



AGENDA FOR THE HEARING EXAMINER

Tuesday, July 25, 2017

9:00 AM

Council Chambers

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. Case # DE17-0021*; Address: 2537 Skyline Boulevard; Applicant: 2537 Skyline Boulevard, LLC
- B. Case # SE17-0005*; Address: 407 and 409 SW Pine Island Road; Applicant: Monopoly Holdings, LLC
- C. Case # SE17-0007*; Address: 2827-2845 Sunset Point Circle; Applicant: DR Horton, Inc.
- D. Case # PDP17-0002*; Address: Project area located at the southwest corner of the intersection of Tropicana Parkway West and Nelson Road; Applicant: Stonewater II, LLC and the City of Cape Coral

3. DATE AND TIME OF NEXT HEARINGS

- A. Tuesday, August 1, 2017, at 9:00 a.m., in Council Chambers

4. ADJOURNMENT

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

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

PLEDGE OF CIVILITY

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

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

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

Item Number: 2.A.
Meeting Date: 7/25/2017
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case # DE17-0021*; Address: 2537 Skyline Boulevard; Applicant: 2537 Skyline Boulevard, 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? No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

A deviation from LUDR, Section 5.2.13.C.5.a., to allow an 8-foot high wall and a buffer width that varies between 11.5-feet and 16.5-feet along the east property line

LEGAL REVIEW:

EXHIBITS:

See attached 'Backup Material'

PREPARED BY:

Kristin Kantarze Division- Community Development Department- Planning

SOURCE OF ADDITIONAL INFORMATION:

Kathy Eastley, AICP, Senior Planner, 239-574-0605, keastley@capecoral.net

ATTACHMENTS:

Description	Type
Backup Material	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT
PROCEDURE LIST FOR LANDSCAPE DEVIATION REQUEST

Case # DE17-0021

Questions: 239-574-0776

FEES: SINGLE-FAMILY RESIDENTIAL USE \$150.00 / ALL OTHER USES \$455.00 - In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

Following the approval of your request, the applicant shall be responsible for 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.

APPLICANT/OWNER OF PROPERTY

2537 Skyline Blvd LLC
Email Address Jay Montpetit - jaymont@dtwash.net

Address

200 S Sixth Street
Minneapolis, MN Zip Code 55402
Phone Jay Montpetit - 612-723-6596

AUTHORIZED REPRESENTATIVE

Avalon Engineering, Inc
Email Address Linda@avaloneng.com

Address

2503 Del Prado Blvd, Suite 200
Cape Coral, FL Zip Code 33904
Phone 239-573-2077

Location: Unit 45 part 1 Block 1905 Lot(s) 1-5, S1/2 of Lot 6, S1/2 of Lot 37, 38-42 Subdivision Cape Coral

Legal Description _____
Address Of Property 2537 Skyline Blvd, Cape Coral, Florida 33914 Plat Book 21, Page 145
Current Zoning C-1 Strap Number 35-44-23-C1-01905.0010

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

2537 Skyline Blvd LLC

Jeffrey R. Peterson, President

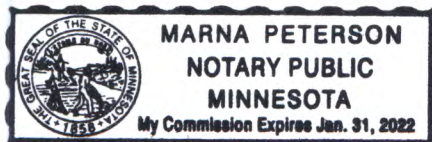
Name (Type or Print) Jeffrey R. Peterson

Applicant's Signature [Signature]

STATE OF Minnesota COUNTY OF Hennepin

Sworn to (or affirmed) and subscribed before me this 2 day of May 20 17, by
Jeffrey R. Peterson, who is personally known or has produced
_____ as identification.

Exp. Date 1/31/2022 Commission # _____



Marna Peterson
Signature of Notary Public
Marna Peterson
Print Name of Notary Public



DEPARTMENT OF COMMUNITY DEVELOPMENT

PROCEDURE LIST FOR LANDSCAPE DEVIATION REQUEST

Questions: 239-574-0776

Case # DE17-0021

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.

2537 Skyline Blvd LLC

Jeffrey R. Peterson, President

PROPERTY OWNER (PLEASE PRINT)

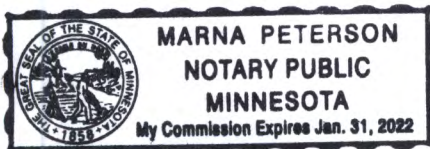
PROPERTY OWNER (SIGNATURE)

STATE OF Minnesota COUNTY OF Hennepin

Sworn to (or affirmed) and subscribed before me this 2 day of May 20 17, by
Jeffrey R. Peterson, who is personally known or has produced

_____ as identification.

Exp. Date 1/31/2022 Commission Number _____



Marna Peterson
Signature of Notary Public

Marna Peterson
Print Name of Notary Public



DEPARTMENT OF COMMUNITY DEVELOPMENT
PROCEDURE LIST FOR LANDSCAPE DEVIATION REQUEST
Questions: 239-574-0776

Case # DE17-0021

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Avalon Engineering, Inc
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE APPEAL TO THE HEARING EXAMINER, OR CITY COUNCIL FOR
Deviation to the Landscaping Requirements within the City's Land Use and Development Regulations

(Type of Public Hearing – i.e. PDP, Zoning, Special Exception, Variance, etc.)
1-5, S1/2 of Lot 6,
BLOCK 1905 LOTS S1/2 of Lot 37, 38-42 UNIT 45 pt 1 SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION _____

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.
2537 Skyline Blvd LLC

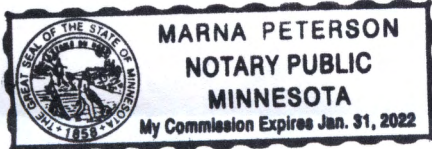
Jeffrey R. Peterson, President
PROPERTY OWNER (PLEASE PRINT)

[Signature]
PROPERTY OWNER (SIGNATURE)

STATE OF Minnesota COUNTY OF Hennepin

Sworn to (or affirmed) and subscribed before me this 2 day of May, 2017, by
Jeffrey R. Peterson, who is personally known or has produced
_____ as identification.

Exp. Date 1/31/2022 Commission Number _____



Marna Peterson
Signature of Notary Public
Marna Peterson
Print Name of Notary Public

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



DEPARTMENT OF COMMUNITY DEVELOPMENT
PROCEDURE LIST FOR LANDSCAPE DEVIATION REQUEST
Questions: 239-574-0776

Case # DE 17-0021

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.

2537 Skyline Blvd LLC

Jeffrey R. Peterson, President

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

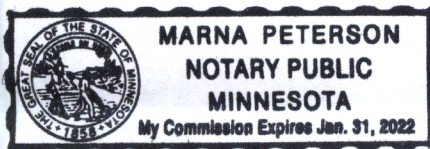
STATE OF Minnesota COUNTY OF Hennepin

Sworn to (or affirmed) and subscribed before me on this 2 day of May,
20 17 by Jeffrey R. Peterson, who is personally known or who has produced _____ as
Identification.

Exp. Date 1/31/2022
Commission # _____

Marna Peterson
Signature of Notary Public

Marna Peterson
Print Name of Notary Public





Avalon Engineering, Inc.
2503 Del Prado Boulevard South, Suite 200
Cape Coral, Florida 33904
Phone: (239) 573-2077 Fax: (239) 573-2076
#AA C001936 #EB 0003128

May 19, 2017

Mr. Vince Cautero, Director
Department of Community Development
City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, Florida 33990

PROJECT: DOWNTOWNER CAR WASH - 2537 SKYLINE BOULEVARD
UNIT 45, PART 1, BLOCK 1905, LOTS 1-5, + SOUTH ½ OF LOT 6 + SOUTH ½
OF LOT 37, LOTS 38-42 + VACATED ALLEY AS DESCRIBED IN
INSTRUMENT NO. 2007000262921

STRAP NUMBER: 35-44-23-C1-01905.0010

SUBJECT: LANDSCAPING DEVIATION

Dear Mr. Cautero:

It is the intent of the property owner, 2537 Skyline Blvd, LLC, to request approval of a Deviation to Section 5.2 -Landscaping of the City's Land Use and Development Regulation, in order to reduce the required buffer yard width from 15 feet to a minimum width of 11.5 feet for a total of 60 linear feet of the 190 linear foot eastern buffer yard. The deviation is being requested for the Downtowner Car Wash Facility, located at 2537 Skyline Boulevard.

The site consists of 1.39 acres and is located on the corner of Skyline Boulevard and SW 26th Street, directly across from the Home Depot Shopping Center. The site is zoned C-1 (Pedestrian Commercial) and has a Land Use Designation of CP (Commercial Professional). The zoning to the north, south and west of the site is C-1 (Pedestrian Commercial). To the east of the site across SW 7th Place are lots are zoned R-1B (Single Family Residential).

Section 5.2.3 of the City of Cape Coral's Land Use and Development Regulations specifies that the landscape standards shall apply to all new construction requiring a site plan review for which application is made after December 1, 2009. Since the Car Wash Facility is a new construction project the site is required to comply with the landscaping requirements as specified in Section 5.2.

Buffer Yard Required / Deviation Requested:

The applicant requests approval of a deviation to the Section 5.2.13.C.5.a, Table 4: Table of Minimum Buffer Yard Requirements, and Table 5: Table of Buffer Yard Options, which requires a Buffer Yard Type C along the entire length (190 linear feet) of the eastern property line. The buffer yard would include a six foot high wall, 15 feet of green space, five (5) canopy trees, three (3) palm trees, and sixty six (66) shrubs every 100 linear feet.

The applicant request approval to reduce the green space width from 15 feet to 11.5 feet within a 60 linear foot section of the buffer yard, which will reduce the green space required within this area by 155 square feet.

Buffer Yard Proposed

The applicant will provide a buffer yard along the eastern property line with the following:

- An 8 foot high wall the entire length of the eastern buffer yard (190 linear feet).
- An average green space width of 16.5 feet (green space widths range from 11.5 feet to 26 feet).
- 3,491 square feet of green space in lieu of the 2,850 square feet required (190' X 15')
- The required tree and shrub plantings but within the reduced green space area (60 linear feet), the six (6) canopy trees will be 4" in caliber rather than 2" in caliber as required.

DEVIATION QUALIFICATIONS

Deviations to the landscaping section may be requested if the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of the landscaping 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.

In determining whether the requested deviations should be approved as the result of unnecessary or undue hardship, the following factors were considered:

- 1) Site constraints

The project area lies between three city right-of-ways (Skyline Boulevard, SW 26th Street and SW 7th Place) to the west, south and east of the site and a 30' wide shared driveway and access easement between the site and the adjacent property owner along the northern portion of the site.

2) The effect other regulations have on the development

All other site requirements were considered in the layout of the site. These requirements include the location of existing shared driveways, the width of the existing driveways and access easement with the adjacent development, the turning radius needed for fire access and protection, the buffer yard and landscaping required along each right-of-way, the building and fire codes, surface water facilities, the required number of parking spaces and the functional areas needed for this type of facility.

3) Other locational factors that may make compliance with the section undesirable or impracticable

The subject parcel is within a well defined commercial use area. This parcel was zoned C-1 in 2004. The residential development percentage within 500 feet of this development is approx 36%. The closest residential development is approximately 152 feet from the site, 163.5 from the buffer yard wall, and 237.28 feet from the car wash building entrance.

4) The effect the requested deviations would have on the community appearance

The deviation requested will have little effect on the project's overall appearance as the proposed 8 foot high within the buffer yard exceeds the height required will not only provide a proper screening but will also provide for more noise reduction from the car wash entrance and the vehicles using the pay stations.

5) Whether approval of the deviation serves 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

Approving the requested landscaping deviation for this project will not be contrary to the public interest as the Car Wash Facility will provide a wall 8' in height instead of 6' within the entire eastern buffer yard and larger caliber trees within the reduced green space area.

In addition, this project will meet all of the other types of landscaping required for commercial developments: 10% of vehicle use area with canopy trees, 5 foot wide building foundation planting areas with required shrubs, 10 foot wide landscaping along right-of-ways (Skyline and SW 26th Street) with one canopy tree every 30 linear feet and shrubs planted every 3 linear feet and a 5' buffer yard along the northern side of the building as per the Special Exception condition of approval.

The landscaping for this project has been designed by a Licensed Landscaped Architect with the primary objective to make the site appealing and inviting to the public and to screen the facility from the residential lots across SW 7th Place.

Cautero/Landscape Deviation
Downtown Car Wash - Skyline Blvd
May 19, 2017
Page 4

Minimum Deviation, Pursuant to LUDR Section 5.2.19.E

The deviation requested is for the least amount necessary to provide a proper turning radius for the vehicles utilizing the outside pay lanes and consists of only 4.4 percent of the square footage of the buffer yard area (155 sq.ft. out of 3,491 sq.ft. of buffer yard area) and involves only 31.5 percent of the linear length of the buffer yard (60 lf out of 190 lf of buffer yard length).

Consistency with the Comprehensive Plan and Land Use and Development Regulations

The proposed Car Wash Facility use is consistent with the City's Comprehensive Plan, Future Land Use Element Policy 1.15.c, all of the regulations within the City's C-1 Zoning District, the City's Non-Residential Design Standards and all other sections of the City's Landscaping Regulations.

General Deviation Review Criteria Pursuant to LUDR Section 5.2.19.A

- 1) The deviation is not contrary to the public interest.
- 2) The deviation will be in harmony with the general intent and purpose of the Landscape Section of the City's LUDR.
- 3) Existing conditions are not the result of the applicant and a literal enforcement of the regulations involved would result in an undue hardship.

We respectfully request approval of this Deviation application. If you or your staff have questions or require additional information please let me know.

Sincerely,

AVALON ENGINEERING, INC



Linda Miller, AICP
Senior Planner

Detail by Entity Name

Florida Limited Liability Company
2537 SKYLINE BLVD LLC

Filing Information

Document Number	L16000220397
FEI/EIN Number	20-2447273
Date Filed	12/05/2016
Effective Date	12/05/2016
State	FL
Status	ACTIVE

Principal Address

1300 U.S. BANK PLAZA, 200 S. SIXTH STREET
MINNEAPOLIS, MN 55402

Mailing Address

1300 U.S. BANK PLAZA, 200 S. SIXTH STREET
MINNEAPOLIS, MN 55402

Registered Agent Name & Address

MESSICK, ROBERT E, ESQ.
C/O ICARD MERRILL, ET AL, P.A.
2033 MAIN STREET, SUITE 600
SARASOTA, FL 34237

Authorized Person(s) Detail

Name & Address

Title MBR

COMMERCIAL PARTNERS EXCHANGE COMPANY, LLC
1300 U.S. BANK PLAZA, 200 S. SIXTH STREET
MINNEAPOLIS, MN 55402 MN

Title PRES

PETERSON, JEFFREY R
1300 U.S. BANK PLAZA, 200 S. SIXTH STREET
MINNEAPOLIS, MN 55402

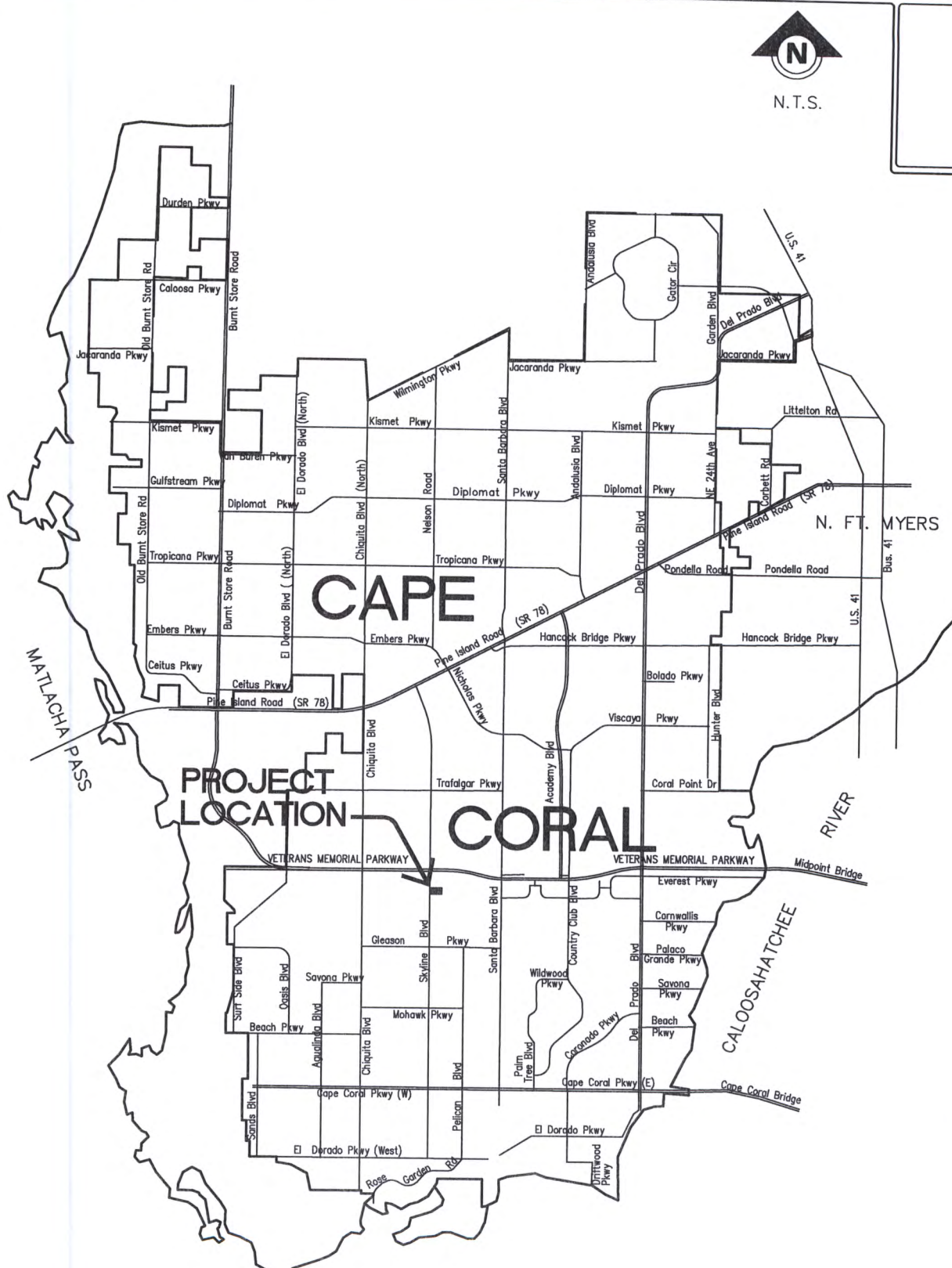
Annual Reports

Report Year	Filed Date
2017	03/17/2017

Document Images

[03/17/2017 -- ANNUAL REPORT](#) [View image in PDF format](#)

[12/05/2016 -- Florida Limited Liability](#) [View image in PDF format](#)



LOCATION: 2537 SKYLINE BLVD.
CAPE CORAL, FL. 33990
STRAP#: 35-44-23-C1-01905.0010

THIS PLAN IS INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY. SITE LAYOUT AND DIMENSIONS ARE BASED UPON SURVEY DATA AND ARE NOT TO BE USED FOR CONSTRUCTION.

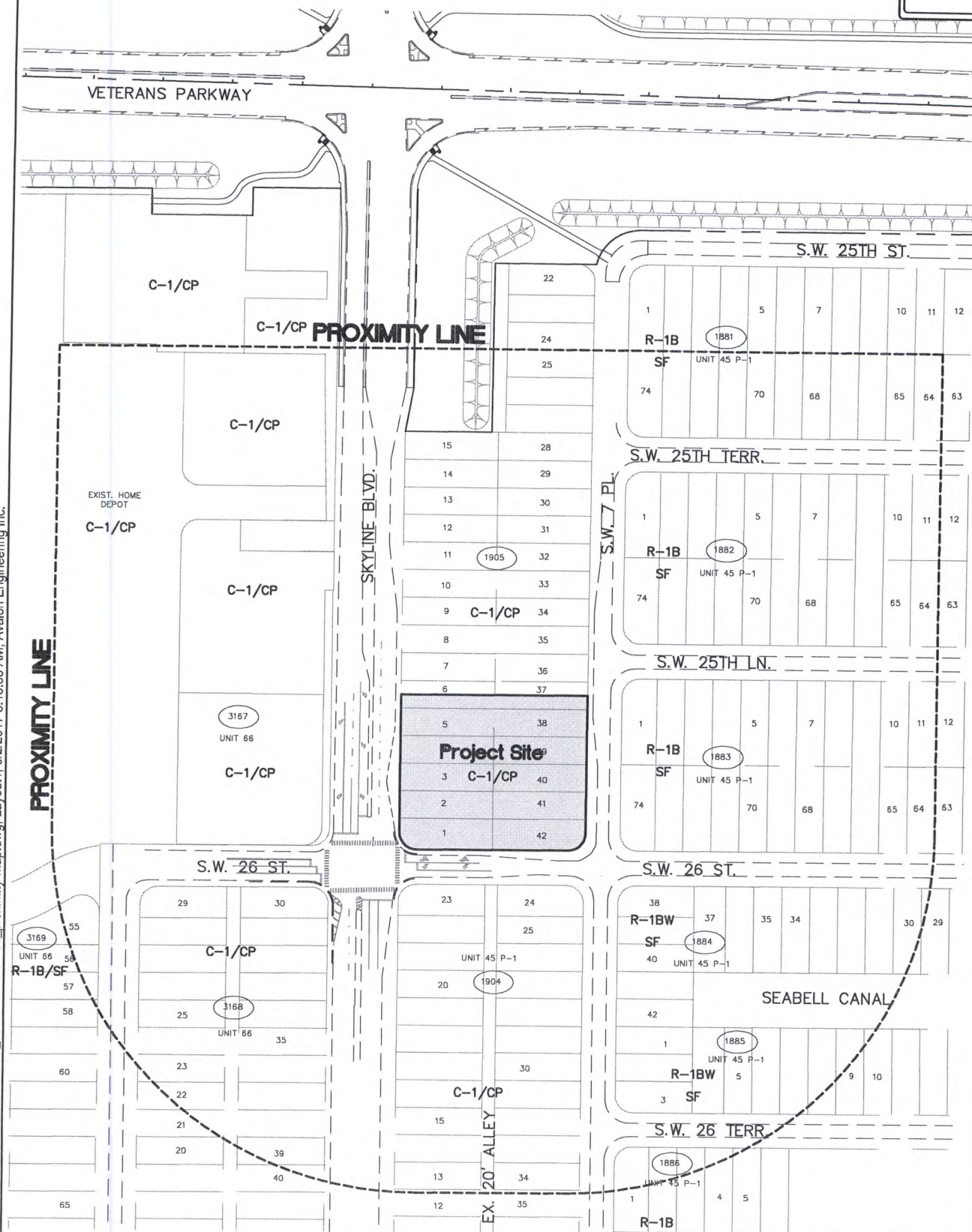
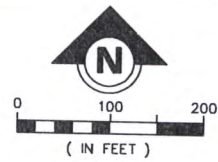
DATE	BY	REVISION DESCRIPTION
05/21/16	AS	INITIAL SUBMITTAL
05/22/17	AS	LANDSCAPE ELEVATION INITIAL SUBMITTAL

AVOLON ENGINEERING, INC.
2503 DEL PRADO BLVD. #200
CAPE CORAL, FLORIDA 33904
FBPE#3128 (239) 573-2077

DOWNTOWNER CARMASH
2537 SKYLINE BLVD.
CAPE CORAL, FLORIDA

1000 Del Prado Blvd. S.
APT. 200
CAPE CORAL, FL 33904
PH: (239) 222-7045
ATT: JAY W. MONTGOMERY
Car Wash

LOCATION MAP



THIS PLAN IS INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY. IT MAY BE SUBJECT TO CHANGE WITHOUT NOTICE AND BASED UPON THE BEST AVAILABLE INFORMATION AND REGULATORY CONSTRAINTS. NOT FOR CONSTRUCTION.

DATE	BY	REVISION DESCRIPTION
05/11/16	JS	INITIAL SUBMITTAL
05/11/16	JS	LANDSCAPE DEVIATION INITIAL SUBMITTAL

AVALLON ENGINEERING, INC.
2503 DEL PRADO BLVD. #200
CAPE CORAL, FLORIDA 33904
FBPE#3128 (239) 573-2077

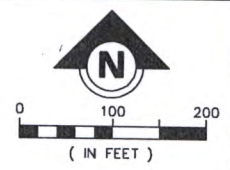
DOWNTOWNER CARWASH
2537 SKYLINE BLVD.
CAPE CORAL, FLORIDA

1000 Del Prado Blvd. S.
Cape Coral, FL 33904
Tel: (239) 222-7045
Fax: (239) 222-7045
ATT: Jay W. Montpetit
Car Wash

500' PROXIMITY MAP

16-105/LUMA
1 OF 1

P:\CAD\2016-105\1st-submittal_void\LUMA\16-105_VICINITY-AERIAL.dwg, Layout1, 5/2/2017 8:22:29 AM, Avalon Engineering Inc.



THIS PLAN IS INTENDED FOR CONCEPTUAL PURPOSES ONLY. IT IS NOT A FINAL DESIGN. IT MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENVIRONMENTAL AND REGULATORY CONSTRAINTS. NOT FOR CONSTRUCTION.

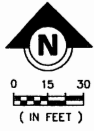
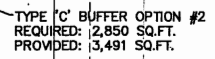
DATE	BY	REVISION DESCRIPTION
05/17/16	JS	INITIAL SUBMITTAL
05/22/17	JS	LANDSCAPE DEVIATION INITIAL SUBMITTAL

AVOLON ENGINEERING, INC.
2503 DEL PRADO BLVD. #200
CAPE CORAL, FLORIDA 33904
FBPE#3128 (239) 573-2077

DOWNTOWNER CARWASH
2537 SKYLINE BLVD.
CAPE CORAL, FLORIDA

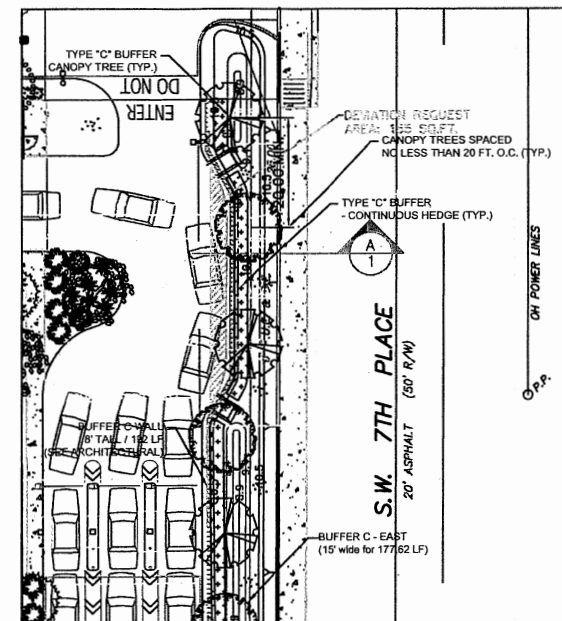
DOWNTOWNER CARWASH
2503 Del Prado Blvd., S.
Cape Coral, FL 33904
P.O. Box 1204
P.O. (239) 222-7045
Car Wash
ATT: Jay W. Wainwright

**VICINITY MAP
(AERIAL)**















TYPICAL SECTION
N.T.S.

15-105/DA
1 of 1



<u>SITE AREA INFO:</u>		
Total Site Area:	60,481 SF / 1.39 AC	(100%)
Buildings:	5,381 SF / 0.12 AC	(9%)
Pavement:	33,325 SF / 0.77 AC	(55%)
Concrete Areas:	2,390 SF / 0.05 AC	(5%)
Landscape Area:	19,385 SF / 0.45 AC	(32%)
Impervious Area:		
Total Impervious Area:	41,096 SF / 0.94 AC	(68%)
Total Pervious Area:	19,385 SF / 0.45 AC	(32%)
Parking:		
Parking Required:	5 SPS.	
Parking Provided:	8 SPS. (Incl. 1 H/C)	
Off-Site Improvements:		
	8,503 SF / 0.19 AC	

BOLDS / NOTES						
	11	FLAME RESISTANT NON-FLAMMABLE	34" HT, 54" WID, 7-GAL. CONT. SPACED 36" O.C.	00000	PAVED SURFACE FOOTPRINT	YES
	23	FLAME RESISTANT NON-FLAMMABLE	34" HT, 54" WID, 7-GAL. CONT. SPACED 36" O.C.	00000	PAVED SURFACE FOOTPRINT	YES
	30	CEMENT LAY ON GRAVEL	34" HT, 54" WID, 7-GAL. CONT. SPACED 36" O.C.	00000	PAVED SURFACE FOOTPRINT	YES
	32	FLAME RESISTANT NON-FLAMMABLE	34" HT, 54" WID, 7-GAL. CONT. SPACED 36" O.C.	00000	PAVED SURFACE FOOTPRINT	YES

BURLAP / FIBERGLASS FIBERGLASS						
	22	LEARNER FROM ADDITIONAL MATERIALS	30" HT, 30" WID, 7-GAL. CONT, SPACED 30" O.C.	SHRUB	PAVING	YES
	67	LEARNER FROM ADDITIONAL MATERIALS	30" HT, 30" WID, 7-GAL. CONT, SPACED 30" O.C.	SHRUB	PAVING FOOTPRINT	YES
	67	LEARNER FROM ADDITIONAL MATERIALS	30" HT, 30" WID, 7-GAL. CONT, SPACED 30" O.C.	SHRUB	PAVING FOOTPRINT	YES
	44	COLORED PAINT, 100% FIBER	30" HT, 30" WID, 7-GAL. CONT, SPACED 30" O.C.	SHRUB	PAVING	YES
	0	PAINT, 100% FIBER PAINT, 100% FIBER	30" HT, 30" WID, 7-GAL. CONT, SPACED 30" O.C.	SHRUB	PAVING	YES
	118	SHRUB, BURNED SHRUB, BURNED	30" HT, 30" WID, 7-GAL. CONT, SPACED 30" O.C.	SHRUB	PAVING	YES
	118	SHRUB, BURNED SHRUB, BURNED	30" HT, 30" WID, 7-GAL. CONT, SPACED 30" O.C.	SHRUB	PAVING	YES
TOTAL, BURLAP QTY:		121				
BURLAP / FIBERGLASS FIBERGLASS						
	02	FLORATING (PDS)	30" HT, 30" WID, 7-GAL. CONT, SPACED 30" O.C.	SHRUB	PAVING	YES

PREPARED FOR:

DOWNTOWNER

**DOWNTOWNER
CAR WASH**
2537 SKYLINE BLVD.
CAPE CORAL, FL

Car Wash



IN CONJUNCTION WITH:
AVALON ENGINEERING, INC.
 2503 DEL PRADO BLVD #200
 CAPE CORAL, FL 33904
 P (339) 573-2077

PREPARED BY: **LANDESCO**
"Smart Solutions. Naturally."

4278 HARBOUR LANE, NORTH FORT MYERS, FL 33903
 TEL 239.691.7790 EMAIL INFO@LANDESCO.COM

LANDSCAPE
 PLAN
 DATE IN
 01-13-2017
 DRAWN BY
 DKK
 CHECKED BY
 DKK
 REVISION DATE
 02-15-17 rev per CC
 05-16-17 deviation re
 SHEET

Property Owner/Applicant: 2537 Skyline Boulevard, LLC
Owner Address: 200 S. Sixth Street
Minneapolis, MN 55402

Authorized Representative: Linda Miller – Avalon Engineering

Request: A deviation from LUDR, Section 5.2.13.C.5.a., to allow an 8-foot high wall and a buffer width that varies between 11.5-feet and 16.5-feet along the east property line

Location: 2537 Skyline Boulevard
Unit 45, Part 1, Block 1905, Lots 1-5, South ½ Lot 6, south ½ Lot 37, Lots 38-42, along with part of a vacated alley
Strap Number 35-42-23-C1-01905.0010

Prepared by: Kathy Eastley, AICP, Senior Planner

Reviewed 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

Right-of-Way Access: Skyline Blvd, SW 26th Street, and SW 7th Place

Site Visit: June 16, 2017

I. PROPERTY DESCRIPTION

The applicant requests a landscape deviation on a ±1.4-acre-site. The site is on the east side of Skyline Boulevard across from Home Depot, and south of Veteran's Memorial Parkway. The site has a Commercial Professional (CP) Future Land Use Classification and is zoned C-1. Existing development within Block 1905 is limited to a Dairy Queen Restaurant immediately north of the site.

Background

A Special Exception was approved for an Automotive Service Establishment (car wash) Use by Hearing Examiner Order 3-2016 on August 26, 2016. Conditions of approval included a five-foot wide



landscaped buffer along the northern property line that has four canopy trees and 33 shrubs per 100 linear feet.

Site plan approval was granted in March of 2017 (SP16-0046) and more recent refinements of the site design have resulted in the deviation request.



Figure 2- Future Land Use



Figure 3 - Zoning

Future Land Use and Zoning

The site has a Commercial/Professional (CP) Future Land Use and Pedestrian Commercial (C-1) zoning. Adjacent properties to the north, south, and west have identical future land use and zoning designations. Single Family Future Land Use and R-1B Zoning exist to the east where two single-family homes are within 150-feet of the site.

Table 1. Zoning, Future Land Use, and Existing Uses of the Subject Parcels and Adjacent Lands.

	Future Land Use (FLU)	Zoning	Existing Use
Subject Parcel	Commercial/Professional	Pedestrian Commercial (C-1)	Vacant
	Surrounding FLU	Surrounding Zoning	Surrounding Existing Uses
North:	Commercial/Professional	Pedestrian Commercial (C-1)	Dairy Queen and vacant commercial sites
South:	SW 26 th Street, Commercial/Professional	SW 26 th Street, vacant commercial, two residences	SW 26 th Street, vacant lots and residential
East:	SW 7 th Place, Single-Family	SW 7 th Place, Single-Family (R-1B)	SW 7 th Place Vacant properties, developed homes
West:	Skyline Boulevard/ Commercial/Professional	Skyline Boulevard, Pedestrian Commercial (C-1)	Skyline Boulevard, developed commercial

Request

The deviation is to the requirement for a Buffer “C”; a six-foot tall wall with a 15-foot wide buffer along the eastern property line of the site. Instead, construction of an eight-foot tall wall is proposed with landscaping. The buffer proposed by the applicant would vary in width from 11.5 to 26-feet with an average width of 16.5 feet. The applicant proposes to increase the caliper of the six canopy trees from two to four inches.

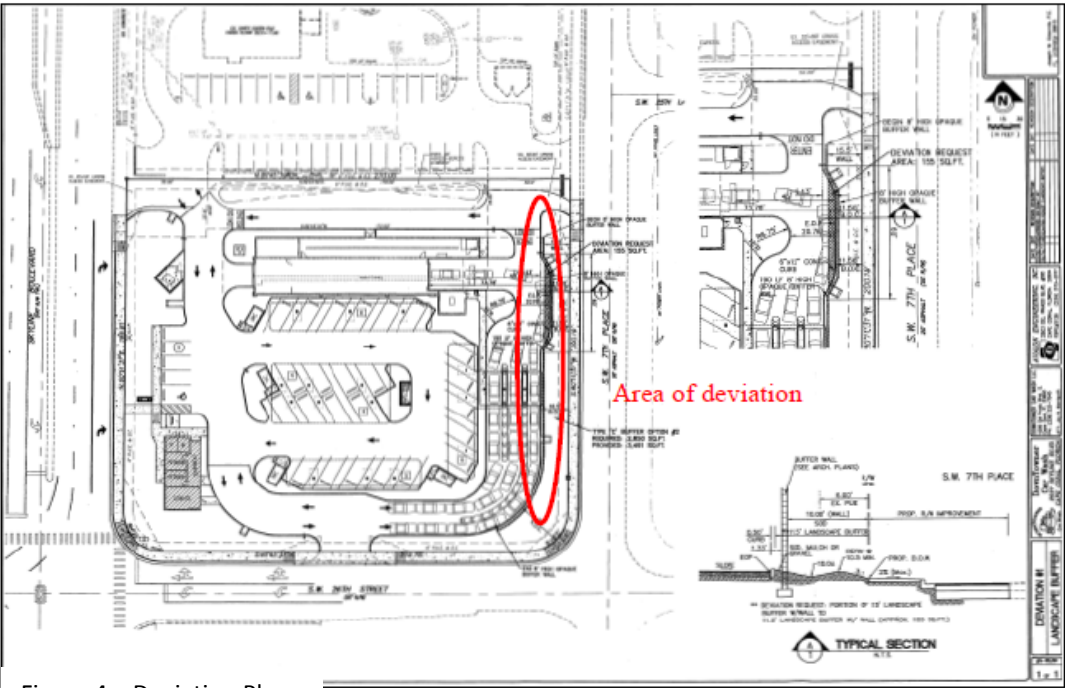


Figure 4 – Deviation Plan

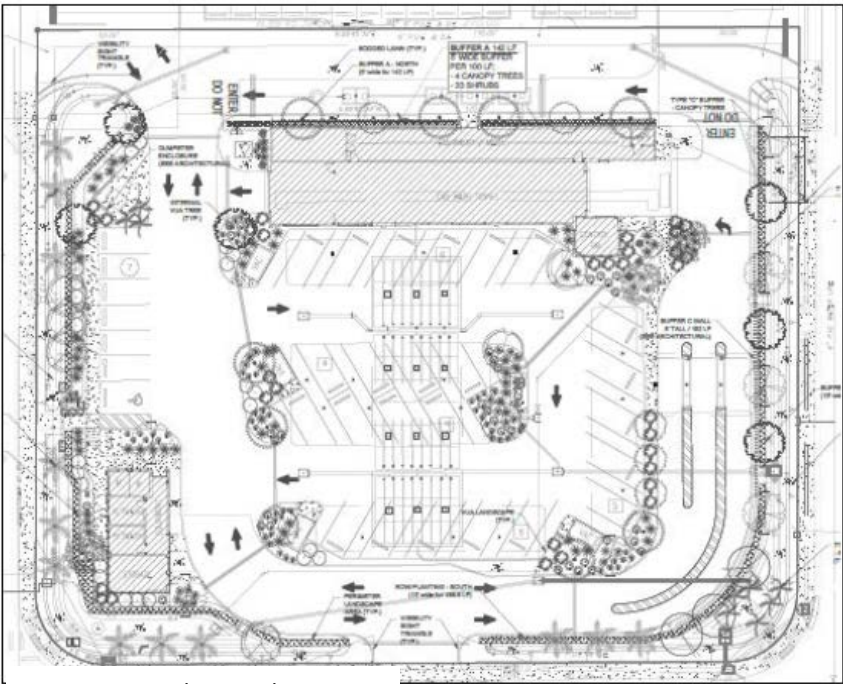


Figure 5 – Landscape Plan

II. STAFF ANALYSIS

Section 5.2.19 of the LUDR addresses deviations to the City landscaping regulations. Requests may be approved by the Hearing Examiner provided 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;
2. Literal conformity with the regulations would inhibit innovation or creativity in design.

The applicant is seeking relief from the landscaping requirements based on hardship.

LUDR, Section 5.2.19.B states *“In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner (or the City Council, when applicable) shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimension, 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 Hearing Examiner (or the City Council, when applicable) 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.”*

Staff has analyzed the request based on the following:



Figure 6 - Google Earth Aerial View

Are there site constraints such as shape, topography, dimensions, and area of the property?

Staff Comment: The site is a regularly shaped ±1.4-acre site bounded on three sides by streets: Skyline Boulevard, SW 26th Street, and SW 7th Place. Three driveways provide access to the site, one on each of three roads. Two of the access points are shared with a neighboring site to the north and, therefore, cannot be changed.

Are other regulations present in this situation that affect the proposed development or other locational factors that may make compliance with this section impossible or impractical?

Staff Comment: Vehicles entering the car wash are stacked in lanes which then merge to turn into the wash bay. This requires an adequate turning radius which appears to be impacted by the 15-foot buffer. The request is to reduce the width in this area to 11.5-feet. The access from SW 7th Place is shared with the Dairy Queen to the north, which limits the design and location of the wash bay. These requirements appear to affect compliance with the required 15-foot wide buffer, particularly in the area affected by the turning radius into the wash bay.

What effect the requested deviations would have on community appearance?

Staff Comment: An eight-foot wall will buffer and provide a small increase in noise attenuation versus the six-foot wall for the car wash. The deviation for buffer width will not affect the screening of the use. The buffer will be reduced in width for 60-feet to accommodate entry of vehicles into the car wash bay from the stacking lanes. The reduced buffer width will not negatively impact community appearance.

Would the deviation protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the City?

