



## **AGENDA FOR THE HEARING EXAMINER**

Tuesday, January 5, 2021

9:00 AM

Council Chambers

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

### **2. HEARINGS**

- A. Case #VP20-0013\*; Address: 2526 Skyline Blvd.; Applicant: Creighton Construction and Management, LLC on behalf of Owner: S & L Properties Skyline, LLC

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

- A. Tuesday, January 19, 2021, at 9:00 a.m. in Council Chambers

### **4. ADJOURNMENT**

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

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

#### **PLEDGE OF CIVILITY**

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

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

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



**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL

<b>Item Number:</b>	<b>2.A.</b>
<b>Meeting Date:</b>	<b>1/5/2021</b>
<b>Item Type:</b>	<b>HEARINGS</b>

**TITLE:**

Case #VP20-0013\*; Address: 2526 Skyline Blvd.; Applicant: Creighton Construction and Management, LLC on behalf of Owner: S & L Properties Skyline, LLC

**REQUESTED ACTION:**

Approve or Deny

**SUMMARY EXPLANATION AND BACKGROUND:**

The applicant intends to vacate 2,346 sq. ft. of public utility and drainage easements and all underlying easements within a portion of Unit 66, Block 3167, Lot 10, Cape Coral Subdivision, at 2526 Skyline Blvd.

**STRATEGIC PLAN ALIGNMENT:**

1. 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

**RECOMMENDATIONS:**

n/a

**SOURCE OF ADDITIONAL INFORMATION:**

Patrick Carlton White, Planner, PH: 239-574-0605,  
Email: PWhite@CapeCoral.net

**FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:**

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

**PREPARED BY:**

Jessica Marie Cruz      Division- Planning      Department- Community Development

**ATTACHMENTS:**

Description	Type
Revised Backup Materials	Backup Material



**DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

Tel. (239) 574-0776  
Fax (239) 574-0591  
P.O. Box 150027  
Cape Coral, FL 33915-0027

**VACATIONS OF PLAT REQUEST TO THE HEARING EXAMINER AND CITY COUNCIL**

**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 the case may be continued to a future hearing date.

If the vacation is approved, the applicant shall be responsible for reimbursing the City to record the final resolution or ordinance with the Lee County Clerk of Court. Until these fees are 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, or certificates of occupancy for any property covered by the resolution or ordinance.

<b>PROPERTY INFORMATION</b>			
Project Name: <u>Culver's Vacation</u>			
Location/Address <u>2526 Skyline Blvd Cape Coral, FL 33914</u>			
Strap Number <u>34-44-23-C2-0030B.0000</u>	Unit _____	Block <u>8050/316</u>	Lot (s) <u>42</u>
Strap Number _____	Unit _____	Block _____	Lot (s) _____
Plat Book <u>22</u>	Page <u>26</u>	Future Land Use <u>C1</u>	Current Zoning <u>C1</u>
<b>PROPERTY OWNER (S) INFORMATION</b>			
Owner <u>S&amp;L Properties Skyline, LLC</u>		Address <u>2651 Kirking Court</u>	
Phone _____		City <u>Portage</u>	
Email _____		State <u>WI</u>	Zip <u>53901</u>
Owner _____		Address _____	
Phone _____		City _____	
Email _____		State <u>WI</u>	Zip <u>53901</u>
<b>APPLICANT INFORMATION (If different from owner)</b>			
Applicant <u>Creighton Construction &amp; Man</u>		Address <u>2240 W First St</u>	
Phone <u>239-989-3471</u>		City <u>Fort Myers</u>	
Email <u>Levans@creightonde.com</u>		State <u>FL</u>	Zip <u>33901</u>
<b>AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)</b>			
Representative <u>Lauren Evans</u>		Address <u>2240 W First St</u>	
Phone <u>239-989-3471</u>		City <u>Fort Myers</u>	
Email <u>Levans@creightonde.com</u>		State <u>WI</u>	Zip <u>33901</u>



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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.

**(ALL SIGNATURE MUST BE NOTARIZED)**

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.

Creighton Construction & Management, LLC  
CORPORATION/COMPANY NAME (IF APPLICABLE)

Jeffrey Liegel  
OWNER'S NAME (TYPE OR PRINT)

[Signature]  
OWNER'S SIGNATURE

OWNER'S NAME (TYPE OR PRINT)

OWNER'S SIGNATURE

Lauren Evans  
APPLICANT NAME (TYPE OR PRINT)

[Signature]  
APPLICANT SIGNATURE

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

STATE OF Florida

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 28<sup>th</sup> day of December, 2020 by Lauren Evans & Jeffrey Liegel, know is personally known to me or produced \_\_\_\_\_ as identification.

