Mayor

Marni L. Sawicki **Council Members** <u>District 1</u>: James D. Burch <u>District 2</u>: John M. Carioscia Sr. <u>District 3</u>: Marilyn Stout <u>District 4</u>: Richard Leon <u>District 5</u>: Rana M. Erbrick <u>District 6</u>: Richard Williams <u>District 7</u>: Jessica Cosden



City Manager John Szerlag City Attorney Dolores Menendez Acting City Auditor Oscar Claudio City Clerk Rebecca van Deutekom

1015 Cultural Park Blvd. Cape Coral, FL

AGENDA FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

April 17, 2017

4:30 PM

Council Chambers

PLEDGE OF CIVILITY

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

VIDEO

1. MEETING CALLED TO ORDER

A. MAYOR SAWICKI

2. INVOCATION/MOMENT OF SILENCE

A. COUNCILMEMBER WILLIAMS

3. PLEDGE OF ALLEGIANCE

A. NEDRA RITCH - DIPLOMAT ELEMENTARY

4. ROLL CALL

A. MAYOR SAWICKI, COUNCIL MEMBERS BURCH, CARIOSCIA, COSDEN, ERBRICK, LEON, STOUT, WILLIAMS

5. CHANGES TO AGENDA/ADOPTION OF AGENDA

6. RECOGNITIONS/ACHIEVEMENTS

- A. NONE
- 7. APPROVAL OF MINUTES
 - A. NONE
- 8. BUSINESS

A. PUBLIC COMMENT - CONSENT AGENDA

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

- B. CONSENTAGENDA
 - (1) Resolution 46-17 Approve the waiver of the procurement process to expedite the sewer main repair located at 808 Cape Coral Parkway West, to Denco Construction, Inc. to the lowest responsive, responsible quote. The damaged sewer main is deformed or "egg shaped" and is allowing intrusion of ground water inflow into the City's sanitary sewer collection system. The standard competitive solicitation process would take several months to complete and the optimal time for the repairs is toward the end of April when traffic is reduced and before the rainy season begins. Authorize the contract amount of \$297,880 with a 15% contingency of \$44,682 for a total project cost of \$342,562 and authorize the City Manager or designee to execute the contract; Department: Utilities; Dollar Value: \$342,562; (Water & Sewer Fund)
 - (2) Resolution 54-17 Post Project Maintenance Agreement between Florida Department of Transportation and the City of Cape Coral; Department: Public Works; Dollar Value: N/A; (Fund: N/A)
 - Resolution 55-17 Donation of Out of Service Fire Gear to Ida Baker High School Fire Academy; Department: Fire; Dollar Amount: \$0; (Fund: N/A)
 - (4) Resolution 56-17 Approve the contract with Paints & Coatings, Inc. of North Fort Myers, as a sole source vendor for the repair work and IET coating application for the Everest Water Reclamation Facility's Headworks structure's concrete flow channels and chambers, in the amount of \$153,020 and authorize the City Manager or designee to execute the contract; Department: Utilities; Dollar Value: \$153,020; (Water and Sewer Fund)
 - (5) Resolution 57-17 A Resolution to Repeal Resolution 44-16, a Resolution of Necessity for the acquisition of property for Canal Pump Station #1 as a result of voluntary acquisition; Department: Real Estate/City Attorney; Dollar Value: N/A; (Fund: N/A)
 - (6) Resolution 58-17 Approve increase of the City Controlled Contingency allocation, for contract #CON-PW16-64/GM in the amount of \$138,100, for the Greenscape Median Landscape Maintenance project, which was approved on September 26, 2016 under Resolution 163-16 and authorize the City Manager or Designee (project manager) to utilize the contingency funds for issuance of additional funding to the existing purchase orders. The vendors awarded were as

follows: Brent's Lawn and Tree Service, Inc; Brightview Landscape Services, Inc.; Superior Landscape Lawn Services, Inc. and John Fideli Landscape, LLC. The project is to cover expenses to replace vegetation due to traffic accidents, sight distance requirements and drought. The initial project was for the amount \$685,441 with an initial 15% city controlled contingency in the amount of \$102,816 which totaled \$788,257. This increase of contingency funds of \$138,100 would bring the total project cost to \$926,357; Department: Public Works Department; Dollar Amount \$138,100; (General Fund)

- (7) Resolution 62-17 Redesignation Agreement for the 2017 Housing Opportunities for Persons with AIDS (HOPWA) Grant Program; Department: Community Development; Dollar Value: \$416,644; (Fund: NA)
- C. CITIZENS INPUT TIME

A maximum of 60 minutes is set for input of citizens on matters concerning the City Government to include Resolutions appearing in sections other than Consent Agenda or Public Hearing; 3 minutes per individual.

- D. PERSONNEL ACTIONS
 - (1) NONE
- E. PETITIONS TO COUNCIL
 - (1) NONE
- F. APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS
 - (1) Burnt Store Road Right-of-Way / Planning and Zoning Alternate - Vacancy

9. ORDINANCES/RESOLUTIONS

- A. Public Hearings
 - (1) Ordinance 16-17 (ZA 16-0006*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In WHAT THE ORDINANCE ACCOMPLISHES: An ordinance amending the City of Cape Coral Zoning District Map by rezoning property located at 409-411 Hancock Bridge Parkway from Corridor (CORR) to Multi-Family Residential (R-3) zone.

Hearing Examiner Recommendation: Recommends approval of the application for rezoning of both parcels, with the caveat set forth in the recommendation order attached to agenda item. City Management Recommendation: Recommends approval.

(2) Ordinance 17-17 (PDP 16-0011*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In WHAT THE ORDINANCE ACCOMPLISHES: An ordinance amending Ordinance 6-98, which approved a Planned Development Project entitled "A-1 Shelters Self Storage, Hancock Creek Site," providing for PDP approval for certain property located at 2555 NE Pine Island Road and near the southeast corner of Diplomat Parkway East and NE 24th Avenue; expanding the project area by 6.1 acres; rezoning 8.3 acre from Corridor (CORR) to Corridor district with the Commerce Park Overlay (CORR/CPO); granting a deviation from the requirement that no more than 30% of the front surface of any exterior wall facing any public right-of-way except alleys shall be metal to allow a wall facing Diplomat Parkway to be composed entirely of metal; granting a deviation of 12 feet, 4 inches from the maximum wall height of 8 feet to allow a wall facing Diplomat Parkway 20 feet, 4 inches in height: granting a deviation from the requirement that building walls used for meeting the screening requirement within a CPO buffer be composed of stucco, brick, stone, textured concrete masonry units, or other concrete surfaces to allow the walls of four buildings near the western property line of the enclosed storage facility to be composed of metal; granting a deviation from the requirements of the Non-residential Design Standards to allow all buildings associated with the enclosed storage facility to be exempt from the Non-residential Design Standards.

Hearing Examiner Recommendation: Recommends approval of the Project, subject to the terms and conditions set forth in the recommendation order attached as back-up.

City Management Recommendation: Recommends approval with conditions.

- B. Introductions
 - Ordinance 12-17 (LU 16-0012) Set Public Hearing Date for May 1, 2017

WHAT THE ORDINANCE ACCOMPLISHES: An ordinance amending the City of Cape Coral Future Land Use Map from Single Family and Multi- Family by PDP to Single Family Residential for properties located in Units 33, 34, 35, 36-1, 37, 38, 41, 48, 49, 50, 54, 58, and 59, Cape Coral Subdivision, for properties located in the Whispering Pines Subdivision, and for properties lying in Section 10, Township 44 South, Range 23 East, Lee County, Florida; from Single Family and Multi-Family by PDP to Multiple Family Residential for properties located in Units 33, 37 and 58, Cape Coral Subdivision, and lying in Sections 29 and 32, Township 43 South, Range 24 East, Lee County, Florida; from Commercial Activity Center to Single Family Residential for properties located in Unit 49, Cape Coral Subdivision; from Commercial Activity Center to Multiple Family Residential for properties located in Unit 49, Cape Coral Subdivision; and from Urban Services Reserve Area to Urban Services Transition Area for properties located in Units 59, 60, 76, and 81, Cape Coral Subdivision, and for properties located in the West Cape Estates Subdivision. This large scale future land use amendment is a follow-up to LU 15-0004 (Ordinance 59-15) which brought over 4,000 acres in northern Cape Coral from the Urban Services Reserve Area into the Urban Services Transition Area.

P & Z Recommendation: the Planning and Zoning Commission/Local Planning Agency voted (5-0) to recommend approval of Ordinance 12-17.

City Management Recommendation: Recommends approval of the requested future land use map amendment.

(2) Ordinance 18-17 (ZA 16-0010*) Set Public Hearing Date for May 1, 2017

*Quasi-Judicial, All Persons Testifying Must be Sworn In WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning Map by rezoning property located at 9 Del Prado Boulevard North from Professional Office (P-1) to Pedestrian Commercial (C-1) zone.

Hearing Examiner Recommendation: Recommends approval of the application for rezoning.

City Management Recommendation: Recommends approval of the application for rezoning.

10. UNFINISHED BUSINESS

- A. Water Quality Update
- B. Resolution 53-17 Approving the Participation by the City in the Lake Okeechobee Regional Compact (Advanced by Mayor Sawicki)
- C. Legislative Issues Update

11. NEW BUSINESS

- A. Beyond Tribute Salute to Veterans (Advanced by Mayor Sawicki)
- B. Discussion of P3 State Lands Dedication Modification

12. REPORTS OF THE MAYOR AND COUNCIL MEMBERS

13. REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

14. TIME AND PLACE OF FUTURE MEETINGS

- A. A Committee of the Whole Meeting is Scheduled for Wednesday, April 19, 2017 at 9:00 a.m. in Council Chambers
- B. A Committee of the Whole Meeting is Scheduled for Monday, April 24, 2017 at 4:30 p.m. in Council Chambers

15. MOTION TO ADJOURN

GENERAL RULES AND PROCEDURES REGARDING THE CAPE CORAL CITY COUNCIL AGENDA

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

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

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

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

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

*PUBLIC HEARINGS DEPARTMENT OF COMMUNITY DEVELOPMENT CASES

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

- 1. The applicant, as well as witnesses offering testimony or presenting evidence, will be required to swear or affirm that the testimony they provide is the truth.
- 2. The order of presentation will begin with the City staff report, the presentation by the applicant and/or the applicant's representative; witnesses called by the applicant, and then members of the public.

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

Item Number: B.(1) Meeting Date: Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 46-17 Approve the waiver of the procurement process to expedite the sewer main repair located at 808 Cape Coral Parkway West, to Denco Construction, Inc. to the lowest responsive, responsible quote. The damaged sewer main is deformed or "egg shaped" and is allowing intrusion of ground water inflow into the City's sanitary sewer collection system. The standard competitive solicitation process would take several months to complete and the optimal time for the repairs is toward the end of April when traffic is reduced and before the rainy season begins. Authorize the contract amount of \$297,880 with a 15% contingency of \$44,682 for a total project cost of \$342,562 and authorize the City Manager or designee to execute the contract; Department: Utilities; Dollar Value: \$342,562; (Water & Sewer Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

- 1. Will this action result in a Budget Amendment? No
- 2. Is this a Strategic Decision?

No

If Yes, Priority Goals Supported are listed below. If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- The purpose of this request is to waive the procurement process to expedite the sewer main repair services located at 808 Cape Coral Parkway West, Cape Coral, FL. The damaged sewer main is deformed or "egg shaped" and is allowing intrusion of hundreds of gallons per minute of ground water into the City's sanitary sewer collection system resulting in higher chlorides being treated at the wastewater treatment plant.
- 2. The work includes gravity main replacement, service reconnects, sewer main bypass, irrigation main removal and reinstallation; storm drain replacement/relocation; MOT, site restoration, dewatering, erosion control and density testing.
- 3. The standard competitive solicitation process would take several months to complete and the optimal time for the repairs is in the end of April.
- 4. Due to the concerns for traffic congestion on this roadway, and keeping the safety of motorists and construction workers in mind, the department has identified the third week of

April to the first week of May as the optimal time to conduct the repairs. The duration of the project should last 3 to 4 weeks.

- 5. The contract amount is for \$297,880 plus a request for 15% City controlled contingency of \$44,682 for a grand total of \$342,562 to Denco Construction, Inc.
- 6. The Department Director is requesting 15% city controlled contingency. The expenditure of contingency, if any, will be subject to approval of specific change orders by the Utilities Department Director, if justified upon identified needs with an appropriate scope and cost to address specific needs.
- 7. This purchase is in accordance with City of Cape Coral Ordinance Chapter 2, Article VII, Division 1, Section 2-141 (c) of the Procurement Ordinance "Waiver of Procurement Procedures".
- 8. Funding: ADM-20 Infiltration and Inflow RY17 JDE Account Number 4050137 with an unencumbered balance of \$892,341.

