION SHALL BE RESTRICTED TO THE ORIGINAL SITE FOR WHICH THEY ARE PREPARED. REUSE, REPRODUCTION OR PUBLICATION BY ANY METHOD, IN WHOLE OR IN PART, IS PROHIBITED EXCEPT BY WRITTEN PERMISSION FROM LESSOR/SITE OWNER. TITLE TO THESE PLANS AND/OR SPECIFICATIONS SHALL REMAIN WITH LESSOR/SITE OWNER WITHOUT PREJUDICE AND VISUAL CONTACT WITH THEM SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF ACCEPTANCE OF THESE RESTRICTIONS.

ALL MEASUREMENTS AND LOCATIONS USED IN THIS SITE DESIGN ARE APPROXIMATE AND LESSOR/SITE OWNER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO UNDERGROUND FEATURES, INCLUDING BUT NOT LIMITED TO UTILITIES, ROCK FORMATIONS, ETC. THIS SITE DESIGN SHALL NOT BE USED FOR CONSTRUCTION PURPOSES AND LESSEE SHOULD CONTACT AND UTILIZE A UTILITY LOCATOR SERVICE PRIOR TO COMMENCING CONSTRUCTION TO AVOID SERVICE DISRUPTION TO OTHER USERS AND INJURY OR DEATH.

ATC SITE NUMBER:
24578

ATC SITE NAME:
**CAPE CORAL FL
 FLORIDA**

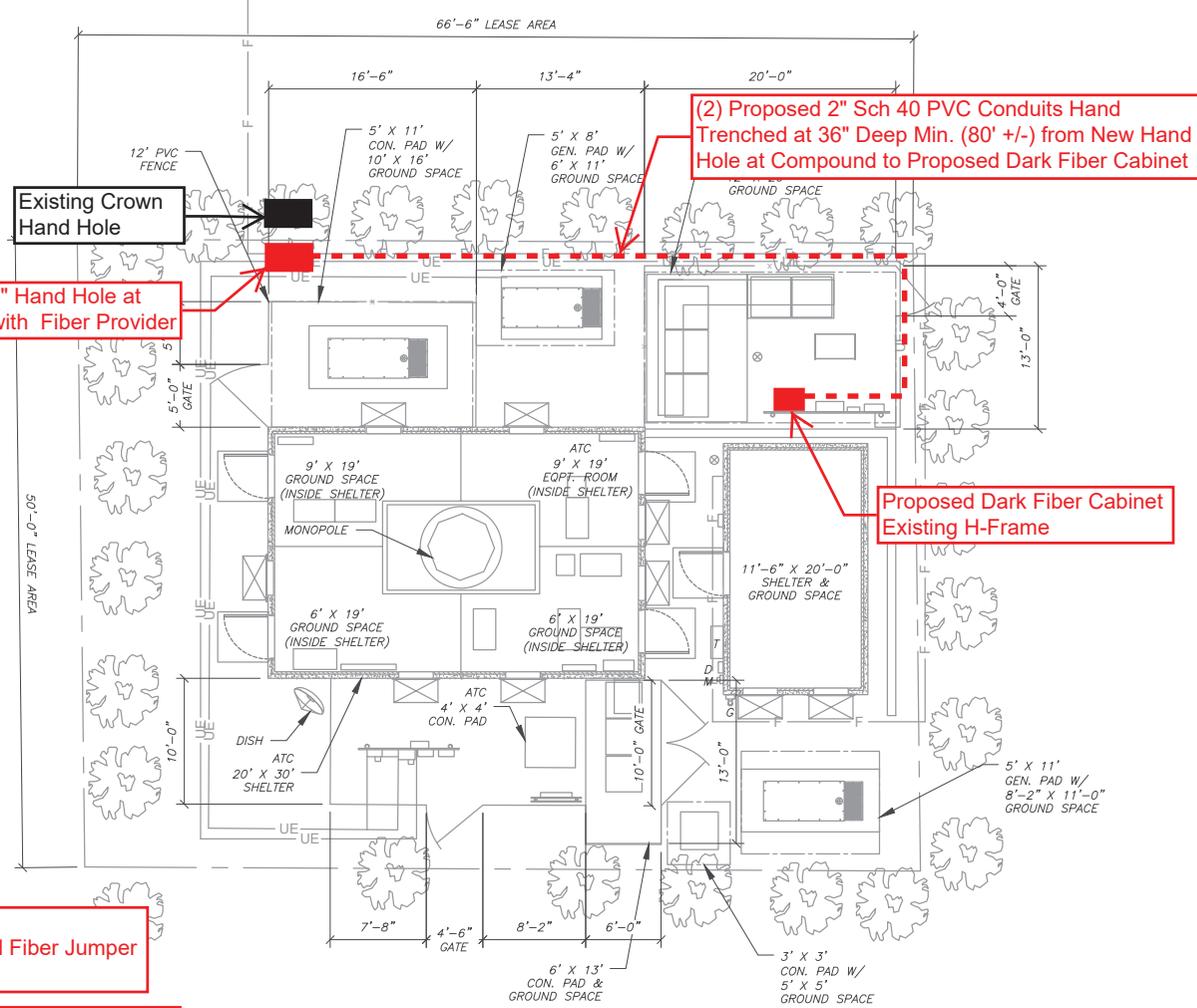
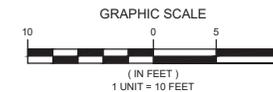
LEGEND

⊗	GROUNDING TEST WELL
A/C	AIR CONDITIONING UNIT
AV, AV	AIR VENT
ATS	AUTOMATIC TRANSFER SWITCH
B	BOLLARD
C	CABINET
CS	COAX SHROUD
CSC	FIBER OPTIC CABINET
D	DISCONNECT
E	ELECTRICAL
F	FIBER
GEN	GENERATOR
G	GENERATOR RECEPTACLE
HH	HAND HOLE
IB	ICE BRIDGE
K	KENTROX BOX
LC	LIGHTING CONTROL
LPG	LIQUID PROPANE GAS
M	METER
OHW	OVERHEAD WIRE
P	POWER
PB	PULL BOX
PP	POWER POLE
T	TELECOM
TRN	TRANSFORMER
W	WATER VALVE
---	BUFFER
---	GROUND SPACE (LEASE AREA)
---	EASEMENT

DRAWN BY:	S.XIONG
DATE DRAWN:	02/29/16
CUSTOMER:	
COLLOCATION NO.:	

SITE PLAN LAYOUT

SPU	
SHEET NUMBER:	AUDITED BY:
SITE-1	ON



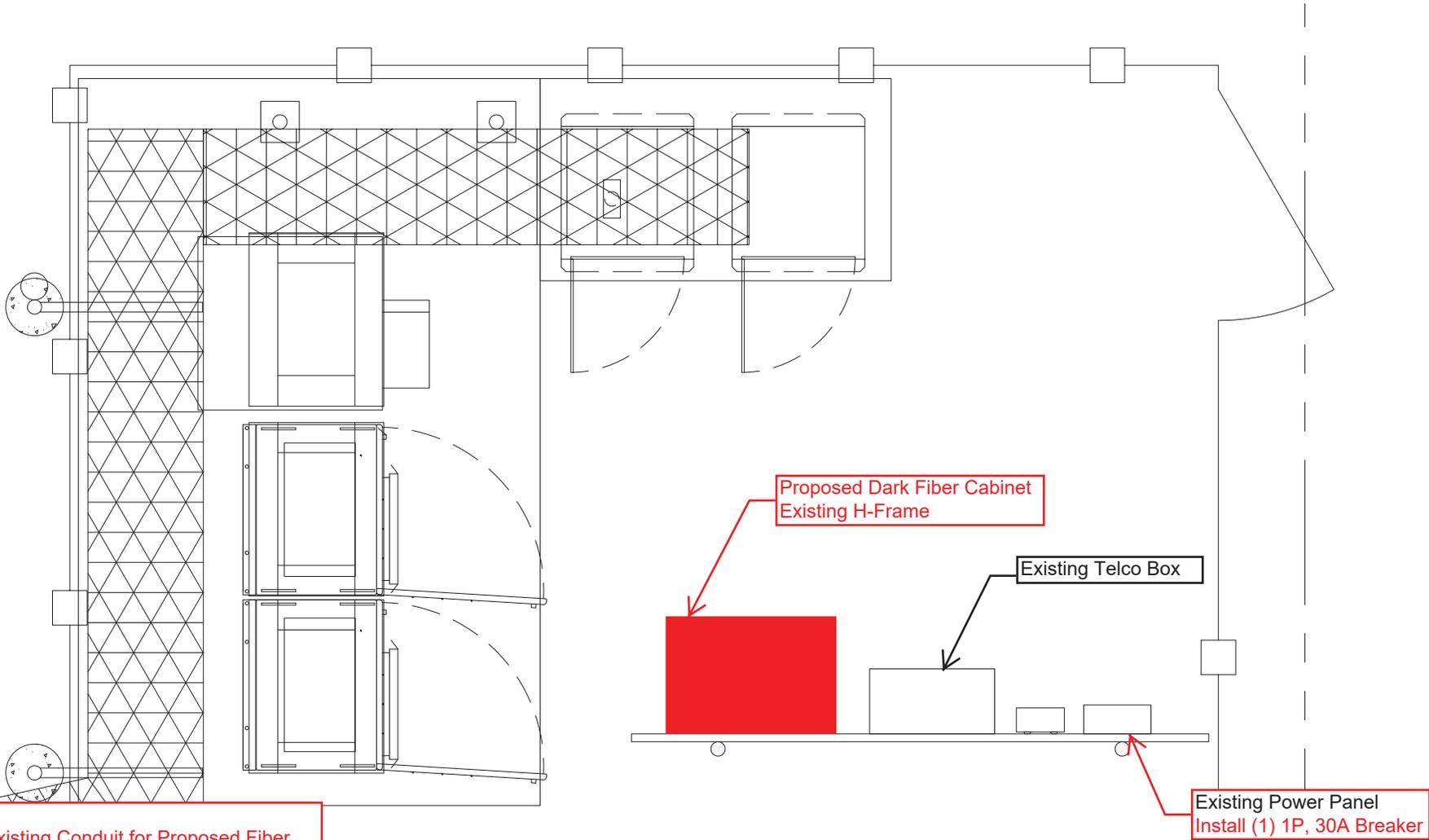
Note:
 Utilize Existing Conduit for Proposed Fiber Jumper from Telco Box to BTS Cabinet

Note:
 Install (1) 1" Rigid Conduit (10'+/-) from Existing Power Panel to the Proposed Dark Fiber Cabinet for Power

Note:
 Install (1) 2" Rigid Conduit (5'+/-) from Proposed Dark Fiber Cabinet to Existing Telco Box for Fiber Jumper

Copyright © 2016 ATC IP, LLC. All Rights Reserved.

ATC Cape Coral Fire Station #6 (MIAW_735_719097) VZW FL - DFTTC Project

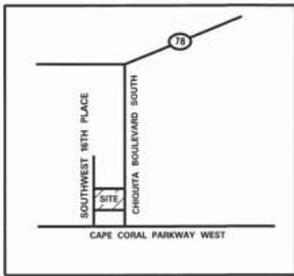


Note:
Utilize Existing Conduit for Proposed Fiber Jumper from Telco Box to BTS Cabinet

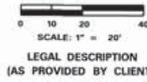
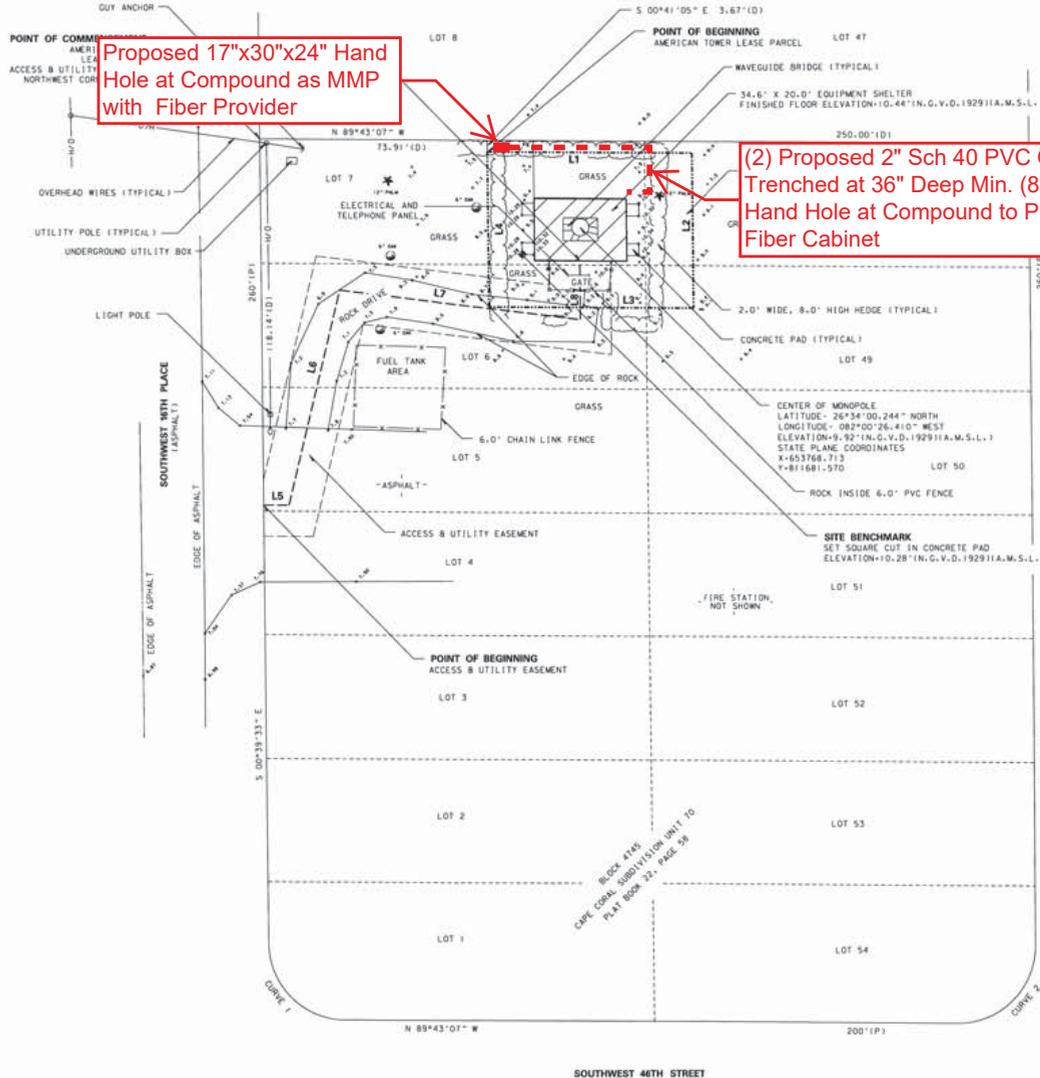
Note:
Install (1) 1" Rigid Conduit (10'+/-) from Existing Power Panel to the Proposed Dark Fiber Cabinet for Power

Note:
Install (1) 2" Rigid Conduit (5'+/-) from Proposed Dark Fiber Cabinet to Existing Telco Box for Fiber Jumper

ATC Cape Coral Fire Station #6 (MIAW_735_719097) VZW FL - DFTTC Project



VICINITY MAP
(NOT TO SCALE)



PARENT TRACT
LOTS 1 THROUGH 7 AND LOTS 48 THROUGH 54, BLOCK 4745, OF THE PLAT OF "CAPE CORAL SUBDIVISION UNIT 70", RECORDED IN PLAT BOOK 22, PAGES 58 THROUGH 87, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AMERICAN TOWER LEASE PARCEL
A 50' X 66.5' PARCEL OF LAND LYING AND BEING WITHIN LOTS 6, 7, 48 AND 49, BLOCK 4745, OF THE PLAT "CAPE CORAL SUBDIVISION UNIT 70", AS RECORDED IN PLAT BOOK 22, PAGES 58 THROUGH 87, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND CAPPED 1/2" IRON ROD AT THE NORTHWEST CORNER OF LOT 7, BLOCK 4745 THENCE RUN S 89°43'07" E ALONG THE NORTH BOUNDARY OF SAID LOT 7 A DISTANCE OF 73.91 FEET; THENCE RUN S 00°41'05" E, A DISTANCE OF 3.67 FEET TO THE POINT OF BEGINNING; THENCE RUN S 89°43'07" E, A DISTANCE OF 66.5 FEET; THENCE RUN S 00°41'05" E, A DISTANCE OF 50.00 FEET; THENCE RUN N 89°43'07" W, A DISTANCE OF 66.5 FEET; THENCE RUN N 00°41'05" W, A DISTANCE OF 50.00 FEET; TO THE POINT OF BEGINNING.

SAID LEASE PARCEL CONTAINING 3,325 SQUARE FEET OR 0.0763 ACRES MORE OR LESS.

ACCESS & UTILITY EASEMENT

A PARCEL OF LAND LYING IN THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 45 SOUTH, RANGE 23 EAST BEING A PORTION OF CAPE CORAL SUBDIVISION, UNIT 70, AS RECORDED IN PLAT BOOK 22 AT PAGES 58 THROUGH 87 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR A 20 FOOT WIDE NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, AND UTILITIES PURPOSES, SAID EASEMENT LYING 10 FEET ON EACH SIDE OF THE CENTERLINE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERLY CORNER OF LOT 7 IN THE AFORESAID BLOCK 4745; THENCE S 00°39'33" E ALONG THE EASTERLY RIGHT OF WAY LINE OF SW 16TH PLACE, A DISTANCE OF 118.14 FEET TO THE POINT OF BEGINNING; THENCE S 89°42'10" E A DISTANCE OF 8.29 FEET LEAVING SAID RIGHT OF WAY LINE; THENCE N 13°16'19" E A DISTANCE OF 71.38 FEET; THENCE S 83°08'32" E A DISTANCE OF 78.80 FEET; THENCE N 00°39'33" W A DISTANCE OF 18.92 FEET TO THE SOUTHERLY LINE OF THE LEASE PARCEL RECORDED IN D.R. BOOK 3604 AT PAGE 2561, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND THE POINT OF TERMINUS.

THE SIDELINES OF SAID EASEMENT TO BE LENGTHENED AND FORESHORTENED TO TERMINATE AT THE SOUTHERLY LINE OF SAID LEASE PARCEL AND THE EASTERLY RIGHT OF WAY LINE OF SW 16TH PLACE, AND TO FORM ONE CONTIGUOUS SHAPE.

SURVEYOR'S NOTES

- THIS IS A BOUNDARY SURVEY OF THE AMERICAN TOWER LEASE PARCEL. THE PARENT TRACT INFORMATION SHOWN HEREON IS BASED ON A BOUNDARY SURVEY PREPARED BY THOMAS S. CLANCY, JOB NUMBER 00-5073, DATED MARCH 26, 2002, AND IS FOR INFORMATIONAL PURPOSES ONLY.
- THE AMERICAN TOWER LEASE PARCEL DEPICTED HEREON LIES ENTIRELY WITHIN THE DESCRIBED PARENT TRACT.
- THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH.
- BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE NORTHERLY RIGHT OF WAY LINE OF SW 46TH STREET BEING NORTH 89°43'07" WEST PER ABOVE REFERENCED SURVEY (SEE NOTE 1).
- UNDERGROUND UTILITIES AND IMPROVEMENTS HAVE NOT BEEN LOCATED.
- INTERIOR IMPROVEMENTS HAVE NOT BEEN LOCATED.
- AFTER REVIEW OF FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 125095 0000 C, DATED SEPTEMBER 18, 1985, THE AMERICAN TOWER LEASE PARCEL DEPICTED HEREON LIES IN ZONE "X8" (SPECIAL FLOOD HAZARD AREAS INUNDATED BY 100 YEAR FLOOD, BASE FLOOD ELEVATION OF 9.0 FEET).
- (D) DENOTES DESCRIPTION; (F) DENOTES FIELD MEASURED; (P) DENOTES PLAT; (C) DENOTES CALCULATED.
- GEODETIC AND VERTICAL INFORMATION SHOWN HEREON IS BASED ON G.P.S. OBSERVATIONS PERFORMED HOLDING NGS STATION DESIGNATION PINELAND 1934 2 MM RESET, N.A.D.83(1993), (ELEVATION=6.4 FEET (N.G.V.D.1929)), SITE BENCHMARK IS 4.1 ELEVATION= FEET (N.G.V.D.1929), AS SHOWN HEREON. ALL ELEVATIONS SHOWN HEREON ARE ABOVE MEAN SEA LEVEL (A.M.S.L.).
- ALL GEODETIC AND VERTICAL DATA, DEPICTED HEREON IS WITHIN THE 10 ACCURACY TOLERANCES AS SET FORTH BY THE F.L.A.C.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY PERFORMED ON SEPTEMBER 29, 2004, IS IN ACCORDANCE WITH THE TECHNICAL STANDARDS AS REQUIRED BY CHAPTER 61017-6, FLORIDA ADMINISTRATIVE CODE.

KIRK B. MITCHELL P.S.M. L.S. No. 5682
CERTIFICATE OF AUTHORIZATION No. L.B. 6885
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

CERTIFIED TO AND FOR THE EXCLUSIVE BENEFIT OF:
AMERICAN TOWER,
ITS AFFILIATES, SUBSIDIARIES AND LENDERS.

LINE TABLE

COURSE	BEARING	DISTANCE
L1	S 89°43'07"E	66.50'
L2	S 00°41'05"E	50.00'
L3	N 89°43'07"W	66.50'
L4	N 00°41'05"W	50.00'
L5	S 89°42'10"E	8.29'
L6	N 13°16'19"E	71.38'
L7	S 83°08'32"E	78.80'
L8	N 00°39'33"W	18.92'

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	DELTA
CURVE 1	25.00'	39.69'	89°02'03"
CURVE 2	25.00'	39.69'	90°57'58"

REVISIONS

DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

ADVANCED LAND SURVEYING & MAPPING
789 EAST MICHIGAN STREET
ORLANDO, FLORIDA 32806
G.P.S. and Conventional Survey Services
PHONE: (407) 508-2700
FAX: (407) 508-9887

BOUNDARY SURVEY PREPARED FOR AMERICAN TOWER
CAPE CORAL SITE
A PORTION OF SECTION 09, TOWNSHIP 45 SOUTH, RANGE 23 EAST
LEE COUNTY, FLORIDA

DATE	2/2004
FIELD DATE	SEPTEMBER 29, 2004
FIELD BOOK	BOOK 16, PAGE 78
SCALE	1" = 20'
PROJECT NO.	104-004
FILE NAME	104-004.DWG
SHEET	1 OF 1

Item Number: B.(15)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 254-19 Approval of Contract for Purchase of an improved property located at 1121-1123 NE 22nd Terrace, Cape Coral (Lots 21 and 22, Block 2158, Unit 32, Cape Coral Subdivision), for the Lake Meade Park Expansion project for the purchase price of \$223,000 plus closing costs not to exceed \$4,000; Department: Financial Services / Real Estate Division; Dollar Value: \$227,000; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The subject property is improved with a duplex located in the Lake Meade Park expansion area. In 1989 the City of Cape Coral adopted a Future Land Use map designating this area with a future land use of Parks and Recreation. Over the years, Staff has been working with various owners in the park area to purchase additional properties on a voluntary basis based on current independent state-certified appraisals.
2. The City currently owns 88 of the 103 required park parcels, with one additional property currently under contract. Included in the remaining 15 properties are two improved properties; the subject duplex and a single family residence.
3. With the recent GO Bond approval, City Staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Staff submitted an offer to purchase the site based on an appraisal of the property by an independent state-certified appraiser, which was accepted by the Seller. The contract requires the City to pay the closing costs incurred by the title company and the tenants to vacate the property prior to the closing.
4. Staff recommends approval of the purchase contract to purchase 1121-1123 NE 22nd Terrace, Cape Coral for the Lake Meade Park Expansion for the purchase price of \$223,000 plus closing costs not to exceed \$4,000.

LEGAL REVIEW:

EXHIBITS:

Resolution 254-19
Property Appraiser Sheet
Location Map
Appraisal

PREPARED BY:

Dawn Y. Andrews, Property Broker Division- Real Estate Department- Financial Services

SOURCE OF ADDITIONAL INFORMATION:

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

Doug Sayers, Property Acquisition Agent
Financial Services Department / Real Estate Division
239-574-0714

ATTACHMENTS:

Description	Type
▢ Resolution 254-19	Resolution
▢ PA Sheet - 1121-1123 NE 22nd Terrace	Backup Material
▢ Location Map - Block 2158, Lots 21-22	Backup Material
▢ Appraisal - 1121-1123 NE 22nd Terrace	Backup Material

RESOLUTION 254 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING THE CITY MANAGER TO ENTER INTO A "CONTRACT FOR SALE AND PURCHASE" BETWEEN JOSEPH C. & MARY SHARON HEEB, HUSBAND AND WIFE AS TRUSTEES OF THE HEEB FAMILY REVOCABLE TRUST AND THE CITY OF CAPE CORAL FOR THE PURCHASE OF LOTS 21-22, BLOCK 2158, UNIT 32, CAPE CORAL SUBDIVISION, FOR THE LAKE MEADE PARK EXPANSION; PROPERTY LOCATED AT 1121-1123 NE 22ND TERRACE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral has been working with various property owners in the Lake Meade Park area to purchase additional properties on a voluntary basis to expand the park; and

WHEREAS, the subject contract is for an off-water site improved with a duplex; and

WHEREAS, staff submitted an offer to purchase the property based on a recent independent state-certified appraisal pursuant to Section 2-152 of the City of Cape Coral Code of Ordinances; and

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

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

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

Section 1. The City Council hereby authorizes the City Manager to execute a "Contract for Sale and Purchase" between Joseph C. & Mary Sharon Heeb, husband and wife as trustees of the Heeb Family Revocable Trust and the City of Cape Coral for the purchase of Lots 21-22, Block 2158, Unit 32, Cape Coral Subdivision, as more fully described in the Contract, in the amount of \$223,000, plus closing costs not to exceed \$4,000. The property is located at 1121-1123 NE 22nd Terrace. A copy of the Contract for Sale and Purchase is attached hereto as Exhibit A.

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 Res/Purchase Real Property Lake Meade L21-22 B2158

CONTRACT FOR SALE AND PURCHASE

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

PARTIES: Joseph C. & Mary Sharon Heeb, husband and wife as Trustees of the Heeb Family Revocable Trust dated the 24th day of March, 2009, 2580 Bayshore Drive, Matlacha, Florida 33993 as "**SELLER**", and City of Cape Coral, a Florida Municipal Corporation, P.O. Box 150027, Cape Coral, Florida 33915-0027, successors or assigns, as "**BUYER**", hereby agree that the **SELLER** shall sell and **BUYER** shall buy the following (hereinafter referred to as "**PROPERTY**") described property upon the following terms and conditions:

1. **LEGAL DESCRIPTION** of real estate located in Lee County, Florida:
Lots 21 & 22, Block 2158, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive of the Public Records of Lee County, Florida.
2. **PURCHASE PRICE** **\$223,000.00**
3. **CONDITIONAL CONTRACT.** This contract for sale and purchase is a binding contract once it is executed by the **SELLER** and by the City Manager on behalf of the **BUYER**. However, this contract is expressly subject to approval by the Cape Coral City Council. If the Cape Coral City Council fails or refuses to approve the purchase within 45 calendar days of the date when the City Manager has signed this contract, then this contract shall be null and void. This contract is subject to applicable Florida probate proceedings, if required. **BUYER** and **SELLER** understand and agree that in the event probate proceedings are necessary, **SELLER** shall be solely responsible for any and all expenses necessary to complete said probate proceedings.

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

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

7. **EVIDENCE OF TITLE.** Within fifteen (15) days from the date of this contract, **BUYER** shall at **BUYER'S** expense, obtain a title insurance binder issued by a qualified title insurer of its choice, agreeing to issue to **BUYER**, upon the recording of the deed hereafter mentioned, a title insurance policy in the amount of the purchase price insuring the title to that real property. **BUYER** shall have fifteen (15) days from the date of receiving the evidence of title to examine same. If title is found to be defective, **BUYER** or closing agent shall, within said period of time, notify **SELLER** in writing specifying defects that need to be cured. For purposes of this contract, a requirement by the title insurer that the **SELLER** institute and complete a quiet title action shall be deemed to be a title defect that shall be cured by **SELLER**. If said defects render the title unmarketable or uninsurable **SELLER**

shall have ninety (90) days from the receipt of such notice to cure the defects, and if after said period **SELLER** shall not have cured the defects, then **BUYER** shall have the option of (1) accepting the title as it then is; (2) affording **SELLER** additional time to cure the defect(s); or (3) terminate the contract by providing written notice to the **SELLER**.

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

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

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

purchase of this property does not destroy or cause any damage whatsoever to **SELLER** or his successor or assigns with respect to any commercial or residential property owned by them whose lands are being so purchased or located upon adjoining lands.

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

conditioning/heating components, refrigerator, range/oven, and dishwasher. **BUYER** to walk through the subject property one (1) day prior to closing.

27. **EXISTING TENANTS:** Notwithstanding anything to the contrary in this contract, **SELLER** shall be responsible for ensuring that the existing **Tenants** vacate the property prior to the parties closing on the property. **SELLER** shall be responsible for returning the security deposit to each respective **Tenant**.

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

CITY OF CAPE CORAL, FLORIDA

Witness to A. John Szerlag

BY: _____
A. John Szerlag Date
City Manager

Witness to Kimberly Bruns, CMC

BY: _____
Kimberly Bruns, CMC Date
City Clerk



Witness

Print Name: MITCHELL CARTER

BY: Joseph C. Heeb 6-10-19
Joseph C. Heeb, Trustee Date
Individually and as Trustee of the
of the Heeb Family Revocable Trust dated the 24th
day of March 2009

Barbara Carter

Witness

Print Name: Barbara Carter

BY: Mary Sharon Heeb 6-10-19
Mary Sharon Heeb, Trustee Date
Individually and as Trustee of the
of the Heeb Family Revocable Trust dated the 24th
day of March 2009

APPROVED AS TO FORM:

Dolores D. Menendez, City Attorney



Property Data

STRAP: 31-43-24-C1-02158.0210 Folio ID: 10146473

Owner Of Record - Sole Owner

HEEB JOSEPH C + SHARON TR
FOR HEEB TRUST
2580 BAYSHORE DR
MATLACHA FL 33993

Site Address

1121/1123 NE 22ND TER
CAPE CORAL FL 33909

ALTERNATE ADDRESS INFORMATION:

1123 NE 22ND TER

Property Description

Do not use for legal documents!

CAPE CORAL UNIT 32 BLK.2158 PB 16 PG 12 LOTS 21 + 22

Classification / DOR Code

MULTI-FAMILY LESS THAN 10 / 08

[Tax Map Viewer]



[Pictometry Aerial Viewer]

Image of Structure



< Photo Date July of 2004 > View other photos

Last Inspection Date: 02/26/2018



Current Working Values

Just 124,357 **As Of** 07/16/2018

Attributes

Land Units Of Measure	UT
Units	1.00
Total Number of Buildings	1
Total Bedrooms / Bathrooms	4 / 4.0
Total Living Area	2,088
1st Year Building on Tax Roll	1985
Historic District	No



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

Borrower	N/A	File No.	19040216
Property Address	1121/1123 NE 22nd Ter		
City	Cape Coral	County	Lee
Lender/Client	City of Cape Coral	State	FL
		Zip Code	33909-4494

TABLE OF CONTENTS



Letter of Transmittal	1
GP 2-4 Unit	2
GP 2-4 Unit	3
GP 2-4 Unit	4
Additional Comparables 4-6	5
GP 2-4 Unit	6
GP Residential Certifications Addendum	7
Location Map	9
Aerial Map	10
Building Sketch	11
Subject Photos	12
Photograph Addendum	13
Photograph Addendum	14
Photograph Addendum	15
Photograph Addendum	16
Photograph Addendum	17
Comparable Photos 1-3	18
Comparable Photos 4-6	19
Rentals Photos 1-3	20
Qualifications	21
Qualifications	22

Maxwell, Hendry & Simmons, LLC
12600 World Plaza Lane, Suite 1
Fort Myers, FL 33907
(239) 337-0555
www.MHSappraisal.com

April 29, 2019

Doug Sayers
City of Cape Coral
P.O. Box 150027
Cape Coral, FL 33915

Re: Property: 1121/1123 NE 22nd Ter
Cape Coral, FL 33909-4494
Borrower: N/A
File No.: 19040216

Opinion of Value: \$ 223,000
Effective Date: 4/26/2019

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

The purpose of the appraisal is to develop an opinion of market value for the property described in this appraisal report, in unencumbered fee simple title of ownership.

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

The opinion of value reported above is as of the stated effective date and is contingent upon the certification and limiting conditions attached.

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

Sincerely,



Scott H. Simmons
License or Certification #: Cert Res RD6203
State: FL Expires: 11/30/2020
info@MHSappraisal.com

2-4 UNIT RESIDENTIAL APPRAISAL REPORT

File No.: 19040216

SUBJECT	Property Address: 1121/1123 NE 22nd Ter		City: Cape Coral		State: FL		Zip Code: 33909-4494			
	County: Lee		Legal Description: Lots 21 and 22, Block 2158, Unit 32, Cape Coral Plat Book 16 Page 12							
	Assessor's Parcel #: 31-43-24-C1-02158.0210		Tax Year: 2018		R.E. Taxes: \$ 2,731.09		Special Assessments: \$ N/A			
ASSIGNMENT	Current Owner of Record: Heeb Family Revocable Trust		Borrower (if applicable): N/A							
	Occupant: <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant <input type="checkbox"/> Vacant		Project Type: <input type="checkbox"/> PUD <input type="checkbox"/> Other (describe)		HOA: \$ N/A <input type="checkbox"/> per yr. <input type="checkbox"/> per mo.					
	Market Area Name: Cape Coral		Map Reference: 15980		Census Tract: 0102.03					
MARKET AREA DESCRIPTION	The purpose of this appraisal is to develop an opinion of: <input checked="" type="checkbox"/> Market Value (as defined), or <input type="checkbox"/> other type of value (describe)									
	This report reflects the following value (if not Current, see comments): <input checked="" type="checkbox"/> Current (the Inspection Date is the Effective Date) <input type="checkbox"/> Retrospective <input type="checkbox"/> Prospective									
	Approaches developed for this appraisal: <input checked="" type="checkbox"/> Sales Comparison Approach <input type="checkbox"/> Cost Approach <input checked="" type="checkbox"/> Income Approach (See Reconciliation Comments and Scope of Work)									
SITE DESCRIPTION	Property Rights Appraised: <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold <input type="checkbox"/> Leased Fee <input type="checkbox"/> Other (describe)									
	Intended Use: The intended use of this appraisal is to form an opinion of the current market value of the property for potential acquisition purposes.									
	Intended User(s) (by name or type): City of Cape Coral									
Client: City of Cape Coral		Address: P.O. Box 150027, Cape Coral, FL 33915								
Appraiser: Scott H. Simmons		Address: 12600 World Plaza Lane, Suite 1, Fort Myers, FL 33907								
DESCRIPTION OF THE IMPROVEMENTS	Location: <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural		Predominant Occupancy		2 - 4 Unit Housing		Present Land Use		Change in Land Use	
	Built up: <input type="checkbox"/> Over 75% <input checked="" type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%		<input checked="" type="checkbox"/> Owner		PRICE AGE		One-Unit 35 %		<input checked="" type="checkbox"/> Not Likely	
	Growth rate: <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow		<input type="checkbox"/> Tenant		\$(000) (yrs)		2-4 Unit 3 %		<input type="checkbox"/> Likely * <input type="checkbox"/> In Process *	
Property values: <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Declining		<input checked="" type="checkbox"/> Vacant (0-5%)		175 Low 0		Multi-Unit 2 %		* To: _____		
Demand/supply: <input type="checkbox"/> Shortage <input checked="" type="checkbox"/> In Balance <input type="checkbox"/> Over Supply		<input type="checkbox"/> Vacant (>5%)		500+ High 40		Comm'l 5 %				
Marketing time: <input checked="" type="checkbox"/> Under 3 Mos. <input type="checkbox"/> 3-6 Mos. <input type="checkbox"/> Over 6 Mos.		<input type="checkbox"/> Vacant (>5%)		250 Pred 15		Vacant 55 %				
Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends):								The subject's neighborhood boundaries are the Lee/Charlotte County Line to the north, Burnt Store Road to the west, Pine Island Road to the south, and U.S. 41 to the east. The neighborhood is composed primarily of average to good quality residential uses of varying design and appeal. Larger, newer properties represent the upper end of the one-unit housing price range. Support facilities including shopping, banks, medical and recreational uses are located nearby along Pine Island Road, Santa Barbara Boulevard, Chiquita Boulevard, and Del Prado Boulevard. Financing trends are toward conventional mortgages and cash sales. Property values increased at a rapid pace from 2011 through 2017. During 2018, values began to stabilize in the market area as additional supply began to come online from new construction. Over the past several months, trends indicate continued stabilization. However, inventory levels remain relatively low and interest rates continue to remain at near historically low levels. Exposure Time is similar to Marketing Time at less than 3 months.		
Dimensions: 80' x 125', per Lee County GIS		Site Area: 10,000 sf		Zoning Classification: R-1B		Description: Residential Single-Family				
Zoning Compliance: <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Legal nonconforming (grandfathered) <input type="checkbox"/> Illegal <input type="checkbox"/> No zoning		Are CC&Rs applicable? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown		Have the documents been reviewed? <input type="checkbox"/> Yes <input type="checkbox"/> No		Ground Rent (if applicable) \$ N/A/				
Comments:		Highest & Best Use as improved: <input checked="" type="checkbox"/> Present use, or <input type="checkbox"/> Other use (explain)		Actual Use as of Effective Date: Two-Family Residential		Use as appraised in this report: Two-Family Residential				
Summary of Highest & Best Use:		The site is subject to R-1B zoning. This zoning allows for single-family uses. The subject's current use represents the highest and best use as improved. Although the R-1B zoning allows for single-family uses, the future land use 'Parks' limits the potential uses as vacant. Therefore, the highest and best use as vacant would be assemblage for use consistent with the 'Parks' future land use.								
Utilities		Off-site Improvements		Public		Private		Frontage		
Electricity <input type="checkbox"/> Public <input checked="" type="checkbox"/> Other LCEC		Street Paved (Asphalt)		<input checked="" type="checkbox"/>		<input type="checkbox"/>		Topography Generally Level		
Gas <input type="checkbox"/>		Width _____						Size Average		
Water <input type="checkbox"/> Well/Private		Surface _____						Shape Rectangular		
Sanitary Sewer <input type="checkbox"/> Septic/Private		Curb/Gutter _____		<input type="checkbox"/>		<input type="checkbox"/>		Drainage Appears Adequate		
Storm Sewer <input type="checkbox"/>		Sidewalk _____		<input type="checkbox"/>		<input type="checkbox"/>		View Residential		
Telephone <input type="checkbox"/> Various		Street Lights Arched		<input type="checkbox"/>		<input type="checkbox"/>				
Multimedia <input type="checkbox"/> Various		Alley _____		<input type="checkbox"/>		<input type="checkbox"/>				
Other site elements: <input checked="" type="checkbox"/> Inside Lot <input type="checkbox"/> Corner Lot <input type="checkbox"/> Cul de Sac <input type="checkbox"/> Underground Utilities <input type="checkbox"/> Other (describe)		FEMA Spec'l Flood Hazard Area: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		FEMA Flood Zone: X		FEMA Map #: 12071C0255F		FEMA Map Date: 08/28/2008		
Site Comments: No survey was provided and therefore easements, encroachments or other adverse conditions could not be determined. Furthermore, no environmental reports were provided. This appraisal assumes that there are no adverse easements, encroachments or other adverse environmental conditions associated with the subject property. The site features well and septic systems, mature landscaping, and concrete walkways/driveway.										
General Description		Exterior Description		Foundation		Basement		Heating		
# of Units 2 <input type="checkbox"/> Accessory Unit		Foundation Concrete		Slab Concrete		Area Sq. Ft. 0 <input type="checkbox"/> None		Type Central System		
# Stories 1 # Bldgs. 1		Exterior Walls Stucco		Crawl Space None		% Finished _____		Fuel Electricity		
Type <input checked="" type="checkbox"/> Det. <input type="checkbox"/> Att. <input type="checkbox"/>		Roof Surface Shingle		Basement None		Ceiling _____		Cooling		
Design (Style) Duplex		Gutters & Dwnspts. Aluminum		Sump Pump <input type="checkbox"/>		Walls _____		Central Central System		
<input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Und.Cons.		Window Type Aluminum		Dampness <input type="checkbox"/>		Floor _____		Other _____		
Actual Age (Yrs.) 34		Storm/Screening Fiberglass		Settlement None Apparent		Outside Entry _____				
Effective Age (Yrs.) 25				Infestation None Apparent						
Interior Description		Appliances		Attic		Amenities		Car Storage		
Floors Tile		Refrigerator 2		Attic <input type="checkbox"/> None		Fireplace(s) # _____		Garage # of cars (Tot.)		
Walls Drywall-Paint.		Range/Oven 2		Stairs <input type="checkbox"/>		Patio _____		Attach. _____		
Trim/Finish Wood-Paint.		Disposal _____		Drop Stair <input type="checkbox"/>		Deck <input checked="" type="checkbox"/>		Detach. _____		
Bath Floor Tile		Dishwasher 2		Scuttle <input checked="" type="checkbox"/>		Porch Screened		Blt.-In _____		
Bath Wainscot Tile		Fan/Hood 2		Doorway <input type="checkbox"/>		Fence _____		Carport _____		
Doors Wood		Microwave _____		Floor <input type="checkbox"/>		Pool _____		Driveway 4		
		Washer/Dryer 2		Heated <input type="checkbox"/>				Surface Concrete		
Unit # 1 contains: 5 Rooms; 2 Bedrooms; 2 Bath(s); 1,043.5 Sq.Ft. GLA Above Grade		Unit # 2 contains: 5 Rooms; 2 Bedrooms; 2 Bath(s); 1,043.5 Sq.Ft. GLA Above Grade		Unit # 3 contains: Rooms; Bedrooms; Bath(s); Sq.Ft. GLA Above Grade		Unit # 4 contains: Rooms; Bedrooms; Bath(s); Sq.Ft. GLA Above Grade		The Total Gross Building Area for the Subject Property is: 2,087 Sq.Ft.		



2-4 UNIT RESIDENTIAL APPRAISAL REPORT

File No.: 19040216

IMPROVEMENTS (cont.)
 Additional features: The subject units feature tile flooring, ceiling fans, appliances, and screened porches.
 Describe the condition of the property (including physical, functional and external obsolescence): The subject is in overall above average condition for its age and neighborhood. There have been no substantial renovations to the kitchen or bathrooms. However, all materials appear to have been well maintained. The subject's roof appears to be nearing the end of its economic life. Several shingles appeared to be missing or damaged (see Photograph Addendum). This has been considered within the opinion of effective age.

The following properties are representative current, similar, and proximate rental properties comparable to the subject property. This analysis is intended to support the opinion of the market rent for the subject property.

FEATURE	SUBJECT	COMPARABLE RENTAL # 1	COMPARABLE RENTAL # 2	COMPARABLE RENTAL # 3	
Address	1121/1123 NE 22nd Ter Cape Coral, FL 33909-4494	1401/1403 NE 8th Ter Cape Coral, FL 33909	2218/2220 NE 8th PI Cape Coral, FL 33909	1028/1030 NE 8th PI Cape Coral, FL 33909-1425	
Proximity to Subject		1.85 miles S	0.41 miles W	1.58 miles S	
Current Monthly Rent	\$	\$ 1,875	\$ 2,200	\$ 950	
Less: Utilities	-\$	0	0	0	
Furnishings	-\$	-\$	-\$	-\$	
Plus: Rent Concess.	+\$	+\$	+\$	+\$	
Adj. Monthly Rent	\$	\$ 1,875	\$ 2,200	\$ 950	
Adj. Mo. Rent / GLA	\$ /sq.ft.	\$ 1.07 /sq.ft.	\$ 1.01 /sq.ft.	\$ 1.09 /sq.ft.	
Data Source(s)	Inspection/Public Rec.	ML#218040898	ML#218067351	ML#218074946	
RENT ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+/- \$ Adjust	DESCRIPTION	+/- \$ Adjust
Rent Control	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Lease Date	Annual	Annual		Annual	
Location	Cape Coral	Cape Coral		Cape Coral	
Design (Style)	Duplex	Duplex		Duplex	
Age	34	35		35	
Condition	Above Avg/Eff: 25	Above Avg/Eff: 25		Average/Eff: 10	-150
Total GBA	2,087 sq.ft.	1,758 sq.ft.	+82	2,180 sq.ft.	
Total # of Units	2	2		2	
Total GLA	2,087 sq.ft.	1,758 sq.ft.		2,180 sq.ft.	
Unit Breakdown	Tot. Bed. Baths GLA	Tot. Bed. Baths GLA		Tot. Bed. Baths GLA	
Unit # 1	5 2 2 1,043.5	5 2 2 879		5 2 2 1,090	
Unit # 2	5 2 2 1,043.5	5 2 2 879		5 2 2 1,090	
Unit # 3				N/A/N/A	N/A
Unit # 4					
Porch/Patio/Etc.	Screened Porches	Screened Porches		Patios	
Garage/Carport	None	None		1 Car Garages	-100
Additional Features	None	None		None	
Net Rental Adjustment (Total)		<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 82	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ -250	<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 93	
Indicated Monthly Market Rent		\$ 1,957	\$ 1,950	\$ 1,043	

Analysis of rental data: The rental data above represents recent rentals of duplex units in the Northeast Cape Coral market area. The monthly rental price per square foot indicates a range of \$1.01/sf to \$1.09, with the opinion of market rent for the subject property commanding a rate within this range. Adjustments for Comparable 3 GBA have been applied for differences in one unit only. Adjustments for differences in effective ages, GBA, bathroom count, and other amenities were also warranted within the grid.

Rent Schedule: The appraiser must reconcile the applicable indicated monthly market rents to provide an opinion of the market rent for each unit in the subject property.

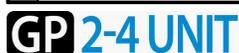
Unit #	Leases		Actual Rents			Opinion of Market Rent		
	Lease Dates		Per Unit		Total Rents	Per Unit		Total Rents
	Begin Date	End Date	Unfurnished	Furnished		Unfurnished	Furnished	
1			\$ 750	\$	\$ 750	\$ 975	\$	\$ 975
2			\$ 750	\$	\$ 750	\$ 975	\$	\$ 975
3			\$	\$	\$	\$	\$	\$
4			\$	\$	\$	\$	\$	\$
Comments on lease data: The subject's current rental rates are below market rates and are not consistent with rates for comparable properties in this area.			Total Actual Monthly Rent		\$ 1,500	Total Gross Monthly Rent		\$ 1,950
			Other Monthly Income (itemize)		\$	Other Monthly Income (itemize)		\$
			Total Actual Monthly Income		\$ 1,500	Total Estimated Monthly Income		\$ 1,950
Utilities included in estimated rents: <input type="checkbox"/> Electric <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Sewer <input type="checkbox"/> Gas <input type="checkbox"/> Oil <input checked="" type="checkbox"/> Trash collection <input type="checkbox"/> Multimedia <input type="checkbox"/> Telephone <input type="checkbox"/> Other								
Comments on actual or estimated rents and other monthly income (including personal property): The opinion of market rent is based upon actual rents that are considered to be reliable indicators of current market rent. The opinion of market rent is based upon current condition of the subject property and is subject to change based upon changes in condition of the subject. Typical leases in the subject's market are annual rentals. The subject units are currently tenant occupied. However, the current rental rates are not consistent with rental rates for comparable properties in this area.								

INCOME APPROACH TO VALUE The Income Approach was not developed for this appraisal.

Gross Rent Multiplier Analysis:

Address	Date	Sale Price	Gross Rent	GRM	Comments
1415 NE 8th Terr, Cape Coral, FL 33909	10/31/2018	231,500	2,100	110.24	
1835/1905 Andalusia Blvd, Cape Coral, FL 33909	8/18/2017	221,000	2,000	110.5	
1401/1403 NE 8th Terrace, Cape Coral, FL 33909	7/31/2018	215,100	1,875	114.72	
Opinion of Monthly Market Rent \$ 1,950		X Gross Rent Multiplier 114	= \$ 222,300	Indicated Value by Income Approach	

Summary of Income Approach (including support for market rent and GRM): The Income Approach has been developed based on the opinion of market rent as demonstrated above rather than actual rents, due to the subject's below-market current rental rates. The gross rent multiplier has been derived from the sales provided above as well as sales in the Sales Comparison Approach with current rental rates.



2-4 UNIT RESIDENTIAL APPRAISAL REPORT

File No.: 19040216

TRANSFER HISTORY	My research <input type="checkbox"/> did <input checked="" type="checkbox"/> did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.	
	Data Source(s): Public Record/MLS	
	1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/listing: There have been no transfers within the past three years. The subject is not currently listed in the local MLS and there are no known agreements for sale or listing.
	Date:	
	Price:	
	Source(s): Public Record	
TRANSFER HISTORY	2nd Prior Subject Sale/Transfer	
	Date:	
	Price:	
	Source(s): Public Record	

SALES COMPARISON APPROACH TO VALUE (if developed) The Sales Comparison Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	1121/1123 NE 22nd Ter Cape Coral, FL 33909-4494	1401/1403 NE 8th Ter Cape Coral, FL 33909		1315/1317 Andalusia Blvd Cape Coral, FL 33909		1110/1112 NE 8th Pl Cape Coral, FL 33909-1452	
Proximity to Subject		1.85 miles S		1.25 miles SW		1.49 miles S	
Sale Price		\$ 215,100		\$ 200,000		\$ 235,000	
Sale Price/GBA	/sq.ft.	\$ 122.35 /sq.ft.		\$ 104.49 /sq.ft.		\$ 104.17 /sq.ft.	
Gross Monthly Rent	\$ 1,950	\$ 1,875		\$ 1,500		\$ 2,000	
Gross Rent Multiplier		114.72		133.33		117.50	
Price per Unit	\$	\$ 107,550		\$ 100,000		\$ 117,500	
Price per Room	\$	\$ 21,510		\$ 20,000		\$ 23,500	
Price per Bedroom	\$	\$ 53,775		\$ 50,000		\$ 58,750	
Data Source(s)	Inspection	ML#218040898		ML#218013128		ML#218010646	
Verification Source(s)	Public Record	IN#2018000185296		IN#2018000150527		IN#2018000197030	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+/- \$ Adjust	DESCRIPTION	+/- \$ Adjust	DESCRIPTION	+/- \$ Adjust
Rent Control	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Sales or Financing Concessions	N/A	Conventional		Conventional		FHA	
Date of Sale/Time	N/A	None Known		None Known		None Known	
Rights Appraised	N/A	7/31/2018		6/15/2018		8/15/2018	
Location	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Site	Cape Coral	Cape Coral		Cape Coral		Cape Coral	
View	10,000 Sq.Ft.	10,000 Sq.Ft.		10,000 Sq.Ft.		10,496 Sq.Ft.	
Design (Style)	Residential	Residential		Residential		Residential	
Quality of Construction	Duplex	Duplex		Duplex		Duplex	
Age	Average	Average		Average		Average	
Condition	34	35		34		11	
Total GBA	Above Avg/Eff: 25	Above Avg/Eff: 25		Above Avg/Eff: 25		Average/Eff: 10	-15,000
Total # of Units	2,087 sq.ft.	1,758 sq.ft.	+11,550	1,914 sq.ft.	+6,090	2,256 sq.ft.	-5,880
Total GLA	2	2		2		2	
Unit Breakdown	2,087 sq.ft.	1,758 sq.ft.		1,914 sq.ft.		2,256 sq.ft.	
	Total Bdrms Baths	Total Bdrms Baths		Total Bdrms Baths		Total Bdrms Baths	
Unit # 1	5 2 2	5 2 2		5 2 1	+5,000	5 2 2	
Unit # 2	5 2 2	5 2 2		5 2 1	+5,000	5 2 2	
Unit # 3							
Unit # 4							
Basement & Finished Rooms Below Grade	N/A	N/A		N/A		N/A	
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	Central/Central	Central/Central		Central/Central		Central/Central	
Energy Efficient Items	Typical	Typical		Typical		Typical	
Parking	Open Parking	Open Parking		Open Parking		1 Car Garage/Each	-16,000
Porch/Patio/Deck	Screened Porches	Screened Porches		None	+6,000	None	+6,000
Additional Features	None	None		None		None	
Net Adjustment (Total)		<input checked="" type="checkbox"/> + <input type="checkbox"/> -	\$ 11,550	<input checked="" type="checkbox"/> + <input type="checkbox"/> -	\$ 22,090	<input type="checkbox"/> + <input checked="" type="checkbox"/> -	\$ -30,880
Adjusted Sale Price of Comparables		5.4	\$ 226,650	11.0	\$ 222,090	13.1	\$ 204,120
Adjusted Price of Comparables per GBA		5.4		11.0		18.2	
Adjusted Price of Comparables per Unit		\$ 128.92		\$ 116.03		\$ 90.48	
Adjusted Price of Comparables per Room		\$ 113,325		\$ 111,045		\$ 102,060	
Adjusted Price of Comparables per Bedroom		\$ 22,665		\$ 22,209		\$ 20,412	
Adjusted Price of Comparables per Bedroom		\$ 56,663		\$ 55,523		\$ 51,030	
Ind. Val. per GBA	\$ 110 X 2,087	SF GBA = \$ 229,570		Ind. Val. per Unit \$ 112,000 X 2	Units = \$ 224,000		
Ind. Val. per Room	\$ 22,000 X 10	Rooms = \$ 220,000		Ind. Val. per Bedroom \$ 55,000 X 4	Bedrooms = \$ 220,000		
Summary of Sales Comparison Approach	The sales utilized represent the most similar sales from the subject's neighborhood. All sales are duplex uses located in the subject's neighborhood as described on Page 1, and feature similar room count, functional utility, and general appeal to the market. Due to varying levels of updating and maintenance, adjustments for age/condition have been based on effective ages rather than actual ages. These adjustments have been applied at a lower rate than indicated by the Age/Life Method due to the reduced impact of depreciation on rental rates. Although property values in this area have stabilized, an adjustment for favorable market conditions was warranted for Comparable 6. This adjustment has been applied at a rate of 0.5% per month from the date of contract through December of 2017. Adjustments for differences in gross building area and other amenities (parking amenities, porch/patio, etc.) were also warranted for several sales utilized. After consideration for differences in property characteristics and market conditions, the four primary indicators above indicate a range of \$220,000 to \$229,680 with the subject commanding a value within this range.						

Indicated Value by Sales Comparison Approach \$ 225,000



ADDITIONAL COMPARABLE SALES

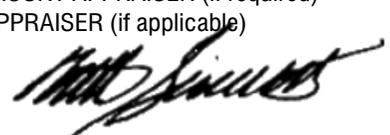
File No.: 19040216

FEATURE	SUBJECT	COMPARABLE SALE # 4			COMPARABLE SALE # 5			COMPARABLE SALE # 6		
Address	1121/1123 NE 22nd Ter Cape Coral, FL 33909-4494	1415/1417 NE 8th Ter Cape Coral, FL 33909-3115			1302/1304 NE 8th PI Cape Coral, FL 33909-1422			1835/1905 Andalusia Blvd Cape Coral, FL 33909		
Proximity to Subject		1.84 miles S			1.29 miles SW			0.61 miles SW		
Sale Price	\$	\$ 231,500			\$ 185,000			\$ 221,000		
Sale Price/GBA	\$ /sq.ft.	\$ 117.04 /sq.ft.			\$ 106.32 /sq.ft.			\$ 102.93 /sq.ft.		
Gross Monthly Rent	\$ 1,950	\$ 2,100			\$ 1,950			\$ 2,000		
Gross Rent Multiplier		110.24			94.87			110.50		
Price per Unit	\$	\$ 115,750			\$ 92,500			\$ 110,500		
Price per Room	\$	\$ 23,150			\$ 18,500			\$ 22,100		
Price per Bedroom	\$	\$ 57,875			\$ 46,250			\$ 55,250		
Data Source(s)	Inspection	ML#218059558			ML#217066145			ML#217028051		
Verification Source(s)	Public Record	IN#2018000264851			IN#2018000183384			IN#2017000183446		
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+/- \$ Adjust		DESCRIPTION	+/- \$ Adjust		DESCRIPTION	+/- \$ Adjust	
Rent Control	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Sales or Financing Concessions	N/A	Conventional			Conventional			Conventional		
Date of Sale/Time	N/A	10/29/2018			7/19/2018			8/18/2017 +5,500		
Rights Appraised	Fee Simple	Fee Simple			Fee Simple			Fee Simple		
Location	Cape Coral	Cape Coral			Cape Coral			Cape Coral		
Site	10,000 Sq.Ft.	10,000 Sq.Ft.			10,000 Sq.Ft.			15,000 Sq.Ft.		
View	Residential	Residential			Residential			Residential		
Design (Style)	Duplex	Duplex			Duplex			Duplex		
Quality of Construction	Average	Average			Average			Average		
Age	34	36			34			24		
Condition	Above Avg/Eff: 25	Good/Eff: 15 -10,000			Above Avg/Eff: 25			Average/Eff: 22 -3,000		
Total GBA	2,087 sq.ft.	1,978 sq.ft. +3,850			1,740 sq.ft. +12,180			2,147 sq.ft. -2,065		
Total # of Units	2	2			2			2		
Total GLA	2,087 sq.ft.	1,978 sq.ft.			1,740 sq.ft.			2,147 sq.ft.		
Unit Breakdown	Total Bdrms Baths	Total Bdrms Baths			Total Bdrms Baths			Total Bdrms Baths		
Unit # 1	5 2 2	5 2 2			5 2 1	+5,000		5 2 2		
Unit # 2	5 2 2	5 2 2			5 2 1	+5,000		5 2 2		
Unit # 3										
Unit # 4										
Basement & Finished Rooms Below Grade	N/A	N/A			N/A			N/A		
Functional Utility	Average	Average			Average			Average		
Heating/Cooling	Central/Central	Central/Central			Central/Central			Central/Central		
Energy Efficient Items	Typical	Typical			Typical			Typical		
Parking	Open Parking	Open Parking			Open Parking			1 Car Garage/Each -16,000		
Porch/Patio/Deck	Screened Porches	Large Patios +2,000			Patios +4,000			Screened Porches -2,000		
Additional Features	None	None			None			Fence		
Net Adjustment (Total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ -4,150			<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 26,180			<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ -17,565		
Adjusted Sale Price of Comparables		1.8 6.8 \$ 227,350			14.2 14.2 \$ 211,180			7.9 12.9 \$ 203,435		
Adjusted Price of Comparables per GBA		\$ 114.94			\$ 121.37			\$ 94.75		
Adjusted Price of Comparables per Unit		\$ 113,675			\$ 105,590			\$ 101,718		
Adjusted Price of Comparables per Room		\$ 22,735			\$ 21,118			\$ 20,344		
Adjusted Price of Comparables per Bedroom		\$ 56,838			\$ 52,795			\$ 50,859		
Summary of Sales Comparison Approach	See the summary comments within the prior Sales Comparison Approach section.									

SALES COMPARISON APPROACH

2-4 UNIT RESIDENTIAL APPRAISAL REPORT

File No.: 19040216

COST APPROACH	COST APPROACH TO VALUE (if developed) <input checked="" type="checkbox"/> The Cost Approach was not developed for this appraisal.	
	Provide adequate information for replication of the following cost figures and calculations.	
	Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value):	
ESTIMATED <input type="checkbox"/> REPRODUCTION OR <input type="checkbox"/> REPLACEMENT COST NEW OPINION OF SITE VALUE = \$		
Source of cost data: DWELLING Sq.Ft. @ \$ = \$		
Quality rating from cost service: Effective date of cost data: 0 Sq.Ft. @ \$ = \$		
Comments on Cost Approach (gross living area calculations, depreciation, etc.): Sq.Ft. @ \$ = \$		
The Cost Approach was not developed. The credibility of this approach is greatly diminished due to the actual age of the improvements. Sq.Ft. @ \$ = \$		
Sq.Ft. @ \$ = \$		
Sq.Ft. @ \$ = \$		
Garage/Carport Sq.Ft. @ \$ = \$		
Total Estimate of Cost-New = \$		
Less Physical Functional External		
Depreciation = \$()		
Depreciated Cost of Improvements = \$		
"As-is" Value of Site Improvements = \$		
..... = \$		
..... = \$		
Estimated Remaining Economic Life (if required): Years INDICATED VALUE BY COST APPROACH = \$		
PUD	PROJECT INFORMATION FOR PUDs (if applicable) <input type="checkbox"/> The Subject is part of a Planned Unit Development.	
	Legal Name of Project:	
	Describe common elements and recreational facilities:	
RECONCILIATION	Indicated Value by: Sales Comparison Approach \$ 225,000 Income Approach \$ 222,300 Cost Approach (if developed) \$	
	Final Reconciliation The Sales Comparison Approach represents the interactions of buyers and sellers in the subject's marketplace. The Cost Approach has not been developed. The credibility of this approach is greatly diminished due to the actual age of the improvements and the reduced impact of depreciation on a property's ability to generate income. The Income Approach demonstrates the value of the property based on its ability to generate income.	
ATTACHMENTS	This appraisal is made <input checked="" type="checkbox"/> "as is", <input type="checkbox"/> subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, <input type="checkbox"/> subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, <input type="checkbox"/> subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair:	
SIGNATURES	<input type="checkbox"/> This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.	
	Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ 223,000, as of: 4/26/2019, which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.	
	A true and complete copy of this report contains <u>22</u> pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.	
	Attached Exhibits: <input checked="" type="checkbox"/> Scope of Work <input checked="" type="checkbox"/> Limiting Cond./Certification <input type="checkbox"/> Narrative Addendum <input checked="" type="checkbox"/> Photograph Addenda	
	<input checked="" type="checkbox"/> Sketch Addendum <input checked="" type="checkbox"/> Map Addenda <input type="checkbox"/> Cost Addendum <input type="checkbox"/> Flood Addendum <input checked="" type="checkbox"/> Additional Sales	
	<input type="checkbox"/> Additional Rentals <input checked="" type="checkbox"/> Income/Expense Analysis <input type="checkbox"/> Hypothetical Conditions <input type="checkbox"/> Extraordinary Assumptions <input checked="" type="checkbox"/> Qualifications	
	<input type="checkbox"/>	
Client Contact: <u>Doug Sayers</u> Client Name: <u>City of Cape Coral</u>		
E-Mail: <u>dsayers@capecoral.net</u> Address: <u>P.O. Box 150027, Cape Coral, FL 33915</u>		
APPRAISER		
		
Appraiser Name: <u>Scott H. Simmons</u>		
Company: <u>Maxwell, Hendry & Simmons, LLC</u>		
Phone: <u>(239) 337-0555</u> Fax: <u>(239) 337-3747</u>		
E-Mail: <u>info@MHSappraisal.com</u>		
Date of Report (Signature): <u>May 20, 2019</u>		
License or Certification #: <u>Cert Res RD6203</u> State: <u>FL</u>		
Designation:		
Expiration Date of License or Certification: <u>11/30/2020</u>		
Inspection of Subject: <input checked="" type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None		
Date of Inspection: <u>4/26/2019</u>		
SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)		
		
Supervisory or Co-Appraiser Name: <u>Matthew S. Simmons</u>		
Company: <u>Maxwell, Hendry & Simmons, LLC</u>		
Phone: <u>(239) 337-0555</u> Fax: <u>(239) 337-3747</u>		
E-Mail: <u>matts@MHSappraisal.com</u>		
Date of Report (Signature): <u>May 20, 2019</u>		
License or Certification #: <u>Cert Res RD5762</u> State: <u>FL</u>		
Designation:		
Expiration Date of License or Certification: <u>11/30/2020</u>		
Inspection of Subject: <input type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input checked="" type="checkbox"/> None		
Date of Inspection:		

Assumptions, Limiting Conditions & Scope of Work

File No.: 19040216

Property Address: 1121/1123 NE 22nd Ter City: Cape Coral State: FL Zip Code: 33909-4494

Client: City of Cape Coral Address: P.O. Box 150027, Cape Coral, FL 33915

Appraiser: Scott H. Simmons Address: 12600 World Plaza Lane, Suite 1, Fort Myers, FL 33907

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

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

Scope of Work

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

Hypothetical Conditions

None

Extraordinary Assumptions

None

Additional Comments (5/20/2019)

This report has been revised from its original submission to provide clarification for questions from the client regarding the subject's numerical address and discrepancies in GLA and GBA. The date of signature represents the most recent date of report delivery.

Certifications

File No.: 19040216

Property Address: 1121/1123 NE 22nd Ter City: Cape Coral State: FL Zip Code: 33909-4494

Client: City of Cape Coral Address: P.O. Box 150027, Cape Coral, FL 33915

Appraiser: Scott H. Simmons Address: 12600 World Plaza Lane, Suite 1, Fort Myers, FL 33907

APPRAISER'S CERTIFICATION

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

- The statements of fact contained in this report are true and correct.
- The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
- Scott H. Simmons (Cert Res RD6203) made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the person(s) signing this certification.

DEFINITION OF MARKET VALUE *:

The most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

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

*12 CFR Ch. V (1-1-11 Edition) Part 564.2 (g) Office of Thrift Supervision, Department of the Treasury

Client Contact: Doug Sayers
E-Mail: dsayers@capecoral.net

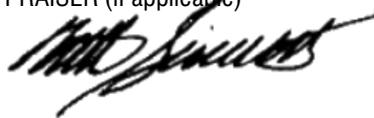
Client Name: City of Cape Coral
Address: P.O. Box 150027, Cape Coral, FL 33915

APPRAISER



Appraiser Name: Scott H. Simmons
Company: Maxwell, Hendry & Simmons, LLC
Phone: (239) 337-0555 Fax: (239) 337-3747
E-Mail: info@MHSappraisal.com
Date Report Signed: May 20, 2019
License or Certification #: Cert Res RD6203 State: FL
Designation:
Expiration Date of License or Certification: 11/30/2020
Inspection of Subject: Interior & Exterior Exterior Only None
Date of Inspection: 4/26/2019

SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)

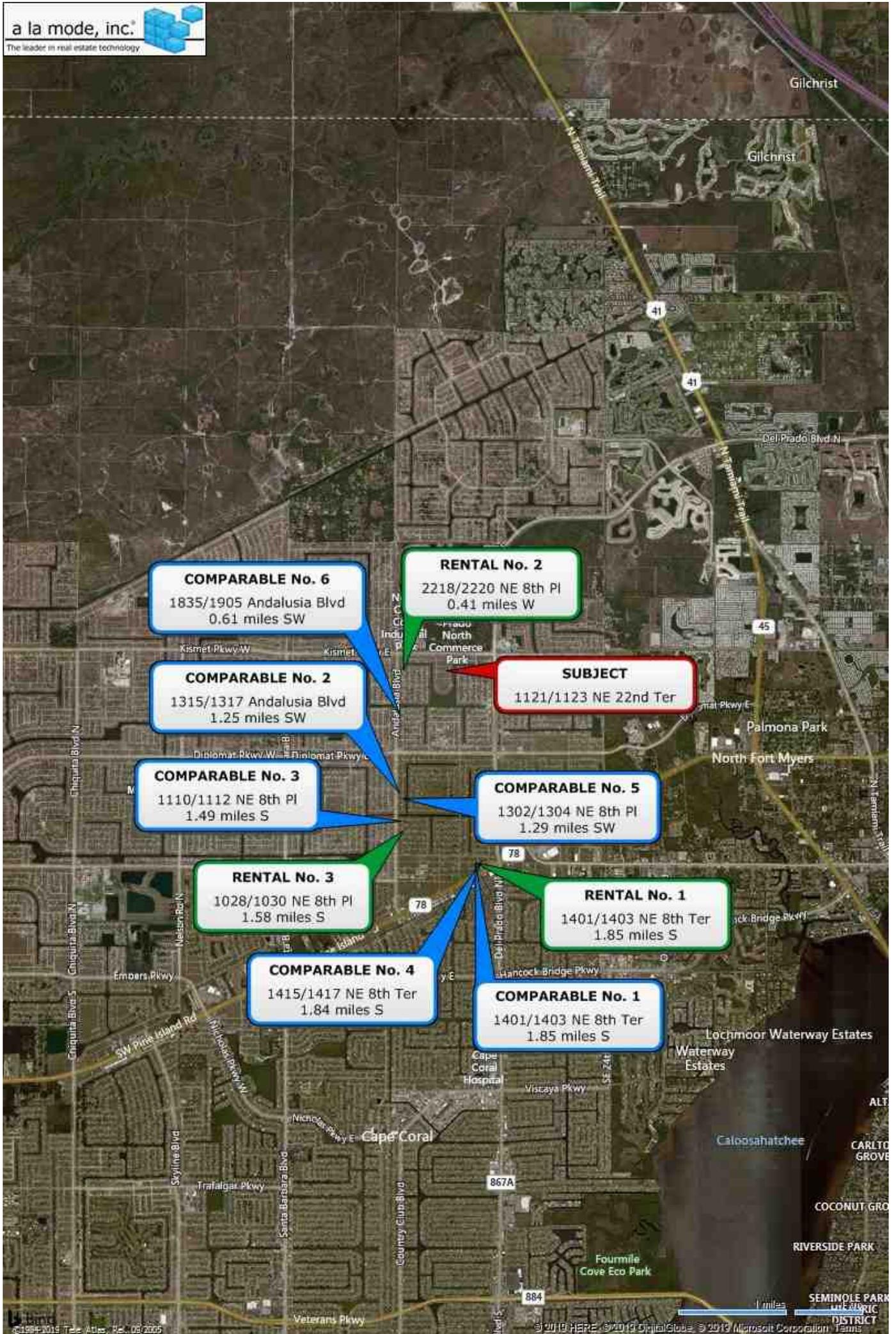


Supervisory or Co-Appraiser Name: Matthew S. Simmons
Company: Maxwell, Hendry & Simmons, LLC
Phone: (239) 337-0555 Fax: (239) 337-3747
E-Mail: matts@MHSappraisal.com
Date Report Signed: May 20, 2019
License or Certification #: Cert Res RD5762 State: FL
Designation:
Expiration Date of License or Certification: 11/30/2020
Inspection of Subject: Interior & Exterior Exterior Only None
Date of Inspection:

SIGNATURES

Location Map

Borrower	N/A		
Property Address	1121/1123 NE 22nd Ter		
City	Cape Coral	County Lee	State FL Zip Code 33909-4494
Lender/Client	City of Cape Coral		



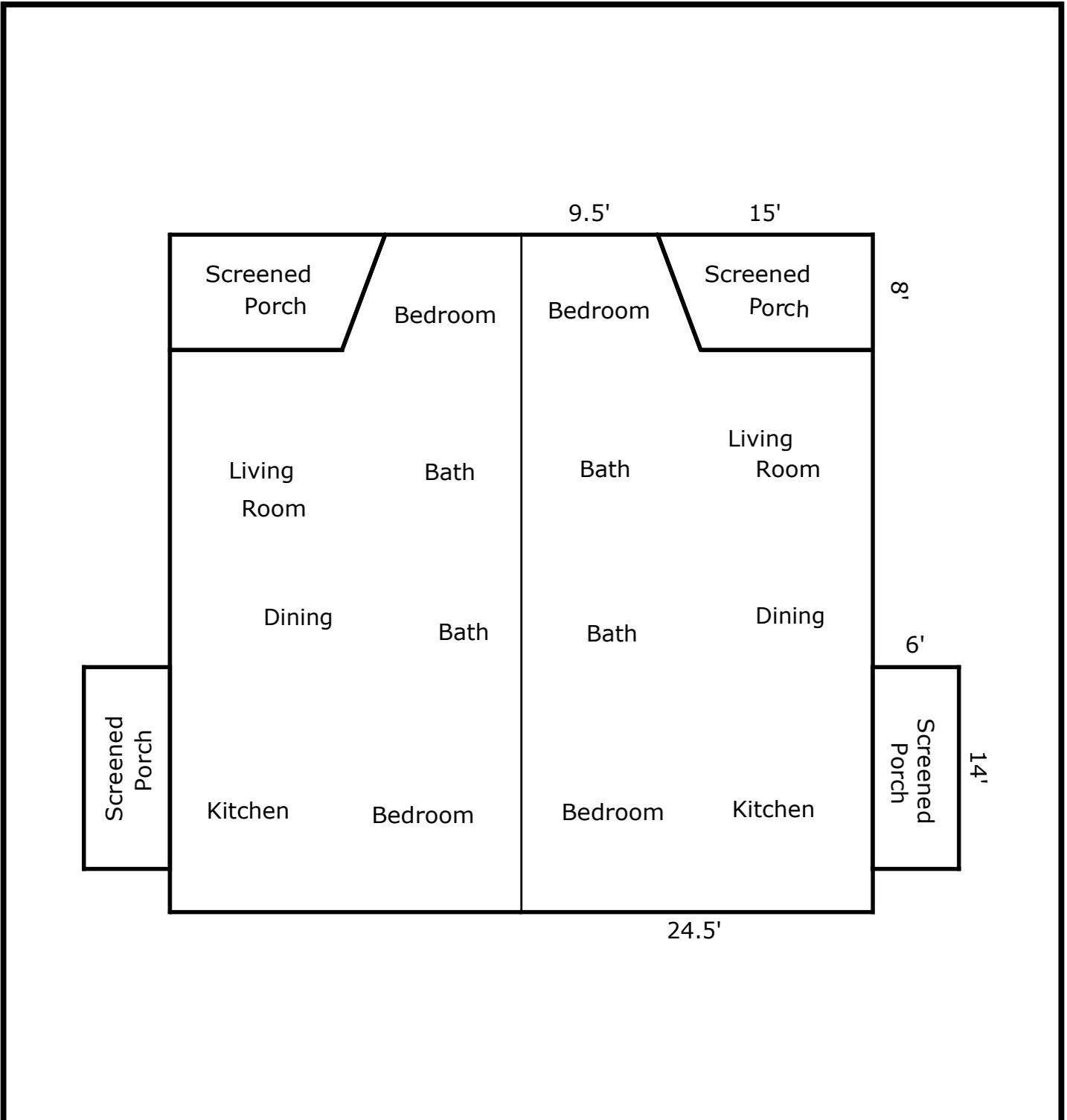
Aerial Map

Borrower	N/A						
Property Address	1121/1123 NE 22nd Ter						
City	Cape Coral	County	Lee	State	FL	Zip Code	33909-4494
Lender/Client	City of Cape Coral						



Building Sketch

Borrower	N/A		
Property Address	1121/1123 NE 22nd Ter		
City	Cape Coral	County Lee	State FL Zip Code 33909-4494
Lender/Client	City of Cape Coral		



TOTAL Sketch by a la mode, inc.

Area Calculations Summary

Living Area	Calculation Details	
First Floor	2087 Sq ft	0.5 × 3 × 8 = 12 0.5 × 8 × 3 = 12 19 × 8 = 152 39 × 49 = 1911
Total Living Area (Rounded):	2087 Sq ft	
Non-living Area		
Screened Porch	84 Sq ft	6 × 14 = 84
Screened Porch	84 Sq ft	6 × 14 = 84
Screened Porch	108 Sq ft	8 × 12 = 96 0.5 × 8 × 3 = 12
Screened Porch	108 Sq ft	8 × 12 = 96 0.5 × 8 × 3 = 12

Subject Photo Page

Borrower	N/A						
Property Address	1121/1123 NE 22nd Ter						
City	Cape Coral	County	Lee	State	FL	Zip Code	33909-4494
Lender/Client	City of Cape Coral						



Subject Front

1121/1123 NE 22nd Ter
Sales Price
Gross Living Area 2,087
Total Rooms 10
Total Bedrooms 4
Total Bathrooms 4
Location Cape Coral
View Residential
Site 10,000 Sq.Ft.
Quality Average
Age 34



Subject Rear



Subject Street

Photograph Addendum

Borrower	N/A						
Property Address	1121/1123 NE 22nd Ter						
City	Cape Coral	County	Lee	State	FL	Zip Code	33909-4494
Lender/Client	City of Cape Coral						



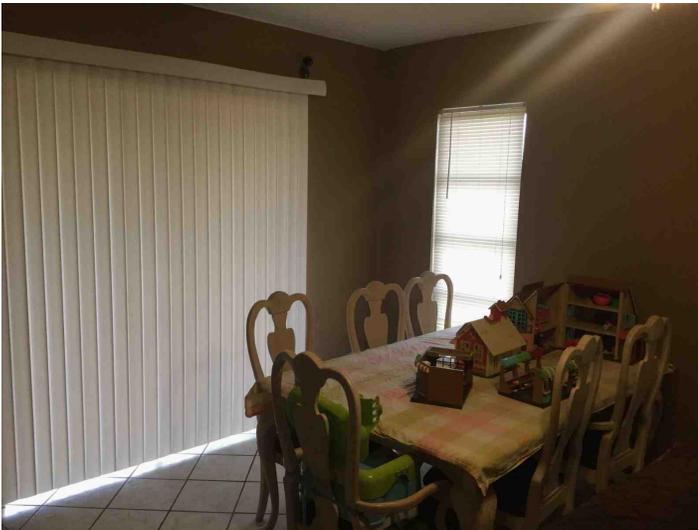
Photograph Addendum

Borrower	N/A						
Property Address	1121/1123 NE 22nd Ter						
City	Cape Coral	County	Lee	State	FL	Zip Code	33909-4494
Lender/Client	City of Cape Coral						



Photograph Addendum

Borrower	N/A						
Property Address	1121/1123 NE 22nd Ter						
City	Cape Coral	County	Lee	State	FL	Zip Code	33909-4494
Lender/Client	City of Cape Coral						



Photograph Addendum

Borrower	N/A						
Property Address	1121/1123 NE 22nd Ter						
City	Cape Coral	County	Lee	State	FL	Zip Code	33909-4494
Lender/Client	City of Cape Coral						



Photograph Addendum

Borrower	N/A						
Property Address	1121/1123 NE 22nd Ter						
City	Cape Coral	County	Lee	State	FL	Zip Code	33909-4494
Lender/Client	City of Cape Coral						



Comparable Photo Page

Borrower	N/A				
Property Address	1121/1123 NE 22nd Ter				
City	Cape Coral	County	Lee	State	FL
Lender/Client	City of Cape Coral				
				Zip Code	33909-4494



Comparable 1

1401/1403 NE 8th Ter
 Prox. to Subject 1.85 miles S
 Sales Price 215,100
 Client 1,758
 Lender 10
 Total Bedrooms 4
 Total Bathrooms 4
 Location Cape Coral
 View Residential
 Site 10,000 Sq.Ft.
 Quality Average
 Age 35



Comparable 2

1315/1317 Andalusia Blvd
 Prox. to Subject 1.25 miles SW
 Sales Price 200,000
 Gross Living Area 1,914
 Total Rooms 10
 Total Bedrooms 4
 Total Bathrooms 2
 Location Cape Coral
 View Residential
 Site 10,000 Sq.Ft.
 Quality Average
 Age 34



Comparable 3

1110/1112 NE 8th Pl
 Prox. to Subject 1.49 miles S
 Sales Price 235,000
 Gross Living Area 2,256
 Total Rooms 10
 Total Bedrooms 4
 Total Bathrooms 4
 Location Cape Coral
 View Residential
 Site 10,496 Sq.Ft.
 Quality Average
 Age 11

Comparable Photo Page

Borrower	N/A				
Property Address	1121/1123 NE 22nd Ter				
City	Cape Coral	County	Lee	State	FL
Lender/Client	City of Cape Coral				
				Zip Code	33909-4494



Comparable 4

1415/1417 NE 8th Ter
 Prox. to Subject 1.84 miles S
 Sales Price 231,500
 Client 1,978
 Lender 10
 Total Bedrooms 4
 Total Bathrooms 4
 Location Cape Coral
 View Residential
 Site 10,000 Sq.Ft.
 Quality Average
 Age 36



Comparable 5

1302/1304 NE 8th Pl
 Prox. to Subject 1.29 miles SW
 Sales Price 185,000
 Gross Living Area 1,740
 Total Rooms 10
 Total Bedrooms 4
 Total Bathrooms 2
 Location Cape Coral
 View Residential
 Site 10,000 Sq.Ft.
 Quality Average
 Age 34



Comparable 6

1835/1905 Andalusia Blvd
 Prox. to Subject 0.61 miles SW
 Sales Price 221,000
 Gross Living Area 2,147
 Total Rooms 10
 Total Bedrooms 4
 Total Bathrooms 4
 Location Cape Coral
 View Residential
 Site 15,000 Sq.Ft.
 Quality Average
 Age 24

Rental Photo Page

Borrower	N/A				
Property Address	1121/1123 NE 22nd Ter				
City	Cape Coral	County	Lee	State	FL Zip Code 33909-4494
Lender/Client	City of Cape Coral				



Rental 1

1401/1403 NE 8th Ter
Proximity to Subj. 1.85 miles S
GBA 1,758
Age/Year Built 35



Rental 2

2218/2220 NE 8th Pl
Proximity to Subj. 0.41 miles W
GBA 2,180
Age/Year Built 13



Rental 3

1028/1030 NE 8th Pl
Proximity to Subj. 1.58 miles S
GBA 870
Age/Year Built 35

Qualifications

Borrower	N/A						
Property Address	1121/1123 NE 22nd Ter						
City	Cape Coral	County	Lee	State	FL	Zip Code	33909-4494
Lender/Client	City of Cape Coral						

QUALIFICATIONS: SCOTT H. SIMMONS

Educational Background and Training

Appraisal Board Course 1 (ABI), Academy of Real Estate, 2003, Fort Myers, Florida.

Sales Comparison Approach, St. Petersburg Junior College Corporate Training Center, Steve Vehmeier, 2004, St. Petersburg, Florida.

The Professional's Guide to the URAR, South Fort Myers/Clarión Hotel & Suites, Kathy Coon, 2005

Various Courses, McKissock, Inc. 2009, Fort Myers, Florida.

Appraisal Board Course II (ABII), Academy of Real Estate, 2006, Fort Myers, Florida

15 - Hour National USPAP Course, Gold Coast Real Estate Schools, 2006, Miami, Florida.

7 - Hour National USPAP Update Course, McKissock, Inc. 2010, Miami, FL

Various Courses, McKissock, Inc. 2010, Miami, FL

Experience

Gulf Coast Appraisal and Consulting Services, Inc., Cape Coral, FL

Gulf Coast Appraisal and Associates, Inc., Cape Coral, Florida

Maxwell & Hendry Valuation Services, Inc., Fort Myers, Florida

Maxwell, Hendry & Simmons, LLC, Fort Myers, Florida

Professional Affiliations

State-Certified Residential Real Estate Appraiser, RD 6203

State-Licensed Real Estate Sales Associate, SL 3293556

HUD FHA Approved Appraiser

Re-certification

As of the date of this report, I, Scott H. Simmons, have completed the requirements under the continuing education program for the State of Florida.



Qualifications

Borrower	N/A				
Property Address	1121/1123 NE 22nd Ter				
City	Cape Coral	County	Lee	State	FL
Lender/Client	City of Cape Coral				
				Zip Code	33909-4494

QUALIFICATIONS: MATTHEW S. SIMMONS

Educational Background and Training

Bachelor of Science in Business Management, 2008, Florida Gulf Coast University, Fort Myers, Florida.
 Appraisal Board Course 1 (ABI), Steve Williamson's Real Estate Education Specialists, 2003, Orlando, Florida.
 Real Estate Transactions, Florida Gulf Coast University, 2003, Fort Myers, Florida.
 Various Appraisal Institute Courses
 Appraisal Board Course II (ABII), Academy of Real Estate, 2005, Fort Myers, Florida.
 63 - hour Sales Associate Pre-License Course, Career Web School, 2008

Experience

Gulf Coast Appraisal and Consulting Services, Inc., Cape Coral, Florida - Associate (October 2003)
 Gulf Coast Appraisal and Associates, Inc., Cape Coral, Florida - Associate (2003 - 2005)
 Maxwell & Hendry Valuation Services, Inc., Fort Myers, Florida - Residential Division: Manager (2005 - 2013)
 Maxwell, Hendry & Simmons, LLC, Fort Myers, Florida - Partner (2013 - Present)

Professional Affiliations

State-Certified Residential Real Estate Appraiser, RD5762
 State-Licensed Real Estate Broker, BK3214690
 Qualified as an expert witness in the Florida District Court: 7th Judicial Circuit, 20th Judicial Circuit
 Qualified as an expert witness in U.S. District Court: Middle District of Florida
 Qualified as an expert witness in St. Croix County, Wisconsin
 Realtor Association of Greater Fort Myers and the Beach, Inc. - Member 2009 - Present
 National Association of Realtors - Member 2009 - Present
 Real Estate Investment Society (REIS) - President - 2015
 Sanibel-Captiva Chamber of Commerce - Member 2006 - Present
 Southwest Florida Museum of History Foundation - Board Member 2014 - 2016
 HUD FHA Approved Appraiser
 Associate Member of the Appraisal Institute - 2011 - Present
 Florida Real Estate Appraisal Board (FREAB) - Gubernatorial Appointed Board Member - 2012 - 2016
 Florida Real Estate Appraisal Board (FREAB) - Past Chairman 2014
 Since 2016, Board of Directors for IMAG - History & Science Center
 Since 2017, President of L.E.A.D. Foundation of SWFL

Re-certification

As of the date of this report, I, Matthew S. Simmons, have completed the requirements under the continuing education program for the State of Florida.



Item Number: B.(16)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 255-19 Approval of Contract for Purchase of Lots 93 and 94, Block 3025, Unit 43, Cape Coral Subdivision, 1305 NW 27th Street, Cape Coral, for the Festival Park project for the purchase price of \$12,000 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$13,500; (Parks Capital Project/GO Bond Fund)
Note: Trade offer rejected by Seller.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. In 2003 at a Strategic Planning Session City Council directed staff to begin purchasing property in Cape Coral Subdivision Unit 43 for a future park site, now known as Festival Park. Over the years, Staff had been working with various owners in the park area to purchase additional properties on a voluntary basis based on current independent state-certified appraisals.
2. Currently, the City owns 449 of the 517 parcels required for Festival Park, with one additional property contract currently pending. Included in the remaining properties to purchase is one (1) improved property located on the Northwind Canal. The subject contract is for a two-lot off-water parcel located within the designated Festival Park area.
3. With the recent GO Bond approval, City Staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Staff submitted an offer to purchase the site based on an appraisal of a similar two-lot site by an independent state-certified appraiser, which has been accepted by the Seller. The contract requires the City to pay the closing costs incurred by the title company.
4. Staff recommends approval of the purchase contract to purchase Lots 93 and 94, Block 3025,

Unit 43, Cape Coral Subdivision, for the purchase price of \$12,000 plus closing costs not to exceed \$1,500.

LEGAL REVIEW:

EXHIBITS:

Resolution 255-19
Property Appraiser Sheet
Location Map
Appraisal

PREPARED BY:

Dawn Y. Andrews, Property Broker Division- Real Estate Department- Financial Services

SOURCE OF ADDITIONAL INFORMATION:

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

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

ATTACHMENTS:

Description	Type
▣ Resolution 255-19	Resolution
▣ PA Sheet - Block 3025, Lots 93-94	Backup Material
▣ Location Map - Block 3025, Lots 93-94	Backup Material
▣ Appraisal - 2 Lots off Water - Festival Park	Backup Material

RESOLUTION 255 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING THE CITY MANAGER TO ENTER INTO A "CONTRACT FOR SALE AND PURCHASE" BETWEEN HANCOCK BUILDERS, LLC, AND THE CITY OF CAPE CORAL FOR THE PURCHASE OF LOTS 93-94, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, FOR THE FESTIVAL PARK PROJECT; PROPERTY LOCATED AT 1305 NW 27TH STREET; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2003, City Council directed staff to begin purchasing property in Unit 43, Cape Coral Subdivision, for the purpose of creating and developing Festival Park; and

WHEREAS, City staff has been working with various owners in the park area to purchase additional properties on a voluntary basis based on current independent state-certified appraisals; and

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

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

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

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

Section 1. The City Council hereby authorizes the City Manager to execute a "Contract for Sale and Purchase" between Hancock Builders, LLC, and the City of Cape Coral for the purchase of Lots 93-94, Block 3025, Unit 43, Cape Coral Subdivision, as more fully described in the Contract, in the amount of \$12,000, plus closing costs not to exceed \$1,500. The property is located at 1305 NW 27th Street. A copy of the "Contract for Sale and Purchase" is attached hereto as Exhibit A.

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 Res/Purchase Real Property Festival Park L93-94 B3025

CONTRACT FOR SALE AND PURCHASE

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

PARTIES: Hancock Builders, LLC, 1985 Cedar Bridge Avenue Suite 1, Lakewood, New Jersey 08701 as "**SELLER**", and City of Cape Coral, a Florida Municipal Corporation, P.O. Box 150027, Cape Coral, Florida 33915-0027, successors or assigns, as "**BUYER**", hereby agree that the **SELLER** shall sell and **BUYER** shall buy the following (hereinafter referred to as "**PROPERTY**") described property upon the following terms and conditions:

1. **LEGAL DESCRIPTION** of real estate located in Lee County, Florida:
Lots 93 and 94, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48-57, inclusive of the Public Records of Lee County, Florida.

2. **PURCHASE PRICE** **\$12,000.00**

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

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

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

7. **EVIDENCE OF TITLE.** Within fifteen (15) days from the date of this contract, **BUYER** shall at **BUYER'S** expense, obtain a title insurance binder issued by a qualified title insurer of its choice, agreeing to issue to **BUYER**, upon the recording of the deed hereafter mentioned, a title insurance policy in the amount of the purchase price insuring the title to that real property. **BUYER** shall have fifteen (15) days from the date of receiving the evidence of title to examine same. If title is found to be defective, **BUYER** or closing agent shall, within said period of time, notify **SELLER** in writing specifying defects that need to be cured. For purposes of this contract, a requirement by the title insurer that the **SELLER** institute and complete a quiet title action shall be deemed to be a title defect that shall be cured by **SELLER**. If said defects render the title unmarketable or uninsurable **SELLER** shall have ninety (90) days from the receipt of

- such notice to cure the defects, and if after said period **SELLER** shall not have cured the defects, then **BUYER** shall have the option of (1) accepting the title as it then is; (2) affording **SELLER** additional time to cure the defect(s); or (3) terminate the contract by providing written notice to the **SELLER**.
8. **EXISTING MORTGAGES.** **SELLER** shall furnish estoppel letters from mortgagee(s) setting forth the principal balance, escrow balance, method of payment, and whether the mortgage is in good standing. It shall be **SELLER'S** obligation to obtain any satisfactions of mortgage required for closing.
 9. **SURVEY.** If **BUYER** desires a survey, **BUYER** shall have the property surveyed at its expense prior to closing date. If the survey shows an encroachment, the same shall be treated as a title defect.
 10. **OTHER AGREEMENTS.** No agreements or representations, unless incorporated in this contract, shall be binding upon any of the parties, unless they be in writing and agreed to by all parties.
 11. **MECHANIC'S LIENS.** **SELLER** shall execute an affidavit that there have been no improvements to the subject property and that **SELLER** has not entered any contracts for the provision of goods or services that could give rise to a mechanic's lien for the ninety (90) days immediately preceding the date of closing.
 12. **TIME IS OF THE ESSENCE** in the performance of this contract.
 13. **DOCUMENTS FOR CLOSING.** **SELLER** shall execute a Warranty Deed, Seller's Affidavit and other necessary closing documents provided by closing agent.
 14. **EXPENSES.** Documentary stamps, title insurance, title search, title exam, and settlement fees shall be paid by **BUYER**.

15. **PRORATION OF TAXES (REAL AND PERSONAL).** Taxes shall be prorated based upon the current year's tax without regard to discount. If the closing takes place and the current year's taxes are not fixed, and the current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax, provided, however, if there is a completed improvement of the subject premises by January 1 of the year of closing, then the taxes shall be prorated to the date of closing based upon the prior year's millage. It is further agreed that should, upon receipt of current tax statement, the taxes be different by more than Ten Dollars (\$10.00) than those estimated, the proration shall be adjusted.
16. **ATTORNEY'S FEES AND COSTS.** In connection with any litigation arising out of the contract, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees. The parties agree to venue in Lee County, Florida for any action arising out of this Contract.
17. **DEFAULT BY SELLER.** If **SELLER** fails to perform any of the covenants of this contract other than the failure of **SELLER** to render his title marketable after diligent effort **BUYER** may proceed at law or in equity to enforce its legal rights under this contract, including, but not limited to, the right to bring suit for specific performance. If **BUYER** fails to perform any of the covenants of this contract, **SELLER** may proceed at law or in equity to enforce its legal rights under this contract, including, but not limited to, the right to bring suit for specific performance.
18. All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.
19. This agreement shall be interpreted, construed, and governed according to the Laws of the State of Florida.

20. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid and unenforceable provisions were omitted.
21. **SELLER** and **BUYER** hereby agree that this contract to purchase the real property described above is for a proper municipal purpose and grants the **BUYER** the right to enter the real property described above for the purpose of surveying, soil borings, or any other work as deemed necessary by the **BUYER**. The parties herein further agree that the purchase of this property does not destroy or cause any damage whatsoever to **SELLER** or his successor or assigns with respect to any commercial or residential property owned by them whose lands are being so purchased or located upon adjoining lands.
22. The place of closing and delivery of the deed to **BUYER** shall be at any office designated by **BUYER**.
23. **ENVIRONMENTAL AUDIT.** **BUYER** may perform or have performed, at **BUYER'S** expense, an environmental audit of the property. If such an audit identifies environmental problems unacceptable to the **BUYER** then **BUYER**, within fifteen (15) days of receipt of said environmental audit, may elect to accept the property in its existing condition or **BUYER** may terminate this Contract without obligation.
24. **REAL ESTATE COMMISSIONS.** **BUYER** and **SELLER** understand and agree that in the event **BUYER** has knowledge of any listing agreement for the subject property, then **BUYER**, at its option, may elect to notify and provide a copy of this contract to the Listing Broker. **SELLER** shall be solely responsible for any Broker compensation, Realtor notification or any other terms and conditions of any listing agreement. **SELLER** shall also be responsible for any Realtor transaction fee or administration fee.

QUESTIONNAIRE

Project: Festival Park

Parcel Strap: 274323C4030250930

Project Parcel: 415

Please complete the following questions that pertain to you and return to this office in the envelope provided.

1. Are you the owner of the property identified above? Yes No

2. Is this property listed with a realtor? Yes No

If yes, Agents Name: _____

Real Estate Company's Name: _____

Telephone No.: _____

3. Have you sold or are you in the process of selling the property? Yes No

If yes, to whom - Name: _____

Address: _____

Closing Date _____

4. Other than my spouse, I share ownership of this property with: Name: _____

Address: _____

Telephone No.: _____

6. Please list the appropriate contact person for this property: Name and Title: Lynette Hamdi, Legal Department

Address: 1985 Cedar Bridge Ave. Suite 1, Lakewood, NJ 08701

Telephone No.: 732-367-0129 x2138

7. Is there an ongoing business on this site? Yes No

If yes, who owns the business? Name: _____

Address: _____

Telephone No.: _____

8. Additional Comments: _____

Shifra Mendlowitz 6/26/2019
Property Owner's Signature Date
The DWL 2003 Family Trust, Sole Member

By: Shifra Mendlowitz Lichtenstein, Trustee
Printed Name & Title
1985 Cedar Bridge Ave. Suite 1
Street Address
Lakewood, NJ 08701
City State Zip

732-367-0129
Telephone Number
732-782-0241
Facsimile Number
LHamdi@lightstonegroup.com
Email address

DISCLOSURE AFFIDAVIT

Project Name: Festival Park

Parcel ID #: 274323C4030250930

Project Parcel ID: FP 415

STATE OF New Jersey

COUNTY OF Ocean

BEFORE ME, the undersigned authority in said County and State, personally appeared _____
Shifra Mendlowitz Lichtenstein who being first duly sworn, deposes and says:

1. **THAT** he/she is:

() a. President (or Vice President) of _____
Corporation or LLC incorporated or organized under the laws of the State of _____;

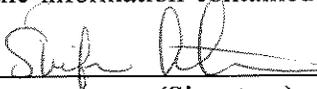
or () b. A Partner (or limited Partner) of the firm of _____
composed of _____ and _____
doing business under the name of _____.

or (X) c. Authorized Member of a limited liability company organized under the laws of
Florida, doing business as Hancock Builders, LLC.
(state) (Company Name)

2. **THAT** the names and addresses listed on Exhibit "A" attached hereto and by this reference made a part hereof are the name and address of every person having a beneficial interest in the real property described as Lots 93 and 94, Block 3025, Unit 43, Cape Coral Subdivision, however small or minimal.

3. **THIS** Affidavit is provided to comply with the provisions of Section 286.23, Florida Statutes.

Under penalties of perjury, I do hereby declare that the information contained in this Affidavit is true and correct.


(Signature)

Print Name: Shifra Mendlowitz Lichtenstein

Title: Trustee of The DWL 2003 Family Trust, Sole Member of Hancock Builders LLC

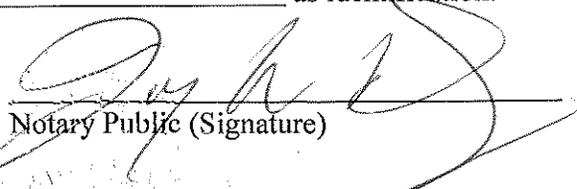
Address: 1985 Cedar Bridge Ave. Suite 1
Lakewood, NJ 08701

Sworn to and subscribed before me this 26th day _____ of June 2019, by Shifra Mendlowitz Lichtenstein
_____ as Trustee of The DWL 2003 Family Trust, Sole Member of Hancock Builders LLC who is personally known by me or
(title and name of corporation or company)

has produced _____ as identification.
(describe identification)

My Commission Expires: _____

(seal)


Notary Public (Signature)

JOY M. DEVITA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 2/5/2023

EXHIBIT "A"

The following is a list of every person with a beneficial interest in the real property described as Lots 93 and 94, Block 3025, Unit 43, Cape Coral Subdivision:

NAME Moshe Lichtenstein

ADDRESS 1985 Cedar Bridge Ave. Suite 1

ADDRESS Lakewood, NJ 08701

NAME Leah Leora Lichtenstein

ADDRESS 1985 Cedar Bridge Ave. Suite 1

ADDRESS Lakewood, NJ 08701

NAME Estee Lichtenstein

ADDRESS 1985 Cedar Bridge Ave. Suite 1

ADDRESS Lakewood, NJ 08701

NAME _____

ADDRESS _____

ADDRESS _____

NAME Ari Lichtenstein

ADDRESS 1985 Cedar Bridge Ave. Suite 1

ADDRESS Lakewood, NJ 08701

NAME Shragie Lichtenstein

ADDRESS 1985 Cedar Bridge Ave. Suite 1

ADDRESS Lakewood, NJ 08701

NAME _____

ADDRESS _____

ADDRESS _____



Property Data

STRAP: 27-43-23-C4-03025.0930 Folio ID: 10033916

+ Owner Of Record - Sole Owner

HANCOCK BUILDERS LLC
1985 CEDAR BRIDGE AVE STE 1
LAKEWOOD NJ 08701

Site Address

1305 NW 27TH ST
CAPE CORAL FL 33993

Property Description **Do not use for legal documents!**

CAPE CORAL UNIT 43
BLK 3025 PB 17 PG 52
LOTS 93 + 94

Classification / DOR Code

VACANT RESIDENTIAL / 00

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Current Working Values

Just 9,300 As Of 07/16/2018

Attributes

Land Units Of Measure	UT
Units	1.00
Total Number of Buildings	0
Total Bedrooms / Bathrooms	0
Total Living Area	0
1st Year Building on Tax Roll	N/A
Historic Designation	No

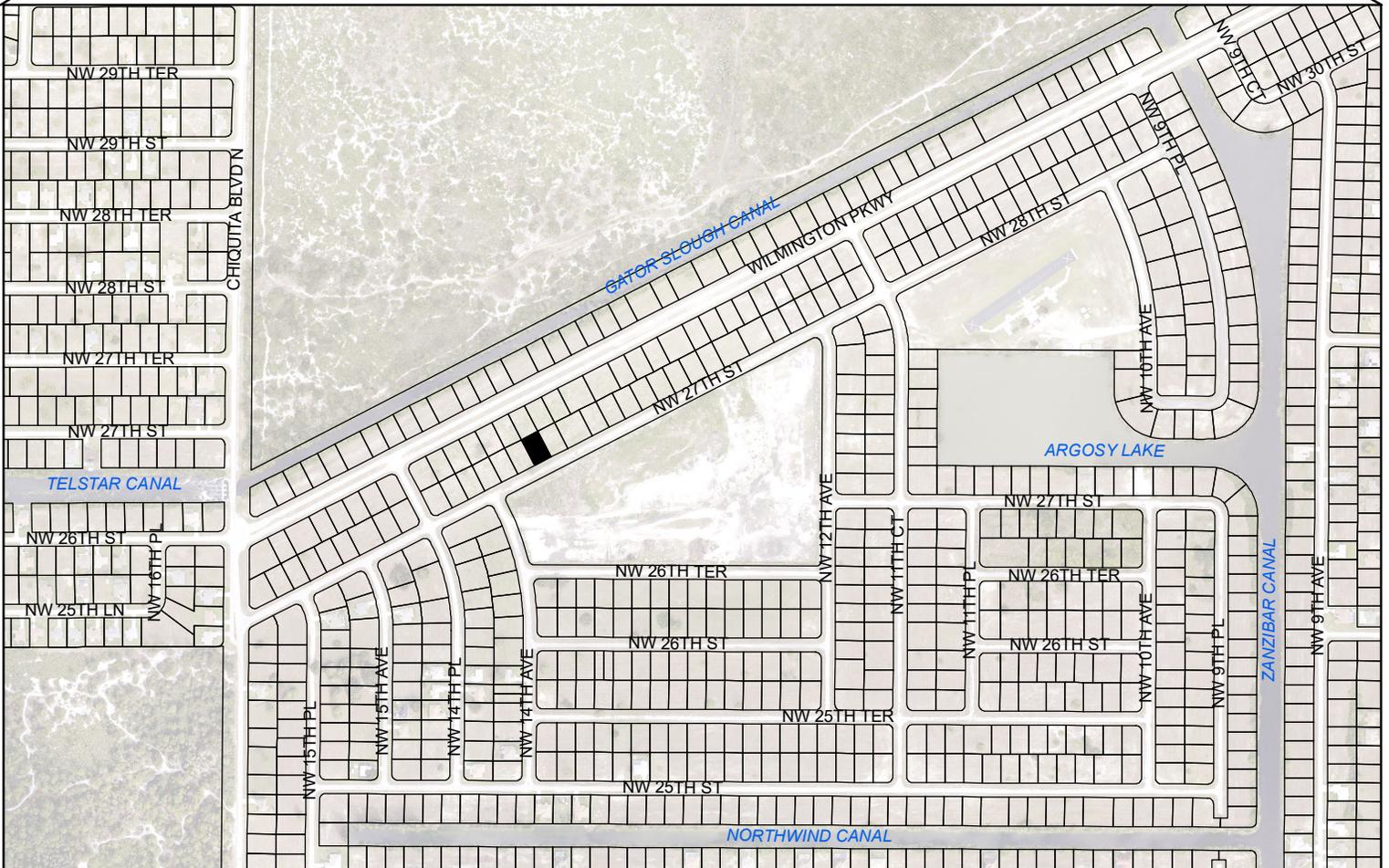
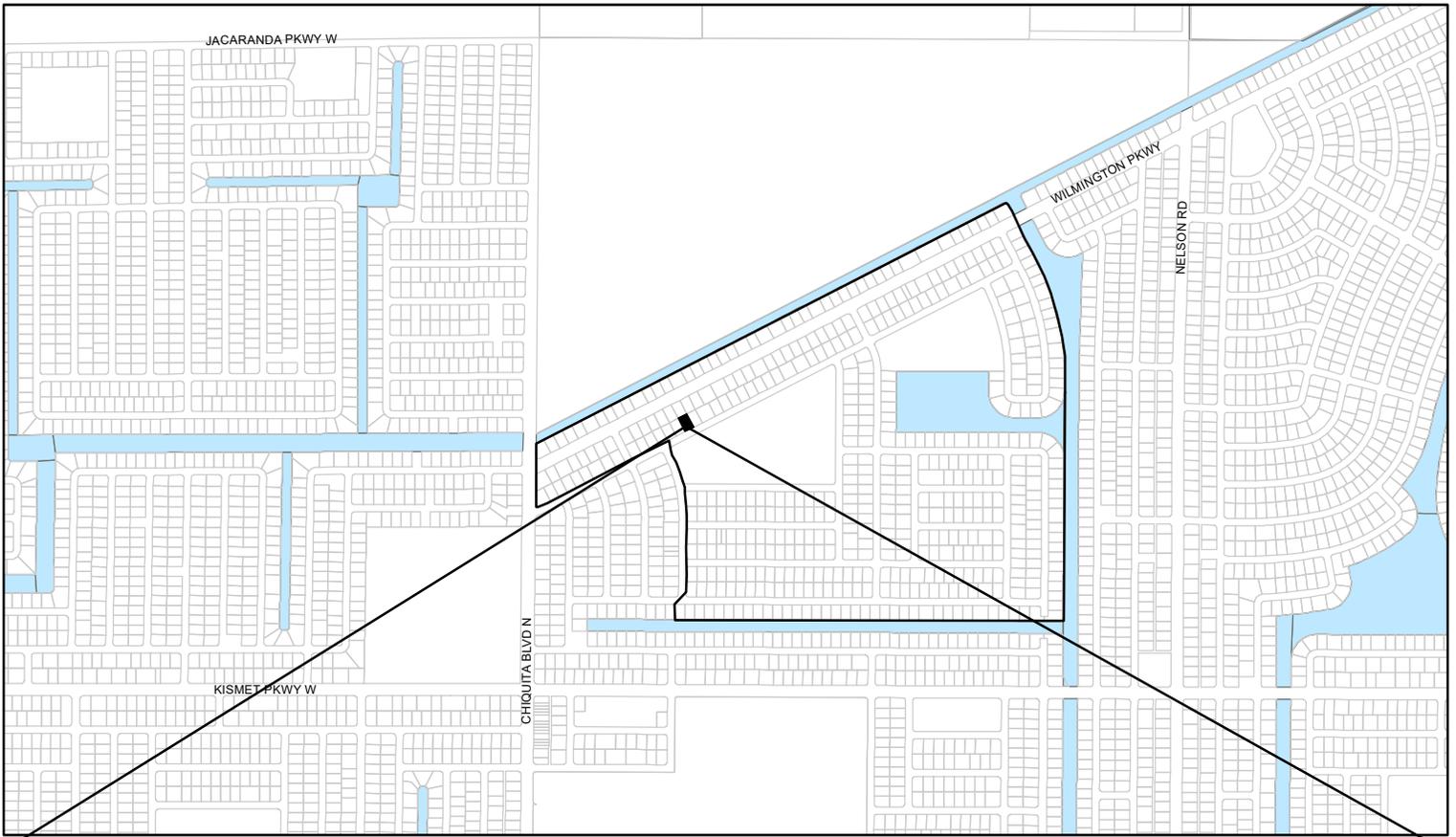
Image of Structure



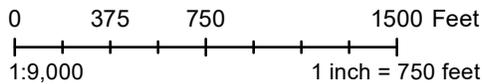
Exemptions



Values (2018 Tax Roll)



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. Prepared by: The City of CAPE CORAL Real Estate Division-Gregory L. Spivey



FESTIVAL PARK
Parcel 415
Block 3025 Lots 93 and 94

**Restricted Real Estate
Appraisal Report
Of**

The Turpin Property
1010 NW 25th Terrace
City of Cape Coral, Lee County, Florida

Prepared For

The City of Cape Coral
Real Estate Division
c/o Dawn Andrews
P.O. Box 150027
Cape Coral, Florida 33915-0027

DATE OF VALUATION:

May 3, 2019

Calhoun, Collister & Parham, Inc.



Calhoun, Collister & Parham, Inc.

Real Estate Appraisers & Consultants

Jacksonville Office

10151 Deerwood Park Blvd.,
Building 200, Suite 250
Jacksonville, Florida 32256-0557
Phone: (904) 764-0200
Toll Free (800) 280-8140
Fax: (904) 764-4006

Tampa Office

10014 N Dale Mabry Highway
Suite 201
Tampa, Florida 33618-4426
Phone: (813) 961-8300
Toll Free (800) 280-8150
Fax: (813) 962-6363

West Palm Beach Office

777 South Flagler Drive
Suite 800 – West Tower
West Palm Beach, FL 33401
Phone: (561) 909-3176
Toll Free (800) 280-8140
Fax: (561) 909-3177

May 30, 2019

The City of Cape Coral
Real Estate Division
c/o Dawn Andrews
P.O. Box 150027
Cape Coral, Florida 33915-0027

Re.: Owners : William and Delilah Turpin
Property Address : 1010 NW 25th Terrace
County : Lee
City : Cape Coral

Dear Mrs. Andrews:

As requested, I have personally inspected and appraised the above referenced property. At the date of value, the subject property consisted of a 10,000 square foot lot. The property is located along the southern side of NW 25th Terrace, about 160 feet west of NW 10th Avenue, within the City of Cape Coral, in Lee County, Florida. The subject property is located in an area that will be developed as Festival Park by the City of Cape Coral.

The intended use of this Restricted Appraisal Report is to assist the client in determining the market value of the subject property. The purpose of the appraisal is to report the market value of the subject property. The format of the report is Restricted Appraisal Report, in that the findings and analysis of the report were prepared for exclusive use by the client, in conformance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP). Portions of the supporting data analyzed in the appraisal process have been included in this appraisal report. Additional data and other material are contained in the appraisal file, which is incorporated herein by reference.

The City of Cape Coral
Real Estate Division
c/o Dawn Andrews
May 30, 2019
Page Two

Based upon those factors discussed herein, the market value of the subject property, as of May 3, 2019 (date of last inspection), is:

\$12,000

Please do not hesitate to contact me if you have any questions or comments.

Sincerely,

Calhoun, Collister & Parham, Inc.



Richard H. Parham
State-Certified General
Real Estate Appraiser
RZ2256

CERTIFICATION STATEMENT

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

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have not performed other services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have made a personal inspection of the property that is the subject of this report.
- The following have provided significant real property appraisal assistance to the person signing this certification: Brett A. Meyers, State-Certified General Real Estate Appraiser RZ3409. This does not include any other professional assistance involving other disciplines, which are summarized under the "Scope of Appraisal" portion of the report.

Certification Statement (Continued)

- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- As of the date of this report, I Richard H. Parham, State-Certified General Real Estate Appraiser RZ2256, have completed the Standards and Ethics Education Requirements for Candidates/Practicing Affiliates of the Appraisal Institute.



Richard H. Parham
State-Certified General
Real Estate Appraiser
RZ2256

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated. The legal description is assumed to be correct for the purposes of this report.
2. The property has been appraised as free and clear, unencumbered by mortgages, liens, delinquent taxes, assessments, special or unusual deed conditions or restrictions, but subject to zoning regulations.
3. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
4. It is assumed there are no hidden or unapparent conditions of the property, subsoil, or structures. The appraiser(s) assumes no liability for any hidden or unapparent conditions of the property. No responsibility is assumed for such conditions, or for arranging for engineering studies that may be required to discover them.
5. Possession of this report, or a copy thereof, does not carry with it the right of publication.
6. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraisers, or the firm with which the appraisers are connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.
7. This report is based on the best data available. If additional facts and/or data become available, the appraiser reserves the right to make adjustments and to update the value conclusions contained in this report.

EXTRAORDINARY ASSUMPTIONS

There are no extraordinary assumptions for this report.

HYPOTHETICAL CONDITIONS

There are no hypothetical conditions for this report.

SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Report Type: Restricted Appraisal Report

Date of Value: May 3, 2019 (date of last inspection)

Date of Report: May 30, 2019

Type of Value: Market Value

Location: The subject property is located along the southern side of NW 25th Terrace, about 160 feet west of NW 10th Avenue, within the City of Cape Coral, in Lee County, Florida.

Owners: William and Delilah Turpin

Tax I.D. No.: 27-43-23-C3-03014.0200

Rights Appraised: Fee Simple Estate

Site Data: The subject property contains 10,000 square feet. The site has about 80 feet of frontage along the south side of NW 25th Terrace, at a depth of 125 feet. Access to the property is from NW 25th Terrace.

Improvement Data: The subject property consists of vacant land.

Zoning: R-1B, Single-Family Residential, City of Cape Coral

Land Use Designation: PK, Parks and Recreation, City of Cape Coral

Market Value: **\$12,000**

IMPORTANT DEFINITIONS

Appraisal (noun) is the act or process of developing an opinion of value; an opinion of value. (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.¹

Client is the party or parties who engage, by employment or contract, an appraiser in a specific assignment.²

Easement is the right to use another's land for a stated purpose.³

Exposure Time is an estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.⁴

Extraordinary Assumption is an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.⁵

Fee Simple is absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.⁶

Highest and Best Use (in appraising real property) is the reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value.⁷

Hypothetical Condition is a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.⁸

Intended Use is the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.⁹

Intended User is the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment.¹⁰

¹ *Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 3.*

² *Ibid, Page 4.*

³ *The Dictionary of Real Estate Appraisal, 6th Edition, Published by the Appraisal Institute, Page 71*

⁴ *Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Institute, Page 4.*

⁵ *Ibid.*

⁶ *The Appraisal of Real Estate, 14th Edition, Published by the Appraisal Institute, Page 5.*

⁷ *Ibid, Page 333.*

⁸ *Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 4.*

⁹ *Ibid, Page 5.*

¹⁰ *Ibid.*

Jurisdictional Exception is an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.¹¹

Leased Fee Interest is the ownership interest held by the lessor, which includes the right to the contract rent specified in the lease plus the reversionary right when the lease expires.¹²

Leasehold Interest is the right held by the lessee to use and occupy real estate for a stated term and under the conditions specified in the lease.¹³

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

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.¹⁴

Replacement Cost is the estimated cost to construct, at current prices as of the effective appraisal date, a substitute for the building being appraised, using modern materials and current standards, design, and layout.¹⁵ Such replacement cost sometimes offsets functional obsolescence.

Report is any communication, written or oral, of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.¹⁶

Reproduction Cost is the estimated cost to construct, at current prices as of the effective date of the appraisal, an exact duplicate or replica of the building being appraised, using the same materials, construction standards, design, layout, and quality of workmanship and embodying all the deficiencies, superadequacies, and obsolescence of the subject building.¹⁷

¹¹ *Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 5.*

¹² *The Appraisal of Real Estate, 14th Edition, Published by the Appraisal Institute, Page 72.*

¹³ *Ibid.*

¹⁴ *Uniform Standards of Professional Appraisal Practice (Advisory Opinion 22), 2018-2019 Edition, Published by the Appraisal Foundation, Page 127.*

¹⁵ *Ibid, Page 197.*

¹⁶ *Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 5.*

¹⁷ *The Dictionary of Real Estate Appraisal, 6th Edition, Published by the Appraisal Institute, Page 198.*

Scope of Work is the type and extent of research and analyses in an appraisal or appraisal review assignment.¹⁸

Special Purpose Property is a property with a unique physical design, special construction materials, or a layout that particularly adapts its utility to the use for which it was built.¹⁹

Workfile is documentation necessary to support an appraiser's analyses, opinions, and conclusions.²⁰

¹⁸ *Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 5.*

¹⁹ *The Dictionary of Real Estate Appraisal, 6th Edition, Published by the Appraisal Institute, Page 217.*

²⁰ *Uniform Standards of Professional Appraisal Practice, 2018-2019 Edition, Published by the Appraisal Foundation, Page 6.*

IDENTITY OF CLIENT

This appraisal report has been prepared for Dawn Andrews with the City of Cape Coral, who is considered the client for this appraisal assignment.

INTENDED USERS

The intended users of this report are the above identified client. The use of this report by others is not intended.

INTENDED USE

The intended use of this report is to assist the client in determining the market value of the subject property.

PURPOSE

The purpose of the appraisal is to report the market value of the subject property.

TYPE OF VALUE

The type of value determined herein is market value, as defined within the previous Important Definitions section.

DATE OF VALUE

The date of value is May 3, 2019, which represents the date of last inspection.

DATE OF REPORT

The date of this report is May 30, 2019.

PROPERTY RIGHTS APPRAISED

The property rights or interest to be appraised is the undivided fee simple interest as if free and clear of all liens, mortgages, encumbrances, and/or encroachments, unless otherwise provided for herein.

LEGAL DESCRIPTION

Cape Coral Unit 43, Block 3014, Lots 20 and 21, as recorded in Lee County Official Records Book 17 Page 50.

OWNERSHIP AND SALES HISTORY

A search of the public records of Lee County indicates there have been no arm's length transfers of the subject property within the three years prior to the date of value. I am unaware of any contracts or agreements of sale involving the subject property at the date of value.

SCOPE OF APPRAISAL

The scope of work performed in completing this appraisal includes:

- discussions with the client;
- the identification and inspection of the subject property;
- the determination of the appraisal problem and appropriate scope of work for this assignment;
- research into physical and economic factors regarding properties in the market area as related to value;
- a highest and best use analysis of the subject property, taking into consideration development trends in the area;
- the identification and inspection of all comparable sales utilized herein;
- extensive data research;
- the valuation of the subject property via the sales comparison approach.

The subject property is located along the southern side of NW 25th Terrace, about 160 feet west of NW 10th Avenue, within the City of Cape Coral, in Lee County, Florida. The vacant site contains 10,000 square feet.

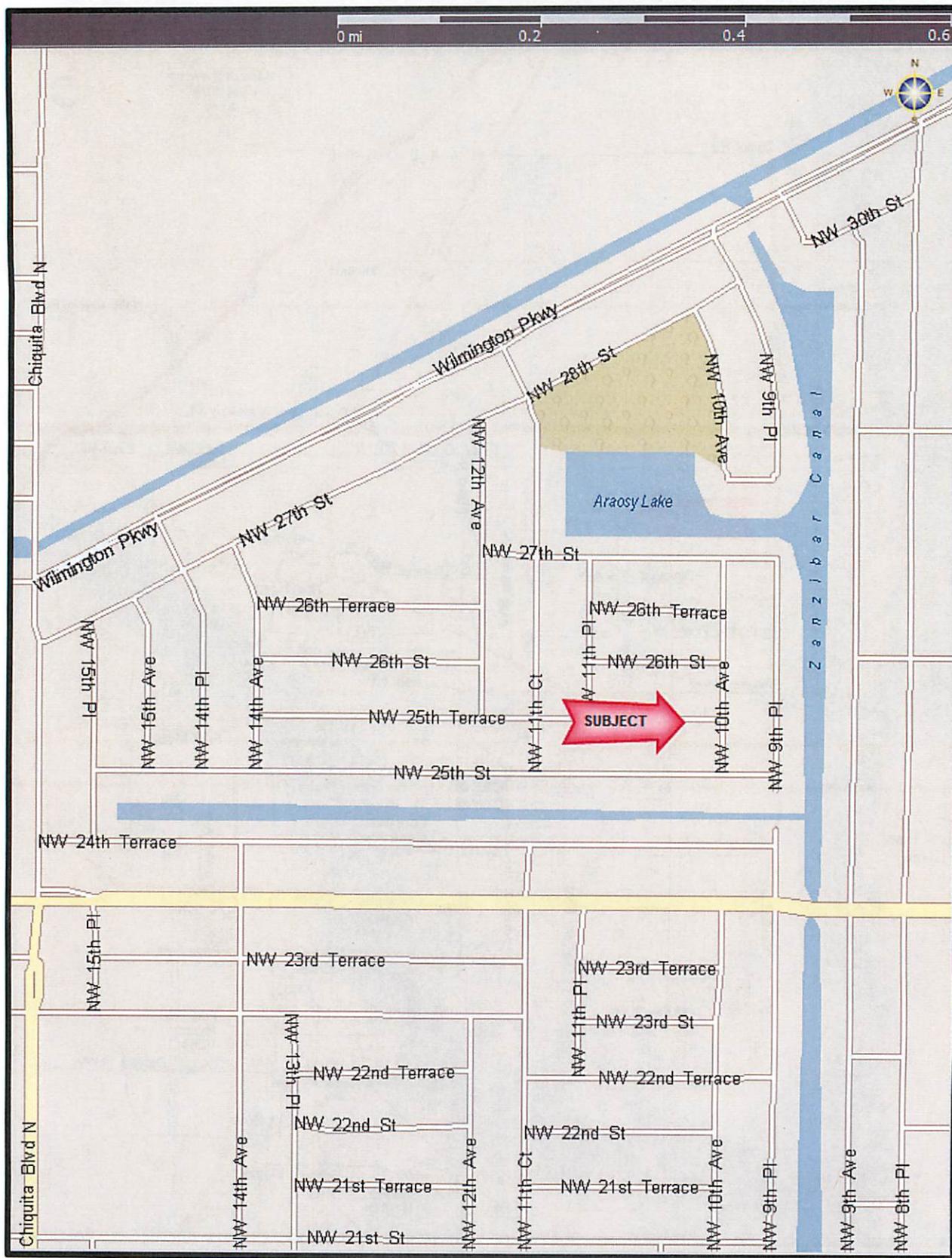
Within this report, the cost, sales comparison, and income approaches will be considered. Those approaches deemed applicable will be utilized, and if any particular approach is not considered applicable, then a summary explanation as to why this particular approach is excluded will be given.

Extensive and detailed research has been completed to research and analyze sales of properties similar to the subject. These properties are located in Lee County, with those utilized to value the subject summarized within the body of this report. Additional data is also contained within the appraisers' files. Therefore, these files are an integral part of this appraisal assignment and are incorporated herein by reference. In the process of researching each sale, the deed and mortgage (as applicable) of each transaction were obtained.

LOCATION MAP



LOCATION MAP



AERIAL MAP



SUBJECT PHOTOGRAPHS



Photo #1 – Southeasterly view of subject property from NW 25th Terrace.



Photo #2 – Southwesterly view of subject property from NW 25th Terrace.

PROPERTY DESCRIPTION

Location

The subject property is located along the southern side of NW 25th Terrace, about 160 feet west of NW 10th Avenue, within the City of Cape Coral, in Lee County, Florida.

Street/Roads

NW 25th Terrace is a two-lane, asphalt-paved roadway.

Land

The subject property contains two platted lots containing a total of 10,000 square feet. The site has about 80 feet of frontage along the south side of NW 25th Terrace, at a depth of 125 feet. The property is generally level, near road grade, and partially cleared.

A physical inspection of the subject property indicates its soils appear capable of supporting development, especially considering the surrounding development patterns. Electric and telephone services are available.

Ingress/Egress

The subject property has access from NW 25th Terrace.

Easements/Encroachments

Although title work was not provided, a review of public records indicates there are no easements or encroachments that would have an adverse impact on the development potential of the site.

Utilities

The subject property has access to electricity and telephone. Well and septic systems are typical in the subject's market area.

Improvements

The subject property consists of vacant land.

ZONING/FUTURE LAND USE

The subject property has a zoning designation of R-1B, Single-Family Residential District by the City of Cape Coral. The subject's future land use designation is PK, and Parks and Recreation by the City of Cape Coral.

HIGHEST AND BEST USE

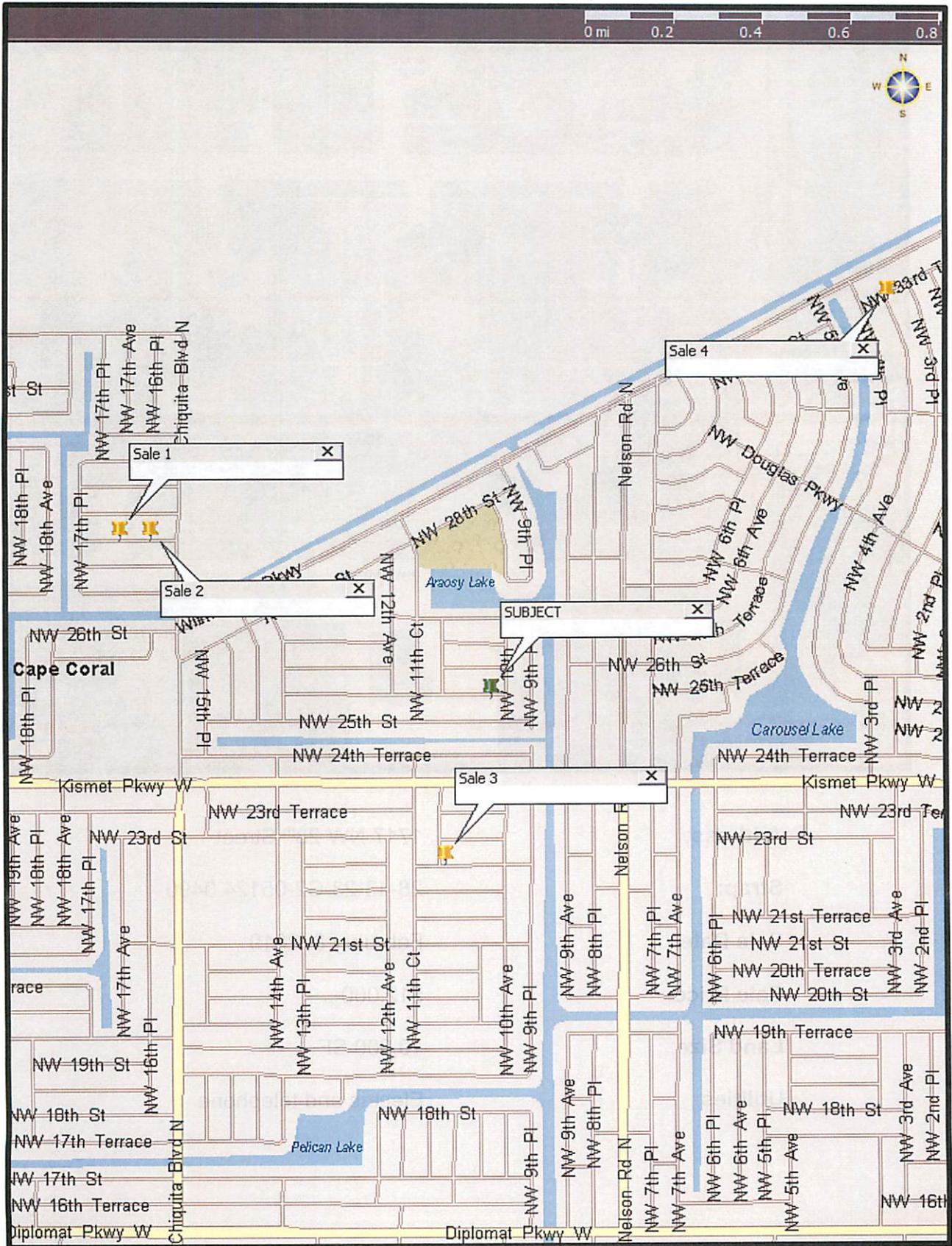
Highest and Best Use Conclusion

The highest and best use for the subject property is for a single-family residential use.

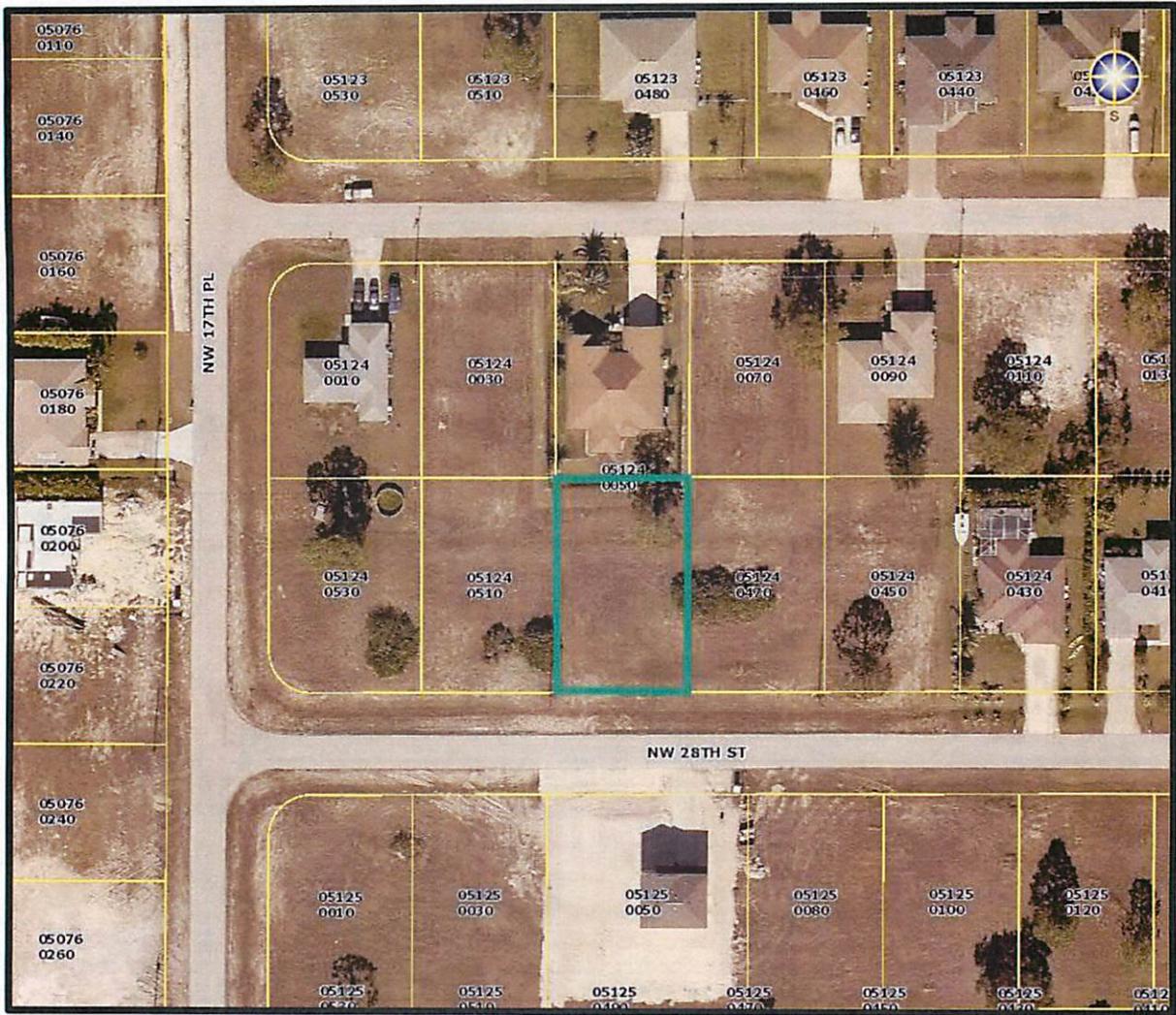
APPRAISAL METHODOLOGY

In determining the market value of the subject property, consideration was given to the cost, sales comparison, and income capitalization approaches to value. The subject property consists of vacant land. Therefore, the sales comparison approach is applicable in valuing the property. The income and cost approaches are not applicable in valuing the subject property.

SALES MAP



SALE 1



Address: 1717 NW 28th Street
Strap: 28-43-23-C2-05124.0490
Sale Date: February 8, 2019
Sale Price: \$12,000
Land Size: 10,000 SF
Utilities: Electric and telephone

SALE 2



Address: 1625 NW 28th Street
Strap: 28-43-23-C2-05124.0390
Sale Date: April 19, 2019
Sale Price: \$12,000
Land Size: 10,000 SF
Utilities: Electric and telephone

SALE 3



Address: 1101 NW 22nd Terrace
Strap: 34-43-23-C2-02984.0310
Sale Date: March 1, 2019
Sale Price: \$12,000
Land Size: 10,625 SF
Utilities: Electric and telephone

SALE 4



Address:	3230 NW 4 th Avenue
Strap:	23-43-23-C3-02775.0320
Sale Date:	March 18, 2019
Sale Price:	\$11,500
Land Size:	10,000 SF
Utilities:	Electric and telephone

LAND VALUE

The subject property consists of a 10,000 square foot site with a highest and best use for a single-family residential use. In determining the subject's land value, a sales search was conducted for vacant sites similar in size, location, and highest and best use characteristics to the subject. As a result of the sales search, the land sales below have been researched, verified, analyzed, and compared to the subject.

I have analyzed the comparable sales based on the unit value paid and the qualitative method which gives consideration to the various similarities and differences between the sales and the subject but does not apply specific adjustments in the analysis.

The research of comparable land sales is summarized below:

Sale No.	Sale Date	Sale Price	Size (SF)
1	02/08/2019	\$12,000	10,000
2	04/19/2019	\$12,000	10,000
3	03/01/2019	\$12,000	10,625
4	03/18/2019	\$11,500	10,000

Conclusion of Land Value

The comparable sales have similar single-family residential highest and best use as the subject and range in price from \$11,500 to \$12,000. Considering the similarities and differences between the comparable sales and the subject, the indicated value for the subject, as of May 3, 2019 (date of last inspection), is:

\$12,000

EXPOSURE TIME

The previously reported value estimate is based upon a reasonable market exposure time. Based on current market conditions and research in the market, the estimated exposure time is in the range of three to six months to achieve the market value as shown above. This assumes a competitive open market, and further assumes a reasonable asking price relative to the value reported.

QUALIFICATIONS

Calhoun, Collister & Parham, Inc.



Calhoun, Collister & Parham, Inc.

Real Estate Appraisers & Consultants

QUALIFICATIONS

RICHARD H. PARHAM

Academic Background:

Bachelor of Arts Degree, The American University, 1991

Coursework and Seminars:

The following courses have been completed under the direction of the Appraisal Institute:

- Appraisal Principles
- Appraisal Procedures (Successfully Challenged)
- Standards of Professional Practice (Part A & B)
- Basic Income Capitalization
- Standards of Professional Practice (Part C)
- Advanced Income Capitalization
- Highest and Best Use and Market Analysis
- Advanced Sales Comparison and Cost Approaches
- Report Writing and Valuation Analysis
- Advanced Applications
- Florida Condemnation Valuation and Appraiser Liability
- Appraisers Florida Core Law
- Land Valuation Assignments
- Business Practices and Ethics
- Condemnation Appraising: Principles and Applications
- The Appraiser as an Expert Witness: Preparation and Testimony
- Litigation Appraising: Specialized Topics and Applications

Other Coursework:

- Environmental Site Assessment, National Association of Master Appraisers
- Real Estate Principles, Santa Fe Community College
- Tree Trunk Formulas
- Uniform Standards of Professional Appraisal Practice
- Florida Appraisal License Law and Appraisal Board Regulations
- Eminent Domain Conference, CLE International, October 2002
- Eminent Domain Conference, CLE International, October 2003
- Eminent Domain Conference, CLE International, May 2004
- Eminent Domain Conference, CLE International, October 2004
- Easement Valuation, International Right of Way Association
- Eminent Domain Conference, CLE International, October 2005
- Eminent Domain Conference, CLE International, October 2006
- Eminent Domain Conference, CLE International, April 2007
- Eminent Domain Conference, CLE International, October 2007
- Eminent Domain Conference, CLE International, May 2008

Other Coursework (Cont'd):

Eminent Domain Conference, CLE International, October 2008
Roles and Rules of Supervisors and Trainees
Communicating the Appraisal

Professional Organizations:

State-Certified General Real Estate Appraiser RZ2256
Member of Association of Eminent Domain Professionals (AEDP)
Practicing Affiliate of the Appraisal Institute

Speaking/Instructing Engagements

CLE, Eminent Domain Institute, The Appraiser's Perspective, What You Need To Know

National Business Institute, Highest and Best Use

Association of Eminent Domain Professional, Highest and Best Use

University of Florida College of Law, Appraising For Litigation Purposes

CLE, Eminent Domain Institute, Apportionment Issues

Appraisal Institute, West Coast Chapter, Associate Member Leadership Council Presentation

Employment Experience:

Partner with Calhoun, Collister & Parham, Inc., Present
Appraiser with Calhoun and Associates, Inc., 2000 to 2002
Appraiser with Durrance & Associates, P.A., 1994 to 2000
Appraiser with Candler-Sawyer & Associates, Inc., 1993 to 1994
Appraiser with Hanford/Healy Appraisal Company, 1991 to 1993
Intern with U.S. Senator Connie Mack, 1990 to 1991
Appraiser with The L. James Parham Company, 1987-1989

Appraisal Experience:

Richard H. Parham has been personally involved in the appraisal of one or more properties of the following types:

ALF Properties	Daycare Centers	Reclaimed (Mining) Land
Anchored Shopping Centers	Easements	Residential Subdivision
Apartments	Farms	Restaurants
Auto Service	Health & Fitness Centers	Retail Buildings
Automotive Sales	Hotel/Motels	Retail Strip Center
Bank/Financial Institutions	Industrial and Manufacturing	Single Family Residences
Bars/Taverns	Mini Warehouses	Special Purpose Properties
Car Washes	Mobile Home Parks	Storm Water Retention Areas
Churches	Night Clubs	Utility Corridors
Citrus Trees	Office Buildings	Utility Systems
Condominiums	Phosphate Mines	Vacant land

Appraisals have been conducted for commercial banks, corporations, attorneys, condemning authorities, property owners, environmental agencies, and others. The geographic scope of appraisal assignments completed include numerous counties throughout the State of Florida.

Eminent Domain Projects:

Richard H. Parham has personally been involved in appraisal work of one or more properties on the following projects:

State Road 20	Alachua County
39 th Avenue Extension	Alachua County
I-95	Brevard County
Palm Bay Road	Brevard County
Babcock Street	Brevard County
Wickham Road	Brevard County
Beach Erosion	Brevard County
State Road 7	Broward County
Burnt Store Road	Charlotte County
Edgewater Flamingo Extension	Charlotte County
Murdock Village	Charlotte County
Proposed School Site	Charlotte County
Utility Easements	Charlotte County
U.S. 17/Duncan Road	Charlotte County
County Road 491	Citrus County
County Road 486	Citrus County
State Road 44	Citrus County
U.S. 41	Citrus County
Watson Street	Citrus County
County Road 209	Clay County
Green Cove Springs Police Expansion	Clay County
Seacoast Pipeline	Clay County
Collier Boulevard	Collier County
Golden Gate Boulevard	Collier County
Interstate 75	Collier County
Immokalee Road	Collier County
Livingston Road	Collier County
Santa Barbara	Collier County
Vanderbilt Beach Road	Collier County
Marco Island Water Reservoir	Collier County
U.S. 17	DeSoto County
Broward Road	Duval County
Collins Road	Duval County
State Road 23	Duval County
TECO Peoples Gas Pipeline	Duval County
U.S. 17	Hardee County

Florida Gas Transmission Pipeline	Hardee County
Gulfstream Pipeline	Hardee County
County Line Road	Hernando County
Sunshine Grove Road	Hernando County
State Road 50	Hernando County
Cortez Boulevard	Hernando County
Suncoast Parkway	Hernando County
State Road 45 (U.S. 41)	Hernando County
Gulfstream Pipeline	Highlands County
Bloomington Avenue	Hillsborough County
Bullard Parkway	Hillsborough County
Dale Mabry Highway	Hillsborough County
Florida Gas Transmission Pipeline	Hillsborough County
Gandy Boulevard	Hillsborough County
Interstate 275	Hillsborough County
Providence Road	Hillsborough County
State Road 39	Hillsborough County
State Road 60	Hillsborough County
Selmon Connector	Hillsborough County
Causeway Boulevard	Hillsborough County
SWFWMD Reservoir	Hillsborough County
Tampa Bay Water Pipeline	Hillsborough County
U.S. 301	Hillsborough County
Central Florida Pipeline	Hillsborough County
78 th Street	Hillsborough County
Interstate 4	Hillsborough County
U. S. 41	Hillsborough County
Dr. Martin Luther King Jr. Blvd.	Hillsborough County
22 nd Street	Hillsborough County
Linebaugh Avenue	Hillsborough County
Hanley Road	Hillsborough County
Hoover Blvd.	Hillsborough County
Florida Gas Transmission Pipeline	Hillsborough County
County Road 466	Lake County
State Road 50	Lake County
State Road 500 (U.S. 441)	Lake County
Colonial Boulevard	Lee County
Corkscrew Watershed	Lee County
Del Prado Boulevard	Lee County
Government Center	Lee County
Interstate 75	Lee County
Metro Parkway	Lee County
Southwest Community Park	Lee County
U.S. 41	Lee County
Mid-Point Bridge	Lee County
Dr. Martin Luther King Jr. Blvd	Lee County
State Road 78	Lee County

Interstate 10	Leon County
State Road 263	Leon County
17 th Street	Manatee County
43 rd Street	Manatee County
Cortez Boulevard	Manatee County
State Road 64	Manatee County
Wares Creek	Manatee County
Gulfstream Pipeline	Manatee County
School Board Site	Manatee County
30 th Avenue	Manatee County
53 rd Avenue	Manatee County
17 th Street Overpass	Marion County
31 st Street	Marion County
County Road 484	Marion County
NW 44 th Street	Marion County
State Road 40	Marion County
SW 95 th Street	Marion County
State Road 35	Marion County
County Road 484	Marion County
Gulfstream Pipeline	Marion County
Indian Street Bridge	Martin County
State Road 70	Martin County
U.S. 441	Okeechobee County
Interstate 4	Okeechobee County
John Young Parkway	Orange County
Kirkman Road	Orange County
Maguire Road	Orange County
Maitland Boulevard Extension	Orange County
Rouse Road	Orange County
State Road 50	Orange County
Western Beltway	Orange County
Orange Avenue	Orange County
Gulfstream Pipeline	Orange County
Bell Lake Road	Palm Beach County
Boyette Road	Pasco County
Clinton Avenue	Pasco County
County Line Road	Pasco County
East Road	Pasco County
Florida Gas Pipeline	Pasco County
Lake Patience Road	Pasco County
Main Street	Pasco County
Moon Lake Road	Pasco County
Old Pasco Road	Pasco County
Overpass Road	Pasco County
Pasco County Government Complex	Pasco County
State Road 54	Pasco County
Shady Hills Road	Pasco County

Suncoast Parkway	Pasco County
U.S. 41	Pasco County
U.S. 19	Pinellas County
Blind Pass Road	Pinellas County
Clearwater Downtown Stormwater System	Pinellas County
City of St. Petersburg Beach	Pinellas County
County Road 296 Connector	Pinellas County
Dome Industrial Project	Pinellas County
Interstate 75 Connector	Pinellas County
Keene Road	Pinellas County
Keystone Road	Pinellas County
Largo High School Expansion	Pinellas County
Nebraska Avenue	Pinellas County
Ulmerton Road	Pinellas County
St. Pete/Clearwater Airport Expansion	Pinellas County
State Road 436	Pinellas County
Drew Street	Pinellas County
Airport	Pinellas County
Central Florida Pipeline	Polk County
Florida Gas Transmission Pipeline	Polk County
Gulfstream Pipeline	Polk County
State Road 60	Polk County
Drane Field Road	Polk County
Lake Howard Drive	Polk County
Polk County Parkway	Polk County
State Road 540	Polk County
State Road 655	Polk County
State Road 20	Putnam County
Honore Avenue	Sarasota County
Interstate 75	Sarasota County
U.S. 301	Sarasota County
Pinebrook Road Extension	Sarasota County
Fruitville Road/I-75	Sarasota County
State Rod 434	Seminole County
Eden Park Avenue	Seminole County
State Road436	Seminole County
TECO Peoples Gas Pipeline	St. Johns County
U.S. Highway 1	St. Lucie County
Port St. Lucie Utility System	St. Lucie County
County Road 4466A	Sumter County
Florida Wastewater Project	Sumter County
U.S. 301	Sumter County
State Road 35 CSX Overpass	Sumter County
State Road 44	Sumter County
State Road 45 (U.S. 41)	Sumter County
DeBary Avenue	Volusia County
State Road 415	Volusia County



Calhoun, Collister & Parham, Inc.

Real Estate Appraisers & Consultants

QUALIFICATIONS BRETT A. MEYERS

Academic Background:

Florida State University, Tallahassee, Florida
College of Business Administration
Bachelor of Science Degree; Finance and Real Estate - April 2006

Certifications and Memberships:

State-Certified General Real Estate Appraiser, State of Florida RZ3409

Coursework and Seminars:

Real Estate Principles, Florida State University, December 2004
Real Estate Feasibility, Florida State University, May 2005
Legal Environment of Real Estate, Florida State University, May 2005
Real Estate Finance, Florida State University, December 2005
Real Estate Appraisal, Florida State University, December 2005
Advanced Appraisal/Market Analysis, Florida State University, April 2006
15-Hour National USPAP Course, May 2009
2010 – 2011 National USPAP Update, July 2010
Florida Appraisal Laws and Regulations, July 2010
Florida Supervisor/Trainee Roles & Relationships, July 2010
The Cost Approach, July 2010

Appraisal Experience:

Experienced with various types of residential and commercial properties, including, but not limited to, single-family residences, office buildings, warehouses, retail centers, duplexes and triplexes, and commercial and residential land. His appraisals have been conducted for corporations, attorneys, government bodies, condemning authorities, and others.

Employment Experience:

May 2006 - Present	Calhoun, Collister & Parham, Inc.
September 2005 - May 2006	Boutin, Brown Realty Advisors, Inc.

Projects:

The following is a partial listing of projects on which Mr. Meyers has personally had valuation assignments involving acquisitions by private and governmental agencies:

Murdock Village	(Charlotte County)
Collier Boulevard	(Collier County)
Santa Barbara Boulevard Widening	(Collier County)
Vanderbilt Beach Road Extension	(Collier County)
State Road 39	(Hillsborough County)
U.S. Highway 1	(Indian River County)
U.S. Highway 441	(Lake County)

Projects (Cont.)

Public Safety Building Project	(Lee County)
Southwest Community Park	(Lee County)
Gulfstream Natural Gas Pipeline	(Martin County and Palm Beach County)
Interstate 4	(Orange)
Maguire Road	(Orange)
State Road 710	(Palm Beach County)
Clinton Avenue	(Pasco County)
East Road Realignment	(Pasco County)
Keystone Road	(Pinellas County)
Largo High School Expansion	(Pinellas County)
Lincoln/Beacon Intersection Improvement	(Polk County)
Maitland Boulevard Extension	(Orange County)
Narcoosee Road	(Osceola)
Nolte Road	(Osceola)
Honore Avenue	(Sarasota County)
U.S. Highway 301	(Sumter County)

Item Number: B.(17)
Meeting Date: 7/22/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

General Release in the case of Lambert's Cable Splicing Company, LLC v. L&S Cable, LLC

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Release by the City for any claims or damages in the case of Lambert's Cable Splicing Company, LLC v. L&S Cable, LLC for damage done to a water main.

LEGAL REVIEW:

EXHIBITS:

General Release

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ General Release	Backup Material

1829722

GENERAL RELEASE

KNOW ALL MEN BY THESE PRESENTS that THE CITY OF CAPE CORAL, its heirs, assigns, legal representatives, successors and personal representatives, hereinafter referred to as the Releasing Party, for and in consideration of the total sum of ONE HUNDRED SEVENTY-SIX THOUSAND and NO/100 DOLLARS (\$176,000.00), receipt of which is hereby acknowledged, has released, acquitted, and discharged, and by these presents do hereby release, acquit, and forever discharge LAMBERT'S CABLE SPLICING COMPANY, Gallagher, Bassett Services Inc. LLC, L&S CABLE, LLC, NORTH AMERICAN RISK SERVICES, INC, and HOUSTON SPECIALTY INSURANCE COMPANY, any reinsurer or insurer thereof, their respective administrators, successors, assigns, employees, agents, attorneys, officers, directors, and representatives, hereinafter referred to as the Released Parties, of and from any and all claims, actions, causes of action, damages or demands, both compensatory and punitive, in whatever name or nature, in tort, in contract or by statute, in any manner arisen, arising, or growing out of any and all property damage claims, property damage causes of action, and any property matter arising or growing out of or on account of a property loss, including but not limited to the damage done to a water main, which occurred on or about August 26, 2017, at or near 1615 NE 2nd Street, Cape Coral, Lee County, Florida.

This release covers any and all property damage claims of the Releasing Party whether past, present, or future and any and all other claims for benefits, loss or damage, lost profits, lost sales, delay damages, property loss of use, property loss or damage, contractual or extra contractual claims or claims of consequential damages and expenses which have arisen, arise, or which may hereafter arise out of the incidents or matters which were alleged to have occurred at or near 1615 NE 2nd Street, Cape Coral, Lee County, Florida.

The Releasing Party further agrees to release, acquit and forever discharge the Released Parties for any claim or claims for bad faith, extra contractual or punitive damage claims of any nature arising out of the investigation, claims handling and/or adjustment of claims arising from the incidents.

ALL PARTIES TO THIS GENERAL RELEASE ARE TO BEAR THEIR OWN RESPECTIVE ATTORNEY'S FEES AND COSTS.

It is understood and agreed that the payment made herein is not to be construed as an admission of any liability by or on behalf of the Released Parties; but, instead, the monies being paid hereunder as consideration for this release are being given in order to avoid litigation, the uncertainties stemming from litigation, as well as to protect and secure the good name and good will of the Released Parties.

To secure this settlement and the payment of the aforesaid sum, the undersigned hereby declares that it is of the legal age and that it relies wholly upon its own judgment, belief, and knowledge of the nature, extent, and duration of its damages and that no representations or statements about any such claims, past, present, or future, made by

any agent, adjuster, attorney, or employee of the Released Parties, or their insurers, have influenced the undersigned in making or induced the undersigned to make this settlement.

It is further acknowledged that there is no agreement or compromise on the part of the Released Parties to do or omit to do any act or thing not herein mentioned and that the within consideration is in full and complete settlement of any and all claims, damages, or demands of the undersigned for all claims arising from or out of any and all matters referenced in this release against the Released Parties, as mentioned above.

The parties further acknowledge and agree that they will keep the terms, amount and facts of this Release completely and wholly confidential and that they will not directly or indirectly hereafter reveal, show or otherwise disclose the terms hereof to anyone not a party to this Release, absent express written consent of all parties except to (a) the parties' attorneys and accountants on a need to know basis all of whom will be informed of and be bound to the provisions of this paragraph; (b) as may be required by the Internal Revenue Service; (c) regulatory required disclosures (d) order by a court of competent jurisdiction; and (e) to the extent permitted under public records law.

I HAVE READ THIS GENERAL RELEASE AND HEREBY ACKNOWLEDGE THAT I UNDERSTAND AND ACCEPT ALL OF THE TERMS AND CONDITIONS THEREIN AND THAT I HAVE DONE SO WITH THE ADVICE OF MY COUNSEL.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this ____ day of _____, 2019.

Signed, sealed and delivered
in the presence of:

THE CITY OF CAPE CORAL, FLORIDA

WITNESS

Joe Coviello, Mayor

STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____ to me known to be the person described in, or has produced identification in the nature of _____, and who executed the foregoing instrument and who acknowledged before me that (he/she) executed the same.

WITNESS my hand and seal in the County and State last aforesaid this ____ day of _____, 2019.

Notary Public

My Commission Expires:

(Print, Type or Stamp Commissioned
Name of Notary Public)

Item Number:	D.(1)
Meeting Date:	7/22/2019
Item Type:	PERSONNEL ACTIONS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Selection of Legislative Clerk to Council

REQUESTED ACTION:

Staff Direction

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Job Description

PREPARED BY:

PT Division- Council Offices Department- Council Offices

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Job Description - Legislative Clerk - Council	Backup Material



Legislative Clerk - Council Office

Class Code:
Pay Grade NB104

Bargaining Unit: NON-BARGAINING
EMPLOYEE

CITY OF CAPE CORAL
Established Date: Apr 1, 2019
Revision Date: Apr 11, 2019

SALARY RANGE

\$17.80 - \$28.47 Hourly
\$37,024.00 - \$59,217.60 Annually

GENERAL STATEMENT OF JOB:

SAFETY SENSITIVE: No

FINGERPRINTING REQUIRED: Yes

Under general supervision of the Council Officer Manager or designee, performs diversified office support and administrative functions. Position exercises considerable discretion due to the sensitive and confidential nature of information processed at this location; and usually performs such independently with periodic supervision or review.

Responsibilities and Reporting During an Emergency Situation: If assigned, employees in this classification will be required to report and carry out duties as directed for the duration of an emergency. Depending on the nature of the emergency, this may require working around the clock for several days on short notice.

SPECIFIC DUTIES AND RESPONSIBILITIES:

The intent of this job description is to provide a representative summary of the major duties and responsibilities performed by incumbents of this job. Incumbents may be requested to perform job-related tasks other than those specifically presented in this description.

- Provides public assistance in person, via telephone, internet, e-mail, or by mail. Directs people to appropriate entities for assistance.
- Researches information and provides follow-up as applicable.
- Processes data and information received into a variety of formats specific to department or government agency requirements including database updates, reports, purchase orders, billing statements, forms, digital media, scanned images and applications.
- Operates computer applications in transferring, tracking, transcribing and composing various documentation including division correspondence, memoranda, reports, spreadsheets, department logs and records.
- Arranges scheduling for meetings, travel, equipment repair and service, and department functions as needed.
- Receives, processes and distributes division mail, and prepares forms, letters, and parcels for mailing.

- Prepares and distributes various division records, reports, notices, and other relevant materials.
- Maintains professional contact with other agencies as applicable.
- Orders department materials and supplies as required.
- Performs other related duties as required.

MINIMUM QUALIFICATIONS:

Education and Experience

- High School diploma/GED.
- Two (2) years of experience in modern office support functions (i.e., data entry, computer use, and records maintenance).

Licenses or Certifications

- None.

OTHER JOB REQUIREMENTS

- None.

PREFERRED QUALIFICATIONS

- None.

ADDITIONAL MINIMUM QUALIFICATIONS REQUIRED: KNOWLEDGE, SKILLS, AND ABILITIES:

Knowledge of:

- Modern office support functions.
- Report and record keeping principles and techniques.
- Alphabetic and numeric filing principles and methods.
- Business English, the application of such to a variety of formats and styles and editing principles and techniques.
- Cash management, business mathematics, and basic accounting principles and practices.

Skill in:

- Written, verbal, electronic, and visual communications for effective expression and clarity.
- The operation of various computer or other electronic devices and applications, to include Microsoft Office Word and Excel.
- Customer service.
- Organization, attention to detail, prioritization, and time management.
- Scheduling and department calendar maintenance.

Ability to:

- Learn and follow Federal, State, City and Department laws, regulations, policies and practices and terminology for City Council Offices.
- Relate to people beyond giving and receiving instructions, to include applying consistent courtesy and tact in considerable public contact and/or confrontational

situations.

- Adapt to performing under frequent deadlines and/or in response to emergencies.
- Apply sound judgment and interpretation based on acquired knowledge in circumstances where limited standardization exists.
- Utilize various modern computer word processing, spreadsheet, and database applications.
- Exercise discretion and maintain confidentiality of sensitive information received and processed.
- Utilize a variety of modern office equipment, i.e., computers, facsimile machines, copiers and scanners.
- Establish and maintain effective working relationships with supervisor, support staff and other departments.
- Organize and review work for efficient results and accuracy.

MINIMUM STANDARDS REQUIRED:

WORK ENVIRONMENT/ CONDITIONS

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Tasks are performed in a common office environment.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The position is generally *sedentary*. Employees sit most of the time but may walk or stand for brief periods. Tasks may require some unassisted lifting, carrying, pushing and/or pulling of lightweight objects up to 20 pounds. Tasks may require prolonged periods of visual concentration or keyboard/mouse use.

Requires the ability to speak, hear (perceive sound) and/or signal people to convey and exchange information; differentiate between colors or shades of color; read a variety of materials, at times complex; apply principles of rational problem-solving; record and deliver information, explain procedures, issue and follow oral and written instructions; and communicate effectively and efficiently in Standard English.

Item Number: F.(1)
Meeting Date: 7/22/2019
Item Type: APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL



TITLE:

Budget Review Committee - 1 Vacancy

REQUESTED ACTION:

Appoint

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Vacancy: 1 Vacancy

Expiration: 1 Vacancy expires on 9/30/2021. (Due to resignation of Gene Smith).

Applications: Three: Tom D. Hayden, John J. Stevens (requires 2/3's vote due to current position on the Audit Committee), and Charles A. Zajicek

Advertisement: The vacancy was advertised on June 14, 2019 and June 28, 2019 in the Breeze and was posted on the City website and Facebook page.

LEGAL REVIEW:

Applicant: Tom D. Hayden

Applicant: John J. Stevens

Applicant: Charles A. Zajicek

Resignation: Gene Smith

Board Sheet

EXHIBITS:

PREPARED BY:

Kimberly

City Clerk's

Bruns

Division- Managerial

Department- Department

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns

City Clerk

1-239-242-3243

ATTACHMENTS:

Description	Type
▣ Application - Tom Hayden	Backup Material
▣ Application - John Stevens	Backup Material
▣ Application - Charles Zajicek	Backup Material
▣ Resignation Notification - Gene Smith	Backup Material
▣ Board Sheet	Backup Material

EXEMPT

Per Section 119.071 of the
State Statutes, certain
information on this
application must be
redacted.

EXEMPT

CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM

RECEIVED

This Appointment Information Form, when completed, signed and filed with the City Clerk's Office, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and, therefore, is open to public inspection by any person.



YOU ARE RESPONSIBLE TO KEEP THE INFORMATION ON THIS FORM CURRENT. APPLICATIONS WILL BE RETAINED IN THE CLERK'S OFFICE IN ACCORDANCE WITH STATE RECORDS RETENTION LAWS.

CITY OF CAPE CORAL
CITY CLERKS OFFICE

Please Type, if possible (or print clearly) Date: July 9, 2019

Name: Stevens John Joseph
(Last) (First) (Middle)

E-mail address: jstevens.ccac@gmail.com

Address:

Phone:

Occupation: Retired

Employer: Position: How Long:

Education: Highest education level achieved and institutions attended:

Name & Location	Dates Attended	Degrees Earned
University of Scranton, Scranton, PA	1974 - 1978	BS Accounting

Have you ever held a professional or business license or certificate? Yes No

If "Yes", please provide the title, issue date and issuing authority.
License/Certificate Title Issue Date Issuing Authority

Board(s) /Commission(s) for which you are applying:
Budget Review Committee

1. Are you a U.S. Citizen? Yes No

2. Are you a Cape Coral Resident? Yes No

3. Are you currently serving on a City Board(s)? Yes No

If yes, which Board(s) and since when?
Audit Committee

4. Have you ever served on a City Board(s)? Yes No

If yes, which Board(s) and when?
Audit Committee (currently serving)

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?
Yes No If yes, what Board, etc. and since when?

Work Experience:

1978 - 1983: US Dept of Housing & Urban Dev (HUD) - Internal auditor for HUD Inspector General
1983 - 2016: IRS - various senior level positions including: Assistant Chief Accounting for Mid-Atlantic Region; Senior Auditor in Charge for IRS Cybersecurity & Physical Security; Program Manager for the IRS Annual Financial Statement Audit (an audit of \$3.2 trillion in revenue)

Community Involvement:

Cape Coral Citizens Academy, Cape Coral EOC CERT Volunteer, Treasurer for Cape Coral New Resident Club, Vice Chair for Cape Coral Audit Committee

Interests/Activities:

Pickleball, boating, biking, and enjoying paradise

Why do you desire to serve on this/these Board(s)?

As a retired civil servant, I want to continue my civic responsibility by volunteering for this committee

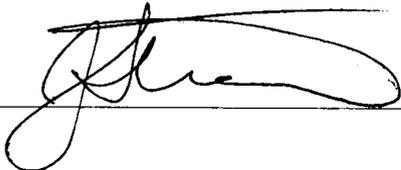
A resume or separate sheet with additional information may be included.

Florida law requires that members of certain Boards file a financial disclosure form. Would you be willing to file a financial disclosure form? Yes No

The City of Cape Coral Code of Ordinances, Section 2-60 has a limitation on offices held; however, this can be waived by a two-thirds (2/3) vote of City Council. If you are already serving on a Board, Authority, or Commission for the City of Cape Coral or for another governmental agency, you would have to be approved by a two-thirds (2/3) vote.

The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature 

Date 7/9/2019

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY			
Interviewed:	Date: _____	Yes _____	No _____
Council Action:	Date: _____		

Betty Castillo

From: Charles Zajicek <zajicekc@gmail.com>
Sent: Wednesday, June 19, 2019 10:19 AM
To: Betty Castillo
Subject: [EXTERNAL] - Budget Review dates

I would be available 9/7 and any Monday after 10/4.

Thank You

Betty Castillo

From: genesmith2325@gmail.com
Sent: Thursday, June 6, 2019 5:26 PM
To: 'George Starner'
Cc: Betty Castillo
Subject: [EXTERNAL] - Resignation

Chairman Starner,

It is with some regrets that I inform you that my wife and I are building a new home in Babcock Ranch. It is located in the portion of Babcock Ranch located in Charlotte County, although only a very short distance from Lee County. Since I will no longer be a resident of Cape Coral, I am resigning from the Budget Review Committee. I could wait a few weeks, but I think it would be better all around if the committee were composed of people who will actually be in Cape Coral during the time the upcoming budget is in effect. Therefore, I am resigning effective immediately. It has been a pleasure serving with you and the other members of the committee.

Sincerely,

Gene Smith

CITY OF CAPE CORAL - BOARDS AND COMMISSIONS

BUDGET REVIEW COMMITTEE

BOARD INFO	MEMBERS	PHONE NUMBERS E-MAIL	INITIAL APPOINT	LAST REAPPOINT	TERM EXPIRES
<p>Established by Resolutions 05-12 Alternate established by Resolution 99-15</p> <p>7 Members, 3 year renewal (5 Quorum) 1 Alternate, 1 year renewal Presiding Officers shall preside for 1 year.</p> <p>Meets: 2nd Mon./Month Conf. Rm 220 at @ 9:00 A.M.</p> <p>A majority of Committee shall constitute a quorum for the transaction of business.</p> <p>No official action shall be taken without the concurring vote of a majority of all.</p> <p>Qualifications: All members shall be residents of Cape Coral and Citizens of the United States and possess an established financial background.</p> <p>Financial Disclosure Required: No.</p> <p>Council Liaison: John Gunter (6/10/19 Appointed @ Council Mtg)</p> <p>Council voted to add 1 alternate on 7/20/2015</p> <p>Recording Secretary: Betty Castillo (239) 574-0743 or Ext. 4743</p>	Beatrice Jacquet-Castor 226 SE 15th Street Cape Coral, FL 33990	239-878-5898	1/8/2018		9/30/2020
	William Osborn 1007 NW 7th Place Cape Coral, FL 33993	217-358-0737	9/18/2017	1/8/2018 (reg.)	9/30/2020
	VICE CHAIR				
	Gary Eidson 253 Bayshore Drive Cape Coral, FL 33904	239-825-5216	1/8/2018	7/30/2018	9/30/2020
	CHAIR				
	George Starnier 1084 Winding Pines Circle Unit 103 Cape Coral, FL 33909	239-989-7400 (c)	6/6/2016	9/18/2017	9/30/2020
	Michael Botkin 618 NW 3rd Street Cape Coral, FL 33993	937-602-7552	1/8/2018	9/24/2018	9/30/2021
	Joanne Gruber 4615 SW 25th Place Cape Coral, FL 33914	239-984-2180 214-435-3167	9/24/2018		9/30/2021
	VACANT as of 6/7/2019				9/30/2021
	ALTERNATE Philip Boller 4258 Coronado Parkway Cape Coral, FL 33904	239-542-2428	9/24/2018		9/30/2019

Item Number:	A.(1)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Resolution 114-19 Public Input Initial Assessment Resolution for Lot Mowing Services

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The Resolution establishes a not-to-exceed annual lot mowing assessment rate for lot mowing and owl nest trimming. It also allows staff to prepare an updated Assessment Roll for the Fiscal Year (FY) beginning October 1, 2019 and sets the Final Public Hearing date.

The resolution sets forth a maximum estimated cost per Equivalent Lot Unit for lot mowing services for FY 2020 as follows:

- District 1- \$32.70
- District 2- \$24.99
- District 3- \$25.31
- District 4- \$24.24

The not-to-exceed rate is used for notification. It can't be raised, but can be lowered by Council at the Final Public Hearing.

LEGAL REVIEW:

EXHIBITS:

Lot Mowing Memo
Staff Presentation
Resolution 114-19

PREPARED BY:

Stacy
Maine Division- Administration Department- Public Works

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
☐ Memo	Backup Material
☐ Staff Presentation	Backup Material
☐ Resolution 114-19	Resolution

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager *JCS*
Paul Clinghan, Public Works Director *PRC*
Victoria Bateman, Financial Services Director *VP for VMB*
Stacy Maine, Strategic Business Analyst *SM*

DATE: July 16, 2019

SUBJECT: Lot Mowing Assessment FY 2020

On April 1, 2018, the City entered into a contract with CBI, Inc. to provide mowing services. The mowing contract is for five years with three one-year renewal periods. CBI, Inc. also provides trimming services for the Burrowing Owl Nest Protection Program. The trimming contract expires on 9/26/2019 and has three one-year renewal periods available.

The table below presents FY 2018, FY 2019 and proposed rates for FY 2020 and all are based on the average 10,000 sq. ft. lot.

District	FY 2018 Rate Per 10,000 Sq. Ft. Lot	FY 2019 Rate Per 10,000 Sq. Ft. Lot with One-Time \$ 15.00 Hurricane Debris Removal Charge	FY 2019 Rate Per 10,000 Sq. Ft. Lot Without One-Time \$15.00 Hurricane Debris Removal Charge	Proposed FY 2020 Rate Per 10,000 Sq. Ft. Lot
District 1	\$ 65.54	\$ 80.40	\$ 65.40	\$ 65.40
District 2	\$ 49.64	\$ 64.98	\$ 49.98	\$ 49.98
District 3	\$ 49.64	\$ 65.62	\$ 50.62	\$ 50.62
District 4	\$ 49.62	\$ 63.48	\$ 48.48	\$ 48.48

The Lot Mowing Rate Resolution 114-19 is scheduled for Introduction at the July 22, 2019 Regular Council Meeting. At that time, a not-to-exceed rate will be determined by Council for notification to the public prior to the Public Hearing on August 26, 2019.

JC/PC/VB/SM:sm



Lot Mowing Assessment

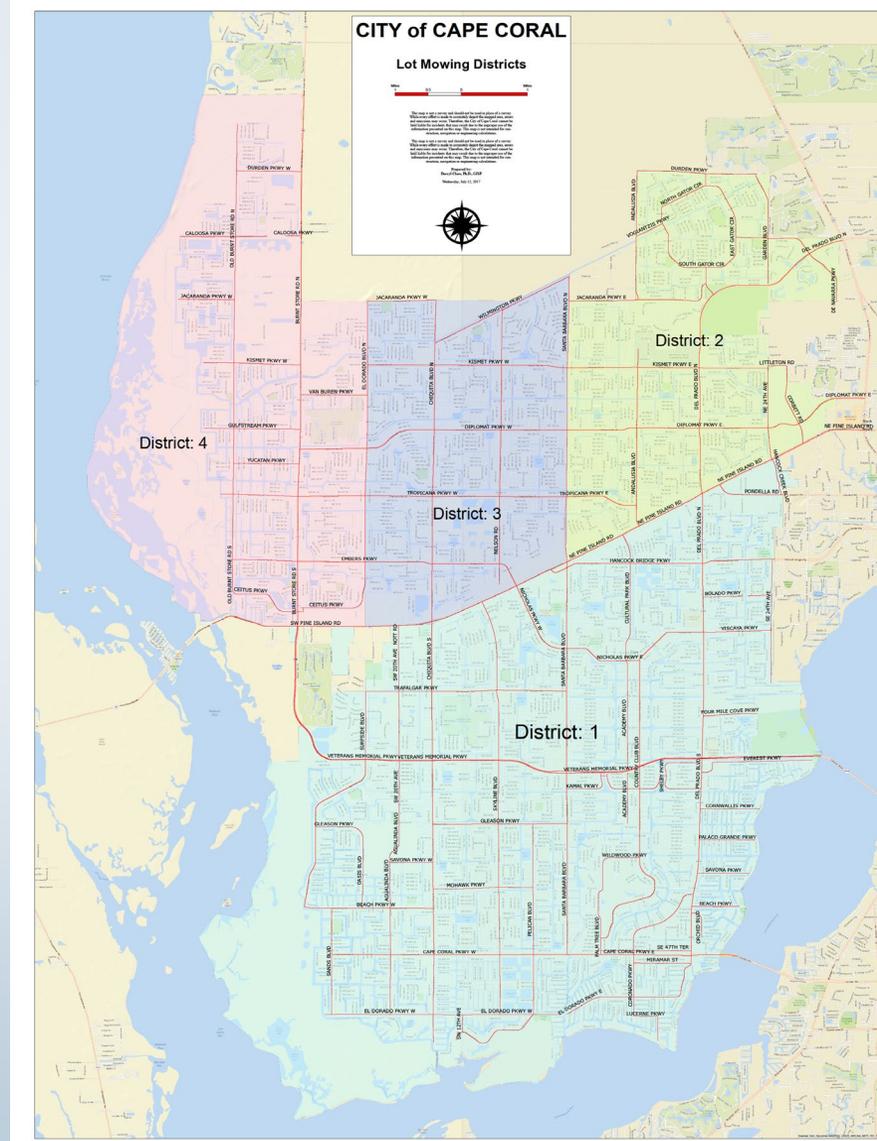
Resolution 114-19

July 22, 2019

Annual Assessment Process

- Established by Ordinance
- Requires Initial Resolution
 - Sets not-to-exceed amount
 - Sets public hearing date for final resolution
 - Provides notification requirements
- Lot Mowing of Vacant Parcels in 4 Districts
 - Based on 7 mows a year of a typical home site (10,000 sq. ft. parcel), over 400,000 mows are performed annually

Lot Mowing Districts



Lot Mowing Program

- Lots on program are mowed seven times a year
- Program begins in March and continues through December
- Pepper Tree removal
- Owl Nest Trimming was added to the program in FY 2017
- Owl Nest Trimming begins in July and continues through January

Assessments

District	FY 2018 Rate Per 10,000 Sq. Ft. Lot	FY 2019 Rate Per 10,000 Sq. Ft. Lot with One-Time \$ 15.00 Hurricane Debris Removal Charge	FY 2019 Rate Per 10,000 Sq. Ft. Lot Without One-Time \$ 15.00 Hurricane Debris Removal Charge	Proposed FY 2020 Rate Per 10,000 Sq. Ft. Lot
District 1	\$ 65.54	\$ 80.40	\$ 65.40	\$ 65.40
District 2	\$ 49.64	\$ 64.98	\$ 49.98	\$ 49.98
District 3	\$ 49.64	\$ 65.62	\$ 50.62	\$ 50.62
District 4	\$ 49.62	\$ 63.48	\$ 48.48	\$48.48

Pepper Tree Removal Program

- FY 2020: \$ 492,900 will be used for Pepper Tree Removal Program. To continue current \$850,000 Level of Service of approximately \$ 357,100 will be used from fund balance
- FY 2020 will be the last year this program can be supplemented by fund balance
- To continue the \$850,000 Level of Service, rates will need to increase in FY 2021

Any Questions?



RESOLUTION 114 - 19

AN INITIAL RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, RELATING TO THE FUNDING OF LOT MOWING SERVICES WITHIN LOT MOWING ASSESSMENT AREAS (DISTRICTS 1, 2, 3, & 4); DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED BY THE LOT MOWING SERVICES; ESTABLISHING THE TERMS AND CONDITIONS OF PROPOSED SPECIAL ASSESSMENTS TO FUND THE LOT MOWING SERVICES; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED SPECIAL ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

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

ARTICLE I. DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. This Resolution constitutes the Initial Assessment Resolution for Lot Mowing Services in Fiscal Year 2019-20. As used herein, the following terms shall have the following meanings, unless the context hereof otherwise requires. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Assessment Ordinance.

"Annual Cost Component" means the amount computed for each Tax Parcel pursuant to Section 4.03(A) hereof.

"Assessed Parcel" means a Tax Parcel subject to the Assessments contemplated hereunder.

"Assessment" means collectively, the District 1 Assessment, the District 2 Assessment, the District 3 Assessment, and District 4 Assessment.

"Assessment Area" means collectively, the proposed District 1 Lot Mowing Assessment Area, District 2 Lot Mowing Assessment Area, District 3 Lot Mowing Assessment Area, and District 4 Lot Mowing Assessment Area.

"Assessment Coordinator" means the person or entity designated by the Council to be responsible for coordinating Assessments, or such person's designee.

"Assessment Ordinance" means Ordinance No. 8-99, adopted by the City on March 8, 1999, as codified in Chapter 17, Article III of the City Code, as amended and supplemented.

"Assessment Roll" means collectively, the District 1 Assessment Roll, the District 2 Assessment Roll, the District 3 Assessment Roll, and the District 4 Assessment Roll.

"City" means the City of Cape Coral, Florida, a municipal corporation established by the State of Florida.

"Collection Cost" means the estimated cost to be incurred by the City during any Fiscal Year in connection with the collection of Assessments.

"Collection Cost Component" means the amount computed for each Tax Parcel pursuant to Section 4.03(B) hereof.

"Council" means the City Council of the City of Cape Coral, Florida.

"District 1 Assessment" means an annual special assessment imposed against Unimproved Lots located within the District 1 Assessment Area to fund District 1 Operating Costs related to the District 1 Lot Mowing Service, computed in the manner described in Section 4.03 hereof.

"District 2 Assessment" means an annual special assessment imposed against Unimproved Lots located within the District 2 Assessment Area to fund District 2 Operating Costs related to the District 2 Lot Mowing Service, computed in the manner described in Section 4.03 hereof.

"District 3 Assessment" means an annual special assessment imposed against Unimproved Lots located within the District 3 Assessment Area to fund District 3 Operating Costs related to the District 3 Lot Mowing Service, computed in the manner described in Section 4.03 hereof.

"District 4 Assessment" means an annual special assessment imposed against Unimproved Lots located within the District 4 Assessment Area to fund District 4 Operating Costs related to the District 4 Lot Mowing Service, computed in the manner described in Section 4.03 hereof.

"District 1 Assessment Area" means the District 1 Lot Mowing Assessment Area described in Section 3.01 hereof.

"District 2 Assessment Area" means the District 2 Lot Mowing Assessment Area described in Section 3.01 hereof.

"District 3 Assessment Area" means the District 3 Lot Mowing Assessment Area described in Section 3.01 hereof.

"District 4 Assessment Area" means the District 4 Lot Mowing Assessment Area described in Section 3.01 hereof.

"District 1 Assessment Roll" means the non-ad valorem assessment roll apportioning the District 1 Operating Costs among the Assessed Parcels comprising the District 1 Assessment Area.

"District 2 Assessment Roll" means the non-ad valorem assessment roll apportioning the District 2 Operating Costs among the Assessed Parcels comprising the District 2 Assessment Area.

"District 3 Assessment Roll" means the non-ad valorem assessment roll apportioning the District 3 Operating Costs among the Assessed Parcels comprising the District 3 Assessment Area.

"District 4 Assessment Roll" means the non-ad valorem assessment roll apportioning the District 4 Operating Costs among the Assessed Parcels comprising the District 4 Assessment Area.

"District 1 Lot Mowing Service" means the mowing of each equivalent lot unit, median, and right of way at least seven (7) times a year in the District 1 Assessment Area, pursuant to a contract between the City and a third-party contractor selected pursuant to the then existing policies of the City.

"District 2 Lot Mowing Service" means the mowing of each equivalent lot unit, median, and right of way at least seven (7) times a year in the District 2 Assessment Area, pursuant to a contract between the City and a third-party contractor selected pursuant to the then existing policies of the City.

"District 3 Lot Mowing Service" means the mowing of each equivalent lot unit, median, and right of way at least seven (7) times a year in the District 3 Assessment Area, pursuant to a contract between the City and a third-party contractor selected pursuant to the then existing policies of the City.

"District 4 Lot Mowing Service" means the mowing of each equivalent lot unit, median, and right of way at least seven (7) times a year in the District 4 Assessment Area, pursuant to a contract between the City and a third-party contractor selected pursuant to the then existing policies of the City.

"District 1 Operating Cost" means all or any portion of the expenses that are properly attributable to (A) District 1 Lot Mowing Service (less costs attributable to City-owned property such as medians and rights-of-way and less costs attributable to parcels that elect out of the District 1 Assessment Area), (B) other services related to the District 1 Lot Mowing Service which are provided by City staff (e.g., vegetation removal, etc.), and (C) imposition and collection of the District 1 Assessments including but not limited to Collection Costs, all under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the City for any funds advanced for such purposes, and interest on any interfund or intrafund loan.

"District 2 Operating Cost" means all or any portion of the expenses that are properly attributable to (A) District 2 Lot Mowing Service (less costs attributable to City-owned property such as medians and rights-of-way and less costs attributable to parcels that elect out of the District 2 Assessment Area), (B) other services related to the District 2 Lot Mowing Service which are provided

by City staff (e.g., vegetation removal, etc.), and (C) imposition and collection of the District 2 Assessments including but not limited to Collection Costs, all under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the City for any funds advanced for such purposes, and interest on any interfund or intrafund loan.

"District 3 Operating Cost" means all or any portion of the expenses that are properly attributable to (A) District 3 Lot Mowing Service (less costs attributable to City-owned property such as medians and rights-of-way and less costs attributable to parcels that elect out of the District 3 Assessment Area), (B) other services related to the District 3 Lot Mowing Service which are provided by City staff (e.g., vegetation removal, etc.), and (C) imposition and collection of the District 3 Assessments including but not limited to Collection Costs, all under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the City for any funds advanced for such purposes, and interest on any interfund or intrafund loan.

"District 4 Operating Cost" means all or any portion of the expenses that are properly attributable to (A) District 4 Lot Mowing Service (less costs attributable to City-owned property such as medians and rights-of-way and less costs attributable to parcels that elect out of the District 4 Assessment Area), (B) other services related to the District 4 Lot Mowing Service which are provided by City staff (e.g., vegetation removal, etc.), and (C) imposition and collection of the District 4 Assessments including but not limited to Collection Costs, all under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the City for any funds advanced for such purposes, and interest on any interfund or intrafund loan.

"Equivalent Lot Unit" means 5,000 square feet, the standard unit to be used in calculating Assessments, generally representing a rectangular platted lot measuring 40 feet by 125 feet in area, as determined for each Tax Parcel in accordance with Section 3.02 hereof.

"Final Assessment Resolution" means the resolution described in Section 17-36 of the Assessment Ordinance which shall confirm, modify, or repeal this Initial Assessment Resolution and which shall be the final proceeding for the imposition of the Assessments within the respective Assessment Areas to fund the provision of Lot Mowing Services therein for Fiscal Year 2019-2020.

"Fiscal Year" means the period commencing on October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the City.

"Fiscal Year 2019-2020" means the Fiscal Year commencing October 1, 2019.

"Government Property" means property owned by the United States of America, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

"Lot Mowing Service" means collectively, the District 1 Lot Mowing Service, the District 2 Lot Mowing Service, the District 3 Lot Mowing Service, and the District 4 Lot Mowing Service.

"Operating Cost" means collectively, the District 1 Operating Cost, the District 2 Operating Cost, the District 3 Operating Cost, and the District 4 Operating Cost.

"Parcel Area" means the geographic area of a Tax Parcel or portion thereof measured in square feet.

"Property Appraiser" means the Lee County Property Appraiser.

"Statutory Discount Amount" means the amount computed for each Tax Parcel pursuant to Section 4.03(C) hereof.

"Tax Parcel" means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

"Unimproved Lot" means a Tax Parcel within the Assessment Area that contains no improvements and those properties complying with the provisions of Section 4.06 hereof.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder," and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.03. LEGISLATIVE FINDINGS. It is hereby ascertained, determined, and declared that:

- (A) Pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, the Council has all powers of local self-government to perform municipal functions and to render municipal services, except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of City ordinances.
- (B) The Council may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the Council may legislate on any subject matter on which the Legislature may act, except those subjects described in paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes, is not relevant to imposition of assessments within the City.
- (C) The Council enacted the Assessment Ordinance to authorize, and provide a process for, the imposition and collection of special assessments, sometimes referred to as non-ad valorem assessments, to fund the costs of capital improvements and municipal services which provide a special benefit to the real property subject to the assessment.
- (D) In accordance therewith, the City imposes annual Assessments within the Assessment Areas to fund the provision of Lot Mowing Services therein for each Fiscal Year.
- (E) The Lot Mowing Service constitutes a Benefit Service as defined in Section 17-26 of the Assessment Ordinance.
- (F) The Lot Mowing Service preserves and enhances the value, use, marketability and enjoyment of Unimproved Lots located in the Assessment Area by improving the aesthetic appearance of each of the parcels in the Assessment Area, facilitating each owner's obligation to keep their property in compliance with the City Code and providing a safe environment for the property owners to engage in certain outdoor activities on such parcels.
- (G) Because the Unimproved Lots in the Assessment Area vary in size, shape, and potential use, land area is a reasonable indicator of the relative amount of benefit conveyed to and cost associated with providing each parcel with the Lot Mowing Service and is a fair method of allocating such benefit and cost to real property within the Assessment Area.
- (H) It is hereby ascertained, determined, and declared by the Council that each Assessed Parcel will be benefited by the City's provision of Lot Mowing Services in an amount not less than the Assessment for such Assessed Parcel, computed in the manner set forth in this Resolution.
- (I) Certain parcels of real property that elect out of the Assessment Area will not derive a special benefit from the Lot Mowing Service and, therefore, will not be included in the Assessment Area.
- (J) Any owner of a Tax Parcel that elects out of the Assessment Area shall provide, or cause to be provided, routine lot mowing services for such real property in accordance with applicable City Code provisions.
- (K) Failure of an owner of a Tax Parcel that elects out of the Assessment Area to maintain such property may result in the City providing Lot Mowing Services to such Tax Parcel, imposition of an Assessment against such parcel for Fiscal Year 2019-2020 and inclusion of the Assessment on the subsequent year's assessment roll in an amount equal to the prior year's Assessment, plus the Assessment for the upcoming year.

- (L) The Council hereby finds and determines that the Assessments, to be imposed in accordance with this Resolution, provide an equitable method of funding the annual Operating Costs related to the Lot Mowing Service for each Fiscal Year by fairly and reasonably allocating such Operating Costs based on the special benefit derived by the Unimproved Lots, in the manner hereinafter described.
- (M) The term “Lot Mowing Service” as used herein shall be liberally construed to include all costs and services to comply with Section 9-16 of the City of Cape Coral Code of Ordinances, whether provided by City staff or third-party contractors, associated with the maintenance of Unimproved Lots through the mowing of weeds, grass, vines, palmetto scrub, or other noxious vegetative growth and the clearance and removal of vegetation (including, but not limited to, invasive species such as Brazilian Pepper, Australian Pine, Carrotwood, Earleaf Acacia, and Melaleuca Species), using conventional mowing techniques, tractors, brush grinders, herbicides, and equipment appropriate for the landscape being serviced, such as push or riding mowers, trimmers, or such other mowing equipment as may be necessary to prevent disturbance of wildlife or protected species.

ARTICLE II. NOTICE AND PUBLIC HEARING

SECTION 2.01. PUBLIC HEARING. A public hearing will be conducted by the Council at 4:30 P.M. or as soon thereafter as the matter can be heard, on August 26, 2019, in the Council Chambers of City Hall located at 1015 Cultural Park Boulevard, Cape Coral, Florida, to consider (A) creation of the Assessment Area, (B) imposition of the Assessments, and (C) collection of the Assessments pursuant to the Uniform Assessment Collection Act.

SECTION 2.02. NOTICE BY PUBLICATION. Upon completion of the Assessment Roll, the Assessment Coordinator shall publish a notice of the public hearing authorized by Section 2.01 hereof in the manner and the time provided in Section 17-34 of the Assessment Ordinance. Such notice shall be in substantially the form attached hereto as APPENDIX A.

SECTION 2.03. NOTICE BY MAIL. Upon completion of the Assessment Roll, the Assessment Coordinator shall, at the time and in the manner specified in Section 17-35 of the Assessment Ordinance, provide first class mailed notice of the public hearing authorized by Section 2.01 hereof to each property owner proposed to be assessed at the address indicated on the Tax Roll. Such notice shall be in substantially the form attached hereto as APPENDIX B; provided, however, such notice may be combined with other annual special assessment notices sent to such property owner so long as the information contained in APPENDIX B is contained in such combined notice.

ARTICLE III. ASSESSMENT AREAS

SECTION 3.01. DESCRIPTION OF ASSESSMENT AREAS.

- (A) **DISTRICT 1.** The District 1 Assessment Area includes the Unimproved Lots located in the area of the City described as follows:

Properties located in the area South of NE and SW Pine Island Road, East of the westerly boundary of the City of Cape Coral, North of the southerly boundary of the City, and West of the easterly boundary of the City.

The District 1 Assessment Area is further described in APPENDIX C attached hereto. A map depicting the Assessment Areas is attached hereto as APPENDIX D.

- (B) **DISTRICT 2.** The District 2 Assessment Area includes the Unimproved Lots located in the area of the City described as follows:

Properties located North of NE Pine Island Road, East of Santa Barbara Boulevard North, West of the easterly boundary of the City and South of the northerly boundary of the City.

The District 2 Assessment Area is further described in APPENDIX C attached hereto. A map depicting the Assessment Areas is attached hereto as APPENDIX D.

- (C) DISTRICT 3. The District 3 Assessment Area includes the Unimproved Lots located in the area of the City described as follows:

Properties located North of SW Pine Island Road, East of El Dorado Parkway and the southerly extension of El Dorado Parkway to SW Pine Island Road, West of Santa Barbara Boulevard North, and South of the northerly boundary of the City.

The District 3 Assessment Area is further described in APPENDIX C attached hereto. A map depicting the Assessment Areas is attached hereto as APPENDIX D.

- (D) DISTRICT 4. The District 4 Assessment Area includes the Unimproved Lots located in the area of the City described as follows:

Properties located North of SW Pine Island Road, East of the westerly boundary of the City, West of El Dorado Parkway and the southerly extension of El Dorado Parkway to SW Pine Island Road, and South of the northerly boundary of the City.

The District 4 Assessment Area is further described in APPENDIX C attached hereto. A map depicting the Assessment Areas is attached hereto as APPENDIX D.

SECTION 3.02. ASSIGNMENT OF EQUIVALENT LOT UNITS. To reflect the relative amount of special benefit to be derived from the Lot Mowing Service, the number of Equivalent Lot Units attributable to each Tax Parcel within the Assessment Area shall be equal to the amount computed by dividing the Parcel Area by 5,000 square feet and rounding the result to the nearest tenth.

ARTICLE IV. ASSESSMENTS

SECTION 4.01. ESTIMATED COST. The maximum estimated Operating Cost for Fiscal Year 2019-2020 is as follows:

- (A) District 1 Operating Cost: \$863,371.56;
- (B) District 2 Operating Cost: \$753,810.86;
- (C) District 3 Operating Cost: \$814,035.41; and
- (D) District 4 Operating Cost: \$731,635.92.

The Operating Cost will be funded through the imposition of Assessments against Unimproved Lots located in the Assessment Area.

SECTION 4.02. IMPOSITION OF ASSESSMENTS. The Assessments shall be imposed against all Unimproved Lots located within the Assessment Area for each Fiscal Year hereafter and shall be computed in accordance with this Article IV. When imposed, the Assessments for each Fiscal Year shall constitute a lien upon the Tax Parcels located in the Assessment Area, pursuant to Section 17-39 of the Assessment Ordinance; provided, however, those Tax Parcels that elect out, pursuant to Section 4.05 hereof, shall be removed from the Assessment Roll upon compliance with the provisions therein and those Tax Parcels that elect in, pursuant to Section 4.06 hereof, shall be added to the Assessment Roll upon compliance with the provision therein.

The maximum estimated cost per Equivalent Lot Unit is as follows for the 2019-2020 Fiscal Year:

District 1	\$32.70
District 2	\$24.99
District 3	\$25.31
District 4	\$24.24

SECTION 4.03. COMPUTATION OF ASSESSMENTS. The annual Assessments shall be computed for each Assessed Parcel located in the Assessment Area in the manner set forth in this Section 4.03.

- (A) **ANNUAL COST COMPONENT.** The "Annual Cost Component" shall be calculated for each Fiscal Year for each Tax Parcel by (1) dividing the number of Equivalent Lot Units attributable to such Tax Parcel by the total Equivalent Lot Units attributable to all Tax Parcels within the particular Assessment Area in which the Tax Parcel is located, and (2) multiplying the result by the Operating Cost for the particular Assessment Area in which the Tax Parcel is located.
- (B) **COLLECTION COST COMPONENT.** The "Collection Cost Component" shall be computed each Fiscal Year for each Tax Parcel by (1) dividing the number of Equivalent Lot Units attributable to such Tax Parcel by the total Equivalent Lot Units attributable to all Tax Parcels within the entire Assessment Area, and (2) multiplying the result by the Collection Cost for the entire Assessment Area.
- (C) **STATUTORY DISCOUNT AMOUNT.** The "Statutory Discount Amount" shall be computed for each Tax Parcel as the amount allowed by law as the maximum discount for early payment of ad valorem taxes and non-ad valorem assessments, such amount to be calculated by deducting (1) the sum of the Annual Cost Component and the Collection Cost Component, from (2) the amount computed by dividing the sum of the Annual Cost Component and the Collection Cost Component by the factor of 0.96.
- (D) **ASSESSMENT.** The annual Assessment for each Tax Parcel shall be computed as the sum of (1) the Annual Cost Component, (2) the Collection Cost Component, and (3) the Statutory Discount Amount.
- (E) **DELINQUENCY.** Any delinquency or past due amounts attributable to each unimproved lot that has not been previously billed on the tax bill, is hereby approved inclusion on the Assessment Roll for Fiscal Year 2019-2020. Such Amount shall include Collections Costs and the Statutory Discount Amount.

SECTION 4.04. ASSESSMENT ROLL. The Assessment Coordinator is hereby directed to prepare a final estimate of the District 1 Operating Cost, District 2 Operating Cost, District 3 Operating Cost, and District 4 Operating Cost and to prepare the preliminary Assessment Roll for each Assessment Area in the manner provided in Section 17-33 of the Assessment Ordinance. The Assessment Coordinator shall apportion each Operating Cost among the parcels of real property within the related Assessment Area as reflected on the Tax Roll in conformity with Sections 3.02 and 4.03 hereof. The estimate of Operating Cost for each Assessment Area and each Assessment Roll shall be maintained on file in the offices of the Assessment Coordinator and open to public inspection. The foregoing shall not be construed to require that each Assessment Roll be in printed form if the amount of the Assessment for each Assessed Parcel can be determined by use of a computer terminal available to the public.

SECTION 4.05. OPTION TO ELECT OUT OF ASSESSMENT AREA. The Assessment Coordinator shall determine whether any property owner wishes to elect out of the Assessments if the property owner agrees to provide, or has provided, routine mowing service for such property in accordance with the City's requirements. As part of the first class mailed notice provided pursuant to Section 2.03 hereof, the Assessment Coordinator shall provide the following information:

- (A) Tax Parcel identification information;
- (B) the City requirements for maintaining Unimproved Lots;

- (C) a description of what will happen if the property owner fails to maintain their Unimproved Lot in accordance with City requirements, including the inclusion of the property in subsequent assessment years and the inclusion of any costs associated with providing Lot Mowing Services to that parcel in the current Fiscal Year, as well as any necessary administrative costs, on the next ad valorem tax bill due; and
- (D) a description, deadline, and method of informing the City of the owner's decision whether to elect out of the Assessment Area. Unless a response from a property owner in the manner described in such notice is received by the City by the deadline set forth in such notice, the real property shall remain on the Assessment Roll.

SECTION 4.06. OPTION TO ELECT IN ASSESSMENT AREA. The Assessment Coordinator may add Tax Parcels to an Assessment Roll in the event the City receives a request from the owner of such Tax Parcel to provide Lot Mowing Service. The owner of Any Tax Parcels added to an Assessment Roll in this manner shall either (1) consent to imposition of the Assessments in writing, or (2) must be provided the notice and other protections afforded pursuant to the Uniform Assessment Collection Act.

SECTION 4.07. APPLICATION OF THE ASSESSMENT PROCEEDS. Proceeds from the Assessments received during each Fiscal Year shall be applied by the City for payment of Operating Costs related to the Lot Mowing Services for such Fiscal Year in the Assessment Area in which the Tax Parcel is located. In the event the amounts collected through the levy of the Assessments are in excess of the amount required to pay costs of the Lot Mowing Service for that particular Assessment Area and the City's annual administration and collection costs for such year, such excess amount will be used to fund any remaining administrative and collection costs attributable to that particular Assessment Area and other services that specially benefit the properties in that particular Assessment Area (e.g., removal of vegetation, etc.), and any remaining funds will be applied to reduce the amount of the Assessments to be levied within that particular Assessment Area for the following year.

ARTICLE V. GENERAL PROVISIONS

SECTION 5.01. METHOD OF COLLECTION. The Assessments shall be collected pursuant to the Uniform Assessment Collection Act; provided, however, that any Assessment against Government Property shall be collected pursuant to Section 17-46 of the Assessment Ordinance.

SECTION 5.02. SEVERABILITY. If any clause, section, or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 5.03. EFFECTIVE DATE. This Initial Resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Assessment-Lot Mowing Initial

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To Be Published on or before August 5, 2019

[MAP OF EACH DISTRICT LOT MOWING ASSESSMENT AREA]

NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR
COLLECTION OF NON-AD VALOREM ASSESSMENTS

Notice is hereby given that the City Council of Cape Coral, Florida, will conduct a public hearing to consider the annual imposition of non-ad valorem special assessments in the District 1, 2, 3, and 4 Lot Mowing Assessment Areas, as shown above, and collection of the assessments on the ad valorem tax bill. The hearing will be held at 4:30 P.M., or as soon thereafter as the matter can be heard, on August 26, 2019, in the City Council Chambers of City Hall located at 1015 Cultural Park Boulevard, Cape Coral, Florida. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk's office at 239-574-0411 at least 3 days prior to the date of the hearing. All affected property owners have a right to appear at the hearing and to file written objections with the City Council prior to or at the public hearing. Any person wishing to appeal any decision of the City Council with respect to any matter considered will need a written record and may wish to ensure that a verbatim written record is made.

The assessments fund the annual costs incurred by the City in providing lot mowing and other related services in each Low Mowing Assessment Area for the fiscal year commencing October 1, 2019. The assessment for each unimproved property within each Lot Mowing Assessment Area will be based upon its relative parcel area (expressed in "equivalent lot units" of 5,000 square feet) compared to other parcels in that particular assessment area. A more specific description of the methodology, the assessment areas, and the process by which property owners may elect out of an assessment area is set forth in the Initial Assessment Resolution adopted by the City Council on [date]. Copies of the Initial Assessment Resolution, the estimate of costs, and the preliminary assessment roll are available for inspection at the Clerk's office, located at City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.

Annual assessments to fund costs related to the lot mowing service in each assessment area will be collected on the ad valorem tax bill commencing with the tax bill to be mailed in November 2019. Failure to pay the assessments will cause a tax certificate to be issued against the property, which may result in a loss of title.

If you have any questions, please contact the Assessment Coordinator's office at 239-242-3852, Monday through Friday, between 7:30 a.m. and 4:30 p.m.

CITY OF CAPE CORAL, FLORIDA

APPENDIX B

FORM OF NOTICE TO BE MAILED

***** THIS IS NOT A BILL *****

CITY OF CAPE CORAL, FLORIDA, NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF ASSESSMENTS IN THE DISTRICT [1][2][3][4] LOT MOWING ASSESSMENT AREA

_____, 2019

[Property Owner's Name]
[Street Address]
[City, State, and Zip]

Re: Tax Parcel Number [Insert Number] District [1][2][3][4] Lot Mowing Assessment Area

Dear Property Owner:

The City of Cape Coral imposes annual non-ad valorem special assessments against real property located in the District [1][2][3][4] Lot Mowing Assessment Area, including the parcel identified above, to fund the cost of providing lot mowing services within such area. The assessment for each parcel of property is based on its relative parcel area (expressed in "equivalent lot units" of 5,000 square feet) compared to other parcels in that particular assessment area. The City Council will hold a public hearing at 4:30 P.M., or as soon thereafter as the matter can be heard, on August 26, 2019, in the City Council Chambers of City Hall located at 1015 Cultural Park Boulevard, Cape Coral, Florida, for the purpose of receiving comments on the imposition of assessments to fund the provision of lot mowing services in the City's fiscal year commencing October 1, 2019. You are invited to attend and participate in the hearing. You may also file written objections with the City Council prior to or during the hearing. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a written record of the proceedings and may need to ensure that a verbatim written record is made, including the testimony and evidence upon which the appeal is based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk's office at 239-574-0411 at least 3 days prior to the date of the hearing.

A more specific description of the methodology, the assessment areas, and the process by which property owners may elect out of an assessment area are set forth in the Initial Assessment Resolution adopted by the City Council on [date]. Copies of the Initial Assessment Resolution, the estimate of costs, and the preliminary assessment roll, including the assessments, are available for your review at the Clerk's office, located at City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida. Information regarding the assessment for your specific property, including the parcel area assigned to your property (expressed in "equivalent lot units" of 5,000 square feet), is attached to this letter.

The annual assessment will include:

- your share of the operating cost attributable to lot mowing service;
- your share of the collection cost of the assessments; and
- the maximum discount allowed for early payment under the Uniform Assessment Collection Act.

The City expects to collect approximately \$[DISTRICT TOTAL] per year for the purposes described in this notice. The City intends to include the annual assessment on your ad valorem tax bill including the tax bill mailed in November 2019. Failure to pay your assessments will cause a tax certificate to be issued against the property, which may result in a loss of title.

You may also choose to elect out of the assessment and provide your own lot mowing service. IN ORDER TO ELECT OUT OF THE ASSESSMENT, YOU MUST CONTACT THE CITY'S ASSESSMENT COORDINATOR AT 239-242-3852 AND REQUEST A LOT MOWING ELECTION CARD TO BE SENT TO YOU. ONCE RECEIVED, YOU MUST RETURN THE LOT MOWING ELECTION CARD TO THE CITY NO LATER THAN SEPTEMBER 1, 2019. IF THE LOT MOWING ELECTION CARD IS NOT POSTMARKED ON OR EARLIER THAN SEPTEMBER 1, 2019, YOU WILL AUTOMATICALLY REMAIN ON THE ASSESSMENT ROLL FOR UPCOMING YEAR.

If you have any questions, please contact the Assessment Coordinator's office at 239-242-3852, Monday through Friday, between 7:30 a.m. and 4:30 p.m.

CITY OF CAPE CORAL, FLORIDA

***** SEND NO MONEY NOW. THIS IS NOT AN INVOICE *****

DISTRICT [1][2][3][4] LOT MOWING ASSESSMENT AREA

[PROPERTY OWNER'S NAME]

Tax Parcel Number: [INSERT NUMBER]

Total Parcel Area: [INSERT NUMBER]

Resulting Equivalent Lot Units: [INSERT NUMBER]

Maximum Annual Assessment: \$[INSERT AMOUNT]

***** SEND NO MONEY NOW. THIS IS NOT AN INVOICE *****

Item Number:	A.(2)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Resolution 115-19 Public Input Solid Waste Preliminary Assessment Resolution

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The Resolution establishes a not-to-exceed annual solid waste service assessment rate for solid waste collection and disposal services, facilities, and programs. It also allows staff to prepare an updated Assessment Roll for the Fiscal Year (FY) beginning October 1, 2019 and sets the Final Public Hearing date.

The not-to-exceed rate includes an increase in the total amount of annual tonnage generated and a requested 1.64% increase for collection service based on the Consumer Price Index (CPI).

The proposed not-to-exceed rate for residential Solid Waste services for FY 2020 is \$199.59.

The not-to-exceed rate is used for notification. It can't be raised, but can be lowered by Council at the Final Public Hearing.

LEGAL REVIEW:

EXHIBITS:

Solid Waste Memo
Staff Presentation
Resolution 115-19

PREPARED BY:

Stacy
Maine

Division- Administration

Department- Public Works

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Memo	Backup Material
▣ Staff Presentation	Backup Material
▣ Resolution 115-19	Resolution

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager *JS*
Paul Clinghan, Public Works Director *PRC*
Victoria Bateman, Financial Services Director *CP & VLB*
Stacy Maine, Strategic Business Analyst *SM*

DATE: July 16, 2019

SUBJECT: Residential Solid Waste Rates FY 2020

Effective October 1, 2010, the City entered into a contract with Waste Pro. It is in effect until September 30, 2020, with a possible additional 5-year renewal to September 30, 2025. The contract includes providing residents with a weekly pickup of solid waste, recyclables, and horticulture. Bulk and white goods are removed as needed. Staff will be presenting recommendations to Council on the possible additional 5-year renewal at a later date. See attached memo dated June 24, 2019.

The table below presents the FY 2018, FY 2019 and FY 2020 proposed rates. Lee County has proposed no increase for disposal for FY 2020 (Option 1).

Per the contract, Waste Pro may request rate adjustments based on the CPI. Waste Pro is requesting a rate adjustment of 1.64% based on the CPI for accounts for Fiscal Year (FY) 2020 (Option 2).

FY 2018 Residential Rate	FY 2019 Residential Rate	Proposed FY 2020 Residential Rate Option 1 (No increase in collection)	Proposed FY 2020 Residential Rate Option 2 (1.64% increase in collection)
\$190.19	\$196.22	\$197.46	\$199.59

The Solid Waste Rate Resolution 115-19 is scheduled for Introduction at the July 22, 2019 Regular City Council Meeting. At that time, a not-to-exceed rate will be approved by Council for notification prior to the Public Hearing on August 26, 2019.

JS/PC/VB/SM:sm

MEMORANDUM

**CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT**

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager *JS*
Paul Clinghan, Public Works Director *PRC*
Victoria Bateman, Financial Services Director *VB*
Wanda Roop, Procurement Manager *WR*
Stacy Maine, Public Works Strategic Business Analyst *SM*

DATE: June 24, 2019

SUBJECT: Solid Waste Removal Contract

BACKGROUND

The City of Cape Coral's solid waste removal contract with Waste Pro became effective October 1, 2010 until September 30, 2015, with an automatic 5-year renewal to September 30, 2020 and a possible additional 5-year renewal to September 30, 2025.

The intent to negotiate or terminate the Agreement shall be communicated in writing by either the Contractor or the City not less than twelve (12) months prior to the expiration of the franchise period, but not more than eighteen (18) months prior to such expiration. Waste Pro has indicated they would like to negotiate the additional 5-year renewal to September 30, 2025.

The City is under no obligation to exercise the final 5-year renewal. The deadline for the City's determination and notification to Waste Pro, regarding the additional 5-year renewal, is September 30, 2019.

For comparison of residential solid waste collection and removal costs, Lee County was surveyed. The following graphs present the results:

1. Graph 1 - Collection Cost within Lee County - when comparing Cape Coral with the five (5) areas of unincorporated Lee County, Cape Coral is 2nd lowest.
2. Graph 2 – Collection and Disposal within Lee County - compared with the same five (5) areas, Cape Coral is lowest.

CURRENT STATUS

As a best practice, City management is doing the following:

1. The City Manager selected a team comprised of the Public Works Director, Finance Director, Procurement Manager and Public Works Strategic Business Analyst to start a dialogue with Waste Pro regarding the Level of Service (LOS) and any other factors that may impact a new contract.
2. This team will continue to research and analyze data obtained from similar size Florida municipalities regarding costs and their recent solicitation experience. The preliminary research indicates that it may be beneficial to negotiate with the current vendor. Municipalities that are or have recently gone through the RFP process have seen large increases in costs for removal along with, in many cases, a lower LOS.

During this process, staff will not be making a commitment with Waste Pro on the 5-year renewal. The dialogue will be focused on LOS and/or any other factor that may impact the contract.

As there may be a possibility of issuing a Request for Proposal (RFP), based on the information obtained and future direction from Council, staff is requesting Council to forward any communication and/or questions from any other solid waste vendor to the Procurement Manager and refrain from discussing any items with these companies. By refraining from communication, it protects the vendor from non-compliance with the City's lobbying clause.

After conducting due diligence, the management team will provide the required information to Council to either:

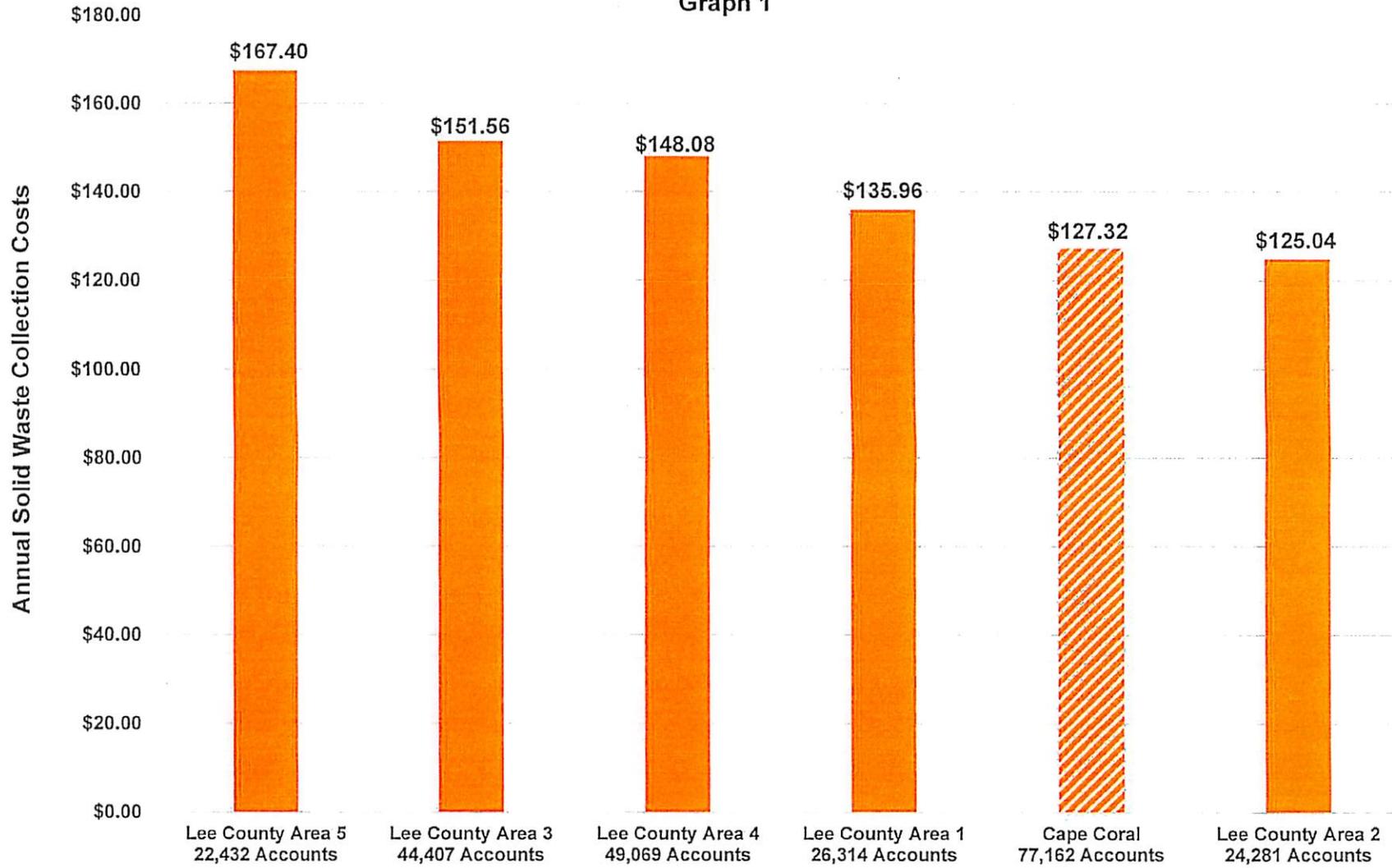
1. Issue a Request for Proposal
2. Negotiate with the current vendor – Waste Pro

The information will be brought forward to Council prior to September 30, 2019.

If there are any questions, please contact Wanda Roop, Procurement Manager, at 239-574-0831 or wroop@capecoral.net.

Solid Waste Collection Comparison with Unincorporated Lee County

Graph 1



Areas and Number of Accounts

DRAFT
6/7/19

Solid Waste Collection and Disposal Comparison with Unincorporated Lee County

Graph 2





Residential Solid Waste Assessment

Resolution 115-19
July 22, 2019

Changes in FY 2020 Solid Waste Rates

- Lee County Solid Waste Division is recommending no increase in disposal fees for FY 2020
- Lee County suspended residential recycling refunds in FY 2019 and FY 2020
- Waste Pro is requesting a 1.64% increase for residential collection based on the CPI
- At the August 26, 2019 Council Meeting, Waste Pro will request a 1.64% increase for commercial collection based on the CPI

Changes in Residential Recycling Refund

- Lee County suspended recycling refunds in FY 2019 and FY 2020 due to changes in the recycling commodity and additional Material Recycling Facility operating costs, resulting in no refund to the General Fund

FY	ACTUAL
FY 2015	\$ 512,618
FY 2016	\$ 182,026
FY 2017	\$ 528,574
FY 2018	\$ 284,373
FY 2019	\$ 0
FY 2020	\$ 0

Residential Rate Assessments

Assessment Calculation Per Dwelling Unit	FY 2018	FY 2019	Option 1 FY 2020 (No increase in collection)	Option 2 FY 2020 (1.64% Increase in collection)
Collection Services – Waste Pro	\$ 127.32	\$ 127.32	\$ 127.08	\$ 129.12
Disposal Fee – Lee County	\$ 53.28	\$ 59.11	\$ 59.32	\$ 59.32
Collection Costs – Retained by Tax Collector	\$ 1.50	\$ 1.50	\$ 1.50	\$ 1.50
Cape Coral Costs – Notification & Assessment Roll	\$ 1.02	\$ 1.09	\$.98	\$.98
Employee Cost	\$.68	\$.75	\$.68	\$.68
Statutory Discount – Approx. 4% of Rate	\$ 6.39	\$ 6.45	\$ 7.90	\$ 7.99
Total Assessment Per Dwelling Unit	\$ 190.19	\$ 196.22	\$ 197.46	\$ 199.59

Any Questions?



November 9, 2019 Bulk Event with the City of Cape Coral, Waste Pro, and Goodwill

RESOLUTION 115 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE CITY OF CAPE CORAL, FLORIDA; ESTABLISHING THE ESTIMATED ASSESSMENT RATE FOR SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF CAPE CORAL, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cape Coral, Florida (the "City") adopted Ordinance 64-01, establishing Chapter 9, Article III-1/2, of the City of Cape Coral Code of Ordinances (the "Code"), to provide for the re-imposition of annual Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs against certain Assessed Property within the City; and

WHEREAS, the imposition of a Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or programs for each Fiscal Year is an equitable and efficient method of allocating and apportioning Solid Waste Costs among parcels of Assessed Property; and

WHEREAS, the City Council desires to re-impose the annual Solid Waste collection and disposal assessment program within the City, using the tax bill collection method for the Fiscal Year beginning on October 1, 2019 ("Fiscal Year 2019-2020").

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

SECTION 1. AUTHORITY

This resolution is adopted pursuant to the provisions of Chapter 9, Article III-1/2, Solid Waste Service Assessment of the City of Cape Coral Code of Ordinances, the Initial Assessment Resolution (Resolution 46-01), the Final Assessment Resolution (Resolution 56-01), Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. PURPOSE AND DEFINITIONS

This resolution constitutes the Preliminary Rate Resolution as defined in Chapter 9, Article III-1/2 of the Code which initiates the annual process for updating the Assessment Roll and directs the re-imposition of Solid Waste Service Assessments for Fiscal Year 2019-2020. All words and terms not otherwise defined herein shall have the meanings set forth in Chapter 9, Article III-1/2 of the Code. Unless the context indicates otherwise, words imparting the singular number, include the plural number, and vice versa.

SECTION 3. PROVISION AND FUNDING OF SOLID WASTE SERVICES

- (A) Upon the imposition of Solid Waste Service Assessments for Solid Waste collection and disposal against Assessed Property located within the City, the City shall provide Solid Waste collection and disposal services to such Assessed Property.
- (B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property will be benefited by the City's provision of Solid Waste collection and disposal services in an amount not less than the Solid Waste Service Assessment imposed against such parcel, computed in the manner set forth in this Preliminary Rate Resolution.

SECTION 4. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT

The legislative determinations of special benefit and fair apportionment embodied in Chapter 9, Article III-1/2 of the Code, the Initial Assessment Resolution and the Final Assessment Resolution are affirmed and incorporated herein by reference.

SECTION 5. ESTABLISHMENT OF ANNUAL SOLID WASTE SERVICE ASSESSMENT RATE

- (A) For Fiscal Year 2019-2020, for which Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities and programs are to be re-imposed, the Solid Waste Cost shall be allocated among all parcels of Assessed Property, based upon each parcel's classification as Residential Property (4 units or less) and the number of Dwelling Units for such parcels. The Solid Waste Cost for Fiscal Year 2019-2020 is estimated to be \$15,262,846.89. Accordingly, a rate of assessment equal to \$199.59 for each Dwelling Unit for Solid Waste collection and disposal services, plus any delinquency or past due amounts attributable to each Dwelling Unit for Solid Waste services and facilities that have not been previously billed on the tax bill, is hereby approved for Fiscal Year 2019-2020.
- (B) The City Clerk is hereby directed to prepare, or cause to be prepared, an updated Assessment Roll for Fiscal Year 2019-2020, in the manner provided in Chapter 9, Article III-1/2 of the Code. Such updated Assessment Roll shall contain the following: (1) a summary description of all Assessed Property within the City conforming to the description contained on the Tax Roll, (2) the name and address of the Owner of record of each parcel as shown on the Tax Roll, and (3) the amount of the Solid Waste Service Assessment attributable to each Dwelling Unit for Solid Waste collection and disposal services. A copy of this Preliminary Rate Resolution, applicable provisions of the Code, the Initial Assessment Resolution, the Final Assessment Resolution and the updated Assessment Roll is maintained on file in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the updated Assessment Roll be in printed form if the amount of the Solid Waste Service Assessment for each parcel of property can be determined by use of a computer terminal available to the public. The Solid Waste Service Assessment for each parcel of Assessed Property shall be computed by multiplying the assessment rate by the number of Dwelling Units on such parcel.
- (C) It is hereby ascertained, determined, and declared that the foregoing method of determining the Solid Waste Service Assessments for Solid Waste collection and disposal services is a fair and reasonable method of apportioning the Solid Waste Cost among parcels of Assessed Property.

SECTION 6. AUTHORIZATION OF PUBLIC HEARING

There is hereby established a public hearing to be held at 4:30 p.m. on August 26, 2019, in City Council Chambers, City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida, for the purpose of (A) receiving and considering any comments on the Solid Waste Service Assessments from affected property owners and (B) authorizing the re-imposition of such Solid Waste Service Assessments for solid waste collection and disposal for Fiscal Year 2019-20, and collecting such assessments on the same bill as ad valorem taxes.

SECTION 7. NOTICE BY PUBLICATION

The City Clerk shall publish a notice, as required by Section 9-75.16 of the City of Cape Coral Code of Ordinances, in substantially the form attached hereto as Appendix A. Such notice shall be published not later than August 5, 2019, in a newspaper generally circulated in the City of Cape Coral.

SECTION 8. NOTICE BY MAIL

The City Clerk shall also provide notice, or direct the provision of notice, by first class mail substantially in the form attached hereto as Appendix B to the Owner of each parcel of Assessed Property, as required by Sections 9-75.17 and 9-75.20 of the City of Cape Coral Code of Ordinances. Such notices shall be mailed not later than August 5, 2019. The notices contemplated herein may be combined with other assessment notices in the interest of efficiency and economy.

SECTION 9. EFFECTIVE DATE

This Preliminary Rate Resolution shall take effect immediately upon its passage and adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

for 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Assessment-Solid Waste Preliminary

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To Be Published by **August 5, 2019**

**NOTICE OF HEARING TO REIMPOSE AND PROVIDE FOR
COLLECTION OF SOLID WASTE SERVICE SPECIAL
ASSESSMENTS**

[INSERT MAP OF CITY]

Notice is hereby given that the City Council of Cape Coral will conduct a public hearing to consider re-imposing solid waste service assessments for the Fiscal Year beginning October 1, 2019, against certain improved residential properties located within the incorporated area of the City, as depicted in the map above, to fund the cost of solid waste collection and disposal services, facilities and programs provided to such properties and to authorize collection of such assessments on the tax bill.

The public hearing will be held at 4:30 p.m. on August 26, 2019, in City Council Chambers, City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 calendar days of the date of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City at (239) 574-0411 at least seven days prior to the date of the hearing.

The estimated assessment for the Fiscal Year 2019-2020 shall be \$199.59 per dwelling unit. The assessments will be computed by multiplying the number of dwelling units on each parcel by the rate of assessment plus any unpaid or delinquent charges for Solid Waste services that have not been previously billed on the tax bill. Copies of the Preliminary Rate Resolution initiating the annual process of updating the Assessment Roll and re-imposing the Solid Waste Service Assessments, Chapter 9, Article III-1/2, of the City of Cape Coral Code of Ordinances, the Initial Assessment Resolution, the Final Assessment Resolution and the updated Assessment Roll for the upcoming fiscal year are available for inspection at the City Clerk's office, located at City Hall. The solid waste assessment is an annual assessment which will continue from year to year.

If you have any questions, please contact the Financial Services Department, Customer Service Division at (239) 574-7722, Monday through Friday between 7:30 a.m. and 4:30 p.m.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2019, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

Kimberly Bruns
City Clerk

**APPENDIX B
FORM OF NOTICE TO BE MAILED**

City of Cape Coral
PO Box 150027
Cape Coral, FL 33915-0027



Owner Name
Address
Address
City, State Zip

**CAPE CORAL, FLORIDA
NOTICE OF HEARING TO IMPOSE AND
PROVIDE FOR COLLECTION OF SOLID
WASTE SERVICE NON-AD VALOREM
ASSESSMENTS
NOTICE DATE: August 5, 2019**

Tax Parcel # _____

******* NOTICE TO PROPERTY OWNER *******

***** THIS IS NOT A BILL *****

As required by Section 197.3632, Florida Statutes, notice is given by the City of Cape Coral, Florida, that an annual assessment for solid waste services using the tax bill collection method, may be levied on your property. The purpose of this assessment is to fund solid waste services benefiting residential property (4 units or less) located within the City. The total annual solid waste assessment revenue to be collected for residential property with 4 units or less is estimated to be \$15,262,846.89. The estimated maximum annual solid waste service assessment is based on the number of residential dwelling units contained on each parcel of property plus any delinquent charges for solid waste services.

The estimated maximum solid waste assessment rate to be imposed without further notice for fiscal year 2019-2020 for the above parcel is \$199.59 per dwelling unit.

Total number of residential dwelling units on the above parcel:	
Estimated maximum solid waste service assessment for Fiscal Year 2019-2020:	\$
Delinquent solid waste charge for the above parcel:	\$

The solid waste assessment is an annual assessment which will continue from year to year.

A public hearing will be held at 4:30 p.m. on August 26, 2019, in City Council Chambers, City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida for the purpose of receiving public comment on the proposed assessments. You and all other affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding, should contact the City at (239) 574-0411 at least seven days prior to the date of the hearing.

Unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action at the above hearing (including the method of apportionment, the rate of assessment and the imposition of assessments), such action shall be the final adjudication of the issues presented.

Copies of the Preliminary Rate Resolution, Chapter 9, Article III-1/2, of the City of Cape Coral Code of Ordinances, the Initial Assessment Resolution, the Final Assessment Resolution and the updated assessment roll are available for inspection at the City Clerk's office located at 1015 Cultural Park Boulevard, Cape Coral, Florida.

The final approved Solid Waste Service Assessment amount (which will not exceed \$199.59 per Dwelling Unit for Fiscal Year 2019-2020), as well as any other non-ad valorem assessments, plus the ad valorem taxes for the above parcel will be collected on the ad valorem tax bill mailed in November 2019. Failure to pay the assessments to the Lee County Tax Collector will cause a tax certificate to be issued against the property, which may result in a loss of title.

If there is a mistake on this notice or if you have any questions regarding your Solid Waste Service Assessment, please call the Financial Services Department, Customer Service Division, at (239) 574-7722, Monday through Friday between 7:30 a.m. and 4:30 p.m., or write the City at the following address.

City of Cape Coral
Financial Services Department
Customer Service Division
PO Box 150027
Cape Coral, FL 33915-0027

******* THIS IS NOT A BILL *******

Item Number:	A.(3)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Resolution 116-19 Public Input Fire Protection Assessment Preliminary Resolution

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

ELEMENT B: ENHANCE FINANCIAL SUSTAINABILITY DURING ALL ECONOMIC TIMES

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Ordinance 41-13, adopted in July 2013, established an annual assessment for Fire Protection Services, Facilities, and Programs against certain assessed property within the City. Each year a resolution is required to re-impose the assessment using an equitable and efficient method of allocating and apportioning Fire Protection Costs among parcels of assessed property. The annual assessment, when imposed, is collected by using the tax bill collection method.

This resolution establishes the estimated Fire Protection assessed cost and assessment rates for Fiscal Year 2019, directs the preparation of an assessment roll, and authorizes a public hearing to consider the adoption of the Annual Assessment resolution.

LEGAL REVIEW:

EXHIBITS:

- Staff Presentation
- Resolution 116-19
- Updated Staff Presentation

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Staff Presentation	Backup Material
▣ Resolution 116-19	Resolution
▣ Updated staff presentation	Backup Material

FIRE PROTECTION ASSESSMENT

Resolution 116-19

July 22, 2019

Calculation Review	FY2019 Adopted	FY 2020 – 64% Cost Recovery	Change	% Change
Assessment	\$26,048,096	\$28,399,823	\$2,351,727	9.03%
Tier 1 Allocation – 70.00%	\$ 18,233,667	\$ 19,879,876	\$ 1,646,209	9.03%
Tier 2 Allocation - 30.00%	\$ 7,814,429	\$ 8,519,947	\$ 705,518	9.03%
Total Assessment Revenue	\$26,048,096	\$28,399,823	\$2,351,727	9.03%
Tier 1 Allocation	\$18,233,667	\$19,879,876	\$1,646,209	
Total Assessable Parcels *	137,310	137,216	(94)**	-.07%
Tier 1 Rate Per Parcel	\$132.79	\$144.88	\$12.09	9.10%
Tier 2 Allocation	\$7,814,429	\$8,519,947	\$705,518	9.03%
Structure EBUs	3,124,119	3,355,494	231,375	
Tier 2 Rate per EBU	\$2.50	\$2.54	\$ 0.04	1.60%

**Changes in the number of assessable parcels attributable to parcel splits/combines

RESOLUTION 116 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, RELATING TO THE PROVISION OF FIRE PROTECTION SERVICES, FACILITIES, AND PROGRAMS IN THE CITY OF CAPE CORAL, FLORIDA; ESTABLISHING THE ESTIMATED FIRE PROTECTION ASSESSED COST AND ASSESSMENT RATES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING TO CONSIDER THE ADOPTION OF THE ANNUAL ASSESSMENT RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cape Coral, Florida (the "City") adopted Ordinance 41-13, establishing Chapter 8, Article V, Sections 8-35 through 8-57 of the City of Cape Coral Code of Ordinances (the "Code"), to provide for an Annual Assessment for Fire Protection Services, Facilities, and Programs against certain Assessed Property within the City; and

WHEREAS, thereafter, the City adopted Resolution 30-13 (the "Initial Assessment Resolution"), Resolution 32-13 (the "Final Assessment Resolution"), and Resolution 56-13 (the "Supplemental Resolution") (collectively, the "Assessment Resolutions"), to further provide an Annual Assessment for Fire Protection Services, Facilities, and Programs against certain Assessed Property within the City; and

WHEREAS, the annual re-imposition of an Assessment for Fire Protection Services, Facilities, and Programs for each Fiscal Year is an equitable and efficient method of allocating and apportioning Fire Protection Costs among parcels of Assessed Property; and

WHEREAS, the City Council desires to impose the Annual Assessment for Fire Protection Services, Facilities, and Programs within the City by using the tax bill collection method for the Fiscal Year beginning on October 1, 2019.

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

SECTION 1. AUTHORITY

This Resolution is adopted pursuant to the provisions of Chapter 8, Article V, Sections 8-35 through 8-57 of the Code, Sections 166.021, 166.041, and 197.3632 of the Florida Statutes, and other applicable provisions of law.

SECTION 2. PURPOSE AND DEFINITIONS

This Resolution constitutes the Preliminary Assessment Resolution, as defined in Section 8-35 of the Code, which initiates the annual process for updating the Assessment Roll and directs the re-imposition of Fire Protection Assessments for the Fiscal Year beginning October 1, 2019. All words and terms not otherwise defined herein shall have the meanings set forth in Section 8-35 of the Code. Unless the context indicates otherwise, words imparting the singular number include the plural number, and vice versa.

SECTION 3. PROVISION AND FUNDING OF FIRE PROTECTION SERVICES, FACILITIES, AND PROGRAMS

- (A) Upon the imposition of Assessments for Fire Protection Services, Facilities, and Programs against Assessed Property located within the City, the City shall provide Fire Protection Services, Facilities, and Programs to and for such Assessed Property. Such Services, Facilities, and Programs include, but are not limited to, personnel, equipment, and capital facilities necessary to maintain continual readiness; and to provide fire protection to tax parcels in the City as well as resources, materials, and consumables expended in actual deployments.
- (B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property will be benefitted by the City's provision of Fire Protection Services, Facilities, and Programs in an amount not less than the Annual Assessment imposed against such parcel, computed in the manner set forth in this Preliminary Assessment Resolution.

SECTION 4. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT

The legislative determinations of special benefit and fair apportionment embodied in Sections 8-38 and 8-39 of the Code, the Initial Assessment Resolution, and the Final Assessment Resolution are affirmed and incorporated herein by reference.

SECTION 5. ESTABLISHMENT OF ANNUAL FIRE PROTECTION ASSESSMENT RATE

- (A) For the Fiscal Year beginning October 1, 2019, for which Assessments for Fire Protection Services, Facilities, and Programs are to be re-imposed, the Fire Protection Assessed Cost shall be allocated among all parcels of Assessed Property, based upon assessment rates of \$144.88 for Tier 1 and \$2.54 per Equivalent Benefit Unit ("EBU") for Tier 2.
- (B) The Assessment Coordinator is hereby directed to prepare, or cause to be prepared, an updated Assessment Roll for the Fiscal Year beginning October 1, 2019, in the manner provided in Section 8-41 of the Code and in the Assessment Resolutions.
- (C) Such updated Assessment Roll shall contain the following: (1) a summary description of all Assessed Property within the City conforming to the description contained on the Tax Roll; (2) the name of the Owner of the assessed property, if available; and (3) the amount of the Fire Protection Assessment to be imposed against each parcel of assessed property. A copy of this Preliminary Assessment Resolution, applicable provisions of the Code, and the updated Assessment Roll is maintained on file in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the updated Assessment Roll be in printed form if the amount of the Fire Protection Assessment for each parcel of property can be determined by use of a computer terminal available to the public. The Fire Protection Assessment for each parcel of assessed property shall be computed in the manner set forth in the Assessment Resolutions.
- (D) Section 170.01(4), Florida Statutes, provides that notwithstanding any other provision of law, a municipality may not levy special assessments for the provision of fire protection services on land classified as agricultural lands under section 193.461, Florida Statutes, unless the land contains a residential dwelling or nonresidential farm building, with the exception of an agricultural pole barn, provided the nonresidential farm building exceeds a just value of \$10,000. The Assessment Coordinator shall apply the provisions of Section 170.01(4), Florida Statutes in preparing the preliminary Assessment Roll for Fiscal Year 2019-2020.
- (E) It is hereby ascertained, determined, and declared that the foregoing method of determining the Fire Protection Assessments is a fair and reasonable method of apportioning the Fire Protection Cost among parcels of assessed property.

SECTION 6. AUTHORIZATION OF PUBLIC HEARING

There is hereby established a public hearing to be held at 4:30 p.m. on August 26, 2019, in City Council Chambers, City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida, for the purpose of (A) receiving and considering any comments on the Fire Protection Assessments from affected property owners and (B) authorizing the re-imposition of such Fire Protection Assessments for services, facilities, and programs for the Fiscal Year beginning October 1, 2019, and collecting such assessments on the same bill as ad valorem taxes.

SECTION 7. NOTICE BY PUBLICATION

The Assessment Coordinator shall publish a notice, as required by Section 8-42 of the Code, in substantially the form attached hereto as Appendix A. Such notice shall be published not later than August 5, 2019, in a newspaper generally circulated in the City of Cape Coral.

SECTION 8. NOTICE BY MAIL

The Assessment Coordinator shall also provide notice, or direct the provision of notice, by first class mail substantially in the form attached hereto as Appendix B to the Owner of each parcel of Assessed Property, as required by Section 8-43 of the Code. Such notices shall be mailed not later than August 5, 2019.

SECTION 9. EFFECTIVE DATE

This Preliminary Assessment Resolution shall take effect immediately upon its passage and adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



 For DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Assessment - Fire Protection Preliminary

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To Be Published by **August 5, 2019**

**CITY OF CAPE CORAL, FLORIDA
NOTICE OF HEARING TO RE-IMPOSE AND PROVIDE FOR
COLLECTION OF FIRE PROTECTION ASSESSMENTS**

[INSERT MAP OF CITY]

Notice is hereby given that the City Council of Cape Coral will conduct a public hearing to consider re-imposing fire protection assessments for the Fiscal Year beginning October 1, 2019, against properties located within the City, as depicted in the map above, to fund the cost of fire protection services, facilities and programs provided to such properties and to authorize collection of such assessments as ad valorem taxes on property tax bills.

The public hearing will be held at 4:30 p.m. on August 26, 2019, in City Council Chambers, City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 calendar days of the date of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City at (239) 574-0411 at least seven days prior to the date of the hearing.

The assessment for each parcel of property will be based upon the two-tiered methodology approved by City Resolution No. 30-13 (the "Initial Assessment Resolution") and Resolution No. 32-13 (the "Final Assessment Resolution"), pursuant to which a portion of the costs attributable to the City's continual readiness to provide fire protection services will be shared equally among all tax parcels on a per parcel basis (Tier 1), and a portion of the remaining costs will be shared in accordance with the value of improvements or structures associated with each parcel, with each \$5,000 increment of structure value comprising an equivalent benefit unit or "EBU" (Tier 2). The assessment rates proposed for Fiscal Year 2019-2020 are \$_____ per tax parcel for Tier 1 and \$_____ per EBU for Tier 2. The fire protection assessment is an annual assessment which will continue from year to year.

Copies of the Preliminary Assessment Resolution initiating the annual process of updating the Assessment Roll and re-imposing the Fire Protection Assessments, Sections 8-35 through 8-57 of Article V of the City of Cape Coral Code of Ordinances, and the updated Assessment Roll for the upcoming fiscal year are available for inspection at the City Clerk's office, located at City Hall.

If you have any questions, please contact the Financial Services Department, Customer Service Division at (239) 574-7722, Monday through Friday between 7:30 a.m. and 4:30 p.m.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2019, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

Kimberly Bruns
City Clerk

APPENDIX B

FORM OF NOTICE TO BE MAILED

To be mailed on or before August 5, 2019

City of Cape Coral
PO Box 150027
Cape Coral, FL 33915-0027

Owner Name
Address
Address
City, State Zip

CAPE CORAL, FLORIDA
NOTICE OF HEARING TO IMPOSE AND
PROVIDE FOR COLLECTION OF NON-AD
VALOREM ASSESSMENTS TO FUND FIRE
PROTECTION SERVICES

Tax Parcel # _____
Tax Parcel Address:

NOTICE DATE: _____, 2019

***** NOTICE TO PROPERTY OWNER*****

***** THIS IS NOT A BILL *****

Dear Property Owner:

As required by Section 197.3632 Florida Statutes, notice is given by the City Council of the City of Cape Coral, Florida (the "City"), that an annual non-ad valorem special assessment for fire protection services, facilities and programs using the tax bill collection method, may be levied on your property. The purpose of this assessment is to fund fire protection services throughout the City for the fiscal year commencing October 1, 2019 ("Fiscal Year 2019-2020"). The total annual fire protection assessment revenue to be collected is estimated to be \$_____. The fire protection assessment is an annual assessment which began in 2013 and will continue from year to year.

The assessment for each parcel of property will be based upon the two-tiered methodology approved by City Resolution 30-13 (the "Initial Assessment Resolution") and Resolution 32-13 (the "Final Assessment Resolution"), pursuant to which a portion of the costs attributable to the City's continual readiness to provide fire protection services will be shared equally among all tax parcels on a per parcel basis (Tier 1), and a portion of the remaining costs will be shared in accordance with the value of improvements or structures associated with each parcel, with each \$5,000 increment of structure value comprising an equivalent benefit unit or "EBU" (Tier 2). The assessment rates proposed for Fiscal Year 2019-2020 are \$_____ per tax parcel for Tier 1 and \$_____ per EBU for Tier 2.

The proposed assessment for the above referenced parcel is:

Total number of Tier 1 EBUs attributed to the above parcel:	
Total number of Tier 2 EBUs attributed to the above parcel:	
Total amount to be collected:	

Copies of Chapter 8, Article V, of the City of Cape Coral Code of Ordinances, the Initial Assessment Resolution, the Final Assessment Resolution and the updated assessment roll for Fiscal Year 2019-2020 are available for inspection at the offices of the City Clerk, located at City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.

The special assessment is an annual assessment which will continue from year to year. The final approved fire protection assessment amount, as well as any other non-ad valorem assessments, plus the ad valorem taxes for the above parcel will be collected by the Lee County Tax Collector on the ad valorem tax bill mailed in November 2019. Florida law provides that failure to pay the

assessments will cause a tax certificate to be issued against the assessed property, which may result in a loss of title.

A public hearing will be held at 4:30 PM on August 26, 2019, in City Council Chambers, City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida, to receive public comment on the proposed special assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. Persons with disabilities needing assistance to participate in any of these proceedings should contact the city clerk at least 48 hours in advance of the meeting at (239) 574-0411.

If there is a mistake on this notice or if you have any questions regarding your Fire Protection Service Assessment, please contact the Assessment Coordinator at (239) 242-3851, Monday through Friday between 7:30 a.m. and 4:30 p.m., or write the City at the following address:

City of Cape Coral
Financial Services Department
Customer Billing Services Division
PO Box 150006
Cape Coral, FL 33915-0006.

*******DO NOT SEND PAYMENT - THIS IS NOT A BILL**

FIRE PROTECTION ASSESSMENT

Resolution 116-19

July 22, 2019

Calculation Review	FY 2019 Adopted	FY 2020 – 64% Cost Recovery	FY 2020 Revised 64% Cost Recovery	FY 2020 Revised over FY 2019 Change	% Change
Assessment	\$26,048,096	\$28,399,823	\$28,866,737	\$2,818,641	10.82%
Tier 1 Allocation – 70.00%	\$ 18,233,667	\$ 19,879,876	\$20,206, 716	\$ 1,973,049	10.82%
Tier 2 Allocation - 30.00%	\$ 7,814,429	\$ 8,519,947	\$8,660,021	\$ 845,592	10.82%
Total Assessment Revenue	\$26,048,096	\$28,399,823	\$28,866,737	\$2,818,641	10.82%
Tier 1 Allocation	\$18,233,667	\$19,879,876	\$20,206,716	\$1,973,049	10.82%
Total Assessable Parcels *	137,310	137,216	137,216	(94)**	-.07%
Tier 1 Rate Per Parcel	\$132.79	\$144.88	\$147.26	\$ 14.47	10.90%
Tier 2 Allocation	\$7,814,429	\$8,519,947	\$8,660,021	\$845,592	10.82%
Structure EBUs	3,124,119	3,355,494	3,355,494	231,375	
Tier 2 Rate per EBU	\$2.50	\$2.54	\$2.58	\$ 0.08	3.20%

**Changes in the number of assessable parcels attributable to parcel splits/combines

Item Number:	A.(4)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Resolution 117-19 Public Input Stormwater Fee for FY 2019-2020

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

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

ELEMENT G: WORK TOWARD EFFICIENT AND COST-EFFECTIVE SOLUTIONS TO PROTECT AND CONSERVE NATURAL RESOURCES, WHILE PROMOTING ENVIRONMENTAL AWARENESS AND SUSTAINABILITY IN THE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The Resolution establishes a not-to-exceed stormwater rate for properties that utilizes the City's stormwater system. It also allows staff to prepare an updated Assessment Roll for the Fiscal Year (FY) beginning October 1, 2019 and sets the Final Public Hearing date.

The proposed not-to-exceed rate for the stormwater user fees for FY 2020 is \$119.00 per Equivalent Residential Unit (ERU). This rate is recommended in the 2016 and 2018 CDM Smith rate studies.

The not-to-exceed rate is used for notification. It can't be raised, but can be lowered by Council at the Final Public Hearing.

LEGAL REVIEW:

EXHIBITS:

Fee Memo
Staff Presentation
Resolution 117-19

PREPARED BY:

Persides
Zambrano

Division- Planning and
Permitting

Department- Public
Works

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Memo	Backup Material
▣ Staff Presentation	Backup Material
▣ Resolution 117-19	Resolution

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager *JS*
Paul Clinghan, Public Works Director *PRC*
Victoria Bateman, Financial Services Director *CP for VLB*
Persides Zambrano, Public Works Planning Manager *PZ*

DATE: July 16, 2019

SUBJECT: FY 2020 Stormwater Fee

Background:

Starting in Fiscal Year (FY) 2016, Council adopted the CDM Smith Stormwater Recovery Cost recommended fees. Rather than adopting a blended rate that would keep the same fee for a 5-year period, Council decided for an annual adoption of the recommended fee as presented below:

FY 2016	FY 2017	FY 2018	FY 2019	Proposed FY 2020	Proposed FY 2021
\$80	\$87	\$111	\$115	\$119	\$125

The proposed fees are consistent with keeping the current level of service for maintenance of the stormwater system, capital improvements in conjunction with the UEP project, weir repairs and flood prevention projects.

Staff retained CDM Smith to update the Stormwater Recovery Cost from FY 2019 through FY 2023.

Recommended Action:

CDM reviewed the City's stormwater fee structure and provided the following 5-year plan. Staff recommends adopting the proposed fees to keep the current level of service for stormwater system maintenance, adding capital improvements as part of the UEP program, weir repairs and flood prevention projects.

FY 2019	Proposed FY 2020	Proposed FY 2021	Proposed FY 2022	Proposed FY 2023
\$115	\$119	\$125	\$130	\$135

As part of the budget process, a not-to-exceed Stormwater Rate Resolution is scheduled for introduction on July 22, 2019. Once the not-to-exceed rate is set by Council, notices are sent to rate payers. Final adoption of the stormwater rate for FY 2020 is scheduled for the August 26, 2019 Council meeting.

JS/PC/VB/PZ:sk



FY 2020 Stormwater Assessments

Resolution 117-19
July 22, 2019

Summary

- In FY 2016 Council adopted the annual stormwater fees recommended by CDM Smith, which was updated in FY 2018.

FY 2019	Proposed FY 2020	Proposed FY 2021	Proposed FY 2022	Proposed FY 2023
\$115	\$119	\$125	\$130	\$135

Stormwater Fee Update

- Chapter 22 of the City Code of Ordinances requires an annual stormwater user fee rate resolution in conjunction with the annual budget process.
- July 22, 2019 - Council to approve the not-to-exceed rate for FY 2020 in order to notice rate payers.

Stormwater Fee Update

- Notices will be mailed to stormwater utility customers advising them of proposed annual rate and public hearing date on rate resolution.
- August 26, 2019 - Annual rate resolution public hearing and adoption.
- Every year the stormwater rate must go through this approval process.

Stormwater Operations

- Catch Basin Replacement
- Drain Pipe Replacement
- Residential Driveway Inspection
- Drain Pipe Relocation
- Swale Regrading
- Drainage Management
- Flotsam, Weirs
- Canal Dredging
- Street Sweeping
- Vacuum Truck

Catch Basin Replacement



- Maintain +23,000 basins on a yearly schedule to comply with the National Pollutant Discharge Elimination System (N.P.D.E.S.) under the Clean Water Act.
- In addition, responds to complaint driven inspections.

Drain Pipe Replacement



- Repair, replacement and modification of existing underground Stormwater drainage systems throughout the City.
- 18% of the City's pipe is 40+ year old corroded metal pipe and needs to be replaced.

Swale Regrading



- Swale restoration on developed and undeveloped properties to re-establish grades on an as-needed basis allowing the proper movement and treatment of Stormwater runoff.
- As required by the N.P.D.E.S. permit.

Canal Dredging



- Responsible for maintaining over 400 miles of freshwater and saltwater canal systems within the City.
- The dredge operates in the center of the canal and does not come within 20 feet of seawalls per Army Corp Of Engineers permit requirements.

2018 Bimini Basin Culvert Cleaning and Lining



2018 Bimini Basin Culvert Cleaning and Lining



2018 Bimini Basin Culvert Cleaning and Lining



2018 Bimini Basin Culvert Cleaning and Lining



FY 2019 Highlights

- Catch basin and pipe replacement and upsizing as part of North 2 UEP.
- Coordinated pipe replacement with repaving of major roads.
- Weekly field monitoring for presence/absence of blue green algae.
- Implementation of Asset Management Software – Cartegraph OMS.

FY 2020

- Keep current LOS for maintenance.
- Cash contributions and debt payments for stormwater improvements within UEP areas.
- \$900,000 Bio-swale grant match in North 2 UEP.
- Weir improvements in coordination with Utilities Department.
- Proactive flood prevention.

FY 2020 (cont.)

- Canal bathymetric survey to prioritize future dredging areas.
- Review technologies approved by DEP to reduce nutrients and mitigate blue green algae.

Recommendation

- Adopt FY 2020 rate of \$119.00 per ERU as recommended by CDM Smith, City Management and consistent with Council's actions since FY 2016.

2019	Proposed 2020	Proposed 2021	Proposed 2022	Proposed 2023
\$115	\$119	\$125	\$130	\$135



RESOLUTION 117 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING A STORMWATER FEE FOR FY 2019-2020 THAT EXCEEDS THE MAXIMUM AMOUNT ESTABLISHED FOR FY 2018-2019, AND AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral sets a stormwater fee annually for imposition on properties that utilize the City's stormwater system; and

WHEREAS, the City desires to increase the fee for FY 2019-2020 from \$115.00 per Equivalent Residential Unit to \$119.00 per Equivalent Residential Unit (ERU); and

WHEREAS, the City of Cape Coral Code of Ordinances, Chapter 22, Stormwater Management Utility, provides that, in the event the proposed stormwater fee exceeds the fee from that established in the stormwater resolution the previous year, then the City shall provide notice to the owners of affected property and conduct a public hearing prior to the adoption of the annual stormwater resolution.

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

SECTION 1. The City Council hereby approves a proposed increase in the stormwater fee for FY 2019-2020 that exceeds the maximum amount established for FY 2018-2019 from \$115.00 per Equivalent Residential Unit to \$119.00 per Equivalent Residential Unit (ERU).

SECTION 2. The Stormwater Director shall apply such rate in preparation of the non-ad valorem assessment roll for FY 2019-2020. For developments and condominium complexes that contain common elements, the number of ERU's otherwise attributed to the common elements shall instead be divided equally among the remainder of parcels within the development. For such parcels, the number of ERUs attributed to each parcel shall be rounded to the nearest one hundredth to facilitate ease of administration and economy.

SECTION 3. In accordance with Section 22-4 of the City of Cape Coral Code of Ordinances (the "City Code"), the City Council will conduct a public hearing at 4:30 p.m., or as soon thereafter as the matter can be heard, on August 26, 2019, in the Council Chambers of City Hall located at 1015 Cultural Park Boulevard, Cape Coral, Florida, to receive and consider comments from affected property owners prior to approving such proposed rate increase and adoption of the annual stormwater resolution for FY 2019-2020.

SECTION 4. The City Clerk and Stormwater Director shall provide notice of the public hearing established herein in the manner and at the time provided in Section 22-4 of the City Code and the Uniform Assessment Collection Act. Capitalized terms not otherwise defined herein shall have the meanings set forth in Chapter 22 of the City Code.

SECTION 5. This Resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

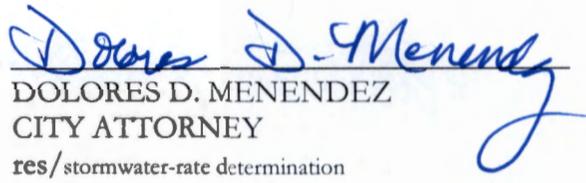
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/stormwater-rate determination

Item Number:	A.(5)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 17-19 First Public Hearing (After 5:00 p.m.) Set Second and Final Public Hearing Date for August 5, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Planning & Zoning Recommendation: At their June 5, 2019 Regular Meeting, the Planning & Zoning Commission voted 7-0 to recommend approval of Ordinance 17-19.

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance repealing Articles I - X and XII and amending Article XI of the City of Cape Coral Land Use and Development Regulations; establishing Article 1, General Provisions; Article 2, Decision Making and Administrative Bodies; Article 3, Development Review; Article 4, Zoning Districts; Article 5, Development Standards; Article 6, Parking; Article 7, Sign Regulations; Article 8, Nonconformities and Lawfully Existing Uses; Article 9, Floodplain Management; Article 10, Subdivisions; Article 12, Building Code and Engineering Design Standards; and Article 13, Reasonable Accommodation & Dispute Resolution, of the new City of Cape Coral Land Development Code; incorporating Article XI, as amended, into the new City of Cape Coral Land Development Code as Article 11, Definitions.

LEGAL REVIEW:

EXHIBITS:

Ordinance 17-19

Articles 1 through 13
Updated Staff Presentation
Memo - LDC Update overview

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Ordinance 17-19	Ordinance
▣ Article 1, General Provisions	Ordinance
▣ Article 2, Decision Making and Administrative Bodies	Ordinance
▣ Article 3, Development Review	Ordinance
▣ Article 4, Zoning Districts	Ordinance
▣ Article 5 Development Standards	Ordinance
▣ Article 6, Parking	Ordinance
▣ Article 7, Sign Regulations	Ordinance
▣ Article 8, Nonconformities and Lawfully Existing Uses	Ordinance
▣ Article 9, Floodplain Management	Ordinance
▣ Article 10, Subdivisions	Ordinance
▣ Article 11, Definitions	Ordinance
▣ Article 12, Building Code and Engineering Design Standards	Ordinance
▣ Article 13, Reasonable Accommodation & Dispute Resolution	Ordinance
▣ Updated staff presentation	Backup Material
▣ Memo - LDC Update Overview	Backup Material

ORDINANCE 17 - 19

AN ORDINANCE REPEALING ARTICLES I - X AND XII AND AMENDING ARTICLE XI OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; ESTABLISHING ARTICLE 1, GENERAL PROVISIONS; ARTICLE 2, DECISION MAKING AND ADMINISTRATIVE BODIES; ARTICLE 3, DEVELOPMENT REVIEW; ARTICLE 4, ZONING DISTRICTS; ARTICLE 5, DEVELOPMENT STANDARDS; ARTICLE 6, PARKING; ARTICLE 7, SIGN REGULATIONS; ARTICLE 8, NONCONFORMITIES AND LAWFULLY EXISTING USES; ARTICLE 9, FLOODPLAIN MANAGEMENT; ARTICLE 10, SUBDIVISIONS; ARTICLE 12, BUILDING CODE AND ENGINEERING DESIGN STANDARDS; AND ARTICLE 13, REASONABLE ACCOMMODATION & DISPUTE RESOLUTION, OF THE NEW CITY OF CAPE CORAL LAND DEVELOPMENT CODE; INCORPORATING ARTICLE XI, AS AMENDED, INTO THE NEW CITY OF CAPE CORAL LAND DEVELOPMENT CODE AS ARTICLE 11, DEFINITIONS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Land Use and Development Regulations, Article I, General Provisions, is hereby repealed in its entirety.

SECTION 2. The City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, is hereby repealed in its entirety.

SECTION 3. The City of Cape Coral Land Use and Development Regulations, Article III, Supplementary District Regulations, is hereby repealed in its entirety.

SECTION 4. The City of Cape Coral Land Use and Development Regulations, Article IV, Land Development Regulations, is hereby repealed in its entirety.

SECTION 5. The City of Cape Coral Land Use and Development Regulations, Article V, Supplementary Development Regulations, is hereby repealed in its entirety.

SECTION 6. The City of Cape Coral Land Use and Development Regulations, Article VI, Floodplain Management, is hereby repealed in its entirety.

SECTION 7. The City of Cape Coral Land Use and Development Regulations, Article VII, Signs, is hereby repealed in its entirety.

SECTION 8. The City of Cape Coral Land Use and Development Regulations, Article VIII, Administration, is hereby repealed in its entirety.

SECTION 9. The City of Cape Coral Land Use and Development Regulations, Article IX, Boards, Commissions and Committees, is hereby repealed in its entirety.

SECTION 10. The City of Cape Coral Land Use and Development Regulations, Article X, Violations and Penalties, is hereby repealed in its entirety.

SECTION 11. The City of Cape Coral Land Use and Development Regulations, Article XII, Building Codes and City of Cape Coral Engineering Standards, is hereby repealed in its entirety.

SECTION 12. The City of Cape Coral Land Development Code, Article 1, General Provisions, attached hereto and incorporated herein by reference, is hereby established.

SECTION 13. The City of Cape Coral Land Development Code, Article 2, Decision Making and Administrative Bodies, attached hereto and incorporated herein by reference, is hereby established.

SECTION 14. The City of Cape Coral Land Development Code, Article 3, Development Review, attached hereto and incorporated herein by reference, is hereby established.

SECTION 15. The City of Cape Coral Land Development Code, Article 4, Zoning Districts, attached hereto and incorporated herein by reference, is hereby established.

SECTION 16. The City of Cape Coral Land Development Code, Article 5, Development Standards, attached hereto and incorporated herein by reference, is hereby established.

SECTION 17. The City of Cape Coral Land Development Code, Article 6, Parking, attached hereto and incorporated herein by reference, is hereby established.

SECTION 18. The City of Cape Coral Land Development Code, Article 7, Sign Regulations, attached hereto and incorporated herein by reference, is hereby established.

SECTION 19. The City of Cape Coral Land Development Code, Article 8, Nonconformities and Lawfully Existing Uses, attached hereto and incorporated herein by reference, is hereby established.

SECTION 20. The City of Cape Coral Land Development Code, Article 9, Floodplain Management, attached hereto and incorporated herein by reference, is hereby established.

SECTION 21. The City of Cape Coral Land Development Code, Article 10, Subdivisions, attached hereto and incorporated herein by reference, is hereby established.

SECTION 22. The City of Cape Coral Land Use and Development Regulations, Article XI, Definitions, is hereby amended as attached; Article XI, as amended, is hereby incorporated into the City of Cape Coral Land Development Code as Article 11.

SECTION 23. The City of Cape Coral Land Development Code, Article 12, Building Code and Engineering Design Standards, attached hereto and incorporated herein by reference, is hereby established.

SECTION 24. The City of Cape Coral Land Development Code, Article 13, Reasonable Accommodation & Dispute Resolution, attached hereto and incorporated herein by reference, is hereby established.

SECTION 25. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 26. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY

ord\LUDR Rewrite
1/9/19
1/29/19
4/15/19

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

1 **Sections:**
2

- 3 **Section 1.1.** Title
- 4 **Section 1.2.** Authority
- 5 **Section 1.3.** Purpose and Intent
- 6 **Section 1.4.** Jurisdiction and Applicability
- 7 **Section 1.5.** Compliance with regulations
- 8 **Section 1.6.** Violations, enforcement, and penalties
- 9 **Section 1.7.** Buildings under construction
- 10 **Section 1.8.** Outstanding permits
- 11 **Section 1.9.** Time limitation of approvals
- 12 **Section 1.10.** Annexed lands
- 13 **Section 1.11.** Comprehensive Plan and Future Land Use Map
- 14 **Section 1.12.** Official Zoning Map
- 15 **Section 1.13.** Transitional rules
- 16 **Section 1.14.** General rules of construction
- 17 **Section 1.15.** Measurements
- 18 **Section 1.16.** Interpretation of zoning district boundaries
- 19 **Section 1.17.** Severability

20
21 **Section 1.1. Title.**
22

23 This Code shall be known as and referred to as the Land Development Code (“LDC” or “these regulations”
24 or the “Code”) of the City of Cape Coral, Florida.
25

26 **Section 1.2. Authority.**
27

28 These regulations are enacted pursuant to the requirements and authority of Section 163.3161 et seq.,
29 Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act),
30 the Charter of the City of Cape Coral, and the powers and authority in Chapters 60, 162, 166, 171, 177,
31 286, 380, and 823, Florida Statutes, as amended.
32

33 **Section 1.3. Purpose and Intent of the City of Cape Coral Land Development Code.**
34

35 The purpose of the City of Cape Coral Land Development Code is to implement the Comprehensive Plan
36 of the City pursuant to Chapter 163, Florida Statutes for the protection and promotion of the safety,
37 health, comfort, appearance, and general welfare of the City and its inhabitants and specifically for the
38 following intent:
39

- 40 A. Continue to foster community pride and a sense of stewardship in the City;
- 41
- 42 B. Preserve and implement the comprehensive plan;
- 43
- 44 C. Ensure the application and administration of these regulations continues to improve the overall
45 quality of life and promote development of the City;
- 46

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 47 D. Establish zoning districts as a means of achieving unified civic design and proper relationship between
48 the uses of land by regulating the location and use of buildings and other structures;
49
50 E. To minimize and reduce conflicts among various land uses through the application of regulations
51 designed to assure harmonious relationships among land uses;
52
53 F. To ensure safe and convenient traffic circulation, adequate utilities, recreation areas, and the
54 development of economically stable and healthful neighborhoods;
55
56 G. To prevent periodic and seasonal flooding by providing flood control and drainage facilities;
57
58 H. To discourage haphazard, premature, uneconomical, or scattered land development; and
59
60 I. To ensure that the citizens and taxpayers of the city will not have to bear the costs resulting from
61 haphazard land development or the lack of adequate and necessary physical improvements incidental
62 to land development.
63

64 **Section 1.4. Jurisdiction and applicability.**

- 65
66 A. These regulations shall govern the development and use of land, buildings, and structures within the
67 municipal boundary of the City.
68
69 B. No building, structure, water, or land shall be used, occupied, or developed unless in conformity with
70 all provisions of the zoning district in which it is located, all other applicable regulations, and all
71 development approvals.
72

73 **Section 1.5. Compliance with regulations.**

- 74
75 A. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered
76 except in conformance with:
77
78 1. The applicable zoning district regulations;
79
80 2. The bulk, area, and dimensional regulations of the zoning district;
81
82 3. The off-street parking and loading regulations for the use in the building in question;
83
84 4. The floor area regulations of the zoning district;
85
86 5. The established flood criteria, as indicated on the most current edition of the federal flood
87 insurance rate maps and the requirements in Article 9 applicable to the development site; and
88
89 6. All other applicable laws, rules, and regulations.
90
91 B. No building shall be erected or enlarged after the effective date of these regulations, which reduces
92 any level of service standard established in the City of Cape Coral adopted comprehensive plan.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138

Section 1.6. Violations, enforcement, and penalties.

The procedures for enforcement and penalties for violations of this Code are set forth in Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances. The provisions of this Code are supplemental to any other procedures and remedies available to the City of Cape Coral. Nothing contained in this Code prohibits the City of Cape Coral from enforcing its codes or ordinances by other Code Enforcement provisions of the City of Cape Coral Code of Ordinances or other applicable law.

Section 1.7. Buildings under construction.

Any building or structure for which a lawful building permit has been issued prior to the effective date of this article may be completed and used in accordance with the plans and specifications upon which such building permit was granted, provided construction is completed within the life of the building permit.

Section 1.8. Outstanding permits.

Where there are outstanding and valid building or development permits authorizing construction of buildings, structures, additions, or alterations, the use or construction of which do not conform to the requirements of this article, such permits shall be valid for the life of the permit.

Section 1.9. Time limitation of approvals.

Time limits for permits issued under this Code are specified for each type of development permit. Conditions of approval attached to permit approvals may establish additional time limits on the life of a permit or establish specific timeframes for certain actions.

Section 1.10. Annexed lands.

In accordance with FS 171.062, all land annexed in to the City of Cape Coral shall retain the Lee County Future Land Use and Zoning Designations until the City Council adopts a comprehensive plan amendment that includes the annexed area and adopts an ordinance establishing a zoning district for the annexed area.

Section 1.11. Comprehensive Plan and Future Land Use Map.

The Comprehensive Plan and Future Land Use Map of the City of Cape Coral are the official statements of policy for the City regarding the use of land. All use or development of land undertaken pursuant to these regulations shall be consistent with the Comprehensive Plan and the Future Land Use Map.

Section 1.12. Official Zoning Map.

- A. The Official Zoning Map is established and incorporated into these regulations by this reference. The Official Zoning Map shows the boundaries of all Zoning Districts as adopted by the City Council pursuant to the procedures of these regulations.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 139 B. The Official Zoning Map shall be the official record of zoning status of land within the city. The Official
140 Zoning District Map shall be maintained by the city electronically. The city is divided into districts, or
141 zones, as provided by this ordinance. The electronic format of the map will reside within the city
142 Geographic Information System (GIS) as the zoning layer and shall be maintained by the Department
143 of Community Development - Planning Division. The map will be updated on a continuous basis
144 following approval of zoning changes by City Council. The electronic format of the map will be
145 viewable via the Internet and paper copies can be produced on demand.
146
- 147 C. Pursuant to Laws of Fla. Ch. 78-540, § 8, the city shall exercise extraterritorial zoning powers within
148 an area extending 600 feet into the tidal waters adjacent to the corporate city limits. All such areas
149 shall have the same zoning as the adjacent uplands.
150
- 151 D. The Official Zoning Map, as amended from time to time, shall be kept on file and made available for
152 public reference in the Office of the City Clerk and the Community Development Department.
153 Amendments to zoning on the Official Zoning District Map shall be consistent with the adopted Cape
154 Coral Comprehensive Plan, including the Future Land Use Map and its accompanying text.
155 Amendments shall be made on or after the effective date of such zoning change. The Director of the
156 Department of Community Development shall ensure that amended zoning district boundaries are
157 accurately placed on the zoning map. The City Clerk shall keep records on file which identify the official
158 action by which a map amendment was made, the date of such action, the land area affected and the
159 date of posting.
160
- 161 E. Should the map or any portion thereof become damaged, destroyed, or lost the City Council is
162 authorized, by ordinance, to replace the map or damaged portion and the new map shall supersede
163 the one replaced. The new map may correct drafting or other errors, but no replacement shall have
164 the effect of changing the official zoning status of property unless the prior map has been totally
165 destroyed. The City Clerk shall preserve any records relating to its adoption and amendment.
166
- 167 F. Unauthorized changes. Substantial changes of the nature affecting the zoning of property is strictly
168 prohibited and unlawful, unless in conformity with the requirements and procedures of this ordinance
169 or applicable law.
170

171 **Section 1.13. Transitional rules.**
172

- 173 A. Existing unlawful uses, lots, and structures. A structure, lot, or use not lawfully existing at the time of
174 the adoption of these regulations is lawful only if it conforms with all of the requirements of these
175 regulations. All other violations of prior regulations of the City as of the effective date of this ordinance
176 shall continue to be violations and shall not be considered to be legal nonconformities under this code
177 unless such violation(s) becomes lawful by adoption of this code.
178
- 179 B. Existing approved uses. An existing use which is lawful on the date of adoption of these regulations,
180 whether as a “permitted use”, or a “special exception use” in the zoning district in which it is located,
181 shall not be deemed nonconforming solely because the procedure for approval has changed through
182 the adoption of these regulations.
183

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 184 C. Previously granted variances. Unless becoming conforming pursuant to Subsection A, above, all
185 variances granted under any prior edition of the Land Development Code and which are still in effect
186 upon adoption of these regulations shall remain in full force and effect, including any conditions
187 attached thereto, and the owner may proceed to develop the property in accordance with the
188 approved variance.
189
- 190 D. Previously approved special exceptions. All special exceptions approved prior to the adoption of these
191 regulations, and any conditions attached thereto, shall remain in full force and effect, and the owner
192 may proceed to develop the property in accordance with the previous approval. However, if
193 construction has not commenced before the approval expires or if the approval is abandoned, the
194 provisions of these regulations shall govern.
195
- 196 E. Prior zoning districts. Unless provided otherwise on the Official Zoning Map, upon adoption of these
197 regulations, all existing zoning classifications shall be reclassified with one of the zoning classifications
198 set forth in Article 4, Zoning Districts, as follows:
199
- 200 1. Residential zoning districts.
201
 - 202 a. Single-family residential (R-1)
203
 - 204 b. Multi-family residential low density (RML)
205
 - 206 c. Multi-family medium density (RMM)
207
 - 208 d. Residential Estate (RE)
209
 - 210 e. Agriculture (A)
211
 - 212 2. Non-residential zoning districts.
213
 - 214 a. Commercial (C)
215
 - 216 b. Professional Office (P)
217
 - 218 c. Industrial (I)
219
 - 220 d. Institutional (INST)
221
 - 222 e. Preservation (PV)
223
 - 224 3. Mixed Use zoning districts.
225
 - 226 a. Commercial Corridor (CC)
227
 - 228 b. Neighborhood Commercial (NC)
229

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 230 c. Mixed Use Seven Islands (MX7)
231
232 d. Mixed Use Bimini (MXB)
233
234 d. South Cape (SC)
235
236 e. Planned Unit Development (PUD)
237
- 238 F. Prior approved PDP projects and PUD zoning.
239
- 240 1. PUD zoning is consistent with all Future Land Use Classifications under the Comprehensive Plan,
241 except for the Preservation FLUC. All uses in a PUD zoning category must be consistent with the
242 underlying FLUC.
243
- 244 2. No existing sites with active and valid PDP approval will be rezoned to the PUD zoning category at
245 the time of adoption of this code. Sites with PDP approvals may be designated with a new or
246 different Comprehensive Plan Future Land Use Classification or a new or different zoning district
247 in conjunction with adoption of this code without effect to the status of the approved PDP.
248
- 249 3, All planned development projects (PDPs) approved prior to the adoption of these regulations, and
250 any approved site plan and conditions attached thereto, shall remain in full force and effect upon
251 adoption of this code. All such approved PDPs may be developed in accordance with the previous
252 approval, unless:
253
- 254 a. The existing PDP approval expires or substantial construction pursuant to the PDP approval
255 has not commenced before the approval expires or if the approval is abandoned, the
256 provisions of these regulations shall govern;
257
- 258 b. The owner chooses to develop the site under the FLUC and zoning district in effect for the site
259 at the time of application and the scope of the development does not require an amendment
260 to the existing PDP or require a new PUD approval;
261
- 262 c. A PUD is approved by City Council to replace an existing PDP approval; or
263
- 264 d. The owner applies for and the City Council has approved a PUD for a substantial change or
265 modification to the prior PDP approval. For purposes of this section, a substantial change or
266 modification is one that exceeds the scope of administrative amendments to a PUD approval
267 in Section 3.4.7.K. of this code.
268

269 **Section 1.14. General rules of construction.**
270

271 For the purposes of these regulations, the following rules of construction apply:
272

- 273 A. These regulations shall be deemed the minimum requirements for the promotion of the health,
274 safety, order, convenience, and general welfare of the community.
275

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 276 B. These regulations shall be construed to achieve the purposes and intent for which they are adopted.
277
- 278 C. Nothing in these regulations is intended to repeal any easement, covenant, deed restriction, or other
279 private agreement; however, where these regulations are more restrictive or impose higher standards
280 or requirements than such easement, covenant, deed restriction, or other private agreement, these
281 regulations shall govern.
282
- 283 D. In the event of a conflict:
284
- 285 1. Between the text of these regulations and any caption, figure, illustration, table, or map, the text
286 of these regulations shall control;
287
- 288 2. Between a chart and an illustration, the chart shall control. All illustrations included in these
289 regulations are for illustrative purposes only;
290
- 291 3. When limitations, restrictions, or standards apply to an individual lot, use, or structure the more
292 restrictive provisions shall apply; and
293
- 294 4. Between these regulations and any federal, state, or county law or regulation which pre-empt
295 local regulation, the federal, state, or county law or regulation shall apply.
296
- 297 E. Words and phrases shall be construed according to the rules of grammar and according to the
298 common and approved usage. Technical words and terms that are used and that may have a particular
299 meaning based on law shall be defined according to that meaning.
300
- 301 F. The terms "Ordinance," "Code," "Law," "Statute," "Title," and "Act" are understood to include the
302 term "as amended", unless the context clearly indicates otherwise. References to technical manuals,
303 resource materials, code references, the comprehensive plan, and similar documents are understood
304 to include the term "as amended" unless the context clearly indicates otherwise.
305
- 306 G. The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to
307 comply with the particular provision.
308
- 309 H. The word "or" is alternative in nature.
310
- 311 I. The word "may" is permissive in nature.
312
- 313 J. The word "including" shall be construed to include the phrase "but not limited to."
314
- 315 K. Words used in the present tense include the future tense.
316
- 317 L. The singular number includes the plural number and the plural, the singular.
318
- 319 M. Words utilizing the masculine gender include the feminine gender and use of the feminine gender
320 includes the masculine.
321

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 322 N. The words “used” and “occupied” as applied to any land or building shall be construed to include the
323 words “intended, arranged, or designed to be used or occupied.”
324
- 325 O. The word “herein” means “these regulations.”
326
- 327 P. The words “building” or “structure” includes any of its parts.
328
- 329 Q. The word “person” includes an individual, a corporation, a partnership, an incorporated association,
330 or any other similar entity.
331
- 332 R. The word “owner” includes his or her agents or authorized representatives unless the context clearly
333 indicates otherwise.
334
- 335 S. Any act authorized by these regulations to be carried out by a specific official or agency of the City is
336 authorized to be carried out by a designee of such official or agency, unless the context clearly
337 indicates otherwise.
338
- 339 T. The time within which an act is to be done shall be computed by excluding the first and including the
340 last day; if the last day is a Saturday, Sunday, or a legal holiday the timeframe shall be extended to the
341 next working day.
342

343 **Section 1.15. Measurements.**
344

- 345 A. Number of Residential Units Allowed (Density). The maximum number of residential units allowed on
346 a site is determined by multiplying the maximum density allowed under the Comprehensive Plan by
347 the parcel size (i.e., allowable comp plan density (x) parcel size), except when the zoning district of a
348 parcel permits lot sizes that equate to a smaller maximum density for that parcel.
349
- 350 B. Distance requirements. Unless otherwise provided herein, distances shall be measured in accordance
351 with the following:
352
- 353 1. When the LDC requires a distance between uses or developments on different development
354 parcels or there are LDC requirements for a development within a certain distance from another
355 development parcel, the distance shall be measured using a straight-line measurement from the
356 closest point of one parcel to the closest point of the parcel(s) involved.
357
 - 358 2. When the LDC imposes requirements on a development within a certain distance of a zoning
359 district, the distance shall be measured using a straight-line measurement from the closest point
360 of a zoning district boundary to to the closest point of the parcel(s) involved.
361
- 362 When there is a distance requirement between a structure or building on the same development
363 site, the distance shall be measured from the exterior of the buildings or structures, using a
364 straight-line measurement from the closest points between the structures being measured.
365
- 366 3. When a portion of a parcel or development site lies within a certain distance of a zoning district
367 or development and the LDC imposes requirements or regulations on a development or parcel

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

368 within that distance, the requirements and regulations shall be applicable to the entire parcel or
369 development site and not just to the portion within the specified distance.

370

371 C. Floor area, gross. The sum of the floor areas of all floors of a building or structure from the exterior
372 face of exterior walls, or from the centerline of a wall separating two buildings, excluding covered
373 parking, loading areas, or parking garages. When an entire level of a building or structure is below
374 ground as measured from floor to floor or ceiling slab to ceiling slab, the floor area of this level shall
375 be excluded from the calculation of gross floor area. Unless otherwise specified, gross floor area for
376 food service establishments shall also include any outdoor or patio floor area on the property used or
377 designed for customer service.

378

379 D. Floor area, net. The total floor area of all floors of a building shall be measured by excluding from the
380 gross floor area stairwells and elevator shafts, equipment rooms, interior vehicular parking, loading,
381 and all floors below the first or ground floor, except when such areas are used or intended to be used
382 for human habitation or service to the public.

383

384 E. Floor area ratio (FAR). The floor area ratio is measured by the net floor area of all buildings or
385 structures on a lot, parcel, or site divided by the total lot, parcel, or site area.

386

387 F. Fractional measurements.

388

389 1. When units or measurements result in a requirement of a fraction, any such fraction equal to or
390 greater than exactly fifty percent (50%) shall require the full requirement, unless otherwise
391 provided for in these regulations.

392

393 2. Density fractional measurements. When calculating density, any fraction of a unit shall be
394 rounded down to the nearest whole number, unless otherwise provided for in these regulations.

395

396 G. Grade.

397

398 1. When used to measure habitable structures, grade shall be the highest elevation of:

399

400 a. The natural elevation of the ground when compared to abutting properties. Natural elevation
401 of the ground when compared to abutting properties, shall be derived by selecting a minimum
402 of two (2) elevation points on each adjoining property line and calculating the average of all
403 the selected elevation points. This calculation will determine the reference plane for
404 calculating the height of habitable structures only;

405

406 b. The base flood elevation requirement for the lowest floor as shown on the flood insurance
407 rate map published by the Federal Emergency Management Agency (FEMA);

408

409 c. Eighteen (18) inches above the FEMA base flood elevation requirement for the bottom of the
410 Lowest Horizontal Structural Member (LHSM) of the lowest floor; or

411

412 d. Eighteen (18) inches above the State of Florida, Department of Environmental Protection
413 minimum requirement for the bottom of the LHSM of the lowest floor. For purposes of the

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

414 definition of grade, the term floor shall be defined as the top of the lowest inside surface of
415 an enclosed area in a building, including the basement. For example, the top of the slab in a
416 concrete slab construction or the top of wood flooring in wood frame construction. The term
417 does not include an unfurnished or flood resistant enclosure, usable solely for parking of
418 vehicles, building access, or storage in an area other than a basement area.
419

420 2. When used to measure non-habitable accessory structures, grade shall be the finished ground
421 surface at the base of the accessory structure being measured. If a retaining wall elevates the
422 non-habitable accessory structure, grade shall be the finished ground surface at the base of the
423 retaining wall.
424

425 H. Building Height. The height of buildings shall be measured from the lowest finished floor elevation to
426 the lowest point of the highest horizontal eave or the top of the roof slab for structures with flat roofs.
427 Church spires and steeples, chimneys, parapet walls, machine rooms, elevator towers, and similar
428 features necessary to the design and function of a building but not designed for human occupancy,
429 shall not be included in the measurement of overall building height.
430

431 I. Lot coverage. That portion of a lot that is covered by all principal and accessory buildings.
432

433 J. Lot depth. The depth of a lot is the distance measured from the mean direction of the side lines of the
434 lot from the midpoint of the street lot line to the midpoint of the opposite main rear line of the lot.
435

436 K. Lot width. The horizontal distance between the side lines of a lot measured at the front building
437 setback line, or at the front property line where no front setback is required.
438

439 L. Setback. A setback is the minimum horizontal distance between a structure and a property line.
440 Setbacks shall extend and be measured perpendicular and inward from the respective property lines.
441

442 **Section 1.16. Interpretation of zoning district boundaries.**
443

444 Zoning district boundaries are usually depicted along streets, alleys, shorelines, property lines, or
445 extensions thereof. Where an uncertainty exists with respect to the boundaries of districts as shown on
446 the Official Zoning Map, the following rules shall apply:
447

448 A. Centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or
449 alleys shall be construed to follow such centerlines;
450

451 B. Lot, section, and tract lines. Boundaries indicated as approximately following platted lot lines shall be
452 construed as following such lot lines;
453

454 C. Political boundaries. Boundaries indicated as approximately following City limits shall be construed as
455 following City limits;
456

457 D. Shorelines. Boundaries indicated as following shorelines shall be construed to follow such shorelines.
458 In the event of a change in the shoreline, the zoning district boundary shall be construed as moving

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 459 with the actual shoreline. Boundaries indicated as approximately following the centerline of streams,
460 rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
461
- 462 E. Vacations. Whenever any street, alley, or other public way is vacated by official action of the City
463 Council, the zoning district of the property abutting each side of the street, alley, or public way shall
464 be automatically extended to the center of such vacation and all area included within the vacation
465 shall thereafter be subject to all regulations of the extended districts;
466
- 467 F. Filled lands. Where land is built-up by fill upon areas formerly submerged under water, the district
468 regulations applying to the land immediately adjoining such built-up land shall be automatically
469 extended thereto;
470
- 471 G. Parallel lines. Boundaries indicated as parallel to or extensions of features indicated in subsections A
472 through F of this section shall be so construed. Distances not specifically indicated on the official
473 zoning map shall be determined by the scale of the map;
474
- 475 H. Bisecting lines. Where district boundary lines approximately bisect blocks, the boundaries are the
476 median line of such blocks, between the centerlines of boundary streets;
477
- 478 I. Uncertainties. Where physical or cultural features existing on the ground are at variance with those
479 shown on the official zoning map or if any other uncertainty exists, the Director of Community
480 Development shall interpret the intent of the official zoning map as to the location of district
481 boundaries; and
482
- 483 J. Excluded areas. Where land or water areas have been inadvertently excluded from a zoning district
484 classification in any manner, such areas shall be classified in conformance with the most restrictive
485 zoning district which abuts the excluded area until or unless changed pursuant to amendment
486 procedures set forth in Article 3, Sec. 3.4.6.
487

488 **Section 1.17. Severability.**
489

- 490 A. It is the intent of the City Council of the City of Cape Coral that the articles, chapters, sections,
491 subsections, paragraphs, sub-paragraphs, sentences, clauses, and phrases of this Code are severable,
492 and if any are declared invalid or unconstitutional by the valid judgment or decree of a court of
493 competent jurisdiction, such invalidity or unconstitutionality shall not affect the balance of these
494 regulations.
495
- 496 B. It is the further intent of the City Council of the City of Cape Coral that all property within the City be
497 governed by these regulations. Therefore, if the zoning district of a parcel is declared invalid or
498 unconstitutional, either on its face or as-applied, it is the intent of the City Council that the zoning
499 district applied to the parcel shall be the next more restrictive zoning district that is consistent with
500 the future land use district within which the parcel is located.
501

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

CHAPTER 1. PLANNING AND ZONING COMMISSION

- Section 2.1.1.** Powers and duties
- Section 2.1.2.** Membership; vacancy; compensation
- Section 2.1.3.** Meetings, Quorum; Required vote
- Section 2.1.4.** Staff; Attorney
- Section 2.1.5.** Rules and records

CHAPTER 2. HEARING EXAMINER

- Section 2.2.1.** Establishment
- Section 2.2.2.** Appointment of Hearing Examiner(s); Vacancy; Recusal
- Section 2.2.3.** Exercise of power; powers and duties
- Section 2.2.4.** City Attorney; City Clerk
- Section 2.2.5.** Decisions; Recommendations

CHAPTER 3. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

- Section 2.3.1.** City Manager
- Section 2.3.2.** Department of Community Development
- Section 2.3.3.** Community Development Director
- Section 2.3.4.** Building Official
- Section 2.3.5.** Planning Manager
- Section 2.3.6.** Public Works Director
- Section 2.3.7.** Development Services Manager
- Section 2.3.8.** Code Enforcement Manager

CHAPTER 1. PLANNING AND ZONING COMMISSION

Section 2.1.1. Powers and duties.

- A. Pursuant to and in accordance with F.S. § 163.3174 of the Local Government Comprehensive Planning and Land Development Regulation Act, as amended, the City Council finds that planning of land use and continuing growth management evaluation within the City is a public purpose benefiting the safety, economic well-being, and cultural welfare of the citizens of the City. The City Council further finds that this public purpose can best be achieved by establishing the Planning and Zoning Commission, which is established and designated as the local planning agency (LPA) for the City.
- B. Pursuant to and in accordance with F.S. § 163.3175(5) and F.S. § 163.3177(1) of the Local Government Comprehensive Planning and Land Development Regulation Act, the City Council finds that there is a public purpose in coordinating the planning of the City with the Lee County School Board.
- C. The Planning and Zoning Commission/Local Planning Agency (hereinafter Commission) shall have the authority and responsibility to review land use in the City and evaluate planning and regulatory techniques for resolving physical, economic, social, environmental and fiscal issues. The City Council directs the Commission to carry out functions and powers identified in the Land Development Code.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES

47 The Commission shall use the power and authority conferred upon it by the Land Development Code
48 to further its stated public purpose.

49

50 D. Any power or duty delegated by the City Council.

51

52 **Section 2.1.2. Membership; vacancy; compensation.**

53

54 A. Membership. The Commission shall consist of seven members. All members shall be residents of the
55 City and will be appointed by a majority vote of the City Council. The term of office for each member
56 shall be three years, or until a successor is appointed. Terms of office shall commence on the first day
57 of March of the year in which appointed. In addition to the seven members, two alternate members
58 shall be appointed by a majority vote of the City Council to serve as alternates for the term of one
59 year, or until a successor is appointed. Alternate members shall be residents of the City. Alternate
60 members shall substitute for absent members on a rotating basis. When substituting for an absent
61 member, an alternate member may vote and participate in all discussions of the Commission in the
62 same manner and to the same extent as the other members of the Commission. When not
63 substituting for an absent member(s), alternate members shall not vote on any matter, but may
64 participate in all discussions in the same manner and to the same extent as the other members.
65 Alternate members shall have the same attendance requirements as the other members of the
66 Commission. Board members and alternate members shall be subject to the forfeiture of office
67 provisions of Section 2.58 of the Cape Coral Code of Ordinances. Whenever a vacancy occurs on the
68 Commission, the city shall fill the vacancy for the remainder of the term as soon as practicable after
69 the vacancy occurs.

70

71 B. Vacancies.

72

73 1. If a vacancy occurs on the Commission as the result of the resignation, death, or removal of a
74 member, the senior alternate member shall temporarily fill such vacancy without action by the
75 City Council, until the City Council appoints a successor regular member. In the event both
76 alternates have served for the same continuous period of time then the alternate who is next
77 scheduled to substitute for an absent regular member according to the rotation schedule shall
78 temporarily fill the vacancy until the City Council appoints a successor regular member. In the
79 event that the alternate member dies, resigns, is removed, or becomes a member, the City Council
80 shall promptly appoint a qualified person to the unexpired term of the alternate.

81

82 2. In the event a vacancy occurs on the Commission; an alternate member may apply to be a regular
83 member in the same manner as other applicants. In the event an alternate member is appointed
84 to be regular member, then such appointment shall simultaneously terminate such person's
85 position as an alternate member. In that event, the City Council may then appoint another person
86 to fill the resulting alternate member vacancy.

87

88 C. Compensation. Members of the Commission shall receive no salary for their services, but may receive
89 such travel and other expenses while on official business for the City as are made available by the City
90 Council for these purposes.

91

92

93

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

94 **Section 2.1.3. Meetings; Quorum; Required vote.**

95

96 A. Meetings. The Commission shall schedule and hold at least one public hearing each month unless
97 there is no business to transact for the regular meeting date. The Commission shall also meet at the
98 call of the chairperson and other times as may be determined by a majority of the Commission.

99

100 B. Quorum. Four voting members of the Commission shall constitute a quorum for the transaction of
101 business, but a smaller number may act only to adjourn meetings for lack of a quorum. The affirmative
102 vote of a majority of the quorum shall be required to pass any action of the Commission.

103

104 C. Officers. The Commission shall annually elect a chairperson and a vice-chairperson from among its
105 members. All officers shall be elected for one-year terms and shall be eligible for re-election.

106

107 **Section 2.1.4. Staff; Attorney.**

108

109 A. Staff. The City Manager shall provide staff support necessary to the planning functions of the
110 Commission and provide secretarial support for the Commission in the execution of its duties and to
111 record and transcribe in summary form the minutes of all Commission meetings.

112

113 B. Attorney. The City Attorney shall serve as legal counsel to the Commission.

114

115 **Section 2.1.5. Rules and records.**

116

117 A. The Commission shall adopt its own rules of procedure as may be deemed necessary; provided such
118 rules shall not be contrary to the spirit and intent of the Land Development Code or to the policies of
119 the City. The Commission shall keep minutes of its meetings and records of all transactions and
120 deliberations. Such minutes and records shall be filed in the appropriate offices of the City and shall
121 be public records.

122

123 B. All meetings of the Commission shall be open to the public.

124

125 C. The Commission shall set up rules of procedure to monitor and oversee the effectiveness and status
126 of the Comprehensive Plan in order to make any recommendation to the City Council for changes in
127 the Comprehensive Plan as may from time to time be required consistent with the intent and purposes
128 of the Cape Coral Land Development Code relating to the Comprehensive Plan.

129

130 **CHAPTER 2. HEARING EXAMINER**

131

132 **Section 2.2.1. Establishment.**

133

134 There is hereby created a Hearing Examiner with authority to conduct quasi-judicial and other hearings in
135 accordance with provisions of this code in an equitable, expeditious, and effective manner. Nothing in this
136 section shall prohibit the City Council from enforcing any code by other means.

137

138 **Section 2.2.2. Appointment of Hearing Examiner(s); Vacancy; Recusal.**

139

140 A. The city shall utilize the services of one or more Hearing Examiner(s) to conduct quasi-judicial hearings

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

141 in accordance with provisions of this code.

142

143 B. The City Council shall appoint at least one qualified person to serve as the Hearing Examiner, and may
144 appoint at least one qualified person to serve as an alternate Hearing Examiner.

145

146 C. The appointment(s) shall be in the sole discretion of the City Council. However, any person appointed
147 to the position of Hearing Examiner must be an attorney duly licensed by the Florida Bar Association
148 to practice law in the State of Florida. Appointment(s) shall be made by written contract approved by
149 the City Council. The contract shall set out the terms and conditions, including compensation, travel,
150 mileage, and any additional powers and duties delegated or assigned to the Hearing Examiner.
151 Although appointed by contract, Hearing Examiners shall be subject to removal, with or without
152 cause, at any time during their term by the City Council in its sole discretion.

153

154 D. Hearing Examiners shall not be considered to be city employees.

155

156 E. If a Hearing Examiner vacancy occurs as a result of resignation, death, removal, or the Hearing
157 Examiner recuses, disqualifies himself or herself, or does not otherwise hear a particular case, and an
158 alternate Hearing Examiner is unavailable or otherwise unable to hear a case, these cases shall be
159 heard by the Planning and Zoning Commission in an advisory capacity and then heard by the City
160 Council for the final decision.

161

162 **Section 2.2.3 Exercise of power; powers and duties.**

163

164 A. Exercise of power. In exercising its powers, a Hearing Examiner may, upon appeal and in conformity
165 with the provisions of this code, reverse or affirm, wholly or partly, or may modify the order,
166 recommendation, requirement, decision, or determination made by the Director or an administrative
167 official in the application, interpretation, or enforcement of this code and may make any necessary
168 order, recommendation, requirement, decision, or determination, and to that end shall have all the
169 powers of the administrative official from whom the appeal is taken.

170

171 B. Powers and duties. A Hearing Examiner shall hear and decide or, when applicable, make
172 recommendations, on the following:

173

174 1. Applications for special exceptions;

175

176 2. Applications for variances. The Hearing Examiner may impose any reasonable conditions or
177 restrictions on a variance it decides to grant;

178

179 3. Applications for deviations;

180

181 4. Applications for vacations;

182

183 5. Applications for rezoning property;

184

185 6. Applications for PUD master control plans; and

186

187 7. Appeals of administrative decisions under the Land Development Code.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234

Section 2.2.4. City Attorney; City Clerk.

- A. City Attorney. The City Attorney is the legal officer for the city. Because only attorneys may hold the position of Hearing Examiner, the city shall not be required to provide legal representation to the Hearing Examiner(s).
- B. City Clerk. The City Clerk, shall attend all hearings and record (audio, video, or both) all hearings. The city shall retain the original recording(s) in accordance with the laws of the State of Florida, and, if requested, provide a duplicate of the recording(s) to the Hearing Examiner.

Section 2.2.5. Decisions; Recommendations.

The Hearing Examiner shall provide the City Clerk with all original decisions or recommendations for transmission to the applicant or if the applicant is the city, to the Director of Community Development and City Attorney.

CHAPTER 3. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

Section 2.3.1. City Manager.

The City Manager is the chief executive officer for the City of Cape Coral with ultimate authority over the implementation of these regulations. The City Manager has the authority to delegate his authority to City staff as necessary for the effective administration and enforcement of the regulations.

Section 2.3.2. Department of Community Development.

The Department of Community Development is the City department charged with administration and enforcement of the Land Development Code.

Section 2.3.3. Community Development Director.

The Community Development Director is responsible for the administration of these regulations. Specifically, the Community Development Director is responsible for receiving applications for development approval, determining whether they are complete, and coordinating review of the applications. The Community Development Director shall have administrative responsibility to interpret the Land Development Code.

Section 2.3.4. Building Official.

The Building Official is responsible for the implementation of the various building codes adopted pursuant to the Florida Building Code and other applicable state statutes. The Building Official issues building permits and certificates of occupancy, upon a determination by the City of compliance of permit applications with the City regulations and any prior approvals by the City.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

235 **Section 2.3.5. Planning Manager.**

236

237 The Planning Manager is responsible for duties under this Code or as assigned by the Community
238 Development Director. The Planning Manager is responsible for the implementation and interpretation
239 of the Land Development Code.

240

241 **Section 2.3.6. Public Works Director.**

242

243 The Public Works Director is charged with the development and maintenance of the City's Engineering
244 Design Standards and implementation related to City maintained facilities.

245

246 **Section 2.3.7. Development Services Manager.**

247

248 The Development Services Manager is responsible for the review and approval of applications for land
249 development permits. The Development Services Manager reviews and approves Site Development Plans,
250 Preliminary Subdivisions, Construction Plan approvals, Development Permits, and Certificates of
251 Completion.

252

253 **Section 2.3.8. Code Enforcement Manager.**

254 The Code Enforcement Officer is charged with the initiation of and prosecution of enforcement actions
255 pursuant to Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances.

**City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review**

CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES

- Section 3.1.1.** Purpose
- Section 3.1.2.** Classification of Development Review Procedures
- Section 3.1.3.** Development Approval Process;
- Section 3.1.4.** Application submittals
- Section 3.1.5.** Pre-application and neighborhood meetings
- Section 3.1.6.** Fee Required
- Section 3.1.7.** Complete Applications Required
- Section 3.1.8.** Review for Sufficiency and Code Requirements
- Section 3.1.9.** Decision- making
- Section 3.1.10.** Public Hearing Scheduling and Notice Requirements
- Section 3.1.11.** Public Hearing Procedures
- Section 3.1.12.** Decisions under this Article
- Section 3.1.13.** Conditions on Approvals
- Section 3.1.14.** Appeals

CHAPTER 2. GENERAL REVIEW PROCEDURES

- Section 3.2.1.** All Permits and Approvals

CHAPTER 3. SPECIFIC REVIEW PROCEDURES- ADMINISTRATIVE PERMITS AND APPROVALS

- Section 3.3.1.** Zoning Verification Letter of Flood Verification Letter
- Section 3.3.2.** Certificate of Zoning Compliance
- Section 3.3.3.** Administrative Interpretations and Similar Use Determinations
- Section 3.3.4.** Lots Splits and Lot Combines
- Section 3.3.5.** Conditional Uses
- Section 3.3.6.** Administrative Deviations
- Section 3.3.7.** Site Development and Subdivision Construction Plans
- Section 3.3.8.** Site Development Permits
- Section 3.3.9.** Temporary Use Permits
- Section 3.3.10.** Special Events
- Section 3.3.11.** Outdoor Dining Permit
- Section 3.3.12.** Preliminary Subdivision Plans (See Article 10)

CHAPTER 4. SPECIFIC REVIEW PROCEDURES – QUASI-JUDICIAL PERMITS AND APPROVALS

- Section 3.4.1.** General Requirements
- Section 3.4.2.** Deviations
- Section 3.4.3.** Variances
- Section 3.4.4.** Special Exceptions
- Section 3.4.5.** Vacations of Plats, Easements, and Rights-of-way
- Section 3.4.6.** Rezones
- Section 3.4.7.** Planned Unit Developments (PUD)

**City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review**

47 **CHAPTER 5. SPECIFIC REVIEW PROCEDURES – LEGISLATIVE APPROVALS**

48

49 **Section 3.5.1.** Annexations

50 **Section 3.5.2.** Future Land Use Map Amendments

51 **Section 3.5.3.** Comprehensive Plan Text Amendments

52 **Section 3.5.4.** Land Development Code Text Amendments

53 **Plats** (See Article 10)

54

55 **CHAPTER 6. OTHER APPROVALS**

56

57 **Section 3.6.1.** Outdoor Display of Merchandise

58 **Section 3.6.2.** Special Events (Parks and Recreation)

59

60 **CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES**

61

62 **Section 3.1.1. Purpose.**

63

64 The purpose of this article is to establish the standards and procedures for review and approval of
65 proposed development within the City of Cape Coral, and to provide a development review process that
66 will be comprehensive, consistent, and efficient in the implementation of the goals, objectives, and
67 policies of the City of Cape Coral Comprehensive Plan and this Code.

68

69 **Section 3.1.2. Classification of Development Review Procedures**

70

71 All development applications under this Article are subject to the procedural review requirements in this
72 Chapter, unless otherwise exempted by the terms of this Article. Development applications are classified
73 according to the decision-making authority for each type of application, as set forth below.

74

75 A. Administrative. The following shall be treated as administrative decisions:

76

77 1. Zoning and Flood Zone Verification Letters

78 2. Certificates of Zoning Compliance

79 3. Administrative Interpretations and Similar Use Determinations

80 4. Sign Permits (See Article 6)

81 5. Lot Splits and Lot Combines

82 6. Conditional Uses

83 7. Master Concept Plan (PUD) Amendments

84 8. Administrative Deviations

85 9. Site Development and Subdivision Construction Plans

86 10. Preliminary Subdivision Plans (See Article 10)

87 11. Site Improvement Permits

88 12. Temporary Use Permits:

89 a. Firework, pumpkin, and Christmas tree sales.

90 b. Outdoor display of merchandise.

91 c. Garage sales.

92 d. Temporary construction or field office.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 93 e. Construction staging areas for essential public facilities and post disaster debris staging
- 94 f. Temporary sales office.
- 95 g. Temporary Storage Containers.
- 96 h. Temporary Habitable Structures.
- 97 i. Temporary Off-Site Vehicle Sales.
- 98 j. Tents for other than Special Events.
- 99 k. Other events not named.
- 100 l. Temporary Seawall Staging Areas.

101
102 13. Reasonable Accommodations (See Article 13)

103
104 B. Quasi-judicial. The following shall be treated as quasi-judicial decisions:

- 105
- 106 1. Deviations (other than Administrative Deviations)
- 107 2. Variances
- 108 3. Special Exceptions
- 109 4. Vacations of Plats, Easements, and Rights-of-way
- 110 5. Rezones
- 111 6. Planned Unit Developments (PUDs) and Master Concept Plans
- 112 7. Appeals

113
114 C. Legislative. The following shall be treated as legislative decisions:

- 115
- 116 1. Annexations
- 117 2. Future Land Use Map Amendments
- 118 3. Comprehensive Plan Text Amendments
- 119 4. Land Development Code Text Amendments
- 120 5. Plats

121
122 D. Other Approvals.

- 123
- 124 1. Outdoor Display of Merchandise
- 125 2. Special Events

126
127 E. Certain buildings, structures, improvements, and installations are exempted by the Florida Building Code
128 from building permit issuance but must otherwise comply with the minimum requirements of this chapter.
129 Therefore, such buildings, structures, improvements, and installations shall be subject to review under the
130 Site Development Plan or Certificate of Zoning Compliance standards contained in this Article, as well as the
131 regulations of the underlying zoning district.

132
133 F. The Community Development Director shall have the authority to require a certificate of zoning compliance
134 or site improvement permit review for other buildings, structures, improvements and installations that are
135 newly created or come about by changes in the state or local building codes; or other improvements
136 deemed necessary for approval.

137

**City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review**

Section 3.1.3. Development Approval Process; Table 3.1.3

Table 3.1.3 shows the development review process, the decision-making authority for each type of development approval; and the appeal authority for each type of decision.

TABLE 3.1.3 DEVELOPMENT APPROVAL AND REQUIRED NOTICE										
Decision Maker					Notice					
D	HEX	LPA	CC	CirC	Published	Mailed	Posted			
Director	Hearing Examiner	Planning and Zoning Commission / Local Planning Agency	City Council	Circuit Court						
Application Type					Recommendation	Decision Maker				
Administrative	Zoning or Flood Zone Verification Letters				D					
	Certificate of Zoning Compliance				D					
	Administrative Interpretations & Similar Use Determinations				D					
	Sign Permits				D					
	Lot Splits and Lot Combines				D					
	Conditional Uses				D					
	PUD Amendments - Minor				D					
	Administrative Deviations				D					
	Site Development and Subdivision Construction Plans				D					
	Preliminary Subdivision Plans				D					
	Site Improvements Permits				D					
	Site Development Permits and Construction Authorization				D					
	Temporary Use Permits				D					
	Outdoor Dining				D					
	Business Tax Receipts				D					
Reasonable Accommodations (see Article 13)				D						
Appeals of Administrative Decisions				D	HEX	CC	CirC	✓		
Quasi-Judicial	Deviations (Other than Administrative Deviations)				D	HEX		✓	✓	✓
	Variances				D	HEX		✓	✓	✓
	Special Exceptions				D	HEX		✓	✓	✓
	Vacations – Easement/Lot/Plat				HEX	CC		✓	✓	✓
	Rezones				HEX	CC		✓	✓	✓
	PUDs				HEX	CC		✓	✓	✓
	PUD Amendments - Major				D	HEX		✓	✓	✓
Appeals of Quasi-Judicial Decisions				D	HEX	CC	CirC	✓	✓	
Legislative	Annexations				D	CC		✓	✓	✓
	Future Land Use Map Amendments				LPA	CC		✓	✓	✓
	Comp Plan Text Amendments				LPA	CC		✓		
	LDC Text Amendments				LPA	CC		✓		
	Final Plats				D	CC		✓		
Other	Outdoor Display of Merchandise				D	CC			✓	
	Special Events (Parks and Recreation)									

143
144
145

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

Section 3.1.4. Application submittals.

146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191

- A. Unless otherwise indicated by a specific provision of this Article, the applicant for a permit or approval under this Code must be the owner of the property that is the subject of the application or a duly authorized agent of the owner. An applicant who is a contract purchaser must provide proof that the applicant is an authorized agent of the property owner.
 - 1. For rezone and comprehensive plan amendments involving multiple properties or ownerships, the owners of at least fifty-one percent of the number of parcels or the land area included in the application, whichever is greater, must join in the application.
 - 2. For applications to vacate public rights-of-way or alleys, the owners of all parcels abutting the street or alley or portion thereof to be vacated must join in the application.
 - 3. For applications to vacate easements, all owners of parcels abutting the easement and all owners entitled to use of the easement to be vacated must join in the application.
 - 4. For applications to vacate any portion of a platted subdivision, all owners in the subdivision must join in the application.
- B. Unless otherwise indicated by a specific provision of this Article or another City ordinance or regulation, applications for permits and approvals under this Chapter shall be submitted to the Community Development Department.
- C. Applications shall contain all information required for the type of application being filed and shall include all plans, data, studies, or supporting documents required under this code or specified in the application forms.
- D. The Community Development Department shall establish application forms and submittal requirements for all development applications referenced in this Article.
- E. Applications for various approvals and permits may be submitted for concurrent or simultaneous review at the option and sole risk of the applicant. This provision shall not apply to any comprehensive plan amendments, rezones, or permit approvals associated with a proposed annexation into the City.
- F. Applications for permits or development approvals which have been made available as on-line may be required to file an on-line application only, as determined by the Director.
- G. The Community Development Director shall have the authority to require a zoning or site improvement permit review for other buildings, structures, improvements, or installations that are newly created or come about by changes in the state or local building codes; or other improvements deemed necessary for approval.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

192 **Section 3.1.5. Pre-application and Neighborhood meetings.**

193
194 A. Upon request of an applicant, the director may schedule pre-application meetings with applicants and
195 appropriate City staff, for the purpose of reviewing proposed development prior to the formal
196 submission of an application. Applicants are encouraged, though not required, to request a pre-
197 application meeting. A pre-application meeting is required for Planned Unit Development
198 applications.

199
200 B. The pre-application meeting shall be informal, and its purpose shall be to discuss the proposals, views,
201 and concepts of the applicant. The purpose is also to discuss whether any additional information will
202 be required. Failure of staff to identify any required permits or procedures at a pre-application
203 meeting shall not relieve the applicant of any such requirements in this code or constitute waiver of
204 the requirement by the decision-making body.

205
206 C. At the pre-application meeting staff will:

207
208 1. Review the proposed project and any preliminary plans with the applicant.

209
210 2. Discuss and inform the applicant about the zoning requirements relevant to the proposal,
211 information necessary for an application, and the approval process(es) for the project. This does
212 not preclude the department from requesting additional information or waiving certain
213 requirements for information later during the review process.

214
215 3. Advise the applicant whether the proposed project conforms to the Comprehensive Plan or the
216 requirements of this title.

217
218 D. Any recommendations or determinations reached during pre-application meetings are purely
219 advisory and shall not be binding either on the applicant or the City.

220
221 E. Applicants are encouraged, though not required, to conduct a neighborhood meeting to advise nearby
222 residents of upcoming development applications. The City will provide a list of surrounding property
223 owners for applicants to notify when a neighborhood meeting is scheduled.

224
225 **Section 3.1.6. Fees Required.**

226
227 Each applicant for a permit, approval, or appeal under this Article shall be required to pay any application
228 fee(s) as established by the City Council.

229
230 **Section 3.1.7. Complete Applications Required.**

231
232 A. Incomplete Applications. No application for a permit, approval, or appeal under this Article shall be
233 accepted or reviewed by staff that does include all required application materials and the required
234 application fee(s). The burden of providing complete and accurate information required by the
235 Community Development Department for each type of application shall be on the applicant.

236
237 B. Determination of Completeness.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283

1. When an application for development approval is submitted, the director shall make a threshold determination as to whether the application is complete and in conformance with the land uses, density, and intensity allowed by the future land use designation and zoning district classification.
 2. All applications shall be reviewed for completeness within ten days of receipt. If the application does not meet the requirements of this Article, the director shall notify the applicant or agent in writing, stating the additional information required or the modification(s) necessary for conformance.
 3. No further action shall be taken on the application unless and until the additional information is submitted and determined to be complete by the director. If the incompleteness has not been remedied within sixty (60) calendar days of receipt of notice thereof, the application shall be automatically voided and the director shall return the application to the applicant.
- C. Review. When an application for development approval is determined to be complete, the department shall notify the applicant, and commence detailed review and processing of the application in accordance with this Code.

Section 3.1.8. Review for Sufficiency and Code Requirements.

Once an application is determined to be complete, the Department shall commence detailed review of the application, consult with other agencies, issue comments to the applicant, consult with the applicant as necessary, and determine whether the application and supporting materials are sufficient to proceed forward, as applicable for the type of application for review. For purposes of this section, "sufficiency" shall constitute an analysis of whether a proposed application:

- A. Meets the stated objective requirements of the comprehensive plan, this Code, and the City Code of Ordinances; and
- B. Includes the necessary analysis and information in sufficient detail to enable the decision-making body or official to make the necessary determinations under the comprehensive plan and this Code.
- C. The sufficiency and code requirements set forth herein shall be used by the City to evaluate the demands created on public services and facilities by a proposed development, as required by this code. The following public services and facilities shall be evaluated:
 1. Drainage facilities;
 2. Environmentally sensitive lands;
 3. Fire protection;
 4. Parks and open space;
 5. Police protection;

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 284
285 6. Potable water;
286
287 7. Wastewater;
288
289 8. Solid waste;
290
291 9. Storm water; and
292
293 10. Transportation facilities. A traffic impact study is required for any development anticipated to
294 generate more than 300 p.m. peak hour average daily trips.
295
296 D. If an application is determined to be insufficient, the director shall notify the applicant or agent in
297 writing, stating the additional information required or the modification(s) necessary for conformance.
298
299 E. No further action shall be taken on an application determined to be insufficient unless and until the
300 insufficiency(ies) are resolved, as determined by the director. If the insufficiencies have not been
301 remedied within sixty (60) calendar days, the director may void the application.
302

Section 3.1.9. Decision-making.

- 303
304
305 A. Administrative approvals. Upon determining that an application and all supporting information are
306 sufficient to render a decision, the Director shall take administrative action required by this code and
307 approve the application, approve the application with conditions, or deny the application.
308
309 B. Quasi-judicial and legislative approvals. Upon determining that an application and all supporting
310 information are sufficient to render a decision and any inadequacies have been resolved, the Director
311 shall prepare a report and recommendation to the appropriate decision-making or recommending
312 body.
313

Section 3.1.10. Public Hearing Scheduling and Notice Requirements.

- 314
315
316 A. Scheduling for consideration. When an application is deemed sufficient pursuant to LDC Section 3.1.8,
317 the Director shall schedule a public hearing for an appropriate date. No application shall be scheduled
318 for consideration by the Hearing Examiner, Commission, or City Council until either:
319
320 1. All specified insufficiencies have been resolved; or
321
322 2. The applicant has elected in writing to proceed notwithstanding the unresolved insufficiencies.
323
324 B. Required notice of public hearings. Notice of public hearings shall be provided by publication of an
325 advertisement in a newspaper of general circulation, mailed notice to surrounding property owners,
326 and posting of the development site pursuant to the requirements of this section. Table 3.1.2 depicts
327 the public hearing notice requirements for quasi-judicial and legislative applications under this Code:
328

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 329 C. Website posting. Notices of public hearings for development applications shall be posted on the City
330 of Cape Coral website but failure to post a case on the City website shall not constitute a violation of
331 City noticing requirements. In addition, information about public notice and public hearings may be
332 posted by the City on social media outlets.
333
- 334 D. Publication. Publication of advertisements for public hearings concerning comprehensive plan
335 amendments shall meet the requirements of Chapter 163, Florida Statutes. Publications for public
336 hearings concerning zoning amendments shall meet the requirements of Chapter 166 Florida
337 Statutes.
338
- 339 E. Posting. The application site shall be posted with a notice of the public hearing on a sign provided by
340 the Community Development Department at least ten (10) calendar days in advance of any public
341 hearing. The number and placement of public notice signs should be determined by the Department.
342 The signs shall be removed by the City after a final decision. The failure to remove posted notice after
343 a final decision shall not be deemed a failure to comply with this requirement or be grounds to
344 challenge the validity of any final decision on the application(s).
345
- 346 F. Mailed notice. Notice of a public hearing on a proposed development application(s) shall be mailed
347 to all owners of real property within five hundred (500) feet of the periphery of the site in question,
348 whose names and addresses are known by reference to the latest published ad valorem tax records
349 of the Lee County Property Appraiser.
350
- 351 1. Individually owned multi-family units. When real property consists of individually owned multi-
352 family units, notice shall be given to the homeowner’s association, if applicable, all individual unit
353 owners, and all real property owners within five hundred (500) feet. If any area adjacent to the
354 development site is owned by the applicant or any partner listed on the application, the five
355 hundred (500) foot notification boundary shall be extended from these parcels. All property
356 owner associations in the notice area shall be notified.
357
- 358 2. Notice to other jurisdictions. If there are unincorporated lands within 500 feet of the property,
359 Lee County shall also be notified.
360
- 361 3. Applicant responsibility for notice. When the notice radius specified in this section includes
362 property outside of the City limits, the applicant is responsible for obtaining the list of property
363 owners to be notified from the Lee or Charlotte County Property Appraisers and providing this list
364 to the department in sufficient time to comply with noticing requirements. The applicant is
365 responsible for any errors or omissions in the list provided.
366
- 367 4. Content. Generally, all public hearing notices shall contain the following information:
368
- 369 a. The scheduled date, time, and location of the hearing;
370
- 371 b. A general description of the nature of the matter to be addressed, written in layman's terms;
372
- 373 c. The address of the property;
374

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 375 d. That persons may appear and be heard;
- 376
- 377 e. That written comments filed with the department will be entered into the record;
- 378
- 379 f. That the hearing may be continued from time to time as necessary;
- 380
- 381 g. A telephone number and contact for more information;
- 382
- 383 h. The case number or title of the ordinance under consideration, if applicable; and
- 384
- 385 i. Such additional information as may be required pursuant to this code or applicable law for
- 386 specific types of development approval.
- 387
- 388 5. Timing of mailed notice. Notice shall be mailed a minimum ten (10) calendar days prior to the
- 389 date set for the public hearing by first class mail. A copy of the notice shall be available for public
- 390 inspection during regular business hours at the Community Development Department. If the
- 391 application includes a simultaneous future land use map amendment and a rezone, the notice for
- 392 the rezone may be included in the notice required for the land use amendment.
- 393
- 394 G. Electronic Notice. The Community Development Department may, as a courtesy, send electronic
- 395 notice to any persons or organizations in the City, or to any governmental, public, or quasi-public
- 396 organization regarding any matter that may affect the interests of that person or organization, or on
- 397 any matter on which any such person or organization has requested notice. The failure of the
- 398 Department to send such notice or the failure of any resident or property owner to receive such
- 399 courtesy notice shall not affect the validity of the public notice requirements.
- 400
- 401 H. Exceptions to Mailing and Posting. The mailing and posting notice requirements shall not apply to a
- 402 land use map amendment initiated by the Council, in response to a judicial order or compliance
- 403 agreement as described by Section 163.3184(6) and (7), Florida Statutes.
- 404
- 405 I. Continued or Rescheduled Meetings. Notice of subsequent hearings shall be mailed and published in
- 406 accordance with this section for:
- 407
- 408 1. Any hearing for which the Hearing Examiner, Community Development Director, or City Attorney
- 409 determines new notice should be provided, because of the time elapsed from the original notice,
- 410 to correct any defect, or apprise affected parties of significant changes to the application as
- 411 originally noticed;
- 412
- 413 2. Any hearing continued to an unspecified date, time, and place; or
- 414
- 415 3. Any hearing where such new notice is required pursuant to applicable law or this Code.
- 416

Section 3.1.11 Public Hearing Procedures.

- 417
- 418
- 419 A. General. All public hearings shall be open to the public. Members of the public shall be permitted to
- 420 testify at all public hearings. A copy of the hearing procedures shall be made available at the hearing.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

421 The applicant may withdraw an application by requesting such withdrawal in writing prior to the
422 commencement of the hearing.

423
424 B. Record of hearings. The City Clerk shall attend all hearings, and the City shall record (audio, video, or
425 both) all hearings. The City shall retain the original recording(s) in accordance with the laws of the
426 State of Florida, and, if requested, provide a duplicate of the recording(s).

427
428 C. Official file. All written communication received by the decision-making body, the Hearing Examiner,
429 or staff concerning an application, the staff report on the application, any petitions or other
430 submissions from the public, and all other documents pertaining to the application shall be filed in
431 the official file for the application, which shall be maintained by staff. The Comprehensive Plan, the
432 City Code of Ordinances, and the Land Development Code shall be deemed to be part of the official
433 file. The official file shall be available for inspection during normal business hours.

434
435 D. Order of public hearings. The hearing shall, to the extent possible, be conducted as follows:

436
437 1. The Clerk shall read into the record the ordinance or resolution title and number, or the
438 applicant's name, file number, and the subject matter to be decided if there is no ordinance or
439 resolution.

440
441 2. For quasi-judicial hearings, the applicant, staff, and all participants requesting to speak or present
442 evidence or both at the hearing shall be collectively sworn by an oath or affirmation by the Clerk.

443
444 3. The applicant may waive the applicant's right to an evidentiary hearing if applicant agrees with
445 the staff recommendation and no one from the audience wishes to speak for or against the
446 application. The decision-making body may then vote on the item or the Hearing Examiner shall
447 rule on the matter or make a recommendation, based upon the staff report and any other
448 materials contained within the official file. Regardless of a waiver by the applicant, a public
449 hearing shall be held for all decisions requiring an ordinance or resolution.

450
451 4. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the
452 Hearing Examiner or Mayor determines to proceed in a different order, taking proper
453 consideration of fairness and due process:

454
455 a. The applicant shall make the applicant's presentation, including offering any documentary
456 evidence, and introduce any witnesses as applicant desires. The applicant shall present the
457 applicant's entire case in 30 minutes.

458
459 b. Staff shall have the responsibility of presenting the case on behalf of the city. The staff
460 report on the application shall be made available by staff to the applicant and the decision-
461 making body or the Hearing Examiner no later than five business days prior to the quasi-
462 judicial hearing on the application. Staff shall present a brief synopsis of the application;
463 introduce any appropriate additional exhibits from the official file that have not already been
464 transmitted to the Hearing Examiner or City Council with the agenda materials, summarize
465 issues; and make a recommendation on the application. Staff shall also introduce any
466 witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 467 in 30 minutes.
468
- 469 c. Public comment. Participants in opposition to or support of the application shall make their
470 presentation in any order as determined by the Chair, Hearing Examiner, or Mayor. Each
471 participant shall present their argument in five minutes.
472
- 473 d. For hearings on quasi-judicial matters only, the applicant may cross-examine any witness and
474 respond to any testimony presented.
475
- 476 e. For hearings on quasi-judicial matters only, staff may cross-examine any witness and respond
477 to any testimony presented.
478
- 479 f. The Chair, Hearing Examiner, or Mayor may choose to allow participants to respond to any
480 testimony if the Chair, Hearing Examiner, or Mayor deems the response to be necessary to
481 ensure fairness and due process.
482
- 483 g. Members of the Planning and Zoning Commission, Hearing Examiner, or City Council may ask
484 any questions of the staff, applicant, and participants.
485
- 486 h. Final argument may be made by the applicant, related solely to the evidence in the record.
487
- 488 i. Final argument may be made by the staff, related solely to the evidence in the record.
489
- 490 j. For good cause shown, the Planning and Zoning Commission, Hearing Examiner, or City
491 Council may grant additional time to any of the above time limitations.
492
- 493 k. The Chair, Hearing Examiner, or Mayor shall keep order, and without requiring an objection,
494 may direct a party conducting the direct examination or the cross-examination to stop a
495 particular line of questioning that, in the sole judgment of the Chair, Hearing Examiner, or
496 Mayor merely harasses, intimidates, or embarrasses the individual testifying or being cross-
497 examined; is unduly repetitious or is not relevant; or is beyond the scope of the application
498 or, in the case of cross-examination, is beyond the scope of the testimony by the individual
499 being cross-examined. If the party conducting the direct examination or cross-examination
500 continues to violate directions from the Chair, Hearing Examiner, or Mayor to end a line of
501 questioning deemed improper as set forth herein, the Chair, Hearing Examiner, or Mayor may
502 terminate the direct examination or the cross-examination.
503
- 504 l. The Planning and Zoning Commission, Hearing Examiner, or City Council may, on its own
505 motion or at the request of any person, continue the hearing to a fixed date, time, and place.
506 The applicant shall have the right to one continuance; however, all subsequent continuances
507 shall be granted at the sole discretion of the Commission, Hearing Examiner, or City Council.
508
- 509 E. Decisions. For all quasi-judicial hearings in which a decision is made regarding an application for any
510 development permit, the decision to approve or deny shall be based on whether the application
511 meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the
512 Land Development Code, based on the entirety of the record before the Hearing Examiner or City

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

513 Council. The Hearing Examiner or Council decisions must be based upon competent substantial
514 evidence in the record.

- 515
- 516 F. Rules of Evidence for quasi-judicial hearings.
- 517
- 518 1. The decision-making body or the Hearing Examiner shall not be bound by the strict rules of
519 evidence and shall not be limited only to consideration of evidence which would be admissible in
520 a court of law. The decision-making body or the Hearing Examiner shall have the ability, but not
521 the duty, to conduct site visits in their sole discretion and to consider any evidence so adduced in
522 their deliberations.
 - 523
 - 524 2. The Chair or Hearing Examiner may exclude evidence or testimony that is not relevant, material,
525 or competent or testimony which is unduly repetitious or defamatory.
 - 526
 - 527 3. The Chair, with the advice of the City Attorney, will determine the relevancy of evidence. In
528 matters decided by the Hearing Examiner, the Hearing Examiner, without the advice of the City
529 Attorney, will determine the relevancy of evidence.
 - 530
 - 531 4. Matters relating to an application's consistency with the Comprehensive Plan, the City Code of
532 Ordinances, or the Land Development Code will be presumed to be relevant and material.
 - 533
 - 534 5. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence,
535 but it shall not be sufficient by itself to support a finding unless it would be admissible over
536 objection in court.
 - 537
 - 538 6. Documentary evidence may be presented in the form of a copy of the original, if available. A copy
539 shall be made available to the decision-making body or the Hearing Examiner and to the staff no
540 later than three business days prior to the hearing on the application. Upon request, the applicant
541 and staff shall be given an opportunity to compare the copy with the original. Oversized exhibits
542 shall be copied and reduced for convenient record storage.
 - 543
 - 544 7. Only the applicant, an authorized representative of the applicant, staff, and the decision-making
545 body or the Hearing Examiner shall be entitled to conduct cross-examination when testimony is
546 given or documents are made part of the record.
 - 547
 - 548 8. The City Attorney shall represent the decision-making body and advise it as to procedures to be
549 followed.
 - 550
 - 551 9. The Planning and Zoning Commission, Hearing Examiner, or City Council shall take judicial notice
552 of all state and local laws, ordinances, and regulations and may take judicial notice of such other
553 matters as are generally recognized by the courts of the State of Florida.
 - 554
 - 555 10. Supplementing the record after the quasi-judicial hearing is prohibited, unless specifically
556 authorized by an affirmative vote of the decision-making body, or authorized by the Hearing
557 Examiner, under the following conditions:
 - 558

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 559 a. The supplementation occurs after a quasi-judicial hearing is continued but prior to final action
560 being taken on the application or appeal.
561
- 562 b. If a question is raised by the Planning and Zoning Commission, Hearing Examiner, or City
563 Council at the hearing which cannot be answered at the hearing, the party to whom the
564 question is directed will submit the requested information in writing to the City Clerk and the
565 decision-making body or Hearing Examiner after the quasi-judicial hearing, with copies to the
566 other parties, provided the hearing has been continued or another hearing has been
567 scheduled for a future date and no final action has been taken by the decision-making body
568 or Hearing Examiner. The information requested will be presented to the decision-making
569 body or the Hearing Examiner at least two business days prior to the time of the continued
570 hearing.
571
- 572 c. All parties and participants shall have the same right with respect to the additional
573 information as they had for evidence presented at the hearing.
574
- 575 G. Final decision. The City Council or the Hearing Examiner shall reach a written decision without
576 unreasonable or unnecessary delay. The Hearing Examiner shall provide a copy of the decision to the
577 City Clerk for transmission to the applicant, if the applicant is not the City, to the Director of the
578 Department of Community Development, and the City Attorney.
579
- 580 H. The Record. All evidence admitted into the record at the hearing, the official file, and the adopted
581 development order, ordinance, or resolution of the City Council or the written decision of the Hearing
582 Examiner shall be maintained by the City Clerk or the Department of Community Development.
583
- 584 I. Adjournment. The Chairperson, upon a vote of the majority present, or Hearing Examiner, as
585 applicable, may adjourn a hearing to a date certain without the necessity of additional notice.
586 Adjournment to an uncertain date shall require notice as required for the original hearing and by the
587 Land Development Code.
588
- 589 J. Deferrals. If a hearing is concluded, but action is deferred until a future date, formal notice shall not
590 be required prior to action being taken.
591
- 592 K. Joint hearings. Where deemed necessary, joint hearings may be conducted after proper public notice.
593 In such instances, public notice need only be given by one public body, which shall be the City Council
594 in instances where it is one of the hearing bodies.
595
- 596 L. Regularly scheduled public hearing dates. The Hearing Examiner or the City Council may establish
597 regular dates for public hearings on zoning amendments. Such dates, if established by the Hearing
598 Examiner, or the City Council, shall not prevent the Hearing Examiner or City Council from scheduling
599 additional public hearings whenever such public hearings are deemed necessary.
600
- 601 M. Reading of ordinances. Except for ordinances initiated by the City Council which rezone a parcel or
602 parcels of land involving ten or more contiguous acres, or change permitted, special exception, or
603 prohibited use categories in zoning districts, all ordinances shall be read, either by title or in full, on
604 two separate days at a duly noticed public hearing of the City Council.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

605
606 N. The printed agenda for the meeting at which the quasi-judicial hearing is scheduled to take place shall
607 identify the hearing as quasi-judicial and indicate where copies of the procedures that apply may be
608 obtained.
609

610 **Section 3.1.12. Decisions under this Article.**

611
612 A. When this Article authorizes the Community Development Director, Hearing Examiner, or City Council
613 to make decisions under this Chapter, that decision shall be made pursuant to the specific criteria
614 applicable to the application in Chapter 2 (Specific Review Procedures). If Chapter 2 does not include
615 specific criteria for that type of decision, the Community Development Director or Department,
616 Hearing Examiner, Commission, or Council shall make the decision based on whether the application
617 complies with this Article and any regulations authorized by this Code, and will protect the public
618 health, safety, and welfare.
619
620 B. Unless otherwise indicated in a specific provision of this Article, the Community Development
621 Director, Hearing Examiner, or City Council may approve the application, deny the application, or
622 approve the application subject to conditions as stated in Section 3.1.13, below.
623
624 C. Unless otherwise stated in this Article, or unless a different condition is attached to a permit or
625 approval, permits and approvals granted under this Article are not affected by changes in ownership
626 or tenancy of the property.
627

628 **Section 3.1.13. Conditions on Approvals.**

629
630 A. The Community Development Director, Hearing Examiner, or City Council may attach conditions to
631 any quasi-judicial permit or approval under this Chapter, provided the condition is required to bring
632 the development proposed in the application into compliance with the requirements of the
633 Comprehensive Plan or the LDC.
634
635 B. The Community Development Director, Hearing Examiner, or City Council may also attach conditions
636 to any quasi-judicial development permit or approval under this Code, provided the condition is
637 necessary to minimize or ameliorate potential adverse impacts of the development proposal. Such
638 conditions shall be reasonably related to the actual or potential impact(s) of the specific use, activity,
639 or structure in question.
640

641 **Section 3.1.14. Appeals.**

642
643 A. Review by the Director. Applicants for administrative permits and approvals may request a formal
644 review by the Community Development Director of staff decisions, within thirty (30) calendar days of
645 the date the administrative decision was made. The request for review shall be accompanied by any
646 relevant documents related to the review as determined by the Planning Manager or Development
647 Services Manager. The respective manager shall review the relevant standards and present a written
648 finding to the Community Development Director. The request for review shall be considered by the
649 Community Development Director within 10 days of submittal of a complete request. The Community
650 Development Director may consult with the City Attorney's office on the matter.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

651
652 The Community Development Director shall provide a written determination to affirm the staff
653 decision, grant the relief requested in the review, with or without conditions, or respond to the
654 applicant or respective manager for further information, documentation, or proceedings. The written
655 determination by the Director shall be the final administrative decision.

656
657 B. Appeals of Community Development Director decisions (Administrative Appeal). An applicant desiring
658 to appeal a decision of the Community Development Director, shall, within ten (10) calendar days
659 from the date of such decision, file a written Notice of Appeal with the Department of Community
660 Development. The appeal shall then be heard by the Hearing Examiner at a regularly scheduled
661 meeting, provided there is sufficient time to review the appeal and provide the required public notice.
662 A staff or Director’s recommendation is not a decision and is not appealable.

663
664 C. Appeals from decisions of the Hearing Examiner on Administrative Appeals. Any aggrieved party by a
665 decision of the Hearing Examiner on a administrative appeal may file an appeal to the City Council
666 within 30 days by filing a written Notice of Appeal with the City Clerk. All such appeals shall be based
667 on the record.

668
669 D. Appeals from decisions of the Hearing Examiner on Quasi-judicial matters. Any aggrieved party by a
670 decision of the Hearing Examiner on a quasi-judicial matter may file an appeal to the City Council
671 within 30 days by filing a written Notice of Appeal with the City Clerk. All such appeals shall be based
672 on the record.

673
674 E. Appeals from decisions of the City Council. An action to review any decision of the City Council under
675 these regulations may be taken by any person or persons aggrieved by such decision by presenting to
676 the Circuit Court a petition for issuance of a Writ of Certiorari, duly certified, setting forth that such
677 decision is illegal, in whole or in part, certifying the grounds of the illegality, provided same is done in
678 the manner and within the time provided by Florida Rules of Appellate Procedure.

679
680 F. Stay of proceedings. An appeal shall stay all proceedings in the matter appealed from until the final
681 disposition of the appeal by the City Council or Hearing Examiner. The pendency of an appeal shall toll
682 all time periods applicable to the decision which is subject to appeal until final disposition of the
683 appeal by the City Council or Hearing Examiner with regard to the appeal.

684
685 G. Record. The record to be considered in the appeal shall include any application, exhibits, appeal
686 papers, written objections, waivers, or consents considered by staff, the Hearing Examiner, or City
687 Council, as well as transcripts and recordings taken at a public hearing, the Hearing Examiner or City
688 Council minutes, and resolutions or ordinances showing the decision or action being appealed. The
689 record shall also include the record made as a result of any prior applications for development
690 approval on the same property. The City Clerk shall identify all exhibits used at the hearing. All exhibits
691 so identified or introduced shall be a part of the City record.

CHAPTER 2. GENERAL REVIEW PROCEDURES

Section 3.2.1. All Permits and Approvals.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 697 A. General Requirements for all permit applications.
698
699 1. Applications for permits or approvals shall be submitted with forms supplied by the Department
700 and any required supporting documentation, plans, or materials required by this Code or specified
701 in the application form(s).
702
703 2. Applications shall include any required fee(s) as established by the City Council.
704
705 3. Incomplete applications will not be accepted.
706
707 4. Before any use of land, building, or structure is established or any established use of land, building,
708 or structure is changed to a different use than that identified in the previously-issued certificate of
709 use under the prior LUDR, a certificate of zoning compliance under this code, or a business tax receipt
710 for the property, the person seeking to establish the use must obtain a certificate of zoning
711 compliance. Failure to secure a certificate of zoning compliance before establishing a use of land,
712 building, or structure or before changing the use of the property from the use recognized in a duly-
713 issued certificate of use under the prior LUDR or a certificate of zoning compliance under this Code
714 to another use, shall be a violation of this Code, and punishable as such.
715
716 B. Withdrawal of applications. An applicant may withdraw an application at any time by submitting a
717 letter of request to DCD or providing testimony of the requested withdrawal in a public hearing.
718
719 C. Effective date. All permits shall take effect on the day the permit is issued or an approval granted.
720
721 D. Reliance on permits during pendency of appeals. Any action(s) taken by a permittee during the
722 pendency of an administrative or quasi-judicial appeal shall be at the sole risk of the permittee.
723
- 724 **CHAPTER 3. SPECIFIC REVIEW PROCEDURES - ADMINISTRATIVE PERMITS AND APPROVALS**
- 725
- 726 **Section 3.3.1. Zoning Verification Letter or Flood Verification Letter.**
- 727
- 728 A. Purpose and Intent.
729
730 1. Zoning Verification Letter. To provide an official determination of the zoning of specific property
731
732 2. Flood Zone Verification Letter. To provide an official determination of the FEMA Flood zone, as
733 shown on the Flood Insurance Rate Map (FIRM) for specific property.
734
735 B. Review Criteria.
736
737 1. The Department will review the applicable City records, maps, and any supporting information
738 and issue a Zoning or Flood Zone verification letter.
739
740 2. Verification letters are valid for the date upon which they are issued and may be subject to
741 change.
742

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

743 **Section 3.3.2. Certificate of Zoning Compliance.**
744

745 A. Purpose and Intent.
746

- 747 1. To determine whether a proposed activity or use is permitted in the zoning district of the property
748 in question, prior to application for a building or site development permit.
749
- 750 2. To determine whether all structures and site development requirements (e.g., building setbacks,
751 parking requirements, etc.) are in compliance with the requirements of this Code prior to
752 application for or review of a building or site development permit.
753
- 754 3. Miscellaneous certificates of zoning compliance. The Community Development Director is authorized
755 to approve, approve with conditions, or deny a certificate of zoning compliance for the following
756 buildings, structures, improvements and installations:
757
- 758 a. Above ground pools that contain water over 24 inches deep;
 - 759 b. Agricultural or farm buildings and non-habitable structures on A, Agriculture zoned sites;
 - 760 c. Canopy carports, canopies, and other fabric covered framework on residential properties;
 - 761 d. Chickee huts constructed by Miccosukee or Seminole Indians;
 - 762 e. Chain-link fences, picket fences, ornamental iron fences, and other fences installed on residential
763 property that are deemed non-wind resistant; provided, however, any pool safety barrier fence
764 and any fence with concrete columns shall require a building permit;
 - 765 f. Decorative reflective pools and fishponds that contain water less than 24 inches deep, that contain
766 less than 250 square feet in area, and contain less than 2,250 gallons in volume;
767
 - 768 g. Decorative garden-type water fountains and other similar hardscape features;
769
 - 770 h. Portable mini-storage unit, subject to the conditions and limitations of contained in Article 5;
771
 - 772 i. Donation bins, recycling bins, mobile medical, and professional units in accordance with Article 5;
773 and
774
 - 775 j. Anchoring, mooring, docking, or storage of a houseboat.
776

777 C. Review Criteria.
778

- 779 1. To determine whether the proposed use is a permitted use, a conditional use, or a special
780 exception under this code.
781
- 782 2. Submittals will be reviewed for compliance with applicable code requirements (e.g., parking,
783 setbacks, conditional use criteria, conditions of approval, etc.)
784

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834

- D. Specific Requirements for Certificates of Zoning Compliance.
 - 1. Posting required. The original certificate of zoning compliance shall be posted in a conspicuous location accessible to the public on the business premises at all times.
 - 2. Revocation. The Community Development Director shall notify the holder of any certificate of zoning compliance, in writing, of the City’s intent to revoke a certificate of zoning compliance for any of the following reasons:
 - a. The City has reasonable grounds to believe that the premises are being used in a manner that is inconsistent with, or contrary to, the provisions of the City Code or any other applicable code or statute.
 - b. In the event of a conviction of any owner, operator, manager, supervisor, or any employee acting at the direction or with the knowledge of the owner, operator, manager, or supervisor, by a court of competent jurisdiction, for the violation of any criminal statute committed in conjunction with the business operation.
 - c. It has been ascertained that the holder of the certificate of zoning compliance falsified information on the application for the certificate of zoning compliance.
 - d. The holder of the certificate of zoning compliance, or the designated manager, operator, or supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer to inspect the premises during normal business hours for the purpose of investigating a complaint which has been filed against the business operation.
- E. Notice of revocation. When a notice of revocation is issued it shall state the following:

THE HOLDER OF THE CERTIFICATE OF ZONING COMPLIANCE SHALL HAVE TEN (10) DAYS FROM THE DATE OF THIS NOTIFICATION TO EITHER BRING THE PREMISES INTO COMPLIANCE OR TO REQUEST A HEARING, IN WRITING, BEFORE THE SPECIAL MAGISTRATE.

IF THE VIOLATION IS NOT CURED OR IF NO WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE CITY OF CAPE CORAL WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTIFICATION BY THE CERTIFICATE HOLDER, THE CERTIFICATE OF ZONING COMPLIANCE SHALL BE CONSIDERED REVOKED.
- F. Stay pending hearing. If the holder of the certificate of zoning compliance requests a hearing before the City Council, the certificate of zoning compliance shall remain in effect during the pendency of the action before the City Council.

Section 3.3.3. Administrative Interpretations and Similar Use Determinations.

- A. Purpose and Intent.
 - 1. To determine whether a proposed use, activity, or site design complies with comprehensive plan.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 835
- 836 2. To interpret specific comprehensive plan policies.
- 837
- 838 3. To interpret whether a proposed use, activity, or site “design” complies with the LDC.
- 839
- 840 4. To determine how specific code requirements may apply to a site or a development proposal
- 841 when application of such requirements is not explicitly set forth in the LDC.
- 842
- 843 5. To interpret the application of conditions of approval.
- 844
- 845 6. To determine whether a proposed use that is not otherwise classified as a permitted, permitted
- 846 with special regulations, conditional, or special exception use in a zoning district or is not
- 847 currently defined in this code may classified as a similar use.
- 848
- 849 B. Review Criteria.
- 850
- 851 1. To determine whether a proposed use activity or site design complies with specific provisions of
- 852 the comprehensive plan and is in keeping with the spirit and intent of the comprehensive plan.
- 853
- 854 2. Consistency with LDC.
- 855
- 856 3. Whether the proposed use or activity complies with DCD policies and procedures.
- 857
- 858 C. Similar Use Determinations.
- 859
- 860 1. Interpretation of Similar Uses. Notwithstanding the requirements of Section 4.4.D., the Director
- 861 may determine that a specific proposed use may be allowed as a permitted, permitted with
- 862 specific regulations, conditional, or special exception use in a specific zoning district(s).
- 863
- 864 2. Similar Use Determination Process.
- 865
- 866 a. A similar use determination may be issued if all of the following findings can be made:
- 867
- 868 i. The characteristics and activities associated with the proposed use are similar to those
- 869 of one or more of the allowed uses listed in the zoning district and will not involve a
- 870 greater level of activity, population density, intensity, traffic generation, parking, dust,
- 871 odor, noise, or similar impacts than the uses listed in the zoning district;
- 872 ii. The proposed use will meet the purpose and intent of the zoning district that applies to
- 873 the location of the use;
- 874 iii. The proposed use is consistent with the goals, objectives, and policies of the
- 875 Comprehensive Plan; and
- 876 iv. The proposed use is not listed a permitted, permitted with specific regulations,
- 877 conditional, or special exception use in another zoning district.
- 878

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 879 b. If a similar use determination is approved, the Director shall establish whether the use shall
880 be a permitted use, permitted with specific regulations, a conditional use, or special
881 exception use.
882
883 c. Upon approval of a similar use determination, the department shall prepare a text
884 amendment to this ordinance to include the use in the appropriate district, along with any
885 appropriate use regulations.
886

Section 3.3.4. Lots Splits and Lot Combines.

- 887
888
889 A. Purpose and Intent.
890
891 1. To provide standards for the split and combination of lots and tax parcels along existing platted
892 lot or parcel lines.
893
894 2. To provide standards for the split and combination of lots or tax parcels that do not require a
895 replat.
896
897 3. To provide for a one time split of property when the lot split or combine does not require approval
898 as a new subdivision plat or replat.
899
900 4. This section shall not apply to unrecorded subdivisions.
901
902 B. General Requirements
903
904 1. All divisions of land in the City shall occur only as a new subdivision plat, a replat, or a lot split.
905 The requirements for subdivisions and replats are set forth in Article 10 of this Code. A lot split
906 that does not meet the requirements of this chapter is deemed a subdivision or a replat and shall
907 be defined and processed as set forth in Article 10.
908
909 2. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no
910 building permit shall be issued unless the lot split has been approved by the City prior to recording
911 in accordance with the requirements of this Article.
912
913 3. Lot combinations do not vacate platted property lines or public utility easements. See Section
914 3.4.5 for Vacations.
915
916 C. Review Criteria and Standards
917
918 1. Whether the lot split or combine creates nonconforming lots and structures.
919
920 2. The lot split or combine shall not cause marine improvements to become nonconforming for
921 setbacks or any other standards regarding such structures.
922
923 3. Ensure that the lot split or combine does not create split zoning on a parcel.
924

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 925 4. The newly configured lots parcels must have at least twenty-five feet (25') of frontage on an
926 existing right-of-way, private road, canal, lake, basin, or river. The minimum lot width of the
927 zoning district must be met when measured at the front or rear setback, where applicable.
928
- 929 5. The newly created parcels shall not result in private utility lines crossing property lines.
930
- 931 6. A survey sketch prepared by a professional surveyor and mapper (PSM) indicating the legal
932 description of the parent parcel, boundaries, dimensions, easements, restrictions or agreements
933 affecting the property, rights-of-way, utilities, location of existing buildings, and other pertinent
934 information including wetland boundaries and location of specimen and historic trees. The survey
935 shall be required to be signed, sealed, dated, and certified to the City.
936
- 937 7. Approval and recording. The Community Development Department shall review the proposed lot
938 split for compliance with the criteria listed in this subsection and Article 10, Subdivisions. Once
939 approved the applicant may proceed with the lot split and record the lot split with the Lee County
940 Property Appraiser. Approval shall expire within one (1) year of issuance if not recorded.
941

Section 3.3.5. Conditional Uses.

- 942
- 943 A. Purpose and Intent.
- 944
- 945 1. To provide standards and criteria for review and approval of specified conditional uses for a
946 specific site.
947
- 948 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
949 minimize, or ameliorate potential impacts of the use on surrounding property and for the
950 protection of the public health, safety, and welfare.
951
- 952
- 953 B. General Requirements. Proposed conditional uses must meet the following requirements:
954
- 955 1. The conditional use standards identified in Article 5 for the specific zoning district use and
956 conditional use in question.
957
- 958 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
959 Article 5. These criteria are specific to each conditional use.
960

Section 3.3.6. Administrative Deviations.