Exp Date: Sep. 29 2023 Commission Number: 66917365

Signature of Notary Public: [Signature]

Printed Name of Notary Public: Joseph Henthorn





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Cape Coral, FL 33915-0027

**AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)**

PLEASE BE ADVISED THAT Lauren Evans

(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST BEFORE THE HEARING EXAMINER  
AND CITY COUNCIL.

UNIT 66 BLOCK 8050/3167 LOT(S) 42 SUBDIVISION \_\_\_\_\_

OR LEGAL DESCRIPTION \_\_\_\_\_

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

Jeffrey Liegel  
PROPERTY OWNER (Please Print)

[Signature]  
PROPERTY OWNER (Signature & title)

\_\_\_\_\_  
PROPERTY OWNER (Please Print)

\_\_\_\_\_  
PROPERTY OWNER (Signature & title)

STATE OF Florida

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online  
notarization, on this 28<sup>th</sup> day of December, 2020 by Jeffrey Liegel,  
know is personally known to me or produced \_\_\_\_\_ as identification.



Exp Date: Sep 29, 2023 Commission Number: GG917365

Signature of Notary Public: [Signature]

Printed Name of Notary Public: Joseph Henthorn

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



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**ACKNOWLEDGEMENT FORM**

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

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

I will have the opportunity at the hearing to present 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 and recording costs. All fees are to be submitted to the City of Cape Coral with the application.

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

I hereby acknowledge that I have read and understood the above affidavit on the 28<sup>th</sup> Day of December, 2020.

S&L Properties Skyline, LLC  
CORPORATION/COMPANY NAME

Jeffrey Liegel  
OWNER'S NAME (TYPE or PRINT)  
[Signature]  
OWNER'S SIGNATURE

STATE OF Florida

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 28<sup>th</sup> day of December, 2020 by Jeffrey Liegel,  
know is personally known to me or produced \_\_\_\_\_ as identification.



Exp Date: Sep. 29 2023 Commission Number: GG917365

Signature of Notary Public: [Signature]

Printed Name of Notary Public: Joseph Henthorn





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**DOCUMENTARY EVIDENCE (LDC, Section 3.1.11F.6)**

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 three 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.

Lauren Evans

OWNER/APPLICANT  
(PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

**(SIGNATURE MUST BE NOTARIZED)**

STATE OF Florida

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 28<sup>th</sup> day of December, 2020 by Lauren Evans,  
know is personally known to me or produced \_\_\_\_\_ as identification.

Exp Date: Sep 29 2023 Commission Number: GG917365

Signature of Notary Public:

Printed Name of Notary Public: Joseph Henthorn







9/30/20

City of Cape Coral  
Department of Community Development  
1015 Cultural Park Blvd.  
Cape Coral, FL 33990

**Reference: Petition to vacate internal easements and a portion of vacated alley OR 4745 PG 3707**

To whom it may concern:

Creighton Construction & Management is seeking to vacate internal easements and a portion of vacated alley recorded in the Home Depot Plat, instrument #2006000203514. The vacation is needed to cleanup title for new development. Please find the supplemental documents for review:

1. Completed Application for ROW vacation
2. Letters of no objection
3. Sketch and legal area to be vacated
4. TOPO survey
5. Title Commitment
6. Proof taxes paid