LEGAL REVIEW:

Legal reviewed the contract

EXHIBITS:

Department Memo Resolution 46-17 Sewer Main Repair Map

PREPARED BY:

Wanda Division- Procurement Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director

ATTACHMENTS:

Description

- Department Memo
- Resolution 46-17
- Sewer main Repair Map

Туре

Backup Material Resolution Backup Material

MEMORANDUM

CITY OF CAPE CORAL UTILITIES DEPARTMENT

TO:	John Szerlag, City Manager
FROM:	Jeff Pearson, Utilities Director A Marty Mantell, Project Manager
DATE:	March 27, 2017

SUBJECT: Waiver of Procurement Process-Sewer Main Repair-808 Cape Coral Parkway W.

SUMMARY

On February 6th 2017 at 9 a.m. a crew was dispatched to 808 Cape Coral Parkway West for what appeared to be a sewer blockage. The crew pulled the clean-out lid in front of the unit facing Cape Coral Parkway and inserted their high-pressure sewer cleaner into the lateral and directed it to the north toward the city's sewer main. At approximately 75 feet into the lateral, the nozzle got stuck. The Sewer TV crew checked the main line to see if the nozzle had entered the system and kinked up. Instead of finding our sewer cleaner nozzle, we found four major main pipe breaks.

We traced the sewer lateral with an electronic marker and located our sewer cleaner and a broken sewer lateral that had been damaged by a failing storm water culvert pipe. The galvanized storm culvert failure allowed soil and debris into the storm drain system, including the rock bedding for the 12" irrigation main. Due to the loss of the irrigation pipe bedding, the irrigation main settled onto the sewer lateral fracturing it. The weight of the irrigation main caused the sewer lateral to penetrate the sewer main.

After further investigation, we found that the irrigation main has settled down on two additional sewer laterals. We returned to 808 Cape Coral Parkway on February 13th to TV the gravity sewer main following the repair of the first broken lateral. We were hoping that the repair would minimize the amount of ground water entering the system, so we could get a better video of the condition of the sewer main. Although the video was better, we were unable to travel through the line with the sewer camera because of the severity of the deformation in the sewer main. We returned on February 14th and videotaped all the laterals in the area to ensure that they were structurally intact. Although some issues were identified, we are confident that the customer's sewer laterals will hold up without future failure.

Our concern now is focused on the deformed or "egg shaped" sewer main that is allowing intrusion of hundreds of gallons per minute of ground water into the sewer system. This is resulting in abnormally long pump run times at the lift stations and increases chlorides at the sewer plant that can increasing sewage treatment operating costs. Due to the severity of the damage to the sewer main, it is possible that a collapse of the sewer main is possible which can cause a large raw sewage backup or potential spill if not corrected in an expedient manner.

The damaged sewer main is approximately 14-feet below grade at this location due to its proximity to Lift Station 123, located 150-feet to the north of the break. A saltwater canal is located 130-feet to the south. Operating the sewer TV camera from both sides of the problem area indicates that approximately 90-feet of 8-inch PVC sewer main, and 3 – 6-inch sewer services should be replaced.

Waiver of Procurement Process-Sewer Main Repair March 27, 2017 Page two

Access to the working depth will require the temporary closure of two lanes of eastbound Cape Coral Parkway traffic during the excavation portion of construction. One lane will be required to remain closed for the duration of the project that will last 3 to 4 weeks. Due to concerns for traffic congestion on this roadway, and keeping the safety of motorists and construction workers in mind, we have identified the third week of April to the first week of May as the best time to conduct these emergency sewer system repairs. This timeframe would allow for the normal decrease in seasonal vacation traffic, and the ability to complete repairs before the beginning of the rainy season.

The request for the Waiver of the Procurement Process is based on the need to expedite the procurement process which can take 90 days or more and meet the optimal timeframe to make repairs.

Scope of Repair

The anticipated scope of work to make the repairs follow:

90' 8" PVC Gravity Sewer Main Replacement Three Services Reconnect (maintain sewer service during construction) Sewer main bypass Cut, Remove, Cap, Reinstall 12" Irrigation Main Isolate and Grout 18" Storm Drain to Canal (Install new Storm Drain as directed by Storm Water Division) Remove, Replace 15" Storm Drain Cut, Remove, Bypass, Reinstall 12" Force Main Dewatering, Erosion Control Maintenance of Traffic Restoration of Curb, Gutter, Sidewalk, Subgrade, Base, and Roadway Dewatering, NPDES, and ROW Permitting Density Testing

Four local underground utility contractors were contacted to provide the Utilities Department with quotes for the repairs. Three of the firms have visited the site and have submitted quotes.

Recommendation

Three quotes were received and reviewed; Y G Construction \$338,738.20, MAJ Contracting \$309, 076.04, and Denco Construction \$297,880.00. The department recommends entering a contract with Denco Construction Inc. of Fort Myers for \$297,880.00. with a City controlled 15% contingency of \$44,682.00, for a total of \$342,562.00.

The Utilities Department has funds budgeted in account # 4050137

Approve

Date

Attachments: Matrix, Sewer Point Repair Quotes Sewer Point Repair Map

City of Cape Coral - Quote Matrix	Base Quote		Denco Construction		MAJ Contracting		Y G Construction		Christo Construction	
Sewer Main Repair 808 CC PKWY	Quantity	Unit	Quote Unit Price	Quote Ext Price	Quote Unit Price	Quote Ext Price	Quote Unit Price	Quote Ext Price	Quote Unit Price	Quote Ext Price
Mobilization / General Conditions/Testing	1	LS	\$39,000.00	\$39,000.00	\$29,839.00	\$29,839.00	\$79,500.00	\$79,500.00	\$0.00	\$0.00
MOT	1	LS	\$6,000.00	\$6,000.00	\$19,375.80	\$19,376.80	\$7,700.00	\$7,700.00		
Sewer Gravity, FM, IRR By-Pass & Reinstall	1	LS	\$78,000.00	\$78,000.00	\$63,701.77	\$63,701.77	\$66,160.00	\$66,160.00		
Dewatering Erosion Control	1	LS	\$18,000.00	\$18,000.00	\$0.00	\$0.00	\$14,990.00	\$14,990.00		
Sewer Main Repair	1	LS	\$36,000.00	\$36,000.00	\$36,219.04	\$36,219.04	\$29,700.00	\$29,700.00		
Storm Drain (1)	1	LS	\$13,000.00	\$13,000.00	\$12,025.48	\$12,025.48	\$35,000.00	\$35,000.00		
Storm Drain (2)	1	LS	\$40,880.00	\$40,880.00	\$70,361.84	\$70,361.84	\$24,900.00	\$24,900.00		
Restoration	1	LS	\$58,500.00	\$58,500.00	\$77,552.11	\$77,552.11	\$80,788.20	\$80,788.20		
			TOTAL:	\$289,380.00	TOTAL:	\$309,076.04	TOTAL:	\$338,738.20	TOTAL:	\$0.00

\$



RESOLUTION 46 – 17

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING THE WAIVER OF PROCUREMENT PROCEDURES FOR SEWER MAIN REPAIR SERVICES AT 808 CAPE CORAL PARKWAY WEST; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT WITH DENCO CONSTRUCTION, INC., BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the sewer main located at 808 Cape Coral Parkway West is damaged and deformed and is allowing the intrusion of hundreds of gallons per minute of ground water into the sewer system, resulting in increased sewage treatment operating costs and increased potential for a collapse of the sewer main; and

WHEREAS, due to concerns for traffic congestion on the roadway and keeping the safety of motorists and construction workers in mind, the third week of April to the first week of May has been identified as the optimal time to complete the sewer system repairs, allowing for the normal decrease in seasonal vacation traffic and the ability to complete the repairs before the beginning of the rainy season; and

WHEREAS, the standard competitive solicitation process would take several months to complete; and

WHEREAS, the Utilities Department is requesting a waiver of the procurement procedures to meet the desired timeframe to make the sewer main repairs; and

WHEREAS, Section 2-141(c) of the Code of Ordinances provides that the City Council may authorize the waiver of procurement procedures upon the recommendation of the City Manager that it is in the city's best interest to do so to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors. Purchases authorized by the waiver process shall be acquired with such competition as is practicable under the circumstances and only after a good faith review of all available sources and negotiation as to price, delivery and terms; and

WHEREAS, pursuant to the provisions of Section 2-141(c), four local underground utility contractors were contacted to provide the Utilities Department with quotes for the repairs, and Denco Construction, Inc., provided the lowest responsive responsible quote; and

WHEREAS, due to the exigent need of services, the City Manager finds that it is in the City's best interest to waive the normal procurement procedures to retain the services of Denco Construction, Inc., for the repair of the sewer main located at 808 Cape Coral Parkway West and therefore recommends that the procurement procedures be waived in accordance with Section 2-141(c); and

WHEREAS, the City Council desires to authorize the waiver of procurement procedures for the repair of the sewer main located at 808 Cape Coral Parkway West, and to authorize the City Manager or his designee to execute the resulting contract with Denco Construction, Inc., in the amount of \$297,880, subject to a City-controlled contingency amount not to exceed fifteen (15) percent of the total amount of the contract.

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

Section 1. The City Council hereby approves the waiver of procurement procedures for the repair of the sewer main located at 808 Cape Coral Parkway West, and authorizes the City Manager or his designee to execute the resulting contract with Denco Construction, Inc., attached hereto as Exhibit 1.

Section 2. The City Council hereby authorizes the City Manager or the City Manager's designee to enter into change orders for work required other than as contemplated in the contract documents with an appropriate scope and cost to address those needs, subject to payment of a City-controlled contingency amount not to exceed fifteen (15) percent of the total amount of the contract.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	 LEON
BURCH	 ERBRI
CARIOSCIA	WILLI
STOUT	 COSD

ON	
BRICK	
LLIAMS	
SDEN	

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2017.

REBECCA VAN DEUTEKOM, CITY CLERK

APPROVED AS TO FORM:

dores Kenend DOLORES D. MENENDEZ

CITY ATTORNEY res/Waive Procurement Procedure-Denco Construction

CITY OF CAPE CORAL CON-UT17-47/KR Agreement

This Agreement, made and entered into this _____ day of _____, 2017 by and between the

CITY OF CAPE CORAL, FLORIDA, hereinafter called "CITY", and <u>Denco Construction, Inc.</u> 4600 Cummins Ct., Fort Myers, FL 33905, doing business as a Florida Profit Corporation, hereinafter called "CONTRACTOR".

WITNESSETH: that for and in consideration of the payments and agreements mentioned hereinafter:

- The CONTRACTOR will provide the work required for complete design, fabrication, and delivery of Sewer Main Repair located at 808 Cape Coral Parkway, Cape Coral, Florida, in accordance with the Contractor's Proposal (Exhibit A), and Contract Documents for Contract - CON-UT17-47KR.
- 2. The CONTRACT PRICE will be for all work as outlined in the Contractor's Proposal (Exhibit A), and Contract Documents for a total price of: \$297,880 and the CONTRACTOR will furnish all the material, supplies, tools, equipment, labor, delivery of goods and other incidentals or services necessary for the satisfactory completion of the project described in the CONTRACT DOCUMENTS. The total contract price includes payment and performance bonds, insurance and all work as outlined in the Contractor's Proposal (Exhibit A)
- The CONTRACTOR will commence work as required by the CONTRACT DOCUMENTS as stipulated in the written Notice to Proceed or issuance of the fully executed Purchase Order and will complete the same within 90 days unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS.
- 4. The CONTRACTOR agrees to supply all the goods and perform all the work described for the price listed on the CONTRACTOR's proposal during the term of the contract which are shown as Attachment (Contractor's Proposal Exhibit A attached and included herein).
- 5. This agreement may be terminated by the CITY for its convenience upon thirty (30) days prior written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall be paid as compensation in full for services completed to the day of such termination, an amount prorated in accordance with services substantially completed under this agreement. Such amount shall be paid by the CITY after inspection to determine the extent of performance under this agreement, whether completed or in progress.
- 6. The Term "Contract Documents" shall include this Contract, Contractor's Proposal Submittal, City Technical Specifications and Drawings, except when it conflicts with any other contractual provision, the Notice to Proceed, as prepared and issued by the City. In the event of conflict between any provision of any other document referenced herein as part of the contract and this Contract, the terms of this Contract shall control.
- All time limits listed in the CONTRACT DOCUMENTS are of the essence in the performance of this agreement.

Sewer Main Repair (808 Cape Coral Parkway)

1

CON-UT17-47/KR March 2017

Exhibit 1

8. <u>Record Keeping:</u> Records of the CONTRACTOR's personnel, sub-consultants, and the costs pertaining to the Project shall be kept in accordance with generally accepted accounting practices.