- 961
- 962
- 963 A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor
964 deviations.
965
- 966 B. Scope. Administrative Deviations may be granted for the following:
967
- 968 1. Setback requirements where the setback is not decreased by more than 10% in the applicable
969 zoning district and the encroachment does not extend into an easement, right-of-way, or is an
970 encroachment over the property line for a zero-lot line site.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 971
972 2. Reduction in the overall required parking by 5%.
973
974 3. Landscaping or buffers. Up to a 10 % reduction in the width of required buffers or the required
975 number of trees and shrubs.
976
977 4. Preservation of Vegetation. A deviation from the following regulations to accommodate the
978 preservation of existing native specimen tree(s):
979
980 a. Up to five (5) percent of a required setback; or
981
982 b. Up to five (5) percent of the required parking spaces.
983
984 5. Minor sign deviations as set forth in Article 6 of this code.
985
986 6. Maximum lot coverage of impervious surfaces. Up to a 10% increase in the maximum
987 percentage of lot coverage by impervious surfaces, provided the applicant submits calculations
988 by a Florida Registered Professional Engineer showing that the conveyance system for the
989 contributing drainage basin can accommodate the additional stormwater run-off from greater
990 than 60% impervious. A property owner may also add retention storage on-site to compensate
991 for the additional runoff in situations where they propose to exceed 60% impervious surfaces.
992 All such calculations and drainage plans must be approved by the City Public Works Department
993 prior to issuance of any building permits.
994
995 7. Non-residential design standards in all non-residential and mixed use zoning districts, except for
996 the Neighborhood Commercial district.
997
998 C. Review Criteria. An Administrative Deviation may be approved based on the following criteria:
999
1000 1. The proposed deviation will not result in development that is inconsistent with the intended
1001 character of the applicable zoning district.
1002
1003 2. The normally required code standard(s) is determined to significantly inhibit development of the
1004 site.
1005
1006 3. The deviation will not impede the ability of the project or site to adequately provide for service
1007 areas and other development features for the project.
1008
1009 4. Access for service and emergency vehicles will not be impeded.
1010
1011 5. The proposed deviations will result in a building and site design of equal or superior quality.
1012
1013 D. Effective date of approval. A deviation shall take effect upon approval.
1014
1015 E. If an Administrative Deviation is not approved, the applicant may subsequently apply for a Variance.
1016

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

Section 3.3.7. Site Development and Subdivision Construction Plans.

1017
1018
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049
1050
1051
1052
1053
1054
1055
1056
1057
1058
1059
1060
1061
1062

- A. Applicability. The procedures contained in this Section are applicable to all projects involving land development, including Site Development Plans (SDP) for individual sites, Subdivision Construction Plans (SCP), and sites without structures such as parking lots. Also included are projects which involve the construction of any facility, the expansion of a site through acquisition or lease, alteration or conversion of an existing site or structures, or the change of use of a site or structure where the site or structure does not meet the current standards or criteria of these regulations. The provisions of this Section, where appropriate, are to be applied to on-site and off-site development activity. No land development activity (including land clearing, excavation, or placement of fill) shall commence without obtaining the appropriate approvals and permits required by this code.

- B. Exceptions. The requirements of this section do not apply to:
 - 1. Single-family dwellings; or
 - 2. Duplex dwellings on existing platted lots or parcels.

- C. Plan Preparation. A professional engineer registered in the state of Florida shall design all required improvements such as streets, drainage systems, water and sewage facilities, etc. All plans, drawings, reports, and calculations shall be prepared, signed, and sealed by the appropriate licensed professional, such as engineers, architects, landscape architects, professional surveyors and mappers, or attorneys, registered in the state of Florida. Other specialized consultants, such as environmental consultants, structural engineers, archaeologists, etc., may be required to assist in the preparation of the plans, drawings, reports, or other documents required for application submittals.

- D. Review Process. The application review and approval process follows the administrative review procedure as established in Sections 3.1.4 through 3.1.8 of this Article.

- E. Criteria. The Development Services Manager may approve, approve with conditions, or deny the application, after consideration and review of the following:
 - 1. The development, as proposed, conforms to the comprehensive plan and is consistent with the recommendations of any applicable PUD Master Concept Plan, Preliminary Subdivision Plan, or master plans which have been approved or accepted by the City Council;
 - 2. The proposed development plans, landscape plans, engineering plans, lighting plans, and other required plans conform or will conform with all applicable City codes, the Engineering Design Standards, and design standards as set forth in this code;
 - 3. The development will efficiently use or not unduly burden drainage, water, sewer, solid waste disposal, education, recreation, or other necessary public facilities which have been constructed or planned and budgeted for construction in the area;
 - 4. The development provides sufficient on-site storm water management improvements to meet state water quality and flood protection standards;

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1063
1064
1065
1066
1067
1068
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
5. The development will efficiently use or not unduly burden or affect public transportation facilities, including mass transit, public streets, roads, and highways which have been planned and budgeted for construction in the area, and if the development is or will be accessible by private or public roads, streets, or highways; and
 6. The development provides necessary and adequate vehicular circulation, pedestrian access, ingress and egress, and is configured in a manner to minimize hazards and impacts on adjacent properties and adjacent rights-of-way.
 7. Projects subject to SDP review comprised of 2 or more parcels with unique strap numbers must be combined into a single parcel with one strap number prior to approval of the Site Development Plan.
 8. Projects subject to SDP review required to provide easements shall provide executed copies of staff approved easements to the City prior to approval of the Site Development Plan. The City may require such easements be accepted by City Council and recorded in the public records prior to approval of the Site Development Plan.
 9. Projects that involve a vacation of plat or release of easement may have review or approval withheld until such vacation or release of easement has been approved or recorded, as determined by the Director.
 10. The City may attach any reasonable conditions, safeguards, limitations, or requirements to the approval of a plan which are found necessary and consistent with the review to effectuate the purpose of this section and to carry out the purpose of this Code and the Comprehensive Plan.
- F. Plats. If the development is a subdivision, a plat meeting the requirements of F.S. Ch. 177, Part 1 and the City of Cape Coral Technical Requirements for Plat Approval, which are hereby incorporated by reference, must be submitted prior to approval of Subdivision Construction Plans. The preliminary plat submittal is not required until after the first round of SCP sufficiency comments, though it may be submitted earlier. Refer to Article 10 Subdivisions.
- G. Plan Approval. Upon successfully addressing departmental comments, the Development Services Manger shall approve the application provided all departmental reviewers have accepted the plans or accepted the plans with conditions. Upon receiving plan approval and meeting any applicable conditions, written consruction authorization shall be provided for the applicant to begin those construction activities specifically covered by the plan approval.
- H. Effect of Plan Approval. Site Development Plans and Subdivision Construction Plans are valid for two years from the date of approval. If written construction authorization to construct the improvements has not been obtained prior to the expiration date, the approval expires and becomes null and void. An applicant may apply for a one-year extension for good cause. Such an extension may be granted for any plan approved after the effective date of this ordinance and two years prior to adoption. The extension request must be filed prior to the expiration date of plan approval. If the project is within a PDP, a PUD, or a phased development, the expiration of plan approvals may differ, as established in

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

1109 the original approval. See Phased Projects Section 3.3.7.T for addition information regarding expiration
1110 of permits and plan approvals in phased projects.

1111
1112 I. Engineer’s Opinions of Probable Construction Costs. The City shall review and approve all cost
1113 opinions prior to acceptance of same.

1114
1115 1. Inspection fees applied to development permits are based on a percentage of the estimated
1116 construction cost, of Developer installed improvement, to be turned over to the City for ownership
1117 and maintenance.

1118
1119 2. Opinions of Probable Construction Costs shall be prepared, signed, and sealed by the professional
1120 engineer of record.

1121
1122 3. Cost opinions shall be a unit quantity itemized estimate of the required improvements including:
1123 mobilization, material and other testing, survey stake out, and a 10% contingency. Lump sums are
1124 only to be used for items typically not contracted as unit price items.

1125
1126 4. Subdivisions. Cost opinions for subdivision improvements are to be provided as required in Article
1127 10 of this code. The cost of improvements required to support a subdivision that will be turned
1128 over to the City for ownership and maintenance will be utilized in determining inspection fees for
1129 the subdivision infrastructure permit. Cost opinions for assuring the completion of subdivision
1130 improvements shall include, in addition to the items listed above, the cost of providing electrical
1131 service for lift stations, pump stations, or other components that may require electric service to
1132 function and setting PCP’s. upon completion of construction.

1133
1134 J. Amendments. Plan amendments include changes to projects which impact multiple aspects of the
1135 development, may affect multiple plans, and will require multiple departmental reviews to evaluate
1136 the proposed amendment to the plan(s).

1137
1138 1. The amendment process may not be used to substantively modify the scheme of development as
1139 originally approved under an approved SDP or SCP.

1140
1141 2. Proposed amendments that impact a PDP or PUD approval criteria or conditions must receive
1142 approval of an amendment to the PDP or PUD prior to receiving SDP or SCP approval.

1143
1144 3. Amendments may apply to projects that are currently under review, projects under construction
1145 or phased projects that have yet to be completed.

1146
1147 4. The applicant shall submit a letter of intent, the applicable fee, the amended plan(s) and any other
1148 documentation required to review the proposed amendment.

1149
1150 5. The Development Services Manger shall determine if the proposed changes to the plan can be
1151 processed as an amendment, qualify for a lesser review process or requires a greater review
1152 process.

1153

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1154 K. Revisions. Revisions to an approved plan while under construction which do not increase the gross
1155 square footage of a building or adversely impact compliance with the approved plan, and would not
1156 alter the required infrastructure and improvements necessary to serve the project, may be approved
1157 in writing by the Development Services Manager provided such revisions fully conform to all existing
1158 City regulations. The Development Services Manager will determine if the revision requires an
1159 approved plan revision or if the revision can be shown on the Record Drawings.
1160
- 1161 L. Limited Review. A Limited SDP Review for a new improvement or alteration of existing improvements
1162 to an approved project may be requested. Limited Reviews are for proposed improvements which do
1163 not substantially affect projects minimum technical requirements of this Code or do not require a
1164 review by three or more of the following review disciplines: zoning, planning transportation, drainage,
1165 fire, utilities, and landscaping. Changes that exceed the criteria for the scope of a Limited SDP review
1166 as specified in this subsection or, as determined by the Development Services Manager, may be
1167 processed as an amendment or a full SDP review in accordance with this section. Applications
1168 reviewed under this process will be reviewed for compliance with the following general criteria:
1169
- 1170 1. The development must have no significant adverse effect upon surrounding land uses;
 - 1171
 - 1172 2. The development must have no significant adverse effect upon public facilities in the area;
 - 1173
 - 1174 3. The development must not adversely affect the environmental quality of the area; and
 - 1175
 - 1176 4. The development proposal must be consistent with the City Comprehensive Plan.
1177
- 1178 M. Site Improvement Permit for minor changes. A permit review of minor changes to an existing
1179 development which does not require a separate Site Development Plan review. This approval process
1180 may be utilized when the existing project is in full compliance with an approved plan or the site
1181 proposed for a minor change meets the following criteria: Any changes to an approved Site
1182 Development Plan or project will not increase density, parking requirements, water or sewer usage,
1183 or enlarge a structure for human occupancy or assembly by more than 5% of the existing approved
1184 plan. For sites lawfully developed without Site Plan review, the 5% exception may be applied if the
1185 applicant submits all of the information required under SDP review. Determination of the 5% shall be
1186 cumulative based on the originally approved development.
1187
- 1188 1. All infrastructure exists on the site to service the site;
 - 1189
 - 1190 2. Engineering is not required for the proposed change;
 - 1191
 - 1192 3. Parking meets all parking code requirements;
 - 1193
 - 1194 4. The improvement does not significantly alter the traffic circulation system or significantly change
1195 the use of property;
 - 1196
 - 1197 5. The existing project is in compliance with an approved landscape plan or the code in effect at the
1198 time of the original construction; and
1199

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

1200 6. The existing project meets all storm water management requirements.

1201

1202 **Section 3.3.8 Site Development Permits and Construction Authorization.**

1203

1204 A. The Development Services Manager shall be authorized to approve, approve with conditions, or deny
1205 a site development permit application and construction authorization for the following improvements
1206 and installations:

1207

1208 1. Site Development Plan – Construction Authorization;

1209

1210 2. Subdivision Infrastructure – Construction Authorization;

1211

1212 3. Site Improvements;

1213

1214 4. Landscaping;

1215

1216 5. Full Demolition;

1217

1218 6. Parking lot seal coating or re-striping of existing parking lots;

1219

1220 7. Underground Fire Lines;

1221

1222 8. Utility Service Relocations;

1223

1224 9. Land Clearing and Fill;

1225

1226 10. Relocation of Residential Storm Drains;

1227

1228 11. Backflow Prevention; and

1229

1230 12. Spot Dredging.

1231

1232 B. Review. The Development Services Manger shall act upon applications for site development permits
1233 within 10 calendar days from the date of their submission.

1234

1235 C. Approvals.

1236

1237 1. All approvals will be issued in compliance with the approved plans, if applicable, and may contain
1238 relevant conditions of the associated plan approval.

1239

1240 2. If the proposed construction or alteration conforms with all applicable provisions of this Code and
1241 all other applicable law, the Development Services Manager shall issue a development permit or
1242 construction authorization for such construction or alteration.

1243

1244 3. If the proposed construction or alteration fails to conform, he shall refuse to approve and shall
1245 deliver written notice to the applicant stating the reason for the refusal.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1246
- 1247 D. Effect of Approval, Expiration, and Extensions. A site development permit or construction
- 1248 authorization shall expire six months from the date of issuance unless the permitted improvements
- 1249 are under construction and have passed a required inspection within the 90 days prior to the
- 1250 expiration of the approval. Erosion control inspections will not extend the expiration date. An
- 1251 approval may be extended for an additional 90 days. Failure to either pass a required inspection or
- 1252 request an extension within the 90-day period provided will result in expiration of the approval.
- 1253 Thereafter, a new approval will be required to continue construction.
- 1254
- 1255 E. Commencement of Construction. After approval of the plans, the applicant may construct the required
- 1256 improvements, subject to obtaining all required permits and written construction authorization. The
- 1257 Development Services Manager shall be notified in advance of the date of commencement of such
- 1258 construction and the applicant shall schedule a preconstruction meeting where representatives of the
- 1259 developer, the City, contractors, and franchise utilities shall discuss the construction of the planned
- 1260 improvements. No work shall take place prior to the preconstruction meeting.
- 1261
- 1262 F. Inspections and Certification of Compliance. The developer shall retain the engineer of record or another
- 1263 professional engineer registered in the state of Florida and other professionals, if needed, to inspect
- 1264 the construction progress and certify the construction of all required improvements such as streets,
- 1265 parking areas, drainage structures, drainage systems, water and sewer facilities, landscaping and
- 1266 buffers, and all other improvements, for substantial compliance with the approved plans.
- 1267
- 1268 G. Right to enter. The Development Services Manager or duly authorized representative shall have the
- 1269 right to enter upon the property for the purpose of inspecting the quality of materials and
- 1270 workmanship and reviewing the construction of required improvements during the progress of such
- 1271 construction.
- 1272
- 1273 H. Periodic inspection required; correction of deficiencies. The Development Services Manager or his
- 1274 designated engineering and utility inspectors shall periodically inspect all phases of construction of
- 1275 streets, drainage improvements and utility installations including those improvements which are not
- 1276 to be dedicated to the public but are subject to this chapter. The Development Services Manager will
- 1277 immediately call to the attention of the developer, or the developer's engineer, any nonconforming
- 1278 work or deficiencies in the work. Correction of deficiencies in the work is the responsibility of the
- 1279 developer. It is the responsibility of the developer's contractor to schedule the appropriate
- 1280 inspections as identified on the approvals or permits.
- 1281
- 1282 I. Stop work orders. The Development Services Manager shall have authority to stop work if
- 1283 improvements not authorized in the approved plan are being installed or upon failure of the applicant
- 1284 or his engineer to coordinate the construction of the required improvements so as to minimize
- 1285 activities which may have adverse impacts on surrounding property.
- 1286
- 1287 1. Authority. Whenever the Development Services Manger finds any work regulated by this code being
- 1288 performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the
- 1289 Development Services Manager is authorized to issue a stop work order. In addition, the Development
- 1290 Services Manager is authorized to issue a stop work order for the failure to contain or remove
- 1291 construction refuse as required in the Code of Ordinances, Chapter 9, Health and Sanitation.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1292
1293
1294
1295
1296
1297
1298
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1330
1331
1332
1333
1334
1335
1336
1337
2. Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, all work on the construction site shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
 3. Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.
- J. Final inspections by Engineer of Record. Upon completion of all improvements required under the approved plans or phase thereof, an inspection must be performed by the developer's engineer and the landscape architect. Upon finding the development to be completed and in substantial compliance with the approved plans, the engineer and landscape architect must each submit a letter of substantial compliance along with record drawings to the City. No final inspection will be performed by the City until the letter(s) of substantial compliance and record drawings have been accepted. The letter(s) of substantial compliance may include a description of minor changes as shown on the record drawings. Only minor changes which do not substantially affect the technical requirements of the approved plans and this code are to be indicated on the Record Drawings.
1. Letters of substantial compliance shall be digitally signed and sealed in PDF format. Substantial compliance requires that the development, as determined by an on-site inspection by a professional engineer, is completed to all the specifications of the approved plans and that any deviation between the approved plans and actual as-built construction is so inconsequential that, on the basis of accepted engineering practices, it is not significant enough to be shown on the Record Drawings.
 2. The respective professionals shall prepare and submit to the City digitally signed and sealed Record Drawings, in PDF format, of the completed project improvements. Record drawings shall be provided for the complete civil engineering and landscape features of the project.
 3. Record drawings shall be the complete set of approved plans which show strikethrough and markup of the as-built information obtained from direct field observation, survey, or contractor "as-built" drawings. Topographic surveys will not be accepted.
- K. Final Inspections by the City. Upon acceptance of the letter of substantial compliance and record drawings, the Development Services Manager will perform final inspections.
1. If the final inspections reveal that the development or phase is in substantial compliance with the approved plans, a certificate of completion will be issued. A certificate of completion is required prior to the issuance of a certificate of occupancy from the building division for any buildings associated with the project.
 2. If the final inspections reveal that the development or phase thereof is not in substantial compliance with the approved plans, a list of all deviations will be forwarded to the engineer. All deviations must be corrected prior to reinspection. A new letter of substantial compliance may

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

1338 be required prior to reinspection. Reinspection fees will be charged for each reinspection in
1339 accordance with the adopted fee schedule and must be paid prior to receiving a Certificate of
1340 Completion.

1341
1342 3. Projects involving permits or approvals issues by County, State, or Federal agencies shall provide
1343 evidence that the respective agencies have approved, accepted, or certified that the improvements or
1344 work subject to their review have been satisfactorily completed and are ready for use or to be placed
1345 into service.

1346
1347 L. Turnover of developer installed improvements. Projects that include construction of improvements that will
1348 be turned over to the City for ownership and maintenance must also provide a complete package of
1349 turnover documents, acceptable to the City, as required by the Director.

1350
1351 1. Improvements shall be conveyed to the City by bill of sale in a form satisfactory to the City Attorney,
1352 together with such other evidence as may be required by the City that the improvements proposed
1353 to be transferred to the City are free of all liens and encumbrances.

1354
1355 2. Turnover documents must be provided to the Development Services Manager with the submittal of
1356 the Certification of Substantial Completion and Record Drawings.

1357
1358 3. Improvements constructed pursuant to this Section may not be placed into service or otherwise
1359 utilized until the required certificate of compliance has been issued.

1360
1361 M. Ongoing compliance. A development project must remain in compliance with the approved SDP or
1362 SCP, including all conditions, after a letter of substantial compliance, certificate of compliance, or
1363 certificate of occupancy has been issued by the City. This requirement applies to any property covered
1364 by the SDP or SCP, whether or not it continues to be owned by the original developer. For purposes
1365 of determining compliance, the SDP or SCP as approved and constructed, or subsequently amended
1366 in accordance with this section, will control. The standards applicable to review for compliance
1367 purposes will be based upon the regulations in effect at the time the plan approval, any applicable
1368 amendment, or revision was constructed.

1369
1370 N. Violation of an approved SDP or SCP.

1371
1372 1. Where construction is commenced for improvements not authorized by a SDP or SCP, the
1373 applicant will be issued a stop work order until an application to amend or correct the respective
1374 plan approval has been submitted and approved.

1375
1376 2. An application to amend or correct a SDP or SCP after construction has commenced in violation
1377 of the original approval will be charged an application fee equal to four times the original
1378 application base fee.

1379
1380 3. Submittal of the application and payment of the application fee does not protect the applicant
1381 from the remedies described in Article 1, Section 1-6 of this Code. Any of these forms of relief can
1382 be sought or maintained by the City until the problem is abated.

1383

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1384 4. Failure to maintain a development in compliance with a SDP or SCP issued and approved by a
1385 certificate of completion constitutes a violation of this Code.
1386
- 1387 O. Phased Projects. Development projects may be split into phases to accommodate the development
1388 plans and schedules of the developer.
1389
- 1390 1. Site Development Plans. The phasing plan shall show all required facilities, infrastructure, and
1391 buildings, if applicable, on the entire parcel that is covered by the SDP approval.
1392
- 1393 a. If more than one building is covered by the SDP and the developer does not intend to
1394 receive certificates of occupancy (CO) for all the buildings at one time, a separate Site
1395 Development Permit or written construction authorization will be required for each build
1396 or buildings to receive a CO apart from the other buildings.
1397
- 1398 b. A certificate of compliance for streets, utilities, parking areas, and drainage serving each
1399 building(s) will be required from the engineer of record prior to the City performing final
1400 inspection and closing that phase of the project and prior to receiving a certificate of
1401 occupancy from the Building Division.
1402
- 1403 c. If a final inspection is requested for only a portion of a development, that portion must be
1404 an approved phase of the development in accordance with the approved SDP.
1405
- 1406 2. Subdivision Construction Plans. Phasing of the SCP shall be in accordance with the PSP
1407 approval as established in Article 10.
1408

Section 3.3.9 Temporary Use Permits.

- 1409
- 1410
- 1411 A. Purpose and Intent. To authorize the temporary uses and activities which do not exceed specific
1412 time frames.
1413
- 1414 B. General Standards.
1415
- 1416 1. Only those uses that are listed below or otherwise approved as temporary uses in Article 5, may
1417 be allowed as temporary uses.
1418
- 1419 2. Each temporary use shall be evaluated by the Community Development Department for
1420 compliance with the standards and conditions set forth in the LDC and the applicable zoning
1421 district. Special event uses are evaluated by the Parks and Recreation Department.
1422
- 1423 3. A temporary use permit shall take effect at the time of permit issuance and is in effect only for
1424 the specific time-period established in the temporary use approval.
1425
- 1426 C. Review Criteria. When considering an application for a temporary use, the Community Development
1427 Director or Parks and Recreation Director, as appropriate, shall consider whether and the extent to
1428 which:
1429

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1430 1. The temporary use is consistent with the purposes, goals, objectives, and policies of the
1431 Comprehensive Plan;
1432
- 1433 2. The temporary use complies with all relevant and appropriate portions of Article 5, Development
1434 Standards;
1435
- 1436 3. The temporary use is not incompatible with the character of the immediate surrounding area;
1437
- 1438 4. The design, duration, and hours of operation of the temporary use minimizes adverse impacts on
1439 nearby properties, including visual and noise impacts;
1440
- 1441 5. Whether the use complies with all relevant standards related to health, sanitation, and
1442 transportation;
1443
- 1444 6. The temporary use complies with all other applicable provisions of this Code;
1445
- 1446 7. Any permanent structures used in conjunction with a temporary use must comply with the
1447 requirement for adequate public facilities referenced in the comprehensive plan; and
1448
- 1449 8. Whether any public safety detail will be necessary.
1450

1451 D. Allowable temporary uses: The following temporary use shall require a permit:
1452

- 1453 1. Firework, pumpkin, and Christmas tree sales.
1454 2. Outdoor display of merchandise.
1455 3. Garage sales.
1456 4. Temporary construction or field office.
1457 5. Construction staging areas for essential public facilities and post disaster debris staging
1458 6. Temporary sales office.
1459 7. Temporary Storage Containers.
1460 8. Temporary Habitable Structures.
1461 9. Temporary Off-Site Vehicle Sales.
1462 10. Tents for other than Special Events.
1463 11. Other events not named.
1464 12. Temporary Seawall Staging Areas.
1465

1466 **Section 3.3.10 Special Events.**
1467

- 1468 A. Special events in the city are administered and permitted by the Parks and Recreation Department.
1469
- 1470 B. Application and general requirements. Special events permits may be issued provided the following
1471 requirements are met:
1472
- 1473 1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to
1474 the opening of the event. The application shall include the name and address of each applicant
1475 sponsoring the special event, the dates, times, and specific details of the event, and a list of all

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

1476 special events that the applicant has sponsored in the City for the past three years. Exceptions
1477 to the 60-day requirement may be approved by the Director of Parks and Recreation based on
1478 the size, duration, or nature of the event. The city reserves the right to verify the applicant's
1479 previous history of sponsoring special events with other jurisdictions.

1480
1481 1. A refundable clean-up deposit is submitted. The property shall be cleaned within 48 hours of
1482 the close of the event and returned to substantially the same condition that existed just prior
1483 to the start of the event or better. The clean-up deposit will be refunded upon satisfactory
1484 inspection of the property by the city after the event closes. If the property is not returned to
1485 substantially the same condition that existed just prior to the start of the event, or better, the
1486 city, in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder,
1487 if any, to the applicant.

1488
1489 2. A site plan of the event venue and surrounding property shall be submitted. The site plan
1490 shall show the layout of all activities, such as stages, equipment, including location(s) where
1491 sound amplification equipment, if any, will be allowed, amusement rides, animal displays,
1492 etc., and all support facilities including egress and ingress locations, parking, refuse
1493 collection, sanitation, and lighting. The site plan shall also identify the presence of any
1494 environmentally sensitive issues including eagles, burrowing owls, tortoises, osprey, etc.

1495
1496 3. If the applicant does not own the property for the special event or associated parking, a signed
1497 and notarized letter of permission from the property owner is required, along with a release
1498 and indemnification agreement in a form accepted by the City Attorney. If the applicant intends
1499 to transport patrons to the special event from a specified parking area, complete details
1500 including all traffic routes to be utilized shall be submitted to the city for approval.

1501
1502 4. Insurance requirements.

1503
1504 a. Certificates of insurance for all properties used for the event must be submitted to the
1505 Parks and Recreation Department for approval by the City Risk Manager no less than 21
1506 days prior to the event.

1507
1508 b. Applicants and vendors shall have commercial and general liability insurance, including
1509 coverage for independent contractors, premises and operations, contractual liability,
1510 products and completed operations, personal injury, and property damage. Insurance
1511 coverage shall be no less than \$1,000,000 combined single limit for bodily injury and
1512 property damage and no less than \$1,000,000 for liquor liability, if applicable.

1513
1514 c. Vendors shall also have motor vehicle liability insurance of no less than \$1,000,000 per
1515 vehicle and worker's compensation coverage as required by statute.

1516
1517 d. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall
1518 show the City of Cape Coral as the certificate holder.

1519
1520 5. All applicable city ordinances and building, fire, and electrical codes shall be met.

1521

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1522 6. Most events shall require off-duty City of Cape Coral police officers to be hired for the
1523 duration of any event to include one hour before opening and one hour after closing. The
1524 Police Chief shall determine the exact number of officers required, if any, based upon the
1525 size and nature of the event and past experience with similar events. The cost for the off-
1526 duty detail shall be set using the present rate charged by the Police Department which shall
1527 be paid by the applicant prior to the issuance of the permit. All applicants must comply with
1528 any rules or regulations imposed by the Police Chief which are consistent with this section.
1529
- 1530 7. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired
1531 for the duration of any event to include one hour before opening and one hour after closing.
1532 The Fire Chief shall determine the exact number of firefighters or paramedics required, if
1533 any, based upon the size and nature of the event and past experience with similar events.
1534 The cost for the off-duty detail shall be set using the present rate charged by the Fire
1535 Department which shall be paid by the applicant prior to the issuance of the permit. All
1536 applicants must comply with any rules or regulations imposed by the Fire Chief which are
1537 consistent with this section. In the event the Fire Chief determines that special equipment
1538 such as all-terrain vehicles, trailers, fireboats, fire and rescue assets, and appropriate
1539 personnel for the special equipment are necessary, the city reserves the right to request
1540 reimbursement for all or part of the discretionary cost from the applicant.
1541
- 1542 8. No open flame or other device emitting flames or fire shall be used in any tent or air
1543 supported structure while open to the public.
1544
- 1545 9. All equipment including tents, stages, amusement rides, utility areas, ingress and egress
1546 points, and cooking areas shall be inspected and approved by city fire inspectors or state
1547 officials, if applicable, prior to the opening of the event. If applicable, inspection certificates
1548 and annual permits as required by the State of Florida, shall be submitted to the city prior to
1549 the opening of the event. All equipment or amusement rides, other than those which are
1550 patron-operated or controlled, shall only be operated by persons over 18 years of age who
1551 are employed by the applicant and who are thoroughly familiar with the operation of said
1552 equipment or amusement rides. The operator of such equipment or amusement rides shall
1553 be in the immediate vicinity of the operating controls at all times during the operation of the
1554 equipment or amusement rides and no unauthorized person shall be permitted to handle the
1555 controls during operation.
1556
- 1557 10. Any person, entity, group, or organization engaging in speech, expression, or assembly, which
1558 is protected by the First Amendment of the United States Constitution or by Article I, Section
1559 4 of the State of Florida Constitution, may do so during a Special Event, subject to the
1560 following reasonable time, place, and manner regulations.
1561
- 1562 11. If sound amplifying equipment is present on public or private property at the special event,
1563 the Director of Parks and Recreation shall establish one or more designated areas where such
1564 amplified sound may occur. If amplified sound is not permitted for the special event, all
1565 amplified sound shall be prohibited; however, nothing in this regulation shall serve to
1566 prohibit protected speech, expression, or assembly utilizing non-amplified, reasonable
1567 sound. For purposes of this paragraph, amplified sound caused by the police or fire

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

1568 departments of the city in the performance of their official duties, and public background
1569 sound, shall not be considered amplified sound so as to allow others to use sound amplifying
1570 equipment.
1571

1572 12. The Director of Parks and Recreation shall be responsible for the provisions of this section,
1573 department rules and regulations, and city ordinances. No action shall be taken to enforce
1574 this section until a warning to cease such a violation has been issued by a person authorized
1575 to enforce this section and the violator continues such violation.
1576

1577 13. No person shall be permitted into, or remain on, private property covered by any special
1578 event permit for an event open to the public without the consent of the permittee.
1579

1580 14. If a special event is open to the public only upon a payment of an entry fee or charge, no
1581 person shall be permitted into the special event without first paying the entry fee or charge.
1582

1583 15. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity,
1584 group, or organization hosting a permitted special event.
1585

1586 16. All requirements of this section are subject to modification or waiver by the City Council
1587 based upon the size, duration, nature of the event, and the city's involvement.
1588

1589 C. Review Criteria. In determining whether a permit shall be issued, the Director of Parks and
1590 Recreation shall consider certain criteria including:
1591

1592 1. The size, duration, and nature of the event;
1593

1594 2. Previous history of organizing one or more events within the City and whether any events
1595 created hazards or safety situations;
1596

1597 3. Other events previously scheduled during the same time period within the city; and
1598

1599 4. If the applicant has been adjudicated guilty of violating any provision of this section. Any
1600 adjudication may constitute grounds for denial of future special events permits by the city.
1601

1602 D. Permit Decision.
1603

1604 1. The Director of Parks and Recreation may, in his or her sole discretion, deny the applicant a
1605 permit for the special event within the City of Cape Coral.
1606

1607 2. The Director of Parks and Recreation shall have the authority to designate one or more areas
1608 during any Special Event for specific activities and to prohibit other activities within designated
1609 areas. Designated areas shall be posted when such posting is appropriate.
1610

1611 3. Order to cease operation. If the Director of Parks and Recreation Department determines
1612 that proper provisions have not been made for the protection of the public health, safety, or

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

1613 welfare he or she may issue an order to cease operating said special event until such time as
1614 satisfactory corrective action has been taken.

1615
1616 E. Violations and Penalties.

1617
1618 1. Intentional underestimation of the expected number of persons attending the event or
1619 failure to comply with any provision of this section, shall constitute a violation of this section,
1620 and shall subject the applicant to the code enforcement provisions and procedures provided
1621 in §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances including any and all
1622 provisions that allow the city to seek relief as otherwise provided by law.

1623
1624 2. Penalty. A violation of this section shall be punishable by a minimum fine of \$100 and a
1625 maximum fine of \$500, in addition to the taxation of any court costs, or imprisonment for a
1626 term not to exceed 60 days, or by both a fine and imprisonment.

1627
1628 **Section 3.3.11. Outdoor Dining Permit**

1629
1630 A. Purpose and Intent.

- 1631
1632 1. To provide standards for outdoor dining on public or private property.
1633
1634 2. To ensure that outdoor dining on public property does not interfere with pedestrian access,
1635 ingress or egress to buildings, or sight visibility triangles.

1636
1637 B. General Requirements

- 1638
1639 1. All standards for outdoor dining are in Article 5, Section 5.1.16.
1640
1641 2. An outdoor dining permit is required.
1642
1643 3. A site plan indicating location of outdoor dining area including seating, furniture, heaters, or
1644 similar equipment or improvements.

1645
1646 C. Review Criteria and Standards

- 1647
1648 1. The outdoor dining area shall not interfere with pedestrian access.
1649
1650 2. The outdoor dining area shall allow for ingress or egress to a building.
1651
1652 3. Does not interfere with public safety.
1653
1654 4. The outdoor dining area shall not be placed in any required off-street parking spaces.

1655
1656 **Section 3.3.12. Preliminary Subdivision Plans**

1657
1658 See Article 10.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

1659
1660
1661
1662
1663
1664
1665
1666
1667
1668
1669
1670
1671
1672
1673
1674
1675
1676
1677
1678
1679
1680
1681
1682
1683
1684
1685
1686
1687
1688
1689
1690
1691
1692
1693
1694
1695
1696
1697
1698
1699
1700
1701
1702
1703
1704

CHAPTER 4. SPECIFIC REVIEW PROCEDURES - QUASI-JUDICIAL PERMITS AND APPROVALS

Section 3.4.1 General Requirements

Effective Date. All quasi-judicial permits where the Hearing Examiner issues the final decision shall take effect on the date the Hearing Examiner Order for the application in question is recorded in the public record.

Section 3.4.2 Deviations

- A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor deviations.
- B. Scope. Deviations may be granted for the following:
 - 1. Non-residential design standards in Article 5, Chapter 8.
 - 2. Landscaping deviations in Article 5, Chapter 5, which do not qualify for an administrative deviation.
 - 3. Design standards in the NC district.
- C. Review Criteria. A Deviation may be approved based on the following criteria:
 - 1. The proposed deviation will not result in development that is inconsistent with the intended character of the applicable zoning district.
 - 2. The normally required code standard(s) is determined to significantly inhibit development of the site.
 - 3. The deviation will not impede the ability of the project or site to adequately provide for service areas and other development features for the project.
 - 4. Access for service and emergency vehicles will not be impeded.
 - 5. The proposed deviations will result in a building and site design of equal or superior quality.
- D. Effective date of approval. A deviation shall take effect upon approval by the Hearing Examiner.

Section 3.4.3 Variances.

- A. General.
 - 1. A variance may be sought from any bulk, area, or dimensional standard contained in Article 4, Zoning Districts or Article 5, Development Standards of the LDC.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1705
1706 2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no
1707 permitted use of land, structures, or buildings in other districts, shall be considered grounds for
1708 the issuance of a variance.
1709
1710 B. Approval Criteria. In order to authorize a variance, the Hearing Examiner must find that the application
1711 meets all of following criteria:
1712
1713 1. That special conditions and circumstances exist which are peculiar to the land, structure, or
1714 building involved and which are not applicable to other lands, structures, or buildings in the same
1715 zoning district;
1716
1717 2. That the special conditions and circumstances do not result from the actions of the applicant;
1718
1719 3. That granting the variance requested will not confer on the applicant any special privilege that is
1720 denied by these regulations to other lands, buildings, or structures in the same zoning district;
1721
1722 4. That literal interpretation of the provisions of the regulations would deprive the applicant of rights
1723 commonly enjoyed by other properties in the same zoning district under the terms of these
1724 regulations and would cause or impart unnecessary and undue hardship on the applicant;
1725
1726 5. That the variance granted is the minimum variance that will make possible the reasonable use of
1727 the land, building, or structure;
1728
1729 6. That granting the variance will not change the use to one that is not permitted in the zoning
1730 district or different from other land in the same district; and
1731
1732 7. That the granting of the variance will be in harmony with the general intent and purpose of these
1733 regulations, and that the variance will not be injurious to the area involved or otherwise
1734 detrimental to the public welfare.
1735
1736 C. Effect of Approval. An approved variance shall run with the land.
1737

Section 3.4.4. Special Exceptions.

The intent of this section is to permit Special Exception uses which are essential to, or would promote the public health, safety, or welfare in one or more zoning districts, but which might impair the integrity and character of the zoning district or in adjoining districts, such that restrictions or conditions on location, size, extent, and character of performance may be imposed in addition to those standards already imposed in the Land Development Code.

- 1746 A. General.
1747
1748 1. No variances shall be granted that would reduce or eliminate minimum requirements for special
1749 exception uses.
1750

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1751 2. The Hearing Examiner may prescribe appropriate conditions and safeguards in conformity with
1752 the special exception use requirements. All such conditions shall be part of the terms under
1753 which the special exception is granted.
1754
- 1755 3. A special exception shall be deemed abandoned if:
1756
1757 a. The use is discontinued for more than 1 year; or
1758
1759 b. The special exception has not obtained a certificate of zoning compliance.
1760
- 1761 4. The proposed use shall comply with all requirements of the underlying zoning district(s), the
1762 Land Development Code, and all other applicable law.
1763
- 1764 B. Standards and Criteria. The following standards shall apply to all applications for special exception
1765 uses.
1766
- 1767 1. Consistency with the Comprehensive Plan?
1768
- 1769 2. The site must be suitable for the type of special exception use proposed by virtue of its location,
1770 shape, topography, and the nature of surrounding development.
1771
- 1772 3. All buildings shall be setback an adequate distance from property lines and rights-of-way.
1773 Greater building setbacks may be required when deemed necessary to protect surrounding
1774 properties.
1775
- 1776 4. Potential adverse impact to surrounding property must be mitigated to the maximum extent
1777 possible.
1778

Section 3.4.5. Vacations of Plats, Easements, and Rights-of-way.

1779 The purpose and intent of this section is to provide procedures for City Council to vacate rights-of-way,
1780 easements, and plats pursuant to authority granted under Florida law. The City Council may adopt
1781 ordinances vacating plats in whole or in part of subdivisions within the corporate limits of the city,
1782 returning the property covered by such plats either in whole or in part into acreage for the purpose of
1783 taxation, or vacating public rights-of-way, public easements, or other property in response to
1784 applications filed from adjoining property owners.
1785
1786

1787
1788 A. General.
1789

- 1790 1. The city may retain an easement for utilities or drainage over any vacated right-of-way and that
1791 no use may be made of vacated right-of-way which will be inconsistent with or interfere with
1792 the retained easement. The party seeking vacation of a plat, city street, alley, canal, other right-
1793 of-way, public easement, or other property must show or submit the following:
1794
- 1795 a. Petitioner has color of title to the tract or parcel of land covered by the plat or portion of
1796 the plat of which vacation is sought, unless the petitioner is the City of Cape Coral;

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1797
1798 b. Letter of approval from Lee County Electric Cooperative, Inc.;
- 1799
1800 c. Letter of approval from affected telephone companies;
- 1801
1802 d. Letter of approval from affected cable companies; and
- 1803
1804 e. Letter of approval from any other affected utility companies (e.g., water, sewer);
- 1805
1806 2. Applicants requesting to vacate rights-of-way or easements shall provide a recent boundary
1807 survey or survey sketch of the property prepared by a registered surveyor showing the area to
1808 be vacated and provide a complete legal description(s). The survey or sketch shall show all
1809 pavement and all utility and drainage facilities, including water, sewer, cable lines, utility poles,
1810 swales, ditches, manholes, and catch basins. Separate drawings and legal descriptions are
1811 required for each vacation area when right-of-way and easement configurations differ.
- 1812
1813 B. Standards and Criteria. Applications for vacations shall be reviewed in accordance with the
1814 following criteria:
- 1815
1816 1. Whether the plat, easements, or rights-of-way are required by the City for any future
1817 transportation, access, water management, or public utility purposes.
- 1818
1819 2. Whether any required easements are necessary to accommodate the vacation of any plat,
1820 easement, or right-of-way.
- 1821
1822 3. If alternate routes are required or available that do not cause adverse impacts to surrounding
1823 areas.
- 1824
1825 4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit
1826 an area.
- 1827
1828 5. Whether local utility providers have given consent to the vacation of the plat, easements, or
1829 rights-of-way. The local utility providers may require additional easements or relocation of
1830 existing utilities facilities to complete the vacation.
- 1831
1832 C. Additional Procedures and Noticing Requirements. In addition to the standard notice requirements
1833 required by this Code, the following additional notice requirements apply for vacations:
- 1834
1835 1. Specific notice requirements for vacations. Public hearing notices to vacate a plat or portion
1836 thereof shall be published once a week for two consecutive weeks, the first publication being
1837 not less than two weeks prior to the date of public hearing on the petition.
- 1838
1839 2. If the parcel to be vacated includes an alley, all property owners serviced by the alley and all
1840 property owners serviced by a connecting alley shall be noticed.
- 1841

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1842 3. Adoption and recording of resolution and ordinance. After public hearing, the City Council may
1843 approve an application for a vacation if it determines there is no reasonably foreseeable public
1844 use for the vacated area. Approval of a vacation shall be by resolution or ordinance. The City
1845 may retain easements for utilities or drainage in and upon the vacated area. Upon adoption of
1846 the resolution vacating the plat or portion thereof, the City Clerk shall furnish to the petitioner
1847 a certified copy thereof and the petitioner shall cause the same to be recorded in the public
1848 records of the county and shall return a copy, showing the recording information, to the
1849 Department of Community Development.
1850
- 1851 4. Effect. The adoption and recording of a vacation shall have the effect of vacating all streets and
1852 alleys and city-owned easements shown on the portion of the plat so vacated, unless the
1853 resolution or ordinance specifically reserved unto the city such city-owned easements or such
1854 streets or alleys. If public rights-of-way are vacated, the resolution or ordinance shall specify
1855 whether or not easements are reserved therein for utilities and drainage. The resolution or
1856 ordinance shall not have the effect of vacating any public canal shown on the portion of the plat
1857 vacated, unless the resolution or ordinance specifically so provides.
1858
- 1859 5. Petitioner's responsibility. The city, City Council, and all officers, employees, and agents thereof
1860 shall not assume any responsibility or liability for any matters and things to be done or
1861 completed by the petitioner pursuant to the provisions hereof. It is recognized that this
1862 procedure may affect substantial interests in real property and other proprietary rights, and the
1863 petitioner shall assume full and complete responsibility for compliance with the requirements
1864 of law and these procedures in connection with or arising out of any vacation proceedings
1865 instituted by the petitioner.
1866

Section 3.4.6. Rezones

- 1867
- 1868
- 1869 A. Manner of Initiation. Applications for a change in zoning may be initiated in the following manner:
1870
- 1871 1. The City Council upon its own motion;
1872
- 1873 2. The Planning and Zoning Commission upon its own motion;
1874
- 1875 3. The property owner(s) of at least fifty-one percent of the land in the proposed rezone area;
1876
- 1877 4. The City Manager for a City initiated rezone; or
1878
- 1879 5. The Community Development Department, following approval of a similar use determination.
1880
- 1881 B. Review Criteria. An application for a rezone shall be reviewed in accordance with the following
1882 criteria:
1883
- 1884 1. Whether the proposed zoning district proposed is consistent with the City Comprehensive Plan;
1885
- 1886 2. Whether the full range of uses allowed in the proposed zoning district will be compatible with
1887 existing uses in the area under consideration;

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1888
1889
1890
1891
1892
1893
1894
1895
1896
1897
1898
1899
1900
1901
1902
1903
1904
1905
1906
1907
1908
1909
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
1922
1923
1924
1925
1926
1927
1928
1929
1930
1931
1932
1933
3. Whether the range of uses allowed in the proposed zoning district will be compatible with existing and potential uses in the area under consideration;
 4. Whether the proposed zoning district will serve a community need or broader public purpose;
 5. The characteristics of the proposed rezone area are suitable for the uses permitted in the proposed zoning district; and
 6. Whether a zoning district other than the district requested will create fewer potential adverse impacts to existing uses in the surrounding area.
- C. Effective date of approval. A rezone shall take effect upon City Council adoption of the ordinance approving the rezone.
- D. New application after denial. No application for a rezone which has been previously denied by the City Council shall be accepted for at least one year after the date of denial. An application to rezone property to a designation that is different than the designation which was denied by the City Council, will be accepted and considered without consideration of time since the previous application was denied.

Section 3.4.7. Planned Unit Developments (PUD)

- A. General.
1. A Planned Unit Development (PUD) is an area designed for development as a cohesive unit, where uses and innovations in design and layout of the development provide public benefits when compared to standard zoning or uniform lot and block subdivision patterns and design features.
 2. In a PUD, the various land use elements are designed so that they interrelate with each other. The boundary between a PUD and adjacent land area(s) requires particular attention to ensure transition and that land use patterns are compatible.
 3. Permitted uses in a PUD must be consistent with the Comprehensive Plan future land use classification for the site(s) in question.
- B. Purpose and Intent. The purpose and intent of a PUD are to:
1. Innovation in Design. To encourage innovations in residential, commercial, mixed-use, and industrial development so that the needs of the population may be met by greater variety in type, design and layout of buildings and land uses and by the conservation and more efficient use of the space.
 2. Appropriate Land Use. To promote the most appropriate use(s) of the land.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1934
1935
1936
1937
1938
1939
1940
1941
1942
1943
1944
1945
1946
1947
1948
1949
1950
1951
1952
1953
1954
1955
1956
1957
1958
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
3. High Quality Development. To improve the design, character, and quality of new development.
 4. Infrastructure. To facilitate the adequate and efficient provisions of roads and utilities.
 5. Increased Compatibility. To achieve compatibility with surrounding neighborhoods and developments.
 6. Provision of Open Space. To preserve open space as development occurs.
 7. Clustering of Uses. To provide for necessary commercial, recreational, and public facilities that are conveniently located to housing.
 8. Increased Flexibility. To provide for flexibility in design for new development and future redevelopment.
 9. Comprehensive Plan. To achieve the goals of the Comprehensive Plan.
 10. To provide a method for previously approved Planned Development Projects to continue to develop under the terms of an approved PDP Development Order and to allow modification to existing PDP approvals under the PUD procedures.
- C. Minimum Parcel Size. The minimum parcel size for a PUD is:
1. Non-residential or mixed use PUD. One acre.
 2. All other PUDs. Three acres.
- D. PUD approval steps. The PUD review and approval process includes:
1. A rezone to the PUD zoning district, which establishes the densities, intensities, and permitted uses within the PUD; and
 2. A Master Concept Plan (MCP), which establishes the design, layout, and dimensional standards of the PUD.
- E. Application and submittal requirements. Application and submittal requirements for a PUD are established in Sections 3.1.4 through 3.1.8 of this Article. In addition, a PUD requires:
1. An application for a rezone to the PUD zoning district; and
 2. A Master Concept Plan application.
 3. Submittal of the specific PUD application requirements listed in subsection G., below.
- A PUD application for parcels 10 acres or larger may apply for a rezone to the PUD zoning district without submitting a MCP for concurrent review and processing.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 1980
- 1981 F. Preapplication conference required. A pre-application conference shall be held with the Community
- 1982 Development Department prior to the submittal of a PUD. The applicant shall indicate the requested
- 1983 PUD zoning district and a sketch of the PUD Master Concept Plan, if applicable.
- 1984
- 1985 G. Specific PUD Submittal Requirements. A PUD application shall include the following:
- 1986
- 1987 1. A Letter of Intent, including:
- 1988
- 1989 a. Reasons the PUD procedure is more desirable than a conventional plan;
- 1990
- 1991 b. General site description including acreages; and
- 1992
- 1993 c. General project description.
- 1994
- 1995 2. A PUD Master Concept Plan indicating:
- 1996
- 1997 a. Location of the uses within the site;
- 1998
- 1999 b. Dimensional standards such as height, setbacks, and lot sizes;
- 2000
- 2001 c. Vehicle circulation patterns, parking areas, and points of access;
- 2002
- 2003 d. Pedestrian and bicycle circulation with links to other external path systems;
- 2004
- 2005 e. Open space plan; and
- 2006
- 2007 f. Landscape and buffer plans.
- 2008
- 2009 3. Sample formation of HOA or other organization to operate and maintain open space and other
- 2010 on-site public or private improvements.
- 2011
- 2012 4. Phasing plan, if applicable.
- 2013
- 2014 H. PUD Zoning Districts. Each PUD shall be rezoned to one of the following designations, based on
- 2015 proposed development:
- 2016
- 2017 RPUD - Residential PUD
- 2018 CPUD - Commercial PUD
- 2019 IPUD - Industrial PUD
- 2020 MXPUD - Mixed Use PUD
- 2021 PFPUD - Public Facilities PUD
- 2022
- 2023 The proposed PUD zoning district must meet the criteria for rezones as set forth by this Code.
- 2024
- 2025 I. Review Standards and Criteria.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

2026
2027
2028
2029
2030
2031
2032
2033
2034
2035
2036
2037
2038
2039
2040
2041
2042
2043
2044
2045
2046
2047
2048
2049
2050
2051
2052
2053
2054
2055
2056
2057
2058
2059
2060
2061
2062
2063
2064
2065
2066
2067
2068
2069
2070
2071

1. Every PUD shall be in conformance with the City Comprehensive Plan. The maximum density or intensity within any PUD shall be consistent with the future land use designation of the site as determined by the Comprehensive Plan.
2. Specific uses, densities, and intensities for each PUD are established in the PUD rezone ordinance. The approved uses, densities, and intensities for a PUD shall take precedence over other standards and requirements in these regulations. The uses approved in a PUD shall be permitted uses.
3. Specific bulk, area, and dimensional standards for each PUD are approved in the MCP for a PUD and shall take precedence over the standards and requirements in these regulations for development that is not within an approved PUD. Elements to be evaluated for a PUD shall include:
 - a. Appropriateness of the proposed or density or intensity of the development;
 - b. Internal and external compatibility of the development and surrounding uses;
 - c. Transition and separation between surrounding uses;
 - d. Vehicular and pedestrian circulation patterns;
 - e. Arrangement and functionality of open space;
 - f. Access points;
 - g. Public amenities, if applicable;
 - h. Additional amenities that will serve the project; and
 - i. Details and design of internal and external buffers.
4. Open Space.
 - a. For all PUDs except for IPUDs, a minimum of twenty-five percent of the total land area shall consist of common open space. The City may consider a request by the applicant for less than twenty-five percent common open space when deemed appropriate because of size, location, or nature of the proposed development.
 - b. The amenities or off-site improvements shall be utilized by the City or developed by the applicant to mitigate the reduction of open space or to fulfill the recreational needs of the City.
 - c. Areas that Do Not Count as Open Space. Parking and loading areas, streets, and rights-of-way shall not count toward usable open space.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 2072
- 2073
- 2074
- 2075
- 2076
- 2077
- 2078
- 2079
- 2080
- 2081
- 2082
- 2083
- 2084
- 2085
- 2086
- 2087
- 2088
- 2089
- 2090
- 2091
- 2092
- 2093
- 2094
- 2095
- 2096
- 2097
- 2098
- 2099
- 2100
- 2101
- 2102
- 2103
- 2104
- 2105
- 2106
- 2107
- 2108
- 2109
- 2110
- 2111
- 2112
- 2113
- 2114
- 2115
- 2116
- 2117
- d. Areas that Count as Open Space. Water bodies, surface water retention areas, preservation areas, and riparian areas that are preserved as open space shall count towards this minimum standard, even when they are not usable by or accessible to the residents of the PUD. All other open space shall be conveniently accessible from all occupied structures in the PUD.
 - e. Improvements Required. All common open space and recreational facilities shall be shown on the PUD Plan and shall be constructed and fully improved according to the development schedule established for each development phase of the PUD.
 - f. Landscaping along Sidewalks. All sidewalks within a PUD must be shaded by canopy trees. The area used for shading the sidewalks can be considered as part of the minimum open space requirement.
 - g. Maintenance of Open Space. All open space shall continue to conform to its intended use, as specified on the PUD Master Concept Plan. To ensure that public open space identified in the PUD will be used as open space, restrictions, easements, or covenants shall be recorded in deeds or the open space areas may be dedicated to the public to ensure their maintenance and to prohibit the division of any public open space. Any subdivision of land will require a Property Owners Association (POA) or Home Owners Association (HOA) to ensure that open spaces within a PUD are maintained. The City is not required to accept dedication of open space areas.
5. PUD Perimeter Buffers. The boundary between a PUD and adjacent land uses shall be landscaped with a buffer that has sufficient width and shall include screening to ensure a proper transition and increase compatibility between land uses. The buffer shall be approved by City Council.
6. Street Standards. All streets, roads, and drive aisles shall be designed and constructed in conformance with the City Engineering and Design Standards.
7. Phasing. When a PUD is developed in phases, a proportional amount of the open space and recreations areas shall be included in each phase, in order to comply with the open space requirements of this chapter at the completion of each phase of the development.
- J. Master Concept Plan and concurrent Preliminary Subdivision Plan review. The approved Master Concept Plan may be used for Preliminary Subdivision Plan approval, as defined in Article 10, provided required details and information for PSP review are included in the MCP.
- K. Amendments to Planned Unit Developments.
- 1. Administrative Amendments. Amendments to an approved PUD may be approved administratively if they meet the following criteria:
 - a. Density or intensity is increased by less than ten percent.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 2118 b. Open space is not decreased by more than five percent.
2119
2120 c. There are no changes to any condition of approval.
2121
2122 d. There is no change in permitted uses or types of structures.
2123
2124 e. Dimensional standards are changed by no more than ten percent.
2125
2126 2. Review Standards for amendments. An approved PUD Master Concept Plan may be amended if
2127 the applicant demonstrates that the proposed modification:
2128
2129 a. Is consistent with the efficient development and preservation of the entire PUD;
2130
2131 b. Does not affect in a substantially adverse manner either the enjoyment of the land abutting
2132 upon, adjoining or across a street from the planned unit development;
2133
2134 c. Is not granted solely to confer a special benefit upon any person;
2135
2136 d. Does not contain proposed uses that detract from other uses approved in the PUD;
2137
2138 e. Does not contain an open space plan that differs substantially in quantity or quality from the
2139 originally approved plan; and
2140
2141 f. Contains streets and utilities that are coordinated with planned and existing street and
2142 utilities for the remainder of the PUD.
2143
2144 3. Amendments that require City Council Approval. Any amendment to a PUD that does not meet
2145 the criteria in subsection 1 through 2, above must be approved by the City Council.
2146
2147 L. Effect of PUD approvals.
2148
2149 1. PUD zoning. A rezone to a PUD zoning district shall run with the land.
2150
2151 2. Master Concept Plans. A MCP shall be valid for any time period established in the conditions of
2152 approval for the MCP. If a specific time period is not specified then the MCP shall run with the
2153 land.
2154 OR
2155 3. If a Site Development Plan, a building permit for vertical construction, or a subdivision plat has
2156 not been approved within 10 years, the Master Concept Plan shall be null and void, unless an
2157 extension has been approved by City Council.
2158
2159 M. Extensions. A PUD may receive one extension that is valid for two years. Upon expiration of the
2160 extension, the Master Concept Plan shall be null and void.
2161

CHAPTER 5. SPECIFIC REVIEW PROCEDURES - LEGISLATIVE APPROVALS

2163

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

2164 **Section 3.5.1. Annexations**
2165

- 2166 A. Purpose of Annexations. Annexations shall be considered for the following reasons:
2167
2168 1. The annexation implements the Comprehensive Plan.
2169
2170 2. The annexation increases the City’s inventory of non-residential lands.
2171
2172 3. The annexation results in the removal of enclaves.
2173
2174 4. The annexation results in the logical extension of City boundaries.
2175
2176 B. Manner of Initiation. Applications to annex property in to the City may be initiated in the following
2177 manner:
2178
2179 1. The City Council; or
2180
2181 2. By a petition of one or more owners of property within an area proposed for annexation.
2182
2183 C. Review Criteria. Proposed annexations shall be reviewed in accordance with the requirements of
2184 Chapter 171, Florida Statutes.
2185
2186 D. Effective date of approval: The effective date of an annexation will take place in accordance with
2187 Chapter 171, Florida Statutes.
2188

2189 **Section 3.5.2. Future Land Use Map Amendments**
2190

- 2191 A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following
2192 reasons:
2193
2194 1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
2195
2196 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
2197
2198 3. The amendment results in compatible land uses within the a specific area.
2199
2200 4. The amendment implements findings of reports, studies, or other documentation regarding
2201 functional requirements, contemporary planning practices, environmental requirements, or
2202 similar technical assessments.
2203
2204 5. The amendment is consistent with the City’s ability to provide adequate public facilities and
2205 services.
2206
2207 6. The amendment prepares the City for future growth, such as reflecting changing development
2208 patterns, identifying demands for community services, reflecting changes necessary to

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

2209 accommodate current and planned growth in population, and facilitating community
2210 infrastructure and public services.

2211
2212 B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated
2213 in the following manner:

- 2214
2215 1. The City Council by its own motion;
2216
2217 2. The Planning and Zoning Commission by its own motion;
2218
2219 3. The City Manager for City initiated requests; or
2220
2221 4. By a petition of one or more property owners of at least 51% of the property owners of an area
2222 proposed for amendment.

2223
2224 C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the
2225 requirements of Chapter 163, Florida Statutes, and the following criteria:

- 2226
2227 1. Whether the proposed future land use amendment is consistent with the goals, policies, and
2228 future land use designations of the City Comprehensive Plan;
2229
2230 2. The amendment protects the health, safety, and welfare of the community;
2231
2232 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted
2233 uses, are compatible with the physical and environmental features of the site;
2234
2235 4. The range of zoning districts and all of the allowed uses in those districts are compatible with
2236 surrounding uses in terms of land suitability or density and that a change will not result in negative
2237 impacts on the community or traffic that cannot be mitigated through application of the
2238 development standards in this Code;
2239
2240 5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise,
2241 considering existing or planned infrastructure for roads, sanitary and water supply systems,
2242 stormwater, parks, etc.; and
2243
2244 6. Other factors deemed appropriate by the Commission and City Council.

2245
2246 D. Effective date of approval. The effective date of a future land use map amendment shall be in
2247 accordance with Chapter 163, Florida Statutes.

2248
2249 **Section 3.5.3. Comprehensive Plan Text Amendments**

2250
2251 A. Purpose of Amendments. Comprehensive Plan text amendments shall be considered for the following
2252 reasons:

- 2253
2254 1. The amendment clarifies the intent of the Comprehensive Plan.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 2255
- 2256 2. The amendment corrects an error in the Comprehensive Plan.
- 2257
- 2258 3. The amendment addresses changes to state legislation, recent case law, or opinions from the
- 2259 Attorney General of the State of Florida.
- 2260
- 2261 4. The amendment implements the Comprehensive Plan.
- 2262
- 2263 5. The amendment promotes compliance with changes to other city, state, or federal regulations.
- 2264
- 2265 6. The amendment results in compatible land uses within the future land use designation.
- 2266
- 2267 7. The amendment implements findings of reports, studies, or other documentation regarding
- 2268 functional requirements, contemporary planning practices, environmental requirements, or
- 2269 similar technical assessments.
- 2270
- 2271 8. The amendment promotes the City’s ability to provide adequate public facilities and services.
- 2272
- 2273 B. Manner of Initiation. Comprehensive Plan Text Amendments may be initiated in the following
- 2274 manner:
- 2275
- 2276 1. The City Council;
- 2277
- 2278 2. The Planning and Zoning Commission; or
- 2279
- 2280 3. The City Manager for City initiated requests.
- 2281
- 2282 C. Review Criteria. Proposed comprehensive plan text amendments shall be reviewed in accordance with
- 2283 the requirements of Florida Statutes, Chapter 163, and the following criteria:
- 2284
- 2285 1. The amendment is consistent with the goals and policies of the City Comprehensive Plan;
- 2286
- 2287 2. The amendment protects the health, safety, and welfare of the community; or
- 2288
- 2289 3. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
- 2290
- 2291 D. Effective date of approval. The effective date of a comprehensive plan text amendment shall be in
- 2292 accordance with Chapter 163, Florida Statutes.
- 2293

Section 3.5.4. Land Development Code Text Amendments

- 2294
- 2295
- 2296 A. Purpose of Amendments. Land Development Code (LDC) text amendments shall be considered for
- 2297 the following reasons:
- 2298
- 2299 1. The amendment clarifies the intent of the LDC.
- 2300

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 2301 2. The amendment corrects an error in the LDC.
2302
2303 3. The amendment addresses changes to state legislation, recent case law, or opinions from the
2304 Attorney General of the State of Florida.
2305
2306 4. The amendment implements the LDC or Comprehensive Plan.
2307
2308 5. The amendment promotes compliance with changes to other city, state, or federal regulations.
2309
2310 6. The amendment adds district uses that are consistent with the character of the current range of
2311 allowed uses.
2312
2313 7. The amendment results in providing compatible land uses within Cape Coral.
2314
2315 8. The amendment implements findings of reports, studies, or other documentation regarding
2316 functional requirements, contemporary planning practices, environmental requirements, or
2317 similar technical assessments.
2318
2319 B. Manner of Initiation. Applications for a LDC text amendment may be initiated in the following
2320 manner:
2321
2322 1. The City Council by its own motion;
2323
2324 2. The Planning and Zoning Commission by its own motion; or
2325
2326 3. The City Manager for City initiated requests, including text amendments associated with a similar
2327 use determination.
2328
2329 C. Review Criteria. Proposed LDC text amendments shall be reviewed in accordance with the following
2330 criteria:
2331
2332 1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land
2333 use designations of the City Comprehensive Plan;
2334
2335 2. The amendment results in compatible land uses within a zoning designation;
2336
2337 3. The amendment protects the health, safety, and welfare of the community; or
2338
2339 4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
2340
2341 D. Effective date of approval. The effective date of a LDC text amendment shall take place upon
2342 adoption.
2343

CHAPTER 6. OTHER APPROVALS

Section 3.6.1. Outdoor Display of Merchandise

Article 3 – Development Review City Council public hearing version – revised 5/13/2019

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

2347
2348
2349
2350
2351
2352
2353
2354
2355
2356
2357
2358
2359
2360
2361
2362
2363
2364
2365
2366
2367
2368
2369
2370
2371
2372
2373
2374
2375
2376
2377
2378
2379
2380
2381
2382
2383
2384
2385
2386
2387
2388
2389
2390
2391
2392

A. Purpose and Intent.

1. To provide standards and criteria for review and approval of outdoor display of merchandise.
2. To provide reasonable limitations or special conditions for outdoor display to address, minimize, or ameliorate potential impacts of the use on surrounding property and for the protection of the public health, safety, and welfare.

B. General Requirements.

1. Outdoor display of merchandise is prohibited in all residential districts (except for the A district) and in the P1, MX7, MXB, PV, INST.
2. Unless otherwise permitted, outdoor display of merchandise in C, CC, NC, SC, and A districts is prohibited, except on improved property in accordance with the following standards.
3. The following items may be displayed in conjunction with an existing licensed business location which retails these items: boats; new or used cars by auto dealerships or auto rental companies; bicycles; motorcycles; garden equipment such as lawnmowers; landscaping nursery items displayed by a nursery business; tires at auto repair businesses; and temporary uses authorized in Article 5, Chapter 9.
4. In addition to outdoor display listed above, the outdoor displays of fruit, vegetables, flowers, jewelry, books or antiques are allowed in the SC zoning district.
5. This restriction shall not apply to special events approved pursuant to Article 5, Section 5.9.10. Special Events.
6. All other outdoor display of merchandise must be approved by the City Council following review at a public meeting.
7. Except in the downtown zoning district(s), such displays may be no closer than ten feet to the front or rear property lines and five feet to side property lines or 15 feet to the side property line on corner lots. Such displays may not be placed in required parking. In the SC district, such displays are not required to be set back from any property lines. If such displays are placed on a public sidewalk, such displays shall comply with the following regulations:
 - a. Displays may be placed on the public sidewalk only directly in front of the lawfully existing business which retails the items being displayed.
 - b. Displays shall be placed on tables, shelves and/or racks that are moved indoors during any hours the business is not open and that do not exceed six feet in height and do not extend more than two feet onto the public sidewalk.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

- 2393 C. Outdoor Display Requiring Council Approval.
2394
2395 1. An application for an outdoor display of merchandise shall be filed with the Community
2396 Development Department.
2397
2398 2. A site plan showing the location of the outdoor display shall be provided.
2399
2400 3. A letter of intent detailing the duration of the outdoor display and the nature of items displayed.
2401
2402 4. The applicant shall be responsible for the cost of mailed notice to all property owners within a
2403 500' radius.
2404
2405 D. Council Action. The Council may approve, deny, or approve with any conditions deemed necessary to
2406 address the potential impacts of the outdoor display of merchandise.
2407

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

CHAPTER 1 – GENERAL PROVISIONS, ZONING DISTRICTS ESTABLISHED, ZONING USE TABLES

- Section 4.1.1.** Purpose and Intent
- Section 4.1.2** Establishment of Zoning Districts
- Section 4.1.3.** Zoning District Dimensional Standards
- Section 4.1.4.** Setbacks for Residential Sites Abutting Platted Waterways
- Section 4.1.5.** Projections and Encroachments into Setbacks
- Section 4.1.6.** Uses by Zoning District – Use Hierarchy

CHAPTER 2 – SPECIFIC REGULATIONS BY DISTRICT

- Section 4.2.1.** Single-Family Residential (R1)
- Section 4.2.2** Residential Multi-Family Low (RML)
- Section 4.2.3.** Residential Multi-Family Medium (RMM)
- Section 4.2.4.** Residential Estate (RE)
- Section 4.2.5.** Agricultural (A)
- Section 4.2.6.** Commercial (C)
- Section 4.2.7.** Professional Office (P)
- Section 4.2.8.** Industrial (I)
- Section 4.2.9.** Institutional (INST)
- Section 4.2.10.** Preservation (PV)
- Section 4.2.11.** Commercial Corridor (CC)
- Section 4.2.12.** Neighborhood Commercial (NC)
- Section 4.2.13.** Mixed-Use Bimini District (MXB)
- Section 4.2.14.** Mixed-Use Seven Islands District (MX7)
- Section 4.2.15.** South Cape Downtown District (SC)
- Section 4.2.16.** Planned Unit Development Districts (PUD)

CHAPTER 1 – GENERAL PROVISIONS

Section 4.1.1 Purpose and Intent.

- A. The purpose of this article is to encourage and promote the safety, health, and general welfare of the citizens of Cape Coral, Florida by providing for:
 - 1. Efficiency and economy in the process of development;
 - 2. Appropriate and best use of land;
 - 3. Convenience of traffic and circulation of people and goods;
 - 4. Adequate public utilities and facilities;
 - 5. Promotion of the civic amenities of beauty and visual interest;
 - 6. Development in accord with the comprehensive plan by establishing zoning districts;

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94

- 7. Regulation of the location and use of buildings, structures, and land; and
- 8. Regulation of:
 - a. Height, bulk, and access to light and air of buildings and structures;
 - b. The area of yards and other open spaces; and
 - c. The density or intensity of development on a given site.

B. To accomplish these objectives, the regulations and districts and accompanying zoning map have been designed with reasonable consideration, among other things, to reflect the character of the districts and their suitability for particular uses.

Section 4.1.2. Establishment of Zoning Districts

For regulating and restricting the use of land and the erection, construction, reconstruction, altering, moving, or use of buildings and structures, the City of Cape Coral is divided into zoning districts. The City zoning districts are classified as follows:

A. Residential Zoning Districts

- 1. Residential Single Family (R-1). This district is established to encourage and protect single-family development and to permit other uses generally compatible with single-family residential uses.
- 2. Residential Multi-Family Low (RML). This district is to accommodate multi-family housing to meet the needs of a diverse community, while ensuring that there is a transition to single-family neighborhoods which protects the integrity of those neighborhoods. The RML district acts as a transition zone from lower density residential to higher density residential or non-residential uses or zoning districts. The RML zoning district should only be established where City water and sewer services are available.
- 3. Residential Multi-Family Medium (RMM). This zoning district is to accommodate multi-family housing at a higher density than RML to meet the needs of a diverse community. The RMM district also acts as a transition zone from lower density residential areas to non-residential land uses or zoning districts.
- 4. Residential Estate (RE). This district is established to provide areas for single-family dwellings typically on parcels of 40,000 square feet or more in areas of the city that are rural in character. The RE district permits the keeping of some domesticated livestock for use by the occupants.
- 5. Agriculture (A). This district is to accommodate agricultural activities and operations which may include crop cultivation; the breeding, raising, or keeping of livestock or fur bearing animals; dairy farming; apiculture; and to allow all accessory uses and structures customarily incidental to those activities.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140

B. Non-Residential Zoning Districts

1. Commercial (C). This district is designed to encourage and facilitate commercial activities intended to serve a relatively large trade area, appropriate commercial locations on major thoroughfares in developed areas, and is intended to meet the needs of motorists and other consumers through the provision of automobile-oriented commercial activities to meet the needs of several types and varieties of general commercial activities.
2. Professional Office (P). This district is designed to encourage the compatible development of major professional and related office complexes in areas which are suitable for such activities. The P District may serve as a transition between commercial corridors and nearby residential uses.
3. Industrial (I). This district is to accommodate manufacturing, fabrication, warehousing, and other related activities that typically utilize large work forces, generate semi-tractor trailer traffic, and may produce external impacts such as noxious smells, smoke, or noise.
4. Institutional (INST). This district is to allow for development of nonprofit or quasi-public uses such as religious institutions, libraries, public or private schools, hospitals, or government owned or operated structures. Many of these uses provide meeting places for the citizens of Cape Coral and valuable civic engagement opportunities.
5. Preservation (PV). This district is to identify environmental resources or natural features as areas intended to remain in a predominately natural or undeveloped state to provide resource protection and opportunities for passive recreation and environmental education for present and future generations.

C. Mixed Use Zoning Districts

1. Commercial Corridor (CC). This district is established to implement the recommendations of the Pine Island Road Master Plan and to promote such uses as retail, office, limited warehouse and light manufacturing, multi-family residential and large-scale commercial retail uses.
2. Neighborhood Commercial (NC). This district is intended to create a variety of dynamic walkable, mixed-use environments; provide a range and mix of commercial and housing choices near each other; and to create quality usable public spaces. The NC District utilizes form-based design standards and provides development options based on parcel size.
3. Mixed Use Seven Islands (MX7). This district is intended to implement master plan recommendations for the Seven Islands Area consistent with the Seven Islands Sub District. A further objective is to foster a sense of place and create a destination environment in northwestern Cape Coral. To achieve these objectives, the MX7 district allows a more flexible

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

141 approach to comprehensive design and coordinated development of a multi-use neighborhood
142 than is possible under other zoning classifications.
143

144 4. Mixed Use Bimini (MXB). This district is to promote redevelopment and enhancement of the
145 Bimini Basin area of Cape Coral to create a destination for residents and visitors, consistent with
146 the Downtown Mixed Future Land Use Classification and the Bimini Basin Revitalization and
147 Implementation Plan. This district encourages mixed-use development. Existing commercial and
148 professional buildings will be supplemented with entertainment activities and a wide diversity of
149 housing types to create a vibrant work, live, shop, and play district that serves the entire city and
150 region.
151

152 5. This district is intended to implement master plan recommendations for the Bimini Basin Area. A
153 further objective is to foster a sense of place and create a destination environment in
154 southeastern Cape Coral. To achieve these objectives, the MXB district allows a more flexible
155 approach to comprehensive design and coordinated development of a multi-use neighborhood
156 than is possible under other zoning classifications.
157

158 6. South Cape (SC). This district is to promote redevelopment and enhancement of the traditional
159 commercial center of Cape Coral into a more compact and walkable form growth and to create a
160 destination for residents and visitors. This district encourages mixed-use development. Existing
161 commercial and professional buildings will be supplemented with entertainment activities and a
162 wide diversity of housing types to create a vibrant work, live, shop, and play district that serves
163 the entire city and region.
164

165 It is intended that the South Cape regulations act as a stimulus to development through provisions
166 that permit a flexible approach to infill development on various lot sizes, as well as special
167 provisions related to particular locations within the district. Therefore, many of the provisions
168 contained herein, including uses and dimensional regulations, are regulated by lot size, or the
169 extent of roadway frontage or a combination thereof.
170

171 7. Planned Unit Development (PUD). This district is designed for development as a cohesive unit,
172 where uses and innovations in design and layout of the development provide public benefits when
173 compared to standard zoning or uniform lot and block subdivision patterns and design features.
174

Section 4.1.3. Zoning District Development Dimensional Standards

175
176
177 The purpose of this section is to identify the bulk, area, and dimensional standards for construction in
178 each zoning district.
179
180
181
182
183
184
185
186
187

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

188
189
190
191
192

Table 4.1.3.A. Zoning District Density Standards

ZONING DISTRICTS AND DENSITY			
Zoning District	Minimum Density or # of Units	Maximum Density or # of Units	
R-1	N/A	4.4/acre	
RML	N/A	16/acre	
RMM	N/A	25/acre	
RE	N/A	1.1/acre	
A	N/A	2.2/acre	
CC	10 or 50 units	50/acre	
NC	12 or 50 units (75 units > 20 ac)	16/acre	
MXB	N/A	125/acre	
MX7	N/A	995 units	
SC	N/A	125/acre	

193

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

194

195 **Table 4.1.3.B. Zoning District Dimensional Standards**

ZONE DISTRICT DIMENSIONS									
ZONE DISTRICT	Lot and Structure		Minimum Setbacks (feet)						Maximum Height (feet)
	Minimum Lot Area (Square ft.)	Maximum Impervious Surfaces	Front	Front, Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	
RESIDENTIAL									
R-1 ¹	10,000 ¹	60 %	25	18	7.5	20/10 ²	25	10	38
RML ¹	10,000	60 %	25	18	7.5	20/10 ²	25	10	50
			Setbacks for duplexes						
			36/30 ³	N/A	7.5	20/10 ²	25	10	38
RMM ¹	43,560	None	25	18	6	26	25	10	60
RE	40,000	None	50	36	35	35	50	25	38
A	None ⁴	None	50	36	35	35	50	25	38
¹ Minimum width at setback line – Single-Family/Duplex 80', Single-Family Semi-detached 40', Single-Family Attached/Multi-family (3 units+) 120' ² Primary structure/Pool cage ³ Front setback based on structure design per Section 5.10.3 ⁴ Non-residential uses in the A zoning district require 4 acres									
NON-RESIDENTIAL									
	Minimum Lot Area (square ft.)	FAR	Front	Front, Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	Maximum Height (feet)
C	None	1	6	None	0 or 6	10	6	10	None
P	None	1	6	None	10	10	6	10	None
I	None	1	20	None	0 or 6	10	20	10	None
INST	None	1	25	None	15	25	25	10	60
PV	None	None	50	None	50	50	50	10	38
MIXED USE									
	Minimum Lot Area (square ft.)	FAR	Front	Front, Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	Maximum Height (feet)
NC	See Table 4.2.12								
CC	None	1.25	15	None	0 or 6	15	15	10	None
	MF use 4 Acres								
MXB	None	4	8-12	None	0 or 5	0 or 5 (alley) or 15 (waterfront)	8-12	8-12	160 (or 12 stories)
MX7	None	1	15	None	0 or 6	15	15	10	115 (or 8 stories)
SC	None	4	See Section 4.2.15.B.2						120 (or 10 stories)

196

197

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

198 **Table 4.1.3.C. Minimum Housing Unit Sizes – Residential Zoning Districts**

Minimum Housing Unit Size					
Zoning District	Size				
Residential Zoning Districts					
	Single Family	Single Family Semi - Detached	Single Family Attached	Duplex	Multi Family
R-1	1,800 adjacent to river 1,400 adjacent to golf course or across from riverfront or saltwater front lots 1,100 all other	-	-	-	-
RML	1,000 + 100 square feet for every bedroom over 2	1,000 + 100 square feet for every bedroom over 2	1,000 + 100 square feet for every bedroom over 2	1,000 + 100 square feet for every bedroom over 2	Efficiency 500 square feet
					One Bedroom 650 square feet
					150 square feet for each additional bedroom
RMM	-	1,000 + 100 square feet for every bedroom over 2	1,000 + 100 square feet for every bedroom over 2	-	Efficiency 500 square feet
					One Bedroom 650 square feet
					150 square feet for each additional bedroom
RE	1,800 adjacent to river 1,400 adjacent to golf course or across from riverfront or saltwater front lots 1,100 all other	-	-	-	-
A	1,800 adjacent to river 1,400 adjacent to golf course or across from riverfront or saltwater front lots 1,100 all other	-	-	-	-

199
200 **Table 4.1.3.D. Minimum Housing Unit Sizes – Mixed-Use Zoning Districts**

Minimum Housing Unit Size					
Zoning District	Size				
Mixed Use Zoning Districts					
	Single Family	Single Family Semi - Detached	Single Family Attached	Duplex	Multi Family¹
CC	-	-	1,000 + 100 square feet for every bedroom over 2	-	Efficiency 500 square feet
					One Bedroom 650 square feet
					150 square feet for each additional bedroom

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

NC	-	-	1,000 + 100 square feet for every bedroom over 2	-	Efficiency 500 square feet
					One Bedroom 650 square feet
					150 square feet for each additional bedroom
MXB	-	-	1,000 + 100 square feet for every bedroom over 2	-	Efficiency 500 square feet
					One Bedroom 650 square feet
					150 square feet for each additional bedroom
MX7	-	-	1,000 + 100 square feet for every bedroom over 2	-	Efficiency 500 square feet
					One Bedroom 650 square feet
					150 square feet for each additional bedroom
SC	-	-	-	-	Efficiency 500 square feet One
					Bedroom 650 square feet
					150 square feet for each additional bedroom
¹ The minimum dwelling unit size in mixed-use buildings shall be 500 square feet provided all requirements of the Florida Building Code are met.					

201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220

Section 4.1.4 Setbacks for Residential-Zoned Sites Abutting Platted Waterways.

For irregularly shaped residential-zoned sites abutting platted waterways, the front, side, and rear setbacks may be assigned by the Director based on one or more of the following factors:

- A. The setbacks promote reasonable development of the site;
- B. The setbacks are generally consistent with the front, side, and rear setbacks of adjacent sites; or
- C. The setbacks do not constitute a special privilege with respect to the limitations placed on other properties in the area.

Section 4.1.5 Projections and Encroachments into Setbacks

Encroachments into required setbacks. Every part of the required setbacks on a parcel shall be open and unobstructed from 30 inches above the ground, as measured from the average elevation of the crown of road along the property frontage, except as provided below or as shown in Table 4.1.5., below.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

- 221
222 A. Structures less than 30 inches in height are not considered encroachments into minimum required
223 setbacks.
224
225 B. Bermed earth, plant materials, sidewalks, and driveways are not considered encroachments.
226
227 C. Encroachments into required setbacks:
228
229 1. Cornices, overhangs, decorative awnings with no ground support installed over windows and at
230 entrances, eaves and gutters, balconies, and means of egress may project a maximum of three
231 feet into required setbacks.
232
233 2. Awnings requiring pole supports to be placed in a setback area, or those without pole supports
234 which encroach more than 3 feet into required setbacks, may be approved, in districts other than
235 RE or R1, at the discretion of the Director of Community Development. Such awnings must
236 function as decorative architectural elements as opposed to garage, carport, or other similar
237 storage facilities.
238
239 3. All existing air conditioning, pool equipment, and generators may be maintained and replaced
240 provided the new equipment does not encroach more than three feet into any required setback.
241 All newly installed or replacement air conditioners, generators, and pool equipment must comply
242 with all setback requirements and shall not be placed in any easement.
243
244 4. Permitted encroachments into required setbacks are not allowed to encroach into utility
245 easements (See Article 5, Section 5.1.6).
246
247 5. Railings and any elements associated with ADA accessibility may encroach into required setbacks,
248 regardless of height.
249
250 6. Awnings, canopies, colonnades, arcades, and balconies may encroach into required setback, an
251 easement, or a public right-of-way if approved by the City Manager pursuant to the criteria
252 provided in Sections 4.2.15.D.5 and 5.8.9.E. Such encroachments are only allowed in the South
253 Cape Zoning District.
254

Table 4.1.5 Permitted Setback Encroachments

Projection or Feature	Encroachment (measured from primary structure envelope)			Max Height
	Front Yard	Side Yard	Rear Yard	
Architectural features	2 ft.	2 ft.	2 ft.	N/A
Awnings and canopies	3 ft.	3 ft.	3 ft.	N/A
Balconies	3 ft.	3 ft.	3 ft.	N/A
Chimneys	N/A	2 ft.	2 ft.	per Building Code

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

Eaves, gutters, and overhangs	3 ft.	3 ft.	3 ft.	N/A
Porches	5 ft.	3 ft.	3 ft.	N/A
Solar Photovoltaic (PV) Arrays, attached to primary structure	N/A	N/A	N/A	3 ft. above a peaked roof, 10 ft. above a flat roof
Mechanical equipment: AC, generator, pool equipment	N/A	5 ft.	5 ft.	N/A
Stairways	5 ft.	3 ft.	5 ft.	N/A
Ornamental Walls	5 ft.	1.5	5 ft.	30 inches
In SC district: Awnings, canopies, colonnades, arcades, and balconies	See Sections 4.1.5.C.6, 4.2.15.D.5, and 5.8.9.E			

257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288

Section 4.1.6. Uses by Zoning District – Use Hierarchy.

A. Classification of Uses Listed in Table 4.1.6.

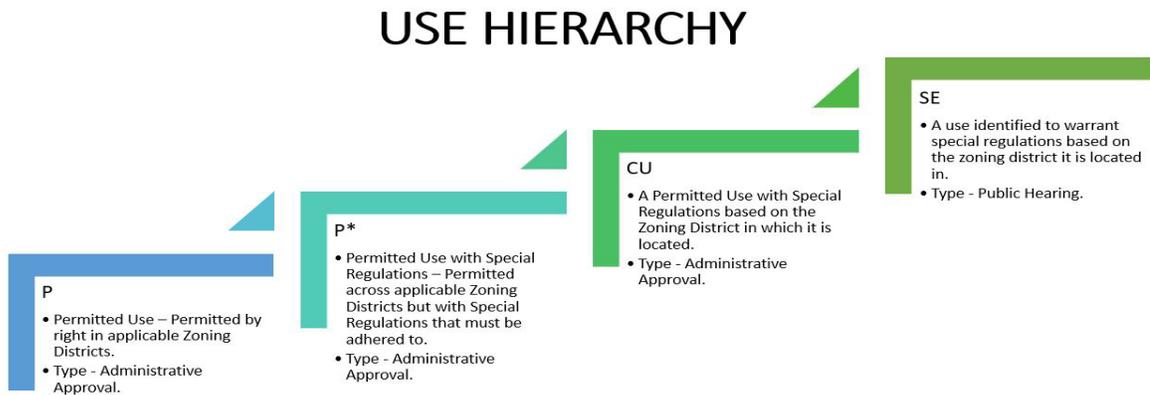
1. Permitted Uses. Uses that are allowed by right. These uses are shown in the table with a “P”.
2. Permitted Uses with Specific Regulations. Uses that are permitted with specific regulations that apply in all zoning districts where those uses are permitted. The specific regulations are provided in Article 5, Chapter 10. These uses are shown in the table with a “P*”.
3. Conditional Uses. Uses which are generally appropriate in a Zoning district. Conditional uses are permitted uses which, because of potential impacts, may require reasonable special limitations or conditions of approval peculiar to the use for the protection of the public health, safety, or welfare and the integrity of the Comprehensive Plan. The specific requirements for conditional uses are provided in Article 5, Chapter 11. These uses are shown in the table with a “CU”.
4. Special Exception Uses. Those uses or structures that may not be appropriate generally or without restriction throughout a district but which, if controlled as to, area, location, or their relationship and potential impacts to nearby residences or neighborhoods, would be acceptable. These uses are shown in the table with an “SE”.
5. Prohibited Uses. Any use not specifically listed as a permitted use, a permitted use with specific regulations, a conditional use, a special exception use, a permitted accessory use, or permitted through a similar use determination shall be considered expressly prohibited.

B. Uses not listed in Table 4.1.6.

1. Accessory Uses. Accessory uses are customarily associated with and are incidental and subordinate to such principal uses. An accessory use shall be subject to the same regulations that apply to the principal use in each district, except as otherwise provided.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

- 289 2. Temporary Uses. Uses that are deemed temporary in nature regulated by Article 5, Chapter 9 or
 290 the City Code of Ordinances, shall not be subject to the standards and requirements as set forth
 291 in this article, except that the City may impose conditions which may include limiting the period
 292 of approval, imposing hours of operations, location of any aspect of the temporary use,
 293 operational standards to minimize impacts on surrounding properties, and any other conditions
 294 deemed necessary to minimize detrimental impacts to the welfare of the community. These uses
 295 are listed in Article 5, Chapter 9 or the City Code of Ordinances.
 296
 297 3. Similar Use Determinations. See Article 3 Section 3.3.3.
 298



299
300
301 **Table 4.1.6 Use Table**

302 The following table of permitted uses, when read together with the definitions set forth in Article 11 shall
 303 be used to determine the zoning district in which a given use may be established.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted
PUD zoning allows all uses consistent with the Future Land Use Classification

	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
		R 1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC			
																PRI	SEC	LOC	
Residential	Single-family	P	P		P	P													
	Duplex		P*																
	Multi-family		CU	CU							CU	CU	CU	CU	CU	CU	CU	CU	
	Single-family Semi-detached		P* or CU	P* or CU															
	Single-family Attached - 3 or more		CU	P							CU	CU	CU	CU					
	Micro-Cottage																		
	Assisted Living Facility		SE	P			P	P				P	P				P		
	Family Day Care Home –5 or fewer	P	P	P	P	P													
	Community Residential Home – up to 6 res	P	P	P	P	P													
	Community Residential Home – 7 to 14 residents		P	P															
	Model Home	P*	P*		p*														
	Home Business	CU	CU		CU	P													
Home Occupation	P*	P*	P*	P*	P*							P*	P*	P*	P*	P*	P*	P*	
Public and Institutional Uses	Animal Shelter					P			SE	SE									
	Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Educational Facilities – Primary and Secondary	P	P	P	P	P				P			P			P			
	Educational Facilities – Vocational Schools			SE				P	P	P		P				P			
	Educational Facilities – Colleges and universities								P	P		P							
	Essential Service Facilities - Major	SE	SE	SE	SE	SE	SE	P	P	P	SE	P	SE	SE	SE	SE	SE	SE	
	Essential Service Facilities - Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Government Office Facilities					P	P	P		P		P	P	P	P	P	P	P	
	Hospital							P		P		P	P						
	Police and Fire	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Public Parks and Recreational Facilities	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
Recreation and Entertainment	Sexually Oriented Business									P								
	Commercial Recreation, Indoor							P				P	P		P	P	P	
	Commercial Recreation, Outdoor					P		P			P							
	Golf Course w/ Ancillary activities	P	P	P	P	P												
	Golf, Driving Range					P												
	Golf, Miniature					P		P			P	P				P	P	
	Marina							P			P	P	P	P	P			
	Shooting Range/Archery - Indoor							P				P						
	Shooting Range/Archery - Outdoor					SE												
Vehicle-related Commercial	Boat Sales							P	P			P				CU	CU	
	Car Wash							P				P						
	Commercial Parking lot or Garage							P						P	P	P	P	
	Heavy Vehicle, Sales & Rental								P			P						
	Light Vehicle, Rental							P				P	P			P	P	
	Light Vehicle, Sales											P*						
	Vehicle Repair, Major								P			SE						
	Vehicle Repair, Minor							CU	P			P						
	Vehicle Fueling Station							CU	P			P	CU				CU	
	Vehicle Storage					P				P								
	Accessory Parking Lot		P*					P*	P*			P*						

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
Food and Beverage	Bar							P				P	P	P	P	P	P	P
	Brewpub							P				P	P	P	CU	P	P	P
	Craft Brewery, Distillery, Winery							P*				P*	P*	P*	P*	P*	P*	P*
	Mobile Food Vendor						P*	P*	P*	P*		P*	P*	P*	P*	P*	P*	P*
	Restaurant, no drive-thru						SE	P				P	P	P	P	P	P	P
	Restaurant, drive-thru							P	P			P						P
Lodging	Bed and Breakfast	SE	SE	SE	SE	SE												
	Campground					P		P				P	P	P	P	P	P	P
	Hotel/Motel							P				P	P	P	P	P	P	P
	Resort	p*	p*	p*				P										
	RV Resort					P*												

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
Commercial and Professional Services	Animal Kennel, Indoor				P	P		P				P					P	P
	Animal Kennel, Outdoor					P												
	Day Care Facilities – Adult or Child		P	P		P	P		P			P	P		P		P	P
	Banks and Finance - no drive thru						P	P				P	P		P	P	P	P
	Banks and Finance w/ drive thru						P	P				P						P
	Building and Construction w/o outdoor storage/display						P	P	P			P	P		P	P	P	P
	Building and Construction w/ outdoor storage/display							p*	p*			p*						
	Landscaping Services w/o outdoor storage/display						P	P	P			P	P		P	P	P	P
	Landscaping Services w/outdoor storage/display							p*	p*			p*						
	Self-Storage Facilities							p*	p*			p*						
	Personal Services						P	P				P	P	P	P	P	P	P
	Pharmacy – no drive through						P	P				P	P	P	P	P	P	P
	Pet Services						P	P				P	P		P	P	P	P
	Pharmacy with drive through							P				P						P
	Professional Offices						P	P				P	P	P	P	P	P	P
	Professional Services						P	P				P	P		P		P	P
	Radio and TV Station								P	P		P	P				P	P
	Repair Shops							P	P			P	P				P	P
Retail							P				P	P	P	P	P	P	P	
Retail >50,000 sq. ft. per tenant							P				P	SE			SE	SE	SE	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
Agriculture	Non-Domestic Animal Boarding					P												
	Community Garden					P				P								
	Farms – Produce & Livestock					P												
	Greenhouse / Nursery					P						P						
	Outdoor storage – Agricultural					P												
	Stable				P	P												
	Roadside Food and Vegetable Stand					P*												
Industrial	Dry Cleaning/Laundry Plant								P									
	Extraction w/ancillary use					SE			P									
	Industrial, Heavy								P									
	Industrial, Light								P			SE						
	Laboratory – medical, research, testing							SE	P	SE		SE						
	Energy Resource Generation					SE			P									
	Storage, Outdoor Screened					P			P	SE		CU						
	Storage, Outdoor					P			P									
	Solid Waste Transfer					SE				SE								
	Warehouse								P			p*						

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MXB	MX7	SC			
																PRI	SEC	LOC	
Places of Assembly	Amphitheaters/ Arenas					SE				SE							SE	SE	SE
	Banquet Hall							P				P	P				P	P	P
	Clubs, Private and Fraternal							P				P	P					P	P
	Community Centers									P				P	P		P	P	P
	Cultural and Civic Facilities							P		P	SE			P			P	P	
	Movie Theaters							P				P	P	P	P		P	P	P
	Religious Institution	CU	CU	CU	CU	P	P	P		P		P	P	P			P	P	P
Other	Cemetery / Mausoleum					P				P									
	Crematory								P			P							
	Funeral Homes							P	P			P	P				P	P	
	Wireless Communication Facilities					P*	P*	P*	P*	P*		P*	P*				P*	P*	
	Solar Arrays					P*			P*	P*									
	Mixed-use Building											P	P	P	P	P	P	P	
	Wildlife Rehabilitation Center					P				P									

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397

CHAPTER 2. SPECIFIC REGULATIONS BY DISTRICT

This chapter establishes specific regulations for uses, activities, or structures within a zoning district.

Section 4.2.1. Single-Family Residential (R1)

- A. Specific regulations for model homes and home occupations are established in Article 5, Chapter 10.
- B. Specific conditions for home-based businesses and religious institutions are established in Article 5, Chapter 11.

Section 4.2.2. Residential Multi-Family Low (RML)

- A. Specific regulations for duplexes, model homes, and home occupations are established in Article 5, Chapter 10.
- B. Specific conditions for multi-family residences, single-family attached, home-based businesses, and religious institutions are established in Article 5, Chapter 11.

Section 4.2.3. Residential Multi-Family Medium (RMM)

- A. Specific regulations for home occupations are established in Article 5, Chapter 10.
- B. Specific conditions for day care facilities and religious institutions are established in Article 5, Chapter 11.

Section 4.2.4. Residential Estate (RE)

- A. Specific regulations for model homes and home occupations are established in Article 5, Chapter 10.

Specific conditions for home-based businesses, and religious institutions are established in Article 5, Chapter 11.
- B. Non-domestic animals.
 - 1. Non-domestic animals regulated in this section are considered to be a pet or for household consumption and shall not be used for any commercial purposes.
 - 2. Non-domestic animals are only allowed in the Residential Estate zoning district for sites with a Low Density Residential II Future Land Use Map classification pursuant to the regulations below and the requirements of the City Code of Ordinances.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

- 398 3. Horses. The keeping of horses, including foals and yearlings, is permitted in the Residential
399 Estate zoning district regardless of the Future Land Use Map classification. Any roofed structure
400 for shelter of such animals shall be setback at least 100 feet from any property line.
401
- 402 4. Cattle, mules, goats, sheep, swine, and poultry. The keeping, raising, and breeding of non-
403 domestic animals, including cattle, mules, goats, sheep, swine, and poultry may be permitted
404 in the Residential Estate as follows:
405
- 406 a. Lot size. The minimum lot area required for the keeping, raising, and breeding of non-
407 domestic animals, as identified in this section, is 100,000 square feet.
408
- 409 b. Animals within this subsection may not be kept or allowed to run within 100 feet of any
410 zoning district other than the Residential Estate (RE) within the Low Density Residential II
411 Future Land Use Map classification and Agricultural zoning districts.
412
- 413 c. Buildings or other roofed structures or enclosures for the keeping of animals within this
414 subsection must be set back a minimum of 150 feet from any zoning district other than
415 Residential Estate (RE) or Agricultural (A) zoning districts, under separate ownership.
416
- 417 d. The keeping and raising of non-domestic animals within this subsection is permitted in the
418 Residential Estate zoning district for personal use only, or for youth or farm-education
419 programs such as 4-H or The National FFA Organization.
420
- 421 C. Accessory structures. Accessory structures in the Residential Estate zoning district shall not have a
422 maximum size.
423

Section 4.2.5. Agricultural (A)

- 424
425
- 426 A. Specific regulations for, RV resorts, wireless communication facilities, and home occupations are
427 established in Article 5, Chapter 10.
428
- 429 B. Carports, garages or other buildings not used as a dwelling and customarily incidental to the
430 principal permitted use of the premises.
431
- 432 C. A minimum of five acres is required for all non-residential uses.
433

Section 4.2.6. Commercial (C)

- 434
435
- 436 Specific regulations for: commercial parking lots and parking garages as a standalone use; craft brewery,
437 distillery, and wineries; building and construction with outdoor display or storage; mobile food vendors;
438 and wireless communication facilities are found in Article 5, Chapter 10.
439
- 440 Specific conditions for vehicle repair, minor, vehicle fueling stations, and self-storage facilities, are
441 established in Article 5, Chapter 11.
442

Section 4.2.7. Professional Office (P)

- 443
444

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

445 Specific regulations for mobile food vendors and wireless communication facilities are found in Article 5,
446 Chapter 10.

447
448 **Section 4.2.8. Industrial (I)**
449

450 Specific regulations for mobile food vendors and wireless communication facilities are found in Article 5,
451 Chapter 10.

452
453 **Section 4.2.9. Institutional (INST)**
454

455 A. Specific regulations for mobile food vendors and wireless communication facilities are found in Article
456 5, Chapter 11.

457
458 B. Outdoor storage that is accessory to a principal use shall be screened from view from all rights-of-way
459 by an opaque fence or wall.

460
461 **Section 4.2.10. Preservation (PV)**
462

463 Reserved.

464
465 **Section 4.2.11. Commercial Corridor (CC)**
466

467 **Table 4.2.11.**
468

Commercial Corridor Development Parameters		
	Development Area	
	0 – 3.99 acres	4 acres or greater
Free-standing Commercial Development Area Maximum FAR	Up to 100% 1.0	
Free-standing Residential Minimum Density Maximum Density	Not allowed Not allowed	10 du/acre or 50 units 50 du/acre
Mixed-Use Minimum Density Maximum Density Maximum FAR	3 du/acre 12 du/acre 1.0	10 du/acre or 50 units 50 du/acre 2.0
Minimum Front Setback	20 ft.	20 ft.
Minimum Side Setback	6 ft.	6 ft.
Min. Rear Setback	10 ft.	10 ft.

469
470 A. Specific regulations for: craft brewery, distilleries, and wineries; mobile food vendors; building and
471 construction with outdoor display or storage; and wireless antennas are found in Article 5, Chapter
472 10.
473

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

474 B. Specific conditions for multi-family residential, single-family attached with 3 units or greater, outdoor
475 screened storage, and self-storage facilities are in Article 5, Chapter 11.
476

477 **Section 4.2.12. Neighborhood Commercial (NC)**
478

479 A. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial
480 parking lots and parking garages as a standalone use; vehicle fueling stations; craft brewery,
481 distilleries, and wineries; wireless antennas; and home occupations are found in Article 5, Chapters
482 10 and 11.
483

484 B. Mix of uses. Development in the NC district is encouraged to have a mix of residential and non-
485 residential uses, however, a mix of uses is not required.
486

487 C. Use areas. All land areas within developments in the NC District shall be categorized as one of the
488 three following use areas:
489

490 1. Free-standing non-residential. Free-standing non-residential areas include the footprint and
491 land areas associated with buildings that contain no residential units.
492

493 2. Free-standing residential. Free-standing residential areas include the footprint and land areas
494 associated with buildings that contain residential units and buildings that contain non-
495 residential floor area usage that is less than 30% of the building's floor area. In calculating the
496 floor area of the building, the total floor area of the building is the floor area of the building
497 remaining after the area of any structured parking is excluded. Also, any pre-existing single-
498 family residences do not necessarily constitute free-standing residential development, unless
499 such residences otherwise meet the criteria for such development.
500

501 3. Mixed-Use. Mixed-use areas include the footprint and land areas associated with compound
502 use buildings that shall mean buildings with at least 30% of their floor areas allocated to non-
503 residential uses.
504

505 D. Density, intensity, and use area allocations.
506

507 1. The allowable densities, intensities, and use area allocations within the NC District may vary
508 with the land area allocated to each use in a development project.
509

510 2. A development can consist of one or more properties that are the subject of a single application
511 for development.
512

513 3. If an application includes properties that are not contiguous, the application must demonstrate
514 that the properties function as a unified development.
515

516 4. The land area that may be allocated to any of the three use area allocations varies with the size
517 of the development project, with generally increasing flexibility as a function of the total land
518 area of the development. Densities and intensities associated with any of the three use area
519 categories apply only to the land area of the project that is allocated to that specific use. In
520 determining the land area within any of the three use area allocations, the area of any common

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

521 areas for surface water management, parking, landscaping, and circulation shall be apportioned
522 among the three use area allocations in the same proportion as the non-common areas relate
523 to the area of the development, excluding common areas.

524
525 **Table 4.2.12.**

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units 16 d.u./acre	25%-80% 12 d.u./acre or 75 units 16 d.u./acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre or 50 units 16 d.u./acre 2.0	0-100% 12 d.u./acre or 75 units 16 d.u./acre 2.0
Build-to / Front Setback	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Side Setback	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6

527
528 E. Limitations on density and intensity within the NC District. In the Urban Services Reserve Area,
529 residential uses are restricted to 4.4 dwelling units per acre and non-residential development is
530 limited to uses that do not generate an estimated flow of more than 880 gallons of sewage per acre
531 per day.

532
533 F. Use area allocations. All developments in the NC District shall be categorized as one of the three
534 following use areas:

- 535
- 536 1. Free-standing non-residential. Free-standing non-residential areas contain no residential units.
 - 537
 - 538 2. Free-standing residential. Free-standing residential areas include the footprint and land areas
539 associated with buildings that contain residential units and buildings that contain non-
540 residential floor area usage that is less than 50% of the building's ground floor area.
 - 541
 - 542 3. Pre-existing single-family residences do not constitute free-standing residential development.
 - 543
 - 544 4. Mixed-Use. Mixed-use areas include the footprint and land areas associated with mixed-use
545 buildings with at least 50% of the ground floor areas allocated to non-residential uses.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592

G. Use Area Calculations

1. The uses of a building (residential, non-residential, mixed-use) shall be calculated by the floor area occupied by a use excluding any structured parking areas.
2. Developments that incorporate non-residential and residential uses shall clearly indicate the land areas (square footage, percentage of development site, and locations) to be used for non-residential, residential, and mixed-use, as well as the uses proposed within each of the designated areas.
3. In determining land area within any of the three use area allocations common areas, including surface water management, parking, landscaping, and circulation shall be distributed among the three use area allocations in the same proportion as the non-common areas.

H. Development Standards

1. Drive-thru facilities are prohibited.
2. Loading Docks and Service Areas.

I. All loading docks and building service areas containing air handling equipment, generators, meters, etc., shall be screened by a masonry wall from a pedestrian-level view from any adjacent residential future land use category, public sidewalk, or public street, excluding alleys.

J. Such walls shall be designed to appear as an architectural extension of the principal building and incorporate architectural trim and features consistent with the adjacent facade.

K. Walls required for screening loading docks or building service areas shall not exceed the height limitations provided in Article 5 of this code unless approved by the DCD Director.

L. On sites greater than one acre the following shall apply:

1. The first story of the building frontage shall be at least 75% of the parcel width as measured along the front property line. For adjoining parcels that are being developed simultaneously as one site with one or more buildings, this percentage applies to the combination of lots and building frontages.
2. At least 40% of the building frontage shall be built at the minimum front setback line.
3. Off-street parking spaces shall not be within the front yard.
4. Outdoor display of cars, boats, motorcycles, and vehicles is prohibited.
5. Deviations from the requirements of this section may be approved pursuant to Article 3 of this code.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

593 **Section 4.2.13. Mixed-Use Bimini (MXB)**
594

- 595 A. Mix of Uses Allowed. Any type of dwelling unit as well as any accessory use is allowed, so long as the
596 location and mix of types is consistent with the Bimini Basin Revitalization and Implementation Plans.
597 A residential use may be intermixed with a nonresidential use or uses in the same block, lot, or
598 building.
599
- 600 B. Maximum Height and Density.
601
- 602 1. The maximum density shall be 125 dwelling units per acre.
603
- 604 2. The maximum height shall be 12 stories or 160 feet.
605
- 606 C. Compatibility and design standards. All uses must conform to the guidelines of the Bimini Basin
607 Revitalization and Implementation Plan. Uses must be compatible with existing or planned
608 development on or adjacent to the site.
609
- 610 1. Orientation, and Design.
611
- 612 a. A building facing public streets, excluding alleys, must provide a public entrance.
613
- 614 b. The first story of all non-civic buildings within the MXB shall provide shade via awnings,
615 canopies, or similar features for no less than 50% of the building length. These shade
616 structures or other required architectural features may project across the front property line,
617 or the front and side property lines for corner lots into the public right-of-way, provided the
618 feature(s) do not interfere with use of any street, pedestrian sidewalk, or utility infrastructure.
619 When permitted, such features shall have at least 8' of vertical clearance from the ground
620 level.
621
- 622 c. Office uses may only comprise 20% of the ground floor public street facing building façade.
623
- 624 d. For properties with frontages on more than one street, ground floor storefront windows shall
625 be located on a minimum of two public streets.
626
- 627 e. No less than 30% of all upper floor street facing building facades shall have windows.
628
- 629 f. With the exception for bathroom and kitchen mirrors, windows shall be transparent; no
630 mirror-type or dark-tinted is permitted for windows and doors in the MXB district.
631
- 632 g. Window signs are prohibited.
633
- 634 h. No wall-in or window-in air conditioning units are permitted.
635
- 636 i. All HVAC, mechanical and electrical equipment shall not be visible from the street.
637
- 638 2. External access and internal circulation.
639

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS

- 640 a. Drive-thru facilities are prohibited.
- 641
- 642 b. The internal vehicular circulation system must follow a pattern of intersecting streets that
- 643 provide alternative routes.
- 644
- 645 c. Points of external access and alignments of internal roadways must facilitate use of public
- 646 transit. This includes dedication of rights-of-way sufficient for bus pull-outs and bus shelters,
- 647 as well as transit easements on private streets.
- 648
- 649 d. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent
- 650 of minimizing walking distances and reducing dependence on the private automobile for
- 651 internal travel and external access; and include:
- 652
- 653 i. Pedestrian sidewalks within the rights-of-way of Cape Coral Parkway;
- 654 ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks;
- 655 and
- 656 iii. Safe and convenient access to retail and service uses, community and public facilities, and
- 657 public transit, carpool, or vanpool services.
- 658
- 659 3. Public facilities and utilities.
- 660
- 661 a. All utility lines must be placed underground.
- 662
- 663 b. Street lighting must be provided.
- 664
- 665 D. Green area and public use space requirements. The minimum amount of green area is 10 percent of
- 666 the gross area of the site. This green area must include the following:
- 667
- 668 1. Within the nonresidential area, a plaza for public use;
- 669
- 670 2. Within the residential area, a public park or common open space suitable for active or passive
- 671 recreation within a reasonable walking distance of any area devoted to multi-family or single-
- 672 family attached dwelling units; and
- 673
- 674 3. Street trees are required on public streets. Street trees shall be placed at a maximum of 30' on
- 675 center.
- 676
- 677 E. Outdoor sound amplification. The following regulations shall apply:
- 678
- 679 1. Sound amplification devices shall be oriented toward the use hosting the device, and shall not
- 680 be oriented toward surrounding residential uses.
- 681
- 682 2. A proposal to establish an outdoor venue in the MXB district is required to submit a site plan
- 683 amendment. All proposed outdoor venues associated with a new business shall submit a site
- 684 plan application to the City which shall be subject to review and approval by the HEX. The site
- 685 plan amendment shall be reviewed in accordance with the following:
- 686

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

- 687 a. For waterfront properties, no site plan amendment shall be approved unless the
688 information provided by the applicant indicates that the outdoor sound amplification
689 equipment will be oriented and located in a way that sound will not be projected directly
690 towards the water, unless, the information provided shows that sound barriers or other
691 means of noise attenuation shall be placed so as to substantially reduce the amplified sound
692 that would otherwise impact adjacent properties or adjacent street right-of-way.
693
- 694 b. For all other properties, no outdoor amplified sound plans shall be approved unless the
695 information provided by the applicant indicates that the outdoor sound amplification
696 equipment will be oriented toward the interior of the property, unless the information
697 provided shows that sound barriers or other means of noise attenuation shall be placed to
698 substantially reduce the amplified sound that would otherwise impact adjacent properties
699 or adjacent street right-of-way.
700
- 701 i. The outdoor amplified sound equipment and any sound barriers or other attenuation
702 devices approved as part of the plan shall comply with any applicable requirements of
703 the Florida Building Code, including any local amendments.
704 ii. No amplified sound equipment shall be operated in a manner which violates Cape Coral
705 Code of Ordinances Chapter 23, Protected species; and
706 iii. Amplified sound equipment shall be placed no higher than six feet above grade.
707
- 708 F. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial
709 parking lots and parking garages as a standalone use; bars; craft brewery, distilleries, and wineries;
710 arenas and amphitheaters; and home occupations are found in Article 5, Chapter 12 and 13.
711

712 **Section 4.2.14. Mixed-Use Seven Islands District (MX7)**
713

- 714 A. Intent and purpose. It is the intent of this district to implement City Council adopted plans to create a
715 comprehensively planned, mixed-use development for the Seven Islands area. The specific purposes
716 of the Mixed-Use Seven Islands District are:
717
- 718 1. To provide for an integrated mix of uses that includes:
719
- 720 a. A diversity of housing options;
721
- 722 b. A diversity of commercial, office, research and development, and institutional uses providing
723 employment as well as goods and services; and
724
- 725 c. Adequate open space for active and passive recreation that encourages public interaction.
726
- 727 2. To provide for access via a circulation system and pattern that encourages travel on foot and by
728 bicycle within the neighborhood and the use of public transit for external travel, augmented by
729 locations for automobile parking that do not inhibit such circulation.
730
- 731 3. To provide, where appropriate, for integration and compatibility of residential uses with
732 commercial, office, research and development, or institutional uses.
733

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

- 734 4. To establish land use and design standards that will ensure compatibility with surrounding uses.
735
- 736 5. To establish standards and procedures through which the land use objectives and guidelines of
737 an approved and adopted master or area plan serve as the basis for evaluating an individual multi-
738 use neighborhood proposal.
739
- 740 6. To authorize development that is consistent or may be shown to be consistent with applicable
741 laws, regulations, and restrictions addressing environmental protection.
742
- 743 B. Where applicable. Land classified MX7 must be in an area for which an approved and adopted Use
744 same language as above master or area plan recommends mixed use development at an appropriate
745 scale.
746
- 747 C. Location. The location of properties identified as MX7 are limited to those identified in the Seven
748 Islands Master Plan. Properties identified as MX7 are limited to Tracts A-G, and I, and Blocks 6400-
749 6408, Unit 76, Cape Coral Subdivision.
750
- 751 D. Residential. Any type of dwelling unit as well as any accessory use is allowed, so long as the location
752 and mix of types must be consistent with the Seven Islands Master Plan. A residential use may be
753 intermixed with a nonresidential use or uses in the same block, lot, or building.
754
- 755 E. Maximum residential dwelling units and non-residential square footage. The maximum number of
756 residential dwelling units is 995 dwelling units, and non-residential square footage is 110,000 square
757 feet, no less than 40,000 of which is a community center. The mix of residential dwelling units and
758 non-residential square footage shall be in accordance with the Seven Islands Master Plan, concept D1.
759
- 760 F. Compatibility and design standards. All uses must conform to the guidelines of the Seven Islands
761 Master Plan. Uses must be compatible with existing or planned development on or adjacent to the
762 site.
763
- 764 1. Height and Orientation.
765
- 766 a. No building may be constructed to a height greater than 8 stories or 115 feet, or as indicated
767 in the Seven Islands Master Plan, Concept D1.
768
- 769 b. A building primarily used for retail or office use must be oriented toward the street on which
770 it fronts. Off-street parking shall be kept to a minimum between the building and the front
771 lot line.
772
- 773 2. External access and internal circulation.
774
- 775 a. The internal vehicular circulation system must follow a pattern of intersecting streets that
776 provide alternative routes.
777
- 778 b. Points of external access and alignments of internal roadways must facilitate use of public
779 transit. This includes providing sufficient rights-of-way for bus pull-outs and bus shelters, as
780 well as transit easements on private streets.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

- 781
782 c. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent
783 of minimizing walking distances and reducing dependence on the private automobile for
784 internal travel and external access; and include:
- 785 i. Pedestrian sidewalks within the rights-of-way of Old Burnt Store Road and Tropicana
786 Parkway;
 - 787 ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks,
788 when environmental factors do not prohibit the construction of paths and bikeways; and
 - 789 iii. Safe and convenient access to retail and service uses, community and public facilities, and
790 public transit, carpool, or vanpool services.
- 791
- 792 3. Public facilities and utilities.
- 793
 - 794 a. All utility lines must be placed underground.
 - 795
 - 796 b. Street lighting must be provided in accordance with the site plan.
 - 797
- 798 G. Green area and public use space requirements. The minimum amount of green area is 30 percent of
799 the gross area of the site. This green area must include the following:
- 800
 - 801 1. Within the nonresidential area, a plaza for public use;
 - 802
 - 803 2. Within the residential area, a public park or common open space suitable for active or passive
804 recreation within a reasonable walking distance of any area devoted to multi-family or single-
805 family attached dwelling units; and
 - 806
 - 807 3. Integration of active and passive spaces to encourage joint use by employees and residents,
808 subject to the following criteria:
 - 809
 - 810 a. Active open spaces include large, open play fields, local parks, and small recreation areas;
 - 811
 - 812 b. Passive open space areas and preserve natural features such as trees and wetlands; and
 - 813
 - 814 c. Active and passive open spaces will not be isolated from the Seven Islands development.
 - 815
- 816 H. Surface parking. The form, arrangement, and landscaping of off-street surface parking for multi-family
817 dwellings and commercial uses are designed to avoid large expanses of paved area. Parking shall be
818 away from the street frontage and in the interior of the lot, unless the City Council makes a finding
819 that parking between the building and front lot line will serve the purposes of the district more
820 effectively than an interior location.
- 821
- 822 I. Drive-thru lanes prohibited. To encourage pedestrian-friendliness, no use may utilize drive-thru lanes
823 in the MX7 district.
- 824
- 825 J. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial
826 parking lots and parking garages as a standalone use; movie theaters; craft brewery, distilleries, and
827 wineries; mobile food trucks; and home occupations are found in Article 5, Chapter 12 and 13.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

828
829
830
831
832
833
834
835
836
837
838
839

840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869

Section 4.2.15. South Cape District

The South Cape District special regulations are intended to act as a stimulus to development through provisions that permit a flexible approach to infill development within the City’s Community Redevelopment Area.

Specific conditions for multi-family residential and vehicle fueling stations are in Article 5, Chapter 12.

A. Maximum Density and Height

Table 4.2.15. Maximum Density and Height

	Maximum Height (stories/feet, whichever is less)	Maximum Density (d.u./acre)
Baseline	10/120	125

1. All buildings or portions of buildings within 200 feet of the R1 zoning district shall be limited to six stories or 95 feet, whichever is less.
 2. Maximum building height shall not apply to the following building components: elevator and stair bulkheads; solar energy systems; shade devices associated with parking structures or recreational amenities; skylights or similar components associated with daylighting; and mechanical equipment, provided that such equipment is architecturally screened on all sides.
- B. Standards for site design. Sites shall be designed to incorporate safe and convenient vehicular use areas and pedestrian ways, with landscape, lighting, and signage treatments intended to result in a comprehensive design.
1. Streets. Streets in the South Cape zoning district are classified as follows:
 - a. Primary streets
 - i. Cape Coral Parkway
 - ii. Coronado Parkway
 - iii. SE 47th Terrace
 - b. Secondary streets. All streets other than those included as a primary street within the boundaries of the SC district.
 - i. Del Prado Boulevard
 - ii. Miramar Street
 - iii. Lafayette Street
 - iv. SE 46th Lane, Street
 - v. SE 10th Lane
 - vi. Leonard Street
 - c. Local streets. All streets other than those included as a primary or secondary.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

- 893
894 D. Building setbacks and architectural features.
895
896 1. Front Setback . 0 feet.
897
898 2. Side Setback.
899
900 a. If adjacent to an alley, a 5-foot setback is required; otherwise, 0.
901
902 b. If adjacent to single family property, a minimum ten-foot setback is required, inclusive of a
903 five-foot landscaped strip.
904
905 c. If adjacent to existing ROW, see subsection (a) above.
906
907 d. If adjacent to a navigable waterway, fifteen feet.
908
909 e. If adjacent to a public utility easement, a minimum 6-foot setback is required.
910
911 3. Rear Setback.
912
913 a. If adjacent to an alley, a 5-foot setback is required.
914
915 b. If adjacent to single family property, a minimum ten-foot setback is required, inclusive of a
916 five-foot landscaped strip; otherwise 0.
917
918 c. If adjacent to existing ROW, see subsection (a) above.
919
920 d. If adjacent to a navigable waterway, fifteen feet
921
922 4. Variations in required in setbacks may be approved by the DCD Director to accommodate
923 pedestrian amenities, such as public plazas, pedestrian entries, outdoor dining areas and similar
924 public use areas, or landscaping.
925
926 5. Architectural features, such as colonnades, awnings, canopies, signs, etc., may project into
927 required setback and across the front property line, or the front and side property lines for corner
928 lots into the public right-of-way, provided the feature(s) do not interfere with use of any street,
929 pedestrian sidewalk, or utility infrastructure. This includes required design elements specified in
930 Article 5, Section 5.8.9 “Building Design Standards in the SC and MXB Districts. When permitted,
931 such features shall have at least 8’ of vertical clearance from the ground level. If such elements
932 encroach, the City may require the property owner to enter into a formal easement agreement
933 or right-of-way agreement in a form acceptable to the City Attorney. The owner of the structure
934 containing the elements encroaching into the setback, easement, or right-of-way is solely
935 responsible for repairing any damage to encroachments in the setback, easement, or public right-
936 of-way that result from maintenance or public infrastructure improvements.
937
938 6. Street Frontage Standards:
939

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

- 940 a. Parking structures or buildings elevated over surface parking lots shall have an occupied
941 ground floor space for a minimum depth of 20 feet from the frontage lines.
942
- 943 b. Properties with a frontage along a primary street, residential 1st floors are permitted beyond
944 a depth of 50 feet from the building setback. Buildings shall have a principal pedestrian
945 entrance on a primary frontage line.
946
- 947 c. Properties with a frontage along a primary that abut an alley, vehicular egress shall be
948 provided from the alley rather than a frontage line.
949
- 950 d. No loading docks and service areas shall be on primary street frontage lines.
951
- 952 e. Outdoor storage areas are not permitted on primary street frontages.
953
- 954 E. Parking Requirements. Parking requirements for the South Cape district can be found in Article 6.
955
- 956 E. Specific regulations for: multi-family residences; commercial parking lots and parking garages as a
957 standalone use; vehicle fueling stations; craft brewery, distilleries, and wineries; wireless antennas;
958 and home occupations are found in Article 5, Chapter 10 and 11.
959
- 960 F. The minimum dwelling unit size in the South Cape District may be 500 square feet provided all
961 requirements of the Florida Building Code are met.
962

Section 4.2.16. Planned Unit Development Districts (PUD)

- 963
- 964
- 965 A. A Planned Unit Development (PUD) are intended to allow development as a cohesive unit, where
966 uses and innovations in design and layout of the development provide public benefits when
967 compared to standard zoning or uniform lot and block subdivision patterns and design features.
968
- 969 B. The procedures for PUDs are provided in Article 3, Section 3.4.7.
970
971
972

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

1 CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT

- 2
- 3 Section 5.1.1. Purpose and Intent
- 4 Section 5.1.2. Connection to utilities.
- 5 Section. 5.1.3. Requirements for underground utilities.
- 6 Section 5.1.4. Access required.
- 7 Section 5.1.5. Protection of underground pipelines and utilities.
- 8 Section 5.1.6. Protection of easements.
- 9 Section. 5.1.7. Required visibility triangles.
- 10 Section 5.1.8. Sidewalks and alleys.
- 11 Section 5.1.10. Maintenance of city rights-of-way.
- 12 Section 5.1.11. Building numbers and addresses.
- 13 Section 5.1.12. General regulations for lots, yards, and setbacks.
- 14 Section 5.1.13. Single-family residential standards
- 15 Section 5.1.14. Multi-family residential.
- 16 Section 5.1.15. Dumpster Enclosures.
- 17 Section 5.1.16. Outdoor Dining.
- 18 Section 5.1.17. Mixed-use Buildings.
- 19 Section 5.1.18. Abandoned Vehicles or Watercraft.
- 20 Section 5.1.19. Newspaper Racks.

21

22 CHAPTER 2 ACCESSORY STRUCTURES

- 23
- 24 Section. 5.2.1. General Requirements.
- 25 Section 5.2.2. Reserved
- 26 Section. 5.2.3. Arbors, trellises, and pergolas.
- 27 Section. 5.2.4. Attached and detached garages.
- 28 Section. 5.2.5. Courts and playing surfaces.
- 29 Section. 5.2.6. Decks.
- 30 Section. 5.2.7. Fences and walls.
- 31 Section.5.2.8. Flags and Flagpoles.
- 32 Section. 5.2.9. Fountains, reflecting pools, and sculptures.
- 33 Section. 5.2.10. Gazebos, sun shelters, and similar structures.
- 34 Section. 5.2.11. Guest houses.
- 35 Section. 5.2.12. Play or recreation equipment.
- 36 Section. 5.2.13. Sheds and greenhouses.
- 37 Section. 5.2.14. Solar Photovoltaic (PV) Arrays.
- 38 Section. 5.2.15. Swimming Pools.

39

40 CHAPTER 3. Land Clearing, Filling, Extraction, and Construction Sites.

- 41
- 42 Section 5.3.1. Borrow pits; regulation of removal or extraction of dirt, soil, sand, rock, oil, gas, etc.;
- 43 procedures.
- 44 Section. 5.3.2. Land Clearing, Filling, and, Excavation.
- 45 Section. 5.3.3. Construction Site Maintenance.

46

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

47 **CHAPTER 4. MARINE IMPROVEMENTS.**

48

49 Section. 5.4.1. Purpose and Intent

50 Section. 5.4.2. General Requirements.

51 Section. 5.4.3. Dimensional Standards

52 Section 5.4.4. Joint Marine Improvements.

53 Section. 5.4.5. Quays and mooring piles.

54 Section. 5.4.6. Davits, watercraft lifts, and floating docks.

55 Section. 5.4.7. Boathouses and canopies.

56 Section. 5.4.8. Bulkheads, seawalls, and retaining walls.

57

58 **CHAPTER 5. LANDSCAPING**

59

60 Section 5.5.1. Purpose and intent.

61 Section 5.5.2. Florida-Friendly Landscaping Program principles.

62 Section 5.5.3. Applicability.

63 Section 5.5.4. Exemption.

64 Section 5.5.5. Conflicts.

65 Section 5.5.6. Landscape plans.

66 Section 5.5.7. Planting near utility infrastructure.

67 Section 5.5.8. Existing trees.

68 Section 5.5.9. Prohibited vegetation.

69 Section 5.5.10. Quality, size, spacing, and species mix.

70 Section 5.5.11. Planting in public drainage or utility easements.

71 Section 5.5.12. Single-family homes and duplexes.

72 Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.

73 Section 5.5.14. Irrigation.

74 Section 5.5.15. Tree credits.

75 Section 5.5.16. Landscape maintenance.

76 Section 5.5.17. Planting in medians, cul-de-sacs, and roundabouts.

77 Section 5.5.20. Deviations.

78

79 **CHAPTER 6. LIGHTING.**

80 Section. 5.6.1. Purpose and applicability.

81 Section. 5.6.2. Outdoor lighting standards.

82

83 **CHAPTER 7. SCREENING**

84 Section. 5.7.1. Screening of rooftop equipment.

85 Section. 5.7.2. Screening of storage areas.

86 Section. 5.7.3. Air conditioning units and mechanical equipment.

87 Section. 5.7.4. Permanently installed stand-by generators.

88

89 **CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.**

90

91 Section 5.8.1. Purpose and Intent.

92 Section 5.8.2. Applicability.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 93 Section 5.8.3. Exemptions.
94 Section 5.8.4. Conflicts.
95 Section 5.8.5. Appearance, Building Mass, and Design Treatments.
96 Section 5.8.6. Wall Height Transition.
97 Section 5.8.7. Building Materials.
98 Section 5.8.8. Roofs.
99 Section 5.8.9. Building Design Standards in the SC and MXB Districts.
100 Section 5.8.10. Equipment and Loading Areas
101 Section 5.8.11. Deviations.
102
103 **CHAPTER 9. TEMPORARY USES.**
104
105 Section. 5.9.1. Purpose and applicability.
106 Section. 5.9.2. Firework, pumpkin, and Christmas tree sales.
107 Section. 5.9.3. Outdoor display of merchandise.
108 Section. 5.9.4. Garage sales.
109 Section. 5.9.5. Temporary construction or field office.
110 Section 5.9.6. Construction staging areas for essential public facilities and post disaster debris staging
111 Section. 5.9.7. Temporary sales office.
112 Section. 5.9.8. Temporary Storage Containers.
113 Section 5.9.9. Temporary Habitable Structures.
114 Section. 5.9.10. Temporary Off-Site Vehicle Sales.
115 Section 5.9.11. Section. 5.9.12. Tents for other than Special Events.
116 Section 5.9.12 Other events not named..
117 Section 5.9.13 Temporary seawall staging areas.
118
119 **Chapter 10. - SPECIFIC USE REGULATIONS (P* Uses in Table 4.4)**
120
121 Section. 5.10.1. Purpose and applicability.
122 Section. 5.10.2. Craft breweries, distilleries, and wineries.
123 Section. 5.10.3. Duplexes and Single-family Semi-detached dwellings.
124 Section. 5.10.4. Home occupations.
125 Section. 5.10.5. RV resorts
126 Section. 5.10.6. Reserved
127 Section 5.10.7. Roadside Food and Vegetable Stand.
128 Section 5.10.8. Accessory Parking Lots.
129 Section. 5.10.9. Solar Arrays.
130 Section 5.10.10. Vehicle Sales, Light.
131 Section 5.10.11. Wireless Communication Facilities
132 Section. 5.10.12. Wireless Facility Design standards.
133 Section. 5.10.13. Reserved.
134 Section. 5.10.14. Model homes.
135 Section. 5.10.15 Building and Construction with outdoor storage and display.
136 Section. 5.10.16. Self-storage Facility.
137
138 **Chapter 11. - CONDITIONAL USES**

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 139 Section. 5.11.1. Purpose and applicability.
- 140 Section. 5.11.2. Brewpubs.
- 141 Section. 5.11.3. Attached residential of three-units or more.
- 142 Section. 5.11.4. Multi-family dwellings.
- 143 Section. 5.11.5. Vehicle Repair, Minor.
- 144 Section. 5.11.6. Outdoor Screened Storage.
- 145 Section. 5.11.7. Laboratory – Medical, Research, Testing, and Development.
- 146 Section. 5.11.8. Sporting Facilities, Indoor and Outdoor.
- 147 Section. 5.11.9. Boat Sales
- 148 Section 5.11.10. Home based businesses
- 149 Section. 5.11.12. Religious Institutions.

150

151 **CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT**

152

153 **Section 5.1.1. Purpose and Intent**

154

155 The purpose of this article is to provide standards for all development in the City of Cape Coral.

156

157 **Section 5.1.2. Connection to utilities.**

158

159 All development is required to connect to public or private utilities, as required as by the City of Cape
160 Coral Code of Ordinances, Chapter 19 Water and Sewer Utilities.

161

162 **Section. 5.1.3. Requirements for underground utilities.**

163

164 A. In new residential subdivisions, all utility lines (including electrical power distribution, telephone,
165 communication, street lighting, and cable television signal service) shall be installed underground.
166 This Section shall apply to all cable, conduits, or wires forming part of an electrical distribution system,
167 including service lines to individual properties.

168

169 However, this Section shall not apply to wires, conductors, or associated apparatus and supporting
170 structures whose exclusive function is in transmission of electrical energy between generating
171 stations, substations, transmission lines of other utility systems, and main distribution feeder electric
172 lines delivering power to local distribution systems. Appurtenances such as transformer boxes,
173 pedestal-mounted terminal boxes, and meter cabinets may be placed above ground and in such a
174 manner as to minimize noise effects upon the surrounding residential properties.

175

176 B. The developer shall provide for the necessary costs and other arrangements for such underground
177 utility installation.

178

179 C. For all new buildings in the Commercial Corridor, South Cape, and PUD zoning districts all onsite
180 utilities including telephone, electricity, cable television, and other wires of all kinds shall be placed
181 underground. However, appurtenances to these systems that require aboveground installation,
182 including utility panel boxes, are exempt from this requirement if the appurtenances are not placed
183 in front yards. When such appurtenances are placed in utility easements abutting a platted alley,
184 they shall be placed at least ten and one-half feet from the centerline of the platted alley. These

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

185 underground requirements also apply to those improvements to non-conforming structures that
186 exceed the 50% thresholds as described in Article 8, Nonconformities. All utility infrastructure,
187 including electric utility poles and power lines, shall be concealed from public view wherever
188 possible. All new electric distribution lines shall be located in utility easements abutting platted
189 alleys and the utility poles shall be positioned so that a minimum clearance of ten and one-half feet
190 from the centerline of any platted alley is maintained. For properties that do not have a rear platted
191 alley, the electric distribution lines and utility poles shall be placed in the rear utility easement
192 wherever possible.

193
194 D. In the South Cape zoning district where overhead or underground utility lines have been placed in
195 the six-foot PUE, a property owner shall choose one of the following options:

- 196
197 1. Relocate the utility lines to the alley or other acceptable location, at the property owner's sole
198 expense, and subject to approval by the affected utility provider(s) and the City of Cape Coral;
199 or
200
201 2. Place a concrete sidewalk or architectural elements on the front six-foot property setback. If
202 overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or
203 front porches may be constructed forward of this line even if otherwise required by this code.
204 If underground lines of any type are in place, the property owner is solely responsible for
205 repairing any damage to lawful encroachments into the six-foot easement resulting from
206 maintenance or improvements to utility lines.

207
208 **Section 5.1.4. Access required.**

209
210 Except as otherwise provided, all building sites shall have access on a street or a road shown on an
211 approved and recorded final plat. One or more buildings may have no direct access to a street provided
212 that the approving authority finds that such building site(s) have adequate indirect access to a street such
213 as a recorded easement or right-of-way through or over another parcel. The city may prohibit direct access
214 from a parcel or building site to a street when the approving authority finds that prohibition of direct
215 access would promote the public health, safety, and welfare based on factors including traffic or
216 transportation safety and when the parcel or building site could be afforded indirect access to a street or
217 other road via another parcel or building site.

218
219 **Section 5.1.5. Protection of underground pipelines and utilities.**

220
221 A. Intent. It is the intent of the City Council to protect underground pipelines and utilities from
222 destruction or damage to prevent:

- 223
224 1. Death or injury to persons;
225
226 2. Property damage to private and public property; and
227
228 3. Loss of essential pipeline or utility services to the general public.
229

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

230 B. All excavation on public property, rights-of-way, or dedicated easements shall comply with the
231 requirements of F.S. 556. Underground Facility Damage Prevention and Safety.

232
233 C. Penalties for violation. Any person violating this section shall be punished as provided in the Code
234 of Ordinances of the City of Cape Coral.

235
236 **Section 5.1.6. Protection of easements.**

237
238 A. In the R-1, RML, RE, and A zoning districts, the six-foot easement around the perimeter of sites shall
239 be preserved and nothing shall be placed or constructed on such easements other than a paved
240 driveway, walkway, sidewalk, fences, or well. In addition, for non-residential uses lawfully located
241 in residential zoning districts, paved off-street parking areas may be placed or constructed on the
242 six-foot easement around the perimeter of the site.

243
244 B. In the RMM zoning district, where lot depth is greater than 131 feet, the six-foot easement around
245 the perimeter of the sites shall be preserved and nothing shall be placed or constructed on such
246 easement other than a paved driveway, walkway, sidewalk, paved off-street parking areas, or a well
247 when site conditions make it impractical to locate elsewhere. On sites with a depth of less than 131
248 feet, paving of the front easement for parking purposes shall be permitted.

249
250 C. Lawn sprinkler systems and landscaping may be placed in the 6' PUE easements as permitted by the
251 Code of Ordinances or the Land Development Code.

252
253 D. In the C, CC, I, INST, MXB, MX7, NC, P, and SC zoning districts, paved off-street parking areas, paved
254 driveways, sidewalks, wells, walkways at ground level, lawn sprinkler systems, or landscaping may
255 be placed in an easement provided that all other requirements of the Code of Ordinances or the
256 Land Development Code are met.

257
258 E. Nothing in this section shall prohibit the construction of seawalls, davits, docks, or other structures
259 as permitted by the Cape Coral Code of Ordinances.

260
261 F. If a utility removes, damages, or disturbs the construction or other material within an easement as
262 allowed by this section, the property owner shall be responsible for the cost of its removal,
263 relocation, repair, or replacement. If any plant material in an easement required by Chapter 5 of
264 this Article of the Land Development Code is removed or damaged, the property owner shall replace
265 all such material within 30 days of the completion of the utility work. These requirements also
266 include repair or replacement of sod within the right-of-way. In addition, prior to issuing a permit
267 to locate, place, construct, or install any structure, construction, driveway, or other material in an
268 easement, the city may require the property owner to agree to indemnify and to hold the city
269 harmless from any or all costs or expenses incurred as a result of such location, placement,
270 construction, or installation in the easement.

271
272 G. The city may deny applications to place wells, fences, walls, or other materials in an easement if
273 such would conflict with existing or proposed utilities or drainage functions.

274
275 **Section. 5.1.7. Required visibility triangles.**

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

276
277 As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting
278 streets, driveways, alleys, and bicycle paths, there shall be limitations on the height of fences, walls,
279 gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in
280 the Cape Coral Engineering and Design Standards and as follows:

- 281
282 A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between
283 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
284
285 B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle
286 to provide the unobstructed visibility.
287
288 C. The Community Development Director shall make the final determination regarding visibility
289 triangles.

290
291 **Section 5.1.8. Sidewalks and alleys.**

- 292
293 A. Non-Residential Zoning Districts. As part of construction of each building erected in non-residential
294 or mixed-use zoning districts (C, CC, I, INST, MXB, MX7, NC, P, and SC) right-of-way improvements
295 (including sidewalks) shall be installed prior to the issuance of a certificate of occupancy pursuant
296 to the standards and specifications set forth in the City of Cape Coral Engineering Design Standards.
297
298 B. All sidewalks shall be constructed in accordance with the City of Cape Coral Engineering Design
299 Standards, except where a sidewalk has been installed and the established width is less than five
300 feet, the minimum width of the sidewalk to be installed shall be the width of the existing sidewalk.
301
302 C. Lot owners who develop property, erect buildings, or change the use on only a portion of a lot must
303 provide the curbs, sidewalks, gutters, and lane widening for the entirety of the property, as required
304 by this subsection, which shall be at the expense of the lot owner.
305
306 D. As part of property development and construction of each building erected in the C, CC, I, INST,
307 MXB, MX7, NC, P, and SC zoning districts adjacent to a platted alley the alley shall be improved prior
308 to the issuance of a certificate of occupancy. Such alley portion shall be constructed in accordance
309 with the Engineering Design Standards along the length of the property line of the site lying adjacent
310 to the platted alley. In addition to new construction in the C, CC, I, INST, MXB, MX7, NC, P, and SC
311 zoning districts, alterations to existing sites lying adjacent to a platted alley shall be required to
312 make the alley improvements required by this section if the value of such alterations exceeds 50%
313 of the replacement value of the site improvements. These improvements include parking areas,
314 internal curbing, and retention areas but exclude internal, previously existing modifications to the
315 building.
316
317 E. Payment in Lieu of Construction. At the discretion of the City, the City may accept payment in lieu of
318 construction for all or part of the off-site improvements required by the City. For projects where
319 payment in lieu of construction will be employed, the developer shall submit to the City 110% of the
320 estimated cost of the improvements as prepared by a professional engineer licensed in the state of

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

321 Florida, which shall be reviewed and approved by the City. The developer shall provide the City with
322 payment for all construction costs prior to the issuance of a development permit for the site.
323

324 F. Right-of-way improvements shall be constructed only if the city has developed construction designs
325 for that roadway segment. In areas without city approved construction designs for a roadway
326 segment, construction of improvements shall be done through a city established special assessment
327 district.

328
329 G. Residential. New residential subdivisions and Planned Unit Developments of 20 or more lots or units
330 and multi-family development of 50 or more units shall install sidewalks along all street frontages
331 abutting and within the development. This does not apply to existing structures that are being
332 remodeled or repaired.
333

334 **Section 5.1.9. Work in the Public Right-of-Way and Public Utility Easements.**
335

336 A. General. Except as provided below, no construction, change, modification, or alteration of any
337 type or nature whatsoever, including the addition or removal of fill, vegetation, or other
338 materials, or the placement, installation, or erection of any object or vegetation, shall be allowed
339 within a city-owned right-of-way or swale, except as provided in Chapter 1 of this Article.
340

341 B. No permit required. The following work or activities shall be allowed in the public right-of-way or
342 roadway easement areas without the necessity of a city permit:
343

344 1. Trimming, cutting, or maintenance of trees, shrubs, and other vegetation existing as of the
345 effective date of this ordinance in the public rights-of-way or swales;
346

347 2. Markers, commonly known as buttons, turtles, or half-moons, may be placed 18 inches from
348 the edge of the pavement in residential zoning districts provided that such markers shall not
349 exceed a height of four inches. However, no markers shall be placed within any public right-
350 of-way which is adjacent to a roadway with four or more lanes;
351

352 3. Mailboxes may be placed in the public rights-of-way or swales so long as they are in
353 accordance with the City of Cape Coral Engineering Design Standards. The mailbox may be
354 immediately surrounded by a small bed consisting of landscape edging materials or concrete
355 curbing, bedding plants or groundcover, and mulch or decorative rock provided that such
356 decorative rock shall not exceed four inches when measured in any direction, pursuant to
357 Chapter 5 of this Article. In no event shall the diameter of the plant bed exceed two feet
358 when measured from the outer-most edges of any landscape edging material or concrete
359 curbing utilized. and
360

361 4. A Registration Certificate is required to install landscaping material in the lateral right-of-way
362 areas between the roadway pavement and the private property line in accordance with
363 Section 5.5.19 of this Article.
364

365 C. Permit required. The following work or activities shall be allowed in the public right-of-way or
366 roadway easement areas provided that the property owner first obtains a permit from the city:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 367
368 1. Culvert installation and appurtenant work;
369
370 2. Sod installation and appurtenant work;
371
372 3. Driveway installation and appurtenant work;
373
374 4. Curb, gutter, sidewalk, sod, and paving;
375
376 5. Alley improvements;
377
378 6. Installation of sprinkler systems. However, if the sprinkler system is disturbed, damaged, or
379 destroyed by the City performing work in the public right-of-way, the owner shall be solely
380 responsible for any cost resulting from such disturbance, damage to, or destruction of the
381 sprinkler system in the right-of-way; and
382
383 7. Planting in medians, cul-de-sacs, and roundabouts as permitted in Section 5.5.17 of this
384 Article.
385
386 D. Under no circumstances shall any of the activities permitted above result in any change,
387 modification, or alteration of any type whatsoever, to the established grade, slope, or contour of
388 the public swale or right-of-way not specifically addressed by the City of Cape Coral Engineering
389 Design Standards.
390
391 E. None of the prohibitions contained in this ordinance shall apply to any construction, change,
392 modification, or alteration within a public right-of-way or swale which is performed by or
393 required by a governmental entity or public utility.
394
395 F. Public Utilities. No public utility including electric, phone, cable tv, internet, cellular, or gas
396 company will be allowed to install or maintain facilities, begin construction, change, modify, or
397 alter in any way whatsoever the public right-of-way, swale, or adjacent public utility easements,
398 including the addition or removal of fill, vegetation, or other materials, without a permit as
399 required by the City of Cape Coral Code of Ordinances.

400
401 **Section 5.1.10. Maintenance of city rights-of-way.**
402

403 All property owners shall be responsible to either maintain or construct the city-owned right-of-way
404 lying between their property boundaries and the city pavement, to include the following standards.
405

- 406 A. Prior to preparation of a building lot for construction, the building permit holder shall obtain the
407 correct swale flow line elevations from the City and proceed immediately to create the required
408 swale needed to allow continuous uninterrupted flow of stormwater throughout the construction
409 process.
410

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 411 B. During construction or reconstruction approved erosion control devices shall be placed in the swale
412 adjacent to both property lines to impede all foreign matter from entering the stormwater system.
413 The erosion control devices shall remain in place until placement of final sod in the right-of-way.
414
- 415 C. No excavated material or construction material shall restrict stormwater flow within the swale area.
416
- 417 D. Upon issuance of the certificate of occupancy, the owner shall maintain the swale indefinitely to
418 the same standard that is applied to privately-owned property.
419
- 420 E. All pavement damage must be repaired to meet or exceed the City of Cape Coral Engineering Design
421 Standards.
422

423 **Section 5.1.11. Building numbers and addresses.**
424

425 All buildings in the City of Cape Coral shall display a proper building number at least four feet from the
426 ground level. All building numbers shall be visible from the public right-of-way which the front of the
427 building faces. Building numbers of sufficient size which are affixed to both sides of mail boxes on such
428 right-of-way or building numbers which are affixed to lawful signs not attached to the building may be
429 substituted for number affixed to buildings.
430

431 **Section 5.1.12. General regulations for lots, yards, and setbacks.**
432

- 433 A. Double frontage other than corner lots. Double frontage other than corner lots shall meet front
434 setback regulations on all adjacent streets.
435
- 436 B. Corner lots. In the SC and MXB zoning district(s), corner lots shall be deemed to have front lot lines
437 abutting all street right-of-way lines. For corner lots in all other zoning districts, the following shall
438 apply:
439
- 440 1. The front of any building site shall be determined by the lesser dimension of a single lot (not
441 building site). This frontage shall have the established setback for the particular zoning district,
442 but in no instance be less than 25 feet.
443
 - 444 2. The remaining street frontage shall have a setback of no less than ten feet in all zoning districts.
445 The remaining street frontage shall be maintained as a front yard and the regulations for fences,
446 shrubbery, and walls of this ordinance shall apply.
447
 - 448 3. On sites bounded by three streets, one lot line shall be designated by the Director as the rear
449 and maintained as the rear setback of that zoning district. For purposes of this section, all but
450 the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery, and
451 walls of this ordinance shall apply.
452
 - 453 4. The front of a single-family residential building shall not be offset from the front property line
454 by an angle greater than 45 degrees.
455

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 456 C. No parcel shall be reduced below the minimum dimensional requirements in the zoning district.
457 This provision shall not apply when a portion of a parcel is acquired for a public purpose.
458

459 **Section 5.1.13. Single-family residential standards.**
460

461 In addition to all other provisions of this Code, single-family residential uses shall be subject to the
462 following requirements.
463

- 464 A. In the A, R1, and RE zoning districts only one single family residence shall be permitted per parcel.
465
466 B. Ornamental walls. Ornamental walls attached to the principal building shall have the following
467 requirements
468
469 1. Ornamental walls shall not be higher than four feet at any point where they extend beyond the
470 roof overhang and into the side setback.
471
472 2. Ornamental walls may extend into the side setback but shall not extend into the six-foot
473 perimeter easements.
474
475 3. An ornamental wall not to exceed 30 inches in height may be installed in the front yard.
476
477 4. Ornamental walls may be in the form of a planter.
478
479 4. A planter may be incorporated into the construction of a wingwall.
480
481 C. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge
482 to the front or rear property lines. Refer to the City of Cape Coral Engineering Design Standards,
483 Section L, Drainage Design Standards for lot grading and drainage information.
484
485 D. For single-family or duplex construction activities on any site in a Special Flood Hazard Area, the
486 maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the
487 Building Official.
488

489 **Section 5.1.14. Multi-family residential.**
490

491 In addition to other provisions of this ordinance, single-family attached structures, duplexes, and multi-
492 family residential uses shall be subject to the following requirements.
493

- 494 A. Distance between buildings.
495
496 1. Clustered buildings. Buildings may be constructed on proper building sites in cluster style
497 providing a minimum of 20 feet is maintained between the buildings up to a height of 38 feet.
498
499 a. One foot shall be added to the 20-foot distance for every foot of height increase over 38
500 feet.
501

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

502 b. Carports will not be considered in determining the 20-foot distance between buildings.

503

504 B. Water discharge.

505

506 1. All gutter downspouts or roof drains from multi-family buildings shall be directed to the water
507 management system.

508

509 2. All gutter downspouts or similar water discharge devices from duplexes shall direct the
510 discharge to the front or rear property lines. Refer to the City of Cape Coral Engineering Design
511 Standards, Section L, Drainage Design Standards for lot grading and drainage information.

512

513 C. Maximum Fill. For duplex construction activities on any site in a Special Flood Hazard Area, the
514 maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the
515 Building Official.

516

517 **Section 5.1.15. Dumpster Enclosures.**

518

519 Except where noted below, all sites with uses other than single-family residences and duplexes, shall
520 provide commercial trash receptacles in accordance with the regulations in this section.

521

522 A. Screening.

523

524 1. Except for the SC and MXB Districts, when commercial trash receptacles are in a rear yard that
525 abuts an alley, all commercial trash receptacles shall be enclosed from view on at least three sides
526 by an opaque visual barrier.

527

528 2. When a commercial trash receptacle is visible from an adjacent property or an adjacent street, at
529 ground level, then the commercial trash receptacle shall be enclosed on the fourth side by an
530 opaque gate that shall be the same height as the opaque visual barrier on the other three sides.

531

532 3. The principal structure may be used as the opaque visual barrier on one or more sides provided
533 the commercial trash receptacle is completely concealed from view.

534

535 B. Materials.

536

537 1. The following materials, either singly or in any combination, are the only materials that may be
538 used for the opaque visual barrier and gate:

539

540 a. Wood fencing;

541

542 b. Plastic or vinyl fencing;

543

544 c. Concrete block and stucco wall;

545

546 d. Brick wall; or

547

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 548 e. Formed, decorative, or precast concrete.
549
- 550 2. Chain link fencing, whether singly, or combination with other materials, including plastic slats,
551 shall be prohibited.
552
- 553 3. Gates shall be constructed of a durable, opaque material, consistent or complimentary in color
554 with the enclosure and of a height to screen the container.
555
- 556 C. Location.
557
- 558 1. Commercial trash receptacles shall not be located on unimproved sites.
559
- 560 2. Commercial trash receptacles and accompanying visual barriers, are subject to the following
561 minimum setbacks:
562
- 563 a. Six feet from the front property lines in the SC and MXB Districts.
564
- 565 b. Three feet from alley rights-of-way.
566
- 567 3. When located in a public utility or drainage easement, the property owner shall be solely
568 responsible for removal of the commercial trash receptacle as well as for any cost resulting from
569 disturbance, damage, destruction, or restoration of the receptacle resulting from work associated
570 with utilities in such easement. Prior to issuing a permit, the City may require the property owner
571 to agree, in writing, to indemnify and to hold the city harmless from any costs or expenses
572 resulting from placing a commercial trash receptacle in an easement.
573
- 574 4. A commercial trash receptacle may be placed on an adjoining property provided that the premises
575 are adjacent to or directly behind the development and written consent of the adjoining property
576 owner is submitted to and approved by the Director. The adjoining property owner may revoke
577 this consent upon written notice to the development and the Director. The development shall
578 have 30 days from revocation to relocate the commercial trash receptacle and to comply with all
579 requirements of this section.
580
- 581 5. Developments within 25 feet of a City-owned parking lot may, upon approval by the Director,
582 locate enclosures on the City-owned parking lot. Approval may be revoked at any time, upon
583 reasonable notification, by the City.
584
- 585 D. Dimensions. The dumpster enclosure shall have a minimum interior dimension of ten feet by ten feet
586 and a height at least six inches higher than the enclosed commercial trash receptacle. Neither the
587 dumpster enclosure or the gate providing access to the commercial trash receptacle shall be
588 considered a fence or a wall pursuant to the City Code of Ordinances or Land Development Code.
589
- 590 E. All dumpster enclosures shall be located so that a sanitation vehicle has physical access to the
591 commercial trash receptacle that is adequate for safely servicing the facility.
592
- 593 F. Each commercial trash receptacle shall be located on a concrete pad.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 594
595 G. All solid waste or other refuse, including recycling materials stored in commercial trash receptacles,
596 shall be concealed by a lid attached that shall remain in the closed position unless materials are being
597 placed into the receptacle or the receptacle is being serviced. No material shall be permitted to
598 overflow the receptacle.
599
600 H. In the event a commercial trash receptacle is in a dumpster enclosure that includes a gate, regardless
601 of whether such a gate would have been required pursuant to this section, the gate shall be of a type
602 that opens sufficiently to allow unimpeded access to the trash receptacle by the sanitation vehicle
603 and shall have drop pins, hooks, or other devices installed to hold the gate open while the receptacle
604 is being serviced. All gates shall remain closed unless the receptacle is being serviced.
605
606 I. Deviations. In the event an owner is unable to comply with the requirements of this section, the owner
607 may request an administrative deviation from the Director. In determining whether to approve an
608 administrative deviation, the Director shall consider factors such as dimensions of the property, site
609 constraints such as existing development, or other location factors that may make compliance with
610 this section impossible or impractical. The determination to approve an administrative deviation shall
611 be at the sole discretion of the Director.
612
613 J. Maintenance. Commercial trash containers shall be maintained in a manner which is not a nuisance
614 to surrounding uses.
615
616 1. The receptacle shall be stored in the enclosure and the gate(s) to the enclosure shall remain closed
617 at all times unless it is being accessed at that time.
618
619 2. Refuse may not be left outside of the enclosure or on the ground within the enclosure.
620

621 **Section 5.1.16. Outdoor dining.**
622

623 Outdoor dining may be permitted as an accessory use to a restaurant, hotel, bar, or fraternal organization
624 provided the following conditions are met:
625

- 626 A. All outdoor dining:
627
628 1. Music may be permitted to be performed or amplified in outdoor dining areas, in accordance with
629 Section 12-22 of the City's Code of Ordinances, or in accordance with a permit per Chapter 9 of
630 this Article.
631
632 2. Parking shall be provided at a rate of 1 parking space per 4 seats of outdoor dining are, except in
633 the SC, MX7, or MXB zoning districts, where no additional parking is required.
634
635 3. Outdoor dining in common areas, such as shopping centers, must have written authorization from
636 the property owner.
637
638 B. Outdoor dining on public rights-of-way.
639

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684

1. Stanchions, planters, or other features approved by the City may be used to delineate outdoor dining areas.
2. The number of outdoor seats and tables shall be limited to that number that can be reasonably accommodated according to the available widths of the associated storefront and sidewalk or patio area. Only the area(s) adjacent to the associated storefront and with 50' may be used for outdoor dining. No fixtures or furniture may be attached to the right-of-way or public property.
3. Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere with ingress and egress to buildings or create an unsafe situation with street traffic.
4. The owner or operator of the outdoor dining area shall remove any seating or tables when necessary for special events or when an authorized agent of the City makes such a request.
5. Public sidewalks adjacent to any approved outdoor dining area shall be properly maintained for safety and cleanliness by the owner or operator on a daily basis. Litter, dirt, grime, grease, and food shall not be permitted to accumulate at any time. The sidewalk must be cleaned by pressure washing on a regular basis or when an authorized agent of the city makes such a request. The Public Works Department must approve the method and equipment used for pressure washing.
6. Portable lighting may be used in the outdoor dining area. Extension cords may not be run from any nearby buildings. The use of generators is prohibited. City light poles may not be used for electrical connections. Portable heaters may be used if approved by the Fire Department.
7. An indemnity agreement, provided by the City shall be signed and provided by the outdoor dining owner or operator, along with proof of public liability insurance as approved by the city attorney.
8. The use of glass table tops or furniture is prohibited. The use of plastic or PVC furniture, wooden picnic tables, or couches and chairs intended for indoor use is prohibited. All furniture and fixtures to be used shall be specified in the outdoor dining permit and approved by the City.
9. The City Manager may revoke an outdoor dining permit for locations on the public right-of-way for noncompliance with these regulations.

Section 5.1.17 Mixed-use Buildings.

- A. The minimum dwelling unit size in mixed-use buildings shall be 500 square feet provided all requirements of the Florida Building Code are met.
 - (2) The non-residential design standards set forth in Article 5, Chapter 8 shall apply to all mixed-use buildings.

Section 5.1.18 Abandoned Vehicles or Watercraft.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

685 In addition to all other provisions of this ordinance, automotive and watercraft uses are subject to the
686 following regulations.

- 687
- 688 A. Abandoned vehicles and watercraft are prohibited from being parked or stored on any
689 property in the City of Cape Coral including in driveways, carports, or on unimproved lots.
690
- 691 B. For locations where abandoned vehicles are prohibited, if an abandoned vehicle or watercraft
692 is not removed from the premises within five days from date of written notice to do so, the
693 vehicle or watercraft shall be deemed a nuisance and shall be in violation of this ordinance.
694
- 695 C. Vehicles that are in garages on improved property shall not be deemed to be "abandoned"
696 under this ordinance.
- 697 D. Repairs may be made on the premises if an emergency exists or if performed on an occasional
698 basis. In all cases, repairs must be performed in such a manner as to not cause unsightliness,
699 noise, or obnoxious odors.
700

701 **Section 5.1.19. Newspaper Racks.**

- 702
- 703 A. Purpose. To establish standards and criteria for the placement of newsracks and newspaper
704 vending machines. It is the purpose of this section to establish reasonable time, place, and
705 manner restrictions to further the city's objective in public safety and aesthetics.
706
- 707 B. Standards.
- 708
- 709 1. No person shall place, install, or maintain any newsrack that projects or rests onto,
710 into, or over any part of the roadway of any public street.
711
- 712 2. No person shall place, install, use or maintain a newsrack that endangers the safety of
713 persons or property when such site interferes with public utility uses or other
714 governmental use; when such newsrack impedes the flow of pedestrian or vehicular
715 traffic, the ingress into or egress from any residence or place of business or any legally
716 parked or stopped vehicle, or the use of light poles, posts, traffic signs or signals,
717 hydrants, mailboxes, or any other objects permitted at or near such location; when
718 such newsrack interferes with the cleaning of any sidewalk by use of any sidewalk
719 cleaning machinery or the mowing of grass by mechanical mowing machinery or when
720 such newsrack interferes with the ordinary use of public property.
721
- 722 3. Newsracks are prohibited in any median within a public right-of-way, roadway, or
723 street.
724
- 725 4. All newsracks shall comply with the following standards:
726
- 727 i. The newsracks shall be anchored, set, and maintained on a concrete pad.
728
- 729 b. Newsracks shall not be placed, installed, used, or maintained:
730 i. Within 10 feet of any marked crosswalk.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 731 ii. Within 15 feet of the curb return of an unmarked crosswalk.
732 iii Within 10 feet of any fire hydrant.
733 iv. Within 10 feet of any driveway.
734 v. Within 15 feet of any designated mass transit bus stop.
735 vi. Within 15 feet of a "No Parking" sign or zone.
736
737 5. Newsracks shall not be used for the display of signs or placement of placards, other
738 than to promote the newspaper, periodical, or other publications contained therein.
739
740 6. Every person who places or maintains a newsrack in the city shall affix on the rear of the
741 newsrack a weather resistant decal no larger than five inches x seven inches that states the
742 distributor's name, address, and telephone number.
743
744 C. Indemnification. All distributors of publications utilizing newsracks within the city shall execute an
745 indemnification, in a form approved by the City Attorney, which will hold the city, its officers,
746 employees and agents harmless from any claim, demand or judgment in favor of any person or
747 entity arising out or resulting from the placement of any newsrack in or over a public right-of-way.
748
749 (3) Enforcement. Removal of any and all newsracks shall be determined by the following criteria:
750
751 1. Upon determination by a code enforcement officer (as specified in [§ 2-82.1](#) of the
752 Code of Ordinances) that a newsrack has been installed or maintained in violation of
753 the provisions of this section, a citation shall be issued, in a form prescribed by the
754 city, and shall state:
755
756 2. The time and date of issuance;
757
758 3. The name and address of the distributor and in the case of a newspaper vending machine, the
759 publisher of the respective newspaper, to whom the citation shall be issued to and served
760 upon;
761
762 4. The time and date of the violation;
763
764 5. A brief description of the violation and the facts constituting reasonable cause;
765
766 6. The number or section of this code violated;
767
768 7. The name of the code enforcement officer;
769
770 8. Shall specify a reasonable time, not to exceed ten days, in which corrective action should be
771 taken;
772
773 9. The procedure for the person cited to follow in order to pay the civil penalty or to contest the
774 citation;
775

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 776 10. The applicable minimum (\$25) and maximum (\$200) civil penalty if the person elects to contest
777 the citation;
778
- 779 11. The applicable civil penalty if the person elects not to contest the citation;
780
- 781 12. A conspicuous statement that if the person fails to pay the civil penalty within the time
782 allowed, or fails to appear in court, as the case may be, to contest the citation, the person will
783 be deemed to have waived his right to contest the citation and that in such case, judgment
784 may be entered against the person for the amount stated in the citation;
785
- 786 13. A copy of the citation shall be affixed on the respective newsrack.
787
- 788 (4) Any aggrieved party may appeal a final order to the Circuit Court. Such an appeal shall not be
789 a hearing *de novo*, but shall be limited to appellate review of the record created before the
790 County Court. An appeal must be filed within 30 days of the execution of the order to be
791 appealed.
792
- 793 F. Should any newsrack constitute a threat to public health or safety, or is in violation of this section
794 after notice and hearing on said violation, the newsrack shall be subject to removal by the city
795 within 48 hours, unless conditions warrant a shorter time period, following the issuance and
796 service of a citation accompanied by a notice of intent to remove the newsrack. Upon removal,
797 the code enforcement officer shall deliver a notice of removal to the distributor and, in the case
798 of a newspaper vending machine, to the newspaper publisher such notice to describe the location
799 from which the newsrack was removed, the address of the location where the newsrack is being
800 stored and a brief explanation of the procedures by which the publisher or distributor may obtain
801 a release of the newsrack.
802
- 803 G. A newsrack removed hereunder shall be stored in a secure location for a period not to exceed 30
804 days. The newsrack shall be released to its distributor, upon proof of ownership and payment of
805 reasonable and actual storage charges. A \$25 pick-up and collection charge will be assessed in
806 addition to the actual and reasonable storage charge for any newsrack not picked up within 48
807 hours. If any newsrack is not claimed within 30 days, the newsrack shall be deemed abandoned
808 and shall become the property of the city, and thereafter be sold at public auction. Approximately
809 ten days prior to the auction, the City Clerk shall furnish a description of the newsrack, the location
810 from which it was removed and a notice of the auction in a newspaper of general circulation within
811 Lee County. The proceeds of the sale shall be applied first to storage charges and then paid to the
812 General Fund of the City of Cape Coral. The city may otherwise dispose of the newsrack in
813 accordance with Florida law, as the city deems appropriate.
814
- 815 H. Amortization period. Each newsrack legally located and placed on the adoption date of this section
816 shall have 90 days from the adoption date of this section to comply with the provisions of this
817 section to recoup any investment from that newsrack and to have sufficient time to transition
818 nonconforming units out of locations throughout the city and to provide conforming newsracks
819 for placement within city limits. Any newsrack not in compliance with this section following the
820 90-day amortization period may be removed by the city in accordance with this section.
821

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

822 **CHAPTER 2 ACCESSORY STRUCTURES**

823

824 **Section. 5.2.1. General Requirements.**

825

826 A. This chapter shall pertain to residential properties unless otherwise specifically stated herein.
827 Accessory structures on non-residential properties shall be reviewed per the standards of that zoning
828 district. Agriculturally zoned properties shall not be considered residential for purposes of this section.
829

830 B. Accessory buildings shall be constructed to conform to the minimum building requirements and shall
831 meet all other regulations applicable to the district.
832

833 C. Residential accessory buildings shall be in the rear yard, other than those listed in Section 5.2.1, and
834 shall comply with all of the requirements found in this Section.
835

836 D. Accessory structures, such as pergolas, arbors, trellises, and flag poles may be in the rear, side, or
837 front yard of the primary structure. Fences and sheds may be permitted in the rear or side yard of the
838 primary structure.
839

840 E. No accessory structure, including fences, shall be constructed on any residential parcel not containing
841 a primary structure.
842

843 F. Accessory buildings shall be elevated above the base flood elevation (BFE) or provide hydrostatic
844 vents consistent with FEMA regulations.
845

846 G. All nonconforming accessory structures shall be subject to the requirements of Article 8
847 Nonconformities.
848

849 H. Any accessory structure not listed in this chapter may be reviewed and considered for approval
850 through a similar use determination process.
851

852 I. In non-residential districts, all accessory structures shall be reviewed and held to the same standard
853 as a non-residential structure.
854

855 J. Setbacks shall be measured from the property line and must be considered in addition to all other
856 locational requirements.
857

858

859 **Table 5.2.1.A. Setback Requirements for Accessory Structures.**

Residential Accessory	Setback – measured from property line			Maximum Building Height	Separation Distance
	Front Yard	Side Yard	Rear Yard		
Arbors, trellises, pergolas	Sec 5.17	7.5 ft.	10 ft.	14 ft.	N/A
Courts and Playing Surfaces	X	7.5 ft.	10 ft.	N/A	N/A
Decks, unenclosed	X	7.5 ft.	10 ft.	30 inches	N/A
Detached Garage	X	SAP	10 ft.	14 ft.	5 ft.
Fences and Walls	Per Sec 5.1.12				N/A
Flagpoles	15 ft.	7.5 ft.	10 ft.	35 ft.	N/A

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

Fountains and Sculptures	15 ft.	10 ft.	10 ft.	Per sec 5.1.15	N/A
Gazebo	X	7.5 ft.	10 ft.	10 ft.	5 ft.
Greenhouse	X	SAP	SAP	15 ft.	5 ft.
Detached guesthouse	X	SAP	SAP	14 ft.	5 ft.
Swing sets and similar play structures	X	7.5 ft.	6 ft.	8 ft.	N/A
Solar Photovoltaic (PV) Arrays, at grade	X	7.5 ft.	10 ft.	9 ft.	N/A
Sheds	X	7.5 ft.	10 ft.	14 ft.	5 ft.
Sunshelter	X	7.5 ft.	6 ft. or over a dock	14 ft.	5 ft.
Swimming pools and reflecting pools	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	30 inches	N/A
Swimming Pool Screen enclosure	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	SAP	N/A

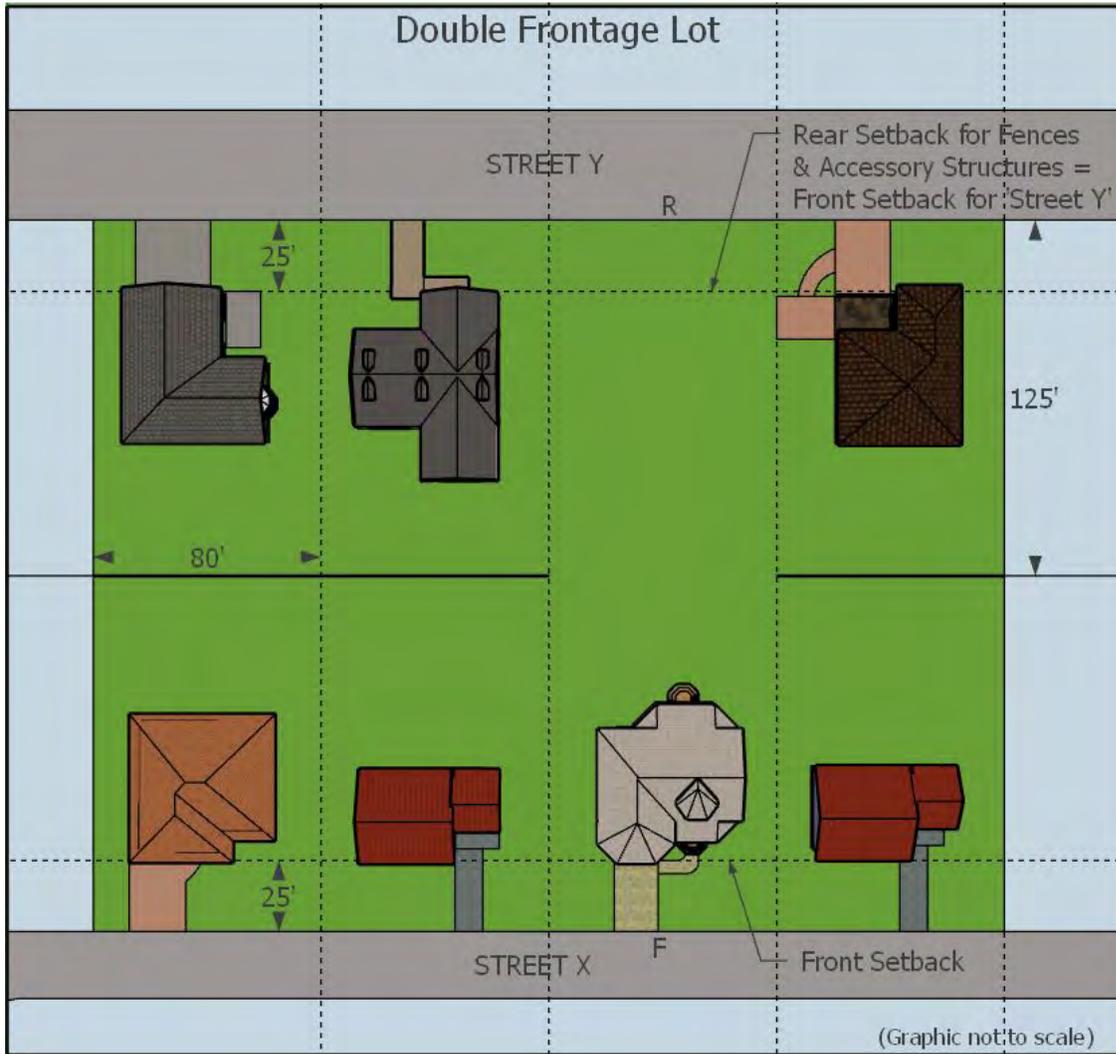
860 X Not permitted
861 SAP Same as Principle Structure
862 N/A Not Applicable

863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

893
894
895
896
897
898

Diagram 5.2.1.B Double Frontage Lot Fence and Accessory Structure Requirements.



899
900
901
902
903
904
905
906
907
908

Section 5.2.2. Reserved

Section. 5.2.3. Arbors, trellises, and pergolas.

- A. Arbors, trellises, and pergolas shall be allowed as freestanding or attached structures. There is no limit on the number of attached pergolas, arbors, and trellises per primary structure.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 909 B. Freestanding pergolas and arbors are limited to 200 square feet of coverage per single-family
910 detached residential property. Freestanding pergolas and arbors are limited to 100 square feet per
911 unit of a duplex property.
912
- 913 C. The amount of freestanding square footage coverage for multi-family residential developments may
914 be determined by the Community Development Director. The criteria for this determination include:
915
- 916 1. Design, size, location, and number of proposed arbors, trellises, and pergolas;
 - 917
 - 918 2. Design, size of property, location, and number of units of the multi-family residential
919 development; and
 - 920
 - 921 3. Whether the structure will be contrary to the public interest.
922
- 923 D. Attached pergolas.
- 924
 - 925 1. Attached pergolas may be placed over the front entrance or walkway into a residence and must
926 not extend beyond the most forward portion of the primary structure.
927
 - 928 2. A pergola is considered attached if a minimum of 20% of the pergola’s perimeter is attached to
929 the primary structure.
930
 - 931 3. A pergola that is attached to a previously-attached pergola is considered to be an extension of
932 the original attached pergola; the enlarged pergola must abide by the setback requirements listed
933 in Table 5.2.1.A.
934
- 935 E. Pergolas, generally.
- 936
 - 937 1. Pergolas must conform to all zoning requirements in terms of height and setbacks.
938
 - 939 2. The only exception to the prohibition of the placement of a pergola in the rear setback is for
940 pergolas on docks.
941
 - 942 3. If placed in the rear yard of a waterfront property, or on a dock, pergolas must not unreasonably
943 restrict or block the view of the canal or waterway of an adjoining lot.
944

945 **Section. 5.2.4. Attached and detached garages.**
946

- 947 A. All single-family detached and each unit of a duplex structures shall include a garage with minimum
948 dimensions of 14 feet by 20 feet. Carports are prohibited on single-family detached and duplex
949 residential properties requiring a garage.
950
- 951 B. For attached garages, the following shall apply:
952
- 953 1. A garage shall be considered attached if it shares at least a five-foot length of common wall with
954 the principal structure. The common wall shall include an internal access door to the principal

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

955 structure. Attachment through a roof or breezeway structure only shall not be adequate to
956 consider the garage attached.

957

958 2. For purposes of this LDC, an attached garage shall be considered to be a part of the principal
959 structure and shall comply with all district regulations for the zoning district in which it is located.

960

961 3. An operable garage door capable of providing access to the garage by a motor vehicle is required.

962

963 4. A driveway providing vehicular access to the garage is required and shall be constructed and
964 maintained in a condition that is safe and free of potholes, and in accordance with the City of
965 Cape Coral Engineering Design Standards.

966

967 5. The garage shall not be included in determining the living area.

968

969 6. No garage or storage area shall be used as living quarters unless another garage is constructed
970 prior to conversion.

971

972 7. The exterior building materials of an attached garage shall conform to the exterior building
973 materials of the principal structure.

974

975 C. For detached garages, the following shall apply:

976

977 1. A detached garage shall meet all of the setback requirements of the principal structure.

978

979 2. A detached garage shall be on the same parcel as the principal structure.

980

981 3. A detached garage shall not exceed 1,000 square feet in area.

982

983 4. The height of a detached garage shall not exceed 14 feet in height when measured according to
984 the definition of "building height" in the Land Development Code.

985

986 5. An operable garage door capable of providing access to the garage by a motor vehicle is required.

987

988 6. The maximum size and height restrictions shall not apply in the RE district.

989

990 7. No plumbing shall be allowed in a detached garage except that a single one-compartment sink
991 shall be allowed.

992

993 8. The exterior building materials of a detached garage shall conform to the exterior building
994 materials of the principal structure.

995

996 9. A parcel may contain both an attached and detached garage, but only one detached garage shall
997 be permitted.

998

999 **Section. 5.2.5. Courts and playing surfaces.**

1000

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 1001 A. Requirements in the R1, RE, RML, and A districts.
1002
1003 1. Lighting is prohibited on all outdoor recreation facilities on all properties containing single-family
1004 detached and duplex dwellings.
1005
1006 2. An opaque landscape hedge shall be planted between a recreational facility and a side or rear
1007 property line of different ownership. The landscaping shall be maintained at a minimum of four
1008 feet in height and shall be provided along the entire length of the recreational facility.
1009
- 1010 B. Requirements in the RMM or other districts with permitted multi-family uses.
1011
1012 1. Lighting may be installed to allow evening use of the facility. All outdoor lighting shall be installed
1013 and maintained in such a manner that the light falls substantially within the perimeter of the
1014 property through the use of shielding and limitations on intensity. In no instance shall the facility
1015 lighting create glare off of the property exceeding 0.3 foot candles which impacts any roadway.
1016 Directional lighting may not be installed which shines directly into any dwelling unit.
1017
1018 2. An opaque landscape buffer, a minimum of four feet in height, shall be installed which shields the
1019 recreational facility from any adjacent right-of-way. Fencing may be installed to a maximum
1020 height of ten feet.
1021

1022 **Section. 5.2.6. Decks.**
1023

- 1024 A. Decks extending into rear or side yard may not exceed a height of 30 inches above grade. Decks over
1025 30 inches in height shall meet all setbacks.
1026
1027 B. Deck height shall be measured from the walking surface of the deck, not the railing.
1028
1029 C. Railing shall be spaced in such a way as to allow air and light to pass through.
1030

1031 **Section. 5.2.7. Fences and walls.**
1032

- 1033 A. General Requirements.
1034
1035 1. All fences shall be of sound construction and not detract from the surrounding area.
1036
1037 2. No barbed wire, spire tips, sharp objects, or electrically charged fences shall be erected, except
1038 as otherwise provided herein. This shall not be interpreted to mean that bona fide agricultural
1039 users cannot use barbed wire or electrically charged fences to control livestock when located in
1040 districts permitting the raising, keeping, or breeding of livestock.
1041
1042 3. No fences shall be placed within the visibility triangle.
1043
1044 4. If a fence or wall is located in a public utility or drainage easement, the property owner shall be
1045 solely responsible for removal of the fence or wall as well as for any cost resulting from
1046 disturbance, damage, or destruction of the fence or wall resulting from work associated with

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1047 utilities or drainage facilities, including those related to alley improvements within such
1048 easement.
1049
- 1050 5. Unless the posts or other supports used in connection with the fence or wall are visible from
1051 and identical in appearance from both sides of the fence, all posts or other supports used in
1052 connection with the fence or wall shall be on the side of the fence or wall that faces the property
1053 on which it is to be erected. If a fence or wall is constructed in such a way that only one side of
1054 the fence is "finished", then the "finished" side of the fence shall face outward toward the street
1055 or adjoining property (facing away from the property on which it is erected). The "finished" side
1056 of the fence shall be the side that is painted, coated, or smoothed so as to be more decorative
1057 in appearance.
1058
- 1059 6. Fencing for critical public utilities infrastructure, including water and wastewater facilities and
1060 electric and natural gas facilities, which may enclose either an entire site or only an area
1061 containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips,
1062 sharp objects, or electrically charged fencing are permitted on the top of fencing around critical
1063 infrastructure sites or equipment, however, the height of the fencing together with any barbed
1064 wire, spire tips, sharp objects, or electrically charged fencing may not exceed eight feet, and
1065 only the top two feet may contain barbed wire, spire tips, sharp objects, or electrically charged
1066 fencing.
1067
- 1068 8. Fences are not permitted on any unimproved property in a residential zoning district.
1069
- 1070 9. Fences may be installed on unimproved sites in non-residential or mixed-use zoning districts,
1071 when the Director determines that such fence is necessary for:
1072
- 1073 a. Site security or safety reasons;
1074
- 1075 b. To secure temporary utility infrastructure storage areas; and
1076
- 1077 c. Temporary fencing for demolition sites or sites with pending building permit or site
1078 development applications.
1079
- 1080 9. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height,
1081 type, design, and location has been approved in writing and proper permit issued by the
1082 Director.
1083
- 1084 10. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
1085 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
1086 increased to a maximum height of 28 feet. For sports other than diamond sports, backstops
1087 may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed
1088 of at least nine-gauge fence fabric and schedule 40 tubing.
1089
- 1090 11. A may be maintained at a height greater than otherwise allowed herein if a higher fence height
1091 is required by the city for the purpose of screening a special exception use.
1092

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 1093 12. A fence or wall shall be constructed of one or more of the following materials or finishes:
1094
1095 a. Wood (decay resistant or pressure treated only), shall be painted or stained;
1096
1097 b. Concrete block with stucco (CBS);
1098
1099 c. Reinforced concrete with stucco;
1100
1101 d. Stone or brick, including cast (simulated) stone or brick;
1102
1103 e. Concrete;
1104
1105 f. Wrought iron;
1106
1107 g. Aluminum;
1108
1109 h. Plastic or vinyl;
1110
1111 i. Galvanized steel privacy panels painted with alkali-resistant coatings. Alkali-resistant coatings
1112 include heavy-bodied bituminous paint or methacrylate lacquer; or
1113
1114 j. Chain-link without slats
1115
1116 All other finishes and materials are prohibited.
1117
1118 14. For fences or walls located in a public utility or drainage easement, only the following materials
1119 or finishes are permitted:
1120
1121 a. Wood (decay resistant or pressure treated only);
1122
1123 b. Aluminum;
1124
1125 c. Chain-link without slats;
1126
1127 d. Plastic or vinyl; or
1128
1129 e. Galvanized steel privacy panels painted with alkali-resistant coatings. Alkali-resistant coatings
1130 include heavy-bodied bituminous paint or methacrylate lacquer.
1131
1132 14. Multi-family developments over 1 acre in size may construct a fence or wall around the entire
1133 perimeter of the property or in a location not otherwise allowed by this subsection.
1134
1135 15. Maintenance. All fences shall be properly maintained, in accordance with the International
1136 Property Management Code Sec. 304.2 Protective Treatment, as referenced by Article 12,
1137 Section 12.1.C of this code.
1138

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

1139 B. Residential Zoning Districts.

1140

1141 1. A No fence shall be maintained at a height greater than six feet, and no wall or fence shall be
1142 erected or placed within the front setback lines of any residential lot, except if a residential use
1143 abuts property used for commercial or professional purposes, a fence may be maintained at a
1144 height up to eight feet along the side(s) of the property which abut(s) the property or properties
1145 containing commercial or professional uses. For purposes of this section, a property shall be
1146 deemed to abut another property if the two properties are either immediately adjacent to each
1147 other or separated only by an alley. Properties separated by a street, canal, lake, or other body
1148 of water shall not be deemed to be abutting properties.

1149

1150 2. Any fencing within 20 feet of the rear property line on waterfront sites must be open mesh
1151 above a height of three feet. The Director may, in his or her discretion, approve minor
1152 projections above the restricted heights for architectural features.

1153

1154 3. No part of a fence shall be located forward of the forward-most part of the side of the principal
1155 structure to which the fence is closest. In no instance shall a fence enclose any portion of the
1156 front facade of the principal structure.

1157

1158 4. No fence, hedge, or other growth shall be erected on any residential property within the city
1159 which shall unreasonably restrict or block the view of a canal or other waterway from an
1160 adjoining lot, or except as required to screen a special exception use. No fence or hedge or
1161 other growth shall be erected on property which would obstruct the view of either a pedestrian
1162 or driver of a moving vehicle so as to create a hazard to the health and welfare of its citizens.

1163

1164 C. Non-Residential and Mixed-Use Zoning Districts.

1165

1166 1. Construction of fences must meet the following restrictions:

1167

1168 a. Maximum height: six feet (except that property in a commercial, professional, or mixed-use
1169 zoning district, which contains a non-residential use, and which abuts a residential use,
1170 whether such use is in a residential zoning district or mixed-use zoning district, may erect a
1171 fence up to eight feet in height along the side(s) of the property which abut(s) a residential
1172 use. A property shall be deemed to abut another property if the two properties are
1173 immediately adjacent to each other or separated by only an alley. Properties separated by
1174 a street, canal, lake, or other body of water shall not be deemed to be abutting properties.

1175

1176 b. Required setbacks:

1177

Front	No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
Side (not on a corner site)	None
Side (corner site)	None for free-standing residential uses in mixed-use zoning districts; 7 feet for non-residential and compound uses in Marketplace Residential zoning district; 10 feet for non-residential and compound uses in all other commercial, professional, and mixed-use zoning districts
Rear (not on alley)	None

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

Rear (on alley)	10 feet
-----------------	---------

- 1178
1179 D. Multi-family developments over 1 acre in size may construct a fence or wall around the entire
1180 perimeter of the property or in a location not otherwise allowed by this subsection.
1181
1182 E. Industrial zoning district:
1183
1184 1. Maximum height: eight feet.
1185
1186 2. Required setbacks: none, except that fences shall be setback 10' from alleys.
1187
1188 3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to
1189 applicable codes, to conceal storage areas.
1190
1191 F. Agricultural zoning district:
1192
1193 1. Maximum height: eight feet.
1194
1195 2. Required setbacks: none.
1196
1197 G. Institutional zoning district:
1198
1199 1. Maximum height: eight feet.
1200
1201 2. Required setbacks: none, except that fences shall be setback 10' from alleys.
1202
1203 3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to
1204 applicable codes, to conceal storage areas.
1205
1206 H. Preservation zoning district:
1207
1208 1. Maximum height: eight feet.
1209
1210 2. Required setbacks: none.
1211
1212 I. South Cape and MXB zoning district(s):
1213
1214 1. Maximum height.
1215
1216 a. When placed in front yards, 42 inches.
1217
1218 b. When not placed in front yards, six feet (except that a property which contains a non-
1219 residential use, and which abuts a property containing a residential use, whether such use
1220 is in a residential zoning district or mixed-use zoning district, may erect a fence up to eight
1221 feet in height along the side(s) of the property which abut(s) a property containing a
1222 residential use). For purposes of this subsection, a property shall be deemed to abut
1223 another property if the two properties are either immediately adjacent to each other or

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 1224 separated by only an alley. Properties which are separated by a street, canal, lake, or other
1225 body of water shall not be deemed to be abutting properties.
1226
1227 c. Fences, walls, and hedges may be maintained at a height greater than otherwise allowed
1228 herein if a higher height is required by the city for the purpose of screening a special
1229 exception use.
1230
1231 d. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
1232 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
1233 increased to a maximum height of 28 feet.
1234
1235 e. Required setbacks:
1236

Front	None
Side or rear (not on alley)	None
Side or rear (on an alley)	15 feet from the alley centerline
Abutting a navigable waterway	10 feet

1237
1238 **Section.5.2.8. Flags and Flagpoles.**
1239

- 1240 A. Residential zoning districts or sites with residential uses shall be limited to no more than two flagpoles.
1241
1242 B. In non-residential zoning districts, in mixed use zoning districts, and on sites containing non-
1243 residential uses in residential zoning districts, no more than three flagpoles are allowed on a site.
1244
1245 C. Flagpoles shall not exceed 35 feet in height other than those on non-residential properties abutting
1246 Pine Island Road which shall not exceed 80 feet in height.
1247
1248 D. The installation of a flag standard on a site does not require a permit. The number of flags that may
1249 be displayed on a flagpole or on a single flag standard is not limited.
1250
1251 E. For the purposes of this article, flags on non-residential, private property which contain a symbol
1252 other than that of a nation, government, political subdivision, or other entity shall be presumed
1253 commercial; however, it shall be considered a rebuttable presumption, which may be overturned by
1254 the Director if the evidence contradicting it is true or if a reasonable person of average intelligence
1255 could logically conclude from the evidence that the presumption is not valid.
1256

1257 **Section. 5.2.9. Fountains, reflecting pools, and sculptures.**
1258

- 1259 A. Fountains and sculptures shall not to exceed 12 feet in height.
1260
1261 B. Reflecting pools greater than 24 inches in depth deep shall be fenced for safety.
1262

1263 **Section. 5.2.10. Gazebos, sun shelters, and similar structures.**
1264

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1265 A. Gazebos, sun shelters, and similar structures on residential single-family detached or duplex parcels
1266 may not exceed 150 square feet in roof coverage. The total area of all such structures shall not exceed
1267 300 square feet.
1268
1269 B. All structures in all other zoning districts may not exceed 300 square feet.
1270
1271 C. The maximum height shall not exceed 14 feet above grade from the lowest point of the grade under
1272 the shelter, including overhangs.
1273
1274 C. These structures shall not be constructed within six feet of any rear lot line except on waterfront lots
1275 where sun shelters are permitted to be constructed on docks. These structures shall not overhang the
1276 edges of the dock or be constructed over an easement.
1277

Section. 5.2.11. Guest houses.

- 1278
1279
1280 A. Detached structures serving as a guest house shall only be permitted in the Residential Estate (RE)
1281 zoning district and must comply with the following:
1282
1283 1. Guest Houses shall only be on constructed on sites with a principal residential dwelling unit.
1284
1285 2. May not exceed one story.
1286
1287 3. Maximum building height shall not exceed 14 ft.
1288
1289 4. May not exceed 30% of the area of the primary structure or 800 square feet, whichever is less.
1290
1291 B. A guest house is not a dwelling unit to be rented, it provides only guest accommodations and shall
1292 meet the following requirements:
1293
1294 1. A guesthouse may not contain more than two bedrooms.
1295
1296 2. A guesthouse may not contain a kitchen or the electrical or gas connections to install a stove or
1297 oven.
1298
1299 3. An additional parking space must be provided for a guesthouse.
1300

Section. 5.2.12. Play or recreation equipment.

- 1301
1302
1303 A. On residential single-family detached and duplex properties, the City shall not be responsible for
1304 permitting and inspection of play equipment.
1305
1306 B. Play equipment for other than single-family detached and duplex properties must be permitted and
1307 inspected prior to any use.
1308

Section. 5.2.13. Sheds and greenhouses.

1309
1310

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1311 A. The maximum height of a shed or greenhouse shall not exceed 15 feet in overall height.
1312
1313 B. The maximum floor area shall not exceed 200 square feet.
1314
1315 C. Sheds and greenhouses are allowed in the R1, RML, RE, and A districts.
1316
1317 D. A lot may contain no more than one shed and one greenhouse.
1318
1319 E. Sheds and greenhouses may be within the side yard of a parcel so long as the shed or greenhouse is
1320 screened. Screening is required for that portion of the wall of the shed or greenhouse that is visible
1321 from the right-of-way and the nearest adjoining residential property. A wall, fence, shrubs, or a
1322 combination thereof may be used to meet screening requirements as follows:
1323
1324 1. If an opaque wall or fence is used for screening, the wall or fence shall be six-feet in height. The
1325 wall or fence may be constructed of wood, vinyl, or a material that has the appearance of wood
1326 or vinyl, or the wall may be masonry, but not be unfinished concrete block. All other materials are
1327 prohibited. A screening wall with a continuous foundation may not encroach into any easement.
1328
1329 2. Alternatively, sheds or greenhouses may be screened with shrubs that meet the following
1330 requirements:
1331
1332 a. A row of shrubs planted along both sides of the shed and extend at least five feet beyond the
1333 walls of the shed or greenhouse.
1334
1335 b. All shrubs required for screening within this subsection shall be a minimum of 32 inches in
1336 height and be in at least a seven-gallon container size at the time of planting. All shrubs shall
1337 be planted no more three feet apart as measured on center.
1338
1339 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
1340 maintained in good condition as long as the shed requires screening pursuant to this
1341 subsection.
1342
1343 3. A shed or greenhouse that would be visible from the right-of-way or from the nearest adjoining
1344 property, but for an existing fence, wall, or landscaping that shields the shed or greenhouse is
1345 exempt from additional screening requirements. In the event the screening is removed or altered
1346 to cause the shed or greenhouse to be visible from the right-of-way or nearest adjoining property,
1347 the shed or greenhouse shall be screened in accordance with those requirements outlined above
1348 or moved to fully comply with this Section.
1349
1350 4. On a double frontage lot, sheds or greenhouses shall be screened from view from rights-of-way
1351 and adjoining properties. See Diagram 5.2.1.B. Double frontage lot fence and accessory structure
1352 requirements.
1353
1354 5. On double frontage lots, sheds or greenhouses in the rear yard shall be setback to a distance
1355 equivalent to the front setback of any adjacent lots that are not double frontage lots.
1356

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

1357 **Section. 5.2.14. Solar Photovoltaic (PV) Arrays.**

1358
1359
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1400

A. General requirements.

1. Permitted accessory equipment. Rooftop photovoltaic solar systems shall be deemed permitted accessory equipment for all buildings in all zoning categories. Nothing contained in this chapter shall be deemed to prohibit the installation of rooftop photovoltaic solar systems on buildings containing legally nonconforming uses.
2. Maintenance. The photovoltaic system shall be properly maintained and be kept free from hazards, including faulty wiring, loose fastenings, or being maintained in a condition that is unsafe or detrimental to public health, safety, or general welfare.
3. Abandonment. Abandoned or unused freestanding solar energy systems not in use for a period of 18 months shall be removed at the owner's expense.

B. Building-mounted PV systems.

1. Roof mounted:

- a. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof, for structures with gable, hip, or gambrel roofs and shall not extend higher than 10 feet above the surface of the roof when installed on flat or shed roof.
- b. The solar collector surface and mounting devices shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the roof surface on which the system is mounted. Solar energy systems that extend less than one foot above the roof surface shall be exempt from this provision.

2. Wall mounted or flush to a building or structure:

- a. PV arrays are allowed on the walls or sides of any building or structure but shall not encroach into the required front yard setback and may not encroach into side and rear yard setback by more than three feet and shall not extend into or over an easement.
- b. A minimum of nine feet vertical distance shall be maintained under the PV array where needed to provide adequate clearance for pedestrians.
- c. To the maximum extent possible, wall mounted PV arrays shall be designed as compatible to the structure and surface to which it is attached.

C. At-grade PV systems.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1401 1. Exemptions. The restrictions of this Subsection with respect to height, location, and setbacks are
1402 not applicable to any accessory component to a freestanding outdoor lighting fixture, telephone
1403 pole, parking meter, or any other similar structure, as determined by the city.
1404
- 1405 2. Height. The maximum height of any at-grade PV array shall not exceed twelve feet, except for
1406 residential locations, as established in subsection 3., below.
1407
- 1408 3. Residential location. For PV arrays in or abutting residential zoning districts, the following
1409 requirements apply:
1410
- 1411 a. PV arrays up to six feet in height are allowed;
1412
- 1413 b. PV arrays shall be setback at least seven and one-half feet from interior side property lines
1414 and 10' from rear property lines;
1415
- 1416 c. PV arrays are not allowed within the front setback or front yard of a residentially zoned
1417 property; and
1418
- 1419 d. The area of the solar collector surface of freestanding solar energy systems shall not exceed
1420 five percent of the lot area.
1421
- 1422 4. Commercial location. For PV arrays in non-residential zoning districts and not adjacent to
1423 residentially zoned property, at-grade PV systems must meet all setback requirements for a
1424 structure within the zoning district.
1425
- 1426 5. The supporting framework for freestanding solar energy systems shall not include unfinished
1427 lumber.
1428

1429 **Section. 5.2.15. Swimming Pools.**
1430

1431 A. Location of pools; fencing, safety rails; solar screens.
1432

- 1433 1. The construction of a swimming pool, spa, or hot tub is prohibited in the front or side of any
1434 single-family or duplex residential structure, except as permitted in the RE district on parcels of
1435 3 acres or larger. All residential swimming pools, spas, or hot tubs shall be enclosed by
1436 screening. The pool area or the entire back yard shall be enclosed with a minimum four-foot
1437 high fence. When fencing a waterfront yard, the fence shall extend to and no further than the
1438 water side of the seawall cap, otherwise the fence shall extend across the back yard to the rear
1439 of the swimming pool. This fencing or enclosure must be completed before the pool is filled
1440 with water over 24 inches in height and before a final inspection.
1441
- 1442 2. Swimming pools, unroofed pools, enclosed pools, or screen enclosures only with open-mesh
1443 screening shall be placed at the rear of the principal structure only, and not less than ten feet
1444 from the rear property line of any residential parcel. Pools, enclosed pools, or screen enclosures
1445 may not extend more than ten feet beyond the side of the structure or into required side setbacks.
1446 Any part of a pool or screen enclosure covered by a roof or enclosed by side walls over six feet in

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

1447 height shall be subject to the limitations regarding location of the structure. The minimum
1448 distance requirement from a lot line shall be measured from the exterior of the screen enclosure
1449 for a screen enclosure or an enclosed pool and from the waterline of an unenclosed pool. In no
1450 instance shall any pool, pool enclosure, or screen enclosure, be placed within a utility or drainage
1451 easement.

1452
1453 B. In the event that the swimming pool, spa, or hot tub is secured by a screened enclosure or
1454 permanent fence and the screened enclosure or permanent fence is damaged by a fire, accident,
1455 or severe weather event such as a hurricane, to the extent that the screened enclosure or
1456 permanent fence is no longer securing the swimming pool, spa, or hot tub, then a temporary mesh
1457 safety barrier that meets the minimum requirements set forth in subsection .1B.2. above shall be
1458 installed to secure the swimming pool, spa, or hot tub.

1459
1460 The temporary mesh safety barrier shall be installed as soon as practical but in no event more than
1461 ten days after such fire, accident, or severe weather event.

1462
1463 The temporary mesh barrier may remain in place for a period not to exceed 90 days after the fire,
1464 accident, or severe weather event. The Director of the Department of Community Development,
1465 may extend the time period stated herein upon satisfactory evidence that the property owner has
1466 contracted with a licensed contractor to replace the screened enclosure or permanent fence that
1467 was damaged by the fire, accident, or severe weather event.

1468
1469 C. All swimming pools shall have adequate safety rails. When swimming pools are constructed in front
1470 or at the side of a single-family attached or multi-family dwelling of three or more units, an opaque
1471 or semi-opaque screen not less than four feet nor more than six feet in height shall be erected in
1472 addition to the fence or screening requirements of § 3.10.1A.

1473
1474 1. Parallel to and toward the street lot line no less than the length of the pool when the pool is on
1475 the street side of the building; and

1476
1477 2. Parallel to the side and front lot lines no less than the length and width of the pool when the
1478 pool is on the side or end of the building.

1479
1480 D. Pools, hot tubs, and pool decks in rear or side yards may not exceed a height of 30 inches above grade.

1481
1482 E. All swimming pools and enclosures constructed or erected on any parcel, other than accessory to a
1483 single-family detached or duplex residence, shall meet the minimum yard requirements specified for
1484 buildings or structures in the zoning district the construction occurs.

1485
1486 F. Portable swimming pools. Portable swimming pools are prohibited in the front or the side of any
1487 residential lot. Portable swimming pools capable of holding 24 inches in depth or more of water shall
1488 be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable pools
1489 shall be enclosed by a fence or other protective material, or otherwise shall be covered, when not in
1490 use, by a protective cover so that a child cannot accidentally enter the pool. Drainage of pools so as
1491 to permit the water to run onto property of other people is prohibited. Wading or splash pools not
1492 capable of holding 12 inches or more of water are exempt from the provisions of this subsection.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

1493
1494
1495
1496
1497
1498
1499
1500
1501
1502
1503
1504
1505
1506
1507
1508
1509
1510
1511
1512
1513
1514
1515
1516
1517
1518
1519
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1530
1531
1532
1533
1534
1535
1536
1537

Section. 5.2.16. Unattended donation bins.

- A. Unattended donation bins are prohibited except within commercial developments and subject to the following requirements:
- B. Unattended donation bins are permitted only on sites with a minimum of 125 parking spaces;
- C. Bins may not be in a required parking space or a drive aisle;
- D. Bins may not be placed in required landscape buffers and trees may not be removed in order to locate a bin;
- E. Bins shall be maintained in good condition and appearance with no structural damage, holes, or visible rust and shall be free of graffiti;
- F. Bins shall be locked or otherwise secured;
- G. Bins shall contain contact information in accordance with F.S. Chapter 496.4121; and
- H. Bins shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the City. Boxes, garbage, and donation goods shall not be permitted to accumulate around unattended donation bins.

CHAPTER 3. Land Clearing, Filling, Extraction, and Construction Sites.

Section 5.3.1. Borrow pits; regulation of removal or extraction of dirt, soil, sand, rock, oil, gas, etc.; procedures.

- A. Removal or extraction of dirt, soil, and sand.
 - 1. All borrow pits from which dirt, sand or soil has been removed shall be completely enclosed by a fence or earth berm at least six feet in height.
 - 2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photo of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the Hearing Examiner and written recommendation made to the Council prior to application for an excavation permit.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 1538 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1539 subject to final approval of the City Council.
1540
- 1541 B. Removal or extraction of rock, gravel, shell, aggregate, or marl.
1542
- 1543 1. All such excavations and extractions shall be sealed by fencing or grading or other device from
1544 general public access. All entrances to said excavation shall be fenced and locked during
1545 nonbusiness hours.
1546
- 1547 2. Prior to any such removal or excavation, the following shall be submitted to the Department of
1548 Community Development: drainage plans, aerial photograph of the site, a plan for development
1549 of the total site when the removal is completed, the estimated costs of restoring the site to a
1550 safe and developable condition, and a deposit of funds or other financial instruments payable
1551 to the City of Cape Coral is required equal to the estimated cost of restoring the site. The
1552 estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and
1553 stabilization, site grading, seeding or mulching, drainage, and any other items that the
1554 Department, HEX, or Council deems appropriate to ensure that the site is restored to a safe and
1555 usable condition. The plans shall be reviewed by the HEX and written recommendation made
1556 to the Council prior to application for an excavation permit.
1557
- 1558 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1559 subject to final approval by the City Council.
1560
- 1561 4. No excavation or extraction may be made with explosives without express permission of the
1562 Council. Excavation or borrow pit permits involving explosives must be renewed every 90 days.
1563
- 1564 C. Excavations, removal, or extraction for purposes of oil or gas exploration or production.
1565
- 1566 1. All such excavations, removals, or extractions shall be sealed by fencing or grading or other
1567 device from general public access. All entrances shall be fenced and locked during nonbusiness
1568 hours.
1569
- 1570 2. Prior to any such excavation, removal, or extraction the following shall be submitted to the
1571 Department of Community Development: drainage plans, aerial photograph of the site, a plan
1572 for development of the total site when the removal is completed, the estimated costs of
1573 restoring the site to a safe and developable condition, and a deposit of funds or other financial
1574 instruments payable to the City of Cape Coral is required equal to the estimated cost of
1575 restoring the site. The estimated cost for restoring the site shall include fence or berm removal,
1576 lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other
1577 items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the
1578 site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and
1579 written recommendation made to the Council prior to application for an excavation permit. No
1580 permit to drill a gas or oil well shall be issued unless City Council approves the application for
1581 such permit by resolution.
1582

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1583 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1584 subject to final approval by the City Council.
1585
- 1586 4. No excavation or extraction may be made with explosives without express permission of the
1587 Council. Excavation permits involving explosives must be renewed every 90 days.
1588
- 1589 5. No person or entity may engage in any oil and gas exploration or production that utilizes well
1590 stimulation within the corporate boundaries of the City of Cape Coral or, consistent with F.S.
1591 §377.24(6), within the tidal waters of the state abutting or immediately adjacent to the
1592 corporate limits of the municipality, or within three miles of the City's corporate limits
1593 extending from the line of the mean high tide. As used in this section, the term "well
1594 stimulation" shall mean a well intervention, exploration, operation, or maintenance procedure
1595 performed by injecting fluid into a rock formation in order to increase production at an oil or
1596 gas well by improving the flow of hydrocarbons from the formation into the wellbore. Well
1597 stimulation does not include routine well cleaning that does not affect the integrity of the well
1598 or the formation.
1599

1600 D. Procedures.
1601

- 1602 1. The applicant shall meet with the Director and other city staff deemed appropriate by the
1603 Director prior to a public hearing with the Hearing Examiner to review staff concerns and to
1604 establish the basis for determining cost estimates as required.
1605
- 1606 2. All excavation or borrow pit requests shall be reviewed by the city staff, the Lee County Health
1607 Department, and the Hearing Examiner. After their review and recommendation, the City
1608 Council shall call for a public hearing on the application and shall determine whether or not said
1609 application shall be granted.
1610
- 1611 3. If the conceptual plan as presented by the applicant will require a zoning amendment for
1612 development, the applicant must prepare and submit a planned development project for the
1613 entire project prior to approval of the excavation.
1614
- 1615 4. If the excavation or borrow pit application is approved, the applicant may then apply for an
1616 excavation or borrow pit permit.
1617

1618 **Section. 5.3.2. Land Clearing, Filling, and, Excavation.**
1619

- 1620 A. Proposed alterations to ground elevation or vegetative cover not associated with an approved Site
1621 Development Plan, Final Subdivision Plan, or building permit shall be submitted to the Director with
1622 an application for a permit for Land Clearing and Fill containing the required plans and documentation.
1623 The director may require certification by a registered professional engineer that site improvements
1624 have been made in accordance with permits issued pursuant to this Section.
1625
- 1626 B. The following activities shall require a site improvement permit:
1627
- 1628 1. Clearing of trees and vegetation without disturbing the soil surface;

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1629
- 1630 2. Clearing including stump removal and grubbing of top soils; and
- 1631
- 1632 3. Filling.
- 1633
- 1634 C. Maintenance:
- 1635
- 1636 1. The applicant shall be responsible for the maintenance, repair, and replacement of all existing
- 1637 vegetation as may be required by the provisions of Chapter 8.
- 1638
- 1639 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and
- 1640 maintained in a healthy growing condition and free from refuse and debris. Plant materials
- 1641 required by Chapter 8 of this article which is unhealthy, dying, or dead shall be replaced during
- 1642 the next planting season.
- 1643
- 1644 D. Excavation involving more than surface contouring for erosion control is only permitted with approval
- 1645 of a Site Development Plan or Subdivision Construction Plan.
- 1646
- 1647 E. In all districts, other than agriculture zoning, the city shall not permit any new borrow pits or mining
- 1648 activities, however, reshaping or restoration of existing borrow pits may only be permitted incidental
- 1649 to an approved Site Development Plan or Subdivision Construction Plan. Agriculturally zoned lands
- 1650 may propose new borrow pits as a Special Exception.
- 1651
- 1652 F. The following land clearing activities shall not require a permit:
- 1653
- 1654 1. Removal of invasive plants without disturbance of the soil; or
- 1655
- 1656 2. Land clearing for agricultural uses.
- 1657

1658 **Section. 5.3.3. Construction Site Maintenance.**

1659

1660 Construction sites shall be maintained in a manner which is non-deleterious to nearby properties. The

1661 requirements of this Section set minimum standards for the operation of the project site to eliminate or

1662 minimize impacts to the site and to the neighborhood to include vehicle parking and loading area, traffic

1663 control, fencing, placement of materials, safety, neatness, and cleanliness.

1664

- 1665 A. Construction site management plan required. All development and building permit applications must
- 1666 be accompanied by a construction site management plan, unless waived by the building official or
- 1667 development services manager.
- 1668
- 1669 1. Parking plan shall include:
- 1670
- 1671 a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the
- 1672 maximum number of vehicles that will be parked along the unpaved portion of the right-of-
- 1673 way.
- 1674

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 1675 b. Parking plan for worker vehicles and machinery on the site.
1676
1677 c. A single access with dimensions.
1678
1679 2. A temporary fence location, height, and type shall comply with the following:
1680
1681 a. For the purposes of construction site screening only, chain link fencing is permitted and shall
1682 be faced with a screen mesh.
1683
1684 b. A maximum height of six feet in residential zoned properties and eight feet in commercially
1685 zoned properties.
1686
1687 c. Fencing may not be required in agriculture or preservation zoned properties, upon a
1688 determination by the Director.
1689
1690 3. Construction trailers, loading and unloading areas, and material storage areas shall not be stored
1691 in areas intended for stormwater retention or rain gardens.
1692
1693 4. Traffic control plans shall include:
1694
1695 a. Access points with dimensions;
1696
1697 b. Area to be stabilized and a written plan on staging of construction related traffic including
1698 adequate parking (both on and off-site); and
1699
1700 c. Plan for delivery of materials.
1701
1702 B. Approval of plan and waivers. The building official or development services manager shall review,
1703 approve, or deny the construction site management plan and is authorized to grant waivers from
1704 submittal requirements:
1705
1706 1. If the requirement is unrelated to proposed development;
1707
1708 2. If the impact of the proposed development is negligible in that submittal requirement area; or
1709
1710 3. If unusual site conditions do not allow full compliance with this Section.
1711

CHAPTER 4. MARINE IMPROVEMENTS.

Section. 5.4.1. Purpose and Intent

1716 In order to allow all waterfront property the same ability to utilize and access adjacent waterways, the
1717 development of docks, wharves, mooring piles, and watercraft moorings must be accomplished in a
1718 standard and unified manner. Boat slips and docks may be constructed by the owner of a waterfront lot,
1719 with adequate water frontage, where a principal building exists.
1720

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

1721 **Section. 5.4.2. General Requirements.**

- 1722
- 1723 A. An applicant who disagrees with the measurement of the calculated waterway width by the city's
- 1724 Geographic Information System (GIS) may submit a survey of the waterway width, prepared by a
- 1725 professional surveyor licensed in the state of Florida, to support the applicant's contention that the
- 1726 calculated waterway width is inaccurate.
- 1727
- 1728 B. No dock or piling shall be permitted that interferes with the right to navigate safely within the
- 1729 waterways of the city. In no event shall the navigable area be reduced to less than 50% of the
- 1730 calculated waterway width.
- 1731
- 1732 C. The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet
- 1733 above mean water level.
- 1734
- 1735 D. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall
- 1736 cap, or if no seawall exists, five feet above mean water level. For marine improvements in the
- 1737 Caloosahatchee River, and for marine improvements in canals within 300 feet of the platted shoreline
- 1738 of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall
- 1739 cap, or if no seawall exists, seven feet above mean water level.
- 1740
- 1741 E. All pilings or mooring posts shall be offset a minimum of two and one-half feet from any storm drain
- 1742 outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center
- 1743 of the piling or mooring post.
- 1744
- 1745 F. All docks permitted under this Section that project from a parcel with a seawall shall have a ladder
- 1746 extending from the dock into the waterway. No ladder extending from a dock into a waterway shall
- 1747 be made of wood.
- 1748
- 1749 G. The property owner shall be solely responsible for compliance with all applicable provisions of the Lee
- 1750 County Manatee Protection Plan.
- 1751
- 1752 H. Prior to the final inspection by the City, the owner shall submit a final signed and sealed survey
- 1753 showing that all construction is in compliance with the requirements of this Code.
- 1754

1755 **Section. 5.4.3. Dimensional Standards**

- 1756
- 1757 A. Protrusions into waterway.
- 1758
- 1759 1. Marine improvements may extend 25% of the calculated waterway width or 40 feet, whichever
- 1760 is less, as measured from the water frontage line, provided the marine improvements are setback
- 1761 12 feet from each extended side property line.
- 1762
- 1763 2. Marine improvements which extend six feet or less into a waterway such as captains' walks, as
- 1764 measured from the water frontage line, may extend the full length of the water frontage of the
- 1765 parcel.
- 1766

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1767
1768
1769
1770
1771
1772
1773
1774
1775
1776
1777
1778
1779
1780
1781
1782
1783
1784
1785
1786
1787
1788
1789
1790
1791
1792
1793
1794
1795
1796
1797
1798
1799
1800
1801
1802
1803
1804
1805
1806
1807
1808
1809
1810
1811
1812
3. Marine improvements in the Caloosahatchee River shall be subject to state and federal regulations.
 4. Marine improvements for outside corner parcels, excluding a "T" intersection, of two canals, may extend into the waterways as follows:
 - a. Extend the two waterfrontage lines (Diagram 5.4.3.A.) of the property to a point equal to 25% of the canal width or 40 feet, whichever is less.
 - b. Then, in each intersecting canal, the extended waterfrontage lines shall run parallel to the waterfrontage lines and shall be setback 12 feet from the extended side property line.
 - c. The area formed by the aforesaid lines and area of intersection, shall be the area permitted for marine improvements.
 5. Marine improvements for end parcels. Parcels at or adjacent to canal ends or parcels on lakes and basins (excluding outside corner parcels) are subject to the following:
 - a. Except for parcels governed by Section 5.4.3.A, end parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet. Adjacent parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet or 25% of the calculated canal width, whichever is less.
 - b. With respect to end parcels with at least 80 feet of water frontage line, no part of a marine improvement which extends more than six feet in to a canal shall be located less than 12 feet from the ends of the water frontage line of the parcel. See Diagrams 5.4.3.A. & J
 - c. With respect to end parcels with more than 40 feet, but less than 80 feet, of water frontage line, any part of a marine improvement which extends more than six feet into a canal shall be set back from the ends of the water frontage line of the parcel in accordance with the following formula: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side boundary of the adjacent parcel's marine improvement area, as determined pursuant to paragraph 10.b below. See Diagram 5.4.3.H
 - d. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine improvement shall extend more than six feet into the canal except in accordance with the following: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side boundary of the adjacent parcel's marine improvement area, as determined pursuant to paragraph 10.b below.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1813 e. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine
1814 improvement shall extend more than six feet into the canal except in accordance with the
1815 following:
- 1816 i. Such a parcel may have either a platform dock not more than ten feet wide and extending
1817 not more than 16 feet into the canal or not more than two finger piers (with or without a
1818 boat lift) that together total no more than six feet in deck width and that extend not more
1819 than 30 feet into the canal.
- 1820 ii. No marine improvement that projects more than six feet into the canal shall extend more
1821 than ten feet either side of the center point of the water frontage line of the parcel.
1822 Furthermore, no marine improvement shall extend beyond the ends of the water
1823 frontage line of the parcel. All marine improvements shall be centered on the centerline
1824 of the waterfront parcel's marine improvement area. See Diagram 5.4.3.F
1825
- 1826 7. When a parcel is at the corner of a waterway so as to include water frontage (all under the same
1827 ownership) on both the side and end of a waterway, the property owner may install or erect a
1828 marine improvement that extends from the side of the waterway to a maximum distance of 25%
1829 of the calculated width of the waterway or 30 feet, whichever is less, and from the end of the
1830 waterway a distance of 30 feet into the waterway.
1831
- 1832 8. Except as otherwise provided herein for joint marine improvements, no marine vessel (or any part
1833 thereof) when secured in any way to a marine improvement projecting from an end parcel, an
1834 adjacent parcel, or a parcel on a lake or basin (excluding outside corner parcels) shall extend
1835 beyond the boundaries of the marine improvement area of the parcel unless prior written consent
1836 of the affected property owner is obtained. Such consent shall be revocable by the affected
1837 property owner and shall automatically terminate in the event the ownership of the affected
1838 property changes. In the event ownership changes, the written consent of the new owner must
1839 be obtained if the marine vessel is to continue to extend beyond the ends of the water frontage
1840 of the parcel.
1841
- 1842 9. Marine improvements that do not project more than six feet into a waterway as measured from
1843 the water frontage line may extend the full length of the water frontage of the parcel. However,
1844 where the end of a parcel water frontage line abuts the water frontage line of another parcel, the
1845 angle at which such two water frontage line ends meet shall be bisected and apportioned equally
1846 between the two waterfront parcels. In that event, no marine improvement shall extend beyond
1847 the bisector of the angle.
1848
- 1849 10. No marine improvement that projects more than six feet from the water frontage line of the
1850 property shall be permitted to be outside of the marine improvement area for a waterfront parcel.
1851 The boundaries and dimensions of the marine improvement area shall be determined as follows:
1852
- 1853 a. End parcels.
- 1854
- 1855 i. The access width of the waterway shall be calculated by subtracting from the calculated
1856 waterway width twice the maximum distance that a marine improvement along one side
1857 of the waterway could lawfully project as determined pursuant to Section 5.4.4.A.1.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 1858
1859
1860
1861
1862
1863
1864
1865
1866
1867
1868
1869
1870
1871
1872
1873
1874
1875
1876
1877
1878
1879
1880
1881
1882
1883
1884
1885
1886
1887
1888
1889
1890
1891
1892
1893
1894
1895
1896
1897
1898
1899
1900
1901
1902
1903
- ii. The waterway access ratio shall be calculated by dividing the waterway access width by the calculated width of the waterway.
 - iii. The waterway center point (WCP) is a point on the centerline of the canal 30 feet from the water's end. All marine improvement area lines and intersections are calculated and plotted from the WCP. See Diagram 5.4.3.B.
 - iv. Offset points for the parcel are determined as follows: If the parcel has 80 feet or more of water frontage line, then the offset points shall be located 12 feet from each end of the water frontage line of the parcel. If the parcel has more than 40 feet, but less than 80 feet of water frontage line, then the offset points shall be located in from the ends of the water frontage line the distance (in feet) resulting from the following formula: (Feet of Water Frontage Line - 40) x 0.3. If the parcel has 40 feet or less of water frontage line, then the ends of the parcel's water frontage line shall be the offset points. See Diagram 5.4.3.C.
 - v. From the WCP, plot a line having the same relationship to the WCP as the water frontage line has to the center of the canal end, but with all distances reduced in size by the waterway access ratio. This line is the offset line for the parcel. See Diagram 5.4.3.D.
 - vi. The marine improvement area is that area enclosed by the water frontage line, the offset line, and lines connecting the ends of the offset line to corresponding offset points. See Diagram 5.4.3.E.
- b. Adjacent parcels. The marine improvement area for an adjacent parcel shall be calculated in the same manner as that for an end parcel except as follows:
- i. Adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line. On the side of the adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line, the side boundary of the marine improvement area shall constitute the side boundary of such adjacent parcel's marine improvement area. See Diagram 5.4.3.I. & J.
 - ii. Adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line. On the side of the adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line, the side boundary of the adjacent parcel's marine improvement area shall be determined by drawing a line from the end of the subject adjacent parcel's water frontage line (on the same side as the subject end parcel) to the nearest terminus point of the subject end parcel's offset line and passing through the adjacent parcel's offset line. The side boundary shall be that portion of the aforesaid line between the end of the adjacent parcel water frontage line and the parcel's offset line. However, in no event shall the side boundary extend beyond the bisector of the angle formed where the adjacent parcel's water frontage line abuts the end parcel's water frontage line. The bisector shall be extended into the waterway the maximum distance a marine improvement could lawfully project within the marine improvement area. See Diagram 5.4.3.G.
- c. Parcels on lakes and basins (excluding outside corner parcels). A waterfront parcel shall be deemed to be on a lake or a basin if the parcel abuts a body of water identified as a lake or a basin on the officially adopted Future Land Use Map of the City of Cape Coral. Except for outside corner parcels, all waterfront parcels on lakes or basins shall be categorized as corner parcels, adjacent parcels, or end parcels. A corner lake or basin parcel shall be a parcel that either touches or is on both sides of an interior corner of a lake or basin. In other words, a

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

1904 corner lake or basin parcel may be one with a water frontage line that is V-shaped because it
1905 physically runs along the edge of the lake or basin, turns at the corner, and continues along
1906 the edge of the lake or basin, or it may be a parcel the water frontage line of which ends at a
1907 corner of the lake or basin where another side of the lake or basin begins, or it may be a parcel
1908 that is angled in such a way that each end of its water frontage line touches a different side
1909 of the lake or basin. Also, an adjacent lake or basin parcel shall be a parcel that is on a lake or
1910 basin and that abuts at least one corner parcel. All other parcels on lakes or basins and that
1911 are neither corner parcels or adjacent parcels shall be treated as end parcels.
1912

- 1913 d. The marine improvement area for parcels on lakes or basins shall be calculated as follows:
1914
- 1915 i. For an end parcel, the side of the lake or basin upon which the parcel is physically located
1916 shall be deemed to be the end of the lake or basin and the sides of the lake or basin shall
1917 be deemed to be the sides of the lake or basin running roughly perpendicular to the end
1918 of the lake or basin and to the left and to the right of the parcel (when facing the lake or
1919 basin). For purposes of this Section, the waterway access ratio for all end lake and basin
1920 parcels shall be one. In addition, the WCP for end lake or basin parcels shall be 40 feet
1921 into the lake or basin as measured perpendicularly to the lake or basin end from the
1922 center of the lake or basin end. All marine improvement area lines and intersections are
1923 calculated and plotted from the WCP. The remainder of the marine improvement area
1924 boundary calculations for end lake or basin parcels shall be the same as those performed
1925 with respect to canal end parcels.
 - 1926 ii. For corner lake or basin parcels, the configuration of the marine improvement area shall
1927 be determined by the physical configuration of the particular corner parcel. With respect
1928 to a corner parcel the water frontage line of which lies entirely on one side or end of a
1929 lake or basin, but terminates at the corner of the lake or basin where the other side of
1930 the lake or basin begins, the marine improvement area shall be calculated in the same
1931 manner as for end lake or basin parcels except that the side boundary of such marine
1932 improvement area (on the side where the corner of the lake or basin is located) shall be
1933 formed by a line bisecting the angle of such corner and extending to the offset line of the
1934 marine improvement area. See Diagram 5.4.3.K.
 - 1935 iii. With respect to a corner parcel that is angled so that each end of its water frontage line
1936 is on a different side of the lake or basin or for a corner parcel with a V-shaped water
1937 frontage line, the marine improvement area configuration shall be determined as follows:
1938 First, calculate the waterway access ratio for each side of the lake or basin in the same
1939 manner as the waterway access ratio for a canal is determined. Then measure the
1940 distance from the center of each side of the lake or basin touched by the corner property
1941 to the end of the water frontage line, or to the offset point, if any, on such side of the lake
1942 or basin. Multiply each of the aforesaid distances by the waterway access ratio for the
1943 relative side of the lake or basin to obtain the length of the waterway line for each side of
1944 the lake or basin. Plot the waterway line from the center of the side of the lake or basin
1945 for which it was calculated to a point that is 30 feet waterward from the water frontage
1946 line. The offset line for a corner parcel marine improvement area is formed by connecting
1947 the two foregoing points. The marine improvement area for the corner parcel is that area
1948 enclosed by the parcel water frontage line, the offset line, and lines connecting the ends

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

1949 of the offset line to the corresponding offset points for the parcel, if any, or to the ends
1950 of the water frontage line. See Diagrams 5.4.3.L & M.

1951 iv. For adjacent lake or basin parcels, the marine improvement area shall be calculated in the
1952 same manner as that for end lake or basin parcels except as follows: With respect to an
1953 adjacent lake or basin parcel that abuts a corner parcel with 40 feet or less of water
1954 frontage line, the side boundary of the corner parcel marine improvement area (on the
1955 side where it abuts the adjacent parcel) shall form the side boundary of the adjacent
1956 parcel marine improvement area. With respect to an adjacent lake or basin parcel that
1957 abuts a corner parcel with more than 40 feet of water frontage line, the side boundary of
1958 the adjacent parcel (on the same side as the subject corner parcel) shall be determined
1959 by drawing a line from the end of the adjacent parcel water frontage line to the nearest
1960 terminus point of the subject corner parcel offset line and passing through the adjacent
1961 parcel offset line. The side boundary of the adjacent parcel shall be that portion of the
1962 aforesaid line between the end of the adjacent parcel waterfrontage line and such
1963 parcel's offset line. See Diagram 5.4.3.M

1964 v. Owners of waterfront parcels on a lake or basin aggrieved by the interpretation or
1965 application of this Section to such parcel due to the physical configuration of the
1966 particular lake or basin, then the Director may interpret and apply the provisions of this
1967 Section so as to alleviate the hardship resulting from the configuration of the lake or basin
1968 and so as to enable the waterfront parcel a reasonable marine improvement area.

1969
1970 6. In the event a significant portion of a waterway is not developable on one side due to ecological
1971 or other constraints, a marine improvement on the opposite side of the unnavigable portion
1972 shall be permitted to project into the waterway up to 50% of the calculated waterway width or
1973 40 feet, whichever is less, as measured from the waterfrontage line. See Diagram 5.4.3.N

1974
1975 7. No marine vessel (or any part thereof) when secured in any way to a marine improvement shall
1976 extend beyond the ends of the water frontage of the parcel from which the marine
1977 improvement projects.

1978
1979 8. All properties adjacent to bridges shall be reviewed individually by the city to determine what,
1980 if any, marine improvement may project from that property. Factors to be considered in making
1981 this determination include, but are not limited to, public safety and the impact of a planned
1982 marine improvement on navigability.

1983
1984 B. Maximum dock surface area.

1985
1986 1. For parcels with more than 40 feet of waterfrontage, the maximum deck surface area
1987 coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus
1988 24 feet - times one-half times the linear feet of the maximum projection into the waterway
1989 (25% of the calculated width of the waterway or 40 feet, whichever is less).

1990
1991 Maximum Dock Surface Area = Linear Feet of Waterfrontage – 24 (1/4 Maximum Projection)
1992 Maximum Projection = 25% of width of waterway or 40 feet whichever is less

1993

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 1994 2. For parcels with 40 feet or less of waterfrontage, the maximum deck surface area shall be
- 1995 calculated as follows: the linear feet of waterfrontage of the parcel times one-quarter times
- 1996 the linear feet of the maximum projection into the waterway (25% of the calculated width of
- 1997 the waterway or 40 feet, whichever is less).

1998

1999 Maximum Dock Surface Area = Linear Feet of Waterfrontage * 1/4 Maximum Projection

2000 Maximum Projection = 25% of width of waterway or 40 feet whichever is less

2001

2002

2003

2004

2005

2006

2007

2008

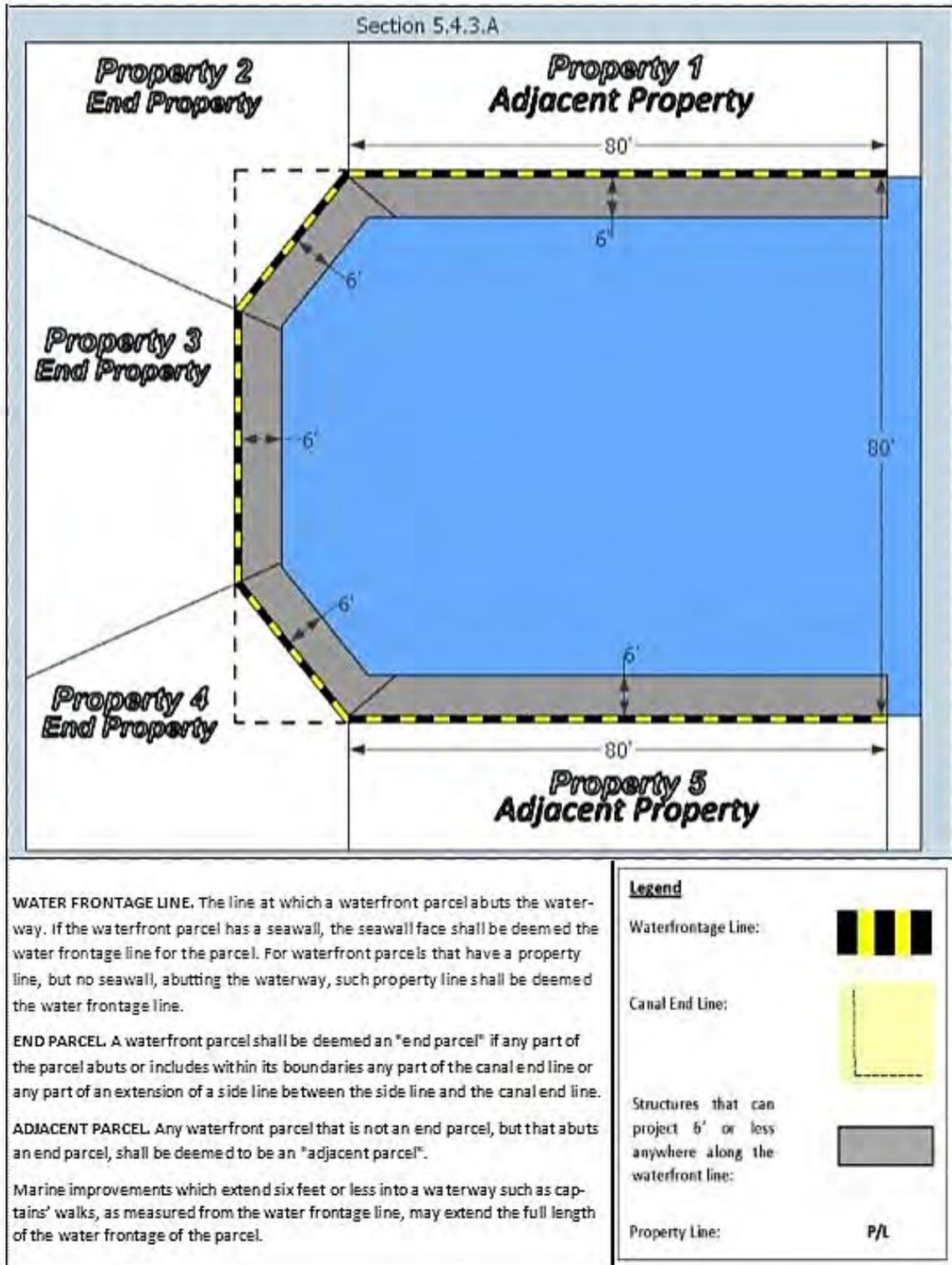
2009

2010

2011

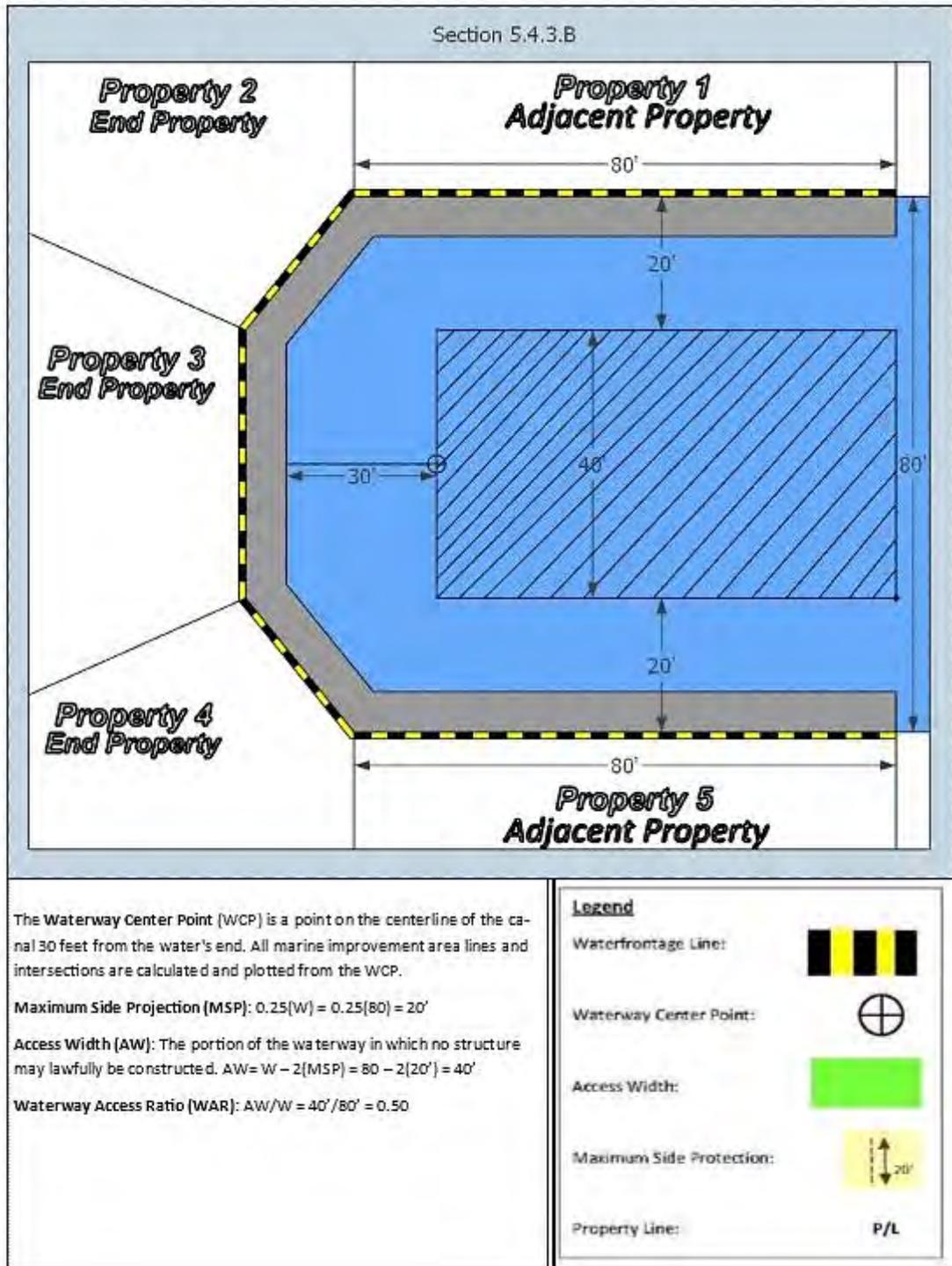
2012 **Section 5.4.3. Graphics**

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2013 1.

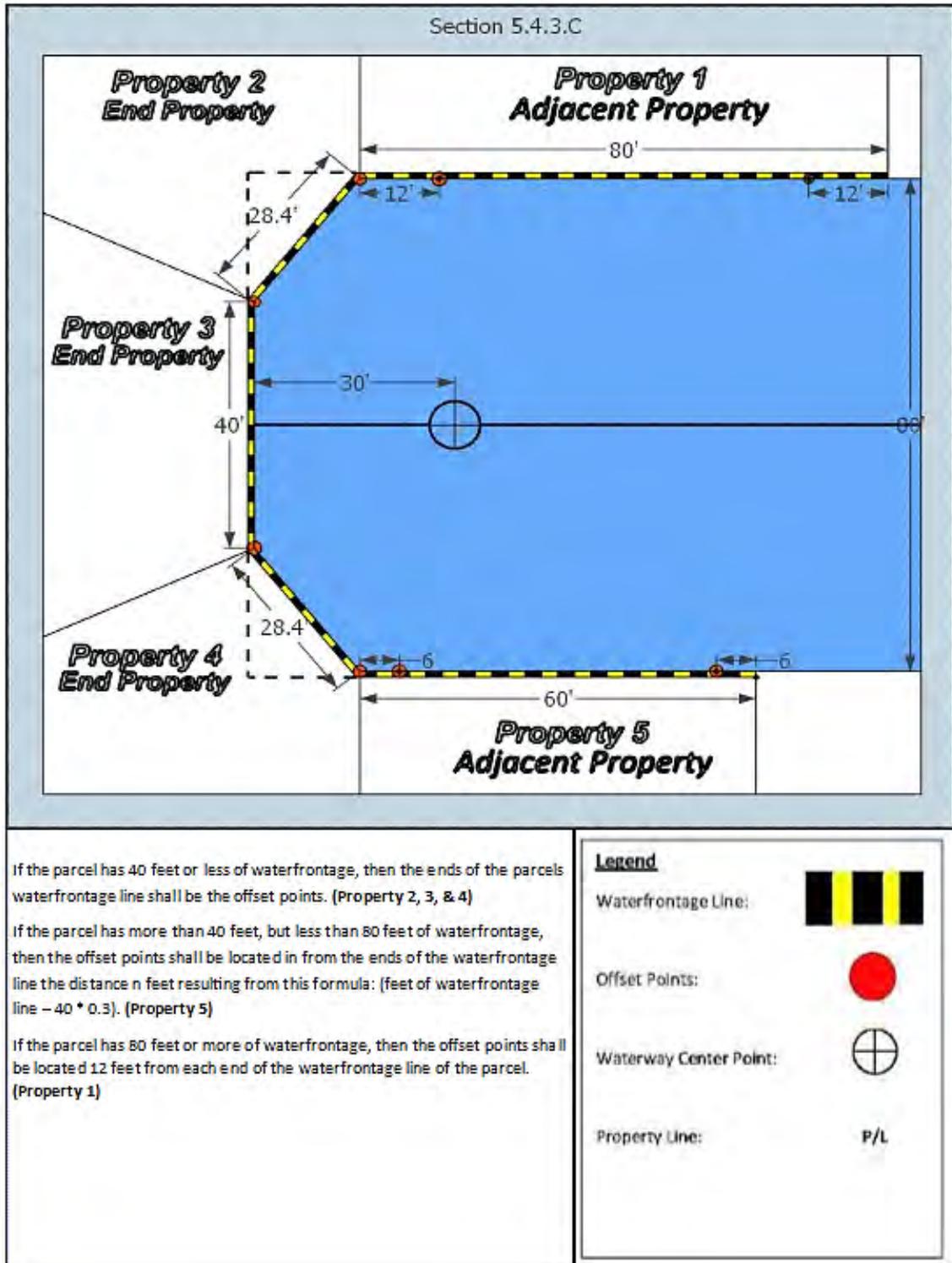
**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2014

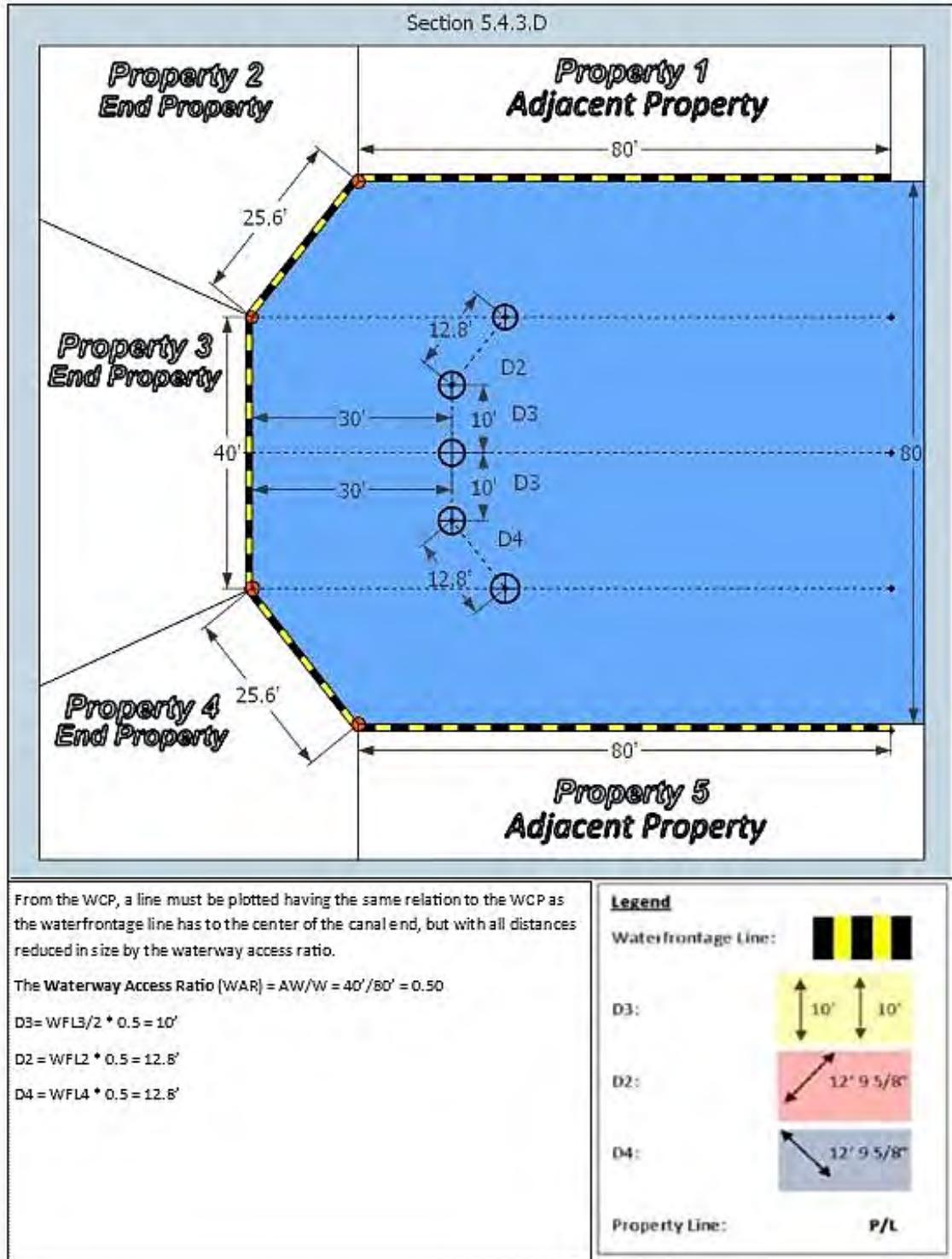
2.

CITY OF CAPE CORAL, FLORIDA
 LAND DEVELOPMENT CODE
 ARTICLE 5 – DEVELOPMENT STANDARDS



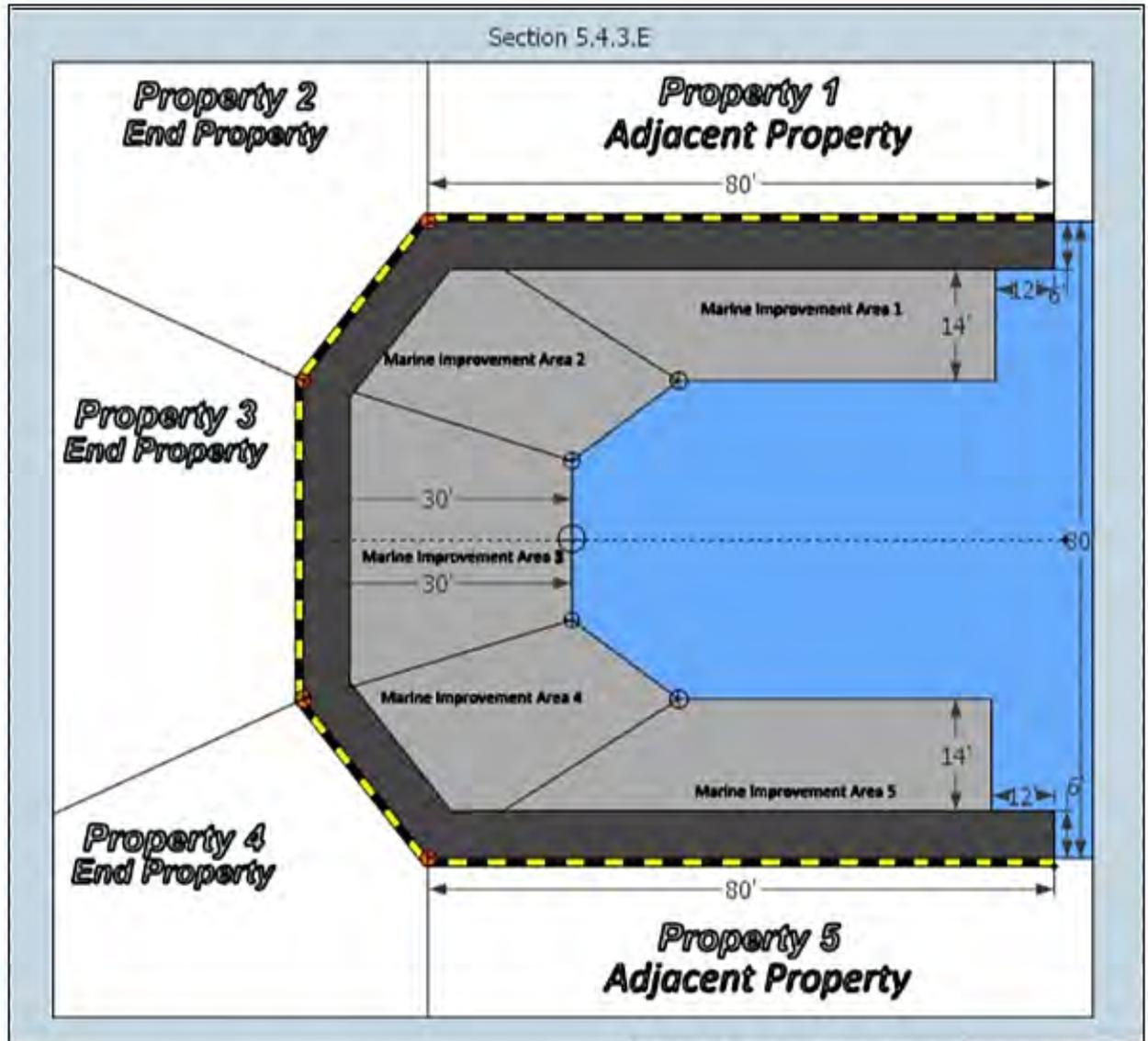
2015 3.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2016

CITY OF CAPE CORAL, FLORIDA
 LAND DEVELOPMENT CODE
 ARTICLE 5 – DEVELOPMENT STANDARDS

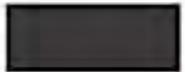


Each parcel's marine improvement area is that area enclosed by the water frontage line, the offset line, and lines connecting the ends of the offset line to corresponding offset points.

Legend

Waterfrontage Line: 

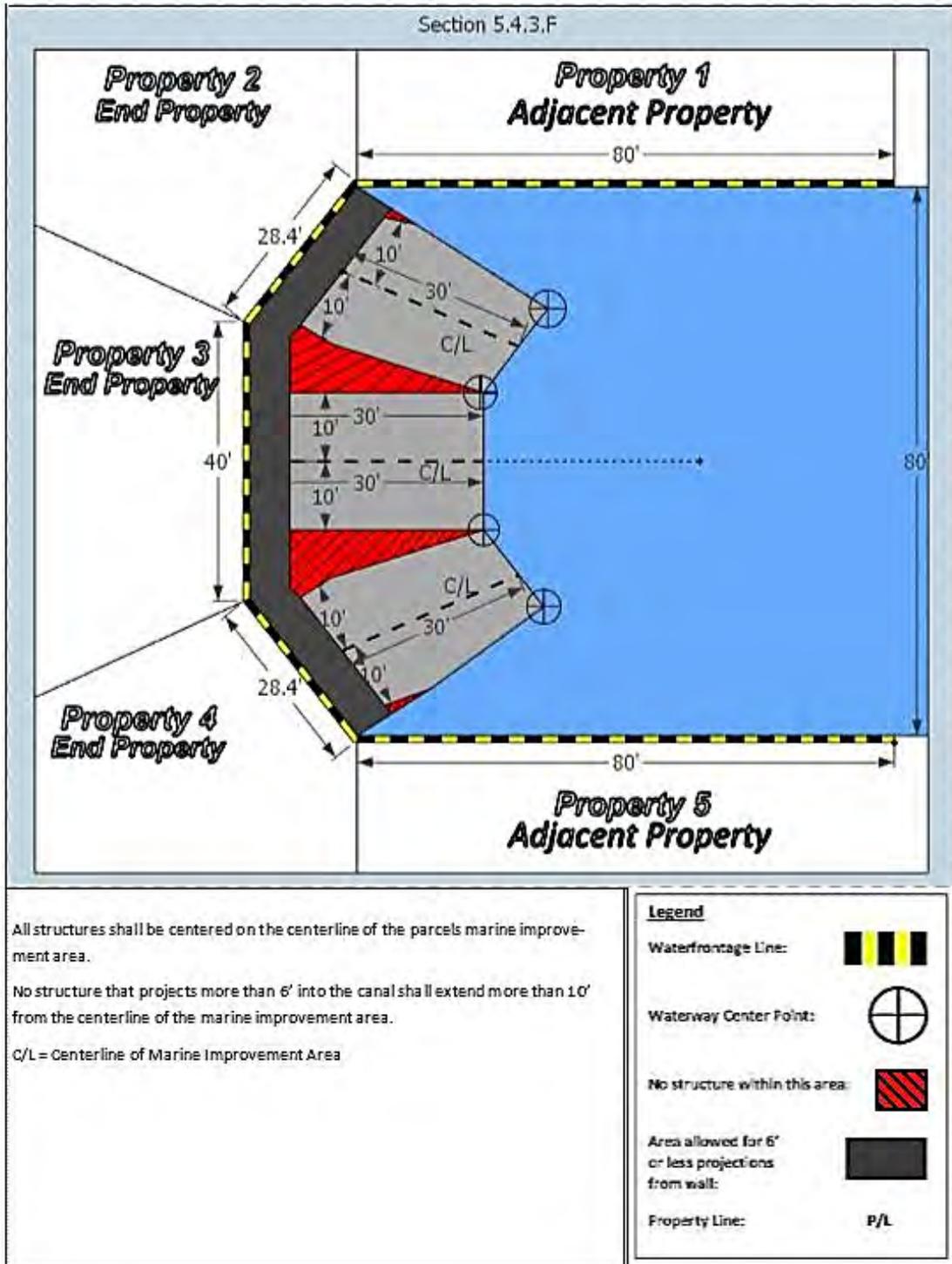
Waterway Center Point: 

Structures that can project 6' or less anywhere along the waterfront: 

Property Line: **P/L**

2017 4.

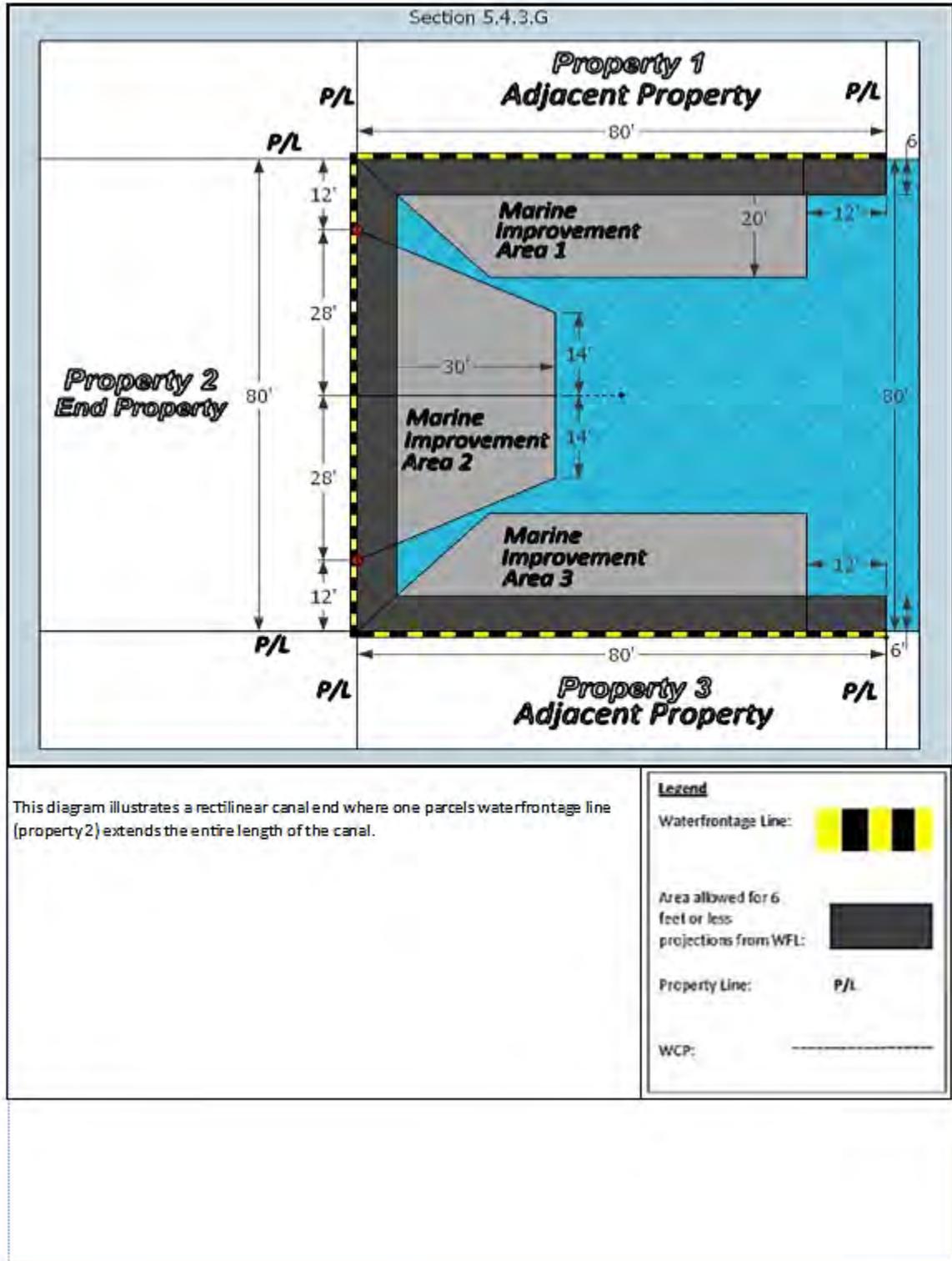
**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2018

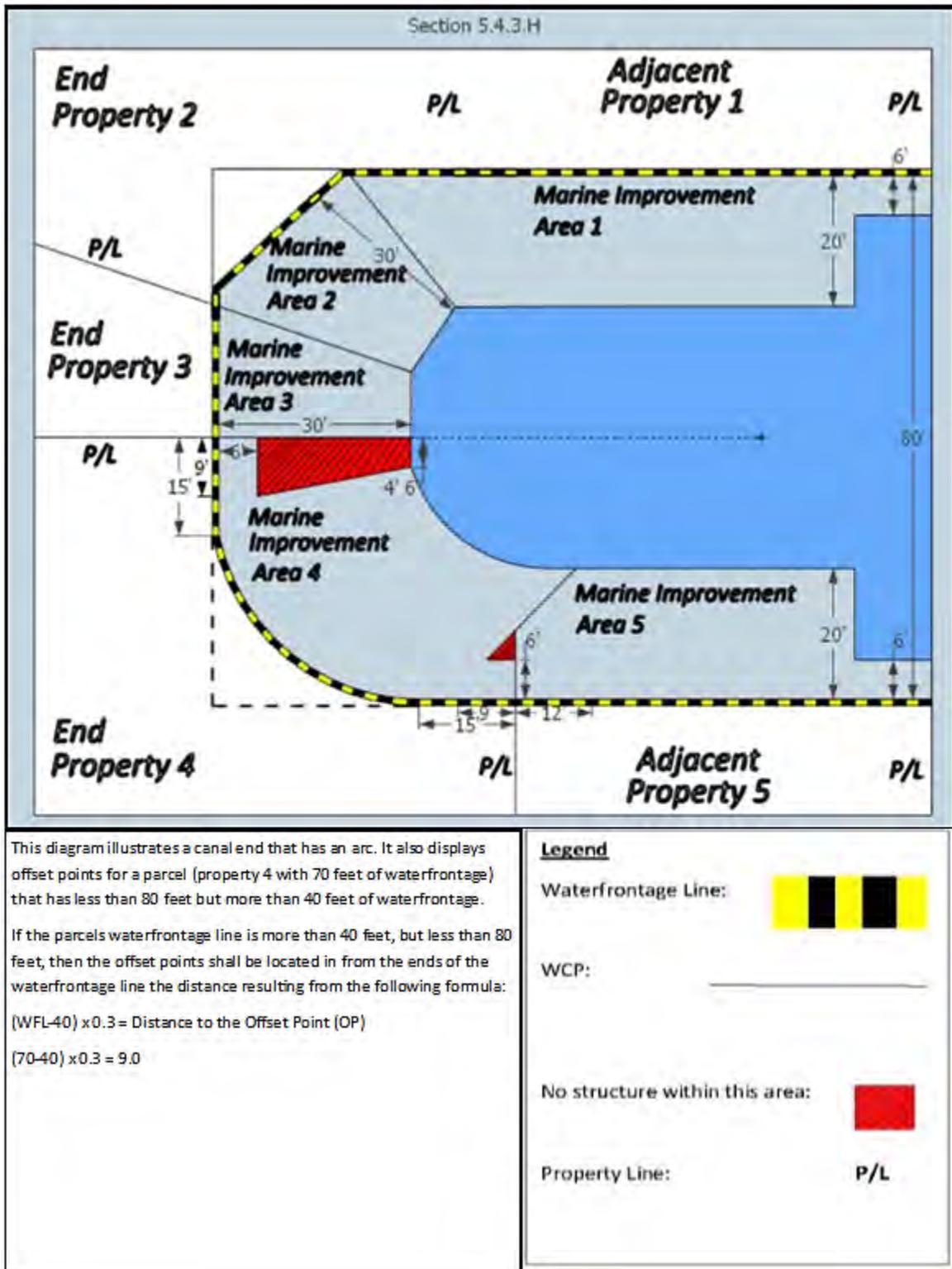
5.

CITY OF CAPE CORAL, FLORIDA
 LAND DEVELOPMENT CODE
 ARTICLE 5 – DEVELOPMENT STANDARDS



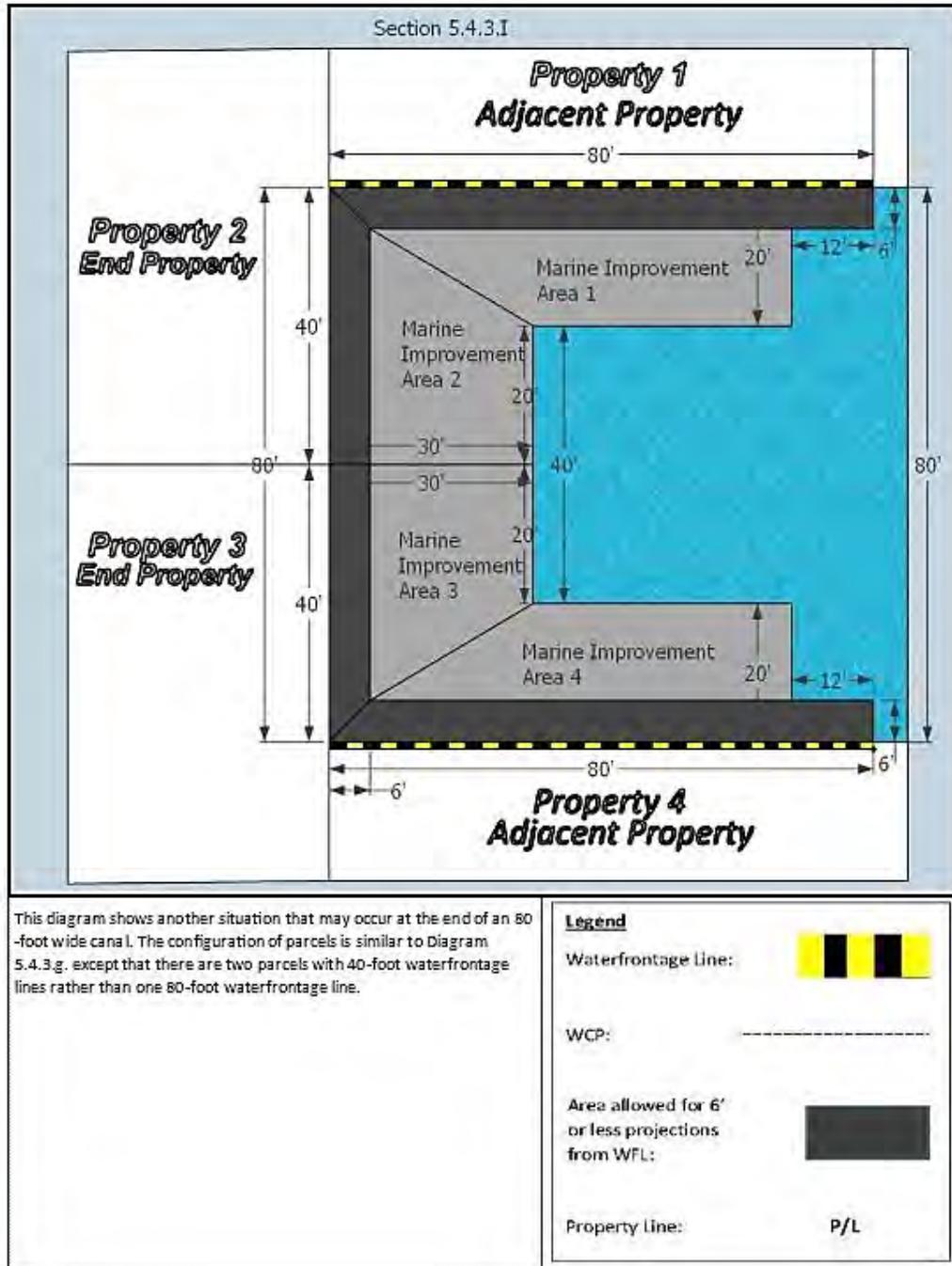
2019 6.

CITY OF CAPE CORAL, FLORIDA
 LAND DEVELOPMENT CODE
 ARTICLE 5 – DEVELOPMENT STANDARDS



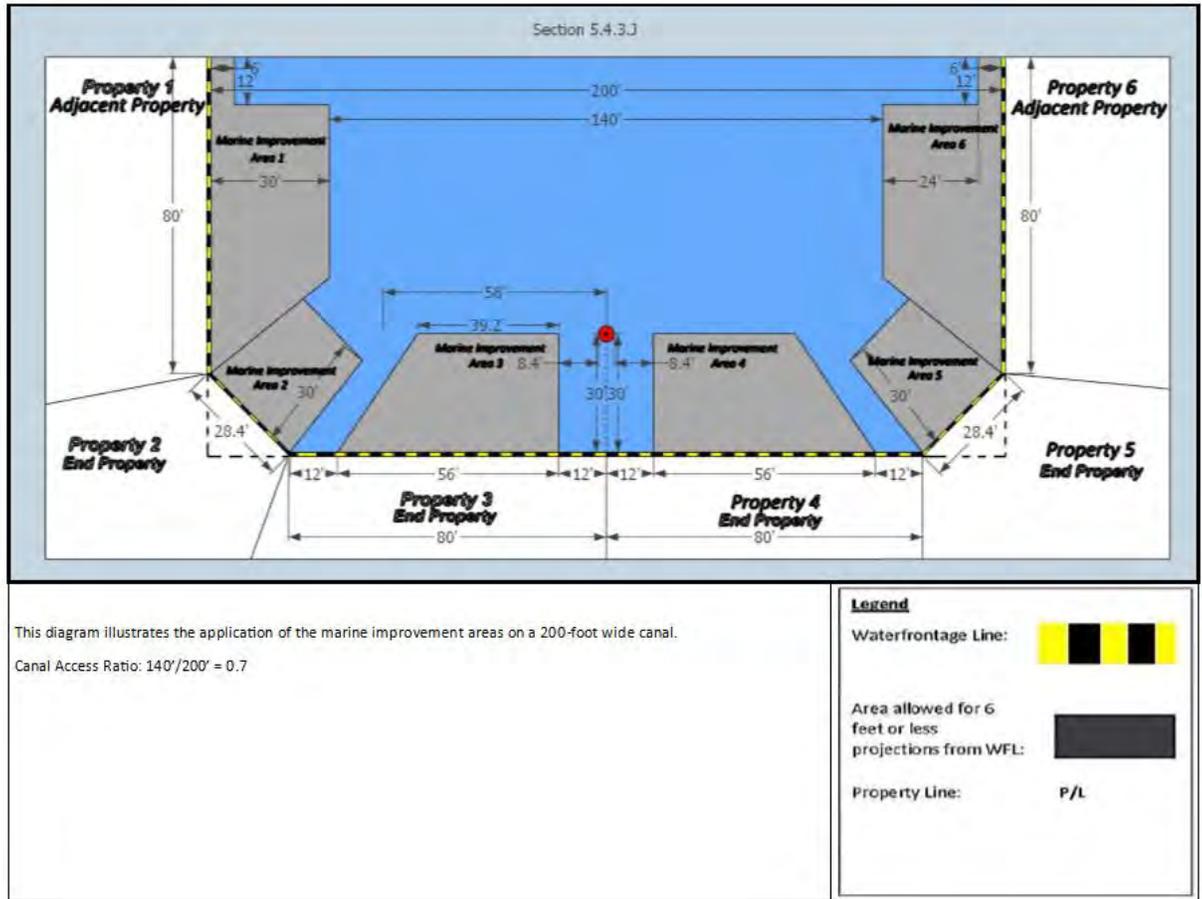
2020 7.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2021 8.

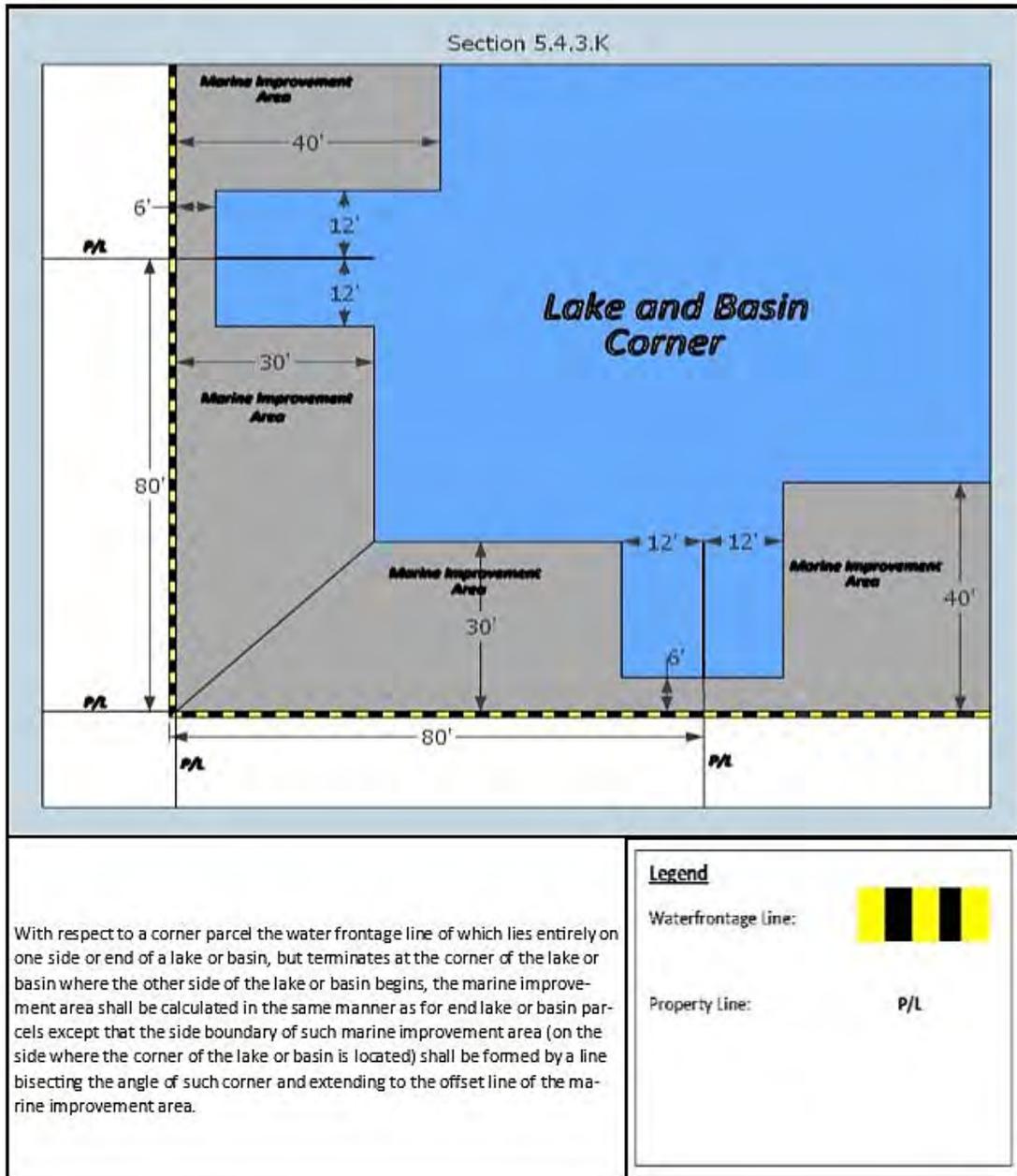
**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2022

9.

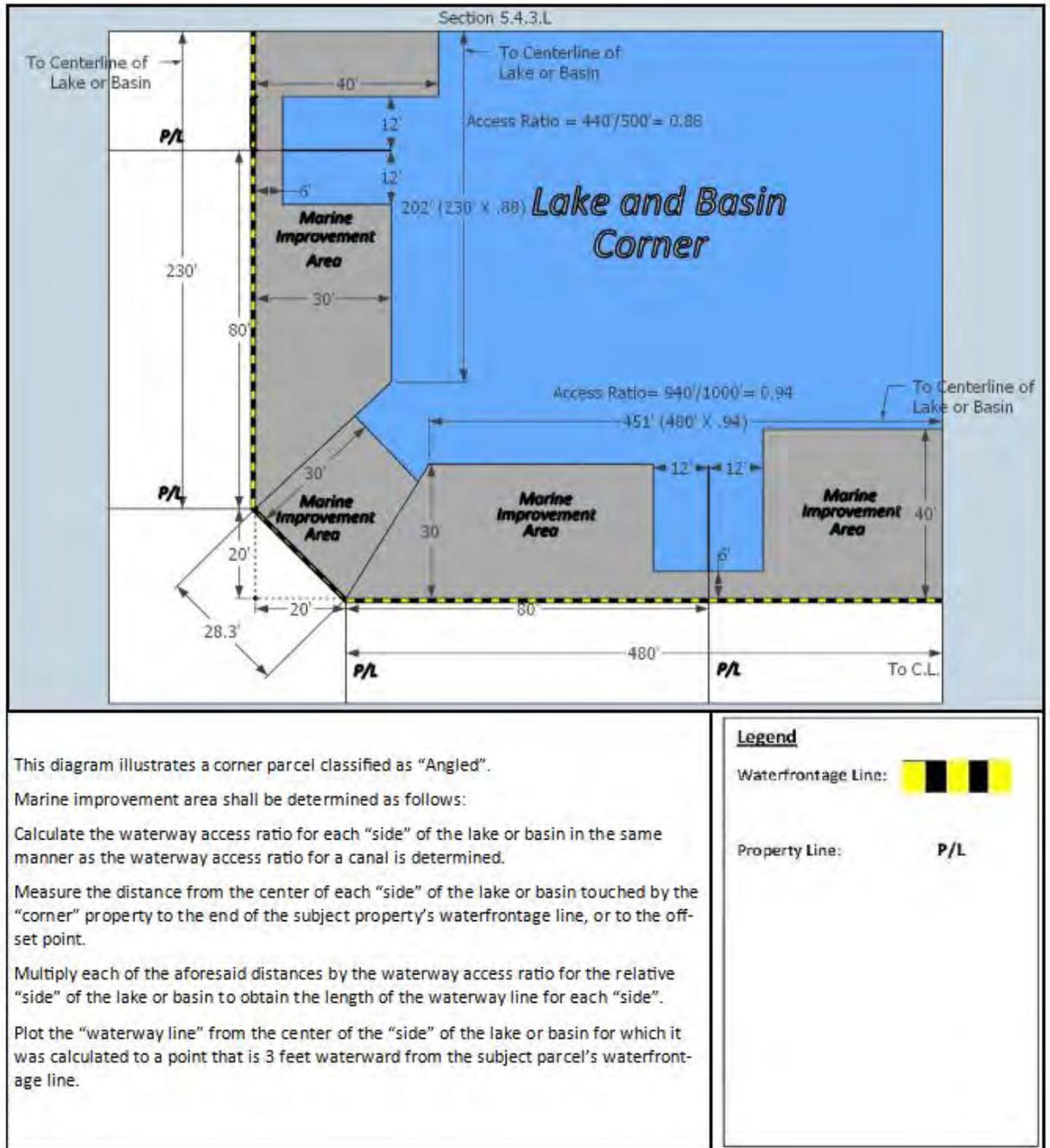
**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2023

10.

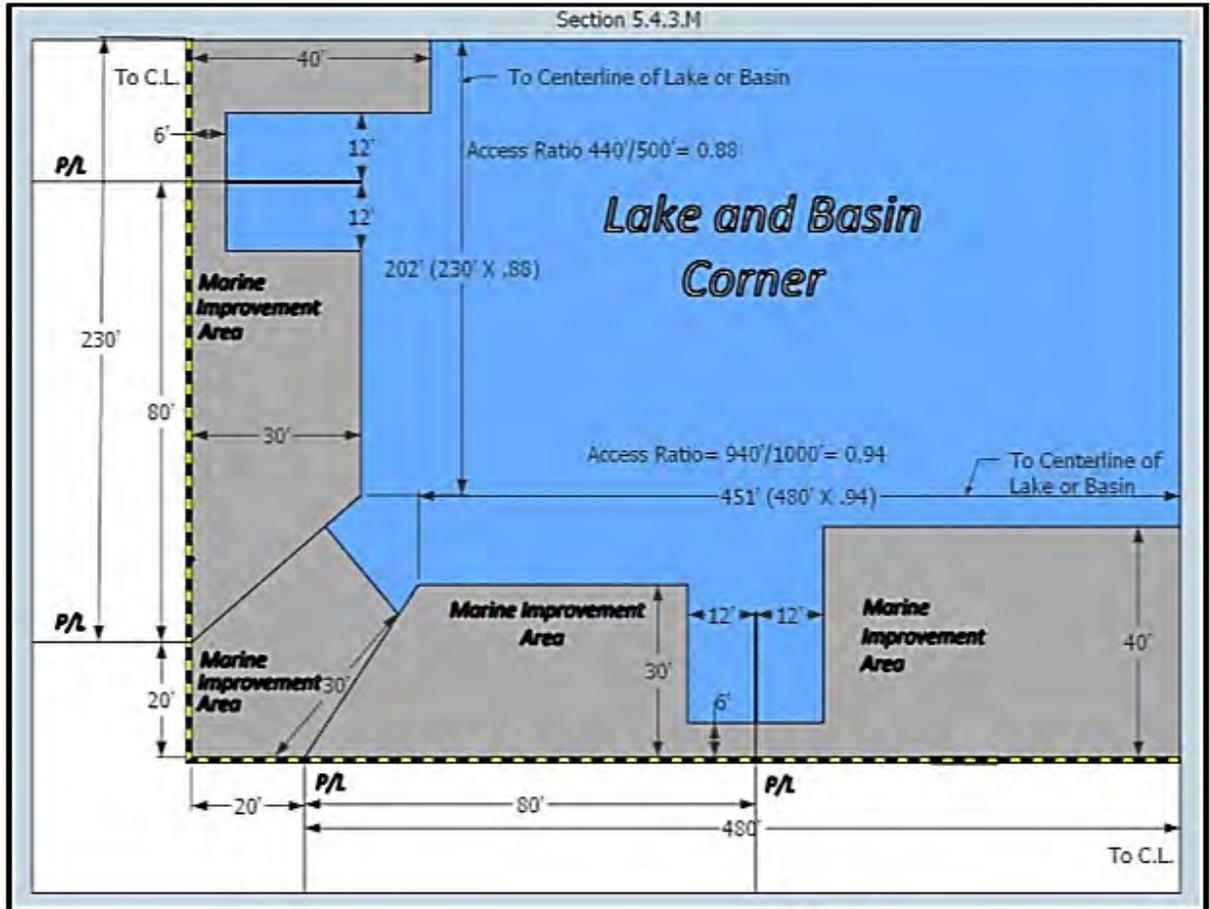
**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2024

11.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



This diagram illustrates a corner parcel classified as "V-Shaped".

Marine improvement area shall be determined as follows:

Calculate the waterway access ratio for each "side" of the lake or basin in the same manner as the waterway access ratio for a canal is determined.

Measure the distance from the center of each "side" of the lake or basin touched by the "corner" property to the end of the subject property's waterfrontage line, or to the offset point.

Multiply each of the aforesaid distances by the waterway access ratio for the relative "side" of the lake or basin to obtain the length of the waterway line for each "side".

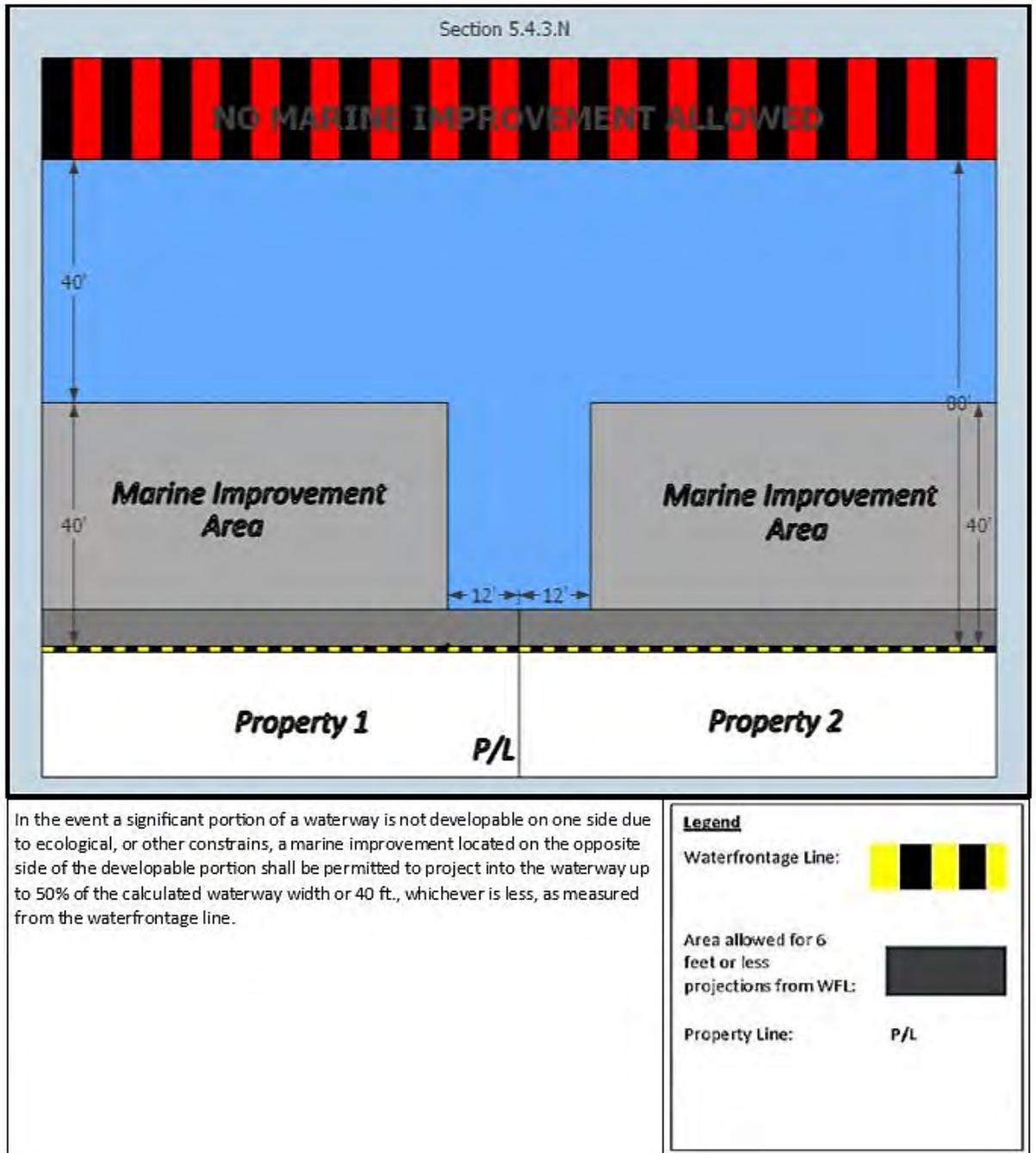
Plot the "waterway line" from the center of the "side" of the lake or basin for which it was calculated to a point that is 3 feet waterward from the subject parcel's water-frontage line.

Legend

Waterfrontage Line:



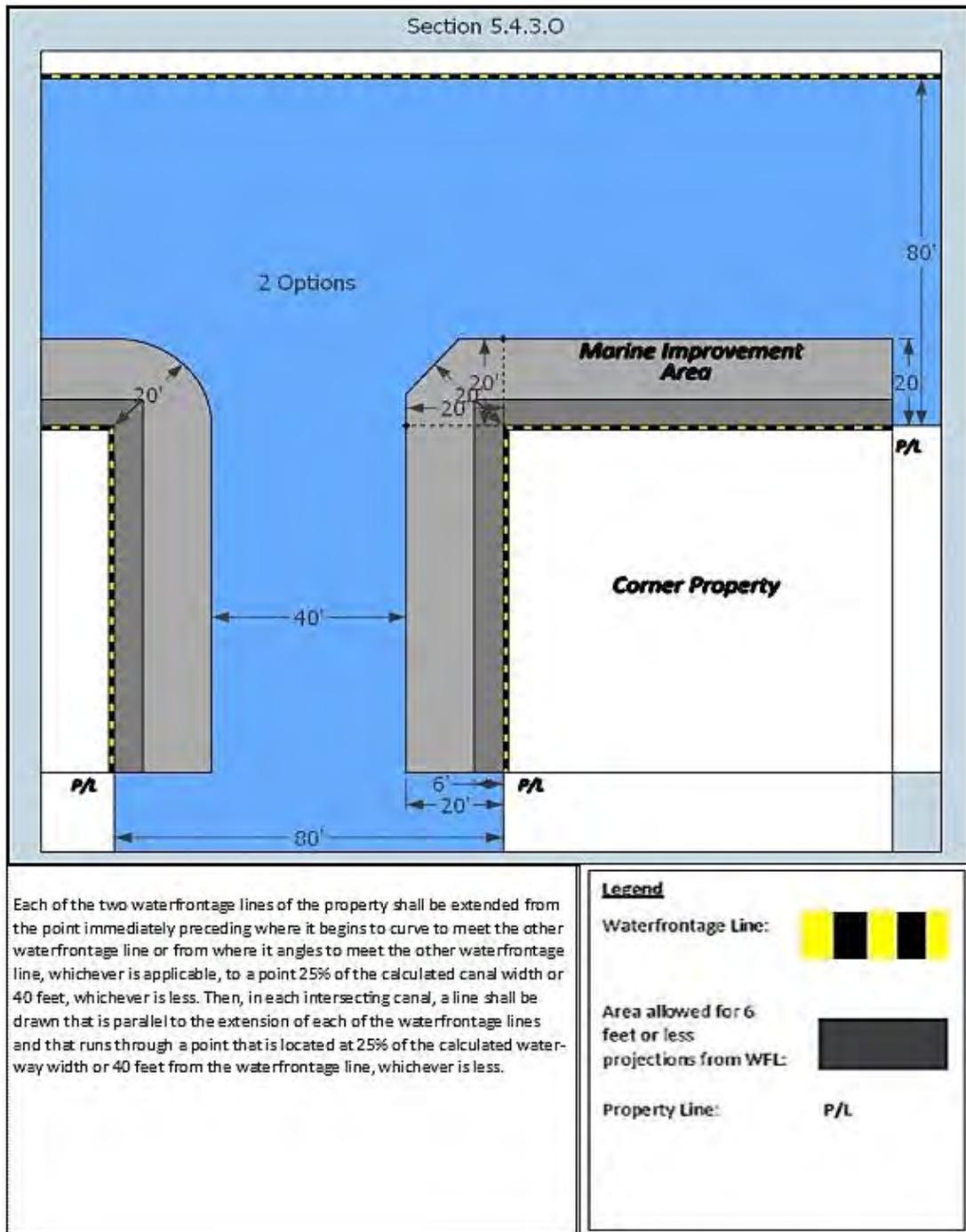
**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2026

13.

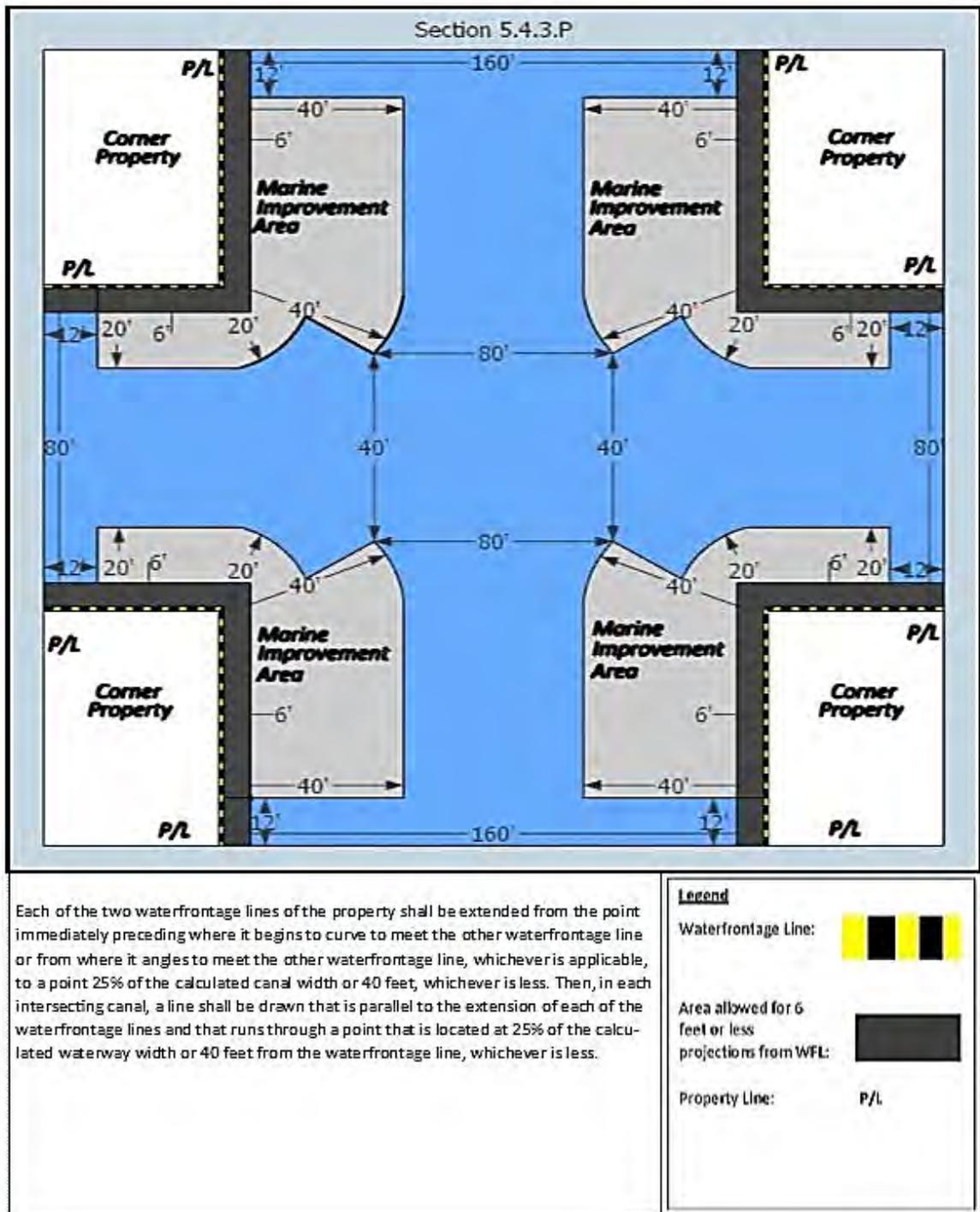
**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**



2027

14.

CITY OF CAPE CORAL, FLORIDA
 LAND DEVELOPMENT CODE
 ARTICLE 5 – DEVELOPMENT STANDARDS



- 2028
 2029
 2030
 2031
 2032

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2033 **Section 5.4.4. Joint Marine Improvements.**
2034

2035 Owners of adjoining waterfront parcels may adjust their abutting marine improvement area boundaries
2036 and offset requirements by entering into a written joint use agreement, provided the marine
2037 improvements are connected. A captain’s walk does not constitute a connection for requiring a joint
2038 marine improvement. All limitations regarding the maximum area of marine improvements shall apply to
2039 each property and the maximum marine improvement area allowed for each parcel shall not be combined
2040 or modified in any way so as to increase the maximum marine improvement area allowed for either parcel.
2041 Marine vessels or boat canopies when secured in any way to a joint marine improvement may extend
2042 beyond the end of one of the waterfront parcels involved at the point where such parcel abuts the other
2043 parcel sharing the marine improvement. However, no marine vessel (or any part thereof) shall extend
2044 beyond the outer ends of the water frontage of the two waterfront parcels except as provided in §
2045 5.4.3.A.8 The joint use agreement shall, at a minimum, comply with the following requirements.
2046

- 2047 A. The agreement shall contain the name(s) and current home address(es) of both property owners.
2048
- 2049 B. The agreement shall identify the waterway upon which the subject parcels are located and shall
2050 identify the waterfront parcels involved by legal description and by STRAP number. The agreement
2051 shall also include a signed and sealed survey of the subject adjoining parcels.
2052
- 2053 C. The agreement shall include a drawing of the proposed marine improvement(s) to be constructed,
2054 showing the design and dimensions of the marine improvement(s), and where the marine
2055 improvements will project from the parcels.
2056
- 2057 D. The agreement shall identify those areas that would be subject to access (ingress and egress)
2058 easements in conjunction with the joint marine improvement. Such easement(s) shall identify by legal
2059 description the property to which the easement attaches and shall be irrevocable except with the
2060 written consent of the city. The rights of each party with respect to such easement(s) shall run with
2061 the title to the respective parcels. A drawing identifying the easements shall also be included with the
2062 agreement.
2063
- 2064 E. The agreement shall identify the responsibilities of each of the parties for the construction and
2065 maintenance of the facilities. However, identification or division of responsibilities between parties in
2066 the agreement shall not affect the ability of the city to enforce any and all provisions of its Code of
2067 Ordinances or Land Development Codes against the property owner(s) of the joint marine
2068 improvement, jointly and severally.
2069
- 2070 F. The agreement shall state that the parties understand and agree to abide by all applicable federal,
2071 state, and local regulations pertaining to the construction, maintenance, and use of the facilities.
2072
- 2073 G. The agreement shall run with the land and be binding upon the parties, their successors, heirs, and
2074 assignees and it shall provide that it may not be rescinded or amended without the written consent
2075 of the city.
2076
- 2077 H. The parties to the agreement shall record the agreement, at their own expense, in the public records
2078 of Lee County. The agreement shall satisfy all requirements for recording, including those contained

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

2079 in the Florida Statutes. No permit for the construction of a joint marine improvement or for the
2080 erection or installation of a boat canopy on a joint marine improvement shall be issued by the city
2081 until the parties have first provided to the city a copy of the fully executed agreement and evidence
2082 of recording that is satisfactory to the city, in its sole discretion.
2083

2084 I. Prior to execution and recording of the agreement, the parties shall submit a draft of the proposed
2085 agreement to the Community Development Director for review and comment.
2086

2087 **Section. 5.4.5. Quays and mooring piles.**
2088

2089 A. A seawall may be altered to accommodate the mooring of a vessel if it is determined that the seawall
2090 is structurally sufficient for that purpose.
2091

2092 B. Mooring piles may be installed directly adjacent to the seawall to allow for the mooring of watercrafts
2093 without a dock.
2094

2095 C. Pilings shall not be higher than eight feet above mean high water.
2096

2097 D. Any watercraft moored at a quay or a pile may not be any closer than 10 feet to the adjacent property
2098 line.
2099

2100 **Section. 5.4.6. Davits, watercraft lifts, and floating docks.**
2101

2102 A. Lifts: An electrical permit is required to install a lift within an existing u-shaped dock.
2103

2104 B. Davits:
2105

2106 1. The minimum side setback for davit installation shall be five feet from the side lot line to the
2107 center of the davit base.
2108

2109 2. Davits, including swinging lifts when extended over the water, may not extend further than 25%
2110 into the waterway or 30 feet whichever is less.
2111

2112 3. Overhead hoists, davits, or machinery shall not exceed eight feet above mean high water when
2113 not in use.
2114

2115 C. Floating docks and lifts:
2116

2117 1. For dimensional requirements refer to Section 5.4.3. above.
2118

2119 2. A floating dock or lift must be anchored in place so as not to impede the use of neighboring
2120 waterfront property.
2121
2122
2123
2124

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

2125 **Section. 5.4.7. Boathouses and canopies.**

2126

2127 A. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun
2128 shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.2.10. of
2129 this article. Boat canopies are permitted to be erected or installed on marine improvements for the
2130 purpose of protecting a vessel from the elements only in accordance with the following:

2131

2132 B. The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material.
2133 Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides
2134 with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be
2135 of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or
2136 supports. No shutter roll-up design shall be permitted.

2137

2138 C. The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy
2139 shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind
2140 load of 70 mph or greater.

2141

2142 D. The boat canopy shall not extend horizontally more than 30 inches over or beyond any dock to which
2143 the canopy is attached, except to the rear of a boat slip where it may extend up to 48 inches past the
2144 end of the structure. Canopies attached to marine improvements that are built to the maximum
2145 projection, may extend up to 30 inches beyond the structure.

2146

2147 E. No boat canopy shall exceed 40 feet in length or 18 feet in width.

2148

2149 F. Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy,
2150 canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally
2151 dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall
2152 be the responsibility of the owner of the waterfront parcel to remove the offending structure.

2153

2154 G. Only one canopy may be permitted per parcel.

2155

2156 H. No boat canopy, when measured at its highest point, shall extend more than 14 feet above the seawall
2157 cap, or if no seawall exists, above the decking of the marine improvement.

2158

2159 **Section. 5.4.8. Bulkheads, seawalls, and retaining walls.**

2160

2161 A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and
2162 immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of
2163 water within or bordering the boundaries of the city is required to have a seawall bulkheading the
2164 entire frontage exposed to contact with the water.

2165 B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to
2166 frontage on any freshwater or non-tidal canal or other body of water within or bordering the
2167 boundaries of the city are required to have a seawall bulkheading the entire frontage exposed to
2168 contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral
2169 Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner's
2170 expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

2171 to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public
2172 or private golf course or public park.

2173
2174 C. Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water
2175 management system lake construction under jurisdiction of SFWMD, shall be in compliance with
2176 SFWMD criteria.

2177
2178 Single-family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration
2179 trench adjacent to and along the entire length of the bulkhead.

2180
2181 **CHAPTER 5. LANDSCAPING**

2182
2183 **Section 5.5.1. Purpose and intent.**

2184
2185 This section is established to provide general landscape regulations, to improve the appearance of certain
2186 setback and yard areas, including off-street vehicular parking, open lot sales and service areas, and to
2187 protect and preserve the appearance, character, and value of the surrounding neighborhoods. The
2188 principles of the Florida-Friendly Landscaping Program with regard to planning and design, soil
2189 improvement, efficient irrigation, limited turf areas, mulches, drought tolerant plants, and appropriate
2190 maintenance are the basis for the principles in this section and should be used as guidance in all new
2191 construction and landscape renovations so as to provide the most green with the least water and create
2192 a landscape that can survive largely undamaged in case of short term water restrictions.

2193
2194 **Section 5.5.2. Florida-Friendly Landscaping Program principles.**

2195
2196 The city strongly encourages adherence to the Florida-Friendly Landscaping Program that includes the
2197 following principles:

2198
2199 A. Right plant, right place. Plants selected to suit a specific site will require minimal amounts of water,
2200 fertilizer and pesticides.

2201
2202 B. Water efficiently. Irrigate only when lawn and landscape need water.

2203
2204 C. Fertilize appropriately. Less is often better. Over-use of fertilizer can be hazardous to your yard and
2205 the environment.

2206
2207 D. Mulch. Maintaining a layer of mulch will help retain soil moisture, prevent erosion and suppress
2208 weeds.

2209
2210 E. Attract wildlife. Plants in private yards that provide food, water and shelter can conserve Florida's
2211 diverse wildlife.

2212
2213 F. Manage yard pests responsibly. Unwise use of pesticides can harm people, pets, beneficial organisms,
2214 and the environment.

2215

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 2216 G. Recycle yard waste. Grass clippings, leaves, and yard trimmings recycled onsite provide nutrients to
2217 the soil and reduce waste disposal.
2218
- 2219 H. Reduce stormwater runoff. Water running off from private yards can carry pollutants such as soil,
2220 debris, fertilizer, and pesticides that can adversely impact water quality.
2221
- 2222 I. Protect the waterfront. Waterfront property is very fragile and should be carefully protected to
2223 maintain freshwater and marine ecosystems.
2224

Section 5.5.3. Applicability.

- 2225
- 2226
- 2227 A. Except as provided under Section 5.5.4, Exemption, the landscape standards of this section shall
2228 apply to all new construction of single-family homes and duplexes, and to all other new construction
2229 requiring SDP review under Article 3. The landscape standards of this section are in addition to any
2230 landscape standards for specific land uses as established in Chapter 10, Specific Use Regulations, of
2231 this Article.
2232
- 2233 B. Additionally, all landscape standards of this section shall apply to amendments to a site plan that
2234 would have the effect of:
2235
- 2236 1. Increasing the total square footage of any one building or the total square footage of all buildings
2237 on a site by more than 20%;
2238
- 2239 2. Increasing the number of buildings; or
2240
- 2241 3. Adding any new or expanding any existing off-street parking area.
2242
- 2243 C. The existing portion of an amended or expanded project which is demonstrated to be completely
2244 and fully in compliance with an approved landscape plan at the time of application is not required to
2245 be modified to comply with this section.
2246
- 2247 D. All areas of an existing project affected by an amendment or expansion or those areas that are not
2248 in full compliance with an approved landscape plan are required to comply with this section.
2249
- 2250 E. No certificate of occupancy or certificate of completion shall be issued until the Department of
2251 Community Development (DCD) has determined that the applicant has complied with all the
2252 provisions of this section and has approved the finished landscape product.
2253

Section 5.5.4. Exemption.

2254

2255

2256 These regulations do not apply to projects located where the City Council has established specific
2257 landscape standards for a unique area of the city; unless the specific landscape standards otherwise
2258 expressly state their applicability.
2259

2260
2261

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2262 **Section 5.5.5. Conflicts.**

2263
2264 If any of the landscape standards of this section conflict with any other provision of the City of Cape Coral
2265 Code of Ordinances or the LDC the provision that establishes the more specific standard governs. If neither
2266 conflicting provision establishes a more specific standard, then the more stringent provision governs
2267 unless otherwise expressly provided.

2268
2269 **Section 5.5.6. Landscape plans.**

- 2270
2271 A. Landscape plan required. A landscape plan that meets the requirements below shall be provided as
2272 required by Article 3.
2273
2274 B. Landscape plan standards. Landscape plans for all projects that require a landscape plan, including
2275 Site Development Plans and Subdivision Construction Plans shall be signed and sealed by a landscape
2276 architect, or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, as amended.
2277 All landscape plans shall meet the following requirements and contain the following information:
2278
2279 1. Scale of not less than one-inch equals 30 feet. This requirement shall not preclude the inclusion
2280 of a smaller-scaled drawing such as a key map for the purpose of establishing the orientation of
2281 landscape plans for large sites that, because of their size, cannot be displayed on a single sheet.
2282
2283 2. Zoning district and future land use classification for the subject parcel and all abutting parcels.
2284
2285 3. The approximate location, quantity, diameter/caliper, botanical and common name, and native
2286 status of all heritage trees and other existing trees with a caliper of two inches or greater, and
2287 whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be
2288 indicated on a separate sheet.
2289
2290 4. Location, quantity, spacing, diameter/caliper, overall height (at time of planting) of proposed
2291 trees, palm trees, botanical and common name, and native status. Any existing trees located
2292 within the street right-of-way, between the closest outside edge of pavement and the subject
2293 property shall be shown.
2294
2295 5. Location, quantity, spacing, container size, overall height (at time of planting) of proposed shrubs
2296 and groundcover, botanical and common name, and native status.
2297
2298 6. Types, amounts, and placement of other hardscape materials such as berms and walls required
2299 by this section or Section 5.5.13, or both.
2300
2301 7. A statement or plan describing compliance with the irrigation standards of these regulations.
2302
2303 8. Location and type of existing and proposed utility lines, easements, electrical transformer boxes,
2304 fire hydrants or fire appliances, sidewalks, parking spaces, light poles, and stop signs.
2305
2306 9. Indication of existing and proposed grades if existing vegetation is to be retained on site.
2307

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 2308 10. Existing or proposed onsite curbing.
2309
2310 11. Calculations, notes, and installation details indicating how the proposed landscaping will be in
2311 compliance with requirements of this section.
2312
2313 12. Vegetation protection barricades to be used during construction, for all trees to be preserved.
2314
2315 13. Safe sight distance triangles.
2316
2317 14. Locations of proposed and existing off-street parking area lighting, if applicable.
2318
2319 15. A note that all existing prohibited vegetation shall be removed.
2320

Section 5.5.7. Planting near utility infrastructure.

2321 Landscaping shall not interfere with or obstruct any existing or proposed pad-mounted transformer,
2322 overhead or underground utility line, utility service, fire hydrant, or fire appurtenance.
2323
2324
2325

- 2326 A. Overhead power lines. Canopy tree branches or palm tree fronds within ten feet of existing overhead
2327 transmission or distribution lines, measured radially from the line, shall be subject to trimming or
2328 removal by the power company as necessary to maintain public overhead utilities in accordance with
2329 the National Electric Safety Code (NESC). No canopy trees or palm trees shall be planted closer to an
2330 overhead transmission or distribution line than as specified by the Minimum Separation Distance
2331 Between Center of Trees and Overhead Transmission or Distribution Lines indicated in Table 1. In
2332 order to avoid conflicts with power lines and avoid the need for removal or pruning that would harm
2333 or distort their natural shape, it is recommended that no canopy trees or palm trees should be planted
2334 closer to an overhead transmission or distribution line than as specified by the Recommended
2335 Separation Distance Between Trees and Overhead Transmission or Distribution Lines indicated in
2336 Table 1. The separation between a tree and an overhead transmission or distribution line shall be the
2337 distance from the center of the tree at ground level to the closest point on the ground that is within
2338 the vertical plane of an overhead transmission or distribution line at rest. A species of canopy tree or
2339 palm tree that is not listed in Tables 5.5.7.A and 5.5.7.B shall not be planted within 20 feet of existing
2340 overhead transmission or distribution lines without the prior written consent of the Department of
2341 Community Development Director.
2342

Table 5.5.7.A: Minimum Separation Distance Between Palm Trees and Overhead Transmission or Distribution Lines			
PALMS			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
All Alexandra Palm	Archontophoenix alexandrae	10	13

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)	No minimum distance	No minimum distance
Bamboo Palm	Chamedorea spp.	No minimum distance	No minimum distance
Cabbage Palm (Sabal Palm)	Sabal palmetto	8	13
Canary Island Date Palm	Phoenix canariensis	15	21
Chinese Fan Palm	Livistonia chinensis	8	13
Christmas Palm	Adonidia merrillii (Veitchii merrillii)	No minimum distance	No minimum distance
Coconut Palm	Cocos nucifera	10	21
Date Palm	Phoenix dactylifera	10	21
Dwarf Palmetto	Sabal minor	No minimum distance	No minimum distance
European Fan Palm	Chamaerops humilis	No minimum distance	No minimum distance
Fishtale Palm	Caryota mitis	8	14
Foxtail Palm	Wodyetia bifurcata	8	15
Lady Palm	Rhapis excelsa	No minimum distance	No minimum distance
Macarthur Palm	Ptychosperma macarthurii	8	14
Majesty Palm	Ravenea glauca	No minimum distance	No minimum distance
Needle Palm	Rhapidophyllum hystrix	No minimum distance	No minimum distance
Paurotis Palm (Everglades Palm) (may grow to 25 feet)	Acoelorrhaphe wrightii	No minimum distance	13
Pindo Palm	Butia capitata	No minimum distance	No minimum distance
Pygmy Date Palm	Phoenix roebellini	No minimum distance	No minimum distance
Queen Palm	Syagrus romanzoffianum	9	18
Royal Palm	Roystonea spp.	10	21
Saw Palmetto	Serenoa repens	No minimum distance	No minimum distance
Senegal Island Date Palm (Reclinata Palm)	Phoenix redinata	8	16
Silver Palm	Coccothrinax argentata	No minimum distance	No minimum distance
Solitare (Alexander) Palm	Ptychosperma elegans	8	14
Thatch Palm	Thrinax spp.	No minimum distance	No minimum distance
Washingtonia Palm (Mexican Washington Palm)	Washingtonia robusta	8	13

2343
2344
2345
2346

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

Table 5.5.7.B: Minimum Separation Distance Between Canopy Trees and Overhead Transmission or Distribution Lines			
CANOPY			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
Bald Cypress	Taxodium distichum	15	30
Black Olive (also see Shady Lady Black Olive)	Bucida buceras	20	30
Cassia fistula	Cassia fistula	15	30
Gumbo Limbo	Bursera simaruba	15	30
Jacaranda	Jacaranda mimosfolia	20	30
Laurel Oak	Quercus laurifolia	15	30
Live Oak	Quercus virginiana	20	30
Mahogany	Swietenia macrophylla	15	30
Pigeon Plum	Cocoloba diversifolia	8	10
Slash Pine	Pinus elliottii	15	30
Southern Magnolia	Magnolia grandiflora	15	30
Wild Tamarind	Lysiloma bahamensis	25	35
Yellow Poinciana	Peltophorum pterocarpum	15	20
Drake Elm	Ulmus parvifolia	15	
Red Maple	Acer rubrum	15	30
Satin Leaf	Chrysophyllum oliviforme	12	15
Shady Lady Black Olive	Bucida buceras "Shady Lady"	No minimum distance	15
Tabebuia, pink or yellow	Tabebuia spp.	10	15

2347
2348
2349
2350
2351
2352

Section 5.5.8. Existing trees.

- A. Generally. Except for trees on the Florida Exotic Pest Plant Council's list of Category I invasive exotics of those trees listed in Table 5.5.9, existing trees may be used to meet the minimum tree requirements for the site if they are indicated on the landscape plan (when a landscape plan is required), have a

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2353 minimum diameter at breast height (DBH) of two inches, and are properly protected during any
2354 clearing or construction on the property.
2355

2356 Developers are encouraged to preserve existing heritage trees. For any site other than a single-family
2357 or duplex site, if during development or any time throughout the life of the development, regardless
2358 of change in ownership or use(s), any heritage tree is removed or damaged, it shall be replaced with
2359 a Florida native tree that meets the quality of materials standards in this article, with a minimum
2360 caliper of six inches measured at a height of 12 inches above the ground, with a height not less than
2361 20 feet; however, this requirement shall not increase the total number of trees otherwise required
2362 for the site by more than 10%.
2363

2364 B. Protection of trees during development activities. Prior to any land preparation or other development
2365 activities, a protective barrier shall be established around all trees that are not to be removed, as
2366 follows:
2367

2368 1. The protective barrier shall enclose at least that area within a radius of one foot for every inch of
2369 caliper DBH around the tree.
2370

2371 2. The protective barrier may encompass more than one tree, and shall be established with a barrier
2372 as follows:
2373

2374 a. Posts shall be implanted in the ground deep enough to be stable and with at least three feet
2375 visible above ground.
2376

2377 b. The protective posts shall be placed not more than six feet apart and shall be linked together
2378 at a height of at least three feet by rope, chain, silt fence fabric, or orange safety fence at least
2379 three feet in height, or any combination thereof.
2380

2381 3. Required protective barriers and perimeter lines shall remain in place until all construction
2382 activity, except landscaping within the protected area, is terminated.
2383

2384 C. Construction activity limitations.
2385

2386 1. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree
2387 that is not to be removed.
2388

2389 2. Landscaping activities within the area of the protective barrier (before and after it is removed)
2390 shall be accomplished with manual labor or light machinery that, if self-propelled, is not designed
2391 to bear the weight of the operator. Such light machinery may include string trimmers, walk-behind
2392 lawn mowers, or chainsaws. Except as necessary to perform landscaping activities as described
2393 above, no construction personnel shall enter the area within the protective barrier. Further, no
2394 equipment, tools, construction materials, debris of any kind, or more than six inches of soil shall
2395 be placed within the protective barrier.
2396

2397 3. If fill is deposited adjacent to a protective barrier, a suitable temporary or permanent retaining
2398 structure shall be constructed to prevent siltation within the area of the protective barrier.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2399 4. If it can be reasonably accomplished, water, sewer, and other utility lines should be routed around
2400 the protective barrier of trees that are not to be removed. If a line cannot reasonably be routed
2401 around the protective barrier, the line shall be tunneled beneath the area and shall be offset to
2402 one side of the trunk to prevent damage to the main tap roots.
2403

2404 D. Exempt trees. This subsection shall not apply to trees grown at commercial nurseries, as part of their
2405 stock.
2406

Section 5.5.9. Prohibited vegetation.

2407 A. The following invasive exotic plants are prohibited and shall be removed from the development site,
2408 in its entirety. For projects developed in phases, all invasive exotic plants shall be removed from areas
2409 to be developed under future phases at the time the first or any subsequent phase is developed.
2410 Methods to remove and control invasive exotic plants must be included on required landscape plans,
2411 for projects that require a landscape plan. Methods of removal and control that would damage native
2412 vegetation to be preserved are prohibited. The development sites shall be maintained free from
2413 invasive exotic plants in perpetuity. For purposes of this subsection, invasive exotic plants include the
2414 following listed plants, or those plants currently listed as a Category I invasive by the Florida Exotic
2415 Pest Plant Council (FLEPPC) at the time of development:
2416
2417
2418
2419

Table 5.5.9: PROHIBITED INVASIVE EXOTICS	
Common Name	Scientific Name
Earleaf Acacia	acacia auriculiformis
Woman's Tongue	Albizia lebeck
Bishopwood	Bischofia javanica
Australian Pines	All Casuarina species
Carrotwood	Cupianopsis anacardioide
Rosewood	Dalbergia sissoo
Air Potato	Dioscorea alata
Murray Red Gum	Eucalyptus camaldulersis
Cuban Laurel Fig	Ficus microcarpa
Japanese Climbing Fern	Lygodium japonicum
Old World Climbing Fern	Lygodium microphyllum
Melaleuca, Paper Tree	Melaleuca quinquenervia
Downy Rose Myrtle	Rhodomyrtus tomentosus
Chinese Tallow	Sapium sebiferum
Brazilian Pepper, Florida Holly	Schirus terebinthifolius
Tropical Soda Apple	Solanum viarum
Java Plum	Syzygium viarum
Rose Apple	Syzygium jambos
Cork Tree	Thespesia populnea
Wedelia	Wedelia trilobata

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

2420
2421 B. The Weeping Fig (*Ficus benjamina*) is prohibited due to aggressive root systems unless it is maintained
2422 as a hedge with a maximum height of eight feet.

2423
2424 C. City of Cape Coral and state-prohibited vegetation shall be removed from all sites prior to issuance of
2425 certificate of occupancy or certificate of completion.

2426
2427 **Section 5.5.10. Quality, size, spacing, and species mix.**

2428
2429 All plant materials required by this section shall conform to the following at the time of planting:

2430
2431 A. Plant installation standards. Plant materials shall be installed in soil conditions that are conducive to
2432 the proper growth of the plant material. Soil in planting areas shall be loose, permeable, friable, and
2433 free of limestone and other construction materials, off-street parking area base material, rocks,
2434 noxious weeds, grasses, hard pan, clay, or other debris. For purposes of this section, noxious weeds
2435 are those plants listed in Section 5B-57.007, F.A.C, State Noxious Weed List, by the Florida Department
2436 of Agriculture and Consumer Services. It is recommended that such materials be removed to a depth
2437 of two and one-half feet for the well-being of plant materials. Required canopy trees, accent trees,
2438 palm trees, and shrubs shall be planted on grades not exceeding 3:1.

2439
2440 B. Plant species and grade. A minimum of 50% of all required canopy trees and accent trees and a
2441 minimum of 30% of all required shrubs and groundcovers, excluding turf grass areas, shall be Florida
2442 native as defined by this section. Any plant material on the Florida Exotic Pest Plant Council's list of
2443 Category I or 2 invasive exotics, as may be amended, shall not be counted toward the required
2444 plantings in this section. The City of Cape Coral prohibits the use of any plant material on the Florida
2445 Exotic Pest Plant Council's list of Category I invasive exotics, which are not expressly prohibited by
2446 Section 5.5.9. Plant materials used in conformance with the provisions of this section shall meet or
2447 exceed the Standards for Florida No. 1, as set forth in the latest edition of "Grades and Standards for
2448 Nursery Plants" published by the State Department of Agriculture and Consumer Services, including
2449 minimum crown spread diameter, root-ball sizes, and container volumes.

2450
2451 C. Tree standards.
2452
2453 1. Canopy tree size. Except in the South Cape Downtown District, all canopy trees required to meet
2454 minimum requirements shall have a minimum height of ten feet and shall have a minimum caliper
2455 of two inches measured at a height of 12 inches above the ground. In the South Cape Downtown
2456 District, all canopy trees required to meet minimum requirements shall have a minimum height
2457 of 12 feet and a minimum caliper of three inches measured at a height of 12 inches above the
2458 ground at planting.

2459
2460 2. Palm tree size. Palm trees required to meet minimum requirements shall have a minimum size of
2461 16 feet overall, unless located within ten feet of a walkway, in which case they shall have a
2462 minimum of ten feet of clear trunk at planting.

2463

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 2464 3. Accent tree size. Accent trees required to meet minimum requirements shall have a minimum
2465 height of eight feet and have a minimum caliper of one and one-half inches measured at a height
2466 of six inches above the ground at planting.
2467
- 2468 4. Tree species mix. A mix of species shall be provided according to the overall number of trees
2469 required to be planted. Species shall be planted in proportion to the required mix. The minimum
2470 number of species to be planted is indicated in Table 2.
2471

Table 5.5.10: Required Species Mix	
Required Number of Trees	Minimum Number of Species
1 - 4	1
5 - 10	2
11 - 20	3
21 - 30	4
31+	5

- 2472
- 2473 5. Shrub standards. Except as otherwise provided herein, shrubs planted in residential development
2474 shall be a minimum of 18 inches in height and be in at least a three-gallon container size at time
2475 of planting. Shrubs planted in all non-residential and mixed-use development must be a minimum
2476 of 24 inches in height and be in at least a seven-gallon container size at time of planting. Shrubs
2477 required for buffer yard plantings must be a minimum of 32 inches in height and be in at least a
2478 seven-gallon container size at time of planting. Ornamental grasses may be used in lieu of 20% of
2479 shrubs required. Saw palmettos (*Serenoa repens*) and coonties (*Zamia floridana*) may be used as
2480 shrubs, provided they are 12 inches in height at time of planting.
2481
- 2482 6. Groundcovers and sod.
- 2483
- 2484 a. Groundcovers shall be planted no more than 24 inches apart for one-gallon pots or 12 inches
2485 apart for four-inch pots.
2486
- 2487 b. Wherever used, sod shall be installed with no gaps or overlaps, so as to present a finished
2488 appearance and prohibit erosion of the planted area.
2489
- 2490 7. Firewise landscaping. Landscaping within areas subject to wildfire hazard and should incorporate
2491 firewise landscaping techniques promulgated by the Florida Department of Economic
2492 Opportunity and the Department of Agriculture and Consumer Services.
2493

Section 5.5.11. Planting in public drainage or utility easements.

2494 No canopy trees, accent trees, palm trees, or shrubs required by this section shall be planted within a
2495 public drainage or utility easement without approval of the city. The city may deny approval to place
2496 landscaping materials in an easement if such would conflict with existing or proposed utilities or drainage
2497 functions. If the city approves the placement of any plant material installed to meet the requirements of
2498 this section within a public drainage or utility easement and the landscape material is removed or
2499
2500

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2501 damaged by construction or maintenance of drainage facilities or utilities, the property owner shall
2502 replace all such plant material within 30 days of the completion of the drainage or utility work, in
2503 accordance with the following criteria:

2504

2505 A. Canopy trees.

2506

2507 1. If planted back in the public drainage or utility easement, the property owner shall replace the
2508 canopy tree with a tree having a minimum caliper as the removed or damaged tree; however, if
2509 the removed or damaged tree is greater than four inches in caliper (measured at a height of 12
2510 inches above the ground), the replacement tree shall be required to be a minimum of four inches
2511 in caliper.

2512

2513 2. If planted in an alternate location that is not within a public drainage or utility easement, the
2514 property owner shall replace the canopy tree with one meeting the minimum size required within
2515 this Chapter and that is subject to all other requirements of this section. For sites required to have
2516 a site plan, such alternate plant location shall be indicated on a revised landscape plan and is
2517 subject to approval by the city.

2518

2519 B. Palm trees.

2520

2521 1. If planted back in the public drainage or utility easement, the property owner shall replace the
2522 palm tree with a palm tree having a minimum caliper as the removed or damaged palm tree;
2523 however, if the removed or damaged palm tree is greater than nine inches in caliper (measured
2524 at a height of 12 inches above the ground), the replacement palm tree shall be required to be a
2525 minimum of nine inches in caliper.

2526

2527 2. If planted in an alternate location that is not within a public drainage or utility easement, the
2528 property owner shall replace the palm tree with one meeting the minimum size required within
2529 this Chapter and that is subject to all other requirements of this section. For sites required to have
2530 a site plan, such alternate plant location shall be indicated on a revised landscape plan and is
2531 subject to approval by the city.

2532

2533 C. Shrubs. Regardless of whether the shrub is located in a public drainage or utility easement, the
2534 property owner shall replace the shrub with a shrub meeting the minimum size required within this
2535 chapter.

2536

2537 The property owner shall notify the city when the replacement planting required by this subsection
2538 have been installed and are ready for re-inspection.

2539

2540 **Section 5.5.12. Single-family homes and duplexes.**

2541

2542 The following landscape requirements shall be met for all single-family and duplex units.

2543

2544 A. Trees required for single-family homes. All newly constructed single-family homes shall have a
2545 minimum number of trees per building site in accordance with Table 5.5.12.A: Trees Required for

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2546 Single-Family Homes. Where a home site includes a septic tank between the structure and the street,
2547 trees shall be planted a minimum of six feet from the septic tank or its drain field.
2548

Table 5.5.12.A: Trees Required for Single-Family Homes			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

2549
2550 B. Trees required for Duplexes. All newly constructed duplexes shall have a minimum number of trees
2551 per side in accordance with Table 5.5.12.B Trees Required for Duplexes. Where a site includes a septic
2552 tank between the structure and the street, trees shall be planted a minimum of six feet from the septic
2553 tank or its drain field.
2554

Table 5.5.12.B: Trees Required for Duplexes (PER SIDE)			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

2555
2556 C. Credit for larger, canopy trees. The required number of canopy trees may be reduced by one tree if
2557 an existing or proposed canopy tree is at least two inches of increased caliper above the minimum
2558 planting size specified in this Chapter. Single-family homes and duplexes are not eligible for the Tree
2559 Credit Program provided by Section 5.5.15.

2560
2561 D. Shrubs required. Each single-family home and duplex shall be landscaped with a minimum of 20 three-
2562 gallon shrubs of which a minimum of ten shall be planted at any location in the front yard.

2563
2564 E. Mulch, groundcover, and planting beds.

2565
2566 1. The soil surface of the land area not covered by structures or hardscape features shall be covered
2567 with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover,
2568 or any combination thereof. When shrubs are used in planting beds, shall be planted not more
2569 than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used
2570 to cover more than 20% of the total land area not covered by structures or hardscape features
2571 and is not within a front yard or right-of-way.

2572
2573 2. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and
2574 maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. A two-
2575 inch minimum layer of organic mulch, measured after watering-in, shall be placed around all

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2576 newly installed groundcover plants so that bare areas of sod are not exposed; however, the mulch
2577 around groundcover plants is not required to be maintained after the groundcover becomes
2578 established. Except as otherwise provided in these regulations, each canopy tree, accent tree, and
2579 palm tree shall have organic mulch no less than 36 inches beyond its trunk in all directions;
2580 however, the mulch shall be kept away from the trunks and stems of plants so as to avoid
2581 conditions that may be conducive to collar rot, basal canker, or other fungi. The use of cypress or
2582 cedar mulch is strongly discouraged.

2583
2584 3. The use of any inorganic mulch, including pebbles or shells to cover the soil surface is not
2585 recommended. Inorganic mulch should only be used to frame the outside of beds or to control
2586 erosion and should not be used to cover the root ball of newly planted trees or shrubs. Inorganic
2587 mulch shall not exceed 10% of the total land area not covered by hardscape features.

2588
2589 4. The right-of-way from the edge of the street pavement to the property line shall be planted with
2590 sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code
2591 of Ordinances or Land Development Code.

2592
2593 F. Irrigation systems. Irrigation systems are encouraged but not required; however, where they are
2594 installed, they shall meet the standards of Section 5.5.14.

2595

2596 **Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.**

2597
2598 The provisions of this section shall not apply to single-family homes and duplexes unless otherwise
2599 specifically stated herein. The soil surface of the land area not covered by structures or hardscape features
2600 shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs,
2601 groundcover, or any combination thereof. Shrubs in planting beds shall be planted not more than 48
2602 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more
2603 than 20% of the total land area not covered by structures or hardscape features and is not within a front
2604 yard or right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2605 planted in accordance with the requirements of subsection B. below.

2606
2607 A. Tree planting requirements.

2608
2609 1. Except in the South Cape District, all sites, exclusive of buffer areas, shall have at least one canopy
2610 tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be
2611 substituted for a required canopy tree as indicated below. Trees required for buffers may be used
2612 for meeting the minimum number of trees required for a site. In the South Cape District, all sites
2613 shall have at least one canopy tree for each 3,500 square feet of gross land area, except that
2614 accent trees or palm trees may be substituted for a required canopy tree as indicated below. For
2615 all districts, in the event the calculation of required number of canopy trees yields a fractional
2616 number, that number shall be rounded up to the next highest whole number prior to any
2617 calculation of the quantity of substituted accent trees or palm trees. Trees planted to meet the
2618 other requirements of this section can be included in the calculation of total number of trees
2619 required by this section. Such trees may be planted singularly or grouped together. Required
2620 canopy trees shall not be spaced less than 20 feet on center. Except in the South Cape District,
2621 each canopy tree shall be planted in a minimum planting area of 100 square feet with a minimum

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2622 dimension of seven feet in width unless an alternative minimum planting area or dimensions are
2623 approved by the Director, based on planting details that ensure reasonable soil surface and
2624 planting medium volumes.

2625
2626 2. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square
2627 feet with a minimum dimension of four feet in width unless an alternative minimum planting area
2628 or dimensions are approved by the Director, based on planting details that ensure reasonable soil
2629 surface and planting medium volumes. Except in the South Cape District not more than 50% of
2630 the required canopy trees may be substituted with accent trees or palm trees in accordance with
2631 Section 5.5.13. In the South Cape District, not more than 25% of the required canopy trees may
2632 be substituted with accent trees or palm trees, in accordance with Section 5.5.13., as follows:

2633
2634 a. Accent trees may be substituted for required canopy trees at a rate of two accent trees for
2635 each canopy tree required; however, no canopy tree required for a landscape buffer yard shall
2636 be substituted with an accent tree, unless the minimum width of available buffer yard options
2637 would preclude compliance with the minimum separation distance between trees and
2638 overhead power lines.

2639
2640 b. The following palms shall not be substituted for required canopy trees:

2641

Table 5.5.13.A: PROHIBITED SUBSTITUTIONS FOR CANOPY TREES	
Common Name	Botanical Name
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)
Bamboo Palm	Chamedorea spp.
Christmas Palm	Adonidia merrillii (Veitchii merrillii)
Dwarf Palmetto	Sabal minor
European Fan Palm	Chamaerops humilis
Lady Palm	Rhapis excelsa
Majesty Palm	Ravenea glauca
Needle Palm	Rhapidophyllum hystrix
Pygmy Date Palm	Phoenix roebellini
Saw Palmetto	Serenoa repens
Silver Palm	Coccothrinax argentata
Thatch Palm	Thrinax spp.

2642
2643 To meet tree planting requirements in a landscape buffer yard or in off-street parking and
2644 vehicle use areas, palm trees, other than those listed above, may be substituted for canopy
2645 trees at a rate of three palm trees per each canopy tree substituted, regardless of the palm
2646 tree species. Except in the South Cape Downtown District, to meet tree planting requirements
2647 for areas other than a landscape buffer or off-street parking and vehicle use areas, palm trees
2648 may be substituted for required canopy trees at a rate of one palm tree per each canopy tree
2649 substituted. In the South Cape Downtown District, to meet tree planting requirements for
2650 areas other than a landscape buffer yard, palm trees may be substituted for required canopy
2651 trees at a rate of two palm trees per each canopy tree substituted.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 2652
- 2653
- 2654
- 2655
- 2656
- 2657
- 2658
- 2659
- 2660
- 2661
- 2662
- 2663
- 2664
- 2665
- 2666
- 2667
- 2668
- 2669
- 2670
- 2671
- 2672
- 2673
- 2674
- 2675
- 2676
- 2677
- 2678
- 2679
- 2680
- 2681
- 2682
- 2683
- 2684
- 2685
- 2686
- 2687
- 2688
- 2689
- 2690
- 2691
- 2692
- 2693
- 2694
- 2695
- 2696
- c. Except for plantings in or near surface water management areas, a two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. Except in the South Cape District, each tree shall have organic mulch no less than 36 inches beyond its trunk in all directions. In the South Cape District, each tree shall have organic mulch no less than 18 inches beyond its trunk in all directions. All mulch shall be kept away from the trunks and stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker, or other fungi.

The use of cypress or cedar mulch is strongly discouraged.
 - d. The use of any inorganic mulch, including pebbles or shells to cover the soil surface shall only be used to frame the outside of beds or to control erosion. Inorganic mulch shall not exceed 10% of the total land area not covered by structures, pools, accent boulders, driveways, sidewalks, or other paving. It be used to cover the root ball of newly planted trees or shrubs. The balance of the soil surface shall be covered with planting beds with a two-inch minimum layer of organic mulch.
 - e. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or public utility unless an acceptable root barrier material is installed between the tree and the roadway, sidewalk, or public utility. Acceptable root barrier material shall consist of one of the following: a manufactured root barrier material, installed in accordance with manufacturer's directions, reinforced concrete with a minimum depth of 16 inches, or a continuous sheet of aluminum with a minimum depth of 16 inches and a minimum thickness of 0.024 inches. Where a root barrier is required, it shall be installed for a minimum distance of 20 linear feet.
 - f. In the event a property owner installs a public sidewalk closer than seven feet to any extant canopy tree, the property owner shall install an acceptable root barrier material in accordance with manufacturer's directions, such as herbicide impregnated materials or reinforced concrete of sufficient width and length, which will prevent the encroachment or undermining by the tree's root system, prior to the installation of the sidewalk.
 - g. In the South Cape District, in the event that the tree requirements in this section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund. Such site constraints shall include size of site, access or circulation requirement making trees impracticable, or extant site layout. The City Council shall establish a fee based on the average cost of the aforementioned trees. The city will use the funds in the Downtown CRA Tree Fund to provide or enhance the landscaping and vegetation in public areas of the Downtown CRA. To qualify to pay an in lieu of tree fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of tree fee meeting planting requirements. This provision does not preclude applicants from applying for deviations in accordance with Section 5.5.20.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 2697 B. Right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2698 planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape
2699 Coral Code of Ordinances or Land Development Code.
2700
- 2701 C. Landscape design features. Six types of landscaping may be required on a site, depending on the site
2702 location and the specific elements of the development: foundation landscaping, landscaping adjacent
2703 to roads, off-street parking and vehicle use areas, retention/detention areas, and buffers. Trees
2704 planted to meet the requirements of these landscape design features can be included in the
2705 calculation of total number of trees required by this section under tree planting requirements.
2706
- 2707 1. Foundation Landscaping. To provide aesthetic relief between a building and off-street parking or
2708 vehicular use areas, all new development, except development in the Industrial District and South
2709 Cape District, must provide foundation landscaped areas equal to 10% of the proposed building
2710 gross ground level floor area. These foundation landscaped areas must be between the off-street
2711 parking area and the building, between public streets and the building, or between vehicular
2712 access ways and the building, or any combination thereof, with emphasis on the side(s) most
2713 visible to the public. Foundation landscaping may consist of surface level landscaped areas, raised
2714 planters, planter boxes, or any combination thereof. The width of the foundation landscaped
2715 areas shall be five feet, except for sites less than one acre with an average depth less than or equal
2716 to 135 feet, in which case the width shall be three feet. Foundation landscaped areas may be
2717 planted with trees, but must be planted with shrubs spaced a maximum of three feet on centers.
2718
- 2719 2. Landscaping Adjacent to Roads. Where a development site abuts a public right-of-way, excluding
2720 a dedicated alley, the following shall apply except within Mixed-Use Districts:
2721
- 2722 a. Except as otherwise provided herein, a strip of land, a minimum of ten feet in width, shall be
2723 provided between the abutting right-of-way and any structure or off-street parking area. For
2724 sites or portions of sites that are 135 feet or less in depth, the width may be reduced to five
2725 feet.
2726
- 2727 b. At a minimum, perimeter landscaping in this area shall consist of the following:
2728
- 2729 i. One shrub for every three linear feet of landscaped area, planted separately or grouped,
2730 except where a carport or an off-street parking or vehicular use area abuts the strip of
2731 land that is required adjacent to roads. Where a carport or an off-street parking or
2732 vehicular use area abuts the strip of land required adjacent to roads, a continuous hedge,
2733 consisting of shrubs spaced no greater than three feet on center is required.
2734
- 2735 ii. The requirement for canopy trees or accent trees depends on the presence of overhead
2736 electric distribution or transmission lines. Shade or accent trees shall be provided as
2737 follows:
2738
- 2739 (a) Except as provided below, one canopy tree for each 30 linear feet of frontage is
2740 required. If the calculations yield a fractional number, that number shall be rounded
2741 up to the next highest whole number. Trees may be placed in any arrangement within

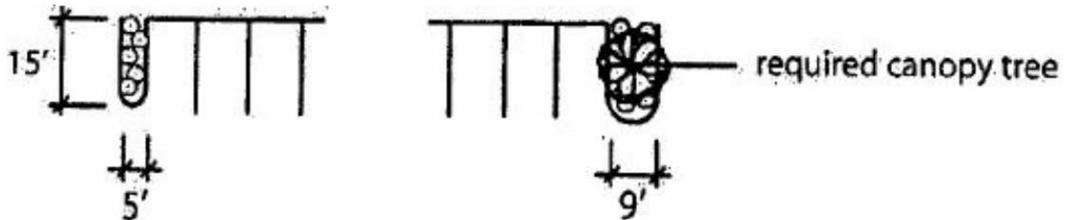
CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 2742 the landscape strip provided that the spacing between tree trunks is no greater than
2743 60 feet.
- 2744 (b) In locations where an adequate separation distance from overhead distribution or
2745 transmission lines, as specified in Table 1, § 5.2.7., is not available, two accent trees
2746 may be substituted for any shade tree required for each 30 linear feet of frontage.
2747
- 2748 c. Ingress and egress from the public right-of-way through all such landscaping to off-street
2749 parking or other vehicular use areas shall be permitted and may be subtracted from the linear
2750 dimension used to determine the number of trees and shrubs required.
2751
- 2752 d. Visibility triangles. As an aid to allow for safe operation of vehicles, pedestrians, and cyclists
2753 in the proximity of intersecting streets, driveways, alleys, and bicycle paths, there shall be
2754 limitations on the height of fences, walls, gateways, ornamental structures, signs, hedges,
2755 shrubbery, and other fixtures as visually depicted in the Cape Coral Engineering and Design
2756 Standards and as follows:
- 2757 i. All landscaping and signs within the visibility triangle shall provide unobstructed
2758 visibility between 30 inches and eight feet, with the exception of tree trunks that do not
2759 create a traffic hazard.
- 2760 ii. The property owner shall be responsible for maintaining all landscaping within the
2761 visibility triangle to provide the unobstructed visibility.
- 2762 iii. The Community Development Director shall make the final determination regarding
2763 visibility triangles.
2764
- 2765 3. Off-street parking and vehicle use areas. The provisions of this section apply to all new off-street
2766 parking or other vehicular use areas not situated directly beneath a building containing habitable
2767 space.
2768
- 2769 a. Protection of landscaped areas from vehicular encroachment. When a landscaped area abuts
2770 or is within an off-street parking or vehicular use area, wheel stops or curbing shall be used
2771 to protect landscaped areas from encroachment. The placement of shrubs and trees shall be
2772 in accordance with the Parking Lot Standards of the City of Cape Coral Engineering Design
2773 Standards.
2774
- 2775 b. Except in the South Cape District, landscaping for sites with both of the following: 1) an average
2776 depth less than or equal to 135 feet; and 2) an area less than or equal to one acre. All off-
2777 street parking areas shall be landscaped to provide visual relief and cooling effects and to
2778 define logical areas for pedestrian and vehicular circulation, as follows:
- 2779
- 2780 i. Minimum landscaped area. Landscaped areas including, but not limited to, landscaped
2781 islands, foundation landscaping, and landscaping within divider medians shall equal or
2782 exceed a minimum of 5% of the total off-street parking and vehicle use areas.
- 2783 ii. Tree planting. At least one canopy tree shall be provided for every 150 square feet of
2784 required planting area. Palm trees may be substituted for canopy trees in accordance with
2785 this Chapter.
- 2786 iii. Divider medians. Where canopy trees are planted in divider medians, the minimum width
2787 of the divider median shall be nine feet.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2788
2789
2790
2791
2792
2793

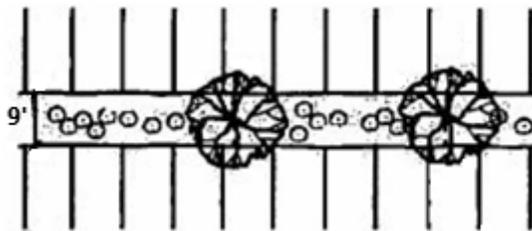
- iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area at each end that measures not less than five feet in width and not less than 15 feet in length. No required trees shall be planted in landscaped islands less than nine feet in width.



2794
2795
2796
2797
2798
2799
2800
2801
2802
2803
2804
2805
2806
2807
2808
2809
2810
2811
2812
2813
2814

- c. Except in the South Cape District, landscaping for sites with either of the following: 1) an average depth greater than 135 feet; or 2) an area greater than one acre. All off-street parking areas shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:

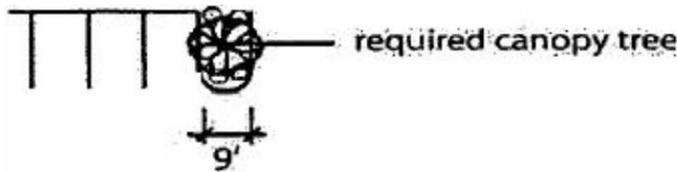
- i. Minimum landscaped area. Landscaped areas including landscaped islands, foundation landscaping, and landscaping within divider medians shall equal or exceed a minimum of 10% of the total paved surface area. Landscaped areas reserved for future parking spaces may not be included in this calculation.
- ii. Tree planting.
 - (1) At least one canopy tree shall be provided for every 150 square feet of required planting area. Palm trees may be substituted for canopy trees in accordance with this Chapter.
 - (2) No parking space may be more than 100 feet from a tree.
- iii. Divider medians. If a divider median is used to meet the landscaping requirements, it shall be a minimum width of nine feet.



2815
2816
2817
2818
2819
2820
2821
2822

- iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area that measures not less than nine feet in width and not less than 15 feet in length. Each such landscaped area shall be planted with at least one canopy tree. Palm trees may be substituted for canopy trees in accordance with this Chapter.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS



2823
2824
2825
2826
2827
2828
2829
2830
2831
2832
2833
2834
2835
2836
2837
2838
2839
2840
2841
2842
2843
2844
2845
2846
2847
2848
2849
2850
2851
2852
2853
2854
2855
2856
2857
2858
2859
2860
2861
2862
2863
2864
2865

- v. Landscape materials. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, groundcover, shrubs or other approved landscaping materials and this shall be noted on the landscape plans.
 - d. Landscaping for sites in the South Cape District. Except within city dedicated parking areas, all off-street parking areas and applicable off-street parking area setbacks shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:
 - i. Minimum landscaped area.
 - i. Unless otherwise provided herein, all required landscape areas shall be planted with trees, shrubs, groundcover, sod, or any combination thereof. At a minimum, the landscape area(s) shall include low-lying shrubs or ground cover plants with a minimum 50% coverage of the landscape area at time of planting. When utilized, shrubs shall be planted at no more than three feet on center.
 - ii. All applicable minimum off-street parking area setbacks required by Article 4, Chapter 5, except rear when abutting an alley, shall be landscaped unless otherwise provided herein. This provision shall not apply to portions of setbacks areas utilized for shared curb cuts, joint driveways and shared off-street parking areas across lot lines.
 - iii. Ingress and egress from the right-of-way through any setback area is permitted and the width of the ingress and egress may be subtracted from required landscape areas.
 - ii. Landscaping for lots with a lot frontage greater than or equal to 125 feet. Off-street parking areas containing 24 or more parking spaces shall provide a landscaped area that measures not less than nine feet in width and not less than 15 feet in length for every 12 parking spaces. Such landscaped area(s) shall be located as intermediate within or terminal islands to parking space rows. Each such landscaped area shall be planted with at least one canopy tree and groundcovers or sod.
4. Retention or detention areas.
- a. Planting of trees, palm trees, shrubs, and groundcovers in retention or detention areas is encouraged, provided that the placement does not conflict with the volume of storage required for the retention or detention areas and does not significantly interfere with or impede the flow of runoff in the retention or detention area.
 - b. All retention or detention areas shall be stabilized with sod or other groundcover capable of stabilizing the soil. Organic mulch is not allowed.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2866 5. Buffers.

2867
2868
2869
2870
2871
2872
2873
2874
2875
2876
2877
2878
2879

- a. Determination of required buffer. Landscape buffer and screening shall be required to separate uses of differing zoning districts from each other. The type and width of buffer required shall be determined by using Table 5.5.13.B: Table of Minimum Buffer Requirements. If the developing property contains a non-residential use in a Residential District, the buffer shall be as indicated along the row labeled "Non-Residential Uses in Residential Districts"; otherwise, the buffer required shall be as indicated along the row of the developing property's zoning district under the applicable column. The buffer that is required along any segment of property line, if any, is dependent on the zoning of the abutting property and property separated by only a street containing not more than two lanes for motor vehicle traffic. A bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. The specifications for each type of buffer are provided in Table 5.5.13.B.