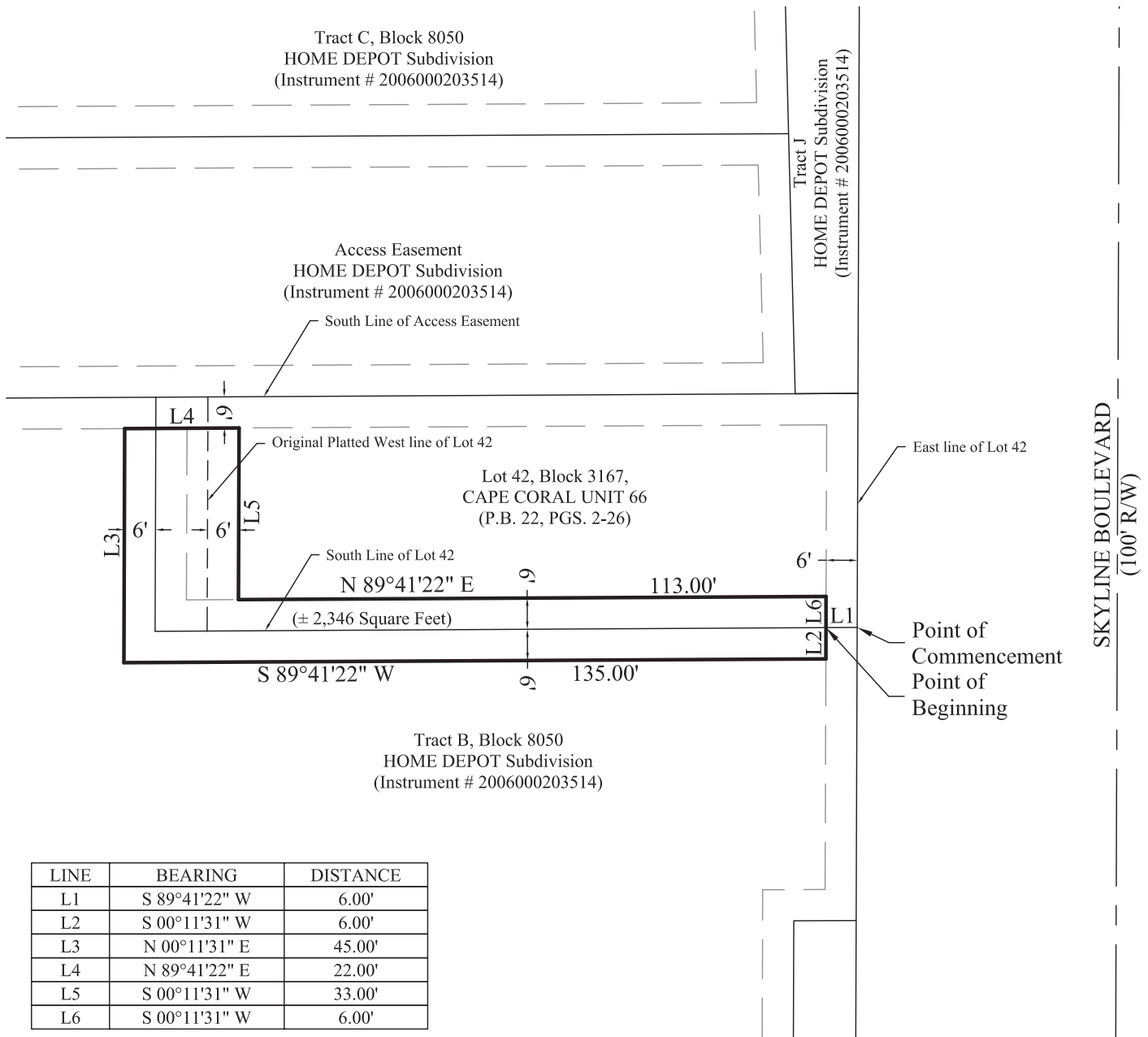
If you have any questions please feel free to contact me.

Thank you,  
Lauren Evans  
[levans@creightondev.com](mailto:levans@creightondev.com)



2240 W First St, STE 101  
Fort Myers, FL 33901  
Office: 239-210-0455/Cell: 239-989-3471/Fax: 239-673-7328

# Sketch



LINE	BEARING	DISTANCE
L1	S 89°41'22" W	6.00'
L2	S 00°11'31" W	6.00'
L3	N 00°11'31" E	45.00'
L4	N 89°41'22" E	22.00'
L5	S 00°11'31" W	33.00'
L6	S 00°11'31" W	6.00'

## SURVEY NOTES:

1. BEARINGS ARE BASED ON THE SOUTH LINE OF LOT 42, BLOCK 3167, CAPE CORAL, UNIT 66 BEING S89°41'22"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 2020, ARDURRA GROUP, INC., ALL RIGHTS RESERVED.*
5. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF ARDURRA GROUP, INC.
6. NOT VALID WITHOUT SHEET 2 OF 2.

Sheet 1 of 2

## Sketch to Accompany Description

### Proposed Easement Vacation

a portion of Lot 42, Block 3167 of CAPE CORAL Subdivision, UNIT 66 as recorded in Plat Book 22, Pages 2 through 26, inclusive, of the Public Records of Lee County, Florida and Tract B, Block 8050 of Home Depot Subdivision as recorded in Instrument Number 2006000203514 of the Public Records of Lee County, Florida, lying in Section 34, Township 44 South, Range 23 East, Lee County, Florida

SHEET 1 OF 2

JOB # 20-4667 PREPARED FOR: S & L PROPERTIES SKYLINE, LLC

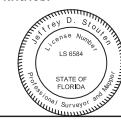
SECTION 34, TOWNSHIP 44S, RANGE 23E

## THIS IS NOT A SURVEY



324 Nicholas Parkway W, Unit A  
Cape Coral, Florida 33991  
Phone: (239) 673-9541  
www.Ardurra.com  
License #LB-2610

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on **September 28, 2020** 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.