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

- Assignment: This agreement may not be assigned except at the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assignors of the CONTRACTOR.
- 10. <u>Disclosure</u>: The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bonafide employee working solely for the CONTRACTOR to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or Contractor, other than a bonafide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the agreement.
- 11 <u>Unauthorized Aliens</u>: The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A (e) of the Immigration and Nationality Act. If the CONTRACTOR knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. This applies to any sub-Contractors used by the CONTRACTOR as well.
- 12. <u>Administration of Agreement</u>: The Utilities Director, or representative, shall administer this agreement for the CITY.
- 13. <u>Governing Law</u>: This agreement shall be interpreted, construed, and governed per the laws of the State of Florida. The parties agree to the venue in Lee County, Florida for any litigation pertaining to this contract. In the event, there is litigation pertaining to this agreement, the prevailing party shall be entitled to a reasonable attorney's fee.
- 14. <u>Amendments</u>: No Amendments or variation of the terms or conditions of this agreement shall be valid unless in writing and signed by the parties.
- 15. <u>Payments:</u> CITY shall make payment and CONTRACTOR shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice unless, within a fifteen (15) day period, CITY notifies CONTRACTOR in writing of its objection to the amount of such invoice, together with CITY'S determination of the proper amount of such invoice. CITY shall pay any undisputed portion of such invoice within such thirty (30) day period. If CITY shall give such notice to the CONTRACTOR within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, CITY shall promptly pay the CONTRACTOR the amount so determined, less any amounts previously paid by CITY with respect to such invoice. In the event, it is determined that CITY has overpaid such invoice, the CONTRACTOR shall promptly refund to the CITY the amount of such overpayment.

16. <u>Contractor's Representations:</u> In order to induce CITY to enter into the Contract CONTRACTOR makes the following representations:

CONTRACTOR has been familiarized with the Contract Documents and the nature and extent of the work required to be performed, locality, local conditions, and Federal, State, and Local laws, ordinances, rules and regulations that in any manner may affect costs, progress or performance of the work.

CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

- 17 Indemnity. To the extent permitted by law (F.S. 768.28), the CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
- 18. <u>Damage Liability</u>: The awarded CONTRACTOR shall be responsible for all claims filed for damage to private property, windows, screen enclosures, real estate signs, etc. Additionally, the CONTRACTOR shall be responsible for damage to all public property or utility property, fire hydrants, catch basins, guy wires telephone pedestals, etc.
- Invalid Provision. The invalidity or unenforceability of any provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- 20. <u>Project Records</u>: The CONTRACTOR shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting methods, and the CITY reserves the right to determine the record-keeping method in the event of non-conformity. These records shall be maintained for five (5) years after final payment has been made and shall be readily available to CITY personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.
- 21. <u>Insurance</u>. Without limiting its liability, the CONTRACTOR shall be required to procure and maintain at its own expense during the life of the Contract, insurance of the types and in the minimum amounts stated below as will protect the CONTRACTOR, from claims which may arise out of or result from the CONTRACTOR execution of the project, whether such execution by himself or by any sub-consultant, or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

The following insurance will be required by the CITY OF CAPE CORAL.

The Contractor shall secure, pay for, and file with the Owner prior to commencing any work under the Contract certificates for the types of insurance set forth herein. All such certificates shall provide for minimum coverage in the amounts set forth herein, unless a greater minimum amount is specified elsewhere in the Contract Documents. Contractor shall, at all times during the performance of this Agreement, provide and maintain the following types of insurance. All certificates of insurance must be accompanied by all endorsements being required, including additional insured endorsements, cancellation/material change endorsements, and waivers of subrogation, USL&H Act and Jones Act endorsements.

<u>Workers' Compensation</u>: Coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include Employers' Liability with a limit of

\$ 1,000,000 each accident.

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

Business Auto Policy: Shall have minimum limits of \$ 1,000,000 per occurrence. Combined Single Limit for Bodily Injury and Property Damage Liability. This shall include owned vehicles, hired and non-owned vehicles, and employees' non-ownership.

<u>Certificate of Insurance</u>: The City of Cape Coral is to be specifically included as an additional insured. This does not pertain to Workers' Compensation. The policy endorsements and waivers of subrogation must be included with the certificate of insurance.

In the event the insurance coverage expires prior to the completion of the project; a renewal certificate shall be issued thirty (30) days prior to said expiration date.

The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy.

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

All certificates of insurance must be on file with and approved by the City of Cape Coral before the commencement of any work activities. The contract number -CON-UT17-47/KR should be listed under the Description of Operations, with the project title of "Sewer Main Repair - 808 Cape Coral Parkway".

22. Payment and Performance Bonds

Any Contractor entering a contract for the construction of a public building or public work, or for any repairs upon a building or public work shall, before commencing work, execute, deliver to the City of Cape Coral, and record in the public records of Lee County, Florida, a payment and performance bond issued by a surety authorized to do business in the State of Florida. The

Sewer Main Repair (808 Cape Coral Parkway) CON-UT17-47/KR March 2017 amount of the bond shall be 100% of contract amount. The original recorded bond will be returned to City (Procurement) before any work will commence.

23. <u>Entire Agreement</u>. This Contract constitutes the entire agreement between the parties and supersedes all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

(THIS SPACE INTENTIONALLY LEFT BLANK)

Sewer Main Repair (808 Cape Coral Parkway) CON-UT17-47/KR March 2017

IN WITNESS WHEREOF, OWNER ANI	D CONTRACTOR HAVE SIGNED THIS AGREEMENT. THIS AGREEMENT WILL BE
EFFECTIVE ON	(WHICH IS THE EFFECTIVE DATE OF THE CONTRACT).
OWNER:	CONTRACTOR:

City of Cape	Coral, Florida	Denco C	onstruction Inc., Fort Myers, FL
Signature:		Signature:	Rahert A Buba
		Typed	
Typed Name:	A. John Szerlag	Name:	Robert H Bubar
Title:	City Manager	Title:	President
Date:		Date:	
			a corporation, a partnership, or a joint venture, of authority to sign with corporate resolution)
Signature		Signature	
Attest:		Attest:	play
Title:	City Clerk	Title:	Secretary
Typed		Typed	
Name:	Rebecca van Deutekom, MMC	Name:	Frank Gibson
Date:		Date:	3/30/17
Address for g	iving notices:	Address for gi	
-	Coral (Attn: Procurement)		
1015 Cultura	Il Park Blvd.		
2 nd Floor			
Cape Coral, I	FL 33990		
Constant Transformer Constant Constant		State of Florida	1
		Contractor Lice	ense No.:

LEGAL REVIEW: Signature: For Typed Name: Dolores Menendez, ESQ. Title: City Attorney

Date: 329 17

Sewer Main Repair (808 Cape Coral Parkway) CON-UT17-47/KR March 2017

(as applicable)

6

EXHIBIT A

Denco Construction, Inc. Proposal 3/23/2017 (Attached)

Sewer Main Repair (808 Cape Coral Parkway) CON-UT17-47/KR March 2017



DENCO CONSTRUCTION, INC.

PROPOSAL

DATE: 3/23/2017

CUSTOMER: City of Cape Coral Utilities Department

ATTN: Martin Mantell

REFERENCE: Sewer Repair 808 Cape Coral Pkwy Drainage on Skyline to Seawall

ITEM	DESCRIPTION	QUANTITY	UNIT	l	JNIT PRICE	-	AMOUNT
1	MOBILIZATION	1	LS	\$	29,500.00	\$	29,500.00
2	8" SEWER 14'	90	LF	\$	400.00	\$	36,000.00
3	SEWER MAIN BY PASS	1	LS	\$	25,000.00	\$	25,000.00
4	REMOVE, CUT, CAP AND REINSTALL 12" IRRIGATION	1	LS	\$	16,000.00	\$	16,000.00
5	REPLACE 15" STORM DRAIN	1	LS	\$	13,000.00	\$	13,000.00
6	REMOVE, CUT, BYPASS REINSTALL FORCE MAIN	1	LS	\$	37,000.00	\$	37,000.00
7	DEWATERING, EROSION CONTROL	1	LS	\$	18,000.00	\$	18,000.00
8	MOT	1	LS	\$	6,000.00	\$	6,000.00
9	RESTORATION CURB GUTTER,SIDEWALK,SUB GRADE, BASE, ROADWAY	1	LS	\$	50,000.00	\$	50,000.00
10	NPDES AND ROW PERMITTING	1	LS	\$	6,500.00	\$	6,500.00
11	DENSITY TESTING	1	LS	\$	3,000.00	\$	3,000.00
12	INSTALL 18" RCP	208	LF	\$	110.00	\$	22,880.00
13	C - INLET W/2" SUMP	1	LS	\$	4,500.00	\$	4,500.00
14	SEAWALL CONNECTION	1	LS	\$	11,000.00	\$	11,000.00
15	CONNECT TO EXISTING STRUCTURE	1	LS	\$	2,500.00	\$	2,500.00
16	RESTORATION OF DRIVEWAY, CURB, SEED/SOD	1	LS	\$	8,500.00	\$	8,500.00
17	GROUT EXISTING 18" RCP	1	LS	\$	8,500.00	\$	8,500.00
	TOTAL					\$	297,880.00

Contact Person: Robert Bubar

Denco Construction, Inc. 4600 Cummins Ct Ft Myers, FL 33905 239-332-4400 Fax 239-332-4592



Date: 2/17/2017

Item Number: B.(2) Meeting Date: Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 54-17 Post Project Maintenance Agreement between Florida Department of Transportation and the City of Cape Coral; Department: Public Works; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

- 1. Will this action result in a Budget Amendment? No
- 2. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below. If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Florida Department of Transportation (FDOT) is constructing 8' sidewalks on the north side of State Road (SR)-78 from S.W. 32nd Place to Burnt Store Road and on portions of the south side of SR-78 from Cultural Park Boulevard to Andalusia Boulevard. In addition, the bus stop pad located by Andalusia Boulevard will be improved.

Per the attached maintenance agreement, FDOT will maintain the sidewalks on SR-78 while the City will maintain the bus stop pad and any sidewalks not on SR-78.

LEGAL REVIEW: Yes

EXHIBITS: Memo

PREPARED BY:

Persides Zambrano Division-Planning and Permitting Department- Public Works

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description

- **b** Memo
- B Resolution 54-17

Туре

Backup Material Resolution

MEMORANDUM

CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

TO: Mayor Sawicki and Council Members

- FROM: John Szerlag, City Manager Paul Clinghan, Public Works Director PRC Persides Zambrano, PW Planning Manager M Stephanie Smith, PW Design and Construction Manager
- DATE: April 4, 2017
- SUBJECT: Maintenance Agreement between FDOT and the City of Cape Coral

Resolution 54-17 allows the City Manager to enter into an agreement with the Florida Department of Transportation (FDOT) to provide that upon completion of improvements on State Road (SR)-78 by FDOT the agencies will have clear maintenance responsibilities.

FDOT is constructing 8-foot sidewalks on the north side of SR-78 from S.W. 32nd Place to Burnt Store Road and on portions of the south side of SR-78 from Cultural Park Boulevard to Andalusia Boulevard. In addition, the bus stop pad located by Andalusia Boulevard will be improved.

Per the maintenance agreement attached to Resolution 54-17, FDOT will maintain the sidewalks on SR-78 while the City will maintain the bus stop pad and any sidewalks not on SR-78.

The improvements will be performed and funded by FDOT at no cost to the City.

JS/PC/PZ/SS:sk

RESOLUTION 54 - 17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE TRANSPORTATION ON SYSTEM POST PROJECT MAINTENANCE AGREEMENT BETWEEN FLORIDA DEPARTMENT OF TRANSPORTATION AND CITY OF CAPE CORAL; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Transportation is constructing 8-foot sidewalks on the north side of SR 78 from SW 32nd Place to Burnt Store Road and on portions of the south side of SR 78 from Cultural Park Boulevard to Andalusia Boulevard, and will be making improvements to the bus pad located near Andalusia Boulevard; and

WHEREAS, the Transportation On System Post Project Maintenance Agreement between the Florida Department of Transportation and the City of Cape Coral provides that upon completion of the improvements, the Florida Department of Transportation will maintain the 8-foot sidewalk on SR 78 and the City will maintain any sidewalks not on SR 78 and the bus pad; and

WHEREAS, the City Council desires to enter into the Transportation On System Post Project Maintenance Agreement between the Florida Department of Transportation and the City of Cape Coral.

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

SECTION 1. The City Council hereby approves the Transportation On System Post Project Maintenance Agreement between the Florida Department of Transportation and the City of Cape Coral.

SECTION 2. The City Council hereby authorizes the City Manager or his designee to execute the Transportation On System Post Project Maintenance Agreement with the Florida Department of Transportation, attached hereto and incorporated herein as Exhibit 1, on the behalf of the City of Cape Coral and to transmit the same to the Florida Department of Transportation.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS ____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	 LEON	
BURCH	 ERBRICK	
CARIOSCIA	 WILLIAMS	
STOUT	 COSDEN	0

ATTESTED TO AND FILED IN MY OFFICE THIS ____ DAY OF _____, 2017.