TABLE 5.5.13.B MINIMUM BUFFER WIDTH With wall/Without wall										
DEVELOPING PROPERTY	ZONING	<u>ZONING OF ABUTTING PROPERTY OR PROPERTY SEPARATED BY ONLY A STREET CONTAINING NOT MORE THAN TWO LANES FOR MOTOR VEHICLE TRAFFIC</u>								
		R1, RE	RML	RMM	C	CC	P	I	INST	SC, MXB
	R-1, RE	X	X	X	X	X	X	X	X	X
	RML	5	X	X	X	X	X	X	X	X
	RMM	10 / 20	5	X	X	X	X	X	X	X
	C	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	CC	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	P	5	5	5	X	X	X	X	X	X
	I	40 wall	40	40	10 / 20	10 / 20	30	X	X	X
	INST	10 / 20	10 / 20	10 / 20	X	X	X	X	X	X
SC, MXB	5	5	5	X	X	X	X	X	X	

2880
2881
2882
2883
2884
2885
2886
2887
2888
2889
2890
2891
2892
2893
2894
2895

- b. Buffer specifications.
- i. The standards for minimum width, plant types and quantities, and opaque features shall be in accordance with Table 5.5.13.B: Minimum Buffer Width and Table 5.5.13 C, Buffer Plantings. All plants provided within a buffer are specific to, and must be located within the buffer area. The buffer landscaping is in addition to other landscaping required by this Chapter and this landscaping must be within the buffer area. For buffer options that include a wall, the wall must conform to the standards of Article 5, Chapter 2, including the setback requirements.
- ii. The buffer width shall be measured along a line perpendicular or radial to the property line.
- iii. The number of each type of plant required shall be determined by dividing the length of each side of the property requiring a given type of buffer by 100 and multiplied by the number of plants per 100 feet indicated for a selected option. If the calculations yield a fractional number, that number shall be rounded up to the next highest whole number.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 2896 iv. If a wall is required, the wall shall extend the entire length of the property line, or until it
2897 connects to another wall.
2898 v. Ingress and egress from the right-of-way through any buffer shall be avoided; however,
2899 where it is determined by the city that avoidance is impractical or not preferable due to
2900 traffic flow or safety considerations, penetration through a buffer to ingress and egress
2901 from the right-of-way may be permitted and the width of the ingress and egress can be
2902 subtracted from the length of the buffer for the calculation of the number of plants
2903 required.
2904 vi. Plants, berms, or walls required for buffers within required sight triangles shall be in
2905 accordance with standards provided in Article 5, Section 1. Further, no fence, wall, or
2906 plant material shall be placed within a buffer that would impede the movement of or
2907 obstruct the view of either a pedestrian or driver of a vehicle that would create a potential
2908 safety hazard.
2909

TABLE 5.5.13 C: - BUFFER PLANTINGS										
Plants per 100 Linear Feet - Canopy/Accent/Shrub										
DEVELOPING PROPERTY	ZONING	R-1, RE	ABUTTING PROPERTY							SC, MXB
			RML	RMM	C	CC	P	INST	I	
	R-1, RE	X	X	X	X	X	X		X	
	RML	4/0/33	X	X	X	X	X		X	
	RMM	5/5/66	4/0/33	X	X	X	X		X	
		5/3/33 w/wall								
	C	5/5/66	5/5/66	5/5/66	X	X	X		X	
		5/3/33 w/wall	3/2/33 w/wall	3/2/33 w/wall						
	CC	5/5/66	5/4/33	5/2/66						
		5/3/33 w/wall	3/2/66 w/wall	5/4/32	X	X	X		X	
	P	3/2/33	4/0/33	4/0/33	X	X	X		X	
	I	9/4/80 w/wall	8/6/48	8/6/48	5/5/66	5/5/66	10/8/		X	
			5/3/66 w/wall	5/3/66 w/wall	5/3/33 w/wall	5/3/33 w/wall	64			
	INST	5/5/66 5/3/33	5/5/66 5/3/33	5/5/66 5/3/33	X	X	X		X	
	SC, MX	4/0/33	4/0/33	4/0/33						

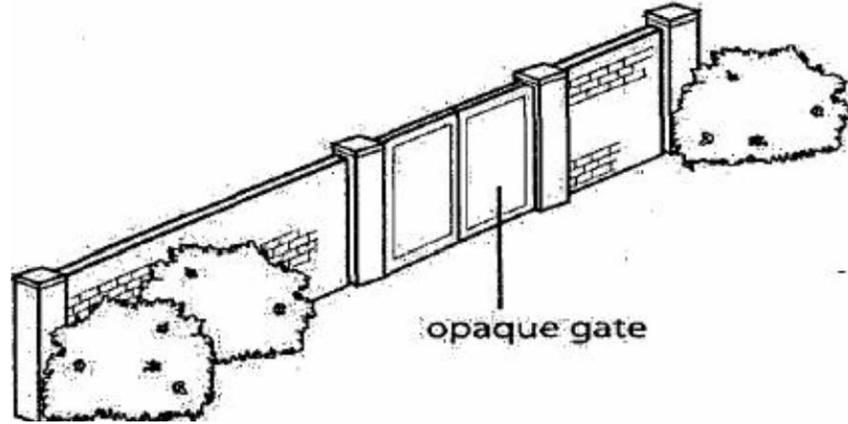
- 2910 c. Buffer requirements. No development within required buffer. Required buffer shall not
2911 contain any development other than drainage facilities, sidewalks, plants, walls, or berms.
2912 Driveways shall only be allowed in the required buffer if the buffer runs along a street. No
2913 grading, development, or land-disturbing activities shall occur within the buffer unless as part
2914 of an approved development or landscape plan.
2915
2916 d. Buffer maintenance.
2917

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

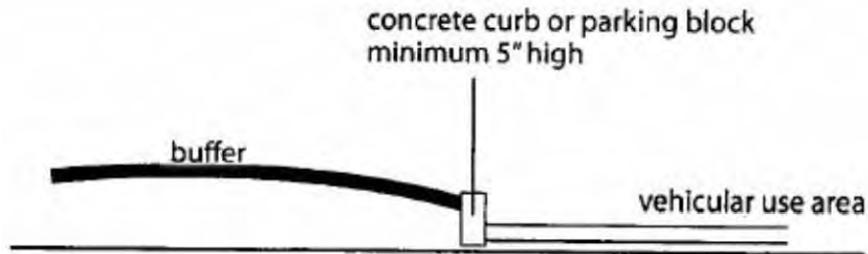
- 2918
2919
2920
2921
2922
2923
2924
2925
2926
2927
2928
2929
2930
2931
2932
2933
2934
2935
2936
2937
2938
2939
2940
2941
2942
2943
2944
2945
2946
2947
2948
2949
2950
2951
2952
2953
2954
2955
2956
2957
2958
2959
2960
2961
2962
2963
- i. Any landscape buffer required pursuant to this section shall be maintained in order to preserve such buffer.
 - ii. The plantings, walls, and berms that constitute screening for any buffer required pursuant to this section shall be maintained for the life of the development. Such maintenance shall include all actions necessary to keep the buffer free of litter and debris, and to keep plantings, walls, and berms in good repair and neat appearance.
 - iii. In the event that any buffer screening or any element thereof, is damaged or fails to live so that it no longer furthers the purpose and intent of this section, it shall be replanted or replaced, whichever is applicable, with the type and size of material specified on the landscape plan.
- e. Plant and tree arrangement. Required plants and trees shall be distributed in a manner to meet the intent of screening incompatible uses. In the event that plant materials are prohibited in a public drainage or utility easement which abuts or is coincident with a buffer, no new plant materials shall be centered closer than two feet from such easement.
- f. Existing vegetation.
- i. Retaining existing Florida native trees and other vegetation within a buffer is strongly encouraged.
 - ii. If existing plants do not fully meet the standards for the type of buffer required, additional plant materials shall be installed.
- g. Buffer walls and berms.
- i. Whenever a wall is required within a buffer, it is shown in Table 5.5.13.B.
 - ii. Where the buffer requires a berm, the berm shall be graded to appear smooth, rounded, and natural. Slopes shall not exceed a 3:1 grade.
 - iii. Whenever a wall is required within a buffer, the wall shall conform to all requirements of Article 5 Section 2, and the requirements herein, and all other requirements for a wall. The wall may be placed anywhere in the buffer, provided at least 75% of the required trees and 100% of the required shrubs are on the side facing outward toward the right-of-way or abutting property (facing away from the property on which the wall is erected). Bare concrete block, even if painted, is prohibited. The following materials, either singly or in any combination, are the only materials that may be used to form the wall:
 - (a) Concrete block coated with stucco;
 - (b) Textured concrete block;
 - (c) Stone;
 - (d) Brick; or
 - (e) Formed, decorative, or precast concrete.
 - iv. Whenever a wall is required within a buffer, it shall be 100% opaque and shall be the maximum height allowed for the use and the location of the wall.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 2964 h. Gates. A gate may be allowed in a buffer wall, provided such gate is opaque, unless spanning
2965 a vehicular entrance, and meets the intent and purpose of this section. Gates shall be
2966 maintained in accordance with the maintenance standards for screening contained in this
2967 section.



- 2968
2969
2970 i. Staggered walls. Whenever a wall is required within a buffer, it may be divided along the
2971 length of a buffer so that a wall consists of a series of wall segments instead of a continuous
2972 line. Such a divided wall shall be allowed only if it meets the intent and purpose of this section
2973 and if the wall segments overlap by a minimum of one-half of the distance between the two
2974 wall segments.
2975
2976 j. Vehicular use areas. Concrete curbs or wheel stops at least five inches high shall be provided
2977 between vehicular use areas and buffer areas.
2978



- 2979
2980
2981 3. Location of buffer.
2982
2983 a. The landscape buffer required by this section shall be located along the perimeter of a
2984 property except at approved entrances or exits to the parcel.
2985
2986 b. Buffers shall extend to the lot line or right-of-way line, except where easements, covenants,
2987 visibility triangles, or natural features require the buffer to be set back from the property line.
2988 The presence of an easement, covenant, or natural feature does not necessarily preclude the
2989 placement of a buffer, unless due to the nature of the easement, covenant, or natural feature
2990 the placement of a buffer would be precluded.
2991

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

2992 c. Nothing other than open landscaped areas shall be located between the required buffer and
2993 the site perimeter unless the presence of an easement, covenant, or natural feature, which
2994 due to its nature, would preclude open landscaped areas.

2995
2996 d. Buffers may not be located on any portion of an existing or dedicated street right-of-way or
2997 roadway easement.

2998
2999 **Section 5.5.14. Irrigation.**

3000
3001 All landscaping shall contain an automatic irrigation system. All required irrigation systems shall be
3002 designed to minimize the application of water to impervious areas, including roads, drives, and other
3003 vehicle areas. Required irrigation shall also be designed to avoid damage to existing native vegetation
3004 from over watering or from physical conflicts with plant roots. The following standards shall apply to the
3005 design, installation, and maintenance of irrigation systems:

3006
3007 A. The irrigation system shall be properly maintained and operated consistent with watering
3008 schedules established by the South Florida Water Management District or the City of Cape Coral,
3009 whichever is more restrictive.

3010
3011 B. Existing native plants are exempt from this requirement.

3012
3013 C. Automatic control systems shall be equipped with an operable rain sensor or other devices, such
3014 as soil moisture sensors, to prevent unnecessary irrigation.

3015
3016 **Section 5.5.15. Tree credits.**

3017
3018 A. Tree credits for all development other than single-family homes and duplexes are available, to
3019 encourage the planting of larger trees than are otherwise required and to preserve trees existing on
3020 development sites. Based on the gross square feet of land area, each tree credit earned can count
3021 toward the number of trees required, subject to limitations indicated below. If tree credits are used,
3022 the credits shall be shown in the calculations on the landscape plan. Single-family homes and duplexes
3023 are not eligible for the tree credit program provided by this subsection. In no event, shall the number
3024 of trees required in a buffer be reduced.

3025
3026 B. Credit for planting larger canopy trees. One tree credit shall be applied to the overall tree count for
3027 each two inches of increased caliper above the minimum planting size specified in this Chapter. In no
3028 event, however, shall the actual number of trees be less than one-half of the total number required.

3029
3030 C. Credit for preserving existing canopy trees. Existing canopy trees in good health and meeting the
3031 minimum standards provided in this Chapter that are preserved on a site, and that are properly
3032 protected prior to and during the course of development activities, may be used to meet the
3033 requirements of this section for the site where the existing trees are located. For purposes of this
3034 subsection, development activities include land clearing, construction, grading, or placement of fill.
3035 Canopy trees that exceed the minimum size required by Article 5, Section 15 are credited at the
3036 following ratios for existing canopy trees:

3037

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

TABLE 5.5.13.D: CREDIT FOR PRESERVING EXISTING CANOPY TREES	
CREDITS	
1.	6" up to 12" caliper = credit for 2 trees
2.	12" up to 18" caliper = credit for 3 trees
3.	18" up to 24" caliper = credit for 4 trees
4.	24" or greater caliper = credit for 5 trees

3038

3039

No credit shall be given to canopy trees on the Florida Exotic Pest Plant Council list of Category I or Category II invasive exotics.

3040

3041

3042

- D. Credit for preserving existing palms. Existing palm trees in good health and having a minimum of ten feet of clear trunk that are preserved on a site and properly protected prior to and during the course of development activities, may be used to meet the requirements of this section for the site where the existing palm trees are located. This credit shall be available for palms preserved in place or transplanted within a site, using accepted horticultural procedures.

3043

3044

3045

3046

3047

3048

Section 5.5.16. Landscape maintenance.

3049

3050

- A. General maintenance required. The property owner shall maintain all landscaping in accordance with the approved landscape plan, if any, and with the standards contained in this section, including:

3051

3052

3053

1. Trees, palm trees, shrubs, and other vegetation shall be trimmed so as to not be an obstruction to pedestrian or vehicular traffic or traffic visibility;

3054

3055

3056

2. Trees, palm trees, shrubs, and tree bed(s) shall be kept free of refuse, debris, and disease;

3057

3058

3. Nonliving materials shall be maintained in good condition at all times.; and

3059

3060

3061

3062

3063

3064

4. Shrubs planted in non-residential and mixed-use developments shall grow and be maintained at all times according to the minimum size specified on the approved landscape plan or to a minimum height of 36 inches, if not specified on the approved landscape plan. Shrubs that do not meet the minimum height specified or the alternate minimum height of 36 inches shall be replaced with like kind species and be maintained at a height of 36 inches.

3065

3066

This requirement shall not preclude the placement of additional plant materials or other landscape features that comply with other requirements of these regulations.

3067

3068

3069

- B. Compliance required. For any development for which a landscape plan was submitted, the city shall not issue a certificate of occupancy or certificate of completion until the landscape architect or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, who prepared, signed, and sealed the plan certifies to the city that all elements of the landscape plan have been installed in accordance with the approved plan. Each development will be inspected by the City of Cape Coral within two years after the certificate of occupancy or certificate of completion is issued, and from time to time thereafter to ensure compliance with the applicable landscape standards and with the

3070

3071

3072

3073

3074

3075

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

3076 approved landscape plan, if any. Any dead or missing plant, or plant that appears to be dying or unable
3077 to sustain healthy future growth shall be replaced by one that conforms to the requirements of this
3078 section and approved landscape plan, if any. Failure to comply with this requirement shall constitute
3079 a violation of the City of Cape Coral Code of Ordinances, subject to any penalty imposed by law.
3080

3081 C. Changes subsequent to landscape plan approval. The replacement of plants indicated on an approved
3082 landscape plan with plants of the same species, or the placement of hardscape features that comply
3083 with other requirements of these regulations shall not require the submission of an amended
3084 landscape plan. The substitution of plants indicated on an approved landscape plan with plants of an
3085 alternative species of the same size and plant category (canopy tree, accent tree, palm tree, shrub)
3086 shall not require the submission of an amended landscape plan, unless a specific species has been
3087 prescribed as a condition of approval by the Hearing Examiner or City Council; however, any such
3088 substitution shall meet all other landscape requirements, including the minimum separation distance
3089 between trees and overhead power lines, the Florida native plant percentage, the tree species mix,
3090 and species specific palm tree substitution requirements. Except as described above, after a landscape
3091 plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the
3092 terms or conditions of the landscape plan without first obtaining written approval of an amendment
3093 to the landscape plan. The approval of an amendment to a landscape plan does not constitute an
3094 amendment to the site plan. Modifications that require approval of an amended landscape plan
3095 include:

- 3096
- 3097 1. Replacement of any plant indicated on an approved landscape plan with a plant of a different
3098 species; or
 - 3099
 - 3100 2. The reduction of any quantity or size of plants below the size that was indicated on the most
3101 recently approved landscape plan.
3102

3103 The city may impose a reasonable fee for the review and approval of an application for an amendment
3104 to a landscape plan. An application for an amendment to a landscape plan shall be reviewed in
3105 accordance with the standards herein, unless the landscaped area is a legal nonconformity. An
3106 application for an amendment to a nonconforming landscaped area shall be reviewed in accordance
3107 with Article 5, Section 6.
3108

- 3109 D. Nonconforming landscaped areas.
3110
- 3111 1. Legal nonconforming landscaped areas established. All landscaped areas which were lawful prior
3112 to the adoption of this Code but which fail by reason of adoption of such amendment to comply
3113 therewith, are hereby declared to be nonconforming. Such nonconforming landscaped areas are
3114 hereby declared to be lawful and shall not be required to be altered to conform with such
3115 regulations as adopted by the City of Cape Coral; provided, however, that such nonconforming
3116 landscaped areas are restricted and subject to the requirements of this section.
3117
 - 3118 2. Requirements for nonconforming landscaped areas.
3119
 - 3120 a. For sites with an approved landscape plan, nonconforming landscaped areas, including
3121 buffers, shall be maintained in accordance with approved landscape plans, as modified by

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

3122 requirements of any approval for PUD, PDP, special exception, or variance, if any. If the
3123 minimum requirements for landscaping are reduced subsequent to the most recently
3124 approved landscape plan, the property owner may request approval of an amended
3125 landscape plan meeting the minimum requirements pursuant to Article 5, Section 6.
3126

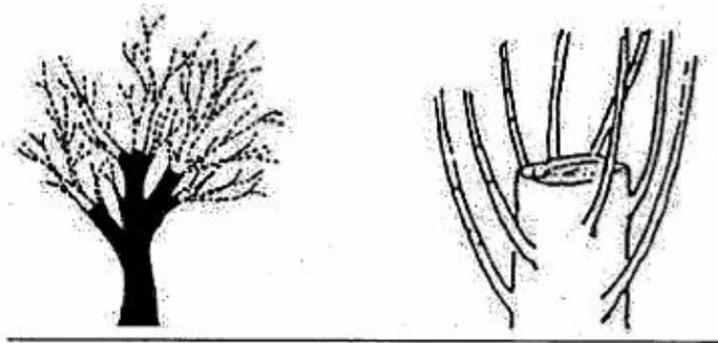
3127 b. For single-family and duplex sites, nonconforming landscaped areas shall be maintained in
3128 accordance with landscape regulations in effect at the time of issuance of the original building
3129 permit for the primary structure.
3130

3131 c. For sites without an approved landscape plan, other than single-family and duplex sites,
3132 nonconforming landscaped areas shall be maintained in accordance with landscape
3133 regulations in effect at the time of the most recent site plan approval.
3134

3135 E. Canopy tree pruning.
3136

3137 1. Except as otherwise provided herein, trees required by regulations in effect at the time of site
3138 development shall only be pruned to promote healthy, uniform, natural growth, to keep trees
3139 trimmed back from doors, windows, and public sidewalks or where necessary to promote health,
3140 safety, and welfare. Pruning shall be in accordance with "American National Standard for Tree
3141 Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning)
3142 (A300, Part 1)" by the American National Standard Institute and "Best Management Practices:
3143 Tree Pruning" by the International Society of Arboriculture (ISA). Pruning of trees on any site over
3144 one acre should be supervised by a certified arborist. Pruning necessary to maintain public
3145 overhead utilities shall be in accordance with the National Electric Safety Code (NESC).
3146

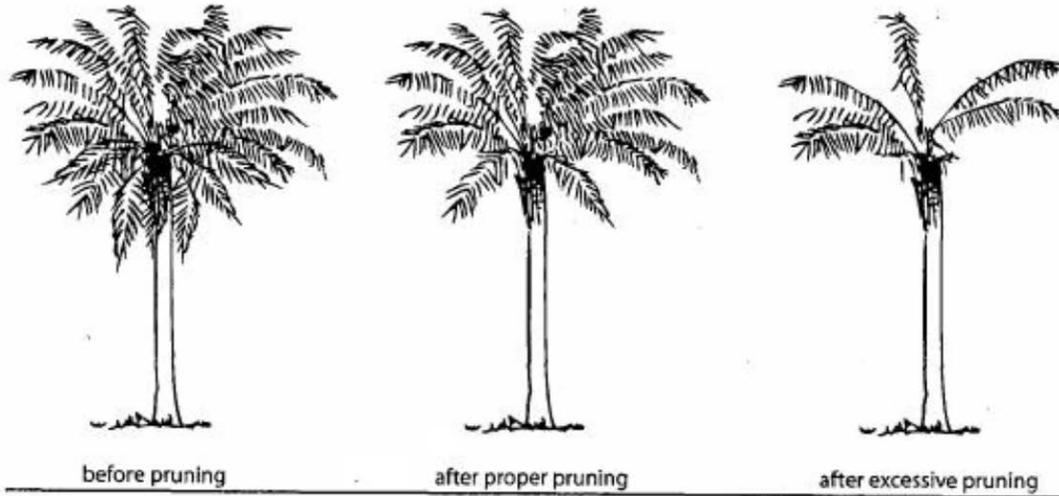
3147 2. Trees required by regulations in effect at the time of site development shall not be pruned so as
3148 to include topping of trees through removal of crown material or the central leader, or any other
3149 similar procedure to permanently limit growth to a reduced height or spread or that cause
3150 irreparable harm to the natural form of the tree, except where such procedures are necessary to
3151 maintain public overhead utilities. Severely pruned trees required by regulations in effect at the
3152 time of site development must be replaced by the property owner. Replacement trees must meet
3153 the tree size requirements of this Chapter. A tree's growth habit shall be considered in advance
3154 of conflicts that might arise (e.g., signs, power lines, sidewalks, buildings, and similar conflicts).
3155



3156
3157
3158 Excessively pruned trees.
3159

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 3160
3161
3162
3163
3164
3. Palm maintenance and pruning. Palms shall only be pruned in such a manner that removal of fronds does not exceed a 9:00 to 3:00 pattern and no more than one-half of the fronds are removed at a single time. This limitation shall not apply to flower stalks or fronds that are yellow or dead.



3165
3166
3167 **Section 5.5.17. Planting in medians, cul-de-sacs, and roundabouts.**

- 3168
3169 A. Permits.
3170
3171
3172
3173
3174
3175
3176
3177
3178
3179
3180
3181
3182
3183
3184
3185
3186
3187
3188
3189
3190
3191
3192
1. Required. It shall be unlawful for any person to place any landscape material, including plant materials and hardscape materials other than mulch, in any median, cul-de-sac, or roundabout under the control of the city, without first obtaining a permit for such work from the City.
 2. Application. An application for a permit shall be submitted on a form provided by the city and include all required information as specified in the permit application forms, including:
 - a. A general vicinity map showing the nearest intersecting streets;
 - b. The location of existing public and private utilities, including overhead power lines and drainage facilities within twenty (20) feet of the proposed landscaping;
 - c. A planting plan showing all pertinent dimensions, the location of existing plant materials with indication if they are to be removed, the location of proposed plant materials indicating the size and species, the location of existing or proposed hardscape materials, and the proposed irrigation plan and source of water;
 - d. A description of the proposed monthly maintenance schedule and the primary and alternate contact information for the parties responsible for maintenance;
 - e. Any additional information reasonably required by the City because of unique circumstances of the project; and

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 3193
3194 f. A non-refundable application fee as established by City Council.
3195
- 3196 B. Median design. Landscaping in medians shall be in accordance with the City of Cape Coral Engineering
3197 Design Standards.
3198
- 3199 C. Cul-de-sac or roundabout design. Landscaping in cul-de-sacs or roundabouts shall utilize the plants
3200 and materials identified below. Such plantings shall be in accordance with the City of Cape Coral
3201 Engineering Design Standards.
3202
- 3203 1. Trees. Trees shall be of at least ten-gallon size at the time of planting. The following trees are
3204 permitted: Mahogany, Wild Tamarind, Yellow or Pink Tabebuia, Buttonwood, Crepe Myrtle,
3205 Gumbo Limbo, Southern Magnolia, Paradise tree, Pigeon Plum, Sago Palm, or Pygmy Date Palm.
3206 Other types of trees may be permitted providing the criteria established in this section are met.
3207 The prohibited vegetation standards of this Chapter shall apply in cul-de-sacs and roundabouts.
3208
- 3209 2. Shrubs. Shrubs to be planted should be durable in harsh conditions with slow, unobtrusive growth
3210 habits. All shrubs shall be of at least three-gallon size at the time of planting. The following shrubs
3211 are recommended for planting: Carissa, Cocoplum, Yaupon Holly, Myrsine, Necklace Pod,
3212 Podocarpus, and Wax Myrtle. Other types of shrubs may be permitted providing the criteria
3213 established in this section are met.
3214
- 3215 3. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs)
3216 by any private person or entity on cul-de-sac or roundabout owned by the city is prohibited. In
3217 addition, cul-de-sacs or roundabouts shall be left in sod. A small bed immediately surrounding a
3218 tree or shrub may be mulched.
3219
- 3220 D. Prohibited vegetation. The prohibited vegetation standards of section 9 of this article shall apply in
3221 medians.
3222
- 3223 E. Review criteria. In determining whether a permit will be issued, the city shall consider factors that
3224 include, but are not limited to, the following:
3225
- 3226 1. Relationship to traffic and pedestrian safety;
3227
- 3228 2. Location of existing and proposed public utilities, power lines, and other right-of-way
3229 improvements;
3230
- 3231 3. Effect on surface waters and drainage patterns;
3232
- 3233 4. Aesthetic effect of the proposed landscaping, including whether the resultant theme would be
3234 consistent throughout the specific median, and whether the proposed landscaping would
3235 coordinate with the landscape theme, if any, established in the vicinity;
3236
- 3237 5. Type, size, and location of any extant plant materials and hardscape materials, if any;
3238

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3239 6. Type, size, and location of proposed plant materials and hardscape materials on the median;
3240
3241 7. Method of removal of existing plant materials and hardscape materials;
3242
3243 8. Adequacy of proposed irrigation, its expense to the city, and availability of water supply;
3244
3245 9. The city's ability to maintain the landscaping in the event that the permittee fails to do so including
3246 economic ability, manpower, and location of the median, and
3247
3248 10. Potential sight obstructions and compliance with all standards and regulations regarding sight
3249 distances and clear zones.
3250
3251 F. Approval.
3252
3253 1. In its approval of any permit request, the city may request modifications, which may include:
3254
3255 a. The planting plan, including the design to ensure integration with the aesthetic character of
3256 the neighborhood, the requirement that the entire median be included in the design, as well
3257 as to plant sizes, species, location, and nature placement of hardscape materials;
3258
3259 b. Plant installation or removal methods or specifications;
3260
3261 c. Regulation of the commencement and completion date, work hours, or phasing of installation
3262 or removal;
3263
3264 d. The proposed maintenance schedule;
3265
3266 e. Requirement of a financial instrument to ensure maintenance or removal of the landscaping;
3267
3268 f. Requirement that all or part of the landscaping be installed and maintained by a licensed
3269 landscape contractor or certified arborist;
3270
3271 g. Requirement that temporary traffic control measures be implemented by a barricade
3272 company with certification by the American Traffic Safety Services Association (ATSSA) or the
3273 International Municipal Signal Association (IMSA);
3274
3275 h. Requirement that curbing be installed;
3276
3277 i. Requirement that erosion control measures be implemented; and
3278
3279 j. Submission of a hold harmless agreement acceptable to the city.
3280
3281 2. The permittee shall be responsible for compliance with the permit along with the maintenance of
3282 the landscaping. The limitation on the time for installing landscape materials shall not apply to
3283 replacement of materials as part of maintenance. The maintenance obligations shall remain in full
3284 force and effect for the life of the landscaping.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

3285
3286 3. Approval of a permit to install landscape materials shall not obviate the requirement to obtain all
3287 other necessary permits, including permits for irrigation and signs.
3288

3289 G. Changes subsequent to approval. After a planting plan has been approved, it shall be unlawful to
3290 change, modify, alter, or otherwise deviate from the terms of the planting plan without first obtaining
3291 written approval of an amendment to the planting plan. Modifications that require approval of an
3292 amended landscape plan include the following:
3293

- 3294 1. Replacement of any plant indicated on an approved planting plan with a plant of a different
3295 species; or
3296
3297 2. Modification of the location of any plants or other landscape materials.
3298

3299 The city may impose a reasonable fee for the review and approval of an application for an
3300 amendment to a planting plan. An application for an amendment shall be reviewed in accordance
3301 with the standards herein. The replacement of plants indicated on an approved landscape plan
3302 with plants of the same species shall not require the submission of an amended landscape plan.
3303

3304 H. Permit expiration. A permit for installing landscape materials in any median under the control of the
3305 city shall be valid for a one-year period from the date of issuance, except as otherwise provided within
3306 the permit approval. The permittee is solely responsible for submitting an application for renewal of
3307 the. In determining whether the permit should be renewed, the city shall consider all of the factors
3308 listed in subsection D. above, as well as the condition in which any materials planted pursuant to the
3309 permit have been maintained.
3310

3311 I. Maintenance. Once any landscape materials are installed in a median, the materials are the property
3312 of the city. Except when the city determines that it is in its best interest to maintain portions of
3313 landscaping in medians permitted in accordance with this subsection, the permittee shall be
3314 responsible for maintaining any and all landscaping permitted by this subsection in accordance with
3315 Section 16 of this chapter. Should any plant material or other landscape material or portion thereof
3316 become a safety hazard, unsightly, or die or become diseased, or if it is installed or maintained in a
3317 manner inconsistent with the permitting requirements herein, the city shall have the option of
3318 performing maintenance, replacing, or removing it. The City will determine compliance with this
3319 subsection.
3320

3321 J. Removal. Any landscape materials planted or installed without the express written permission of the
3322 city shall be subject to removal by the city in its sole discretion. Except for the City and persons with
3323 a permit or other written authorization from the City, no person shall remove landscape materials
3324 from a median.
3325

- 3326 1. The authorization in this section for the removal of landscaping in medians shall be construed as
3327 supplementary to any other means of enforcement available to the city and shall not be construed
3328 so as to negate the authority of the Code Compliance Special Magistrate to hear and adjudicate
3329 appropriate cases.
3330

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

3331 2. The city may also, in its sole discretion, remove any landscape materials placed in any median
3332 under the city's control, for utility maintenance, safety, or any other reason. The City is not
3333 required to replace any landscaping removed pursuant to this section.
3334

3335 K. Revocation. If any requirements of the approval are not satisfied, the city may revoke or stop work on
3336 any permit issued pursuant to this subsection.
3337

3338 **Section 5.5.18. Lateral right-of-way planting.**
3339

3340 A. No permit required- Registration required. It shall be unlawful to install any trees or shrubs in the city-
3341 owned lateral right-of-way without first obtaining a registration certificate from the city.
3342

3343 B. Refer to Section 5.1.9 for landscaping that may be installed within the lateral right-of-way without a
3344 permit or registration certificate.
3345

3346 C. Placement of planting material. In the South Cape Downtown District, in order to provide a cohesive
3347 urban streetscape, applicants may enter into an agreement with the city for placement of planting
3348 material in the lateral right-of-way. In all other districts, the planting of trees, palm trees, and shrubs,
3349 and the placement of the tree bed(s) shall be allowed in the city-owned lateral right-of-way subject
3350 to the following restrictions:
3351

3352 1. The property owner must call the Sunshine 811 notification service to have all underground
3353 utilities located and marked on the ground prior to installation of any landscape material. All
3354 excavation on public property, rights-of-way, or dedicated easements shall comply with the
3355 requirements of F.S. 556. **UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY.**
3356

3357 2. Where potable water, irrigation or sanitary sewer force mains are located within the right of
3358 way, the property owner must contact the Utility Department to confirm the location of
3359 proposed canopy trees and palm trees.
3360

3361 3. No canopy tree shall be planted within 10 feet of existing or proposed drainage inlet or potable
3362 water, irrigation and sanitary sewer force mains.
3363

3364 4. No palm tree with a mature diameter of 8 inches or greater shall be planted within 5 feet of
3365 existing or proposed drainage inlet or potable water, irrigation and sanitary sewer force mains
3366

3367 5. Planting near overhead utility infrastructure shall be in accordance with the requirements of
3368 Section 5.5.7 of this article;
3369

3370 6. One or more trees may be immediately surrounded by a bed consisting of landscape edging
3371 materials, bedding plants or groundcover, and mulch or decorative rock so long as the size of the
3372 bed is reasonably related to the size and number of trees contained therein. Groundcover or
3373 annual bedding plants shall be permitted within the tree bed. Unless otherwise permitted, no
3374 other landscape edging material, concrete curbing, bedding plant or groundcover, mulch, or
3375 decorative rock shall be allowed in the city-owned lateral right-of-way;
3376

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 3377 7. The property owner abutting the portion of the lateral right-of-way in which the plantings and the
3378 tree bed(s) are placed shall be responsible for any and all costs incurred by the city for damage
3379 sustained to any drainage system or underground utility facilities as a result of said plantings or
3380 placement of the tree bed(s), and shall indemnify and hold the city, its officers, employees, and
3381 agents, harmless from any and all claims for injuries and damages to persons and property, both
3382 real and personal resulting from said plantings or placement of the tree bed(s);
3383
- 3384 8. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch,
3385 or decorative rock shall be placed in the city-owned lateral right-of-way within five feet of the
3386 roadway. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or
3387 underground utility unless an acceptable root barrier material, installed in accordance with this
3388 Chapter.
3389
- 3390 9. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch,
3391 or decorative rock shall be placed in the city-owned lateral right-of-way:
3392 i. Within five feet of either side property boundaries, as measured perpendicular from the
3393 side property line;
3394 ii. Within three feet of the bottom on the swale in either direction;
3395 iii. Within three feet of a public sidewalk; or
3396 iv. So as to be an obstruction to pedestrian or vehicular traffic or traffic visibility and each
3397 shall be maintained accordingly.
3398
- 3399 D. Maintenance. Once any landscape materials are installed in a lateral right-of-way, the materials are
3400 the property of the city. The person or entity who owns the property abutting a portion of the lateral
3401 right-of-way along a city street in which the trees, palm trees, shrubs, landscape edging material,
3402 concrete curbing, bedding plants, or groundcover, mulch, or decorative rock have been placed shall
3403 be responsible for the following:
3404
- 3405 1. Maintaining all plantings and tree bed(s) in good condition so as to present a healthy, neat, and
3406 orderly appearance;
3407
- 3408 2. Trimming such trees, palm trees, shrubs, and tree bed(s) so as to not be an obstruction to
3409 pedestrian or vehicular traffic or traffic visibility; and
3410
- 3411 3. Keeping such trees, palm trees, shrubs, and tree bed(s) free of refuse, debris, and disease.
3412
- 3413 Failure to maintain such trees, palm trees, shrubs, and tree bed(s) in accordance with this provision
3414 shall constitute a violation of this section and shall be grounds for removal by the city of the trees,
3415 palm trees, shrubs, and tree bed(s) in the right-of-way.
3416
- 3417 E. Removal.
3418
- 3419 1. The authorization in this section for the removal of trees, palm trees, shrubs, and tree bed(s) shall
3420 be construed as supplementary to any other means of enforcement available to the city and shall
3421 not be construed so as to negate the authority of the Code Compliance Special Magistrate to hear
3422 and adjudicate appropriate cases.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 3423
- 3424
- 3425
- 3426
- 3427
- 3428
- 3429
- 3430
- 3431
- 3432
- 3433
- 3434
- 3435
- 3436
- 3437
- 3438
2. The city may also, in its sole discretion, remove any trees, palm trees, shrubs, and tree bed(s) placed in a city-owned lateral right-of-way for utility maintenance, safety, or any other reasonable cause. Except for the city, persons with written authorization from the city, and the property owner abutting the portion of the lateral right-of-way in which landscape materials have been placed, no person shall remove landscape materials from a lateral right-of-way.
 3. All expenses incurred by the city for removal trees, palm trees, shrubs, and tree bed(s), for any reason, shall be the responsibility of the property owner.
 4. If, for any reason, such trees, palm trees, shrubs, and tree bed(s) are removed, the adjoining owner shall be responsible for returning the right-of-way to its original condition prior to the placement of the plantings and tree bed(s) and any expenses related thereto regardless of whether the removal of the trees, palm trees, shrubs, and tree bed(s) was performed by the property owner or the city pursuant to this section.

Section 5.5.20. Deviations.

- 3439
- 3440
- 3441
- 3442
- 3443
- 3444
- 3445
- 3446
- 3447
- 3448
- 3449
- 3450
- 3451
- 3452
- 3453
- 3454
- 3455
- 3456
- 3457
- 3458
- 3459
- 3460
- 3461
- 3462
- 3463
- 3464
- 3465
- 3466
- 3467
- 3468
- A. Deviations of up to 10% from the requirements of this section may be approved by the Director and as further provided herein) provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:
 1. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or
 2. Literal conformity with the regulations would inhibit innovation or creativity in design.
 - B. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Director shall consider include the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, and the effect the requested deviation would have on the community appearance. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.
 - C. In determining whether a particular deviation request should be approved because literal conformity with the regulations would inhibit innovation or creativity in design, the Director may approve the request for deviation(s) if the applicant demonstrates that the design of the landscaping for which one or more deviations is sought is unique and innovative and, further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicia of unique and innovative design may include, but are not limited to, the following:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3469
- 3470 1. Landscape details that are unique or that are exceptional in quality by virtue of artistic
- 3471 composition, quality of materials, dimensional attributes, or any combination thereof;
- 3472
- 3473 2. Plant massing that evokes exceptional expression through use of angularity, curvature, or other
- 3474 means;
- 3475
- 3476 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
- 3477
- 3478 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.
- 3479
- 3480 D. Requests for deviations and the reasons therefore shall be set forth by the applicant in the application
- 3481 for deviation and shall be accompanied by documentation including, a narrative that clearly defines
- 3482 the section(s) of the regulations of the requested deviation, a narrative explanation as to the reason
- 3483 for the requested deviation and why it should be approved, sample detail drawings, elevations, and
- 3484 perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each
- 3485 deviation would operate to the benefit, or at least not to the detriment, of the public interest.
- 3486
- 3487 E. For deviations to avoid unnecessary or undue hardship, the Director subject to these standards and
- 3488 criteria, shall approve only the minimum deviation from the provisions of this section. For deviations
- 3489 to avoid the inhibition of innovation or creativity in design, the Director shall approve deviations
- 3490 necessary to enhance the unique and innovative design. The Director may impose reasonable
- 3491 conditions of approval in conformity with this section. Violation of such conditions and safeguards,
- 3492 when made a part of the terms under which a deviation is granted, shall be deemed a violation of this
- 3493 section and shall be enforceable not only by revocation of the deviation, but also by all other remedies
- 3494 available to the city, including all code enforcement procedures.
- 3495

3496 **CHAPTER 6. LIGHTING.**

3497

3498 **Section. 5.6.1. Purpose and applicability.**

3499

3500 The purpose and intent of this Section is to create outdoor lighting standards that promote the health,

3501 safety, and welfare of the residents and decrease the impacts of ambient lighting on the natural sky by

3502 establishing maximum intensities of lighting and controlling glare from lighting fixtures. The provisions

3503 of this article shall apply to all permanent outdoor lighting from any light source in nonresidential

3504 development.

3505

3506 **Section. 5.6.2. Outdoor lighting standards.**

3507

- 3508 A. Outdoor lighting fixtures. All outdoor lighting fixtures shall be installed in such a manner that the
- 3509 source of each individual light is shielded, positioned, and maintained so as not to be visible off the
- 3510 premises.
- 3511
- 3512 B. Light shielding for parking lot illumination. All parking lot lighting shall have no light emitted above
- 3513 90 degrees.
- 3514

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3515 C. Outdoor lighting fixtures adjacent to residential. Any outdoor lighting fixture providing light to any
3516 parcel adjacent to a residentially zoned parcel, whether adjoining or not, shall emit no more than
3517 0.1 foot-candles of light, as measured from the property line of the adjacent residential parcel, using
3518 a standard light meter, the cell of which is directed towards the source of the light.
3519
- 3520 D. All areas designed for use after daylight hours shall be adequately lit, in accordance with Table 5.6.2.
3521 below.
3522

Table 5.6.2. Lighting levels for commercial and industrial developments

Outdoor Lighting Area	Lighting Level minimum - maximum (foot-candles)
Entrance of commercial or industrial building	1 - 5
Sidewalk or walkway from parking area to entrance	.5 - 2
Parking lot	.5 - 3
Gas station canopy	10 - 15
Loading and unloading areas	15 - 20

- 3525
- 3526 E. Illumination ratio. Luminaire fixtures in parking lots shall be arranged in order to provide uniform
3527 illumination throughout the parking lot area of not more than a 4:1 ratio of average to minimum
3528 illumination, and not more than 12:1 ratio of maximum to minimum illumination.
3529
- 3530 F. Automatic Switching Requirements. Controls shall be provided that automatically extinguish all
3531 outdoor lighting when sufficient daylight is available using a control device or system such as a
3532 photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting
3533 controller, building automation system, or lighting energy management system, all with battery or
3534 similar backup power or device.
3535
- 3536 B. Modifications. Additions, modifications, or replacement of more than 25 percent of outdoor lighting
3537 fixtures existing as of the effective date of this ordinance shall require the submission of a complete
3538 inventory and photometric plan detailing all existing and any proposed new outdoor lighting. Any
3539 new lighting shall meet the requirements of this ordinance.
3540
- 3541 C. Exempt lighting. The provisions above shall not apply to streetlights, single-family residences,
3542 duplexes, or governmental facilities.
3543

CHAPTER 7. SCREENING

This Chapter shall not apply to single-family detached or duplex residential development.

Section. 5.7.1. Screening of rooftop equipment.

All rooftop equipment shall be screened from view from the right-of-way or adjacent properties by the use of a parapet wall or other architectural feature to screen the equipment or shall be set back adequately from the building edge to conceal the equipment from adjacent properties at ground level.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

3553
3554
3555
3556
3557
3558
3559
3560
3561
3562
3563
3564
3565
3566
3567
3568
3569
3570
3571
3572
3573
3574
3575
3576
3577
3578
3579
3580
3581
3582
3583
3584
3585
3586
3587
3588
3589
3590
3591
3592
3593
3594
3595
3596
3597
3598

Section. 5.7.2. Screening of storage areas.

- A. All permitted storage areas shall be screened from adjacent properties and the right-of-way. Permissible screening materials include:
 - B. A six-foot high wall of concrete or similar approved material, Section. 5.2.7 on walls;
 - C. A six-foot high opaque fence of an approved material, Section. 5.2.7 fences; or
 - D. A vegetative buffer, consisting of two staggered rows of shrubs a minimum of three feet tall at planting. The buffer shall create a dense barrier, at 80% opacity, within two years.

Section. 5.7.3. Air conditioning units and mechanical equipment.

- A. All mechanical equipment at ground level shall be screened from adjacent property and the right-of-way. When possible, sound deadening materials shall be used. Permissible screening materials include:
 - 1. A wall or opaque fence of adequate height to screen the view of the equipment, see Section. 5.2.7 for approved materials.
 - 2. A vegetative buffer, which meets the specifications in Section 5.6 for a four-foot tall buffer.

Section. 5.7.4. Permanently installed stand-by generators.

Permanently installed stand-by generators serving all properties other than single-family and duplex residences where life and safety does not depend on the performance of the system.

- A. The generator may only be used in emergency situations when there is a power outage.
- B. Repairs and testing may only occur during daylight hours a maximum of once per week.
- C. Installation of a generator shall comply with the following restrictions:
 - 1. The generator shall not encroach more than three feet into any required setback, and in no case shall be any closer than two and one-half feet from any property line. The generator shall not be installed in an easement.
 - 2. The generator shall be screened from public view by:
 - a. A vegetative buffer which meets the specifications in Section 5.6 for a five-foot high hedge; or
 - b. A wall or opaque fence, of an adequate height to screen the equipment, which meets the specifications of Section 5.2.7.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3599
3600 3. Permanent signs shall be placed at the electrical service indicating the type and location of the
3601 generator.
3602

3603 **CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.**

3604
3605 **Section 5.8.1. Purpose and Intent.**
3606

3607 The appearance of non-residential and mixed-use development affects the visual image and
3608 attractiveness of the City of Cape Coral. Utilitarian design and developments with minimal architectural
3609 features detract from the city's image and character. The purpose and intent of the non-residential design
3610 standards is to promote the City as an attractive destination for tourists and residents, and to support
3611 economic vitality while protecting the public health, safety, and welfare. These regulations intend to:
3612

- 3613 A. Enhance the visual image and attractiveness of the City;
3614
3615 B. Establish reasonable standards that offer flexible and diverse design options;
3616
3617 C. Ensure development in Cape Coral is of consistent high quality and character; and
3618
3619 D. Regulate site layout and architectural features to ensure aesthetic and visual interest.
3620

3621 **Section 5.8.2. Applicability.**
3622

- 3623 A. The standards of this section shall apply to all non-residential and mixed-use development for which
3624 application for site plan approval, or a building permit is made.
3625
3626 B. These design standards shall apply to existing development if a building's gross floor area is increased
3627 by 50% or more.
3628
3629 C. Development on Industrial zoned sites shall be exempt from these standards.
3630
3631 D. The design standards of this section do not apply when the City Council has established specific design
3632 standards for a unique area of the city unless the specific design standards otherwise expressly state
3633 their applicability.
3634

3635 **Section 5.8.3. Exemptions.**
3636

3637 The following types of buildings shall be exempt from the non-residential design standards.

- 3638
3639 A. Any building that has received a temporary use permit.
3640
3641 B. Any accessory structure.
3642
3643 C. Bona fide agricultural buildings in the Agricultural and RE Districts such as barns and stables.
3644

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3645 D. Guard houses.
3646
3647 E. Government facilities that are screened or not visible from a public street.
3648
3649 F. Model homes.
3650
3651 G. Municipal pump station buildings.
3652
3653 H. Self-storage buildings provided the buildings are enclosed with a wall with a minimum height of eight
3654 feet.
3655
3656 I. Pavilions, carports, gas canopies, and similar buildings that have support posts or columns but no sides
3657 except for roof treatments as required in Section 5.8.8.
3658
3659 J. Buildings similar to those listed above as determined by the Director.
3660

3661 **Section 5.8.4. Conflicts.**
3662

3663 If any of the non-residential and mixed-use design standards of this section conflict with any other
3664 provision of the City of Cape Coral Code of Ordinances or Land Development Code, the provision that
3665 establishes the more specific standard or architectural theme governs. If neither conflicting provision
3666 establishes a specific standard or architectural theme, then the more restrictive provision governs unless
3667 otherwise expressly provided.
3668

3669 **Section 5.8.5. Appearance, Building Mass, and Design Treatments.**
3670

- 3671 A. Consistency Within a Development. Except for buildings on outparcels that contain only one unit,
3672 designed and constructed to be occupied by a single end user, regardless of the number of business
3673 operations conducted within the single unit, buildings within a development shall be designed with
3674 color schemes, building materials, finishes, roof types, roof lines, and exterior roof finishing consistent
3675 with or that resemble those of the principal building or structure on the main parcel(s).
3676
3677 B. Consistency and Integrity of Building Components. All portions of any exterior side of a building,
3678 extending from finished grade to the top of the parapet wall or eaves, extending the entire width of
3679 the side of a building, must be designed with consistent architectural style, detail and trim features.
3680 All architectural features other than parapet walls, including towers or cupolas, shall be designed so
3681 as to have an equivalent character from any ground-level angle from which they can be viewed.
3682
3683 C. Glazing.
3684
3685 1. For buildings abutting and facing a public street, transparent windows, doors, or any combination
3686 thereof, shall cover at least 25% of the first story building wall area from grade to a height of 10
3687 feet.
3688

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3689 2. For buildings with walls abutting but not facing a public street, transparent windows, doors, or
3690 any combination thereof, shall cover at least 15% of the first story building wall area from grade
3691 to a height of 10 feet
3692
- 3693 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3694 areas, transparent windows, doors, or any combination thereof, shall cover at least 25% of the
3695 first story building wall area from grade to a height of 10 feet.
3696
- 3697 D. Sides of a building. For buildings located on outparcels, all exterior sides of a building shall comply
3698 with this section. Additionally, except for a side of a building built flush with a side lot line, a side of a
3699 building that faces a rear lot line of an abutting property, and a side of a building that faces a property
3700 line that abuts an alley, all sides of a building shall comply with the standards of this section.
3701
- 3702 1. All exterior sides of a building subject to this subsection shall include a repeating or varying
3703 pattern and shall comply with both design elements listed below. At least one of the three design
3704 elements shall repeat horizontally. All elements shall repeat or alternate at intervals of no more
3705 than 50 feet, either horizontally or vertically.
3706
- 3707 a. Each wall shall provide visual differentiation of wall surfaces through variations in a minimum
3708 of one of the following:
3709 i. Building materials;
3710 ii. Finish textures; or
3711 iii. Color.
3712
- 3713 b. Each wall shall provide a minimum of two of the following architectural features:
3714 i. Columns;
3715 ii. Pilasters;
3716 iii. Awnings;
3717 iv. Canopies;
3718 v. Reveals (if provided shall have a minimum depth of ½ inch);
3719 vi. Corbels;
3720 vii. Quoins ;
3721 viii. Keystones;
3722 ix. Cornices (if provided shall have a minimum height of four inches); or
3723 x. Other features as determined by the DCD Director that provide articulation or reduce
3724 building massing.
3725
- 3726 2. All exterior sides of a building shall provide a minimum number of design elements among
3727 elements a. thru r. below in accordance with the gross square footage of a building, as provided
3728 herein. Required design elements may be located on an exterior wall of a building, on the roof of
3729 the building, or on both the wall(s) and the roof of a building, as applicable. If located on a roof,
3730 the design element shall be located on a portion of the roof that faces in the same direction as
3731 the exterior wall. It is not the intent of this section, however, to require the design elements to
3732 be on both the exterior wall(s) and the roof.
3733

Building Gross Floor Area (sq. ft.)	Minimum number of Design Elements Required
-------------------------------------	--

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

10,000 sq. ft. or less	3
10,001 to 49,999 sq. ft.	4
50,000 sq. ft. or greater	5

- 3734
- 3735 a. Architectural features and detailing that create a frame and definition to the primary public
- 3736 entrance;
- 3737
- 3738 b. One or more canopies or awnings that extend a total length of at least 30% of the length of
- 3739 any side of a building subject to this subsection;
- 3740
- 3741 c. One or more attached porticos;
- 3742
- 3743 d. Peaked or arched roof form;
- 3744
- 3745 e. Overhanging eaves a minimum of 18 inches wide on all portions of a building with a pitched
- 3746 roof;
- 3747
- 3748 f. Arcade;
- 3749
- 3750 g. Colonnade;
- 3751
- 3752 h. Arches or arched forms other than roof forms or an arcade;
- 3753
- 3754 i. Windows or glazing that exceed the minimum glazing requirements of Subsection 5.8.5.C. by
- 3755 a minimum of 10% for a wall;
- 3756
- 3757 j. Ornamental or structural details, including, banding or moldings used throughout the exterior
- 3758 building walls that add decoration and detail to a building roofline, building openings, or
- 3759 windows;
- 3760
- 3761 k. Two or more ornamental or structural details that are horizontally continuous (except for
- 3762 interruptions for doors and windows), which may include belt courses or any type of three-
- 3763 dimensional molding, banding, projections, recesses, or niches that help to define a base,
- 3764 body, and cap to the proposed building;
- 3765
- 3766 l. A tower such as a clock tower or bell tower;
- 3767
- 3768 m. A cupola;
- 3769
- 3770 n. Sculptured artwork (excluding corporate logos or advertising);
- 3771
- 3772 o. Vertical articulation of walls, including pilasters, columns, or other relief with maximum
- 3773 separation of one third of the wall on which they are located, not to exceed a separation of
- 3774 100 feet;
- 3775
- 3776 p. Planter boxes that are integrated into the building architecture or wing walls that incorporate
- 3777 landscaped areas or places for sitting; or

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3778
- 3779 q. Curved wall containing an uninterrupted curve along at least 10% of the length of any side of
- 3780 a building subject to this subsection.
- 3781
- 3782 r. One or more vegetated trellises that occupy a minimum of 25% of the area of a single wall.
- 3783
- 3784 3. For buildings with a gross floor area of greater than 50,000 square feet, no exterior wall shall
- 3785 exceed 100 linear feet in a horizontal direction within a single, continuous wall plane, nor shall
- 3786 any single, continuous wall plane constitute more than 60% of the building's total length. A wall
- 3787 shall be deemed to be in a single, continuous wall plane unless it is offset (recessed or projected)
- 3788 by at least 24 inches from any adjacent wall plane or contains a pilaster that projects at least 36
- 3789 inches from the wall.
- 3790

3791 **Section 5.8.6. Wall Height Transition.**

3792

- 3793 A. Buildings that are more than twice the height of the height of extant buildings on abutting property
- 3794 shall incorporate one or more transitional height elements to segue the height of the new building to
- 3795 the height of the closest existing building. The transitional height element shall be incorporated on
- 3796 the new building at the approximate cornice or roof line of the nearest existing building, if any. Where
- 3797 there is no extant building on adjacent property, the requirements of this sub-section will not apply.
- 3798 Where no single building is "nearest" to the new building, but instead two or more buildings are
- 3799 located an equidistance from the new building, the property owner may select the approximate
- 3800 cornice or roof line of any of such equidistant buildings at which to incorporate the transitional height
- 3801 element on the new building.
- 3802
- 3803 B. Transitional height elements may include:
- 3804
- 3805 1. Cornices or other decorative elements that run the length and width of the building and project
- 3806 a minimum of six inches from the wall;
- 3807
- 3808 2. Upper story setbacks and offsets at the approximate cornice or roof line of the nearest existing
- 3809 building as provided above;
- 3810
- 3811 3. Variations in roof planes.
- 3812

3813 **Section 5.8.7. Building Materials.**

3814

- 3815 Only the following finish materials for exterior walls are permitted. All other finish materials are
- 3816 prohibited.
- 3817
- 3818 A. Concrete block with stucco finish (CBS), synthetic stucco (an exterior cladding system with a stucco-
- 3819 like outer finish applied over insulating boards or composite materials), or other exterior coating that
- 3820 is the visual equivalent of stucco. Non-textured concrete block with visible mortar joints, even if
- 3821 painted, is not an acceptable finished material.
- 3822
- 3823 B. Textured or ribbed concrete block, e.g. "split-face block".

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3824
3825 C. Reinforced concrete of any finish.
3826
3827 D. Glass or other glazing, whether transparent, translucent, or applied as a veneer. For purposes of this
3828 subsection, glazing consists of glass or any material that resembles glass including, but not limited to,
3829 Plexiglass or polycarbonate.
3830
3831 E. Stone or brick, including simulated stone or brick.
3832
3833 F. Wood, other than plywood or T1-11 type paneling, if termite-resistant species, pressure-treated,
3834 painted, or stained.
3835
3836 G. Fiber-reinforced cement panels or boards.
3837
3838 H. Tile.
3839
3840 I. Architectural metal panels, provided that corrugated metal panels shall not exceed 30% of the surface
3841 of any wall.
3842
3843 J. Vinyl siding, provided that vinyl siding shall not exceed 30% of the surface of any wall.
3844
3845 K. Cargo or shipping containers, provided that any exterior wall of the container is completely sheathed
3846 with one of more of the allowable materials listed in this subsection.
3847

3848 **Section 5.8.8. Roofs.**

- 3849
3850 A. All non-residential and mixed-use buildings shall have variations in rooflines and roof features that
3851 are consistent with the building's mass and scale. In addition, roofs shall include features from at least
3852 two of the following five categories below.
3853
3854 1. Parapet wall provided the parapet extends completely around the building on all sides. However,
3855 this requirement shall not prohibit the substitution of a pitched roof in lieu of a parapet for part
3856 of a building.
3857
3858 2. A three-dimensional cornice treatment, a minimum of four inches high (not applicable along any
3859 portion of a wall that is built flush to the side lot line). Flashing at the top of a parapet shall not
3860 qualify as a cornice. Cornices shall return a minimum of eight feet around corners that transition
3861 from a building wall that requires a cornice to a building wall that does not require a cornice.
3862
3863 3. Varied roof lines with different roof heights and or separate or distinct roof segments that fall at
3864 different horizontal planes above the cornice line;
3865
3866 4. Overhanging eaves that extend at least 18 inches beyond the supporting walls, with a minimum
3867 fascia of six inches in height (not applicable along any portion of a wall that is built flush to the
3868 side lot line);
3869

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 3870 5. Vertical variation in the roof line with a minimum change in elevation of two feet.
3871
3872 B. Pitched roofs such as gable, hip, shed or mansard roofs shall be clad with highly durable materials such
3873 as standing seam metal, slate, ceramic, or fireproof composite tiles. Fiberglass and asphalt shingles
3874 are prohibited except for dimensional grade or better.
3875
3876 1. Allowed slope. Pitched roofs shall have a minimum slope of three feet vertical rise for every 12
3877 feet of horizontal run. The maximum slope of a pitched roof shall not exceed a one-foot vertical
3878 rise for every on foot of horizontal run.
3879
3880 C. Roofs covering pavilions, carports, gas canopies, and similar structures with support posts or columns
3881 but no sides. Buildings with roofs that lack walls, whether free-standing or attached to another
3882 building, shall have a minimum slope of three feet vertical rise for every 12 feet of horizontal run.
3883 Unless a roof with an alternative design is approved by the DCD Director, all roofs are required to
3884 possess a pitched roof with a minimum slope of three feet vertical rise for every 12 feet of horizontal
3885 run. The DCD Director shall consider the following two criteria in determining whether to approve a
3886 roof with an alternative design:
3887
3888 1. Whether the design of the roof evokes exceptional expression through the use of angularity,
3889 curvature, or other means; or
3890
3891 2. Whether the design of the roof precludes visual monotony and enhances the aesthetic character.
3892
3893 Flat and parapet roofs are prohibited for buildings covered by this subsection.
3894

Section 5.8.9. Building Design Standards in the SC and MXB Districts.

- 3895
3896
3897 A. All buildings, whether residential, nonresidential or compound use, shall conform to the design
3898 standards provided herein., except as superseded by the following requirements.
3899
3900 B. Public entrances. Public entrances shall be provided as follows:
3901
3902 1. Any building facade that faces a street (excluding alleys) shall provide a public entrance oriented
3903 toward such street. In the case of a corner lot where more than one building facade faces a street,
3904 a corner entrance may serve to meet the requirements for the two streets that intersect and
3905 create the corner. All public entrances shall have convenient pedestrian access providing a direct
3906 connection from the street to the entrance via a walkway a minimum of four feet in width and
3907 not traversing any portion of an off-street parking area. In the event the City determines that this
3908 provision cannot be met due to site constraints, such walkway may traverse the off-street parking
3909 area but shall be clearly delineated by a change in paving material, pavement markings, or similar
3910 treatment.
3911
3912 2. Any building facade that faces a dedicated city parking area shall provide a public entrance
3913 oriented toward such dedicated city parking area with convenient pedestrian access providing a
3914 direct connection via a walkway a minimum of four feet in width.
3915

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 3916 3. It is not the intent of these provisions to require more than two public entrances to any use
3917 intended to be occupied by a single tenant. In the event that the provisions above cumulatively
3918 require more than two public entrances, then the requirements may be reduced such that two
3919 public entrances shall be required. In determining the orientation of such public entrances.
3920 Parkway street designations and dedicated city parking areas shall have priority.
3921
- 3922 C. Transparency of building walls. Except for parking structures, building walls shall contain transparent
3923 windows, doors, or any combination thereof, meeting the following standards:
3924
- 3925 1. For lots abutting primary or secondary street designations, transparent windows, doors, or any
3926 combination thereof, shall cover at least 50% of the first story building wall area that faces the
3927 primary or secondary street designation. Above the first story, non-residential uses, except hotels,
3928 shall provide transparent windows, doors, or any combination thereof, covering at least 25% of
3929 the entire building wall area; residential and hotel uses shall provide at least 15%.
3930
- 3931 2. For lots abutting local street designations, non-residential uses, except hotels, shall provide
3932 transparent windows, doors, or any combination thereof, covering at least 25% of the entire
3933 building wall area that faces the secondary or tertiary street designations; residential and hotel
3934 uses shall provide at least 15%.
3935
- 3936 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3937 areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any
3938 combination thereof, covering at least 25% of the entire building wall area that faces the
3939 dedicated city parking area; residential and hotel uses shall provide at least 15%.
3940
- 3941 4. Non-residential use building walls facing navigable waterways shall provide transparent windows,
3942 doors, or any combination thereof, covering at least 25% of the entire building wall area.
3943
- 3944 5. The exterior of windows and doors shall remain unshuttered at all times of the day. This provision
3945 shall not apply to the following:
3946
- 3947 a. Un-walled areas such as, but not limited to, dining and seating areas associated with
3948 restaurants and bars.
3949
- 3950 b. Hurricane shutters or flood-proofing panels during the time period in which a flood watch or
3951 warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for
3952 any portion of Lee County. Such shutters or panels shall be removed within a week from the
3953 time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in
3954 which case the shutters may remain up for not more than three months from the date of the
3955 incident, except for good cause shown to the City.
3956
- 3957 D. Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area
3958 and consisting of a single use shall meet the following requirements:
3959
- 3960 1. One public entrance shall be provided for every 75 feet of overall building frontage; or
3961

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 3962 2. Liner buildings meeting the following requirements shall be provided:
3963
3964 a. Liner buildings shall be provided along at least 50% of the overall building frontage.
3965
3966 b. Liner buildings shall contain active uses with at least one public entrance provided for every
3967 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building
3968 setbacks and building frontages.
3969
3970 c. Liner buildings shall have an interior depth of at least 15 feet.
3971
3972 d. Liner buildings may be detached from, attached to, or integrated into the principal building.
3973
3974 E. Architectural elements design standards: awnings, canopies, colonnades, arcades, balconies, front
3975 porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking
3976 area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination
3977 thereof, for at least 50% of its length or width, unless prohibited by Article 4, Chapter 5.
3978 Notwithstanding Section 5.1.6 of the LDC, architectural elements or any combination of architectural
3979 elements, may occur forward of the minimum setback, as applicable, but shall not extend forward of
3980 a lot line, except as provided herein. Notwithstanding Section 5.1.8 of the LDC, architectural elements,
3981 or any combination of architectural elements may extend forward of a lot line into the public right-
3982 of-way with the approval of the City Manager. The city may require the property the property owner
3983 to enter into a formal easement agreement or formal right-of-way agreement in a form acceptable to
3984 the City Attorney. The owner of the structure containing the architectural elements encroaching into
3985 the easement or right-of-way is solely responsible for repairing any damage to encroachments in the
3986 easement or right-of-way that result from maintenance or public infrastructure improvements. The
3987 property owner must comply with the provisions of Section 5.8.9.E.1-8 below.
3988
3989 1. The City Manager shall consider the following criteria in determining whether to approve an
3990 architectural element, or any combination of architectural elements, that would encroach into
3991 the easement or public right-of-way.
3992
3993 a. The extent to which the architectural element would encroach into the easement or right-of-
3994 way;
3995
3996 b. The effect of such encroachment on any utilities that are either currently located in the
3997 easement or right-of-way or that may be located in the easement or right-of-way in the
3998 future; and
3999
4000 c. The effect of such placement on any abutting properties or streetscape and on the navigability
4001 of the public right-of-way.
4002
4003 2. Awnings and canopies. Awnings and canopies extending from the first story, facing a street or
4004 dedicated city parking area, and serving to meet the 50% length/width requirement of Article 4,
4005 Chapter 5 shall conform to the following:
4006
4007 a. Depth shall be a five-foot minimum projection from the building facade.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 4008
- 4009 b. Height shall be an eight-foot minimum clearance, including suspended signs.
- 4010
- 4011 3. Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area
- 4012 shall conform to the following:
- 4013
- 4014 a. Depth shall be a minimum of five feet from the building wall to the inside column face.
- 4015
- 4016 b. Height shall be an eight-foot minimum clearance, including suspended signs. The lowest point
- 4017 on arches shall not extend below seven feet.
- 4018
- 4019 c. Openings between piers, columns, or similar supporting elements shall be at least 50% of the
- 4020 colonnade or arcade facade area.
- 4021
- 4022 d. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
- 4023 permitted above the colonnade or arcade.
- 4024
- 4025 4. Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed
- 4026 balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not
- 4027 project beyond the rear building setback requirement, as applicable. Balconies shall be located
- 4028 no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city
- 4029 parking area shall have a height clearance of ten feet minimum from grade; their decorative or
- 4030 supporting elements that project from building walls shall have a clearance of seven feet from
- 4031 grade.
- 4032
- 4033 5. Front porches. Front porches shall be un-air-conditioned. may be screened, and shall conform to
- 4034 the following:
- 4035
- 4036 a. Front porches facing a street or dedicated city parking area and serving to meet the minimum
- 4037 building frontage requirements of Article 4, Chapter 5 shall be a minimum of eight feet in
- 4038 depth.
- 4039
- 4040 b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
- 4041 permitted above front porches.
- 4042
- 4043 6. Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the
- 4044 required minimum building setback, as applicable. However, access to a stoop, whether by stairs,
- 4045 ramp, or other means, may extend forward of the minimum building setback as applicable, if
- 4046 approved by the Director but shall not be located less than three feet from the front lot line.
- 4047
- 4048 7. Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal
- 4049 dimension and shall be limited to two per building.
- 4050
- 4051 8. Garage doors associated with residential uses, when facing the front of the lot, shall be set back
- 4052 at least 20 feet behind the building line.
- 4053

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

4054 **Section 5.8.10. Equipment and Loading Areas**

4055
4056 A. For all non-residential and mixed-use developments, air conditioning, heating, and similar equipment
4057 shall be placed on the roof or the ground.

4058
4059 1. Air conditioning and heating equipment shall be prohibited from being mounted on the side of a
4060 building.

4061
4062 2. Rooftop equipment shall be screened on all sides in a manner consistent with the architectural
4063 design of the building. Such screening shall be at least as high as the highest portion of the
4064 equipment or apparatus being screened.

4065
4066 3. Equipment located on the ground shall be located or screened so as not to be visible from any
4067 property line abutting a public street other than an alley when viewed along a line perpendicular
4068 or radial to such property line. Screening shall consist of a wall, fence, plant material, or any
4069 combination thereof. Fences used for screening shall not be constructed of chain link with or
4070 without slats and are encouraged to be designed to appear to be constructed of material the same
4071 as the building, and to incorporate architectural trim features consistent with the building.

4072
4073 4. Electric meters and similar panels may be wall-mounted and are subject to the same screening
4074 requirements outlined in subsection c. above. In lieu of screening, the equipment may be painted
4075 to match the color of the building.

4076
4077 5. Attic vents and solar panels are exempt from the requirements of this subsection.

4078
4079 B. Loading areas that are visible from an abutting property with a residential future land use
4080 classification or that is separated from a property with a residential future land classification by an
4081 alley or a two-lane street shall be screened by a wall that is at least six feet in height, which is
4082 constructed of the same material as the building or is designed to appear to be constructed of material
4083 the same as the building, and that incorporates architectural trim features consistent with the
4084 building, by an earthen berm that is at least six feet in height, or by a combination of wall and berm
4085 that is at least six feet in height.

4086
4087 **Section 5.8.11. Deviations.**

4088
4089 A. Deviations from the provisions of this section may be approved by the Director provided that the
4090 deviation will not be contrary to the public interest and will be in harmony with the general intent
4091 and purpose of this section and where either of the following applies:

4092
4093 1. Conditions exist that are not the result of the applicant and which are such that a literal
4094 enforcement of the regulations involved would result in unnecessary or undue hardship; or

4095
4096 2. Literal conformity with the regulations would inhibit innovation or creativity in design.

4097
4098 B. In determining whether a particular deviation request should be approved as the result of
4099 unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

4100 following: site constraints such as shape, topography, dimensions, and area of the property, the effect
4101 other regulations would have on the proposed development, or other locational factors that may
4102 make compliance with this section impossible or impracticable, the effect the requested deviation
4103 would have on the community appearance including, but not limited to, consideration of the mass,
4104 scale, and other characteristics of a proposed building relative to the characteristics of existing and
4105 approved surrounding buildings whether on the same or nearby sites, and the relative visibility and
4106 character of equipment or loading areas which are otherwise required to be screened along with
4107 constraints on alternative location of such equipment or loading areas. Additionally, the Director shall
4108 find that the approval of the deviation(s) would serve the intent of this section to protect the health,
4109 safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual
4110 interest in the city.

4111
4112 C. In determining whether a particular deviation request should be approved because compliance with
4113 the regulations would inhibit innovation or creativity in design, the Director approve the request for
4114 deviation(s) if the applicant demonstrates that the design of the building or development for which
4115 one or more deviations is sought is unique and innovative and further, that the approval of the
4116 deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find
4117 that the approval of the deviation(s) would serve the intent of this section to protect the health,
4118 safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual
4119 interest in the city. For purposes of this section, indicators of unique and innovative design may
4120 include, but are not limited to, the following:

- 4121
4122 1. Architectural details that are unique or that are exceptional in quality by virtue of artistic
4123 composition, quality of materials, dimensional attributes, or any combination thereof;
4124
4125 2. Building forms that evoke exceptional expression through use of angularity, curvature, or other
4126 means;
4127
4128 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
4129
4130 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.

4131
4132 D. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application
4133 for deviation and shall be accompanied by documentation including sample detail drawings,
4134 schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall
4135 graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate
4136 to the benefit or at least not to the detriment, of the public interest.

4137
4138 E. Subject to these standards and criteria, the Director shall approve only the minimum deviation from
4139 the provisions of this section necessary to avoid either the unnecessary or undue hardship or the
4140 inhibition of innovation or creativity in design. The Director may impose reasonable conditions of
4141 approval in conformity with this section. Violation of such conditions and safeguards, when made a
4142 part of the terms under which a deviation is granted, shall be deemed a violation of this section and
4143 shall be enforceable not only by revocation of the deviation, but also by all other remedies available
4144 to the city, including, but not limited to, all code enforcement procedures.

4145

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

4146 **CHAPTER 9. TEMPORARY USES.**

4147

4148 **Section. 5.9.1. Purpose and applicability.**

4149

4150 A. The purpose of this Section is to ensure all temporary events and activities are located and
4151 coordinated in harmony with the surrounding community. Temporary uses are authorized in this
4152 article as temporary accessory or principal uses for time periods proportionate and appropriate to the
4153 nature of the temporary use. Temporary uses permitted by this article may not be listed as a use in a
4154 particular zoning district. Temporary uses not listed in this article may be permitted through a
4155 temporary use agreement approved by the Director of Community Development

4156

4157 B. All temporary uses and special events approved subject to the standards and requirements set forth
4158 under this article are deemed to be a privilege and not a right, which may be revoked by the city for
4159 failure to comply with any of the provisions of this article or any other local, state, or federal law
4160 governing the event. Approved temporary uses and special events may also be revoked if such
4161 revocation is in the best interest of the city based on emergency, disorder, or other unforeseen
4162 conditions. Private events held on private property shall not require a temporary use permit. Signs
4163 shall be limited to the signs permitted in Section 5.9.10 of this article and shall not be allowed within
4164 the right-of-way.

4165

4166 C. Application for a temporary permit.

4167

4168 1. Temporary use permits shall be coordinated by the Community Development department who
4169 may request reviews from the Fire, Police, Building, and Public Works departments as necessary
4170 to ensure safety.

4171

4172 2. If a temporary use or event is proposed at a public park property, an application must be
4173 submitted to the Parks and Recreation Department along with any applicable fees and proof of
4174 insurance.

4175

4176 3. Private events held on private property shall not require a temporary use permit.

4177

4178 **Section. 5.9.2. Firework, pumpkin, and Christmas tree sales.**

4179

4180 Temporary outdoor sales are prohibited, except as provided here in. Excepted seasonal events involving
4181 outdoor sales of merchandise shall meet all appropriate requirements of the Building Code, Electrical
4182 Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities.
4183 Temporary outdoor sales are prohibited unless they have applied for and received all required permits in
4184 compliance with this Subsection. Firework, pumpkin, and Christmas tree sales may be in all nonresidential
4185 zoning districts except the Preservation and Public Zoning Districts subject to the following:

4186

4187 A. Application. A complete application must be submitted to the Department of Community
4188 Development, along with a conceptual site plan.

4189

4190 B. Dates and hours of operation:

4191

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 4192 1. Firework sales may be operated from December 15 through January 1 and from June 1 through
4193 July 10;
4194
4195 2. Pumpkin sales may be operated from October 1 through November 5;
4196
4197 3. Christmas tree sales may be operated from November 15 to January 1; and
4198
4199 4. Lots may be open from 8 AM to 10 PM.

4200
4201 C. Parking and facilities.
4202

- 4203 1. Temporary sales lots must provide five parking spaces per half acre. A paved parking lot shall not
4204 be required.
4205
4206 2. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided
4207 that the applicant provides proof of fire-retardancy and adequate tie-down measures with the
4208 application. Tents larger than 425 square feet shall require a separate tent permit. The location
4209 and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being
4210 used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in
4211 accordance with the Florida Accessibility Code for Building Construction and ADA requirements
4212 and shall be anchored in accordance with all applicable building code standards.
4213
4214 3. Permission to utilize an electric generator on site. A temporary electric pole shall not, however,
4215 be authorized by the temporary sale permit. A temporary electric pole shall require a separate
4216 permit to be applied for and issued to a licensed electrical contractor.

- 4217
4218 D. The Director may approve temporary outdoor seasonal sales in the RML zoning district, if it is
4219 determined that such sale would not result in adverse impacts on the surrounding neighborhood.
4220 Approval of a season sale in the RML district may include conditions to protect the surrounding
4221 neighborhood from adverse impacts.
4222

- 4223 E. The applicant shall request inspection by the city of the items authorized pursuant to this Section and
4224 shall receive approval thereof prior to beginning the sale activity. Inspection of items authorized
4225 pursuant to this Section shall be made by the Community Development and Fire Departments.
4226

4227 **Section. 5.9.3. Outdoor display of merchandise.**
4228

4229 Unless otherwise permitted, outdoor display of merchandise is prohibited, except on improved property
4230 in accordance with the following conditions:
4231

- 4232 A. All outdoor display of merchandise in non-residential districts are prohibited with the exception of
4233 the following items listed below when displayed in conjunction with an existing licensed business
4234 location which retails the items: boats; displays of new or used cars by auto dealerships or auto
4235 rental companies; bicycles; motorcycles; garden equipment such as lawnmowers, tillers, and
4236 edgers; landscaping nursery items displayed by a nursery business; tires as displayed in service
4237 stations; vehicles displayed as part of a temporary off-site vehicle sale approved pursuant to this

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

4238 Code; temporary sales approved pursuant to this Code; and seasonal fundraising events approved
4239 pursuant to this Code. In addition to the foregoing, the outdoor displays of fruit, vegetables,
4240 flowers, jewelry, books, or antiques are allowed in the South Cape zoning district. This restriction
4241 shall not apply to special events approved pursuant to the Code.

4242
4243 B. All outdoor display of merchandise for sale, in non-residential districts is permitted with the following
4244 conditions:

4245
4246 1. Except in the South Cape zoning district, such displays may be no closer than 10 feet to the front
4247 or rear property lines and five feet to side property lines or 15 feet to the side property line on
4248 corner lots.

4249
4250 2. Displays may not be placed in required parking areas.

4251
4252 3. Displays may be placed on the public sidewalk subject to the following requirements:

4253
4254 a. Displays may be placed only directly in front of the lawfully existing business which retails the
4255 items being displayed;

4256
4257 b. Displays shall be placed on tables, shelves, or racks that are moved indoors during any hours
4258 the business is not open.

4259
4260 c. Displays shall not impede pedestrian circulation, use of the sidewalk, or ingress and egress to
4261 nearby buildings.

4262
4263 C. Outdoor display of merchandise for sale on vacant property is prohibited, except as permitted for
4264 seasonal events in accordance with Section 5.9.2. or special events in accordance with Section 5.9.10.

4265
4266 D. All outdoor displays of merchandise must be approved the City Council. Notice of the Council meeting
4267 shall be mailed to surrounding property owners with 500' of the site in question.

4268
4269 **Section. 5.9.4. Garage sales.**

4270
4271 Garage sales may be permitted on a private property in accordance with the following regulations:

4272
4273 A. Garage sales are permitted to be held for a period not to exceed three days, on the basis of three such
4274 activities per residence per year, not to be held closer than 30 days apart.

4275
4276 B. Prior to conducting a garage sale, the person conducting such sale is required to obtain a permit online
4277 from the city website or at the Code Enforcement Division. Such permit shall be posted or otherwise
4278 displayed on the property where the sale is being held to be visible from the street. In the event a
4279 garage sale is conducted without a permit, such sale shall be closed by the Police Department or the
4280 Code Enforcement Division, and shall remain closed until a valid garage sale permit is received from
4281 the city. Garage sale permits shall include authorization for on-site signs and off-site signs in
4282 accordance with applicable portions of the City of Cape Coral Land Development Code. On-site or off-
4283 site garage sale signs shall not be attached to any utility pole, street sign, tree, or other landscaping.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 4284
4285 C. The purchase of items for resale at a residence, which in essence establishes a residence as a second-
4286 hand store, is hereby prohibited.
4287
4288 D. A violation of this Section shall be punishable by a fine of not less than \$75 and not more than \$250.
4289 Each day any violation of any provision of this Section occurs or continues shall constitute a separate
4290 offense. As an alternative, violators may be cited by a Code Enforcement Officer to appear before the
4291 Code Enforcement Special Master. In such event, violators shall be subject to fine(s) not to exceed
4292 \$250 per day for first time violations or not to exceed \$500 per day for repeat violations, as imposed
4293 by the Code Enforcement Special Master pursuant to the City of Cape Coral Code of Ordinances or the
4294 Florida Statutes. A person is subject to arrest if he or she refuses to close down a garage sale for which
4295 no valid permit is in effect.
4296

4297 **Section. 5.9.5. Temporary construction or field office.**
4298

- 4299 A. Construction trailers in residential zoning districts are subject to the following requirements.
4300
4301 1. Construction trailers shall not be connected to potable water and sewer facilities. If the
4302 construction trailer is wired for electricity, the wiring must conform to all applicable city
4303 electric codes.
4304
4305 2. The construction trailer must be removed from the site prior to issuance of a certificate of
4306 occupancy.
4307
4308 3. No overnight residential use shall be permitted in a construction trailer.
4309
4310 4. Construction trailers must comply with the setback requirements of the zoning district or the
4311 site.
4312
4313 5. Construction trailers shall not be larger than 200 square feet.
4314
4315 B. Construction trailers in non-residential zoning districts are subject to the following
4316 requirements.
4317
4318 1. When a construction trailer is used as a temporary office, the trailer must be wired for
4319 electricity and must be connected to potable water and sewer facilities, if available. Wiring
4320 and plumbing must conform to applicable Electric and Plumbing Codes.
4321
4322 2. The construction trailer must be located at the construction site or an abutting site with the
4323 property owner's written permission.
4324
4325 3. The construction trailer must be removed from the site prior to issuance of a certificate of
4326 occupancy.
4327
4328 4. No overnight residential use shall be permitted in a construction trailer.
4329

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

4330 5. Construction trailers must comply with the setback requirements of the zoning district or the
4331 site.
4332

4333 **Section 5.9.6. Construction staging areas for essential public facilities and post disaster debris staging**
4334

4335 A. Contractor staging for essential public facilities. Contractor staging areas for materials used in
4336 construction of essential public facilities are permitted in all zoning districts, subject to the following
4337 requirements:

4338 1. The temporary staging area shall serve a project being carried out in the vicinity of the
4339 construction staging area;

4340 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
4341

4342 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
4343 Saturday only;

4344 4. Temporary fencing may be used to enclose the staging area;
4345

4346 5. No structures other than a permitted construction trailer may be placed on the property; and
4347

4348 6. No outdoor lighting is permitted for any staging area in a residential zoning district.
4349

4350 7. The staging area shall be restored upon completion of the work and restoration of any damage
4351 to any City facilities, such as roadside swales, pipes, catch basins, pavement, signs, striping, etc.
4352

4353 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
4354 provided the staging area is on the same parcel where construction activity is authorized by a valid
4355 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
4356

4357 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
4358 districts on sites designated by the City for such activity.
4359

4360 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
4361 in all non-residential zoning districts.
4362

4363 **Section. 5.9.7. Temporary sales office.**
4364

4365 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
4366 development. For the purpose of this section, units to be located within the development shall
4367 mean residential, non-residential, or mixed use habitable space or leasable floor area, whether
4368 occupying all of a building or individual area within a building including residential units,
4369 residential or non-residential units, individual units in a multi-unit non-residential development,
4370 or freestanding residential or non-residential structures.
4371
4372
4373
4374

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 4375 B. Requirements for a temporary sales office. The following requirements must be met prior to the
4376 approval of a temporary sales office:
4377
- 4378 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
4379 to the site, bottled water and portable sanitary facilities may be utilized until such time as
4380 sanitary sewer and potable water are available. A temporary sales office shall be connected to
4381 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
4382 office, whichever is less.
4383
 - 4384 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
4385
 - 4386 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
4387 and shall not be used or occupied for business, office, or other purpose(s) at any time except
4388 between the hours of 7:00 a.m. and 9:00 p.m.
4389
 - 4390 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
4391 office.
4392
 - 4393 5. The entrance to the site on which the temporary sales office is located shall consist of a city
4394 approved driveway or construction entrance. Any impervious area added for the temporary
4395 sales office shall be subject to review and approval by the city.
4396
 - 4397 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
4398 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
4399 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
4400 minimized and prevented to the extent practicable around any disturbed area.
4401
 - 4402 7. The maximum duration of the permit shall not exceed one year. The Director may extend
4403 permits for up to six months each, based upon factors that include:
4404
 - 4405 a. Size of the project.
 - 4406
 - 4407 b. Number of lots or units in the development remaining to be sold or leased.
 - 4408
 - 4409 c. Effect that the extension would have on the surrounding properties.
 - 4410
 - 4411 d. Developer's need for an extension and efforts, if any, the developer has put forward
4412 toward completion of the development (e.g., effort to complete construction in a timely
4413 manner, delays beyond the reasonable control of the developer, etc.).
4414
 - 4415 8. A temporary sales office shall be removed no later than the date the development is completed
4416 or within 30 days after notice by the city that the application for development has been denied,
4417 whichever is applicable.
4418

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

4419 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
4420 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
4421 applicant shall submit the following to the Department of Community Development:

4422
4423 1. A scaled drawing of the site, identifying the location of the temporary sales office with
4424 dimensions. Construction plans shall also be submitted.

4425
4426 2. The names of the property owner and the operator of the temporary sales officer. In the
4427 event the operator is different from the property owner, written and notarized consent from
4428 the property owner must be submitted. Such written consent shall be revocable. In the event
4429 such consent is revoked, the temporary sales office shall be removed within 30 days.

4430
4431 3. The length of time the temporary mobile sales office is proposed for the site.

4432
4433 4. The description of potable water and sanitary facilities that will be available for the
4434 temporary office.

4435
4436 D. Inspection by city officials. To ensure compliance with all applicable laws and regulations, the
4437 temporary sales office shall be held open for reasonable inspection, without court order, by
4438 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.

4439
4440 **Section. 5.9.8. Temporary Storage Containers.**

4441
4442 A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:

4443
4444 1. Residential zoning districts. No more than one temporary storage container per dwelling unit is
4445 permitted in residential zoning districts.

4446
4447 2. Non-residential zoning districts. No more than two temporary storage containers are permitted
4448 in non-residential zoning districts. In the case of multi-tenant non-residential properties, each
4449 business or tenant may have a temporary storage container.

4450
4451 3. This section is not intended to restrict the storage or location of temporary storage
4452 containers on the premises of a business which is lawfully engaged in the sale, rental, or
4453 distribution of such containers so long as the containers are on the property of such business
4454 as "merchandise" and not for temporary storage of items or goods.

4455
4456 4. The provisions of this section shall not apply to prohibit or restrict the location of temporary
4457 storage containers on any property for which a valid City of Cape Coral building permit has
4458 been issued and is in effect provided that the construction on the property has not been
4459 abandoned or allowed to lie idle in violation of Article 5-2 of the City of Cape Coral Code of
4460 Ordinances.

4461
4462 B. General Requirements:

4463

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 4464 1. No temporary storage container may be placed in one or more parking spaces if the required
4465 number of parking spaces is reduced below the minimum number of spaces required for the
4466 site.
4467
- 4468 2. No temporary storage container shall block or reduce access to fire lane(s), handicapped
4469 parking area(s), or drainage facilities or structures, including swales and catch basins.
4470
- 4471 3. Temporary storage containers shall not be placed in an easement or in any area designated
4472 as a buffer.
4473
- 4474 4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten
4475 feet in height, or 40 feet in length.
4476
- 4477 5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days.
4478 A maximum of two temporary storage container permits may be issued for a property or, in
4479 the case of multi-use or multi-unit properties, for each business or commercial enterprise
4480 located on the property in any calendar year. Temporary container permits may run
4481 consecutively without any minimum period required to elapse between the issuance of
4482 permits.
4483
- 4484 6. Residential zoning districts. Temporary storage container permits are valid for seven days. A
4485 maximum of two temporary storage container permits may be issued in any calendar year.
4486 Temporary container permits may run consecutively without any minimum period required
4487 to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage
4488 container for more than 14 days in any 12-month period.
4489

Section 5.9.9. Temporary Habitable Structures

- 4490
4491
- 4492 A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents,
4493 business owners, governmental agencies, and medical facilities are able to live and conduct
4494 business on the same site as their damaged structure using temporary housing and temporary
4495 business structures. When disasters result in significant destruction rendering homes and
4496 businesses uninhabitable, temporary housing and temporary business structures will provide
4497 residents and businesses with the ability to quickly resume normal activities during the restoration
4498 of their permanent structures.
4499
- 4500 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11,
4501 Definitions, unless the context clearly indicates or requires a different meaning.
4502
- 4503 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the
4504 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the
4505 disaster has negatively affected residential housing or business structures in the city by a
4506 significant degree, the City Council may, by a majority vote, declare the existence of a habitable
4507 structure emergency. Upon the declaration of a habitable structure emergency by vote of the
4508 City Council, the provisions of this subsection shall become effective. The habitable structure
4509 emergency shall identify the disaster which created the emergency situation, and may be

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

4510 declared for either a specified period of time or an indefinite period of time. If the emergency is
4511 for an indefinite period of time, the emergency shall continue until City Council, by a majority
4512 vote, terminates the habitable structure emergency.
4513

4514 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in
4515 accordance with the provisions set forth herein, the use of temporary structures. Temporary
4516 residential structures and temporary business structures must be approved by the city with a
4517 temporary placement permit. Application and issuance criteria for a temporary placement permit
4518 are as set forth below.
4519

4520 E. Temporary business structures may be used for business owners to provide a means for a business
4521 to remain open during the time the permanent business structure is being repaired or replaced.
4522 Temporary business structures may be used to provide temporary facilities for governmental uses,
4523 critical public facilities, charitable, religious, or educational institutions that have been rendered
4524 uninhabitable. The regulations for temporary business structures shall apply to temporary business
4525 structures used for governmental uses, critical public facilities, charitable, religious, or educational
4526 institutions. For these institutions, the habitable structure regulations shall apply; however, the
4527 Building Official may waive any regulations when strict enforcement may preclude them from
4528 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
4529

4530 1. Federal, state, regional, or local government facilities;
4531

4532 2. State, county, or local emergency operations centers;
4533

4534 3. Police, fire, and emergency medical facilities;
4535

4536 4. Radio and television stations;
4537

4538 5. Public, semi-public, and privately-owned utilities;
4539

4540 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
4541 offices; and
4542

4543 7. Nursing homes and assisted living facilities.
4544

4545 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
4546 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
4547 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
4548 considered by the Building Official when the following criteria are met:
4549

4550 1. The existing permanent habitable structure has been determined to be uninhabitable as the
4551 result of a disaster by inspection of the city Building Official;
4552

4553 2. The property owner or occupant of a damaged structure desires to locate in a temporary
4554 residential or business structure; and
4555

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 4556 3. A habitable structure emergency must be in effect at the time of application.
4557
4558 G. Applications for temporary placement permits.
4559
4560 1. Application forms and required fees.
4561
4562 2. The following permits are required prior to application for a TPP:
4563
4564 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
4565
4566 b. A State Department of Health or State Department of Environmental Protection permit
4567 authorizing the connection of the temporary residence to an onsite or small domestic
4568 wastewater treatment system.
4569
4570 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
4571 of that 30-day period, if no application has been filed, the temporary habitable structure must
4572 be immediately removed from the site. If an application has been filed within the 30-day time
4573 period, the temporary habitable structure may remain in place until the TPP is either approved
4574 or denied. Once approved, the temporary habitable structure may remain in accordance with the
4575 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
4576
4577 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
4578 shall be subject to the following:
4579
4580 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
4581 time as a valid TPP has been issued and is in effect for the site.
4582
4583 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities, and
4584 an external electrical system are required within 20 days of issuance of the TPP. Inspections for
4585 such connections shall be called into the city within two days of completion of each connection.
4586 Electrical and plumbing connections must be done by electricians or plumbers licensed to do
4587 business in the City of Cape Coral. If there is no electricity to the site due to a power outage, a
4588 generator may be used. Upon restoration of electricity to the property, connection to the local
4589 power grid must be made within 24 hours of power restoration.
4590
4591 3. An application for a building permit is required within three months from the date of issuance
4592 of the TPP for temporary residential structures or within six months for temporary business
4593 structures. Failure to apply for a building permit within the required time shall deem the TPP
4594 revoked pursuant.
4595
4596 4. If a building permit application has not been submitted within the required time-frames, an
4597 applicant may petition City Council for relief from the time restrictions of this subsection.
4598 City Council shall determine whether the failure to apply for a building permit is due to good
4599 cause shown by the applicant. If City Council denies the request for relief, the temporary
4600 structure shall be removed from the site within ten days from the date of denial, or at the

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 4601 end of the initial three-month period for temporary residential structures, or at the end of
4602 the initial six-month period for temporary business structures, whichever is later.
4603
- 4604 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
4605 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the
4606 owner or occupants of the damaged structure are established in a permanent structure at
4607 another location.
4608
- 4609 6. Occupants must comply with all mandatory hurricane evacuation requirements.
4610
- 4611 J. Temporary structures. Temporary habitable structures must comply with the following:
4612
- 4613 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
4614 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
4615 offices. At the discretion of the Building Official, additional types of temporary business
4616 structures may be allowed, consistent with applicable federal, state, and local regulations and
4617 the provisions of this ordinance.
4618
- 4619 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
4620 regulations as well as all applicable state and local requirements for tie-downs.
4621
- 4622 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
4623 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
4624 residential structures shall contain a kitchen capable of being hooked up or attached to external
4625 plumbing and electrical systems. Requirements for temporary business structures shall be
4626 based upon the proposed use.
4627
- 4628 4. Shall meet the Florida Accessibility Code for building construction amenities.
4629
- 4630 L. Placement of temporary habitable structures. The following site considerations are required for
4631 placement of a temporary habitable structure:
4632
- 4633 1. Temporary residential structures may be anywhere on the site of the existing permanent
4634 residence; however, no a temporary residence is allowed within road rights-of-way or
4635 drainage or utility easements. The city may waive any development regulations regarding lot
4636 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
4637 temporary residential structures.
4638
- 4639 2. Where more than one existing permanent residence has been rendered uninhabitable, the
4640 Building Official may allow up to the number of damaged permanent residences or residential
4641 units on the site. Such determination shall be based upon consideration of life, health, and
4642 safety requirements.
4643
- 4644 3. For temporary business structures:
4645

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 4646 a. Temporary business structures may be anywhere on the parcel of the existing business;
4647 however, temporary business structures are not allowed within road rights-of-way or
4648 drainage or utility easements. The city may waive any development regulations regarding
4649 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
4650 temporary business structures.
4651
- 4652 b. Temporary business structures may be on property adjacent to the permanent business
4653 structure if a notarized, written consent from the property owner is submitted at the
4654 time of application for a TPP.
4655
- 4656 c. The establishment of an emergency response team center on a parcel containing a
4657 business does not necessarily preclude the placement of one or more temporary business
4658 structures on the same parcel.
4659
- 4660 d. Parking for a temporary business structure shall be provided based upon the square footage
4661 of the temporary business structure, including handicapped parking. However, a minimum
4662 of two handicapped parking spaces must be provided.
4663
- 4664 e. The entrance to the site shall have a city approved driveway or construction entrance.
4665 Any impervious area added for the temporary business structure shall be subject to
4666 review and approval by the city.
4667
- 4668 f. Additional conditions or restrictions may be placed on a temporary business structure as
4669 a condition of issuance in areas including, but not limited to, the following:
4670 i. Hours of operation;
4671 ii. Traffic control and access;
4672 iii. Lighting; and
4673 iv. Noise control.
4674
- 4675 M. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
4676 following has occurred:
4677
- 4678 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
4679
- 4680 2. If an application for a building permit has not been submitted within required time from the
4681 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
4682 TPP, or, if a building permit later expires.
4683
- 4684 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
4685 the requirements of this subsection.
4686
- 4687 4. Failure to evacuate temporary residence during mandatory evacuation orders.
4688
- 4689 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
4690 residence removed within five days of revocation. Failure to vacate or remove the temporary
4691 residence constitutes a violation subject to the penalty imposed herein.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

4692
4693
4694
4695
4696
4697
4698
4699
4700
4701
4702
4703
4704
4705
4706
4707
4708
4709
4710
4711
4712
4713
4714
4715
4716
4717
4718
4719
4720
4721
4722
4723
4724
4725
4726
4727
4728
4729
4730
4731
4732
4733
4734
4735
4736
4737

- N. Extensions and expiration of temporary placement permits.
1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official may, for good cause shown, issue up to two extensions for six months each, for an 18-month maximum period of validity from the date of issuance.
 2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building Official may, for good cause shown, issue up to two extensions for six months each, for a 21-month maximum period of validity from the date of issuance.
 3. All applications for extensions of time must be submitted prior to the date of expiration of the current TPP.
 4. Any further extensions after the second extension and maximum time period may not be issued by the Building Official: however, applicants may submit a request to City Council for their approval of any further extension of time for the TPP.
 5. Factors to be considered by the Building Official or the City Council in determining whether to grant an extension of time of the TPP shall include:
 - a. The ability of the property owner or occupant of the temporary residential or business structure to secure permanent quarters; and
 - b. Any hardship that, in the opinion of the Building Official or City Council, as applicable, would warrant a further extension of the TPP.
 6. Upon the, expiration of a TPP, a temporary residence or business structure must be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.
 7. Termination of temporary habitable structure. Once an uninhabitable structure has been issued a certificate of occupancy or certificate of use for a new or rehabilitated residence, business, or institutional facility, the TPP shall be deemed to be terminated. A temporary residential or business structure must then be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.
 8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each day of violation shall constitute a separate offense and shall be punishable as such.

Section. 5.9.10. Temporary Off-Site Vehicle Sales.

The display of vehicles, including, but not limited to, automobiles, trucks, vans, recreational vehicles such as camping trailers, motorcycles and recreational terrain vehicles, and water craft such as boats,

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

4738 jet skis and wave runners, displayed for the purpose of sale, lease, trade or rental, shall be permitted
4739 at an off-site location (that is, on an improved property that is not the approved location of the
4740 business).

4741

4742 A. Temporary Off-Site Vehicle Sales shall adhere to the following requirements:

4743

4744 1. The commercial establishment seeking the temporary sale permit must have the written
4745 permission of the owner, or an authorized representative of the owner, of the property on
4746 which the temporary sale will be conducted. The written permission shall state that, as a
4747 condition of the city's issuance of a permit for the temporary sale, the property owner agrees
4748 to be responsible for any damage to the city's right-of-way or utility systems as a result of the
4749 sale and that any such damage shall be repaired at the expense of the property owner. In
4750 addition, such written permission shall also state that, in consideration of the city's issuance of
4751 the permit, the property owner shall hold the city harmless from any claim, loss, damage, or
4752 cause of action that arises because of the temporary sale or the issuance of the permit
4753 therefore, including any loss or damage to the owner's property or improvements thereon. Such
4754 written permission shall have a notarized signature and shall be filed with the Department of
4755 Community Development.

4756

4757 2. The duration of any such temporary sale shall not exceed five consecutive days.

4758

4759 3. The property on which the off-site sale is conducted shall not have been used for temporary
4760 off-site sales for more than six occasions in the preceding one-year period.

4761

4762 4. Temporary sales shall only be conducted between the hours of 8:00 a.m. to 9:00 p.m.

4763

4764 5. The display of vehicles and the operation of the temporary sale shall not interfere with the
4765 normal parking and traffic circulation of the business(es) located on the site.

4766

4767 6. The temporary off-site vehicle sales permit shall, at all times during the permitted time period
4768 authorized for the sales, be displayed on the site upon which such sales are being conducted.

4769

4770 7. No temporary sale shall begin until a permit therefore has been approved and issued by the city
4771 and all fees are paid in accordance with the city's adopted fee schedule. Prior to the issuance
4772 of a temporary sale permit, a complete application must be submitted to the Department of
4773 Community Development, along with a conceptual site plan. In addition to the proposed site
4774 layout and setbacks, the conceptual site plan shall address vehicular traffic and parking
4775 measures, fire protection measures, sanitary facilities and lighting and areas of electric needs.
4776 The temporary sale permit shall include, as applicable:

4777

4778 a. The right to erect one sign or banner, a maximum of 32 square feet in size, or two such signs
4779 or banners for properties having frontage on more than one street. In lieu of such sign(s) or
4780 banner(s), the applicant may display an inflatable object in accordance with Article 7 of this
4781 code. The applicant shall include with the application sign details such as the placement of
4782 the sign and anchoring or tie-down measures. The placement and anchoring of the means
4783 of advertisement shall not interfere with the visual safety of motoring traffic.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 4784
4785
4786
4787
4788
4789
4790
4791
4792
4793
4794
4795
4796
4797
4798
4799
4800
4801
4802
4803
- b. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided that the applicant provides proof of fire-retardancy and adequate tie-down measures with the application. Tents larger than 425 square feet shall require a separate tent permit. The location and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in accordance with the Florida Accessibility Code for Building Construction and ADA requirements and shall be anchored in accordance with all applicable building code standards.
 - c. Permission to utilize an electric generator on site. A temporary electric pole shall not, however, be authorized by the temporary sale permit. A temporary electric pole shall require a separate permit to be applied for and issued to a licensed electrical contractor.
 - d. The applicant shall request inspection by the city of the items authorized under this section and shall receive approval thereof prior to beginning the off-site sale activity. Inspection of items authorized pursuant to subparagraphs a. through c. shall be made by the Department of Community Development. Items authorized pursuant to subparagraphs b. and c. shall also be made by the Fire Department.

- 4804
4805
4806
4807
4808
4809
4810
- B. Any other outdoor display on improved property must be approved by City Council and is subject to review annually at the discretion of Council, except that the City Manager may approve requests for temporary displays of no longer than five days duration no more than two times per calendar year for any location or applicant when he or she is satisfied that the request would be in keeping with the harmony of the zoning district and that it would violate none of the ordinances of the City of Cape Coral.

4811 **Section. 5.9.11. Tents for other than Special Events.**

- 4812
4813
4814
4815
4816
4817
4818
4819
4820
4821
4822
4823
4824
4825
4826
4827
4828
4829
- A. A tent may be permitted to be erected for a for a maximum of five days for an event.
 - B. A tent permit is required, and the application must include the following information.
 - 1. A site plan showing tent location(s) with the dimensions from the property lines, existing structures, location of equipment, all streets, entrances, exits, parking areas, and restroom facilities;
 - 2. Notarized agent authorization from the property owner;
 - 3. Proof of current liability insurance; and
 - 4. If required, proof of sanitary facilities (port-o-let) or a letter from a neighboring business stating that restroom facilities are available for their use and the hours of operation are compatible.
 - C. Review Criteria. All tent permits will be reviewed for zoning compliance, compliance with applicable building and fire code requirements, and a City Business Tax Receipt.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

4830
4831
4832
4833
4834
4835
4836
4837
4838
4839
4840
4841
4842
4843
4844
4845
4846
4847
4848
4849
4850
4851
4852
4853
4854
4855
4856
4857
4858
4859
4860
4861
4862
4863
4864
4865
4866
4867
4868
4869
4870
4871
4872
4873

Section. 5.9.12. Other events not named.

A person desiring to hold any temporary event, not listed herein, shall contact the Community Development department regarding the necessity of a permit and any additional permissions that may be required.

Section 5.9.13 Temporary seawall staging areas.

- A. Temporary seawall construction staging in residential zoning districts. Temporary off-site staging areas for seawall construction are allowed in residential zoning districts subject to the following requirements:
 - 1. Requirements for temporary seawall construction staging areas:
 - a. Time limits. Temporary seawall staging areas may be permitted for up two years;
 - b. Allowable storage of materials. Only materials used in the repair or reconstruction of seawalls may be stored on the permitted staging site. Materials shall not be located in the side yard setbacks of the staging site. All rubble or debris shall be stored in dumpsters;
 - c. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
 - d. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through Saturday only. No work shall occur on New Years Day, July 4th, Thanksgiving, or Christmas Day;
 - e. No structures other than a permitted construction trailer may be placed on the property;
 - f. No outdoor lighting is permitted for any staging area in a residential zoning district;
 - g. The permittee shall be responsible for restoration of the staging area upon completion of the work and restoration of any damage to any City facilities, such as roadside swales, pipes, catch basins, pavement, signs, striping, etc.;
 - h. Barges may not be docked or moored in any manner that obstructs navigation or use of docks or boats; and
 - i. Prohibited on-site activities. The following activities are prohibited:
 - i. Jackhammering or other methods of breaking up concrete or other demolition debris from damaged seawalls;
 - ii. Grinding or saw cutting of concrete or rebar debris; and
 - iii. Any dust creating operations.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 4874 2. Permit application and submittal requirements. A permit shall be required for a temporary
4875 seawall staging area. The applicant shall submit the following information to the Department of
4876 Community Development:
4877
- 4878 a. A scaled drawing of the site showing the location of all material to be stored or staged for
4879 construction;
 - 4880
 - 4881 b. The name and notarized written consent of the property owner(s). Such written
4882 authorization may be revoked at any time;
 - 4883
 - 4884 c. The length of time the site is to be used for staging, including post-staging clean up; and
4885
 - 4886 d. The name, address, and contact information for the person(s) responsible for the staging
4887 area activities.
4888
- 4889 3. Notice to Neighbors. Mailed notice to surrounding property owners is required for any
4890 individual seawall staging area expected to be used for a period exceeding nine months. The
4891 notice shall be mailed to all property owners of record in a 500' radius from the site. The
4892 applicant shall be responsible for the cost of notice.
4893
- 4894 4. Extensions and expiration of seawall staging areas. Seawall staging area permits shall expire
4895 two-years from issuance unless an extension is granted. Permitted staging areas may apply for
4896 a (1) one-year extension.
4897
- 4898 5. Inspection by City officials. In order to ensure compliance with all applicable laws and
4899 regulations, temporary seawall construction staging areas shall be held open for reasonable
4900 inspection, without court order, by employees or agents of the City of Cape Coral or any other
4901 duly authorized governmental agency.
4902
- 4903 6. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each
4904 day of violation shall constitute a separate offense and fines.
4905

4906 **Chapter 10. - SPECIFIC USE REGULATIONS (P* Uses in Table 4.4)**

4907
4908 **Section. 5.10.1. Purpose and applicability.**
4909

- 4910 A. The uses listed in this chapter are deemed to be appropriate uses when developed and operated in
4911 accordance with the requirements listed within each Section. Approval may be granted
4912 administratively as long as the requirements are met and maintained. The applicant shall provide all
4913 documents necessary to prove that the requirements are met prior to receiving approval to operate
4914 and on an ongoing basis as required for the specific use.
4915
- 4916 B. The landscape standards of this chapter are in addition to any landscape standards established in
4917 Chapter 5, Landscaping, of this Article.
4918

4919 **Section. 5.10.2. Craft breweries, distilleries, and wineries.**

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

4920
4921
4922
4923
4924
4925
4926
4927
4928
4929
4930
4931
4932
4933
4934
4935
4936
4937
4938
4939
4940
4941
4942
4943
4944
4945
4946
4947
4948
4949
4950
4951
4952
4953
4954
4955
4956
4957
4958
4959
4960
4961
4962
4963
4964
4965

- A. Requirements. All craft breweries, distilleries, or wineries which produces alcoholic beverages for consumption on premise or provide retail sales, shall comply with the following requirements:
 - 1. The business owner shall submit semi-annual production records to the Department of Community Development for all alcohol and nonalcohol products produced within the establishment.
 - 2. All mechanical equipment used in the alcohol production process shall be behind a wall or fence that separates the equipment from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. The wall or fence shall be opaque and have a minimum height of six feet.
 - 3. Loading and unloading areas shall be provided to the side or rear of the building. Loading and unloading areas shall not be along the front of the building.
 - 4. Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:
 - a. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains on the property and the distance of the stockpiled grains from the property lines and the building containing the artisan brewery, distillery, or winery;
 - b. Located only along the side or rear of the building; and
 - c. Fully enclosed in containers that are behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet. Cargo containers and tractor trailers shall not be utilized for the temporary stockpiling of spent or used grains even if the cargo containers and tractor trailers are behind an opaque wall or fence.
- B. Waiver of requirements.
 - 1. Permitted and Conditional Uses.

To encourage the repurposing of existing buildings in the NC or SC districts, any craft brewery, distillery, or winery that is approved as a permitted use, the provisions of this Section may be waived in part or in their entirety by the Director for the purpose of spurring economic development based on the criteria contained in Subsection 2.
 - 2. Criteria. In determining whether to waive one or more of these standards the Community Development Director shall utilize the following criteria:
 - a. The visibility of the mechanical equipment and loading areas from any public street(s).
 - b. The proximity and visibility of the mechanical equipment and loading areas from existing residential development.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 4966
4967
4968
4969
4970
4971
4972
4973
4974
4975
4976
4977
- c. The existence of site conditions that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship.
 - d. The effect other regulations would have on the proposed development or other locational factors that may make compliance with this Section impossible or impracticable.
 - e. The annual production of alcohol anticipated to be produced by the establishment.
 - f. The size and extent of the equipment requiring screening.

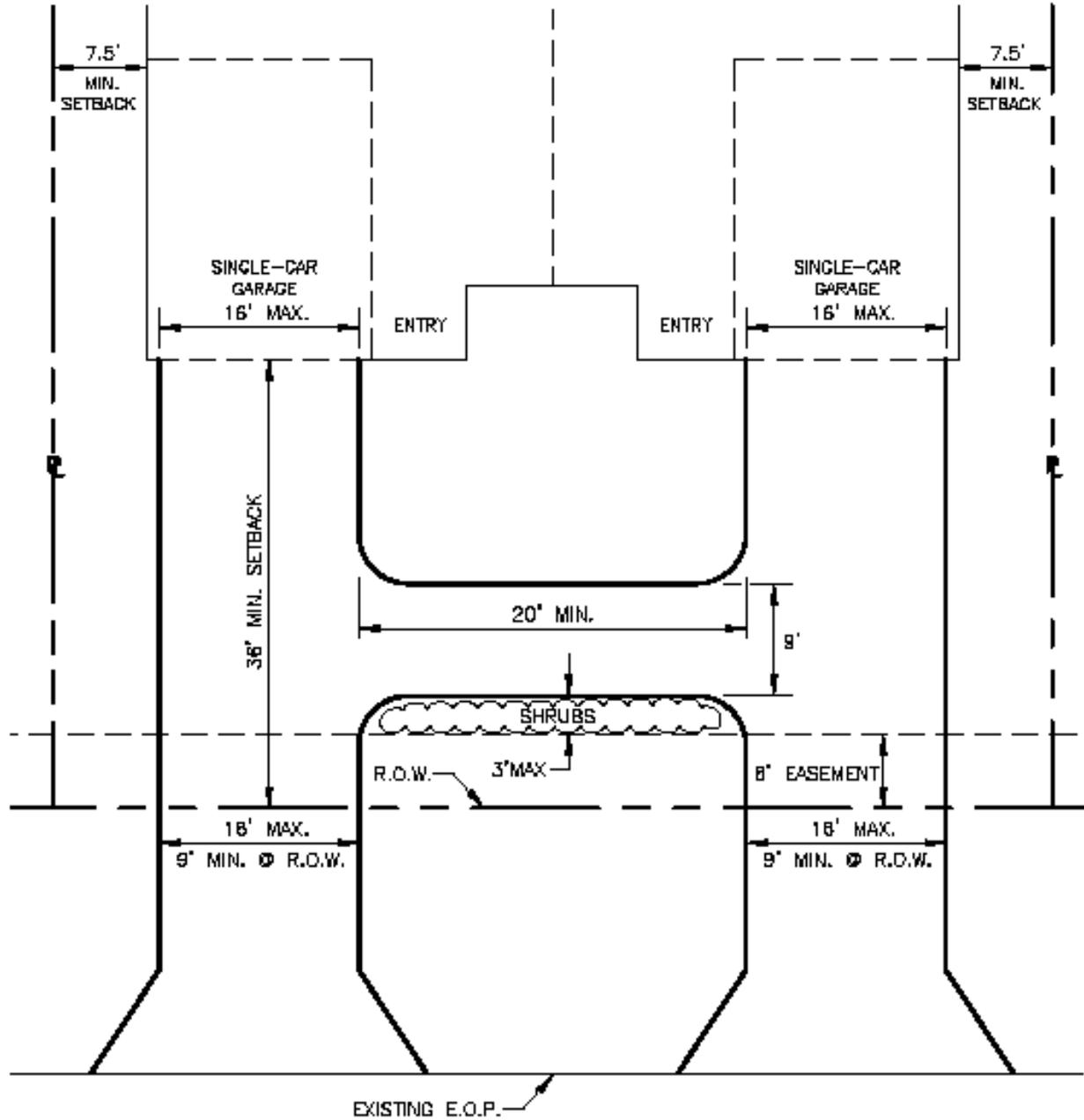
4978 **Section. 5.10.3. Duplexes and Single-family Semi-detached dwellings.**
4979

4980 Duplexes and Single-family Semi-detached dwellings must meet the following conditions:
4981

- 4982
4983
4984
4985
4986
4987
- A. All duplexes or single-family semi-detached dwellings on parcels less than 20,000 square feet in area must be served by public water and sewer.
 - B. All duplex and single-family semi-detached dwelling parking areas and driveways in the RML zoning district shall conform to one of the following Duplex Driveway and Parking Design Standards:

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

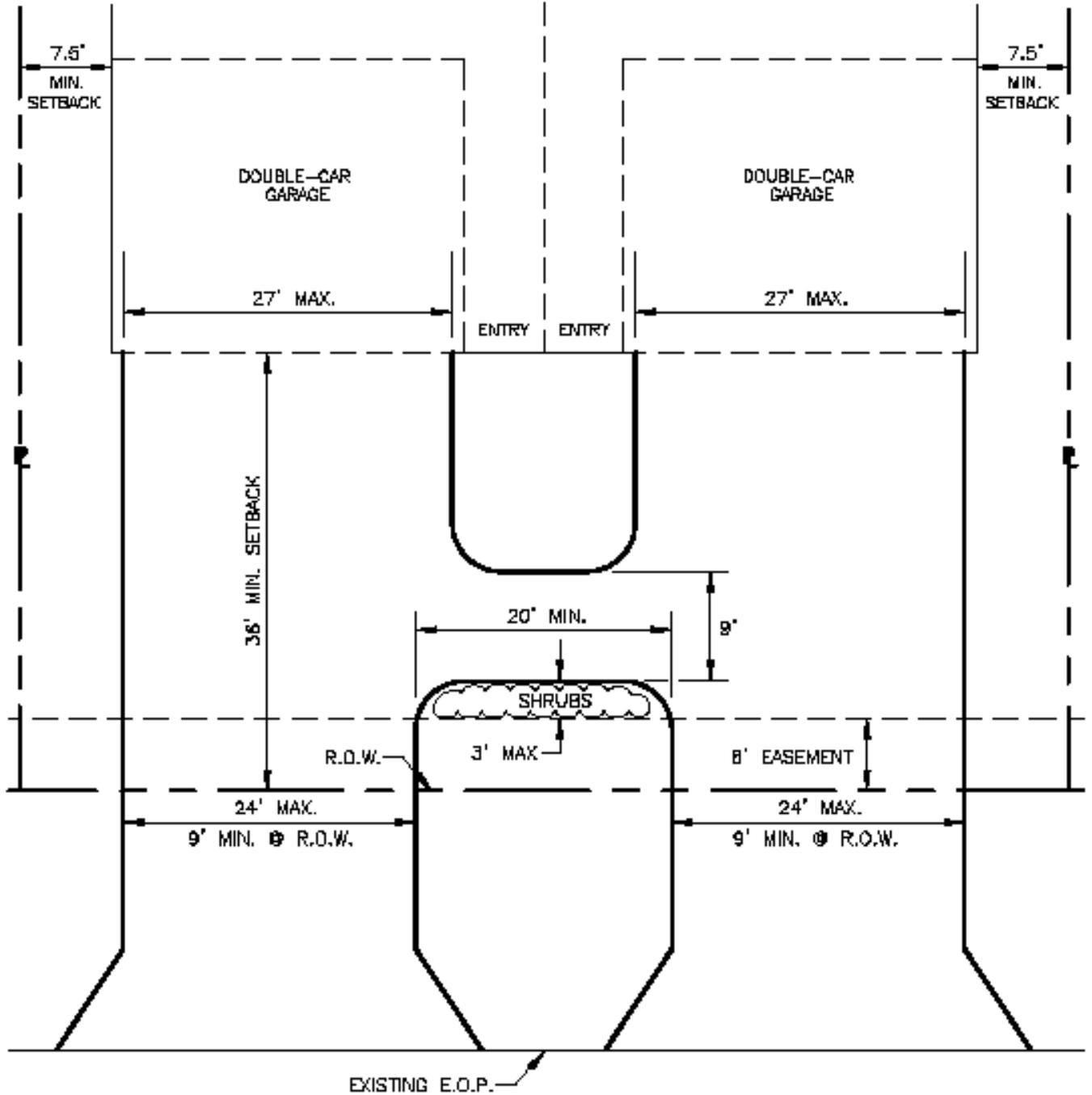
DUPLEX DRIVEWAY & PARKING STANDARD
(SINGLE-CAR GARAGE)



4989
4990

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

DUPLEX DRIVEWAY & PARKING STANDARD
(DOUBLE-CAR GARAGE)



4991
4992
4993
4994

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 4995 C. Duplex structures in the RML zoning district may not be sold, subdivided, or conveyed by deed into
4996 individually owned parcels or dwelling units.
4997
- 4998 D. Landscaping shall be provided at a rate of two trees and six shrubs per each 2,500 square feet of the
4999 lot. A portion of the required landscaping shall be placed in the locations shown on the Duplex
5000 Driveway and Parking Design Standards.
5001
- 5002 E. All duplexes and single-family semi-detached structures shall incorporate three of the following
5003 design elements into each dwelling unit:
5004
- 5005 1. Dwelling entry as the primary façade feature;
 - 5006
 - 5007 2. Garage door recessed from the front façade, a preferred minimum of four feet;
 - 5008
 - 5009 3. Horizontal eaves broken up with gables, projection, and articulation;
 - 5010
 - 5011 4. Projecting eaves and gables, related to building massing;
 - 5012
 - 5013 5. Building massing and roof form which articulate individual unit definition;
 - 5014
 - 5015 6. Offset of four feet where two garage doors are adjacent to each other; or
 - 5016
 - 5017 7. Projections and decorative elements, such as trellises, for visual interest.
5018
- 5019 F. Duplexes on corner lots that have at least one dwelling unit entry on the side of a duplex shall not be
5020 required to provide a turn-around or a bump-out driveway on a 2-lane street.
5021
- 5022 G. As an alternative to the design requirements of subsection B, above, a duplex or single-family semi-
5023 detached dwelling unit in the RML zoning district may provide a two-car garage for each dwelling unit.
5024
- 5025 **Section. 5.10.4. Home occupations.**
5026
- 5027 Home occupations shall only be allowed as an accessory use to a residential use, provided the following
5028 conditions are met:
5029
- 5030 A. All home occupations operated in or from a residence shall comply with federal, state, and county
5031 rules and regulations, city license regulations specified herein, and any other applicable ordinances of
5032 the City of Cape Coral.
5033
 - 5034 B. No person other than members of the immediate family may be employed for a salary, commission
5035 or upon any other remunerative basis.
5036
 - 5037 C. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
5038 such as storage of paints or other flammable materials in excess of normal family use.
5039

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 5040 D. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
5041 of materials be visible from the outside of the structure.
5042
- 5043 E. No home occupation shall occupy an area greater than 10% of the living area of the structure.
5044
- 5045 F. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is
5046 reasonable to the district in which it is located and it shall not involve the use of commercial vehicles
5047 for delivery of materials to or from the residence.
5048
- 5049 G. The appearance of the structure shall in no way be altered for the conduct of the home occupation
5050 within the structure nor shall the conduct be such that the structure may be recognized as serving a
5051 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
5052 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
5053 in the electric voltage line off the premises.
5054
- 5055 H. No business operated under a fictitious name shall be issued a license to operate under this Section.
5056

5057 **Section. 5.10.5. RV resorts**
5058

- 5059 A. General provisions. Within a recreational vehicle park, recreational vehicles that meet the
5060 requirements herein, whether self-propelled or pulled by a towing vehicle, and camping cabins, as
5061 regulated herein, may be used for temporary lodging. Facilities to accommodate administration,
5062 maintenance, recreation, dining, and personal care may be included within a recreational vehicle
5063 park. Recreational vehicle parks shall be deemed to be nonresidential uses, and any transient guest
5064 site occupied by a registered guest of a recreational vehicle park shall not be deemed to be a
5065 "residence", "dwelling." or "residential premises" within the meaning of other provisions of the City
5066 of Cape Coral regulations. The management of all transient guest sites and camping cabins must be
5067 performed by a single on-site management company or entity, regardless of whether the transient
5068 guest sites, camping cabins, or both are owned by more than one person or entity.
5069
- 5070 B. Lodging unit characteristics. Lodging shall only be allowed within recreational vehicles and camping
5071 cabins that have all of the following characteristics:
5072
- 5073 1. Recreational vehicles:
5074
- 5075 a. Shall be no more than eight and one-half feet in body width, exclusive of safety devices
5076 when slide outs are retracted;
5077
- 5078 b. Shall have water and wastewater systems designed for continuous connection to water and
5079 wastewater service facilities while parked at a transient guest site; and
5080
- 5081 c. Shall not be constructed with collapsible partial sidewalls that fold for towing in such a way
5082 as to be unusable for occupancy.
5083
- 5084 2. Camping cabins shall comply with all of the following criteria:
5085

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 5086 a. Cabins shall be constructed in compliance with the Florida Building Code;
5087
5088 b. The square footage of interior space shall be a minimum of 200 square feet and a maximum
5089 of 600 square feet;
5090
5091 c. Cabins shall be equipped with electric service and a full bathroom;
5092
5093 d. Cabins are exempt from non-residential design standards, however when there is more than
5094 one cabin in a development, the color scheme, exterior materials on walls, exterior roof
5095 finishing, and roof type must be consistent among all cabins;
5096
5097 e. Corrugated metal is prohibited for exterior walls; and
5098
5099 f. Roofs shall consist of pitched roofs, including but not limited to, gable, hip, or mansard
5100 roofs; however, mansard roofs with flat decks and shed style roofs are prohibited.
5101
5102 C. Location. Recreational vehicle parks are permitted only on property with a Mixed-Use future land
5103 use designation. No new recreational vehicle park shall be developed and no existing recreational
5104 vehicle park shall be expanded within a coastal high hazard area, as depicted in the Comprehensive
5105 Plan.
5106
5107 D. Minimum interior road standards. All interior roads shall be privately owned and maintained, and
5108 shall be constructed in accordance with the structural requirements within the City of Cape Coral
5109 Engineering Design standards.
5110
5111 E. Overall recreational vehicle park area and density. The following requirements shall apply to the
5112 recreational vehicle park net area:
5113
5114 1. Minimum recreational vehicle park net area: 25 acres;
5115
5116 2. Maximum net density: 10 transient guest sites per acre, based on net area; and
5117
5118 3. Minimum net density: For recreational vehicle parks with a net area of less than 50 acres, the
5119 minimum quantity of transient guest sites shall be 50; for recreational vehicle parks with a net
5120 area of 50 or more acres, there shall be no less than one transient guest site per acre, rounded
5121 to the nearest whole number.
5122
5123 For purposes of this section, the net area shall mean the area of the recreational vehicle park minus
5124 extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If an extant
5125 wetland or water area is expanded or contracted, the net area shall be based on the resultant
5126 wetland and water areas.
5127
5128 F. Transient guest sites. Transient guest sites can be designed with either: 1) a pad for parking one
5129 recreational vehicle; 2) one camping cabin; or 3) a pad for parking one recreational vehicle and one
5130 camping cabin. The following standards shall apply to transient guest sites within a recreational
5131 vehicle park:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 5132
- 5133 1. Each transient guest site shall be clearly defined by a permanent marker, constructed of a
- 5134 durable material such as masonry or metal, placed at all corners;
- 5135
- 5136 2. No transient guest site shall include any space used for common areas, such as roadways,
- 5137 sidewalks, or community recreation areas;
- 5138
- 5139 3. No more than 25% of the total transient guest sites shall be developed with a camping cabin.
- 5140 Transient guest sites with a pad for parking one recreational vehicle and one camping cabin
- 5141 shall not be factored into the 25% limitation to the number of camping cabins;
- 5142
- 5143 4. All transient guest sites shall be designed to provide runoff of surface water to a drainage
- 5144 system or basin external to the transient guest site;
- 5145
- 5146 5. Impervious area shall not exceed 65% of any transient guest site. Pervious areas of each
- 5147 transient guest site shall be covered in turf, groundcover, shrubs, trees, or any combination
- 5148 thereof;
- 5149
- 5150 6. Each transient guest site shall have direct vehicular access to an interior road. No transient guest
- 5151 site shall have direct vehicular access to a public street;
- 5152
- 5153 7. No transient guest site shall be located closer than 40 feet to any public street right-of-way;
- 5154
- 5155 8. Separation: Each transient guest site shall be designed to ensure minimum separation between
- 5156 units. When measuring the distance from a recreational vehicle pad, paved areas that project
- 5157 more than four and one-half feet from the centerline of the pad, e.g., driveway apron flares,
- 5158 walkways, and patio areas, may be excluded. Distances of separation shall be as follows:
- 5159
- 5160 a. Between camping cabins: 15 feet;
- 5161
- 5162 b. Between a camping cabin and a recreational vehicle pad on the same transient guest site:
- 5163 15 feet;
- 5164
- 5165 c. Between a camping cabin and a recreational vehicle pad on a separate transient guest site:
- 5166 20 feet;
- 5167
- 5168 d. Between a transient guest site boundary line and a camping cabin: 7½ feet; and
- 5169
- 5170 e. Between transient guest site boundary line and a recreational vehicle pad: 7½ feet.
- 5171
- 5172 9. Each transient guest site designed with a pad for parking a recreational vehicle shall have the
- 5173 following standards:
- 5174
- 5175 a. Maximum number of recreational vehicles: 1;
- 5176
- 5177 b. Minimum site area: 2,000 square feet;

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 5178
- 5179 c. Maximum site area: 1 acre;
- 5180
- 5181 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
- 5182 boundary lines; and
- 5183
- 5184 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
- 5185 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
- 5186 asphalt as a paving material for vehicle pads and driveways is prohibited.
- 5187
- 5188 10. Each transient guest site developed with a camping cabin shall have the following standards:
- 5189
- 5190 a. Maximum number of camping cabins: 1;
- 5191
- 5192 b. Minimum site: 2,500 square feet; and
- 5193
- 5194 c. Parking space: Each site developed with a camping cabin shall include a minimum of one
- 5195 automobile vehicle parking space, paved with concrete or pavers, or as otherwise approved
- 5196 by the city, with minimum dimensions of 9 feet by 18 feet. This limitation shall not apply to
- 5197 transient guest sites with a pad for parking one recreational vehicle and one camping cabin.
- 5198 The use of asphalt as a paving material for vehicle parking spaces is prohibited.
- 5199
- 5200 11. Each transient guest site developed with both a pad for parking a recreational vehicle and with
- 5201 a camping cabin shall have the following standards:
- 5202
- 5203 a. Maximum number of units: one camping cabin and a pad for parking no more than one
- 5204 recreational vehicle;
- 5205
- 5206 b. Minimum site area: 5,000 square feet;
- 5207
- 5208 c. Maximum site area: 1 acre;
- 5209
- 5210 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
- 5211 boundary lines; and
- 5212
- 5213 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
- 5214 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
- 5215 asphalt as a paving material for vehicle pads and driveways is prohibited.
- 5216
- 5217 12. Each transient guest site may also include accessory structures for outdoor living, including, but
- 5218 not limited to, an outdoor kitchen, fire pit, spa, hot tub, gazebo, shade shelter, marine
- 5219 improvements, and other hardscape features.
- 5220
- 5221 G. Utilities. Each transient guest site shall have direct connections to central potable water, central
- 5222 wastewater, and electric services. All water and wastewater utility infrastructure within a
- 5223 recreational vehicle park shall be privately owned and maintained, except as otherwise approved

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

5224 by the City Council. Within the recreational vehicle park, all telephone, electric, television cable
5225 service, or other wires of all kinds must be underground, provided, however, that appurtenances
5226 to these systems which require aboveground installation may be exempted from these
5227 requirements and primary facilities providing service to the site of the development or necessary
5228 to service areas outside the planned development project may be exempted from this requirement.
5229

5230 H. Lighting. All roads, walkways and parking areas shall be provided with lighting adequate to ensure
5231 the safety of vehicular and pedestrian traffic. All lighting shall be designed so that it is not directed
5232 toward neighboring properties.
5233

5234 I. Parking. In addition to parking spaces on transient guest sites, a minimum of one parking space per
5235 ten recreational vehicle sites within the park shall be provided for visitors.
5236

5237 J. Designated storage. Except for boats at a rental facility or moored at a marine improvement, boats
5238 and utility trailers (tow dollies, "toy haulers", etc.) shall be stored in a designated storage area that
5239 shall occupy no more than 5% of the gross area of the park. Such storage area shall be for the
5240 exclusive use of registered guests. only during the period the guest is a registered occupant of a
5241 transient guest site. Designated storage areas shall be enclosed by an opaque visual barrier that is
5242 a minimum of eight feet in height. The following materials, either singly or in any combination, are
5243 the only materials that may be used to form the opaque visual barrier:
5244

- 5245 1. Wood, plastic, vinyl, or metal fencing;
 - 5246 2. Concrete block and stucco wall;
 - 5247 3. Brick wall; or
 - 5248 4. Formed, decorative, or precast concrete.
- 5249
5250
5251
5252

5253 No storage area shall be located closer than 40 feet to any exterior property line of the recreational
5254 vehicle park. No repair or maintenance other than cleaning shall be conducted within such storage
5255 area.
5256

5257 K. Recreation area. At least one recreation area shall be provided within the park, designed and
5258 improved to serve the recreational needs of the park users. The recreation area(s) shall be a
5259 minimum of 500 square feet per transient guest site. All recreation areas shall be accessible to all
5260 occupants of the park. If more than one recreation area is provided, no recreation area shall be less
5261 than 10,000 square feet. A minimum of 50% of the total required recreation area shall be comprised
5262 of recreation within a building, or outdoor facilities for active recreation, including, but not limited
5263 to, swimming pools, ball fields, tennis courts, or play lots with facilities. No portion of any transient
5264 guest site, perimeter buffer yard, internal road or road easement, or stormwater management area,
5265 except as provided below, shall be counted as required recreation area. Bodies of water may be
5266 counted toward required recreation area if recreational use is not otherwise prohibited on or in the
5267 body of water and if recreational amenities, including, but not limited to, a beach, boat rental or
5268 launching facilities, are provided. In no event, however, shall bodies of water comprise more than
5269 50% of the required recreation area.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 5270
5271 L. Landscaping plan. Requests for approval for a recreational vehicle park shall be accompanied by a
5272 landscaping plan that provides, at a minimum, compliance with Section 5.5.
5273
- 5274 M. Phasing. The Director shall not issue a certificate of use for a recreational vehicle park prior to
5275 completion of construction of all of the transient guest sites, internal roads, drainage system,
5276 potable water and wastewater utilities, landscaping and buffering, and accessory structures
5277 approved for the park, unless the Hearing Examiner and Appeals (or the City Council, when
5278 applicable) approves a phasing plan that identifies size, location, sequence, and timing of the
5279 various phases of the development. If a phasing plan is approved, the Director shall not issue a
5280 certificate of use for any phase that has not been completed in its entirety.
5281
- 5282 N. Operation generally.
5283
- 5284 1. Responsibilities of management. The owner of a recreational vehicle park shall, at all times,
5285 maintain the park and its facilities in a clean, orderly and sanitary condition. The park
5286 management shall inform all registered occupants of transient guest sites of the provisions of
5287 this section and other related ordinances and statutes, and of their responsibilities thereunder.
5288
- 5289 2. Certificate of use required. No lodging within recreational vehicles or camping cabins shall occur
5290 prior to the issuance of a certificate of use for the recreational vehicle park.
5291
- 5292 3. Length of occupancy. No owner of any recreational vehicle park shall allow or permit any
5293 transient guest sites in a recreational vehicle park to be rented to or occupied by any person or
5294 recreational vehicle for any period of time that would permit or allow any person or recreational
5295 vehicle to remain at such recreational vehicle park for more than 180 days in any 365-day
5296 period.
5297
- 5298 4. Register of occupants. The owner or operator of any recreational vehicle park shall file a report
5299 with the Director showing the guest names and addresses, recreational vehicle license numbers,
5300 dates of arrival and departure, and the transient guest site occupied by each guest at the
5301 recreational vehicle park during the preceding calendar quarter. Such reports shall be filed not
5302 later than April 15th, July 15th, October 15th and January 15th for the immediately preceding
5303 calendar quarter.
5304
- 5305 O. Inspections authorized. The Director is hereby authorized to make periodic inspections of the
5306 recreational vehicle park and transient guest sites for the purpose of determining satisfactory
5307 compliance with the regulations of this section pertaining to the health, safety and welfare of the
5308 community.
5309
- 5310 P. Incidental facilities and amenities. Various facilities and amenities incidental to a recreational
5311 vehicle park are permissible, however, all facilities and amenities must meet all requirements stated
5312 herein together with any additional conditions of approval.
5313
- 5314 1. The following facilities may be approved as incidental to a recreational vehicle park:
5315

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 5316 a. Administrative offices;
5317
5318 b. Caretaker or watchperson residence (no more than one);
5319
5320 c. Car wash (Recreational vehicle washing facilities only);
5321
5322 d. Clubhouses;
5323
5324 e. Gatehouses;
5325
5326 f. Grounds maintenance facilities;
5327
5328 g. Laundry facilities:
5329
5330 h. Marine improvements;
5331
5332 i. Restrooms and community showers; and
5333
5334 j. Sanitary dump stations.
5335
- 5336 2. The following amenities are permitted as amenities incidental to the recreational vehicle park
5337 even though they are typically land use classifications identified as individual "uses" within
5338 other zoning districts.
5339
- 5340 a. Banquet halls;
5341
5342 b. Bars;
5343
5344 c. Commercial Recreation – indoor and outdoor;
5345
5346 d. Cultural and civic facilities;
5347
5348 e. Personal services;
5349
5350 f. Professional Offices;
5351
5352 g. Restaurant, no drive-thru; and
5353
5354 h. Retail.
5355
- 5356 3. For recreational vehicle parks with no frontage on any type of arterial or collector street, food
5357 stores, personal services, and restaurants shall be limited as follows:
5358
- 5359 a. Vehicular ingress/egress for parking lots supporting an amenity shall not be directly
5360 accessible from any public street, but shall only be accessible from a road within the park;
5361

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 5362 b. No signs shall be visible from outside the recreational vehicle park; and
5363
- 5364 c. The cumulative gross leasable floor area occupied by food stores, personal services, and
5365 restaurants shall not exceed 3% of the net area of the recreational vehicle park. For
5366 purposes of this section, the net area shall mean the area of the recreational vehicle park
5367 minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If
5368 an extant wetland or water area is expanded or contracted, the net area shall be based on
5369 the resultant wetland and water areas. Food stores shall not occupy more than 25,000
5370 square feet of contiguous gross leasable floor area.
5371
- 5372 4. For recreational vehicle parks with frontage on any type of arterial or collector street, food
5373 stores, personal services, and restaurants shall be limited as follows:
5374
- 5375 a. Vehicular ingress and egress for parking lots supporting food stores, personal services, and
5376 restaurants may be directly accessible from a public street. Visible evidence of the
5377 commercial character of food stores, personal services, and restaurants may be observable
5378 from a street outside the park. For food stores, personal services, and restaurants that have
5379 vehicular ingress/egress directly accessible from a public street, or present visible evidence,
5380 observable from a street outside the park, of their commercial character, no certificate of
5381 use shall be issued until a minimum of 20% of the total transient guest sites for the entire
5382 recreational vehicle park have been constructed or installed; and
5383
- 5384 b. The cumulative gross leasable floor area of food stores, personal services, and restaurants
5385 shall not occupy more than 3% of the net area of the park. Not more than 25,000 square
5386 feet of contiguous gross leasable floor area shall be devoted to food stores.
5387
- 5388 5. In the event that a recreational vehicle park fails to meet the minimum required number of
5389 transient guest sites as a result of removal of transient guest sites or conversion to another use,
5390 or if the offering of lodging at transient guest sites is discontinued for one year or more, any
5391 activity that had previously been approved as an amenity incidental to the recreational vehicle
5392 park use shall lose its status as an amenity and shall be treated in the same manner as a
5393 nonconforming use.
5394
- 5395 Q. Prohibitions. The following uses, activities or improvements listed below are prohibited within a
5396 recreational vehicle park:
5397
- 5398 1. Permanent residential use is prohibited, except in an approved caretaker/watchperson
5399 residence.
5400
- 5401 2. Lodging within any structure other than an approved recreational vehicle, camping cabin,
5402 caretaker, or watchperson residence (e.g., tent, mobile home, garage, shed, or agricultural
5403 building) is prohibited within a recreational vehicle park.
5404
- 5405 3. The storage of a recreational vehicle, boat, or accessory trailer during any period when the
5406 owner or lessee of the vehicle is not a registered occupant of a transient guest site is prohibited.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

5407 Storage of boats and accessory trailers is prohibited on individual transient guest sites or on
5408 internal roads.

5409
5410 4. The parking of a recreational vehicle, automobile, or truck in an area not designated for parking
5411 is prohibited.

5412
5413 5. Drive-thru facilities for restaurants are prohibited.

5414
5415 6. Fuel pumps for retail sales of fuel are prohibited.

5416
5417 R. Evacuation plan. Prior to issuance of a certificate of use for a recreational vehicle park, the
5418 developer shall provide an emergency response plan, approved by the Fire Chief that requires the
5419 removal of all recreational vehicles in the event of a hurricane. At a minimum, all recreational
5420 vehicles and occupants shall evacuate when notified of a "Hurricane Watch" being issued for the
5421 city. Any amendment by the developer to an approved evacuation plan requires approval by the
5422 Fire Chief.

5423
5424 **Section. 5.10.6. Reserved**

5425
5426
5427 **Section 5.10.7. Roadside Food and Vegetable Stand.**

5428
5429 Roadside food and vegetable stands shall be subject to the following requirements:

5430
5431 A. Must meet the minimum building setback requirements for the district;

5432
5433 B. May be in operation during daylight hours only;

5434
5435 C. Shall provide a designated parking area at the side or rear of the roadside food and vegetable stand
5436 sufficient to accommodate ten vehicles;

5437
5438 D. Shall be no larger than eight feet by 32 feet in dimensions, and must be structurally sound;

5439
5440 E. Must meet state, county, or local access requirements;

5441
5442 F. May sell fruits, plants, and vegetables only;

5443
5444 G. Must be built with tie downs capable of withstanding 110 mph winds; and

5445
5446 H. Must contain adequate toilet facilities.

5447
5448 **Section 5.10.8. Accessory Parking Lots.**

5449
5450 Accessory parking lots shall meet the following requirements:

5451

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 5452 A. Accessory parking lots on RML property shall be used only in connection with an existing use or
5453 structure in the C, CC, or P zoning districts.
5454
- 5455 B. The parcel shall meet minimum dimensional requirements.
5456
- 5457 C. The lots in the RML zoning district proposed for accessory parking shall be composed of contiguous
5458 lots in that district and owned by the commercial or professional property owner or corporation
5459 served by the parking site.
5460
- 5461 D. A minimum of 40% of the required parking spaces for the use shall be in a Commercial or
5462 Professional zoning district. The number of required parking spaces shall be determined by Article
5463 6.
5464
- 5465 E. The location of accessory parking lots shall be immediately to the rear, or across any service alley,
5466 and within the extended side yard lot lines of the property that the parking is intended to serve.
5467
- 5468 F. Driveways from accessory parking in RML areas to streets with abutting R-1 zoning shall not be
5469 permitted. However, commercial property fronting on Del Prado Boulevard or Santa Barbara
5470 Boulevard with full block depth and abutting R-1 zoning, shall be permitted one driveway access to
5471 the street with abutting R-1 zoning, in accordance with the City of Cape Coral Engineering Design
5472 Standards.
5473
- 5474 G. The driveway shall be included in any traffic impact study for the property to determine the impact
5475 of commercial traffic on the local street and its intersections and if improvements are needed.
5476
- 5477 H. Where necessary for safe and efficient turn movements, the city may restrict certain turn
5478 movements at the driveway accessing the street with abutting R-1 zoning.
5479
- 5480 I. The parking area shall be classified as part of the entire non-residential building site.
5481
- 5482 J. A landscape plan for the accessory parking areas in RML zoning shall be submitted with the
5483 application for this use. Landscape plans shall be drawn to scale, including dimensions and
5484 distances, and shall clearly delineate:
5485
- 5486 1. Existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways,
5487 and ingress and egress points;
5488
 - 5489 2. The location and floor area of existing building(s) to be served;
5490
 - 5491 3. The source of water supply for plantings and materials to be installed or, if existing, to be used
5492 in accordance with the requirements hereof.
5493
 - 5494 4. All parking areas shall be landscaped in accordance with the requirements of Section 5.5.13 of
5495 this Article.
5496

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 5497 5. There shall be a minimum of seven feet of green area in side setbacks and ten feet of green
5498 area in setbacks from street lot lines which face residential areas.
5499
- 5500 6. There shall be a continuous undulating 18 inch to three feet high by five feet deep berm of earth
5501 extending along the property facing streets.
5502
- 5503 K. Lighting. If any parking areas are artificially lighted, they shall be so designed and arranged that
5504 lighting is primarily directed on-site. Such areas shall not be lighted at any time other than during
5505 the same hours that the use to which the parking is appurtenant is open for business, except for
5506 necessary security lighting.
5507
- 5508 L. Stormwater Management. All parking areas shall incorporate appropriate stormwater quality
5509 design features to be reviewed with the SDP application.
5510

5511 **Section. 5.10.9. Solar Arrays.**

5512
5513 Solar Arrays shall meet the following requirements:

- 5514
- 5515 A. These facilities may only be permitted in the Agriculture, Institutional, or Industrial zoning districts.
5516
- 5517 B. Solar Arrays may only be permitted on lots over one acre in size.
5518
- 5519 C. Must maintain appropriate security fencing and signs for protection.
5520
- 5521 D. Solar Arrays shall be effectively screened with a fence, landscape material, or a combination thereof,
5522 where visible from an abutting property or right-of-way as determined by the Director.
5523
- 5524 1. The structures may be screened with an opaque wall or fence, up to the height allowed in that
5525 zoning district.
5526
- 5527 2. Alternatively, the structures may be screened with shrubs that meet the following requirements:
5528
- 5529 a. A row of shrubs shall be planted along all sides of the facility for which screening is required.
5530
- 5531 b. All shrubs required for screening shall be a minimum of 32 inches in height and be in at least
5532 a seven-gallon container size at the time of planting. All shrubs shall be planted at a spacing
5533 of three feet apart as measured on center.
5534
- 5535 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
5536 maintained in good condition as long as the structures requiring screening remain.
5537
- 5538 d. An adequate combination of the two screening options may be permitted.
5539

5540 **Section 5.10.10. Vehicle Sales, Light.**

5541
5542 Vehicle Sales, Light must meet the following requirements:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

5543
5544
5545
5546
5547
5548
5549
5550
5551
5552
5553
5554
5555
5556
5557
5558
5559
5560
5561
5562
5563
5564
5565
5566
5567
5568
5569
5570
5571
5572
5573
5574
5575
5576
5577
5578
5579
5580
5581
5582
5583
5584
5585
5586
5587

- A. The minimum parcel size shall be 2 acres.
- B. Vehicle Sales, Light shall be a standalone use only.
- C. All display areas must be on an impervious surface such as asphalt or concrete.
- D. All repairs must be ancillary and must be conducted within a building.
- E. Other than vehicles, no outdoor display of any other items shall be permitted.

Section 5.10.11. Wireless Communication Facilities

Wireless Communication Facilities are permitted with the following requirements:

1. Adequate documentation that co-location on an existing approved tower or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:
2. The results of a designed service study demonstrating to the satisfaction of the city that the equipment planned for a proposed communication tower cannot be accommodated on an existing or approved and un-built structure.
3. The designed service study analysis shall be based upon a search area radius of three-quarters of a mile minimum distance from the location of the intended WCF or tower, including areas outside the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-location opportunities, the city may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WCF or tower location and identifies all other alternatives in the area. Further information may be required by the city on the ability of the WCF or tower to be accommodated on specific sites within three-quarters of a mile of the proposed WCF or tower.
4. When co-location is determined by staff to be infeasible, the determination shall be based upon the results of the designed service study and other evidence provided by the applicant documenting one or more of the following reasons:
 - a. Structural limitation. The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - b. Interference. The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 5588 c. Insufficient height. Existing or approved towers and buildings within the search radius cannot
5589 accommodate the planned equipment at a height necessary to function reasonably as
5590 documented by a licensed, if applicable, professional.
5591
- 5592 d. Lack of space. Evidence from the applicant, verified by a licensed professional, of the lack of
5593 space on existing towers or other structures within the search radius to accommodate the
5594 proposed facility.
5595
- 5596 e. Other factors. Other reasons that make it unfeasible to locate the planned equipment upon
5597 an existing or approved tower or building as documented by a qualified and licensed, if
5598 applicable, professional.
5599
- 5600 f. Technical consultants. The city shall have the right to retain independent technical
5601 consultants and experts that it deems necessary to properly evaluate applications for wireless
5602 telecommunications facilities or towers and to charge reasonable fees as necessary to offset
5603 the cost of such evaluations.
5604

Section. 5.10.12. Wireless Facility Design standards.

5605 In addition to any other applicable requirements provided elsewhere in the Land Development Code, an
5606 application for a communication tower shall include the following:
5607

- 5608 A. Fall zone. In the event of a catastrophic failure or collapse, towers shall be designed to collapse within
5609 an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall
5610 zone shall be certified by a professional engineer, licensed in the State of Florida.
5611
- 5612 B. Tower design for co-location. A proposed tower shall be designed to allow for future rearrangement
5613 of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate
5614 co-location.
5615
- 5616 C. Monopoles or stealth. All towers shall be monopoles or stealth design.
5617
- 5618 D. Illumination. A tower shall not be artificially lighted except as may be required by federal or state
5619 regulations.
5620
- 5621 E. Surface or finish color. All towers shall be painted or have a non-contrasting finish that minimizes the
5622 visibility of the facility from public view, except where contrasting color is required by federal or state
5623 regulation. In addition, the exterior of support facilities shall be designed to be compatible with the
5624 architectural design prevailing among the structures in the surrounding developed area.
5625
- 5626 F. Sign. The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three
5627 feet in size which displays the owner's or permittee's name and an emergency telephone number.
5628
- 5629 G. Maximum height. The maximum height of towers shall be 100 feet if the tower is designed for one
5630 service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet
5631 if the tower is designed to accommodate three or more service providers.
5632
5633

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

5634
5635 H. Landscape screening. The accessory components to the tower shall be screened from view by shrubs
5636 maintained at a height of six feet, immediately adjacent to the fence surrounding the facility and
5637 minimum of eight trees planted outside of the shrub buffer
5638

5639 **Section. 5.10.13. Reserved.**

5640
5641 **Section. 5.10.14. Model homes.**

5642
5643 Model Homes shall meet the following requirements.
5644

5645 A. Model homes are intended to facilitate the sale of the model design, or products similar in design to
5646 the model and is not intended to allow the full scope of real estate activities and shall be restricted
5647 primarily to the sale and marketing of the model, or products similar to the model. Model homes shall
5648 be permitted as a temporary, conditional use, not to exceed 10 years, in residential zoning districts
5649 (R1, RE, RML) or within a Planned Development.
5650

5651 B. A model home must meet all of the zoning and building requirements for a residence in that zoning
5652 district as well as the following:
5653

5654 1. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the
5655 model site or on an adjacent vacant property.
5656

5657 2. On-site parking. A parking space may be provided in the garage. A handicap parking space is
5658 required and shall count as one of the three required spaces.
5659

5660 3. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan
5661 to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of
5662 authorization from the property owner as well as a surety deposit payable to the City of Cape
5663 Coral to convert the property back to a residential or other permitted use when the structure is
5664 converted or sold. The deposit shall cover the costs associated with the conversion of the parking
5665 lot. The deposit shall be based on no less than 110% of the estimated cost by a professional
5666 engineer licensed in the State of Florida which shall be signed and sealed by the engineer, and
5667 found to be acceptable to the City. Funds and resulting interest shall be returned upon conversion
5668 of the site to a residential or other permitted use, the entire amount if the work is completed by
5669 the applicant, or the remaining funds if the City completes the work.
5670

5671 4. A hedge row of at least 36 inches in height shall be planted and maintained around the vehicular
5672 parking area.
5673

5674 5. On-site or off-site parking shall be a paved or approved impervious surface with appropriate signs
5675 and markings, including handicap parking.
5676

5677 6. Treatment of stormwater runoff will be required for the first inch of runoff from the paved area
5678 associated with the parking lot area only.
5679

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 5680 7. Model home parking lots require a Limited Site Development Plan approval prior to construction.
5681
5682 B. Handicapped standards shall be met throughout the home, including access per the Florida Building
5683 Code and handrail and grab bar requirements.
5684
5685 C. Garage office. For any garage being used as an office for a model home the applicant must submit the
5686 following:
5687
5688 1. Plan of garage-office facility, including false walls, temporary electrical and plumbing.
5689
5690 2. Plan showing how garage will be returned to its original use.
5691
5692 3. \$10,000.00 refundable surety to ensure that the garage is converted back to the FEMA standards
5693 for single-family home usage.
5694
5695 D. Sign standards as defined in Article 7 of this code.
5696
5697 F. Upon completion of the construction and approval of the unit as a model home, a "temporary
5698 certificate of occupancy" will be issued to the owner of the model home to remain open for a period
5699 of five years. Extensions beyond this five-year temporary certificate of occupancy may be granted for
5700 the structure in the event an extension is approved for the model's permit by the Director of
5701 Community Development. The initial approval and maximum extension will allow the use of an
5702 individual model home to exist for a cumulative 10 years. The decision to extend the initial permit
5703 shall be pursuant to the following considerations:
5704
5705 1. The number of existing model homes within the immediate area of the extension request and
5706 impacts of those on the neighborhood.
5707
5708 2. The adequacy of the right(s)-of-way upon which the model home fronts.
5709
5710 3. The character or makeup of the area surrounding the model home.
5711
5712 4. The potential effect of the model home on adjacent and surrounding properties.
5713
5714 5. The existence of complaints relating to that model home.
5715
5716 6. A demonstration of good cause from the applicant why the extension request is needed.
5717
5718 7. Approval as a model home shall be recorded against the title.
5719

Section 5.10.15. Buildings and Construction with outdoor storage and display.

5720 Buildings and construction with outdoor storage and display shall meet the following requirements:
5721
5722
5723

- 5724 A. No storage or display shall be in fire lanes or required parking areas.
5725

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

5726 B. Materials or equipment that are brought inside a building overnight shall not be considered as display.
5727

5728 **Section. 5.10.16. Self-storage Facility.**
5729

5730 Self-storage facilities in the I, C, or CC districts must meet the following conditions:
5731

5732 A. The facility must be designed so as to screen the interior of the development from all property lines.
5733 Screening features may consist of a free-standing wall, wall of a building, or a combination of the two.
5734 Free-standing walls used for screening shall be eight feet in height measured from grade.
5735

5736 1. The following materials, either singly or in any combination, are the only materials that may be
5737 used to form the wall:

5738 a. Concrete block coated with stucco;
5739

5740 b. Textured concrete block;
5741

5742 c. Stone;
5743

5744 d. Brick; or
5745

5746 e. Formed, decorative, or precast concrete.
5747
5748

5749 2. If the wall of a building is used to meet the opaque feature requirement, such wall shall be
5750 surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface.
5751 Untreated concrete block is not an acceptable finished material. Building walls used as a screening
5752 feature shall not have doors or windows.
5753

5754 B. A landscaped area with a minimum width of 10 feet shall be provided around the perimeter of the
5755 site. Perimeter landscaping shall consist of a minimum of three canopy trees per 100 feet, three accent
5756 trees per 100 feet, and 33 shrubs per 100 feet. Palms trees cannot be used to meet the minimum
5757 planting requirement of this section. All shrubs shall be installed at a minimum height of 32 inches
5758 and be in a minimum seven-gallon container at the time of planting.
5759

5760 C. In the event a self-storage facility is designed as a multi-story building, the interior of the development
5761 is not required to be screened by a free-standing wall or a building wall, provided there are no visible
5762 exterior doors providing access to individual storage units. Multi-story self-storage facilities must
5763 comply with the nonresidential design standards established in Chapter 8 of this Article.
5764

5765 **Chapter 11. - CONDITIONAL USES**
5766

5767 **Section. 5.11.1. Purpose and applicability.**
5768

5769 A. Purpose and Intent
5770

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 5771 1. To provide standards and criteria for review and approval of specified conditional uses for a
5772 specific site.
5773
- 5774 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
5775 minimize, or ameliorate potential impacts of the use on surrounding property and for the
5776 protection of the public health, safety, and welfare.
5777
- 5778 B. General Requirements. Proposed conditional uses must meet the following requirements:
5779
- 5780 1. The conditional use standards identified in Article 4 for the specific zoning district use and
5781 conditional use in question.
5782
- 5783 2. The proposed conditional use will not result in development that is inconsistent with the intended
5784 character of the applicable zoning district.
5785
- 5786 3. A listed conditional use that does not meet the applicable conditional use standards may apply
5787 for approval as a Special Exception.
5788
- 5789 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
5790 Article 4. These criteria are specific to each conditional use.
5791

5792 **Section. 5.11.2. Brewpubs.**
5793

5794 Brewpubs in the MXB district must meet the following conditions:
5795

- 5796 A. The area used for brewing, bottling, and kegging of all beverages produced by the establishment shall
5797 not exceed 40 percent of the total floor area of the restaurant, bar, or nightclub, or exceed a total
5798 floor area of 2,500 square feet devoted for brewing, bottling, and kegging, whichever is less.
5799
- 5800 B. An interior floor plan shall be submitted that clearly shows the area of the building that will be devoted
5801 to the brewing, bottling, and kegging component of the establishment.
5802
- 5803 C. No outdoor storage shall be allowed including the use of portable storage units, cargo containers, and
5804 tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to
5805 exceed 24 hours. The temporary stockpiling for spent or used grain shall be:
5806
- 5807 1. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the
5808 stockpiled spent grains and the distance of the stockpiled grains from property lines and the
5809 building containing the brewpub;
5810
- 5811 2. Placed only along the side or rear of the building; and
5812
- 5813 3. Fully enclosed in containers that are screened behind an opaque wall or fence. The wall or fence
5814 shall have a minimum height of six feet.
5815

5816 **Section. 5.11.3. Attached residential of three-units or more.**

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

5817
5818 Attached residential structures of three-units or more in the RML, CC, NC, MX7, MXB, or SC zoning districts
5819 must meet the following conditions:

- 5820
5821 A. The number of linearly attached units must be between three and nine.
5822
5823 B. Landscaping shall be provided at a rate of two trees and six shrubs per 2,500 square feet of lot,
5824 rounding up to the next full number.
5825
5826 C. Attached residential developments shall incorporate three of the following design elements into each
5827 dwelling unit:
5828
5829 1. Dwelling entry as the primary façade feature;
5830
5831 2. Garage door recessed from the front façade, a preferred minimum of four feet;
5832
5833 3. Horizontal eaves broken up with gables, projection, and articulation;
5834
5835 4. Projecting eaves and gables, related to building massing;
5836
5837 5. Building massing and roof form which articulate individual unit definition;
5838
5839 6. Offset of four feet where two garage doors are adjacent to each other; or
5840
5841 7. Projections and decorative elements, such as trellises, for visual interest.
5842

5843 **Section. 5.11.4. Multi-family dwellings.**

5844
5845 Multi-family dwellings in the RML, RMM, CC, NC, MXB, MX7, or SC districts must meet the following
5846 conditions:

- 5847
5848 A. Building Modulation and Articulation. All multi-family buildings shall provide a combination of
5849 volumetric and massing modulation and articulations to prevent the construction of ‘big boxes’, but
5850 rather buildings that harmonize their architectural quality in a stylistically pleasant manner. All
5851 buildings shall incorporate the following combined elements from the articulation criteria identified
5852 below.
5853
5854 1. A minimum of three of the following volumetric elements shall be provided:
5855
5856 a. Pitched roof forms, minimum pitch of 4/12, whose sum covers greater than 30% of the
5857 overall roof area;
5858
5859 b. Architectural roof overhangs four feet or greater in depth or cornices 12 inches or greater in
5860 height;
5861

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 5862 c. Arcades. Arcades may be used as a means of sheltering pedestrian areas, and where
5863 provided, shall connect to entrances;
5864
5865 d. Accent elements such as tower elements, porticos, cupolas, or domes; or
5866
5867 e. A building with frontage 90 feet or less in length shall provide the following minimum
5868 massing articulations:
5869 i. A minimum of fifty percent (50%) of the cumulative frontage of each façade shall be
5870 setback a minimum of five feet from the primary façade and shall be distributed
5871 throughout the building frontage and shall not be provided as a single aggregated
5872 setback; and
5873 ii. A minimum of twenty percent (20%) of each frontage of each facade shall be setback
5874 a minimum of eight feet from the primary façade.
5875
5876 2. A minimum of four of the following architectural elements shall be provided:
5877
5878 a. Stoops on the ground floor and balconies on all floors above the ground floor;
5879
5880 b. Porches on the ground floor;
5881
5882 c. Pilasters, string courses, character lines, or other such means of subdividing the facade;
5883
5884 d. Structural or ornamental details clearly distinct from the primary wall surface, e.g., lintels,
5885 sills, door and window surrounds, decorative panels, etc.;
5886
5887 e. Decorative planters or planting areas a minimum of five feet in width, integrated into the
5888 building design; or
5889
5890 f. Masonry in at least two contrasting tones or textures, accomplished by a change in material
5891 or coursing such as brick, natural stone, brick or stone veneer, glass, masonry stucco,
5892 decorative concrete block, decorative concrete panels, tile glazing and framing systems, split
5893 face or fluted concrete masonry, factory glazed concrete masonry units, or architectural pre-
5894 cast concrete.
5895

Section. 5.11.5. Vehicle Repair, Minor.

5896 Vehicle Repair, Minor in the C and CC districts must meet the following conditions:
5897

- 5898 A. The number of cars being kept on site, not in a garage bay, shall be limited to three.
5899
5900 B. All cars kept on site for repairs must be visually screened from the right-of-way and adjacent
5901 properties.
5902
5903 C. All repair work shall be performed within the garage.
5904
5905 D. No outside storage of materials or chemicals, all installation to occur within garage.
5906
5907

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

5908
5909 E. Hours of operation for repair work shall be limited from 7 a.m. to 8 p.m. when adjacent to any
5910 residential development.

5911
5912 **Section. 5.11.6. Outdoor Screened Storage.**

5913
5914 Outdoor Screened Storage in the CC district must meet the following conditions:

- 5915
5916 A. The screening must consist of opaque fence or wall. Chain-link fencing (with or without slats) is
5917 prohibited for screening.
5918
5919 B. The minimum height of the screening shall be 6 feet.
5920
5921 C. The height of the screening shall be tall enough to screen items being stored.
5922
5923 D. All perimeter landscaping shall be on the outside of the screening.
5924
5925 E. The screened area must be used in conjunction with principal use.
5926
5927 F. The area used for storage must be an improved impervious surface such as asphalt or concrete.
5928
5929 G. No vehicular access to the storage area shall be allowed from a local street.

5930
5931 **Section. 5.11.7. Laboratory – Medical, Research, Testing, and Development.**

5932
5933 Medical, Research, Testing or Development Laboratory Facilities in the NC district must meet the following
5934 conditions:

- 5935
5936 A. The laboratory shall not produce any exterior impacts such as sound, smoke, or odor.
5937
5938 B. No outside storage of materials shall be permitted.

5939
5940 **Section. 5.11.8. Sporting Facilities, Indoor and Outdoor.**

5941
5942 Sporting Facilities, Indoor and Outdoor in the A district must be in conjunction with an agricultural use
5943 such as riding stadiums etc.

5944
5945 **Section. 5.11.9. Boat Sales**

5946
5947 Boat Sales in the SC district may only be permitted on sites with water frontage and direct access to
5948 Caloosahatchee River.

5949
5950 **Section 5.11.10. Home based businesses**

5951
5952 Home based businesses shall only be allowed as an accessory use to a single-family residential use and
5953 must meet the following conditions:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 5954
5955 A. All home-based businesses operated in or from a residence shall comply with federal, state, and
5956 county rules and regulations, city license regulations specified herein and any other applicable
5957 ordinances of the City of Cape Coral.
5958
5959 B. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
5960 such as storage of paints or other flammable materials in excess of normal family use.
5961
5962 C. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
5963 of materials be visible from the outside of the structure.
5964
5965 D. The appearance of the structure shall in no way be altered for the conduct of the home occupation
5966 within the structure nor shall the conduct be such that the structure may be recognized as serving a
5967 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
5968 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
5969 in the electric voltage line off the premises.
5970
5971 F. Frontage and access shall be from arterial street.
5972
5973 G. No driveway with ingress or egress to a local street shall be utilized.
5974
5975 H. Hours of operation shall be 7:00 A.M. until 7:00 p.m.
5976
5977 I. Employees and customers shall be allowed as long as adequate parking is provided on-site.
5978
5979 J. No parking shall be allowed on any surrounding parcels.
5980

5981 **Section. 5.11.11. Vehicle fueling stations.**
5982

5983 Vehicle fueling stations in the C, N, and SC (along primary streets) districts must meet the following
5984 conditions:
5985

5986 A. General:
5987

- 5988 1. All buildings, including pump islands, shall have a 25' setback from all property lines.
5989
5990 2. In no case shall a lot have less than 100 feet of street frontage.
5991
5992 3. Underground storage is required for all receptacles for combustible materials in excess of 55
5993 gallons. Such storage shall comply with all building and fire codes and Environmental Protection
5994 Agency standards.
5995
5996 4. The accumulation and storage of waste petroleum products is forbidden, unless in compliance
5997 with Environmental Protection Agency standards.
5998

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

- 5999
6000
6001
6002
6003
6004
6005
6006
6007
6008
6009
6010
6011
6012
6013
6014
6015
6016
6017
6018
6019
6020
6021
6022
6023
6024
6025
6026
6027
6028
6029
6030
6031
6032
6033
6034
6035
6036
6037
6038
6039
6040
6041
6042
6043
6044
5. Primary services and sales permissible include fueling stations and electric charging stations, and include only the following accessory uses:
 - a. Car wash services;
 - b. Sale of convenience goods; and
 - c. Accessory fast food services without a drive-through.
 6. Uses permissible at a gas station do not include body work, straightening of body parts, painting, welding (other than minor repairs), or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in vehicle fueling stations. A vehicle fueling station is not a body shop.
 7. Outside materials storage is not permissible.
 8. Lighting at a gas station shall be designed and installed so as to prevent glare or excessive light above 0.1 foot-candles on adjacent property. No source of illumination shall be allowed if such source of illumination, unshielded, would be visible from a residentially-zoned district to the extent that it interferes with the residential use of that area.
 9. The minimum size parcel shall be 1.25 acres.
 10. An eight-foot tall opaque wall constructed of concrete block coated with stucco, textured concrete block, stone, brick, or concrete (formed, decorative or precast) shall be constructed between any residential properties and a gas station. The wall shall be constructed within the gas station property, seven and one-half feet from the property line shared by the gas station and any adjacent residential property. The wall shall not be within a sight triangle.
 - a. The residential side of the wall shall be landscaped with shrubs (seven-gallon and 32 inches at planting) which shall be maintained at a mature height between six and eight feet and 80 percent opacity.
 11. Stormwater runoff from the fueling and storage tank loading areas shall be directed to an oil/gas/water separator prior to entering the surface water treatment area for the project.
- B. Appearance:
1. All structures on the site shall have a unified architectural theme.
 2. Gas station roofs shall be pitched a minimum of 4:12.
 3. A minimum of 12-inch overhangs shall be provided
 4. Roof and exterior wall surfaces, with the exception of glass areas, shall be nonreflective. Any glass coating shall not reflect outward.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

- 6045
- 6046 5. The use of flat steel or metal panels for the exterior walls of the gas station shall be prohibited.
- 6047
- 6048 6. The rear and sides of buildings shall be finished with material that in texture and color resembles
- 6049 the front of the building.
- 6050
- 6051 7. Glass windows and doors must make up at least 25 percent of the front elevation and 15 percent
- 6052 of the side elevations at eye level.
- 6053
- 6054 8. Any canopy shall be restricted to a clearance of 14 feet in height and shall be consistent with the
- 6055 primary structure design. The canopy columns and roof shall be architecturally finished to match
- 6056 the building.
- 6057
- 6058 9. The commercial advertising on the canopy shall be limited to 10 percent of the exterior area of
- 6059 the canopy and backlighting shall not be permitted on the canopy.
- 6060
- 6061 10. Perimeter walls, if utilized, shall be architecturally compatible with the principal structure.
- 6062

6063 C. Landscaping:

6064

- 6065 1. Front yard buffer. An enhanced front yard buffer shall be required for automobile service
- 6066 stations to limit the visual impact of the use. The following requirements shall be utilized:
- 6067
- 6068 2. Area to be landscaped. A strip of land at least 10 feet in depth, abutting the right-of-way and
- 6069 extending the length of the property except the entrance and exit drives, shall be landscaped.
- 6070
- 6071 3. Minimum tree requirements. Palm clusters on the ends of landscape buffers parallel to the gas
- 6072 pump canopy. The palm clusters shall consist of three palms with a minimum of 13 feet of gray
- 6073 wood, at planting. One cluster shall be provided for every 30 feet of road frontage;
- 6074
- 6075 4. Landscape accents. The use of landscape accents, such as planters and window boxes, shall be
- 6076 incorporated into the overall landscape design of the building and the site;
- 6077
- 6078 5. Other materials. The remainder of the required landscaped area shall be landscaped with grass,
- 6079 ground cover, or other approved landscaping treatment.
- 6080

6081 D. Vehicle Fueling Stations in the SC zoning district shall only be allowed with frontage along Del Prado

6082 Boulevard.

6083

6084 **Section. 5.11.12. Religious Institutions.**

6085

6086 Religious Institutions in the R1, RML, RMM, RE, and A districts shall have a minimum size of three acres.

6087

6088

6089

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS

- Section 6.1.1.** Purpose and applicability
- Section 6.1.2.** Standards for parking and vehicular use areas
- Section 6.1.3.** Parking, driveway, and vehicular use areas: provision, location, and setbacks
- Section 6.1.4.** Off-street loading facilities
- Section 6.1.5.** Required visibility triangles
- Section 6.1.6.** Common driveways, shared parking, and off-site parking
- Section 6.1.7.** Amount of required parking
- Section 6.1.8.** Miscellaneous parking requirements

CHAPTER 2. TRUCK AND VEHICLE PARKING

- Section 6.2.1.** Parking regulations for residential zoning districts
- Section 6.2.2.** Parking requirements for property zoned Multi-Family Residential
- Section 6.2.3.** Parking area design requirements for duplex dwellings
- Section 6.2.4.** Parking regulations for property zoned industrial or agricultural
- Section 6.2.5.** Hotel and motel parking provisions
- Section 6.2.6.** Boats and boat trailers
- Section 6.2.7.** Vacant lots
- Section 6.2.8.** Vehicles and trailers for sale
- Section 6.2.9.** Exemptions
- Section 6.2.10.** Authority to signpost designated areas

CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS.

Section. 6.1.1. Purpose and applicability.

The purpose of this Chapter is to ensure that required off-street space is provided to allow for loading, unloading, and parking on private property by motor vehicles, bicycles, and other allowed vehicles. It is further intended that the design of off-street parking areas ensure safe and efficient traffic circulation, with consideration given to the surrounding street plan, pedestrian movements, and safety. All development and redevelopment shall provide off-street parking in compliance with the standards set forth in this Chapter and the Engineering Design Standards.

Section. 6.1.2. Standards for parking and vehicular use areas.

Parking spaces and drive aisles shall conform to standard designs found in the City of Cape Coral Engineering and Design Standards.

Section. 6.1.3. Parking, driveway, and vehicular use areas: provision, location, and setbacks.

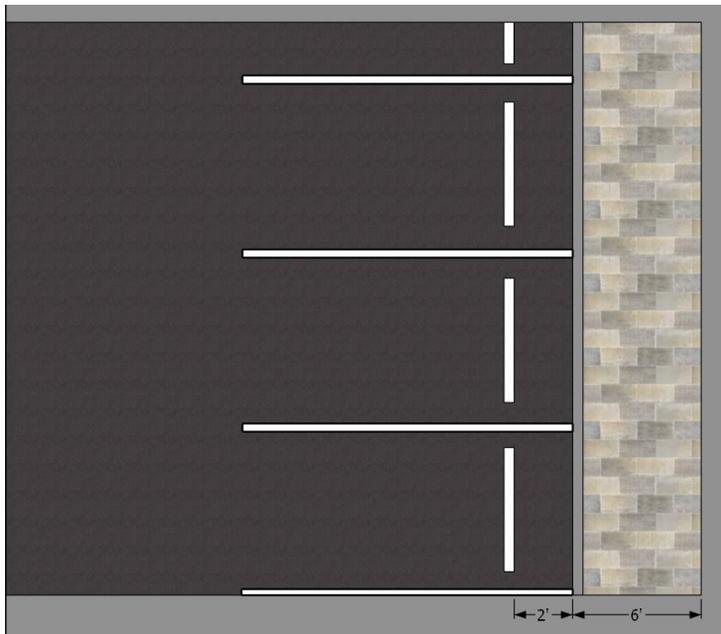
Off-street parking facilities required by this article shall be fully within the property lines of the parcel they are intended to serve unless an alternative location is approved as provided in this Chapter.

- A. Setbacks and buffering from property lines. Landscape buffers required by Article 6 shall be maintained along the perimeter of parking lots.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

- 48
49 B. Driveways. All driveways shall be designed and constructed per the requirements set forth in the
50 Engineering and Design Standards of Cape Coral.
51
52 C. Pedestrian Safety. All off-street parking facilities, including drive aisles, travel lanes, and driveways
53 shall be arranged to minimize hazards to pedestrian movement in the immediate area or encroach
54 upon fire lanes, walkways, and visibility triangles. Pedestrians must be protected from exiting a
55 building into vehicular traffic in an emergency. The applicant shall provide a walkway or a protected
56 area with a minimum width of the doorway plus five feet beyond the swing of the door. All exit
57 discharges from buildings shall be protected by permanent means to ensure pedestrian areas are
58 protected from vehicular encroachment.
59
60 D. Pedestrian Safety Zones. Within parking areas over 100 spaces for commercial uses, paved pedestrian
61 walkways at least six feet in width shall be provided at 200-foot intervals. Such walkways may be
62 interrupted by necessary drive aisles, but shall include adequate wheel chair ramps, if necessary.
63 Curbs or wheel stops shall be so placed to prevent any portion of the vehicle to encroach upon the
64 pedestrian safety zone. Diagram 6.1.3. illustrates a pedestrian safety zone.
65

66 **Diagram 6.1.3. Pedestrian Safety Zone**
67



- 68
69
70 **Section. 6.1.4. Off-street loading facilities.**
71
72 Appropriate and adequate loading facilities shall be required for businesses which receive regular
73 deliveries.
74

- 75 A. Design and location.
76
77 1. Loading spaces may not be blocked by parking spaces.
78

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

- 79 2. Design of the space shall be such that the delivery vehicles can maneuver without damaging
80 landscaped areas.
81
82 3. Loading spaces may be shared by adjacent properties when delivery schedules do not overlap
83 and an access agreement has been completed.
84
85 4. Loading zones may not be placed where they obstruct required fire lanes and access to
86 hydrants.
87
88 5. Loading zones shall be in a place which ensures convenient and safe entry and exit for the users
89 of the loading zone, and the convenience and safety of pedestrians and motorists using the
90 development.
91

92 **Section. 6.1.5. Required visibility triangles.**
93

94 As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting
95 streets, driveways, alleys, and bicycle paths there shall be limitations on the height of fences, walls,
96 gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in
97 the Cape Coral Engineering and Design Standards and as follows:
98

- 99 A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between
100 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
101
102 B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle
103 to provide the unobstructed visibility.
104
105 C. The Community Development Director or Public Works Director shall make the final determination
106 regarding visibility triangles.
107

108 **Section. 6.1.6. Common driveways, shared parking, and off-site parking.**
109

- 110 A. Common driveways shall be encouraged and may be required to reduce the number of curb cuts
111 along a right-of-way. Driveways shall be in accordance with the Engineering Design Standards.
112 Driveway access to State and County maintained roadways are regulated by FDOT or Lee County
113 and require separate permits from the respective agency prior to commencement of construction.
114 Approval of a common driveway will require submittal of a notarized shared access agreement and
115 easement, acceptable to the City, which shall be recorded against the title for each property
116 involved.
117
118 B. Off-site parking and shared parking. In an instance where a business is unable to provide adequate
119 parking on-site, off-site parking may be approved by the Director. Shared parking agreements and
120 off-site parking agreements shall be reviewed as often as is appropriate to ensure compliance and
121 adequacy of all provisions.
122
123 1. Approval of off-site parking shall be dependent upon:
124

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

- 125 a. Safe and convenient access to the off-site parking from the business which will be utilizing
126 the off-site parking;
127
- 128 b. Proof of ownership of the parking lot by the business or a recorded parking agreement
129 recorded against the title of the property to utilize the parking, which may not be eliminated
130 or modified without concurrence by the City;
131
- 132 c. Evidence that the parking will be available to the business during the times when the
133 parking will be needed; and
134
- 135 d. Appropriate paving, marking, and lighting of the off-site parking.
136
- 137 2. In addition to the above requirements, to qualify for shared parking approval one of the
138 following must apply:
139
- 140 a. It can be proven that the uses in question have peak parking demands during differing times
141 of the day or days of the week; or
142
- 143 b. A finding is made that there will be a lower demand for parking due to a high proportion of
144 multi-purpose visits. The applicant shall provide documentation to show that the proposed
145 parking for the multiple uses will be adequate. This documentation shall account for all the
146 potential uses allowed in the zoning district on the properties to be served by the shared
147 parking.
148
- 149 C. Proximity to dedicated city parking areas. Any development within 25 feet, excluding alleys and
150 walkways, of a dedicated city parking area may utilize that area to satisfy off-street parking
151 requirement, provided a sufficient number of improved spaces exist in the city parking area to
152 accommodate the number of spaces otherwise required by this ordinance for such development. If
153 a sufficient number of improved parking spaces do not exist at the time of application, the owner
154 or developer may improve the dedicated city parking area to the extent necessary to provide such
155 sufficient number of improved parking spaces in accordance with the City of Cape Coral Engineering
156 Design Standards. Once the dedicated city parking area has been properly improved and inspected,
157 the city shall be responsible for all maintenance of the public parking area.
158

159 **Section. 6.1.7. Amount of required parking.**
160

- 161 A. Generally.
162
- 163 1. The City shall not approve the construction of a parking lot with more than 125 percent of the
164 parking spaces required in Table 6.1.7.A. This shall not apply to development that have a
165 minimum off-street parking requirement of 50 spaces or less.
166
- 167 2. Accessible parking spaces shall meet ADA requirements.
168
- 169 3. Bicycle parking. Permanently placed bicycle parking shall be provide in accordance with
170 Subsection 6.1.7.B and Table 6.1.7.C.
171

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

- 172 4. Opportunities for reduction in parking requirements. A developer may request a reduction in
173 parking during the site plan process by using the following methods:
174
- 175 a. If the Institute of Transportation Engineers (ITE) Reference Manual entitled Parking
176 Generation allows a lesser number of parking spaces for the proposed use or a use of similar
177 characteristics, then the number of parking spaces required for a development may be
178 reduced.
179
- 180 b. A reduction in the required number of spaces may be allowed if the developer provides the
181 city with credible evidence that the parking needs are actually less than those reflected in
182 the Table of Parking Standards or that the need for off-street parking spaces would be met
183 through alternative means. Such credible evidence may include parking generation studies
184 conducted within the City of Cape Coral or other similarly sized communities.
185

186 **TABLE 6.1.7.A. Required Number of Parking Spaces for Uses.**
187

Uses	Required Parking Spaces
Residential Uses	
Assisted Living Facility (ALF)	One space per four beds plus one space per employee on the largest shift
Community residential facility or home	A minimum of two spaces for up to six residents with one space for every four additional residents
Daycare Center (adult or child, in home or commercial)	A minimum of two spaces for up to five children with one space for every 10 additional children
Dormitories	One space for the first three residents plus one space per employee based on the largest shift
Model home	Three spaces per model home
Residential—mixed-use residential	Sum of unit type plus uses
Residential—multi-family residential	1 space per efficiency or studio unit
	1.5 spaces for one-bedroom units
	Two spaces for dwelling units with two or more bedrooms
	Developments shall provide additional spaces equal to 10% of the total required to accommodate guest parking, up to 50 guest parking spaces
Residential—single-family-detached residential	Two spaces, including space in garage if provided
Residential, Duplex	Two spaces per dwelling unit, including space in garages
Residential—Single-family attached	Two spaces per dwelling
Public and Institutional Uses	
Animal shelter	One space per 400 sq. ft. of gross floor area

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

Community centers	One space per 250 sq. ft. of gross floor area
Cultural and civic facilities—libraries, museums	One space per 300 sq. ft. of gross floor area
Elementary and middle school educational facility—public or private	One space per classroom plus one space per employee
High school educational facilities—public or private	One space per four students of design capacity plus one space per classroom
Secondary educational facilities—technical, vocational, specialty—non-public	One space per 200 sq. ft. of gross floor area
Government facilities, including administrative, support and service	One space per 300 sq. ft. of gross floor area
Hospital—private, public	One space per 200 sq. ft. of gross floor area
Outdoor Amphitheater	1/4 seats, or 1/80 square feet of seating area ADD
Public parks and recreational facilities	3/acre of land designated for passive recreation + 1/2,000 square feet of playground or picnic area ADD
Sewage lift or pumping station	One space per facility
Solid waste transfer station	One space per employee on largest shift plus one space per facility vehicle
Utilities and related facilities, city or other	One space for unmanned facilities; One space per employee on largest shift at manned facilities
Vehicle Related Commercial Uses	
Car wash	One space per employee on largest shift
Rental—automobile, truck, and other vehicles	One space per 400 sq. ft. of gross floor area
Gas stations	One space per 300 sq. ft. of gross floor area
Vehicle major or minor repair and parts—mechanical, service, or body (new or used)	One space per 400 sq. ft. of gross floor area plus one space per bay
Vehicle sales—new or used automobiles	One space per 400 sq. ft. of gross floor area
Recreation, Entertainment Uses	
Sexually Oriented Business	One space per 100 sq. ft. of gross floor area
Marinas	One space for every two boat slips
Golf course	36 spaces per 9 holes plus one space per 200 sq. ft. of gross floor area
Driving range	One space for every two tees

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

Golf, miniature	One space per hole
Gun, pistol range, gun clubs, archery clubs—indoor	One space per 250 sq. ft. of gross floor area
Sports fields, basketball courts, racket ball courts, sporting activities—indoor	One space per four seats
Sports fields, basketball courts, racket ball courts, sporting activities—outdoor	20 spaces per field
Indoor Commercial Entertainment	One space per 250 sq. ft. of gross floor area
Restaurant, Food and Beverage Service Uses*	
Bar/lounge	One space per 100 sq. ft. of gross floor area
Brewpub	One space per 100 sq. ft. of gross floor area
Catering Service, no public interface	One space per 400 sq. ft. of gross floor area
Nightclub, Discotheque, Club, Cabarets.	One space per 100 sq. ft. of gross floor area
Restaurant, sit down	One space per 100 sq. ft. of gross floor area plus one space for every four outdoor seats
Restaurant, fast food	One space per 100 sq. ft. of gross floor area
Micro-Brewery or Distillery	One space per employee on the largest shift plus one space per 100 sq. ft. of tasting room area
Places of Assembly Uses*	
Banquet hall	One space per 100 sq. ft. of gross floor area
Place of religious assembly	One space for every four seats
Private clubs, not public	One space per 100 sq. ft. of gross floor area
Theater (movie, performing arts)	One space for every four seats
Commercial Uses*	
All Retail Stores, other than those listed below	One space per 300 sq. ft. of gross floor area
Wholesale	One space per 400 sq. ft. of gross floor area
Retail—big box, club membership, department, home improvement	One space per 400 sq. ft. of gross floor area
Short Term Lodging	
Camp grounds, RV parks	One space per site plus one space for every 10 additional sites
Hotels, Motels, Resort, Lodging	One space per room plus one space per 400 sq. ft. of gross floor area for all other uses
Transient Housing—shelters	One space for every five beds plus one space for every employee or volunteer
Office Uses*	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

Call center	One space per 300 sq. ft. of gross floor area
Office—business, sales, professional, semi-professional services	One space per 300 sq. ft. of gross floor area
Office—medical office/medical clinic	One space per 300 sq. ft. of gross floor area
Service Uses*	
Animal grooming and pet sitting—indoor	One space per 300 sq. ft. of gross floor area
Animal Hospital/Veterinarian clinic	One space per 300 sq. ft. of gross floor area
Animal kennel, boarding	One space per 300 sq. ft. of gross floor area
Blood banks, diagnostic medical treatment centers	One space per 300 sq. ft. of gross floor area
Check cashing, bill payments	One space per 300 sq. ft. of gross floor area
Copy, printing center	One space per 300 sq. ft. of gross floor area
Cosmetic Surgery, beauty clinics	One space per 300 sq. ft. of gross floor area
Customer service center	One space per 300 sq. ft. of gross floor area
Dry cleaning	One space per 300 sq. ft. of gross floor area
Financial institution - banks, credit unions, investment brokerage establishments	One space per 300 sq. ft. of gross floor area
Health club, fitness club	One space per 300 sq. ft. of gross floor area
Laundromat, self-service	1 per 3 machines and One space per 300 sq. ft. of gross floor area
Massage Therapy, body wrapping	One space per 300 sq. ft. of gross floor area
Package shipping, mail service	One space per 300 sq. ft. of gross floor area
Personal care services	One space per 300 sq. ft. of gross floor area
Repair and service shop—general merchandise	One space per 300 sq. ft. of gross floor area
Self-service storage facility	One space per 10,000 sq. ft. with a minimum of five spaces
Studios—photographic, and instructional	One space per 300 sq. ft. of gross floor area
Tattoo parlor, body piercing	One space per 300 sq. ft. of gross floor area
Other Uses	
Cemetery, mausoleums, crematory	One space for every four seats in an assembly area
Funeral Homes	One space for every four seats in an assembly area
Radio and transmitting station	One space per 400 sq. ft. of gross floor area
Wireless Antennas and support services	One space per facility
Industrial Uses	
Dry cleaning—commercial laundry plant	One space per 1,000 sq. ft. of gross floor area

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

Equipment and tool rental	One space per 350 sq. ft. of gross floor area plus one space per 1,000 sq. ft. of outdoor rental area
Fireworks, retail	One space per 300 sq. ft. of gross floor area
Flex Space	One space per 300 sq. ft. of gross floor area
Industrial uses—heavy	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Industrial uses—light	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Laboratory—medical, research, testing	One space per 300 sq. ft. of gross floor area
Mining/extraction, rock quarry	One space per employee
Outdoor Storage, open air storage	One space per employee
Recycling facility, Refuse disposal	1/employee plus 3
Studio for movie, television, music production	One space per 200 sq. ft. of gross floor area
Warehouse	One space per 1,000 sq. ft. of gross floor area
Agricultural Uses	
Community Garden	Three spaces per acre of gardens
Greenhouses—nurseries, retail	One space per employee plus one space per 300 sq. ft. of gross floor area plus one space per 600 sq. ft. of outdoor sales area
Outdoor storage—agriculture	1/employee plus work vehicles?
Farmer's market	One space per vendor plus one space per 350 sq. ft. of vendor area
Animal Boarding Stables	One space for every six animals boarded
* See below	
*Multiple Occupancy (3 or more units)	One space per 200 sq. ft. of gross floor area

188
189
190
191
192
193

For facilities having bench or booth seating, one seat shall be considered 24 linear inches of a bench or booth.

Table 6.1.7.B. South Cape (SC) and Mixed-Use Bimini (MXB) Parking Requirements.

TABLE 6.1.7.B. MINIMUM PARKING SC AND MXB DISTRICTS				
Applicable Lots	Lot Frontage/Lot Area			Lot Area
	≤75 ft.	>75 ft. but <125 ft.	≥125 ft. but <60,000 sq. ft.	≥60,000 sq. ft.
Minimum Parking (# spaces) (a)				
Residential	1 per unit	1 per unit	1 per unit	1 per unit

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

Non-residential - restaurant/bar/brewpub(d)	1/500 sq. ft.	1/400 sq. ft.	1/100 sq. ft.	1/100 sq. ft.
Non-residential - hotel	0.75 per room	0.75 per room	0.75 per room	0.75 per room
Non-residential - other	1/500 sq. ft.	1/400 sq. ft.	1/400 sq. ft.	1/400 sq. ft.
Parking required on site - residential and non-residential (b)	50%(c)	50%	75%	75%
(a) For parking area sites, minimum parking shall be as provided, less parking credits in accordance with § 6.1.8.J.1.b				
(b) Satellite parking shall be provided in accordance with § 6.1.8.K.				
(c) Lots with lot frontage less than or equal to 50 feet shall not be required to provide on-site parking. Satellite parking shall be provided in accordance with § 6.1.8.K.				
(d) The minimum parking standard shall not be applied to the area(s) of the building devoted to brewing, bottling, and kegging activities.				

194
195
196
197
198
199
200
201

- B. Bicycle parking. Bicycle parking shall be required for all developments of 20,000 square feet or more, in accordance with Table 6.1.7.B. Bicycle parking shall be adjacent to entrances or in a shaded or covered area when one is available. A parking space shall consist of a place for a bike to be secured in a standing position.

Table 6.1.7.C. Bicycle Parking Requirements.

Square Footage of Development	Number of Bicycle Parking Spaces
20,000-50,000	5 spaces
50,001-200,000	10 spaces
200,001 or larger	15 spaces
Multi-family Developments with 16 or more units	1 space/10 units

202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218

- C. Electric vehicle charging stations. Charging stations for electric vehicles shall be required for all development sites of 200,000 square feet of gross floor area or more. One charging station shall be required for the initial 200,000 square feet of development and an additional charging station shall be provided for each additional 20,000 square feet over that.

Section. 6.1.8. Miscellaneous parking requirements.

- A. Access to buildings. Parking shall not interfere with ingress-egress doors for stairwells, transformer rooms, elevator machine rooms, trash rooms, or any other use requiring clear access aisles for services.
- B. Marking and identification. All parking and loading spaces other than for single-family detached and duplex dwellings, shall be marked in accordance with the Engineering Design Standards. Off-street parking facilities not clearly evident from a street or alley shall be identified as to location and purpose. Marking and curb stops for duplex dwelling parking areas shall be marked in accordance with the design requirements shown in Section 6.2.2.

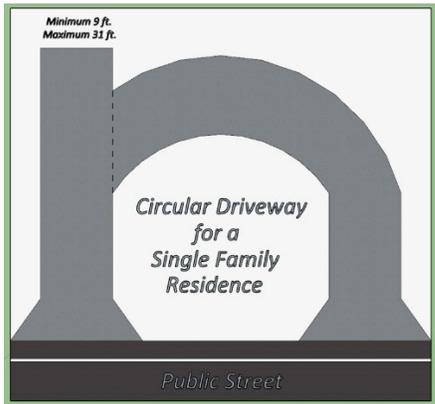
CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

- 219
- 220 C. Use of spaces. All off-street parking facilities shall be used solely for the parking of vehicles in
- 221 operating condition. No automotive repair work except emergency service, no storage of
- 222 merchandise, and no motor vehicles which are being offered for sale by a business in the
- 223 development shall be permitted on or within any required off-street parking area.
- 224
- 225 D. Surfacing. All off-street parking (spaces and aisles) and drives connecting such areas with the street,
- 226 including spaces required for serving single-family detached residences or duplexes, shall be
- 227 surfaced in accordance with the Engineering Design Standards unless an alternative landscaped
- 228 area is approved for occasional parking as part of a development approval. All parking surfaces shall
- 229 be maintained in a condition that is safe and free of potholes.
- 230
- 231 E. Unpaved parking. Clearly identified, non-paved parking areas may be permitted, only in accordance
- 232 with this Subsection. Unpaved parking, which is graded and covered with sod to provide a surface
- 233 that is durable, stable, and will also assist in managing stormwater, dust, and erosion may be
- 234 provided for up to 50% of the off-street parking requirements for the following uses:
- 235
- 236 1. Agriculture or farming uses;
- 237
- 238 2. Cemeteries;
- 239
- 240 3. Funeral homes, mortuaries, and crematoria;
- 241
- 242 4. Places of worship;
- 243
- 244 5. Religious facilities; or
- 245
- 246 6. Parks and recreation facilities owned by a governmental entity.
- 247
- 248 F. Parking on unpaved areas shall be prohibited on all parcels other than those specifically allowed by
- 249 this code to utilize grass parking. Where parking occurs on unpaved areas, a violation may be issued.
- 250 Resolution of the violation may include providing additional parking spaces, not to exceed the
- 251 allowed pervious surface requirement for that use.
- 252
- 253 G. Off-street circulation and maneuvering.
- 254
- 255 1. Off-street parking facilities for multi-family, industrial, or commercial developments shall
- 256 provide for on-site vehicle circulation and maneuvering in accordance with the Engineering
- 257 Design Standards. Backing into the street right-of-way shall not be permitted for any uses other
- 258 than single-family detached residences on a local street.
- 259
- 260 2. Single-family detached residences which are on a right-of-way classified as a collector or higher
- 261 classified roadway, and all duplex residences shall be required to install a circular driveway to
- 262 eliminate the necessity to back into the roadway. See diagrams 6.1.8.A for the typical circular
- 263 driveway example.
- 264
- 265

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

266
267

Diagram 6.1.8.A. Single-family detached circular drive.



268
269

H. Drainage. Design and construction of all parking areas shall conform to the requirements of the City of Cape Coral Engineering Design Standards and all applicable South Florida Water Management District requirements for stormwater management. All design and construction shall be such that runoff from the property is intercepted and prevented from entering onto adjoining properties or right-of-way(s) prior to treatment. The developer shall be responsible for obtaining all required permits.

276

I. Parking along alleys. Parking on sites abutting alleys is allowed provided the following conditions are met:

279

1. The area of the site abutting the alley is needed to meet the minimum parking requirement for the site.

282

2. The alley is improved or will be improved to allow for the movement of vehicles in the alley along the site.

285

3. No portion of a parking space shall be closer than 3' from the platted alley. Vehicles can be parked in their entirety on the site. No part of any parked vehicle may extend into the alley right-of-way.

288

4. All parking spaces shall be striped consistent with those standards appearing in the City Engineering and Design Standards.

291

5. The minimum clear aisle width behind parking spaces adjacent to alleys shall be the same as the aisle widths required by the Engineering Design Standards for the specific parking space orientation. An additional setback for the parking space from the alley may be required to provide adequate aisle width.

296

J. Supplemental parking requirements within the South Cape District.

298

1. Development may count on-street parking within 500 feet of the property to meet the minimum required off-street parking spaces.

300
301

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

302 2. As of December 1, 2005, sites within 25 feet, excluding alleys and walkways, of any of those
303 dedicated city parking areas identified in § 6.1.8.J.1.a, below shall be considered "parking area
304 sites". For parking area sites, the following parking and PILOP regulations shall apply:
305

306 a. Each of the following dedicated city parking areas in the Cape Coral CRA is hereby assigned
307 a parking allocation factor as provided below:
308

Table 6.1.8.A. Dedicated City Parking Area within South Cape.

309
310

DEDICATED CITY PARKING AREA			
Dedicated City Parking Area	Surrounding Blocks and Lots		Parking Allocation Factor
	Lots	Block	
Parking Area 1	1 through 24	62	0.000655
Parking Area 2	1 through 17	63A	0.001040
Parking Area 4	1 through 30	63	0.001515
Parking Area 5	1 through 61	64	0.001501
Parking Area 6	1 through 34	356	0.001572
	1 through 30	357	
Parking Area 7	11 through 14	56A	0.001330
	1 through 11	56B	
	1 through 12	56C	
	1 through 10	G	

311 b. For purposes of this subsection, when a "parking credit" must be calculated for a parking
312 area site, such parking credit shall be calculated by multiplying the area of the site (in square
313 feet) by the parking allocation factor related to the dedicated city parking area upon which
314 the site is located. This credit shall be deducted from the minimum parking requirements.
315
316

317 c. When the area of a parking area site changes, the following shall apply:
318 i. In the event the area of a parking area site is increased as the result of the acquisition
319 of property that was not a part of a parking area site as of December 1, 2005, the
320 increase in area that results from such acquisition shall, for purposes of this subsection,
321 be treated in the same manner as property, no part of which comprised a parking area
322 site.
323 ii. In the event the area of a parking area site is increased as the result of the acquisition
324 of property that was a part of a parking area site as of December 1, 2005, any PILOP
325 fees previously paid as the result of the use(s) or structure(s) on the conveyed property
326 shall be treated in the same manner as any PILOP fees, if any, previously paid by the
327 receiving site provided that the minimum total parking requirements for the conveying
328 site decrease as the result of the conveyance of property. If the minimum total parking
329 requirements for the conveying site do not decrease as the result of the transfer, then
330 any PILOP fees previously paid in regard to the conveying property shall continue to be
331 applied solely to the conveying property and shall not apply toward the parking
332 requirements of the enlarged (receiving) site.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

- 333 iii. In the event the area of a parking area site is decreased as the result of the conveyance
334 of property that was a part of a parking area site as of December 1, 2005, regardless of
335 whether such conveyance is to another parking area site or to a property that is not a
336 parking area site, then any PILOP fees previously paid in regard to the conveying
337 property shall continue to be applied solely to the conveying property and shall not
338 apply toward the parking requirements of the receiving site unless the minimum total
339 parking requirements for the conveying site decrease as the result of the transfer. If the
340 minimum total parking requirements for the conveying site decrease as the result of
341 the transfer, and the conveying site had previously paid PILOP fees pursuant to this
342 subsection, then any such PILOP fees that are unnecessary to defray the decreased total
343 parking requirements of the conveying site shall be applied toward the parking
344 requirements of the receiving site.
345
- 346 d. A parking area site is altered, for purposes of this subsection, when any use located on the
347 site is changed, any structure located on the site is modified, or the land area of the site is
348 changed. Although a parking area site shall not be required to provide on-site parking, when
349 such site is altered so that the minimum total parking requirement for the site, pursuant to
350 Table 6.1.7.B contained in § 6.1.7.A. is increased, the parking requirement for the site shall
351 be determined in accordance with the following:
352
- 353 i. Parking area sites that are undeveloped as of December 1, 2005:
- 354
- 355 (1) A parking area site that is undeveloped as of December 1, 2005, the area of which
356 has not changed and which is being initially developed after December 1, 2005, shall
357 be required to provide the minimum parking that would be required pursuant to
358 Table 6.1.7.B contained in § 6.1.7.A. less a parking credit calculated pursuant to §
359 6.1.8.J.1.b The site would need to meet the aforesaid parking requirement prior to
360 receiving a certificate of occupancy (for residential uses) or a certificate of use (for
361 non-residential uses). If the land area of the parking area site increases prior to the
362 initial development of the site, then the requirements of this subsection shall apply
363 to the expanded portion of the site (and any structures thereon) as applicable based
364 on factors such as whether it was previously developed or had previously paid PILOP
365 fees.
366
- 367 (2) After such a parking area site has been initially developed pursuant to this
368 subsection, any further alteration of the site that would result in an increase to the
369 minimum parking requirement for the site, area of the site, shall require that the
370 site provide the minimum parking that would be required pursuant to Table 6.1.7.B
371 contained in § 6.1.7.A. less the parking credit calculated pursuant to § 6.1.8.J.1.b
372 and any PILOP fee(s) previously paid to offset the parking requirement of the site
373 or any part thereof.
374
- 375 (3) After the initial development of such a site, if the area of the site increases, any
376 further alteration of the site that would result in an increase to the minimum
377 parking requirement for the site shall require that the site provide the minimum
378 parking that would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A.
379 less a parking credit (to which the site would be entitled based on its land area at

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

380 the time of such further alteration) and any PILOP fee(s) previously paid to offset
381 the parking requirement of the site, including any PILOP fee(s) paid with respect to
382 the expanded area of the site, in accordance with § 6.1.8.J.1.c.
383

384 (4) Alternatively, if, after the initial development of such a site, the area of the site
385 decreases, any further alteration of the site that would result in an increase to the
386 minimum parking requirement for the site shall require that the site provide the
387 minimum parking that would be required pursuant to Table 6.1.7.B. less a parking
388 credit and any PILOP fee(s) previously paid to offset the parking requirement of any
389 use(s) or structure(s) located on the area of the site remaining after the decrease(s)
390 in area, in accordance with § 6.1.8.J.1.c.
391

392 ii. With respect to parking area sites that are developed and occupied as of December 1,
393 2005, the following shall apply:
394

395 (1) The first time such a site is altered after December 1, 2005, if the alteration would
396 result in an increase in the minimum parking requirement for the site of more than
397 25% over the amount required for the site for the use(s) and structure(s) located on
398 the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for
399 such site as of that date, the site shall be required to provide the minimum parking
400 that would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A.. less a
401 parking credit calculated as provided in 6.1.8.J.1.b.
402

403 (2) Alternatively, if such an alteration of the site would result in an increase in the
404 minimum parking requirement for the site of not more than 25% over the amount
405 required for the site for the use(s) and structure(s) on the site as of December 1,
406 2005, as reflected in the certificate(s) of use in effect for such site as of that date,
407 then the alteration of such site shall require the site to provide the minimum
408 parking required for the site (pursuant to Table 6.1.7.B.) less the amount attributed
409 to the site for the use(s) and structure(s) on the site as of December 1, 2005, as
410 reflected in the certificate(s) of use in effect for the site as of that date. Further
411 alterations to the site that do not, either singularly or cumulatively, increase the
412 minimum parking requirement for the site by more than 25% over the amount
413 required for the site for the use(s) and structure(s) on the site as of December 1,
414 2005, as reflected in the certificate(s) of use in effect for such site as of that date,
415 shall require the site to provide the minimum parking required for the site (pursuant
416 to Table 6.1.7.B.) less the amount attributed to the site for the use(s) and
417 structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of
418 use in effect for the site as of that date and any PILOP fee(s) previously paid to offset
419 the parking requirement of the site or any part thereof including, for sites that have
420 increased or decreased in area any PILOP fee(s) applicable pursuant to § 6.1.8.J.1.c.
421

422 (3) If further alterations to a site, cumulatively, increase the parking requirement for
423 the site by more than 25% over the amount required for the site for the use(s) and
424 structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of
425 use as of that date (or, for residential uses, the residential occupancy in effect for
426 such site as of that date), then the alteration of such site that would result in the
increase by more than 25% shall require the site to provide the minimum parking
required for the site (pursuant to Table SC-5) less a parking credit calculated as

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

427 provided in § 6.1.8.J.1.b, based on the area of the site at the time of the alteration
428 that would result in the more than 25% increase, and any PILOP fee(s) previously
429 paid to offset the parking requirement of the site or any part thereof including, for
430 sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant
431 to § 6.1.8.J.1.c.
432

433 iii. With respect to parking area sites that are developed and unoccupied as of December
434 1, 2005, the following shall apply: The first time such a site is occupied following
435 December 1, 2005, the site shall be required to provide the minimum parking that
436 would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A. less a parking credit
437 calculated by multiplying the area of the site (in square feet) by the parking allocation
438 factor related to the dedicated city parking area upon which the site is located. The site
439 would need to meet the aforesaid parking requirement prior to receiving, for non-
440 residential uses, a certificate of use and, for residential uses, prior to any residential
441 occupation of the structure. If the land area of the parking area site increases following
442 December 1, 2005, but prior to the occupancy of the site, then the requirements of this
443 subsection shall apply to the expanded portion of the site (and any structures thereon)
444 as applicable based on factors such as whether it was previously developed or had
445 previously paid PILOP fees.
446

447 iv. If the structure(s) on any parking area site are demolished, razed, or relocated to a site
448 other than a parking area site, then any subsequent redevelopment of such parking area
449 site shall require the site to provide the minimum parking required for the site (pursuant
450 to Table 6.1.7.B.) less a parking credit calculated as provided in § 6.1.8.J.1.b, based on
451 the area of the site at the time of the redevelopment, and any PILOP fee(s) previously
452 paid to offset the parking requirement of the site or any part thereof including, for sites
453 that have increased or decreased in area, any PILOP fee(s) applicable pursuant to §
454 6.1.8.J.1.c. After such redevelopment is completed, any alteration(s) to the site shall
455 be treated, for purposes of determining the parking requirements of the site, in the
456 same manner as alteration(s) of any other developed parking area site under this
457 subsection.
458

459 e. With respect to each dedicated city parking area located in the Cape Coral CRA. the City
460 Council shall, by resolution, identify all sites that would be parking area sites regulated by
461 this subsection and also, for all such sites that are developed as of December 1, 2005,
462 identify the minimum parking requirement for the use(s) or structure(s) on the site as of
463 December 1, 2005, as though such sites were within the South Cape Downtown District.
464

465 K. Satellite parking within the South Cape District. For purposes of this subsection, a satellite parking
466 arrangement exists when the minimum total parking (excluding on-site parking) required for a site
467 is to be provided on a site at a location different from the site which will be served by the parking
468 as required in § 6.1.7.A. When all or part of the minimum total parking (excluding on-site parking)
469 required for a site is to be satisfied by one or more satellite parking arrangements, such satellite
470 parking arrangements shall comply with the requirements of this subsection as follows:
471

472 1. Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet
473 from a public entrance to the principal building which contains the use associated with such

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

474 satellite parking, except that no satellite off-street parking area shall be located on parkway or
475 primary street designations or across Del Prado Boulevard or Cape Coral Parkway from the use
476 it is serving. When the site that contains the use(s) to be served by the satellite parking offers
477 valet parking at all times that such use(s) are open to the public so that valets will transport the
478 vehicles of patrons of such use(s) to the satellite parking site(s) and such valet service is
479 documented in an agreement entered into by the city and the owners of the property to be
480 served by the satellite parking and the property offering the satellite parking, then the satellite
481 parking site(s) may be more than 1,320 feet from a public entrance to the principal building
482 containing the use served by such valet parking.
483

484 The aforesaid agreement shall be in addition to the agreement required by § 6.1.8.K.1.4. and
485 shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the
486 property to be served by the valet parking. Upon request by the owner of the property to be
487 served by a proposed satellite parking location, the City may allow satellite parking that does
488 not include valet parking to be located more than 1,320 feet from a public entrance to the
489 principal building which contains the use associated with the proposed satellite parking or to
490 be across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the City finds
491 that the proposed satellite parking would not be detrimental to the public health, safety, and
492 welfare of the persons utilizing it. Factors which shall be considered by the City in making this
493 determination include, but are not limited to, the following: the proximity of the proposed
494 satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other
495 pedestrian-oriented features at any intersections and any other locations between the
496 proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to
497 be utilized by employees only or by patrons of the use(s) to be served, and the availability of
498 any complementary or supplementary services to such parking, such as trolley or tram systems
499 that would provide transportation for the public to and from the satellite off-street parking area
500 and the use(s) to be served. If the City approves satellite parking at a distance of more than
501 1,320 feet or across Del Prado Boulevard or Cape Coral Parkway, the City may impose conditions
502 on such satellite parking that would be reasonably designed to mitigate any negative effects
503 from such approval. Examples of such conditions include the requirement that a satellite off-
504 street parking area be clearly identified for only employee parking, the requirement that a
505 pedestrian walkway between the off-street parking area and the use(s) it serves be covered so
506 as to protect pedestrians from the elements, and that any supplementary or complementary
507 services be continued so long as the satellite parking is being used.
508

- 509 2. The satellite off-street parking area and the site which contains the use associated with such
510 satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The
511 submitted plan shall show the pedestrian connection(s) between the two sites and shall
512 demonstrate that all pedestrian connections have sidewalks, or other paved walkways,
513 dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance
514 between the sites is not more than 1,320 feet when measured from a public entrance to the
515 principal building (on the site to be served by the satellite parking) to the closest point on the
516 proposed satellite parking site.
517
- 518 3. Satellite parking spaces on the off-site lot shall only be counted if they are above and beyond
519 the minimum parking requirement for uses on the off-site lot.
520

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

- 521 4. The owner of the off-site lot of land (and, the owner of the land intended to be served by such
522 off-site parking, if different than the owner of the lot to be used for parking) shall enter into an
523 agreement with the city, which shall be recorded in the public records of Lee County, Florida,
524 at the expense of the owner of the land intended to be served by the off-site parking.
525
- 526 5. The satellite off-street parking area shall never be sold or transferred except in conjunction with
527 the sale of the lot served by the off-site parking facilities unless:
528
- 529 a. The lot to be sold or transferred will continue to be used as provided in the off-site parking
530 agreement and the new owner or transferee executes a consent to assume and to be bound
531 by the obligations of the owner of the lot used for parking as provided in the agreement;
532
- 533 b. A different lot complying with the all provisions of the City of Cape Coal Code of Ordinances
534 and Land Use and Development Regulations and subject to a recorded off-site parking
535 agreement as specified herein is substituted for the lot of land subject to the off-site parking
536 agreement; or
537
- 538 c. The lot being served by the off-site parking no longer requires the parking as evidenced by
539 a written statement executed by the parties executing the off-site parking agreement and
540 as approved by the City. The aforesaid statement shall be recorded in the public records of
541 Lee County at the expense of the owner of the lot formerly being served by the off-site lot.
542

543 **CHAPTER 2. TRUCK AND VEHICLE PARKING**

544
545 **Section 6.2.1 Parking regulations for residential zoning districts.**
546

- 547 A. It shall be unlawful for any owner, agent, operator, or person in charge of a commercial vehicle or
548 trailer (private or commercial trailer) to park, store, or keep such vehicle or private or commercial
549 trailer on the pavement or in the swale of any public street within any single-family residential
550 district in the city. Furthermore, it shall be unlawful for any owner of privately owned real property
551 in the R1 and RE zoning districts in the city to park on, cause to be parked on, or allow to be parked
552 on such property any commercial vehicle or private or commercial trailer, except as otherwise
553 provided herein.
554
- 555 B. The prohibitions of § 6.2.1.A shall not apply to the following:
556
- 557 1. Temporary parking of any commercial vehicle or private or commercial trailer on private
558 property or in the adjoining swale of any public street in a residential district where construction
559 for which a current and valid permit has been issued by the city is underway on the property
560 and the permit is properly displayed on the premises. Provided that such private or commercial
561 trailer or commercial vehicle is only on the real property at the time the construction is actually
562 physically occurring. Nothing in this subsection is intended to require a permit where none is
563 otherwise required or to allow a private or commercial trailer or commercial vehicle to be
564 parked on private property or in the adjoining swale of any public street within a residential
565 district when construction is not actually physically occurring on the private property.
566
- 567 2. Deliveries by tradespeople or the use of commercial vehicles or trailers in making service calls.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613

3. Temporary parking of a commercial vehicle or recreational vehicle while such vehicle is being used by the operator for travel to and from the residential property for personal reasons of a temporary nature such as for a meal or to visit or serve an ill person. Such temporary parking shall not, however, exceed a total of two hours duration during any 24-hour time period.
 4. Emergency parking of a disabled commercial vehicle, recreational vehicle, or trailer. However, any such commercial vehicle, recreational vehicle, boat, or trailer shall be removed from the residential district within 24 hours by wrecker towing or other available means regardless of the nature of the emergency.
- C. Any combination of the following motor vehicles or trailers may be parked in single-family residential districts, on a parcel improved with a single-family residence:
1. Any light van, sports utility vehicle (SUV), pickup truck, jeep, motorcycle, automobile, or similar type of motor vehicle which is not a commercial vehicle. Furthermore, light vans, sports utility vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar types of motor vehicles which would otherwise be considered to be "commercial vehicles" only because commercial lettering has been affixed to them may be parked outside of a permitted garage or carport provided that all commercial lettering has been concealed by a cover of a type that is applied directly to the surface of the motor vehicle or attached to the vehicle in such a manner that the vehicle can be safely driven on the public streets with the cover in place. If more than one such cover is attached to or is located on a vehicle, then all of such covers on or attached to such vehicle shall be the same color. For purposes of this section, covers located so as to impair the vision of the driver of the vehicle or insecurely mounted so as to present a danger of falling off the vehicle while it is being driven shall be presumed to be insufficient to bring the commercial vehicle within the exemption provided by this subsection. Furthermore, this exemption shall not apply to any motor vehicle that is considered to be a "commercial vehicle" under this section by virtue of the nature of its vehicle type and not solely because commercial lettering has been affixed to it regardless of whether such vehicle or any lettering affixed to it has been covered in part or in full of such vehicle is parked outside of the confines of a permitted garage or carport.
 2. Any trailer or motor vehicle described in § 6.2.1.G which is a commercial vehicle, provided that:
 - a. The commercial vehicle or trailer is parked in a permitted garage or carport;
 - b. When parked in a garage or carport, no part of such commercial vehicle or trailer may project horizontally beyond the roofline of the garage or carport; and
 - c. When parked in a carport, such commercial vehicle or trailer is screened on three sides.
- D. No vehicle for human habitation shall be kept or parked on premises zoned for residential purposes or on adjoining public rights-of-way, except when parked entirely within the confines of a garage or carport or in accordance with the following:

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

- 614 1. Non-resident. Vehicles for human habitation when used for transportation of visitors to this city
615 to visit friends or members of the visitors' family residing in this city may, upon obtaining a
616 permit (for which a charge shall not be made) from the Police Department, be parked upon the
617 premises of the visited family for a period not exceeding ten days. The permit shall be affixed
618 to the vehicle in a conspicuous place on the street side thereof. The City may, for good cause
619 shown, authorize the issuance of a second consecutive free permit not to exceed ten days. An
620 additional permit for the parking of such vehicle will not be issued until after the expiration of
621 15 days after termination of the last prior permit. For purposes of this section, a person who
622 owns or leases property in the City of Cape Coral shall not be deemed to be a "non-resident"
623 when he or she parks a vehicle for human habitation on property that he or she owns or leases
624 even if such person does not "reside" on the subject property.
625
- 626 2. Resident. When a vehicle for human habitation is owned or leased by the person who also owns
627 or leases the residential property on which such vehicle is to be parked, such vehicle for human
628 habitation may be parked upon the premises of the resident for a period not exceeding 72 hours
629 for loading and cleaning provided that a permit is first obtained from the City. A vehicle for
630 human habitation may be parked upon the premises of the resident for unloading after a trip
631 for a period of 72 hours provided that a permit is first obtained from the City. There shall be a
632 minimum of a 48-hour interval between the expiration of one permit and the issuance of
633 another. The permit for each such period shall be affixed to the vehicle in a conspicuous place
634 on the street side thereof. The city shall not charge a fee for the permits to park a vehicle for
635 human habitation upon the premises of the resident as required by this section.
636
- 637 3. Pop-up campers. A pop-up camper may be parked, only in a closed or folded condition, in the
638 rear yard of a residential lot improved with a principal residential building. For purposes of this
639 paragraph, a "pop-up camper" shall consist of a non-motorized trailer which includes, or on
640 which is mounted, a tent-like enclosure (but such enclosure may be made of canvas or similar
641 material, solid materials, or any combination thereof) to be used for camping purposes, which
642 enclosure opens or expands or unfolds to accommodate temporary occupancy and which closes
643 or folds up into itself in such a way as to be unusable for occupancy and to be no more than 55
644 inches in height when measured from ground level.
645
- 646 E. Parking of passenger cars or sports utility vehicles (SUVs) with commercial advertising signs setting
647 forth the name of the business, its address, business telephone number, and type of business (e.g.,
648 realtor, painter, etc.) thereon in residential areas outside the confines of a garage or carport is
649 permitted so long as the home (residential) address is not shown thereon.
650
- 651 F. The following are exempt from the provisions of this section:
652
- 653 1. Commercial vehicles or trailers in actual use or moving directly to or from the location of actual
654 use, which are owned or leased by:
655
- 656 a. The city for the accomplishment of a municipal purpose;
657
- 658 b. A contractor or subcontractor under agreement with the city to accomplish a municipal
659 purpose; or
660

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

661 c. A public utility operating within the city, or a contractor or subcontractor under agreement
662 with such public utility; for the installation, maintenance, adjustment, or repair of or to a
663 public utility facility.
664

665 However, no towing company, or other business entity, or any of its officers, employees, and
666 agents shall be exempt from the provisions of this ordinance solely because the towing
667 company or other business entity has been employed by the city to provide towing or other
668 services.
669

670 2. Commercial vehicles owned by or leased by governmental entities, including the city, Lee
671 County, or the State of Florida which are parked in residential districts on a parcel improved
672 with a permitted structure when such vehicles are lawfully in the possession of an authorized
673 agent or employee of the governmental entity. This category shall include police or sheriff's
674 vehicles which are permitted to be driven to residences of authorized employee(s) of such law
675 enforcement entities.
676

677 G. In applying the terms of this section, the following rules of construction shall apply:
678

679 1. Any motor vehicle or trailer which is partially built or in the process of conversion shall be
680 included under the most stringent definition that can be applied.
681

682 2. In case of doubt as to the proper classification of a specific vehicle, a determination by the
683 state's Department of Highway Safety and Motor Vehicles shall be controlling. The body
684 description and classification on the motor vehicle certificate of title shall be *prima facie*
685 evidence of such determination.
686

687 **Section 6.2.2 Parking regulations for property zoned multi-family residential.**
688

689 The restrictions for multi-family residential shall be the same as for single-family residential except that
690 the prohibitions contained in § 6.2.1.A shall not apply to the following commercial vehicles when parked
691 on properties zoned multi-family residential:
692

693 A. Pickup trucks from which the cargo boxes have been removed;
694

695 B. Pickup trucks or light vans containing commercial rack(s) regardless of whether such rack(s) are
696 visible from the street or from abutting residential property; and
697

698 C. Light vans, sports utility vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar
699 types of motor vehicles which would otherwise be considered to be "commercial vehicles" only
700 because commercial lettering has been affixed to them.
701

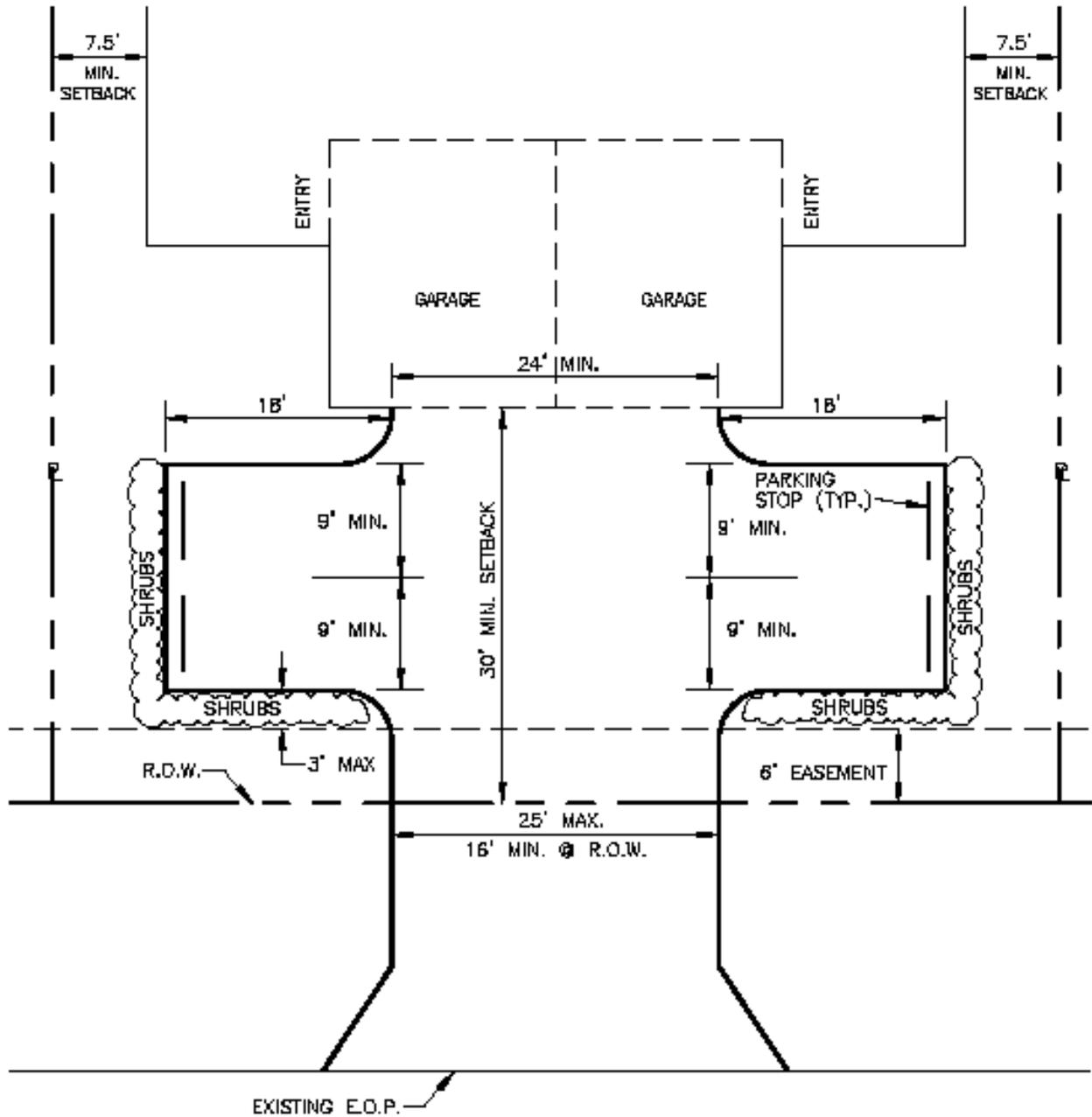
702 **Section 6.2.3 Parking area design requirements for duplex dwellings:**
703

704 Parking areas for duplex dwelling shall conform to one of the following designs:
705

706 **Diagram 6.2.3.1. Duplex with garages in the middle.**
707

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

DUPLEX DRIVEWAY & PARKING STANDARD

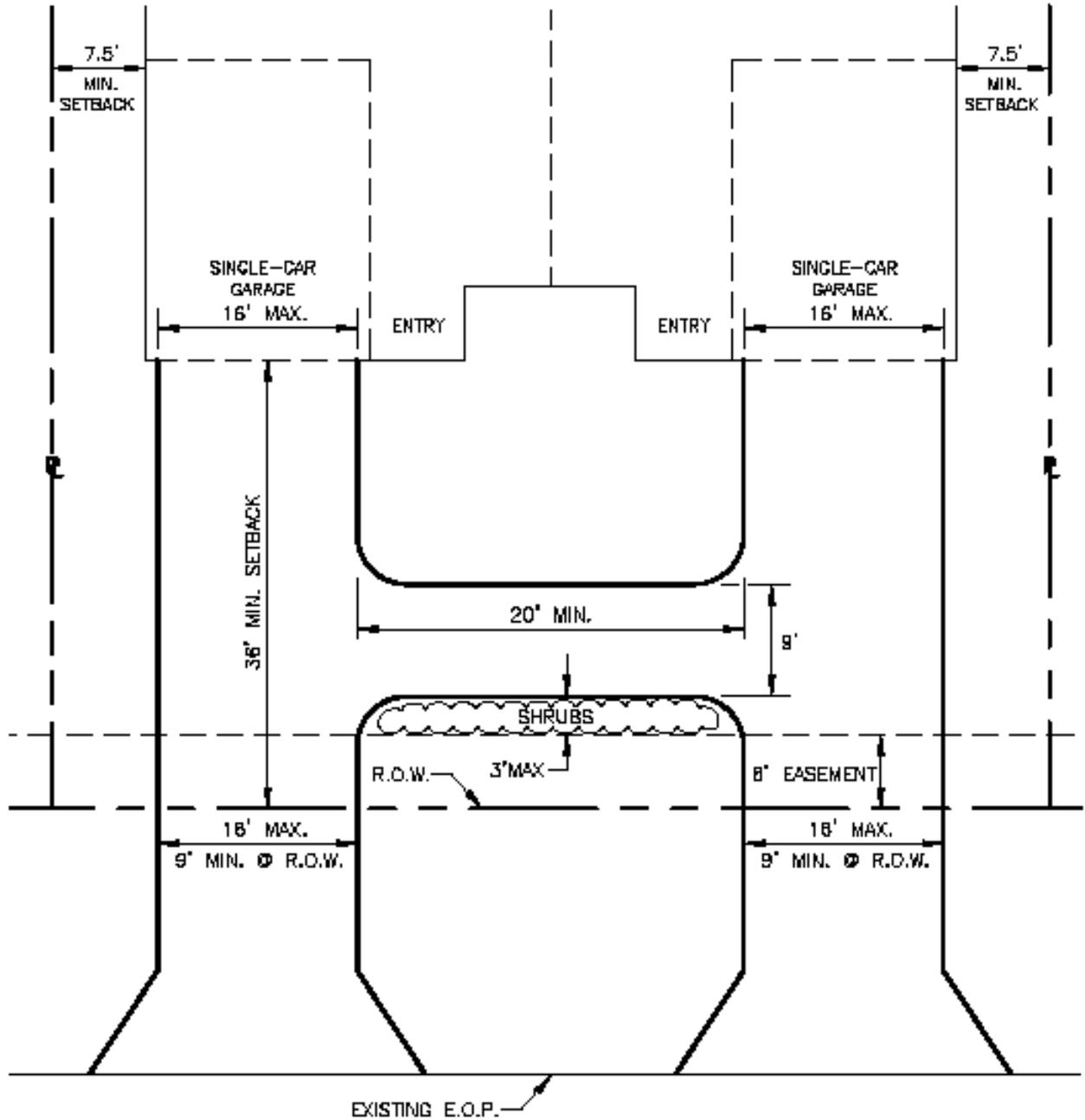


708
709
710
711

Diagram 6.2.3.2. Duplex with one-car garages not in the middle

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

DUPLEX DRIVEWAY & PARKING STANDARD
(SINGLE-CAR GARAGE)

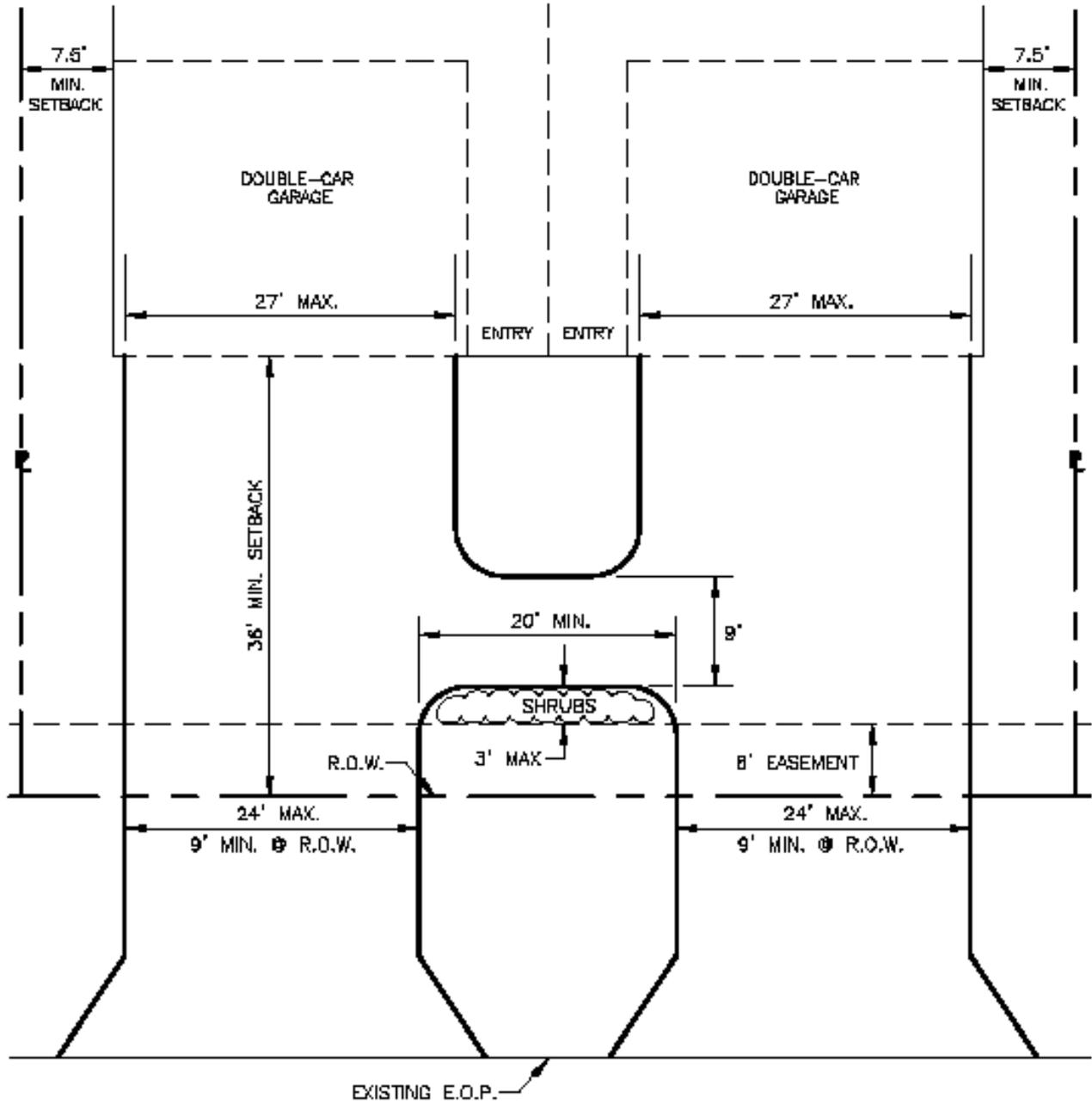


712
713
714
715
716
717

Diagram 6.2.3.3. Duplex dwelling with two-car garages not in the middle.

CITY OF CAPE CORAL, FLORIDA
 LAND DEVELOPMENT CODE
 ARTICLE 6 – PARKING

DUPLEX DRIVEWAY & PARKING STANDARD
(DOUBLE-CAR GARAGE)



718
 719
 720
 721
 722
 723
 724
 725

Section 6.2.4 Parking regulations for property zoned industrial and agricultural.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772

Property zoned industrial and agricultural shall have no restrictions placed upon it as to the parking of trucks or unoccupied vehicles for human habitation, except as otherwise regulated within a recreational vehicle park, or as a condition of special exception or a planned unit development.

Section 6.2.5 Hotel and motel parking provisions.

Hotels and motels are considered business enterprises, therefore, trucks, trailers, buses, and other commercial vehicles, as well as vehicles for human habitation may be parked on the premises of such businesses. Such vehicles must not be parked in streets, alleys, or other rights-of-way.

Section 6.2.6 Boats and boat trailers.

- A. It shall be unlawful for any person to park, store, keep, maintain, or permit to be parked, stored, kept, or maintained in front or side yard of a single or multi-family residence, or on a vacant lot in a residential area, any boat or empty boat trailer. A maximum of two boats on trailers, or an empty boat trailer may be parked on the rear yard provided the same is not allowed to fall into a state of disrepair. If grass or weeds are allowed to grow around or under it to a height exceeding 12 inches, then it may be declared a nuisance and the owner charged accordingly. An empty boat trailer may be parked at a launching site during the period of time that the boat is launched therefrom for a single voyage and while in the process of loading or unloading the boat or trailer. A boat, empty boat trailer, or a boat on a trailer may be parked entirely within the confines of a garage or carport meeting the requirements of this ordinance.
- B. All boats and boat trailers parked, stored, kept, or maintained in the R-1, RE, RML, or RMM zoning districts must have a current registration from the State of Florida. This requirement also applies to any boats moored at docks or seawalls or stored on boat lifts or davits.
- C. For purposes of this section, two personal watercraft shall equal one boat.
- D. When a boat is owned or leased by the person who also owns or leases the residential property on which such vehicle is to be parked, such boat may be parked upon the premises of the resident for a period not exceeding 72 hours for loading and cleaning provided that a permit is first obtained from the City. A boat may be parked upon the premises of the resident for unloading after a trip for a period of 72 hours provided that a permit is first obtained from the City. There shall be a minimum of a 48-hour interval between the expiration of one permit and the issuance of another. The permit for each such period shall be affixed to the boat in a conspicuous place on the street side thereof. The city shall not charge a fee for the permits to park a boat upon the premises of the resident as required by this section.

Section 6.2.7 Vacant lots.

It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked, stored, kept, or maintained at any time on any unimproved property in any zoning district any motor vehicle, boat, or trailer of any kind, type, or description, including any boat and trailer in combination, except that this prohibition shall not apply to any unimproved property on which temporary parking of such motor vehicles, boats, or trailers has been authorized by the property owner(s), in writing, and

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

773 approved by the City in association with a special event that has been approved by the City. Throughout
774 this subsection, the term **TRAILER** shall be deemed to mean and include both a boat mounted on a
775 trailer and the trailer itself.

776

777 A. In the event a motor vehicle, boat, or trailer is parked, stored, kept, or maintained on an
778 unimproved property in any zoning district at any time, a City Code Compliance Officer shall place
779 a written notice of violation on the vehicle, boat, or trailer indicating that it is in violation of this
780 section and that it must be removed within three calendar days from the date of the notice or it
781 will be subject to removal by the city. The Code Compliance Officer shall make every reasonable
782 attempt to ascertain the owner of the vehicle, boat, or trailer and the owner of the real property,
783 and shall notify such owner(s) with a written notice delivered by mail or personal service at their
784 current address, last known address, or the address appearing on the certificate of title for the
785 vehicle, boat, or trailer. The notice placed on the vehicle, boat, or trailer and all notices provided to
786 the owners or apparent owners of the vehicle, boat, trailer, and the land shall advise of the possible
787 appeal provided for in the following subsection B.

788

789 B. Within the three-calendar day period specified in the aforesaid notice, the owner of the vehicle,
790 boat, trailer, or the owner of the real property may appeal to a Special Master utilized by the city
791 to conduct hearings concerning violations involving vehicle(s), boat(s), or trailers) parked, stored,
792 kept, or otherwise maintained on vacant real property. The appeal shall be filed at the office of the
793 City Manager, must attach a copy of the notice of violation appealed, and must include the name
794 of the person filing the appeal and an address at which such person may be served notice of the
795 hearing on the appeal. The hearing on the appeal shall be conducted the same as a code
796 enforcement hearing for a case initiated by a Code Compliance Officer pursuant to §§ 2-
797 85 through 2-92 of the Code of Ordinances of the City of Cape Coral, Florida. The Special Master
798 shall determine the validity of the violation and may for good cause extend the time for compliance
799 or removal. If such an appeal is instituted, no removal of the vehicle, boat, or trailer shall be
800 required until the appeal has been dismissed or finally determined by the Special Master with a
801 finding of a violation.

802

803 C. If no appeal is made or if an appeal is made but dismissed and the vehicle, boat, or trailer remains
804 in violation after the three calendar day period, or if an appeal is resolved with a finding of a
805 violation and the vehicle, boat, or trailer is not removed within whatever time period is allowed by
806 the Special Master, the City Code Compliance Manager shall cause such vehicle, boat, or trailer to
807 be towed from the property and thereafter stored and disposed of in accordance with applicable
808 state law or city ordinance. The Special Master may also assess fines and costs; the same as for any
809 code enforcement violation.

810

811 The city shall not be responsible for the towing charges resulting from the removal of the vehicle,
812 boat, or trailer from the property. Instead, the owner(s) of the vehicle, boat or trailer shall be
813 responsible for all such charges.

814

815 D. The authorization in this section for the towing of vehicles, boats, or trailers parked, kept, stored,
816 or otherwise maintained on unimproved property shall be construed as supplementary to any other
817 means of enforcement available to the city and shall not be construed so as to negate the authority
818 of the Special Master to hear and adjudicate appropriate cases.

819

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

820 E. The City Manager shall at least annually recruit qualified persons to serve as Special Masters. The
821 City Council shall, on an annual basis, appoint at least one qualified person to serve as the Special
822 Master and at least one qualified person to serve as an alternate Special Master in the event the
823 Special Master is unable to attend a meeting. Applicants for the Special Master position must be
824 attorneys. The appointment(s) shall be in the sole discretion of the City Council. However, any
825 person appointed to the position of Special Master pursuant to this section must be an attorney
826 duly licensed by the Florida Bar Association to practice law in the State of Florida.

827
828 F. Each Special Master shall serve for a term of one year though Special Masters may be reappointed
829 for consecutive one-year terms. Although appointed for one-year terms, Special Masters shall be
830 subject to removal, with or without cause, from their positions at any time during their term by the
831 City Council in its sole discretion. Special masters shall not be considered to be city employees
832 though, if authorized by the City Council, they may receive compensation for their service and also
833 may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the
834 City Council.

835
836 G. The Special Master shall convene hearings concerning appeals of alleged violations of this section
837 within a reasonable time from the date the appeal request is made. Minutes shall be kept of all
838 hearings by the Special Master and all hearings and proceedings shall be open to the public. The
839 City Manager shall provide clerical and administrative personnel as may be reasonably required by
840 the Special Master for the proper performance of his or her duties.

841
842 H. The Special Master shall proceed to hear the cases on the agenda for that day. If the alleged violator
843 has been duly notified of the hearing, the hearing may proceed in the absence of the named
844 violator. All testimony shall be under oath or affirmation and shall be recorded.

845
846 The Special Master shall take testimony from the Code Compliance Officer, the alleged violator, and
847 any other witnesses who have personal knowledge concerning the alleged violation. Documentary
848 evidence may be presented in support, of or in defense of the charge. Irrelevant, immaterial, or
849 unduly repetitious evidence shall be excluded. All other evidence of the type commonly relied upon
850 by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not
851 such evidence would be admissible in the courts of Florida. Hearsay evidence may be introduced
852 and used for supplementing or explaining other evidence, but it shall not be sufficient in itself to
853 support a finding by the Special Master unless it would be admissible over objections in a civil
854 action. Formal rules of evidence shall not apply, but fundamental due process shall be observed and
855 govern said proceedings.

856
857 I. In order to render an order finding the alleged violator guilty and denying the appeal, the Special
858 Master must find that a preponderance of the evidence indicates that the named violator was
859 responsible for the violation as alleged.

860
861 J. At the conclusion of the hearing, the Special Master shall issue an order containing findings of fact,
862 based on evidence of record, and conclusions of law.

863
864 **Section 6.2.8 Vehicles and trailers for sale.**

865

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

866 It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked,
867 stored, kept, or maintained on any unimproved property in any zoning district, or outside of a
868 completely enclosed building on any improved property in a ~~W~~, C, CC, P₂ or I zoning district, any motor
869 vehicle or trailer of any kind, type, or description, including any boat mounted on a trailer, which is
870 being displayed for sale, hire, or rental except as provided in subsections I., J., and K. below. Throughout
871 this subsection, the term "trailer" shall be deemed to mean and include both a boat mounted on a
872 trailer and the trailer itself.

873

874 A. In the event a motor vehicle or trailer is displayed for sale, hire, or rental in violation of this section,
875 City Code Compliance Officer(s), law enforcement officer(s), or such other city employee(s) as may
876 be designated by the City, are authorized to cause such vehicle or trailer to be immobilized or towed
877 from the property to a garage or other place of safety, and thereafter disposed of in accordance
878 with applicable state law or city ordinance. The city shall not be responsible for the towing charges
879 resulting from the removal of the vehicle from the property. Instead, the owner(s) of the vehicle
880 shall be responsible for all such charges. Immobilization and towing shall be accomplished in
881 accordance with the following subsections B. through H.

882

883 B. A motor vehicle or trailer parked in violation of this section may be immobilized with a "wheel lock,"
884 "boot," or other suitable device as long as a notice of violation is placed by the Code Compliance
885 Officer on the vehicle or trailer indicating all of the following:

886

887 1. That the vehicle or trailer is in violation of this section and that it must be removed from the
888 property within ten calendar days from the date of the notice or it will be subject to removal by
889 the city;

890

891 2. That the notice of violation may be appealed as provided in the following subsection D.;

892

893 3. That the wheel lock, boot, or other immobilization device will be removed from the vehicle or
894 trailer upon the posting with the city of a \$200 bond, in the form of cash, certified check, or
895 surety bond; and

896

897 4. The name of the city official or department with which such bond must be posted and the street
898 address thereof.

899

900 C. The Code Compliance Officer shall make every reasonable attempt to ascertain the owner of the
901 motor vehicle or trailer and the owner of the real property on which it is unlawfully parked, and to
902 provide such owner(s) with a copy of the written notice of violation placed on the vehicle or trailer,
903 such copy to be delivered by mail or personal service at their current address, last known address,
904 or the address appearing on the certificate of title for the vehicle.

905

906 D. Within the ten-calendar day period specified in the aforesaid notice, the owner of the vehicle or
907 trailer or the owner of the real property may appeal to a Special Master appointed under § 6.2.6.E.
908 of this chapter. The appeal shall be filed at the office of the City Manager, must attach a copy of the
909 notice of violation appealed, and must include the name of the person filing the appeal and an
910 address at which such person may be served notice of the hearing on the appeal. The hearing on
911 the appeal shall be conducted the same as a code enforcement hearing for a case initiated by a
912 Code Compliance Officer pursuant to §§ 2-85 through 2-92 of the Code of Ordinances of the City of

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

913 Cape Coral, Florida. The Special Master shall determine the validity of the violation and may for
914 good cause extend the time for compliance or removal. If such an appeal is instituted, no removal
915 of the vehicle or trailer shall be required until after said appeal has been dismissed or finally
916 determined by the Special Master with a finding of a violation of this subsection .8.
917

918 E. If no appeal is made or if an appeal is made but dismissed and the vehicle or trailer remains in
919 violation after the ten calendar day period, or if an appeal is resolved with a finding of a violation
920 of this subsection and the vehicle or trailer is not removed within whatever time period is allowed
921 by the Special Master, the City Code Compliance Manager shall cause such vehicle to be towed from
922 the property and thereafter stored and disposed of in accordance with applicable state law or city
923 ordinance. The Special Master may also assess fines and costs, the same as for any code violation.
924

925 The city shall not be responsible for the towing charges resulting from the removal of the vehicle
926 from the property. Instead, the owner(s) of the vehicle shall be responsible for all such charges.
927

928 F. The authorization in this section for the towing of vehicles and trailers unlawfully displayed for sale,
929 hire, or rental shall be construed as supplementary to any other means of enforcement available to
930 the city and shall not be construed so as to negate the authority of the Special Master to hear and
931 adjudicate appropriate cases.
932

933 G. The provisions above, regarding Special Masters and Special Master hearings, shall apply equally
934 with regard to this section.
935

936 H. Code Compliance Officer shall be notified and the wheel lock, boot, or other immobilization device
937 shall, as soon as practicable, be removed from the vehicle or trailer. If no appeal of the violation is
938 timely filed, or if an appeal is filed and is dismissed, the bond shall be forfeited to the city to cover
939 the cost of inspection, notice of violation, and immobilization of the vehicle or trailer. If an appeal
940 is filed and ultimately results in a finding by the Special Master that no violation of this subsection
941 .8 occurred, the bond shall be returned to the person who posted it. If an appeal is filed and
942 ultimately results in a finding by the Special Master that a violation of this subsection .8 occurred,
943 the bond shall be applied to any fines and costs assessed against the violator by the Special Master.
944

945 I. If a motor vehicle being displayed for sale, hire, or rental is parked by the owner outside of a
946 completely enclosed building in a designated parking space on any improved property in a C, NC,
947 CC, P1, or I zoning district, while the owner of the vehicle is attending or participating in activities
948 or is being treated or served by or is shopping at a facility located on such property, the motor
949 vehicle and its owner shall not be in violation of this subsection .8. However, the leaving of any such
950 vehicle on the same property for a period of eight consecutive hours shall create a rebuttable
951 presumption that the owner is not attending or participating in activities or is being treated or
952 served by or is shopping at a facility located on such property and that the motor vehicle and its
953 owner are in violation of this subsection .8.
954

955 J. This subsection .8 shall not apply to any motor vehicle or trailer offered for sale on property
956 developed and used for a licensed business which includes the sale of such vehicles or trailers or to
957 any motor vehicle or trailer while it is being repaired on property developed and used for a licensed
958 business which includes the repair of such vehicles or trailers.
959

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING

960 K. This subsection .8 shall not apply to motor vehicles or trailers offered for sale on any property
961 pursuant to a City Council special event approval.
962

963 **Section 6.2.9 Exemptions.**
964

965 A. The provisions of this section shall not apply to vehicles parked on the premises of churches, clinics,
966 schools, child care facilities, assisted living facilities, public libraries, public buildings, public and club
967 swimming pools, private clubs, golf courses, utilities, hotels and motels, and parks and recreational
968 areas, while the persons transported thereby are attending or participating in activities or being
969 treated or served thereat, nor to buses, trucks, or trailers parked at any time in a space prepared
970 or designated therefore on said premises, if such vehicles are used or operated by or for the
971 operation of the places or institutions designated, except that such vehicles cannot be used for
972 residential purposes.
973

974 B. The provisions of this section shall not apply to vehicles parked on unimproved or vacant lots within
975 the boundaries of the South Cape zoning district, provided the following requirements are met:
976

977 1. The unimproved or vacant property must be zoned for commercial use and must be
978 immediately adjacent to the business premises for which parking is being provided. For
979 purposes of this section, the phrase **IMMEDIATELY ADJACENT** shall mean sharing all or part of
980 a property line with the business premises or directly across a street or alley from the business
981 premises, provided that the width of such street or alley is 50 feet or less and provided that all
982 or part of the unimproved or vacant property lies within an extension of the property lines of
983 the business premises across the street or alley.
984

985 2. If the vacant property which will be utilized for parking is not owned by the same person or
986 entity as the developed commercial property it is intended to serve, the owner of the developed
987 commercial property must have a bona fide lease for the adjacent vacant or unimproved
988 property.
989

990 3. Parking on the vacant or unimproved property shall be limited to only patrons of the adjacent
991 business and only during the hours that such business is in operation. The vacant or unimproved
992 property shall be posted with a sign that states the foregoing two restrictions.
993

994 **Section 6.2.10 Authority to signpost designated areas.**
995

996 The City Manager shall have the authority to post signs designating areas of regulated or restricted
997 parking as provided by F.S. §§ 316.006 and 316.008 (1973) or other applicable laws.
998

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

CHAPTER 1. GENERAL PROVISIONS

- Section 7.1.1.** Purpose and Intent
- Section 7.1.2.** Scope
- Section 7.1.3.** Compliance with Codes and Ordinances
- Section 7.1.4.** Substitution
- Section 7.1.5.** Severability
- Section 7.1.6.** Definitions

CHAPTER 2. ADMINISTRATION

- Section 7.2.1.** Prohibited Signs
- Section 7.2.2.** Signs in the Public Right of Way
- Section 7.2.3.** Activities Exempt from Permitting
- Section 7.2.4.** Requirements Applicable to All Signs
- Section 7.2.5.** Maximum Total Sign Area per site
- Section 7.2.6.** Sign Permits
- Section 7.2.7.** Non-conforming Signs
- Section 7.2.8.** Sign Deviations
- Section 7.2.9.** Maintenance of Signs

CHAPTER 3. TEMPORARY SIGNS

CHAPTER 4. PERMANENT SIGNS

- Section 7.4.1.** Permanent signs- Residential
- Section 7.4.2.** Permanent signs- Non- Residential
- Section 7.4.3.** Miscellaneous signs

CHAPTER 1. GENERAL PROVISIONS

Section 7.1.1. Purpose and Intent

It is the purpose of this Article to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. The sign regulations in this Article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and traffic and pedestrian safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests, such as traffic safety and warning signs of threats to bodily injury or death. This Article is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

In order to preserve and promote the City as a desirable community in which to live, visit, work, play, and do business, a pleasing, visually attractive, and safe environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

47 Further it continues to be the purpose of this Article to promote optimum conditions for serving sign
48 owners' needs and respecting their rights to identification while balancing the aesthetic and safety
49 interests of the community. The regulation of signs within the City is necessary and in the public interest,
50 and these regulations have been prepared with the intent of enhancing the visual environment of the City
51 and promoting its continued well-being, and are intended more specifically to:

52

53 A. Aesthetics. To maintain and enhance the beauty, unique character, aesthetic environment, and
54 quality of the City, that will attract commerce, businesses, economic development, residents, and
55 visitors; to preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all
56 zoning districts of the City; to regulate the appearance and design of signs in a manner that promotes
57 and enhances the beautification of the City and that complements the natural surroundings in
58 recognition of the City's reliance on its natural surroundings and beautification efforts in retaining
59 economic advantage for its community; and to assure that the benefits derived from the expenditure
60 of public funds for the improvement and beautification of streets, sidewalks, public parks, public
61 rights-of-way, and other public places and spaces, are protected by exercising reasonable controls
62 over the physical characteristics and structural design of signs.

63

64 B. Traffic and Pedestrian Safety. To maintain and improve traffic and pedestrian safety through properly
65 located signs; to regulate signs in a manner so as to not interfere with, obstruct the vision of, or
66 distract motorists, bicyclists, or pedestrians; to allow for traffic control devices consistent with
67 national standards and whose purpose is to promote roadway safety and efficiency by providing for
68 the orderly movement of road users on streets and roadways, and that notify users of regulations and
69 provide warning and guidance necessary for the safe, uniform, and efficient operation of all elements
70 of the traffic stream.

71

72 C. Economic Development. To promote economic development and the value of nonresidential
73 properties, through sensitivity to surrounding land uses and maintaining an attractive community
74 appearance.

75

76 D. Effective Communication. To encourage signs which are clear and legible; and to encourage the
77 effective use of signs as a means of communication.

78

79 E. Identification of Goods and Services. To aid the public and private sectors in identifying the location
80 of goods and services.

81

82 F. Compatibility with Surroundings. To allow signs that are compatible with their surroundings and aid
83 orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or
84 obstruct adjacent land uses or signs; to preclude signs from conflicting with the principal permitted
85 use of the site and adjoining sites; and to minimize the possible adverse effect of signs on nearby
86 public and private property.

87

88 G. Reduction of Visual Clutter. To reduce visual clutter that may otherwise be caused by the proliferation,
89 improper placement, illumination, animation, excessive height, and excessive size (area) of signs
90 which compete for the attention of pedestrian and vehicular traffic.

91

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

- 92 H. Zoning District Considerations. To encourage and allow signs that are appropriate to the zoning district
93 in which they are located.
94
- 95 I. Scale, Integration, and Design. To establish sign size in relationship to the scale of the lot and building
96 on which the sign is to be placed or to which it pertains; to foster the integration of signs with
97 architectural and landscape designs; to provide flexibility and encourage variety in signs, and to relate
98 signage to the basic principles of good design; and to promote the use of signs that positively
99 contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings
100 and landscape, and advance the City’s goals of quality development.
101
- 102 J. Maintenance and Safety. Except to the extent expressly preempted by state or federal law, to ensure
103 that signs are constructed, installed, and maintained in a safe and satisfactory manner, and to protect
104 the public from unsafe signs.
105
- 106 K. Property Values. To protect property values by precluding, to the maximum extent possible, sign types
107 that create a nuisance to the occupancy or use of other properties because of their physical
108 characteristics such as their size (area), height, number, illumination, and movement; and to protect
109 property values by ensuring that the number of signs are in harmony with buildings, neighborhoods,
110 and conforming signs in the area.
111
- 112 L. Enforcement. To enable the fair and consistent enforcement of these sign regulations; and to provide
113 standards regarding the non-communicative aspects of signs, which are consistent with local, county,
114 state, and federal law.
115

Section 7.1.2. Scope

116
117
118 This article shall control the regulation of signs and other outdoor displays. If any part of this article
119 conflicts with any other codes adopted by the city, the most restrictive provision shall apply.
120

Section 7.1.3. Compliance with Codes and Ordinances

121
122
123 No sign shall be erected or maintained in the city, except in accordance with the provisions of this article.
124 All signs erected, installed, or located in the City of Cape Coral shall conform to all requirements of the
125 National Electrical Code, the Florida Building Code, this article, and other applicable law.
126

Section 7.1.4. Substitution

127
128
129 It is not the purpose of this article to regulate or control the copy, content, or viewpoint of signs. Nor is it
130 the intent of this article to afford greater protection to commercial speech than to non-commercial
131 speech. Any sign, display, or device allowed under this article may contain, in lieu of any other copy, any
132 otherwise lawful non-commercial message that complies with all other requirements of this article. The
133 non-commercial message may occupy the entire sign area or any portion thereof and may substitute for
134 or be combined with the commercial message. The sign message may be changed from commercial to
135 non-commercial or from one non-commercial message to another, as frequently as desired by the sign's
136 owner, if the sign is not prohibited and the sign continues to comply with all requirements of this article.
137

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

Section 7.1.5. Severability

- A. Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.
- B. Severability where less speech results. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the city, whether by subjecting currently exempt signs to permitting or by some other means.
- C. Severability of provisions pertaining to prohibited signs. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to Section 7.2.1 of this article, "Prohibited signs," so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
- D. Severability of prohibition on off-premises signs and commercial signs. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. If any, or all, of this article or any other provision of the code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the City Council specifically intends that that declaration shall not affect the prohibition of off-site signs in Section 7.2.1 of this article.

Section 7.1.6. Definitions

Article 11 of this code contains definitions as they relate to this article.

Chapter 2. Administration

Section 7.2.1. Prohibited Signs

The following signs are prohibited:

- A. Abandoned signs;
- B. Animated signs, except electronic message centers, provided such signs comply with the requirements of Section 7.4.3;
- C. Back Lit Awning Signs;
- D. Bandit Signs;

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

- 184 E. Blinking Signs;
185
- 186 F. Unless allowed under Section 7.2.2 of this article, signs on public property, rights-of-way, or attached
187 to trees or utility poles, other than by or with the permission of the owner of the public property or
188 right-of-way;
189
- 190 G. Signs attached to fences on improved, non-residential property; however, this prohibition shall not
191 extend to signs attached to recreational fences around activity fields, playgrounds, or playing fields
192 (such as football fields, baseball diamonds, etc.) in public parks owned and operated by one or more
193 governmental entities and where the signs:
194
 - 195 1. Are only visible from inside the park, or
196
 - 197 2. If visible from outside the park, face the inside of the park;
198
- 199 H. Figure structured signs;
200
- 201 I. Flashing signs;
202
- 203 J. Intermittent;
204
- 205 K. Moving;
206
- 207 L. Obscene signs;
208
- 209 M. Off-site signs;
210
- 211 N. Parasite signs;
212
- 213 O. Projected image signs;
214
- 215 P. Portable signs;
216
- 217 Q. Reflective;
218
- 219 R. Roof signs;
220
- 221 S. Rotating;
222
- 223 T. Signs or sign support structures that obstruct means of egress, including any fire escape, any window,
224 any door opening, any stairway, any opening, any exit, any walkway, any utility access or Fire
225 Department connection;
226
- 227 U. Signs that interfere with any opening required for ventilation;
228
- 229 V. Signs resembling Traffic Control Device Signs;

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

- 230
- 231 W. Signs with exposed raceways;
- 232
- 233 X. Snipe Signs; and
- 234
- 235 Y. Vehicle signs.
- 236

Section 7.2.2. Signs in the Public Right-of-Way

- 237
- 238
- 239 A. Signs allowed in the public right-of-way. No signs shall be erected, installed, or located in the public
- 240 right-of-way or shall project over the public right-of-way, except permanent signs of the following
- 241 type(s):
- 242
- 243 1. Public signs erected by or on behalf of a governmental body to post legal notices, identify public
- 244 property, convey public information, announce public events, and direct or regulate pedestrian
- 245 or vehicular traffic.
- 246
- 247 2. Signs that are placed within or on structures that are public service related, including bus stop
- 248 signs, bench/shelter signs, and other informational signs. These structures shall be erected by or
- 249 on behalf of a public transit or communications company or the city. These structures and the
- 250 character, size, content, nature, and design of signs on such structures shall be approved by the
- 251 city through a contract or other agreement approved by the City Council prior to the erection of
- 252 such structures or the installation of such signs. If such structures cannot be in the public right-of-
- 253 way as the result of safety factors, right-of-way constraints, or other factors or if it is more
- 254 practicable to locate such structures on a site other than public right-of-way, the structure may
- 255 be placed on private property, provided that prior written consent is obtained from the property
- 256 owner.
- 257
- 258 3. Informational signs of a public utility regarding its poles, lines, pipes, or facilities.
- 259
- 260 4. Development identification signs in conformity with 7.4.2.
- 261
- 262 5. Directional signs in conformity with 7.4.2.
- 263
- 264 6. Non-commercial signs in conformity with 7.4.2.
- 265
- 266 7. Traffic Control Device Signs installed by or on behalf of a government body.
- 267
- 268 B. Removal and forfeiture of unauthorized sign in the public right-of-way. The city shall have the right to
- 269 remove from the public right-of-way any sign which is erected, installed, or located in such public
- 270 right-of-way and which does not conform to the requirements of this article. Such signs shall be
- 271 deemed to have been forfeited to the city and the city shall have the right to dispose of such signs as
- 272 it sees fit. In addition to other remedies, the city shall have the right to recover from the owner of
- 273 such sign or the person responsible for placing the sign in the public right-of-way all costs associated
- 274 with the removal or disposal of the sign.
- 275

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

Section 7.2.3. Activities Exempt from Permitting

276
277

The following types of activities are exempt from the permitting requirements of this article:

278
279

- A. Changing the advertising copy, announcement, or message on a marquee or changeable copy sign board so designed to alter such copy; subject to any restrictions in this article, including frequency limitations;
- B. Cleaning, painting, electrical, or comparable general maintenance or repair of a sign that does not alter any regulated feature of such sign; and
- C. Changing the message or locating official public notices or traffic control signs.

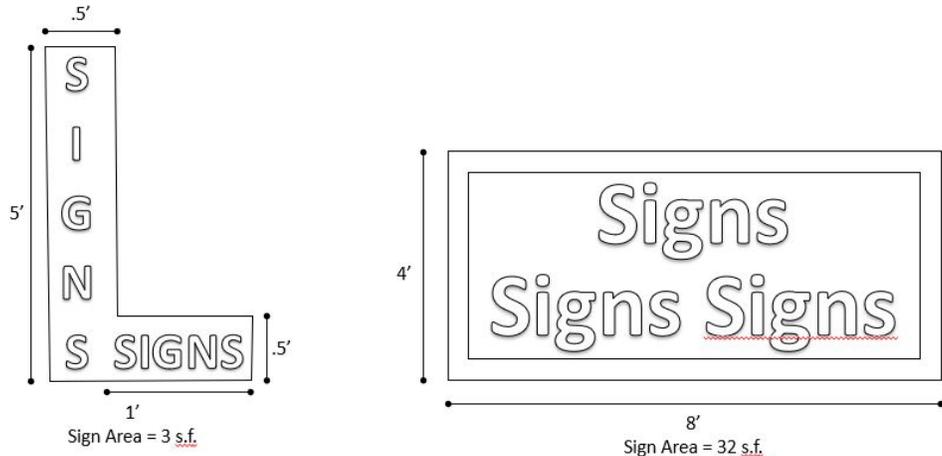
283
284
285
286

Section 7.2.4. Requirements Applicable to All Signs

287
288

- A. Computation of sign area. The area of a sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater, excluding the area of the supporting structures provided that the supporting structures are not used for advertising purposes and are of an area equal to or less than the permitted sign area. Supporting framework and bracing which are incidental to the display itself shall not be included in the computation of the area unless, by the nature of their design, they form a continuation of the sign.

291
292
293
294
295
296



297

- 1. The area of a multi-faced sign shall be computed on one face in the same manner as the sign area of an individual sign, provided that the faces of the sign are not separated at any point by more than 18 inches. If the faces of a multi-faced sign are separated at any point by more than 18 inches, then each face constitutes a separate sign.

298

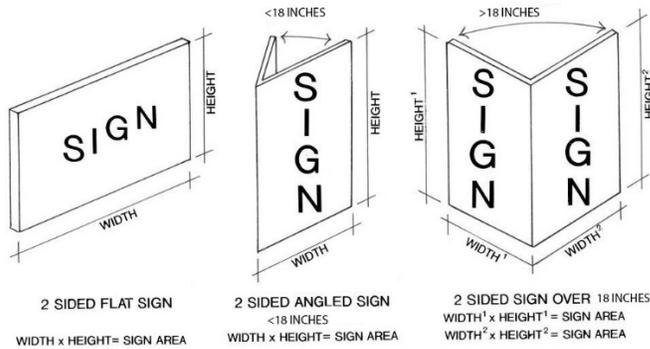
299

300

301

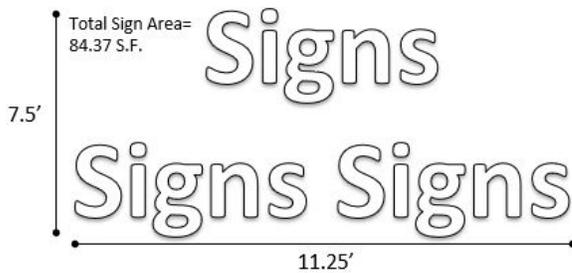
302

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**



303
304
305
306
307
308
309

2. Where individual characters are used without a supporting panel (channel letters), the overall dimensions from the beginning of the first character to the end of the last character in the longest line and from the top of the uppermost character to the bottom of the lowermost character shall be regarded as the extreme dimensions in calculating the overall sign area of the sign.



310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330

- B. Computation of height. The vertical height of a freestanding sign shall be computed from the established mean grade of the development site to the highest component of the sign or supporting framework, whichever is higher. The maximum vertical height of a building mounted sign shall not exceed the roof line of the structure.
- C. Location of signs on property.
 1. Setbacks. The distance of a sign from a property line, right-of-way, or other point shall be computed by measuring a perpendicular line from the foremost part of the sign to the ground and then measuring from that point to the nearest point of the property line, right-of-way, etc.
 2. Distance between freestanding signs. A minimum distance of 25 feet shall be maintained between freestanding signs regardless of whether such signs are on one site or whether they are located on adjacent sites.
 3. Location. No sign may project beyond the property line(s) of the property on which the sign is located, except that sign(s) may be flush-mounted to the walls of buildings which are constructed with a zero setback from the property line. Except as otherwise provided herein, signs shall be located on the same site on which the advertised goods or services are available. No part of any

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

331 banner, sign, flag, or flagpole shall be hung, attached, or erected in any manner as to project into
332 the right-of-way.
333

334 4. Freestanding signs are prohibited in the 6' perimeter utility easement.
335

336 D. Illumination. Signs may be illuminated by any method not prohibited by this article provided that any
337 light source shall be shielded in such a manner as to prevent direct rays of light from being cast into
338 an occupied residence, hotel or motel room, a commercial business, at any pedestrian traveling upon
339 a street or sidewalk, or any vehicle traveling upon a public street.
340

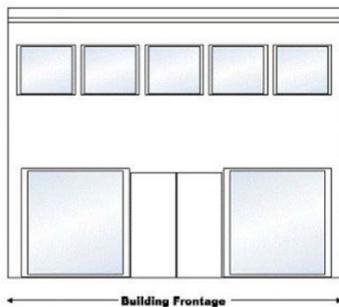
Section 7.2.5. Maximum Total Sign Area Per Site

341
342
343 A. Residential uses in residential zoning districts. Except for signs identified as permitted, no signs are
344 allowed on sites containing residential uses in residential zoning districts. Any sign on a residential site
345 in a residential zoning district shall comply with the provisions for such sign(s).
346

347 B. Non-residential uses in all zoning districts. Except as otherwise provided in this chapter, the number
348 of building signs located on property lawfully used for non-residential purposes shall not be limited
349 so long as the cumulative total sign area (in square feet) of all such signs, except exempt signs, does
350 not exceed the building sign allowance for the property. The allowable building sign area (in square
351 feet) of all signs, except exempt signs, erected, installed, or located on a site lawfully containing a non-
352 residential use in any zoning district shall be computed as follows:
353

354 1. Building mounted signs.

355
356 a. If a building contains more than one floor or story, the dimension of the primary side of the
357 building shall be determined by measuring (in linear feet) the overall width of the first floor
358 or story of the building on the side that faces the front lot line and the sign allowance for each
359 business establishment or other entity occupying the building shall be shared by such business
360 establishments or other entities as determined by the property owner based on the frontage
361 of the building.
362



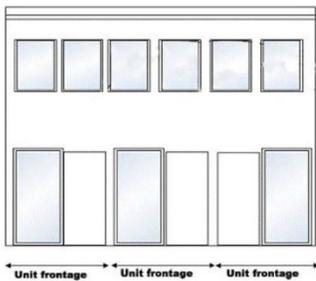
Structural Building Frontage Single Unit

363
364
365 b. If a building contains more than one business establishment or other entity, but the exterior
366 of the building has not been subdivided into units, the sign allowance for each business
367 establishment or other entity occupying the building shall be shared by such business

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

368 establishments or other entities as determined by the property owner based on the frontage
369 of the building.

370
371 c. If all or part of the exterior of a building has been subdivided into two or more fully enclosed
372 units capable of containing one or more business establishments or other entities (such as a
373 multiple unit shopping center), the front dimension of each such unit shall be considered the
374 building frontage of the unit and the sign allowance for each business establishment or other
375 entity occupying such unit shall be shared among the business establishments or other
376 entities occupying such unit in the manner prescribed by the property owner. Any remaining
377 part of the exterior of the building which has not been subdivided into fully enclosed units
378 shall be treated the same as a building which has not been subdivided into units.
379



Structural Building Frontage Multiple Unit Building

380
381
382 d. If a single business establishment or other entity occupies more than one consecutive fully
383 enclosed unit, the building frontage of such business or other entity shall be the total linear
384 dimension of building frontage of all such units combined.

385
386 e. The allowable signage to be mounted on a building shall be based on the building frontage of
387 a business or other entity as follows:
388

Linear Feet of Structural Frontage	Square Feet/Linear Feet of Structural Frontage	Maximum Area
≤100 Linear Feet	2 Square Feet	100 Square Feet
>100 Linear Feet to ≤300 Linear Feet	1 Square Foot	200 Square Feet
>300 Linear Feet	.75 Square Feet	300 Square Feet
In the event a building is located on a lot that does not abut a public street, the frontage shall be measured along the publicly dedicated parking lot or platted alley that the lot fronts		

389
390 f. In addition to the sign area otherwise allowed in this section, business establishments or other
391 entities which meet the following criteria shall be allowed additional sign area for building-
392 mounted signs as follows:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436

- i. Businesses or other entities fronting on more than one platted street shall be permitted an additional sign area allowance of one-half square foot per linear foot of building frontage on such additional street up to a maximum of 50 square feet per street. Such additional sign area allowance for a second street shall be added to the building-mounted sign area allowance resulting from the building frontage calculation. If a business or other entity fronts on three or four streets, then the additional sign allowance resulting from frontage on the third or fourth streets shall be used on the building face actually abutting the third or fourth streets. For purposes of this article, when a business or other entity fronts three or four streets, the side(s) of the business establishment or other entity shall be deemed to be fronting on the second and, if applicable, the fourth streets and the rear of the business establishment or other entity shall be deemed to front on the third street.
- ii. Businesses or other entities whose side or rear building frontages abut a public alley, public parking area, or mall parking area shall be permitted an additional allowance of one-half square foot per linear foot of such side or rear building frontage up to a maximum of 50 square feet. Such additional allowance shall only be used on the side or rear of the building which actually abuts the public alley, public parking area, or mall parking area.

C. Freestanding signs.

- 1. Individual business or entity sites.
 - a. Except as otherwise provided in Section 7.4.3 of this article, "Gasoline pricing signs," no site shall have more than two freestanding signs.
 - b. The allowable freestanding sign area (in square feet), the maximum number of freestanding signs, and the maximum height of freestanding signs erected, located, or placed on lawfully existing non-residential uses in all zoning districts shall be based on the street frontage of the site.
 - c. When only one freestanding sign is permitted, the sign shall provide architectural design features, including colors or materials or both consistent with those used in the design of the building to which the sign is accessory. These features shall apply to the sign frame and supporting materials, not to the sign panel or panels that provide the actual advertising area.
 - d. When two freestanding signs are permitted, signs must be similar in design, color and materials.
 - e. For all individual non-residential use sites, the following maximum freestanding sign(s) number, maximum freestanding sign area, and height limitations shall apply:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

Freestanding Signs	Individual businesses or entities	Individual businesses or entities in Preserve Zoning Districts	Individual businesses or entities on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	30 square feet	24 square feet	36 square feet
101-200 feet	40 square feet	24 square feet	48 square feet
201-300 feet	52 square feet	24 square feet	60 square feet
301+ feet	65 square feet	24 square feet	75 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart.			

437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456

2. Multiple business or entity sites.
 - a. When only one freestanding sign is permitted, the sign shall provide architectural design features, including colors or materials consistent with those used in the design of the building the sign is accessory to. These features shall apply to the sign frame and supporting materials, not to the sign panel or panels that provide the actual advertising area.
 - b. On sites that are approved through a Planned Unit Development which contain commercial, professional, industrial, mixed use, or agricultural uses together with residential properties as part of the same Planned Unit Development, and the residential uses front the road on which the development faces with non-residential uses located inside the development not visible from the road, the Director may allow signs that are used to direct motorists to facilitate finding the non-residential component of the development. The Director shall take into consideration factors that include:
 - (i) The location of the non-residential uses within the development;
 - (ii) The location of permitted signage for the non-residential uses within the development; and
 - (iii) Roadway conditions.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

457 c. Although the distribution of freestanding signage among the tenants or occupants of a
458 multiple business or entity site shall be the responsibility of the real property site owner, the
459 following limitations concerning maximum number, sign area, and height of freestanding
460 signs shall apply to all multiple business or entity sites containing non-residential uses:
461

Freestanding Signs	Multiple business or entity sites	Multiple business or entity sites in Preservation Zoning Districts	Multiple business or entity sites on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	50 square feet	24 square feet	60 square feet
101-200 feet	64 square feet	24 square feet	75 square feet
201-300 feet	80 square feet	24 square feet	100 square feet
301+ feet	100 square feet	24 square feet	150 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart. 2. In the event the depth of the property is at least three times the length of the street frontage (linear feet), an additional 25% of sign area is allowed.			

462
463 **Section 7.2.6. Sign Permits**
464

465 A. Required. Except as otherwise required, no sign shall be located, placed, erected, constructed,
466 altered, extended, or displayed without first obtaining a sign permit and meeting all requirements of
467 the Florida Building Code. In the event a sign is located, installed, or maintained upon real property
468 without any required permits, after the expiration or lapse of a sign permit, after the closure of a
469 business, or otherwise in violation of the requirements of this article, the owner of the real property
470 shall be deemed to be responsible for the prompt removal of such sign and shall be responsible for
471 and subject to all fines or penalties which shall result from such violation.
472

473 B. Procedure. The procedure for obtaining a sign permit shall in conformance with application
474 requirements in Article 3.1.
475

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

- 476 1. Upon request by the Department, the applicant shall provide such supplementary information as
477 may be specifically requested by the Department to determine compliance with this article.
478
- 479 2. The Department shall review the application, plans, and specifications to determine whether the
480 proposed sign conforms to all applicable requirements of this article and, based on such review,
481 shall either approve or deny the application for the sign permit.
482
- 483 a. Sign permit applications which include a request for a deviation to this article, pursuant to
484 Section 7.2.8 of this article, shall either be approved or denied. However, if the applicant has
485 applied for a building permit or certificate of use for the non-residential use at the subject site
486 or for an electrical permit for the illumination of a sign, no sign permit shall be issued by the
487 city until after the requested building or electrical permit or certificate of use has been issued
488 by the city.
489
- 490 b. In no event shall the issuance of a sign permit following the issuance of a building permit, but
491 prior to the completion of the construction project, result in an increase in the sign(s) allowed
492 under this article based on the structure as it is eventually completed. In other words, if the
493 city issues sign permit(s) following the issuance of a building permit, but before the
494 construction of the building or structure is completed, and one or more sign(s) are installed
495 or erected pursuant to such sign permit, but then the building plans are modified in such a
496 way as to reduce the number, size, etc. of the sign(s) which would be allowed under this
497 article, then the property owner shall be required to bring such sign(s) into compliance with
498 the provisions of this article and to obtain a valid sign permit for such sign(s).
499
- 500 C. Submission requirements. No request for a sign permit shall be considered complete until all required
501 documents and fees are received.
502
- 503 D. Plans and specifications. Plans and specifications for any proposed sign shall be drawn to scale and
504 shall include the following:
505
- 506 1. Dimensions and elevations, including the message of the sign;
507
- 508 2. Parcel frontage on all street rights-of-way for freestanding signs only;
509
- 510 3. Linear dimension(s) of the subject building or unit(s) adjacent to all public rights-of-way, such as
511 streets, alleys, or public parking lots for freestanding signs only;
512
- 513 4. Maximum height of the sign, as measured in accordance with this article;
514
- 515 5. Location of the sign in relation to property lines, public rights-of-way, easements, buildings, and
516 other signs on the property;
517
- 518 6. Dimensions and anchoring of the sign's supporting members;
519
- 520 7. For illuminated signs, the type, location, and direction of illumination sources;
521

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

- 522 8. Construction and electrical specifications, enabling determination that the sign meets all
523 applicable structural and electrical requirements of the building code; and
524
- 525 9. Number, type, location, and surface area of all existing signs on the same property or building on
526 which the sign is to be placed, except that in the event all or part of the exterior of a building has
527 been subdivided into two or more fully enclosed units capable of containing one or more business
528 or entity establishments, such as a multiple unit shopping center, the number, type, location, and
529 surface area of all building mounted signs on the unit for which the proposed sign is sought and
530 all freestanding signs on the property shall be included.
531
- 532 E. Deviations. Certain deviations to the requirements of this article are authorized pursuant to Section
533 7.2.8. No other deviations are permitted.
534
- 535 F. Lapse. A sign permit shall lapse automatically if the business tax receipt for the premises lapses, is
536 revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is
537 discontinued for a period of 30 days and is not renewed within 30 days from the date a written notice
538 is sent from the city to the last permittee that the sign permit will lapse if such activity is not resumed.
539 A sign permit shall also lapse if the sign for which it is issued either is not erected or placed within 180
540 days following the issuance of the sign permit or is removed for a period of 60 days. Once a sign permit
541 has lapsed, it shall be considered void and a new application and review process shall be necessary to
542 have such a permit reissued.
543
- 544 G. Identification. All signs requiring a permit shall have the permit number permanently imprinted or
545 otherwise placed in the lower right-hand corner of the sign.
546
- 547 H. Removal. The permittee or property owner shall be responsible for the removal of a sign once the
548 sign permit has expired or lapsed, without an application for a new permit, or the purpose in
549 displaying the sign has ended.
550

Section 7.2.7. Non-Conforming Signs.

- 551
- 552
- 553 A. Non-conforming sign compliance. All signs lawfully erected prior to February 1, 2019 that do not
554 comply with the requirements of this article shall be considered non-conforming signs. All non-
555 conforming signs shall be removed or brought into conformity with this article no later than February
556 1, 2029. The owners of the real property on which such non-conforming signs exist shall be
557 responsible for ensuring that such signs are removed or brought into conformity. Non-conforming
558 signs shall not be altered, replaced, or repaired if such alteration, replacement, or repair would
559 constitute more than 50% of the replacement value of the non-conforming sign. All other signs that
560 were not lawfully erected prior to February 1, 2019 that do not comply with the requirements of this
561 article shall be removed no later than December 31, 2024.
562
- 563 B. Effect of annexation on sign compliance. Any sign that was lawfully erected on property that was
564 located outside of the jurisdiction of the city at the time the sign was erected but which was annexed
565 into the city prior to February 1, 2019 and that does not comply with the requirements of this article
566 shall be considered a non-conforming sign and shall be removed or brought into conformity with this
567 article no later than February 1, 2029. Any sign that was or is lawfully erected on property that was

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

568 located outside of the jurisdiction of the city at the time the sign is erected but which was annexed
569 into the city on or after February 1, 2019 and that does not comply with the requirements of this
570 article, shall be considered a non-conforming sign and shall be removed or brought into conformity
571 with this article no later than ten years from the effective date of the annexation.
572

- 573 C. Restrictions on permitting certain non-conforming signs. Sign permits will not be issued for the
574 alteration, replacement, or repair of a non-conforming sign if such alteration, replacement, or repair
575 constitutes more than 50% of the replacement value of the existing non-conforming sign. Changing
576 the information on the face of an existing non-conforming sign shall not be deemed an action
577 increasing the degree or extent of the non-conformity to constitute a violation of this article. Any
578 other alteration to an existing non-conforming sign will be required to conform to this article.
579
- 580 D. Exceptions. A sign which is erected, located, or installed prior to the adoption of this ordinance and
581 which was approved by a dimensional variance from the Board of Zoning Adjustment and Appeals,
582 Hearing Examiner, or the City Council shall retain such variance approval. A sign which is erected,
583 located, or installed prior to the adoption of this ordinance and which was approved by a deviation
584 from the Director shall retain such deviation approval. However, any sign which has been approved
585 by such a dimensional variance or deviation and is then changed to conform to this article shall forfeit
586 the sign variance or deviation.
587

588 **Section 7.2.8. Sign Deviations.**

- 589
- 590 A. Deviations. A deviation may be granted from the strict application of the regulations in this chapter
591 which apply to:
592
- 593 1. Allow a 25% increase in allowable sign area;
 - 594
 - 595 2. Allow a 25% increase in allowable sign height;
 - 596
 - 597 3. Allow for decrease in minimum distance between freestanding signs; or
 - 598
 - 599 4. Allow an additional freestanding sign.
 - 600
- 601 B. Requests for deviations shall be initiated by the applicant in the application for a sign permit and shall
602 be accompanied by documentation including sample detail drawings, schematic architectural
603 drawings, site plans, elevations, and perspectives which shall graphically demonstrate the proposed
604 deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the
605 detriment, of the public interest. Deviations listed in Sec. 7.2.8.A may be approved by the Director
606 provided that such deviation will not be contrary to the public interest and in harmony with the
607 general intent and purpose of this article and where one or both of the following criteria are satisfied:
608
- 609 1. Conditions exist that are not the result of the applicant and which are such that a literal
610 enforcement of the regulations involved would result in unnecessary or undue hardship; or
611

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

612 2. There is something unique about the building or site configuration that would cause the signage
613 permitted by this article to be ineffective in identifying a use or structure that would otherwise
614 be entitled to a sign.
615

616 C. Subject to the standards and criteria stated above, the Director shall approve only the minimum
617 deviation from the provisions of this article necessary to avoid the undue hardship or to cause the
618 signage for the site to be effective in identifying the use or structure on the site. However, no deviation
619 shall be approved that would have the effect of allowing a type or category of sign that would
620 otherwise be prohibited by this article.
621

622 D. Any person aggrieved by the decision of the Director concerning a deviation may apply for a variance.
623

Section 7.2.9. Maintenance of Signs.

624
625
626 A. Maintenance Required.
627

628 It is unlawful for any owner of record, lessor, lessee, manager, or other person having lawful
629 possession or control over a building, structure, or parcel of land to fail to maintain any signs on the
630 building, structure, or parcel in compliance with this chapter. Failure to maintain a sign constitutes a
631 violation of this chapter and shall be subject to enforcement under the enforcement provisions of
632 Chapter 1.6.
633

634 All signs, if in existence prior to adoption of this chapter, shall be maintained and kept in good repair
635 and in a safe condition. Maintenance of a sign shall include periodic cleaning, replacement of
636 flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled,
637 cracked, or otherwise damaged or broken parts of a sign, and any other activity necessary to restore
638 the sign so that it continues to comply with the requirements and contents of the sign permit issued
639 for its installation, if required, and the provisions of this chapter.
640

641 B. Removal.
642

643 1. Every person maintaining a sign must, upon vacating the premises where a sign is maintained,
644 remove or cause to be removed the sign within 180 days from the date of vacating the premises.
645 When the Director determines that the sign has not been removed within the required period,
646 the Director shall remedy and enforce said violation in accordance with the enforcement
647 provisions of this chapter.
648

649 2. Any vacant or unused sign support structures, angle irons, sign poles, or other remnants of old
650 signs which are currently not in use or are not proposed for immediate reuse by a sign permit
651 application for a permitted sign, shall be removed.
652

653 3. The Director shall have the authority to require the repair, maintenance, or removal of any sign
654 or sign structure which has become dilapidated or represents a hazard to the safety, health, or
655 welfare of the public, at the cost of the sign or property owner.
656

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

- 657 4. Any sign posted in violation of this chapter on public property or on public rights-of-way shall be
658 subject to summary removal by the City.
659
- 660 5. Any person responsible for any sign posting made in violation of this chapter shall be liable to the
661 City for the costs incurred by the City in removal thereof and, in event of failure to pay, for billing
662 and collection charges, including interest and reasonable attorneys’ fees.
663

Chapter 7.3 Temporary Signs.

- 664
- 665
- 666 A. Temporary signs, identified in this chapter as not requiring a sign permit, unless indicated below, must
667 otherwise meet all the applicable requirements of this section and this article. Any temporary sign not
668 meeting these requirements, in any way, including quantity, shall be treated as a non-exempt sign
669 subject to permitting. The area of temporary signs displayed on a site shall not be included in the
670 calculation of the total signs on such site.
671

B. A-Frame Signs	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	No
Number of signs	1 per business, as identified by business tax receipt
Maximum Area	An A-frame sign shall not have a copy area wider than 24 inches by 36 inches
Maximum Height	3 feet 6 inches
Location	No A-frame sign shall block accessibility or be placed in any public right-of-way, exit, loading zone, bicycle rack, wheelchair ramp, sidewalk ramp, in designated parking spaces, in landscape areas, traffic triangles, or sidewalks.
Duration	None
Materials	An A-frame shall be constructed of materials that are durable and weather resistant, including wood, steel, fiberglass, plastic, or aluminum. Construction of the sign shall be of professional quality. Signs may consist of a framed chalkboard, whiteboard, tack board, or material that allows changeable copy. An A-frame sign shall be constructed to be able to withstand wind and other unpredictable weather elements, including thunderstorm activity. The sign face and the sign frame shall not contain glitter, florescent materials, streamers, balloons, or reflective materials.
Other	1. No A-frame sign shall be permanently anchored or secured to any surface. 2. Signs shall be brought indoors at the close of each business day.

672

C. Banners	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	Yes
Number of signs	1
Location	Except as provided for banners permitted in conjunction with temporary satellite sales events or special events on unimproved property or with events

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

	that are in lawfully permitted structures other than buildings (such as tents), no banner shall be attached to, placed on, displayed from, or mounted on any object other than a building, including trees or other vegetation, vehicles, trailers, utility poles, freestanding signs, or stakes. Each end of a displayed banner shall be secured to the building at which the banner is displayed.
Duration	10 consecutive days
Other	<ol style="list-style-type: none"> 1. All banners displayed on a site shall be securely installed in a manner which will not impede the visibility of the motoring or pedestrian traffic. 2. At least 30 days must elapse from the expiration of one permit prior to the issuance of another permit for the display of a banner at a site.

673
674

D. Feather Banners	
Applicable Zoning District/Use	Permitted only conjunction with an approved and active Model Home Use
Sign permit required	No
Number of signs	<p>A model home on a single site may display 4 feather banners and 1 banner on the model home site. Corner-lot model home sites shall be allowed 4 feather banners with no more than 2 per side.</p> <p>For sites with two or more model homes approved through a single development application, one model will be allowed to have a freestanding sign but will not be permitted to have more than 1 feather banner or banner for that individual development site. The additional model homes regulated by the special exception shall be allowed to have 4 feather banners on each model home site.</p>
Maximum Width	3 feet
Maximum Height	15 feet from ground level including support portion of the banner.
Materials	The sign face of the feather banner shall be nylon, polyester, vinyl, or canvas. Neither the sign face nor the sign frame shall contain glitter, florescent materials, metal, or reflective materials.
Duration	Life of the active Special Exception or until converted to new use. Feather banner or banner signs shall only be displayed on the approved special exception home property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Sunday. When the model home is not open, all feather banners and banners shall be removed and stored inside the model home.
Other	All banners and feather banners shall be maintained in good condition and shall not become faded, torn, or in other similar forms of poor condition.

675
676

E. Inflatable Objects		
Applicable Zoning District/Use	All districts, based on size	
Size	2 feet or less in width, diameter, and height	More than 2 feet in width, diameter, or height
Sign Permit Required	No	Yes

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

Number of Signs	4	2
Maximum Height when measured from ground	30 Feet	30 Feet
Location	No less than 10 feet from right-of-way	
Duration	Maximum 10-day duration. No more than four times in one year; minimum 30 days required between permits	
Other	<ol style="list-style-type: none"> 1. Inflatable objects that are 2 feet or less in width, diameter, and height and that contain no commercial message may be located or displayed on a site without obtaining a permit. 2. Inflatable objects that are greater than 2 feet in width, diameter, or height or that contain a commercial message may be located or displayed on a site provided that a permit is obtained. 3. Inflatable objects shall be erected using approved tie-down methods. 4. No inflatable object shall be displayed in a parking space necessary for the site to meet its minimum parking requirements. 5. Except for multiple business or entity sites, the display of inflatable object(s) on a site shall not exceed 10 consecutive days. 6. On multiple business or entity sites, each use on the site shall be treated as if it were a single business or entity site. 7. The area of the inflatable object(s) displayed on a site shall not be included in the calculation of the total signs on such site. 8. Inflatable objects shall not be placed on the roof of a structure. 	

677
678

F. All Other Temporary Signs		
Applicable Zoning District/Use	Residential Zoning Districts	All Non-Residential Districts
Sign Permit Required	No	No
Number of signs/site	3	2
Maximum Sign Area/sign	4 sq. ft.	16 sq. ft.
Maximum Sign Height for a Temporary Freestanding Sign	6 ft.	6 ft.
Maximum Sign Height for a Temporary Wall Sign	15 ft.	15 ft.
Minimum Sign Setback from any property line	10 ft.	10 ft.
Minimum Spacing between Temporary Ground Signs	5 ft.	5 ft.
Temporary Sign Allowed on Public Right of Way	No	No
Temporary Sign Allowed on Property without	No	No

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

Property Owners Approval		
Temporary Sign Allowed in the Sight Visibility Triangle	No	No
Direct/Indirect Illumination of Surface of Temporary Sign Allowed	No	No
Duration	Event - the temporary sign shall be removed within and by no later than three days after the event is concluded.	
	Non-Event – 30 Days and no more than four non-events in one year on the same site. Minimum 30 days between each non-event.	

679

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

680
681
682
683
684

Chapter 7.4 Permanent Signs

Section 7.4.1. Permanent Signs - Residential

A. Sign Type	Regulations		Other Requirements
Residential Signs			
Single Family	Maximum Number	1	
	Area (Max Sq. Ft.)	4	
	Height	5	
	Permit Required	No	
Multi-Family 2-6 Units in RMM and RML	Maximum Number	1 per Street Frontage not to exceed 2	
	Area (Max Sq. Ft.)	16 sq. ft. per sign	
	Height	10	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM and RML	Maximum Number	1 per Street Frontage not to exceed 2	
	Area (Max Sq. Ft.)	24 sq. ft. per sign	
	Height	10	
	Permit Required	No	
Directional Signs	Maximum Number	1	A permanent directional sign may installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Flags	Maximum Number	N/A	Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area on the site. Flags bearing an incidental sign
	Area (Max Sq. Ft.)	N/A	
	Height	N/A	
	Permit Required	No	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

			message shall be treated in the same manner as incidental signs.
Incidental Signs			
Single Family	Maximum Number		
	Area (Max Sq. Ft.)		
	Height		
	Permit Required		
Multi-Family 2-6 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6 sq. ft.	
	Height	N/A	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6 sq. ft.	
	Height	N/A	
	Permit Required	No	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not
	Area	N/A	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

	Height	N/A	contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Permit Required	No	
Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
	Area	N/A	
	Height	N/A	
	Permit Required	No	

685
686
687
688
689
690

Section 7.4.2. Permanent Signs - Non-Residential

Sign Requirements Non-Residential Zoning Districts and Lawfully Existing Non-Residential Uses in Residential Zoning Districts

Sign Type	Regulations		Other Requirements
Awning Signs	Maximum Number	N/A	
	Area (Max Sq. Ft.)	8 sq. ft.	
	Height	N/A	
	Permit Required	No	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

Building Signs	Maximum Number	Article 7.2.5	
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Development Identification Signs	Maximum Number	1 (See other requirements)	<p>Boulevard entrances. At residential subdivision or residential development entrances which contain a median strip separating the entrance and exit lanes, either one freestanding sign may be in the median strip of the entrance or two single-faced signs equal in size may be located on each side of the entrance.</p> <p>Non-boulevard entrances. At subdivision or residential development entrances which do not contain a median strip separating the entrance and exit lanes, either one double-faced sign facing perpendicular to the street or two single-faced signs equal in size and located on each side of the entrance may be erected or located.</p> <p>Location. Except when allowed in the entrance median strip, development signs on private or commonly owned property and shall be set back a minimum of 15 feet from the edge of the entranceway pavement. A development sign may incorporate or be incorporated into landscaping, or into accessory entrance structural features including fountains or walls.</p> <p>Development signs may be illuminated only by means of exterior lights which are shielded so that light does not interfere with vehicular or pedestrian traffic.</p>
	Area (Max Sq. Ft.)	32 sq. ft.	
	Height	10 Ft.	
	Permit Required	Yes	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

Directional Signs	Maximum Number	1	A permanent directional sign may be installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Electronic Message Centers	Maximum Number	Article 7.2.5	See Section 7.4.3.2 Miscellaneous Signs
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Fascia Signs in South Cape (SC) Zoning District	Maximum Number	N/A	In the South Cape zoning district only, projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement, if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Flags	Maximum Number		Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an incidental sign message shall be treated in the same manner as incidental signs.
	Area		
	Height		
	Permit Required		
Freestanding Signs	Maximum Number	Article 7.2.5	Not incidental or residential.
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Gasoline Pricing Signs	Permit Required	Yes	See Section 7.4.3.A Miscellaneous Signs
Incidental Signs	Maximum Number	N/A	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

	Area (Max Sq. Ft.)	6 sq. ft.	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Height	6	
	Permit Required	No	
Integral Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Marquee Signs in South Cape (SC) only	Maximum Number	N/A	Projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement, if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Memorial Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Menu Board(s)/Pre-Sale Board(s)	Maximum Number	Menu Board 1 per drive-through	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

		Pre-Sale Board 1 per drive through	
	Area	32 sq. ft. / 12 sq. ft.	
	Height	N/A	
	Permit Required	Yes	
Model Home Signs	Maximum Number	1	Both sides of sign can be used for advertising. Must be on a site with an approved special exception or conditional use for a model home.
	Area	32 sq. ft.	
	Height	10 Ft.	
	Permit Required	Yes	
Non-Commercial Signs	Maximum Number	1	May be freestanding or building sign.
	Area	4 sq. ft.	
	Height	5	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Area	N/A	
	Height	N/A	
	Permit Required	N/A	
Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

			The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
Name Plate Signs	Maximum Number	1/Building Entrance	Must be attached to building.
	Area	2 sq. ft.	
	Height	N/A	
	Permit Required	No	
Suspended Signs	Maximum Number	1/Business Entrance	
	Area	4 sq. ft.	
	Height	8 Feet of minimum vertical clearance from any sidewalk, private drive, parking area, or public street.	
	Permit Required	No	
Window/Door Signs	Maximum Number	See Other Regulations.	<p>On each side of a building, no more than 50% of the total glazed area of windows and doors on the first floor of that side of the building may contain a window or door sign(s) or.</p> <p>If a window or door sign(s) signs cover more than 50% of the glazed area of the first-floor windows and doors on the side of the building where the window or door sign(s) are located, the window or door sign(s) are no longer exempt.</p> <p>Any window or door sign(s) above the first floor of a building shall not be deemed an exempt sign and shall require a permit.</p>
	Area	See Other Regulations.	
	Height	N/A	
	Permit Required	No	

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732

Section 7.4.3. Miscellaneous Signs

A. Gasoline Pricing Signs

In addition to any other signs allowed herein, automobile service stations and other commercial uses lawfully containing fuel pumps for the sale of fuel to the public shall be allowed an additional 24 square feet of signs to advertise gasoline pricing provided that the gasoline pricing sign(s) shall be incorporated into a freestanding sign or located flat on the building or canopy.

Sites at the intersection of two platted streets shall be permitted one additional freestanding sign to be placed on the second platted street for the sole purpose of displaying gasoline prices. The second sign shall not exceed a total of 24 square feet of which a maximum of 25% may be utilized for the business name or logo.

B. Electronic Message Center or Sign (EMC). Electronic message center or sign shall meet the following criteria:

1. EMC's shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot-candle meter at a pre-set distance. The pre-set distances to measure the foot-candles are calculated using the following formula.
Measurement Distance = The square root of the sign area x 100.
The measurement distance may be rounded to the nearest whole number.
2. If the electronic message center is a text-only message displays, then the text may move along the face of the sign, but the text shall not exceed 12 inches in height.
3. Only one electronic message center shall be allowed per site.
4. An electronic message sign center shall not be installed on or added to a non-conforming sign.
5. Minimum display time is 8 seconds.
6. The use of video display, flashing, or blinking is prohibited for any EMC.
7. EMC's shall include photo-sensors to provide automatic intensity adjustment based on ambient lighting conditions.

All electronic message center or sign not meeting these criteria are prohibited under § 7.2.2 of this article.

**City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses**

CHAPTER 1. GENERAL APPLICABILITY

- Section 8.1.1.** Purpose
- Section 8.1.2.** Definitions

CHAPTER 2. NONCONFORMING LOTS OF RECORD

- Section 8.2.1.** General
- Section 8.2.2.** Residential development on nonconforming lots of record

CHAPTER 3. NONCONFORMING STRUCTURES

- Section 8.3.1.** Continuation of nonconforming structures
- Section 8.3.2.** Destruction of nonconforming structures
- Section 8.3.3.** Alterations to nonconforming structures

CHAPTER 4. NONCONFORMING SIGNS

- Section 8.4.1.** Requirements for nonconforming signs

CHAPTER 5. NONCONFORMING USES

- Section 8.5.1.** Continuation of nonconforming uses
- Section 8.5.2.** Extension or expansion of nonconforming use
- Section 8.5.3.** Discontinuance of nonconforming use
- Section 8.5.4.** Permitted improvements of nonconforming uses

CHAPTER 6. NONCONFORMITIES RESULTING FROM COMPREHENSIVE PLAN CHANGES

- Section 8.6.1.** Nonconformities created by comprehensive plan amendments

CHAPTER 7. EMINENT DOMAIN

- Section 8.7.1.** Nonconformities created by Eminent Domain

Chapter 1. GENERAL APPLICABILITY

Section 8.1.1. Purpose.

The purpose of this Article is to provide for the continuation, modification, or elimination of nonconforming uses, structures, and signs in accordance with the standards and conditions in this Article. While nonconformities may continue, the provisions of this Article are designed to encourage the improvement or elimination of nonconformities in order to better achieve the purposes of these regulations.

City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

47 **Section 8.1.2. Definitions.**

48
49 The terms “Nonconforming,” “Nonconforming, Legally,” “Nonconforming Lots of Record,”
50 “Nonconforming Sign,” “Nonconforming Structure,” and “Nonconforming Use” are defined in Article 11
51 of this Code and are incorporated by reference for purposes of applying the standards and requirements
52 of this Article.

53

54 **Chapter 2. NONCONFORMING LOTS OF RECORD**

55

56 **Section 8.2.1. General.**

57

58 The majority of the City was platted in the Cape Coral Subdivision (Units 1 – 98) with 5,000 square foot
59 lots, with two adjoining lots combined as a 10,000-square foot “Parcel” to construct a single-family
60 residence. A 10,000-square foot parcel is the minimum lot size required for subdivision or development
61 of a single-family residence or a two-family dwelling (LDC Article 4. Section 4.3 Zoning District
62 Development Standards). Platted lots with less than 5,000 square feet and parcels less than 10,000 square
63 feet are defined as nonconforming lots of record or parcels, respectively.

64

65 **Section 8.2.2 Residential development on nonconforming lots of record.**

66

67 Residential development on nonconforming lots of record may be permitted subject to the following
68 requirements:

69

70 A. Development of single-family residences under this provision is limited to the R-1 and RML zoning
71 districts.

72

73 B. Development of single-family residences defined as “Micro cottages” may be permitted on lots of
74 record in the RML zoning district provided such lots are 5,000 square feet or more in area.

75

76 C. Development of two-family residences under this provision is limited to the RML zoning district.

77

78 D. Development of single-family or two-family residences is permitted on nonconforming lots of record
79 and parcels less than 10,000 square feet in area, without a variance, provided that:

80

81 1. Such lots or parcels are larger than 7,500 square feet in area; and

82

83 2. The proposed development meets all requirements of this Code for setbacks, maximum building
84 height, and off street parking.

85

86 E. The nonconforming lots of record or parcels less than 10,000 square feet in area have not been
87 subdivided or their boundaries altered through the “lot split and combine” process.

88

89 **Chapter 3. NONCONFORMING STRUCTURES**

90

91 **Section 8.3.1. Continuation of nonconforming structures.**

92

City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

93 Except as may be provided for elsewhere in these regulations, a non-conforming structure may be
94 continued subject to the standards and conditions of this Chapter.

95

96 **Section 8.3.2. Destruction of nonconforming structures.**

97

98 A. Except for residential structures as identified in subsection B, below, a nonconforming structure that
99 is damaged or destroyed to an extent exceeding 50 percent of the fair market value of the structure
100 and improvements at the time of its destruction, shall not be reconstructed except in conformity with
101 these regulations.

102

103 B. Nonconforming residential structures (including accessory structures) in residential zoning districts
104 may be reconstructed if damaged or destroyed to any extent, (less than 50%) if such reconstruction
105 does not increase the extent of the nonconformity(ies) existing prior to destruction and the footprint
106 of the structure is not enlarged or changed.

107

108 **Section 8.3.3. Alterations to nonconforming structures.**

109

110 A structure that is nonconforming in any way, shall not be altered or enlarged in a way that increases the
111 extent of any nonconformity. Normal maintenance and repair is permitted. Alterations and additions
112 which do not increase the nonconformity may be permitted.

113

114 **Chapter 4. NONCONFORMING SIGNS**

115

116 **Section 8.4.1. Requirements for nonconforming signs.**

117

118 All signs with approved sign permits but which are not in conformance with the sign requirements of
119 Article 7, may continue as nonconforming signs, subject to the standards and conditions of Article 7.

120

121 **Chapter 5. NONCONFORMING USES**

122

123 **Section 8.5.1. Continuation of nonconforming uses.**

124

125 Except as may be provided for elsewhere in these regulations, a non-conforming use may be continued
126 subject to the standards and conditions of this Chapter.

127

128 **Section 8.5.2. Extension or expansion of nonconforming use.**

129

130 A nonconforming use shall not be enlarged or expanded, except for nonconformities created by
131 amendments to the comprehensive plan, as described in Chapter 6 of this Article.

132

133 **Section 8.5.3. - Discontinuance of nonconforming use.**

134

135 Whenever a nonconforming use of property has been discontinued for a period of one year or more, such
136 non-conforming use shall not thereafter be re-established, and the future use of the property shall be in
137 conformity with the provisions of these regulations.

138

City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184

Section 8.5.4. Permitted improvements of nonconforming uses.

Renovations, repairs, or changes to nonconforming uses may be permitted, subject to the following requirements:

- A. The nonconforming use is in a nonresidential zoning district;
- B. The total cost of the improvements is less than 50 percent of the fair market value of the structure and improvements; and
- C. The nonconforming use and associated site shall be brought into compliance with the following provisions of Article 5, Development Standards, to the maximum extent practicable, as determined by the Community Development Director:
 - 1. Landscaping;
 - 2. Sanitation;
 - 3. Signs;
 - 4. Lighting;
 - 5. Stormwater;
 - 6. Screening;
 - 7. Noise Attenuation; and
 - 8. Parking.

Chapter 6. NONCONFORMITIES RESULTING FROM COMPREHENSIVE PLAN CHANGES.

Section 8.6.1. Nonconformities created by comprehensive plan amendments.

- A. When an existing single-family or duplex dwelling becomes non-conforming as the result of an amendment to the Comprehensive Plan, including future land use map amendments, which amendment was not the result of an application or other action by the property owner, the principal single-family or duplex dwelling, as well as accessory structures, such as detached garages, sheds, and gazebos may be repaired, altered, enlarged, or replaced to the same extent as if the amendment to the Comprehensive Plan had not occurred for as long as the property owner who owned the property at the time the amendment was adopted continues to own the property on which the dwelling is located.
- B. For the purposes of this exception, a single-family or duplex dwelling shall be deemed to be "existing" if, prior to the effective date of the amendment referred to above, the dwelling was either constructed

City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

185 or an active application for a building permit to construct the dwelling was pending with or issued by
186 the city. This exception applies only when the effect of a Comprehensive Plan amendment would
187 render the principal single-family or duplex dwelling structure becoming non-conforming as the result
188 of an amendment, and does not apply when the effect of an amendment would render accessory
189 structures including sheds and gazebos, non-conforming while the principal dwelling remains
190 conforming. This exception does not apply either to conjoined residential dwellings or to multi-family
191 residential dwellings, regardless of number.

192
193 C. In the event the property owner who owned the real property containing the single- family or duplex
194 dwelling use at the time the Comprehensive Plan amendment was adopted conveys or otherwise
195 transfers ownership of the real property, subsequent to the adoption of the amendment, to another
196 person or entity, then this exception shall terminate and the dwelling shall be subject to the
197 limitations identified by Chapters 4 and 5 of this Article, that apply to non-conforming structures
198 generally and, prior to the conveyance or other transfer of property ownership, the property owner
199 shall notify in writing the person or entity to whom ownership is being transferred of the change in
200 the status of the property. The failure of a property owner to provide notice as required herein of the
201 change in the status of the property shall not affect the change in the status of the property.

202
203 **Chapter 7. EMINENT DOMAIN.**

204
205 **Section 8.7.1. Nonconformities created by eminent domain.**

206
207 Any structure, use, or lot made nonconforming as a direct result of eminent domain proceedings instituted
208 by the City of Cape Coral or other condemning authority, or through a voluntary conveyance by such lot
209 owner in lieu of formal eminent domain proceedings, which lot or parcel, except for such eminent domain
210 or voluntary conveyance, would be an otherwise conforming lot or parcel, shall be deemed to be a
211 conforming lot or parcel for all purposes under the City of Cape Coral Land Development Code, without
212 the necessity for a variance from any land development ordinance. This subsection shall not apply to any
213 lot or parcel which is reduced in size by more than 25 percent by such action.

214

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

CHAPTER 1. ADMINISTRATION

- Section 9.1.1.** Title
- Section 9.1.2.** Scope
- Section 9.1.3.** Purpose and Intent
- Section 9.1.4.** Coordination with the Florida Building Code
- Section 9.1.5.** Warning
- Section 9.1.6.** Disclaimer of liability
- Section 9.1.7.** Applicability
- Section 9.1.8.** Basis for establishing flood hazard areas
- Section 9.1.9.** Submission of additional data to establish flood hazard areas
- Section 9.1.10.** Other Laws
- Section 9.1.11.** Abrogation and greater restrictions
- Section 9.1.12.** Interpretation

CHAPTER 2. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

- Section 9.2.1.** Designation
- Section 9.2.2.** General
- Section 9.2.3.** Applications and permits
- Section 9.2.4.** Substantial improvement and substantial damage determinations
- Section 9.2.5.** Modifications of the strict application of the requirements of the Florida Building Code.
- Section 9.2.6.** Notices and order
- Section 9.2.7.** Inspections
- Section 9.2.8.** Other duties of the Floodplain Administrator
- Section 9.2.9.** Floodplain management records

CHAPTER 3. PERMITS

- Section 9.3.1.** Permits required
- Section 9.3.2.** Floodplain development permits or approvals
- Section 9.3.3.** Buildings, structures, and facilities exempt from the Florida Building Code
- Section 9.3.4.** Application for a permit or approval
- Section 9.3.5.** Validity of permit or approval
- Section 9.3.6.** Expiration
- Section 9.3.7.** Suspension or revocation
- Section 9.3.8.** Other permits required

CHAPTER 4. SITE PLANS AND CONSTRUCTION DOCUMENTS

- Section 9.4.1.** Information for development in flood hazard areas
- Section 9.4.2.** Information in flood hazard areas without base flood elevations (approximate Zone A)
- Section 9.4.3.** Additional analyses and certifications
- Section 9.4.4.** Submission of additional data

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

47 **CHAPTER 5. INSPECTIONS**

- 48
- 49 **Section 9.5.1.** General
- 50 **Section 9.5.2.** Development other than buildings and structures
- 51 **Section 9.5.3.** Buildings, structures and facilities exempt from the Florida Building Code
- 52 **Section 9.5.4.** Buildings, structures and facilities exempt from the Florida Building Code, lowest
- 53 floor inspection
- 54 **Section 9.5.5.** Buildings, structures, and facilities exempt from the Florida Building Code, final
- 55 inspection
- 56 **Section 9.5.6.** Manufactured homes

57

58 **CHAPTER 6. VARIANCES AND APPEALS**

- 59
- 60 **Section 9.6.1.** Variances
- 61 **Section 9.6.2.** Appeals
- 62 **Section 9.6.3.** Limitations on authority to grant variances
- 63 **Section 9.6.4.** Restrictions in floodways
- 64 **Section 9.6.5.** Historic Buildings
- 65 **Section 9.6.6.** Functionally dependent uses
- 66 **Section 9.6.7.** Considerations for issuance of variances
- 67 **Section 9.6.8.** Conditions for issuance of variances

68

69 **CHAPTER 7. VIOLATIONS**

- 70
- 71 **Section 9.7.1.** Violations
- 72 **Section 9.7.2.** Authority
- 73 **Section 9.7.3.** Unlawful continuance

74

75 **CHAPTER 8. FLOOD RESISTANT DEVELOPMENT**

- 76
- 77 **Section 9.8.1.** Design and construction of buildings, structures, and facilities exempt from the
- 78 Florida Building Code
- 79 **Section 9.8.2.** Buildings and structures seaward of the coastal construction control line
- 80 **Section 9.8.3.** Subdivision Minimum requirements
- 81 **Section 9.8.4.** Subdivision plats
- 82 **Section 9.8.5.** Minimum requirements for site improvements, utilities, and limitations
- 83 **Section 9.8.6.** Sanitary sewage facilities
- 84 **Section 9.8.7.** Water supply facilities
- 85 **Section 9.8.8.** Limitations on sites in regulatory floodways
- 86 **Section 9.8.9.** Limitations on placement of fill
- 87 **Section 9.8.10.** Limitations on sites in coastal high hazard areas (Zone V)
- 88 **Section 9.8.11.** Manufactured homes
- 89 **Section 9.8.12.** Recreation vehicles and park trailers
- 90 **Section 9.8.13.** Tanks
- 91 **Section 9.8.14.** Other Development
- 92

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

93 **CHAPTER 1: ADMINISTRATION**

94

95 **Section 9.1.1. Title.**

96

97 These regulations shall be known as the Floodplain Management Ordinance of the City of Cape Coral.

98

99 **Section 9.1.2. Scope.**

100

101 The provisions of this Article shall apply to all development that is wholly within or partially within any
102 flood hazard area, including the subdivision of land; filling, grading, other site improvements, and utility
103 installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair,
104 relocation, or demolition of buildings, structures, and facilities that are exempt from the Florida Building
105 Code; placement, installation, or replacement of manufactured homes and manufactured buildings;
106 installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools;
107 and any other action or activity defined as development.

108

109 **Section 9.1.3. Purpose and Intent.**

110

111 The purposes of this Article and the flood load and flood resistant construction requirements of the
112 Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and
113 general welfare and to minimize public and private losses due to flooding through regulation of
114 development in flood hazard areas to:

115

116 A. Minimize unnecessary disruption of commerce, access, and public service during times of flooding;

117

118 B. Require the use of appropriate construction practices in order to prevent or minimize future flood
119 damage;

120

121 C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of
122 equipment or materials, and other development which may increase flood damage or erosion
123 potential;

124

125 D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact
126 of development on the natural and beneficial functions of the floodplain;

127

128 E. Minimize damage to public and private facilities and utilities;

129

130 F. Help maintain a stable tax base by providing for the sound use and development of flood hazard
131 areas;

132

133 G. Minimize the need for future expenditure of public funds for flood control projects and response to
134 and recovery from flood events; and

135

136 H. Meet the requirements of the National Flood Insurance Program for community participation as set
137 forth in the Title 44 Code of Federal Regulations, Section 59.22.

138

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

139 **Section 9.1.4. Coordination with the Florida Building Code.**

140
141 This Article is intended to be administered and enforced in conjunction with the Florida Building Code.
142 Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building
143 Code.
144

145 **Section 9.1.5. Warning.**

146
147 The degree of flood protection required by this Article and the Florida Building Code is considered the
148 minimum reasonable for regulatory purposes and is based on scientific and engineering considerations.
149 Larger floods can and will occur. Flood heights may be increased by man- made or natural causes. This
150 Article does not imply that land outside of mapped special flood hazard areas or that uses permitted
151 within such flood hazard areas will be free from flooding or flood damage. The flood hazard areas and
152 base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps
153 and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the
154 Federal Emergency Management Agency, requiring this city to revise these regulations to remain eligible
155 for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or
156 future use is implied or expressed by compliance with this Article.
157

158 **Section 9.1.6. Disclaimer of liability.**

159
160 This Article shall not create liability on the part of the City of Cape Coral or by any officer or employee
161 thereof for any flood damage that results from reliance on this Article or any administrative decision
162 lawfully made thereunder.
163

164 **Section 9.1.7. Applicability.**

- 165
166 A. Where there is a conflict between a general requirement and a specific requirement, the specific
167 requirement shall be applicable.
168
169 B. This Article shall apply to all development in flood hazard areas within the City of Cape Coral, as
170 established in § 9.1.8. of this Article.
171

172 **Section 9.1.8. Basis for establishing flood hazard areas.**

173
174 The Flood Insurance Study for Lee County, FL and Incorporated Areas dated August 28, 2008, the
175 accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions are
176 adopted by reference as a part of this Article and shall serve as the minimum basis for establishing flood
177 hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk's office, City
178 of Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.
179

180 **Section 9.1.9. Submission of additional data to establish flood hazard areas.**

181
182 To establish flood hazard areas and base flood elevations pursuant to § 9.1.8 of this Article, the
183 Floodplain Administrator may require submission of additional data. Additional data may be required
184 where field surveyed topography prepared by a Florida licensed professional surveyor or digital

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

185 topography accepted by the city indicates that ground elevations:

186

187 A. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood
188 hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the
189 requirements of this Article and, as applicable, the requirements of the Florida Building Code: or

190

191 B. Are above the closest applicable base flood elevation, the area shall be regulated as special flood
192 hazard area unless the applicant obtains a Letter of Map Change that removes the area from the
193 special flood hazard area.

194

195 **Section 9.1.10. Other laws.**

196

197 The provisions of this Article shall not be deemed to nullify any provisions of local state or federal law.

198

199 **Section 9.1.11. Abrogation and greater restrictions.**

200

201 This Article supersedes any regulation in effect for management of development in flood hazard areas.
202 However, it is not intended to repeal or abrogate any existing regulations, including land development
203 regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In
204 the event of a conflict between this Article and any other regulation, the more restrictive shall govern.
205 This Article shall not impair any deed restriction, covenant, or easement but any land that is subject to
206 such interests shall also be governed by this Article.

207

208 **Section 9.1.12. Interpretation.**

209

210 In the interpretation and application of this Article, all provisions shall be:

211

212 A. Considered as minimum requirements;

213

214 B. Liberally construed in favor of the governing body; and

215

216 C. Deemed neither to limit nor repeal any other powers granted under state statutes.

217

218 **CHAPTER 2. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.**

219

220 **Section 9.2.1. Designation.**

221

222 The Director of the Department of Community Development is designated as the Floodplain
223 Administrator. The Floodplain Administrator may delegate performance of certain duties to other
224 employees.

225

226 **Section 9.2.2. General.**

227

228 The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this
229 Article. The Floodplain Administrator shall have the authority to render interpretations of this Article
230 consistent with the intent and purpose of this Article and may establish policies and procedures in order

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

231 to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have
232 the effect of waiving requirements specifically provided in this Article without the granting of a variance
233 pursuant to § 9.6.1. of this Article.

234

235 **Section 9.2.3. Applications and permits.**

236

237 The Floodplain Administrator, in coordination with other pertinent offices of the city, shall:

238

239 A. Review applications and plans to determine whether proposed new development will be located in
240 flood hazard areas.

241

242 B. Review applications for modification of any existing development in flood hazard areas for
243 compliance with the requirements of this Article.

244

245 C. Interpret flood hazard area boundaries where such interpretation is necessary to determine the
246 exact location of boundaries; a person contesting the determination shall have the opportunity to
247 appeal the interpretation.

248

249 D. Provide available flood elevation and flood hazard information.

250

251 E. Determine whether additional flood hazard data shall be obtained from other sources or shall be
252 developed by an applicant.

253

254 F. Review applications to determine whether proposed development will be reasonably safe from
255 flooding.

256

257 G. Issue floodplain development permits or approvals for development other than buildings and
258 structures that are subject to the Florida Building Code, including buildings, structures, and facilities
259 exempt from the Florida Building Code, when compliance with this Article is demonstrated, or
260 disapprove the same in the event of noncompliance.

261

262 H. Coordinate with and provide comments to the Building Official to assure that applications, plan
263 reviews, and inspections for buildings and structures in flood hazard areas comply with the
264 applicable provisions of this Article.

265

266 **Section 9.2.4. Substantial improvement and substantial damage determinations.**

267

268 For applications for building permits to improve buildings and structures, including alterations,
269 movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations,
270 renovations, substantial improvements, repairs of substantial damage, and any other improvement of or
271 work on such buildings and structures, the Floodplain Administrator, in coordination with the Building
272 Official, shall:

273

274 A. Estimate the market value or require the applicant to obtain an appraisal of the market value
275 prepared by a qualified independent appraiser, of the building or structure before the start of
276 construction of the proposed work; in the case of repair, the market value of the building or

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

277 structure shall be the market value before the damage occurred and before any repairs are made.

278

279 B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-
280 damaged condition, or the combined costs of improvements and repairs, if applicable, to the market
281 value of the building or structure.

282

283 C. Determine and document whether the proposed work constitutes substantial improvement or
284 repair of substantial damage; the determination requires evaluation of previous permits issued for
285 improvements and repairs as specified in the definition of substantial improvement.

286

287 D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair
288 of substantial damage and that compliance with the flood resistant construction requirements of
289 the Florida Building Code and this Article is required.

290

291 **Section 9.2.5. Modifications of the strict application of the requirements of the Florida Building Code.**

292

293 The Floodplain Administrator shall review requests submitted to the Building Official that seek approval
294 to modify the strict application of the flood load and flood resistant construction requirements of the
295 Florida Building Code to determine whether such requests require the granting of a variance pursuant to
296 § 9.6.1. of this Article.

297

298 **Section 9.2.6. Notices and orders.**

299

300 The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all
301 necessary notices or orders to ensure compliance with this Article.

302

303 **Section 9.2.7. Inspections.**

304

305 The Floodplain Administrator shall make the required inspections as specified in this Article for
306 development that is not subject to the Florida Building Code, including buildings, structures, and
307 facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard
308 areas to determine if development is undertaken without issuance of a permit.

309

310 **Section 9.2.8. Other duties of the Floodplain Administrator.**

311

312 The Floodplain Administrator shall have other duties, including:

313

314 A. Establish, in coordination with the Building Official, procedures for administering and documenting
315 determinations of substantial improvement and substantial damage made pursuant to § 9.2.4. of
316 this Article.

317

318 B. Require that applicants proposing alteration of a watercourse notify adjacent communities and the
319 Florida Division of Emergency Management, State Floodplain Management Office, and submit
320 copies of such notifications to the Federal Emergency Management Agency (FEMA).

321

322 C. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

323 applications to submit to FEMA the data and information necessary to maintain the Flood Insurance
324 Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or
325 floodway designations; such submissions shall be made within six months of such data becoming
326 available.

327

328 D. Review required design certifications and documentation of elevations specified by this Article and
329 the Florida Building Code and this Article to determine that such certifications and documentations
330 are complete.

331

332 E. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of
333 Cape Coral are modified.

334

335 F. Advise applicants for new buildings and structures, including substantial improvements, that are
336 located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier
337 Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591)
338 that federal flood insurance is not available on such construction; areas subject to this limitation are
339 identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise
340 Protected Areas."

341

342 **Section 9.2.9 Floodplain management records.**

343

344 Regardless of any limitation on the period required for retention of public records, the Floodplain
345 Administrator shall maintain and permanently keep and make available for public inspection all records
346 that are necessary for the administration of this Article and the flood resistant construction
347 requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change;
348 records of issuance of permits and denial of permits; determinations of whether proposed work
349 constitutes substantial improvement or repair of substantial damage; required design certifications and
350 documentation of elevations specified by the Florida Building Code and this Article; notifications to
351 adjacent communities, FEMA and the state related to alterations of watercourses; assurances that the
352 flood carrying capacity of altered watercourses will be maintained; documentation related to appeals
353 and variances, including justification for issuance or denial; and records of enforcement actions taken
354 pursuant to this Article and the flood resistant construction requirements of the Florida Building Code.
355 These records shall be available for public inspection at the City Clerk's office, City of Cape Coral City
356 Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.

357

358 **CHAPTER 3. PERMITS**

359

360 **Section 9.3.1. Permits required.**

361

362 Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any
363 development activity within the scope of this Article, including buildings, structures, and facilities
364 exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area
365 shall first make application to the Floodplain Administrator and the Building Official, if applicable, and
366 shall obtain the required permit(s) and approvals). No such permit or approval shall be issued until
367 compliance with the requirements of this Article and all other applicable codes and regulations has been
368 satisfied.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414

Section 9.3.2. Floodplain development permits or approvals.

Floodplain development permits or approvals shall be issued pursuant to this Article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

Section 9.3.3. Buildings, structures, and facilities exempt from the Florida Building Code.

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures, and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this Article:

- A. Nonresidential farm buildings on farms, as provided in section F.S. § 604.50.
- B. Temporary buildings or sheds used exclusively for construction purposes.
- C. Mobile or modular structures used as temporary offices.
- D. Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
- E. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida, As used in this paragraph, the term **CHICKEE** means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- F. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- G. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- H. Structures identified in section F.S. § 553.73(10)(k) are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

Section 9.3.4. Application for a permit or approval.

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

- A. Identify and describe the development to be covered by the permit or approval.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

- 415
416 B. Describe the land on which the proposed development is to be conducted by legal description,
417 street address, or similar description that will readily identify and definitively locate the site.
418
419 C. Indicate the use and occupancy for which the proposed development is intended.
420
421 D. Be accompanied by a site plan or construction documents as specified in § 9.4 of this Article.
422
423 E. State the valuation of the proposed work.
424
425 F. Be signed by the applicant or the applicant's authorized agent.
426
427 G. Give such other data and information as required by the Floodplain Administrator.
428

429 **Section 9.3.5. Validity of permit or approval.**

430
431 The issuance of a floodplain development permit or approval pursuant to this Article shall not be
432 construed to be a permit for, or approval of, any violation of this Article, the Florida Building Codes, or
433 any other regulation of the City of Cape Coral. The issuance of permits based on submitted applications,
434 construction documents, and information shall not prevent the Floodplain Administrator from requiring
435 the correction of errors and omissions.
436

437 **Section 9.3.6. Expiration.**

438
439 A floodplain development permit or approval shall become invalid unless the work authorized by such
440 permit is commenced within 180 days after its issuance, or if the work authorized is suspended or
441 abandoned for a period of 180 days after the work commences. Extensions for periods of not more than
442 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
443

444 **Section 9.3.7. Suspension or revocation.**

445
446 The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or
447 approval if the permit was issued in error; on the basis of incorrect, inaccurate, or incomplete
448 information; or in violation of this Article or any other regulation or requirement of the City of Cape
449 Coral.
450

451 **Section 9.3.8. Other permits required.**

452
453 Floodplain development permits and building permits shall include a condition that all other applicable
454 state or federal permits be obtained before commencement of the permitted development, including
455 the following:
456

- 457 A. The South Florida Water Management District; F.S. § 373.036.
458
459 B. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065
460 and Chapter 64E-6, F.A.C.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

- 461
462 C. Florida Department of Environmental Protection for construction, reconstruction, changes, or
463 physical activities for shore protection or other activities seaward of the coastal construction control
464 line; F.S. § 161.141.
465
466 D. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit;
467 F.S. § 161.055.
468
469 E. Florida Department of Environmental Protection for activities that affect wetlands and alter surface
470 water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water
471 Act.
472
473 F. Federal permits and approvals.
474

475 **CHAPTER 4. SITE PLANS AND CONSTRUCTION DOCUMENTS.**

476
477 **Section 9.4.1. Information for development in flood hazard areas.**

- 478
479 A. The site plan or construction documents for any development subject to the requirements of this
480 Article shall be drawn to scale and shall include, as applicable to the proposed development:
481
482 1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood
483 elevation(s), and ground elevations if necessary for review of the proposed development;
484
485 2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood
486 Insurance Study, they shall be established in accordance with § 9.4.2.(B) or (C) of this Article;
487
488 3. Where the parcel on which the proposed development will take place will have more than 50
489 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in
490 the Flood Insurance Study, such elevations shall be established in accordance with § 9.4.2.(A) of
491 this Article;
492
493 4. Location of the proposed activity, and structures, and locations of existing buildings and
494 structures; in coastal high hazard areas, new buildings shall be located landward of the reach of
495 mean high tide;
496
497 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation;
498
499 6. Where the placement of fill is proposed, the amount, type, and source of fill material;
500 compaction specifications; a description of the intended purpose of the fill areas; and evidence
501 that the proposed fill areas are the minimum necessary to achieve the intended purpose;
502
503 7. Delineation of the coastal construction control line or notation that the site is seaward of the
504 coastal construction control line, if applicable;
505
506 8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

507 approved by the Florida Department of Environmental Protection; and

508

509 9. Existing and proposed alignment of any proposed alteration of a watercourse.

510

511 B. The Floodplain Administrator is authorized to waive the submission of site plans, construction
512 documents, and other data that are required by this Article but that are not required to be prepared
513 by a registered design professional if it is found that the nature of the proposed development is such
514 that the review of such submissions is not necessary to ascertain compliance with this Article.

515

516 **Section 9.4.2. Information in flood hazard areas without base flood elevations (approximate Zone A).**

517

518 Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been
519 provided, the Floodplain Administrator shall:

520

521 A. Require the applicant to include base flood elevation data prepared in accordance with currently
522 accepted engineering practices.

523

524 B. Obtain, review, and provide to applicants base flood elevation and floodway data available from a
525 federal or state agency or other source or require the applicant to obtain and use base flood
526 elevation and floodway data available from a federal or state agency or other source.

527

528 C. Where base flood elevation and floodway data are not available from another source, where the
529 available data are deemed by the Floodplain Administrator to not reasonably reflect flooding
530 conditions, or where the available data are known to be scientifically or technically incorrect or
531 otherwise inadequate:

532

533 1. Require the applicant to include base flood elevation data prepared in accordance with
534 currently accepted engineering practices; or

535

536 2. Specify that the base flood elevation is two feet above the highest adjacent grade at the location
537 of the development, provided there is no evidence indicating flood depths have been or may be
538 greater than two feet; and

539

540 D. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA,
541 advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format
542 required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal
543 requirements and pay the processing fees.

544

545 **Section 9.4.3. Additional analyses and certifications.**

546

547 As applicable to the location and nature of the proposed development activity, and in addition to the
548 requirements of this section, the applicant shall have the following analyses signed and sealed by a
549 Florida licensed engineer for submission with the site plan and construction documents:

550

551 A. For development activities in a regulatory floodway, a floodway encroachment analysis that
552 demonstrates that the encroachment of the proposed development will not cause any increase in

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

553 base flood elevations; where the applicant proposes to undertake development activities that do
554 increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in §
555 9.4.4. of this Article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with
556 the site plan and construction documents.
557

558 B. For development activities in a riverine flood hazard area for which base flood elevations are
559 included in the Flood Insurance Study or on the FIRM and floodways have not been designated,
560 hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed
561 development, when combined with all other existing and anticipated flood hazard area
562 encroachments, will not increase the base flood elevation more than one foot at any point within
563 the City of Cape Coral. This requirement does not apply in isolated flood hazard areas not connected
564 to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
565

566 C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard
567 engineering practices which demonstrates that the flood-carrying capacity of the altered or
568 relocated portion of the watercourse will not be decreased, and certification that the altered
569 watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity;
570 the applicant shall submit the analysis to FEMA as specified in § 9.4.4. of this Article.
571

572 D. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas
573 (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase
574 the potential for flood damage.
575

576 **Section 9.4.4. Submission of additional data.**
577

578 When additional hydrologic, hydraulic, or other engineering data, studies, and additional analyses are
579 submitted to support an application, the applicant has the right to seek a Letter of Map Change from
580 FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood
581 hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be
582 prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and
583 processing fees shall be the responsibility of the applicant.
584

585 **CHAPTER 5. INSPECTIONS.**
586

587 **Section 9.5.1. General.**
588

589 Development for which a floodplain development permit or approval is required shall be subject to
590 inspection.
591

592 **Section 9.5.2. Development other than buildings and structures.**
593

594 The Floodplain Administrator shall inspect all development to determine compliance with the
595 requirements of this Article and the conditions of issued floodplain development permits or approvals.
596

597 **Section 9.5.3. Buildings, structures and facilities exempt from the Florida Building Code.**
598

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

599 The Floodplain Administrator shall inspect buildings, structures, and facilities exempt from the Florida
600 Building Code to determine compliance with the requirements of this Article and the conditions of
601 issued floodplain development permits or approvals.
602

603 **Section 9.5.4. Buildings, structures, and facilities exempt from the Florida Building Code, lowest floor**
604 **inspection.**

605
606 Upon placement of the lowest floor, including basement, and prior to further vertical construction, the
607 owner of a building, structure, or facility exempt from the Florida Building Code shall submit to the
608 Floodplain Administrator:

- 609
610 A. If a design flood elevation was used to determine the required elevation of the lowest floor, the
611 certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional
612 surveyor; or
613
614 B. If the elevation used to determine the required elevation of the lowest floor was determined in
615 accordance with § 9.4.2.(C)(2) of this Article, the documentation of height of the lowest floor above
616 highest adjacent grade, prepared by the owner.
617

618 **Section 9.5.5. Buildings, structures, and facilities exempt from the Florida Building Code, final**
619 **inspection.**

620
621 As part of the final inspection, the owner shall submit a final certification of elevation of the lowest floor
622 or final documentation of the height of the lowest floor above the highest adjacent grade; such
623 certifications and documentations shall be prepared as specified in § 9.5.4. of this Article.
624

625 **Section 9.5.6. Manufactured homes.**

626
627 The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood
628 hazard areas to determine compliance with the requirements of this Article and the conditions of the
629 issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest
630 floor shall be submitted.
631

632 **CHAPTER 6. VARIANCES AND APPEALS.**

633
634 **Section 9.6.1. Variances.**

635
636 The Cape Coral Hearing Examiner shall hear and decide on requests for requests for variances from the
637 strict application of this Article. Pursuant to F.S. § 553.73(5), the Cape Coral Hearing Examiner shall hear
638 and decide on requests for appeals and requests for variances from the strict application of the flood
639 resistant construction requirements of the Florida Building Code. This section does not apply to Section
640 3109 of the Florida Building Code, Building.
641

642 **Section 9.6.2. Appeals.**

643
644 The Cape Coral Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

645 requirement, decision, or determination made by the Floodplain Administrator in the administration
646 and enforcement of this Article. Any person aggrieved by the decision of Cape Coral Hearing Examiner
647 may appeal such decision to the Cape Coral City Council, as provided by Article 2 of the Land
648 Development Code.

649

650 **Section 9.6.3. Limitations on authority to grant variances.**

651 The Cape Coral Hearing Examiner shall base his or her decisions on variances on technical justifications
652 submitted by applicants, the considerations for issuance in § 9.6.7. of this Article, the conditions of
653 issuance set forth in § 9.6.8. of this Article, and the comments and recommendations of the Floodplain
654 Administrator and the Building Official. The Cape Coral Hearing Examiner has the right to attach such
655 conditions as deemed necessary to further the purposes and objectives of this Article.

656

657 **Section 9.6.4. Restrictions in floodways.**

658

659 A variance shall not be issued for any proposed development in a floodway if any increase in base flood
660 elevations would result, as evidenced by the applicable analyses and certifications required in § 9.4.3. of
661 this Article.

662

663 **Section 9.6.5. Historic buildings.**

664

665 A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building
666 that is determined eligible for the exception to the flood resistant construction requirements of the
667 Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the
668 proposed repair, improvement, or rehabilitation will not preclude the building's continued designation
669 as a historic building and the variance is the minimum necessary to preserve the historic character and
670 design of the building. If the proposed work precludes the building's continued designation as a historic
671 building, a variance shall not be granted and the building and any repair, improvement, and
672 rehabilitation shall be subject to the requirements of the Florida Building Code.

673

674 **Section 9.6.6. Functionally dependent uses.**

675

676 A variance is authorized to be issued for the construction or substantial improvement necessary for the
677 conduct of a functionally dependent use, as defined in this Article, provided the variance meets the
678 requirements of § 9.6.4., is the minimum necessary considering the flood hazard, and all due
679 consideration has been given to use of methods and materials that minimize flood damage during
680 occurrence of the base flood.

681

682 **Section 9.6.7. Considerations for issuance of variances.**

683

684 In reviewing requests for variances, the Cape Coral Hearing Examiner shall consider all technical
685 evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this Article,
686 and the following:

687

- 688 A. The danger that materials and debris may be swept onto other lands resulting in further injury or
689 damage;

690

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

- 691 B. The danger to life and property due to flooding or erosion damage;
692
693 C. The susceptibility of the proposed development, including contents, to flood damage and the effect
694 of such damage on current and future owners;
695
696 D. The importance of the services provided by the proposed development to the City of Cape Coral;
697
698 E. The availability of alternate locations for the proposed development that are subject to lower risk of
699 flooding or erosion;
700
701 F. The compatibility of the proposed development with existing and anticipated development;
702
703 G. The relationship of the proposed development to the comprehensive plan and floodplain
704 management program for the area;
705
706 H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
707
708 I. The expected heights, velocity, duration, rate of rise, and debris and sediment transport of the
709 floodwaters and the effects of wave action, if applicable, expected at the site; and
710
711 J. The costs of providing governmental services during and after flood conditions including
712 maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water
713 systems, streets, and bridges.
714

715 **Section 9.6.8. Conditions for issuance of variances.**
716

717 Variances shall be issued only upon:
718

- 719 A. Submission by the applicant of a showing of good and sufficient cause that the unique
720 characteristics of the size, configuration, or topography of the site limit compliance with any
721 provision of this Article or the required elevation standards;
722
723 B. Determination by the Cape Coral Hearing Examiner that:
724
725 1. Failure to grant the variance would result in exceptional hardship due to the physical
726 characteristics of the land that render the lot undevelopable; increased costs to satisfy the
727 requirements, or inconvenience do not constitute hardship;
728
729 2. The granting of a variance will not result in increased flood heights, additional threats to public
730 safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the
731 public, or conflict with existing local laws and ordinances; and
732
733 3. The variance is the minimum necessary, considering the flood hazard, to afford relief;
734
735 C. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the
736 Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

737 parcel of land; and

738

739 D. If the request is for a variance to allow construction of the lowest floor of a new building or
740 substantial improvement of a building below the required elevation, a copy in the record of a
741 written notice from the Floodplain Administrator to the applicant for the variance, specifying the
742 difference between the base flood elevation and the proposed elevation of the lowest floor, stating
743 that the cost of federal flood insurance will be commensurate with the increased risk resulting from
744 the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and
745 stating that construction below the base flood elevation increases risks to life and property.

746

747 **Chapter 7. VIOLATIONS.**

748

749 **Section 9.7.1. Violations.**

750

751 Any development that is not within the scope of the Florida Building Code but that is regulated by this
752 Article that is performed without an issued permit, that is in conflict with an issued permit or that does
753 not fully comply with this Article, shall be deemed a violation of this Article. A building or structure
754 without the documentation of elevation of the lowest floor, other required design certifications, or
755 other evidence of compliance required by this Article or the Florida Building Code is presumed to be a
756 violation until such time as that documentation is provided.

757

758 **Section 9.7.2. Authority.**

759

760 For development that is not within the scope of the Florida Building Code but regulated by this Article
761 and determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation
762 or stop work orders to owners of the property involved, to the owner's agent, or to the person or
763 persons performing the work.

764

765 **Section 9.7.3. Unlawful continuance.**

766

767 Any person who shall continue any work after having been served with a notice of violation or a stop
768 work order, except such work as that person is directed to perform to remove or remedy a violation or
769 unsafe condition, shall be subject to penalties as prescribed by law.

770

771 **CHAPTER 8. FLOOD RESISTANT DEVELOPMENT**

772

773 **Section 9.8.1. Design and construction of buildings, structures, and facilities exempt from the Florida
774 Building Code.**

775

776 Pursuant to § 9.3.3. of this Article, buildings, structures, and facilities that are exempt from the Florida
777 Building Code, including substantial improvement or repair of substantial damage of such buildings,
778 structures, and facilities, shall be designed and constructed in accordance with the flood load and flood
779 resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that
780 are not walled and roofed buildings shall comply with the requirements of § 9.8.14. of this Article.

781

782

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT**

783 **Section 9.8.2. Buildings and structures seaward of the coastal construction control line.**

784
785 If extending, in whole or in part, seaward of the coastal construction control line and also, in whole or in
786 part, in a flood hazard area:

- 787
788 A. Buildings and structures shall be designed and constructed to comply with the more restrictive
789 applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or
790 Florida Building Code, Residential Section R322; and
791
792 B. Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and
793 constructed to comply with the intent and applicable provisions of this Article and ASCE 24.
794

795 **Section 9.8.3. Subdivision Minimum requirements.**

796
797 Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be
798 reviewed to determine that:

- 799
800 A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe
801 from flooding;
802
803 B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are
804 located and constructed to minimize or eliminate flood damage; and
805
806 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate
807 drainage paths shall be provided to guide floodwaters around and away from proposed structures.
808

809 **Section 9.8.4. Subdivision plats.**

810
811 Where any portion of proposed subdivisions lies within a flood hazard area, the following shall be
812 required:

- 813
814 A. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations,
815 as appropriate, shall be shown on preliminary plats;
816
817 B. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are
818 not included on the FIRM, the base flood elevations determined in accordance with § 9.4.2. of this
819 Article; and
820
821 C. Compliance with the site improvement and utilities requirements of § 9.8.5., 9.8.6., 9.8.7., 9.8.8.,
822 9.8.9., and 9.8.10. of this Article.
823

824 **Section 9.8.5. Minimum requirements for site improvements, utilities, dry floodproofing, and**
825 **limitations.**

826
827 All proposed new development shall be reviewed to determine that:
828

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

- 829 A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe
830 from flooding;
831
- 832 B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are
833 located and constructed to minimize or eliminate flood damage; and
834
- 835 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate
836 drainage paths shall be provided to guide floodwaters around and away from proposed structures.
837
- 838 D. All dry-floodproofing projects undertaken where permitted must have flood-resistant materials
839 constructed and installed two additional feet above the minimum floodproofing elevation required
840 by ASCE 24.

841

842 **Section 9.8.6. Sanitary sewage facilities.**

843

844 All new and replacement sanitary sewage facilities, private sewage treatment plants (including all
845 pumping stations and collector systems), and on-site waste disposal systems shall be designed in
846 accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C.
847 and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge
848 from the facilities into flood waters, and impairment of the facilities and systems.

849

850 **Section 9.8.7. Water supply facilities.**

851

852 All new and replacement water supply facilities shall be designed in accordance with the water well
853 construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate
854 infiltration of floodwaters into the systems.

855

856 **Section 9.8.8. Limitations on sites in regulatory floodways.**

857

858 No development, including site improvements and land disturbing activity involving fill or regrading shall
859 be authorized in the regulatory floodway unless the floodway encroachment analysis required in § 9.4.3.
860 of this Article demonstrates that the proposed development or land disturbing activity will not result in
861 any increase in the base flood elevation.

862

863 **Section 9.8.9. Limitations on placement of fill.**

864

865 Subject to the limitations of this Article, fill shall be designed to be stable under conditions of flooding
866 including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against
867 flood-related erosion and scour. In addition to these requirements, if intended to support buildings and
868 structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

869

870 **Section 9.8.10. Limitations on sites in coastal high hazard areas (Zone V).**

871

872 In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such
873 alteration is approved by the Florida Department of Environmental Protection and only if the engineering
874 analysis required by § 9.4.3.(D) of this Article demonstrates that the proposed alteration | will not increase

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

875 the potential for flood damage. Construction or restoration of dunes under or around elevated buildings
876 and structures shall comply with § 9.8.14.(H) of this Article.

877
878
879

880 **Section 9.8.11. Manufactured homes.**

881

882 A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that
883 is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1,
884 F.A.C. and the requirements of this Article. If located seaward of the coastal construction control line,
885 all manufactured homes shall comply with the more restrictive of the applicable requirements.

886

887 B. Foundations. All new manufactured homes and replacement manufactured homes installed in flood
888 hazard areas shall be installed on permanent, reinforced foundations that:

889

890 1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance
891 with the foundation requirements of the Florida Building Code, Residential Section R322.2 and
892 this Article; and

893

894 2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation
895 requirements of the Florida Building Code, Residential Section R322.3 and this Article.

896

897 C. Anchoring. All new manufactured homes and replacement manufactured homes shall be installed
898 using methods and practices which minimize flood damage and shall be securely anchored to an
899 adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods
900 of anchoring include use of over-the-top or frame ties to ground anchors. This anchoring requirement
901 is in addition to applicable state and local anchoring requirements for wind resistance.

902

903 D. Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply
904 with one of the following requirements, as applicable:

905

906 1. General elevation requirement. Unless subject to the requirements of § 9.8.11.D.2. of this Article,
907 all manufactured homes that are placed, replaced, or substantially improved on sites: (a) outside
908 of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision;
909 (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing
910 manufactured home park or subdivision upon which a manufactured home has incurred
911 substantial damage as the result of a flood, shall be elevated such that the bottom of the frame
912 is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building
913 Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V);

914

915 2. Elevation requirement for certain existing manufactured home parks and subdivisions.
916 Manufactured homes that are not subject to § 9.8.11.D.1. of this Article, including manufactured
917 homes that are placed, replaced, or substantially improved on sites located in an existing
918 manufactured home park or subdivision, unless on a site where substantial damage as result of
919 flooding has occurred, shall be elevated such that either the:

920

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

- 921 a. Bottom of the frame of the manufactured home is at or above the elevation required, as
922 applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2
923 (Zone A) or Section R322.3 (Zone V); or
924
925 b. Bottom of the frame is supported by reinforced piers or other foundation elements of at least
926 equivalent strength that are not less than 36 inches in height above grade.
927
928 E. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements
929 of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the
930 flood hazard area.
931
932 F. Utility equipment. Utility equipment that serves manufactured homes, including electric, heating,
933 ventilation, plumbing, air conditioning equipment, and other service facilities shall comply with the
934 requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard
935 area.
936

937 **Section 9.8.12. Recreational vehicles and park trailers.**

- 938
939 A. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas
940 shall:
941
942 1. Be on the site for fewer than 180 consecutive days; and
943
944 2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model
945 is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and
946 security devices, and has no permanent attachments such as additions, rooms, stairs, decks, and
947 porches.
948
949 B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in §
950 9.8.12.A. of this Article for temporary placement shall meet the requirements of § 9.8.11. of this
951 Article for manufactured homes.
952

953 **Section 9.8.13. Tanks.**

- 954
955 A. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation,
956 collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions
957 of the design flood, including the effects of buoyancy assuming the tank is empty.
958
959 B. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements
960 of § 9.8.13.C. of this Article shall:
961
962 1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the
963 tanks are anchored or otherwise designed and constructed to prevent flotation, collapse, or
964 lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the
965 design flood, including the effects of buoyancy assuming the tank is empty and the effects of
966 flood-borne debris; and

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1010
1011
1012

2. Not be permitted in coastal high hazard areas (Zone V).

C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

D. Tank inlets and vents. Tank inlets, fill openings, outlets, and vents shall be:

1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Section 9.8.14. Other development.