Digitally signed by  
**Jeffrey Stouten**  
Date: 2020.09.30  
08:57:22 -04'00'

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

# Description

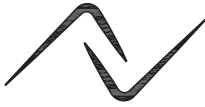
## Subject Parcel Description:

A parcel of land lying in Section 34, Township 44 South, Range 23 East, Lee County, Florida being a portion of Lot 42, Block 3167 of CAPE CORAL Subdivision, Unit 66 as recorded in Plat Book 22, Pages 2 through 26, inclusive, of the Public Records of Lee County, Florida and Tract B, Block 8050 of Home Depot Subdivision as recorded in Instrument Number 2006000203514 of the Public Records of Lee County, Florida, Being more particularly described as follows:

Commencing at the Southeast corner of said Lot 42, run S89°41'22"W, along the South line of said Lot 42, a distance of 6.00 feet to an intersection with the Westerly line of a 6.00 foot wide Public Utility/Drainage easement, as recorded in said Plat Book and said Instrument, to the POINT OF BEGINNING. Thence run S00°11'31"W, along said Westerly line, a distance of 6.00 feet to an intersection with the Southerly line of a 6.00 foot wide Drainage and Public Utility Easement as recorded in said Instrument; thence run S89°41'22"W, along said Southerly line, parallel with and 6.00 feet Southerly of (as measured on a perpendicular) the South line of said Lot 42, a distance of 135.00 feet; thence run N00°11'31"E, along the Westerly line of said Drainage and Public Utility Easement, a distance of 45.00 feet to an intersection with the Southerly line of a 6.00 foot wide Drainage and Public Utility Easement as recorded in said Instrument; thence run N89°41'22"E, parallel with and 6.00 feet Southerly of (as measured on a perpendicular) the South line of an Access Easement as recorded in said Instrument, a distance of 22.00 feet; thence run S00°11'31"W, 6.00 feet Easterly of (as measured on a perpendicular) the originally platted West line of said Lot 42, a distance of 33.00 feet to a point on the Northerly line of a 6.00 foot wide Public Utility/Drainage easement as recorded in said Plat Book; thence run N89°41'22"E, along said easement line, parallel with and 6.00 feet North of (as measured on a perpendicular) the South line of said Lot 42, a distance of 113.00 feet to an intersection with the Westerly line of a 6.00 foot wide Public Utility/Drainage easement as recorded in said Plat Book; thence run S00°11'31"W, along said Westerly line, parallel with and 6.00 feet West of (as measured on a perpendicular) the East line of said Lot 42, a distance of 6.00 feet to the POINT OF BEGINNING.

Said parcel contains 2,346 square feet (more or less)

Bearings are based on the South line of Lot 42, Block 3167, CAPE CORAL, Unit 66 being S89°41'22"W.

<p style="text-align: center;"><b>THIS IS NOT A SURVEY</b></p>	<p style="text-align: center;">Description to Accompany Sketch <b>Proposed Easement Vacation</b> <i>a portion of Lot 42, Block 3167 of CAPE CORAL Subdivision, UNIT 66 as recorded in Plat Book 22, Pages 2 through 26, inclusive, of the Public Records of Lee County, Florida and Tract B, Block 8050 of Home Depot Subdivision as recorded in Instrument Number 2006000203514 of the Public Records of Lee County, Florida, lying in Section 34, Township 44 South, Range 23 East, Lee County, Florida</i></p>	<p style="text-align: center;"><i>Not Valid without Sheet 1 of 2</i></p>
<p style="text-align: center;"><i>Sheet 2 of 2</i></p>	<div style="text-align: center;">  <p>324 Nicholas Parkway W, Unit A Cape Coral, Florida 33991 Phone: (239) 673-9541 www.Ardurra.com License #LB-2610</p> <p><b>ARDURRA</b></p> <p><b>COLLABORATE. INNOVATE. CREATE.</b></p> </div>	<p>I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on <b>September 28, 2020</b> is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors &amp; Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.</p> <p style="text-align: center;"><i>See Sheet 1 of 2 for Signature and Seal</i></p> <hr/> <p><b>JEFFREY D. STOUTEN (FOR THE FIRM)</b> FLORIDA PROFESSIONAL SURVEYOR &amp; MAPPER NO. 6584 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>









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](http://www.lcec.net)

September 29, 2020

Lauren Evans  
Creighton Construction & Management  
Suite 101  
2240 W First ST  
Fort Myers, FL 33901

Re: Letter of No Objection to Vacation of a Portion of 2526 Skyline Boulevard, Cape Coral Florida  
33914; Owner: Yin Chun Chang; Strap#: 34-44-23-C2-0030B.0000.

Dear Ms. Evans:

You have opened up negotiations on behalf of your customer, Ms. Chang, concerning the vacation of a certain platted easements and a lot line as depicted on a survey created by Jeffrey Stouten, PSM, dated 7/17/2020, Job # 20-4667 containing 2,169.39 square feet, more or less.

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 and the depicted survey. However, LCEC requires a continuous perimeter easement surrounding your property in order to serve you. Therefore, in the after situation to the vacation, the petitioner will have provided to the appropriate local jurisdiction, an imposed six-foot wide easement so that there is a continuous perimeter easement located upon the parcel.