REBECCA VAN DEUTEKOM CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez

CITY ATTORNEY res/FDOT Post Project Maintenance Agreement

TRANSPORTATION ON SYSTEM POST PROJECT MAINTENANCE AGREEMENT BETWEEN FLORIDA DEPARTMENT OF TRANSPORTATION AND CITY OF CAPE CORAL

This is an Agreement, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter, the "DEPARTMENT") and City of Cape Coral (hereinafter, "LOCAL AGENCY") for the maintenance of on system post-project transportation enhancements described below.

WITNESSETH

- 1. WHEREAS, pursuant to Fla. Stat. §339.08, and the Moving Ahead for Progress in the 21st Century (MAP-21), the DEPARTMENT is authorized to undertake a project within the LOCAL AGENCY geographical limits; and
- 2. WHEREAS, said project is identified and known to the parties as Financial Project # 434707-1-52-01 which will benefit the LOCAL AGENCY; and
- 3. WHEREAS, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement from the LOCAL AGENCY to maintain the project; and
- 4. WHEREAS, the LOCAL AGENCY by Resolution No. _____, dated _____, a copy of which is attached hereto and made a part hereof as **Exhibit A**, has consented to and approved the Agreement and has authorized its City Manager or designee to execute said Agreement.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

- 1. The DEPARTMENT has undertaken the project and obtained approval for state and federal participation on the sidewalk construction at the following locations.
 - Along the north side of SR78 from SW 32nd PL. to Burnt Store Rd. and along the south side of SR78 from Cultural Park Blvd. to Andalusia Blvd; as shown in attachments labeled **Exhibit B**.
- 2. The DEPARTMENT will maintain the 8' concrete sidewalk on SR 78. The bus pad and any sidewalk not on SR 78 will be maintained by the LOCAL AGENCY.
- It is understood and agreed by the parties that upon completion of the project, the LOCAL AGENCY shall be responsible, at its costs, for maintenance of LOCAL AGENCY'S portion of said project in accordance with the following federally accepted state standards: (a) Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (2012), as amended.
- 4. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree

FPID #434707-1-52-01 POST-PROJECT MAINTENANCE AGREEMENT: City of Cape Coral Page 2 of 3

that there are no commitments, agreements or understanding concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

FPID #434707-1-52-01 POST-PROJECT MAINTENANCE AGREEMENT: City of Cape Coral Page 3 of 3

IN WITNESS WHEREOF, the City of Cape Coral has caused this Agreement to be executed in its behalf through its Charperson or designee, and THE FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Secretary for District One, as indicated below. This Agreement shall become effective on:

Department to enter date.		
CITY OF CAPE (CORAL, FLORIDA	
ATTEST		
BY:	BY:	
	CITY MANAGER, OR DESIGNEE	
PRINT NAME	PRINT NAME	
TITLE DATE		DATE
CITY OF CAPE CORAL LEGAL REVIEW:		
BY: 3/21/17		
DATE		
	IMENT OF TRANSPORTATION	
ATTEST		
BY:	BY:	
	DISTRICT ONE SECRETARY OR DESIGNEE	
	ONDESIGNEE	
PRINT NAME	PRINT NAME	
TITLE DATE	TITLE	DATE
	FLA. DEPT. OF TRANS. LEGAL REVIEW:	
	BY:	



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004 61615-23 RULE 5 SEAL 3 SIGNED RECORD OF THIS SHEET IS THE ELECTROWIC FILE DIGITALLY






Item Number: B.(3) Meeting Date: Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 55-17 Donation of Out of Service Fire Gear to Ida Baker High School Fire Academy; Department: Fire; Dollar Amount: \$0; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

Will this action result in a Budget Amendment? No
 Is this a Strategic Decision? Yes

 If Yes, Priority Goals Supported are
 listed below.
 If No, will it harm the intent or success of
 the Strategic Plan?

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS: N/A

SUMMARY EXPLANATION AND BACKGROUND:

Firefighter Personal Protective Gear (Bunker Gear) that exceeds 10 years of service life, and fire hoses that no longer pass annual testing, are typically removed from service and destroyed. The Fire Department is requesting permission to donate this equipment and gear to the Lee County School District Fire Academy Program at Ida Baker High School, as the gear and equipment that is no longer suitable for Fire Department use can be beneficial for training and instructing students and future Firefighters.

LEGAL REVIEW:

EXHIBITS:

Memo
 Resolution XX-17

PREPARED BY:

Linda A.

Kurzmann Division- Administration Department- Fire

SOURCE OF ADDITIONAL INFORMATION:

Donald K. Cochran, Fire Chief/Emergency Management Director

ATTACHMENTS:

Description

- Department Memo
- Resolution 55-17

Type Backup Material Resolution



CAPE CORAL FIRE DEPARTMENT

OFFICE OF THE FIRE CHIEF/EMERGENCY MANAGEMENT DIRECTOR

1

TO:	Mayor Sawicki and Council Members
FROM:	John Szerlag, City Manager Donald K. Cochran, Fire Chief/Emergency Management Director
DATE:	March 22, 2017
	Instituation to Denote Out of Consist Open to Ide Delves High Opheral Fig

SUBJECT: Justification to Donate Out of Service Gear to Ida Baker High School Fire Academy (Value: \$ 0.00)

The purpose of this memorandum is to request permission to donate equipment and gear to the Lee County School District Fire Academy Program, as the gear and equipment that is no longer suitable for Fire Department use can be beneficial for training and instructing students and future Firefighters.

Firefighter Personal Protective Gear (Bunker Gear) that exceeds 10 years of service life, and fire hoses that no longer pass annual testing, are typically removed from service and destroyed. Since the equipment is to be destroyed and disposed of, the Fire Department places no monetary value on this equipment.

Although this equipment does not have a useful function in hazardous fire fighting situations, it can be utilized by the Ida Baker High School Fire Academy. Several hundred students in grades 10-12 are enrolled in the Fire Academy program and this equipment will allow them to handle basic gear such as hoses and bunker gear. The benefits include teaching students hose rolls, proper carrying techniques, and physical education exercise. Bunker gear can be used for donning and doffing training, company operations, and fitness coaching. Also, due to such large number of students, they have a very limited amount of sizes for students. Providing additional bunker gear will allow students the opportunity to wear gear that fits some of the diverse student sizes.

JS/DKC:lak

RESOLUTION 55 - 17

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING THE DONATION OF OUT-OF-SERVICE FIRE DEPARTMENT EQUIPMENT AND GEAR TO THE IDA BAKER HIGH SCHOOL FIRE ACADEMY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Fire Department typically classifies Firefighter Personal Protective Gear (Bunker Gear) that exceeds 10 years of services and fire hoses that no longer pass annual testing as surplus property and destroys said surplus property; and

WHEREAS, although this out-of-service gear and equipment is no longer suitable for Fire Department use, it can be utilized for training and instructing students and future fire fighters who are enrolled in the Ida Baker High School Fire Academy; and

WHEREAS, §2-154 of the Code of Ordinances provides that property which has been declared surplus may be donated to an outside agency upon approval by City Council; and

WHEREAS, the City Council desires to authorize the Fire Department to donate gear and equipment that is no longer suitable for Fire Department use to the Ida Baker High School Fire Academy to be utilized for training and instructional purposes.

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

Section 1. The City Council authorizes the Fire Department to donate gear and equipment that is no longer suitable for Fire Department use to the Ida Baker High School Fire Academy to be utilized for training and instructional purposes.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI BURCH CARIOSCIA STOUT ____ LEON ____ ERBRICK ____ WILLIAMS ____ COSDEN

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____. 2017.

> REBECCA VAN DEUTEKOM, CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY res/Donate Obsolete Fire Gear Item Number: B.(4) Meeting Date: Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 56-17 Approve the contract with Paints & Coatings, Inc. of North Fort Myers, as a sole source vendor for the repair work and IET coating application for the Everest Water Reclamation Facility's Headworks structure's concrete flow channels and chambers, in the amount of \$153,020 and authorize the City Manager or designee to execute the contract; Department: Utilities; Dollar Value: \$153,020; (Water and Sewer Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- City staff, during routine maintenance and investigation, found several areas of the Everest Water Reclamation Facility's Headworks structure's concrete flow channel and chambers. The Headworks is showing signs of deterioration of the concrete structure around the sluice gates and along some of the channels. Staff is concerned about potential failure of the sluice gates and/or concrete structures, which could lead to leaks, operational issues or catastrophic failure of a portion of the structure.
- 2. On February 16, 2017 City Staff met with Paints and Coatings to perform a site inspection and formulate a repair plan for the damaged concrete structure.
- 3. On March 6, 2017, Paints & Coatings, Inc. of North Fort Myers, Florida, submitted a quote to the City for \$153,020 to make all the necessary repairs to the concrete structure.
- 4. The work for repair and IET's proprietary coating includes the repair of the flow chambers, sandblasting, rebuilding deteriorated walls and flow channels, filling of all the holes, craters, crevasses utilizing proprietary IET Crete and coat all repaired interior surfaces utilizing the IET Systems proprietary coating.
- IET coating is specified under the City of Cape Coral Design Procedures Manual Section 7.5.5, as the only coating specified for wastewater use, Technical Specification Section 09800, Part 2.2.C., Article 3.11.A.

- 6. Paints and Coatings, Inc. of North Fort Myers, Florida has an exclusive contract as the sole applicator of the I.E.T. products in the State of Florida. They have provided this application for the City for 30 years, with few warranty claims.
- 7. Staff recommends awarding to Paints & Coatings, Inc. for the total contract price of \$153,020.
- 8. If approved, the contract term is for 90 days substantial completion and 120 days for final completion of the work.
- 9. This Item is a budgeted item. (Water & Sewer Fund).
- 10. Funding: Account No:4050173.662601 (WRE-7 Headworks and Structural Repairs) with an unencumbered balances of \$200,000

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Department Memo Resolution 56-17

PREPARED BY:

Wanda Roop Division- Procurement Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director

ATTACHMENTS:

Description

- Department Memo
- B Resolution 56-17

Туре

Backup Material Resolution



Utilities DepartmentTO:John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager
Kathy Rose, Procurement SpecialistFROM :Jeff Pearson, Utilities Director
William Sperry, P.E. Principal Engineer
Marty Mantell, Project Manager
Pat Long, Superintendent, Water Reclamation
Mares Diviesta, Contract Administrator - Utilities
DATE:DATE:March 15, 2017

City of Cape Coral

SUBJECT: EVEREST WATER RECLAMATION FACILITY – REPAIRS TO HEADWORKS FLOW CHANNELS AND SEPARATION CHAMBERS

Background

The Headworks at the Everest Water Reclamation Facility serves to consolidate and pre-filter flows entering the plant from multiple transmission sources. The flows entering the plant are under moderate to high pressures and produce large amounts of hydrogen sulfide gas (H_2S). H_2S is highly corrosive to concrete as well as metals.

During a routine maintenance investigation, plant staff observed that several areas of the flow channels and chambers that make up the headworks are displaying significant degradation of the concrete structure, particularly around the sluice gates. Staff's concerns are that the failure of one or more of the sluice gates or the structure itself could lead to leaks, operational issues, or catastrophic failure of an entire portion of the structure.

On February 16, 2017, plant maintenance, and Utilities engineering staff met with representatives of Paints and Coatings, Inc. at the Everest headworks site to inspect and formulate a repair plan for the damaged concrete structure. On March 6, 2017, Paints and Coatings submitted a quote to the City for \$ 153,020.00 to make the repairs.

Recommendation

The Utilities department recommends the use of Paints and Coatings as a sole source vendor due to their familiarity with the site, proven ability to accomplish and warranty this type of work, and that they are the sole provider and applicator of IET systems coating for wastewater applications for the state of Florida.

Utilities Department • City of Cape Coral • P.O. Box 150027 •Cape Coral, Florida 33915-0027 (239) 574-0710 • Fax (239) 574-0731 • <u>www.capecoral.net</u> IET is the only coating specified for wastewater use by the City of Cape Coral Design Procedures Manual Section 7.5.5, "The coating system shall be manufactured by IET Systems, DFT = min. 60 mils (125 mils for repair lining)." and the City of Cape Coral Technical Specification Section 09800, Part 2.2.C., Article 3.11.A.

Section 09800, Part 2.2.C., Article 3.11.A.

Item	Surface Prep.	System No.
All interior surfaces of sewer wetwells, master manholes, and manholes where forcemains discharge	IET System "Duplex Prep Method" and applications shall be as specified by IET Systems	 (2) Wetwell Liner Coating System as manufactured by IET Systems, DFT = min. 60 mils (125 mils for repair lining)

Water Reclamation has been utilizing Paints and Coatings, Inc. for this type of application for over 30 years, and they have been very responsive to any warranty claims, which have been infrequent.