A. General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this Article or the Florida Building Code, shall:

1. Be located and constructed to minimize flood damage;

2. Meet the limitations of § 9.8.8. of this Article if located in a regulated floodway;

3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

4. Be constructed of flood damage- resistant materials; and

5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

B. Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 9.8.8. of this Article.

C. Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 9.8.8. of this Article.

D. Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

1013 from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet
1014 the limitations of § 9.8.8. of this Article. Alteration of a watercourse that is part of a road or
1015 watercourse crossing shall meet the requirements of § 9.4.3.C. of this Article.
1016

1017 E. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar
1018 nonstructural uses in coastal high hazard areas (Zone V).
1019

1020 In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks,
1021 walkways, patios, and similar nonstructural uses are permitted beneath or adjacent to buildings and
1022 structures provided the concrete slabs are designed and constructed to be:
1023

- 1024 1. Structurally independent of the foundation system of the building or structure;
- 1025
- 1026 2. Frangible and not reinforced, to minimize debris during flooding that is capable of causing
1027 significant damage to any structure; and
- 1028
- 1029 3. Have a maximum slab thickness of not more than four inches.

1030
1031 F. Decks and patios in coastal high hazard areas (Zone V). In addition to the requirements of the Florida
1032 Building Code, in coastal high hazard areas decks and patios shall be located, designed, and
1033 constructed in compliance with the following:
1034

- 1035 1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest
1036 horizontal structural member at or above the design flood elevation and any supporting members
1037 that extend below the design flood elevation shall comply with the foundation requirements that
1038 apply to the building or structure, which shall be designed to accommodate any increased loads
1039 resulting from the attached deck;
1040
- 1041 2. A deck or patio that is located below the design flood elevation shall be structurally independent
1042 from buildings or structures and their foundation systems and shall be designed and constructed
1043 either to remain intact and in place during design flood conditions or to break apart into small
1044 pieces to minimize debris during flooding that is capable of causing structural damage to the
1045 building or structure or to adjacent buildings and structures;
1046
- 1047 3. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with
1048 more than the minimum amount of fill necessary for site drainage shall not be approved unless
1049 an analysis prepared by a qualified registered design professional demonstrates no harmful
1050 diversion of floodwaters or wave runup and wave reflection that would increase damage to the
1051 building or structure or to adjacent buildings and structures; and
1052
- 1053 4. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on
1054 nonstructural fill material that is similar to and compatible with local soils and is the minimum
1055 amount necessary for site drainage may be approved without requiring analysis of the impact on
1056 diversion of floodwaters or wave runup and wave reflection.
1057

1058 G. Other development in coastal high hazard areas (Zone V).

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 9 – FLOODPLAIN MANAGEMENT

1059
1060
1061
1062
1063
1064
1065
1066
1067
1068
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1090
1091
1092

In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state, or local authority; if located outside the footprint of and not structurally attached to buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 2. Solid fences, privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
 3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.
- H. Nonstructural fill in coastal high hazard areas (Zone V).
1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
 2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
 3. Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

Chapter 1. Subdivisions

Section 10.1.1. Purpose and Intent

The purpose and intent of this Article is to establish the procedures for review and approval of proposed subdivisions and plats within the City of Cape Coral in accordance with Chapter 177 Part 1 of the Florida Statutes, the City of Cape Coral Technical Requirements for Plat Approval, and this Code.

Section 10.1.2 Applicability and Process.

A. Applicability. This Section shall apply to any subdivision or re-subdivision of land in the City.

1. No subdivision shall be platted or recorded, no lot shall be sold, and no building or development permit be issued unless the subdivision meets all applicable laws of the state, this code, and has been approved by the City in accordance with the requirements of this Article.
2. This section shall not apply to any land forming part of a subdivision created and recorded prior to effective date of the ordinance from which this article is derived, but it shall apply to any re-subdividing (replats) of previously approved subdivisions and all new subdivisions.
3. It is not intended by the provisions of these regulations to repeal, abrogate, annul, or in any way impair or interfere with private restrictions placed upon property by deed, covenant, or private agreement, except that where this article imposes higher standards than imposed by such deeds, covenants, or private agreements then the provisions of this article shall apply. The City shall not be responsible for enforcement of such deeds, covenants, or agreements.

B. Unless otherwise exempt from this Section or approved as a lot split, all subdivision of land is subject to a three-step review process consisting of:

1. Preliminary Subdivision Plan (PSP) approval;
2. Subdivision Construction Plan (SCP) approval; and
3. Plat approval and recording.

C. PSP approval is optional for lot splits and those projects in compliance with zoning regulations. SCP approval is required prior to Plat approval.

Section 10.1.3 General Requirements.

A. All division of land in the City shall occur only as a new subdivision plat, a replat, or a lot split. The requirements for lot splits are set forth in Article 3, Chapter 3, Section 3.3.4.

B. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no building permit shall be issued unless the lot split has been approved by the City prior to recording in accordance with the requirements of Article 3, Chapter 3, Section 4.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

- 47
48 C. A PSP depicts the proposed subdivision layout and the preliminary design of any required
49 improvements which may include off-site improvements. A Preliminary Subdivision Plan is an
50 administrative approval, pursuant to Article 3 of this Code.
51
52 D. Following PSP approval, applicants may then seek approval of the SCP and Plat.
53
54 E. The SCP shall depict the detailed engineering and construction plans to develop a subdivision and all
55 required improvements, in accordance with the approved PSP.
56
57 F. Subdivisions may be approved for phased development. Phasing must be shown on the PSP.
58
59 G. An application for Plat review shall not be submitted prior to application for SCP approval. The
60 applications may be submitted concurrently.
61
62 H. Electronic file. In addition to any hard copies that may be required all PSPs, SCPs, and Plats shall
63 submitted as electronic files in a format acceptable to the City.
64
65 I. No plat or replat of any subdivision shall be recorded in the office of the Lee County Clerk until the
66 plat has been duly approved by City Council in the manner prescribed herein.
67
68 J. All plats approved by the City Council shall be recorded by the developer at the Lee County Clerk of
69 Circuit Court within 20 business days of receiving the approved plat from the City.
70
71 K. Employment of engineers, surveyors, and other design consultants. A professional engineer licensed
72 in the State of Florida shall prepare the respective plans to be included in all applications for approval.
73 The engineer shall design all required improvements such as streets, drainage systems, water and
74 sewage facilities, etc. Plats shall be prepared by a professional surveyor and mapper licensed in the
75 State of Florida. All plans, drawings, reports, and calculations shall be prepared, signed, and sealed by
76 the appropriate licensed professional, such as engineers, architects, landscape architects, land
77 surveyors, and attorneys registered in the state. Other specialized consultants, such as environmental
78 consultants, structural engineers, archaeologists, etc., may be required to assist in the preparation of
79 the plans, drawings, reports, and other documents required as application submittals.
80
81 L. It shall be unlawful for the owner or agent of the owner of any land in the City to transfer, sell, or
82 convey land by reference to, exhibition of, or other use of a plat of a subdivision of such land without
83 having recorded an approved plat with the Lee County Clerk as required herein. If such unlawful use
84 is made of a plat before it is properly approved and recorded, the owner or agent shall be guilty of a
85 misdemeanor of the first degree, punishable as provided in Florida Statutes 665.083 or Florida
86 Statutes 775.082. Provided, however, that nothing herein shall affect the validity of transfers on sales
87 of interests in property.
88

89 **Section 10.1.4 Preliminary Subdivision Plan Approval.**
90

- 91 A. Purpose and intent. The purpose of Preliminary Subdivision Plan approval is to help prevent
92 unnecessary and costly revisions during the Subdivision Construction Plan and Plat preparation stage

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

93 of the subdivision development process. The Preliminary Subdivision Plan depicts the proposed
94 subdivision layout and preliminary design of the proposed improvements in sufficient detail in order
95 that it may be evaluated and granted preliminary approval pursuant to this Code.
96

97 **B. Review Process.**
98

99 1. Applications for a Preliminary Subdivision Plan approval are reviewed in the same manner as
100 administrative approvals, as established in Article 3 of this Code.
101

102 2. All applications must be prepared by a Florida registered professional engineer and shall be
103 submitted on forms provided by the Director.
104

105 **C. Expiration.** The PSP approval shall expire and be of no further force and effect if a completed
106 application for SCP approval is not filed within two years of PSP approval. After expiration of
107 two years, the applicant will be required to re-submit the PSP for review and approval as set forth in
108 this Article. Applicants may apply for an extension prior to the expiration date. The applicant shall
109 demonstrate good cause for the extension. The Community Development Director may extend the
110 approval period up to twelve (12) months if the applicant has progressed in good faith toward the
111 implementation of the subdivision. Subdivisions approved in conjunction with a PUD shall be
112 governed by the Master Concept Plan (MCP)(and any, phasing, conditions, or requirements of the
113 PUD.
114

115 **Section 10.1.5 Subdivision Construction Plan Approval.**
116

117 **A. Application required.** The applicant shall submit Subdivision Construction Plans for the required
118 subdivision improvements in compliance with the PSP approval or a PUD MCP. No construction shall
119 commence until the applicant has received requisite design approvals, permits, and complied with
120 applicable provisions of this article.
121

122 **B. Timing.** Applications for SCP approval must be submitted within two years of City approval of the PSP.
123 Applications for approval of subsequent phases, if any, shall occur within twelve (12) months of the
124 issuance of a certification of completion of the previous phase. Failure to submit for SCP approval
125 within a specified amount of time shall require reapplication under the PSP requirements of this
126 Article. Applicants may not apply for SCP approval for any portion of the subdivision that is not to be
127 constructed within the following twelve (24) months. Failure to make application for SCP approval
128 within required time periods may result in revocation of a Preliminary Subdivision Plan, unless the
129 applicant has applied for an extension from the Community Development Director prior to the lapse.
130 The request for the extension must be made prior to the expiration date. The applicant shall
131 demonstrate good cause for the extension. The Community Development Director may extend the
132 prescribed time period up to twelve (12) months if the applicant has progressed in good faith toward
133 the implementation of the PSP.
134

135 **C. Review Process.** Application review and approval follows the administrative review procedure as
136 established in Sections 3.1.4 through 3.1.8 of Article 3. Specifically, SCP's are reviewed in accordance
137 with Section 3.3.7.
138

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

- 139 D. Approval of the SCP. Upon approval of the SCP the developer may proceed with construction in
140 accordance with Section 3.3.7. or the developer may complete the Plat review process for recording
141 the Plat.
142
- 143 E. When the developer elects to install the subdivision improvements prior to recording of the plat, a
144 Certificate of Completion for the improvements must be obtained in accordance with Section 3.3.7.,
145 prior recoding the plat. The final plat shall not be scheduled for City Council approval prior to receipt
146 of the Certificate of Completion.
147
- 148 F. When the developer intends to record the plat prior to installation of the required improvements the
149 developer shall provide assurance of completion of the improvements as approved in the SCP.
150
- 151 1. Assurance of completion of improvements. Assurance of completion of the subdivision
152 improvements as specified below will be required for all on and off-site improvements, required
153 to support the subdivision. Assurance of completion of the improvements will be required prior
154 to scheduling the plat for City Council approval. Those subdivision improvements that have been
155 constructed, inspected, and approved by the Development Services Manger through the issuance
156 of a Certificate of Completion may be excluded from the financial assurance provided.
157
- 158 2. Surety or cash performance bond. Security in the form of a surety or cash performance bond must
159 be posted with the Community Development Department and made payable to the City in an
160 amount equal to 110 percent of the full cost of installing the required improvements approved by
161 the City. If the proposed improvement will not be constructed within one year of issuance of the
162 subdivision infrastructure permit, the amount of the surety or cash performance bond must be
163 increased by ten percent compounded for each year of the life of the surety or bond. Alternatively,
164 the surety or cash performance bond may be renewed annually at 110 percent of the cost of
165 completing the remaining required improvements if approved by the Director. Prior to
166 acceptance, bonds must be reviewed and approved by the City Attorney's Office. Surety
167 instruments will be reviewed and approved in accord with the provisions set forth in City of Cape
168 Coral Technical Requirements for Plat Approval.
169
- 170 3. Other types of security. The Director may accept letters of credit or escrow account agreements
171 or other forms of security provided that the reasons for not obtaining the bond are stated and
172 the City Attorney approves the document. Review and approval of surety instruments will be in
173 accord with the guidelines set forth in City of Cape Coral Technical Requirements for Plat
174 Approval.
175
- 176 G. Engineers Opinion of Probable Construction Costs. Cost opinions prepared to determine the amount
177 of the financial surety shall be prepared in accordance with Article 3 of this Code and shall also include
178 the cost of setting all permanent control points (PCPs) required by Section 10.1.7. of this Code.
179
- 180 H. Phasing. The SCP may contain phases as provided on the PSP or MCP. Each phase of a subdivision
181 shall install all required improvements to support that phase and provide continuation of
182 improvements as may be required from previous phases and for future phases. No phase shall be
183 approved if it is dependent on a future unconstructed phase of the subdivision.
184

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

- 185 I. Applicant's failure to complete required improvements.
186
187 1. Failure of applicant to complete required improvements. When a plat has been recorded and the
188 applicant fails to complete the required improvements as required by this article, the City shall
189 require the completion of the required improvements under the financial assurance provided by
190 the Developer. In such case, the City shall call upon the financial surety to secure satisfactory
191 completion of the required improvements. Legal notice of such action shall be deemed to have
192 been duly served upon demand of the Director via certified mail return receipt requested.
193
194 2. In cases where plat has not been recorded. Where an applicant has elected to install the required
195 improvements prior to recording of the plat and fails to complete such improvements within the
196 time limitations of this article, all approvals of the subdivision shall be null and void. No reference
197 shall be made to the plat with respect to the sale of lots or issuance of building permits, unless
198 and until the Developer submits a new application for SCP and Plat approval.
199

200 **Section 10.1.6 Plat Approval.**

- 201
202 A. Plat approval procedures. Plats must be prepared in accordance with Chapter 177 Part 1 of the Florida
203 Statutes, and the City of Cape Coral Technical Requirements for Plat Approval, which are hereby
204 incorporated by reference. The preliminary plat must be submitted during the SCP review. SCP
205 approval will not be granted prior to approval of the preliminary plat. The Final Plat shall incorporate
206 all changes or modifications resulting from the review of the SCP and any remaining conditions or
207 requirements of the PSP or MCP approval.
208
209 B. Review Process. Application review and approval follows the administrative review procedure as
210 established in Article 3 of this Code.
211
212 C. Supplemental information required for plat review.
213
214 1. Operation and maintenance covenants. Where applicable, a copy of the covenants used for the
215 maintenance and operation of the infrastructure improvements required by this Code including
216 private streets and adjacent drainage, drainage and storm water management systems, utilities,
217 public water and sewage systems, on-site bikeways, on-site pedestrian ways, open space, parks,
218 recreation areas, and buffers. These documents must meet the criteria set forth in the City of
219 Cape Coral Technical Requirements for Plat Approval.
220
221 2. Articles of incorporation and bylaws or other legal documents for assignment of maintenance.
222 The developer must submit a copy of the legal documents creating the legal mechanism to ensure
223 that the drainage system, on-site bikeways, on-site pedestrian ways, roadways and rights-of-way
224 are continuously maintained. These documents must meet the requirements set forth in the City
225 of Cape Coral Technical Requirements for Plat Approval.
226
227 D. After the final plat has been approved and certified by the Community Development Director, the City
228 Surveyor, and the City Attorney that it complies with all applicable requirements of this Code, the
229 Director shall schedule the Plat for acceptance by City Council. The plat will be scheduled as a consent
230 agenda item on an upcoming City Council meeting. Upon City Council approval and acceptance of the

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

231 plat, the Mayor and City Clerk shall indicate such approval on the final plat by signing the certificate
232 of approval for recording. The Director will notify the developer when the approved Plat has been
233 signed and ready for recording.
234

235 E. Revisions after final plat approval by City Council and prior to recordation.
236

237 1. Recording information for the property or home owner's association documents may be added
238 to the plat at the time of recording of the documents.
239

240 2. Any other changes, erasures, modifications, or revisions to an approved plat prior to recordation
241 may only be made by the Community Development Director to correct scrivener's errors. No
242 such request shall be considered unless made by the preparer of the plat.
243

244 3. No other changes, erasures, modifications, or revisions may be made to an approved final plat
245 prior to recordation unless a new application and fee are submitted for review and approval.
246

247 F. Approval of the Plat by the City shall not constitute acceptance by the City of the dedication of any
248 public street, other public way, easement, or improvement or the responsibility to construct or
249 maintain any improvements unless so indicated in the dedication on the plat.
250

251 G. Recording. The approved plat shall be recorded with Lee County Clerk of Circuit Court within twenty
252 (20) days of receiving the approved plat from the City. After recordation of the plat, the
253 developer shall provide to the Community Development Director a full size certified copy of the
254 recorded plat.
255

256 H. Building permits. No building permits for residential or residential accessory structures shall be issued
257 until the final plat has been recorded and all subdivision improvements have either been completed or
258 sufficient assurance of completion has been reviewed and approved by the City Attorney.
259

260 I. Phasing. The applicant may construct the proposed development and record plats for any phase
261 approved on the PSP or MCP. The phases shall have been specified on the approved Preliminary
262 Subdivision Plan and shall be of such a size and design that all phases completed at any time can exist
263 independently as a subdivision in complete conformity with the requirements of this article. Any
264 change in the sequence of phases must receive prior approval by the Development Services Manager.
265 If PSP or MCP is phased, the applicant shall have the option of platting one or more of the
266 development phases in a single plat in conformity with all the procedures and requirements of this
267 article.
268

269 **Section 10.1.7 Minimum Design Standards.**
270

271 A. Monumentation. Monuments must be installed in accordance with F.S. Ch. 177.091(9).
272

273 1. Permanent reference monuments. Permanent reference monuments (PRMs) must be placed on
274 the boundary of all subdivisions as required by F.S. Ch. 177, as amended, and approved by a
275 licensed, registered state professional surveyor and mapper.
276

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS

- 277 2. Monuments must be set in the ground so that the top is flush or no more than one-half foot
278 below the existing ground. Subsurface PRMs must be exposed for inspection when a plat is
279 submitted for review. If development of the subdivision occurs after a plat is reviewed, the PRMs
280 must be raised or lowered to be flush or no more than one-half foot below the finished ground.
281 Subsurface PRMs must be exposed for inspection at the time of final inspection of the
282 development.
283
- 284 B. Permanent control points. Permanent control points (PCPs) must be installed in accordance with F.S.
285 Ch. 177. When a plat is recorded prior to construction of the subdivision improvements, the PCPs
286 must be set following completion of construction. The surveyor must certify that the PCPs have been
287 set and must record the certification in the official record books of the County.
288
- 289 C. Streets.
290
- 291 1. The widths and locations of all public or private streets in a proposed subdivision shall Conform
292 to the City of Cape Coral Engineering Design Standards.
293
- 294 2. Street extensions.
295
- 296 a. The street layout of the proposed subdivision shall provide for the continuation or
297 projection of streets already existing in areas adjacent to the area being subdivided unless
298 such continuation or extension is for specific reasons of topography or design.
299
- 300 b. Where it is necessary for public safety to provide street access to adjoining properties,
301 proposed streets shall be extended by dedication to the boundaries of such properties.
302 Where it is determined necessary for public safety, dead-end streets shall be provided
303 with a temporary turnaround having a radius as specified in the City of Cape Coral
304 Engineering Design Standards.
305
- 306 c. The street system for the proposed subdivision shall provide for extending existing streets
307 at the same or greater width, but in no case, shall a street extension be of less width than
308 the minimum width required by the City of Cape Coral Engineering Design Standards for a
309 street in its category.
310
- 311 3. Dedication of right-of-way for new streets.
312
- 313 a. The dedication of rights-of-way for new streets, measured from lot line to lot line, shall
314 meet the standards specified in the City of Cape Coral Engineering Design Standards.
315
- 316 b. Dedication of one-half of the rights-of-way for proposed streets along the boundaries of
317 land proposed for subdivision shall be prohibited.
318
- 319 4. Dedication of right-of-way for existing streets.
320

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

- 321 a. Subdivisions platted along existing streets shall dedicate additional rights-of-way if
322 necessary to meet the minimum street width requirements for new streets set forth in the
323 City of Cape Coral Engineering Design Standards.
324
- 325 b. The entire minimum right-of-way width shall be dedicated where the subdivision is on
326 both sides of an existing street. When the subdivision is located on only one side of an
327 existing street, one-half of the required right-of-way width, measured from the center line
328 of the existing right-of-way or street, as appropriate, shall be dedicated.
329
- 330 5. Intersections. Intersections shall be designed and spaced as set forth in the City of Cape Coral
331 Engineering Design Standards.
332
- 333 6. Curves in streets; horizontal and vertical. All curves in streets shall be designed and
334 constructed as set forth in the City of Cape Coral Engineering Design Standards.
335
- 336 7. Street grades and elevations. Street grades and elevations shall conform to the City of Cape
337 Coral Engineering Design Standards.
338
- 339 8. Frontage access streets. Where the proposed subdivision abuts upon or contains an existing
340 or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant
341 special safety considerations, the City shall require that frontage access streets be provided in
342 order that no lots will front on such existing or proposed arterial street or highway.
343
- 344 9. Street jogs. Street jogs must be as set forth in the City of Cape Coral Engineering Design
345 Standards.
346
- 347 10. Dead-end streets (cul-de-sacs). Cul-de-sacs or dead-end streets must be designed to conform
348 to the City of Cape Coral Engineering Design Standards.
349
- 350 11. Street names. Proposed streets which are in alignment with other already existing and named
351 streets shall bear the names of such existing streets. The name of a proposed street which is
352 not in alignment with an existing street shall not duplicate the name of any existing street.
353
- 354 12. Alleys. Alleys may be provided to give access to the rear of all lots used for commercial and
355 industrial purposes. Alleys shall not be provided in residential blocks except in the SC district
356 or in cases where the developer produces evidence of the need for alleys which is satisfactory
357 to the City.
358
- 359 D. Blocks. Block lengths shall not exceed 1,200 feet or be less than 400 feet, except as approved by
360 the Director.
361
- 362 E. Lots.
363
- 364 1. Arrangement. Each lot in a subdivision shall be at right angles to straight street lines and radial
365 to curved street lines.
366

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS

367 2. Dimension and area regulations. Dimension and area regulations for all lots proposed within
368 the subdivision, including the size, shape, width, depth, area, building setback lines, corner lot
369 regulations, yard requirements, off-street parking areas, and minimum lot frontage on public
370 streets shall comply with the zoning district requirements in which the proposed subdivision
371 is located.

372

373 F. Utility and drainage easements.

374

375 1. Utility planning and coordination. To ensure that adequate and properly designed utility
376 easements are provided, developers shall consult with City staff and other appropriate
377 personnel of public utility authorities providing gas, electricity, telephone, water, sewer, or
378 other services of a similar nature before and during the planning and preparation of a
379 Preliminary Subdivision Plan.

380

381 2. Width and location. A 10' public utility easement shall be provided across the front of all lots
382 or parcels and shall be provided along each side of any street right of way or access easement.
383 Where necessary or advisable in the opinion of the City, similar easements shall be provided
384 alongside lot lines or across lots. Easement design should provide clear and orderly alignments
385 from one block to the next and from one development to the next. The easement system
386 should be continuous and well aligned to permit the efficient installation of utility service lines.

387

388 3. Underground wiring and installation. Developers shall contact overhead public utility
389 authorities in the early stages of subdivision planning to determine the procedures for
390 negotiating contracts for all underground utility service.

391

392 4. Storm drainage. Drainage easements shall be sized appropriately for the installation and
393 maintenance of drainage improvements necessary for proper drainage within or through a
394 subdivision.

395

396 G. Street lights. As established in the City of Cape Coral Engineering Design Standards.

397

398

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE XI - DEFINITIONS

Section

11.1 — Definitions.

Unless the context clearly indicates a different meaning, the following definitions shall be used to interpret the provisions of these Land Use and Development Regulations.

Words whose meanings are self-evident as used in this ordinance are not defined here. Words used in the present tense shall include the future; the singular includes the plural, and vice versa. The word "shall" is mandatory; the word "may" is permissive. The word "includes" shall not limit a term to the specific examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character. The terms "land use" and "use of land" shall be deemed also to include building or structure use and use of building or structure.

CHAPTER 1. GENERAL PROVISIONS

Section 11.1. Purpose and Intent

A. This chapter is intended to define terms used in the Land Development Code (LDC) and provide clarity in the LDC.

B. Unless the context clearly indicates a different meaning, the following definitions shall be used to interpret the provisions of the LDC.

C. Words whose meanings are self-evident as used in this Code are not defined here. Undefined terms that are commonly used may be defined using a dictionary. Words used in the present tense shall include the future; the singular includes the plural, and vice versa.

D. Certain definitions may not be in alphabetical order and may be organized according to a common term or subject heading.

E. The definitions in the Article may be different from the definitions used in the City of Cape Coral Code of Ordinances.

Section 11.2. Definitions

Abandoned Structure, is any structure which has ceased to be used for its designed and intended purpose.

Abandoned Vehicle or Watercraft, shall mean vehicles or watercraft which are not currently registered or licensed to be lawfully operable on public streets or waterways, or which are wrecked, inoperative, in a partially dismantled condition, or which have no apparent intrinsic value to the rightful owner.

48 **Abandonment**, is the relinquishment or cessation of the use of property by the owner or lessee without
49 any intention of transferring rights to the property to another owner or of resuming the use of the
50 property. Often in reference to an easement or a right-of-way.
51

52 **Abandoned Sign**, is a sign whose message describes the availability of goods or services at a location
53 where such goods and services are no longer available and have ceased to be available for a period of at
54 least 60 days or, in the alternative, a sign which is non-commercial in nature and the content of the sign
55 pertains to a time, event or purpose which has elapsed or expired in the preceding 60 days.
56

57 ~~**ABUTTING PROPERTIES**~~**Abutting Properties**, Properties which share a common border or property line.
58

59 **Access**, is the place, means, or way by which vehicles or pedestrians obtain ingress and egress to a
60 property or use.
61

62 **Access Drive**, is a driving surface leading from a right-of-way to a parking area.
63

64 **Accessory Dwelling Unit (ADU)**, is a separate housekeeping unit from the with a separate entrance,
65 kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an
66 existing single-family structure.
67

68 **Accessory Building or Structure**, is a subordinate building or structure, the use of which is customarily
69 incidental the main building or to the main use of the land and which is on the same site as the main
70 building or use.
71

72 ~~**ACCESSORY USE.** A use customarily incidental to the principal use of the property, and~~
73 ~~unless otherwise specifically provided by the City of Cape Coral Land Use Regulations. (See also [§](#)~~
74 ~~[3.1.](#)~~)
75

76 **Accessory Use**, is a use that is incidental to and subordinate to the main building or use of land and that
77 is on the same lot and under the same ownership in all respects.
78

79 **Acre**, is a land area of 43,560 square feet.
80

81 ~~**ACTIVE USE.** A building use designed for human occupation that attracts pedestrian activity;~~
82 ~~provides a direct view to adjacent rights-of-way or open spaces through transparent windows~~
83 ~~and/or doors or openings. Commercial active uses generally provide access to the general public~~
84 ~~and may include, but are not limited to, retail, personal services, offices, restaurants, coffee shops,~~
85 ~~libraries, municipal facilities, common areas and entrance lobbies. Residential active uses generally~~
86 ~~include, but are not limited to, dwelling units, common areas, entrance lobbies, lounges, and gyms.~~
87

88 **Addition**, is any construction that increases the size of a building in terms of site coverage, height,
89 length, width, or gross floor area.
90

91 **Adjoining or Abutting**, means two properties share at least one common point or property line.
92

93 **Adjacent**, means two properties that are separated by a public right of way, canal, or alley.
94

95 Adjacent Parcel, is any waterfront parcel that is not an end parcel, but that abuts an end parcel or a corner
96 parcel.

97
98 ~~**ADJACENT PROPERTIES.** See **ABUTTING PROPERTIES.**~~

99
100 ~~**ADJOINING PROPERTIES.** See **ABUTTING PROPERTIES.**~~
101 (Ord. 15-12, 9-10-2012)

102
103 ~~**ADMINISTRATIVE OFFICIAL.** The Director of the Department of Community Development or~~
104 ~~duly authorized representative.~~

105
106 ~~**ADMINISTRATIVE OFFICE.** An office which is customarily ancillary and supportive to the~~
107 ~~permitted principal use of the property and which is used for clerical and administrative functions~~
108 ~~of the principal use. This term shall include managers or association offices for residential rental~~
109 ~~property, subdivisions, recreation vehicle parks and similar type activities.~~

110
111 Adult Day Care Center, means any building or buildings, operated for profit or not, which provides
112 daytime, basic care services to three or more persons who are 18 years of age or older, who are not
113 related to the owner or operator by blood or marriage, and who require such services.

114
115 Affordable Housing, is housing with a sale or rental cost, including taxes and utilities, of 30 percent or
116 less of the total monthly household income of low income households.

117
118 A-Frame Sign, is a sign that is self-supporting and portable with steeply angled sides that meet and are
119 adjoined at the top to form the shape of the letter "A." Two individual signs attached at the top that
120 were not manufactured to be an A-frame sign shall not be considered to meet this definition.

121
122 ~~**AGRICULTURAL BUILDING OR STRUCTURE.** Any building or structure accessory to the~~
123 ~~principal farming, fisheries, animal specialty farm or plant nurseries use of the land.~~

124
125 Agricultural Building, are structures intended primarily or exclusively for support of an agricultural
126 function, including barns, silos, water towers, windmills, and greenhouses.

127
128 Agricultural Land, is land used actively for the production of food, fiber, or livestock.

129
130 ~~**AGRICULTURAL OR FARM EQUIPMENT AND SUPPLY ESTABLISHMENTS.** A premises, or~~
131 ~~portion of a premises, occupied by an establishment primarily engaged in the retail selling of farm~~
132 ~~equipment machinery, hardware, production supplies and other miscellaneous farm and garden~~
133 ~~supplies directly to ultimate consumers and not for resale. **FARM EQUIPMENT AND SUPPLY**~~
134 ~~**ESTABLISHMENTS** may include farm equipment repair departments provided such repair~~
135 ~~departments are incidental and accessory to the principal retail selling of farm equipment and~~
136 ~~supplies.~~

137
138 ~~**AGRICULTURAL or FARMING.** A premises, or portion of a premises, occupied by an~~
139 ~~establishment primarily having as the principal purpose of business the production for sale of field~~
140 ~~crops, fruit, tree nuts, vegetables, livestock, livestock products, poultry hatcheries and animal~~
141 ~~husbandry activities.~~

142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188

~~**AGRICULTURAL OR FARMING SERVICE ESTABLISHMENTS.** A premises, or portion of a premises, occupied by an establishment in which a person, or persons, practice a vocation that performs a type of labor, act or work off the premises that primarily results in a variety of farming services such as crop dusting, vegetable and fruit picking, grain cleaning, harvesting, plowing and similar operations normally on a contract basis or for a fee or charge.~~

Agricultural Uses, means farming, including plowing, tillage, cropping, seeding, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); the grazing or raising of livestock (except in feed yards); aquaculture; sod production; orchards or groves; Christmas trees; nurseries; and the cultivation of products as part of a recognized commercial enterprise.

~~**AIRCRAFT ESTABLISHMENTS.** A premises, or portion of a premises, occupied by an establishment primarily engaged in the retail selling of new or used aircraft and related new parts and accessories directly to the ultimate consumer on the premises and not for resale. Aircraft establishments may include repair departments; provided such repair departments are incidental and accessory to the principal retail selling of aircraft and related aircraft accessories.~~

~~**AIRCRAFT LANDING FACILITY, PRIVATE.** A facility, which may or may not be opened to the public, whose primary purpose is to accommodate the take-off and landing of non-commercial passenger aircraft.~~

Alley, is a right-of-way that affords a secondary means of vehicular access to abutting properties.

Alteration, means any enlargement, addition, relocation, remodel, change in number of units, development, or change to a facility, other than painting and other changes to finishes.

~~**ALTERED.** Any change or addition to the load-bearing members or the foundation of a structure.~~

Alternate Tower Structure, means man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Ambient, is the surrounding level of light, noise, air, or odor.

Amplified Sound, means sound augmented by any electronic or other means that increases the sound level or volume. Public background sound or amplified sound caused by the police or fire departments of the city in the performance of their official duties shall not be considered amplified sound.

~~**AMUSEMENT PARK ESTABLISHMENTS.** Known as amusement parks, kiddie parks, theme parks, etc. which operate a number of attractions such as mechanical rides, amusement devices, exhibits, and refreshment stands or picnic grounds, for a profit.~~

~~**ANIMAL KENNEL**~~**Animal Kennel,** is Aan establishment where more than four dogs or cats (except litters of animals of not more than six months of age) are kept, raised, cared for or boarded, for a fee.

189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230

ANIMAL SHELTER. As differentiated from a kennel, any place so designed to provide for the temporary accommodation of five or more stray common household pets until appropriate disposition of such animals can be made.

Animal Shelter, is any place so designed to provide for the temporary accommodation of five or more stray common household pets until appropriate disposition of such animals can be made.

ANIMAL SPECIALTY FARMS. A premises, or portion of a premises, occupied by an establishment primarily having as the principal purpose of business the production for sale of animal specialties, such as apiaries, dog farms, horse farms, mink farms and rabbit farms.

Animated Sign, is a sign that uses movement or change of lighting to depict action or the appearance of motion. This definition includes blinking, flashing, moving and revolving signs; strobe, laser, fiber optic, search lights and string lighting of any type. Time and temperature devices shall not be considered animated signs. In addition, temporary electronic changeable message signs required by government agencies for road and street repairs and similar activities shall not be considered animated signs.

Antenna, means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.

Antenna Support Structure, is any building or other structure, other than a tower, which may be used for location of wireless telecommunications facilities.

ANTIQUÉ STORES. A building, or portion of a building, occupied by an establishment primarily engaged in the retail selling of antique furniture, home furnishings and objects of art and related antique accessories directly to ultimate consumers on the premises. Merchandise and goods sold by such establishments are normally not purchased for resale purposes.

Arbor, is a structure on which plants and vines can grow.

ARCADE. A series of piers topped by arches that support a permanent roof.
(Ord. 101-03, 10-20-2003; Ord. 91-05, 11-14-2005)

Arcade, Architectural, means a succession of arches supported by columns or piers, or a covered walkway enclosed by a line of arches on one or both sides.



Architectural Feature, is any prominent or characteristic part of a building, including windows, columns, awnings, marquee, façade, or fascia.

231 Art, Public, is any visual work of art displayed open to the public view on public or private property
232 which does not contain characteristics of an advertisement for a business.

233
234 ~~**ARTISAN BREWERY.** A use that brews beer, ale and similar beverages on a small scale and~~
235 ~~whose annual production of beer is capped by the City of Cape Coral in contrast to a full-fledged~~
236 ~~brewery that may produce an unlimited volume of beer. These establishments may include a~~
237 ~~tasting room and retail space to sell beer produced on the premises, as well as beer, spirits and~~
238 ~~wine produced elsewhere, along with related retail items and food.~~
239 ~~(Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)~~

240
241 ~~**ARTISAN DISTILLERY.** A use that distills spirituous beverages on a small scale and whose~~
242 ~~annual production of spirits is capped by the City of Cape Coral in contrast to a full-fledged~~
243 ~~distillery that may produce an unlimited volume of spirits. These establishments may include a~~
244 ~~tasting room and retail space to sell spirits produced on the premises, as well as spirits, beer, and~~
245 ~~wine produced elsewhere, along with related retail items and food.~~
246 ~~(Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)~~

247
248 ~~**ARTISAN WINERY.** A use that produces wine on a small scale and whose annual production~~
249 ~~of wine is capped by the City of Cape Coral in contrast to a full-fledged winery that may produce~~
250 ~~an unlimited volume of wine. These establishments may include a tasting room and retail space to~~
251 ~~sell wine produced on the premises, as well as wine, beer, and spirits produced elsewhere, along~~
252 ~~with related retail items and food.~~
253 ~~(Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)~~

254
255 ~~**ASSISTED LIVING FACILITY.** A facility as defined by F.S. § 400.402, as same may hereafter be~~
256 ~~amended.~~
257 ~~(Ord. 68-98, 11-30-1998)~~
258

259 Assisted Living Facility (ALF) or Nursing Home, means any building, section or distinct part of a
260 building, private home, boarding home, home for the aged, or other residential facility, whether
261 operated for profit or not, which undertakes through its ownership or management to provide
262 housing, meals, and one or more personal services for a period exceeding 24 hours to one or more
263 adults who are not relatives of the owner or administrator.

264
265 Auditorium or Assembly Hall, is a building with facilities to accommodate groups of people.
266

267 ~~**AUTOMOTIVE PARTS STORE.** Establishments primarily engaged in the retail sale of new or~~
268 ~~used parts and accessories for automobiles, truck trailers, and motorcycles but not providing~~
269 ~~installation services. This term does not include auto-wrecking yards.~~

270
271 ~~**AUTOMOTIVE PARKING ESTABLISHMENTS.** A premises, or portion of a premises, occupied~~
272 ~~by an establishment primarily engaged in providing commercial parking facilities on open air lots,~~
273 ~~sites or structures for relatively short periods of time directly to meet the needs of ultimate~~
274 ~~consumers normally for a fee or charge.~~

276 **~~AUTOMOTIVE SERVICE ESTABLISHMENTS.~~** A premises, or portion of a premises, occupied
277 by an establishment primarily engaged in furnishing car washing, waxing, detailing, polishing or
278 similar services except repairs, intended for and directly incidental to the needs of ultimate
279 consumers on the premises normally for a fee or charge.

280
281 **~~AUTOMOBILE SERVICE STATION, LIMITED.~~** An establishment primarily engaged in the retail
282 sale of motor fuel and lubricants, but which may also include facilities for washing, waxing,
283 detailing, polishing, greasing, tire repair (no recapping or vulcanizing) and other minor incidental
284 repairs. (See also **~~SELF-SERVICE FUEL PUMP STATION.~~**)

285
286 **~~AUTOMOBILE SERVICE STATION, FULL-SERVICE.~~** An establishment similar to an automobile
287 service station, limited, but which also provides emergency road service, including towing and
288 emergency repairs and services, provided however, such establishment is not primarily engaged in
289 work or services listed as automotive repair and service.

290
291 **~~AUTOMOBILE TOWING ESTABLISHMENT.~~** A premises or portion of a premises occupied by
292 an establishment in which a person, or persons, practice a vocation or occupation that performs a
293 type of labor, act, or work off the premises that results in the towing of motor vehicles. Tow trucks
294 or wreckers may be stored on the premises, but no towed vehicles shall be stored on the premises.

295
296 **~~AUTOMOBILE WRECKING OR WRECKING YARD.~~** A premises or portion of a premises
297 engaged in the dismantling, crushing, shredding, or disassembly of used motor vehicles or trailers,
298 or the storage sale, or dumping of dismantled, partially dismantled, or wrecked vehicles or their
299 parts. (See also **~~JUNK YARD.~~**)

300
301 **~~AUTOMOTIVE SERVICE CENTERS.~~** A grouping of consumer-oriented automotive
302 establishments, planned and developed as a single structure or under a unified architectural
303 theme, owned and managed as a unit and providing a range of goods, services and repair specific
304 to the automotive market; and providing customer and employee parking off-street and on-site.

305
306 **~~AUTOMATIC TELLER MACHINE (ATM).~~** Unattended banking station located outside of, or
307 away from the principal bank building and in operation beyond normal lobby hours; operated by
308 computerized equipment and capable of carrying out specific banking transactions.

309
310 **~~AVIARY.~~** A structure, ancillary to the principal dwelling, used for the confinement of birds.
311 Such use shall be non-commercial only.

312
313 **~~AWNING.~~** A flexible roof-like cover that extends out from an exterior wall and shields a
314 window, doorway, sidewalk, or other space below those elements.

315
316 **Awning, is a roof-like cover, often of fabric, metal, or glass designed and intended for protection from**
317 **the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over**
318 **a window, walk, door.**
319

320



321

322 (Ord. 101-03, 10-20-2003)

323

324 **Awning Sign**, is a sign that is painted, installed, or otherwise applied to or located directly on an awning.
 325 For purposes of this article, signs that are suspended from awnings shall not be considered awning signs.

326

327 **BALCONY.** An open portion of an upper floor that extends beyond a building's exterior wall
 328 and is not supported from below by vertical columns or piers.

329 (Ord. 91-05, 11-14-2005)

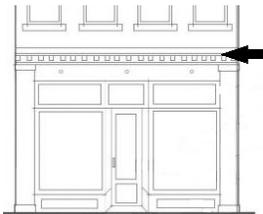
330

331 **Backlit Awning**, is an awning comprised of covering material exhibiting the characteristic of luminosity
 332 obtained by means of a source of illumination contained within its framework.

333

334 **Banding**, means a projection of masonry, stucco, or similar material around a building or part of a
 335 building, which is attached to the building.

336



337

338

339 **Bandit Sign:** means the same as a snipe sign. See Snipe sign.

340

341 **Banner.**

342

343 (1) A sign composed of a logo, characters, letters, illustrations, or design on a lightweight material
 344 either enclosed or not enclosed in a rigid frame and secured or mounted to allow movement
 345 caused by the atmosphere, including feather banners, streamers, and pennants but not
 346 including flags.

347 (2) A string of pennants consisting of any series of pieces of cloth, plastic, paper, or other material
 348 attached in a row at only one or more edges, or by one or more corners, the remainder hanging
 349 loosely, to any wire, cord, string, rope, or similar device shall be considered a banner.

350

351 **BAR or COCKTAIL LOUNGE.** Any establishment devoted primarily to the retailing and on-
 352 premises drinking of malt, vinous, distilled, or other alcoholic beverages.

353

354 **Base Flood**, is a flood having a 1% chance of being equaled or exceeded in any given year. The base
 355 flood is commonly referred to as the "100-year flood" or the "1%-annual chance flood."

356

357 **Base Flood Elevation**, is the elevation of the base flood, including wave height, relative to the National
358 Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on
359 the Flood Insurance Rate Map (FIRM).
360

361 **Basement**, is the portion of a building having its floor subgrade (below ground level) on all sides.

362
363 ~~**BATHROOM.** A separate room within a structure containing, at least, a bathtub or shower, a~~
364 ~~commode and a washbowl.~~
365

366 **Bathroom**, is a room in a building containing, at a minimum, a toilet and a sink.

367
368 ~~**BED AND BREAKFAST ESTABLISHMENTS.** A residence which provides sleeping~~
369 ~~accommodations and breakfasts on a short-term basis for paying guests. Such establishments may~~
370 ~~also provide lunch and supper. A **BED AND BREAKFAST** shall have no more than six sleeping~~
371 ~~rooms of which one must be occupied by the owner or manager. Such establishments shall not be~~
372 ~~construed as lodging houses, motels, hotels, or boarding or rooming houses.~~
373

374 **Bed and Breakfast**, means a transient lodging establishment, generally in a single-family dwelling or
375 detached guesthouses, primarily engaged in providing overnight or otherwise temporary lodging for the
376 general public and may provide meals for compensation.
377

378 **Bench/Shelter Sign**, is any sign painted on or attached to a bus bench or to a bus waiting or phone booth
379 shelter.
380

381 **Berm**, is a mound or earthen ridge placed above natural or existing grade for the purpose of shielding,
382 screening, mitigating impacts from or otherwise separating areas of dissimilar use, to provide visual
383 interest, accommodate landscape improvements, or control the direction and flow of water.
384

385 **Best Management Practices (BMP)**, is the combination of conservation measures, structures, or
386 management practices that reduces or avoids adverse impacts of development on adjoining site's land,
387 water or waterways, and waterbodies.
388

389 **Bike Lane**, is a corridor expressly reserved for bicycles.
390

391 **Bio-Retention Area**, is a shallow planted depression designed to retain or detain stormwater before
392 infiltration or discharge. Plants used in bio-retention areas must be able to survive without fertilizer or
393 other artificial means.
394

395 **Blinking Sign**, see Flashing Sign.
396

397 **Block**, is land typically surrounded by streets or other transportation or utility rights-of-way, or by
398 physical barriers such as bodies of water or public open spaces. Block may also mean a group of parcels
399 within a geographic area.
400

401 ~~**BOARDING OR ROOMING HOUSE.** A building, or portion of a building, in which five or more~~
402 ~~sleeping rooms are provided for occupancy by nontransient persons with or without meals for~~
403 ~~compensation on a prearranged weekly or monthly basis. A **BOARDING OR ROOMING**~~

404 ~~**HOUSE** shall include living quarters and may contain independent cooking facilities designed for~~
405 ~~the resident manager only. (See also Art. III, § 3.3.5.)~~

406
407 ~~**BOAT.** Any vessel, watercraft, or other artificial contrivance used, or which is capable of being~~
408 ~~used, as a means of transportation, mode of habitation, or as a place of business, professional, or~~
409 ~~social association on waters of Lee County, Florida, including:~~

- 410 1.
- 411 Foreign and domestic watercraft engaged in commerce;
- 412 2.
- 413 Passenger or other cargo-carrying water craft;
- 414 3.
- 415 Privately owned recreational watercraft;
- 416 4.
- 417 Airboats and seaplanes; and
- 418 5.
- 419 Houseboats or other floating homes.
- 420

421 **Boat**, is a vessel designed for operation as a watercraft propelled by oars, sails, or internal combustion
422 engine(s). A boat shall not be considered as a recreational vehicle even though may have facilities for
423 temporary living quarters.

424
425 **Boat Canopy**, is a removable protective cover installed to cover a boat located in the principal
426 mooring area of a dock or over a boat lift; a boat canopy designed and intended for the purpose of
427 protecting a marine vessel from damage from the elements and is fastened to, erected on, or installed
428 on a marine improvement. Covers that protect marine vessels from the elements, but that fasten only
429 to the marine vessel and not, in any way, to a marine improvement shall not be deemed to be boat
430 canopies.

431
432 ~~**BOAT PARTS STORE.** Establishments primarily engaged in the retail sale of watercraft parts~~
433 ~~and accessories (excluding trailers), but not providing installation service.~~

434
435 ~~**BOAT REPAIR AND SERVICE.** Establishments primarily engaged in minor repair service to~~
436 ~~small watercraft, including the sale and installation of accessories.~~

437
438 **Boat Sales**, is an establishment where boats or other marine vessels such as kayaks, canoes, or smaller
439 motorized watercraft area sold.

440
441 **Boat slip**, is a space designed for the mooring of a single watercraft. Such spaces may extend from a
442 dock or shoreline or be created from a cut-in.

443
444
445 ~~**BOAT YARD.** A boating or harbor facility located on or having direct access to navigable~~
446 ~~water engaged in building, maintaining and performing extensive repair on boats and small ships,~~
447 ~~marine engines and equipment, and including all uses also found in a marina. However, a **BOAT**~~
448 ~~**YARD** shall be distinguished from a marina by the larger scale and greater extent of work done in~~
449 ~~a boatyard and by the use of dry dock, marine railway or large capacity lifts used to haul out boats~~
450 ~~for maintenance or repair. (See **MARINA**.)~~

451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496

Borrow Pit, see "Extraction".

~~**BREW PUB.** A restaurant, bar, or nightclub with facilities that produces beer or wine for on-site consumption and retail sale to restaurant, bar, or nightclub patrons. Nonalcoholic beverages may also be produced for on-site consumption and retail sale. A brewpub differs from an artisan brewery in that a greater percentage of beer or wine produced at a brewpub is generally consumed on the premises. (Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)~~

Brewery, is a facility with a capacity to manufacture more than 5,000 barrels of beer or other similar beverages a year.

Brewpub, is a restaurant or bar with facilities that produces beer or wine for on-site consumption and retail sale to restaurant, bar, or nightclub patrons. Nonalcoholic beverages may also be produced for on-site consumption and retail sale. A brewpub differs from an craft brewery in that a greater percentage of beer or wine produced at a brewpub is generally consumed on the premises.

Buffer, means open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another.

~~**BUILDABLE LAND.** Land remaining after the applicable minimum yard and green area requirements are met. (Ord. 68-98, 11-30-1998)~~

~~**BUILDING.** Any structure either temporary or permanent, having a roof intended to be impervious to weather, and used or built for the shelter or enclosure of persons, animals, ~~chattels,~~ or property of any kind. This definition ~~shall include tents, awnings, cabanas, or vehicles situated on private property and serving in any way the function of a building, but~~ does not include screened enclosures not having a roof impervious to the weather. In addition, the area of the pool deck or other impervious surfaces, exclusive of pools and spas that may be located under screened enclosures, shall be included as part of the building. (Ord. 71-91, 9-23-1991)~~

~~**BUILDING, FRONT OF.** That side of a building that faces toward the street right-of-way or easement serving as the means of vehicular access to the property.~~

~~**BUILDING FRONTAGE.** The width of a building facade, or portion thereof, that faces, is generally parallel or oriented toward a street, and is located between applicable minimum and maximum setback lines or within build-to zones. For purposes of this definition, outdoor areas, or portions thereof, such as, but not limited to, porches and decks, meeting the above criteria shall be considered building frontage. Additionally, a building's facade that faces, is generally parallel or oriented toward a street, and serves to create a courtyard that is located between the facade and the street shall be considered a building frontage regardless of its placement relative to setback lines or build-to zones. Where required, building frontage shall be measured as a horizontal linear dimension projected in a single plane and expressed as a percentage of the lot frontage. (Ord. 91-05, 11-14-2005; Ord. 15-12, 9-20-2012)~~

497 **Building Frontage**, is the dimension (measured in linear feet) of the overall width of the primary side of a
498 building containing one or more business establishments or other entities. For purposes of this article, the
499 primary side of a building shall be the side of the building that includes the primary entrance or the side
500 of the building that faces the front lot line, at the option of the property owner. If the primary entrance is
501 at an angle, the property owner may choose the building frontage. On a site with multiple buildings, if a
502 building does not directly face a street, the building frontage will be considered the street that other
503 adjacent or contiguous buildings face.

504
505 ***BUILDING HEIGHT.*** The vertical distance measured from the lowest finished floor elevation
506 to the lowest point of the highest horizontal eave or to the highest point of the highest parapet
507 wall, whichever is higher.
508 (Ord. 68-98, 11-30-1998)

509
510 ***BUILDING LINE.*** A line drawn parallel to the front lot line and tangent to the nearest part of
511 the principal building and extending from side lot line to side lot line.

512
513 ***BUILDING PERMIT.*** Any building or construction permit required under the Building Code of
514 Cape Coral, Florida or this ordinance.

515
516 **Building Sign**, Is any sign attached to any part of a building, as contrasted to a freestanding sign.

517
518 ***BUILDING WALL.*** An exterior wall of a building that serves to provide enclosure for interior
519 spaces and protection from natural elements.
520 (Ord. 15-12, 9-10-2012)

521
522 **Build-to Line**, are locations where a proposed development shall locate the linear footage of the
523 building's edge, thus ensuring a uniform (or more or less even) building façade line on the street. Build-
524 to lines may correspond to the property line or may be offset from the property line.

525
526 ***BUILD-TO-ZONE.*** A build-to-zone is a range of allowable distances from a street right-of-way
527 in which a building shall be built in order to create a generally uniform line of buildings along a
528 street.
529 (Ord. 91-05, 11-14-2005) _____

530
531 **Buildable Area**, is that portion of a lot exclusive of the required setbacks or open spaces upon which
532 improvements are permitted.

533
534 **Building, Attached**, is a building which has at least part of a wall in common with another building, or
535 which is connected to another building by a roof.

536
537 **Building Front**, means a building wall that faces a public street, a private street, or a common open
538 space. A building may have more than one building front.

539
540 **Building, Primary or Principal**, is a building in which the primary use of the lot, on which the building is
541 located, is conducted.

542

543 **Building Rear**, means a building wall that does not face a public street, a private access way, or a
544 common open space. A building may have more than one building rear.

546 **Business Front Foot**, means the lineal distance of the building space occupied by the particular business
547 measured on a straight-line parallel to the street. If a building fronts on two (2) or more streets, the
548 property owner shall be given the option of selecting one (1) street frontage for the purpose of computing
549 allowable sign area. Where a business does not parallel a street, the front foot shall be measured along
550 the exterior of the building space occupied by the particular business.

551
552 **BUSINESS OFFICES.** Office space for the conduct of commercial activities, excluding retail
553 sales.

555 **By-right**, are uses that are permitted without special conditions or a public hearing.

557 **Caliper – Palm**, is the diameter of the palm trunk taken at the widest portion, measured between one
558 foot and three feet from the ground.

560 **Caliper – Tree**, is the measurement of the average of the largest diameter of a tree, and that
561 perpendicular to it, measured 12 inches above the ground.

562
563 ~~**CAMERA SHOP.** Establishment primarily engaged in the retail sale of cameras, film and other~~
564 ~~photographic supplies and equipment. Establishments primarily engaged in finishing films are~~
565 ~~listed as photofinishing laboratories.~~

567 **Camouflaged**, means any wireless communications facility which is designed to blend into the
568 surrounding environment or that camouflages or conceals the presence of the tower or wireless
569 telecommunication facility to the extent that the average person would be unaware of its nature as a
570 tower, antenna, or wireless telecommunications facility. Examples of camouflaged facilities include, but
571 are not limited to, man-made trees, clock towers, bell steeples, flag poles, light poles, and similar
572 alternative-design mounting structures. Examples of camouflaged antennas include, but are not limited
573 to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the
574 existing structure, and antennas integrated into architectural elements.

576 **Campground**, is an area to be used for transient occupancy by camping in tents, camp trailers, travel
577 trailers, motor homes, or similar movable or temporary sleeping quarters of any kind. A campground
578 shall not be considered an RV Resort as defined in this article.

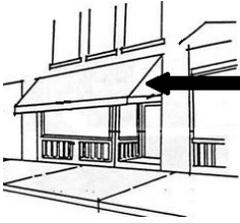
580 **Canal End Line**, is a line or lines drawn from the farthest point where the canal meets land perpendicular
581 to the sides of the canal, or to the sides of the canal as extended if necessary. If the side of a canal
582 curves near its end point, such canal side shall be extended from the point immediately preceding where
583 it begins to curve. See Diagram 5.5.4.A.

585 **Canal Width**, is the width of the canal measured from seawall to seawall using the City's Geographic
586 Information Systems (GIS).

587
588 ~~**CANOPY.** An awning-like protection from a wall that is made of rigid materials and is~~
589 ~~permanently attached to a building's facade.~~

590 (Ord. 101-03, 10-20-2003)
591

592 Canopy, is a roof-like structure serving the purpose of protecting pedestrians from rain and sun, which
593 may project from a building or be free standing.



594
595
596 Captain's Walk, is a walkway that is parallel to the seawall with a maximum width of six feet.

597
598 **CARETAKER/WATCHPERSON RESIDENCE.** A residence, generally located on a commercial
599 site, used by the watchperson or caretaker of the establishment. Such a structure, if temporary,
600 may be a mobile home. If permanent, the structure may be no less than 650 square feet and it
601 must contain a kitchen, bathroom and living area.

602
603 **CARPORIT.** A freestanding or attached structure, consisting of a roof and supporting members
604 such as columns or beams, unenclosed from the ground to the roof on at least two sides, and
605 designed or used for the storage of motor-driven vehicles owned and used by the occupants of
606 the building to which it is accessory.

607
608 ~~**CARRY-OUT/DELIVERY FOOD SERVICE ESTABLISHMENTS.** An establishment engaged in~~
609 ~~the sale of food and beverages in a ready to consume state for consumption off the premises as~~
610 ~~carry-out or delivery orders only. Such establishments shall contain no seating areas for on-site~~
611 ~~consumption, but they may have drive-thru facilities.~~

612
613 ~~**CAR WASH.** Establishments primarily engaged in washing cars or in furnishing facilities for~~
614 ~~the self-service washing of cars.~~

615
616 ~~**CEMETERIES.** An area of land set apart for the sole purpose of the burial of bodies of dead~~
617 ~~persons and for the erection of customary markers, monuments, and mausoleums.~~

618
619 Cemetery, is land used or dedicated to the burial of deceased people or animals. Cemeteries may also
620 include mausoleums and mortuaries when operated within the boundary of such cemetery.

621
622 ~~**CEMETERY, PET.** See **PET CEMETERIES. CERTIFICATE OF USE.** A certificate, required by~~
623 ~~appropriate authority under the provisions of this ordinance, which authorizes the occupancy of a~~
624 ~~structure or premises and, is required prior to occupancy, change or use and under other specific~~
625 ~~conditions.~~

626
627 Centerline of the Marine Improvement Area, means a line extended from the center of the parcel's
628 water frontage line to the center of the offset line of the parcel's marine improvement area. See
629 Diagram 5.5.4.F.

630

631 Certificate of Completion, is documentation that a structure, system(what kind of system?), site
632 development or subdivision infrastructure is complete and for certain types of permits is released for
633 use and may be connected to a utility system.
634

635 Certificate of Occupancy, is the official certification that a premises may be used or occupied pursuant
636 to the State Building Codes.
637

638 Changeable Copy Sign (Manual), is a sign or portions thereof with characters, letters, or illustrations that
639 can be changed or rearranged manually, on the sign itself, without altering the face or the surface of the
640 sign.
641

642 Channel or Canal, is an open conduit, either naturally or artificially created, which periodically or
643 continuously contains moving water, or which forms a connecting link between two bodies of water.
644

645 ~~**CHILD CARE FACILITY.** Any child care center or child care arrangement which provides child
646 care as defined by F.S. § 402.302(2), as same may hereafter be amended.
647 (Ord. 3-97, 2-14-1997; Ord. 98-03, 10-14-2003) _____~~
648

649 Childcare Facility, includes any child care center or child care arrangement which provides child care
650 for more than five children unrelated to the operator and which receives a payment, fee, or grant for
651 any of the children receiving care, wherever operated, and whether operated for profit.
652

653 Civic Building, is a building specifically designed for a civic function. Buildings and structures for public
654 or private assembly, including places of worship and schools, shall be considered civic buildings.
655

656 ~~**CITY MANAGER.** The City Manager for Cape Coral, Florida, or his or her duly authorized
657 representative.~~
658

659 ~~**CIVIC BUILDING.** A building that is allowed greater design flexibility due the prominence of
660 its public functions and often its location. **CIVIC BUILDINGS** include government buildings,
661 churches, synagogues, libraries, schools, auditoriums and public recreation facilities. **CIVIC**~~
662

663 ~~**BUILDINGS** do not include retail buildings, residential buildings, or privately owned office
664 buildings, regardless of use.
665 (Ord. 91-05, 11-14-2005)~~
666

667 Clearing of Vegetation, means removal of plants and or topsoil and vegetative materials in
668 preparation for development, but not including mowing and cutting of brush for maintenance, the
669 removal of dead or diseased plants or the removal of a single tree on a developed parcel.
670

671 Clear Trunk – Palm, is a measurement from the soil line to a point on the trunk where the trunk
672 caliper begins to taper abruptly, as per "Grades and Standards for Nursery Plants" published by the
673 State Department of Agriculture and Consumer Services, Part 2.
674

675 ~~**CLUBHOUSE, PRIVATE.** A central facility that serves as an integral part of a residential
676 development, providing a meeting place and/or indoor recreation opportunities for residents of a~~

677 residential subdivision or other residential or mixed-use development, within which the facility is
678 located.

679
680 ~~**CLUBS** and **FRATERNAL ORGANIZATIONS. CLUBS, COMMERCIAL.**~~ Clubs which are owned
681 by individuals and operated for a profit such as tennis and racquetball clubs, golf clubs, etc.

682
683 ~~**CLUB, COUNTRY.**~~ A large area and buildings containing recreational facilities, clubhouse and
684 usual accessory uses, open only to members and their guests for a membership fee. Occasionally
685 such facilities may be leased to outsiders for banquets, weddings, or other social engagements.

686
687 ~~**CLUB, FRATERNAL.**~~ Group of people associated or formally organized for a common
688 purpose, interest, or pleasure. Such organizations are generally fraternal in nature and include
689 fraternities, sororities, or lodges.

690
691 ~~**CLUBS, MEMBERSHIP ORGANIZATION.**~~ An organization operating on a membership basis
692 with preestablished formal membership requirements and with the intent to promote the interests
693 of its members. Membership organizations include trade associations, professional organizations,
694 unions, and similar political and religious organizations.

695
696 Coastal Construction Control Line, is the line established by the State of Florida pursuant to F.S. §
697 161.053, and recorded in the official records of the city, which defines that portion of the beach-dune
698 system subject to severe fluctuations based on a 100-year storm surge, storm waves or other
699 predictable weather conditions.

700
701 Coastal High Hazard Area, is a special flood hazard area extending from offshore to the inland limit of
702 a primary frontal dune along an open coast and any other area subject to high velocity wave action from
703 storms or seismic sources. Coastal High Hazard Areas are also referred to as "high hazard areas subject
704 to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as
705 Zone V1 V30, VE, or V.

706
707 Co-location, is the act of erecting antenna(s) of a wireless service provider on a tower or an existing
708 antenna support structure already supporting an antenna.

709
710 ~~**COLONNADE.**~~ A series of columns that are set at regular intervals and that support the base
711 of an overhead structure.
712 (Ord. 91-05, 11-14-2005)

713
714 Commercial and Professional, shall include property zoned C, CC, INST, P-1, NC, MX, MXB, MX SI, and
715 SC.

716
717 ~~**COMMERCIAL FISHERY.**~~ Land or structures, used as a commercial establishment for the
718 receiving, processing, packaging, storage and wholesale or retail distribution and sale of food
719 products of the sea. Such land or structures, may include facilities for the docking, loading,
720 unloading, fueling, icing and provisioning of vessels and for the drying and maintenance and
721 storage of nets, traps and buoys.

722

723 **Commercial Lettering**, is letters, numbers, symbols, or combinations thereof which advertise a trade,
724 business, industry, or other activity for profit or a product, commodity, or service. The term shall not
725 include bumper stickers affixed to bumpers only or the decal or plate commonly applied to a motor
726 vehicle by a motor vehicle dealer.

727
728 **Commercial Rack**, is any frame, device, or other apparatus that is designed and constructed for the
729 primary purpose of carrying tools, building materials, or merchandise. Racks designed and constructed
730 for carrying luggage or sporting equipment, such as kayaks, canoes, or bicycles, shall not be considered
731 to be Commercial Racks so long as they are used for the purpose of carrying the aforesaid items.
732 Furthermore, a rack designed and constructed for carrying a ladder (a "ladder rack") that is attached to
733 a motor vehicle shall not be considered to be a Commercial Rack, provided the ladder rack is not wider
734 than the vehicle to which it is attached and no part of such ladder rack extends more than 16 inches
735 above the cab of the vehicle or extends beyond the tailgate of the vehicle.

736
737 **Commercial Recreation, Indoor**, is an indoor facility, with or without seating for spectators, and
738 providing accommodations for a variety of individual, organized, or franchised sports, including
739 basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may
740 also provide other regular organized or franchised events, health and fitness club facilities, swimming
741 pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support
742 facilities.

743
744 **Commercial Recreation, Outdoor**, means a recreational land use conducted outside of a building,
745 including athletic fields; skateboard park; swimming, tennis, handball, basketball courts; batting cages.
746

747 **Commercial Sign**, is a sign that, directly or indirectly, names or calls attention to a business, product,
748 service, or other commercial activity. For purposes of this article, all signs on non-residential property
749 shall be presumed commercial; however, the presumption shall be considered rebuttable and may be
750 overcome if a reasonable person could logically conclude that the presumption is invalid. For purposes of
751 this article, terms such as sale, special, clearance, or other words which relate to commercial activity shall
752 be deemed to be commercial messages. The identification by name of an apartment or condominium
753 development on a residential sign at the apartment or condominium development site shall not be
754 considered a commercial message.
755

756 **Commercial Vehicle**, is an agricultural, construction, or industrial motor vehicle or any bus, step van,
757 truck, or truck tractor. The term shall include any motor vehicle (including automobiles) upon which
758 commercial lettering, as defined herein, has been affixed. The term shall also include a pickup truck
759 from which the cargo box has been removed. Any motor vehicle with one or more tools (including a
760 ladder), building materials, or merchandise visible from the street or abutting residential property, or a
761 "commercial rack" that is visible from the street or abutting residential property shall be deemed a
762 commercial vehicle. A passenger automobile or sports utility vehicle (SUV) containing commercial
763 lettering shall not be considered a commercial vehicle for purposes of this section so long as the
764 commercial lettering on the vehicle does not contain any reference to the residential address at which
765 the automobile is parked.

766
767 **Commissary**, is a public food service establishment or any other commercial establishment
768 permitted by the Department of Agriculture and Consumer Services, which is utilized by a mobile
769 food unit for the purpose of providing all required support services, including potable water and
770 wastewater disposal, where food, containers or supplies are stored, prepared, or packaged, or where

771 utensils are sanitized for transit to and sale or service at other locations that are not available on
772 the mobile food unit.

773

774 ~~**COMMISSION.** The City of Cape Coral Planning and Zoning Commission/Local Planning~~
775 ~~Agency.~~

776 **Community Center**, is a building to be used as a place of meeting or social recreation that is open
777 to the public. Community centers may also include areas of outdoor recreation such as playgrounds
778 or athletic courts.

779

780 **Community Garden**, is a private or public facility for cultivation of fruits, flowers, vegetables, or
781 ornamental plants by more than one person or family.

782

783 ~~**COMMUNITY REDEVELOPMENT AREA (CRA).** An area, as defined by F.S. § 163.340, as same~~
784 ~~may hereafter be amended.~~

785 ~~(Ord. 60-04, 6-14-2004)~~

786

787 ~~**COMMUNITY RESIDENTIAL HOME.** A dwelling unit licensed to serve clients of the~~
788 ~~Department of Health and Rehabilitation Services, which provides a living environment for seven~~
789 ~~to 14 unrelated residents including such supervision and care by support staff as maybe necessary~~
790 ~~to meet the physical, emotional and social needs of the residents. Homes of six or fewer residents~~
791 ~~which otherwise meet the definition of a community residential home shall be deemed a single-~~
792 ~~family unit and a non-commercial, residential use for the purpose of local laws and ordinances.~~
793 ~~Homes of six or fewer residents which otherwise meet the definition of a **COMMUNITY**~~
794 ~~**RESIDENTIAL HOME** shall be allowed in single-family or multi-family zoning without approval by~~
795 ~~the local government, provided that such homes shall not be located within a radius of 1,000 feet~~
796 ~~of another existing such home.~~

797

798 **Community Residential Home**, means a dwelling unit licensed to serve residents who are clients of
799 the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of
800 Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health
801 Care Administration which provides a living environment for 7 to 14 unrelated residents who
802 operate as the functional equivalent of a family, including such supervision and care by supportive
803 staff as may be necessary to meet the physical, emotional, and social needs of the residents.

804

805 ~~**COMPANY VEHICLE.** Any vehicle owned or leased by the business, or any vehicle used in the~~
806 ~~daily operation of the business either on a temporary or permanent basis.~~

807

808 ~~**COMPATIBLE.** In describing the relation between two land uses, buildings, structures, or~~
809 ~~zoning districts, the state wherein those two things exhibit either a positive relationship based on~~
810 ~~fit, similarity, or reciprocity of characteristics, or a neutral relationship based on a relative lack of~~
811 ~~conflict (actual or potential) or on a failure to communicate negative or harmful influences one to~~
812 ~~the other.~~

813 ~~(Ord. 2-01, 2-5-2001)~~

814

815 ~~**COMPOUND USE.** Differing uses within one building or structure, consisting of both~~
816 ~~residential uses and non-residential uses.~~

817 (Ord. 60-04, 6-14-2004)

818

819 ~~**COMPOUND USE BUILDING.** A building that contains one or more residential use(s) as well~~
820 ~~as one or more non-residential use(s).~~

821 (Ord. 60-04, 6-14-2004)

822

823 ~~**COMPREHENSIVE LAND USE PLAN, CITY OF CAPE CORAL, FLORIDA.** Also known as the~~
824 ~~"Plan" or "Comprehensive Land Use Plan", as adopted by the City Council on February 13, 1989,~~
825 ~~and all subsequent revisions thereto. The Comprehensive Land Use Plan elements and Future Land~~
826 ~~Use Map are complementary and equivalent components of the Comprehensive Plan.~~

827

828 Concurrency, is necessary public facilities and services to main the adopted level of service
829 standards are available when the impacts of a development occur.

830

831 Conditional Use, are uses which are generally appropriate in a zoning district but have certain additional
832 requirements to ensure the use is compatible. Conditional uses may be approved administratively as long
833 as the required conditions are met and maintained.

834

835 ~~**CONJOINED RESIDENTIAL STRUCTURE.** A structure containing two or more dwelling units,~~
836 ~~each having a living area located on the ground floor or first finished floor, with common structural~~
837 ~~elements such as the roof, exterior walls, and foundation, where the owner of each unit owns the~~
838 ~~underlying land. A common wall must be a minimum two-hour fire wall, if required by the building~~
839 ~~code, and must be located on a lot line; and reciprocal easements, at least four feet in width, for~~
840 ~~the benefit of the unit owners for maintenance purposes, must be executed and recorded in the~~
841 ~~public records of Lee County, along with properly executed covenants approved by the City~~
842 ~~Attorney providing a mechanism for enforceable contributions by each owner toward all required~~
843 ~~and necessary maintenance, repair, and removal costs for any common wall, common well or~~
844 ~~septic system, or other shared facilities or appurtenances. Unless specifically provided otherwise in~~
845 ~~this code, all provisions hereof that apply to duplex dwellings shall apply in the same manner to~~
846 ~~conjoined residential structures having only two dwelling units, and all provisions hereof that apply~~
847 ~~to multi-family dwellings shall apply in the same manner to conjoined residential structures having~~
848 ~~more than two dwelling units.~~

849 (Ord. 62-99, 1-31-2000)

850

851 ~~**CONTIGUOUS.** Directly to the rear, or across any service alley, and within the extended side~~
852 ~~yard lot lines of a property.~~

853 (Ord. 71-91, 9-23-1991)

854

855 Continuing Care Facility, is a center which provides independent household units as well as assisted
856 living units to allow a resident to age within one facility or community.

857

858 Construction Staging Area, is an area used on a temporary basis for the storage of materials and
859 supplies used in the construction of a project for a limited period of time.

860

861 ~~**CONVENIENCE FOOD AND BEVERAGE STORE.** A store which specializes in convenience~~
862 ~~products and other commodities and which normally is open to the public beyond the customary~~
863 ~~sales hours of other retail stores.~~
864

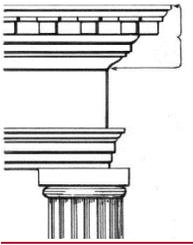
865 **Convenience Store,** is any retail establishment offering for sale a limited line of groceries and household
866 items intended for the convenience of the neighborhood, with or without sale of fuel.
867

868 **Corner Parcel,** is a parcel that either touches or is on both sides of an interior corner of a lake, basin, or
869 canal.
870

871 **Corner, Waterway,** is the meeting of two sides which creates an angle less than 180 degrees.
872

873 ~~**CORNICE.** A decorative horizontal feature that projects outward near the top of an exterior~~
874 ~~wall.~~
875

876 **Cornice,** means a horizontal, ornamental molding that crowns a building or element of a building such as
877 a window or doorway.
878



879
880
881 ~~**COUNTY CLERK.** The clerk of the local court of record or other appropriate and duly~~
882 ~~designated public recording officer for Lee County.~~
883
884

885 ~~**COURTYARD.** A roofed or unroofed space surrounded by building walls on at least two sides~~
886 ~~and providing a building entrance accessible to the general public.~~
887 ~~(Ord. 91-05, 11-14-2005; Ord. 15-12, 9-10-2012)~~
888

889 **Craft Brewery, Distillery, or Winery,** is a use that brews beer, distills spirituous beverages, or
890 produces wine and similar beverages on a small scale and whose annual production of beer is capped
891 by the City of Cape Coral in contrast to a full-fledged brewery that may produce an unlimited volume
892 of beer. These establishments may include a tasting room and retail space to sell beer produced on
893 the premises, as well as beer, spirits and wine produced elsewhere, along with related retail items and
894 food.
895

896 **Crematories.** An establishment engaged in the incineration of the dead.
897

898 **Crime Prevention Through Environmental Design (CPTED),** is a multi-disciplinary approach to
899 detering criminal behavior through the design of the built environment. Specifically, altering the
900 physical design of the communities in which humans reside and congregate in order to deter criminal
901 activity is the main goal of CPTED.

902 Cul-de-sac, is a dead-end street terminated at the closed end by a circular vehicular turn-around.

903
904
905 Cultural and Civic Facilities, are facilities of historic educational or cultural interest such as botanical
906 gardens, aquariums, libraries, art galleries, or museums.

907
908 **CUPOLA**Cupola. An ornamental structure placed above a larger roof.



909
910 (Ord. 91-05, 11-14-2005)

911
912 Cut-In Boat Slip, is a place for a boat to moor, created within a parcel through excavation or removal of
913 soil and rock material and construction of a seawall around that area.

914
915 ~~**DAY CARE CENTER, ADULT.** A facility or establishment whether operated for profit or not,
916 which undertakes through its ownership or management to provide basic services such as, but not
917 limited to, a protective setting, social or leisure time activities, self-care training or nutritional
918 services to three or more adults not related by blood or marriage to the owner or operator, who
919 require such services. This definition shall not be interpreted to include overnight care.~~

920
921 Deck, is an open and roofless platform that adjoins a house and is supported by a means other than the
922 principal structure.

923
924 Density, is the number of dwelling units permitted per acre of land.

925
926 ~~**DENTIST AND OPTOMETRIST OFFICES OR CLINICS.** A premises where patients are not
927 lodged overnight except for observation or emergency treatment, and where patients are treated
928 by dentists or optometrists licensed by the State of Florida.~~

929
930 ~~**DEPARTMENT OF COMMUNITY DEVELOPMENT.** The department within the city
931 government of Cape Coral, Florida, responsible for the maintenance and enforcement of these
932 ordinances, unless otherwise specified in the text.~~

933
934 ~~**DEPARTMENT STORE.** A departmentalized retail store, generally offering in one
935 establishment, within each department, several lines and price/quality ranges of goods and
936 services. Such an establishment may occupy a freestanding structure or occupy a space in a
937 shopping center within which it usually functions as an attractor or anchor store.~~

938
939 Design Flood, is the flood associated with the greater of the following two areas; an area with a
940 floodplain subject to a 1% or greater chance of flooding in any year, or an area designated as a flood
941 hazard area on the City flood hazard map or otherwise legally designated.

943 Design Flood Elevation, is the elevation of the "design flood," including wave height, relative to the
944 datum specified on the city's legally designated flood hazard map. In areas designated as Zone AO, the
945 design flood elevation shall be the elevation of the highest existing grade of the building's perimeter
946 plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO
947 where the depth number is not specified on the map, the depth number shall be taken as being equal
948 to two feet.

949
950 Designed Service Study, is a study of the configuration and manner of deployment of wireless services
951 the wireless provider has designed for an area as part of its network that demonstrates whether or not
952 existing towers or tall structures in the search can be utilized for co-location.

953
954 **DETAILING.** The decoration of a motor vehicle, usually in conjunction with car washing,
955 waxing and polishing, whereby minor dents and holes may be straightened and filled and minor
956 striping and designs may be painted upon the automobile's surface. Such work shall not be
957 construed as auto body repair or painting.
958

959 Developer, is the person who is improving a parcel of land and who may or may not be the owner of
960 that property.

961
962 **DEVELOPMENT.** Building or structure(s) and use(s) that are part of an integral application for
963 development.
964 (Ord. 101-03, 10-20-2003)
965

966 Development, is any human-caused change to improved or unimproved real estate that requires a
967 permit or approval from any agency of the city or county, including but not limited to, buildings or other
968 structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of
969 materials.
970

971 Development Approval, is any written authorization from the city which authorizes the commencement
972 of a development.

973
974 Development Identification Sign, is a permanent sign, either ground sign or located on a subdivision entry
975 feature or perimeter wall, at a main entrance to a subdivision or residential development identifying the
976 name of the development or subdivision.
977

978 **DEVELOPMENT OF REGIONAL IMPACT (DRI).** Any development which, because of its
979 character, magnitude, or location, would have a substantial effect upon the health, safety, or
980 welfare of citizens of more than one county, as defined by F.S. § 380.06.
981

982 **DEVELOPMENT PERMIT.** Any building permit, zoning permit, subdivision approval, rezoning,
983 certification, special exception, variance, or any other official action of local government having the
984 effect of permitting the development of land.
985

986 Diameter at Breast Height (DBH), is the diameter of the tree when measured four and one-half feet
987 above the ground.
988

989 **~~DIRECTLY AFFECTED PROPERTY.~~** Property within 500 feet in any direction from the property
990 line of land owned or controlled by petitioner is property directly affected by action of the City
991 Council or the Planning and Zoning Commission/Local Planning Agency.
992 (~~Ord. 1-08, § 7, 3-10-2008~~)

993
994 **~~DIRECTOR.~~** The Director of the Department of Community Development of Cape Coral,
995 Florida, or its successor agency.

996
997 Directional Sign, is a sign denoting the business names, location, addresses (real or virtual), and/or
998 occupations of those tenants located upon a subject site or which provides information as to the location
999 of a parking lot, building entrance, or other destination, activity, or facility and contains no commercial
1000 message.

1001
1002 **~~DISCHARGE.~~** Includes, but is not limited to, spilling, leaking, pumping, pouring, emitting,
1003 emptying, depositing or dumping.

1004
1005 Distribution Line, are the electric lines that deliver medium voltage electricity from the substation to
1006 an overhead or underground transformer that ultimately serves the consumer.

1007
1008 Divider Median, is a landscaped strip between abutting rows of parking spaces.

1009
1010 Dock, is any structure, otherwise known as a pier, wharf, or loading platform, extending into the water
1011 from a seawall or bank and which may provide berthing for marine vessels.

1012
1013 **~~DORMITORY, FRATERNITY HOUSE or SORORITY HOUSE.~~** A building in which sleeping
1014 rooms are provided for occupancy by, and maintained as a place of residence exclusively for,
1015 students affiliated with an academic or professional college or university, with or without meals,
1016 and when approved and regulated by such institution. A **~~DORMITORY, FRATERNITY~~**
1017 **~~HOUSE or SORORITY HOUSE~~** shall include living quarters and may contain independent cooking
1018 facilities designed for the resident manager only. (~~See also § 3.3.5.~~)

1019
1020 Dormitory, is a building intended or used principally for sleeping accommodations where such building
1021 is related to an educational or public institution, including religious institutions.

1022
1023 **~~DOWNTOWN COMMUNITY REDEVELOPMENT AREA.~~** The area in the City of Cape Coral
1024 established by the Cape Coral City Council as a community redevelopment area in Ordinance 49-
1025 87, as expanded by Ordinance 11-03 and Resolutions 06-03, 60-03, and 22-09.
1026 (~~Ord. 60-04, 6-14-2004; Ord. 15-12, 9-10-2012~~)

1027
1028 **~~DOWNTOWN COMMUNITY REDEVELOPMENT PLAN.~~** The Community Redevelopment Plan
1029 adopted by City of Cape Coral Ordinance 11-03, including any future amendments or
1030 modifications adopted by City Council.
1031 (~~Ord. 91-05, 11-14-2005~~)

1032

1033 ~~**DRIVE-THRU FACILITY.** An establishment where a patron is provided products or services~~
1034 ~~without departing from his or her automotive vehicle. **DRIVE-THRU**, **DRIVE-IN**, and **DRIVE-**~~
1035 ~~**UP** are synonymous.~~

1036
1037 **Drive-thru Facility, an accessory building or a building design feature that allows customer to receive**
1038 **goods or services from a business or establishment without leaving their vehicle.**

1039
1040 ~~**DRIVE-IN THEATER.** A place of outdoor assembly used for the showing of plays, operas,~~
1041 ~~motion pictures, and similar forms of entertainment which is designed to permit the audiences to~~
1042 ~~view the performance from vehicles parked on the theater property.~~

1043
1044 ~~**DRUGSTORE.** An establishment wherein the principal use is the dispensing of prescription~~
1045 ~~and patent medicines and drugs and related products, but where nonmedical products such as~~
1046 ~~greeting cards, magazines, cosmetics, photographic supplies, may also be sold. The~~
1047 ~~term **DRUGSTORE** includes **PHARMACY**.~~

1048
1049 **Dumpster, are the covered containers that are designed and intended to be mechanically dumped into a**
1050 **packer-type sanitation vehicle, regardless of whether such containers are used for the collection or**
1051 **disposal of solid waste or other refuse or for the collection or disposal of recycling materials, as well as**
1052 **covered containers that are designed and intended to be used for compaction of materials such as**
1053 **cardboard boxes.**

1054
1055 **Dumpster Enclosure, is the fence or wall that encloses and screens a dumpster.**

1056
1057 ~~**DUPLEX.** See **DWELLING UNIT, TYPES**.~~
1058 ~~(Ord. 91-05, 11-14-2005)~~

1059
1060 ~~**DWELLING UNIT.** A room or rooms connected together, which could constitute a separate,~~
1061 ~~independent housekeeping establishment for a family, for owner occupancy, or for rental or lease~~
1062 ~~on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling~~
1063 ~~units which may be in the same structure. **DWELLING UNITS** must contain at a minimum one~~
1064 ~~sleeping room, one bathroom, and one kitchen, but shall not contain more than one kitchen, or~~
1065 ~~other indoor portion of the structure with a functioning range or oven. The term **DWELLING**~~
1066 ~~**UNIT** shall not include rooms in hotels, motels or institutional facilities.~~

1067 ~~(Ord. 61-13, 12-9-2013)~~

1068
1069 ~~**DWELLING UNIT, TYPES.**~~

1070
1071 ~~**SINGLE-FAMILY RESIDENCE.** A single, freestanding, conventional building designed for~~
1072 ~~one dwelling unit and which could be used for occupancy by one family only.~~

1073
1074 ~~**DUPLEX.** A single, freestanding, conventional building on a single lot designed for two~~
1075 ~~dwelling units under single ownership, or wherein each dwelling unit is separately owned or leased~~
1076 ~~but the site is held under common ownership.~~

1077

1078 **MULTIPLE FAMILY (MULTI-FAMILY).** A group of three or more dwelling units within a
1079 single conventional building, attached side by side, or one above another, or both, and wherein
1080 each dwelling unit may be individually owned or leased but the land on which the building is
1081 located is under common or single ownership. In addition, any dwelling unit or dwelling units,
1082 regardless of number, located in a lawfully existing compound use building shall be deemed to be
1083 multiple-family dwelling unit(s).
1084 (Ord. 60-04, 6-14-2004)

4.

1085
1086 **MOBILE HOME.** A building designed as a single-family dwelling unit, manufactured off-site
1087 in conformance with the Federal Mobile Home Construction and Safety Standards (24 C.F.R. §§
1088 3280 ~~et seq.~~), subsequently transported to a site complete or in sections where it is emplaced and
1089 tied down in accordance with F.A.C. Chapter 15C-1, with the distinct possibility of being relocated
1090 at a later date.

5.

1091
1092 **CONJOINED RESIDENTIAL STRUCTURE.** See ~~CONJOINED RESIDENTIAL STRUCTURE.~~
1093 (Ord. 91-05, 11-14-2005)

1094
1095 Dwelling, Duplex, is a structure designed to accommodate two dwelling units, each of which has direct
1096 access to the outside.

1097
1098 Dwelling, Multifamily, is a building containing three or more individual dwellings with separate cooking
1099 and toilet facilities for each dwelling.

1100
1101 Dwelling, Single-Family Attached, means a single structure consisting of three or more dwelling units
1102 having one or more walls abutting with another dwelling and designed to have all exits open directly to
1103 the outside. Each dwelling unit is on a lot with individual ownership.

1104
1105 Dwelling, Single-Family Detached, is a dwelling unit owned in fee simple and on an individual lot which
1106 is not attached to any other dwelling unit by any means.

1107
1108 **Dwelling, Single-Family Semi-Detached,** shall mean a single-family dwelling which is joined to no
1109 more than one other single-family dwelling unit by a common wall, where such two dwelling units are
1110 also constructed on adjoining individual lots, such as duplex dwellings which have been subdivided
1111 into two single-family semi-detached dwelling units, with each such unit on a separate lot.

1112 Easement, is a grant by a property owner to the use of land by the public, a corporation, or persons for
1113 specific purposes as the construction of utilities, drainage ways, and roadways.

1114
1115 **EAVE(S).** The overhanging lower edge of a roof.
1116 (Ord. 84-07, 5-12-2008)

1117
1118 Eave, is the projecting lower edges of a roof overhanging the wall of a building.

1119
1120 **ELECTRIC TRANSMISSION CORRIDOR.** An area where electric transmission lines are or may
1121 be installed for the transmission of electrical power.

1122

1123 Electronic Message Center (EMC). Is a variable message sign that utilizes computer generated messages
1124 or some other electronic means of changing copy. These signs include displays using incandescent
1125 lamps, LEDs, LCDs or a flipper matrix.

1126
1127 Encroachment, is where a structure exists within a required setback, or an area that is designated to
1128 have no structures.

1129
1130 End Parcel, is a waterfront parcel where any part of the parcel abuts or includes within its boundaries
1131 any part of the canal end line or any part of an extension of a side line between the side line and the
1132 canal end line.

1133
1134 Entertainment, Indoor, means active or passive uses conducted within an enclosed building, these
1135 include but are not limited to: motion picture theaters, concert or music halls, billiards, arcades, and
1136 bowling.

1137
1138 Entertainment, Outdoor, means active or passive uses conducted in open or partially enclosed or
1139 screened entertainment complex. Typical uses include but are not limited to: sports arenas, motor
1140 vehicle or animal racing facilities, and outdoor amusement parks.

1141
1142 ~~**ENTRANCE.** A means of ingress to and egress from a building.~~
1143 ~~(Ord. 84-07, 5-12-2008)~~

1144
1145 ~~**ENTRANCE GATE.** A mechanized control device which is located near the point of access to a~~
1146 ~~development which serves to regulate the ingress of vehicles and pedestrians for the purpose of~~
1147 ~~security and privacy.~~

1148
1149 **ESSENTIAL SERVICES.** The erection, construction, alteration or maintenance (by a public or
1150 private utility company for the purpose of furnishing adequate service by said company for the
1151 public health, safety or general welfare) of electrical and communication cables, poles and wires,
1152 and water and sewer collection, transmission or distribution mains, drains and pipes, including fire
1153 hydrants. This definition shall not be interpreted to include buildings, structures or uses listed as
1154 essential service facilities.

1155
1156 Erosion, is the removal of soil through water or wind action.

1157
1158 Essential Services, is the erection, construction, alteration or maintenance (by a public or private
1159 utility company for the purpose of furnishing adequate services for the public health, safety, or
1160 general welfare) of electrical and communication cables, poles and wires, water and sewer collection,
1161 transmission, or distribution mains, drains and pipes, including fire hydrants. This definition shall not
1162 be interpreted to include buildings, structures, or uses listed as essential service facilities.

1163
1164 Essential Service Facilities, are buildings or above ground structures (exceeding 27 cubic feet in
1165 volume) required to provide essential services including electricity; telephone, cable TV, gas, water,
1166 sewage, solid waste, and resource recovery.

1167
1168 Excavating or Filling, is the removal or placement of more than 100 cubic yards of earth or the
1169 alteration of the elevation of more than 1,250 square feet of land area more than two feet.

1170
1171
1172
1173
1174
1175
1176
1177
1178
1179
1180
1181
1182
1183
1184
1185
1186
1187
1188
1189
1190
1191
1192
1193
1194
1195
1196
1197
1198
1199
1200
1201
1202
1203
1204
1205
1206
1207
1208
1209
1210
1211
1212
1213
1214
1215
1216

Excavation, is an operation utilizing any tools, equipment or explosives for the purpose of moving, removing or otherwise displacing or distributing earth, rock or other materials in or on the ground or wrecking, razing, rending, moving or removing any structure or mass of material.

Existing Building and Existing Structure, are any buildings and structures for which the "start of construction" commenced before August 17, 1981.

Existing Manufactured Home Park or Subdivision, is a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 17, 1981.

Expansion to an Existing Manufactured Home Park or Subdivision, is the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Exotic, means a species introduced to Florida, purposefully or accidentally, from a natural range outside of Florida.

Extraction, is the removal of physical matter in a solid, liquid, or gaseous state from its naturally location such as dirt, soil, sand, rock, oil, gas, and marl. Extraction shall not include typical digging, clearing, and filling operations associated with an approved Site Development Plan for residential and non-residential development.

~~**EXPRESSION LINE.** A decorative horizontal projection or recess on an exterior wall to delineate the top of the first story of a multi-story building.
(Ord. 91-05, 11-14-2005; Ord. 15-12, 9-10-2012)~~

FAA, means the Federal Aviation Administration.

~~**FACADE.** The exterior walls of a building that face a right-of-way, (other than an alley) or which face a plaza, a public park, or a courtyard, which is open to a public sidewalk For purposes of this definition, a plaza, public park, or courtyard that is separated from a public sidewalk by only a fence wall or landscaping less than six feet in height shall be deemed to abut a public sidewalk regardless of whether such plaza, public park, or courtyard is accessible from such sidewalk.
(Ord. 91-05,11-14-2005)~~

Façade, is the exterior elevation of a structure or building as viewed from a single vantage point.

~~**FAMILY.** One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit provided that a group of five or more adults who are not related by blood, marriage, or adoption shall not be deemed to constitute a family. The term **FAMILY** shall not be construed to mean a club, convent, fraternity, institutional group, or sorority.~~

Family, is any number of persons living together as a single housekeeping unit.

1217
1218 **FAMILY DAY CARE HOME.** An occupied residence in which child care is regularly provided as
1219 defined by F.S. § 402.302(7), as same may hereafter be amended.
1220 (Ord. 98-03, 10-14-2003)

1221
1222 **Family Day Care Home,** is an occupied residence in which child care is regularly provided for children
1223 from at least two unrelated families and which receives a payment, fee, or grant for any of the children
1224 receiving care, whether or not operated for profit. Household children under 13 years of age, when on
1225 the premises of the family day care home or on a field trip with children enrolled in child care, shall be
1226 included in the overall capacity of the licensed home.

1227
1228 **Farmer’s Market,** is an occasional or periodic outdoor market where groups of individual sellers offer
1229 for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items,
1230 and food and beverages.

1231
1232 **Fascia Sign,** Is a sign located on the fascia of a roof or canopy, or affixed to the front of a mansard roof,
1233 including signs that extend the plane of the structural fascia such that the vertical dimension of the sign
1234 is no more than one-third the distance from the ground to the bottom of the fascia, and lateral supports
1235 are used.

1236
1237 **FCC,** means the Federal Communications Commission.
1238

1239 **Feather Banner,** Is a type of temporary lightweight sign comprised of a partial metal or plastic frame, pole,
1240 and/or base to which a vinyl, nylon, canvas, or polyester fabric sign face is attached. Depending on the
1241 shape and type of movement, such signs also may be called "flutter," "teardrop," "flying," "wing," "bow,"
1242 "blade," "rectangular," or other banners.

1243
1244 **Feather Flag,** is a vertical flag used for identifying a secondary model home contiguous to the primary
1245 model home site.

1246
1247 **Federal Emergency Management Agency (FEMA),** is the federal agency that, in addition to carrying out
1248 other functions, administers the National Flood Insurance Program.

1249
1250 **FENCE.** A structure used for enclosing land areas constructed of pickets, boards, rails, chain link, or
1251 concrete products which are generally supported by posts and provide privacy, land separation,
1252 containment of domestic animals, and restriction of passage. (See also § 3-9.)
1253

1254 **Fence, Decorative,** means an open mesh fence no higher than two feet, other than chain link or barbed
1255 wire, intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often
1256 used to identify a lot corner or lot line, or frame a driveway, walkway, or planting bed.

1257
1258 **Fender Post,** is a post inserted into the canal bottom and fastened to the dock or seawall to prevent
1259 damage to the vessel when tied alongside the dock or seawall.

1260
1261 **Figure Structured Sign,** Is any sign which consists of and/or contains a three dimensional character,
1262 symbol, or emblem portraying a commercial message which exists solely to attract the attention of the
1263 public. For purposes of this article, memorial signs shall not be considered a **FIGURE STRUCTURED SIGN** .

1264
1265
1266
1267
1268
1269
1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1310

~~**FISHERIES.** A premises, or portion of a premises, occupied by an establishment primarily engaged in commercial fishing; the operation of oyster farms and the tonging and dredging of oysters; the gathering of sponges, seaweed, etc., and the operation of fish hatcheries or fishing preserves.~~

Flag, Is any fabric or bunting used as a symbol, as of a nation, government, political subdivision, or other entity, or as a signaling device.

Flag Standard, Is a readily transferable device or pole which supports flag(s). A tubular device which is set in the ground and does not extend above ground level, and any poles or tubes that support a flag or flags and are either inserted into the tubular device set in the ground or inserted directly into the ground, are flag standards, provided the poles or tubes supporting the flag(s) do not extend more than eight feet above ground level.

Flagpole, Is a permanently attached fixture or pole which supports flags.

Flashing Sign, Is any illuminated sign, on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. For the purposes of this definition, any moving illuminated sign affected by intermittent lighting shall be deemed a flashing sign.

Flea Market, is the sale of used merchandise customarily involving tables or space lease or rented to vendors.

~~**FLEA MARKET, OPEN.** A market held in an open or sheltered area (not within a building) where a group of individual sellers offer food and goods for sale to the public.~~

~~**FLEA MARKET, INDOOR.** A market held within a building where a group of individual sellers offer food and goods for sale to the public. A major distinction between an **INDOOR FLEA MARKET** and a multiple occupancy complex is that most leases between the sellers and the operators of the flea market are short term.~~

Flex Space, is commercial space, typically office, workshop, and loading bay area that allows businesses to utilize the space in the manner necessary for their work, most typically light industrial uses.

Flood or Flooding, is a general and temporary condition of partial or complete inundation of normally dry land from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage Resistant Materials, is any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Floodplain, is the land area susceptible to inundation by water as a result of a flood.

1311 **Floodway Encroachment**, is any fill, structure, building, accessory use, use, or development in the
1312 floodway.

1314 **Flood Hazard Area**, is the greater of the following two areas; the area within a floodplain subject to a
1315 1% or greater chance of flooding in any year, or the area designated as a flood hazard area on the city's
1316 flood hazard map, or otherwise legally designated.

1317
1318 **Floodplain Administrator**, is the office or position designated and charged with the administration and
1319 enforcement of this Article (may be referred to as the Floodplain Manager).

1320
1321 **Floodplain Development or Approval**, is an official document or certificate issued by the city or other
1322 evidence of approval or concurrence, which authorizes performance of specific development activities
1323 that are located in flood hazard areas and that are determined to be compliant with this Article.

1324
1325 **Floodway**, is the channel of a river or other riverine watercourse and the adjacent land areas that must
1326 be reserved in order to discharge the base flood without cumulatively increasing the water surface
1327 elevation more than one foot.

1328
1329 **Floodway Encroachment Analysis**, is an engineering analysis of the impact that a proposed
1330 encroachment into a floodway is expected to have on the floodway boundaries and base flood
1331 elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard
1332 engineering methods and models.

1333
1334 **Floor**, is the top surface of an enclosed area in a building (including basement), i.e., top of slab in
1335 concrete slab construction or top of wood flooring in wood frame construction. The term does not
1336 include the floor of a garage used solely for parking vehicles.

1337
1338 **FLOOR AREA.** The gross area of each story of a building, or portion thereof, within the
1339 surrounding exterior walls.

1340
1341 **FLOOR AREA RATIO.** The total floor area, including all stories, of a building(s) housing
1342 commercial uses, divided by the total area of the lot that the building(s) is located on. For the
1343 purpose of calculating floor area ratio, residential use floor areas and areas associated with parking
1344 or vehicular circulation shall not be included.
1345 (Ord. 15-12, 9-10-2012)

1346
1347 **Floor Area Ratio (FAR)**, is the ratio of the proposed amount of commercial or industrial floor area to
1348 the total land area shown for non-residential uses on the site.

1349
1350 **FLORIST SHOP.** Establishments primarily engaged in the retail sale of cut flowers and
1351 growing plants. Stores primarily engaged in selling seeds, bulbs, and nursery stock are classified as
1352 garden and lawn supply stores.

1353
1354 **Floor Area, Gross**, is the total area of a building measured by taking the outside dimensions of the
1355 building each floor level intended for occupancy and storage.

1356
1357 **Florida Building Code**, is the family of codes adopted by the Florida Building Commission.

1358
1359 **Florida Friendly Landscaping**, is a program developed through the University of Florida which
1360 encourages the use of low-maintenance plants and environmentally sustainable practices. A list of
1361 Florida Friendly plants can be found in Appendix 5.6.1.B.
1362

1363 **Florida Native**, is any plant recognized as occurring naturally in the State of Florida prior to the 1500s,
1364 as identified in **Atlas of Florida Vascular Plants by Wunderlin** , R.P., and B. F. Hansen. 2008.
1365 (<http://www.plantatlas.usf.edu/>). Institute for Systematic Botany, University of South Florida, Tampa,
1366 or other scientific documentation recognized by the city.

1367
1368 ~~**FOOD AND BEVERAGE SERVICE, LIMITED.** The provision of food and beverages for~~
1369 ~~members and guests of a private club or recreational center but not available to the general public.~~
1370

1371 ~~**FOODCART.** A food stand operated out of a vehicle or some wheeled structure at a specific,~~
1372 ~~permitted location and not to be left overnight.~~

1373
1374 **Food Truck**, see “Mobile Food Unit”.
1375

1376 **Footcandle**, is the unit of measure expressing the quantity of light received on a surface. One
1377 footcandle is the illuminance produced by a candle on a surface one foot square from a distance of
1378 one foot.
1379

1380 **Freestanding Sign**, Is any sign supported by structures or supports that are placed on, or anchored in, the
1381 ground and that are independent from any building, wall, fence, vehicle, or object other than the sign
1382 structure for support.
1383

1384 **Frontage**, is the face of a building most nearly parallel with the public right-of-way line.
1385

1386 **Frontage Line**, see “Build-to-Line”.
1387

1388 **Frontage Road**, is a residential or nonresidential street parallel and adjacent to a major thoroughfare
1389 and which provides access to abutting properties with protection from through traffic.
1390

1391 **Functionally Dependent Use**, is a use which cannot perform its intended purpose unless it is located or
1392 carried out in close proximity to water, including only docking facilities, port facilities that are necessary
1393 for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the
1394 term does not include long term storage or related manufacturing facilities.

1395
1396 ~~**GARAGE.** An enclosed area designed primarily for the parking and storage of motor vehicles.~~
1397 ~~A **GARAGE** is an accessory to the primary residential structure.~~
1398 ~~(Ord. 68-98, 11-30-1998) _____~~
1399

1400 **Garage**, is an enclosed area that is accessory to the primary residential structure and is designed primarily
1401 for the parking and storage of motor vehicles.
1402

1403 ~~**GARAGE OR YARD SALE.** An informal sale of used household or personal articles (such as~~
1404 ~~furniture, tools, or clothing) held on the seller's own premises, or conducted by several people on~~
1405 ~~one of the seller's own premises.~~

1406 Garage Sale, means the noncommercial sale of privately owned items from residential premises.

1407
1408 ~~**GARDEN WALL.** A non-load bearing wall built to surround a small portion of a yard.~~

1409
1410 ~~**GATEHOUSE.** A nonhabitable structure which is located near the point of access to a~~
1411 ~~development in which an individual controls access to that development for the purpose of~~
1412 ~~security and privacy.~~

1413
1414 ~~**GAZEBO.** A freestanding, roofed structure usually open on the sides.~~

1415
1416 ~~**GIFT, NOVELTY, AND SOUVENIR SHOPS.** Establishments primarily engaged in the retail sale~~
1417 ~~of combined lines of gifts and novelty merchandise, souvenirs, and miscellaneous small art goods.~~

1418
1419 Glare, is lighting entering the eye directly from luminaires or indirectly from reflective surfaces that
1420 causes visual discomfort or reduced visibility.

1421
1422 ~~**GOLF COURSE.** Includes links; related structures such as club houses, sun shelters, and~~
1423 ~~maintenance buildings; and related uses such as commercial pro shop, restaurant, incidental~~
1424 ~~recreational and housing facilities, and maintenance.~~

1425
1426 ~~**GOLF DRIVING RANGE.** A public or private establishment providing facilities for practice~~
1427 ~~driving of golf balls. Such facilities specifically exclude golf courses or links, but may provide~~
1428 ~~ancillary uses such as refreshment stands, putting greens, pro shops, and maintenance sheds.~~

1429
1430 ~~**GOVERNING BODY.** The City Council for the City of Cape Coral, Florida.~~

1431
1432 ~~**GOVERNMENT USES.** Any land, building, structure, use or activity, regardless of actual~~
1433 ~~ownership, operated by the city; county, state or federal government or legally empowered special~~
1434 ~~governmental district that is necessary to the conduct of government, the furnishing of public~~
1435 ~~services or of an institutional character and over which such governments exercise direct and~~
1436 ~~complete control.~~

1437
1438 Grade, is the average level of the finished surface of the ground adjacent to the exterior walls of the
1439 building.

1440
1441 ~~**GREEN AREA.** A landscaped area that must be provided other than that provided in streets,~~
1442 ~~roads, and parking areas, and that further satisfies the requirements of "landscaped" as defined~~
1443 ~~in [§ 5.2](#), Landscaping.~~

1444
1445 Greenhouse, is a building or structure constructed chiefly of glass, glasslike or translucent material,
1446 cloth, or lath, which is devoted to the protection or cultivation of flowers or other plants.

1447

1448 Green Roof, is a building roof that is partially or completely covered with vegetation and a growing
1449 medium, planted over a waterproofing membrane. It may also include additional layers such as a root
1450 barrier and drainage and irrigation systems.

1451
1452 **GROCERY.** A retail market for general food items, often, but not necessarily, self-service,
1453 smaller than a supermarket and with a far smaller range of non-food items.
1454 (See **SUPERMARKET**, **CONVENIENCE FOOD AND BEVERAGE STORE**.)

1455
1456 **GROSS RESIDENTIAL DENSITY.** The total number of dwelling units divided by the total
1457 acreage of a subject site.

1458
1459 Groundcover, is any low growing plant, 24 inches in height or less, that can be used to cover areas
1460 where sod or turf is not desired or will not grow.

1461
1462 Group Home, is a dwelling unit licensed to serve residents who are clients of the Department of Elderly
1463 Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department
1464 of Children and Family Services or licensed by the Agency for Health Care Administration which provides
1465 a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a
1466 family, including such supervision and care by supportive staff as may be necessary to meet the physical,
1467 emotional, and social needs of the residents.

1468
1469 **GROUP QUARTERS.** A building in which a number of unrelated individuals that do not
1470 constitute a "family" live and share various spaces and facilities, for example, cooking, eating,
1471 sanitation, relaxation, study and recreation. Examples of **GROUP QUARTERS** include fraternity
1472 houses, boarding houses, adult congregate living facilities, dormitories, sororities, rooming house,
1473 and other similar uses.

1474
1475 **GUEST/STAFF QUARTERS HOUSE.** A dwelling unit that is located on the same premises as
1476 the principal building and is to be used exclusively for housing members of or guests of the family
1477 occupying the principal building and/or members of the domestic staff employed on the premises.
1478 Such unit may be in either the principal building or in an accessory building. If located in an
1479 accessory building, such quarters may contain kitchen facilities; however, in no event shall the
1480 principal building contain more than one kitchen facility. No such quarters shall be rented, leased,
1481 or otherwise made available for compensation of any kind. Although a single premises may
1482 contain such quarters both in the principal building and in a separate accessory structure, no more
1483 than one accessory building containing guest/staff quarters shall be located on a premises.
1484 (Ord. 114-00, 12-4-2000)

1485
1486 Habitat, means the physical location or type of environment in which an organism or biological
1487 population lives or occurs.

1488
1489 Hardscape, are tangible objects and features other than plant materials, including, but not limited to,
1490 steps and ramps, fountains and pools, fences, screens, dividers and walls, overhead structures (i.e.
1491 trellis), decks, retaining walls, play equipment, benches and planters, drainage structures, lighting,
1492 pavement, curbs, and site furnishings.

1494

1495 **HARDWARE STORE.** Establishments primarily engaged in the retail sale of a number of basic
1496 hardware lines, such as tools, builders' hardware, paint and glass, housewares and small household
1497 appliances and cutlery.

1498
1499 **HAZARDOUS.** Those structures, uses, materials or premises that constitute fire, explosion or
1500 safety hazard and/or emit any atmospheric or environmental pollutant, light flashes, noxious gases,
1501 electromagnetic interference, radioactive emissions, smoke or heat, glare, dust, direct odor, noise
1502 or vibrations which may be heard or felt off the premises.

1503
1504 **NON-HAZARDOUS.** Those structures, uses, materials or premises that do not constitute a
1505 fire, explosion or safety hazard and/or do not emit any atmospheric or environmental pollutant,
1506 light flashes, noxious gases, electromagnetic interference, radioactive emissions, smoke or heat,
1507 glare, dust, dirt, odor noise or vibrations which may be heard or felt off the premises.

1508
1509 Hearing Examiner, is a person appointed to conduct public hearings and take action in action
1510 proceedings as specified by this code.

1511
1512 **HEATING AND COOKING FUEL ESTABLISHMENTS.** A premises, or portion of a premises,
1513 occupied by an establishment engaged primarily in the retail selling of wood, heating fuel oil, or
1514 bottled gas directly to ultimate consumers and not for resale.

1515
1516 Hedge, is any group of shrubs planted in line or in groups that form a compact, dense, living barrier that
1517 protects, shields, separates, or demarcates an area from view; any similar plant material, or similar plant
1518 material in conjunction with a structure.

1519
1520 Height, is the vertical distance measured from the lowest finished floor elevation to the lowest point
1521 of the highest horizontal eave or to the highest point of the highest parapet wall, whichever is higher.

1522
1523 **HELIPORT.** An area, either at ground level or elevated on a structure, licensed or approved
1524 for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting
1525 room, fueling and maintenance equipment.

1526 **HELISTOP.** A heliport, but without ancillary facilities such as parking, waiting room, fueling
1527 and maintenance equipment.

1528
1529 Heritage Tree, is a Florida native canopy tree with a 20-inch caliper DBH or larger.

1530
1531 Highest Adjacent Grade, is the highest natural elevation of the ground surface prior to construction
1532 next to the proposed walls or foundation of a structure.

1533
1534 Historic Structure, is any structure that is determined eligible for the exception to the flood hazard area
1535 requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

1536
1537 **HOME OCCUPATIONS.** Will be as provided in [§ 3.19](#).

1538
1539 Home Occupation, is an occupation for monetary gain or support conducted by members of a family
1540 residing on residential premises, and conducted entirely within the dwelling, provided that no article is
1541 sold or offered for sale except such as may be produced or acquired by members of the immediate

1542 family residing on the premises. Home occupations shall not be construed to include barbershops,
1543 beauty shops, tearooms, restaurants, dress shops, commercial kennels, real estate offices, dance
1544 studios, astrologists/palmists and the like, band instrument instructors, photographic studios, and child
1545 care facility for more than five children.

1546
1547 ***HORTICULTURAL SPECIALTY FARMS.*** A premises, or portion of a premises, occupied by an
1548 establishment primarily having as the principal purpose of business the production for sale of
1549 greenhouse, frame, cloth house, lath house, or outdoor grown horticultural products such as
1550 bulbs, florists' greens, herbs, mushrooms, flower seeds, sod crops, and trees. ***HORTICULTURAL***
1551 ***SPECIALTY FARMS*** may include landscaping service establishments.

1552
1553 ***HOSPICE.*** A facility designed to provide comfort and relief for the emotional and physical
1554 needs of the terminally ill.
1555

1556 **Hospital,** is an institution, licensed by the state department of health, providing primary health services
1557 and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury,
1558 deformity, and other abnormal physical or mental conditions, and including as an integral part of the
1559 institution, related facilities such as laboratories, outpatient facilities, or training facilities.

1560
1561 ***HOTEL/MOTEL.*** Any building, or part thereof, in which sleeping or living accommodations are
1562 offered on a short term or transient basis, without regard to the form of ownership of the property
1563 or of the units therein. However, in the event that either the property or any units therein are
1564 owned by more than one person or entity, then the management of the entire facility must be
1565 performed by a single on-site management company or entity. The term ***HOTEL/MOTEL*** shall
1566 include, but not be limited to, any building, or part thereof, in which the right of use or occupancy
1567 of any unit circulates among various occupants for specific periods of time less than a full year
1568 during any given year, but not necessarily for consecutive years.
1569 (Ord. 68-98, 11-30-1998) _____
1570

1571 **Hotel,** is an establishment providing, for a fee, sleeping accommodations and customary lodging
1572 services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone
1573 and desk service. Related ancillary uses may include but shall not be limited to conference and meeting
1574 rooms, restaurants, bars, and recreational facilities.

1576 **Hot Dog Cart,** is a non-motorized food unit which serves hot dogs, sausages, or other similar type foods
1577 or beverage, or both, limited for immediate consumption and provides no seating.
1578

1579 **Household,** is the person or persons occupying a dwelling unit.

1581 **Impervious Surface,** is any material that substantially reduces or prevents the infiltration of stormwater
1582 into the ground. This shall include all buildings, pavement, pools and pool decks, sidewalks, and areas
1583 covered with gravel, stones, paver blocks, shell, and rocks.

1585 **Incidental Sign,** Is a sign, generally informational, that has a purpose secondary to the use of the site on
1586 which it is located. Furthermore, the term **INCIDENTAL SIGN** shall not include a sign designed to be
1587 transported by means of wheels, a sign converted to an A- or T-frame, a sandwich-board sign, or a skid-
1588 mounted sign, regardless of the nature of the information that such sign may contain.

1589
1590
1591
1592
1593
1594
1595
1596
1597
1598
1599
1600
1601
1602
1603
1604
1605
1606
1607
1608
1609
1610
1611
1612
1613
1614
1615
1616
1617
1618
1619
1620
1621
1622
1623
1624
1625
1626
1627
1628
1629
1630
1631
1632
1633
1634
1635

INDOOR. Refers to that which is within a building.

INSTRUCTIONAL STUDIO. An establishment, generally ancillary but related to the primary use, where instructions are given in the fine arts (music, ceramics, pottery, painting, sculpture, etc.), crafts, weaving, needlepoint, knitting, etc.), or professions (photography, singing, dancing, acting, etc.). Such a studio must be able to accommodate more than one student and one teacher at any time.

Industry, Heavy, is manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process.

Industry, Light, includes research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

Inflatable Object, Is an object of any shape that is expanded or capable of expansion by means of air or gas, such as a balloon, wind sock, or air tube, and which is used as a means of attracting attention to a site, product, or event.

Infrastructure, means facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

Institutional Uses, are public or quasi-public uses in a non-for-profit nature typically engaged in public service.

Integral Sign, Is a sign which is built in to or constructed as part of the architectural design of the building and if removed would change the design of the building.

Intensity, is the number of square feet of development per acre, or floor area ratio, by land use type with respect to non-residential land uses.

Interior Sign, Is a sign located within the interior of any building, or within an inner, outer, or enclosed lobby or court of any building or theater, not including window and door signs.

Invasive Species, means a species that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

JUNK YARD. Any use on private property involving the parking, storage or disassembly of junked vehicles, or wrecked or nonoperable vehicles, storage, baling or otherwise dealing in wastepaper, rags, scrap metal, used building materials, old household appliances and other similar matter.

1636 Such uses shall be considered junk yards whether or not all or part of such operations are
1637 conducted within a building or in conjunction with, in addition to, or accessory to, other uses of
1638 the premises. This definition shall not include pawn shops and establishments for the sale,
1639 purchase or storage of usable second hand cars, used furniture or similar household goods and
1640 appliances. (See also § 3.3.7.)

1641
1642 **KITCHEN.** An indoor portion of a structure specifically designed and equipped for the preparation,
1643 service and storage of food. The kitchen shall be provided with, at a minimum, a functioning sink,
1644 range, oven, and refrigerator.
1645 (Ord. 61-13, 12-9-2013) _____

1646
1647 Laboratory, Research, is a building or group of buildings in which facilities for scientific research,
1648 investigation, testing, or experimentation are. This does not include facilities for the manufacture or
1649 sale of products, except as incidental to the main purpose of the laboratory.

1650
1651 **LAND AREA.** The total land area within the property lines.
1652

1653 Land Development Code, means the city’s zoning, subdivision, building, and other regulations
1654 controlling the development of land.

1655
1656 **LANDSCAPING.** The process of modifying or ornamenting a natural landscape by altering
1657 the plant cover. (See § 5.2.)
1658

1659 Landscaping, is the finishing and adornment of unpaved yard areas. Materials and treatment generally
1660 include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also
1661 include the use of logs, rocks, fountains, water features, and contouring of the earth.

1662
1663 Landscape Plan, is a plan associated with a subdivision master concept plan, or site development plan,
1664 indicating the placement of landscape materials, including specifications, species, quantities, and
1665 method of installation.

1666
1667 Landscaped Area, is an area set aside from structures and parking which is developed with natural
1668 materials (i.e. grass, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features,
1669 including paving materials, walls, fences, and outdoor furniture.

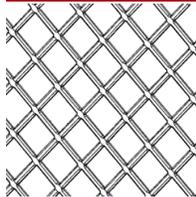
1670
1671 **Landscaping Services, is a business that provides services in horticulture and lawn maintenance off**
1672 **premises on a contract basis or for a fee. Typical services may include golf course upkeep, landscape**
1673 **gardening, tree planting, tree trimming or other similar services.**

1674
1675 **LANDSCAPING SERVICE ESTABLISHMENTS.** A premises, or portion of a premises, occupied
1676 by an establishment in which a person, or persons, practice a vocation that performs a type of
1677 labor, act or work off the premises that primarily results in horticultural and lawn maintenance
1678 services such as cemetery and golf course upkeep, landscape gardening, tree planting and similar
1679 operations on a given premises normally on a contract basis or for a fee or
1680 charge. **LANDSCAPING SERVICE ESTABLISHMENTS** do not include horticultural specialty farms
1681 or plant nurseries.
1682

1683 **LAND USE INTENSITY.** The existing or potential use of the land's surface for various
1684 activities. **LAND USE INTENSITY** is determined by the spatial requirements of an activity, the
1685 relationship of structural mass to open space, the requirements for infrastructure (transportation,
1686 water, sewer, electricity, and communications), and the activities environmental impacts.

1687
1688 **LARGE FAMILY CHILD CARE HOME.** An occupied residence that is used for child care as
1689 defined by F.S. § 402.302(8), as same may hereafter be amended.
1690 (Ord. 98-03, 10-14-2003)
1691

1692 Lattice, is an ornamental criss-crossed framework, an arrangement of crossing laths or other thin strips
1693 of material which allows light and air to pass between the openings.



1694
1695
1696 **LAUNDRY AND DRY CLEANING PLANTS.** A building, or portion of a building, occupied by
1697 an establishment primarily engaged in the commercial operation of mechanical laundries with
1698 steam or other power normally for a fee or charge and including rug cleaning, dry cleaning or
1699 dyeing apparel and household fabrics or establishments supplying laundered linens, work clothing,
1700 diapers, baby linens, or uniforms on a contract basis when such establishments operate their own
1701 laundry facilities on the same premises. The establishment normally involves a substantial amount
1702 of equipment and serves a relatively large trade area through direct or indirect pick up and
1703 delivery of laundry and dry cleaning articles by personnel employed by the establishment.

1704
1705 **LAWN AND GARDEN SUPPLY STORES.** Establishments primarily engaged in selling trees,
1706 shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools,
1707 and other garden supplies to the general public. These establishments primarily sell products,
1708 purchased from others, but may sell trees, shrubs or other plants which they grow themselves.
1709 Establishments primarily engaged in growing are classified as plant nurseries.

1710
1711 Letter of Map Change, (LOMC) is an official determination issued by FEMA that amends or revises an
1712 effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

1713
1714 Letter of Map Amendment (LOMA): is an amendment based on technical data showing that a
1715 property was incorrectly included in a designated special flood hazard area. A LOMA amends the
1716 current effective Flood Insurance Rate Map and establishes that a specific property, portion of a
1717 property, or structure is not located in a special flood hazard area.

1718
1719 Letter of Map Revision (LOMR): is a revision based on technical data that may show changes to flood
1720 zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other
1721 planimetric features.

1722
1723 Letter of Map Revision Based on Fill (LOMR-F): is a determination that a structure or parcel of land
1724 has been elevated by fill above the base flood elevation and is, therefore, no longer located within the

1725 special flood hazard area. In order to qualify for this determination, the fill must have been permitted
1726 and placed in accordance with the City floodplain management regulations.

1727
1728 **Letter of Map Revision, Conditional (CLOMR):** is a formal review and comment as to whether a
1729 proposed flood protection project or other project complies with the minimum NFIP requirements for
1730 such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the
1731 effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of
1732 certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the
1733 effective FIRM.

1734
1735 **Light Pollution,** means any adverse effect of artificial light including, but not limited to, glare, light
1736 trespass, skyglow, energy waste, and impacts on the nocturnal environment.

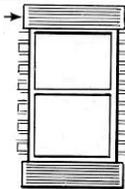
1737
1738 **Light Van,** is any motor vehicle having a generally rectangular bulk, which is licensed and registered for
1739 operation upon public highways and which has a carrying capacity of no more than one ton or no more
1740 than nine passengers.

1741
1742 **Lighting, Fully Shielded/Cutoff,** means any outdoor light fixture shielded in such a manner that all light
1743 emitted by the fixture is projected below the horizontal as determined by a photometric test or certified
1744 by the manufacturer.

1745
1746 **LINER BUILDING.** A building or portion of a building constructed in front of a parking
1747 garage, cinema, supermarket etc., to conceal large expanses of blank wall area and to face the
1748 street space with a facade that has doors and windows opening onto the sidewalk.
1749 (Ord. 91-05, 11-14-2005)

1750
1751 **Liner Building,** is a building or portion of a building constructed in front of a parking garage.

1752
1753 **Lintel,** means a horizontal support of timber, stone, concrete, or steel across the top of a door or
1754 window.



1756
1757 **LIQUOR STORE.** See **PACKAGE STORE.**

1758
1759 **Loading Space,** is an off-street space, having a minimum width of 10 feet, length of 30 feet, and height
1760 clearance of 14 feet, on the same lot with a building or group of buildings for temporary parking of a
1761 commercial vehicle while loading and unloading merchandise or materials.

1762
1763 **LOCAL PLANNING AGENCY.** The City of Cape Coral Planning and Zoning Commission when
1764 reviewing matters related to the Comprehensive Land Use Plan as specified in F.S. Chapter 160.

1765
1766 **Local Planning Agency,** is the City of Cape Coral Planning and Zoning Commission when reviewing
1767 matters related to the Comprehensive Land Use Plan as specified in F.S. Chapter 160.

1768
1769 **LODGING HOUSE.** A building in which up to four sleeping rooms are provided for occupancy
1770 by nontransient persons with or without meals for compensation on a prearranged weekly or
1771 monthly basis. A **LODGING HOUSE** shall include living quarters and may contain independent
1772 cooking facilities designed for the resident manager only. (See [§ 3.4.](#))

1773
1774 Logo, is an emblem, character, pictograph, trademark, or symbol used to represent a firm, organization,
1775 entity, product, or service.

1776
1777 **LOT.** A parcel of land under one ownership occupied by or to be occupied by one principal
1778 building and its accessory buildings and including the open spaces and yards required under this
1779 ordinance.

1780
1781 **LOT LINE.** A boundary dividing a lot from a right-of-way, adjoining lot or other adjoining
1782 tract of land.

1783
1784 **FRONT LOT LINE.** The lot line abutting a street right-of-way line.

1785
1786 **REAR LOT LINE.** The lot line opposite the front lot line.

1787
1788 **SIDE LOT LINE.** Lot lines other than the front or rear lot lines.

1789
1790 **CORNER LOT.** A lot which abuts on two or more intersecting streets at their intersection, but
1791 is not to include wing streets at cul-de-sac locations; wing streets at locations where road
1792 angles or turns and the wing street is less than 120 feet in length. (See §§ 3.7.1 and 3.8.2.)

1793
1794 **DOUBLE FRONTAGE LOT.** Any lot other than a corner lot which abuts on two streets. (See [§](#)
1795 [3.8\(a\).](#))

1796
1797 **LOT FRONTAGE.** The horizontal linear dimension of a lot line that is common with a street
1798 right-of-way line. Lot frontage shall be measured in a single plane as projected toward the street.
1799 (Ord. 15-12, 9-10-2012)

1800 **LOT OF RECORD.** A lot which is duly recorded in the office of the clerk of the local court of
1801 record.

1802
1803 Lot or Lot of Record, is a lot or tract that is part of a recorded subdivision that has been recorded with
1804 the county clerk of courts office containing property tax records.

1805
1806 **LOT AREA.** The total amount of land within the lot lines.
1807
1808 Lot Coverage, refer to Section 1-112 of the Land Development Code.

1809
1810 Lot, Corner, is a lot which abuts on two or more intersecting streets at their intersection, but is not to
1811 include wing streets at cul-de-sac locations; wing streets at locations where road angles or turns and
1812 the wing street is less than 120 feet in length.
1813

1814 Lot, Double Frontage, is a lot having frontage on two nonintersecting streets, as distinguished from a
1815 corner lot.

1816
1817 Lot, Flag, is a lot not meeting minimum lot frontage requirements at the street and where access to a
1818 right-of-way is provided by means of a long, narrow driveway between abutting lots.

1819
1820 Lot Lines, are the property lines bounding the lot.

1821
1822 Low Impact Development (LID), are systems and practices that use or mimic natural processes that
1823 result in the infiltration, evapotranspiration, or use of stormwater in order to protect water quality and
1824 associated aquatic habitat.

1825
1826 Lowest Floor, is the lowest floor of the lowest enclosed area of a building or structure, including
1827 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable
1828 solely for vehicle parking, building access or limited storage provided that such enclosure is not built so
1829 as to render the structure in violation of the non-elevation requirements of the Florida Building Code
1830 or ASCE 24.

1831
1832 Lumen, is the unit of measure used to quantify the amount of light produced by a lamp or emitted from
1833 a luminaire. One footcandle is equal to one lumen per square foot.

1834
1835 ~~**MAIN PARCEL(S).** Within a development containing multiple parcels, primary or principal~~
1836 ~~parcel(s), usually housing principal end users, such as the major store or stores within a shopping~~
1837 ~~center. A main parcel is typically significantly large in size than outparcels and may provide access~~
1838 ~~to outparcels. If a development has more than one main parcel, they are typically more similar,~~
1839 ~~though not necessarily identical, in size to each other than to outparcels.~~
1840 ~~(Ord. 84-07, 5-12-2008)~~

1841
1842 Maintain, means in a condition or state of equivalent quality to that which was approved or required by
1843 the city.

1844
1845 Manufactured Home, is a structure, transportable in one or more sections, which is eight feet or more
1846 in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is
1847 designed for use with or without a permanent foundation when attached to the required utilities. The
1848 term Manufactured Home does not include a "recreational vehicle" or "park trailer." The
1849 term Manufactured Home shall also include the term "mobile home" as provided in Article
1850 11. Definitions.

1851
1852 Manufactured Home Park or Subdivision, is a parcel (or contiguous parcels) of land divided into two or
1853 more manufactured home lots for rent or sale.

1854
1855
1856 ~~**MANUFACTURING.** Establishments which are primarily engaged in the mechanical or~~
1857 ~~chemical transformation of materials or substances into new products, as well as establishments~~
1858 ~~primarily engaged in assembling component parts of manufactured products if the new product is~~
1859 ~~not a permanent structure or other fixed improvement.~~
1860

1861 **Manufacturing, Heavy**, is the manufacturing of products from raw or unprocessed materials, where the
1862 finished product may be combustible or explosive. This category shall also include any establishment or
1863 facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes,
1864 storage silos, or similar equipment, that cannot be integrated into the building design, or engaging in
1865 largescale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or
1866 particulate that may be offensive or obnoxious adjacent land uses, or requires a significant amount of
1867 on-site hazardous chemical storage shall be classified under this land use. This use shall include any
1868 packaging of the product being manufactured on-site.

1870 **Manufacturing, Light**, is the indoor processing or fabrication of certain materials or products where no
1871 process involved will produce noise, vibration, air pollution, fire hazard, or noxious emissions which will
1872 disturb or endanger neighboring properties.

1873 **Market Value**, is the price at which a property will change hands between a willing buyer and a willing
1874 seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of
1875 relevant facts. As used in this Article, the term refers to the market value of buildings and structures,
1876 excluding the land and other improvements on the parcel. Market value may be established by a
1877 qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality
1878 of construction), or tax assessment value adjusted to approximate market value by a factor provided by
1879 the property appraiser.

1881 ~~**MARINA.** A boating facility, chiefly for recreational boating, located on navigable water~~
1882 ~~frontage, and providing all or any combination of the following: boat slips or dockage, dry boat~~
1883 ~~storage, marine fuel and lubricants, marine supplies, restaurants or refreshment facilities, boat and~~
1884 ~~boat motor sales, and rentals. Minor boat rigging and motor repair which is incidental to the~~
1885 ~~principal marina use is generally allowed as an accessory use. However no dredge, barge or other~~
1886 ~~work dockage or service is permitted, and no boat construction or reconstruction is permitted.~~
1887 ~~(See **BOAT YARD**). The word **MARINE** shall also apply to navigable fresh waters. This shall not be~~
1888 ~~construed to apply to docks, davits, and similar facilities appurtenant to a residential land use~~
1889 ~~providing only dockage or mooring.~~

1892 **Marina**, is a waterfront establishment whose business is offering the rental or lease of slips for boats,
1893 the sale or rental of boats and marine sporting equipment, and the servicing, repair, or storage of similar
1894 items. Such establishments may also provide gasoline, sanitary pump-out service, and food and drink.

1896 **Marine Improvement**, means a whole, constructed marine structure including, but not limited to,
1897 dock, boat lift, mooring posts, walkways, and other interconnecting parts. A boat canopy, its supports,
1898 and its frame shall not be considered to be a part of the marine improvement to which they are
1899 attached.

1901 **Marine Improvement Area**, is that area enclosed by the water frontage line, the offset line, and lines
1902 connecting the ends of the offset line to corresponding offset points. This establishes the construction
1903 envelope for marine improvements See Diagram 5.5.4.E.

1905 **Marquee**, Is any permanent roof-like structure projecting beyond a building or extending along and
1906 projecting beyond the wall of the building, generally designed and constructed to provide protection from
1907 the weather.

1908
1909
1910
1911
1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
1922
1923
1924
1925
1926
1927
1928
1929
1930
1931
1932
1933
1934
1935
1936
1937
1938
1939
1940
1941
1942
1943
1944
1945
1946
1947
1948
1949
1950
1951
1952
1953

Master Concept Plan, is a general graphic depiction of the layout and/or design of a land development project, which shall include written and quantitative information as required by the city, including a phasing plan, but to be distinguished from a "site development plan," as defined herein.

~~**MASSAGE PARLORS.** A shop, establishment or place of business wherein is administered treatments with mechanical or electrical apparatus for the purpose of body slenderizing, body reducing or body contouring, or all or any one or more of the following subjects and methods of treatment, viz.: oil rubs, salt glows, hot or cold packs, all kinds of baths including steam rooms, cabinet baths, sitz baths; irrigations, body massage either by hand or by any mechanical or electrical apparatus or device excluding fever therapy, the application of such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, tapotement. **MASSAGE PARLORS** shall be licensed by the state's Department of Professional Regulations.~~

~~**MASSING.** The apparent bulk or structural volume of a building as measured by its height, width, and depth.
(Ord. 84-07, 5-12-2008)~~

Mean Water Level, in regard to fresh water waterways, is the elevation established at the downstream weir, and, in regard to saltwater waterways, the mean high water of +013 feet National Geodetic Vertical Datum of 1929 (NGVD-29).

~~**MEDICAL OFFICES AND MEDICAL CLINICS.** A premises where patients, who are not lodged overnight except for observation or emergency treatment, are treated by one person or group of persons practicing any form of healing or health building services to individuals, whether such persons are medical doctors, chiropractors, osteopaths, chiropodists, podiatrists, naturopaths, dentists, counselors of all sorts, psychiatrists, clinical psychologists, nurse practitioners, ophthalmologists, or any such profession, the practice of which is regulated by the State of Florida, Department of Professional Regulation. Ancillary uses such as pharmacies, eye wear centers, and the like may also be located on the premises.~~

Medical Marijuana Dispensary, is a facility where marijuana is made available for sale for medical purposes. This also includes establishments from which marijuana is delivered to patients who cannot obtain it from a dispensary, due to physical or mental disability, for medical purposes.

Memorial Sign, Is a permanent commemorative or historical sign, plaque, inscription, or similar group of symbols that is engraved on a building or a cemetery tombstone or that is located at a memorial erected by, or with the approval of, a governmental entity. For purposes of this definition, a memorial includes any building, structure, or location intended to honor persons, places, or events.

Menu Board, Is a permanently mounted sign located adjacent to and oriented toward a lawfully established drive-through lane of a commercial enterprise.

~~**MINI-WAREHOUSE.** Any building designed or used to provide separate storage rooms to individuals or businesses for a fee or rental, said rooms being intended solely as dead storage~~

1954 depositories for personal property, inventory, and equipment, and not for any other commercial or
1955 industrial use. (See **WAREHOUSE, PUBLIC** and **STORAGE, DEAD**.)

1956
1957 **Mini-Storage**, See Self-Storage Facility.
1958

1959 **Mixed-Use Development**, is a project which integrates residential and non-residential uses.

1960
1961 **Mixed-Use Building**, is a building containing residential and non-residential uses permitted in the zoning
1962 district.

1963
1964 **Mixed-Use Zoning Districts**, includes the following zoning districts: Commercial Corridor (CC),
1965 Neighborhood Commercial (NC), Mixed Use (MX), Mixed Use Seven Islands (MX7), Mixed Use Bimini
1966 (MXB), South Cape (SC), and Planned Unit Developments (PUD).

1967
1968
1969
1970 **MODEL HOME SITE**. A residential structure used only for demonstration, display or sales of
1971 the approved model, not occupied as a dwelling unit, and open to the public for inspection.
1972 (Ord. 68-98, 11-30-1998)

1973
1974 **Mobile Food Trailer**, is a food service unit that is delivered to an event or a location and then
1975 transported again after a specific length of time. Mobile food trailers are commonly used at events
1976 such as carnivals or fairs.

1977
1978 **Mobile Food Unit**, is any food service unit serving food or beverage, or both, intended for immediate
1979 consumption, which is self-propelled or otherwise moveable from place to place and contains utilities,
1980 such as propane, water, electricity, and liquid waste disposal. An open bed truck is not considered a mobile
1981 food unit. Also commonly known as a “food truck” or “mobile food trailer”.

1982
1983 **Mobile Food Vendor**, is any person or business selling foods or beverage, or both, other than fresh fruits
1984 or vegetables not intended for immediate consumption, from a mobile food unit, including a self-sufficient
1985 mobile food unit or hot dog cart.

1986
1987 **Mobile Food Trailer**, is a food service unit that is delivered to an event or a location and then
1988 transported again after a specific length of time. Mobile food trailers are commonly used at events
1989 such as carnivals or fairs.

1990
1991 **Mobile Food Unit**, is any food service unit serving food or beverage, or both, intended for immediate
1992 consumption, which is self-propelled or otherwise moveable from place to place and contains utilities,
1993 such as propane, water, electricity, and liquid waste disposal. An open bed truck is not considered a mobile
1994 food unit. Also commonly known as a “food truck” or “mobile food trailer”.

1995
1996 **Mobile Food Vendor**, is any person or business selling foods or beverage, or both, other than fresh fruits
1997 or vegetables not intended for immediate consumption, from a mobile food unit, including a self-sufficient
1998 mobile food unit or hot dog cart.

1999
2000

2001 **MOBILE HOME.** A detached living unit will have all of the following characteristics:
2002 Normally is identified by the manufacturer as a mobile home and/or displays a motor vehicle
2003 license plate identifying it as a mobile home;
2004 Designed to be transported after fabrication on its own wheels, or on flatbeds or other
2005 trailers, or detachable wheels;
2006 Designed primarily for long-term occupancy and containing sleeping accommodations, a
2007 flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections
2008 provided for attachment to outside systems;
2009 Normally arrives at the site where it is to be occupied as a complete unit, including major
2010 appliances and furniture, and ready for occupancy except for minor and incidental unpacking and
2011 assembly operations, location on foundation supports, connection to utilities, and the like;
2012 Any vehicle, trailer or similar portable structure, with or without its own motive power, having
2013 no integral foundation other than wheels, jacks or skirtings, and used, designed or constructed to
2014 be used as a conveyance on the public streets and designed or constructed to permit permanent
2015 occupancy for living and sleeping purposes. Removal of the means of conveyance from a mobile
2016 home or the construction of a permanent foundation for a mobile home does not change the
2017 meaning of the word mobile home as defined or used in this ordinance. The term **MOBILE**
2018 **HOME** does not include travel trailers; and
2019 Insignia approved by the United States Department of Housing and Urban Development
2020 (HUD).
2021

2022 **Model Home**, is an unoccupied dwelling constructed upon a model home lot zoned for residential use
2023 and on one of four contiguous lots from the arterial or collector roadway, with each lot under the
2024 ownership of one or more builders intending to use the lots as model home sites or ancillary parking, for
2025 display purposes, price quoting and consummation of sales contracts.
2026

2027 **Modular Structure**, is a structure not built on-site but may be assembled on-site, which is placed on a
2028 permanent foundation and meets the state building code standards.
2029

2030 **Mooring Piles**, are posts, meant for tethering a watercraft to, which are anchored into the floor of a
2031 waterbody.
2032

2033 **Monopole**, is a style of free-standing tower that is composed of a single shaft, usually composed of two
2034 or more hollow sections that are in turn attached to a foundation, with external antennas. This type of
2035 tower is designed to support itself without use of guy wires or other stabilization devices.
2036

2037 **MORTUARIES or FUNERAL HOMES**, Establishments engaged in preparing the dead for burial
2038 or conducting funerals.
2039

2040
2041 **Motel**, see "Hotel".
2042

2043 **MOTION PICTURE THEATERS.** A premises, or portion of a premises, occupied by an
2044 establishment primarily engaged in the commercial exhibition of motion pictures, with or without
2045 vaudeville presentations, normally open to the general public for a fee or charge. There shall be no
2046 sale of alcoholic beverages.
2047

2048 **MOTOR FREIGHT TERMINAL.** A building or area in which trucks, including tractor or trailer
2049 units, are parked, stored, or serviced, including the transfer, loading or unloading of goods.
2050 A **TERMINAL** may include facilities for the temporary storage of loads prior to transshipment.
2051

2052 **Mulch**, is any material such as wood chips, leaves, bark, straw, or other materials left loose and applied
2053 to the soil surface to reduce evaporation.

2054
2055 **MULTIPLE FAMILY (MULTI-FAMILY).** See **DWELLING UNIT, TYPES**.
2056 (Ord. 91-05, 11-14-2005)
2057

2058 **MULTIPLE OCCUPANCY COMPLEX.** A parcel of property under one ownership or singular
2059 control, or developed as a unified or coordinated project, with a building or buildings housing
2060 more than five occupants conducting separate business operations.
2061

2062 **MULTI-USE.** Development that includes residential and non-residential uses within the same
2063 site.
2064 (Ord. 101-03, 10-20-2003)

2065 **Multiple Business or Entity Sites**, Is any development containing two or more tenants on one ownership
2066 parcel that is zoned professional, commercial, industrial, mixed use, institutional, downtown, or
2067 agricultural. In addition, this term shall include all properties approved under any planned development
2068 project that are zoned commercial, professional, industrial, mixed use, institutional, downtown, or
2069 agricultural. **MULTIPLE BUSINESS OR ENTITY SITES** , for purposes of this article, shall be deemed to also
2070 include developed properties located within 25 feet of an improved public parking lot or area, and for
2071 which such public parking lot or area provides the minimum parking needs required for such developed
2072 properties as well as the public parking lot or area itself.

2073
2074 **MUSIC STORE.** Establishment primarily engaged in the retail sale of musical instruments,
2075 phonograph records, cassette tapes, compact disks, sheet music, and similar musical supplies. The
2076 establishment may also include an instructional music studio as an ancillary use.
2077

2078 **Nameplate Sign**, Is a sign indicating the name, profession, address, or some combination thereof, of a
2079 person, persons, business, or other entity legally occupying the building, unit, or establishment.
2080

2081 **Native Species**, is a plant or animal that originally occurred in an area.
2082

2083 **Natural Area**, is land and water that has substantially retained its natural character or land and water
2084 that, although altered in character, is important as habitats for plant, animal, or marine life, for the
2085 study of its natural, historical, scientific, or paleontological features, or for the enjoyment of its natural
2086 features.
2087

2088 **NATURE PRESERVE AND WILDLIFE PRESERVE.** Areas set aside to permanently maintain and
2089 protect certain natural ecological systems and wildlife in their current state of existence. Nature
2090 trails, canoe trails, and interpretive displays will be allowed in preserves to promote environmental
2091 awareness and passive recreation. No other construction shall be permitted.
2092 (Ord. 71-91, 9-23-1991)
2093

2094 **Navigable Channel**, means that portion of the waterway width in which no marine improvement may
2095 lawfully be constructed. The access width of the waterway shall be calculated by subtracting from the
2096 calculated waterway width twice the maximum distance that a marine improvement located along one
2097 side of the waterway could lawfully project.

2098
2099 **NEIGHBORHOOD STORAGE FACILITY.** Any building or group of buildings on a common site
2100 designed to provide, generally for a fee, separate storage rooms or units for individuals or
2101 businesses, and constructed so that overhead doors or individual storage unit doors that are not
2102 visible from adjoining property or from any public right-of-way provide the only access to the
2103 aforesaid storage rooms or units.
2104 (Ord. 81-00, 10-23-2000; Ord. 102-07, 9-10-2007; Ord. 15-17, § 3, 4-3-2017)

2105
2106 **NET RESIDENTIAL DENSITY.** The total number of dwelling units divided by the total number
2107 of buildable acres of a subject site.

2108
2109 **NEWSSTAND.** Establishments primarily engaged in the retail sale of newspapers, magazines,
2110 and other periodicals including home delivery:

2111
2112 **Newsrack or Newspaper Vending Machine**, Any self-servicing or coin-operated box, container,
2113 vending machine, storage unit, or other dispenser installed, used, or maintained for the display and
2114 sale of newspapers, news periodicals, or magazines including the dissemination of any real estate or
2115 advertising publications.

2116
2117 **New Construction**, For the purposes of the flood resistant construction requirements of the Florida
2118 Building Code, are structures for which the "start of construction" commenced on or after August 17,
2119 1981 and includes any subsequent improvements to such structures.

2120
2121 **New Manufactured Home Park or Subdivision**, is a manufactured home park or subdivision for which
2122 the construction of facilities for servicing the lots on which the manufactured homes are to be affixed
2123 (including at a minimum, the installation of utilities, the construction of streets, and either final site
2124 grading or the pouring of concrete pads) is completed on or after August 17, 1981.

2125
2126 **NIGHTCLUB.** A restaurant, dining room, bar, or other similar establishment providing food or
2127 refreshments wherein paid floor shows or other forms of paid entertainment are provided for
2128 customers as part of the commercial enterprise.

2129
2130 **NONCONFORMING BUILDING, STRUCTURE, SITE, OR USE.** A building, structure, site, or
2131 use of any premises which does not conform with all provisions of the City of Cape Coral Land Use
2132 and Development Regulations and the Cape Coral Comprehensive Plan, but which lawfully existed
2133 before its designation as non-conforming by the adoption or amendment of the City of Cape Coral
2134 Land Use and Development Regulations and the Cape Coral Comprehensive Plan.
2135 (Ord. 44-06, 6-12-2006)

2136
2137 **Nonconforming**, is when an existing lot, structure, building, sign, development, or use of an existing lot
2138 or structure does not conform to one or more of the regulations currently applicable to the district in
2139 which the lot, structure, building, sign, development, or use is located.

2140

2141
2142
2143
2144
2145
2146
2147
2148
2149
2150
2151
2152
2153
2154
2155
2156
2157
2158
2159
2160
2161
2162
2163
2164
2165
2166
2167
2168
2169
2170
2171
2172
2173
2174
2175
2176
2177
2178
2179
2180
2181
2182
2183
2184
2185

Noncommercial Sign, Is a sign which does not meet the definition of a commercial sign.

Non-domestic animals, are farm animals including, but not limited to, horses, cattle, mules, goats, sheep, swine and poultry.

Non-domestic animal boarding, are establishments that board or house non-domestic animals for a fee.

~~**NON-RESIDENTIAL USE.** All uses permitted without residential component of any type.
(Ord. 101-03, 10-20-2003)~~

Nonresidential Use, is a use that does not include dwelling units. Nonresidential uses include: commercial, industrial, public, park, institutional, agricultural uses without a residence, and parts of mixed-use developments not containing residential dwelling units. This includes hotels, motels, RV parks, and campgrounds.

Nonresidential zoning districts, includes the following zoning districts: Commercial (C), Professional Office (P), Industrial (I), Institutional (INST), and Preservation (PV).

Nuisance, is a thing, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.

~~**NURSING CARE HOME.** A facility for the aged, chronically ill, or convalescent patients in which persons, not of the immediate family, receive lodging, personal care, and nursing services as defined in F.S. Chapter 464.~~

Obscene Sign, Is a sign whose contents meet the judicially established definition of obscenity or that is otherwise considered obscene under Florida Statutes.

Occupancy, means the residing of an individual overnight in a dwelling unit or the installation, storage, or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.

Occupancy, Change of, means the discontinuance of an existing use and the substitution of a use of a different kind or class in that same space.

Offset Point, means the distance from the property line where a marine improvement may be built. See Diagram 5.5.4.C.

Off-Site Sign, Is a permanently or temporarily affixed or hand-held sign identifying, advertising, or directing the public to a commercial business, product, service, entertainment, or activity which is located, sold, rented, based, produced, manufactured, or furnished or taking place at a location other than on the property or multiple business or entity site on which the sign is located. A sign containing a non-commercial message shall not be considered to be an off-site sign.

2186 **OFF-STREET PARKING AREA.** An area that includes parking spaces or stalls and associated
2187 vehicular use areas, curbing and pavement. Off-street parking areas include surface parking lots
2188 and similar facilities, but do not include parking structures.
2189 (Ord. 15-12, 9-10-2012)

2190
2191 **OFFSET.** A portion of a building upper story, roof, or ledge where the upper face is set back,
2192 including dormers, reverse dormers, eyebrow windows and other similar roof elements.
2193 (Ord. 84-07, 5-12-2008)

2194 -
2195 **On-Site Sewage System,** is a sewage-treatment system that includes a settling tank through which liquid
2196 sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen.

2197
2198 **Open Space,** Land and water areas retained for use as an active or passive recreation areas or for
2199 resource protection in an essentially undeveloped state.

2200
2201 **Ornamental Grass,** A self-supporting, non-woody, perennial species of the plant family, Poaceae,
2202 Juncaceae, or Cyperaceae, that is not mowed but is allowed to grow to its full potential and is used in
2203 the landscape in the same way as a shrub.

2204
2205 **Ornamental Wall,** a wall that that is not used in the support of a building.

2206
2207 **OUTDOOR.** Refers to that which is not within a building.
2208 -

2209 **Outdoor Lighting,** means lighting equipment installed within the property line and outside the building
2210 envelopes, whether attached to poles, building structures, the earth, or any other location; and any
2211 associated lighting control equipment.

2212
2213 **Outdoor Storage,** means the storage of any material for a period greater than 48 hours, including items
2214 for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

2215
2216 **Outdoor Screened Storage,** the keeping of any goods or products within a structure not defined as a
2217 building, or within a completely fenced or walled in area. The goods shall be screened by the structure,
2218 wall or fence so as not to be seen from any other property.

2219
2220 **Outdoor Venue,** means a commercial establishment which offers entertainment outside of a building,
2221 including music.

2222
2223 **Outdoor Entertainment Event,** means a temporary, outdoor event utilizing amplified sound equipment,
2224 not associated with an established outdoor venue.

2225 **Owner-occupied,** means a vacation rental that is the primary and permanent residence of the owner of
2226 the property.

2227
2228 **OUTPARCEL.** Within a development containing multiple parcels, a parcel that is subordinate
2229 to and often divided from a main parcel or tract, defined by metes and bounds or by a subdivision
2230 plat depicting it as an undivided tract, intended for conveyance to a party subsequent to the
2231 original developer, or withheld by the developer for development separately from the majority of
2232 the main parcel. An outparcel is typically significantly smaller than the main parcel(s), does not

2233 contain the primary building or buildings associated with the development, and is intended for
2234 development of one or more smaller freestanding buildings. Although not necessarily contiguous
2235 to a main parcel, an outparcel is generally located along the perimeter of and interrupts the
2236 frontage of one or more main parcels. An outparcel is generally subordinate to one or more main
2237 parcels for access or drainage purposes.

2238
2239 Outside Corner parcel, means a parcel of land which projects into one or more waterways so as to have
2240 two or more sides abutting such waterway(s).

2241
2242 (Ord. 101-03, 10-20-2003; Ord. 84-07, 5-12-2008)

2243
2244 **OVERHANG.** Structural projection of an upper story or roof beyond the story immediately
2245 below.

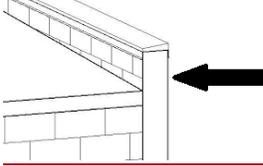
2246
2247 (Ord. 101-03, 10-20-2003)

2248
2249 Owner, when used in relation to a motor vehicle or trailer, any person to whom a motor vehicle or
2250 trailer is registered according to the certificate of title for the motor vehicle or trailer and, if the motor
2251 vehicle or trailer is under lease, rental agreement, or on loan under any type of arrangement, gratuitous
2252 or otherwise, shall include the person having possession or control of the vehicle. When used in relation
2253 to privately real property in a residential zoning district, the term shall mean the owner according to
2254 the latest ad valorem tax records of the county and, if the privately property is under lease, rental
2255 agreement, agreement for deed, or similar land contract shall include the person in possession and
2256 control of the property.

2257
2258 **PACKAGE STORE.** A place where alcoholic beverages are dispensed or sold in factory sealed
2259 containers for consumption off premises.

2260
2261 **PARAPET.** Portion of an exterior wall that extends above the roof.
2262 (Ord. 101-03, 10-20-2003)

2263
2264 Parapet, is that portion of the facade which extends above the roof.



2265
2266
2267 Parasite Sign, Is any sign not exempted by the sign code, for which no permit has been issued, and which
2268 is hung from, attached to, or added onto an existing sign.

2269
2270 Parcel, means a contiguous land under one ownership.

2271
2272 **PARKING STRUCTURE.** A building or structure that allows the off-street parking of motor
2273 vehicles on two or more stories, on any building or structure rooftop, or on any story above the
2274 first story, or below grade with a building or structure above, whether the structure is provided

2275 only for vehicles of occupants of the principal use or the structure is available for the use of the
2276 general public.

2277
2278 **Park Trailer**, is a transportable unit which has a body width not exceeding 14 feet and which is built
2279 on a single chassis and is designed to provide seasonal or temporary living quarters when connected
2280 to utilities necessary for operation of installed fixtures and appliances.

2281
2282 **Parking, Off-Street**, is space designed for the parking of automobiles on premises other than streets.

2283
2284 **Parking, On-Street**, is the storage space for an automobile that is within the street right-of-way.

2285
2286 **Parking, Satellite**, is off-street parking spaces that are not on the same lot as the principal use.

2287
2288 **Parking, Shared**, means joint use of a parking area by more than one use.

2289
2290 **Paved**, means ground covered with stone, brick, concrete, asphalt, or other substantial matter making a
2291 firm, smooth, and level surface.

2292
2293 **Paver**, is a grid block designed for use as a driving or parking surface, installed with cavities (either the
2294 kind in which grass can be planted or between the blocks) to minimize impervious surface and reduce
2295 runoff.

2296
2297 **Pedestrian-Friendly/Oriented**, means the density, layout, and infrastructure that encourages walking
2298 and biking within a subdivision or development, including limited setbacks, front porches, sidewalks, and
2299 bikepaths.

2300
2301 **PERGOLA.** A structure of colonnades supporting an open roof of crossing rafters or trellis.

2302
2303 **Pergola**, is a structure, either freestanding or attached to a façade, usually consisting of parallel
2304 colonnades supporting an open roof of girders and cross rafters built as an outdoor element for partial
2305 shade.

2306
2307 (Ord. 91-05, 11-14-2005; Ord. 15-12, 9-10-2012; Ord. [31-16](#), § 2, 8-1-2016)

2308
2309 **Permit, Conditional Use**, is a use that is permitted if all specified conditions have been adhered to.

2310
2311 **Person**, means individuals, partnerships, associations, and corporations.

2312
2313 **Personal Services Establishment**, is an establishment which offers specialized services purchased
2314 frequently by the consumer. Included are barbershops, beauty shops, chiropractic, dance studios, and
2315 massage clinics, garment repair, tailoring, shoe repair, pet grooming, indoor pet sitting, and beauty
2316 clinics, fitness centers, laundromats, drycleaners, photography and instructional studios, tattoo and
2317 piercing studio, martial arts studios, and other similar establishments. These uses may include accessory
2318 retail sales of products related to the services provided.

2319
2320 **Pervious Surface**, is any surface which allows a minimum of 80 percent precipitation from any source to
2321 infiltrate directly into the ground.

2322
2323 **PET CEMETERY.** An area of land set apart for the sole purpose of the burial of bodies of dead
2324 animals and for the erection of customary markers, monuments, and mausoleums.

2325
2326 **PET SERVICES.** Establishments providing grooming, obedience training, veterinarian services,
2327 or animal day care. These establishments should not include boarding except for overnight
2328 hospitalization for medical care.

2329
2330 **PET SHOP.** Establishments primarily engaged in the retail sale of pets and pet supplies.

2331
2332 **PHARMACY.** An establishment strictly for the preparation and dispensing of prescription
2333 drugs and medicines and related products.

2334
2335 **PHOTOFINISHING LABORATORIES.** Establishments primarily engaged in developing films
2336 and in making photographic prints and enlargements for the trade.

2337
2338 **Photovoltaic Solar System, is a system which uses one (1) or more photovoltaic panel(s) installed on**
2339 **the surface of a roof, parallel to a sloped roof or surface or rack-mounted on a flat roof, to convert**
2340 **sunlight into electricity.**

2341
2342 **Pickup Truck, is any motor vehicle designed primarily for the transportation of property within a**
2343 **permanently attached open cargo box and having a gross motor vehicle weight of no more than**
2344 **17,500 pounds, a height of no more than 82 inches (measured from the ground to the vehicle's**
2345 **highest point excluding antennae), no more than six wheels, and no more than two axels.**

2346
2347 **PILASTER.** A shallow rectangular column projecting only slightly from a wall.
2348 (Ord. 84-07, 5-12-2008)

2349
2350 **Pilaster, is a rectangular column, especially one projecting from a wall.**



2351
2352
2353 **Place of Religious Assembly, is a use within a permanent building that provides regular organized**
2354 **worship and related incidental activities, except primary or secondary schools and day care facilities.**

2355
2356 **PLACE OF WORSHIP.** A structure or structures designed primarily for accommodating an
2357 assembly of people for the purpose of religious worship including related religious instruction,
2358 church/synagogue ministries involving classes for 100 or less children or adults during the week,
2359 and other church/synagogue sponsored functions, which do not exceed the occupancy limits of
2360 the building. Structures may also include utility buildings ancillary to the principal use. Day care
2361 services for members may also be provided.

2362

2363 **~~PLANNED DEVELOPMENT PROJECT (PDP).~~** A complex of structures and uses planned as an
2364 integral unit of development rather than as a single principal structure or use on a single lot. (See §
2365 4.1.9B.)
2366

2367 **Planned Unit Development (PUD),** is an area of land zoned and improved as a development for which
2368 the otherwise applicable use and development requirements to allow for more flexible planning in
2369 conformance with the development approval process and developed in accordance with the
2370 provisions of this ordinance.

2371
2372 **~~PLANNING AND ZONING COMMISSION.~~** The City of Cape Coral, Florida, Planning and
2373 Zoning Commission, or its successor agency.

2374
2375 **~~PLANT NURSERY.~~** Any lot, structure or premises used as an enterprise for the purpose of
2376 growing or keeping of plants for sale or resale.

2377
2378 **~~PLAT.~~** A map or delineated representation of the subdivision of lands, being a complete exact
2379 representation of the subdivision and any other required information.

2380
2381 **~~PLAYHOUSE.~~** See definition for **~~PLAYHOUSE~~** contained in § 3.1.6A. of the City of Cape Coral
2382 Land Use and Development Regulations, which definition is incorporated herein in its entirety by
2383 reference.
2384 (Ord. 68-98, 11-30-1998)

2385
2386 **~~PLAZA.~~** An unroofed, open space that is open to a public sidewalk on at least one side.
2387 (Ord. 91-05, 11-14-2005)
2388

2389 **Point of Intersection,** is the point where two rights-of-way would meet if they were extended straight
2390 rather than curving to create a rounded corner at an intersection.

2391
2392 **Pole-Mounted,** means an antenna attached to or upon an electric transmission or distribution pole, a
2393 streetlight, a traffic signal or similar facility within the public right-of-way or a utility easement. A utility
2394 pole-mounted facility shall not be considered a wireless telecommunication facility.

2395
2396 **~~PORCH.~~** An elevated, roofed, and un-walled platform on the facade of a building.
2397 (Ord. 91-05, 11-14-2005)
2398

2399 **Porch,** is a covered but unenclosed projection from the main wall of a building that may or may not use
2400 columns or other ground supports for structural purposes and is not used for livable space.



2401

2402

2403 Portable Sign, Is any non-exempt sign that is not permanently located on or attached to the ground,
2404 permanent structure, an inflatable object or umbrella, or that is hand held, worn as part of a costume or
2405 item of clothing, or that is designed to be transported, including, but not limited to: signs designed to be
2406 transported by means of wheels; a sign converted to a T-frame; or skid-mounted signs. A hand held sign
2407 or a sign worn as part of a costume or item of clothing containing a non-commercial message shall not be
2408 considered to be a portable sign.

2410
2411 Portico, means a structure consisting of a roof supported by columns at regular intervals, typically
2412 attached as a porch to a building.



2413
2414
2415 **PORTICO, ATTACHED.** Permanent structural cover affixed to and extending from the wall of
2416 a building, protecting a doorway or walkway from the elements.
2417 (Ord. 101-03, 10-20-2003)

2418
2419 **PORTICO, DETACHED.** Freestanding structure which covers a walkway or service area.
2420 (Ord. 101-03, 10-20-2003)

2421
2422 **PREMISES.** A lot or other tract of land under one ownership and all the structures and uses
2423 on it.

2424
2425 Premises, is a distinct unit or parcel of land including the appurtenances thereon.

2426
2427 Primary Frontage, is any portion of a property that faces any public Right-of-Way defined as a Boulevard,
2428 a Parkway, or fronting Pine Island Road.

2429
2430 Primary Frontage Line, see “Build-to-Line.”

2431
2432 **PRINCIPAL BUILDING OR STRUCTURE.** The building or structure in which is conducted the
2433 principal use of the lot on which it is situated.

2434
2435 **PRIVATE PARK.** A park facility operated by an association or organization which is open only
2436 to bona fide members and guests of said association or organization. Commercially operated parks
2437 are not within this definition.

2438
2439 Private Property, is property that is owned, leased, operated, maintained or controlled by one or more
2440 individuals or entities other than the city.

2441
2442 **PROCESSING AND WAREHOUSING.** The storage of materials in a warehouse or terminal
2443 and where such materials may be combined, broken down or aggregated for transshipment or

2444 storage purposes where the original material is not chemically or physically changed. As used
2445 herein, the term **PROCESSING AND WAREHOUSING** shall mean an establishment essentially for
2446 storage and shipment as opposed to a manufacturing establishment.

2447
2448 Projected Image Sign, Is a sign that uses technology to project an image, logo, or other graphic on
2449 buildings, structures, sidewalks, or surfaces. The image itself has no physical structure but is still
2450 considered a sign.

2451
2452
2453 **PROPERTY LINE.** The recorded boundary of a lot or other tract of land under one ownership.

2454
2455 Public Art or Sculpture, is any visual work of art displayed for two weeks or more in an open city-owned
2456 area, on the exterior of any city-owned facility, within any city-owned facility in areas designated as public
2457 area, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed,
2458 either wholly or in part, with city funds or grants procured by the city.

2459
2460 **PUBLIC PARK.** Any park, playground, beach, parkway, or other recreation areas and open
2461 space, in which the county, state or federal government or other legally empowered governmental
2462 unit has an interest.

2463
2464 **PRINTING SERVICE ESTABLISHMENTS.** A building, or portion of a building, occupied by an
2465 establishment in which a person, or persons, practice a vocation or occupation that performs a
2466 type of labor, act or work that primarily results in publishing and printing and specialized aid and
2467 assistance performed as a customer service and directly utilized by such customers in their
2468 domestic or business operations normally for a fee or charge and not for resale.

2469
2470 Public Parks and Recreational Facilities, means natural or landscaped areas, buildings, or structures,
2471 provided by a government, to meet the active or passive recreational needs of people.

2472
2473 Public Safety Facility, is a government facility for public safety and emergency services, including
2474 facilities that provides police or fire protection and related administrative facilities and training facilities.

2475
2476 Quay, is a modified seawall where a boat can dock parallel to the shore.

2477
2478 **RADIO AND TELEVISION STATIONS.** A building, structure, or premises primarily engaged in
2479 the staging, production and recording of radio or television programs. Such facilities may or may
2480 not be capable of radio or television transmissions. (See **TOWERS, COMMUNICATIONS**.)

2481
2482 Raceway, is a structure used for wall-mounted signage with individual letters or characters, located
2483 upon the exterior wall surface between the wall and the letters or sign characters. Raceways contain
2484 wiring, conduit, transformers, and other electrical components.

2485
2486 Rain Sensor, is a calibrated device that is designed to measure rainfall and override the irrigation cycle
2487 of the irrigation system when a pre-determined amount of rainfall has occurred.

2488
2489 **RECREATIONAL FACILITIES. COMMERCIAL.** A recreation facility operated as a business and
2490 open to the public for a fee.

2491
2492 **PERSONAL.** A recreation facility provided as an accessory use on the same premises as
2493 the principal permitted use and designed to be used primarily by the occupants of the
2494 principal use and their guests.

2495
2496 **PRIVATE.** A recreation facility operated by a nonprofit organization, such as a
2497 homeowners or condominium association, and open only to bona fide members and guests
2498 of such nonprofit organization. This term shall not be interpreted to include fraternal or
2499 membership organization clubs.

2500
2501 **PUBLIC.** A recreation facility operated by a governmental agency and open to the
2502 general public.

2503
2504 **RECREATIONAL VEHICLE.** A vehicle designed for temporary living and sleeping purposes,
2505 primarily for travel, recreational, and vacation uses, which:
2506 (a)
2507 Is self-propelled; or
2508 (b)
2509 Is identified by the manufacturer as a recreational vehicle; or
2510 (c)
2511 Is not more than eight and one-half feet in body width, exclusive of safety devices; or
2512 (d)
2513 Is of any weight provided that its body length does not exceed 50 feet, exclusive of bumpers and
2514 safety devices.

2515
2516 **Recreational Vehicle, is a vehicle, including a park trailer, which is:**

- 2517
2518 1. Built on a single chassis;
2519
2520 2. 400 square feet or less when measured at the largest horizontal projection;
2521
2522 3. Designed to be self-propelled or permanently towable by a light duty truck; and
2523
2524 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for
2525 recreational, camping, travel, or seasonal use.

2526
2527 **RECREATIONAL VEHICLE PARK.** A premises or portion of a premises in which sites are
2528 improved and offered for lease, rent, or sale in any form to be occupied by certain types of
2529 recreational vehicles, or developed with camping cabins utilized for sleeping or eating, to be used
2530 for short-term rather than permanent occupancy. A recreational vehicle park shall not be
2531 construed to be a **RESORT.**
2532 (Ord. 1-13, 3-11-2013)

2533
2534 **Redevelopment, is any proposed expansion, addition, or major facade change to an existing building,**
2535 **structure, or parking facility.**
2536

2537 Reflecting Pool, is a shallow (less than 18” deep) pool designed as a feature of a garden, often
2538 associated with seating and/or statues
2539

2540 Reflective Sign, Is a sign constructed of mirrors or other surfaces that reflect light.
2541

2542
2543 **RELIGIOUS FACILITIES.** Religious-related facilities and activities which may include, but are
2544 not limited to: place of worship, bus storage facilities or areas, convents, monasteries, retreats, and
2545 church/synagogue ministries involving classes for children and adults.
2546

2547 Religious Institution, is a religious assembly that may also include related facilities such as a rectory,
2548 convent, private school, licensed child or adult daycare, recreational facilities, or any combination
2549 thereof.
2550

2551 Residential Sign, is any sign, not otherwise defined and regulated in this article as an allowed sign in a
2552 residential zoning district, located in a district zoned for residential uses that contains no commercial
2553 message.
2554

2555 Residential Use, means a structure or part of a structure containing dwelling units, including single-family,
2556 duplexes, multi-family dwellings, boarding or rooming houses. Residences do not include transient
2557 accommodations such as transient hotels, motels, tourist cabins, RV parks, or, in a mixed-use structure,
2558 that part of the structure used for any nonresidential uses.
2559

2560 **RESORT.** A short-term lodging facility principally for the accommodation or short-term
2561 residence of transient guests or vacationers but where the primary attraction is generally
2562 recreational amenities, features or activities and open space. Resort patrons typically enjoy
2563 recreational amenities, activities, or features including, but not limited to, golf courses, tennis
2564 courts, recreational instruction, swimming, usage of water vehicles (canoes, kayaks, paddle boats,
2565 jet skis, sailboats, etc.), and bicycle/pedestrian trails. Resorts emphasize recreation and open space
2566 while providing lodging, the density/intensity and type of which shall be compatible with future
2567 land uses and surrounding developments.
2568 (Ord. 14-17, § 4, 6-5-2017) _____
2569

2570 Resort, is a facility principally for the accommodation or short-term residence of transient guests or
2571 vacationers, but where the primary attraction is generally recreational features or activities.
2572

2573 **RESOURCE RECOVERY CENTER.** A solid waste receiving site the purpose of which is resource
2574 recovery or recycling. Materials to be received at such centers include paper and newspaper,
2575 plastic containers and products, glass, and aluminum cans.
2576

2577 **RESTAURANT, FAST FOOD.** An establishment whose principal business is the sale of food
2578 and beverages in a ready to consume state for consumption:

2579 (1)

2580 Within the restaurant building, or outside the building but in an area set aside for customers;

2581 (2)

2582 Within a motor vehicle parked on the premises; or

2583 (3)

2584 Off the premises as carry-out orders, and whose principal method of operation includes the
2585 following characteristics: food and beverages are usually served in edible containers or in paper,
2586 plastic, or other disposable containers.

2587 A cafeteria or delicatessen shall not be deemed a fast-food restaurant for the purpose of this
2588 ordinance. (See also **DRIVE-THRU FACILITIES**.)

2589
2590 **RESTAURANT, STANDARD.** An establishment whose principal business is the sale of food
2591 and beverages to customers in a ready-to-consume state, and whose principal method of
2592 operation includes one or both of the following characteristics:

2593 (1)
2594 Customers, normally provided with an individual menu, are served their foods and beverages by a
2595 restaurant employee at the same table or counter at which food and beverages are consumed;
2596 and/or

2597 (2)
2598 A cafeteria-type operation where food and beverages generally are consumed within the
2599 restaurant building.

2600
2601 **RETAIL ROADSIDE STAND, PERMANENT.** A temporary building or structure, built in
2602 accordance with all applicable Building Code requirements, which is designed, used or intended to
2603 be used for the purpose of display and retail sales of farm products, such as fruits, vegetables and
2604 flowers.

2605 **Retail Sales Establishment, is an establishment selling goods directly to the consumer. Retaining Wall, is**
2606 **a man-made barrier constructed for the purpose of stabilizing soil, slowing erosion, or terracing a parcel**
2607 **or site.**

2608
2609 **REVEALS.** A groove or a step in a wall surface used to create lines, shadows, or visual interest
2610 in the wall and thereby improve the appearance of the building.
2611 (Ord. 84-07, 5-12-2008)

2612
2613 **Right-of-way, is a strip of land taken or dedicated for use as a public way. In addition to the roadway,**
2614 **it normally incorporates the curbs, parking strips, sidewalks, lighting, drainage facilities, and canals.**

2615
2616 **Riparian Buffer, is a vegetated buffer strip along a watercourse that filters stormwater and provides**
2617 **wildlife habitat.**

2618
2619 **ROAD.** A private, traffic-carrying way set aside for vehicular traffic primarily serving only one
2620 premises or planned development project including private driveways, entrance or exit roads and
2621 similar private access roads.

2622
2623 **Roadside Fruit and Vegetable Stand, is a temporary building or structure, built in accordance with all**
2624 **applicable Building Code requirements, which is designed, used or intended to be used for the**
2625 **purpose of display and retail sales of farm products, such as fruits, vegetables, food products and**
2626 **flowers.**

2627
2628 **Roof Line (Deck Line), means the highest continuous horizontal line of a roof on a sloping roof, the roof**
2629 **line is the principal ridge line or the highest line common to one (1) or more principal slopes of the roof.**
2630 **On a flat roof, the roof line is the highest continuous line of a roof or parapet, whichever is higher.**

2631
2632 Roof Sign, is any sign, structure, or object painted or affixed to the roof of any building, excluding
2633 components integrated into the design of the roof structure, provided that no part of the sign, structure,
2634 or object extends vertically above the highest portion of the roof nor extends horizontally breaking the
2635 vertical plane of the roofline and/or building, whichever is greater.
2636

2637
2638 **ROOMING HOUSE.** A residential building used, or intended to be used, as a place where
2639 sleeping or housekeeping accommodations are furnished or provided for pay to transient or
2640 permanent guests or tenants in which less than ten and more than three rooms are used for the
2641 accommodation of such guests or tenants, but which does not maintain a public dining room in
2642 the same building or in any accessory building. There shall be no independent cooking facilities of
2643 any kind in such rooms, but there may be an independent cooking facility designed for the
2644 resident manager or owner only. (See § 3.3(e).)
2645

2646 Rotating, Is a sign that revolves or turns or has external sign elements that revolve or turn. Such sign
2647 may be power-driven or propelled by the force of wind or air.
2648

2649 Runoff, is stormwater leaving a site due to the force of gravity.
2650

2651 Sand Dunes, are naturally occurring accumulations of sand in ridges or mounds landward of the beach.
2652

2653 School, is an institution for the teaching of children or adults including primary and secondary schools,
2654 colleges, professional, dance, business, trade, art, and similar facilities.
2655

2656 **SCHOOLS.** Institutions functioning as educational facilities and providing education
2657 curriculum(s). This category shall include, but not be limited to, educational facilities offering
2658 elementary and/or secondary grades (regardless of whether such facility offers a preschool or
2659 kindergarten), special classes, adult education programs, vocational and/or technical education
2660 facilities, colleges and universities, whether offering educational programs full-time or part-time,
2661 and day or evening classes. Preschool(s) and kindergarten(s) which are affiliated with an education
2662 facility(ies) offering grades one and/or higher which is categorized as a **SCHOOL** herein shall be
2663 deemed to be a part of such "school facility" and shall not be deemed child care facilities.
2664 (Ord. 3-97, 2-10-1997)
2665

2666 Screened, means obscured from public view.
2667

2668 Screening, is a visual barrier consisting of permanent, dense vegetation, or other permitted structure
2669 at least equal in height to the recreational vehicle, boat, or boat trailer but which does not violate any
2670 height limitation for barriers in the applicable zoning district.
2671

2672 Seating Capacity, is the actual number of seats available for use based upon the number of seats or
2673 one seat per 24 inches of bench or pew length. For other areas where seats are not fixed, the seating
2674 capacity shall be determined as indicated by the Florida Building Code.
2675

2676 Seawall, is a wall built along a shoreline.
2677

2678 **SELF-SERVICE FUEL PUMPS.** Vehicle fuel dispensing pumps providing an accessory use to a
2679 permitted retail trade establishment but in which only "self-service" pumps are provided and no
2680 other vehicle service is provided.

2681
2682 **SELF-SERVICE FUEL PUMP STATION.** An establishment which is primarily for the purpose of
2683 retail selling of motor vehicle fuels and in which no other vehicle service is provided. Ancillary sales
2684 may include some convenience commodities such as tobacco or dairy products.

2685
2686 **Self-Sufficient Mobile Food Unit**, is a mobile food unit containing, as part of the vehicle, a three-
2687 compartment sink for washing, rinsing, and sanitizing equipment and utensils; a separate hand-wash sink;
2688 adequate refrigeration and storage capacity; full provision for of power utilities including electrical, LP
2689 gas, or a portable power generation unit; a potable water holding tank; and a liquid waste disposal system.

2690
2691 **Self-Service Storage Facility**, is a building used for the storage of personal property where individual
2692 owners control individual storage spaces.

2693
2694 **Self-Sufficient Mobile Food Unit**, is a mobile food unit containing, as part of the vehicle, a three-
2695 compartment sink for washing, rinsing, and sanitizing equipment and utensils; a separate hand-wash sink;
2696 adequate refrigeration and storage capacity; full provision for of power utilities including electrical, LP
2697 gas, or a portable power generation unit; a potable water holding tank; and a liquid waste disposal system.

2698
2699 **Septic Tank**, see on-site sewage system.

2700
2701 **SETBACK.** The area between the parcel line and the setback line.
2702 (Ord. 68-98, 11-30-1998)

2703
2704 **Setback**, is the minimum horizontal distance between a structure and a property line.

2705
2706 **SETBACK LINE(S).** The line(s) located at the minimum or maximum distance from the lot line
2707 and establishing the area in which buildings may be erected or placed on the lot.
2708 (Ord. 68-98, 11-30-1998; Ord. 15-12, 9-10-2012)

2709
2710 **SEWAGE.** Human body wastes and the wastes from toilets or other receptacles intended to
2711 receive or retain body wastes and wastes either solid or liquid resulting from the preparation of
2712 food or cleaning utensils and dishes used in the preparation and serving of food.

2713 **SEXUALLY ORIENTED BUSINESS.** See definition for **SEXUALLY ORIENTED**
2714 **BUSINESS** contained in [§ 12-62](#) of the City of Cape Coral Code of Ordinances, which definition is
2715 incorporated herein in its entirety by reference.
2716 (Ord. 49-94, 10-11-1994)

2717
2718 **SHED.** Any residential accessory structure that is utilized for the purpose of storage of
2719 household items such as lawn and garden equipment, pool equipment, toys, or hobby or other
2720 recreational items, or as a hobby-related workshop, and that does not have a door or other
2721 entranceway into a dwelling unit.
2722 (Ord. 1-01, 2-5-2001) _____
2723

2724 Shed, is an accessory structure, attached or detached from the primary structure, which is used
2725 primarily for storage and not intended for human occupancy. A shed shall not include storage
2726 containers or shipping containers.

2727
2728 ~~**SHOPPING CENTER.** A grouping of consumer-oriented commercial establishments, planned~~
2729 ~~and developed as a single structure or under a unified architectural theme, owned and managed as~~
2730 ~~a unit, and providing a range of goods and services specific to a definable market area, and~~
2731 ~~providing customer and employee parking off-street and on-site.~~

2732
2733 Shopping Center, is a group of retail and other commercial businesses that are within a development.

2734
2735 Shrub, is a woody plant that produces multiples stems or trunks rather than a single tree-like stem.
2736 Sidewalk, is an improved pedestrian surface that is typically in a right-of-way.

2737
2738 Sign, Is any character, letter, figure, symbol, design, model, or device, or combination thereof, and all
2739 parts composing the same, together with the frame, background, or support, which is used to attract
2740 attention or to convey a message, regardless of the type of surface upon which the message appears and
2741 regardless of whether it is permanently affixed, portable, hand held, or worn as part of a costume or item
2742 of clothing.

2743
2744 Sign Blade, Is a sign that is attached to a real estate sign or support structure.

2745
2746 Sill, means a shelf or slab of stone, wood, or metal at the foot of a window or doorway.

2747
2748 ~~**SINGLE-FAMILY RESIDENCE.** See **DWELLING UNIT, TYPES**.~~
2749 ~~(Ord. 91-05, 11-14-2005)~~

2750
2751 Site Development Plan, is the 100% detailed set of construction plans for installation of land
2752 development improvements for a site which must be approved prior to the release of a site
2753 development permit.

2754
2755 ~~**SITE PLAN.** A map, plan or chart of a tract of land or property which is drawn to scale and shows~~
2756 ~~the existing or proposed location of boundary lines, buildings, structures, uses or any other~~
2757 ~~required data or information.~~

2758
2759 ~~**SLEEPING ROOM.** A single room rented for living purposes, but without cooking facilities or~~
2760 ~~other amenities for separate and independent housekeeping. A **SLEEPING ROOM** shall not be~~
2761 ~~construed to mean a dwelling or sleeping unit.~~

2762
2763 ~~**SLEEPING UNITS.** A single room or suite intended for occupancy by transient persons which~~
2764 ~~are lodged with or without meals for compensation. A **SLEEPING UNIT** shall not be construed to~~
2765 ~~mean a dwelling unit. Such units shall not contain any cooking facilities of any kind.~~

2766
2767 Slope, is the degree of deviation of a surface from the horizontal, usually expressed in percent, degrees,
2768 or rise over run.

2769

2770 **Socially-Active Open Space**, is open space with a minimum width of 30 feet that is created and designed
2771 for year-round active use by the public in the form of active lawn areas, plazas, squares, courtyards, and
2772 gardens. Amenities are logically arranged and typically include paths, formal or informal planting areas,
2773 and furnishings.

2774
2775 **Sod**, is the grass-covered surface of the ground and the soil below the surface only to the depth of the
2776 roots of the grass.

2777
2778 **Solar Photovoltaic (PV) Arrays**, is a device or combination of devices or structures that transforms direct
2779 solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure’s
2780 energy supply

2781
2782 ~~**SOLID WASTE.** Garbage, trash, refuse and other discarded solid material, including solid~~
2783 ~~waste materials resulting from commercial, industrial or agricultural operations, but does not~~
2784 ~~include materials in sewage, in industrial waste water effluents or in storm water runoff.~~

2785
2786 **Snipe Sign**, is a sign made of any material when such sign is tacked, nailed, posted, pasted, glued or
2787 otherwise attached to or placed on public property such as but not limited to a public utility pole, a
2788 public street sign, a public utility box, a public fire hydrant, a public right-of way, public street furniture,
2789 or other public property; except for A-frame signs that are temporarily placed on public property under
2790 such limitations and constraints as may be set forth in the Land Development Code.

2791
2792 **Sound Amplification Device**, means equipment designed to increase the volume of sound created by a
2793 separate source such as a musical instrument or a human voice. The term does not include a standard
2794 radio, DVD player or similar device, but does include “stand alone” amplified microphone systems.

2795
2796 **Special Event**, is a preplanned single gathering, event or series of related consecutive gatherings or events
2797 of an entertainment, cultural, recreational, educational, political, religious, or sporting nature, or any
2798 nature, that is sponsored by an individual or entity and is open to the public in general.

2799
2800 **Special Exception**, is a use which is essential to or would promote the public health, safety, or welfare
2801 in one or more districts, but which would impair the integrity and character of the district in which it
2802 is located, or in adjoining districts unless restrictions or conditions on location, size, extent and
2803 character of performance are imposed in addition to those imposed in this ordinance.

2804
2805 ~~**SPECIAL EXCEPTION USE.** A use which is essential to or would promote the public health,~~
2806 ~~safety, or welfare in one or more districts, but which would impair the integrity and character of~~
2807 ~~the district in which it is located, or in adjoining districts unless restrictions or conditions on~~
2808 ~~location, size, extent and character of performance are imposed in addition to those imposed in~~
2809 ~~this ordinance.~~

2810
2811 **Special Flood Hazard Area**, is an area in the floodplain subject to a 1% or greater chance of flooding in
2812 any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1 A30, AE, A99, AH, V1
2813 V30, VE or V.

2814

2815 **SPORTS ACADEMY.** A commercial school which provides instruction for amateur and
2816 professional athletes and that includes ancillary lodging, cafeteria, and sports facilities for use by
2817 athletes.

2818 (Ord. [14-17](#), § 4, 6-5-2017)

2819
2820 **STABLE, BOARDING.** Any location where horses are kept which is not a "Private" or
2821 "Commercial Recreation Stable" as defined herein, for a fee.

2822 (Ord. 71-91, 9-23-1991)

2823
2824 **STABLE, COMMERCIAL RECREATION.** Any location where horses are kept principally for sale
2825 or hire.

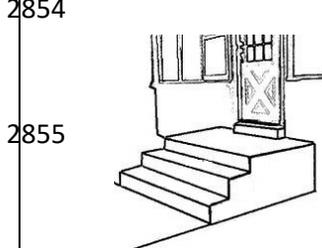
2826
2827 **STABLE, PRIVATE.** Any premises where horses, which are owned by and solely for the use of
2828 the occupants of the premises, are kept. A private stable is an ancillary use to the principal
2829 residence.

2830
2831 **STANDARD INDUSTRIAL CLASSIFICATION (SIC).** A two, three, or four digit numeric code
2832 that identifies commercial or industrial activities and classifies firms according to standards set
2833 down in the **Standard Industrial Classification Manual**, 1972 (Washington: GPO, 1972) as
2834 revised 1987.

2835
2836 **Start of Construction**, is the date of issuance for new construction and substantial improvements to
2837 existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation,
2838 addition, placement, or other improvement is within 180 days of the date of the issuance. The actual
2839 start of construction means either the first placement of permanent construction of a building
2840 (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of
2841 piles, the construction of columns. Permanent construction does not include land preparation (such as
2842 clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings,
2843 piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as
2844 garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial
2845 improvement, the actual Start of Construction means the first alteration of any wall, ceiling, floor or
2846 other structural part of a building, whether or not that alteration affects the external dimensions of the
2847 building.

2848
2849 **STOOP.** A small, un-walled, elevated entrance platform which includes a means of access,
2850 generally being stairs or a ramp, and which usually leads to the main entrance door of a building.
2851 (Ord. 91-05, 11-14-2005) _____

2852
2853 **Stoop**, means a small staircase ending in a platform and leading to the entrance of a building.



2857 **STORAGE.** The safekeeping of any goods, wares, products, or other commodities in any area
2858 for more than 48 hours for later use or disposal. This term shall not include animals, nor shall it
2859 apply to customary and usual activities accessory to agricultural or residential dwellings.
2860

2861 **STORAGE, DEAD.** The storage of goods, wares, products or other commodities, with no sales,
2862 conferences, or other human activity other than the placement, removal, or sorting of stored items.
2863 See **WAREHOUSE, PUBLIC**.
2864 (Ord. 71-91, 9-23-1991)
2865

2866 **STORAGE, ENCLOSED.** The keeping of any goods or products within a structure not defined
2867 as a building, or within a completely fenced or walled in area. The goods shall be screened by the
2868 structure, wall or fence so as not to be seen from any other property.
2869 (Ord. 18-99, 5-3-1999)
2870

2871 **STORAGE, INDOOR.** Storage accessory to a permitted use and which is contained wholly
2872 within a building. When listed as a permitted or permissible use in the Zoning District Regulations,
2873 it shall not be construed to mean "Warehouse" or "Mini-warehouse".
2874

2875 **STORAGE, OPEN.** Any storage not defined as "Indoor" or "Enclosed".
2876

2877 **Stormwater, is the flow of water or the water itself which results from precipitation.**
2878

2879 **STORY.** That portion of a building included between the upper surface of a floor and upper
2880 surface of the floor or roof next above. **STORIES** used exclusively for parking vehicles count the
2881 same as habitable stories. Where upper floors are partially omitted to create an atrium or other
2882 taller space, the number of stories shall be determined by the portion of the building where the
2883 upper floors have not been omitted. Space within a roofline that is entirely non-habitable shall not
2884 be considered to be a **STORY**.
2885 (Ord. 91-05, 11-14-2005)
2886

2887 **STORY, FIRST.** The lowermost story that is entirely above grade.
2888 (Ord. 15-12, 9-10-2012)
2889

2889 **STREET.** A public traffic-carrying way set aside for vehicular traffic, regardless of size or
2890 designation, but excluding roads.
2891

2892 **FREEWAYS** and **INTERSTATES.** Arterial streets designed primarily for major through traffic with
2893 full control of access and grade separations at all intersections.
2894

2895 **ARTERIAL STREETS.** A street designed or utilized primarily for high vehicular speeds or for heavy
2896 traffic volumes.
2897

2898 **MAJOR COLLECTOR STREETS.** A street which carries, or will carry, medium traffic volumes
2899 primarily from minor collector streets to arterial streets.
2900

2901 **MINOR COLLECTOR STREETS.** A street which carries, or will carry, medium traffic volumes
2902 primarily from minor streets to major collector streets.

2903 (e)
2904 **MINOR STREETS.** A street which is used or will be used primarily for access to abutting properties
2905 and which carries, or will carry, limited traffic volumes.

2906 (f)
2907 **MARGINAL ACCESS STREETS.** A minor street which is parallel to and adjacent to arterial streets
2908 and which serves to reduce the number of access points to the arterial streets and thereby increase
2909 traffic safety.

2910 (g)
2911 **ALLEY.** A street used primarily for vehicular service access to the back or side of properties which
2912 otherwise abut on a street. However, in the downtown zoning district(s), when these regulations
2913 refer to "visible from a public street", "facing a street", or similar language, the term street shall not
2914 be deemed to include alleys.
2915 (Ord. 91-05, 11-14-2005; Ord. 15-12, 9-10-2012)

2917 Streetscape, is the visual image of a street, including the combination of buildings, parking, signs, and
2918 other hardscape and street furniture.

2920 Street Frontage, is the linear dimension of the front of a building site as described in Article III, § 3.8 of
2921 the Land Use and Development regulations. In the case of a double frontage site and for the purpose of
2922 administration of this article, this dimension shall be based on a single lot front adjacent to the street
2923 right-of-way of which the site is addressed.

2925
2926 **STRUCTURE.** Any combination of materials fabricated to fulfill a function in a fixed location
2927 on the land, including buildings and signs.

2929 Structure, is anything constructed or erected, the use of which requires permanent location on the
2930 ground or attached to something having a permanent location on the ground including but not limited
2931 to fences, signs, kiosks, or similar uses.

2932
2933 Structure-Mounted, means a wireless telecommunications facility, tower or antenna which is mounted
2934 to an existing building or structure not otherwise meant to support a wireless telecommunication
2935 facility, tower or antenna.

2936
2937 **STUDIO.** An establishment in which an artist or crafts person practices their art, craft, or
2938 vocation.

2939
2940 Subdivision, is the division of land into two or more lots or a development consisting of multiple
2941 subdivided lots.

2942
2943 Subdivision Construction Plan, is the 100% detailed set of construction plans for installation of land
2944 development improvements of a subdivision which must be approved prior to the release of a
2945 subdivision infrastructure permit.

2946
2947 Subdivision Plat, is the schematic representation of land divided or to be divided.

2948

2949 Subdivision Plat, Final, is the plat to be given final approval which includes all changes, additional
2950 information, and requirements imposed by the city. The final plat is recorded in the county clerk of
2951 courts.

2953 Substantial Damage, is the damage of any origin sustained by a building or structure whereby the cost
2954 of restoring the building or structure to its before-damaged condition would equal or exceed 50% of
2955 the market value of the building or structure before the damage occurred.

2957 Substantial Improvement, is any combination of repair, reconstruction, rehabilitation, addition, or
2958 other improvement of a building or structure taking place during a five-year period, the cumulative cost
2959 of which equals or exceeds 50% of the market value of the building or structure before the improvement
2960 or repair is started. For each building or structure, the five-year period begins on the date of the first
2961 improvement or repair of that building or structure subsequent to August 17, 1981. If the structure has
2962 incurred "substantial damage," any repairs are considered substantial improvement regardless of the
2963 actual repair work performed. The term does not, however, include either:

2964
2965 1. Any project for improvement of a building required to correct existing health, sanitary, or
2966 safety code violations identified by the building official and that are the minimum necessary
2967 to assure safe living conditions; and

2968
2969 2. Any alteration of a historic structure provided the alteration will not preclude the
2970 structure's continued designation as a historic structure.

2972 Substantial Renovation, means repair or changes worth 50%, or more, of the fair market value of the
2973 structure and improvements, not including the land.

2974
2975 **SUPERMARKET.** A retail establishment which is principally for the sale of general food items
2976 on a cash and carry basis, generally self-service in arrangement, and frequently with a wide range
2977 of nonfood items including sundries, package sale of alcoholic beverages, hardware and the like,
2978 and frequently housing discrete but subordinate commercial operations, such as, bakeries,
2979 restaurants, pharmacies and package stores. A **SUPERMARKET** is to be distinguished from a
2980 grocery store on the basis of scale, being usually 25,000 square feet or larger in size, and the
2981 broader mix of goods and services.

2982
2983 **SURFACED IN A STABLE MANNER.** The term surfaced in a stable manner shall mean
2984 surfaced in a manner approved by the Director, or other designated official; however, such
2985 pavement shall be of a stable type and shall be designed to carry the anticipated traffic loads of
2986 the premises and uses served and shall conform with appropriate current city standard
2987 specifications.

2988
2989 Suspended Sign, is a sign, other than a parasite sign, that is suspended from and supported by the
2990 underside of an awning, a marquee, a fascia, an umbrella, or a building overhang.

2991
2992 Swimming Pool, is a structure, whether above or below grade level, designed to hold water more than 30
2993 inches deep to be used for recreational purposes.

2994

2995 **SWIMMING POOL SUPPLY STORE.** An establishment engaged in the retail sale of swimming
2996 pool supplies, such as pumps, motors, cleaning and maintenance supplies, and pool accessories
2997 such as spas and hot tubs.
2998 (Ord. 6-10, 5-24-2010)

2999
3000 **TASTING ROOM.** A dedicated area within an artisan brewery, distillery or winery where beer,
3001 spirits, or wine is sampled and food may be served to patrons. Such facilities may also be used for
3002 the hosting of private and public events.
3003 (Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)

3004
3005 **TELEMARKETING ESTABLISHMENT.** An establishment primarily engaged in the selling of
3006 goods and services through telephone solicitations.

3007
3008 Temporary, means not exceeding 30 consecutive days in duration or of such limited duration as otherwise
3009 provided in this article.

3010
3011
3012 Temporary Storage Container, is a standardized, reusable vessel that is designed and constructed for
3013 the primary purpose of packing, shipping, and transportation of goods or freight and are designed or
3014 capable of being mounted or moved on a truck, train, or ship.

3015
3016 Temporary Use, is a use of land, buildings or structures that are established for a fixed period of time
3017 with the intent to discontinue the use upon the expiration of such time.

3018
3019 Tenant, is any person, agent, firm, corporation or division who uses or occupies land, a building or portion
3020 of a building by title, under a lease, by payment of rent or who exercises limited control over the space,
3021 where the space meets the Florida Building Code requirements of fire partitions which require a wall
3022 permitted by the building type of construction that is fire-resistant rated of not less than one hour that
3023 separates individual tenant spaces.

3024
3025
3026 **THEATER, INDOOR.** A building or part thereof devoted to showing motion pictures, or for
3027 dramatic, musical or live entertainment, but not including "Nightclubs" which are specifically
3028 defined.

3029
3030 Traditional Public Forum, is a place that has, by tradition or practice, been held out for general use by the
3031 public, including, but not limited to, public parks, sidewalks, and areas that have been open to political
3032 speech and debate.

3033
3034 Traffic Control Device Sign, is any Government Sign located within the right-of-way that is used as a
3035 traffic control device and that is described and identified in the Manual on Uniform Traffic Control
3036 Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard. A
3037 traffic control device sign includes those Government Signs that are classified and defined by their
3038 function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give
3039 notice of a situation that might not readily be apparent), and guide signs (that show route designations,
3040 directions, distances, services, points of interest, and other geographical, recreational, or cultural
3041 information).

3042
3043 Trailer, is any vehicle without motive power designed for carrying persons or property on its own
3044 structure and to be drawn by a motor vehicle regardless of hitch type.

3045
3046 Trailer, Boat, is a trailer that is designed and constructed by the manufacturer for the primary
3047 purpose of carrying and launching a boat.
3048

3049 Transient Occupants, means any person, or guest or invitee of such person, who occupies or is in actual
3050 or apparent control or possession of residential property registered as a vacation rental. It shall be a
3051 rebuttable presumption that any person who holds themselves out as being an occupant or guest of an
3052 occupant of the vacation rental is a transient occupant.
3053

3054
3055 ***TRAVEL TRAILER.*** A vehicular portable structure designed for temporary living and sleeping
3056 purposes, primarily for travel, recreational and vacation uses, which:

3057 (a)
3058 Is identified by the manufacturer as a travel trailer; or

3059 (b)
3060 Is not more than eight feet in body width; or

3061 (c)
3062 Is of any weight provided that its body length does not exceed 32 feet; or

3063 (d)
3064 Is of any length provided that its gross weight, factory equipped for use, does not exceed 4,500
3065 pounds.
3066

3067 Tree, is a self-supporting plant having at least one well-defined woody stem or trunk and normally
3068 attaining a mature height of at least 15 feet, with an average mature spread of at least 15 feet.
3069

3070 Tree, Accent, is a smaller tree whose mature height can be expected to range between 15 feet and 30
3071 feet and which has an expected crown spread range between 15 feet and 25 feet.
3072

3073 Tree, Canopy, is a larger tree species that normally achieves an overall height and spread at maturity of
3074 30 feet or more.
3075

3076 Tree, Palm, is an unbranched, evergreen tree that grows in tropical regions and has a straight, tall trunk
3077 and many large leaves at the top of the trunk.
3078

3079 ***TRELLIS.*** An architectural structure usually made from an open framework or lattice of
3080 interwoven or intersecting pieces of wood, bamboo, or metal that is normally made to support and
3081 display climbing plants.

3082 (Ord. [31-16](#), § 2, 8-1-2016)

3083
3084 Trellis, is a vertical panel of lattice designed to support vine plants.
3085

3086 Truck, is any motor vehicle, other than a pickup truck or light van, designed primarily for the
3087 transportation of property or cargo.
3088

3089 ~~**TRUCK STOP.** An establishment where the principal use is primarily the refueling and~~
3090 ~~servicing of trucks and tractor-trailer rigs. Such establishments may have restaurants or snack bars~~
3091 ~~and sleeping accommodations for the drivers of such over-the-road equipment and may provide~~
3092 ~~facilities for the repair and maintenance of such equipment.~~

3093
3094 ~~**TRUCKING TERMINAL.** An area of building where cargo is stored and where trucks load and~~
3095 ~~unload cargo on a regular basis.~~

3096
3097 ~~**UNTREATED SEWAGE.** Sewage other than that discharged from a vessel having sanitation~~
3098 ~~devices installed and operated in compliance with standards and regulations issued pursuant to~~
3099 ~~the Federal Water Pollution Control Act, as amended, or in the absence of such standards and~~
3100 ~~regulations or prior to their effective date, sewage which has not been treated to conform to the~~
3101 ~~applicable specifications of the state.~~

3102
3103 ~~**USE.** Any purpose for which a building or other structure or a tract of land may be designed,~~
3104 ~~arranged, intended, maintained, or occupied; or any activity, occupation, business or operation~~
3105 ~~carried on, or intended to be carried on, in a building or other structure or on a tract of land.~~

3106
3107 ~~Utility Line, is an underground conduit and related facilities, including pipe or cable, by which a~~
3108 ~~person furnishes material or service.~~

3109
3110 ~~Utilities, Incidental Activities or Facilities, means the construction or placement of public utilities or~~
3111 ~~other infrastructure on a permanent or temporary basis. Examples of "incidental utility activities"~~
3112 ~~include drainage improvements, stormwater retention or detention features, valves, hydrants, street~~
3113 ~~improvements, temporary boat launches for water quality sampling, extension of water and sewer lines,~~
3114 ~~and small-scale lift stations that are not enclosed in a structure (125 cubic feet or less).~~

3115
3116 ~~Utilities, Major Public Facilities, is any public service improvement or structure developed by or for a~~
3117 ~~public agency that is not defined as an incidental public facility, including but not limited to electrical~~
3118 ~~substations, sewer and water treatment plants, water reservoirs, trunk lines, regional stormwater~~
3119 ~~detention facilities, new or expanded public buildings designed for human occupancy that increase~~
3120 ~~traffic within a neighborhood, and active park improvements such as ball fields or restroom facilities.~~

3121
3122 ~~Utilities, Private, means utilities that are not subject to city acceptance for operation or maintenance.~~
3123 ~~For purposes of this code, private utilities include natural gas lines, power lines, telephone lines, cable~~
3124 ~~television lines, and other communication lines, their appurtenances and any component part(s)~~
3125 ~~thereof, and the utility companies' operation, maintenance, repair, and replacement of same.~~

3126
3127 ~~**VARIANCE**Variance. A departure from the terms of this ordinance pertaining to height, width, depth~~
3128 ~~and area of structures and size of yards, and parking space and sign requirements, where such~~
3129 ~~departure will not be contrary to the public interest, and where, owing to conditions peculiar to the~~
3130 ~~property because of its size, shape or topography, and not as a result of the actions of the applicant,~~
3131 ~~the literal enforcement of this ordinance would result in unnecessary and undue hardship. (See §§~~
3132 ~~4.1.9A. and 5.1.15.)~~
3133 ~~(Ord. 68-98, 11-30-1998)~~

3134

3135 ~~**VARIETY STORE.** A retail store offering a broad mix of generally non-durable goods, notions and~~
3136 ~~sundries, also generally of moderate price. Durable goods (furniture, large appliances and the like)~~
3137 ~~are seldom offered in a variety store.~~
3138

3139 **Vehicle Fueling Station,** means any place where motor vehicle fuel is sold and dispensed. Accessory
3140 activities may include the retail sale of convenience items or a car wash.
3141

3142 **Vehicle for Human Habitation,** is a house car, camp car, camper, house trailer, or any vehicle by
3143 whatever name known, school bus, or other bus designed or adaptable for human habitation, whether
3144 such vehicle moves by its own power or by power supplied by a separate vehicle.
3145

3146 **Vehicle Repair, Major,** an establishment that provides general repair, rebuilding, or reconditioning of
3147 engines, motor vehicles, or trailers, including body work, framework, welding, and major painting
3148 services. These establishments generally keep vehicles overnight or for a period exceeding two days.
3149

3150 **Vehicle Repair, Minor,** an establishment that provides minor repairs such as incidental body and fender
3151 work, oil changes, patching or replacing tires, tune-ups, brake repair or installation or other similar
3152 functions. These establishments typically do not keep cars for stays of more than two business days.
3153

3154 **Vehicle Repair Service Establishment,** is a building or structure used for the repair and maintenance
3155 of automobiles, motorcycles, trucks, trailers, or similar vehicles.
3156

3157 **Vehicle Sales,** is the sale of motorized vehicles such as cars, trucks, vans, and motorcycles.
3158

3159 **Vehicle Sign,** is any sign that is attached to or painted on a vehicle or trailer, parked to be visible from and
3160 to clearly provide advertising visible from the public right-of-way or parked on public property to clearly
3161 provide a commercial message close to the public right-of-way, unless the vehicle is used by a proprietor
3162 or employee of the business for commuting between the business location and home or is used in the
3163 usual course or operation of a business. Factors to be considered in determining whether a vehicle is used
3164 in the usual course or operation of a business shall include whether the vehicle is operable, whether the
3165 vehicle has a current registration in the State of Florida, the role the vehicle plays in the business, and the
3166 frequency with which the vehicle is used in the course or the operation of the business. In addition, any
3167 sign that is composed of fabric, paper, or other lightweight material, or wood (unless the wood is an
3168 integral part of the vehicle itself), or that is physically supported by a motor vehicle, but not applied
3169 directly to the surface of the motor vehicle, or that is attached to the vehicle in such a manner as to
3170 constitute a safety hazard if the vehicle were to be driven with the sign in place, such as signs located so
3171 as to impair the vision of the driver of the vehicle or insecurely mounted so as to present a danger of
3172 falling off the vehicles while it is being driven, shall be presumed to be a vehicle sign. Further, any sign
3173 bearing a commercial message that is attached to or painted on a vehicle or trailer which is routinely
3174 parked or otherwise located on a site or sites other than that at which the firm, product, or services
3175 advertised on such sign is offered shall be presumed to be a vehicle sign.
3176

3177
3178 ~~**VESSEL.** Any boat, ship or other type of watercraft or contrivance capable of being used for~~
3179 ~~transportation on water or as a floating object.~~
3180

3181 Vested Property Rights, means the right to undertake and complete the development and use of
3182 property under the terms and conditions of an approved site-specific development plan or an approved
3183 phased development plan for a specified time, regardless of changes in this ordinance.

3184
3185 **VETERINARIAN AND ANIMAL CLINIC.** See definition for "pet services". ~~A premises, or~~
3186 ~~portion of a premises, occupied by an establishment in which a person, or persons, practice a~~
3187 ~~vocation or occupation that performs a type of labor, act or work that primarily results in the~~
3188 ~~medicine, dentistry or surgery of animals, and similar veterinary services normally for a fee or~~
3189 ~~charge. **VETERINARIAN AND ANIMAL CLINICS** do not include "Animal Specialty Farms".~~

3191 Vicinity Map, is a drawing or diagram, to the appropriate scale to show the location of the proposed
3192 development in relation to abutting properties, major streets, and other known landmarks.

3193
3194 Visibility Triangle, is a triangular area at the intersection of two streets, or a street and a driveway; two
3195 sides of which are measured from the point of intersection for a distance specified. The third side of the
3196 triangle is a line across the corner of the lot joining the ends of the other two sides.

3197
3198 Wall, is an upright structure, with a continuous footer, constructed of building material, such as masonry,
3199 wood, or plaster serving to enclose, divide, or protect an area.

3200
3201 **WAREHOUSE, PRIVATE.** Indoor terminal facilities operated primarily for a specific commercial
3202 establishment or group of establishments in a particular industrial or economic field, such as
3203 moving companies, transfer companies, freight delivery, specific retail store storage, or beverage
3204 distribution, but not generally accessible to the public.

3205
3206 ~~**WAREHOUSE, PUBLIC.** Indoor terminal facilities available to the general public at a fee for~~
3207 ~~the dead storage of farm products, furniture and other household goods or commercial or private~~
3208 ~~goods of any nature. (See also **WAREHOUSE**.)~~

3209
3210 Water Frontage Line, means the line at which a waterfront parcel abuts the waterway. If the
3211 waterfront parcel has a seawall, the seawall face shall be deemed the water frontage line for the
3212 parcel. For waterfront parcels that have a property line, but no seawall, abutting the waterway, such
3213 property line shall be deemed the water frontage line. See Diagram 5.5.4.A.

3214
3215 Waterfront Parcel, means a parcel which abuts a waterbody.

3216
3217 Waterway, is any man-made or natural body of water, including, canals, lakes, and basins, within the
3218 City of Cape Coral.

3219
3220 Waterway Access Ratio, means shall be calculated by dividing the waterway access width by the
3221 calculated width of the waterway. See 5.5.4.B.

3222
3223 Waterway Center Point (WCP), is a point on the centerline of the canal 40 feet from the water's end.
3224 See Diagram 5.5.4.B.

3225
3226 Watercourse, is a channel in which a flow of water occurs either continuously or intermittently in a
3227 definite direction. The term applies to either natural or artificially constructed channels.

3228
3229
3230
3231
3232
3233
3234
3235
3236
3237
3238
3239
3240
3241
3242
3243
3244
3245
3246
3247
3248
3249
3250
3251
3252
3253
3254
3255
3256
3257
3258
3259
3260
3261
3262
3263
3264
3265
3266
3267
3268
3269
3270
3271
3272
3273

Watercraft, is a boat, houseboat, canoe, raft, surfboard, or other apparatus designed for use on water, including motors or engines designed to propel such craft or apparatus.

Watercraft, Personal, is a recreational watercraft that a rider sits or stands on rather than inside, as one would a boat.

~~**WATERS OF THIS CITY.** All navigable waters or waters connected thereto within the boundaries of the city.~~

Wetlands, are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes: (a) have a predominance of hydric soils; (b) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (c) under normal circumstances support a prevalence of such vegetation.

Wildlife Rehabilitation Center, establishments that provide treatment, care, and rehabilitation of injured or sick wildlife.

Window/Door Sign. Any sign, picture, symbol, or combination thereof that is placed upon a window or door and that is visible from the exterior of the window or door. The term **WINDOW/DOOR SIGN** shall not include interior signs and/or product displays that are located inside a business unit and that are visible from outside the business unit. Furthermore, murals on windows or doors shall not be deemed to be **WINDOW/DOOR SIGNS**.

Wireless Communication, is the transmission and reception of voice, data or video transmission via radio frequency (RF) signals through electromagnetic energy.

Wireless Communication Facility (WCF), is any cables, wires, lines, wave guides, antennas, and other equipment associated with the transmission or reception of telecommunications installed upon a tower or antenna support structure, including ground-based equipment in direct support of such transmission or reception. However, the term "Wireless communication facility" shall not include amateur radio antennas.

~~**YARD.** The open space surrounding the principal building on any lot, unoccupied and unobstructed by a portion of that building from the ground to the sky except where specifically permitted by this ordinance. **YARDS** are further defined as follows:~~

(a)

~~**FRONT YARD.** That portion of the yard extending the full width of the lot and measured between the front lot line and a parallel line tangent to the nearest part of the principal building, which line shall be designated as the front yard line.~~

~~(Ord. 15-12, 9-10-2012)~~

(b)

~~**REAR YARD.** That portion of the yard extending the full width of the lot and measured between the rear lot line and parallel line tangent to the nearest part of the principal building.~~

(c)

3274 **~~SIDE YARDS.~~** ~~These portions of the yard extending from the front property line to the rear~~
3275 ~~property line and measured between the side lot lines and parallel lines tangent to the nearest~~
3276 ~~parts of the principal building.~~

3277
3278 Yard, is the open space surrounding the principal building on any lot, unoccupied and unobstructed by a
3279 portion of that building from the ground to the sky except where specifically permitted by this
3280 ordinance.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

Sections:

- Section 12.1.** Purpose, applicability, and definitions
- Section 12.2.** 2017 Florida Building Code, Building
- Section 12.3.** 2017 Florida Building Code, Existing Building
- Section 12.4.** International Property Maintenance Code, 2012 Edition

Chapter 1. Adoption of codes: Florida Building Code, the National Electrical Code, International Property Maintenance Code, and Engineering Design Standards.

Section 12.1. Purpose, applicability, and definitions.

The following building codes are hereby adopted, incorporated herein by reference as fully as if set out at length herein, and shall govern all construction, erection, alteration, repair, and demolition of all buildings or other structures within the corporate limits of the city; and any appurtenances attached thereto, except those portions of the adopted codes that are hereinafter deleted, modified, or amended:

- A. 2017 Florida Building Code. The family of codes adopted by the Florida Building Commission, except as deleted, modified, or amended as indicated in Sections 12.2 and 12.3., below.
- B. National Electrical Code, 2014 Edition.
- C. International Property Maintenance Code, 2012 Edition, except as deleted, modified, or amended as indicated in Section 12.4., below.
- D. City of Cape Coral Engineering Design Standards, 2002, as amended.

Section 12.2. 2017 Florida Building Code, Building.

Amendments to adopted code. All sections of the 2017 Florida Building Code, Building are in effect except as amended as shown below:

- A. Section 107. Submittal Documents.

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R, Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 105-14 and Section 107.6. shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

- B. Section 115. Stop Work Orders.

115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

47 building official is authorized to issue a stop work order. In addition, the building official is
48 authorized to issue a stop work order for the failure to contain or remove construction refuse as
49 required in the Code of Ordinances, Chapter 9, Health and Sanitation.
50

51 115.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the
52 property involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop
53 work order, all work on the construction site shall immediately cease. The stop work order shall
54 state the reason for the order, and the conditions under which the cited work will be permitted to
55 resume.
56

57 115.3 Unlawful continuance. Any person who shall continue any work after having been served
58 with a stop work order, except such work as that person is directed to perform to remove a
59 violation or unsafe condition, shall be subject to penalties as prescribed by law.
60

61 C. Section 117. Variances in Flood Hazard Areas.
62

63 117.1 Flood hazard areas. Pursuant to F.S. § 553.73, the variance procedures adopted in the City
64 of Cape Coral Floodplain Management Ordinance shall apply to requests submitted to the Building
65 Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or,
66 as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall
67 not apply to Section 3109 of the Florida Building Code, Building.
68

69 D. Section 612. Flood Loads.
70

71 SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition
72 or improvement of a building or structure taking place during a five-year period, the cumulative
73 cost of which equals or exceeds 50 percent of the market value of the structure before the
74 improvement or repair is started. For each building or structure, the five-year period begins on
75 the date of the first improvement or repair of that building or structure subsequent to August 17,
76 1981. If the structure has sustained substantial damage, any repairs are considered substantial
77 improvement regardless of the actual repair work performed. The term does not, however,
78 include either:
79

- 80 1. Any project for improvement of a building required to correct existing health, sanitary or
81 safety code violations identified by the building official and that are the minimum necessary
82 to assure safe living conditions.
83
- 84 2. Any alteration of a historic structure provided that the alteration will not preclude the
85 structure's continued designation as a historic structure.
86

87 **Section 12.3 - 2017 Florida Building Code, Existing Building.**
88

89 All sections of 2017 Florida Building Code, Existing Building are in effect except as amended as shown
90 below:
91

92 A. Section 202. General Definitions

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

93
94 SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition,
95 or improvement of a building or structure taking place during a five-year period, the cumulative
96 cost of which equals or exceeds 50 percent of the market value of the structure before the
97 improvement or repair is started. For each building or structure, the five-year period begins on
98 the date of the first improvement or repair of that building or structure subsequent to August 17,
99 1981. If the structure has sustained substantial damage, any repairs are considered substantial
100 improvement regardless of the actual repair work performed. The term does not, however,
101 include either:

- 102
- 103 1. Any project for improvement of a building required to correct existing health, sanitary or
104 safety code violations identified by the building official and that are the minimum necessary
105 to assure safe living conditions.
 - 106
 - 107 2. Any alteration of a historic structure provided that the alteration will not preclude the
108 structure's continued designation as a historic structure.

109
110 **Section 12.4. International Property Maintenance Code, 2012 Edition.**

111
112 The International Property Maintenance Code, 2012 Edition, a copy of which is on file in the City
113 Clerk's office, as published by the International Code Council, Inc., is adopted by reference as if totally
114 copied herein, with revisions to sections as follows:

- 115
- 116 A. Section 101.1. Insert: City of Cape Coral, Florida.
 - 117
 - 118 B. Section 103.1. Delete the words "department of property maintenance inspection is hereby
119 created", and insert in its place the words "City of Cape Coral Code Compliance Division has
120 been heretofore created". Further, wherever the words "department of property maintenance
121 inspection" or "code official" may appear, substitute the words "City of Cape Coral Code
122 Enforcement Department" and the words "Code Enforcement Manager, or the Manager's
123 designee", respectively.
 - 124
 - 125 C. Section 103.5. Insert: Fees to be amended, if applicable, at a later date.
 - 126
 - 127 D. Section 106.3. Insert at end of such section: The City of Cape Coral Code Enforcement Department
128 may, in addition or alternatively, to pursuing any such criminal or civil penalties of seeking
129 injunctive relief, bring violations for prosecution before the Code Enforcement Special Magistrate,
130 in accordance with §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances.
 - 131
 - 132 E. Section 111. Delete.
 - 133
 - 134 F. Section 302.4. Insert: twelve (12) inches in height.
 - 135
 - 136 G. Section 304.14. Insert: January to December.
 - 137
 - 138 H. Section 602.3. Insert: September to May.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

139
140
141
142
143
144
145
146
147
148

- I. Section 602.4. Insert: September to May.

- J. All references to the building official in the International Property Maintenance Code, 2012 Edition, shall be construed as meaning the Department of Community Development Director or the Director's designee. All references in the International Property Maintenance Code, 2012 Edition to building, plumbing, mechanical, fuel gas, electric, fire safety or other codes or standards shall be construed to mean the 2017 Florida Building Code, National Electrical Code, 2008 Edition, and the Florida Fire Prevention Code, as applicable.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

Section 13.1.1 Reasonable Accommodations

A. Purpose, Intent, and Applicability

It is the purpose of this chapter to allow for the development of facilities and residences that accommodate persons with disabilities. This Section implements the policy of the City regarding requests for reasonable accommodation to its zoning and land use regulations, rules, ordinances, policies, and procedures for persons with disabilities to use and enjoy housing. as provided by the Federal Fair Housing Act (42 U.S.C. 3601 et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) C'ADA").

Any person who is disabled (or qualifying entities) may request reasonable accommodation with respect to the City 's zoning and land use regulations, rules, ordinances, policies, and procedures as provided by the FHA and the ADA pursuant to the procedures set out in this Section. For purposes of this Section, a "qualifying entity" shall mean, a licensed service provider of the state of Florida as defined by Section 397.311, Florida Statutes. All qualifying entities shall submit as part of an application for a reasonable accommodation proof of the licensable service component the qualifying entity holds pursuant to Chapter 397, Florida Statutes.

B. Application Procedures. The following general provisions shall be applicable:

1. The City shall display a notice on the City's webpage (and shall maintain copies available for review in the City Clerk's Office) advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
2. A disabled person may apply for a reasonable accommodation on his or her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated, in writing, by the disabled person.
3. The City shall provide assistance and accommodation as is required pursuant to the FHA and ADA in connection with a disabled person's request for reasonable accommodation, including without limitation, assistance with reading application questions, responding to questions, completing the necessary forms, filing an appeal, and appearing at a hearing to ensure the process is accessible.
4. Reasonable accommodation request form. A request by an applicant for a reasonable accommodation under this Section shall be made in writing by completion of a reasonable accommodation request form and submitted to the Department of Community Development. The reasonable accommodation request form is maintained by the Department of Community Development and shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall, at a minimum. require the following information:
 - a. Name and contact information for applicant;
 - b. Address of housing or other location at which accommodation is requested;

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 47
- 48 c. Name and mailing address of subject property owner;
- 49
- 50 d. Description of reasonable accommodation requested;
- 51
- 52 e. Description of the specific regulation(s) or procedure(s) from which accommodation is
- 53 sought;
- 54
- 55 f. Reasons the reasonable accommodation may be necessary for the individual(s) with
- 56 disabilities to use and enjoy the housing or other service;
- 57
- 58 g. Name and contact information for applicant's authorized representative, if applicable; and
- 59
- 60 h. Signature of applicant, or authorized representative.
- 61
- 62 5. Fees. There shall be no fee imposed by the City in connection with a request for reasonable
- 63 accommodation under this Section or an appeal of a determination on such request to the City
- 64 Council, and the City shall have no obligation to pay a requesting party's (or an appealing party,
- 65 as applicable) attorneys' fees or costs in connection with the request, or an appeal
- 66
- 67 C. Medical information confidentiality. Should the information provided by the disabled person to the
- 68 City include medical information or records including records indicating the medical condition,
- 69 diagnosis or medical history of the disabled person, such individual may at the time of submitting such
- 70 medical information, request that the City, to the extent allowed by law, treat such medical
- 71 information as confidential information of the disabled person. The City shall thereafter endeavor to
- 72 provide written notice to the disabled person, or their representative, of any request received by the
- 73 City for disclosure of the medical information or documentation which the disabled person has
- 74 previously requested be treated as confidential by the City. The City will cooperate with the disabled
- 75 person, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure
- 76 of such medical information or documentation, but the City shall have no obligation to initiate,
- 77 prosecute, or pursue any such action, or to incur any legal or other expense (whether by retention of
- 78 outside counsel or allocation of internal resources) in connection therewith, and may comply with any
- 79 judicial order without prior notice to the disabled person.
- 80
- 81 D. Determination process. The City Manager shall have the authority to consider and act on requests for
- 82 reasonable accommodation. When a reasonable accommodation request form has been completed
- 83 and submitted to the Department of Community Development, it shall be referred to the City
- 84 Manager for review and consideration.
- 85
- 86 1. The City Manager shall issue a written determination within 45 days of the date of receipt of a
- 87 completed application, except as provided in paragraph C. below, and may, in accordance with
- 88 federal law; (1) grant the accommodation request, (2) grant a portion of the request and deny a
- 89 portion of the request or impose conditions upon the grant of the request, or (3) deny the request
- 90 in accordance with federal law. If the request is denied, the determination shall state the grounds
- 91 therefore. All written determinations shall give notice of the right to appeal.
- 92

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 93 2. The notice of determination shall be sent to the requesting party (i.e., the disabled individual or
94 authorized representative) by certified mail, return receipt requested.
95
- 96 3. If reasonably necessary to reach a determination on the request for reasonable accommodation,
97 the City Manager, may, prior to the end of said 45-day period, request additional information
98 from the requesting party, specifying in detail what information is required. Such additional
99 information may include, additional medical information from the requesting party. The
100 requesting party shall have 15 days after the date of the request for additional information to
101 provide the requested information. In the event a request for additional information is made, the
102 45-day period to issue a written determination shall no longer be applicable, and the City
103 Manager, shall issue a written determination within 30 days after receipt of the additional
104 information. If the requesting party fails to provide the requested additional information within
105 said 15-day period, the City Manager shall issue a written notice advising that the requesting party
106 had failed to timely submit the additional information and therefore the request for reasonable
107 accommodation shall be deemed abandoned or withdrawn and no further action by the City with
108 regard to said reasonable accommodation request shall be required.
109
- 110 E. Criteria for determination. In determining whether the reasonable accommodation request shall be
111 granted or denied, the requesting party shall be required to establish that they are protected under
112 the FHA or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA or
113 ADA. For purposes of this Section, the disabled individual must demonstrate to the City:
114
- 115 1. (i) A physical or mental impairment which (i) substantially limits one or more major life activities; (ii)
116 a record of having such impairment; or (iii) that they are regarded as having such impairment; and
117
- 118 2. That the proposed accommodation being sought is reasonable and necessary to afford
119 handicapped or disabled persons equal opportunity to use and enjoy housing.
120
- 121 F. Required findings. A request for reasonable accommodation pursuant to this Section shall be
122 approved, with or without conditions, if the City Manager finds based upon all of the evidence
123 presented, that all of the following findings are made:
124
- 125 1. The property or dwelling that is the subject of the request for reasonable accommodation will be
126 occupied by a disabled person;
127
- 128 2. The requested accommodation is necessary to provide a disabled person with an equal
129 opportunity to use and enjoy a dwelling;
130
- 131 3. The requested accommodation will not impose an undue financial or administrative burden on
132 the City; and
133
- 134 4. The requested modification will not require a fundamental alteration in the nature of a City
135 program or law.
136
- 137 G. Conditions of approval. In granting a request for reasonable accommodation. the City Manager may
138 impose conditions of approval deemed reasonable and necessary to ensure that the reasonable

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

139 accommodation would comply with the findings of this Section including, but not limited to the
140 following:

- 141
- 142 1. Inspection of the property periodically as specified, to verify compliance with this Section and any
143 conditions of approval.
 - 144
 - 145 2. Recordation of a deed restriction requiring removal of the improvements when the need for
146 which the accommodation was granted no longer exists, except where the City Manager finds
147 that removal would constitute an unreasonable financial burden or is physically integrated with
148 the structure and cannot feasibly be removed. If applicable, the restrictive covenant shall provide
149 that the reasonable accommodation does not run with the land and shall terminate upon any sale
150 transfer, lease, or other conveyance of the property.
 - 151
 - 152 3. Time limits or expiration of the approval, if the need for which the accommodation was granted
153 no longer exists.
 - 154
 - 155 4. Measures to reduce the impact on surrounding uses.
 - 156
 - 157 5. Measures in consideration of the physical attributes of the property and structures.
 - 158
 - 159 6. Other conditions necessary to protect the public health, safety, and welfare.
 - 160
- 161 H. Appeal of determination. Within 30 days from the date of the City determination on a reasonable
162 accommodation request, or revocation, or modification of a reasonable accommodation, the
163 applicant may appeal the decision. All appeals shall contain a written statement containing sufficient
164 detail of the grounds for the appeal. Appeals pursuant to this Section shall be to the City Council who
165 shall, after public notice and a public hearing, render a written determination as soon as reasonably
166 practicable, but in no event later than 60 days after an appeal has been filed. Notice of any public
167 hearing hereunder shall be provided to the applicant at least 10 days in advance of the public hearing.
168
- 169 I. Stay of enforcement. While an application for reasonable accommodation, or appeal or a
170 determination of same, is pending before the City, the City will not enforce the subject zoning
171 ordinance, rules, policies, or procedures against the applicant. However, should the applicant
172 proceed with any property purchase, building, construction, or other work associated with
173 establishing a project or residence housing individuals covered by the FHA or the ADA while an
174 application or appeal for reasonable accommodation is pending, the applicant understands that any
175 of these actions are done at the applicant's own risk because the application or appeal may be denied.
176
 - 177 J. Revocation of reasonable accommodation. Any reasonable accommodation received shall be subject
178 to revocation or modification if the holder of the reasonable accommodation or the property upon
179 which the accommodation is granted is found in violation of any provision of the written
180 determination granting the reasonable accommodation by a court of law or by the special magistrate
181 hearing code enforcement cases, and the holder of the reasonable accommodation has failed to
182 correct such violation. The City shall send a notice of hearing on a proposed revocation or modification
183 of a reasonable accommodation by certified mail, return receipt requested, to the holder of the
184 reasonable accommodation at least 30 days prior to the date of the hearing. The City Manager shall

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

185 have the authority to consider and act on a revocation or modification of a reasonable
186 accommodation, after notice and hearing during which the reasonable accommodation holder shall
187 have the opportunity to present evidence and be heard.
188

189 **Section 13.2 Dispute Resolution**
190

191 A. Purpose and intent. The purpose of this ordinance is to establish procedures for the initiation,
192 conduct, and conclusion of a Special Magistrate proceeding under the Florida Land Use and
193 Environmental Dispute Resolution Act (the "Act) involving a development approval (order) or
194 enforcement action by the City of Cape Coral. It is the intent of the City of Cape Coral that the
195 Special Magistrate process be a speedy, inexpensive, and simple method for owners and regulators
196 to settle land use and environmental permitting and enforcement disputes. To that end, owners and
197 regulators should meet face-to-face, in a non-adversarial atmosphere, to resolve disputes without
198 the need for formal representation. Negotiations assisted by a Special Magistrate will enable an
199 owner and regulators to exert more control over their dispute, allowing the parties to shape a
200 resolution rather than having one imposed on them. The Special Magistrate and the parties should
201 exercise maximum flexibility to adapt these procedures to the exigencies of each particular case,
202 consistent with the requirements of state law and due process.
203

204 B. Definitions. For the purpose of this ordinance, the following definitions shall apply; words used in
205 the singular shall include the plural, and the plural, the singular; words used in the present tense
206 shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may"
207 is permissive. Words not defined herein shall be construed to have the meaning given by common
208 and ordinary use as defined in the latest editions of Webster's Dictionary.
209

210 1. CITY. The City of Cape Coral, Florida.
211

212 2. DEVELOPMENT. The meaning given it in F.S. § 380.04, as same may hereafter be amended.
213

214 3. DEVELOPMENT ORDER. Any order which has or will have the effect of granting, denying, or
215 granting with conditions an application for a development permit. This term shall include orders
216 rezoning a specific parcel of land, but shall not include actions on an amendment to the local
217 Comprehensive Plan.
218

219 4. DEVELOPMENT PERMIT.
220

221 a. Any building permit, zoning permit, subdivision approval, certification, special exception,
222 variance, or any other similar action of the city; or
223

224 b. Any other permit authorized to be issued by the city under state law which has the effect of
225 authorizing the development of land, including programs implementing F.S. Chapters 125,
226 161, 163, 166, 187, 258, 372, 373, 378, and 403.
227

228 5. OWNER. A person with a legal or equitable interest in real property who filed an application for
229 a development permit for the real property with the city and who received a development
230 order, or who holds title to real property that is subject to an enforcement action by the city.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION**

231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275

- 6. PARTICIPANT.
 - a. A person with a legal or equitable interest in land contiguous to the owner's property and who has been accepted by the Special Magistrate as a participant in the proceeding; or
 - b. A substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantial nature which stated with particularity support for or objections to the development order or enforcement action in a prior proceeding, including a public hearing, and who has been accepted by the Special Magistrate as a participant in the proceeding.
 - 7. PARTY or PARTIES. The owner, the city, and any other governmental entity made a party to the proceeding by the Special Magistrate.
 - 8. PERSON. Individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
 - 9. RIPENESS DECISION. A written decision that describes the use or uses available on the subject real property.
 - 10. SPECIAL MAGISTRATE PROCEEDING. Any combination of facilitation sessions, formal or informal hearings, of a public nature authorized under the Florida Land Use and Environmental Dispute Resolution Act.
- C. Pre-hearing procedures.
- 1. Unless the parties agree in writing to extend the time for performing any act under these guidelines, including the overall 165-day time period, a Special Magistrate proceeding may not continue longer than 165 days from the date the owner files the request for relief.
 - 2. Any copy which must be furnished to the Special Magistrate, a party or a participant may be sent by regular mail, postage prepaid, or by hand delivery to the recipient's last known address. The burden of proving a copy has been furnished is on the person responsible for furnishing it.
 - 3. Except for, an owner's request for relief, any document which must be submitted or any copy which must be furnished, may be submitted or furnished by facsimile transmission. Facsimile documents shall be deemed submitted or furnished on the date transmitted as shown on the recipient's copy, if the copy is complete.
 - 4. Filing means that the signed original must be received by the office that is to receive the document by the date specified. Any document received after 5:00 p.m. shall be deemed filed as of 8:00 a.m. the next regular business day.
- D. Standards of conduct.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 276 1. The Special Magistrate holds a position of trust and should adhere to the highest standards of
277 personal integrity, impartiality, and competence. The Special Magistrate should be honest and
278 unbiased, act in good faith, be diligent, and avoid any conflict of interest or the appearance of a
279 conflict of interest. The Special Magistrate should disclose any facts or circumstances that may
280 give rise to justifiable doubts as to impartiality or independence.
281
- 282 2. The standards of conduct for parties and participants may be adopted by the City Council by
283 resolution and shall govern the proceedings unless waived or altered in the Special Magistrate
284 contract.
285
- 286 E. Administrative appeals and judicial review.
287
- 288 1. A petition by the owner for judicial review of the development order or enforcement action or a
289 formal administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable, shall waive
290 all rights to a Special Magistrate proceeding.
291
- 292 2. A request for relief through a Special Magistrate proceeding shall toll the time for filing a
293 petition for judicial review of the development order or enforcement action, or a formal
294 administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable.
295
- 296 3. Invoking the procedures for a Special Magistrate proceeding is not a pre-condition for judicial
297 review of the development order or enforcement action or a formal administrative hearing
298 pursuant to F.S. §§ 120.569 and 120.57.
299
- 300 F. Pre-initiation meeting. Prior to filing a formal request for relief under this ordinance, the owner may
301 request by letter an informal meeting with the City Manager to discuss alternatives to the filing of
302 the Special Magistrate proceeding. The City Manager shall conduct such a meeting as expeditiously
303 as possible and shall include technical staff familiar with the regulations at issue.
304
- 305 G. Request for relief. Any owner who believes a development order or an enforcement action by the
306 city is unreasonable or unfairly burdens the use of the owner's real property may file a request for
307 relief in accordance with the requirements of this ordinance. Request for relief forms shall be
308 maintained by the City Department of Community Development and shall be available during
309 business hours to members of the public.
310
- 311 H. Time for filing. A request for relief must be filed within 30 days after:
312
- 313 1. Receipt of the development order or enforcement action; or
314
- 315 2. If a city administrative appeal is available in the case of a particular development order or
316 enforcement action, the later of the conclusion of such administrative appeal or the expiration
317 of four months after the initiation of such appeal. Before initiating a Special Magistrate
318 proceeding to review a city development order or enforcement action, the owner must exhaust
319 all nonjudicial city administrative appeals so long as such appeals take no longer than four
320 months. Once nonjudicial local administrative appeals have been exhausted and the
321 development order or enforcement action is final, or, if the owner has pursued administrative

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION**

322 appeals, within four months after issuance of the development order or notice of the
323 enforcement action by the city (even if the appeals have not been concluded), the owner may
324 file a request for relief pursuant to this section.
325

326 I. Requirements. The request for relief must contain the following:

- 327
- 328 1. A brief statement of the owner's proposed use of the property;
 - 329
 - 330 2. A summary of the development order or description of the enforcement action. In addition, a
331 copy of the development order or documentation of the enforcement action must be attached;
332
 - 333 3. A brief statement of the impact of the development order or enforcement action on the ability
334 of the owner to achieve the proposed use of the property;
 - 335
 - 336 4. The signature of the owner or, if the owner is a corporation, partnership, or other organization,
337 the signature of a responsible official, and the mailing address and telephone number at which
338 the owner may be reached;
 - 339
 - 340 5. A statement regarding whether any local administrative appeal is available and, if so, whether
341 and when it was commenced by the owner and, if completed, the date of completion; and
342
 - 343 6. A certificate of service identifying the persons, if any, who have been furnished with copies of
344 the request for relief.

345

346 J. Filing of request for relief.

- 347
- 348 1. To initiate a Special Magistrate proceeding, an owner must file a signed original and one copy of
349 a request for relief with the Community Development Department. No fee shall be charged by
350 the city for the filing of a request for relief. However, the owner shall be solely responsible for
351 the cost of preparing the original and one copy of the request for relief.
352
 - 353 2. Within ten days of receipt by the city of the request for relief filed as provided herein, the City
354 shall forward the original request for relief to a Special Magistrate selected in accordance with
355 this ordinance. This time period may be extended only by agreement of the parties.
356

357 K. Notice of filing.

- 358
- 359 1. Concurrently with the forwarding of the request for relief to the Special Magistrate, the city
360 shall serve, by U.S. Mail or hand delivery, a notice of the filing of the request for relief to the
361 following:
362
 - 363 a. Owners of real property contiguous to the applicant's property at the address shown on the
364 latest Lee County tax roll; and
 - 365 b. Any substantially affected person who submitted oral or written testimony of a substantive
366 nature which stated with particularity an objection to or support for any development order
367

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

368 or enforcement action at issue. However, notice under this paragraph is required to be
369 provided to such a substantially affected person only if that person requested in writing or
370 at a public hearing expressed a desire to be placed on a mailing list to receive notice of any
371 subsequent proceeding on the development order or enforcement action at issue. The city
372 shall maintain in its files relating to particular development orders a mailing list of persons
373 who have presented oral or written testimony and who have requested notice.
374

- 375 2. The notice of the filing of the request for relief need not contain any attachments or supporting
376 documentation which may have accompanied the request for relief. However, in lieu of
377 providing a complete copy of the request for relief, the notice of filing shall contain any
378 information necessary for the recipient to secure a complete copy of the request for relief. The
379 cost of preparing and serving copies of the request for relief on qualifying participants shall be
380 borne equally by the parties.
381
- 382 3. Any failure to notice potential participants shall be cured by posting of notice of the Special
383 Magistrate proceeding in a location established by the City Council for that purpose.
384

385 L. Special Magistrate.
386

- 387 1. Qualifications and restrictions. A Special Magistrate need not be a lawyer or a mediator certified
388 by the Florida Supreme Court. However, in order to serve as a Special Magistrate in a
389 proceeding pursuant to this ordinance, a person must:
390
- 391 a. Be a resident of the State of Florida;
 - 392 b. Possess experience and expertise in mediation; and
 - 393 c. Possess experience and expertise in at least one of the following disciplines and a working
394 familiarity with the others:
 - 395 i. Land use and environmental permitting;
 - 396 ii. Land planning;
 - 397 iii. Land economics; and
 - 398 iv. Local and state government organization and powers, and the law governing the same.

400 2. Special Magistrate selection.
401

- 402 a. The City Council shall at least annually recruit qualified persons to serve as Special
403 Magistrates and shall, on an annual basis, appoint at least three qualified persons to serve
404 as "pre-approved" Special Magistrates.
405
- 406 b. The city shall include in the request for relief form provided to the owner a pre-approved list
407 of Special Magistrates and instructions for objecting to any person named on the list.
408
- 409 c. The parties may mutually agree on a Special Magistrate. In instances in which the city has
410 been joined by a Special Magistrate pursuant to subsection (11) of the Act, the city shall not
411 unreasonably refuse to abide by the choice of a Special Magistrate by the original parties.
412
413

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458

3. Selection from pre-approved list.

- a. The Special Magistrate may be selected from the list(s) of approved Special Magistrates provided with the request for relief form. If an owner objects to any of the Special Magistrates on the list(s), the owner shall state such objection in the owner's request for relief. If an owner does not object to a Special Magistrate in the owner's request for relief, then those Special Magistrates to whom no objection was raised by the owner shall be deemed to be acceptable to the owner. The city shall then select one of the pre-approved Special Magistrates, at random, to be the Special Magistrate to consider the requests for relief.
- b. In the event an owner objects to all of the persons on the approved Special Magistrate list, the city shall be allowed additional time to secure a mutually acceptable Special Magistrate.
- c. If the parties are unable to agree on the selection of a Special Magistrate, then the following procedure shall apply:
 - i. Each party may select one person qualified as a Special Magistrate who, together, shall then select a candidate. If the parties cannot agree on that candidate, the Special Magistrate shall be randomly selected by the Florida Growth Management Conflict Resolution Consortium from a list of qualified candidates maintained by them for that purpose; or
 - ii. If the parties prefer not to follow the procedure delineated in subsection (f)(3)c.1. above, then the Special Magistrate shall be randomly selected by the Florida Growth Management Conflict Resolution Consortium from a list of qualified candidates maintained by them for that purpose.

M. Special Magistrate agreement.

- 1. Following the selection of a Special Magistrate, the parties shall enter into an agreement with the Special Magistrate which provides for the following:
 - a. Agreement by the Special Magistrate that he or she would not be called as an expert witness in any related subsequent or concurrent judicial proceeding;
 - b. Agreement by the parties that the Special Magistrate's recommendation and related materials are inadmissible in any related subsequent or concurrent judicial proceeding except to the extent that a certificate of completion of the process will be available to certify that the Special Magistrate process has been completed;
 - c. The Special Magistrate may not be called to appear before the City Council or any administrative or judicial tribunal with respect to the written recommendation or any aspect of the proceeding, nor may the Special Magistrate voluntarily furnish notes or other related material;

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION**

- 459 d. The Special Magistrate may require in any agreement that the parties, where not otherwise
460 prohibited by law, provide a deposit of funds to secure payment of the Special Magistrate's
461 fees and expenses;
462
- 463 e. Payment of costs, including, but not limited to the costs of providing notice and effecting
464 service, and payment of fees and expenses for the Special Magistrate;
465
- 466 f. Establish rules for the conduct of the proceeding, including but not limited to standards of
467 conduct for the Special Magistrate, parties, and participants, and the enforceability of
468 subpoenas in circuit court;
469
- 470 g. Identify factual issues to be addressed in the proceeding or specify procedures for resolving
471 factual issues, including, but not limited to, stipulation;
472
- 473 h. Provide for the exchange of information by the parties prior to the mediation or hearing;
474
- 475 i. Identify participants known to the parties who should be notified of the proceeding;
476
- 477 j. Provide whether the time for performance of any act is varied; and
478
- 479 k. Address such other issues as the parties may decide will assist in settlement of the dispute.
480
- 481 N. Conduct of the Special Magistrate proceeding.
482
- 483 1. Request to participate in proceedings. Within 21 days after receipt of the request for relief, any
484 owner of land contiguous to the owner's property and any substantially affected person who
485 submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated
486 with particularity objections to or support for the development order or enforcement action at
487 issue may request from the Special Magistrate permission to participate in the proceeding. Such
488 persons may be permitted to participate in the hearing to the extent allowed under the Act.
489
- 490 2. Filing of response.
491
- 492 a. No more than 15 days after the filing of a request for relief, the City shall file a response to
493 the request for relief on behalf of the city. A copy shall be furnished to the owner and any
494 person who has requested to participate in the proceeding. The cost of preparing and filing
495 the response to the request for relief shall be borne by the city.
496
- 497 b. The response to the request for relief shall set forth in reasonable detail the position of the
498 city regarding the matters raised by the owner. The response shall include a brief statement
499 explaining the public purpose of the regulations on which the development order or
500 enforcement action is based.
501
- 502 3. Sufficiency hearing; request to be dropped as a party.
503

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 504 a. The response to the request for relief may include a request that the Special Magistrate
505 dismiss the owner's request for relief for any failure to include the information required in
506 subsection .7 above. The Special Magistrate may conduct a hearing on the issue of such
507 dismissal of the request for relief. If the Special Magistrate dismisses the owner's request for
508 relief, the Special Magistrate shall allow the owner a reasonable time within which to file an
509 amended request for relief. Failure to file an adequate amended request for relief within the
510 time specified by the Special Magistrate shall result in a dismissal with prejudice as to this
511 proceeding.
512
- 513 b. Any party may request, in its response or otherwise, to be dropped from the proceeding.
514 The request must set forth facts and circumstances to aid the Special Magistrate in deciding
515 the request. The Special Magistrate may conduct a hearing at any time on any request to be
516 dropped as a party. All such requests must be disposed of prior to a hearing on the
517 substance of the owner's request for relief. If the Special Magistrate denies a party's request
518 to be dropped, that party shall participate in the proceeding.
519
- 520 O. Notice and timing of Special Magistrate proceeding.
521
- 522 1. As required under the Act, the Special Magistrate shall timely convene a Special Magistrate
523 proceeding on the request for relief.
524
- 525 2. The Special Magistrate's expenses in providing notice shall be borne equally by the parties
526 unless otherwise established in the Special Magistrate agreement.
527
- 528 3. Notice to all parties and other persons who have requested such notice shall contain a reference
529 number and date of filing of the request for relief and instructions for obtaining further
530 information regarding the request for relief.
531
- 532 P. Subpoena powers of the Special Magistrate.
533
- 534 1. A subpoena issued by a Special Magistrate may require the witness to bring a document or
535 thing.
536
- 537 2. A party requesting the subpoena of a nonparty witness shall make such request in writing to the
538 Special Magistrate.
539
- 540 3. The Special Magistrate shall only subpoena a witness that the Special Magistrate believes will
541 aid in the disposition of the matter.
542
- 543 4. Parties subpoenaing witnesses shall be responsible for paying fees and mileage in the amount as
544 provided under Florida law for witnesses in civil cases.
545
- 546 5. The Special Magistrate shall provide notice of any witnesses subpoenaed to any party
547 requesting such notice.
548

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 549 6. Service of subpoenas shall be made in the manner provided by the Florida Rules of Civil
550 Procedure.
551
- 552 7. The witnesses of either party that are present for the hearing or are on standby or available on
553 call are not to be excused by either party without the concurrence of the other party or of the
554 Special Magistrate.
555
- 556 Q. Special Magistrate proceedings.
557
- 558 1. Consolidation.
559
- 560 a. Separate matters which involve similar issues or identical parties may be consolidated if the
561 parties agree and it appears that consolidation would promote the speedy, efficient, and
562 inexpensive resolution of the matters.
563
- 564 b. If such separate matters are pending before different Special Magistrates, the parties may
565 decide which Special Magistrate will conduct the consolidated proceeding. If the parties
566 cannot agree on one or more Special Magistrates to conduct the proceeding, the
567 proceedings shall not be consolidated.
568
- 569 2. Conduct of the proceeding.
570
- 571 a. A party or participant may be represented by an attorney or other person at any phase of
572 the proceeding, but such representation is not required.
573
- 574 b. At the mediation, each party shall be represented by a person with authority to bind that
575 party to a settlement, or to recommend a settlement directly to the persons with authority
576 to bind the party. The Special Magistrate may ask a representative to provide assurances of
577 such authority.
578
- 579 3. Order of the proceeding.
580
- 581 a. In keeping with the overriding intent of the Legislature that the Special Magistrate
582 proceeding be a flexible, problem-solving procedure which results in a voluntary settlement,
583 the Special Magistrate may conduct the phases of the proceeding in any sequence and on
584 separate days.
585
- 586 b. The proceeding shall be open to the public and shall be held in a location accessible to the
587 public, including the physically handicapped.
588
- 589 c. The proceeding shall be conducted under the direction and supervision of the Special
590 Magistrate. The Special Magistrate shall determine the order of presentation of issues and
591 information unless otherwise set forth in the Special Magistrate agreement. The Special
592 Magistrate shall decide questions of procedure in a manner which provides reasonable due
593 process.
594

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 595 d. Prior to any other portion of the proceeding, the Special Magistrate shall conduct a hearing
596 on any request to dismiss the request for relief.
597
- 598 e. At any time after commencement of the information-gathering hearing, the Special
599 Magistrate may recess the hearing to recommence mediation and facilitation.
600
- 601 f. After the hearing, the Special Magistrate may re-convene the parties to present a written
602 recommendation, in draft or final form, and seek to re-commence negotiations.
603
- 604 4. Mediation phase.
605
- 606 a. The Special Magistrate's first responsibility is to facilitate a resolution of the dispute and
607 arrive at a settlement acceptable to the parties. It may involve a modification of the owner's
608 proposed use of the property or adjustment in the development order or enforcement
609 action or regulatory efforts by one or more of the governmental parties.
610
- 611 b. The Special Magistrate shall, among other things, suggest alternatives, analyze issues,
612 question perceptions, use logic, stimulate and facilitate negotiations between the parties,
613 and keep order. The Special Magistrate at all times shall promote conciliation, cooperation,
614 compromise, and settlement of the dispute within the bounds established by law.
615
- 616 c. As alternatives, if variances, and other types of adjustments to the development order or
617 enforcement action are presented, the Special Magistrate shall afford participants an
618 opportunity to address the impacts of such alternatives on their substantial interests.
619
- 620 d. At any time after commencement of the presentation of evidence in the hearing, the Special
621 Magistrate may recess the hearing and presentation of evidence to recommence a
622 facilitation session.
623
- 624 5. Information-gathering hearing.
625
- 626 a. Within five days of receipt of the request for relief, the Special Magistrate shall provide
627 written notice of the place, date, and time of the hearing to all parties, and to all person
628 who have requested such notice. The hearing must be held within 45 days of the Special
629 Magistrate's receipt of the request for relief. The parties may agree to extend the date for
630 the hearing.
631
- 632 b. The hearing must be held in the City of Cape Coral. The Special Magistrate's decision on the
633 specific place of the mediation and hearing shall be final.
634
- 635 c. The Special Magistrate shall hear from anyone with information necessary to understand
636 the matter. The Special Magistrate may question anyone presenting information at the
637 hearing, but will give all parties an opportunity for follow-up questions.
638
- 639 d. The Special Magistrate shall weigh all information offered at the hearing. Information shall
640 not be subject to the rules of evidence, but the criteria for determining and the

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION**

- 641 determination of verification and authentication are within the Special Magistrate's
642 discretion.
- 643
- 644 e. At any time, the Special Magistrate may require any party to provide additional information
645 in the interest of gaining a complete understanding of the request for relief.
- 646
- 647 f. Each party may record the hearing at its own expense. The Special Magistrate may record
648 the hearing to assist in preparing a recommendation as required by § 8.13.11. If the Special
649 Magistrate makes such a recording, it will be forwarded to the city with the
650 recommendation, but will be subject to the restrictions on information contained in §
651 8.13.10H.
- 652
- 653 g. Any documents or tangible materials presented to the Special Magistrate at hearing shall be
654 submitted to the Mayor of the Cape Coral City Council with the Special Magistrate's
655 recommendation. Any notes or drafts produced by the Special Magistrate and not intended
656 to record information in a permanent form shall remain the property of the Special
657 Magistrate.
- 658
- 659 h. If a party fails to appear at the hearing after notice, the Special Magistrate may proceed
660 without that party or may adjourn the hearing to another day, giving notice to the absent
661 party.
- 662
- 663 i. Information may be given and parties, participants, or their representatives may participate
664 by telephone, videotape, or other communications medium unless otherwise agreed in a
665 Special Magistrate agreement.
- 666
- 667 6. Witnesses and materials.
- 668
- 669 a. Each party must assure attendance at the hearing by those persons qualified by training or
670 experience to address issues raised by the request for relief, by the response, or by the
671 Special Magistrate, or to address alternatives, variances, and other types of modifications to
672 the development order or enforcement action.
- 673
- 674 b. The Special Magistrate may issue a subpoena for any nonparty witness in the state who will
675 aid in the disposition of the matter. A subpoena issued by a Special Magistrate may require
676 the witness to bring a specified document or thing.
- 677
- 678 c. The Special Magistrate may require and receive documents and other tangible materials
679 from any party or participant. All parties and participants shall have the opportunity to
680 examine and respond to such submissions.
- 681
- 682 d. The Special Magistrate may weight the credibility of witnesses.
- 683
- 684 e. Although an attorney is not required, any person compelled to appear or furnish documents
685 or tangible materials, or who appears voluntarily, may be represented and advised by legal
686 counsel at his or her own expense.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 687 7. Access to the property.
688
689 a. A request for relief constitutes a consent by the owner for the Special Magistrate and
690 parties or representatives to have reasonable access to the owner's land.
691
692 b. The owner may grant access to the land to participants.
693
- 694 8. Offer to compromise.
695
696 a. As provided by law:
697
698 i. All actions or statements of the Special Magistrate, the parties, and all participants are
699 evidence of an offer to compromise and are inadmissible in any judicial or
700 administrative proceeding.
701 ii. The proceeding may not be made known by a party or participant to any judicial or
702 administrative tribunal, or be construed for any purpose as an admission against
703 interest.
704
705 b. A party or participant is not bound by anything said or done during the proceeding unless a
706 written settlement is reached, in which case only the terms of the written settlement shall
707 be binding.
708
709 c. The Special Magistrate may not be called to appear before the City Council with respect to
710 any aspect of the proceeding, nor may the Special Magistrate be compelled to furnish notes
711 or drafts.
712
- 713 R. Settlement.
714
715 1. The owner and the city may enter into a settlement agreement or other agreement as to the
716 permissible use of the owner's land prior to the Special Magistrate filing a recommendation
717 under § 8.13.11.
718
719 2. A settlement agreement or other agreement as to the permissible use of the owner's land may
720 be executed subject to approval by the City Council. Any such agreement will not bind any party
721 until duly approved and executed by all parties to the agreement.
722
- 723 S. Post-hearing procedures.
724
725 1. Special Magistrate's recommendation.
726
727 a. The Special Magistrate shall file a recommendation with the Mayor within 14 days after the
728 conclusion of the hearing. The Special Magistrate shall also furnish a copy of the
729 recommendation to all parties and participants.
730

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 731 b. If a settlement agreement or other agreement as to the permissible use of the owner's land
732 is executed prior to the Special Magistrate's recommendation, the recommendation shall
733 only:
- 734 i. Set forth the date and location of the hearing;
- 735 ii. Identify the parties and other participants in attendance at the hearing;
- 736 iii. Record, without comment, the fact that a settlement agreement or other agreement as
737 to the permissible use of the owner's land has been executed; and
- 738 iv. Include as an attachment an executed copy of the settlement agreement or other
739 agreement as to the permissible use of the owner's property.
- 740
- 741
- 742 c. If a settlement agreement or other agreement as to the permissible use of the owner's land
743 is not executed prior to the filing of the Special Magistrate's recommendation, the Special
744 Magistrate will consider the facts and circumstances set forth in the request for relief, any
745 responses, and any other information produced at the hearing to determine whether the
746 development order or enforcement action, by itself or in conjunction with an action of the
747 city or another governmental entity, is unreasonable or unfairly burdens the owner's land.
- 748
- 749 d. In making a determination, factors the Special Magistrate may consider include the
750 following:
- 751 i. The history of the land, including when it was purchased, how much was purchased,
752 where it is located, the nature of the title, the composition of the property, and how it
753 was previously used;
- 754 ii. The history of development and use of the land, including what was developed and by
755 whom, if it was subdivided and how and to whom it was sold, whether plats were filed
756 or recorded, and whether infrastructure and other public services or improvements may
757 have been dedicated to the public;
- 758 iii. The history of relevant environmental protection and land use controls and other
759 regulations, including how and whether the land was classified, any uses that may have
760 been proscribed, and what changes in classifications have occurred;
- 761 iv. The present nature and extent of the land, including natural and altered characteristics;
- 762 v. The reasonable expectations of the owner at the time of acquisition or immediately
763 prior to the implementation of the regulation at issue, whichever is later, under the
764 regulations then in effect and under common law;
- 765 vi. The public purpose sought to be achieved by the development order or enforcement
766 action, including the nature and magnitude of the problem addressed by the underlying
767 regulations on which the development order or enforcement action is based; whether
768 the development order or enforcement action is necessary to the achievement of the
769 public purpose; and whether alternative development order or enforcement action
770 conditions would achieve the public purpose and allow for reduced restrictions on the
771 use of the owner's land;
- 772 vii. Uses authorized for and restrictions placed on similar property, including adjacent lands;
773 and
774 and
775

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 776 viii. Any other information determined to be relevant by the Special Magistrate or agreed by
777 the parties to be addressed by the Special Magistrate.
778
- 779 e. The Special Magistrate shall utilize his or her expertise in formulating a recommendation
780 and, in applying this expertise, shall rely upon the sort of information. that a reasonable,
781 prudent person would rely on in the conduct of his or her affairs.
782
- 783 f. If the Special Magistrate determines the development order or enforcement action, by itself
784 or in conjunction with another action of the city or another governmental entity; is
785 reasonable and does not unfairly burden the owner's land, the Special Magistrate shall
786 recommend that the development order or enforcement action remain undisturbed.
787
- 788 g. If the Special Magistrate determines the development order or enforcement action, by itself
789 or in conjunction with another action of the city or another governmental entity, is
790 unreasonable or unfairly burdens the owner's property; the Special Magistrate shall
791 recommend one or more alternative actions that protect the public interest served by the
792 regulations at issue but allow for reduced restraints on the use of the owner's real property.
793 The alternatives may include the following:
794
- 795 i. An adjustment of land development or permit standards or conditions controlling the
796 development or use of the owner's land;
797 ii. Increases or modifications in the density, intensity, or use of areas of development;
798 iii. The transfer of development rights;
799 iv. Land swaps or exchanges;
800 v. Mitigation, including payments in lieu of on-site mitigation;
801 vi. Location of the development or use at issue on the least sensitive portion of the
802 property;
803 vii. Conditioning the amount of development or use permitted on the owner's land;
804 viii. A requirement that issues be addressed on a more comprehensive basis than a single
805 proposed use or development;
806 ix. Issuance of the development order, a variance, special exception, or other extraordinary
807 relief, including withdrawal of the enforcement action;
808 x. Purchase of the owner's land, or an interest in it, by the city or another governmental
809 entity; and
810 xi. If an apportionment of responsibility among governmental entities is necessary, the
811 Special Magistrate shall make such apportionment.
812
- 813 h. The Special Magistrate shall furnish a copy of the written recommendation to the Florida
814 Department of Legal Affairs.
815
- 816 i. The Special Magistrate's recommendation is a public record. A copy shall be available for
817 public inspection and copying at the City Clerk's office.
818
- 819 T. Effect of Special Magistrate's recommendation.
820

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 821 1. The Special Magistrate's recommendation is advisory and not binding on the owner or the City
822 Council.
- 823
- 824 2. A Special Magistrate's recommendation constitutes data which shall be considered with respect
825 to any pertinent amendment to the Comprehensive Plan.
- 826
- 827 3. A Special Magistrate's determination that the development order or enforcement action, by
828 itself or in conjunction with actions of the city or another governmental entity, is unreasonable
829 or unfairly burdens the owner's land may serve as an indication of sufficient hardship to support
830 modifications, variances, or special exception to the application of statutes, rules, regulations, or
831 ordinances to the subject property as otherwise authorized by applicable rules and regulations.
- 832
- 833 U. Disposition of Special Magistrate's recommendation.
- 834
- 835 1. Within 45 days of receipt of the Special Magistrate's recommendation, the City Council shall:
- 836
- 837 a. Accept the recommendation as submitted and implement it in the ordinary course and
838 consistent with all other rules and regulations;
- 839
- 840 b. Modify the recommendation as submitted and implement it in the ordinary course and
841 consistent with all other rules and regulations; and
- 842
- 843 c. Reject the recommendation as submitted. Failure to act within 45 days of receipt of the
844 recommendation shall be deemed a rejection, unless the owner and the city agree to an
845 extension of time.
- 846
- 847 2. If the City Council adopts a recommendation to grant a modification, variance, or special
848 exception to the application of ordinances or regulations as they otherwise would apply to the
849 land, the owner shall not be required to duplicate processes in which the owner previously has
850 participated in order to effectuate the modification, variance, or special exception.
- 851
- 852 3. If the Special Magistrate recommends relief or other action in conjunction with another
853 governmental entity, the City Manager and/or his or her designee shall confer with appropriate
854 staff from the other entities to review the recommendation and determine whether a joint staff
855 recommendation can be made to the heads of the respective governmental entities.
- 856
- 857 4. Within 15 days after final action on the Special Magistrate's recommendation by the City
858 Council, the City Clerk shall send a copy of the order or other document memorializing final
859 action to the Florida Department of Legal Affairs.
- 860
- 861 5. Within ten days of final action on the recommendation, the owner shall notify the City Manager
862 in writing whether the owner accepts the decision on the recommendation.
- 863
- 864 6. If the City Council accepts the recommendation or modifies it and the owner rejects the
865 acceptance or modification, or if the City Council rejects the recommendation, the City Council
866 shall issue a written decision that describes as specifically as possible the use or uses available

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 867 on the owner's land. The decision shall be issued within 30 days of final action on the
868 recommendation.
- 869
- 870 7. After the City Council has acted on the Special Magistrate's recommendation and a written
871 decision has been issued describing the use or uses available on the owner's land, or if the City
872 Council has not acted within 45 days, the owner may seek a formal adjudication on the
873 development order or enforcement action as otherwise authorized by law.
874

ORDINANCE 17-19

Cape Coral City Council

July 22, 2019

Background

- Process began in 2015 to revise the Land Use and Development Regulations and replace with a new Land Development Code
- Planning and Zoning Commission Workshops began in May 2018
- Comprehensive Plan Text Amendments and Future Land Use Amendment to implement the code began in 2018 and were adopted in early 2019
- Rezoning of the City to reflect new zoning districts presented to HEX January 2019 and June 2019

Adoption Dates

- **Ordinance 71-18 (Comp Plan Text Amendments): February 4, 2019**
- **Ordinance 2-19 (Future Land Use Map Amendments): April 1, 2019**
- **Ordinance 19-19 (Seven Islands Rezone): May 6, 2019**
- **Ordinance 23-19 (Downtown Mixed Text Amendment): To be presented later today July 22, 2019**

LAND DEVELOPMENT CODE SUBSTANTIAL CHANGES

More Administrative Approvals

- **Current land uses or approvals requiring public hearings include:**
 - *Model Homes*
 - *Deviations for specified marine improvements*
 - *Minor deviations for landscaping*
 - *Any dimensional variance*
- **The LDC will permit administrative approval of these and others – with standards**
- **Goal is fair and consistent decision making. Less time and cost to applicants without sacrificing community standards**

Planned Unit Developments (PUDs) to replace PDPs

- The LDC adds Planned Unit Developments (PUDs) to replace Planned Development Projects (PDPs)
- Many PDPs became a procedural requirement rather than a substantive review. Any change to a PDP requires a new public hearing process
- PUDs are a development entitlement and a zoning district tailored to a specific project
- A PUD includes a Master Concept Plan that identifies uses, access points, landscape buffers, building locations, height, etc. The PUD rezone is approved by Council. Subsequent approvals and minor changes are administrative

Updated Regulations

- More use of graphics and tables
- Refine and modernize parking regulations
- Nonconforming use & structure regulations – more flexibility for changes
- Fewer Special Exceptions
- Specific use regulations for certain uses not previously included – outdoor dining, etc.

B. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that lot area, yards, width or other dimension and area regulations of this ordinance are not maintained. This provision shall not apply when a portion of a lot is acquired for public purpose.
(Ord. 66-91, 8-26-1991; Ord. 91-05, 11-14-2005; Ord. 102-08, 10-6-2008)

§ 3.9 Fences, shrubbery, walls.

.1 Residential Zoning Districts.

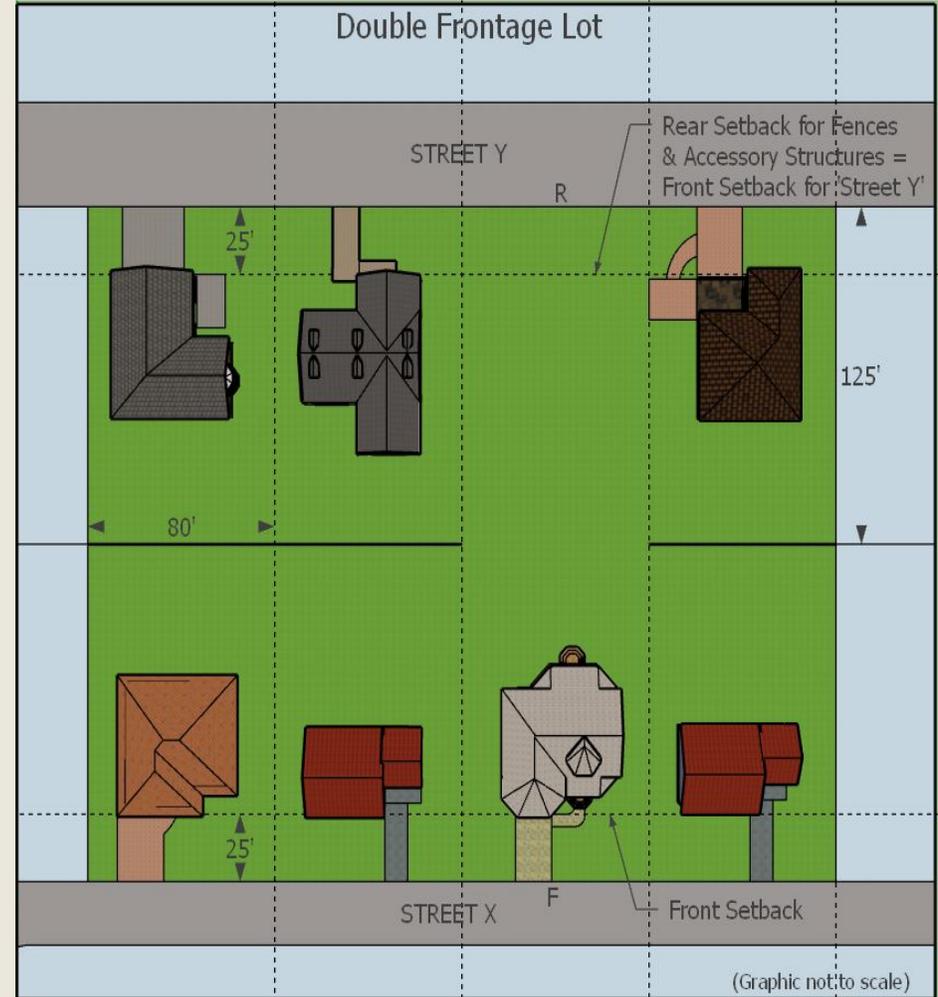
A. A fence shall not be constructed on unimproved property.
B. No fence shall be maintained at a height greater than six feet, and no wall or fence shall be erected or placed within the front setback lines of any residential lot, except as follows:
(Ord. 20-98, 4-6-1998; Ord. 48-98, 8-24-1998; Ord. 80-04, 7-19-2004)

1. A fence in a residential zone may be maintained at a height greater than otherwise allowed herein if a higher fence height is required by the city for the purpose of screening a special exception use.
(Ord. 1-97, 2-10-1997; Ord 20-98, 4-6-1998)

2. If a parcel located in a residential zone is used for residential purposes, and abuts a property which is used for commercial or professional purposes, a fence may be maintained at a height up to eight feet along the side(s) of the property which abut(s) the property or properties containing commercial or professional uses. For purposes of this section, a property shall be deemed to abut another property if the two properties are either immediately adjacent to each other or separated only by an alley. Properties which are separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.
(Ord. 1-97, 2-10-1997)

3. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must immediately enclose the recreational facility. Hooded backstops for diamond sports may be increased to a maximum height of 28 feet. For sports other than diamond sports, backstops may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed of at least nine gauge fence fabric and schedule 40 tubing.

4. Fencing for critical public utilities infrastructure, including but not limited to water and wastewater facilities and electric and natural gas facilities, which may enclose either an entire site or only an area containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips, or sharp objects are permitted on the top of fencing around critical infrastructure sites or equipment, however, the height of the fencing together with any barbed wire, spire tips, or sharp objects may not exceed eight feet, and only the top two feet may contain barbed wire, spire tips, or sharp objects. No other barbed wire, spire tips, or sharp objects shall be erected in residential zones. Further, no electrically charged fences shall be erected in residential zones.



Consolidation, elimination, and renaming of zoning districts

- Similar single-family districts (R-1A, R-1B, RD) combined in new R-1
- Two multi-family districts (RML & RMM) to replace R-3
- New zoning districts for Bimini Basin and Seven Islands
- Seldom used districts eliminated (C-3, P-2, RX, HICl, VILL)
- Districts renamed (e.g., C-1 to C) to distinguish old vs. new code

Staff Recommendation

- **Staff recommends approval of Ordinance 17-19**
- **The Planning and Zoning Commission voted unanimously to recommend approval of Ordinance 17-19 on June 5, 2019**

New Legislation

House Bills 7103 & 1159

HB 1159 - Allows owners to remove dead, diseased, or dying trees without notice to local jurisdictions. No permits required.

HB 7103 – Several changes for permit processing:

- **Completeness and sufficiency review in 30 days.**
- **Written notice of deficiencies to applicant**
- **Once complete/sufficient; 120 days to final decision. 180 days for quasi-judicial permits. N/A for Building Permits**
- **DCD has implemented procedures to comply with this statute**

MEMORANDUM

CITY OF CAPE CORAL
COMMUNITY DEVELOPMENT DEPARTMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager *JS*
Vincent A. Cautero, Community Development Director *MAC*
Robert H. Pederson, Planning Manager *RP by MAC*

DATE: July 18, 2019

SUBJECT: LDC Update Overview

Executive Summary

The new Land Development Code (LDC) is scheduled for two final public hearings: July 22 and August 5. The new LDC is the culmination of nearly four years of effort to craft a totally revamped system of zoning regulations for the City. The goal of this project was to create a more user-friendly regulatory structure; less cumbersome project review processes; address modern planning concepts not in the current code; and address many inconsistencies between the comprehensive plan and zoning maps.

The Planning and Zoning Commission (P&Z) held 15 public workshops or hearings on the LDC. The P&Z unanimously recommends approval. The Hearing Examiner held two public hearings on the zoning maps and recommends adoption of the new zoning map. City staff and management recommend approval.

It is important to note the City will be tracking the implementation of the LDC to identify any errors, internal inconsistencies, etc., and is committed to a "calibration" ordinance approximately one year following adoption. There may also be emerging issues that necessitate comprehensive plan or LDC amendments before the calibration ordinance.

Deferred Issues

During this review process, community value issues were discussed at Committee of the Whole meetings in 2018 on March 26, October 10, and November 26. Several issues were removed from the LDC pending future consideration. These are listed below.

- Accessory dwelling units (ADUs)
- Guest houses

Mayor and Council Members – LDC Adoption
July 18, 2019
Page 2 of 2

- Micro cottage village developments (MCVDs)
- Food trucks
- Commercial vehicle parking (racks, graphics, & wraps on pickups)
- Parking on the grass

Other issues that could be included in the calibration ordinance are swimming pool locations, access stairs in setbacks, public utility easements, detached garage standards, etc.

Recommendation

City management recommends approval of the LDC.

We are available to discuss this information in greater detail at your convenience.

VAC/RHP/eh

Item Number:	A.(6)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 4-19 (ZA 18-0013) First Public Hearing Set Second and Final Public Hearing Date for August 5, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning approximately 9,786 acres to be consistent with the changes to the Future Land Use Map, the Comprehensive Plan, and the new Land Development Code.

LEGAL REVIEW:

EXHIBITS:

Ordinance 4-19 (ZA 18-0003)
Updated Staff Presentation

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description

Type

- ▣ Ordinance 4-19 (ZA 18-0013)
- ▣ Updated staff presentation

Backup Material
Backup Material

ORDINANCE 4 – 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL OFFICIAL ZONING DISTRICT MAP OF ALL PROPERTY WITHIN THE LIMITS OF THE CITY OF CAPE CORAL BY REZONING PROPERTY LOCATED WITHIN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM AGRICULTURAL (A) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED WITHIN TRAFALGAR PARK FROM AGRICULTURAL (A) TO INSTITUTIONAL (INST) ZONE; BY REZONING PROPERTY LOCATED WITHIN HANCOCK CREEK SOUTH, JUDD CREEK, AND SECTION 30, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FROM AGRICULTURAL (A) TO PRESERVATION (PV) ZONE; BY REZONING PROPERTY LOCATED WITHIN TRAFALGAR PARK AND UNIT 95, CAPE CORAL SUBDIVISION, FROM AGRICULTURAL (A) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE; BY REZONING PROPERTY LOCATED WITHIN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM AGRICULTURAL (A) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 22 AND 33, CAPE CORAL SUBDIVISION, FROM PEDESTRIAN-COMMERCIAL (C-1) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; BY REZONING PROPERTY LOCATED IN CORAL LAKES FROM PEDESTRIAN COMMERCIAL (C-1) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD); BY REZONING PROPERTY LOCATED IN UNIT 1 PART 2, CAPE CORAL SUBDIVISION AND TRAFALGAR PARK FROM THOROUGHFARE COMMERCIAL (C-3) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED IN UNIT 17, CAPE CORAL SUBDIVISION, EAST CAPE COMMERCE PARK, PONDELLA COMMERCE PARK, PONDELLA HEIGHTS 1, SOUTHWIND COMMERCE PARK, AND SECTIONS 5, 8, AND 87, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FROM CORRIDOR (CORR) TO INDUSTRIAL (I) ZONE; BY REZONING PROPERTY LOCATED IN UNIT 47 PART 1, CAPE CORAL SUBDIVISION, FROM CORRIDOR (CORR) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 26, 28, 32, 33, 38, 39, 40, 41, 42, 62, 65, 51, 52, 53, 55, 56, 57, 60, 63, 68, 70, 85, AND 92, CAPE CORAL SUBDIVISION, FROM MARKETPLACE RESIDENTIAL (MR) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED WITHIN SECTION 33 SOUTH, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FROM MARKETPLACE RESIDENTIAL (MR) TO INSTITUTIONAL (INST) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 26, 37, 56, 57, 60, 63, AND 70, CAPE CORAL SUBDIVISION; SECTION 32, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; SECTION 33, TOWNSHIP 43 SOUTH, RANGE 24 EAST; SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; AND SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM MARKETPLACE RESIDENTIAL (MR) TO NEIGHBORHOOD COMMERCIAL (NC) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 28, 39, 66, 52, 63, 70, 71, AND 96, CAPE CORAL SUBDIVISION, FROM MARKETPLACE RESIDENTIAL (MR) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 26, 45, 63, 68, 70, 85, 87, 88, AND 92, CAPE CORAL SUBDIVISION, FROM MARKETPLACE RESIDENTIAL (MR) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 22, 33, 38, AND 39, CAPE CORAL SUBDIVISION, FROM PROFESSIONAL OFFICE (P-1) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNIT 7, CAPE CORAL SUBDIVISION, FROM SINGLE-FAMILY RESIDENTIAL (R-1A) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNIT 1 PART 2, 11, AND 36 PART 1, CAPE CORAL SUBDIVISION, AND SECTION 14, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM SINGLE FAMILY RESIDENTIAL (R-1B) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 24 AND 32, CAPE CORAL SUBDIVISION, FROM SINGLE FAMILY RESIDENTIAL (R-1B) TO INSTITUTIONAL (INST) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 5, 24, 33, 45-1, 49, AND 98, CAPE CORAL SUBDIVISION, FROM SINGLE-FAMILY RESIDENTIAL (R-1B) TO RESIDENTIAL MULTI-FAMILY LOW (RML); BY REZONING PROPERTY LOCATED WITHIN UNITS 22 AND 63, CAPE CORAL SUBDIVISION, FROM SINGLE FAMILY RESIDENTIAL (R-1B) TO PROFESSIONAL OFFICE (P) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 11, 12, 21, 22, 16, 17, AND 18, CAPE CORAL SUBDIVISION, FROM MULTI-FAMILY RESIDENTIAL (R-3) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 17, 18, 18 PART 1, 26 AND 32, CAPE CORAL SUBDIVISION, AND CORAL LAKES SUBDIVISION, FROM MULTI-FAMILY RESIDENTIAL (R-3) TO INSTITUTIONAL (INST) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 22, 23, AND 24, CAPE CORAL SUBDIVISION, FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PROFESSIONAL OFFICE (P) ZONE; BY REZONING PROPERTY LOCATED IN UNIT 14, CAPE CORAL SUBDIVISION, FROM MULTI-FAMILY RESIDENTIAL (R-3) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 6 PART 2, 6 PART 3, 2 PART 2, 5, 3, 2 PART 3, 2 PART 1, 9, 7, 8, 14, 21, 22, 24, 26, 16, 23, 20 PART 2, 18, 17, 17 PART 1, 30, 64 PART 1, 65, 44, 45, 29, 31, 32, 36, 33, 47 PART 2, 62, 66, 64, 67, 46, 63, 69, 70, 71, AND 92, CAPE CORAL SUBDIVISION, CAPE HARBOUR PHASE 2A, CAPE HARBOUR PHASE 2B, CORAL LAKES, META AT CAPE HARBOUR, JUDD CREEK, CONCORDIA, MARIANA PARK, TARPON POINT,

BANYAN TRACE, SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST, AND SECTION 24, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM MULTI-FAMILY RESIDENTIAL (R-3) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNIT 91, CAPE CORAL SUBDIVISION, FROM RESIDENTIAL DEVELOPMENT (RD) TO AGRICULTURAL (A) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 33, 36, 42, 49, 50, 52, 55, 56, 59, 61, AND 63, CAPE CORAL SUBDIVISION, AND SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FROM RESIDENTIAL DEVELOPMENT (RD) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNIT 50, CAPE CORAL SUBDIVISION, FROM RESIDENTIAL DEVELOPMENT (RD) TO COMMERCIAL CORRIDOR (CC) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 45, 36, 37, 39, 40, 41, 42, 62, 66, 51, 53, 54, 55, 70, AND 80, CAPE CORAL SUBDIVISION, FROM RESIDENTIAL DEVELOPMENT (RD) TO INSTITUTIONAL (INST) ZONE; BY REZONING PROPERTY LOCATED IN UNITS 50, 54 AND 58, CAPE CORAL SUBDIVISION, AND SECTION 29, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM RESIDENTIAL DEVELOPMENT (RD) TO NEIGHBORHOOD COMMERCIAL (NC) ZONE; BY REZONING PROPERTY LOCATED IN UNIT 36 PART 1, 59, 61, AND 63, CAPE CORAL SUBDIVISION, FROM RESIDENTIAL DEVELOPMENT (RD) TO PROFESSIONAL OFFICE (P) ZONE; BY REZONING PROPERTY LOCATED IN UNITS 29, 29 PART 1, 34, 35, 36 PART 1, 36, 32, 37, 38, 39, 40, 41, 42, 43, 62, 66, 65, 49, 48, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 63, 69, 70, 71, 74, 73, 72, 80, 82, 58, 90, 91, 92, 94, 97, 98, AND 76, CAPE CORAL SUBDIVISION, WEST CAPE ESTATES, EMERALD COVE, ESTATES OF OLD BURNT STORE, TRAFALGAR WOODS, HEATHERWOOD LAKES, HERMITAGE, TARPON POINT, SANDS LAKE, OSPREY POINTE, ENCLAVE, SUNSET POINTE, EAGLES LANDING, AND SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM RESIDENTIAL DEVELOPMENT (RD) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNIT 91, CAPE CORAL SUBDIVISION, FROM RESIDENTIAL DEVELOPMENT (RD) TO RESIDENTIAL ESTATE (RE) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 45 PART 1, 31, 32, 35, 37, 40, 41, 42, 43, 49, 66, 51, 52, 53, 55, 59, 63, 70, 71, 58, AND 98, CAPE CORAL SUBDIVISION, WHISPERING PINES CONDO, AND SECTION 29, TOWNSHIP 44 SOUTH, RANGE 24 EAST, AND SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM RESIDENTIAL DEVELOPMENT (RD) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 17, 31, 31 PART 2, 32, 33, 66, AND 47 PART 2, CAPE CORAL SUBDIVISION, FROM RESIDENTIAL RECEIVING (RX) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 66 AND 70, CAPE CORAL SUBDIVISION, FROM RESIDENTIAL RECEIVING (RX) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 5, 9, 6 PART 1, AND 2 PART 3, CAPE CORAL SUBDIVISION, FROM SOUTH CAPE DOWNTOWN DISTRICT (SC) TO MIXED-USE BIMINI (MXB) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 23 AND 37, CAPE CORAL SUBDIVISION, EAGLE SUBDIVISION I, FLORIDA TROPICAL FARMS, SANTA BARBARA CENTER, CORAL SHORES, TWIN CENTRAL PLAZA, AND SECTIONS 5 AND 8, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AND SECTION 14, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM VILLAGE (VILLAGE) TO COMMERCIAL CORRIDOR (CC) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 21, 20 PART 2, 20 PART 1, 44, 29, AND 33, CAPE CORAL SUBDIVISION, AND SECTION 14, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM PLACES OF WORSHIP (W) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 18 AND 68, CAPE CORAL SUBDIVISION, FROM PLACES OF WORSHIP (W) TO INSTITUTIONAL (INST) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNITS 7, 9, 21, 45, 66, 69, AND 71, CAPE CORAL SUBDIVISION, AND SECTION 24, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM PLACES OF WORSHIP (W) TO SINGLE FAMILY RESIDENTIAL (R1) ZONE; BY REZONING PROPERTY LOCATED WITHIN UNIT 18, CAPE CORAL SUBDIVISION, FROM PLACES OF WORSHIP (W) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; BY REZONING PROPERTY LOCATED WITHIN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; SECTIONS 5, 6, AND 7, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FROM AGRICULTURAL-2 (AG-2, A LEE COUNTY DESIGNATION) TO COMMERCIAL (C) ZONE; BY REZONING PROPERTY LOCATED WITHIN SECTION 7, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FROM AGRICULTURAL-2 (AG-2, A LEE COUNTY DESIGNATION) TO INSTITUTIONAL (INST) ZONE; AND BY REZONING PROPERTY LOCATED WITHIN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, FROM AGRICULTURAL-2 (AG-2, A LEE COUNTY DESIGNATION) TO NEIGHBORHOOD COMMERCIAL (NC) ZONE, ALL AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral City Council has considered testimony, evidence, documentation and the application submitted by the CITY OF CAPE CORAL, for rezoning the below-described property FROM AGRICULTURAL (A) TO COMMERCIAL (C), INSTITUTIONAL (INST), PRESERVATION (PV), SINGLE-FAMILY RESIDENTIAL (R1), AND RESIDENTIAL MULTI-FAMILY LOW (RML) ZONES; from PEDESTRIAN-COMMERCIAL (C-1) TO RESIDENTIAL MULTI-FAMILY LOW (RML) AND

RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) ZONES; FROM THOROUGHFARE COMMERCIAL (C-3) TO COMMERCIAL (C) ZONE; FROM CORRIDOR (CORR) TO INDUSTRIAL (I) AND SINGLE-FAMILY RESIDENTIAL (R1) ZONES; FROM MARKETPLACE RESIDENTIAL (MR) TO COMMERCIAL (C), INSTITUTIONAL (INST), NEIGHBORHOOD COMMERCIAL (NC), SINGLE-FAMILY RESIDENTIAL (R1), AND RESIDENTIAL MULTI-FAMILY LOW (RML) ZONES; FROM PROFESSIONAL OFFICE (P-1) TO COMMERCIAL (C) ZONE; FROM SINGLE-FAMILY RESIDENTIAL (R-1A) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE; FROM SINGLE FAMILY RESIDENTIAL (R-1B) TO COMMERCIAL (C), INSTITUTIONAL (INST), RESIDENTIAL MULTI-FAMILY LOW (RML), AND PROFESSIONAL OFFICE (P) ZONES; FROM MULTI-FAMILY RESIDENTIAL (R-3) TO COMMERCIAL (C), INSTITUTIONAL (INST), PROFESSIONAL OFFICE (P), SINGLE-FAMILY RESIDENTIAL (R1), RESIDENTIAL MULTI-FAMILY LOW (RML) ZONES; FROM RESIDENTIAL DEVELOPMENT (RD) TO AGRICULTURAL (A), COMMERCIAL (C), COMMERCIAL CORRIDOR (CC), INSTITUTIONAL (INST), NEIGHBORHOOD COMMERCIAL (NC), PROFESSIONAL OFFICE (P-1), SINGLE-FAMILY RESIDENTIAL (R1), RESIDENTIAL ESTATE (RE), RESIDENTIAL MULTI-FAMILY LOW (RML); FROM RESIDENTIAL RECEIVING (RX) TO SINGLE-FAMILY RESIDENTIAL (R1) AND RESIDENTIAL MULTI-FAMILY LOW (RML) ZONES; FROM SOUTH CAPE DOWNTOWN DISTRICT (SC) TO MIXED-USE BIMINI (MXB) ZONE; FROM VILLAGE (VILL) TO COMMERCIAL CORRIDOR (CC) ZONE; FROM PLACES OF WORSHIP (W) TO COMMERCIAL (C), INSTITUTIONAL (I), SINGLE-FAMILY RESIDENTIAL (R1), AND RESIDENTIAL MULTI-FAMILY LOW (RML) ZONES; AND FROM AGRICULTURAL-2 (AG-2, A LEE COUNTY DESIGNATION) TO COMMERCIAL (C), INSTITUTIONAL (INST), AND NEIGHBORHOOD COMMERCIAL (NC) ZONES and considered the recommendations of the Hearing Examiner and City Staff, and has considered the City of Cape Coral Comprehensive Plan with this zoning request.

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

Section 1. That the City of Cape Coral Official Zoning District Map of all of the property within the limits of the City of Cape Coral is hereby amended with respect to real property described as follows:

AGRICULTURAL (A) TO COMMERCIAL (C) ZONE

The Southwest Quarter of Section 29, Township 44 South, Range 23 East, Lee County, Florida.

LESS AND EXCEPT that portion thereof as conveyed to the City of Cape Coral by Warranty Deed recorded in Official Record Book 2910, Page 2470, of the Public Records of Lee County, Florida.

LESS AND EXCEPT that portion located east of the right-of-way known as Veterans Parkway.

AGRICULTURAL (A) TO INSTITUTIONAL (INST) ZONE

Unit	Block	Lots	PB/PG
Trafalgar Park	6611	All of Block 6611	

AGRICULTURAL (A) TO PRESERVATION (PV) ZONE

Unit	Block	Lots	PB/PG
Hancock Creek South	6634	Tract A	
Judd Creek		Tracts 9, 10	

AND

A tract or parcel of land in the North ½ of Section 29 and the NE ¼ of Section 30, all in Township 43 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Beginning at the quarter corner common to said Sections 29 and 30; thence N88°56'56"W (bearings based on the State Place Coordinate System, West Zone, NAD 83/90) along the south line of the NE ¼ of Section 30 for 380.01 feet to the east right-of-way line of Del Prado Boulevard; thence N00°20'07"W along said east right-of-way line for 875.61 feet to a point of curvature; thence continue along said east right-of-way line northerly for 1098.59 feet along the arc of a curve to the right having a radius of 3042.29 feet, a central angle of 20°41'24", a chord bearing and distance of N10°00'35"E for 1092.63 feet to the SW corner of lands described in Official Records Book 2196, Page 1714, Public Records of Lee County, Florida; thence N89°54'38"E leaving said east right-of-way line along the south line of said lands for 5177.63 feet to a point on the east line of the NE ¼ of

Section 29 and to the SE corner of said lands, said point being 668.00 feet S00°07'49"E from the NE corner of Section 29; thence S00°07'49"E along the east line of the NE ¼ of Section 29 for 642.66 feet to the NE corner of the E ½ of the SE ¼ of the NE ¼ of said Section 29; thence S89°37'07"W along the north line of the SE ¼ of the NE ¼ of said Section 29; thence S89°37'07"W along the north line of the SE ¼ of the NE ¼ of said Section 29 for 607.04 feet; thence S01°19'23"W leaving said north line for 1308.68 feet to a point on the south line of the N ½ of Section 29, said point being 640.23 feet S89°50'49"W from the quarter corner common to Section 28 and 29; thence S89°50'49"W along said south line of the N ½ of said Section 29 and along the north line of Cape Coral Unit 33 as recorded in Plat Book 16, Pages 59-61 of aforesaid public records for 4346.70 feet to the Point of Beginning.

AGRICULTURAL (A) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE

Unit	Block	Lots	PB/PG
Trafalgar Park	6610	All of Block 6610	
95	6021	All of Block 6021	PB 25 PG 41-42

AGRICULTURAL (A) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

The Southwest Quarter of Section 29, Township 44 South, Range 23 East, Lee County, Florida.

LESS AND EXCEPT that portion thereof as conveyed to the City of Cape Coral by Warranty Deed recorded in Official Record Book 2910, Page 2470, of the Public Records of Lee County, Florida.

LESS AND EXCEPT that portion located west of the right-of-way known as Veterans Parkway.

PEDESTRIAN-COMMERCIAL (C-1) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

Unit	Block	Lots	PB/PG
22	792	7-12	PB 14 PG 13
33	2220	1-66	PB 16 PG 43

PEDESTRIAN-COMMERCIAL (C-1) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) ZONE

Parcel in Section 30, Township 43 South, Range 24 East, City of Cape Coral, Lee County, Florida, a tract or parcel of land being a portion of Tract "C-1" of the record plat of "CORAL LAKES" recorded in Plat Book 80, Page 12, of the Public Records of Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Southeast corner of said Tract "C-1" run N88°56'32"W along the South line of said Tract "C-1" for 300.09 feet to the POINT OF BEGINNING.

From said Point of Beginning run along the South, Westerly and Northerly line of said Tract "C-1" the following twenty-three (23) courses: N88°56'32"W for 729.04 feet; N01°03'28"E for 204.62 feet; N32°09'22"W for 110.92 feet; N00°00'00"E for 139.82 feet; N90°00'00"E for 96.66 feet; N55°31'54"E for 123.24 feet; N00°19'23"W for 241.14 feet to a point of curvature; Northwesterly along an arc of a curve to the left of radius 20.00 feet (delta 64°02'34") (chord bearing N32°20'40"W) (chord 21.21 feet) for 22.36 feet to a point of tangency; N64°21'57"W for 51.77 feet; N59°28'19"E for 18.06 feet; N63°59'55"W for 125.02 feet; N51°40'19"W for 67.89 feet; N40°30'55"E for 249.77 feet to a point of curvature; Easterly along an arc of a curve to the right of radius 30.00 feet (delta 59°45'00") (chord bearing N70°23'25"E) (chord 29.89 feet) for 31.29 feet to a point of tangency; S79°44'05"E for 23.33 feet; N10°15'55"E for 393.75 feet; S79°44'05"E for 50.00 feet; N10°15'55"E for 50.00 feet; S79°44'05"E for 220.68 feet; N09°44'05"E for 128.98 feet to a point on a non-tangent curve; Easterly along an arc of a curve to the right of radius 481.00 feet (delta 09°12'53") (chord bearing S88°42'12"E) (chord 77.28 feet) for 77.36 feet to a point of compound curvature; Easterly along an arc of a curve to the right of radius 2,945.00 feet (delta 03°24'24") (chord bearing S82°23'33"E) (chord 175.08 feet) for 175.10 feet to a point of compound curvature and Easterly along an arc of a curve to the right of radius 4,945.00 feet (delta 00°21'50") (chord bearing S80°30'26"E) (chord 31.39 feet) for 31.39 feet to a point on a non-tangent curve; thence run Southerly along an arc of a curve to the left of radius 3,482.29 feet (delta 12°00'54") (chord bearing S05°40'24"W) (chord 728.90 feet) for 730.24 feet to a point of tangency; thence run S00°20'03"E for 864.92 feet to the POINT OF BEGINNING.

Containing 23.30 acres, more or less.

THOROUGHFARE COMMERCIAL (C-3) TO COMMERCIAL (C) ZONE

Unit	Block	Lots	PB/PG
1 PT 2	12	Tract A	PB 11 PG 35
Trafalgar Park	6612	All of Block 6612	

CORRIDOR (CORR) TO INDUSTRIAL (I) ZONE

Unit	Block	Lots	PB/PG
17	1547	48-54	PB 14 PG 35
17	1548	23-36	PB 14 PG 35-36
17	1549	1-44	PB 14 PG 36-37
17	1553	1-53	PB 14 PG 37-38
17	1554	1-43	PB 14 PG 37-38
17	1554A	1-16	PB 14 PG 37
17	1554B	1-13	PB 14 PG 38
17	1554C	TR	PB 14 PG 38
East Cape Commerce Pk		Tracts A, B, C1	
East Cape Commerce Pk		Tracts 4A, 4B, 4C, 4D, 5, 6	
East Cape Commerce Pk		Lots 1-7	
Pondella Commerce Pk	6940		
Pondella Commerce Pk	6941		
Pondella Commerce Pk	6942		
Pondella Commerce Pk	6943		
Pondella Commerce Pk	6943		
Pondella Commerce Pk	6944		
Pondella Commerce Pk	6945		
Pondella Commerce Pk	6946		
Pondella Commerce Pk	6947		
Pondella Heights 1	1	14	
Southwind Commerce Pk		Tract A, B, C	
Southwind Commerce Pk	7008	1-30	

AND

A tract or parcel of land in Sections 5 and 8, Township 44 South, Range 24 East, Lee County, Florida; being more particularly described as follows:

From the NE corner of said Section 8, run S00°09'07"W along the East line of said Section 8 a distance of 40.00 feet to a point on the South right-of-way line of Pondella Road (SR-78A); thence N89°23'34"W, parallel to and 40.00 feet from the centerline of said Pondella Road a distance of 1,620.00 feet to the Point of Beginning; thence S00°09'07"W, parallel to the East line of said Section 8, a distance of 600.00 feet; thence N89°23'34"W, 360.00 feet; thence N00°09'07"E, 426.00 feet; thence S89°23'34"E 180.00 feet; thence N00°09'07"E 174.00 feet to a point on the South right-of-way line of said Pondella Road; thence S89°23'34"E, 180.00 feet to the Point of Beginning; subject to a road easement over and across the most Westerly 15 feet thereof; also subject to any and all easement, restrictions, and reservations of record.

AND

A tract or parcel of land in Sections 5 and 8, Township 44 South, Range 24 East, Lee County, Florida; being more particularly described as follows:

From the NE corner of said Section 8, run S00°09'07"W along the East line of said Section 8 a distance of 40.00 feet to a point on the South right-of-way line of Pondella Road (SR-78A); thence N89°23'34"W, parallel to and 40.00 feet from the centerline of said Pondella Road a distance of 1,800.00 feet to the Point of Beginning; thence S00°09'07"W, parallel to the East line of said Section 8, a distance of 174.00 feet; thence N89°23'34"W, 180.00 feet; thence N00°09'07"E 174.00 feet to a point on the South right-of-way line of said Pondella Road;

thence S89°23'34"E, 180.00 feet to the Point of Beginning; subject to a road easement over and across the most Westerly 15 feet thereof; also subject to any and all easement, restrictions, and reservations of record.

AND

A tract or parcel of land lying in Section 8, Township 44 South, Range 24 East, Lee County, Florida, being more particularly described as follows:

From the Northeast corner of said Section 8, run South along the East line of said Section 8 for 40 feet to the South right-of-way line of Pondella Road; thence run Westerly along said South right-of-way line for 1,980 feet to a point. From said point, continue Westerly along said right-of-way line for 180 feet; thence run South, parallel with the East line of said Section 8 for 15.86 feet to the South line of Section 5, Township 44 South, Range 24 East; thence continue South on the same course for 584.14 feet to the Point of Beginning of the lands herein described. From said Point of Beginning, continue on the same course for 249.12 feet; thence East parallel to the South right-of-way line of Pondella Road for 180 feet; thence run North parallel with the East line of said Section 8 for 250 feet, more or less, to the Southeast corner of those lands previously conveyed by Berry-Cheasley Corporation to "Sellers Inc."; thence West parallel to the South right-of-way line of Pondella Road as aforesaid same being the line common with the South line of the south 600 feet of the West half of Lot 30 of South Florida Farms, an unrecorded plat, for 180 feet more or less to the Point of Beginning.

AND

A tract or parcel of land lying in Section 8, Township 44 South, Range 24 East, Lee County, Florida, being more particularly described as follows:

From the Northeast corner of said Section 8 run S00°09'07"W, along the East line of said Section, a distance of 40 feet to a point on the South right-of-way line of Pondella Road; thence N 89°23'34"W, parallel to and 40 feet from the centerline of said Pondella Road, a distance of 1,380 feet; thence S00°09'07"W, parallel to the East line of said Section 8, a distance of 600 feet to the Point of Beginning; thence continue S00°09'07"W, 356.48 feet; thence S88°56'02"W parallel to the South line of the N ½ of the N ½ of said Section 8, a distance of 600.12 feet; thence N00°09'07"E, 374.00 feet; thence S89°23'34"E, 600 feet to the Point of Beginning.

AND

A tract or parcel of land lying in Section 8, Township 44 South, Range 24 East, Lee County, Florida, being more particularly described as follows:

From the Northeast corner of said Section 8, run S00°09'07"W, along the East line of said Section, a distance of 40 feet to a point on the South right-of-way line of Pondella Road; thence N89°23'34"W along said right-of-way line for 2,160 feet; thence S00°09'07"W, 581.67 feet to the Point of Beginning; thence continue S00°09'07"W, 405.33 feet; thence S88°56'02"W, 180 feet; thence N00°09'07"E, 405.33 feet; thence N88°56'02"E 180 feet to the Point of Beginning.

AND

Parcel described in Official Records Book 1045, Page 1751, less the South 762.85 feet, of the Public Records of Lee County, Florida.

AND

From the Northeast corner of Section 8, Township 44 South, Range 24 East, run South along the East line of said Section 8 for 40 feet to the South right-of-way line of Pondella Road thence run Westerly along said South right-of-way line for 1,980 feet to the Point of Beginning; from said point continue Westerly along said right-of-way line for 180 feet; thence run South parallel with the East line of said Section 8 for 15.86 feet to the South line of Section 5, Township 44 South, Range 24 East thence continue South on the same course for 584.14 feet; thence East parallel to the South right-of-way line of Pondella Road for 180 feet; thence North parallel with the East line of Section 8 for 600 feet to the Point of Beginning.

AND

The West 300 feet of the East 1380 feet of the North 1326 feet of the NE ¼ of Section 87, Township 44 South, Range 24 East in Lee County, Florida.

CORRIDOR (CORR) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE

Unit	Block	Lots	PB/PG
47 PT 1	3573	7-46	PB 24 PG 8-9
47 PT 1	3578	1-89	PB 24 PG 9-11

MARKETPLACE-RESIDENTIAL (MR) TO COMMERCIAL (C) ZONE

Unit	Block	Lots	PB/PG
26	980	1-102	PB 14 PG 140,143,146
28	1912	1-15	PB 14 PG 102
63	1912	16-30	PB 21 PG 65,68
28	1920	1-40	PB 14 PG 102,105
63	1920	41-80	PB 21 PG 68,71
32	2149	30-65	PB 16 PG 11-12
32	2153	4-30	PB 16 PG 12-13
32	2155	3-62	PB 16 PG 12-13
32	2161	1-34; 41-76	PB 16 PG 11-12
33	2178	1-42	PB 16 PG 53
33	2179	1-49	PB 16 PG 53-54
33	2233	1-20; 23-56	PB 16 PG 53-54
38	2654A	1-55	PB 16 PG 97
38	2654B	1-55	PB 16 PG 97
38	2654C	TR	PB 16 PG 97
38	2659A	1-58	PB 16 PG 98
38	2659B	1-37	PB 16 PG 98
38	2660A	1-46	PB 16 PG 98-99
38	2660B	1-30	PB 16 PG 98-99
39	2707	1-36	PB 16 PG 144
39	2708	TR	PB 16 PG 144-145
39	2709A	1-32	PB 16 PG 144-145
39	2709B	1-21	PB 16 PG 144-145
39	2711	1-36	PB 16 PG 143-144
39	2714A	1-48	PB 16 PG 143-144
39	2714B	1-32	PB 16 PG 143-144
40	2812	1-32	PB 17 PG 91
40	2813	TR	PB 17 PG 91
41	2871	30-51	PB 17 PG 12
41	2872	TR	PB 17 PG 12
41	2876	1-23; 56-78	PB 17 PG 12
42	2924A	TR	PB 17 PG 33
42	2924B	1-16; 30-44	PB 17 PG 33
62	3072	1-68	PB 21 PG 29,33
65	3326	1-14, 29-32, 39-42	PB 21 PG 155
65	3335	5-18, 25-36	PB 21, PG 152, 155
51	3780	1-60	PB 19 PG 14
51	3781	1-44	PB 19 PG 14
52	3785	1-44	PB 19 PG 50
52	3816	30-49	PB 19 PG 63
52	3817	21-47	PB 19 PG 63
52	3834	1-70	PB 19 PG 56, 59
53	3841	1-73	PB 19 PG 65
53	3845	28-54	PB 19 PG 69
53	3848	66-72	PB 19 PG 65
55	4015	1-44	PB 19 PG 106
56	4038	1-44	PB 19 PG 110

57	4076	65-70	PB 19 PG 127
60	4272	1-53	PB 19 PG 166,169
63	4384	1-56	PB 21 PG 52,56
63	4385	1-32	PB 21 PG 56,59
63	4414	1-66	PB 21 PG 57,60
63	4428	Block 4428 less North 785 feet	PB 21 PG 59,62
63	4453	1-56	PB 21 PG 76-77
63	4454	1-54	PB 21 PG 71,75
63	4465	1-78	PB 21 PG 69,72-73
63	4486	1-64	PB 21 PG 75,80
68	4486	65-73	PB 23 PG 103
68	4555	1-12	PB 23 PG 103
70	4739	1-12; 79-90	PB 22 PG 74
85	5652	Tract	PB 24 PG 57
85	5653	Tract	PB 24 PG 57-58
92	5913	All of Block 5913	PB 25 PG 33

AND

A TRACT OR PARCEL OF LAND BEING LYING IN VACATED BLOCK 4722 AND PART OF VACATED BLOCK 4723, AND VACATED SW 34TH TERRACE, ALL LYING IN CAPE CORAL SUBDIVISION, UNIT 70 AS RECORDED IN PLAT BOOK 22, PAGES 58 THROUGH 87, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF SW 34 STREET (60 FEET WIDE) AND SW 17TH AVENUE (60 FEET WIDE); THENCE RUN N.89°44'01"E. ALONG THE CENTERLINE OF SAID SW 34TH STREET FOR 54.74 FEET; THENCE RUN S.00°15'59"E. FOR 30.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SAID SW 34TH STREET AND THE POINT OF BEGINNING; THENCE RUN N.89°44'01"E. FOR 666.46 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY FOR 39.25 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 89°57'50", A CHORD BEARING OF S.45°17'04"E. AND A CHORD DISTANCE OF 35.34 FEET TO A POINT OF TANGENCY ON THE WEST RIGHT-OF-WAY LINE OF CHIQUITA BOULEVARD (100 FEET WIDE); THENCE RUN S.00°18'09"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 326.02 FEET; THENCE RUN S.89°44'01"W. (351.00 FEET SOUTH OF AND PARALLEL TO THE SOUTH RIGHT-OF-WAY LINE OF THE AFORESAID SW 34TH STREET) FOR 718.21 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF THE AFORESAID SW 17TH AVENUE; THENCE RUN N.00°00'18"E. FOR 326.13 FEET TO A POINT OF CURVATURE; THENCE RUN NORTHEASTERLY FOR 39.15 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 89°43'43", A CHORD BEARING OF N.44°52'09"E. AND A CHORD DISTANCE OF 35.27 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 5.773 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST RIGHT-OF-WAY LINE OF THE AFORESAID SW 17TH AVENUE TO BE N.00°00'18"E.

MARKETPLACE-RESIDENTIAL (MR) TO INSTITUTIONAL (INST) ZONE

All that tract or parcel of land lying and being in the SW ¼ and the SE ¼ of Section 33 South, Township 43 South, Range 24 East, Tallahassee Meridian, Lee County, Florida, more particularly described as follows: Beginning at a concrete monument which is at the northwest corner of Corbett Road Industrial Park, a subdivision as recorded in Official Records Instrument #2006000108975 of the records in the office of the Clerk of the Circuit Court of Lee County, Florida and at plane coordinate position North 854,715.05 feet and East 682,855.63 feet, based on Transverse Mercator Projection, Florida West zone, NAD '83:

Thence N 26°49'46"W along the northeasterly right-of-way line of Corbett Road a distance of 400.05 feet to a 5/8" iron rod stamped "2"; thence 26°40'19"W along said northeasterly right-of-way line of said road a distance of 280.00 feet to a 5/8" iron rod stamped "3"; thence N 63°19'41"E a distance of 860.00 feet to a 5/8" iron rod stamped "4"; thence Northeasterly along a curve to the right with a radius of 1,500.00 feet, a central angle of 02°20'05", an arc distance of 61.13 feet, the chord of which bears N 64°29'44"E a distance of 61.12 feet to a 5/8" iron rod stamped "5"; thence S 29°07'38"E a distance of 691.97 to a 5/8" iron rod stamped "6" which

is on the northern boundary line of an access easement as recorded in Official Records Book 4085, Page 3710 of the records in the office of the Clerk of the Circuit Court of Lee County, Florida; thence S 45°04'43"W along the northern boundary line of said easement a distance of 37.18 feet to a concrete monument which is on the northern boundary of said Corbett Road Industrial Park; thence S 38°06'39"W along the northern boundary of said Corbett Road Industrial Park a distance of 27.35 feet to a 5/8" iron rod stamped "8"; thence S 65°38'04"W along the northern boundary of said Corbett Road Industrial Park a distance of 890.32 feet, more or less, to the point of beginning.

Containing 15.00 acres and being a part of the same land described in a Certificate of Title, dated 21 September 2011 and recorded as Official Records Instrument #2011000206632 of the records in the office of the Clerk of the Superior Court of Lee County, Florida and designated as Tract 101 of the United State Army Reserve Center, Cape Coral, Florida.

MARKETPLACE-RESIDENTIAL (MR) TO NEIGHBORHOOD COMMERCIAL (NC) ZONE

Unit	Block	Lots	PB/PG
26	890	1-10	PB 14 PG 146
37	2553B	TR	PB 17 PG 27
56	4069	TR A	PB 19 PG 116
57	4075	TR	PB 19 PG 127
60	4199	1-25	PB 19 PG 160
60	4199A	TR	PB 19 PG 160
60	4199B	TR	PB 19 PG 160
60	4231	1-8	PB 19 PG 157
60	4232	5-20	PB 19 PG 160, 163
63	4415	23-42	PB 21 PG 63
70	4685	15-22	PB 22 PG 85
70	4762A	All of Block 4762A	PB 22 PG 68, 72

AND

A portion of the NW ¼ of Section 32, Township 43 South, Range 23 East, City of Cape Coral, Lee County, Florida, being more particularly described as follows:

Commencing at the NW corner of the said NW ¼ of Section 32; thence run S89°55'31" E, along the North line of said NW 1/4 , a distance of 132.00 feet to a point of intersection with the Easterly right-of-way line of Burnt Store Road North (SR 765) and the Point of Beginning of a parcel of land hereinafter described; thence continue S89°55'31" E, along the North line of said NW ¼ a distance of 2431.87 feet to a point of intersection with the Westerly boundary line of the Subdivision entitled Cape Coral Unit 98, as recorded in Plat Book 25, Pages 107-121, of the Public Records of Lee County, Florida; thence run S00°00'06" W, along said Westerly boundary line of Cape Coral Unit 98, a distance of 2276.82 feet to a point of intersection with the Northerly boundary line of the Subdivision entitled Cape Coral Unit 57, as recorded in Plat Book 19, Pages 124-137 of the Public Records of Lee County, Florida; thence run N89°49'17" W, along said Northerly boundary line of Cape Coral Unit 57, a distance of 2434.70 feet to a point of intersection with the Easterly right-of-way line of said Burnt Store Road North (SR 765); said line being 132.00 feet East of and parallel to the West line of said NW ¼ of Section 32; thence run N00°04'21" E, along said Easterly right-of-way line of Burnt Store Road North (SR 765), a distance of 2272.39 feet to the Point of Beginning.

LESS AND EXCEPT: Parcel 270 as set forth and contained in the Stipulated Final Judgement recorded January 13, 2016 in Official Records Instrument #2016000008354, Public Records of Lee County, Florida, and being described as follows:

A tract or parcel of land, being part of the NW ¼ of the NW 1/4, lying in Section 32, Township 43 South, Range 23 East, City of Cape Coral, Lee County, Florida, being described as follows:

Commencing at the NW corner of the NW ¼ of said Section 32 run S89°55'30" E, a distance of 132.00 feet to an intersection with the East right-of-way line of Burnt Store Road (200 feet wide); thence run S00°04'30" W along said East line for 1098.69 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run S 07°44'16" E, a distance of 787.15 feet to an intersection with a point of curvature, thence run along said curve to the right having a radius of 4201.01 feet (delta 05°24'09"), chord bearing S05°02'11"E (chord 395.98 feet) for 396.13 feet to an intersection with the North line of Cape Coral Unit 57 as shown on the plat recorded in Plat Book 19, Page 124, of the Public Records of Lee County, Florida; thence

N89°50'09"W, along said North line, a distance of 142.28 feet to an intersection with said East right-of-way line; thence N00°04'30" E along said East line, a distance of 1174.03 feet to the POINT OF BEGINNING.

AND

A tract or parcel of land lying in Section 33, Township 43 South, Range 24 East, and in Section 4, Township 44 South, Range 24 East, Lee County, Florida. Said parcel being more particularly described as follows:

Commence at the Northwest corner of said Section 33, thence North 87°27'05" East along the North line of said Section 33, 1,509.63 feet; thence South 02°32'55" East, perpendicular to said North line 1,325.96 feet to an intersection with the North line of the Southeast quarter to an intersection with the North line of the Southeast quarter of the Northwest quarter of said Section 33, also being a point of the East right-of-way line of Corbett Road as maintained; thence Southerly along said East right-of-way line, also being a curve concave to the West having for its elements a central angle of 04°49'28" and radius of 3,355.37 feet, an arc distance of 282.52 feet; thence continue along said maintained right-of-way line South 04°36'54" West, 772.53 feet to the beginning of a curve concave to the East, having for its elements a central angle of 33°41'06" and radius 878.41 feet; thence Southerly along said curve an arc distance of 516.43 feet; thence South 29°04'12" East, 1,545.93 feet; thence South 29°09'56" East, 925.29 feet to the beginning of a curve concave to the West, having for its elements a central angle of 22°36'52" and radius of 1,242.00 feet; Thence Southerly along said curve an arc distance of 490.21 feet; thence South 06°33'04" East, 687.23 feet; thence South 14°09'20" East, 78.18 feet to an intersection with the Northerly right-of Way line of Pine Island Road (State Road 78); thence North 59°35'00" East, 1,254.38 feet to a Florida Department of Transportation right-of-way marker; thence North 30°25'00" West, 17.00 feet to a Florida Department of Transportation right-of-way marker; thence North 59°35'00" East, 650.11 feet to an approximate point on the Westerly bank of a creek known as Yellow Fever Creek; thence Northwesterly along said bank 128.10 feet, more or less, to a point 25.00 feet Southerly of and on a line perpendicular to the North line of said Section 4; thence North 02°25'23" West along said line 25.00 feet to said North line of said Section 4; thence North 87°34'37" East along said North line 290.00 feet to the Southwest corner of the East half of the Southeast quarter of the Southeast quarter of said Section 33; thence North 00°52'00" East along the West line of the said East half of the Southeast quarter of the Southeast quarter of said Section 33, 664.37 feet to the Northeast corner of the Southwest quarter of the Southeast quarter of the Southeast quarter of said Section 33; Thence South 87°33'09" West along said North line of the Southwest quarter of the Southeast quarter of the Southeast quarter of said Section 33, 165.34 feet to a point on the West line of the East half of the East half of the Northwest quarter of the Southeast quarter of the Southeast quarter of said Section 33; thence North 00°49'37" East along said West line of the East half of the East half of the Northwest quarter of the Southeast quarter of the Southeast quarter of said Section 33, 664.31 feet to a point on the North line of said Southeast quarter of the Southeast quarter of said Section 33; thence continue North 00°49'37" East, 400.64 feet to an intersection with a line 400.00 feet North of and parallel to said North line of the Southeast quarter of the Southeast quarter of said Section 33; Thence North 87°32'52" East, parallel to said North line of the Southeast quarter of the Southeast quarter of said Section 33, 830.84 feet to an intersection with the East line of said Section 33; thence North 01°01'30" East along said East line 928.64 feet to the East quarter corner of said Section 33; thence South 87°31'08" West along the North line of the Southeast quarter of said Section 33, 2,002.22 feet to an intersection with the East line of the West half of the Southwest quarter of the Northeast quarter of said Section 33; thence North 00°32'55" East along said East line of the West half of the Southwest quarter of the Northeast quarter of said Section 33, 1,278.97 feet to an intersection with the South line of the North 50.00 feet of the West half of the Southwest quarter of the Northeast quarter; Thence South 87°29'15" West, 670.96 feet to a point 50.00 feet South of the Northwest corner of the Southwest quarter of the Northeast quarter of said Section 33; thence South 87°29'04" West, parallel to and 50.00 feet South of the North line of the Southeast quarter of the Northwest quarter of said Section 33, 327 feet, more or less, to the approximate centerline of Yellow Fever Creek; thence Westerly along said centerline of Yellow Fever Creek to an intersection with the North line of the Southeast quarter of the Northwest quarter of said Section 33; Thence South 87°29'04" West along said North line of the Southeast quarter of the Northwest quarter of said Section 33, 895.8 feet, more or less, to the Point of Beginning.

LESS AND EXCEPT those properties located in Lots 1 through 18, Corbett Road Industrial Park, as per plat thereof recorded in O.R. Instrument #2006000108975, of the Public Records of Lee County, Florida.

AND

LESS AND EXCEPT the same land described in a Certificate of Title, dated 21 September 2011 and recorded as Official Records Instrument #2011000206632 of the records in the office of the Clerk of the Superior Court of Lee County, Florida and designated as Tract 101 of the United State Army Reserve Center, Cape Coral, Florida.

AND

LESS AND EXCEPT all property within the tract described above that is located south of Diplomat Parkway. Said property for land use purposes being 134.34 acres in size, more or less.

AND

A parcel of land located in the north half (N-1/2) of Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida being more particularly described as follows:

Commence at the northeast corner of said Section 10 and run West along the north line of said Section 10, N 89°43'29"W for 50.00 feet, thence southerly parallel with and 50 feet west of the east section line of said Section 10, S 00°00'33"W for 50.00 feet to the Point of Beginning of the herein described parcel. From said Point of Beginning run southerly parallel with and 50.00 feet west of the east section line of said Section 10, S 00°00'33"W for 2,642.99 feet to the east/west quarter section line of said Section 10; thence run westerly along said quarter section line, N 89°55'45"W for 400.00 feet; thence run northerly N 00°00'33"E for 2,244.42 feet; thence run westerly N 89°43'29"W for 2,240.19 feet; and thence S 89°40'51"W 666.88 feet; then run northerly N 00°00'33"E for 400.00 feet; thence run easterly N 89°40'51"E for 666.88 feet and S 89°43'29"E for 2,640.19 feet to the Point of Beginning.

LESS AND EXCEPT those land described and recorded as Official Records Instrument #2018000291668, Pages 7 and 8, of the records in the office of the Clerk of Court of Lee County, Florida.

MARKETPLACE-RESIDENTIAL (MR) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE

Unit	Block	Lots	PB/PG
63	1908	7-12	PB 21 PG 76
28	1923	71-77	PB 14 PG 105
39	2699	1-16; 59-74	PB 16 PG 145, 148
39	2700	1-15; 60-74	PB 16 PG 144,147
39	2706	1-80	PB 16 PB 143-144, 147
66	3196	1-52	PB 23 PG 99
52	3823	1-26	PB 19 PG 59-60
63	4415	1-22	PB 21 PG 60,63
63	4491	6-12, 70-72	PB 21 PG 81
70	4685	5-11	PB 22 PG 85
71	4796	1-38	PB 22 PG 90
96	6068	1-36	PB 25 PG 49

MARKETPLACE RESIDENTIAL (MR) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

Unit	Block	Lots	PB/PG
26	872	1-96	PB 14 PG 127,130
45	1842	7-86	PB 21 PG 138,141
63	4360	1-2	PB 21 PG 80
63	4406	9-54	PB 21 PG 53,57
63	4487	1-45	PB 21 PG 77,81
63	4491	1-5, 73-78	PB 21 PG 81
68	4566	27-54	PB 23 PG 103,106
68	4567	1-20	PB 23 PG 106-107
68	4567	37-56	PB 23 PG 106-107
70	4685	12-14; 23-25	PB 22 PG 85
85	5651	Tract	PB 24 PG 57
87	5717	Tract	PB 24 PG 79
87	5718	Tract	PB 24 PG 79
87	5719	Tract	PB 24 PG 79
87	5720	Tract	PB 24 PG 80-81
87	5722	Tract	PB 24 PG 79-80
88	5769	Tract	PB 24 PG 128
88	5771	Tract	PB 24 PG 129
88	5772	Tract	PB 24 PG 129
92	5916	TR	PB 25 PG 33-34

AND

A TRACT OR PARCEL OF LAND BEING LYING IN VACATED BLOCKS 4724 AND 4725 AND PART OF VACATED BLOCK 4723, AND VACATED SW 35TH TERRACE, SW 35TH STREET, SW 36TH STREET AND SW 16TH PLACE, ALL LYING IN CAPE CORAL SUBDIVISION, UNIT 70 AS RECORDED IN PLAT BOOK 22, PAGES 58 THROUGH 87, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF SW 34 STREET (60 FEET WIDE) AND SW 17TH AVENUE (60 FEET WIDE); THENCE RUN N.89°44'01"E. ALONG THE CENTERLINE OF SAID SW 34TH STREET FOR 54.74 FEET; THENCE RUN S.00°15'59"E. FOR 30.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SAID SW 34TH STREET; THENCE RUN SOUTHWESTERLY FOR 39.15 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 89°43'43", A CHORD BEARING OF S.44°52'09"W. AND A CHORD DISTANCE OF 35.27 FEET TO A POINT OF TANGENCY ON THE EAST RIGHT-OF-WAY LINE OF SAID SW 17TH AVENUE; THENCE RUN S.00°00'18"W. ALONG SAID EAST RIGHT-OF-WAY LINE FOR 326.13 FEET TO THE POINT OF BEGINNING; THENCE RUN N.89°44'01"E. (351.00 FEET SOUTH OF AND PARALLEL TO THE SOUTH RIGHT-OF-WAY LINE OF THE AFORESAID SW 34TH STREET) FOR 718.21 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF CHIQUITA BOULEVARD (100 FEET WIDE); THENCE RUN S.00°18'09"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 1183.64 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHWESTERLY FOR 39.40 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°18'21", A CHORD BEARING OF S.44°51'01"W. AND A CHORD DISTANCE OF 35.45 FEET TO A POINT OF TANGENCY ON THE NORTH RIGHT-OF-WAY LINE OF SW 36TH TERRACE (60 FEET WIDE); THENCE RUN N.89°59'48"W. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 674.55 FEET TO A POINT OF CURVATURE; THENCE RUN NORTHWESTERLY FOR 39.27 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'06", A CHORD BEARING OF N.44°59'45"W. AND A CHORD DISTANCE OF 35.36 FEET TO A POINT OF TANGENCY ON THE EAST RIGHT-OF-WAY LINE OF THE AFORESAID SW 17TH AVENUE; THENCE RUN N.00°00'18"E. ALONG SAID EAST RIGHT-OF-WAY LINE FOR 1180.37 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 19.985 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST RIGHT-OF-WAY LINE OF THE AFORESAID SW 17TH AVENUE TO BE N.00°00'18"E.

PROFESSIONAL OFFICE (P-1) TO COMMERCIAL (C) ZONE

Unit	Block	Lots	PB/PG
22	798	1-38	PB 14 PG 16
22	798	47-68	PB 14 PG 16
22	798	72-84	PB 14 PG 16
22	801	1-72	PB 14 PG 15
33	2214	1-11; 19-35	PB 16 PG 42
33	2215	1-21; 33-37	PB 16 PG 43
38	2684B	1-14	PB 16 PG 99
39	2690B	1-22	PB 16 PG 145

SINGLE FAMILY RESIDENTIAL (R-1A) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

Unit	Block	Lots	PB/PG
7	380	TR L	PB 12 PG 106-107

SINGLE FAMILY RESIDENTIAL (R-1B) TO COMMERCIAL (C) ZONE

Unit	Block	Lots	PB/PG
1 PT 2	8	1-17	PB 11 PG 35
1 PT 2	12	49-52	PB 11 PG 35

1 PT 2	13	1-7	PB 11 PG 35
11	524	5-6	PB 13 PG 48
36 PT 1	2491A	TR	OR 165 PG 691

AND

The NE ¼ of the NE ¼ of the SE ¼ of Section 14, Township 44 South, Range 23 East of the Public Records of Lee County, Florida, **less and except** the following:

A tract or parcel of land lying in the NE ¼ of the NE ¼ of the SE ¼, Section 14, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida more particularly described as follows:

Commencing at the Northeast corner of the NE ¼ of the NE ¼ of the SE ¼, Section 14, Township 44 South, Range 23 East, thence run along the west line of said fraction N 89°57'40"W for 672.62 feet to the northwest corner of said fraction; thence run along the west line of said fraction S 00°09'54"W for 222.02 feet to the Point of Beginning of said tract.

From said Point of Beginning run N89°56'30"E parallel with the south line of said fraction for 146.00 feet; thence run S 00°09'54"W parallel with the west line of said fraction for 45.00 feet; thence run N 89°56'30"E for 473.27 feet to the west right-of-way line of Santa Barbara Boulevard; thence run along said right-of-way line S 00°06'42"W for 200.00 feet; thence run parallel with the south line of said fraction S89°56'30"W for 619.45 feet to the west line of said fraction; thence run along the west line of said fraction N 00°09'54"E for 245.00 feet to the Point of Beginning.

Bearing derived for the east line of the SE ¼, Section 14, Township 44 South, Range 23 East as shown on Unit 29 of the Cape Coral Subdivision, as recorded in Plat Book 16 at Pages 18, 20-21, and 23 of the Public Records of Lee County, Florida.

AND

A portion of Section 14, Township 44 South, Range 23 East, being in Lee County, Florida, more particularly described as follows:

Begin at the Southwest corner of NE ¼ of the NE ¼ of the SE ¼ of Section 14, Township 44 South, Range 23 East; thence run N 00°09'54"E along the West line of the NE ¼ of the NE ¼ of the SE ¼ for 200.00 feet; thence run N 89°56'30"E for 619.44 feet to the West right-of-way line of Santa Barbara Boulevard; thence S 00°06'42"W along the said right-of-way line for 200.00 feet, to the South line of the NE ¼ of the NE ¼ of the SE ¼; and thence S 89°56'30"W along the said South line for 619.64 feet to the Point of Beginning.

SINGLE FAMILY RESIDENTIAL (R-1B) TO INSTITUTIONAL (INST) ZONE

Unit	Block	Lots	PB/PG
24	1047	1-48	PB 14 PG 75-76
32	2112	Tract	PB 16 PG 3, 6

SINGLE FAMILY RESIDENTIAL (R-1B) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

Unit	Block	Lots	PB/PG
5	105	21-22	PB 11 PG 82
5	104	15-16	PB 11 PG 82
24	1027	123-126	PB 14 PG 75
45-1	1903	1-22; 32-62	PB 21 PG 139
33	2225	1-30	PB 16 PG 45
49	3661	37-52	PB 17 PG 149
98	6168	1-6	PB 25 PG 116
98	6176	1-6	PB 25 PG 115
98	6179	1-6	PB 25 PG 115

SINGLE FAMILY RESIDENTIAL (R-1B) TO PROFESSIONAL OFFICE (P) ZONE

R-1B to P			
Unit	Block	Lots	PB/PG
22	731	65-68	PB 14 PG 10
63	4381	1-18	PB 21 PG 52

MULTI-FAMILY RESIDENTIAL (R-3) TO COMMERCIAL (C) ZONE

Unit	Block	Lots	PB/PG
12	508	59-61, 66-71, 76-91, 95-100	PB 13 PG 54-55
11	526	60-75, 85-94, 104-112	PB 13 PG 47-48
11	542	3-20, 25-29	PB 13 PG 47
21	551	1-30	PB 13 PG 152, 155
21	665	5-14, 17-26	PB 13 PG 167
21	699	1-7, 13-51	PB 13 PG 170, 173
22	783	1-2, 16-28	PB 14 PG 13
18	1296	31-36, 41-44, 47-49, 55-60	PB 13 PG 106, 109
18	1311	43-46, 50-57, 65-76	PB 13 PG 109, 112
18	1342	33-35, 38-39, 50-52	PB 13 PG 118
16	1458	15-27	PB 13 PG 85
17	1498	1-8	PB 14 PG 30
17	1502	61-62	PB 14 PG 25

MULTI-FAMILY RESIDENTIAL (R-3) TO INSTITUTIONAL (INST) ZONE

Unit	Block	Lots	PB/PG
26	948	1-2, 6-10	PB 14 PG 140
26	975	1-9	PB 14 PG 140
18	1365	TR (NW ¼)	PB 13 PG 114, 117
17	1517	TR	PB 14 PG 28
32	2111	1-6; 69-74	PB 16 PG 3
Coral Lakes		Tract F-5A	

AND

Tract B, Block 1560, Cape Coral Unit 18 Part 1, Plat Book 22, Pages 132 thru 134 of the Public Records of Lee County, Florida and that portion of the South 680 feet of the SW 1/4, Section 21, Township 44 South, Range 24 East, Lee County, Florida lying south of the south right-of-way line of Chantrey Canal and west of the mean high waters of the Caloosahatchee River and more particularly described as follows:

Beginning at the SW corner of Tract B, Block 1560, Cape Coral Unit 18 Part 1, said Point of Beginning lying on the North right-of-way line of SE 16th Street; thence run N00°00'00"E for 125 feet to the NW corner of Tract B said point lying on the south right-of-way line of Chantrey Canal; thence run along the south line of said Chantrey Canal N89°55'09"E for 2191.21 feet to a point lying perpendicular to the waterward face of an existing concrete seawall and the mean high waters of the Caloosahatchee River; thence run S00°04'51"E for 21.68 feet to the waterward face of existing concrete seawall; thence run the following three courses along the waterward face of said concrete seawall S41°04'01"E, 100.06 feet, run S13°38'09"E for 106.07 feet, run S27°07'52"E for 115.75 feet to an intersection with the south line of the South 680 feet of the SW ¼, Section 21, Township 44 South, Range 24 East, Lee County, Florida; thence run along said South line N89°59'47"W for 2282.38 feet to an intersection with the East right-of-way line of SE 16th Street; thence run N00°00'00"E for 175.07 feet; thence run S89°55'09"W for 52.39 feet to the Point of Beginning.

AND

Tract 1, Block 1561 and Lot 1, Block 1562, Cape Coral Unit 18 Part 1, Plat Book 22, Pages 132 thru 134 of the Public Records of Lee County, Florida and that portion of the South 680 feet of the SW 1/4, Section 21, Township 44 South, Range 24 East, Lee County, Florida lying north of the north right-of-way line of Chantrey Canal and west of the mean high waters of the Caloosahatchee River and more particularly described as follows:

Beginning at the SW corner of Tract A, Block 1561, Cape Coral Unit 18 Part 1, said Point of Beginning lying on the North right-of-way line of Chantrey Canal, thence run N00°04'51"W for 125 feet to an intersection with the South right-of-way line of SE 15th Terrace; thence run along said South right-of-way line N89°55'09"E for 14.34 feet to the beginning of a platted turn around per Cape Coral Unit 18, Part 1, run S00°35'37"E for 24.98 feet, thence run N89°55'09"E for 100 feet, thence run N00°35'37"W for 100 feet; thence run S89°55'09"W for 100 feet to an intersection with the East line of Lot 1, Block 1562; thence run S00°35'37"E for 25.02 feet to an intersection with the North right-of-way line of SE 15th Terrace and the SE corner of said Lot 1, Block 1562; thence run around said Lot 1, Block 1562 S89°55'09"W for 108.04 feet to the beginning of a 25 foot radius curve concave to the NE, said curve having a central angle of 89°29'14", a chord and chord bearing of N45°20'14"W, 35.20 feet, run along the arc of said curve of 39.05 feet to the end of said curve; thence run N00°35'37"W for 20.22 feet to the NW corner of said Lot 1, Block 1562; thence run N89°55'09"E for 132.82 feet to the NE corner of said Lot 1, Block 1562; thence run N00°35'37"W for 80 feet to the North line of the South 680 feet of the SW ¼ Section 21, Township 44 South, Range 24 East, Lee County, Florida run along said North line S89°59'47"E for 1001.19 feet to the West line of a jurisdictional parcel; then run along said West line S00°00'13"W for 64.65 feet; run S09°33'52"W for 77.39 feet; run S10°51'13"W for 30.90 feet; run S15°33'35"W for 43.41 feet; run S26°38'13"W for 39.04 feet; run N73°11'07"E for 18.91 feet; run N89°55'09"E for 374 feet; run S45°04'51"E for 79.20 feet to an intersection with the North line of Chantrey Canal; thence run along said North line S89°55'09"W for 1413.89 feet to the Point of Beginning.

MULTI-FAMILY RESIDENTIAL (R-3) TO PROFESSIONAL OFFICE (P) ZONE

Unit	Block	Lots	PB/PG
24	774	17-18	PB 14 PG 77
22	796	1-6, 56-68	PB 14 PG 8
24	1052	17-22	PB 14 PG 77
24	1060	20-23	PB 14 PG 77
24	1064	18-19	PB 14 PG 77
23	1089	21-32	PB 14 PG 49

MULTI-FAMILY RESIDENTIAL (R-3) TO SINGLE-FAMILY RESIDENTIAL (R-1) ZONE

Unit	Block	Lots	PB/PG
14	525	65	PB 13 PG 66

MULTI-FAMILY RESIDENTIAL (R-3) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

Unit	Block	Lots	PB/PG
6 PT 2	47	1-48	PB 11 PG 59-60
6 PT 3	49	1-35	PB 11 PG 76
6 PT 3	50	1-28	PB 11 PG 76
6 PT 3	51	1-36	PB 11 PG 76
6 PT 3	53	1-71	PB 11 PG 75
6 PT 3	54	1-52	PB 11 PG 75
6 PT 3	55	1-52	PB 11 PG 75
6 PT 3	57	1-72	PB 11 PG 75
6 PT 3	58	1-52	PB 11 PG 75
6 PT 3	59	1-52	PB 11 PG 74
6 PT 3	69	1-27	PB 11 PG 74
6 PT 3	75	1-53	PB 11 PG 71
6 PT 3	77	44-81	PB 11 PG 71
2 PT 2	96	1-18	PB 11 PG 97
6 PT 2	103	1-17	PB 11 PG 59
5	104	17-23	PB 11 PG 82
5	105	23-29	PB 11 PG 82
5	106	29-35	PB 11 PG 82
5	107	24-35	PB 11 PG 89
5	114	23-28	PB 11 PG 83
5	115	19-24	PB 11 PG 83

5	116	16-21	PB 11 PG 83
5	117	21-26	PB 11 PG 83
3	161	1-13, 50-62	PB 12 PG 71
3	162	5-63	PB 12 PG 71
3	163	1-21	PB 12 PG 71
3	164	1-36	PB 12 PG 71, 80
3	166	1-4	PB 12 PG 71
2 PT 3	221	25-27	PB 11 PG 39
2 PT 3	222	31-42	PB 11 PG 39
2 PT 3	228	26-51	PB 11 PG 39
2 PT 1	229	33-52	PB 10 PG 131
2 PT 3	230	01-13	PB 11 PG 39
9	250	1-26	PB 13 PG 17
9	261	1-17	PB 13 PG 10
9	262	1-22	PB 13 PG 10
9	263	1-20	PB 13 PG 10
9	264	1-16	PB 13 PG 10
9	282	1-10	PB 13 PG 17
9	283	1-10	PB 13 PG 17
9	283	TR A	PB 13 PG 17
9	284	1-68	PB 13 PG 15-17
9	285	1-45	PB 13 PG 15
9	286	1-44	PB 13 PG 15
9	287	1-58	PB 13 PG 15-16
9	289	1-77	PB 13 PG 12
7	306	1-21	PB 12 PG 127-128
7	311	1-19	PB 12 PG 128
7	312	6-44	PB 12 PG 123, 128
7	313	1-38	PB 12 PG 123
7	314	1-20	PB 12 PG 128
9	316	1-21	PB 13 PG 11
9	317	1-50	PB 13 PG 11
9	318	1-50	PB 13 PG 11
9	319	1-13	PB 13 PG 11
9	319	20-48	PB 13 PG 11
9	320	1-54	PB 13 PG 15
9	321	12-13	PB 13 PG 12
8	323A	Tract A	PB 13 PG 5
8	323B	Tract B	PB 13 PG 5
7	343	5-22	PB 12 PG 116, 121
7	344	3-33	PB 12 PG 114-115
8	345	1-39	PB 13 PG 3-4
8	345	45-61	PB 13 PG 3-4
8	346	1-61	PB 13 PG 3-4
7	347	1-30	PB 12 PG 119, 124
7	348	1-34	PB 12 PG 120, 124
7	349	9-47	PB 12 PG 114
7	350	9-15	PB 12 PG 114
7	351	1-8	PB 12 PG 103
7	352	Tracts 1 and 2	PB 24 PG 64
7	374	42-46	PB 12 PG 116, 122
7	375	6-71	PB 12, PG 111, 116, 122
7	376	1-44	PB 12 PG 106, 107, 111
7	377	1-34	PB 12 PG 106-107
7	378	1-34	PB 12 PG 106-107

7	379	TR	PB 12 PG 106
7	380	TR J	PB 12 PG 106
7	380	TR K	PB 12 PG 106
7	381	TR N	PB 12 PG 107-108
7	381	TR P	PB 12 PG 108
7	382	TR	PB 12 PG 108
7	383	1-30	PB 12 PG 107-108
7	384	1-56	PB 12 PG 107-108, 111-112
7	385	1-46	PB 12 PG 107-108, 112
7	386	1-44	PB 12 PG 111
7	387	1-22	PB 12 PG 111
7	388	13-53	PB 12 PG 111, 117, 122
14	391	1-43	PB 13 PG 63
14	422	1-44	PB 13 PG 65
14	474	1-19	PB 13 PG 65
14	483	1-57	PB 13 PG 65
14	484	1-46	PB 13 PG 65-66
14	485	1-28	PB 13 PG 65-66
14	486	1-77	PB 13 PG 67-68
14	487	1-60	PB 13 PG 66, 68
14	488	1-32	PB 13 PG 66
14	525	27-64	PB 13 PG PG 66
14	541	1-33	PB 13 PG 63-65
14	542	21-24	PB 13 PG 66
21	609	1-11	PB 14 PG 77
22	759	1-15	PB 14 PG 5
22	760	1-57	PB 14 PG 5, 9
22	761	1-30	PB 14 PG 5
22	762	1-30	PB 14 PG 5
22	763	1-31	PB 14 PG 5
22	764	1-36	PB 14 PG 5
22	765	1-11	PB 14 PG 8
22	767	1-29	PB 14 PG 8
22	768	1-34	PB 14 PG 8
22	769	1-40	PB 14 PG 8, 9
24	774	21-30	PB 14 PG 77
22	782	1-2	PB 14 PG 12
22	792	13-46	PB 14 PG 13
22	796	21-48; 54-55	PB 14 PG 8
22	800	1-36	PB 14 PG 15
16	800	37-72	PB 13 PG 78-79
22	803	1-25	PB 14 PG 14-15
16	803	26-50	PB 13 PG 77-78
22	804	1-25	PB 14 PG 14
16	804	26-50	PB 13 PG 77
22	808	15-38	PB 14 PG 5
24	808	39-69	PB 14 PG 74-75
22	809	8-56	PB 14 PG 5
26	858	1-5	PB 14 PG 147
26	861	1-4	PB 14 PG 147
24	1022	1-28	PB 14 PG 66
24	1023	1-38	PB 14 PG 65
24	1024	1-38	PB 14 PG 66
24	1030	1-28	PB 14 PG 65
24	1033	1-33	PB 14 PG 75

24	1034	1-30	PB 14 PG 75
24	1035	1-15	PB 14 PG 75
24	1036	1-32	PB 14 PG 75
24	1037	1-31	PB 14 PG 76
24	1038	1-30	PB 14 PG 76
24	1039	12-68	PB 14 PG 75-76
24	1040	1-16	PB 14 PG 64
24	1042	1-26	PB 14 PG 64-65
24	1043	1-6	PB 14 PG 70
24	1052	1-12	PB 14 PG 77
24	1064	20-21	PB 14 PG 77
24	1065	1-24	PB 14 PG 77
24	1067	1-3	PB 14 PG 77
23	1072	1-46	PB 14 PG 41-42
23	1079	47-67	PB 14 PG 41-42
23	1089	1-20	PB 14 PG 49
23	1095	44-101	PB 14 PG 50-52
23	1099	1-36	PB 14 PG 49-50
23	1100	1-36	PB 14 PG 50
23	1108	1-88	PB 14 PG 50-51
23	1112	1-3, 14-26	PB 14 PG 51
23	1114	1-25	PB 14 PG 46, 51
23	1133	46-49	PB 14 PG 45
23	1134	29-56	PB 14 PG 48
23	1135	1-38	PB 14 PG 45, 48
23	1136	1-61	PB 14 PG 44-45
23	1137	1-103	PB 14 PG 44-45
23	1138	1-42	PB 14 PG 42, 45
23	1140	1-42	PB 14 PG 42, 45
23	1141	1-42	PB 14 PG 42, 45
23	1142	1-73	PB 14 PG 41-42, 44
23	1143	1-62	PB 14 PG 41-42, 44
23	1144	1-46	PB 14 PG 42, 45
22	1146	8-10	PB 14 PG 14
16	1146	11-16	PB 13 PG 77
23	1153	1-25	PB 14 PG 41-42
24	1153	26-28	PB 14 PG 77
23	1155	1-9, 12-15	PB 14 PG 42
24	1155	16-25	PB 14 PG 77
20 PT 2	1184A	1-14	PB 19 PG 46
20 PT 2	1185A	1-14	PB 19 PG 44
20 PT 2	1185B	TR	PB 19 PG 44
20 PT 2	1193	40-64	PB 19 PG 48
20 PT 2	1194A	1-17	PB 19 PG 46, 48
20 PT 2	1195	7-25	PB 19 PG 48
18	1322	45-46; 59-72	PB 13 PG 112, 115
18	1361	1-20; 32-48	PB 13 PG 120
18	1362	1-27	PB 13 PG 120
18	1363	1-48	PB 13 PG 117, 120
18	1364	1-77	PB 13 PG 111, 114, 117
18	1365	TR (SW ¼)	PB 13, PG 114, 117
18	1376	1-60	PB 13 PG 114
18	1377	1-27	PB 13 PG 111
18	1378A	1-16	PB 32 PG 47
18	1378C	1-32	PB 32 PG 47

18	1399	1-42	PB 13 PG 108
18	1400	1-46	PB 13 PG 105, 108
18	1401	1-82	PB 13 PG 102, 105, 108
18	1402	1-40	PB 13 PG 102, 105
18	1416	1-60	PB 13 PG 99, 102
18	1417	14-40	PB 13 PG 99, 102
16	1440	5-67	PB 13 PG 79, 81-82
16	1441	1-30	PB 13 PG 79
16	1442	TR	PB 13 PG 78
16	1443	1-48	PB 13 PG 78, 81
16	1444	1-25	PB 13 PG 79
16	1445	1-48	PB 13 PG 79, 82
16	1446	1-46	PB 13 PG 79, 82
17	1502	39-60	PB 14 PG 25
17	1503	1-33	PB 14 PG 25
17	1520	28-58	PB 14 PG 28, 33, 37
17	1528	6-76	PB 14 PG 35-37
17	1542	1-18	PB 14 PG 30
17	1543	19-34	PB 14 PG 30
17 PT 1	1546	38-39; 42-55; 62-64	PB 23 PG 4-5
17	1550	1-46	PB 14 PG 37
17	1551	1-46	PB 14 PG 37
17	1552	1-24	PB 14 PG 37
30	1600	1-53	PB 16 PG 27-28
30	1629	1-50	PB 16 PG 32, 34
30	1633	1-58	PB 16 PG 30, 32
30	1634	1-19	PB 16 PG 28
30	1637	1-54	PB 16 PG 30
30	1638	1-54	PB 16 PG 28
30	1641	1-2, 31-32	PB 16 PG 34
45	1641	3-30	PB 21 PG 125
64 PT 1	1693	56-58	PB 21 PG 94
64 PT 1	1694	1-68	PB 21 PG 93-94
64 PT 1	1695	1-56	PB 21 PG 94
64 PT 1	1696	1-12	PB 21 PG 94
65	1696	28-53	PB 21 PG 154
64 PT 1	1697	9-36	PB 21 PG 93-94
65	1697	37-72	PB 21 PG 153-154
64 PT 1	1698	1-52	PB 21 PG 93-94
44	1705	1-64	PB 21 PG 105
44	1706	1-38	PB 21 PG 105
44	1710	1-14	PB 21 PG 105
44	1711	1-30	PB 21 PG 105
44	1712	1-36	PB 21 PG 105, 107
44	1713	1-18	PB 21 PG 105, 107
44	1714	1-40	PB 21 PG 107, 109
44	1715	1-20	PB 21 PG 107, 109
44	1727	1-42	PB 21 PG 111-112
44	1728	1-84	PB 21 PG 111-112
44	1729	30-38	PB 21 PG 111-112
44	1730	1-7	PB 21 PG 111-112
45	1751	44-46	PB 21 PG 123
45	1752	1-5	PB 21 PG 123
45	1753	1-54	PB 21 PG 123, 126
45	1763	1-34	PB 21 PG 126

45	1764	1-5,67-72	PB 21 PG 129
45	1765	32-36	PB 21 PG 129
45	1766	1-7	PB 21 PG 129
45	1771	1-34	PB 21 PG 129
45	1772	1-54	PB 21 PG 132
45	1813	23-30	PB 21 PB 131
45	1815	1-3	PB 21 PG 125
45	1816	23-25	PB 21 PG 125
45	1819	1-52	PB 21 PG 125, 128
45	1820	1-52	PB 21 PG 128, 131
45	1825	1-34, 52-82	PB 21 PG 131, 134
29	1928	1,2,12-13,16-34	PB 16 PG 19
29	1929	1-34	PB 16 PG 19
29	1930	1-50	PB 16 PG 19, 23
29	1931	1-44	PB 16 PG 19, 23
29	1953	1-38	PB 16 PG 24
29	1954	1-38	PB 16 PG 24
29	1957	15-73	PB 16 PG 23
31	2051	1-42	PB 14 PG 157
31	2052	1-42	PB 14 PG 154, 157
31	2053	28-30	PB 14 PG 157
31	2055	1-8	PB 14 PG 157
31	2068	1-70	PB 14 PG 163-164
31	2069	1-70	PB 14 PG 160, 163
31	2072	Tract	PB 14 PG 160-161, 163
31	2088	Tract	PB 14 PG 165
32	2094	1-22	PB 16 PG 4
31	2094	64-84	PB 14 PG 164-165
32	2095	1-37	PB 16 PG 3
31	2095	38-75	PB 14 PG 164
32	2096	1-31	PB 16 PG 3-4
31	2096	32-62	PB 14 PG 163
31	2097	1-40, 47-86	PB 14 PG 160, 163
32	2097	41-46	PB 16 PG 3-4
31	2098	1-50	PB 14 PG 160
31	2100	1-29	PB 14 PG 160, 163
32	2102	6-38	PB 16 PG 2
32	2103	1-56	PB 16 PG 2, 5
32	2111	7-68	PB 16 PG 3
32	2116	1-40	PB 16 PG 4
32	2145	1-6	PB 16 PG 5
32	2147	1-6	PB 16 PG 8
32	2155	1-2; 63-64	PB 16 PG 12-13
32	2162	1-26; 47-74	PB 16 PG 8, 11
32	2171	1-38	PB 16 PG 8
32	2172	13-14	PB 16 PG 8
36	2173	1-31	PB 16 PG 8, 11
33	2195	TR	PB 16 PG 47
33	2207	1-52	PB 16 PG 41
33	2209	1-3	PB 16 PG 42
47 PT 2	2211A	1-43	PB 23 PG 126-127
33	2214	12-18	PB 16 PG 42
33	2215	22-32	PB 16 PG 43
33	2218	1-48	PB 16 PG 43-44
33	2219	1-24	PB 16 PG 43-44

47 PT 2	2220A	1-42	PB 23 PG 123-124
33	2221	1-16	PB 16 PG 44
33	2222	1-32	PB 16 PG 44
33	2223	47-71	PB 16 PG 43
33	2224	1-28	PB 16 PG 42
62	3084	1-72	PB 21 PG 35, 38
66	3230	24-64	PB 22 PG 15-16
66	3231	1-61	PB 22 PG 16-17
66	3235	1-32	PB 22 PG 14
66	3236	13-78	PB 22 PG 11, 14
66	3237	31-60	PB 22 PG 8, 11
66	3268	1-62	PB 22 PG 3
66	3291	37-55	PB 22 PG 9, 12
66	3298	1-5	PB 22 PG 5
65	3310	1-60	PB 21 PG 160, 164
65	3339	49	PB 21 PG 156
65	3340	1-34	PB 21 PG 153-154
65	3341	1-3	PB 21 PG 154
65	3344	46-49	PB 21 PG 163-164
65	3355	42-43	PB 21 PG 152
65	3356	1-42	PB 21 PG 152
65	3357	1-24	PB 21 PG 153, 156
65	3370	1-84	PB 21 PG 154, 157
65	3371	1-28	PB 21 PG 154
65	3372	1-54	PB 21 PG 154, 157
65	3373	1-54	PB 21 PG 154, 157
65	3374	1-46	PB 21 PG 154
65	3376	1-25	PB 21 PG 153
65	3377	9-37	PB 21 PG 152
64	3377	38-66	PB 21 PG 95
67	3459A	1-10	PB 25 PG 62
67	3470	1-18	PB 25 PG 62
67	3478A	1-12	PB 25 PG 65
67	3479A	1-29	PB 25 PG 64-65
46	3587	ALL	PB 17 PG 125-126
63	4418	43-47	PB 21 PG 64
64	4527A	All of Block 4527A	PB 21 PG 89
64	4529	15-60	PB 21 PG 95
64	4530	1-24	PB 21 PG 93
69	4630	40-78	PB 22 PG 35, 39
69	4631	26-50	PB 22 PG 39, 43
69	4632	10-23; 30-52	PB 22 PG 43, 47
69	4635	32-50	PB 22 PG 51
69	4636	9-50	PB 22 PG 50
70	4705	ALL	PB 22 PG 79-80, 83
70	4717	21-39	PB 22 PG 87
70	4719	1-38	PB 22 PG 87
70	4720	1-38	PB 22 PG 87
70	4721	1-38	PB 22 PG 87
71	4848	ALL, LESS ROW	PB 22 PG 94
92	5889	Tract A	PB 25 PG 29
Cape Harbour Phase 2A	6503	1-12, Tract A	
Cape Harbour Phase 2B		Tracts B, C, and D	
Cape Harbour Phase 2B		Tract E,F	
Coral Lakes		Tracts 1, 3, and 6	

Meta at Cape Harbour		Tracts A, B, and C	
Judd Creek		Tracts 8, 11, 12	
Concordia	2257	TR	PB 16 PG 56
Mariana Park		22	PB 12 PG 61
Tarpon Pointe		Villages A, B, D, E, F	
Banyan Trace	251	TR A + B	

AND

The Westerly 110 feet of a parcel described as:

A portion of Block 1378 less and except the North 405 feet thereof in Unit 18, City of Cape Coral Subdivision, recorded in Plat Book 13, Pages 96 to 120 inclusive, in the Public Records of Lee County, Florida, together with that portion of the vacated right-of-way granted by Resolution 98-78, and being more particularly described as follows:

Commencing from the Southeast Corner of the said North 405 feet of Block 1378; thence run S 88°21'26" W for 261.27 feet to the Point of Beginning of the parcel herein described; thence run S 00°57'33"W for 425.44 feet to a point on the northerly right-of-way line of SE 8th Street; thence run S 88°21'26"W along said right-of-way line for 363.24 feet to a Point of Curvature to the right having for its elements a radius of 25 feet, a chord bearing and distance of N 45°20'31"W, 36.15 feet; thence run along the curve to the right an arc distance of 40.41 feet to a Point of Tangency on the easterly right-of-way line of SE 23rd Avenue; thence run N 00°57'33"E along said easterly right-of-way line for 399.28 feet; thence run N 88°21'26"E for 389.40 feet to the Point of Beginning. Basis for bearings is the east line of Block 1378 being S 00°57'33"W according to the plat of Cape Coral Unit 18, as recorded in Plat Book 13, Page 96 to 120, inclusive, Lee County, Florida.