Should no definitive action, no approval, by local jurisdiction be received by the petitioner, this letter will terminate upon six months from the date listed above. This letter is not assignable to a third-party, and is non-recordable. This letter will become immediately void upon recordation.

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](mailto:russel.goodman@lcec.net).

Very truly yours,

Russel Goodman, SR/WA  
Senior Right of Way Agent



**Attention:**

Lauren Evans  
[levans@creightondev.com](mailto:levans@creightondev.com)  
Creighton Construction & Management  
2240 W First ST, Suite 101  
Fort Myers, FL 33901  
Office: 239-210-0455  
Cell: 239-989-3471  
Fax: 239-673-7328

**Subject:** No Objection Letter/Vacate PUE

**Site Address:** 2526 SKYLINE BLVD CAPE CORAL FL 33914  
**STRAP:** 34-44-23-C2-0030B.0000

To Whom it may concern:

Regarding the property referenced above, CenturyLink has **No Objection** to vacate the internal utility easement described by Creighton Construction for HOME DEPOT DESC IN INST#2006-203514 BLK 8050 TRACT B + CAPE CORAL UNIT 66 BLK 3167 PB 22 PG 26 LOT 42 + POR OF VAC ST OR 4745 PG 3707

Sincerely

*Justin Lane*

THANK YOU!

**Justin Lane**

Sr. Network Implementation Program Manager  
*Fort Myers District*  
2820 Cargo St, Fort Myers FL 33916  
Office: (239)-237-4837  
[justin.lane@lumen.com](mailto:justin.lane@lumen.com)



September 18, 2020

Attn:  
Lauren Evans

RE: Request for Letter of No Objection to Vacate Easement  
Tract B-Lot 42  
STRAP #: 34-44-23-C2-0030B.0000

Dear Ms. Evans,

Thank you for contacting Comcast regarding your proposed vacation. This is to inform you that Comcast Cable does not have facilities in the proposed area and Comcast has no objection to the vacation providing that any of Comcast facilities that are in need of being relocated be paid for by the customer and Comcast is granted new easements.

If you have any further question or concerns, please do not hesitate to contact me at (239)707-3998.

Sincerely,

*Timothy Green*  
*Construction Specialist II*

12600 Westlinks Dr. Suite #4  
Fort Myers, FL 33913  
Cell (239) 707-3998  
Office (239) 318-1524  
[Timothy.Green@Comcast.com](mailto:Timothy.Green@Comcast.com)



This Instrument Prepared By:

Alexander L. Van Heyde], Attorney  
**DEAN, MEAD, EGERTON, BLOODWORTH,  
CAPOUANO & BOZARTH, P.A.**

Post Office Box 2346  
Orlando, Florida 32802-2346  
(407) 841-1200

Tax Parcel Identification No.: 34-44-23-C2-0030B.0000

**GENERAL WARRANTY DEED**

THIS GENERAL WARRANTY DEED is made the 25<sup>th</sup> day of November, 2020, by YIN CHUN CHANG a/k/a KATHY BROWDER, a single woman, whose post office address is 3860 Casey Key Road, Nokomis, Florida 34275 (hereinafter referred to as "Grantor"), to S & L PROPERTIES SKYLINE LLC, a Delaware limited liability company, whose post office address is 2651 Kirking Court, Portage, Wisconsin 53901 (hereinafter referred to as "Grantee").

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of trustees, partnerships, limited liability companies and corporations.)

**W I T N E S S E T H:**

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto Grantee, all that certain real property (hereinafter referred to as the "Property") situate, lying and being in Lee County, Florida, and being more particularly described in Exhibit "A", attached hereto and made a part hereof.

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


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


AND Grantor hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple; that Grantor has good right and lawful authority to sell and convey the Property, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever. This conveyance is subject only to those matters reflected in Exhibit "B", attached hereto and made a part hereof, but this reference to the foregoing shall not operate to reimpose the same

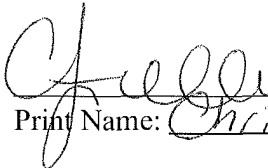
Grantor certifies that on the date of execution, delivery and recordation of this instrument, neither Grantor nor any member of Grantor's family resided upon any portion of the Property, or any property contiguous thereto. The Property is not the constitutional homestead of Grantor

IN WITNESS WHEREOF, the person named herein as "Grantor" has executed and delivered this instrument and has intended the same to be and become effective as of the day and year first above written.