Staff Comment: Based upon the above discussion the eight-foot wall and plantings will provide visual interest and aesthetic appeal in buffering the use along SW 7th Place.

Consistency with the Comprehensive Plan

The project is consistent with the following goals and policies.

Future Land Use 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 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 development (such as loading docks, rooftop equipment, service entrances, trash containers, parking 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.”

III. STAFF RECOMMENDATION

Based upon the above criteria for a landscape deviation based upon hardship, staff finds the applicant meets the criteria in LUDR, Section 5.2.19.B. While the code requires a uniform 15-foot wide buffer, the buffer of varying width proposed by the applicant, in conjunction with the wall, will provide adequate screening and buffering of the car wash. The Planning Division recommends approval of the deviation with the following:

Conditions of Approval

1. All landscaping shall be maintained in good condition throughout the life of the project. Shrubs that die or are removed shall be replaced with a shrub of the same species having a minimum height of 24 inches. Canopy trees that die or are removed shall be replaced with a canopy tree of the same species having a minimum caliper as the removed tree; however, if the removed tree is greater than four inches (measured at a height of 12 inches above the ground), the replacement tree shall be required to be a minimum of four inches in caliper. Palm trees that die or are removed shall be replaced with a palm tree of the same species having a minimum height of 16 feet.
2. Development of this site shall be consistent with the plan submitted entitled “Deviation #1, Landscape Buffer Plan” produced by Avalon Engineering dated 5/19/17 and attached as Exhibit “A” and the Landscape Plan prepared by Landesco dated 1/13/17, attached as Exhibit “B”. These plans describe the varying width of the Buffer “C” and includes an 8-foot high wall on the east property line for approximately 190 linear feet of the buffer. The plantings in this buffer shall include 4” caliper shade trees rather than 2” caliper shade trees.

Staff Contact Information

Kathy Eastley, AICP, Senior Planner
PH: 239-574-0605
Email: keastley@capecoral.net

EXHIBIT "A"

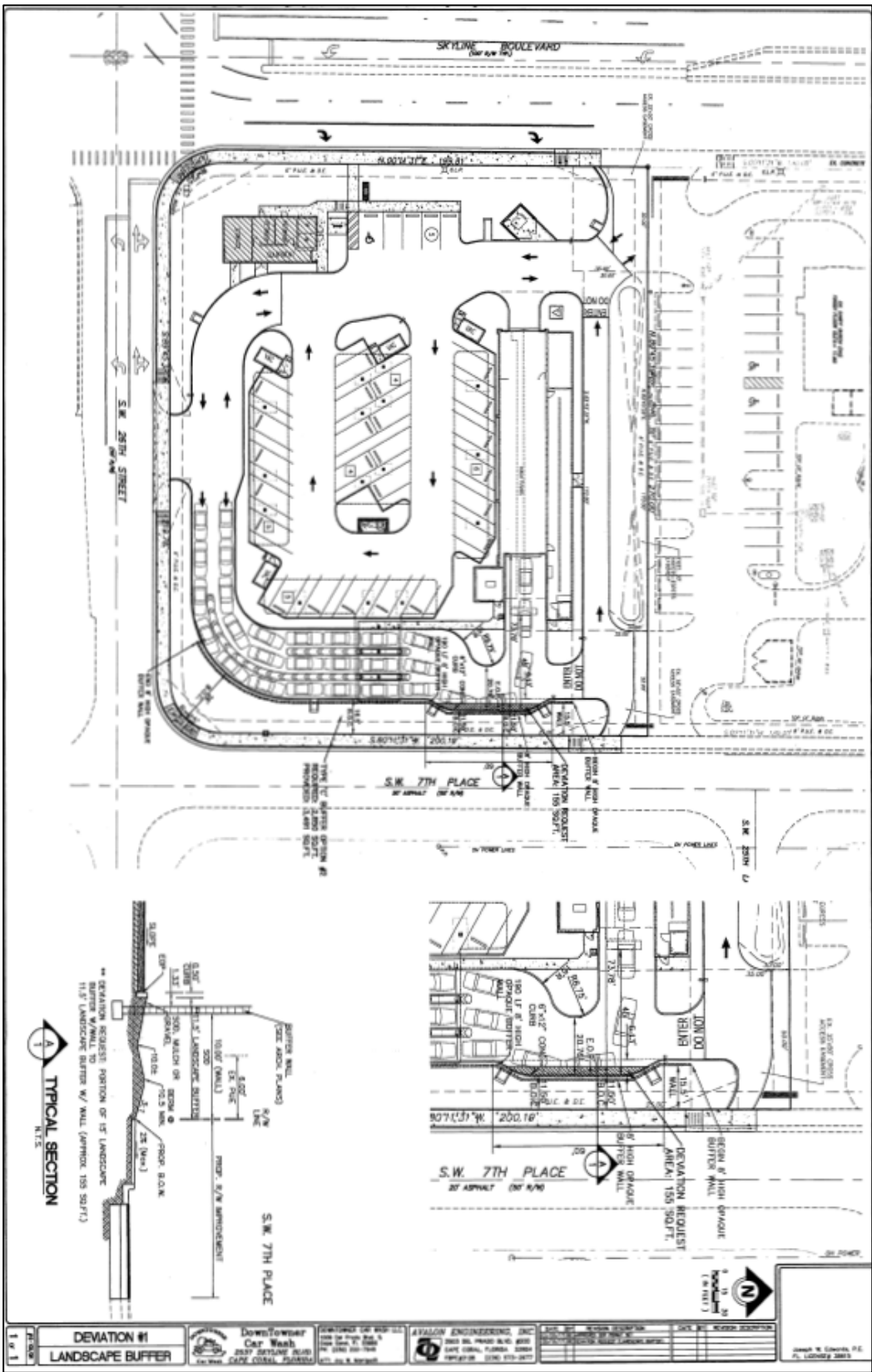
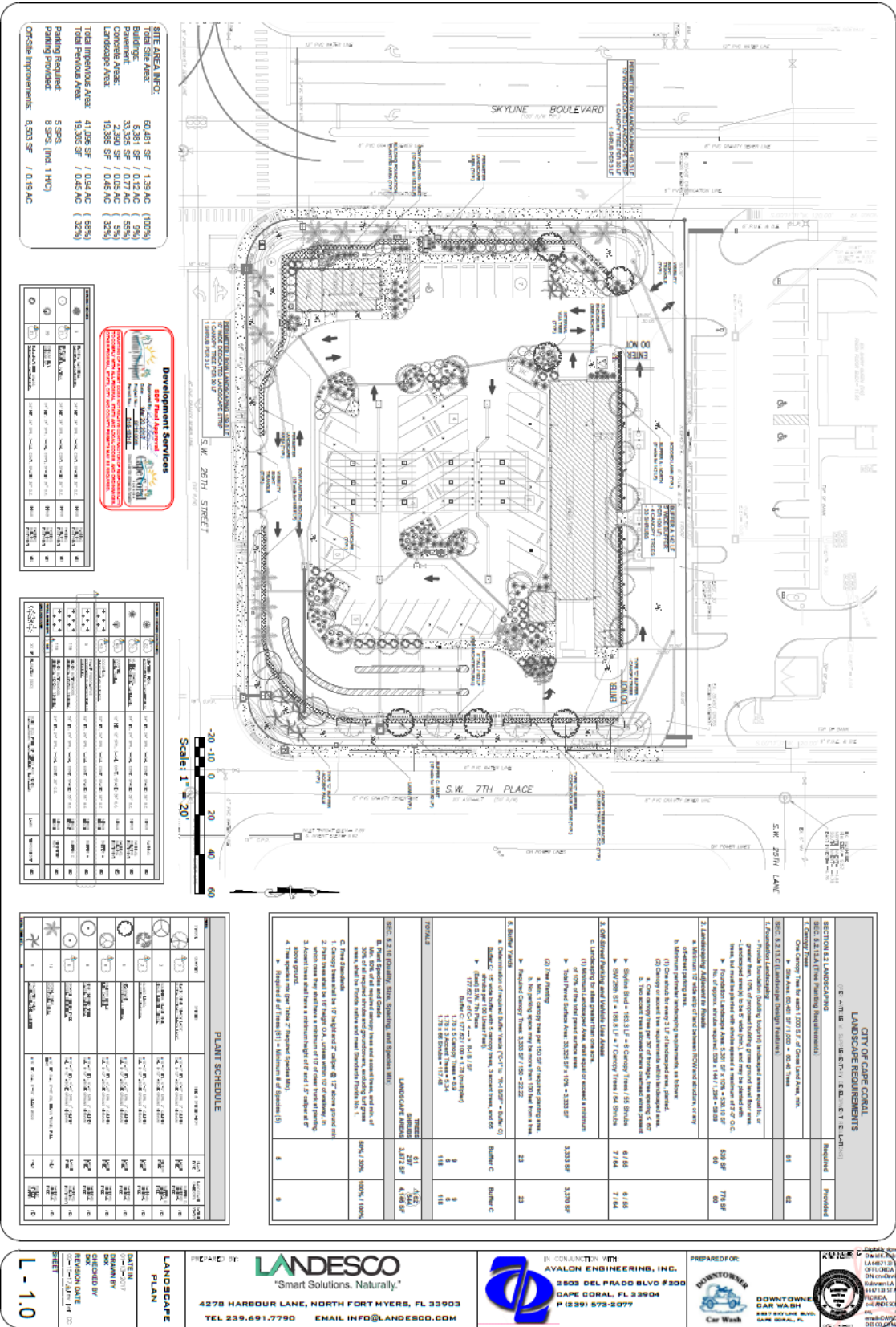


Exhibit "B"





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: DE17-0021

REQUEST: A deviation from LUDR, Section 5.2.13.C.5.a., to allow an 8-foot high wall and a buffer width that varies between 11.5-feet and 16.5-feet along the east property line

LOCATION: 2537 Skyline Boulevard

CAPE CORAL STAFF CONTACT: Kathy Eastley, AICP, Senior Planner, 239-574-0605, keastley@capecoral.net

PROPERTY OWNER(S): 2537 Skyline Boulevard, LLC

AUTHORIZED REPRESENTATIVE: Linda Miller – Avalon Engineering

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 AM on Tuesday, July 25, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

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

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

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Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE
888-516-9220

Local #
239-335-0258

Email
FNPLegals@gannett.com

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0002269628

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$

Run Times: 1

No. of Affidavits: 1

Run Dates: 07/15/17

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: DE17-0021

REQUEST: A deviation from LUDR, Section 5.2.13.C.5.a., to allow an 8-foot high wall and a buffer width that varies between 11.5-feet and 16.5-feet along the east property line

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by order of
Rebecca van Deutekom, MMC
City Clerk
REF # DE17-0021
AD# 2269628 July 15, 2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: 2537 Skyline Blvd, LLC

APPLICATION NO: DE17-0021

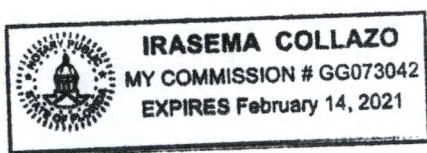
STATE OF FLORIDA)
) §
COUNTY OF LEE)

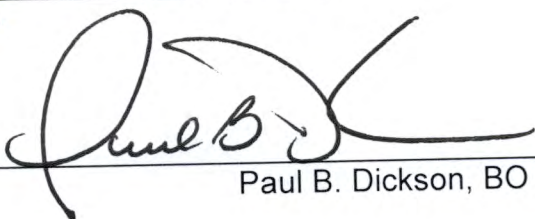
I, Paul B. Dickson, BO, having first been duly sworn according to law, state on my oath the following:

That I am the Acting 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 17th day of July, 2017.




Paul B. Dickson, BO

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 17th day of July, 2017, by Paul B. Dickson, BO, who is personally known to me and who did not take an oath.

Exp. Date _____ Commission # _____


Signature of Notary Public

IRASEMA COLLAZO
Print Name of Notary Public



SW 25TH LN

Subject Parcels


SW 7TH PL

SW 26TH ST

CITY OF CAPE CORAL

Department of
Community Development

Case # DE17-0021

 Subject Parcel



Map Date: July 7, 2017
Aerial Date: 2016

0 30 60
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

ZONING MAP 500 Proximity Boundary

Case No. DE17-0021

Legend


 Subject Parcels

 500' Boundary

 C-1

 R-1B

IMPROVED

 N

 Y

 Canals/Lakes

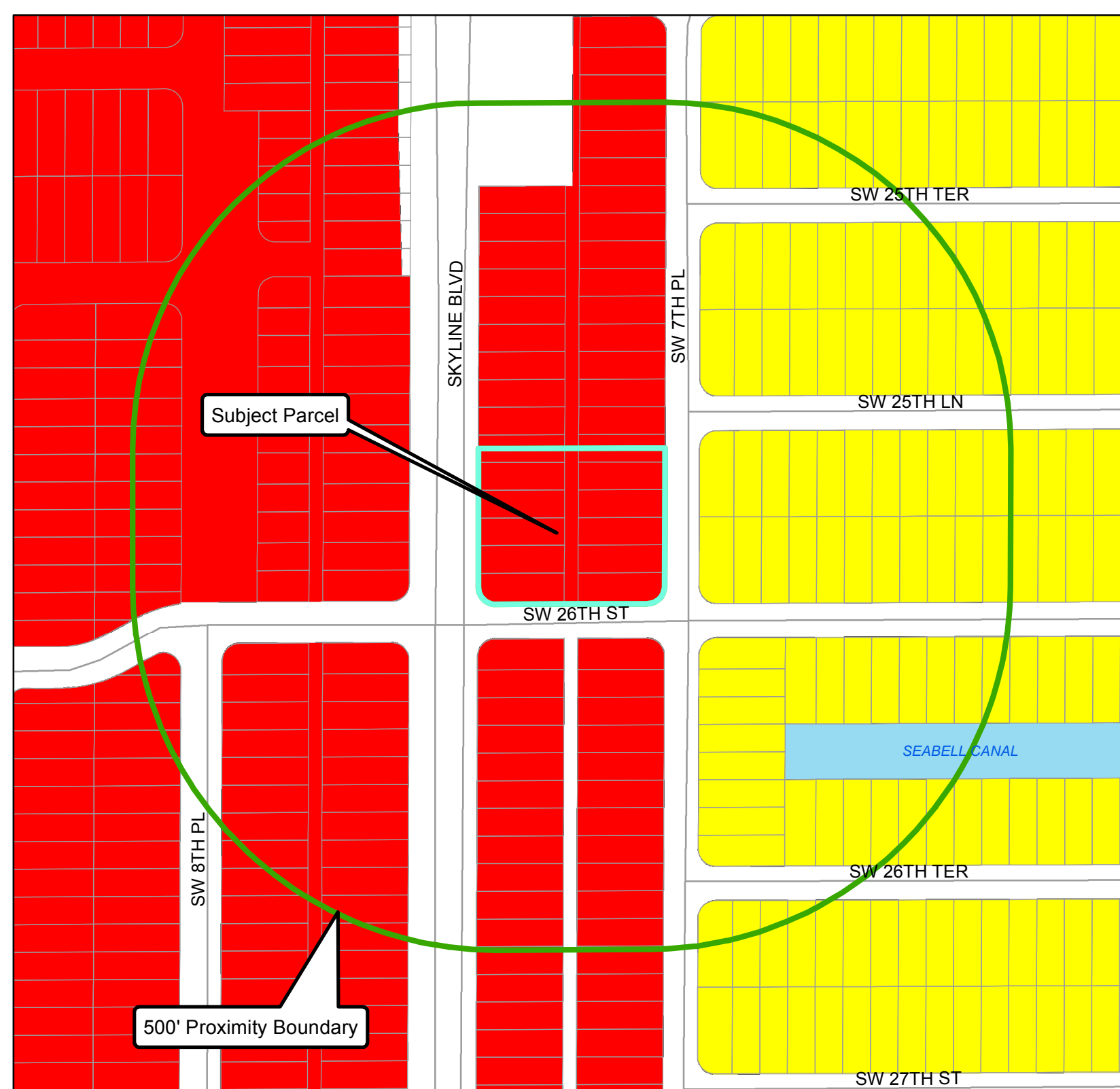


JULY 5, 2017

0 75 150 225 300 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.

KRKA



Item Number:	2.B.
Meeting Date:	7/25/2017
Item Type:	HEARINGS

AGENDA REQUEST FORM

CITY OF CAPE CORAL



TITLE:

Case # SE17-0005*; Address: 407 and 409 SW Pine Island Road; Applicant: Monopoly Holdings, 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? | No |

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

A special exception to construct and operate an “Enclosed Storage” use in the Corridor (CORR) district.

LEGAL REVIEW:

EXHIBITS:

See attached 'Backup Material'

PREPARED BY:

Kristin Kantarze Division- Community Development Department- Planning

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

	Description	Type
	Backup Material	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0005

REQUEST FOR A SPECIAL EXCEPTION USE

FEE: \$833.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising fees will be billed and must be paid prior to hearing.

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

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

Monopoly Holdings, LLC

Email: FMTLogistics@outlook.com

Address: P.O. Box 150576

City: Cape Coral State FL Zip 33915

Phone: N/A

APPLICANT (if different from Owner)

Email: _____

Address: _____

City: _____ State _____ Zip _____

Phone: _____

AUTHORIZED REPRESENTATIVE

Ensite, Inc. (Brian R. Smith)

Email: BrianS@en-site.com (CC: CameronC@en-site.com)

Address: 2401 First St, Ste:201

City: Fort Myers State FL Zip 33901

Phone: 239-226-0024

Unit N/A Block N/A Lot(s) 45-46 Subdivision Florida Tropical Farms

Address of Property _____

Plat Book 9 Page 21

Current Zoning CORR Strap Number 14-44-23-C1-00500.0450 & 14-44-23-C2-00500.045A

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.

Manuel J. Criollo

NAME (PLEASE TYPE OR PRINT)

Monopoly Holdings, LLC

CORPORATION/COMPANY NAME

APPLICANT'S SIGNATURE



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0005

(SIGNATURE MUST BE NOTARIZED)

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 FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 15th day of 03, 2017, by
_____ who is personally known or produced
as identification.



G Lucia Nelson
Commission # FF976263
Expires: March 28, 2020
Bonded thru Aaron Notary

Exp. Date: 3/28/2020

Commission Number: FF976263

Signature of Notary Public:

Printed name of Notary Public:

G Lucia Nelson
G. Lucia Nelson



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0005

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

I hereby acknowledge that I have read and understood the above affidavit on the

_____ day of _____, 20 17

Manuel J. Criollo

PRINT APPLICANT'S NAME

Manuel J. Criollo
APPLICANT'S SIGNATURE

STATE OF

FL, COUNTY OF

Lee

Subscribed and sworn to (or affirmed) before me this 13th day of March, 2017, by _____ who is personally known or produced _____



as identification

G. Lucia Nelson
Commission # FF976263
Expires: March 28, 2020
Bonded thru Aaron Notary

Exp. Date:

3/28/20

Commission Number:

FF976263

Signature of Notary Public:

G. Lucia Nelson

Printed name of Notary Public:

G. Lucia Nelson



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0005

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

Ensite, Inc. (Brian R. Smith)

(Name of person giving presentation)

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

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

UNIT N/A

BLOCK N/A

LOT(S) 45-46

SUBDIVISION Florida Tropical Farms

OR LEGAL DESCRIPTION

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

Manuel J. Criollo (Monopoly Holdings, LLC)

PROPERTY OWNER (Please Print)

Manuel J. Criollo

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF _____, COUNTY OF _____

Subscribed and sworn to (or affirmed) before me this 13th day of March, 2017 by
_____ who is personally known or produced

as identification.

G Lucia Nelson

Commission # FF976263

Expires: March 28, 2020

Bonded thru Aaron Notary

Exp. Date:

3/28/20

Commission Number:

FF976263

Signature of Notary Public:

G. Lucia Nelson

Printed name of Notary Public:

G. Lucia Nelson



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



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0005

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.

Manuel J. Criollo

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

Manuel J. Criollo
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Lld

Sworn to (or affirmed) and subscribed before me on this 13th day of March, 2017 by _____, who is personally known or who has produced _____ as identification.

Exp. Date 3/28/20
Commission # FF9716263

G. Lucia Nelson
Signature of Notary Public
G. Lucia Nelson
Print Name of Notary Public



G Lucia Nelson
Commission # FF976263
Expires: March 28, 2020
Bonded thru Aaron Notary

March 13, 2017



Director
Department of Community Development
City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, Florida 33990

RE: FORT MYERS TRUCKING
407 & 409 SW Pine Island Road
STRAP #'s 14-44-23-C1-00500.0450 and 14-44-23-C2-00500.045A

SPECIAL EXCEPTION APPLICATION LETTER OF INTENT

Dear Director:

Attached please find the application for Special Exception approval for proposed open storage on the subject parcels. This will allow for the storage of motorized vehicles, travel trailers, semi-trucks and trailers. The site is located within the Pine Island Road District (PIRD) future land use while its zoning is in the Corridor District (CORR). The City's LUDR allows for a special exception use in the CORR district of enclosed storage if there is at least a 45,000-square foot of lot area. The subject property is 4.66 Acres. The proposed storage area will comply with all special regulations described in the City's LUDR. This includes the proper screening, buffering, setbacks, and hours of operation to comply with the aesthetics of the surrounding area and for the consideration of adjacent residential properties to the north.

The applicant purchased the subject properties in 2013 to operate Fort Myers Trucking, Inc. The property has been operating a trucking and storage site under this company since 2013. It was not known to the current owners that the use of outdoor storage is not an allowable use in the CORR district. Due to recent code violations, the applicant is seeking approval of a special exception to continue the operation of the business.

We respectfully request approval and if you have any comments or questions please do not hesitate to contact me at (239) 226-0024 or BrianS@en-site.com

Sincerely,

A handwritten signature in blue ink, appearing to read 'BRS', with a horizontal line extending to the right.

Brian R. Smith
Principal / Project Manager

CC: Cisco Criollo



March 10, 2017

En-Site, Inc.
c/o Brian Smith
2401 First Street, Suite 201
Fort Myers, FL 33901

Re: Listed Species Survey for the Ft Myers Trucking Site
STRAP # 14-44-23-C1-00500.0450 / 14-44-23-C2-00500.045A

Project Site: The subject property has an area of approximately 9.4 acres. The site is located in Lee County (S20 T44 R23), southwest the intersection of Santa Barbara Blvd. and SW Pine Island RD. The surrounding land uses include residential and commercial developments surrounding the site.

Purpose: The purpose of this letter is to summarize the findings of our remote sensing and site visit performed by a qualified biologist with WRA for the Ft Myers Trucking Site property. A WRA scientist completed a desktop review and surveyed the area for the presence of burrowing owls (*Athene cunicularia*) and gopher tortoises (*Gopherus polyphemus*) and their associated habitat.

Legal Description: FLORIDA TROPICAL FARMS PB 9 PG 21 PT LOT 45 DESC OR 1143 PG 248 LESS S 90 FT SR 78 ROW OF 3674/67

Listed Species Survey: A listed species survey was conducted on Friday March 10th, 2017. During the habitat assessment (March 10th, 2017) North to South and East to West pedestrian transects were walked throughout all habitats on project site by a WRA scientist to determine the presence of burrowing owls and gopher tortoises.

Results: No listed species were observed denning or foraging within the subject property. Updated species specific surveys may be required prior to site development.

We appreciate the opportunity to work on this project and look forward to working with you in the future. Should you have any questions or require additional information, please contact me at our office 813.265.3130.

Sincerely,

A handwritten signature in dark ink, reading 'Danielle Clooney'. The signature is written in a cursive, flowing style.

Danielle Clooney
Environmental Scientist

A handwritten signature in blue ink, reading 'Matthew P. Miller'. The signature is written in a cursive, flowing style.

Matthew P. Miller, P.W.S.
Environmental Manager

Basemap obtained from ESRI Basemap.
Project Boundary obtained from EnSite.

Map Legend
— Transects
▭ Project Boundary

Document Path: S:\PROJECT FILES\1407 - EnSite - Ft Myers Trucking Site\ENVIRONMENTAL\GIS\2017_3_8_Wildlife_Transect_Map.mxd

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus
DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Engineering ~ Planning ~ Environmental Science
4260 W. Linebaugh Ave.
Tampa, FL 33624
Phone: 813-265-3130
www.wraengineering.com

PROJECT: EnSite

EnSite
Ft. Myers Trucking Site
Wildlife Transect Survey Map

ORIGINAL DATE: 03/08/2017

REVISION DATE:

JOB NUMBER: 1406

FILE NAME: Wildlife Transect

GIS OPERATOR: DK



1 inch = 128 feet



City of Cape Coral

Department of Community Development

Burrowing Owl/Gopher Tortoise Affidavit

Contractor or Owner
Matthew Miller, Water Resource Associates

Block	Lot	Unit	Strap # 14-44-23-C2-00500.045A / 14-44-23-C1-00500.0450
-------	-----	------	------------------------------------------------------------

Site Address
409 SW PINE ISLAND RD CAPE CORAL, FL 3391 / 407 SW PINE ISLAND RD CAPE CORAL, FL 3391

Within the last 30 days, I have inspected the property described above AND any vacant properties near the jobsite where I or my subcontractors may drive vehicles or place construction material.

1. I have found the following number of Burrowing Owl and/or Gopher Tortoise burrow(s) located on the property or adjacent to the aforementioned property, including those located in abutting City rights-of-way.

☒ No burrows found on the Property, Adjacent Property, or Right-of-Way

☐ On Property: Number of burrows ☐ One (1) ☐ Two (2) ☐ Three (3) ☐ (Other) _____

☐ Adjacent Property or Right-of-Way: Number of burrows ☐ One (1) ☐ Two (2) ☐ Three (3) ☐ (Other) _____

2. Please select ONE of the three available options below:

☐ STATE AND/OR FEDERAL PERMITS ARE NECESSARY. I cannot protect the burrow(s) per instruction. I understand that State and/or Federal permits are required prior to the commencement of development activity.

****Please indicate species, if known.** ☐ BURROWING OWL ☐ GOPHER TORTOISE

☒ No Burrowing Owl and/or Gopher Tortoise burrows exist on or adjacent to the aforementioned property, including those located in abutting City rights-of-way.

☐ NO STATE PERMITS ARE NECESSARY. I agree that adequate protection zones will be maintained during all phases of development.

****Please indicate species, if known.** ☐ BURROWING OWL ☐ GOPHER TORTOISE

By accepting City building permits, I assume all responsibility of ensuring protection of Burrowing Owl and/or Gopher Tortoise and their burrow(s) during all phases of development activity. **Burrowing Owls:** protection zone should extend a radius of 10 feet (20-foot diameter) from the owl burrow entrance, and **Gopher Tortoises:** a radius of 25 feet (50-foot diameter) from the tortoise burrow entrance. All burrows must be staked and roped off using these dimensions. **No activity, materials, equipment, or parking is allowed within these buffers.** I understand that molesting, harassing, or injuring Burrowing Owls or Gopher Tortoises or their burrows is a State/Federal crime. The City is required to notify the law enforcement division of the Florida Fish & Wildlife Conservation Commission if a Wildlife violation is observed and the permit holder will be responsible for any illegal activity.

I fully understand the Federal and State regulations that prohibit the endangerment and/or harassment of Burrowing Owls or Gopher Tortoises and their burrows, and I accept full responsibility for the actions of my employees and subcontractors.

I understand that the City is not liable for an applicant(s) violation of State or Federal law. I understand that I, the applicant, is liable for any failure to obtain state and/or federal permits, failure to fulfill obligations imposed by a state and/or federal agency, and will be liable for any violations to state and/or federal law. Further, I also understand that the City requires that all applicable state and federal permits be obtained **prior to** the commencement of development activities and copies of permits are required prior to any City inspection. I am fully aware that the failure to secure such permits after work has commenced will result in a **Stop Work Order** being issued on my site.

Under penalty of perjury, I declare that I have read the foregoing document and that all information contained herein is true and correct to the best of my knowledge and that violation of these Laws is punishable by a fine and/or imprisonment.

BY: Matthew Miller, WRA Engineering-Environmental Manager
Print Name & Title of Contractor or Property Owner Signature of Contractor or Property Owner
(Signature Must be Notarized)

STATE OF FL, COUNTY OF Hillsborough

Subscribed and sworn to (or affirmed) before me this 10th day of Mar, 2017 by

Matthew Miller who is personally known or produced
Printed name of person signing as identification



DEBORAH K. NOBLIT
MY COMMISSION # FF 040379
EXPIRES: August 23, 2017
Bonded thru Budget Notary Services

Exp. Date: 8/23/17 Commission Number: FF040379
Signature of Notary Public: Deborah K. Noblit
Printed name of Notary Public: Deborah K. Noblit

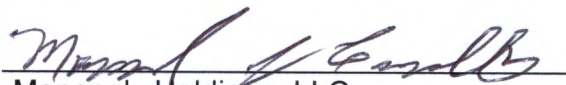
LETTER OF AUTHORIZATION

Monopoly Holdings, LLC
P.O. Box 150576
Cape Coral, FL 33915

RE: 407 SW Pine Island Rd.
Letter of Authorization

To Whom It May Concern:

Ensite, Inc. is hereby authorized to serve as an agent / representative for Monopoly Holdings, LLC for the purpose of development permitting identified as Strap #: 14-44-23-C1-00500.0450 & 14-44-23-C2-00500.045A.


Monopoly Holdings, LLC


Manuel J. Criollo
Printed Name

STATE OF
COUNTY OF

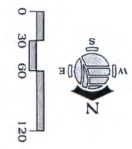
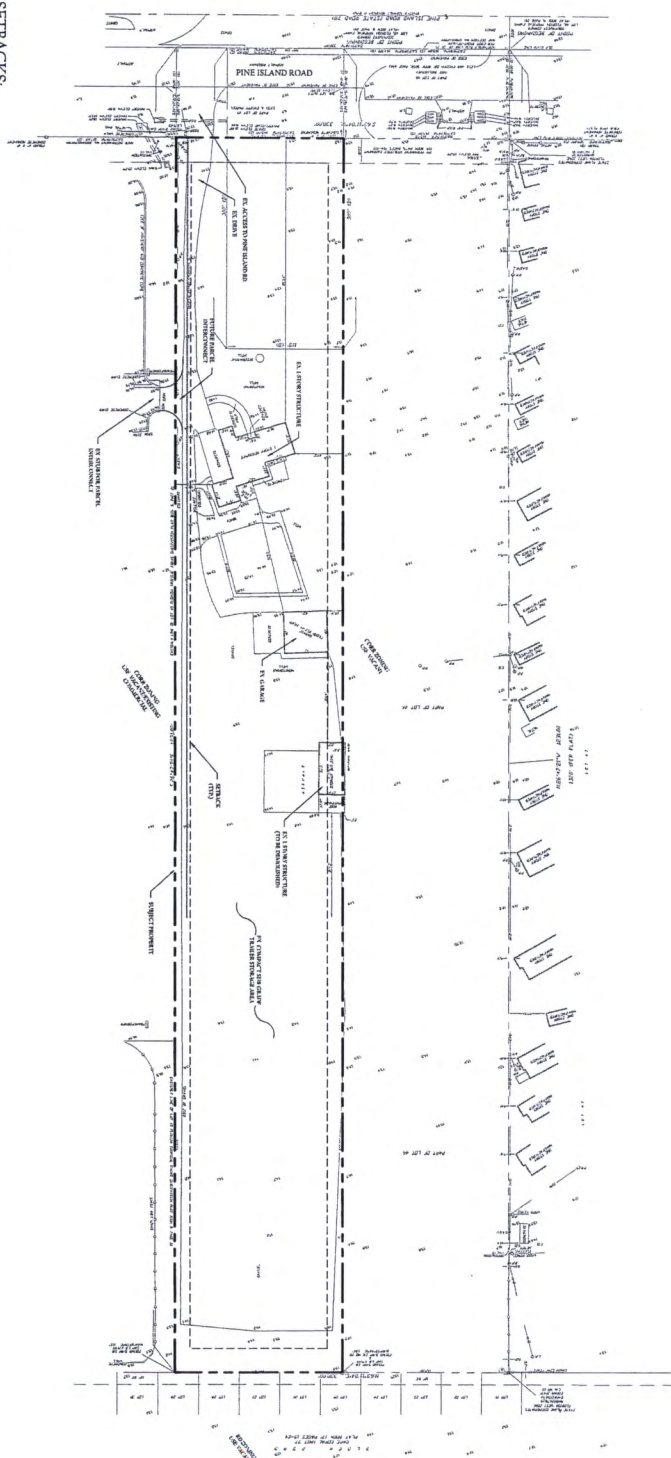
Sworn to (or affirmed) and subscribed before me this 13th day of March, 2017, by Monopoly Holdings, LLC, who is personally known to me or who has produced _____ as identification.



G Lucia Nelson
Commission # FF976263
Expires: March 28, 2020
Bonded thru Aaron Notary


Notary Public

G. Lucia Nelson
Named Typed, Printed or Stamped



SETBACKS:

STREET (PINE ISLAND RD)	REQUIRED	PROPOSED
FRONT (EAST)	15'	4.5'
REAR	25'	4.5'

*PROPOSED SETBACK: EXISTING STRUCTURES ONLY. ANY FUTURE STRUCTURES SHALL BE SETBACK FROM THE EXISTING PROPERTY LINE CORRESPONDING TO THE REQUIRED SETBACKS.

LANDSCAPE BUFFERS:

CORNER TO CORNER	REQUIRED
MIN. 25' NO WALL OR 15' WITH A WALL	

MP-01

MASTER PLAN

DATE	DESCRIPTION
11/13/2017	1310-01-Master Plan
SCALE	SEE PLAN

NO.	REVISIONS	DATE
1		
2		
3		
4		
5		

FORT MYERS TRUCKING
SPECIAL EXCEPTION SITE PLAN

MONOPOLY
HOLDINGS, LLC
PO BOX 150576
CAPE CORAL, FL



City of Cape Coral Planning Division
Project Staff Report
Special Exception (SE17-0005)
Hearing Examiner Date – July 25, 2017

APPLICATION SUMMARY

Applicant: Monopoly Holdings, LLC

Request: A special exception to construct and operate an “Enclosed Storage” use in the Corridor (CORR) district.

Location: 407 and 409 SW Pine Island Road

RECOMMENDATION

Staff recommends **approval** of the applicant’s Special Exception request with conditions.

FINDINGS AND CONCLUSIONS

Based upon an analysis of the application and the standards for approval of a Special Exception in the Cape Coral Land Use and Development Regulations (LUDR), Section 8.8.5a-e, Planning staff makes the following findings and conclusions. The requested special exception, as conditioned:

- 1) Is consistent with the City of Cape Coral Comprehensive Plan;
- 2) Is consistent with the CORR zoning district;
- 3) Is compatible with existing or planned uses;
- 4) Meets dimensional requirements such as setbacks and minimum lot frontage;
- 5) Has adequate access to the surrounding street network; and
- 6) Will provide appropriate landscaping, screening, and buffering.

DESCRIPTION OF SUBJECT PROPERTY

The 4.66-acre site is in the northeastern quadrant of Cape Coral. The site is two parcels owned by Monopoly Holdings, LLC. The future land use designation is Pine Island Road District (PIRD) and the zoning is Corridor (CORR). The site has frontage along SW Pine Island Road¹. The surrounding area has single-family residences and undeveloped parcels to the north, a shopping center anchored by Sam’s Club to the east, office developments to the south, and an undeveloped parcel to the west. The site is in the Urban Services Transition Area and municipal utilities are available. The current use is Fort Myers Trucking. The business has been in operation since 2013, however, a similar business was established on the site prior to 2013. The site has a single-family home that has been converted to an office to support the business on-site. The site is also used for storing trucks in conjunction with the trucking business. A garage and a carport are also present. The site is partially paved and there is scattered

¹ A principal arterial.

landscaping along the perimeter. The surrounding future land use and zoning designations are as follows:

	<i>Surrounding Future Land Use</i>	<i>Surrounding Zoning</i>
<i>North:</i>	Single-Family/Multi-Family Residential (SM)	Residential Development (RD)
<i>South:</i>	Pine Island Road District (PIRD)	Corridor (CORR)
<i>East:</i>	PIRD	CORR
<i>West:</i>	Del Prado Boulevard	CORR

An aerial of the site is included below:



DESCRIPTION OF THE PROJECT

The applicant is requesting a special exception to construct and utilize *Enclosed Storage*. The City Land Use and Development Regulations (LUDR), Article 11 "Definitions" defines *Enclosed Storage* as:

"The keeping of any goods or products within a structure not defined as a building, or within a completely fenced or walled in area. The goods shall be screened by the structure, wall or fence so as not to be seen from any other property."

The screening that enclose and buffer vehicles stored on the site. The applicant has not indicated a specific type of fence or wall, nor has the applicant indicated the type of landscaping that will be installed. Screening is required for all areas that will be used for storing trucks or other vehicles. The applicant also states that the carport structure will be demolished² during construction of the screening.

DETAILED ANALYSIS

Analysis:

The Planning Division reviewed this application based on the City LUDRs, Section 2.7.13, the CORR District, and the five (5) standards in Section 8.8.5a-e for special exceptions and offer the following analysis for consideration:

1. Generally

The CORR zoning is compatible with the PIRD future land use of the site. *Enclosed Storage* is allowed as a special exception if the property has a minimum size of 45,000 sq. ft. The site is over 4 acres and well exceeds the minimum area requirement. There are no special conditions for *Enclosed Storage* in the CORR district. The applicant has not indicated the type of screening that will be installed, however, compliance with the *Enclosed Storage* use will be reviewed during the permitting process.

2. Compatibility

Planning staff finds that *Enclosed Storage* is a compatible use with the commercial corridor along Pine Island Road. Pine Island Road and the corresponding CORR district allow a wide variety of uses such as big box retail, office, light manufacturing, and some industrial uses. The proposed special exception is intended to facilitate the continued operation of the applicant's business, which is an office for local trucking operations. The special exception will allow the applicant to store trucks on the site, while screening the vehicles from the view of nearby properties and travelers along Pine Island Road.

There are two adjacent residential properties to the north, and additional residential properties further north that could be affected by this special exception. The proposed use is far less intensive than some nearby shopping centers to the east and west, however, those developments have buffering and screening between them and the residential properties. The spacing, screening, and buffering utilized by these developments protect the residents from possible adverse impacts such as aesthetics, noise and light. The applicant indicated that screening and buffering will be installed but has not identified the specific type of screening or buffering. Without appropriate screening buffering, the proposed use could detract from the aesthetics of the surrounding neighborhood. Planning staff finds that the proposed use should be compatible with the surrounding residential properties through the implementation of specific conditions relating to screening, buffering, and setbacks.

² The carport is on the western property line.

3. *Minimum Lot Frontage; Access*

The site has 50 linear feet of frontage along Pine Island Road. A 115-foot wide portion of the site was acquired by the Florida Department of Transportation to be used as right-of-way (ROW) for SW Pine Island Road. The CORR district does not have a minimum lot frontage requirement.

4. *Building Location; Setbacks*

The special exception request does not include any building construction. The existing office building is near the front of the site and aerial photographs show that trucks are parked in front and behind the building. Staff recommends that the applicant construct the storage area behind the building. Using this location for vehicle storage, if properly screened should reduce or eliminate trucks from the view of cars traveling along Pine Island Road. Staff also recommends a rear setback of 40 feet to provide spacing and distance from the adjacent and nearby residential properties.

5. *Screening and Buffering*

The applicant has not indicated the size, location, or type of fencing or walls that will be used to provide screening. Trucks in the storage area are likely to exceed six feet in height, therefore, Planning staff recommends a combination of opaque fencing and canopy trees to provide the required screening. LUDR, Section 3.9.2.B.1.c allows fences for a special exception to exceed the maximum height of six feet. Planning staff recommends an opaque fence a minimum of eight feet in height. Allowable materials include PVC, aluminum, concrete block stucco (CBS), brick, or formed, decorative, or precast concrete. Planning staff also recommends landscaping be installed on all four sides of the site. The landscaping should consist of canopy trees installed at a minimum height of eight feet with 20 feet of spacing as prescribed by the City LUDR.

Planning staff notes that the applicant will be required to install a Buffer "E" along the rear property line adjacent to RD zoning. A Buffer "E" has two options. The first option requires a minimum buffer width of 40 feet along with a berm. The second option requires a minimum buffer width of 15 feet along with a wall. Both options require a combination of canopy trees, accent trees, and shrubs.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

A list of Comprehensive Plan objectives and policies applicable to this request appears in Exhibit "C." This project was specifically reviewed for consistency with the following policies:

Future Land Use Element

Policy 1.15.f. Future land use classifications. The current Corridor zoning of the subject parcel is consistent with the Pine Island Road Future Land Use Classification of this property.