AND

A tract or parcel of land lying in Sections 20 and 29, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, which tract or parcel is described as follows: from the NE corner of said Section 29 run S00°13'25"W, 48.49 feet along the East line of said Section 29; thence run N89°46'27"W, 57.62 feet to the Point of Curvature of a 870.00 foot radius curve concave to the SE, said curve having a central angle of 22°37'16", a chord and chord bearing of S78°54'38", 341.26 feet, run along the arc of said curve to the Point of Tangency; thence run S67°35'59"W, 600.45 feet to the Point of Curvature of a 880.00 foot radius curve concave to the NW, said curve having a central angle of 52°34'39", a chord and chord bearing of N86°06'41"W, 779.50 feet, run along the arc of said curve for 807.53 feet to the Point of Compound Curvature of a 1,930.00 foot radius curve concave to the NE, said curve having a central angle of 16°01'59", a chord and chord bearing of N51°48'22"W, 538.31 feet, run along the arc of said curve for 540.07 feet to a non-tangent intersection with a line which bears S89°54'03"E; thence run S89°54'03"E, 2,147.36 feet along said line; thence S01°47'29"E, 39.93 feet to the Point of Beginning.

Said parcel contains 593,987 square feet (13.63 acres), more or less.

AND

A tract or parcel of land lying in the NW ¼ of the NW ¼ of the NW ¼ of Section 24, Township 44 South, Range 23 East, Cape Coral, Lee County, Florida, and being more particularly described as follows:

Commence at the NW corner of said Section 24; thence S89°45'44"E along the North line of Section 24 for 50 feet to a point on the East right-of-way of Santa Barbara Boulevard; thence S00°25'33"E along said right-of-way line 303.88 feet to the true Point of Beginning; from the true Point of Beginning thus established S89°43'24"E 409.37 feet; thence S00°15'52"E 30 feet; thence S89°43'24"E, 210 feet; to an intersection with the East line of said fraction of a section; thence S00°15'52"E, along said line 334.29 feet to a concrete P.R.M.; thence N89°41'04"W, along the South line of said fraction of a section 260 feet; thence N00°15'52"W, 304.12 feet; thence N89°43'24"W 359.21 feet to an intersection with the East right-of-way of Santa Barbara Boulevard; thence N00°25'33"W along said right-of-way line 60 feet to the Point of Beginning.

AND

A PARCEL OF LAND SITUATED IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST QUARTER CORNER OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA RUN ALONG THE NORTHERLY LINE OF SECTION 21, N89°04'55"E, 2441.08 FEET; THENCE RUN S00°21'00"W,

295.32 FEET TO THE POINT OF BEGINNING AND A NON-TANGENT INTERSECTION WITH A 700.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 12°59'58", A CHORD AND CHORD BEARING OF S40°33'42"E, 158.48 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 158.82 FEET; THENCE RUN S34°03'43"E, 623.27 FEET; THENCE RUN N55°56'17"E, 100.00 FEET; THENCE S34°03'43"E, 409.38 FEET TO THE POINT OF CURVATURE OF A 50.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 89°03'19", A CHORD AND CHORD BEARING OF S78°35'22"E, 70.13 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 77.72 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DEL PRADO BOULEVARD EXTENSION AND A NON-TANGENT POINT OF CURVATURE OF A 7070.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 06°03'55", A CHORD AND CHORD BEARING OF S53°50'31"W, 748.06 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 748.41 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE RUN N20°21'01"W, 450.11 FEET TO THE POINT OF CURVATURE OF A 1200.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 20°21'01", A CHORD AND CHORD BEARING OF N10°10'31"W, 423.98 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 426.22 FEET; THENCE RUN N00°21'00"E, 536.35 FEET TO THE POINT OF BEGINNING.

AND

A PARCEL OF LAND SITUATED IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24, RUN ALONG THE SOUTH LINE OF SECTION 21, N89°50'03"W, 150.00 FEET; THENCE LEAVING SAID SOUTH LINE RUN N00°01'09"W, 1647.64 FEET TO THE POINT OF CURVATURE OF A 750.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 59°13'00", A CHORD AND CHORD BEARING OF N29°37'39"W, 741.10 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 775 .. 15 FEET TO THE POINT OF REVERSE CURVATURE OF A 1550.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 24°32'33", A CHORD AND CHORD BEARING OF N46°57'53"W, 658.88 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 663.94 FEET TO THE POINT OF REVERSE CURVATURE OF A 1550.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 20°08'03", A CHORD AND CHORD BEARING OF N44°45'37"W, 541.88 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 544.68 FEET; THENCE RUN N54°49'39"W, 594.00 FEET; THENCE RUN N35°10'21"E, 177.69 FEET TO THE POINT OF CURVATURE OF A 200.06 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 24°12'58", A CHORD AND CHORD BEARING OF N47°16'50"E, 83.90 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 84.53 FEET TO THE POINT OF COMPOUND CURVATURE OF A 6345.09 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 04°19'21" A CHORD AND CHORD BEARING OF N61°31'11"W, 478.58 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 478.69 FEET; THENCE RUN N26°20'57"W, 495.00 FEET TO THE INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DEL PRADO BOULEVARD AND A NON-TANGENT INTERSECTION WITH A 6930.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 10°40'31", A CHORD AND CHORD BEARING OF N68°59'19"E, 1289.32 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 1291.19 FEET; THENCE RUN N74°19'34"E, 578.28 FEET; THENCE RUN N74°24'02"W, 220.03 FEET; THENCE LEAVING SAID RIGHT-OF-WAY RUN S22°41'48"E, 11.79 FEET; THENCE RUN S74°21'31"W, 219.29 FEET; THENCE RUN S01°22'31"W, 2242.82 FEET; THENCE RUN S00°00'35"W, 2649.12 FEET TO THE POINT OF BEGINNING.

AND

A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF CAPE CORAL, LYING IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST; THENCE N.89°04'55"E ALONG THE NORTH LINE OF SAID SECTION 21 FOR 60.01 FEET TO THE EAST LINE OF GARDEN BOULEVARD (100 FEET WIDE); THENCE S.00°07'30"E ALONG SAID EAST LINE FOR 100.01 FEET; THENCE CONTINUE S.00°07'30"E ALONG SAID EAST LINE FOR 993.22 FEET TO THE POINT OF BEGINNING; THENCE N.89°52'30"E FOR 75.10 FEET; THENCE N.59°13'13"E FOR 329.70 FEET; THENCE N.89°12'04"E FOR 378.97 FEET; THENCE S.22°01'56"W FOR 124.90 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 167.36 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°43'43" FOR 80.99 FEET; THENCE S.89°04'55"W FOR 242.07

FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 145.00 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°18'16" FOR 56.45 FEET TO A POINT OF COMPOUND CURVE HAVING A RADIUS OF 520.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15°35'20" FOR 141.48 FEET TO A POINT OF COMPOUND CURVE HAVING A RADIUS OF 220.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51°18'49" FOR 197.03 FEET; THENCE S.00°07'30"E FOR 702.66 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 180.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°09'11" FOR 31.90 FEET TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 685.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21°33'58" FOR 257.83 FEET TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 980.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°13'01" FOR 208.96 FEET TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 270.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 43°43'36" FOR 206.06 FEET; THENCE S.43°02'52"E FOR 48.07 FEET; THENCE S.46°57'08"W FOR 130.00 FEET; THENCE S.43°02'52"E FOR 285.53 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 700.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°26'51" FOR 164.29 FEET TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 800.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°01'37" FOR 112.08 FEET; THENCE S.37°37'37"E FOR 306.87 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF DEL PRADO EXTENSION (140 FEET WIDE) AND AN INTERSECTION WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 1430.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS S.37°37'37"E; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32°38'29" FOR 814.67 FEET TO A POINT ON THE AFORESAID EASTERLY RIGHT-OF-WAY LINE; THENCE N.00°02'02"W ALONG SAID RIGHT-OF-WAY LINE FOR 1200.29 FEET; THENCE N.00°07'30"W ALONG SAID RIGHT-OF-WAY LINE FOR 1559.65 FEET TO THE POINT OF BEGINNING.

AND

A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF CAPE CORAL, LYING IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST; THENCE N.89°04'55"E ALONG THE NORTH LINE OF SAID SECTION 21 FOR 60.01 FEET TO THE EAST LINE OF GARDEN BOULEVARD (100 FEET WIDE); THENCE S.00°07'30"E ALONG SAID EAST LINE FOR 100.01 FEET TO THE POINT OF BEGINNING; THENCE N89°04'55"E PARALLEL WITH AND 100 FEET SOUTH OF THE NORTH LINE OF SAID SECTION FOR 1908.20 FEET; THENCE S.00°55'05"E FOR 397.50 FEET; THENCE S.89°04'55"W FOR 1604.46 FEET; THENCE S.72°17'38"W FOR 324.36 FEET TO AFORESAID RIGHT-OF-WAY LINE; THENCE N.00°07'30"W ALONG SAID RIGHT-OF-WAY LINE FOR 491.23 FEET TO THE POINT OF BEGINNING.

AND

A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF CAPE CORAL, LYING IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 24 EAST; THENCE N.89°04'55"E ALONG THE NORTH LINE OF SAID SECTION 21 FOR 60.01 FEET; TO THE EAST LINE OF GARDEN BOULEVARD (100 FEET WIDE) THENCE S.00°07'30"E ALONG SAID EAST LINE FOR 100.01 FEET; THENCE N.89°04'55"E PARALLEL WITH AND 100 FEET SOUTH OF THE NORTH LINE OF SAID SECTION FOR 1950.92 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 700.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 43°46'26" FOR 534.80 FEET; THENCE S.00°29'41"W FOR 293.76 FEET; THENCE S.00°00'00"E FOR 243.47 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 1200.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20°56'54" FOR 438.74 FEET; THENCE S.20°21'01"E FOR 437.41 FEET TO A POINT ON THE NORTHWESTERN RIGHT-OF-WAY LINE OF DEL PRADO EXTENSION (140 FEET WIDE) AND AN INTERSECTION WITH A CURVE TO THE LEFT HAVING A RADIUS OF 7070.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS N39°11'27"W; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 7°53'28" FOR 973.74 FEET; THENCE S.42°55'05"W ALONG SAID RIGHT-OF-WAY LINE FOR 483.58 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.42°55'05"W ALONG SAID RIGHT-OF-WAY LINE FOR 722.93 FEET; THENCE N.40°12'08"W FOR 234.70 FEET; THENCE N.83°44'44"W FOR 162.90 FEET TO AN INTERSECTION WITH A CURVE TO THE RIGHT

HAVING A RADIUS OF 300.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS N.84°25'15"W; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 9°25'32" FOR 49.35 FEET TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 150.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 58°03'09" FOR 151.98 FEET; THENCE N.43°02'52"W FOR 8.62 FEET; THENCE N.46°57'08"E FOR 130.00 FEET; THENCE N.43°02'52"W FOR 27.34 FEET; THENCE N.46°57'08"E FOR 230.46 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" FOR 31.42 FEET; THENCE S.43°02'52"E FOR 76.96 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 20.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" FOR 31.42 FEET; THENCE N.46°57'08"E FOR 179.49 FEET; THENCE N.81°56'34"E FOR 15.72 FEET; THENCE N.60°58'04"E FOR 510.2 FEET; THENCE S.88°33'04"E FOR 48.96 FEET; THENCE S.54°46'07"E FOR 38.78 FEET; THENCE S.47°04'55"E FOR 289.83 FEET TO THE POINT OF BEGINNING.

AND

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

FROM THE NORTHEAST CORNER OF SAID SECTION 29 RUN S00°13'25"W, 48.49 FEET ALONG THE EAST LINE OF SAID SECTION 29; THENCE RUN N89°46'27"W, 57.62 FEET TO THE POINT OF CURVATURE OF A 870.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 22° 37'16", A CHORD AND CHORD BEARING OF S78°54'38"W, 341.26 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 343.49 FEET TO THE POINT OF TANGENCY; THENCE RUN S67°35'59"W, 600.45 FEET TO THE POINT OF CURVATURE OF A 880.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 52° 34'39", A CHORD AND CHORD BEARING OF N86°06'41"W, 779.50 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 807.53 FEET TO THE POINT OF COMPOUND CURVATURE OF A 1930.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 16°01'59", A CHORD AND CHORD BEARING OF N51°48'22"W, 538.31 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 540.07 FEET TO A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS S89°54'03"E; THENCE RUN S89° 54'03"E, 2147.36 FEET ALONG SAID LINE; THENCE S01°47'29"E, 39.93 FEET TO THE POINT OF BEGINNING.

AND

A TRACT OR PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S00°13'25"W, 5511.95 FEET ALONG THE EAST LINE OF SAID SECTION 29 TO AN INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF VETERANS PARKWAY (230.00 FEET WIDE); THENCE RUN S89°35'38"W, 1320.00 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING RUN S89°35'38"W, 1172.57 FEET ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID VETERANS PARKWAY; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE RUN N00°12'40"E, 1390.19 FEET; THENCE RUN N89°35'38"E, 1463.81 FEET TO THE NON TANGENT POINT OF CURVATURE OF A 1165.00 FOOT RADIUS CURVE CONCAVE TO THE WEST, SAID CURVE HAVING A CENTRAL ANGLE OF 25°20'46", A CHORD AND CHORD BEARING OF S10°08'30"W, 511.17 FEET TO THE POINT OF REVERSE CURVATURE OF A 400.00 FOOT RADIUS CURVE CONCAVE TO THE EAST, SAID CURVE HAVING A CENTRAL ANGLE OF 36°26'24", A CHORD AND CHORD BEARING OF S04°35'40"W, 250.13 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 254.40 FEET TO THE POINT OF REVERSE CURVATURE OF A 1101.48 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 03°42'59", A CHORD AND CHORD BEARING OF S11 °46'20"E, 71.43 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 71.45 FEET A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS S89°35'38"W; THENCE RUN S89°35'38"W, 40.70 FEET TO A NON TANGENT INTERSECTION WITH A 1060.00 FOOT RADIUS CURVE CONCAVE TO THE WEST, SAID CURVE HAVING A CENTRAL ANGLE OF 10°15'52", A CHORD AND CHORD BEARING OF S05°08'11"E, 189.64 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 189.90 FEET TO THE POINT OF TANGENCY; THENCE RUN S01°12'38"W, 139.22 FEET; THENCE RUN S00°13'25"W, 249.38 FEET TO THE POINT OF BEGINNING.

RESIDENTIAL DEVELOPMENT (RD) TO AGRICULTURAL (A) ZONE

Unit	Block	Lots	PB/PG
91	5523	1-6	PB 24 PG 93-94

RESIDENTIAL DEVELOPMENT (RD) TO COMMERCIAL (C) ZONE

Unit	Block	Lots	PB/PG
33	2268	1-38	PB 16 PG 61
36	2298B	1-21	PB 16 PG 119, 122
36	2300A	1-98	PB 16 PG 122, 125
36	2300B	1-66	PB 16 PG 122, 125
36	2300C	Tract	PB 16 PG 122, 125
36	2327B	1-39	PB 16 PG 125, 128
42	2942B	1-21	PB 17 PG 76, 79
42	2970B	1-14	PB 17 PG 42
42	2972	1-36	PB 17 PG 42
49	3632	1-52	PB 17 PG 149, 151
49	3633	1-48	PB 17 PG 151
49	3661	53-68	PB 17 PG 149
49	3662	1-3	PB 17 PG 146
50	3680	1-64	PB 17 PG 159
50	3712	1-44	PB 17 PG 160
52	3786	1-60	PB 19 PG 50
55	3986	47-78	PB 19 PG 93
55	4025	7-64	PB 19 PG 104
56	4029	17-32	PB 19 PG 108
56	4030	1-76	PB 19 PG 108
59	4127	7-66	PB 19 PG 143, 146
59	4128	1-70	PB 19 PG 146, 150
59	4129	1-74	PB 19 PG 150, 152
61	4276	1-59	PB 21 PG 7
61	4291	1-24	PB 21 PG 15
63	4383	5-44	PB 21 PG 52

AND

All that portion of land situated in the State of Florida, County of Lee, Cape Coral, Florida, in Section 21, Township 43 South, Range 24 East lying northerly of Del Prado Boulevard and east of De Navarra Parkway;

LESS AND EXCEPT

That portion of land described in Official Records Book 3899, Page 831, Public Records of Lee County, Florida;

LESS AND EXCEPT

That portion of land described in Official Records Book 4520, Page 473, Public Records of Lee County, Florida;

LESS AND EXCEPT

That portion of land described in Official Records Book 4556, Page 4494, Public Records of Lee County, Florida.

RESIDENTIAL DEVELOPMENT (RD) TO COMMERCIAL CORRIDOR (CC) ZONE

Unit	Block	Lots	PB/PG
50	3682	1-52	PB 17 PG 159

RESIDENTIAL DEVELOPMENT (RD) TO INSTITUTIONAL (INST) ZONE

Unit	Block	Lots	PB/PG
45	1802	All of Block	PB 21 PG 127, 130-131
36	2315	TR	PB 16 PG 123, 126
37	2550	1-15, 56-69	PB 17 PG 16
37	2572	1-30	PB 17 PG 16
39	2738	TR	PB 16 PG 150, 153
40	2785	TR	PB 17 PG 87
40	2786	TR	PB 17 PG 87
41	2858	TR	PB 17 PG 7-8
42	2977	TR	PB 17 PG 43
62	3035	All of Block	PB 21 PG 24-25
62	3041	17-25	PB 21 PG 23-24
62	3049	41-48	PB 21 PG 23-24
62	3101	All of Block	PB 21 PG 25
66	3303	All of Block	PB 22 PG 5
51	3731	TR	PB 19 PG 4, 8
53	3884	TR	PB 19 PG 74, 77
53	3904	TR	PB 19 PG 66, 70
53	3907	TR	PB 19 PG 66
54	3934	TR	PB 19 PG 86
54	3935	TR	PB 19 PG 86-87
55	3975	TR	PB 19 PG 94
70	4745	1-7, 48-54	PB 22 PG 66
80	5096A	TR	PB 22 PG 158

RESIDENTIAL DEVELOPMENT (RD) TO NEIGHBORHOOD COMMERCIAL (NC) ZONE

RD to NC			
Unit	Block	Lots	PB/PG
50	3681	28-35	PB 17 PG 159
54	3952	All of Block 3952	PB 19 PG 89
58	5346	TR A	PB 23 PG 140

AND

The North ½ of the North ½ of the NW ¼ of Section 29, Township 43 South, Range 23 East, Lee County, Florida, LESS AND EXCEPT the West 132 feet thereof.

AND

The South ½ of the NW ¼ and the South ½ of the North ½ of the NW ¼ of Section 29, Township 43 South, Range 23 East, Lee County, Florida, LESS AND EXCEPT the West 132 feet thereof.

RESIDENTIAL DEVELOPMENT (RD) TO PROFESSIONAL OFFICE (P) ZONE

Unit	Block	Lots	PB/PG
36 PT 1	2475	13-14	PB 23 PG 88
36 PT 1	2490	15-44	PB 23 PG 88, 91
36 PT 1	2491	1-24	PB 23 PG 91
59	4185	26-56	PB 19 PG 152-153
61	4290	1-34	PB 21 PG 11
63	4382	25-29	PB 21 PG 51-52

RESIDENTIAL DEVELOPMENT (RD) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE

Unit	Block	Lots	PB/PG
29	1932	15-22	PB 16 PG 19
29 PT 1	1939	9-41	PB 16 PG 135
35	2005	51-78	PB 16 PG 103, 106, 108
35	2053	44-86	PB 16 PG 105, 108
34	2054	4-7	PB 16 PG 80
34	2099	31-55	PB 16 PG 83
34	2100	44-72	PB 16 PG 85, 87
36 PT 1	2101	53-96	PB 23 PG 90, 93
36	2172	25-44	PB 16 PG 115
36	2173	42-74	PB 16 PG 115, 118
32	2174	1-3	PB 16 PG 11
36	2174	4-56	PB 16 PG 121, 124
36	2290	1-4; 40-78	PB 16 PG 116-117, 119-120
36	2296	1-23	PB 16 PG 119
36	2297A	1-48	PB 16 PG 119
36	2297B	Tract	PB 16 PG 116, 119
36	2299	1-21	PB 16 PG 119, 122
36	2301	1-32	PB 16 PG 122, 125
36	2326	1-38	PB 16 PG 125, 128
36	2328	1-28	PB 16 PG 128
36	2329	1-62	PB 16 PG 128-129
36	2330	1-60	PB 16 PG 129
36	2331	1-48	PB 16 PG 129-130
36	2332	1-42	PB 16 PG 130
36	2336	1-47	PB 16 PG 127, 130
36	2337	1-32	PB 16 PG 124, 127
36	2346	70	PB 16 PG 130
36	2347	1-21	PB 16 PG 129-130
36	2348	1-63	PB 16 PG 128-129
35	2372	1-33	PB 16 PG 101
35	2375	1-37	PB 16 PG 105
35	2376	1-20	PB 16 PG 103
35	2378	1-30	PB 16 PG 103
34	2420	Tract	PB 16 PG 79, 82
34	2445	1-62	PB 16 PG 78, 81
34	2446	1-56	PG 16 PG 81, 84
34	2447	1-35; 56-90	PB 16 PG 81, 84
34	2450	1-62	PB 16 PG 85
34	2451	1-60	PB 16 PG 85-86
34	2452	1-48	PB 16 PG 83, 86
34	2459	1-4	PB 16 PG 80
34	2460	55-78	PB 16 PG 83, 85-86
34	2461	1-63	PB 16 PG 83, 85-86
36 PT 1	2475	16-36	PB 23 PG 88
36 PT 1	2476	1-78	PB 23 PG 88-89
36 PT 1	2477	1-56	PB 23 PG 89-90
36 PT 1	2478	1-62	PB 23 PG 90
36	2514	1-54	PB 16 PG 113
36	2515	1-40	PB 16 PG 113, 116
36	2516	1-54	PB 16 PG 116
36	2517	1-39; 75-78	PB 16 PG 116-117
36	2518	1-4; 75-78	PB 16 PG 116-117

36	2529	Tract	PB 16 PG 114, 117
37	2550	18-55	PB 17 PG 16, 19
37	2551	1-74	PB 17 PG 19, 21
37	2552	1-96	PB 17 PG 21, 24
37	2553A	1-44	PB 17 PG 27
37	2574	1-34	PB 17 PG 16
37	2583	1-49	PB 17 PG 16-17
37	2584	1-31	PB 17 PG 17-18
38	2628	1-72	PB 16 PG 88, 91
38	2629	1-58	PB 16 PG 91, 94
38	2644	TR	PB 16 PG 91-92, 94-95
38	2653	1-78	PB 16 PG 94, 97
38	2675	1-42	PB 16 PG 90, 93
38	2676	1-48	PB 16 PG 93
38	2681	1-60	PB 16 PG 96
38	2682	1-18; 38-56	PB 16 PG 96, 99
38	2683	1-18; 39-56	PB 16 PG 96, 99
39	2695	1-42	PB 16 PG 148
39	2716	1-56	PB 16 PG 143
39	2719	1-56	PB 16 PG 143, 146
39	2729	1-60	PB 16 PG 149, 152
39	2732	1-58	PB 16 PG 152
39	2751	1-38	PB 16 PG 153-154
39	2758	1-54	PB 16 PG 151
39	2759	1-54	PB 16 PG 154
40	2760	1-42	PB 17 PG 84
40	2761	1-60	PB 17 PG 84, 87
40	2762	1-54	PB 17 PG 87, 90
40	2763	1-58	PB 17 PG 90, 93
40	2765	1-79	PB 17 PG 95, 97
40	2766	1-74	PB 17 PG 95, 97
40	2767	1-43	PB 17 PG 97
40	2770A	TR	PB 17 PG 96
40	2809	1-66	PB 17 PG 82
40	2810	1-42	PB 17 PG 85
40	2811	1-74	PB 17 PG 85, 88
40	2833	1-56	PB 17 PG 96-97
40	2834	1-74	PB 17 PG 94-95
40	2835	1-63	PB 17 PG 94-95
41	2849	1-78	PB 17 PG 3, 6
41	2850	1-50	PB 17 PG 6, 9
41	2905	1-72	PB 17 PG 5, 8
41	2906	1-58	PB 17 PG 8, 11
41	2907	1-94	PB 17 PG 11, 14
42	2910	1-56	PB 17 PG 35
42	2911	1-56	PB 17 PG 35, 38
42	2980	1-58	PB 17 PG 41
42	2981	1-60	PB 17 PG 41
43	2990A	1-52	PB 17 PG 51
43	2991	1-58	PB 17 PG 54
43	2992	1-84	PB 17 PG 57
43	2993	1-35	PB 17 PG 57
43	2994	1-34	PB 17 PG 57
43	3000	1-52	PB 17 PG 54, 56
43	3001	TR	PB 17 PG 55-56

43	3005	1-66	PB 17 PG 50-51
43	3006	1-78	PB 17 PG 49-50
43	3009	1-36	PB 17 PG 52
43	3023	TR	PB 17 PG 52-53
43	3025	1-106	PB 17 PG 52, 55
43	3026	1-64	PB 17 PG 55-56
43	3027	1-46	PB 17 PG 54, 56
43	3028	1-108	PB 17 PG 52, 55, 57
62	3081	1-48	PB 21 PG 37-38
62	3082	1-56	PB 21 PG 38
62	3091	1-73	PB 21 PG 34, 37
62	3092	1-25	PB 21 PG 33-34
62	3093	1-88	PB 21 PG 37-38
66	3165	47-58	PB 22 PG 26
66	3173	All of Block 3173 minus ROW	PB 22 PG 25
66	3174	22-42	PB 22 PG 25
66	3181	24-46	PB 22 PG 24-25
66	3182	21-30	PB 22 PG 24
66	3194	1-23	PB 22 PG 15-16
66	3223	23-26	PB 22 PG 24
66	3224	1-4	PB 22 PG 24
66	3297	1-15,32-46	PB 22 PG 4-5
66	3301	1-64	PB 22 PG 7-8
66	3304	1-52	PB 22 PG 4, 7
65	3341	4-28	PB 21 PG 154
65	3342	1-47	PB 21 PG 154, 157
65	3343	1-60	PB 21 PG 157, 160, 163
65	3344	1-45	PB 21 PG 163-164
65	3345	1-33	PB 21 PG 163-164
65	3346	1-42	PB 21 PG 159, 163
65	3347	1-41	PB 21 PG 159
65	3348	1-39	PB 21 PG 159, 162
65	3349	1-46	PB 21 PG 161-162
65	3350	1-37	PB 21 PG 161
65	3351	1-33	PB 21 PG 158, 161
65	3352	1-44	PB 21 PG 158
65	3353	1-48	PB 21 PG 155, 158
65	3354	1-40	PB 21 PG 152, 155
65	3355	1-41	PB 21 PG 152
65	3357	25-60	PB 21 PG 153, 156
65	3368	1-84	PB 21 PG 154, 157
65	3369	1-84	PB 21 PG 154, 157
49	3620	3-40	PB 17 PG 154
48	3621	1-64	PB 17 PG 138, 141
48	3622	1-49	PB 17 PG 138
49	3627	All of Block 3627	PB 17 PG 152-153
48	3640	1-28	PB 17 PG 136
48	3645	1-62	PB 17 PG 141, 144
48	3648	3-35	PB 17 PG 144
48	3649	1-18; 20-44	PB 17 PG 137, 141, 144
48	3653	TR	PB 17 PG 139
48	3654	1-66	PB 17 PG 139
48	3657	1-60	PB 17 PG 142
48	3666	1-53	PB 17 PG 144
48	3668	43-52	PB 17 PG 143

48	3669	1-46	PB 17 PG 137, 140, 143
48	3670	65-78	PB 17 PG 143
48	3674	1-47	PB 17 PG 143
48	3675	1-29	PB 17 PG 142
50	3681	1-27	PB 17 PG 159
50	3683	1-48	PB 17 PG 156
50	3684	1-60	PB 17 PG 156
50	3685	1-55	PB 17 PG 156
50	3686	1-89	PB 17 PG 157-158
50	3688	1-54	PB 17 PG 157
50	3689	All of Block 3689	PB 17 PG 157
50	3698	57-68	PB 17 PG 157-158
50	3699	58-61	PB 17 PG 160
50	3700	1-4; 53-60	PB 17 PG 160
50	3707	All of Block 3707 less lots 1 -11	PB 17 PG 161
50	3713	1-21	PB 17 PG 160
50	3714	1-40	PB 17 PG 160-161
50	3715	1-15	PB 17 PG 161-162
50	3716	1-41	PB 17 PG 162
51	3723	1-44	PB 19 PG 6
51	3724	21-40	PB 19 PG 5
51	3726	1-48	PB 19 PG 5
51	3727	1-64	PB 19 PG 4
51	3740	1-62	PB 19 PG 3
51	3741	1-60	PB 19 PG 3
51	3742	1-72	PB 19 PG 7, 11
51	3743	1-58	PB 19 PG 11
51	3752	1-77	PB 19 PG 3, 7, 11
51	3756	1-99	PB 19 PG 12-15
51	3759	22-42	PB 19 PG 9-10
51	3760	1-68	PB 19 PG 10, 13
51	3767	1-92	PB 19 PG 13, 16
51	3775	1-88	PB 19 PG 14-15
52	3787	1-60	PB 19 PG 50
52	3788	1-60	PB 19 PG 50
52	3789	1-54	PB 19 PG 50-51
52	3790	1-54	PB 19 PG 50-51
52	3791	1-54	PB 19 PG 50-51
52	3794	42-58	PB 19 PG 51-52
52	3799	81	PB 19 PG 63
52	3800	1-76	PB 19 PG 58, 61, 63
52	3801	1-96	PB 19 PG 54, 57, 61
52	3802	1-74	PB 19 PG 52, 54
52	3803	1-90	PB 19 PG 52, 54-55
52	3804	1-65	PB 19 PG 52, 55
52	3805	1-78	PB 19 PG 52, 55
52	3806	TR	PB 19 PG 55
52	3807	1-46	PB 19 PG 54-55
52	3808	1-86	PB 19 PG 54, 57
52	3809	1-98	PB 19 PG 54, 57
52	3810	1-75	PB 19 PG 57, 61
52	3811	1-62	PB 19 PG 57-58
52	3812	1-68	PB 19 PG 57-58
52	3813	1-93	PB 19 PG 55,58
52	3814	1-50	PB 19 PG 55

52	3815	1-50	PB 19 PG 58
52	3833	1-48	PB 19 PG 56
53	3846	35-46	PB 19 PG 69
53	3847	1-6	PB 19 PG 68-69
53	3849	1-7	PB 19 PG 65
53	3858	78-83	PB 19 PG 69
53	3859	36-47	PB 19 PG 69
53	3872	1-42	PB 19 PG 72
53	3873	1-52	PB 19 PG 72, 75
53	3876	1-60	PB 19 PG 75, 78
53	3877	17-32	PB 19 PG 78
53	3878	1-62	PB 19 PG 78
53	3887	1-54	PB 19 PG 77-78
53	3888	1-54	PB 19 PG 77
53	3895	1-78	PB 19 PG 76
53	3896	1-76	PB 19 PG 73, 76
53	3897	1-72	PB 19 PG 70, 73
53	3898	1-58	PB 19 PG 66, 70
53	3906	1-6; 51-57	PB 19 PG 65
53	3908	1-34	PB 19 PG 70
54	3918	1-16, 33-58	PB 19 PG 84
54	3919	1-81	PB 19 PG 84, 88
54	3920	1-47	PB 19 PG 88
54	3939	1-60	PB 19 PG 85, 89
54	3940	1-60	PB 19 PG 81, 85
54	3941	1-70	PB 19 PG 81, 85
54	3942	1-70	PB 19 PG 85, 89
54	3943	1-60	PB 19 PG 85, 89
54	3944	1-29	PB 19 PG 81-82, 85
54	3954	1-54	PB 19 PG 89-90
54	3955	1-64	PB 19 PG 90-91
54	3959	1-32	PB 19 PG 91
54	3960	1-44	PB 19 PG 91
55	3966	1-60	PB 19 PG 96
55	3967	1-72	PB 19 PG 96, 100
55	3985	1-26	PB 19 PG 93
55	3986	1-46	PB 19 PG 93
55	3987	1-84	PB 19 PG 93, 97
55	3988	1-50	PB 19 PG 97, 101
55	4003	1-58	PB 19 PG 103
55	4011	1-75	PB 19 PG 93, 97, 101
55	4012	1-67	PB 19 PG 101, 104
55	4023	1-54	PB 19 PG 105-106
55	4024	1-56	PB 19 PG 104-105
56	4034	1-68	PB 19 PG 109
56	4035	1-68	PB 19 PG 110
56	4040	62-71	PB 19 PG 108
56	4041	5-62	PB 19 PG 108, 111, 114
56	4042	6-16	PB 19 PG 114
56	4047	1-42	PB 19 PG 113
56	4049	1-56	PB 19 PG 113, 116
56	4064	48-90	PB 19 PG 108, 111, 114
56	4065	TR	PB 19 PG 111, 114-115
56	4066	1-54	PB 19 PG 114-115
56	4067	1-78	PB 19 PG 115-116

56	4068	1-58	PB 19 PG 116
56	4069	1-58	PB 19 PG 116
57	4095	28-54	PB 19 PG 125, 128
57	4096	27-52	PB 19 PG 128
57	4100	15-28	PB 19 PG 131
57	4104A	TR	PB 19 PG 132
57	4105A	TR	PB 19 PG 132
57	4115A	TR	PB 19 PG 136
57	4116	1-17	PB 19 PG 136
57	4117	1-34	PB 19 PG 137
57	4118	1-34	PB 19 PG 137
57	4119	1-34	PB 19 PG 137
57	4120	1-78	PB 19 PG 136-137
57	4121	1-26	PB 19 PG 137
57	4122	1-35	PB 19 PG 136-137
59	4185	1-25; 57-82	PB 19 PG 152-153
59	4191	1-40	PB 19 PG 153
59	4191A	TR	PB 19 PG 153
60	4201	1-62	PB 19 PG 156-157
60	4202	1-62	PB 19 PG 156-157
60	4203	1-62	PB 19 PG 156-157
60	4228	1-40	PB 19 PG 156
60	4229	1-39	PB 19 PG 156-157
60	4230	1-38	PB 19 PG 157
60	4244	1-44	PB 19 PG 168
60	4245	1-44	PB 19 PG 168
60	4246	1-44	PB 19 PG 168
60	4247	1-44	PB 19 PG 165
60	4248	1-49	PB 19 PG 165-166, 169
60	4249	1-37	PB 19 PG 165, 168
60	4266	2-29	PB 19 PG 163, 166
60	4267	1-34	PB 19 PG 166
60	4268	1-29	PB 19 PG 166, 169
60	4269	1-42	PB 19 PG 169
60	4270	1-69	PB 19 PG 166, 169
60	4271A	TR	PB 19 PG 166, 169
60	4271	1-23	PB 19 PG 166, 169
61	4277	1-35	PB 21 PG 7
61	4278	1-43	PB 21 PG 7
61	4279	1-44	PB 21 PG 6
61	4280	1-71	PB 21 PG 6-7
61	4280A	TR	PB 21 PG 6-7
61	4288	1-44	PB 21 PG 10
61	4289	1-42	PB 21 PG 11
61	4294	1-34	PB 21 PG 10, 13-14
61	4297	32-39	PB 21 PG 14-15
61	4298	1-4	PB 21 PG 20
61	4302	53-56	PB 21 PG 15
61	4303	1-4; 30-33	PB 21 PG 15
61	4304	1-33	PB 21 PG 11
61	4305	1-33	PB 21 PG 7, 11
61	4306	1-34	PB 21 PG 7, 11
61	4307	1-56	PB 21 PG 11
61	4308	1-54	PB 21 PG 10
61	4309	1-50	PB 21 PG 6, 10

61	4310	1-5	PB 21 PG 6
61	4330	27-42	PB 21 PG 20
61	4331A	TR	PB 21 PG 20
63	4382	1-24	PB 21 PG 51-52
63	4402	1-23	PB 21 PG 50
63	4403	1-30	PB 21 PG 49-50
63	4406	1-8, 55-58	PB 21 PG 53
63	4415	43-64	PB 21 PG 60, 63
63	4419	1-42	PB 21 PG 64-65
63	4426	1-38	PB 21 PG 65
63	4431	1-54	PB 21 PG 64
63	4432	1-54	PB 21 PG 64, 66
63	4468A	TR	PB 21 PG 73-74, 79
63	4488A	All of Block 4484A	PB 21 PG 77, 81
69	4581	27-44	PB 22 PG 44, 48
69	4586	49-61	PB 22 PG 49
69	4587	1-5	PB 22 PG 50
69	4626	1-42	PB 22 PG 43
69	4627	1-42	PB 22 PG 43
69	4628	1-42	PB 22 PG 39
69	4629	All of Block 4629	PB 22 PG 39
69	4630	1-28	PB 22 PG 35, 39
69	4631	1-25	PB 22 PG 39, 43
69	4632	1-9,24-29,53-58	PB 22 PG 43, 47
69	4633	1-58	PB 22 PG 43, 47
69	4636	1-8,51-58	PB 22 PG 50
69	4642	20-31	PB 22 PG 45, 49
69	4643	1-50	PB 22 PG 48-49
69	4649	13-40	PB 22 PG 44, 48
69	4650	12-42	PB 22 PG 44, 48
70	4656	11-43	PB 22 PG 59
70	4657	1-8; 31-35	PB 22 PG 59-60
70	4685	1-4	PG 22 PG 85
70	4687	1-20, 38-41	PB 22 PG 84-86
70	4727	1-44	PB 22 PG 78, 82, 85
70	4735	All of Block 4735	PB 22 PG 73
70	4738	1-90	PB 22 PG 74, 78
70	4739	13-78	PB 22 PG 74, 78
70	4741	1-56	PB 22 PG 70
70	4749	1-80	PB 22 PG 60-61
70	4757	1-48	PB 22 PG 64, 68
70	4758	1-48	PB 22 PG 64, 68
70	4763	1-48	PB 22 PG 64, 68
70	4767	1-6,71-76	PB 22 PG 60
70	4769	TR	PB 22 PG 60, 64
70	4772	1-76	PB 22 PG 59, 63
70	4773	1-29,55-58	PB 22 PG 59, 63
71	4788	1-49	PB 22 PG 95, 97
71	4800	All of Block 4800	PB 22 PG 92
71	4841	1-38	PB 22 PG 98
71	4842	1-38	PB 22 PG 98
71	4843	1-38	PB 22 PG 98
71	4844	1-38	PB 22 PG 96
71	4845	1-38	PB 22 PG 96
71	4846	1-38	PB 22 PG 94

71	4847	5-64	PB 22 PG 94
71	4849	5-64	PB 22 PG 94, 96
71	4850	1-66	PB 22 PG 96, 98
71	4851	1-66	PB 22 PG 96, 98
71	4852	10-66	PB 22 PG 94, 96
74	4857	1-91	PB 22 PG 129-131
74	4858	1-34	PB 22 PG 128, 131
74	4859	1-57	PB 22 PG 122, 125, 128
73	4964	31-32	PB 32 PG 99
73	4967	31	PB 23 PG 30
73	4968	1-6	PB 23 PG 31, 35
73	4969	26-29	PB 23 PG 31, 35
73	4988	1-4,51-54	PB 23 PG 31
73	4994	28-54	PB 32 PG 99
73	4995	29-56	PB 23 PG 30
72	5000	32-35	PB 23 PG 25-26
72	5003	18-23	PB 23 PG 24
72	5004	1	PB 23 PG 24
72	5009	6-55	PB 23 PG 19, 22
72	5025	17-24	PB 23 PG 26
72	5026	1-28	PB 23 PG 24
72	5027	1-50	PB 23 PG 23
72	5055	1-30	PB 23 PG 11-12
80	5096	1-25	PB 22 PG 158
80	5102	1-55	PB 22 PG 156-157
80	5102A	TR	PB 22 PG 156-157
80	5107	1-2; 59-85	PB 22 PG 148, 152
80	5107A	TR	PB 22 PG 148, 152
80	5133	1-58	PB 22 PG 141
80	5134	1-60	PB 22 PG 141-142
80	5135	1-46	PB 22 PG 142-143
80	5136	1-18	PB 22 PG 143, 146
82	5279	1-50	PB 24 PG 121, 124
58	5300A	TR	PB 23 PG 147
58	5338	1-48	PB 23 PG 131
58	5339	1-46	PB 23 PG 131, 138-139
58	5340	1-24	PB 23 PG 131, 139
58	5341	1-30	PB 23 PG 131
58	5342	1-22	PB 23 PG 139
58	5344	1-33	PB 23 PG 138-139, 141
58	5346	TR B	PB 23 PG 139-140
90	5443	1-42	PB 24 PG 18
90	5444	1-26	PB 24 PG 18, 21
90	5445	1-13+TR A	PB 24 PG 18, 21
91	5516A	TR	PB 24 PG 90, 93
91	5556A	TR	PB 24 PG 89-90
91	5520	TR 1-5	PB 24 PG 91, 94
91	5521	1-26	PB 24 PG 91
91	5522	1-31	PB 24 PG 94
92	5917	1-19	PB 25 PG 33-34
92	5919	1-7	PB 25 PG 34
94	6001	22-25	PB 25 PG 36-37
97	6113	19-37	PB 25 PG 88, 92
97	6114	TR A	PB 25 PG 89
97	6125	1-18	PB 25 PG 89

97	6125A	1	PB 25 PG 89
98	6169	TR	PB 25 PG 116
98	6170	TR	PB 25 PG 116
76	6400	TR H	PB 35 PG 124-129
West Cape Estates	7010	1-28, TR A-E	
Emerald Cove		1-79, Tract A, B, C, and D	
Estates of Old Burnt Store		1-4	
Trafalgar Woods		1-50, CE, Tract A, and Tract B	
Heatherwood Lakes		1-77, Tract A, B-1 thru B-12, E-1, L1 thru L-7, Tract R	
Hermitage	3452A	1-19, Tract A	
Tarpon Point		1-47,C-1,C-2, R-3, L-1	
Sands Lake	5055A	1-10,Tract A	
Osprey Pointe		1-14, Tract A	
Enclave		1-14, Tract A	
Sunset Pointe		Lots 1-58, Tract A	
Eagles Landing		1-14, Tract A	

AND

A tract or parcel of land lying in Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the East Quarter Corner of said Section 10 run N89°56'37"W along the South line of the North Half (N 1 /2) of said Section 10 for 450.00 feet to an intersection with the West line of the East 450 feet of said Fraction and the POINT OF BEGINNING. From said Point of Beginning continue N89°56'37"W along said South line for 2,908.75 feet to and intersection with the Easterly line of a lands described in a deed recorded in Official Records Book 1763, at Page 3347, Lee County Records; thence run N00°02'12"E along said Easterly line for 2,247.45 feet to an intersection with the South line of the North 450 feet of said Fraction; thence run along said South line following two (2) courses: N89°39'59"E for 667.45 feet and S89°44'21 "E for 2,239.91 feet to an intersection with said West line of the East 450 feet of said Fraction; thence run S00°00'02"W along said West line for 2,244.01 feet to the POINT OF BEGINNING.

Containing 150.10 acres, more or less.

RESIDENTIAL DEVELOPMENT (RD) TO RESIDENTIAL ESTATE (RE) ZONE

Unit	Block	Lots	PB/PG
91	5519	1-4	PB 24 PG 91, 94

RESIDENTIAL DEVELOPMENT (RD) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

Unit	Block	Lots	PB/PG
45 PT 1	1901	1-26	PB 21 PG 136
45 PT 1	1902	1-38	PB 21 PG 136, 139
31	2053	1-27; 31-43	PB 14 PG 154, 157
31	2054	1-3	PB 14 PG 157
31	2099	1-30	PB 14 PG 160
32	2101	7-52	PB 16 PG 2, 5
32	2146	1-3	PB 16 PG 5
32	2172	1-12; 15-24	PB 16 PG 8
35	2400	Tract	PB 16 PG 104, 109
37	2580	TR	PB 17 PG 17, 19-20
40	2764	1-72	PB 17 PG 93, 96
41	2871	1-29; 52-78	PB 17 PG 9, 12
41	2876	24-55	PB 17 PG 12
41	2877	1-46	PB 17 PG 12-13
41	2884	1-60	PB 17 PG 13-14
42	2922	1-74	PB 17 PG 34-35

42	2923	1-66	PB 17 PG 33-34
42	2924B	17-29	PB 17 PG 33
43	3007	1-54	PB 17 PG 49
43	3008	1-53	PB 17 PG 49, 52
66	3194A	TR	PB 22 PG 15-16, 18-19
66	3214	1-48	PB 22 PG 20, 23
66	3215	1-52	PB 22 PG 17, 20
66	3236	1-12	PB 22 PG 11, 14
66	3237	1-30	PB 22 PG 11, 14
66	3297	16-31	PB 22 PG 4-5
66	3298	6-10,36-46	PB 22 PG 5
66	3299	1-58	PB 22 PG 5, 8
66	3300	1-48	PB 22 PG 5, 8
66	3302	1-34	PB 22 PG 5, 8
49	3631	All of Block 3631	PB 17 PG 149
49	3634	All of Block 3634	PB 17 PG 149, 151
51	3767	1-92	PB 19 PG 13, 16
51	3772A	1-26; 30-58	PB 19 PG 16
52	3816	1-29; 50-78	PB 19 PG 61, 63
52	3817	1-20; 48-66	PB 19 PG 63
52	3822	1-107	PB 19 PG 62-63
53	3844	1-107	PB 19 PG 67-68
53	3845	1-27; 55-80	PB 19 PG 69
55	4022	1-54	PB 19 PG 106
59	4186	1-58	PB 19 PG 148, 152-153
59	4186A	TR	PB 19 PG 148, 152-153
63	4417	1-54	PB 21 PG 63-64
63	4418	1-42,48-54	PB 21 PG 64
70	4685	26-48	PB 22 PG 85
70	4686	1-46	PB 22 PG 85-86
70	4718	1-4	PB 22 PG 87
70	4727	45-88	PB 22 PG 78, 82, 85
71	4829	TR	PB 22 PG 104
58	5345	All of Block 5345	PB 23 PG 140
98	6171	TR	PB 25 PG 116
98	6172	TR	PB 25 PG 116
98	6173	TR	PB 25 PG 115
98	6174	TR	PB 25 PG 115
98	6175	TR	PB 25 PG 115
98	6184	TR	PB 25 PG 113, 118
98	6187	TR	PB 25 PG 113
98	6188	TR	PB 25 PG 113

AND

WHISPERING PINES CONDO COMMON AREA OR 1371 PG 1237

AND

A tract or parcel of land situated in the State of Florida, County of Lee, City of Cape Coral, lying in Section 29, Township 44 South, Range 24 East, being more particularly described as follows:

Beginning at the Northwest corner of said Section 29; thence North 86°09'52" East, along the Northerly boundary line of said Section 29, a distance of 50.22 feet to a point on the Easterly Right of Way line of Del Prado Boulevard; thence along said Easterly Right of Way line of Del Prado Boulevard, South 01°29'09" West, a distance of 330.00 feet; thence departing said Right of Way line, North 86°09'52" East, a distance of 1881.29 feet; thence South 01°29'09" West, a distance of 329.30 feet to the Point of Beginning of Coral Cove Phase II; thence continue South 01°29'09" West, a distance of 114.04 feet; thence North 86°09'52" East, a distance of

912.50 feet; thence North 89°55'09" East, a distance of 1267.38 feet; thence South 00°04'51" East, a distance of 370.00 feet; thence South 89°55'09" West, a distance of 1255.25 feet; thence South 86°09'52" West, a distance of 529.98 feet to the beginning of a curve concave to the Northeast, having a radius of 40.00 feet, a delta angle of 22°04'44", a chord distance of 15.32 feet and a chord bearing of North 82°47'46" West; thence along the arc of said curve, a distance of 15.41 feet to a placed monument (1/2" Iron Rod and Cap LB3377 typical of all placed monuments), being also the true Point of Beginning; thence South 18°14'36" West, a distance of 132.66 feet to a placed monument; thence South 86°09'52" West, a distance of 90.00 feet to a placed monument; thence South 01°29'09" West, a distance of 682.94 feet to a placed monument on the North Right of Way line of Four Mile Cove Boulevard (S.E. 19th Terrace), a 100 foot wide Right of Way; thence South 86°09'52" West, along said North Right of Way line, a distance of 718.95 feet to a placed monument; thence North 01°29'09" East, a distance of 605.32 feet to a placed monument; thence South 88°30'51" East, a distance of 32.65 feet to a placed monument; thence North 01°29'09" East, a distance of 543.27 feet to a placed monument; thence South 88°30'51" East, a distance of 38.00 feet to a placed monument; thence North 86°08'55" East, a distance of 200.96 feet to a placed monument at the beginning of a curve concave to the Southwest, having a radius of 262.00 feet, a delta angle of 44°17'23", a chord distance of 197.52 feet and a chord bearing of South 11°42'23" East; thence along the arc of said curve a distance of 202.53 feet to a placed monument at the point of tangency; thence South 49°33'42" East, a distance of 136.92 feet to a placed monument; thence North 40°26'18" East, a distance of 46.56 feet to a placed monument; thence South 49°33'42" East, a distance of 172.63 feet to a placed monument; thence North 86°09'52" East, a distance of 126.60 feet to a placed monument; thence South 41°09'52" West, a distance of 27.44 feet to a placed monument; thence South 03°50'08" East, a distance of 57.66 feet to the Point of Beginning.

AND

The West 1/2 of the West 1/2 of the SE 1/4 of Section 10, Township 44 South, Range 23 East, as described in Official Records Book 2114, Page 4160 of the records of Lee County, Florida,

AND

The East 1/2 of the West 1/2 of the SE 1/4 of Section 10, Township 44 South, Range 23 East, of Lee County, Florida.

AND

A tract or parcel of land situated in the State of Florida, County of Lee, City of Cape Coral, lying in Section 29, Township 44 South, Range 24 East, being more particularly described as follows:

Commencing at the NW corner of said Section 29; thence N86°09'52"E along the Northerly boundary line of said Section 29, a distance of 50.22 feet to a point on the easterly right-of-way line of Del Prado Boulevard, S01°29'09"W, a distance of 330.00 feet; thence departing said right-of-way line, N86°09'52"E a distance of 1881.29 feet; thence S01°29'09"W, a distance of 329.30 feet to the true point of beginning of Coral Cove Phase II; thence continue S01°29'09"W, a distance of 114.04 feet; thence N86°09'52"E, a distance of 912.50 feet; thence N89°55'09"E, a distance of 1267.38 feet; thence S00°04'51"E, a distance of 370.00 feet; thence S89°55'09"W, a distance of 1255.25 feet; thence S86°09'52"W, a distance of 529.98 feet to the beginning of a curve concave to the Northeast, having a radius of 40.00 feet, a delta angle of 22°04'44", a chord distance of 15.32 feet and a chord bearing of N82°47'46"W; thence along the arc of said curve, a distance of 15.41 feet to the point of beginning of Coral Cove Phase I; thence N03°50'08"W, a distance of 57.66 feet; thence N41°09'52"E, a distance of 27.44 feet; thence S86°09'52"W a distance of 126.60 feet; thence N49°33'42"W, a distance of 172.63 feet; thence S40°26'18"W, a distance of 46.56 feet; thence N49°33'42"W, a distance of 136.92 feet to the beginning of a curve concave to the SW, having a radius of 262.00 feet, a delta angle of 44°17'23", a chord distance 197.52 feet and a chord bearing of N71°42'23"W; thence along the arc of said curve a distance of 200.96 feet; thence N88°30'51"W, a distance of 38.00 feet; thence N01°29'09"E, a distance of 143.42 feet; thence N86°08'55"E, a distance of 425.03 feet to the Point of Beginning.

Said parcel contains 817,348 square feet (18.764 acres), more or less.

RESIDENTIAL RECEIVING (RX) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE

Unit	Block	Lots	PB/PG
17	1528	1-5, 77-78	PB 14 PG 35-37
31	2055	9-37	PB 14 PG 157
31	2056	1-49	PB 14 PG 155, 158
31	2057	1-47	PB 14 PG 155, 158

31	2060	2-45	PB 14 PG 156, 159
31	2061	1-25	PB 14 PG 159
31 PT 2	2061	26-43	PB 23 PG 8
31	2061	44-54	PB 14 PG 162
31	2065	1-64	PB 14 PG 160-161
31	2067	1-62	PB 14 PG 163-164
32	2137	1-43	PB 16 PG 13
32	2140	1-47	PB 16 PG 4, 7
32	2141	1-49	PB 16 PG 4, 7
32	2143	1-47	PB 16 PG 3, 6
32	2144	49	PB 16 PG 2
32	2145	7-29	PB 16 PG 5
32	2147	7-36	PB 16 PG 8
32	2148	1-49	PB 16 PG 9, 12
32	2152	36	PB 16 PG 12
32	2153	1-3; 31-32; 48-54	PB 16 PG 12-13
33	2217	1-48	PB 16 PG 43-44
33	2223	1-46	PB 16 PG 43-44
33	2224	29-60	PB 16 PG 41-42
33	2226	45	PB 16 PG 50
33	2227	1-43	PB 16 PG 46, 50
33	2228	1-43	PB 16 PG 46-47
33	2229	1-58	PB 16 PG 47
33	2230	1-66	PB 16 PG 48, 52
33	2231	1-63	PB 16 PG 51, 54
33	2234	80	PB 16 PG 55
33	2235	1-61	PB 16 PG 52, 55
33	2241	1-58	PB 16 PG 52, 55
33	2246	1-18	PB 16 PG 54
66	3288	1-65	PB 22 PG 10, 13
47 PT 2	3510	1-25	PB 23 PG 123-124
47 PT 2	3511	1-66	PB 23 PG 122-124
47 PT 2	3519	1-30	PB 23 PG 122, 125
47 PT 2	3527	1-30	PB 23 PG 116, 122
47 PT 2	3528	1-34	PB 23 PG 116-117, 121
47 PT 2	3529	1-40	PB 23 PG 121, 126
47 PT 2	3530	1-59	PB 23 PG 120-121, 126
47 PT 2	3537	1-44	PB 23 PG 120-121
47 PT 2	3538	1-56	PB 23 PG 117, 120-121

RESIDENTIAL RECEIVING (RX) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

Unit	Block	Lots	PB/PG
66	3290	1-56	PB 22 PG 6, 9, 12
66	3291	1-36	PB 22 PG 9, 12
70	4717	1-20	PB 22 PG 87

SOUTH CAPE DOWNTOWN DISTRICT (SC) TO MIXED-USE BIMINI (MXB) ZONE

Unit	Block	Lots	PB/PG
5	80	1 - 43	PB 11 PG 81
9	80	44 - 86	PB 11 PG 11
6 PT 1	81	1-59	PB 11 PG 46
5	82	1 - 50	PB 11 PG 81
5	83	1 - 40	PB 11 PG 81
5	84	1 - 32	PB 11 PG 81

5	85	1 - 18	PB 12 PG 43
9	85	19 - 38	PB 13 PG 15
5	86	1 - 28	PB 12 PG 43
9	86	28A-54	PB 13 PG 15
5	87	1 - 18	PB 11 PG 90
2 PT 3	88	1 - 27	PB 11 PG 40
2 PT 3	89	1 - 33	PB 11 PG 40
2 PT 3	90	1 - 40	PB 11 PG 40
2 PT 3	91	1-38	PB 11 PG 40
2 PT 3	92	1 - 34	PB 11 PG 41
2 PT 3	93	1 - 63	PB 11 PG 40-41
5	93	64 -101	PB 11 PG 90
5	93	TR A	PB 11 PG 90
5	102	TR B	PB 11 PG 90
5	102	1 - 56	PB 11 PG 90
5	102	TR C	PB 11 PG 90

VILLAGE (VILL) TO COMMERCIAL CORRIDOR (CC) ZONE

Unit	Block	Lots	PB/PG
23	1092	1-3	PB 14 PG 52
23	1093A	ALL	PB 14 PG 52
23	1094	TR	PB 14 PG 40
23	1095	1-17	PB 14 PG 52
37	2371	TR	PB 17 PG 18, 23
Eagle Subdivision I		Tracts A, B, C, D, F, G	PB 66 PG 16
Florida Tropical Farms	FTF00	20	
Florida Tropical Farms	FTF00	22	
Florida Tropical Farms	FTF00	23	
Florida Tropical Farms	FTF00	24	
Florida Tropical Farms	FTF00	24A	
Florida Tropical Farms	FTF00	24B	
Florida Tropical Farms	FTF00	24C	
Florida Tropical Farms	FTF00	25	
Florida Tropical Farms	FTF00	26	
Florida Tropical Farms	FTF00	26A	
Florida Tropical Farms	FTF00	27	
Florida Tropical Farms	FTF00	27A	
Florida Tropical Farms	FTF00	28	
Florida Tropical Farms	FTF00	29	
Florida Tropical Farms	FTF00	33	
Florida Tropical Farms	FTF00	34	
Florida Tropical Farms	FTF00	36	
Santa Barbara Center	6620	1-6 Less ROW	
Santa Barbara Center	6621	1-2 + TR A, B, C Less ROW	
Coral Shores	8005	1-9 + TR B + TR D	
Twin Central Plaza	8061	TR	

AND

A tract of land lying in the SW ¼ of Section 5 and in the NW ¼ of Section 8, Township 44 South, Range 24 East, City of Cape Coral, Lee County, Florida, being more particularly described as follows:

Beginning at the NW corner of Tract A of Eagle Subdivision I as recorded in Plat Book 66, Page 16 of the Public Records of Lee County, Florida; thence run S00°02'16"E along a line being the Westerly line of Tracts A, B, and C of said Eagle Subdivision I for 406.76 feet; thence run N88°42'51"W along the Northerly line of Tract C of said Eagle Subdivision I for 84.29 feet; thence continue along said Northerly running N89°22'28"W

for 131.56 feet to the existing Easterly right-of-way line of Del Prado Boulevard as described by taking parcel 46 (Instrument #200800079378); thence along said Easterly line the following three (3) courses: 1) N03°50'57"E for 68.47 feet; 2) along the arc of a 1211.50' curve to the left, having a delta angle of 10°35'55", a chord bearing and chord of N01°27'01"W and 223.78 feet, an arc distance of 224.10'; 3) through a point of reverse curvature along the arc of a 129.00 foot radius curve to the right, having a delta angle of 03°30'30", a chord bearing and chord of N04°59'53"W and 7.90 feet, an arc distance of 7.90 feet; thence leaving said line run S89°24'21"E for 82.44 feet; thence run N47°47'54"E for 117.76 feet; thence run N62°02'11"E for 53.94 feet to the Point of Beginning.

AND

The S ½ of the NE ¼ of the SE ¼ of the NE ¼ of Section 14, Township 44 South, Range 23 East, less right-of-way for Santa Barbara Boulevard, as described in Official Records Book 2805, Page 3117, in the Public Records of Lee County, Florida.

PLACES OF WORSHIP (W) TO COMMERCIAL (C) ZONE

Unit	Block	Lots	PB/PG
21	649	TR	PB 13 PG 158, 161
20 PT 2	1179	TR B	PB 19 PG 44
20 PT 2	1179	1-8	PB 19 PG 44
20 PT 1	1195A	TR	PB 17 PG 108
44	1721	All of Block 1721	PB 21 PG 109
29	1933	All of Block 1933	PB 16 PG 19
33	2209	4-10; Tract A	PB 16 PG 42

AND

Parcel in NE 1/4 of NE 1/4 of SE 1/4 in Section 14, Township 44 South, Range 23 East, Public Records of Lee County, Florida, as described in Official Records Book 1704, Page 2182.

PLACES OF WORSHIP (W) TO INSTITUTIONAL (INST) ZONE

Unit	Block	Lots	PB/PG
18	1355	1	PB 13 PG 120
18	1365	TR (E 1/2)	PB 13 PG 114, 117
68	4556A	TR	PB 23 PG 104

PLACES OF WORSHIP (W) TO SINGLE-FAMILY RESIDENTIAL (R1) ZONE

Unit	Block	Lots	PB/PG
7	314A	Tract H	PB 12 PG 123
9	319	14-19	PB 13 PG 11
9	321	1-11, 14-27	PB 13 PG 12
9	322	1-5	PB 13 PG 12
9	322	Tract D	PB 13 PG 12
7	341	1-8, 15-24	PB 12 PG 123
7	342	Tract I	PB 12 PG 123
7	342	1-5, 12-16	PB 12 PG 123
21	837	TR	PB 13 PG 156, 159
45	1750	7-22,51-64	PB 21 PG 123
66	3264	1-32	PB 22 PG 12
69	4622	All of Block 4622	PB 22 PG 34
71	4812	All of Block 4812	PB 22 PG 99

AND

W 1/2 OF SW 1/4 OF SW 1/4 OF NE 1/4 + BLKS 1044+ LTS 1+2 1045 in Section 24, Township 44 South, Range 23 East, Public Records of Lee County, Florida, as described in Plat Book 14, Page 70.

AND

PARL IN NW 1/4 DESC IN OR 2072 PG 3708 + BLK 1151 LOTS 1 + 2 + LOTS 5 + 6 in Section 24, Township 44 South, Range 23 East, Public Records of Lee County, Florida, as described in Plat Book 14. Page 40.

AND

PAR IN E 1/2 OF SW 1/4 OF NW 1/4 OF NE 1/4 in Section 24, Township 44 South, Range 23 East, Public Records of Lee County, Florida, as described in Official Records Book 3369 Page 4769

AND

E 1/2 OF SW 1/4 OF NW 1/4 OF NE 1/4 + PT BLKS 1197 + 1061 + VAC R/W in Section 24, Township 44 South, Range 23 East, Public Records of Lee County, Florida, as described in Official Records Book 2184, Page 1337 LESS the area described in Official Records Book 3369 Page 4769

PLACES OF WORSHIP (W) TO RESIDENTIAL MULTI-FAMILY LOW (RML) ZONE

A portion of Block 1378 less and except the North 405 feet thereof in Unit 18, City of Cape Coral Subdivision, recorded in Plat Book 13, Pages 96 to 120 inclusive, in the Public Records of Lee County, Florida, together with that portion of the vacated right-of-way granted by Resolution 98-78, and being more particularly described as follows:

Beginning at the Southeast Corner of the said North 405 feet of Block 1378, being a point of the westerly right-of-way line of SE 24th Avenue; thence run S 00°57'33"W along said westerly right-of-way line for 401.55 feet to the beginning of a curve to the right having for its elements a radius of 25 feet, a chord bearing and distance of S 44°39'29"W, 34.54 feet; thence run along the curve to the right an arc distance of 38.13 feet to a point on the northerly right-of-way line of SE 8th Street; thence run S 88°21'26"W along said northerly right-of-way line for 237.38 feet; thence leaving said right-of-way run N 00°57'33"E for 425.44 feet; thence run N 88°21'26"E for 261.27 feet to the Point of Beginning. Parcel contains 2.6 acres plus or minus. Basis for bearings is the east line of Block 1378 being S 00°57'33"W according to the plat of Cape Coral Unit 18, as recorded in Plat Book 13, Page 96 to 120, inclusive, Lee County, Florida.

AND

A portion of Block 1378 less and except the North 405 feet thereof in Unit 18, City of Cape Coral Subdivision, recorded in Plat Book 13, Pages 96 to 120 inclusive, in the Public Records of Lee County, Florida, together with that portion of the vacated right-of-way granted by Resolution 98-78, and being more particularly described as follows:

Commencing from the Southeast Corner of the said North 405 feet of Block 1378; thence run S 88°21'26" W for 261.27 feet to the Point of Beginning of the parcel herein described; thence run S 00°57'33"W for 425.44 feet to a point on the northerly right-of-way line of SE 8th Street; thence run S 88°21'26"W along said right-of-way line for 363.24 feet to a Point of Curvature to the right having for its elements a radius of 25 feet, a chord bearing and distance of N 45°20'31"W, 36.15 feet; thence run along the curve to the right an arc distance of 40.41 feet to a Point of Tangency on the easterly right-of-way line of SE 23rd Avenue; thence run N 00°57'33"E along said easterly right-of-way line for 399.28 feet; thence run N 88°21'26"E for 389.40 feet to the Point of Beginning. Parcel contain 3.80 acres more or less. Basis for bearings is the east line of Block 1378 being S 00°57'33"W according to the plat of Cape Coral Unit 18, as recorded in Plat Book 13, Page 96 to 120, inclusive, Lee County, Florida.

AGRICULTURAL-2 (AG-2, A LEE COUNTY DESIGNATION) TO COMMERCIAL (C) ZONE

A parcel of land within the City of Cape Coral, being a part of Section 20, Township 43 South, Range 23 East, Lee County, Florida, described as follows:

Commence at the Northeast corner of said Section 20; thence South 89°37'56" West along the north line of the Northeast ¼ of said Section 20, a distance of 1,328.13 feet to the Point of Beginning; thence South 15°46'07" East, a distance of 212.80 feet; thence South 49°17'46" East, a distance of 233.40 feet; thence South 29°30'00" West, a distance of 428.71 feet; thence South 52°52'36" West, a distance of 419.74 feet; thence South 47°37'42" West, a distance of 418.12 feet; thence South 30°46'26" West, a distance of 373.82 feet; thence South 04°51'51" East, a distance of 328.57 feet; thence South 14°07'22" East, a distance of 309.02 feet to a point on the South line of the North 135 acres of the East ½ of said Section 20; thence South 89°37'56" West along said South line, a distance of 642.83 feet to a point on the West line of said East ½ of Section 20; thence South 00°24'57" West along said West line, a distance of 1,795.25 feet to a point on the North line of lands described in Official Records Book 2911, Page 1929 of the Public Records of Lee County, Florida; thence North 89°18'53" West along said North line, a distance of 2,517.68 feet to a point on the easterly right of way line of Burnt Store Road (State Road 765), said point being 13 feet from the centerline; thence North 00°14'02" East along said easterly right of way line, a distance of 1,285.93 feet to an angle point; thence continue North

00°13'15" East along said easterly right of way line, a distance of 2,671.39 feet to a point on the North line of the Northwest ¼ of said Section 20; thence North 89°37'06" East along said North line, a distance of 2,531.07 feet to the North ¼ corner of said Section 20; thence North 89°37'56" East along the North line of the Northeast ¼ of said Section 20, a distance of 1,334.73 feet to the Point of Beginning.

LESS AND EXCEPT:

The Westerly 155 feet of land described in Official Records Book 4851, Page 1643, of the Public Records of Lee County, Florida, being part of Section 20, Township 43 South, Range 23 East, Lee County Florida.

LESS AND EXCEPT:

PARCEL OF LAND IN THE WEST-HALF OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WESTERLY QUARTER-CORNER OF SAID SECTION 20; THENCE S 89°50'43" E. ALONG THE EAST-WEST QUARTER LINE OF SAID SECTION 20, A DISTANCE OF 1457.00 FEET TO THE POINT-OF-BEGINNING OF THIS DESCRIPTION; THENCE N55°55'03"W , A DISTANCE OF 77.36 FEET; THENCE N79°39'21"W , A DISTANCE OF 37.86 FEET; THENCE N00°11'15"E , A DISTANCE OF 193.46 FEET; THENCE N64°04'07"E , A DISTANCE OF 33.46 FEET; THENCE N51°04'10"E , A DISTANCE OF 33.36 FEET; THENCE N21°53'36"E , A DISTANCE OF 35.14 FEET; THENCE N12°02'35"W , A DISTANCE OF 40.33 FEET; THENCE N18°25'56"W , A DISTANCE OF 32.07 FEET; THENCE N07°16'30"W , A DISTANCE OF 33.69 FEET; THENCE N12°44'56"E , A DISTANCE OF 36.63 FEET; THENCE N49°41'02"E , A DISTANCE OF 36.93 FEET; THENCE N79°55'29"E , A DISTANCE OF 49.63 FEET; THENCE S63°56'22"E , A DISTANCE OF 68.42 FEET; THENCE S58°42'11"E , A DISTANCE OF 67.89 FEET; THENCE S56°15'14"E , A DISTANCE OF 40.98 FEET; THENCE S79°07'24"E , A DISTANCE OF 18.97 FEET; THENCE N82°43'10"E , A DISTANCE OF 60.18 FEET; THENCE S78°28'41"E , A DISTANCE OF 52.00 FEET; THENCE S66°31'54"E , A DISTANCE OF 44.33 FEET; THENCE S66°58'09"E , A DISTANCE OF 11.29 FEET; THENCE S78°04'52"E , A DISTANCE OF 55.81 FEET; THENCE S82°04'57"E , A DISTANCE OF 44.97 FEET; THENCE S63°51'51"E , A DISTANCE OF 45.75 FEET; THENCE S11°43'31"E , A DISTANCE OF 23.93 FEET; THENCE S08°53'47"W , A DISTANCE OF 18.65 FEET; THENCE S38°16'57"W , A DISTANCE OF 42.89 FEET; THENCE S54°02'01"W , A DISTANCE OF 60.49 FEET; THENCE S54°03'18"W , A DISTANCE OF 48.38 FEET; THENCE S10°32'37"W , A DISTANCE OF 45.85 FEET; THENCE S20°37'02"E , A DISTANCE OF 51.16 FEET; THENCE S08°58'15"E , A DISTANCE OF 79.39 FEET; THENCE S31°10'06"E , A DISTANCE OF 36.98 FEET; THENCE S62°25'26"E , A DISTANCE OF 47.84 FEET; THENCE S74°55'06"E , A DISTANCE OF 41.90 FEET; THENCE S48°22'54"E , A DISTANCE OF 57.51 FEET; THENCE S53°36'13"E , A DISTANCE OF 66.77 FEET; THENCE S00°54'10"E , A DISTANCE OF 407.36 FEET; THENCE S78°01'47"W , A DISTANCE OF 34.81 FEET; THENCE N59°53'03"W , A DISTANCE OF 41.10 FEET; THENCE N69°04'34"W , A DISTANCE OF 36.46 FEET; THENCE N83°36'07"W , A DISTANCE OF 52.95 FEET; THENCE N65°54'29"W , A DISTANCE OF 49.54 FEET; THENCE N68°47'48"W , A DISTANCE OF 22.32 FEET; THENCE S85°44'31"W , A DISTANCE OF 44.89 FEET; THENCE S63°34'19"W , A DISTANCE OF 18.99 FEET; THENCE S59°21'46"W , A DISTANCE OF 89.77 FEET; THENCE S68°11'29"W , A DISTANCE OF 34.36 FEET; THENCE N62°14'15"W , A DISTANCE OF 33.17 FEET; THENCE N48°28'45"W , A DISTANCE OF 91.54 FEET; THENCE N69°35'18"W , A DISTANCE OF 74.92 FEET; THENCE N69°29'42"W , A DISTANCE OF 33.11 FEET; THENCE N78°39'42"W , A DISTANCE OF 36.46 FEET; THENCE N00°21'30"W , A DISTANCE OF 49.58 FEET; THENCE N19°20'26"W , A DISTANCE OF 36.93 FEET; THENCE N42°33'32"W , A DISTANCE OF 24.94 FEET; THENCE N35°01'03"W , A DISTANCE OF 34.08 FEET; THENCE N01°47'23"E , A DISTANCE OF 8.27 FEET; THENCE N28°42'18"E , A DISTANCE OF 22.50 FEET; THENCE N57°44'14"E , A DISTANCE OF 41.68 FEET; THENCE N61°59'51"E , A DISTANCE OF 48.00 FEET; THENCE N40°17'19"E , A DISTANCE OF 42.13 FEET; THENCE N17°05'05"E , A DISTANCE OF 34.64 FEET; THENCE N09°08'07"W , A DISTANCE OF 42.03 FEET; THENCE N34°28'46"W , A DISTANCE OF 31.20 FEET; THENCE N32°47'43"W , A DISTANCE OF 35.35 FEET; THENCE N19°16'43"W , A DISTANCE OF 45.20 FEET; THENCE N39°47'48"W , A DISTANCE OF 15.52 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION.

Such land comprising 254.81 acres, more or less.

AND

A PARCEL OF LAND FOR LAND USE ADMINISTRATIVE PURPOSES, BEING A PART OF SECTION 5, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at the Southeast corner of said Section 5, Township 43 South, Range 24 East; thence run S 89°52'14" W along the south line of the Southeast Quarter (SE 1/4) of said Section 5 1068.53 feet to the southwest corner of lands described in Official Records Book 2728, Page 2455 of the Public Records of Lee County, Florida, and the Point of Beginning. From said Point of Beginning continue S 89°52'14" W along said

south line 1682.06 feet to the South Quarter corner of said Section 5; thence N 89°40'24" W along the south line of the Southwest Quarter (SW 1/4) of said Section 5 a distance of 555.93 feet; thence departing said south line N 14°03'03" W a distance of 6.46 feet; thence N 23°59'58" W a distance of 34.79 feet; thence N 43°47'16" W a distance of 32.03 feet; thence N 52°39'08" W a distance of 31.24 feet; thence N 56°17'09" W a distance of 30.92 feet; thence N 45°59'34" W a distance of 34.56 feet; thence N 32°11'05" W a distance of 31.56 feet; thence N 57°46'01" W a distance of 32.18 feet; thence N 67°25'25" W a distance of 30.75 feet; thence N 64°12'02" W a distance of 30.55 feet; thence N 58°37'58" W a distance of 30.13 feet; thence N 65°38'16" W a distance of 31.51 feet; thence N 79°39'31" W a distance of 35.83 feet; thence N 76°03'32" W a distance of 30.48 feet; thence N 68°08'46" W a distance of 30.92 feet; thence N 44°32'01" W a distance of 31.62 feet; thence N 25°36'33" W a distance of 36.90 feet; thence N 10°17'00" W a distance of 34.15 feet; thence N 16°03'21" W a distance of 30.62 feet; thence N 27°04'45" W a distance of 33.69 feet; thence N 36°19'28" W a distance of 32.42 feet; thence N 53°07'37" W a distance of 35.56 feet; thence N 57°48'15" W a distance of 35.01 feet; thence N 70°00'49" W a distance of 30.23 feet; thence N 63°27'16" W a distance of 31.77 feet; thence N 21°33'18" W a distance of 30.35 feet; thence N 41°39'23" E a distance of 33.12 feet; thence N 50°00'26" E a distance of 33.42 feet; thence N 61°10'09" E a distance of 34.70 feet; thence N 61°02'05" E a distance of 32.69 feet; thence N 52°57'34" E a distance of 30.21 feet; thence N 51°00'53" E a distance of 29.86 feet; thence N 45°41'32" E a distance of 32.00 feet; thence N 37°50'46" E a distance of 32.43 feet; thence N 34°56'59" E a distance of 35.23 feet; thence N 26°27'25" E a distance of 31.91 feet; thence N 22°22'10" E a distance of 41.17 feet; thence N 34°07'59" E a distance of 44.94 feet; thence N 40°50'57" E a distance of 35.41 feet; thence N 45°19'42" E a distance of 31.33 feet; thence N 46°18'10" E a distance of 44.38 feet; thence N 47°23'01" E a distance of 39.56 feet; thence N 49°27'18" E a distance of 34.80 feet; thence N 51°07'56" E a distance of 33.20 feet; thence N 48°48'35" E a distance of 34.34 feet; thence N 49°42'51" E a distance of 35.43 feet; thence N 54°52'36" E a distance of 47.59 feet; thence N 55°00'40" E a distance of 30.10 feet; thence N 58°09'37" E a distance of 34.98 feet; thence N 54°57'52" E a distance of 32.64 feet; thence N 51°24'20" E a distance of 46.71 feet; thence N 50°35'16" E a distance of 49.16 feet; thence N 50°41'27" E a distance of 39.88 feet; thence N 50°43'29" E a distance of 37.55 feet; thence N 51°22'14" E a distance of 33.79 feet; thence N 51°58'53" E a distance of 30.87 feet; thence N 48°35'51" E a distance of 39.52 feet; thence N 45°18'55" E a distance of 3.67 feet; thence N 48°04'49" E a distance of 30.66 feet; thence N 47°38'26" E a distance of 40.09 feet; thence N 46°43'08" E a distance of 33.77 feet; thence N 47°15'48" E a distance of 31.05 feet; thence N 44°33'12" E a distance of 31.64 feet; thence N 45°18'53" E a distance of 31.64 feet; thence N 45°56'34" E a distance of 35.83 feet; thence N 49°24'16" E a distance of 32.36 feet; thence N 66°13'51" E a distance of 32.41 feet; thence N 73°16'51" E a distance of 30.99 feet; thence N 67°48'52" E a distance of 34.59 feet; thence N 63°24'44" E a distance of 33.15 feet; thence N 54°32'33" E a distance of 32.71 feet; thence N 43°53'37" E a distance of 34.96 feet; thence N 39°04'32" E a distance of 30.91 feet; thence N 37°19'30" E a distance of 30.17 feet; thence N 29°39'51" E a distance of 32.72 feet; thence N 17°22'18" E a distance of 31.33 feet; thence N 08°55'59" W a distance of 33.56 feet; thence N 12°44'00" W a distance of 35.80 feet; thence N 03°09'52" E a distance of 29.64 feet; thence N 12°10'00" W a distance of 30.27 feet; thence N 40°28'10" W a distance of 32.67 feet; thence N 57°18'01" W a distance of 35.04 feet; thence N 58°19'14" W a distance of 36.05 feet; thence N 60°51'05" W a distance of 38.87 feet; thence N 60°21'00" W a distance of 30.50 feet; thence N 61°39'40" W a distance of 35.53 feet; thence N 63°34'49" W a distance of 33.91 feet; thence N 56°03'38" W a distance of 32.33 feet; thence N 41°48'12" W a distance of 31.36 feet; thence N 24°39'25" W a distance of 30.94 feet; thence N 04°41'04" E a distance of 34.44 feet; thence N 22°03'27" E a distance of 31.29 feet; thence N 23°37'51" E a distance of 35.20 feet; thence N 28°13'54" E a distance of 29.88 feet; thence N 37°04'55" E a distance of 38.19 feet; thence N 24°51'25" E a distance of 33.57 feet; thence N 13°58'30" E a distance of 30.17 feet; thence N 10°39'07" E a distance of 37.61 feet; thence N 12°19'19" E a distance of 32.69 feet; thence N 12°30'05" E a distance of 30.89 feet; thence N 05°20'47" W a distance of 33.56 feet; thence N 03°15'31" E a distance of 33.76 feet; thence N 19°56'18" E a distance of 38.67 feet; thence N 15°21'46" E a distance of 35.25 feet; thence N 05°59'31" E a distance of 35.36 feet; thence N 07°07'12" W a distance of 34.85 feet; thence N 01°19'06" W a distance of 32.52 feet; thence N 08°00'37" E a distance of 43.26 feet; thence N 16°18'25" E a distance of 30.16 feet; thence N 19°32'13" E a distance of 29.77 feet; thence N 21°15'45" E a distance of 39.61 feet; thence N 21°20'36" E a distance of 29.80 feet; thence N 28°51'55" E a distance of 31;68 feet; thence N 37°07'19" E a distance of 36.63 feet; thence N 40°26'19" E a distance of 34.10 feet; thence N 40°19'25" E a distance of 33.27 feet; thence N 47°52'26" E a distance of 33.84 feet; thence N 50°01'44" E a distance of 38.53 feet; thence N 53°18'44" E a distance of 8.63 feet; thence N 30°02'35" W a distance of 39.08 feet; thence N 23°42'46" W a distance of 33.55 feet; thence N 01°59'28" W a distance of 29.83 feet; thence N 10°42'46" W a distance of 32.75 feet; thence N 59°08'54" W a distance of 7.61 feet; thence N 24°58'20" E a distance of 24.99 feet; thence N 13°00'15" E a distance of 29.67 feet; thence N 14°06'55" E a distance of 29.80 feet; thence N 20°09'19" E a distance of 38.46 feet; thence N 67°06'02" E a distance of 3.43 feet; thence N 74°34'35" E a distance of 31.93 feet; thence N 70°10'22" E a distance of 31.13 feet; thence N 73°17'57" E a distance of 30.58 feet; thence N 85°15'55" E a distance of 38.34 feet; thence S 86°11'20" E a distance of 32.08 feet;

thence N 81°04'40" E a distance of 35.65 feet; thence N 78°56'48" E a distance of 31.95 feet; thence N 75°05'11" E a distance of 31.83 feet; thence N 60°22'41" E a distance of 30.90 feet; thence N 46°32'59" E a distance of 31.65 feet; thence N 56°16'08" E a distance of 32.28 feet; thence N 83°37'47" E a distance of 31.25 feet; thence S 88°11'38" E a distance of 30.21 feet; thence N 87°50'47" E a distance of 29.61 feet; thence N 58°23'40" E a distance of 30.82 feet; thence N 58°34'33" E a distance of 30.41 feet; thence N 61°16'04" E a distance of 32.96 feet; thence N 54°36'45" E a distance of 31.44 feet; thence N 57°01'53" E a distance of 30.21 feet; thence N 51°44'08" E a distance of 32.25 feet; thence N 53°12'32" E a distance of 32.36 feet; thence N 53°51'29" E a distance of 31.36 feet; thence N 58°33'37" E a distance of 39.36 feet; thence N 59°25'00" E a distance of 32.85 feet; thence N 57°38'06" E a distance of 30.68 feet; thence N 64°16'27" E a distance of 32.38 feet; thence N 65°55'10" E a distance of 32.28 feet; thence N 75°38'13" E a distance of 32.89 feet; thence N 89°38'51" E a distance of 33.38 feet; thence S 87°10'56" E a distance of 31.65 feet; thence N 83°27'32" E a distance of 35.35 feet; thence N 62°34'25" E a distance of 30.51 feet; thence N 71°22'59" E a distance of 31.09 feet; thence N 78°32'20" E a distance of 30.69 feet; thence S 89°20'18" E a distance of 33.36 feet; thence N 66°38'38" E a distance of 29.50 feet; thence N 61°03'34" E a distance of 30.25 feet; thence N 71°43'35" E a distance of 30.70 feet; thence N 78°39'01" E a distance of 30.96 feet; thence N 76°08'05" E a distance of 32.77 feet; thence N 62°18'29" E a distance of 30.22 feet; thence N 36°33'06" E a distance of 29.96 feet; thence N 05°02'52" E a distance of 31.28 feet; thence N 01°16'48" E a distance of 30.88 feet; thence N 07°52'08" W a distance of 23.16 feet; thence N 35°33'11" W a distance of 18.28 feet; thence N 83°17'38" W a distance of 12.13 feet; thence S 42°50'16" W a distance of 16.46 feet; thence S 19°55'52" W a distance of 30.62 feet; thence S 31°16'05" W a distance of 32.63 feet; thence N 74°02'43" W a distance of 31.35 feet; thence N 27°22'07" W a distance of 31.18 feet; thence N 23°36'18" W a distance of 64.27 feet; thence N 35°41'16" W a distance of 35.20 feet; thence N 57°55'48" W a distance of 30.06 feet; thence N 49°28'55" W a distance of 33.17 feet; thence N 05°15'39" W a distance of 31.02 feet; thence N 08°20'44" W a distance of 31.81 feet; thence N 36°35'39" W a distance of 31.94 feet; thence N 42°58'06" W a distance of 32.25 feet; thence N 42°11'38" W a distance of 31.85 feet; thence N 38°48'28" W a distance of 29.89 feet; thence N 33°34'38" W a distance of 36.08 feet; thence N 25°08'36" W a distance of 30.25 feet; thence N 41°23'58" W a distance of 37.75 feet; thence N 69°10'49" W a distance of 30.07 feet; thence N 71°28'41" W a distance of 35.56 feet; thence N 80°47'12" W a distance of 33.83 feet; thence N 86°11'42" W a distance of 32.86 feet; thence N 80°39'29" W a distance of 29.66 feet; thence N 80°11'38" W a distance of 30.00 feet; thence N 85°19'24" W a distance of 30.24 feet; thence N 74°05'21" W a distance of 32.61 feet; thence N 75°50'25" W a distance of 34.17 feet; thence S 70°21'18" W a distance of 29.43 feet; thence S 75°57'27" W a distance of 32.24 feet; thence S 84°18'47" W a distance of 31.46 feet; thence S 80°41'28" W a distance of 30.22 feet; thence S 76°48'37" W a distance of 34.27 feet; thence S 61°05'55" W a distance of 29.01 feet; thence S 63°37'20" W a distance of 48.01 feet; thence S 79°21'32" W a distance of 31.26 feet; thence S 78°13'08" W a distance of 69.42 feet; thence S 71°22'25" W a distance of 110.34 feet; thence S 46°46'32" W a distance of 35.98 feet; thence S 17°01'25" W a distance of 97.81 feet; thence S 12°16'18" W a distance of 105.73 feet; thence S 12°09'42" W a distance of 149.35 feet; thence S 15°15'48" W a distance of 76.83 feet; thence S 33°13'11" W a distance of 197.94 feet; thence S 23°03'54" W a distance of 193.80 feet; thence S 48°10'17" W a distance of 34.88 feet; thence S 35°52'04" W a distance of 101.25 feet; thence S 25°05'50" W a distance of 74.41 feet; thence S 00°00'00" E a distance of 80.97 feet; thence S 07°10'52" W a distance of 29.76 feet; thence S 12°01'54" W a distance of 36.23 feet; thence S 12°05'43" W a distance of 30.50 feet; thence S 21°34'18" W a distance of 29.52 feet; thence S 36°51'44" W a distance of 30.98 feet; thence S 59°42'05" W a distance of 31.55 feet; thence S 64°31'16" W a distance of 31.51 feet; thence S 47°14'08" W a distance of 33.03 feet; thence S 21°05'20" W a distance of 59.16 feet; thence S 15°25'50" W a distance of 47.78 feet; thence S 10°07'49" W a distance of 45.17 feet; thence S 13°48'23" W a distance of 39.82 feet; thence S 03°42'18" E a distance of 29.63 feet; thence S 05°56'48" W a distance of 33.00 feet; thence S 10°06'22" W a distance of 36.34 feet; thence S 15°58'20" W a distance of 37.21 feet; thence S 23°25'50" W a distance of 32.55 feet; thence S 36°10'41" W a distance of 35.53 feet; thence S 50°18'26" W a distance of 34.25 feet; thence S 81°08'13" W a distance of 42.09 feet; thence N 88°29'47" W a distance of 46.10 feet; thence N 88°14'25" W a distance of 39.28 feet; thence S 86°04'17" W a distance of 34.27 feet; thence S 69°43'51" W a distance of 30.71 feet; thence S 59°41'41" W a distance of 35.75 feet; thence S 50°11'09" W a distance of 30.49 feet; thence S 42°09'56" W a distance of 33.53 feet; thence S 31°52'39" W a distance of 36.95 feet; thence S 22°57'45" W a distance of 30.22 feet; thence S 05°51'46" W a distance of 33.64 feet; thence S 09°57'42" E a distance of 36.98 feet; thence S 17°36'58" E a distance of 33.87 feet; thence S 32°28'13" E a distance of 31.25 feet; thence S 44°28'57" E a distance of 31.14 feet; thence S 50°29'14" E a distance of 34.45 feet; thence S 49°09'15" E a distance of 30.79 feet; thence S 42°10'17" E a distance of 31.17 feet; thence S 27°06'51" E a distance of 30.28 feet; thence S 13°08'00" E a distance of 34.67 feet; thence S 05°04'09" E a distance of 31.82 feet; thence S 04°22'51" E a distance of 32.98 feet; thence S 00°14'30" E a distance of 31.70 feet; thence S 06°55'04" W a distance of 33.43 feet; thence S 19°26'46" W a distance of 32.68 feet; thence S 37°47'37" W a distance of 35.26 feet; thence S 53°02'31" W a distance of 33.05 feet; thence S 68°46'32" W a distance of 34.44 feet;

thence S 71°25'05" W a distance of 31.68 feet; thence S 75°29'56" W a distance of 34.41 feet; thence S 80°14'09" W a distance of 36.84 feet; thence S 68°44'53" W a distance of 30.31 feet; thence S 58°49'24" W a distance of 36.12 feet; thence S 62°23'05" W a distance of 35.23 feet; thence S 76°05'57" W a distance of 33.43 feet; thence S 81°03'36" W a distance of 100.99 feet; thence S 70°29'00" W a distance of 74.20 feet; thence S 46°56'48" W a distance of 95.19 feet; thence S 24°05'16" W a distance of 102.25 feet; thence S 20°39'24" W a distance of 92.31 feet; thence S 12°09'08" W a distance of 30.69 feet; thence S 36°45'17" W a distance of 35.25 feet; thence S 53°08'46" W a distance of 32.74 feet; thence S 52°23'22" W a distance of 36.08 feet; thence S 54°18'35" W a distance of 35.20 feet; thence S 56°36'31" W a distance of 33.54 feet; thence S 50°35'13" W a distance of 34.69 feet; thence S 40°33'02" W a distance of 37.98 feet; thence S 18°36'56" W a distance of 39.85 feet; thence S 07°14'22" E a distance of 38.94 feet; thence S 14°10'22" E a distance of 35.85 feet; thence S 05°46'36" E a distance of 33.75 feet; thence S 17°11'28" W a distance of 33.00 feet; thence S 23°11'09;" W a distance of 36.90 feet; thence S 23°16'15" W a distance of 30.77 feet; thence S 24°38'37" W a distance of 37.00 feet; thence S 16°48'11" W a distance of 31.70 feet; thence S 04°51'08" W a distance of 34.03 feet; thence S 02°45'52" W a distance of 34.84 feet; thence S 11°58'07" W a distance of 29.81 feet; thence S 17°54'57" W a distance of 38.48 feet; thence S 07°40'38" W a distance of 39.34 feet; thence S 00°11'03" E a distance of 41.06 feet; thence S 02°12'47" W a distance of 35.74 feet; thence S 03°22'53" W a distance of 38.46 feet; thence S 13°40'14" W a distance of 33.71 feet; thence S 21°42'48" W a distance of 38.49 feet; thence S 19°51'15" W a distance of 42.77 feet; thence S 16°23'46" W a distance of 33.54 feet; thence S 21°08'00" W a distance of 32.91 feet; thence S 15°22'58" W a distance of 31.22 feet; thence S 13°05'29" W a distance of 35.18 feet; thence S 07°12'09" E a distance of 31.80 feet; thence S 31°56'22" E a distance of 30.12 feet; thence S 34°26'47" W a distance of 24.44 feet; thence S 35°38'02" W a distance of 30.33 feet; thence S 62°04'27" W a distance of 33.22 feet; thence S 82°23'23" W a distance of 32.29 feet; thence S 79°10'24" W a distance of 32.28 feet; thence S 72°58'45" W a distance of 31.90 feet; thence N 84°20'53" W a distance of 32.20 feet; thence S 73°03'12" W a distance of 38.70 feet; thence S 34°23'44" W a distance of 41.04 feet; thence S 00°00'00" E a distance of 32.08 feet; thence S 18°26'41" W a distance of 45.09 feet; thence S 27°36'39" W a distance of 36.48 feet to an intersection with the said south line of the Southwest Quarter (SW 1/4); thence N 89°40'24" W along the said south line a distance of 527.49 feet to the Southwest corner of said Section 5; thence N 01°12'25" E along the west line of the Southwest Quarter (SW 1/4) a distance of 2588.81 feet; thence departing said west line N84°13'12" E a distance of 52.91 feet; thence N 90°00'00" E a distance of 43.77 feet; thence N 77°06'21" E a distance of 42.89 feet; thence N 48°37'02" E a distance of 31.81 feet; thence N 23°29'21" E a distance of 38.78 feet; thence N 02°42'47" E a distance of 29.98 feet; thence N 23°24'25" W a distance of 31.03 feet; thence N 16°15'39" E a distance of 37.04 feet; thence N 35°01'37" E a distance of 35.80 feet; thence N 51°33'55" E a distance of 34.27 feet; thence N 67°18'23" E a distance of 31.39 feet; thence N 79°08'56" E a distance of 34.36 feet; thence N 74°53'18" E a distance of 32.78 feet; thence N 71°04'20" E a distance of 30.92 feet; thence N 77°28'09" E a distance of 31.19 feet; thence N 81°09'11" E a distance of 30.51 feet; thence N 85°46'00" E a distance of 31.43 feet; thence N 68°24'38" E a distance of 36.89 feet; thence N 48°08'45" E a distance of 36.78 feet; thence N 71°35 '18" E a distance of 29.86 feet; thence N 78°45 '22" E a distance of 31.63 feet; thence N 55°16'20" E a distance of 30.08 feet; thence N 35°02'15" E a distance of 34.68 feet; thence N 38°27'42" E a distance of 30.59 feet; thence N 59°51'41" E a distance of 34.09 feet; thence N 82°10'49" E a distance of 32.20 feet; thence S 84°19'47" E a distance of 33.58 feet; thence N 83°01'45" E a distance of 36.04 feet; thence N 77°31'53" E a distance of 29.91 feet; thence N 53°06'51" E a distance of 21.15 feet; thence N 10°48'38" E a distance of 11.14 feet; thence N 12°39'41" E a distance of 34.86 feet; thence N 26°06'23" E a distance of 30.29 feet; thence N 47°30'45" E a distance of 31.03 feet; thence N 52°51'08" E a distance of 34.69 feet; thence N 49°06'58" E a distance of 30.66 feet; thence N 40°05'39" E a distance of 30.88 feet; thence N 52°22'59" E a distance of 31.89 feet; thence N 61°55'49" E a distance of 30.67 feet; thence N 60°13'51" E a distance of 33.22 feet; thence N 33°53'45" E a distance of 78.58 feet; thence N 00°00'00" E a distance of 53.51 feet; thence N 00°00'00" E a distance of 60.20 feet; thence N 15°27'36" E a distance of 62.63 feet; thence N 00°00'00" E a distance of 51.12 feet; thence N 23°19'54" E a distance of 51.74 feet; thence N 20°07'59" E a distance of 68.52 feet; thence N 29°10'02" E a distance of 81.30 feet; thence N 32°12'38" E a distance of 71.15 feet; thence N 26°34'41" E a distance of 54.85 feet; thence N 04°05'31" W a distance of 49.60 feet; thence N 17°15'23" W a distance of 43.63 feet; thence N 20°51'31" W a distance of 30.36 feet; thence N 31°20'20" W a distance of 35.67 feet; thence N 24°05'41" W a distance of 30.12 feet; thence N 01°27'34" E a distance of 30.70 feet; thence N 39°08'58" E a distance of 24.51 feet; thence N 71°41'40" E a distance of 12.43 feet; thence N 73°14'15" E a distance of 35.37 feet; thence N 67°48'57" E a distance of 31.74 feet; thence N 59°25'45" E a distance of 31.70 feet; thence N 76°08'10" E a distance of 32.73 feet; thence N 72°02'26" E a distance of 32.14 feet; thence N 60°37'27" E a distance of 31.65 feet; thence N 22°37'17" E a distance of 30.62 feet; thence N 23°24'28" E a distance of 33.36 feet; thence N 61°18'10' E a distance of 34.14 feet; thence N 84°20'43" E a distance of 31.63 feet; thence N 61°13'59" E a distance of 22.28 feet; thence N 26°34'28" E a distance of 33.02 feet; thence N 18°34'20" W a distance of 31.14 feet; thence N 10°52'35" W a distance of 32;14 feet; thence N 17°19'42" W a distance of 30.30 feet; thence N 45°12'32" W a distance of 37.40 feet;

thence N 49°31'05" W a distance of 36.05 feet; thence N 43°22'33" W a distance of 32.57 feet; thence N 25°05'02" W a distance of 29.68 feet; thence N 34°35'14" W a distance of 30.52 feet; thence N 36°33'43" W a distance of 29.60 feet; thence S 69°23'52" W a distance of 6.96 feet; thence S 72°50'54" W a distance of 34.48 feet; thence S 75°08'09" W a distance of 31.64 feet; thence S 83°04'17" W a distance of 37.71 feet; thence S 86°23'55" W a distance of 30.67 feet; thence S 88°07'58" W a distance of 31.82 feet; thence S 84°15'49" W a distance of 31.06 feet; thence S 82°51'21" W a distance of 32.05 feet; thence S 80°01'17" W a distance of 29.87 feet; thence S 89°43'44" W a distance of 32.12 feet; thence S 79°55'48" W a distance of 32.91 feet; thence N 79°15'29" W a distance of 37.27 feet; thence N 52°30'58" W a distance of 31.20 feet; thence N 57°56'32" W a distance of 36.94 feet; thence N 87°46'01" W a distance of 34.25 feet; thence S 87°19'24" W a distance of 34.56 feet; thence N 67°12'26" W a distance of 32.33 feet; thence N 42°37'06" W a distance of 32.20 feet; thence N 56°07'11" W a distance of 30.90 feet; thence N 54°13'35" W a distance of 32.00 feet; thence N 48°25'00" W a distance of 29.94 feet; thence N 45°13'08" W a distance of 32.82 feet; thence N 44°32'32" W a distance of 35.34 feet; thence N 50°18'26" W a distance of 35.31 feet; thence N 60°19'21" W a distance of 31.25 feet; thence N 63°13'55" W a distance of 32.41 feet; thence N 62°19'59" W a distance of 33.35 feet; thence N 62°15'38" W a distance of 31.35 feet; thence N 32°24'56" W a distance of 30.15 feet; thence N 42°20'34" W a distance of 33.28 feet; thence N 55°30'56" W a distance of 36.22 feet; thence N 23°07'54" W a distance of 30.54 feet; thence N 12°31'31" W a distance of 34.79 feet; thence N 03°56'25" W a distance of 31.65 feet; thence N 12°17'20" E a distance of 33.17 feet; thence N 10°02'44" W a distance of 32.98 feet; thence N 22°00'10" W a distance of 32.83 feet; thence N 12°47'29" W a distance of 32.70 feet; thence N 20°30'49" E a distance of 39.44 feet; thence N 55°29'17" E a distance of 6.95 feet; thence N 52°05'19" E a distance of 32.40 feet; thence N 52°59'43" E a distance of 30.14 feet; thence N 50°03'46" E a distance of 36.03 feet; thence N 46°27'01" E a distance of 33.60 feet; thence N 54°37'12" E a distance of 35.35 feet; thence N 73°47'35" E a distance of 36.24 feet; thence S 89°40'17" E a distance of 30.36 feet; thence N 84°17'17" E a distance of 30.80 feet; thence N 67°50'22" E a distance of 30.81 feet; thence N 42°03'11" E a distance of 32.76 feet; thence N 14°01'20" E a distance of 31.53 feet; thence N 12°29'43" E a distance of 35.25 feet; thence N 14°17'24" E a distance of 30.95 feet; thence N 14°31'38" E a distance of 32.81 feet; thence N 12°03'19" E a distance of 29.47 feet; thence N 15°40'12" E a distance of 16.38 feet to an intersection with the north line of the Northwest Quarter (NW 1/4) of said Section 5; thence N 89°39'10" E along said north line a distance of 1923.80 feet to the North Quarter corner of said Section 5; thence N 89°33'12" E along the north line of the Northeast Quarter (NW 1/4) of said Section 5 a distance of 73.31 feet to a point on the westerly right-of-way line of Tamiami Trail (State Road 45, U.S. 41), said point being 160.00 feet from the centerline; thence S 29°58'08" E along said westerly right-of-way line a distance of 190.24 feet to a point of a curve; thence southeasterly along said westerly right of way line and said curve to the right, having a radius of 7479 .44 feet, a delta of 03°54'10", an arc distance of 509.47 feet to the point of tangency; thence S 26°03'58" E along said westerly right of way line, a distance of 4224.76 feet to a point of the prolongation of the north line of lands described in Official Records Book 2728, Page 2455 of the Public Records of Lee County, Florida; thence S 89°52'14" W along said north line, said line being 960.00 feet north of parallel to the south line of said southeast 1/4 of Section 5, a distance of 1479.33 feet to a point on a line parallel to said westerly right of way line of Tamiami Trail; thence S 26°03'58" E along said parallel line, a distance of 978.56 feet to a point that is 80.00 feet north of said south line of the Southeast 1/4 of Section 5; thence S 00°07'46" E along a line perpendicular to said south line of the southeast 1/4 of Section 5, a distance of 80.00 feet to the Point of Beginning.

Containing within said bounds 15,852,032 Square Feet or 363.913 Acres, more or less.

TOGETHER WITH:

A PARCEL OF LAND FOR LAND USE ADMINISTRATIVE PURPOSES, BEING A PART OF SECTION 5, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at the Southeast corner of said Section 5, Township 43 South, Range 24 East; thence run S 89°52'14" W along the south line of the Southeast Quarter (SE 1/4) of said Section 5 a distance of 1068.53 feet to the southwest corner of lands described in Official Records Book 2728, Page 2455 of the Public Records of Lee County, Florida, thence continue S 89°52'14" W along said south line a distance of 1682.06 feet to the South Quarter corner of said Section 5; thence N 89°40'24" W along the south line of the Southwest Quarter (SW 1/4) of said Section 5 a distance of 2266.64 feet to the Southwest corner of said Section 5; thence N 01°12'25" E along the west line of the Southwest Quarter (SW 1/4) of said Section 5 a distance of 2652.40 feet to the west quarter corner of said Section 5; thence N 01°13'48" E along the west line of the Northwest Quarter (NW 1/4) of said Section 5 a distance of 804.33 feet to the Point of Beginning.

From said Point of Beginning continue N 01°13'48" E along said west line a distance of 742.14 feet; thence departing said west line N 79°16'10" E a distance of 10.34 feet; thence N 80°03'48" E a distance of 31.81 feet; thence S 76°07'53" E a distance of 33.84 feet; thence S 78°14'44" E a distance of 23.98 feet; thence S 77°36'34" E a distance of 29.16 feet; thence S 78°29'01" E a distance of 33.22 feet; thence S 77°55'30" E a distance of 30.23 feet; thence S 88°50'32" E a distance of 36.41 feet;

thence N 89°14'27" E a distance of 34.31 feet; thence S 79°13'51" E a distance of 30.68 feet; thence S 84°07'12" E a distance of 29.99 feet; thence N 80°36'22" E a distance of 35.35 feet; thence N 63°33'04" E a distance of 30.27 feet; thence N 51°05'15" E a distance of 31.35 feet; thence N 10°28'35" E a distance of 33.92 feet; thence N 24°33'15" E a distance of 32.08 feet; thence N 12°05'16" W a distance of 9.33 feet; thence N 80°09'28" E a distance of 37.34 feet; thence S 79°54'48" E a distance of 34.53 feet; thence S 74°54'58" E a distance of 29.96 feet; thence N 85°11'21" E a distance of 30.20 feet; thence N 74°32'05" E a distance of 34.90 feet; thence S 88°40'47" E a distance of 31.29 feet; thence S 66°13'42" E a distance of 30.31 feet; thence S 11°46'30" E a distance of 32.60 feet; thence S 10°13'48" E a distance of 32.42 feet; thence S 43°46'06" E a distance of 32.83 feet; thence S 23°21'36" E a distance of 32.54 feet; thence S 09°53'59" E a distance of 29.99 feet; thence S 26°40'03" W a distance of 32.32 feet; thence S 87°33'59" W a distance of 31.90 feet; thence N 87°09'15" W a distance of 32.22 feet; thence S 80°35'32" W a distance of 35.32 feet; thence S 82°18'05" W a distance of 32.16 feet; thence S 86°24'01" W a distance of 31.05 feet; thence S 81°22'53" W a distance of 40.38 feet; thence S 72°31'54" W a distance of 34.04 feet; thence S 59°17'53" W a distance of 33.93 feet; thence S 45°17'26" W a distance of 29.71 feet; thence S 20°05'03" W a distance of 30.16 feet; thence S 21°33'18" W a distance of 4.21 feet; thence S 07°26'21" W a distance of 44.61 feet; thence S 03°16'19" W a distance of 29.89 feet; thence S 11°33'23" E a distance of 30.19 feet; thence S 09°47'05" E a distance of 32.11 feet; thence S 02°33'54" W a distance of 31.36 feet; thence S 17°56'12" W a distance of 30.73 feet; thence S 26°26'51" W a distance of 32.64 feet; thence S 33°52'33" W a distance of 30.92 feet; thence S 41°06'33" W a distance of 34.83 feet; thence S 38°48'58" W a distance of 37.48 feet; thence S 39°38'02" W a distance of 32.18 feet; thence S 36°58'55" W a distance of 67.25 feet; thence S 33°52'38" W a distance of 29.88 feet; thence S 31°50'42" W a distance of 32.68 feet; thence S 56°45'07" W a distance of 34.93 feet; thence S 63°31'15" W a distance of 34.32 feet; thence S 65°07'56" W a distance of 32.88 feet; thence S 66°32'08" W a distance of 35.46 feet; thence S 69°48'01" W a distance of 31.49 feet; thence S 68°17'50" W a distance of 31.81 feet; thence S 71°04'05" W a distance of 34.41 feet; thence S 76°57'32" W a distance of 10.19 feet to the Point of Beginning.

Containing within said bounds 292,844 Square Feet or 6.723 Acres more or less.

AND

A PARCEL OF LAND FOR LAND USE ADMINISTRATIVE PURPOSES, BEING THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

Begin at the Southeast corner of said Section 6; thence North 89°41'37" West along the South line of the Southeast 1/4 of said Section 6, a distance of 665.55 feet to a point on the west line of said East 1/2 of the Southeast 1/4 of the Southeast 1/4 of Section 6; thence North 01°12'20" East along said West line, a distance of 1338.36 feet to a point on the North line of said East 1/2 of the Southeast 1/4 of the Southeast 1/4 of Section 6; thence South 88°38'47" East along said North line, a distance of 665.50 feet to a point on the East line of said Southeast 1/4 of Section 6; thence South 01°12'25" West along said East line, a distance of 1326.20 feet to the point of beginning. Containing 20.3S acres, more or less.

AND

A PARCEL OF LAND FOR LAND USE ADMINISTRATIVE PURPOSES, BEING A PART OF SECTION 7, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the Southeast corner of said Section 7, Township 43 South, Range 24 East thence run N 86°03'18" W along the south line of the Southeast Quarter (SE 1/4) of said Section 7 for a distance of 1591.86 feet; thence departing said south line N 21°32'50" E a distance of 24.81 feet; thence N 23°51'25" E a distance of 36.56 feet; thence N 24°44'13" E a distance of 15.45 feet; thence N 37°06'56" E a distance of 15.69 feet; thence N 41°10'11" E a distance of 16.21 feet; thence N 57°41'22" E a distance of 19.39 feet; thence N 88°21'18" E a distance of 13.68 feet; thence N 03°43'48" E a distance of 19.91 feet; thence N 07°57'37" W a distance of 16.35 feet; thence N 30°16'52" E a distance of 15.20 feet; thence N 38°53'00" E a distance of 23.33 feet; thence N 36°42'42" E a distance of 16.35 feet; thence N 18°44'30" E a distance of 16.41 feet; thence N 18°22'52" E a distance of 15.74 feet; thence N 09°00'08" W a distance of 16.40 feet; thence N 24°43'46" W a distance of 15.55 feet; thence N 07°17'34" W a distance of 17.57 feet; thence N 34°05'23" E a distance of 16.87 feet; thence N 30°18'00" E a distance of 17.62 feet; thence N 34°22'20" E a distance of 15.17 feet; thence N 40°02'08" E a distance of 19.44 feet; thence N 32°48'20" E a distance of 15.25 feet; thence N 26°44'35" E a distance of 15.71 feet; thence N 31°27'45" E a distance of 16.43 feet; thence N 34°22'20" E a distance of 19.50 feet; thence N 30°32'09" E a distance of 18.70 feet; thence N 27°58'14" E a distance of 20.95 feet; thence N 26°49'46" E a distance of 19.06 feet; thence N 25°10'58" E a distance of 18.80 feet; thence N 25°12'03" E a distance of 15.18 feet; thence N 29°11'49" E a distance of 15.72 feet; thence N 28°13'28" E a distance of 15.58 feet;

thence N 23°29'28" E a distance of 18.56 feet; thence N 19°04'29" E a distance of 16.12 feet;
 thence N 23°09'35" E a distance of 22.74 feet; thence N 42°49'07" E a distance of 17.04 feet;
 thence N 52°52'54" E a distance of 15.24 feet; thence N 41°17'02" E a distance of 16.64 feet;
 thence N 30°18'53" E a distance of 20.04 feet; thence N 24°11'33" E a distance of 20.29 feet;
 thence N 23°16'37" E a distance of 15.60 feet; thence N 24°09'31" E a distance of 15.05 feet;
 thence N 33°18'00" E a distance of 17.84 feet; thence N 44°10'18" E a distance of 16.17 feet;
 thence N 80°29'22" E a distance of 5.69 feet; thence N 22°29'13" E a distance of 67.37 feet;
 thence N 18°02'04" E a distance of 55.11 feet; thence N 16°22'57" W a distance of 16.59 feet;
 thence N 01°43'41" W a distance of 15.29 feet; thence N 00°25'41" W a distance of 17.98 feet;
 thence N 03°24'54" E a distance of 18.00 feet; thence N 33°24'56" E a distance of 20.00 feet;
 thence N 33°11'53" E a distance of 30.56 feet; thence N 45°04'52" E a distance of 80.13 feet;
 thence N 49°39'27" E a distance of 18.35 feet; thence N 51°40'10" E a distance of 16.27 feet;
 thence N 41°35'45" E a distance of 17.91 feet; thence N 30°02'00" E a distance of 16.54 feet;
 thence N 10°36'24" E a distance of 15.53 feet; thence N 00°32'08" E a distance of 15.28 feet;
 thence N 13°22'31" W a distance of 18.82 feet; thence N 27°11'56" W a distance of 15.56 feet;
 thence N 43°16'33" W a distance of 17.00 feet; thence N 62°43'26" W a distance of 18.58 feet;
 thence N 80°52'45" W a distance of 15.87 feet; thence N 84°12'56" W a distance of 16.06 feet;
 thence S 88°32'03" W a distance of 18.11 feet; thence S 84°18'09" W a distance of 22.46 feet;
 thence N 88°39'07" W a distance of 18.71 feet; thence N 75°51'14" W a distance of 17.69 feet;
 thence N 75°07'21" W a distance of 16.82 feet; thence N 70°56'07" W a distance of 17.82 feet;
 thence N 66°59'54" W a distance of 17.96 feet; thence N 59°08'00" W a distance of 15.38 feet;
 thence N 32°13'24" W a distance of 16.73 feet; thence N 12°05'02" W a distance of 19.34 feet;
 thence N 07°47'06" W a distance of 18.77 feet; thence N 08°37'18" W a distance of 15.17 feet;
 thence N 10°16'54" W a distance of 17.69 feet; thence N 30°37'46" W a distance of 15.74 feet;
 thence N 61°38'03" W a distance of 15.35 feet; thence N 71°53'15" W a distance of 16.77 feet;
 thence S 87°05'16" W a distance of 15.42 feet; thence S 76°43'35" W a distance of 17.71 feet;
 thence S 75°16'50" W a distance of 17.20 feet; thence S 66°30'56" W a distance of 15.52 feet;
 thence S 59°58'30" W a distance of 9.46 feet; thence S 03°18'38" E a distance of 9.01 feet;
 thence S 21°13'53" E a distance of 17.09 feet; thence S 57°09'57" E a distance of 16.78 feet;
 thence S 66°37'22" E a distance of 17.68 feet; thence S 51°23'09" E a distance of 16.48 feet;
 thence S 33°52'02" E a distance of 19.23 feet; thence S 30°37'51" E a distance of 15.74 feet;
 thence S 14°36'40" E a distance of 20.79 feet; thence S 04°02'17" E a distance of 18.94 feet;
 thence S 03°00'05" W a distance of 21.00 feet; thence S 04°43'06" W a distance of 16.53 feet;
 thence S 00°31'51" W a distance of 18.28 feet; thence S 02°47'30" W a distance of 15.30 feet;
 thence S 07°11'16" W a distance of 20.82 feet; thence S 04°49'38" W a distance of 20.14 feet;
 thence S 00°00'00" E a distance of 39.19 feet; thence S 27°52'24" W a distance of 22.81 feet;
 thence S 47°28'37" W a distance of 39.75 feet; thence S 50°32'37" W a distance of 51.52 feet;
 thence S 55°30'24" W a distance of 45.42 feet; thence S 67°10'41" W a distance of 48.23 feet;
 thence S 87°16'31" W a distance of 49.19 feet; thence N 65°34'06" W a distance of 56.54 feet;
 thence N 59°03'02" W a distance of 54.57 feet; thence N 30°09'10" W a distance of 45.64 feet;
 thence N 71°32'24" W a distance of 18.39 feet; thence N 75°52'30" W a distance of 16.45 feet;
 thence N 88°38'18" W a distance of 18.41 feet; thence S 88°30'03" W a distance of 17.81 feet;
 thence S 78°17'21" W a distance of 18.52 feet; thence S 71°46'49" W a distance of 15.93 feet;
 thence S 60°44'46" W a distance of 16.34 feet; thence S 39°20'18" W a distance of 19.25 feet;
 thence S 34°37'12" W a distance of 18.84 feet; thence S 43°11'13" W a distance of 19.59 feet;
 thence S 48°12'46" W a distance of 19.18 feet; thence S 76°59'15" W a distance of 16.76 feet;
 thence S 75°32'17" W a distance of 17.49 feet; thence S 59°09'10" W a distance of 17.32 feet;
 thence S 48°50'46" W a distance of 15.35 feet; thence S 53°08'59" W a distance of 16.33 feet;
 thence S 52°57'37" W a distance of 16.75 feet; thence S 58°43'25" W a distance of 18.82 feet;
 thence S 68°46'33" W a distance of 16.24 feet; thence S 75°06'50" W a distance of 18.15 feet;
 thence S 81°01'56" W a distance of 16.52 feet; thence S 87°22'58" W a distance of 16.92 feet;
 thence N 82°57'45" W a distance of 18.22 feet; thence N 55°26'32" W a distance of 16.02 feet;
 thence N 34°27'14" W a distance of 17.90 feet; thence N 07°30'28" W a distance of 15.13 feet;
 thence N 06°39'26" W a distance of 16.91 feet; thence N 05°45'06" W a distance of 16.58 feet;
 thence N 03°49'41" W a distance of 15.93 feet; thence N 00°31'06" E a distance of 19.18 feet;
 thence N 07°40'10" W a distance of 16.95 feet; thence N 16°12'18" W a distance of 17.83 feet;
 thence N 28°37'20" W a distance of 16.11 feet; thence N 29°25'12" W a distance of 16.93 feet;
 thence N 31°52'56" W a distance of 19.15 feet; thence N 27°08'17" W a distance of 16.90 feet;
 thence N 27°50'45" W a distance of 19.06 feet; thence N 26°38'29" W a distance of 18.51 feet;
 thence N 29°18'47" W a distance of 20.02 feet; thence N 31°48'40" W a distance of 15.24 feet;
 thence N 31°30'44" W a distance of 20.48 feet; thence N 20°31'26" W a distance of 17.65 feet;
 thence N 17°07'49" W a distance of 17.92 feet; thence N 17°46'30" W a distance of 20.19 feet;
 thence N 16°42'17" W a distance of 16.31 feet; thence N 19°31'26" W a distance of 18.49 feet;
 thence N 12°19'50" W a distance of 16.29 feet; thence N 12°54'09" E a distance of 16.88 feet;
 thence N 15°24'17" E a distance of 16.44 feet; thence N 14°52'11" E a distance of 18.26 feet;
 thence N 04°51'42" E a distance of 15.93 feet; thence N 10°14'35" W a distance of 16.17 feet;
 thence N 20°10'46" W a distance of 17.93 feet; thence N 39°16'13" W a distance of 17.92 feet;
 thence N 53°15'23" W a distance of 17.21 feet; thence N 64°06'10" W a distance of 16.03 feet;
 thence N 59°50'25" W a distance of 16.32 feet; thence N 40°54'04" W a distance of 19.16 feet;

thence N 27°33'45"W a distance of 17.31 feet; thence N 24°59'53" W a distance of 18.92 feet; thence N 28°21'19" W a distance of 18.13 feet; thence N 23°49'28" W a distance of 16.11 feet; thence N 25°21'50" W a distance of 17.98 feet; thence N 26°13'24" W a distance of 17.44 feet; thence N 24°05'27" W a distance of 18.12 feet; thence N 20°52'45" W a distance of 17.38 feet; thence N 22°36'09"W a distance of 19.22 feet; thence N 16°57'30" W a distance of 15.08 feet; thence N 17°23'28"W a distance of 16.69 feet; thence N 13°23'47" W a distance of 18.83 feet; thence N 13°37'08" W a distance of 21.01 feet; thence N 08°07'45" W a distance of 16.07 feet; thence N 00°30'49" E a distance of 17.39 feet; thence N 02°44'54" W a distance of 15.91 feet; thence N 00°30'49" E a distance of 19.79 feet; thence N 08°38'21"W a distance of 15.18 feet; thence N 00°33'17" W a distance of 21.25 feet; thence N 43°44'19"E a distance of 17.77 feet; thence N 43°49'17" E a distance of 19.80 feet; thence N 44°09'40"E a distance of 16.18 feet; thence N 43°29'40"E a distance of 16.82 feet; thence N 44°26'58"E a distance of 20.01 feet; thence N 46°28'21" E a distance of 15.12 feet; thence N 46°21'22" E a distance of 17.67 feet; thence N 48°04'56" E a distance of 15.13 feet; thence N 47°18'03" E a distance of 22.36 feet; thence N 40°28'36"E a distance of 16.45 feet; thence N 37°32'26" E a distance of 18.05 feet; thence N 36°19'30" E a distance of 17.02 feet; thence N 36°51'48" E a distance of 15.28 feet; thence N 38°21'54" E a distance of 16.73 feet; thence N 43°38'52" E a distance of 18.10 feet; thence N 43°18'58" E a distance of 15.55 feet; thence N 30°31'14" E a distance of 18.71 feet; thence N 13°21'10" E a distance of 16.30 feet; thence N 03°36'13" E a distance of 16.82 feet; thence N 12°33'55"W a distance of 20.00 feet; thence N 07°31'35"W a distance of 17.26 feet; thence N 09°51'27" W a distance of 16.76 feet; thence N 05°58'06" W a distance of 18.71 feet; thence N 13°20'11"W a distance of 15.13 feet; thence N 01°24'19"W a distance of 18.00 feet; thence N 03°03'34"E a distance of 20.41 feet; thence N 02°59'13"E a distance of 21.01 feet; thence N 00°17'03"W a distance of 21.59 feet; thence N 15°38'20" W a distance of 22.78 feet; thence N 20°35'36"W a distance of 19.28 feet; thence N 16°50'20"W a distance of 18.22 feet; thence N 10°42'04" W a distance of 20.17 feet; thence N 04°05'17"W a distance of 15.04 feet; thence N 01°37'08"W a distance of 16.20 feet; thence N 04°21'36"W a distance of 17.76 feet; thence N 06°04'25" W a distance of 18.41 feet; thence N 12°05'45" W a distance of 16.59 feet; thence N 19°50'24"W a distance of 18.22 feet; thence N 25°12'16"W a distance of 15.30 feet; thence N 29°01'15" W a distance of 16.53 feet; thence N 31°47'59"W a distance of 15.25 feet; thence N 35°13'30" W a distance of 23.26 feet; thence N 45°55'48" W a distance of 19.99 feet; thence N 52°37'12" W a distance of 15.47 feet; thence N 60°38'48" W a distance of 15.51 feet; thence N 71°13'47" W a distance of 17.17 feet; thence N 87°31'41" W a distance of 16.92 feet; thence S 70°29'49" W a distance of 16.71 feet; thence S 83°49'45" W a distance of 18.24 feet; thence N 74°04'45" W a distance of 19.10 feet; thence N 54°26'23" W a distance of 15.12 feet; thence N 35°56'43" W a distance of 16.77 feet; thence N 22°33'54" W a distance of 16.94 feet; thence N 24°47'22" W a distance of 16.25 feet; thence N 59°41'07" W a distance of 15.66 feet; thence S 86°46'23" W a distance of 18.76 feet; thence S 88°47'27" W a distance of 20.84 feet; thence S 85°16'48" W a distance of 16.67 feet; thence S 82°49'26" W a distance of 15.84 feet; thence S 87°26'50" W a distance of 22.98 feet; thence S 88°15'07" W a distance of 23.57 feet; thence N 70°17'05" W a distance of 17.26 feet; thence N 44°42'45" W a distance of 17.01 feet; thence N 18°02'41" W a distance of 15.18 feet; thence N 09°32'19" E a distance of 17.32 feet; thence N 19°54'33" E a distance of 19.09 feet; thence N 28°22'03" E a distance of 20.03 feet; thence N 13°20'41" E a distance of 16.31 feet; thence N 08°50'16" E a distance of 16.68 feet; thence N 04°03'15" E a distance of 19.54 feet; thence N 08°27'49" W a distance of 0.41 feet; thence S 47°38'56" E a distance of 28.46 feet; thence N 77°54'15" E a distance of 20.73 feet; thence N 64°57'29" E a distance of 16.73 feet; thence N 54°08'31" E a distance of 18.75 feet; thence N 50°59'03" E a distance of 16.05 feet; thence N 49°50'23" E a distance of 17.52 feet; thence N 64°02'18" E a distance of 22.26 feet; thence N 84°20'06" E a distance of 19.74 feet; thence S 77°54'15" E a distance of 16.33 feet; thence S 56°54'24" E a distance of 16.12 feet; thence S 43°09'29" E a distance of 15.74 feet; thence S 28°16'12" E a distance of 18.81 feet; thence S 20°35'37" E a distance of 19.28 feet; thence S 12°45'49" E a distance of 19.72 feet; thence S 00°30'49" W a distance of 15.60 feet; thence S 04°51'26" W a distance of 15.95 feet; thence S 00°24'06" E a distance of 18.90 feet; thence S 24°32'48" E a distance of 18.53 feet; thence S 38°59'17" E a distance of 17.09 feet; thence S 58°26'29" E a distance of 19.73 feet; thence S 72°28'57" E a distance of 17.36 feet; thence N 88°02'11" E a distance of 21.45 feet; thence N 45°39'49" E a distance of 19.16 feet; thence N 38°02'01" E a distance of 20.82 feet; thence N 51°39'38" E a distance of 16.28 feet; thence N 86°18'29" E a distance of 16.65 feet; thence S 81°04'53" E a distance of 18.31 feet; thence S 63°35'46" E a distance of 16.44 feet; thence S 36°46'59" E a distance of 15.44 feet; thence S 17°25'05" E a distance of 17.65 feet; thence S 51°36'13" E a distance of 19.51 feet; thence N 76°16'59" E a distance of 19.62 feet; thence N 72°28'24" E a distance of 15.56 feet; thence N 76°41'23" E a distance of 21.45 feet; thence N 83°21'43" E a distance of 24.34 feet; thence N 87°26'49" E a distance of 17.23 feet; thence S 86°12'53" E a distance of 20.56 feet; thence S 86°37'04" E a distance of 17.53 feet; thence S 73°18'19" E a distance of 23.57 feet; thence S 60°55'48" E a distance of 17.53 feet; thence S 48°25'27" E a distance of 16.41 feet; thence S 49°13'24" E a distance of 16.22 feet; thence S 45°52'34" E a distance of 20.84 feet; thence S 50°54'47" E a distance of 19.69 feet; thence S 78°56'24" E a distance of 16.27 feet; thence N 85°22'15" E a distance of 16.97 feet; thence S 89°33'37" E a distance of 32.30 feet; thence N 83°49'44" E a distance of 18.24 feet;

thence N 80°52'59" E a distance of 18.06 feet; thence N 80°29'51" E a distance of 15.63 feet; thence N 76°16'58" E a distance of 19.62 feet; thence N 74°35'53" E a distance of 15.38 feet; thence N 66°30'56" E a distance of 15.53 feet; thence N 49°50'35" E a distance of 17.51 feet; thence N 48°45'17" E a distance of 15.78 feet; thence N 45°05'59" E a distance of 21.50 feet; thence N 43°04'00" E a distance of 18.75 feet; thence N 42°08'16" E a distance of 17.27 feet; thence N 45°00'31" E a distance of 18.52 feet; thence N 43°35'11" E a distance of 23.43 feet; thence N 33°08'18" E a distance of 19.60 feet; thence N 26°17'38" E a distance of 16.66 feet; thence N 31°37'43" E a distance of 15.78 feet; thence N 45°03'03" E a distance of 19.80 feet; thence N 52°36'12" E a distance of 17.60 feet; thence N 56°56'44" E a distance of 17.39 feet; thence N 56°07'48" E a distance of 17.56 feet; thence N 59°01'11" E a distance of 18.41 feet; thence N 64°02'20" E a distance of 16.19 feet; thence N 60°46'25" E a distance of 21.21 feet; thence N 56°39'36" E a distance of 16.72 feet; thence N 47°15'17" E a distance of 15.34 feet; thence N 30°30'34" E a distance of 21.14 feet; thence N 22°46'42" E a distance of 19.13 feet; thence N 11°44'56" E a distance of 21.72 feet; thence N 15°27'30" E a distance of 25.78 feet; thence N 22°58'20" E a distance of 18.19 feet; thence N 27°13'16" E a distance of 18.82 feet; thence N 16°33'48" E a distance of 19.67 feet; thence N 03°14'48" W a distance of 18.34 feet; thence N 19°40'09" W a distance of 16.61 feet; thence N 32°46'24" W a distance of 16.49 feet; thence N 33°21'15" W a distance of 16.24 feet; thence N 36°58'50" W a distance of 15.86 feet; thence N 41°14'25" W a distance of 17.67 feet; thence N 40°39'30" W a distance of 15.13 feet; thence N 37°10'53" W a distance of 16.29 feet; thence N 34°32'05" W a distance of 189.51 feet; thence N 30°13'52" W a distance of 2.59 feet; thence N 28°19'47" W a distance of 18.14 feet; thence N 22°48'54" W a distance of 18.29 feet; thence N 18°37'08" W a distance of 18.41 feet; thence N 01°20'01" W a distance of 18.61 feet; thence N 09°54'15" E a distance of 20.38 feet; thence N 10°38'43" E a distance of 18.90 feet; thence N 01°24'45" E a distance of 19.51 feet; thence N 00°31'33" E a distance of 19.80 feet; thence N 12°24 '11" W a distance of 17.54 feet; thence N 21°56'22" W a distance of 18.17 feet; thence N 37°22'13" W a distance of 16.71 feet; thence N 37°53'18" W a distance of 17.98 feet; thence N 36°51'33" W a distance of 21.88 feet; thence N 39°55'08" W a distance of 15.36 feet; thence N 32°46'20" W a distance of 16.50 feet; thence N 20°41'49" W a distance of 22.52 feet; thence N 15°38'58" W a distance of 18.43 feet; thence N 18°01'28" W a distance of 21.83 feet; thence N 10°09'44" W a distance of 24.42 feet; thence N 03°47'01" E a distance of 15.93 feet; thence N 12°45'54" E a distance of 15.67 feet; thence N 16°00'16" E a distance of 21.49 feet; thence N 14°08'10" E a distance of 16.68 feet; thence N 10°49'06" E a distance of 21.97 feet; thence N 09°09'30" E a distance of 16.09 feet; thence N 01°41'30" W a distance of 15.62 feet; thence N 08°33'04" W a distance of 19.14 feet; thence N 16°27'58" W a distance of 17.57 feet; thence N 10°01'57" W a distance of 16.48 feet; thence N 01°44'07" W a distance of 15.32 feet; thence N 07°03'43" W a distance of 20.59 feet; thence N 14°21'50" W a distance of 16.45 feet; thence N 26°42'18" W a distance of 15.18 feet; thence N 51°11'27" W a distance of 16.93 feet; thence N 51°48'59" W a distance of 17.16 feet; thence N 46°01'17" W a distance of 18.30 feet; thence N 45°16'45" W a distance of 20.64 feet; thence N 47°25'00" W a distance of 17.90 feet; thence N 41°28'02" W a distance of 18.96 feet; thence N 22°13'54" W a distance of 19.52 feet; thence N 32°46'11" W a distance of 16.50 feet; thence N 45°28'24" W a distance of 15.53 feet; thence N 46°09'29" W a distance of 16.60 feet; thence N 30°16'04" W a distance of 17.11 feet; thence N 25°11'12" W a distance of 15.32 feet; thence N 20°03'01" W a distance of 18.91 feet; thence N 22°09'18" W a distance of 17.23 feet; thence N 18°21'01" W a distance of 16.81 feet; thence N 24°58'19" W a distance of 18.94 feet; thence N 23°47'57" W a distance of 16.13 feet; thence N 16°41'06" W a distance of 16.33 feet; thence N 07°39'32" W a distance of 14.15 feet; thence N 87°13'52" E a distance of 7.16 feet; thence S 83°34'29" E a distance of 17.31 feet; thence S 79°06'59" E a distance of 16.58 feet; thence S 71°33'36" E a distance of 15.55 feet; thence S 75°35'21" E a distance of 17.42 feet; thence S 81°27'56" E a distance of 19.21 feet; thence S 82°42'25" E a distance of 17.64 feet; thence S 81°27'56" E a distance of 17.08 feet; thence S 88°47'22" E a distance of 22.65 feet; thence S 89°32'56" E a distance of 19.03 feet; thence S 87°24'02" E a distance of 16.02 feet; thence S 86°52'52" E a distance of 19.35 feet; thence S 87°30'56" E a distance of 16.92 feet; thence S 82°52'40" E a distance of 25.84 feet; thence S 81°49'42" E a distance of 20.11 feet; thence S 76°57'58" E a distance of 15.16 feet; thence S 75°35'20" E a distance of 16.18 feet; thence S 73°09'33" E a distance of 22.34 feet; thence S 81°27'55" E a distance of 17.08 feet; thence S 80°17'30" E a distance of 18.66 feet; thence S 87°50'58" E a distance of 20.24 feet; thence N 54°12'38" E a distance of 15.74 feet; thence N 29°05'48" E a distance of 16.42 feet; thence N 29°25'19" E a distance of 17.50 feet; thence N 19°03'29" E a distance of 15.20 feet; thence N 01°40'50" E a distance of 15.01 feet; thence N 08°16'17" W a distance of 19.74 feet; thence N 04°30'56" W a distance of 17.17 feet; thence N 02°51'32" W a distance of 15.34 feet; thence N 01°31'47" W a distance of 16.82 feet; thence N 08°08'24" W a distance of 20.04 feet; thence N 12°51'04" W a distance of 16.97 feet; thence N 21°58'59" W a distance of 16.56 feet; thence N 30°48'09" W a distance of 15.10 feet; thence N 26°11'19" W a distance of 17.46 feet; thence N 26°33'10" W a distance of 21.23 feet; thence N 32°23'03" W a distance of 20.01 feet; thence N 35°18'51" W a distance of 17.02 feet; thence N 35°26'53" W a distance of 15.94 feet; thence N 28°46'59" W a distance of 17.89 feet; thence N 28°19'09" W a distance of 18.15 feet; thence N 19°05'27" W a distance of 15.29 feet; thence N 18°18'36" W a distance of 18.71 feet; thence N 10°29'37" W a distance of 18.96 feet; thence N 10°16'38" W a distance of 17.72 feet;

thence N 17°42'09" W a distance of 17.38 feet; thence N 24°03'26" W a distance of 18.15 feet; thence N 27°04'01 " W a distance of 17.60 feet; thence N 33°20'30" W a distance of 18.43 feet; thence N 36°55'45" W a distance of 17.38 feet; thence N 23°28'15" W a distance of 17.08 feet; thence N 02°23 '01" E a distance of 18.63 feet; thence N 53°20'16" E a distance of 15.92 feet; thence N 64°23'22" E a distance of 21.87 feet; thence N 69°32'18" E a distance of 16.82 feet; thence N 67°57'50" E a distance of 15.70 feet; thence N 70°18'22" E a distance of 20.92 feet; thence N 66°13 '47" E a distance of 17.56 feet; thence N 69°22'57" E a distance of 15.87 feet; thence N 60°25'34" E a distance of 19.20 feet; thence N 60°12'28" E a distance of 16.09 feet; thence N 56°39'19" E a distance of 16.73 feet; thence N 57°31'03" E a distance of 16.57 feet; thence N 37°57'56" E a distance of 15.90 feet; thence N 21°11'05" E a distance of 20.55 feet; thence N 20°40'59" E a distance of 20.16 feet; thence N 17°32'33" E a distance of 21.68 feet; thence N 11°08'50" E a distance of 18.03 feet; thence N 03°58'55" W a distance of 15.36 feet; thence N 03°39'18" W a distance of 16.56 feet; thence N 00°31'44" E a distance of 15.62 feet; thence N 05°54'53" E a distance of 19.31 feet; thence N 13°14'54" E a distance of 15.09 feet; thence N 14°48'54" W a distance of 17.12 feet; thence N 45°27'27" W a distance of 15.54 feet; thence N 47°46'07" W a distance of 15.78 feet; thence N 64°24'13" W a distance of 17.67 feet; thence N 69°59'06" W a distance of 17.94 feet; thence S 86°09'58" W a distance of 16.05 feet; thence S 76°57'55" W a distance of 18.02 feet; thence S 68°24'55" W a distance of 17.61 feet; thence S 64°30'17" W a distance of 16.47 feet; thence S 64°45'17" W a distance of 21.47 feet; thence S 67°09'33" W a distance of 19.74 feet; thence S 71°07'40" W a distance of 16.33 feet; thence S 80°01'35" W a distance of 16.59 feet; thence N 88°38'21" W a distance of 13.73 feet; thence N 88°38'21" W a distance of 5.30 feet; thence N 66°27'13" W a distance of 20.68 feet; thence N 51°01'05" W a distance of 19.29 feet; thence N 33°38'48" W a distance of 15.60 feet; thence N 27°31'28" W a distance of 17.34 feet; thence N 20°08'56" W a distance of 15.40 feet; thence N 10°51'07" W a distance of 16.84 feet; thence N 08°32'16" E a distance of 15.17 feet; thence N 15°57'14" E a distance of 15.89 feet; thence N 21°10'49" E a distance of 15.41 feet; thence N 24°10'00" E a distance of 20.34 feet; thence N 28°56'51" E a distance of 17.77 feet; thence N 30°30'32" E a distance of 18.74 feet; thence N 34°39'08" E a distance of 15.61 feet; thence N 44°17'33" E a distance of 17.90 feet; thence N 46°27'39" E a distance of 15.13 feet; thence N 48°05'18" E a distance of 20.06 feet; thence N 50°16'58" E a distance of 15.83 feet; thence N 55°25'00" E a distance of 25.11 feet; thence N 61°55'30" E a distance of 18.23 feet; thence N 60°23'59" E a distance of 31.78 feet; thence N 60°59'28" E a distance of 17.71 feet; thence N 60°06'29" E a distance of 19.62 feet; thence N 44°29'15" E a distance of 20.89 feet; thence N 30°30'35" E a distance of 18.74 feet; thence N 23°19'37" E a distance of 17.93 feet; thence N 13°56'45" E a distance of 18.22 feet; thence N 07°10'40" E a distance of 20.87 feet; thence N 17°43'37" W a distance of 19.29 feet; thence N 25°41'17" W a distance of 15.73 feet; thence N 30°57'45" W a distance of 16.19 feet; thence N 31°10'10" W a distance of 15.52 feet; thence N 25°15'07" W a distance of 16.67 feet; thence N 10°16'22" W a distance of 17.73 feet; thence N 09°32'16" W a distance of 15.56 feet; thence N 19°05'02" W a distance of 15.30 feet; thence N 26°10'47" W a distance of 16.80 feet; thence N 33°19'54" W a distance of 15.18 feet; thence N 37°20'50" W a distance of 16.73 feet; thence N 40°44'32" W a distance of 15.57 feet; thence N 44°39'59" W a distance of 6.29 feet; thence N 05°12'59" W a distance of 18.78 feet; thence N 10°25'15" W a distance of 15.91 feet; thence N 05°07'32" E a distance of 15.07 feet; thence N 34°20'38" E a distance of 16.28 feet; thence N 51°58'57" E a distance of 19.31 feet; thence N 68°21'53" E a distance of 23.16 feet; thence N 72°28'42" E a distance of 15.57 feet; thence N 72°07'43" E a distance of 15.28 feet; thence N 67°16'11" E a distance of 19.07 feet; thence N 63°35'28" E a distance of 17.28 feet; thence N 54°52'51" E a distance of 18.59 feet; thence N 48°22'34" E a distance of 26.89 feet; thence N 46°27'35" E a distance of 15.14 feet; thence N 37°19'52" E a distance of 11.92 feet to an intersection with the north line of the Northeast Quarter (NE 1/4) of said Section 7; thence S 89°41'37" E along said north line a distance of 1354.46 feet to the Northeast corner of said Section 7; thence S 02°03'33" W along the east line of the Northeast Quarter (NE 1/4) of said Section 7 a distance of 2639.48 feet to the East Quarter corner of said Section 7; thence S 02°32'18" E along the east line of the Southeast Quarter (SE 1/4) of said Section 7, a distance of 2689.71 feet to the Point of Beginning.

Containing within said bounds 8,672,223 square feet or 199.09 acres more or less.

AGRICULTURAL-2 (AG-2, A LEE COUNTY DESIGNATION) TO INSTITUTIONAL (INST) ZONE

A PARCEL OF LAND FOR LAND USE ADMINISTRATIVE PURPOSES, BEING A PART OF SECTION 7, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the southwest corner of said Section 7; thence N00°47'29"E along the west line of the Southwest One Quarter (SW 1/4) of said Section 7 for 808.34 feet; thence S89°27'22"E parallel with the south line of said Southwest One Quarter (SW 1/4) for 808.33 feet; thence S00°47'29"W parallel with the west line of said Southwest One Quarter (SW 1/4) for 808.34 feet to the south line of said Southwest One Quarter (SW 1/4); thence N89°27'22"W along said south line for 808.33 feet to the Point of Beginning.

Bearings are State Plane Grid (Florida West Zone) based on the south line of the Southeast One Quarter (SE 1/4) of Section 7, Township 43 South, Range 24 East as bearing N86°03'18"W.

Subject to easements, restrictions, reservations and rights-of-way (recorded and unrecorded, written and unwritten).

AGRICULTURAL-2 (AG-2, A LEE COUNTY DESIGNATION) TO NEIGHBORHOOD COMMERCIAL (NC) ZONE

A parcel of land located in a portion of Section 20, Township 43 South, Range 23 East, Lee County, Florida being more particularly described as follows:

Commence at the south quarter corner of Section 20, Township 43 South, Range 23 East, Lee County, Florida; thence run N 89°18'51"W along the South line of the SW ¼ of said Section 20 for a distance of 1,556.03 feet; thence run N 00°13'57"E for a distance of 50.00 feet to the North right-of-way line of Jacaranda Parkway according to instrument number 2009000022333 of the Public Records of Lee County, Florida, and to the Point of Beginning of the parcel herein described; thence run N 89°18'51" W along the North right-of-way line of said Jacaranda Parkway, for a distance of 897.38 feet to a point on the East right-of-way line of Burnt Store Road according to instrument number 2009000022332 of the Public Records of Lee County, Florida; thence run N 00°13'57"E along the East right-of-way line of said Burnt Store Road, for a distance of 1,335.24 feet; thence run S 89°18'51"E parallel with the South line of said Section 20, for a distance of 897.38 feet; thence run S 00°13'57"W for a distance of 1,335.25 feet to the Point of Beginning; containing 27.507 acres, more or less.

Bearings shown hereon refer to the South line of the SW ¼ of Section 20, Township 43 South, Range 23 East, Lee County, Florida as being N 89°18'51"W.

and the City administrative office shall amend the City of Cape Coral Official Zoning District Map to reflect this zoning change.

That the amendments to the City of Cape Coral Official Zoning District Map as prescribed herein are consistent with the City of Cape Coral Comprehensive Plan.

Section 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall become effective on the date that Ordinance 17-19 becomes effective.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY

ord\ZA18-0013
5/16/19
5/30/19

Cape Coral City Council

July 22, 2019

ZA18-0013

ORDINANCE 4-19

Background

- **A city-initiated rezone involving 9,783.65 acres**
- **One element of multi-part process to overhaul Land Development Code. Other elements include:**
 - **Two Future Land Use Map Amendments (Ordinances 50-18 and 2-19): COMPLETE**
 - **Comprehensive Plan Text Amendment (Ordinance 71-18): COMPLETE**
 - **Land Development Code Ordinance (Ordinance 17-19)**

Background

- **Greatest changes involve:**
 - Deletion of RD**
 - Deletion of R-3, splitting R-3 into RML and RMM**
 - Deletion of MR**
 - Deletion of RX**
 - Deletion of Village**
- **Overall 8 districts are proposed to be removed, with another two unmapped districts (HICI, P-2) removed in LDC overhaul**
- **Additional focus of this effort is to provide consistency, not rezone by request**

Background

Zoning Acreage Change, by Zoning District:

Commercial (C): 1,536.54 acres

Commercial Corridor (CC): 189.02 acres

Industrial (I): 159.00 acres

Institutional (INST): 456.02 acres

Mixed-Use Bimini (MXB): 85.55 acres

Neighborhood Commercial (NC): 495.04 acres

Professional (P): 31.63 acres

Preservation (PV): 713.54 acres

Single-Family Residential (R1): 3,356.85 acres

Residential Estate (RE): 14.72 acres

Multi-Family Residential Low (RML): 2,722.44 acres

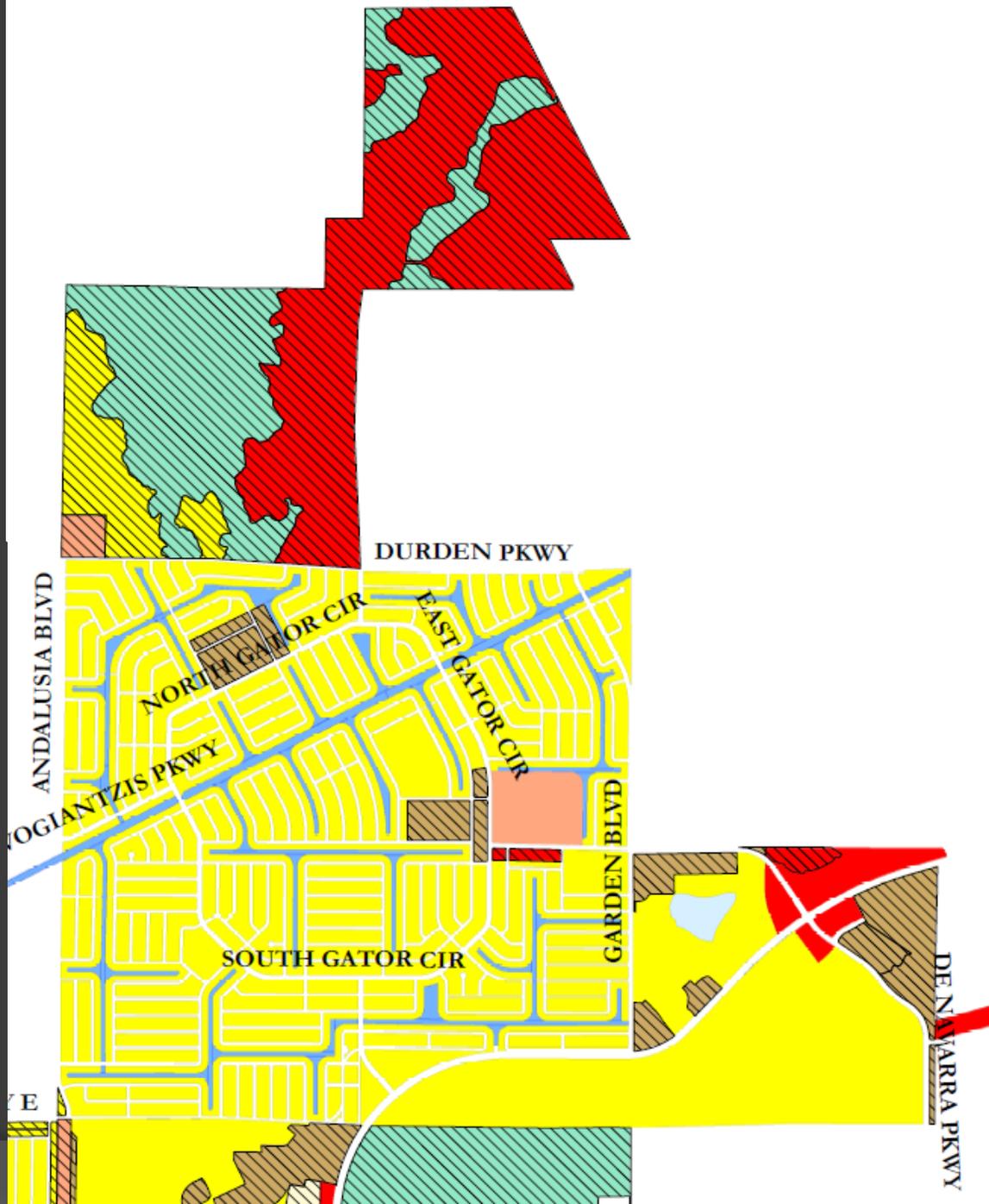
Residential Planned Unit Development (RPUD): 23.30 acres

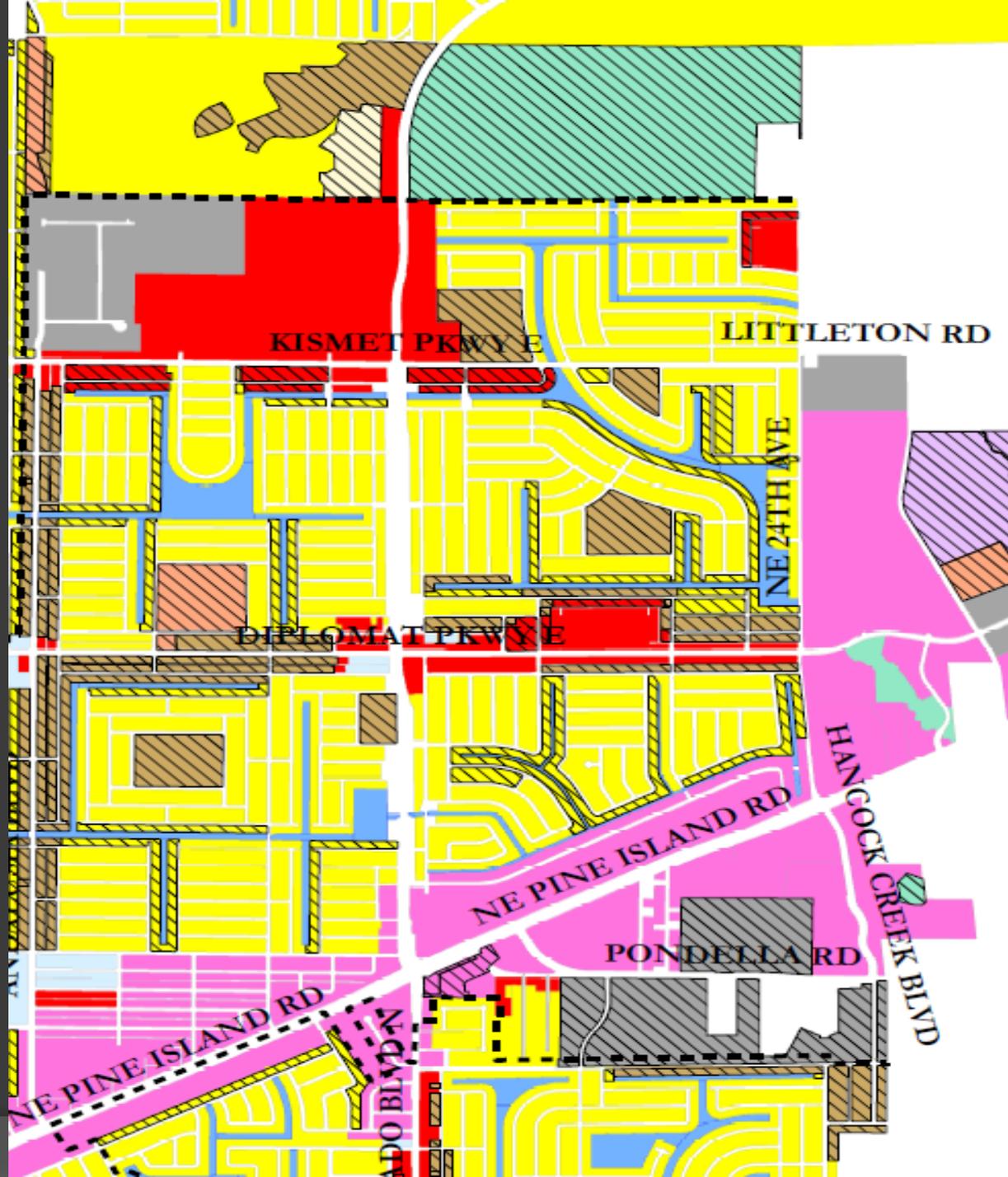
To Residential Zoning: 6,117.31 acres

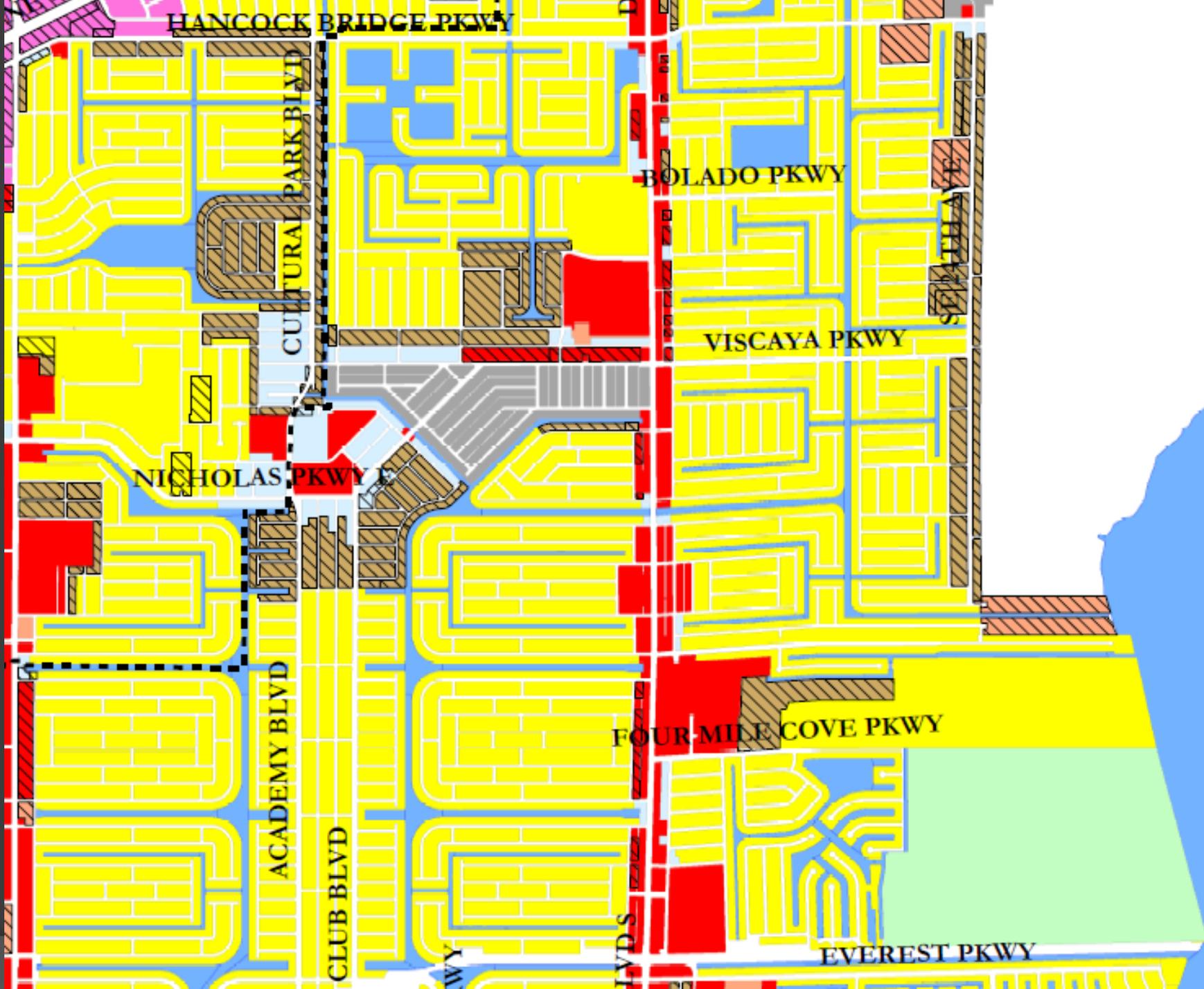
To Non-Residential Zoning: 1,727.17 acres

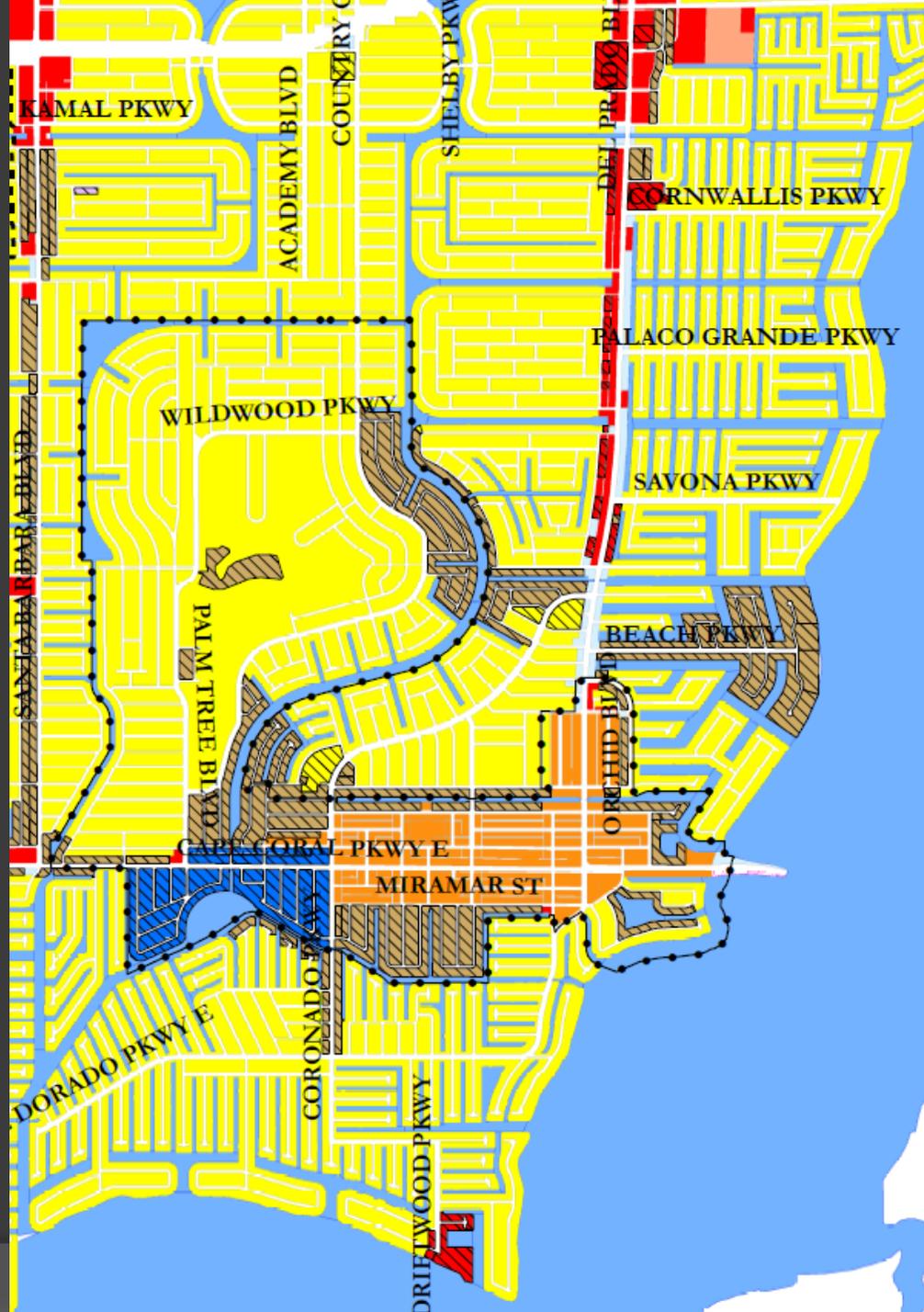
To Mixed-Use Zoning: 769.61 acres

To Institutional Zoning: 1,169.56 acres









KAMAL PKWY

ACADEMY BLVD

COUNTRY C

SHELBY PKWY

CORNWALLIS PKWY

PALACO GRANDE PKWY

WILDWOOD PKWY

SAVONA PKWY

SAN JUAN BLVD

PALM TREE BLVD

BEACH PKWY

CORAL PKWY E

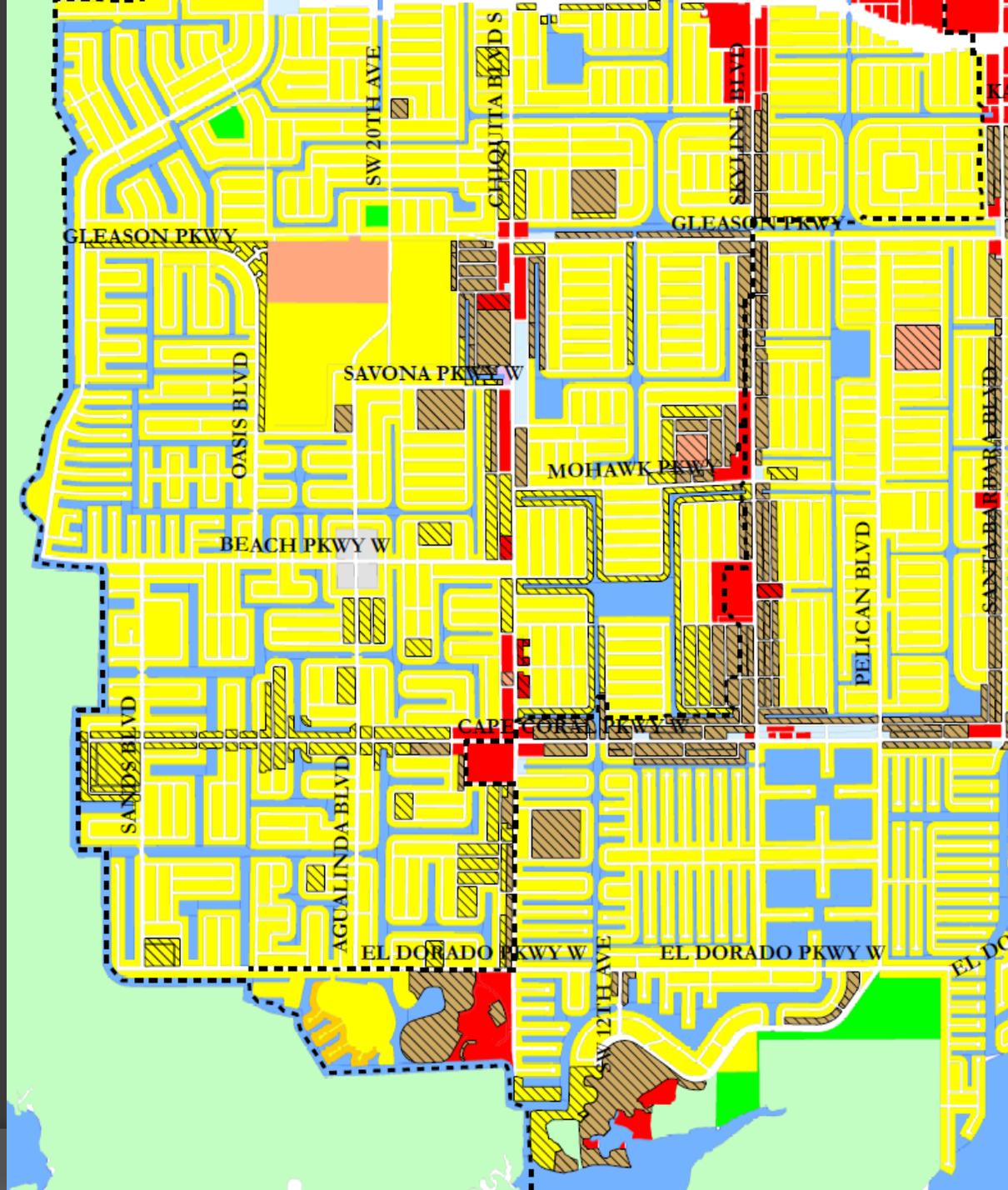
MIRAMAR ST

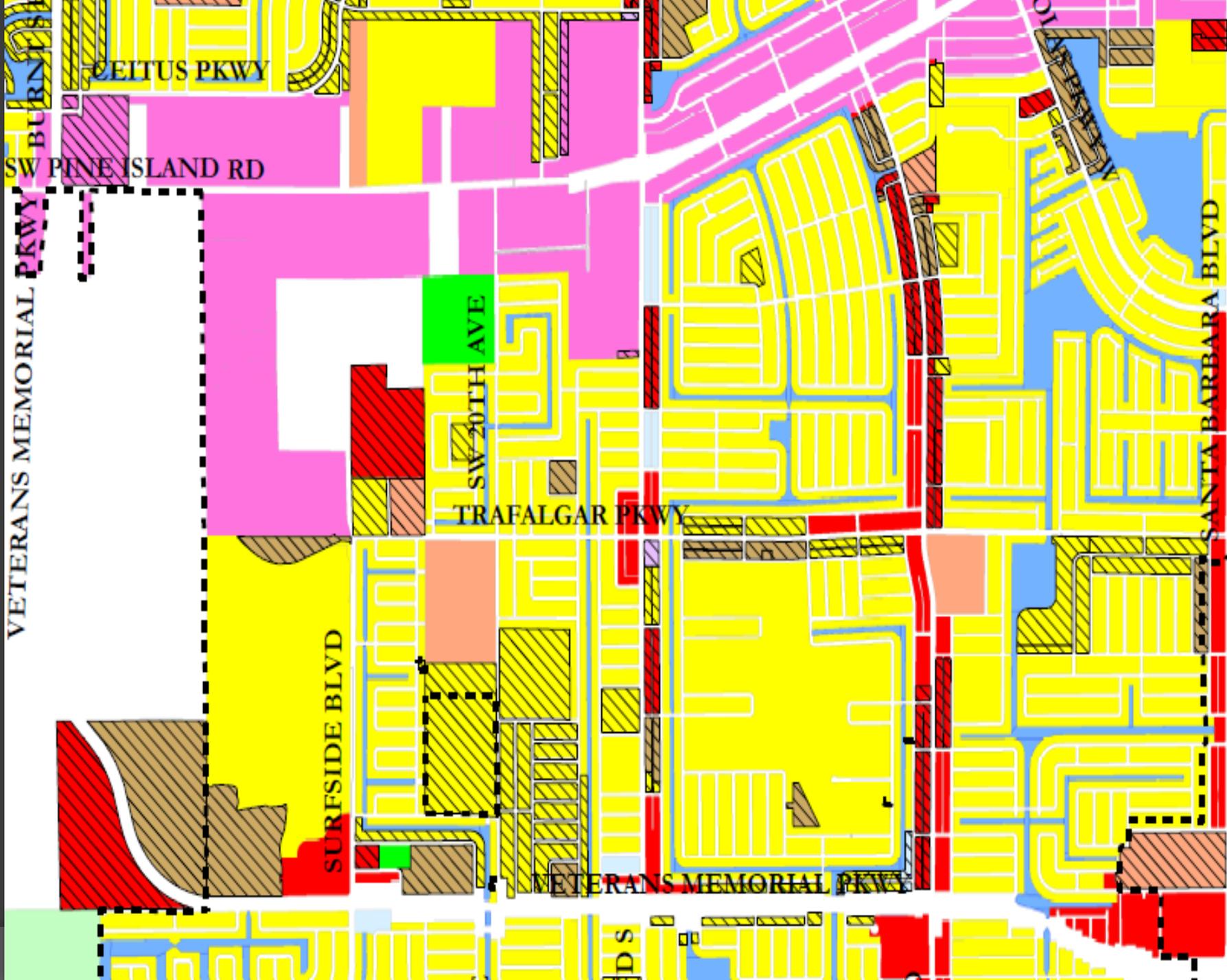
ORE HID BLVD

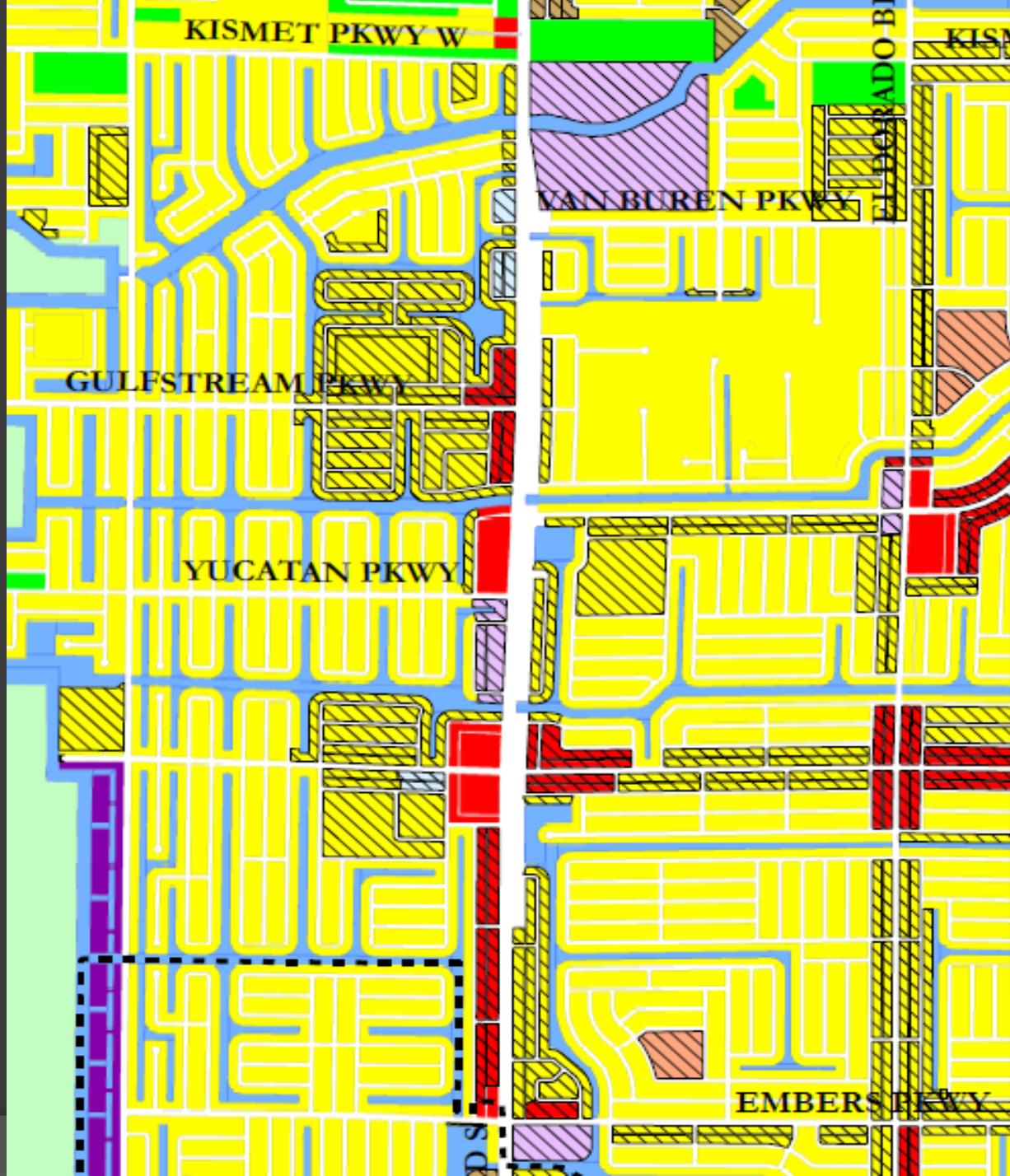
DORADO PKWY E

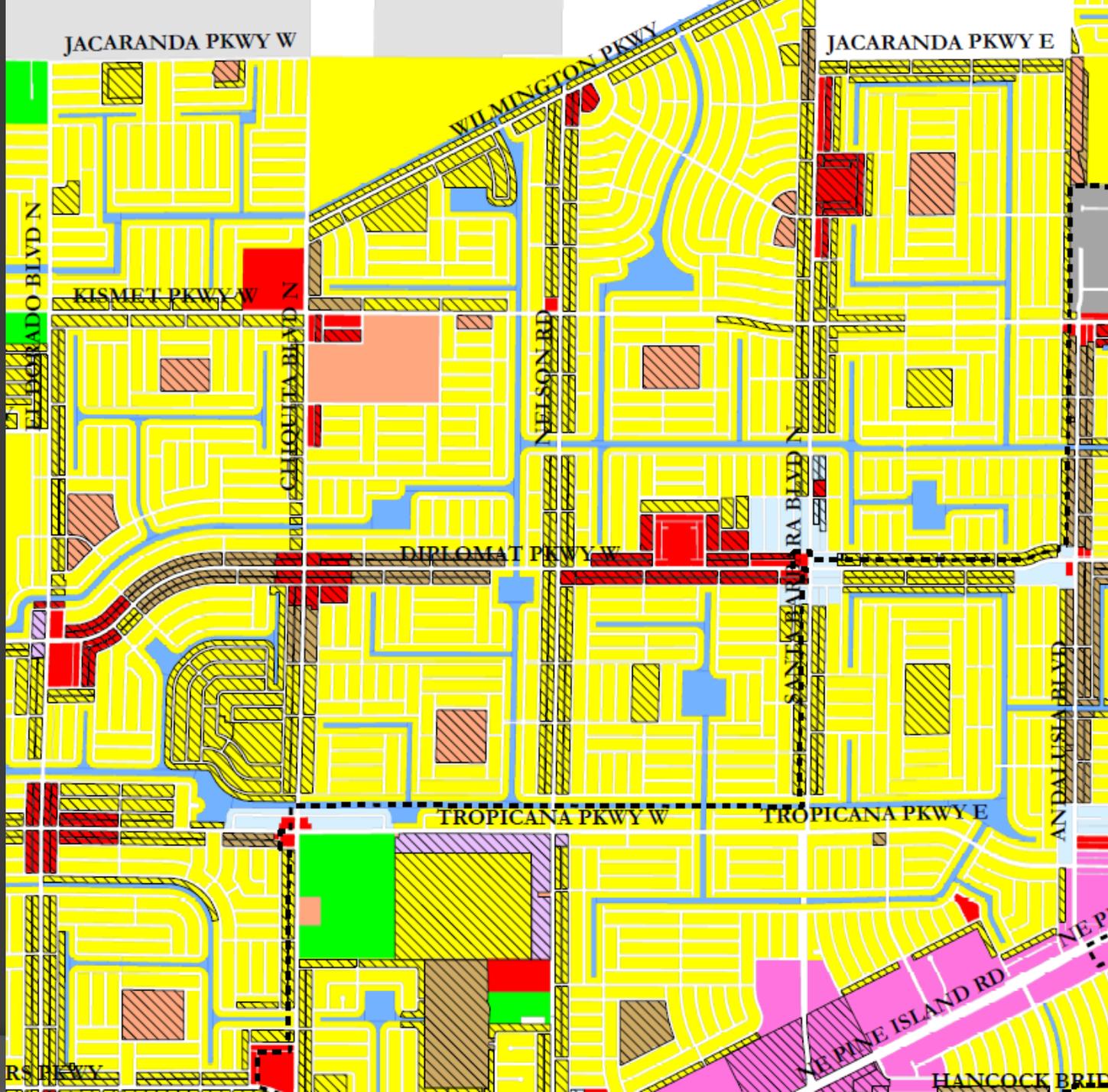
CORONADO PKWY

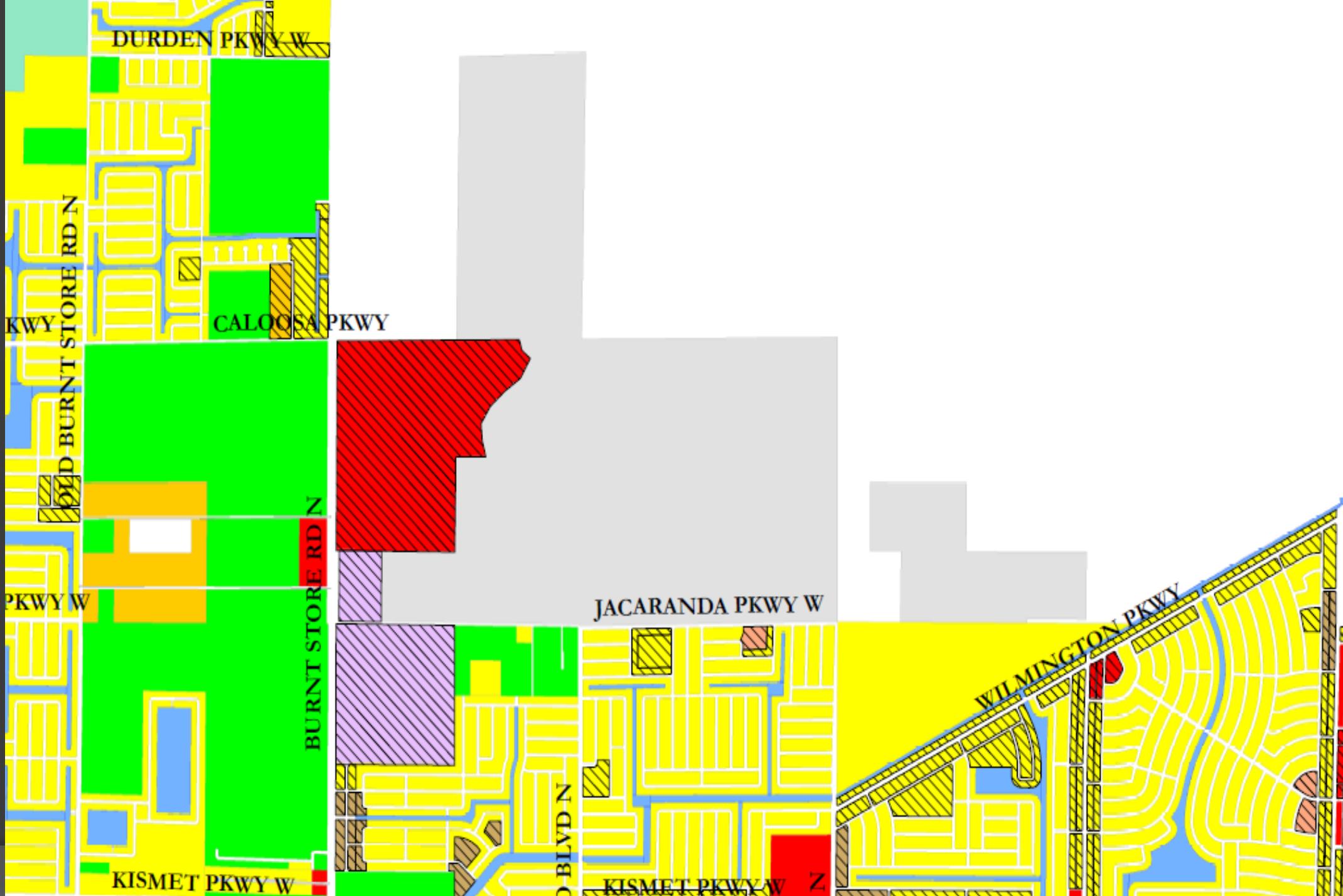
DRIFTWOOD PKWY











Changes from January

- **This was presented in January 2019**
- **Prior to formal presentation before Council, Staff made several changes**
- **It was determined that the extent of the changes required another meeting at this stage**

Changes from January

These changes include:

- Reduction of rezone area by approximately 20 acres; Four Corners area is proposed to be rezoned separately, Seven Islands already zoned with special district**
- All prior properties proposed to be RMM were amended; such properties are either being amended to RML or Institutional**
- One area, part of a PDP, is proposed to be amended from Commercial to Residential Planned Unit Development**

Analysis

- Overall, amendments include 9,783.65 acres
- Over 8,900 acres rezoned are the result of changes caused by the deletion of old zoning districts, or by the zoning of annexed properties to a City zoning designation
- Impacts of rezone are less than numbers suggest, as 65% of rezone area represents “like-for-like” changes (e.g. residential to residential)
- Another 15% of rezone area presently lacks City zoning

Analysis

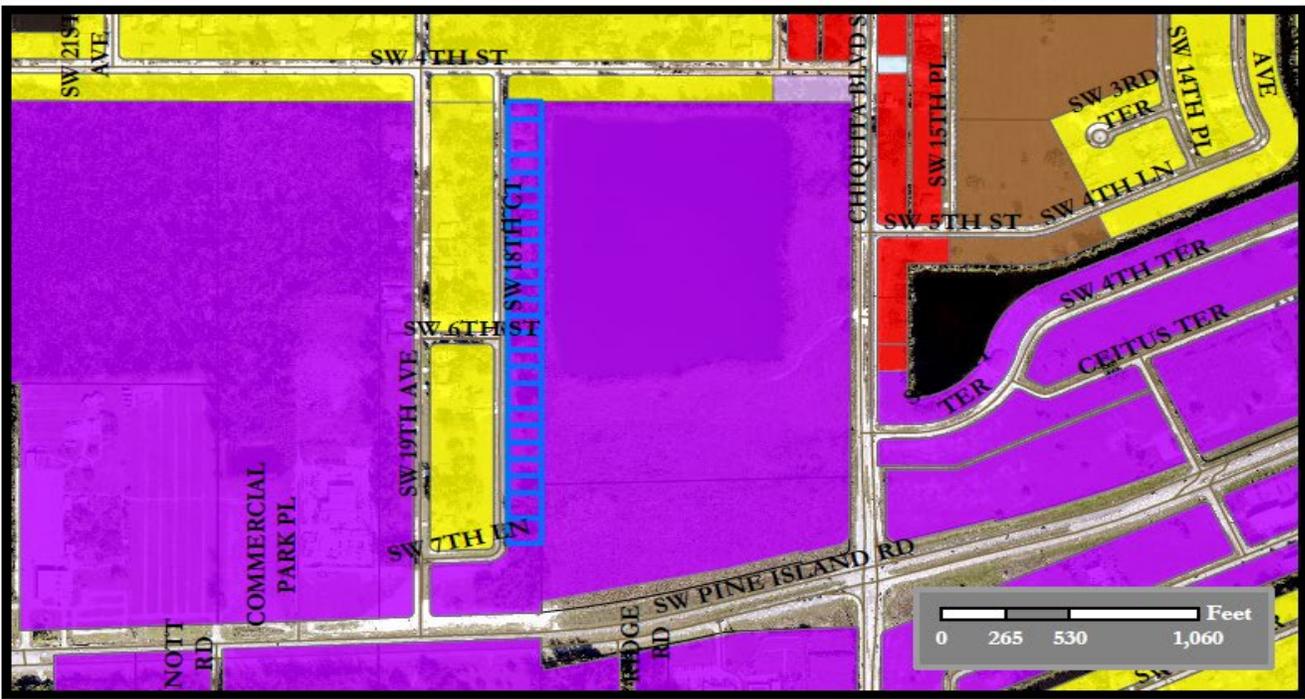
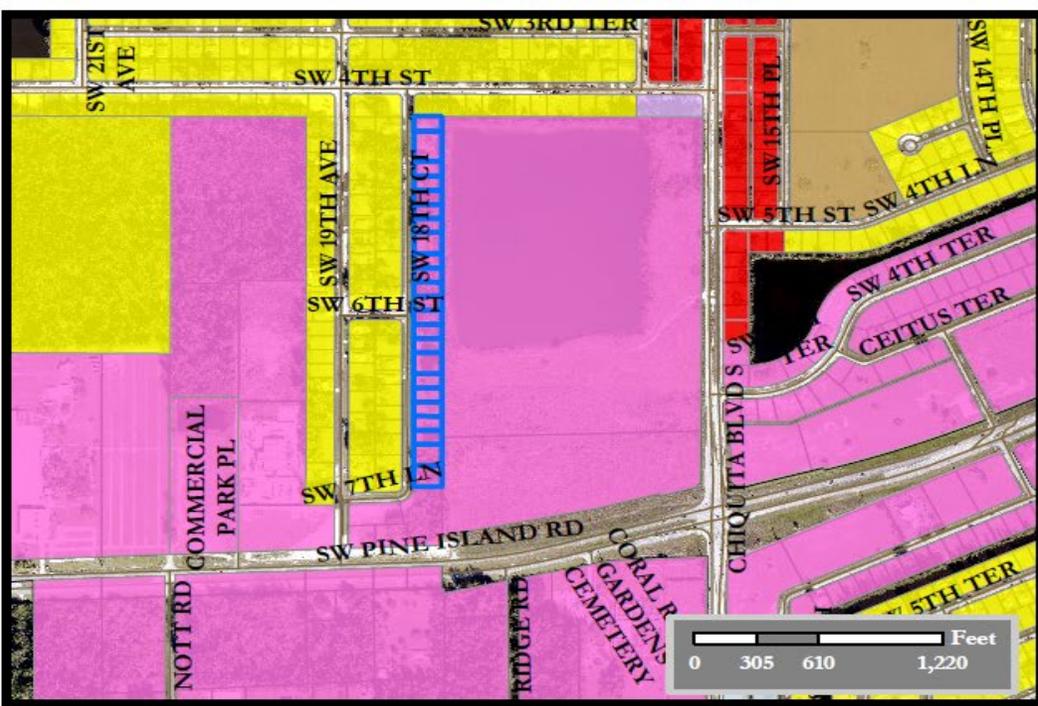
Comparison of general zoning types:

Mixed-Use (CORR/MR/SC/VILL) to Mixed-Use (CC/NC/SC/MXB/MX7):	576.72 acres
Mixed-Use to Non-Residential (C/P/I):	441.12 acres
Mixed-Use to Residential (A/R1/RML/RMM/RE):	208.03 acres
Non-Residential (C-1/C-3/I/P-1/W) to Non-Residential:	122.05 acres
Non-Residential to Mixed-Use:	0 acres
Non-Residential to Residential:	91.68 acres
Residential to Residential:	5,694.71 acres
Residential to Mixed-Use:	164.50 acres
Residential to Non-Residential:	297.63 acres
To Institutional/Preservation (INST/PV), not including County zoned:	743.48 acres
Areas with Lee County Zoning:	1,442.81 acres

Proposed Change

- **Block 3682, Lots 1-52 have Pine Island Road District FLU and RD zoning**
- **Recent single-family residential construction on block**
- **Propose removing lots from this rezone, amend FLU to Single Family Residential in follow-up ordinance**

CITY OF CAPE CORAL DEPARTMENT OF COMMUNITY DEVELOPMENT FUTURE LAND USE & PROPOSED ZONING SW 18TH CT & SW 19TH AVE



Analysis

- **A majority of the area rezoned (6,117.31 of 9,783.65 acres – 63%) are proposed to be rezoned to a residential zoning district.**
- **92% of this residential acreage is rezoned from other residential districts**
- **Staff is receptive to receiving other rezone application requests**

Comprehensive Plan/LUDR

- **Staff analyzed the Comprehensive Plan to determine what policies support or undermine the proposed rezone.**
- **The proposed zoning is consistent with the various future land use map classifications. The rezone is consistent with Policies 1.15, 1.20, 8.1, and 13.3 of the Future Land Use Element.**
- **Staff reviewed Section 8.7.3.B.1-10 of the Land Use and Development Regulations and found the rezone to be consistent**

Conclusion

- **In conclusion, staff recommends Approval of the proposed rezone request**
- **This was presented before the Hearing Examiner on June 18, and received a recommendation of approval**

Item Number:	A.(7)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 23-19 Final Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

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

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending Policy 1.15 of the Future Land Use Element. This amendment removes language doubling the allowable density for multi-family residential developments with a significant affordable housing component, provides additional flexibility for development in the Downtown Mixed and Pine Island Road District Future Land Use Classifications, and decreases the maximum density within Neighborhood Commercial Development Parameters for the Commercial Activity Center Future Land Use Classification.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

- Revised Ordinance 23-19
- Revised Staff Presentation
- Case Report

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Vince Caetero, DCD Director

ATTACHMENTS:

Description	Type
▣ Revised Ordinance 23-19	Backup Material
▣ Revised Staff Presentation	Presentation
▣ Case Report	Backup Material

ORDINANCE 23 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING POLICY 1.15 OF THE FUTURE LAND USE ELEMENT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS AS FOLLOWS:

Section 1. The City of Cape Coral hereby adopts Comprehensive Plan amendments necessary to update the Comprehensive Plan as follows:

The amendment to Policy 1.15 of the Future Land Use Element removes language doubling the allowable density for multi-family residential developments with a significant affordable housing component, provides additional flexibility for development in the Downtown Mixed Future Land Use Classification, and removes increased density within the Neighborhood Commercial zoning district. The amendment to the Future Land Use Element is described in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. Severability. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this plan amendment shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete, or if timely challenged, the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184(3)(c)4., F.S., whichever is applicable.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
Comp Plan Amendment-Future Land Use Element-Bimini Density
5/1/19

FUTURE LAND USE ELEMENT

GOAL: TO PROTECT THE PUBLIC INVESTMENT BY ENCOURAGING THE EFFICIENT USE OF COMMUNITY INFRASTRUCTURE AND NATURAL RESOURCES; ASSURE THE ORDERLY, EFFICIENT GROWTH OF THE CITY BY ENCOURAGING DEVELOPMENT IN THOSE AREAS WHICH ARE BEST SERVED BY INFRASTRUCTURE AND COMMUNITY SERVICES; PROMOTE NEW LAND USES WHICH CREATE THE LEAST POSSIBLE DISRUPTION TO EXISTING USES; CREATE A STRATEGY WHICH ANTICIPATES FUTURE COMMUNITY NEEDS BY ACQUIRING AND ASSEMBLING PLATTED LANDS; AND PROTECT THE RIGHTS OF INDIVIDUAL PROPERTY OWNERSHIP, CONSISTENT WITH PUBLIC NEEDS.

OBJECTIVE 1: Managing Future Growth and Development: The City of Cape Coral will manage future growth and land development by adopting, implementing, and enforcing new regulatory vehicles. All land development regulations called for in this Plan shall be adopted and implemented in accordance with the provisions of S. 163.3202, Florida Statutes. The short-term planning timeframe shall be established as up to the year 2025, while the long-term planning horizon shall be the year 2035.

Policy 1.1: The City will consider the impacts of climate change and sea level rise when determining the appropriate future land use map classification for property within the City of Cape Coral.

Policy 1.2: The City will regulate the use of land and water to protect State-owned preservation lands, the City's system of fresh and salt-water canals, and the outlying waters of the Caloosahatchee River and Charlotte Harbor.

Policy 1.3: The City will adopt measures to regulate areas subject to seasonal and periodic flooding and will provide for drainage and stormwater management.

Policy 1.4: The City will continue to protect potable water wellfields through the placement of the wellheads in a manner which uses street rights-of-way as buffers. The wellheads will continue to be protected from physical damage by using construction techniques appropriate for their location, such as locating future wellheads adjacent to street rights-of-way. However, due to population densities, it may be necessary to place wellheads in the median in isolated circumstances. Buffering for such locations will be evaluated on an individual site basis to prevent contamination via the wellhead itself.

Policy 1.5: The City will continue to regulate signage to prevent visual blight.

Policy 1.6: The City will continue to promote healthy communities and a diverse housing stock so that all persons may have an opportunity to reside in this community. To accomplish this goal, the City supports efforts to balance single-family and multi-family residential stock.

Policy 1.7: The City has identified a shortfall of multi-family residential housing stock in the community. To provide better guidance in identifying properties which are appropriate for multi-family residential development, to reduce this shortfall, locational guidelines have been developed. The following locational guidelines are as follows:

1.) Proximity to major roadways.

To prevent the establishment of multi-family residential development far in the middle of predominantly single-family neighborhoods, an appropriate location for multi-family residential development is adjacent to or within ¼ mile of major roadways such as arterial and collector roadways, as identified by *Figure 7 City Roadway Classifications*.

2.) Proximity to non-residential land uses.

An important consideration for siting multi-family residential development is the need for multi-family residential uses to be in proximity to major employment centers. Providing housing near commercial uses can result in shorter trips, lessened traffic generation by workers, and providing multiple transportation mode options (walking, bicycling, automobile, bus) for employees.

An appropriate location for multi-family residential development is adjacent to or within ¼ mile of non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

3.) Transitioning from commercial uses to less intense uses.

Multi-family residential uses have traditionally provided a role in buffering single-family uses or neighborhoods from nearby commercial development. Multi-family residential development is often self-contained with parking lots which provide a physical barrier visually separating commercial uses, particularly the lighting and loading areas, from single-family residential uses, which is a benefit to the community.

Therefore, an appropriate location for Multi-family residential development is physically between single-family development and non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

4.) Assemblage opportunities and adjacency to existing multi-family residential.

Single, isolated pre-platted parcels provide little opportunity for larger-scale multi-family residential development, and contribute to the same ills that strip center commercial developments offer; a proliferation of driveways onto major roadways.

Therefore, an appropriate location for multi-family residential development is a collection of properties of 3-acres or greater which provide multi-family assemblage opportunities, or for properties which alone are 3-acres or greater in size. Furthermore, consideration will be

given to logical extensions from existing multi-family residential designated properties.

Policy 1.8: The City will maintain regulations ensuring safe and convenient on-site traffic flow and vehicle parking needs for all developed lands.

Policy 1.9: The City will issue no development orders or construction permits, which result in a reduction in the level of service for any affected public facility below the level of service standard adopted in this comprehensive plan.

Policy 1.10: The City will periodically develop a buildout analysis to assist long-range planning activities. This analysis shall be conducted no less than once per five years and will be available to the public on the City website.

Policy 1.11: The City will continue to conduct studies to ascertain the feasibility of implementing alternative mechanisms to aid and encourage the de-platting of platted lands, and to encourage the acquisition and assembly of land for public uses.

Policy 1.12: The City will continue to conduct commercial land needs studies to identify potential areas of the City, which could accommodate commercially designated land, and then amend the Future Land Use Map, consistent with the studies, findings, and recommendations, and other provisions of the Comprehensive Plan.

Policy 1.13: In establishing commercial siting guidelines, it is the intent of the City of Cape Coral to discourage new “strip commercial” development. Strip commercial development, for the purpose of this policy, is often, but not always, linear in orientation, typically generates high volumes of traffic that is often associated with separate vehicular entrances and exits for each property on the primary street, may have poor or undefined pedestrian path systems that create conflicts between pedestrian and vehicular movements, and generally lacks sufficient onsite space to accommodate normal parking and loading activities. In discouraging new strip commercial development, the City shall also seek to limit or reduce traffic conflict points along arterial and collector roadways, to promote pedestrian-friendly development, and to create synergistic, compact patterns of commercial development.

To achieve this intent, the City will utilize commercial siting guidelines as a basis for considering the appropriateness of placing the Commercial/Professional Mixed Use, Commercial Activity Center future land use classifications at various locations. “Commercial siting guidelines,” in the sense used herein, refers to guidelines for evaluating potential locations for non-residential (except industrial) development within the above-referenced future land use classifications. The City will also complement its consideration of potential commercial lands; by utilizing the policies contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Finally, the City of Cape Coral’s commercial siting guidelines shall be based on the ideal concept of a commercial node.

Commercial nodes may be defined as a compact concentration of commercial land within a relatively small area. Ideally, such nodes are located around or in the vicinity of intersections of major city roadways (typically, 4 or more lane divided parkways and boulevards). The City recognizes that commercial areas may periodically develop distant

from a major intersection, as some intersections may have insufficient undeveloped property in the vicinity of the intersection to allow for development of larger commercial centers. Such outlying commercial development can be useful in providing neighborhood commercial centers, professional buildings or office parks to serve a variety of local needs.

Preferably, however, commercial nodes should begin as a concentration of commercial properties adjacent to a major intersection. Once the node is established, it is difficult to define how far from the intersection subsequent commercial expansion should reach. It is also difficult to define the types of future land uses that should exist between nodes. The application of hard and fast rules is not appropriate as each area of the City is unique and has specific conditions and limitations that must be addressed.

The ideal commercial node development pattern thus would consist of commercial land located at the intersection of arterial and/or collector streets in a relatively compact manner. For purposes of this policy, “compact,” relates to the form and interrelatedness of the commercial land uses within the commercial node. The commercial node should not only extend along the roadway but should also incorporate property to the rear of the road frontage. Such a pattern is referred to as “depth.” The ideal pattern can be characterized by a 1:1 ratio of width to depth of the parcels (e.g., 100 feet of width per 100 feet of depth). Thus, the shape of the node can increase or decrease the potential for interrelatedness of uses. Increased depth also enables the development to accommodate adequate parking, buffering, retention, and open area for commercial development. Ideal commercial nodes provide limited access to the arterial roadway while providing interconnections between the various commercial uses within the node.

Policy 1.14: The City of Cape Coral’s commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Within this broad, general context, consideration of properties proposed for conversion to a commercial future land use shall be based upon the following commercial siting guidelines:

Commercial Siting Guidelines

Major Intersection

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a new, separate commercial property or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly

represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties.

Adequate Depth

Ideally, a commercial property should extend not only along the adjacent collector or arterial roadway, but also should extend inward with adequate depth to accommodate the necessary parking, buffering, retention, and open area for the future commercial development. In Cape Coral, most City blocks are rows of back-to-back lots approximately 250 feet deep. Therefore, adequate depth is achieved if any number of contiguous properties, occupy the entire 250 feet of depth.

Compactness

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

Integration

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

Assembly

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial developments that might serve the City as shopping and/or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product.

Properties proposed for conversion to a commercial future land use, where such properties

would represent an expansion of an existing commercial area may be considered “assembled,” for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

Intrusion

“Intrusion,” as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no hard and fast guidelines for determining when a proposed commercial use would be intrusive to surrounding development. However, expansions of existing commercial areas are generally considered less intrusive than the establishment of new commercial areas. Commercial areas may be considered less intrusive to adjacent multi-family development than to adjacent single-family development. Commercial development that is separated from a residential area by a street, canal, a vegetative buffer, or other geographic features, may be considered less intrusive than commercial development that directly abuts a residential area. The degree of compactness (see above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties (properties proposed for conversion to a commercial future land use classification, which do not abut existing commercial properties) are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While intrusion is subjective and depends on many factors, a rule of thumb is that the proposed commercial property would not likely be intrusive if adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

Access

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

- a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Development Code refer to these as “dedicated City parking areas.” These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City’s interest to promote

conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant's agreement to own and manage the site.

- b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

Ownership Pattern

An ideal commercial node is a cohesive, compact, interrelated network of commercial properties. Properties proposed for conversion to a commercial future land use, which properties consist of multiple parcels, or groups of parcels, under multiple ownership are unlikely to develop as a true "commercial node." Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development. Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

APPLICATION OF GUIDELINES:

Dual purpose

The dual purpose of the above guidelines is to direct commercial development to appropriate locations (commercial nodes) and to prevent the propagation of new strip commercial centers. The development of new strip commercial centers and the expansion of existing strip commercial centers should be discouraged.

Comparison to Ideal Commercial Node

In utilizing the above guidelines to evaluate a proposed commercial property, the City is, in effect, comparing each proposed commercial future land use location to the concept of an ideal "commercial node." While one of the above guidelines may sometimes be the primary factor in evaluating a potential commercial location, it is in most instances the combination of various factors that is important. It is the evaluation of this combination of factors, in order to develop an overall assessment of the subject property, which will enable Staff, the Planning and Zoning Commission and the City Council to determine whether or not the siting of a proposed commercial future land use on the subject property is consistent with the intent of the City's Comprehensive Plan.

In context with the remainder of the Comprehensive Plan

It is also important to note that consideration of the commercial siting guidelines is in addition to all other analyses required by Florida Statutes and the Florida Administrative Code for future land use map amendments. In addition to evaluating a property's consistency with the above guidelines, the City will continue to provide, or request applicants to provide, environmental and protected species analysis, transportation impact analysis and public facility capacity (concurrency) review for all future land use map amendments.

The commercial siting guidelines should be considered in light of all other factors typically evaluated within a future land use amendment request. Thus, a request, which results in an unfavorable evaluation of the commercial siting guidelines, may receive a favorable recommendation from staff, based upon other factors not considered by the guidelines. Likewise, staff may recommend denial of a project that receives a favorable evaluation of the guidelines, if other factors (again, not considered by the guidelines) appear not to be favorable.

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. Table 1 shows the zoning districts which are consistent with and implement the respective future land use map classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.

Table 1:

Future Land Use	Consistent Zoning Districts
Single-Family (SF)	R-1, RE
Single-Family and Multi-Family (SM)	R-1, RML, RMM, RE, A
Multi-Family (MF)	RML, RMM
Low Density Residential (LDR)	RE, A
Commercial/Professional (CP)	C, P
Mixed Use (MX)	ALL except MXB
Downtown Mixed (DM)	SC, MXB
Pine Island Road District (PIRD)	CC
Commercial Activity Center (CAC)	NC
Light Industrial (I)	I
Natural Resources/Preservation (PRES)	PV
Public Facilities (PF)	ALL
Parks and Recreation (PK)	ALL except MX7 and MXB
Open Space (OS)	PV

Planned Unit Developments are considered to be consistent in all future land use map classifications except Natural Resources/Preservation and Open Space.

- a. Single-Family Residential: Densities not to exceed 4.4 units per acre, except for micro-cottage communities. Densities in micro-cottage communities are restricted to 8.8 units per acre, for sites with a minimum of 3 acres.

The Single Family (R-1) District is proposed to permit a variety of single-family residential products including traditional single-family residences and micro-cottages.

- b. Multi-Family Residential: Densities up to 25 units per acre are permitted in this future land use map classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down. The development of multi-family projects in the Urban Services Reserve Area is also subject to the terms of Policies 7.7 and 7.8, below.

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects (three or more units only), single-family residences, and duplexes are also permitted in this zoning district.

The Residential Multi-Family Medium (RMM) District is designed to permit higher-density multi-family residential development. Lower-density, multi-family residential projects such as duplexes or single-family residences are not permitted in this zoning district.

~~Multi-family residential developments in this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

- c. Commercial/Professional: Intensities of use in the Commercial/Professional (CP) land use classification shall not exceed a floor to lot area ratio (FAR) of 1.0. Zoning districts compatible with this classification may also be used in conjunction with the Mixed Use (MX) future land use classification. When used in conjunction with the MX Classification, densities, intensities and other parameters, as described for these districts may differ from those described for the CP Classification. Permitted uses will ultimately depend upon the zoning district of the subject parcel. Generally, two zoning districts are consistent with the Commercial/Professional future land use classification, identified below. However, the City may develop additional zoning districts, compatible with the CP future land use classification, in the future.

The Professional (P) District is designed to provide professional office and other compatible development in areas that are suitable for such activities. The P District is appropriate for development of both small-scale and large-scale office or professional development projects, or projects containing uses compatible with such development. The intensity of development within this district is based upon the size (including width, depth, and compactness) and location of the property, as well as on compatibility with adjacent future land use classifications and zoning districts.

The Commercial (C) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C District range from a variety of small or

neighborhood-based commercial uses to larger retail or service uses, which may serve a relatively large trade area and, which may be developed as major shopping facilities. As many commercial uses have the potential to generate relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred locations for the C District have direct access onto arterial or collector roads and adequate depth (a minimum of 250 feet) for larger- scale development.

In certain locations, fragmented ownership of relatively small properties, or other factors, may preclude the creation of larger properties with access onto a collector or arterial roadway. Under such circumstances, it may be appropriate for the C Zoning District to place additional limits on the intensities of commercial development on these properties. It may also be appropriate, under certain circumstances to place restrictions on some commercial uses, such as those with high trip generation rates, adverse aesthetic attributes, and generation of disturbing noises or odors. Factors to consider when establishing such limits on intensities or uses include the following: the depth of the property, whether the property is adjacent to a waterway, whether the property is adjacent to or proximate to future land use classifications or zoning districts that allow residential uses, or the functional classification of street(s) available for street access. The placement of limitations upon the types and intensities of uses allowed within the C Zoning District, in accordance with the factors described above, is intended to reduce conflicts between the C District and adjacent or nearby residential zoning districts.

- d. Light Industrial: Shall not exceed a floor to lot area ratio of 1.0.
- e. Mixed-Use: The mixed-use designation is intended to encourage the development of planned projects that include more than one type of use. The maximum permitted densities/intensities of various uses within the mixed-use designation will be 25 dwelling units per acre for a residential component and 1.0 FAR (Floor Area Ratio) for nonresidential uses. For example, a project combining multi-family and commercial uses would be subject to Policies 1.15.b. and/or 7.7 for the multi-family portion, and Policy 1.15.c. for the commercial portion.

The following will control the mix of uses allowed in the Mixed-Use Land Use category.

Properties less than one (1) acre: The designation of smaller properties as Mixed-Use is desired to encourage the accumulation of land into large properties. However, in some cases assemblage is difficult due to existing development. In these situations, a property with a Mixed-Use future land use classification may be developed with one use, which is also consistent with its underlying zoning district.

Properties one (1) acre and greater: Larger properties are prime candidates for mixed use developments. These properties shall include more than one type of use. The mix of uses may include residential, retail, office, services, light industrial or public facilities. Such uses may be mixed horizontally on a site or may be within a compound use building, (i.e. differing uses within one building or structure) consisting of residential and retail office, or services. For Mixed-Use developments

adopted after October 23, 2010, retail, office, services, light industrial, or public facilities uses may be developed up to 100% of building floor area within a Mixed-Use property; this will have the intended effect of not requiring a mix of non-residential uses for properties one (1) acre or greater in size. Stand-alone residential uses may comprise up to 20% of site area of a Mixed-Use property one (1) acre or greater in size. Compound use residences are permitted.

Notwithstanding any provisions that may be interpreted to the contrary, Mixed-Use developments approved prior to October 23, 2010 may continue to abide by the development requests granted within their respective adopted development orders or approved site plans. Furthermore, Mixed-Use properties located in the Urban Services Reserve Area require three (3) acres in order to develop a mixed-use project. Mixed Use designated property in the Urban Reserve Services Area less than three acres is limited to a single use that does not generate an estimated flow of more than 880 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended.

~~Multi-family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

- f. Single Family and Multi-Family: The densities and intensities of use for this category, which is exclusively within the Urban Services Reserve Area, are 4.4 dwelling units per acre for single-family residential uses, 6 units per acre for multi-family residential uses on sites less than 3 acres. Multi-family residential uses for properties between 3 and 19.99 acres have a maximum density of 16 units per acre. Multi-family residential uses for properties greater or equal to 20 acres have a density of 25 dwelling units per acre.

~~Multi-family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

- g. Natural Resources/Preservation: The areas designated on the Comprehensive Plan's Future Land Use Map for Natural Resources/Preservation primarily consist of State-owned and/or regulated land. Development in these areas is limited to activities to make them accessible to the public for research and/or recreational purposes. Such activities would include accessways, nature trails, informational signs or displays, restroom facilities, picnic tables/shelters, beaches and boat ramps.

Privately-owned properties with this future land use map classification may develop at a density of one dwelling per 20 acres.

- h. Public Facilities: The majority of the public facilities category consists of schools, public safety buildings, and religious establishments. Government offices must conform to the Commercial/Professional densities/intensities of use.
- i. Parks & Recreation: The densities/intensities of use for various parks and recreational facilities are those established in the Recreation and Open Space

Element of this Comprehensive Plan, under the Section entitled "The Plan for Recreation and Open Space in Cape Coral" and the Parks Master Plan.

- j. Historical Resources: As noted in the Comprehensive Plan, most identified historic resources are located within the Natural Resources/ Preservation land use designation, and are therefore subject to the densities/intensities of use specified in Future Land Use Element Policy 1.13g.

- k. Downtown Mixed: Intended primarily for the Downtown Community Redevelopment Area, to provide, a vibrant, walkable, mixed-use district in the historical heart of Cape Coral, mixed-use projects containing commercial and professional uses in conjunction with multi-family housing opportunities where practical and feasible are encouraged. To this end, commercial/professional uses may develop at a maximum Floor Area ratio of four (4) with an average area-wide FAR of two and twenty-three one hundredths (2.23) with commercial/professional uses developed at a ratio of sixty-five (65) percent commercial and thirty-five (35) percent professional, on an area-wide basis. Residential development may develop at a density of ~~seventy-five (75)~~ one hundred twenty-five (125) dwelling units per acre, not to exceed an aggregate of eleven thousand one hundred forty-six (11,146) dwelling units. In order to maintain these development limits, the City shall track residential and non-residential development within this future land use map classification. No further residential development will be permitted in this future land use classification should dwelling unit limits be reached. If the average area-wide FAR of two and twenty-three hundredths (2.23) is reached, the City will permit only that nonresidential development with a FAR of 2.23 or below. Development at these intensities and densities are contingent on the availability of centralized city utility services and transportation network at sufficient capacities to accommodate the development at the appropriate level of service, the availability of sufficient and convenient parking to service the project, the availability of multimodal transportation opportunities, and compatibility with adjacent existing and future land use. Special zoning designations may be established to implement this future land use classification, designed to result in a compact urban form.

Zoning districts consistent with the Downtown Mixed future land use map classification are the South Cape Downtown District and the Mixed-Use Bimini Basin zoning district.

- l. Pine Island Road District: This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road.

Corridor: Includes such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single-family residential, multi-family residential, larger scale commercial retail (big box stores over 50,000 square-foot) and government uses such as parks and public facilities. Multi-family residential uses may be developed at a density of twenty-five units per acre, for sites of four acres or more. Multi-family residential uses may consist of no less than fifty units or have a density no less than ten or more units per acre. No duplexes are permitted. Commercial and light manufacturing uses shall not exceed

a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Policy 1.15.h., of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.i. of the Future Land Use Element.

~~Multi-family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

At build-out, the mix of uses along the Pine Island Road District shall be under the following ranges:

Pine Island Road District. Build-Out Mixed-Use Ranges

RANGE			
Use	Units	From	To
Retail	SF	3,583,500	4,379,700
Office/warehouse/ light manufacturing	SF	1,144,800	1,582,500
Hotels	Rooms	700	790
Residential	Units	3,720	5,030

The criteria to be used for evaluating proposed Commercial Corridor zonings in relation to the intent of the City Comprehensive Plan, the Pine Island Road Master Plan and other planning principles are contained in the following tables:

Commercial Corridor Criteria

CRITERIA	PERFORMANCE
1. Does the property abut an existing and developed corridor zoned area?	If yes, good candidate for Corridor zoning.
2. Does the property abut corridor-zoned area on two sides or more?	If yes, good candidate for Corridor zoning.
3. Is the property part of a larger tract, a portion of which is already zoned Corridor?	If yes, good candidate for Corridor zoning.
4. Is the parcel a large-lot assemblage of three or more acres?	If yes, good candidate for Corridor zoning.
5. Does the property front Pine Island Road on at least 180 feet?	If yes, good candidate for Corridor zoning.

- m. Commercial Activity Center (CAC): The purpose of this future land use classification is to promote non-residential and mixed-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral in areas where a mix of uses may be developed. The Commercial Activity Center classification is a mixed-use classification designed to minimize the need for vehicle trips through the development of both residential and non-residential uses in a single project. Furthermore, the purpose of the Commercial Activity Center is to integrate all uses through landscape, site, and architectural design standards. In addition, the Commercial Activity Center land use classification is intended to provide locations that offer employment opportunities and daily goods and services to the local community and, in some instances, attract patrons from the region. Commercial Activity Centers are intended to be pedestrian friendly and interconnected with adjacent projects – whether residential or non-residential.

Pre-Existing Single-Family Residences Allowed

It is the desire of the City of Cape Coral to protect the rights of owners of single-family homes located within a Commercial Activity Center (CAC), which homes had either:

- a) Been lawfully constructed, or had applied for or received a building permit at their current locations prior to the designation of the subject as part of a CAC future land use classification; or,
- b) Been lawfully constructed, or had applied for or received a building permit at their current locations under a former CAC future land use classification.

In this classification single family residences that meet the criteria stated above may continue to be maintained, remodeled, expanded, or rebuilt, and that the owners of

such properties may continue to enjoy all of the rights, privileges and responsibilities of home ownership, including the ability to sell or rent their homes to other parties. In and of themselves, pre-existing single-family residences do not necessarily constitute **Free-Standing Residential** development, unless they otherwise meet the criteria for such development, as discussed under **Use Area Allocations**, below. If pre-existing single-family residences, as defined in this section, are included as part of a larger approved development project, the pre-existing status of the residences is lost, and such residences become subject to the City Land Development Code regarding non-conforming structures.

The City has adopted the Neighborhood Commercial (NC) zoning district as consistent with the Commercial Activity Center Future Land Use Classification. Development standards in accordance with the Neighborhood Commercial zoning district are as follows:

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units <u>25-16</u> d.u./acre	25%-80% 12 d.u./acre or 75 units <u>25-16</u> d.u./acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre or 50 units <u>25-16</u> d.u./acre 2.0	0-100% 12 d.u./acre or 75 units <u>25-16</u> d.u./acre 2.0
Build-to / Front Setback	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Side Setback	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6

Additional zoning districts may be developed in the future to implement this land use initiative.

~~Multi family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

- n. Low Density Residential: This land use classification allows for a maximum density of one (1) dwelling unit per 40,000 square feet, excluding right-of-way.

- o. **OPEN SPACE (OS):** The Open Space Future Land Use Classification is designed to designate, with the consent of the property owner, areas for purposes or activities having no dwelling units, non-residential floor area or demand for public facilities. Areas suitable for designation under this classification include, but are not limited to, the following: lakes or other waterways not platted as rights-of-way, which may be used for recreational purposes; stormwater treatment facilities; buffer areas; preserves or conservation areas; or recreation areas having no access except by owners, guests or employees of the surrounding development project. Areas included within this future land use classification used for recreation may have amenities, including, but not limited to, boat ramps, piers, docks, open-sided picnic shelters, gazebos or pavilions. Floor areas of any such structures shall not be considered as non-residential floor area, and may not be used to support the sale or rental of any items; nor may such structures be used for office or administrative purposes. No commercial use shall be made for any recreational facilities located within the Open Space Future Land Use Classification.

Paving of areas within this future land use classification shall be limited to the construction of foot paths and floors for open-sided shelters or pavilions, basketball, tennis or other recreational courts (however, no such courts shall have associated spectator seating or administrative/maintenance structures), as well as paving associated with minimal parking areas, boat ramps, piers, docks, open-sided picnic shelters, gazebos or pavilions. Lands or areas within this future land use classification shall not be used as parking for residential, commercial or industrial areas, although minimal onsite parking, including an access drive, may be allowed to facilitate recreational use of lands under this future land use classification, or to serve as parking for nearby properties that are within the Natural Resources/Preservation Future Land Use Classification.

All zoning districts are considered compatible with this future land use classification. However, this future land use classification allows only those activities that are consistent with this classification, as delineated above, and, which have no associated density, intensity, or demand for public facilities.

- p. **Sub-Districts:** In addition to the regulations listed above, the City of Cape Coral also has sub-districts, as a means to efficiently regulate development in particular areas of interest. These sub-districts include:

Tyson Shores Sub-District

Within the Tyson Shores Sub-District, development shall be limited to a maximum of 115 dwelling units. All property within the Tyson Shores Sub-District shall be entitled to a proportional share of the 115 dwelling units; however, the development rights may be transferred among any properties within the Tyson Shores Sub-District through mutual agreement of the affected property owners, as long as the density is consistent with all Land Development Code and other provisions of this Plan. This limitation may be amended when central water and sewer service is available to serve the site.

Judd Creek Sub-District

Within the Judd Creek Sub-District, development shall not exceed 16 dwelling units per acre on lands with a future land use map designation of Multi-Family. The number of residential dwelling units cannot exceed 1,170 units. Non-residential intensity on lands with a future land use map designation of Pine Island Road District shall not exceed 250,000 square feet of gross leasable floor area. All lands within the Judd Creek Sub-District with a future land use map designation of Pine Island Road District shall be entitled to a proportional share of the 250,000 square feet of gross leasable floor area; however, the development rights may be transferred among any properties within the Judd Creek Sub-District with a future land use map designation of Pine Island Road District through mutual agreement of the affected property owners, as long as the intensity is consistent with all Land Development Code and other provisions of this Plan. These limitations may be amended in the event that roadway network improvements are made that would allow development beyond these limitations without degradation of roadway level of service below the adopted level of service.

Paradise Preserve Sub-District

Within the Paradise Preserve Sub-District, development shall be limited to a maximum of 420 dwelling units. All property within the Paradise Preserve Sub-District shall be entitled to a proportional share of the 420 dwelling units; however, the development rights may be transferred among any properties within the Paradise Preserve Sub-District through mutual agreement of the affected property owners, as long as the density is consistent with all Land Development Code and other provisions of this Plan.

Seven Islands Sub-District

Within the Seven Islands Sub-District, development shall be limited to a maximum of 995 dwelling units and 110,000 square feet of non-residential development. A hotel of no more than 240 rooms is also permitted in addition to the aforementioned non-residential square footage. Development rights within the Sub-District may be transferred among any properties within the Seven Islands Sub-District through mutual agreement of the property owners.

This Sub-District shall be placed within the Mixed-Use future land use map classification but is not subject to Mixed-Use future land use map classification baseline densities and intensities found within Policy 1.15.e and Policy 1.23. Mixed use development is required within the Seven Islands Sub-District. Development within the Seven Islands Sub-District shall not require a PDP.

The location of the Sub-District is legally described as:

Parcels of land lying in Sections 12 and 13, Section 44 South, Range 22 East, Lee County, Florida; and being more particularly described as follows:

All of Lots 12 through 17, Block 6400;
All of Tract “G” and all of Lots 1 through 5, Block 6401;
All of Tract “F” and all of Lots 1 through 7, Block 6402;
All of Tract “E” and all of Lots 1 through 4, Block 6403;
All of Tract “D” and all of Lots 1 through 3, Block 6404;
All of Tract “C” and all of Lots 1 and 2, Block 6405;
All of Tract “B” and all of Lots 1 through 7, Block 6406;
All of Tract “A” and all of Lots 1 through 8, Block 6407;
All of Tract “I” and all of Lots 1 through 4, Block 6408;

All as shown on the Plat of Cape Coral, Unit 76, The Islands, recorded in Plat Book 35 at Pages 121 through 129 of the Public Records of Lee County, Florida. Subject to Easements, Reservations, and Restrictions of record.

q. Council-adopted Vision Plans

Exemptions to the development requirements are permitted for master plan or vision planning efforts that meet the following criteria:

1. The master or vision planning effort must be adopted by resolution or ordinance by the City Council.
2. Property in question is city-owned at the time of the master or vision planning effort. Transfers of property or public-private partnerships occurring after the planning effort must contain a clause requiring the future property owner(s) or developer(s) to abide by the adopted master or vision planning effort.
3. The master or vision planning effort must have had no fewer than two (2) public hearings discussing the provisions of the plan. Residents living within 500 feet of a property considered for a master or vision planning effort shall receive notice of these public hearings in the same manner as a rezoning for future land use map amendment.
4. The minimum size of the area subject to the master or vision planning effort is twenty (20) acres.
5. At a minimum, the master or vision planning effort must address the following impacts of the planning effort on the property and surrounding area.
 - a.) Transportation Impacts
 - b.) Environmental Impacts
 - c.) Utility Capacity Availability
 - d.) Public Safety Availability
6. Development options approved by Council through a master or vision planning effort may result in densities and intensities greater than those permitted elsewhere in Policy 1.15. In such instances, staff will establish a Sub-District on the Future Land Use Map and depict specific development limits for the site in the Future Land Use Element.

7. Changes to the adopted master or vision planning effort shall occur through a public hearing process identical to s.166.041(3)(c)2, F.S.

Policy 1.16: Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address the location and extent of both residential and non-residential land uses in accordance with the Future Land Use Map and the policies and description of types, sizes, densities, and intensities of land use contained in the "Future Land Use Map" section of this Element.

Policy 1.17: Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses.

Policy 1.18: Vested Rights. In circumstances in which constitutionally protected property rights or valid development expectations conflict with the City of Cape Coral Comprehensive Plan and judicially defined principles of equitable estoppel may override otherwise valid limitations imposed by the Plan, such property rights or expectations may be recognized by the Cape Coral City Council, acting by resolution after review and recommendation by the Cape Coral Planning & Zoning Commission/Local Planning Agency, on a case-by-case basis.

Such development expectations are exclusive to the following:

1. A development order issued prior to adoption of the Cape Coral Comprehensive Plan including Planned Unit Development, Planned Development Project, special exception, and site plan approvals which have been expressly approved by the City Council in writing and where construction has been or is being diligently pursued pursuant to such approval.
2. A development or project that has been issued a valid building permit prior to adoption of the Cape Coral Comprehensive Plan (February 13, 1989) which has commenced construction and is continuing in good faith.

Nothing in the Cape Coral Comprehensive Plan shall limit or modify the rights of any person to complete any development that has been authorized as a Development of Regional Impact pursuant to Chapter 380, Florida Statutes.

Policy 1.19: The City will adopt urban corridor design guidelines and special land use regulations along the City's roadways, which serve as entry points to the City. These guidelines and regulations will identify specific signage and setback requirements, and other regulations, which will serve to prevent visual and physical blight along specified roadways. The City has adopted guidelines within the Community Redevelopment Area, which may serve as an example for future corridor design guidelines.

Policy 1.20: The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways.

Policy 1.21: The need for additional educational facilities and programs in the City of Cape Coral will be met through cooperation between the City and the Lee County School Board. Prospective sites shall first be evaluated on projections of residential growth in the area, the ability to serve the current school age population, and transportation needs for use of the site. The City of Cape Coral will then coordinate with the Lee County School Board to evaluate the list of prospective sites to avoid impacts on unique or regionally significant natural systems, to avoid the placement of new public facilities within the Coastal High-Hazard Area, and to ensure compatibility with adjacent land uses and concurrency with other necessary urban services.

Policy 1.22: The City of Cape Coral shall continue to coordinate land use policies with hazard mitigation reports generated in the aftermath of a natural or manmade disaster. Furthermore, the City will continue to coordinate with other local agencies in the placement of public buildings, such as schools, in order to ensure that such buildings are not placed within the Coastal High-Hazard Area. Finally, the City may also consider measures designed to reduce potential hazards to life and property within the Coastal High-Hazard Area. Such measures may include reduction of densities in the Coastal High-Hazard Area, public acquisition of land, increased building requirements, or any other appropriate policies recommended in future hazard mitigation reports, or otherwise determined by the City Council to be warranted.

Policy 1.23: Based upon increased awareness of the difficulties associated with pesticides, herbicides, water quality, and habitat loss, the City has determined that all new golf courses should be developed in a manner that is sensitive to environmental and ecological quality. New golf courses throughout the City will be developed as Planned Unit Developments in accordance with the City of Cape Coral Land Development Code. Additionally, new golf courses will be developed following the Florida Department of Environmental Protection's Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007, and be designed, constructed, certified, and then managed in accordance with the Audubon International Signature Program. Exempted from these regulations are former and existing golf course facilities in Cape Coral, otherwise known as the Coral Oaks Golf Course, Executive Golf Course, and the Palmetto Pine Golf Course. The term "golf course facilities" refers to all properties used in the operation and maintenance of golf courses, including, but not limited to, fairways, greens, bunkers, driving ranges, pathways, parking lots, clubhouses, and pro shops. The foregoing exemption from Policy 1.24 shall apply in perpetuity and run with the land.

To further ensure a high standard of golf course development in Cape Coral, natural waterways shall be left in a natural, unaltered condition and shall not be channelized, provided:

- i. If a crossing for a natural waterway, water body, or flow way is proposed, it must be designed, to the greatest extent practicable, to minimize the removal of trees and other shading vegetation;
- ii. Golf cart crossings must be designed to be permeable, be no wider than eight feet, and placed on pilings from edge of floodplain to edge of floodplain;
- iii. Created or restored flow ways and water bodies may be crossed by

bridges or culverts, or a combination thereof, if approved by the South Florida Water Management District;

iv. An existing natural waterway may not be excavated for new lakes or ponds;

v. Upland ponds must not expose stream channels to an increase in either the rate or duration of floodwater, unless otherwise required by the South Florida Water Management District in order to further regional water management objectives.

All fairways, greens, and tees are elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from these underdrains must be pre-treated prior to discharge into the balance of the development's water management system.

Further, to ensure water conservation, golf course irrigation systems must utilize computerized irrigation programs based on weather station information and moisture sensing systems to determine existing soil moisture and evapotranspiration rates so as to provide water efficient zone control. Where re-use water is available, new golf courses will, to the greatest extent practicable, utilize such re-use water for irrigation purposes.

Design of new golf courses will protect wildlife by: 1.) maintaining natural wildlife habitat in at least 50% of all minimally used portions of the property; 2.) connect natural areas as much as possible to improve wildlife movement throughout the golf course and from the course to neighboring natural areas; 3.) maintain a water source for wildlife with aquatic plants and shrubbery or native landscaping along the shoreline; 4.) naturalize at least 50% of out-of-play shorelines with emergent aquatic and shoreline plants; and 5.) maintain nesting boxes or other structures, when appropriate, to enhance nesting sites for birds or bats.

A Construction Management Plan will be required prior to new golf course development in accordance with the Florida Department of Environmental Protection's Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses.

New golf courses shall be monitored annually in the following areas:

- a. Surface and groundwater monitoring requirements
- b. Construction monitoring: Annual reports detailing construction activities, permitting, compliance with Audubon International Signature Standards and percent of project completed.
- c. Land management activities: Including those used on the golf course, as well as natural and preserve areas.
- d. Wildlife monitoring: An inventory of wildlife, wildlife activity, and wildlife management activities.
- e. Irrigation monitoring: A summary of the monthly irrigation withdrawal and irrigation sources.
- f. Mitigation/vegetation monitoring: Status reports on the viability of any mitigation or landscaping conducted on-site and an inventory of all fertilizers used for golf course and non-golf course areas maintained during the year.
- g. Integrated pest management monitoring: Provide a discussion on

the pest management techniques, and any pest problems that have occurred on the project.

h. If surface and/or groundwater monitoring shows degradation of water quality the City will notify the property owner that a plan, to correct the identified problem(s), must be submitted. The property owner must submit a plan of action within 30 days after receipt of written notice from the City. The plan must identify actions that will correct the problem(s) within the shortest possible time frame. This plan will be reviewed and must be found to be acceptable by the City. If the plan is not submitted as required, or is found to be unacceptable by the City, the City will require that all activities on the property cease until a plan is submitted and approved. The approved plan must be implemented by the property owner. If the City determines that the approved plan is not being implemented properly, the City can require that all activities on the property cease until the property owner comes back into compliance.

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

Policy 2.1: The City shall encourage commercial development where it can efficiently use infrastructure, where their adverse impacts on adjacent uses are minimized and where they will effectively provide the community with desired products, services and employment opportunities.

OBJECTIVE 3: Development of Quality Commercial Centers: The City encourages development of quality commercial (retail, office, and/or services) centers on property that meets the recommended land configuration for such commercial centers and that is located proximate to an adequate trade area, relative to the size and character of the center, and necessary to ensure economic viability.

Policy 3.1: The City of Cape Coral will encourage the development of future commercial (retail, office and/or services) areas at or near transportation nodes by assigning appropriate future land use designations.

Policy 3.2: The size, location and function of commercial areas shall be related and central to the population, market area and the transportation network system. The distribution and size of commercial areas shall be spatially located to meet neighborhood, community and regional needs and to reduce vehicle trip lengths.

Policy 3.3: Application of the commercial areas along and proximate to commercial corridors at key locations is intended to address the projected demand for commercial development as summarized in the Table below, or other subsequent analysis.

Commercial Centers by Corridor					
<u>Corridor Name</u>	Total Projected Demand For Commercial Acres of Land	Neighborhood Shopping Center	Community Shopping Center	Power Center	Regional Shopping Center
Burnt Store Road	295	2	2*		
Del Prado Boulevard North	307	1	2*		
Del Prado Boulevard South	243	2	2*		
Chiquita Boulevard South	129	0			
Chiquita Boulevard North	129	2			
Cape Coral Parkway (east of Palm Tree)	144	1			
Cape Coral Parkway (west of Palm Tree)	94	1	1*		
Santa Barbara North	120	2	2*		
Santa Barbara South	56	0			
Santa Barbara (Formerly Juanita Boulevard)	79	1	1*		
Veterans Parkway	189	2	1*	1	
Kismet Parkway	151	1			
Skyline Boulevard	148	2			
Diplomat Parkway	136	2			
Tropicana Parkway	117	1			
Cultural Park Boulevard	109	0			
Hancock Bridge Parkway	85	0			
Andalusia Boulevard	75	0			
Embers Parkway	73	0			
Nicholas Parkway	50	0			
Viscaya Parkway	27	0			
Pine Island Road	399(1) 299	3			2

Source: Based on information from the Commercial Corridor Study, dated April 30, 2003, City of Cape Coral, Planning Division (2003)

(*) Asterisk indicates that the center has a dual function as a community commercial center and neighborhood commercial center.

There may be more than one Super Community/Power Center in the City of Cape Coral.

(1) Adjusted on pro rata basis for incorporation of a regional commercial center on Pine Island Road

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

Policy 3.5: Commercial development shall include bicycle parking areas, and when appropriate, bus bays and bus shelters in order to encourage alternative transportation modes.

Policy 3.6: The City will adhere to the Pine Island Road Corridor Master Plan to provide guidance, standards, and to direct growth and development along the Pine Island Road Corridor.

Policy 3.7: The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project.

Policy 3.8: The City of Cape Coral may develop other zoning districts that are compatible with the Commercial/Professional future land use classification.

OBJECTIVE 4: Location of Future Development: Future private development requiring public water and wastewater will be directed into the Urban Services Infill Area and the Urban Services Transition Area illustrated on the Future Land Use Map, unless specifically accepted by the provisions of this plan.

Policy 4.1: Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas.

Policy 4.2: Exemption from the provisions of Policy 4.1 will be made only in extraordinary cases where the physical size, potentially disruptive nature, or geographic needs of the project would make strict adherence unreasonable. These projects include developments of regional impact, utilities plants, airports, public schools, technical schools, community colleges, parks and other government facilities.

Policy 4.3: The City will continue to periodically review its Economic Development Master Plan to identify emerging trends and encourage large-scale commercial, professional, and industrial types of development within the City.

Policy 4.4: Completed and city-accepted private initiatives to utility service, such as on-site sewage treatment plants and developer-extended utilities, shall be considered as extensions to the Urban Services Transition Area.

OBJECTIVE 5: Extension of Infrastructure and Services in the Urban Services Infill Area: Infrastructure and community services will be extended to serve 100 percent of the anticipated functional population of the Urban Services Infill Area.

Policy 5.1: Land use regulations, whether adopted or revised pursuant to this plan, shall provide incentives to encourage infill of residential, commercial, and other appropriate uses within the Urban Services Infill Area and Transition Area.

Policy 5.2: The City will amend the Future Land Use Map using the plan amendment process, to annex Urban Services Transition Area lands into the Urban Services Infill Area as soon as those lands are found to be served with the adopted level of infrastructure and community services.

Policy 5.3: New commercial development shall meet all of the requirements for adequate facilities based on the level of service standards adopted for roads, potable water and sanitary sewer, solid waste, storm water facilities and other services in this plan.

Policy 5.4: In addition to the facilities for which level of service standards are adopted as part of the concurrency management system of this plan; other services that should be considered to serve new commercial and mixed-use development include fire, police and emergency medical protection.

OBJECTIVE 6: Extension of Infrastructure and Services in the Urban Services Transition Area: Infrastructure and community services will be extended to serve 100 percent of the anticipated functional population of the Urban Services Transition Area at the same level of service standards available within the Urban Services Infill Area.

Policy 6.1: Future extension of utilities will be located and timed to attain a reasonable balance between the following factors:

Protection of public health, safety, and welfare.

Protection of the environment from contamination.

Protection of potable water aquifers from excessive withdrawal and/or saline-water intrusion.

Projected population increases.

Enhancement of economic development resulting from the provision of services.

Continuity with the future plans for utilities within the extension area and adjacent areas.

Collection and distribution facilities will only be extended with consideration given to the capacities of the aquifers, water wells, treatment plants, or disposal facilities capacities to provide the adopted levels of service.

Property value and financial impacts on property owners.

Financial feasibility of the utility expansion.

Policy 6.2: The City will continue to identify a portion of the Urban Services Transition Area for future land banking opportunities.

OBJECTIVE 7: Development in the Urban Services Reserve Area: The City will discourage premature "leap-frog" development within the Urban Services Reserve Area.

Policy 7.1: The City will amend the Future Land Use Map through the plan amendment process to annex Urban Services Reserve Area lands into the Urban Services Transition Area as a prerequisite to the extension of infrastructure and community services. Amendments of this type may take place only after the Urban Services Infill and Transition Areas are reevaluated as a whole and the City determines that the additional land is appropriate in size and location to meet the needs of the projected population. Per Policy 2.3.3 of the Infrastructure Element, extension of centralized potable water and wastewater infrastructure services beyond the Urban Services Infill and Transition Areas may be undertaken if such services are provided by a developer, independent utility franchise, or through the developer-financed extension of City utilities.

Policy 7.2: The City will concentrate its long-range land acquisition and assembly efforts within the Urban Services Reserve Area.

Policy 7.3: The City will provide incentives to individual property owners, builders, and developers to assemble parcels of land for future private uses, and will encourage the use of zero lot line (ZLL) and cluster type of development to improve lot layout, drainage, and stormwater retention.

Policy 7.4: Developers of lands within the Urban Services Reserve Area, shall bear the costs of extending water and wastewater infrastructure if onsite systems are impracticable.

Policy 7.5: Reserved.

Policy 7.6: Notwithstanding any provisions in this element which may be interpreted to the contrary, the right to a development order to build one (1) single family dwelling unit in the Urban Services Reserve Area on a property of 10,000 square feet or more, or to build no more than 4.4 single family dwelling units per developable acre, shall be permitted for privately-owned lands if classified as Park and Recreation Facilities or Public Facilities on the Future Land Use Map.

Policy 7.7: As an incentive to the assembly, holding, and development of sizable tracts of land in the Urban Services Reserve Area, tracts of the following sizes may be developed at the following residential densities, subject to (i) adopted performance standards capable of allowing residential development at such densities; (ii) any applicable concurrency requirements; (iii) applicable standards of other governmental agencies; and (iv) any other applicable goals, objectives and policies in the Cape Coral Comprehensive Plan:

ACREAGE	DU/ACRE
3-4.99	8
5-9.99	10
10-14.99	12
15-19.99	14
20	16

Policy 7.8: Platted lots in the Urban Services Reserve Area zoned for Commercial or

Professional use prior to the February 13, 1989 Cape Coral Comprehensive Plan that are now designated for Residential use, if they (i) are below the minimum size for Residential use, and (ii) adjoin City-owned property, may be conveyed to the City for an impact fee credit that may be lawfully granted by the City equal to their fair market value at the time of conveyance, based on their Commercial or Professional zoning prior to the adoption of the February 13, 1989 Cape Coral Comprehensive Plan.

Policy 7.9: Development of properties or projects that have access to city utilities and are divided by or adjacent to the Urban Services boundary may be developed, at the density or intensity of land use as designated on the Future Land Use Map. Such development must proceed as one compact and unified development and shall be governed by the rules for development in the Urban Services Infill and Transition Areas and be subject to the intensities and densities of policy 1.16.

Policy 7.10: The City shall discourage illogical and inefficient leapfrog development, by encouraging and directing development to areas adjacent to section of the City served by existing centralized utilities, and that the extension of centralized utilities will abide by Policy 1.1.6 of the Infrastructure Element.

OBJECTIVE 8: Restrictions upon Incompatible Land Uses: The City will prohibit land uses which are incompatible or inconsistent with the Future Land Use Map.

Policy 8.1: The City will prohibit the expansion or replacement of land uses which are inconsistent with the Future Land Use Element.

Policy 8.2: Land development regulations, adopted pursuant to s.163.3202, F.S., will require the buffering of incompatible land uses.

Policy 8.3: Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial developments (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive use of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored.

Policy 8.4: The City shall encourage transitions from commercial uses to less intensive land uses and site design that considers the following preferred characteristics to attain compatibility with adjacent residential uses:

- a. Site Orientation
 - i. Vehicular access should be from a collector, arterial, access street, or an alley if the subject uses are located within the Downtown Community Redevelopment Area.

- ii. Pedestrian access should be designed to provide internal and external circulation from adjacent neighborhoods.
 - iii. Streets should be designed with elements to provide visual or physical buffering may serve as boundaries between different intensities of land uses.
 - iv. Site improvements within commercial areas such as lighting, signage and landscaping should be designed and coordinated in order to create a positive identity and visual image throughout the development area.
- b. Site design should promote the preservation and integration of mature trees, natural vegetation, natural and environmentally sensitive areas whenever feasible.
 - c. Screening and landscaping
 - i. Creative and extensive use of landscaping and berming techniques for natural transitions between differing intensities of land uses is encouraged.
 - ii. Fences should not be used as a sole method of providing screening and buffering between differing intensities of land uses.
 - iii. The City shall review and revise landscaping and signage standards for commercial development to enhance the visual and physical environment to foster its integration of other land uses.
 - d. Lighting used to illuminate parking areas, signs or structures should be placed and designed to deflect light away from adjoining property or public streets through fixture type, height, orientation and location.

Policy 8.5: The City encourages the use of multi-family residential, compound buildings, professional offices, and parks as transitional uses between commercial development and low-density residential neighborhood. Such development should include:

- a. Design elements such as: height and scale compatible with the surrounding residential uses;_
- b. Site design that is compatible with surrounding residential neighborhoods with consideration given to extensive screening, architectural features, building and parking orientation, and preservation of natural features; and
- c. Primary site access provided from arterials, collectors or access streets in order to discourage traffic from directly entering residential areas.

Policy 8.6: Commercial developments and compound buildings shall be encouraged to preserve substantial areas of natural vegetation.

OBJECTIVE 9: Coastal Development: The City will coordinate coastal area population densities with the Southwest Florida Comprehensive Hurricane Evacuation Plan.

Policy 9.1: The City will encourage the development of infrastructure in the northeastern portion of the community to take advantage of high elevations and opportunities for rapid evacuation.

Policy 9.2: The City will utilize the 2017 Climate Change Resiliency Strategy, and other strategies as updated, for the placement of public infrastructure in order to better prepare for sea level rise.

OBJECTIVE 10: Charlotte Harbor Management Plan: The City will coordinate its planning efforts with the provisions of the Charlotte Harbor Management Plan.

Policy 10.1: Requests for development orders and building permits will be coordinated with governmental agencies including, but not necessarily limited to, Lee County, Charlotte County, the Regional Planning Council, the South Florida Water Management District, and other State and Federal agencies.

OBJECTIVE 11: Protection of Marine, Estuarine, and Upland Environments: Cape Coral will continue to protect marine and estuarine communities and will continue its protection to include the ownership and maintenance of a significant example of an upland ecological community.

Policy 11.1: The City will own and maintain a minimum of 200-acre tract of upland for use as a major park emphasizing passive recreation and nature study.

Policy 11.2: The City will continue to use inland sites for dredge spoil to protect marine and estuarine communities. The identification of subsequent spoil sites will begin within two years of the existing site reaching capacity.

OBJECTIVE 12: Protection of Historic Resources: The City will continue to identify all historic resources within the City's jurisdiction, and will adopt regulations to preserve and protect those resources for future enjoyment.

Policy 12.1: The Department of Community Development will be the designated body responsible for preserving the City's historic resources and the identification of historic homes and structures within the City's jurisdictional boundaries.

Policy 12.2: Cape Coral will continue to cooperate with State and Federal agencies to protect identified historical and archaeological resources from vandalism and desecration, and will preserve these resources in a manner which promotes an understanding of historic peoples and their times.

OBJECTIVE 13: Renewal of Blighted Areas: The City will pursue the redevelopment and renewal of blighted areas in the downtown area consistent with the provisions of the Community Redevelopment Area (CRA) plan.

Policy 13.1: The City will continue the redevelopment of the Community Redevelopment Area (CRA) in downtown Cape Coral according to the schedule of the CRA plan as adopted by Council.

Policy 13.2: The City will, as part of its CRA planning process, investigate innovative market opportunities to property owners in blighted areas to remodel, rebuild and replat their buildings and properties.

Policy 13.3: In order to encourage and facilitate development and redevelopment and the provision of housing, employment, service and shopping opportunities in a compact area currently served by public facilities, mixed-use development shall be allowed in the Downtown Community Redevelopment Area. Such mixed-use development shall conform to the Community Redevelopment Area Plan, as same may be amended, and shall be reviewed in accordance with the City's Land Development Code.

Objective 14: In order to promote the economic viability of Downtown Cape Coral, the City of Cape Coral shall establish the Downtown Transportation Concurrency Exception Area (Downtown TCEA). Establishment of the TCEA will enhance the ability of the City to undertake the following activities:

Urban redevelopment;

Urban infill development;

Increasing retail and commercial services, as well as employment opportunities within the downtown area, thereby reducing the City's reliance on travel across bridges to reach such land uses;

Providing residents of, and visitors to, the downtown area with a variety of transportation choices and opportunities including automotive, pedestrian, bicycle and transit;

The creation and implementation of desirable urban design and form in the downtown area;

The creation of a broader mix of residential and non-residential uses in the downtown area;

Implementing streetscaping and landscaping improvements in the downtown area;
and

Increasing comfort, safety and convenience for pedestrian, bicycle and transit users in the downtown area.

Policy 14.1: The City of Cape Coral hereby establishes the Downtown CRA Transportation Concurrency Exception Area (Downtown TCEA) to aid in the revitalization and redevelopment of the properties within the Community Redevelopment Agency (CRA) area. The purpose of the TCEA shall be to provide incentives for revitalization, infill development and redevelopment by eliminating or minimizing transportation concurrency requirements, in exchange for the implementation of sound land use and transportation planning techniques, which enhance mobility within the downtown area.

Policy 14.2: The City of Cape Coral Downtown CRA TCEA shall have boundaries as depicted on the Future Land Use Map. The general boundaries of the area are as follows: SE 44th Street and SE 46th Lane on the North, SE 17th Place, Waikiki Avenue, and the Caloosahatchee River on the East, Miramar Street, Bimini Basin Canal, and Norfolk Canal on the South, and Tudor Canal, Palm Tree Boulevard, Coronado Parkway and the alley in Block 396 on the West.

Policy 14.3: New development, redevelopment and infill development projects located within the City of Cape Coral Downtown Transportation Concurrency Exception Area (Downtown TCEA) may elect to be exempt from transportation concurrency requirements through implementation of the mitigation strategies described in Policy 14.5 of this Element. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project elects to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5, or elects to be subject to standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development.

Policy 14.4: The City of Cape Coral and the Cape Coral Community Redevelopment Agency (CRA) will work with Lee County Transit (LeeTran), or other local transit provider, and the Lee County Metropolitan Planning Organization (MPO) to expand and/or otherwise improve the public transportation system within the Downtown TCEA in an effort to reduce the demand on the existing transportation network by reducing the number of trips on the roadways within the Downtown TCEA.

Policy 14.5: In order to be exempt from link specific concurrency and to support mobility enhancement within the Downtown TCEA, all new development, redevelopment, or infill development projects may opt to incorporate any five of the following provisions:

Preferential parking for carpools, vanpools, and/or multiple occupancy vehicles with the object of increasing the average vehicle occupancy for trips generated by the development.

Parking price structures favoring carpools, vanpools, and/or multiple occupancy vehicles, with the object of increasing either the average vehicle occupancy for trips generated by the development, or increasing transit ridership.

Flexible work schedules for employees of the development, with the object of decreasing peak hour automobile trips generated by the development.

Payment of a subsidy to LeeTran to support an increased level of transit service within the TCEA.

Payment into one or more funds, to be established by the City or the CRA. Monies collected by such fund(s) shall be used to support programs and/or capital projects designed to provide additional parking and/or to enhance bicycle, pedestrian, and transit mobility within the TCEA.

The provision of transit shelters, built to City of Cape Coral specifications, within the development.

The provision of a safe and convenient internal pedestrian and bicycle circulation system within the development, including the placement of bicycle racks or bike lockers.

The provision of transit turn out lanes on heavily traveled roadways.

The provision of structured parking for use by residents, patrons and employees of the development.

Clustering buildings within the development, or otherwise designing the development to achieve maximum residential density or non-residential intensity at the development site in a manner, which preserves open space, enhances multi-modal opportunities and provides transit oriented densities or intensities.

Where feasible, the construction of new roadway or alleyway facilities to reduce congestion on major roadways and to provide alternate access to the development.

Any other innovative transportation related modifications or standards submitted by the developer and acceptable to and approved by the City of Cape Coral.

Objective 15: Downtown TCEA Administration: The City shall develop and implement strategies and programs designed to achieve the purposes of the City of Cape Coral Downtown CRA Transportation Concurrency Exception Area (TCEA).

Policy 15.1: The Community Redevelopment Plan for the Community Redevelopment Area (CRA) provides information regarding funding of redevelopment within the CRA. As provided for by Florida's Community Redevelopment Act, the principal source of funding for the Community Redevelopment Agency will be through the Tax Increment Trust Fund. Other sources of funding may include the sale or lease of acquired property, Enterprise Fund Revenue Bonds, one or more funds for mobility enhancement, as described in Policy 14.5, above, and Federal, State and Regional Grants.

Policy 15.2: In order to promote new development, redevelopment and infill development within the Downtown TCEA, funding for multimodal transportation modifications and identified improvements (not otherwise provided by the developer, as per Policy 14.5, above) will be provided to the maximum extent feasible by the City, the CRA, Lee County, state and/or federal governments, developers and other outside sources such as grant funds.

Policy 15.3: Within the Downtown TCEA, the City of Cape Coral and the Community Redevelopment Agency will continuously work to improve other forms of mobility such as pedestrian, bicycle and transit service and to implement connectivity between all modes so as to promote lower vehicular traffic.

Policy 15.4: The City of Cape Coral and the Community Redevelopment Agency will

implement sidewalk, or other pedestrian, and bicycle improvements to increase the Level of Service of these facilities within the downtown area. Pedestrian projects designed to increase the pedestrian level of service may include but shall not be limited to:

Construction of new or expanded sidewalk facilities to service streets or portions of streets not currently served by sidewalks;

A reduction in the number of physical obstructions within the sidewalk network;

Improvements to pedestrian crosswalk signalization;

The designation of one or more local streets as pedestrian only areas; and/or

The provision of shading, sitting areas and other streetscape amenities.

Policy 15.5: The City and the CRA will cooperate with Lee County Transit (LeeTran) to maintain/improve the transit facilities and transit level of service within the Downtown TCEA. In addition to developer-implemented strategies, as described in Policy 14.5 of this Element, strategies that may be implemented include, but may not necessarily be limited to, improving the density, intensity and mix of development in the downtown area, improving route headways, improving service time spans, and reducing the interval distance between stops.

Objective 16: The Cape Coral Downtown CRA Transportation Concurrency Exception Area (Downtown TCEA) will be administered in a manner that supports the Community Redevelopment Agency's goals concerning urban design, the preservation of open spaces, streetscaping and the removal of blighting factors.

Policy 16.1: With regard to open space and street layout within the Community Redevelopment Area, the intent of the City, in implementing the Downtown TCEA, is to create a high-intensity, yet pedestrian friendly, urban area that is served by multi-modal circulation systems, which are designed to ensure that visitors, employees, and residents can easily find their way, park, and enjoy their walk to their destinations.

Policy 16.2: Within the Downtown TCEA, the City shall utilize regulatory controls and incentives to provide appropriate limitations on the type, size, height and use of buildings in order to stimulate and attract private investment in real property and property improvements in the redevelopment area. Such investment and improvements will be directed toward the elimination of blighting factors, the improvement of the economic health of the City and the County, increasing employment opportunities within the downtown area, providing better services to residents, businesses, and tourists, and improving the tax base.

Policy 16.3: In regulating residential development (including, but not necessarily limited to, affordable housing) within the Downtown TCEA, the City will continuously seek to increase the number of people that both live and work downtown in order to promote the creation of pedestrian-friendly shopping areas, provide employment opportunities for downtown residents, and decrease automobile use in the downtown area.

Policy 16.4: In order to enhance the visual characteristics of roadways within the Downtown

TCEA, and to create an appealing environment that supports multi-modal transit opportunities, the City and the CRA will develop streetscaping guidelines and/or plans for roadways within the downtown area.

Policy 16.5: The City will include right of way and median landscaping as part of any major roadway modification program carried out within the Downtown TCEA.

Policy 16.6: The City of Cape Coral shall coordinate with the CRA, Lee County, and the Lee County Metropolitan Planning Organization to balance the need for and design of roadway improvements within the Downtown TCEA with the CRA's need for quality urban design concepts for all revitalization, redevelopment and infill development.

Policy 16.7: Land use intensities and densities within the Downtown TCEA shall be consistent with the goals objectives and policies of the City's Comprehensive Plan. In particular, Policy 1.15 (k) of this Element, describing the Downtown Mixed Future Land Use Classification, defines the allowable intensities and densities within the Downtown TCEA.

Objective 17: Downtown TCEA Network Connectivity: In implementing various mobility strategies and infrastructure projects within the Downtown TCEA, the City of Cape Coral and the Community Redevelopment Agency will seek to establish network connectivity within and between all modes of transportation within the downtown area.

Policy 17.1: In reviewing requests for vacation of streets within the downtown area, the City of Cape Coral shall consider the following:

Whether the loss of the street will adversely impact current or future bicycle/pedestrian mobility;

Whether the loss of the street will prevent access to adjacent land uses or transit stops; and,

Whether the loss of the street is necessary for the construction of high density, mixed use projects containing both residential and non-residential uses or projects that permit residential and non-residential uses to be constructed in close proximity to each other.

Policy 17.2: Within the Downtown TCEA, development plans for the placement of new parking structures and/or surface parking lots as a principal or accessory use shall:

Minimize conflicts between pedestrian, motor vehicle, and bicycle travel routes; and,

Utilize locations and designs, which discourage commercial vehicle access through residential streets.

Cape Coral City Council

July 22, 2019

ORDINANCE 23-19

TXT19-0001

Purpose

- **A City-initiated change to Policy 1.15, Future Land Use Element of the Comprehensive Plan**
- **Makes some changes amending language adopted in Ordinance 71-18**

Specifics

- **Removes affordable housing density doubling language**
- **Increases residential densities from 75 to 125 units/acre in the Downtown Mixed future land use**
- **Reduces residential densities from 25 to 16 units/acre in the Commercial Activity Center future land use**

Conclusion

- **This was transmitted to the state and regional agencies for their approval in May 2019**
- **No issues or objections were identified**
- **Staff recommends Adoption**
- **We have received no correspondence**
- **The Planning and Zoning Commission recommended unanimously to approve this ordinance on May 1, 2019**

Planning Division Staff Report

TXT19-0001

Review Date: March 1, 2019

Prepared by: Wyatt Daltry, AICP, Planning Team Coordinator

Request: Amends the Future Land Use Element in preparation for updates to the Future Land Use Map, Land Development Code, and Zoning Map.

STAFF RECOMMENDATION:

APPROVAL

Positive Aspects of Application:	<ul style="list-style-type: none">• Removes an unintended consequence connected to doubling densities for developments with a significant affordable housing component• Provides additional flexibility for development in the Downtown Mixed future land use map classification• Removes increased density within Neighborhood Commercial zoning, an as-yet unmapped district, and returns the density (16/acre) to its former level, limiting increased impacts of development
Negative Aspect of Application:	<ul style="list-style-type: none">• Amendment quickly follows up a major change to Comprehensive Plan (Ordinance 71-18), which may cause confusion
Mitigating Factors:	<ul style="list-style-type: none">• Adoption of updates to the Plan will better prepare the community for the 21st century.

Background

In 2016, the City embarked upon the overhaul and complete rewrite of the Land Use and Development Regulations (LUDR). During this time, the City recognized adoption of a new zoning code (LDC) that will require changes to the text of the Comprehensive Plan, the Future Land Use Maps, and the Zoning Map. Changes to the Comprehensive Plan through Ordinance 71-18 were adopted on February 4, 2019.

Some additional changes were identified not long after Ordinance 71-18 was adopted, and the proposed amendments address concerns that were raised. Fortunately, this request's timing in relation to the recent adoption to Ordinance 71-18, which is not in effect as of the time of this report, mitigates impacts on development and private-property rights.

The following section identifies and analyzes the policies affected by this amendment.

Summary and Analysis of the Proposed Changes by Element

Note: Additions are indicated in underline format, while deletions are indicated by ~~strikethrough~~.

FUTURE LAND USE ELEMENT

AMENDMENT 1: Removal of affordable housing doubling language in the following policies:

FLUE Policies 1.15.b, e, f, l, m

- b. Multi-Family Residential: Densities up to 25 units per acre are permitted in this future land use map classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down. The development of multi-family projects in the Urban Services Reserve Area is also subject to the terms of Policies 7.7 and 7.8, below.

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects (three or more units only), single-family residences, and duplexes are also permitted in this zoning district.

The Residential Multi-Family Medium (RMM) District is designed to permit higher-density multi-family residential development. Lower-density, multi-family residential projects such as duplexes or single-family residences are not permitted in this zoning district.

~~Multi-family residential developments in this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

...

- e. Mixed-Use: The mixed-use designation is intended to encourage the development of planned projects that include more than one type of use. The maximum permitted densities/intensities of various uses within the mixed-use designation will be 25 dwelling units per acre for a residential component and 1.0 FAR (Floor Area Ratio) for nonresidential uses. For example, a project combining multi-family and commercial uses would be subject to Policies 1.15.b. and/or 7.7 for the multi-family portion, and Policy 1.15.c. for the commercial portion.

The following will control the mix of uses allowed in the Mixed-Use Land Use category.

Properties less than one (1) acre: The designation of smaller properties as Mixed-Use is desired to encourage the accumulation of land into large properties. However, in some cases assemblage is difficult due to existing development. In these situations, a property with a Mixed-Use future land use classification may be developed with one use, which is also consistent with its underlying zoning district.

Properties one (1) acre and greater: Larger properties are prime candidates for mixed use developments. These properties shall include more than one type of use. The mix of uses may include residential, retail, office, services, light industrial or public facilities. Such uses may be mixed horizontally on a site or may be within a compound use building, (i.e. differing uses within one building or structure) consisting of residential and retail office, or services.

For Mixed-Use developments adopted after October 23, 2010, retail, office, services, light industrial, or public facilities uses may be developed up to 100% of building floor area within a Mixed-Use property; this will have the intended effect of not requiring a mix of non-residential uses for properties one (1) acre or greater in size. Stand-alone residential uses may comprise up to 20% of site area of a Mixed-Use property one (1) acre or greater in size. Compound use residences are permitted.

Notwithstanding any provisions that may be interpreted to the contrary, Mixed-Use developments approved prior to October 23, 2010 may continue to abide by the development requests granted within their respective adopted development orders or approved site plans. Furthermore, Mixed-Use properties located in the Urban Services Reserve Area require three (3) acres in order to develop a mixed-use project. Mixed Use designated property in the Urban Reserve Services Area less than three acres is limited to a single use that does not generate an estimated flow of more than 880 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended.

~~Multi-family residential developments in this future land use map classification that consist of 25-50%workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

- f. Single Family and Multi-Family: The densities and intensities of use for this category, which is exclusively within the Urban Services Reserve Area, are 4.4 dwelling units per acre for single-family residential uses, 6 units per acre for multi-family residential uses on sites less than 3 acres. Multi-family residential uses for properties between 3 and 19.99 acres have a maximum density of 16 units per acre. Multi-family residential uses for properties greater or equal to 20 acres have a density of 25 dwelling units per acre.

~~Multi-family residential developments in this future land use map classification that consist of 25-50%workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

...

- l. Pine Island Road District: This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road.

Corridor: Includes such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single-family residential, multi-family residential, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Multi-family residential uses may be developed at a density of twenty-five units per acre, for sites of four acres or more. Multi-family residential uses may consist of no less than fifty units or have a density no less than ten or more units per acre. No duplexes are permitted. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Policy 1.15.h., of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.i. of the Future Land Use Element.

~~Multi-family residential developments in this future land use map classification that consist of 25-50%workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

...

- m. Commercial Activity Center (CAC): The purpose of this future land use classification is to promote non-residential and mixed-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral in areas where a mix of uses may be developed. The Commercial Activity Center classification is a mixed-use classification designed to minimize the need for vehicle trips through the development of both residential and non-residential uses in a single project. Furthermore, the purpose of the Commercial Activity Center is to integrate all uses through landscape, site, and architectural design standards. In addition, the Commercial Activity Center land use classification is intended to provide locations that offer employment opportunities and daily goods and services to the local community and, in some instances, attract patrons from the region. Commercial Activity Centers are intended to be pedestrian friendly and interconnected with adjacent projects – whether residential or non-residential.

Pre-Existing Single-Family Residences Allowed

It is the desire of the City of Cape Coral to protect the rights of owners of single-family homes located within a Commercial Activity Center (CAC), which homes had either:

- a) Been lawfully constructed or had applied for or received a building permit at their current locations prior to the designation of the subject as part of a CAC future land use classification; or,
- b) Been lawfully constructed or had applied for or received a building permit at their current locations under a former CAC future land use classification.

In this classification single family residences that meet the criteria stated above may continue to be maintained, remodeled, expanded, or rebuilt, and that the owners of such properties may continue to enjoy all of the rights, privileges and responsibilities of home ownership, including the ability to sell or rent their homes to other parties. In and of themselves, pre-existing single-family residences do not necessarily constitute **Free-Standing Residential** development, unless they otherwise meet the criteria for such development, as discussed under **Use Area Allocations**, below. If pre-existing single-family residences, as defined in this section, are included as part of a larger approved development project, the pre-existing status of the residences is lost, and such residences become subject to the City Land Development Code regarding non-conforming structures.

The City has adopted the Neighborhood Commercial (NC) zoning district as consistent with the Commercial Activity Center Future Land Use Classification. Development standards in accordance with the Neighborhood Commercial zoning district are as follows:

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units 25 <u>16</u> d.u./acre	25%-80% 12 d.u./acre or 75 units 25 <u>16</u> d.u./acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre or 50 units 25 <u>16</u> d.u./acre 2.0	0-100% 12 d.u./acre or 75 units 25 <u>16</u> d.u./acre 2.0
Build-to/Front Setback	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Side Setback	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6

Additional zoning districts may be developed in the future to implement this land use initiative.

~~Multi family residential developments in this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.~~

An un-intended consequence of the proposed-to-be-removed language is the doubling of densities in areas, such as our Multi-Family and Single-Family/Multi-Family future land use map classifications, which are viewed as too dense even without this opportunity to double densities. The Cape Coral City Council has identified other avenues than density increases to attract affordable housing.

AMENDMENT 2: Increased maximum density within the Downtown Mixed future land use map classification to 125 dwelling units per acre:

FLUE Policy 1.15.k

- k. Downtown Mixed: Intended primarily for the Downtown Community Redevelopment Area, to provide, a vibrant, walkable, mixed-use district in the historical heart of Cape Coral, mixed-use projects containing commercial and professional uses in conjunction with multi-family housing opportunities where practical and feasible are encouraged. To this end, commercial/professional uses may develop at a maximum Floor Area ratio of four (4) with an average area-wide FAR of two and twenty-three one hundredths

(2.23) with commercial/professional uses developed at a ratio of sixty-five (65) percent commercial and thirty-five (35) percent professional, on an area-wide basis. Residential development may develop at a density of seventy-five (75) dwelling units per acre, or at a density of one hundred twenty-five (125) dwelling units per acre not to exceed an aggregate of eleven thousand one hundred forty-six (11,146) dwelling units. In order to maintain these development limits, the City shall track residential and non-residential development within this future land use map classification. No further residential development will be permitted in this future land use classification should dwelling unit limits be reached. If the average area-wide FAR of two and twenty-three hundredths (2.23) is reached, the City will permit only that nonresidential development with a FAR of 2.23 or below. Development at these intensities and densities are contingent on the availability of centralized city utility services and transportation network at sufficient capacities to accommodate the development at the appropriate level of service, the availability of sufficient and convenient parking to service the project, the availability of multimodal transportation opportunities, and compatibility with adjacent existing and future land use. Special zoning designations may be established to implement this future land use classification, designed to result in a compact urban form.

Zoning districts consistent with the Downtown Mixed future land use map classification are the South Cape Downtown District and the Mixed-Use Bimini Basin zoning district.

This proposed amendment would provide additional densities within a newly-created zoning district in downtown Cape Coral. The long-standing cap of 11,146 dwelling units within the Downtown Mixed future land use map classification is unaffected, ensuring that there is no increase in maximum development impacts in this area

AMENDMENT 3: Decreased density within the Commercial Activity Center from twenty-five units per acre to sixteen units per acre per changes to the Neighborhood Commercial Development Parameters table.

FLUE Policy 1.15.m

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units 25 <u>16</u> d.u./acre	25%-80% 12 d.u./acre or 75 units 25 <u>16</u> d.u./acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre or 50 units 25 <u>16</u> d.u./acre 2.0	0-100% 12 d.u./acre or 75 units 25 <u>16</u> d.u./acre 2.0
Build-to/Front Setback	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Side Setback	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6

The Cape Coral City Council has indicated a desire to keep residential densities unchanged within the Commercial Activity Center, at the level of the soon-to-be-former Marketplace Residential zoning district (16 units/acre).

Recommendation

Staff recommends approval of the proposed text amendments.

Item Number:	A.(8)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 29-19 Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 12, "Offenses and Miscellaneous Provisions," Article II, "Offenses Creating Nuisances," by repealing and replacing Section 12-22, "Noise Control," providing for short title, providing for findings and purpose, providing for definitions, providing for prohibitions of unreasonably excessive noise, providing for exemptions, providing for enforcement and penalties.

LEGAL REVIEW:

John E. Naclerio III, Assistant City Attorney

EXHIBITS:

- Ordinance 29-19
- Staff Presentation - Introduction
- Revised Staff Presentation - 7/22/2019 Public Hearing

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dave Newlan, Police Chief

ATTACHMENTS:

Description	Type
▣ Ordinance 29-19	Ordinance
▣ Staff Presentation - Introduction	Backup Material
▣ Revised Staff Presentation - 07222019 / Public Hearing	Backup Material

ORDINANCE 29 - 19

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 12, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE II, "OFFENSES CREATING NUISANCES," BY REPEALING AND REPLACING SECTION 12-22, "NOISE CONTROL," PROVIDING FOR SHORT TITLE; PROVIDING FOR FINDINGS AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITIONS OF UNREASONABLY EXCESSIVE NOISE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2, Constitution of the state of Florida, and Chapter 166, Florida Statutes, the Cape Coral City Council ("Council") is authorized to adopt ordinances, except as otherwise provided by law; and

WHEREAS, Article II, Section 7, Constitution of the state of Florida, provides that adequate provision shall be made by law for the abatement of excessive and unnecessary noise; and

WHEREAS, the Council finds that unreasonably excessive noise is a serious threat to the public health, safety, and welfare and negatively affects the quality of life of the community; and

WHEREAS, the Council has determined a need to more effectively control and abate unreasonably excessive noise in the City; and

WHEREAS, the Florida Supreme Court has held that the "plainly audible" standard is not unconstitutionally vague and is a valid tool to regulate excessive noise. *State v. Catalano*, 104 So.3d 1069 (Fla. 2012); and

WHEREAS, the United States Supreme Court has held that it is a permissible exercise of legislative discretion to regulate noise amplified to a "loud and raucous" volume. *Kovacs v. Cooper*, 336 U.S. 77 (1949); and

WHEREAS, it is not the intent of this ordinance to interfere with the individual rights to freedom of speech; and

WHEREAS, the Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 12, Article II, Section 12-22, is hereby repealed in its entirety and replaced with the following:

§ 12-22 Noise Control.

- (a) Short title. This section may be known and cited as the "Cape Coral Noise Control Ordinance."
- (b) Findings and purpose.
 - (1) The Cape Coral City Council finds that unreasonably excessive noise degrades the environment of the City to a degree that such noise:
 - a. Is harmful to the health, safety, and welfare of City residents and visitors;
 - b. Interferes with the comfortable enjoyment of life and property;
 - c. Interferes with the well-being, tranquility, and privacy of one's home;
and
 - d. Can cause and aggravate health problems.
 - (2) The effective control of unreasonably excessive noise is essential to the health, safety, and welfare of City residents and visitors, and fosters the comfortable

enjoyment of life, including, but not limited to, recreation, work, communication, and rest.

(3) This section is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of residents and visitors of the City of Cape Coral through the control, reduction, and prevention of unreasonably excessive noises that unreasonably disturb, injure, or endanger the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivities.

(4) Nothing contained in this section is intended to infringe upon the constitutionally protected rights guaranteed by the Florida Constitution and the First Amendment of the United States Constitution. This section enacts narrowly drawn, content-neutral regulations that are to be interpreted so as to not unduly restrict constitutionally protected rights.

(c) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

A-weighted sound level means the sound pressure level in decibels as measured with a sound level meter using the A-weighting network as described in ANSI S1.4-1983 issued by the American National Standards Institute. The unit of measurement is the dBA.

C-weighted sound level means the sound pressure level in decibels as measured with a sound level meter using the C-weighting network as described in ANSI S1.4-1983 issued by the American National Standards Institute. The unit of measurement is the dBC.

Decibel (dB) means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Emergency means any occurrence, or set of circumstances, involving actual, threatened, or imminent physical trauma or injury, natural resource damage, or property damage which demands immediate action.

L_{eq} (equivalent sound pressure level) means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying sound.

Officer means any designated employee or agent of the City of Cape Coral whose duty it is to enforce codes and ordinances enacted by the city and may include, but shall not be limited to, law enforcement officers and code enforcement officers.

Person(s) means, but is not limited to, any individual, natural person, firm, partnership, joint venture, syndicate or other group, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary, or any other entity whatsoever, or any combination of such, jointly and severally.

Person(s) responsible means, but is not limited to, any person who has any manner of control over a property, premises, dwelling, structure, location, business, vehicle, device, stereo, or source of sound and may include, but is not limited to, any property owner, tenant, subtenant, business owner, resident, operator or person having operational control, person(s) creating or controlling the volume of sound, manager of a commercial property, or person(s) in charge or otherwise authorized to make decisions regarding the use of sound equipment, or any combination of such, jointly and severally.

Plainly audible means any sound that can be clearly heard by a reasonable person using such person's ordinary auditory senses, so long as the person's hearing is not enhanced by any device, such as a hearing aid. The person need not determine the particular words or phrases being produced or the name of any song or artist producing the sound for the sound to be considered plainly audible. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.

Property means any private property, public property, or public right-of-way and includes the air space above.

Property line means either (i) an imaginary line along the ground surface, and its vertical plane extension, which separates the real property owned, rented, or leased by a person(s) or entity from that real property owned, rented or leased by another person(s) or entity, or (ii) the vertical and horizontal boundaries of a residential dwelling unit that is contained in a building containing two or more residential units or any combination of separately leased or owned spaces.

Receiving property means at or within the property line which is receiving sound from another property, but does not include public rights-of-way.

Sound level means a sound pressure level obtained using a signal to which standard weighting has been applied.

(d) **Prohibition of unreasonably excessive noise from a property – Entertainment area.** It shall be unlawful for any person(s), including the property owner(s), to permit, cause, allow, create, emit, or sustain unreasonably excessive noise from a property, including air space thereof, located in the City of Cape Coral and within the below described Entertainment area.

(1) For purposes of this Subsection (d), the following additional definitions apply:

Entertainment area mean any property located in:

a. The area bounded by SE 46th Lane to the north, Coronado Parkway to the west, Miramar Street and Cape Coral Street to the south, and Del Prado Boulevard to the east. Area includes Tract C, Unit 6 Part 3 of the Cape Coral Subdivision.

Unreasonably excessive noise from a property means sound from any property within the Entertainment area, which meets or exceeds the following maximum sound levels:

a. Eighty-five (85) dBA or eighty-seven (87) dBC between the hours of 6:00 p.m. and 3:00 a.m.
b. Sixty-five (65) dBA or Seventy-five (75) dBC between the hours of 3:00 a.m. and 6:00 p.m.

(2) **Determining dBA or dBC under this Subsection (d).** In determining the dBA or dBC sound level under this subsection, a measurement shall be taken from the property line of the property generating the sound, or from the individual lease boundary of the property generating the sound in the case of property which has been subdivided by the execution of individual leases. The equivalent (L_{eq}) decibel measurement taken at thirty (30) seconds shall not exceed the maximum sound levels set above.

(3) **Sound level measurement standards.** All sound level meters used to enforce the provisions of this Subsection (d) shall be calibrated and serviced in accordance with the manufacturer's instructions. All sound level meters used to enforce the provisions of this Subsection (d) shall be operated in accordance with the manufacturer's instructions.

(e) **Prohibition of unreasonably excessive noise from a property - All other areas.** It shall be unlawful for any person(s), including the property owner(s), to permit, cause, allow, create, emit, or sustain unreasonably excessive noise from a property, including air space thereof, located in the City of Cape Coral and not within the Entertainment area described in Subsection (d) above.

(1) For purposes of this Subsection (e), the following additional definitions apply:

Unreasonably excessive noise from a property means sound from any property not located within the Entertainment area described in Subsection (d) above, which is unreasonably loud and raucous as defined below.

Unreasonably loud and raucous means any sound that, because of its volume level or duration, jars, injures, or endangers the health, safety, welfare, or wellbeing of a reasonable individual of ordinary sensibilities.

(2) Violation at any time. An officer may issue a civil citation or notice of violation, after warning, for unreasonably excessive noise from a property if the officer has probable cause to believe the noise is unreasonably loud and raucous after considering the following:

- a. Whether the sound is plainly audible within a fully enclosed structure or residence located on the property of a person making a complaint;
- b. Whether the sound is causing vibration, rattles, thumping, or pulsating within a fully enclosed structure or residence located on the property of a person making a complaint;
- c. Whether the duration of the sound jars, injures, or endangers the health, safety, welfare, or wellbeing of a reasonable individual of ordinary sensibilities; and
- d. Whether the sound is recurrent, intermittent, or continuous in a manner that jars, injures, or endangers the health, safety, welfare, or wellbeing of a reasonable individual of ordinary sensibilities.

(3) Violation based upon sworn complaint. An officer may issue a civil citation or notice of violation, after warning, upon receiving a sworn complaint from a person for unreasonably excessive noise from a property, if the officer has probable cause to believe the noise is unreasonably loud and raucous based on the sworn complaint and after considering the following:

- a. The time of day a complaint about unreasonably excessive noise occurs;
- b. The duration of the sound;
- c. The number and history of relevant complaints from the same residence or structure;
- d. The distance from the source of the sound;
- e. The number of person(s) affected by the sound;
- f. The proximity of the sound to residential sleeping facilities;
- g. The ability of a witness to hear the sound and testify about the complaint;
- h. The corroboration by sworn statement(s) of witness(es) to the sound other than, and in addition to, the primary affiant;
- i. The availability of audio/video recording of the sound;
- j. The totality of circumstances, including the factors delineated in Subsection (e)(2)a.-d.; and
- k. Whether the sound is a listed exemption pursuant to Subsection (g) below.

(4) Prima facie evidence. Between the hours of 11:00 p.m. and 7:00 a.m., it shall be prima facie evidence that a sound (whether recurrent, intermittent, or continuous) is unreasonably loud and raucous if the sound is plainly audible a minimum of one hundred (100) feet from the property line of the source of the sound at or within a fully enclosed structure or residence on any receiving property.

(f) Prohibition of unreasonably excessive noise from a vehicle. It shall be unlawful for any person(s) in control of a vehicle to permit, cause, allow, create, emit, or sustain unreasonably excessive noise from a vehicle that is plainly audible from such vehicle in the City of Cape Coral.

(1) For purposes of this Subsection (f), the following additional definitions apply:

Unreasonably excessive noise from a vehicle means sound from any vehicle which is plainly audible at a distance of fifty (50) feet or more from the vehicle at the time it is heard.

Vehicle means any device or structure used for transporting any person(s) or thing(s) that is propelled by mechanized power, human power, or some combination of mechanized power and human power.

(g) Exemptions. The provisions of this section shall not apply to:

- (1) The operation of warning or emergency signal devices such as sirens, horns, alarms, and bells, when utilized for their intended purpose in cases of emergency.
- (2) Sounds resulting from equipment or operations incidental to the installation, maintenance, or repair of facilities or restoration of services, such as public utilities work or other emergency work in the public interest.
- (3) The operation of equipment or conduction of activities common to residential or agricultural communities, including, but not limited to, lawn care; soil cultivation; lawn mowers; maintenance of trees, shrubs, hedges, and gardens; tree trimming; limb chipping; domestic power tools; saws and tractors; street sweepers; mosquito fogging; and other community operations, between the hours of 7:00 a.m. to 10:00 p.m.
- (4) The operation of equipment or conduction of activities for city approved refuse and recyclable waste collection, between the hours of 6:00 a.m. to 8:00 p.m.
- (5) Construction activities between 7:00 a.m. and 7:00 p.m. Monday through Saturday, except New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas, for which building permits have been issued, or for construction activities not requiring permits due to the scope of work or ownership of the project by a governmental agency; provided all equipment is operated in accordance with the manufacturer's specifications and with all standard equipment, manufacturer's mufflers, and noise-reducing equipment in use and in good operating condition.
- (6) Unamplified human voice(s).
- (7) Sounds emanating from bona fide farm operations on land classified as agricultural land, which is exempt from local regulation pursuant to Section 823.14, Florida Statutes, as may be amended.
- (8) Residential air conditioners and residential swimming pool equipment.
- (9) Sounds made by dogs, birds, and other animals, which are regulated by Lee County Domestic Animal Services. Animal regulations are located in Chapter 6, Lee County Code of Ordinances.
- (10) Activities in the fields, grounds, or facilities of any schools, sporting arena, stadium, or sports complex to which the public or community has access.
- (11) Sounds generated from any event, when a permit has been obtained from the City of Cape Coral prior to such event, and such sounds are in compliance with any conditions imposed by that permit. This provision shall include, but not be limited to, any parade, road festival, or special event.

(h) Waivers. The City Council may vote to temporarily suspend or modify any and all of the prohibitions contained in this Section 12-22 when it finds that emergency circumstances, including, but not limited to those resulting from hurricane(s) or other natural disaster(s), exist.

(i) Enforcement and penalties. The authority to enforce the provisions of this section shall be vested in the Cape Coral Police Department and the Department of Community Development. Nothing in this section shall prohibit the Police Department from charging persons responsible for acts, which affect the peace and quiet of other persons, for breach of the peace or disorderly conduct under Section 877.03, Florida Statutes, as may be amended from time to time. This section shall be enforced by an officer as follows:

- (1) Any person(s) responsible for a violation of Subsections (d) or (e) herein shall be given notice of an unreasonably excessive noise violation and warned that a civil citation or notice of violation will be issued if the person(s) responsible fails to bring the sound level into compliance within five (5) minutes; and fails to remain in compliance for forty-eight (48) hours. The notice and warning may be given verbally or in writing informing the person(s) responsible for a purported excessive noise violation generally as follows:

You are being notified that you are in violation of the City of Cape Coral's Noise Control Ordinance. You are being given a five (5) minute warning to bring the sound level into compliance with Section 12-22 of the City Code of Ordinances. The failure to timely bring the sound level into compliance is a violation of the City of Cape Coral's Noise Control Ordinance.

The officer may issue a civil citation or notice of violation to any person(s) responsible who does not timely bring the sound level into compliance.

- (2) Any person(s) responsible for a violation of Subsection (f) herein, which violations are considered irreparable and irreversible in nature, may be immediately issued a civil citation or notice of violation by an officer.
- (3) Any person(s), including the property owner(s), who violates any of the provisions of this section shall be subject to a civil penalty in the amount of \$150.00 for a first violation, and \$500.00 for any subsequent violation occurring within one (1) year after a finding of violation of the previous offense or a plea of no contest. Each violation of this section shall constitute a separate and distinct offense for which a civil citation or notice of violation may be issued.
- (4) Joint and several responsibility. Any person(s) responsible for unreasonably excessive noise from a property or from a vehicle, as defined herein, may be liable for the violation under this section. More than one person may be found to be responsible for the violation.
- (5) Unreasonably excessive noise is declared a public nuisance. The prosecution of an offense under this section does not limit the City's right to abate the public nuisance, or from seeking injunctive relief, by any means provided by law. The City Attorney or designee(s) may bring suit on behalf of the City against the person(s) responsible for causing, maintaining, permitting, or allowing a public nuisance under this section. This section shall not prohibit or otherwise restrict any person(s) from bringing suit against a public nuisance for unreasonably excessive noise. Relief may be granted according to the terms and conditions of Section 60.05, Florida Statutes, or any other means provided by law.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

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

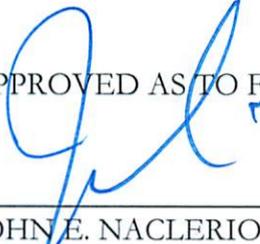
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
Ord/NoiseControl
5/6/19

Introduction presentation - please see Final presentation uploaded 7/22 for most current information.

PROPOSED NOISE ORDINANCE 29-19

Introduction presentation - please see Final presentation uploaded 7/22 for most current information.

CITY OF CAPE CORAL NOISE ORDINANCE

Current Noise Ordinance

- Conditions that require decibel readings are unclear and subject to interpretation.
- Does not specifically address certain types of noise which created enforcement concerns, such as noise from motor vehicles.
- Certain parts of the Ordinance make it hard to enforce based on certain conditions where it describes a type of noise as a possible infraction, in correlation with the specified decibel reading.
- Not practical in some areas of the City due to the proximity of the different zoning areas.

Introduction presentation - please see Final presentation uploaded 7/22 for most current information.

CHANGES IN THE PROPOSED ORDINANCE

- The requirement for decibel readings have been eliminated except for the areas specifically mentioned in the Downtown Entertainment District.
- When investigating a complaint the measurement will be taken from the property line of the property generating the sound.
- Decibel levels were slightly adjusted due to the change of location.
- The Ordinance allows an Officer to cite without witnessing a violation based on the totality of circumstances to include obtaining a witness statement.
- Notices of violation can now be issued through Code for habitual violators.
- The Ordinance has a specific section that addresses noise from vehicles.

Introduction presentation - please see Final presentation uploaded 7/22 for most current information.

ADVANTAGES TO THE PROPOSED ORDINANCE

- More practical and useful for property owners and enforcement purposes
- Increases ability for judicial success of civil judgment against offender

PROPOSED NOISE ORDINANCE 29-19

CITY OF CAPE CORAL NOISE ORDINANCE

Current Noise Ordinance

- Conditions that require decibel readings are unclear and subject to interpretation.
- Does not specifically address certain types of noise which created enforcement concerns, such as noise from motor vehicles.
- Certain parts of the Ordinance make it hard to enforce based on certain conditions where it describes a type of noise as a possible infraction, in correlation with the specified decibel reading.
- Not practical in some areas of the City due to the proximity of the different zoning areas.

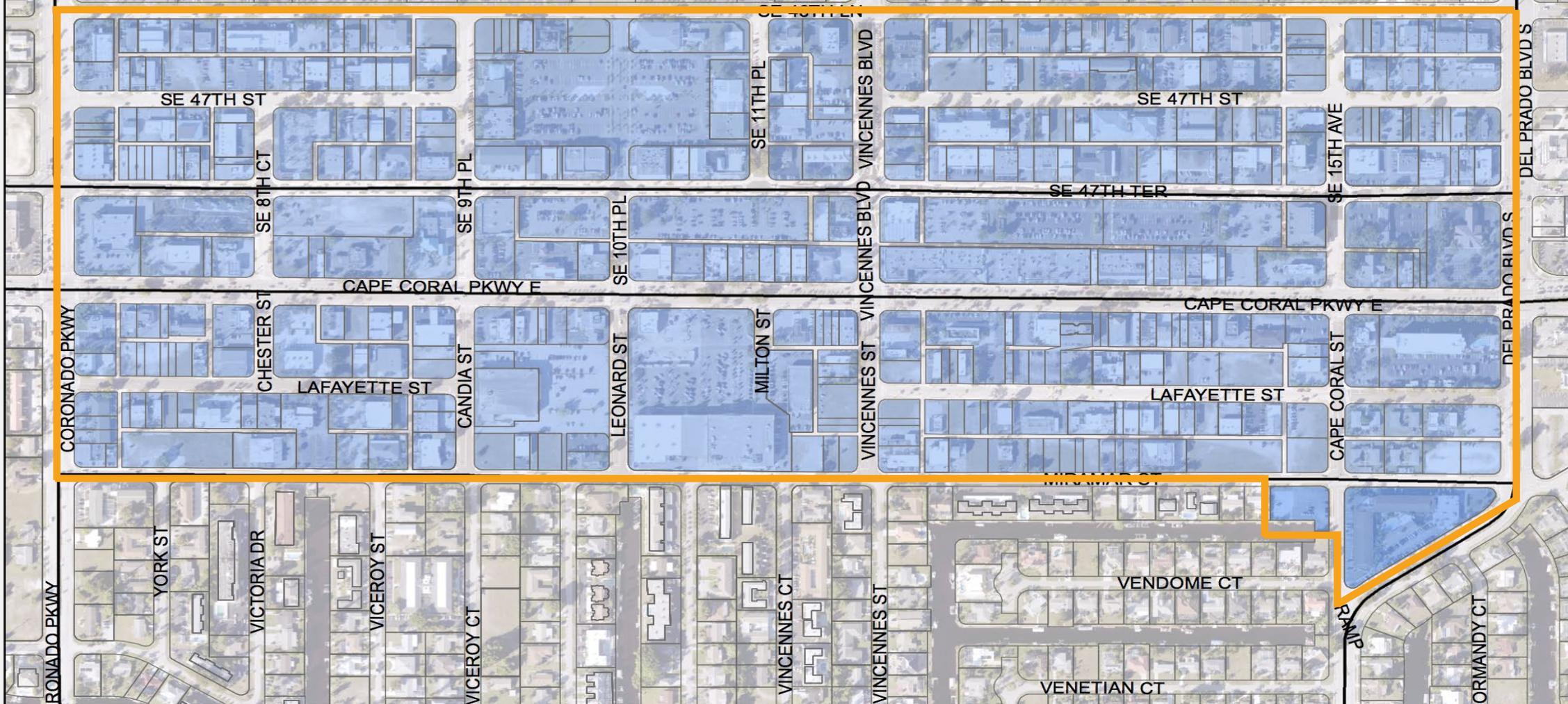
CHANGES IN THE PROPOSED ORDINANCE

- The requirement for decibel readings have been eliminated except for the areas specifically mentioned in the Downtown Entertainment District.
- When investigating a complaint the measurement will be taken from the property line of the property generating the sound.
- Decibel levels were slightly adjusted due to the change of location.
- The Ordinance allows an Officer to cite without witnessing a violation based on the totality of circumstances to include obtaining a witness statement.
- Notices of violation can now be issued through Code for habitual violators.
- The Ordinance has a specific section that addresses noise from vehicles.

ADVANTAGES TO THE PROPOSED ORDINANCE

- More practical and useful for property owners and enforcement purposes
- Increases ability for judicial success of civil judgment against offender

AFFECTED LOCATION



Ordinance 29-19

0 250 500 1,000 Feet

1:5,724 1 inch = 477 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. Prepared by: City of Cape Coral-Real Estate Division

NAD 1983 State Plane Florida West FIPS 0902 Feet
Projection: Transverse Mercator False Easting: 656166.666667
False Northing: 0.000000 Central Meridian: -82.000000
Scale Factor: 0.999941 Latitude of Origin: 24.333333
Linear Unit: Foot US GCS North American 1983
Datum: D North American 1983

Item Number:	A.(9)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 33-19 (PDP 19-0001*) Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: The Hearing Examiner recommends approval with staff conditions.

Staff Recommendation: Staff recommends approval with their conditions.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending Ordinance 42-10, which approved a Planned Development Project entitled "Downtown Village Square" for certain property described as Block 62A, Unit 6, Part 1, and Block 62A, Unit 8, Cape Coral Subdivision, extending the project buildout date, amending the phasing schedule and conditions of approval; property is located between SE 47th Terrace to the north, SE 9th Place to the east, Cape Coral Parkway to the south, and SE 8th Court to the west.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

- Ordinance 33-19 (PDP 19-0001)
- Hearing Examiner Recommendation
- Back up from Hearing Examiner Hearing - 1 of 4
- Back up from Hearing Examiner Hearing - 2 of 4 (Ordinance 42-10)
- Back up from Hearing Examiner Hearing - 3 of 4 (Resolution 10-10)
- Back up from Hearing Examiner Hearing - 4 of 4 (Staff Report PDP 19-0001)
- Staff presentation

Memo

Memo - Village Square - PDP, Term Sheet, and Development Schedule

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, Planning Team Coordinator

ATTACHMENTS:

Description	Type
▣ Ordinance 33-19 (PDP 19-0001)	Ordinance
▣ Hearing Examiner Recommendation Order	Backup Material
▣ Back up materials from HEX hearing - 1 of 4	Backup Material
▣ Back up materials from HEX Hearing - 2 of 4 (Ordinance 42-10)	Backup Material
▣ Back up materials from HEX Hearing - 3 of 4 (Resolution 10-10)	Backup Material
▣ Back up material from HEX Hearing - 4 of 4 (Staff Report PDP19-0001)	Backup Material
▣ Staff Presentation	Backup Material
▣ Memo	Backup Material
▣ Memo - Village Square PDP, Term Sheet, and Development Schedule	Backup Material

ORDINANCE 33 - 19

AN ORDINANCE AMENDING ORDINANCE 42-10 WHICH APPROVED A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "DOWNTOWN VILLAGE SQUARE" FOR CERTAIN PROPERTY DESCRIBED AS BLOCK 62A, UNIT 6, PART 1, AND BLOCK 62A, UNIT 8, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED BETWEEN SE 47TH TERRACE TO THE NORTH, SE 9TH PLACE TO THE EAST, CAPE CORAL PARKWAY TO THE SOUTH, AND SE 8TH COURT TO THE WEST; EXTENDING THE PROJECT BUILDOUT DATE; AMENDING THE PHASING SCHEDULE AND CONDITIONS OF APPROVAL; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Downtown Village Square" Planned Development Project was approved by the City of Cape Coral, by Ordinance 42-10; and

WHEREAS, an application from Red Rock Land Corporation, Downtown Village Square, LLC, and Downtown Village Square II, LLC, has been received requesting an amendment of a Planned Development Project (PDP) for "Downtown Village Square"; requesting extending the deadline to commence substantial construction and the project buildout date, and amending the phasing plan and conditions of approval; and

WHEREAS, the request has been reviewed by the Cape Coral Hearing Examiner; and

WHEREAS, the City Council has considered the recommendations of the Hearing Examiner.

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

SECTION I. PDP APPROVAL

Having reviewed the application requesting approval of an amendment to a Planned Development Project for "Downtown Village Square" PDP, requesting extending the deadline to commence substantial construction and the project buildout date, and amending the phasing schedule and conditions of approval; and having considered the recommendations of the Hearing Examiner, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The "Downtown Village Square" development is a mixed use Planned Development Project (PDP). This development consists of 3.94 acres at 845-877 Cape Coral Parkway East and 826 SE 47th Terrace. The site consists of Block 62A in its entirety and is bound by SE 47th Terrace to the north, SE 9th Place to the east, Cape Coral Parkway to the south, and SE 8th Court to the west. At buildout, the proposed development will contain a maximum of 251,546 sq. ft. of nonresidential uses and 152 residential units.

Since the adoption of Ordinance 42-10, the Downtown Village Square project has been extended several times by a combination of actions taken by the Cape Coral City Council and extensions granted by the state of Florida resulting from state of emergency declarations issued by the governor.

On April 1, 2019, the City Council adopted Resolution 71-19. This resolution granted an extension of the Downtown Village Square project to July 22, 2019. Furthermore, this resolution stated that the Developer's request to extend the deadline to commence substantial construction was to be treated as an application to amend the "Downtown Village Square" PDP. This resolution identified July 22, 2019, as the date the PDP amendment was to be scheduled for City Council consideration. This resolution stated that the PDP amendment may further extend the deadline to commence substantial construction beyond the July 22, 2019 date, revise the phasing schedule approved by Ordinance 42-10, and set forth additional requirements that shall be met by the Developer.

B. The name(s) of the legal and equitable owners are Red Rock Land Corporation, Downtown Village Square, LLC, and Downtown Village Square II, LLC .

C. The legal description of the property is as follows:

All of Block 62A, Unit 6, Part I, Cape Coral, as recorded in Plat Book 11, Pages 45 through 47 of the Public Records of Lee County, Florida; and

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

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

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

171,711.4394 sq.ft. or ±3.9420 Acres

D. The "Downtown Village Square" PDP Amendment subject parcel has 3.94 acres zoned South Cape Downtown (SC), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property was rezoned in 2012 to the SC District after the Downtown Village Square project was approved. The subject property has approximately 3.94 acres with a Future Land Use designation of Downtown Mixed (DM).

E. Under Ordinance 42-10 that approved "Downtown Village Square," all future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Downtown Core (DC) zoning district of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

- F. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- G. The "Downtown Village Square" PDP Amendment, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- H. The term Developer for purposes of this development order shall mean and refer to Red Rock Land Corporation, Downtown Village Square, LLC, and Downtown Village Square II, LLC, or its successors in interest, lessees, and/or assigns.
- I. The new phasing schedule for the project appear below and replaces in its entirety the original phasing schedule approved by Ordinance 42-10.
 - 1. Phase I shall include:
 - a. Demolishing the three buildings at 851, 859, and 877 Cape Coral Parkway East. All three buildings shall be demolished by the developer no later than December 31, 2019. Until these three buildings have been demolished and this work has been inspected by the City, no other work on Phase 1 shall commence. In the event these three buildings are not demolished by December 31, 2019, the PDP shall be considered null and void.
 - b. Constructing the temporary parking at ground level within the footprint of the parking garage (Building "B").
 - c. Constructing a temporary trash enclosure located at the northwest corner of the Phase 2 temporary parking area.
 - d. Constructing Building "A", installing landscaping associated with Building "A", and constructing utilities for Building "A".
 - e. Constructing the fountain associated with Building "A".
 - f. Constructing access from Cape Coral Parkway, SE 47th Terrace, and SE 8th Court as shown on the Phasing Plan, Sheet C-4A.
 - g. Installing the pavers located within the public square surrounding Building "A".
 - h. Constructing all right-of-way improvements including pavers along SE 8th Court to the eastern edge of the Cape Coral Parkway entrance.
 - i. Constructing the main portion of the stormwater system which does not conflict with future phases as delineated on the Phasing Plan, Sheet C-4A, that was prepared by DEI Civil Engineers and Planners, dated April, 2010.
 - j. The Developer shall submit a complete set of building plans for Building "A" to the City no later than March 31, 2020. In the event the Developer does not submit building plans to the City on or before March 31, 2020, the PDP shall be considered null and void.
 - k. Substantial construction on Building "A" shall commence no later than July 1, 2020. Substantial construction for the purposes of this development order shall mean that the Developer has been issued a building permit by the City for the construction of Building "A." In the event that substantial construction on Building "A" does not occur on or before July 1, 2020, the PDP shall be considered null and void.
 - l. The Developer shall receive a certificate of completion from the City for Building "A" no later than June 30, 2021. In the event the Developer does not receive a certificate of completion from the City on or before June 30, 2021, the PDP shall be considered null and void.

2. Phase 2 shall include
 - a. Demolishing the temporary trash enclosure at the northwest corner of the Phase 2 temporary parking area.
 - b. Constructing Building “B”, installing landscaping associated with Buildings “B” and “D”, and constructing utilities for Building “B”.
 - c. Constructing temporary parking on the site sufficient for Buildings “A” and “B”.
 - d. Demolishing the temporary parking area and constructing the entire parking garage of Building “D” and installing all abutting landscaping. The two residential towers may be built in this Phase 2 or may be deferred until Phase 5.
 - e. Constructing all right-of-way improvements abutting Building “B”.
3. Phase 3 shall include:
 - a. Constructing Building “C”, installing abutting landscaping associated with Building “C”, and constructing utilities for Building “C”.
 - b. Constructing the remaining stormwater systems.
 - c. Constructing the temporary trash enclosure for Building “E”.
 - d. Constructing all right-of-way improvements abutting Building “C” including the access point along SE 9th Place.
4. Phase 4 shall include:
 - a. Removing the temporary trash enclosure associated with Building “E” that was installed in Phase 3.
 - b. Constructing Building “E” and remaining utilities.
 - c. Installing all remaining landscaping, right-of-way, and site improvements.
5. Phase 5 shall include constructing the two residential towers associated with Building “D” that are located on the upper portion of the parking garage, unless built as part of Phase 2.
6. The developer shall complete all elements of Phase 1 of this project in its entirety before work on Phase 2 can begin. The developer shall complete all elements of Phase 2 of this project before work on Phase 3 can begin. With the exception of Phases 1 and 2, the enumeration of phases in this section is not intended to indicate an order of development. For example, the development of Phase 3 is not required to either begin or be completed prior to the development of Phase 4.
7. A Certificate of Use shall not be issued for any building or any unit of a building on the site until the developer demonstrates that parking sufficient to meet the minimum parking requirements for supporting uses in the building or a use in a unit of a multi-tenant building exist.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

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

A. GENERAL CONSIDERATIONS

1. All provisions and conditions contained in the "Downtown Village Square" PDP as approved by Ordinance 42-10 shall remain in full force and effect, except as otherwise stated in this Development Order. Although some provisions and conditions set forth in Ordinance 42-10 have been restated herein, failure to restate a provision or condition shall not be interpreted as an intention to delete or alter such provision or condition.
2. In 2018 the City made streetscape improvements in the SE 47th Terrace right-of-way along the north side of the site originally required of the Developer that included the installation of new pavers. Since the cost of this work exceeded \$265,000, the City shall no longer be responsible for paying up to \$265,000 for costs and fees associated with relocating the LCEC transmission pole at the northwest corner of the property. Any costs and fees associated with relocating this pole shall be paid by the Developer.
3. The Developer shall install pavers along SE 8th Court and SE 9th Place within the City right-of-way as shown on Sheet C-4, entitled "Site Plan," prepared by DEI Civil Engineers and Planner, dated December 2007 and bearing a revision date of January 12, 2009. These pavers shall be of the same color, shape, and pattern as those used by the City for the streetscape improvements in the SE 47th Terrace right-of-way.
4. The developer shall replace the pavers in the right-of-way along Cape Coral Parkway between SE 8th Court and SE 9th Place to match the existing pavers in the SE 47th Terrace right-of-way and those pavers that will be installed by the developer along SE 8th Court and SE 9th Place. The purpose of this condition is to provide a uniform streetscape within the right-of-way around Block 62A. This requirement, however, may be modified at the sole discretion of the Public Works Director if the Director determines that an alternative design provides a suitable transition between the pavers along SE 8th Court and SE 9th Place with those along Cape Coral Parkway.
5. Details of pavers to be installed on the Downtown Village Square site that includes color, shape, and pattern shall be reviewed by the Public Works Department and found to be acceptable prior to the installation of these hardscape materials by the Developer.
6. Any damage incurred to the existing pavers in the right-of-way along SE 47th Terrace during construction of the project shall be replaced to its original condition by the Developer at Developer's expense.
7. All three buildings on the site referenced in Phase I of this development order shall be demolished no later than December 31, 2019. In the event these three buildings are not demolished by December 31, 2019, the PDP shall be considered null and void.
8. The Developer shall submit a complete set of building plans for Building "A" to the City no later than March 31, 2020. In the event the Developer does not submit building plans to the City on or before March 31, 2020, the PDP shall be considered null and void.
9. Substantial construction on Building "A" shall commence no later than July 1, 2020. Substantial construction for the purposes of this development order shall mean that the Developer has been issued a building permit by the City for the construction of Building "A." In the event that substantial construction on Building "A" does not occur on or before July 1, 2020, the PDP shall be considered null and void.
10. The Developer shall receive a Certificate of Completion from the City for Building "A" no later than June 30, 2021. In the event the Developer does not receive a Certificate of Completion from the City on or before June 30, 2021, the PDP shall be considered null and void.

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

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Downtown Village Square PDP Amendment " PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the PDP.
- C. The physical development authorized under this Development Order shall terminate in five years from the date of adoption of this amendment, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- D. This Development Order shall be recorded with the Office of the Lee County Clerk of the Circuit Court by the City of Cape Coral. The Developer shall be responsible for reimbursing the City for all recording fees within 30 days of being notified by the City that the Development Order has been recorded.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

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

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/pdp 19-0001 Village Square Amendment

CITY OF CAPE CORAL, FLORIDA
OFFICE OF THE HEARING EXAMINER

PDP HEX Recommendation 1-2019
Rendered May 24, 2019
DOWNTOWN VILLAGE SQUARE PDP AMENDMENT
DCD Case # PDP 19-0001

**SECTION I. RECOMMENDATION OF APPROVAL:
DOWNTOWN VILLAGE SQUARE PDP AMENDMENT
DCD CASE # PDP 19-0001**

PURSUANT TO CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS (“LUDRs”) ARTICLE IV, §4.2, PLANNED DEVELOPMENT PROJECT PROCEDURE, THE HEARING EXAMINER **RECOMMENDS APPROVAL** TO THE CITY COUNCIL REGARDING THE DOWNTOWN VILLAGE SQUARE PLANNED DEVELOPMENT PROJECT AMENDMENT (“PROJECT”), INCLUDING: EXTENDING THE DEADLINES FOR COMMENCEMENT OF SUBSTANTIAL CONSTRUCTION AND PROJECT BUILDOUT DATES AND AMENDING THE PHASING SCHEDULE AND CONDITIONS OF APPROVAL, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH WITH SPECIFICITY BELOW; PROVIDING FOR RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR RECOMMENDATION FOR CITY COUNCIL ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND RECOMMENDATIONS OF LIMITATIONS ON THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

SECTION II. REVIEW OF LUDR REQUIREMENTS

1. Authority. The Hearing Examiner has the authority (i) to recommend to the City Council approval or denial of an application for those planned development projects (including amendments thereto) which are set forth in LUDR §4.2.5.F.2 as amended from time to time and (ii) if the recommendation is for approval, to recommend the establishment of appropriate conditions and safeguards pursuant to LUDR §4.2.5.F.2.
2. Site Visit by Hearing Examiner. The Hearing Examiner conducted a site visit of the subject property prior to the Hearing, in accordance with the authority set forth in LUDR § 8.3.1.C.6.a.
3. Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner’s decision is based on whether the Application meets all applicable requirements of

the Comprehensive Plan, City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. It is Applicant's burden to prove that it does.

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient by itself to support a finding unless it would be admissible over objection in court.

In rendering this Recommendation, the Hearing Examiner must consider all competent substantial evidence in the record as defined as defined by LUDR § 8.3.1.C.3.b.

4. Notice of Hearing, Participants, and Submission of Documentary Evidence

Based on the testimony of City Staff Michael Struve at the commencement of the Hearing on May 24, 2019, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of LUDR Article VIII, §8.3, Public Hearings of the City of Cape Coral.

The Hearing participants were City Staff Michael Struve, AICP¹; Terri Hall, Community Redevelopment Agency (CRA) Coordinator; John Naclerio, Esquire, Assistant City Attorney; City Clerk Representative/Recording Clerk Patricia Sorrels; and Applicant's Representative, AMB Planning Consultants, by Annette Barbaccia, President.

No members of the public testified. Although staff testified that he had received no correspondence prior to the Hearing, he further testified that he had received one (1) telephone call of inquiry but that the caller did not express an opinion either way about the Project.

All documentary evidence considered by the Hearing Examiner was submitted prior to the Hearing, in accordance with City requirements.

5. Hearing Examiner's Findings of Fact.

"Staff Testimony" as used in this Order is inclusive of Staff testimony at the Hearing, as well as the staff report, staff PowerPoint, and all other documentary evidence presented by Staff prior to the Hearing.

"Applicant's Testimony" as used in this Order is inclusive of all documentary evidence presented by the Applicant prior to the hearing, as well as Applicant's Representative's testimony at the Hearing. The Applicant's Representative incorporated the staff report and staff's testimony into her presentation, with one exception: as set forth elsewhere, Applicant wishes to remove the property located

¹ Based upon his prior testimony at hearings of this nature and the recitation of his qualifications, certifications and education contained in his C.V. which is on file with the City Clerk's Office, the Hearing Examiner qualified Mr. Struve as an expert witness for land planning issues relevant to this hearing.

at 877 Cape Coral Parkway East, Cape Coral, FL ("the Car Wash Property") from the timeline requiring demolition on or before December 31, 2019. Accordingly, all references below to "Staff Testimony" should be construed as testimony by Applicant as well, with that exception.

All documentary and oral testimony referenced below is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision hereunder.

SECTION III. RECOMMENDED GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Legal Description of PDP Property. The legal description for the subject property is set forth below, as provided by staff:

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

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

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

thence N89°24'01"W for a distance of 524.03 feet to the point of curvature of a curve to the right; thence along said curve with a radius of 25.00 feet, a chord bearing of N44°42'01"W, a chord distance of 35.17 feet, a central angle of 89°24'01", for an arc distance of 39.01 feet to the Easterly line of the sixty foot wide right-of-way known as Southeast 8th Court (aka Chester Street); thence due North along said Easterly line for a distance of 136.19 feet returning to the Point of Beginning.

171,711.4394 square feet or ±3.9420 Acres

2. Street Address, Location of PDP Property, Structures and Classification of Streets Surrounding PDP Property The Project is a mixed use Planned Development Project (PDP), with a street address of 845-877 Cape Coral Parkway East and 826 SE 47th Terrace.

The Project site consists of Block 62A in its entirety, inclusive of five (5) parcels. Three of those parcels contain buildings.

The site is bound by SE 47th Terrace to the north, SE 9th Place to the east, Cape Coral Parkway to the south, and SE 8th Court to the west. Cape Coral Parkway is classified as a major arterial and SE 47th Terrace is classified as a collector. Both SE 8th Court and SE 9th Place are classified as local streets.

Permitted and special exception uses, as well as some development standards in the SC District, are based on a street designation system.

3. Legal and Equitable Owners of Subject Property. Staff testified that the legal and equitable owners of the subject property are Red Rock Land Corporation, Downtown Village Square, LLC, and Downtown Village Square II, LLC.
4. Current Zoning Classification, Future Land Use Designation, CRA, and Urban Services Infill Area. Staff testified that all parcels in Block 62A, as well as all surrounding sites within 800 feet, have a Downtown Mixed Future Land Use Designation and South Cape (SC) Downtown Zoning. The Urban Services Area is Infill. The site is located in the Community Redevelopment Area (CRA) in southeast Cape Coral.
5. The Project. Staff testified that the Project is a mixed-use project that at buildout will be comprised of six buildings. The project will feature 251,546 square feet of nonresidential uses, including commercial, office, and restaurant space.

Staff further testified that the Project will also include 152 residential units. A parking deck will be constructed at the northwest corner of the site and will provide 938 spaces with a minimum of 127 spaces reserved for public use. Residential towers will be constructed on the east and west ends on top of the parking garage.

6. Previously Approved Entitlements for the Site Via Ordinance 42-10. A PDP for the site was approved in 2010 for a project entitled "Downtown Village Square." Ordinance 42-10 granted the following:

- A rezone from the Downtown Edge to the Downtown Core (DC) District;
- A vacation of plat for interior lot lines, public utility and drainage easements, and alley right-of-way (ROW); and
- Multiple deviations to the Land Use and Development Regulations (LUDR) and the Engineering and Design Standards.

Staff testified that, prior to PDP approval, the developers received approval from the City Council for a bonus density of 19 additional dwelling units (DU) per acre above the baseline density in the DC District of 20 DU/acre.

This increase in density was achieved through the former Redevelopment Incentive Program and was approved by Resolution 10-10.

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

7. Subsequent Resolutions Extending the Project Deadlines

Staff testified that, although the Downtown Village Square Project was approved in 2010 by Ordinance 42-10, construction has not yet begun.

Subsequent to the adoption of Ordinance 42-10, the project has been extended twice by the State of Florida through State of Emergency Declarations issued by the Governor, and four times (Resolutions 102-15, 81-17, 91-18, and 71-19) by the City of Cape Coral.

The most recent extension of the project by the City Council, Resolution 71-19, extended the deadline for substantial construction to July 22, 2019, and stated that the developers' request to extend this deadline shall be treated as an application to amend the PDP.

This extension included a term sheet signed by the City Manager and Robert A. Lee, Jr. (Managing Member of Downtown Village Square LLC and Downtown Village Square II, LLC) memorializing changes to the project including deadlines for key milestones ("the Term Sheet"). This term sheet was part of the City Council agenda package associated with Resolution 71-19 and specifically stated that "the

project will be null and void if the developer fails to meet all terms and deadlines contained herein.”²

8. Summary of Applicant’s Request.

Due to the passage of time since the original approval was given, parts of the original PDP approval are no longer applicable to the Project, leading to the instant request for an amendment to the PDP, consistent with the Term Sheet and the subsequent City Resolution:

a. Extension of the Project Build-out Date and Deadline for Commencement of Substantial Construction

Staff testified that Resolution 71-19 extended the Downtown Village Square Project to July 22, 2019 to allow time for the current PDP amendment to be scheduled for hearing. This Resolution also approved the Term Sheet entered into between the City of Cape Coral Administration and the Managing Member of Downtown Village Square LLC.

This proposed PDP amendment establishes target dates for several key milestones that include the demolition of three existing buildings on the site by December 31, 2019 and commencement of substantial construction for the project by July 1, 2020.

At the Hearing Examiner hearing, the Applicants’ Representative testified that Applicant is requesting that the Car Wash property be removed from the requirement of demolition by December 31, 2019. As reasons for this request, she stated that the Applicants wished to address littering and loitering on the property and related insurance issues and, if the Car Wash Property continued in operation, the operator could be responsible for cleaning up the site from litter and debris. Further the Applicants wished to continue to receive the income from the car wash property as long as possible, she testified.

Upon inquiry by the Hearing Examiner as to the Applicants’ proposed alternate date for demotion of the Car Wash Property, the Applicants’ Representative proposed the demolition at the completion of Phase I,

² The Term Sheet stated as Issue #2 that by 4/2/19 the Proposed Amendment must be presented to the CRA Board, with the CRA Board “to concur with issue #13 [regarding TIF funding] provided all terms and deadlines are met.” During the HEX hearing, the CRA Coordinator and the Applicant’s Representative testified that the presentation had been made to the CRA Board in timely fashion and the CRA Board had discussed it, but no formal vote was taken. The Hearing Examiner recommends that the CRA Board be requested to formally vote on this matter prior to the City Council Hearing on this proposed PDP Amendment, to maintain compliance with the Term Sheet and the referenced Resolution.

but did not specify a “hard date”, even upon a follow-up inquiry by the Hearing Examiner.

The City Attorney’s Office Representative testified that Applicant and the City Manager had entered into the Term Sheet on March 27, 2019, less than 60 days prior to the Hearing Examiner hearing on this matter.³

Upon inquiry from the Hearing Examiner, the City Attorney’s Office Representative testified that many commercial properties within the city are vacant and that their owners hire janitorial or management companies to keep them free of litter so as to avoid a Code Enforcement issue.

After reviewing the Applicants’ Representative’s testimony and the testimony of City staff, and considering that the Applicants pledged less than 60 days ago (e.g., on March 27, 2019) to the demolition of the Car Wash Property (along with the other 2 properties) prior to December 31, 2019, the Hearing Examiner is recommending that the City Council adopt staff’s recommendation that the Car Wash property be demolished with the other properties prior to December 31, 2019.

Substantial construction is defined as the issuance of a valid building permit for construction of the main building or buildings of the development (LUDR, Section 4.2.4.H). Staff testified that substantial construction for this Project will be achieved when the developer is issued a building permit for Building “A.”

b. Revision of the Phasing Schedule

Staff testified that several changes to the phasing schedule are proposed.

These changes include:

- Eliminating an outdated reference to the demolition of the Fifth Third Bank and referring to this building more generally.
- Requiring the demolition of three buildings on the site before other work can occur in Phase 1. The demolition of the former bank building and the existing car wash building was originally scheduled to be demolished in Phases 2 and 3, respectively.⁴

³ The Term Sheet has a minor revision, referencing a change in the date of the Public Hearing for Amendment of the PDP from June 10, 2019 to July 22, 2019. The revision stamp indicates that this revision was entered into on 3/28/19.

⁴ See discussion of the timing of the demolition of the Car Wash property, set forth in subsection a immediately above.

- Clarifying that the developer shall complete all elements of Phase I, and then complete all elements of Phase 2 before work can begin on Phases 3, 4, and 5.
- Eliminating language in Phase I that previously required the developer to install pavers in the SE 47th Terrace ROW. These pavers were installed in 2018 by the City as part of the SE 47th Terrace streetscape improvement project.
- Clarifying that a Certificate of Use shall not be issued for any building or any unit within a building until parking exists to meet the minimum parking standards for the building or unit in question.

c. Revision of the Conditions of Approval

Conditions appearing in Ordinance 42-10 that are proposed for revision herein include the following:

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

SECTION IV. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: GENERAL STANDARDS AND REQUIREMENTS SET FORTH IN LUDR §4.2.4

1. Compliance with General Standards and Requirements Set Forth in LUDR §4.2.4
All planned development projects must conform to the general standards and requirements set forth in LUDR § 4.2.4. For the reasons set forth in this Recommendation, the Hearing Examiner recommends that the City Council **make the following findings of fact and conclusions of law and thereby determine that the Project is in compliance with all applicable standards and requirements, as follows:**

A. Environmental Control Standards (LUDR §4.2.4A)

This proposed PDP amendment would not approve any additional commercial intensity or residential density beyond that which was previously approved in 2010 by Ordinance 42-10. Prior to a demolition permit being issued for the site, the developer will need to submit a burrowing owl and gopher tortoise affidavit to the City identifying the number of each protected species on the site.⁵ If owls or tortoises inhabit the site and cannot be protected, the developer will need permits also from the Florida Fish and Wildlife Conservation Commission.

Accordingly, the Hearing Examiner recommends a finding that this Standard **has been met**.

B. Maintenance of Improvements (LUDR §4.2.4B)

Staff testified that Applicant will be required to maintain landscaping and screening throughout the life of the development, pursuant to the requirements of Ordinance 42-10.

Accordingly, the Hearing Examiner recommends a finding that this Standard **has been met**.

C. Consistency with the Comprehensive Plan (LUDR §4.2.4C)

For the reasons set forth in the attached Exhibit "A", the Hearing Examiner recommends a finding that the Project, as conditioned, **is consistent** with the Comprehensive Plan.

D. Financial Responsibility (LUDR §4.2.4D)

Staff testified that the City is not requiring the Applicants to post a security bond or a certified check to guarantee the installation of the required improvements.

The Hearing Examiner recommends a finding that this standard **is not applicable**.

E. Dimensional Requirements (LUDR §4.2.4E)

Staff testified that the Project complies with all dimensional requirements herein, except as otherwise addressed by the deviations granted in Ordinance 42-10.

⁵ The Applicants' Representative proposed that a photograph of the site or an affidavit be submitted by the Applicants. It is recommended that the Affidavits provide an affidavit, not a photograph.

F. Maximum Density (LUDR §4.2.4 F)

Staff testified that this Project includes 152 residential units on the 3.94 acre site, or 39 DU/acre. The former DC District allowed a maximum of 20 DU/acre but the developer received an additional 19 DU/acre in density by qualifying and being approved for the former Redevelopment Incentive Program (RIP).

Accordingly, the Hearing Examiner recommends a finding that this Standard has been met.

G. Minimum Parcel Size (LUDR §4.2.4.G)

The former DC Zoning District does not have a minimum lot area requirement and the project site is not in the Urban Services Reserve Area.

Accordingly, the Hearing Examiner recommends a finding that this Standard does not apply.

H. Time Limitation(LUDR §4.2.4.H)

Staff testified that, following Project approval in 2010, several extensions have been granted by either the City or the State of Florida for extension of the period for substantial construction.

I. Ownership Requirements(LUDR §4.2.4.I)

The Applicants hold title to 100% of the subject property.

J. Special Exceptions (LUDR §4.2.4.J)

No special exceptions were requested by Applicants.

K. Deviations (LUDR §4.2.4.K)

Staff testified that multiple deviations were granted from LUDR and the Engineering and Design Standards by the City Council in approving Ordinance 42-10.

No new deviations are being requested herein.

L. Underground Utilities (LUDR §4.2.4.L)

Staff testified that all utilities will be placed underground.

2. Concurrency. The Project was determined to have met concurrency requirements when the Downtown Village Square Project was reviewed during 2008-2010.

Staff testified that the site is in a Transportation Concurrency Exception Area (TCEA). As a result, the Developer is required to implement a minimum of five transportation

improvement projects, as identified in Ordinance 42-10, so as to support mobility enhancement in the Downtown TCEA.

3. Consistency with the South Cape Downtown Community Redevelopment Plan

Staff testified that the Project is consistent with several policies identified below that appear in the SC CRA Plan. This CRA Plan has been amended this year.

3.1 Open Space and Street Layout

Policy 3.1.5

“Utilize incentive regulations and the developer negotiation process to create plaza areas aesthetically and functionally related to adjacent uses and the pedestrian and open space network.” Staff testified that the Project includes a central plaza providing for pedestrian connectivity among the buildings on the site.

Policy 3.1.7

“Encourage and provide incentives for new projects to use structured parking to optimize green and open space.” Staff testified that the Project includes a six-story parking garage, with a minimum of 127 spaces to be reserved for public use. Staff further testified that the parking garage was used in part as a basis for justifying the approval of residential density above the baseline levels otherwise allowed in the former DC District.

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

Policy 3.2.1

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

Policy 3.2.6

“Encourage the revitalization of all properties as high quality mixed-use or commercial projects.” Staff testified that the Project will involve the redevelopment of several single-use sites into a larger, cohesive mixed-use development.

Policy 3.2.7

“Encourage and provide incentives for the development of mixed-use buildings that include restaurants, outdoor cafes, specialty retail, and entertainment complexes to create attractive pedestrian oriented streets.” Staff testified that the Project includes over 33,000 square feet of restaurant uses and over 95,000 square feet of retail, with a movie theater being proposed for Building “B.”

3.3 Property Intended for Use as Public Parks and Recreation Areas

Policy 3.4.1

“Encourage the development of pocket parks and/or plazas for redevelopment projects.” Staff testified that the Project includes an east-west central plaza to provide a pedestrian link between SE 8th Court and SE 9th Place.

Based upon the foregoing testimony, the Hearing Examiner recommends a finding that the proposed PDP Amendment is **consistent** with the South Cape Downtown Community Redevelopment Plan.

4. Consistency with All Applicable Law, Ordinances and Regulations.

Based upon the above, the attached Exhibit “A”, and the recommended findings of fact and conclusions set forth elsewhere in this Recommendation, the Hearing Examiner recommends that the City Council find that the Project, **as conditioned is consistent** with the requirements of the Zoning District(s) in which the property is located, the Comprehensive Plan, the Land Use Development Regulations, City ordinances, Resolution 71-19 and the Term Sheet signed in March, 2019, by the City Manager and the Applicants’ Representative, as well as all other applicable local, state, and federal law.

SECTION V. RECOMMENDATIONS AS TO ACTION ON REQUEST AND CONDITIONS OF APPROVAL

The Hearing Examiner makes the following recommendations as to the City Council’s actions on the Applicants’ request and conditions of approval:

A. Phasing Schedule:

The new Project phasing schedule set forth below shall replace in its entirety the original phasing schedule approved by Ordinance 42-10:

1. Phase I shall include:

- a. Demolishing the three buildings at 851, 859, and 877 Cape Coral Parkway East. **All three buildings shall be demolished by the developer no later than December 31, 2019.** Until these three buildings have been demolished and this work has been inspected by the City, no other work on Phase 1 shall commence. **In the event these three buildings are not demolished by December 31, 2019, the PDP shall be considered null and void.**
- b. Constructing the temporary parking at ground level within the footprint of the parking garage (Building “B”).

- c. Constructing a temporary trash enclosure located at the northwest corner of the Phase 2 temporary parking area.
- d. Constructing Building "A", installing landscaping associated with Building "A", and constructing utilities for Building "A".
- e. Constructing the fountain associated with Building "A".
- f. Constructing access from Cape Coral Parkway, SE 47th Terrace, and SE 8th Court as shown on the Phasing Plan, Sheet C-4A.
- g. Installing the pavers located within the public square surrounding Building "A".
- h. Constructing all right-of-way improvements including pavers along SE 8th Court to the eastern edge of the Cape Coral Parkway entrance.
- i. Constructing the main portion of the stormwater system which does not conflict with future phases as delineated on the Phasing Plan, Sheet C-4A, that was prepared by DEI Civil Engineers and Planners, dated April, 2010.
- j. The Developer shall submit a complete set of building plans for Building "A" to the City no later than March 31, 2020. In the event the Developer does not submit building plans to the City on or before March 31, 2020, the PDP shall be considered null and void.
- k. Substantial construction on Building "A" shall commence no later than July 1, 2020. Substantial construction for the purposes of this development order shall mean that the Developer has been issued a building permit by the City for the construction of Building "A." **In the event that substantial construction on Building "A" does not occur on or before July 1, 2020, the PDP shall be considered null and void.**
- l. **The Developer shall perform all acts necessary to receive a certificate of completion from the City for Building "A" no later than June 30, 2021. In the event the Developer does not receive a certificate of completion from the City on or before June 30, 2021, the PDP shall be considered null and void.**

2. Phase 2 shall include:
 - a. Demolishing the temporary trash enclosure at the northwest corner of the Phase 2 temporary parking area.
 - b. Constructing Building "B", installing landscaping associated with Buildings "B" and "D", and constructing utilities for Building "B".
 - c. Constructing temporary parking on the site sufficient for Buildings "A" and "B".
 - d. Demolishing the temporary parking area and constructing the entire parking garage of Building "D" and installing all abutting landscaping. The two residential towers may be built in this Phase 2 or may be deferred until Phase 5.
 - e. Constructing all right-of-way improvements abutting Building "B".
3. Phase 3 shall include:
 - a. Constructing Building "C", installing abutting landscaping associated with Building "C", and constructing utilities for Building "C".
 - b. Constructing the remaining stormwater systems.
 - c. Constructing the temporary trash enclosure for Building "E".
 - d. Constructing all right-of-way improvements abutting Building "C" including the access point along SE 9th Place.
4. Phase 4 shall include:
 - a. Removing the temporary trash enclosure associated with Building "E" that was installed in Phase 3.
 - b. Constructing Building "E" and remaining utilities.
 - c. Installing all remaining landscaping, right-of-way, and site improvements.
5. Phase 5 shall include constructing the two residential towers associated with Building "D" that are located on the upper portion of the parking garage, unless built as part of Phase 2.

6. The developer shall complete all elements of Phase 1 of this project in its entirety before work on Phase 2 can begin. The developer shall complete all elements of Phase 2 of this project before work on Phase 3 can begin. With the exception of Phases 1 and 2, the enumeration of phases in this section is not intended to indicate an order of development. For example, the development of Phase 3 is not required to either begin or be completed prior to the development of Phase 4.
7. A Certificate of Use shall not be issued for any building or any unit of a building on the site until the developer demonstrates that parking sufficient to meet the minimum parking requirements for supporting uses in the building or a use in a unit of a multi-tenant building exist.

B. Additional Conditions of Approval:

1. All provisions and conditions contained in the "Downtown Village Square" PDP as approved by Ordinance 42-10 shall remain in full force and effect, except as otherwise stated in this Development Order. Although some provisions and conditions set forth in Ordinance 42-10 have been restated herein, failure to restate a provision or condition shall not be interpreted as an intention to delete or alter such provision or condition.
2. In 2018, the City made streetscape improvements in the SE 47th Terrace right-of-way along the north side of the site originally required of the Developer that included the installation of new pavers. Since the cost of this work exceeded \$265,000, the City shall no longer be responsible for paying up to \$265,000 for costs and fees associated with relocating the LCEC transmission pole at the northwest corner of the property. Any costs and fees associated with relocating this pole shall be paid by the Developer.
3. The Developer shall install pavers along SE 8th Court and SE 9th Place within the City right-of-way as shown on Sheet C-4, entitled "Site Plan," prepared by DEI Civil Engineers and Planner, dated December 2007 and bearing a revision date of January 12, 2009, as set forth in Ordinance 42-10. These pavers shall be of the same color, shape, and pattern as those used by the City for the streetscape improvements in the SE 47th Terrace right-of-way.
4. The Developer shall replace the pavers in the right-of-way along Cape Coral Parkway between SE 8th Court and SE 9th Place to match the existing pavers in the SE 47th Terrace right-of-way and those pavers that will be installed by the developer along SE 8th Court and SE 9th Place. The purpose of this condition is to provide a uniform streetscape within the right-of-way around Block 62A. This requirement, however, may be modified at the sole discretion of the Public Works Director, if the Director determines that an

alternative design provides a suitable transition between the pavers along SE 8th Court and SE 9th Place with those along Cape Coral Parkway.

5. Details of pavers to be installed on the Downtown Village Square site that includes color, shape, and pattern shall be reviewed by the Public Works Department and found to be acceptable prior to the installation of these hardscape materials by the Developer.
6. Any damage incurred to the existing pavers in the right-of-way along SE 47th Terrace during construction of the project shall be replaced to its original condition by the Developer at Developer's expense.
7. All three buildings on the site referenced in Phase I of this development order shall be demolished no later than December 31, 2019. **In the event these three buildings are not demolished by December 31, 2019, this PDP shall be considered null and void.**
8. The Developer shall submit a complete set of building plans for Building "A" to the City no later than March 31, 2020. **In the event the Developer does not submit building plans to the City on or before March 31, 2020, the PDP shall be considered null and void.**
9. Substantial construction on Building "A" shall commence no later than July 1, 2020. Substantial construction for the purposes of this development order shall mean that the Developer has been issued a building permit by the City for the construction of Building "A." **In the event that substantial construction on Building "A" does not occur on or before July 1, 2020, the PDP shall be considered null and void.**
10. **The Developer shall perform all acts necessary to receive a Certificate of Completion from the City for Building "A" no later than June 30, 2021. In the event the Developer does not receive a Certificate of Completion from the City on or before June 30, 2021, the PDP shall be considered null and void.**

SECTION VI. LEGAL EFFECT AND LIMITATIONS OF THIS RECOMMENDED DEVELOPMENT ORDER; ADMINISTRATIVE REQUIREMENTS

The Hearing Examiner makes the following recommendations regarding the legal effect and limitations of this recommended development order as well as the administrative requirements:

- a. This is a Recommendation by the Cape Coral Hearing Examiner to the City Council of Cape Coral, in response to the Planned Development Project Application filed for the DOWNTOWN VILLAGE SQUARE PDP AMENDMENT.

- b. All provisions and conditions contained in the "DOWNTOWN VILLAGE SQUARE " PDP as approved by Ordinance 42-10 (and any subsequent Resolutions) shall remain in full force and effect, except as otherwise stated in this Development Order. Although some provisions and conditions set forth in said Ordinance have been restated herein, failure to restate a provision or condition shall not be interpreted as an intention to delete or alter such provision or condition.
- c. If this Project is approved by City Council, it is recommended that Council's Development Order be binding on the Applicant.
- d. If this Project is approved by City Council, it is recommended that the terms and conditions set out in the City Council's approved Development Order constitute a basis upon which the Applicant and City may rely in future actions necessary to implement fully the final development contemplated by such Order.
- e. If this Project is approved by City Council, it is recommended that the City Council find that the proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- f. If this Project is approved by City Council, it is recommended that the City Council declare that all conditions, restrictions, stipulations, and safeguards contained in Council's approved Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- g. If this Project is approved by City Council, it is recommended that any references by the City Council to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of, any referenced governmental agency in existence on the effective date of Council's Development Order, if any.
- h. If this Project is approved by City Council, it is recommended that approvals granted by City Council's Development Order are limited and that any such approval shall not be construed to obviate the Applicant's duty to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. It is further recommended that such approval, if any, shall also not obviate the duty of the Applicant to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.

- i. If this Project is approved by City Council, it is recommended that the physical development authorized under the City Council's Development Order terminate in five (5) years from the date of adoption of this amendment, if any, unless an extension is approved by the appropriate governing body. Such body may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. It is recommended that all conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- j. If this Project is approved by City Council, it is recommended that the Director of the Cape Coral Department of Community Development or his/her designee ("Director"), shall be the local official responsible for assuring compliance with this Development Order and that, upon reasonable notice by the City and at all reasonable times, the Applicant shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- k. If this Project is approved by City Council, it is recommended that the Applicant, or its successors in title to the undeveloped portion of the subject property, be required to submit a report annually to the Director and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.
- l. Within thirty (30) days of the effective date of an Order, if any, entered by the City Council, it is recommended that Council require such Development Order to be recorded with the Office of the Lee County Clerk of the Circuit Court by the City of Cape Coral and the Applicant to be responsible for reimbursing the City for all recording fees within 30 days of being notified by the City thereof.

SECTION VII. EFFECTIVE DATE

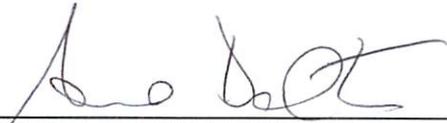
- 1. This Recommendation takes effect on the date specified below.
- 2. Permits issued prior to the City Council consideration of this Application are obtained solely at the risk of the Applicant.

SECTION VIII. ATTACHMENT OF EXHIBIT

The following Exhibit is attached hereto and hereby incorporated by reference:

- Exhibit "A": Analysis of the Applicable Comprehensive Plan provisions

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

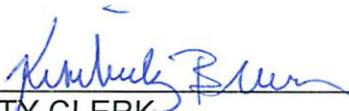


ANNE DALTON, ESQUIRE

5/24/19

DATE

ATTESTED TO AND FILED IN MY OFFICE IN THIS 28th DAY OF May 2019



CITY CLERK

EXHIBIT "A": CONSISTENCY WITH THE COMPREHENSIVE PLAN

An analysis of the consistency with the indicated Elements of the City Comprehensive Plan is set forth below:

HOUSING ELEMENT

GOAL

"To provide good quality housing in safe, clean neighborhoods, offering a broad choice of options in both type (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status."

Staff testified that the Project was approved for 152 multi-family residential units. The developer has signed an affordable housing agreement with the City to provide a minimum of five affordable housing units onsite.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Goal.

FUTURE LAND USE ELEMENT

Policy 1.9

"The City will issue no development orders or construction permits, which result in a reduction in the level of service for any affected public facility below the level of service standard adopted in this comprehensive plan."

Staff testified that the Project was deemed concurrent with City services when approved in 2010.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 1.13

"In establishing commercial siting guidelines, it is the intent of the City of Cape Coral to discourage new 'strip commercial' development. Strip commercial development, for the purpose of this policy, is often, but not always, linear in orientation, typically generates high volumes of traffic (often associated with separate vehicular entrances and exits for each property on the primary street), may have poor or undefined pedestrian path systems that create conflicts between pedestrian and vehicular movements, and generally lacks sufficient onsite space to accommodate normal parking and loading activities. In discouraging new strip commercial development, the City shall also seek to limit or reduce traffic conflict points along arterial and collector roadways, to promote pedestrian-friendly development, and to create synergistic, compact patterns of commercial development..."

Staff testified that the Downtown Village Square site consists of Block 62A, with a depth of approximately 300 feet.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 1.15.1

“Downtown Mixed: Intended primarily for the Downtown Community Redevelopment Area, to provide, a vibrant, walkable, mixed-use district in the historical heart of Cape Coral, mixed-use projects containing commercial and professional uses in conjunction with multi-family housing opportunities where practical and feasible are encouraged. To this end, commercial/professional uses may develop at a maximum Floor Area ratio of four (4) with an average area-wide FAR of two and twenty-three one hundredths (2.23) with commercial/professional uses developed at a ratio of sixty-five (65) percent commercial and thirty-five (35) percent professional, on an areawide basis. Residential development may develop at a density of forty (40) dwelling units per acre, not to exceed an aggregate of eleven thousand one hundred forty-six (11,146) dwelling units nor two hundred (200) dwelling units within the coastal high hazard area. In order to maintain these development limits, the City shall track residential and non-residential development within this future land use map classification. No further residential development will be permitted in this future land use classification should dwelling unit limits be reached. If the average area-wide FAR of two and twenty-three hundredths (2.23) is reached, the City will permit only that nonresidential development with a FAR of 2.23 or below. Development at these intensities and densities are contingent on the availability of centralized city utility services and transportation network at sufficient capacities to accommodate the development at the appropriate level of service, the availability of sufficient and convenient parking to service the project, the availability of multimodal transportation opportunities, and compatibility with adjacent existing and future land use. Special zoning designations may be established to implement this future land use classification, designed to result in a compact urban form.”

Staff testified that, at the time of project approval in 2010, the site was zoned DC. This consistent with the Downtown Mixed FLUC and that this site, along with most other sites in the CRA, was rezoned to the SC District in 2012. The SC District is consistent with the Downtown Mixed FLUC.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 4.1

“Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas.”

Staff testified that the site is in the City Urban Services Infill Area.

Policy 5.3

“New commercial development shall meet all of the requirements for adequate facilities based on the level of service standards adopted for roads, potable water and sanitary sewer, solid waste, storm water facilities and other services in this plan.”

Staff testified that the Project was found to be concurrent with City services when approved in 2010.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 5.5

“The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project.”

Staff testified that the site includes a vacated alley that provides a single, unified site with about 300 feet of depth along a major arterial street (Cape Coral Parkway).

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 5.6

“In addition to the facilities for which level of service standards are adopted as part of the concurrency management system of this plan; other services that should be considered to serve new commercial and mixed-use development include fire, police and emergency medical protection.”

Staff testified that, as a condition of approval appearing in Ordinance 42-10, the developer will provide the City with a minimum of 2,000 square feet on the ground floor of Building “D” for a police substation, and an additional 2,000 square feet for a governmental use.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 7.3

“The City will provide incentives to individual property owners, builders, and developers to assemble parcels of land for future private uses and will encourage the use of zero lot line (ZLL) and cluster type of development to improve lot layout, drainage, and stormwater retention.”

Staff testified that the assembly of the site, originally comprised of six parcels, was used in part for justifying the approval of residential density above the baseline levels allowed in the former DC District.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 8.3

“Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial development (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored.”

Staff testified that all parking on the site will be in a parking garage and that the base of the parking garage along SE 47th Terrace will be fronted by a liner building, with the incorporation of open space into the Project accomplished by providing a centrally located plaza with a fountain and walkways to buildings in the development.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 13.3

“In order to encourage and facilitate development and redevelopment and the provision of housing, employment, service and shopping opportunities in a compact area currently served by public facilities, mixed use development shall be allowed in the Downtown Community Redevelopment Area. Such mixed use development shall conform to the Community Redevelopment Area Plan, as same may be amended, and shall be reviewed in accordance with the City's Land Use and Development Regulations.”

Staff testified that the Downtown Village Square project is a mixed-use development inclusive of over 250,000 square feet of nonresidential uses and a maximum of 152 dwelling units.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 14.3

“New development, redevelopment and infill development projects located within the City of Cape Coral Downtown Transportation Concurrency Exception Area (Downtown TCEA) may elect to be exempt from transportation concurrency requirements through implementation of the mitigation strategies described in Policy 14.5 of this Element. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project elects to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5, or elects to be subject to standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development.”