Signed, sealed and delivered  
in the presence of:

  
Print Name: Lauren Kohl

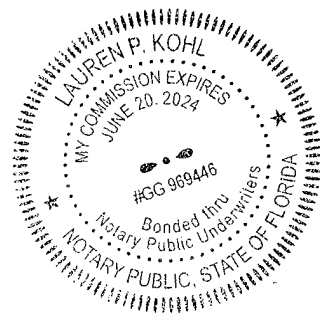
  
YIN CHUN CHANG a/k/a KATHY  
BROWDER

  
Print Name: Christine Tully

STATE OF FLORIDA

COUNTY OF Sarasota

The foregoing instrument was acknowledged before me by means of: ☐ online notarization, or ☒ physical presence, this 20<sup>th</sup> day of November, 2020, by YIN CHUN CHANG a/k/a KATHY BROWDER. Said person (check one) ☒ is personally known to me, ☐ produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or ☐ produced other identification, to wit: \_\_\_\_\_.




  
Notary Public - State of Florida

EXHIBIT "A"

Parcel 1:

Lot 42, Block 3167, Cape Coral, Unit 66, according to the plat thereof recorded in Plat Book 22, Pages 2 through 26, and a portion of vacated alley as described in Official Recorded Book 4745, Page 3707, of the Public Records of Lee County, Florida.

And

Parcel 2:

Tract B, Block 8050 of Home Depot, according to the plat thereof recorded in Instrument #2006000203514, of the Public Records of Lee County, Florida.

EXHIBIT "B"

1. Zoning and other similar governmental restrictions.
2. Taxes for the year 2021 and subsequent years, which are not yet due and payable.
3. Provisions of the Plat of Cape Coral, Unit 66, recorded in Plat Book 22, Page 2 of the Public Records of Lee County, Florida (As to Parcel 1).
4. Resolution No 133-90 recorded September 11, 1990 in Book 2174, Page 317, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
5. Resolution No 134-90 recorded September 11, 1990 in Book 2174, Page 321, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
6. Resolution No 155-90 recorded November 7, 1990 in Book 2185, Page 2552, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
7. Resolution No 156-90 recorded November 7, 1990 in Book 2185, Page 2570, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
8. Ordinance No. 47-05 recorded June 8, 2005 in Book 4745, Page 3707, Public Records of Lee County, Florida. (As to Parcel 2)
9. Ordinance No 108-05 recorded June 6, 2005 in Instrument No. 2005000010249, Public Records of Lee County, Florida. (As to Parcel 2)
10. Provisions of the Plat of Home Depot, recorded May 15, 2005 in Instrument #2006000203514, of the Public Records of Lee County, Florida. (As to Parcel 2)
11. Declaration of Covenants, Conditions, Restrictions and Easements for Home Depot Subdivision (Home Depot Project – Cape Coral, Florida), which contains provisions for a private charge or assessments, recorded June 2, 2006 in Instrument No. 2006000222104, Public Records of Lee County, Florida but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c). (As to Parcel 2)
12. Terms and Conditions of Restrictive Covenant and Easement Agreement recorded June 2, 2006 in Instrument No. 2006000222105; Amendment recorded May 17, 2007 in Instrument No. 2007000160424, Second Amendment recorded September 26, 2007 in Instrument No. 2007000295461, Third Amendment recorded in September 15, 2011 in Instrument No. 2011000203191 and Fourth Amendment recorded October 24, 2012 in Instrument No. 2012000233314, all of the Public Records of Lee County, Florida. (As to Parcels 1 and 2)
13. Utilities Agreement for Off-Site Improvements for Water and Wastewater Facilities by and between the City of Cape Coral, a Florida Municipal Corporation and Home Depot U.S.A., Inc., a Delaware corporation recorded January 5, 2006 in Instrument No. 2006000005436, Public Records of Lee County, Florida. (As to Parcel 2)

14. Terms and Conditions of Covenants, restrictions and conditions contained in the Declaration of Restrictive Covenants recorded September 26, 2007 in Instrument No. 2007000295463, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
15. Resolution No 71-06 recorded February 6, 2012 in Instrument No. 2012000025853, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
16. Resolution No 72-06 recorded February 6, 2012 in Instrument No. 2012000025884, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
17. Resolution No 73-06 recorded February 6, 2012 in Instrument No. 2012000026007, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
18. Terms and conditions of the Restrictive Covenant in favor of O'Reilly Automotive Stores, Inc., a Missouri corporation recorded August 8, 2014 in Instrument No. 2014000165027, Public Records of Lee County, Florida. (As to Parcels 1 and 2)
19. Easements contained in Special Warranty Deed recorded June 2, 2006 in Instrument No. 2006000222108, Public Records of Lee County, Florida.