PROJECT RECOMMENDATIONS

Staff finds that the special exception is consistent with the City LUDRs and the Comprehensive Plan. Planning staff recommends **approval**, subject to the conditions outlined below.

- 1) An 8-foot high opaque fence or wall shall be installed along the east, south and west property lines.
- 2) This fence or wall shall be comprised of PVC, aluminum, concrete block stucco (CBS), brick, or formed, decorative, or precast concrete.
- 3) The required Buffer "E" along the northern property line shall include a rear setback of 40 feet from the property line.
- 4) A wall or fence is constructed along the northern property line, the wall shall be a minimum of eight feet in height.
- 5) Landscaping shall be installed in the form of trees and shrubs that meets the standards of a Buffer "C".
- 6) No repair work shall be conducted on the vehicles on the vehicles are on the subject property.

PUBLIC NOTIFICATION

This case will be publicly noticed as required by LUDR, Section 8.3 as further described below.

Publication: A legal ad will be prepared and sent to the New Press for scheduled publication 10 days prior to any public hearing.

Written notice: Property owners located within 500 feet of the project area will be mailed letters 10 days prior to any public hearing.

Posting of a Sign: Signs will be posted on the subject property along Burnt Store Road 10 days prior to any public hearing.

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



NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: SE17-0005

REQUEST: A special exception to construct and operate an “Enclosed Storage” use in the Corridor (CORR) district.

LOCATION: 407 and 409 SW Pine Island Road

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

PROPERTY OWNER(S): Monopoly Holdings, LLC

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00AM on Tuesday, July 25, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

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

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

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Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE
888-516-9220

Local #
239-335-0258

Email
FNPLegals@gannett.com

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0002269667

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$

Run Times: 1

No. of Affidavits: 1

Run Dates: 07/15/17

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE17-0005

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LOCATION: 407 and 409 SW Pine Island Road

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da Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of
Rebecca van Deutekom, MMC
City Clerk
REF # SE17-0005
AD# 2269667 July 15, 2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Monopoly Holdings

APPLICATION NO: SE17-0005

STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Paul B. Dickson, BO, having first been duly sworn according to law, state on my oath the following:

That I am the Acting 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.

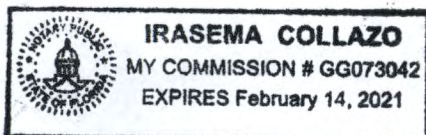
DATED this 14th day of July, 2017.


Paul B. Dickson, BO

STATE OF FLORIDA
COUNTY OF LEE

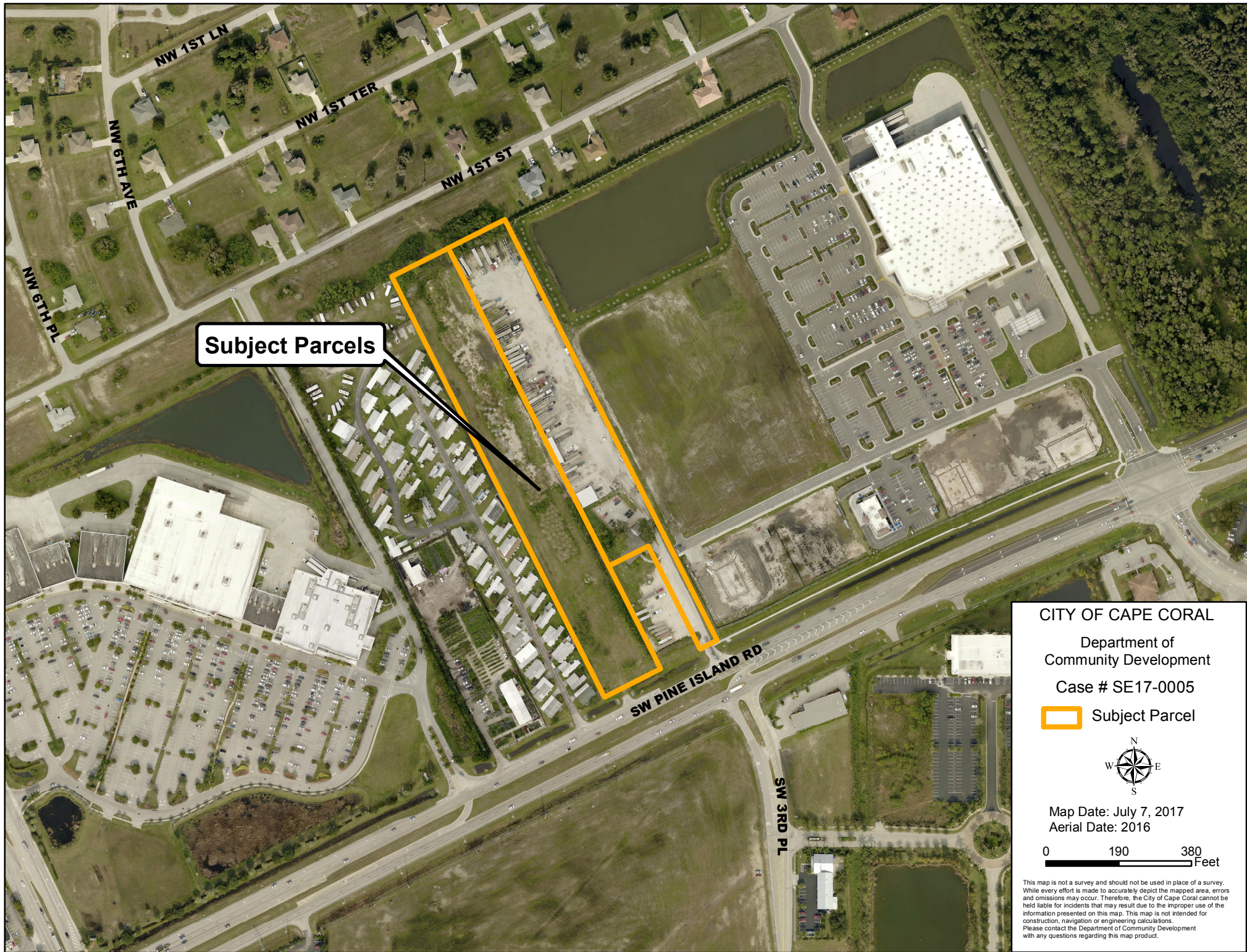
The foregoing instrument was acknowledged before me this 14th day of July, 2017, by Paul B. Dickson, BO, who is personally known to me and who did not take an oath.

Exp. Date _____ Commission # _____




Signature of Notary Public

IRASEMA COLLAZO
Print Name of Notary Public




Subject Parcels

CITY OF CAPE CORAL

Department of
Community Development

Case # SE17-0005

 Subject Parcel



Map Date: July 7, 2017
Aerial Date: 2016

0 190 380
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

ZONING MAP 500 Proximity Boundary

Case No. SE17-0005

Legend

-  Subject Parcel
-  500' Boundary
-  CORR
-  CPO
-  R-1B
-  RD
-  VILL
-  Canals/Lakes



JULY 5, 2017

0 130 260 390 520 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.

KRKA



Item Number: 2.C.
Meeting Date: 7/25/2017
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case # SE17-0007*; Address: 2827-2845 Sunset Point Circle; Applicant: DR Horton, Inc.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant is requesting a Special Exception to construct and operate three model homes in the Residential Development (RD) District

LEGAL REVIEW:

EXHIBITS:

See attached 'Backup Material'

PREPARED BY:

Kristin Division- Community Department- Planning
Kantarze Development

SOURCE OF ADDITIONAL INFORMATION:

Kathy Eastley, AICP, Senior Planner, 239-574-0605, keastley@capecoral.net

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Backup Material	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0007

REQUEST FOR A SPECIAL EXCEPTION USE

FEE: \$833.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising fees will be billed and must be paid prior to hearing.

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

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

D.R. Horton, Inc.

Email: JMRatz@drhorton.com

Address: 10541 Six Mile Cypress Parkway, Suite 100

City: Fort Myers State FL Zip 33966

Phone: _____

APPLICANT (if different from Owner)

Same as Owner

Email: _____

Address: _____

City: _____ State _____ Zip _____

Phone: _____

AUTHORIZED REPRESENTATIVE

Banks Engineering

Email: SHewitt@bankseng.com

Address: 10511 Six Mile Cypress Parkway, Suite 101

City: Fort Myers, State FL Zip 33966

Phone: (239) 770-2527

Unit _____ Block _____ Lot(s) 1 - 4 Subdivision Sunset Pointe

Address of Property 2827, 2833, 2839 & 2845 Sunset Pointe Cir

Plat Book _____ Page _____ Instrument No: 2016000018180

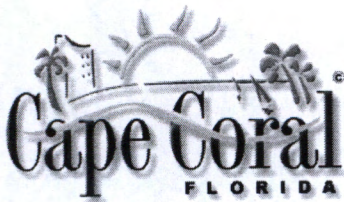
Current Zoning RD Strap Number 17-45-23-C1-04000.0010, 0020, 0030 & 0040

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.

Jonathon M. Pentecost, Division President, D.R. Horton, Inc.
NAME (PLEASE TYPE OR PRINT)

D.R. Horton, Inc.
CORPORATION/COMPANY NAME
[Signature]
APPLICANT'S SIGNATURE



DEPARTMENT OF COMMUNITY DEVELOPMENT
SPECIAL EXCEPTION APPLICATION
Questions: 239-574-0776

Case # _____

(SIGNATURE MUST BE NOTARIZED)

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

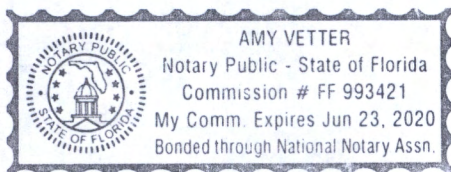
Sworn to (or affirmed) and subscribed before me this 27th day of April, 2017, by
Jonathon Pentecost who is personally known or produced
as identification.

Exp. Date: 6/23/2020 Commission Number: FF 993421

Signature of Notary Public:

Printed name of Notary Public:

AK
Amy Vetter





DEPARTMENT OF COMMUNITY DEVELOPMENT
SPECIAL EXCEPTION APPLICATION
Questions: 239-574-0776

Case # _____

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

I hereby acknowledge that I have read and understood the above affidavit on the

27th

day of

April

, 20

17

Jonathon M. Pentecost, Division President, D.R. Horton, Inc.

PRINT APPLICANT'S NAME

[Signature]
APPLICANT'S SIGNATURE

STATE OF

Florida

, COUNTY OF

Lee

Subscribed and sworn to (or affirmed) before me this

27th

day of

April

, 2017, by

Jonathon Pentecost

who is personally known or produced

as identification.

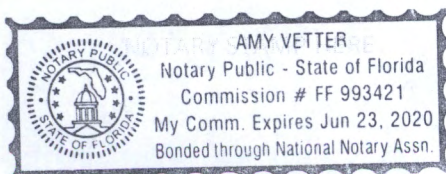
Exp. Date: 6/23/2020

Commission Number:

FF 993421

Signature of Notary Public:

Printed name of Notary Public:



[Signature]
Amy Vetter



DEPARTMENT OF COMMUNITY DEVELOPMENT
SPECIAL EXCEPTION APPLICATION
Questions: 239-574-0776

Case # _____

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT Banks Engineering
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE HEARING EXAMINER, OR CITY COUNCIL FOR
Special Exception
(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT BLOCK LOT(S) 1 - 4 SUBDIVISION Sunset Pointe
Instrument No. 2016000018180

OR LEGAL DESCRIPTION _____

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

D.R. Horton, Inc. _____
PROPERTY OWNER (Please Print) _____
By Jonathon M. Pentecost, Division President: _____
PROPERTY OWNER (Please Print)

X _____
PROPERTY OWNER (Signature & Title) _____
PROPERTY OWNER (Signature & Title)

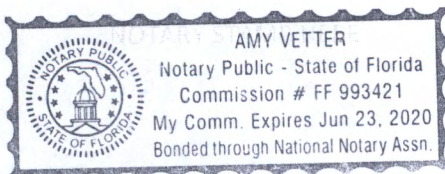
STATE OF Florida, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 27th day of April, 2017 by
Jonathon Pentecost who is personally known or produced
as identification.

Exp. Date: 6/23/2020 Commission Number: FF 993421

Signature of Notary Public: AK

Printed name of Notary Public: Amy Vetter



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



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # _____

MODEL HOME SITE SPECIAL REGULATIONS

1. Model Homes: May be permitted as a Special Exception, subject to the following requirements:
 - a. Minimum site area of 15,000 square feet for (1) model home and a minimum of 10,000 square feet for each additional adjoining model home site.
 - b. The parking lot for a model home(s) shall be set back a minimum of five (5) feet from the side property line, and fifteen (15) feet from the rear property line. The setback areas shall contain at least a five (5) foot landscaped buffer to the adjoining rear and side properties.
 - c. No parking directly to the rear of a model home on one building site.
 - d. Parking: 5 paved spaces on site for the first model home, 3 additional paved spaces on site for any and all additional model homes.
 - e. Vehicle parking entrance to home site shall be from the same street which faces front entrance to the model home unless this requirement conflicts with Department of Transportation Standards or City of Cape Coral Engineering Design Standards. On corner sites where the garage is on the side of the structure, the entrance to the parking area may be located on the same side as the garage.
 - f. Time Limit: 5 years maximum, unless the model home site conforms to all other provisions of this Ordinance.
 - g. Deposit Required: A deposit of funds or other financial instruments payable to the City of Cape Coral is required as a construction conversion deposit to convert the property back to a residential use when the structure is converted or sold. The amount of the deposit to be set forth is as follows: \$5,000.00 for conversion of the parking lot: and \$1,500.00 per model home if driveway is not installed.
 - h. Model homes may be open for business between 9:00AM to 9:00PM daily.
 - i. Outside lighting permitted, except 10:00PM to 7:00AM.
 - j. Security lighting: two security lights permitted, one front and one rear of building.
 - k. Model homes must be used exclusively for the display and sale of the model home.
No construction office or other real estate uses permitted.



DEPARTMENT OF COMMUNITY DEVELOPMENT
SPECIAL EXCEPTION APPLICATION
Questions: 239-574-0776

Case # _____

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

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

D.R. Horton, Inc.
Jonathon M. Pentecost, Division President
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

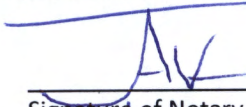

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

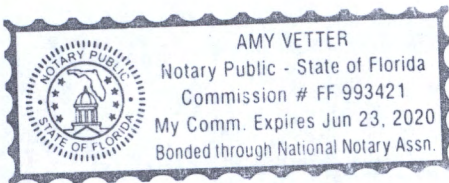
STATE OF Florida COUNTY OF Lee

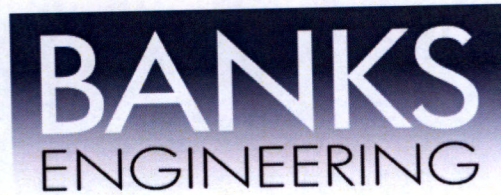
Sworn to (or affirmed) and subscribed before me on this 27th day of April,
2017 by Jonathon Pentecost, who is personally known or who has produced _____
as identification.

Exp. Date 6/23/2020
Commission # FF 993421


Signature of Notary Public

Amy Vetter
Print Name of Notary Public





Professional Engineers, Planners & Land Surveyors



May 3, 2017

City of Cape Coral
Department of Community Development
1015 Cultural Park Boulevard
Cape Coral, Florida 33990

Reference: **Sunset Pointe Model Homes**
SPECIAL EXCEPTION - LETTER OF INTENT

To Whom It May Concern:

It is the intent of the property owner, D.R. Horton, Inc., to request a Special Exception in order to operate model homes in the Residential Development (RD) zoning district for the location of 3 model home sites and 1 temporary parking lot.

The subject parcel consists of four unimproved lots totaling 36,218± square feet with in the Sunset Pointe subdivision. This application will be for a new model home center as the original model home center is in the process of being converted to residences. It should be noted that only one model home site will be utilized at any given time. The property is located in southwestern Cape Coral along Sunset Pointe Circle, a local private street located south of Cape Coral Parkway near its western terminus. The surrounding area consists of vacant single-family lots internal to subdivision to the east and across the street to the south and west. To the north across Cape Coral Parkway is a single-family home and vacant lots. The parcel has a future land use classification of Multi-family (MF) and is zoned RD. Adjacent properties to the east south and west of the subject parcel also share the same future land use and zoning designations. Properties to the north have the same zoning designation, but a future land use classification of Single-Family (SF).

Lot 3 is proposed for a model home with two future model home sites on lots 1 and 4 and a temporary parking lot on lot 2. The parking lot is accessed internally from Sunset Pointe Circle and contains 7 spaces. Landscaping is proposed in compliance with model home screening and single-family lot planting requirements, as noted on the attached site plan.

The applicant offers the following analysis of the City's Land Use and Development Regulations (LUDR), Section 2.7.3.D.2, which states, "Model home site(s) may be permitted as a special exception, subject to the following requirements:

- a. Minimum site area of 15,000 square feet for the first model home site and a minimum of 10,000 square feet for each additional model home site adjoining.

The subject property is comprised of four lots with a combined total area of 36,218± square feet and contains 3 adjoining model home sites which would require 35,000 square feet. The site exceeds the minimum site area requirement.

S:\Jobs\DR Horton\Sunset Pointe\SunsetPointe_Letter of Intent-Special Exception.doc

• SERVING THE STATE OF FLORIDA •

10511 Six Mile Cypress Parkway • Suite 101 • Fort Myers, Florida 33966
Phone 239-939-5490 • www.bankseng.com • Fax 239-939-2523
Engineering License No. EB 6469 • Surveying License No. LB 6690

b. The parking lot for a model home site(s) shall be set back a minimum of five feet from the side property line and 15 feet from the rear property line. The set back area shall contain at least a five-foot landscaped buffer to the adjoining rear and side property lines.

The attached site plan demonstrates the proposed parking meets the minimum five feet from the side property line and minimum 15 feet from the rear property line. There is a note on the site plan requiring at least a five-foot landscaped buffer to the adjoining rear and side property lines. The project meets this standard.

c. No parking directly to the rear of the model home site(s) on one building site.

The attached site plan demonstrates the proposed parking is located on the lot adjacent to the proposed model home sites and not on the same building site of the proposed model homes. The project meets this standard.

d. Parking: five paved spaces on site for the first model home site, three additional paved spaces for each additional model home site.

The attached site plan demonstrates 7 paved parking spaces including 1 handicap space. Given that at no time would the developer operate more than one model at a time, the provided 7 parking spaces exceeds the required 5 parking spaces. The project meets this standard.

e. Vehicle parking entrance to the homesite shall be from the street which faces front entrance to the model home unless this condition conflicts with Department of Transportation standards or City of Cape Coral Engineering Design Standards. On corner sites where the garage is on the side of the structure, the entrance to the parking area may be located on the same side as the driveway to the garage.

The attached site plan demonstrates the vehicle parking entrance to the parking lot will be from Sunset Pointe Circle, the street which faces the front entrance to the model home. The project meets this standard.

f. Time limit: five years maximum unless conforms to all provisions of this ordinance.

The applicant acknowledges that the Special Exception will be limited to a maximum of five years unless an extension is granted. The project meets this standard.

g. Deposit required: A deposit of funds or other financial instruments payable to the City of Cape Coral is required as a construction conversion deposit to convert the property back to a residential or other permitted use when the structure is converted or sold. The amount of the deposit to be set forth as follows: \$5,000 for conversion of the parking lot; and, \$1,500 per model home site if driveway is not installed. The deposit shall be used by the city to remove any parking area not allowed in a residential zone or to convert the property to a residential or other permitted use. Such deposit shall be used when the model home site is abandoned as a model home, or at the expiration of the model home time limit, or if the model home site is sold as a residence or other permitted use and not converted to a residence or other permitted use, or if the structure is abandoned as a model home for 30 consecutive days. Conversion of the model home site must be completed within 60 days of the expiration of the time limit for the model home, or within 60 days of the structure being abandoned as a model home site, or prior to sale of the model home site for

a residential or other permitted use. Any funds and interest resulting from these funds shall be returned to the party who made the deposit upon conversion of the model home site to a residential or other permitted use if such conversion is done by parties other than the city. Should the city be required to perform the conversion, all unused monies, including interest accrued, shall be refunded to the party making the deposit.

The applicant acknowledges the deposit will be required prior to permitting. The project meets this standard.

h. Model home sites may be open for business between 9:00 a.m. and 9:00 p.m. daily.

The applicant acknowledges that the Special Exception will be limited to the hours of 9:00 a.m. to 9:00 p.m. daily. The project meets this standard.

i. Outside lighting permitted, except from 10:00 p.m. to 7:00 a.m.

The applicant acknowledges that the Special Exception will allow outside lighting, except from 10:00 p.m. to 7:00 p.m. daily. The project meets this standard.

j. Security lighting: two security lights, one in front and one at rear of building.

The applicant acknowledges that the Special Exception will require one security light in the front and one in the rear of the building. The project meets this standard.

k. Model homes must be used exclusively for the display and sale of model homes. No construction office or other real estate uses permitted.

The applicant acknowledges that the Special Exception will be limited exclusively for the display and sale of model homes and that no construction office or other real estate uses are permitted. The project meets this standard.

The requested application meets the five standards outlined within LUDR, Section 8.8.5a-e which covers Special Exception Standards as follows:

a. Generally. The proposal shall comply with all requirements of the zoning districts in which the property is located, the Land Use and Development Regulations, and all other applicable law.

The subject property has a MF Future Land Use Classification and has RD Zoning. Model home uses are allowed as a Special Exception within the RD Zoning District, as long as the project complies with the requirements contained in LUDR Section 2.7.3.D.2. Compliance with the Section is outlined above demonstrating that all standards are met.

b. Compatibility. The tract of land must be suitable for the type of special exception use proposed by virtue of its location, shape, topography and the nature of surrounding development.

The subject property is located internal to the development which is buffered with a 15' perimeter landscape easement separating the site from Cape Coral Parkway and properties to the north. The proposed use will comply with the requirements for hours of operation, buffering and landscaping as outlined above. The models are located internal to the development and will be converted into single-family homes in the future. The proposed use will be compatible with surrounding development.

c. Minimum lot frontage; access. Minimum lot frontage on a street shall be sufficient to permit properly spaced and located access points designed to serve the type of special exception use proposed. Wider spacing between access points and intersecting street right-of-way lines should be required when the lot has more than the minimum required frontage on a street. All access points shall be specifically approved by the Hearing Examiner.

The subject property consists of four platted lots that are planned for three model homes and one parking lot. The four lots have frontage on Sunset Pointe Circle and will have an access to the parking lot on lot 2 and will have a driveway constructed on each lot. The lot frontage is sufficient for the proposed Special Exception.

d. Building location; setbacks. All buildings shall be located an adequate distance from all property lines and street right-of-way lines. Greater building setback lines may be required when the lot has more than the minimum lot area required or when deemed necessary to protect surrounding properties.

Please see attached plot plan demonstrating the building location and setbacks for lot 3 only. The future model home sites are for location approval only and a plot plan would be provided at the time of permitting. The model use will be converted to single-family use in the future and complies with the regulations granted under the PDP approval for Sunset Pointe. No additional setbacks are required to protect surrounding properties.

e. Screening and buffering. A continuous strip of properly maintained landscaped area should be provided along all property lines and along all streets serving the premises. Such continuous strip of properly maintained landscaped area may, however, be allowed to contain walkway(s) and driveway entrances. The Hearing Examiner shall also require that the premises be permanently screened from adjoining and contiguous properties by a fence, evergreen hedge and/or other approved enclosure when deemed appropriate to buffer the special exception use from surrounding uses.

The subject lots are located within the Sunset Pointe PDP and have 15' landscape easements along the north property line abutting Cape Coral Parkway. The remainder of abutting lots are internal to the development. Landscaping for home sites will be provides as well as landscaping required for model home sites as noted on the site plan.

e. Screening and buffering. A continuous strip of properly maintained landscaped area should be provided along all property lines and along all streets serving the premises. Such continuous strip of properly maintained landscaped area may, however, be allowed to contain walkway(s) and driveway entrances. The Hearing Examiner shall also require that the premises be permanently screened from adjoining and contiguous properties by a fence, evergreen hedge and/or other approved enclosure when deemed appropriate to buffer the special exception use from surrounding uses.

The subject lots are located within the Sunset Pointe PDP and have 15' landscape easements along the north property line abutting Cape Coral Parkway. The remainder of abutting lots are internal to the development. Landscaping for home sites will be provides as well as landscaping required for model home sites as noted on the site plan.

Attached for your review is the following information:

1. One (1) Completed Special Exception Application
2. One (1) Proof of authorization to sign for D.R. Horton, Inc.
3. One (1) Original Acknowledgement Form
4. One (1) Original Authorization to Represent
5. One (1) Original Documentary Evidence
6. One (1) Check in the amount of \$833.00 for the Application Fee
7. One (1) Statement of Model Home Trip Generation
8. One (1) Site Plan
9. One (1) Plot Plan of Lot 3
10. One (1) Sunset Pointe Typical Homesite Planting Plan

Should you or your staff have any questions, or require additional information, please feel free to contact me at (239) 770-2527.

Sincerely,

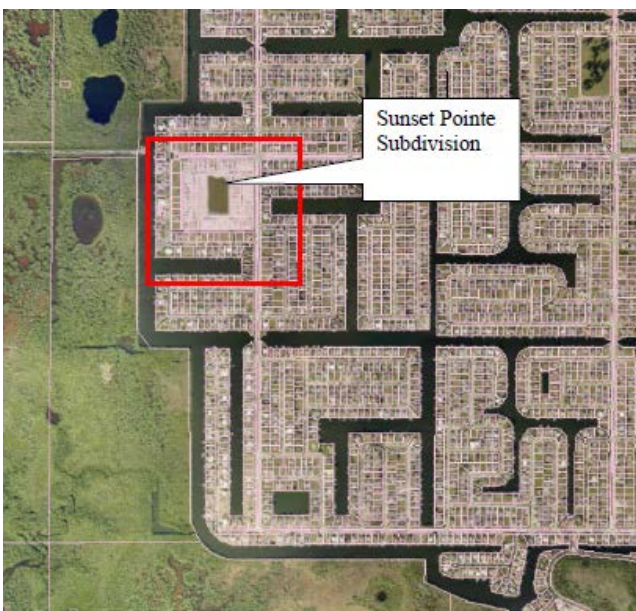
BANKS ENGINEERING

Stacy Hewitt (mub)

Stacy Ellis Hewitt, AICP
Director of Planning

Property Owner and Applicant:	DR Horton, Inc.
Authorized Representative:	Stacy Hewitt, AICP, Banks Engineering
Request:	The applicant is requesting a Special Exception to construct and operate three model homes in the Residential Development (RD) District
Location:	2827-2845 Sunset Point Circle Sunset Pointe Subdivision, Lots 1 - 4, Block 5027A STRAPs: 17-45-23-C1-04000.0010; 17-45-23-C1-04000.0020; 17-45-23-C1-04000.0030 17-45-23-C1-04000.0040
Prepared By:	Kathy Eastley, AICP, Senior Planner
Reviewed 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

I. PROJECT DESCRIPTION



The applicant requests three model homes sites and a parking lot on four unimproved lots within the Sunset Pointe Subdivision. Model homes are proposed for Lots 1, 3, and 4. Lot 2 will provide parking for the model homes. A maximum of two models homes will operate at one time. The total project area is 37,067-square feet.

Sunset Pointe was approved as a Planned Development Project (PDP) by Ordinance 30-15. This development has 58 single-family lots on 19.74 acres. Approvals included deviations for minimum lot size and a Special Exception for Model Homes on six lots. Those model homes have been constructed and all have been converted to single-family use except for Lot 57 and 58 which are currently functioning as a Model Home and parking lot,

Figure 1 – Vicinity

respectively. Additional sites are being requested for this use due to the future conversion of the existing model home.



Figure 2 – Project Area

The Sunset Pointe Subdivision is at the western end of Cape Coral Parkway, west of Sands Boulevard, in southwest Cape Coral. The zoning is Residential Development (RD) and the Future Land Use is Multi-Family (MF). Parcels with Single-Family Future Land Use and RD Zoning surround the project.

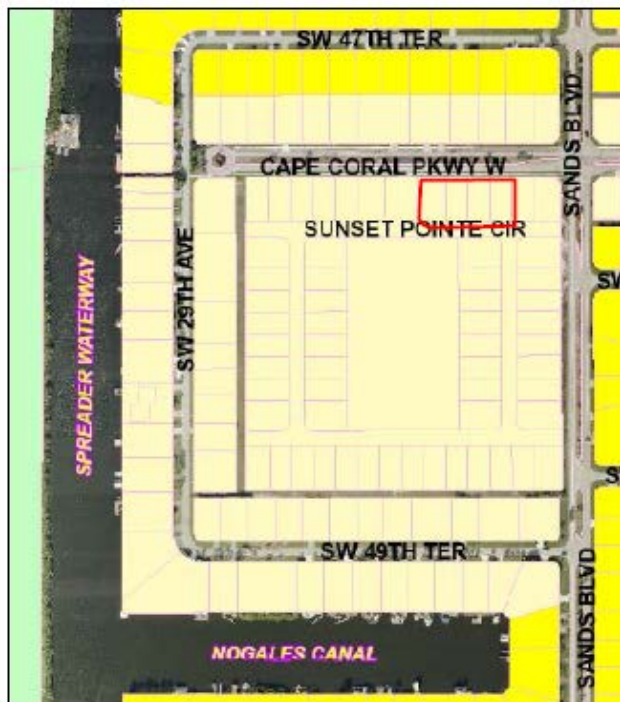


Figure 3 – Zoning



Figure 4 – Future Land Use

II. ANALYSIS

The Planning Division reviewed this application based on the City Land Use and Development Regulations (LUDR), Section 2.7.3.D, the RD District, and the five standards outlined within LUDR, Section 8.8.5a-e which covers Special Exceptions, and offers the following analysis.

1) *Generally:*

Staff Comment: All sites have RD Zoning and MF Future Land Use. Model homes are allowed as a Special Exception within the RD District, with a minimum area of 15,000 square feet for the first model home site and 10,000 square feet for each additional model home. The applicant proposes three model homes on four lots that have a combined 37,067-square feet that satisfies the minimum land area requirement.

2) *Compatibility:*

Staff Comment: The RD District has special regulations for model homes including hours of operation, lighting, and prohibiting real estate sales. These regulations are intended to enhance the compatibility of this use with neighboring properties. Each model will eventually be converted to a single-family home which is a permitted use in the RD District. Sunset Pointe is a gated community; therefore, the model homes will be visible only to residents living in the community or to model home visitors. All parcels surrounding the site support residential development and six model homes have previously been approved in the development, therefore additional model homes will be compatible. The applicant proposes that no more than two model homes will operate at one time. The three proposed models will not be open to the public until all six models previously approved by Ordinance 30-15 have been converted to single-family homes.

3) *Minimum Lot Frontage; Access:*

Staff Comment: The four sites are between Cape Coral Parkway West and Sunset Pointe Circle. Access to the model homes will be from Sunset Pointe Circle where a common parking lot is on Lot 2. Lots 2, 3, and 4 have 65-feet of frontage along Sunset Pointe Circle, while Lot 1 has 83-feet of frontage.

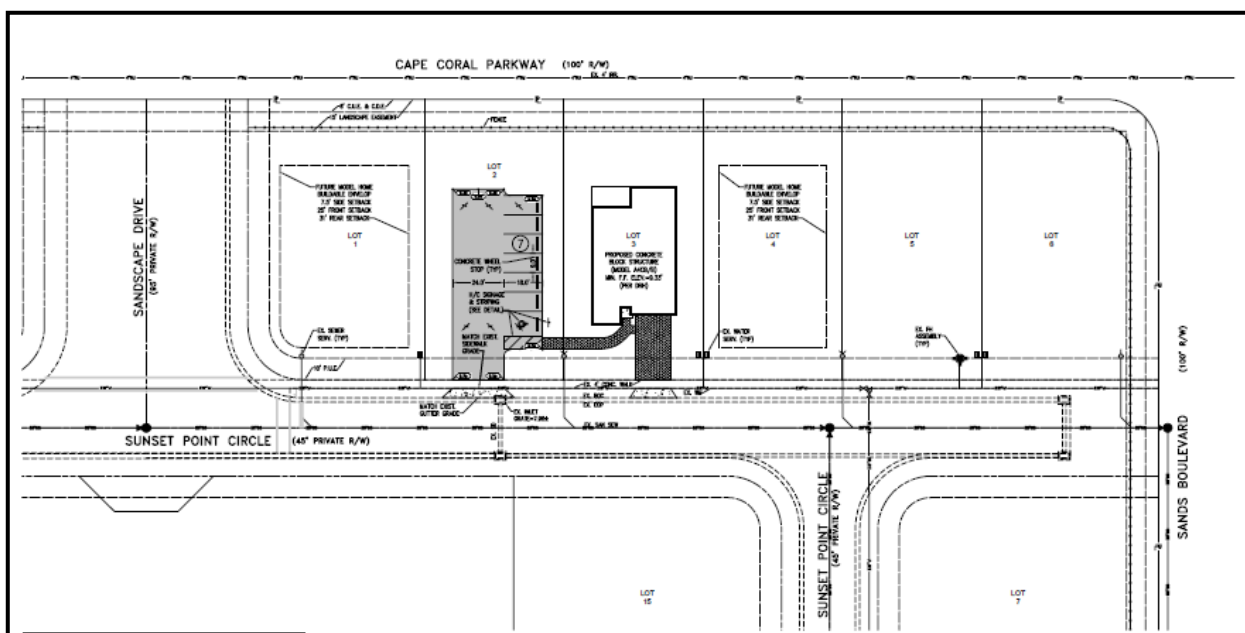


Figure 5 – Site Plan

Parking for the model homes will be on Lot 2. Pedestrian access from the parking lot to Lot 4 will be along an existing sidewalk in front of Lot 3. Staff recommends that the model home on Lot 3 is not converted to a single-family home until the model on Lot 4 ceases operation. This will eliminate the possibility of people trespassing on a private residence on Lots 3 as people travel between the Model on Lot 4 and the parking lot on Lot 2.

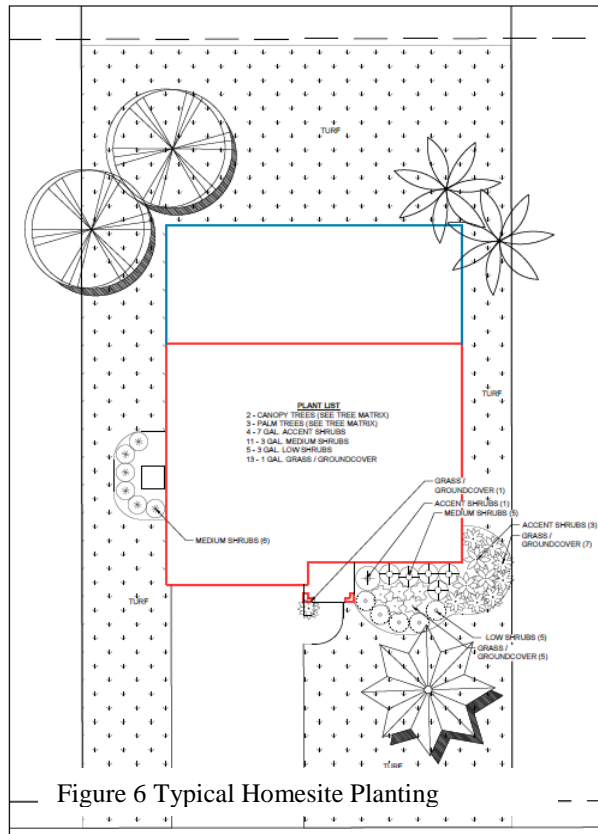


Figure 6 Typical Homesite Planting

4) *Building Location; Setbacks:*

Staff Comment: The model homes will meet the setbacks for the RD District.

5) *Screening and Buffering:*

Staff Comment: Sunset Pointe has a 15-foot wide landscape buffer along Cape Coral Parkway, and the lots are proposed to be landscaped as shown in Figure 6. A landscape plan has not been submitted for the parking area on Lot 2 and staff recommends that a 5-foot wide landscape buffer be provided along the east and west property lines.

Analysis of the requirements per LUDR, Section 2.7.2.D.2a-k:

- a. Minimum site area of 15,000 square feet for the first model home site and a minimum of 10,000 square feet for each additional model home site adjoining.

Staff Comment: The site is comprised of four lots containing 37,067 square feet, thus the minimum land area has been met.

- b. The parking lot for a model home site(s) shall be set back a minimum of five feet from the side property line and 15 feet from the rear property line. The set back area shall contain at least a five-foot landscaped buffer to the adjoining rear and side property lines.

Staff Comment: The site plan shows that the parking lot meets the minimum side and rear setbacks. Sunset Pointe has a 15-foot wide landscape buffer along Cape Coral Parkway at the rear of these properties. No other landscaping is proposed for the parking lot. Staff recommends a landscape buffer provided along the east and west property lines of the parking lot on Lot 2.

- c. No parking directly to the rear of the model home site(s) on one building site.

Staff Comment: Parking for this use will be on a separate lot.

- d. Parking: five paved spaces on site for the first model home site, three additional paved spaces for each additional model home site.

Staff Comment: The parking lot has seven parking stalls including one handicapped space. The requirement is for eight parking spaces due to the operation of two model homes at one time. Staff recommends the parking lot contain a minimum of eight spaces.

- e. Vehicle parking entrance to the model home site shall be from the street which faces front entrance to the model home unless this condition conflicts with Department of Transportation standards or *City of Cape Coral Engineering Design Standards*. On corner sites where the garage is on the side of the structure, the entrance to the parking area may be located on the same side as the driveway to the garage.

Staff Comment: The parking lot driveway entrance is from Sunset Pointe Circle.

- f. Time limit: five years maximum unless conforms to all provisions of this ordinance.

Staff Comment: This Special Exception will be limited to a period of five years beginning on the date of approval by the Hearing Examiner unless the applicant later applies for and is granted an extension to this Special Exception Use.

- g. Deposit required.

Staff Comment: A \$5,000 deposit will be required for the parking lot, and \$1,500 will be required per model home if a driveway is not installed. These deposits are required prior to permitting.

- h. Model home sites may be open for business between 9:00 a.m. and 9:00 p.m. daily.

Staff Comment: This is an ongoing standard that will be monitored by staff.

- i. Outside lighting permitted, except from 10:00 p.m. to 7:00 a.m.

Staff Comment: This is an ongoing standard that will be monitored by staff.

- j. Security lighting: two security lights, one in front and one at rear of building.

Staff Comment: Up to two security lights may be installed; one each at the front and rear of the building.

- k. Model homes must be used exclusively for the display and sale of model homes. No construction office or other real estate uses permitted.

Staff Comment: This is an ongoing standard that will be monitored by staff.

Comprehensive Plan:

Policy 1.5: The City will regulate signage to prevent visual blight.

Policy 1.6: The City shall develop regulations that establish enhanced landscaping, buffering and signage standards and develop architectural design guidelines for non-residential development.

Policy 1.8: The City will maintain regulations ensuring safe and convenient on-site traffic flow and vehicle parking needs for all developed lands.