Paints and Coatings, Inc. has stringent requirements for the application of IET resin, and when they are adhered to, there is virtually no degradation from exposure to corrosive gasses. IET has applications of this coating system in various high corrosive gas environments in the City that are over 20 years old. Because of Paints and Coatings, Inc. diligence and consistent performance preserving the IET coating reputation for quality and integrity, IET awarded Paints and Coatings, Inc. of North Fort Myers, the exclusive contract as the sole applicator for the state of Florida for many years. In 2015, Paints and Coatings, Inc. became the sole license and manufacturer for IET Systems Coatings. As recently as 2013 and 2014, the City Council approved IET and Paints and Coatings for sole source contracts for wastewater applications.

IET is commonly used throughout the City in sanitary system manholes and lift station wet wells. No other alternate coating product for corrosive environments have been approved under City specifications or standards. Both Water Reclamation and Utilities Collection and Distribution have trial tested other coatings, but to date have not found a product that equals or exceeds IET's resistance to corrosive environments in wastewater applications.

Project Funding

This construction project amount of \$153,020.00 has been budgeted in FY17 and will come out of JDE Account Business Unit/Object Number 4050173.662601 (WRE-7 Headworks and Structural Repairs) which has an unencumbered balance of \$200,000.00. Once signed or if you have any questions, please feel free to contact Jim Diviesta at x3693.

JD/jd

Attachment(s) Paints & Coatings Quote Sole Source Form

CITY OF CAPE CORAL REQUEST FOR SOLE SOURCE OR SINGLE SOURCE PURCHASE

Requesting Department: Utilities / Water Reclamation
Vendor Name: Paints and Coatings, Inc.
Address: 17660 East St., North Fort Myers, FL 33917
Phone:239-997-6645E-Mail:
Price: \$ 153,020.00
Description of item to be procured: IETcrete Epoxy Concrete Repairs and IET Coatings for Everest WRF Headworks
1.) Uniqueness of vendor's item/service. How is this vendor the only vendor uniquely qualified to provide the product or service: Paints and Coatings is the sole license holder and manufacturer of IET coatings for wastewater
applications.
2.) Market Research. Describe other, similar sources or products available in the market, if any, and why they are not acceptable: IET is the only coating approved for use in wastewater applications in the City of Cape Coral
Design Procedures Manual Section 7.5.5., and the City of Cape Coral Technical Specifications
Section 09800, Part 2.2.C., Article 3.11.A.
3.) Proposed Actions. Describe the actions the department will take to overcome the present barriers to competition for any future acquisition of this product or service:
Water Reclamation and Utilities Collection/Distribution have conducted trials of other coatings and
none of the other products have been able to meet or exceed the results obtained with IET.
Department Director's Signature: John Some For Jeff Peurson 3-15-17
Approval: Procurement Manager Wanda Roop 3/16/17 (not to exceed \$25,000.00)

Approval: City Manager _____ (not to exceed \$50,000.00)

Council authorization required if exceeding \$50,000.00

Rev 5/22/08

Council Date:



17660 East Street North Fort Myers, FL 33917 www.paintsandcoatings.net Phone # 239-997-6645 Fax # 239-997-7117

Estimate

Bill To

CITY OF CAPE CORAL P.O. Box 150027 Cape Coral, FL 33915-0027

			Date	Estimate #
Project Name	Everest Plant		3/6/2017	E17-5105
Project Location		Lee	P.O. No.	
Project Contact	M	larty	Terms	2/10 Net 30

Product ID	Description	Total
RH-IET-Coating RH-IET-Coating RH-IET-Coating RH-IET-Coating RH-IET-Coating RH-IET-Coating RH-IET-Coating RH-IET-Coating RH-IET-Coating RH-Concrete Work	Preliminary Treatment Structure/Headworks - February 16, 2017 inspection showed numerous areas of extremely high corrosion especially around sluice gates which have the potential for failure of the structure. Below pricing includes abrasive blasting, rebuilding corroded walls and flow channels with IET Crete, filling all holes, craters and crevasses with IET Crete, and topcoating all interior surfaces with IET Systems coating. Inflow chamber - approx 10' x 8' x 6' Flow channels - 3 - approx 10' x 8' x 6' Flow channels - 3 - approx 12' x 6' x 3' Middle chamber - approx 18' x 8' Fourth chambers - 2- approx 14' x 3' Wing chambers - 2- approx 6' x 6' x 6' Final chambers - 2 - approx 20' ID, 8' deep Cut access opening (2' x 2' or 3' x 3' - Cape Coral to choose size) through top floor using concrete chainsaw, provide and install custom made aluminum hatch to provide permanent access and inspection ability to middle chamber	7,200.00 36,750.00 19,500.00 21,880.00 13,270.00 15,800.00 35,120.00 3,500.00
This company complies with in Lee County and all disput	charge on balances outstanding more than 30 days from date of invoice. In any and or all lien laws per Florida Statutes. This contract is entered into es arising from this contract will be litigated in Lee County. Buyer agrees ey's fees if this contract is referred for collection/litigation.	t



17660 East Street North Fort Myers, FL 33917 www.paintsandcoatings.net

Phone # 239-997-6645 Fax # 239-997-7117

Estimato

Bill To

CITY OF CAPE CORAL P.O. Box 150027 Cape Coral, FL 33915-0027

Date	Estimate #
3/6/2017	E17-5105
P.O. No.	
Terms	2/10 Net 30
	Total
ehab operation ssembly	\$153,020.00
	Total

IET Coatings

Paints & Coatings Inc. 17660 East St. North Ft Myers, FL 33917 (239)997-6645

November 3, 2015

To: Utility Directors

Subject: Annual Certification

Due to the highly successful relationship between IET Coatings and Paints & Coatings Inc. over the past 20 years we are pleased to announce that on August 1, 2015, Paints & Coatings Inc. acquired the formula and trade secrets relating to IET Coatings (IET-Resin & IET-Crete). Paints & Coatings Inc. is now the sole applicator/manufacturer of IET Coatings. A combined manufacturer/applicator 10 year warranty will remain in effect for any and all existing warranties throughout Florida.

Sincerely

Jeff Yingling, VP

RESOLUTION 56 - 17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE SERVICES OF PAINTS & COATINGS, INC. AS THE SOLE SOURCE PROVIDER FOR REPAIR WORK AND I.E.T. COATING APPLICATION FOR THE EVEREST WATER RECLAMATION FACILITY HEADWORKS FLOW CHANNELS AND SEPARATION CHAMBERS; PROVIDING FOR THE CITY MANAGER OR CITY MANAGER'S DESIGNEE TO EXECUTE THE CONTRACT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, during a routine maintenance investigation of the Headworks at the Everest Water Reclamation Facility, plant staff observed that several areas of the flow channels and chambers that make up the Headworks are displaying significant degradation of the concrete structure, particularly around the sluice gates; and

WHEREAS, failure of one or more of the sluice gates or the structure itself could lead to leaks, operational issues, or catastrophic failure of an entire portion of the structure; and

WHEREAS, on March 6, 2017, Paints & Coatings, Inc., submitted a quote for \$153,020 for the necessary repair work and I.E.T. coating application; and

WHEREAS, I.E.T. is the only coating specified for wastewater use in the City of Cape Coral Design Procedures Manual, Section 7.5.5, and the City of Cape Coral Technical Specifications, Section 09800/Part 2.2 C/Article3.11A.; and

WHEREAS, Paints & Coatings, Inc., has an exclusive contract as the sole applicator of the I.E.T. products in the state of Florida; and

WHEREAS, Section 2-144(c) of the City of Cape Coral Code of Ordinances authorizes the City to award contracts without competition upon the determination of the Procurement Manager that there is only one source for the required supply, service or construction item; and

WHEREAS, the Procurement Manager has determined that the service being performed is only available from one source as a result of the contractual agreement between I.E.T. Inc., and Paints & Coatings, Inc.; and

WHEREAS, the City Manager recommends the approval of the Sole Source contract with Paints & Coatings, Inc., attached hereto as Exhibit 1.

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

Section 1. The City Council hereby approves the services of Paints & Coatings, Inc. as the sole source provider for repair work and I.E.T. coating application for the Everest Water Reclamation Facility Headworks Flow Channel and Chambers in the estimated amount of \$153,020.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the contract between the City of Cape Coral and Paints & Coatings, Inc., attached hereto as Exhibit 1.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS ______ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI		LEON	
BURCH		ERBRICK	
CARIOSCIA	-	WILLIAMS	
STOUT		COSDEN	

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2017.

REBECCA VAN DEUTEKOM CITY CLERK

APPROVED AS TO FORM:

> deres DEZ Menend DOLORES D. MENENDEZ

CITY ATTORNEY res/Sole Source-Paints & Coatings

1

THIS CONTRACT is made this ______ day of ______, 2017 by and between the City of Cape Coral, Florida, hereinafter called "CITY", and <u>Paints & Coatings, Inc.,</u> <u>17660 East Street, North Fort Myers, FL 33917</u>, doing business as a corporation, hereinafter called "CONTRACTOR".

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

- 1. The CONTRACTOR will provide the following services as outlined in the accordance with the Contract Documents.
- 2. The CONTRACTOR will provide the following services for the Everest Water Reclamation Facility to repair Headworks Flow Channels and Separation Chambers. The work will include, but is not limited to: providing trained personnel, equipment, supplies, tools, materials and services necessary to complete concrete repairs in hazardous locations with confined space entry; atmospheric monitoring of confined spaces, maintaining confined space entry permits, proving bypass equipment and assisting with the bypass of flows to allow entry; abrasive blasting of concrete surfaces, repairs to concrete substrates and surfaces, smoothing and coating concrete surfaces with City approved epoxy products, concrete cutting, fabrication and/or modification of metal access panels, and providing detailed photo documentation of the repairs. Time is of the essence in the performance of this Contract.
- 3. The CONTRACTOR will commence work as required by the CONTRACT DOCUMENTS within <u>10</u> calendar days after the receipt of the written Notice to Proceed and will complete the work in <u>90</u> calendar days for substantial completion (work is complete, fit for intended use, less minor punch list items).
- 4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS for the following amount \$153,020 as listed on the CONTRACTOR'S Official Quote Proposal Form during the term of the contract, more specifically Attachment A hereto and made part hereof and incorporated herein.
- 5. The term of the contract to be awarded as a result of this quote shall be for <u>90</u> calendar_days for the substantial completion of the work and 120 for final completion of the work (completion of correction of any defects or punch list items), excluding legal holidays. However, if the contractor requires additional time due to unforeseen circumstances to complete the project, the Contractor must request an extension in writing prior to the expiration date detailing the reason for the request. The requested extension must be approved in writing by an authorized City representative. This contract may not be renewed.
- 6. This Contract may be terminated by the CITY for its convenience upon thirty (30) days prior written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract. Such amount shall be paid by the CITY after inspection of the work to determine the extent of performance under this Contract, whether completed or in progress.
- 7. The Term "Contract Documents" shall include this Contract, addenda, Contractor's Bid, City's specifications except when it conflicts with any other contractual provision, the Notice to Proceed, Certificates, and the Request for Quote/Bid Package prepared and issued by the City. In the

Exhibit 1

event of conflict between any provision of any other document referenced herein as part of the contract and this Contract, the terms of this Contract shall control.

- 8. <u>Assignment:</u> This Contract may not be assigned except with the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
- 9. <u>Disclosure:</u> The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or CONTRACTOR, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission percentage, gift, or other compensation contingent upon or resulting from the award or making of the Contract.
- 10. <u>Administration of Contract</u>: The Utilities Director, or his representative, shall administer this Contract for the CITY.
- 11. <u>Governing Law:</u> The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible to pay for its own reasonable costs and attorney fees.
- 12. <u>Amendments:</u> No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties.
- 13. <u>Payments:</u> CITY shall make payment and CONTRACTOR shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice unless, within a fifteen (15) day period, CITY notifies CONTRACTOR in writing of its objection to the amount of such invoice, together with CITY'S determination of the proper amount of such invoice. CITY shall pay any undisputed portion of such invoice within such thirty (30) day period. If CITY shall give such notice to the CONTRACTOR within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, CITY shall promptly pay the CONTRACTOR the amount so determined, less any amounts previously paid by CITY with respect to such invoice. In the event it is determined that CITY has overpaid such invoice, the CONTRACTOR shall promptly refund to the CITY the amount of such overpayment. Additional discount make be taken: 2% discount 10 days payment, otherwise net 30 days payment.
- 14. <u>Contractor's Representations:</u> In order to induce CITY to enter into the Contract CONTRACTOR makes the following representations:

CONTRACTOR has been familiarized with the Contract Documents and the nature and extent of the work required to be performed, locality, local conditions, and Federal, State, and Local laws, ordinances, rules and regulations that in any manner may affect costs, progress or performance of the work.

CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the

Everest Water Reclamation Facility Headworks Flow Channel Repairs and IET Coatings Page 2 of 6

Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents,

CONTRACTOR has given CITY written notice of all conflicts, errors or discrepancies that have been discovered in the CONTRACT DOCUMENTS and the written resolution thereof by CITY is acceptable to CONTRACTOR.

- 15. <u>Indemnity:</u> To the extent permitted by law (F.S. 768.28), the CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or Intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
- 16. <u>Damage Liability:</u> The awarded CONTRACTOR shall be responsible for all claims filed for damage to private property, windows, screen enclosures, real estate signs, etc. Additionally, the CONTRACTOR shall be responsible for damage to all public property or utility property, fire hydrants, catch basins, guy wires telephone pedestals, etc. Copies of all damage claims shall be submitted to the Procurement Division.
- 17. <u>Liquidated Damages:</u> Liquidated damages of \$200.00 per day will be assessed against contractor's final invoice for each day beyond the completion date that work is not completed unless waived by the City Engineer.
- 18. <u>Invalid Provision</u>: The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

19. Record Keeping

The awarded bidder shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City of Cape Coral reserves the right to determine the record-keeping method in the event of non-conformity. If a Public Construction Bond is required records shall be maintained for ten (10) years, after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

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

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

- 20. <u>Insurance:</u> Unless otherwise specified, CONTRACTOR shall, at its own expense, carry and maintain the following minimum insurance coverage, as well as any insurance coverage required by law:
 - a. Workers' Compensation Insurance with limits that comply with statutory requirements and Employer's Liability Insurance with a lower limit of \$1,000,000 per occurrence, including, without limitation, coverage for Occupational Diseases, to provide for the payment of benefits to its employees employed on or in connection with the Work covered by this Agreement and/or to their dependents.
 - b. Broad Form Commercial General Liability Insurance (on an occurrence basis), with a minimum combined single limit for Bodily Injury, including Death of \$1,000,000 per occurrence and for Property Damage of at least \$1,000,000 per occurrence.
 - c. Business Auto Liability Insurance with minimum Bodily Injury and Death Limit per accident of \$1,000,000 and a minimum Property Damage Limit per accident of \$1,000,000.
 - d. CONTRACTOR shall require its subcontractors to provide for such benefits and carry and maintain the foregoing types of insurance at no expense to CITY.
 - e. CITY shall be named as an "Additional Insured" under the CONTRACTOR'S General Liability Insurance Policy with respect to the services performed by the CONTRACTOR or by the OWNER.
 - f. Prior to commencing any Work under this Agreement, CONTRACTOR shall submit to CITY a certificate or certificates of insurance evidencing that such benefits have been provided, and that such insurance is being carried and maintained. Such certificates shall stipulate that the insurance will not be cancelled or materially changed without thirty (30) days prior written notice by certified mail to CITY, and shall also specify the date such benefits and insurance expire. CONTRACTOR agrees tha tsuch benefits shall be provided and such insurance carried and maintained until the Work has been completed and accepted by CITY.
 - g. Such benefits and such coverage as are required herein, or in any other document to be onsidered a part hereof, shall not be deemed to limit CONTRACTOR's liability under the Agreement.

21. Unauthorized Aliens:

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

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

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

WITNESS CITY:

CITY:

Signature:

Typed Name: Rebecca van Deutekom

Title: City Clerk

Signature:			

City of Cape Coral, Florida

Typed Name: A. John Szerlag

Title: City Manager

Date:_____

CIT LEGAL REVIEW:

Dolores Menendez

City Attorney

CONTRACTOR:

WITNESS CONTRACTOR:

	MA	tal
Signature:	0 the	<u>JHA</u>
Typed Name:_	Peter	Giustina II
Title:	Controll	e(

Company:	Paints + Coa
	111
Signature:	

tings Inc. Typed Name: Title: Date:

Attachment A

Paints and Coatings - Quotation

(Estimate # E17-5105 dated 3/6/2017)



17660 East Street North Fort Myers, FL 33917 www.paintsandcoatings.net Phone # 239-997-6645 Fax # 239-997-7117

Estimate

Bill To

CITY OF CAPE CORAL P.O. Box 150027 Cape Coral, FL 33915-0027

			Date	Estimate #
Project Name	Everest Plant		3/6/2017	E17-5105
Project Location	Everest Plant	Lee	P.O. No.	
Project Contact	М	arty	Terms	2/10 Net 30

RH-IET-Coating Flow channels - 3 - approx 22' x 6' x 3' 36,	Product ID	Description	Total
RH-IET-Coating RH-IET-CoatingFourth chambers - 2- approx 14' x 3'21,RH-IET-Coating RH-IET-CoatingWing chambers - 2- approx 6' x 6' x 6'13,RH-IET-Coating RH-IET-CoatingFinal chambers - 2 - approx 6' x 6' x 8'15,RH-IET-CoatingTea cup chambers - 2 - approx 20' ID, 8' deep35,	H-IET-Coating H-IET-Coating H-IET-Coating H-IET-Coating H-IET-Coating H-IET-Coating	2017 inspection showed numerous areas of extremely high corrosion especially around sluice gates which have the potential for failure of the structure. Below pricing includes abrasive blasting, rebuilding corroded walls and flow channels with IET Crete, filling all holes, craters and crevasses with IET Crete, and topcoating all interior surfaces with IET Systems coating. Inflow chamber - approx 10' x 8' x 6' Flow channels - 3 - approx 22' x 6' x 3' Middle chamber - approx 18' x 8' Fourth chambers - 2- approx 14' x 3' Wing chambers - 2- approx 6' x 6' x 6' Final chambers - 2 - approx 6' x 6' x 8' Tea cup chambers - 2 - approx 20' ID, 8' deep Cut access opening (2' x 2' or 3' x 3' - Cape Coral to choose size) through top floor using concrete chainsaw, provide and install custom made aluminum hatch to provide permanent	7,200.00 36,750.00 19,500.00 21,880.00 13,270.00 15,800.00 35,120.00 3,500.00



17660 East Street North Fort Myers, FL 33917 www.paintsandcoatings.net Phone # 239-997-6645 Fax # 239-997-7117

Fatimata

Bill To

CITY OF CAPE CORAL P.O. Box 150027 Cape Coral, FL 33915-0027

Project Name				
Project Name			Date	Estimate #
	Everest Plant		3/6/2017	E17-5105
		T.		1
Project Location	Everest Plant	Lee	P.O. No.	1
Project Contact	Marty		Terms	2/10 Net 30
Product ID	D	escription		Total
	shut-down of North & Sour process. Center channel to of P&C and Cape Coral reg of the bypass system provid	be bypassed with join arding timing, flows a	t cooperation	

IET Coatings

Paints & Coatings Inc. 17660 East St. North Ft Myers, FL 33917 (239)997-6645

November 3, 2015

To: Utility Directors

Subject: Annual Certification

Due to the highly successful relationship between IET Coatings and Paints & Coatings Inc. over the past 20 years we are pleased to announce that on August 1, 2015, Paints & Coatings Inc. acquired the formula and trade secrets relating to IET Coatings (IET-Resin & IET-Crete). Paints & Coatings Inc. is now the sole applicator/manufacturer of IET Coatings. A combined manufacturer/applicator 10 year warranty will remain in effect for any and all existing warranties throughout Florida.

Sincerely

Jeff Yingling, VP

CERTIFICATE DOES NOT AFFIRMATIVELY O BELOW. THIS CERTIFICATE OF INSURANCE REPRESENTATIVE OR PRODUCER, AND THI IMPORTANT: If the certificate holder is an AD the terms and conditions of the policy, certail certificate holder in lieu of such endorsement	DOES NOT CONSTITUTE A C	D CONFERS NO	PIGHTE UD	CE	1/13	/2017	
IMPORTANT: If the certificate holder is an AD the terms and conditions of the policy certain	E VERTIFICATE HOLDER.	ONTRACT BET	THE COVER	Y AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS , EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES			
	DITIONAL INSURED, the polic policies may require an ende						
COUCER Ouchard Insurance (FTM)	N. N.	ONTACT AME: HONE VC, No, Ext): 239 4		-			
191 College Parkway,Suite 202 ort Myers, FL 33919 19 489-3232	E A	E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE				NAIC	
URED		SURER A : Nation				20141	
Paints & Coatings, Inc.		SURER 8 : Ameri				31895	
17660 East Street		SURER D :	nourance C			10178	
North Fort Myers, FL 33917		SURER E :					
		SURER F :					
VERAGES CERTIFICAT	E NUMBER:			REVISION NUMBER:			
HIS IS TO CERTIFY THAT THE POLICIES OF INS NDICATED. NOTWITHSTANDING ANY REQUIREME SERTIFICATE MAY BE ISSUED OR MAY PERTAIN, XCLUSIONS AND CONDITIONS OF SUCH POLICIE TYPE OF INSURANCE	THE INSURANCE AFFORDED E S. LIMITS SHOWN MAY HAVE	BEEN REDUCED	DESCRIBED BY PAID CLA	CUMENT WITH RESPECT			
X COMMERCIAL GENERAL LIABILITY Y Y			POLICY EXP (MM/DD/YYY)	LIMIT	T		
CLAIMS-MADE X OCCUR	GL000451211	09/10/2016	09/10/2017	EACH OCCURRENCE	\$1,000	and the second se	
X PD Ded:1.000				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,0		
				MED EXP (Any one person)	\$10,00	the subscription of the local division of the	
GENL AGGREGATE LIMIT APPLIES PER:				PERSONAL & ADV INJURY	\$1,000		
POUCY X JECT X LOC				GENERAL AGGREGATE	\$2,000		
OTHER				PRODUCTS - COMP/OP AGG	\$2,000	,000	
AUTOMOBILE LIABILITY	CA000263514	09/10/2016	09/10/2017	COMBINED SINGLE LIMIT (Ea accident)	3	000	
X ANY AUTO		00/10/2010	03/10/2017	(Ea accident) BODILY INJURY (Per person)	s1,000	,000	
ALLOWNED SCHEDULED AUTOS AUTOS				BODILY INJURY (Per eccident)	\$		
X HIREDAUTOS X AUTOS				PROPERTY DAMAGE	8		
				(Per accident)	5		
UMBRELLA LIAS OCCUR				EACH OCCURRENCE	s		
EXCESS LIAB CLAIMS-MADE			1	AGGREGATE	5		
DED RETENTION \$			-	AGONE ORIE	5		
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	AVWCFL2562762017	01/11/2017	01/11/2018	X PER OTH-	•		
ANY PROPRIETOR/PARTNER/EXECUTIVE				E.L. EACH ACCIDENT	\$1,000	000	
(Mandatory in NH)			1	E.L. DISEASE - EA EMPLOYEE			
If yes, describe under DESCRIPTION OF OPERATIONS below			- F	E.L. DISEASE - POLICY LIMIT			
CRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACOF	D 101, Additional Remarks Schedule, n	nav be attached if mo	re space la remit	(here			

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ACORD 25 (2014/01) 1 of 2 The ACORD name and logo are registered marks of ACORD #S588213/M587559

DESCRIPTIONS (Continued from Page 1)

NOTICE:

Contract # CON-UT14-15/TM- Manhole and Lift Station Rehabilitation Services

Certificate holder is additional insured as respects General Liability only if required by written contract, and subject to the terms, conditions and limits as specified in the policy.

Walver of subrogation applies in favor of certificate holder as respects General Liability and Workers Compensation only if required by written contract, and subject to the terms, conditions and limits as specified in the policy.

Coverage is primary as respects to General Liability and non-contributory as subject to the terms, conditions and exclusions of your policy.

Item Number: B.(5) Meeting Date: Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 57-17 A Resolution to Repeal Resolution 44-16, a Resolution of Necessity for the acquisition of property for Canal Pump Station #1 as a result of voluntary acquisition; Department: Real Estate/City Attorney; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

A resolution repealing Resolution 44-16, a resolution of necessity for the acquisition of property located at 1523 NW 8th Terrace for the purpose of constructing a canal pump station (Station #1) for the support of the irrigation treatment system within the North 2 Utility Extension Project area. The City was initially unable to contact the property owner, but was subsequently contacted by a representative for the property owner and the parties have entered into a voluntary purchase of the property.