**SUBJECT PARCEL**

SKYLINE BLVD

**CITY OF CAPE CORAL**

Department of  
Community Development  
Planning Division

**AERIAL MAP**

**CASE NO. VP20-0013**

**LEGEND**

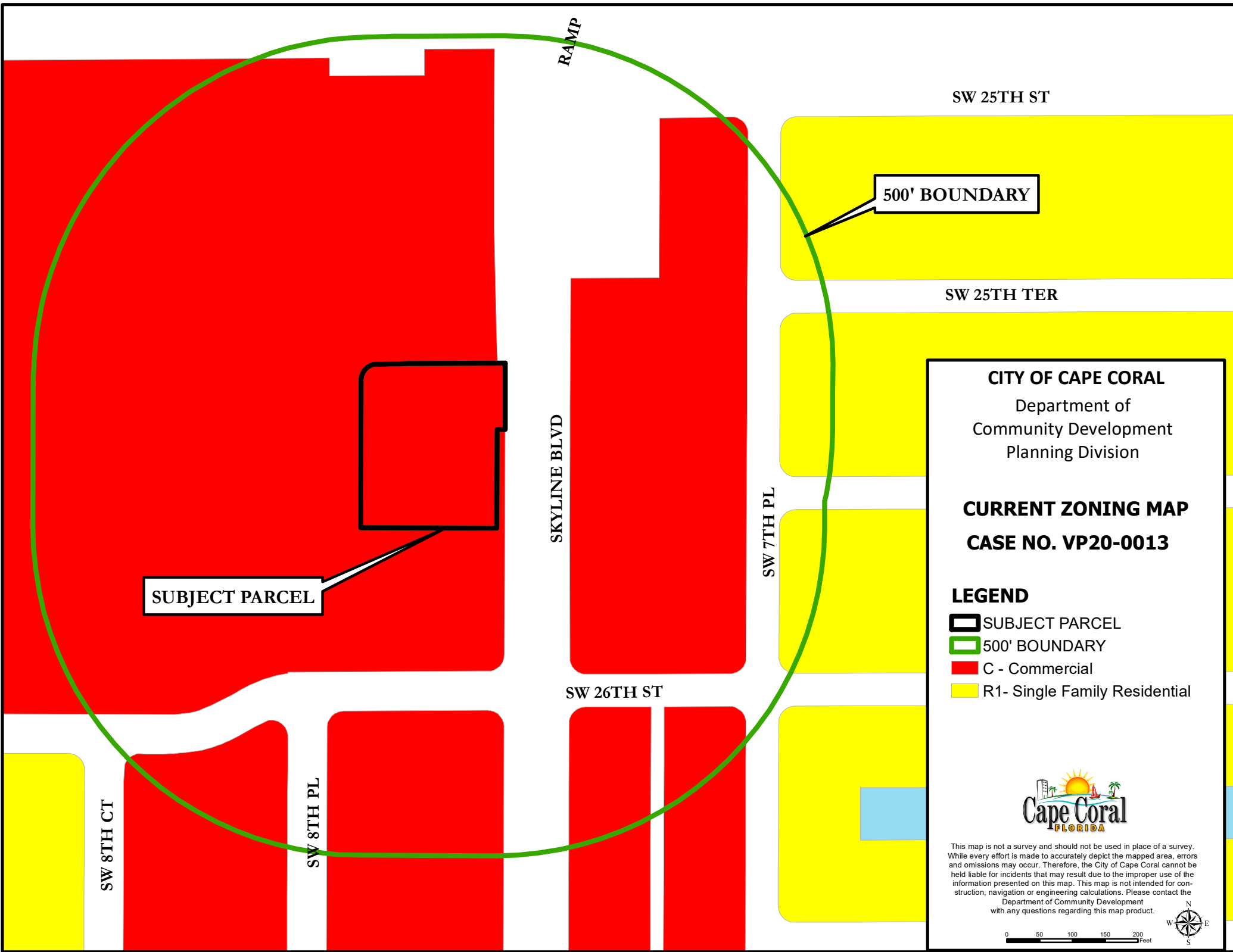
 **SUBJECT PARCEL**



0 20 40 60 80 Feet

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





RAMP

SW 25TH ST

500' BOUNDARY

SW 25TH TER

**CITY OF CAPE CORAL**

Department of  
Community Development  
Planning Division

**CURRENT ZONING MAP**

**CASE NO. VP20-0013**

**LEGEND**

SUBJECT PARCEL

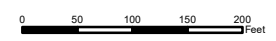
500' BOUNDARY

C - Commercial

R1- Single Family Residential



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## Planning Division Case Report