Recommendation:

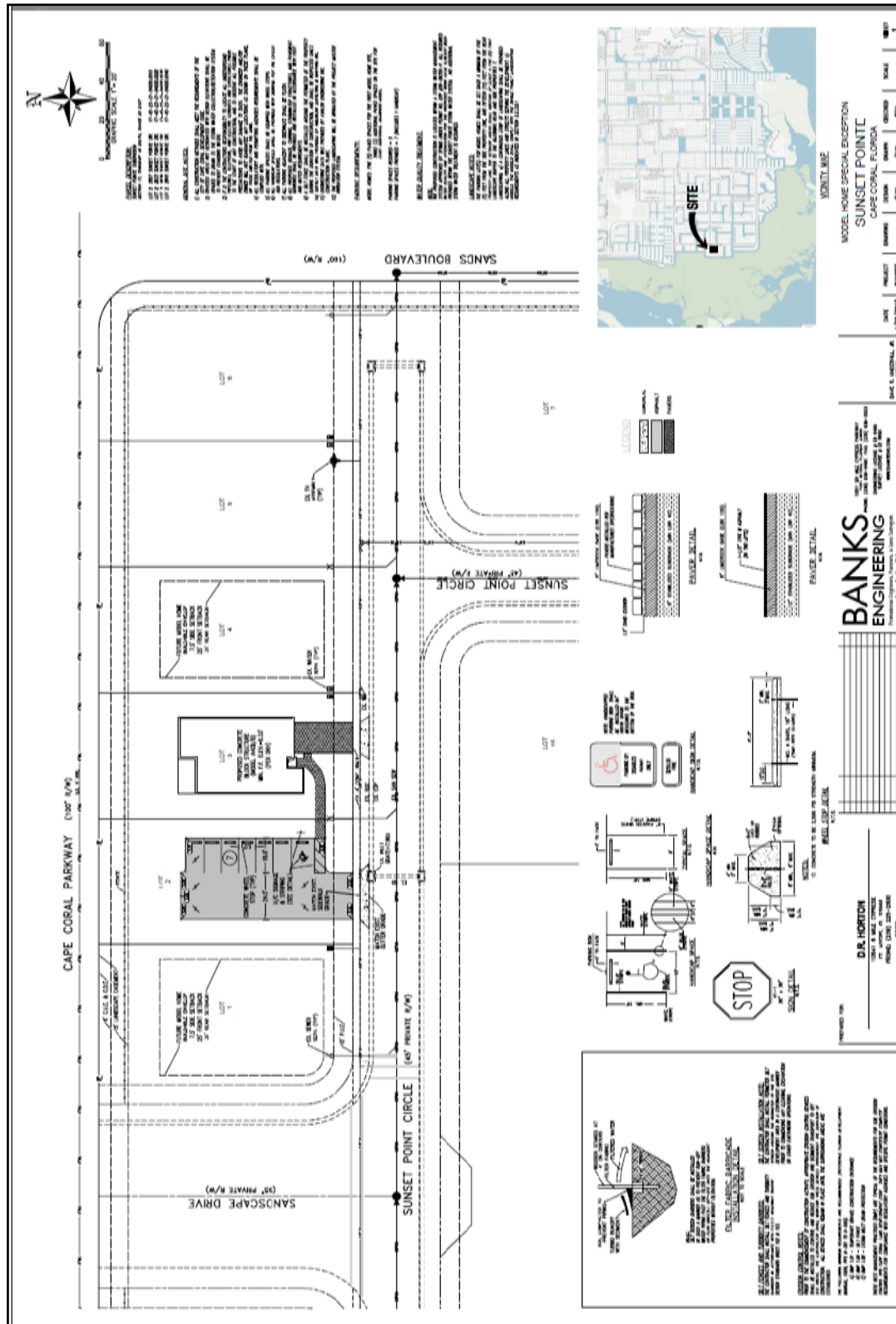
The Planning Division recommends **approval** of the request for a Special Exception with the following conditions:

1. The approval for operation of three model homes on Lots 1, 3, and 4 of Sunset Pointe Subdivision shall substantially comply with the site plan prepared by Banks Engineering, dated April 29, 2017 and attached as Exhibit "A", and the Plot Plan for 2839 Sunset Pointe Circle prepared by Stouten Cramer and attached as Exhibit "B".
2. The parking lot supporting the model home site uses shall be restricted to Lot 2 within the Sunset Pointe project. The Developer shall provide eight parking spaces to support the operation of two model home sites.
3. The Developer shall install landscaping adequate to screen the parking lot including perimeter shrubs a minimum height of 32 inches and a minimum size of a seven-gallon container, and shall be maintained at a minimum height of 42 inches for the life of the project.
4. The model home on Lot 3 shall not convert to single-family use while the model home on Lot 4 is in operation.
5. No more than two model homes may operate in the Sunset Pointe Subdivision at any one time. A model home shall be considered in operation until a contract between the Developer and a third party has been executed for the sale of the home and a copy of the executed sales agreement has been provided to the Department of Community Development.

Staff Contact Information

Kathy Eastley, AICP, Senior Planner
Planning Division
PH: 239-574-0605
Email: keastley@capecoral.net

EXHIBIT "A"



The News-Press media group

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Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE
888-516-9220

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239-335-0258

Email
FNPLegals@gannett.com

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0002269736

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$334.10

Run Times: 1

No. of Affidavits: 1

Run Dates: 07/15/17

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE17-0007

REQUEST: The applicant is requesting a Special Exception to construct and operate three model homes in the Residential Development (RD) District

LOCATION: 2827-2845 Sunset Point Circle

CAPE CORAL STAFF CONTACT: Kathy Eastley, AICP, Senior Planner, 239-574-0605, keastley@capecoral.net

PROPERTY OWNER(S): DR Horton, Inc.

AUTHORIZED REPRESENTATIVE: Stacy Hewitt, AICP, Banks Engineering

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 AM on Tuesday, July 25, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publ ichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 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 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; tele-
phone 1-239-574-0530 for assistance; if
hearing impaired, telephone the Flori-
da Relay Service Numbers, 1-800-955-
8771 (TDD) or 1-800-955-8770 (v) for
assistance.

by order of
Rebecca van Deutekom, MMC
City Clerk
REF # SE17-0007
AD# 2269736 July 15, 2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: D.R. Horton

APPLICATION NO: SE17-0007

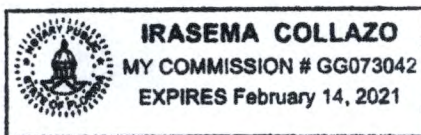
STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Paul B. Dickson, BO, having first been duly sworn according to law, state on my oath the following:

That I am the Acting 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 17th day of July, 2017.



Paul B. Dickson
Paul B. Dickson, BO

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 17th day of July, 2017, by Paul B. Dickson, BO, who is personally known to me and who did not take an oath.

Exp. Date _____ Commission # _____

Irasema Collazo
Signature of Notary Public

IRASEMA COLLAZO
Print Name of Notary Public

CITY OF CAPE CORAL


Department of
Community Development
Planning Division

ZONING MAP 500 Proximity Boundary


Case No. SE17-0007

Legend

 Subject Parcels

 500' Boundary

 R-1B

 RD

IMPROVED

 N

 Y

 Canals/Lakes

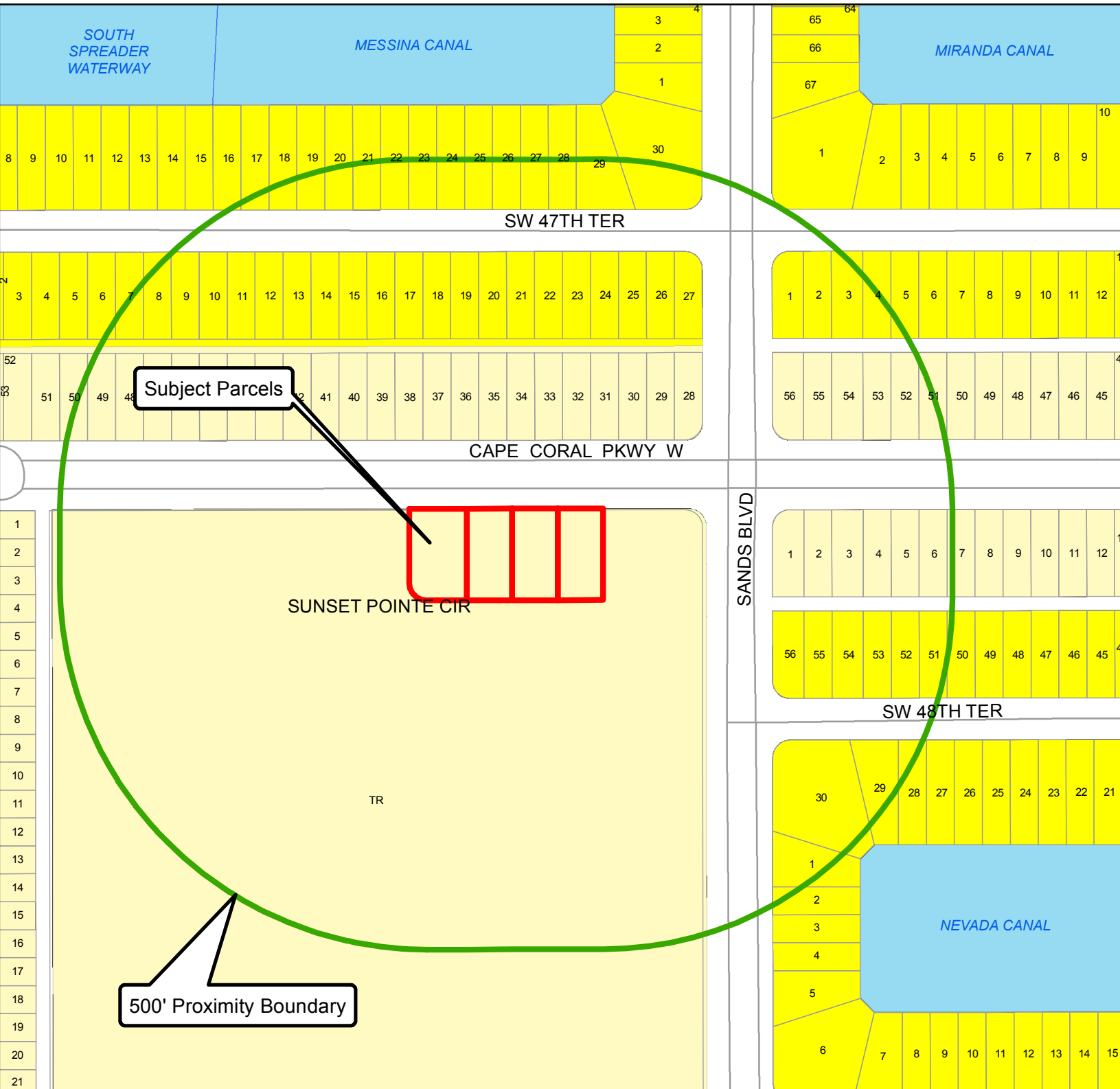


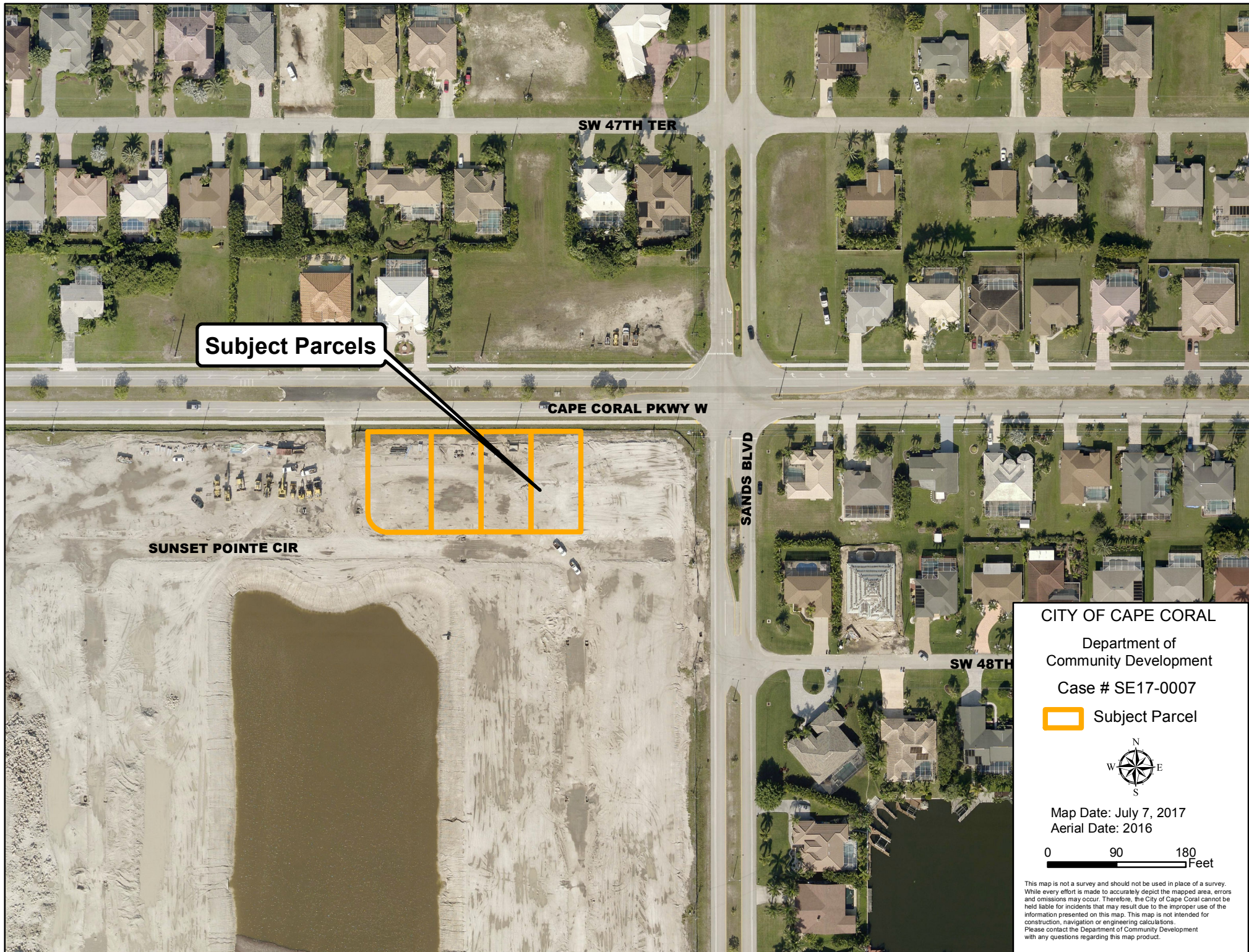
JULY 5, 2017

0 75 150 225 300 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.

KRKA





Subject Parcels

SW 47TH TER

CAPE CORAL PKWY W

SUNSET POINTE CIR

SANDS BLVD

SW 48TH

CITY OF CAPE CORAL

Department of
Community Development

Case # SE17-0007



Subject Parcel



Map Date: July 7, 2017
Aerial Date: 2016

0 90 180
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.

Item Number: 2.D.
Meeting Date: 7/25/2017
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case # PDP17-0002*; Address: Project area located at the southwest corner of the intersection of Tropicana Parkway West and Nelson Road; Applicant: Stonewater II, LLC and the City of Cape Coral

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending Ordinance 15-15 approving a Planned Development Project in the City of Cape Coral entitled "Stonewater," amending the Planned Development Project approval for certain property located in Section 10, Township 44, Range 23 East, Cape Coral, Lee County, Florida as more particularly described herein, property located at the southwest corner of the intersection of Tropicana Parkway West and Nelson Road; removing property from the Planned Development Project as more particularly described herein; amending development order conditions including an off-site improvement requirement; 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 for severability and an effective date.

LEGAL REVIEW:

EXHIBITS:

See attached 'Backup Material'

PREPARED BY:

Kristin Division- Community

Department- Planning

Kantarze

Development


SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description	Type
PDP17-0002	Backup Material

MEMORANDUM
CITY OF CAPE CORAL
UTILITIES DEPARTMENT

TO: Vincent A. Cautero, Community Development Director
FROM: Jeff Pearson, Utilities Director 
DATE: April 21, 2017
SUBJECT: PDP - Letter of Intent –MPS 618 – LS 617 (Stonewater)

The Utilities Department respectfully requests evaluation of our PDP Amendment Application to remove two City-owned parcels from the Stonewater PDP. These parcels will be utilized for construction and operation of new Master Pump Station 618 (MPS 618) and new Lift Station 617 (LS 617), both of which are part of the proposed North 2 Utilities Extension Project (UEP). The two properties were recently purchased by the City but are currently part of the Stonewater PDP. This PDP application will separate the City-purchased land, formerly owned by Windham (Stonewater), from the Stonewater PDP.

Your consideration of these requests is appreciated. Should you have any questions or concerns please feel free to contact me.

amg/AMG

C: Dolores Menendez, City Attorney
Terri Hall, Assistant to the City Manager
Dana Brunett, Economic Development Director
Kevin Higginson, Utilities Extension Manager
Paul Clinghan, Public Works Director

2017 APR 20 PM 3:59
CITY MANAGER



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

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

Project Name: North 2 Utilities Extension Project (UEP) (Stonewater PDP Ordinance 15-15)

Project Number: _____

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, John Szerlag, 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)

• John Szerlag, City Manager

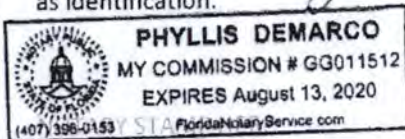
By: NAME AND TITLE (PLEASE TYPE OR PRINT)

SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF Florida, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 20th day of April, 2017, by
A. John Szerlag who is personally known or produced
as identification.



Exp. Date: 8/13/20 Commission Number: GG011512

Signature of Notary Public:

Printed name of Notary Public:

Phyllis DeMarco
Phyllis DeMarco

***Please include additional pages for multiple property owners.**

**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

City of Cape Coral, Planning Division/UEP

(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 _____ Block _____ Lot _____ Subdivision (See Att. 4/6)

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

*** City of Cape Coral**
** Name of Entity (Corporation, Partnership, LLC, etc)

Signature

City Manager

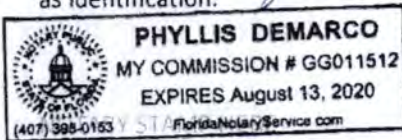
Title of Signatory

John Szerlag

Name (Please print or type)

STATE OF FL, COUNTY OF LEE **(SIGNATURE MUST BE NOTARIZED)**

Sworn to (or affirmed) and subscribed before me this 20th day of April, 2017, by
A. John Szerlag who is personally known or produced
as identification.



Exp. Date: 8/13/20 Commission Number: GG 011512

Signature of Notary Public:

Printed name of Notary Public:

Phyllis DeMarco
Phyllis DeMarco

*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: North 2 Utilities Extension Project (UEP)

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: North 2 Utilities Extension Project (UEP)
Applicant: City of Cape Coral
Address: 1015 Cultural Park Blvd.
Phone: (239) 574 -0706 Fax: _____ E-Mail: khiggins@capecoral.net

*Property Owner: City of Cape Coral (See above)
Address 1015 Cultural Park Blvd., Cape Coral, FL, 33990
Phone _____ Fax _____ E-Mail _____

Authorized Representative _____
Address Planning Division/UEP
Phone _____ Fax _____ E-Mail _____

Location
Unit (See Att. 4/6) Block _____ Lot(S) _____
Subdivision _____ Strap Number(s) _____

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

Property Address: _____
Plat Book _____ Page _____ Current Zoning _____ Future Land Use _____

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)	<input type="checkbox"/> All Other Deviation Requests
<input type="checkbox"/> Borrow Pit	<input type="checkbox"/> Vacation of Plat	Remove land from PDP	

***Please include additional pages for multiple property owners.**

Request to remove two City owned properties from the Stonewater Project. LS 617: Strap #10-44-23-CI-U0042.4992; MPS 618 Strap # 10-44-23-CI-U0136.4953; Stonewater Parcel A(NW) Strap #10-44-23-CI-00002.0000; Stonewater Parcel B Strap #10-44-23-CI-00003.0000

PROPERTY and PROJECT DEVELOPMENT DATA

a.	Zoning District	<u>MR/RI</u>	
b.	Future Land Use Class	<u>CAC/S</u>	
c.	Area of Subject Property	<u>201</u>	acres
d.	Type of Development	<u>MPS/LS</u>	
e.	Estimated Number of Employees	<u>NA</u>	
	Number of Seats in Assembly	<u> </u>	
f.	Parking Spaces Required	<u> </u>	
g.	Parking Spaces Provided	<u> </u>	
h.	Parking and Street Area	<u> </u> sq. ft.	<u> </u> % of Site
i.	Ground Floor Building Area	<u> </u> sq. ft.	<u> </u> % of Site
j.	Total Floor Area	<u> </u> sq. ft.	<u> </u> % of Site
k.	Building Heights	<u> </u> feet	<u> </u> stories
l.	Total Proposed Impervious Surface Area	<u> </u> sq. ft.	<u> </u> % of Site
m.	Permanent Open Space	<u> </u> sq. ft.	<u> </u> % of Site
	Landscaped Area	<u> </u> sq. ft.	<u> </u> % of Site
n.	Recreation Area	<u> </u> sq. ft.	<u> </u> % 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)	<u>NA</u>	
p.	Gross Density (du/acres)	<u>NA</u>	
q.	Number, Type, and Floor Area of each Dwelling Unit:		
1.	Efficiency	<u>NA</u>	Floor Area <u>NA</u> sq. ft. <u>NA</u>
2.	1 Bedroom	<u> </u>	Floor Area <u> </u> sq. ft. <u> </u>
3.	2 Bedroom	<u> </u>	Floor Area <u> </u> sq. ft. <u> </u>
4.	3 Bedroom	<u> </u>	Floor Area <u> </u> sq. ft. <u> </u>
5.	4 Bedroom	<u> </u>	Floor Area <u> </u> sq. ft. <u> </u>

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

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 NA 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.

GRAPHIC STANDARDS: GENERAL INFORMATION

Sheet # of
submitted
plans:

The Development Plan shall be of sufficient scale to show all detail. The scale of the Plan shall be illustrated by a graphic scale on every sheet. The date and true north arrow shall be shown on every sheet. The following general information is required:

Att. 1

1. Names and addresses of the owners, planner, architect, landscape architect Engineer and surveyor.

Att. 7

2. A General Location and Vicinity Map (plat sheet). Please indicate the relationship of the proposed project site to surrounding existing land uses, zonings, future land uses, community facilities, major streets, utilities and any other principal buildings or physical features in and adjoining the subject property. These features shall be indicated for a distance of three hundred (300) feet from the outside boundaries of the subject property. Indicate all names and locations of adjoining subdivisions, development projects, unplatted properties, and streets within unincorporated Lee County.

Att. 4/6

3. Certified Boundary Survey, completed within the last 6 months, meeting the Minimum Technical Standards as set forth in Chapter 5J-17, Florida Administrative Code.

EXISTING PROPERTY CONDITIONS

Sheet # of
submitted
plans:

Att. 4/6

1. Acreage of land within property.

Att. 4/6

2. Boundary lines of the project and their bearings and distances.

Att. 4/6

3. Existing and proposed easements and their locations, widths and distance, as well as existing structures.

Att. 4/6

4. Streets and waterways on and adjacent to the project, their names, widths and other dimensions as may be required.

Att. 8/9

5. The location of all existing utilities connections available to the property site.

NA

6. Tree Survey: The location, quantity, diameter/caliper, botanical and common name, and native status of all heritage trees and other existing trees with a caliper of two inches or greater, and whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be indicated on a separate sheet. Reference 5.2.6 of the City's Land Development Regulations. The City is a designated "Tree City" and tree retention is encouraged.

NA

7. Environmental Site Survey - see the City's guidelines for conducting an environmental survey

NA

8. Flood elevation data and flood zone boundary lines delineated, if applicable.

NA

9. Any other significant existing features, as may be required by the Director.

DEVELOPMENT PLANS

Sheet # of
submitted
plans:

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

The Development Plan should be viewed as a conceptual plan and not construction drawings or a site plan. A high level detailed site plan with information not needed will be rejected at submittal. The Development 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.

1. Name of project, north arrow, date and scale.
2. Elevations, (drawing of front, sides, and rear faces of buildings), and use of all proposed buildings and structures.
3. Internal and peripheral landscaping locations showing landscape area sizes and overall dimensions of the various planting areas, providing calculations per Article 5.2.
4. Approximate location of curb cuts, driveways, access roads, alleys, and parking areas indicating the number of spaces and all dimensions.
5. Location of existing and proposed pedestrian walks, malls, yards, and open areas.
6. Location, number, dimensions, character and orientation of all existing and proposed signs.
7. Location and heights of all proposed buffers, fences, screens, and walls.
8. Location of all existing and proposed buildings and structures with setback distances from the property lines and roadways.
9. Location of all known existing and proposed water, sewer and irrigation mains including the point of connection to the existing system and buildings, if applicable, including:
 - a) Estimate of the average daily flow for potable water.
 - b) Estimate of the average daily flow of wastewater
 - c) Estimate of the average daily flow for irrigation water.
10. Location of all known existing and proposed easements and /or right of way.
11. Location of proposed outdoor lighting, showing direction, height and type.
12. An exhibit providing the peak hour trip distribution at the project entrance and adjacent local streets out to a collector.
13. Location and character of all outside waste disposal facilities and existing or proposed appropriate screening.
14. Phasing Plan: Where a project will be developed in phases, a Phasing Plan shall be presented for review of the entire project. Proposed development phases shall be numbered in sequence, and shall indicate the density for residential and/or floor area for non-residential uses, as applicable, for each phase. The phasing plan shall identify size, location, sequence and timing of the various phases of the development.

ADDITIONAL INFORMATION

Sheet # of
submitted
plans:

NA

1. **Landscape Maintenance:**

The proposed method of assuring the provision and permanent maintenance of areas required for landscaping, screening, and common uses, including a proposed statement of such assurance. The coordinated development of the site shall be compatible with the surrounding area.

NA

2. **Maintenance Assurance:**

The proposed method of assuring the perpetual ownership and maintenance of areas within the project that area to be used for open space, recreation or other quasi-public purposes, including a detailed statement of such assurance, including covenants, agreements or other specific documents as required.

NA

3. **If seeking Subdivision approval; Covenants:**

Copies of proposed restriction or protective covenants, if any.

NA

4. **Economics:**

The Commission or City Council, as applicable, may also require that the applicant provide additional supporting data, such as economic justification, financing, and construction scheduling, topographic data or similar information when deemed necessary for project review.

NA

5. **Vacation of Plat**

In the case of vacation of plats submitted in conjunction with a PDP, the following additional information shall be required:

- a. Affidavits of city and county tax collectors stating that all city and county taxes levied against land covered by the portion of the plat of which vacation is sought have been paid;
- b. Sketches and descriptions; and
- c. Letter of no objection from the following utilities:
 - i. Lee County Electric Cooperative, Inc (LCEC)
 - ii. Century Link Telephone Company
 - iii. Comcast Cable Company

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Sheet # of
submitted
plans

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

NA

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 checked="" type="checkbox"/>	PDP - without Subdivision	\$2,525.00	\$2,525
<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 checked="" type="checkbox"/>	Fire review (mandatory)	\$104.00	\$104
Public Hearing			
<input checked="" type="checkbox"/>	PDP - without Subdivision	\$665.00	\$665
<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	\$
			\$3,294

* 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)

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (the "Agreement") is made as of the Effective Date (as defined in Section 14 below), by and between the City of Cape Coral, a Florida municipal corporation ("Buyer") and Stonewater II, LLC, a Michigan limited liability company ("Seller").

1. **Sale of Property.** Seller agrees to sell and Buyer agrees to purchase, subject to the terms and conditions of this Agreement, certain property in the City of Cape Coral, Lee County, State of Florida, legally described on the attached Exhibit A, being two parcels. One Parcel for Lift Station purposes having a total area of 6,400 sq.ft. +/- and the second parcel for a Master Pump Station having a total of 25,686 sq.ft. +/-, (collectively, the "Property").

2. **Purchase Price.** The total purchase price is \$96,150.00, as indicated below for each parcel:

Parcel One - Lift Station 617:	\$19,200.00
Parcel Two - Master Pump Station 618:	\$76,950.00

3. **Deposit.** Any extension deposits required under Section 7(A) of this Agreement shall be delivered to Henderson, Franklin, Starnes & Holt, P.A., at 1715 Monroe Street, Fort Myers, FL 33901, Attn: Edward P. Canterbury, Esq., Phone: 239.344.1275; Fax: 239.344.1532; Email: edward.canterbury@henlaw.com (the "Escrow Agent"). All such extension deposits shall collectively be referred to herein as the "Deposit". The Deposit shall be deposited by the Escrow Agent in a non-interest bearing trust account. The Deposit shall be held and disbursed by the Escrow Agent in accordance with the terms of this Agreement. At the Closing, the portions of the Deposit paid shall be applied to the Purchase Price. If a Deposit is not timely paid, then Buyer shall be in default of this Agreement. The Deposit shall be non-refundable to Buyer unless Buyer terminates this Agreement in accordance with any right to terminate expressly granted to Buyer by the terms of this Agreement or except as otherwise provided herein. Buyer acknowledges that the Escrow Agent is also Seller's attorney in this transaction, and Buyer hereby consents to the Escrow Agent's representation of Seller and Escrow Agent in any litigation which may arise out of or is otherwise related to this Agreement.

4. **Conditional Contract.** This Agreement is a binding contract once it is executed by the Seller and by the City Manager on behalf of the Buyer, and approved by the Cape Coral City Council, subject to the terms and conditions of Section 14 below.

5. **Inspection Period.** Buyer shall have a period of forty-five (45) days from the Effective Date (the "Inspection Period") to perform studies and inspections to determine if the Property, in its sole discretion, is suitable for its proposed municipal purpose. Seller shall provide Buyer within five (5) days of the Effective Date with copies of any existing studies or reports that Seller has in connection with the Property relating to environmental conditions, soil conditions, engineering studies, wetlands mitigation, storm water retention/detention, SFWMD compliance, traffic studies, utility plans, surveys, and title insurance policies; provided, however that Seller is providing this for informational purposes only and is not making any representation or warranty, either express or implied, with respect to the completeness or accuracy of the information contained in such studies or reports and Buyer is relying solely on its own investigations and inspections of the Property. Seller grants Buyer and Buyer's representatives the right to go on the Property to conduct its site studies during this Inspection Period and up to and including the Closing Date. Buyer agrees to restore the Property substantially to its original condition after completion of studies and inspections. To the extent permitted by law, Buyer agrees to hold Seller harmless from any damages or liabilities arising from injuries or property damage caused by activities of Buyer or its representatives permitted under this paragraph and further agrees that no liens shall be permitted to be attached to the Property as a result of any such activities. Buyer does not waive its sovereign immunity pursuant to section 768.28, Florida Statute.

If Buyer determines, in its sole discretion, that the Property is unsuitable for its proposed development and gives written notice of this fact to Seller during the Inspection Period, then this Agreement shall terminate. Buyer is acquiring the Property "AS IS", and "WHERE IS", as follows: EXCEPT FOR THE SPECIFIC COVENANTS, REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, TO THE EXTENT PERMITTED BY LAW, SELLER SPECIFICALLY DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE (INCLUDING WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR USE OR ACCEPTABILITY FOR THE PURPOSE INTENDED BY BUYER) WITH RESPECT TO THE PROPERTY OR THE PROPERTY'S CONDITION, INCLUDING BUT NOT LIMITED TO THOSE CONCERNING OR WITH RESPECT TO THE SOIL AND GEOLOGY AND COMPLIANCE WITH ANY ENVIRONMENTAL LAWS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS.

6. **Title Commitment and Survey.** Within twenty (20) days from the Effective Date, Buyer, at its expense, shall order a title commitment from the Escrow Agent (also referred to as the Closing Agent herein) and obtain a copy of all documents which constitute exceptions to the title commitment. Buyer shall give Seller written notice on or before ten (10) days after the receipt of the title commitment (or any update prior to closing) of any condition of title (exceptions or requirements) that is not satisfactory, in Buyer's sole discretion. If such notice is given, Seller, at its sole option and expense, may elect to resolve such matters to Buyer's satisfaction; provided, however, that at closing mortgages, other liens, or matters subject to resolution from the sales proceeds may be resolved at closing. If Seller is unable or unwilling to resolve such matters within ten (10) days after Buyer's notice, then Buyer may, at its option, either (1) accept title subject to the objections raised by Buyer, without any adjustment in the Purchase Price, or (2) rescind this Agreement, whereupon the earnest monies shall be returned to Buyer. Buyer shall be deemed to have elected option (1) in the preceding sentence if Buyer fails to notify Seller of its election in writing within five (5) days following such ten (10) day period.

Buyer, at its expense, may obtain a current survey of the Property prepared by a duly licensed land surveyor within twenty (20) days following the Effective Date. In the event the survey (or any update prior to closing) shows any encroachments relating to the Property, or any easement, or other matters which would, in Buyer's reasonable opinion, interfere with Buyer's intended use of the Property, then such matter shall be treated in the same manner as a title defect under the procedure set forth above if Buyer provides Seller with written notice of such defect within ten (10) days of Buyer's receipt of the survey.

7. **Closing.** This Agreement shall be closed in the following manner:

A. **Closing Date.** The "Closing Date" shall be a date selected by Buyer to be on or before March 17, 2017. The Closing Date shall control over all other conflicting dates or time periods set forth in this Agreement, including but not limited to those in Sections 5 and 6 hereof. Notwithstanding the foregoing, Buyer may extend the closing date for two (2) additional periods of thirty (30) days each upon payment of TWO THOUSAND FIVE HUNDRED DOLLARS AND NO/100 (\$2,500) to the Closing Agent at the time each such extension is requested, which extension deposits shall be applied towards the Purchase Price at the closing and shall otherwise be disbursed by Escrow Agent in the same manner as the Deposit. If, for whatever reason, the closing does not occur any deposit(s) shall be refunded to the Buyer. The closing will take place at a mutually agreed upon place, or may be completed by delivery of executed closing documents by mail or overnight delivery service. Seller shall deliver occupancy and possession of the Property to Buyer at the time of closing, unless otherwise provided herein.

B. **Seller's Instruments.** At or prior to the Closing Date, Seller shall deliver to the Closing Agent the following items, duly executed and acknowledged where required:

(1) **Special Warranty Deed.** A special warranty deed in a form attached hereto as Exhibit B and specifically stating all approved exceptions to title.

(2) Foreign Person Tax Withholding. Documentation or information required for compliance with Section 1445 of the Internal Revenue Code.

(3) Additional Documents. Such additional documents as might be reasonably required by the Closing Agent to consummate the sale of the Property to the Buyer.

C. Costs. Seller will pay all documentary stamp taxes and recording costs on the special warranty deed. Buyer will pay the Closing Agent's settlement fee not to exceed \$500, premium for the owner's title insurance policy, and survey.

D. Tax Pro-Rations. All taxes and non-ad valorem assessments (including pending assessments if the related improvement is substantially completed as of the Closing Date) for the year of closing will be prorated to the Closing Date (except that if any assessments are payable in installments, Buyer will assume any installments due and payable after Closing), based on the latest available tax rate and assessed valuation, applying the full available discount. All such pro-rations shall be final at Closing.

8. Failure of Performance. If Seller fails to perform as required under this Agreement, then either (a) Buyer may enforce specific performance of this Agreement provided such action is filed with the court within 60 days following Seller's default, or (b) Buyer may terminate this Agreement and receive a refund of all deposits. If Buyer fails to perform as required under this Agreement, Seller may, at its election and as its sole and exclusive remedy, terminate this Agreement.

9. Representations and Warranties of Seller. Seller represents and warrants to Buyer the matters described below and shall promptly notify Buyer of any new information relevant to such matters through closing.

A. Seller's Title. To Seller's knowledge, Seller holds good and marketable fee simple title to the Property, free and clear of all liens, restrictions and encumbrances (other than what may be satisfied at closing or are acceptable to Buyer under Paragraph 5 or 6 above). The person signing this Agreement on behalf of Seller (if an entity) has the proper power and authority to bind the Seller. To Seller's knowledge, there are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal affecting or relating to the Property in any way, except as otherwise provided in this Agreement.

B. Adverse Information. Seller has received no notice of any special assessment proceedings. Seller has no information or knowledge of (1) any judicial or administrative action, (2) any action by adjacent landowners, (3) natural or artificial conditions upon the Property, which would prevent, impede, or render more costly Buyer's use of the Property; or (4) any defects or conditions in need of repair on the Property (all of the foregoing being subject to such matters as Seller has disclosed in the Agreement).

C. Closing Documents. All the documents executed by the Seller which are to be delivered to Buyer at closing are, or at closing will be, (1) duly authorized, executed and delivered by Seller, (2) legal, valid, and binding obligations of Seller, and (3) sufficient to convey title (if they purport to do so); and such documents do not and at the closing will not violate any provisions of any agreement to which Seller is a party or to which Seller is subject.

D. Costs Paid. At the closing there will be no outstanding contracts made by Seller for any improvements to the Property which have not been fully paid for and Seller shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to the Property at Seller's request prior to closing.

E. Parties in Possession. As of closing there shall be no one in possession or with any rights of possession of the Property other than Seller (an affidavit as to this shall also be executed by Seller at closing). Notwithstanding the foregoing, Buyer acknowledges that the Property is currently

subject to the rights of tenant pursuant to the unrecorded Agricultural Lease effective June 1, 2015 by and between Ronald E. Inge, Trustee, as landlord, and 4-G Cattle Ranch, Inc., as tenant, which landlord interests were assigned to Seller by Assignment of Lease dated April 11, 2016 by and between Ronald E. Inge, Trustee and Seller (the "Ag Lease"). Seller shall cause the Ag Lease to be terminated as to the Property effective as of the Closing Date and shall be responsible for inducing the title company to issue the owner's title insurance policy to Buyer at closing without exception for the Ag Lease, but Seller shall not be required to install any fencing around the perimeter of the Property for purposes of preventing tenant's livestock from entering upon the Property until ninety (90) days following Seller's receipt of written notice from Buyer confirming that Buyer is commencing development of the Property. Such fencing shall be similar to the type and material of livestock fencing currently located on Seller's adjacent property. If Buyer does not commence development of the Property at the end of such ninety (90) day period, then Seller's deadline to install such fencing shall extend until the day before Buyer actually commences development of the Property. Seller shall have no obligation to install any such fencing if the Ag Lease (or any replacement livestock lease for Seller's adjacent property) is not then in effect or if Buyer installs such fencing at Buyer's expense. Buyer waives any and all claims and demands for injury or damage against Seller and any tenant relating to the presence of such tenant's livestock on the Property prior to the installation of fencing as contemplated herein, it being expressly agreed that Buyer assumes all risks related thereto. Nothing herein shall prevent Buyer, at Buyer's expense, from installing fencing on the Property after Closing to prevent the presence of livestock on the Property, or from entering into a direct lease with the Ag Lease tenant on or after Closing. The terms of this subparagraph shall survive Closing.

F. Environmental Concerns. Seller shall provide Buyer within five (5) days of the Effective Date of this Agreement copies of any Phase I or Phase II environmental reports that Seller has in its possession or control relating to environmental conditions of the Property (collectively, the "Environmental Documents"). Other than what is disclosed in the Environmental Documents, Seller has no knowledge that the Property has in the past been used or is presently being used for the handling, storage, manufacturing, refining, transportation or disposal of "toxic material", "hazardous substances" or "hazardous waste". Furthermore, there has not been and is no leaking or drainage of waste materials or hazardous substances into the groundwater beneath or adjacent to the Property in violation of applicable laws; and there have not been and are no buried or semiburied or otherwise placed tanks, storage vessels, drums, or containers of any kind located on the Property. The terms "hazardous waste", "hazardous substances", and "toxic material" include, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 960 et seq.), the Hazardous Materials Transportation Act, as amended (42 U.S.C. Section 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 9601 et seq.), the regulations adopted and publications promulgated pursuant to the foregoing and any other federal, state or local environmental law, ordinance, rule or regulation. Furthermore, Seller has not received a summons, citation, directive, letter or other communication, written or oral, from any governmental authority as to any of the above environmental concerns. If "hazardous waste", "hazardous substances", or "hazardous material" is located on the Property, then Buyer shall have the option to either close this transaction and waive any objection, or Buyer may elect to terminate this Agreement and all deposit monies, if any, shall be returned to Buyer. To the Seller's knowledge, the Property does not contain sinkholes, caverns, faults, conduits, voids, mines, or other geological anomalies which could affect the development of the Property.

G. Covenants of Seller. Seller covenants that, after the Effective Date, Seller will not sell, assign or convey any right, title or interest whatsoever in or to the Property or create any lien, encumbrance or charge on the Property that will not be discharged at closing.

10. Conditions Precedent. Buyer's obligation to close is subject to Buyer's satisfaction (in its sole discretion), as of the Closing Date, of each of the conditions described below (any of which may be waived in whole or in part in writing by Buyer at or prior to the Closing Date). Unless specifically stated as Seller's obligation, the satisfaction of all these conditions shall be at Buyer's sole expense.

Buyer shall diligently and in good faith pursue the satisfaction of these conditions and Seller shall promptly and reasonably cooperate whenever required by Buyer. In the event the conditions below have not been satisfied to the Buyer's satisfaction, Buyer shall have the right to terminate this Agreement by so notifying Seller in writing. In such event, the Closing Agent shall return any earnest money deposit to Buyer.

A. Correctness of Representations and Warranties. The representations and warranties of Seller shall be true on and as of the Closing Date.

B. Compliance by Seller. Seller shall have performed, observed and complied with all of its covenants, agreements and conditions as required by this Agreement.