LEGAL REVIEW:

Steven D. Griffin, Assistant City Attorney

EXHIBITS:

Resolution 57-17

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Real Estate Broker

ATTACHMENTS: Description

D Resolution 57-17

Type Backup Material

RESOLUTION 57 - 17

A RESOLUTION OF THE CITY OF CAPE CORAL REPEALING RESOLUTION 44-16, A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF PROPERTY FOR THE PURPOSE OF CONSTRUCTING A CANAL PUMP STATION ("STATION #1") FOR THE SUPPORT OF THE IRRIGATION TREATMENT SYSTEM WITHIN THE NORTH TWO UTILITY EXTENSION PROJECT AREA, AS A RESULT OF VOLUNTARY ACQUISITION OF THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 4, 2016, the Cape Coral City Council adopted Resolution 44-16, which authorized the City Manager and the City Attorney to acquire a fee simple interest in property located at 1523 NW 8th Terrace, Cape Coral, FL, for the purpose of constructing a canal pump station ("Station #1") for the support of the irrigation treatment system within the North Two utility extension project area; and

WHEREAS, Resolution 44-16 was recorded on April 20, 2016, at Instrument #2016000082552 in the Public Records of Lee County, Florida; and

WHEREAS, due to the inability to contact the property owner, the City filed its Petition in Eminent Domain in the Lee Circuit Court (Case No. 16-CA-003216); and

WHEREAS, thereafter, a representative for the property owner contacted the City and the parties entered into a voluntary purchase of the property; and

WHEREAS, the City Council desires to close this matter by repealing Resolution 44-16 and directing the City Attorney to voluntarily dismiss the court case and release the lis pendens filed against the property.

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

SECTION 1. Resolution 44-16 is hereby repealed.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI BURCH CARIOSCIA STOUT

LEON	
ERBRICK	
WILLIAMS	
COSDEN	

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____ 2017.

> REBECCA VAN DEUTEKOM CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ CITY ATTORNEY Res\Repeal Resolution of Necessity 44-16 Item Number: B.(6) Meeting Date: Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 58-17 Approve increase of the City Controlled Contingency allocation, for contract #CON-PW16-64/GM in the amount of \$138,100, for the Greenscape Median Landscape Maintenance project, which was approved on September 26, 2016 under Resolution 163-16 and authorize the City Manager or Designee (project manager) to utilize the contingency funds for issuance of additional funding to the existing purchase orders. The vendors awarded were as follows: Brent's Lawn and Tree Service, Inc; Brightview Landscape Services, Inc.; Superior Landscape Lawn Services, Inc. and John Fideli Landscape, LLC. The project is to cover expenses to replace vegetation due to traffic accidents, sight distance requirements and drought. The initial project was for the amount \$685,441 with an initial 15% city controlled contingency in the amount of \$102,816 which totaled \$788,257. This increase of contingency funds of \$138,100 would bring the total project cost to \$926,357; Department: Public Works Department; Dollar Amount \$138,100; (General Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

- 1. On September 26, 2016 under Resolution 163-16, the Greenscape Median Landscape Maintenance project was approved. The project is an ongoing maintenance of improved landscape medians.
- 2. The Public Works Department is requesting an increase to contingency funds for CON-PW16-64/GM for the Greenscape Median Landscape Maintenance Project.
- 3. This request is for an additional \$138,100 of contingency funds to cover expenses to replace vegetation due to traffic accidents, sight distance requirements and drought.
- 4. It should be noted that the contract requires the contractor to replace dead bushes, trees and grass at their expense; however, that applies to normal circumstances not damage or

loss due to extenuating circumstances.

- 5. The original contract amount approved on Resolution 163-16 on September 26, 2016, was for a value of \$685,441 plus 15% City controlled contingency for a total value of \$788,257. The vendors awarded were as follows: Brent's Lawn and Tree Service, Inc.; Brightview Landscape Services, Inc.; Superior Landscape Lawn Services, Inc. and John Fideli Landscape, LLC.
- 6. This contingency increase of \$138,100 would bring the total project cost to \$926,357.
- 7. Funding: FY2016 carryover funds, BU130105 Median Maintenance which staff identified available carryover funds in the amount of \$155,178 which will be brought forward in Budget Amendment #1.

LEGAL REVIEW:

EXHIBITS:

Department Memo Resolution 58-17

PREPARED BY:

Wanda Roop Division- Procurement Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, Public Works Director

ATTACHMENTS:

Description

- Department Memo
- B Resolution 58-17

Туре

Backup Material Backup Material

MEMORANDUM

CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

TO: John Szerlag, City Manager

FROM: Victoria Bateman, Financial Services Director V Wanda Roop, Procurement Manager Poor Paul Clinghan, Public Works Director Stephanie Smith, PW Design and Construction Manager St

DATE: March 23, 2017

SUBJECT: Landscape Medians Maintenance Contracts

Background

In September 2016, Council approved Resolution 163-16 and awarded Bid #PW16-64/GM to Brent's Lawn and Tree Service, Brightview Landscape Services, Inc., John Fideli Landscapes, LLC, and Superior Landscaping and Lawn Service, Inc. for the Greenscape Median Landscape Maintenance, an on-going maintenance of improved landscaped medians. The total bid amount of \$685,441, with a 15% city controlled contingency total of \$102,816 among the four (4) vendors, resulted in a total project cost of \$788,257.

Staff identified available carryover funds from FY 2016 in the amount of \$155,178 and recommends to use these funds to replace any vegetation due to traffic accidents, sight distance requirements, and drought. It should be noted that the contract requires the contractor to replace dead bushes, trees and grass at their expense. However, that applies to normal circumstances, not damage or loss due to actions by Acts of God or actions initiated by the City.

Recommendation

Staff requests an increase in the City controlled contingency allocation for five median landscape maintenance contracts. These additional funds cover expected expenses to replace vegetation. Finally, some FY 2017 contingency funds were expended to correct unresolved issues from FY 2016 contracts and the additional funds replace the previously approved contingency for future needs.

John Szerlag, City Manager- Landscape Medians Maintenance Contracts March 23, 2017 Page 2 of 2

The requested replacement contingency funding is as follows:

Superior Landscaping Lawn Services, Inc.	PO # 38362	\$27,500
Brent's Lawn and Tree Service	PO # 38240	\$50,000
BrightView Landscape Services	PO # 38250	\$35,000
John Fideli Landscapes, LLC	PO # 38253	\$10,000
John Fideli Landscapes, LLC	PO # 38569	\$6,300
John Fideli Landscapes, LLC	PO # 40782	\$9,300

The funding for the additional contingency comes from FY 2016 carryover funds, BU 130105 Median Maintenance.

PC/SS/VB/WR:sk

RESOLUTION 58-17

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING AN INCREASE IN THE AMOUNT OF THE CITY-CONTROLLED CONTINGENCY FOR GREENSCAPE MEDIAN LANDSCAPE MAINTENANCE; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO UTILIZE THE CONTINGENCY FUNDS FOR THE ISSUANCE OF CHANGE ORDERS NECESSARY FOR COMPLETION OF THE PROJECT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 26, 2016, City Council approved Resolution 163-16, approving contracts between the City of Cape Coral and Brent's Lawn and Tree Service, Inc., Brightview Landscape Services, Inc., Jon Fideli Landscapes, LLC, and Superior Landscaping & Lawn Service, Inc., for Greenscape Median Landscape Maintenance, in the amount of \$685,441, subject to a City-controlled contingency amount not to exceed fifteen (15) percent of the total amount of the contracts; and

WHEREAS, the Public Works Department is requesting an additional \$138,100 in contingency funds to cover expenses to replace vegetation due to traffic accidents, sight distance requirements and drought; and

WHEREAS, the original contracts require the contractors to replace dead bushes, trees and grass at their expense under normal circumstances, but not under extenuating circumstances such as Acts of God or actions initiated by the City; and

WHEREAS, the City Manager recommends the approval of the \$138,100 increase in the amount of contingency funds for Greenscape Median Landscape Maintenance, subject to approval of specific change orders by the City Manager or his designee (Project Manager.)

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

Section 1. The City Council hereby approves an additional \$138,100 in contingency funds for Greenscape Median Landscape Maintenance.

Section 2. The City Council hereby authorizes the City Manager or the City Manager's designee (the Project Manager) to utilize the additional contingency funds for the issuance of change orders for work required other than as contemplated in the contract documents with an appropriate scope and cost to address those needs.

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

ADOPTED BY THE CITY	COUNCIL OF THE CIT	Y OF CAPE CORAL AT ITS R	EGULAR
COUNCIL SESSION THIS	DAY OF	, 2017.	

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI _____ BURCH ____ CARIOSCIA _____ STOUT ____

2017.

LEON ERBRICK WILLIAMS COSDEN

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____

_ DAT OF _____

REBECCA VAN DEUTEKOM, CITY CLERK

ARPROVED AS TO FORM:

DOLORES D. MENENDEZ

CITY ATTORNEY res/Increase City Controlled Contingency-Median Landscape Maintenance Item Number: B.(7) Meeting Date: Item Type: CONSENT AGENDA

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Resolution 62-17 Redesignation Agreement for the 2017 Housing Opportunities for Persons with AIDS (HOPWA) Grant Program; Department: Community Development; Dollar Value: \$416,644; (Fund: NA)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS: N/A

SUMMARY EXPLANATION AND BACKGROUND:

The City, as the most populous HUD entitlement community in Lee County, is allocated the HOPWA grant funds for Lee County. The City anticipates receiving \$416,644 in HOPWA Funds for the Program Year 2017-2018. The City currently has an agreement with the US Department of Housing and Urban Development (HUD) and the State of Florida Department of Health to administer the funds the City receives through the Housing Opportunities for Persons with AIDS (HOPWA) Program. This will not result in a budget amendment because the funds will be provided directly to the State of Florida. This agreement is reviewed and entered into annually. The City has been entering into this agreement with the state since 2006.

LEGAL REVIEW:

EXHIBITS:

Resolution 62-17

PREPARED BY:

Amy

Yearsley Division- Planning Department- Development

SOURCE OF ADDITIONAL INFORMATION:

Amy L. Yearsley, Housing Coordinator

ATTACHMENTS:

Description

- n Memo
- Resolution 62-17

Туре

Backup Material Resolution
CITY OF CAPE CORAL DEPARTMENT OF COMMUNITY DEVELOPMENT MEMORANDUM

TO: Mayor Sawicki and Council Members

FROM: John Szerlag, City Manager Vincent A. Cautero, Community Development Director

DATE: April 11, 2017

SUBJECT: Redesignation of Housing Opportunities for Persons with AIDS (HOPWA) Program to the State of Florida Department of Health

This memorandum is in regards to a Consent Agenda Item scheduled for City Council on April 17, 2017.

In August 2005, the City received notification from the Department of Housing and Urban Development (HUD) that the City qualified to receive a Housing Opportunities for Persons with AIDS (HOPWA) formula grant on behalf of the Cape Coral – Fort Myers, Metropolitan Statistical Area beginning in federal FY 2006. The HOPWA program provides housing assistance and related supportive services for low income persons with HIV/AIDS and their families. The program has helped many communities establish strategic AIDS housing plans; better coordinate local and private efforts fill gaps in local systems of care and create new housing resources. HOPWA funds may be used for rental assistance, short term rent, mortgage, and utility payments, or for costs to develop and operate community residences.

The City of Cape Coral, as the most populous entitlement community in the Cape Coral – Fort Myers Metropolitan Statistical Area, is eligible to receive formula grant funding since it surpassed the 1,500 cumulative AIDS case threshold, with 1,612 AIDS cases documented by the Centers for Disease Control and Prevention (CDC). With this funding, the City would be required to provide HOPWA funding and programs not only in Cape Coral, but all of Lee County.

For the past eleven (11) years, the City has entered into an agreement with HUD and the Department of Health for the funds to be administered at the State level, by the Department of Health. The following provides an explanation as to why the funds have traditionally been redesignated to the State:

- The City of Cape Coral would be responsible for the countywide administration of the HOPWA program;
- The continuation of the administration of the HOPWA program through the State Department of Health and Lee County Human Services would not result in a decreased level of service to City of Cape Coral residents with HIV/AIDS;

Mayor and Council Members - HOPWA funds April 11, 2017 Page 2 of 2

- The administration of the HOPWA program by the City of Cape Coral could lead to an interruption in service of current HOPWA clients while the program is re-structured;
- The 3% administrative allocation would not be satisfactory to cover the training and costs associated with the program; and finally,
- The City would have the opportunity to evaluate the redesignation of funds to the State Department of Health on an annual basis.

Because of the reasons stated above, staff is recommending that the City of Cape Coral renew the HOPWA redesignation agreement with the Florida Department of Health for the program year 2017 as we have for the previous eleven (11) years.

If you have any questions regarding this correspondence, please contact Vince Cautero, Community Development Director at 574-0600.