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

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 14.5

“In order to be exempt from link specific concurrency and to support mobility enhancement within the Downtown TCEA, all new development, redevelopment, or infill development projects may opt to incorporate any five of the following provisions:

- *Preferential parking for carpools, vanpools, and/or multiple occupancy vehicles with the object of increasing the average vehicle occupancy for trips generated by the development.*
- *Parking price structures favoring carpools, vanpools, and/or multiple occupancy vehicles, with the object of increasing either the average vehicle occupancy for trips generated by the development, or increasing transit ridership.*
- *Flexible work schedules for employees of the development, with the object of decreasing peak hour automobile trips generated by the development.*
- *Payment of a subsidy to LeeTran to support an increased level of transit service within the TCEA.*
- *Payment into one or more funds, to be established by the City or the CRA. Monies collected by such fund(s) shall be used to support programs and/or capital projects designed to provide additional parking and/or to enhance bicycle, pedestrian, and transit mobility within the TCEA.*
- *The provision of transit shelters, built to City of Cape Coral specifications, within the development.*
- *The provision of a safe and convenient internal pedestrian and bicycle circulation system within the development, including the placement of bicycle racks or bike lockers.*

- *The provision of transit turn out lanes on heavily traveled roadways.*
- *The provision of structured parking for ... residents, patrons and employees of the development.*
- *Clustering buildings within the development, or otherwise designing the development to achieve maximum residential density or non-residential intensity at the development site in a manner, which preserves open space, enhances multi-modal opportunities and provides transit oriented densities or intensities.*
- *Where feasible, the construction of new roadway or alleyway facilities to reduce congestion on major roadways and to provide alternate access to the development.*
- *Any other innovative transportation related modifications or standards submitted by the developer and acceptable to and approved by the City of Cape Coral."*

Staff testified that the developer has incorporated five of the provisions provided above (Bullets 1,2,7,9, and 10) into the project to satisfy TCEA requirements.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 16.7

"Land use intensities and densities within the Downtown TCEA shall be consistent with the goals objectives and policies of the City's Comprehensive Plan. In particular, Policy 1.15 (I) of this Element, describing the Downtown Mixed Future Land Use Classification, defines the allowable intensities and densities within the Downtown TCEA."

Staff testified that, at the time of project approval, commercial/professional uses in this FLUC could develop at a FAR of 4 and that residential development could develop at a maximum density of 40 DU/acre.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Transportation Element

Policy 1.1.7

"New development, redevelopment and infill development projects located within the City of Cape Coral Downtown CRA Transportation Concurrency Exception Area (TCEA) may be exempt from transportation concurrency requirements, so long as said new development, redevelopment or infill development opts to mitigate impacts to transportation levels of service through the strategies described Policy 14.5 of the Future Land Use Element of this comprehensive plan. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project agrees to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5 or opts to be subject to

standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development.”

Staff testified that the developer has elected to implement five transportation improvement projects supporting mobility enhancement within Downtown TCEA. Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 2.1.5

“The City shall continue to require new development to incorporate design elements to accommodate and protect bicyclists and pedestrians.”

Staff testified that the developer will install pavers within the project ROW along SE 8th Court and SE 9th Place to match those pavers installed earlier by the City along SE 47th Terrace. Pavers will be installed by the developer in the project area on a plaza and on walkways between buildings to promote pedestrian activity.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 2.2.6

“In order to promote bicycling, walking, and other alternative modes of transportation, the City shall provide incentives for the development of mixed use projects, commercial activity centers and alternative subdivision design and lot layouts.”

Staff testified that the developer received a density bonus through the Redevelopment Incentive Program by incorporating elements into the project that included superior site design, public open space and recreational areas, affordable housing, and non-residential use percentage.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.

Policy 2.3.1

“New development, redevelopment and infill development projects located within the City of Cape Coral Downtown Transportation Concurrency Exception Area (Downtown TCEA) may elect to be exempt from transportation concurrency requirements through implementation of the mitigation strategies described in Policy 14.5 of the Future Land Use Element. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project elects to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5 or elects to be subject to standard transportation

concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development.”

Staff testified that the developer elected to meet transportation concurrency requirements by implementing five strategies established for the TCEA as described Policy 14.5 of the Future Land Use Element.

Accordingly, the Hearing Examiner recommends a finding that the Project is **consistent** with the indicated Policy.



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

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

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

Project Number: Prior Planned Development Project PDP 08-0080006

Properties Owned by Downtown Village Square LLC: 877 Cape Coral Parkway E, & 826 SE 47th Terrace Cape Coral, FL 33904
To help prepare this application, the applicant should obtain copies of the following:

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

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

ACKNOWLEDGEMENT

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

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

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

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

(Name of Entity)

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

By: NAME AND TITLE (PLEASE TYPE OR PRINT)

SIGNATURE

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

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

NOTARY STAMP HERE

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

Signature of Notary Public: _____

Printed name of Notary Public: _____

*Please include additional pages for multiple property owners.

RP Application June, 2014

RICHARD J. CHERTOCK
NOTARY PUBLIC, State of New York
No. 4889788
Qualified in Nassau County
Commission Expires 3/23/23
authorized representative
or property owner's initials

MAY 3 '19 PM 11.53

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

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

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

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

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

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

MGRM
Title of Signatory

Signature

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

(SIGNATURE MUST BE NOTARIZED)

STATE OF NY, COUNTY OF Suffolk

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

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

NOTARY STAMP HERE

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

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

*Please include additional pages for multiple property owners.

****Notes:**

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

[Signature] authorized representative
or property owner's Initials

PDP Applicant Checklist

Project Name: Downtown Village Square

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

Incomplete submittals will not be accepted

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

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

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

GENERAL INFORMATION

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

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

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

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

Legal Description (Described as Exhibit A In Microsoft Word Format and attached hereto)
 Property Address: 877 Cape Coral Parkway E. & 826 SE 47th Terrace, Cape Coral, FL 33904
 Plat Book 11 Page 46 Current Zoning SC Future Land Use DM

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

*Please include additional pages for multiple property owners.

 authorized representative
 or property owner's initials

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

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

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

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

 authorized representative
or property owner's initials

LETTER OF INTENT

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

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

DEVIATION REQUEST LETTER(S)

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

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

TRAFFIC GENERATION ESTIMATE No Changes to Trip Generation

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

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

Regression equation (if used) _____

Independent Variable _____

Daily Two Way Trip Estimate _____

Peak Hour (of generator) Entering _____

Peak Hour (of generator) Exiting _____

Total Peak Hour (of generator) _____

Peak Hour Entering and Exiting trips greater than 300 trips _____

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


_____ authorized representative
or property owner's initials

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Note: No Changes to existing subdivision plan

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

Planned Development Project (PDP) Application Fees *

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

* Advertising fees will be due at time of advertising.

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

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


 authorized representative
 or property owner's initials



MAY 3 19 AM 11.55

PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION
PROPERTY OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY (LLC), LIMITED COMPANY (LC), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUST

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

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

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

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

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

ACKNOWLEDGEMENT

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

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

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

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

(Name of Entity)

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

By: NAME AND TITLE (PLEASE TYPE OR PRINT)

SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF NY, COUNTY OF Suffolk

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

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

NOTARY STAMP HERE

Signature of Notary Public:

Printed name of Notary Public:

*Please include additional pages for multiple property owners.

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

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

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

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

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

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

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

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

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

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

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

NOTARY STAMP HERE
Signature of Notary Public: [Signature]
Printed name of Notary Public: _____

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

*Please include additional pages for multiple property owners.

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

[Signature] authorized representative or property owner's Initials

PDP Applicant Checklist

Project Name: Downtown Village Square

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

Incomplete submittals will not be accepted

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

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

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

GENERAL INFORMATION

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

*Property Owner: Downtown Village Square II LLC
 Address: 3505 Veterans Memorial Highway, Suite D, Ronkonkoma, New York, 11779
 Phone: 516 903-6400 Fax: _____ E-Mail: robertaleejr@aol.com

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

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

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

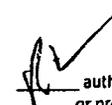
Legal Description (Described as Exhibit A in Microsoft Word Format and attached hereto)

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

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

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

*Please include additional pages for multiple property owners.


 _____ authorized representative
 or property owner's initials

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

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

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

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

LETTER OF INTENT

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

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

DEVIATION REQUEST LETTER(S)

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

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

TRAFFIC GENERATION ESTIMATE No Changes to Trip Generation

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

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

Regression equation (if used) _____
Independent Variable _____
Daily Two Way Trip Estimate _____
Peak Hour (of generator) Entering _____
Peak Hour (of generator) Exiting _____
Total Peak Hour (of generator) _____
Peak Hour Entering and Exiting trips greater than 300 trips _____

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

 _____
authorized representative
or property owner's Initials

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Note: No Changes to existing subdivision plan

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

Planned Development Project (PDP) Application Fees *

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

* Advertising fees will be due at time of advertising.

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

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


 _____ authorized representative
 or property owner's initials



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

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

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

Project Number: PDP19-0001

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

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

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

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

ACKNOWLEDGEMENT

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

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

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

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

(Name of Entity)

• Red Rock Land Corporation Daniel Kummer, President

By: NAME AND TITLE (PLEASE TYPE OR PRINT)

[Signature]
SIGNATURE President

(SIGNATURE MUST BE NOTARIZED)

STATE OF New York, COUNTY OF Suffolk

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

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

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

Signature of Notary Public: [Signature]
Printed name of Notary Public: Donna Lee Sinram

*Please include additional pages for multiple property owners.

[Signature] authorized representative or property owner's initials

MAY 3 19 AM 11:53

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

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

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

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

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

Red Rock Land Corporation
** Name of Entity (Corporation, Partnership, LLC, etc)

President
Title of Signatory


Signature

Daniel Kummer
Name (Please print or type)

(SIGNATURE MUST BE NOTARIZED)

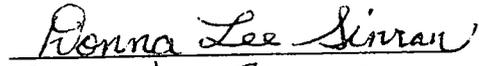
STATE OF New York, COUNTY OF Suffolk

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

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

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

Signature of Notary Public:
Printed name of Notary Public:


Donna Lee Sinram

*Please include additional pages for multiple property owners.

****Notes:**

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

PDP Applicant Checklist

Project Name: Downtown Village Square

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

Incomplete submittals will not be accepted

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

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

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

GENERAL INFORMATION

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

*Property Owner: Daniel Kummer, President of Red Rock Land Corporation
 Address: 1019 Fort Salonga Road, Suite 10-237, Northport, NY 11768
 Phone: 516 375-7247 Fax: 631-961-8844 E-Mail: specbuilder996@aol.com
 Authorized Representative: Downtown Village Square LLC and AMB Planning Consultants Inc.
 Address: 3505 Veterans Memorial Pkwy, Suite D, Ronkonoma, NY 11779 & P.O. Box 3495, N. Fort Myers FL 33918
 Phone: Robbie Lee: 516 903-6400 Fax: _____ E-Mail: robertaleejr@aol.com
Annette Barbaccia 239 850-8301 abarbaccia@ambpl.com

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

Legal Description: (Described as Exhibit A in Microsoft Word Format and attached hereto)
 Property Address: 845 and 851 Cape Coral Parkway E., Cape Coral, FL 33904
 Plat Book: 11 Page: 46 Current Zoning: SC Future Land Use: DM

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

*Please include additional pages for multiple property owners.

 authorized representative
or property owner's initials

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

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

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

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

LETTER OF INTENT

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

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

DEVIATION REQUEST LETTER(S)

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

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

TRAFFIC GENERATION ESTIMATE No Changes to Trip Generation

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

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

Regression equation (if used) _____
Independent Variable _____
Daily Two Way Trip Estimate _____
Peak Hour (of generator) Entering _____
Peak Hour (of generator) Exiting _____
Total Peak Hour (of generator) _____
Peak Hour Entering and Exiting trips greater than 300 trips _____

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

 authorized representative
or property owner's initials

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Note: No Changes to existing subdivision plan

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

Planned Development Project (PDP) Application Fees *

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

* Advertising fees will be due at time of advertising.

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

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



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

Detail by Entity Name

Florida Limited Liability Company
DOWNTOWN VILLAGE SQUARE, LLC

Filing Information

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

Principal Address

877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Changed: 04/28/2011

Mailing Address

877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Changed: 04/27/2017

Registered Agent Name & Address

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

Name Changed: 04/28/2011

Address Changed: 04/28/2011

Authorized Person(s) Detail

Name & Address

Title MGRM

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

Title MGRM

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

Title MGRM

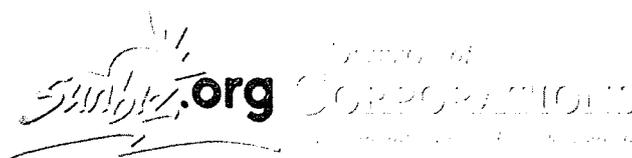
Schumacher, Richard
173 Gothic Circle
Manorville, NY 11949

Annual Reports

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

Document Images

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



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

Detail by Entity Name

Florida Limited Liability Company
DOWNTOWN VILLAGE SQUARE II LLC

Filing Information

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

Principal Address

877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Mailing Address

877 CAPE CORAL PARKWAY EAST
CAPE CORAL, FL 33904

Registered Agent Name & Address

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

Authorized Person(s) Detail

Name & Address

Title MGRM

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

Title MGRM

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

Title MGRM

SCHUMACHER, RICHARD

SCHEMMECHER, RICHARD
173 GOTHIC CIRCLE
MANORVILLE, NY 11949

Annual Reports

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

Document Images

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



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

Detail by Entity Name

Florida Profit Corporation
RED ROCK LAND CORPORATION

Filing Information

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

Principal Address

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

Changed: 04/14/2016

Mailing Address

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

Changed: 04/14/2016

Registered Agent Name & Address

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

Address Changed: 04/14/2016

Officer/Director Detail

Name & Address

Title PD

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

Annual Reports

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

Document Images

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

MAY 3 19 04:11:53

AMB Planning Consultants Inc.

May 3, 2019

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

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

Dear Mr. Caution:

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

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

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

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

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

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

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

Proposed Changes to Ordinance 42-10:

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

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

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

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

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

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

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

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

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

Pg. 6. Section III:

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

Pg. 10. Section III N. General Considerations

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

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

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

Sincerely,



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

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

REVISED
3/28/19

MEMORANDUM

CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager *JS*
Connie Barron, Assistant City Manager *CB*
Vincent A. Caution, Community Development Director *VCA*
Ricardo Noguera, Economic Development Manager *RN*
Terri Hall, Community Redevelopment Coordinator *TH*

DATE: March 27, 2019

SUBJECT: Village Square Planned Development Project (PDP)

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

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

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

Options for Council to Consider

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

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

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

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

July 22, 2019 RL

Mar 27, 2019

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

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

JS/VAC:ay (Staff Memo Extension 040119)

Attachments: Term Sheet
PDP Extension History

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

REVISED
3/28/19

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

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

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

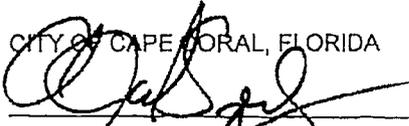
Village Square – City of Cape Coral Term Sheet (Con't)

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

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

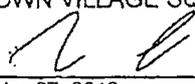
All terms, modifications or revisions shall be approved by City Council in Resolution 71-19.

CITY OF CAPE CORAL, FLORIDA


A. John Szerlag, City Manager

Date: 3/27/19

DOWNTOWN VILLAGE SQUARE, LLC


Robert A. Lee, Jr., Managing Member

Date: Mar 27, 2019

RESOLUTION 71 – 19

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

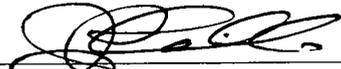
Section 2. The Developer's request to extend the deadline to commence substantial construction shall be treated as an application to amend the PDP. Unless further extended by the City Council, the amendment to the PDP shall be brought forth to the City Council by July 22, 2019. The contemplated amendment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

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

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

Section 5. Effective Date. This resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS 15th DAY OF April, 2019



JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

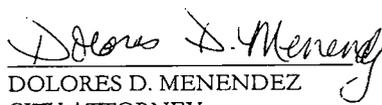
COVIELLO	<u>aye</u>	NELSON	<u>aye</u>
GUNTER	<u>aye</u>	STOKES	<u>aye</u>
CARIOSCIA	<u>aye</u>	WILLIAMS	<u>aye</u>
STOUT	<u>aye</u>	COSDEN	<u>aye</u>

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



KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:



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

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

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

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

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

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

Project Total: \$ 591,742.34

Notes:

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

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

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

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Village Square

APPLICATION NO: PDP19-0001

STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

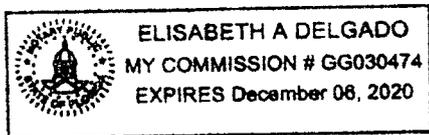
DATED this 14th day of May, 2019.



Vincent A. Caetero, AICP

STATE OF FLORIDA
COUNTY OF LEE

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



Exp. Date 12/8/20 Commission # GG030474



Signature of Notary Public

Elisabeth A. Delgado

Print Name of Notary Public

Subject Parcels

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. PDP19-0001

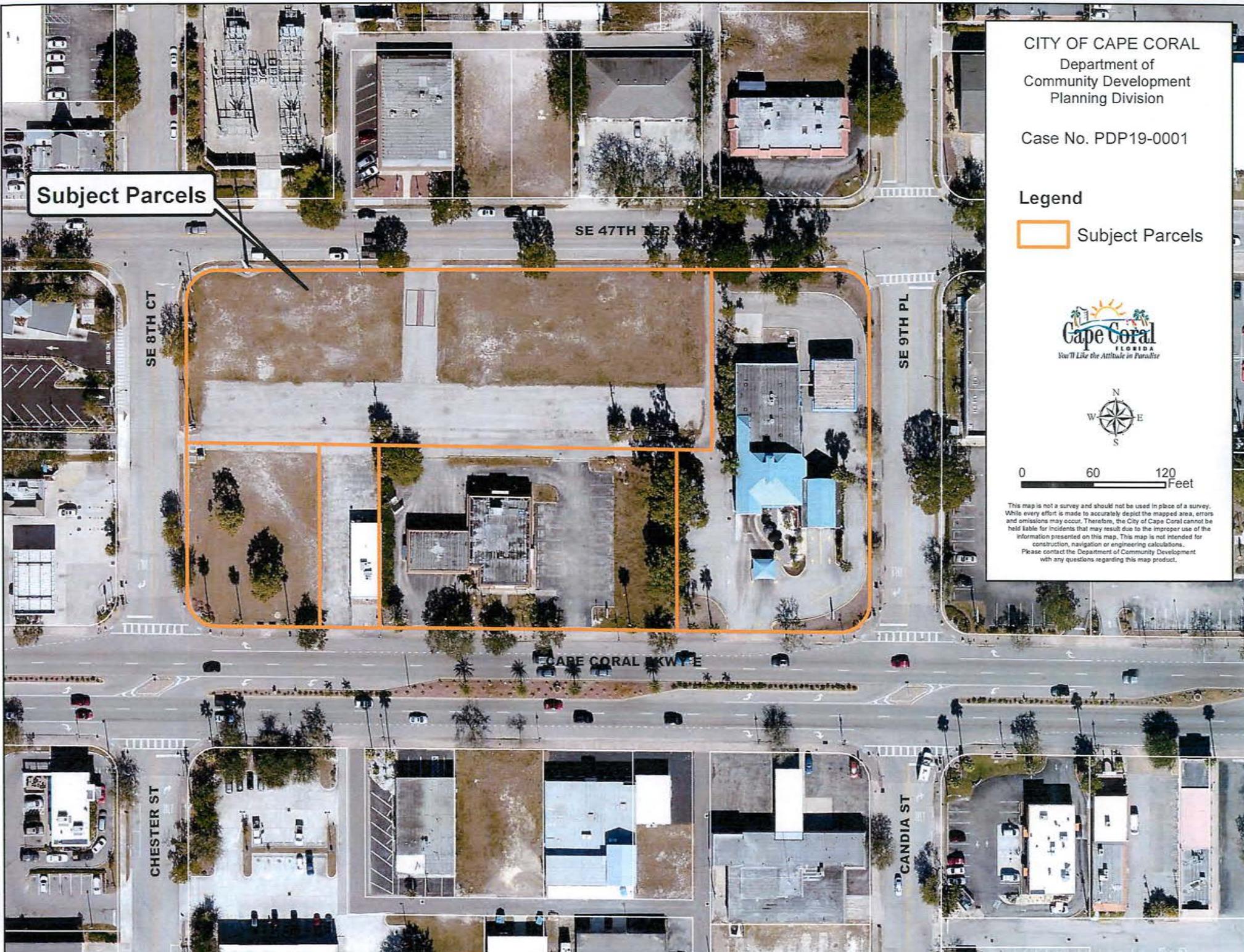
Legend

 Subject Parcels



0 60 120 Feet

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



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

Case No. PDP19-0001

LEGEND

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



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

SE 46TH LN

SUBJECT PARCELS

SE 47TH TER

CAPE CORAL PKWY E

SE 8TH CT

CHESTER ST

CANDIA ST

LEONARD ST

MILTON ST

MIRAMAR ST

500' PROXIMITY BOUNDARY

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

ORDINANCE 42 - 10

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

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

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

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

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

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

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

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

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

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

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

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

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

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

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

1. Phase 1 shall include:

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

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

The amendments to the City of Cape Coral Official Zoning District Map as prescribed herein are consistent with the City of Cape Coral Comprehensive Plan.

- E. The requests for vacation of plat and alley right-of-way meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such requests be granted. The following are hereby vacated by the City of Cape Coral, to wit:

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

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

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

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

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

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

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

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

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

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

A. DRAINAGE/WATER QUALITY

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

B. ENERGY

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

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

C. HURRICANE EVACUATION/SHELTERING

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

D. WETLANDS, VEGETATION, AND WILDLIFE

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

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

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

E. FIRE PROTECTION

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

F. WATER CONSERVATION

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

G. SOLID WASTE

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

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

H. WASTEWATER MANAGEMENT

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

I. WATER SERVICE

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

J. IRRIGATION SERVICE

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

K. AIR QUALITY

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

L. HISTORICAL/ARCHAEOLOGICAL

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

M. TRANSPORTATION

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

N. GENERAL CONSIDERATIONS

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

income verification and certification shall be repeated annually to assure continued eligibility.

- (2) No affordable housing unit that is to be sold, leased with option to purchase, or otherwise conveyed in the development shall be sold, leased with option to purchase, or otherwise conveyed to a buyer whose household income has not been verified and certified in accordance with this section as moderate, low, or very low income family. Such verification and certification shall be the responsibility of the developer and shall be submitted to the City Manager or the City Manager's designee for approval. It is the intent of this section to keep housing affordable; therefore, any person who buys an affordable housing unit must agree, in a lien instrument to be recorded with the Clerk of the Circuit Court of Lee County, Florida, that if he or she sells the property (including the land and/or the unit) within 15 years after his or her original purchase at a sales price in excess of 5% per year of his original purchase price that he or she will pay to the City of Cape Coral an amount equal to the sales price in excess of 5% increase per year. The lien instrument may be subordinated to a qualifying first mortgage.
 - (3) No more than two affordable housing units shall be located within a single building or single tower of Building "D".
- b. If the Developer chooses to pay to the City a monetary amount for each housing unit not provided in the development, the agreement shall contain, at a minimum, the following provisions:
- (1) In lieu of providing the five onsite housing units, the Developer shall pay \$25,000 per unit for each unit not located within the development. The Developer shall pay the funds no later than at the time of issuance of a certificate of occupancy for a maximum of 80 residential units located within the project.
 - (2) Any unit for which the Developer pays a monetary amount shall be located within the boundaries of the CRA.
2. The Developer shall dedicate to the City a minimum of two thousand (2,000) sq. ft. of building space located on the ground floor of Building "D" for a police substation, and an additional 2,000 sq. ft. for governmental use. The City shall have 18 months beginning with the issuance of a certificate of occupancy for this building to determine whether the City wishes to utilize this space. If the City, at its option, decides it does not wish to utilize this site, this area shall be available to the Developer for use. Alternatively, in the event the area is initially utilized by the City and subsequently left vacant by the City for a minimum of nine months, the Developer may at his option provide written notification to the City Manager regarding the City's intentions for using this space. If within 90 days of receipt of this letter the City does not respond or acknowledges to the Developer that it does not intend to use this space, this area may be utilized by the Developer. If the City intends to use this space, it shall notify Developer within 90 days of receipt of the letter. For as long as the City chooses to utilize the aforementioned 4,000 sq. ft., the City will receive this space free of rent, but will be responsible for typical maintenance-related expenses and monthly utility payments.
 3. Within a building, awnings and canopies having similar dimensions and located within the same floor of said building shall be of the same color and style. This provision shall apply only to floors exclusively containing residential dwelling units and to all six floors of the parking garage. This requirement does not apply to any floor of the development that contains nonresidential uses, nor shall it apply to the liner buildings located directly adjacent to the parking garage.
 4. The Developer shall provide a minimum of 127 parking spaces located on the ground floor of Building "D" as depicted on Sheet C-4 that shall be reserved for public use in perpetuity. Parking located on the ground floor of the parking garage

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

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

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

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

O. CONCURRENCY

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

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

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

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

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

- H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.
- The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.
- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

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

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 20th DAY OF April, 2010.

John J. Sullivan
JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

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

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

Rebecca van Deutekom
REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:

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

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

Rebecca van Deutekom
City Clerk

EXHIBIT " A"

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

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

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

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

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

171,711.4394 sq.ft. or ±3.9420 Acres

EXHIBIT " B "

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

Legal Description
(New Sanitary Sewer and Lift Station Easement)

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

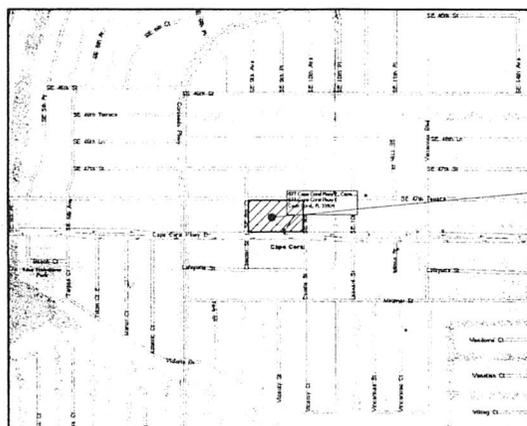
Further described as follows: Commencing at the Northwest corner of Section 18, Township 45 South, Range 24 East, City of Cape Coral, Lee County, Florida, thence S89°03'21"E for a distance of 676.08 feet along the Northerly line of said section to the Easterly line of the sixty foot (60') wide right-of-way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

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

8,790.9244 sq.ft. or ±0.2018 Acres

SITE DEVELOPMENT PLANS FOR

VILLAGE SQUARE, MIXED USED DEVELOPMENT, CAPE CORAL CRA



PROJECT LOCATION

LOCATION MAP
SCALE: 0.986170

MARCH 2010

DEI PROJECT NO.: 07-121-01

OWNER / DEVELOPER

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

WATER AND SEWER

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

TELEPHONE

EMBARO FLORIDA, INC.
2820 CARGO STREET, BUILDING A
FORT MYERS, FLORIDA 33916
PHONE (239) 336-2044

ELECTRIC

L.C.E.C.
4380 BAYLINE DRIVE
NORTH FORT MYERS, FL 33917
PH (239) 656-2300

CABLE TELEVISION

COMCAST
28102 BONITA GRANDE DRIVE
BONITA SPRINGS, FL 34145
PH (239) 733-3655 FAX (239) 498-5456

GARBAGE COLLECTION

WASTE MANAGEMENT
HWY 82 EAST
FT MYERS FL 33913
PH (239) 334-5415

FIRE CONTROL DISTRICT

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

SURVEYOR

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

CONTRACTOR

ISLAND DEVELOPMENT, LLC
4002 DEL PRADO BLVD, SOUTH
CAPE CORAL, FLORIDA 33904
PHONE (239) 274-7000 FAX (239) 945-1106

PLANNER

AMB PLANNING CONSULTANTS, INC.
P.O. BOX 3465 NORTH FORT MYERS, FLORIDA 33918
PHONE (239) 850-8301

ADDRESS OF DEVELOPMENT

877 CAPE CORAL PKWY E
CAPE CORAL FL 33904

SIZE OF DEVELOPMENT ORDER

3.9400 ACRES

ZONING

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

FUTURE LAND USE

DOWNTOWN MIXED USE

STRAP NUMBER

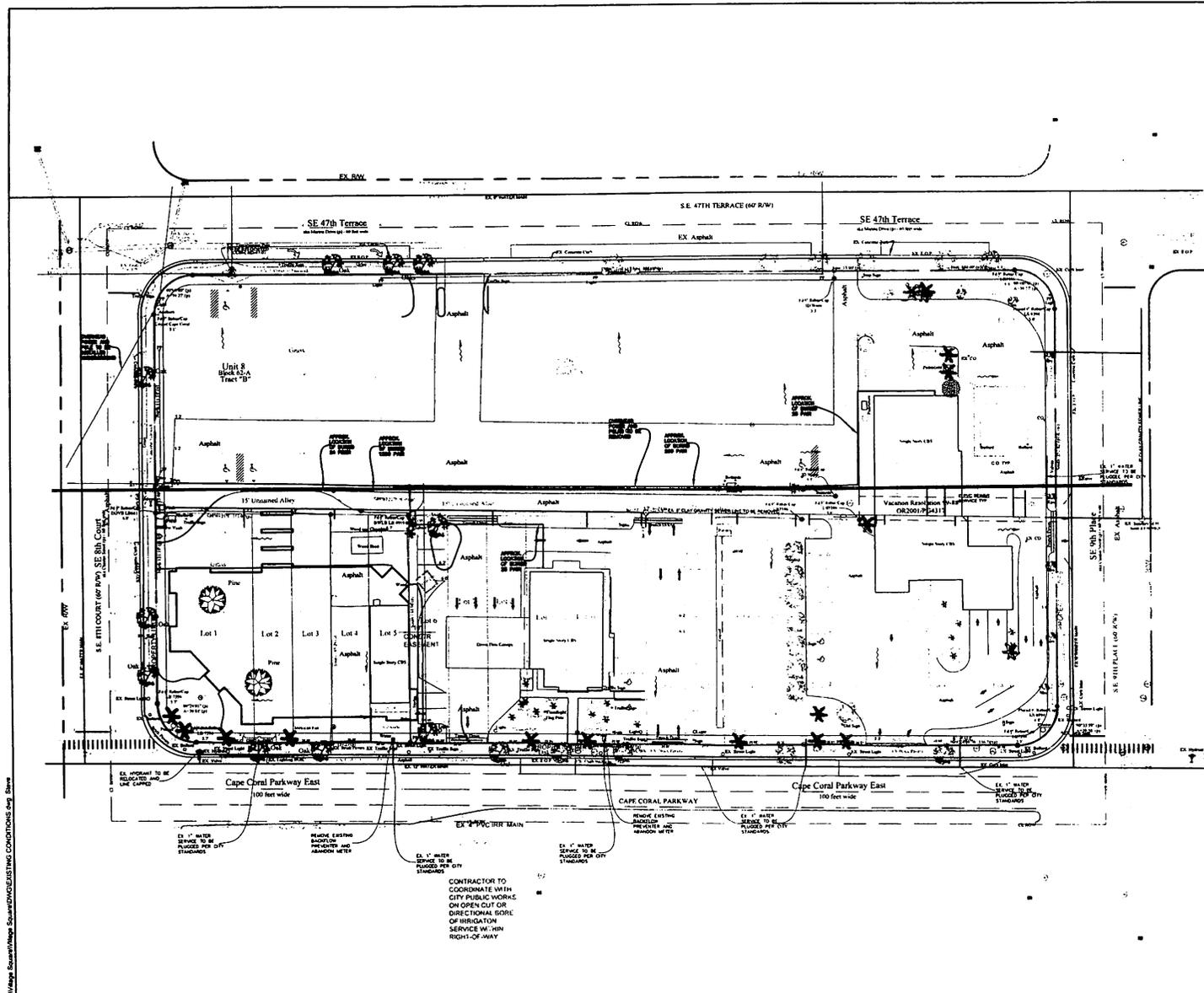
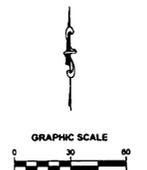
07-45-24-C4-00062 A00B
18-45-24-C1-01062 A160
18-45-24-C1-01062 A140
18-45-24-C1-01062 A060
18-45-24-C1-01062 A040
18-45-24-C1-01062 A010

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

DEI Civil Engineers & Planners
Certificate of Authorization NO. 26460
 1216 4th Street, Suite 4, Cape Coral, FL 33901
 (239) 945-0551 Fax (239) 772-0141 E-mail Steve@Dei-Ra.com

REGISTERED PROFESSIONAL ENGINEER
FLORIDA CERTIFICATE NO. 45190

STEVEN L. DARBY, P.E. DATE _____



- LEGEND**
- ⊙ Found Rebar or Pipe
 - ⊕ Placed Rebar w Cap
 - ⊗ Found Concrete Monument
 - ⊙ Placed Nail w Washer
 - ⊙ Found Nail w Washer
 - ⊗ Spot Elevation or Survey Point
 - ⊕ Water Valve or Meter
 - ⊕ ManHole
 - ⊕ Fire Hydrant
 - ⊕ Wood/Metal Pole
 - Concrete Pole
 - (CU) - Cleanout
 - (d) - per deed
 - (p) - per plat
 - (c) - calculated
 - (m) - as measured
 - EX. DRAINAGE FLOW PATTERN
 - OH - Overhead line
 - OR - Official Record
 - PB - Plat Book
 - DB - Deed Book
 - PG - Page
 - FP - Power Pole
 - 6.2' - Existing Spot Elevation

PROPERTY DESCRIPTION

Lots 1 through 20 of Block 62A, Unit 6, Part I, Cape Coral, as recorded in Plat Book 11, Page 46 of the Public Records of Lee County, Florida, and Lots 21 through 24 and Tract "B" of Block 62A, Unit 6, Cape Coral, as recorded in Plat Book 13, Page 4 of the Public Records of Lee County, Florida, and that portion of a 15' wide alley between Lot 24 and Tract "B" of Block 62A, Unit 6, Cape Coral, as recorded in Plat Book 13, Page 4 of the Public Records of Lee County, Florida, and that portion of a 15' wide alley between Lots 1 through 20 of Block 62A, Unit 6, Part I, Cape Coral, as recorded in Plat Book 11, Page 46, and Lots 21 through 24 and Tract "B" of Block 62A, Unit 6, Cape Coral, as recorded in Plat Book 13, Page 4 of the Public Records of Lee County, Florida.

SUBJECT PARCEL s3 94 Acres

- SITE NOTES**
1. BEARINGS SHOWN HEREON REFER TO THE CENTERLINE OF S E 9TH PLACE OF N00°00'00"E
 2. BENCHMARK ORIGIN: CITY OF CAPE CORAL T.B.M. #102-47-01, ELEV = 6.01'
 3. THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE AE, HAVING A BASE FLOOD ELEVATION OF 8', PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP # 125090, GMS C, DATED SEPTEMBER 18, 1993.
 4. ELEVATIONS REFER TO THE NATIONAL GEODETIC VERTICAL DATUM OF (N G V D '89)

Map 17, 2015, 4/2/2015, Village Square Village Square EXISTING CONDITIONS.dwg, Sheet

DESIGNED BY	SCALE	DATE	REVISIONS
DARBY	1" = 30'	MARCH 2010	PERMIT REVIEW SET
CHECKED BY			

DOWNTOWN VILLAGE SQUARE LLC
 400 DEL PRADO BLVD
 CAPE CORAL, FL 33904
 PHONE 239 274 7000 FAX 239 945 1166

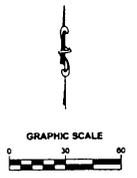
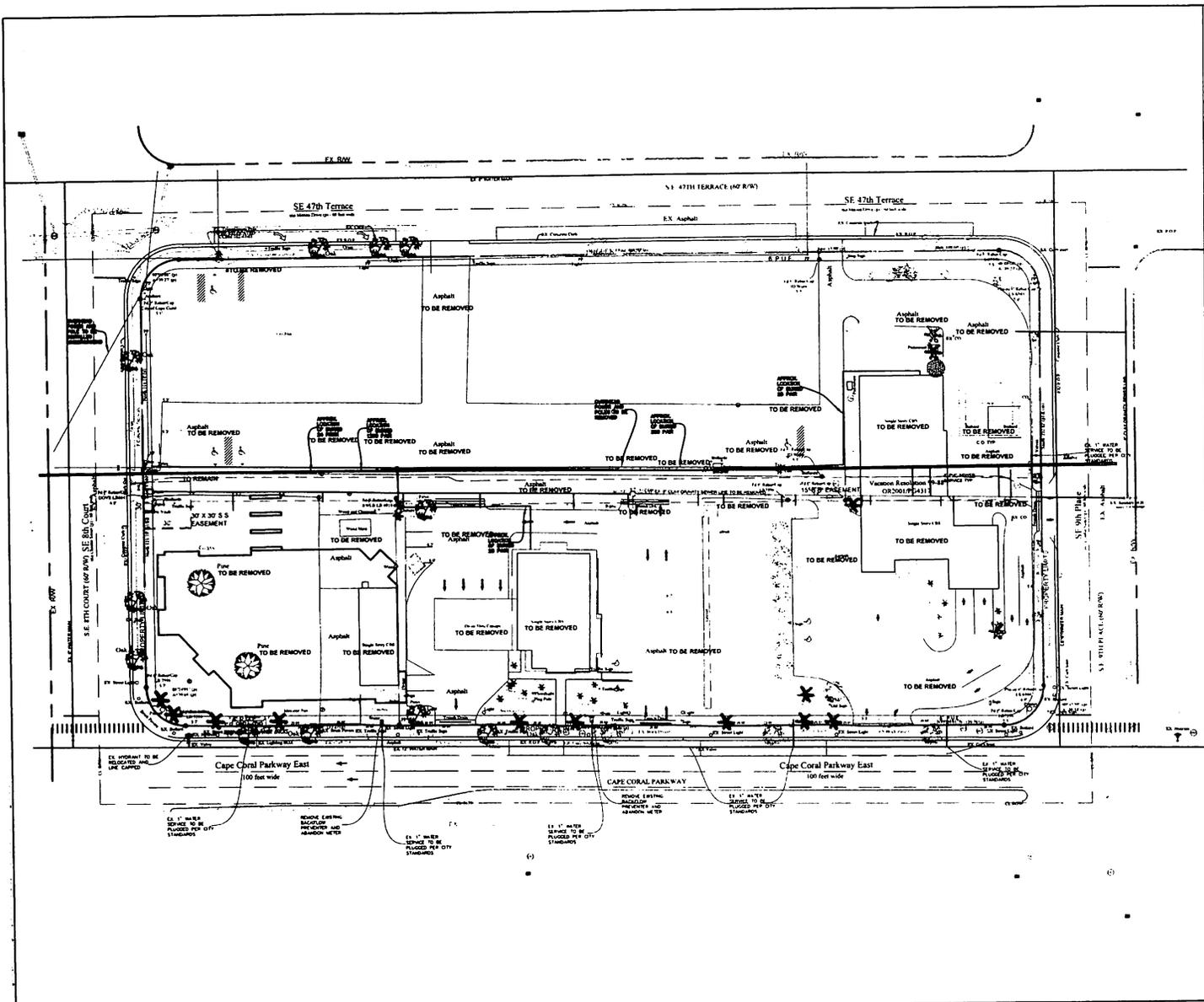
STEVEN L. DARBY, P.E.
 FL REG # 45190

DEI
 (239) 945-0551 Fax: (239) 772-2147 E-Mail: Steve@De-Fla.com

Caricate of Authorization NO: 20460
 1218 Am Street, Suite 4, Cape Coral, FL 33991

NOT VALID UNLESS
 SIGNED & EMBOSSED SEALED

VILLAGE SQUARE	DEI PROJECT NO 07-121-01
EXISTING CONDITIONS	SHEET NO
	C-2



ALL EXISTING FEATURES AND LANDSCAPING WITHIN THE 3.94 ACRE PARCEL WILL BE REMOVED EXCEPT FOR THE EXISTING LIFT STATION, SEE SHEET C-4A FOR PHASING PLAN

EXISTING MANHOLES AND DRAINAGE STRUCTURES TO REMAIN UNLESS NOTED

DESIGN BY: GIB	SCALE: 1" = 30'	REVISIONS	
DRAWN BY: GIB	MARCH 2008 PERMIT REVIEW SET		
CHECK BY: BLD	DATE: MARCH 2010		

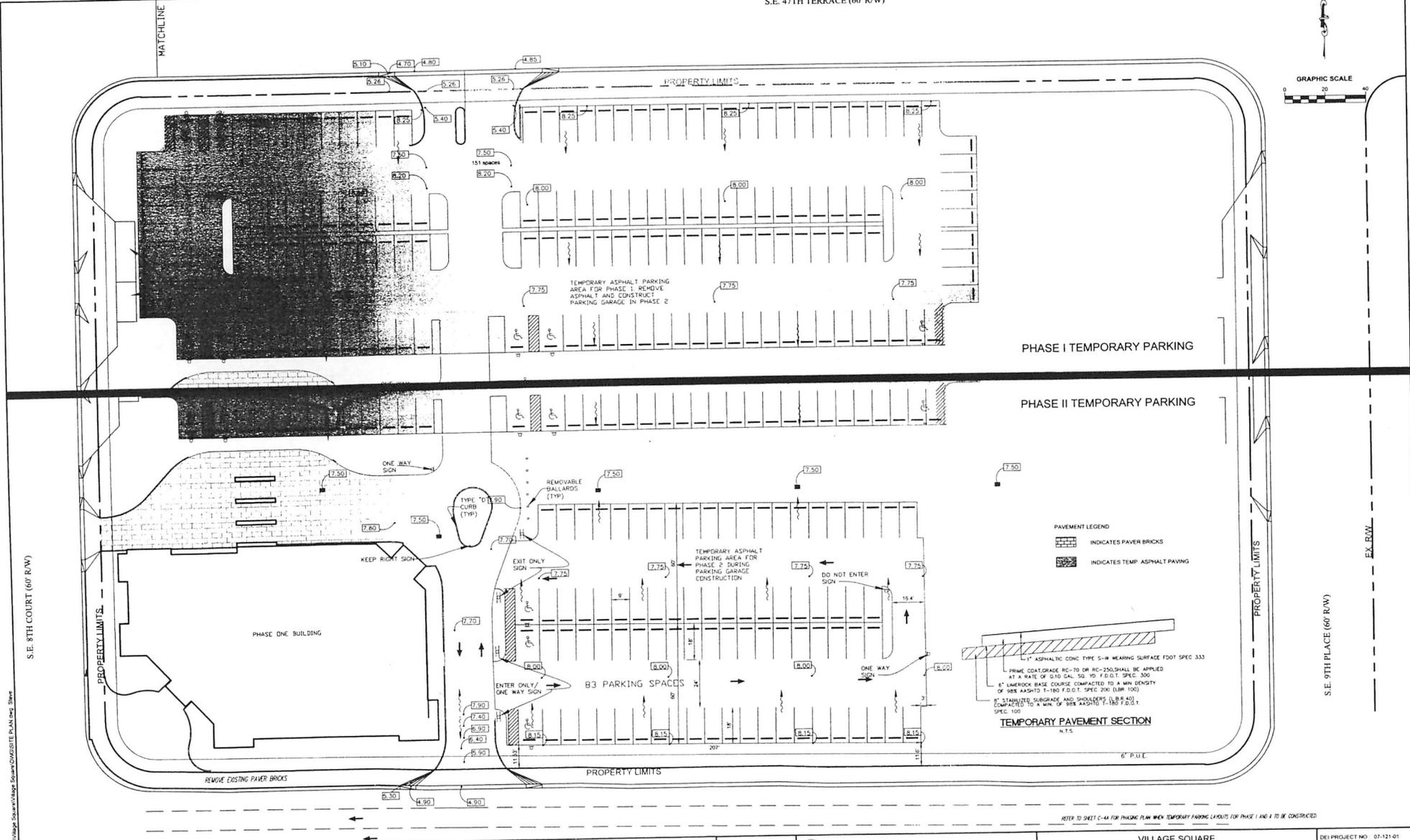
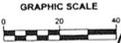
DOWNTOWN VILLAGE SQUARE LLC
 4002 DEL PRADO BLVD
 CAPE CORAL, FL 33904
 PHONE 239 274 7000 FAX 239 945 1166

STEVEN L. DARBY P E
 FL REG #43190
 NOT VALID UNLESS
 SIGNED & EMBOSSED SEALED

DEI
 Certificate of Authorization NO. 26400
 1216 4th Street, Suite 4 Cape Coral, FL 33901
 (239) 945-0551 Fax: (239) 777-0141 E-mail: Steve@Dei-Ra.com

VILLAGE SQUARE	DEI PROJECT NO. 07-17-01
DEMO PLAN	SHEET NO. C-3

S.E. 47TH TERRACE (60' R/W)



PAVEMENT LEGEND

- [Hatched Box] INDICATES PAVER BRICKS
- [Dotted Box] INDICATES TEMP ASPHALT PAVING

TEMPORARY PAVEMENT SECTION
N.T.S.

1" ASPHALTIC CONC TYPE S-III WEARING SURFACE FOOT SPEC 333
PRIME COAT GRADE RC-70 OR RC-250 SHALL BE APPLIED AT A RATE OF 0.10 GAL. SQ YD TO F.O.D.T. SPEC 300
6" LAMEROCK BASE COURSE COMPACTED TO A MIN DENSITY OF 98% AASHTO T-190 F.O.D.T. SPEC 206 (LBR-100)
6" STABILIZED SUBGRADE AND SHOULDERS (L.B.R. 40) COMPACTED TO A MIN. OF 98% AASHTO T-190 F.O.D.T. SPEC 100
6' P.U.L.

REFER TO SHEET C-44 FOR PHASING PLAN WHEN TEMPORARY PARKING LAYOUTS FOR PHASE I AND II TO BE CONSTRUCTED.

S.E. 8TH COURT (60' R/W)

S.E. 9TH PLACE (60' R/W)

DESIGN BY	SCALE	DATE	PERMIT REVIEW SET	REVISIONS
DR	1"=20'	MARCH 2010		
CHECK BY				

DOWNTOWN VILLAGE SQUARE LLC
4022 DEL PRADO BLVD
CAPE CORAL FL 33904
PHONE 239 274 7000 FAX 239 945 1165

STEVEN L. DARBY, P.E.
FL REG # 45190
NOT VALID UNLESS
SIGNED & EMBOSSER SEALED

DEI Engineering & Construction
Certificate of Authorization NO. 25440
1216 Air Street, Suite 4, Cape Coral, FL 33991
(239) 945-0551 Fax (239) 772-0141 E-mail: Steve@Dei-fa.com

VILLAGE SQUARE
TEMPORARY PARKING LAYOUTS FOR PHASE I AND II

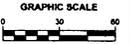
DEI PROJECT NO: 07-121-01
SHEET NO:
C-4B

LEGEND

- DRAINAGE GRADING ARROW
- PROPOSED INLET AND DRAINAGE PIPE
- 15" RCP
- REINFORCED CONCRETE PIPE
- PROPOSED DRAINAGE STRUCTURE
- PROPOSED GRADE ELEVATION
- EXISTING GRADE ELEVATION

DRY DETENTION STORAGE ROUTING CALCULATIONS RESULTS
(WATER QUALITY CALCULATIONS)
BASIN "TOTAL SITE A"

FIRST 1" RUNOFF = 14,312 CU.FT.
 2.5" PERCENT IMPERVIOUS = 21,833 CU.FT.
 PROVIDED DRY DETENTION IN CHAMBERS = 24,716 CU.FT.
 WATER QUALITY ELEVATION = 6.55' N.G.V.D.
 ELEVATIONS BASED ON ROUTING CALCULATIONS:
 25 YEAR - 3 DAY ELEVATION = 7.37' N.G.V.D. (DESIGN), DISCHARGE 1.64 CFS
 PRE DEVELOPMENT DISCHARGE RATE = 19.14 CFS
 10 YEAR - 1 DAY ELEVATION = 7.14' N.G.V.D. (MIN. PAVEMENT)
 F.E.M.A. ESTABLISHED ELEV. = 7.00' N.A.V.D. 88; 8'20" N.G.V.D. 29 (MIN. FIN. FLOOR)
 MET SEASON WATER TABLE ELEV. USE IN DESIGN = 3.5' N.G.V.D.



- INSPECTION AND MAINTENANCE SHALL BE PER MANUFACTURE'S GUIDELINES.
 - 1. INSPECTION OF THE HEADER SYSTEM SHOULD BE CARRIED OUT QUARTERLY
 - 2. REMOVE SEDIMENT VOLUME WHEN STORAGE AREA IS REDUCED BY 25%
 - 3. CLEANOUT SHOULD BE VACUUM PUMPED DURING DRY SEASON
 - 4. INSPECT SYSTEM AFTER HEAVY RAINFALL EVENTS OR 2.5 INCHES.
- ALL ROOF STORMWATER RUN-OFF SHALL BE DIRECTED TO THE PARKING TO THE ROOF DRAINS FOR TREATMENT BEFORE DISCHARGING FROM THE SITE.
- NYLOPLAST UNITS LOCATED AFTER INLETS SHALL INCLUDE ADS STORM-PURE CATCH BASIN INSERT WITH MYCELX FILTER INSERT
- PROPOSED SUBSURFACE STORMWATER MANAGEMENT BY USE OF STORMTECH SC-740 UNDERGROUND CHAMBER SYSTEM, INSTALLATION AND TECHNICAL DATA CAN BE FOUND AT STORMTECH'S WEBSITE WWW.STORMTECH.COM

DRAINAGE STRUCTURE SCHEDULE

STR. NO.	ORATE ELEV.	ORATE IN ELEV.	ORATE OUT ELEV.	STRUCTURE TYPE
S-05	---	---	3.50	JUNCTION MANHOLE INDEX #201
S-06	7.50	3.50	3.50	TYPE "C" INLET INDEX #232
S-07	---	---	3.50	JUNCTION MANHOLE INDEX #201
S-08	7.50	3.50	3.50	TYPE "C" INLET INDEX #232
S-09	---	---	3.50	JUNCTION MANHOLE INDEX #201
S-10	---	---	3.50	JUNCTION MANHOLE INDEX #201
S-12	7.50	---	3.50	TYPE "C" INLET INDEX #232
S-13	7.50	3.75	3.75	TYPE "C" INLET INDEX #232
S-14	7.50	3.75	3.75	TYPE "C" INLET INDEX #232
S-15	7.50	4.37	4.37	TYPE "C" INLET INDEX #232
S-16	7.50	4.67	4.67	TYPE "C" INLET INDEX #232
S-17	7.50	5.33	5.33	TYPE "C" INLET INDEX #232
S-18	7.50	4.23	4.23	TYPE "C" INLET INDEX #232
S-19	7.50	4.52	4.52	TYPE "C" INLET INDEX #232
S-20	7.50	4.82	4.82	TYPE "C" INLET INDEX #232
S-21	7.50	3.50	3.50	TYPE "C" INLET INDEX #232
S-22	---	3.50	3.50	JUNCTION MANHOLE INDEX #201
S-24	7.50	---	3.50	TYPE "C" INLET INDEX #232
S-25	7.50	---	3.50	TYPE "C" INLET INDEX #232
S-26	---	BUILDING	3.50	JUNCTION MANHOLE INDEX #201
S-27	---	BUILDING	3.50	JUNCTION MANHOLE INDEX #201
S-28	7.50	3.50	3.50	TYPE "C" INLET INDEX #232
S-29	---	---	3.50	JUNCTION MANHOLE INDEX #201
S-30	---	---	3.50	JUNCTION MANHOLE INDEX #201
S-31	---	---	3.50	JUNCTION MANHOLE INDEX #201
S-32	5.00	---	3.50	TRENCH DRAIN
S-33	---	---	3.50	JUNCTION MANHOLE INDEX #201
S-34	---	---	6.54	OUTFALL STR. C-1
S-35	7.50	---	3.87	TYPE "C" INLET INDEX #232

LAND USE DATA TABLE

BUILDING	111299 SF	2.56 AC	64.8 %
PAVEMENT	10910 SF	0.25 AC	6.4 %
WALKS	25491 SF	0.60 AC	16.1 %
PERVIOUS	23361.00 SF	0.54 AC	13.7 %
TOTAL SITE	171744 SF	3.94 AC	100.0 %

NOTE: CONTRACTOR RESPONSIBLE FOR CHANGING, ADJUSTING, AND MAINTAINING THE EROSION CONTROL DEVICES AND STABILIZING THE DISTURBED AREAS IN COMPLIANCE WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) - NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) POLLUTION STORMWATER POLLUTION PREVENTION PLAN (SWPPP) THROUGHOUT THE DURATION OF THE PROJECT. SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD) PERMIT, STORMWATER POLLUTION PREVENTION PLAN (SWPPP), STATUS REPORTS ON EROSION CONTROL DEVICES AND OTHER REQUIRED INFORMATION OR PROCEDURES FROM THE SWPPP ARE REQUIRED TO BE MAINTAINED ON-SITE FOR REVIEW UPON DEMAND FOR COMPLIANCE.

SEE SHEET C-6 FOR GRADING PLAN.

DESIGN BY	SCALE	DATE	REVISIONS
SCALE 1" = 30'			

DOWNTOWN VILLAGE SQUARE LLC
 400 DEL PRADO BLVD
 CAPE CORAL FL 33904
 PHONE 239 274 7000 FAX 239 845 1106

STEVEN DAREY P.E.
 FL REG # 45190



City Engineers & Planners

Certificate of Authorization NO 26400
 1218 4th Street, Suite 4, Cape Coral, FL 33991
 (239) 845-0551 Fax: (239) 772-0141 E-mail: Steve@dei-fl.com

VILLAGE SQUARE

DEI PROJECT NO. 07-121-01

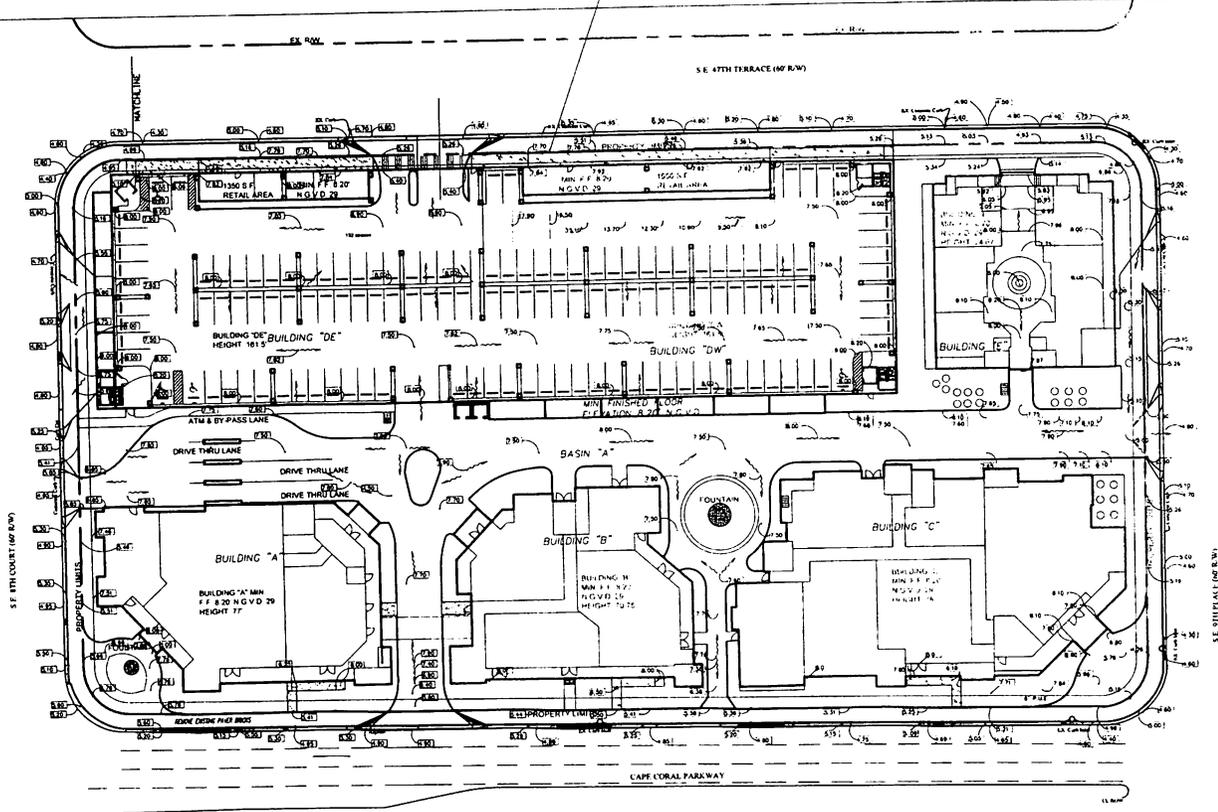
DRAINAGE PLAN

SHEET NO

C-5



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



LEGEND

- DRAINAGE GRADING ARROW
- PROPOSED INLET AND DRAINAGE PIPE
- REINFORCED CONCRETE PIPE
- PROPOSED DRAINAGE STRUCTURE
- ROADWAY HIGH AND LOW POINT ELEV.
- PROPOSED GRADE ELEVATION
- EXISTING GRADE ELEVATION

EROSION CONTROL NOTES:

1. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY APPROPRIATE EROSION CONTROL DEVICES SHALL BE INSTALLED TO CONTROL AND REDUCE SOIL EROSION AND SEDIMENT TRANSPORT TO OFF-SITE AREAS. THE CONTRACTOR SHALL MAINTAIN THESE DEVICES THROUGHOUT THE DURATION OF CONSTRUCTION. ALL DEVICES SHALL REMAIN IN PLACE UNTIL THE SURROUNDING AREAS ARE ESTABLISHED.
2. THE FOLLOWING MINIMUM REQUIREMENTS ARE RECOMMENDED: (REFERENCE FLORIDA DEVELOPMENT MANUAL, FDER, PPS 6-301 TO
 - c) TEMPORARY GRAVEL CONSTRUCTION ENTRANCE
 - d) SILT FENCE
 - e) STORM INLET DRAIN PROTECTION
3. SILT FENCE TO BE INSTALLED AS NECESSARY. ALL EXISTING SILT FENCE TO BE MAINTAINED AS NECESSARY.

NOTE CONTRACTOR RESPONSIBLE FOR CHANGING, ADJUSTING, AND MAINTAINING THE EROSION CONTROL DEVICES AND STABILIZING THE DISTURBED AREAS IN COMPLIANCE WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) - NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) POLLUTION STORMWATER POLLUTION PREVENTION PLAN (SWPPP) THROUGHOUT THE DURATION OF THE PROJECT. SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD) PERMIT, STORMWATER POLLUTION PREVENTION PLAN (SWPPP), STATUS REPORTS ON EROSION CONTROL DEVICES AND OTHER REQUIRED INFORMATION OR PROCEDURES FROM THE SWPPP ARE REQUIRED TO BE MAINTAINED ON-SITE FOR REVIEW UPON DEMAND FOR COMPLIANCE.

DESIGN BY: CM	SCALE: 1" = 30'	REVISIONS	
DESIGNED BY: CM	DATE: SEPT 2007	PERMIT REVIEW SET	
CHECK BY: JLB	DATE: MARCH 2010	7/25/08 REVISED PER SFWM COMMENT	
		9/5/08 REVISED PER SFWM COMMENT	

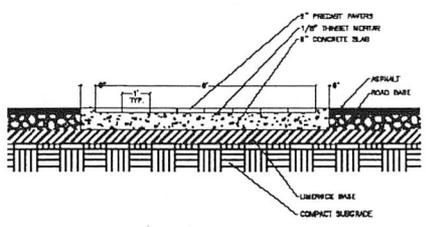
DOWNTOWN VILLAGE SQUARE LLC
4002 DEL PRADO BLVD
CAPE CORAL, FL 33904
PHONE 239 274 7000 FAX 239 945 1100

STEVEN L. GARDY, P.E.
FL. REG. # 45190
NOT VALID UNLESS SIGNED & EMBOSSER SEALED

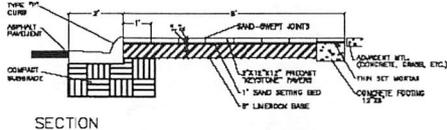


VILLAGE SQUARE
GRADING PLAN

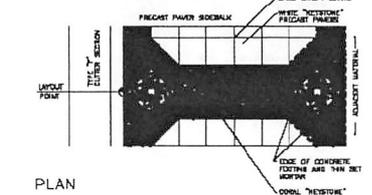
DEI PROJECT NO. 07-121-01
SHEET NO. C-6



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



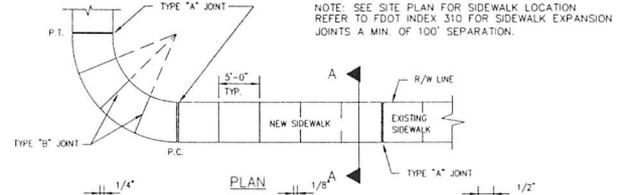
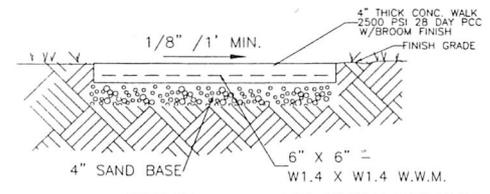
SECTION



PLAN

2 PRECAST PAVER SIDEWALK
SCALE: 3/4"=1'-0"

SIDEWALK CONSTRUCTION DETAIL WITHIN R/W
NOT TO SCALE



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

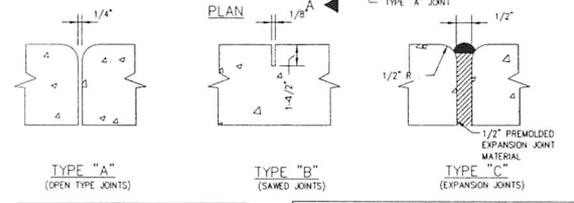
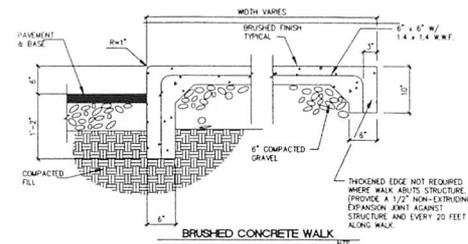


TABLE OF SIDEWALK THICKNESS-1"	
LOCATION	THICKNESS
RESIDENTIAL AREAS	4"
AT DRIVEWAYS AND OTHER AREAS	6"

TABLE OF SIDEWALK JOINTS	
TYPE	LOCATION
"A"	P.C. AND P.I. OF CURVES JUNCTION OF EXISTING AND NEW SIDEWALKS
"B"	5'-0" CENTER TO CENTER ON SIDEWALKS
"C"	WHERE SIDEWALK ABUTS CONCRETE CURBS, DRIVEWAYS AND SIMILAR STRUCTURES

SIDEWALK CONSTRUCTION DETAIL
NOT TO SCALE



BRUSHED CONCRETE WALK

GENERAL NOTES:
RESIDENCE IS SET BACK MORE THAN 75' FROM THE EDGE OF PAVEMENT. SPECIAL CONDITIONS MAY APPLY.
REPLACEMENT OF NON-DRAINAGE MATERIAL (E.G., PANELS, UNREINFORCED CONCRETE, SPECIAL CURBS, ETC.) IN WHOLE OR IN PART BY THE CITY FOR REQUIRED QUALITY, DRAINAGE OR OTHER REPAIRS SHALL BE PERFORMED BY THE OWNER AT THEIR EXPENSE.
INSPECTION NOTES:
1. INSPECTIONS OF SIDEWALK CONSTRUCTION IS REQUIRED BY THE ENGINEERING DIVISION AFTER FORMING AND BEFORE POURING.
2. INSPECTIONS OF DRIVEWAYS ARE REQUIRED AS FOLLOWS:
(1) STAKE-OUT INSPECTION - TO DETERMINE GRADES FOR FLOW.
(2) FORM INSPECTION - REQUIRED AFTER FORMING DRIVEWAY SPREAD AND OR SIDEWALK FOR COMPLIANCE OF CITY SPECIFICATIONS.
(3) CONCRETE INSPECTION - INCLUDING REINSPECTION OF ALL ESTABLISHED AREAS.
3. ALL INSPECTIONS SHALL BE SCHEDULED THROUGH A 2 READER AT 330-6100 AS INDICATED IN THE PERMIT CARDS.

CONSTRUCTION NOTES:
1. TYPICAL SLOPE OF SAW CUT WALKS 1 1/2" DEEP, 3'-0" O.C., 4" THICK SIDEWALK - 6" THICK THROUGH DRIVEWAY.
2. CONCRETE: FOOT CLASS 1, 3000 P.S.I. MIN. MAX. SLOPE 4" OF FINISHING CONCRETE ACCEPTED.
3. NO REINFORCING IN CONCRETE IN RIGHT-OF-WAY SIDEWALK FINISH TO BE LIGHT BROOM.
4. ALL DRIVEWAY AREAS MUST BE WALK TO BE REDUCED TO MATCH ORIGINAL SOG. IF NO ORIGINAL SOG THEN SEED, FERTILIZE AND STRAW.
5. NO PATCHING OF ANY KIND WILL BE ALLOWED IN CONCRETE WORK.
6. A RIGHT-OF-WAY PERMIT IS REQUIRED FROM ENGINEERING DIVISION FOR DRIVEWAY CONSTRUCTION. DRIVEWAY PERMITS ARE REQUIRED FOR GRADE, FLOW AND DRAINED CURBS.
7. DRIVEWAYS ON STATE ROADS - PERMITS OBTAINED FROM FOOT DRIVEWAYS ON LEE COUNTY ROADS - PERMITS OBTAINED FROM LEE COUNTY DOT.
8. ASPHALT DRIVEWAYS SHALL BE CONSTRUCTED BY 6" COMPACTED LINERLOCK BASE OVER A SUFFICIENTLY COMPACTED SUBGRADE AND SURFACED WITH 1 1/2" OF ASPHALT CONCRETE.
9. DRIVEWAYS MUST BE FIVE FEET FROM PROPERTY LINE AND TEN FEET FROM RIGHT-OF-WAY LINE OR SOLOON ON UNPAVED THROUGH AN EXISTING DRIVEWAY.

DESIGN BY: GMB	SCALE: AS SHOWN	REVISIONS	
		DATE	DESCRIPTION
DRAWN BY: GMB	MARCH 2008	PERMIT REVIEW SET	
CHECK BY: BLD	DATE: MARCH 2010		

DOWNTOWN VILLAGE SQUARE LLC
4002 DEL PRADO BLVD
CAPE CORAL FL 33904
PHONE 239 274 7000 FAX 239 945 1166

STEVEN L. DARBY, P.E.
FL REG. # 45190
NOT VALID UNLESS
SIGNED & EMBOSSSED SEALED

DEI Engineering & Construction
Certificate of Authorization NO. 26480
1210 4th Street Suite 4 Cape Coral, FL 33991
(239) 945-0551 Fax: (239) 972-0141 E-mail: Steve@Dei-Fl.com

VILLAGE SQUARE
DETAILS

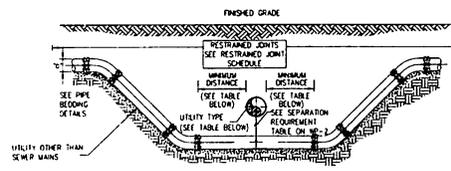
DEI PROJECT NO.: 07-121-01
SHEET NO.:
D-2

STANDARD MANHOLE SCHEDULE OF INVERT CHANNEL DIMENSIONS				
PIPE SIZE	ANGLE Δ	MH DIA.	R	X
6" TO 15"	0 TO 90°	6'-0"	1'-8"	0' TO 10'
18" TO 24"	90 TO 120°	3'-0"	2'-0"	0' TO 10'
18" TO 24"	0 TO 90°	3'-0"	2'-0"	0' TO 10'
18" TO 24"	90 TO 120°	3'-0"	2'-0"	0' TO 10'
18" TO 24"	0 TO 90°	3'-0"	2'-0"	0' TO 10'
24" TO 30"	0 TO 90°	3'-0"	2'-0"	0' TO 10'
24" TO 30"	90 TO 120°	3'-0"	2'-0"	0' TO 10'
OTHERS	WHICHEVER APPROVED OR EQUAL			

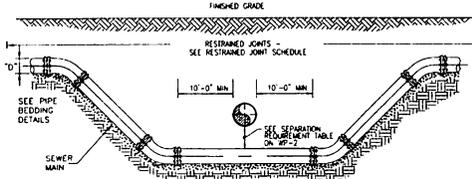
MANHOLE GENERAL NOTES:

- ALL STUBS FROM MANHOLES AND ENDS OF PIPE TO WHICH CONNECTIONS ARE TO BE MADE UNDER THIS CONTRACT SHALL BE PROVIDED WITH TEMPORARY WATERPROOF PLUGS OR CAPS. ALL STUBS FOR CONNECTIONS TO OTHER CONTRACTS SHALL BE PROVIDED WITH WATERPROOF PLUGS PLACED FROM WIDE OF THE MANHOLE. SUCH PLUGS LOCATED AT JUNCTIONS OF TWO CONTRACTS SHALL REMAIN IN PLACE AND SHALL BE REMOVED BY THE SUB-CONTRACTOR ON COMPLETION AND TURN-OVER OF THE CONTRACT. SEWERS WHICH ARE TO BE CONNECTED TO MANHOLES WHICH WILL BE BUILT UNDER OTHER CONTRACTS SHALL BE PROVIDED WITH WATERPROOF PLUGS AND CAPS. STUBS = ONE PIPE LENGTH.
- THE SLOPE SHALL SLOPE TOWARD THE INVERT CHANNEL AT A MINIMUM OF ONE (1) IN/100' BUT A MINIMUM 3" HIGH DIFFERENCE SHALL BE MAINTAINED FROM THE O.S. POINT OF THE CHANNEL TO THE WALL.
- THE DEPTH OF THE INVERT CHANNEL SHALL BE EQUAL TO DOUBLE OF THE LARGEST DIAMETER SEWER IN THE MANHOLE.
- MANHOLE SECTIONS SHALL BE JOINED TOGETHER WITH DOUBLE RAY MIX. O/E.
- ALL MANHOLES TO BE CONSTRUCTED OF PRECAST CONCRETE (BASES, BARRELS AND ECCENTRIC CONES) WITH FLEXIBLE RUBBER MANHOLE SLEEVES PER ASTM C-923 BY ROP-IN-SEAL. O/E. PROVIDE COATING ON ALL WORK AND OUTSIDE WALLS AND BASES IN ACCORDANCE WITH SPECIFICATIONS. NO BRICK MANHOLES WILL BE ACCEPTED UNLESS APPROVED IN WRITING. ALL CONCRETE SHALL BE TYPE II PORTLAND CEMENT.
- SEE SPECIFICATIONS FOR MATERIAL REQUIREMENTS AND PLACEMENT AND COMPACT OF PIPE BEDDING AND CRUSHED STONE (SEE TYP. BEDDING DETAILS).
- REWORKING FOR PRE-CAST MANHOLES AS PER ASTM C-478 (TYPICAL).
- CONCRETE FOR MANHOLE STRUCTURE SHALL HAVE A COMPRESSIVE STRENGTH OF NO LESS THAN 4,000 PSI @ 28 DAYS.

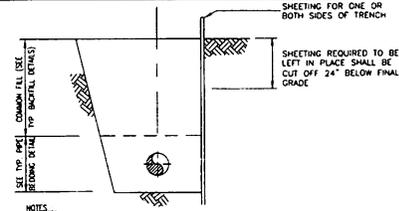
MANHOLE SCHEDULE AND GENERAL NOTES N.T.S.



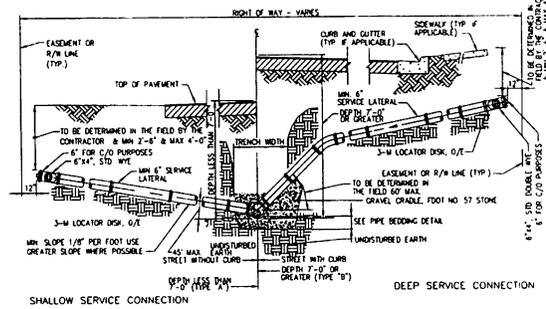
RESTRAINED JOINT UTILITY CROSSING FOR UTILITIES OTHER THAN SEWER MAINS N.T.S.



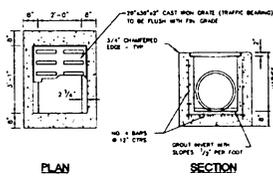
RESTRAINED JOINT UTILITY CROSSING FOR SEWER MAIN N.T.S.



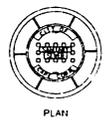
TYPICAL SECTION TRENCH SHORING DETAIL N.T.S.



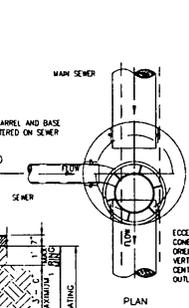
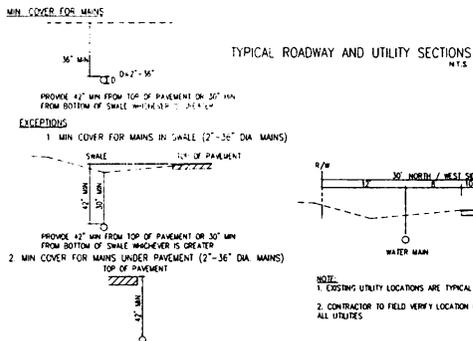
TYPICAL SERVICE LATERAL - SECTION N.T.S.



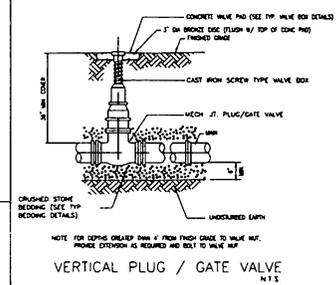
TYPE C INLET



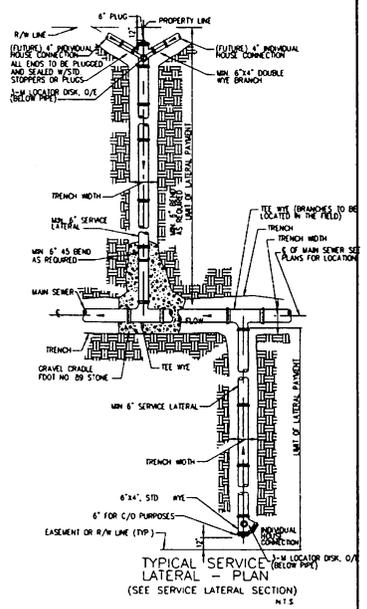
FRAME AND COVER N.T.S.



TYPICAL MANHOLE N.T.S.



VERTICAL PLUG / GATE VALVE N.T.S.



DESIGNED BY	SCALE AS SHOWN	REVISIONS	
		DATE	REVISION
BY: []	MARCH 2008	PERMIT REVIEW SET	
CHECKED BY: []	DATE: MARCH 2010		

DOWNTOWN VILLAGE SQUARE LLC
4022 DEL PRADO BLVD
CAPE CORRAL FL 33904
PHONE 239 278 7000 FAX 239 940 1186

STEVEN L. GARBY P.E.
FL REG # 45190
NOT VALID UNLESS SIGNED & EMBOSSED SEALED

DEI Civil Engineers & Planners
Certificate of Authorization NO 28480
1216 4th Street, Suite 4, Cape Coral FL 33904
(239) 945-0551 Fax: (239) 975-0141 E-mail: Steve@dei-fl.com

VILLAGE SQUARE
DETAIL SHEET

DEI PROJECT NO. 07-121-01
SHEET NO. D-3

STANDARD CAPE CORAL CONSTRUCTION NOTES

Engineering/Right-of-Way

- Contractor is required to follow all state and local building and development codes and standards. All work within the City Right-of-Way shall be in accordance with City Engineering Design Standards and Florida Department of Transportation's Standards for Road and Bridge Construction. Federal ADA requirements will supersede all conflicts with state and local standards. All deviations from the City Engineering Design Standards shall be specifically addressed in writing for review and approval by the City Engineer prior to right-of-way final. All other errors, omissions or conflicts with the site plan or specifications shall be resolved in favor of the City Engineering Design Standards.
- All work or materials which do not conform to the Specification of the City of Cape Coral Engineering Design Standards or Florida Department of Transportation Standards Specifications For Road And Bridge Construction or any work performed without an inspection by a representative of the City of Cape Coral Public Works Department is subject to removal and replacement at the contractor's expense.
- All elevations are based on NGVD (1929).
- The contractor is required to get all the necessary right-of-way permits and provide all necessary work zone controls and safety requirements for the project. Traffic controls are required for all work within the right-of-way. The City of Cape Coral has adopted the Manual of Uniform Traffic Control Devices for Streets and Highways and requires a Maintenance of Traffic Permit to ensure compliance with these standards. A traffic maintenance plan is required from the contractor and must be approved by the City Transportation Department prior to starting work in the right-of-way. For more information the contractor should reference City Engineering Design Standards sheet G-4 and the current version of section 600 and section 700 of F.D.O.T. Standard Specifications. Contractor's failure to comply with these requirements could result in the city imposing a stop work order on the project.
- Contractor to note that design elevations for the right-of-way shown, on the plans may differ from the city's master design plan. The city's survey department will set the grades for curb as per the city's curb and road widening master plan. The contractor should check with the city's Engineering Department to obtain right-of-way design information and latest changes if any.
- The contractor shall ensure that with all road improvements, the existing asphalt road edge is cut back a min. of 1 ft. for the entire length of the asphalt widening to be constructed and any of the existing thermoplastic striping remaining along the cut edge will be ground off. The sub-base and cut edge are to be tack coated prior to the installation of the new asphalt, and that all new striping shall be thermoplastic and placed along the curb per M.U.T.C.D. specifications.
- Concrete forms are required on both sides of all replacement curbs as outlined on sheet F-3 of the City Engineering Design Standards. Inspections shall be requested and approved prior to placement of concrete one/for asphalt in the City of Cape Coral's right-of-way.
- All broken and vertically misaligned sections of existing sidewalks and curb in the city right-of-way directly adjacent to this site that do not meet A.D.A. minimum requirements are required to be replaced.
- Sidewalks passing through driveway aprons shall comply with latest version of the Federal A.D.A. see also the City Engineering Design Standards sheets D-3 and D-4 and F.D.O.T. index 515 pages 1-6 for more details.
- Contractor shall install expansion joints at intervals of 100 ft. on center for all curb gutter and sidewalks installed in the right-of-way. Contractions joints are to be saw cut at 5' on center for sidewalks and 10' on center for curb. Expansion material is not to be placed between the back of the curb and the sidewalk or driveway apron. For additional details refer to F.D.O.T. indexes 300 and 310.
- City materials for materials test reports should be determined at the beginning of the project and should be available to the inspector at the time of required inspection. Contractor is responsible for all required testing of right-of-way improvements at the appropriate time during development to ensure compliance with minimum city design standards. Certified test reports are required for contractor of sub-grade and base course. In-place or thickness of road base and asphalt for new road and/or alley construction is also required prior to an Engineering Right-of-Way Final. Delay in receiving an approved right-of-way final could result in delays in receiving the Certificate of Occupancy for the completed project. Testing of improvements in the right-of-way is required to ensure compliance with the minimums of the design cross sections.
- Contractor is responsible for restoration of all city right-of-way disturbed or damaged during construction up and to the point that final approval is received from the city. Right-of-way, waste and other differences in grade including private property shall be graded to a 4:1 slope. These areas shall be covered with hydro seed or sod. Sod only is to be placed along the edge of new or existing pavement and 10-feet in all directions around storm water inlets. This includes properties located across alleys improved as part of the project.
- This Project may require the installation of additional storm water improvements in the adjacent city right-of-way due to the unforeseen impact of the project on the storm water system. Such effects may not have been evident at the time the city reviewed this project. The owner will be responsible for necessary additions and adjustments to the existing drainage facilities and continuous functioning of the R/W drainage system. Improvements may involve but are not limited to, waste regarding, modification or installation of pipes, drainage structures, and curb and curb inlets. Contractor is required to contact the Owner/Engineer and City Site Development Review Division as soon as possible if it is apparent, in the field, the project improvements are creating a problem with the existing R/W drainage and additional corrective work/improvements are required for the project.
- The contractor will be required to contact the Site Development and Review Division to coordinate the installation and inspections for regrading of the city storm water system. After all of the new pipes and structure have been installed and approved by the city, the old pipes and any structures on the property must be removed. The contractor will be required to provide a surveyor to do the layout for installation of the new system.
- The contractor shall provide erosion controls for the storm water system of the city right-of-way at the start of construction. Controls must be maintained until the right-of-way construction is complete and responsibility for the work is accepted by the City of Cape Coral. Should the contractor's storm water protective system not be installed or for the contractor shall upon completion clear and clean the entire storm sewer system to the canal. Erosion control methods are detailed on sheets M-1 to M-27 of the City of Cape Coral Engineering Design Standards. (See also Florida Storm Water, Erosion and Sedimentation Control Inspection Manual for additional info.)
- All city signs in or adjacent to the city right of way that must be relocated shall be coordinated with the city traffic department. Stop signs must be maintained during construction by relocating the existing sign if possible, use a temporary sign or a combination of both. Please get in touch with the traffic department for relocation of signs, approval of new signs, and required striping of adjacent right-of-way. All right-of-way striping and signs must comply with the latest version of the M.U.T.C.D. All private traffic signs and poles are to be located on private property behind the city right-of-way line. Temporary street signs may be placed within the right-of-way to identify street locations. Coordination with the City Traffic Department is required.
- The site contractor will be responsible to ensure that all above ground public utility structures in the right-of-way will be relocated to the utility easement behind the right-of-way line. This would include all types such as power poles, telephone connection boxes, switch gear boxes and any structures used to supply or support a public service not regulated by the City of Cape Coral Utility. For all other utilities maintained by the city contact the City Utility Department.
- All frames, covers, valve boxes and manholes shall be adjusted to finished grade upon completion of paving or related construction.
- Construction of the type-A curb inlet shall be per city details and specifications. See sheet C-3 and sheet C-9 of the Cape Coral Engineering Design Standards and F.D.O.T. index 210 for additional information. The last structure in the system prior to a canal is required to have a two foot bottom bump below the lowest pipe.
- Round storm drains adjacent to inlets are sump walls that connect to under ground retention systems that parallel the right-of-way and shall be attached to inlets as per details shown.
- All work/materials that do not conform to local or state standards, or that are not properly inspected by a city representative are subject to removal, or replacement at the contractor's expense. All concrete within city R.O.W. must be 3000 P.S.I. minimum.
- The City of Cape Coral will do construction lay out for location and elevation of storm water structures, curb and alley improvements as per the city's master plans.
- All property survey monuments in the City of Cape Coral's right-of-way are to be in place and marked prior to requesting services for surveying lay out and/or inspections. All property corners and survey monuments shall be preserved. If a property corner or monument is disturbed or destroyed during construction, the property corners or monuments shall be restored with the like and kind of materials prior to engineering final.
- All mail boxes in or adjacent to the right-of-way that must be relocated shall be coordinated with the City Traffic Department and the local post office for final placement. Mailboxes must be made available to the owner and postal delivery service during construction. Temporary relocation shall be coordinated with the local post office.
- The City Engineering Department would advise that the Contractor notify Lee County D.O.T. Traffic Signal Maintenance Divisions prior to starting construction and have them check all traffic control leads and wiring loops to ensure that they are operational. Lee County Traffic Control Maintenance Dept. will provide assistance on moving of all traffic signal boxes.
- A preconstruction meeting with the City of Cape Coral inspectors, the contractor and any subcontractors is required prior to commencing work in the City of Cape Coral's right-of-way.
- The contractor shall restore all city rights-of-ways disturbed or damaged prior to a City Site Development Review final.
- Alley right-of-way shall be barricaded at the start of construction, on both side property lines with a minimum of type M.D.O.T. barricades and with signs stating "Do Not Enter or Road Closed" on both barricades. Barricades shall remain in place until the City Site Development Review final inspection.
- Any differences in grade between the alley easement edge and private property shall be graded to a 4:1 slope.

Surface Water Management

- Site must adhere to Land Use Regulation 5.2 E-Retention/Detention Areas i.e. Trees and shrubs must not interfere with the volume of storm water storage; trees and shrubs must not interfere with the required side slopes; trees and shrubs must not interfere with or impede the flow of runoff; retention/detention areas must be stabilized with sod unless an alternative method is specifically permitted prior to plans approval; no organic mulch will be permitted in or adjoining retention/detention area.
- Erosion controls on site and within the City right-of-way shall be in place at the start of construction. Controls must be maintained until the site construction and the right-of-way construction is complete.
- The contractor shall clear and clean the City's drainage conveyance system in the right-of-way and to the canal prior to a City Site Development Review final.
- All wetland and preserve areas shall be delineated with a unique color stake, tape and/or fencing prior to any work in the area. Erosion silt fence shall be used in conjunction with, but not as a replacement for, the wetland and preserve area delineation method.
- Silt fencing shall be located outside the "drip line" of the trees along the perimeter of the wetland and preserve areas.

Utilities

- The contractor shall locate and verify the size, location and depth of all existing utilities in the field and shall notify the utility companies in the area before beginning construction. Any utilities that are disturbed or damaged by the contractor shall be immediately repaired or replaced by the contractor at his expense.
- Water and sewer services shall conform to Florida plumbing code and the most current City of Cape Coral Design Procedures.
- Installation of water meters and connections to the City of Cape Coral utilities shall be performed by and coordinated with the City of Cape Coral Public Works Department at the contractor's expense.
- All backflow prevention devices are to be located directly following the water meter on the owner's property. Backflow prevention devices shall be installed above ground to facilitate maintenance and testing. Backflow prevention devices shall be tested by a certified cross connection control technician in the presence of a City of Cape Coral representative.
- Irrigation to be provided by existing City of Cape Coral reuse system with internal system by owner.
- The contractor shall adjust (as required) pipeline alignments horizontally and/or vertically to avoid conflicts with actual field conditions as uncovered during construction. Horizontal and vertical separation shall conform to the City of Cape Coral Specifications and Design Procedures.
- The contractor shall verify with manufacturer of water and irrigation mains for maximum pipe deflection allowed. The pipe deflection shall not exceed 4 degrees per joint.
- The contractor shall color code all water, sewer, and irrigation mains and services to meet City of Cape Coral specifications.
- Disturbance and re-sampling will be required when any existing potable water main or service is disturbed and is the responsibility of the contractor at his expense.
- All utilities that meet the most current City of Cape Coral Utility Extension Program Design Procedures.
- Upon field inspection, the City of Cape Coral Utility Standards and Specifications Detail Drawings, current at the time of site plan approval, are to be utilized regardless of the details shown on the approved site plans.
- All electric power poles to be removed and electric lines to be relocated to be underground.

Plantings

- All plant materials and trees shall meet or exceed the standards for Florida No.1 as specified in "Grades and Standards for Nursery Plants", Part I, 2963, and Part II, State of Florida, Department of Agriculture, Tallahassee, as amended, or equal as approved by the DCD Director.
- Overhead power line radius within twenty (20) feet of existing overhead lines shall be maintained to a maximum height of less than twenty (20) feet or shall be subject to trimming and cutting by the power company. However, palm trees within fifteen (15) feet of existing overhead power lines are prohibited except for prony date palm, cocco palm, Christmas palm, parrot palm, and other species that attain a height of less than twenty (20) feet when mature.
- Tree shall be species having an average mature canopy of greater than fifteen (15) feet and having trunks which can be maintained in a open condition over five (5) feet of clear wood. All shade trees other than palm trees shall have a minimum height of eight (8) feet at planting. In addition, all trees other than palm trees shall have a diameter of two (2) inches when measured at a height of six (6) inches above the ground. Palm trees shall have a trunk base diameter of seven (7) inches when measured at ground level which does not include any portion of the root ball.
- The following trees are prohibited for planting in Cape Coral: Brazilian Pepper, Australian Pine, all Melaleuca species, all Eucalyptus, except Eucalyptus Anera and Toralina, Carrotwood, and Loriet Leaf.
- For property on which no curb, gutter, and/or sidewalk is required, the right-of-way/grade from the edge of the street pavement to the property line must be sodded and no groundcover, trees, or shrubs shall be used in lieu of sod or planted in such right-of-way/grade area.

Signs

- Site plans shall be conform to all fire codes and standards. (N.F.P.A. # 1 and # 101) and the City of Cape Coral.
- Fire lanes must be of all weather surfaces and be able to support a minimum weight of 32 tons.
- Fire lanes shall be marked with freestanding signs with the wording, "NO PARKING FIRE LANE BY ORDER OF THE FIRE DEPARTMENT". Such signs shall be 12 inches by 18 inches with a white background and red letters and shall be a maximum of seven feet in height from the roadway to the bottom part of the sign. The signs shall be within sight of the traffic flow and be a maximum of 60 feet apart.
- Fire department connections shall be identified by a sign that states "No Parking, Fire Department Connection" and shall be designed in accordance with Florida Department of Transportation standards for information signage.
- Design and testing of underground mains to fire hydrants is required.
- Underground sprinkler from POS (point of service) for sprinkler system - see the Fire Protection Documents by the Engineer of Record designing the sprinkler.
- Where underground water and hydrants are to be provided, they shall be installed, complete, and in service prior to construction work.
- Hydrants must have clearance of 7.5 feet in the front and 4 feet in the rear. All fire protection appliances must have 7.5 feet clearance on all sides.

ADDITIONAL NOTES:

The contractor or owner representative will be responsible for obtaining an appropriate sized temporary jumper assembly with meter from the City of Cape Coral's Utility Collection and Distribution Department at 574-0852 prior to receiving City water for construction and/or tying into any existing potable water main lines. A billing account must be set up through the City's Customer Billing Department prior to installation. A representative from the City of Cape Coral's Site Development and Review Division at 242-3244 must be notified 48 hours in advance of installation and be present to witness and record the installation process. Account documentation must be submitted to the Site Development and Review inspector at the time of meter installation.

After construction is complete and before the temporary jumper and meter is removed all potable water mains shall be flushed and pressure tested per AWWA section C600 and manufactured per AWWA C-651.

The contractor is prohibited from turning off any existing main line valves. These will be turned off by a representative of the City of Cape Coral's Utility Department at the contractor's arranged time and date.

Any work or materials which do not conform to the City of Cape Coral's specifications or any work performed without the knowledge of the City of Cape Coral Utility Inspectors or Representatives is subject to removal and replacement at the contractor's expense.

The contractor shall provide all labor, materials, and equipment necessary to dewater trench and secure excavations. The contractor shall secure all necessary permits associated with the City of Cape Coral's Utility Design Procedures Manual Technical Specifications section 02140. All dewatering shall comply with the regulations of the South Florida Water Management District and any agency with jurisdiction.

DESIGN BY: SCALE: N.T.S.	REVISIONS:	DOWNTOWN VILLAGE SQUARE LLC 4002 DEL PRADO BLVD CAPE CORAL FL 33904 PHONE 239 274 7000 FAX 239 945 1166	STEVEN DABRY, P.E. FL REG # 43180	 DEI Civil Engineers & Planners Certificate of Authorization NO 26460 1216 6th Street, Suite 4, Cape Coral, FL 33991 (239) 945-0551 Fax: (239) 772-0141 E-mail: Steve@dei.com	VILLAGE SQUARE DETAILED SHEET	DEI PROJECT NO. 07-121-01 SHEET NO. D-4
DRAWN BY: MARCH 2008	PERMIT REVIEW SET					
CHECKED BY: DATE: MARCH 2010						

NOTES:

1. UNDERLAY MATERIAL (MIN. LBR 100) SHALL BE COMPACTED TO 98% DENSITY, MASH TO 1-180.
2. IMPROVED SUB-BASE MATERIAL (MIN. LBR 40) SHALL BE COMPACTED IN 8" LAYERS MAXIMUM TO 98% DENSITY, MASH TO 1-180.
3. ASPHALT CONCRETE PAVEMENT JOINT SHALL BE MECHANICALLY SHED.
4. 1/2" IS WIDTH OF JOINT AT ITS WIDEST POINT.
5. OTHER OPTIONS WILL BE CONSIDERED. DETAILS MUST BE SUBMITTED TO AND APPROVED BY THE PUBLIC WORKS DIRECTOR.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: PAVEMENT RESTORATION
DATE: 03-20-2020
SHEET NO: F-1

DROP CURB
AREA = 1.27 SQ.FT.
VOL. = 0.2471 C.Y. / (L/4 FT.)

TYPE "B" CURB
AREA = 1.078 SQ.FT.
VOL. = 0.2147 C.Y. / (L/4 FT.)

TYPE "C" CURB
AREA = 1.170 SQ.FT.
VOL. = 0.2347 C.Y. / (L/4 FT.)

TYPE "D" CURB
AREA = 1.170 SQ.FT.
VOL. = 0.2347 C.Y. / (L/4 FT.)

NOTES:

1. ALL CURBS SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
2. CURBS SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
3. CURBS SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
4. CURBS SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: TYPICAL CURB SECTIONS
DATE: 03-20-2020
SHEET NO: B-1

HANDICAP ACCESS RAMP AT P.I.

NOTES:

1. RAMP SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
2. RAMP SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
3. RAMP SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
4. RAMP SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: MODIFIED RAMP AT P.I. FOR DIRECTIONAL TRAVEL FROM SIDEWALK TO CROSS WALK
DATE: 1-28-04
SHEET NO: 1 OF 1

DRIVEWAY CROSS SECTION DETAIL

NOTES:

1. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
2. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
3. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
4. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: DRIVEWAY CROSS SECTION DETAIL
DATE: 03-20-2020
SHEET NO: D-8

DRIVEWAYS

SECTION "B-B"

SECTION "A-A"

NOTES:

1. MINIMUM CROSS SLOPE GRADIENT OF DRIVEWAY SHALL BE 0.3% OR MUST MATCH STREET SLOPE.
2. COMBINED DRIVEWAY SLOPES EXCEED 1%, THEN A CULVERT DRIVE SHALL BE CONSTRUCTED.
3. CULVERT COVER CONCRETE PIPE, MIN. 4" COVER OR 6" FOR OTHER THAN RESIDENTIAL DRIVEWAYS. SPALLS SHALL BE 1/2" MIN. 1/2" COVER POLYESTER FIBER, MIN. 12" COVER POLYESTER FIBER, MIN. 12" COVER 3000 P.S.I.
4. THIS SHEET APPLIES WHERE EVER INSTALLATION OF CURBS AND/OR WORKING HANDICAPPED ARE NOT REQUIRED.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: DRIVEWAY DETAILS
DATE: 03-20-2020
SHEET NO: D-15

DRIVEWAY CROSS SECTION DETAIL

NOTES:

1. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
2. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
3. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
4. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: DRIVEWAY CROSS SECTION DETAIL
DATE: 03-20-2020
SHEET NO: D-6

NEW CURB ALONG EXISTING ROAD PAVEMENT

NOTES:

1. REMOVE EXISTING ROAD AS NEEDED TO INSTALL FORMS FOR FACE OF CURB.
2. FOR BASE MATERIAL OFFERS USE GRADE 11 (FOOT REEF 3143).
3. UNDERLAY (BASE MATERIAL (LBR 100, MIN.) SHALL BE COMPACTED TO 98% DENSITY, MASH TO 1-180.
4. ASPHALT CONCRETE CURB SHALL BE MECHANICALLY SHED CUT IN A STRAIGHT CONTINUOUS CURB.
5. ASPHALT JOINTS AND BASE MATERIAL SHALL BE TACK COATED PRIOR TO INSTALLING NEW ASPHALT.
6. MIN. 12" STABILIZED SUBGRADE WITH LBR 40 COMPACTED TO 98% MASH TO 1-180.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: NEW CURB ALONG EXISTING ROAD PAVEMENT
DATE: 03-20-2020
SHEET NO: F-3

DRIVEWAY CROSS SECTION DETAIL

NOTES:

1. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
2. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
3. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
4. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: DRIVEWAY CROSS SECTION DETAIL
DATE: 03-20-2020
SHEET NO: D-3

FOOT CURB MEET TOP

SECTION "A-A"

SECTION

NOTES:

1. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
2. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
3. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.
4. DRIVEWAY SHALL BE CONSTRUCTED TO MATCH EXISTING CURB.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: FOOT CURB MEET TOP
DATE: 03-20-2020
SHEET NO: C-3

FACE PLATE ANCHORS

HOOK ANCHOR - 4" TOP SLAB

ROUND HEAD ANCHOR - 4" TOP SLAB

HOOK ANCHOR - 6" TOP SLAB

HOOK ANCHOR - 10" TOP SLAB

NOTES:

1. THIS ANCHOR IS TO BE USED FOR ALL CURBS AND DRIVEWAYS.
2. THIS ANCHOR IS TO BE USED FOR ALL CURBS AND DRIVEWAYS.
3. THIS ANCHOR IS TO BE USED FOR ALL CURBS AND DRIVEWAYS.
4. THIS ANCHOR IS TO BE USED FOR ALL CURBS AND DRIVEWAYS.

CITY OF CAPE CORAL ENGINEERING DESIGN STANDARD

PROJECT: STEEL FACE PLATE DETAIL FOR CURB MEET TOP
DATE: 03-20-2020
SHEET NO: C-9

DESIGN BY: SCALE: N.T.S.	REVISIONS:	DOWNTOWN_VILLAGE_SQUARE_LLC	CITY OF CAPE CORAL	VILLAGE_SQUARE	DEI PROJECT NO: 07-121-01
DRAWN BY: MARCH 2007 PERMIT REVIEW SET		1002 DEL PRADO BLVD	DEPARTMENT OF PUBLIC WORKS	CAPE CORAL E.D.S.	SHEET NO: D-7
CHECK BY: DATE: MARCH 2011		CAPE CORAL, FLORIDA 33904	P.O. BOX 150019		
		PHONE: 239 274 7000 FAX: 239 945 1100	CAPE CORAL, FLORIDA 33915-0017		

SITE DESCRIPTION

PROJECT NAME AND LOCATION:
VILLAGE SQUARE
677 CAPE CORAL PARKWAY EAST
CAPE CORAL, FLORIDA 33904

OWNER NAME AND ADDRESS:
DOWNTOWN VILLAGE SQUARE, LLC
4002 DEL PRADO BLVD. SOUTH, CAPE CORAL, FLORIDA 33904
PHONE: 239-274-7000 FAX: 239-845-1166

DESCRIPTION:
THE PROPOSED DEVELOPMENT WOULD CONSIST OF PARKING GARAGE, 6 BUILDINGS, DRIVEWAYS, PEDESTRIAN WALKWAYS, UTILITY SERVICES STORMWATER SYSTEM, DRAINAGE STRUCTURES, AND LANDSCAPING.

SOIL DISTURBING ACTIVITIES WILL INCLUDE:
CLEARING AND GRUBBING, EARTHWORK, PAVEMENT AND GRADING, STORM SEWER UTILITIES, AND PREPARATION FOR FINAL PLANTING AND SEEDING

SOILS:
SEE SOIL BORING REPORT FOR SOILS DATA
SITE MAPS
SEE ATTACHED GRADING PLAN FOR PRE & POST DEVELOPMENT GRADES, AREAS OF SOILS DISTURBANCE, LOCATION OF SURFACE WATERS, WETLANDS, PROTECTED AREAS, WADSWORTH STRUCTURAL AND HYDROLOGICAL CONTROL STRUCTURES AND STORM WATER DISCHARGE POINTS
SEE ATTACHED EROSION & TURBIDITY CONTROL PLAN FOR LOCATION OF TEMPORARY STABILIZATION STRUCTURES AND TURBIDITY BARRIERS
SEE GENERAL NOTES FOR REQUIREMENTS FOR TEMPORARY AND PERMANENT STABILIZATION

SITE AREA:
1. TOTAL AREA OF SITE = 3.84 ACRES
2. TOTAL AREA TO BE DISTURBED = 3.34 ACRES

NAME OF RECEIVING WATERS:
CITY OF CAPE CORAL - EXISTING CANALS

CONTROLS

THE STORMWATER POLLUTION PREVENTION PLAN (SWPPP OR SWP) SHALL BE AMENDED IMMEDIATELY THERE IS A CHANGE IN DESIGN, CONSTRUCTION, OPERATION, OR MAINTENANCE, WHICH HAS A SIGNIFICANT EFFECT ON THE POTENTIAL FOR DISCHARGE OF POLLUTANTS TO SURFACE WATERS OF THE STATE OR TO A MUNICIPAL SEPARATE STORM SEWER SYSTEM (SSS). THE SWP ALSO SHALL BE AMENDED IF IT PROVES TO BE INEFFECTIVE IN SIGNIFICANTLY REDUCING POLLUTANTS FROM THE SITE OR IF THE SWP ALSO SHALL BE AMENDED TO INDICATE ANY NEW CONTRACTOR AND/OR SUBCONTRACTOR THAT WILL IMPLEMENT ANY MEASURE OF THE SWP. ALL AMENDMENTS SHALL BE DATED, DATED, AND KEPT AS ATTACHMENTS TO THE ORIGINAL SWP.

STORM WATER MANAGEMENT

STORM WATER DRAINAGE WILL BE BY OVERLAND FLOW TO CATCH BASINS, AND STORM SEWERS TO AN UNDERGROUND COLLECTION FOR THE DEVELOPMENT. THE AREAS, WHICH ARE NOT DEVELOPED, WILL BE GRADED NO LESS THAN 3:1 SLOPES AND HAVE PERMANENT SEEDING OR PLANTING WHEN CONSTRUCTION IS COMPLETE. THE DRAINAGE WILL BE TO THE ON-SITE STORM WATER MANAGEMENT SYSTEM AS PERMITTED BY FLORIDA WATER MANAGEMENT DISTRICT.

TRAINING OF CONTROLS/MEASURES

REFER TO "CONTRACTORS RESPONSIBILITY" FOR THE TRAINING OF CONTROLS/MEASURES

CERTIFICATION OF COMPLIANCE WITH FEDERAL, STATE AND LOCAL REGULATIONS

IN ACCORDANCE WITH FEDERAL, STATE AND LOCAL LAWS RELATED TO STORM WATER MANAGEMENT AND EROSION AND TURBIDITY CONTROLS, THE FOLLOWING PERMITS HAVE BEEN OBTAINED

D.E.R. DREDGE/FILL PERMIT # _____
C.O.E. DREDGE/FILL PERMIT # _____
S.F.W.D. APPLICATION # 080603-7

POLLUTION PREVENTION PLAN CERTIFICATION

I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHERED AND EVALUATED THE INFORMATION SUBMITTED BASED ON MY KNOWLEDGE OF THE PERSON OR PERSONS WHO GATHERED THE INFORMATION. THE INFORMATION SUBMITTED IS TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION INCLUDING THE POSSIBILITY OF FINE AND IMPROVEMENT FOR Ongoing Violations.

SIGNED: _____
DATED: _____
DOWNTOWN VILLAGE SQUARE, LLC

GENERAL

THE CONTRACTOR SHALL AT A MINIMUM IMPLEMENT THE CONTRACTOR'S REQUIREMENTS OUTLINED BELOW AND THOSE MEASURES SHOWN ON THE DETAILS FOR BEST MANAGEMENT PRACTICES (BMPs) IN ADDITION THE CONTRACTOR SHALL UNDERTAKE ADDITIONAL MEASURES REQUIRED TO BE IN COMPLIANCE WITH APPLICABLE PERMIT CONDITIONS AND STATE WATER QUALITY STANDARDS DEPENDING UPON THE NATURE OF MATERIALS AND METHODS OF CONSTRUCTION. THE CONTRACTOR SHALL FOLLOW THE GUIDELINES CONTAINED IN THE FLORIDA DEVELOPMENT MANUAL - A GUIDE TO SOUND LAND AND WATER MANAGEMENT (EXP. 1986) AND ANY SUBSEQUENT AMENDMENTS

SEQUENCE OF MAJOR ACTIVITIES

THE ORDER OF ACTIVITIES WILL BE AS FOLLOWS:

1. INSTALL STABILIZED CONSTRUCTION ENTRANCE	9. INSTALL UTILITIES, STORM SEWER, CURBS & GUTTERS
2. INSTALL SILT FENCES AND HAY BALES (IF REQUIRED)	10. APPLY BASE TO PROJECT
3. CLEAR AND GRUB FOR OVERFLOW SWALES/DITCHES AND SEDIMENT BASIN (IF REQUIRED)	11. COMPLETE GRADING AND INSTALL PERMANENT SEEDING/GRASS AND PLANTING BASIN (IF REQUIRED)
4. CONSTRUCT SEDIMENTATION STRUCTURE (IF REQUIRED)	12. REMOVE ACCUMULATED SEDIMENT FROM BASIN
5. CONTINUE CLEARING AND GRUBBING	13. WHEN CONSTRUCTION ACTIVITY IS COMPLETE AND THE SITE IS STABILIZED, REMOVE ANY TEMPORARY OVERFLOW SWALES/DITCHES AND RESEED/SOIL AS REQUIRED
6. STAKE PILE TOP SOIL (IF REQUIRED)	
7. PERFORM PRELIMINARY GRADING ON SITE AS REQUIRED	
8. STAKE AND DISTURBED AREAS AND STOCKPILES AS SOON AS PRACTICABLE	

TRAINING OF CONTROLS/MEASURES

AS INDICATED IN THE SEQUENCE OF MAJOR ACTIVITIES, THE SILT FENCES AND HAY BALES, STABILIZED CONSTRUCTION ENTRANCE AND SEDIMENT BASIN WILL BE CONSTRUCTED PRIOR TO CLEARING OR GRADING OF ANY OTHER PORTIONS OF THE SITE. STABILIZATION MEASURES SHALL BE INSTALLED AS SOON AS PRACTICABLE IN PORTIONS OF THE SITE WHERE CONSTRUCTION ACTIVITIES HAVE TEMPORARILY CEASED FOR MORE THAN 45 DAYS. THEY WILL BE STABILIZED WITH A TEMPORARY SEED AND MULCH WHEN THE CONSTRUCTION ACTIVITY CEASES FOR MORE THAN 45 DAYS. PERMANENT PERMANENCE IN AN AREA THAT AREA WILL BE STABILIZED WITH PERMANENT SEED AND MULCH.

CONTROLS

IT IS THE CONTRACTOR'S RESPONSIBILITY TO IMPLEMENT THE SWP UTILIZING THESE GUIDANCE PROCEDURES FOR BEST MANAGEMENT PRACTICES (BMPs). IT IS ALSO THE CONTRACTOR'S RESPONSIBILITY TO ENSURE THESE CONTROLS ARE PROPERLY INSTALLED, MAINTAINED AND FUNCTIONING PROPERLY TO PREVENT TURBID OR POLLUTED WATER FROM LEAVING THE PROJECT SITE. THE CONTRACTOR WILL ADJUST THE BMP'S CONTROLS SHOWN AND ADD ADDITIONAL CONTROL MEASURES, AS REQUIRED, TO ENSURE THE SITE MEETS ALL FEDERAL, STATE AND LOCAL EROSION AND TURBIDITY CONTROL REQUIREMENTS

EROSION AND SEDIMENT CONTROLS

STABILIZATION PRACTICES

1. HAY BALE BARRIER: HAY BALE BARRIERS CAN BE USED BELOW DISTURBED AREAS SUBJECT TO SHEET AND RILL EROSION WITH THE FOLLOWING LIMITATIONS:
A. WHERE THE MAXIMUM SLOPE BEHIND THE BARRIER IS 3:1 PERCENT
B. IN MAJOR SWALES OR DITCH LINES WHERE THE MAXIMUM CONTINUING DRAINAGE AREA IS NO GREATER THAN 2 ACRES
C. WHERE EFFECTIVENESS IS REQUIRED FOR LESS THAN 3 MONTHS
D. EVERTY EFFORT SHOULD BE MADE TO LIMIT THE USE OF STRAW BALE BARRIERS CONSTRUCTED IN LIVE STREAMS OR IN SWALES WHERE THERE IS THE POSSIBILITY OF A WASHOUT. IF NECESSARY, MEASURES SHALL BE TAKEN TO PROTECT ANYCHOR BARRIERS FROM WASHOUT AGAINST WASHOUT

2. FILTER FABRIC BARRIER: FILTER FABRIC BARRIERS CAN BE USED BELOW DISTURBED AREAS SUBJECT TO SHEET AND RILL EROSION WITH THE FOLLOWING LIMITATIONS:
A. WHERE THE MAXIMUM SLOPE BEHIND THE BARRIER IS 3:1 PERCENT
B. IN MAJOR SWALES OR DITCH LINES WHERE THE MAXIMUM CONTINUING DRAINAGE AREA IS NO GREATER THAN 2 ACRES

3. STOCKPILED MATERIAL: NO EXCAVATED MATERIAL SHALL BE STOCKPILED IN SUCH A MANNER AS TO DIRECT RUNOFF DIRECTLY OFF THE PROJECT SITE INTO ANY ADJACENT WATER BODY OR STORM WATER COLLECTION FACILITY.

4. EROSION AREA LIMITATION: THE SURFACE AREA OF OPEN, BARE EROSION SOIL EXPOSED BY CLEARING AND GRUBBING OPERATIONS OR EXCAVATION AND FILLING OPERATIONS SHALL NOT EXCEED 10 ACRES THIS REQUIREMENT MAY BE WAIVED FOR LARGE PROJECTS WITH AN EROSION CONTROL PLAN WHICH DEMONSTRATES THAT GRADING OF ADDITIONAL AREAS WILL NOT SIGNIFICANTLY AFFECT OFF-SITE DEPOSIT OF SEDIMENT

5. INLET PROTECTION: INLETS AND CATCH BASINS WHICH DISCHARGE DIRECTLY OFF-SITE SHALL BE PROTECTED FROM SEDIMENT-LOADED STORM RUNOFF UNTIL THE COMPLETION OF ALL CONSTRUCTION OPERATIONS THAT MAY CONTRIBUTE SEDIMENT TO THE INLET.

TEMPORARY STABILIZATION: TOP OF SOIL PILES AND DISTURBED PORTIONS OF THE SITE WHERE CONSTRUCTION ACTIVITY TEMPORARILY CEASES FOR AT LEAST 45 DAYS WILL BE STABILIZED WITH TEMPORARY SEED AND MULCH NO LATER THAN 60 DAYS FROM THE LAST CONSTRUCTION ACTIVITY IN THAT AREA. THE TEMPORARY SEED SHALL BE RYE (GRAM) WITH A RATE OF 150 POUNDS PER ACRE. AFTER SEEDING, EACH AREA SHALL BE MULCHED WITH 4,000 POUNDS PER ACRE OF STRAW

TEMPORARY SEEDING AREAS OPENED BY CONSTRUCTION OPERATIONS AND THAT ARE NOT ANTICIPATED TO BE RE-EVALUATED OR DISEASED AND RECEIVE FINAL GRASSING TREATMENT WITHIN 30 DAYS SHALL BE SEEDING COVER DURING THE SEASON IN WHICH IT IS PLANTED AND WILL NOT LATER COMPLETE WITH THE PERMANENT GRASSING

TEMPORARY GRASSING: THE SEEDER OR SEEDING AND MULCH AREA(S) SHALL BE ROLLED AND WATERED OR HYDRATED OR ON OTHER SUITABLE METHODS TO ENSURE OPTIMUM GROWING CONDITIONS FOR THE ESTABLISHMENT OF A GOOD GRASS COVER. TEMPORARY GRASSING SHALL BE THE SAME MIX & AMOUNT REQUIRED FOR PERMANENT GRASSING IN THE CONTRACT SPECIFICATIONS

TEMPORARY REGRASSING: IF, AFTER 45 DAYS FROM SEEDING, THE TEMPORARY GRASS COVER HAS NOT ATTAINED A MINIMUM OF 75 PERCENT GOOD GRASS COVER, THE AREA WILL BE RESEEDED AND ADDITIONAL SEED APPLIED SUFFICIENT TO ESTABLISH THE DESIRED VEGETATIVE COVER

MAINTENANCE: ALL FEATURES OF THE PROJECT DESIGNED AND CONSTRUCTED TO PREVENT EROSION AND SEDIMENT SHALL BE MAINTAINED DURING THE LIFE OF THE CONSTRUCTION SO AS TO FUNCTION AS THEY WERE ORIGINALLY DESIGNED AND CONSTRUCTED

PERMANENT EROSION CONTROL: THE EROSION CONTROL FACILITIES OF THE PROJECT SHOULD BE DESIGNED TO MINIMIZE THE IMPACT ON THE OFFICE FACILITIES

PERMANENT SEEDING: ALL AREAS WHICH HAVE BEEN DISTURBED BY CONSTRUCTION SHALL AS A MINIMUM BE SEEDING MIX MUST PERFORM LONG-TERM VEGETATION AND RAPID GROWTH SEASONAL VEGETATION SEEDS STEEPER THAN 4:1 SHALL BE SEEDING AND MULCHED OR SOILED

PERMANENT STABILIZATION: DISTURBED PORTIONS OF THE SITE WHERE CONSTRUCTION ACTIVITY PERMANENTLY CEASES SHALL BE STABILIZED WITH PERMANENT SEED NO LATER THAN 60 DAYS AFTER THE LAST SEEDING OR NO LATER THAN 90 DAYS FROM THE LAST CONSTRUCTION ACTIVITY. THE PERMANENT SEED MIX SHALL CONSIST OF 20 POUNDS PER ACRE STRAW, EACH AREA SHALL BE MULCHED WITH 4,000 POUNDS PER ACRE OF STRAW. THE STRAW MULCH IS TO BE TAKEN INTO PLACE BY DISK WITH WHEELS SET NEARLY STRAIGHT

STRUCTURAL PRACTICES

1. TEMPORARY OVERFLOW DRAIN: TEMPORARY OVERFLOW DRAINS MAY BE USED TO DRAIN RUNOFF THROUGH A SEDIMENT-TREATING FACILITY

2. TEMPORARY SEDIMENT TRAP: A SEDIMENT TRAP SHALL BE INSTALLED IN AN DRAINAGE AT A STORM DRAIN ALLEYS OR AT OTHER POINTS OF DISCHARGE FROM A DISTURBED AREA

3. OUTLET PROTECTION: APPROPRIATE TO THE OUTLETS OF ALL PIPES AND PAVED CHANNEL SECTIONS WHERE THE FLOW COULD CAUSE EROSION & SEDIMENT PROBLEMS TO THE RECEIVING WATER BODY. SKI FLICES & HAY BALE ARE TO BE INSTALLED IMMEDIATELY DOWNSTREAM OF THE DISCHARGING STRUCTURE AS SHOWN ON THE OUTLET PROTECTION DETAIL

4. SEDIMENT BASIN: SHALL BE CONSTRUCTED AT THE COMMON DRAINAGE LOCATIONS THAT SERVE AN AREA WITH 10 OR MORE DISTURBED ACRES AT ONE TIME. THE PROPOSED STORM WATER POND (OR TEMPORARY POND) SHALL BE CONSTRUCTED FOR USE AS SEDIMENT BASINS. THESE SEDIMENT BASINS WOULD PROVIDE A MINIMUM OF 3,000 CU YD (FEET) OF STORAGE PER ACRE DRAINED WITH FINAL STABILIZATION OF THE SITE. TEMPORARY SEDIMENT BASINS (OR AN EQUIVALENT ALTERNATIVE) ARE RECOMMENDED FOR DRAINAGE AREAS UNDER 10 ACRES

OTHER CONTROLS

WASTE DISPOSAL

WASTE MATERIALS

ALL WASTE MATERIALS EXCEPT LAND CLEARING DEBRIS SHALL BE COLLECTED AND STORED IN A SEPARATE METAL DUMPSTER NEAR THE LOCAL WASTE MANAGEMENT COMPANY WHICH IS A LICENSED SOLID WASTE MANAGEMENT COMPANY. THE DUMPSTER WILL MEET ALL LOCAL AND STATE SOLID WASTE MANAGEMENT REGULATIONS. ALL TRASH AND CONSTRUCTION DEBRIS FROM THE SITE SHALL DEPOSITED IN THE DUMPSTER THE DUMPSTER SHALL BE FULLY AS NECESSARY. NO CONSTRUCTION WASTE MATERIALS WILL BE BURIED ON SITE. TRASH SHALL BE HAULED TO A STATE APPROVED LANDFILL. ALL PERSONNEL WILL BE INSTRUCED REGARDING THE CORRECT PROCEDURE FOR WASTE DISPOSAL. NOTICES STATING THESE PRACTICES WILL BE POSTED AT THE CONSTRUCTION SITE AND THE INDIVIDUAL WHO MANAGES THE DAY-TO-DAY SITE OPERATIONS WILL BE RESPONSIBLE FOR SEEING THAT THESE PROCEDURES ARE FOLLOWED

HAZARDOUS WASTE

ALL HAZARDOUS WASTE MATERIALS WILL BE DISPOSED OF IN THE MANNER SPECIFIED BY LOCAL OR STATE REGULATION OR BY THE MANUFACTURER. SITE PERSONNEL WILL BE INSTRUCTED IN THESE PRACTICES AND THE SITE SUPERINTENDENT, THE INDIVIDUAL WHO MANAGES DAY-TO-DAY SITE OPERATIONS, WILL BE RESPONSIBLE FOR SEEING THAT THESE PROCEDURES ARE FOLLOWED

SANITARY WASTE

ALL SANITARY WASTE WILL BE COLLECTED FROM THE PORTABLE UNITS AS NEEDED TO PREVENT POSSIBLE SPILLAGE. THE WASTE WILL BE COLLECTED AND KEPT IN AN APPROPRIATE WITH STATE AND LOCAL WASTE DISPOSAL REGULATIONS FOR SANITARY SEWER OR SEPTIC SYSTEMS

OFFSITE VEHICLE TRACKING

A STABILIZED CONSTRUCTION ENTRANCE SHALL BE PROVIDED TO THE SITE ENTRANCE WHICH WILL BE SWEEP DAILY TO REMOVE ANY EXCESS MUD OR SOIL FROM TRACKS FROM THE SITE. DUMP TRUCKS HAULING MATERIAL FROM THE CONSTRUCTION SITE SHALL BE COVERED WITH A TARP/AUPLIN

INVENTORY FOR POLLUTION PREVENTION PLAN

THE MATERIALS OR SUBSTANCES LISTED BELOW ARE EXPECTED TO BE PRESENT DURING CONSTRUCTION

<input type="checkbox"/> Concrete	<input type="checkbox"/> Fertilizers	<input type="checkbox"/> Wood
<input type="checkbox"/> Asphalt	<input type="checkbox"/> Petroleum Based Products	<input type="checkbox"/> Masonry Blocks
<input type="checkbox"/> Tar	<input type="checkbox"/> Cleaning Solvents	<input type="checkbox"/> Roofing Materials
<input type="checkbox"/> Detergents	<input type="checkbox"/> Plastics	<input type="checkbox"/> Metal Shavings
<input type="checkbox"/> _____	<input type="checkbox"/> _____	<input type="checkbox"/> _____

SPILL PREVENTION

MATERIAL MANAGEMENT PRACTICES

THE FOLLOWING ARE THE MATERIAL MANAGEMENT PRACTICES THAT WILL BE USED TO REDUCE THE RISK OF SPILLS OR OTHER ACCIDENTAL EXPOSURE OF MATERIALS AND SUBSTANCES TO THE PUBLIC AND ENVIRONMENT

GOOD HOUSEKEEPING

THE FOLLOWING GOOD HOUSEKEEPING PRACTICES SHALL BE FOLLOWED DURING THE CONSTRUCTION PROJECT

- AN EFFORT WILL BE MADE TO STORE ONLY THOUGH PRODUCT REQUIRED TO DO THE JOB
- ALL MATERIALS STORED OUTSIDE WILL BE STORED IN A NEAT, ORDERLY MANNER IN THEIR APPROPRIATE CONTAINERS AND, IF POSSIBLE, UNDER A ROOF OR OTHER ENCLOSURE
- PRODUCTS WILL BE KEPT IN THEIR ORIGINAL CONTAINERS WITH THE ORIGINAL MANUFACTURER'S LABEL
- SUBSTANCES WILL NOT BE MIXED WITH ONE ANOTHER UNLESS RECOMMENDED BY THE MANUFACTURER
- WHENEVER POSSIBLE, ALL OF A PRODUCT WILL BE USED UP BEFORE DISPOSING OF THE CONTAINER
- MANUFACTURER'S RECOMMENDATIONS FOR PROPER USE AND DISPOSAL WILL BE FOLLOWED
- THE SITE SUPERINTENDENT WILL INSPECT DAILY TO ENSURE MATERIALS ARE KEPT PROPER USE AND DISPOSAL

HAZARDOUS PRODUCTS

THESE PRACTICES ARE USED TO REDUCE THE RISKS ASSOCIATED WITH HAZARDOUS MATERIALS

- PRODUCTS WILL BE KEPT IN ORIGINAL CONTAINERS UNLESS THEY ARE NOT REUSABLE
- CONTAINERS AND MATERIAL SAFETY DATA WILL BE RETAINED. THEY CONTAIN IMPORTANT PRODUCT INFORMATION
- IF SURPLUS PRODUCT MUST BE DISPOSED OF, MANUFACTURER'S OR LOCAL AND STATE RECOMMENDED METHODS FOR PROPER DISPOSAL WILL BE FOLLOWED

PRODUCT SPECIFIC PRACTICES

THE FOLLOWING PRODUCT SPECIFIC PRACTICES WILL BE FOLLOWED ON-SITE:

PETROLEUM PRODUCTS

ALL ON-SITE VEHICLES WILL BE MONITORED FOR LEAKS AND RECEIVE REGULAR PREVENTIVE MAINTENANCE TO REDUCE THE CHANCE OF LEAKAGE. PETROLEUM PRODUCTS WILL BE STORED IN TIGHTLY SEALED CONTAINERS WHICH ARE CLEARLY LABELED. ANY ASPHALT SUBSTANCES USED ON-SITE WILL BE APPLIED ACCORDING TO THE MANUFACTURER'S RECOMMENDATIONS

FERTILIZERS

FERTILIZERS USED WILL BE APPLIED ONLY IN THE MINIMUM AMOUNTS RECOMMENDED BY THE MANUFACTURER. ONCE APPLIED, FERTILIZER WILL BE WORKED INTO THE SOIL TO LIMIT EXPOSURE TO STORM WATER STORAGE WILL BE IN A COVERED AREA. THE CONTENTS OF ANY PARTIALLY USED BAGS OF FERTILIZER WILL BE TRANSFERRED TO A SEPARATE PLASTIC BIN TO AVOID SPILLS

PAINTS

ALL CONTAINERS WILL BE TIGHTLY SEALED AND STORED WHEN NOT REQUIRED FOR USE. EXCESS PAINT SHALL NOT BE DISCHARGED TO THE STORM SEWER SYSTEM BUT WILL BE PROPERLY DISPOSED OF ACCORDING TO MANUFACTURER'S INSTRUCTIONS OR STATE AND LOCAL REGULATIONS

CONCRETE TRUCKS

CONCRETE TRUCKS WILL NOT BE ALLOWED TO WASH OUT OR DISCHARGE SURPLUS CONCRETE OR DRAIN WASH WATER ON THE SITE

SPILL CONTROL PRACTICES

IN ADDITION TO THE GOOD HOUSEKEEPING AND MATERIAL MANAGEMENT PRACTICES DISCUSSED IN THE PREVIOUS SECTIONS OF THIS PLAN, THE FOLLOWING PRACTICES WILL BE FOLLOWED FOR SPILL PREVENTION AND CLEANUP

MATERIALS AND EQUIPMENT NECESSARY FOR SPILL CLEANUP WILL BE KEPT IN THE MATERIAL STORAGE AREA. ON-SITE EQUIPMENT AND MATERIALS WILL INCLUDE BUT NOT BE LIMITED TO BROOMS, DUST PANS, WOPS, RAZES, SHOES, GOGGLES, LIQUID ABSORBENT (E.G. WITH LITTER OF EQUAL), SAND, SERRATED, AND PLASTIC AND METAL TRASH CONTAINERS SPECIFICALLY FOR THIS PURPOSE

ALL SPILLS SHALL BE CLEANED UP IMMEDIATELY AFTER DISCOVERY. THE SPILL AREA WILL BE KEPT WELL VENTILATED AND PERSONNEL WILL WEAR APPROPRIATE PROTECTIVE CLOTHING TO PREVENT INJURY FROM CONTACT WITH A HAZARDOUS SUBSTANCE

SPILL OF TOXIC OR HAZARDOUS MATERIAL SHALL BE REPORTED TO THE APPROPRIATE STATE OR LOCAL GOVERNMENT AGENCY, REGARDLESS OF THE SIZE OF THE SPILL

THE SPILL PREVENTION PLAN SHALL BE ADDED TO INCLUDE MEASURES TO PREVENT THIS TYPE OF SPILL FROM REOCCURRING AND HOW TO CLEAN UP THE SPILL IF THERE IS ANOTHER ONE. A DESCRIPTION OF THE SPILL, WHAT CAUSED IT, AND THE CLEANUP MEASURES SHALL ALSO BE INCLUDED

THE SITE SUPERINTENDENT RESPONSIBLE FOR THE DAY-TO-DAY SITE OPERATIONS, WILL BE THE SPILL PREVENTION AND CLEANUP COORDINATOR. HE/SHE WILL DESIGNATE AT LEAST ONE OTHER SITE PERSONNEL WHO WILL RECEIVE SPILL PREVENTION AND CLEANUP TRAINING. THESE INDIVIDUALS WILL EACH BECOME RESPONSIBLE FOR A PARTICULAR PHASE OF PREVENTION AND CLEANUP. THE NAMES OF RESPONSIBLE SPILL PERSONNEL WILL BE POSTED IN THE MATERIAL STORAGE AREA AND IF APPLICABLE, IN THE OFFICE TRAILER ON-SITE.

MAINTENANCE/INSPECTION PROCEDURES

EROSION AND SEDIMENT CONTROL, INSPECTION AND MAINTENANCE PRACTICES (THE FOLLOWING ARE INSPECTION AND MAINTENANCE PRACTICES THAT SHALL BE USED TO MAINTAIN EROSION AND SEDIMENT CONTROLS

- CONTROL MEASURES SHALL BE INSPECTED BY THE SUPERINTENDENT, THE PERSON RESPONSIBLE FOR THE DAY TO DAY SITE OPERATION OR THE SUPERINTENDENT OF THE SUPERINTENDENT AT LEAST ONCE A WEEK AND FOLLOWING ANY STORM EVENT OF 0.25 INCHES OR GREATER
- ANY CONTROL MEASURES SHALL BE MAINTAINED IN GOOD WORKING ORDER, IF REPAIR IS NECESSARY, IT WILL BE INSTALLED WITHIN 24 HOURS OF REPORT
- RUCKS OFF SEDIMENT WILL BE REMOVED FROM SILT FENCE WHEN IT HAS BEHIND ONE-THIRD THE HEIGHT OF THE FENCE

SPILL FENCE SHALL BE INSPECTED FOR DEPTH OF SEDIMENT, TEARS, TO SEE IF THE FABRIC IS SECURELY ATTACHED TO THE FENCE POSTS AND TO SEE THAT THE FENCE POSTS ARE FIRM IN THE GROUND

THE SEDIMENT BASINS SHALL BE INSPECTED FOR THE DEPTH OF MATERIALS BUILT UP. SEDIMENT WILL BE REMOVED WHEN IT REACHES 75 PERCENT OF THE DESIGN CAPACITY OR AT THE END OF THE JOB, WHICHEVER COMES FIRST (IF REQUIRED)

DIVERSION DITCHES/SWALES SHALL BE INSPECTED AND ANY BREACHES PROMPTLY REPAIRED (IF REQUIRED)

TEMPORARY AND PERMANENT SEEDING AND PLANTING SHALL BE INSPECTED FOR BARE SPOTS, WASHOUTS AND HEALTHY GROWTH. THE REPORTS SHALL BE COMPLETED AND RETURNED AS PART OF THE STORM WATER POLLUTION PREVENTION PLAN FOR AT LEAST THREE YEARS FROM THE DATE THAT THE SITE IS FINALLY STABILIZED AND THE NOTICE OF TERMINATION IS SUBMITTED. THE REPORTS SHALL IDENTIFY ANY INCIDENTS OF NON-COMPLIANCE.

THE REPORTS SHALL BE KEPT ON FILE DURING CONSTRUCTION AND AVAILABLE UPON REQUEST TO THE OWNER, ENGINEER OR ANY FEDERAL, STATE OR LOCAL AGENCY APPROVING SEDIMENT AND EROSION CONTROL OR STORM WATER MANAGEMENT PLANS.

IT IS EXPECTED THAT THE FOLLOWING NON-STORM WATER DISCHARGES WILL OCCUR FROM THE SITE DURING THE CONSTRUCTION PERIOD:

- WATER FROM WATER LINE FLOWING
- PAVEMENT WASH WATERS (WHERE HOUSING OR LEAKS OF TOXIC OR HAZARDOUS MATERIALS HAVE OCCURRED)
- UNCONTAMINATED GROUNDWATER (FROM DEWATERING EXCAVATION)

ALL NON-STORM WATER DISCHARGES WILL BE DIRECTED TO THE SEDIMENT DASH PRIOR TO DISCHARGE.

CONTRACTOR'S CERTIFICATION

I CERTIFY UNDER PENALTY OF LAW THAT I UNDERSTAND THE TERMS AND CONDITIONS OF THE GENERAL NATIONAL POLLUTION DISCHARGE EXPLANATION SYSTEM (NPDES) PERMIT THAT AUTHORIZES THE STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY ON AND FROM THIS SITE IDENTIFIED AS PART OF THIS CERTIFICATION

RESPONSIBLE EMPLOYEES

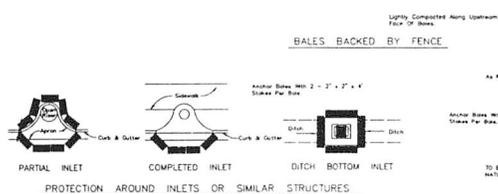
GENERAL CONTRACTOR	NON-CONSTRUCTION EMPLOYEE	NON-CONSTRUCTION EMPLOYEE	NON-CONSTRUCTION EMPLOYEE
_____	_____	_____	_____

BURNER NAME AND ADDRESS OF CONSTRUCTION SITE

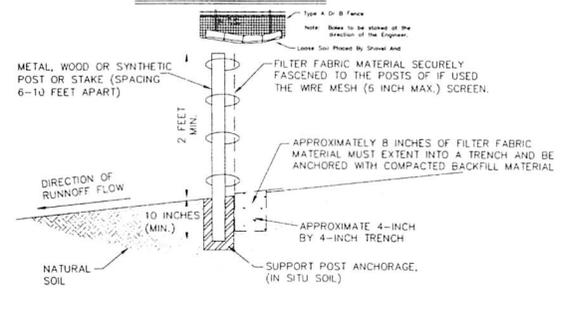
DATE

EROSION AND SEDIMENT CONTROL NOTES

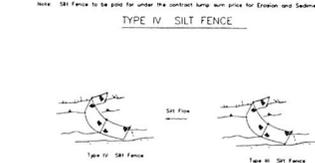
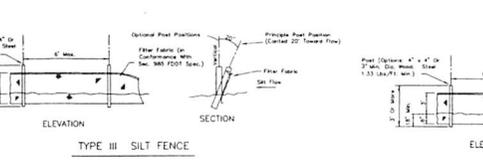
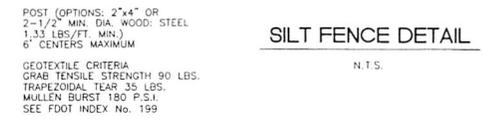
1. THE CONTRACTOR IS RESPONSIBLE FOR REMOVING SILT FROM SITE IF NOT REMOVED ON-SITE AND ASSURING PLAN ALIGNMENT AND GRADE IN ALL DITCHES AND CHANNELS AT COMPLETION OF CONSTRUCTION.
2. THE SITE CONTRACTOR IS RESPONSIBLE FOR REMOVING THE TEMPORARY EROSION AND SEDIMENT CONTROL DEVICES AFTER COMPLETION OF CONSTRUCTION AND ONLY WHEN AREAS HAVE BEEN STABILIZED.
3. ADDITIONAL PROTECTION - ON-SITE PROTECTION IN ADDITION TO THE ABOVE MUST BE PROVIDED THAT WILL PREVENT SOIL TO LEAVE THE PROJECT COMPLEX DUE TO UNSEEN CONDITIONS OR ACCIDENTS.
4. CONTRACTOR SHALL INSURE THAT ALL DRAINAGE STRUCTURES, PIPES, ETC. ARE CLEANED OUT AND WORKING PROPERLY AT TIME OF ACCEPTANCE.
5. WIRE MESH SHALL BE Laid OVER THE DITCH AREA SO THAT THE WIRE EXTENDS A MINIMUM OF 1 FOOT BEYOND EACH SIDE OF THE INLET STRUCTURE. HANGABLE ELLIPTICAL OR COVABLE WIRE MESH WITH 1/2" HO OPTHINGS SHALL BE USED. IF MORE THAN ONE STRIP OF WIRE IS NECESSARY, THE STRIPS SHALL BE OVERLAPPED.
6. FOOT NO. 1 COARSE AGGREGATE SHALL BE PLACED OVER THE WIRE MESH THE DEPTH OF STONE SHALL BE AT LEAST 12 INCHES OVER THE ENTIRE INLET OPENING. THE STONE SHALL EXTEND BEYOND THE INLET OPENING AT LEAST 18 INCHES ON ALL SIDES.
7. IF THE STONE FILTER BECOMES CLOGGED WITH SEDIMENT SO THAT IT NO LONGER ADEQUATELY PERFORMS ITS FUNCTION, THE STONES MUST BE PAID AWAY FROM THE INLET, CLEANED AND REPLACED.
8. BALES SHALL BE EITHER WIRE-BOUND OR STRUNG-TOGETHER WITH THE BRIDGES ORIENTED AROUND THE SIDES RATHER THAN OVER AND UNDER THE BALES.
9. BALES SHALL BE PLACED LENGTHWISE IN A SINGLE ROW SURROUNDING THE INLET, WITH THE ENDS OF ADJACENT BALES PRESSED TOGETHER.
10. BALES SHALL BE PLACED LONGITUDINALLY AND BACKFILLED WITH THE FILTER BARRIER SHALL BE EXTENDED AND BACKFILLED. A TRENCH SHALL BE EXCAVATED TO A MINIMUM DEPTH OF 8 INCHES AFTER THE BALES ARE STAKED. THE EXCAVATED SOIL SHALL BE BACKFILLED AND COMPACTED AGAINST THE FILTER BARRIER.
11. EACH BALE SHALL BE SECURELY ANCHORED AND HELD IN PLACE BY AT LEAST TWO STRAPS OR REBARS SPACED THROUGH THE BALES.
12. LOOSE STRAW SHOULD BE WEDGED BETWEEN BALES TO PREVENT WATER FROM EXTINGUISHING BETWEEN BALES.
13. STRAW BALE BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL.
14. CLOSE ATTENTION SHALL BE PAID TO THE REPAIR OF DAMAGED BALES, END PILES AND UNDERLACING BETWEEN BALES.
15. NECESSARY REPAIRS TO BARRIERS OR REPLACEMENT OF BALES SHALL BE ACCOMPLISHED PROMPTLY.
16. ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE STRAW BALE BARRIER IS NO LONGER REQUIRED SHALL BE PRESSED TO CONFORM TO THE EXISTING GRADE, PREPARED AND SEEDED.
17. SALT FENCES AND FILTER BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
18. SHOULD THE FABRIC ON A SALT FENCE OR FILTER BARRIER DEGRADE OR BECOME INEFFECTIVE PRIOR TO THE END OF THE EXPECTED USABLE LIFE AND THE BARRIER STILL BE NECESSARY, THE FABRIC SHALL BE REPLACED PROMPTLY.
19. SEDIMENT DEPOSITS SHOULD BE REMOVED AFTER EACH STORM EVENT. THEY MUST BE REMOVED WHEN DEPOSITS REACH APPROXIMATELY ONE-THIRD THE HEIGHT OF THE BARRIER.
20. ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE SALT FENCE OR FILTER BARRIER IS NO LONGER REQUIRED SHALL BE PRESSED TO CONFORM WITH THE EXISTING GRADE, PREPARED AND SEEDED.
21. EACH STRUCTURE SHALL BE INSPECTED AFTER EACH RAIN AND REPAIRS MADE AS NEEDED.
22. SEDIMENT SHALL BE REMOVED AND THE TRAP RESTORED TO ITS ORIGINAL DIMENSIONS WHEN THE SEDIMENT HAS ACCUMULATED TO 1/3 THE DEPTH OF THE TRAP. REMOVED SEDIMENT SHALL BE DEPOSITED IN A SUITABLE AREA AND IN SUCH A MANNER THAT IT WILL NOT ERODE.
23. THE CONTRACTOR IS RESPONSIBLE FOR FOLLOWING THE BEST MANAGEMENT PRACTICES (BMP'S).
24. FOR ADDITIONAL INFORMATION ON SEDIMENT AND EROSION CONTROL REFER TO "THE FLORIDA DEVELOPMENT MANUAL - A GUIDE TO SOUND LAND AND WATER MANAGEMENT" FROM THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION (F.D.E.R.) CHAPTER 6.



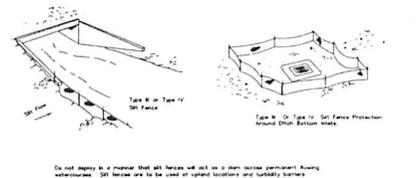
HAY BALE LOCATION



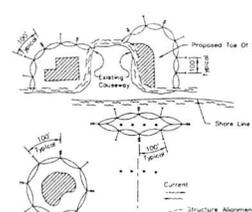
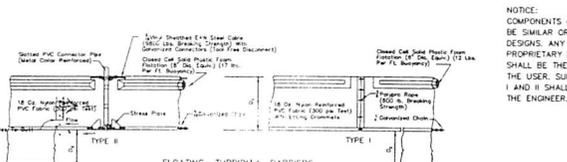
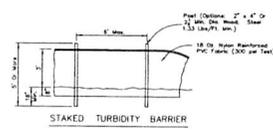
SILT FENCE DETAIL



SILT FENCE APPLICATIONS



SILT FENCE TYPE III & IV

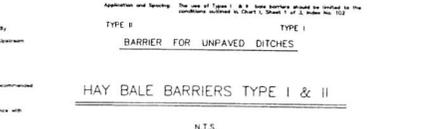
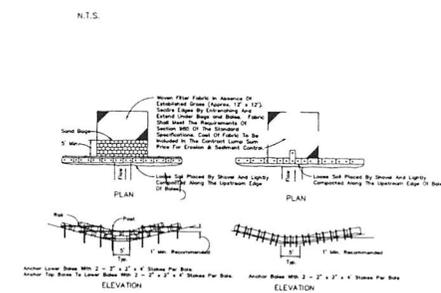


- LEGEND**
- File Locations
 - ▨ Drainage Or Fill Area
 - Mooring Buoy w/Anchor
 - Anchor
 - Barrier Movement Due To Current Action

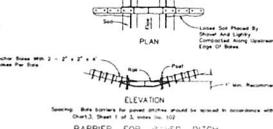
NOTICE: COMPONENTS OF TYPES I & TYPE II MAY BE SIMILAR OR IDENTICAL TO PROPRIETARY DESIGNS. ANY INFRINGEMENT ON THE PROPRIETARY RIGHTS OF THE DESIGNER SHALL BE THE SOLE RESPONSIBILITY OF THE USER. SUBSTITUTIONS FOR TYPES I AND II SHALL BE AS APPROVED BY THE ENGINEER.

- NOTES**
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
 2. Number and spacing of anchors dependent on current velocities.
 3. Deployment of barrier around pile locations may vary to accommodate construction operations.
 4. Navigation may require segmenting barrier during construction operations.
 5. For additional information see Section 104 of the FDOT Standard Specifications.

TURBIDITY BARRIERS



HAY BALE BARRIERS TYPE I & II



DESIGN BY: GMB	SCALE: AS SHOWN	REVISIONS
DRAWN BY: GMB	MARCH 2008 PERMIT REVIEW SET	
CHECK BY: SLD	DATE: MARCH 2010	

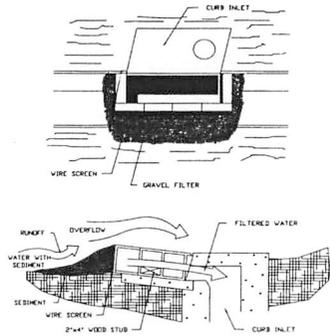
DOWNTOWN VILLAGE SQUARE LLC
4002 DEL PRADO BLVD
CAPE CORAL FL 33904
PHONE 239 274 7000 FAX 239 945 1196

STEVEN L DARBY P.E.
FL REG #45190
NOT UNLICENSED
SIGNED & EMBOSSSED SIGNED

DEI (Civil Engineers & Planners)
Certificate of Authorization NO. 26460
1216 4th Street, Suite 4, Cape Coral, FL 33991
(239) 945-0551 Fax: (239) 772-0141 E-mail: Steve@dei-fl.com

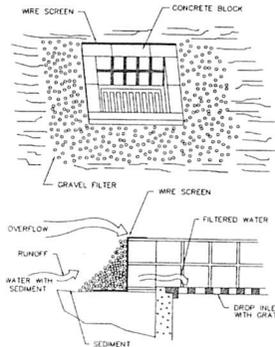
VILLAGE SQUARE
EROSION CONTROL DETAILS
SHEET NO. EC-2

DEI PROJECT NO.: 07-121-01
SHEET NO. EC-2



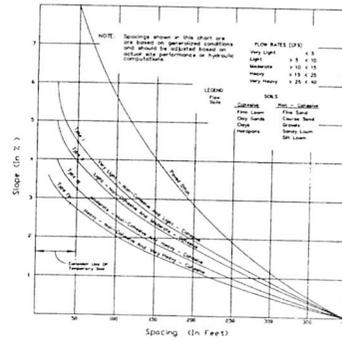
BLOCK & GRAVEL CURB INLET SEDIMENT FILTER

N.T.S.



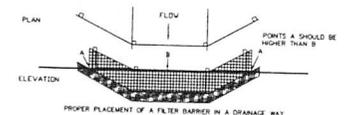
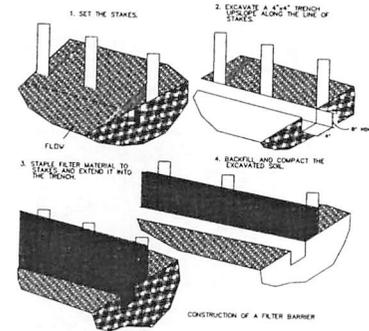
BLOCK & GRAVEL DROP INLET SEDIMENT FILTER

N.T.S.



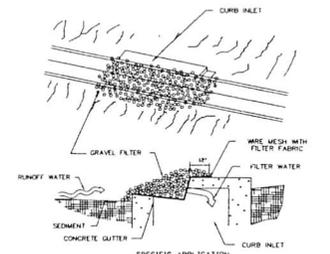
SPACING RECOMMENDATION FOR SILT FENCES & HAY BALES

N.T.S.



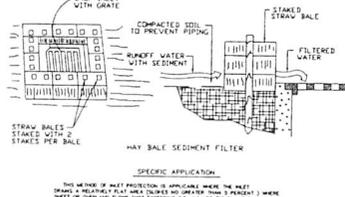
FILTER BARRIER CONSTRUCTION DETAIL

N.T.S.



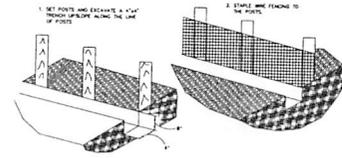
GRAVEL CURB INLET SEDIMENT FILTER

N.T.S.



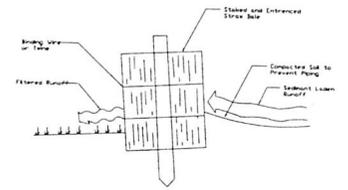
HAY BALE SEDIMENT FILTER

N.T.S.



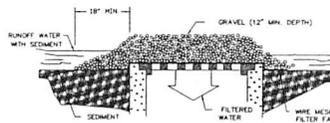
CONSTRUCTION DETAILS FOR SILT FENCES

N.T.S.



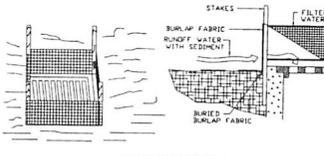
STAKED HAY BALE

N.T.S.



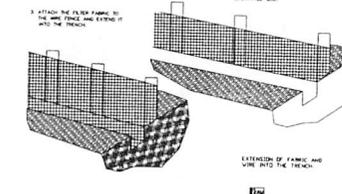
GRAVEL INLET SEDIMENT TRAP

N.T.S.



FABRIC SEDIMENT FILTER

N.T.S.



FILTER FABRIC

N.T.S.

DESIGN BY: GMB	SCALE: AS SHOWN	REVISIONS
DRAWN BY: GMB	MARCH 2008	PERMIT REVIEW SET
CHECK BY: RLB	DATE: MARCH 2010	

DOWNTOWN VILLAGE SQUARE LLC
4002 DEL PRADO BLVD
CAPE CORAL, FL 33904
PHONE 239 274 7600 FAX 239 945 1166

STEVEN L. DARBY, P.E.
FL REG. # 45190



Certificate of Authorization NO. 206400
1219 4th Street, Suite 4, Cape Coral, FL 33991
(239) 945-0551 Fax: (239) 772-0141 E-mail: Steve@Dei-Fa.com

VILLAGE SQUARE
EROSION CONTROL DETAILS

DEI PROJECT NO. 07-121-01

SHEET NO.
EC-3

RESOLUTION 10 - 10

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Category (5) Affordable Housing

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

- a. If Developer elects to provide housing within the project, the agreement shall contain provisions generally consistent with those outlined within LDR, Section 5.7.G. The affordable housing agreement shall contain the following provisions:
 - (1) No affordable housing unit in the development shall be rented or sold to a tenant whose household income has not been verified as moderate, low, or very low income family. Such verification shall be the responsibility of the owner and shall be submitted to the City Manager or the City Manager's designee for approval. Tenant income verification and certification shall be repeated annually to assure continued eligibility.
 - (2) No affordable housing unit that is to be sold, leased with option to purchase, or otherwise conveyed in the development shall be sold, leased with option to purchase, or otherwise conveyed to a buyer whose household income has not been verified and certified in accordance with this section as moderate, low, or very low income family. Such verification and certification shall be the responsibility of the developer and shall be submitted to the City Manager or the City Manager's designee for approval. It is the intent of this section to keep housing affordable; therefore, any person who buys an affordable housing unit must agree, in a lien instrument to be recorded with the Clerk of the Circuit Court of Lee County, Florida, that if he or she sells the property (including the land and/or the unit) within 15 years after his or her original purchase at a sales price in excess of 5% per year of his original purchase price that he or she will pay to the City of Cape Coral an amount equal to the sales price in excess of 5% increase per year. The lien instrument may be subordinated to a qualifying first mortgage.
 - (3) No more than two affordable housing units shall be located within a single building or single tower of Building "D".

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

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

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

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

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

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

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

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

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

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

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

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

John J. Sullivan
JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

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

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

Rebecca van Deutekom
REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:

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

EXHIBIT "A"

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

Legal Description

(Description for Overall Property *After* Vacation)

All of Block 62A, Unit 6, Part I, Cape Coral, as recorded in Plat Book 11, Pages 45 through 47 of the Public Records of Lee County, Florida; and

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

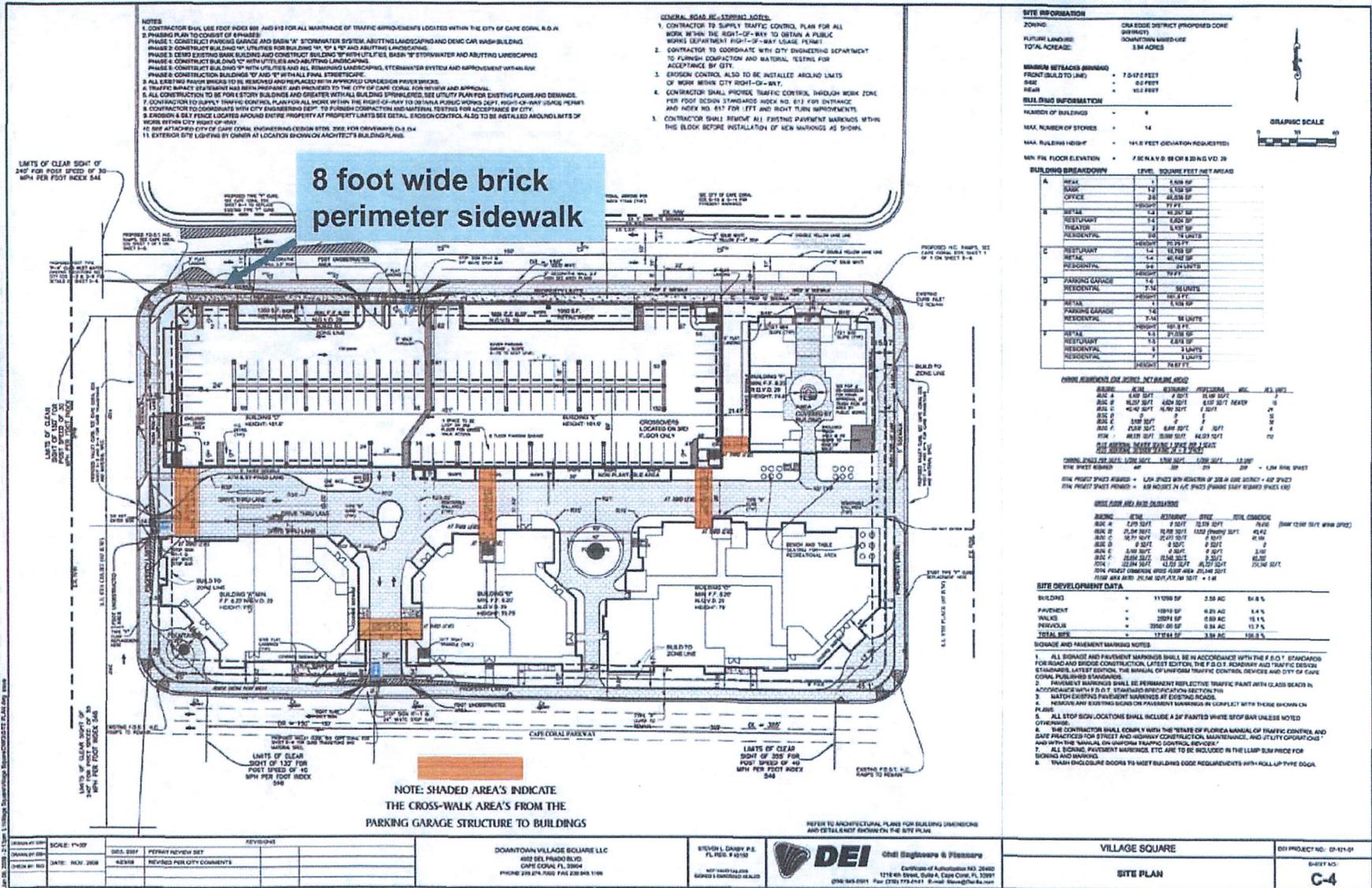
Further described as follows: Commencing at the Northwest corner of Section 18, Township 45 South, Range 24 East, City of Cape Coral, Lee County, Florida, thence S89°03'21"E for a distance of 676.08 feet along the Northerly line of said section to the Easterly line of the sixty foot wide right-of-way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

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

171,711.4394 sq.ft. or ±3.9420 Acres

Exhibit "B"

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



8 foot wide brick perimeter sidewalk

NOTE: SHADED AREA'S INDICATE THE CROSS-WALK AREA'S FROM THE PARKING GARAGE STRUCTURE TO BUILDINGS

Exhibit "C"

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

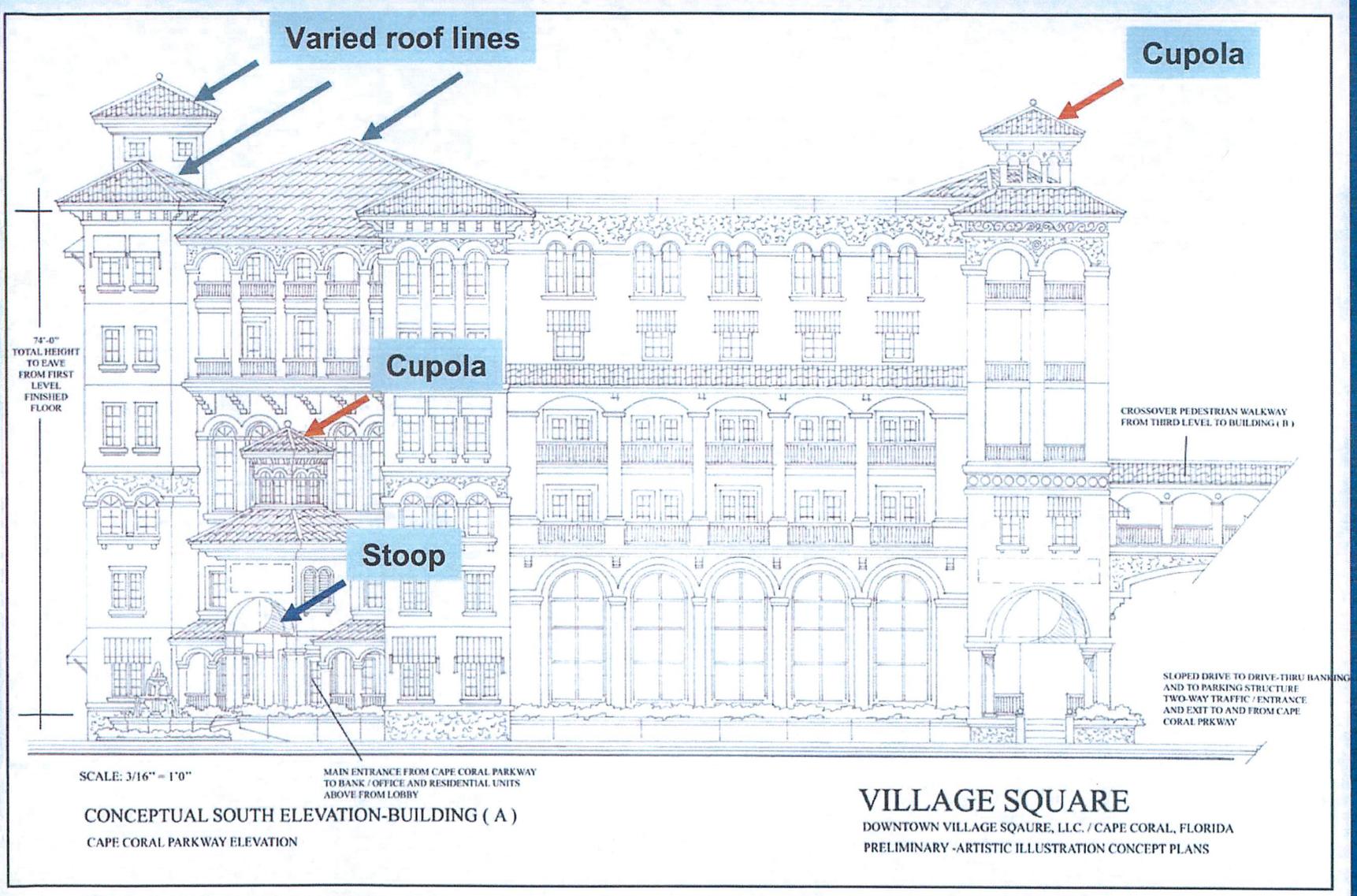
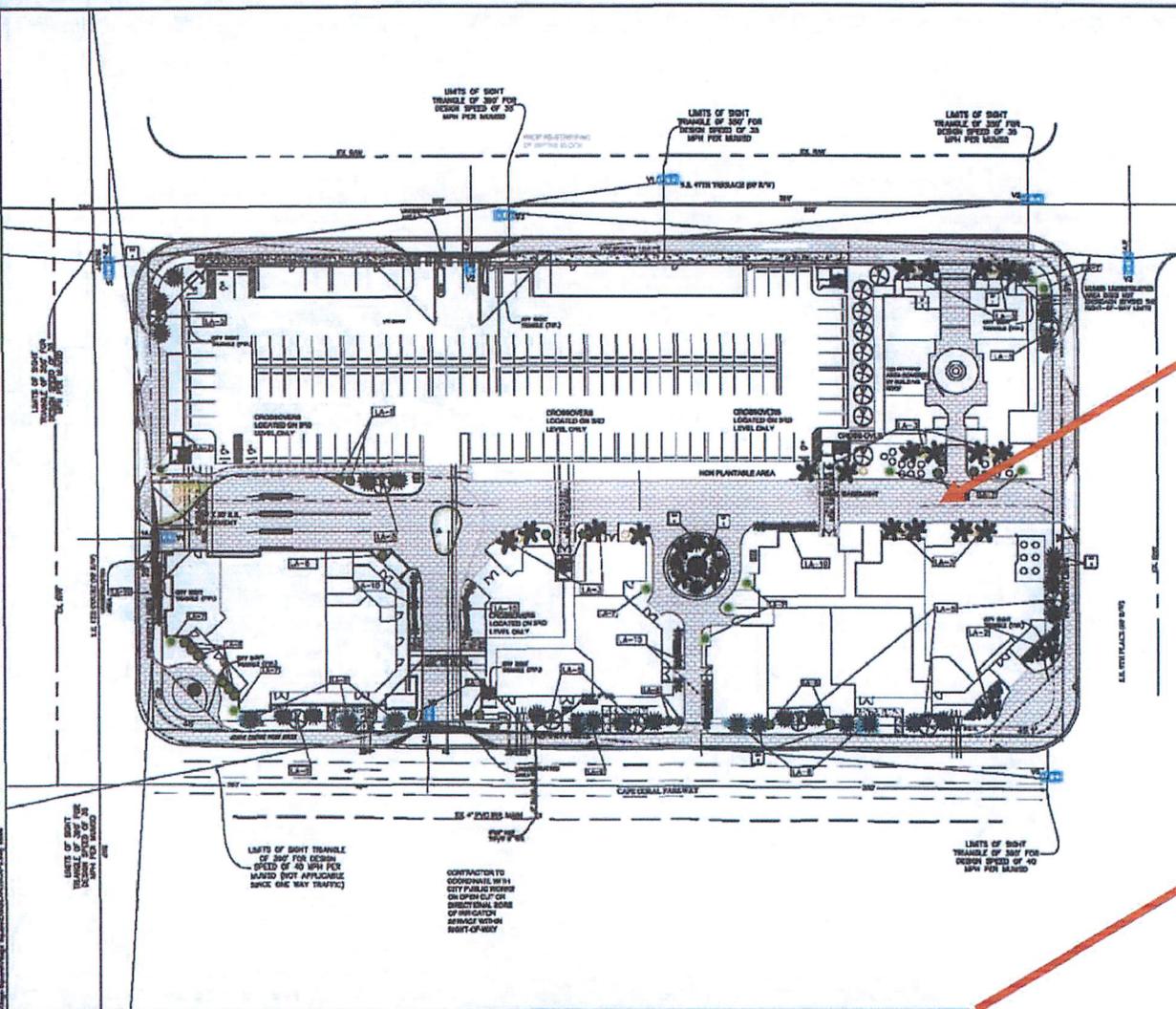


Exhibit "E"

RIP Category #3: Public Open Space and Recreation Areas

East-West Central Square



- LANDSCAPING REQUIREMENTS:**
1. 1 TREE PER 1000 SF OF COVER LAND AREA. 17,744 SF/300 SF = 18 TREES REQUIRED.
 2. 1 TREE PER 2 REQUIRED PARKING SPACES, 648 REQUIRED SPACES = 324 TREES = 190 TREES.
 3. PALM TREES SHALL CONSTITUTE NO MORE THAN 65% PERCENT OF THE REQUIRED TREES PLANTED IN CONNECTION WITH NEW CONSTRUCTION.
 4. ROOT BARRIERS SHALL BE INSTALLED ADJACENT TO ALL PUBLIC RIGHT-OF-WAY.
 5. ALL LANDSCAPE SPACES SHALL HAVE A 5-FOOT MIN. DIMENSION AND INCLUDE AT LEAST ONE TREE AND PLANTING, ORANGE COVER OR OTHER LANDSCAPING NOT EXCEEDING 3 FEET IN HEIGHT.
 6. ALL LANDSCAPED AREA SHALL BE CURBED.
 7. ALL TREES AND PLANTINGS SHALL BE INSTALLED A MINIMUM OF 3.0 FEET FROM THE EDGE OF CURB.
 8. TREES SHALL HAVE A MAJORITY SPREAD OF 15 FEET AND CLEAR TRUNK OF 8 FEET MINIMUM. SPREAD TRIM SHALL HAVE ANIMUM HEIGHT OF 8 FEET AT PLANTING AND A 2 INCH DIAMETER AT 6 INCHES ABOVE THE GROUND. PALM TREES SHALL HAVE A MINIMUM TRUNK DIAMETER OF 7 INCHES AT CHANGING LEVEL.
 9. PROHIBITED TREES - THE FOLLOWING TREES SHALL NOT BE PLANTED: BRACKLEAN PEPPER, AUSTRALIAN PINE, CARROTWOOD, COLEBEEB, BACADA, ALL MELALEUCA SPECIES, ALL EUCALYPTUS EXCEPT EUCALYPTUS ANGEA AND TORQUILLANA VARIETIES.
 10. SEE PLANTING SCHEDULE FOR SPECIFIC TREE AND PLANTING.
 11. IRRIGATION SYSTEM TO BE PROVIDED BY CONTRACTOR.
 14. SOG OR GROUND COVER TO BE USED IN LANDSCAPE AREAS.

SITE DEVELOPMENT DATA

BUILDING	=	11200 SF	7.88 AC	44.5 %
PARKING	=	1096 SF	0.80 AC	4.4 %
WALKS	=	2004 SF	0.15 AC	0.7 %
PERVIOUS	=	2081.00 SF	0.15 AC	0.7 %
TOTAL SITE	=	17074 SF	1.24 AC	6.6 %

TREE LIST

Quan.	craft volume	Credits	Spec.	Description	Spec.
34	32	48	SP	ROYAL PALM	1" Dia.
34	32	103	CH	CHERRY TREE	1" Dia.
22	32	44	CP	COASTAL PINE PALM	DOUBLE 1" Dia.
31	32	60	SP	ROYAL PALM	1" Dia.
18	32	54	M	MELALEUCA	1" Dia.
151		310	SOG	TOTAL TREES	

PLANT LIST

321	LA	PIRE BRAND LANTANA, TROPICAL WILD BIRD	1 GAL.
160	SU	BUTTERFLY BUSH	3 GAL.
54	SP	PROPERIA	2 TO 4"
144	SP	PROPERIA	3 GAL.
108	PL	PLUMBAGO	3 GAL.
114	TV	TAMPA VERVAIN	3 GAL.
1038		TOTAL PLANTINGS	

CLUSTER KEY

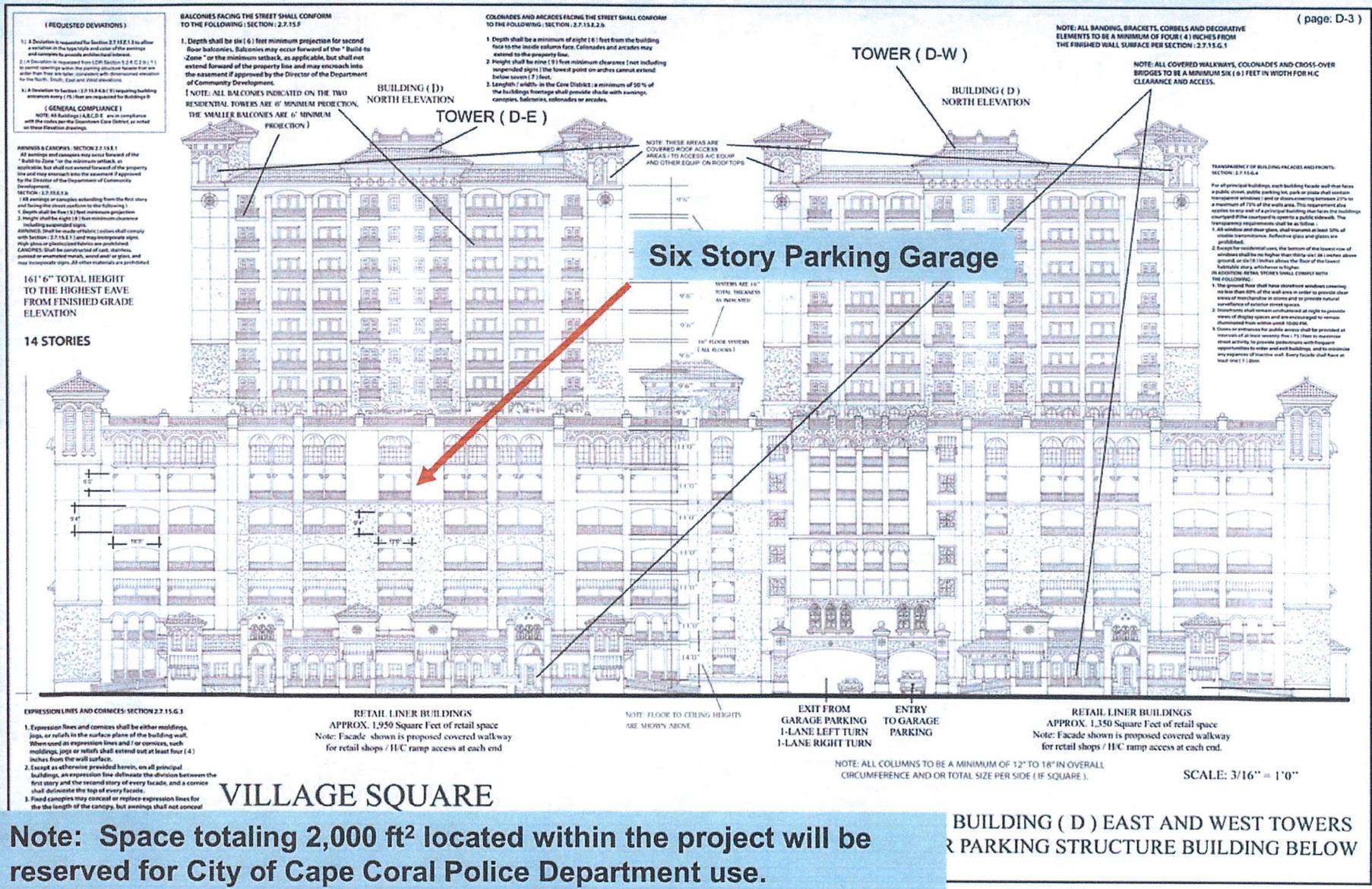
GROUP	TREE = 6	PLANT = 9	# OF GROUPS
LA-2	CP = 2, NP = 1	PL = 20	2
LA-3	NP = 1	LA = 10, PL = 1	9
LA-5	SP = 1, M = 1	PL = 20	9
LA-5	CH = 1	TV = 10	6
LA-7	SP = 1	LA = 7	11
LA-8	SP = 1	SU = 8	20
LA-10	CP = 1	AB = 24, LA = 10	6

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

Exhibit "F"

RIP Category #4: Community Facilities

(page: D-3)



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

BUILDING (D) EAST AND WEST TOWERS & PARKING STRUCTURE BUILDING BELOW

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

	Area (ft²)	Percentage (%)
Commercial	251,546	51
Residential	243,200	49
Total	494,746	100

PROJECT SUMMARY

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

PURPOSE

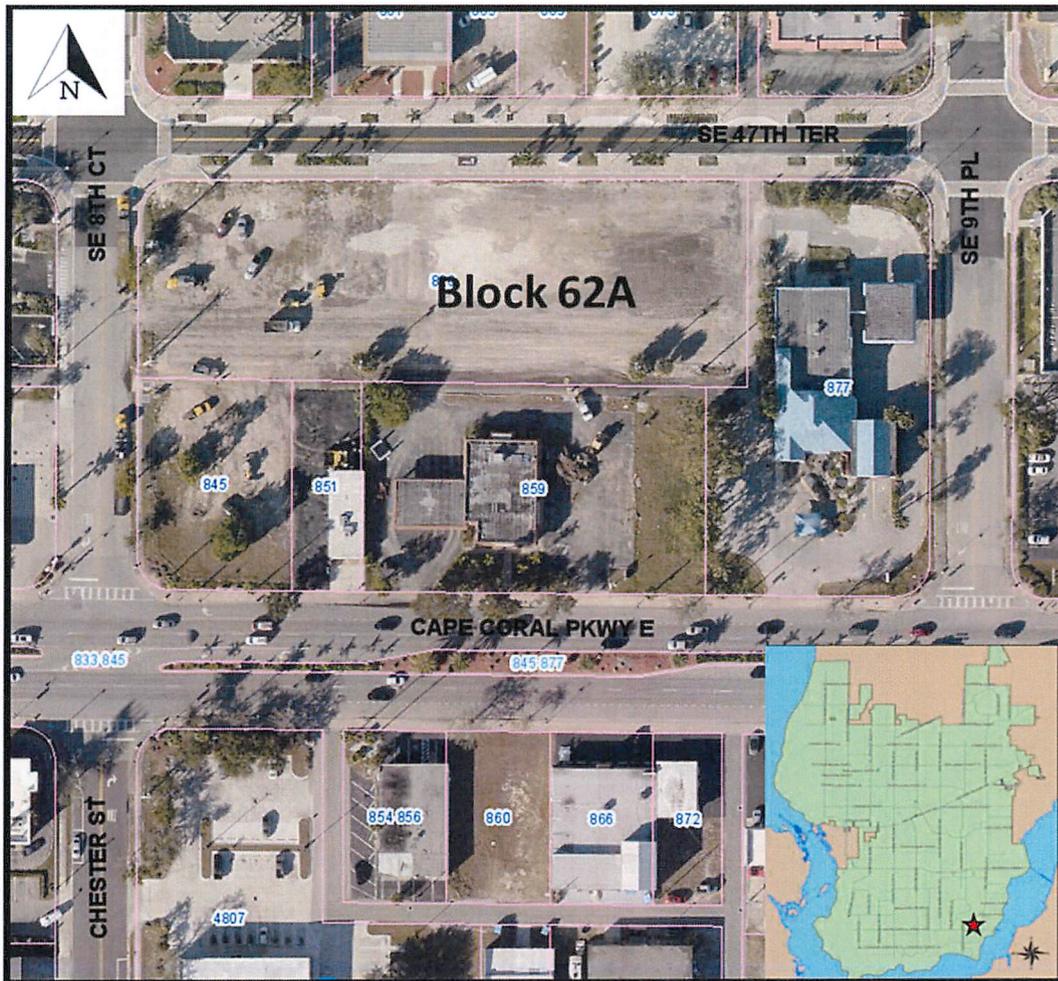
This report provides a single, consolidated review for a Planned Development Project (PDP) amendment entitled "Downtown Village Square." Within this report the following topics are addressed:

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

DESCRIPTION OF THE SITE

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

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



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

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

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

PREVIOUSLY APPROVED ENTITLEMENTS FOR THE SITE

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

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

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

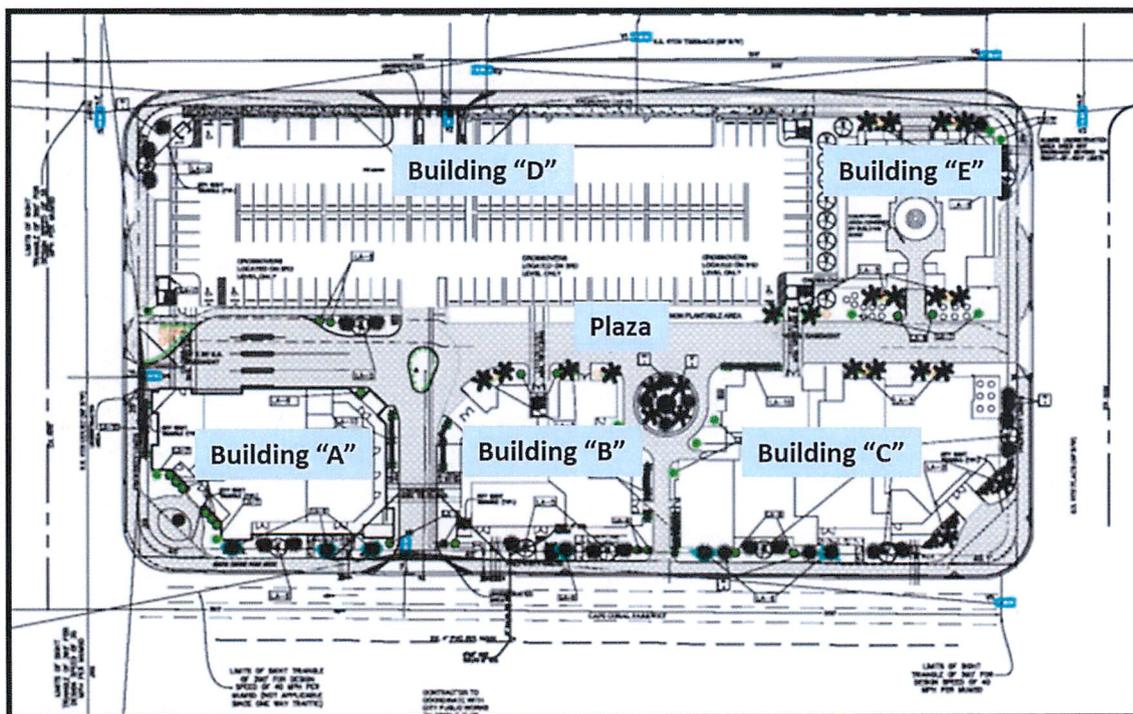
Prior to PDP approval, the developers received approval from the City Council for a bonus density of 19 additional dwelling units (DU) per acre above the baseline density in the DC District of 20 DU/acre. This increase in density was achieved through the former Redevelopment Incentive Program and was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

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

DESCRIPTION OF THE DOWNTOWN VILLAGE SQUARE PROJECT

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

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



PROJECT EXTENSIONS AND THE NEED FOR THE PDP AMENDMENT

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

CHANGES TO THE PROJECT ASSOCIATED WITH THE PDP AMENDMENT

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

1. Extending the project

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

2. Revising the phasing schedule

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

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

3. Revising conditions of approval

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

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

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

ANALYSIS OF GENERAL STANDARDS AND REQUIREMENTS FOR PDPS

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

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

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

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

CURRENCY REVIEW

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

CONSISTENCY WITH THE SOUTH CAPE DOWNTOWN COMMUNITY REDEVELOPMENT PLAN

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

3.1 Open Space and Street Layout

Policy 3.1.5

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

Policy 3.1.7

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

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

Policy 3.2.1

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

Policy 3.2.6

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

Policy 3.2.7

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

3.3 Property Intended for Use as Public Parks and Recreation Areas

Policy 3.4.1

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

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The project is consistent with the following goals and policies.

Housing Element

GOAL

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

Future Land Use Element

Policy 1.9

“The City will issue no development orders or construction permits, which result in a reduction in the level of service for any affected public facility below the level of service standard adopted in this comprehensive plan.” **Staff comments: The project was deemed concurrent with City services when approved in 2010.**

Policy 1.13

“In establishing commercial siting guidelines, it is the intent of the City of Cape Coral to discourage new ‘strip commercial’ development. Strip commercial development, for the purpose of this policy, is often, but not always, linear in orientation, typically generates high volumes of traffic (often associated with

separate vehicular entrances and exits for each property on the primary street), may have poor or undefined pedestrian path systems that create conflicts between pedestrian and vehicular movements, and generally lacks sufficient onsite space to accommodate normal parking and loading activities. In discouraging new strip commercial development, the City shall also seek to limit or reduce traffic conflict points along arterial and collector roadways, to promote pedestrian-friendly development, and to create synergistic, compact patterns of commercial development... **Staff comments: The Downtown Village Square site consists of Block 62A. The site has a depth of about 300 feet.**

Policy 1.15.1

"Downtown Mixed: Intended primarily for the Downtown Community Redevelopment Area, to provide, a vibrant, walkable, mixed-use district in the historical heart of Cape Coral, mixed-use projects containing commercial and professional uses in conjunction with multi-family housing opportunities where practical and feasible are encouraged. To this end, commercial/professional uses may develop at a maximum Floor Area ratio of four (4) with an average area-wide FAR of two and twenty-three one hundredths (2.23) with commercial/professional uses developed at a ratio of sixty-five (65) percent commercial and thirty-five (35) percent professional, on an areawide basis. Residential development may develop at a density of forty (40) dwelling units per acre, not to exceed an aggregate of eleven thousand one hundred forty-six (11,146) dwelling units nor two hundred (200) dwelling units within the coastal high hazard area. In order to maintain these development limits, the City shall track residential and non-residential development within this future land use map classification. No further residential development will be permitted in this future land use classification should dwelling unit limits be reached. If the average area-wide FAR of two and twenty-three hundredths (2.23) is reached, the City will permit only that nonresidential development with a FAR of 2.23 or below. Development at these intensities and densities are contingent on the availability of centralized city utility services and transportation network at sufficient capacities to accommodate the development at the appropriate level of service, the availability of sufficient and convenient parking to service the project, the availability of multimodal transportation opportunities, and compatibility with adjacent existing and future land use. Special zoning designations may be established to implement this future land use classification, designed to result in a compact urban form." **Staff comments: At the time of project approval in 2010, the site was zoned DC that was consistent with the Downtown Mixed FLUC. This site, along with most other sites in the CRA, was rezoned to the SC District in 2012. The SC District is consistent with the Downtown Mixed FLUC.**

Policy 4.1

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

Policy 5.3

"New commercial development shall meet all of the requirements for adequate facilities based on the level of service standards adopted for roads, potable water and sanitary sewer, solid waste, storm water facilities and other services in this plan." **Staff comments: The project was found to be concurrent with City services when approved in 2010.**

Policy 5.5

"The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project." **Staff comments: The site includes a vacated alley that provides a single, unified site with about 300 feet of depth along a major arterial street (Cape Coral Parkway).**

Policy 5.6

"In addition to the facilities for which level of service standards are adopted as part of the concurrency management system of this plan; other services that should be considered to serve new commercial and mixed-use development include fire, police and emergency medical protection." **Staff comments: As a condition of approval appearing in Ordinance 42-10, the developer will provide the City with a minimum of 2,000 sq. ft. on the ground floor of Building "D" for a police substation, and an additional 2,000 sq. ft. for a governmental use.**

Policy 7.3

"The City will provide incentives to individual property owners, builders, and developers to assemble parcels of land for future private uses and will encourage the use of zero lot line (ZLL) and cluster type of development to improve lot layout, drainage, and stormwater retention." **Staff comments: The assembly of the site, originally comprised of six parcels, was used in part for justifying the approval of residential density above the baseline levels allowed in the former DC District.**

Policy 8.3

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

Policy 13.3

"In order to encourage and facilitate development and redevelopment and the provision of housing, employment, service and shopping opportunities in a compact area currently served by public facilities, mixed use development shall be allowed in the Downtown Community Redevelopment Area. Such mixed use development shall conform to the Community Redevelopment Area Plan, as same may be amended, and shall be reviewed in accordance with the City's Land Use and Development Regulations." **Staff comments: The Downtown Village Square project is a mixed-use development that includes over 250,000 sq. ft. of nonresidential uses and a maximum of 152 dwelling units.**

Policy 14.3

"New development, redevelopment and infill development projects located within the City of Cape Coral Downtown Transportation Concurrency Exception Area (Downtown TCEA) may elect to be exempt from transportation concurrency requirements through implementation of the mitigation strategies described in Policy 14.5 of this Element. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project elects to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5, or elects to be subject to standard transportation concurrency requirements, all projects shall be subject to concurrency review for the

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

Policy 14.5

“In order to be exempt from link specific concurrency and to support mobility enhancement within the Downtown TCEA, all new development, redevelopment, or infill development projects may opt to incorporate any five of the following provisions:

- *Preferential parking for carpools, vanpools, and/or multiple occupancy vehicles with the object of increasing the average vehicle occupancy for trips generated by the development.*
- *Parking price structures favoring carpools, vanpools, and/or multiple occupancy vehicles, with the object of increasing either the average vehicle occupancy for trips generated by the development, or increasing transit ridership.*
- *Flexible work schedules for employees of the development, with the object of decreasing peak hour automobile trips generated by the development.*
- *Payment of a subsidy to LeeTran to support an increased level of transit service within the TCEA.*
- *Payment into one or more funds, to be established by the City or the CRA. Monies collected by such fund(s) shall be used to support programs and/or capital projects designed to provide additional parking and/or to enhance bicycle, pedestrian, and transit mobility within the TCEA.*
- *The provision of transit shelters, built to City of Cape Coral specifications, within the development.*
- *The provision of a safe and convenient internal pedestrian and bicycle circulation system within the development, including the placement of bicycle racks or bike lockers.*
- *The provision of transit turn out lanes on heavily traveled roadways.*
- *The provision of structured parking for ... residents, patrons and employees of the development.*
- *Clustering buildings within the development, or otherwise designing the development to achieve maximum residential density or non-residential intensity at the development site in a manner, which preserves open space, enhances multi-modal opportunities and provides transit oriented densities or intensities.*
- *Where feasible, the construction of new roadway or alleyway facilities to reduce congestion on major roadways and to provide alternate access to the development.*
- *Any other innovative transportation related modifications or standards submitted by the developer and acceptable to and approved by the City of Cape Coral.”* **Staff comments: The developer has incorporated five of the provisions provided above (Bullets 1,2,7,9, and 10) into the project to satisfy requirements of the TCEA.**

Policy 16.7

“Land use intensities and densities within the Downtown TCEA shall be consistent with the goals objectives and policies of the City’s Comprehensive Plan. In particular, Policy 1.15 (I) of this Element, describing the Downtown Mixed Future Land Use Classification, defines the allowable intensities and densities within the Downtown TCEA.” **At the time of project approval, commercial/professional uses in this FLUC could develop at a FAR of 4. Residential development could develop at a maximum density of 40 DU/acre.**

Transportation Element

Policy 1.1.7

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

concurrency requirements, so long as said new development, redevelopment or infill development opts to mitigate impacts to transportation levels of service through the strategies described Policy 14.5 of the Future Land Use Element of this comprehensive plan. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project agrees to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5 or opts to be subject to standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development."

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

Policy 2.1.5

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

Policy 2.2.6

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

Policy 2.3.1

"New development, redevelopment and infill development projects located within the City of Cape Coral Downtown Transportation Concurrency Exception Area (Downtown TCEA) may elect to be exempt from transportation concurrency requirements through implementation of the mitigation strategies described in Policy 14.5 of the Future Land Use Element. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project elects to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5 or elects to be subject to standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development." **Staff comments: The developer elected to meet transportation concurrency requirements by implementing five strategies established for the TCEA as described Policy 14.5 of the Future Land Use Element.**

PROJECT RECOMMENDATION

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

Downtown Village Square Amendment Ordinance 33-19

**Cape Coral City Council Meeting
Final Public Hearing**

July 22, 2019

PDP 19-0001

Owners: Downtown Village Square LLC
Downtown Village Square II LLC
Red Rock Land Corporation

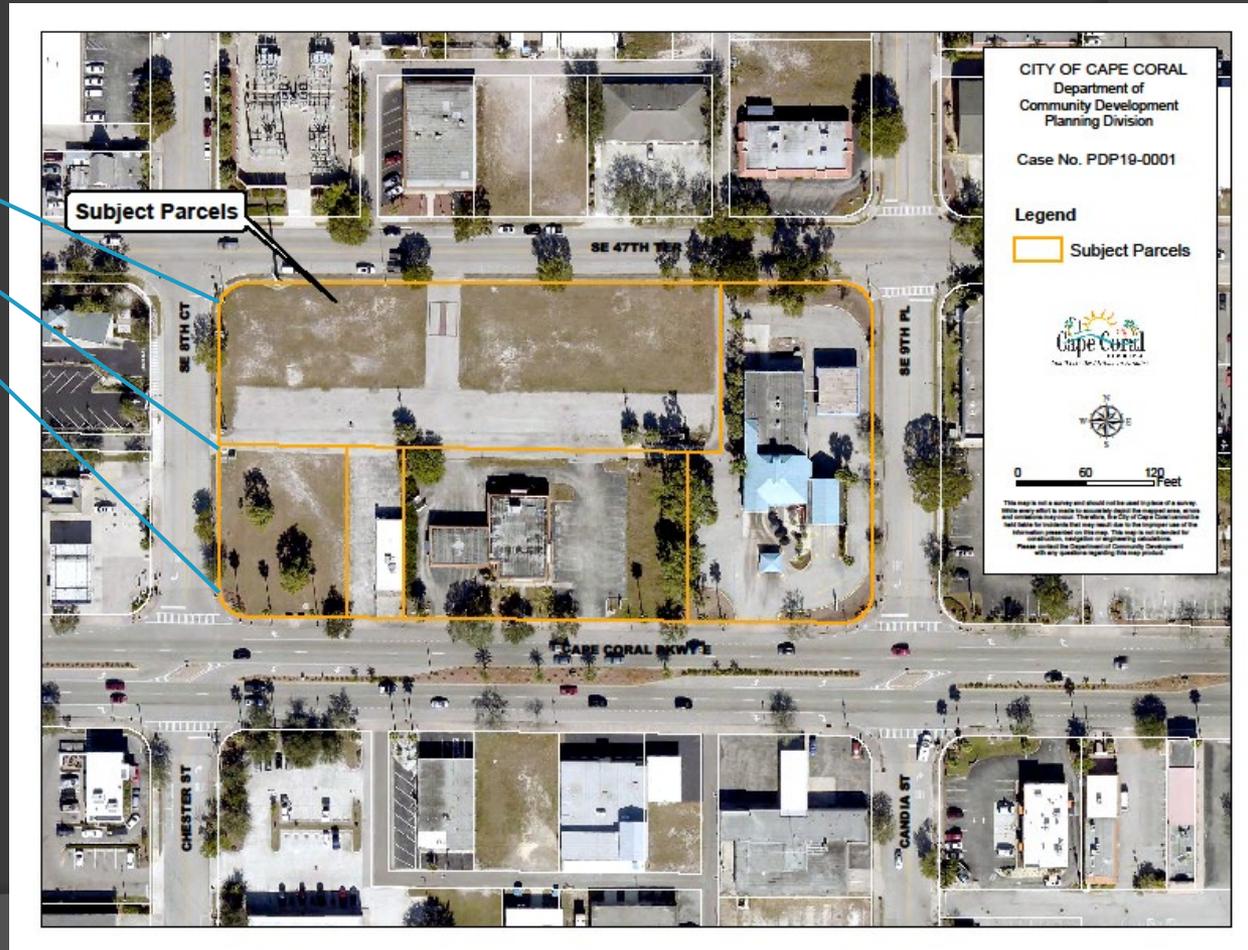
Authorized Rep: Annette Barbaccia, AMB Planning
Consultants, Inc.

Project: Mixed-Use PDP

Location: Block 62A in the CRA

Area: 3.94 acres

PDP 19-0001



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

Case No. PDP19-0001

LEGEND

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



This map is not a survey and should not be used in place of a survey. While every effort is made to ensure accuracy, slight differences in street names and boundaries may occur. Therefore, the City of Cape Coral reserves the right to make any corrections that may be necessary. This map is not intended for use in any legal proceeding or engineering calculation. Please contact the Department of Community Development with any questions regarding this map product.

SE 46TH LN

SUBJECT PARCELS

SE 47TH TER

CAPE CORAL PKWY E

SE 8TH CT

CHESTER ST

CANDIA ST

LEONARD ST

MILTON ST

MIRAMAR ST

500' PROXIMITY BOUNDARY

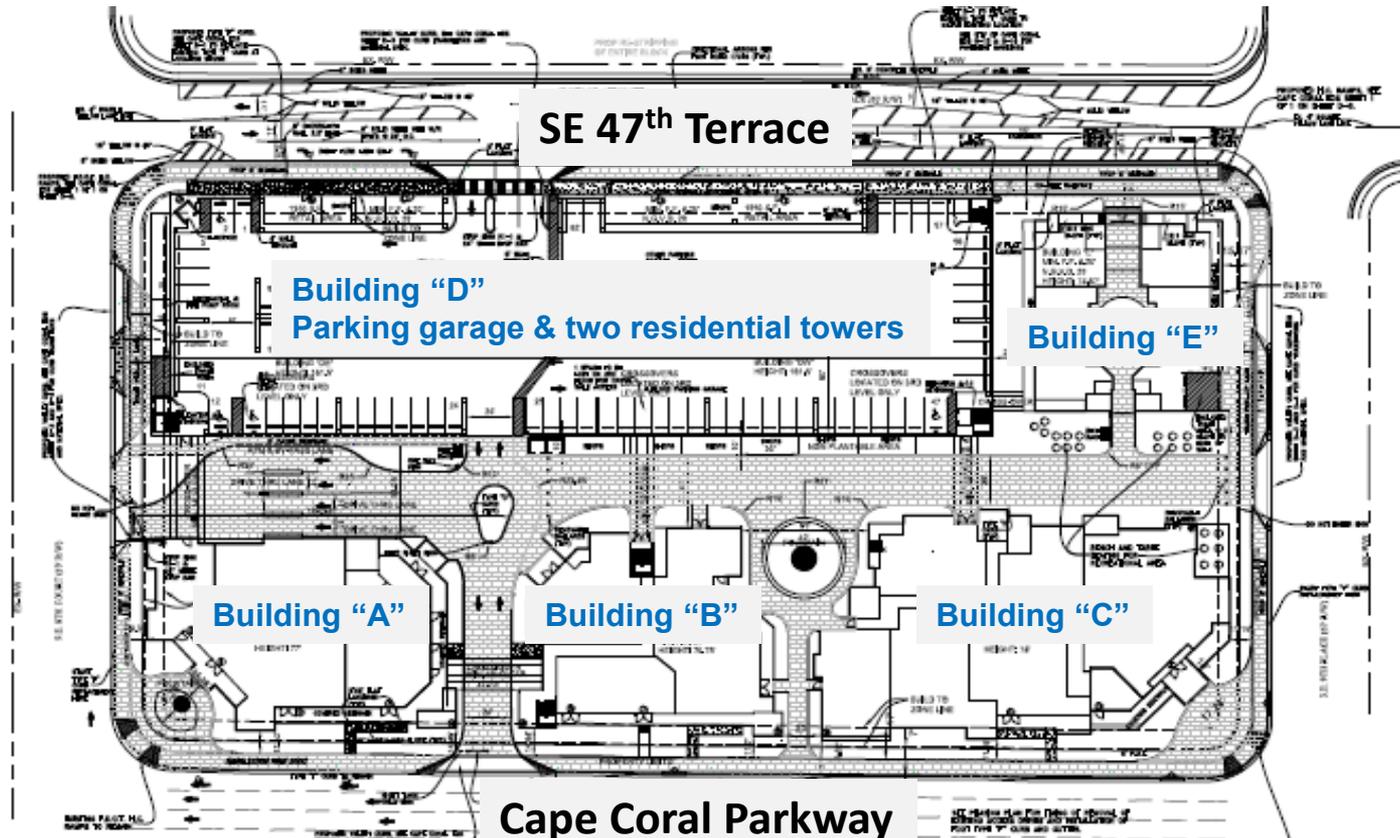
Background

- ◎ **Mixed-use project; approved in 2010**
 - 251,546 sq. ft. of nonresidential uses
 - 152 DUs

- ◎ **Project has been extended several times**
 - Most recently by Resolution 71-19

- ◎ **Resolution 71-19**
 - Extended the project to July 22, 2019
 - Request to extend the project to be treated as a PDP amendment

2010 Site Plan



NO.	DESCRIPTION	DATE	BY	CHECKED
1	ISSUED FOR PERMITS	12/15/10	JL	MS
2	REVISED PER CITY COMMENTS	12/15/10	JL	MS
3	REVISED PER CITY COMMENTS	12/15/10	JL	MS
4	REVISED PER CITY COMMENTS	12/15/10	JL	MS
5	REVISED PER CITY COMMENTS	12/15/10	JL	MS
6	REVISED PER CITY COMMENTS	12/15/10	JL	MS
7	REVISED PER CITY COMMENTS	12/15/10	JL	MS
8	REVISED PER CITY COMMENTS	12/15/10	JL	MS
9	REVISED PER CITY COMMENTS	12/15/10	JL	MS
10	REVISED PER CITY COMMENTS	12/15/10	JL	MS

NO.	DESCRIPTION	DATE	BY	CHECKED
1	ISSUED FOR PERMITS	12/15/10	JL	MS
2	REVISED PER CITY COMMENTS	12/15/10	JL	MS
3	REVISED PER CITY COMMENTS	12/15/10	JL	MS
4	REVISED PER CITY COMMENTS	12/15/10	JL	MS
5	REVISED PER CITY COMMENTS	12/15/10	JL	MS
6	REVISED PER CITY COMMENTS	12/15/10	JL	MS
7	REVISED PER CITY COMMENTS	12/15/10	JL	MS
8	REVISED PER CITY COMMENTS	12/15/10	JL	MS
9	REVISED PER CITY COMMENTS	12/15/10	JL	MS
10	REVISED PER CITY COMMENTS	12/15/10	JL	MS

DOWNTOWN VILLAGE SQUARE LLC
 1000 DEE PRADO BLVD
 CAPE CORAL, FL 33904
 PHONE 239.274.1001 FAX 239.274.1000

STROBEL, SHARP, P.L.L.C.
 P.O. BOX 91000
 1401 N. MILITARY BLVD
 MIAMI, FL 33130
 PHONE 305.371.4400 FAX 305.371.4401

REFER TO ARCHITECTURAL PLANS FOR BUILDING DIMENSIONS AND DETAILS NOT SHOWN ON THE SITE PLAN.



DEI Civil Engineers & Planners
 1200 AVENUE 100, SUITE 400
 CAPE CORAL, FL 33904
 PHONE 239.771.4741 FAX 239.771.4742

Purpose of the PDP Amendment

- ⦿ Extend substantial construction and project buildout dates
- ⦿ Update and revise the phasing schedule
- ⦿ Revise the conditions of approval

This amendment does NOT:

- ⦿ Change entitlements of the project
- ⦿ Add new land to the project
- ⦿ Revise or amend the approved site plan

Key Changes to the Phasing Schedule

- ⦿ **Eliminating outdated references**
- ⦿ **Revising the phasing schedule**
 - **All buildings on the site to be demolished in Phase 1**
- ⦿ **Providing clarity regarding specific requirements**
 - **Identify order and timing of specific milestones**

Amend and Add Conditions of Approval

- Eliminates a condition that the City to pay up to \$265,000 for relocating a transmission pole
- Adds conditions regarding new pavers installed in City ROW and within the project
- Establishes key dates for specific milestones:
 - Demolishing the three buildings
 - Submitting building plans for Building “A”
 - Beginning substantial construction for Building “A”
 - Receiving a certificate of completion for Building “A”

Establish a New Buildout Period

New buildout date will be five years from the date of City Council approval of the amendment.

Recommendations

Planning Division

Staff recommends approval.

Hearing Examiner

A public hearing was held on May 24, 2019. The Hearing Examiner recommends approval with staff conditions. No speakers at public input.

Correspondence

One phone call – additional informational sought.

MEMORANDUM

CITY OF CAPE CORAL
COMMUNITY DEVELOPMENT DEPARTMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager *JS*
Vincent A. Cautero, Community Development Director *VAC*
Ricardo Noguera, Economic Development Manager *RN*
Robert H. Pederson, Planning Manager *RHP*

DATE: July 16, 2019

SUBJECT: Ordinance 33-19 - Village Square PDP Extension Request

Executive Summary

Ordinance 33-19 would grant an extension to the Village Square PDP approval to April 26, 2021, as requested by the applicant. This project was first approved in 2010. There have been eight extensions to date. The most recent extension was granted by City Council on April 1, 2019 with an expiration date of July 22, 2019.

Prior to the extension approved on April 1, the City worked with the applicant to develop an agreement for moving forward with this project. The agreement (the "term sheet") addresses specific timing and phases for development. The term sheet was signed by the City Manager and Downtown Village Square, LLC (Mr. Robert Lee) on March 27, 2019.

The Hearing Examiner held a public hearing on the PDP extension on May 24 and recommends approval of the extension, subject to the PDP conditions of approval. The term sheet and the PDP ordinance are attached for your information.

Recommendation

City management recommends approval.

We are available to discuss this information in greater detail at your convenience.

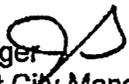
VAC/RHP

REVISED
3/28/19

MEMORANDUM

CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: Mayor Coviello and Council Members

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

DATE: March 27, 2019

SUBJECT: Village Square Planned Development Project (PDP)

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

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

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

Options for Council to Consider

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

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

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

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

July 22, 2019 RL *Mar 27, 2019*
Please know that Mr. Robbie Lee concurs with the attached term sheet and amended resolution; both of which comports with our recommendations contained in this memorandum.

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

JS/VAC:ay (Staff Memo Extension 040119)

Attachments: Term Sheet
PDP Extension History

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

REVISED
3/28/19

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

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

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

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

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

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

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

CITY OF CAPE CORAL, FLORIDA


A. John Szerlag, City Manager

Date: 3/27/19

DOWNTOWN VILLAGE SQUARE, LLC


Robert A. Lee, Jr., Managing Member

Date: _____

MEMORANDUM

CITY OF CAPE CORAL
COMMUNITY DEVELOPMENT DEPARTMENT

TO: Mayor Coviello and Councilmembers

FROM: John Szerlag, City Manager 
Vincent A. Cautero, Community Development Director 
Ricardo Noguera, Economic Development Manager 

DATE: July 19, 2019

SUBJECT: Village Square – PDP, Term Sheet, and Development Schedule

Background

Over the past several months, City staff has worked with the Village Square development team to bring this mixed-use project to fruition – a project we believe can serve as a catalyst in downtown Cape Coral. Representatives from the City’s Financial Services and Community Development departments, along with Economic Development Office staff, have attempted to address and solidify the following three areas critical to advancement of the project:

1. **Financing Viability of the Development: a total of five phases;**
2. **Planned Development Project (PDP); and**
3. **Development Schedule**

Financial Viability of the Project

The City’s Financial Services Director and Economic Development Manager met with the developer and his team to investigate and confirm whether the project is financially viable and whether the developer has secured financing. Staff confirmed the developer has funding support to finance Phases 1 and 2 through a Letter of Credit valued at \$35 million. Phase 1 is an office building and limited retail, and phase 2 is a parking structure. However, there is no evidence the developer has financing to support the buildout of Phases 3 – 5. The developer has indicated he plans to refinance Phases 1 and 2 to support financing for the latter phases. This will require the City to closely monitor construction and values of the first two phases. Please see the attached memo from Financial Services Director Victoria Bateman.

Planned Development Project (PDP)

Should City Council approve this PDP amendment, the developer will be required to provide specific deliverables to demonstrate commitment to the project. In addition, the new buildout date for all phases will be July 22, 2024, although the developer will have the ability to request extensions from City Council.

Should City Council not approve the PDP amendment, the PDP will become null and void. Future development of the site would require conformance to the site's zoning designation (South Cape) or development through a Planned Unit Development (PUD) rezone consistent with new Land Development Code.

Term Sheet and Development Schedule

City staff prepared a Term Sheet, which was signed by the City Manager and Robbie Lee (developer) on March 27, 2019. The Term Sheet details specific deliverables and dates. These dates coincide with Resolution 71-19 approved on April 1, 2019 by City Council, which extended date of building permit issuance (substantial construction) until June 30, 2021. At this time, the shell construction of Phase I (office building) is to be completed. The elements of the Term Sheet are included in the amended PDP.

After approval of Resolution 71-19, City staff prepared a Development Schedule. Unfortunately, the developer did not agree to commit to any development schedule beyond Phase 1 and June 30, 2021. Staff's proposed Development Schedule is attached for your information. While the developer did not agree to staff's schedule, as noted above, the PDP provides a new buildout date of July 22, 2024 upon Council approval.

The Term Sheet also calls for the developer to have Tax Increment Financing (TIF) funds reinstated to 95 percent from the current 50 percent by June 30, 2021 when Phase 1 is complete. Please know the CRA ultimately will make this determination.

VAC/RN:ed

Attachments

MEMORANDUM

CITY OF CAPE CORAL
CITY MANAGER'S OFFICE

TO: John Szerlag, City Manager
FROM: Victoria Bateman, Financial Services Director *CB for VB*
DATE: July 18, 2019
SUBJECT: Village Square Fiscal Viability

On June 27, 2019, Robbie Lee shared information that showed he had a bank balance of \$13 million available for the Village Downtown Square Project. Robbie Lee is required to pay off a mortgage of \$4 million on one of his New York properties to access his \$35M letter of credit. This leaves him with \$9 million in his bank account. The \$9 million cash plus the \$35 million LOC will provide \$44 million that will provide construction funding for phases 1 and 2, which are a shell office building and a parking structure, respectively.

The developer has indicated that he plans to refinance phases 1 and 2, once completed, to support the remaining phases. A determination should be made regarding the reasonableness of the suggested price points to determine if enough funds are available for phases 3, 4 and 5. For example, Robbie Lee expects to sell his condos for over \$450,000 and use the cash for future phases. It appeared that all the buildings would be fully leveraged to fund all the construction, plus Robbie Lee would have to pay off the \$35M line of credit. Therefore, we were not able to verify what funds were available to pay this line of credit.

Robbie Lee provided tax increment financing (TIF) projections prepared by Dr. Evans, an economist hired by the developer. The first year TIF funding would be in 2022 for completed phases 1 and 2. Phases 3 and 4 would start receiving TIF funds in 2023, and phase 5 would receive TIF funds in 2024. All construction would need to be completed by January 1 of each year to receive TIF funding. The TIF projections are calculated at 95% for all years, with an annual inflation rate of 1.5%. Robbie Lee provided a total TIF projection of \$21,514,895 assuming the TIF terminates after 2038, and a projection of \$36,025,523 if the TIF agreement would be extended to expire after the 2047 payment.

Robbie Lee has mentioned that he will establish a CDD district and issue a bond secured by the TIF to provide funding for the project. This means the bond debt would only provide net present value of his actual TIF expected – somewhat less than his projections.

REVISED
3/28/19

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

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

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

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

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

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

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

CITY OF CAPE CORAL, FLORIDA

 A. John Szerlag, City Manager
 Date: 3/27/19

DOWNTOWN VILLAGE SQUARE, LLC

 Robert A. Lee, Jr., Managing Member
 Date: Mar 27, 2019

VILLAGE SQUARE – CITY OF CAPE CORAL DEVELOPMENT SCHEDULE

VILLAGE SQUARE 6-YEAR BUILD-OUT SCHEDULE (July 2019-JUNE 30, 2025)

DELIVERABLES	DUE DATE
1.Amend Ordinance & Update PDP	July 22, 2019
2.Submit demolition permits for 3 structures (Former Car Wash & 2 commercial bldgs..)	Prior to October 1, 2019
3.Complete demolition of existing structures (Former Car Wash and 2 commercial bldgs..)	December 31, 2019
4.Developer Secures Site Plan from City	Prior to March 31, 2020
5.Developer submits complete set of building plans to DCD	Prior to March 31, 2020
6.City finalizes building plans for Phase I (Building A; Office Bldg.)	By June 30, 2020
7.Developer breaks ground on Phase I & commences infrastructure work	July 1, 2020
8.When Building Official deems Phase I 50% complete then City reimburses developer 50% for Impact Fees & Building Plans	January 1, 2021 or TBD
9.Developer completes Phase I (office bldg..) with all building and fire codes met.	July 1, 2021
10.CRA considers reinstating TIF funds from 50 to 95% after Phase I (office bldg..) is completed	June 30, 2021
DEVELOPER HAS INDICATED THEY'RE NOT COMMITTED TO REMAINDER OF SCHEDULE BELOW BECAUSE THEY CAN'T FORECAST MARKET CONDITIONS.	
11.Developer submits complete set of bldg.. plans for Phase 2 Bldg. B and Bldg. D (Parking Deck)	March 31, 2021
12.City issues building permits for Phase II	June 30, 2021
13.Developer breaks ground on Phase II	August 1, 2021
14.City reimburses developer for 50% of bldg.. Permits & Impact Fees for Phase II if 50% of the work is deemed complete by Bldg. Official	March 1, 2022
15.Developer submits complete set of bldg.. plans for Phase III; Bldg. C	July 1, 2021
16.City approves plans for Phase III	December 31, 2021
17.Developer completes buildout of Phase II	July 31, 2022
18.Developer breaks ground on Phase III	February 15, 2022
19.Developer submits full set of building plans for Phases IV & V (Bldgs. E & D; Residential Towers above)	July 1, 2022
20.Developer completes construction of Phase III	July 31, 2023
21.City approves building permits for Phases IV & V	December 31, 2022
22.Developer breaks ground on Phases IV & V	April 1, 2023
23.Developer completes build-out of Phases IV & V	November 30, 2025

Item Number:	A.(10)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 35-19 Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance authorizing the City Manager to sell municipal surplus real property described as Lots 53-54, Block 5195, Unit 83 Cape Coral Subdivision, pursuant to Section 2-155 of the Code of Ordinances; authorizing and directing the Mayor and Clerk to execute a deed conveying the surplus real property to Daniel Lynn Nuckolls and Sandra Kay Nuckolls.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 35-19
Map

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description

- ▣ Ordinance 35-19
- ▣ Map

Type

- Ordinance
- Backup Material

ORDINANCE 35-19

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SELL MUNICIPAL SURPLUS REAL PROPERTY DESCRIBED AS LOTS 53 AND 54, BLOCK 5195, UNIT 83 CAPE CORAL SUBDIVISION PURSUANT TO SECTION 2-155 OF THE CITY OF CAPE CORAL CODE OF ORDINANCES; AUTHORIZING AND DIRECTING THE MAYOR AND CLERK TO EXECUTE A DEED CONVEYING THE AFOREMENTIONED SURPLUS REAL PROPERTY TO DANIEL LYNN NUCKOLLS AND SANDRA KAY NUCKOLLS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral acquired a certain parcel of real property described as Lots 53 and 54, Block 5195, Unit 83 Cape Coral Subdivision, located at 2832 NW 47th Avenue, which has been declared to be surplus real property pursuant to City Code of Ordinances Chapter 2, Article VII, Division 3, Section 2-155(a), by the City Council in Ordinance 73-18; and

WHEREAS, City Code of Ordinances Chapter 2, Article VII, Division 3, Section 2-155(c) indicates prior to the sale or other disposition of any city-owned real property, an appraisal shall be obtained; and

WHEREAS, City Code of Ordinances Chapter 2, Article VII, Division 3, Section 2-155(e) provides for eight methods in which the City may divest itself of City properties. The Ordinance further states “The property may be listed for sale in the multiple listing service (MLS) for a period of not less than 30 days. The city may accept the highest or best offer received during the listing period, provided that such offer is not less than 90% of the appraised value of said property”; and

WHEREAS, the City Council desires to convey the subject parcel as surplus real property pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances; and

WHEREAS, Section 4.17 of the City Charter provides that the conveyance of any lands owned by the City shall be by ordinance.

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

Section 1. The City Manager is hereby authorized to sell the surplus real property described as Lots 53 and 54, Block 5195, Unit 83 Cape Coral Subdivision as recorded in Plat Book 23, Pages 41 to 54, inclusive, in the Public Records of Lee County, Florida.

Section 2. The City Council hereby accepts the purchase contract offer, as attached hereto and made a part hereof as Exhibit “A”, from Daniel Lynn Nuckolls and Sandra Kay Nuckolls, to purchase 2832 NW 47th Avenue, legally described as Lots 53 and 54, Block 5195, Unit 83 Cape Coral Subdivision as recorded in Plat Book 23, Pages 41 to 54, inclusive, in the Public Records of Lee County, Florida.

Section 3. The Mayor and City Clerk are hereby authorized to convey, by executing a warranty deed, the property described in Section 1 to Daniel Lynn Nuckolls and Sandra Kay Nuckolls.

Section 4. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

Section 5. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
Ord\Sale of Surplus Property-Nuckolls

Vacant Land Contract

1* **1. Sale and Purchase:** City of Cape Coral ("Seller")
 2* and Daniel Lynn Nuckolls & Sandra Kay Nuckolls - Husband & Wife ("Buyer")
 3 (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")
 4 described as:
 5* Address: 2832 NW 47TH AVE CAPE CORAL FL 33993
 6* Legal Description: CAPE CORAL UNIT 83 BLK 5195 PB 23 PG 48 LOTS 53 + 54
 7 _____
 8 _____
 9 _____
 10 _____
 11* SEC 25 /TWP 43 /RNG 22 of LEE County, Florida. Real Property ID No.: 25-43-22-C1-05195.0530
 12* including all improvements existing on the Property and the following additional property: _____
 13 _____

14* **2. Purchase Price:** (U.S. currency) \$ 110,500.00
 15 All deposits will be made payable to "Escrow Agent" named below and held in escrow by:
 16* Escrow Agent's Name: City of Cape Coral
 17* Escrow Agent's Contact Person: Dawn Andrews
 18* Escrow Agent's Address: P.O Box 150027, Cape Coral, Florida 33915 - 0027
 19* Escrow Agent's Phone: 239 - 574 - 0735
 20* Escrow Agent's Email: Dandrews@capecoral.net

21 (a) Initial deposit (\$0 if left blank) **(Check if applicable)**
 22* accompanies offer
 23* will be delivered to Escrow Agent within _____ days (3 days if left blank)
 24* after Effective Date \$ 1,000.00
 25 (b) Additional deposit will be delivered to Escrow Agent **(Check if applicable)**
 26* within _____ days (10 days if left blank) after Effective Date
 27* within _____ days (3 days if left blank) after expiration of Feasibility Study Period \$ _____
 28* (c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage) \$ _____
 29* (d) Other: After Council Acceptance \$ 4,000.00
 30 (e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)
 31* to be paid at closing by wire transfer or other Collected funds \$ 105,500.00
 32* (f) (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The
 33* unit used to determine the purchase price is lot acre square foot other (specify): _____
 34* prorating areas of less than a full unit. The purchase price will be \$ _____ per unit based on a
 35* calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in
 36* accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the
 37* calculation: _____

38 **3. Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy
 39* delivered to all parties on or before July 22, 2019, this offer will be withdrawn and Buyer's deposit, if
 40 any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is
 41 delivered. **The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer**
 42 **has signed or initialed and delivered this offer or the final counter offer.**

43* **4. Closing Date:** This transaction will close on August 30, 2019 ("Closing Date"), unless specifically
 44 extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,
 45 but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,
 46 Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business
 47 day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property
 48 insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If
 49 this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and
 50 other items.

Buyer (am) (SM) and Seller (____) (____) acknowledge receipt of a copy of this page, which is 1 of 7 pages.

51 5. **Financing: (Check as applicable)**
52* (a) **Buyer** will pay cash for the Property with no financing contingency.
53* (b) This contract is contingent on **Buyer** qualifying for and obtaining the commitment(s) or approval(s)
54* specified below ("Financing") within _____ days after Effective Date (Closing Date or 30 days after Effective
55* Date, whichever occurs first, if left blank) ("Financing Period"). **Buyer** will apply for Financing within _____
56* days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial,
57* and other information required by the lender. If **Buyer**, after using diligence and good faith, cannot obtain the
58* Financing within the Financing Period, either party may terminate this contract and **Buyer's** deposit(s) will be
59* returned.

60* (1) **New Financing:** **Buyer** will secure a commitment for new third party financing for \$ _____
61* or _____% of the purchase price at (Check one) a fixed rate not exceeding _____% an
62* adjustable interest rate not exceeding _____% at origination (a fixed rate at the prevailing interest rate
63* based on **Buyer's** creditworthiness if neither choice is selected). **Buyer** will keep **Seller** and Broker fully
64* informed of the loan application status and progress and authorizes the lender or mortgage broker to
65* disclose all such information to **Seller** and Broker.

66* (2) **Seller Financing:** **Buyer** will execute a first second purchase money note and mortgage to
67* **Seller** in the amount of \$ _____, bearing annual interest at _____% and payable as
68* follows: _____
69* The mortgage, note, and any security agreement will be in a form acceptable to **Seller** and will follow
70* forms generally accepted in the county where the Property is located; will provide for a late payment fee
71* and acceleration at the mortgagee's option if **Buyer** defaults; will give **Buyer** the right to prepay without
72* penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on
73* conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require **Buyer** to
74* keep liability insurance on the Property, with **Seller** as additional named insured. **Buyer** authorizes **Seller**
75* to obtain credit, employment, and other necessary information to determine creditworthiness for the
76* financing. **Seller** will, within 10 days after Effective Date, give **Buyer** written notice of whether or not
77* **Seller** will make the loan.

78* (3) **Mortgage Assumption:** **Buyer** will take title subject to and assume and pay existing first mortgage to
79* _____
80* LN# _____ in the approximate amount of \$ _____ currently payable at
81* \$ _____ per month, including principal, interest, taxes and insurance, and having a
82* fixed other (describe) _____
83* interest rate of _____% which will will not escalate upon assumption. Any variance in the
84* mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. **Buyer** will
85* purchase **Seller's** escrow account dollar for dollar. If the interest rate upon transfer exceeds _____% or
86* the assumption/transfer fee exceeds \$ _____, either party may elect to pay the excess,
87* failing which this contract will terminate; and **Buyer's** deposit(s) will be returned. If the lender disapproves
88* **Buyer**, this contract will terminate; and **Buyer's** deposit(s) will be returned.

89* 6. **Assignability: (Check one)** **Buyer** may assign and thereby be released from any further liability under this
90* contract, may assign but not be released from liability under this contract, or may not assign this contract.

91* 7. **Title:** **Seller** has the legal capacity to and will convey marketable title to the Property by statutory warranty
92* deed special warranty deed other (specify) _____, free of liens, easements,
93* and encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants,
94* restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any
95* other matters to which title will be subject) _____,
96* provided there exists at closing no violation of the foregoing.

97* (a) **Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and
98* pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent.
99* **Seller** will deliver to **Buyer**, at
100* (Check one) **Seller's** **Buyer's** expense and
101* (Check one) within 30 days after Effective Date at least _____ days before Closing Date,
102* (Check one)

103* (1) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be
104* discharged by **Seller** at or before closing and, upon **Buyer** recording the deed, an owner's policy in the
105* amount of the purchase price for fee simple title subject only to the exceptions stated above. If **Buyer** is
106* paying for the owner's title insurance policy and **Seller** has an owner's policy, **Seller** will deliver a copy to
107* **Buyer** within 15 days after Effective Date.

Buyer (DA) (S) and Seller () () acknowledge receipt of a copy of this page, which is 2 of 7 pages.

108* (2) an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an
109 existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy
110 acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy
111 will include copies of all policy exceptions and an update in a format acceptable to **Buyer** from the policy
112 effective date and certified to **Buyer** or **Buyer's** closing agent together with copies of all documents
113 recited in the prior policy and in the update. If such an abstract or prior policy is not available to **Seller**,
114 then (1) above will be the title evidence.

115* (b) **Title Examination:** After receipt of the title evidence, **Buyer** will, within 10 days (10 days if left blank)
116 but no later than Closing Date, deliver written notice to **Seller** of title defects. Title will be deemed acceptable
117 to **Buyer** if (i) **Buyer** fails to deliver proper notice of defects or (ii) **Buyer** delivers proper written notice and
118* **Seller** cures the defects within 30 days (30 days if left blank) ("Cure Period") after receipt of the notice. If
119 the defects are cured within the Cure Period, closing will occur within 10 days after receipt by **Buyer** of notice
120 of such cure. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured
121 within the Cure Period. If the defects are not cured within the Cure Period, **Buyer** will have 10 days after
122 receipt of notice of **Seller's** inability to cure the defects to elect whether to terminate this contract or accept
123 title subject to existing defects and close the transaction without reduction in purchase price.

124 (c) **Survey:** **Buyer** may, at **Buyer's** expense, have the Property surveyed and must deliver written notice to
125 **Seller**, within 5 days after receiving survey but not later than 5 days before Closing Date, of any
126 encroachments on the Property, encroachments by the Property's improvements on other lands, or deed
127 restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a
128 title defect and **Seller's** and **Buyer's** obligations will be determined in accordance with Paragraph 7(b).

129 (d) **Ingress and Egress:** **Seller** warrants that the Property presently has ingress and egress.

130 8. **Property Condition:** **Seller** will deliver the Property to **Buyer** at closing in its present "as is" condition, with
131 conditions resulting from **Buyer's** Inspections and casualty damage, if any, excepted. **Seller** will not engage in or
132 permit any activity that would materially alter the Property's condition without the **Buyer's** prior written consent.

133 (a) **Inspections: (Check (1) or (2))**

134* (1) **Feasibility Study:** **Buyer** will, at **Buyer's** expense and within _____ days (30 days if left blank)
135 ("Feasibility Study Period") after Effective Date and in **Buyer's** sole and absolute discretion, determine
136 whether the Property is suitable for **Buyer's** intended use. During the Feasibility Study Period, **Buyer**
137 may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and
138 investigations ("Inspections") that **Buyer** deems necessary to determine to **Buyer's** satisfaction the
139 Property's engineering, architectural, and environmental properties; zoning and zoning restrictions;
140 subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities;
141 consistency with local, state, and regional growth management plans; availability of permits, government
142 approvals, and licenses; and other inspections that **Buyer** deems appropriate. If the Property must be
143 rezoned, **Buyer** will obtain the rezoning from the appropriate government agencies. **Seller** will sign all
144 documents **Buyer** is required to file in connection with development or rezoning approvals. **Seller** gives
145 **Buyer**, its agents, contractors, and assigns, the right to enter the Property at any time during the
146 Feasibility Study Period for the purpose of conducting Inspections, provided, however, that **Buyer**, its
147 agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. **Buyer** will
148 indemnify and hold **Seller** harmless from losses, damages, costs, claims, and expenses of any nature,
149 including attorneys' fees, expenses, and liability incurred in application for rezoning or related
150 proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any
151 work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a construction lien
152 being filed against the Property without **Seller's** prior written consent. If this transaction does not close,
153 **Buyer** will, at **Buyer's** expense, (i) repair all damages to the Property resulting from the Inspections and
154 return the Property to the condition it was in before conducting the Inspections and (ii) release to **Seller**
155 all reports and other work generated as a result of the Inspections.

156 Before expiration of the Feasibility Study Period, **Buyer** must deliver written notice to **Seller** of **Buyer's**
157 determination of whether or not the Property is acceptable. **Buyer's** failure to comply with this notice
158 requirement will constitute acceptance of the Property as suitable for **Buyer's** intended use in its "as is"
159 condition. If the Property is unacceptable to **Buyer** and written notice of this fact is timely delivered to
160 **Seller**, this contract will be deemed terminated, and **Buyer's** deposit(s) will be returned.

161* (2) **No Feasibility Study:** **Buyer** is satisfied that the Property is suitable for **Buyer's** purposes, including
162 being satisfied that either public sewerage and water are available to the Property or the Property will be
163 approved for the installation of a well and/or private sewerage disposal system and that existing zoning

Buyer () and Seller () () acknowledge receipt of a copy of this page, which is 3 of 7 pages.

164 and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency,
165 growth management, and environmental conditions, are acceptable to **Buyer**. This contract is not
166 contingent on **Buyer** conducting any further investigations.

167 **(b) Government Regulations:** Changes in government regulations and levels of service which affect **Buyer's**
168 intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has
169 expired or if Paragraph 8(a)(2) is selected.

170 **(c) Flood Zone:** **Buyer** is advised to verify by survey, with the lender, and with appropriate government
171 agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply
172 to improving the Property and rebuilding in the event of casualty.

173 **(d) Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as
174 defined in Section 161.053, Florida Statutes, **Seller** will provide **Buyer** with an affidavit or survey as required
175 by law delineating the line's location on the Property, unless **Buyer** waives this requirement in writing. The
176 Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that
177 govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach
178 nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida
179 Department of Environmental Protection, including whether there are significant erosion conditions associated
180 with the shore line of the Property being purchased.

181* **Buyer** waives the right to receive a CCCL affidavit or survey.

182 **9. Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be
183 conducted by mail or electronic means. If title insurance insures **Buyer** for title defects arising between the title
184 binder effective date and recording of **Buyer's** deed, closing agent will disburse at closing the net sale proceeds
185 to **Seller** (in local cashier's check if **Seller** requests in writing at least 5 days before closing) and brokerage fees to
186 Broker as per Paragraph 19. In addition to other expenses provided in this contract, **Seller** and **Buyer** will pay the
187 costs indicated below.

188 **(a) Seller Costs:**

189 Taxes on deed
190 Recording fees for documents needed to cure title
191 Title evidence (if applicable under Paragraph 7)
192* Other: _____

193 **(b) Buyer Costs:**

194 Taxes and recording fees on notes and mortgages
195 Recording fees on the deed and financing statements
196 Loan expenses
197 Title evidence (if applicable under Paragraph 7)
198 Lender's title policy at the simultaneous issue rate
199 Inspections
200 Survey
201 Insurance
202* Other: _____

203 **(c) Prorations:** The following items will be made current and prorated as of the day before Closing Date: real
204 estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases,
205 and other Property expenses and revenues. If taxes and assessments for the current year cannot be
206 determined, the previous year's rates will be used with adjustment for any exemptions.

207 **(d) Special Assessment by Public Body:** Regarding special assessments imposed by a public body, **Seller**
208 will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount
209 of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but
210 has not resulted in a lien before closing; and **Buyer** will pay all other amounts. If special assessments may be
211* paid in installments, **Seller** **Buyer** (**Buyer** if left blank) will pay installments due after closing. If **Seller** is
212 checked, **Seller** will pay the assessment in full before or at the time of closing. Public body does not include a
213 Homeowners' or Condominium Association.

214 **(e) PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT**
215 **PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO**
216 **PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY**
217 **IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN**
218 **HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT**
219 **THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.**

Buyer (Ann) (Er) and Seller () () acknowledge receipt of a copy of this page, which is 4 of 7 pages.

VAC-11 Rev 6/17

Serial#: 095442-900155-8534115

©2017 Florida Realtors®

Form
Simplicity

- 220 (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If **Seller** is a "foreign person" as defined by
221 FIRPTA, **Seller** and **Buyer** will comply with FIRPTA, which may require **Seller** to provide additional cash at
222 closing.
- 223 (g) **1031 Exchange:** If either **Seller** or **Buyer** wish to enter into a like-kind exchange (either simultaneously with
224 closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will
225 cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided,
226 however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing
227 will not be contingent upon, extended, or delayed by the Exchange.
- 228 **10. Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days
229 or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal
230 holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday
231 will extend until 5:00 p.m. (where the Property is located) of the next business day. **Time is of the essence in**
232 **this contract.**
- 233 **11. Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing
234 or **Seller** negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain
235 proceedings or an eminent domain proceeding is initiated, **Seller** will promptly inform **Buyer**. Either party may
236 terminate this contract by written notice to the other within 10 days after **Buyer's** receipt of **Seller's** notification,
237 and **Buyer's** deposit(s) will be returned, failing which **Buyer** will close in accordance with this contract and
238 receive all payments made by the governmental authority or insurance company, if any.
- 239 **12. Force Majeure:** **Seller** or **Buyer** will not be required to perform any obligation under this contract or be liable to
240 each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or
241 prevented by an act of God or force majeure. An "act of God or force majeure" is defined as hurricanes,
242 earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably
243 within the control of **Seller** or **Buyer** and which by the exercise of due diligence the non-performing party is
244 unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for
245 the period that the act of God or force majeure is in place. However, in the event that such act of God or force
246 majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to
247 the other; and **Buyer's** deposit(s) will be returned.
- 248 **13. Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or
249 electronic means. **Buyer's failure to timely deliver written notice to Seller, when such notice is required by**
250 **this contract, regarding any contingency will render that contingency null and void, and this contract will**
251 **be construed as if the contingency did not exist. Any notice, document, or item delivered to or received**
252 **by an attorney or licensee (including a transactions broker) representing a party will be as effective as if**
253 **delivered to or received by that party.**
- 254 **14. Complete Agreement; Persons Bound:** This contract is the entire agreement between **Seller** and **Buyer**.
255 **Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker**
256 **unless incorporated into this contract.** Modifications of this contract will not be binding unless in writing, signed
257 or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This
258 contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications
259 communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be
260 binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If
261 any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be
262 fully effective. **Seller** and **Buyer** will use diligence and good faith in performing all obligations under this contract.
263 This contract will not be recorded in any public record. The terms "**Seller**," "**Buyer**," and "**Broker**" may be singular
264 or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if
265 permitted, of **Seller**, **Buyer**, and Broker.
- 266 **15. Default and Dispute Resolution:** This contract will be construed under Florida law. This Paragraph will survive
267 closing or termination of this contract.
- 268 (a) **Seller Default:** If **Seller** fails, neglects, or refuses to perform **Seller's** obligations under this contract, **Buyer**
269 may elect to receive a return of **Buyer's** deposit(s) without thereby waiving any action for damages resulting
270 from **Seller's** breach and may seek to recover such damages or seek specific performance. **Seller** will also
271 be liable for the full amount of the brokerage fee.

Buyer (AM) (S) and Seller () () acknowledge receipt of a copy of this page, which is 5 of 7 pages.

VAC-11 Rev 6/17

Serial#: 095442-900155-8534115

©2017 Florida Realtors®

Form
Simplicity

272 (b) **Buyer Default:** If **Buyer** fails, neglects, or refuses to perform **Buyer's** obligations under this contract,
273 including payment of deposit(s), within the time(s) specified, **Seller** may elect to recover and retain the
274 deposit(s), paid and agreed to be paid, for the account of **Seller** as agreed upon liquidated damages,
275 consideration for execution of this contract, and in full settlement of any claims, whereupon **Seller** and **Buyer**
276 will be relieved from all further obligations under this contract; or **Seller**, at **Seller's** option, may proceed in
277 equity to enforce **Seller's** rights under this contract.

278 **16. Attorney's Fees; Costs:** In any litigation permitted by this Contract, the prevailing party shall be entitled to
279 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting
280 the litigation. This Paragraph 16 shall survive Closing or termination of this Contract.

281 **17. Escrow Agent; Closing Agent:** **Seller** and **Buyer** authorize Escrow Agent and closing agent (collectively
282 "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them
283 upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing
284 brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and
285 finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any
286 person for misdelivery of escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful
287 breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay
288 the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the
289 escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

290 **18. Professional Advice; Broker Liability:** Broker advises **Seller** and **Buyer** to verify all facts and representations
291 that are important to them and to consult an appropriate professional for legal advice (for example, interpreting
292 this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor
293 reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,
294 property condition, environmental, and other specialized advice. **Buyer** acknowledges that Broker does not reside
295 in the Property and that all representations (oral, written, or otherwise) by Broker are based on **Seller**
296 representations or public records. **Buyer agrees to rely solely on Seller, professional inspectors, and**
297 **government agencies for verification of the Property condition and facts that materially affect Property**
298 **value.** **Seller** and **Buyer** respectively will pay all costs and expenses, including reasonable attorneys' fees at all
299 levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising
300 from **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations. **Seller** and **Buyer** hold
301 harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or
302 damage based on (i) **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations; (ii) the use or
303 display of listing data by third parties, including, but not limited to, photographs, images, graphics, video
304 recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's
305 performance, at **Seller's** or **Buyer's** request, of any task beyond the scope of services regulated by Chapter 475,
306 Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)
307 products or services provided by any vendor; and (v) expenses incurred by any vendor. **Seller** and **Buyer** each
308 assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve
309 Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.
310 This Paragraph will survive closing.

311 **19. Commercial Real Estate Sales Commission Lien Act:** If the Property is commercial real estate as defined by
312 Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales
313 Commission Lien Act provides that when a broker has earned a commission by performing licensed services
314 under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the
315 broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

316 **20. Brokers:** The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:**
317 **Seller** and **Buyer** direct closing agent to disburse at closing the full amount of the brokerage fees as specified in
318 separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the
319 extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any
320 MLS or other offer of compensation made by **Seller** or **Seller's** Broker to **Buyer's** Broker.

321* (a) Dawn Y Andrews (Seller's Broker)
322* will be compensated by Seller Buyer both parties pursuant to a listing agreement other
323* (specify): IS NOT ACCEPTING A COMMISSION

324* (b) N/A (Buyer's Broker)
325* will be compensated by Seller Buyer both parties Seller's Broker pursuant to a MLS offer of
326* compensation other (specify): N/A

Buyer (Signature) and Seller () () acknowledge receipt of a copy of this page, which is 6 of 7 pages.

327* **21. Additional Terms:** This Contract is subject to City of Cape Coral Council approval
328 _____
329 _____
330 _____
331 _____
332 _____
333 _____
334 _____
335 _____
336 _____
337 _____
338 _____
339 _____
340 _____
341 _____
342 _____

343 **COUNTER-OFFER/REJECTION**

344* Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and
345 deliver a copy of the acceptance to Seller).
346* Seller rejects Buyer's offer

347 **This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before**
348 **signing.**

349* **Buyer:** *D.L. Nuckolls* Date: 5/22/19
350* Print name: Daniel Lynn Nuckolls

351* **Buyer:** *Sandra Nuckolls* Date: 5.22.2019
352* Print name: Sandra Kay Nuckolls

353 **Buyer's address for purpose of notice:**
354* Address: 168 Cottontail Lane, Concord, NC 28025
355* Phone: 704 - 787 - 2083 Fax: _____ Email: Nuccol@yahoo.com

356* **Seller:** _____ Date: _____
357* Print name: City of Cape Coral

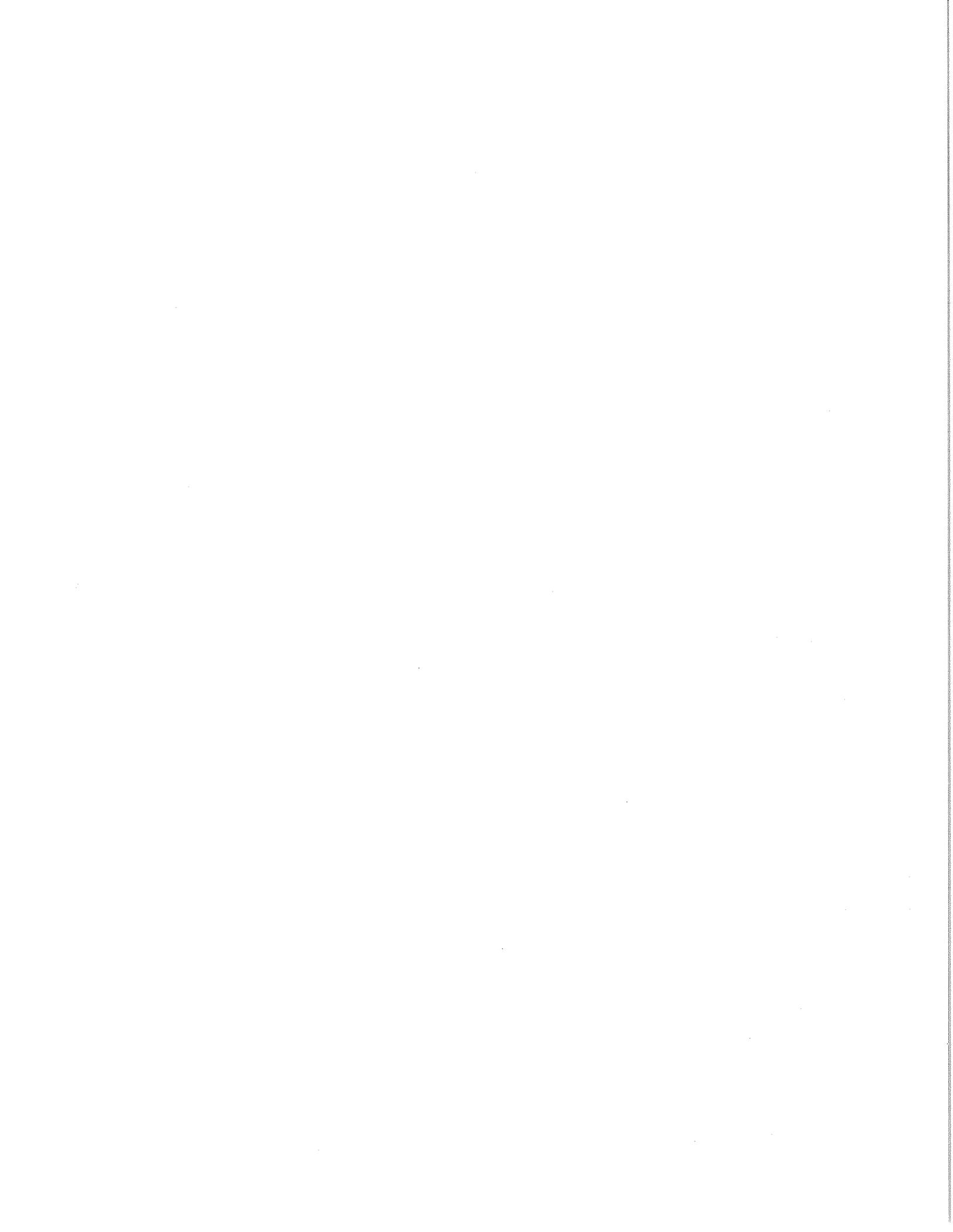
358* **Seller:** _____ Date: _____
359* Print name: _____

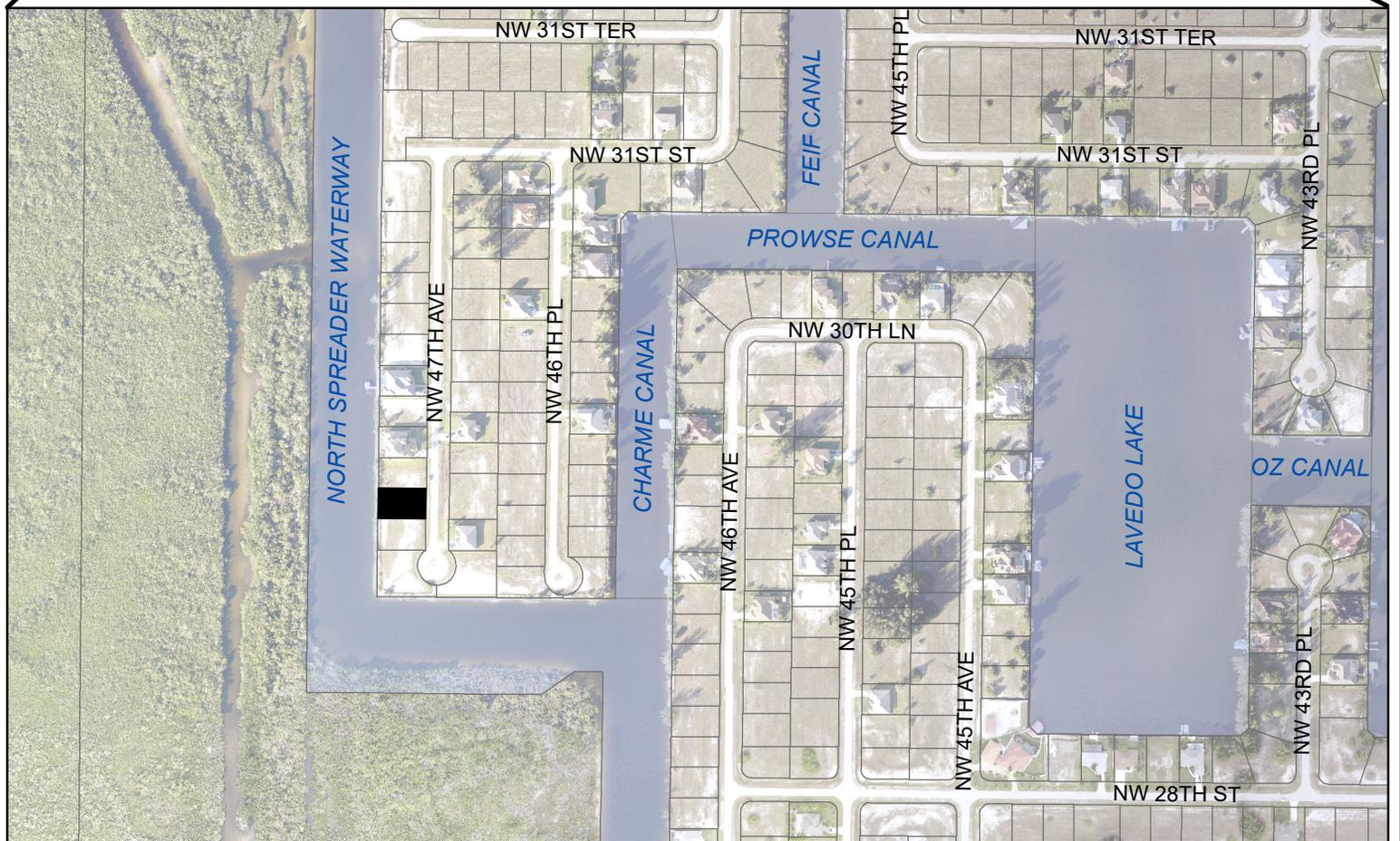
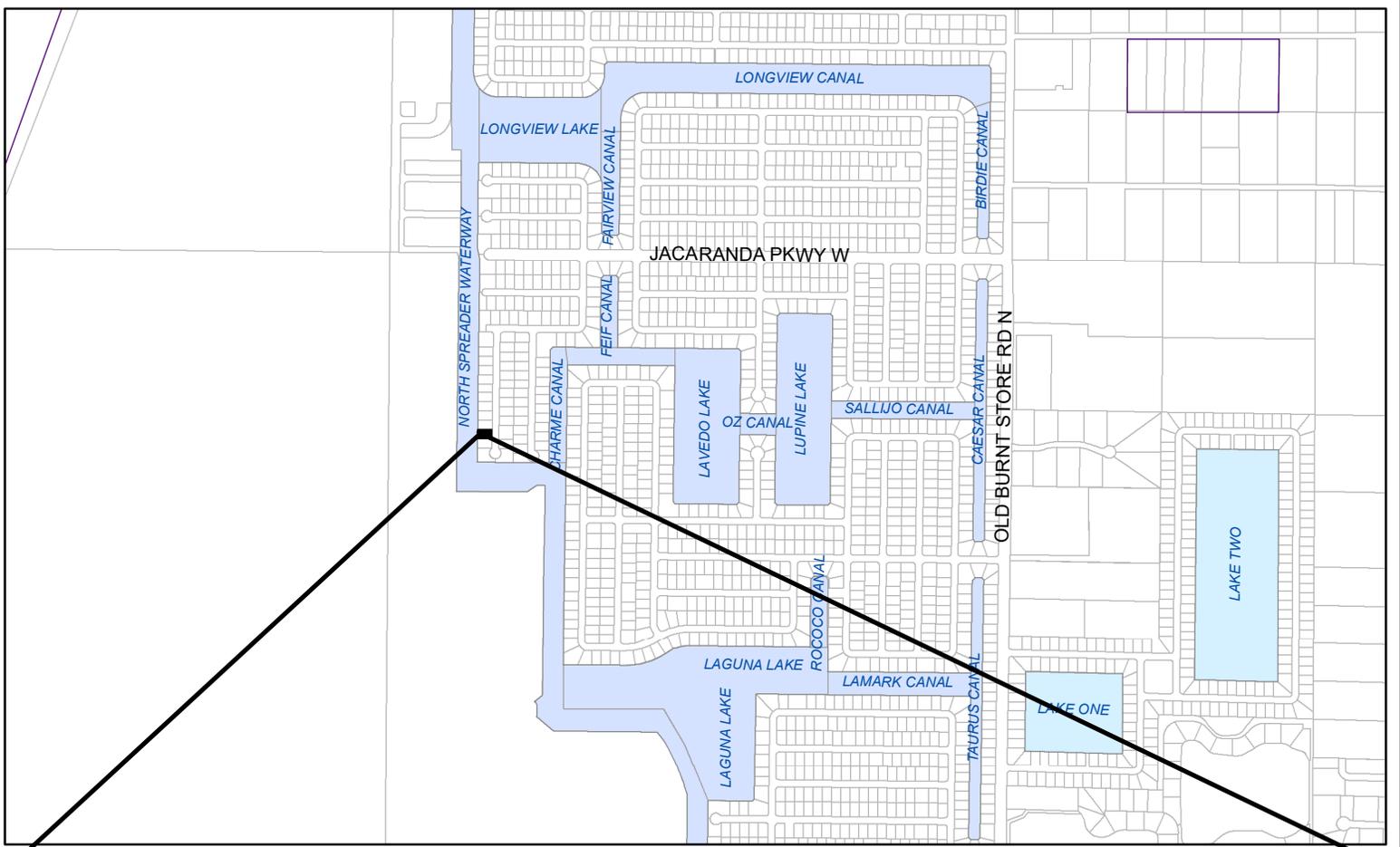
360 **Seller's address for purpose of notice:**
361* Address: P.O Box 150027, Cape Coral, Florida 33915 - 0027
362* Phone: 239 - 574 - 0735 Fax: _____ Email: Dandrews@capecoral.net

363* **Effective Date:** _____ **(The date on which the last party signed or initialed and delivered the**
364 **final offer or counter offer.)**

Florida REALTORS® makes no representation as to the legal validity or adequacy of any provision of this form in any specific transaction. This standardized form should not be used in complex transactions or with extensive riders or additions. This form is available for use by the entire real estate industry and is not intended to identify the user as REALTOR®. REALTOR® is a registered collective membership mark which may be used only by real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its Code of Ethics. The copyright laws of United States (17 U.S. Code) forbid the unauthorized reproduction of this form by any means including facsimile or computerized forms.

Buyer *(initials)* and Seller () () acknowledge receipt of a copy of this page, which is 7 of 7 pages.





0 225 450 900 Feet
 1 inch = 450 feet 1:5,400



City of Cape Coral - Surplus Parcel 71
 Block 5195 Lots 53 & 54

Item Number:	B.(1)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Resolution 142-19 (VP 19-0006*) Set Public Hearing Date for July 29, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 7-2019.

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

A resolution providing for the vacation of plat for the 7.5-foot wide platted public utility and drainage easement located along the south property line of Lot 5 and the 7.5-foot wide platted public utility and drainage easement located along the north property line of Lot 4, both in Block 6400, Cape Coral, Unit 76, The Islands; property located at 218 Old Burnt Store Road South.

LEGAL REVIEW:

John E. Naclerio III, Assistant City Attorney

EXHIBITS:

- Resolution 142-19 (VP 19-0006)
- Hearing Examiner Recommendation Order
- Back up from Hearing Examiner Hearing
- Staff presentation

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, Planning Team Coordinator

ATTACHMENTS:

Description	Type
▢ Resolution 142-19 (VP 19-0006)	Resolution
▢ Hearing Examiner Recommendation Order	Backup Material
▢ Back up material from HEX Hearing	Backup Material
▢ Staff Presentation	Backup Material

RESOLUTION 142 – 19

A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR THE 7.5-FOOT WIDE PLATTED PUBLIC UTILITY AND DRAINAGE EASEMENT LOCATED ALONG THE SOUTH PROPERTY LINE OF LOT 5 AND THE 7.5 FOOT WIDE PLATTED PUBLIC UTILITY AND DRAINAGE EASEMENT ALONG THE NORTH PROPERTY LINE OF LOT 4, BOTH IN BLOCK 6400, CAPE CORAL, UNIT 76, THE ISLANDS; PROPERTY LOCATED AT 218 OLD BURNT STORE ROAD SOUTH; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Petition was filed by MARION MOCHRIE, TRUSTEE, for the vacation of plat on property described herein; and

WHEREAS, the Petition meets the requirements of Land Use Development Regulations, Article VIII, Section 8.11, Vacation of Plats, Streets and Other Property of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted.

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

Section 1. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following-described platted public utility and drainage easement, as shown in Exhibit A, is hereby vacated by the City of Cape Coral, to wit:

THE 15' DRAINAGE AND UTILITY EASEMENT CENTER ALONG THE LINE COMMON TO LOTS 4 AND 5, BLOCK 6400, CAPE CORAL, UNIT 76, THE ISLANDS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 35, PAGES 121 THROUGH 129, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LESS THE EAST AND WEST 7.5'.

BEING MORE PARTICULARLY DESCRIBED

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE S 89°58'35"W ALONG THE COMMON LINE BETWEEN SAID LOTS 4 AND 5 FOR 7.50' TO THE POINT OF BEGINNING; THENCE S 00°01'25"E FOR 7.50'; THENCE S 89°58'35"W FOR 110.00'; THENCE N 00°01'25"W FOR 15.00'; THENCE N 89°58'35"E FOR 110.00'; THENCE S 00°01'25"E FOR 7.50' TO THE POINT OF BEGINNING.

Section 2. The Applicant shall meet the following terms and conditions:

1. The vacation of the platted easements along the south property line of Lot 5 and the north property line of Lot 4, Block 6400, shall be consistent with that shown in the sketch and accompanying legal description prepared by R. K. Burns Surveying, Inc., dated October 24, 2018, and attached hereto as Exhibit A.
2. The City shall retain a 7.5-foot wide public utility and drainage easement around the perimeter of the site.
3. 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 City for all recording fees associated with this resolution.

Section 3. This Resolution shall take effect upon its recording within the Office of the Lee County Clerk of Court by the City of Cape Coral.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
res/vp19-0006

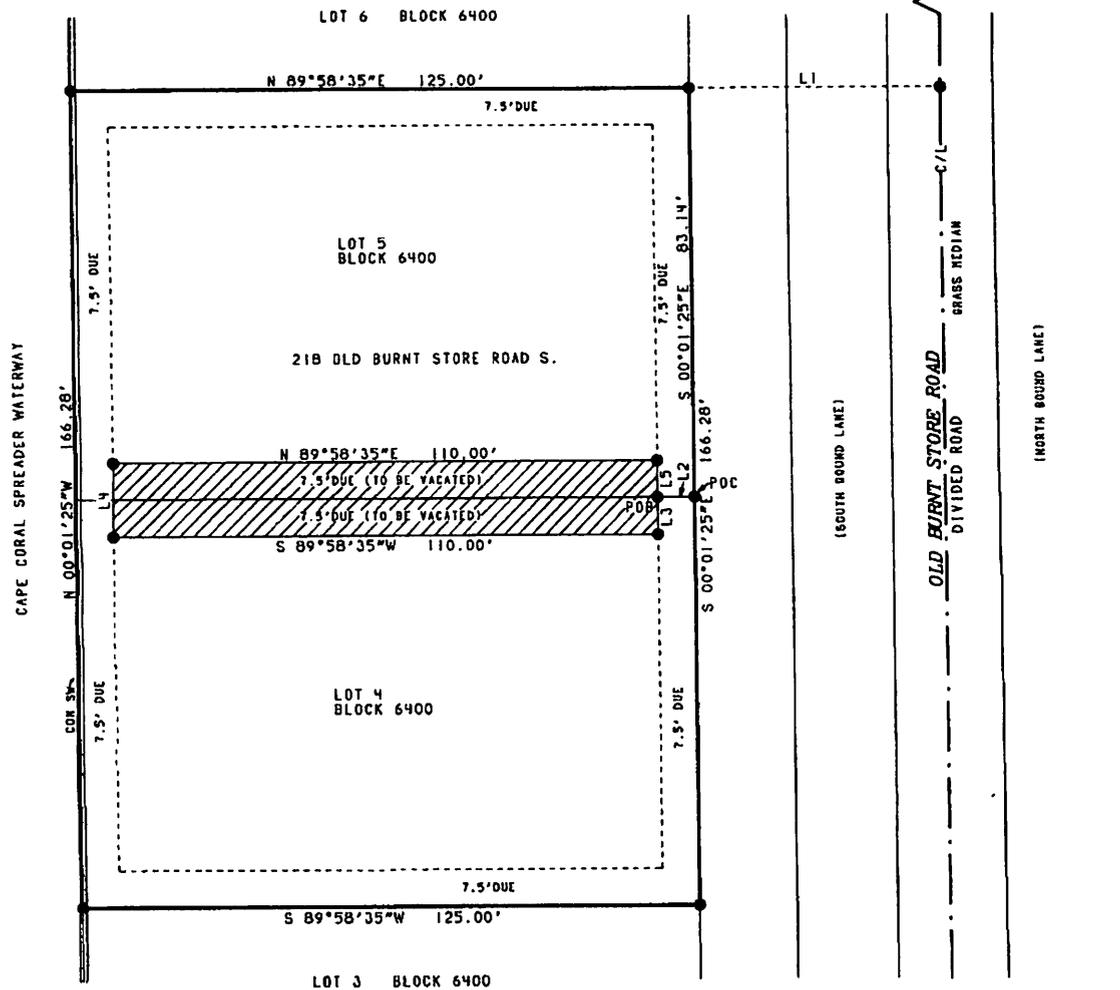
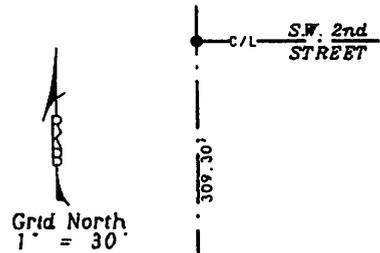
THE 15' DRAINAGE AND UTILITY EASEMENT CENTER ALONG THE LINE COMMON TO LOTS 4 AND 5, BLOCK 6400, CAPE CORAL, UNIT 76, THE ISLANDS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 35, PAGES 121 THROUGH 129, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LESS THE EAST AND WEST 7.5'.

LINE	BEARING	DISTANCE
L 1	N 89°58'35"E	50.00'
L 2	S 89°58'35"W	7.50'
L 3	S 00°01'25"E	7.50'
L 4	N 00°01'25"W	15.00'
L 5	S 00°01'25"E	7.50'

BEING MORE PARTICULARLY DESCRIBED

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE S 89°58'35"W ALONG THE COMMON LINE BETWEEN SAID LOTS 4 AND 5 FOR 7.50' TO THE POINT OF BEGINNING; THENCE S 00°01'25"E FOR 7.50'; THENCE S 89°58'35"W FOR 110.00'; THENCE N 00°01'25"W FOR 15.00'; THENCE N 89°58'35"E FOR 110.00'; THENCE S 00°01'25"E FOR 7.50' TO THE POINT OF BEGINNING.

LEGEND:
 C/L = CENTERLINE
 CON = CONCRETE
 DUE = DRAINAGE & UTILITY EASEMENT
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 SW = SEAWALL



WD# 17-0041L

- NOTES:
- 1) DIMENSIONS ARE IN FEET AND DECIMALS THEREOF EXCEPT AS SHOWN.
 - 2) NO UNDERGROUND UTILITIES OR STRUCTURES WERE LOCATED EXCEPT AS SHOWN.
 - 3) ONLY THOSE IMPROVEMENTS WHICH ARE SHOWN WERE LOCATED. THERE MAY BE OTHER IMPROVEMENTS OR ITEMS OF INTEREST ON THE SUBJECT PROPERTY WHICH WERE NOT OBSERVED OR LOCATED.
 - 4) NO TITLE RESEARCH WAS DONE BY THIS COMPANY. NO ABSTRACT OF TITLE WAS PROVIDED EXCEPT AS STATED.
 - 5) PARCEL MAY BE SUBJECT TO OTHER EASEMENTS, RESTRICTIONS, OR RESERVATIONS. THE EXISTENCE OF WHICH WERE NOT PROVIDED TO THIS COMPANY.

R. K. BURNS SURVEYING, INC.

3507 LEE BLVD. # 246
 LEHIGH ACRES, FL. 33971
 239-303-0764
 239-303-0832 (FAX)
 INFO@BURNSSURVEYING.COM

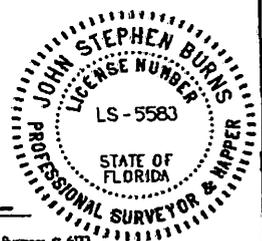
SKETCH & LEGAL DESCRIPTION

SHEET 1 OF 1

THIS IS NOT A BOUNDARY SURVEY

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY JOHN S. BURNS LS 5583 ON (10/24/2018)

By: *John S. Burns*
 John S. Burns, Sr., PS&L-LS-5583
 R. K. Burns Surveying, Inc. Licensed Survey Business # 633



OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL

HEARING EXAMINER RECOMMENDATION

VP HEX Recommendation 7-2019

DCD CASE # VP 19-0006

Rendered April 16, 2019

APPLICATION FOR: Vacation of Platted Easements Property Lot Lines

OWNER/APPLICANT: Marion Mochrie, Trustee of the Mochrie 2013 Property Trust dated February 28, 2013

APPLICANT'S REPRESENTATIVE: Raymond J. Scalerò

LOCATION OF PROPERTY: 218 Old Burnt Store Road South, Cape Coral, FL
Lots 4-5, Block 6400, Cape Coral, Unit 76, The Islands
Strap number: 13-44-22-C2-00800.0040

ZONING DISTRICT: Single Family Residential (R-1B)

FUTURE LAND USE CLASSIFICATION: Single Family and Multi-Family by PDP

URBAN SERVICE: Transition

HEARING DATE: April 16, 2019

SUMMARY OF REQUEST: The Applicant requests to vacate the 7.5-foot wide platted easement along the south property line of Lot 5 and the 7.5-foot wide platted easement along the north property line of Lot 4; both lots in Block 6400; for a vacation of a total of 1,650 square feet of platted easements.

I. **SUMMARY OF HEARING EXAMINER RECOMMENDATION**

The Hearing Examiner recommends that City Council **approve** the application for the requested vacations, **subject to the conditions set forth below.**

II. **NOTICE OF HEARING**

Based on the testimony of City Staff Michael Struve at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, §8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

III. **PARTICIPANTS IN HEARING**

CITY STAFF: Michael Struve, AICP¹

CITY CLERK'S OFFICE: Kimberly Bruns

APPLICANT'S REPRESENTATIVE: Raymond J. Scalero

MEMBERS OF PUBLIC: None

TELEPHONE CALL/WRITTEN COMMUNICATION FROM PUBLIC: None

IV. **EXHIBITS**

APPLICANT'S AND CITY STAFF'S EXHIBITS: previously submitted.

V. **REVIEW OF LUDR REQUIREMENTS**

Authority. The Hearing Examiner has the authority to recommend approval or denial of an application for a vacation of a plat and associated easements pursuant to LUDR §9.2.3 b.8.

Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record.

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. The Hearing Examiner must consider all competent substantial evidence in the record as defined by LUDR § 8.3.1.C.3.b.

LUDR Standards. The Hearing Examiner reviewed the application in accordance with the standards set forth in LUDR § 8.11, *Vacation of plats, rights-of-way and other property*, in addition to the general standards set forth in the LUDRs and the City Comprehensive Plan.

VI. **TESTIMONY AT HEARING**

Incorporation of Staff Report and Staff Testimony by Applicant's Representative

The Applicant's Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into his presentation by reference. He requested the Hearing

¹ Mr. Struve was recognized as an expert in land planning issues associated with this Application, based upon his prior appearances before the Hearing Examiner and his credentials which are on file with the City Clerk's Office.

Examiner to recommend that City Council find the Staff Input as findings of fact, in addition to those separately presented by him.

Incorporation of Staff Report by Staff

Staff incorporated the Staff Report into his presentation by reference.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony below is accepted by the Hearing Examiner as recommended findings of fact, unless specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision regarding this Application.

VII. **DISCUSSION**

Site Information

Staff testified that the subject site is located in western Cape Coral and is approximately 20,785 square feet in size. Staff further testified that the eastern side of the site has frontage on Old Burnt Store Road and the western side has water frontage on the North Spreader Waterway. Staff further testified that except for a seawall that was constructed in 2018, the site is vacant.

Staff testified that the Applicant owns Lots 4 and 5, which contain the subject easements, and that these two easements (which are located in the middle of the site) have a combined width of 15 feet and a total are of 1,650 square feet.

Staff further testified that construction of the proposed residence can occur without the vacation. However, the Applicant's Representative testified that, were the property to be sold at a future point in time, marketability of the property could be affected by the failure to vacate the easements. Staff concurred, observing that the vacation could provide insurers, lenders and title companies with greater assurance as to proposed immediate and future development.

Century Link, by letter of February 26, 2019, advised Applicant that it did not have existing utilities in the proposed easement vacation site and did not object to the proposed vacations.

Comcast, by letter of February 22, 2019, advised that it had no objection to the proposed vacation.

LCEC, by letter of March 11, 2019, advised Applicant that it had no objection to vacating of the utility easements on the subject property; however, the easement on the east property line of both lots must remain (7.5 feet).

The above utility letters were included in the NOVUS packet.

Staff testified that the City lacks infrastructure in the subject easements and that the City would retain a 7.5-foot wide perimeter easement for the site and such easement would be sufficient for future utility installation and maintenance.

Surrounding Area

Staff testified that the sites to the north and south of this property have a Single Family and Multi-Family by PDP Future Land Use Classification (FLUC). Staff further testified that sites east of Old Burnt Store Road have a Single Family FLUC, while land owned by the state of Florida to the west has a Natural Resources/Preservation FLUC.

Finally, staff additionally testified that all the surrounding sites to the north, east and south have Single Family Residential (R-1B) Zoning. State-owned lands to the west are unzone, with uses in these areas being regulated by the FLUC.

Zoning History of the Subject Property

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

Recommendation that City Council Find That Applicant Has Complied with All Requirements for the Requested Vacations, as Set Forth in LUDR §8.11

1. *Applicant **has** color of title (LUDR §8.11.3b.1)*

As set forth above, Applicant owns all properties subject to this Vacation request.

2. *A copy of the plat **has** been provided, showing the portions for which vacation is sought (LUDR §8.11.3b.2)*

It is attached as an Exhibit hereto.

3. and 4. *Letters of No Objection from LCEC, TECO, Century Link and Comcast (LUDR §8.11.3b.3 and LUDR §8.11.3b.4-6) **have been obtained.***

These are addressed above.

5. *A copy of a recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor, **has been provided**, showing the area requested to be vacated; providing complete metes and bounds legal descriptions of said areas, and showing all pavement and all utility and drainage facilities in said area, including water, sewer and cable lines, utility poles, swales, ditches, manholes and catch basins. Separate drawings and metes and bounds legal descriptions will be required for each proposed*

*vacation area when the right-of-way and easement configurations differ.
(LUDR §8.11.3b.7.B)*

All necessary documents are attached as Exhibits.

6. *No Reasonably Foreseeable Public Use of the Vacated Area.
(LUDR, §8.11.3 d)*

Staff testified that the City has no facilities in the properties subject to this request and, for the reasons outlined above, the City has **no reasonably foreseeable public use** for these properties.

It is recommended that, for the above reasons, the City Council finds there is **no reasonably foreseeable public use** for the requested vacations.

7. *City's Retention of Easements for Utilities and/or Drainage in and Upon the Vacated Area. (LUDR, §8.11.3 d)*

It is recommended, as set forth above, that the City Council retain perimeter easements for future utility installation and maintenance. The Owner, through Applicant's Representative, has agreed to this perimeter easement.

Consistency with the Comprehensive Plan (LUDR §8.11)

This request has been reviewed for consistency with the Comprehensive Plan, and specifically for consistency with Policy 1.15 of the Future Land Use Element which states:

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.*

g. Single Family and Multi-Family by PDP: The densities and intensities of use for this category, which is exclusively within the Urban Services Reserve Area, are those established in Future Land Use Element Policies 1.15.a, 1.15.b, 7.4, and 7.7.

Staff testified that, of the four policies listed above in subsection g., only Policy 1.15.a (which regulates densities for the Single Family Future Land Use Classification) is germane for this particular project since Applicant testified that a single-family dwelling would be constructed on the site.

Policy 1.15.a states that sites of 10,000 sq. ft. and greater are limited to densities of 4.4 dwelling units per acre. Based on the area of the parcel, a single-family

dwelling on the site would equate to a density of 2.1 dwelling units per acre. Accordingly, staff testified that this request is consistent with this policy.

While this Policy does not specifically address vacation of easements, the Hearing Examiner agrees with Staff's testimony that this policy is supportive of this request.

Accordingly, it is recommended that the City Council find that the vacation requests **are consistent with the City's Comprehensive Plan.**

Consistency with City Requirements and All Applicable Law

It is recommended that City Council find that granting the requested vacation, as conditioned below, **would be consistent** with the City Comprehensive Plan, Land Use Development Regulations, and all other applicable law.

VIII. **EXHIBIT**

The following Exhibit is attached hereto and hereby incorporated by reference:

- Composite Exhibit "A": Sketch and accompanying legal description prepared by R.K.Burns Surveying, Inc. dated October 24, 2018.

IX. **RECOMMENDED CONDITIONS OF APPROVAL**

City staff testified regarding recommendations for conditions of approval, set forth below. Applicant's Representative testified that Applicant has no objection to these conditions.

The Hearing Examiner **recommends** that these conditions of approval be adopted as part of the City Council's approval of Applicant's request:

1. Vacation of Easements Underlying South and North Property Lines, Consistent with Sketch and Legal Description. The vacation of the platted easements along the south property line of Lot 5, Block 6400 and the north property line of Lot 4, Block 6400 shall be consistent with that shown in the sketch and accompanying legal description prepared by R. K. Burns Surveying, Inc. dated October 24, 2018.
2. Provision of Public Utility and Drainage Easement to City. The City shall retain a 7.5 foot wide public utility and drainage easement around the perimeter of the site.
3. Recording of Resolution. 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 and the easement deeds.

4. Compliance with Zoning District Standards and Requirements and Inclusion of LUDRs, City Ordinances and Other Applicable Law. Applicant shall comply with all standards and requirements for the zoning district in which the property is located and all other requirements set forth in the LUDRs, City ordinances and all other applicable laws and regulations, which are incorporated herein by reference.

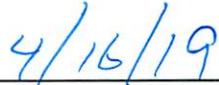
The Hearing Examiner hereby **RECOMMENDS APPROVAL** of the request for the above-referenced Vacations filed by Applicant, **WITH THE CONDITIONS** set forth above.

This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

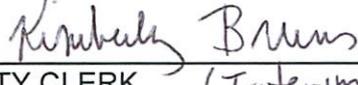


ANNE DALTON, ESQUIRE



DATE

ATTEST:



CITY CLERK (Interim)

THE 15' DRAINAGE AND UTILITY EASEMENT CENTER ALONG THE LINE COMMON TO LOTS 4 AND 5, BLOCK 6400, CAPE CORAL, UNIT 76, THE ISLANDS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 35, PAGES 121 THROUGH 129, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LESS THE EAST AND WEST 7.5'.

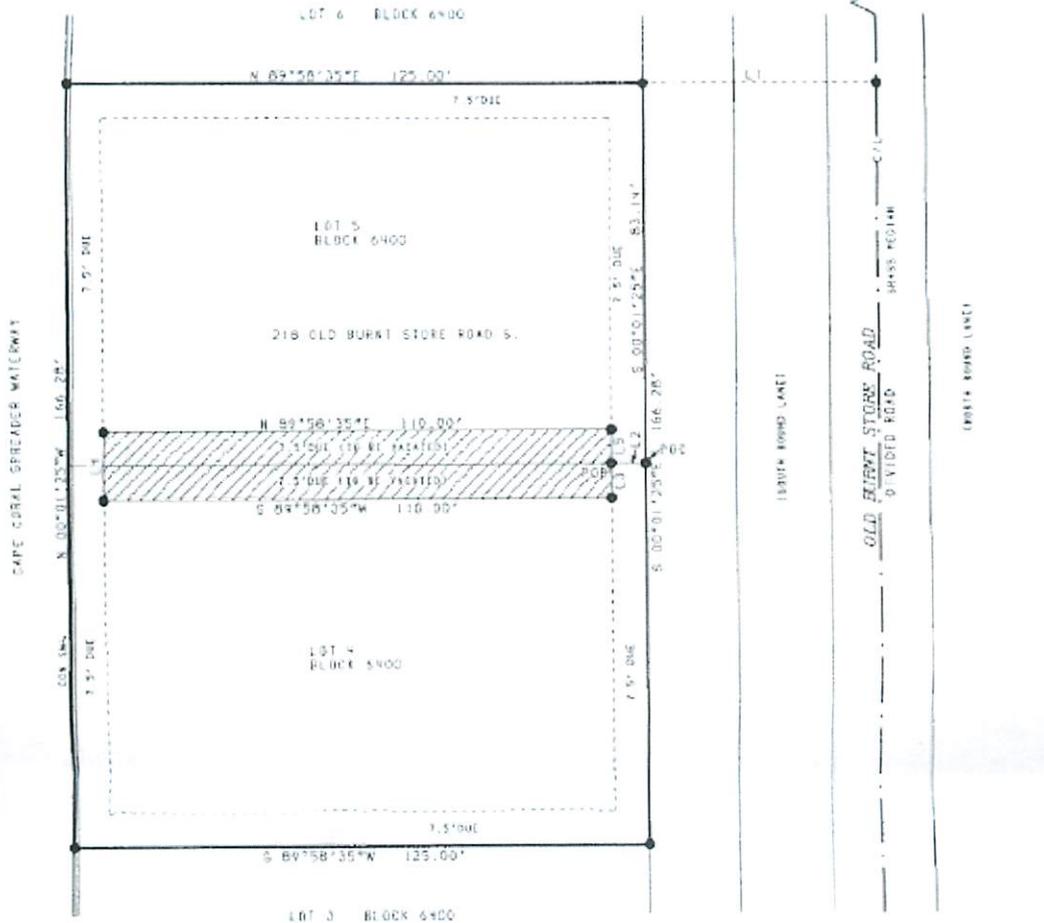
BEING MORE PARTICULARLY DESCRIBED

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE S 89°58'35"W ALONG THE COMMON LINE BETWEEN SAID LOTS 4 AND 5 FOR 7.50' TO THE POINT OF BEGINNING; THENCE S 00°01'25"E FOR 7.50'; THENCE S 89°58'35"W FOR 110.00'; THENCE N 00°01'25"W FOR 15.00'; THENCE N 89°58'35"E FOR 110.00'; THENCE S 00°01'25"E FOR 7.50' TO THE POINT OF BEGINNING.

LEGEND:

- C/L = CENTERLINE
- CON = CONCRETE
- DUE = DRAINAGE & UTILITY EASEMENT
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- SW = SEAWALL

LINE	BEARING	DISTANCE
1	N 89°58'35"E	50.00'
2	S 89°58'35"W	7.50'
3	S 00°01'25"E	7.50'
4	N 00°01'25"W	15.00'
5	N 89°58'35"E	7.50'



W3P (7-004)

NOTES:

- 1) DIMENSIONS ARE IN FEET AND DECIMALS THEREOF EXCEPT AS SHOWN.
- 2) NO UNDERGROUND UTILITIES OR STRUCTURES WERE LOCATED EXCEPT AS SHOWN.
- 3) ONLY THOSE IMPROVEMENTS WHICH ARE SHOWN WERE LOCATED. THERE MAY BE OTHER IMPROVEMENTS OR ITEMS OF INTEREST ON THE SUBJECT PROPERTY WHICH WERE NOT OBSERVED OR LOCATED.
- 4) NO TITLE RESEARCH WAS DONE BY THIS COMPANY. NO ABSTRACT OF TITLE WAS PROVIDED EXCEPT AS STATED.
- 5) PARCEL MAY BE SUBJECT TO OTHER EASEMENTS, RESTRICTIONS, OR RESERVATIONS. THE EXISTENCE OF WHICH WERE NOT PROVIDED TO THIS COMPANY.

R. K. BURNS SURVEYING, INC.

3507 LEE BLVD. # 214
LEHIGH AVE., FL. 33971
239-303-0764
239-300-0832 (FAX)
INFO@BURNSURVEYING.COM

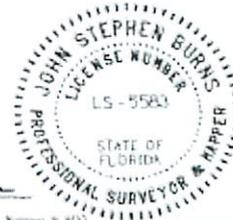
SKETCH & LEGAL
DESCRIPTION

SHEET 1 OF 1

THIS IS NOT A BOUNDARY SURVEY

THE SEAL APPEARING ON THIS
ESKIMONT WAS AUTHORIZED BY
JOHN S. BURNS LS 5583
2W (11/24/2018)

John S. Burns
John S. Burns, S., PLS (LS#5583)
R. K. Burns Surveying, Inc. Licensed Survey Surveyor # 650





DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0006

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

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

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

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

OWNER OF PROPERTY

MARION MOCHRIE

MARION MOCHRIE TRUST FOR MOCHRIE
2013 PROPERTY TRUST

APPLICANT RAYMOND J. SCALERO
CATBOATS8@GMAIL.COM

EMAIL

Address: 5802 WELLINGTON RD B6

City: ARLISON NDB 180 CANADA

Phone: 519-766-3901

Address: 18291 DEEP PASSAGE LN

City: FT MYERS BCH State: FL Zip 33931

Phone: (239) 340-5420

(239) 340-5420

Address: 18291 DEEP PASSAGE LN

City: FT MYERS BCH State: FL Zip 33931

Phone: (239) 340-5420

Unit 76 Block 6400 Lot(s) 445 Subdivision THE ISLANDS (CAPE CORAL)

Address of Property 218 OLD BURNT STORE RD SOUTH, CAPE CORAL, FL 33991

Current Zoning RESIDENTIAL SINGLE-FAMILY Plat Book 35, Page 124

RS1

Strap Number 13-44-22-C2-008000040



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VPI9-0006

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

RAYMOND J. SCALERO
(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

76
UNIT

6400
BLOCK

4 1/2
LOT(S)

CAPE CORAL
SUBDIVISION

OR LEGAL DESCRIPTION

218 OLD BURNSTONE RD SOUTH, CAPE CORAL, FL 33991
13-44-22-C2-0080.0040
CAPE CORAL 176 THE ISLANDS BLK 6400 PB 35 P 124 LOTS 4-5

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

MARION MOCHRIE

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

M. Mochrie M. Mochrie
PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF LEE City of Gulf Breeze
Province of Ontario

Subscribed and sworn to (or affirmed) before me this 4th day of January, 2019 by Marion Mochrie who is personally known or produced Drives' licence as identification.

Exp. Date: NA Commission Number: NA
Signature of Notary Public: [Signature]
Printed name of Notary Public: NICOLE MACHORS.



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



DEPARTMENT OF COMMUNITY DEVELOPMENT
 VACATION OF PLAT APPLICATION
 Questions: 239-574-0776

Case # VP19-0006

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.

MARION MOCHRIE
 OWNER/APPLICANT (PLEASE TYPE OR PRINT)

M. Mochrie
 OWNER/APPLICANT SIGNATURE

Province of Ontario
 STATE OF ON

(SIGNATURE MUST BE NOTARIZED)

COUNTY OF LEE City of Guelph

Sworn to (or affirmed) and subscribed before me on this 4th day of January 2019 by Marion Mochrie who is personally known or who has produced Ontario's license (ON) as identification.

Exp. Date n/a
 Commission # _____

ME
 Signature of Notary Public
NICOLA MARCHESI
 Print Name of Notary Public





DEPARTMENT OF COMMUNITY DEVELOPMENT
 VACATION OF PLAT APPLICATION
 Questions: 239-574-0776

Case # YPI9-0006

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.

Latitude 26 Your New Home, Inc.
 CORPORATION/COMPANY NAME

MARION MOCHRIE
 PROPERTY OWNER (PLEASE TYPE OR PRINT)

M. Mochrie
 PROPERTY OWNER'S SIGNATURE

STATE OF Florida, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 19th day of March 2019 by Marion Mochrie who is personally known or produced drivers license as identification.



Jaylene Ines Lozano
 COMMISSION # GG242845
 EXPIRES: July 29, 2022
 Bonded Thru Aaron Notary

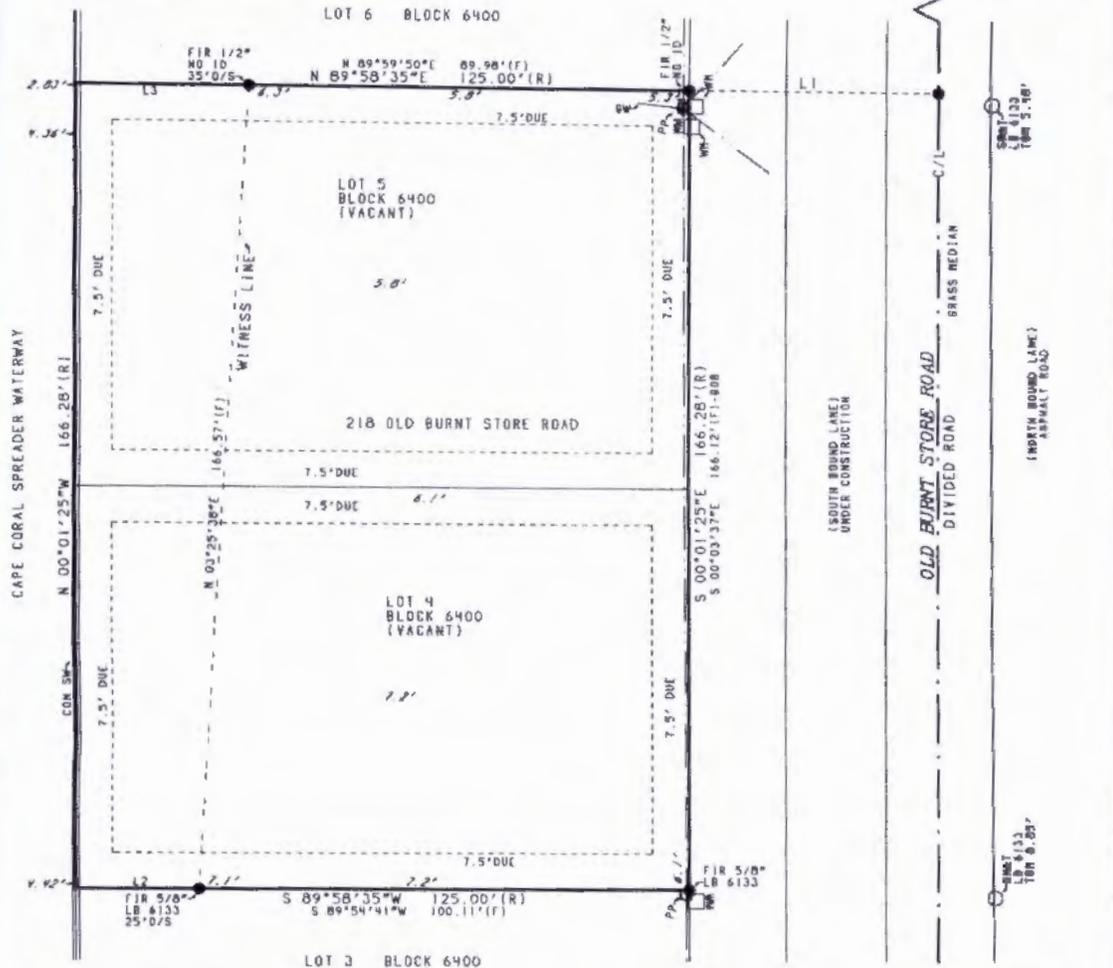
Exp. Date: 07/29/22 Commission Number: GG242845
 Signature of Notary Public: Jaylene Lozano
 Printed name of Notary Public: Jaylene Lozano
 (SIGNATURE MUST BE NOTARIZED)

CERTIFIED TO:
SELLSTATE ACHIEVERS REALTY
MARION MOCHRJE

LINE	BEARING	DISTANCE
L 1 (R)	N 89°58'35"E	50.00'
L 1 (F)	N 89°50'53"E	50.16'
L 2 (F)	N 89°52'23"W	24.83'
L 3 (F)	S 89°53'35"E	34.86'

PARCEL DESCRIPTION: LOTS 4 & 5, BLOCK 6400, CAPE CORAL, UNIT 76, THE ISLANDS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 35, PAGES 121 THROUGH 129, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

SAFE UPLANDS ELEVATION = 0.50' NAVD
AS SUPPLIED BY FDEP ON 10/23/2018
AND INTERSECTS WITH THE FACE OF SEAWALL



W00017-0041

DRAWN BY: W.M.B.

LEGEND:

X.XX	= EXISTING ELEVATIONS
(C)	= CALCULATED
(F)	= FIELD MEASURED
(NR)	= NON-RADIAL
(R)	= RECORD
(RAD)	= RADIAL
BOB	= BASIS OF BEARINGS (GRID-NAD 83-FL WEST ZONE)
C/L	= CENTERLINE
CAT	= CABLE TV BOX
CCED	= CAPE CORAL ENGINEERING DEPT.
CCP	= COVERED CONCRETE PAD
CLF	= CHAIN LINK FENCE
CON	= CONCRETE
CP	= CONCRETE PAD
DC	= DRAINAGE CASEMENT
DUE	= DRAINAGE & UTILITY EASEMENT
EDP	= EDGE OF PAVEMENT
FC	= FENCE CORNER
FCH	= FOUND CONCRETE MONUMENT
FF	= FINISHED FLOOR ELEVATION
FR	= FOUND IRON ROD
FN	= FOUND NAIL
FN&T	= FOUND NAIL & TAB
FF	= FINISHED FLOOR ELEVATION
GW	= GUY WIRE
HYD	= FIRE HYDRANT
LB	= LICENSED BUSINESS
LS	= LICENSED SURVEYOR
MH	= MANDOLE
NAD	= NORTH AMERICAN DATUM

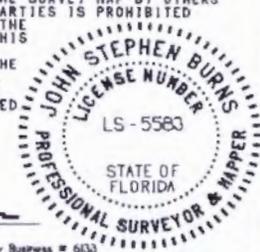
NAVD	= NORTH AMERICAN VERTICAL DATUM
O/S	= OFFSET
OHP	= OVERHEAD POWER LINE
DL	= OUTDOOR LIGHT
PC	= POINT OF CURVE
PCP	= PERMANENT CONTROL POINT
PP	= POWER POLE
PS&M	= PROFESSIONAL SURVEYOR & MAPPER
PT	= POINT OF TANGENCY
PUE	= PUBLIC UTILITY EASEMENT
R/W	= RIGHT OF WAY
SD	= STORM DRAIN
SEP	= APPROXIMATE LOCATION OF SEPTIC TANK
SIR	= SET 5/8" X 18" IRON ROD AND CAP STAMPED "RKB LB 6133"
SN&T	= SET NAIL & TAB
SP	= SCREENED PONCH
SW	= SEAWALL
TB	= TOP BANK
TBM	= TEMPORARY BENCHMARK
TCL	= TELEPHONE BOX
TYP	= TYPICAL
UE	= UTILITY EASEMENT
USC&S	= UNITED STATES COAST & GEODETIC SURVEY
WH	= WATER METER
WV	= WATER VALVE
WW	= WALKWAY

NOTES:

- 1) DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
- 2) UNDERGROUND UTILITIES, FOUNDATIONS, AND STRUCTURES WERE NOT FIELD LOCATED OR SHOWN.
- 3) ONLY INTERIOR IMPROVEMENTS SHOWN WERE LOCATED.
- 4) PARCEL WAS SURVEYED FROM INFORMATION FURNISHED BY THE CLIENT.
- 5) PARCEL LIES IN FLOOD ZONE AT ELEVATION 7.0 FEET (FIRM 12071C0245 F DATED 08/28/2008).
- 6) PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 7) ELEVATIONS ARE NAVD 1988 BASED ON CCED 381-02-01.
- 8) NO WETLANDS OR JURISDICTION LINES WERE LOCATED.

THIS MAP OF SURVEY IS ONLY FOR THE LAND DESCRIBED. IT IS NOT A CERTIFICATION OF TITLE, ZONING, EASEMENT, FREEDOM OF ENCUMBRANCE, OWNERSHIP OR RIGHTS-OF-WAY. ADDITIONS OR DELETIONS TO THE SURVEY MAP BY OTHERS THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES. THIS MAP OF SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR & MAPPER. ABSTRACT NOT REVIEWED.

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY JOHN S. BURNS LS 5583 ON (10/24/2018)



R.K.BURNS SURVEYING, INC. LB 6133

3507 LEE BLVD. # 246
LEHIGH ACRES, FL 33971
239-303-0764
239-303-0832 (FAX)
INFO@BURNSSURVEYING.COM

MAP OF BOUNDARY SURVEY
FIELD WORK COMPLETED
09/20/2018

SHEET 1 OF 1

By: *John S. Burns*
John S. Burns, Sr., PS&M-LS#5583
R. K. Burns Surveying, Inc. Licensed Survey Business # 6133



CenturyLink™

February 26, 2019

Robin Scalero
LATITUDE26 Your New Home, Inc

Re: Utility Letter for Vacation of Easement

Property Owner Name: Marion Mochrie Trust for Mochrie 2013 Property Trust
Address: 218 Old Burnt Store Road S, Cape Coral, Florida 33991
STRAP: 13-44-22-C2-00800.0040
Legal: U76 THE ISLANDS BLK 6400 PB 35 PG 124 LOTS 4 + 5
Leepa Link: <http://www.leepa.org/Display/DisplayParcel.aspx?FolioID=10578614>

Dear Mr. Scalero,

Embarq Corporation, Inc. (d/b/a CenturyLink) has reviewed the document for the above referenced information. Based on the review, we do not have existing utilities in the easements proposed to be vacated. In addition, we have no objections to the proposed vacation of the public utility easements between the referenced properties.

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**

February 22, 2019

**Property Owner Name: Marion Mochrie Trust for Mochrie 2013 Property Trust
Address: 218 Old Burnt Store Road S, Cape Coral, Florida 33991
STRAP: 13-44-22-C2-00800.0040
Legal: U76 THE ISLANDS BLK 6400 PB 35 PG 124 LOTS 4 + 5**

Dear Robin Scalero,

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

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

Cordially,

A handwritten signature in black ink that appears to read "Mark Cook".

Mark Cook
Project Coordinator



Lee County Electric Cooperative, Inc.
Post Office Box 3455
North Fort Myers, FL 33918-3455
(239) 995-2121 • Fax (239) 656-2239
www.lcec.net

March 11, 2019

Lee County Property Appraiser
Attn: Robin Scalero

Reference: Name: Marion Mochrie Trust for Mochrie 2013 Property Trust
Address: 218 Old Burnt Store Road S, Cape Coral, Florida 33991
STRAP: 13-44-22-C2-00800.0040
Legal: U76 THE ISLANDS BLK 6400 PB 35 PG 124 LOTS 4 + 5

Robin,

LCEC has no objections to the vacating the utility easements between Lots 4 and 5 Block 6400.
The easement on the east property line of both lots to remain. (7.5 FT)

Tom Bailey
Supervisor Design
Office 239-656-2414
Cell 239-281-6265
Fax 239-656-2239
Tom.Bailey@lcec.net
www.lcec.net

Prepared by:
Yomarie Fernandez-Jimenez, an employee of
Title Specialists of the Gulf Coast, Inc.,
7370 College Parkway, Suite 201
Fort Myers, Florida 33907
Sales Price: \$540000
Doc Stamps: \$3780
File Number: 17-0005

Warranty Deed

This Indenture, made, February 22, 2017 A.D.

Between Fly South LLC whose post office address is: 940 Mensching Rd, Roselle, Illinois 60172 a limited liability company existing under the laws of the State of Delaware, Grantor and Marion Mochrie, Trustee of The Mochrie 2013 Property Trust dated February 28, 2013, with full power and authority either to protect, conserve and to sell, or to lease, or to encumber, or otherwise manage and dispose of the real property described herein whose post office address is: 5802 Wellington Road 86, Ariss, Ontario, Canada N0B1B0, Grantee,

Witnesseth, that the said Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in the County of Lee, State of Florida, to wit:

Lot 5, Block 6400, Cape Coral, Unit 76, The Islands, according to plat thereof as recorded in Plat Book 35, Pages 121 through 129, of the Public Records of Lee County, Florida.

AND

Lot 4, Block 6400, Cape Coral, Unit 76, The Islands, according to plat thereof as recorded in Plat Book 35, Pages 121 through 129, of the Public Records of Lee County, Florida.

Subject to taxes for the current year, covenants, restrictions and easements of record, if any.

Parcel Identification Number: 13-44-22-C2-00800.0050 AND 13-44-22-C2-00800.0040

And the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the said Grantor has caused this instrument to be executed in its name by its duly manager/managing member the day and year first above written.

Fly South LLC

Signed and Sealed in Our Presence:

By: *R. Aulds*
Rosemary Aulds
Its: Manager

Amanda A. Giroux
Witness/Print Name: Amanda Giroux

J. Simon
Witness Print Name: J. Simon

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 22nd day of February, 2017, by Rosemary Aulds, the Manager of Fly South LLC A limited liability company existing under the laws of the State of Delaware, on behalf of the limited liability company. He/She is personally known to me or has produced _____ as identification.

Amanda A. Giroux (Seal)
Notary Public

Notary Printed Name: _____

My Commission Expires::





DEPARTMENT OF COMMUNITY DEVELOPMENT

SIMPLE LOT SPLIT & COMBINE APPLICATION

Questions: 239-574-0553

DATE: 12/20/18

APPLICATION FOR A LOT SPLIT AND LOT COMBINATION

A lot split or combination within the City of Cape Coral may affect conformity with the City's Land Use and Development Regulations. Prior to the division of any parcel or combining of two or more parcels, City approval is required.

Directions for Submittal

Please submit all items to the Planning Division. Please allow ten (10) business days for approval from date of receipt. The initial submission should include the following information in order to avoid delay:

- 1. For lot splits or lot combinations - Complete (1) copy of the city application for a lot split and lot combination form.
2. For lot splits, three (3) individual copies of a Boundary Survey are REQUIRED, showing the following:
a) The property that is to be split as it is currently with boundary identification.
b) The second and third sheet should display how the property will be split (For example, if the parcel is a four lot site, sheets 2 & 3 should show two lots each on separate sheets of paper) complete with boundary identification, and new legal descriptions of each area proposed for division.
c) Location of any structures showing setback dimensions and identification of all existing or proposed easements and rights-of-way affecting the parent property and the proposed property to be created.
d) A Boundary Survey is NOT REQUIRED for lot combinations.

The survey and legal descriptions shall be prepared and sealed by a professional Land Surveyor registered in the State of Florida.

STRAP number(s) and area of property to be split or joined (attach additional sheet if necessary)

Table with 4 columns: Existing STRAP Number, Existing Area (Square feet), Proposed Final STRAP Number, Proposed Area (Square feet). Handwritten entry: 13-44-22-C2-00800.0040 20,750SF | 13-44-22-C2-00800.0040 20,750SF

BLOCK(S) Involved: 6400
LOT(S) Involved: 4+5

NOTE: LOTS COMBINED MARCH 14, 2017 - EASEMENTS NOT VACATED



DEPARTMENT OF COMMUNITY DEVELOPMENT

SIMPLE LOT SPLIT & COMBINE APPLICATION

Questions: 239-574-0553

Property Owner Information (attach additional sheet if necessary):

Name: MARION MOCHRIE TRUST FOR MOCHRIE 2013 PROPERTY TRUST

Address: 5802 WELLINGTON RD 86, ARISS ON NOB 1B0 CANADA

Phone: 519-766-3901 OR 519-766-2198

Email: jmochrie@royaldistributing.com OR marion.mochrie@hotmail.com

Please include this form and all other required materials and mail, email, or fax this information to:

Department of Community Development
PO Box 150027
Cape Coral, FL 33915-0027
Ph: (239) 574-0553
Fax: (239) 574-0594
Email: planning@capecoral.net

Additional notes and information:

Please be advised that this request does not imply suitability or authorize development of the parcel. Please contact the Planning Division concerning questions about the development of the parcel(s). No rights are being granted by this action that is reserved to any regulatory agency. This action does not nullify or alleviate any existing liens or encumbrances on the property.

OFFICE USE ONLY
Planning Approval
Simple Lot Split/Lot Join: Approved: Disapproved:
Reviewed by: Signature: Date:
Building Approval
Simple Lot Split/Lot Join: Approved: Disapproved:
Reviewed by: Signature: Date:

(Note: If request(s) is to split or divide structure, application must go through the building department).



STATE OF FLORIDA
LEE COUNTY PROPERTY APPRAISER
 KENNETH M. WILKINSON, C.F.A.



Mailing Address:
 P.O. Box 1546
 Fort Myers, Florida 33902-1546

Physical Address:
 2480 Thompson Street
 Fort Myers, Florida 33901-3074

Telephone: (239) 533-6100 -- (866) 673-2868 (From anywhere in continental US/Canada/Florida except 239 area code)
 Facsimile: (239) 533-6160 -- Website: www.lecpa.org

Application for Combination or Split of Existing Parcels

Please submit this completed form to GISTeam@lecpa.org or fax to 239-533-6107.

This form is a request to combine or split parcels per the owner's request. Our office will only combine/split parcels that meet the following:

- All taxes on the parcels have been paid.
- Parcels are contiguous.

In addition to above, to split a parcel we will need one or more of the following:

- Deed, Subdivision Plat, Declaration of Condominium etc. recorded with Lee Clerk of Court.
- Information that the parcel(s) were previously platted and/or have previously recorded documents that correspond to the requested configuration.

We reserve the right to request additional information such as photo identification, site survey (to locate or identify buildings etc.), permit application, land development order, ordinance, or evidence of ownership.

This request does not imply suitability or authorize development of the parcel. Contact the development department of the local jurisdiction for questions concerning the development of the parcel and legality of this request. This action does not nullify or alleviate any existing liens or encumbrances on the property.

You agree by submitting this application that the Lee County Property Appraiser is neither responsible nor liable for any problems or complications resulting from this request. mm (Initial)

A copy of this request will be forwarded to the appropriate jurisdiction if an advance approval has not been provided with this application. mm (Initial)

COMBINE ← Check One ✓ → SPLIT

Folio IDs or STRAP Numbers
 (Attach another application if more than 4)

13-44-22-C2-00800.0050
13-44-22-C2-00800.0040

Folio ID or STRAP Number

--

Lot Numbers or Attach Sketch / Survey

Owner Signature: M. Mechie
 Print Name: MARION MECHIE
 E-Mail: marion.mechie@hotmail.com

Date: March 14/17
 Phone: 519-766-3901

If this request involves a Homesteaded parcel, please complete the reverse side.

Review Date: April 5, 2019

Owner/Applicant: Marion Mochrie, Trustee of the Mochrie 2013 Property Trust dated February 28, 2013

Authorized Rep: Raymond J. Scalero

Owner Address: 5802 Wellington Road 86
Ariss, Ontario NOB 180

Request: Vacate the 7.5-foot wide platted easement along the south property line of Lot 5 and the 7.5-foot wide platted easement along the north property line of Lot 4; both lots in Block 6400, Cape Coral, Unit 76, The Islands.

Property Location: 218 Old Burnt Store Road South
Lots 4-5, Block 6400, Cape Coral, Unit 76, The Islands
Strap number: 13-44-22-C2-00800.0040

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

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

Recommendation: **Approval with conditions**

Urban Service Area: Transition

Property Description:

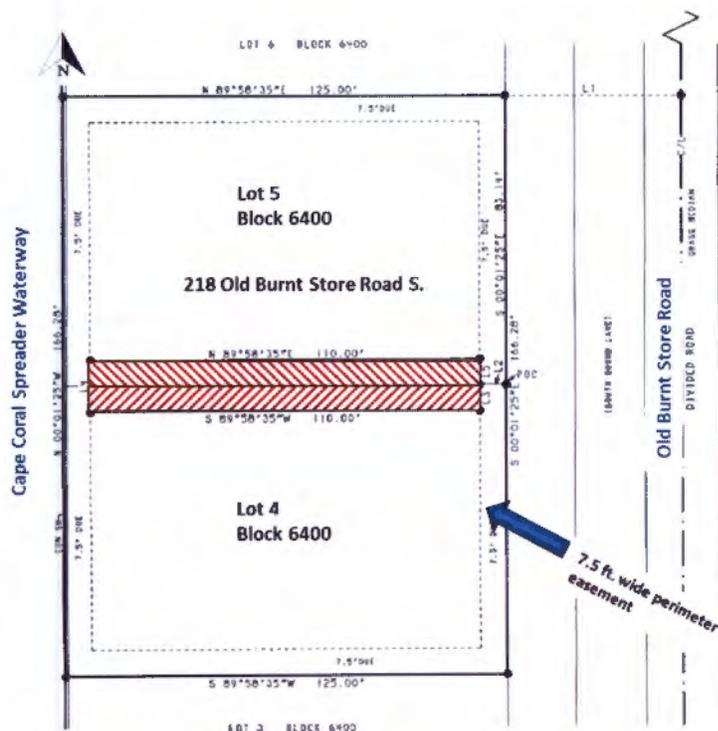
The site is ±20,785 sq. ft. in western Cape Coral. The east side of the site has frontage on Old Burnt Store Road while the west has water frontage on the North Spreader Waterway. Except for a seawall that was constructed in 2018, the site is vacant.

The site has a Single Family and Multi-Family by PDP Future Land Use Classification (FLUC) as do sites to the north and south. Sites east of Old Burnt Store Road have a Single Family FLUC, while land owned by the state of Florida to the west has a Natural Resources/Preservation FLUC. The site has Single Family Residential (R-1B) Zoning that is shared by sites to the north, east, and south. State-owned lands to the west are unzoned and uses in these areas are regulated by the FLUC.

Request

The applicant owns Lots 4 and 5 in Block 6400. The easement dedication language on the subdivision plat of Unit 76 dedicated 7.5-foot wide easements along the front, sides, and rear lot lines for public utility and drainage purposes. The owner requests to vacate the two 7.5-foot wide easements, totaling 1,650 sq. ft., that are adjacent to another along the south property line of Lot 5 and the north property line of Lot 4 (Figure 1).

Figure 1. Platted easements requested to be vacated are shown in a red-cross hatch pattern.



Most platted lots in Cape Coral have easements around the perimeter of each lot based on language appearing in the dedication section of their respective plat. When two or more lots are combined under common ownership, the City administers or “protects” the perimeter easement only. Easements interior to the site remain, but if the easements do not contain infrastructure (like drainage pipes and telephone poles and wires), the City allows buildings to be constructed over the easements. For the subject site, since the interior easements lack utilities, the City does not require these easements to be vacated. However, the owner has elected to vacate these easements to eliminate potential questions that a title company, lender, or insurer

unfamiliar with City procedures may have in the future about the legality of building over a platted easement.

Zoning History of the Site

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

Analysis:

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

The applicant owns Lots 4 and 5 that contain the subject easements, and is therefore, eligible to apply for this vacation. These two easements have a combined width of 15 feet and occupy the middle of the site.

The City lacks infrastructure in the subject easements. Century Link, Comcast, and LCEC also lack facilities in the easements and therefore do not object to this request. The City will retain a 7.5-foot wide perimeter easement for the site that will be sufficient for future utility installation and maintenance.

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.*

- g. Single Family and Multi-Family by PDP: *The densities and intensities of use for this category, which is exclusively within the Urban Services Reserve Area, are those established in Future Land Use Element Policies 1.15.a, 1.15.b, 7.4, and 7.7. Staff comment: Of the four policies listed above in subsection g., only Policy 1.15.a that regulates densities for the Single Family Future Land Use Classification is germane for this particular project since a single-family dwelling will be constructed on the site. Policy 1.15.a states that sites of 10,000 sq. ft. and greater are limited to densities of 4.4 dwelling units per acre. Based on the area of the parcel, a single-family dwelling on the site would equate to a density of 2.1 dwelling units per acre. This request is consistent with this policy.*

Recommendation:

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

Conditions of Approval

1. The vacation of the platted easements along the south property line of Lot 5, Block 6400 and the north property line of Lot 4, Block 6400 shall be consistent with that shown in the sketch and accompanying legal description prepared by R. K. Burns Surveying, Inc. dated October 24, 2018.
2. The City shall retain a 7.5-foot wide public utility and drainage easement around the perimeter of the site.
3. 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 City for all recording fees associated with this resolution.

Staff Contact Information

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

PH: 239-242-3255

Email: mstruve@capecoral.net



NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VP19-0006

REQUEST: The owner, Marion Mochrie, Trustee for the Mochrie 2013 U.S. Property Trust, requests a vacation of plat for the platted public utility and drainage easements along the north property line of Lot 4 and the south property line of Lot 5, Block 6400, Cape Coral, Unit 76, The Islands; property located at 218 Old Burnt Store Road South.

CAPE CORAL STAFF CONTACT: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

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 April 16, 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. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

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

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

The News-Press media group

news-press.com A GANNETT COMPANY

Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE	Local #	Email
888-516-9220	239-335-0258	FNPLegals@gannett.com

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0003484914

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$326.72

Run Times: 1

No. of Affidavits: 1

Run Dates: 04/06/19

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: VP19-0006

REQUEST: The owner, Marion Mochrie, Trustee for the Mochrie 2013 U.S. Property Trust dated February 28, 2013, requests a vacation of plat for the platted public utility and drainage easements along the north property line of Lot 4 and the south property line of Lot 5, Block 6400, Cape Coral, Unit 76, The Islands; property located at 218 Old Burnt Store Road South.

CAPE CORAL STAFF CONTACT: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

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 April 16, 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 A.M. and 4:30 P.M.

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

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; tele-

phone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of
Kimberly Bruns, CMC
Interim City Clerk
REF # VP19-0006
AD# 3484914

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Marion Mochrie

APPLICATION NO: VP19-0006

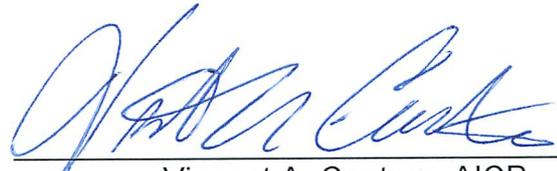
STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

DATED this 8th day of April, 2019.

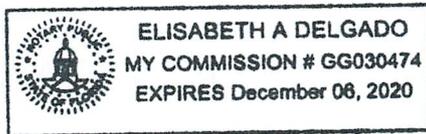


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 8th day of April, 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





Signature of Notary Public

Elisabeth A. Delgado

Print Name of Notary Public

GROVER CANAL

NORTH SPREADER WATERWAY

Subject Parcels

OLD BURNT STONES

ROSEMARY L

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. VP19-0006

 Subject Parcel



0 50 100 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

CURRENT ZONING MAP
500 Proximity Boundary

Case No. VP19-0006

LEGEND

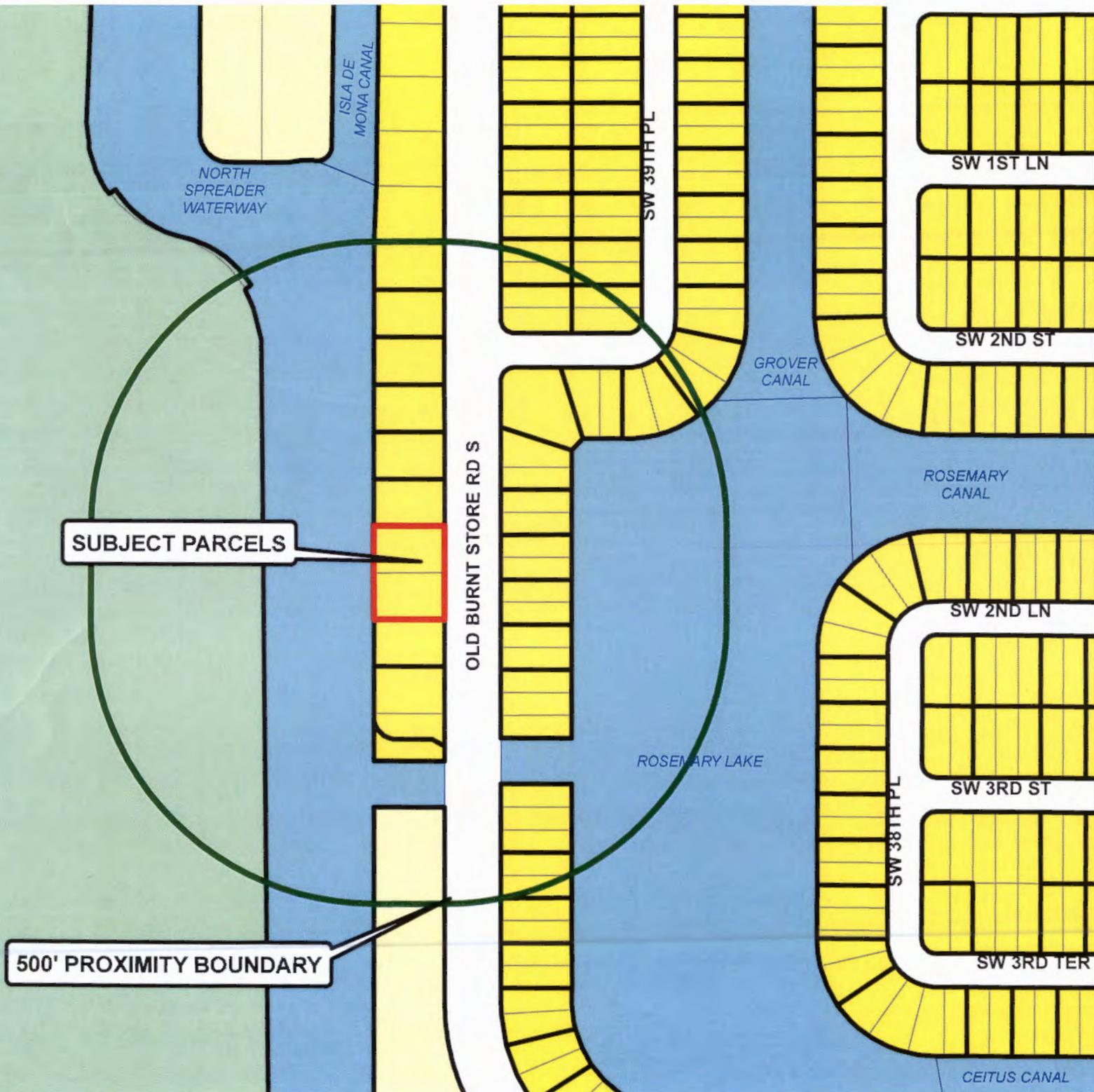
-  Subject Parcel
-  500' Boundary
-  PRES- Reg. by FLU
-  R-1B
-  RD



MARCH 27, 2019



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.



RESOLUTION 142-19
VP 19-0006

Cape Coral City Council Meeting
Final Public Hearing

July 29, 2019

VP 19-0006

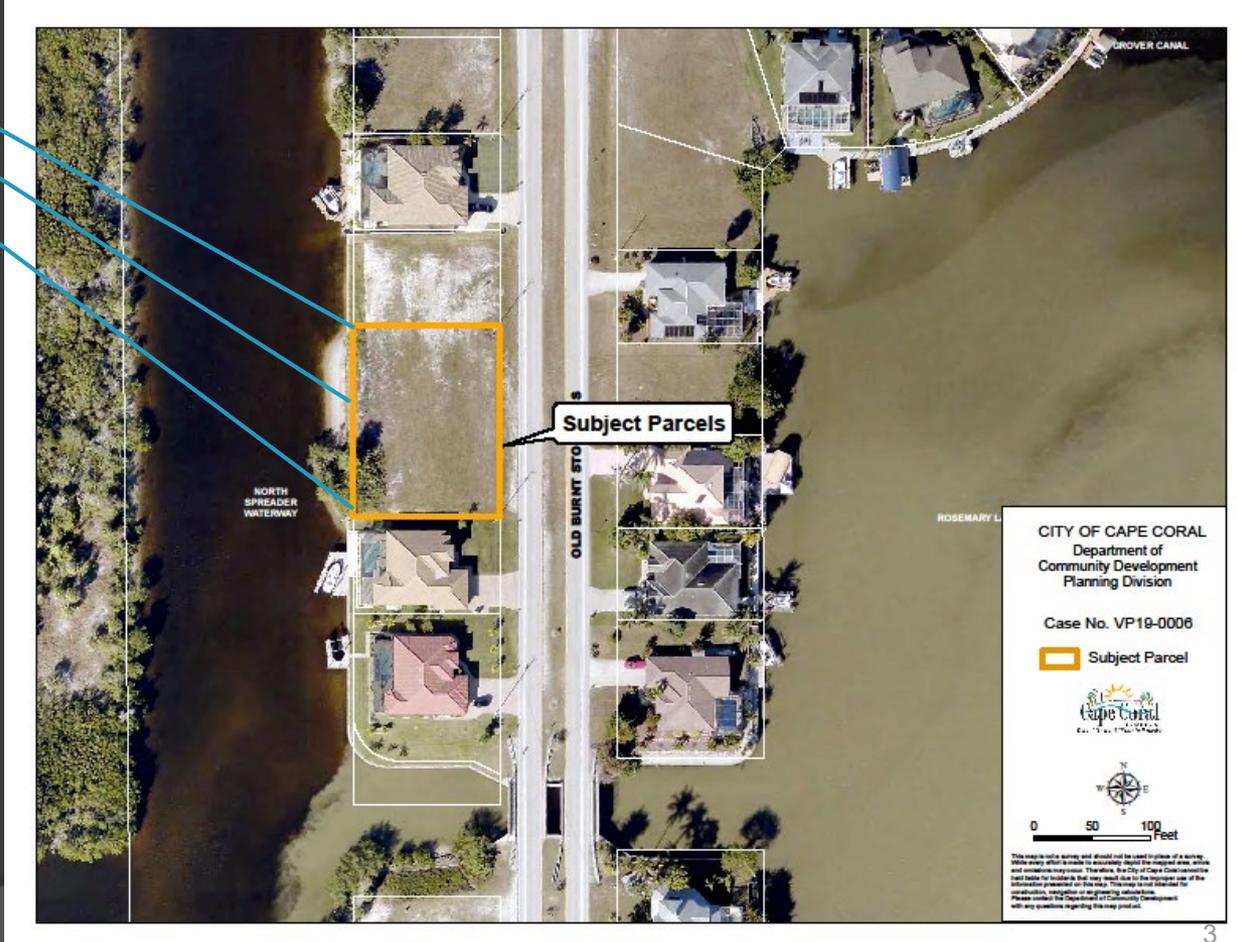
Owner: Marion Mochrie, Trustee of the Mochrie
2013 Property Trust dated February 28, 2013

Rep: Raymond J. Scalero

Request: Vacate 1,650 sq. ft. of platted easements
along Lots 4 and 5, Block 6400, Unit 76, The
Islands

Location: 218 Old Burnt Store Road South

VP19-0006



CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. VP19-0006

 Subject Parcel



0 50 100 Feet

This map is for survey and should not be used in place of a survey. The map is not a warranty, representation, or guarantee of any kind. The City of Cape Coral is not responsible for any errors or omissions. The City of Cape Coral is not liable for any damages, including consequential damages, arising from the use of this map. The City of Cape Coral is not liable for any damages, including consequential damages, arising from the use of this map. Please contact the Department of Community Development with any questions regarding this map print.

CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP
500 Proximity Boundary

Case No. VP19-0006

LEGEND

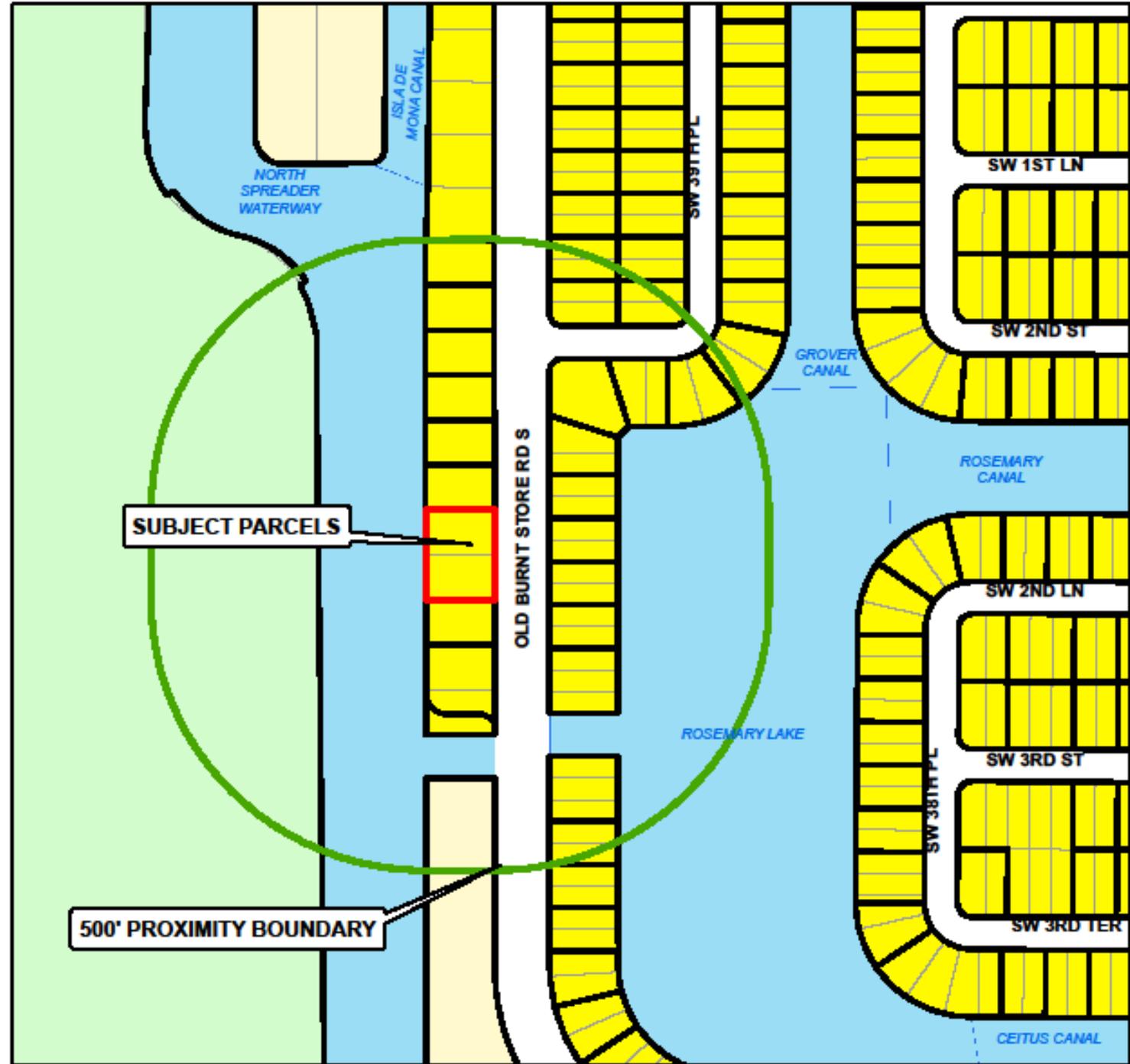
-  Subject Parcel
-  500' Boundary
-  PRES- Reg. by FLU
-  R-1B
-  RD



MARCH 27, 2019



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.



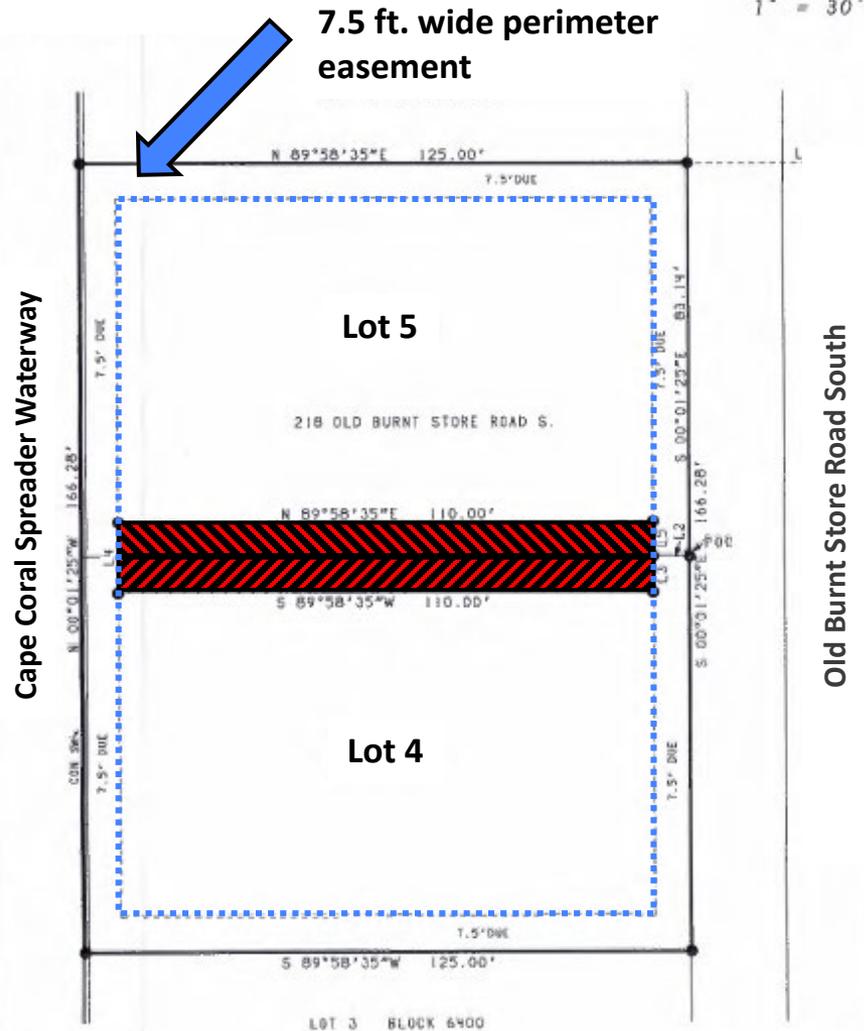
SUBJECT PARCELS

500' PROXIMITY BOUNDARY

Background

- ◎ The site is 20,785 sq. ft. and has a seawall along the west property line.
- ◎ Language on the plat dedicated 7.5 ft. wide easements along the property lines of each site.

Request



Vacate 7.5 ft. wide platted easements along the north property line of Lot 4 and the south property line of Lot 5

Total easement area is 1,650 sq. ft.

Analysis (LUDR, Section 8.11)

Vacate 7.5 ft. Wide Platted Easements

- ⦿ All easements occupy land owned by the applicant.
- ⦿ The City lacks utilities in all easements.
- ⦿ The utility providers lack infrastructure in all easements.
- ⦿ A continuous 7.5 ft. wide easement will be provided around the site.

Recommendations

Planning Division

Staff recommends approval.

Hearing Examiner

A public hearing was held on April 16. The Hearing Examiner recommends approval with staff conditions. No speakers at public input.

Correspondence

None

Item Number:	B.(2)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Resolution 143-19 (VP 18-0008*) Set Public Hearing Date for July 29, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX recommendation 8-2019.

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

A resolution providing for the vacation of plat for a street right-of-way and the underlying public utility and drainage easement being a part of Sorrento Court, located between Lots 37 and 39, Block 101, Cape Coral Unit 2, Part 2; providing for the vacation of plat for a portion of the public utility and drainage easement associated with Lot 37, Block 101, Cape Coral Unit 2, Part 2; providing for the vacation of plat for a street right-of-way being a part of Sorrento Court, located along lots 36 and 37, Block 101, Cape Coral Unit 2, Part 2; property located at 5088 and 5095 Sorrento Court.

LEGAL REVIEW:

John E. Naclerio III, Assistant City Attorney

EXHIBITS:

- Resolution 143-19 (VP 18-0008)
- Hearing Examiner Recommendation Order
- Back up from Hearing Examiner Hearing with Revision
- Staff presentation

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, Planning Team Coordinator

ATTACHMENTS:

Description	Type
▣ Resolution 143-19 (VP 18-0008)	Backup Material
▣ Hearing Examiner Recommendation Order	Backup Material
▣ Back up material from HEX Hearing with revision	Backup Material
▣ Staff Presentation	Backup Material

RESOLUTION 143 - 19

A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR A STREET RIGHT-OF-WAY AND THE UNDERLYING PUBLIC UTILITY AND DRAINAGE EASEMENT BEING A PART OF SORRENTO COURT, LOCATED BETWEEN LOTS 37 AND 39, BLOCK 101, CAPE CORAL UNIT 2, PART 2; PROVIDING FOR THE VACATION OF PLAT FOR A PORTION OF THE PUBLIC UTILITY AND DRAINAGE EASEMENT ASSOCIATED WITH LOT 37, BLOCK 101, CAPE CORAL UNIT 2, PART 2; PROVIDING FOR THE VACATION OF PLAT FOR A STREET RIGHT-OF-WAY BEING A PART OF SORRENTO COURT, LOCATED ALONG LOTS 36 AND 37, BLOCK 101, CAPE CORAL UNIT 2, PART 2; PROPERTY LOCATED AT 5088 SORRENTO COURT AND 5095 SORRENTO COURT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Petition was filed by WILHELM VULLRIEDE and JEROME AND CATHERINE LIEVRE for the vacation of plat on property described herein; and

WHEREAS, the Petition meets the requirements of Land Use Development Regulations, Article VIII, Section 8.11, Vacation of Plats, Streets and Other Property of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted.

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

Section 1. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following-described right-of-way is hereby vacated by the City of Cape Coral, to wit:

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the northwest corner of Lot 40, Block 101 run S90°00'00" W along the Southerly Right of Way line of Sorrento Court for a distance of 40.00 feet; Thence leaving said Southerly Right of Way line run N00°00'00"W along the Westerly Right of Way line of said Sorrento Court for a distance of 50.00 feet; Thence leaving said Westerly Right of Way line run N90°00'00"E along the Northerly Right of Way line of said Sorrento Court for a distance of 21.35 feet to the point of curvature of a 25.00 foot radius curve to the left, having a central angle of 48°14'42", a chord bearing and distance of N65°52'39"E and 20.43 feet; Thence run along the arc of said curve for a distance 21.05 feet; Thence leaving said Northerly Right of Way line run S00°00'00"E for a distance of 58.35 feet to the Point of Beginning.

Said Parcel Contains 2,048 sq. ft. (more or less)

Section 2. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following described public utility and drainage easement is hereby vacated, to wit:

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northwest corner of Lot 40, Block 101 run N00°00'00"E for a distance of 25.00 feet to the originally platted centerline of Sorrento Court; Thence run S90°00'00"W along said originally platted centerline for a distance of 23.00 feet to the Point of Beginning. From said Point of Beginning continue running S90°00'00"W for a distance of 23.00 feet to a Point of Intersection with a line that is parallel with and 6.00 feet perpendicular to the Westerly Right of Way line of said Sorrento Court; Thence run N00°00'00"E along said line parallel with the Westerly Right of Way line for a distance of 31.00 feet to a Point of Intersection with a line that is parallel with and 6.00 feet perpendicular to the Northerly Right of Way line of said Sorrento Court; Thence run N90°00'00"E

along said line parallel with the Northerly Right of Way line for a distance 27.35 feet to a Point of Curvature of a 19.00 foot radius curve to the left, having a central angle of 78°59'08", a chord bearing and distance of N50°30'26"E and 24.17 feet; Thence run along an arc that is parallel with and concentric to said Northerly Right of Way line of Sorrento Court for a distance of 26.19 feet; Thence leaving said concentric curve run S00°00'00"E for a distance of 28.32 feet; Thence run S66°23'47"W for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 8.00 feet to the Point of Beginning.

Said Parcel Contains 1,198 sq. ft. (more or less)

Section 3. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following described right-of-way is hereby vacated, to wit:

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northeast corner of Lot 36, Block 101 run S00°00'00"E along the Westerly Right of Way line of Sorrento Court for a distance of 22.95 feet to the Point of Beginning, also being the Point of Curvature of a 72.00 foot radius curve to the right, having a chord bearing and distance of S27°09'26"W and 65.73 feet and a central angle of 54°18'53". From said Point of Beginning, run along the arc of said curve for a distance 68.25 feet; Thence run N00°00'00"E for a distance of 0.13 feet to the originally platted Northerly Right of Way line of said Sorrento Court, also being a non-tangent Point of Curvature of a 25.00 foot radius curve to the left, to which a radial line bears S48°14'42"E, having a chord bearing and distance of N26°20'08"E and 13.29 feet, and a central angle of 30°50'20"; Thence run along the arc of said curve for a distance of 13.46 feet to a Point of Reverse Curvature of a 50.00 foot radius curve to the right, having a chord bearing and distance of N29°33'10"E and 31.96 feet, and a central angle of 37°16'25"; Thence run along said originally platted Northerly Right of Way line and the arc of said curve for a distance of 32.53 feet to a Point of Reverse Curvature of a 25.00 foot radius curve to the left, having a chord bearing and distance of N24°05'41"E and 20.41 feet, and a central angle of 48°11'23"; Thence run along said originally platted Northerly Right of Way line and the arc of said curve for a distance of 21.03 feet to the Point of Beginning.

Said Parcel Contains 348 sq. ft. (more or less)

Section 4. The Applicants shall meet the following terms and conditions:

1. The vacation of the 2,048 square feet of right-of-way and 748 square feet of underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "Parcel RW 101-V," dated March 2, 2018, and "Parcel P.U.E. 101-V-3," dated March 28, 2019, respectively.
2. The vacation of the 450 square feet of platted easements occupying Lot 37 shall be consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "Parcel P.U.E. 101-V-3," dated March 28, 2019.
3. Within 90 days from the date of adoption of this resolution, the owners of 5088 and 5095 Sorrento Court shall provide to the City easement deeds sufficient for providing a six-foot wide perimeter easement around each expanded site. The deeds shall be reviewed and determined to be sufficient by Public Works and the City Property Broker prior to acceptance and execution.
4. Within 90 days from the date of adoption of this resolution, the applicants shall record deeds splitting the two affected properties consistent with that shown in the sketches and accompanying legal descriptions prepared by Stouten Cramer entitled "Parcel 101-N-3" and "Parcel 101-S-3," both dated August 1, 2018. No new building permits for either 5088 or 5095 Sorrento Court shall be issued without proof that this condition has been met to the satisfaction of the City.
5. Within 90 days from the date of adoption of this resolution, the owner of 5088 Sorrento Court shall provide to the City an easement deed for right-of-way maintenance, drainage, and utility purposes for the 348-square-foot area shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "RW 101-V-2," dated January 9, 2019. The deed shall

be reviewed and determined to be sufficient by Public Works and the City Property Broker prior to acceptance and execution.

- 6. Prior to the issuance of a certificate of occupancy (CO) for 5088 Sorrento Court, the owner shall modify or replace the existing stormwater conveyance system beginning at the adjacent property to the north at 5084 Sorrento Court as deemed necessary by the City to properly convey stormwater in this collection area to the adjacent canal system. These stormwater improvements shall be inspected by the City prior to the issuance of a CO.
- 7. Prior to the issuance of a CO for 5088 Sorrento Court, the owner shall design the foundation of the single-family home to demonstrate proper protection from water intrusion and erosion. Such a design may include, at the sole discretion of the City, the moving or replacing of the existing stormwater pipe along Lots 37 and 38 or removing or sealing the pipe and installing a swale for stormwater conveyance. At the sole discretion of the City, the applicant shall grant any necessary easements for the new or modified stormwater system. All aforementioned improvements shall be inspected by the City prior to issuance of a CO.
- 8. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. The owners shall reimburse the City for all recording fees associated with this resolution and all easement deeds.

Section 5. This Resolution shall take effect upon its recording within the Office of the Lee County Clerk of Court by the City of Cape Coral.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
res/vp18-0008
7/10/19

Description

Subject Parcel Description: (RW101-V)

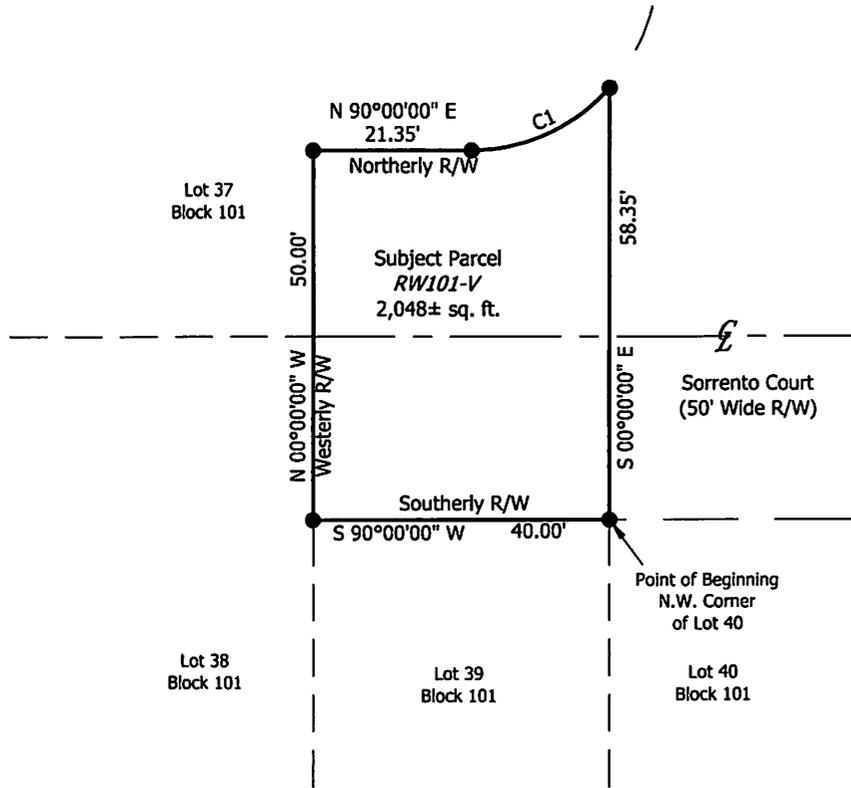
A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the northwest corner of Lot 40, Block 101 run S90°00'00" W along the Southerly Right of Way line of Sorrento Court for a distance of 40.00 feet; Thence leaving said Southerly Right of Way line run N00°00'00"W along the Westerly Right of Way line of said Sorrento Court for a distance of 50.00 feet; Thence leaving said Westerly Right of Way line run N90°00'00"E along the Northerly Right of Way line of said Sorrento Court for a distance of 21.35 feet to the point of curvature of a 25.00 foot radius curve to the left, having a central angle of 48°14'42", a chord bearing and distance of N65°52'39"E and 20.43 feet; Thence run along the arc of said curve for a distance 21.05 feet; Thence leaving said Northerly Right of Way line run S00°00'00"E for a distance of 58.35 feet to the Point of Beginning.

Said Parcel Contains 2,048 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel RW101-V</p> <p><i>A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>				
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER</p> <p>A KING ENGINEERING COMPANY</p> <p>King</p> <p>ENGINEERING ASSOCIATES, INC.</p> <p>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on March 2nd, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">JOB # 18-0972</td> <td>PREPARED FOR: Wilhelm Vullriede</td> </tr> <tr> <td colspan="2" style="text-align: center;">SECTIONS 13, TOWNSHIP 45S, RANGE 23E</td> </tr> </table>	JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede	SECTIONS 13, TOWNSHIP 45S, RANGE 23E			<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>
JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede					
SECTIONS 13, TOWNSHIP 45S, RANGE 23E						

Sketch



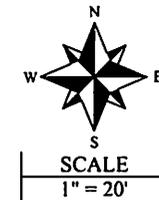
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	21.05'	20.43'	N 65°52'39" E	48°14'42"

SURVEY NOTES:

1. BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
6. NOT VALID WITHOUT SHEET 1 OF 2.

Sketch to Accompany Description

Parcel RW101-V
A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
A KING ENGINEERING COMPANY

King
ENGINEERING ASSOCIATES, INC.

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

JOB # 18-0972 PREPARED FOR: Wilhelm Vullriede

SECTIONS 13, TOWNSHIP 45S, RANGE 23E

DATE	REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on March 2nd, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter SJ-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

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

Description

Subject Parcel Description: (P.U.E. 101-V-3)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northwest corner of Lot 40, Block 101 run N00°00'00"E for a distance of 25.00 feet to the originally platted centerline of Sorrento Court; Thence run S90°00'00"W along said originally platted centerline for a distance of 23.00 feet to the Point of Beginning. From said Point of Beginning continue running S90°00'00"W for a distance of 23.00 feet to a Point of Intersection with a line that is parallel with and 6.00 feet perpendicular to the Westerly Right of Way line of said Sorrento Court; Thence run N00°00'00"E along said line parallel with the Westerly Right of Way line for a distance of 31.00 feet to a Point of Intersection with a line that is parallel with and 6.00 feet perpendicular to the Northerly Right of Way line of said Sorrento Court; Thence run N90°00'00"E along said line parallel with the Northerly Right of Way line for a distance 27.35 feet to a Point of Curvature of a 19.00 foot radius curve to the left, having a central angle of 78°59'08", a chord bearing and distance of N50°30'26"E and 24.17 feet; Thence run along an arc that is parallel with and concentric to said Northerly Right of Way line of Sorrento Court for a distance of 26.19 feet; Thence leaving said concentric curve run S00°00'00"E for a distance of 28.32 feet; Thence run S66°23'47"W for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 8.00 feet to the Point of Beginning.

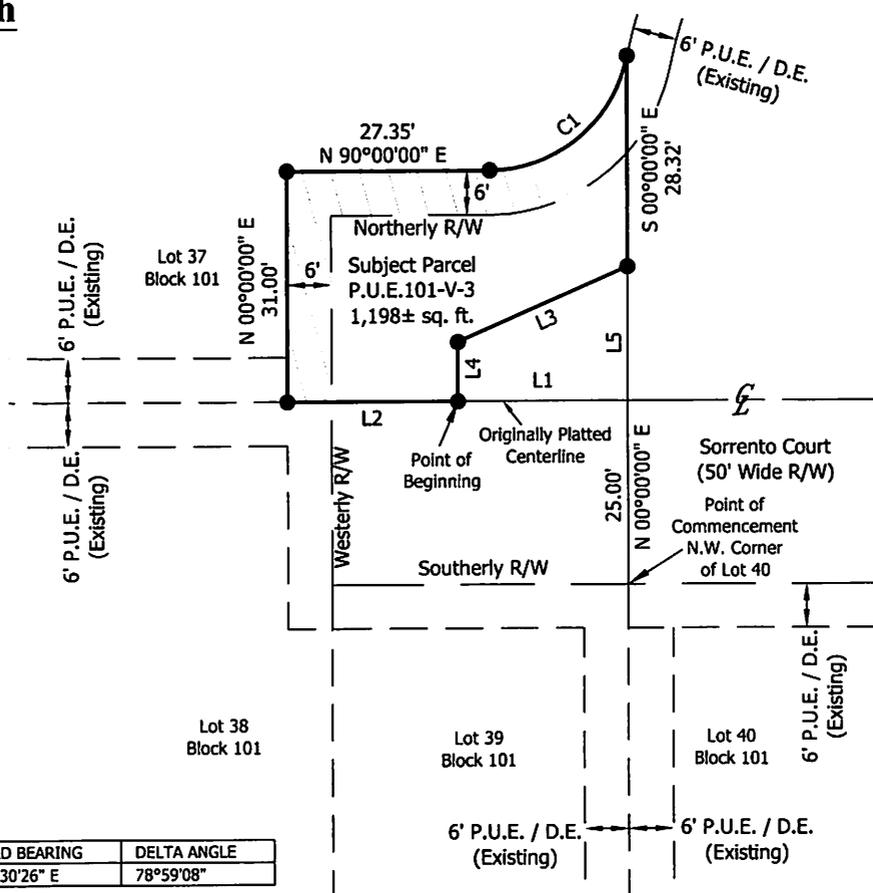
Said Parcel Contains 1,198 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel P.U.E. 101-V-3</p> <p><i>A Portion of Public Utility and Drainage Easement to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>								
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER A KING ENGINEERING COMPANY</p> <p>King ENGINEERING ASSOCIATES, INC.</p> <p>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>								
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">DATE</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">03-28-19</td> <td>Added Hatching of 6' P.U.E. / D.E. (Per Plat)</td> </tr> <tr> <td style="text-align: center;">JOB # 18-0972</td> <td>PREPARED FOR: Wilhelm Vullriede</td> </tr> <tr> <td colspan="2" style="text-align: center;">SECTIONS 13, TOWNSHIP 45S, RANGE 23E</td> </tr> </tbody> </table>	DATE	REVISION	03-28-19	Added Hatching of 6' P.U.E. / D.E. (Per Plat)	JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede	SECTIONS 13, TOWNSHIP 45S, RANGE 23E			<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>
DATE	REVISION									
03-28-19	Added Hatching of 6' P.U.E. / D.E. (Per Plat)									
JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede									
SECTIONS 13, TOWNSHIP 45S, RANGE 23E										

Sketch



Portion of "P.U.E. 101-V-3" which represents the 6' P.U.E. / D.E. created via Plat Book 11, Page 96



LINE	BEARING	DISTANCE
L1	S 90°00'00" W	23.00'
L2	S 90°00'00" W	23.00'
L3	S 66°23'47" W	25.10'
L4	S 00°00'00" E	8.00'
L5	S 00°00'00" E	18.05'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	19.00'	26.19'	24.17'	N 50°30'26" E	78°59'08"

Legend:
P.U.E. - Public Utility Easement
D.E. - Drainage Easement
R/W - Right of Way

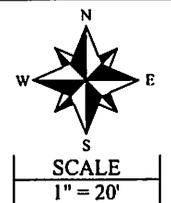
SURVEY NOTES:

- BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
- MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
- THIS IS NOT A SURVEY**
- ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
- DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
- NOT VALID WITHOUT SHEET 1 OF 2.

Sheet 2 of 2

Sketch to Accompany Description

Parcel P.U.E. 101-V-3
A Portion of Public Utility and Drainage Easement to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
A KING ENGINEERING COMPANY



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

JOB # 18-0972	PREPARED FOR: Wilhelm Vullnriede
SECTIONS 13, TOWNSHIP 45S, RANGE 23E	
DATE	REVISION
03-28-19	Added Hatching of 6' P.U.E. / D.E. (Per Plat)

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 53-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

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

Description

Subject Parcel Description: (RW101-V-2)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northeast corner of Lot 36, Block 101 run S00°00'00"E along the Westerly Right of Way line of Sorrento Court for a distance of 22.95 feet to the Point of Beginning, also being the Point of Curvature of a 72.00 foot radius curve to the right, having a chord bearing and distance of S27°09'26"W and 65.73 feet and a central angle of 54°18'53". From said Point of Beginning, run along the arc of said curve for a distance 68.25 feet; Thence run N00°00'00"E for a distance of 0.13 feet to the originally platted Northerly Right of Way line of said Sorrento Court, also being a non-tangent Point of Curvature of a 25.00 foot radius curve to the left, to which a radial line bears S48°14'42"E, having a chord bearing and distance of N26°20'08"E and 13.29 feet, and a central angle of 30°50'20"; Thence run along the arc of said curve for a distance of 13.46 feet to a Point of Reverse Curvature of a 50.00 foot radius curve to the right, having a chord bearing and distance of N29°33'10"E and 31.96 feet, and a central angle of 37°16'25"; Thence run along said originally platted Northerly Right of Way line and the arc of said curve for a distance of 32.53 feet to a Point of Reverse Curvature of a 25.00 foot radius curve to the left, having a chord bearing and distance of N24°05'41"E and 20.41 feet, and a central angle of 48°11'23"; Thence run along said originally platted Northerly Right of Way line and the arc of said curve for a distance of 21.03 feet to the Point of Beginning.