C. Non-Exclusive Easement. Seller shall reserve a 65.00 foot wide perpetual non-exclusive ingress/egress access, utility, and drainage easement over the easterly 65.00 feet of Parcel Two, as depicted on Exhibit C, attached hereto and incorporated herein, within the deed of conveyance as set forth in Exhibit B attached hereto.

11. Cooperation. Seller shall cooperate with Buyer as to all consent requirements, for the subject parcels, relating to governmental approvals (e.g., site plan, zoning, water management, building permits, etc.), all of which shall be at Buyer's sole cost.

12. Miscellaneous. It is further agreed as follows:

A. Notice. All notices will be in writing and served by postage prepaid certified mail, by next day delivery (such as Federal Express), or by facsimile or email transmission to the addresses shown below, until notification of a change of such addresses. All such notices shall be deemed delivered on the date initiated.

For Seller:

Herbert Lawson
Windham Development Corporation
36400 Woodward, Suite 205
Bloomfield Hills, MI 48304
Email: herb@windhamgroupllc.com

For Buyer:

City of Cape Coral
Real Estate Division
Attn: Dawn Y. Andrews
P.O. Box 150027
Cape Coral, FL 33915
Email: dandrews@capecoral.net

With copies to:

Edward P. Canterbury, Esq.
Henderson, Franklin, Starnes & Holt, P.A.
P.O. Box 280
Fort Myers, FL 33902
Email: Edward.canterbury@henlaw.com

City of Cape Coral
Office of City Attorney
Attn: Brian R. Bartos, Esq.
P.O. Box 150027
Cape Coral, FL 33915
Email: bbartos@capecoral.net

B. Survival. All representations and warranties, excluding warranties contained within the Special Warranty from Seller, in this Agreement shall survive the closing for a period of twelve (12) months, as shall any covenants for performance after closing.

C. No Waiver. Failure of either party to exercise any rights under this Agreement shall not constitute a waiver of any right, nor excuse the other party's full performance. No express

waiver of any matter shall affect any other matter under this Agreement. Express waivers are only effective if in writing.

D. No Brokerage Commissions. The parties agree that there are no real estate brokers involved in this Agreement and should anyone ever claim a commission is due from this Agreement, then the party through whom the commission is claimed shall indemnify and hold harmless the other party, including providing a defense to such a claim (or paying the other party's costs and expenses, including attorney's fees, if a defense is not promptly provided).

E. Entire Agreement. This document constitutes the entire agreement between the parties, incorporating all prior agreements, and may only be amended in writing executed by both parties.

F. Intentionally deleted.

G. Attorney's Fees. If either party prevails against the other in a legal action concerning any part of this Agreement, the successful party shall be entitled to its reasonable attorney's fees and costs connected with such action, through appellate and bankruptcy proceedings, in addition to all other recovery or relief. Costs shall include all deposition costs and expert fees, even if not used at trial.

H. Governing Law. This Agreement shall be governed and enforced in accordance with Florida law, with venue elected to be in Lee County, Florida.

I. Construction of Terms. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision. Any ambiguities of this Agreement shall be construed fairly and equitably regardless of the participation of either party in drafting this Agreement. The reference in terms to gender and number shall be modified as may be appropriate.

J. Severability. In case any of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, the remaining provisions shall remain in effect and the Agreement be performed in a fair and equitable manner as to any uncertainties arising from the unenforceable provisions.

K. Relationship of Parties. The parties are not partners or business associates in any form, as they are solely dealing at arms-length as Seller and Buyer with respect to the Property.

L. Dates. If any date provided for in this Agreement falls on a Saturday, Sunday, or holiday, the date shall be the next business day.

M. Successors. This Agreement shall inure to the benefit of and bind the parties hereto and their respective administrators, successors and permitted assigns. Neither party may assign this Agreement without the prior written consent of the other party.

N. Counterparts. This Agreement may be executed in multiple counterparts. This Agreement may be executed by one or more parties using an electronic signature, which the parties agree shall be binding for all purposes and shall constitute an original signature.

13. Radon Gas. Buyer hereby acknowledges having received the following notification pursuant to Florida Statute Section 404.056:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

14. Time for Acceptance; Effective Date. Unless this offer is approved by the Cape Coral City Council and signed by Seller and Buyer and an executed copy delivered to all parties on or before February 1, 2017, this offer will be withdrawn and Buyer's deposit, if any, will be returned to Buyer. The "Effective Date" shall mean the last date this Agreement is approved by the Cape Coral City Council and executed by either party as indicated beneath their signatures and delivered to all parties. This Agreement may be signed in several counterparts and, together, shall constitute one document. Facsimile copies of signatures or digitally scanned signatures are acceptable to evidence complete agreement.

SIGNATURE PAGE FOLLOWS

SELLER:

Stonewater II, LLC
A Michigan limited liability company

By: [Signature]
Print Name: Michael Tobin
Its: manager
Date: 1/3/2017

BUYER:

CITY OF CAPE CORAL,
a Florida municipal corporation

[Signature] FR
A. John Szerlag, City Manager
Date: 1/18/17

APPROVED BY: [Signature]
BY: [Signature]
City Attorney's Office

EXHIBIT A

Lift Station 617

A TRACT OF LAND LYING IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHEAST CORNER OF SAID SECTION 10 RUN N89°44'21"W ALONG THE NORTH LINE OF SAID SECTION 10 FOR 50.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 50 FEET OF SAID SECTION 10, ALSO BEING THE WEST RIGHT OF WAY LINE OF NELSON ROAD, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 791, AT PAGE 464, LEE COUNTY RECORDS; THENCE RUN S00°00'02"W ALONG SAID WEST LINE FOR 50.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID SECTION 10, ALSO BEING THE SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 1817, AT PAGE 1072, LEE COUNTY RECORDS; THENCE RUN S89°39'59"W ALONG THE SOUTH RIGHT OF WAY LINE OF SAID TROPICANA PARKWAY FOR THE FOLLOWING TWO (2) COURSES: N89°44'21"W FOR 2,640.18 FEET AND S89°39'59"W FOR 586.94 FEET TO THE POINT OF BEGINNING; THENCE RUN S00°02'12"W FOR 80.00 FEET; THENCE RUN S89°39'59"W FOR 80.00 FEET TO THE EASTERLY LINE OF THE LANDS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 1763, AT PAGE 3347, LEE COUNTY RECORDS; THENCE RUN N00°02'12"E ALONG SAID EASTERLY LINE FOR 80.00 FEET TO AN INTERSECTION WITH SAID SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY; THENCE RUN N89°39'59"E ALONG SAID RIGHT OF WAY LINE FOR 80.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 6,400 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST R/W LINE OF NELSON ROAD AS DEPICTED ON BOUNDARY SURVEY OF THE "WINDHAM DEVELOPMENT" BY BARRACO AND ASSOCIATES, INC. DATED MAY 20, 2014.

AND

Master Pump Station 618

A TRACT OF LAND LYING IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHEAST CORNER OF SAID SECTION 10 RUN N89°44'21"W ALONG THE NORTH LINE OF SAID SECTION 10 FOR 50.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 50 FEET OF SAID SECTION 10, ALSO BEING THE WEST RIGHT OF WAY LINE OF NELSON ROAD, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 791, AT PAGE 464, LEE COUNTY RECORDS; THENCE RUN S00°00'02"W ALONG SAID WEST LINE FOR 50.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID SECTION 10, ALSO BEING THE SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 1817, AT PAGE 1072, LEE COUNTY RECORDS; THENCE CONTINUE S00°00'02"W ALONG SAID WEST RIGHT OF WAY LINE OF NELSON ROAD FOR 1221.17 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING CONTINUE S00°00'02"W ALONG SAID WEST RIGHT OF WAY LINE OF NELSON ROAD FOR 100.00 FEET; THENCE N89°59'58"W FOR 256.86 FEET; THENCE N00°00'02"E FOR 100.00 FEET; THENCE S89°59'58"E FOR 256.86 FEET TO SAID WEST RIGHT OF WAY LINE AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 25,686 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST R/W LINE OF NELSON ROAD AS DEPICTED ON BOUNDARY SURVEY OF THE "WINDHAM DEVELOPMENT" BY BARRACO AND ASSOCIATES, INC. DATED MAY 20, 2014.

Attachment 2
LS 617/ MPS 618
PDP

Prepared by/Record & Return to:

Edward P. Canterbury, Esq.
HENDERSON, FRANKLIN, STARNES & HOLT, P.A.
1715 Monroe St.
Fort Myers, FL 33902
239-344-1100
File Number: 5819/23

Parcel Identification No(s). Portion of 10-44-23-C1-00002.0000
Portion of 10-44-23-C2-00003.0000

_____[Space Above This Line For Recording Data]_____

**Special Warranty Deed
(and Easement Reservation)**

This Indenture made this 17 day of February, 2017 between Stonewater II, LLC, a Michigan limited liability company, whose post office address is 31500 W. 10 Mile Road, Farmington Hills, Michigan 48336, grantor*, and City of Cape Coral, a Florida municipal corporation, whose post office address is c/o Real Estate Division P.O. Box 150027, Cape Coral, Florida 33915, grantee*,

(*Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey to the said grantee, and grantee's heirs and assigns forever, the land legally described in Exhibit "A" attached hereto and incorporated herein by reference.

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

To Have and to Hold, the same in fee simple forever.

This conveyance is made subject to:

1. taxes and assessments for the year 2017 and subsequent years;
2. applicable laws, ordinances, governmental regulations and resolutions, including, but not limited to, all applicable building, zoning, land use and environmental ordinances and regulations;
3. conditions, restrictions, covenants, limitations, easements and other matters of record;
and
4. the easement reservation set forth in Exhibit "B" attached hereto and incorporated herein by reference; and
5. Grantee, its successors and assigns, agrees the list of Uses listed in Exhibit "C" shall be prohibited on the property described and depicted in Exhibit "A". If any of the uses listed in Exhibit "C" are developed on the property, Grantor shall have the remedy of seeking an injunction or any other

appropriate remedy, against the Grantee.

6. Grantor reserves a right of first refusal to purchase the Property described in Exhibit "A" should Grantee decide to sell, convey or lease the Property described in Exhibit "A". The purchase price for the right of first refusal shall be the same purchase price that Grantee paid to Grantor when Grantee acquired the Property described in Exhibit "A" based on the allocation of purchase price set forth in the Purchase and Sale Agreement relating thereto between Grantor and Grantee, less the cost to satisfy any liens or encumbrances arising during Grantee's ownership thereof. For example, if the right of first refusal is triggered only as to parcel 617 of Exhibit "A", then the re-purchase price for parcel 617 shall be \$19,200.00, less the cost to satisfy any liens or encumbrances arising during Grantee's ownership thereof. Grantor's right of first refusal as to parcel 617 of Exhibit "A" shall automatically terminate upon the issuance of a certificate of completion or its equivalent for the lift station improvements that Grantee desires to construct within parcel 617. Grantor's right of first refusal as to parcel 618 of Exhibit "A" shall automatically terminate upon the issuance of a certificate of completion or its equivalent for the master pump station improvements that Grantee desires to construct within parcel 618.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under grantor.

(Signatures Appear on Following Page)

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

WITNESS:

GRANTOR:

Stonewater II, LLC, a Michigan limited liability company

Michelle Late Dwyer
Witness Signature

Witness Signature

Michelle Tate Dreger
Witness Printed/Typed Name

Witness Printed/Typed Name

Robert C. Call

Witness Signature

Katie Cassell

Witness Printed/Typed Name

By:

Michael E. Tobin, Manager

STATE OF Michigan

COUNTY OF Oakland

THE FOREGOING INSTRUMENT was acknowledged before me this 10th day of February, 2017, by Michael E. Tobin, as Manager of Stonewater II, LLC, a Michigan limited liability company, on behalf of the company, and [] who is personally known to me or [] who has produced _____ as identification.

My Commission Expires:

Cathy S. Dr.
Notary Public

Notary Public

CATHERINE S. DRAGICH
NOTARY PUBLIC STATE OF MICHIGAN
OAKLAND COUNTY
MY COMMISSION EXP. NOV. 28, 2017

Print/Type Name of Notary

Commission No.



LEGAL DESCRIPTION & SKETCH
LIFT STATION 617 SITE
SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST
CAPE CORAL, FLORIDA

**DESCRIPTION:**

A TRACT OF LAND LYING IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHEAST CORNER OF SAID SECTION 10 RUN N89°44'21"W ALONG THE NORTH LINE OF SAID SECTION 10 FOR 50.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 50 FEET OF SAID SECTION 10, ALSO BEING THE WEST RIGHT OF WAY LINE OF NELSON ROAD, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 791, AT PAGE 464, LEE COUNTY RECORDS; THENCE RUN S00°00'02"W ALONG SAID WEST LINE FOR 50.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID SECTION 10, ALSO BEING THE SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 1817, AT PAGE 1072, LEE COUNTY RECORDS; THENCE RUN S89°39'59"W ALONG THE SOUTH RIGHT OF WAY LINE OF SAID TROPICANA PARKWAY FOR THE FOLLOWING TWO (2) COURSES: N89°44'21"W FOR 2,640.18 FEET AND S89°39'59"W FOR 586.94 FEET TO THE **POINT OF BEGINNING**; THENCE RUN S00°02'12"W FOR 80.00 FEET; THENCE RUN S89°39'59"W FOR 80.00 FEET TO THE EASTERLY LINE OF THE LANDS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 1763, AT PAGE 3347, LEE COUNTY RECORDS; THENCE RUN N00°02'12"E ALONG SAID EASTERLY LINE FOR 80.00 FEET TO AN INTERSECTION WITH SAID SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY; THENCE RUN N89°39'59"E ALONG SAID RIGHT OF WAY LINE FOR 80.00 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINING 6,400 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST R/W LINE OF NELSON ROAD AS DEPICTED ON BOUNDARY SURVEY OF THE "WINDHAM DEVELOPMENT" BY BARRACO AND ASSOCIATES, INC. DATED MAY 20, 2014.

REVISED 7/5/2016-BEARING BASIS IN LEGAL

NOTES:

1. ALL DIMENSIONS IN US SURVEY FEET OR DECIMALS THEREOF.
2. NOT VALID WITHOUT ALL TWO (2) SHEETS.

PREPARED BY: AIM ENGINEERING AND SURVEYING, INC.

[Signature]
DARREN TOWNSEND, P.S.M.
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA CERTIFICATE NO. 6476
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

AIM Engineering & Surveying, Inc.

5300 LEE BOULEVARD
 POST OFFICE BOX 1235
 LEHIGH ACRES, FLORIDA 33971
 E-Mail: engineering@aimengr.com
 LEHIGH ACRES 239-332-4569
 FAX 239-332-8734
 LICENSE BUSINESS No. 3114

THIS IS NOT A SURVEY
 LEGAL DESCRIPTION & SKETCH
 LIFT STATION 617 SITE

DRAWN: JR 04-15-2016
 CHECKED: DT 04-20-16

CLIENT:
 CITY OF CAPE CORAL

FILE NAME:
 15-0349_LS617

SECTION: 10
 TOWNSHIP: 44 S
 RANGE: 23 E

COUNTY:
 LEE

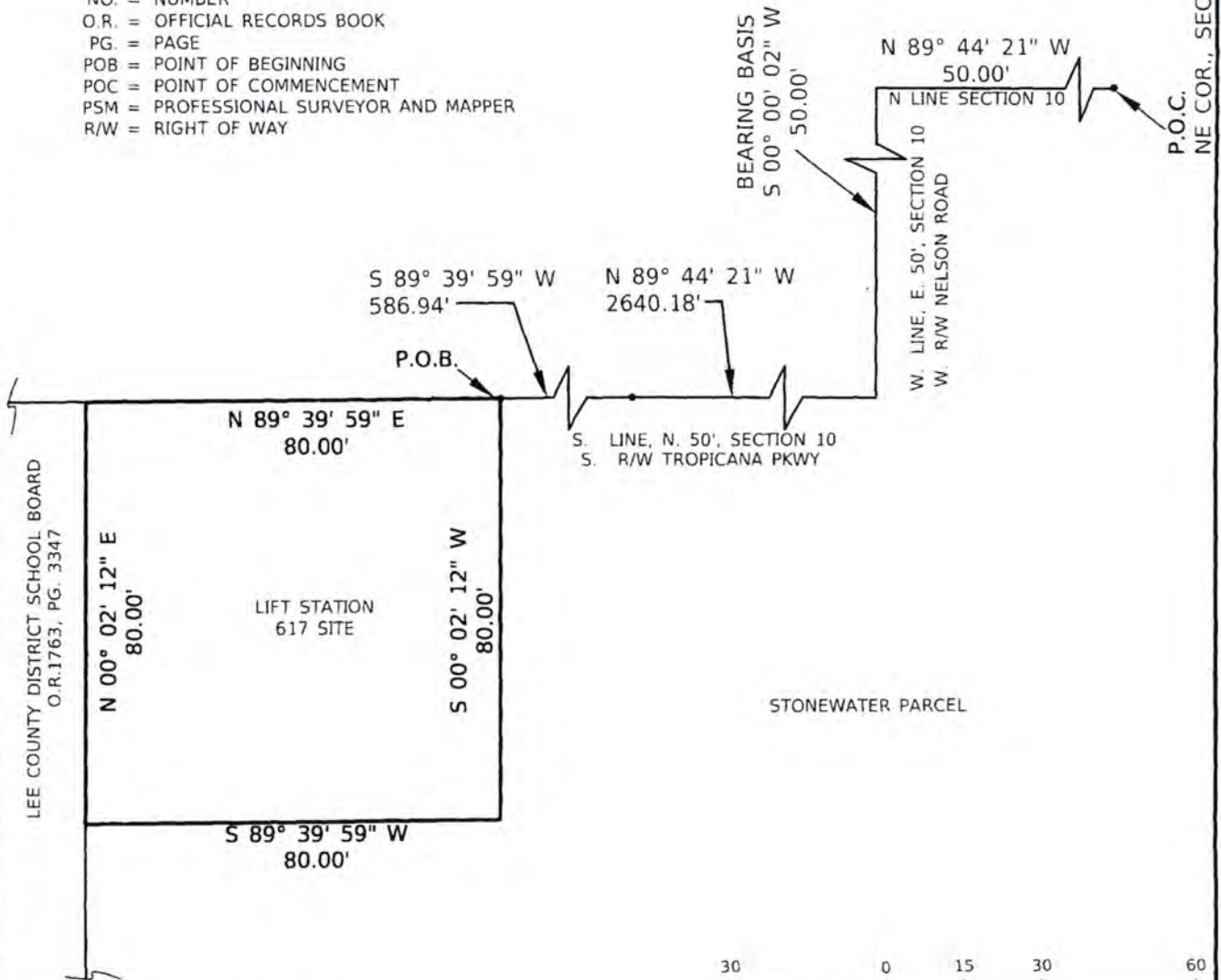
PROJECT NO.
 15-0349

SHEET 1 OF 2

LEGAL DESCRIPTION & SKETCH
LIFT STATION 617 SITE
SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST
CAPE CORAL, FLORIDA

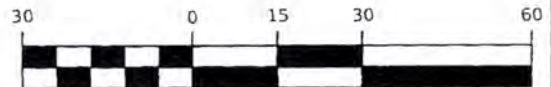
**LEGEND:**

COR. = CORNER
 INC. = INCORPORATED
 NO. = NUMBER
 O.R. = OFFICIAL RECORDS BOOK
 PG. = PAGE
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 PSM = PROFESSIONAL SURVEYOR AND MAPPER
 R/W = RIGHT OF WAY



REVISED 7/5/2016-BEARING BASIS IN LEGAL

NOT VALID WITHOUT ALL SHEETS



INTENDED DISPLAY SCALE: 1" = 30'

AIM Engineering & Surveying, Inc.

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 FAX 239-332-8734
 LICENSE BUSINESS No. 3114

THIS IS NOT A SURVEY

LEGAL DESCRIPTION & SKETCH
 LIFT STATION 617 SITE

SHEET 2 OF 2

DRAWN
 JR 04-15-2016

CHECKED
 DT 4-21-2016

CLIENT:
 CITY OF CAPE CORAL

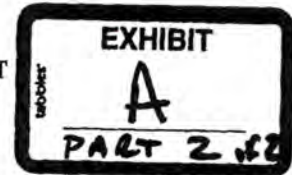
FILE NAME:
 15-0349_LS617

SECTION: 10 TOWNSHIP: 44 S RANGE: 23 E

COUNTY:
 LEE

PROJECT NO.
 15-0349

LEGAL DESCRIPTION & SKETCH
MASTER PUMP STATION 618
SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST
CAPE CORAL, FLORIDA

**DESCRIPTION:**

A TRACT OF LAND LYING IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHEAST CORNER OF SAID SECTION 10 RUN N89°44'21"W ALONG THE NORTH LINE OF SAID SECTION 10 FOR 50.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 50 FEET OF SAID SECTION 10, ALSO BEING THE WEST RIGHT OF WAY LINE OF NELSON ROAD, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 791, AT PAGE 464, LEE COUNTY RECORDS; THENCE RUN S00°00'02"W ALONG SAID WEST LINE FOR 50.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID SECTION 10, ALSO BEING THE SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 1817, AT PAGE 1072, LEE COUNTY RECORDS; THENCE CONTINUE S00°00'02"W ALONG SAID WEST RIGHT OF WAY LINE OF NELSON ROAD FOR 1221.17 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING CONTINUE S00°00'02"W ALONG SAID WEST RIGHT OF WAY LINE OF NELSON ROAD FOR 100.00 FEET; THENCE N89°59'58"W FOR 256.86 FEET; THENCE N00°00'02"E FOR 100.00 FEET; THENCE S89°59'58"E FOR 256.86 FEET TO SAID WEST RIGHT OF WAY LINE AND THE POINT OF BEGINNING.

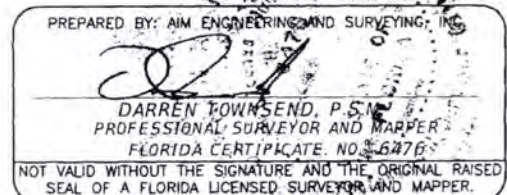
SAID PARCEL CONTAINING 25,686 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST R/W LINE OF NELSON ROAD AS DEPICTED ON BOUNDARY SURVEY OF THE "WINDHAM DEVELOPMENT" BY BARRACO AND ASSOCIATES, INC. DATED MAY 20, 2014.

NOTES:

1. ALL DIMENSIONS IN US SURVEY FEET OR DECIMALS THEREOF.
2. NOT VALID WITHOUT ALL TWO (2) SHEETS.

- REVISED 06/15/2016 - ADDED 65' EASEMENT
- REVISED 07/05/2016 - BEARING BASIS IN LEGAL, REMOVED 65' EASEMENT
- REVISED 07/27/2016 - ADDED 65' EASEMENT



AIM Engineering & Surveying, Inc.
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 FAX 239-332-8734
 LICENSE BUSINESS No. 3114

THIS IS NOT A SURVEY SHEET 1 OF 2
LEGAL DESCRIPTION & SKETCH
MASTER PUMP STATION 618

DRAWN
JR 04-20-2016

CHECKED
DT 04-21-16

CLIENT:
CITY OF CAPE CORAL

FILE NAME:
15-0349_MPS618

SECTION:
10

TOWNSHIP:
44 S

RANGE:
23 E

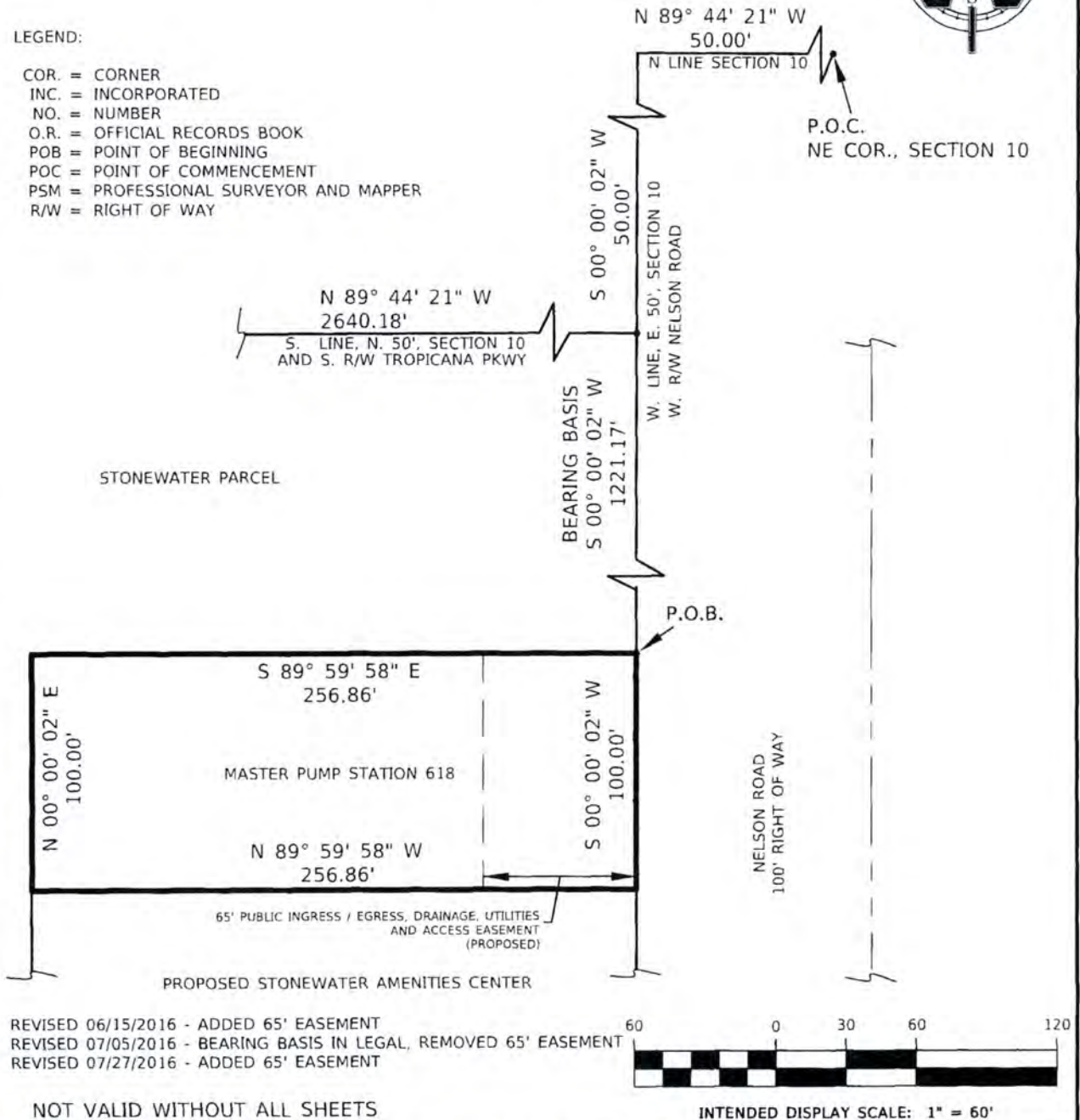
COUNTY:
LEE

PROJECT NO.
15-0349

LEGAL DESCRIPTION & SKETCH
MASTER PUMP STATION 618
SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST
CAPE CORAL, FLORIDA

**LEGEND:**

COR. = CORNER
 INC. = INCORPORATED
 NO. = NUMBER
 O.R. = OFFICIAL RECORDS BOOK
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 PSM = PROFESSIONAL SURVEYOR AND MAPPER
 R/W = RIGHT OF WAY



- REVISED 06/15/2016 - ADDED 65' EASEMENT
- REVISED 07/05/2016 - BEARING BASIS IN LEGAL, REMOVED 65' EASEMENT
- REVISED 07/27/2016 - ADDED 65' EASEMENT

NOT VALID WITHOUT ALL SHEETS

INTENDED DISPLAY SCALE: 1" = 60'

AIM Engineering & Surveying, Inc.

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 E-Mail: engineering@aimengr.com
 LEHIGH ACRES 239-332-4569
 FAX 239-332-8734
 LICENSE BUSINESS No. 3114

THIS IS NOT A SURVEY

SHEET 2 OF 2

LEGAL DESCRIPTION & SKETCH
MASTER PUMP STATION 618

DRAWN
 JR 04-20-2016

CHECKED
 DT 04-21-16

CLIENT:
 CITY OF CAPE CORAL

FILE NAME:
 15-0349_MP5618

SECTION: TOWNSHIP: RANGE:
 10 44 S 23 E

COUNTY:
 LEE

PROJECT NO.
 15-0349

EXHIBIT "B" to Special Warranty Deed

Easement Reservation

Grantor hereby reserves a perpetual, non-exclusive easement for access, ingress/egress, utilities and drainage over and across the lands described and depicted in Exhibit "B-1" attached hereto (the "Easement") for the benefit of all present and future owners, tenants, occupants, guests, licensees and invitees of all or any portion of the lands described in Exhibit "B-2" attached hereto (the "Benefitted Lands").

Grantor, at its expense, shall be permitted to construct any and all improvements within the Easement as are reasonably necessary for the full use and enjoyment of the Easement for the foregoing purposes, including but not limited to roadway improvements.

In no event shall Grantee or its successors or assigns grant any rights to the general public to use the Easement or any improvements now or hereafter located thereon. Grantee shall not make any uses of the Easement which would unreasonably interfere with Grantor's reserved rights hereunder.

The real property described and depicted in Exhibit "B-1" attached hereto shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the Easement and the covenants, conditions, restrictions and reservations set forth herein, all of which shall run with the real property described in Exhibit "B-1" and inure to the benefit of the real property described in Exhibit "B-2" attached hereto, and shall be binding upon all persons having and/or acquiring any right, title or interest in the property described in Exhibit "B-1" and Exhibit "B-2" attached hereto, or any portion thereof.

LEGAL DESCRIPTION & SKETCH
65-FOOT EASEMENT AT
MASTER PUMP STATION 618
SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST
CAPE CORAL, FLORIDA

**DESCRIPTION:**

A TRACT OF LAND LYING IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHEAST CORNER OF SAID SECTION 10 RUN N89°44'21"W ALONG THE NORTH LINE OF SAID SECTION 10 FOR 50.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 50 FEET OF SAID SECTION 10, ALSO BEING THE WEST RIGHT OF WAY LINE OF NELSON ROAD, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 791, AT PAGE 464, LEE COUNTY RECORDS; THENCE RUN S00°00'02"W ALONG SAID WEST LINE FOR 50.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID SECTION 10, ALSO BEING THE SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 1817, AT PAGE 1072, LEE COUNTY RECORDS; THENCE CONTINUE S00°00'02"W ALONG SAID WEST RIGHT OF WAY LINE OF NELSON ROAD FOR 1221.17 FEET TO THE NW CORNER OF PROPOSED MASTER PUMP SITE 618 (MPS 618); SAID POINT BEING THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING CONTINUE S00°00'02"W ALONG SAID WEST RIGHT OF WAY LINE OF NELSON ROAD AND ALONG THE EAST LINE OF SAID MPS 618 FOR 100.00 FEET; THENCE N89°59'58"W ALONG THE SOUTH LINE OF SAID MPS 618 FOR 65.00 FEET; THENCE N00°00'02"E FOR 100.00 FEET TO THE NORTH LINE OF SAID MPS 618; THENCE S89°59'58"E ALONG SAID NORTH LINE FOR 65.00 FEET TO SAID WEST RIGHT OF WAY LINE AND THE POINT OF BEGINNING.

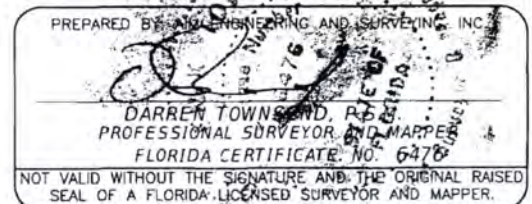
SAID PARCEL CONTAINING 6,500 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST R/W LINE OF NELSON ROAD AS DEPICTED ON BOUNDARY SURVEY OF THE "WINDHAM DEVELOPMENT" BY BARRACO AND ASSOCIATES, INC. DATED MAY 20, 2014.

NOTES:

1. ALL DIMENSIONS IN US SURVEY FEET OR DECIMALS THEREOF.
2. NOT VALID WITHOUT ALL TWO (2) SHEETS.

- REVISED 08/12/2016 - LEGAL DESCRIPTION

**AIM Engineering & Surveying, Inc.**

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 E-Mail: engineering@aimengr.com
 LEHIGH ACRES 239-332-4569
 FAX 239-332-8734
 LICENSE BUSINESS No. 3114

THIS IS NOT A SURVEY

SHEET 1 OF 2

LEGAL DESCRIPTION & SKETCH
 65-FOOT EASEMENT AT MPS 618

DRAWN
 JR 06-30-2016

CHECKED
 DT 07-01-2016

CLIENT:
 CITY OF CAPE CORAL

FILE NAME:
 15-0349_MPS618

SECTION: 10

TOWNSHIP: 44 S

RANGE: 23 E

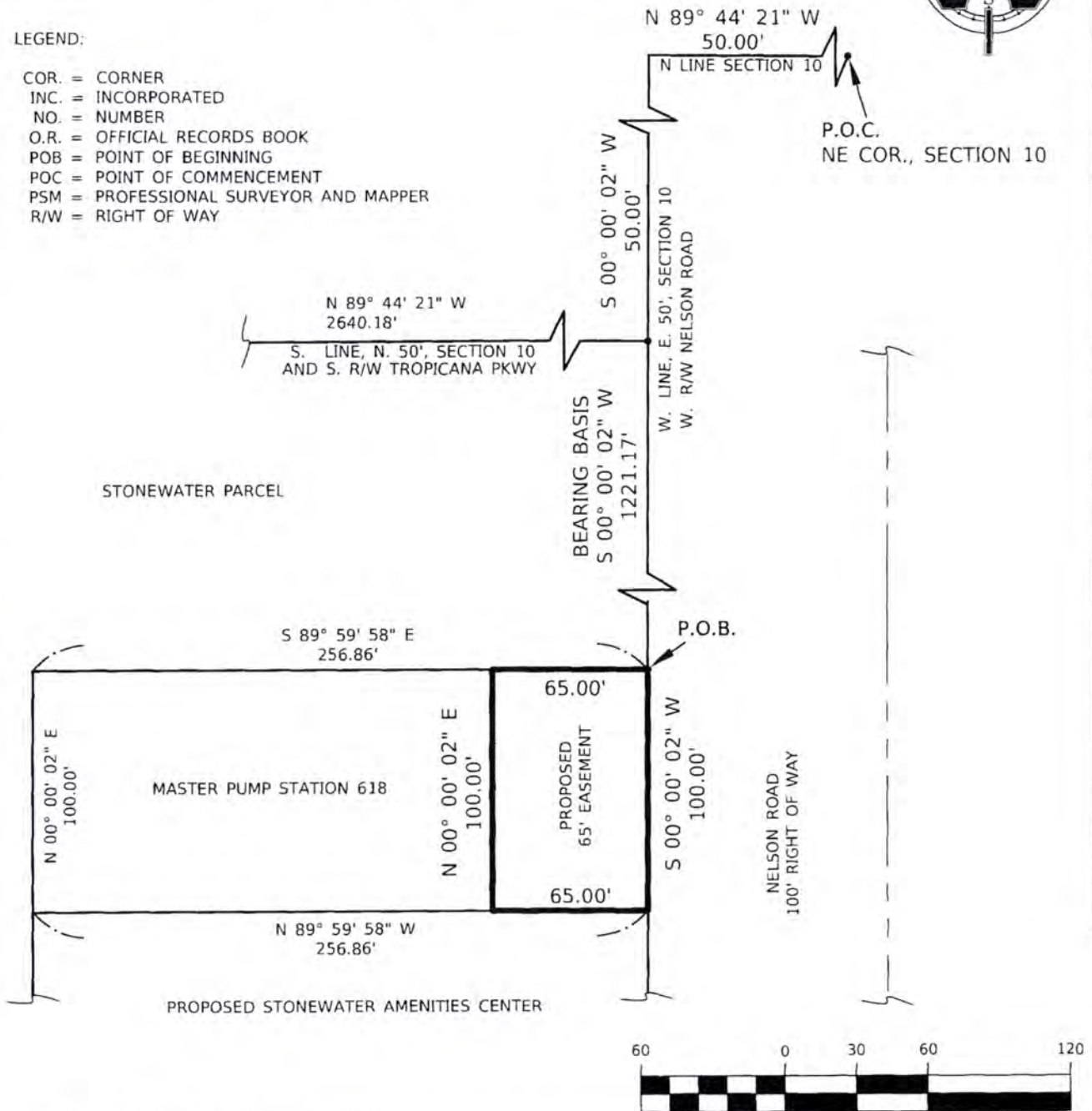
COUNTY: LEE

PROJECT NO.
 15-0349

**LEGAL DESCRIPTION & SKETCH
65-FOOT EASEMENT
AT MASTER PUMP STATION 618
SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST
CAPE CORAL, FLORIDA**

**LEGEND:**

COR. = CORNER
INC. = INCORPORATED
NO. = NUMBER
O.R. = OFFICIAL RECORDS BOOK
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PSM = PROFESSIONAL SURVEYOR AND MAPPER
R/W = RIGHT OF WAY



NOT VALID WITHOUT ALL SHEETS

INTENDED DISPLAY SCALE: 1" = 60'

AIM Engineering & Surveying, Inc.

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FAX 239-332-8734
LICENSE BUSINESS No. 3114

THIS IS NOT A SURVEY

LEGAL DESCRIPTION & SKETCH
65-FOOT EASEMENT AT MPS 618

SHEET 2 OF 2

DRAWN
JR 06-30-2016

CHECKED
DT 07-01-2016

CLIENT:
CITY OF CAPE CORAL

FILE NAME:
15-0349_MPS618

SECTION:
10

TOWNSHIP:
44 S

RANGE:
23 E

COUNTY:
LEE

PROJECT NO.
15-0349

EXHIBIT "B-2" to Special Warranty Deed

Benefitted Lands

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 Northeast Corner of said Section 10 run N89°44'21"W along the North line of said Section 10 for 50.00 feet to an intersection with the West line of the East 50 feet of said Section 10, also being the West right of way line of Nelson Road, as described in a deed recorded in Official Records Book 791, at Page 464, Lee County Records; thence run S00°00'02"W along said West line for 50.00 feet to an intersection with the South line of the North 50 feet of said Section 10, also being the South right of way line of Tropicana Parkway, as described in a deed recorded in Official Records Book 1817, at Page 1072, Lee County Records and the POINT OF BEGINNING.

From said Point of Beginning continue S00°00'02"W along said West right of way line of Nelson Road for 2,642.59 feet to an intersection with the South line of the North Half (N 1/2) of said Section 10; thence run N89°56'37"W along said South line for 3,308.75 feet to an intersection with the Easterly line of lands described in deed recorded in Official Records Book 1763, at Page 3347, Lee County Records; thence run N00°02'12"E along said Easterly line for 2,647.46 feet to an intersection with said South line of the North 50 feet of said Section 10, also being the South right of way line of said Tropicana Parkway; thence run along said South line right of way line the following two (2) courses: N89°39'59"E for 666.94 feet and S89°44'21"E for 2,640.18 feet to the POINT OF BEGINNING.

Containing 201.07 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear S00°00'02"W.

LESS AND EXCEPT THE FOLLOWING LANDS: Lift Station 617 AND Master Pump Station 618

Lift Station 617

A TRACT OF LAND LYING IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHEAST CORNER OF SAID SECTION 10 RUN N89°44'21"W ALONG THE NORTH LINE OF SAID SECTION 10 FOR 50.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 50 FEET OF SAID SECTION 10, ALSO BEING THE WEST RIGHT OF WAY LINE OF NELSON ROAD, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 791, AT PAGE 464, LEE COUNTY RECORDS; THENCE RUN S00°00'02"W ALONG SAID WEST LINE FOR 50.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID SECTION 10, ALSO BEING THE SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 1817, AT PAGE 1072, LEE COUNTY RECORDS; THENCE RUN S89°39'59"W ALONG THE SOUTH RIGHT OF WAY LINE OF SAID TROPICANA PARKWAY FOR THE FOLLOWING TWO (2) COURSES: N89°44'21"W FOR 2,640.18 FEET AND S89°39'59"W FOR 586.94 FEET TO THE POINT OF BEGINNING; THENCE RUN S00°02'12"W FOR 80.00 FEET; THENCE RUN S89°39'59"W FOR 80.00 FEET TO THE EASTERLY LINE OF THE LANDS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 1763, AT PAGE 3347, LEE COUNTY RECORDS; THENCE RUN N00°02'12"E ALONG SAID EASTERLY LINE FOR 80.00 FEET TO AN INTERSECTION WITH SAID SOUTH RIGHT OF WAY LINE OF

TROPICANA PARKWAY; THENCE RUN N89°39'59"E ALONG SAID RIGHT OF WAY LINE FOR 80.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 6,400 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST R/W LINE OF NELSON ROAD AS DEPICTED ON BOUNDARY SURVEY OF THE "WINDHAM DEVELOPMENT" BY BARRACO AND ASSOCIATES, INC. DATED MAY 20, 2014.