VP 20-0013

<b>Review Date:</b>	December 10, 2020
<b>Revised Date</b>	December 30, 2020
<b>Property Owner:</b>	S & L Properties Skyline, LLC
<b>Owner Address:</b>	2651 Kirking Ct. Portage, WI 53901
<b>Authorized Representative</b>	Lauren Evans, Creighton Construction and Management, LLC
<b>Request:</b>	To vacate 2,346 sq.ft. of public utility and drainage easements and all underlying easements within a portion of Unit 66, Block 3167, Lot 10, Cape Coral Subdivision, at 2526 Skyline Blvd.
<b>Location of Owner's Property:</b>	2526 Skyline Blvd. Cape Coral, FL 33914 Unit 66, Block 3167, Lot 10 Strap number: 34-44-23-C2-0030B.0000
<b>Prepared By:</b>	Patrick Carlton White, Planner
<b>Approved By:</b>	Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator
<b>Recommendation:</b>	<b>Approval with conditions</b>
<b>Urban Service:</b>	Transition
<b>Site Visit:</b>	October 30, 2020

### Property Description:

The site is in central Cape Coral, southwest of the intersection of Veteran's Memorial Parkway and Skyline Boulevard, east of the Home Depot. The site is composed of two lots and part of a vacated alley. The alley was vacated by Ordinance 108-05, which approved a Planned Development Project for Home Depot. A Culver's restaurant is proposed for the site and that project is presently under review (SP20-0051). The applicant has requested this vacation to eliminate internal easements for facilitating development of the site.

The parcel is about 53,274 sq.ft. and has Commercial (C) Zoning and a Future Land Use Classification (FLUC) of Commercial/Professional (CP). All surrounding properties within 500 feet share these same zoning and FLUC except for several sites with single-family homes about 400 feet to the east.

## Request

The NE corner of the site is encumbered with easements that are located on the interior of the site. The easement vacation is requested to facilitate construction of a new restaurant on site.

A 6' public utility and drainage easement exists around the site's perimeter which will not be impacted by this vacation.

## Zoning History of the site

The site and all of Block 3167 have had a Commercial/Professional (CP) FLUC. In 2002, Ordinance 44-02 amended the FLUC all of Block 3167 from Single Family and Multi-Family by PDP (SM) to CP. The site and the remainder of Block 3167 have had commercial zoning since City adoption of a zoning code in 1990.

## Minimum Standards

The owner is eligible to file this vacation request as this application provides the following:

- Color of title or ownership of the site by the applicant for which the vacation is sought.
- Letters of no objection from Century Link, Comcast, and Lee County Electric Cooperative (LCEC). LCEC as a condition of approval, requests a continuous, six-foot wide perimeter easement around the site.
- Survey sketches and accompanying legal descriptions describing the easements that will be vacated.

## Analysis

Staff analyzed this request with the Land Development Code (LDC), Section 3.4.5, "*Vacation of Plats, Easements, and Rights-of-way.*" The Comprehensive Plan and Economic Development Master Plan were also reviewed for applicable policies.

The owner requests vacating 2,346 sq. ft. of easements associated with the site. A perimeter Public Utility and Drainage easement is retained by the City.

LDC, Section 3.4.5B states that vacations shall be reviewed in accordance with the following criteria:

1. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes. **Staff response: *The existing internal easements provide no value for future transportation, access, water management, or public utility purposes.***
2. Whether any required easements are necessary to accommodate the vacation of any plat, easement, or right-of-way. **Staff response: *No new easements are necessary as a continuous perimeter easement will remain in place.***
3. If alternate routes are required or available that do not cause adverse impacts to surrounding areas. **Staff response: *No alternative routes are required and no adverse impacts will occur resulting from this vacation.***

4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit an area. **Staff response: This vacation does not close or eliminate any right-of-way.**
5. Whether local utility providers have given consent to the vacation of the plat, easements, or rights-of-way. The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation. **Staff response: All three utility providers have issued letters of no objection regarding the requested vacations. LCEC does request that a continuous easement be provided around the perimeter of the site. This condition will be met.**

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

The project is consistent with the following objectives and policies appearing in the Comprehensive Plan.

#### Future Land Use Element

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

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. **Staff response: This vacation supports Objective 2 and Policy 2.1 by facilitating infill development of outparcels at an existing commercial development near a transportation node.**

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. **Staff response: This vacation supports Objective 3 by eliminating internal, unnecessary easements from the site.**

### **Consistency with the Economic Development Master Plan**

The project is consistent with the following strategies appearing in the Economic Development Master Plan.

Strategy 2.2 – Encourage business expansion. **Staff response: This economic development strategy is furthered by the approval of this request, which expands an existing business franchise within the City.**

**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 2,346 sq.ft. of easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Ardurra, dated September 30, 2020, labeled as Exhibit 1.
2. This resolution shall be recorded with the Lee County Clerk of Court by the City of Cape Coral. The owner shall reimburse the City for all recording fees associated with this resolution.

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**Staff Contact Information**

Patrick Carlton White, Planner

PH: 239-574-0605

Email: [PWhite@CapeCoral.net](mailto:PWhite@CapeCoral.net)