Said Parcel Contains 348 sq ft. (more or less)

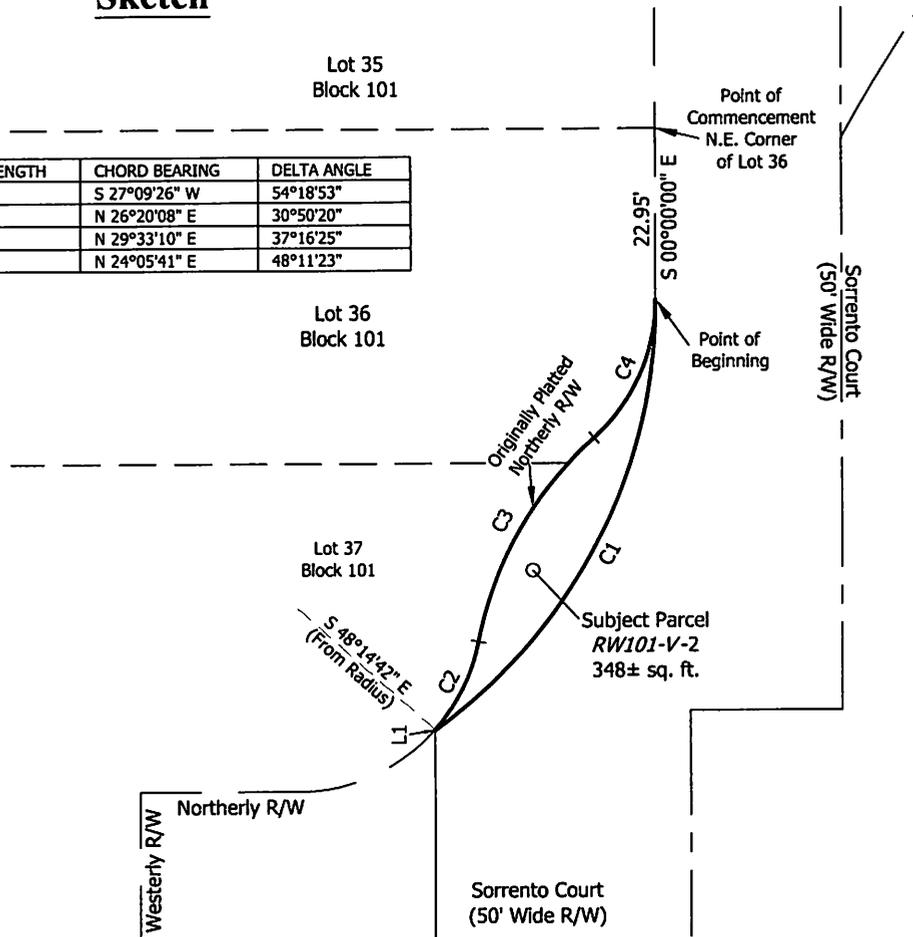
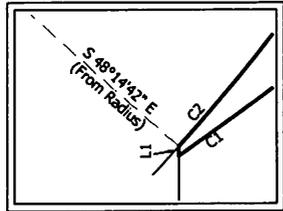
DATE	REVISION
01-09-19	Added Call to Point of Beginning (City Comment)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel RW101-V-2</p> <p><i>A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<p><i>Not Valid without Sheet 2 of 2</i></p> <p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on May 24th, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER</p> <p>A KING ENGINEERING COMPANY</p> <p>King</p> <p>ENGINEERING ASSOCIATES, INC.</p> <p>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</p>	<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>
<p>JOB # 18-0972 PREPARED FOR: Wilhelm Vullriede</p> <p>SECTIONS 13, TOWNSHIP 45S, RANGE 23E</p>		

Sketch

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	72.00'	68.25'	65.73'	S 27°09'26" W	54°18'53"
C2	25.00'	13.46'	13.29'	N 26°20'08" E	30°50'20"
C3	50.00'	32.53'	31.96'	N 29°33'10" E	37°16'25"
C4	25.00'	21.03'	20.41'	N 24°05'41" E	48°11'23"

LINE	BEARING	DISTANCE
L1	N 00°00'00" E	0.13'



Sketch to Accompany Description

Parcel RW101-V-2
A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY

King
 ENGINEERING ASSOCIATES, INC.

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

JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede
SECTIONS 13, TOWNSHIP 45S, RANGE 23E	
DATE	REVISION
01-09-19	Added Call to Point of Beginning (City Comment)

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on May 24th, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 53-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

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

SURVEY NOTES:

- BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
- MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
- THIS IS NOT A SURVEY**
- ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
- DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
- NOT VALID WITHOUT SHEET 1 OF 2.

Description

Subject Parcel Description: (101-N-3)

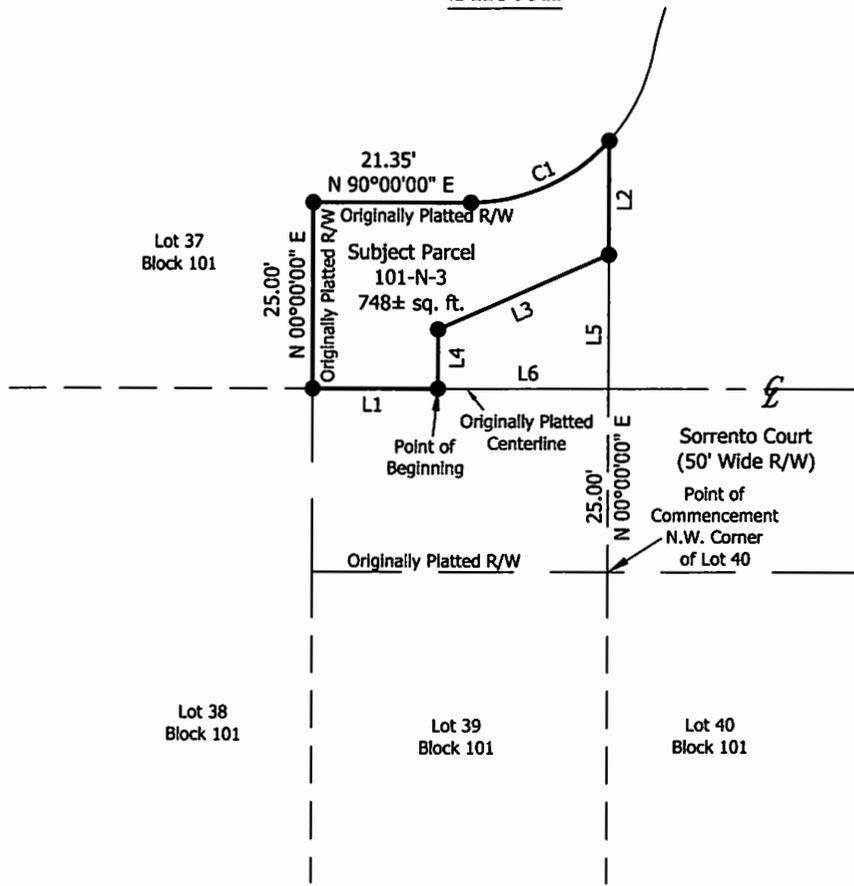
A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northwest corner of Lot 40, Block 101 run N00°00'00"E along an extension line of said Lot 40 for a distance of 25.00 feet to an intersection with the originally platted centerline of Sorrento Court; Thence run S90°00'00"W along said originally platted centerline for a distance of 23.00 feet to the Point of Beginning. From said Point of Beginning continue running S90°00'00"W along said originally platted centerline for a distance of 17.00 feet to the originally platted Right of Way line of said Sorrento Court; Thence leaving said originally platted centerline run the following three (3) course along the originally platted Right of Way line of said Sorrento Court: Run N00°00'00"E for a distance of 25.00 feet. Run N90°00'00"E for a distance of 21.35 feet to the Point of Curvature of a 25.00 foot radius curve to the left, having a delta angle of 48°14'42", a chord bearing and distance of N65°52'39"E and 20.43 feet. Run along the arc of said curve for 21.05 feet. Thence leaving said originally platted Right of Way line run S00°00'00"E for a distance of 15.30 feet; Thence run S66°23'47"W for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 8.00 feet to the Point of Beginning.

Said Parcel Contains 748 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel 101-N-3</p> <p><i>A Parcel of Land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>				
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER A KING ENGINEERING COMPANY</p> <p>King ENGINEERING ASSOCIATES, INC.</p> <p><small>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</small></p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">JOB # 18-0972</td> <td>PREPARED FOR: Wilhelm Vullriede</td> </tr> <tr> <td colspan="2">SECTIONS 13, TOWNSHIP 45S, RANGE 23E</td> </tr> </table>	JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede	SECTIONS 13, TOWNSHIP 45S, RANGE 23E			<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>
JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede					
SECTIONS 13, TOWNSHIP 45S, RANGE 23E						

Sketch



LINE	BEARING	DISTANCE
L1	S 90°00'00" W	17.00'
L2	S 00°00'00" E	15.30'
L3	S 66°23'47" W	25.10'
L4	S 00°00'00" E	8.00'
L5	S 00°00'00" E	18.05'
L6	S 90°00'00" W	23.00'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	21.05'	20.43'	N 65°52'39" E	48°14'42"

SURVEY NOTES:

- BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
- MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
- THIS IS NOT A SURVEY**
- ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
- DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
- NOT VALID WITHOUT SHEET 1 OF 2.

Sketch to Accompany Description

Parcel 101-N-3
A Parcel of Land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY

King
 ENGINEERING ASSOCIATES, INC.

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

JOB # 18-0972 PREPARED FOR: Wilhelm Vultride

SECTIONS 13, TOWNSHIP 45S, RANGE 23E

DATE REVISION

I hereby certify that, in the best of my knowledge and belief, the sketch and description represented herein, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter SJ-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

DAVID KEITH CRAMER (FOR THE FIRM)
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6635
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Description

Subject Parcel Description: (101-S-3)

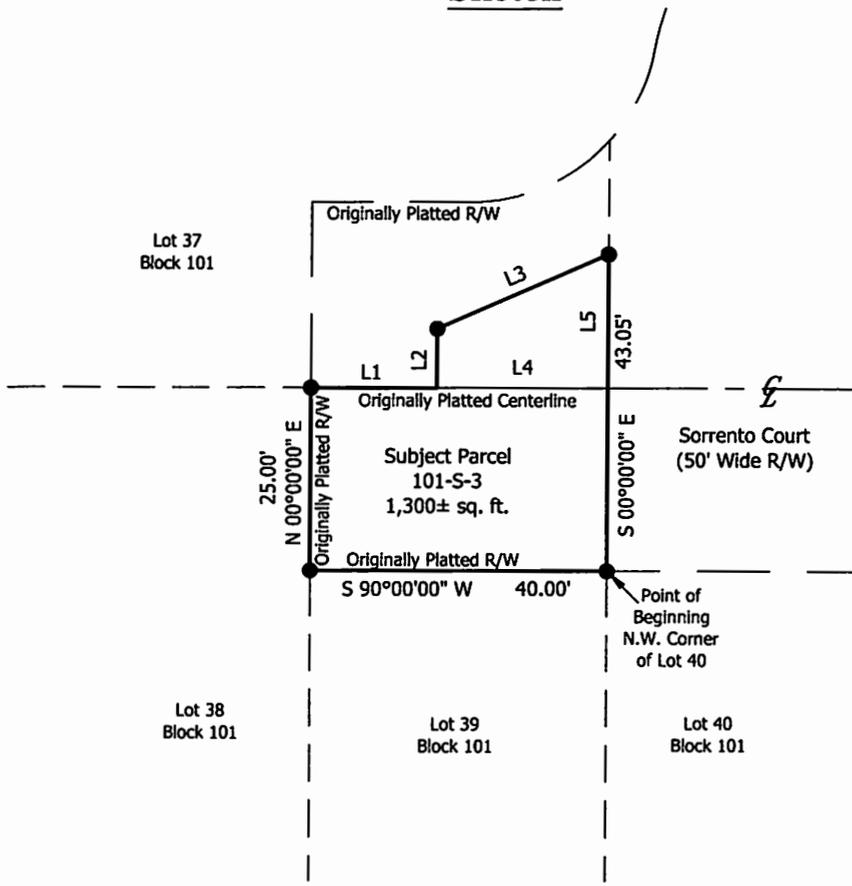
A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the northwest corner of Lot 40 Block 101, run the following two (2) courses along the originally platted Right of Way line of Sorrento Court: Run S90°00'00"W for a distance of 40.00 feet. Run N00°00'00"E for a distance of 25.00 feet to an intersection with the originally platted centerline of Sorrento Court. Thence leaving said originally platted Right of Way line run N90°00'00"E along said originally platted centerline for a distance of 17.00 feet; Thence leaving said originally platted centerline run N00°00'00"E for a distance of 8.00 feet; Thence run N66°23'47"E for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 43.05 feet to the Point of Beginning.

Said Parcel Contains 1,300 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel 101-S-3</p> <p><i>A Parcel of Land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER</p> <p>A KING ENGINEERING COMPANY</p> <p>King</p> <p>ENGINEERING ASSOCIATES, INC.</p> <p>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>
<p>JOB # 18-0972 PREPARED FOR: Wilhelm Vullriede</p> <p>SECTIONS 13, TOWNSHIP 45S, RANGE 23E</p>		<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>

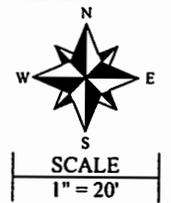
Sketch



LINE	BEARING	DISTANCE
L1	N 90°00'00" E	17.00'
L2	N 00°00'00" E	8.00'
L3	N 66°23'47" E	25.10'
L4	S 90°00'00" E	23.00'
L5	S 00°00'00" E	18.05'

Sketch to Accompany Description

Parcel 101-S-3
A Parcel of Land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY



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

JOB # 18-0972 PREPARED FOR: Wilhelm Vullriede

SECTIONS 13, TOWNSHIP 45S, RANGE 23E

DATE REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

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

SURVEY NOTES:

1. BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
6. NOT VALID WITHOUT SHEET 1 OF 2.

OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL
HEARING EXAMINER RECOMMENDATION

VP HEX Recommendation 8-2019
Rendered May 7, 2019

DCD CASE # VP 18-0008

APPLICATION FOR: Vacation of rights of way and easements

NAME OF OWNERS/APPLICANTS: Wilhelm Vullriede; Jerome and Catherine Lievre

AUTHORIZED REPRESENTATIVE: Scott J. Hertz, Esquire

LOCATIONS OF PROPERTY:

5088 Sorrento Court
Cape Coral, FL 33904
Cape Coral, Unit 2, Part 2,
Block 101, Lots 36-37
Strap No. 13-45-23-C4-00101.0360

5095 Sorrento Court
Cape Coral, FL 33904
Cape Coral, Unit 2, Part 2,
Block 101, Lots 38-39
Strap No. 13-45-23-C4-00101.0380

ZONING DISTRICT: Single Family Residential (R-1B)

FUTURE LAND USE CLASSIFICATION: Single Family

HEARING DATE: May 7, 2019

SUMMARY OF REQUEST: Applicants request to vacate:

1. 2,048 square feet of Sorrento Court right-of-way (ROW) and 748 square feet of underlying easements between Lots 37 and 39, Block 101; and
2. 450 square feet of platted easements along the east property line of Lot 37, Block 101; and
3. 348 square feet of ROW along the east property lines of Lots 36 and 37, Block 101.

SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends that City Council **approve** the application for the requested vacations, subject to the conditions set forth below.

I. **NOTICE OF HEARING**

Based on the testimony of City Staff Michael Struve at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, §8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

May 7, 2019

II. **PARTICIPANTS IN HEARING**

CITY STAFF: Michael Struve, AICP and LEED Green Associate ¹
Persides Zambrano, AICP, Permitting/Planning Manager, Public Works

CITY CLERK'S OFFICE: Patricia Sorrels

APPLICANTS' REPRESENTATIVE: Scott Hertz, Esquire

MEMBERS OF PUBLIC: None

CORRESPONDENCE/TELEPHONE CALLS FROM PUBLIC: Staff testified that he received no correspondence or telephone calls from the public.

III. **EXHIBITS**

APPLICANTS' AND CITY STAFF'S EXHIBITS: previously submitted.

IV. **REVIEW OF LUDR REQUIREMENTS**

Authority. The Hearing Examiner has the authority to recommend approval or denial of an application for a vacation of a plat and associated easements pursuant to LUDR §9.2.3 b.8.

Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. In rendering this recommendation, the Hearing Examiner must consider all competent substantial evidence in the record as defined by LUDR § 8.3.1.C.3.b.

LUDR Standards. The Hearing Examiner reviewed the application in accordance with the standards set forth in LUDR § 8.11, *Vacation of plats, rights-of-way and other property*, in addition to the general standards set forth in the LUDRs and the City Comprehensive Plan.

¹ Mr. Struve was recognized as an expert in land planning issues associated with this Application, based upon his prior appearances before the Hearing Examiner and his credentials which are on file with the City Clerk's Office.

V. TESTIMONY AT HEARING

Applicants' Incorporation of Staff Report and Staff Testimony

The Applicants' Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into his presentation by reference. He requested the Hearing Examiner to recommend that City Council find the Staff Input as findings of fact, in addition to those separately presented by him.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony referenced below is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision regarding this Application.

VI. DISCUSSION

Site, Zoning Information and Surrounding Area

Staff testified that Wilhelm Vullriede, one of the applicants in this case, and the lead petitioner, owns a ±12,235-square foot site near the southern terminus of Sorrento Court in southern Cape Coral and that the rear of the site has water frontage along the San Carlos Canal, with a platted width of 200 feet.

Staff further testified that in 2018, a single-family residence was demolished on the site and that Mr. Vullriede had advised staff that the vacations are sought to provide greater flexibility in constructing a new single-family residence at 5088 Sorrento Court.

Staff testified that the site has a Single Family Future Land Use Classification (FLUC) and Single Family Residential (R-1B) Zoning, and all properties within 2,000 feet of the site share the same future land use and zoning classifications.

Reason for Application

Mr. Vullriede and Mr. and Mrs. Lievre request vacating 2,048 square feet of Sorrento Court right of way and 748 square feet of underlying easements between Lots 37 and 39, Block 101.

In addition, Mr. Vullriede requests vacating 450 square feet of platted easements associated with the east property line of Lot 37.

Lastly, Mr. Vullriede requests vacating 348 square feet of Sorrento Court ROW along the east property line of his site at 5088 Sorrento Court.

Request #1: Vacate ROW and Underlying Easements Between Lots 37 and 39, Block 101

The Applicants request the vacation of 2,048 square feet of platted ROW and 748 square feet of underlying easements between Lots 37 and 39. Staff testified that the petitioners have color of title to the land adjacent to the subject ROW and easements.

While the ROW vacation would enlarge both sites, the request would particularly benefit Mr. Vullriede by providing greater setback flexibility for a new dwelling, as building setbacks would be measured from the "new" property lines following the vacation.

Staff and the Applicants' Representative both testified that the subject ROW is at the end of Sorrento Court, a dead-end street, and is not needed beyond providing access to several sites at the end of this street.

The request would not negatively affect emergency management vehicles or service providers at these locations. While the vacation has the potential to limit the use of the existing driveway at 5095 Sorrento Court, the owners have agreed to a split of the vacated ROW area and thereby alleviate the perceived issues with the existing driveway to this site.

The applicants also request vacating 748 square feet of easements underlying the northern half of this ROW.

As set forth in the NOVUS documents, Century Link, Comcast, and LCEC lack facilities in these easements and do not object to this request.

The City has a catch basin in this easement that conveys runoff through a pipe westward that discharges into the San Carlos Canal. The City recommends that the catch basin be relocated to an existing easement, and the drainage pipe either be extended or relocated in its entirety to connect to the catch basin for providing stormwater drainage for the area. City Staff Persides Zambrano testified that the City does not anticipate that such relocation, if it occurs, would involve land other than that owned by the Applicants hereto.

Staff proposes that all expenses associated with relocating these drainage facilities shall be borne by Mr. Vullriede. The Hearing Examiner agrees with Staff's recommendation.

Request #2: Vacated Platted Easements Associated with the East Property Line of Lot 37, Block 101

Mr. Vullriede has requested the vacation of 450 square feet of platted easements along the east property line of Lot 37. Staff testified that he owns Lot 37 where this easement exists and is therefore eligible to request this vacation. Staff testified that if the ROW vacation involving Sorrento

Court (Vacation Request #1) were to be approved by City Council, this easement would no longer occupy the perimeter of the newly expanded site; however, new replacement easements granted by Mr. Vullriede to the City would ensure the expanded site would have a continuous perimeter easement.

The NOVUS documents indicate that Century Link, Comcast, and LCEC lack facilities in these easements and therefore do not object to this request.

Request #3: Vacate ROW and Underlying Easements Along the East Property Lines of Lots 36 and 37, Block 101

Mr. Vullriede requests vacating 348 square feet of Sorrento Court ROW adjacent to two lots that he owns (Lots 36 and 37). Staff testified that this ROW is located to the west of the paved street, is oblong and has a grass surface.

The Applicants' Representative testified that the proposed vacation would provide the Applicant with greater setback flexibility in redeveloping the site at 5088 Sorrento Court with a new single-family residence. Staff further testified that all underlying public utility and drainage easements would be retained by the City and that letters of no objection have been provided by Century Link, Comcast, and LCEC.

Persides Zambrano, Permitting/Planning Manager for the City Public Works Department, testified that she has reviewed this request and has determined that this ROW may be needed in the future should a redesign of this end of Sorrento Court be necessary to convert this street into a wider, fully functioning cul-de-sac. She further testified that this concern could be addressed, however, with the owner providing the City with a ROW easement for the vacated area to allow the City to add pavement or make other improvements in this area, if the City deemed it necessary in the future.

Recommendation that City Council Find That Applicants Have Complied with All Requirements for the Requested Vacations, as Set Forth in LUDR §8.11

1. Applicants **have** color of title (LUDR §8.11.3b.1)

Staff testified that Applicants own the subject properties and are, therefore, eligible to apply for the requested vacations.

2. A copy of the plat **has** been provided, showing the portions for which vacation is sought (LUDR §8.11.3b.2)

3. and 4. *Letters of Approval from LCEC and Letters of No Objection from Century Link and Comcast (LUDR §8.11.3b.3 and LUDR §8.11.3b.4-6) **have been provided or are not necessary.***

This standard is addressed above.

5. *A copy of a recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor, **has been provided**, showing the area requested to be vacated; providing complete metes and bounds legal descriptions of said areas, and showing all pavement and all utility and drainage facilities in said area, including water, sewer and cable lines, utility poles, swales, ditches, manholes and catch basins. Separate drawings and metes and bounds legal descriptions will be required for each proposed vacation area when the right-of-way and easement configurations differ. (LUDR §8.11.3b.7.B)*

All of the required documents have been provided.

6. *No Reasonably Foreseeable Public Use of the Vacated Area. LUDR, §8.11.3 d)*

It is recommended that, for the above reasons, the City Council finds there is **no reasonably foreseeable public use** for the requested vacations.

7. *City's Retention of Easements for Utilities and/or Drainage in and Upon the Vacated Area. (LUDR, §8.11.3 d)*

As set forth in the conditions below, it is recommended that the City Council retain the indicated easements. The Applicants have agreed to these conditions.

Consistency with the Comprehensive Plan (LUDR §8.11)

Staff testified that the City does not have specific Comprehensive Plan policies for vacations involving residentially zoned sites.

It is recommended that the City Council find that the vacation requests are consistent with Policy 1.15 of the Future Land Use Element of the City's Comprehensive Plan which states:

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

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

Staff testified that this request is consistent with Policy 1.15.a as the site has R-1B Zoning that is consistent with the Single Family FLUC. Further, the area of the Vullriede site is 12,235 square feet; when coupled with an additional 748 square feet acquired as a result of the ROW vacation associated with Request #1, the new area would be 12,983 square feet. This area once redeveloped with a single-family home would equate to a density of 3.36 dwelling units per acre, less than the maximum of 4.4 dwelling units per acre allowed in the Single Family FLUC.

Based upon staff testimony, the Hearing Examiner recommends that City Council find that granting the requested vacations, as conditioned below, **would be consistent** with the City Comprehensive Plan, Land Use Development Regulations, and all other applicable law.

VII. **RECOMMENDED CONDITIONS OF APPROVAL**

City staff testified regarding recommendations for conditions of approval, set forth below. Applicant's Representative testified that Applicant has no objection to these conditions.

The Hearing Examiner **recommends** that these conditions of approval be adopted as part of the City Council's approval of Applicant's request:

1. Consistency with Sketch and Legal Description. The vacation of the 2,048 square feet of ROW and 748 square feet of underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "*Parcel RW 101-V*", dated March 2, 2018, and "*Parcel P.U.E. 101-V-3*", dated March 28, 2019, respectively.
2. Consistency with Sketch and Legal Description. The vacation of the 450 square feet of platted easements occupying Lot 37 shall be consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "*Parcel P.U.E. 101-V-3*", dated March 28, 2019.
3. Easement Deeds. Within 90 days from the date of adoption of this vacation, the owners of 5088 and 5095 Sorrento Court shall provide to the City easement deeds sufficient for providing a six-foot wide perimeter easement around each expanded site. The deeds shall be reviewed and determined to be sufficient by Public Works and the City Property Broker prior to acceptance and execution.
4. Deeds Splitting the Properties. Within 90 days from the date of adoption of this vacation, the applicants shall record deeds splitting the two affected properties consistent with that shown in the sketches and accompanying legal descriptions prepared by Stouten Cramer entitled "*Parcel 101-N-3*" and "*Parcel 101-S-3*" both dated August 1, 2018. No new building permits for either 5088

May 7, 2019

or 5095 Sorrento Court shall be issued without proof that this condition has been met to the satisfaction of the City.

5. Easement Deed. Within 90 days from the date of adoption of this vacation, the owner of 5088 Sorrento Court shall provide to the City an easement deed for ROW maintenance, drainage, and utility purposes for the 348 square feet area shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "RW 101-V-2" dated January 9, 2019. The deed shall be reviewed and determined to be sufficient by Public Works and the City Property Broker prior to acceptance and execution.
6. Stormwater Conveyance System. Prior to the issuance of a certificate of occupancy (CO) for 5088 Sorrento Court, the owner shall modify or replace the existing stormwater conveyance system beginning at the adjacent property to the north at 5084 Sorrento Court as deemed necessary by the City to properly convey stormwater in this collection area to the adjacent canal system. These stormwater improvements shall be inspected by the City prior to the issuance of a CO.
7. Water Intrusion and Erosion. Prior to the issuance of a CO for 5088 Sorrento Court, the owner shall design the foundation of the single-family home to demonstrate proper protection from water intrusion and erosion. Such a design may include, at the sole discretion of the City, the moving or replacing of the existing stormwater pipe along Lots 37 and 38 or removing or sealing the pipe and installing a swale for stormwater conveyance. At the sole discretion of the City, the applicant shall grant any necessary easements for any new or modified stormwater system. All aforementioned improvements shall be inspected by the City prior to the issuance of a CO.
8. Recording of Resolution. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. The owners shall reimburse the City for all recording fees associated with this resolution and all easement deeds.
9. Compliance with Zoning District Standards and Requirements and Inclusion of LUDRs, City Ordinances and Other Applicable Law. Applicant shall comply with all standards and requirements for the zoning district in which the property is located and all other requirements set forth in the LUDRs, City ordinances and all other applicable laws and regulations, which are incorporated herein by reference.

VIII. EXHIBITS

The following Exhibits are attached to this Recommendation and are hereby incorporated by reference:

- EXHIBIT "A": Sketch and accompanying Legal Description entitled "*Subject Parcel Description (RW101-V)*", as prepared by Stouten Cramer, dated March 2, 2018 (2 pages)

VP HEX RECOMMENDATION 8-2019

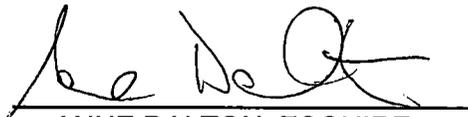
May 7, 2019

- Exhibit "B": Sketch and accompanying Legal Description entitled "*Parcel P.U.E. 101-V-3*", as prepared by Stouten Cramer, dated March 28, 2019 (2 pages)
- Exhibit "C": Sketch and accompanying Legal Description entitled "*Subject Parcel Description (101-N-3)*" as prepared by Stouten Cramer, dated August 1, 2018 (2 pages)
- Exhibit "D": Sketch and accompanying Legal Description entitled "*Subject Parcel Description: (101-S-3)*" as prepared by Stouten Cramer, dated August 1, 2018 (2 pages)
- Exhibit "E": Sketch and accompanying Legal Description entitled "*Subject Parcel Description: (RW101-V-2)*" as prepared by Stouten Cramer, dated January 9, 2019 (2 pages)

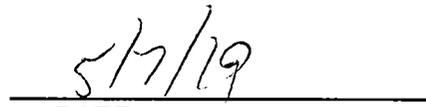
The Hearing Examiner herewith **RECOMMENDS APPROVAL** of the request for the above-referenced Vacations filed by Applicants, **WITH THE CONDITIONS** set forth above.

This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA



ANNE DALTON, ESQUIRE



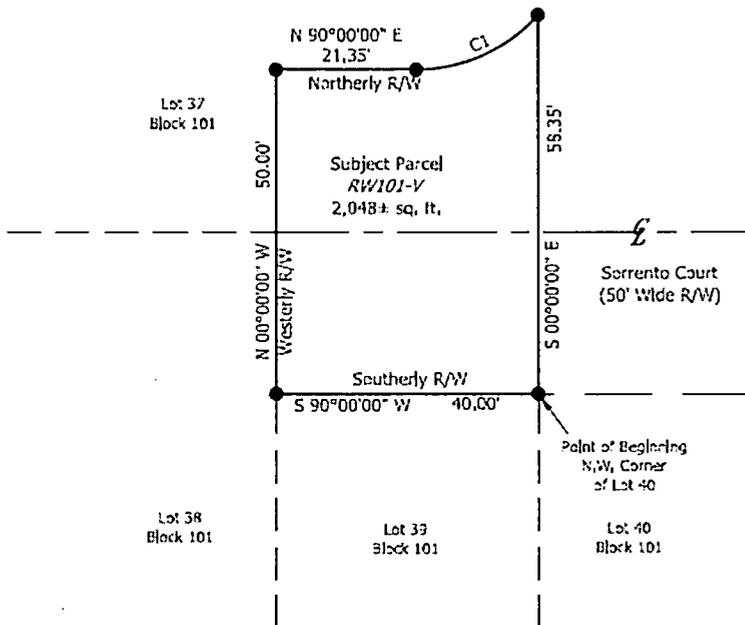
DATE

ATTEST:



CITY CLERK

Sketch



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	75.00'	21.05'	20.43'	N 65°52'35" E	48°14'42"

SURVEY NOTES:

1. BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LNE OF SORRENTO COURT, BEING S 90°00'00" W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2013 KING ENGINEERING, INC. ALL RIGHTS RESERVED.*
5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
6. NOT VALID WITHOUT SHEET 1 OF 2.

Sketch to Accompany Description
Parcel RW101-V
 A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY
King
 ENGINEERING COMPANY, P.C.

CERTIFICATE OF AUTHORIZATION 135610
 12185 State Parkway, Suite 1, Cape Coral, FL 33909
 Phone: (239) 576-9541 Fax: (239) 554-8111
 www.kingengineering.com

JOB # 18-002	PREPARED FOR: Wethel-VG/2013
SECTIONS 13, TOWNSHIP 43S, RANGE 23E	
DATE:	REVISION:

I hereby certify that, to the best of my knowledge and belief, the sketch and description hereon shown, is a true and correct statement of what I did, and was done in accordance with Standards of Practice with State by the Florida Board of Professional Surveyors & Mappers in Chapter 461, Florida Administrative Code, pursuant to Section 472.027 Florida Statute.

See Sheet 1 of 2 for Signature and Seal

DAVID KEITH CRAMER FOR THE FIRM
 12185 STATE PARKWAY, SUITE 1, CAPE CORAL, FL 33909
 NOT VALID WITHOUT PROFESSIONAL SEAL AND THE ORIGINAL PAPER SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Subject Parcel Description: (RW101-V)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the northwest corner of Lot 40, Block 101 run S90°00'00" W along the Southerly Right of Way line of Sorrento Court for a distance of 40.00 feet; Thence leaving said Southerly Right of Way line run N00°00'00"W along the Westerly Right of Way line of said Sorrento Court for a distance of 50.00 feet; Thence leaving said Westerly Right of Way line run N90°00'00"E along the Northerly Right of Way line of said Sorrento Court for a distance of 21.35 feet to the point of curvature of a 25.00 foot radius curve to the left, having a central angle of 48°14'42", a chord bearing and distance of N65°52'39"E and 20.43 feet; Thence run along the arc of said curve for a distance 21.05 feet; Thence leaving said Northerly Right of Way line run S00°00'00"E for a distance of 58.35 feet to the Point of Beginning.

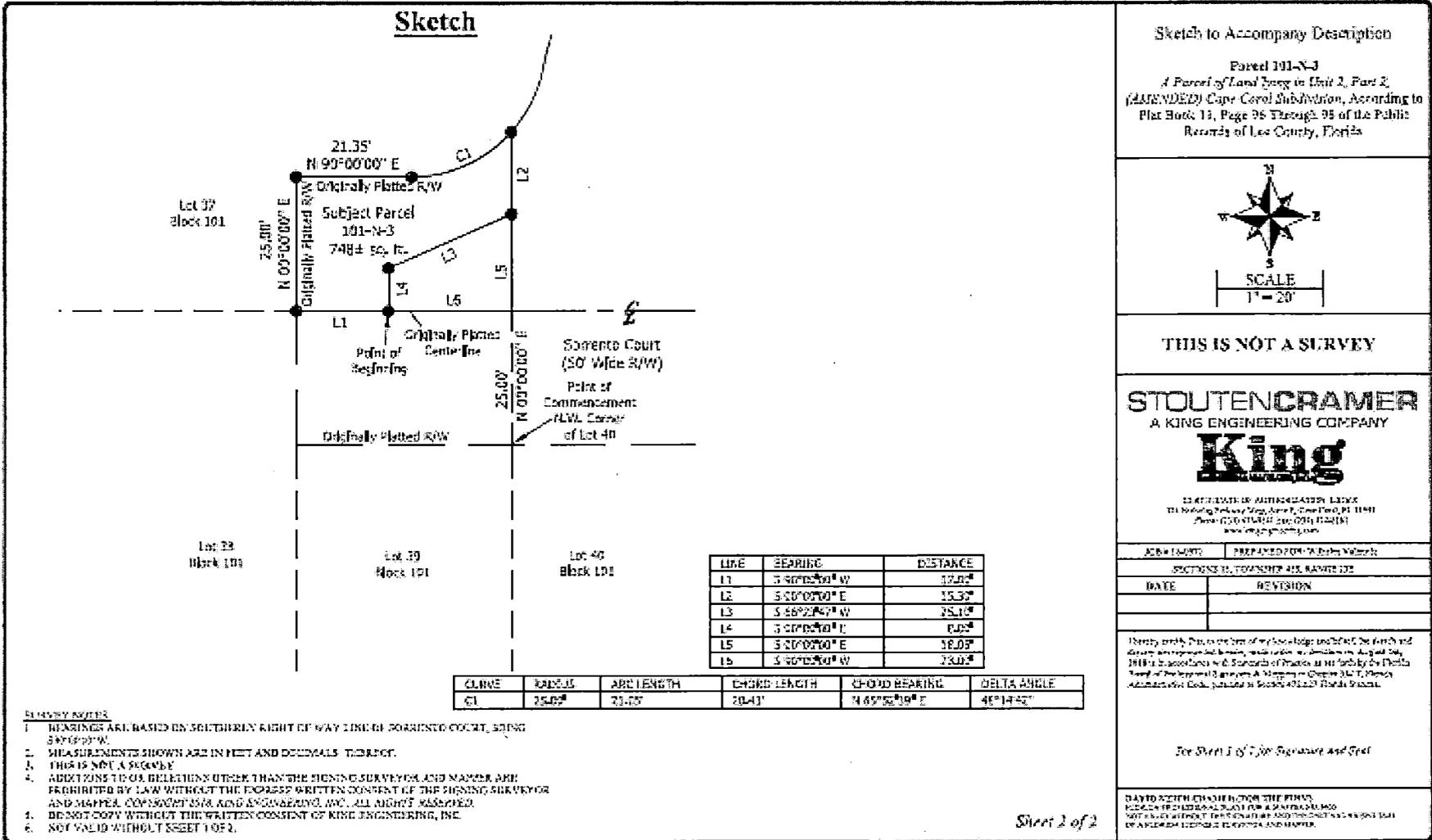
Said Parcel Contains 2,048 sq ft. (more or less)

Subject Parcel Description: (P.U.E. 101-V-3)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northwest corner of Lot 40, Block 101 run N00°00'00"E for a distance of 25.00 feet to the originally platted centerline of Sorrento Court; Thence run S90°00'00"W along said originally platted centerline for a distance of 23.00 feet to the Point of Beginning. From said Point of Beginning continue running S90°00'00"W for a distance of 23.00 feet to a Point of Intersection with a line that is parallel with and 6.00 feet perpendicular to the Westerly Right of Way line of said Sorrento Court; Thence run N00°00'00"E along said line parallel with the Westerly Right of Way line for a distance of 31.00 feet to a Point of Intersection with a line that is parallel with and 6.00 feet perpendicular to the Northerly Right of Way line of said Sorrento Court; Thence run N90°00'00"E along said line parallel with the Northerly Right of Way line for a distance 27.35 feet to a Point of Curvature of a 19.00 foot radius curve to the left, having a central angle of 78°59'08", a chord bearing and distance of N50°30'26"E and 24.17 feet; Thence run along an arc that is parallel with and concentric to said Northerly Right of Way line of Sorrento Court for a distance of 26.19 feet; Thence leaving said concentric curve run S00°00'00"E for a distance of 28.32 feet; Thence run S66°23'47"W for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 8.00 feet to the Point of Beginning.

Said Parcel Contains 1,198 sq ft. (more or less)



Sketch to Accompany Description

Parcel 191-N-3
A Parcel of Land Traced in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 13, Page 96 Through 98 of the Public Records of Lee County, Florida



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY

King

1500 STATE OF AMERICA AVENUE
 11100 Highway 90 West, Suite 1, Cape Coral, FL 33904
 Phone: (239) 541-2400 Fax: (239) 541-2411
 www.king-engineering.com

JOB NUMBER	PREPARED FOR: W. John Walker
SECTION 11, TOWNSHIP 24S, RANGE 12E	
DATE	REVISION

I hereby certify that to the best of my knowledge and belief the facts and circumstances herein stated are true and correct to the best of my ability and belief. I have been duly sworn of office as a Professional Engineer in the State of Florida and am duly licensed in the State of Florida. My commission expires on 03/31/2011.

See Sheet 1 of 2 for Signature and Seal

DAVID WIRTHCRAMER HONORS THE PUBLIC RECORDS OF THE STATE OF FLORIDA AND THE PUBLIC RECORDS OF THE COUNTY OF LEE COUNTY, FLORIDA. I HEREBY CERTIFY THAT THE SIGNATURE AND SEAL OF THE SURVEYOR ARE VALID AND CORRECT AND THAT THE SURVEYOR IS A LICENSED PROFESSIONAL ENGINEER AND MAPPER.

Sheet 2 of 2

Subject Parcel Description: (101-N-3)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northwest corner of Lot 40, Block 101 run N00°00'00"E along an extension line of said Lot 40 for a distance of 25.00 feet to an intersection with the originally platted centerline of Sorrento Court; Thence run S90°00'00"W along said originally platted centerline for a distance of 23.00 feet to the Point of Beginning. From said Point of Beginning continue running S90°00'00"W along said originally platted centerline for a distance of 17.00 feet to the originally platted Right of Way line of said Sorrento Court; Thence leaving said originally platted centerline run the following three (3) course along the originally platted Right of Way line of said Sorrento Court: Run N00°00'00"E for a distance of 25.00 feet. Run N90°00'00"E for a distance of 21.35 feet to the Point of Curvature of a 25.00 foot radius curve to the left, having a delta angle of 48°14'42", a chord bearing and distance of N65°52'39"E and 20.43 feet. Run along the arc of said curve for 21.05 feet. Thence leaving said originally platted Right of Way line run S00°00'00"E for a distance of 15.30 feet; Thence run S66°23'47"W for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 8.00 feet to the Point of Beginning.

Said Parcel Contains 748 sq ft. (more or less)

Subject Parcel Description: (101-S-3)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the northwest corner of Lot 40 Block 101, run the following two (2) courses along the originally platted Right of Way line of Sorrento Court: Run S90°00'00"W for a distance of 40.00 feet. Run N00°00'00"E for a distance of 25.00 feet to an intersection with the originally platted centerline of Sorrento Court. Thence leaving said originally platted Right of Way line run N90°00'00"E along said originally platted centerline for a distance of 17.00 feet; Thence leaving said originally platted centerline run N00°00'00"E for a distance of 8.00 feet; Thence run N66°23'47"E for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 43.05 feet to the Point of Beginning.

Said Parcel Contains 1,300 sq ft. (more or less)

Subject Parcel Description: (RW101-V-2)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northeast corner of Lot 36, Block 101 run S00°00'00"E along the Westerly Right of Way line of Sorrento Court for a distance of 22.95 feet to the Point of Beginning, also being the Point of Curvature of a 72.00 foot radius curve to the right, having a chord bearing and distance of S27°09'26"W and 65.73 feet and a central angle of 54°18'53". From said Point of Beginning, run along the arc of said curve for a distance 68.25 feet; Thence run N00°00'00"E for a distance of 0.13 feet to the originally platted Northerly Right of Way line of said Sorrento Court, also being a non-tangent Point of Curvature of a 25.00 foot radius curve to the left, to which a radial line bears S48°14'42"E, having a chord bearing and distance of N26°20'08"E and 13.29 feet, and a central angle of 30°50'20"; Thence run along the arc of said curve for a distance of 13.46 feet to a Point of Reverse Curvature of a 50.00 foot radius curve to the right, having a chord bearing and distance of N29°33'10"E and 31.96 feet, and a central angle of 37°16'25"; Thence run along said originally platted Northerly Right of Way line and the arc of said curve for a distance of 32.53 feet to a Point of Reverse Curvature of a 25.00 foot radius curve to the left, having a chord bearing and distance of N24°05'41"E and 20.41 feet, and a central angle of 48°11'23"; Thence run along said originally platted Northerly Right of Way line and the arc of said curve for a distance of 21.03 feet to the Point of Beginning.

Said Parcel Contains 348 sq ft. (more or less)



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0008

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

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

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

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

OWNER OF PROPERTY

Wilhem Vullriede

Address: Kohimarkt 16/17 Vienna

City: Austria State: Zip

Phone: +43-676-6080801

APPLICANT

Wilhelm Vullriede

Address: same as above

EMAIL Vullriede@vullriede.at

City: State: Zip

Phone:

AUTHORIZED REPRESENTATIVE

Scott J. Hertz, Esq.

Address: 1222 SE 47th Street, Ste. C1

EMAIL shertz@is4law.com

City: Cape Coral State: FL Zip 33904

Phone: 239-244-2346

Unit 2 Part 2 Block 101 Lot(s) 36-37 Subdivision Cape Coral

Address of Property 5088 Sorrento Court, Cape Coral, FL

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

Strap Number 13-45-23-C4-00101.0360



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)

Wilhelm Vullriede
APPLICANT NAME (PLEASE TYPE OR PRINT)

W. Vullriede
APPLICANT'S SIGNATURE

In agreement with the proposed division of the vacated land as shown on the attached site plan, signed on June 21, 2018.

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 28th day of June, 2018 by

Wilhelm Vullriede who is personally known or produced passport
as identification.

Exp. Date: _____ Commission Number: _____



Scott J. Hertz
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG136886
Expires 8/21/2021

Signature of Notary Public: *Scott J. Hertz*

Printed name of Notary Public: Scott J. Hertz



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 _____

Wilhelm Vullriede

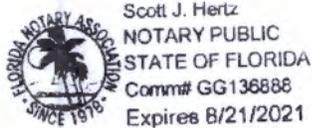
PROPERTY OWNER (PLEASE TYPE OR PRINT)

Dr. Vullriede
PROPERTY OWNER'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 28th day of June, 2018 by

Wilhelm Vullriede who is personally known or produced passport as identification.



Exp. Date: _____ Commission Number: _____

Signature of Notary Public: *Scott J. Hertz*

Printed name of Notary Public: Scott J. Hertz
(SIGNATURE MUST BE NOTARIZED)



DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # _____

VACATION OF PLAT APPLICATION

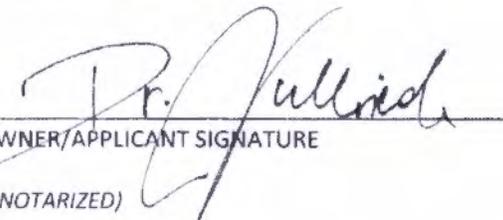
Questions: 239-574-0776

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.

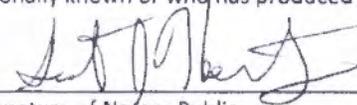
Wilhelm Vullriede
 OWNER/APPLICANT (PLEASE TYPE OR PRINT)


 OWNER/APPLICANT SIGNATURE
 (SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 28th day of June 20 18 by Wilhelm Vullriede who is personally known or who has produced _____ as identification.

Exp. Date _____
Commission # _____


 Signature of Notary Public

Scott J. Hertz
Print Name of Notary Public



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



DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # _____

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

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

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

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

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

OWNER OF PROPERTY

Jerome and Catherine Lievre

Address: 1640 RHODE SAINT GENESE

City: BELGIUM State: Zip

Phone: _____

APPLICANT

Jerome Lievre

Address: 5095 Sorrento Court

EMAIL

City: Cape Coral State: FL Zip 33904

Phone: _____

AUTHORIZED REPRESENTATIVE

Scott J. Hertz, Esq.

Address: 1222 SE 47th Street, STE C1

EMAIL shertz@is4law.com

City: Cape Coral State: FL Zip 33904

Phone: 239-244-2346

Unit 2 part 2 Block 101 Lot(s) 38-39 Subdivision Cape Coral

Address of Property 5095 Sorrento Court, Cape Coral, FL 33904

Current Zoning R-1 Plat Book 11 , Page 98

Strap Number 13-45-23-C4-00101.0380



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)

Jerome Lievre

APPLICANT NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

In agreement with the proposed division of the vacated land as shown on the attached site plan, signed on June 21, 2018.

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 28th day of June, 20 , by Jerome Lievre who is personally known or produced Driver License as identification.

Exp. Date: _____ Commission Number: _____

Signature of Notary Public:

Printed name of Notary Public: Scott Hertz



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

INTELLIGENT SOLUTIONS LAW FIRM, PLLC



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

March 28, 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 5088 Sorrento Ct, Cape
Coral, FL 33904

Mr. Struve:

As you are aware, my client is applying for a vacation of plat for a cul-de-sac lot with the City of Cape Coral. This vacation will affect two portions of the lot as depicted in the attached sketches and site plan. We are requesting the right-of-way between lots 38-39 and 36-37 of Block 101 in Unit 2 Part 2 be vacated and split between those parcels as depicted and have labeled this as proposed Right-of-Way Vacation Area #1. Additionally, proposed Right-of-Way Vacation Area #2 will smooth out the curve of the road in front of lots 36-37 and enable the property to be properly developed. Neither proposed area is in active use by the City as right-of-way. The resulting condition will match what has been done on similar streets in this area of the City, and will not impact any of the current services, such as waste and recycling pickup that are currently being provided to residents on Sorrento Ct. There is not a request to vacate any implied or underlying easements associated with Vacation Area #2.

The underlying easements will remain on the portion of the Vacation Area #1 that is adjacent to 5095 Sorrento Court (Lot 39, Block 101) and as depicted in the Block 0101 (2018-08-01)(101-S-3)(Sketch) will remain, and the land will be deeded to Jerome and Catherine Lievre. This will provide for the existing catch basin and pipe in that area, as well as ensure access to the right-of-way for the Lievre property.

On the remaining portion of Vacation Area #1 as shown in the sketch labeled Block 0101 (2019-03-29)(PUE 101-V-3)(Sketch) all easements (platted and implied) are being vacated. Block 0101 (2018-08-01)(PUE 101-N-3)(Sketch) depicts the new Public Utility Easements and Drainage Easements being created to replace easements vacated with "PUE 101-V-3," along the perimeter of the new property line. Further as discussed, my clients have agreed to a condition requiring them to provide for storm water drainage from the adjoining parcel to the North. These requirements are to be established by the City as is normally done in new construction, when the site is at the proper stage for the City's Stormwater Division to determine same. Please find enclosed with this

March 28, 2019

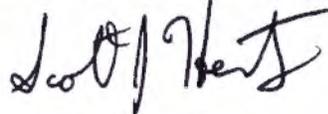
letter updated drawings and descriptions depicting the vacations and creations of easements, per the understanding we have of City Staff's comments regarding same.

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 easements are being maintained, 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/ 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 have previously provided all of the requested documents set forth in the application packet and look forward to working with the City to accomplish this vacation.

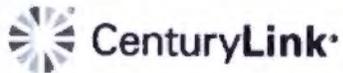
Very truly yours,

INTELLIGENT SOLUTIONS LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read "Scott J. Hertz". The signature is written in a cursive, somewhat stylized font.

Scott J. Hertz, Esq.

SJH/me



Attention:

Scott J. Hertz
shertz@is4law.com
1222 SE 47th St, STE C1
Cape Coral, Florida 33904
Phone: (239) 244-2346

Subject: - No Objection to vacation of ROW

Site Address: 5088 Sorrento Ct
Strap# 13-45-23-C4-00101.0360

To whom it my concern

Regarding the referenced property above CenturyLink has **No Objection** to vacate of ROW. While still maintaining a 6' PUE along the new proposed road right-a-way.

Sincerely

Justin Lane

Local Engineer
2820 Cargo St, Ft Myers
Office: (239)-984-7009
justin.lane@centurylink.com



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

August 16, 2018

Re: 5088 Sorrento Ct. Cape Coral

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,

A handwritten signature in black ink that reads "Mark Cook". The signature is written in a cursive, flowing style.

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

March 6, 2018

Mr. Kevin F. Jursinski, Esq.
Law Office of Kevin F. Jursinski, P.A.
15701 S. Tamiami Trail
Ft. Myers, FL 33908

Re: Letter of No Objection to Vacation of Utility Easement for 5088 Sorrento Drive, Cape Coral, Florida; Owner: Wilhelm Vullreide, Married ; Strap#: 13-45-23-C4-00101.0360.

Dear Mr. Jursinski:

You have opened up negotiations, on behalf of your client, Wilhelm Vullreide and his wife, concerning the vacation of a certain portion of a cul-de-sac road right of way existing in front of Lots 37 and 38, Block 101, Cape Coral Subdivision Unit 2, Part 2, as recorded in Plat Book 11, Pages 96 through 98 amongst the Public records of Lee County, Florida. Vesting deed is located at Instrument number 2018000018509.

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.

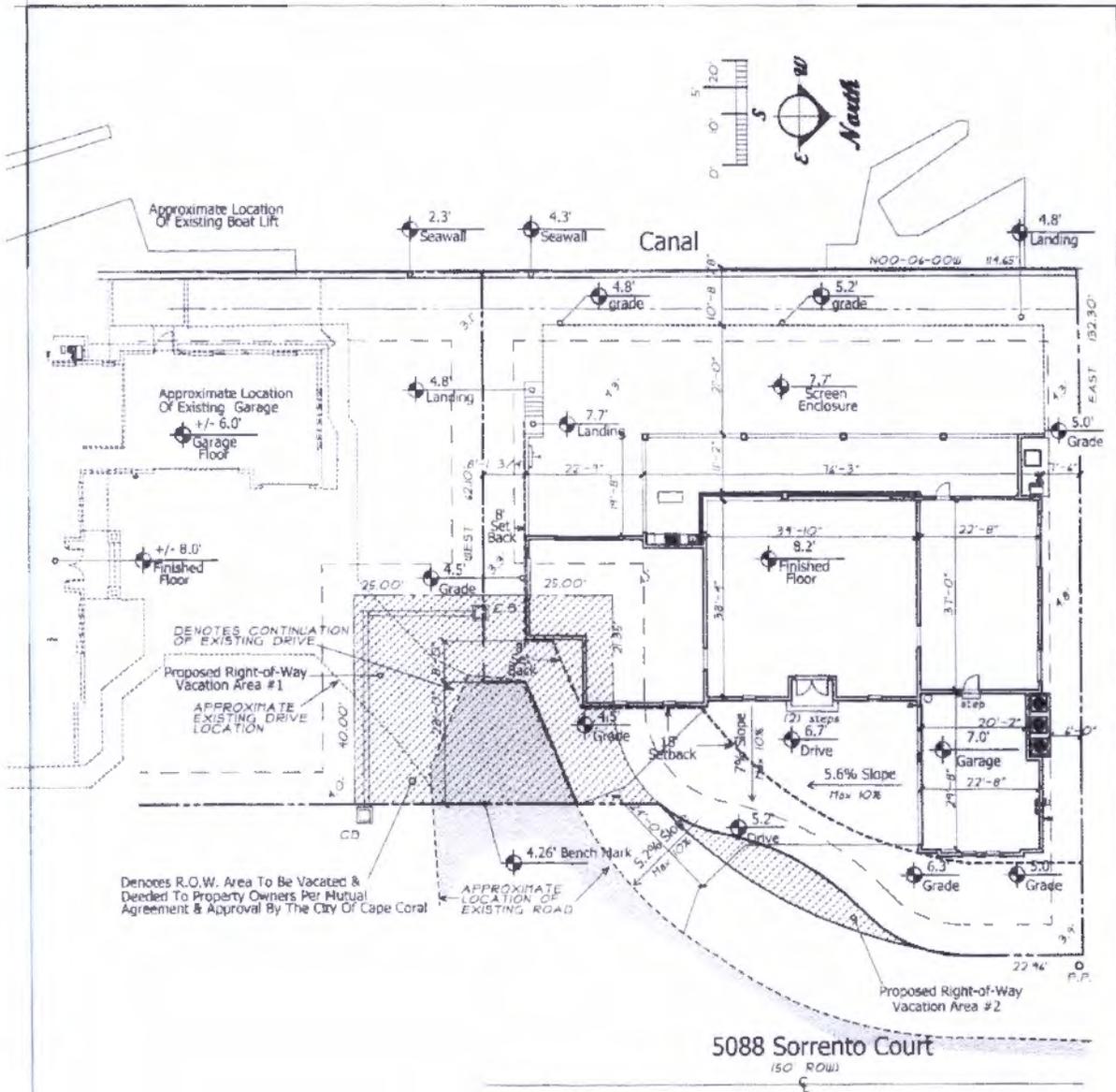
Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at russel.goodman@lcec.net.

Very truly yours,

Russel Goodman,
SR/WA

Digitally signed by Russel Goodman, SR/WA
DN: cn=Russel Goodman, SR/WA, o=Lee
County Electric Co-operative, ou=Design
and Engineering,
email=Russel.Goodman@lcec.net, c=US
Date: 2018.03.06 10:06:23 -05'00'

Russel Goodman, SR/WA
Senior Right of Way Agent



OK
[Signature]
 28th June 2018

SITE PLAN
SP-1
 DRAWN: H.VOLZ DATE: 2-24-18
 Scale: 2-28, 3-7, 3-20, 5-10, 5-11
 5-12, 5-30, 4-12, 4-22, 4-25

cinnamon design 
 1319 Miramar Street, Suite 201 Cape Coral, FL 33904 Ph. 239.5408332
 www.getcinnamon.com
 © COPYRIGHT 2015 CINNAMON DESIGN & DEVELOPMENT, INC.

PROJECT
Vullriede Residence
 5088 SORRENTO COURT, CAPE CORAL
 UNIT: 2 part 2 BLOCK: 101
 LOTS: 36-37 plus quit claim area

Description

Subject Parcel Description: (RW101-V)

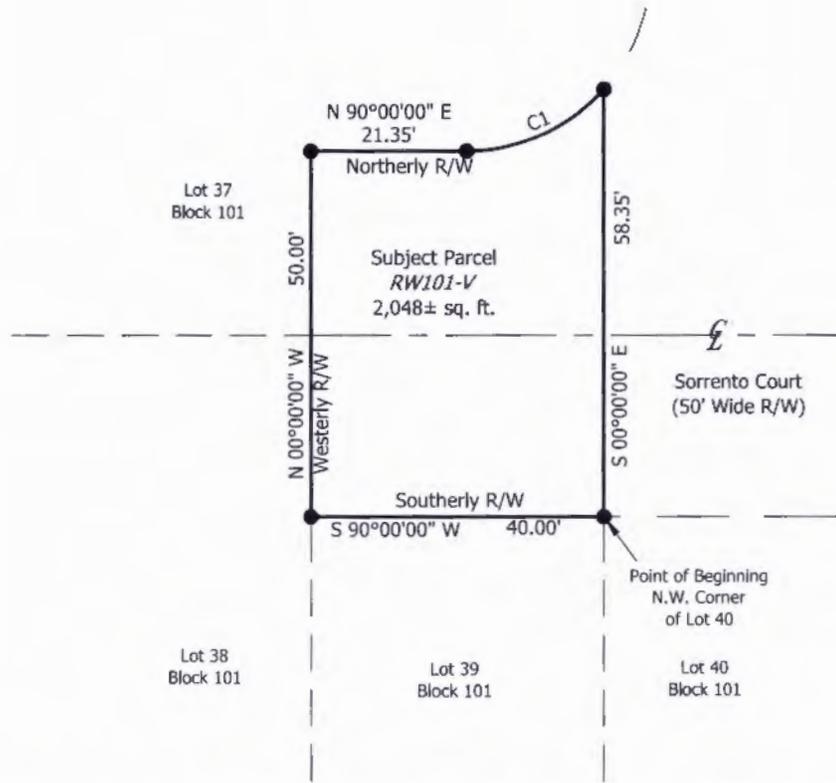
A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the northwest corner of Lot 40, Block 101 run S90°00'00" W along the Southerly Right of Way line of Sorrento Court for a distance of 40.00 feet; Thence leaving said Southerly Right of Way line run N00°00'00"W along the Westerly Right of Way line of said Sorrento Court for a distance of 50.00 feet; Thence leaving said Westerly Right of Way line run N90°00'00"E along the Northerly Right of Way line of said Sorrento Court for a distance of 21.35 feet to the point of curvature of a 25.00 foot radius curve to the left, having a central angle of 48°14'42", a chord bearing and distance of N65°52'39"E and 20.43 feet; Thence run along the arc of said curve for a distance 21.05 feet; Thence leaving said Northerly Right of Way line run S00°00'00"E for a distance of 58.35 feet to the Point of Beginning.

Said Parcel Contains 2,048 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel RW101-V</p> <p><i>A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>				
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER A KING ENGINEERING COMPANY</p> <p>King ENGINEERING ASSOCIATES, INC.</p> <p>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on March 2nd, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">JOB # 18-0972</td> <td>PREPARED FOR: Wilhelm Vullriede</td> </tr> <tr> <td colspan="2" style="text-align: center;">SECTIONS 13, TOWNSHIP 45S, RANGE 23E</td> </tr> </table>	JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede	SECTIONS 13, TOWNSHIP 45S, RANGE 23E			<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>
JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede					
SECTIONS 13, TOWNSHIP 45S, RANGE 23E						

Sketch



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	21.05'	20.43'	N 65°52'39" E	48°14'42"

SURVEY NOTES:

- BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
- MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
- THIS IS NOT A SURVEY**
- ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
- DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
- NOT VALID WITHOUT SHEET 1 OF 2.

Sketch to Accompany Description

Parcel RW101-V
 A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY
King
 ENGINEERING ASSOCIATES, INC.

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

JOB # 18-0972 PREPARED FOR: Wilhelm Vullriede

SECTIONS 13, TOWNSHIP 45S, RANGE 23E

DATE	REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on **March 2nd, 2018** is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 51-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

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

Description

Subject Parcel Description: (P.U.E. 101-V-3)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northwest corner of Lot 40, Block 101 run N00°00'00"E for a distance of 25.00 feet to the originally platted centerline of Sorrento Court; Thence run S90°00'00"W along said originally platted centerline for a distance of 23.00 feet to the Point of Beginning. From said Point of Beginning continue running S90°00'00"W for a distance of 23.00 feet to a Point of Intersection with a line that is parallel with and 6.00 feet perpendicular to the Westerly Right of Way line of said Sorrento Court; Thence run N00°00'00"E along said line parallel with the Westerly Right of Way line for a distance of 31.00 feet to a Point of Intersection with a line that is parallel with and 6.00 feet perpendicular to the Northerly Right of Way line of said Sorrento Court; Thence run N90°00'00"E along said line parallel with the Northerly Right of Way line for a distance 27.35 feet to a Point of Curvature of a 19.00 foot radius curve to the left, having a central angle of 78°59'08", a chord bearing and distance of N50°30'26"E and 24.17 feet; Thence run along an arc that is parallel with and concentric to said Northerly Right of Way line of Sorrento Court for a distance of 26.19 feet; Thence leaving said concentric curve run S00°00'00"E for a distance of 28.32 feet; Thence run S66°23'47"W for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 8.00 feet to the Point of Beginning.

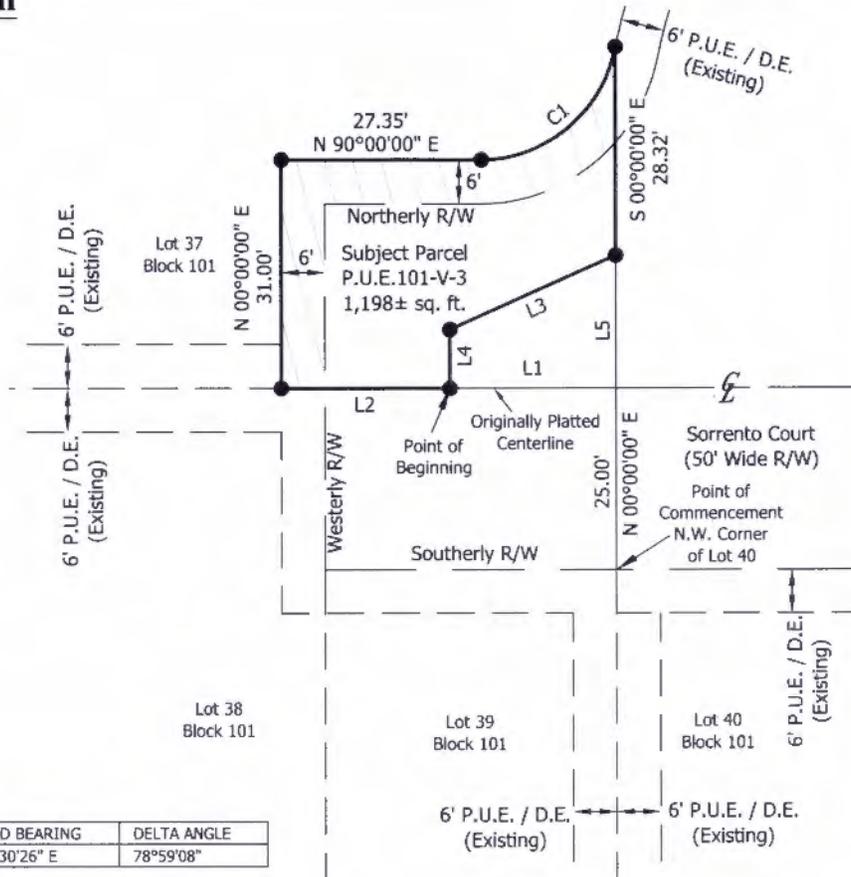
Said Parcel Contains 1,198 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel P.U.E. 101-V-3</p> <p><i>A Portion of Public Utility and Drainage Easement to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>						
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER</p> <p>A KING ENGINEERING COMPANY</p> <p>King</p> <p>ENGINEERING ASSOCIATES, INC.</p> <p>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>						
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">DATE</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">03-28-19</td> <td>Added Hatching of 6' P.U.E. / D.E. (Per Plat)</td> </tr> <tr> <td style="text-align: center;">JOB # 18-0972</td> <td>PREPARED FOR: Wilhelm Vullriede</td> </tr> </tbody> </table>	DATE	REVISION	03-28-19	Added Hatching of 6' P.U.E. / D.E. (Per Plat)	JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede		<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>
DATE	REVISION							
03-28-19	Added Hatching of 6' P.U.E. / D.E. (Per Plat)							
JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede							
SECTIONS 13, TOWNSHIP 45S, RANGE 23E								

Sketch



Portion of "P.U.E. 101-V-3" which represents the 6' P.U.E. / D.E. created via Plat Book 11, Page 96



LINE	BEARING	DISTANCE
L1	S 90°00'00" W	23.00'
L2	S 90°00'00" W	23.00'
L3	S 66°23'47" W	25.10'
L4	S 00°00'00" E	8.00'
L5	S 00°00'00" E	18.05'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	19.00'	26.19'	24.17'	N 50°30'26" E	78°59'08"

SURVEY NOTES:

1. BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
6. NOT VALID WITHOUT SHEET 1 OF 2.

Legend:

- P.U.E. - Public Utility Easement
- D.E. - Drainage Easement
- R/W - Right of Way

Sketch to Accompany Description

Parcel P.U.E. 101-V-3

A Portion of Public Utility and Drainage Easement to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
A KING ENGINEERING COMPANY

King
ENGINEERING ASSOCIATES, INC.

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

JOB # 18-0972	PREPARED FOR: Wilhelm Vullreide
SECTIONS 13, TOWNSHIP 45S, RANGE 23E	
DATE	REVISION
03-28-19	Added Hatching of 6' P.U.E. / D.E. (Per Plat)

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on **August 1st, 2018** is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 53-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

DAVID KEITH CRAMER (FOR THE FIRM)
FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6653
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Description

Subject Parcel Description: (101-N-3)

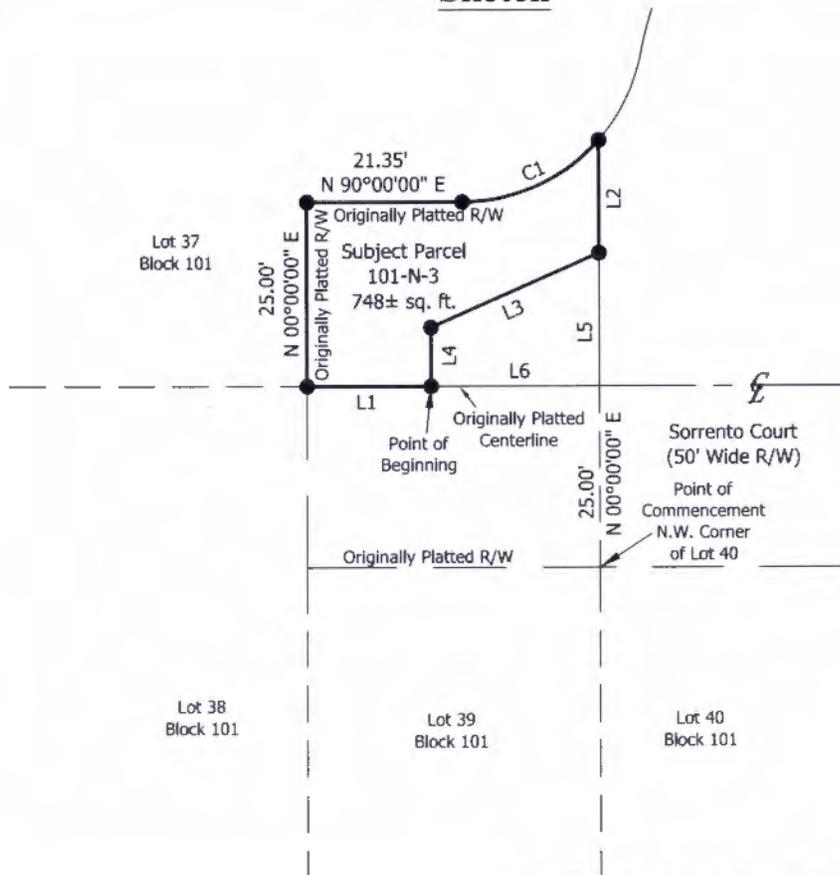
A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northwest corner of Lot 40, Block 101 run N00°00'00"E along an extension line of said Lot 40 for a distance of 25.00 feet to an intersection with the originally platted centerline of Sorrento Court; Thence run S90°00'00"W along said originally platted centerline for a distance of 23.00 feet to the Point of Beginning. From said Point of Beginning continue running S90°00'00"W along said originally platted centerline for a distance of 17.00 feet to the originally platted Right of Way line of said Sorrento Court; Thence leaving said originally platted centerline run the following three (3) course along the originally platted Right of Way line of said Sorrento Court: Run N00°00'00"E for a distance of 25.00 feet. Run N90°00'00"E for a distance of 21.35 feet to the Point of Curvature of a 25.00 foot radius curve to the left, having a delta angle of 48°14'42", a chord bearing and distance of N65°52'39"E and 20.43 feet. Run along the arc of said curve for 21.05 feet. Thence leaving said originally platted Right of Way line run S00°00'00"E for a distance of 15.30 feet; Thence run S66°23'47"W for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 8.00 feet to the Point of Beginning.

Said Parcel Contains 748 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel 101-N-3</p> <p><i>A Parcel of Land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER A KING ENGINEERING COMPANY</p> <p>King ENGINEERING ASSOCIATES, INC.</p> <p><small>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</small></p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter SJ-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>
<p>JOB # 18-0972 PREPARED FOR: Wilhelm Vullriede</p> <p>SECTIONS 13, TOWNSHIP 45S, RANGE 23E</p>		<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>

Sketch



LINE	BEARING	DISTANCE
L1	S 90°00'00" W	17.00'
L2	S 00°00'00" E	15.30'
L3	S 66°23'47" W	25.10'
L4	S 00°00'00" E	8.00'
L5	S 00°00'00" E	18.05'
L6	S 90°00'00" W	23.00'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	21.05'	20.43'	N 65°52'39" E	48°14'42"

SURVEY NOTES:

1. BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
6. NOT VALID WITHOUT SHEET 1 OF 2.

Sketch to Accompany Description

Parcel 101-N-3
A Parcel of Land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY
King
 ENGINEERING ASSOCIATES, INC.

CERTIFICATE OF AUTHORIZATION: LB2616
 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991
 Phone: (239) 673-9541 Fax: (239) 424-8181
 www.kingengineering.com

JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede
SECTIONS 13, TOWNSHIP 45S, RANGE 23E	
DATE	REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on **August 1st, 2018** is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

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

Description

Subject Parcel Description: (101-S-3)

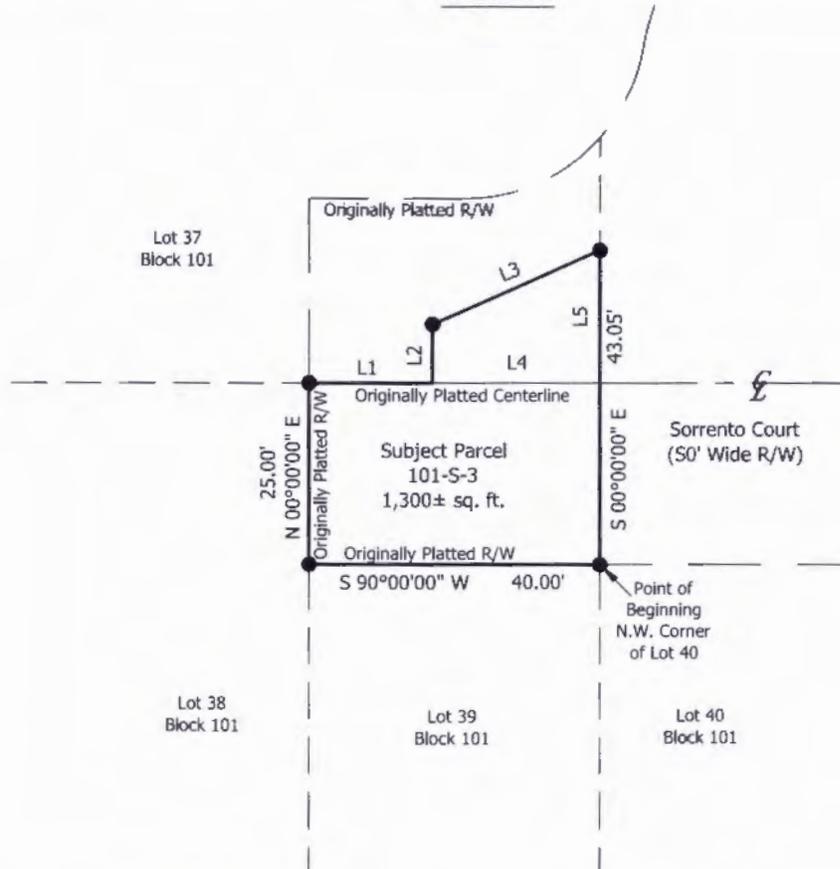
A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the northwest corner of Lot 40 Block 101, run the following two (2) courses along the originally platted Right of Way line of Sorrento Court: Run S90°00'00"W for a distance of 40.00 feet. Run N00°00'00"E for a distance of 25.00 feet to an intersection with the originally platted centerline of Sorrento Court. Thence leaving said originally platted Right of Way line run N90°00'00"E along said originally platted centerline for a distance of 17.00 feet; Thence leaving said originally platted centerline run N00°00'00"E for a distance of 8.00 feet; Thence run N66°23'47"E for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 43.05 feet to the Point of Beginning.

Said Parcel Contains 1,300 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel 101-S-3</p> <p><i>A Parcel of Land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER A KING ENGINEERING COMPANY</p> <p>King ENGINEERING ASSOCIATES, INC.</p> <p><small>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</small></p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on August 1st, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>
<p>JOB # 18-0972 PREPARED FOR: Wilhelm Vullriede</p> <p>SECTIONS 13, TOWNSHIP 45S, RANGE 23E</p>		<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>

Sketch



LINE	BEARING	DISTANCE
L1	N 90°00'00" E	17.00'
L2	N 00°00'00" E	8.00'
L3	N 66°23'47" E	25.10'
L4	S 90°00'00" E	23.00'
L5	S 00°00'00" E	18.05'

Sketch to Accompany Description

Parcel 101-S-3
 A Parcel of Land lying in Unit 2, Part 2,
 (AMENDED) Cape Coral Subdivision, According to
 Plat Book 11, Page 96 Through 98 of the Public
 Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY
King
 ENGINEERING ASSOCIATES, INC.

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

JOB # 18-0972 PREPARED FOR: Wilhelm Vullreide

SECTIONS 13, TOWNSHIP 45S, RANGE 23E

DATE REVISION

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

See Sheet 1 of 2 for Signature and Seal

DAVID KEITH CRAMER (FOR THE FIRM)
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 9655
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL
 OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SURVEY NOTES:

1. BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
6. NOT VALID WITHOUT SHEET 1 OF 2.

Description

Subject Parcel Description: (RW101-V-2)

A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northeast corner of Lot 36, Block 101 run S00°00'00"E along the Westerly Right of Way line of Sorrento Court for a distance of 22.95 feet to the Point of Beginning, also being the Point of Curvature of a 72.00 foot radius curve to the right, having a chord bearing and distance of S27°09'26"W and 65.73 feet and a central angle of 54°18'53". From said Point of Beginning, run along the arc of said curve for a distance 68.25 feet; Thence run N00°00'00"E for a distance of 0.13 feet to the originally platted Northerly Right of Way line of said Sorrento Court, also being a non-tangent Point of Curvature of a 25.00 foot radius curve to the left, to which a radial line bears S48°14'42"E, having a chord bearing and distance of N26°20'08"E and 13.29 feet, and a central angle of 30°50'20"; Thence run along the arc of said curve for a distance of 13.46 feet to a Point of Reverse Curvature of a 50.00 foot radius curve to the right, having a chord bearing and distance of N29°33'10"E and 31.96 feet, and a central angle of 37°16'25"; Thence run along said originally platted Northerly Right of Way line and the arc of said curve for a distance of 32.53 feet to a Point of Reverse Curvature of a 25.00 foot radius curve to the left, having a chord bearing and distance of N24°05'41"E and 20.41 feet, and a central angle of 48°11'23"; Thence run along said originally platted Northerly Right of Way line and the arc of said curve for a distance of 21.03 feet to the Point of Beginning.

Said Parcel Contains 348 sq ft. (more or less)

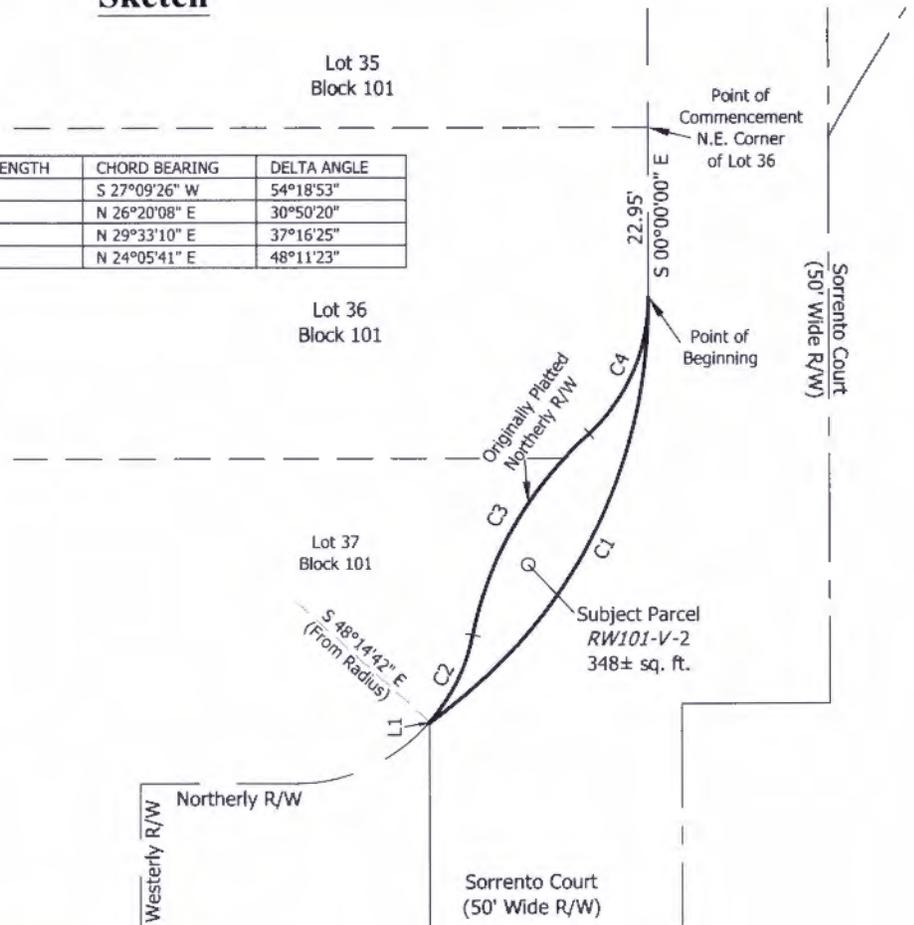
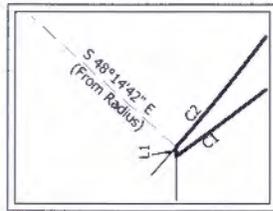
DATE	REVISION
01-09-19	Added Call to Point of Beginning (City Comment)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel RW101-V-2</p> <p><i>A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER A KING ENGINEERING COMPANY</p> <p>King ENGINEERING ASSOCIATES, INC.</p> <p><small>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</small></p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on May 24th, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>
JOB # 18-0972	PREPARED FOR: Wilhelm Vullriede .	<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO.6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>
SECTIONS 13, TOWNSHIP 45S, RANGE 23E		

Sketch

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	72.00'	68.25'	65.73'	S 27°09'26" W	54°18'53"
C2	25.00'	13.46'	13.29'	N 26°20'08" E	30°50'20"
C3	50.00'	32.53'	31.96'	N 29°33'10" E	37°16'25"
C4	25.00'	21.03'	20.41'	N 24°05'41" E	48°11'23"

LINE	BEARING	DISTANCE
L1	N 00°00'00" E	0.13'



Sketch to Accompany Description
Parcel RW101-V-2
 A Portion of Right of Way to be Vacated lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY
King
 ENGINEERING ASSOCIATES, INC.

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

JOB # 18-0972	PREPARED FOR: Wilhelm Vulltriede
SECTIONS 13, TOWNSHIP 45S, RANGE 23E	
DATE	REVISION
01-09-19	Added Call to Point of Beginning (City Comment)

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented herein, made under my direction on **May 24th, 2018** is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 51-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

DAVID KEITH CRAMER (FOR THE FIRM)
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6653
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

- SURVEY NOTES:**
1. BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
 2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
 3. **THIS IS NOT A SURVEY**
 4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
 5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
 6. NOT VALID WITHOUT SHEET 1 OF 2.

Description

Subject Parcel Description: (P.U.E. 101-N-4)

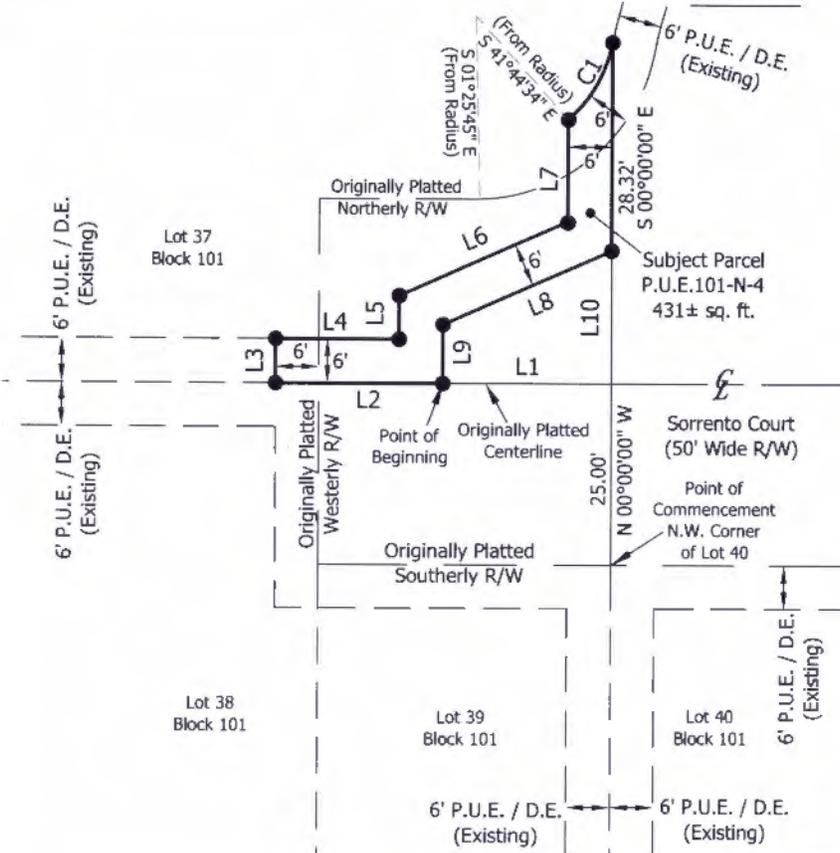
A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, Lying in Section 13, Township 45 South, Range 23 East, as Recorded in Plat Book 11, Page 96 through 98 of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the northwest corner of Lot 40, Block 101 run N00°00'00"W along an extension line of said Lot 40 for a distance of 25.00 feet to the originally platted centerline of Sorrento Court; Thence run S90°00'00"W along said originally platted centerline for a distance of 23.00 feet to the Point of Beginning. From said Point of Beginning continue running S90°00'00"W for a distance of 23.00 feet to an intersection with a line that is parallel with, and 6.00 feet perpendicular to the originally platted Westerly Right of Way line of said Sorrento Court; Thence run N00°00'00"W along said line parallel with originally platted Westerly Right of Way line for a distance of 6.00 feet to an intersection with a line that is parallel with, and 6.00 feet perpendicular to said originally platted centerline; Thence leaving said line parallel with the originally platted Westerly Right of Way line run N90°00'00"E along said line parallel with the originally platted centerline for a distance of 17.00 feet; Thence leaving said line parallel with the originally platted centerline run N00°00'00"W for a distance of 5.93 feet; Thence run N66°23'47"E for a distance of 25.10 feet; Thence run N00°00'00"W for a distance of 13.85 feet to a non-tangent point of curvature of a 19.00 foot radius curve to the left, to which a radial line bears S41°44'34"E, said curve having a central angle of 37°14'33", a chord bearing and distance of N29°38'09"E and 12.13 feet; Thence run along the arc of said curve for a distance of 12.35 feet; Thence run S00°00'00"E for a distance of 28.32 feet; Thence run S66°23'47"W for a distance of 25.10 feet; Thence run S00°00'00"E for a distance of 8.00 feet to the Point of Beginning.

Said Parcel Contains 431 sq ft. (more or less)

THIS IS NOT A SURVEY	<p>Description to Accompany Sketch</p> <p>Parcel P.U.E. 101-N-4</p> <p><i>A Parcel of land lying in Unit 2, Part 2, (AMENDED) Cape Coral Subdivision, According to Plat Book 11, Page 96 Through 98 of the Public Records of Lee County, Florida.</i></p>	<i>Not Valid without Sheet 2 of 2</i>
<i>Sheet 1 of 2</i>	<p>STOUTENCRAMER</p> <p>A KING ENGINEERING COMPANY</p> <p>King</p> <p>ENGINEERING ASSOCIATES, INC.</p> <p>CERTIFICATE OF AUTHORIZATION: LB2610 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181 www.kingengineering.com</p>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on March 27th, 2019 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p>
<p>JOB # 18-0972 PREPARED FOR: Wilhelm Vullriede</p> <p>SECTIONS 13, TOWNSHIP 45S, RANGE 23E</p>		<p>DAVID KEITH CRAMER (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6655 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>

Sketch



LINE	BEARING	DISTANCE
L1	S 90°00'00" W	23.00'
L2	S 90°00'00" W	23.00'
L3	N 00°00'00" W	6.00'
L4	N 90°00'00" E	17.00'
L5	N 00°00'00" W	5.93'
L6	N 66°23'47" E	25.10'
L7	N 00°00'00" W	13.85'
L8	S 66°23'47" W	25.10'
L9	S 00°00'00" E	8.00'
L10	S 00°00'00" E	18.05'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	19.00'	12.35'	12.13'	N 29°38'09" E	37°14'33"

SURVEY NOTES:

1. BEARINGS ARE BASED ON SOUTHERLY RIGHT OF WAY LINE OF SORRENTO COURT, BEING S90°00'00"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2019, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
6. NOT VALID WITHOUT SHEET 1 OF 2.

Sketch to Accompany Description

Parcel P.U.E. 101-N-4
 A Parcel of land lying in Unit 2, Part 2, (AMENDED)
 Cape Coral Subdivision, According to Plat Book 11,
 Page 96 Through 98 of the Public Records of Lee
 County, Florida.



THIS IS NOT A SURVEY

STOUTENCRAMER
 A KING ENGINEERING COMPANY



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

JOB # 18-0972 PREPARED FOR: Wilhelm Vualliede

SECTIONS 13, TOWNSHIP 45S, RANGE 23E

DATE	REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on **March 27th, 2019** is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5A-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

DAVID KEITH CRAMER (FOR THE FIRM)
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 8655
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL
 OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Review Date: April 23, 2019 (REVISED July 10, 2019 to eliminate an inconsistency appearing on page 4 of the report.)

Property Owners: Wilhelm Vullriede Jerome and Catherine Lievre

Property Locations: 5088 Sorrento Court 5095 Sorrento Court
Cape Coral, FL 33904 Cape Coral, FL 33904
Cape Coral, Unit 2, Part 2, Cape Coral, Unit 2, Part 2,
Block 101, Lots 36-37 Block 101, Lots 38-39
Strap No. 13-45-23-C4-00101.0360 13-45-23-C4-00101.0380

Authorized Representative Scott J. Hertz, Esq.

Request: The following vacations are requested:
1. 2,048 sq. ft. of Sorrento Court right-of-way (ROW) and 748 sq. ft. of underlying easements between Lots 37 and 39, Block 101.
2. 450 sq. ft. of platted easements along the east property line of Lot 37, Block 101.
3. 348 sq. ft. of ROW along the east property lines of Lots 36 and 37, Block 101.

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

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

Recommendation: **Approval of all three requested vacations with conditions**

Urban Service Infill

Site Visit: February 19, 2019

Property Description:

Wilhelm Vullriede, one of the applicants in this case, and the lead petitioner, owns a ±12,235-sq. ft. site near the southern terminus of Sorrento Court in southern Cape Coral. The rear of the site has water frontage along the San Carlos Canal that has a platted width of 200 feet. The site has a Single Family Future Land Use Classification (FLUC) and Single Family Residential (R-1B) Zoning, and all properties within 2,000 feet of the site share the same future land use and zoning classifications.

In 2018 a single-family residence was demolished on the site. In meetings with City staff, Mr. Vullriede has stated the vacations are sought to provide greater flexibility in constructing a new single-family residence on the property. Permits and entitlements recently obtained by Mr. Vullriede for this site are summarized in Table 1.

Table 1. Recent permitting activity associated with 5088 Sorrento Court.

Type of Permit or Case	Number	Date of Issuance or Approval
House and pool demo	WEB18-02668	February 14, 2018
Replace 115 ft. of seawall	WEB18-03536	April 19, 2018
Cul-de-sac variance	CDS18-0004	September 20, 2018
Boat dock and lift	B18-32514	December 14, 2018
Boat canopy	WEB19-0374	February 28, 2019

Requested Vacations

Mr. Vullriede and Mr. and Mrs. Lievre request vacating 2,048 sq. ft. of Sorrento Court ROW and 748 sq. ft. of underlying easements between Lots 37 and 39, Block 101. This area is identified as Vacation Area #1 in Figure 1. In addition, Mr. Vullriede requests vacating 450 sq. ft. of platted easements associated with the east property line of Lot 37 (Area #2). Lastly, Mr. Vullriede requests vacating 348 sq. ft. of Sorrento Court ROW along the east property line of his site at 5088 Sorrento Court (Area #3).

Figure 1. Aerial map showing the general location of the three requested vacations. Note: depicted areas are not drawn to scale.



Zoning History

Both 5088 and 5095 Sorrento Court have had a Single Family FLUC and R-1B Zoning since the adoption of the City Comprehensive Plan in 1989.

Analysis:

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

Request #1: Vacate ROW and Underlying Easements Between Lots 37 and 39, Block 101

The applicants, Wilhelm Vullriede and Jerome and Catherine Lievre, request vacating 2,048 sq. ft. of platted ROW and 748 sq. ft. of underlying easements between Lots 37 and 39. The applicants are eligible to seek these vacations as the petitioners have color of title to the land adjacent to the subject ROW and easements.

This request was prompted by Mr. Vullriede who is redeveloping the site at 5088 Sorrento Court with a new single-family residence. While the ROW vacation will enlarge both sites, the request will particularly benefit Mr. Vullriede by providing greater setback flexibility for a new dwelling as building setbacks will be measured from the "new" property lines following the vacation.

The ROW is at the end of Sorrento Court, a dead-end street, is not needed beyond providing access to several sites at the end of this street. The request will not negatively affect emergency management vehicles or service providers at these locations. The vacation has the potential to limit the use of the existing driveway at 5095 Sorrento Court. To address this concern, the owners have agreed to a split of the vacated ROW area that will not negatively affect the existing driveway to this site.

The applicants also request vacating 748 sq. ft. of easements underlying the northern half of this ROW. Century Link, Comcast, and LCEC lack facilities in these easements and do not object to this request. The City has a catch basin in this easement that conveys runoff through a pipe westward that discharges into the San Carlos Canal. The City recommends that the catch basin be relocated to an existing easement, and the drainage pipe either be extended or relocated in its entirety to connect to the catch basin for providing stormwater drainage for the area. All expenses associated with relocating these drainage facilities shall be borne by Mr. Vullriede.

Recommendation: Approval with conditions.

Request #2: Vacated Platted Easements Associated with the East Property Line of Lot 37, Block 101

Mr. Vullriede requests vacating 450 sq. ft. of platted easements along the east property line of Lot 37. Mr. Vullriede owns Lot 37 where this easement exists and is therefore eligible to request this vacation. If the ROW vacation involving Sorrento Court (Vacation #1) is approved, this easement will no longer occupy the perimeter of the newly expanded site. New replacement easements granted by Mr. Vullriede to the City will ensure the expanded site will have a continuous perimeter easement.

Century Link, Comcast, and LCEC lack facilities in these easements and do not object to this request. Staff recommends approval of this request provided the applicant provide new easements sufficient for maintaining a six-foot wide perimeter easement.

Recommendation: Approval with conditions.

Request #3: Vacate ROW Along the East Property Lines of Lots 36 and 37, Block 101

Mr. Vullriede requests vacating 348 sq. ft. of Sorrento Court ROW adjacent to two lots that he owns, Lots 36 and 37. This ROW is oblong and has a grass surface and is to the west of the paved street.

The vacation will provide the applicant with greater setback flexibility in redeveloping the site at 5088 Sorrento Court with a new single-family residence. All underlying public utility and drainage easements will be retained by the City. Letters of no objection have been provided by Century Link, Comcast, and LCEC.

Public Works has reviewed this request has determined that this ROW may be needed in the future should a redesign of this end of Sorrento Court be necessary to convert this street into a wider, fully functioning cul-de-sac. Staff believes this concern can be addressed, however, with the owner providing the City with a ROW easement for the vacated area. This easement will allow the City to add pavement or make other improvements in this area if deemed necessary in the future.

Recommendation: Approval with conditions.

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 has R-1B Zoning that is consistent with the Single Family FLUC. The area of the Vullriede site is 12,235 and coupled with an additional 748 sq. ft. that is anticipated to be gained as a result of the ROW vacation associated with Request #1, the new area will be 12,983. This area once redeveloped with a single-family home will equate to a density of 3.36 dwelling units per acre, less than the maximum of 4.4 dwelling units per acre allowed in the Single Family FLUC.

Recommendations:

Staff recommends **approval** of all three vacations with the following conditions.

Conditions of Approval

1. The vacation of the 2,048 sq. ft. of ROW and 748 sq. ft. of underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "*Parcel RW 101-V*", dated March 2, 2018, and "*Parcel P.U.E. 101-V-3*", dated March 28, 2019, respectively.
2. The vacation of the 450 sq. ft. of platted easements occupying Lot 37 shall be consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "*Parcel P.U.E. 101-V-3*", dated March 28, 2019.
3. Within 90 days from the date of adoption of this vacation, the owners of 5088 and 5095 Sorrento Court shall provide to the City easement deeds sufficient for providing a six-foot wide perimeter easement around each expanded site. The deeds shall be reviewed and determined to be sufficient by Public Works and the City Property Broker prior to acceptance and execution.
4. Within 90 days from the date of adoption of this vacation, the applicants shall record deeds splitting the two affected properties consistent with that shown in the sketches and accompanying legal descriptions prepared by Stouten Cramer entitled "*Parcel 101-N-3*" and "*Parcel 101-S-3*" both dated Augusts 1, 2018. No new building permits for either 5088 or 5095 Sorrento Court shall be issued without proof that this condition has been met to the satisfaction of the City.
5. Within 90 days from the date of adoption of this vacation, the owner of 5088 Sorrento Court shall provide to the City an easement deed for ROW maintenance, drainage, and utility purposes for the 348 sq. ft. area shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "*RW 101-V-2*" dated January 9, 2019. The deed shall be reviewed and determined to be sufficient by Public Works and the City Property Broker prior to acceptance and execution.
6. Prior to the issuance of a certificate of occupancy (CO) for 5088 Sorrento Court, the owner shall modify or replace the existing stormwater conveyance system beginning at the adjacent property to the north at 5084 Sorrento Court as deemed necessary by the City to properly convey stormwater in this collection area to the adjacent canal system. These stormwater improvements shall be inspected by the City prior to the issuance of a CO.
7. Prior to the issuance of a CO for 5088 Sorrento Court, the owner shall design the foundation of the single-family home to demonstrate proper protection from water intrusion and erosion. Such a design may include, at the sole discretion of the City, the moving or replacing of the existing stormwater pipe along Lots 37 and 38 or removing or sealing the pipe and installing a swale for stormwater conveyance. At the sole discretion of the City, the applicant shall grant all necessary easements for any new or modified stormwater system if required. All aforementioned improvements shall be inspected by the City prior to the issuance of a CO.

8. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. The owners shall reimburse the City for all recording fees associated with this resolution and all easement deeds.

Staff Contact Information

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

PH: 239-242-3255/Email: mstruve@capecoral.net



500' NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VP18-0008

REQUEST: The applicants, Wilhem Vullriede and Jerome and Catherine Lievre, request the following: a vacation of plat for a portion of Sorrento Court right-of-way and underlying public utility and drainage easements located adjacent to Lots 37, 38, and 39, Block 101, Unit 2, Part 2, Cape Coral Subdivision; a vacation of plat for public utility and drainage easements associated with Lot 37, Block 101, Unit 2, Part 2, Cape Coral Subdivision, and a vacation of plat for a portion of Sorrento Court right-of-way located adjacent to Lots 36 and 37, Block 101, Unit 2, Part 2, Cape Coral Subdivision; properties located at 5088 and 5095 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 Tuesday, May 7, 2019 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

After Hearing Examiner has made a written recommendation, the case 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. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

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

APPEALS: If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that,

for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



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

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0003520348

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$363.62

Run Times: 1

No. of Affidavits: 1

Run Dates: 04/27/19

Text of Ad:

NOTICE OF PUBLIC HEARING
ADVERTISEMENT

CASE NUMBER: VP18-0008

REQUEST: The applicants, Wilhelm Vullriede and Jerome and Catherine Lievre, request the following: a vacation of plat for a portion of Sorrento Court right-of-way and underlying public utility and drainage easements located adjacent to Lots 37, 38, and 39, Block 101, Unit 2, Part 2, Cape Coral Subdivision; a vacation of plat for public utility and drainage easements associated with Lot 37, Block 101, Unit 2, Part 2, Cape Coral Subdivision, and a vacation of plat for a portion of Sorrento Court right-of-way located adjacent to Lots 36 and 37, Block 101, Unit 2, Part 2, Cape Coral Subdivision; properties located at 5088 and 5095 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 Tuesday, May 7, 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 A.M. and 4:30 P.M.

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

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park

Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

By Order Of
Kimberly Bruns, CMC
Interim City Clerk
REF # VP18-0008
AD#3520348, April 27, 2019

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Wilhelm Vullriede

APPLICATION NO: VP18-0008

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 29th day of April, 2019.

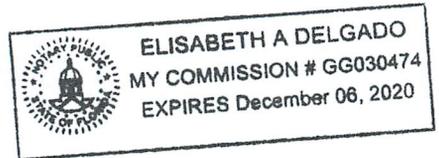


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29th day of April, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

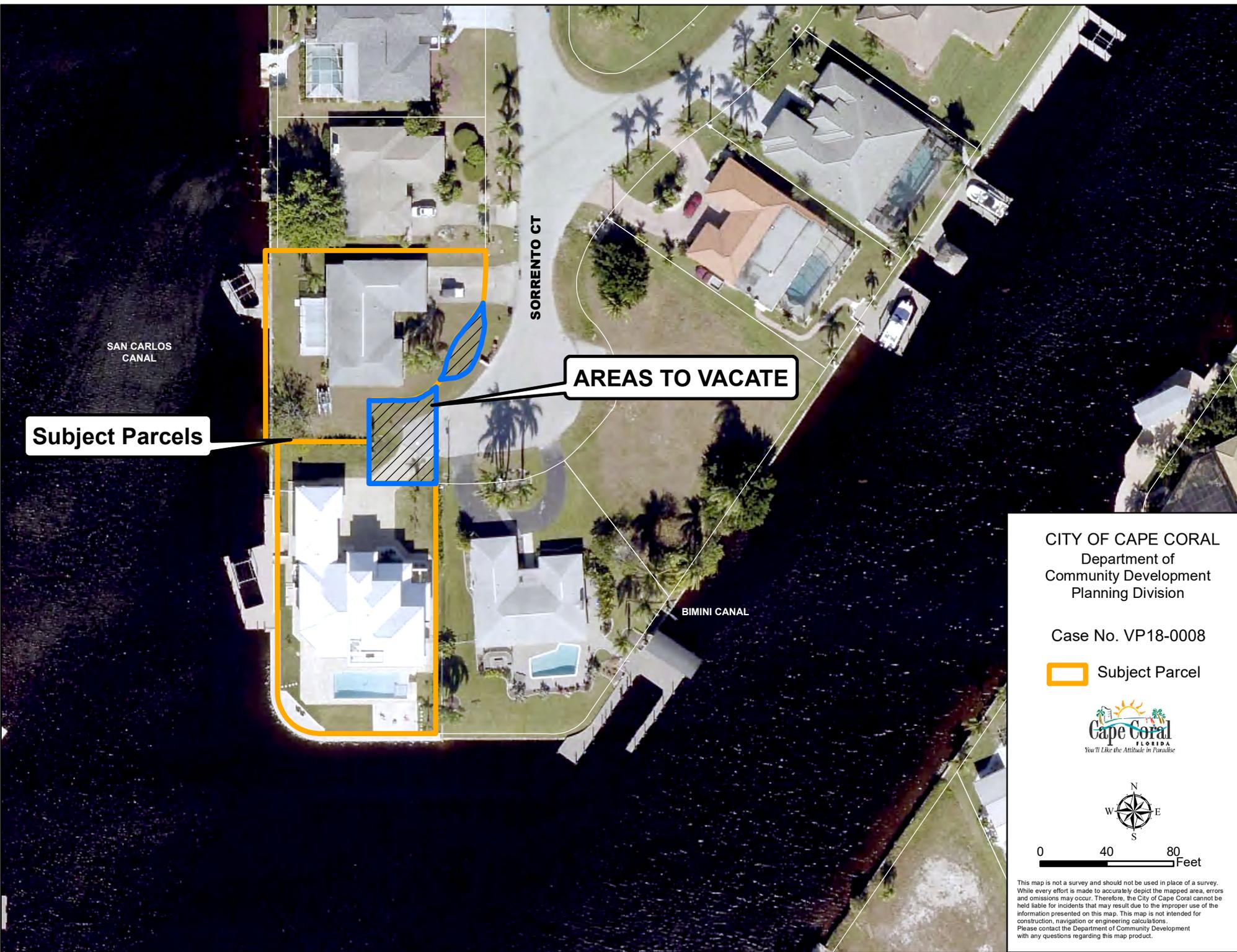
Exp. Date 12/16/20 Commission # 65030474





Signature of Notary Public
Elisabeth A. Delgado

Print Name of Notary Public



SAN CARLOS CANAL

SORRENTO CT

BIMINI CANAL

Subject Parcels

AREAS TO VACATE

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. VP18-0008

 Subject Parcel



0 40 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.

RESOLUTION 143-19
VP18-0008

Cape Coral City Council Meeting
Final Public Hearing

July 29, 2019

VP18-0008

Applicants: Wilhelm Vullriede & Jerome & Catherine Lievre

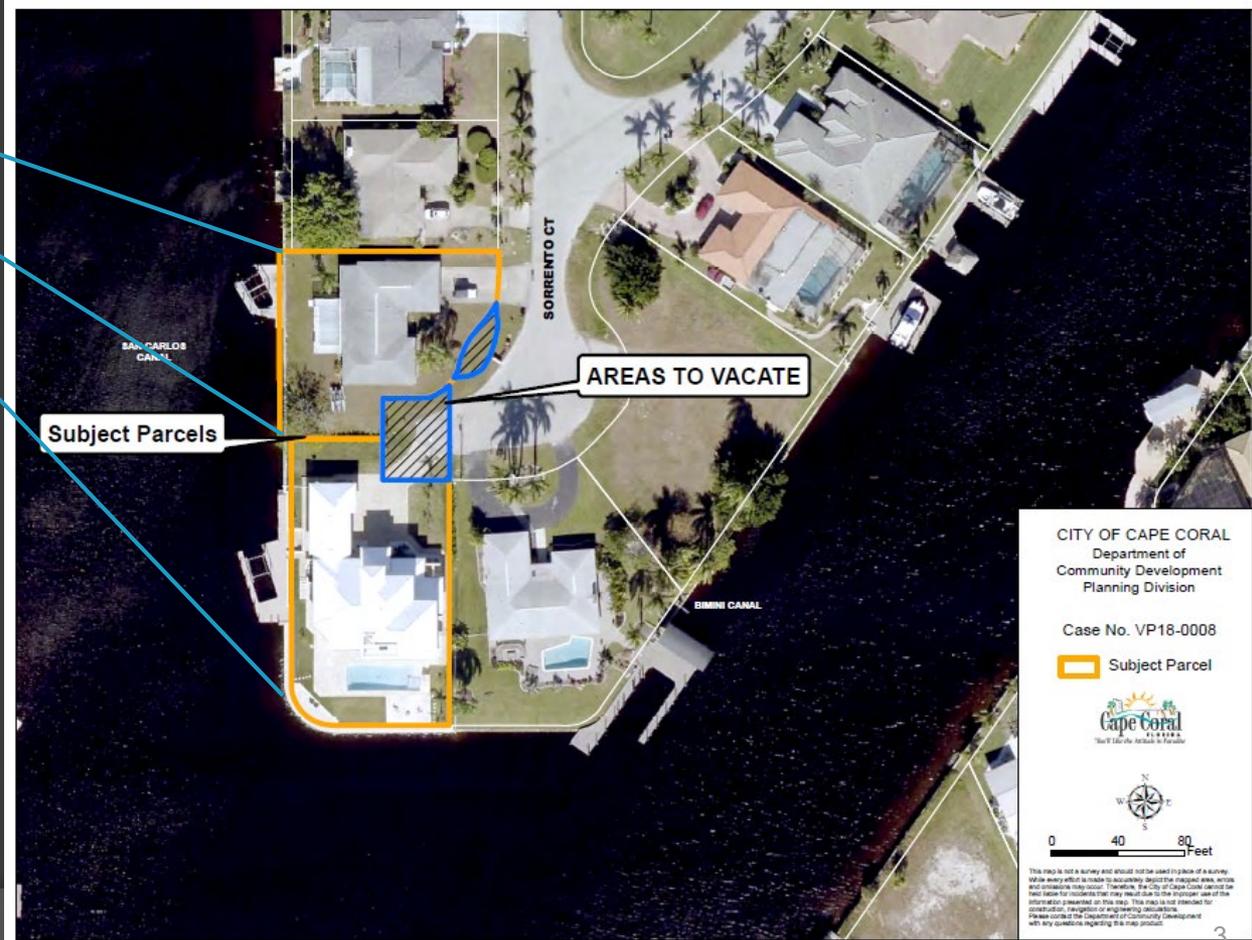
Requests: 1. Vacate 2,048 sq. ft. of Sorrento Court ROW and 748 sq. ft. of underlying easements between Lots 37-39, Block 101.

2. Vacate 450 sq. ft. of easements in Lot 37.

3. Vacate 348 sq. ft. of Sorrento Court ROW along Lots 36-37.

Location: 5088 and 5095 Sorrento Court

VP18-0008



CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. VP18-0008

 Subject Parcel



0 40 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 purposes. 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 #: VP18-0008

LEGEND

-  Subject Parcels
-  500' Boundary
-  R-1B



APRIL 16, 2019



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.



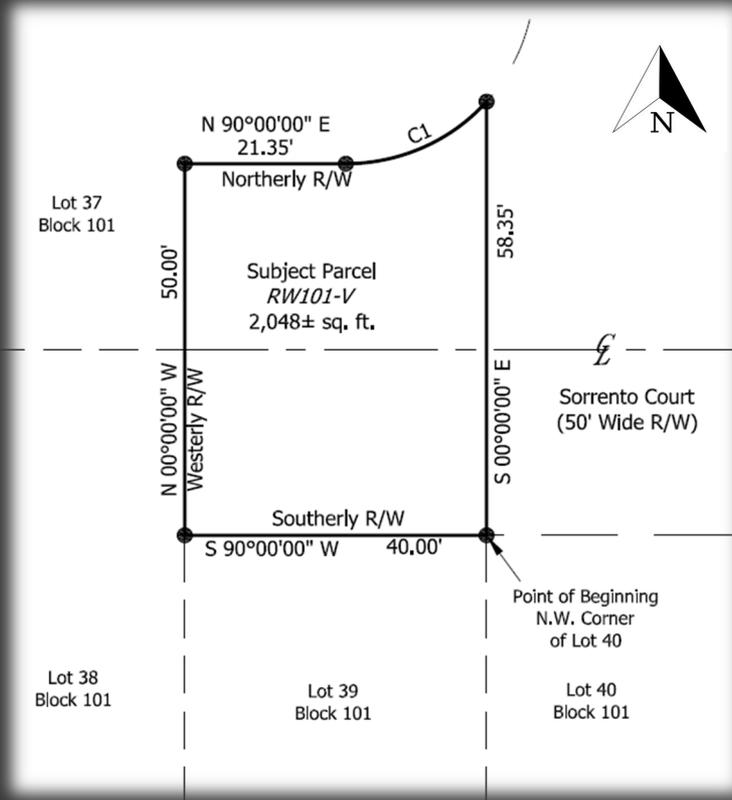
Background

- ⦿ **Two applicants – Vullriede and Lievre.**
- ⦿ **Lead petitioner is Vullriede.**
- ⦿ **Vullriede seeks to enlarge his site and gain setback flexibility for a new single-family residence.**

Aerial of Site

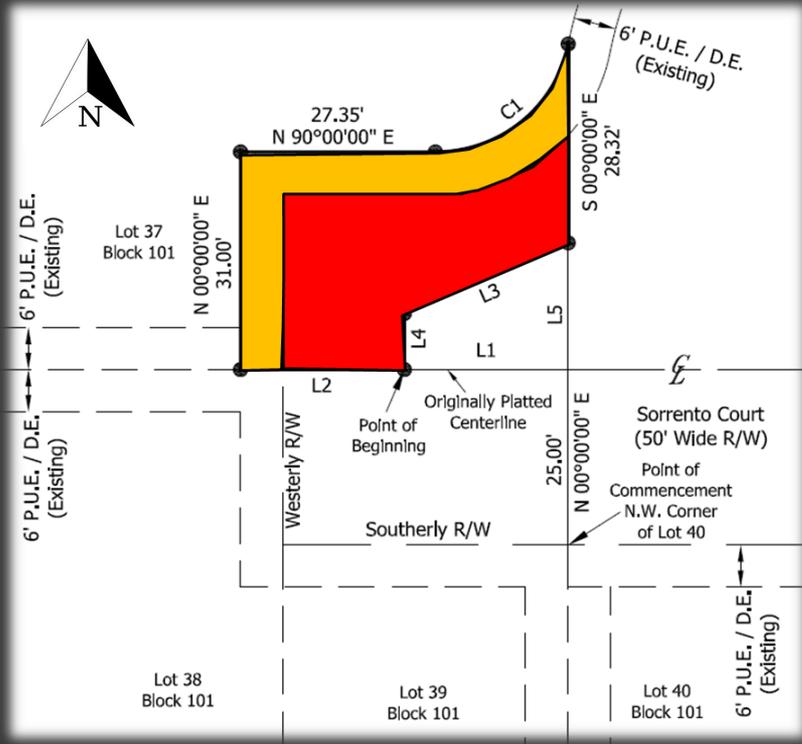


#1. Request to Vacate Platted ROW



- ROW area is 2,048 sq. ft.
- The applicants own the sites abutting the ROW.
- The ROW will not negatively affect EM vehicles or service providers at either location.
- The property gained thru the vacation will be split so access to the Lievre site is not affected.

#2. Request to Vacate Underlying & Adjacent Easements

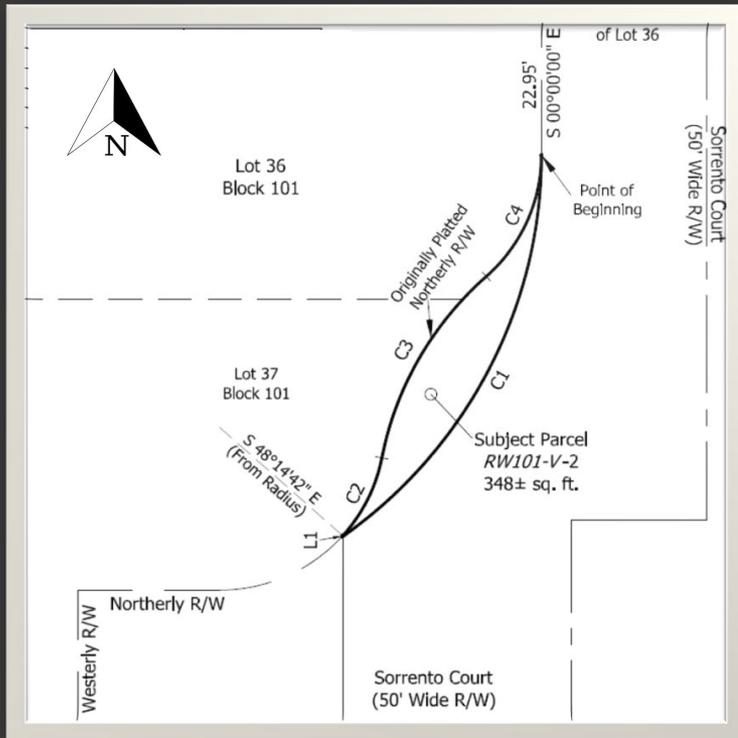


- Easement area equals 1,198 sq. ft.
- A catch basin will be relocated at developer's (Vullriede) expense.
- Century Link, Comcast, and LCEC lack facilities in all easements.
- New easements will be deeded so both sites will have a continuous perimeter easement.

Platted easements

Easements underlying Sorrento Ct. ROW

#3. Request to Vacate Sorrento Court ROW



- ROW area is 348 sq. ft.
- Vullriede owns the site abutting the ROW.
- The ROW is not needed for access.
- Underlying easements will remain.
- Vullriede will provide a ROW easement to the City should improvements in this area be required in the future.

Recommendations

Planning Division

Staff recommends approval.

Hearing Examiner

A public hearing was held on May 7. The Hearing Examiner recommends approval with staff conditions. No speakers at public input.

Correspondence

None

Item Number:	B.(3)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Resolution 244-19 Set First Public Hearing Date for July 29, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The City anticipates receiving \$1,009,644 in Community Development Block Grant funds for the fiscal year 2019-2020 and \$200,000 in carryover funding from previous years. The City must submit an annual Action Plan to the US Department of Housing and Urban Development by August 15, 2019. The Action Plan outlines the City's funding priorities and allocates funds to local not-for-profit agencies and City Departments. The resolution adopts the Action Plan and Regional Analysis of Impediments, directs the City Manager to prepare all necessary documents for the submission of the document, authorizes and directs the City Manager to accept and execute the grant agreement when received from the U.S. Department of Housing and Urban Development, and authorizes the City Manager to execute subrecipient agreements with the agencies and departments listed in the Action Plan. Department of Community Development Planning Staff will provide a brief presentation of the proposed allocation amounts at the first public hearing.

LEGAL REVIEW:

EXHIBITS:

Resolution 244-19
Staff Presentation

PREPARED BY:

Amy Yearsley Division- Planning Division Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

Amy L. Yearsley, Housing Coordinator

ATTACHMENTS:

Description	Type
▫ Resolution 244-19	Resolution
▫ Staff Presentation	Backup Material

RESOLUTION 244 - 19

A RESOLUTION ADOPTING THE 2019-2020 ONE YEAR ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT PROGRAM INCLUDING THE REGIONAL ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE 2019-2023, AUTHORIZING AND DIRECTING THE CITY MANAGER TO PREPARE AND SUBMIT THE ONE YEAR ACTION PLAN FOR THE 2019-2020 FISCAL YEAR INCLUDING THE REGIONAL ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE 2019-2023 TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD); AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ACCEPT AND EXECUTE THE GRANT AGREEMENT FOR THE 2019-2020 CDBG PROGRAM WHEN RECEIVED FROM HUD; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ACCEPT AND EXECUTE GRANT AGREEMENTS WITH SUBRECIPIENTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the United States Department of Housing and Urban Development (HUD), as provided under Title I of the Cranston–Gonzalez National Affordable Housing Act and within 24 CFR Parts 91 and 570 require all entitlement municipalities to prepare a Consolidated Plan for a five-year period, including an annual Action Plan for the Community Development Block Grant (CDBG) Program; and

WHEREAS, the United States Department of Housing and Urban Development requires grantees of Community Development Block Grant funds complete an Analysis of Impediments to Fair Housing Choice every five years; and

WHEREAS, the Department of Housing and Urban Development encourages regional collaboration in completing the Assessment of Fair Housing; and

WHEREAS, the Cities of Cape Coral and Fort Myers and Lee County prepared the Regional Analysis of Impediments to Fair Housing Choice 2019-2023 for submission with the 2019-2020 Action Plan; and

WHEREAS, the City has received an allocation of \$1,009,644 for its 2019-2020 CDBG Entitlement Program for the United States Department of Housing and Urban Development (HUD), to be used for the implementation of the One Year Action Plan strategies; and

WHEREAS, the City has carryover CDBG funds in the amount of \$200,000 from previous years funding, to be used for the implementation of the Once Year Action Plan strategies; and

WHEREAS, a Citizen's Participation Plan is part of the Consolidated Plan which provides for public input and participation in the plan development process; and

WHEREAS, the City has provided for public comment and participation in the Annual Action Plan process by conducting two public hearings and has provided a thirty-day period for public comment on the One Year Action Plan.

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

Section 1. That the City Council for the City of Cape Coral hereby adopts the 2019-2020 Action Plan including the Regional Analysis of Impediments to Fair Housing Choice 2019-2023. Copies of the plans are attached hereto and incorporated herein by reference.

Section 2. The City Council authorizes and directs the City Manager or his Designee to prepare all required materials necessary for the submission of the 2019-2020 One Year Action Plan including the Regional Analysis of Impediments to Fair Housing Choice 2019-2023 and make application to the U.S. Department of Housing and Urban Development.

Section 3. The City Council authorizes and directs the City Manager or his Designee to accept and execute the grant agreement upon receipt from HUD for the 2019-2020 Program Year on behalf of the City.

Section 4. The City Council authorizes and directs the City Manager or his Designee to accept and authorize all grant agreements with subrecipients, pursuant to execution of the grant agreement with HUD.

Section 5. This Resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/CDBG Action Plan



**ANNUAL ACTION PLAN
FY 2019-2020
for submittal to US Department of HUD**

**Public Comment 1.1
DRAFT
5/21/2019**

Joe Coviello, Mayor
John Gunter, Councilmember, District 1
John Carioscia, Councilmember, District 2
Marilyn Stout, Councilmember, District 3
Jennifer Nelson, Councilmember, District 4
Dave Stokes, Councilmember, District 5
Rick Williams, Councilmember, District 6
Jessica Cosden Councilmember, District 7

John Szerlag, City Manager

Citizen Advisory Board(CAB) for Community Development Block Grant

Maria Chevalier
Carmen Salome
Arnold Small
Pati Smith
Robert Renshaw

Contact Person: Amy Yearsley, AICP, Housing Coordinator

Address: Department of Community Development

City of Cape Coral

PO Box 150027

Cape Coral, Florida 33915-0027

Telephone: 239-573-3182

Email: ayearsle@capecoral.net

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

As a recipient of federal grant funds, the City of Cape Coral is required by the US Department of Housing and Urban Development (HUD) to produce a Consolidated Plan and Annual Action Plan. These documents have been prepared by the City's Department of Community Development – Planning Division. These plans serve as the application for funding for the Community Development Block Grant which is a federal entitlement program that serves low-income individuals and/or families.

The City of Cape Coral's Five-Year Consolidated Plan identifies the community's affordable housing, community development and economic development needs and outlines a comprehensive and coordinated strategy for addressing them. This document includes narrative responses to specific questions that grantees must respond to be compliant with the Consolidated Planning Regulations. The One Year Action Plan specifically describes activities that will be funded to meet the affordable housing, community development and economic development needs in the City of Cape Coral.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

Increase Access to Affordable Housing

- Fund activities that expand the supply and improve the condition of housing affordable to lower income households.
- Extend the useful life of existing affordable housing through weatherization, repair, and rehabilitation programs.
- Fund activities that leverage other public and private resources such as Low Income Tax Credit Projects.

Increase Access to Public Services

- Fund projects that provide supportive services to low and moderate income household as well as persons with special needs.

Increase Economic Opportunity

- Provide funding to support expanded economic opportunity to low income residents within the City of Cape Coral.

Decrease Homelessness

- Provide funding to increase permanent supportive housing opportunities and work to create a stronger network of providers of supportive and mainstream services to homeless clients in Cape Coral.

Improvements to Public Facility and Infrastructure

- Fund non-housing community development proposals that eliminate a threat to public health and safety to include pedestrian safety (i.e. sidewalks).

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

Each year, the City reports its progress in meeting the five-year and annual goals in the Consolidated Annual Performance Evaluation Report (CAPER). The City has consistently satisfied program mandates and expended funds in a timely manner. Further, Cape Coral has successfully targeted funds to benefit low and moderate income persons and communities. Copies of the CAPER and HUD's Annual Assessment (the response to the City's CAPER) are available through the City of Cape Coral's Department of Community Development.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The City of Cape Corals' Action Plan PY 2019 was developed through collaborative effort of public, private and non-profit organizations. The City's Citizens' Advisory Board-Community Development Block Grant (CAB-CDBG) held two meetings to solicit citizen input and comments. All meeting notices were published in the local newspapers and meeting invitations were sent to social service agencies that serve low income people in the City of Cape Coral.

There were total of four public meetings/hearings to solicit public input and comments. Additionally, the draft one year action plan and recommended funding levels were posted on the City of Cape Coral website at www.capecoral.net for a period of thirty-days and a notice of availability for public comment was placed in the Fort Myers News Press.

5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

INTENTIONALLY LEFT BLANK

6. Summary of comments or views not accepted and the reasons for not accepting them

INTENTIONALLY LEFT BLANK

PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

AGENCY ROLE	DEPARTMENT/AGENCY
LEAD ENTITY	DEPARTMENT OF COMMUNITY DEVELOPMENT/PLANNING DIVISION
CDBG ADMINISTRATOR	DEPARTMENT OF COMMUNITY DEVELOPMENT/PLANNING DIVISION

Table 1 – Responsible Agencies

Narrative (optional)

The City of Cape Coral Department of Community Development - Planning Division is responsible for the planning and coordination of the City's Five-Year Consolidated Plan including Annual Action Plans. This office operates and administers the City's Community Development Block Grant (CDBG), Neighborhood Stabilization Program (NSP), and state affordable housing (State Housing Initiatives Partnerships) programs.

Consolidated Plan Public Contact Information

Amy Yearsley
Housing Coordinator
City of Cape Coral
Department of Community Development Planning Division
PO Box 150027, Cape Coral, FL 33915-0027
Ayearsle@capecoral.net

AP-10 Consultation – 91.100, 91.200(b), 91.215(I)

1. Introduction

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(I))

The City of Cape Coral's Department of Community Development/Planning Division has developed and managed strong partnerships and relationships to enhance coordination between service providers. Entities participating in the process include multiple providers of services from various disciplines. These include agencies, organizations, groups with expertise in case management, life skills, alcohol and/or drug abuse, mental health, housing, public housing, employment assistance, transportation, legal, elderly, food/clothing, and domestic violence.

The jurisdiction's consultation with these providers involved scoping sessions, surveys, interviews, and public meetings. These methods of coordination not only imparted information to the various groups but also presented opportunities for criticisms, questions, and feedback. Outside of the Consolidated Planning process, the City annually holds workshops for agencies to discuss needs within the community. Often these workshops lead to agencies collaborating on services, exchanging information, or providing referrals. By continuing to offer these workshops and other opportunities the City anticipates outcomes including, but not limited to, improved lines of communication, increased collaboration, and enriched citizen participation.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

The City of Cape Coral is part of the Lee County Continuum of Care (CoC). The Lee County Human Services Department serves as the lead agency for the County's Continuum of Care (CoC). Through this collaboration, the City ensures that CoC goals and the City's Consolidated Plan priorities are integrated into the plan.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS.

While the City of Cape Coral does not receive ESG funds, the City is a member of the Lee County Continuum of Care (CoC) Governing Board. The Governing Board is responsible for developing performance standards for and evaluation of outcomes of projects and activities assisted by ESG funds and developing policies and procedures for the operation and administration of HMIS.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction’s consultations with housing, social service agencies and other entities.

Table 2 provides a list of agencies that participated in the Consolidated Planning Process. A complete list of participating organizations will be provided as part of the final document.

1	AGENCY/GROUP/ORGANIZATION	COMMUNITY COOPERATIVE
	AGENCY/GROUP/ORGANIZATION TYPE	EMERGENCY ASSISTANCE/COMMUNITY SUPPORT
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	HOMELESSNESS STRATEGY HOMELESS NEEDS - CHRONICALLY HOMELESS HOMELESS NEEDS - FAMILIES WITH CHILDREN HOMELESSNESS NEEDS - VETERANS HOMELESSNESS NEEDS - UNACCOMPANIED YOUTH
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA COLLECTION/INFORMATION INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

2	AGENCY/GROUP/ORGANIZATION	UNITED CEREBRAL PALSY OF SOUTHWEST FLORIDA, INC.
	AGENCY/GROUP/ORGANIZATION TYPE	SERVICES-PERSONS WITH DISABILITIES SERVICES-HEALTH
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	NON-HOMELESS SPECIAL NEEDS
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA COLLECTION/INFORMATION INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

3	AGENCY/GROUP/ORGANIZATION	ABUSE COUNSELING AND TREATMENT
	AGENCY/GROUP/ORGANIZATION TYPE	SERVICES-VICTIMS OF DOMESTIC VIOLENCE
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	HOUSING NEED ASSESSMENT
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA COLLECTION/INFORMATION INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

4	AGENCY/GROUP/ORGANIZATION	CAPE CORAL HOUSING DEVELOPMENT CORPORATION
	AGENCY/GROUP/ORGANIZATION TYPE	HOUSING
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	AFFORDABLE HOUSING
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA COLLECTION/INFORMATION INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

5	AGENCY/GROUP/ORGANIZATION	DEAF SERVICE CENTER OF SWFL, INC
	AGENCY/GROUP/ORGANIZATION TYPE	SERVICES-PERSONS WITH DISABILITIES
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	NON-HOMELESS SPECIAL NEEDS
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA COLLECTION/INFORMATION INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

6	AGENCY/GROUP/ORGANIZATION	CITY OF CAPE CORAL PARKS AND RECREATION
	AGENCY/GROUP/ORGANIZATION TYPE	SERVICES-ELDERLY PERSONS SERVICES-PERSONS WITH DISABILITIES SERVICES – TRANSPORTATION SERVICES – YOUTH INFRASTRUCTURE/FACILITIES
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	NON-HOMELESS SPECIAL NEEDS
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA COLLECTION/INFORMATION INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

7	AGENCY/GROUP/ORGANIZATION	DR. PIPER CENTER FOR SOCIAL SERVICES, INC
	AGENCY/GROUP/ORGANIZATION TYPE	SERVICES-CHILDREN SERVICES-ELDERLY PERSONS SERVICES-PERSONS WITH DISABILITIES SERVICES-EMPLOYMENT
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	NON-HOMELESS SPECIAL NEEDS

	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING
--	--	----------------

8	AGENCY/GROUP/ORGANIZATION	HABITAT FOR HUMANITY OF LEE AND HENDRY COUNTIES
	AGENCY/GROUP/ORGANIZATION TYPE	HOUSING
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	AFFORDABLE HOUSING
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA COLLECTION/INFORMATION INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

9	AGENCY/GROUP/ORGANIZATION	GOODWILL INDUSTRIES OF SW FLORIDA
	AGENCY/GROUP/ORGANIZATION TYPE	HOUSING SERVICES-EMPLOYMENT ECONOMIC DEVELOPMENT
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA/INFORMATION FOR INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

10	AGENCY/GROUP/ORGANIZATION	CITY OF CAPE CORAL – PUBLIC WORKS
	AGENCY/GROUP/ORGANIZATION TYPE	PUBLIC FACILITIES/INFRASTRUCTURE
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA/INFORMATION FOR INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

11	AGENCY/GROUP/ORGANIZATION	COMMUNITY CARING CENTER
	AGENCY/GROUP/ORGANIZATION TYPE	EMERGENCY ASSISTANCE/COMMUNITY SUPPORT
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	HOMELESSNESS STRATEGY HOMELESS NEEDS - CHRONICALLY HOMELESS HOMELESS NEEDS - FAMILIES WITH CHILDREN HOMELESSNESS NEEDS - VETERANS

		HOMELESSNESS NEEDS - UNACCOMPANIED YOUTH
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA/INFORMATION FOR INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES
12	AGENCY/GROUP/ORGANIZATION	INVEST IN AMERICA'S VETERANS FOUNDATION
	AGENCY/GROUP/ORGANIZATION TYPE	EMERGENCY ASSISTANCE/COMMUNITY SUPPORT
	WHAT SECTION OF THE PLAN WAS ADDRESSED BY CONSULTATION?	HOMELESSNESS STRATEGY HOMELESS NEEDS - CHRONICALLY HOMELESS HOMELESS NEEDS - FAMILIES WITH CHILDREN HOMELESSNESS NEEDS - VETERANS HOMELESSNESS NEEDS - UNACCOMPANIED YOUTH
	HOW WAS THE AGENCY/GROUP/ORGANIZATION CONSULTED AND WHAT ARE THE ANTICIPATED OUTCOMES OF THE CONSULTATION OR AREAS FOR IMPROVED COORDINATION?	PUBLIC MEETING DATA COLLECTION/INFORMATION INCORPORATION IN PLAN AND DEVELOPMENT OF PRIORITIES

Table 2 – Agencies, groups, organizations who participated

Identify any Agency Types not consulted and provide rationale for not consulting

Efforts were made to consult as broadly as possible with community stakeholders. No agency types were excluded from participation.

Other local/regional/state/federal planning efforts considered when preparing the Plan

NAME OF PLAN	LEAD ORGANIZATION	HOW DO THE GOALS OF YOUR STRATEGIC PLAN OVERLAP WITH THE GOALS OF EACH PLAN?
CONTINUUM OF CARE	LEE COUNTY DEPARTMENT OF HUMAN SERVICES	NOT APPLICABLE.
LEE COUNTY REGIONAL ANALYSIS OF IMPEDIMENTS	CITY OF CAPE CORAL, CITY OF FORT MYERS, LEE COUNTY	GOALS WITHIN THE STRATEGIC PLAN COORDINATE AND ENHANCE THE GOALS AND OBJECTIVES OUTLINED IN THIS PLAN TO AFFIRMATIVELY FURTHER FAIR HOUSING CHOICE.
CITY OF CAPE CORAL COMPREHENSIVE PLAN	CITY OF CAPE CORAL	GOALS WITHIN THE STRATEGIC PLAN COORDINATE AND ENHANCE THE GOALS AND OBJECTIVES OUTLINED IN THIS PLAN'S HOUSING ELEMENT.

Table 3 – Other local / regional / federal planning efforts

AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

Citizen participation was achieved through several methods during the Action Plan planning process. The following methods were used to garner public and private input:

On March 13th, there was a meeting of the Citizen’s Advisory Board for CDBG which included an opportunity for Comment from Public and Board Members.

On May 15th, there was a meeting of the Citizen’s Advisory Board for CDBG. At this meeting, recommended funding levels for the 2018-2019 were made.

From June 3rd -July 29th , the draft Action Plan was made available for public comment at the following locations: City Hall, internet.

On July 29th , City Council held the first public meeting regarding the draft Action Plan which included an opportunity for comment by the public and City Council Members.

On August 5th, City Council held the final public meeting regarding the draft Action Plan which included an opportunity for comment by the public and City Council Members.

Table 4 below is a summary of public participation in the process. This table will be updated throughout the process.

Mode of Outreach	Target of Outreach	Summary of Response Attendance	Summary of Comments Received	Summary of comments not accepted and reasons	URL (If applicable)
Internet Outreach	Minorities, Non English Speaking, Persons with Disabilities, Non-Targeted/Broad Community, Residents of Public Housing	N/A	None Received	N/A	www.capecoral.net
Two Public Advertisements	Minorities, Non English Speaking, Persons with Disabilities, Non-Targeted/Broad Community, Residents of Public Housing	N/A – No Calls or emails received	None Received	N/A	
Public Meeting	Minorities, Non English Speaking, Persons with Disabilities, Non-Targeted/Broad Community, Residents of Public Housing	Citizen's Advisory Board Members (five).	Participants described public service and housing needs in Cape Coral.	N/A	
Public Meeting	Minorities, Non English Speaking, Persons with Disabilities, Non-Targeted/Broad Community, Residents of Public Housing	Citizen's Advisory Board Members (five).	Participants described public service and housing needs in Cape Coral.	N/A	
Public Hearing	Minorities, Non English Speaking, Persons with Disabilities, Non-Targeted/Broad Community, Residents of Public Housing	City Council			
Public Hearing	Minorities, Non English Speaking, Persons with Disabilities, Non-Targeted/Broad Community, Residents of Public Housing	City Council			

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources – 91.220(c) (1, 2)

Priority Table

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 3				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	1,009,644	100,000	200,000	1,309,644	1,009,644	CDBG FUNDS WILL BE UTILIZED IN ACCORDANCE WITH THIS PLAN TO FURTHER ADDRESS COMMUNITY DEVELOPMENT, HOUSING, AND PUBLIC SERVICE NEEDS IN CAPE CORAL.
Other	public - federal	Acquisition Admin and Planning Housing	0	0	250,000	250,000	0	REMAINING NSP FUNDS WILL BE UTILIZED TO ADDRESS AFFORDABLE HOUSING ISSUES IN CAPE CORAL.
Other	public - state	Acquisition/New Construction Housing	250,000*	0	450,000	700,000	250,000	STATE HOUSING INITIATIVE PARTNERSHIP (SHIP) PROGRAM FUNDS WILL BE UTILIZED TO ADDRESS AFFORDABLE HOUSING ISSUES IN CAPE CORAL.

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local

funds), including a description of how matching requirements will be satisfied

No matching requirements are required for the CDBG program. The City leverages CDBG program funds with the State Housing Initiative Partnership (SHIP) Program for its affordable housing programs including owner-occupied rehabilitation, acquisition/rehabilitation and new construction. Additionally, the City's Neighborhood Stabilization Programs (1 and 3) continue to generate program income. These funds will be used solely and leveraged with the State Housing Initiative Partnership (SHIP) Program for the acquisition/rehabilitation of single family homes and new construction. The City will continue to monitor new and existing funding sources that could be utilized to fulfill the goals and objectives of the Consolidated Plan. This includes supporting applications of other entities for funding under competitive grant programs wherever possible.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

While the City has a large inventory of publicly owned land/property within the jurisdiction, these properties are generally earmarked for capital projects such as road expansions, stormwater retention, lift stations, etc. However, the City is required by state law to review its inventory triennially to determine if any surplus property should be made available for affordable housing. In the last review conducted in 2019, nine (9) properties were identified and earmarked for affordable housing. Disposition of these lots has not been determined at this time. The City may donate or sell these properties for the development of affordable housing or use the proceeds from the sale to develop affordable housing.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Rehabilitation of Existing Owner Occupied Units	2015	2019	Affordable Housing	City of Cape Coral	Increase Access to Affordable Housing	CDBG: \$150,000 State Housing Initiative Partnership Program (SHIP): \$150,000*	Homeowner Housing Rehabilitated: 14 Household Housing Unit
2	Affordable Homeownership	2015	2019	Affordable Housing	City of Cape Coral	Increase Access to Affordable Housing	CDBG: \$471,947 Neighborhood Stabilization Program 1 and 3: \$250,000 State Housing Initiative Partnership Program (SHIP): \$100,000*	Direct Financial Assistance to Homebuyers: 12 Households Assisted
3	Public Services	2015	2019	Homeless Non-Homeless Special Needs Non-Housing Community Development	City of Cape Coral	Increase Access to Public Service Activities	CDBG: \$151,447	Public service activities other than Low/Moderate Income Housing Benefit: 2000 Persons Assisted
4	Economic Development	2015	2019	Non-Housing Community Development	City of Cape Coral	Increase Economic Opportunity	CDBG: \$39,321	Other: 15 Other
5	Infrastructure Improvement	2018	2018	Public Facilities	City of Cape Coral	Provide for Infrastructure Improvement(s)	CDBG: \$195,000	Public facility or infrastructure activities other than low/moderate income housing benefit: 1000 persons assisted

*Estimated State Allocation

Table 6 – Goals Summary

Goal Descriptions

1	GOAL NAME	REHABILITATION OF EXISTING OWNER-OCCUPIED UNITS
	GOAL DESCRIPTION	ASSIST LOW INCOME HOMEOWNERS WITH HEALTH, SAFETY, AND/OR WELFARE RELATED REPAIRS TO THEIR HOMES. THIS MAY INCLUDE MANDATORY CONNECTION TO CITY WATER AND SEWER.
2	GOAL NAME	AFFORDABLE HOMEOWNERSHIP
	GOAL DESCRIPTION	PROJECT WILL COMPRISE OF THREE ACTIVITIES – GAP FINANCING FOR THE PURCHASE OF NEW OR EXISTING HOUSING BY INCOME ELIGIBLE HOUSEHOLDS, REHABILITATION OF PROPERTIES FOR SALE TO LOW AND MODERATE INCOME HOUSEHOLDS AND DOWN PAYMENT/CLOSING COST ASSISTANCE TO INCOME ELIGIBLE HOUSEHOLDS IN ACCORDANCE WITH CDBG REGULATIONS.
3	GOAL NAME	PUBLIC SERVICES
	GOAL DESCRIPTION	FUND A VARIETY OF PUBLIC SERVICE ACTIVITIES THAT AID LOW INCOME RESIDENTS.
4	GOAL NAME	ECONOMIC DEVELOPMENT
	GOAL DESCRIPTION	PROVIDE MICROENTERPRISE ASSISTANCE TO LOW INCOME PERSONS.
5	GOAL NAME	INFRASTRUCTURE IMPROVEMENT
	GOAL DESCRIPTION	PROVISION OF SIDEWALKS IN A PREDOMINATELY LOW-INCOME BLOCK GROUP THAT IS PRIMARILY RESIDENTIAL IN NATURE.

Table 7 – Goal Descriptions

Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.215(b):

It is estimated that 6 income qualified households will purchase affordable housing during the program year. Housing activities have a two-year contract period.

AP-35 Projects – 91.220(d)

Introduction

The Strategic Plan outlined five (5) priorities identified during the extensive planning process and the strategies for addressing these priorities. The following is a summary of the priorities identified in the Strategic Plan:

Increase Access to Affordable Housing

- Fund activities that expand the supply and improve the condition of housing affordable to lower income households.
- Extend the useful life of existing affordable housing through weatherization, repair, and rehabilitation programs.
- Fund activities that leverage other public and private resources such as Low Income Tax Credit Projects.

Increase Access to Public Services

- Fund projects that provide supportive services to low and moderate income household as well as persons with special needs.

Increase Economic Opportunity

- Provide funding to support expanded economic opportunity to low income residents within the City of Cape Coral.

Decrease Homelessness

- Provide public service funding to agencies that provide homeless or homeless prevention services.
- Provide funding to increase permanent supportive housing opportunities and work to create a stronger network of providers of supportive and mainstream services to homeless clients in Cape Coral.

Provide for Infrastructure Improvement(s)

- Fund non-housing community development proposals that eliminate a threat to public health and safety to include pedestrian safety (i.e. sidewalks).

During Program Year 2019, the City of Cape Coral will undertake the following projects to implement

these strategies.

#	PROJECT NAME
1	ADMINISTRATION
2	HOUSING REHABILITATION
3	AFFORDABLE HOMEOWNERSHIP
4	MICROENTERPRISE ASSISTANCE
5	DOMESTIC VIOLENCE SERVICES
6	CAPE CORAL CARING CENTER - PUBLIC SERVICES
7	TRANSPORTATION SERVICES
8	CHILD CARE SERVICES
9	UTILITY ASSISTANCE
10	HANDICAPPED SERVICES
11	SENIOR SERVICES
12	SUBSTINANCE PAYMENTS
13	INFRASTRUCTURE IMPROVEMENTS

Table 8 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

Projects chosen for funding were based on priorities established in the Consolidated Plan.

The main obstacle to meeting under-served needs is primarily that the needs outweigh the available financial resources. The City will continue to explore ways to leverage funding and partnership with other agencies to accomplish its housing and community development goals.

Projects

AP-38 Projects Summary

Project Summary Information

1	PROJECT NAME	ADMINISTRATION
	TARGET AREA	N/A
	GOALS SUPPORTED	N/A
	NEEDS ADDRESSED	N/A
	FUNDING	CDBG: \$201,929
	DESCRIPTION	GRANTEE ADMINISTRATION OF THE CDBG PROGRAM.
	TARGET DATE	9/30/2020
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	NOT APPLICABLE.
	LOCATION DESCRIPTION	ACTIVITIES WILL TAKE PLACE AT CAPE CORAL CITY HALL LOCATED AT 1015 CULTURAL PARK BLVD. CAPE CORAL, FL 33990
	PLANNED ACTIVITIES	ADMINISTRATIVE ACTIVITIES REQUIRED TO MANAGE THE CDBG PROGRAM. FUNDS WILL BE UTILIZED FOR SALARY AND OPERATING.

2	PROJECT NAME	HOUSING REHABILITATION
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	REHABILITATION OF EXISTING OWNER-OCCUPIED UNITS
	NEEDS ADDRESSED	INCREASE ACCESS TO AFFORDABLE HOUSING
	FUNDING	CDBG: \$150,000
	DESCRIPTION	THIS PROJECT HAS ONE ACTIVITY: OWNER OCCUPIED REHABILITATION. HOME REPAIRS RELATED TO HEALTH, SAFETY, WELFARE ARE PROVIDED TO LOW INCOME HOMEOWNERS.
	TARGET DATE	9/30/2021
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	IT IS ESTIMATED THAT 8 HOUSEHOLDS WILL BE ASSISTED WITH THIS PROJECT.
	LOCATION DESCRIPTION	THIS IS A SCATTERED SITE PROJECT LOCATED THROUGHOUT THE CITY OF CAPE CORAL.
	PLANNED ACTIVITIES	OWNER OCCUPIED REHABILITATION

3	PROJECT NAME	AFFORDABLE HOMEOWNERSHIP
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	AFFORDABLE HOUSING
	NEEDS ADDRESSED	INCREASE ACCESS TO AFFORDABLE HOUSING
	FUNDING	CDBG: \$432,750
	DESCRIPTION	PROJECT WILL COMPRISE OF THREE ACTIVITIES – GAP FINANCING FOR THE PURCHASE OF NEW OR EXISTING HOUSING BY INCOME ELIGIBLE HOUSEHOLDS, REHABILITATION OF PROPERTIES FOR SALE TO LOW AND MODERATE INCOME HOUSEHOLDS AND DOWN PAYMENT/CLOSING COST ASSISTANCE TO INCOME ELIGIBLE HOUSEHOLDS IN ACCORDANCE WITH CDBG REGULATIONS.
	TARGET DATE	9/30/2021
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	IT IS ESTIMATED THAT 8 HOUSEHOLDS WILL BE ASSISTED
	LOCATION DESCRIPTION	THIS IS A SCATTERED SITE PROJECT. PROPERTIES WILL BE LOCATED THROUGHOUT THE CITY OF CAPE CORAL.
	PLANNED ACTIVITIES	CCHDC HOMEOWNERSHIP HABITAT FOR HUMANITY HOMEOWNERSHIP

4	PROJECT NAME	MICROENTERPRISE ASSISTANCE
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	ECONOMIC DEVELOPMENT
	NEEDS ADDRESSED	INCREASE ECONOMIC OPPORTUNITY
	FUNDING	CDBG: \$39,321
	DESCRIPTION	GOODWILL INDUSTRIES OF SWFL WILL PROVIDE MICROENTERPRISE TRAINING TO LOW INCOME PERSONS.
	TARGET DATE	9/30/2020
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	IT IS ESTIMATED THAT TEN LOW INCOME PERSONS WILL BE ASSISTED WITH THIS PROJECT.
	LOCATION DESCRIPTION	VARIOUS LOCATIONS
	PLANNED ACTIVITIES	GOODWILL MICROENTERPRISE

5	PROJECT NAME	DOMESTIC VIOLENCE SERVICES
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	PUBLIC SERVICES

NEEDS ADDRESSED	DECREASE HOMELESSNESS
FUNDING	CDBG: \$32,451
DESCRIPTION	ABUSE COUNSELING AND TREATMENT WILL PROVIDE SHELTER TO VICTIMS OF DOMESTIC VIOLENCE. ACTIVITIES WILL TAKE PLACE AT THE CAPE CORAL SHELTER
TARGET DATE	9/30/2020
ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	IT IS ESTIMATED THAT 170 PERSONS WILL BE ASSISTED THROUGH THIS ACTIVITY
LOCATION DESCRIPTION	ACTIVITIES WILL TAKE PLACE AT THE AGENCY'S CAPE CORAL SHELTER. THE LOCATION OF THIS FACILITY IS CONFIDENTIAL.
PLANNED ACTIVITIES	ABUSE COUNSELING AND TREATMENT

6	PROJECT NAME	CAPE CORAL CARING CENTER - PUBLIC SERVICES
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	PUBLIC SERVICES
	NEEDS ADDRESSED	INCREASE ACCESS TO PUBLIC SERVICE ACTIVITIES DECREASE HOMELESSNESS
	FUNDING	CDBG: \$20,845
	DESCRIPTION	CAPE CORAL CARING CENTER PROVIDES A VARIETY OF SERVICES TO THE CITY'S LOW INCOME RESIDENTS. ACTIVITIES INCLUDE A FOOD PANTRY, BUS PASSES, UTILITY AND PRESCRIPTION ASSISTANCE
	TARGET DATE	9/30/2020
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	APPROXIMATELY 950 PERSONS WILL BE ASSISTED THROUGH THIS PROJECT.
	LOCATION DESCRIPTION	ACTIVITIES WILL TAKE PLACE AT THE AGENCIES LOCATION AT 4645 SE 15TH AVE, CAPE CORAL, FL 33904
	PLANNED ACTIVITIES	CAPE CORAL CARING CENTER

7	PROJECT NAME	TRANSPORTATION SERVICES
	TARGET AREA	CAPE CORAL
	GOALS SUPPORTED	PUBLIC SERVICES
	NEEDS ADDRESSED	INCREASE ACCESS TO PUBLIC SERVICE ACTIVITIES
	FUNDING	CDBG: \$18,210
	DESCRIPTION	CITY OF CAPE CORAL PARKS AND RECREATION DEPARTMENT WILL PROVIDE FEE ASSISTANCE TO LOW INCOME AND/OR DISABLED PERSONS TO UTILIZE THE CITY'S MINI-BUS PARATRANSIT PROGRAM

TARGET DATE	9/30/2020
ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	APPROXIMATELY 95 PERSONS WILL BE ASSISTED THROUGH FEE ASSISTANCE
LOCATION DESCRIPTION	400 SANTA BARBARA BLVD, CAPE CORAL, FL 33990
PLANNED ACTIVITIES	CAPE CORAL PARKS AND RECREATION MINI-BUS

8	PROJECT NAME	CHILD CARE SERVICES
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	PUBLIC SERVICES
	NEEDS ADDRESSED	INCREASE ACCESS TO PUBLIC SERVICE ACTIVITIES
	FUNDING	CDBG: \$11,467
	DESCRIPTION	PROVIDES FEE ASSISTANCE FOR LOW INCOME FAMILIES PARTICIPATING THE PARKS AND RECREATION DEPARTMENT DAY CARE.
	TARGET DATE	9/30/2020
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	AN ESTIMATED 14 FAMILIES WILL BE ASSISTED.
	LOCATION DESCRIPTION	315 SE 2ND AVE, CAPE CORAL, FL 33990
	PLANNED ACTIVITIES	PARKS AND RECREATION - CHILD CARE

9	PROJECT NAME	UTILITY ASSISTANCE
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	PUBLIC SERVICES
	NEEDS ADDRESSED	INCREASE ACCESS TO PUBLIC SERVICE ACTIVITIES DECREASE HOMELESSNESS
	FUNDING	CDBG: \$17,156
	DESCRIPTION	EMERGENCY ASSISTANCE TO ASSIST LOW INCOME PERSONS WITH DELINQUENT WATER/ELECTRIC BILLS.
	TARGET DATE	9/30/2020
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	IT IS ANTICIPATED THAT 19 LOW INCOME HOUSEHOLDS WILL BE ASSISTED THROUGH THIS PROGRAM
	LOCATION DESCRIPTION	1105 CULTURAL PARK BLVD, CAPE CORAL, FL 33990
	PLANNED ACTIVITIES	CCMI-UTILITY ASSISTANCE

10	PROJECT NAME	HANDICAPPED SERVICES
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	PUBLIC SERVICES
	NEEDS ADDRESSED	INCREASE ACCESS TO PUBLIC SERVICE ACTIVITIES
	FUNDING	CDBG: \$30,215
	DESCRIPTION	ASSISTANCE TO HANDICAPPED RESIDENTS OF CAPE CORAL
	TARGET DATE	9/30/2020
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	IT IS ANTICIPATED 1000 CAPE CORAL RESIDENTS WILL BE SERVED.
	LOCATION DESCRIPTION	VARIOUS LOCATIONS
	PLANNED ACTIVITIES	DEAF SERVICE CENTER UNITED CEREBRAL PALSY

11	PROJECT NAME	SENIOR SERVICES
	TARGET AREA	CAPE CORAL
	GOALS SUPPORTED	PUBLIC SERVICES
	NEEDS ADDRESSED	INCREASE ACCESS TO PUBLIC SERVICE ACTIVITIES INCREASE ECONOMIC OPPORTUNITY
	FUNDING	CDBG: \$16,102
	DESCRIPTION	ASSISTANCE TO LOW INCOME SENIOR PARTICIPATING IN THE VOLUNTEER GRANDPARENT AND SENIOR COMPANION PROGRAMS
	TARGET DATE	9/30/2020
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	AN ESTIMATED 18 LOW INCOME SENIORS WILL RECEIVE MILE REIMBURSEMENT PARTICIPATING IN THE PROGRAM
	LOCATION DESCRIPTION	VARIOUS LOCATIONS
	PLANNED ACTIVITIES	DR. PIPER CENTER

12	PROJECT NAME	SUBSTINENCE PAYMENTS
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	PUBLIC SERVICES
	NEEDS ADDRESSED	INCREASE ACCESS TO PUBLIC SERVICE ACTIVITIES
	FUNDING	CDBG: \$5,000

DESCRIPTION	INVEST IN AMERICA'S VETERANS FOUNDATION WILL PROVIDE EMERGENCY HOTEL VOUCHERS TO INCOME QUALIFIED HOMELESS VETERANS.
TARGET DATE	9/30/2020
ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	IT IS ESTIMATED 5 PEOPLE WILL BE ASSISTED THROUGH THIS PROGRAM
LOCATION DESCRIPTION	1105 CULTURAL PARK BLVD, CAPE CORAL, FL 33990
PLANNED ACTIVITIES	GOODWILL EMPLOYMENT TRAINING

13	PROJECT NAME	SIDEWALKS
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	INFRASTRUCTURE
	NEEDS ADDRESSED	IMPROVE INFRASTRUCTURE
	FUNDING	CDBG: \$184,500
	DESCRIPTION	PROVIDE SIDEWALKS IN A PRIMARILY RESIDENTIAL LOW MODERATE INCOME BLOCK GROUP.
	TARGET DATE	9/30/2020
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	AN ESTIMATED 1,000 LOW INCOME HOUSEHOLDS WILL BE ASSISTED.
	LOCATION DESCRIPTION	CENSUS TRACT 103.02
	PLANNED ACTIVITIES	SIDEWALKS NE 6 TH ST

Table 9 – Project Summary

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

All activities will serve residents throughout the City of Cape Coral. As indicated, the City does not have any areas that meet thresholds for low income and minority concentrations. Housing activities will be located on scattered sites throughout the City. Public facility/infrastructure projects will be in low income block groups that meet the City's threshold percentages.

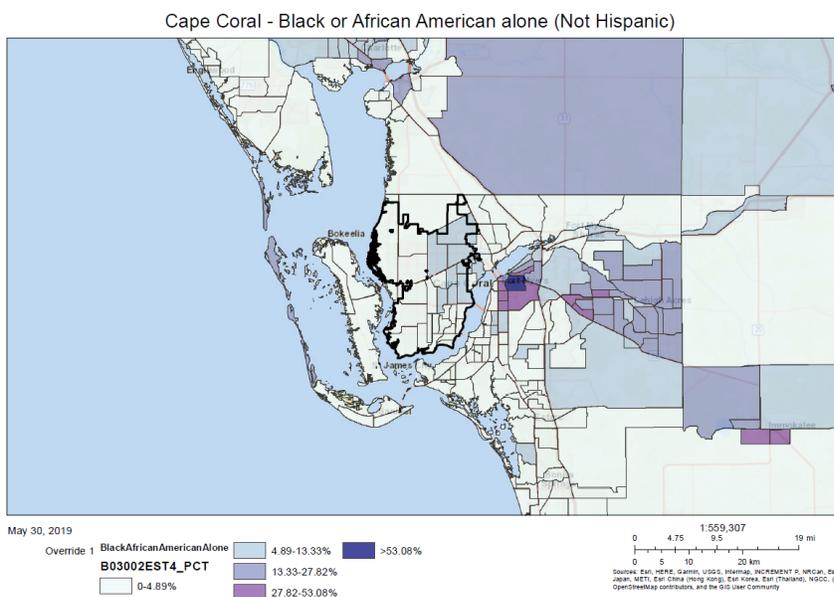
Geographic Distribution

Target Area	Percentage of Funds
City of Cape Coral	100
Low Mod Exception Area Qualified Block Group	

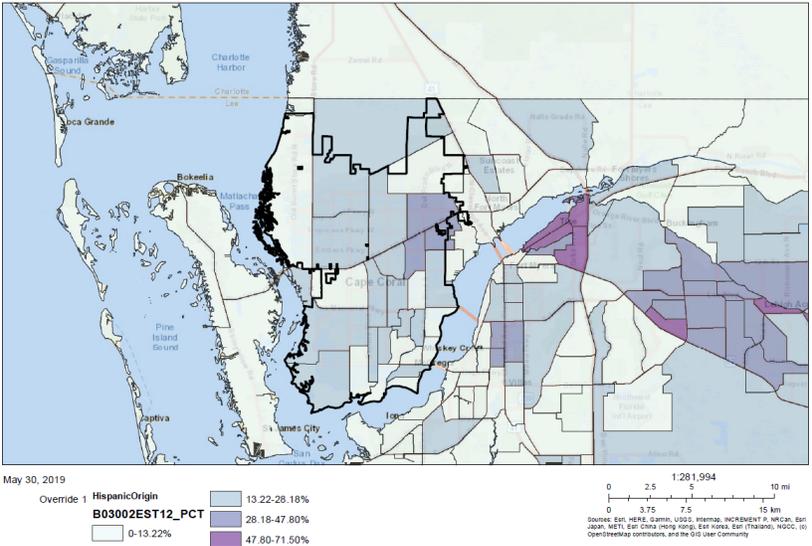
Table 10 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

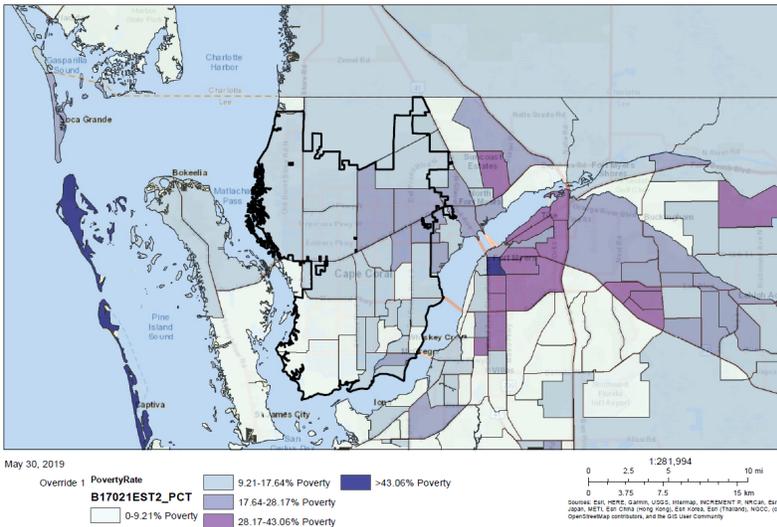
Currently, HUD sets the low/moderate income exception threshold for the City of Cape Coral at 47.11%. The City of Cape Coral has 31 census block groups that meet the income threshold. However, the minority/low income populations are dispersed throughout the City in such that no one geographic area can meet HUD's jurisdiction requirements of low income or racial/ethnic minority concentration now. Please refer to the maps below for a geographical distribution of the poverty and racial/ethnic minority concentrations within the City.



Cape Coral - Persons of Hispanic Origin



Cape Coral - Poverty Rate



The priorities in the allocation of the resources the City expects to receive would be located throughout the community (citywide). Only 31 census blocks qualify as meeting the low-moderate income criteria as provided in 24 CFR 570.208 (a), (1), (ii). If projects are funded which must meet area low-moderate income area benefit criteria, they will be in these block groups. These block groups will be amended from time to time as new data is provided from the US Department of HUD. See the Table 56 for a list of current low-income block groups with corresponding percentages.

The primary distribution of the population benefiting from the grant assistance program will be city-wide and, in most cases, extremely low, low, and moderate income limited clientele, elderly, handicapped or homeless persons will be served. The City's housing programs are concentrated on scattered sites throughout the City. The priority community development needs and public service locations will be throughout the City.

The City does have one area that has been defined as meeting the state definition of slum and blight. This area is in Southeast Cape Coral and is known as the South Cape Community Redevelopment Area. Eligible activities may occur in this area on projects that address the blighting conditions.

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

Stakeholder input during the consolidated planning process indicated a strong need for affordable housing in Cape Coral. This includes both rental and ownership opportunities for our low-income population, as well as, the rehabilitation of properties occupied by low income households.

One Year Goals for the Number of Households to be Supported	
Homeless	0
Non-Homeless	16
Special-Needs	0
Total	0

Table 11 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	0
Rehab of Existing Units	8
Acquisition of Existing Units/Gap Assistance	8
Total	16

Table 12 - One Year Goals for Affordable Housing by Support Type

Discussion

Traditionally, the City's affordable housing programs have been focused on affordable homeownership opportunities. This will continue to be the case over the upcoming year. Additionally, recognizing the need for affordable rental programs, the City will examine the feasibility of programs targeted to the City's renter population. Finally, with the City's housing stock aging and a high cost burden amongst homeowners, the City will continue to fund rehabilitation programs (including utility connection assistance).

AP-60 Public Housing – 91.220(h)

Introduction

As indicated in the Consolidated Plan, public housing in Cape Coral is managed by two entities: Lee County Housing Authority and the Housing Authority of the City of Fort Myers. Except for twelve units that are in process for Project Based Housing Assistance, public housing in Cape Coral is limited to Section 8 Housing Choice Vouchers.

Actions planned during the next year to address the needs to public housing

The City of Cape Coral does not anticipate utilizing Community Development Block Grant funds to address the needs to public housing. Public housing needs in Cape Coral are addressed by the Lee County Housing Authority and the Housing Authority of the City of Fort Myers.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

The Housing Authority of the City of Fort Myers offers an array of family self-sufficiency (FSS) and supportive service programs for clients receiving subsidized housing assistance. The family-self sufficiency program is aimed at families who have a desire to achieve economic independence and self-reliance of government assistance programs. Clients living in public housing or who participate on the housing choice voucher program, qualify for the FSS program. While participating in the FSS program, participants work closely with the FSS Coordinator for a period up to five years. With the guidance of the FSS Coordinator, families identify and set goals that promote self-sufficiency. Self-sufficiency activities include but not limited to: obtaining and maintaining suitable employment, participating in employment related services such as resume writing, seek suitable employment, and attend life skills courses. FSS participants also attend financial literacy classes where they learn and become familiar with key objectives such as establishing credit, budgeting, savings, and loans.

Through the Senior Service Coordinator (SSC), HACFM provides case management and outreach services for elderly and individuals with disabilities who are age 55 or older. The SSC works closely with local non-profits, community and faith-based organizations, & health providers (e.g. Family Health Centers, HOPE Healthcare, Medi-Care, Senior Friendship Centers, etc.) to provide in-home healthcare, preventative care, and chronic disease management services, all to assist and aid families desiring to live independently in their homes. The SSC aids with coordinating medical appointments, assisting with Medicaid/Medicare eligibility applications, Food stamp applications & recertification, transportation assistance, monthly shopping trips, and social service activities on and off-site.

As a HUD certified counseling agency, HACFM also offers a wide array of housing counseling services for HACFM clients but also clients in the entire Lee County area. Services include pre-purchase counseling, post-purchase counseling, monthly home buyers' education, foreclosure prevention & loss mitigation. The

benefit to clients is that all housing counseling services are offered free of charge to all clients in need.

Additionally, the City will continue to advise the public housing authorities of the availability of the City's affordable housing programs and provide referrals as necessary.

If the PHA is designated as troubled, describe the way financial assistance will be provided or other assistance

Not Applicable.

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The City supports the efforts of the Lee County Continuum of Care (CoC) to simplify and broaden outreach and assessment efforts for homeless persons in Lee County. Much of the outreach to homeless persons is conducted at community events such as the Point in Time Count and the Stand Down/Service Day. There are also specific special events held for the homeless, including an annual candlelight vigil in memory of the homeless who have died in that past year, which is held annually in December. Additionally, outreach is conducted by the many caseworkers at community agencies, the Lee County Homeless Coalition, schools, and other entities that encounter the homeless during other service delivery or during their regular course of business. Needs are assessed during these points of contact, and referrals are made as appropriate.

Addressing the emergency shelter and transitional housing needs of homeless persons

While the City is not a direct recipient of Emergency Solution Grant funds, the City will continue to partner with the Lee County Continuum of Care (CoC) to support emergency and transitional housing needs of homeless persons in the County. The CoC's goals of providing homeless housing and services primarily through entitlement funding will help to meet needs for emergency housing at the Bob Janes Triage Center and Low Demand Shelter. As funding is available, Lee County may issue a Request for Proposals for the development of these projects or programs and funding then be used by other community partners. Other than the funds available through this process, emergency shelter and transitional housing needs may be addressed through grant funding opportunities, such as the competitive Continuum of Care process, or through other state or local funding streams.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The City of Cape Coral will support programs and resources to allow formerly homeless and at-risk-of homelessness residents to access to affordable permanent housing. The City's local resources include the federal CDBG and the state SHIP funds.

Local agencies also provide prevention, outreach, assessment and supportive services for homeless

persons and for residents at-risk of homelessness. Public and private agencies and programs in Lee County provide services including: Mortgage Assistance, Rental Assistance, Utilities Assistance, Foreclosure Prevention, Counseling/Advocacy, and Legal Assistance. Outreach and Assessment for homeless residents is done through Legal Assistance, Street Outreach, Mobile Clinic, and Law Enforcement. Supportive Services for homeless residents include: Counseling/Advocacy, Case Management, Life Skills, Alcohol & Drug Abuse, Mental Health Counseling, Healthcare, HIV/AIDS, Education, Employment, Child Care, and Transportation.

Other than the funds available through this process, permanent housing needs may be addressed through other resources identified elsewhere in this plan, and through other grant funding opportunities, such as the competitive Continuum of Care process, or through other state or local funding streams.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The Florida Statutes set out state discharge guidelines and notes that the intent of the Legislature is to ensure that persons leaving care and custody are not discharged into homelessness. The Florida State Department of Corrections requires contracted halfway houses in order to secure full employment for clients and to discharge clients into transitional or permanent housing residence. (The Federal Bureau of Prisons *Halfway House Program* has the same requirements.)

Local Policy

The Lee County Homeless Continuum of Care has Memoranda of Understanding on Discharge Planning with the Lee County Sheriff, The Lee Memorial Health System, Saluscare, and the Children's Network of Southwest Florida, LLC.

Several programs and outreach services work to keep persons at, or nearing, the point of discharge from the local jail and sheriff's stockade from becoming homeless and entering the homeless Continuum. Persons discharged from prison have access to the Lee County Department of Human Services Family Self Sufficiency Program, which provides first month or eviction rental assistance. The hospitals of the Lee Memorial Health System and Southwest Regional Health System conduct discharge planning with patients. Policies of the systems direct that patients are not discharged to the streets. Lee County Foster Care Programs are operated under the state-contracted Children's Network of Southwest Florida, LLC. Discharge assistance is provided through the Independent Living Program in which funding for education and associated rent and basic assistance to youth discharged from the system.

While the City is not a direct recipient of Emergency Solution Grant funds, the City will continue to partner with the Lee County CoC to support efforts made to implement the existing local coordinated discharge policies for individuals or families who are being discharged from a publicly funded institution.

AP-75 Barriers to affordable housing – 91.220(j)

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The City has adopted the Local Housing Incentive Plan (LHIP) as required to receive the State of Florida's Affordable Housing Program funding (State Housing Initiatives Partnership (SHIP) Program). This plan led to the following actions to reduce barriers:

- Expedited Permitting - affordable housing projects are assigned priority status and reviewed in an expedited manner;
- Ongoing review of policies and procedures;
- Reduction in Street Width Requirements for affordable single family subdivision;
- Zero-lot Line Configuration; and
- Inventory of locally owned public lands suitable for affordable housing.

In addition, the following strategies will be utilized to remove or ameliorate the barriers to affordable housing:

The City of Cape Coral will research and review alternative methods to financing affordable housing including but not limited to, density incentive programs, linkage fees, and inclusionary housing ordinances.

The City of Cape Coral will continue to utilize CDBG, NSP, and SHIP funds to provide counseling and financial assistance to first time income eligible homebuyers to purchase either existing or newly constructed homes.

The City will continue to utilize CDBG and SHIP funds to provide financial assistance to income eligible city residents to rehabilitate owner-occupied dwellings.

The City will continue to implement the actions including within the Lee County Regional Analysis of Impediments to Fair Housing Choice to remove or ameliorate the barriers to both fair housing choice and affordable housing.

AP-85 Other Actions – 91.220(k)

Introduction

Listed below are the actions planned to address obstacles to meeting underserved needs, foster and maintain affordable housing, reduce lead-based paint hazards, reduce the number of poverty-level families, develop institutional structure, and enhance coordination between public and private housing and social service agencies.

Actions planned to address obstacles to meeting underserved needs

The major obstacle to meeting all the identified needs is the lack of funding resources. Significant funding cuts in previous years and minimal funding increases does not account for the overall budgetary restrictions the City has seen in its CDBG program. Typically, applicant request amounts are much higher than the entitlement amount which further escalates the budgetary constraints in meeting the undeserved needs. However, the City will continue to partner, when feasible, with other nonprofit organizations to leverage the City's CDBG allocation.

Actions planned to foster and maintain affordable housing

The City will continue to operate existing affordable housing programs with the assistance of local not for profit housing developers. The City will also continue to research and potentially develop new programs that meet changing housing needs within our community.

Actions planned to reduce lead-based paint hazards

The City of Cape Coral's Department of Community Development has developed a Lead Based Paint Action Plan/Policy to address lead-based hazards that might be present within the pre-1979 housing stock. This plan was created to assist City staff and grantees in identifying and mitigating lead-based paint hazard within the City's older housing stock. It also serves to inform residents about the potential health hazards related to lead-based paint and how to eradicate these.

The Action Plan is divided into seven (7) sections:

1. Dissemination of Information
2. Evaluation of Dwellings for Lead-Based Paint Hazards
3. Reduction of Lead Hazards
4. Implementation of Ongoing Maintenance Procedures
5. Responding to Children with Environmental Intervention Blood Lead Levels (EIBLL)
6. Personnel Qualifications
7. Exemptions

A copy of this policy is in the appendices.

The City of Cape Coral's housing programs has integrated the components of 24 CFR Part 35 into its policies and procedures governing federally assisted housing programs directly administered under the City of Cape Coral and those contracted with subrecipient organizations. Programs will be affected include housing rehabilitations and acquisition as specified within 24 CFR Part 35.

The City of Cape Coral will support any application for lead-based paint hazard abatement grants, especially those that will benefit residents classified as extremely low, low, and moderate-income.

The City's homebuyer assistance program and single-family owner-occupied rehabilitation program that rehabilitates homes constructed prior to 1978 will be provided a complete visual assessment of all painted surfaces to identify deteriorated paint, and will be provided paint stabilization of deteriorated painted surfaces, and a clearance examination, as required. Lead-based paint hazards information will be provided to all homebuyers assisted by these programs. The City will follow its Lead-Based Paint Hazards Policy in the administration of the City's housing program to reduce and eradicate lead-based housing units in the City.

Additionally, lead based paint regulations will be included in all subrecipient agreements and compliance will be included in agency monitoring.

Actions planned to reduce the number of poverty-level families

The City of Cape Coral's goal is to reduce the number of poverty level families through economic development, affordable housing, and service programs coordinated by various entities throughout the City of Cape Coral, the City of Fort Myers, and Lee County. Recognizing the need to overcome poverty is one component of a complex set of issues. Beyond implementing economic development, affordable housing, and service coordinating programs, families in poverty must be provided the opportunity to overcome personal and socioeconomic barriers to gain control of their lives.

Per the 2000 Census, 1,623 families in Cape Coral had a 1999 income below the poverty level. This number represented 5.3% of families that resided in Cape Coral at that time. In comparison, 10.7% of families (approximately 4,381) had incomes below the federal poverty level in 2013. The poverty level families have drastically increased in the last ten years. This number is higher for families with children under 18 (16.8%) and female headed households with children under 5 years of age (39%).

To help individuals, rise above the poverty level and become self-sufficient, the City of Cape Coral in conjunction with Lee County and the State of Florida, including private, non-profit agencies and organizations have designed and implemented various programs.

The City of Cape Coral has established an Economic Development Office. This office promotes and assists businesses in locating and expanding operations and facilities in the City. Additionally, partnerships with

non-profits providing job-training/microenterprise assistance provide economic opportunities for low income individuals.

The affordable housing programs provided by the Cape Coral Housing Development Corporation, Habitat for Humanity of Lee and Hendry Counties, and the Section 8 rental programs administered by the Lee County Housing Authority and the Housing Authority of the City of Fort Myers enable lower income families to reduce their overall housing costs. These programs enable families to utilize a larger part of their income for other necessities. The programs often allow people to live closer to their place of employment, which in turn may reduce their travel costs.

Actions planned to develop institutional structure

The City will utilize its network of public sector and non-profit organizations to implement the consolidated plan. Over the next five years, the City expects to overcome gaps in the institutional structure and delivery system by:

- Training and capacity building for non-profit organizations;
- Collaborating with the Lee County Department of Human Services and Lee County Homeless Coalition regarding availability of homeless services/shelter in Cape Coral;
- Monitoring to identify program inefficiencies, improve program performance, and ensure compliance with applicable regulations;
- Encouraging collaboration among agencies to eliminate duplicative services and better serve residents, especially low- and moderate-income households and special needs populations; and
- Reviewing internal policies, procedures and staffing of the CDBG program for efficiency and effectiveness.

Actions planned to enhance coordination between public and private housing and social service agencies

See above.

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(I)(1,2,4)

Introduction

The City's program specific requirements for the CDBG program are listed below.

Community Development Block Grant Program (CDBG) Reference 24 CFR 91.220(I)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
The amount of surplus funds from urban renewal settlements	0
The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
The amount of income from float-funded activities	0
Total Program Income:	0

Other CDBG Requirements

The amount of urgent need activities	0
The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	100.00%



2019-2023

Analysis of Impediments to Fair Housing Choice



*A regional collaboration of
Lee County,
City of Fort Myers,
City of Cape Coral,*

*Based on the
2015 Analysis of Impediments
completed by
Lee H. Combs Consulting Services.*

Table of Contents

I.	Introduction and Executive Summary.....	1
A.	Purpose of the Report.....	1
B.	Fair Housing Laws.....	3
C.	Lead Agency and Funding Sources.....	5
D.	Methodology and Data Source	5
E.	Evaluation of Past Performance.....	6
F.	Conclusions	10
G.	Report Organization.....	14
II.	Jurisdictional Background Data.....	16
A.	Demographic Profile	17
B.	Household Characteristics	30
C.	Income Profile	37
D.	Employment and Transportation Profile	44
E.	Housing Profile.....	50
F.	Key Findings: Jurisdictional Background Data.....	65
III.	Evaluation of Current Fair Housing Legal Status.....	68
A.	Existence of Fair Housing Complaints.....	68
B.	Existence of Fair Housing Discrimination Suit.....	70
C.	Existence of Reasons for trends and patterns	70
D.	Key Findings: Evaluation of Current Fair Housing Legal Status.....	70
IV.	Identification of Impediments to Fair Housing Choice	71
A.	Public Sector	71
B.	Private Sector Lending Policies and Practices.....	92
C.	Public and Private Sector	105
D.	Actions taken by HUD against the Jurisdiction	108
V.	Assessment of Current Public and Private Fair Housing programs and Activities.....	109
A.	Public Programs	109
B.	Real Estate Practices	109
C.	Outreach/Advocacy Organizations	111
VI.	Community Participation	113
A.	Outreach to the Community.....	113
B.	Public Review of Draft AI	114
VII.	Conclusions and Recommendations.....	115

- A. Regional Impediments Carried over from Previous AIs 116
- VIII. Fair Housing Action Plans for Entitlement Jurisdictions 121
 - A. Monitoring and Evaluation 121
 - B. Reporting and Maintenance of Records 121
 - C. Fair Housing Action Plans..... 122
- IX. Signature Pages..... 132

Appendices

Appendix A: Community Conversation Survey – Fair Housing Results

Appendix B: Citizen Participation

I. Introduction and Executive Summary

Lee County is located on the Gulf Coast of Florida and encompasses approximately 811 square miles including several small islands in the Gulf of Mexico. The County is bordered by Charlotte County to the north, Hendry County to the east, and Collier County to the south. Four incorporated municipalities are located on the mainland: Fort Myers, Bonita Springs, Estero and Cape Coral; Fort Myers Beach, a fifth municipality, is located on Estero Island and a sixth municipality, Sanibel, is situated on the island of the same name. The unincorporated communities include Alva, Captiva Island, Lehigh Acres, Matlacha, North Fort Myers, Pine Island, and Tice. The County seat is Fort Myers and the largest city is Cape Coral. The County's boundary is the same as Cape Coral – Fort Myers Metropolitan Statistical Area (MSA) boundary.

A. Purpose of the Report

Equal access to residential housing (housing choice) is fundamental to each person in meeting essential needs such as pursuing personal, educational, or employment goals. Because housing choice is so critical to personal development, fair housing is a goal that government, public officials and the public must embrace for equality of opportunity to become a reality. In recognition of equal housing access as a fundamental right, the federal government and the State of Florida have both established fair housing choice as a right protected by law.

Fair Housing is defined as a condition in which individuals of similar income levels in the same housing market have a range of housing choices available to them independent of their race, color, religion, national origin, sex, sexual orientation, gender identity or expression, age, disability, familial status, marital status or any other arbitrary factor. Impediments to fair housing choice include any actions, omissions, or decisions taken because of race, color, religion, national origin, sex, sexual orientation, gender identity or expression, age, disability, familial status, or marital status or any other arbitrary factor, which restricts housing choices or the availability of housing choices.

Pursuant to the U.S. Department of Housing and Urban Development's (HUD) regulations (24CFR91.225(a)(1)) to receive the federally funded Community Development Block Grant (CDBG) funds, each entitlement jurisdiction must certify that it will affirmatively further fair housing (AFFH) in accordance with the requirements of 24 CFR 5.150 through 5.180. AFFH regulations are intended to provide effective planning processes, which include:

- Completing an Analysis of Impediments to Fair Housing Choice (AI) or Assessment of Fair Housing (AFH).
- Incorporating the AI or AFH into subsequent Consolidated Plans to ensure investment in actions that affirmatively further fair housing.

HUD interprets the implementation of this planning process to include:

- Analyzing fair housing data.
- Conducting an assessment fair housing issues and contributing factors.
- Identifying fair housing priorities and goals.

- Implementing meaningful actions to further fair housing goals.
- Promoting fair housing choice for all people.
- Providing racially and ethnically inclusive patterns or housing occupancy.
- Promoting housing that is physically accessible to, and usable by, all people particularly individuals with disabilities.
- Fostering compliance with nondiscrimination provisions of the Fair Housing Act.

This Analysis will:

- Evaluate fair housing data in each jurisdiction.
- Assess regional segregation, racially and ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs based on the protected classes.
- Summarize fair housing issues and capacity.
- Identify fair housing priorities and goals.

Three entitlement jurisdictions, the City of Cape Coral, the City of Fort Myers and Lee Urban County agreed to conduct an Analysis of Impediments to Fair Housing Choice at a regional scale, comparing trends and conditions within and across jurisdictions to develop a comprehensive view of regional equity and access to opportunity.

The Regional Analysis of Impediments to Fair Housing Choice offers considerable value in assessing fair housing issues, as many of the fair housing issues that are most intractable are best addressed at a regional level. This Regional AI covers the entirety of Lee County, including incorporated cities and unincorporated areas.

The Analysis of Impediments to Fair Housing Choice presents a demographic profile of Lee County, assesses the extent of housing needs among specific groups, and evaluates the availability of variety of housing choices for its residents. This report also analyzes the conditions in the private market and public sector that may limit the range of housing choices or impede a person's access to housing. While this report also assesses the nature and extent of housing discriminations, the focus is on identifying impediments that may prevent equal housing access and developing solutions to mitigate or remove such impediments.

Fair housing, while required by law and a moral issue in its commitment to equal access to housing for all people, is also very much an economic issue. No community can reach its full potential for economic growth and well-being if large segments of its residents are unable to participate fully in the housing market. Segregated housing causes disparities in access to education, employment, transportation, and healthy neighborhoods. Studies have clearly shown the relationship between housing and access to opportunities. Home-seekers who do not have access to all of the available housing choices may not be able to take advantage of living in neighborhoods, which enhance their opportunities for future success. Impediments to fair housing have created neighborhoods with significant disparities in access to opportunities.

Overcoming those disparities means ensuring that adequate investment is made to ensure all neighborhoods are healthy and attractive places to live. Eliminating impediments to fair housing choice will not only improve the quality of life for many affected individuals and families, but will also enhance the economic health of all Lee County residents. An analysis of the impediments to fair housing is more than a catalog of fair housing issues; it is a comprehensive study of the barriers to housing choice. This study must identify those systemic or structural issues that limit the ability of people to take advantage of the full range of housing and opportunities, which should be available to them.

Entitlement Jurisdictions

An entitlement jurisdiction is a jurisdiction with a population of over 50,000 residents. An “entitlement” jurisdiction is so defined because it is “entitled”, based on its population, to directly receive formula CDBG funding from HUD. Entitlement jurisdictions in Lee County include:

- City of Cape Coral
- City of Fort Myers
- Lee Urban County

Lee Urban County

Cities with a population smaller than 50,000 residents do not directly receive CDBG funds from HUD. Instead, these small cities may participate in the Urban County program. The Urban County program is responsible for administering the CDBG funds received from HUD. The Lee Urban County includes:

- Unincorporated areas
- City of Bonita Springs (Metropolitan City with deferred status)
- City of Sanibel
- Town of Fort Myers Beach
- Village of Estero

B. Fair Housing Laws

Federal Fair Housing Laws

The Federal Fair Housing Act of 1968 and Fair Housing Amendments Act of 1988 prohibit discrimination in all aspects of housing, including the sale, rental, lease or negotiation for real property. The Fair Housing Act prohibits discrimination based on a person’s race, color, religion, sex, disability, familial status, or national origin. On July 16, 2015, HUD published the Affirmatively Furthering Fair Housing Final Rule to provide a standardized fair housing planning process for grantees. In addition, HUD issued the Equal Access to Housing Final Rule on September 21, 2016, building upon the February 2012 to prohibit communities and organizations participating in its grant programs from discriminating based on actual or perceived sexual orientation, gender identity or marital status. Individuals and families who are protected from discrimination by fair housing laws are referred to as members of protected classes.

State of Florida Fair Housing Laws

The Florida Civil Rights Act of 1992 and Fair Housing Act of 1983 (State Statute 760) prohibits housing discrimination based on race, color, religion, sex, national origin, age, handicap, or marital status. In addition to the seven federally protected classes, age is also a protected class in the State of Florida, giving Florida residents greater protection under the State fair housing laws. The Civil Rights Act formally created the Florida Commission of Human Relations (FCHR), which is responsible for the enforcement of State Statute 760.

Federal Accessibility Standards

Fair Housing Amendment Act: The Act requires owners of housing facilities make “reasonable accommodation” (exceptions) in their rules, policies, and operations to give people with disabilities equal housing opportunities. The Fair Housing Act also requires landlords to allow tenants with disabilities to make reasonable access-related modifications to their private living space, as well as to common use spaces, at the tenant’s own expense. Finally, the Act requires that new multi-family housing with four or more units be designed and built to allow access for persons with disabilities. This includes accessible common use areas, doors that are wide enough for wheelchairs, kitchens and bathrooms that allow a person using a wheelchair to maneuver, and other adaptable features within the units.

Americans with Disabilities Act (ADA): ADA standards are required to ensure equal access to places of public accommodation and commercial facilities by individuals with disabilities. Title II of the ADA applies to state and local services, including state and local housing programs. Government entities are obliged to assure that housing financed through state and local programs complies with ADA accessibility guidelines.

Section 504: Section 504 of the Rehabilitation Act of 1973 states: “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. (29 U.S.C. 794)”. This means that Section 504 prohibits discrimination on the basis of disability in any program or activity that receives financial assistance from any federal agency, including HUD.

Architectural Barriers Act: The Architectural Barriers Act of 1968 (ABA) (42 U.S.C. 4151-4157) requires that certain buildings financed with Federal funds must be designed, constructed, or altered in accordance with standards that ensure accessibility for persons with physical disabilities. The ABA requires that covered buildings comply with the Uniform Federal Accessibility Standards (UFAS). The ABA does not cover privately owned housing, but covers buildings or facilities financed in whole or in part with Federal funds. The ABA applies to public housing (24 CFR 40), and to buildings and facilities constructed with CDBG funds (24 CFR 570.614). In practice, buildings built to meet the requirements of Section 504 and Title II of the ADA will conform to the requirements of the ABA.

Uniform Federal Accessibility Standards (UFAS): UFAS sets standards for facility accessibility by physically handicapped persons for federal and federally funded facilities. These standards are to be applied during the design, construction, and alteration of buildings and facilities to the extent required by the Architectural Barriers Act of 1968, as amended.

The Relationship between Fair Housing and Affordable Housing

Neither federal nor state fair housing laws identify low- and moderate-income households as a protected class. Therefore, the lack of affordable housing though critical, is not considered a fair housing issue. While housing affordability is not a fair housing issue, the increased demand for housing combined with the dwindling supply of housing may create conditions where fair housing violations become a part of the competition in the housing market. To the extent that the lack of affordable housing disproportionately affects groups that are protected by fair housing laws, fair housing concerns arise.

C. Lead Agency and Funding Sources

The most recent Regional AI was completed by an independent consultant, Lee H. Combs Consulting Services, in 2015, through consultation with staff from the three entitlement jurisdictions. Updates to this Regional AI are being completed by entitlement jurisdiction staff.

The funding for the 2015 Regional AI came from the all three entitlement jurisdictions' CDBG administrative and planning budgets. Updates are being made at the expense of the entitlement jurisdictions' CDBG administrative and planning budgets.

D. Methodology and Data Source

In accordance with the objectives in the HUD *Fair Housing Planning Guide and the Affirmatively Furthering Fair Housing (AFFH) Final Rule*, the Fair Housing Plans have been developed and are intended to:

- Effectively identify and evaluate fair housing data. Establish fair housing goals that address issues and factors contributing to fair housing issues.
- Incorporate deliberate fair housing planning into the Consolidated Plan.
- Promote access to opportunities for all persons.
- Provide opportunities for inclusive patterns of housing occupancy regardless of race, color, national origin, religion, sex, familial status and disability.
- Foster public input about fair housing issues and goals.

The methodology used to complete the Lee County Regional Analysis of Impediments to Fair Housing involved a compilation of primary data and review of reports completed by various agencies on the status of existing housing programs and efforts to improve access and choice to housing in Lee County. The following data sources were used to update this AI:

- The most recently available demographic data regarding population, household, housing, income and employment at municipal level, including Census and American Community Survey sources.
- HUD Comprehensive Housing Affordability Strategy (CHAS) data.

- HUD Affirmatively Furthering Fair Housing data.
- Public policies affecting the siting and development of housing.
- Financial lending institution data from Home Mortgage Disclosure Act (HMDA) database.
- Consolidated Plans, Annual Action Plans and CAPERs for federal entitlement communities.
- Real estate advertisements from the “Fort Myers New-Press”.
- U.S. Department of Labor, Bureau of Labor Statistic database.
- Local Housing Authorities Annual Plans (City of Fort Myers Housing Authority and Lee County Housing Authority) and Administrative Plans for Public Housing Authorities and Section 8 Programs.
- Lee County Property Appraiser’s Office database.
- University of Florida Shimberg Center for Housing Studies database.
- Previous AIs of the Cities of Fort Myers and Cape Coral, and Lee County.

E. Evaluation of Past Performance

Lee County, in collaboration with the cities of Cape Coral and Fort Myers, identified seven regional impediments, and five local impediments to fair housing in the 2015 AI. Each regional impediment was assigned a goal and various strategies for meeting recommended benchmarks. Regional goals selected aim to:

1. Reduce incidence of discrimination in the sale or rental of housing.
2. Increase racial and ethnic minority’s access to home financing.
3. Improve regional transportation.
4. Affirmatively further fair housing programs in the County.
5. Improve housing accessibility for persons with disabilities.
6. Improve LEP persons’ access to fair housing information.
7. Ensure that the members of protected classes are represented on local planning/zoning boards.

In addition to regional goals, each jurisdiction established local goals to revise administrative procedures and adopt fair housing ordinances that comply with the Fair Housing Act.

In an effort to take measurable action toward accomplishing each goal, specific strategies and benchmarks were established and reported on quarterly. Accomplishments reported for each goal are detailed below.

Reduce incidence of discrimination in the sale or rental of housing.

- Lee County Human and Veteran Services (HVS) ensured ease of access of fair housing information to the public via their website and in print at various public contact points, such as libraries and community centers. Additionally, Lee County continuously ensures that all relevant documents and publications are available in English and Spanish and feature the fair housing logo.

- Lee County administered a contract for the 2015 and 2016 program years with Florida Rural Legal Services to provide fair housing education and assist in the organization of a regional fair housing workshop, held during National Fair Housing month in April. The workshop, hosted by the Housing Authority of the City of Fort Myers, was attended by representatives from the regional jurisdictions, local residents, property owners, and realtors. Additional fair housing education contracts were administered during the 2017 and 2018 program years with the Florida Housing Coalition.
- Lee County HVS distributes fair housing information packages and annual training to property owners that rent to low income residents throughout the County.

Increase racial and ethnic minority's access to home financing.

- The City of Cape Coral maintains lender guidelines for participation in the City's CDBG, NSP, SHIP programs.
- Lee County HVS has conducted several strategic outreach events, which included distribution of program and fair housing marketing materials. In addition, HVS offers financial literacy training funded by a Florida Attorney General's office grant, and budget clinic taught by staff of the University of Florida Extension Services office.
- Lee County HVS administers a down payment assistance (DPA) program to assist homebuyers with down payment and closing costs. Seventy percent of the households assisted through the DPA program during the 2016 program year were Hispanic.

Improve regional transportation.

- The City of Cape Coral's minibus, funded by CDBG funds, provides transit to disabled individuals within the City.
- Job Access and Reverse Commute (JARC) and New Freedom programs were discontinued by the Federal Transit Administration (FTA), however, Lee County continues to provide general funds and local matches to social service agencies that received FTA Section 5310 Enhanced Mobility for Seniors & Individuals with disabilities pass through to the state of Florida Department of Transportation.

Affirmatively further fair housing programs in the County.

- The Housing Authority of the City of Fort Myers, along with Lee County HVS, City of Fort Myers and City of Cape Coral, hosted the Southwest Florida Annual Fair Housing Summits on April 21, 2015, April 6, 2016, April 12, 2017, and April 11, 2018 at the Dr. Carrie Robinson Community Center in Fort Myers. The Summits feature guest speakers such as Mr. Aaron Levine, from the HUD Miami Field Office and Attorney Yohance Pettis, from the Tampa based U.S. Attorney's Office. In-depth presentations about the Fair Housing Act, best practices for property managers and owners, and information regarding the U.S. Attorney's Office and available Fair Housing services are given during the Summits.
- Residents entering public housing programs are required to attend New Resident Orientation, which is held monthly and offered in Spanish every other month. The orientation details fair housing protections and informs news residents of their right to fair housing.

- Lee County HVS distributes a Fair Housing Accomplishments log to responsible stakeholders quarterly to ensure that measurable actions are being taken to affirmatively further fair housing in Lee County.

Improve housing accessibility for persons with disabilities.

- The City of Cape Coral and Lee County prioritize special needs clients in their Community Development Block Grant (CDBG) and State Housing Initiative Partnership (SHIP) funded owner occupied rehabilitation programs.
- All jurisdictions ensure that reasonable accommodation information is clearly displayed in public facilities and on public notices.
- All jurisdictions ensure that newly constructed properties meet Universal Design requirements.

Improve LEP persons’ access to fair housing information.

- Lee County HVS has conducted several strategic outreach events, which included distribution of program materials and fair housing marketing materials to LEP persons.
- The Cities of Cape Coral and Fort Myers and Lee County websites have a one-click translation feature, which offers translation of all web content into a multitude of languages.
- Lee County HVS reviewed and updated their Language Access Plan (LAP) for Persons with Limited English Proficiency. The updates include the addition of an annual monitoring plan that ensures staff are properly trained on LEP procedures.
- The City of Cape Coral is in the process of rewriting their existing Title IV Plan, which includes their LAP.

Ensure that the members of protected classes are represented on local planning/zoning boards.

- Lee County conducted a survey of the demographics of members of the Lee County Zoning Board. Results were compiled and information was conveyed to elected officials regarding the importance of diversity.

Progress was also made toward the accomplishment of local fair housing goals. Lee County collaborated with the City of Sanibel to amend their zoning ordinance, which established an excessive separation distance requirement for assisted living, foster family homes, and residential childcare facilities. The ordinance was revised in May 2015. The City of Cape Coral established a process for ensuring that group homes are properly reviewed in accordance with State Law and Florida Building Code requirements. Additionally, the City of Cape Coral has produced a draft Fair Housing Ordinance that will be brought before their board for adoption in the near future.

Overall, the progress made toward current fair housing goals has been significant. Collaboration between entitlement jurisdictions has played a significant role in accomplishing fair housing goals. The implementation of the Fair Housing Accomplishments Report, which is emailed quarterly to stakeholders, has proven to be a useful tool in keeping responsible agencies mindful

of the actions necessary to affirmatively further fair housing. Throughout the update of this AI, that collaboration and accountability has continued.

The Housing Authority of the City of Fort Myers and the Lee County Housing Authority, the local Public Housing Authorities (PHAs), have also been involved in the planning and development of new fair housing goals and strategies. PHA involvement has been instrumental to ensure that residents most vulnerable to discrimination are aware of their rights. Partnerships between community stakeholders and housing developers have made Lee County successful in determining fair housing goals and addressing impediments.

There have been some short falls in actions taken to accomplish the established goals. Little progress has been made toward the goals of improving regional transportation. Public transportation continues to be an ongoing concern in Lee County. The discontinuation of Job Access and Reverse Commute (JARC) and New Freedom programs formerly funded by the Federal Transit Administration (FTA) limited the resources available to accomplish established goals. Lee County continues to provide general funds and local matches to social service agencies that received FTA Section 5310 Enhanced Mobility for Seniors & Individuals with disabilities pass through to the State of Florida Department of Transportation. Lee Tran, the local public transportation provider, has also developed additional transportation options, as part of the 10 year Transit Development Plan and the 2035 Visions Plan.

The Lee County Transit Development Plan can be viewed here:

<https://www.leegov.com/leetrans/Documents/LeeTran%20TDP%20Final%20Report%2010-13-16.pdf>

Additional actions can also be taken toward reducing incidences of discrimination in the sale or rental of housing through coordinating and conducting comprehensive countywide random testing on a regular basis to identify issues, trends, and problem properties. Feasibility studies and the development of testing methods must be completed prior to any scheduling of testing. Lee County did explore the options of the Department of Justice completing testing, but the partnership was never fully developed.

Locally, additional actions can be taken toward adopting a fair housing ordinance within the City of Cape Coral. The City of Cape Coral has been working toward this goal. The City has also approved a Reasonable Accommodation Ordinance since the last update of the AI.

The City of Fort Myers worked with their Local Affordable Housing Advisory Committee (LAHAC) to draft a Fair Housing Ordinance. Staff will take the ordinance before City Council for approval in August 2019. The City has revisited and re-interpreted its Land Development Code definition of Residential Care Facility, which allows accommodation of individuals that meet the definition of disabled/handicapped under FHA and ADA with required relationship/nexus requirement for reasonable accommodations. This allows substance abuse treatment and outpatient services in residential areas.

These accomplishments have provided the foundation for the 2019 AI update.

F. Conclusions

1. Impediments Found

a. Impediments Carried over from Previous AIs:

Regional Impediments

These are impediments identified in the previous AIs from three entitlement jurisdictions that are common in all jurisdictions but are persisting, and therefore require further efforts to mitigate the impacts. These impediments are considered “regional” because their impact is present in all participating jurisdictions within the County and require the collaboration of all jurisdictions to address the impediments.

Regional Impediment #1: Housing discrimination persists in the private market, according to complaints data received.

Disability, national origin, and familial status are often the prior basis upon which fair housing complaints are based.

Actions to Address Impediment:

- Prominently display fair housing information on public counters and other points of contact, such as libraries and community centers.
- Include fair housing logo on all housing related documents for public review, brochures, and legal advertisements. Ensure all non-profit agencies that receive housing funds use the logos on their advertising materials.
- Entitlement jurisdictions should include in the scopes of work for fair housing services to expand outreach to small property owners.
- Coordinate and conduct comprehensive and countywide random testing on a regular basis to identify issues, trends, and problem properties by:
 - a) Conduct feasibility study.
 - b) Develop testing methods.
 - c) Schedule and conduct testing.

Regional Impediment #2: Pattern of disparity continues to exist in private mortgage lending for racial and ethnic minorities.

The analysis of the latest HMDA data indicated the following:

- Loan application denials for minorities were higher than the average denial rates (19.3% (2017)) and well above the denial rate of White applicants (15.45% (2017)). The average denial rates by race and ethnicity included 12.56 percent for Asian applicants, 26.23 percent for Black applicants, and 22.9 percent for Hispanic applicants.

- Among Black applicants and White/Minority Race applicants, credit history (42.1 percent and 49.1 percent, respectively) was cited as the most common reason for denial. For Asian applicants, debt to income ratio was the most common reason for denial at 52.2 percent.
- An analysis of high-cost loans in Lee County by race and ethnicity reveals that Blacks and Hispanic borrowers are overrepresented in high-cost lending. In 2017, 29 percent of mortgages obtained by Black borrowers were high-cost, and 33 percent of loans to Hispanic borrowers were high-cost. In comparison, 16 percent of mortgages obtained by White borrowers were high-cost.

Actions to Address Impediment:

- Increase outreach efforts and homeownership opportunity awareness to minority and ethnic communities.
- Maintain lender guidelines for housing assisted with state and federal funds and Fair Housing Laws.
- Fund credit and financial management courses with CDBG or other funds to improve credit issues of racial and ethnic minority applicants.
- Promote the availability of general budgeting classes conducted by the University of Florida Extension Services to the targeted communities.

Regional Impediment #3 Limited public transit options and rising cost of transportation in general limit location options for many lower-income households.

Increased housing costs are forcing families to move farther away from jobs in order to find affordable living options, which increase their transportation expenses. In 2012, the housing and transportation affordability index for Lee County was 54.9 percent. In 2017, the index rose to 58 percent. Due to the 2008-2009 reductions in property values directly affecting funds available to county government, cuts were made over to all areas of local government, including public transportation personnel and the reduction in some routes that were experiencing low ridership. Many of these routes have not yet been replaced.

Actions to Address Impediment:

- Support a regional transportation system that provides services to low and moderate income households throughout the County.
- Continue funding bus pass programs and support the creation of alternative modes of transportation to low/mod and disabled households.

Regional Impediment # 4 Fair Housing education, training and outreach programs are inadequate to meet the responsibility to affirmatively further fair housing throughout Lee County.

Discontinuation of the local substantially equivalent Fair Housing Agency (Lee County Office of Equal Opportunity) in the community creates challenges to fair housing enforcement, as well as, outreach and education. Limited feedback provided during Community Conversation meetings, and a high number of dismissed fair housing complaint cases indicated that residents do not fully understand what constitutes a violation of the Fair Housing Act.

Actions to Address Impediment:

- Coordinate fair housing programs between three entitlement jurisdictions to collaborate and consolidate affirmatively further fair housing efforts in Lee County.
- Support non-profit capacity building programs that encourage local non-profits to apply for Fair Housing Initiatives Program (FHIP) and/or Fair Housing Assistance Program (FHAP) funds through HUD.
- Offer fair housing workshops throughout the year.
- Maintain a fair housing log to record activities undertaken throughout the year to affirmatively further fair housing.

Regional Impediment # 5 An insufficient number of accessible housing units are available which meets the needs of persons with disabilities in the County.

Housing providers are not making the accommodations and/or modifications necessary to make housing available to persons with disabilities.

Actions to Address Impediment:

- Implement fair housing workshop topics to include “reasonable accommodation” requirements and requirements of Section 504, the Fair Housing Act, the Americans with Disabilities Act, the Architectural Barriers Act, and the State’s Accessibility Building Codes.
- Maintain the Universal Design requirements in new constructions funded by federal and state grants.
- Continue to give priority and set aside funding to rehabilitate special need housing units.

Jurisdiction-Specific Impediments

These impediments are “jurisdiction-specific” and therefore specific recommendations are identified for each participating jurisdiction.

City of Cape Coral

Local Impediment #1: City’s Fair Housing Ordinance does not include protected class based on Familial status and does not define handicapped persons.

The City of Cape Coral’s Fair Housing Ordinance (Chapter Sixteen) prohibits discrimination on the basis of race, color, religion, sex, age, handicapped status, or national origin in connection with

housing. The Ordinance prohibits discrimination in the sale and rental of housing, the residential real estate related transactions, the provisions of brokerage services, and the provisions for housing for older persons. The Ordinance outlines unlawful and discriminatory practices in regards to the sale and rental of housing. In addition, the Ordinance created the City's Fair Housing Compliance Board and provided an overview of its functions. However, the ordinance does not include a protected class based on familial status, and protections appears to be limited to physically handicapped persons and does not provided protection for all disabilities including mental illness.

Actions to Address Impediment: The City will work to adopt a fair housing ordinance that reflects current protected classes.

City of Fort Myers

Local Impediment #1: The City does not have a Fair Housing Ordinance

Actions to Address Impediment: The City of Fort Myers worked with their Local Affordable Housing Advisory Committee (LAHAC) to draft a Fair Housing Ordinance. Staff will take the ordinance before City Council for approval in August 2019.

b. New Impediments Identified:

The following are new impediments identified during the development of this 2019 Regional AI.

Regional Impediments:

This new impediment is considered "regional" because it affects or is present in all participating jurisdictions within the County and requires the collaboration of all jurisdictions to address.

Regional Impediment #6: Neighborhood Opposition to Diversity in Housing Type

Actions to Address Impediment:

- Provide information to local government appointed and elected officials regarding the need for a variety of housing types and tenure for all persons regardless of income levels.
- Public information campaign regarding the need for a variety of housing types and tenure regardless of income levels.
- Provide training specifically to elected officials and appointees regarding fair housing laws and local land use decisions.
- Regular review of land use decisions by local governments and results.

Jurisdiction-Specific Impediments

These impediments are "jurisdiction-specific" and therefore specific recommendations are identified for each participating jurisdiction.

City of Fort Myers

Local Impediment #2: Racially and Ethnically Areas of Concentration Poverty (R/ECAP)

Within Lee County, the City of Fort Myers, according to the American Community Survey, has the only area with significant concentrations of extreme poverty and minority populations. This area is census tract 7. HUD defines this Racially and Ethnically Concentrated Area of Poverty (RCAP/ECAP) as a census tract with 40 percent or more of individual are living at or below the poverty line and a non-white population of 50 percent or more. Census tract 7 consists of 52 percent Black and 11 percent Hispanic persons, with national origins from Haiti accounting for 18 percent of the residents.

Actions to Address Impediment:

1. Continually encourage minority and low-income households to seek housing counseling from HUD-certified housing counseling agencies. Provide information to housing counseling agencies to assist them in educating minority and low-income households regarding the range of housing options in the City, including those outside of minority and low-income concentration areas. Encourage attendance at budget management and credit counseling classes offered by housing counseling agencies.
2. Promote and conduct outreach to the R/ECAP, highlighting job training and business development opportunities offered by the Southwest Florida Enterprise Center and other agencies in the area.
3. Continue to follow the City's Language Access Plan, which includes provisions to ensure key documents and resources are available to Spanish-speaking residents, and develop additional outreach activities for the Haitian population.
4. Annually sponsor fair housing training for City of Fort Myers residents, network with nonprofit, neighborhood-based and faith organizations, and educate institutions to reach out to minority populations and areas of minority concentration.
5. Continue to promote and provide mortgage assistance to low-moderate income residents.

G. Report Organization

The AI is divided into nine sections and appendices:

- I. **Introduction and Executive Summary** defines "fair housing", explains the purpose of the report and summarizes impediments found and actions to address the impediments to fair housing choice.
- II. **Jurisdictional Background Data** presents the demographic, housing, and income characteristics in Lee County. Major employers and transportation access to job centers are identified. The relationships among these variables are discussed.
- III. **Evaluation of Current Fair Housing Legal Status** assesses the nature and extent of fair housing complaints and violations in Lee County. Trends and any patterns of impediments to fair housing, as identified by public and private agencies, are included.

- IV. Identification of Impediments to Fair Housing Choice** analyzes various public policies and actions that may impede fair housing within Lee County. This section also assesses the access to financing for different groups, including subprime lending issues.
- V. Assessment of Current Public and Private Fair Housing Programs and Activities in the Jurisdiction** evaluates existing public and private programs, services, and activities that assist in providing fair housing in Lee County.
- VI. Community Participation** describes the community outreach programs and summarizes comments from residents and various agencies on fair housing issues such as discrimination, housing impediments, and housing trends.
- VII. Conclusions and Recommendations** summarizes the findings regarding fair housing issues in Lee County and provides recommendations and proposed actions for furthering fair housing practices.
- VIII. Fair Housing Plan** includes monitoring, evaluation, reporting and records maintenance requirements and entitlement jurisdictions' fair housing action plans to address the impediments to fair housing choice.
- IX. Signature Page**

Appendix A: Fair Housing Survey Results

Appendix B: Citizen Comments

II. Jurisdictional Background Data

Lee County is located on the Gulf Coast of Florida and encompasses approximately 811 square miles including several small islands in the Gulf of Mexico. The County is bordered by Charlotte County to the north, Hendry County to the east, and Collier County to the south. Four incorporated municipalities are located on the mainland: Estero, Fort Myers, Bonita Springs and Cape Coral; Fort Myers Beach, a fifth municipality, is located on Estero Island and a sixth municipality, Sanibel, is situated on the island of the same name. The unincorporated communities include Alva, Captiva Island, Lehigh Acres, Matlacha, North Fort Myers, Pine Island, and Tice. The County seat is Fort Myers and the largest city is Cape Coral. The County's boundary is the same as Cape Coral – Fort Myers Metropolitan Statistical Area (MSA) boundary. Similar to much of Southwest Florida, Lee County is a popular tourist and retirement destination. The warm climate draws visitors as well as part-time and full-time residents from around the country and the world.

Map 1: Location of Lee County



Like many areas in the United States, the minority population in Lee County has increased significantly in recent years, especially among the Hispanic groups. As this and subsequent sections will discuss, fair housing issues tend to particularly affect racial and ethnic minority groups as well as persons with disabilities.

This section of the AI analyzes the socioeconomic profile of County residents, housing stock characteristics, and employment and transportation conditions that may affect the ability of households in the County with similar income levels to have a like range of housing choices.

A. Demographic Profile

Assessment of demographic characteristics can indicate the need for and the extent of equal access to housing in a community. Factors such as population growth, age characteristics, and racial/ethnic mix shape a region's housing needs and play a role in identifying potential impediments to fair housing choice. While affordability is not a fair housing issue, the relationships among household income, household types, and other factors often create misconceptions and biases that raise fair housing concerns.

Population Growth

The 2017 American Community Survey 5-Year Population Estimate indicates a total population of 698,468 in Lee County, a 12% increase over the 2010 census of 618,754. This increase is much less significant than the 40 percent increase from the 2000 to 2010 census count. The City of Fort Myers is the fastest grown City (26.98 percent), followed by the City of Bonita Springs (14.32 percent), and the City of Cape Coral (13.45 percent). The Town of Fort Myers Beach experienced the slowest growth (.81 percent).

The Bureau of Economic and Business Research (BEBR), University of Florida estimates that by the year 2030, Lee County's population is expected to reach 891,200. That is an increase of approximately 27 percent from the 2017 level. The entire Lee County Region will likely experience the high growth rate (greater than 25 percent) with exceptions of the Town of Fort Myers Beach (-8 percent) and the City of Sanibel (4 percent). Population growth creates demands for housing, jobs, public facilities and infrastructure, including open space, recreation opportunities, transportation options, water, emergency services, schools and more.

Table 1: Population Growth

Jurisdiction	Total Population 2010	Estimated Population 2017	Total Population 2020 (Projected)	Total Population 2030 (Projected)	Projected Percent Change 2017-2020	Projected Percent Change 2017-2030
Urban County						
Bonita Springs	43,857	50,137	52,802	62,645	5.32%	25%
Fort Myers Beach	6,277	6,328	6,059	5,818	-4.25%	-8%
Sanibel	6,469	6,659	6,673	6,920	0.21%	4%
Estero	0*	30,945	38,410	48,125	24.12%	56%
Unincorporated	345,548	350,230	417,540	501,646	19.22%	43%
Total Urban County	402,151	444,299	521,484	625,154	17.37%	41%
Entitlement Jurisdictions						
Cape Coral	154,305	175,063	198,641	249,942	13.47%	42.77%
Fort Myers	62,298	79,106	81,483	101,525	3.00%	28.34%
Total Lee County	618,754	698,468	749,600	891,200	7.32%	27.59%

Source: Census 2010 (SF 1 & DP 1); Bureau of Economic and Business Research (BEBR), University of Florida, 2017

*The City of Estero was incorporated December 2014.

Age and Gender Profile

The age characteristics of a community give an insight into current and future demand for housing. The age composition of a community affects housing demand since different age groups have very different housing needs. Traditionally, young adult households may occupy apartments, condominiums, and smaller single-family homes because of size and/or affordability. Middle-age adults may prefer larger homes as they begin to raise their families, while seniors may prefer apartments, condominiums, mobile homes, or smaller single-family homes that have lower costs and less extensive maintenance needs.

Table 2: Age Profile

Jurisdiction	Under 18		65 and Older		Median Age	
	2010	2017	2010	2017	2010	2017
Urban County						
Bonita Springs	13.80%	14.10%	33.80%	38.70%	55.2	56.4
Fort Myers Beach	5.40%	2.40%	45.40%	55.30%	63.2	67.0
Sanibel	7.90%	8.90%	50.10%	52.30%	65.0	65.9
Estero	n/a	12.10%	n/a	45.30%	n/a	62.5
Unincorporated	19.30%	21.27%	25.80%	26.70%		
Total Urban County	18.30%	19.33%	27.30%	28.25%		
Entitlement Jurisdictions						
Cape Coral	22.60%	19.90%	17.00%	21.90%	42.4	45.9
Fort Myers	26.30%	20.50%	14.40%	19.00%	35.8	39.2
Total Lee County	19.60%	18.40%	25.70%	27.00%	45.6	47.8

Source: U.S. Census Bureau 2013-2017 American Community Survey Table S0101

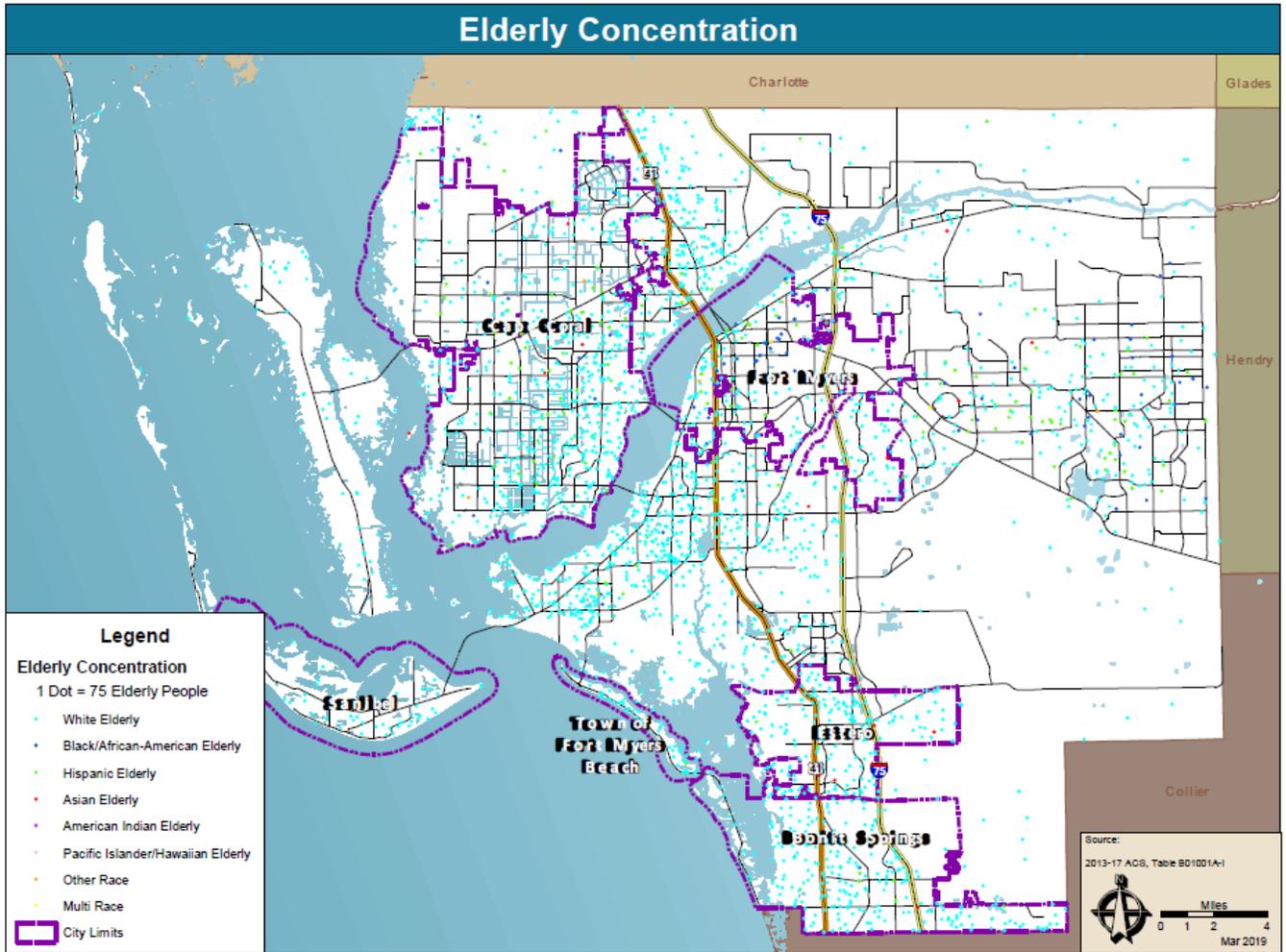
A significant presence of children younger than 18 years of age can be an indicator of the need for larger housing units since this characteristic is often tied to families and larger households. People under 18, typically do not work and are dependents of their families. Those who do work generally hold low paying jobs, and many share housing with others to make housing affordable.

Overall, within Lee County population, the percentage of children under 18 years has slightly decreased from 2010 to 2017. The cities of Fort Myers and Cape Coral have the largest share of the children under 18 with both cities' median ages being younger than the County median age.

In comparison to the state of Florida's age characteristics, Lee County's overall median age of 47.8 years old is older than the state's median age of 41.8 years old, according to the U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates. Only the City of Fort Myers has a lower median age.

The proportion of residents over 65 years of age has increased since 2010. The Town of Fort Myers Beach and the City of Sanibel have the greatest share of residents over 65 years. At the same time, these two cities have the lowest share of children under 18 years old. These two cities are coastal communities and considered retirement locations.

Map 2: Location of Elderly Concentrations by Race and Ethnicity, 2017



The population projection by BEBR indicates that by 2030, nearly 30 percent of Lee County’s population will be 65 and older residents.

Table 3: 65 and older Growth Projection

Jurisdiction	65 and older			
	2010	2017	2020	2030
Urban County				
Bonita Springs	33.80%	38.70%	36.90%	40.00%
Fort Myers Beach	45.40%	55.30%	56.30%	67.70%
Sanibel	50.00%	52.30%	64.00%	72.40%
Estero	n/a	45.30%		
Unincorporated	25.80%	26.70%	27.30%	29.10%
Total Urban County		28.25%		
Entitlement Jurisdictions				
Cape Coral	17.00%	21.90%	19.70%	23.50%
Fort Myers	14.40%	19.00%	21.40%	29.80%
Total Lee County	23.50%	27.00%	25.90%	29.00%

Source: U.S. Census Bureau 2013-2017 American Community Survey Table S0101; Bureau of Economic and Business Research (BEBR), University of Florida, 2014

Lee County’s gender distribution has experienced a slight change from 2010 to 2017. The overall male population has increased by 0.53 percent while female population has decreased by 0.2 percent. In 2017, the difference between the male and female population decreased by 1.06 percent to .74 percent in 2017 versus 1.8 percent in 2010.

Table 4: Gender Distribution 2010-2017

Jurisdiction	Male		Female	
	2010	2017	2010	2017
Urban County				
Bonita Springs	50.40%	50.18%	49.60%	49.82%
Fort Myers Beach	49.50%	47.83%	50.50%	52.17%
Sanibel	47.30%	45.78%	52.70%	54.22%
Estero	0.00%	48.24%	0.00%	51.76%
Unincorporated	51.30%	49.03%	51.20%	50.97%
Total Urban County	51.30%	49.03%	51.00%	50.97%
Entitlement Jurisdictions				
Cape Coral	48.80%	48.44%	51.20%	51.56%
Fort Myers	50.10%	49.90%	49.90%	50.10%
Total Lee County	49.10%	49.63%	50.90%	50.37%

Source: U.S. Census Bureau 2013-2017 American Community Survey Table S0101

Ancestry Composition

It is illegal to refuse the right to housing based on place of birth or ancestry. In 2017, according to the American Community Survey, 16 percent of all Lee County residents were foreign-born. By way of origin, the largest foreign-born group in the County was Latin American, a group that comprised 70.9 percent of the entire foreign-born population. The second most prevalent origin was European, at 13.9 percent, and Asian, which was the place of origin for 7.7 percent of the foreign-born population.

Persons with Limited English Proficiency (LEP) are defined by the federal government as those with a limited ability to read, write, speak, or understand English. American Community Survey data reports on the non-English spoken at home for the population five years and older. In 2017, the Census Bureau reported that 147,361 persons across Lee County (21.1 percent of the population) spoke at least one language other than English. Of these, 62,713 (9.4 percent of the population) spoke English less than “very well”. Translation of vital documents is required for HUD entitlement communities if the number of LEP persons in a single language group constitutes 5 percent or 1,000, whichever is less. The language group to qualify according to this threshold is Spanish.

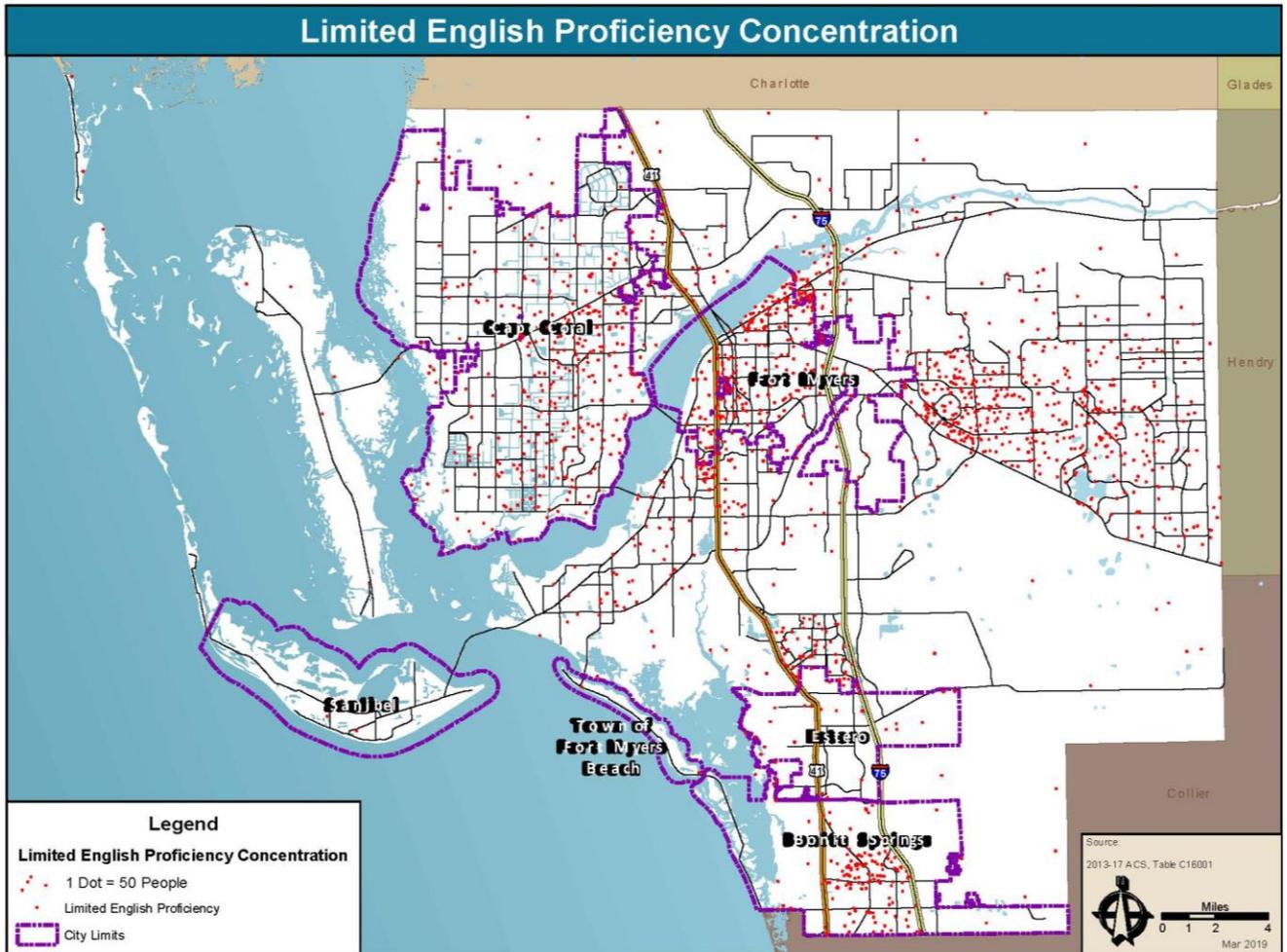
Table 5: Limited English Proficiency Language Group, 2017

Language Group	Number of LEP Speakers	Percent of Total Population
Spanish	47083	7.83%
French Creole	4633	0.77%
Portuguese	1130	0.19%
German	1049	0.17%

Source: HUD AFFH Data (AFFHT0004) Released November 17, 2017

The entitlement jurisdictions have completed Limited English Proficiency analysis and have Language Assistance Plans (LAP) in place.

Map 3: Limited English Proficiency Concentration, 2017



Racial/Ethnic Composition

Overall, Lee County has become more diverse since 2010. This is due to two factors: increase in racial and ethnic minority population and decrease in the percentage of White population. After White residents, the largest racial/ethnic group in Lee County is Hispanic. Hispanic or Latino is an ethnic classification by the U.S. Census Bureau; however, Hispanic individuals can be of any race.

The 2010 Census indicated a major shift in population composition from 2000, showing 70.96 percent White (not Hispanic or Latino) and Hispanic or Latino (any race) population comprising 18.31 percent of the County's total population. In 2017, 68.4 percent of the population identified as White (not Hispanic or Latino) and Hispanic or Latino (any race) populations comprised 20.2 percent of the County's total population.

The County's population that is Hispanic or Latino increased from 113,308 persons to 141,544 persons from 2010 and 2017, an increase of 124.9 percent.

As seen in Table 6, the Cities of Bonita Springs, Cape Coral and Fort Myers have significant Hispanic concentrations, while the City of Sanibel has the least concentration of Hispanic Population. The largest concentration of Black population occurs in the City of Fort Myers with 26.17 percent of the City's population versus the countywide of 8.66 percent.

In 2000, for the first time, the Census forms allowed Americans to classify themselves as belonging to more than one race. In Lee County, 1.79 percent of the people identified themselves as belonging to more than one race in the 2017 American Community Survey. Native American, Pacific Islander, Asian other race, and "Two or More Races" comprised 6.61 percent of the County's total population.

Table 6: Racial and Ethnic Population Composition 2017

Jurisdiction	Not Hispanic/Latino							Hispanic Latino
	White	Black	American Indian	Asian	Pacific Islander	Other Race	Two or more races	Any Race
	%	%	%	%	%	%	%	%
Urban County								
Bonita Springs	90.94%	1.46%	0.02%	1.12%	0.00%	4.26%	2.20%	25.92%
Fort Myers Beach	97.40%	0.29%	0.28%	0.74%	0.00%	0.00%	1.29%	2.89%
Sanibel	98.01%	0.29%	0.27%	0.35%	0.00%	0.34%	0.74%	0.97%
Unincorporated	84.98%	8.50%	0.17%	1.48%	0.07%	2.88%	1.91%	19.66%
Total Urban County	86.06%	7.44%	0.16%	1.41%	0.06%	2.95%	1.92%	19.83%
Entitlement Jurisdictions								
Cape Coral	90.11%	4.42%	0.26%	1.56%	0.02%	2.17%	1.46%	20.17%
Fort Myers	63.88%	26.17%	0.10%	2.36%	0.09%	5.64%	1.77%	22.68%
Total Lee County	84.73%	8.66%	0.18%	1.55%	0.05%	3.04%	1.79%	20.22%

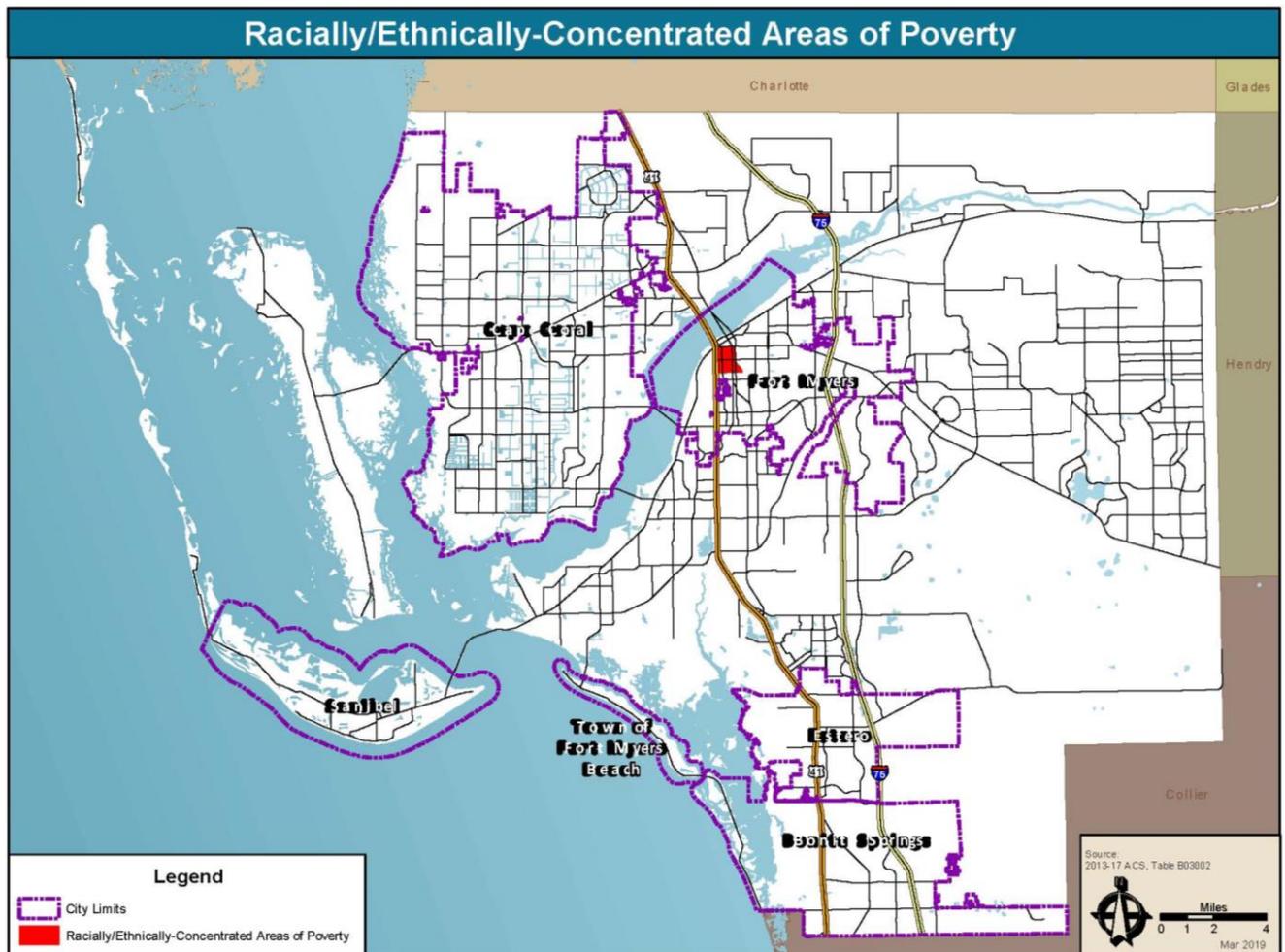
Source: U.S. Census Bureau 2013-2017 American Community Survey Table B02001 & B03002

Racially/Ethnically Concentrated Areas of Poverty (RCAPs/ECAPs)

There are well-documented connections between the socio-economic composition of a neighborhood and educational, economic, and social opportunities available to the residents within the neighborhood. Nationwide, the existence of high-poverty neighborhoods with strong racial or ethnic concentrations can limit opportunities and compound negative impacts typically associated with poverty.

A racially or ethnically concentrated area of poverty (R/ECAP) means a geographic area, based on the most recent American Community Survey, with significant concentrations of extreme poverty and minority populations. HUD has defined a “Racially and Ethnically Concentrated Area of Poverty (RCAP/ECAP)” as a census tract with 40 percent or more of individuals living at or below the poverty line and a non-White population of 50 percent or more. In Lee County, there are one racially and ethnically concentrated areas of poverty (RCAP/ECAP), which is located in the City of Fort Myers. The R/ECAP census tract, number 7, is displayed in Map 4.

Map 4 Racially/Ethnically Concentrated Areas of Poverty, 2017



Of the total population of the Cape Coral – Fort Myers Region .3 percent, or 2,177 reside in census tracts that meet the criteria of a R/ECAP, a 1.5 percent reduction since 2012. Of those 2,177 persons, more than 52 percent are Black, Non-Hispanic, and more than 11 percent are Hispanic. There are 358 families living in a R/ECAP, more than 30% of whom have children under the age of 18. Persons with national origins lying in Haiti make up more than 18 percent of populations living in R/ECAPS. Regionally minorities, specifically Black, Non-Hispanic families with children, are disproportionately represented within R/ECAPS.

Table 7: Demographics of R/ECAP Poverty Census Tract, 2017

R/ECAP Race/Ethnicity		#	%
Total Population in R/ECAPs		2,177	-
White, Non-Hispanic		736	33.81%
Black, Non-Hispanic		1,140	52.37%
Hispanic		240	11.02%
Asian or Pacific Islander, Non-Hispanic		33	1.52%
Native American, Non-Hispanic		9	0.41%
Other, Non-Hispanic		19	0.87%
R/ECAP Family Type			
Total Families in R/ECAPs		358	-
Families with children		111	31.01%
R/ECAP National Origin			
Total Population in R/ECAPs		2,177	-
#1 country of origin	Haiti	398	18.28%
#2 country of origin	Cuba	44	2.02%
#3 country of origin	Jamaica	43	1.98%
#4 country of origin	Mexico	36	1.65%
#5 country of origin	Dominican Republic	30	1.38%
#6 country of origin	Vietnam	28	1.29%
#7 country of origin	Venezuela	9	0.41%
#8 country of origin	Honduras	6	0.28%
#9 country of origin	El Salvador	6	0.28%
#10 country of origin	Canada	5	0.23%

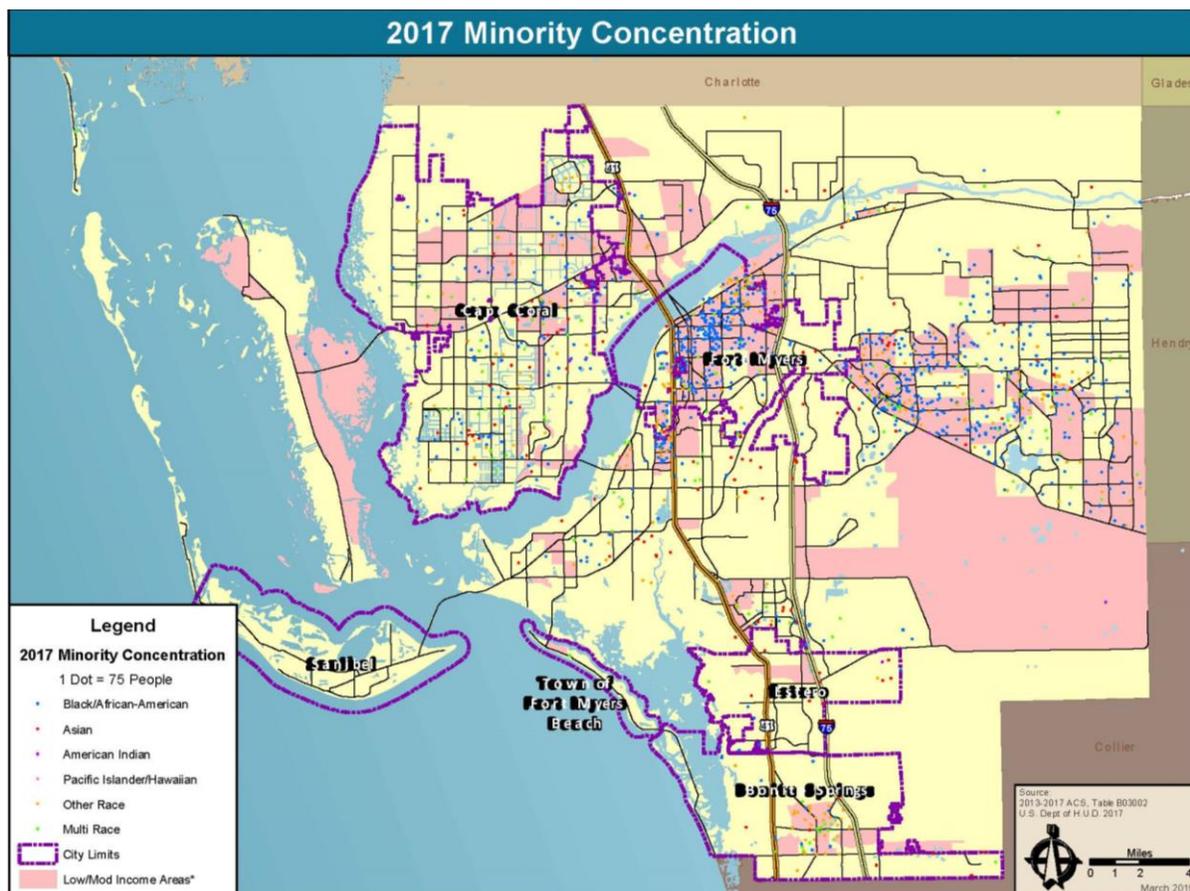
Concentration of Racial/Ethnic Minorities

For purposes of this document, “Areas of Minority Concentration” are defined as areas, based on U.S. Census tract and block group data, wherein the total percentage of minority residents, i.e. Black (Non-Hispanic), Hispanic (all races), and Asian and Pacific Islander, exceeds 50 percent of the total population of that area.

“Areas of Low Income Concentration” are defined as areas, based on U.S. Census tract and block group data, wherein the percentage of families with incomes at or below 80 percent of the area median income for the Cape Coral – Fort Myers MSA, adjusted for family size, exceeds 50 percent of the total households residing in that area. This definition includes populations that fall into the very-low and low-income categories.

When “Areas of Racial and Ethnic Minority Concentration” and “Areas of Low Income” are mapped together, it becomes evident that the great majority of the areas identified with concentrated racial/ethnic minority populations are located within areas populated by low-income families, graphically representing the low-income experienced by many racial/ethnic minority families.

Map 5: Racial and Ethnic Minority Concentration with Low/Mod Income Area, 2017



Measures of Racial and Ethnic Segregation

Throughout the country, neighborhood integration has remained a goal of public policy and popular opinion because it is seen as a proof of the American ideal of equal opportunity. Residential segregation is a measure of the degree of separation of racial or ethnic groups living in a neighborhood or community. Typically, the pattern of residential segregation involves the existence of predominantly homogenous, White suburban communities and low-income minority inner-city neighborhoods. This section explains and applies the calculator for describing racial and ethnic segregation in Lee County.

Dissimilarity Index

The dissimilarity index measures the degree to which one particular race or ethnic group is distributed across a geographic area in the same way as another race or ethnic group. This measure allows for comparisons between subpopulations, indicating how much one group is spatially separated from another within a community. A high value indicates the two groups tend to live in different neighborhoods. Dissimilarity Index ranges from 0 to 100, 0 being perfect integration and 100, total segregation. A value of 55 (or above) indicates that 55 percent (or more) of the members of one group would need to move to a different neighborhood in order for two groups to be equally distributed. Values of 40 or 50 are considered a moderate level of segregation and value of 30 or below are considered low. ¹

The County's dissimilarity index has continued to decline over the last thirty years, indicating a higher degree of integration at the census tract level across Lee County. The dissimilarity index trends for all racial and ethnic groups have decreased significantly with the exception of Black/White trends. The dissimilarity index declined from 77.08 in 1980 to 59.25.2 in 2010 for Non-Hispanic Black and Non-Hispanic White, but rose slightly in 2017 to 63.39. Table 8 indicates that 63.38 percent of Non-Hispanic Black population would have to move to census tracts, which are primarily Non-Hispanic White to create perfect integration. Hispanic/White and Non-White/White segregation remains moderate, while Asian or Pacific Islander and White segregation is the lowest in the region. Segregation among all population groups has increase slightly since 2010.

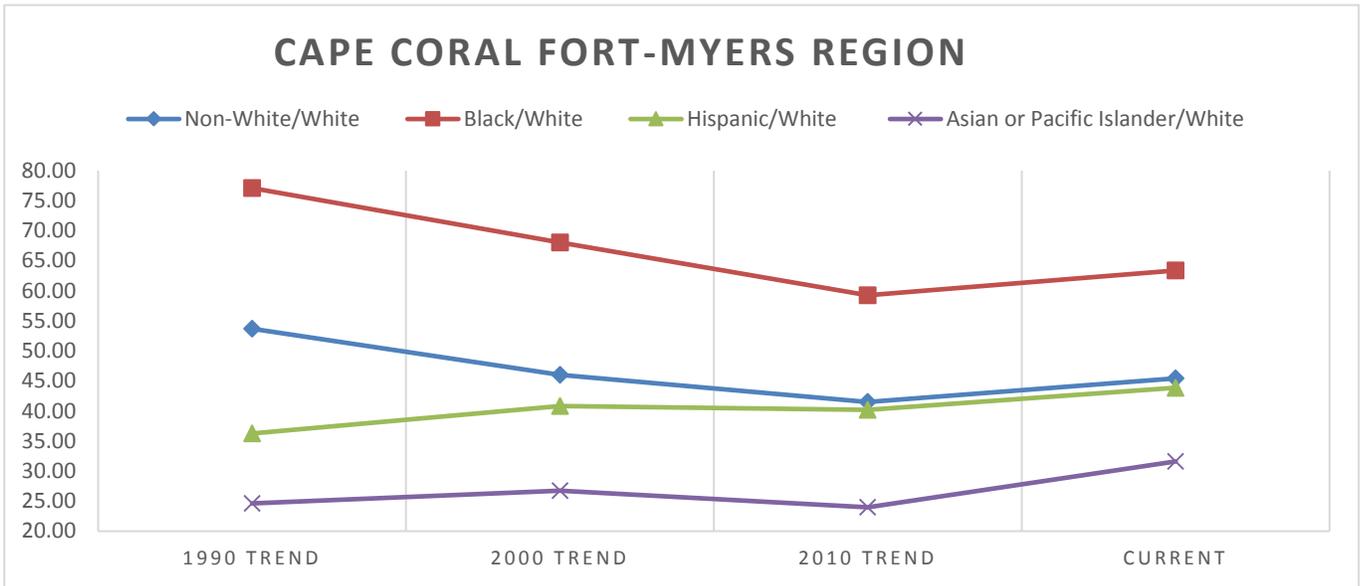
Table 8: Dissimilarity Index Trends 1980 - 2010

(Cape Coral-Fort Myers, FL) Region				
Racial/Ethnic Dissimilarity Index	1990 Trend	2000 Trend	2010 Trend	Current
Non-White/White	53.68	46.03	41.49	45.44
Black/White	77.08	68.02	59.25	63.39
Hispanic/White	36.25	40.82	40.20	43.86
Asian or Pacific Islander/White	24.60	26.76	23.97	31.60

Source: HUD AFFH Data (AFFHT0004) Released November 17, 2017, Table 3

¹ Affirmatively Furthering Fair Housing (AFFH) Data Documentation, Version 3.1, July 2016, U.S. Department of Housing and Urban Development.

Figure 1: Dissimilarity Index Trends 1980 - 2010



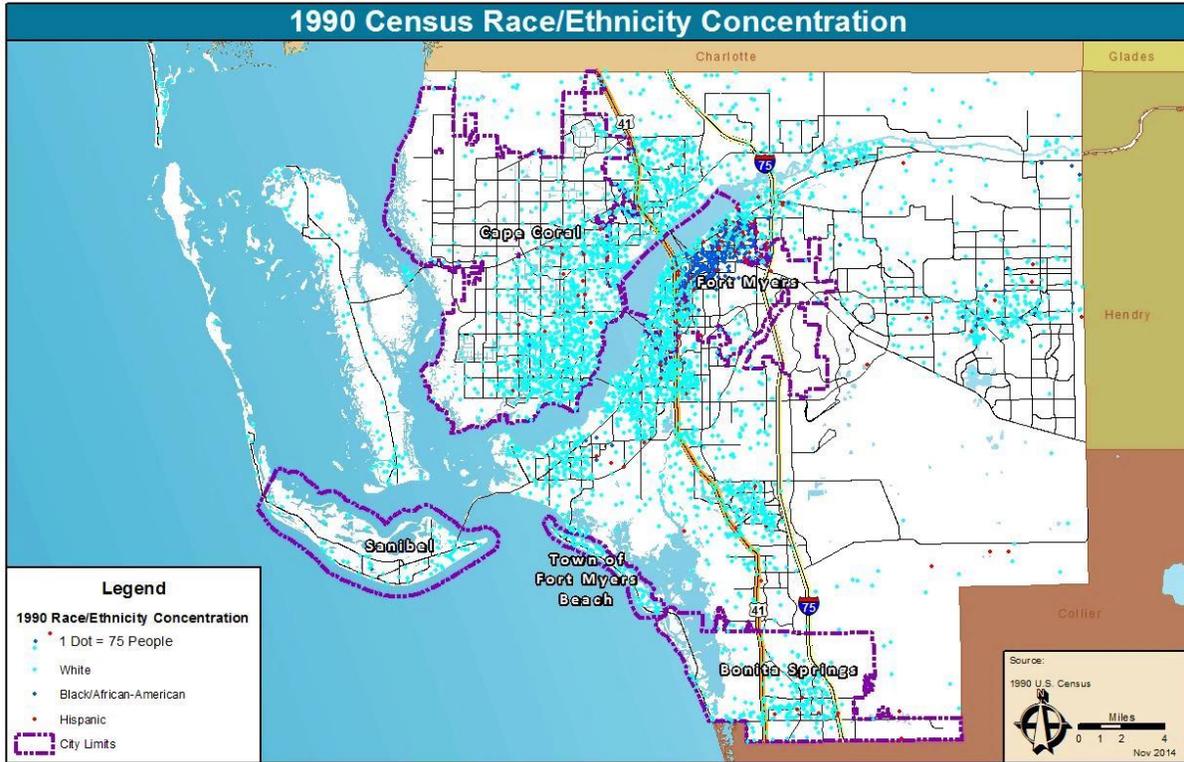
Data Source: HUD Table 3 – Racial/Ethnic Dissimilarity Trends – <https://egis.hud.gov/Affht/>

The following maps illustrate the changes in Lee County’s racially and ethnically concentrated areas from 1990 to 2017. As illustrated on the maps, the 2017 map (Map 9) shows that Lee County is a much more diversified community than it was in 1990 (Map 6). However, there are still a few areas of segregated Black and Hispanic populations in the City of Fort Myers.

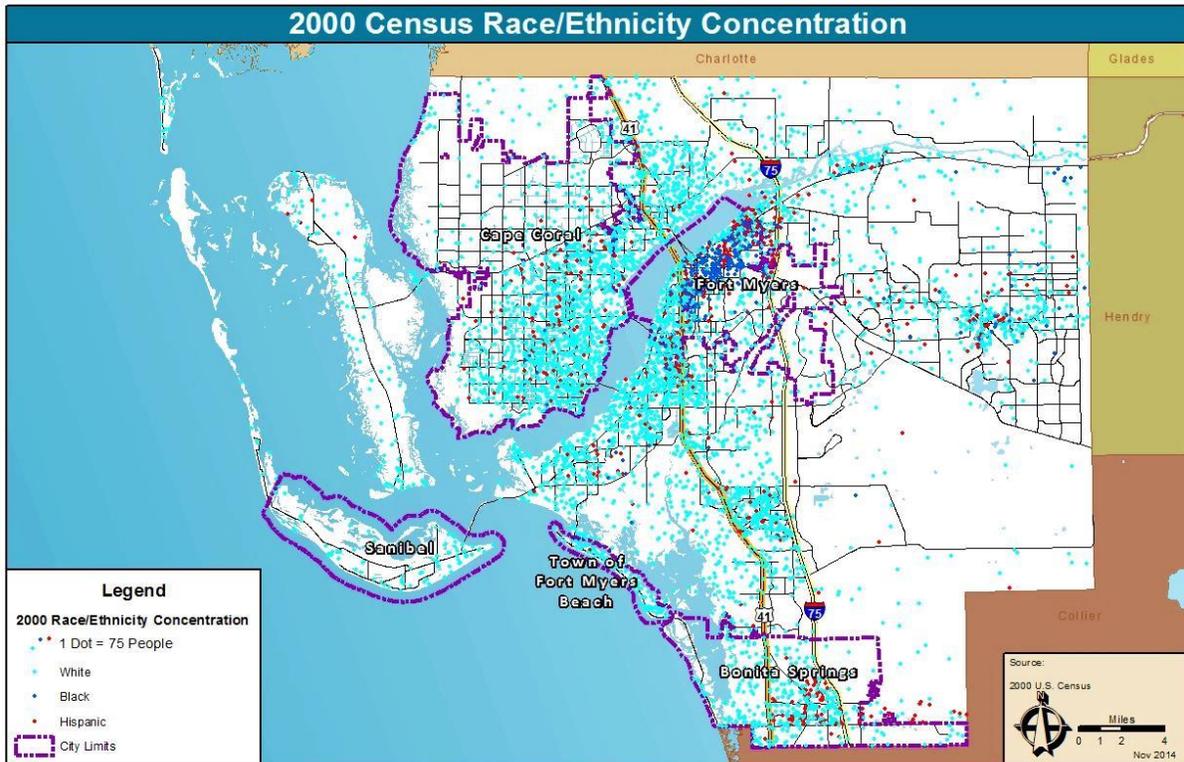
The continually growing Hispanic population could lead to higher segregation in the jurisdiction in the future. Large concentrations of Hispanic populations are moving into the already concentrated portions of Lehigh Acres. If immigration and income trends continue in these areas, this could lead to the identification of additional R/ECAPs within the region.

Development practices that prevent affordable housing development in high-income areas further contribute to this developing trend. As rents rise and the availability of affordable housing units decrease, low-income minority residents are experience increased segregation.

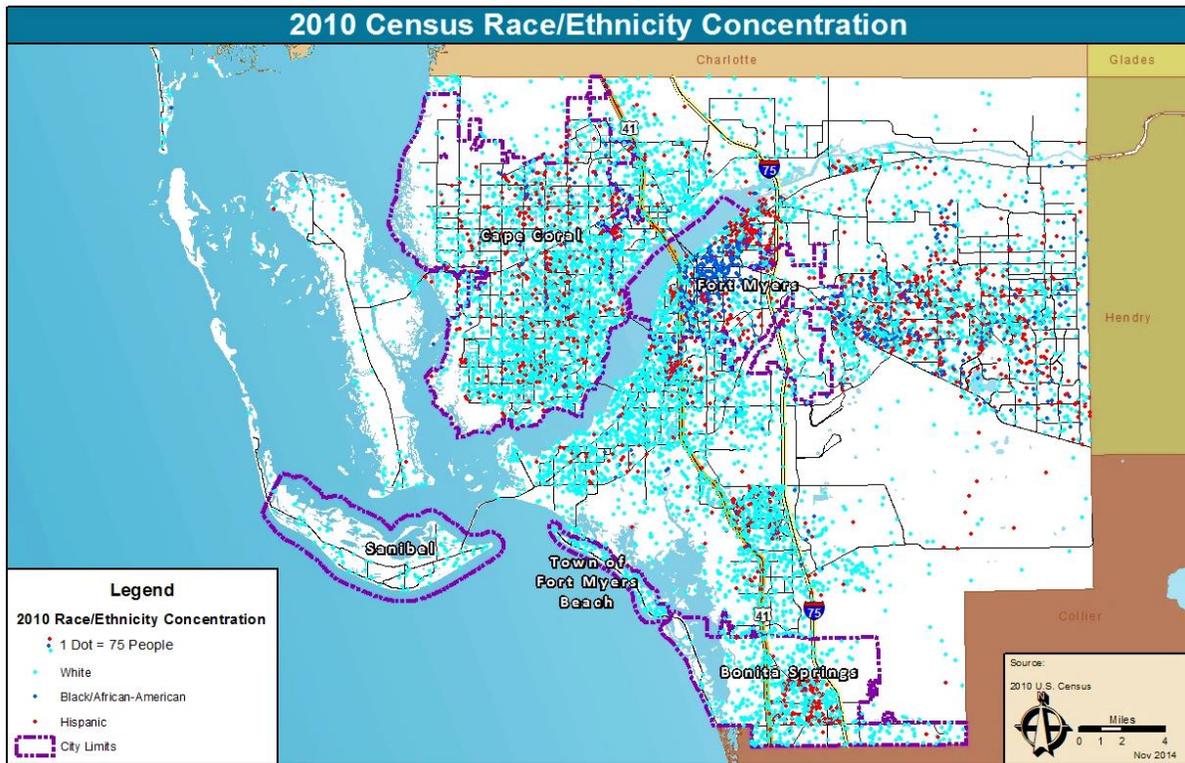
Map 6: Racial and Ethnic Minority Concentrated Areas, 1990



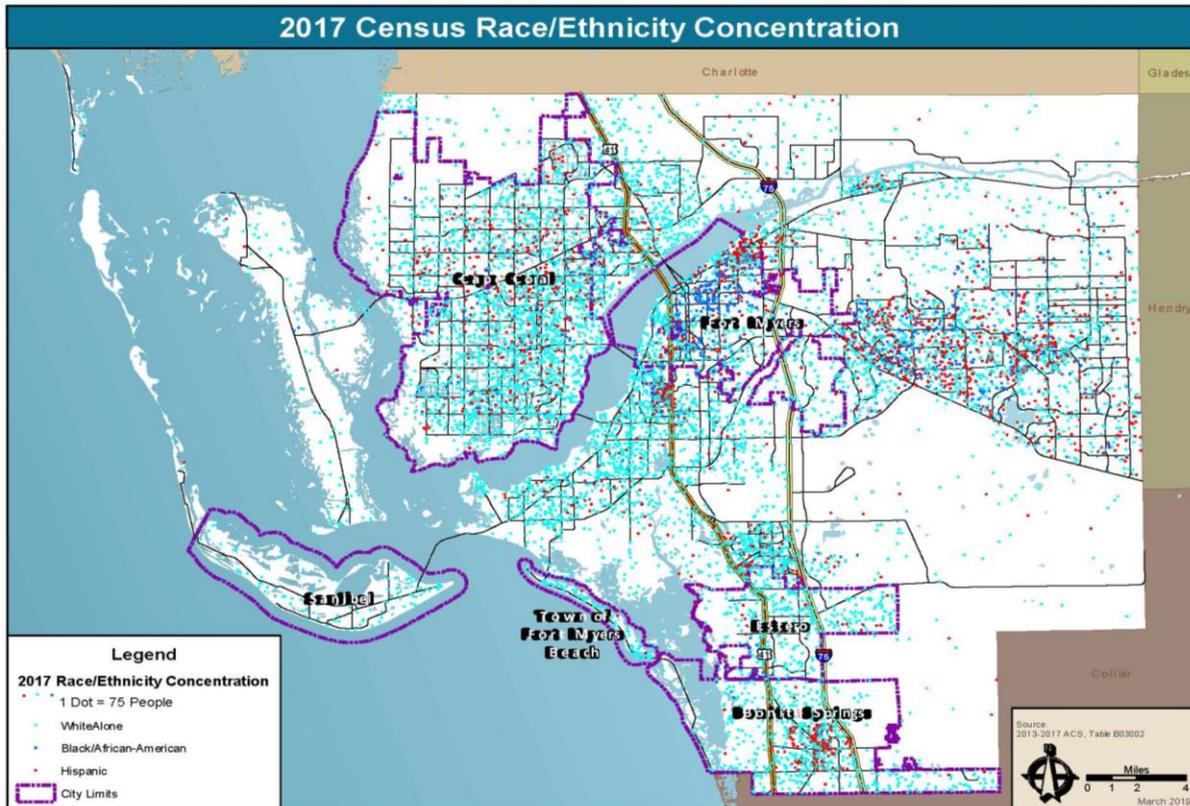
Map 7: Racial and Ethnic Minority Concentrated Areas, 2000



Map 8: Racial and Ethnic Minority Concentrated Areas, 2010



Map 9: Racial and Ethnic Minority Concentrated Areas, 2017



B. Household Characteristics

Household types and size, income level, the presence of persons with special needs, and other household characteristics may affect access to housing choices. This section details the various household characteristics that may affect equal access to housing.

A household is defined by the Census as all persons occupying a housing unit. For the purpose of the Census data, families are a subset of households and include all persons living together who are related by blood, marriage or adoption. Single households include persons living alone, but do not include persons in-group quarters such as convalescent homes or dormitories. “Other” households are unrelated people living together, such as roommates.

According to the 2013-2017 American Community Survey population estimates, there are 264,325 households residing in Lee County an increase of 4,507 households from the 2010 Census. The Bureau of Economic Business and Research, University of Florida estimates that by the year 2020, the number of Lee County households will grow to 333,855 households, a gain of 74,037 households or 28.5 percent increase over 2010.

Household Compositions

Between 2000 and 2017, the proportion of family households decreased while non-family households’ proportion increased. In 2017, within the family households, married without children is the largest subgroup with 38.8 percent of the total households, while female householders with children comprised 5.5 percent of total households. Households headed by seniors living alone comprised 14.7 percent. Single-parent households with children and households headed by seniors have unique fair housing issues.

Table 10: Household Type 2000-2017

Household Type	2000		2010		2017	
	Households		Households		Households	
	Number	Percent	Number	Percent	Number	Percent
Total Households	188,599	100.0%	259,818	100.0%	264,325	100.0%
Family Households	127,611	67.7%	171,026	65.8%	174,256	65.9%
With Own Children under 18	42,240	22.4%	58,059	22.3%	53,819	30.9%
Married-couple family	104,693	55.5%	132,426	51.0%	136,060	51.5%
With Own Children under 18	29,094	15.4%	36,866	14.2%	33,449	12.7%
Female householder, no husband present	16,327	8.7%	26,653	10.3%	26,876	10.2%
With Own Children under 18	9,662	5.1%	15,105	5.8%	14,494	5.5%
Male householder, no wife present	6,591	3.5%	11,947	4.6%	11,320	4.3%
With Own Children under 18	3,484	1.8%	6,088	2.3%	5,876	2.2%
Non-Family Households	60,988	32.3%	88,792	34.2%	90,069	34.1%
Householder living alone	48,600	25.8%	69,344	26.7%	74,011	28.0%
65 years and over	24,706	13.1%	32,990	12.7%	38,856	14.7%
Total Households	188,599	100.0%	259,818	100.0%	264,325	100.0%

Source: U.S. Census Bureau 2013-2017 American Community Survey Table S1101, 2010 Census (DP 1), 2000 Census (DP 1)

As shown in Table 11, between 2000 and 2017, Lee County’s average household size increased from 2.31 persons to 2.61 persons. Two cities in County (Fort Myers Beach and Sanibel) had an average household size of less than 2 persons per household. Two areas in the County have higher than the County’s average household size (Cape Coral and unincorporated county). The average household size ranged from a low of 1.88 persons in Fort Myers Beach to a high of 2.77 persons in Cape Coral.

Table 11: Average Household Size by Jurisdiction

Jurisdiction	Average Household Size		
	2000	2010	2017
Urban County			
Bonita Springs	2.21	2.19	2.47
Fort Myers Beach	1.91	1.81	1.88
Sanibel	1.99	1.92	1.99
Estero	n/a	n/a	2.16
Unincorporated	2.25	2.31	2.65
Total Urban County	2.23	2.28	2.57
Entitlement Jurisdictions			
Cape Coral	2.49	2.53	2.77
Fort Myers	2.40	2.37	2.53
Total Lee County	2.31	2.35	2.61

Source: U.S. Census Bureau 2013-2017 American Community Survey Table S1101, 2010 Census (DP 1), 2000 Census (DP 1)

Families with Children

Protection for families with children was added in the 1988 amendments to Title VIII. Except in limited circumstances involving elderly housing and owner-occupied buildings of one to four units, it is unlawful to refuse to sell or rent to families with children. Housing for older persons is exempt from the prohibition against familial status discrimination if any of the following are applicable:

- The HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under federal, state, or local government program.
- It is occupied solely by persons who are 62 or older.
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates the intent to house persons who are 55 or older, as previously describe.

In addition, in Florida, under the state Fair Housing Act, Chapter 760, Florida Statutes, requires that “55 and older” communities claiming the familial status exemption must register with the Florida Commission on Human Relations.

Families with children households account for 30.89 percent of all households in the County. The percentage of families with children households varies for the individual jurisdictions (see Table 12). The City of Fort Myers has the highest percentage of families with children households (38.19 percent), while the Town of Fort Myers Beach has the lowest percentage (5.2 percent). The 2017 American Community Survey identified 8.32 percent of households in the County as female-headed households with children. Of the households with children, the proportion of female-headed households with children is 26.93 percent. The proportion of female-headed households with children varies regionally from a high of 53.06 percent in the Town of Fort Myers Beach to just 17.36 percent in the City of Sanibel and 12.01 percent in Estero.

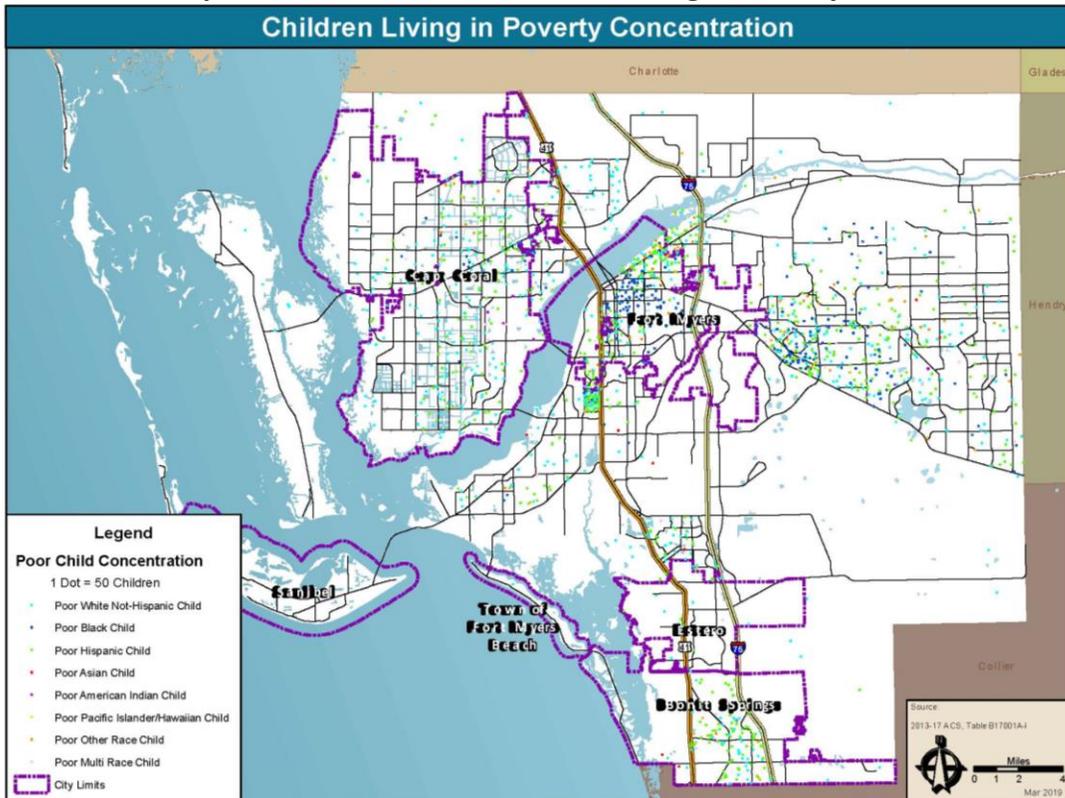
Table 12: Families with Children under 18 Households 2010-2017

Jurisdiction	Percent of Families with Children under 18		Percent of Female-Headed HH with Children under 18		% of Female-Headed HH to Families with Children under 18	
	2010	2017	2010	2017	2010	2017
Urban County						
Bonita Springs	23.45%	20.04%	4.71%	4.38%	20.08%	21.88%
Fort Myers Beach	11.12%	5.20%	3.13%	2.76%	28.11%	53.06%
Sanibel	13.24%	11.71%	2.33%	2.03%	17.61%	17.36%
Estero	n/a	17.28%	n/a	2.08%	n/a	12.01%
Unincorporated	35.62%	31.90%	9.07%	8.86%	25.46%	27.78%
Total Urban County	33.33%	28.25%	8.32%	7.45%	24.97%	26.39%
Entitlement Jurisdictions						
Cape Coral	44.31%	35.08%	11.10%	8.33%	25.06%	23.76%
Fort Myers	50.56%	38.19%	23.13%	14.58%	45.76%	38.18%
Total Lee County	37.57%	30.89%	10.27%	8.32%	27.34%	26.93%

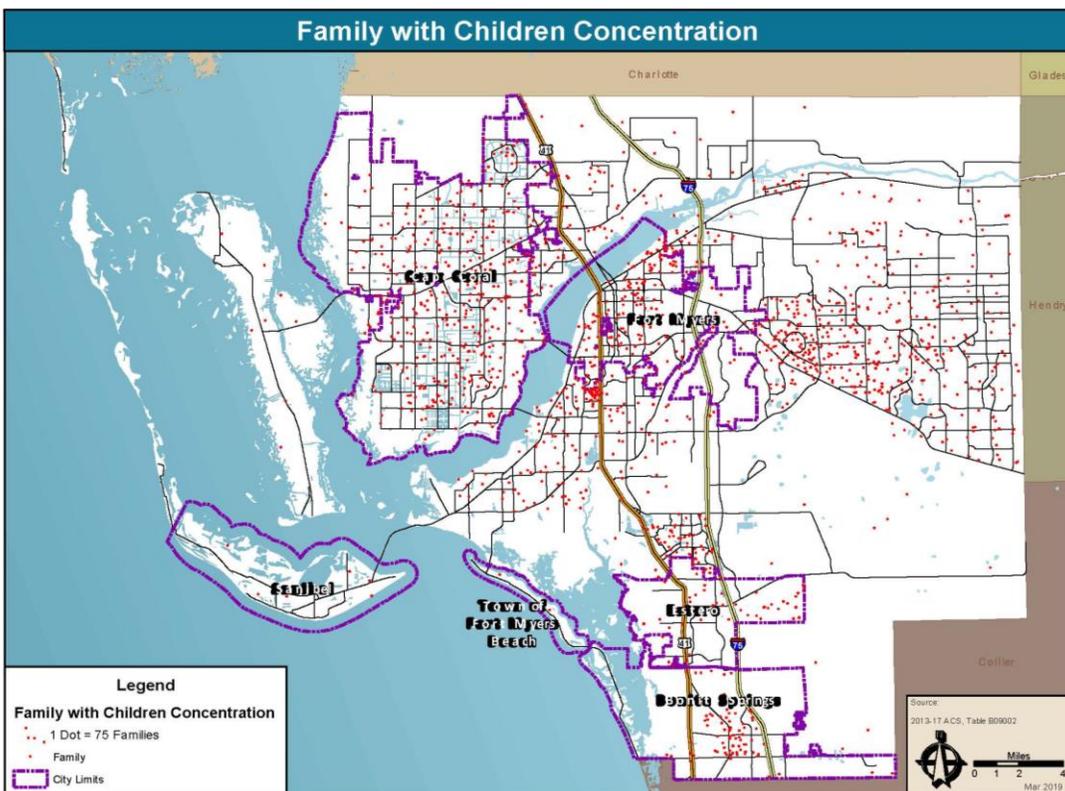
Source: U.S. Census Bureau 2013-2017 American Community Survey Table S1101, 2010 Census (DP 1)

The following maps illustrate areas where households with families are concentrated, and households with children living in poverty are concentrated, based on race. Map 11 depicts only one area concentrated with families with children, Harlem Heights. The Harlem Heights neighborhood was a graduate of Lee County Human and Veteran Services' Neighborhood Building Program in 2009. The neighborhood has a charter school within its boundaries, and a public elementary school directly across the street, making it an ideal location for families with children. Map 10 displays areas where minority children are living in poverty. There are concentrations of White Non-Hispanic, Black, and Hispanic children living in poverty within the City of Fort Myers, Harlem Heights, central Bonita Springs, and western Lehigh Acres.

Map 10: Concentration of Children Living in Poverty, 2017



Map 11: Family Type with Children Concentration, 2017



Large Households

Large households are defined as households with five or more members. These households are usually families with two or more children or families with extended family members such as in-laws or grandparents. Large households are a special needs group because the availability of adequately sized, affordable housing units is often limited.

Table 13: Large Households by Housing Tenure, 2017

Jurisdiction	Large Households			
	Owner - Occupied		Renter Occupied	
	#	%	#	%
Urban County				
Bonita Springs	598	3.64%	746	16.28%
Fort Myers Beach	16	0.53%	-	0.00%
Sanibel	41	1.35%	19	3.59%
Estero	297	2.38%	100	4.75%
Unincorporated	5,041	5.42%	4,776	12.31%
Total Urban County	5,993	4.68%	5,641	12.09%
Entitlement Jurisdictions				
Cape Coral	2,866	6.54%	1,836	9.90%
Fort Myers	602	4.72%	1,044	7.18%
Total Lee County	9,461	5.13%	8,521	10.68%

Source: U.S. Census Bureau 2013-2017 American Community Survey Table B25009

According to the Census Bureau 2013-2017 American Community Survey (Table 13), 5.13 percent of the County's housing units are occupied by large owner-households and 10.68 percent of the County's housing units are occupied by large renter-households. The City of Cape Coral had the highest proportion for large owner-households (6.54 percent) and the Bonita Springs had the highest proportion for large renter-households (16.28 percent). In contrast, the Town of Fort Myers Beach had no households in either large owner or renter households.

Large Households by Race and Ethnicity

In Lee County, minorities were more likely to live in households with five or more people. In 2010, 6.9 percent of White households had five or more people, compared to 29.2 percent of Hispanic households, 25.9 percent Black Households, and 17.6 percent of Asian Households.

Table 14: Large Households by Race and Ethnicity

	Percent of Families with Five or more Persons
White	6.9%
Black	25.9%
Asian	17.6%
Hispanic	29.2%
Lee County Total	11.7%

Source: U.S. Census 2010 (SF1, P28, P28B, P28C, P28H, P28I)

Persons with Disabilities

The Fair Housing Act prohibits discrimination based on physical, mental or emotional handicap, provided “reasonable accommodation” can be made. Reasonable accommodation may include changes to address the needs of disabled persons, including adaptive structural (i.e. constructing an entrance ramp) or administrative changes (i.e. permitting the use of a service animal).

In 2008, the U.S. Census Bureau introduced a new set of disability questions in the American Community Survey. They are:

- Hearing Disability
- Vision Disability
- Cognitive Disability
- Ambulatory Disability
- Self-care Disability
- Independent Living Disability

According to the Census 2013-2017 American Community Survey, 13.8 percent of the total civilian non-institutionalized Lee County population reported a range of disabilities. The elderly population has a significantly higher portion, 28.6 percent, of physical disabilities than other age groups. The most common type of disability among persons 18 to 64 years and 65 years and over was ambulatory, referring to difficulty moving from place to place that makes it impossible or impractical to walk as a means of transportation, which translates as a need for accessible housing.

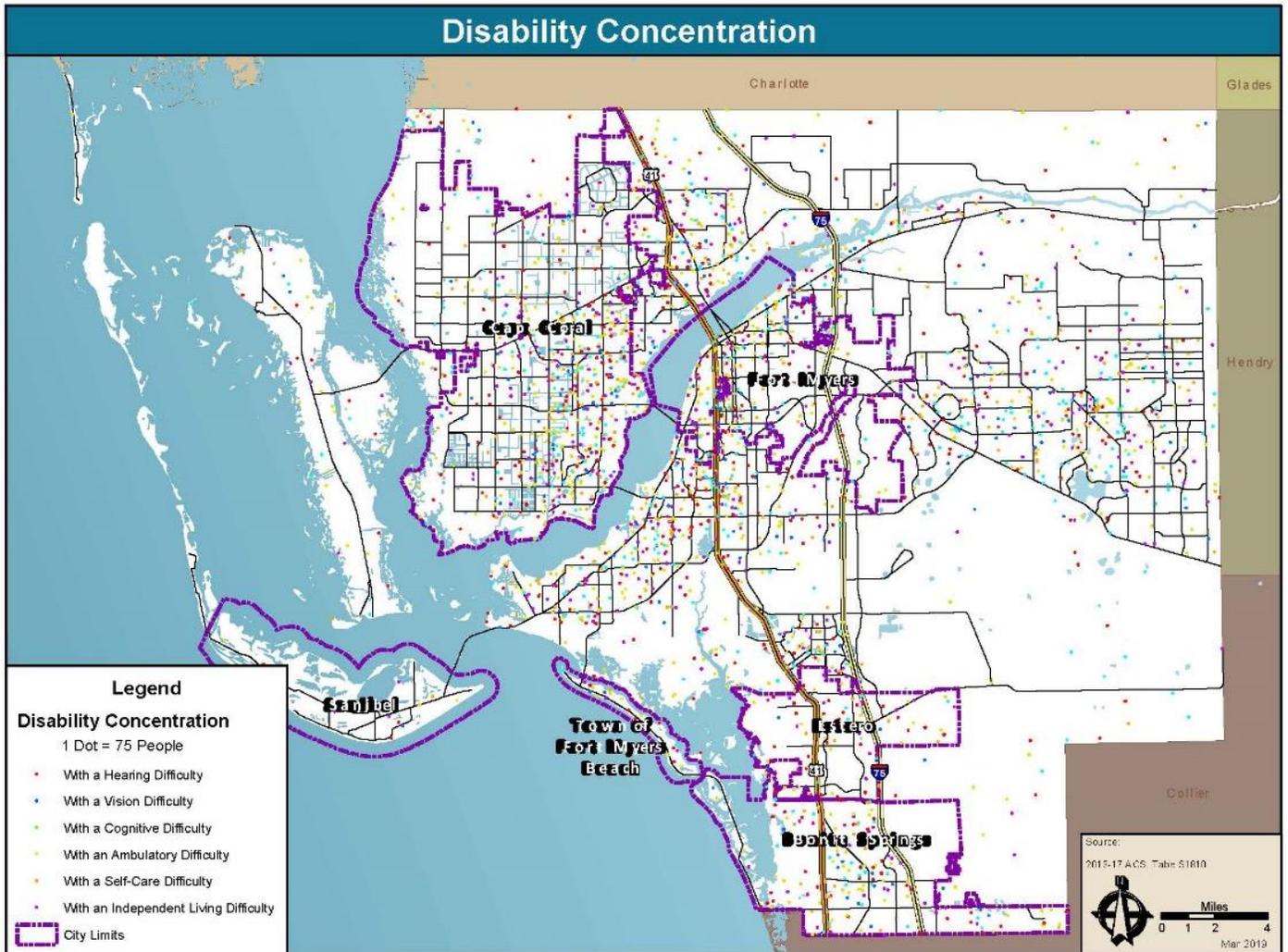
Table 15: Lee County Disability Status

Disability by Age & Type	Percent Disabled					Total
	Under 5 Years	5 to 17 Years	Under 18	18 to 64 Years	65 Years and Up	
Hearing Disability	0.7	0.5	0.6	1.7	13.5	4.7%
Vision Disability	0.4	0.7	0.6	1.7	4.2	2.2%
Cognitive Disability	n/a	n/a	4.1	4.2	6.4	4.8%
Ambulatory Disability	n/a	n/a	1.0	5.1	16.7	7.8%
Self-care Disability	n/a	n/a	0.8	1.7	5.7	2.7%
Independent Living Disability	n/a	n/a	n/a	3.6	10.00	5.7%
Total County	0.7%	5.1%	3.9%	9.9%	28.6%	13.8%

Source: American Community Survey 2013-2017 Estimates (DP02 & B18101)

Map 12 indicates no geographic concentration of persons with disabilities or concentrations of persons with a particular type of disabilities within the jurisdiction.

Map 92: Disability Concentration, 2017

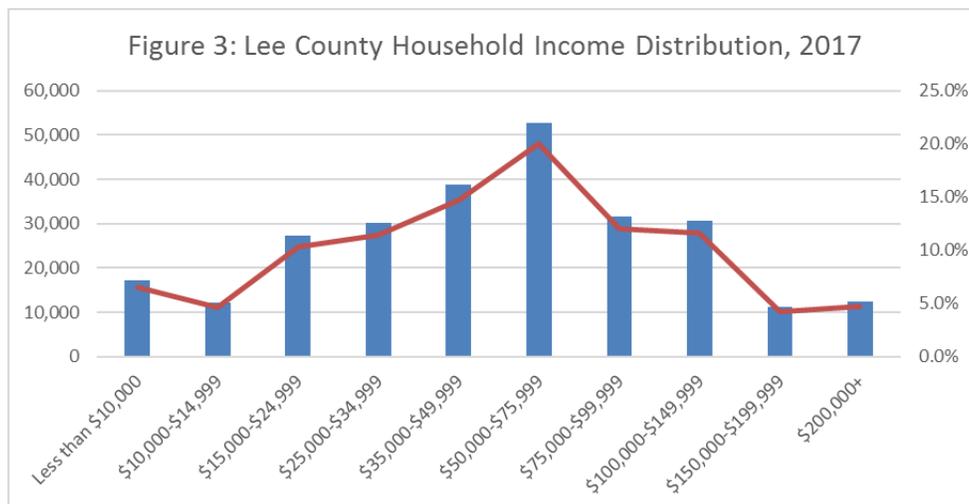


C. Income Profile

Household income is the most important factor determining a household’s ability to balance housing costs with other necessities. While economic factors that affect a household’s housing choice are not fair housing issues per se, the relationship among household income, household type, race/ethnicity, and other factors often create misconceptions and biases that raise fair housing concerns.

In 2012, the median household income (MHI) in Lee County was \$48,453 (in 2012 inflation adjusted dollars). In 2017, the estimated median family income was \$52,052, an increase of \$3,599 from 2012. More than 32 percent of the County households earned less than \$35,000 in 2017, and 32.5 percent earned more than \$75,000 in 2017. Those with household income of \$50,000 to \$74,999 represented 34.7 percent of all income groups.

Figure 3 Lee County household Income Distribution (in 2017 Dollars)		
	#	%
Less than \$10,000	17,181	6.5%
\$10,000-\$14,999	12,159	4.6%
\$15,000-\$24,999	27,225	10.3%
\$25,000-\$34,999	30,133	11.4%
\$35,000-\$49,999	38,856	14.7%
\$50,000-\$75,999	52,865	20.0%
\$75,000-\$99,999	31,719	12.0%
\$100,000-\$149,999	30,662	11.6%
\$150,000-\$199,999	11,102	4.2%
\$200,000+	12,423	4.7%
Median Household Income	\$ 52,052.00	
Mean Household Income	\$ 74,000.00	



Source: U.S. Census 2013-2017 American Community Survey (DP03)

Income by Race/Ethnicity

Across racial and ethnic groups in Lee County, Asians had the highest MHI at \$61,165, followed by Whites at \$53,468. Both groups had a higher income than the County’s MHI (\$52,052). The MHI was substantially lower for Blacks and Hispanics, at \$37,289 and \$41,386, respectively.

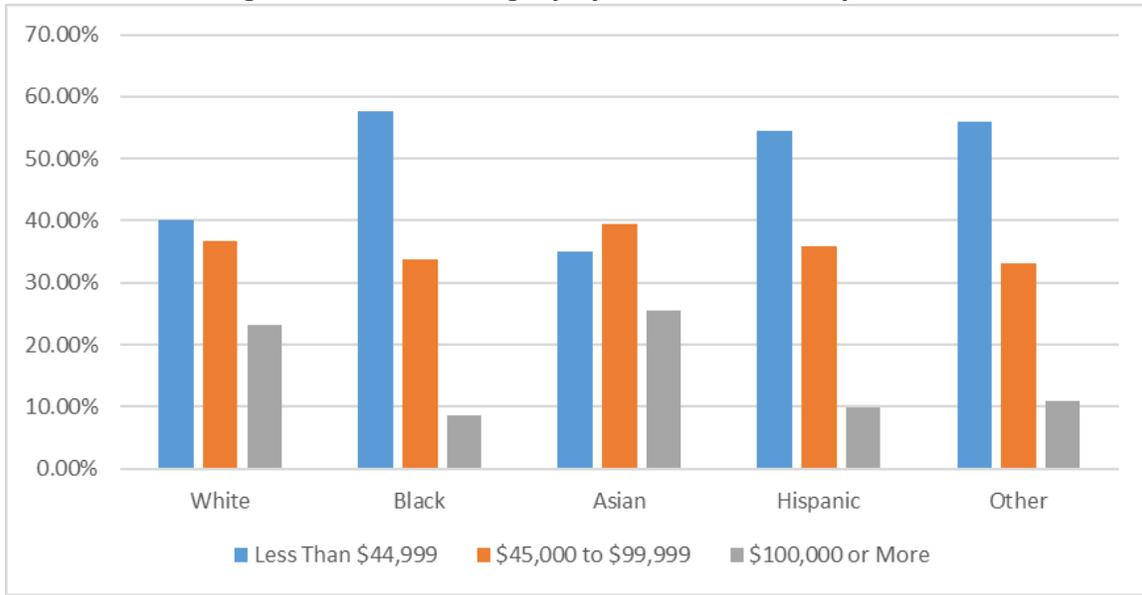
As shown in Table 16, minority residents in Lee County greater rates of poverty than White residents. More than 13 percent of white residents were living in poverty, compared with 26 percent of Blacks and 26 percent of Hispanics. Asians had the lowest poverty rate at 9 percent, nearly 5 percent lower than Lee County’s average rate of 14.9 percent.

Table 16: Median Household Income and Poverty Rates by Race/Ethnicity		
	Median Household Income (2017)	Poverty Rate (2017)
Lee County	\$ 52,052.00	14.9%
White	\$ 53,468.00	13.4%
Black or African American	\$ 37,289.00	26.0%
American Indian and Alaskan Native	\$ 49,954.00	20.3%
Asian	\$ 61,165.00	9.0%
Native Hawaiian and Other Pacific Islander	-	45.5%
Some Other Race	\$ 35,481.00	26.8%
Two or More Races	\$ 45,052.00	13.0%
Hispanic or Latino (of any race)	\$ 41,386.00	26.0%
White Alone, not Hispanic or Latino	\$ 55,726.00	10.5%

Source: American Community Survey 2013-2017 Estimates (S1903 & S1701)

The distribution of household income by race and ethnicity is comparable to the trends described above, showing a disparity between Whites and non-White households. In 2017, 57.7 percent of Blacks and 54.38 percent of Hispanics had incomes less than \$45,000. While, 40.0 percent of Whites and 35.1 percent of Asians had incomes less than \$45,000. Only 8.5 percent of Blacks and 9.7 percent of Hispanics had incomes greater than \$100,000. Overall, the percent of persons with incomes below \$45,000 has increased since 2012, while the percent of persons making over \$100,000 has decreased for all race and ethnicity groups.

Figure 4: Income Category by Race and Ethnicity, 2017

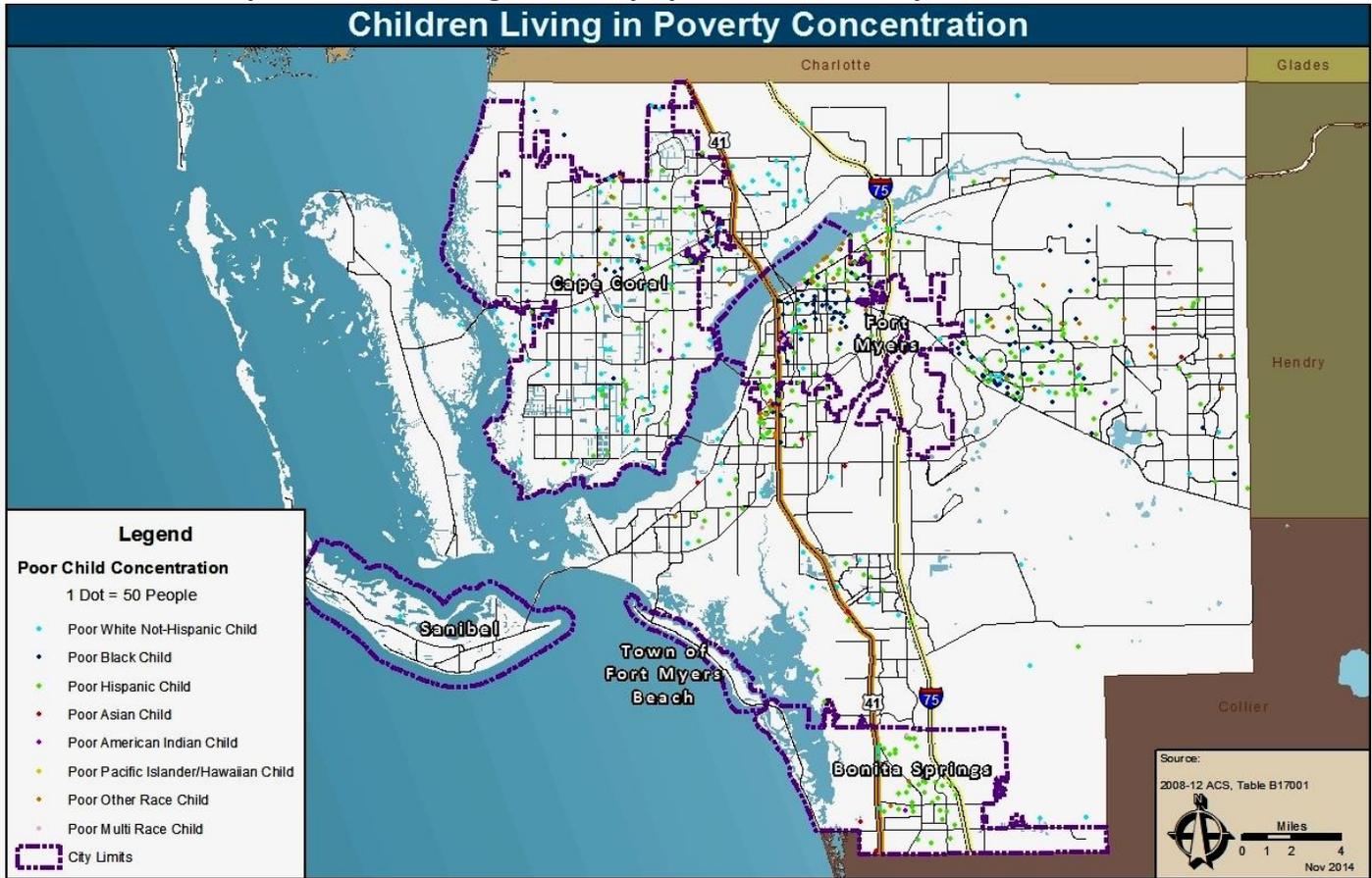


Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates (Table B190001B-I)

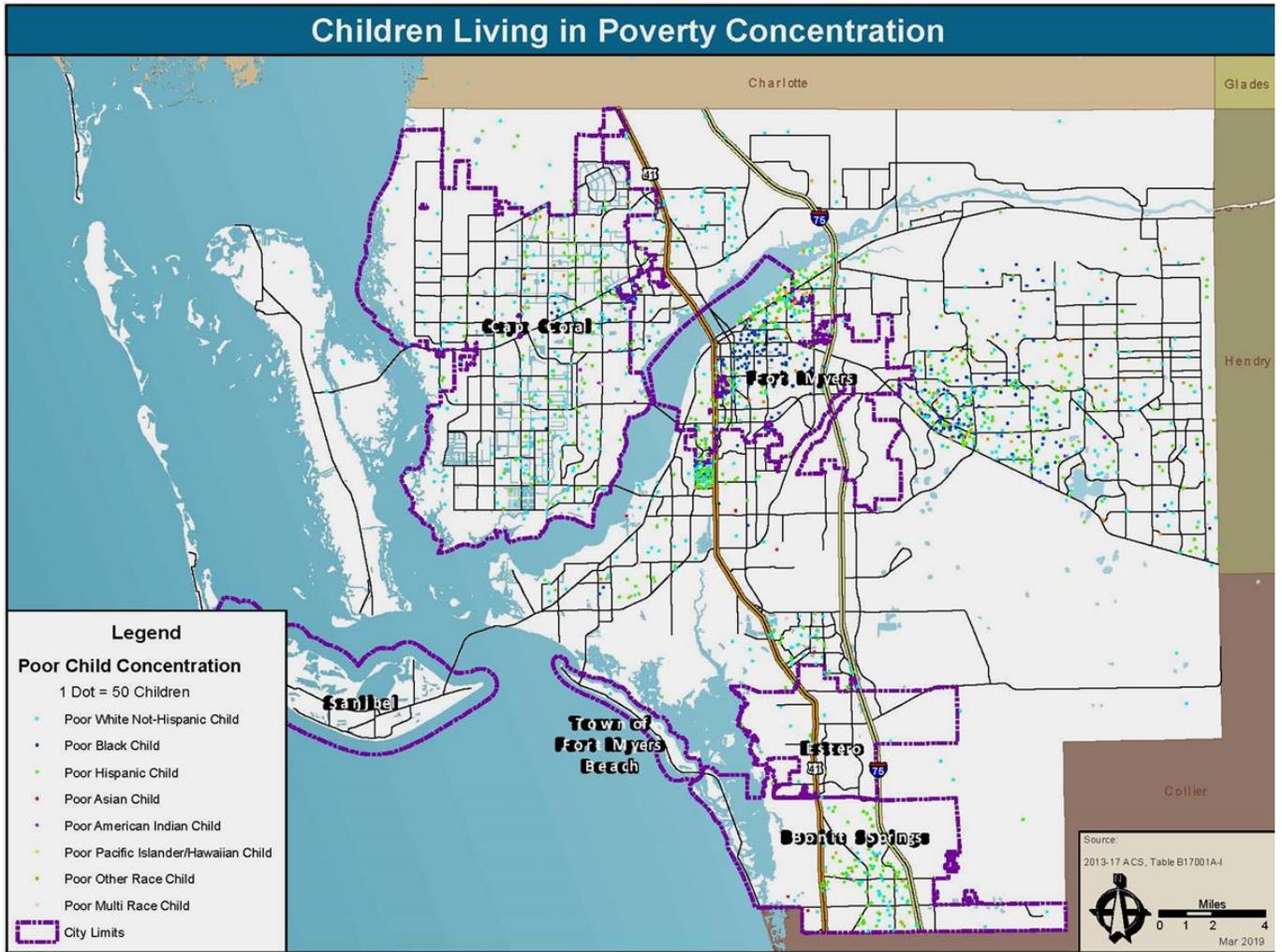
Two maps below, display the concentrated areas of poverty for children in Lee County by race and ethnicity. The number of Hispanic children in poverty increased region-wide between 2012 and 2017. Areas with high concentrations of children in poverty include much of Lehigh Acres, Harlem Heights, and the City of Fort Myers, especially along the State Road 80 and State Road 82 corridors.

Map13: Children Living in Poverty by Race and Ethnicity, 2012

Children Living in Poverty Concentration

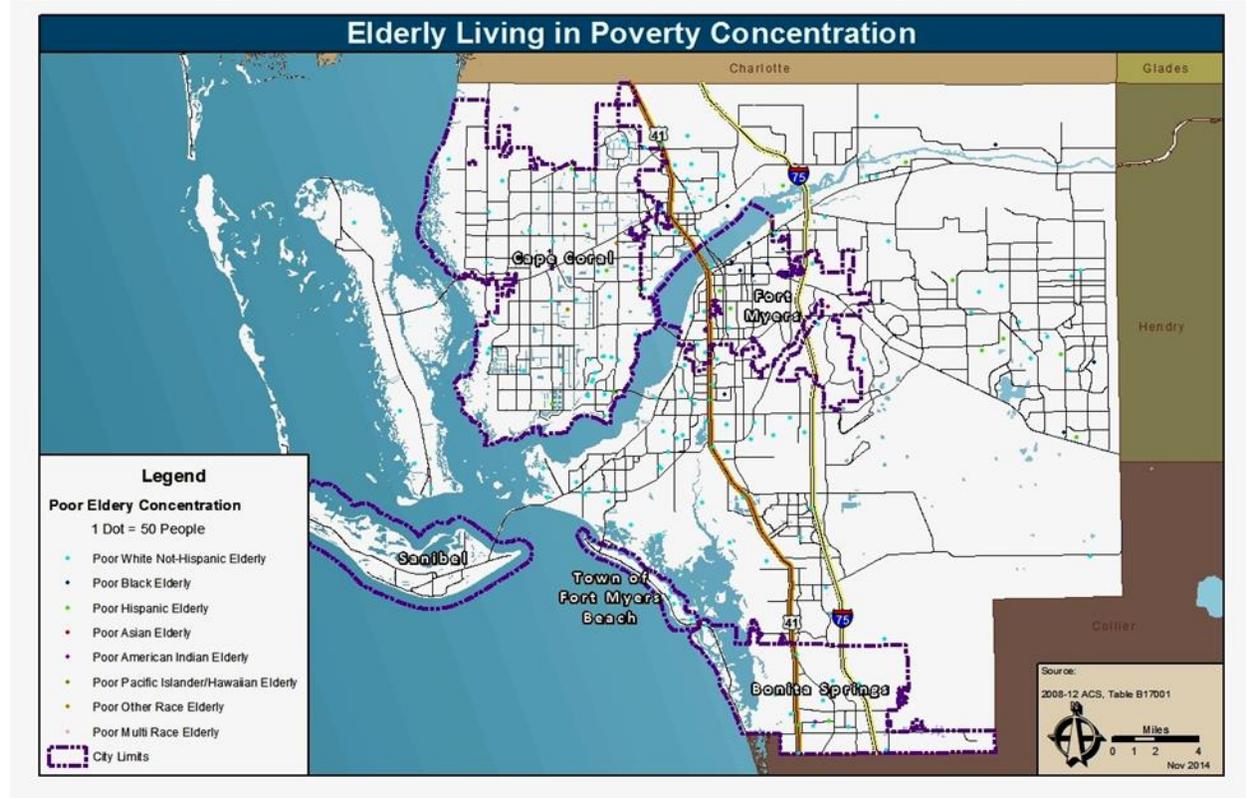


Map 14: Children Living in Poverty by Race and Ethnicity, 2017

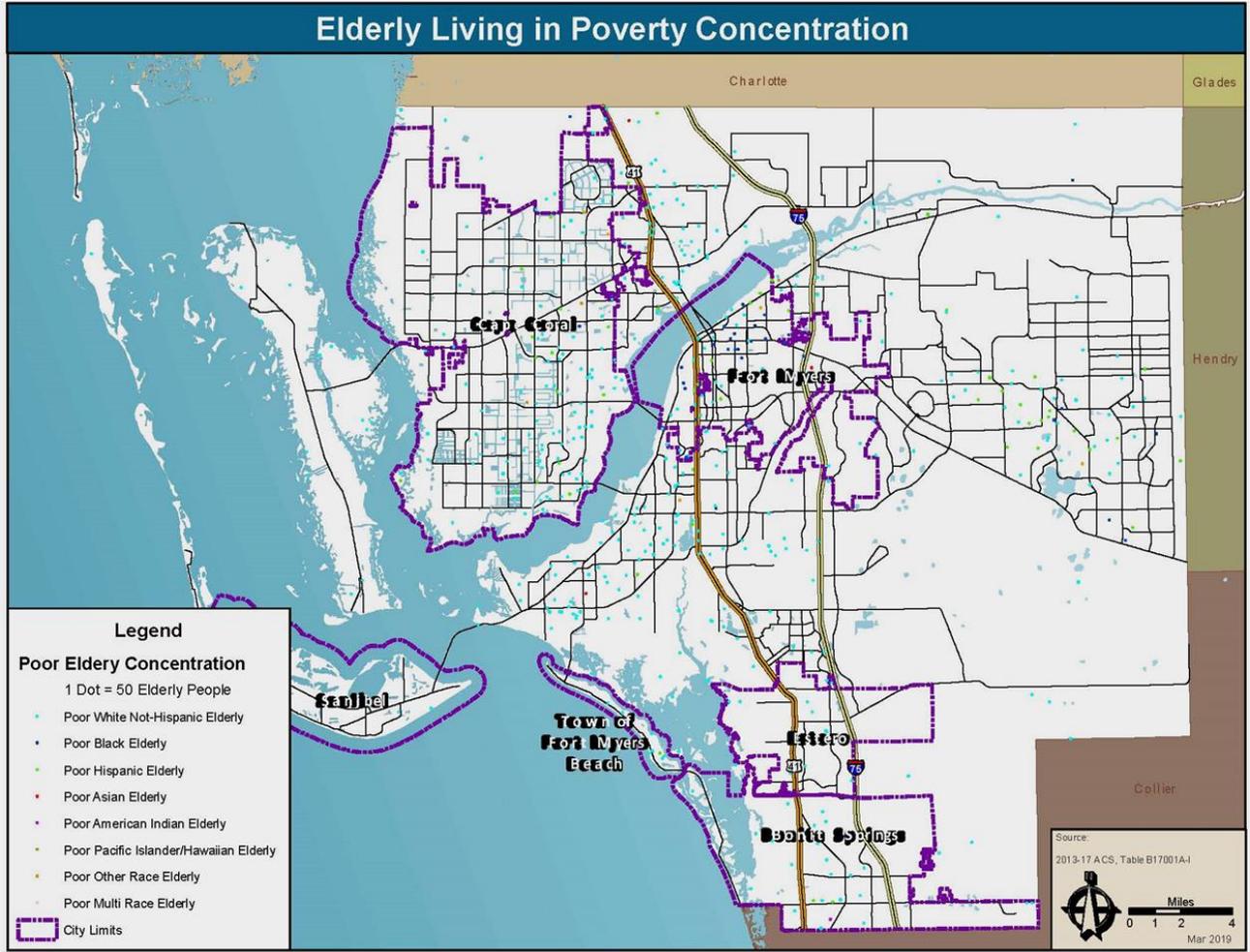


Two maps below, display the concentrated areas of poverty for elderly populations in Lee County by race and ethnicity. The number of White, Non-Hispanic persons who are elderly and living in poverty has increased region wide between 2012 and 2017. A slight increase in the number of Black persons who are elderly and living in poverty within the City of Fort Myers. Generally, persons who are elderly and living in poverty are distributed evenly across the region.

Map 15: Elderly Living in Poverty by Race and Ethnicity, 2012



Map 16: Elderly Living in Poverty by Race and Ethnicity, 2017



D. Employment and Transportation Profile

Employers and Types of Jobs

According to the 2013-2017 American Community Survey, in 2017, there were 309,434 persons in the County's civilian workforce, an increase of 24,187 since 2012. The bulk of employment in the County comprised of Education and Health Services, Retail Trade, Leisure and Hospitality, and Construction industries.

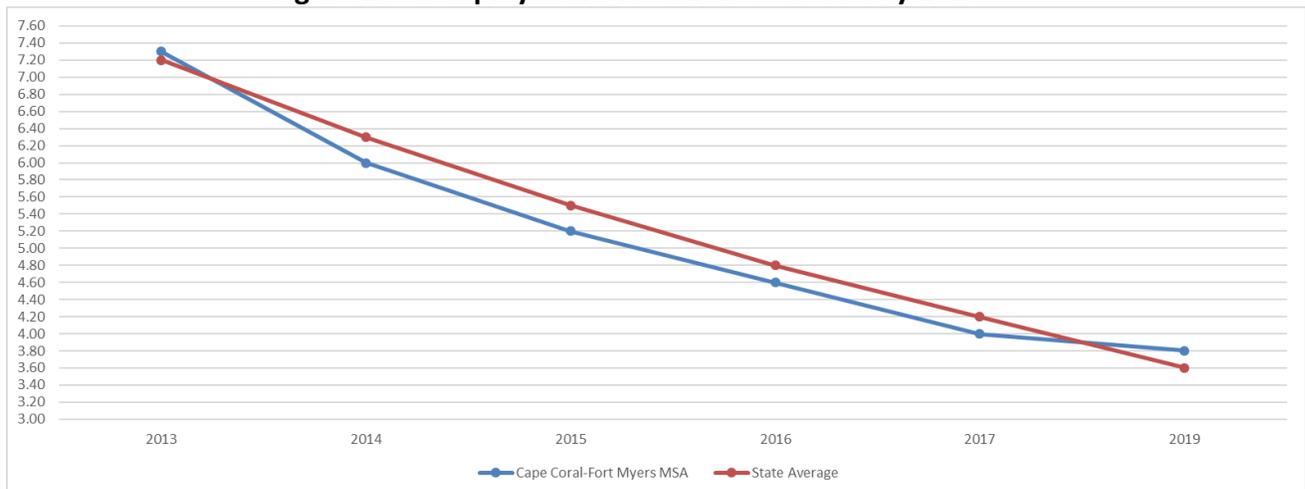
Major employers in Lee County cover virtually all sectors of employment to include health services, government, education, retail, tourism and construction. According to the Lee County Economic Development Office, some of the major employers located in Lee County include Lee Memorial Health System (11,868); Lee County School District (11,680); Lee County Administration (2,692); City of Cape Coral (1,800); Lee County Sherriff's Office (1,612); Gartner (1,600); Chico's FAS Inc. (1,500); Florida Gulf Coast University (1,401); Shell Point Retirement Community (1,068); and Florida Southwestern State College (983). Approximately 11.7 percent or 36,204 people of Lee County's civilian workforce are employed by these top ten employers, not including retailers with multiple locations, such as Walmart and Publix.

Most of the county's businesses are spread out across the county in random fashion along with schools and daycare centers.

Unemployment

Between 2008 and 2010, a significant increase in unemployment occurred as a result of the recession which caused a housing market bust. The area's economy has been slow in its recovery. In September 2010, the Bureau of Statistics reported that the Cape Coral – Fort Myers Metropolitan Statistical Area (MSA) unemployment rate was 13.1 percent compared to the state average of 11.0 percent. However, the unemployment rate has decreased more than 7 percent to 3.8 percent, according to the U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics for February 2019.

Figure 2: Unemployment Rate: 2013 to February 2019



Source: U.S. Department of Labor, Bureau of Labor Statistics (Local Area Unemployment Statistics)

Employment Rate by Gender and Race/Ethnicity

Between 2008 and 2012, White residents' unemployment was below the County's unemployment rate of 12.22 percent; in contrast, Black residents' unemployment rate was reported at 21.53 percent. Between 2013 and 2017 a similar trend exists, but is much less extreme, with unemployment for White residents being 6.7 percent, and 10 percent for Black residents. The unemployment rate for Black residents reduced by more than 11.5 percent between 2012 and 2017, a much higher reduction than all other racial and ethnic groups. In 2012, Hispanic residents also had a high unemployment rate of 16.21 percent. In 2018, the unemployment rate for Hispanic residents was 7.5 percent. Higher unemployment, whether temporary or permanent, significantly limits the resources available to meet housing costs.

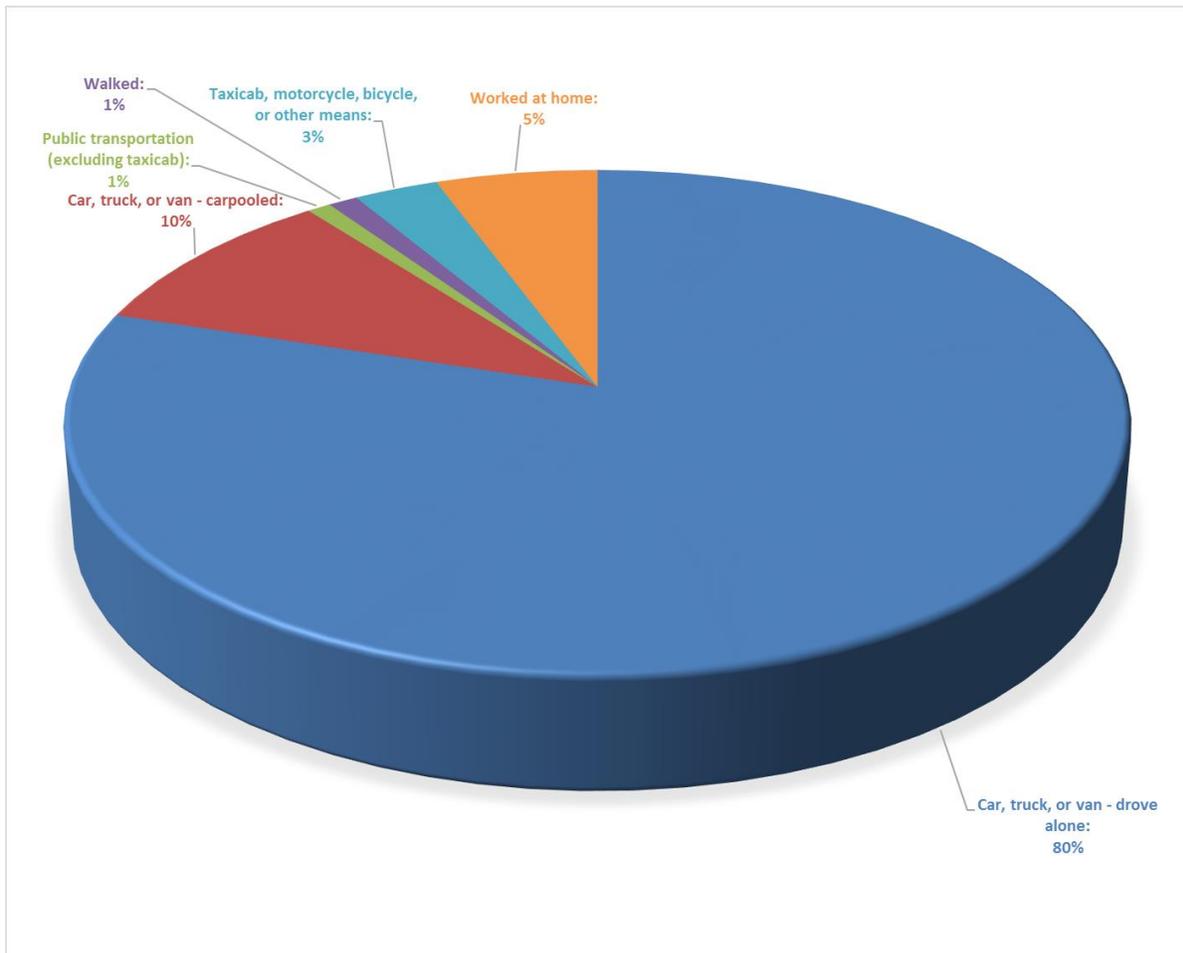
Civilian Labor Force (CLF)		Total	Percent	Total	Percent
		2008-2012	2008-2012	2017	2017
Total CLF		285,247		309,434	
	Employed	247,469	86.76%	287,464	92.90%
	Unemployed	37,788	13.25%	21,970	7.10%
Male CLF		150,717		141,600	
	Employed	128,587	85.32%	132,112	93.30%
	Unemployed	21,584	14.32%	9,487	6.70%
Female CLF		135,076		130,855	
	Employed	118,872	88.00%	121,564	92.90%
	Unemployed	16,204	12.00%	9,291	7.10%
White CLF		219,278		260,020	
	Employed	192,493	87.78%	242,599	93.30%
	Unemployed	26,785	12.22%	17,421	6.70%
Black CLF		22,219		27,433	
	Employed	17,436	78.47%	24,689	90.00%
	Unemployed	4,783	21.53%	2,743	10.00%
Asian CLF		4,468		5,490	
	Employed	4,131	92.46%	5,106	93.00%
	Unemployed	357	7.99%	384	7.00%
Hispanic CLF		54,655		67,973	
	Employed	45,804	83.81%	62,875	92.50%
	Unemployed	8,851	16.19%	5,098	7.50%

Source: American Community Survey 2013-2017 Estimates (S2301)

Transportation/Travel Time to Work

The private automobile is the primary method (79.9 percent) of transport for the daily commuting workforce. More than 55 percent of working residents travel between 15 and 34 minutes to work, according to the U. S. Census Bureau’s 2013-2017 American Community Survey. Of the 281,958 workers 16 years and over that commute to work, only 9.7 percent carpooled and .8 percent used public transportation.

Figure 3: Transportation Mode



Source: U.S. Census 2013-2017 American Community Survey (B08101)

Lee County Transit (LeeTran) is the public transit provider for Lee County, offering fixed-route services in Fort Myers, North Fort Myers, Cape Coral, Fort Myers Beach, Bonita Springs, Estero, Lehigh Acres, and into northern Collier County. In addition to motorbus services, LeeTran also offers demand response, called Passport, and employer vanpool services. Passport is a shared ride, advanced reservation, origin-to-destination service for persons with disabilities who are unable to use the regular fixed-route public transit service because of their disability.

All LeeTran vehicles are ADA compliant, and LeeTran offers discounted fare to disabled persons and seniors. LeeTran operates 26 bus routes during season (January to May) and 23 bus routes during off-season. LeeTran employs approximately 280 people and has a fleet of 50 full-size buses, nine trolley buses, three trams, and 45 paratransit vans. Fort Myers Beach and the city of Fort Myers River District have trolley services.

Moreover, LeeTran has numerous infrastructure assets, including bus stops, passenger amenities, park and ride facilities, and transfer stations. In total, LeeTran has approximately 1,700 designated fixed-route bus stops. There are four transfer stations located throughout Lee County: Rosa Parks Transportation Center, Edison Mall Station, Beach Park and Ride, and Cape Coral Transfer Center. Five transfer stations are located at the major shopping or employment centers in Lee County. The primary transfer station – Rosa Parks Transportation Center – is located in downtown Fort Myers, which provides access to the federal and state court systems, state offices, and the Lee County and city of Fort Myers government offices. Additionally, Greyhound is collocated with LeeTran at the Rosa Parks Transportation Center.

The basis of providing public transportation is to ensure that the county's residents and visitors have access to transportation and increased mobility options. LeeTran, in an effort to reach the maximum number of users within the approved budget, provides service from approximately 5:00 AM to 10:00 PM, Monday through Saturday and 6:00 AM until 9:00 PM on Sundays. LeeTran determines service availability based on financial resources, public input, performance of existing routes, transit-orientation index (population and employment density, income, age, and zero-car households), safety guidelines, and development patterns.

LeeTran routes are concentrated in the urban area to allow the highest level of access to community resources, with additional routes providing linkages to suburban and rural areas. Transit ridership has increased from approximately two and a half million unlinked passenger trips in 2004 to over three million trips in 2018. Currently approximately one-fourth of the City of Cape Coral's geographical area is served by LeeTran. The City of Cape Coral provides an alternate mode of transportation to low income/disabled households by providing a minibus paratransit service within the city limits.

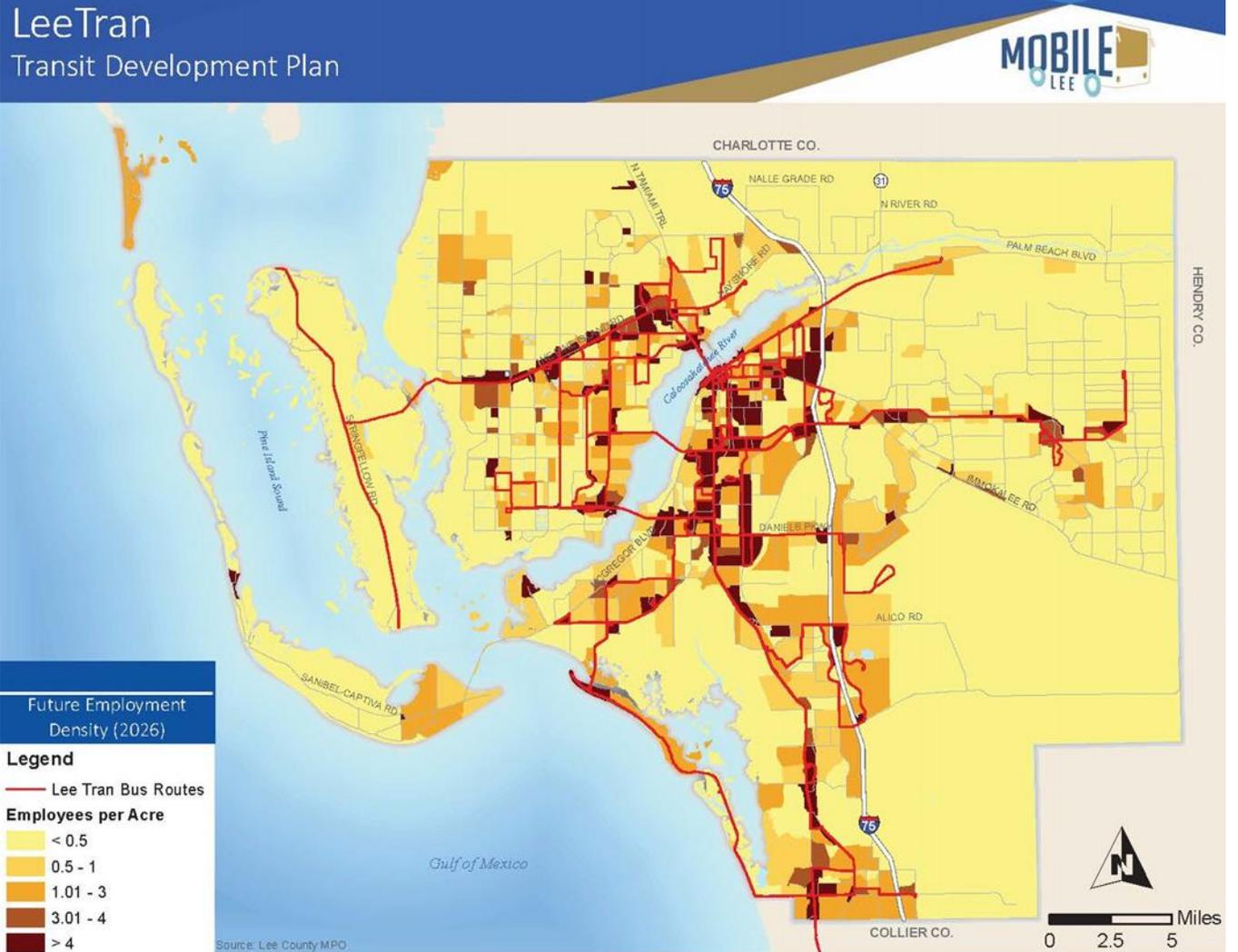
The maps below show LeeTran system routes and future employment density by transportation zones with LeeTran route overlay. LeeTran strives to provide employment, housing, and transportation linkages to Lee County's workforce.

Map 17: LeeTran System Route Map



Source: LeeTran 2019 System Map

Map 18: Future Employment Density by Transportation Analysis Zones



Source: LeeTran, Transit Development Plan, September 2016, Page 19.

E. Housing Profile

A discussion of fair housing choice must be preceded by an assessment of the housing market being analyzed. This section provides an overview of the characteristics of the local and regional housing markets. The Census Bureau defines a housing unit as a home, an apartment, a mobile home, a group of rooms, or a single room that is occupied (or, if vacant, is intended for occupancy) as separate living quarters. Separate living quarters are those in which the occupants live separately from other individuals in the building and which have direct access from outside the building or through a common hall.

Housing Growth

Housing stock data from 2000, 2010, and 2017 Census and American Community Survey reveals that the Lee County housing stock increased by 17.25 percent between 2010 and 2017. All jurisdictions experienced housing stock increases between 2010 and 2017. Among the various jurisdictions, the unincorporated areas of Lee County had the largest increase of 17.47 percent followed by the City of Sanibel (11.43 percent) and City of Bonita Springs (10.5 percent).

Jurisdiction	Number of Housing Units			Percent of Change 2010 to 2017
	2000	2010	2017	
Urban County				
Bonita Springs	23,329	31,716	35,435	10.50%
Fort Myers Beach	8,429	9,420	10,217	7.80%
Sanibel	7,075	7,821	8,830	11.43%
Estero	n/a	n/a	23,746	n/a
Unincorporated	139,083	154,056	186,656	17.47%
Total Urban County	177,916	203,013	264,884	23.36%
Entitlement Jurisdictions				
Cape Coral	45,653	78,948	80,938	2.46%
Fort Myers	21,836	35,138	37,402	6.05%
Total Lee County	245,405	317,099	383,224	17.25%

Source: U.S. Census 2000 and 2010 (DP 1); American Community Survey 2013-2017 Estimates (B25001)

Patterns of Housing Structure Type

Lee County’s housing stock includes four categories: single-family dwelling units, multi-family dwelling units, mobile homes and other types of units. Single-family units are attached or detached dwelling units usually on individual lots of land. As shown in Table 19, in 2017, single-family housing units comprised 62.23 percent. The City of Cape Coral had the highest proportion of single-family housing units in the County followed by unincorporated County areas and the Village of Estero.

Multi-family units consist of structures with two or more units. Multi-family dwelling units comprised 27.86 percent of the County’s housing stock in 2017. The Town of Fort Myers Beach and the City of Fort Myers had higher proportions of multi-family units, while the City of Cape Coral and unincorporated County areas had higher proportion of single-family units.

Mobile-homes or manufactured homes are typically located at mobile home parks in Lee County. Mobile-home units comprised 9.77 percent of the County’s housing stock in 2017. Most of the County’s 37,452 mobile homes are located in the unincorporated areas of the County followed by the City of Bonita Springs.

Table 19: Trends in Housing Units in Structures by Municipality, 2017

Jurisdiction	Occupied Housing Units	Single Family		Multi Family		Multi-Family (MF) Units						Mobile Homes		Other Type Units	
		Units	Percent	Units	Percent	2	3-4	5-9	10-19	20-49	50+	Units	Percent	Units	Percent
Urban County															
Bonita Springs	35,435	18,832	53.15%	11,208	31.63%	739	1,949	2,088	2,528	1,827	2,077	5,359	15.12%	36	0.10%
Fort Myers Beach	10,217	3,289	32.19%	6,753	66.10%	242	243	206	509	2,908	2,645	170	1.66%	5	0.05%
Sanibel	8,830	4,678	52.98%	3,917	44.36%	291	202	714	760	1,269	681	235	2.66%	-	0.00%
Estero	23,746	14,900	62.75%	6,166	25.97%	94	1,489	1,136	1,609	1,049	789	2,646	11.14%	34	0.14%
Unincorporated	186,656	113,917	61.03%	44,448	23.81%	4,711	8,201	7,818	8,905	9,738	5,075	27,875	14.93%	416	0.22%
Total Urban County	264,884	155,616	58.75%	72,492	27.37%	6,077	12,084	11,962	14,311	16,791	11,267	36,285	13.70%	491	0.19%
Entitlement Jurisdictions															
Cape Coral	80,938	66,012	81.56%	14,328	17.70%	3,183	1,917	3,311	3,337	1,642	938	598	0.74%	-	0.00%
Fort Myers	37,402	16,867	45.10%	19,929	53.28%	1,163	2,411	2,808	4,230	5,011	4,306	569	1.52%	37	0.10%
Total Lee County	383,224	238,495	62.23%	106,749	27.86%	10,423	16,412	18,081	21,878	23,444	16,511	37,452	9.77%	528	0.14%

Source: American Community Survey 2013-2017 Estimates (B25024)

Housing Stock Condition

Housing stock age indicates general conditions within a community. Housing stocks are subject to gradual deterioration over time. Deteriorating housing stocks can depress neighboring property values, discourage reinvestment, and eventually impact the quality of life in a neighborhood.

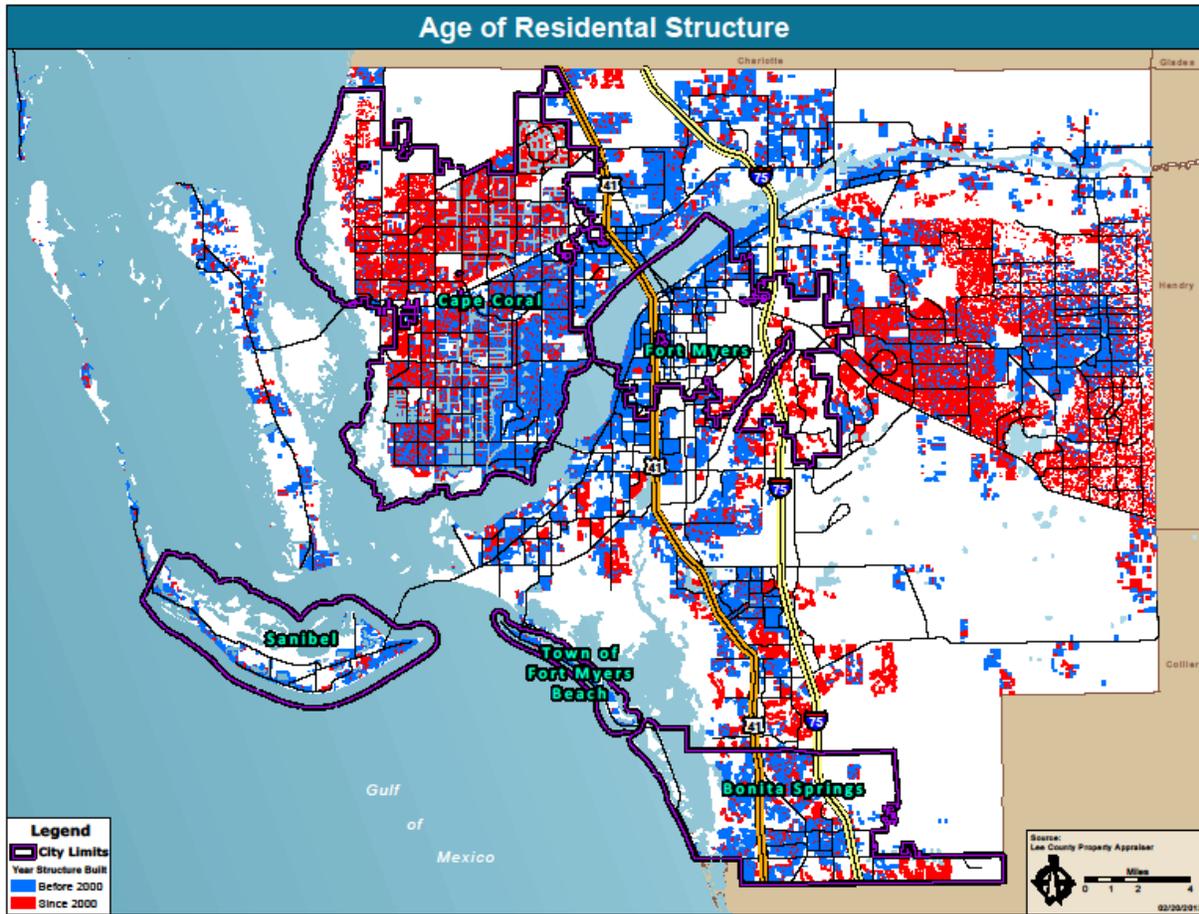
Housing stock age is frequently used as an indicator of housing condition. Most residential structures over 30 years of age will require minor repairs and modernization improvements, while units over 50 years in age are more likely to require major rehabilitation. As shown in Table 20, according to the U. S. Census Bureau’s 2013-2017 American Community Survey, 24.64 percent of Lee County’s housing stock is over 30 years old. The high percentages of pre-1980 housing units are located in the older neighborhoods of the Town of Fort Myers Beach, City of Sanibel, and the City of Fort Myers. Cities of Bonita Springs and Cape Coral have relative newer housing stocks.

Table 20: Housing Stock Profile, 2017			
Jurisdiction	2017 Total Units	Housing Units Built Prior to 1980	
		Units	Percent
Urban County			
Bonita Springs	35,435	4,950	13.97%
Fort Myers Beach	10,217	8,125	79.52%
Sanibel	8,830	4,171	47.24%
Estero	23,746	1,398	5.89%
Unincorporated	186,656	48,105	25.77%
Total Urban County	264,884	66,749	25.20%
Entitlement Jurisdictions			
Cape Coral	80,938	14,802	18.29%
Fort Myers	37,402	12,872	34.42%
Total Lee County	383,224	94,423	24.64%

Source: American Community Survey 2013-2017 Estimates
(B25034)

The map below displays residential structures built before and after 2000. A large portion of the structures throughout the County will be 20 years old in 2020, indicating the potential for a significant number of minor repairs and modernization improvements needed within the next few years.

Map 19: Age of Residential Structures



Housing units are considered substandard if they do not have telephone service, lack complete kitchens, and/or plumbing. According to the 2013-2017 American Community Survey, 1.62 percent of the housing stock in Lee County did not have telephone service; 0.31 percent lacked complete plumbing facilities; and 0.53 percent housing units lacked complete kitchen facilities.

Table 21: Substandard Housing Stock, 2017

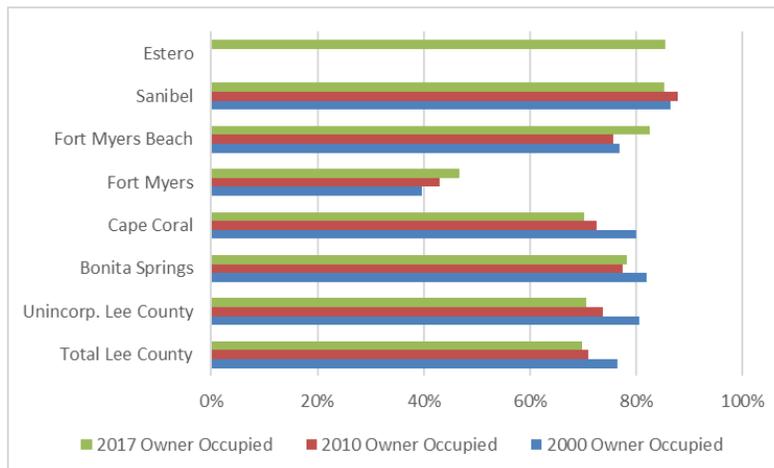
Jurisdiction	Total Occupied	No Telephone Service		Lacking Plumbing		Lacking Kitchen	
		Units	Percent	Units	Percent	Units	Percent
Urban County							
Bonita Springs	21,024	397	1.89%	17	0.08%	21	0.10%
Fort Myers Beach	3,664	114	3.11%	-	0.00%	12	0.33%
Sanibel	3,575	118	3.30%	-	0.00%	0	0.00%
Estero	14,567	166	1.14%	40	0.27%	9	0.06%
Unincorporated	131,790	2,136	1.62%	456	0.35%	845	0.64%
Total Urban County	174,620	2,931	1.68%	513	0.29%	887	0.51%
Entitlement Jurisdictions							
Cape Coral	62,392	839	1.34%	209	0.33%	302	0.48%
Fort Myers	27,313	517	1.89%	86	0.31%	203	0.74%
Total Lee County	264,325	4,287	1.62%	808	0.31%	1,392	0.53%

Source: American Community Survey 2013-2017 Estimates (B25034)

Housing Tenure

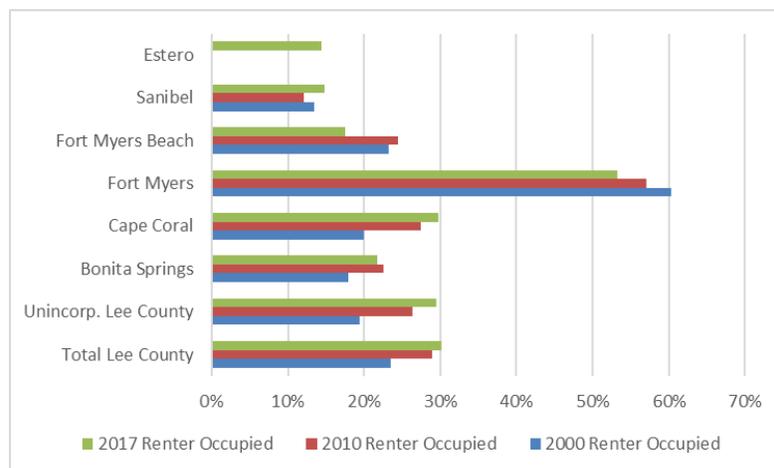
Housing tenure (or occupancy) refers to the occupancy of a housing unit – whether the unit is owner-occupied or renter-occupied. As seen in Figure 6a, Lee County has a greater proportion of owner-occupied housing than renter-occupied housing. The ownership level of 70 percent in 2017 for the County is a slight decrease from the 2010 rate of 71 percent, but it was still higher than the national average of 64.8 percent and the State level of 67.1 percent. Unincorporated Lee County, Cape Coral, and Sanibel experienced a slight decrease in the homeownership rate while the cities of Bonita Springs and Fort Myers, and the Town of Fort Myers each experienced increases in homeownership. Most areas in the County had more owner-occupied housing units than renter-occupied units. An exception is the City of Fort Myers, where the majority of housing units are renter-occupied (53 percent). Renter tenure increased by 6 percent between 2000 to 2010 due to high rates of foreclosure experienced by owner-households. In 2017, rental rates decreased in the City of Bonita Springs, City of Fort Myers and Town of Fort Myers Beach, potentially due to rising rent costs.

Figure 4a: Owner Occupied Housing Tenure 2000-2017



Source: U.S. Census 2000 and 2010 (DP 1), American Community Survey 2013-2017 (Table B25003)

Figure 5b: Renter Occupied Housing Tenure 2000-2017

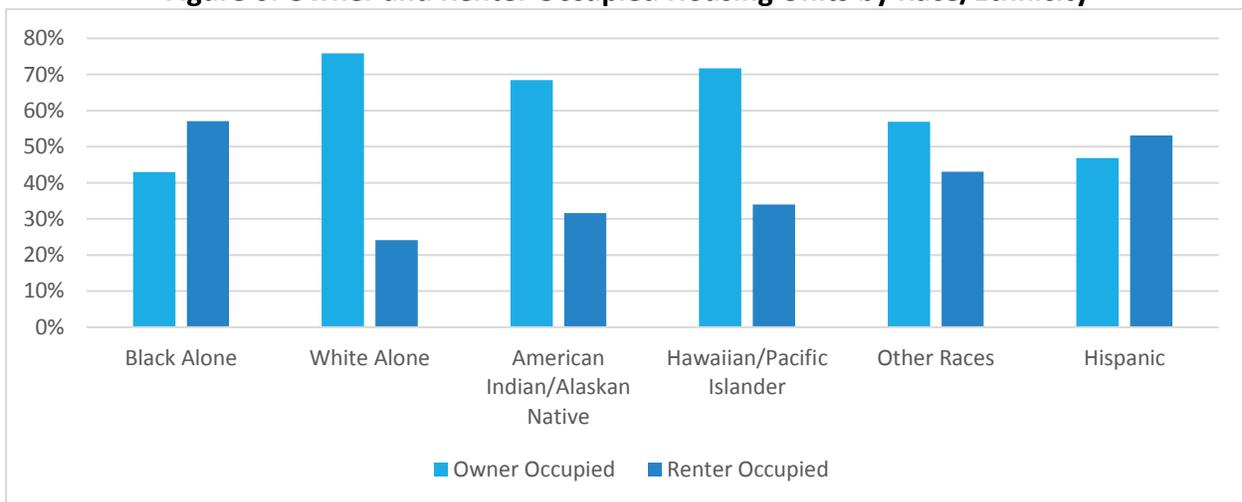


Source: U.S. Census 2000 and 2010 (DP 1), American Community Survey 2013-2017 (Table B25003)

Home Ownership Tenure by Race and Ethnicity

Minority populations in Lee County have not achieved housing homeownership as readily as the White non-Hispanic population. According to the U. S. Census Bureau’s 2013-2017 American Community Survey, in 2017, the majority of owner-occupied households are Non-Hispanic White households. Of those who owned the housing units they occupied, 85 percent were White non-Hispanic; 8 percent Hispanic All races; 4 percent Black; 1 percent Asian; and 2 percent were Other (including Native Hawaiian and Pacific Islander, American Indian and Alaska Native, and Two or more races). Comparing these figures to race data from the 2017 American Community Survey (Table 6) demonstrates that minorities in the County are underrepresented in terms of home ownership. For comparison purposes, according to 2017 American Community Survey data, Non-Hispanic Whites comprised 84.73 percent of the County’s population, Hispanics all races comprised 20.22 percent, Blacks comprised 8.7 percent and 1.5 percent of the population was Asians. The greatest disparity is present for Hispanic residents, who are underrepresented among homeowners in Lee County by more than 12 percent.

Figure 6: Owner and Renter Occupied Housing Units by Race/Ethnicity

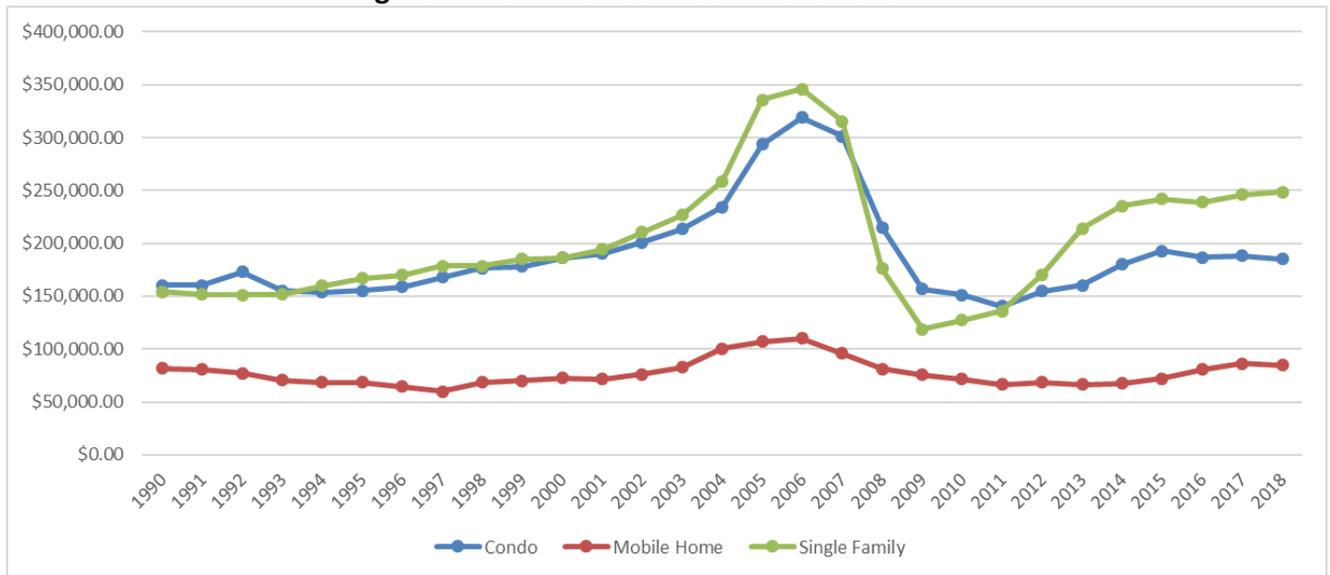


Source: U.S. Census 2013-2017 American Community Survey (B25003B, B25003C, B25003D, B25003E, B25003G, B25003H & B25003I)

Local Housing Market Demand/Condition

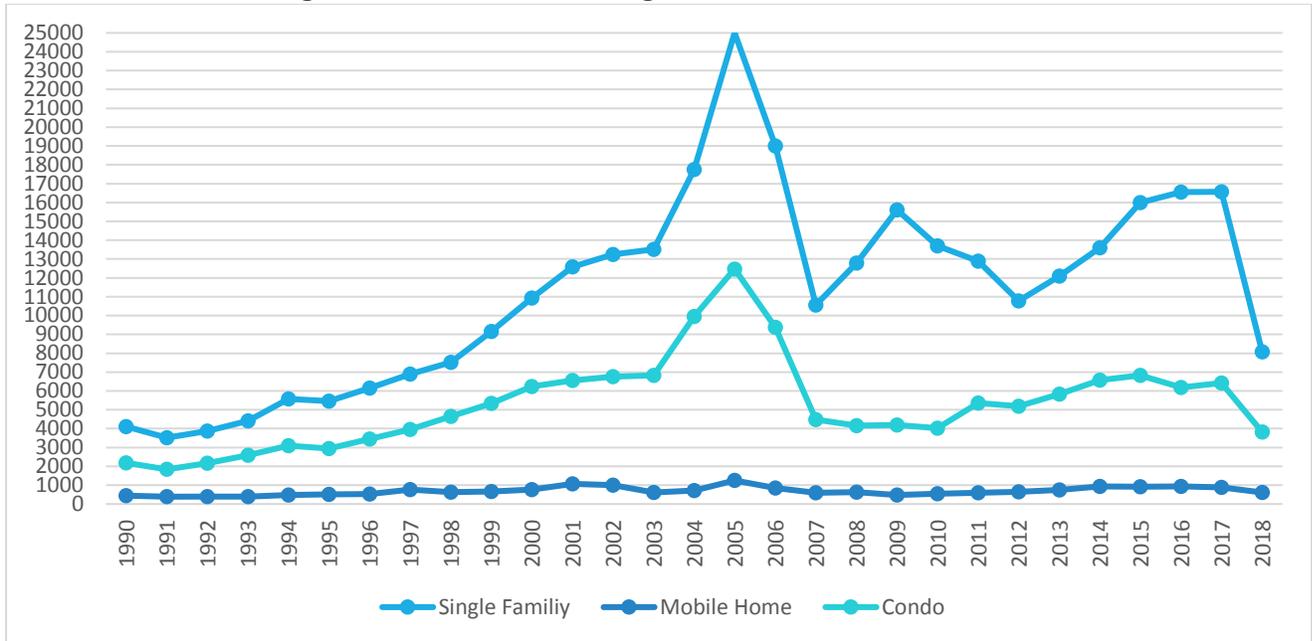
The Lee County Region experienced significant increase in the cost of housing between 2004 and 2007. Shown in Figure 9, in 2000, the median sales price of single-family units was \$184,152. By 2005, the price almost doubled to \$337,182. The height of the sales price increased between 2004 and 2007. The median sales price in 2004 was \$265,116 and by 2007, the sales price skyrocketed to \$357,126. During the boom, though the sales price drastically increased, the number of homes being sold also increased. By 2005, the number of homes sold was approximately twice the number in 2000. Single-family home sales were rising steadily between 2012 and 2017, but dropped off significantly in 2018. As shown, in 2008, prices started to drastically decline. Since 2012, home values have steadily risen. According to Florida Realtors “Florida Residential Market Sales Activity Report, January 2019” median sales price in the Cape Coral - Fort Myers MSA for a single family home was \$264,498, an increase of more than \$69,000 from the 2014 median of \$195,000, and nearly the same amount as the 2004 median.