AND

Master Pump Station 618

A TRACT OF LAND LYING IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHEAST CORNER OF SAID SECTION 10 RUN N89°44'21"W ALONG THE NORTH LINE OF SAID SECTION 10 FOR 50.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 50 FEET OF SAID SECTION 10, ALSO BEING THE WEST RIGHT OF WAY LINE OF NELSON ROAD, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 791, AT PAGE 464, LEE COUNTY RECORDS; THENCE RUN S00°00'02"W ALONG SAID WEST LINE FOR 50.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID SECTION 10, ALSO BEING THE SOUTH RIGHT OF WAY LINE OF TROPICANA PARKWAY, AS DESCRIBED IN A DEED RECORDED IN OFFICIAL RECORDS BOOK 1817, AT PAGE 1072, LEE COUNTY RECORDS; THENCE CONTINUE S00°00'02"W ALONG SAID WEST RIGHT OF WAY LINE OF NELSON ROAD FOR 1221.17 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING CONTINUE S00°00'02"W ALONG SAID WEST RIGHT OF WAY LINE OF NELSON ROAD FOR 100.00 FEET; THENCE N89°59'58"W FOR 256.86 FEET; THENCE N00°00'02"E FOR 100.00 FEET; THENCE S89°59'58"E FOR 256.86 FEET TO SAID WEST RIGHT OF WAY LINE AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 25,686 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST R/W LINE OF NELSON ROAD AS DEPICTED ON BOUNDARY SURVEY OF THE "WINDHAM DEVELOPMENT" BY BARRACO AND ASSOCIATES, INC. DATED MAY 20, 2014.

PDP 14-0007

ORDINANCE 15 - 15

AN ORDINANCE APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "STONEWATER" FOR CERTAIN PROPERTY DESCRIBED AS PARCELS OF LAND LOCATED IN SECTION 10, TOWNSHIP 44, RANGE 23 EAST, CAPE CORAL, LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT THE SOUTHWEST INTERSECTION OF TROPICANA PARKWAY WEST AND NELSON ROAD; GRANTING REZONING FROM AGRICULTURAL TO RESIDENTIAL DEVELOPMENT; GRANTING SUBDIVISION; GRANTING DEVIATIONS, GRANTING A SPECIAL EXCEPTION FOR A MODEL HOME USE; GRANTING 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 Ronald E. Inge, Trustee, has been received requesting approval of a Planned Development Project (PDP) for "Stonewater"; requesting rezoning, subdivision, deviations, and special exception and

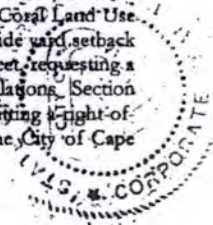
WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency; and

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, SUBDIVISION, DEVIATION, SPECIAL EXCEPTION, REZONING.

Having reviewed the application requesting approval of a Planned Development Project for "Stonewater" PDP, requesting subdivision, requesting a rezoning for 150.1 acres from Agricultural (A) to Residential Development (RD), requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.3.D.Table RD that requires a minimum lot area of 10,000 square feet in order to allow minimum lot areas of 6,250 square feet, requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.3.D.Table RD that requires a minimum lot width of 80 feet at the building line in order to allow a minimum lot width of 50 feet at the building line, requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.3.D.Table RD that requires a minimum front yard setback of 25 feet in order to allow a minimum front setback of 20 feet, requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.3.D.Table RD that requires a minimum side yard setback of 7.5 feet in order to allow a minimum side yard setback of 5 feet, requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.3.D.Table RD that requires a minimum rear yard setback of 20 feet, in order to allow a minimum rear yard setback of 10 feet, requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.18.E.Table MR that requires a minimum lot area of 10,000 square feet in order to allow a minimum lot area of 6,250 square feet, requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.18.E.Table MR that requires a minimum lot width of 80 feet at the building line in order to allow a minimum lot width at the building line of 50 feet, requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.18.E.Table MR that requires a minimum side yard setback of 7.5 feet when abutting a right-of-way in order to allow a side yard setback of 5 feet, requesting a deviation from The City of Cape Coral Land Use and Development Regulations Section 2.7.18.E.Table MR that requires a minimum side yard setback of 7 feet when not abutting a right-of-way in order to allow a side yard setback of 5 feet, requesting a deviation from the City of Cape



Coral Land Use and Development Regulations Section 2.7.18.E.Table MR that requires a rear setback of 20 feet in order to allow a rear setback of 10 feet, requesting a special exception for a model home use in the Marketplace Residential district and the Residential Development district, requesting a deviation from the City of Cape Coral Engineering and Design Standards that requires a right-of-way width of 60 feet in order to allow a right-of-way width of 50 feet, requesting a deviation from the City of Cape Coral Engineering and Design Standards Sheet G-5 that requires a type "F" curb and gutter, in order to allow the installation of a Valley gutter along the internal streets; 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, in accordance with plan set, Sheets 1-6, dated December 18, 2014, and also bearing a revision date of March 23, 2015, prepared by Barraco and Associates, Inc., and sheets 1-7, dated May 20, 2014, prepared by Barraco and Associates, 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 "Stonewater" development is a Mixed-Use Planned Development Project (PDP). This development consists of 201 acres of land located at the southwest intersection of Tropicana Parkway West and Nelson Road. The proposed development will construct a maximum of 337 single-family homes along with two recreation areas and several lakes on 150 acres of land that is zoned Residential Development and Marketplace Residential. The remainder of the project, which is zoned Marketplace Residential, will be developed at a future time. The infrastructure for the project will be constructed in two phases with a buildout period of ten years.

Project phasing is depicted on Sheet 5 labeled "Phasing and Tract Plan" and is summarized below:

1. Phase 1A shall include:
 - a. Construction of an entrance road from Nelson Road.
 - b. Construction of left turn lane on Nelson Road and associated right-of-way improvements.
 - c. The construction of infrastructure (roads, water, sewer, irrigation) for lots within Phase 1A.
 - d. The construction of a maximum of 10 model homes.
 - e. Construction of a recreation area as depicted on Sheet 3 labeled "Development Plan Details".
2. Phase 1B shall include:
 - a. Construction of an entrance road from Tropicana Parkway.
 - b. Construction of left turn lane on Tropicana Parkway and associated right-of-way improvements.
 - c. Construction of infrastructure (roads, water, sewer, irrigation) for lots within Phase 1B.
 - d. Construction of a maximum of 10 model homes.
 - e. Construction of a recreation area as depicted on Sheet 3 and labeled "Development Plan Details".
3. Phase 2 shall include the construction of infrastructure (roads, water, sewer, irrigation) for lots within Phase 2.

All infrastructure within Phases 1A or 1B shall be completed prior to commencement of Phase 2 infrastructure, unless the infrastructure for Phases 1A, 1B, and 2 are commenced simultaneously.

- B. The name(s) of the legal and equitable owner is Ronald E. Inge, Trustee.
- C. The legal description of the property is as follows:

See attached Exhibit "A"

D. The "Stonewater" PDP subject parcel has 150.1 acres zoned Agricultural (A) and 51.1 acres zoned Marketplace Residential (MR) 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 150.1 acres with a Future Land Use designation of Single-Family / Multi-Family (SM) and 51.1 acres with a Future Land Use designation of Commercial Activity Center (CAC).

E. 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:

See attached Exhibit "B"

by rezoning said property from Agricultural (A) TO Residential Development (RD), and the City administrative office shall amend the City of Cape Coral Official Zoning District Map to reflect this zoning change.

That the amendment to the City of Cape Coral Official Zoning District Map as prescribed herein is consistent with the City of Cape Coral Comprehensive Plan.

E. All future structures and uses, population density, building intensity, and building height and any other dimensional regulations shall conform to the provisions of the respective 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 proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.

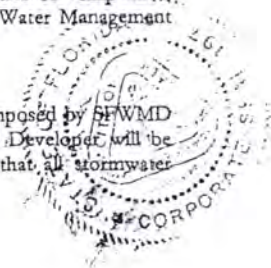
H. The term Developer for purposes of this development order shall mean and refer to Ronald E. Inge, Trustee, his successors in interest, lessees, and/or assigns.

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 Ronald E. Inge, Trustee, 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 or building permits, a general permit and stormwater discharge certification shall be obtained from the South Florida Water Management District (SFWMD). No construction permit shall be issued until the City has received a copy of the approved South Florida Water Management District permit.
2. With each individual site development submitted, the Developer shall be required to provide on-site stormwater runoff provisions, with either a letter of compliance, modification, or exemption, as applicable, from South Florida Water Management District.
3. At completion of construction, as required by the conditions imposed by SFWMD and prior to the issuance of a Certificate of Occupancy, the Developer will be required to provide certification by the Engineer of Record that all stormwater



infrastructure and facilities have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral, and should consist of the wording "Construction Compliance Certification".

B. HURRICANE EVACUATION/SHELTERING

Prior to issuance of the building permits, the Developer shall meet with the 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.

C. 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), and 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 existing 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 incidental take/mandatory relocation permit prior to the issuance of a City of Cape Coral permit for the excavation, grading, clearing, or any similar disturbance of the ground. Entombment of tortoises is strictly prohibited at all times, regardless of the type of permit procured by the applicant.

When gopher tortoise burrows are located on the site, the Developer shall seek a gopher tortoise relocation permit from the State of Florida for some or all of the gopher tortoises that must be relocated on-site or removed from the site, and provide a copy to the City prior to issuance of a permit. In the event gopher tortoise relocation is off-site, then the Developer shall provide the City of Cape Coral with a signed letter(s) of acceptance from the owner(s) of the property upon which the gopher tortoises will be relocated. The letter must state the number of gopher tortoises each property owner is willing to accept in accordance with the State of Florida regulations in effect at the time of relocation.

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.

D. FIRE PROTECTION

1. Fire impact fees shall be paid as specified by City Ordinance.
2. The Developer shall review site development plans with the Cape Coral Fire Department to incorporate fire protection design recommendations into the project.

E. WATER CONSERVATION

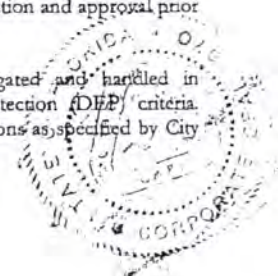
1. The Developer shall incorporate the use of water conserving devices as required by state law (Section 553.14, Florida Statutes).
2. For the purpose of non-potable water conservation, the development should require, through the use of deed restriction, the utilization of Florida Yards and Neighborhoods (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 the Environmental Resources Division.
3. Irrigation will be accomplished in accordance with City Ordinance(s) or South Florida Water Management District mandate as applicable.

F. 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.

G. WASTEWATER MANAGEMENT

1. Wastewater (sewer) service is not available to the site.
2. When service becomes available to the site, 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. Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
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.

H. 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, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
4. The Developer shall connect to City water facilities as specified by City Ordinance.
5. 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 water 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. IRRIGATION SERVICE

1. Irrigation service is not available to the site. When service becomes available, Developer shall connect to the City's irrigation system as prescribed by Ordinance.
2. When service becomes available, 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 betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).
4. The Developer shall grant appropriate easements to the 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 irrigation 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.

J. 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.

K. HISTORICAL/ARCHAEOLOGICAL

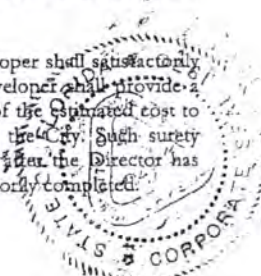
During the life of the project, if any historical or archaeological sites are uncovered, work in the vicinity shall cease until the proper authorities can be contacted and an evaluation of the site carried out.

L. TRANSPORTATION

1. The traffic impacts of this development do not degrade roadway and intersection level of service (LOS) below LOS standards adopted in the City of Cape Coral Comprehensive Plan.
2. The Developer shall provide the City of Cape Coral all appropriate Road Impact Fees at the time of application for each building permit.
3. The Developer shall construct left and right turn lanes at the project entrance on Tropicana Parkway and a left turn lane at the project entrance at Nelson Road. These improvements shall take place during the construction of Phase 1A and 1B as described in Section IIA. The turn lanes shall be in accordance with the City's Engineering and Design Standards. No Certificates of Occupancy for any single-family home shall be issued until these improvements have been inspected and approved by the City's Public Works Department.
4. The developer is eligible for traffic impact fee credits should the developer construct additional road improvements toward the final 4-lane configuration of Tropicana Parkway. Should the developer and City staff reach a mutually agreeable plan for said improvements, a formal agreement may be brought before City Council for approval without modification of this Development Order.
5. The 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.
6. The City of Cape Coral reserves the right to request periodic Traffic Monitoring Report(s) before the development reaches build-out. The Developer shall pay all costs associated with producing the reports. The Developer shall prepare the methodology for the report and the methodology shall be approved by the City's Public Works staff prior to the Developer preparing the report. If this report shows impacts greater than those estimated at the time of original approval and/or determines that the LOS is degraded below adopted LOS standards, the Developer shall provide mitigation actions to assure that all roadways and intersections shall be improved so as to maintain the adopted peak hour LOS standard. The Developer shall be credited for mitigation already provided.

M. SUBDIVISION

1. The Developer shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
2. Prior to submittal of the final subdivision plat for review the applicant shall apply for approval of site plans for the subdivision infrastructure in accordance with Section 4.4, Site Plan Review Procedure, City of Cape Coral Land Use and Development Regulations.
3. Prior to any final Subdivision Plat approval, either the Developer shall satisfactorily complete all of the required site improvements, or the Developer shall provide a surety bond or certified check in an amount equal to 110% of the estimated cost to complete all required site improvements, as determined by the City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements have been satisfactorily completed.



4. The final Subdivision Plat shall be substantially consistent with the approved Subdivision Plan with regard to external boundary and access points on Tropicana Parkway and Nelson Road. The internal configuration may be modified to the extent that any modifications comply with the zoning district regulations, the Engineering Design Standards, any conditions contained within this PDP development order and are approved by the Director.
5. The Director shall submit the Subdivision Plat for the Mayor's signature after all required site improvements have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete of all required site improvements. Such Plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.

N. GENERAL CONSIDERATIONS

1. 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.
2. The developer shall construct a six-foot high fence or wall along Nelson Road for areas that include single-family homes. The fence or wall shall be constructed of either wrought iron, aluminum, brick, concrete block stucco or stone.
3. The Developer shall install landscaping in the form of shrubs and canopy trees along the outside of the constructed fence or wall.
4. The Developer shall provide pedestrian access in the form of sidewalks and crosswalks (where applicable) from the free-standing residential portion of the development to the future Marketplace Residential area.
5. Any future development occurring in the Marketplace Residential zoning district will require a PDP amendment.
6. The future development within the Marketplace Residential zoning district shall not contain any freestanding residential uses. All future development shall be non-residential or compound use as determined by the Marketplace Residential district.

O. CONCURRENCY

The "Stonewater" PDP is concurrent for roads, sewer, water, drainage, solid waste, and parks based on the analysis of the proposed development and specific mitigation programs specified herein.

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 "Stonewater" 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 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 of the subdivision infrastructure 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. With each subsequent application for site plan approval or PDP modification the Developer, or its successors in title to the undeveloped portion of the subject property, including individual parcels, shall provide an updated summary describing the state of development and compliance with the conditions within Section III.L and Section III.N of this

Development Order. The summary shall also identify cumulative data for the peak hour trips generated by existing and proposed development on each individual parcel, as compared to the overall peak hour trip generation approved for the entire subdivision project.

- 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 11th DAY OF May, 2015.

Marni Sawicki
MARNI 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>excused</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 27th DAY OF May, 2015.

Rebecca van Deutekom
REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
ORD/pdp14 0007 Stonewater
04/16/15
05/04/15
05/11/15

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 Ord 15-15

PDP 14-0007
Rebecca van Deutekom



EXHIBIT "A"

Description

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 to the Point of Beginning of the herein described parcel. From said Point of Beginning run southerly parallel with and 50 feet west of the east section line of said Section 10, S 00° 00' 33" W for 2,692.99 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 3309.01 feet; thence run N 00° 03' 04" E for 2697.88 feet to the north line of said Section 10; thence run easterly along said north line N 89° 40' 51" E for 666.88 feet and S 89° 43' 29" E for 2640.19 feet to the Point of Beginning.

Less and excepting therefrom that portion described in Official Records Book 1817 page 1072, Public Records of Lee County, Florida.

Bearings are based on the east line of the north half (N-1/2) of Section 10 bearing N 00° 00' 33" E.



EXHIBIT "B"

DESCRIPTION

Parcel in
Section 10, Township 44 South, Range 23 East
City of Cape Coral, Lee County, Florida

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.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear S00°00'02"W.

MASTER CONCEPT PLAN FOR STONEWATER RD RE-ZONING



PART OF SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

PROJECT DATA

SITE ADDRESS	PROJECT DATUM
TRINACRA PARKWAY WEST, CAPE CORAL, FLORIDA 3391	STATE PLANE FLORIDA NORTH ZONE PROJECTION DATUMS AND ARE SHOWN THE EAST LINE OF THE NORTHEAST QUARTER OF THE SECTION 10 IN BLOCK 6 TOWNSHIP 44
ZONING	RECORD PLAT
PROPOSED RD 54R AND TO REZONE	PENDING
FLOOD ZONE	STRAP NUMBERS
ADDITIONS TO FLOOD ZONE, 10% DEPTH AND NOT CURRENT MAP INFORMATION ABOUT IN SNA, THE PROPERTY IS LOCATED IN FLOOD ZONE "V" (VARIABLE)	10-44-23-01-0000-0000 10-44-23-02-0000-0000

AGENCY	STATUS	NOTES
B. FLORIDA WATER MANAGEMENT DISTRICT	PENDING	
LEE COUNTY DEVELOPMENT DEPT	PENDING	
FLORIDA DEPARTMENT OF AGRICULTURE	PENDING	
FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION	PENDING	
F.S.D.T. CONNECTION PERMIT	PENDING	
F.S.D.T. OVERPASS CONNECTION PERMIT	PENDING	
F.S.D.T. UTILITY PERMIT	PENDING	
MAINT CORPS OF ENGINEERS	PENDING	
F.S.D.P. NOTICE OF ABSENCE	PENDING	

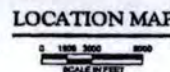
NOTE: CONTRACTOR MUST OBTAIN AND KEEP ON FILE A COPY OF ALL PERMITS
ACQUIRED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITY

DESIGN TEAM

PROJECT ENGINEER	PROJECT MANAGEMENT
TRINITY & SHIN, P.A.	EARL SHINDEL, P.L.A./C.M.
DESIGN ENGINEER	PROJECT SURVEYOR
WEB AYLIN, S.I.	SCOTT WHEELER
LEAD DESIGN TECHNICIAN	SITE PLANNING
PENDING	JOHNSEN DAVIS
DESIGN STAFF	LAND PLANNING
PENDING	JOHNSEN DAVIS
QUALITY CONTROL	RECORD DRAWINGS
CHRIS LAM KIMBER TOMMY KOLKLAND	PENDING

THESE PLANS MAY HAVE BEEN MODIFIED IN SIZE BY REPRODUCTION.
THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

ALL DIMENSIONS ARE IN FEET.



INDEX OF DRAWINGS

SHEET	DESCRIPTION	REF	DRAWING NAME
1	COVER SHEET AND LOCATION MAP	-	23238-001.DWG
2	MASTER SITE PLAN	A	23238-002.DWG
3	DETAILED AND DIMENSIONS	A	23238-003.DWG
4	CONCRETE, REGULATION AND TYPICAL LOT DETAILS	A	23238-004.DWG
5	PLANNING AND TRUCK PLAN	B	23238-005.DWG
6	AND SUBMITTAL TYPICAL ROAD SECTIONS	-	23238-006.DWG

CHANGES REFERENCED DRAWINGS

REF NO.	DESCRIPTION	DATE/ISSUE
A	BASE LAYOUT PLAN	23238-001.DWG
B	BASE LAYOUT PLAN	23238-002.DWG

THESE PLANS ARE A COMPONENT OF THE CONTRACT DOCUMENTS FOR THE REFERENCED PROJECT.
TECHNICAL SPECIFICATIONS AND ANY SUPPLEMENTS TO THE CONTRACT DOCUMENTS SHOULD BE
REVIEWED FOR MATERIAL, CONSTRUCTION, TESTING AND PERMIT REQUIREMENTS PRIOR TO BEGINNING.
THIS PLAN SET IS NOT RELEASED FOR CONSTRUCTION UNLESS SPECIFICALLY INDICATED SO IN THE
"PLAN STATUS" PORTION OF THE TITLE BLOCK. CONTRACTOR SHALL VERIFY THAT HE HAS THE LATEST
PLANS WHICH HAVE BEEN APPROVED AND ACCEPTED BY THE OWNER PRIOR TO CONSTRUCTION.

PLAN STATUS
NOT FOR CONSTRUCTION

Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING - LANDSCAPE DESIGN
www.barraco.net

2271 WOODWARD BLVD., SUITE 100
PORT WORTH, FLORIDA 33055-0000
PHONE (214) 461-1170
FAX (214) 461-1170

FLORIDA CERTIFICATE OF PROFESSIONAL
ENGINEERING NO. 12589 - EXPIRATION 12-31-2014

PROJECT NO. 23238

**WINDHAM
DEVELOPMENT**

2400 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

PHONE (248) 280-0300
FAX (248) 280-0300

PROJECT DESCRIPTION

STONEWATER

CAPE CORAL, FLORIDA

THIS PLAN IS PRELIMINARY AND
INTENDED FOR CONCEPTUAL
PLANNING PURPOSES ONLY.
SITE LAYOUT AND LAND USE
INTENTIONS OR DESIGNER MAY
CHANGE SIGNIFICANTLY BASED
UPON SURVEY, ENGINEERING,
ENVIRONMENTAL AND FOR
REGULATORY CONSTRAINTS
AND / OR OPPORTUNITIES.

REVISIONS
1. 12/01/2014
2. 12/01/2014
3. 12/01/2014
4. 12/01/2014
5. 12/01/2014
6. 12/01/2014
7. 12/01/2014
8. 12/01/2014
9. 12/01/2014
10. 12/01/2014

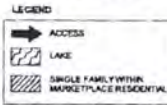
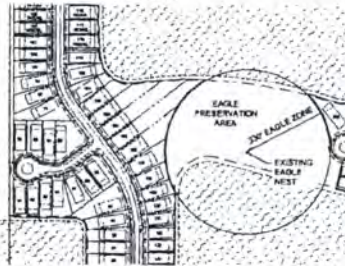
DATE/ISSUE
23238-001.DWG
23238-002.DWG

PLAN STATUS
NOT FOR CONSTRUCTION

COVER SHEET
AND
LOCATION MAP

23238 1

ALTERNATE RESIDENTIAL LAYOUT



PROPOSED ZONING

MARKETPLACE RESIDENTIAL	81.1 AC
RESIDENTIAL DEVELOPMENT	150.1 AC
TOTAL	231.2 AC

LAND USE

USE	RD	MR	TOTAL
RESIDENTIAL LOTS	42.8 AC	7.2 AC	50.0 AC
RIGHT OF WAY (*)	10.7 AC	3.6 AC	14.3 AC
RECREATION TRACTS	1.8 AC	0.0 AC	1.8 AC
LAKE	74.1 AC	15.9 AC	90.0 AC
UTILITY/MAINT TRACT	0.3 AC	—	0.3 AC
FUTURE MR	—	11.5 AC	11.5 AC
OPEN SPACE	25.1 AC	—	25.1 AC
TOTAL	148.9 AC	31.2 AC	250.1 AC

(*) 3.6 AC RIGHT OF WAY FOR RESIDENTIAL PURPOSES

MR ALLOWABLE SINGLE FAMILY RESIDENTIAL CALCULATION:
81.0 AC TOTAL MR AREA X 30% = 10.2 AC

NOTE:

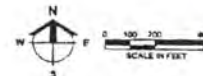
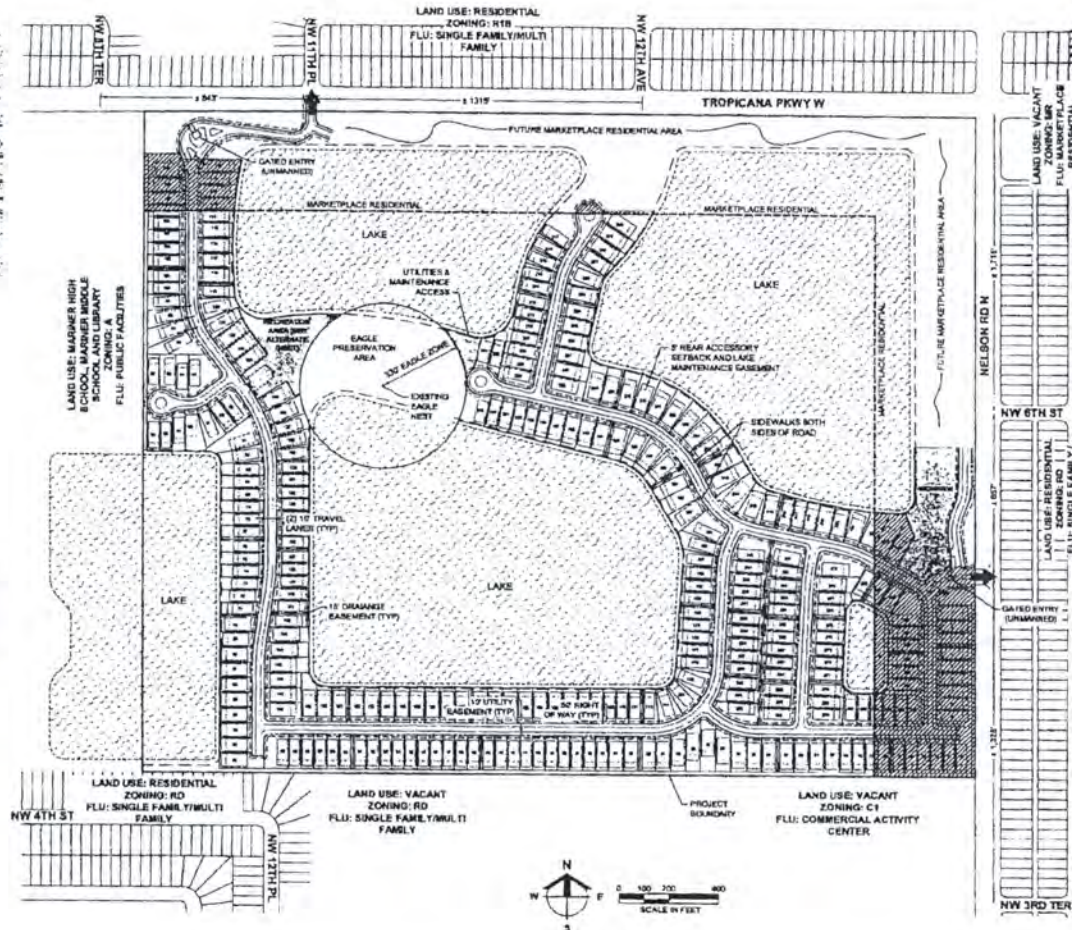
THE FINAL SUBDIVISION PLAT SHALL BE SUBSTANTIALLY CONSISTENT WITH THE APPROVED SUBDIVISION PLAN, THE AREA AND DENSITY OF EACH DEVELOPMENT PHASE, AND THE FINAL SUBDIVISION PLAT SHALL INCREASE OR DECREASE AREA BY A MAXIMUM OF TEN (10) PERCENT FROM WHAT IS SHOWN ON THE SUBDIVISION PLAN, WITH A MAXIMUM DENSITY OF 30 UNITS PER ACRE, AND A MINIMUM PLAT, BUILD OUT OF 371 UNITS. INTERNAL ROADS MAY BE REQUIRED TO ACCOMMODATE THE ABOVE-MENTIONED TRACT AREA MODIFICATIONS. IF THE TRACT CALCULATION PATTERN IS UNDESIRABLE AND DETERMINED TO BE THE COMMUNITY DEVELOPMENT DIRECTOR, THE FINAL SUBDIVISION PLAT SHALL BE CONSISTENT WITH THAT OF THE SUBDIVISION PLAN.

10% DENSITY CALCULATIONS:

STANDARD DENSITY 30 UNITS
10% MAXIMUM: 307 + 35 = 332 UNITS
10% MINIMUM: 307 - 35 = 272 UNITS

PROPOSED DENSITY

(30)	MAXIMUM 332, MINIMUM 272
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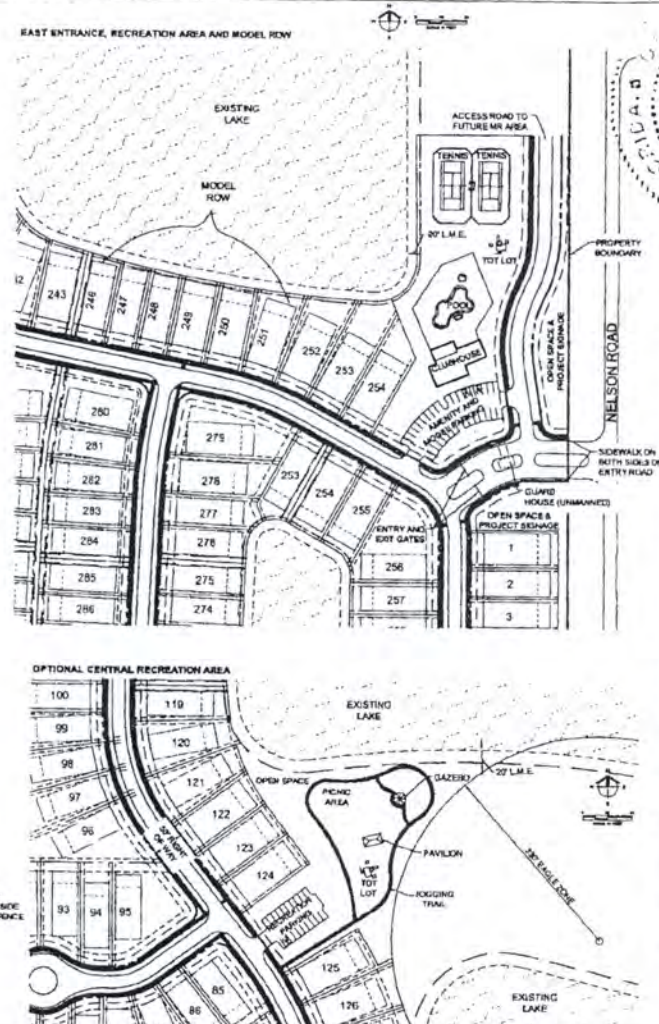
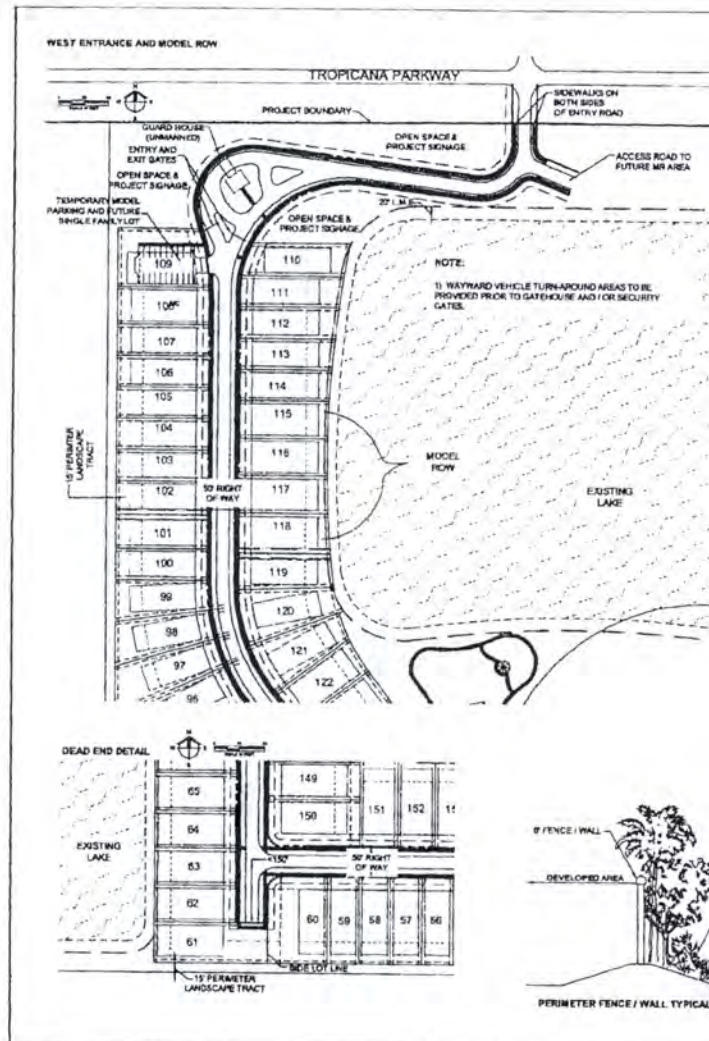


Barraco
and Associates, Inc.
1001 S.W. 10TH AVE., SUITE 100
MIAMI, FL 33135
WWW.BARRACO.COM
TEL: (305) 571-1111
FAX: (305) 571-1112

WINDHAM DEVELOPMENT
3000 N.W. 10TH AVE., SUITE 200
MIAMI, FL 33135
TEL: (305) 571-1111
FAX: (305) 571-1112

STONEMASTER
LIFE CENTRAL, FLORIDA
THIS PLAN IS PRELIMINARY AND INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY. SITE LAYOUT AND LAND USE INTENTIONS OR DENSITIES MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENGINEERING, ENVIRONMENTAL, AND/OR REGULATORY CONSTRAINTS AND/OR OPPORTUNITIES.

MASTER SITE PLAN
PROJECT / PLAT NO. 23238
SHEET NUMBER 2



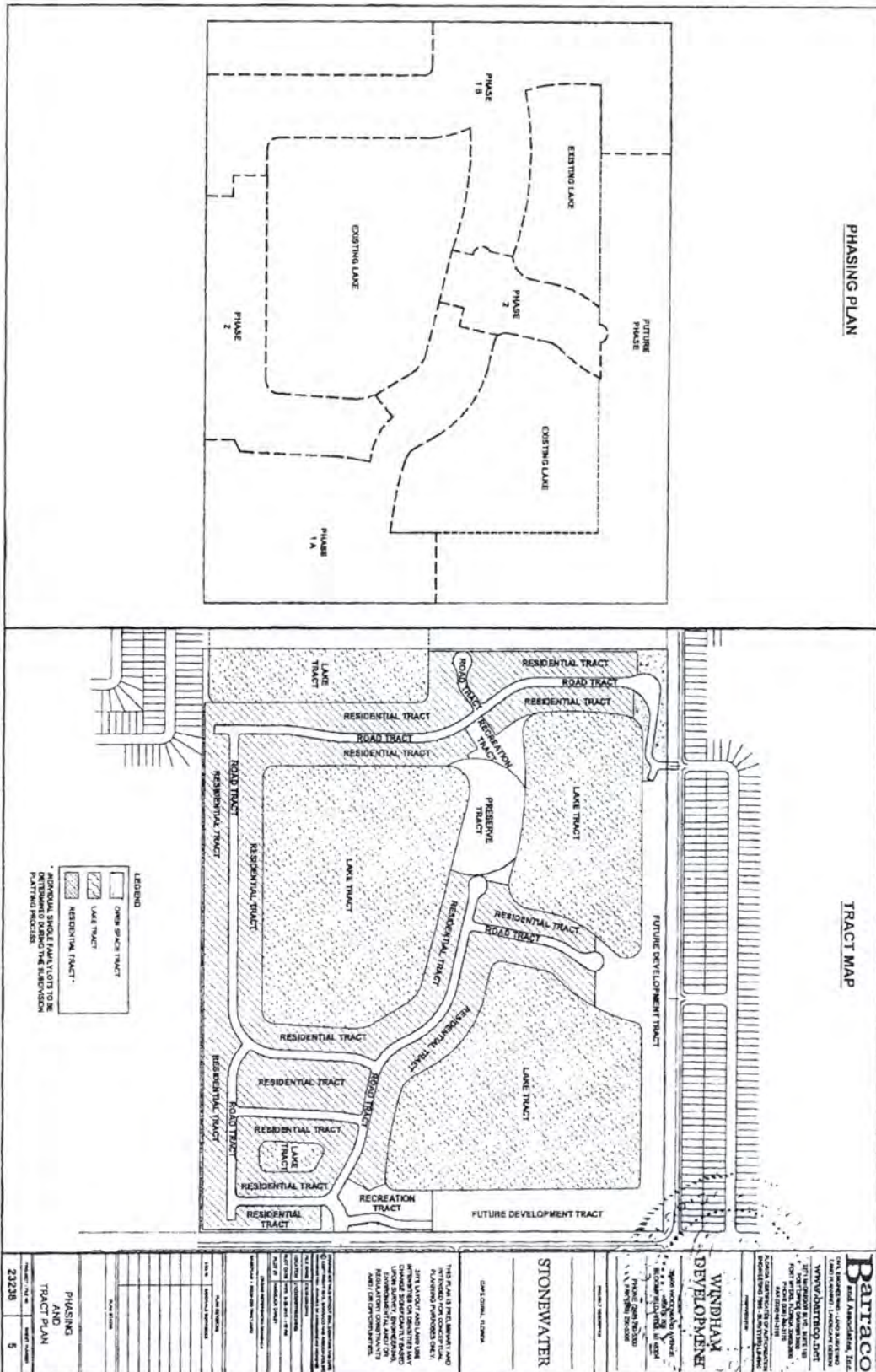
Barraco
and Associates, Inc.
CIVIL ENGINEERING, LAND SURVEYING,
LAND PLANNING, LANDSCAPE ARCHITECTURE
www.barraco.net
1271 WILSON BLVD., SUITE 100
FORT MYERS, FLORIDA 33901-4515
PHONE (239) 451-5175
FAX (239) 451-2789

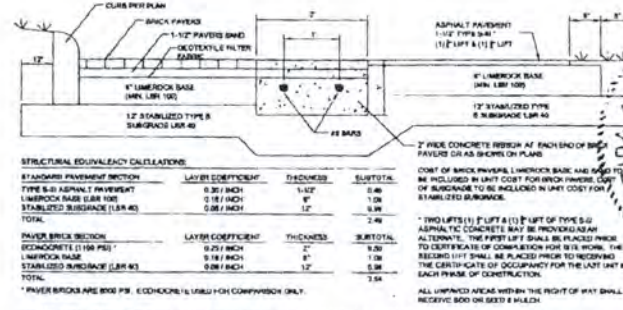
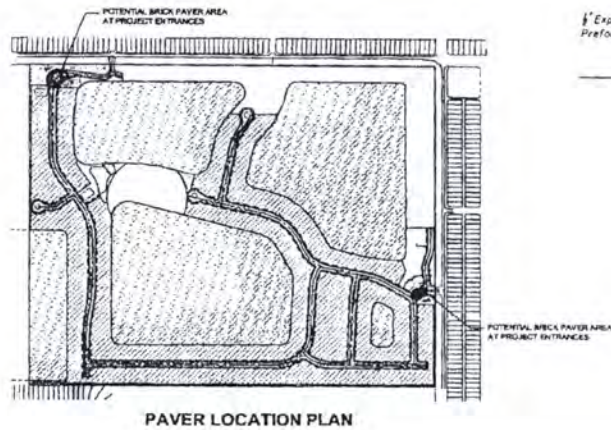
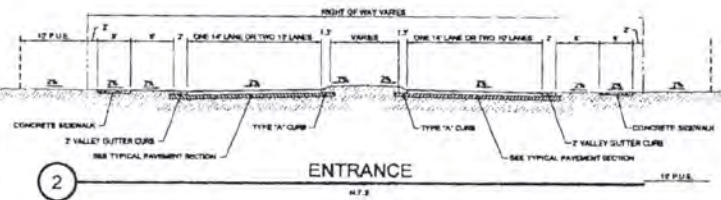
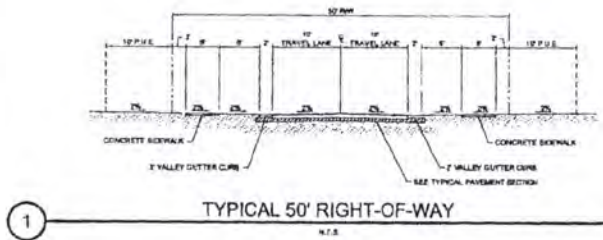
WINDHAM DEVELOPMENT
3840 PROCTOR AVENUE
SUITE 100
BLOOMSBURY HILLS, MA 01824
PHONE (248) 250-0332
FAX (248) 250-0338

STONEMASTER
CAPE CORRAL, FLORIDA

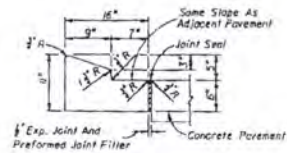
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UPON SURVEY, ENGINEERING,
ENVIRONMENTAL AND/OR
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AND/OR OPPORTUNITIES.

PROJECT NO.	23238
DATE	3

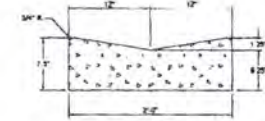




TYPICAL PAVEMENT SECTION



TYPE "A" CURB
N.T.S.



2' VALLEY GUTTER CURB
N.T.S.

Barraco
and Associates, Inc.
CIVIL ENGINEERING • LAND SURVEYING
• LAND PLANNING • LANDSCAPE DESIGN

www.barraco.net
 1219 W. GREGORY BLVD., SUITE 100
 FORT MYERS, FLORIDA 33901-2001
 PHONE 239-335-2171
 FAX 239-335-2100

FLORIDA CERTIFICATE OF AUTHORIZATION
(ADDRESSES) FMS - BUREAU OF REVENUE

WINDHAM

DEVELOPMENT
3400 WOODLAND AVENUE

PLACE THE
 IN CHARACTERS OF THE ALPHABET
 PHONE (214) 265-4700

FAX (746) 290-5306 <hr/> PROJECT QUANTITY

--	--

STONewater

CAPE CORAL, FLORIDA

THIS PLAN IS PRELIMINARY AND
INTENDED FOR CONCEPTUAL
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE INTENSITIES OR DENSITIES MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENGINEERING, ENVIRONMENTAL AND / OR

REGULATORY CONSTRAINTS
AND / OR OPPORTUNITIES.

DO NOT WRITE IN THESE SPACES. SIGNATURE AND DATE
 () COPYRIGHT BY BUREAU OF AERONAUTICS, INC.
 WASHINGTON, D.C. 20330-3165

File #	2020A-0001
Case Name	2020A-0001
File #	2020A-0001
File #	2020A-0001

BARCELONA + 396-888 7807 0092

[illegible]

[illegible]

EDS DEVIATION

TYPICAL ROAD SECTIONS	
PROJECT FILE NO.	SHEET NAME

23238	2
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RESOLUTION 108 - 17

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING AN AGREEMENT FOR PERMANENT DRAINAGE, MAINTENANCE AND ACCESS EASEMENTS LOCATED IN THE NORTH HALF (N-1/2) OF SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, AS MORE PARTICULARLY DESCRIBED HEREIN; APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR PERMANENT DRAINAGE, MAINTENANCE, AND ACCESS EASEMENTS BETWEEN THE CITY OF CAPE CORAL AND STONEWATER II, LLC; PROPERTY IS LOCATED AT THE SOUTHWEST INTERSECTION OF TROPICANA PARKWAY WEST AND NELSON ROAD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the subject property, the Stonewater Planned Development Project, is located at the southwest intersection of Tropicana Parkway West and Nelson Road; and

WHEREAS, one of the conditions of Ordinance 15-15, which approved the Stonewater PDP, requires the Developer to construct left and right turn lanes at the project entrance on Tropicana Parkway and a left turn lane at the project entrance at Nelson Road; and

WHEREAS, the City desires to obtain easements over a portion of the Developer's property for drainage from the above referenced roadways into lakes on the Developer's property and for access and maintenance to the drainage facilities; and

WHEREAS, approval of the Agreement for Permanent Drainage, Maintenance and Access Easements attached hereto as Exhibit 1 will provide the City permanent nonexclusive drainage, maintenance, and access easements over, across, through and under the Easement Property for purposes of, but not limited to, construction, reconstruction, lay, install, operate, maintain, relocate, repair, replace, improve, remove and inspect, pipes, ditches, swales, and other drainage facilities and permanent nonexclusive emergency maintenance and access easement over, across, through and under the Developer's Surface Water Management System (SWMS) lakes for the limited purposes of access to the SWMS in the event of an emergency or for the construction and emergency maintenance of the SWMS, in accordance with the terms of the Agreement.

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 Agreement for Permanent Drainage, Maintenance and Access Easements and authorizes the City Manager to execute the Agreement attached hereto as Exhibit 1.

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 12th DAY OF June, 2017.

Marni L. Sawicki
MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI
BURCH
CARIOSCIA
STOUT

aye
aye
aye
aye

LEON
ERBRICK
WILLIAMS
COSDEN

aye
aye
aye
aye

ATTESTED TO AND FILED IN MY OFFICE THIS 30th DAY OF June, 2017.

Rebecca Van Deutekom
REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
res/Stonewater Easement Agreement

This instrument prepared by:
City of Cape Coral
City Attorney's Office
Post Office Box 150027
Cape Coral, FL 33915-0027

STRAP No.:

This Space for Recording

**AGREEMENT FOR PERMANENT DRAINAGE, MAINTENANCE, AND ACCESS
EASEMENTS**

THIS AGREEMENT (the "Agreement"), made and entered into this 20th day of June, 2017, between **STONEWATER II, LLC**, a Michigan limited liability company, its successors and assigns, whose address is 31500 W. 10 Mile Road, Farmington Hills, MI 48336, hereinafter referred to as **DEVELOPER** and the **City of Cape Coral**, a Florida municipal corporation, whose address is c/o Real Estate Division, P.O. Box 1500207, Cape Coral, FL 33915-0027, hereinafter referred to as **CITY**:

WHEREAS, **DEVELOPER** is the owner of that certain real property located in Lee County, Florida, described in Exhibit "A" attached hereto (the **DEVELOPER** Property); and

WHEREAS, **DEVELOPER** obtained approval of PDP 14-0007 in Ordinance 15-15 to develop a mixed-use development on **DEVELOPER'S** property known as "Stonewater"; and

WHEREAS, **DEVELOPER** acknowledges the development approved pursuant to Ordinance 15-15 will increase traffic on the surrounding roadways known as Tropicana Parkway and Nelson Road, requiring site-related improvements to said roadways as defined in Section L.3 of Ordinance 15-15; and

WHEREAS, **CITY** is desirous of obtaining easements over a portion of the **DEVELOPER** Property for drainage from said roadways into lakes on the **DEVELOPER'S** property, and for access and maintenance to the drainage facilities, for the benefit of the **CITY**; and

WHEREAS, **DEVELOPER** is desirous of providing said easements for drainage, maintenance, and access to the **CITY**.

NOW THEREFORE, in consideration of ten dollars (\$10.00) and other good and valuable consideration described herein, the receipt and sufficiency of which is hereby acknowledged, **DEVELOPER** and **CITY** covenant and agree as follows:

1. Recitals. The above recitals are true and correct and are hereby incorporated into this Agreement as though fully set forth below.

2. Grant of Easement.

(a) DEVELOPER hereby agrees to grant and convey to CITY permanent nonexclusive drainage, maintenance, and access easements over, across, through and under the Easement Property (described in Exhibit "B" attached hereto and incorporated herein) for purposes of, but not limited to, construction, reconstruction, lay, install, operate, maintain, relocate, repair, replace, improve, remove and inspect, pipes, ditches, swales, and other drainage facilities, including the right of access to perform any such purpose, provided such right of access is exercised in a reasonable manner, for the purposes of stormwater discharge into the DEVELOPER'S Surface Water Management System (SWMS). True and correct copies of the Easement property are attached hereto as Composite Exhibit "B". Notwithstanding the foregoing, the easements over and across that portion of the DEVELOPER Property bearing the MR zoning designation will be temporary until such time as DEVELOPER obtains development permits for that portion. At such time, DEVELOPER will relocate the temporary easements as needed pursuant to the process described under section 3(b) below and at which time they will become permanent easements.

(b) DEVELOPER hereby agrees to grant and convey to CITY a permanent nonexclusive emergency maintenance and access easement over, across, through and under the SWMS lakes for the limited purposes of access to the SWMS in the event of an emergency or for the construction and emergency maintenance of the SWMS consistent with the SFWMD permit and modifications thereto, and any other government agency requirements (the "Emergency Lake Easement). A true and correct copy of the Emergency Lake Easement is attached hereto as Exhibit "C". Notwithstanding the foregoing, the easements over and across that portion of the DEVELOPER Property bearing the MR zoning designation will be temporary until such time as DEVELOPER obtains development permits for that portion. At such time, DEVELOPER will relocate the temporary easements as needed pursuant to the process described under section 3(b) below and at which time they will become permanent easements.

3. Reservations.

(a) Reserving unto the DEVELOPER, its successors and assigns forever, the right to construct, maintain, install, operate and place upon the easements granted herein any utilities and surface improvements, including, without limitation, parking lots, driveways, dumpster pad, curbing, and landscaping provided that

such does not unreasonably interfere with the drainage and/or utility facilities constructed by the CITY within said property. DEVELOPER, its successors and assigns, agree to hold the CITY harmless for any damage to any surface improvements constructed by DEVELOPER within the above easement, which result from the actions of the CITY, including, but not limited to, any construction, maintenance or repairs to the drainage and/or utility facilities located within the easements, in accordance with Section 3.14.5 of the City of Cape Coral Land Use and Development Regulations. CITY shall be responsible for any abnormal pollutant discharge (i.e. oil spill, fuel spill) CITY may cause to occur on DEVELOPER property. Abnormal pollutants shall not include normal stormwater runoff from the city rights-of-way and surrounding city property.

- (b) The DEVELOPER, at its expense, retains the right to modify, replace, and/or relocate the CITY'S drainage facilities within the drainage, maintenance, and access easements subject to the following requirements:
- (1) The DEVELOPER shall provide the CITY with notice of any modification, replacement, and/or relocation at least thirty (30) days prior to commencement of any construction; and
 - (2) No material adverse impact upon the flow of the CITY'S stormwater conveyance capacity through the CITY'S drainage facilities shall be permitted at any time; and
 - (3) Sufficient access shall be provided that meets with CITY'S requirements to conduct maintenance and repairs within the Easements at all times. DEVELOPER shall obtain written consent from the CITY for any Easements prior to any change in location(s) or configuration(s); and
 - (4) The DEVELOPER shall follow the CITY'S permit process for any required drainage connection permit or modifications of existing connection permits; and
 - (5) The DEVELOPER shall ensure that upon completion of any modification or relocation of the Easements, the CITY'S drainage facilities, inflow, outfall and control structures and conveyance meet all CITY construction specifications and standards for which the drainage facilities were designed; and
 - (6) The DEVELOPER, at its expense, shall record within thirty (30) days any modification, replacement, or relocation which results in change of any Easement(s) granted herein, and provide a certified copy of the modified, replacement, or relocated Easement(s) to the CITY. The CITY shall approve the language of said Easements prior to recording. The DEVELOPER'S failure to record any changes shall not serve to diminish or extinguish any of the CITY'S Easement(s) rights granted to the CITY.

- (7) CITY shall not unreasonably withhold, condition, or delay consent from any relocation effort initiated by DEVELOPER if DEVELOPER provides a replacement easement similar in size and function.

4. Consideration. DEVELOPER agrees it is currently obligated to construct left and right turn lanes into its development on Tropicana Pkwy. and a left turn lane into its development from Nelson Road, pursuant to Ordinance 15-15. In consideration of the DEVELOPER providing the above described easements to the CITY, CITY agrees to construct said turn lanes at the time CITY constructs the additional two lanes of roadway on both Tropicana Pkwy and Nelson Road during its utility expansion project, fulfilling the DEVELOPER'S obligation to construct said turn lanes. DEVELOPER hereby agrees the fulfillment of said obligations are sufficient and adequate consideration for the drainage, maintenance, and access easements.

Should CITY fail to construct the above described turn lanes by the time said turn lanes are warranted due to the progression of DEVELOPER'S project, the DEVELOPER shall construct the above turn lanes and the CITY shall pay DEVELOPER a one-time lump sum amount equal to the sum of the appraised value of the above described easements plus the appraised value, at the time the turn lanes are constructed, of eight (8) two-lot, non-waterfront sites located directly across the street from the DEVELOPER'S site which would have been required to replace the volume of water storage attributed to the CITY'S use of DEVELOPER'S SWMS. CITY shall obtain an appraisal of the easements. Should DEVELOPER disagree on the easement value, DEVELOPER may obtain an appraisal, at its expense. Should CITY disagree on the value of the easements in the DEVELOPER'S appraisal, the CITY and DEVELOPER shall select an independent appraiser to value the easements. The cost of the independent appraiser shall be born equally by the CITY and DEVELOPER. The DEVELOPER agrees to be a joint applicant with the CITY to amend Ordinance 15-15 to reflect the foregoing.

5. Ownership & Maintenance of Drainage Facilities.

(a) Title to any drainage improvements constructed within the drainage Easements as permitted herein by CITY or at CITY'S direction shall remain in CITY.

(b) DEVELOPER shall be responsible for maintenance to its SWMS. CITY shall maintain all drainage facilities previously or hereafter installed within the Easements by CITY or at CITY'S direction and at CITY'S cost. During any such installation or maintenance by CITY or its contractors, CITY and its contractors, agents and employees shall use commercially reasonable efforts to minimize interference with access to or use of the easement property and any adjacent property owned by DEVELOPER, and with other utilities and drainage facilities which may be then existing within the easement property as may be permitted herein. Following any such installation or maintenance within the easement property by CITY or its contractors, CITY, at its expense, shall be responsible for returning the surface area of the easement property (excluding surface improvements, including, but not limited to, parking lots, driveways, dumpster pad, curbing, landscape) to the condition existing immediately prior to such work, unless the

drainage facility consists of ditches, swales, gullies, or other similar drainage mechanisms. CITY also has the right and authority to remove or trim any roots, trees or other vegetation within the easement property in order to properly install, maintain, repair or replace CITY'S drainage facilities contemplated herein. If DEVELOPER'S underground facilities impair the ability of CITY to properly install, maintain, repair or replace facilities in the CITY'S drainage easements, as reasonably determined by CITY then DEVELOPER shall be responsible for the costs to remove and or replace the DEVELOPER'S facilities.

(c) If an event occurs within the DEVELOPER'S SWMS which presents an actual or imminent threat to the CITY'S drainage facilities and related rights-of-way, the CITY shall, when possible, request the DEVELOPER to conduct emergency maintenance and repair to the DEVELOPER'S SWMS. Should DEVELOPER fail to conduct the reasonably requested maintenance within thirty (30) days after receipt of written request by the CITY, the CITY shall take necessary emergency maintenance and repair action to alleviate any immediate danger to its drainage facilities and rights-of-way. If the CITY was not responsible for the cause of the event, upon presentation of an invoice and supporting documentation for costs incurred in alleviating the immediate danger, the DEVELOPER shall promptly reimburse the CITY for its reasonable costs incurred.

6. Liens. CITY agrees to refrain from causing any mechanic's lien to be placed upon the Easement Property, the DEVELOPER Property and any adjacent property owned by DEVELOPER. All parties providing construction, repair and maintenance services or materials for the easement property at the request of CITY are hereby placed on notice that the interest of DEVELOPER or any future fee title owner of the lands within and adjacent to the easement property shall not be subject to any mechanic's liens and that such parties may only look to the CITY for payment of any amounts due for labor, materials or services within the easement property unless DEVELOPER contracts in writing for the performance of such construction, repair or maintenance. In the event CITY shall allow a lien to be placed upon any part of the easement property or any adjacent lands owned by DEVELOPER which is not satisfied or removed within thirty (30) days after written notice, DEVELOPER shall have the right, by action at law or in equity, to compel CITY to satisfy the lien or transfer the lien to bond.

7. Indemnification. Each party agrees to indemnify, defend and hold the other party harmless from and against any and all claims, losses, injuries (including death), costs or judgments arising as a consequence of the acts or omissions of such party and such party's contractors, agents, employees, patrons, licensees or invitees, including reasonable attorneys' fees at trial and on appeal, together with all costs associated with such litigation. However, CITY'S indemnity obligations shall be subject to the limitations in Section 768.28, Florida Statutes.

8. Rights, Cumulative and No Waiver. No right or remedy herein conferred upon or reserved to any of the parties to this Agreement is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter legally existing upon the occurrence of an event of default under this Agreement. The failure of any of the parties to this

Agreement to insist at any time upon the strict observance or performance of any of the provisions of this Agreement, or to exercise any right or remedy as provided in this Agreement, shall not impair any such right or remedy or be construed as a waiver or relinquishment of such right or remedy with respect to subsequent defaults. Every right and remedy given by this Agreement to the parties hereof may be exercised from time to time and as often as may be deemed expedient by those parties.

9. Interpretation. Should any provision of this Agreement require interpretation in any judicial, administrative or other proceeding or circumstance, it is agreed that the court, administrative body or other entity interpreting or construing the same shall not apply a presumption that the terms thereof shall be more strictly construed against any party by reason of the rule of construction that a document is to be construed more strictly against the party who prepared the same, it being further agreed that both parties hereto have fully participated in the preparation of this Easement.

10. Binding Effect. This Agreement is binding on, and inures to the benefit of, the parties hereto and their respective successors and assigns. All Easements run with title to the easement property. This Agreement and all Easements shall be recorded in the Public Records of Lee County, Florida.

11. Attorney Fees. Should either Party hereto institute any action or proceeding in court to enforce this Agreement, the prevailing Party in any such action or proceeding shall be entitled to receive from the non-prevailing Party its reasonable attorneys' fees and court costs in connection with such action or proceeding. Jurisdiction shall be in the State of Florida and venue within Lee County.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, each party has hereunto set its hand and seal the day and year first below written.

SIGNED SEALED AND DELIVERED
IN THE PRESENCE OF:

STONEWATER II, LLC, a Michigan limited
liability company

C. L. Simon
Witness #1 Signature
C. L. Simon
Print/Type Name of Witness #1

By: [Signature]
Print Name Michael E. Tobin
Print Title: Manager

Witness #2 Signature

Print/Type Name of Witness #2

STATE OF Michigan
COUNTY OF Oakland

THE FOREGOING INSTRUMENT was acknowledged before me this 7th day of June, 2017, by Michael E. Tobin, as Manager of STONEWATER II, LLC, a Michigan limited liability company, on behalf of said company, [☒] who is personally known to me or [] who has produced _____ as identification.

My Commission Expires:
11-28-2017

Catherine S. Dragich
Notary Public

Print/Type Notary Name
Commission No. _____

CATHERINE S. DRAGICH
NOTARY PUBLIC STATE OF MICHIGAN
OAKLAND COUNTY
MY COMMISSION EXP. NOV. 28, 2017



City of Cape Coral, a Florida municipal corporation

Kelley Fernandez
Witness #1 Signature

Kelley Fernandez
Print/Type Name of Witness #1

Phyllis DeMarco
Witness #2 Signature

Phyllis DeMarco
Print/Type Name of Witness #2

By: A. John Szerlag
A. John Szerlag, City Manager

ATTEST:

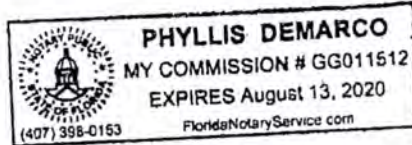
By: Rebecca Van Deutekom
Rebecca vanDeutekom, City Clerk

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 21st day of June, 2017 by A. John Szerlag, as City Manager of City of Cape Coral, a Florida municipal corporation, on behalf of the City. He ☒ is personally known to me or ☐ has produced _____ as identification.

My Commission Expires:

Phyllis DeMarco
Notary Public



Phyllis DeMarco
Print/Type Notary Name

Print/Type Notary Name

Approved as to form:

[Signature]
City Attorney Office

EXHIBIT A

SITE DESCRIPTION

Parcel in
Section 10, Township 44 South, Range 23 East
City of Cape Coral, Lee County, Florida

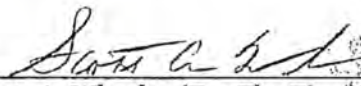
A tract or parcel of land lying in Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at Northeast Corner of said Section 10 run N89°44'21"W along the North line of said Section 10 for 50.00 feet to an intersection with the West line of the East 50 feet of said Section 10, also being the West right of way line of Nelson Road, as described in a deed recorded in Official Records Book 791, at Page 464, Lee County Records; thence run S00°00'02"W along said West line for 50.00 feet to an intersection with the South line of the North 50 feet of said Section 10, also being the South right of way line of Tropicana Parkway, as described in a deed recorded in Official Records Book 1817, at Page 1072, Lee County Records and the POINT OF BEGINNING.

From said Point of Beginning continue S00°00'02"W along said West right of way line of Nelson Road for 1,221.17 feet to an intersection with the Northerly line of lands described in deed recorded in Instrument Number 2017000038486, Lee County Records; thence run along the Northerly, Westerly and Southerly line of said lands the following three (3) courses: N89°59'58"W for 256.86 feet; S00°00'02"W for 100.00 feet and S89°59'58"E for 256.86 feet to an intersection with said West right of way line of Nelson Road; thence run S00°00'02"W along said West right of way line for 1,321.42 feet to an intersection with the South line of the North Half (N 1/2) of said Section 10; thence run N89°56'37"W along said South line for 3,308.75 feet to an intersection with the Easterly line of lands described in deed recorded in Official Records Book 1763, at Page 3347, Lee County Records; thence run N00°02'12"E along said Easterly line for 2,567.46 feet to an intersection with the Southerly line of lands described in deed recorded in Instrument Number 2017000038486, Lee County Records; thence run along the Southerly and Easterly line of said lands the following two (2) courses: N89°39'59"E for 80.00 feet and N00°02'12"E for 80.00 feet to an intersection with said South right of way line of Tropicana Parkway; thence run along said South line right of way line the following two (2) courses: N89°39'59"E for 586.94 feet and S89°44'21"E for 2,640.18 feet to the POINT OF BEGINNING.

Containing 200.33 acres, more or less.

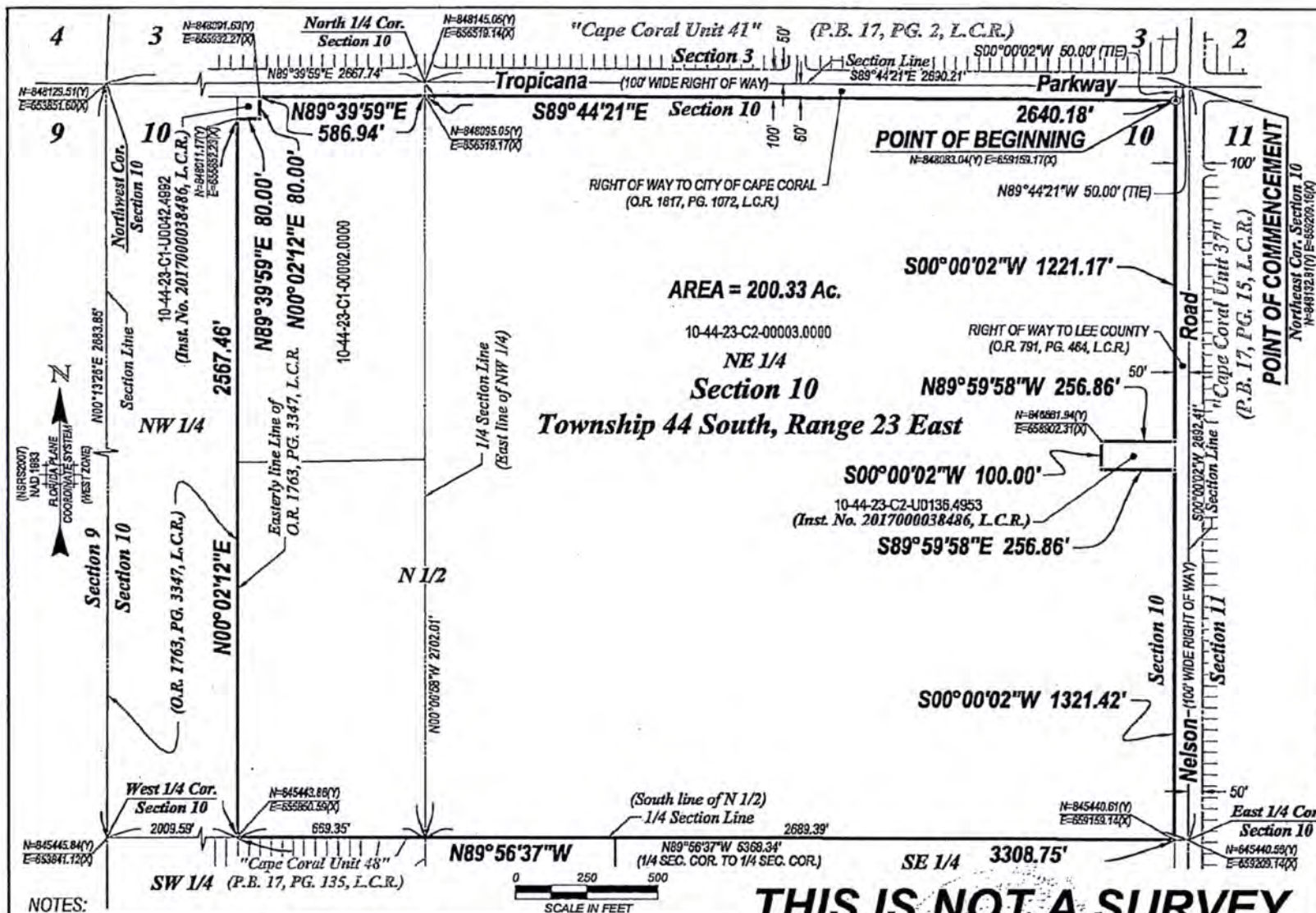
Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear S00°00'02"W.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949



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Post Office Drawer 2800 • Fort Myers, FL 33902
Phone (239) 461-3170 • Fax (239) 461-3169



NOTES:

- ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF. UNLESS OTHERWISE NOTED DISTANCES ARE ALSO (U.S. SURVEY FEET) GROUND AND CAN BE MULTIPLIED BY 0.99994118 TO OBTAIN GRID DISTANCES.
- D.B. - DENOTES DEED BOOK.
- INST. No. - DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
- O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
- (P) - DENOTES PLAT.
- P.B. - DENOTES PLAT BOOK.
- PG. - DENOTES PAGE.
- BEARINGS AND COORDINATES HEREON ARE STATE PLANE FLORIDA WEST ZONE (NAD1983 (NSRS 2007)) AND ARE BASED THE EAST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 10 TO BEAR S00°00'02\"/>

THIS IS NOT A SURVEY

SCOTT A. WHEELER (FOR THE FIRM - LB-6940)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5949

DATE SIGNED: 6/7/17

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL
RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.


Barraco and Associates, Inc. CIVIL ENGINEERING, LAND SURVEYING LAND PLANNING - LANDSCAPE DESIGN www.barraco.net 2271 MIDWINTER BLVD., SUITE 100 FORT MYERS, FLORIDA 33903-2800 PHONE (239) 461-3170 FAX (239) 461-3170 FLORIDA CERTIFICATE OF AUTHORIZATION ENGINEERING 7803 - SURVEYING 13-4540 REGISTERED FOR:							
WINDHAM DEVELOPMENT 36400 WOODWARD AVENUE SUITE 305 BLOOMFIELD HILLS, MI 48304 PHONE (248) 250-5300 FAX (248) 250-5305							
PROJECT DESCRIPTION A PARCEL OF LAND IN SECTION 10 TOWNSHIP 44 SOUTH RANGE 23 EAST CITY OF CAPE CORAL, LEE COUNTY, FLORIDA							
PROJECT SURVEY  NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER							
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LAYOUT	2						
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PLOT DATE	TUE 4-26-2017 1:28 AM						
PLOT BY	PETER OLSEN						
DRAWING DATA							
SURVEY DATE	04-28-2017						
DRAWN BY	P. OLSEN						
CHECKED BY	SAW						
SCALE	1"=50'						
FIELD BOOK							
PLAN REVISIONS <table border="1"> <tr> <td>NO.</td> <td>DESCRIPTION</td> </tr> <tr> <td>1</td> <td>10-44-23-C1-00002.0000</td> </tr> <tr> <td>2</td> <td>10-44-23-C2-00003.0000</td> </tr> </table>		NO.	DESCRIPTION	1	10-44-23-C1-00002.0000	2	10-44-23-C2-00003.0000
NO.	DESCRIPTION						
1	10-44-23-C1-00002.0000						
2	10-44-23-C2-00003.0000						
SKETCH TO ACCOMPANY DESCRIPTION <table border="1"> <tr> <td>PROJECT FILE NO.</td> <td>SHEET NUMBER</td> </tr> <tr> <td>2385</td> <td>2 OF 2</td> </tr> </table>		PROJECT FILE NO.	SHEET NUMBER	2385	2 OF 2		
PROJECT FILE NO.	SHEET NUMBER						
2385	2 OF 2						

EXHIBIT B

EXHIBIT "B"

Barraco
and Associates, Inc.

www.barraco.net
Civil Engineers, Land Surveyors and Planners

DESCRIPTION

Parcel in
Section 10, Township 44 South, Range 23 East
City of Cape Coral, Lee County, Florida

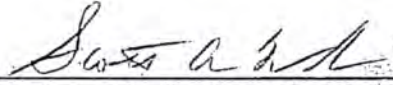
A tract or parcel of land lying in Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

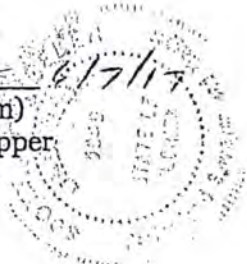
Commencing at North Quarter Corner of said Section 10 run $S00^{\circ}00'58''E$ along the East line Northwest Quarter (NW 1/4) of said Section 10 for 50.00 feet to an intersection with the South line of the North 50 feet of said Section 10, also being the South right of way line of Tropicana Parkway, as described in a deed recorded in Official Records Book 1817, at Page 1072, Lee County Records; thence run $S89^{\circ}39'59''W$ along said South line right of way line for 16.71 feet to the POINT OF BEGINNING.

From said Point of Beginning run $S28^{\circ}05'48''W$ for 108.60 feet; thence run $S07^{\circ}31'58''W$ for 22.54 feet; thence run $S00^{\circ}10'27''W$ for 58.92 feet; thence run $N89^{\circ}49'33''W$ for 20.00 feet; thence run $N00^{\circ}10'27''E$ for 60.20 feet; thence run $N07^{\circ}31'58''E$ for 27.46 feet; thence run $N28^{\circ}05'48''E$ for 101.40 feet to an intersection with said South right of way line of Tropicana Parkway; thence run $N89^{\circ}39'59''E$ along said South right of way line for 22.74 feet to the POINT OF BEGINNING.

Containing 0.09 acres, more or less.

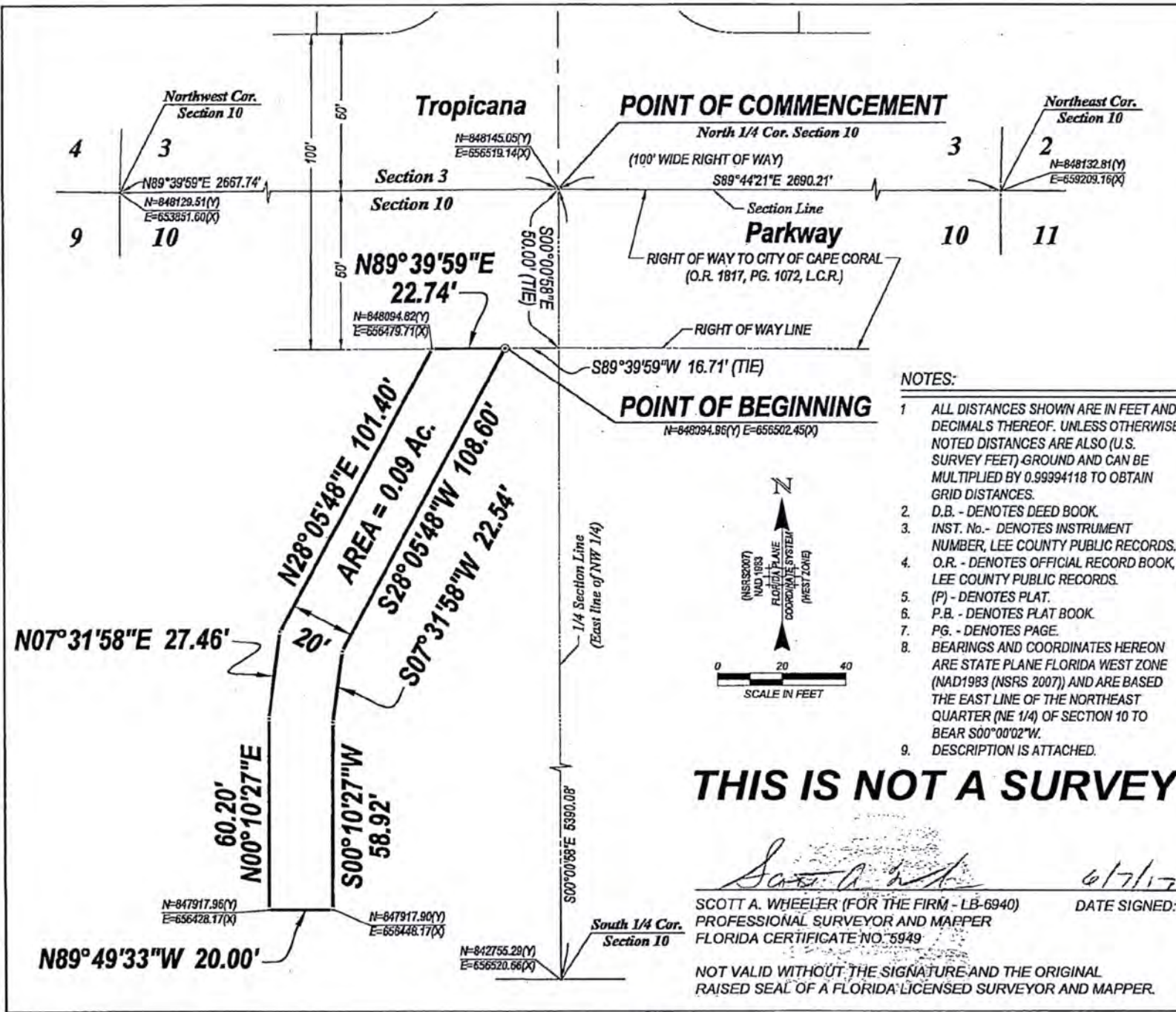
Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear $S00^{\circ}00'02''W$.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949



L:\23305\Survey\Descriptions\sketches\23305SK03.doc

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Phone (239) 461-3170 • Fax (239) 461-3169



Barraco and Associates, Inc. CIVIL ENGINEERING - LAND SURVEYING LAND PLANNING - LANDSCAPE DESIGN www.barraco.net 2371 MAGNOLIA BLVD., SUITE 100 FORT MYERS, FLORIDA 33902-3503 PHONE (239) 451-3170 FAX (239) 451-3185 FLORIDA CERTIFICATE OF AUTHORIZATION ENGINEERING 7766 - SURVEYING 18-4248 PREPARED BY:	
WINDHAM DEVELOPMENT 35400 WOODWARD AVENUE SUITE 200 BLOOMFIELD HILLS, MI 48304 PHONE (248) 290-5300 FAX (248) 290-5308	
PROJECT DESCRIPTION A PARCEL OF LAND IN SECTION 10 TOWNSHIP 44 SOUTH RANGE 23 EAST CITY OF CAPE CORAL, LEE COUNTY, FLORIDA	
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EXHIBIT "B"

Barraco
and Associates, Inc.

www.barraco.net
Civil Engineers, Land Surveyors and Planners

DESCRIPTION

Parcel in
Section 10, Township 44 South, Range 23 East
City of Cape Coral, Lee County, Florida

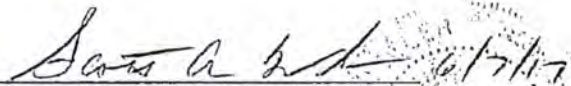
A tract or parcel of land lying in Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, said tract or parcel of land being more particularly described as follows:


Commencing at Northeast Corner of said Section 10 run N89°44'21"W along the North line of said Section 10 for 1,397.60 feet; thence run S00°15'39"W for 50.00 feet to an intersection with the South line of the North 50 feet of said Section 10, also being the South right of way line of Tropicana Parkway, as described in a deed recorded in Official Records Book 1817, at Page 1072, Lee County Records and the POINT OF BEGINNING.

From said Point of Beginning run S00°15'39"W for 67.18 feet; thence run S60°03'17"W for 269.61 feet; thence run N29°56'43"W for 20.00 feet; thence run N60°03'17"E for 258.11 feet; thence run N00°15'39"E for 55.68 feet to an intersection with said South right of way line of Tropicana Parkway; thence run S89°44'21"E along said South right of way line for 20.00 feet to the POINT OF BEGINNING.

Containing 0.15 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear S00°00'02"W.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949



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Post Office Drawer 2800 • Fort Myers, FL 33902
Phone (239) 461-3170 • Fax (239) 461-3169

B3 OF B10

(P.B. 17, PG. 2, L.C.R.) "Cape Coral Unit 41"

North 1/4 Cor.
Section 10

N=848145.05(Y)
E=655519.14(X)

Section Line

Tropicana

(100' WIDE RIGHT OF WAY)

S89°44'21"E 2690.21'

Section 3
Section 10

RIGHT OF WAY TO CITY OF CAPE CORAL
(O.R. 1817, PG. 1072, L.C.R.)

**POINT OF
COMMENCEMENT**

Northeast Cor. Section 10

N=848132.81(Y)
E=659209.16(X)

N89°44'21"W 1397.60' (TIE)

Parkway

POINT OF BEGINNING

N=848089.17(Y) E=657611.43(X)

S89°44'21"E 20.00'

55.68'

N00°15'39"E

N=848033.59(Y)
E=657791.18(X)

S00°15'39"W
67.18'

258.11'
AREA = 0.15 Ac.
269.61'

N60°03'17"E

N29°56'43"W 20.00'

S60°03'17"W

N=847897.43(Y)
E=657577.52(X)



NOTES:

1. ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF. UNLESS OTHERWISE NOTED DISTANCES ARE ALSO (U.S. SURVEY FEET) GROUND AND CAN BE MULTIPLIED BY 0.99994118 TO OBTAIN GRID DISTANCES.
2. D.B. - DENOTES DEED BOOK.
3. INST. No. - DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
4. O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
5. (P) - DENOTES PLAT.
6. P.B. - DENOTES PLAT BOOK.
7. PG. - DENOTES PAGE.
8. BEARINGS AND COORDINATES HEREON ARE STATE PLANE FLORIDA WEST ZONE (NAD1983 (NSRS 2007)) AND ARE BASED THE EAST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 10 TO BEAR S00°00'02"W.
9. DESCRIPTION IS ATTACHED.

THIS IS NOT A SURVEY

SCOTT A. WHEELER (FOR THE FIRM - LB-6940)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5949

DATE SIGNED: 6/7/17

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL
RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

Barraco
and Associates, Inc.

CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING - LANDSCAPE DESIGN
www.barraco.net

22711 MAGREGOR BLVD., SUITE 100
FORT MYERS, FLORIDA 33902-2020
PHONE: (239) 461-3170
FAX: (239) 461-3169

FLORIDA CERTIFICATE OF AUTHORIZATION
ENGINEERING REG. - SURVEYING LB-6940

**WINDHAM
DEVELOPMENT**

38400 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

PHONE: (248) 258-5300
FAX: (248) 258-5305

PROJECT DESCRIPTION

A PARCEL OF LAND
IN
SECTION 10
TOWNSHIP 44 SOUTH
RANGE 23 EAST
CITY OF CAPE CORAL,
LEE COUNTY,
FLORIDA

PROJECT SURVEYOR



FILE NAME: C:\WORKING\2017\20170607\20170607.DWG
LAYOUT: 2
LOCATION: C:\WORKING\2017\20170607\20170607.DWG
PLOT DATE: JUL 4 10:20 - 10:21 AM
PLOT BY: PETER GLENN
DRAWING DATA
SURVEY DATE: 06/07/2017
DRAWN BY: P. GLENN
CHECKED BY: JAW
SCALE: 1"=40'
FIELD BOOK:

PLAN REVISIONS

STAMP/REMARKS
STORMWATER BASIN/MENT 97

SKETCH TO
ACCOMPANY
DESCRIPTION

PROJECT / FILE NO. 2205
10-4423

SHEET NUMBER
2 OF 2

EXHIBIT "B"

Barraco
and Associates, Inc.

www.barraco.net
Civil Engineers, Land Surveyors and Planners

DESCRIPTION

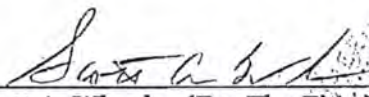
Parcel in
Section 10, Township 44 South, Range 23 East
City of Cape Coral, Lee County, Florida


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 Northeast Corner of said Section 10 run $S00^{\circ}00'02''W$ along the East line of said Section 10 for 1,246.94 feet; thence run $N89^{\circ}59'58''W$ for 50.00 feet to an intersection with the West line of the East 50 feet of said Section 10, also being the West right of way line of Nelson Road, as described in a deed recorded in Official Records Book 791, at Page 464, Lee County Records and the POINT OF BEGINNING.