Figure 7: Median Sales Price 1990 to 2018



Source: County Property Appraiser’s Tax roll compiled by Shimberg Center for Housing Studies, University of Florida

Figure 8: Number of Housing Units Sold 1990 to 2018



Source: County Property Appraiser’s Tax roll compiled by Shimberg Center for Housing Studies, University of Florida

Vacancy Rate/Foreclosure

The vacancy rate measures the overall housing availability in a community and is often a good indicator of how for sale and rental housing units are meeting the current demand for housing.

The region’s overall vacancy rate drastically changed from 2000 with a rate of 23.1 percent to 34.7 percent in 2012. The increase in the vacancy rates at the time was attributed to the region’s high foreclosure rate. The 2013-2017 American Community Survey (Table CP04) estimates a total of 383,244 housing units, 31 percent, or 118,899, of which are vacant. The homeowner vacancy rate is 2.9, and the rental vacancy rate is 8.8. While slightly lower than 2012, the 2017 percent of vacant units remains significantly higher than the statewide vacancy rate of 18.9%. This may be attributed to the large number of vacant units that are reserved as temporary or vacation units; 75.5 percent, or 89,732, are listed as being for seasonal, recreational, or occasional use (2013-2017 ACS Table B25004). In 2017, only 7,837 vacant units were available for rent, and 5,508 vacant units were available for sale.

According to Lee Clerk data, foreclosure filings reached their highest in March 2009, with more than 2200 filings during the month. Since then, rates have significantly decreased to just 77 filings in September 2018. The 2008 downturn in the economy and the high foreclosure rates in the County lead to a significant reduction in the median home sales price. However, with foreclosure rates significantly lower, median sales prices have once again risen. As stated, the median price has increased from \$195,000 in 2007, to \$264,498 in 2019, nearly returning to 2004 levels. A combination of low vacancy rates, rising home prices and rising home mortgage interest rates has lowered opportunities for low to moderate-income residents to purchase homes.

Housing Cost

Increasing housing costs are not a direct form of housing discrimination, however, a lack of affordable housing does constrain housing choice. Residents may be limited to a smaller selection of neighborhoods because of a lack of affordable housing in those areas.

Between 2000 and 2010, the inflation adjusted median housing value across Lee County increased 47.3 percent, while real median income fell more than 2 percent. Median gross rent increased a comparable 17.6 percent during the same years. Between 2010 and 2017 the median housing value, median gross rent, and median household income decreased. The modest decrease in median housing value does not necessarily mean that housing is more affordable, because there was also a decrease in household income. Decreases in both income and home values leaves housing costs relatively high for the residents in Lee County.

	Median Housing Value (in 2017 \$)	Median Gross Rent (in 2017 \$)	Median Household Income (in 2017 \$)
2000	\$160,708	\$919	\$57,392
2010	\$236,739	\$1,081	\$56,221
2017	\$190,200	\$1,035	\$52,052

Source: U.S. Census Bureau, Census 2000 (DP-3, DP-4), 2006-2010 American Community Survey (B25064), 2013-2017 American Community Survey (B25064)

Rental Housing

The number of units renting for less than \$500 per month in Lee County declined by more than 65 percent between 2000 and 2017. Additionally, the units renting for between \$500 to \$750 has decreased from 19,106 to 9,913, or 48 percent. At the same time, the units renting for more than \$1,000 per month increased from 7,374 units to 40,808 units, or 453.4 percent.

The data does not provide a distinction between units that were actually lost from the inventory through demolition and those for which rents were increased. This figure should be analyzed with an understanding that \$500 was worth more in 2000 than in 2017, due to inflation. This figure, due to the categorical nature of the variable, cannot be adjusted for inflation. According to the U.S. Census 2013-2017 American Community Survey (Table CP04), approximately 53.7 percent of the County's renter-households were paying greater than \$1,000 per month for rent, and approximately 43 percent of renter-households pay 35 percent or more of their household income toward rent.

Units Renting for:	2000	2010	2017
Less Than \$500	9,645	3,454	3,371
\$500 to \$750	19,106	12,592	9,913
\$750 to \$1,000	8,743	21,476	22,059
\$1,000 or More	7,374	26,465	40,808

Source: U.S. Census Bureau, Census 2000 (DP-4), 2013-2017 American Community Survey (B25063)

The following information is set forth to demonstrate the known market conditions regarding affordability within the County. The 2018 median family income for the Cape Coral – Fort Myers MSA is \$63,700 (for a household with 4 persons). The maximum housing costs for households within each income range can be estimated based on the County’s median income, and HUD’s standard that no more than 30% of a households income should be spent on housing costs. Families earning less than 30 percent of median income could only afford to pay \$627.50 toward housing costs. By contrast, families earning the median family income in the County could afford pay \$1,592.50 toward housing costs.

Table 24: Housing Affordability Range

	Income	Maximum Mortgage Payment (inc PITI)	Maximum Rent (inc Utilities)
Extremely Low Income <30 % AMI	\$25,100	\$627.50	\$627.50
Low Income 50% AMI	\$31,850	\$796.25	\$796.25
Moderate Income 80% AMI	\$50,950	\$1,273.75	\$1,273.75
Area Median Income (AMI)	\$63,700	\$1,592.50	\$1,592.50

Source: HUD 2018 Income Limits

Annually, HUD provides information on the Fair Housing Market Rent (FMR) and affordability of rental housing in counties and cities in the U.S. In 2018 for the Cape Coral-Fort Myers MSA, the FMR for a two-bedroom unit is \$956. In order to afford this level of rent and utilities without paying more than 30 percent of income on housing, a household must earn \$3,186.67 monthly or \$38,240 annually. Assuming a 40-hour workweek, 52 weeks per year, this level of income translates into an hourly housing wage of \$18.38.

In Lee County, a minimum-wage worker earned an hourly wage of \$8.25 in 2018. In order to afford the FMR for a two-bedroom unit, a minimum wage work must work 89 hours per week, 52 weeks per year. The National Low Income Housing Coalition’s “Out of Reach 2018”, report estimates that in Lee County, the mean hourly wage for the rent-household is \$8.83 and the affordable rent for mean renter is \$459 per month, which is well below the FMR for the region.

Home Ownership Affordability

One method used to determine the inherent affordability of a housing market is to calculate the percentage of homes that could be purchased by households at the median income level. It is possible also to determine the affordability of the housing market for each racial or ethnic group in the County. To determine affordability, the following assumptions were made:

- The mortgage was a 30-year fixed rate loan at a 5.0 percent interest rate.
- The buyer made a \$10,000 down payment on the sales price.
- Front end ratio principal, interest, taxes and insurance (PITI) equaled no more than 29 percent of gross monthly income (FHA front end ratio).
- Additional consumer debt (credit cards, car payment, etc.) averaged \$700 per month which added to the projected PITI, will not exceed 41 percent of the buyer's gross income (FHA back end ratio).
- Property tax was assumed at 1.2 percent, principal mortgage insurance (PMI) was included, and insurance was assumed at \$2,400 per year.

Table 25 below details the estimated maximum affordable sales price and monthly PITI payment for Whites, Blacks, Asians and Hispanics in Lee County.

In the Lee County real estate market, the 2017 median sales price for a single-family home was \$246,087. The Countywide median household income in 2017 was \$52,052, which translates to a maximum affordable home purchase price of \$145,522. This indicates that a household at the median income could afford less than half of the housing market.

However, an analysis applying the different median income levels by race and ethnicity indicates that in general, purchase choices are far more limited for Blacks and Hispanics, as the maximum affordable home purchase prices for Whites and Asians were substantially higher than the affordable prices for Blacks and Hispanics.

Table 25: Maximum Affordable Purchase Price by Race/Ethnicity, 2017

	Median Household Income	Mortgage Principal & Interest	Real Estate Tax	Property Insurance and PMI	Total Monthly Debt Service*	Maximum Loan Amount	Maximum Affordable Purchase Price
Lee County	\$52,052	\$728	\$146	\$286	\$1,859	\$135,359	\$145,522
White	\$53,468	\$766	\$153	\$290	\$1,910	\$142,769	\$152,769
Black	\$37,289	\$330	\$71	\$230	\$1,331	\$61,411	\$71,411
Asian	\$61,165	\$952	\$187	\$312	\$2,151	\$177,258	\$187,258
Hispanic	\$41,386	\$445	\$93	\$241	\$1,478	\$82,812	\$92,812

* Includes PITI and \$700 assumed average monthly consumer debt service

Source: U.S. Census 2017 American Community Survey 1-Year Estimates (B19013A, B19013B, B19013D, B1903I), Calculations completed by Lee County Human and Veteran Services using Zillow.com

Housing Cost Burden

HUD defines housing affordability in terms of the proportion of household income that is used to pay housing costs. Housing is “affordable” if no more than 30 percent of a household’s monthly income is needed for rent, mortgage payments and utilities. When the proportion of household income needed to pay housing costs exceeds 30 percent, a household is considered “cost burdened.” Severe cost burden is defined as when gross housing costs, including utilities, exceed 50 percent of the households’ gross income.

In the Lee County Region, nearly 50 percent of the renter-households and over 30 percent of owner-households are experiencing housing cost burden. All jurisdictions have over 42 percent of renter-households with housing cost burden (Table 26). Rates of renter cost burden are highest in the cities of Cape Coral and Fort Myers, and Unincorporated areas of the County.

Table 26: Housing Cost Burden is 30% or More		
Jurisdiction	Owners	Renters
Urban County		
Bonita Springs	25.58%	42.49%
Fort Myers Beach	32.82%	43.37%
Sanibel	31.48%	45.94%
Estero	25.29%	43.16%
Unincorporated	25.01%	48.15%
Total Urban Lee County	25.45%	47.28%
Entitlement Jurisdiction		
Cape Coral	29.64%	48.04%
Fort Myers	25.82%	51.52%
Total Lee County	26.47%	48.23%

Source: American Community Survey 2013-2017 Estimates (S2503)

MONTHLY HOUSING COSTS AS A PERCENTAGE OF HOUSEHOLD
INCOME IN THE PAST 12 MONTHS

Housing cost burden typically is linked to income levels. The lower the income, the larger percentage of a household’s income is allotted to housing costs. Cost burden by low-income households tends to occur when housing costs increase faster than income. The tables on the following pages (Table 27) are based on the data from the Shimberg Center for Housing Studies, University of Florida, that illustrates the percentage of cost burden households by income and the percentage of income paid for housing by Lee County Jurisdictions. As the table indicates, an increase in income level affects housing cost burden for households. As shown, lower income groups in all jurisdictions were severely cost burdened.

Table 27: Households by income and cost burden				
Jurisdiction	Household Income	No Cost Burden	Cost Burden	Severely Cost Burden
		<i>30% or less</i>	<i>30.1-50%</i>	<i>More than 50%</i>
Lee County	30% AMI or less	7.7%	7.9%	84.3%
	30.1-50% AMI	21.2%	29.1%	49.6%
	50.1-80% AMI	39.5%	39.4%	21.1%
	80.1-120% AM	68.1%	22.6%	9.3%
	more than 120% AMI	85.4%	11.5%	3.1%
Bonita Springs	30% AMI or less	5.9%	8.9%	85.2%
	30.1-50% AMI	20.7%	28.9%	50.5%
	50.1-80% AMI	35.0%	37.7%	27.3%
	80.1-120% AM	64.1%	20.7%	15.2%
	more than 120% AMI	83.7%	11.4%	4.9%
Cape Coral	30% AMI or less	2.6%	5.8%	91.5%
	30.1-50% AMI	14.2%	22.3%	63.5%
	50.1-80% AMI	31.9%	42.6%	25.5%
	80.1-120% AM	60.5%	28.6%	10.9%
	more than 120% AMI	83.0%	14.4%	2.6%
Sanibel	30.1-50% AMI	4.2%	23.2%	72.6%
	50.1-80% AMI	8.2%	31.8%	59.9%
	80.1-120% AM	45.1%	23.3%	31.6%
	more than 120% AMI	73.0%	13.8%	13.2%
Fort Myers	30% AMI or less	6.6%	15.1%	78.3%
	30.1-50% AMI	17.2%	36.7%	46.1%
	50.1-80% AMI	37.5%	46.3%	16.2%
	80.1-120% AM	70.6%	20.4%	9.0%
	more than 120% AMI	87.4%	9.7%	2.9%
Fort Myers Beach	30.1-50% AMI	7.9%	25.5%	66.6%
	50.1-80% AMI	33.7%	49.3%	17.0%
	80.1-120% AM	65.4%	22.5%	12.1%
	more than 120% AMI	84.4%	10.9%	4.8%
Unincorporated Lee County	30% AMI or less	10.7%	6.2%	83.1%
	30.1-50% AMI	26.1%	29.9%	43.9%
	50.1-80% AMI	44.7%	36.5%	18.9%
	80.1-120% AM	71.7%	20.7%	7.6%
	more than 120% AMI	86.9%	10.4%	2.7%

Source: Estimates and Projections by Shimberg Center for Housing Studies based on 2010 Census Data

Housing Stock Available for People with Disabilities and Persons with HIV/AIDS

The populations identified that have special needs are persons who are not homeless but require supportive housing. These include:

- Elderly
- Frail elderly
- Persons with disabilities (mental, physical, developmental)
- Persons with alcohol and/or drug addictions
- Persons with HIV/AIDS and their families
- Persons living in public and assisted housing

The housing market in the County has not developed sufficient housing stock specifically for persons with mental and developmental disabilities or for persons with HIV/AIDS who are able to live independently. Unless a person needs supportive housing, the housing stock available is the same as for others of the same socioeconomic status.

People with disabilities are in the midst of an increasingly acute affordable housing crisis. The National Low Income Housing Coalition's "Out of Reach 2018" reported that a person with a disability, whose sole source of income is Federal Social Security Income (SSI), can only afford a \$250 monthly rent payment. In 2017, the SSI program provided an individual with a monthly income of \$735 or \$8,820 a year. This amount is equal to only 16.9 percent of the area median income and 7.3 percent below the 2017 federal poverty level of \$12,060. This is approximately equal to an hourly wage of \$4.42 per hour – nearly four dollars below minimum wage, which is \$8.25 an hour.

Both for-profit and not-for-profit housing developments receive assistance in the form of low-interest and deferred payment loans, permanent financing, and regulatory incentives from the cities, county, and other public and private sources. As a condition of receiving such assistance, project developers and owners are required to set-aside a pre-determined number of units to households at specified income levels and, in some cases, to households from specific special needs subpopulations. Regulatory agreements restrict sales prices, resale prices, and rents for these units to levels that are affordable to the targeted households. The time period covered by these agreements varies, but generally ranges from 5 to 30 years.

According to the Shimberg Center for Housing Studies data, currently there are 6,272 assisted housing units located in Lee County. Of these available assisted housing units, 158 housing units are available for persons with disability, 1,828 housing units are for seniors, 78 housing units are for farmworkers and the balance of 3,972 units are for families. The majority of assisted housing units are located within in the City of Fort Myers city limits.

Homeless

The Lee County Continuum of Care, a collaborative of local municipalities, social service providers and other stakeholders, is tasked with addressing the needs of persons experiencing homelessness. The function of the Lee County Continuum of Care (CoC) and Lee County Homeless Coalition is established in Florida Statute 420.623 and 24 CFR 578. The CoC is responsible to plan, coordinate, and monitor the delivery of services to the homeless.

The Lee County Homeless Coalition provides information on the needs, characteristics, number and location of homeless persons in Lee County. In 2019, based on a “Point in Time Count (PIT)” conducted on January 27, 2019, the CoC reported 630 residents experiencing homelessness. Of this count, 110 persons were chronically homeless representing 14.5 percent of the persons who are homeless. Table 28 shows the breakdown of the homeless population. It is known that some persons were not counted and service professionals feel that the true figure may be far greater than presented in the PIT. Challenges for the CoC have increased in previous years due to reductions in both federal and state funding. Lee County’s homeless population is visible in the City of Fort Myers but relatively invisible elsewhere, as they are hidden from the public in small camps dispersed throughout the county.

Table 28: Homeless PIT January 28, 2019

Date of PIT Count: 1/27/2019					
Population: Sheltered and Unsheltered Count					
Total Households and Persons					
	Sheltered			Unsheltered	Total
	Emergency	Transitional	Safe Haven		
Total Number of Households	203	13	0	126	342
Total Number of Persons	453	15	0	162	630
Number of Children (under age 18)	194	2	0	14	210
Number of Persons (18 to 24)	8	0	0	7	15
Number of Persons (over age 24)	251	13	0	141	405
Gender					
	Sheltered			Unsheltered	Total
	Emergency	Transitional	Safe Haven		
Female	271	14	0	47	332
Male	182	1	0	115	298
Transgender	0	0	0	0	0
Gender Non-Conforming	0	0	0	0	0
Ethnicity					
	Sheltered			Unsheltered	Total
	Emergency	Transitional	Safe Haven		
Non-Hispanic/Non-Latino	355	12	0	158	525
Hispanic/Latino	98	3	0	4	105
Race					
	Sheltered			Unsheltered	Total
	Emergency	Transitional	Safe Haven		
White	283	10	0	107	400
Black or African-American	165	4	0	50	219
Asian	1	0	0	1	2
American Indian or Alaska Native	1	0	0	2	3
Native Hawaiian or Other Pacific Islander	1	0	0	1	2
Multiple Races	2	1	0	1	4
Chronically Homeless					
	Sheltered			Unsheltered	Total
	Emergency	Transitional	Safe Haven		
Total number of persons	31		0	79	110

Source: Lee County Homeless Management Information System (HMIS)

In addition to identifying persons with and without dependent children, chronically homeless, race and ethnicity were identified during the PIT and during the annual CoC competition. As seen in Table 29, Black or African American populations are overrepresented in the homeless population. Conversely, persons who are Hispanic or Latino are underrepresented.

According to Lee County Human and Veteran Services, there are currently, 994 year-round beds available for the homeless households (231 emergency shelter beds; 55 transitional housing beds; 242 rapid re-housing beds and 466 permanent supportive housing beds).

Table 29: Racial Disparities in the CoC

Race	2017 ACS Estimate	FY 16/17 Annual Homeless Population Race/Ethnicity
White alone	84.70%	63.32%
Black or African American	8.70%	32.46%
American Indian and Alaska Native	0.20%	1.38%
Asian	1.60%	0.08%
Native Hawaiian and Other Pacific Islander	0.10%	0.38%
Some other race	3.00%	
Two or more races	1.80%	2.38%
Hispanic or Latino	20.20%	13.70%

Source: Lee County Homeless Management Information System (HMIS)

F. Key Findings: Jurisdictional Background Data

- The population of Lee County increased by 79,714 people from 2010 to 2017 an increase of 12.9 percent over the 2010 level. The City of Fort Myers (26.98 percent) is the fastest growing city in the county followed by the City of Bonita Springs (14.32 percent) and the City of Cape Coral (13.45 percent). The Town of Fort Myers Beach and Unincorporated areas show the slowest growth rate. The Town of Fort Myers Beach is the only area that is projected to experience a net loss of residents by 2020.
- The Bureau of Economic and Business Research (BEBR), University of Florida estimates that by the year 2030, the population of Lee County is expected to reach 891,200. That is an increase of approximately 44 percent from the 2010 level. The entire Lee County Region will likely experience a high growth rate (greater than 25 percent) with exceptions of the Town of Fort Myers Beach (-8 percent) and the City of Sanibel (4 percent).
- The County’s Hispanic population has expanded substantially since 2000, from 42,042 persons to 141,544 persons from 2000 and 2017, an increase of 236.7 percent. Hispanic or Latino (any race) population comprised 25.3 percent of the County’s total population. The Cities of Bonita Springs, Cape Coral and Fort Myers have significant Hispanic concentrations, while the City of Sanibel has the least concentration of Hispanic Population.

- By national standards, Lee County is moderately segregated, as 63.39 percent of Black residents would need to move within the County to achieve perfect spatial integration with White residents. Results were similar, but less dramatic for other minority groups. Racial integration by this measure has improved significantly in the last thirty years, when the statistics were 77.08 percent. The largest concentration of black population occurs in the City of Fort Myers, 26.2 percent versus the county-wide figure of 8.6 percent.
- Minority residents in Lee County experienced a greater poverty rate than White and Asian residents. They also had the lowest median household incomes among racial and ethnic groups, while Asians had the highest median household income. A lower income for these minority groups translates to a substantially diminished range of housing options.
- In 2017, the Census Bureau reported that 147,361 persons across Lee County (28.4 percent of the population) spoke at least one language other than English. Of these, 62,713 (42.6 percent) spoke English less than “very well”. This limited English proficiency subpopulation constituted 9.4 percent of the County’s total population.
- Of the total civilian non-institutionalized Lee County population, 96,894 persons or 13.8 percent reported a range of disabilities. Of the disabilities tallied, 60.2 percent were for residents in the 65 years and over age group followed by 18 to 64 years age group with 23.5 percent. The elderly population had a significantly higher percentage of physical disabilities than other age groups. The most common type of disability among persons 18 to 64 years and 65 years and over was ambulatory, referring to difficulty moving from place to place that makes it impossible or impractical to walk as a means of transportation, which translates as a need for accessible housing.
- Between 2008 and 2012, White residents’ unemployment rate was below the County’s unemployment rate of 12.2 percent. In contrast, Black residents’ unemployment rate was reported at 21.5 percent. Hispanic residents also had a high unemployment rate of 16.2 percent. Between 2013 and 2017 a similar trend exists, but is much less extreme, with unemployment for White residents being 6.7 percent, and 10 percent for Black residents. The unemployment rate for Black residents reduced by more than 11.5 percent between 2012 and 2017, a much higher reduction than all other racial and ethnic groups. Higher unemployment, whether temporary or permanent, significantly limits the resources available to meet housing costs.
- The private automobile is the primary method (79.9 percent) of transport for the daily commuting workforce. More than 55 percent of working residents travel between 15 and 34 minutes to work, according to the U. S. Census Bureau’s 2013-2017 American Community Survey. Of the 281,958 workers 16 years and over that commute to work, only 9.7 percent carpooled and .8 percent used public transportation.
- Lee County housing stock increased by 17.25 percent between 2010 and 2017. All jurisdictions experienced housing stock increases between 2010 and 2017. The unincorporated areas of Lee County had the largest increase of 17.47 percent followed by the City of Sanibel (11.43 percent) and City of Bonita Springs (10.5 percent).

- Minority populations in Lee County have not achieved housing homeownership as readily as the White non-Hispanic population. Of those who owned the housing units they occupied, 85 percent were White non-Hispanic; 8 percent were Hispanic All races; 4 percent were Black; 1 percent were Asian; and 1 percent were Other (including Native Hawaiian and Pacific Islander, American Indian and Alaska Native, and Two or more races).
- The region’s overall vacancy rate has drastically changed from the 2000 rate of 23.1 percent to 34.7 percent in 2012. In 2017, the vacancy rate remained steady at 31 percent. While slightly lower than 2012, the 2017 percent of vacant units remains significantly higher than the statewide vacancy rate of 18.9%. This may be attributed to the large number of vacant units that are reserved as temporary or vacation units; 75.5 percent, or 89,732, are listed as being for seasonal, recreational, or occasional use (2013-2017 ACS Table B25004). In 2017, only 7,837 vacant units were available for rent, and 5,508 vacant units were available for sale. The increase in the vacancy rate could be attributed to the region’s high foreclosure rate.
- According to Lee Clerk data, foreclosure filings reached their highest in March 2009, with more than 2200 filings during the month. Since then, rates have significantly decreased to just 77 filings in September 2018.
- In Lee County, a minimum-wage worker earned an hourly wage of \$8.25 in 2018. In order to afford the FMR for a two-bedroom unit, a minimum wage work must work 89 hours per week, 52 weeks per year. The National Low Income Housing Coalition’s “Out of Reach 2018”, report estimates that in Lee County, the mean hourly wage for the rent-household is \$8.83 and the affordable rent for mean renter is \$459 per month, which is well below the FMR for the region.
- Between 2000 and 2010, the inflation adjusted median housing value across Lee County increased 47.3 percent, while real median income fell more than 2 percent. Median gross rent increased a comparable 17.6 percent during the same years. Between 2010 and 2017 the median housing value, median gross rent, and median household income decreased. The modest decrease in median housing value does not necessarily mean that housing is more affordable, because there was also a decrease in household income. Decreases in both income and home values leaves housing costs relatively high for the residents in Lee County.
- In the Lee County Region, over 50 percent of renter-households and over 30 percent of owner-households are experiencing housing cost burden.

III. Evaluation of Current Fair Housing Legal Status

This section analyzes the extent of fair housing complaints or compliance reviews where a charge of discrimination has been made. Additionally, this section will review the existence of any fair housing discrimination suits filed by the United States Department of Justice or private plaintiffs, and the identification of other fair housing concerns or problems.

A. Existence of Fair Housing Complaints

From 2001 to October 2012, Lee County Office of Equal Opportunity (LCOEO) was designated by HUD as meeting the HUD requirements for the operation of a “Substantially Equivalent Fair Housing Program”. LCOEC processed and investigated the Countywide housing discrimination complaints on behalf of HUD. However, beginning in October 2012, LCOEC discontinued its processing and investigation of Countywide fair housing complaints and undertook a countywide fair housing training and outreach on behalf of HUD.

As of October 2012, fair housing complaints must be filed with the HUD Miami Office or the State of Florida Commission on Human Relations Office (FCHR). FCHR is the state’s leading anti-discrimination agency. FCHR is overseen by twelve Commissioners appointed by the Governor and confirmed by the state Senate. FCHR conducts its business primarily under authority of three Florida laws:

- The Florida Civil Rights Act (Part 1, Chapter 760, and s. 509.092, F.S.) for allegations of discrimination in employment or public accommodations;
- The Florida Fair Housing Act (Part II, Chapter 760) for allegations of discrimination in housing; and
- The Florida Whistle-Blower Act (s. 112.31895) for allegations of improper retaliation against state agency whistle-blowers.

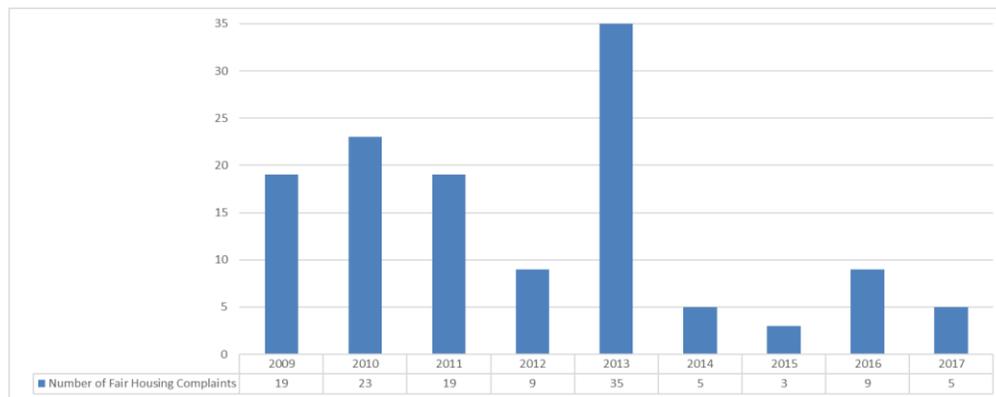
A work-sharing agreement between FCHR and two federal partners, the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development, helps ensure that complaints are properly investigated without duplication, whether they are initially filed with the Commission or one of the federal agencies.

The number of complaints reported may under-represent the actual occurrence of housing discrimination in any given community, as people may not file complaints because they are unaware of how or where to file a complaint. Discriminatory practices can be subtle and may not be detected by someone who does not have the benefit of comparing his/her treatment with that of another home seeker. Other times, people may be unaware that the discrimination is against the law and there are legal remedies to address discrimination. In addition, households may be more interested in achieving their first priority of finding decent, affordable housing and may prefer to avoid going through the process of filing and following up on a complaint. Therefore, education, information, and referral regarding fair housing issues remain critical to empower individuals with the ability to reduce impediments.

Number of Complaints

HUD Office of Fair Housing and Equal Opportunity (FHEO) receives complaints from persons regarding alleged violations of the Federal Fair Housing Act. Fair Housing complaints originating in Lee County were obtained from HUD Miami FHEO and analyzed from FY 2009 to FY 2014. In total, 110 complaints originating in Lee County were filed during that time, an average of eighteen complaints per year. The high number of cases shown in 2013 could be attributed to the closing of Lee County's EEOC office in 2012 and backlog of cases during the transition of fair housing investigation responsibilities from the County to HUD.

Figure 9: Number of Fair Housing Complaints Filed with HUD 2009 - 2017



Note: Number of cases are based on the federal fiscal year (i.e. 2009 cases include cases filed from October 1, 2008 to September 30, 2009 and 2014 case is from October 2013 to September 18, 2014)

Source: HUD Miami Fair Housing and Equal Opportunity Office and Florida Commission on Human Rights

Resolution of Complaints

The following is the makeup of the 127 fair housing discrimination complaints investigated:

- No Reasonable Cause, Withdrawals, or Failure to Cooperate - 83 complaints
- Conciliations – 27 complaints
- Withdrawn After Resolution – 4 complaints
- FHAP Judicial Dismissal – 2 complaints
- Untimely filed – 1 complaint
- Administrative Closure – 10 complaints

The high number of dismissed complaint cases could indicate that residents do not understand what constitutes a violation of the Fair Housing Act. However, the low number of complaints should not be construed to mean that there is no housing discrimination in Lee County. Rather, it is likely that housing discrimination cases often go unreported. Furthermore, since the closure of the Office of Equal Opportunity, the County lacks the resources to test the area for housing discrimination. This possible under-reporting of housing discrimination and lack of understanding of fair housing laws is an impediment to fair housing choice.

B. Existence of Fair Housing Discrimination Suit

There is no pending fair housing discrimination suit initiated by the U.S. Department of Justice or HUD against a city, county, company, or corporation within the County jurisdictions.

C. Existence of Reasons for trends and patterns

Currently, there are no specific reasons for any trends or patterns for Fair Housing violations in Lee County.

D. Key Findings: Evaluation of Current Fair Housing Legal Status

- Lee County no longer has its own FHAP Agency. From 2001 to October 2012, Lee County Office of Equal Opportunity (LCOEO) was designated by HUD as meeting the HUD requirements for the operation of a “Substantially Equivalent Fair Housing Program”. LCOEC processed and investigated the County-wide housing discrimination complaints on behalf of HUD. However, beginning in October 2012, LCOEC discontinued its processing and investigation of County-wide fair housing complaints and conducting the countywide fair housing training and outreach that it undertook on behalf of HUD.
- The high number of dismissed cases (83 complaints out of 127 complaints) could be an indication that residents do not understand what constitutes a violation of the Fair Housing Act.

IV. Identification of Impediments to Fair Housing Choice

The analysis of impediments is a review of impediments to fair housing choice in public and private sectors. This section analyzes various public and private policies and actions that may impede fair housing within Lee County.

A. Public Sector

Public policies established at the regional and local levels can affect housing development and, therefore, may affect the range and location of housing choices available to residents. Fair housing laws are designed to encourage an inclusive living environment and an assessment of public policies and practices can help determine potential impediments to fair housing opportunity. This section presents an overview of government regulations, policies, and practices enacted by jurisdictions in Lee County that may influence fair housing choice.

1. Zoning and Site Selection

In Florida, the power behind land development decisions resides with municipal governments through the formulation of local controls. These include comprehensive plans and zoning ordinances, as well as building and development permits.

For this analysis, zoning ordinances (Land Use Regulations) for all six jurisdictions (Cities of Cape Coral, Fort Myers, Bonita Springs, Sanibel, Town of Fort Myers Beach, and Lee County) in Lee County were reviewed. All jurisdictions in Lee County enforce local zoning ordinances. In considering how zoning might create barriers to fair housing, the following three key areas were reviewed based on the topics raised in HUD's Fair Housing Planning Guide, which include:

- Definition used for "family" and restrictions on the number of unrelated persons in dwelling unit.
- Dispersal requirements and regulatory provisions for housing facilities for persons with disabilities (i.e. group homes) in single-family district.
- Minimum lot size requirements, and the opportunity to develop various housing types including apartments and housing at various densities.

All six jurisdictions' land use regulations have been updated to achieve consistency with recently adopted Comprehensive Plans, in accordance with the state laws concerning local land development code.

Definition of Family

Restrictive definition of family may impede unrelated individuals from sharing a housing unit. Defining family broadly advances non-traditional families and supports the blending of families who may be living together for economic purposes. Restrictions in the definition of family typically cap the number of unrelated individuals that can live together. These restrictions can impede the development of group homes, effectively impeding housing choice for the disabled. However, in some cases, caps on unrelated individuals residing together may be warranted to avoid overcrowding, thus creating health and safety concerns.

The City of Fort Myers defines the term “family” in a very broad and inclusive way, with no limit placed on the number of related or unrelated individuals living together. The definition also includes a personal caretaker or nursing care provider serving one of the family members who lives on-site as a family member. This definition advances non-traditional families and supports the blending of families who may be living together for economic reasons that could otherwise limit their housing choice.

The City of Cape Coral, Lee County, the City of Bonita Springs, The City of Sanibel, and the Town of Fort Myers Beach limit the number of unrelated individuals who may live together to five. While this cap can restrict housing choice for non-traditional families, the regulations do make exceptions for group homes by classifying them as a separate type of use.

The six jurisdictions’ definitions of “family” do not adversely create impediments to fair housing choice.

Regulation for Group Homes for Persons with Disabilities

Group homes are residential uses that do not adversely affect a community. Efforts should be made to ensure group homes could be easily accommodated throughout the community under the same standards as any other residential use. Of particular concern are those that serve members of the protected classes such as the disabled. Because group homes for disabled provide a non-institutional experience for its occupants, imposing conditions are contrary to the purpose of a group home. More importantly, the restrictions, unless executed against all residential uses in the zoning district, are an impediment to the siting of group homes in violation of the Fair Housing Act.

Two primary purposes of a group home residence are normalization and community integration. By allowing group residences throughout the community in agreement with the same standards as applied to all other residential uses occupied by a family, the purposes of the use are not hindered and housing choice for the disabled is not impeded. Toward this end, municipalities may not impose distance requirements on group homes for persons with disabilities.

The State of Florida Statute, Chapter 419.001, mandates minimum space between community residential homes to avoid concentration. The state defines a community residential home as “a dwelling unit licensed to serve the clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and

Family Services or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.”. The Chapter states that local governments may reject applications for group homes on sites that would “result in such a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other residences in community, such that the nature and character of area would be substantially altered.” Specifically, state law declares a concentration of community residential homes when two are located within 1,200 feet of one another in multi-family zones. Further, a community residential home located within a radius of 500 feet of an area zoned single-family “substantially alters the nature and character of the area.” According to the F.S. Chapter 419.001 (2), homes of six or fewer residents which otherwise meet the definition of family may locate as single-family homes in single-family neighborhoods, but not within 1,000 feet of another existing community residential facility with six or fewer residents. The F.S. Chapter 419.001 (12), allows local governments to adopt more liberal standards by stating that “Nothing in this section requires any local government to adopt new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria of this section. State Law on community residential homes controls over local ordinances, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.”

Lee County places no distance restriction for a community residential home. Lee County defines a community residential home nearly the same as the state. Community residential homes are permitted in all residential zoning districts. The only exception is that the units are not permitted in Airport Noise Zone B unless pre-empted by state law. Lee County Zoning Ordinance does not define *Adult Family-Care Home*, but an appropriate zoning classification for the proposed use would be made as permitted under Land Development Code Sec. 34-620. A *Home Care Facility* is defined in the LDC as “... a conventional residence in which up to three unrelated individuals are cared for, but without provision for routine nursing or medical care.” Lee County Zoning allows community residential homes and home care facilities to locate in the single-family residential districts.

Both the cities of Cape Coral and Fort Myers follow the state laws (F.S. Chapter 419.001) in regards to the distance requirements.

The City of Bonita Springs and the Town of Fort Myers Beach have no restrictions placed on the location or distance restriction for a community residential home. These jurisdictions defined a community residential home as “dwelling units licensed to serve the clients of the state Department of Health and Rehabilitative Services which provide a living environment for one to six unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional and social needs of the residents. Residents included only aged persons as defined in F.S. § 400.618(3), as amended; physically disabled or handicapped persons as defined in F.S. §

760.22(7), as amended; developmentally disabled persons as defined in F.S. §393.063(11), as amended; non-dangerous mentally ill persons as defined in F.S. 394.455(3), as amended; or children as defined in F.S. § 39.01(8) and F.S. § 39.01(10) as amended”.

Prior to 2015, the City of Sanibel imposed a distance requirement on the siting of community residential homes. The requirement stated that no new facility was to be located closer than 1,320 feet, measured in a straight-line distance from a lot line to any existing foster family home or other residential child caring facilities or assisted living facility. The City of Sanibel’s distance requirement was lowered in accordance with the State Statute in May 2015.

On August 18, 1999, the U.S. Department of Justice (DOJ) and HUD issued a joint statement regarding *Group Homes, Local Land Use, and the Fair Housing Act*. The joint statement takes the position on laws requiring that group homes be at a certain minimum distance from one another by stating that density restrictions are generally inconsistent with the Fair Housing Act. The joint statement was updated and expanded on November 14, 2016, in the statement entitled *HUD and DOJ Update Fair Housing Act Guidance about Land Use Laws*. The updated statement explicitly states that, “[A] local government may not block a group home or deny a requested reasonable accommodation in response to neighbors’ stereotyping fears or prejudices about persons with disabilities or a particular type of disability.”

With some notable exceptions, courts have generally struck down requirements that group homes maintain a minimum distance from other group homes. E.g., *Horizon House Development Services, Inc. v. Township of Upper Southampton* (8th Cir. 1993), striking down 1,000 foot dispersal requirement for group homes; and *The Children’s Alliance et al v. City of Bellevue* (W.D. Wash. 1997), striking down 1,000 foot dispersal requirement for group homes. But in *Family style of St. Paul v. City of St. Paul, Minnesota* (3rd Cir 1991), the court permitted application of a dispersal requirement to prevent cluster of twenty-one group homes within one and one-half block area.

The distancing requirements placed on group homes (community residential homes) is consistent with the Florida statute of 1,000 feet.

Residential Zoning Districts, Permitted Dwelling Types and Lot Sizes

The number of residential zoning districts is not as significant as the characteristics of each district, including permitted land uses, minimum lot size, and the range of permitted housing types. However, the number of residential zoning districts is indicative of the municipality’s desire to promote and provide a diverse housing stock for different types of households at a wide range of income levels.

The difference in the number of residential districts offered by each reviewed jurisdictions were inconsequential. Most ordinances established three to seven residential districts. There are

however, significant differences in the permitted types and density of residential uses among municipalities.

In Lee County, the minimum lot size is dependent on the underlying zoning district. The most common residential lot size requirement is 7,500 square feet. The minimum single-family lot size in the City of Fort Myers is 5,000 square feet; the Cities of Cape Coral and Sanibel are 10,000 square feet; the City of Bonita Spring is 4,875 square feet; and the Town of Fort Myers Beach is 7,500 square feet.

The City of Fort Myers allows the highest density of all Lee County jurisdictions by allowing up to seventy units per acre in its downtown district and up to sixteen units per acre for multi-family district (RM-16); the City of Cape Coral allows up to twenty units per acre for residential receiving district (RX); Lee County allows up to twenty- units per acre (normal allowance is fourteen units per acre) for an affordable housing development in the multi-family district. The City of Cape Coral allows for bonus density in certain zoning districts for providing affordable housing.

Lee County, the Cities of Cape Coral, Bonita Springs and Sanibel have affordable housing density bonus programs to promote affordable housing developments.

A review of jurisdictions' residential zoning districts, permitted dwelling types, and lot sizes regulations indicated they do not adversely create impediments to fair housing choice.

Affordable Housing incentive Plan

The William E. Sadowski Affordable Housing Act, as approved by the Florida Legislature and codified as Chapter 420 of the Florida Statutes, requires the development of an Affordable Housing Incentive Plan by all local governments electing to participate in the housing production and preservation initiatives authorized by the Act. The Act established State Housing Initiatives Partnership (SHIP) Program and allows the provision of state funds to Florida counties and municipalities for the production and preservation of affordable housing. Per Florida Statute 420.9071 (16), to qualify for SHIP funds a local jurisdiction must have a minimum of two affordable housing incentives (there are total of eleven affordable housing incentives). The two required incentives are: 1) The processing of approvals of development orders or permits for affordable housing projects is expedited to a greater degree than other projects; 2) The establishment of a process which local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.

Lee County and the cities of Cape Coral and Fort Myers participate in the SHIP program and developed and adopted Affordable Housing Incentive Plans. These jurisdictions' Affordable Housing Incentive Plans were reviewed for the AI. The cities of Bonita Springs, Sanibel and the Town of Fort Myers Beach do not receive the SHIP funding directly from the state, but participate in the program through the Lee County's SHIP program.

Lee County

Lee County's Affordable Housing Incentive Plans includes the following ten affordable housing incentives:

- The processing of approvals of development orders or permits for affordable housing projects is expedited to a greater degree than other projects.
- The establishment of a process which local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.
- The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- The allowance of flexibility in density for affordable housing.
- The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons.
- The reduction of parking and setback requirements for affordable housing.
- The allowance of affordable accessory residential units in residential zoning districts.
- The allowance of flexible lot configuration, including zero-lot-line configuration for affordable housing.
- The modification of street requirements for affordable housing.
- The preparation of a printed inventory of locally owned public lands suitable for affordable housing.
- The support of development near public transportation hubs and major employment centers and mixed-use developments.

City of Cape Coral

The City of Cape Coral's Affordable Housing Incentive Plan contains the following seven affordable housing incentives:

- The processing of approvals of development orders or permits for affordable housing projects is expedited to a greater degree than other projects.
- The establishment of a process which local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.
- The reduction of parking and setback requirements for affordable housing (parking requirement only).
- The preparation of a printed inventory of locally owned public lands suitable for affordable housing.
- The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.

City of Fort Myers

The City do Fort Myers Housing Incentive Plan contain the following ten affordable housing incentives:

- Expedite permit review for designated affordable housing projects.
- The modification of impacts fees requirements. Currently, impacts fee are waived for water and sewer for residential development in the old Enterprise Zone designated area.
- Maintain flexible densities land development codes that allow for a variety of density options.
- Reserve infrastructure capacity for affordable housing as a priority.
- The allowance of flexible lot configurations, including zero lot lines, for affordable housing projects.
- The allowance of flexible density for affordable housing
- Establish an Affordable Housing Oversight Committee comprised of an appointed person(s) from each city department.
- Maintain an inventory locally owned public land suitable for affordable housing development.
- Support development near transportation hubs in the Future Land Use Section of the Comprehensive Plan.
- Promote and encourage green building construction through expedited reviews, builder recognition

The above listed Affordable Housing Incentive Plans have been adopted within the last two years. Affordable Housing Incentive Plans of the entitlement jurisdictions promote and foster the production and preservation of affordable housing in the community thereby expanding affordable housing choices.

Comprehensive Plan

Under the State law (Florida Local Government Comprehensive Planning Act), local governments are required to adopt a comprehensive plan to guide the local governments' growth management. The comprehensive plan must contain eight required elements, one of which is a Housing Element.

The Comprehensive Plans for Lee County, the cities of Cape Coral, Fort Myers, Bonita Springs, Sanibel, and the Town of Fort Myers Beach were reviewed for the AI. All jurisdictions' comprehensive plans contain the Housing Element. The Housing Elements' addressed the following topics pursuant to Florida Statute Section 163.3177(6)(f):

- The provision of housing for all current and anticipated future residents of the jurisdiction.
- The elimination of substandard dwelling conditions.

- The structural and aesthetic improvement of existing housing.
- Adequate sites for future housing, including affordable workforce housing, housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities.
- Relocation housing, historically significant housing, and other housing for purposes of conservation, rehabilitation, or replacement.
- The formulation of housing implementation programs.
- The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

All jurisdictions' comprehensive plans were updated within the last five years and have been accepted by the State of Florida Department of Economic Opportunity. As a result of specific and stringent state standards for local land use, the Comprehensive Plans of each community advance a large number of strategic housing policies that will expand housing options for members of protected classes.

2. Neighborhood Revitalization, Municipal and Other Services, Employment-Housing Transportation Linkage

Currently, there are more than fifty Federal, State, local, and private programs providing services in Lee County. The primary Federal programs include Community Development Block Grant (CDBG), HOME Program (HOME), Emergency Solutions Grant (ESG), Housing Opportunities for Persons with AIDS (HOPWA), HUD Continuum of Care (CoC), Section 8 Voucher Programs, and Public Housing. The Federal Temporary Assistance to Needy Families (TANF) and Welfare to Work Program (WAGES) provide baseline anti-poverty supports as well as the Supplemental Nutrition Assistance Program (SNAP). The major State Programs include State Housing Initiatives Partnership Program (SHIP), Low Income Home Energy Assistance Program (LIHEAP), and Community Services Block Grant (CSBG). Private programs include the Care-to-Share (Electric assistance through the Florida Power and Light Corporation) and a wide range of non-profit programs.

Below are the examples of neighborhood revitalization programs and municipal and other services provided by the entitlement jurisdictions:

City of Cape Coral Programs

Neighborhood Revitalization: Two rounds of Neighborhood Stabilization Program funds (NSP 1 and NSP3) helped to stabilize the neighborhoods most affected by the epidemic of foreclosures over the last few years. The City utilized the funds to 1) acquire foreclosed single family properties, rehabilitate the properties, and resell the properties to income eligible homebuyers; 2) acquire foreclosed rental properties which in turn were rehabilitated and rented to very low income households; 3) work with a non-profit housing counseling agency to provide credit

counseling and homebuyer training 4) redevelopment of vacant infill lots. The program income generated is currently being utilized to build new homes for income qualified individuals on vacant infill lots because of the lack of foreclosures available.

CDBG: The City utilizes up to 15 percent of the CDBG funding to support various non-profit social service agencies providing senior services, home buyer counseling, credit counseling, special needs services (hearing impaired) and employment training. The balance of funding is mainly used for housing related activities, ADA accessibilities, and public facilities improvements in low-moderate income neighborhoods.

HOPWA: In partnership with a local Health Planning Council (The Health Planning Council of Southwest Florida, Inc.), provide assistance to Persons with HIV/AIDs. In 2013, 83 HIV/AIDs households were assisted.

SHIP Program: SHIP program has been instrumental in supplementing federal resources by providing funding for housing rehabilitation and down payment assistance programs.

City of Fort Myers Programs

Neighborhood Revitalization: A large portion of the City is characterized as older and suffering from disinvestment. These factors have made it difficult to construct viable affordable housing projects. To combat these factors, the City currently has ten Redevelopment Plans for the City's major corridors and targeted neighborhoods. The plans include revitalizing declining areas through rehabilitation, redevelopment, and infill strategies as appropriate. The City's Housing and Real Estate Division staff is currently working on developing a Neighborhood Revitalization Strategy Plan for the Dunbar area east of the downtown to utilize HUD CDBG funds to revitalize the neighborhood. The City is currently in negotiation with selected Developer to construct 120+ low-moderate income home ownership-housing units on city-owned property at the corner of Edison Avenue and Veronica Shoemaker Boulevard.

NSP: Two rounds of Neighborhood Stabilization Program funds (NSP 1 and NSP3) helped to stabilize the neighborhoods most affected by the epidemic of foreclosures over the last few years. The City utilized the funds to 1) acquire foreclosed single family properties, rehabilitate the properties, and resell the properties to income eligible homebuyers; 2) acquire foreclosed rental properties which in turn were rehabilitated and rented to very low income households; 3) Redevelop the vacant infill lots; and 4) work with a non-profit housing counseling agency to provide credit counseling and homebuyer training. The program income generated by resale of properties is utilized to acquire more foreclosed homes for the above listed activities.

CDBG: The use of CDBG program grant funds has had a substantial impact on the redevelopment of the City's economically distressed neighborhoods and provided renewed opportunities for the City's residents. The City utilizes up to 15 percent of the CDBG funding to support various non-profit social service agencies providing senior services computer training and fraud prevention, dental services, youth services including a STEM program, and urban gardening program. The balance of the funding is mainly used for housing related activities.

SHIP Program: SHIP program has been instrumental in supplementing federal resources by providing funding for housing rehabilitation and down payment assistance programs.

Infill Housing Program: The Infill Housing Program is designed to revitalize residential communities through the construction of affordable homes for the city residents. The Infill Housing Program offers City-owned properties suitable for the development of affordable housing to qualified developers who have been selected through a Request for Qualification process. Selected developers are required to build affordable houses on the lot within eighteen months and sell them to first time home buyers with incomes up to 150 percent of the median income for the Cape Coral – Fort Myers MSA.

Attainable/Workforce Housing Program: The funding for the program is from the Attainable/Workforce Housing Trust Fund. The trust funds were created through various developer fees. The developers have an option to include/create affordable housing units or contribute fees to the Attainable/Workforce Housing Trust Fund. The trust funds are being used in the following ways to promote attainable/workforce housing in the City:

- Mortgage Down Payment Assistance;
- Foreclosure Assistance and Counseling; and
- Housing rehabilitation program.

The households with incomes up to 130 percent of the median income for the Cape Coral – Fort Myers MSA are eligible under the Attainable/Workforce Housing Program guidelines.

Lee Urban County Programs

Neighborhood Revitalization: Lee County utilizes a combination of federal CDBG funds to revitalize targeted areas. The County's goal is to stabilize and revitalize these neighborhoods through investments in public facilities improvements, establishment of safe neighborhood programs, provision of affordable new housing, rehabilitation of existing affordable housing, and creation and implementation of economic development opportunities.

NSP: Two rounds of Neighborhood Stabilization Program funds (NSP 1 and NSP3) helped to stabilize the neighborhoods most affected by the epidemic of foreclosures, which began in 2008. The County used funds to 1) acquire foreclosed single family properties, rehabilitate the properties, and resell the properties to income eligible homebuyers; 2) acquire foreclosed rental properties which in turn were rehabilitated and rented to very low income households; 3) work with non-profit housing counseling agencies to provide credit counseling and homebuyer training. The program income generated by resale of properties is still being used to acquire more foreclosed homes for the above listed activities.

Homeless Services: Funding for Homeless Services is from HUD Continuum of Care (CoC), Emergency Solutions Grant (ESG), HOME Investment Partnership (HOME), and Lee County general revenues. Homeless services include homeless prevention, Rapid Re-housing and LIFT (Living Independently for Today). Lee County is the Collaborative Applicant for the HUD CoC funding process and the Lead Agency for the Lee County CoC.

SHIP Program: SHIP program has been instrumental in supplementing federal resources by providing funding for housing rehabilitation and down payment assistance programs.

Lee County Human and Veteran Services uses a Housing Resources Coordinator to help clients quickly identify affordable housing options, and maintain a list of affordable housing units in the County.

A review of the entitlement jurisdictions' Neighborhood Revitalization Plans to assess potential fair housing concerns or opportunities resulting from the development process finds that they do not adversely create impediments to fair housing choices. The entitlement jurisdictions have various housing and social services program that promotes revitalization of neighborhoods and diversified communities.

Transportation – Employment Linkage

Households without a vehicle, which in most cases are primarily low- and moderate-income households, are at a disadvantage in accessing jobs and services, particularly if public transit is inadequate or absent. Access to public transit is critical to these households. Without convenient access, employment is potentially at risk and the ability to remain housed is threatened. The linkage between residential areas (concentration of minority and lower-income persons) and employment opportunities is key to expanding fair housing choice.

According to the 2013-2017 American Community Survey (report # B25044), 12,930 households did not have access to a vehicle, comprising 4.9 percent of all households. Renters comprised 62.7 percent of this total. Among the renter households, 8,112 households had no vehicle access, compared to 4,818 owner households.

The private automobile is the primary method (79.9 percent) of transport for the daily commuting workforce. More than 55 percent of working residents travel between 15 and 34 minutes to work, according to the U. S. Census Bureau's 2013-2017 American Community Survey. Of the 281,958 workers 16 years and over that commute to work, only 9.7 percent carpooled and .8 percent used public transportation.

Minority workers were far more likely to use public transportation to work than White workers. Across the County, only 0.45 percent of White workers used public transit, compared to 1.58 percent of Black workers and 1.68 percent of Hispanic workers.

Table 30: Mode of Transportation to Work by Race/Ethnicity, 2017

Mode of Transportation to Work	Black		White		Asian		Hispanic or Latino	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Car, truck, or van - drove alone	20,336	83.42%	153,835	81.71%	3,976	78.64%	45,216	73.28%
Car, truck, or van - carpoled	2,509	10.29%	13,712	7.28%	869	17.19%	9,941	16.11%
Public transportation (excluding taxicab)	384	1.58%	845	0.45%	0	0.00%	1034	1.68%
Walked	415	1.70%	1763	0.94%	72	1.42%	555	0.90%
Taxicab, motorcycle, bicycle, or other means	366	1.50%	4283	2.28%	24	0.47%	3551	5.75%
Worked at home	369	1.51%	13821	7.34%	115	2.27%	1408	2.28%

Source: U.S. Census 2013-2017 American Community Survey (B08105B, B08105D, B08105H, and B08105I)

It is apparent from the above table that the majority of County residents choose to drive their own vehicle to work. One of the factors in the mode of transportation is the location of employment sectors. Most of the County’s businesses are spread out across the county in random fashion, along with schools and daycare centers.

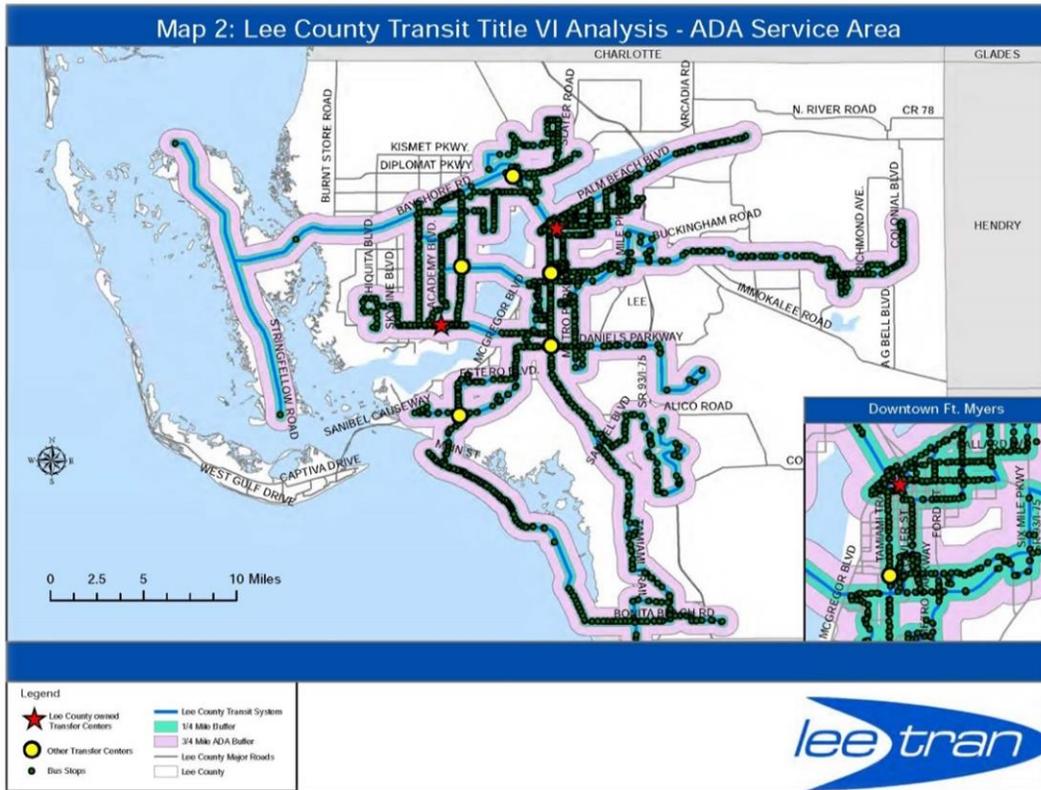
Public Transit

Lee County Transit (LeeTran) is the public transit provider for Lee County, offering fixed-route services in Fort Myers, North Fort Myers, Cape Coral, Fort Myers Beach, Bonita Springs, Estero, Lehigh Acres, and into northern Collier County. In addition to motorbus services, LeeTran also offers demand response, called Passport, and employer vanpool services. Passport is a shared ride, advanced reservation, origin-to-destination service for persons with disabilities who are unable to use the regular fixed-route public transit service because of their disability. All LeeTran vehicles are ADA compliant, and LeeTran offers discounted fare to disabled persons and seniors.

LeeTran operates 26 bus routes during season (January to May) and 23 bus routes during off-season. LeeTran employs approximately 280 people and has a fleet of 50 full-size buses, nine trolley buses, three trams, and 45 paratransit vans. Fort Myers Beach and the city of Fort Myers River District have trolley services. Moreover, LeeTran has numerous infrastructure assets, including bus stops, passenger amenities, park and ride facilities, and transfer stations. In total, LeeTran has approximately 1,700 designated fixed-route bus stops. There are four transfer stations located throughout Lee County: Rosa Parks Transportation Center, Edison Mall Station, Beach Park and Ride, and Cape Coral Transfer Center. Five transfer stations are located at the major shopping or employment centers in Lee County. The primary transfer station – Rosa Parks Transportation Center – is located in downtown Fort Myers, which provides access to the federal and state court systems, state offices, and the Lee County and city of Fort Myers government offices. Additionally, Greyhound is collocated with LeeTran at the Rosa Parks Transportation Center.

LeeTran routes are concentrated in the urban area to allow the highest level of access to community resources, with additional routes providing linkages to suburban and rural areas. Transit ridership has increased from approximately two and a half million unlinked passenger trips in 2004 to over three million trips in 2018.

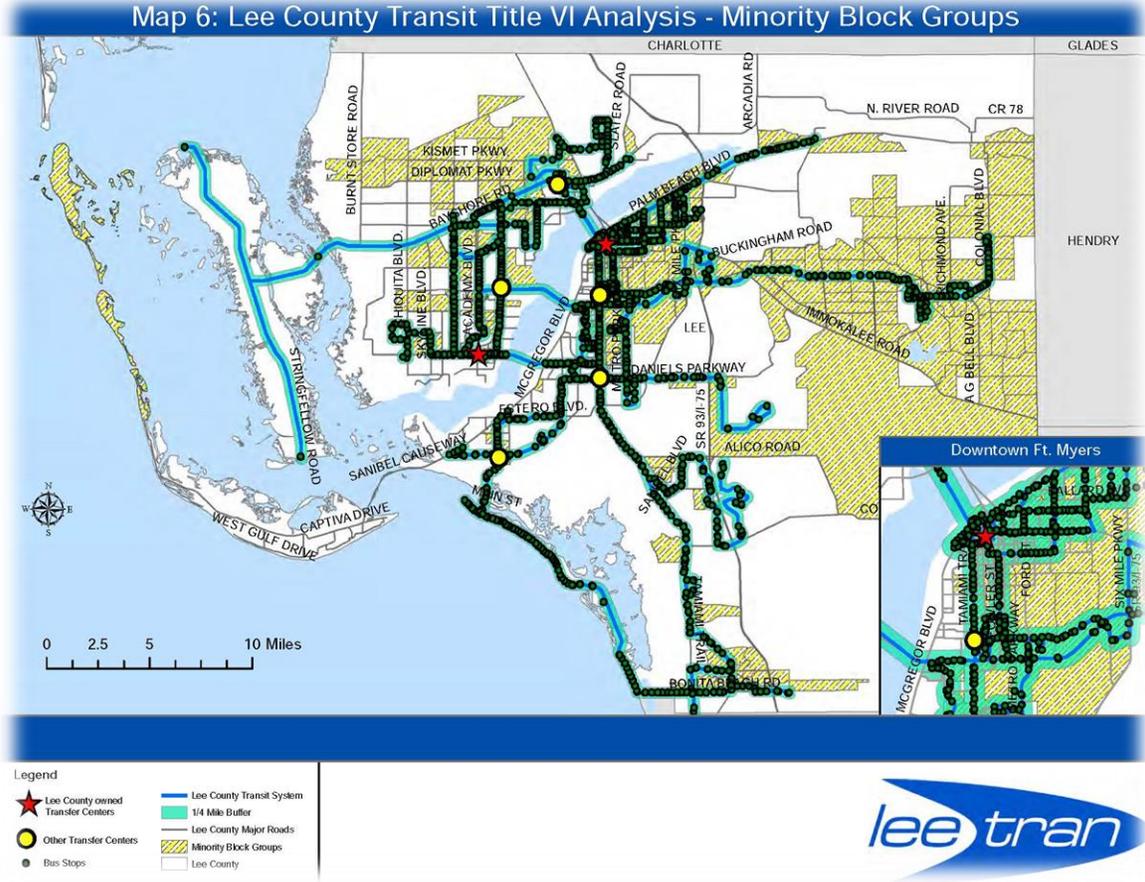
Map: LeeTran ADA Service Area



Source: LeeTran Title VI Program 2015-2017 (page 51)

The map below, presents the higher-than-average minority Census block groups. As shown on the map, the above average minority Census blocks are located in Downtown Fort Myers, along Palm Beach Boulevard, north of Bayshore Road, Bonita Springs, Captiva Island, and the eastern portion of the county near Lehigh Acres and along Immokalee Road (State Road 82). Most of the areas shown on the map are within the LeeTran service area or surrounding area of the fixed-route network, with the exception of the east portion of the county and Immokalee Road (State Road 82), north of Bayshore Road, and Captiva Island.

Map: LeeTran Service Routes in Minority Areas



Source: LeeTran Title VI Program 2015-2017 (page 60)

The Housing and Transportation Affordability Index is a tool that measures the affordability of housing and transportation costs based on location. According to the Center for Neighborhood Technology, the housing and transportation affordability index for the Cape Coral – Fort Myers MSA is 58 percent. Simply put 58 percent of household income is spent on housing and transportation costs. Housing and transportation costs are intrinsically linked. Rising housing costs mean that families are forced to move farther away from jobs to find housing they can afford, raising their transportation expenses, thereby making families even more dependent on their personal automobiles. At the same time, rising transportation costs mean that families have less to spend on housing. For families who rent, a strained household budget can mean having too little left over to afford other necessities, being forced to choose substandard housing, or in the most extreme cases, being forced into homelessness.

High transportation costs can limit a family's ability to move into homeownership because it diminishes family savings, resulting in less money to invest in homeownership. High transportation cost is one impediment to fair housing choices.

3. PHA and Other Assisted/Insured Housing Provider Tenant Selection Procedures; Housing Choices for Certificate and Voucher Holders

There are two Public Housing Authorities (PHAs) in Lee County – Housing Authority of the City of Fort Myers (HACFM) and Lee County Housing Authority (LCHA). Both housing authorities are managed by the HACFM. There are currently a total of 1024 public housing units in Lee County, of these units, 320 units are designated as elderly units.

The HACFM and LCHA also administers the HUD Section 8 Assistance: Housing Choice Voucher Program (Section 8 Voucher Program) in Lee County. The Section 8 Voucher Program can be “tenant-based” or “project-based”. In project-based programs, rental assistance is paid for families who live in specific housing developments or units. With tenant-based assistance, the assisted unit is selected by the family. The family may rent a unit anywhere in the United States in the jurisdiction of a PHA that runs a voucher program. Currently there are total of 2,365 vouchers utilized in Lee County. Of these 2,365 vouchers, 16 are designated for homeownership and 357 designated are for veterans.

The availability and use of the Section 8 Voucher Program vouchers and public housing units must adhere to fair housing laws. Both housing authorities have adopted priorities or preference for the Section 8 and/or public housing. Typically, veterans, persons displaced by federal disaster, persons displaced by government action or persons experiencing homelessness are given preferences.

Section 16 (a)(3)(B) of the United States Housing Act mandates that public housing authorities adopt an admission policy that promotes the deconcentration of poverty in public housing. HUD emphasizes that the goal of deconcentration is to foster the development of mixed-income communities within public housing. In mixed-income settings, lower income residents are provided with working-family role models and greater access to employment and information networks. This goal is accomplished through the policy’s income-targeting and deconcentration.

The tenant selection process for the public housing units and the Section 8 Voucher Programs are governed by HUD guidelines. The selection process used by the HACFM appears to meet HUD guidelines. Both LHA and HACFM’s policies and procedures regarding tenant selection for public housing units are as follows:

- 1) Applicant submits application.
- 2) Applicants are placed on wait list according to the date and time received/applicant is notified of their status.
- 3) Eligibility interview is scheduled when applicant is close to the top of the list.
- 4) All information is verified from interview by HACFM and LCHA staff.
- 5) Applicant is determined to be eligible or ineligible for housing (based on extensive screening processes).
- 6) If ineligible, the applicant is sent an adverse action letter with the opportunity to request an informal review.

- 7) If eligible, the applicant is sent an offer letter if a unit or voucher is available; otherwise the applicant is placed in a "Ready pool" for the next available unit or voucher.
- 8) Move in.

For Section 8 Voucher Program, the Housing Act mandates that not less than 75 percent of new admissions must have incomes at or below 30 percent of the Area Median Income. The remaining balance of 25 percent may have up to 50 percent of the Area Median Income. For public housing, the Housing Act mandates that not less than 40 percent of new admissions must have incomes at or below 30 percent of Area median Income. The balance of 60 percent of new admissions must have incomes up to 80 percent of the Area Median Income.

The Section 8 Voucher Program waiting list contains 5236 families. Of the 5236 families, 3896 families are extremely low income (71.41 percent), 892 families are very low income (17.04 percent), and 381 families are low income (7.28 percent). The HACFM allows preferences for veterans, persons displaced by federal disaster, persons displaced by government action or persons experiencing homelessness. Families are chosen from the waiting lists in accordance with federal guidelines and availability of specified units by bedroom size and or voucher funding availability.

The Section 8 Voucher Program provides rental assistance to private landlords for approved units selected by the Section 8 Voucher Program voucher holder. The HACFM's policies and procedures regarding tenant selection for Housing Choice for Certificates and Vouchers for housing units are as follows:

- 1) HACFM staff reviews the eligibility of participant(s) based on household income and family composition as well as legal status.
- 2) Applicant may be denied a voucher for
 - Failure to provide the requested information.
 - Exceeding the gross income limits for the family size.
 - Terminated by the HACFM's Section 8 Program due to program violations or violation of the Federal Regulations within the past 5 years.
 - Charged with any felonious criminal activity within the past 5 years.
 - Charged with any drug-related and/or violent criminal activity within the past 5 years.
 - Owing money to another Public Housing Agency.
- 3) Once applicant is approved for a Housing Choice Voucher:
 - Applicant must attend an orientation briefing to receive all required instruction and documents including "Request for Tenancy Approval (RFTA)".
 - The voucher holder is given 60 days to locate housing and submit their RFTA form signed by the new prospective landlord and applicant.

- Applicant may request an extension due to their inability to locate housing in a timely manner. An extension of an additional 60 days will be granted. Vouchers will not be granted for more than 120 days. Once the voucher has expired, the applicant will be removed from the wait list.
- 4) The landlord is responsible for screening prospective tenants for the rental unit and must follow all applicable federal, state and local laws governing federally subsidized housing assistance.
- The units must pass Housing Quality Standard (HQS) inspection and must meet the City of Fort Myers Building Code (Inspection will be conducted by HACFM).
 - The rental price must be within the local market prices and meet the rent reasonableness survey.
 - The family cannot pay more than 40 percent of their income towards rent.
 - The family must enter into a one year lease agreement with landlord and a copy of lease must be submitted to the HACFM.

The HACFM allows preferences for both public housing and section 8 housing units for the following:

- Emergency/federally displaced persons
- Displaced by government action, HOPE VI and demolition of public housing units displaced persons
- Veterans
- Persons experiencing homelessness
- Violence Against Women Act displaced persons

Families are chosen from the waiting lists in accordance with federal guidelines and availability of specified units by bedroom size or special needs.

A review of LHA and HACFM's policies and procedures did not reveal any impediments to fair housing choice.

4. Sale of Subsidized Housing and Possible Displacement

All three entitlement jurisdictions have Anti-Displacement and Relocation Plans that comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606. Also, reviews of sub-recipient agreements used by the entitlement jurisdictions indicate that sub-recipient agreements contain anti-displacement and uniform relocation provisions.

In the case of LHA and HACFM, both have displacement and relocation policies. If subsidized properties are sold or demolished, specific HUD-approved displacement policies are implemented to ensure that displaced tenants retain housing choice. For example, in 2005, the HACFM received a HOPE VI Grant to help revitalize and restore existing rental housing units and create new units for homeownership. Michigan Court and Flossie Riley Gardens were demolished using HOPE VI funds. Flossie Riley Gardens has been rebuilt in the Renaissance Preserve Complex.

All eligible families who previously resided in Michigan Court/Flossie Riley Garden developments were given the option to either take a housing choice voucher or relocate to another public housing development owned and managed by Housing Authority of City of Fort Myers. Relocation process followed prescribed HUD URA regulations.

A review of past subsidized housing projects and the entitlement jurisdictions anti-displacement and relocations plans indicate that, while displacement has occurred, the entitlement jurisdictions and housing authorities have adequate procedures to mitigate negative impacts. Sale of subsidized housing and possible displacement poses no significant impediments to fair housing choice in Lee County.

5. Property Tax Policies

Since 1992, homeowners in Florida have enjoyed the benefits of the “Save Our Homes” provision that protect homeowners from being forced from their homes due to exorbitant property tax increase. A 3 percent cap on property taxes annually provided that protection under the legislation. There are number of exemptions available for homeowners to reduce their property taxes. They are:

- Homestead exemption
- Widow’s exemption
- Seniors
- First Responders
- Disabled Veteran’s exemption

A Lee County homeowner household’s total property tax liability consists of ad valorem taxes and non-ad valorem assessments. School, county and city taxes based on a property’s value, are ad valorem taxes. Non ad valorem assessments, such as fire, mosquito control, lighting, and library, are based on factors other than a property’s value. Taxing authorities are responsible for setting ad valorem millage rates. A millage rate is the rate of tax per thousand dollars of taxable value. In an effort to prevent dramatic property tax increases for residents, Florida law caps the growth in Florida per capita personal income plus new construction (F.S. 193.155 and F.A.C. 120-8.0062).

The table below lists some of the 2014 and 2018 ad valorem mileage for comparison. Rates among the County’s incorporated areas range from 0.75 mils in the Town of Fort Myers Beach to 8.45 mils in the City of Fort Myers.

Table 30: Sample Millage Rates, Lee County, 2014-2018		
Taxing Authority	2014 Rates	2018 Rates
Lee County	4.1506	4.0506
City of Cape Coral	7.707	6.75
City of Fort Myers	8.776	8.45
City of Bonita Springs	0.8173	0.8173
City of Sanibel	1.9995	1.9139
Town of Fort Myers Beach	0.753	0.75
Schools (Countywide)	7.416	6.401
Various Special Taxing Districts (Water Management District, Lighting, Fire, Mosquito Control & etc.	0.0548 to 4.5	0.0239 to 3.75

Source: Lee County Tax Collector

As a result of strong state laws to limit and equitably distribute property tax burdens, property tax policies have no adverse effect on impediments to fair housing in Lee County. While the local millage rate in the City of Fort Myers is significantly higher than the Town of Fort Myers Beach, for instance, property taxes represent a minor difference in housing costs due to the countywide school millage rate, the overall comparatively low rate of taxation, generous exemptions, and control of annual increases.

Property tax policies have no adverse effect on impediments to fair housing choice.

6. Planning /Zoning Boards

There is an important relationship between the membership of planning/zoning boards and the decisions they make regarding neighborhood revitalization activities and lower-income housing site selection. HUD encourages diversity in representation of citizens in the community on the jurisdictions' planning/zoning boards, including the protected classes to affirmatively further fair housing.

In Florida, under Section 163.3174, F.S., each local government is required to establish, by ordinance, a Local Planning Agency (LPA). The LPA is responsible for the preparation of the comprehensive plan or plan amendment and makes recommendations to the governing body regarding the adoption or amendment of such plan; monitors and oversees the effectiveness and status of the comprehensive plan and recommends to the governing body such changes in the comprehensive plan as may from time to time be required; and reviews proposed land development regulations, land development codes, or amendments thereto, and makes recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

The LPAs also function as Zoning Boards for the City of Cape Coral, the Town of Fort Myers Beach, the City of Fort Myers, and the City of Sanibel while the City of Bonita Springs has a separate Zoning Board.

The City of Cape Coral does not have a “Zoning Board.” Quasi-judicial (zoning related) cases are conducted by a contract Hearing Examiner. The Hearing Examiner is an attorney with substantial background in zoning, land use, and growth management law. The Hearing Examiner has final decision-making authority for special exceptions, deviations, variances, and appeals to administrative decisions. The Hearing Examiner provides recommendations to the City Council on Planned Development Projects, rezoning, and vacations of plat.

Lee County does not have a “Zoning Board”. Instead, zoning cases are handled through the Office of the Hearing Examiner. Both the Chief Hearing Examiner and the Deputy Hearing Examiner are attorneys with substantial backgrounds and expertise in zoning, land use and growth management law. They have final decision-making authority on land use cases related to variances, and administrative appeals, but rezoning and special exception matters are sent to the County Commission for a second public hearing and a final decision.

Lee County gathers race, gender, and disability data from its Planning/Zoning Boards’ (LPAs) membership via the membership application form. The Planning/Zoning Boards (LPAs) are voluntary citizen boards appointed by the legislative branch of the jurisdiction (i.e. City Council or Board of County Commissioners). The board requirement is that the members must be residents of the community.

Table 16: LPA Membership Gender/Disability Status

Jurisdiction	2015 Board Membership			2019 Board Membership		
	Male	Female	Disability	Male	Female	Disability
Lee County	7	0	Unknown	5	2	2 - non-disclosure

Source: 2015 Informal survey by Lee H. Combs Consulting Services; 2019 Membership Application forms held by Lee County Admin

LPA Board membership applications capture ethnicity data. Diversity has improved slightly. While board membership does not fully represent the jurisdictions population the policies and procedures for selecting persons to serve as members of planning/zoning boards does not include any consideration of race, gender, disability status, or other protected class and is therefore not an impediment to affirmatively furthering fair housing.

7. Building Code (Accessibility)

The 2017 Florida Accessibility Codes make changes to the responsibilities for local government agencies for compliance with the new codes.

All jurisdictions have adopted the 2017 Florida Accessibility Codes. Florida is one of only five states whose accessibility codes have been certified by the U.S. Department of Justice as complying with the Americans with Disabilities Act. The latest accessibility building codes provide for creating barrier-free housing; however, in many cases, the cost of making such improvements to an existing structure can be an impediment.

Along with the growth in the disabled population, the quest for independence and equal rights is growing, leading to the need for Universal Design. Universal Design provides a blueprint for maximum inclusion of all people. Universal Design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. The intent of Universal Design is to simplify life for everyone by making products, communications, and the built environment more usable by as many people as possible at little or no extra cost and assists with aging in place. Universal Design benefits people of all ages and abilities. The jurisdictions in Lee County encourage the use of Universal Design as part of their housing programs.

A review of Lee County Jurisdictions' building codes as it relates to accessibility does not reveal any issues that pose impediments to fair housing choice.

B. Private Sector Lending Policies and Practices

A key aspect of fair housing choice is equal access to credit for the purchase or improvement of a home, particularly in light of the current lending/credit crisis. This section reviews the lending practices of financial institutions and access to financing for all households, particularly minority households and those with very low or low incomes.

Home Mortgage Disclosure Act

The Home Mortgage Disclosure Act (HMDA) was enacted by Congress in 1975 and was implemented by the Federal Reserve Board's Regulation C. Under HMDA, lenders are required to disclose information on the disposition of home loan applications and on the race or national origin, gender, and annual income of loan applicants.

This section examines detailed 2017 HMDA data for Cape Coral – Fort Myers MSA. Two types of financing – conventional and government-backed – are discussed. Conventional financing refers to market-rate loans provided by private lending institutions such as banks, mortgage companies, savings and loans, and thrift institutions. Government-backed financing refers to loans, typically issued by private lenders that are guaranteed by federal agencies, often at below market interest rates. These loans are offered to lower and moderate income households who may experience difficulty in obtaining home mortgage financing in the private market due to income and equity issues. Several federal government agencies offer loan products that have below-market interest rates and are insured (“backed” by the agencies). Sources of government-backed financing include the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), and the Rural Housing Services/Farm Service Agency (RHS/FSA). Although government-backed loans are usually offered to consumers through private lending institutions, loans backed by local jurisdictions (such as silent second loans by cities and counties) are not covered by HMDA.

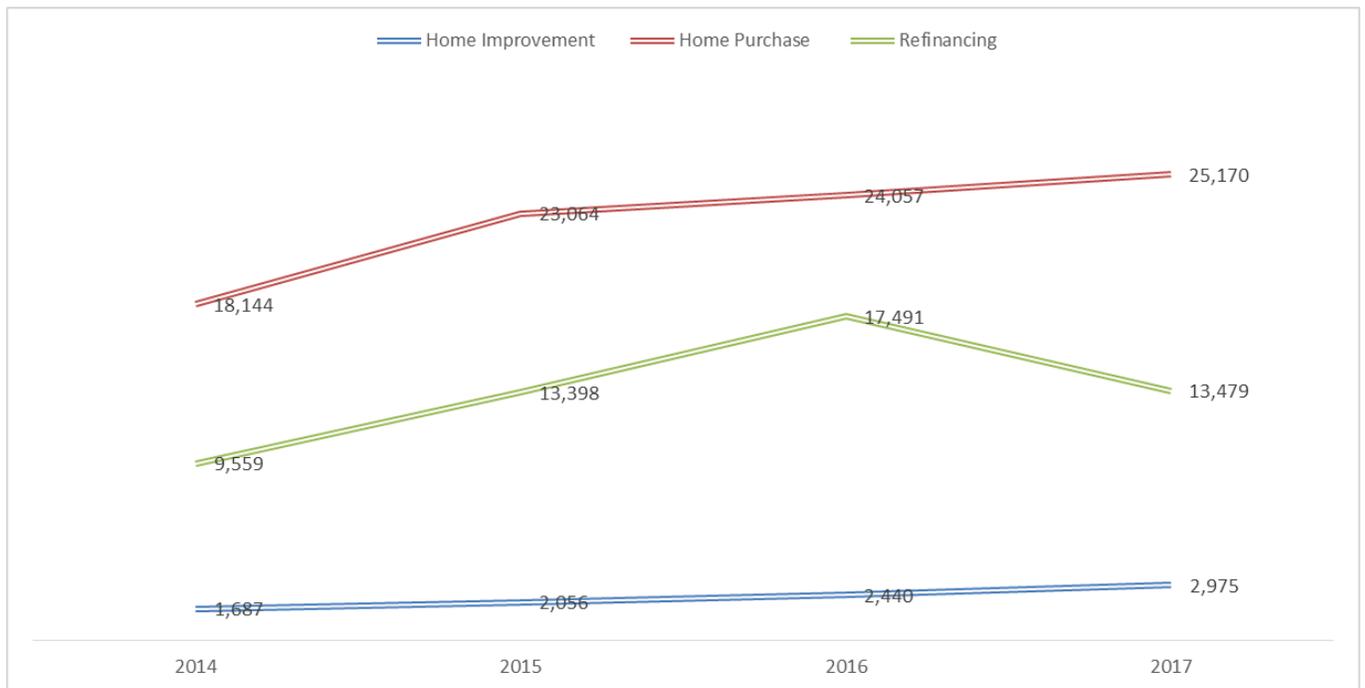
HMDA data provide some insight into the lending patterns that exist in a community. However, HMDA data are only an indicator of potential problems. The data cannot be used to conclude definite redlining or discrimination practices due to the lack of detailed information on loan terms.

For the purpose of the AI, analyses focused on the number of homeowner mortgage applications received by lenders for home purchase of one to four- family dwellings and manufactured housing units across the entire Lee County.

1. Lending Activity

The loans data from 2014 to 2017 reflects the beginning of the recovery after the 2008 downturn in the housing market. In 2014, there were 18,144 home purchase loans in Lee County compared to 25,170 home purchase loans were in 2017.

Figure 10: Number of Loans for One-to-Four Family Dwellings in Lee County 2014 – 2017

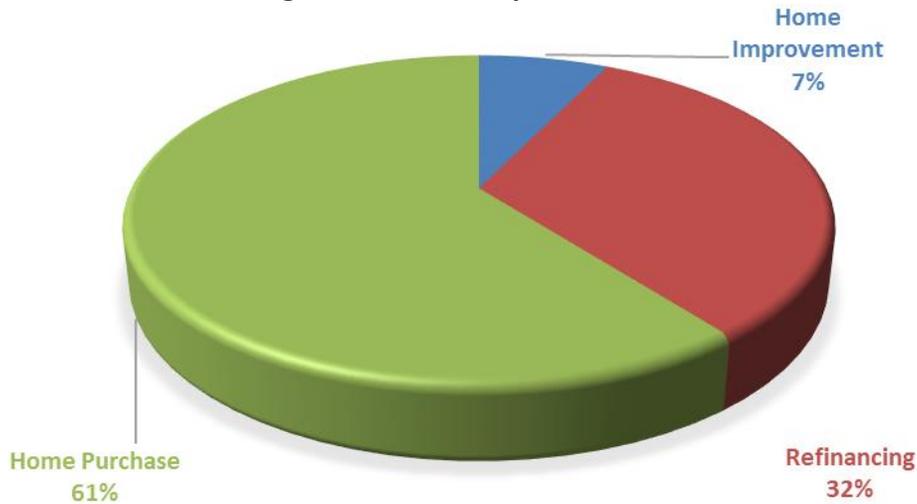


Note: Shows loan applications resulting in loan origination only.

Source: Home Mortgage Disclosure Act data 2005 - 2012 compiled by Shimberg Center for Housing Studies, University of Florida

An analysis of the 2017 loan origination records included in the HMDA data for the County indicated that there were total of 41,624 loans originated: 25,170 or 60.47 percent were for home purchases; 13,479 or 32.38 percent were for refinancing existing home loans; and 2,975 or 7.15 percent were for home improvement loans.

Figure 11: Loan Purposes, 2017



Source: Federal Financial Institutions Examination Council, Home Mortgage Disclosure Act, 2017 MSA/MD Aggregate Reports (Table 1)

2. Applicant Characteristics

According to the U.S. Census Bureau 2013-2017 American Community Survey, the White population represented the largest racial/ethnic group in the County, at 84.73 percent, followed by Hispanics at 20.22 percent, Blacks at 8.66 percent, and Asian at 1.55 percent. Taken together, Native American, Pacific Islander, Joint Applicants, “two or more Races” accounted for 5.06 percent of the County’s population.

The racial and ethnic compositions of loan originations differ from the County’s general demographic distribution. Hispanic persons represented 16.43 percent of the loan recipients, followed by Black recipients with 4.29 percent, and Asian recipients with 1.41 percent of the all loan originations. Furthermore, race and ethnicity data were not available for more than 10 percent of originations.

Applications submitted by Race Ethnicity	Loans Originated	Application Denied	Other	% of Loans Originated
American Indian or Alaska Native	49	13	17	0.33%
Asian	207	26	55	1.41%
Black or African American	629	165	175	4.29%
Native Hawaiian or Other Pacific Islander	28	6	6	0.19%
White	12188	1883	2702	83.09%
Information not provided by applicant in mail, Internet, or telephone application	1416	354	406	9.65%
Not applicable	151	15	20	1.03%
Total	14668	2462	3381	100%
Hispanic (any race)	2410	552	537	16.43%

Source: Shimberg Center for Housing Studies based on 2017 HMDA Data

Home-Purchase Loans

The most commonly sought type of home-purchase financing was a conventional loan, a category that represented 62 percent of all home-purchase loan applications in 2017.

In 2017, White residents submitted the most conventional home-purchase loan applications, accounting for 73 percent of all applications. Hispanic residents accounted for 9 percent of applications, while both Black and Asian applications each represents 2 percent of applications submitted. Furthermore, approximately 14 percent of applications were submitted by Other Races, including American Indian, Native Hawaiian or Other Pacific Islander, 2 or more races, or had no race or ethnicity data.

Loan approval rates vary by race and ethnicity. White applicants had the highest loan approval rate of 74 percent followed by Asian applicants with 73 percent loan approval rate, Hispanic and Black applicants with 65 and 61 percent loan approval rates, respectively. Black and Hispanic households appear to be under-represented in the homebuyer market.

Table 33: Approval Rate of Home-Purchase Loan Applications by Race/Ethnicity of Applicant

Applications Submitted By Race and Ethnicity	Home- Purchase Loans							
	Conventional				FHA, FSA/RHA and VA			
	Applications		Approvals		Applications		Approvals	
	#	%	#	%	#	%	#	%
Total County	13,252		9,547	72%	6,856		4,884	71%
White	9,610	73%	7,127	74%	3,547	52%	2,603	73%
Black	312	2%	189	61%	580	8%	391	67%
Asian	224	2%	163	73%	39	1%	26	67%
Hispanic**	1255	9%	814	65%	2033	30%	1457	72%

Notes: Total number includes applications for which no income and race/ethnicity data were reported. Loan approval rate is calculated as loans originated divided by the number of applications. ** Hispanic is counted independently of race.

Source: Federal Financial Institutions Examination Council, 2017 Aggregate Table 5-1 and 5-2

Government-backed home loans offer an alternative to conventional financing. In 2017, 27 percent of all home-purchase applications were for government-backed loans. According to HMDA data, government-backed loans were approved at generally the same rate as conventional loans for minority applicants. White applicants had the highest loan approval rate of 73 percent, followed by Hispanic applicants with 72 percent approval rate, and Black and Asian applicants with 67 percent approval rate.

Disposition of Home-Purchase Loan Applications by Income, Race and Ethnicity

Income is one of the most important factors for determining access to credit. Therefore, approval rates generally have a positive correlation to income.

In 2017, applicants earning less than 50 percent of the Area Median Income (AMI) had the lowest average conventional loan approval rate of 39.15 percent. By contrast, over 59 percent of applications from all other income groups were approved. The upper income group, those earning over 120 percent of AMI had the highest average approval rate of 71.56 percent.

An analysis of differences in loan approval rates by race/ethnicity and income separately does not always reveal important differences among groups. For this reason, an analysis of lending patterns for both race/ethnicity and income together is important in revealing differences among applicants of different races/ethnicities of the same income levels.

Conventional loan approval rates for Black applicants in all income categories, except those less than 50 percent of AMI, were lower than approval rates for White applicants. The discrepancy in approval rates among the different race groups is less acute among middle and upper income applicants than among low- and moderate-income applicants. The approval rates for the minority and ethnic applicants were lower than the average for the income group and White applicants (Table 34).

According to HMDA data, government-backed loans were approved at a slightly higher rate than conventional loans for applicants earning less than 80 percent of AMI (Table 35). Among applicants earning less than 50 percent of AMI, the approval rate for government-backed loans was 40.77 percent, nearly the same as the average approval rate for conventional loans (Table 34). Black applicants' with income less than 50 percent of AMI had a higher loan approval than White applicants and a higher rate than the average approval rate for the income level. Hispanic applicants' loan approval rate was higher than the average in all income levels.

As discussed previously, HDMA data offer a glimpse at the irregularities in the lending market but lack the detailed information, particularly on loan terms, for further analysis. Often discriminatory practices involve offering applicants in the same income bracket but of different racial backgrounds, different loan terms (e.g. points and interest rates). No data are available to assess the extent of discriminatory practices in this regard.

Table 34: Disposition of Applications for Conventional Home-Purchase Loans by Income, Race and Ethnicity, 2017

INCOME, RACE AND ETHNICITY	Applications Received		Loans Originated		Apps. Approved But Not Accepted		Applications Denied		Applications Withdrawn		Files Closed for Incompleteness	
	Number	Number	%	Number	%	Number	%	Number	%	Number	%	
LESS THAN 50% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	2	1	50.00%	0	0.00%	1	50.00%	0	0.00%	0	0.00%	
Asian	8	5	62.50%	0	0.00%	3	37.50%	0	0.00%	0	0.00%	
Black or African American	23	14	60.87%	0	0.00%	4	17.39%	2	8.70%	3	13.04%	
Native Hawaiian or Other Pacific Islander	1	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	100.00%	
White	302	148	49.01%	9	2.98%	107	35.43%	32	10.60%	6	1.99%	
2 or more minority races	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Joint (White/Minority Race)	2	0	0.00%	0	0.00%	2	100.00%	0	0.00%	0	0.00%	
Race Not Available	26	13	50.00%	0	0.00%	11	42.31%	1	3.85%	1	3.85%	
ETHNICITY												
Hispanic or Latino	107	60	56.07%	3	2.80%	37	34.58%	6	5.61%	1	0.93%	
Not Hispanic or Latino	228	110	48.25%	6	2.63%	75	32.89%	28	12.28%	9	3.95%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	5	0	0.00%	0	0.00%	5	100.00%	0	0.00%	0	0.00%	
Ethnicity not available	25	11	44.00%	0	0.00%	11	44.00%	2	8.00%	1	4.00%	
MINORITY STATUS												
White Non-Hispanic	196	93	47.45%	6	3.06%	66	33.67%	26	13.27%	5	2.55%	
Others, Including Hispanic	5	4	80.00%	0	0.00%	1	20.00%	0	0.00%	0	0.00%	
50-79% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	5	3	60.00%	0	0.00%	0	0.00%	1	20.00%	1	20.00%	
Asian	27	19	70.37%	0	0.00%	3	11.11%	4	14.81%	1	3.70%	
Black or African American	60	36	60.00%	2	3.33%	13	21.67%	8	13.33%	1	1.67%	
Native Hawaiian or Other Pacific Islander	5	4	80.00%	0	0.00%	0	0.00%	1	20.00%	0	0.00%	
White	1291	864	66.92%	29	2.25%	227	17.58%	140	10.84%	31	2.40%	
2 or more minority races	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Joint (White/Minority Race)	9	5	55.56%	0	0.00%	3	33.33%	1	11.11%	0	0.00%	
Race Not Available	160	90	56.25%	3	1.88%	47	29.38%	16	10.00%	4	2.50%	
ETHNICITY												
Hispanic or Latino	352	222	63.07%	6	1.70%	71	20.17%	43	12.22%	10	2.84%	
Not Hispanic or Latino	1051	715	68.03%	24	2.28%	178	16.94%	111	10.56%	23	2.19%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	11	8	72.73%	0	0.00%	2	18.18%	1	9.09%	0	0.00%	
Ethnicity not available	143	76	53.15%	4	2.80%	42	29.37%	16	11.19%	5	3.50%	
MINORITY STATUS												
White Non-Hispanic	943	647	68.61%	22	2.33%	155	16.44%	97	10.29%	22	2.33%	
Others, Including Hispanic	8	5	62.50%	0	0.00%	0	0.00%	2	25.00%	1	12.50%	
80-99% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	5	2	40.00%	1	20.00%	0	0.00%	2	40.00%	0	0.00%	
Asian	21	13	61.90%	0	0.00%	2	9.52%	4	19.05%	2	9.52%	
Black or African American	45	28	62.22%	3	6.67%	3	6.67%	7	15.56%	4	8.89%	
Native Hawaiian or Other Pacific Islander	3	3	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
White	1038	722	69.56%	37	3.56%	125	12.04%	125	12.04%	29	2.79%	
2 or more minority races	1	1	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Joint (White/Minority Race)	10	7	70.00%	0	0.00%	3	30.00%	0	0.00%	0	0.00%	
Race Not Available	131	74	56.49%	3	2.29%	31	23.66%	17	12.98%	6	4.58%	
ETHNICITY												
Hispanic or Latino	216	140	64.81%	7	3.24%	31	14.35%	28	12.96%	10	4.63%	
Not Hispanic or Latino	903	635	70.32%	33	3.65%	104	11.52%	107	11.85%	24	2.66%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	17	11	64.71%	1	5.88%	3	17.65%	2	11.76%	0	0.00%	
Ethnicity not available	119	65	54.62%	3	2.52%	26	21.85%	18	15.13%	7	5.88%	
MINORITY STATUS												
White Non-Hispanic	824	582	70.63%	30	3.64%	100	12.14%	93	11.29%	19	2.31%	
Others, Including Hispanic	1	1	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
100-119% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	1	1	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Asian	17	14	82.35%	0	0.00%	1	5.88%	2	11.76%	0	0.00%	
Black or African American	33	19	57.58%	2	6.06%	8	24.24%	2	6.06%	2	6.06%	
Native Hawaiian or Other Pacific Islander	2	1	50.00%	0	0.00%	1	50.00%	0	0.00%	0	0.00%	
White	994	717	72.13%	17	1.71%	98	9.86%	136	13.68%	26	2.62%	
2 or more minority races	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Joint (White/Minority Race)	12	6	50.00%	0	0.00%	2	16.67%	3	25.00%	1	8.33%	
Race Not Available	141	90	63.83%	3	2.13%	26	18.44%	17	12.06%	5	3.55%	
ETHNICITY												
Hispanic or Latino	135	96	71.11%	2	1.48%	15	11.11%	19	14.07%	3	2.22%	
Not Hispanic or Latino	902	652	72.28%	15	1.66%	93	10.31%	117	12.97%	25	2.77%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	30	18	60.00%	1	3.33%	6	20.00%	5	16.67%	0	0.00%	
Ethnicity not available	133	82	61.65%	4	3.01%	22	16.54%	19	14.29%	6	4.51%	
MINORITY STATUS												
White Non-Hispanic	857	618	72.11%	14	1.63%	84	9.80%	118	13.77%	23	2.68%	
Others, Including Hispanic	8	5	62.50%	0	0.00%	3	37.50%	0	0.00%	0	0.00%	
120% OR MORE OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	11	6	54.55%	1	9.09%	2	18.18%	2	18.18%	0	0.00%	
Asian	151	112	74.17%	6	3.97%	9	5.96%	21	13.91%	3	1.99%	
Black or African American	151	92	60.93%	4	2.65%	22	14.57%	26	17.22%	7	4.64%	
Native Hawaiian or Other Pacific Islander	8	5	62.50%	0	0.00%	2	25.00%	1	12.50%	0	0.00%	
White	7276	5524	75.92%	201	2.76%	575	7.90%	856	11.76%	120	1.65%	
2 or more minority races	2	2	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Joint (White/Minority Race)	114	79	69.30%	5	4.39%	6	5.26%	24	21.05%	0	0.00%	
Race Not Available	1161	826	71.15%	23	1.98%	113	9.73%	177	15.25%	22	1.89%	
ETHNICITY												
Hispanic or Latino	445	296	66.52%	13	2.92%	59	13.26%	68	15.28%	9	2.02%	
Not Hispanic or Latino	7217	5480	75.93%	201	2.79%	558	7.73%	863	11.96%	115	1.59%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	169	130	76.92%	4	2.37%	13	7.69%	16	9.47%	6	3.55%	
Ethnicity not available	1044	740	70.88%	22	2.11%	99	9.48%	161	15.42%	22	2.11%	
MINORITY STATUS												
White Non-Hispanic	6790	5187	76.39%	187	2.75%	515	7.58%	793	11.68%	108	1.59%	
Others, Including Hispanic	9	6	66.67%	1	11.11%	1	11.11%	1	11.11%	0	0.00%	
TOTAL	13252	9547	72.04%	349	2.63%	1450	10.94%	1630	12.30%	276	2.08%	

Notes: Total number includes applications for which no income and race/ethnicity data were reported. Loan approval rate is calculated as loans originated divided by the number of applications. * Hispanic is counted independently of race. Source: Federal Financial Institutions Examination Council, 2017 Aggregate Table 5-2

Table 35: Disposition of Applications for FHA, FSA/RHA and VA Home-Purchase Loans by Income, Race and Ethnicity, 2017

INCOME, RACE AND ETHNICITY	Applications Received		Loans Originated		Apps. Approved But Not Accepted		Applications Denied		Applications Withdrawn		Files Closed for Incompleteness	
	Number	Number	%	Number	%	Number	%	Number	%	Number	%	
LESS THAN 50% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Asian	2	1	50.00%	0	0.00%	1	50.00%	0	0.00%	0	0.00%	0
Black or African American	27	15	55.56%	1	3.70%	8	29.63%	1	3.70%	2	7.41%	2
Native Hawaiian or Other Pacific Islander	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
White	226	124	54.87%	7	3.10%	69	30.53%	21	9.29%	5	2.21%	5
2 or more minority races	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Joint (White/Minority Race)	1	1	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Race Not Available	15	4	26.67%	0	0.00%	7	46.67%	3	20.00%	1	6.67%	1
ETHNICITY												
Hispanic or Latino	152	84	55.26%	4	2.63%	46	30.26%	15	9.87%	3	1.97%	3
Not Hispanic or Latino	108	58	53.70%	4	3.70%	34	31.48%	8	7.41%	4	3.70%	4
Joint (Hispanic or Latino/Not Hispanic or Latino)	1	1	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Ethnicity not available	10	2	20.00%	0	0.00%	5	50.00%	2	20.00%	1	10.00%	1
MINORITY STATUS												
White Non-Hispanic	75	41	54.67%	3	4.00%	23	30.67%	6	8.00%	2	2.67%	2
Others, Including Hispanic	0	0	#DIV/0!	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
50-79% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	9	6	66.67%	0	0.00%	2	22.22%	1	11.11%	0	0.00%	0
Asian	14	9	64.29%	0	0.00%	3	21.43%	1	7.14%	1	7.14%	1
Black or African American	233	163	69.96%	2	0.86%	40	17.17%	25	10.73%	3	1.29%	3
Native Hawaiian or Other Pacific Islander	2	1	50.00%	0	0.00%	1	50.00%	0	0.00%	0	0.00%	0
White	1558	1134	72.79%	23	1.48%	215	13.80%	161	10.33%	25	1.60%	25
2 or more minority races	1	1	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Joint (White/Minority Race)	11	9	81.82%	0	0.00%	2	18.18%	0	0.00%	0	0.00%	0
Race Not Available	136	78	57.35%	2	1.47%	35	25.74%	19	13.97%	2	1.47%	2
ETHNICITY												
Hispanic or Latino	845	616	72.90%	12	1.42%	120	14.20%	83	9.82%	14	1.66%	14
Not Hispanic or Latino	1016	728	71.65%	13	1.28%	153	15.06%	107	10.53%	15	1.48%	15
Joint (Hispanic or Latino/Not Hispanic or Latino)	11	9	81.82%	0	0.00%	1	9.09%	0	0.00%	1	9.09%	1
Ethnicity not available	94	49	52.13%	2	2.13%	25	26.60%	17	18.09%	1	1.06%	1
MINORITY STATUS												
White Non-Hispanic	745	544	73.02%	11	1.48%	102	13.69%	78	10.47%	10	1.34%	10
Others, Including Hispanic	11	8	72.73%	0	0.00%	3	27.27%	0	0.00%	0	0.00%	0
80-99% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	1	1	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Asian	7	6	85.71%	0	0.00%	1	14.29%	0	0.00%	0	0.00%	0
Black or African American	128	91	71.09%	2	1.56%	20	15.63%	12	9.38%	3	2.34%	3
Native Hawaiian or Other Pacific Islander	2	1	50.00%	0	0.00%	0	0.00%	1	50.00%	0	0.00%	0
White	1094	791	72.30%	26	2.38%	125	11.43%	132	12.07%	20	1.83%	20
2 or more minority races	2	1	50.00%	0	0.00%	0	0.00%	0	0.00%	1	50.00%	1
Joint (White/Minority Race)	19	16	84.21%	1	5.26%	1	5.26%	0	0.00%	1	5.26%	1
Race Not Available	88	53	60.23%	3	3.41%	19	21.59%	13	14.77%	0	0.00%	0
ETHNICITY												
Hispanic or Latino	443	329	74.27%	10	2.26%	52	11.74%	47	10.61%	5	1.13%	5
Not Hispanic or Latino	802	574	71.57%	18	2.24%	98	12.22%	93	11.60%	19	2.37%	19
Joint (Hispanic or Latino/Not Hispanic or Latino)	31	18	58.06%	1	3.23%	4	12.90%	7	22.58%	1	3.23%	1
Ethnicity not available	66	40	60.61%	3	4.55%	12	18.18%	11	16.67%	0	0.00%	0
MINORITY STATUS												
White Non-Hispanic	663	474	71.49%	16	2.41%	77	11.61%	82	12.37%	14	2.11%	14
Others, Including Hispanic	6	5	83.33%	0	0.00%	0	0.00%	1	16.67%	0	0.00%	0
100-119% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	3	2	66.67%	0	0.00%	1	33.33%	0	0.00%	0	0.00%	0
Asian	7	5	71.43%	0	0.00%	1	14.29%	1	14.29%	0	0.00%	0
Black or African American	71	46	64.79%	3	4.23%	8	11.27%	11	15.49%	3	4.23%	3
Native Hawaiian or Other Pacific Islander	1	0	0.00%	0	0.00%	0	0.00%	1	100.00%	0	0.00%	0
White	853	612	71.75%	24	2.81%	94	11.02%	115	13.48%	8	0.94%	8
2 or more minority races	1	1	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Joint (White/Minority Race)	18	11	61.11%	0	0.00%	4	22.22%	3	16.67%	0	0.00%	0
Race Not Available	97	65	67.01%	1	1.03%	13	13.40%	15	15.46%	3	3.09%	3
ETHNICITY												
Hispanic or Latino	265	180	67.92%	5	1.89%	39	14.72%	38	14.34%	3	1.13%	3
Not Hispanic or Latino	670	481	71.79%	22	3.28%	69	10.30%	90	13.43%	8	1.19%	8
Joint (Hispanic or Latino/Not Hispanic or Latino)	39	31	79.49%	0	0.00%	3	7.69%	5	12.82%	0	0.00%	0
Ethnicity not available	78	50	64.10%	1	1.28%	11	14.10%	13	16.67%	3	3.85%	3
MINORITY STATUS												
White Non-Hispanic	583	426	73.07%	19	3.26%	56	9.61%	77	13.21%	5	0.86%	5
Others, Including Hispanic	5	2	40.00%	0	0.00%	2	40.00%	1	20.00%	0	0.00%	0
120% OR MORE OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	7	4	57.14%	0	0.00%	2	28.57%	1	14.29%	0	0.00%	0
Asian	9	5	55.56%	0	0.00%	0	0.00%	4	44.44%	0	0.00%	0
Black or African American	121	76	62.81%	2	1.65%	25	20.66%	17	14.05%	1	0.83%	1
Native Hawaiian or Other Pacific Islander	5	5	100.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
White	1807	1369	75.76%	18	1.00%	178	9.85%	212	11.73%	30	1.66%	30
2 or more minority races	0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Joint (White/Minority Race)	52	38	73.08%	0	0.00%	7	13.46%	6	11.54%	1	1.92%	1
Race Not Available	218	133	61.01%	4	1.83%	44	20.18%	37	16.97%	0	0.00%	0
ETHNICITY												
Hispanic or Latino	328	248	75.61%	2	0.61%	43	13.11%	30	9.15%	5	1.52%	5
Not Hispanic or Latino	1618	1207	74.60%	18	1.11%	159	9.83%	207	12.79%	27	1.67%	27
Joint (Hispanic or Latino/Not Hispanic or Latino)	96	74	77.08%	0	0.00%	14	14.58%	8	8.33%	0	0.00%	0
Ethnicity not available	183	105	57.38%	4	2.19%	41	22.40%	33	18.03%	0	0.00%	0
MINORITY STATUS												
White Non-Hispanic	1481	1118	75.49%	16	1.08%	139	9.39%	182	12.29%	26	1.76%	26
Others, Including Hispanic	13	7	53.85%	0	0.00%	5	38.46%	1	7.69%	0	0.00%	0
TOTAL	6856	4884	71.24%	119	1.74%	929	13.55%	814	11.87%	110	1.60%	110

Notes: Total number includes applications for which no income and race/ethnicity data were reported. Loan approval rate is calculated as loans originated divided by the number of applications. * Hispanic is counted independently of race. Source: Federal Financial Institutions Examination Council, 2017 Aggregate Table 5-2

Refinance Loans

Aggressive lending practices have resulted in “innovative” loan terms that allowed many households to purchase a home during the peak of the housing market. Loans with zero down payments, negative amortization, short-term low fixed rates, and variable rates, among other financing techniques have misled many regarding the affordability of home ownership. Many homebuyers were under the false assumption that their home would continue to increase in value and refinancing to more favorable loan terms later would be available as an option. However, when the inflated market imploded in 2007, many households began to face increased monthly payments on homes with decreased values. The credit market collapsed and refinancing to lower interest rates became increasingly difficult. When refinancing was not an available option, many homeowners who could not afford the higher variable-loans were faced with foreclosures.

According to HMDA data, refinance applications comprised 32 percent of all home loan applications. The approval rates for refinance loans were 46 percent in contrast to 72 percent for the conventional home-purchase loans. The minority applicants’ approval rates were lower than White applicants and the average approval rate. Black applicants had the lowest approval rate of 37 percent.

Table 36: Approval Rate of Refinance Loan Applications by Race/Ethnicity of Applicant

Applications Submitted By Race and Ethnicity	Home- Purchase Loans		
	Applications	Approvals	
	#	#	%
Total County	11,256	5,229	46%
White	8,633	4,120	48%
Black	439	163	37%
Asian	141	57	40%
Hispanic**	1175	506	43%

Notes: Total number includes applications for which no income and race/ethnicity data were reported. Loan approval rate is calculated as loans originated divided by the number of applications. ** Hispanic is counted independently of race.

Source: Federal Financial Institutions Examination Council, 2017 Aggregate Table 5-3

Analysis of HMDA data for home refinance loan applications indicated that more than half of the applications were submitted by an applicant earning greater than 120 percent of AMI. The average loan approval rate for this income level was 42 percent. Applicants earning less than 80 percent of the Area Median Income (AMI) had the lowest refinance loan approval rate of 28 percent. The discrepancy in approval rates among the different race groups is less acute among middle and upper income applicants than among low- and moderate-income applicants. White applicants in 80 to 99 percent of AMI income level had the highest approval rate of 47 percent. In contrast, in the same income levels, Black applicants’ loan approval rates were 28 percent.

Table 37: Disposition of Home Refinance Loan Applications by Income, Race and Ethnicity

INCOME, RACE AND ETHNICITY	Applications Received		Loans Originated		Apps. Approved But Not Accepted		Applications Denied		Applications Withdrawn		Files Closed for Incompleteness	
	Number	Number	%	Number	%	Number	%	Number	%	Number	%	
LESS THAN 50% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	7	1	14%	0	0.00%	3	42.86%	2	28.57%	1	14.29%	
Asian	13	2	15%	1	7.69%	4	30.77%	6	46.15%	0	0.00%	
Black or African American	59	17	29%	1	1.69%	23	38.98%	12	20.34%	6	10.17%	
Native Hawaiian or Other Pacific Islander	1	1	100%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
White	673	236	35%	24	3.57%	236	35.07%	121	17.98%	56	8.32%	
2 or more minority races	0	0	0%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Joint (White/Minority Race)	1	0	0%	0	0.00%	0	0.00%	1	100.00%	0	0.00%	
Race Not Available	144	41	28%	7	4.86%	58	40.28%	28	19.44%	10	6.94%	
ETHNICITY												
Hispanic or Latino	154	61	40%	6	3.90%	53	34.42%	21	13.64%	13	8.44%	
Not Hispanic or Latino	627	202	32%	23	3.67%	220	35.09%	128	20.41%	54	8.61%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	3	1	33%	0	0.00%	1	33.33%	1	33.33%	0	0.00%	
Ethnicity not available	114	34	30%	4	3.51%	50	43.86%	20	17.54%	6	5.26%	
MINORITY STATUS												
White Non-Hispanic	536	181	34%	21	3.92%	188	35.07%	102	19.03%	44	8.21%	
Others, Including Hispanic	5	3	60%	0	0.00%	1	20.00%	1	20.00%	0	0.00%	
50-79% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	10	3	30%	1	10.00%	3	30.00%	2	20.00%	1	10.00%	
Asian	28	11	39%	1	3.57%	9	32.14%	3	10.71%	4	14.29%	
Black or African American	121	46	38%	5	4.13%	35	28.93%	24	19.83%	11	9.09%	
Native Hawaiian or Other Pacific Islander	2	0	0%	0	0.00%	1	50.00%	1	50.00%	0	0.00%	
White	1614	731	45%	59	3.66%	411	25.46%	290	17.97%	123	7.62%	
2 or more minority races	1	0	0%	0	0.00%	0	0.00%	1	100.00%	0	0.00%	
Joint (White/Minority Race)	14	4	29%	0	0.00%	5	35.71%	4	28.57%	1	7.14%	
Race Not Available	348	144	41%	10	2.87%	96	27.59%	73	20.98%	25	7.18%	
ETHNICITY												
Hispanic or Latino	336	143	43%	12	3.57%	100	29.76%	51	15.18%	30	8.93%	
Not Hispanic or Latino	1497	679	45%	54	3.61%	371	24.78%	286	19.10%	107	7.15%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	12	6	50%	0	0.00%	3	25.00%	2	16.67%	1	8.33%	
Ethnicity not available	296	113	38%	10	3.38%	87	29.39%	59	19.93%	27	9.12%	
MINORITY STATUS												
White Non-Hispanic	1304	608	47%	49	3.76%	316	24.23%	243	18.63%	88	6.75%	
Others, Including Hispanic	8	3	38%	2	25.00%	3	37.50%	0	0.00%	0	0.00%	
80-99% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	6	2	33%	0	0.00%	2	33.33%	2	33.33%	0	0.00%	
Asian	15	6	40%	0	0.00%	4	26.67%	4	26.67%	1	6.67%	
Black or African American	61	17	28%	2	3.28%	22	36.07%	14	22.95%	6	9.84%	
Native Hawaiian or Other Pacific Islander	6	1	17%	0	0.00%	3	50.00%	1	16.67%	1	16.67%	
White	1092	510	47%	36	3.30%	228	20.88%	223	20.42%	95	8.70%	
2 or more minority races	1	1	100%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Joint (White/Minority Race)	15	6	40%	1	6.67%	3	20.00%	4	26.67%	1	6.67%	
Race Not Available	219	97	44%	9	4.11%	52	23.74%	45	20.55%	16	7.31%	
ETHNICITY												
Hispanic or Latino	198	94	47%	10	5.05%	46	23.23%	30	15.15%	18	9.09%	
Not Hispanic or Latino	994	452	45%	31	3.12%	211	21.23%	216	21.73%	84	8.45%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	22	10	45%	0	0.00%	6	27.27%	5	22.73%	1	4.55%	
Ethnicity not available	202	85	42%	7	3.47%	51	25.25%	42	20.79%	17	8.42%	
MINORITY STATUS												
White Non-Hispanic	911	420	46%	28	3.07%	183	20.09%	200	21.95%	80	8.78%	
Others, Including Hispanic	8	1	13%	0	0.00%	2	25.00%	3	37.50%	2	25.00%	
100-119% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	6	3	50%	0	0.00%	2	33.33%	1	16.67%	0	0.00%	
Asian	9	4	44%	1	11.11%	2	22.22%	2	22.22%	0	0.00%	
Black or African American	48	19	40%	1	2.08%	15	31.25%	10	20.83%	3	6.25%	
Native Hawaiian or Other Pacific Islander	3	1	33%	0	0.00%	0	0.00%	1	33.33%	1	33.33%	
White	1070	519	49%	46	4.30%	216	20.19%	219	20.47%	70	6.54%	
2 or more minority races	2	1	50%	0	0.00%	1	50.00%	0	0.00%	0	0.00%	
Joint (White/Minority Race)	16	5	31%	1	6.25%	4	25.00%	5	31.25%	1	6.25%	
Race Not Available	222	91	41%	8	3.60%	60	27.03%	49	22.07%	14	6.31%	
ETHNICITY												
Hispanic or Latino	130	56	43%	6	4.62%	26	20.00%	32	24.62%	10	7.69%	
Not Hispanic or Latino	1024	489	48%	44	4.30%	220	21.48%	209	20.41%	62	6.05%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	24	13	54%	1	4.17%	4	16.67%	5	20.83%	1	4.17%	
Ethnicity not available	200	85	43%	6	3.00%	50	25.00%	43	21.50%	16	8.00%	
MINORITY STATUS												
White Non-Hispanic	944	468	50%	40	4.24%	186	19.70%	192	20.34%	58	6.14%	
Others, Including Hispanic	6	5	83%	0	0.00%	0	0.00%	1	16.67%	0	0.00%	
120% OR MORE OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	17	5	29%	0	0.00%	2	11.76%	4	23.53%	6	35.29%	
Asian	76	34	45%	4	5.26%	12	15.79%	20	26.32%	6	7.89%	
Black or African American	150	64	43%	5	3.33%	35	23.33%	28	18.67%	18	12.00%	
Native Hawaiian or Other Pacific Islander	8	3	38%	0	0.00%	3	37.50%	1	12.50%	1	12.50%	
White	4184	2124	51%	137	3.27%	765	18.28%	799	19.10%	359	8.58%	
2 or more minority races	3	1	33%	1	33.33%	0	0.00%	1	33.33%	0	0.00%	
Joint (White/Minority Race)	95	49	52%	2	2.11%	11	11.58%	21	22.11%	12	12.63%	
Race Not Available	887	426	48%	24	2.71%	203	22.89%	163	18.38%	71	8.00%	
ETHNICITY												
Hispanic or Latino	357	152	43%	16	4.48%	76	21.29%	80	22.41%	33	9.24%	
Not Hispanic or Latino	4142	2093	51%	132	3.19%	764	18.45%	784	18.93%	369	8.91%	
Joint (Hispanic or Latino/Not Hispanic or Latino)	108	57	53%	1	0.93%	21	19.44%	23	21.30%	6	5.56%	
Ethnicity not available	816	404	50%	25	3.06%	172	21.08%	150	18.38%	65	7.97%	
MINORITY STATUS												
White Non-Hispanic	3838	1973	51%	118	3.07%	693	18.06%	722	18.81%	332	8.65%	
Others, Including Hispanic	12	6	50%	0	0.00%	2	16.67%	4	33.33%	0	0.00%	
TOTAL	11256	5229	46%	388	3.45%	2532	22.49%	2187	19.43%	920	8.17%	

Notes: Total number includes applications for which no income and race/ethnicity data were reported. Loan approval rate is calculated as loans originated divided by the number of applications. * Hispanic is counted independently of race. Source: Federal Financial Institutions Examination Council, 2017 Aggregate Table 5-3

Home Improvement Loans

Home improvement loans are used to pay for repairs or renovation of a home. Most home improvement loans rely on the homeowner’s equity, which is the portion of the home that’s already paid for. Home equity rises as principal payments are made and the home’s value increases. However, when the inflated housing market imploded in 2007, many homes’ values decreased practically negating any equity that was accumulated.

According to HMDA data, home improvement loan applications comprised 7 percent of all home loan applications. The approval rates for home improvement loans were 38 percent, the lowest approval rate of all home loan applications. Black applicants had the lowest loan approval rates of 22 percent. Asian applicants’ loan approval rate was highest with 46 percent, but due to a small sample size of 28 applications, this data may not be reliable.

Table 38: Approval Rate of Home Improvement Loan Applications by Race/Ethnicity of Applicant

Applications Submitted By Race and Ethnicity	Home- Purchase Loans		
	Applications	Approvals	
	#	#	%
Total County	2,936	1,122	38%
White	2,233	925	41%
Black	171	38	22%
Asian	28	13	46%
Hispanic**	432	119	28%

Notes: Total number includes applications for which no income and race/ethnicity data were reported. Loan approval rate is calculated as loans originated divided by the number of applications. ** Hispanic is counted independently of race.

Source: Federal Financial Institutions Examination Council, 2017 Aggregate Table 5-4

Applicants earning less than 50 percent of the Area Median Income (AMI) had the lowest home improvement loan approval rate of 16 percent. Black applicants had the lowest loan approval rates in this income level at 8 percent. Both Hispanic and Black applicants had low loan approval rates compared to White and Asian applicants.

Table 39: Disposition of Home Improvement Loan Applications by Income, Race and Ethnicity

INCOME, RACE AND ETHNICITY	Applications Received		Loans Originated		Apps. Approved But Not Accepted		Applications Denied		Applications Withdrawn		Files Closed for Incompleteness	
	Number		Number	%	Number	%	Number	%	Number	%	Number	%
LESS THAN 50% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	6		1	17%	0	0.00%	4	66.67%	1	16.67%	0	0.00%
Asian	4		1	25%	0	0.00%	3	75.00%	0	0.00%	0	0.00%
Black or African American	36		3	8%	0	0.00%	33	91.67%	0	0.00%	0	0.00%
Native Hawaiian or Other Pacific Islander	1		0	0%	0	0.00%	1	100.00%	0	0.00%	0	0.00%
White	232		57	25%	4	1.72%	150	64.66%	13	5.60%	8	3.45%
2 or more minority races	0		0	0%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Joint (White/Minority Race)	2		1	50%	0	0.00%	1	50.00%	0	0.00%	0	0.00%
Race Not Available	45		3	7%	3	6.67%	34	75.56%	4	8.89%	1	2.22%
ETHNICITY												
Hispanic or Latino	74		14	19%	0	0.00%	55	74.32%	3	4.05%	2	2.70%
Not Hispanic or Latino	217		49	23%	3	1.38%	146	67.28%	12	5.53%	7	3.23%
Joint (Hispanic or Latino/Not Hispanic or Latino)	2		0	0%	0	0.00%	2	100.00%	0	0.00%	0	0.00%
Ethnicity not available	34		3	9%	4	11.76%	24	70.59%	3	8.82%	0	0.00%
MINORITY STATUS												
White Non-Hispanic	179		45	25%	3	1.68%	113	63.13%	11	6.15%	7	3.91%
Others, Including Hispanic	6		1	17%	0	0.00%	5	83.33%	0	0.00%	0	0.00%
50-79% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	8		3	38%	0	0.00%	4	50.00%	1	12.50%	0	0.00%
Asian	9		4	44%	0	0.00%	4	44.44%	1	11.11%	0	0.00%
Black or African American	61		8	13%	2	3.28%	47	77.05%	2	3.28%	2	3.28%
Native Hawaiian or Other Pacific Islander	4		1	25%	0	0.00%	2	50.00%	1	25.00%	0	0.00%
White	442		147	33%	13	2.94%	229	51.81%	37	8.37%	16	3.62%
2 or more minority races	0		0	0%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Joint (White/Minority Race)	4		1	25%	0	0.00%	3	75.00%	0	0.00%	0	0.00%
Race Not Available	80		14	18%	3	3.75%	49	61.25%	10	12.50%	4	5.00%
ETHNICITY												
Hispanic or Latino	134		35	26%	3	2.24%	78	58.21%	12	8.96%	6	4.48%
Not Hispanic or Latino	394		126	32%	13	3.30%	213	54.06%	31	7.87%	11	2.79%
Joint (Hispanic or Latino/Not Hispanic or Latino)	4		1	25%	0	0.00%	2	50.00%	0	0.00%	1	25.00%
Ethnicity not available	79		16	20%	2	2.53%	48	60.76%	9	11.39%	4	5.06%
MINORITY STATUS												
White Non-Hispanic	321		113	35%	10	3.12%	162	50.47%	26	8.10%	10	3.12%
Others, Including Hispanic	9		2	22%	0	0.00%	6	66.67%	1	11.11%	0	0.00%
80-99% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	6		2	33%	0	0.00%	3	50.00%	0	0.00%	1	16.67%
Asian	2		1	50%	0	0.00%	1	50.00%	0	0.00%	0	0.00%
Black or African American	29		12	41%	1	3.45%	15	51.72%	1	3.45%	0	0.00%
Native Hawaiian or Other Pacific Islander	1		0	0%	0	0.00%	1	100.00%	0	0.00%	0	0.00%
White	270		118	44%	10	3.70%	112	41.48%	23	8.52%	7	2.59%
2 or more minority races	1		0	0%	0	0.00%	0	0.00%	0	0.00%	1	100.00%
Joint (White/Minority Race)	2		0	0%	0	0.00%	2	100.00%	0	0.00%	0	0.00%
Race Not Available	55		16	29%	0	0.00%	29	52.73%	6	10.91%	4	7.27%
ETHNICITY												
Hispanic or Latino	66		22	33%	3	4.55%	37	56.06%	4	6.06%	0	0.00%
Not Hispanic or Latino	250		114	46%	8	3.20%	99	39.60%	20	8.00%	9	3.60%
Joint (Hispanic or Latino/Not Hispanic or Latino)	2		1	50%	0	0.00%	1	50.00%	0	0.00%	0	0.00%
Ethnicity not available	49		12	24%	0	0.00%	27	55.10%	6	12.24%	4	8.16%
MINORITY STATUS												
White Non-Hispanic	213		99	46%	7	3.29%	81	38.03%	19	8.92%	7	3.29%
Others, Including Hispanic	3		0	0%	0	0.00%	3	100.00%	0	0.00%	0	0.00%
100-119% OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	3		1	33%	0	0.00%	0	0.00%	1	33.33%	1	33.33%
Asian	6		4	67%	0	0.00%	2	33.33%	0	0.00%	0	0.00%
Black or African American	16		7	44%	1	6.25%	6	37.50%	2	12.50%	0	0.00%
Native Hawaiian or Other Pacific Islander	0		0	0%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
White	273		116	42%	11	4.03%	107	39.19%	28	10.26%	11	4.03%
2 or more minority races	0		0	0%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Joint (White/Minority Race)	3		2	67%	0	0.00%	1	33.33%	0	0.00%	0	0.00%
Race Not Available	47		14	30%	2	4.26%	23	48.94%	5	10.64%	3	6.38%
ETHNICITY												
Hispanic or Latino	43		12	28%	1	2.33%	27	62.79%	2	4.65%	1	2.33%
Not Hispanic or Latino	254		114	45%	10	3.94%	91	35.83%	29	11.42%	10	3.94%
Joint (Hispanic or Latino/Not Hispanic or Latino)	4		3	75%	0	0.00%	1	25.00%	0	0.00%	0	0.00%
Ethnicity not available	48		15	31%	3	6.25%	21	43.75%	5	10.42%	4	8.33%
MINORITY STATUS												
White Non-Hispanic	229		104	45%	8	3.49%	81	35.37%	27	11.79%	9	3.93%
Others, Including Hispanic	2		1	50%	0	0.00%	0	0.00%	1	50.00%	0	0.00%
120% OR MORE OF MSA/MD MEDIAN												
RACE												
American Indian/Alaska Native	4		1	25%	0	0.00%	2	50.00%	0	0.00%	1	25.00%
Asian	7		3	43%	0	0.00%	2	28.57%	2	28.57%	0	0.00%
Black or African American	29		8	28%	0	0.00%	17	58.62%	2	6.90%	2	6.90%
Native Hawaiian or Other Pacific Islander	2		0	0%	0	0.00%	0	0.00%	1	50.00%	1	50.00%
White	1016		487	48%	33	3.25%	364	35.83%	88	8.66%	44	4.33%
2 or more minority races	0		0	0%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Joint (White/Minority Race)	30		12	40%	0	0.00%	14	46.67%	3	10.00%	1	3.33%
Race Not Available	194		74	38%	5	2.58%	87	44.85%	19	9.79%	9	4.64%
ETHNICITY												
Hispanic or Latino	115		36	31%	3	2.61%	59	51.30%	8	6.96%	9	7.83%
Not Hispanic or Latino	932		446	48%	30	3.22%	336	36.05%	85	9.12%	35	3.76%
Joint (Hispanic or Latino/Not Hispanic or Latino)	45		24	53%	1	2.22%	12	26.67%	4	8.89%	4	8.89%
Ethnicity not available	190		79	42%	4	2.11%	79	41.58%	18	9.47%	10	5.26%
MINORITY STATUS												
White Non-Hispanic	897		443	49%	29	3.23%	311	34.67%	81	9.03%	33	3.68%
Others, Including Hispanic	3		1	33%	0	0.00%	0	0.00%	0	0.00%	2	66.67%
TOTAL	2936		1122	38%	88	3.00%	1358	46.25%	251	8.55%	117	3.99%

Notes: Total number includes applications for which no income and race/ethnicity data were reported. Loan approval rate is calculated as loans originated divided by the number of applications. * Hispanic is counted independently of race. Source: Federal Financial Institutions Examination Council, 2017 Aggregate Table 5-4

3. Mortgage Application Denials

According to 2017 HMDA data, there were a total of 29,336 home loan applications submitted, of which 6,376 applications were denied. The overall denial rate was 19.3 percent. The average denial rates by race and ethnicity included 15.45 percent for White applicants, 12.56 percent for Asian applicants, 26.23 percent for Black applicants, and 22.9 percent for Hispanic applicants.

Table 40: Home Purchase Loan Applications Approved/Denied by Race, 2017 (HMDA Lenders Only)

Applicant Race	Loan Originated	Application Denied	Other	Denial Rate
American Indian or Alaska Native	49	13	17	26.53%
Asian	207	26	55	12.56%
Black or African American	629	165	175	26.23%
Native Hawaiian or Other Pacific Islander	28	6	6	21.43%
White	12188	1883	2702	15.45%
Information not provided by applicant in mail, Internet, or telephone application	1416	354	406	25.00%
Not applicable	151	15	20	9.93%
Hispanic or Latino	2410	552	537	22.90%
Not Hispanic or Latino	10895	1593	2437	14.62%
Information not provided by applicant in mail, Internet, or telephone application	1209	302	387	24.98%
Not applicable	154	15	20	9.74%
Total	29336	4924	6762	-

Source: Shimberg Center for Housing Studies based on 2017 HMDA Data

In reporting denials, lenders list at least one primary reason for denial and may list up to two secondary reasons. The primary reason cited by lenders for the rejection of loan applications was debt to income ratio (30.5 percent) followed by credit history at 24.5 percent.

Among Black applicants and White/Minority Race applicants, credit history (42.1 percent and 49.1 percent, respectively) was cited as the most common reason for denial. For Asian applicants, debt to income ratio was the most common reason for denial at 52.2 percent. 9.1 percent of denied applications cited the reason for denial as “other”. By citing “other” as a primary reason for denial, the lender may avoid reporting the reasons for the denial of loan applications.

Table 41: Denial Reason by Income, Race and Ethnicity, 2012

APPLICANT CHARACTERISTICS	Debt-to-Income Ratio		Employment History		Credit History		Collateral		Insufficient Cash		Unverifiable Information		Credit App. Incomplete		Mortgage Insurance Denied		Other		Total
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	
120% or more of MSA/MD median	422	22.2%	15	0.8%	437	23.0%	369	19.4%	54	2.8%	72	3.8%	335	17.7%	16	0.8%	178	9.4%	1898
100-119% of MSA/MD median	139	28.1%	3	0.6%	137	27.7%	62	12.5%	16	3.2%	13	2.6%	81	16.4%	3	0.6%	41	8.3%	495
80-99% of MSA/MD median	174	31.2%	16	2.9%	133	23.8%	82	14.7%	15	2.7%	19	3.4%	59	10.6%	4	0.7%	56	10.0%	558
50-79% of MSA/MD median	988	37.0%	20	1.9%	259	24.7%	124	11.8%	33	3.1%	34	3.2%	100	9.5%	2	0.2%	90	8.6%	1050
Less than 50% of MSA/MD median	285	51.7%	13	2.4%	129	23.4%	28	5.1%	9	1.6%	14	2.5%	24	4.4%	0	0.0%	49	8.9%	551
Income Not Available	37	21.6%	5	2.9%	61	35.7%	19	11.1%	4	2.3%	9	5.3%	18	10.5%	0	0.0%	18	10.5%	171
White	123	29.7%	15	3.6%	60	14.5%	72	17.4%	26	6.3%	26	6.3%	53	12.8%	0	0.0%	39	9.4%	414
Black or African American	78	26.9%	5	1.7%	122	42.1%	17	5.9%	8	2.8%	13	4.5%	19	6.6%	1	0.3%	27	9.3%	290
Asian	24	52.2%	1	2.2%	11	23.9%	4	8.7%	0	0.0%	4	8.7%	2	4.3%	0	0.0%	0	0.0%	46
American Indian/Alaska Native	8	30.8%	1	3.8%	6	23.1%	3	11.5%	1	3.8%	0	0.0%	4	15.4%	0	0.0%	3	11.5%	26
Native Hawaiian or Other Pacific Islander	4	36.4%	0	0.0%	4	36.4%	1	9.1%	0	0.0%	0	0.0%	1	9.1%	0	0.0%	1	9.1%	11
Joint (White/Minority Race)	13	23.6%	1	1.8%	27	49.1%	4	7.3%	0	0.0%	1	1.8%	5	9.1%	1	1.8%	3	5.5%	55
Race Not Available	249	28.3%	12	1.4%	182	20.7%	134	15.2%	21	2.4%	19	2.2%	194	22.0%	3	0.3%	67	7.6%	881
Not Hispanic or Latino	977	31.4%	43	1.4%	753	24.2%	467	15.0%	81	2.6%	115	3.7%	389	12.5%	15	0.5%	272	8.7%	3112
Hispanic or Latino	247	31.4%	17	2.2%	216	27.4%	84	10.7%	30	3.8%	26	3.3%	65	8.3%	3	0.4%	99	12.6%	787
Ethnicity Not Available	205	27.3%	11	1.5%	167	22.2%	120	16.0%	15	2.0%	16	2.1%	158	21.0%	4	0.5%	55	7.3%	751

Note: * Hispanic is counted independently of race. Total number includes applications for which no income and race/ethnicity data were reported. Source: Federal Financial Institutions Examination Council, 2017 Aggregate Table 8-1, 8-2, 8-3 and 8-4

4. High-Cost Lending

In general there are two types of loans or mortgages, prime and subprime. According to the Federal Reserve, prime mortgages are offered to persons with excellent credit, excellent employment history and income adequate to support the loan amount. Subprime loans are loans to borrowers who have less than perfect credit history, poor employment history, or other factors such as limited income. These borrowers typically do not qualify for the standard Fannie Mae or Freddie Mac underwriting guidelines. Subprime loans usually have an interest rate of at least one to six percentage points above that of a prime mortgage.

The widespread housing finance market crisis of 2008 brought a new level of public attention to lending practices that victimize vulnerable populations. Subprime lending, designed for borrowers who are considered a credit risk, has increased the availability of credit to low-income persons. At the same time, subprime lending has often exploited borrowers by piling on excessive fees, penalties, and interest rates that make financial stability difficult to achieve. Higher monthly mortgage payments make housing less affordable, increasing the risk of mortgage delinquency and foreclosure and the likelihood that properties will fall into disrepair.

Some subprime borrowers have credit scores, income levels, and down payments high enough to qualify for conventional prime loans, but are still steered toward more expensive subprime mortgages. This is especially true of minority groups, which tend to fall disproportionately into the category of subprime borrowers. The practice of targeting minorities for subprime lending qualifies as mortgage discrimination.

Since 2005, HMDA data included price information for loans priced above reporting thresholds set by the Federal Reserve Board. This data is provided by lenders via Loan Application Registers and can be aggregated to complete an analysis of loans by lender or for a specified geographic area. HMDA does not require lenders to report credit scores for applicants, so the data does not indicate which loans are subprime. It does, however, provide price information for loans considered “high-cost”.

In 2008, the Federal Reserve Board revised the rules for reporting price information on higher-priced loans. For loan applications taken prior to October 1, 2009, HMDA required lenders to compare the annual percentage rate (APR) on the loans to the yield on a Treasury security with a comparable term to maturity to determine whether the loan was required to be reported as higher-priced. If the difference exceeds 3 percentage points for a first lien loan or 5 percentage points for a junior lien loan it was classified as higher-priced and the rate spread was reported.

Under the amended rule, lenders instead compare the APR on the loan to a survey-based estimate of APRs currently offered on prime mortgage loans of a comparable type. Lenders then report the spread if the spread is equal or greater than 1.5 points for first-lien loans or 3.5 percentage points for a subordinate-lien loan.

Not all loans carrying high Annual Percentage Rate (APR)s are subprime, and not all subprime loans carry high APRs. However, high-cost lending is a strong predictor of subprime lending, and it can also indicate a loan that applies a heavy cost burden on the borrower, increasing the risk of mortgage delinquency.

High-cost owner-occupied purchase loans during 2013 to 2017 (reflects the revised rules on high-cost loans reporting) shows an upward trend. The percentage of high-cost loans to the total loans originated has increased from 9 percent in 2013 to 16 percent in 2017. The increase in high-cost loans could be a direct result of the economic recovery.

An analysis of high-cost loans in Lee County by race and ethnicity reveals that Blacks and Hispanic Borrowers are overrepresented in high-cost lending. In 2017, 29 percent of mortgages obtained by Black borrowers were high-cost, and 33 percent of loans to Hispanic borrowers were high-cost. In comparison, 16 percent of mortgages obtained by White borrowers were high-cost.

Table 42: High-Cost, Owner-Occupied Home Purchase Loans by Race, 2017 (HMDA Lenders Only)

Race	High-Cost	Non-High Cost or Unknown	Total High-Cost and Non-High Cost Loans	Percent of High Cost Loans
American Indian or Alaska Native	11	32	43	26%
Asian	7	128	135	5%
Black or African American	164	406	570	29%
Native Hawaiian or Other Pacific Islander	2	20	22	9%
White	1488	7867	9355	16%
Information not provided by applicant in mail, Internet, or telephone application	92	890	982	9%
Hispanic or Latino	722	1479	2201	33%

Source: Shimberg Center for Housing Studies based on 2017 HMDA Data

Review and analysis of HMDA data identified the following impediments to fair housing choice:

- Access to adequate financing.
- Underrepresentation of racial and ethnic minorities in the lending market.
- High rate of subprime loans obtained by racial and ethnic minorities.

C. Public and Private Sector

Most communities benefit greatly from having local fair housing legislation, effective outreach, education and training, and local enforcement.

This section examines the current status of fair housing enforcement, fair housing information programs, and visitability in housing issues.

1. Fair Housing Enforcement

As a part of public and private sector fair housing enforcement, fair housing ordinances for entitlement jurisdictions were reviewed.

City of Cape Coral

The City of Cape Coral’s Fair Housing Ordinance (Chapter Sixteen) prohibits discrimination on the basis of race, color, religion, sex, age, handicapped status, or national origin in connection with

housing. The Ordinance prohibits discrimination in the sale and rental of housing, the residential real estate related transactions, the provisions of brokerage services, and the provision for housing for older persons. The Ordinance outlines unlawful and discriminatory practices in regards to the sale and rental of housing. In addition, the Ordinance created the City's Fair Housing Compliance Board and provided an overview of its functions. However, the ordinance does not include protected class based on familial status, and protections appears to be limited to physically handicapped persons and does not provided protection for all disabilities including mental illness.

City of Fort Myers

The City has drafted a Fair Housing Ordinance. The Ordinance will be submitted for City Council approval in August 2019.

Lee County

Lee County amended and restated the jurisdiction's "Equal Opportunity in Housing" Ordinance on February 26, 2013. The current Ordinance (Number 13-04) prohibits discrimination on the basis of race, color, religion, national origin, sex, familial status, or disability in connection with housing. The Ordinance prohibits discrimination in the sale and rental of housing, the provision of brokerage services, financing of housing or in residential real estate transactions, and the provision for housing for older persons. The Ordinance outlines unlawful and discriminatory practices in regards to the sales and rental of housing. Under the Enforcement section of the Ordinance, it lists private enforcement and an intervention by the County Attorney. The private enforcement will be civil action procedures. An intervention by the County Attorney provides for if the Board of County Commissioners certifies that the case is of significant public importance to the citizens of the County, at the direction of the County Board of Commissioners, the County Attorney may intervene in a civil action. The preamble to the Ordinance states "*that the Board of County Commissioners find that it is in the best interest of the citizenry to file fair housing complaints with the appropriate Federal and State agencies or pursue private enforcement actions.*"

From 2001 to October 2012, Lee County Office of Equal Opportunity (LCOEO) was designated by HUD as meeting the HUD requirements for the operation of a "Substantially Equivalent Fair Housing Program". LCOEO processed and investigated the County-wide housing discrimination complaints on behalf of HUD. However, beginning in October 2012, LCOEO discontinued its processing and investigation of County-wide fair housing complaints and undertook a countywide fair housing training and outreach on behalf of HUD.

As of October 2012, fair housing complaints must be filed with the HUD Miami Office or the state of Florida Commission on Human Relations Office (FCHR). FCHR is the state's leading anti-discrimination agency. FCHR is overseen by twelve Commissioners appointed by the Governor and confirmed by the state Senate. FCHR conducts its business primarily under authority of three Florida laws:

- The Florida Civil Rights Act (Part 1, Chapter 760, and s. 509.092, F.S.) for allegations of discrimination in employment or public accommodations.
- The Florida Fair Housing Act (Part II, Chapter 760) for allegations of discrimination in housing.
- The Florida Whistle-Blower Act (s. 112.31895) for allegations of improper retaliation against state agency whistle-blowers.

A work-sharing agreement between FCHR and two federal partners – the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development – helps ensure that complaints are properly investigated without duplication, whether they are initially filed with the Commission or one of the federal agencies.

A review of HUD’s website determined that there are six non-profit fair housing agencies in Florida receiving funding through HUD’s Fair Housing Initiatives Program (FHIP) to assist people who believe they have been victims of housing discrimination and seven public agencies that are designated by HUD as an FHAP agency. The nearest FHIP and FHAP agencies are located in Tampa which is approximately 120 miles north of Lee County.

A review of entitlement jurisdictions’ Fair Housing Enforcement Procedures identified the following impediments to fair housing choice:

- City of Cape Coral’s Fair Housing Ordinance does not include protected class based on familial status, and protections appears to be limited to physically handicapped persons and does not provide protection for all disabilities including mental illness.
- The City of Fort Myers has drafted a Fair Housing Ordinance. The Ordinance will be submitted for City Council approval in August 2019.

2. Information Programs

As stated in the previous section, the LCOEC previously conducted fair housing outreach and training for the entire county. Because the LCOEO no longer handling the fair housing activities for the area, Lee County has contracted for the provision of fair housing outreach and training since 2015. Currently, there are two contracts in place, one, which provides two annual community wide trainings/outreach events, and another, which provides for up to five group specific trainings as requested by community groups.

All three entitlement jurisdictions and public housing authorizes have been working together to fill the gap in outreach and training by conducting joint fair housing workshops, and placing fair housing information on the respective governments’ websites.

The Cities of Fort Myers, Cape Coral and Lee County refer housing program applicants to HUD-approved counseling agencies, which conduct home ownership workshops (workshops are conducted in English and Spanish). The application procedures and programs are discussed so applicants will be aware of program offerings and Fair Housing information.

A review of entitlement jurisdictions' Fair Housing Information Programs identified that the jurisdiction would benefit from a FHIP or FHAP organization, which is dedicated to provide education regarding fair housing.

3. Visitability in Housing

The term "visitability" refers to single-family housing designed in such a way that it can be lived in or visited by people with disabilities. A house is visitable when it meets the following three basic requirements:

- At least one no-step entrance.
- Doors and hallways wide enough to navigate a wheelchair through.
- A bathroom on the first floor big enough to get into in a wheelchair, and close the door.

Visitability features make homes easier for people who develop a mobility impairment to visit friends and extended family rather than having to turn down invitations, or not be invited at all. Visitability features also provide access for formerly non-disabled people to remain in their homes if they develop a disability, rather than forcing them to do expensive renovations, relocate to a different house, live in an inaccessible home which endangers their health and safety, or move from the community into a nursing home.

All three entitlement jurisdictions administer State and federally funded grants to provide barrier removal and/or home modifications for owner-occupied housing units. Modification efforts consist of bathroom modifications, handicapped ramps, and other handicapped accessibility improvements to housing units located within the entitlement jurisdictions. Work must be performed according to the building codes and established Rehabilitation Standards.

A review of the entitlement jurisdictions' procedures and programs indicate that there are no significant impediments to fair housing choice.

D. Actions taken by HUD against the Jurisdiction

There have been no actions in the County initiated by the Department of Justice or HUD against the county, city, company, or corporation for noncompliance under Title VI of the Civil Rights Act of 1964 or Section 504 of the Rehabilitation Act of 1973, or charges under the Fair Housing Act.

V. Assessment of Current Public and Private Fair Housing programs and Activities

This section evaluates existing public and private programs, services, and activities that assist in providing fair housing in Lee County.

A. Public Programs

The activities of the public programs were previously addressed in *Section IV. Identification of Impediments to Fair Housing Choice, A. Public Sector, 2. Neighborhood Revitalization, Municipal and Other Services.*

B. Real Estate Practices

Real Estate Brokers and Sales Agents

The National Association of REALTORS® (NAR) has developed a Fair Housing Programs guide to provide resources and guidance to Realtors in ensuring equal professional services for all people. When licensed real estate professionals join a local chapter of NAR, they automatically become a member of the Florida Association of REALTORS® and the NAR.

According to NAR Code of Ethics, Article 10 provides that “REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity”(Amended 1/14), and “REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity (Amended 1/14).” These ethics provisions are applicable to the state and local chapters of NAR.

Lee County real estate market is serviced by the Realtor Association of Greater Fort Myers and the Beach, Inc., and the Royal Palm Coast Realtors Association. The local Realtor chapters offer various educational programs one of which is an ethics-training course.

Appraisers

Banks order appraisal reports to determine whether or not a property is worth the amount of the loan they will be giving. Generally speaking, appraisals are based on the comparable sales of properties surrounding the neighborhood of the property being appraised. Other factors are taken into consideration, such as the age of the structure, any improvements made, location,

general economic influences, etc. Some neighborhoods with higher concentrations of minorities may appraise lower than like properties in neighborhoods with lower concentrations.

Unfortunately, this practice is geared toward a neighborhood not an applicant and therefore, not a direct violation of fair housing law that can easily be addressed. One effect of this practice, however, is that it tends to keep property values lower in a given neighborhood, thereby restricting the amount of equity and capital available to those residents. Individual appraisers are the ones making the decisions on the amounts, thus there is room for flexibility in the numbers. As each appraiser is individually licensed, similar to real estate agents, they risk losing their license for unfair practices.

Homeowners' Insurance

Homeowner's insurance is a requirement for almost any home purchase. And just as lenders determine borrowers' loan interest rate and terms largely on the borrowers' credit score, insurance companies also use borrowers' score to determine how much to charge for premiums.

Insurance agents are provided with underwriting guidelines for the companies they work for to determine whether a company will sell insurance to a particular applicant. Currently, underwriting guidelines are not public information; however, consumers have begun to seek access to these underwriting guidelines to learn if certain companies have discriminatory policies.

According to the Insurance Journal, August 14, 2014 issue, a study conducted by online insurance shopping service, insuranceQuote.com, found that homeowners with poor credit pay 91 percent more for homeowners' insurance than people with excellent credit. There are three states, California, Massachusetts, Maryland, that prohibit insurers from using credit scores to calculate homeowner's insurance premiums. The article reported data for the each of the 50 states. In Florida, while insurance companies are technically allowed to consider homeowners' credit scores, insuranceQuotes.com found that credit scores do not typically affect premiums. Florida's hurricane prone location means that homeowners pay high homeowners' insurance rates. According to a January 2018 study by the National Association of Insurance Commissioners, Florida had the highest average homeowner's insurance premium in 2015 (\$1,993). The countrywide average homeowner's insurance premium was \$1,173 in 2015.

Newspaper Advertising

Under Federal Fair Housing law, no advertising with respect to the sale or rental of housing may indicate any preference, limitation, or discrimination because of race, color, religion, sex, disabilities, familial status or national origin. In addition, Florida law extends protection to age.

Publishers and advertisers are responsible under federal law for making, printing, or publishing advertisements that violate the Fair Housing Act on its face. Thus, they should not publish or cause to be published an advertisement that expresses a preference, limitation or discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin. The law, as

found in the Fair Housing Amendments Act of 1988, describes the use of words, photographs, symbols or other approaches that are considered discriminatory.

The real estate sections of the *Fort Myers News-Press*, generally considered to be the newspaper of record in the County, was reviewed to identify impediments to housing choice within the published advertisements for houses and other dwelling units held out for sale or for rent. A search of the advertisements showed that some – but not all – of the advertisers showed the Equal Housing Opportunity or Equal Housing logo. Many who see the logo would not be able to ascertain the meaning without prior knowledge of the logo and the intent behind it. Several major real estate firms placed the HUD fair housing logo in their banner ads. The publisher’s notice and the newspaper’s policies on accepting and printing real estate ads were noted to appear in compliance with the federal Fair Housing Laws.

The *News-Press* has two searchable database links for rental and for-sale units in Lee County, at www.apartments.com and www.homefinder.com. The publisher’s policy on accepting advertisements and Equal Housing Opportunity including “Equal Housing” logo were clearly embedded on the sites’ “Houses for Rent” and “Home for Sale” databases. The sites also had an Equal Housing Policy tab that explained the federal Fair Housing Laws.

C. Outreach/Advocacy Organizations

There are many non-profit organizations located in the community engaged in providing housing and supportive services to the County residents. Below is the list of agencies and types of services provided (the list is not all inclusive):

Outreach/Advocacy Services

Florida Rural Legal Services: Assists residents with landlord/tenant evictions, foreclosures, civil rights, housing discrimination, and senior citizens’ rights.

NAACP (National Association for the Advancement of Colored People): Advocacy group dedicated to obtaining racial justice for all Americans.

Lee County Homeless Coalition: Advocacy group dedicated to educate, and promote awareness issues and obstacles facing homeless individuals in Lee County.

Housing Services

HUD Certified Housing Counseling Agencies: Housing Authority of the City of Fort Myers, Home Ownership Resource Center of Lee County, Cape Coral Housing Development Corporation, and Lee County Housing Development Corporation.

Lee County Housing Development Corporation: Non-profit Community Housing Development Organization (CHDO) that provides down payment and homeownership assistance to low and moderate income residents.

Cape Coral Housing Development Corporation: Non-profit Community Housing Development Corporation that provides housing rehabilitation, down payment and homeownership assistance to low and moderate income residents.

Builders Care: The Lee Building Industry Association (Lee BIA) founded Builders Care to provide no-cost emergency home repair and renovation services to needy elderly, disabled and economically disadvantaged homeowners.

Habitat for Humanity: A nationwide non-profit group that builds homes for families who otherwise could not afford home ownership. Families are required to put over 500 hours of sweat equity into building their own or other Habitat homes.

Services to Special Needs population (including homeless)

ACT (Abuse Counseling Treatment): Provides residential shelter for victims of domestic violence.

Community Assisted and Supported Living: Provides housing, transportation, rehabilitation, employment and social development programs to persons with server and persistent mental illness.

Dr. Ella Piper Center: Provides senior support and employment training.

Goodwill Industries of Southwest Florida: Provides employment training and housing to developmentally disabled persons.

Salvation Army: Provides housing, transportation, rehabilitation, employment and social development programs to homeless, substance abusers, and low income and poverty level persons.

SalusCare: A comprehensive mental health and substance abuse treatment agency.

VI. Community Participation

This Regional Analysis of Impediments (AI) study has been developed to provide an overview of laws, regulations, conditions, or other possible obstacles that may affect an individual's or household's access to housing. As part of this effort, the study incorporates the issues and concerns of residents, housing professionals, and service providers. To assure the report responds to community needs, community outreach consisting of surveys and solicitation of public comments was conducted in the development of this study. This section describes the community outreach conducted to involve the community.

A. Outreach to the Community

To reach the various segments of the community, Lee County facilitated public meetings entitled, "Community Conversations", and several consultation meetings with countywide advisory committees. Thirteen meetings were held throughout County's geographic area.

Community Conversation Survey

Survey's were conducted at each meeting to gain knowledge about community needs, and the nature and extent of fair housing issues experienced by County residents. The survey consisted of four fair housing topics. Each topic was discussed in detail with participants, who were then asked to rank their top three fair housing priorities.

To encourage participation, meeting dates and locations were publicized and distributed via the following methods:

- November 1, 2018 and February 28, 2019 Notices published in the News Press – Fort Myers
- November 28, 2018 and January 24, 2019 Pine Island Eagle
- Flyers distributed to area non-profit and faith based providers via direct e-mail.
- Flyers distributed at meeting locations
- Lee County Human and Veteran Services Facebook Page and Website

Because responses to the survey were not controlled², results of the survey are used only to provide some insight regarding fair housing issues, but cannot be treated as a statistically valid survey. Furthermore, the survey asked respondents for their perception of fair housing needs in the community. A person responding that discrimination is an issue does not necessarily mean discrimination has actually taken place.

Sixty persons responded to the community survey representing residents across the entire county. Among the 60 persons, 50 percent indicated that the largest fair housing issues was limited access to opportunities in low-income and minority areas. Fair housing specific comments received at the meetings are summarized below.

² A survey with a "controlled" sample would through various techniques, "control" the socioeconomic characteristics of the respondents to ensure that the representative of the general population. This type of survey would provide results that are statistically valid but is much more costly to administer.

Sanibel Island (December 4, 2018): Comments indicated that there are few instance of discrimination, but voiced the importance of having bilingual staff to ensure persons with limited English proficiency are able to access housing and services.

Pine Manor (December 10, 2018): Comments received from residents within the neighborhood indicated that property owners might segregate black and Hispanic populations into different rental units. A resident from the Harlem Heights neighborhood indicated that they believe some property owners discriminate based on source of income.

Pine Island (January 16, 2019): Attendees mentioned that they do not know of any housing discrimination that is currently taking place on the island. One resident mentioned that some discrimination used to take place at the mobile home parks, but new ownership has alleviated the issues. Attendees mentioned that most all locations are pet friendly and open to service animals. A few areas are highly concentrated with minorities and low-income residents. This includes the alphabet streets and Pink Citrus Mobile Home Park.

Local Government Consultation (February 13, 2019): The group discussed the disparities in access to safe housing for vulnerable populations, including those who have mental illness and disabilities. The City of Cape Coral discussed the importance of locating affordable housing throughout the region rather than concentrating it in specific areas.

Affordable Housing Committee (March 11, 2019): Comments mentioned that the Latino population is concentrated in manufactured housing/mobile homes, and the same is true of very low-income elderly. Additional comments indicated that persons with limited English proficiency often have difficulty accessing services due to limited bilingual communication options.

A copy of the community survey’s fair housing results and the complete survey results are included in Appendix A.

B. Public Review of Draft AI

The Draft AI was available for a 30-day public review. Individual entitlement jurisdictions initiated separate 30-day review and approval processes. Notice of availability of the AI document and comment period and/or public hearings were published in newspaper(s) of general circulation. The Draft AI was also posted on all three entitlement jurisdictions’ websites.

Table 1: AI Review/Comment Period by Entitlement Jurisdictions

Jurisdiction	30-Day Comment Period
City of Cape Coral	June 3, 2019 to July 11, 2019
City of Fort Myers	June 24, 2019 to July 25, 2019
Urban Lee County	July 1, 2019 to August 2, 2019

All public comments received copies of advertisements and public hearing notices are included in Appendix B.

VII. Conclusions and Recommendations

The previous sections evaluate the conditions in the public sector and private market that may impede fair housing choice. This section builds upon the previous analyses, summarizes conclusions and presents a list of recommendations/proposed actions to help address the impediments. When identifying recommendations/proposed actions, this Regional AI focuses on actions that are directly related to fair housing issues and can be implemented within the resources and authority of the participating jurisdictions.

Impediments identified in this section are divided into the following five categories:

- **Regional Impediments Carried over from Previous AIs:** These are impediments identified in the previous AIs from three entitlement jurisdictions that are common in all jurisdictions but are persisting, and therefore require further efforts to mitigate the impacts.
- **Jurisdiction Specific Impediments Carried over from Previous AIs:** These are impediments identified in the previous AIs but are persisting, and therefore require further efforts to mitigate the impacts. These impediments are “jurisdiction-specific” and therefore specific recommendations are identified for each participating jurisdiction. Carried over impediments were examined in the “Progress toward Addressing Impediments from Previous AIs” section.
- **New Regional Impediments:** These are new impediments identified during the development of this 2019-2023 Regional AI. These impediments are considered regional because their impact is present in all participating jurisdictions within the County and require the collaboration of all jurisdictions to address the impediments.
- **New Jurisdiction-Specific Impediments:** These are new impediments identified during the development of this Regional AI. These impediments are “jurisdiction-specific” and therefore specific recommendations are identified for each participating jurisdiction.

A. Regional Impediments Carried over from Previous AIs

Regional Impediments

These are impediments identified in the previous AIs from three entitlement jurisdictions that are common in all jurisdictions but are persisting, and therefore require further efforts to mitigate the impacts. These impediments are considered “regional” because their impact is present in all participating jurisdictions within the County and require the collaboration of all jurisdictions to address the impediments.

Regional Impediment #1: Housing discrimination persists in the private market, according to complaints data received.

Disability, national origin, and familial states are often the prior basis upon which fair housing complaints are based.

Actions to Address Impediment:

- Prominently display fair housing information on public counters and other points of contact, such as libraries and community centers.
- Include fair housing logo on all housing related documents for public review, brochures, and legal advertisements. Ensure all non-profit agencies that receive housing funds use the logos on their advertising materials.
- Entitlement jurisdictions should include in the scopes of work for fair housing services to expand outreach to small property owners.
- Coordinate and conduct comprehensive and countywide random testing on a regular basis to identify issues, trends, and problem properties by:
 - a) Conduct feasibility study.
 - b) Develop testing methods.
 - c) Schedule and conduct testing.

Regional Impediment #2: Pattern of disparity continues to exist in private mortgage lending for racial and ethnic minorities.

The analysis of the latest HMDA data indicated the following:

- Loan application denials for minorities were higher than the average denial rates (19.3% (2017)) and well above the denial rate of White applicants (15.45% (2017)). The average denial rates by race and ethnicity included 12.56 percent for Asian applicants, 26.23 percent for Black applicants, and 22.9 percent for Hispanic applicants.
- Among Black applicants and White/Minority Race applicants, credit history (42.1 percent and 49.1 percent, respectively) was cited as the most common reason for denial. For Asian applicants, debt to income ratio was the most common reason for denial at 52.2 percent.
- An analysis of high-cost loans in Lee County by race and ethnicity reveals that Blacks and Hispanic borrowers are overrepresented in high-cost lending. In 2017,

29 percent of mortgages obtained by Black borrowers were high-cost, and 33 percent of loans to Hispanic borrowers were high-cost. In comparison, 16 percent of mortgages obtained by White borrowers were high-cost.

Actions to Address Impediment:

- Increase outreach efforts and homeownership opportunity awareness to minority and ethnic communities.
- Maintain lender guidelines for housing assisted with state and federal funds and Fair Housing Laws.
- Fund credit and financial management courses with CDBG or other funds to improve credit issues of racial and ethnic minority applicants.
- Promote the availability of general budgeting classes conducted by the University of Florida Extension Services to the targeted communities.

Regional Impediment #3 Limited public transit options and rising cost of transportation in general limit location options for many lower-income households.

Increased housing costs are forcing families to move farther away from jobs in order to find affordable living options, which increase their transportation expenses. In 2012, the housing and transportation affordability index for Lee County was 54.9 percent. In 2017, the index rose to 58 percent. Due to the 2008-2009 reductions in property values directly affecting funds available to county government, cuts were made over to all areas of local government, including public transportation personnel and the reduction in some routes that were experiencing low ridership. Many of these routes have not yet been replaced.

Actions to Address Impediment:

- Support a regional transportation system that provides services to low and moderate income households throughout the County.
- Continue funding bus pass programs and support the creation of alternative modes of transportation to low/mod and disabled households.

Regional Impediment # 4 Fair Housing education, training and outreach programs are inadequate to meet the responsibility to affirmatively further fair housing throughout Lee County.

Discontinuation of the local substantially equivalent Fair Housing Agency (Lee County Office of Equal Opportunity) in the community creates challenges to fair housing enforcement, as well as, outreach and education. Limited feedback provided during Community Conversation meetings, and a high number of dismissed fair housing complaint cases indicated that residents do not fully understand what constitutes a violation of the Fair Housing Act.

Actions to Address Impediment:

- Coordinate fair housing programs between three entitlement jurisdictions to collaborate and consolidate affirmatively further fair housing efforts in Lee County.
- Support non-profit capacity building programs that encourage local non-profits to apply for Fair Housing Initiatives Program (FHIP) and/or Fair Housing Assistance Program (FHAP) funds through HUD.
- Offer fair housing workshops throughout the year.
- Maintain a fair housing log to record activities undertaken throughout the year to affirmatively further fair housing.

Regional Impediment # 5 An insufficient number of accessible housing units are available which meets the needs of persons with disabilities in the County.

Housing providers are not making the accommodations and/or modifications necessary to make housing available to persons with disabilities.

Actions to Address Impediment:

- Implement fair housing workshop topics to include “reasonable accommodation” requirements and requirements of Section 504, the Fair Housing Act, the Americans with Disabilities Act, the Architectural Barriers Act, and the State’s Accessibility Building Codes.
- Maintain the Universal Design requirements in new constructions funded by federal and state grants.
- Continue to give priority and set aside funding to rehabilitate special need housing units.

Jurisdiction-Specific Impediments

These impediments are “jurisdiction-specific” and therefore specific recommendations are identified for each participating jurisdiction.

City of Cape Coral

Local Impediment #1: City’s Fair Housing Ordinance does not include protected class based on Familial status and does not define handicapped persons.

The City of Cape Coral’s Fair Housing Ordinance (Chapter Sixteen) prohibits discrimination on the basis of race, color, religion, sex, age, handicapped status, or national origin in connection with housing. The Ordinance prohibits discrimination in the sale and rental of housing, the residential real estate related transactions, the provisions of brokerage services, and the provisions for housing for older persons. The Ordinance outlines unlawful and discriminatory practices in regards to the sale and rental of housing. In addition, the Ordinance created the City’s Fair Housing Compliance Board and provided an overview of its functions. However, the ordinance does not include a protected class based on familial status, and protections appears to be limited

to physically handicapped persons and does not provided protection for all disabilities including mental illness.

Actions to Address Impediment:

- Update Fair Housing Ordinance to reference all protected classes.

City of Fort Myers

Local Impediment #1: The City does not have a Fair Housing Ordinance

Actions to Address Impediment: The City of Fort Myers worked with their Local Affordable Housing Advisory Committee (LAHAC) to draft a Fair Housing Ordinance. Staff will take the ordinance before City Council for approval in August 2019.

a. New Impediments Identified:

The following are new impediments identified during the development of this 2019 Regional AI.

Regional Impediments:

This new impediment is considered “regional” because it affects or is present in all participating jurisdictions within the County and requires the collaboration of all jurisdictions to address.

Regional Impediment #6: Neighborhood Opposition to Diversity in Housing Type

Commonly referred to as NIMBY an acronym for "Not In My Backyard," describes the phenomenon in which residents of a neighborhood designate a new zoning, development or change in occupancy of an existing development as inappropriate or unwanted for their local area.

The opposition to affordable, supportive or transitional housing is usually based on the assumed characteristics of the population that will be living in the development. Common arguments are that there will be increases in crime, litter, thefts, violence and that property taxes will decrease. The benefits for the residents of the development are often ignored.

Neighborhood opposition to multi-family is commonplace throughout the region. This disproportionately affects minority and low income residents.

Actions to Address Impediment:

- Provide information to local government appointed and elected officials regarding the need for a variety of housing types and tenure for all persons regardless of income levels.
- Public information campaign regarding the need for a variety of housing types and tenure regardless of income levels.
- Provide training specifically to elected officials and appointees regarding fair housing laws and local land use decisions.
- Regular review of land use decisions by local governments and results.

Jurisdiction-Specific Impediments

These impediments are “jurisdiction-specific” and therefore specific recommendations are identified for each participating jurisdiction.

City of Fort Myers

Local Impediment #2: Racially and Ethnically Areas of Concentration Poverty (R/ECAP)

Within Lee County, the City of Fort Myers, according to the American Community Survey, has the only area with significant concentrations of extreme poverty and minority populations. This area is census tract 7. HUD defines this Racially and Ethnically Concentrated Area of Poverty (RCAP/ECAP) as a census tract with 40 percent or more of individual are living at or below the poverty line and a non-white population of 50 percent or more. Census tract 7 consists of 52 percent Black and 11 percent Hispanic persons, with national origins from Haiti accounting for 18 percent of the residents.

Actions to Address Impediment:

1. Continually encourage minority and low-income households to seek housing counseling from HUD-certified housing counseling agencies. Provide information to housing counseling agencies to assist them in educating minority and low-income households regarding the range of housing options in the City, including those outside of minority and low-income concentration areas. Encourage attendance at budget management and credit counseling classes offered by housing counseling agencies.
2. Promote and conduct outreach to the R/ECAP, highlighting job training and business development opportunities offered by the Southwest Florida Enterprise Center and other agencies in the area.
3. Continue to follow the City’s Language Access Plan, which includes provisions to ensure key documents and resources are available to Spanish-speaking residents, and develop additional outreach activities for the Haitian population.
4. Annually sponsor fair housing training for City of Fort Myers residents, network with nonprofit, neighborhood-based and faith organizations, and educate institutions to reach out to minority populations and areas of minority concentration.
5. Continue to promote and provide mortgage assistance to low-moderate income residents.

VIII. Fair Housing Action Plans for Entitlement Jurisdictions

Fair Housing Action Plans have been developed to address the impediments. The Fair Housing Action Plans list specific actions entitlement jurisdictions in the region are planning to undertake in order to address the impediments identified in the previous section. Periodically, during the Consolidated Plan Annual Action Plan and Consolidated Annual Performance Evaluation Report processes, individual jurisdictions may need to adjust their actions depending on funding availability and progress and effectiveness in implementing the actions. This section also includes monitoring, evaluation, reporting and record keeping requirements of the Fair Housing Action Plans.

A. Monitoring and Evaluation

This AI was completed through collaboration among the entitlement jurisdictions in Lee County – the City of Cape Coral Planning Division, the City of Fort Myers Housing and Real Estate Division, and Lee County Human and Veteran Services.

All three respective entitlement jurisdictions will oversee the implementation of the respective jurisdiction’s Fair Housing Action Plan. Each jurisdiction will be responsible for putting fair housing information on the Cities’/County’s website and implementing the Fair Housing Action Plan.

To ensure that the Fair Housing Action Plan is carried out, the entitlement jurisdictions will conduct an evaluation of each activity during each program year, identify additional areas that require study or analysis, and determine how to address those additional areas. As part of its monitoring efforts, the entitlement jurisdictions will also obtain progress reports from the local housing agencies that receive funding from the Cities/County.

B. Reporting and Maintenance of Records

The entitlement jurisdictions will maintain the following data and information as documentation of the jurisdiction’s Fair Housing Plan:

- A copy of the AI and any updates.
- A list of actions taken each year as part of the Fair Housing Plan to eliminate the impediments identified in the AI.

At the end of each program year, each entitlement jurisdiction will submit information to HUD about the actions taken to fulfill the Fair Housing Plan and an analysis of their impact as a part of the entitlement jurisdiction’s Consolidated Annual Performance Evaluation Report (CAPER).

C. Fair Housing Action Plans

The following is the Fair Housing Action Plan for the Lee County region. The Fair Housing Action Plan lists “Lee County Regional impediments” and the “jurisdiction specific impediments” as well as goals and strategies to address these impediments in HUD program years 2019 through 2023. All regional impediments will be addressed collaboratively by Lee County and the Cities of Cape Coral and Fort Myers. Jurisdiction specific impediments will be address by the application jurisdiction with the support of the other entitlement jurisdictions.

LEE COUNTY – FAIR HOUSING ACTION PLAN

LEE COUNTY REGIONAL – IMPEDIMENTS							ACCOMPLISHMENTS	
IMPEDIMENT(S) TO BE ADDRESSED	GOALS	STRATEGIES TO MEET THE GOALS	RESPONSIBLE ENTITIES ASSIGNED TO MEET GOALS	BENCHMARK	PROPOSED INVESTMENT	YEAR TO BE COMPLETED	DATE COMPLETED	NOTE: IF THE IMPEDIMENT HAS NOT BEEN ADDRESSED PROVIDE DETAILED EXPLANATION AS TO WHY AND WHEN IT WILL BE ADDRESSED.
Regional Impediment # 1 Housing discrimination persists in the private market, according to complaints data received.	Reduce incidence of discrimination in the sale or rental of housing.	Ensure ease of access to Fair Housing information on entitlement jurisdictions’ websites.	Entitlement Jurisdictions	Jurisdictions’ website	No additional funding needed	On-going		
		Prominently display Fair Housing information on public counters and other public points of contact such as libraries and community centers.	Entitlement Jurisdictions	Number of locations	Entitlement Jurisdictions’ Staff time	On-going		
		Include Fair Housing logo on all housing related documents for public review, brochures, and legal advertisements. Ensure all non-profit agencies that receive housing funds must use the logos on their advertising materials.	Entitlement Jurisdictions and non-profit agencies	All housing related documents include fair housing logo	Entitlement Jurisdictions’ Staff and non-profit agencies’ time	On-going		

LEE COUNTY REGIONAL – IMPEDIMENTS							ACCOMPLISHMENTS	
IMPEDIMENT(S) TO BE ADDRESSED	GOALS	STRATEGIES TO MEET THE GOALS	RESPONSIBLE ENTITIES ASSIGNED TO MEET GOALS	BENCHMARK	PROPOSED INVESTMENT	YEAR TO BE COMPLETED	DATE COMPLETED	NOTE: IF THE IMPEDIMENT HAS NOT BEEN ADDRESSED PROVIDE DETAILED EXPLANATION AS TO WHY AND WHEN IT WILL BE ADDRESSED.
Regional Impediment # 1 Housing discrimination persists in the private market, according to complaints data received.	Reduce incidence of discrimination in the sale or rental of housing.	Target Fair Housing education and outreach materials to the small property owner population.	Entitlement Jurisdictions	Number of workshops held	Federal/ state/local resources	On-going		
		Coordinate and conduct comprehensive and countywide random testing on a regular basis to identify issues, trends, and problem properties by: a) conducting feasibility study; b) developing testing methods; and c) scheduling and testing.	Entitlement Jurisdictions	Feasibility study completed	Federal/ state/local resources	FY 2020-2021		
				Testing methods developed		FY 2021-2022		
				Testing results		FY 2023-2024		

LEE COUNTY REGIONAL – IMPEDIMENTS							ACCOMPLISHMENTS	
IMPEDIMENT(S) TO BE ADDRESSED	GOALS	STRATEGIES TO MEET THE GOALS	RESPONSIBLE ENTITIES ASSIGNED TO MEET GOALS	BENCHMARK	PROPOSED INVESTMENT	YEAR TO BE COMPLETED	DATE COMPLETED	<u>NOTE:</u> IF THE IMPEDIMENT HAS <u>NOT</u> BEEN ADDRESSED PROVIDE DETAILED EXPLANATION AS TO WHY AND WHEN IT WILL BE ADDRESSED.
Regional Impediment #2 Pattern of disparity continues to exist in private mortgage lending for racial and ethnic minorities.	Increase racial and ethnic minority's access to home financing.	Increase outreach efforts and homeownership opportunity awareness to minority and ethnic communities.	Entitlement Jurisdictions and non-profit agencies	Number of events held	Entitlement Jurisdictions' Staff and non-profit agencies' time	On-going		
		Maintain lender guidelines for housing assisted with state and federal funds and Fair Housing Laws.	Entitlement Jurisdictions	Lender Guidelines	Entitlement Jurisdictions' staff time	On-going		
		Fund credit and financial management courses with CDBG or other funds to improve credit issues of racial and ethnic minority applicants.	Entitlement Jurisdictions and non-profit agencies	Number of workshops and credit score improvement documentation	Federal/ state/local resources	On-going		
		Promote the availability of general budgeting classes conducted by the University of Florida Extension Services to the targeted communities.	Entitlement Jurisdictions and non-profit agencies	Number of classes held	Federal/ state/local resources	On-going		

LEE COUNTY REGIONAL - IMPEDIMENTS							ACCOMPLISHMENTS	
IMPEDIMENT(S) TO BE ADDRESSED	GOALS	STRATEGIES TO MEET THE GOALS	RESPONSIBLE ENTITIES ASSIGNED TO MEET GOALS	BENCHMARK	PROPOSED INVESTMENT	YEAR TO BE COMPLETED	DATE COMPLETED	<u>NOTE:</u> IF THE IMPEDIMENT HAS <u>NOT</u> BEEN ADDRESSED PROVIDE DETAILED EXPLANATION AS TO WHY AND WHEN IT WILL BE ADDRESSED.
Regional Impediment #3 Limited public transit options and rising cost of transportation in general limit location options for many lower-income households.	Improve regional transportation.	Support a regional transportation system that provides services to low and moderate income households throughout the County. Continue funding for bus-pass programs and/or alternate modes of transportation to low/mod and disabled households.	Entitlement Jurisdictions Entitlement Jurisdictions	Number of events attended/participated Number of bus passes/alternate modes of transportation provided	Entitlement Jurisdictions' staff time Federal/state/local resources	On-going On-going		

LEE COUNTY REGIONAL - IMPEDIMENTS							ACCOMPLISHMENTS	
IMPEDIMENT(S) TO BE ADDRESSED	GOALS	STRATEGIES TO MEET THE GOALS	RESPONSIBLE ENTITIES ASSIGNED TO MEET GOALS	BENCHMARK	PROPOSED INVESTMENT	YEAR TO BE COMPLETED	DATE COMPLETED	<u>NOTE:</u> IF THE IMPEDIMENT HAS <u>NOT</u> BEEN ADDRESSED PROVIDE DETAILED EXPLANATION AS TO WHY AND WHEN IT WILL BE ADDRESSED.
Regional Impediment #4 Fair Housing education, training and outreach programs are inadequate to meet the responsibility to affirmatively further fair housing throughout Lee County.	Affirmatively further fair housing programs in the County.	Coordinate Fair Housing programs between three entitlement jurisdictions to collaborate and consolidate fair housing efforts in Lee County.	Entitlement Jurisdictions	Number of coordinated events	Federal/state/local resources	On-going		
		Support non-profit capacity building programs that encourage local non-profits to apply for Fair Housing Initiatives Program (FHIP) and/or Fair Housing Assistance Program (FHAP) funds through HUD.	Entitlement Jurisdictions	Number of media campaigns	Federal/state/local resources	On-going		
		Offer Fair Housing workshops throughout the year.	Entitlement Jurisdictions and non-profit agencies	Number of workshops held	Federal/state/local resources	On-going		
		Develop and maintain a Fair Housing log to record activities undertaken throughout the year to affirmatively further fair housing.	Entitlement Jurisdictions	Fair Housing activity log	Entitlement Jurisdictions' staff time	On-going		

LEE COUNTY REGIONAL - IMPEDIMENTS							ACCOMPLISHMENTS	
IMPEDIMENT(S) TO BE ADDRESSED	GOALS	STRATEGIES TO MEET THE GOALS	RESPONSIBLE ENTITIES ASSIGNED TO MEET GOALS	BENCHMARK	PROPOSED INVESTMENT	YEAR TO BE COMPLETED	DATE COMPLETED	<u>NOTE:</u> IF THE IMPEDIMENT HAS <u>NOT</u> BEEN ADDRESSED PROVIDE DETAILED EXPLANATION AS TO WHY AND WHEN IT WILL BE ADDRESSED.
Regional Impediment #5 An insufficient number of accessible housing units are available to meet the needs of persons with disabilities in the County.	Improve housing accessibility for persons with disabilities.	Make sure Fair Housing workshop topics include “reasonable accommodation” requirements and Section 504, the Fair Housing Act, the Americans with Disabilities Act, the Architectural Barriers Act, and the State’s Accessibility Building Codes requirements.	Entitlement Jurisdictions and non-profit agencies	Fair Housing Workshop topics developed and number of workshops held	Federal/state/local resources	FY 2015-2016		
		Maintain the Universal Design requirements in new constructions funded by federal and state grants.	Entitlement Jurisdictions	Entitlement Jurisdictions’ Policy	Entitlement Jurisdictions’ staff time	On-going		
		Continue to give priority and set aside funding to rehabilitate special need housing units.	Entitlement Jurisdictions	Entitlement Jurisdictions’ Policy	Entitlement Jurisdictions’ staff time	Ongoing		

LEE COUNTY REGIONAL - IMPEDIMENTS							ACCOMPLISHMENTS	
IMPEDIMENT(S) TO BE ADDRESSED	GOALS	STRATEGIES TO MEET THE GOALS	RESPONSIBLE ENTITIES ASSIGNED TO MEET GOALS	BENCHMARK	PROPOSED INVESTMENT	YEAR TO BE COMPLETED	DATE COMPLETED	<u>NOTE:</u> IF THE IMPEDIMENT HAS <u>NOT</u> BEEN ADDRESSED PROVIDE DETAILED EXPLANATION AS TO WHY AND WHEN IT WILL BE ADDRESSED.
Regional Impediment #6 Neighborhood Opposition to Diversity in Housing Type	Increase community acceptance of affordable, supportive, or transitional housing.	Provide information to local government appointed and elected officials regarding the need for a variety of housing types and tenure for all persons regardless of income levels.	Entitlement Jurisdictions	Number of workshops/presentations made	Entitlement Jurisdictions' staff time	On-going		
		Public information campaign regarding the need for a variety of housing types and tenure regardless of income levels.	Entitlement Jurisdictions	Number of media campaigns	Entitlement Jurisdictions' staff time	On-going		
		Provide training specifically to elected officials and appointees regarding fair housing laws and local land use decisions.	Entitlement Jurisdictions	Number of workshops/presentations made	Entitlement Jurisdictions' staff time	On-going		
		Regular review of land use decisions by local governments and results.	Entitlement Jurisdictions	Report indicating land use decisions and results	Entitlement Jurisdictions' staff time	On-going		

JURISDICTION-SPECIFIC - IMPEDIMENTS							ACCOMPLISHMENTS	
IMPEDIMENT(S) TO BE ADDRESSED	GOALS	STRATEGIES TO MEET THE GOALS	RESPONSIBLE ENTITIES ASSIGNED TO MEET GOALS	BENCHMARK	PROPOSED INVESTMENT	YEAR TO BE COMPLETED	DATE COMPLETED	NOTE: IF THE IMPEDIMENT HAS <u>NOT</u> BEEN ADDRESSED PROVIDE DETAILED EXPLANATION AS TO WHY AND WHEN IT WILL BE ADDRESSED.

<p>City of Cape Coral</p> <p>Local Impediment #1</p> <p>City's Fair Housing Ordinance does not include protected class based on Familial status and does not define handicapped persons.</p>	<p>Affirmatively further fair housing in the City of Cape Coral</p>	<p>Amend and adopt the City's Fair Housing ordinance to reflect the federal Fair Housing Act.</p>	<p>City of Cape Coral</p>	<p>Adoption of amended Fair Housing Ordinance</p>	<p>City of Cape Coral staff time</p>	<p>FY 2020</p>		
<p>City of Fort Myers</p> <p>Local Impediment #1</p> <p>City's Fair Housing Ordinance</p>	<p>Affirmatively further fair housing in the City of Fort Myers</p>	<p>Adopt the City's Fair Housing ordinance to reflect the federal Fair Housing Act</p>	<p>City of Fort Myers</p>	<p>Adoption of Fair Housing Ordinance</p>	<p>City of Fort Myers staff time</p>	<p>FY 2019</p>		
<p>Local Impediment #2</p> <p>City's racially and ethnically concentrated area of poverty.</p>	<p>Improve housing accessibility for minority and low-income persons.</p>	<p>Increase collaboration with housing finance counseling</p> <p>Conduct outreach to the R/ECAP, highlighting job training and business development opportunities.</p> <p>Develop outreach activities for the Haitian population.</p> <p>Annually sponsor fair housing activities within the City of Fort Myers residents.</p> <p>Provide mortgage assistance to low-moderate income residents.</p>	<p>City of Fort Myers</p>	<p>Removal of RECAP designation of census tract 7.</p>	<p>City of Fort Myers staff time</p>	<p>Ongoing</p>		

IX. Signature Pages

**2019-2023 Analysis of Impediments to Fair Housing Choice
City of Cape Coral, Florida**

This certifies that the City of Cape Coral has completed its Analysis of Impediments to Fair Housing Choice as certified in its Consolidated Plan. The AI was adopted by the City Council on _____.

This fulfills the U.S. Department of Housing and Urban Development (HUD) requirement as set forth in 24 CFR Part 91, et. Al. Consolidated Submission for Community Planning and Development Programs: Final Rule.

CITY OF CAPE CORAL

By: _____
Signature of Authorized Officer

Printed Name

Title

Date

APPROVED AS TO FORM:

By: _____
City Attorney's Office

Printed Name

Title

Date

ATTEST: CITY CLERK

By: _____

Printed Name

Title

Date

PLEASE RETURN 5 COPIES, EACH WITH ORIGINAL SIGNATURES

**2019-2023 Analysis of Impediments to Fair Housing Choice
City of Fort Myers, Florida**

This certifies that the City of Fort Myers has completed its Analysis of Impediments to Fair Housing Choice as certified in its Consolidated Plan. The AI was adopted by the City Council on _____.

This fulfills the U.S. Department of Housing and Urban Development (HUD) requirement as set forth in 24 CFR Part 91, et. Al. Consolidated Submission for Community Planning and Development Programs: Final Rule.

CITY OF FORT MYERS

By: _____
Signature of Authorized Officer

Printed Name

Title

Date

APPROVED AS TO FORM:

By: _____
City Attorney's Office

Printed Name

Title

Date

ATTEST: CITY CLERK

By: _____

Printed Name

Title

Date

PLEASE RETURN 5 COPIES, EACH WITH ORIGINAL SIGNATURES

**2019-2023 Analysis of Impediments to Fair Housing Choice
Lee County, Florida**

This certifies that Lee County has completed its Analysis of Impediments to Fair Housing Choice as certified in its Consolidated Plan. The AI was adopted by the Board of County Commissioners on _____.

This fulfills the U.S. Department of Housing and Urban Development (HUD) requirement as set forth in 24 CFR Part 91, et. Al. Consolidated Submission for Community Planning and Development Programs: Final Rule.

LEE COUNTY:

By: _____
Signature of Authorized Officer

Printed Name

Title

Date

APPROVED AS TO FORM:

By: _____
County Attorney's Office

Printed Name

Title

Date

ATTEST: CLERK

By: _____

Printed Name

Title

Date

PLEASE RETURN 5 COPIES, EACH WITH ORIGINAL SIGNATURES

APPENDIX A: COMMUNITY SURVEY RESULTS

- **Community Survey Results**
- **Fair Housing Specific Results**

APPENDIX B: CITIZEN PARTICIPATION

- **Public Notices**
- **Affidavit of Publications**
- **Public Comments on the Draft AI**

RESOLUTION 244-19

City Council

July 29, 2019

August 5, 2019

RESOLUTION

- Adopts the 2019-2020 One Year CDBG Action Plan and Regional Analysis of Impediments to Fair Housing Choice
- Under statute the Action Plan requires two public hearings – July 29 and August 5
- Authorizes and directs the City Manager to submit the Action Plan to the US Department of HUD and sign the grant agreement when received from HUD
- The Action Plan delineates how CDBG funds will be expended and includes the recommendations from the Citizen's Advisory Board for CDBG.

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

- Jurisdictions receiving Community Development Block Grant (CDBG) funds are required to certify it will “*affirmatively further fair housing through fair housing planning*”.
- Accomplished by:
 - Completion of an Analysis of Impediments to Fair Housing Choice (AI);
 - Implementation of action plans to eliminate any identified impediments; and
 - Maintenance of fair housing records corresponding with implementation of the Five Year Consolidated Plan.

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

- The City of Cape Coral, the City of Fort Myers and Lee County coordinated a 5 Year Regional Impediments to Fair Housing Choice
- Format and content is set by US Department of Housing and Urban Development
- Document will be approved by the Board of County Commissioners and the City of Fort Myers City Council August 6th, 2019

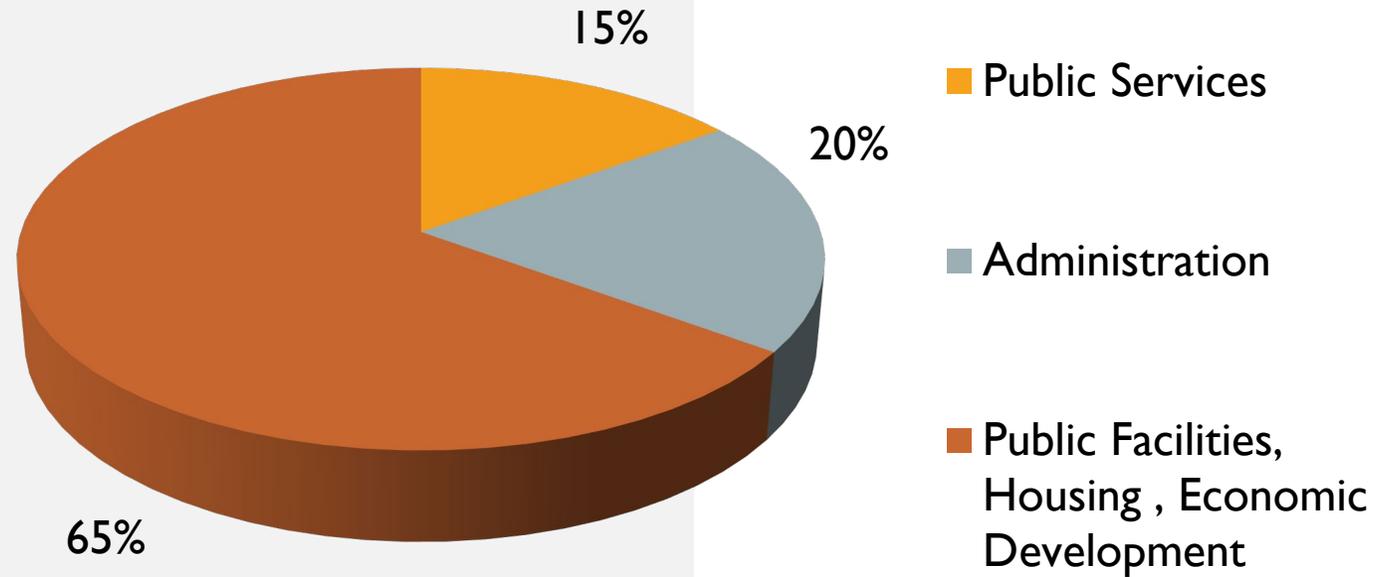
ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

- Regional
 - Housing discrimination persists in the private market
 - Pattern of disparity continues to exist in private mortgage lending
 - Limited public transit options and rising cost of transportation limit location options for low income families
 - Fair housing education, training and outreach is inadequate
 - Insufficient number of accessible dwelling units to meet needs of persons with disabilities
 - Neighborhood opposition to diversity in housing type
- Jurisdictional
 - City of Cape Coral's Fair Housing Ordinance is out of date and does not include the federally protected class of Familial Status and fails to define "handicapped persons"

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT PROGRAM

- Allocation of \$1,009,064
- Also \$200,000 in reallocated program funds
 - Reallocation of Prior Years Funds for Housing
 - Total estimated allocation of \$1,209,644
- Anticipating 100% of the total allocation will be used to benefit low and moderate income persons as defined by CDBG regulations
- The following slides show proposed projects and funding levels recommended by the Citizens Advisory Board

ALLOCATION FUNDING REQUIREMENTS



CDBG Allocation	\$1,009,644
Public Services	\$151,447
Housing/Economic Development	\$656,269
Reallocation of Previous Years to Housing	\$200,000
Administration	\$201,929
TOTAL	\$1,209,645

PUBLIC FACILITIES/HOUSING CATEGORIES CAB RECOMMENDATIONS POST ALLOCATION

Agency	Project	CAB Recommendation
Cape Coral Housing Development Corporation	Housing Assistance	\$150,000
Cape Coral Housing Development Corporation	Owner Occupied Rehabilitation	\$200,000
Habitat for Humanity of Lee and Hendry County	Housing Assistance	\$271,947
Cape Coral Public Works	Sidewalk NE 6 th St (Phase I)	\$195,000

PUBLIC SERVICES REQUEST AND CAB RECOMMENDATIONS POST ALLOCATION

Agency	Project	CAB Recommendation
Abuse Counseling and Treatment	Shelter and Services for Domestic Violence Victims	\$32,451
Cape Coral Caring Center	Public Services	\$20,845
Cape Coral Parks and Recreation	Paratransit (Minibus)	\$18,210
Cape Coral Parks and Recreation	Child Care Services	\$11,467
Community Cooperative	Utility Assistance	\$17,156
Deaf and Hard of Hearing Center	Handicapped Services (Deaf)	\$18,738
Dr. Piper Center for Social Services	Senior Services	\$16,102
Invest in America's Veterans Foundation	Subsidence Payments	\$5,000
United Cerebral Palsy/Sunrise	Handicapped Services	\$11,477

ECONOMIC DEVELOPMENT CATEGORY REQUEST AND CAB RECOMMENDATIONS POST ALLOCATION

Agency	Project	CAB Recommendation
Goodwill Industries of SWFL	Microenterprise	\$39,321

ADMINISTRATIVE AND PLANNING ALLOCATIONS

Agency	Project	
City of Cape Coral	Administration	\$201,929

CITIZEN'S ADVISORY BOARD FOR CDBG

- At the May 15, 2019 meeting of the CAB-CDBG, the Board recommended approval of the proposed funding levels

TIMELINE

- June 4- July 23 - Mandatory Public Comment Period
- July 29 - First public hearing
- August 5 - Second public hearing
- August 8 – Submit Final Action Plan to HUD
- October 1 - Beginning of program year

Item Number:	B.(4)
Meeting Date:	7/22/2019
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Resolution 251-19 (VP 19-0009*) Set Public Hearing Date for July 29, 2019

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the applications for the requested vacations, subject to the conditions set forth in Hearing Recommendation Order 10-2019.

Staff Recommendation: Staff recommends approval with conditions.

SUMMARY EXPLANATION AND BACKGROUND:

A resolution providing for the vacation of plat for the platted interior lot line and public utility and drainage easements located between Lots 73 and 74, Block 5483, Cape Coral Unit 90; property is located at 4740 NW 36th Street.

LEGAL REVIEW:

John E. Naclerio III, Assistant City Attorney

EXHIBITS:

- Resolution 251-19 (VP 19-0009)
- Hearing Examiner Recommendation Order
- Back up from Hearing Examiner Hearing
- Staff Presentation
- Deed - Walden

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Katherine Woellner, Planner

ATTACHMENTS:

Description	Type
▢ Resolution 251-19 (VP 19-0009)	Resolution
▢ Hearing Examiner Recommendation Order	Backup Material
▢ Back up material from HEX Hearing	Backup Material
▢ Staff Presentation	Backup Material
▢ Deed - Walden	Backup Material

RESOLUTION 251 - 19

A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR THE PLATTED INTERIOR LOT LINE AND PUBLIC UTILITY AND DRAINAGE EASEMENTS LOCATED BETWEEN LOTS 73 AND 74, BLOCK 5483, CAPE CORAL UNIT 90; PROPERTY LOCATED AT 4740 NW 36TH STREET; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Petition was filed by JOSEPH AND AMY WALDEN for the vacation of plat on property described herein; and

WHEREAS, the Petition meets the requirements of Land Use Development Regulations, Article VIII, Section 8.11, Vacation of Plats, Streets and Other Property of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted.

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

Section 1. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The platted interior lot line between Lots 73 and 74, Block 5483, Cape Coral Unit 90, and the following described public utility and drainage easements are hereby vacated, to wit:

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.

Section 2. The Applicant shall meet the following terms and conditions:

1. The vacation of the two six-foot wide platted public utility and drainage easements along the common lot line where Lots 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 Street, 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.

Section 3. This Resolution shall take effect upon its recording within the Office of the Lee County Clerk of Court by the City of Cape Coral.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

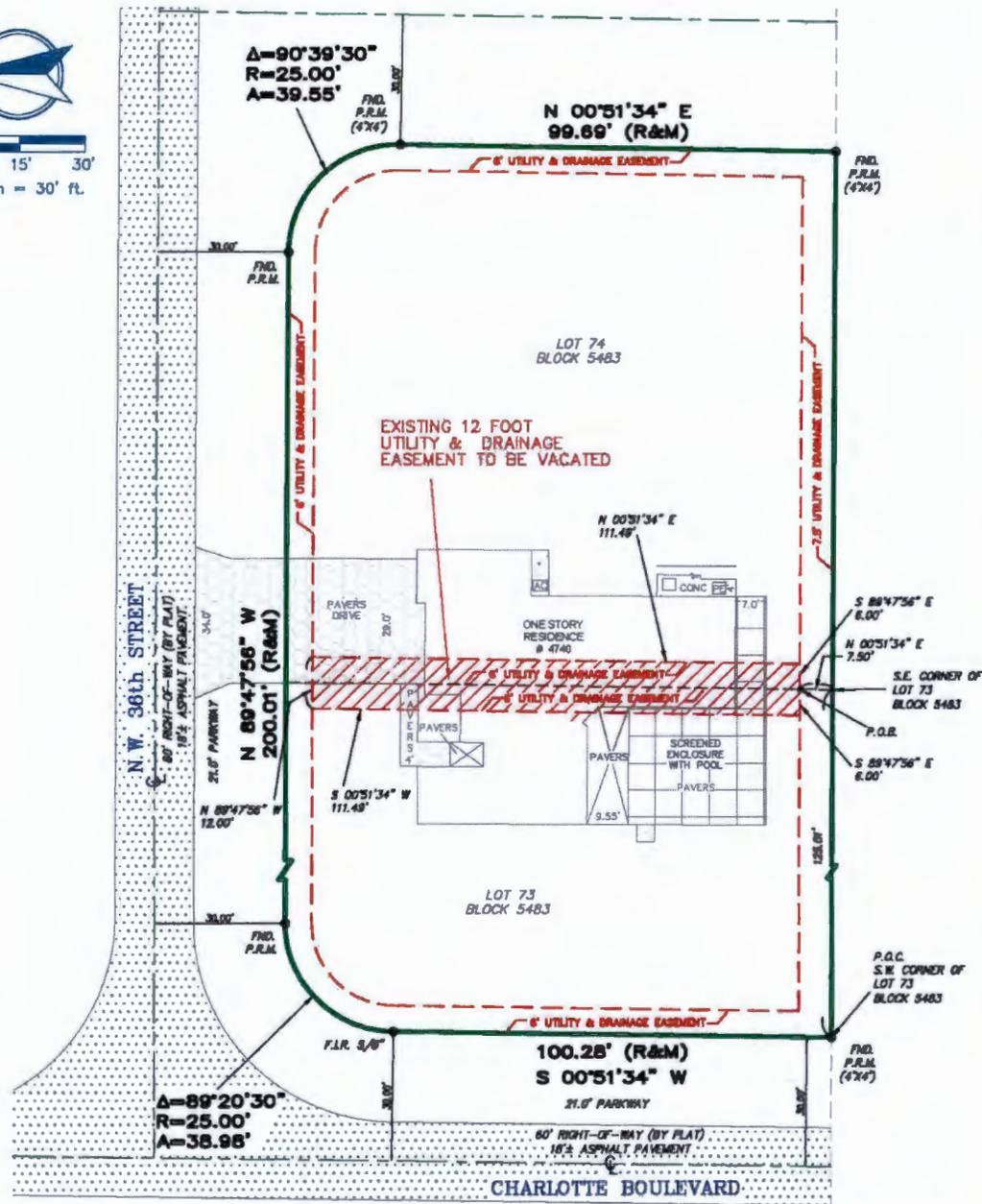
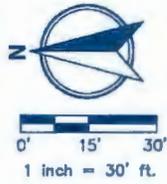
ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
res/vp19-0009



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

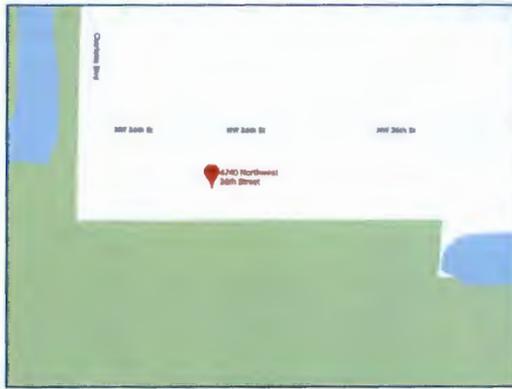
OnlineLand
SURVEYORS, INC.
15271 NW 60 AVE, Suite 206
Miami Lakes, FL 33014
www.OnlineLandSurveyors.Com

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



SIGNED Miguel Espinosa 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

<p>— PROPERTY LINE</p> <p>□ STRUCTURE</p> <p>▨ CONC. BLOCK WALL</p> <p>— CHAIN—LINK or WIRE FENCE</p> <p>— WOOD FENCE</p> <p>— IRON FENCE</p> <p>— EASEMENT</p> <p>— CENTER LINE</p> <p>▨ WOOD DECK</p> <p>▨ CONCRETE</p> <p>▨ ASPHALT</p> <p>▨ BRICK/TILE</p> <p>▨ WATER</p> <p>— APPROXIMATE EDGE OF WATER</p> <p>▨ COVERED AREA</p>	<p>⊙ P.P.</p> <p>⊙ C.U.E.</p> <p>⊙ I.E./E.E.</p> <p>⊙ U.E.</p> <p>⊙ F.H. OR F</p> <p>⊙ L.B.#</p> <p>⊙ C.A.L.C</p> <p>⊙ SET</p> <p>⊙ A</p> <p>⊙ B</p> <p>⊙ ELEV</p> <p>⊙ P.T.</p> <p>⊙ P.C.</p> <p>⊙ P.R.M.</p> <p>⊙ P.C.C.</p> <p>⊙ P.R.C.</p> <p>⊙ P.O.B.</p> <p>⊙ P.O.C.</p> <p>⊙ P.C.P.</p> <p>⊙ M</p> <p>⊙ F</p> <p>⊙ D</p> <p>⊙ C</p>	<p>⊙ TREE</p> <p>⊙ POWER POLE</p> <p>⊙ CATCH BASIN</p> <p>⊙ COUNTY UTILITY ESMT.</p> <p>⊙ INGRESS/ EGRESS ESMT.</p> <p>⊙ UTILITY EASEMENT</p> <p>⊙ FOUND IRON PIPE/</p> <p>⊙ P.H AS NOTED ON PLAT</p> <p>⊙ LICENSE # — BUSINESS</p> <p>⊙ LICENSE # — SURVEYOR</p> <p>⊙ CALCULATED POINT</p> <p>⊙ SET MONUMENT</p> <p>⊙ CONTROL POINT</p> <p>⊙ CONCRETE MONUMENT</p> <p>⊙ ELEVATION</p> <p>⊙ POINT OF TANGENCY</p> <p>⊙ POINT OF CURVATURE</p> <p>⊙ PERMANENT REFERENCE MONUMENT</p> <p>⊙ POINT OF COMPOUND CURVATURE</p> <p>⊙ POINT OF REVERSE CURVATURE</p> <p>⊙ POINT OF BEGINNING</p> <p>⊙ POINT OF COMMENCEMENT</p> <p>⊙ PERMANENT CONTROL POINT</p> <p>⊙ FIELD MEASURED</p> <p>⊙ PLATTED MEASUREMENT</p> <p>⊙ DEED</p> <p>⊙ CALCULATED</p>	<p>L.M.E. LAKE or LANDSCAPE MAINT. ESMT.</p> <p>R.O.E. ROOF OVERHANG EASEMENT</p> <p>P.P. POOL PUMP</p> <p>PL PLANTER OR PROPERTY LINE</p> <p>I.D. IDENTIFICATION</p> <p>B.C. BLOCK CORNER</p> <p>B.R. BEARING REFERENCE</p> <p>Δ CENTRAL ANGLE or DELTA</p> <p>R RECORD OR RADIUS</p> <p>RAD. RADIAL</p> <p>N.R. NON RADIAL</p> <p>TYP. TYPICAL</p> <p>I.R. IRON ROD</p> <p>I.P. IRON PIPE</p> <p>N&D NAIL & DISK</p> <p>PK NAIL PARKER—SCALON NAIL</p> <p>S.H. DRILL HOLE</p> <p>⊙ WELL</p> <p>⊙ FIRE HYDRANT</p> <p>⊙ M.H. MAN HOLE</p> <p>⊙ O.H.L. OVERHEAD LINES</p> <p>TR TRANSFORMER</p> <p>CATV CABLE TV. RISER</p> <p>W.M. WATER METER</p> <p>P/E POOL EQUIPMENT</p> <p>CONC CONCRETE SLAB</p>	<p>ESMT. EASEMENT</p> <p>D.E. DRAINAGE EASEMENT</p> <p>L.B.E. LANDSCAPE BUFFER ESMT.</p> <p>L.A.E. LIMITED ACCESS EASEMENT</p> <p>TEL. TELEPHONE FACILITIES</p> <p>U.P. UTILITY POLE</p> <p>E.U.S. ELECTRIC UTILITY BOX</p> <p>S.P. SEPTIC TANK</p> <p>D.F. DRAIN FIELD</p> <p>AC AIR CONDITIONER</p> <p>C.S.W. CONC SIDEWALK</p> <p>D.W. DRIVEWAY</p> <p>S.C.R. SCREEN</p> <p>G.A.R. GARAGE</p> <p>E.N.C.L. ENCLOSURE</p> <p>N.T.S. NOT TO SCALE</p> <p>F.F. FINISHED FLOOR</p> <p>T.O.B. TOP OF BANK</p> <p>E.O.W. EDGE OF WATER</p> <p>E/P OR E.Q.P. EDGE OF PAVEMENT</p> <p>C.V.G. CONCRETE VALLEY GUTTER</p> <p>B.L.L. BUILDING SETBACK LINE</p> <p>S.T.L. SURVEY TIE LINE</p> <p>⊙ CENTER LINE</p> <p>R/W RIGHT OF WAY</p> <p>R.O.E. PUBLIC UTILITY EASEMENT</p> <p>C.M.E. CANAL MAINTENANCE EASEMENT</p> <p>A.E. ANCHOR EASEMENT</p>
--	--	---	---	---

GENERAL NOTES:

- LEGAL DESCRIPTION PROVIDED BY OTHERS.
- EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING PROPERTY.
- THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENT OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PLAT.
- THE PURPOSE OF THIS SKETCH IS TO SHOW THE EXISTING 12 FOOT UTILITY & DRAINAGE EASEMENT TO BE VACATED. THIS IS NOT A BOUNDARY SURVEY.
- UNDERGROUND PORTIONS OF FOOTINGS, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.
- ONLY VISIBLE AND ABOVE GROUND ENCROACHMENTS LOCATED.
- FENCE OWNERSHIP NOT DETERMINED.
- WALL TIES ARE TO THE FACE OF THE WALL.
- BEARINGS ARE BASE ON AN ASSUMED MERIDIAN.
- 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.
- NO IDENTIFICATION FOUND ON PROPERTY CORNERS UNLESS NOTED.
- NOT VALID UNLESS SEALED WITH THE SIGNING SURVEYORS EMBOSSED OR ELECTRONIC SEAL.
- DIMENSIONS SHOWN ARE PLAT AND MEASURED UNLESS OTHERWISE SHOWN.
- ELEVATIONS IF SHOWN ARE BASED UPON N.G.V.D. 1929 UNLESS OTHERWISE NOTED.
- THIS IS NOT A BOUNDARY SURVEY UNLESS OTHERWISE NOTED.
- 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.



Affiliate Member

Printing to Scale:

- Select "None" from Page Scaling
- Deslect "Auto-Rotate and Center"
- Select "Choose paper source by PDF page size"

Page Handling

Copies: 1 Collate

Page (links) 1 Auto-Rotate and Center

Choose paper source by PDF page size

Use custom paper size when needed

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



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 "SKETCH" IS A TRUE AND CORRECT REPRESENTATION OF A SKETCH PREPARED UNDER MY DIRECTION.



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: _____

OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL
HEARING EXAMINER RECOMMENDATION

VP HEX Recommendation 10-2019
Rendered July 2, 2019

DCD CASE # VP 19-0009

APPLICATION FOR: Vacation of two (2) six foot wide public utility and drainage easements and the shared lot-line interior to the property.

NAME OF OWNERS/APPLICANTS: Joseph M. and Amy L. Walden

LOCATION OF PROPERTY:

Unit 90, Block 5483, Lots 73 & 74, Cape Coral Subdivision
4740 SW 36th Street, Cape Coral, FL 33993
STRAP # 24-43-22-C1-05483.0730

ZONING DISTRICT: Single Family Residential (R-1B)

FUTURE LAND USE CLASSIFICATION: Single Family and Multi-Family (SM)

HEARING DATE: July 2, 2019

SUMMARY OF REQUEST: Applicants request to vacate:

1. Two six-foot wide public utility and drainage easements along the common lot-line between Lots 73 and 74; and
2. The shared lot line between Lots 73 and 74, interior to the subject property.

SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends that City Council **approve** the application for the requested vacations, subject to the conditions set forth below.

I. **NOTICE OF HEARING**

Based on the testimony of City Staff Katherine Woellner at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, §8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

II. **PARTICIPANTS IN HEARING**

CITY STAFF: Katherine Woellner

CITY CLERK'S OFFICE: Patricia Sorrels

APPLICANT: Amy L Walden

MEMBERS OF PUBLIC: None

CORRESPONDENCE/TELEPHONE CALLS FROM PUBLIC: Staff testified that she received a telephone call of inquiry but that the caller did not offer an opinion on the vacation request.

III. **EXHIBITS**

APPLICANTS' AND CITY STAFF'S EXHIBITS: previously submitted.

IV. **REVIEW OF LUDR REQUIREMENTS**

Authority. The Hearing Examiner has the authority to recommend approval or denial of an application for a vacation of a plat and associated easements pursuant to LUDR §9.2.3 b.8.

Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. In rendering this recommendation, the Hearing Examiner must consider all competent substantial evidence in the record as defined by LUDR § 8.3.1.C.3.b.

LUDR Standards. The Hearing Examiner reviewed the application in accordance with the standards set forth in LUDR § 8.11, *Vacation of plats, rights-of-way and other property*, in addition to the general standards set forth in the LUDRs and the City Comprehensive Plan.

TESTIMONY AT HEARING

Applicants' Incorporation of Staff Report and Staff Testimony

The Applicants' Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into her presentation by reference. She requested the Hearing Examiner to recommend that City Council find the Staff Input as findings of fact, in addition to those separately presented by her.

Staff Incorporation of Staff Report and Related Documents

Staff incorporated her Staff Report into her presentation by reference.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony referenced below is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise.

The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision regarding this Application.

V. **DISCUSSION**

Site, Zoning Information and Surrounding Area

Staff testified that the 30,975 square foot site contains a single-family residence on two platted lots of record, Lots 73 and 74 along NW 36th Street in Cape Coral. This site is surrounded on three sides by rights-of-way and to the south, by a Preservation District (PRFLU). Staff further testified that the site has a Single Family and Multi Family (SM) Future Land Use Classification (FLUC) and Single Family Residential (R-1B) Zoning, and all properties within 2,000 feet of the site share the same future land use and zoning classifications.

Reason for Application

In 2017 the current property owner/Applicants combined Lots 73 and 74 of Block 5483 to create the current configuration of the site. A single family residence was constructed in 2018 over parts of both lots, including over the platted easements and common property line.

The Applicant testified that neither the Lee County Property Appraiser nor any other government entity had advised them of the necessity of vacating the lot line and related easements. She said that the instant issue arose during the course of her refinancing the property, and that the lender had required her to clarify related title issues.

Staff testified that lot combinations, by themselves, do not vacate the common lot-line or underlying easements associated with both sides of the common lot-line, although the City has previously allowed homes to be constructed over these easements and property lines when the lots are in common ownership.

Analysis and Recommendation that City Council Find That Applicants Have Complied with All Requirements for the Requested Vacations, Per LUDR §8.11

1. Applicants **have** color of title (LUDR §8.11.3b.1)

The Applicants and Staff testified that Applicants own the subject lots and are, therefore, eligible to apply for the requested vacations.

2. A copy of the plat **has** been provided, showing the portions for which vacation is sought (LUDR §8.11.3b.2)
3. and 4. Letters of Approval from LCEC and Letters of No Objection from Century Link and Comcast (LUDR §8.11.3b.3 and LUDR §8.11.3b.4-6) **have been provided or are not necessary.**

July 2, 2019

5. *A copy of a recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor, **has been provided**, showing the area requested to be vacated; providing complete metes and bounds legal*

descriptions of said areas, and showing all pavement and all utility and drainage facilities in said area, including water, sewer and cable lines, utility poles, swales, ditches, manholes and catch basins. Separate drawings and metes and bounds legal descriptions will be required for each proposed vacation area when the right-of-way and easement configurations differ. (LUDR §8.11.3b.7.B)

All of the required documents have been provided.

6. *No Reasonably Foreseeable Public Use of the Vacated Area. LUDR, §8.11.3 d)*

As set forth above, Staff testified that the easements and lot line 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. Staff further testified that approval of this request will not be harmful to the community.

It is recommended that, for the above reasons, the City Council finds there **is no reasonably foreseeable public use** for the requested vacations.

7. *City's Retention of Easements for Utilities and/or Drainage in and Upon the Vacated Area. (LUDR, §8.11.3 d)*

The Applicants have not requested modification to the existing six foot utility and drainage easement around their property.

Consistency with the Comprehensive Plan (LUDR §8.11)

Staff testified that the City does not have specific Comprehensive Plan policies for vacations involving residentially zoned sites.

It is recommended that the City Council find that the vacation requests are consistent with Policy 1.15 of the Future Land Use Element of the City's Comprehensive Plan which states:

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

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

Based upon staff testimony, the Hearing Examiner recommends that City Council find that granting the requested vacations, as conditioned below, **would be consistent** with the City Comprehensive Plan, Land Use Development Regulations, and all other applicable law.

VI. **RECOMMENDED CONDITIONS OF APPROVAL**

City staff testified regarding recommendations for conditions of approval, set forth below. Applicant testified that Applicants have no objection to these conditions.

The Hearing Examiner **recommends** that these conditions of approval be adopted as part of the City Council's approval of Applicant's request:

1. Consistency with Sketch and Legal Description. The vacation of the lot line between Lot 73 and 74 as well as 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 OnlineLand Surveyors, Inc./Miguel Espinosa, dated May 3, 2019, and entitled "Specific Purpose Sketch: 4740 NW 36th St., Cape Coral, FL, 33993".
2. Recording of Resolution. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. The owners shall reimburse the City for all recording fees associated with this resolution and all easement deeds.
3. Compliance with Zoning District Standards and Requirements and Inclusion of LUDRs, City Ordinances and Other Applicable Law. Applicants shall comply with all standards and requirements for the zoning district in which the property is located and all other requirements set forth in the LUDRs, City ordinances and all other applicable laws and regulations, which are incorporated herein by reference.

VIII. **EXHIBIT**

The following Exhibit is attached to this Recommendation and are hereby incorporated by reference:

- EXHIBIT "A": Sketch and accompanying Legal Description entitled "Specific Purpose Sketch, 4740 NW 36th St., Cape Coral, FL, 33993", as prepared by OnlineLand Surveyors, Inc./Miguel Espinosa, dated May 3, 2019 (3 pages)

VP HEX RECOMMENDATION 9-2019
July 2, 2019

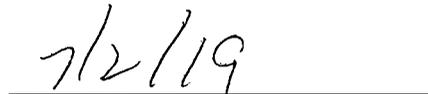
The Hearing Examiner herewith **RECOMMENDS APPROVAL** of the request for the above-referenced Vacations filed by Applicants, **WITH THE CONDITIONS** set forth above.

This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA



ANNE DALTON, ESQUIRE

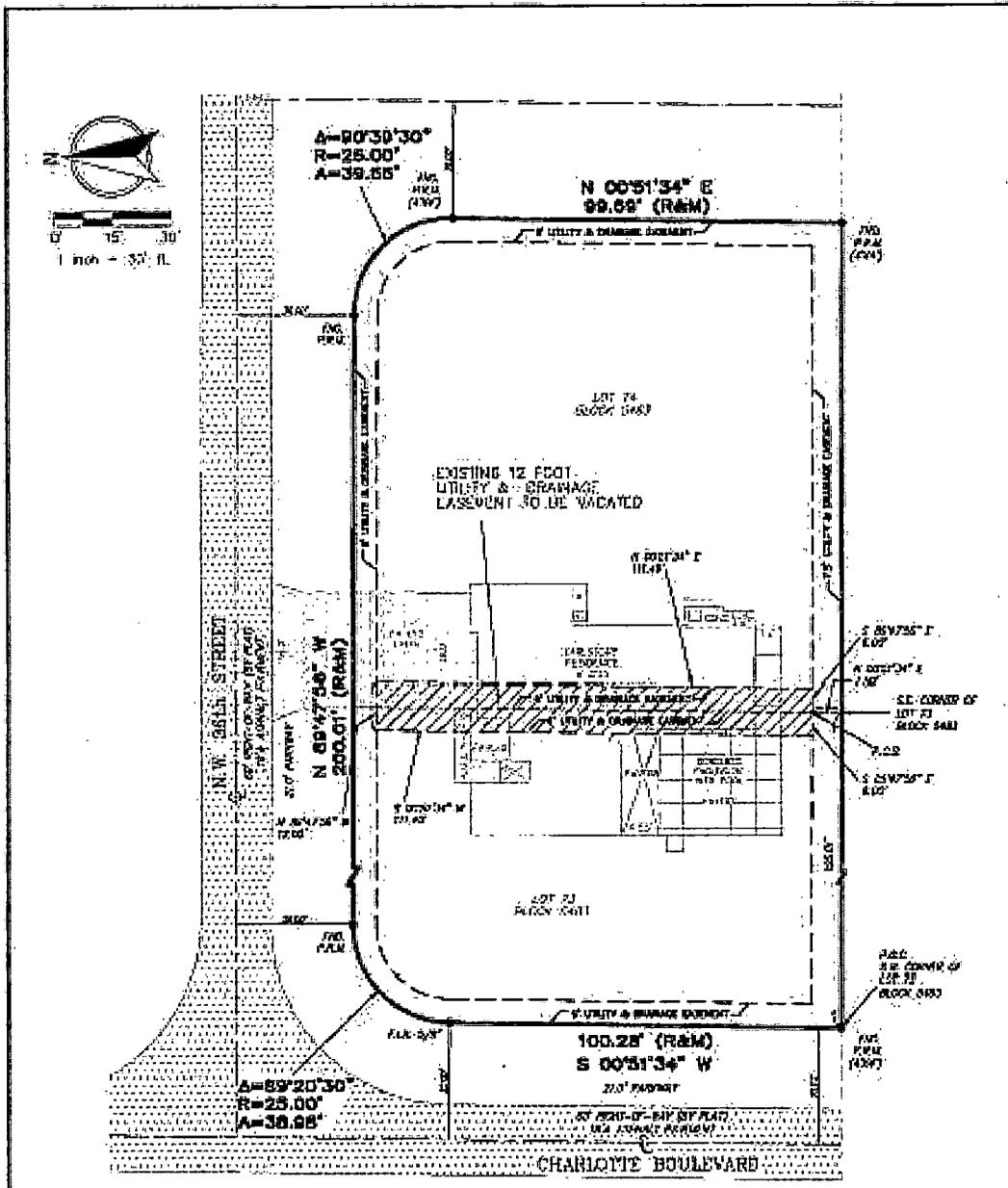


DATE

ATTEST:



CITY CLERK
acting

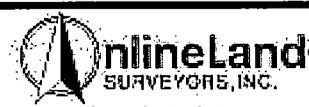


NOTE: THE PURPOSE OF THIS SKETCH IS TO SHOW THE EXISTING 12 FOOT UTILITY & DRAINAGE EASEMENT TO BE VACATED. THIS IS NOT A BOUNDARY SURVEY.

POINTS OF INTEREST:

SPECIFIC PURPOSE SKETCH

Property Address:
 4740 NW 36TH ST.
 CAPE CORAL, FL 33993



15271 NW 50 AVE, Suite 205
 Miami Lakes, FL 33054
 www.OnlineLandSurveyors.com

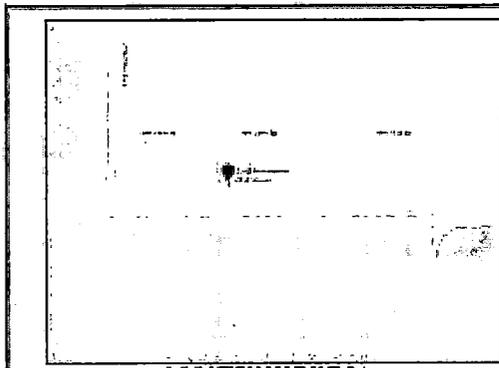
THE SURVEYOR'S CERTIFICATION IS HEREBY CERTIFY THAT THE SPECIFIC PURPOSE SKETCH IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PROPERTY UNDER MY SUPERVISION.



SIGNED: **MIGUEL ESPINOSA**
 STATE OF FLORIDA

FOR THE FIRM:
P.S.M. No. 6101

NOT VALID WITHOUT AN AUTHENTIC ELECTRONIC SIGNATURE AND AUTHORIZED DATE.
 ELECTRONIC SIGNATURE THIS MAP IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RASSED SEAL OF A LICENSED SURVEYOR AND NOTARY.



LOCATION MAP N.T.S.



PROPERTY FRONT VIEW

JOSEPH M. WALDEN & AMY L. WALDEN

FLOOD INFORMATION:

Community Number: CITY OF CAPE CORAL 125855.
Parcel Number: 1207100230F
Suffix: F
Date of Firm Index: 8/28/2008
Flood Zones: AE
Base Flood Elevation: 8.0
Date of Survey: 4/19/2019

LEGAL DESCRIPTION: (PLEASE SEE PAGE 3)

Surveyor's Legend

Table with columns for symbols and their corresponding descriptions, including terms like CONCRETE WALL, CONCRETE, and various survey points.

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 THIS SITE.
3. THE LINES SHOWN HEREON WERE NOT AS ABSTRACTED FOR RECORDATION OF OTHER RECORDED ENCLAVE ENCUMBRANCES NOT SHOWN ON THIS PLAN.
4. THE PURPOSE OF THIS SKETCH IS TO SHOW THE EXISTING 33 FOOT UTILITY & DRAINAGE EASEMENT TO BE LOCATED. THIS IS NOT A BOUNDARY SURVEY.
5. UNDETERMINED PORTIONS OF FOOTINGS, FOUNDATIONS OR OTHER APPROPRIATIONS WERE NOT LOCATED.
6. ONLY WETLAND AND ABOVE GROUND ENCROACHMENTS LOCATED.
7. FENCE OWNERSHIP NOT DETERMINED.
8. WALLS ARE TO THE FACE OF THE WALL.
9. DRAWINGS ARE BASED ON AN ASSUMED MICHIGAN SPECIFIC PURPOSE SKETCH MEANS A DRAWING AND/OR GRAPHIC REPRESENTATION OF THE SKETCH WORK PERFORMED BY THE FIELD. COULD BE DRAWN AT A DIFFERENT SCALE AND/OR NOT TO SCALE.
10. NO ENCUMBRANCES FOUND ON PROPERTY DOCUMENTS UNLESS NOTED.
11. NOT VALID UNLESS SEALED WITH THE SIGNING SURVEYORS' EMBLEM OR ELECTRONIC SEAL.
12. DIMENSIONS SHOWN ARE PART AND MEASURED UNLESS OTHERWISE SPECIFIED.
13. ELEVATIONS OF SHOW ARE BASED UPON A G. M.D. 1989 UNLESS OTHERWISE NOTED.
14. THIS IS NOT A BOUNDARY SURVEY UNLESS OTHERWISE NOTED.
15. THE SPECIFIC PURPOSE SKETCH HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE PARTIES NAMED HEREON. THE CERTIFICATIONS DO NOT EXTEND TO ANY UNNAMED PARTIES.

Florida Land Title Association logo and Affiliate Member text.

- Printing to Note:
1. Select "Home" from Page Setup
2. Check "Wide-Range and Center"
3. Show "Home" paper source by PDF page size

Table with fields: FIELD WORK: 4/18/2019, DRAWN BY: C.S., CHECKED BY: M.E., FINAL REVISION: 05/03/2019, COMPLETED: 4/10/2019, SCALE: 1"=30', SURVEY CODE: O-51291



15271 NW 60 AVE, Suite 205
Merrill Lakes, FL 33054
Phone: (305) 910-0123
Fax: (305) 675-0899
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.

EXAMINED UNDER THE PROVISIONS OF CHAPTER 461, PART 1, F.S. AND I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PERFORMED UNDER MY DIRECTORSHIP.



SIGNED _____ FOR THE FIRM

MIGUEL ESPINOSA P.S.M. No. 5107

NOT VALID UNLESS SIGNED AND SEALED BY THE SURVEYOR AND THE SEAL IS IN THE PUBLIC RECORDS. THIS MAP OR PLAN IS VOID WITHOUT THE SIGNATURE AND SEAL OF THE SURVEYOR.



OnlineLand
SURVEYORS, INC.

15271 NW 60 AVE, Suite 205
Miri Lakes, FL 33014
Phone: (305) 910-0123
Fax: (305) 675-0889
LB #: 7504
www.OnlineLandSurveyors.com

Accepted By: _____



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP19-0009

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

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

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

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

OWNER OF PROPERTY

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

EMAIL

MIKE.JWALDEN@GMAIL.COM

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

AUTHORIZED REPRESENTATIVE

KATIE SMITH SYLVIA

EMAIL KESMITH@SMITHTEAMSELLS.COM

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

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

Address of Property 4740 NW 36th STREET

Current Zoning O1-SINGLE FAMILY Plat Book 32, Page 55

Strap Number 24-43-22-01-05483.0730



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 24-43-22-01-05483.
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)

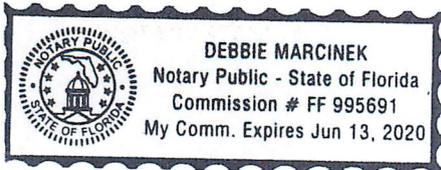
STATE OF FL, COUNTY OF Lee

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



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

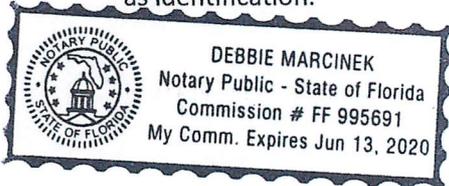
APPLICANT'S SIGNATURE

Amy L. Walden

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 11 day of MAY, 2019 by ^{DM}

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



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

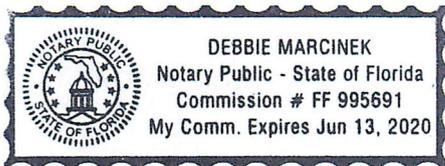
PROPERTY OWNER (PLEASE TYPE OR PRINT)

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.



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)

Joseph M. Walden

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

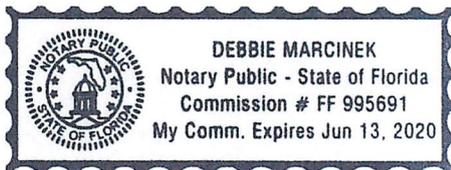
STATE OF FL COUNTY OF Lee

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

Exp. Date 6/13/2020
Commission # FF995691

Debbie Marcinek
Signature of Notary Public

Debbie Marcinek
Print Name of Notary Public





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)

Amy B. 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



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.

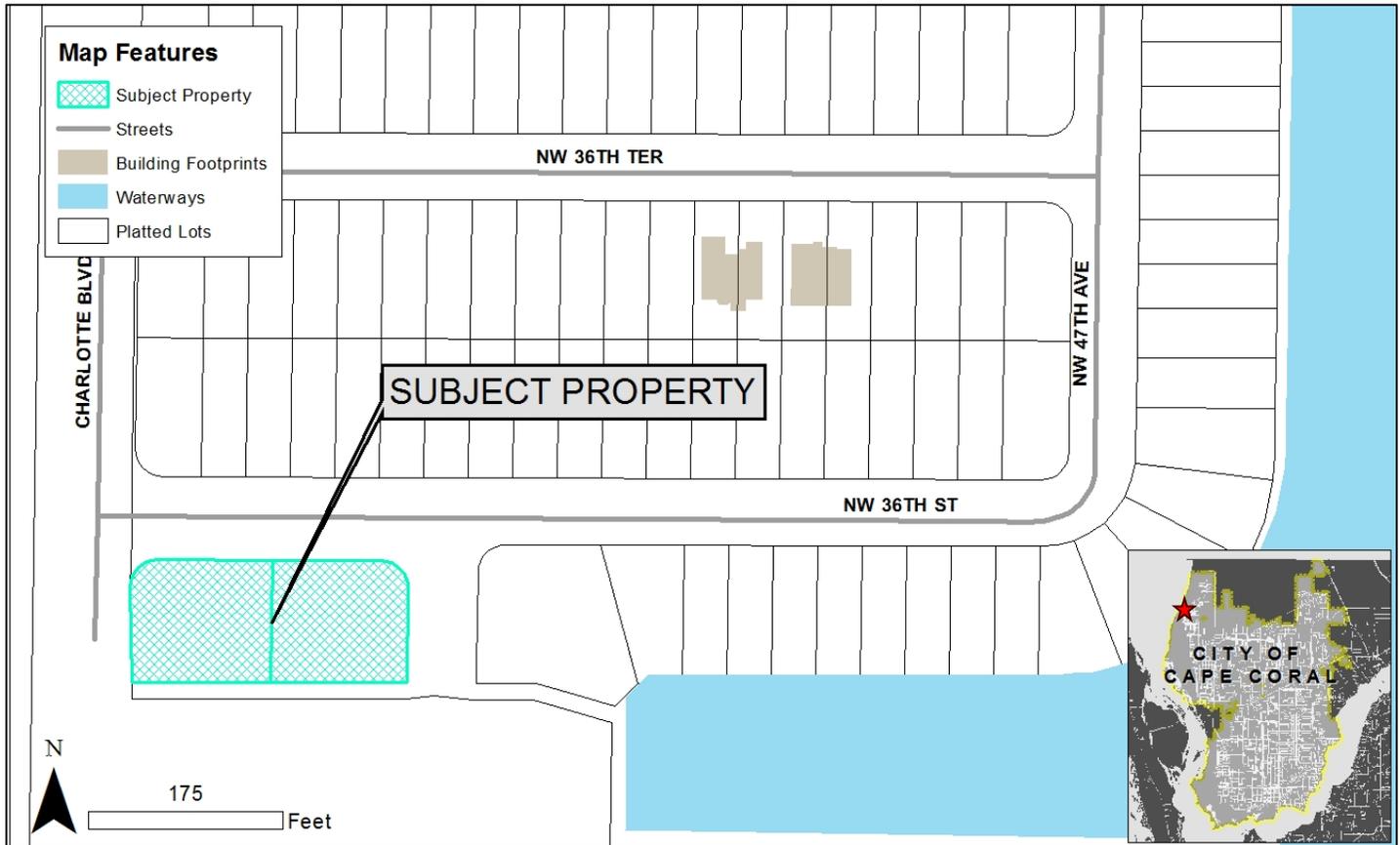
Again, we appreciate all that every individual involved is doing and ask again, respectfully, for your continued help and support so that we are able to complete the refinance of our home.

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.

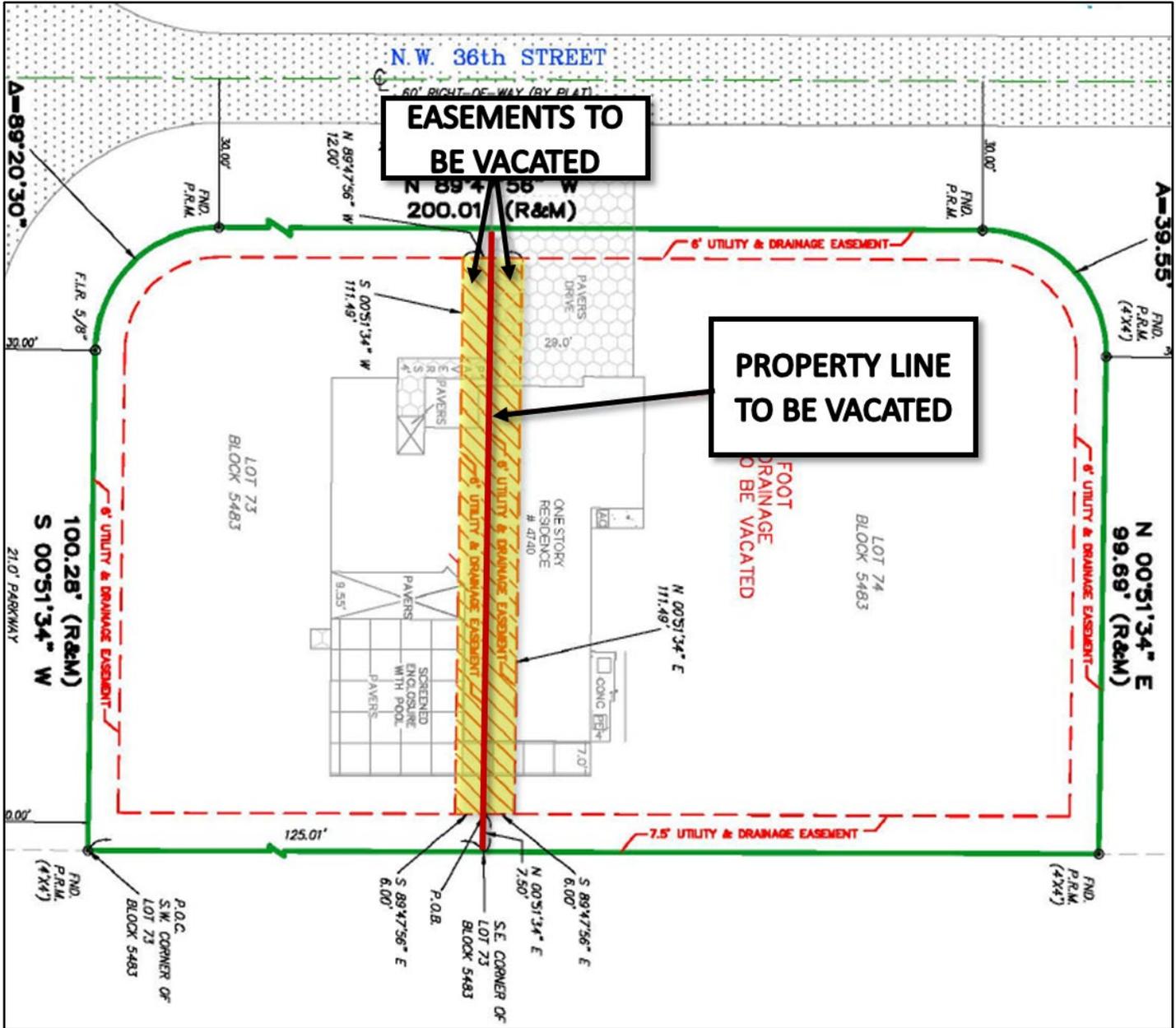


Figure 1: Diagram of Proposed Vacations

RECOMMENDATION

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

Conditions of Approval

- 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*”.

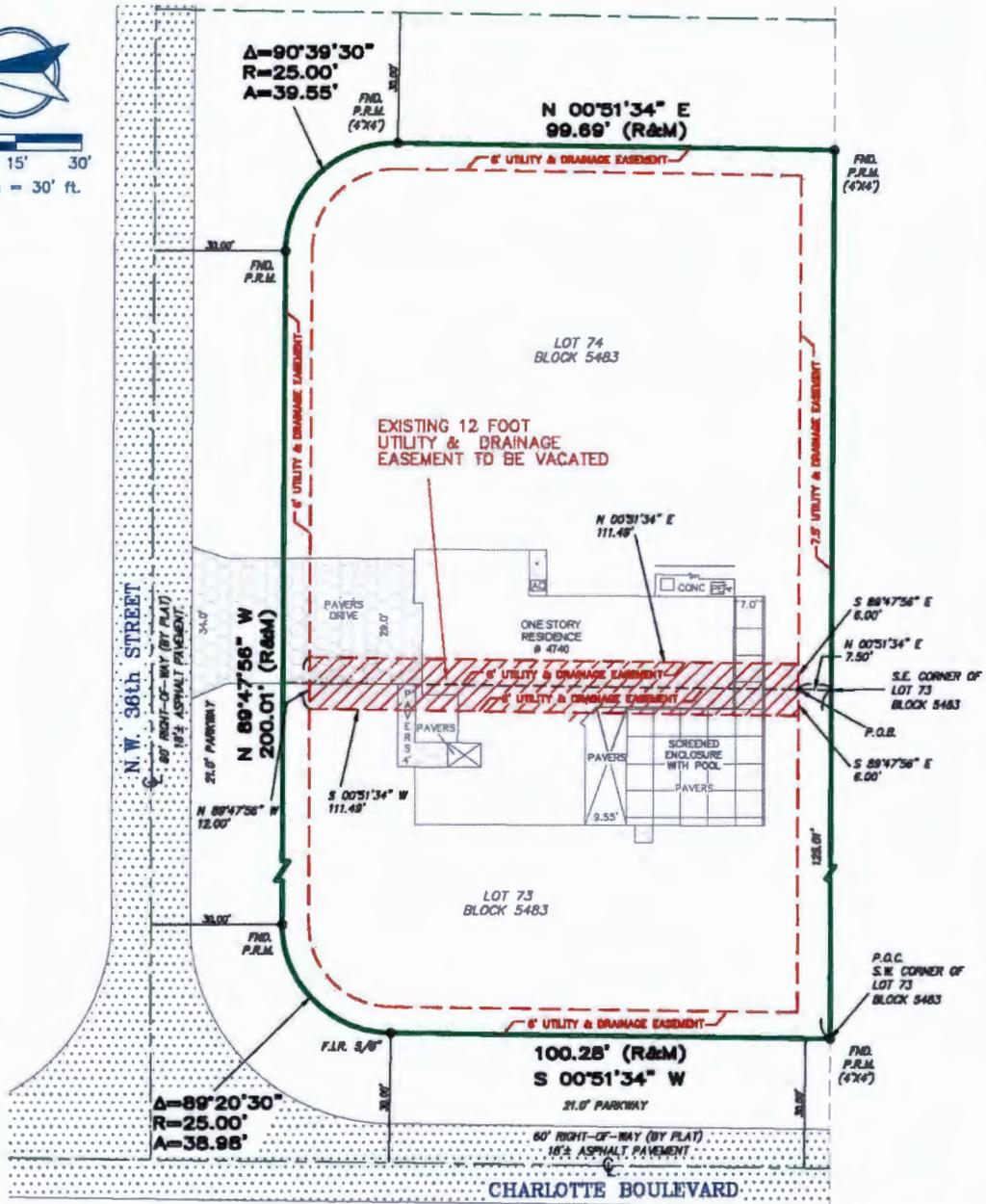
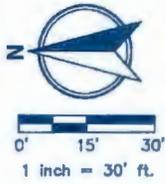
2. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant reimburses the Department of Community Development for all recording fees associated with this resolution.

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



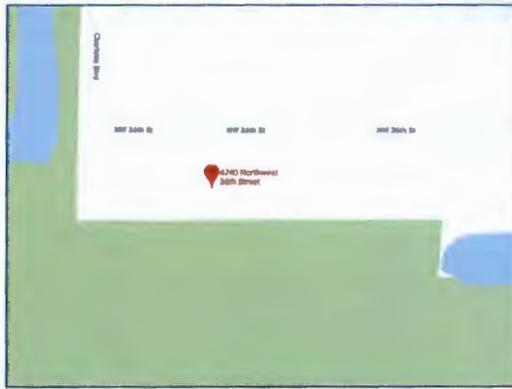
15271 NW 60 AVE, Suite 206
Miami Lakes, FL 33014
www.OnlineLandSurveyors.Com

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



SIGNED MIGUEL ESPINOSA FOR THE FIRM
STATE OF FLORIDA P.S.M. No. 5101

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

<p>— PROPERTY LINE</p> <p>□ STRUCTURE</p> <p>▨ CONC. BLOCK WALL</p> <p>— CHAIN—LINK or WIRE FENCE</p> <p>— WOOD FENCE</p> <p>— IRON FENCE</p> <p>— EASEMENT</p> <p>— CENTER LINE</p> <p>▨ WOOD DECK</p> <p>▨ CONCRETE</p> <p>▨ ASPHALT</p> <p>▨ BRICK/TILE</p> <p>▨ WATER</p> <p>— APPROXIMATE EDGE OF WATER</p> <p>▨ COVERED AREA</p>	<p>⊙ P.P.</p> <p>⊙ C.U.E.</p> <p>⊙ I.E./E.E.</p> <p>⊙ U.E.</p> <p>⊙ F.H. OR F</p> <p>⊙ L.B.#</p> <p>⊙ C.A.L.C</p> <p>⊙ SET</p> <p>⊙ A</p> <p>⊙ B</p> <p>⊙ ELEV</p> <p>⊙ P.T.</p> <p>⊙ P.C.</p> <p>⊙ P.R.M.</p> <p>⊙ P.C.C.</p> <p>⊙ P.R.C.</p> <p>⊙ P.O.B.</p> <p>⊙ P.O.C.</p> <p>⊙ P.C.P.</p> <p>⊙ M</p> <p>⊙ F</p> <p>⊙ D</p> <p>⊙ C</p>	<p>⊙ TREE</p> <p>⊙ POWER POLE</p> <p>⊙ CATCH BASIN</p> <p>⊙ COUNTY UTILITY ESMT.</p> <p>⊙ INGRESS/ EGRESS ESMT.</p> <p>⊙ UTILITY EASEMENT</p> <p>⊙ FOUND IRON PIPE/</p> <p>⊙ P.H AS NOTED ON PLAT</p> <p>⊙ LICENSE # - BUSINESS</p> <p>⊙ LICENSE # - SURVEYOR</p> <p>⊙ CALCULATED POINT</p> <p>⊙ SET MONUMENT</p> <p>⊙ CONTROL POINT</p> <p>⊙ CONCRETE MONUMENT</p> <p>⊙ ELEVATION</p> <p>⊙ POINT OF TANGENCY</p> <p>⊙ POINT OF CURVATURE</p> <p>⊙ PERMANENT REFERENCE MONUMENT</p> <p>⊙ POINT OF COMPOUND CURVATURE</p> <p>⊙ POINT OF REVERSE CURVATURE</p> <p>⊙ POINT OF BEGINNING</p> <p>⊙ POINT OF COMMENCEMENT</p> <p>⊙ PERMANENT CONTROL POINT</p> <p>⊙ FIELD MEASURED</p> <p>⊙ PLATTED MEASUREMENT</p> <p>⊙ DEED</p> <p>⊙ CALCULATED</p>	<p>L.M.E. LAKE or LANDSCAPE MAINT. ESMT.</p> <p>R.O.E. ROOF OVERHANG EASEMENT</p> <p>P.P. POOL PUMP</p> <p>PL PLANTER OR PROPERTY LINE</p> <p>I.D. IDENTIFICATION</p> <p>B.C. BLOCK CORNER</p> <p>B.R. BEARING REFERENCE</p> <p>Δ CENTRAL ANGLE or DELTA</p> <p>R RECORD OR RADIUS</p> <p>RAD. RADIAL</p> <p>N.R. NON RADIAL</p> <p>TYP. TYPICAL</p> <p>I.R. IRON ROD</p> <p>I.P. IRON PIPE</p> <p>N&D NAIL & DISK</p> <p>PK NAIL PARKER—SCALON NAIL</p> <p>S.H. DRILL HOLE</p> <p>⊙ WELL</p> <p>⊙ FIRE HYDRANT</p> <p>⊙ M.H. MAN HOLE</p> <p>⊙ O.H.L. OVERHEAD LINES</p> <p>TR TRANSFORMER</p> <p>CATV CABLE TV. RISER</p> <p>W.M. WATER METER</p> <p>P/E POOL EQUIPMENT</p> <p>CONC CONCRETE SLAB</p>	<p>ESMT. EASEMENT</p> <p>D.E. DRAINAGE EASEMENT</p> <p>L.B.E. LANDSCAPE BUFFER ESMT.</p> <p>L.A.E. LIMITED ACCESS EASEMENT</p> <p>TEL. TELEPHONE FACILITIES</p> <p>U.P. UTILITY POLE</p> <p>E.U.S. ELECTRIC UTILITY BOX</p> <p>S.P. SEPTIC TANK</p> <p>D.F. DRAIN FIELD</p> <p>AC AIR CONDITIONER</p> <p>C.S.W. CONC SIDEWALK</p> <p>D.W. DRIVEWAY</p> <p>S.C.R. SCREEN</p> <p>G.A.R. GARAGE</p> <p>ENCL. ENCLOSURE</p> <p>N.T.S. NOT TO SCALE</p> <p>F.F. FINISHED FLOOR</p> <p>T.O.B. TOP OF BANK</p> <p>E.O.W. EDGE OF WATER</p> <p>E/P OR E.Q.P. EDGE OF PAVEMENT</p> <p>C.V.G. CONCRETE VALLEY GUTTER</p> <p>B.L.L. BUILDING SETBACK LINE</p> <p>S.T.L. SURVEY TIE LINE</p> <p>⊙ CENTER LINE</p> <p>R/W RIGHT OF WAY</p> <p>R.O.E. PUBLIC UTILITY EASEMENT</p> <p>C.M.E. CANAL MAINTENANCE EASEMENT</p> <p>A.E. ANCHOR EASEMENT</p>
--	--	---	---	--

GENERAL NOTES:

- LEGAL DESCRIPTION PROVIDED BY OTHERS.
- EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING PROPERTY.
- THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENT OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PLAT.
- THE PURPOSE OF THIS SKETCH IS TO SHOW THE EXISTING 12 FOOT UTILITY & DRAINAGE EASEMENT TO BE VACATED. THIS IS NOT A BOUNDARY SURVEY.
- UNDERGROUND PORTIONS OF FOOTINGS, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.
- ONLY VISIBLE AND ABOVE GROUND ENCROACHMENTS LOCATED.
- FENCE OWNERSHIP NOT DETERMINED.
- WALL TIES ARE TO THE FACE OF THE WALL.
- BEARINGS ARE BASE ON AN ASSUMED MERIDIAN.
- 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.
- NO IDENTIFICATION FOUND ON PROPERTY CORNERS UNLESS NOTED.
- NOT VALID UNLESS SEALED WITH THE SIGNING SURVEYORS EMBOSSED OR ELECTRONIC SEAL.
- DIMENSIONS SHOWN ARE PLAT AND MEASURED UNLESS OTHERWISE SHOWN.
- ELEVATIONS IF SHOWN ARE BASED UPON N.G.V.D. 1929 UNLESS OTHERWISE NOTED.
- THIS IS NOT A BOUNDARY SURVEY UNLESS OTHERWISE NOTED.
- 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.



Affiliate Member

Printing to Scale:

- Select "None" from Page Scaling
- Deslect "Auto-Rotate and Center"
- Select "Choose paper source by PDF page size"

Page Handling

Copies: 1 Collate

Page (links) 1 Auto-Rotate and Center

Choose paper source by PDF page size

Use custom paper size when needed

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



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 "SKETCH" IS A TRUE AND CORRECT REPRESENTATION OF A SKETCH PREPARED UNDER MY DIRECTION.



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,

A handwritten signature in blue ink, appearing to read 'Mark Cook'.

Mark Cook
Project Coordinator



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

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

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

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0003639642

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

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.

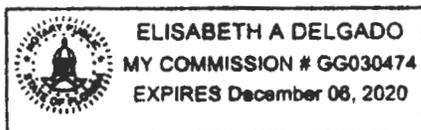
DATED this 24th day of June, 2019.

Vincent A. Cautero
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
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public

AERIAL MAP

Case No. VP19-0009

LEGEND

 Subject Parcel



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 PARCEL



CITY OF CAPE CORAL

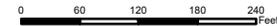
Department of
Community Development
Planning Division

500 Proximity Boundary
CURRENT ZONING MAP

Case No. VP19-0009

LEGEND

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



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.

CHARLOTTE BLVD

NW 36TH TER

FLAGSTON CANAL

NORTH SPREADER WATERWAY

SUBJECT PARCELS

500' PROXIMITY BOUNDARY



HEARING EXAMINER

CASE NO. VP19-0009

HEARING DATE: July 22, 2019 and July 29, 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.

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

SITE ADDRESS: 4740 NW 36th St

PLANNING STAFF: Katherine Woellner, Planner

RECOMMENDATION: Approval



I. Introduction

A. Property Location

B. Surrounding Properties

C. Case Background

II. Vacation Request

III. Staff Analysis

IV. Conclusions

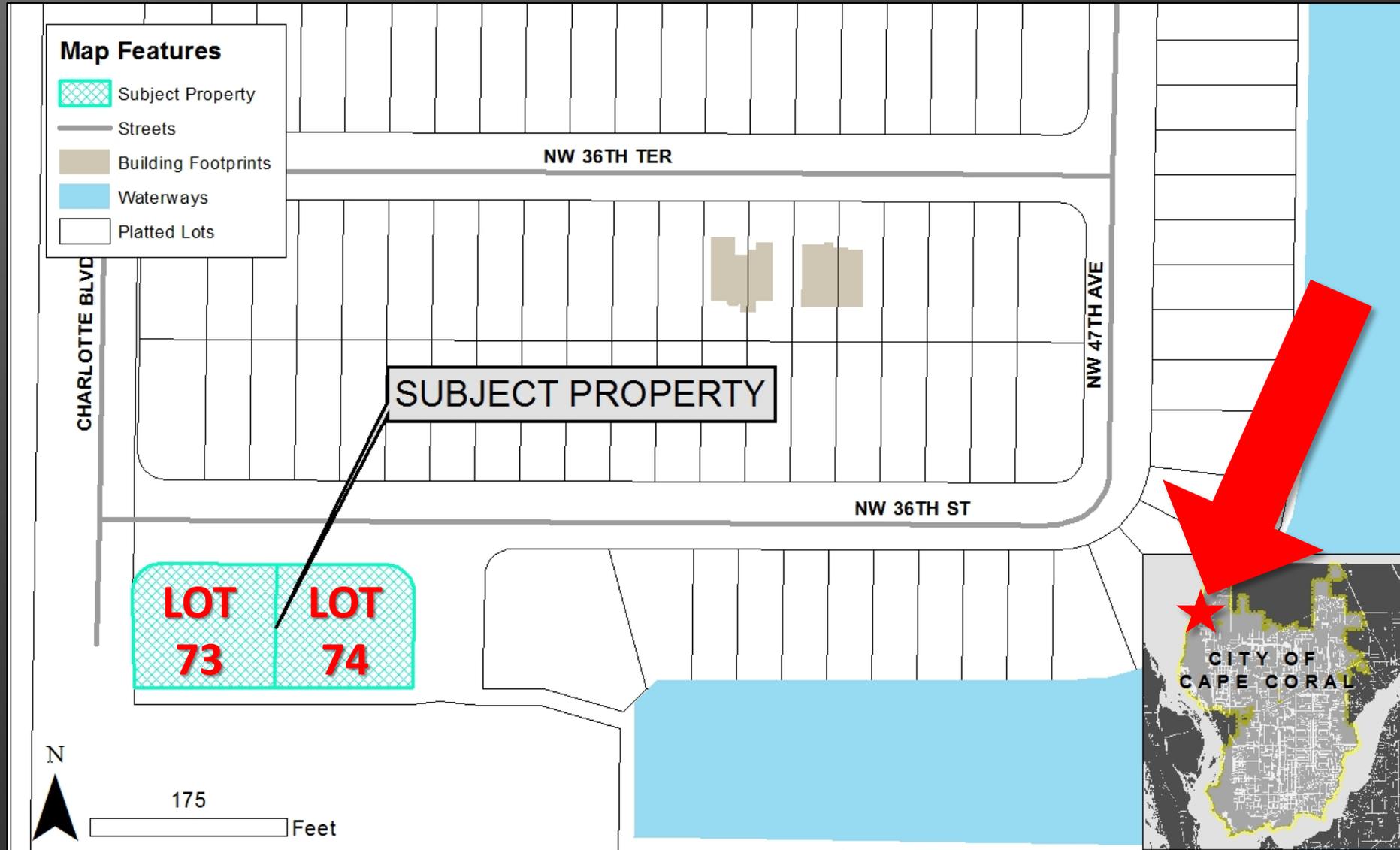
A. Staff Recommendation

B. Conditions of Approval



PROPERTY LOCATION

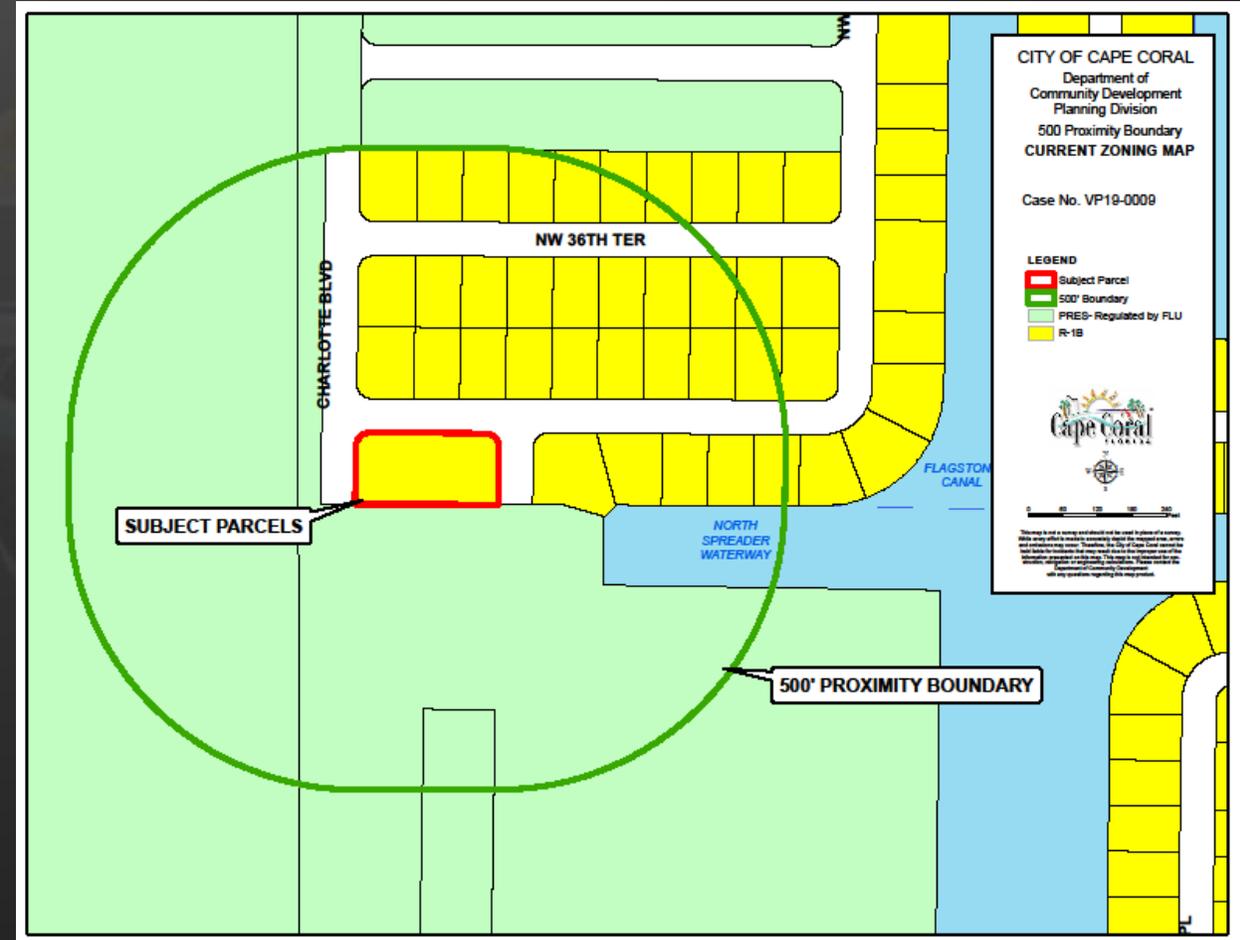
CITY OF CAPE CORAL
PLANNING DIVISION





SURROUNDING PROPERTIES

CITY OF CAPE CORAL
PLANNING DIVISION





CASE BACKGROUND

CITY OF CAPE CORAL
PLANNING DIVISION

2017

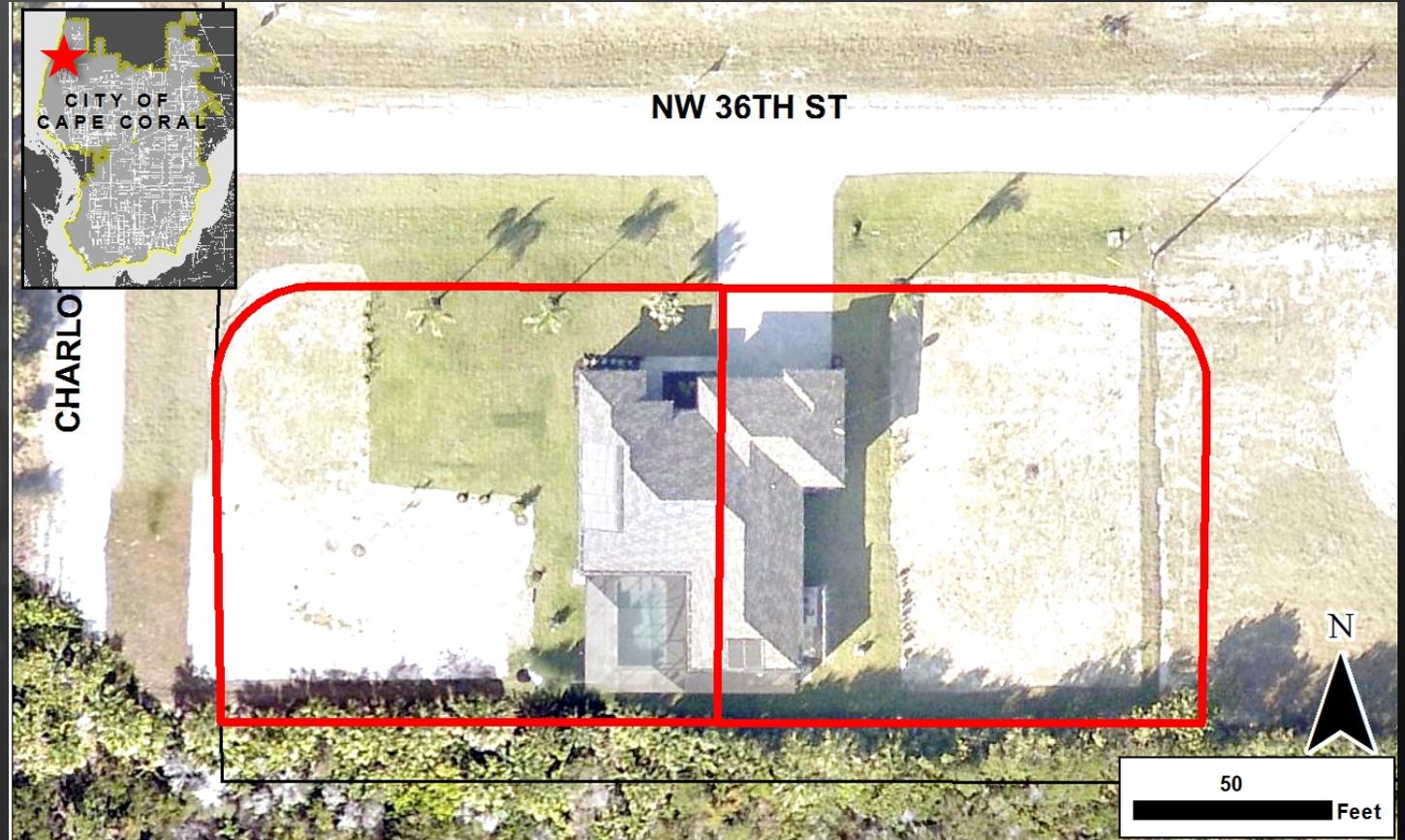
- **LOTS 73 AND 74 COMBINED TO CREATE ONE PARCEL**

2018

- **SINGLE-FAMILY RESIDENCE BUILT**

2019

- **VACATION REQUESTED BY LENDER**





LAND USE AND DEVELOPMENT REGULATIONS § 8.11		YES	NO
1.	Petitioner has color of title to the tract or parcel of land covered by the plat or portion of the plat		
2.	A copy of the plat showing the portion thereof of which vacation is sought		
3.	Letter(s) of approval from Lee County Electric Cooperative, Inc. (LCEC), Embarq Corporation, Inc. (Century Link), Comcast , and the City of Cape Coral		
4.	Recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor showing the area requested to be vacated, and a complete metes and bounds legal description of said area		



STAFF RECOMMENDATION

CITY OF CAPE CORAL
PLANNING DIVISION

STAFF RECOMMENDATION:

- APPROVAL WITH CONDITIONS

HEARING EXAMINER RECOMMENDATION:

- APPROVAL WITH STAFF CONDITIONS

PUBLIC CORRESPONDENCE:

- NONE.



**CITY OF CAPE CORAL
PLANNING DIVISION**





CONDITIONS OF APPROVAL

CITY OF CAPE CORAL
PLANNING DIVISION

1. The vacation of the lot line between Lot 73 and 74 as well as 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.

This Instrument Prepared By: Shari M. Garcia
PATRIOT TITLE SERVICES, LLC
5237 Summerlin Commons Blvd., #305
Fort Myers, Florida 33907
File Number: 5645
Strap Number: 244322C1054830740 & 244322C1054830730

Corporate Warranty Deed

(The terms "grantor" and "grantee" herein shall be construed to include all
genders and singular or plural as the context indicates.)

Made this 20 day of October, 2017 Between

Crosspoint Christian Church of Cape Coral, Inc., a Florida Not for Profit Corporation

whose post office address is: 204 SW 11th Pl, Cape Coral, Florida 33991, a corporation existing
under the laws of the State of Florida, **grantor**

and **Joseph M Walden and Amy L Walden, Husband and Wife**

whose post office address is: 1017 NW 33rd Pl, Cape Coral, Florida 33993, **grantee,**

WITNESETH: That the said grantor, for and in consideration of the sum of Twenty Three Thousand
dollars & no cents (\$23,000.00), and other good and valuable considerations to said grantor in hand paid
by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said
grantee forever, the following described land, situate, lying and being in Lee County, Florida towit:

**Lot 74, Block 5483, Unit 90, Cape Coral Subdivision (Spreader Waterway), according to the Plat
thereof, recorded in Plat Book 32, Page(s) 48 to 111, inclusive, of the Public Records of Lee
County, Florida.**

and

**Lot 73, Block 5483, Unit 90, Cape Coral Subdivision (Spreader Waterway), according to the Plat
thereof, recorded in Plat Book 32, Page(s) 48 to 111, inclusive, of the Public Records of Lee
County, Florida.**

Subject to covenants, easements and restrictions of record, if any, which are specifically not extended or
reimposed hereby.

Said grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee
simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor
hereby warrants the title to said land and will defend the same against the lawful claims of all persons
whomsoever; that the land is free of all encumbrances except taxes accruing subsequent to December 31,
2016.

File Number: 5645

Strap Number: 244322C1054830740 & 244322C1054830730

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of:

Angela Haag
Witness #1 signature

ANGELA HAAG
Witness #1 print name

Shari M Garcia
Witness #2 signature

SHARI M GARCIA
Witness #2 print name

Crosspoint Christian Church of Cape Coral,
Inc., a Florida Not for Profit Corporation

Kenneth Edward
By: Kenneth Edward
Title: Director

STATE OF FLORIDA COUNTY OF LEE

I HEREBY CERTIFY, that on this 20 day of October, 2017 before me personally appeared **Kenneth Edward as Director of Crosspoint Christian Church of Cape Coral, Inc., a Florida Not for Profit Corporation**, who is personally known to me or who has provided Driver's License(s) as identification and who is the person described in and who executed the foregoing instrument and who after being duly sworn says that the execution hereof is free act and deed for the uses and purposed herein mentioned.

SWORN TO AND SUBSCRIBED before me the undersigned Notary Public by my hand and official seal, the day and year last aforesaid.

Shari M Garcia
Notary Public

Notary printed

My Commission Expires:



Description

- ▣ Memo
- ▣ Ordinance 55-18

Type

- Backup Material
- Ordinance

MEMORANDUM

CITY OF CAPE CORAL
CITY MANAGER'S OFFICE

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager 
Connie Barron, Assistant City Manager 
Lisa Sonogo, Human Resources Director

DATE: July 17, 2019

SUBJECT: Ordinance 55-18, Emergency Pay for Non-bargaining Employees

Ordinance 55-18 addresses emergency pay revisions for exempt employees who work during City declared emergencies when City Hall has been closed. These revisions were incorporated into the International Union of Painters and Allied Trades (IUPAT) contract for exempt, bargaining employees. The contract was ratified by City Council on June 10. The attached Ordinance applies these emergency pay revisions to exempt, non-bargaining staff members.

Exempt staff who work during a City-declared emergency when City Hall has been closed will be compensated at two times their regular rate for the first eight hours worked per day, up to a maximum of 24 hours per event. The estimated maximum city-wide cost of the emergency pay revision is \$73,500 per event. These monies are eligible to be reimbursable by FEMA.

IUPAT represents a small group of exempt members, and their portion of the above estimate equates to approximately \$19,200 per event.

Additionally, the proposed ordinance clarifies the use of paid time off (PTO) / annual leave during City-declared emergencies for both exempt and non-exempt employees. If City doors are open, employees must use their own PTO / annual leave for absences. If the City Hall is closed and has suspended normal business operations, employees will be paid closure pay for their normal work hours. Their PTO / annual leave bank will not be charged.

Approval is requested.

JS/CB/LS:ac

Attachment: Ordinance 55-18

ORDINANCE 55 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE III, PERSONNEL RULES AND REGULATIONS, TO ALLOW EXEMPT EMPLOYEES TO EARN ADDITIONAL PAY DURING A DECLARED EMERGENCY SUBJECT TO TERMS AND CONDITIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, when a state of emergency is declared by the City Council or City Manager, various circumstances may exist that require all employees or certain employees being required to work during a declared emergency; and

WHEREAS, the City of Cape Coral Code of Ordinances provides that non-exempt employees be paid two times their salary for hours worked during a declared emergency, and exempt employees be paid straight time for time worked during a declared emergency; and

WHEREAS, in order to provide exempt employees with an additional benefit for working during declared emergencies, the City Manager recommends that exempt employees earn additional compensation for certain hours worked during a declared emergency subject to the terms and conditions herein.

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

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, is hereby amended as follows:

CHAPTER 2 ADMINISTRATION

...

ARTICLE III: PERSONNEL RULES AND REGULATIONS

...

DIVISION 13. - COMPENSATION AND PAYMENT OF EXPENSES

...

§ 2-37.15 - Overtime compensation and compensatory leave.

(a) Employees who are required to work overtime shall receive compensation in accordance with the requirements of the law, including, but not limited to, the Fair Labor Standards Act (29 U.S.C. §§ 201-219), hereafter referred to as F.L.S.A., as same may hereafter from time to time be amended.

(b) Non-exempt employees are employees who have been classified as non-exempt for overtime pursuant to the F.L.S.A. Compensation for non-exempt employees is calculated as an hourly rate of pay.

Exempt Employees are employees who have been classified as exempt from overtime pursuant to the F.L.S.A. Compensation for exempt employees is an annual salary, paid in weekly installments. The weekly amount paid an exempt employee is calculated as an equivalent hourly amount based upon 40 work hours per week, regardless of the number of hours the employee actually works.

(~~b~~c) In lieu of the payment of overtime compensation, an employee may be allowed compensatory time off as provided in Division 11 of this article.

(~~e~~) ~~Employees who have been classified as exempt from overtime pursuant to the F.L.S.A. and who are requested to work during emergencies which have been declared by City Council will be compensated during such emergencies for time worked outside their normal scheduled hours of work. Such pay shall be calculated based on the employee's straight time hourly rate.~~

(d) ~~Employees who have been classified as non-exempt for overtime pursuant to the F.L.S.A. and who are requested to work during emergencies which have been declared by City Council will be compensated for time worked during said emergency at two times their normal rate of pay.~~

§ 2-37.16 – Compensation during declared emergencies.

(a) During an emergency which has been declared by City Council or the City Manager, the following shall apply for non-exempt employees:

- (1) When City Hall is open during a declared emergency and a non-exempt employee works their normal scheduled hours, the employee will be compensated for time worked during said emergency at two times their normal rate of pay.
- (2) When City Hall is open during a declared emergency and a non-exempt employee works additional hours outside of their normal scheduled hours, the employee will be compensated for hours worked during said emergency calculated as overtime at two times their normal rate of pay.
- (3) When City Hall is closed due to a declared emergency, non-exempt employees who are not requested to work receive compensation for their normal work hours at their normal rate of pay. Non-exempt employees who work during the time City Hall is closed shall receive compensation at the rate of two times their normal rate of pay for any hours worked.
- (4) When a non-exempt employee is on leave at the time an emergency is declared and City Hall is closed, the employee shall be paid for their normal scheduled hours of work and will not have leave hours deducted. When a non-exempt employee is requested to work during a declared emergency when scheduled for approved leave, the employee shall be compensated as set forth in Section 2-37.16(a)(1)(2) and (3) above. Any time City Hall is open during a declared emergency, an employee who either was on leave prior to the declared emergency or does not report to work for any reason, shall be deducted leave hours for all hours of their normal number of work hours the employee is not at work.

(b) During an emergency which has been declared by City Council or the City Manager, the following shall apply for exempt employees:

- (1) When City Hall is open during a declared emergency and an exempt employee is requested to work, the employee will be compensated for all hours worked during said emergency at their normal equivalent hourly rate of pay, whether they work normal scheduled hours or hours outside of their normal scheduled hours of work, regardless of the day of the week.
- (2) When City Hall is closed during a declared emergency, exempt employees who do not work, shall receive compensation for their normal work hours at their normal rate of pay.
- (3) When City Hall is closed during a declared emergency, exempt employees who are requested to work during the declared emergency shall earn additional compensation. Additional compensation is pay in the amount of two times the normal rate of pay and is in lieu of the normal rate of pay. The additional compensation may only be earned on Monday through Friday for the first eight hours of the workday, for a maximum daily amount of eight hours. The maximum amount of additional compensation permitted to be earned per declared emergency when City hall is closed is twenty-four (24) hours. For all hours worked when an employee is not eligible for additional compensation, exempt employees shall be paid their normal rate of pay.
- (4) When an exempt employee is on approved leave during a declared emergency and City Hall is closed, the employee shall be paid for an employee's normal scheduled hours of work and will not have leave hours deducted. When an exempt employee is requested to work during a declared emergency when scheduled for approved leave, the employee shall be compensated as set forth in Section 2-37.16(b) above. Any time City Hall is open during a declared emergency, an employee who either was on leave

prior to the declared emergency or does not report to work for any reason, shall be deducted leave time for any number of hours up to eight hours per day that the employee is not at work.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY

ord/Personnel-Emergency Pay
5/23/19
6/14/19

Item Number:	10.A.
Meeting Date:	7/22/2019
Item Type:	UNFINISHED BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:
Water Quality - Update

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:
Water Quality Memo

PREPARED BY:
Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Water Quality Memo	Backup Material

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: John Szerlag, City Manager

FROM: Paul Clinghan, Public Works Director *PRC*
Michael Ilczyszyn, Senior Public Works Manager *MI*
Maya Robert, Environmental Resources Manager *MR*

DATE: July 19, 2019

SUBJECT: Lake Okeechobee Level and Release Information

As of Friday, July 19, 2019, the elevation of Lake Okeechobee was 11.47 ft. The US Army Corps of Engineers were releasing 78 cfs from Lake Okeechobee at the Moore Haven Lock (S-77). However, due to the natural drainage of the Caloosahatchee basin in the rainy season, outflow measured at the Franklin Lock & Dam (S-79) was 1,446 cfs. The salinity at the Fort Myers Yacht Basin was 3 PSU and 25 PSU at Shell Point. Hypoxic events have been observed at Beautiful Island and the Fort Myers Yacht basin this past month.

Blue Green Algae is still present in Lake Okeechobee; potentially covering 25% of the lake; and along the Caloosahatchee; however, the most recent water samples along the river did not contain toxins. The US Army Corps of Engineers are conducting a 10-days pilot study at S-77 to test a water treatment technology.

The Fertilizer Black-out Period per City Code began on June 1st and will continue until September 30th. Fertilizer containing nitrogen and phosphorus may not be applied during this time city-wide.

Many of our freshwater canals have had fragmented tape grass floating at the surface. This is an occasional and natural phenomenon; the material will sink and dissipate on its own. Residents concerned about water quality are encouraged to get in touch with the City via 311. Biologists will get in touch with them within 24 hours. Staff is working with the Lee County Hyacinth Control District on solutions and a public outreach meeting for residents has been scheduled for Monday, July 22.

Red Tide remains at background concentration in Lee County.

Attached is a map showing drainage basins of the Lake Okeechobee and the current Lake's inflows and outflows from the USACOE.

PC/MI:kh (Weekly Lake Okeechobee Level and Release Information)
Attachments; Lake Okeechobee drainage basins, USACOE inflows and outflows report

Lake Okeechobee and WCAs

Daily averages for 19 July 2019

Lake Okeechobee stage: 11.47 ft
 Previous day: 11.47 ft
 One week ago: 11.48 ft
 (1965-2007 avg for today): 13.63 ft

Total Structure/Creek Inflows: 2132 cfs
 Total Structure Outflow: 426 cfs

Area	Stages (hover for notes)	Schedule
WCA-1	Site 1-8C: 16.58 ft 3-Station: 16.31 ft	15.99 ft
WCA-2A	Site 2-17: 12.13 ft S-11B HW: -NR- ft	11.39 ft
WCA-3A	9.51 ft	9.32 ft



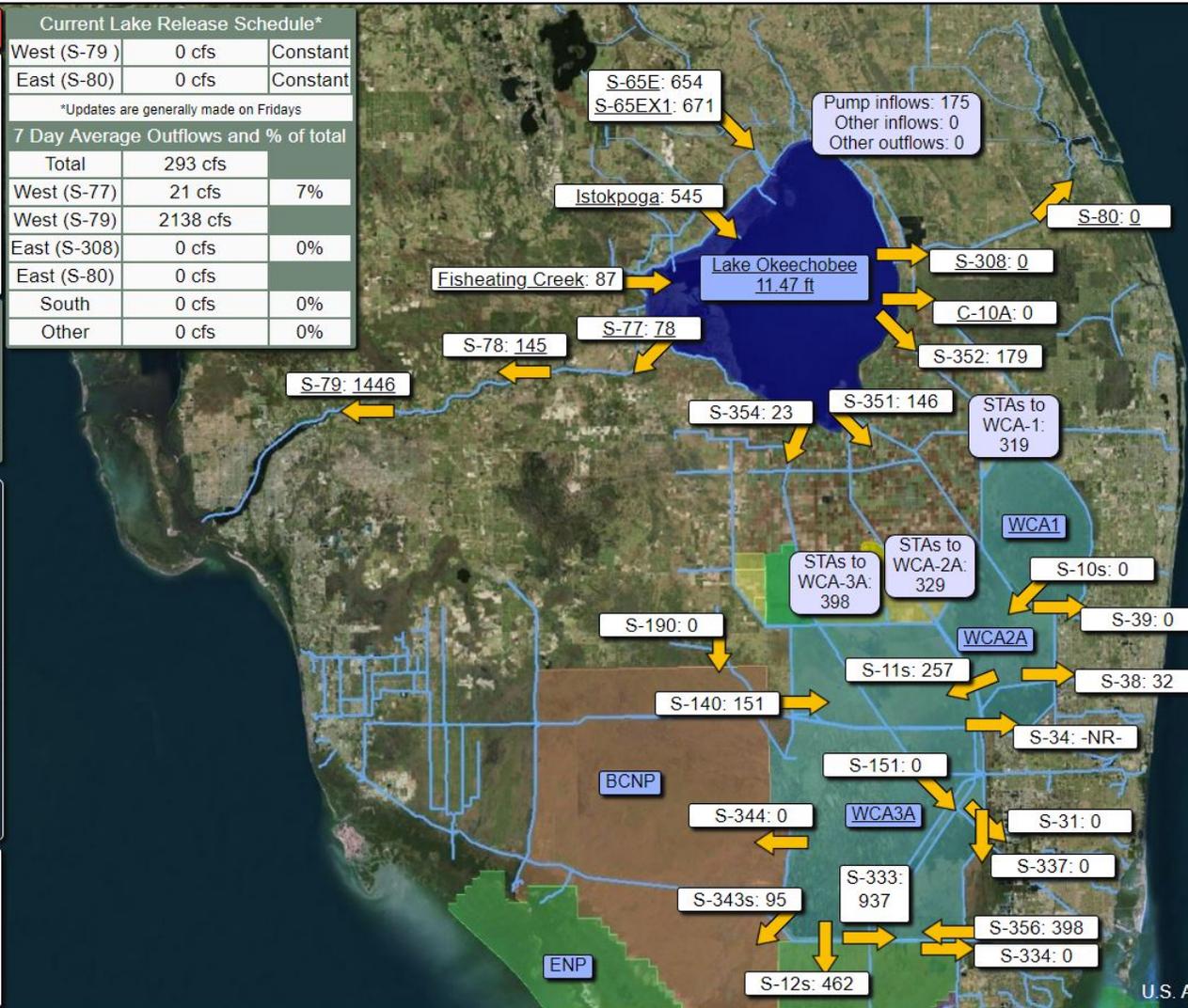
Current Lake Release Schedule*

West (S-79)	0 cfs	Constant
East (S-80)	0 cfs	Constant

*Updates are generally made on Fridays

7 Day Average Outflows and % of total

Total	293 cfs	
West (S-77)	21 cfs	7%
West (S-79)	2138 cfs	
East (S-308)	0 cfs	0%
East (S-80)	0 cfs	
South	0 cfs	0%
Other	0 cfs	0%



[Water Management Main Page](#)

[Status Update Archives](#)

Elevations are ft-NGVD.

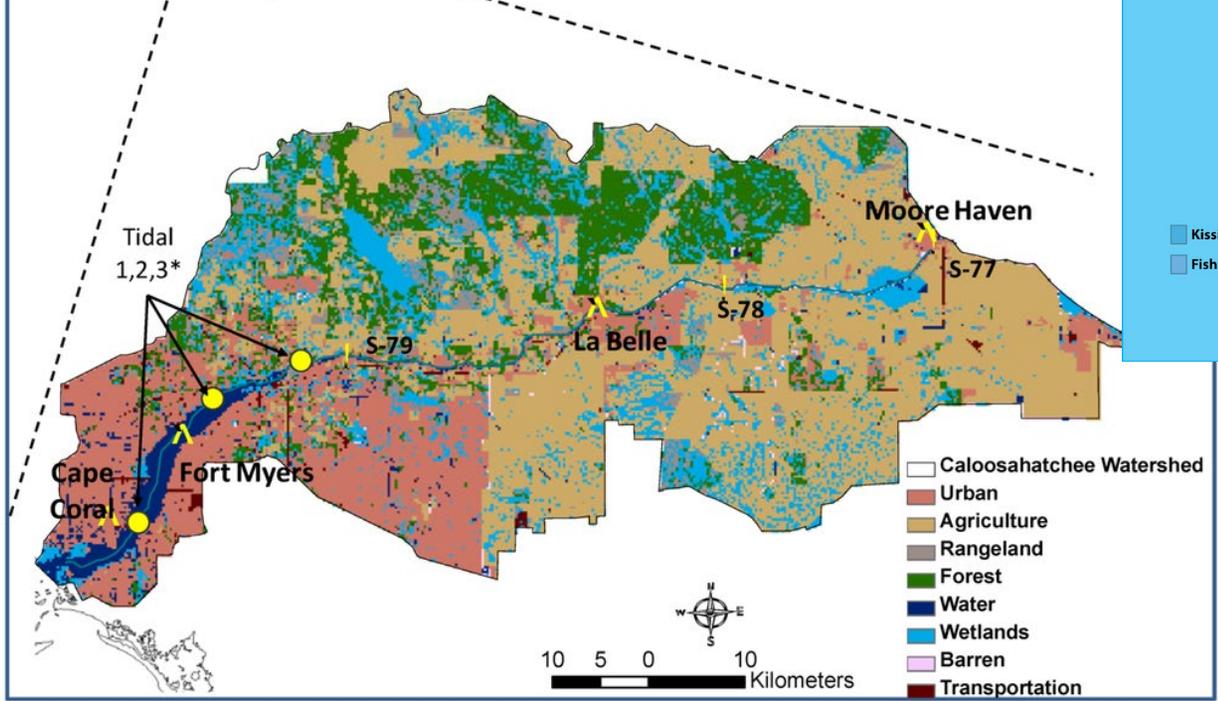
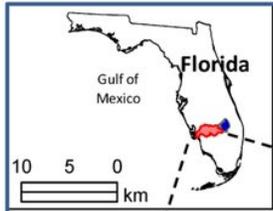
Flows are average daily CFS.

Data is provisional and subject to revision.

Report generated: 19 JUL 2019 @ 12:15



U.S. Army Corps of Engineers®



Item Number: 11.A.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 157-19 Resolution of Necessity - Crystal Lake - Lot 2, Block 5477, Unit 90

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Crystal Lake Park is a concept park approved by City Council to establish an additional park that includes a walking path, fitness stations, picnic shelter and grill areas. The concept plan includes a beach, aqua park, cable water ski, scuba diving area, and food truck area. The park site is located west of Old Burnt Store Road along the south side of Caloosa Parkway in northwest Cape Coral. In 2012, the City acquired the parcels surrounding Crystal Lake, as well as several lots at the north end of Flagstone Canal. Staff has discussed developing a boat ramp at the north end of Flagstone Canal to offer additional boating access to the Spreader Waterway System and eventually the Gulf of Mexico. With the recent approval of a Parks General Obligation Bond, staff notified the five property owners along Flagstone Canal of the City's desire to complete its acquisitions for the future park. Currently, the City owns 7 of the 11 parcels required for Crystal Lake Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 157-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
▫ Memo - New Business Items 11.A.-11.C1.	Backup Material
▫ Staff Presentation - New Business Items 11.A. - 11.C1.	Backup Material
▫ Resolution 157-19	Resolution

MEMORANDUM

CITY OF CAPE CORAL

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager 
Kerry Runyon, Parks and Recreation Director 
Michael Ilczyszyn, Senior Public Works Manager 
Dawn Andrews, Property Broker 

DATE: July 18, 2019

SUBJECT: GO Bond Parks Land Acquisition
Crystal Lake Park, Lake Meade Park, Festival Park
Resolutions of Necessity

BACKGROUND:

In the summer of 2000, in response to the rapidly growing population and further realization of the City's deficiencies in parks and recreation facilities, the City of Cape Coral engaged a professional consulting firm to prepare a ten-year Parks and Recreation Master Plan to guide decisions through 2010. The Parks and Recreation Master Plan 2010 ("Master Plan" or "Plan") was adopted by City Council in March 2002.

The Master Plan highlighted the pre-platted nature of Cape Coral which provided less than 1% of sites over 10 acres in size. The lack of large parcels was identified as a serious concern for meeting the City's needs for parks and recreation. The Plan analyzed the existing park needs (ie., alterations or improvements), general parks and recreation needs (ie., accessibility, parking, types of parks needed) and identified available areas for proposed parks.

In that study, the analysis included a public involvement process in which the City Parks and Recreation Department selected a steering committee to guide the development of the Parks Master Plan. The steering committee consisted of both public and private sector members. Public involvement also included a mass survey of 5,000 households, public workshops, along with input from Parks supervisory staff, City Department Directors and outside community organizations. The process included an inventory of existing park facilities and a study of the future needs through the provision of parks to meet identified level of service (LOS) needs. The study noted that the natural resources of the City of Cape Coral were unique in that 78% of ecological communities had been removed during the initial land development process.

The study concluded the City had numerous current and future park and recreational needs for 2000, 2005 and 2010. These included, but were not limited to, a large regional park in excess of 200 acres, an ecological park to meet the City's water-oriented recreational needs and a community park which would also provide freshwater related recreational opportunities.

In 2016 the City commissioned an update to the Parks Master Plan to identify existing conditions, community needs, funding opportunities, planning actions and land acquisition needs due to the City's population increase since the initial Parks Master Plan in 2002. The population increased from 102,286 in 2000 to an estimated 175,200 in the year 2015, a 71% rate of growth. As the City's population and density increases the demand for parks and recreation facilities increases in order to maintain the desired level of service.

In regard to the amount of park land required for the City's residents, the 2016 Update further stated based on *"the City's 2015 population estimates, the City needed an additional 660 acres to meet the City's established LOS (level of service) standard of 8.5 acres per 1,000 population. It would also need 336 acres of regional park land, 291 acres of community park land, and 291 acres of neighborhood park land. Once the City reaches its buildout population of 400,000, the City will need 2,570 acres: 1,235 acres of regional park land, 741 acres of community park land, and 741 acres of neighborhood park land."* [emphasis added]

In November 2018 the electorate approved the use of General Obligation (GO) funding to deliver up to \$60 million to develop much needed neighborhood parks and community parks, complete improvements to existing park facilities and land acquisition.

CRYSTAL LAKE PARK:

The Parks Master Plan identified the area surrounding Crystal Lake as an opportunity for environmental education, picnicking or other activities in conjunction with the State conservation lands to the north. It further stated the area may be appropriate for future development as a northwest Community Park beyond the year 2010. The Plan also recognized the need for additional boat access to the saltwater and freshwater systems. The Crystal Lake Park properties at the north end of Flagstone Canal would address this deficit. The Plan recommended *"parks that have frontage or access to waterways either freshwater or saltwater should emphasize and utilize the water resource to provide opportunities of water related recreation activities including but not limited to boating and fishing"*.

The City's acquisition of properties surrounding Crystal Lake in 2012 was the initial step towards securing land to address the community's demand for additional water-related

activities such as boating, kayaking, swimming and aquatic play in the northwest quadrant of the City. This need for additional water-related amenities was reaffirmed in the 2016 Needs Assessment, which was conducted as part of the Master Plan. Crystal Lake Park would address a number of the top priorities for investment as identified in the 2016 Master Plan Update including: Beach, Large Community Parks, Trails, Fishing Areas, and Boating/Kayaking areas.

The proposed Crystal Lake Park is located west of Old Burnt Store Road, along the south side of Caloosa Parkway in northwest Cape Coral and is an assemblage of 11 parcels. The City currently owns 7 of the required properties that encompass the park. All of the remaining properties to acquire are vacant sites. Resolution 157-19 through 160-19 reflect the parcels not under City ownership and authorize the necessary actions to acquire the remaining 4 properties.

LAKE MEADE PARK:

In 1989 as part of the City of Cape Coral's Comprehensive Plan, the City adopted the Recreation and Open Space Element and the first Future Land Use Map. The map identified Lake Meade Park as a future Community Park for the northeast portion of the City. The identified area was comprised of 103 platted parcels. The park area included two large platted blocks deeded by Lee County to the City of Cape Coral in 1971. The two blocks combined totaled approximately 11 acres and provide waterfront access to Lake Meade.

Lake Meade Park is centered in another underserved area of northeast Cape Coral as identified in the previous Master Plans. This future park has been identified to address a number of community demands and deficiencies including: a skate park, a dog park, boating/kayaking areas in freshwater systems, trails, and a playground in an area of the City where we do not currently have a public playground.

Lake Meade Park is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard in northeast Cape Coral and is an assemblage of 103 parcels. The City currently owns 88 of the 103 parcels required for the park. Of those remaining 15 parcels, two properties are improved. Resolution 161-19 through Resolution 175-19 authorizes the necessary actions to acquire the remaining 15 parcels.

FESTIVAL PARK:

The 2010 Master Plan identified the need for a "festival gathering area" for large special events and considered three alternative areas. The assemblage of parcels surrounding

the City's current ownership of Seahawk Park; an assemblage of parcels on the north side of Del Prado Boulevard North – north of the City's Major Park; and an undesignated area along Pine Island Road. The recommended preferred location was in Cape Coral Unit 43 surrounding the existing Seahawk Park. At a 2003 Strategic Planning Session, City Council directed Staff to begin purchasing properties for a future park site, now known as Festival Park.

Festival Park is proposed to be a large multi-use community park offering an open concert venue, athletic fields such as a soccer complex, recreation trail, freshwater access and future opportunities for a recreation center and amphitheater.

Festival Park is located just east of Chiquita Boulevard North, less than one-half mile north of Kismet Parkway West in Cape Coral Unit 43. Festival Park encompasses an assemblage of 517 parcels, of which the City currently owns 449 of the parcels within the boundaries of the proposed park. Included in the remaining 68 properties to acquire is one improved parcel. Resolution 176-19 through Resolution 243-19 authorizes the necessary actions to acquire the remaining 68 properties.

RECOMMENDATION:

Approve the 4 Resolutions of Necessity (Res. 157-19 through 160-19) to authorize the City Manager, City Attorney and outside Eminent Domain Counsel to take the necessary actions to acquire the remaining 4 properties for Crystal Lake Park, all of which are vacant.

Approve the 15 Resolutions of Necessity (Res. 161-19 through 175-19) to authorize the City Manager, City Attorney and outside Eminent Domain Counsel to take the necessary actions to acquire the remaining 15 properties for Lake Meade Park, of which two properties are improved and 13 are vacant.

Approve the 68 Resolutions of Necessity (Res. 176-19 through 243-19) to authorize the City Manager, City Attorney and outside Eminent Domain Counsel to take the necessary actions to acquire the remaining 68 properties for Festival Park, of which one property is improved and 67 are vacant.

JS/KR/MI/DA

C: Dolores D. Menendez, City Attorney
Steven Griffin, Assistant City Attorney
Keith Locklin, Recreation Superintendent

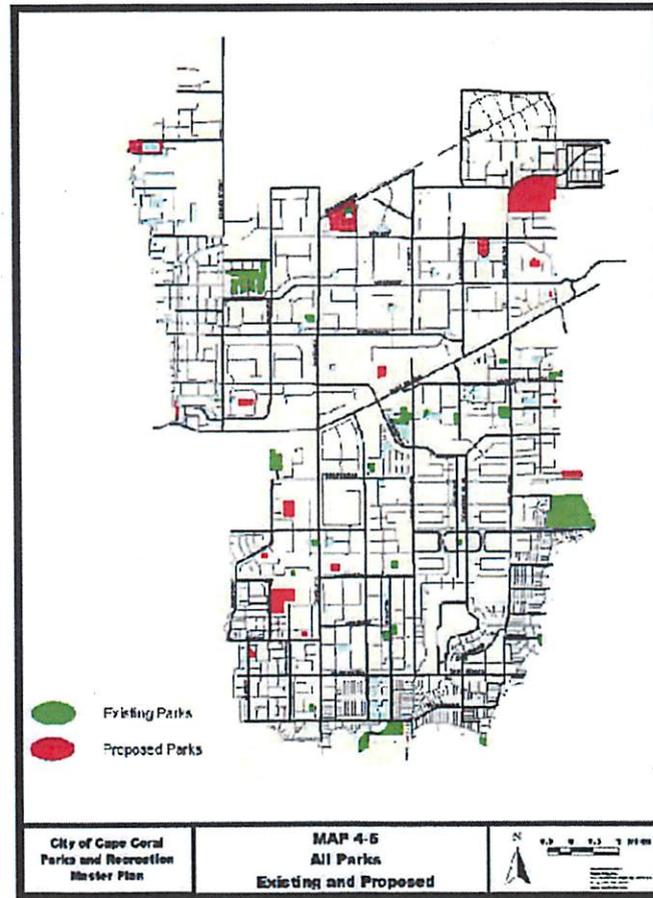
GO Bond Park Acquisitions

Crystal Lake Park
Lake Meade Park
Festival Park

Resolution 157-19 through Resolution 243-19

July 22, 2019

Guidelines & Needs



City of Cape Coral Parks and Recreation Concept Plans

Crystal Lake Park



Legend	
1 Pedestrian Entry	11 Beach
2 Multi-use Path (10 feet)	12 Aquo Park
3 Walking Path (6 feet)	13 Cable Water Ski
4 Traffic Calming Crosswalks	14 Scuba Diving Area
5 Vehicular Access	15 Boardwalk Overlook
6 Paved Parking	
7 Grass Overflow Parking	SYMBOL LEGEND
8 Fitness Stations	Proposed Pavement
9 Restrooms	Proposed Building
10 Picnic Shelter with Grills	Existing Building
11 Shaded Picnic and Grill Areas	Restrooms
12 Concessions	Park Boundary
13 Outdoor Dining Seating	Existing Vegetation
14 Food Truck Area with Utilities	Proposed Vegetation



Typical Park Element	Estimated Cost	Notes
Site Preparation	\$247,500	Includes mobilization/demobilization, site clearing, and grubbing.
Facilities	\$660,000	Includes restroom, pavilions, and utility extensions within site.
Park Amenities	\$201,000	Includes new beach, fitness stations, and Wi-Fi.
Circulation	\$1,011,200	Includes pedestrian and multi-use paths, vehicle circulation, and new parking lots.
Furnishings	\$197,200	Includes benches, picnic tables, trash receptacles, dog waste stations, grills, signs, and lighting.
Landscape	\$133,725	Includes new canopy trees, palms, shrubs, fine grading, and zoning of developed areas.
Soft Costs and Contingency	\$735,175	Includes softcosts (design, CM, permitting) of 15%; and contingency of 15% at planning stage.
Total	\$3,185,800	

*Disclaimer: This is a conceptual estimate of costs for budget purposes only. The following items are not included in the estimate: final engineering and construction costs, construction materials, construction equipment, and other items that may be required for construction. The estimate is based on current market conditions and is subject to change. The City of Cape Coral is not responsible for any errors or omissions in this estimate. The City of Cape Coral is not responsible for any errors or omissions in this estimate.

Legend

- Crystal Lake City Parcels - 07/22/2019
- Parcels Remaining to Acquire - 07/22/2019

Water Type

- FRESH
- SALT



CRYSTAL LAKE - OWNERSHIP AS OF 07/22/2019

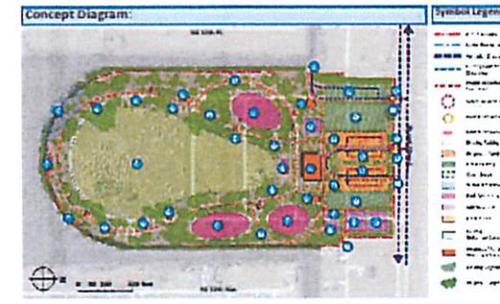
0 100 200 400 Feet
1:2,400 1 inch = 200 feet

City of Cape Coral Parks and Recreation Concept Plans

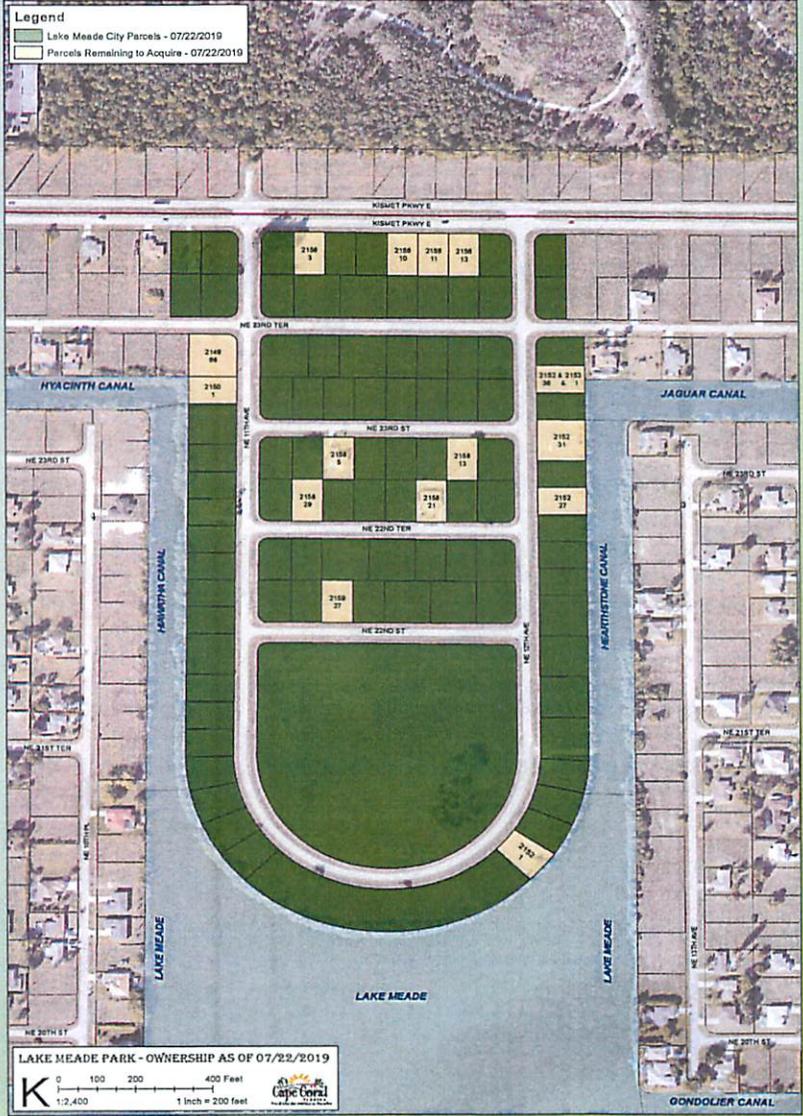
Typical Community Park- Lake Meade Park



Legend		
1 Pedestrian Entry	2 Playground	3 Beach
4 Multi-use Path (10 feet)	5 Restrooms	6 Boardwalk/Fishing Pier
7 Walking Path (6 feet)	8 Picnic Shelter with Grills	
9 Traffic Calming Crosswalks	9 Shaded Picnic and Grill Areas	
10 Vehicular Access	10 Multi-purpose Open Space	
11 Paved Parking	11 Dog Park	
12 Grass Overflow Parking	12 Skate Park	
13 Basketball Courts	13 Event Stage Area with Utilities	
14 Tennis Courts	14 Equipment Rental	
15 Pickleball Courts	15 Recreation Center	
16 Shuffleboard	16 Boat Launch Ramp	
17 Horseshoe Pits	17 Boat Trailer Parking	
18 Fitness Stations	18 Overlook	



Typical Park Element	Estimated Cost	Notes
Site Preparation	Phase 1 \$319,500	Includes multi-pedestrian/demolition, demolition of streets, site clearing, rough grading of neighborhood park amenity development areas.
	Phase 2 \$460,000	
Facilities	Phase 1 \$1,337,500	Includes indoor recreation center, equipment rental building, a recreation building, and shade structure for playground.
	Phase 2 \$1,328,725	
Park Amenities	Phase 1 \$198,000	Includes neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, W-ET connectivity.
	Phase 2 \$118,500	
Circulation	Phase 1 \$617,820	Includes pedestrian and multi-use paths, vehicle circulation, parking, boat access, and boat trailer parking.
	Phase 2 \$402,200	
Furnishings	Phase 1 \$31,000	Includes Phase 2 shade structures, additional parking, and boardwalk.
	Phase 2 \$44,800	
Landscape	Phase 1 \$202,200	Includes benches, picnic tables, trash receptacles, dog waste stations, WiFi, signage, and lighting.
	Phase 2 \$31,000	
Soft Costs and Contingency	Phase 1 \$1,961,800	Includes Phase 2 furnishings for outdoor seating area adjacent to recreation center.
	Phase 2 \$44,800	
Phase 1 Total	\$4,089,980	<small>Disclaimer: This is a high-level estimate of costs for a typical park. It does not include the cost of parking or other amenities. The following items are excluded: land acquisition, cost of parking or parking lot, site work, environmental studies, utility studies, and cost of existing park or neighborhood utility, existing water/sewer, utility easements, access fees, water meter and a fee to connect to the water main, and other utility fees.</small>
Phase 2 Total	\$8,388,500	



RESOLUTION 157-19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOT 2, BLOCK 5477, UNIT 90, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 3712 NW 36TH PLACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS CRYSTAL LAKE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Crystal Lake Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Crystal Lake Park; and

WHEREAS the City of Cape Coral has previously acquired 7 of the 11 parcels necessary for the completion of Crystal Lake Park and the acquisition of all of the 4 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lot 2, Block 5477, Unit 90, Cape Coral Subdivision, as recorded in Plat Book 24, Pages 12 through 29, inclusive, of the Public Records of Lee County, Florida, Strap Number 244322C1054770020, referred to as Project Parcel CL-001, located at 3712 NW 36th Place, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any

other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

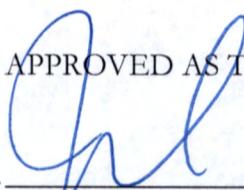
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

for 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Crystal Lake Res of Necessity

Item Number: 11.B.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 158-19 Resolution of Necessity - Crystal Lake Lots 5 and 6, Block 5477, Unit 90

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Crystal Lake Park is a concept park approved by City Council to establish an additional park that includes a walking path, fitness stations, picnic shelter and grill areas. The concept plan includes a beach, aqua park, cable water ski, scuba diving area, and food truck area. The park site is located west of Old Burnt Store Road along the south side of Caloosa Parkway in northwest Cape Coral. In 2012, the City acquired the parcels surrounding Crystal Lake, as well as several lots at the north end of Flagstone Canal. Staff has discussed developing a boat ramp at the north end of Flagstone Canal to offer additional boating access to the Spreader Waterway System and eventually the Gulf of Mexico. With the recent approval of a Parks General Obligation Bond, staff notified the five property owners along Flagstone Canal of the City's desire to complete its acquisitions for the future park. Currently, the City owns 7 of the 11 parcels required for Crystal Lake Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 158-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
▫ Resolution 158-19	Resolution

RESOLUTION 158-19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 5 AND 6, BLOCK 5477, UNIT 90, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 3700 NW 46TH PLACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS CRYSTAL LAKE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Crystal Lake Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Crystal Lake Park; and

WHEREAS the City of Cape Coral has previously acquired 7 of the 11 parcels necessary for the completion of Crystal Lake Park and the acquisition of all of the 4 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 5 and 6, Block 5477, Unit 90, Cape Coral Subdivision, as recorded in Plat Book 24, Pages 12 through 29, inclusive, of the Public Records of Lee County, Florida, Strap Number 244322C1054770050, referred to as Project Parcel CL-002, located at 3700 NW 46th Place, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

fo 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Crystal Lake Res of Necessity

Item Number: 11.C.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 159-19 Resolution of Necessity - Crystal Lake Lots 7 and 8, Block 5477, Unit 90

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Crystal Lake Park is a concept park approved by City Council to establish an additional park that includes a walking path, fitness stations, picnic shelter and grill areas. The concept plan includes a beach, aqua park, cable water ski, scuba diving area, and food truck area. The park site is located west of Old Burnt Store Road along the south side of Caloosa Parkway in northwest Cape Coral. In 2012, the City acquired the parcels surrounding Crystal Lake, as well as several lots at the north end of Flagstone Canal. Staff has discussed developing a boat ramp at the north end of Flagstone Canal to offer additional boating access to the Spreader Waterway System and eventually the Gulf of Mexico. With the recent approval of a Parks General Obligation Bond, staff notified the five property owners along Flagstone Canal of the City's desire to complete its acquisitions for the future park. Currently, the City owns 7 of the 11 parcels required for Crystal Lake Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 159-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
▫ Resolution 159-19	Resolution

RESOLUTION 159-19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 7 AND 8, BLOCK 5477, UNIT 90, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 3642 NW 46TH PLACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS CRYSTAL LAKE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Crystal Lake Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Crystal Lake Park; and

WHEREAS the City of Cape Coral has previously acquired 7 of the 11 parcels necessary for the completion of Crystal Lake Park and the acquisition of all of the 4 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 7 and 8, Block 5477, Unit 90, Cape Coral Subdivision, as recorded in Plat Book 24, Pages 12 through 29, inclusive, of the Public Records of Lee County, Florida, Strap Number 244322C1054770070, referred to as Project Parcel CL-003, located at 3642 NW 46th Place, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	CODDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

for 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Crystal Lake Res of Necessity

Item Number: 11.D.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 160-19 Resolution of Necessity - Crystal Lake Lots 34 and 35, Block 5482, Unit 90

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Crystal Lake Park is a concept park approved by City Council to establish an additional park that includes a walking path, fitness stations, picnic shelter and grill areas. The concept plan includes a beach, aqua park, cable water ski, scuba diving area, and food truck area. The park site is located west of Old Burnt Store Road along the south side of Caloosa Parkway in northwest Cape Coral. In 2012, the City acquired the parcels surrounding Crystal Lake, as well as several lots at the north end of Flagstone Canal. Staff has discussed developing a boat ramp at the north end of Flagstone Canal to offer additional boating access to the Spreader Waterway System and eventually the Gulf of Mexico. With the recent approval of a Parks General Obligation Bond, staff notified the five property owners along Flagstone Canal of the City's desire to complete its acquisitions for the future park. Currently, the City owns 7 of the 11 parcels required for Crystal Lake Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 160-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
▫ Resolution 160-19	Resolution

RESOLUTION 160-19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 34 AND 35, BLOCK 5482, UNIT 90, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 3643 NW 47TH AVENUE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS CRYSTAL LAKE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Crystal Lake Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Crystal Lake Park; and

WHEREAS the City of Cape Coral has previously acquired 7 of the 11 parcels necessary for the completion of Crystal Lake Park and the acquisition of all of the 4 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 34 and 35, Block 5482, Unit 90, Cape Coral Subdivision, as recorded in Plat Book 24, Pages 12 through 29, inclusive, of the Public Records of Lee County, Florida, Strap Number 244322C1054820340, referred to as Project Parcel CL-004, located at 3643 NW 47th Avenue, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

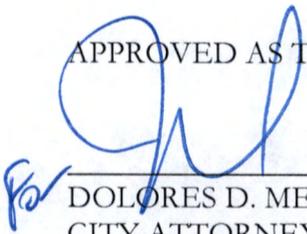
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Crystal Lake Res of Necessity

Item Number: 11.E.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 161-19 Resolution of Necessity - Lake Meade Lots 66, 67 and 68, Block 2149, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 161-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 161-19	Resolution

RESOLUTION 161 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 66, 67 AND 68, BLOCK 2149, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2314 NE 11TH AVENUE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 66, 67 and 68, Block 2149, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021490660, referred to as Project Parcel LM-001, located at 2314 NE 11th Avenue, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

for DOLORES D. MENENDEZ
CITY ATTORNEY
res./Lake Meade Res. of Necessity

Item Number: 11.F.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 162-19 Resolution of Necessity - Lake Meade Lots 1 and 2, Block 2150, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 162-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 162-19	Resolution

RESOLUTION 162 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 1 AND 2, BLOCK 2150, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2308 NE 11TH AVENUE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 1 and 2, Block 2150, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021500010, referred to as Project Parcel LM-002, located at 2308 NE 11th Avenue, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



f_o/ DOLORES D. MENENDEZ
CITY ATTORNEY
res/Lake Meade Res of Necessity

Item Number: 11.G.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 163-19 Resolution of Necessity - Lake Meade Lots 3 and 4, Block 2156, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 163-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 163-19	Resolution

RESOLUTION 163 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 3 AND 4, BLOCK 2156, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1104 KISMET PARKWAY EAST, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 3 and 4, Block 2156, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021560030, referred to as Project Parcel LM-004, located at 1104 Kismet Parkway East, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 For DOLORES D. MENENDEZ
 CITY ATTORNEY
 Res/Lake Meade Res of Necessity

Item Number: 11.H.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 164-19 Resolution of Necessity - Lake Meade Lots 9 and 10, Block 2156, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 164-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 164-19	Resolution

RESOLUTION 164 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 9 AND 10, BLOCK 2156, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1116 KISMET PARKWAY EAST, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 9 and 10, Block 2156, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021560090, referred to as Project Parcel LM-005, located at 1116 Kismet Parkway East, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

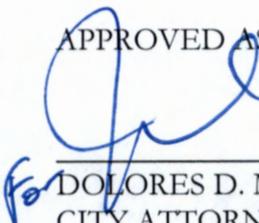
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Lake Meade Res of Necessity

Item Number: 11.I.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 165-19 Resolution of Necessity - Lake Meade Lots 11 and 12, Block 2156, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 165-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 165-19	Resolution

RESOLUTION 165 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 11 AND 12, BLOCK 2156, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1120 KISMET PARKWAY EAST, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

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

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 11 and 12, Block 2156, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021560110, referred to as Project Parcel LM-006, located at 1120 Kismet Parkway East, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

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

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Lake Meade Res of Necessity

Item Number: 11.J.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 166-19 Resolution of Necessity - Lake Meade Lots 5 and 6, Block 2158, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 166-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 166-19	Resolution

RESOLUTION 166 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 5 AND 6, BLOCK 2158, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1108 NE 23RD STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 5 and 6, Block 2158, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021580050, referred to as Project Parcel LM-008, located at 1108 NE 23rd Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

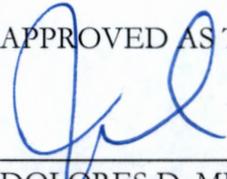
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 F. DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Lake Meade Res of Necessity

Item Number: 11.K.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 167-19 Resolution of Necessity - Lake Meade Lots 21 and 22, Block 2158, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 167-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
▫ Resolution 167-19	Resolution

RESOLUTION 167 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 21 AND 22, BLOCK 2158, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1121-1123 NE 22ND TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 21 and 22, Block 2158, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021580210, referred to as Project Parcel LM-009, located at 1121-1123 NE 22nd Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



FO/ DOLORES D. MENENDEZ
CITY ATTORNEY
res/Lake Meade Res of Necessity

Item Number: 11.L.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 168-19 Resolution of Necessity - Lake Meade Lots 29 and 30, Block 2158, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 168-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 168-19	Resolution

RESOLUTION 168 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 29 AND 30, BLOCK 2158, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1105 NE 22ND TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 29 and 30, Block 2158, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021580290, referred to as Project Parcel LM-010, located at 1105 NE 22nd Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 Fo/ DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Lake Meade Res of Necessity

Item Number: 11.M.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 169-19 Resolution of Necessity - Lake Meade Lots 27 and 28, Block 2159, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 169-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 169-19	Resolution

RESOLUTION 169 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 27 AND 28, BLOCK 2159, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1109 NE 22ND STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 27 and 28, Block 2159, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C1021590270, referred to as Project Parcel LM-012, located at 1109 NE 22nd Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Lake Meade Res of Necessity

Item Number: 11.N.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 170-19 Resolution of Necessity - Lake Meade Lots 1 and 2, Block 2152, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 170-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 170-19	Resolution

RESOLUTION 170 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 1 AND 2, BLOCK 2152, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2101 NE 12TH AVENUE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 1 and 2, Block 2152, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C2021520010, referred to as Project Parcel LM-014, located at 2101 NE 12th Avenue, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 For DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Lake Meade Res of Necessity

Item Number: 11.O.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 171-19 Resolution of Necessity - Lake Meade Lots 27 and 28, Block 2152, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 171-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 171-19	Resolution

RESOLUTION 171 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 27 AND 28, BLOCK 2152, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2217 NE 12TH AVENUE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 27 and 28, Block 2152, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C2021520270, referred to as Project Parcel LM-018, located at 2217 NE 12th Avenue, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



for DOLORES D. MENENDEZ
CITY ATTORNEY
res/Lake Meade Res of Necessity

Item Number: 11.P.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 172-19 Resolution of Necessity - Lake Meade Lots 31, 32 and 33, Block 2152, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 172-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 172-19	Resolution

RESOLUTION 172 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 31, 32 AND 33, BLOCK 2152, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2227 NE 12TH AVENUE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 31, 32 and 33, Block 2152, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C2021520310, referred to as Project Parcel LM-019, located at 2227 NE 12th Avenue, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

for 

DOLORES D. MENENDEZ
CITY ATTORNEY
res Lake Meade Res of Necessity

Item Number: 11.Q.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 173-19 Resolution of Necessity - Lake Meade Lot 1, Block 2153 and Lot 36, Block 2152, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
 2. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 173-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
▫ Resolution 173-19	Resolution

RESOLUTION 173 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOT 1, BLOCK 2153 AND LOT 36, BLOCK 2152, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2313 NE 12TH AVENUE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lot 1, Block 2153 and Lot 36, Block 2152, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C2021530010, referred to as Project Parcel LM-021, located at 2313 NE 12th Avenue, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

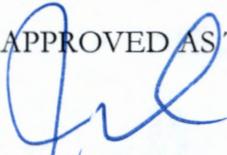
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Lake Meade Res of Necessity

Item Number: 11.R.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 174-19 Resolution of Necessity - Lake Meade Lots 13 and 14, Block 2156, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 174-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 174-19	Resolution

RESOLUTION 174 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 13 AND 14, BLOCK 2156, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1124 KISMET PARKWAY EAST, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 13 and 14, Block 2156, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C2021560130, referred to as Project Parcel LM-024, located at 1124 Kismet Parkway East, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 for DOLORES D. MENENDEZ
 CITY ATTORNEY
 Res/Lake Meade Res of Necessity

Item Number: 11.S.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 175-19 Resolution of Necessity - Lake Meade Lots 13 and 14, Block 2158, Unit 32

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Lake Meade Park is a concept park approved by City Council to establish a community park. The park proposal includes an indoor recreation center, neighborhood park amenities such as athletic courts, playground, fitness stations, dog park, fishing pier, skate park, and boat ramps. The park site is located on the south side of Kismet Parkway East, just west of Del Prado Boulevard North. Lake Meade Park was designated as a community park on the City of Cape Coral Land Use map in 1989. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, City staff has notified property owners within the Lake Meade Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 88 of the 103 parcels required for Lake Meade Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 175-19

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
☐ Resolution 175-19	Resolution

RESOLUTION 175 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 13 AND 14, BLOCK 2158, UNIT 32, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1124 NE 23RD STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS LAKE MEADE PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Lake Meade Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Lake Meade Park; and

WHEREAS the City of Cape Coral has previously acquired 88 of the 103 parcels necessary for the completion of Lake Meade Park and the acquisition of all of the 15 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 13 and 14, Block 2158, Unit 32, Cape Coral Subdivision, as recorded in Plat Book 16, Pages 1 through 13, inclusive, of the Public Records of Lee County, Florida, Strap Number 314324C2021580130, referred to as Project Parcel LM-027, located at 1124 NE 23rd Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

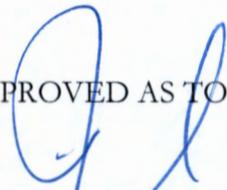
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:


for _____
DOLORES D. MENENDEZ
CITY ATTORNEY
res/Lake Meade Res of Necessity

Item Number: 11.T.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 176-19 Resolution of Necessity - Festival Park Lots 3 and 4, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 176-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 176-19	Resolution

RESOLUTION 176 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 3 AND 4, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 912 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 3 and 4, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030030030, referred to as Project Parcel FP-065, located at 912 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

Few


DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.U.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 177-19 Resolution of Necessity - Festival Park Lots 14 and 15, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 177-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 177-19	Resolution

RESOLUTION 177 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 14 AND 15, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1014 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 14 and 15, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030030140, referred to as Project Parcel FP-070, located at 1014 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.V.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 178-19 Resolution of Necessity - Festival Park Lots 16 and 17, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 178-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 178-19	Resolution

RESOLUTION 178 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 16 AND 17, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1018 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 16 and 17, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030030160, referred to as Project Parcel FP-071, located at 1018 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



for DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.W.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 179-19 Resolution of Necessity - Festival Park Lots 18 and 19, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 179-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 179-19	Resolution

RESOLUTION 179 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 18 AND 19, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1022 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 18 and 19, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030030180, referred to as Project Parcel FP-072, located at 1022 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



for DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.X.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 180-19 Resolution of Necessity - Festival Park Lots 22, 23 and 24, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
 2. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 180-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 180-19	Resolution

RESOLUTION 180 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 22, 23 AND 24, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1032 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 22, 23 and 24, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030030220, referred to as Project Parcel FP-074, located at 1032 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



for DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.Y.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 181-19 Resolution of Necessity - Festival Park Lots 27 and 28, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 181-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 181-19	Resolution

RESOLUTION 181 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 27 AND 28, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1102 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 27 and 28, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030030270, referred to as Project Parcel FP-076, located at 1102 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.Z.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 182-19 Resolution of Necessity - Festival Park Lots 29 and 30, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 182-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 182-19	Resolution

RESOLUTION 182 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 29 AND 30, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1106 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 29 and 30, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030030290, referred to as Project Parcel FP-077, located at 1106 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

Fon 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AA.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 183-19 Resolution of Necessity - Festival Park Lots 31 and 32, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 183-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 183-19	Resolution

RESOLUTION 183 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 31 AND 32, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1110 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 31 and 32, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030030310, referred to as Project Parcel FP-078, located at 1110 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



For DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AB.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 184-19 Resolution of Necessity - Festival Park Lots 39 and 40, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 184-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 184-19	Resolution

RESOLUTION 184 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 39 AND 40, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1126 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 39 and 40, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030390, referred to as Project Parcel FP-082, located at 1126 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COŠDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MIENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AC.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 185-19 Resolution of Necessity - Festival Park Lots 41 and 42, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 185-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 185-19	Resolution

RESOLUTION 185 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 41 AND 42, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1130 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 41 and 42, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030410, referred to as Project Parcel FP-083, located at 1130 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AD.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 186-19 Resolution of Necessity - Festival Park Lots 43 and 44, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 186-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 186-19	Resolution

RESOLUTION 186 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 43 AND 44, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1202 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 43 and 44, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030430, referred to as Project Parcel FP-084, located at 1202 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



fsm DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AE.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 187-19 Resolution of Necessity - Festival Park Lots 47 and 48, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 187-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 187-19	Resolution

RESOLUTION 187 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 47 AND 48, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1210 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 47 and 48, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030470, referred to as Project Parcel FP-086, located at 1210 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

for 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AF.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 188-19 Resolution of Necessity - Festival Park Lots 49 and 50, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 188-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 188-19	Resolution

RESOLUTION 188 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 49 AND 50, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1214 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 49 and 50, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030490, referred to as Project Parcel FP-087, located at 1214 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 for DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AG.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 189-19 Resolution of Necessity - Festival Park Lots 53 and 54, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 189-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 189-19	Resolution

RESOLUTION 189 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 53 AND 54, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1222 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 53 and 54, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030530, referred to as Project Parcel FP-089, located at 1222 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AH.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 190-19 Resolution of Necessity - Festival Park Lots 55 and 56, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 190-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 190-19	Resolution

RESOLUTION 190 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 55 AND 56, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1226 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 55 and 56, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030550, referred to as Project Parcel FP-090, located at 1226 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AI.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 191-19 Resolution of Necessity - Festival Park Lots 67 and 68, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 191-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 191-19	Resolution

RESOLUTION 191 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 67 AND 68, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1300 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 67 and 68, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030670, referred to as Project Parcel FP-096, located at 1300 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



Fou DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AJ.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 192-19 Resolution of Necessity - Festival Park Lots 69 and 70, Block 3003, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 192-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 192-19	Resolution

RESOLUTION 192 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 69 AND 70, BLOCK 3003, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1304 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 69 and 70, Block 3003, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030030690, referred to as Project Parcel FP-517, located at 1304 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 For DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AK.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 193-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3009, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 193-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 193-19	Resolution

RESOLUTION 193 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 1 AND 2, BLOCK 3009, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1516 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 1 and 2, Block 3009, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030090010, referred to as Project Parcel FP-099, located at 1516 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AL.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 194-19 Resolution of Necessity - Festival Park Lots 3 and 4, Block 3009, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 194-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 194-19	Resolution

RESOLUTION 194 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 3 AND 4, BLOCK 3009, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1512 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 3 and 4, Block 3009, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030090030, referred to as Project Parcel FP-100, located at 1512 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

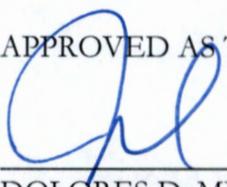
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AM.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 195-19 Resolution of Necessity - Festival Park Lots 14 and 15, Block 3009, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 195-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 195-19	Resolution

RESOLUTION 195 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 14 AND 15, BLOCK 3009, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1422 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 14 and 15, Block 3009, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030090140, referred to as Project Parcel FP-105, located at 1422 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AN.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 196-19 Resolution of Necessity - Festival Park Lots 16 and 17, Block 3009, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 196-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 196-19	Resolution

RESOLUTION 196 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 16 AND 17, BLOCK 3009, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1418 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 16 and 17, Block 3009, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030090160, referred to as Project Parcel FP-106, located at 1418 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

fat 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AO.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 197-19 Resolution of Necessity - Festival Park Lots 20 and 21, Block 3009, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 197-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 197-19	Resolution

RESOLUTION 197 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 20 AND 21, BLOCK 3009, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1423 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 20 and 21, Block 3009, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030090200, referred to as Project Parcel FP-108, located at 1423 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 For DOLORES D. MIENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AP.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 198-19 Resolution of Necessity - Festival Park Lots 22, 23 and 24, Block 3009, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
 2. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 198-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 198-19	Resolution

RESOLUTION 198 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 22, 23 AND 24, BLOCK 3009, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1429 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 22, 23 and 24, Block 3009, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030090220, referred to as Project Parcel FP-109, located at 1429 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 for DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AQ.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 199-19 Resolution of Necessity - Festival Park Lots 7 and 8, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 199-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 199-19	Resolution

RESOLUTION 199 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 7 AND 8, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1246 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 7 and 8, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130070, referred to as Project Parcel FP-119, located at 1246 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AR.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 200-19 Resolution of Necessity - Festival Park Lots 11 and 12, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 200-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 200-19	Resolution

RESOLUTION 200 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 11 AND 12, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1238 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 11 and 12, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130110, referred to as Project Parcel FP-121, located at 1238 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

for _____
DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AS.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 201-19 Resolution of Necessity - Festival Park Lots 15 and 16, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 201-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 201-19	Resolution

RESOLUTION 201 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 15 AND 16, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1230 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 15 and 16, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130150, referred to as Project Parcel FP-123, located at 1230 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AT.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 202-19 Resolution of Necessity - Festival Park Lots 23 and 24, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 202-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 202-19	Resolution

RESOLUTION 202 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 23 AND 24, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1214 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 23 and 24, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130230, referred to as Project Parcel FP-127, located at 1214 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AU.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 203-19 Resolution of Necessity - Festival Park Lots 25 and 26, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 203-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 203-19	Resolution

RESOLUTION 203 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 25 AND 26, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1210 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 25 and 26, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130250, referred to as Project Parcel FP-128, located at 1210 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AV.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 204-19 Resolution of Necessity - Festival Park Lots 27 and 28, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 204-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 204-19	Resolution

RESOLUTION 204 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 27 AND 28, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1206 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 27 and 28, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130270, referred to as Project Parcel FP-129, located at 1206 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

Fon 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AW.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 205-19 Resolution of Necessity - Festival Park Lots 29 and 30, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 205-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 205-19	Resolution

RESOLUTION 205 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 29 AND 30, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1202 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 29 and 30, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130290, referred to as Project Parcel FP-130, located at 1202 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

fa 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AX.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 206-19 Resolution of Necessity - Festival Park Lots 45 and 46, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 206-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 206-19	Resolution

RESOLUTION 206 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 45 AND 46, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1129 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 45 and 46, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130450, referred to as Project Parcel FP-138, located at 1129 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.AY.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 207-19 Resolution of Necessity - Festival Park Lots 53 and 54, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 207-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 207-19	Resolution

RESOLUTION 207 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 53 AND 54, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1215 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 53 and 54, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130530, referred to as Project Parcel FP-142, located at 1215 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

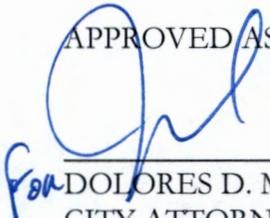
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.AZ.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 208-19 Resolution of Necessity - Festival Park Lots 59 and 60, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 208-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 208-19	Resolution

RESOLUTION 208 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 59 AND 60, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1227 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 59 and 60, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130590, referred to as Project Parcel FP-145, located at 1227 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 For DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BA.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 209-19 Resolution of Necessity - Festival Park Lots 75 and 76, Block 3013, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 209-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 209-19	Resolution

RESOLUTION 209 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 75 AND 76, BLOCK 3013, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1309 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 75 and 76, Block 3013, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030130750, referred to as Project Parcel FP-153, located at 1309 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

Fou 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BB.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 210-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3014, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 210-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 210-19	Resolution

RESOLUTION 210 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 1 AND 2, BLOCK 3014, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1110 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 1 and 2, Block 3014, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030140010, referred to as Project Parcel FP-154, located at 1110 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BC.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 211-19 Resolution of Necessity - Festival Park Lots 12 and 13, Block 3014, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 211-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 211-19	Resolution

RESOLUTION 211 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 12 AND 13, BLOCK 3014, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1026 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 12 and 13, Block 3014, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030140120, referred to as Project Parcel FP-159, located at 1026 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



for DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BD.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 212-19 Resolution of Necessity - Festival Park Lots 14 and 15, Block 3014, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 212-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 212-19	Resolution

RESOLUTION 212 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 14 AND 15, BLOCK 3014, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1022 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 14 and 15, Block 3014, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030140140, referred to as Project Parcel FP-160, located at 1022 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 for DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BE.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 213-19 Resolution of Necessity - Festival Park Lots 18 and 19, Block 3014, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 213-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 213-19	Resolution

RESOLUTION 213 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 18 AND 19, BLOCK 3014, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1014 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 18 and 19, Block 3014, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030140180, referred to as Project Parcel FP-162, located at 1014 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 for DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BF.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 214-19 Resolution of Necessity - Festival Park Lots 20 and 21, Block 3014, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 214-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 214-19	Resolution

RESOLUTION 214 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 20 AND 21, BLOCK 3014, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1010 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 20 and 21, Block 3014, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030140200, referred to as Project Parcel FP-163, located at 1010 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

for _____
DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BG.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 215-19 Resolution of Necessity - Festival Park Lots 37 and 38, Block 3014, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 215-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 215-19	Resolution

RESOLUTION 215 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 37 AND 38, BLOCK 3014, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1025 NW 25TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 37 and 38, Block 3014, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030140370, referred to as Project Parcel FP-171, located at 1025 NW 25th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BH.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 216-19 Resolution of Necessity - Festival Park Lots 39 and 40, Block 3015, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 216-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 216-19	Resolution

RESOLUTION 216 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 39 AND 40, BLOCK 3015, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2608 NW 9TH PLACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 39 and 40, Block 3015, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030150390, referred to as Project Parcel FP-196, located at 2608 NW 9th Place, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 For DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BI.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 217-19 Resolution of Necessity - Festival Park Lots 55 and 56, Block 3015, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 217-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 217-19	Resolution

RESOLUTION 217 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 55 AND 56, BLOCK 3015, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2512 NW 9TH PLACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 55 and 56, Block 3015, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030150550, referred to as Project Parcel FP-204, located at 2512 NW 9th Place, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 FOR DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BJ.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 218-19 Resolution of Necessity - Festival Park Lots 12 and 13, Block 3019, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 218-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 218-19	Resolution

RESOLUTION 218 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 12 AND 13, BLOCK 3019, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 2609 NW 11TH COURT, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 12 and 13, Block 3019, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C3030190120, referred to as Project Parcel FP-258, located at 2609 NW 11th Court, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



Fon DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BK.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 219-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3021, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 219-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 219-19	Resolution

RESOLUTION 219 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 1 AND 2, BLOCK 3021, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1308 NW 26TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 1 and 2, Block 3021, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030210010, referred to as Project Parcel FP-293, located at 1308 NW 26th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 FOW DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BL.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 220-19 Resolution of Necessity - Festival Park Lots 21 and 22, Block 3021, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 220-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 220-19	Resolution

RESOLUTION 220 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 21 AND 22, BLOCK 3021, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1218 NW 26TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 21 and 22, Block 3021, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030210210, referred to as Project Parcel FP-304, located at 1218 NW 26th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BM.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 221-19 Resolution of Necessity - Festival Park Lots 35 and 36, Block 3021, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 221-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 221-19	Resolution

RESOLUTION 221 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 35 AND 36, BLOCK 3021, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1209 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 35 and 36, Block 3021, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030210350, referred to as Project Parcel FP-311, located at 1209 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



For DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BN.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 222-19 Resolution of Necessity - Festival Park Lots 37 and 38, Block 3021, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 222-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 222-19	Resolution

RESOLUTION 222 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 37 AND 38, BLOCK 3021, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1213 NW 25TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 37 and 38, Block 3021, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030210370, referred to as Project Parcel FP-312, located at 1213 NW 25th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

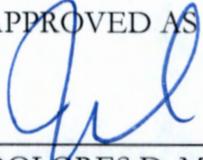
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BO.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 223-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3022, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 223-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 223-19	Resolution

RESOLUTION 223 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 1 AND 2, BLOCK 3022, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1308 NW 26TH TERRACE, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 1 and 2, Block 3022, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030220010, referred to as Project Parcel FP-324, located at 1308 NW 26th Terrace, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

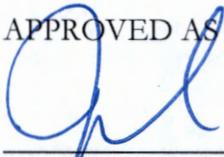
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BP.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 224-19 Resolution of Necessity - Festival Park Lots 55 and 56, Block 3022, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 224-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 224-19	Resolution

RESOLUTION 224 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 55 AND 56, BLOCK 3022, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1301 NW 26TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 55 and 56, Block 3022, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030220550, referred to as Project Parcel FP-351, located at 1301 NW 26th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

Few 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BQ.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 225-19 Resolution of Necessity - Festival Park Lots 59 and 60, Block 3022, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 225-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 225-19	Resolution

RESOLUTION 225 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 59 AND 60, BLOCK 3022, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1309 NW 26TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 59 and 60, Block 3022, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030220590, referred to as Project Parcel FP-353, located at 1309 NW 26th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BR.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 226-19 Resolution of Necessity - Festival Park Lots 17 and 18, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 226-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 226-19	Resolution

RESOLUTION 226 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 17 AND 18, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1256 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 17 and 18, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030250170, referred to as Project Parcel FP-380, located at 1256 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BS.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 227-19 Resolution of Necessity - Festival Park Lots 19, 20 and 21, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 227-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 227-19	Resolution

RESOLUTION 227 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 19, 20 AND 21, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1252 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 19, 20 and 21, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030250190, referred to as Project Parcel FP-381, located at 1252 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



fol DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BT.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 228-19 Resolution of Necessity - Festival Park Lots 31, 32 and 33, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 228-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 228-19	Resolution

RESOLUTION 228 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 31, 32 AND 33, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1228 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 31, 32 and 33, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030250310, referred to as Project Parcel FP-386, located at 1228 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

Foa 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BU.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 229-19 Resolution of Necessity - Festival Park Lots 34 and 35, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 229-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 229-19	Resolution

RESOLUTION 229 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 34 AND 35, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1222 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 34 and 35, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C1030250340, referred to as Project Parcel FP-387, located at 1222 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

 DOLORES D. MIENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BV.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 230-19 Resolution of Necessity - Festival Park Lots 58 and 59, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 230-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 230-19	Resolution

RESOLUTION 230 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 58 AND 59, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1125 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 58 and 59, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C1030250580, referred to as Project Parcel FP-399, located at 1125 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



Fou DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.BW.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 231-19 Resolution of Necessity - Festival Park Lots 64 and 65, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 231-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 231-19	Resolution

RESOLUTION 231 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 64 AND 65, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1207 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 64 and 65, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C1030250640, referred to as Project Parcel FP-402, located at 1207 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BX.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 232-19 Resolution of Necessity - Festival Park Lots 78 and 79, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 232-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 232-19	Resolution

RESOLUTION 232 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 78 AND 79, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1231 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 78 and 79, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030250780, referred to as Project Parcel FP-408, located at 1231 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

Fou 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.BY.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 233-19 Resolution of Necessity - Festival Park Lots 80 and 81, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 233-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 233-19	Resolution

RESOLUTION 233 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 80 AND 81, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1235 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 80 and 81, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030250800, referred to as Project Parcel FP-409, located at 1235 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For _____
DOLORES D. MENENDEZ
CITY ATTORNEY

res/Festival Park Res of Necessity

Item Number: 11.BZ.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 234-19 Resolution of Necessity - Festival Park Lots 91 and 92, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 234-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 234-19	Resolution

RESOLUTION 234 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 91 AND 92, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1301 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 91 and 92, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030250910, referred to as Project Parcel FP-414, located at 1301 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.CA.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 235-19 Resolution of Necessity - Festival Park Lots 93 and 94, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 235-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 235-19	Resolution

RESOLUTION 235 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 93 AND 94, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1305 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 93 and 94, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030250930, referred to as Project Parcel FP-415, located at 1305 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

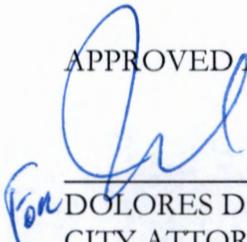
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.CB.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 236-19 Resolution of Necessity - Festival Park Lots 101 and 102, Block 3025, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 236-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 236-19	Resolution

RESOLUTION 236 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 101 AND 102, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1403 NW 27TH STREET, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 101 and 102, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030251010, referred to as Project Parcel FP-419, located at 1403 NW 27th Street, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.CC.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 237-19 Resolution of Necessity - Festival Park Lots 1 and 2, Block 3028, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 237-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 237-19	Resolution

RESOLUTION 237 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 1 AND 2, BLOCK 3028, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1511 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 1 and 2, Block 3028, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030280010, referred to as Project Parcel FP-470, located at 1511 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

 DOLORES D. MENENDEZ
 CITY ATTORNEY
 res/Festival Park Res of Necessity

Item Number: 11.CD.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 238-19 Resolution of Necessity - Festival Park Lots 11, 12 and 13, Block 3028, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
 2. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 238-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 238-19	Resolution

RESOLUTION 238 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 11, 12 AND 13, BLOCK 3028, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1421 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 11, 12 and 13, Block 3028, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030280110, referred to as Project Parcel FP-475, located at 1421 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.CE.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 239-19 Resolution of Necessity - Festival Park Lots 14 and 15, Block 3028, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 239-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 239-19	Resolution

RESOLUTION 239 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 14 AND 15, BLOCK 3028, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1417 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 14 and 15, Block 3028, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030280140, referred to as Project Parcel FP-476, located at 1417 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.CF.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 240-19 Resolution of Necessity - Festival Park Lots 36 and 37, Block 3028, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 240-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 240-19	Resolution

RESOLUTION 240 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 36 AND 37, BLOCK 3028, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1251 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 36 and 37, Block 3028, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C4030280360, referred to as Project Parcel FP-486, located at 1251 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.CG.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 241-19 Resolution of Necessity - Festival Park Lots 38 and 39, Block 3028, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 241-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 241-19	Resolution

RESOLUTION 241 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 38 AND 39, BLOCK 3028, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1247 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 38 and 39, Block 3028, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C1030280380, referred to as Project Parcel FP-487, located at 1247 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.CH.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 242-19 Resolution of Necessity - Festival Park Lots 42 and 43, Block 3028, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 242-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 242-19	Resolution

RESOLUTION 242 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 42 AND 43, BLOCK 3028, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1239 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 42 and 43, Block 3028, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C1030280420, referred to as Project Parcel FP-489, located at 1239 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

Fok 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity

Item Number: 11.CI.
Meeting Date: 7/22/2019
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 243-19 Resolution of Necessity - Festival Park Lots 46, 47 and 48, Block 3028, Unit 43

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
 2. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Festival Park has been a concept approved by City Council to establish a large multi-use community park. This park is proposed to be the City's premier community park and special venue to provide first-class recreational, social, and cultural opportunities that include an amphitheater, recreation center with an indoor fitness center, a freshwater beach, trails, and restored natural areas for the enjoyment of residents and visitors. The area proposed for Festival Park is located north of Kismet Parkway West, just east of Chiquita Boulevard North, in Unit 43 Cape Coral Subdivision. In 2003, City Council directed staff to begin purchasing property for the future park site. Over the years, staff has been working with various owners in the park area to purchase properties on a voluntary basis. With the recent approval of a Parks General Obligation Bond, staff has notified property owners within the Festival Park area of the City's desire to complete its acquisitions within the park. Currently, the City owns 449 of the 517 parcels required for Festival Park. The Resolution of Necessity authorizes the City Manager, City Attorney and outside Eminent Domain Counsel to take necessary actions to acquire the remaining property.

LEGAL REVIEW:

EXHIBITS:

Resolution 243-19

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Resolution 243-19	Resolution

RESOLUTION 243 - 19

A RESOLUTION OF NECESSITY DECLARING A REASONABLE NECESSITY TO ACQUIRE CERTAIN PROPERTY IDENTIFIED AS LOTS 46, 47 AND 48, BLOCK 3028, UNIT 43, CAPE CORAL SUBDIVISION, AS MORE PARTICULARLY DESCRIBED HEREIN, LOCATED AT 1231 WILMINGTON PARKWAY, FOR THE PURPOSE OF COMPLETING THE DEVELOPMENT OF A PARK IDENTIFIED AS FESTIVAL PARK; AUTHORIZING THE CITY MANAGER TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY DONATION, PURCHASE, OR EMINENT DOMAIN; AUTHORIZING THE CITY ATTORNEY TO ACQUIRE FEE SIMPLE INTEREST IN THE PROPERTY BY THE INSTITUTION OF PROCEEDINGS IN EMINENT DOMAIN, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Cape Coral is one of the fastest growing municipalities within the State of Florida; and

WHEREAS the exceptional growth in the City has greatly increased the demand for park and recreation facilities for the residents of the City of Cape Coral; and

WHEREAS as a result of the foregoing, present need and long-range planning require the City to provide additional park and outdoor recreation facilities for the residents of the City of Cape Coral; and

WHEREAS the City Council of the City of Cape Coral, having considered information provided by the City Manager, City Staff, professional consultants, and the City of Cape Coral Parks and Recreation Master Plan 2016, has determined it to be necessary and in the public interest to acquire the additional property identified herein for the completion of Festival Park; and

WHEREAS, the citizens of the City of Cape Coral approved the Parks General Obligation Bond in a November 2018 referendum which made \$60 Million available for various parks projects in the City including the completion of Festival Park; and

WHEREAS the City of Cape Coral has previously acquired 449 of the 517 parcels necessary for the completion of Festival Park and the acquisition of all of the 68 remaining necessary parcels is addressed by this resolution and contemporaneous companion resolutions for each of the other remaining parcels; and

WHEREAS the City of Cape Coral, Florida is authorized pursuant to Chapter 166, Florida Statutes, to acquire property for municipal purposes through the power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The recitals contained above are true, correct, and incorporated herein by reference in this Resolution and are made a part of this Resolution as if they were set forth in full below.

SECTION 2. The City of Cape Coral finds it necessary and in the public interest to acquire the real property described as Lots 46, 47 and 48, Block 3028, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48 thru 57, inclusive, of the Public Records of Lee County, Florida, Strap Number 274323C1030280460, referred to as Project Parcel FP-491, located at 1231 Wilmington Parkway, to provide additional park and outdoor recreation facilities for the growing population of the City of Cape Coral. These facilities will benefit the health, safety and welfare of the growing population of the City of Cape Coral.

SECTION 3. The City Manager, City Attorney and outside Eminent Domain Counsel are hereby authorized and directed to immediately proceed to take the necessary steps for the City of Cape Coral to acquire in its own name, by donation, purchase or eminent domain proceedings pursuant to Chapters 73, 74 and 166, Florida Statutes and all other statutory or common law granting the City the power to acquire property utilizing the power of eminent domain, the real property described in Section 2 above, in fee simple, for the above-described public use or purpose, including the institution of an eminent domain action and the filing of a Declaration of Taking, and to have prepared in the name of the City of Cape Coral, Lee County, Florida, all papers, pleadings, and other instruments required for this purpose, and to ensure any eminent domain proceedings which may be instituted are

prosecuted through Final Judgment. The City Attorney, outside Eminent Domain Counsel and any other City employees or agents are further authorized and directed to take such further actions as are reasonably required to accomplish the purposes identified herein.

SECTION 4. The City Manager is hereby authorized, empowered and directed to contact the owner(s) and other persons that may hold an interest in the property described in Section 2 above, and to negotiate the purchase of such property interests for the City. These parcels are being appraised by a well-qualified and licensed appraiser engaged by the City. The City Manager is hereby authorized, empowered and directed to offer the owner(s) an amount not to exceed 20% above the appraised value of such property as determined by the appraiser engaged by the City.

SECTION 5. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:

For 

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Festival Park Res of Necessity