From said Point of Beginning run $S00^{\circ}00'02''W$ along said West right of way line for 20.00 feet; thence run $N89^{\circ}59'58''W$ for 267.06 feet; thence run $N00^{\circ}00'02''E$ for 20.00 feet; thence run $S89^{\circ}59'58''E$ for 267.06 feet to the POINT OF BEGINNING.
Containing 0.12 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear $S00^{\circ}00'02''W$.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949



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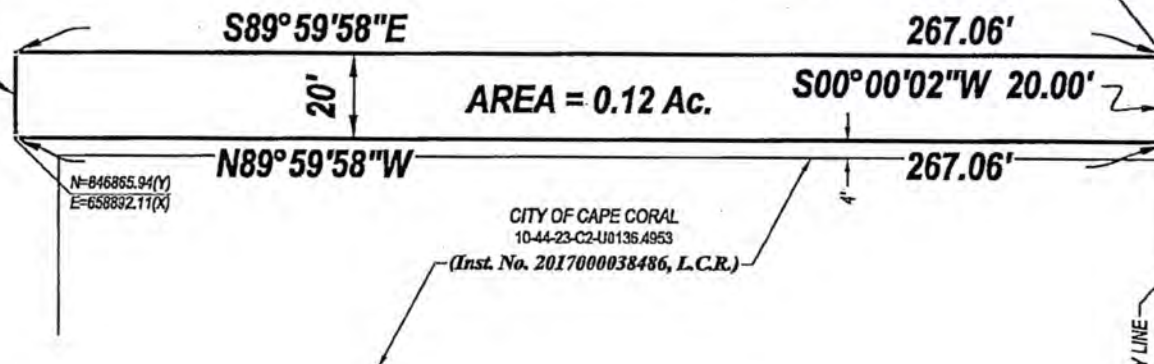
Post Office Drawer 2800 • Fort Myers, FL 33902
Phone (239) 461-3170 • Fax (239) 461-3169

B5 OF B10

N00°00'02"E 20.00'

POINT OF COMMENCEMENT
Northeast Cor. Section 10

POINT OF BEGINNING
N=846885.94(Y) E=659159.15(X)



NOTES:

1. ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF. UNLESS OTHERWISE NOTED DISTANCES ARE ALSO (U.S. SURVEY FEET) GROUND AND CAN BE MULTIPLIED BY 0.99994119 TO OBTAIN GRID DISTANCES.
2. D.B. - DENOTES DEED BOOK.
3. INST. No. - DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
4. O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
5. (P) - DENOTES PLAT.
6. P.B. - DENOTES PLAT BOOK.
7. PG. - DENOTES PAGE.
8. BEARINGS AND COORDINATES HEREON ARE STATE PLANE FLORIDA WEST ZONE (NAD1983 (NSRS 2007)) AND ARE BASED THE EAST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 10 TO BEAR S00°00'02"W.
9. DESCRIPTION IS ATTACHED.



THIS IS NOT A SURVEY

SCOTT A. WHEELER (FOR THE FIRM - LB-6940)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5949

DATE SIGNED: 6/7/17

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

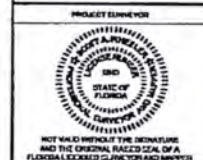
Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING - LANDSCAPE DESIGN
www.barraco.net
2271 MADRISON BLVD., SUITE 100
FORT MYERS, FLORIDA 33622-2902
PHONE: (239) 401-5170
FAX: (239) 401-5100
FLORIDA CERTIFICATE OF AUTHORIZATION
ENGINEERING 7505 - SURVEYING LB-6940

WINDHAM DEVELOPMENT

36400 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

PHONE (248) 250-5300
FAX (248) 250-5300

PROJECT DESCRIPTION
A PARCEL OF LAND
IN
SECTION 10
TOWNSHIP 44 SOUTH
RANGE 23 EAST
CITY OF CAPE CORAL,
LEE COUNTY,
FLORIDA



FILE NAME	DESCRIPTION (DWG)
LAYOUT	1
LOCATION	SECTION 10 SURVEY/REVISION
PLAT DATE	WEB 6-19-2017 - 10:21 AM
PLAT BY	PETER OLSEN
DRAWING DATA	
SURVEY DATE	06-19-2017
DRAWN BY	P. OLSEN
CHECKED BY	JAMP
SCALE	1"=40'
FIELD BOOK	

PLAN REVISIONS	

STAMP NUMBERS
STORMWATER EASEMENT #1

SKETCH TO
ACCOMPANY
DESCRIPTION

PROJECT FILE NO.	SHEET NUMBER
23305 10-44-23	2 OF 2

EXHIBIT "B"

Barraco
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Civil Engineers, Land Surveyors and Planners

DESCRIPTION

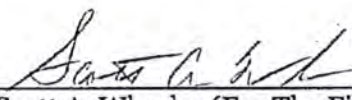
Parcel in
Section 10, Township 44 South, Range 23 East
City of Cape Coral, Lee County, Florida

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 Northeast Corner of said Section 10 run $S00^{\circ}00'02''W$ along the East line of said Section 10 for 2,177.84 feet; thence run $N89^{\circ}59'58''W$ for 50.00 feet to an intersection with the West line of the East 50 feet of said Section 10, also being the West right of way line of Nelson Road, as described in a deed recorded in Official Records Book 791, at Page 464, Lee County Records and the POINT OF BEGINNING.

From said Point of Beginning run $S00^{\circ}00'02''W$ along said West right of way line for 45.79 feet; thence run $N89^{\circ}59'58''W$ for 15.00 feet; thence run $N00^{\circ}00'02''E$ for 18.34 feet; thence run $N28^{\circ}39'21''E$ for 31.28 feet to the POINT OF BEGINNING.
Containing 0.01 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear $S00^{\circ}00'02''W$.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

L:\23305\Survey\Descriptions\sketches\23305SK07.doc

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Phone (239) 461-3170 • Fax (239) 461-3169

B7 OF B10

POINT OF COMMENCEMENT

Northeast Cor. Section 10

POINT OF BEGINNING

N=845955.10(Y) E=659159.14(X)

N28°39'21"E 31.28'

AREA = 0.01 Ac.

S00°00'02"W 45.79'

N00°00'02"E 18.34'

N=845909.31(Y)
E=659144.14(X)

N89°59'58"W 15.00'

RIGHT OF WAY LINE

RIGHT OF WAY TO LEE COUNTY
(O.R. 791, PG. 484, L.C.R.)

Nelson

N=845440.58(Y)
E=659209.14(X)

East 1/4 Cor.
Section 10

N89°59'58"W
50.00' (TIE)

2177.84' (TIE)
S00°00'02"W
S00°00'02"W 2692.41'

Road

Section 10

Section 11
(100' WIDE RIGHT OF WAY)

NOTES:

- ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF. UNLESS OTHERWISE NOTED DISTANCES ARE ALSO (U.S. SURVEY FEET) GROUND AND CAN BE MULTIPLIED BY 0.99994118 TO OBTAIN GRID DISTANCES.
- D.B. - DENOTES DEED BOOK.
- INST. No. - DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
- O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
- (P) - DENOTES PLAT.
- P.B. - DENOTES PLAT BOOK.
- PG. - DENOTES PAGE.
- BEARINGS AND COORDINATES HEREON ARE STATE PLANE FLORIDA WEST ZONE (NAD1983 (NSRS 2007)) AND ARE BASED THE EAST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 10 TO BEAR S00°00'02"W.
- DESCRIPTION IS ATTACHED.



THIS IS NOT A SURVEY

SCOTT A. WHEELER (FOR THE FIRM - LB-6940)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5949

DATE SIGNED: 6/7/17

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL
RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

Barraco
and Associates, Inc.

CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING - LANDSCAPE DESIGN

www.barraco.net

2771 WOODBRIDGE BLVD., SUITE 100
FORT MYERS, FLORIDA 33902-2002
PHONE (239) 491-3170
FAX (239) 481-5189

FLORIDA CERTIFICATE OF AUTHORIZATION
EXPIRATION DATE 12/31/2018

PROJECT NO.

WINDHAM DEVELOPMENT

35400 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

PHONE (248) 290-5300
FAX (248) 290-5300

PROJECT DESCRIPTION

A PARCEL OF LAND
IN
SECTION 10
TOWNSHIP 44 SOUTH
RANGE 23 EAST
CITY OF CAPE CORAL,
LEE COUNTY,
FLORIDA

PROJECT SURVEYOR



NOT VALID WITHOUT THE SIGNATURE
AND THE ORIGINAL RAISED SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER

FILE NAME	20170607.DWG
LAYOUT	1
LOCATION	20170607.DWG
PLOT DATE	WED, 6/7/2017 - 10:58AM
PLOT BY	PETER OLSEN
DRAWING DATA	
SURVEY DATE	06/07/2017
DRAWN BY	P. OLSEN
CHECKED BY	SWP
SCALE	1"=40'
FIELD BOOK	

PLAN REVISIONS

NO.	DESCRIPTION

STAMP NUMBER

STORMWATER MANAGEMENT

SKETCH TO
ACCOMPANY
DESCRIPTION

PROJECT / PLANT	SHEET NUMBER
2300	2 OF 2
10-44-21	

EXHIBIT "B"

Barraco
and Associates, Inc.

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Civil Engineers, Land Surveyors and Planners

DESCRIPTION

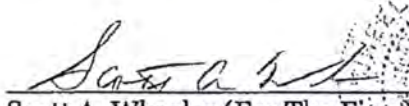
Parcel in
Section 10, Township 44 South, Range 23 East
City of Cape Coral, Lee County, Florida


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 Northeast Corner of said Section 10 run N89°44'21"W along the North line of said Section 10 for 50.00 feet to an intersection with the West line of the East 50 feet of said Section 10, also being the West right of way line of Nelson Road, as described in a deed recorded in Official Records Book 791, at Page 464, Lee County Records; thence run S00°00'02"W along said West line for 50.00 feet to an intersection with the South line of the North 50 feet of said Section 10, also being the South right of way line of Tropicana Parkway, as described in a deed recorded in Official Records Book 1817, at Page 1072, Lee County Records and the POINT OF BEGINNING.

From said Point of Beginning continue S00°00'02"W along said West right of way line of Nelson Road for 35.00 feet; thence run N89°44'21"W parallel with said North line of Section 10 for 242.20 feet; thence run S00°15'39"W for 98.41 feet; thence run S35°53'25"W for 44.24 feet; thence run N54°06'35"W for 20.00 feet; thence run N35°53'25"E for 37.82 feet; thence run N00°15'39"E for 126.98 feet to an intersection with said South line of the North 50 feet of said Section 10, also being the South right of way line of said Tropicana Parkway; thence run S89°44'21"E along said South line right of way line for 262.05 feet to the POINT OF BEGINNING. Containing 0.27 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear S00°00'02"W.

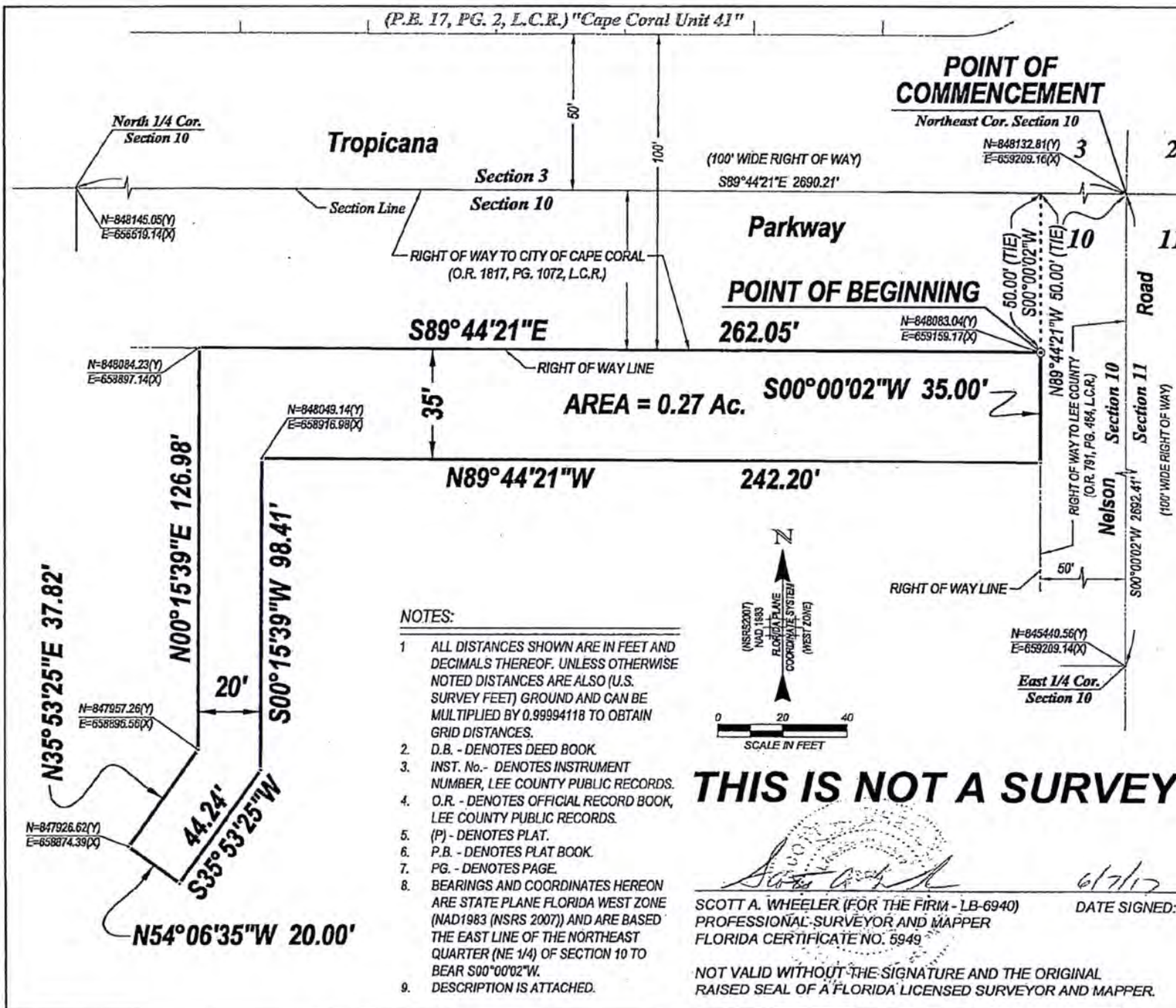

Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949



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B9 OF B10



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BLOOMFIELD HILLS, MI 48304
PHONE (248) 290-5300
FAX (248) 290-5306

A PARCEL OF LAND IN SECTION 10 TOWNSHIP 44 SOUTH RANGE 23 EAST CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

PROJECT DESCRIPTION

PROJECT SURVEYOR

FILE NAME 2280022000
LAYOUT 2
LOCATION J2280022000SURVEYING0004
PLAT DATE JUL 2007 - 10/01/07
PLAT BY PETER OLSEN
DRAWING DATA
SURVEY DATE 06-10-07
DRAWN BY P. OLSEN
CHECKED BY GOF
SCALE 1"=60'
FIELD BOOK
PLAN REVISIONS
05-01-07 REV. CLOSURE

STORMWATER CASEMENT NO.

SKETCH TO ACCOMPANY DESCRIPTION

PROJECT FILE NO. 2280022000
SHEET NUMBER 2 OF 2

EXHIBIT C

Stonewater PDP Amendment (PDP17-0002)

Planning Division
Final Project Staff Report

Prepared by Mike Struve, AICP, LEED Green Associate,
Planning Team Coordinator

Approved by Robert H. Pederson, AICP, Planning Manager

July 18, 2017

PURPOSE

This document provides a single, consolidated review for a Planned Development Project (PDP) entitled "Stonewater PDP Amendment." Within this report the following topics are addressed:

- Description of the Stonewater Property and Project;
- Purpose of the PDP amendment – requests;
- Analysis;
- General standards and requirements for PDPs;
- Concurrency review;
- Consistency with the City Comprehensive Plan; and
- Project recommendation.

DESCRIPTION OF THE STONEWATER PROPERTY AND PROJECT

The Stonewater development is a Mixed-Use Planned Development Project (PDP) that was approved by Ordinance 15-15. The development is ±201 acres at the southwest intersection of Tropicana Parkway West and Nelson Road. This PDP approved a subdivision for 337 single-family homes. Ordinance 15-15 also granted the following:

- A rezoning of 150.1 acres from Agricultural (A) to Residential Development (RD);
- A special exception for a maximum of 10 model homes in both the RD and Market-Place Residential (MR) Districts;
- Deviations to the Land Use and Development Regulations (LUDRs) to allow relief from standards in the RD District to minimum lot area, lot width, and front, side, and rear setbacks;
- Deviations to the LUDRs to allow relief from standards in the MR District to minimum lot area, lot width, and side and rear setbacks;
- A deviation to the Engineering and Design Standards (EDS) to allow subdivision streets with a right-of-way width of 50 feet; and
- A deviation to the EDS to allow a Valley Gutter along subdivision streets.

In 2017 the developer was granted an extension of time for beginning construction on the project based on an emergency management declaration issued by the Governor. Substantial construction for the project is now required to occur on or prior to May 6, 2018.

PURPOSE OF THE PDP AMENDMENT - REQUESTS

Removal of City-Owned Sites from the Stonewater Project Area

In 2017 the City of Cape Coral purchased two undeveloped parcels in the project from the developer, Stonewater II, LLC (see Exhibit "A"). The City will construct and operate a new master pump station and a new lift station on these properties (see Table 1). Both facilities will assist with implementing the North 2 Utilities Expansion Project.

Table 1. Information on the two City-owned parcels in the Stonewater Development.

Address	ID Number	Area (sq. ft.)	Future Land Use	Zoning	Future Use
530 Nelson Road North	MSP 618	32,086	Commercial Activity Center	MR	Master pump station
830 Tropicana Parkway West	LS 617	6,400	Commercial Activity Center	MR	Lift station

This PDP amendment will remove two parcels purchased by the City from the Stonewater project area. This action will exempt these two properties from future PDP amendments initiated by the Stonewater developer for the project. This will also allow the City to seek entitlements and develop both sites without amending the PDP. Concurrent with the PDP application, the City has filed land use and zoning applications for both properties. A future land use change from Commercial Activity Center to Public Facilities has been requested. A rezone of both parcels is requested from the MR to the Institutional District. Both applications are being reviewed independent of this PDP amendment and will require separate publicly noticed hearings.

The Stonewater Project originally required PDP approval for several reasons that included: subdivision and LUDR deviations that could only be approved by PDP, the project location (in the Urban Services Reserve Area), and future land use and zoning of the site (CAC Future Land Use Classification and MR Zoning). While removing a property from a PDP is not directly addressed in the LUDRs, the City has handled a similar request in the past through a PDP amendment. In 2015 the City was deeded 15.24 acres from the developer of Coral Lakes for satisfying developer obligations regarding the Andalusia Boulevard Roadway Improvement Agreement. Ordinance 6-15 amended the Coral Lakes Project by removing this City-owned land from the PDP.

Amendment to Project Conditions

This PDP amendment revises a condition appearing in Ordinance 15-15 pertaining to off-site improvements. Ordinance 15-15 required the developer to construct left- and right-turn lanes at the project entrance on Tropicana Parkway, and a left-turn lane at the project entrance at Nelson Road. This PDP amends this condition by requiring the City to construct the turn lanes at both project entrances. In exchange for constructing these turn lanes, the developer will grant and convey easements to the City over a portion of the Stonewater property providing drainage and stormwater treatment from runoff produced by the widening of Tropicana Parkway and Nelson Road.

ANALYSIS

Removal of City-Owned Sites from the Stonewater Project Area

Both sites have frontage along City streets. LS 617 will have permanent access from Tropicana Parkway. MSP 618 will have permanent access from Nelson Road. Once the infrastructure for the Stonewater Subdivision is constructed, this latter site will also have internal access from a private street.

Both parcels are relatively small – each is less than an acre. Each parcel complies with the dimensional standards for lots found in the MR District. Both sites will also comply with similar dimensional standards for lots in the Institutional District that are developed with Essential Service Facilities – Group 1 Uses.

Staff also reviewed Ordinance 15-15 to determine whether the removal of these two properties from the PDP will have any adverse effects on this development. Both sites are small and are located along the periphery of the development. Since each site has frontage on a public street, each site will be accessible without having to enter Stonewater. A review of the conditions in Ordinance 15-15 revealed that removing these sites from the development will not have a negative effect on the project.

The two sites will be developed with a lift station and a master pump station. Lift stations receive wastewater from homes and pump the wastewater to a master pump station. The master pump station then pumps untreated wastewater to a wastewater treatment plant for processing. Both facilities will work in tandem to provide centralized sewer services to the Stonewater Development. Delivering centralized sewer services, thereby reducing the dependence of a new residential subdivision on septic systems will promote the health, safety, and welfare of the public.

Amendment to the Off-Site Improvement Condition

The City Council on June 12, 2017 approved Resolution 108-17. This resolution approved an agreement between the City and Stonewater II, LLC. The City agreed to construct turn lanes on Nelson Road and Tropicana Parkway that were previously the responsibility of the developer. The developer, in turn, agreed to grant easements to the City for conveying runoff generated from these two streets through the Stonewater project and into lakes owned by the developer. Amending this condition within the development order simply codifies an agreement previously approved by the City Council and subsequently executed between the two parties (the City and the developer).

GENERAL STANDARDS AND REQUIREMENTS FOR PDPS

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

- A. *Environmental control standards:* Since this project involves an amendment to an existing PDP and does not authorize new development beyond that previously approved, this standard is not applicable.
- B. *Maintenance of improvements:* This amendment does not authorize new development. Compliance with the City's landscaping regulations will be reviewed at the time of site plan review.
- C. *Consistency with Comprehensive Plan:* This project is consistent with several policies and goals contained within the Comprehensive Plan that are discussed in greater detail later in this report.

- D. *Financial Responsibility:* This amendment does not authorize new development. As a result, this standard is not applicable.
- E. *Dimensional requirements:* Lots within the Stonewater Development were approved for deviations from the LUDRs from several dimensional standards. The two parcels owned by the City that will be removed from the PDP comply with dimensional standards for the MR District.
- F. *Maximum density:* The Stonewater PDP was approved by Ordinance 15-15 with a density of 2.25 Dwelling Units/acre. The RD District allows a maximum of 16 DUs/acre. The project complies with this standard.
- G. *Minimum parcel size:* The project area is ± 201 acres. The original Stonewater project involved a subdivision request that required approval by PDP. Requested changes required a PDP amendment. The project complies with this standard.
- H. *Time limitation:* In 2017, the developer was granted an extension for beginning construction based on an emergency management declaration signed by the Governor. Substantial construction for the project is now required to occur on or prior to May 6, 2018.
- I. *Ownership requirements:* The City of Cape Coral owns two parcels subject to this PDP amendment.
- J. *Special exceptions:* No special exceptions are sought as part of this PDP amendment. As a result, the project complies with this standard.
- K. *Deviations:* No deviations are sought as part of this PDP amendment. As a result, the project complies with this standard.
- L. *Underground Utilities:* This amendment does not authorize new development. As a result, this standard is not applicable.

CURRENCY REVIEW

The Stonewater project met concurrency requirements for roads, sewer, water, drainage, solid waste, and parks when the project was approved in 2015. Since the current amendment is primarily limited to removing two small parcels from the project area, the Stonewater project will continue to meet concurrency requirements.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

This project is consistent with the policies listed below.

Capital Improvement Element

Policy 1.5. Public facility expansion and construction (including the construction of schools and public medical facilities) shall be located in such manner as to avoid impacts on unique or significant natural systems.

Policy 2.2. As of the adoption date of the City of Cape Coral 2030 Comprehensive Plan, new public facilities, except for recreational facilities, shall not be located within the Coastal High-Hazard Area.

Conservation and Coastal Management Element

Policy 1.1.7. The City of Cape Coral will continue to extend sanitary sewer and potable water facilities to previously unserved areas of the City, and will coordinate with private and county sources for the provision of solid waste facilities to meet the existing and projected needs identified within the Capital Improvements and Infrastructure Elements of this Comprehensive Plan, and consistent with the City's Facilities Planning Report, prepared by Montgomery Watson Harza (MWH) in 2005.

Policy 1.5.4. The City will reduce the effects of septic tank seepage on surface water quality by extending central sewer service to all area as rapidly as possible, in accordance with the adopted 2005-2010 Utility Extension Program (2205).

Policy 1.7.2. The City will maintain its current policy requiring mandatory connection to sewer and water service when such service is provided, thus reducing the number of septic tanks and wells in use.

Infrastructure Element

Policy 1.1.7. New City of Cape Coral potable water, wastewater, and public irrigation water facilities, except for water distribution or wastewater collection facilities, shall not be located within the Coastal High-Hazard Area.

PROJECT RECOMMENDATION

Staff finds that this PDP amendment is consistent with the Comprehensive Plan and LUDRs. Removal of two City-owned sites from the PDP project area will allow future development on these sites without requiring a PDP amendment. This amendment will result in the Developer owning 100% of the property within the PDP thus giving the developer greater control over amending the project in the future. Staff supports all applicant requests and recommends approval of this PDP amendment.

Staff Contact Information

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

Exhibit "A." Location of City-owned parcels in the Stonewater Project.

LS 617

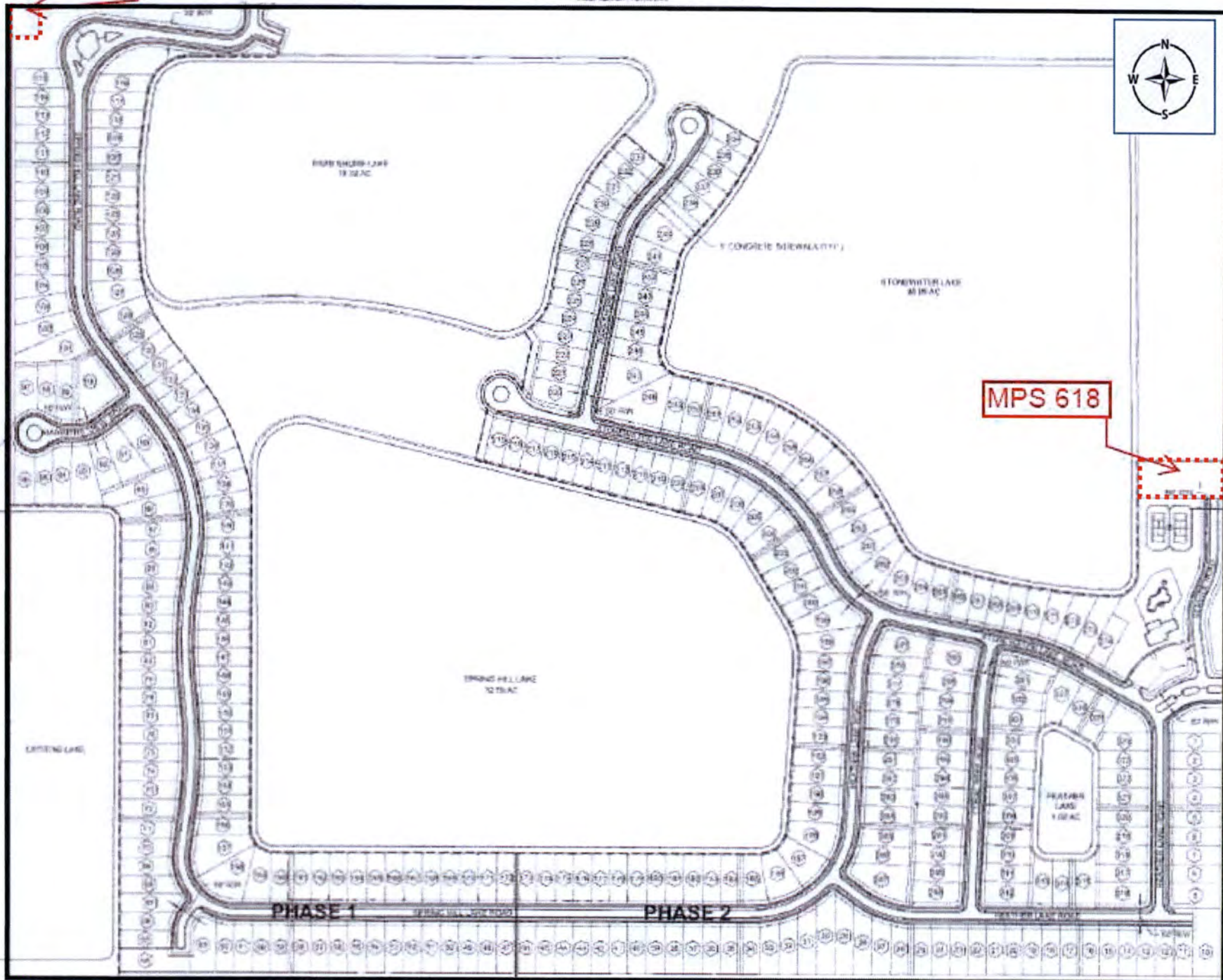
Tropicana Parkway



MPS 618

Nelson Road

Project boundary





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: PDP17-0002

REQUEST: An ordinance amending Ordinance 15-15 approving a Planned Development Project in the City of Cape Coral entitled "Stonewater," amending the Planned Development Project approval for certain property located in Section 10, Township 44, Range 23 East, Cape Coral, Lee County, Florida as more particularly described herein, property located at the southwest corner of the intersection of Tropicana Parkway West and Nelson Road; removing property from the Planned Development Project as more particularly described herein; amending development order conditions including an off-site improvement requirement; 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 for severability and an effective date.

LOCATION: Project area located at the southwest corner of the intersection of Tropicana Parkway West and Nelson Road

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

PROPERTY OWNER(S): Stonewater II, LLC and the City of Cape Coral

AUTHORIZED REPRESENTATIVE: City of Cape Coral, Mike Struve

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 AM on Tuesday, July 25, 2017 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.

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.

Cape Coral

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NOTICE OF PUBLIC HEARING

CASE NUMBER: PDP17-0002

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by order of
Rebecca van Deutekom, MMC
City Clerk
REF # PDP17-0002
AD# 2269641 July 15, 2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: City of Cape Coral

APPLICATION NO: PDP17-0002

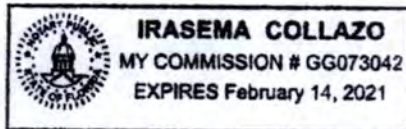
STATE OF FLORIDA)
) §
COUNTY OF LEE)

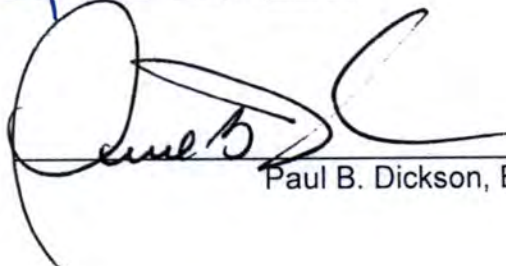
I, Paul B. Dickson, BO, having first been duly sworn according to law, state on my oath the following:

That I am the Acting 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 17th day of July, 2017.



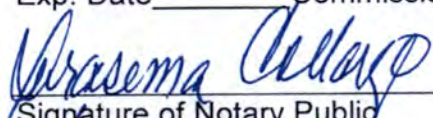


Paul B. Dickson, BO

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 17th day of July, 2017, by Paul B. Dickson, BO, who is personally known to me and who did not take an oath.

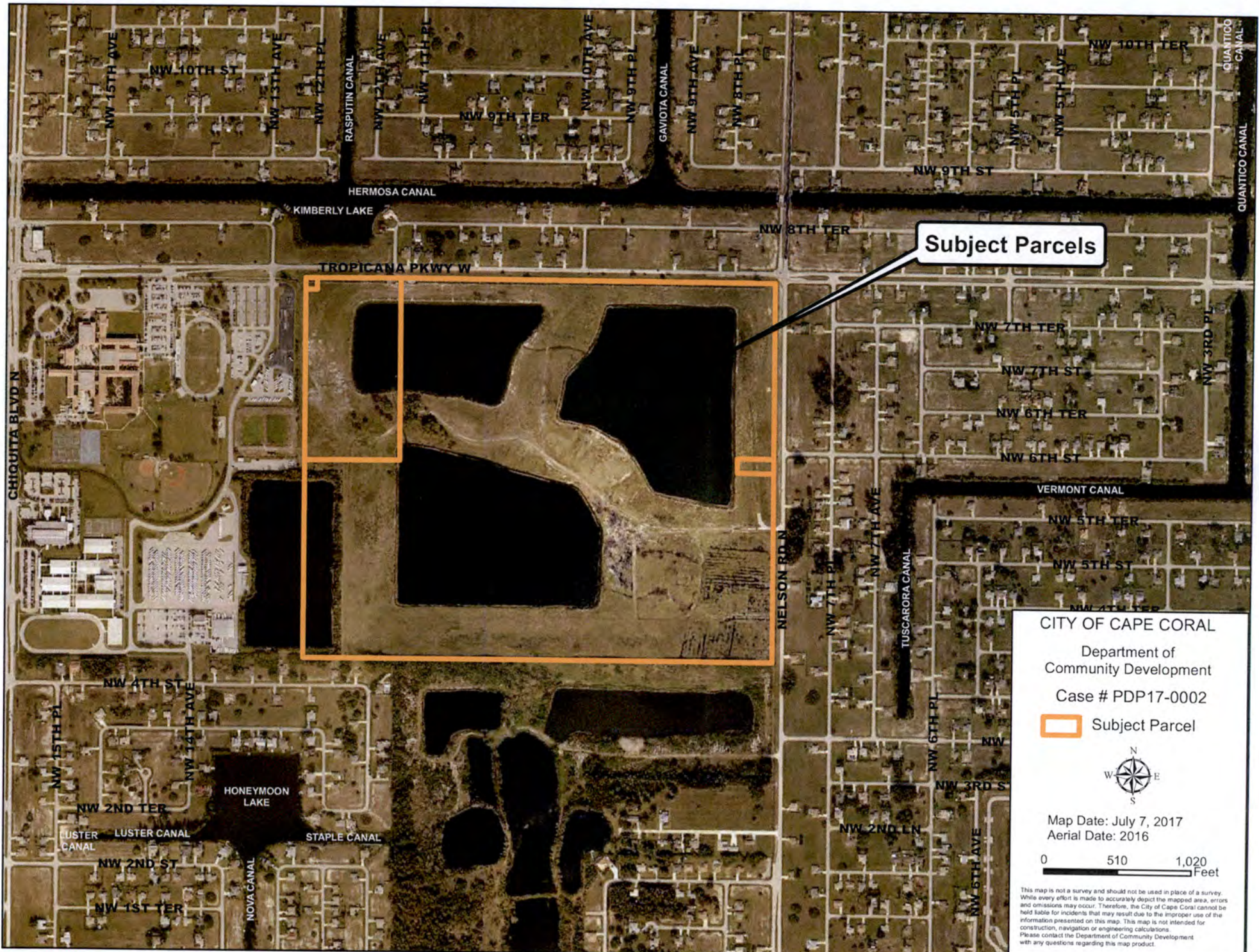
Exp. Date _____ Commission # _____



Signature of Notary Public

IRASEMA COLLAZO

Print Name of Notary Public




Subject Parcels

CITY OF CAPE CORAL

Department of
Community Development

Case # PDP17-0002

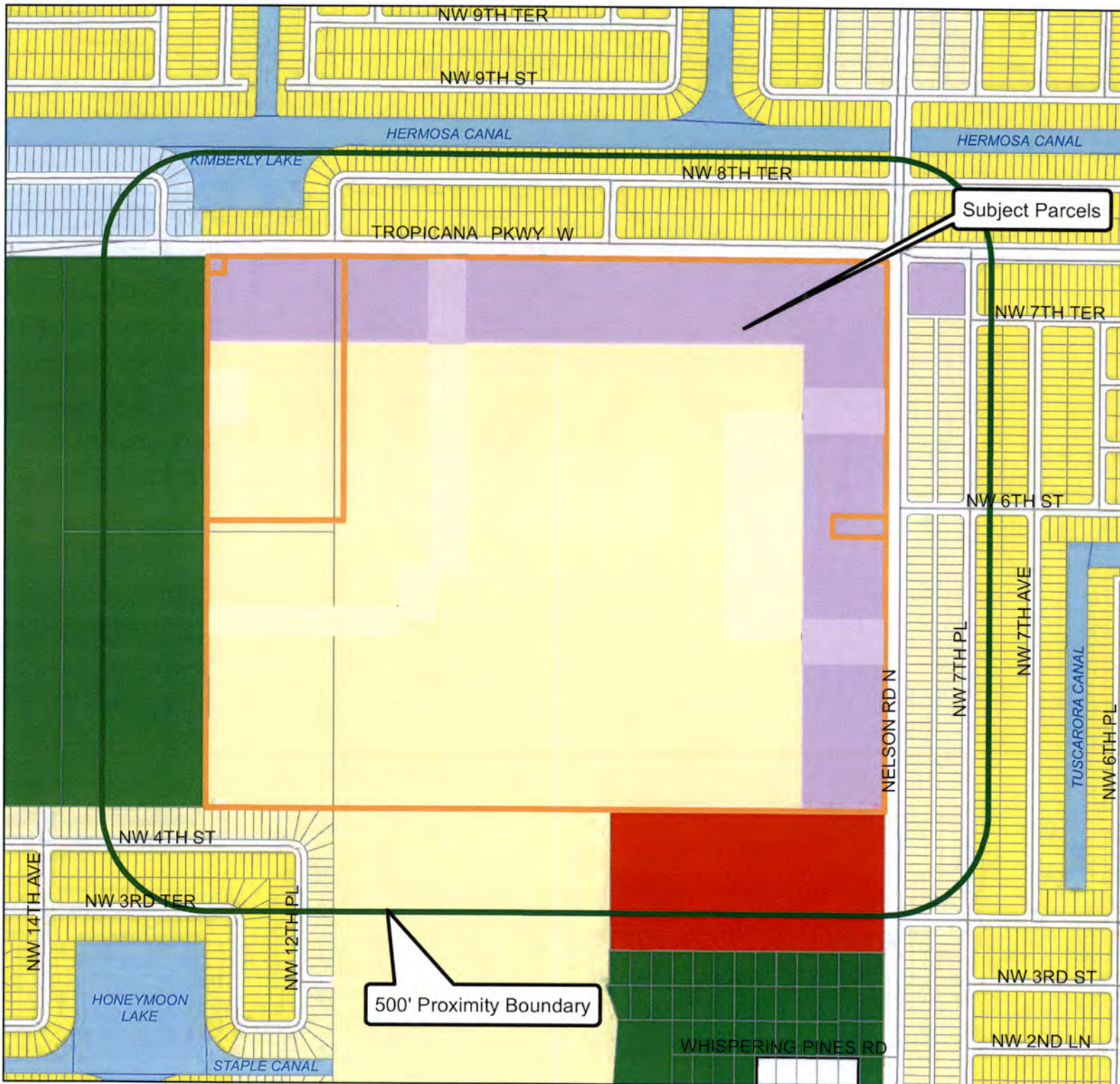
 Subject Parcel



Map Date: July 7, 2017
Aerial Date: 2016

0 510 1,020
Feet

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CITY OF CAPE CORAL

Department of
Community Development
Planning Division

ZONING MAP 500 Proximity Boundary

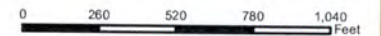
Case No. PDP17-0002

Legend

-  Subject Parcels
-  500' Boundary
-  A
-  C-1
-  MR
-  P-1
-  R-1B
-  RD
-  Canals/Lakes



JULY 5, 2017



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KRKA