VAC/AY (hopwamemorandum2017.docx)

C: Amy Yearsley, Housing Coordinator

RESOLUTION 62 - 17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL AUTHORIZING THE 2017-2018 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS/HIV (HOPWA) REDESIGNATION AGREEMENT BETWEEN THE CITY OF CAPE CORAL, THE STATE OF FLORIDA DEPARTMENT OF HEALTH, AND THE US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AUTHORIZING THE MAYOR TO EXECUTE THESE AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City, as the most populous Department of Housing and Urban Development entitlement community, is allocated Housing Opportunities for Persons with AIDS/HIV (HOPWA) funds for Lee County;

WHEREAS, the City anticipates receiving \$416,644 in HOPWA funds for the program year 2017-2018; and

WHEREAS, the City desires to enter into an agreement with the State of Florida Department of Health to administer these funds; and

WHEREAS, the Department of Housing and Urban Development requires that these entities enter into an agreement annually to redesignate these funds.

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 2017-2018 HOPWA Redesignation Agreement between the City of Cape Coral, the State of Florida Department of Health and the US Department of Housing and Urban Development.

Section 2. The City Council authorizes the Mayor to execute the Redesignation Agreement.

Section 3. Should 2017-2018 HOPWA funds not be allocated to the City of Cape Coral by the US Department of Housing and Urban Development, this agreement shall immediately terminate.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	 LEON	
BURCH	 ERBRICK	
CARIOSCIA	 WILLIAMS	
STOUT	 COSDEN	

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____ 2017.

REBECCA VAN DEUTEKOM, CITY CLERK

APPROVED AS TO FORM: Marin DOLORES D. MENENDEZ CITY ATTORNEY res/HOPWA 2017-2018

CITY OF CAPE CORAL HOPWA GRANTEE REDESIGNATION AGREEMENT

The City of Cape Coral is not able to accept the designation as the HOPWA grantee for the Cape Coral – Fort Myers, Florida Metropolitan Statistical Area (MSA), i.e. Lee County. Therefore, the City of Cape Coral designates the State of Florida, Department of Health, as the grantee and recipient of HOPWA funds for services on behalf of clients in the Cape Coral – Fort Myers MSA.

The City of Cape Coral hereby relinquishes complete responsibility for grants management activities and administrative oversight for said Cape Coral – Fort Myers MSA to the State of Florida, Department of Health, effective immediately.

The State of Florida, Department of Health, accepts the designation to receive funds on behalf of Lee County clients effective for the federal fiscal year 2017.

The Department of Housing and Urban Development (HUD) acknowledges this redesignation and shall incorporate the allocation for the Cape Coral – Fort Myers MSA in the State of Florida's, Department of Health, allocation as one grant for the federal fiscal year 2017.

The parties agree that should the City of Cape Coral not receive a HOPWA allocation for federal fiscal year 2017 this agreement shall immediately terminate.

CITY OF CAPE CORAL, FLORIDA

ВҮ:	Date:
Marni L. Sawicki, Mayor	
STATE OF FLORIDA	
DEPARTMENT OF HEALTH	
ВҮ:	Date:
Kelli Wells, MD	
Deputy Secretary for Health	
UNITED STATES OF AMERICA	
DEPARTMENT OF HOUSING AND URBAN DEVELOP	PMENT
ВҮ:	Date:
Ann D. Chavis, CPD Director, Miami Office	
BY:	Date:
Gary A. Causey, CPD Director, Jacksonville Offic	ce

Item Number: F.(1) Meeting Date: 4/17/2017 Item APPOINTMENTS TO BOARDS / Type: COMMITTEES / COMMISSIONS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Burnt Store Road Right-of-Way / Planning and Zoning Alternate - Vacancy

REQUESTED ACTION:

Appoint

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Vacancy: The P&Z alternate member on the Burnt Store Road Right of Way committee is currently vacant due to the term expiration of Graham Morris that occurred in February 2017. At the March 1, 2017, the Planning and Zoning Commission /Local Planning Agency voted to recommend Ron Marmo to serve as the P&Z alternate on the Burnt Store Road Right-of-Way Committee.

Expiration: N/A Applications: N/A Advertisement: N/A

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Board Sheet

PREPARED BY:

Kimberly	Division-	Managerial	Departmer
Bruns			

partment- City Clerk's Department

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns Assistant City Clerk 1-239-242-3243

ATTACHMENTS:

Description

Board Sheet

Туре

Backup Material

A	В	С	D
CITY OF CAPE CORAL			
2 BUR	NT STORE RIGHT-OF-WAY COMMITTE	Ε	
3			
		PHONE	
4 BOARD INFO	MEMBERS	NUMBERS	APPOINTED
5 Committee approved by Council	Ray Nathan "Nate" Bliss		
6 on 8/09/04 with Resolution 53-04	225 Old Burnt Store Road	282-3550	11/1/2004
7	Cape Coral, FL 33915		
8			
9			
10 The City of Cape Coral Burnt Store Road	RICK WILLIAMS, CHAIRPERSON	574-0439	11/14/2016
11 Right-of-Way Committee meets to discuss future	Council Member	x4439	
12 plans to widen Burnt Store Road from the			
13 intersection of Pine Island Road and running	Richard O'Donnell		
14 north to the County line.	EXEMPT		3/26/2007
15			
16	Richard Scariot		
17 Terms of Office: Undetermined	2620 NW 18th Terrace	283-6229	11/1/2004
18	Cape Coral, FL 33993		
19 Meets quarterly 3rd Thurs - Conf. Room 220-A			
20 (Meetings must be advertised at least	John Szerlag	574-0450	
21 10 days prior to meeting.)	City Manager	x4450	5/29/2012
22			
23			
24 Qualifications:	P&Z alternate - VACANT		
25 All Members shall be residents of Cape			
26 Coral and Citizens of the United States			
27			
28			
	Persides Zambrano, PW Planning &		
29 Committee Secretary:	Permitting Manager	574-0733	12/20/2012
30 Barbara Kerr (239) 242-3241	Staff Alternate	x4733	
31			
32		005 0400	4/44/0040/-10
33	Dan Read (P&Z)	225-3182	1/14/2013 (alt)
34	112 SW 59th Terrace		7/22/2013 (reg)
35	Cape Coral, FL 33914		
36			
37			
38			
39 40	rovicod 11/29/16		
40	revised 11/28/16		

Item A.(1) Number: 4/17/2017 Date: 4/17/2017 Item ORDINANCES/RESOLUTIONS -Type: Public Hearings





TITLE:

Ordinance 16-17 (ZA 16-0006*) Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

- 1. Will this action result in a Budget Amendment? No
- 2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below. If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: Recommends approval of the application for rezoning of both parcels, with the caveat set forth in the recommendation order attached to agenda item. Staff Recommendation: Recommends approval.

No

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Zoning District Map by rezoning property located at 409-411 Hancock Bridge Parkway from Corridor (CORR) to Multi-Family Residential (R-3) zone.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 16-17 Staff Presentation Back-up materials from Hearing Examiner Hearing HEX recommendation Order Additional back up received from DCD

PREPARED BY:

Division- Department-City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Chad Boyko, Principal Planner

ATTACHMENTS:

Description

D Ordinance 16-17 (ZA 16-0006)

- Staff Presentation
- Back up materials from Hearing Examiner Hearing Backup Material
- Hex Recommendation Order
- Additional back up received from DCD

Туре

Ordinance Backup Material Backup Material Backup Material Backup Material

ORDINANCE 16 - 17

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL OFFICIAL ZONING DISTRICT MAP OF ALL PROPERTY WITHIN THE LIMITS OF THE CITY OF CAPE CORAL BY REZONING PROPERTY DESCRIBED AS LOTS 44 - 47, BLOCK 1095, UNIT 23, CAPE CORAL SUBDIVISION, FROM CORRIDOR (CORR) TO MULTI-FAMILY RESIDENTIAL (R-3) ZONE; PROPERTY IS LOCATED AT 409-411 HANCOCK BRIDGE PARKWAY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral City Council has considered testimony, evidence, documentation and the application submitted by G & I MANAGEMENT SERVICES, LLC, for rezoning the belowdescribed property from CORRIDOR (CORR) TO MULTI-FAMILY RESIDENTIAL (R-3) ZONE, and has considered the recommendations of the Hearing Examiner and City Staff, and has considered the City of Cape Coral Comprehensive Plan with this zoning request.

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

Section 1. That the City of Cape Coral Official Zoning District Map of all of the property within the limits of the City of Cape Coral is hereby amended with respect to real property described as follows:

CORRIDOR (CORR) TO MULTI-FAMILY RESIDENTIAL (R-3) ZONE

LOTS 44, 45, 46, AND 47, BLOCK 1095, CAPE CORAL SUBDIVISION UNIT 23, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 14, PAGES 39-52, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 409-411 HANCOCK BRIDGE PARKWAY

and the City administrative office shall amend the City of Cape Coral Official Zoning District Map to reflect this zoning change.

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

Section 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council, unless Ordinance 1-17, a small scale development amendment to the Comprehensive Plan, is timely challenged. If Ordinance 1-17 is timely challenged, this ordinance shall become effective on the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that Ordinance 1-17 is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	 LEON	
BURCH	 ERBRICK	
CARIOSCIA	 WILLIAMS	
STOUT	 COSDEN	

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____ 2017.

> REBECCA VAN DEUTEKOM CITY CLERK

APPROVED AS TO FORM:

> T

BRIAN R. BARTOS ASSISTANT CITY ATTORNEY ord\ZA16-0006

Ordinance 16-17 ZA16-0006

Cape Coral City Council

ZA16-0006

Applicant: G and I Management Services, LLC

Location: 409-411 Hancock Bridge Parkway

Size: 20,000 sq. ft.

Request: Rezone from Corridor (CORR) to Multi-Family Residential (R-3)



Future Land Use

Pine Island Road District (PIRD)



Existing Zoning

Corridor (CORR)



Proposed Zoning

Multi-Family Residential (R-3)



Background

- Site is 2 undeveloped lots in Block
 1095 along Hancock Bridge
 Parkway
- Block 1095 has PIRD and MF future land use; CORR, R-1B, R-3 zoning
- Western end of block has commercial uses

Background

- Eastern end of block is developed with residential uses
- Property is situated between a duplex and a multi-family building
- Applicant has stated intent to build duplexes
- FLU of the site was amended in 2002 / Zoning in 2004

Justification

LUDR Standards

- Rezoning could diminish value applicant has requested rezone
- Not likely to diminish surrounding property values
- •R-3 compatible with surrounding residential area
- Extension of R-3 zoning in Block 1095
- Rezone will result in loss of commercial land

Justification

• Comprehensive Plan

- Existing PIRD Future Land Use is not consistent with Policy 1.14 (Commercial Siting Guidelines)
- •R-3 consistent with Policy 8.5 that encourages multi-family as a buffer for single-family
- •R-3 is consistent with pending FLU amendment to MF (Ord 1-17)

Recommendation

- R-3 zoning is appropriate for the surrounding area and is consistent with LUDR, Section 8.7.3.B and Policy 8.5 of the Comprehensive Plan
- Hearing Examiner recommends <u>approval.</u>
- Planning staff recommends <u>approval</u> of ZA16-0006
- No correspondence has been received



DEPARTMENT OF COMMUNITY DEVELOPMENT REQUEST FOR REZONING APPLICATION Questions: 239-574-0553

REQUEST TO PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY AND COUNCIL FOR A REZONING

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

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

OWNER OF PROPERTY	
G&I MANAGEMENT SERVICES LLC	
Email: nermoiaz@hormail.com	City COLAL State: F(Zip _33990) Phone: 239 464 3310
AUTHORIZED REPRESENTATIVE	
AC MIGUEL DIAZ	Address: 314 SE 19 TER
	City CAPE CORA State: FC Zip 33990
Email: netmoiaz@ hotmail. com	Phone: 239 464 3300
Unit 23 Block 1095 Lot(s)44/45/46	43Subdivision CAPE COEAL
	BRIDGE PKWYN, CAPE CORAL, FL, 33990
Current Zoning	Plat Book, Page
Proposed Zoning $\mathcal{R3}$ Strap Nu	mber 1 <u>34423C 2010950 440/134423C 201095046</u> 0
THIS APPLICATION SHALL ALSO HAVE ANY ADDI	TIONAL REQUIRED SUPPORTING POCUMENTS
	es to conform to all applicable laws of the City of Cape Coral and
	and certifies that all information supplied is correct to the best of
their knowledge.	NO
MIGUEL DIAZ	
NAME (PLEASE TYPE OR PRINT)	APPLICANT'S SIGNATURE

(SIGNATURE MUST BE NOTARIZED)



DEPARTMENT OF COMMUNITY DEVELOPMENT **REQUEST FOR REZONING APPLICATION** Questions: 239-574-0553

STATE OF EL, COUNTY OF
Sworn to (or affirmed) and subscribed before me this <u>31</u> day of <u>May</u> , 2014 by <u>May</u> who is personally known or produced <u>DD 200540770610</u>
as identification. Exp. Date: $11/30/17$ Commission Number: $11/30/17$
Signature of Notary Public:
(407, MICHELLE A MILLER MY COMMISSION #FF060852 RES November 30, 2017 (407, MotoryService.com (407) 398-0153 FloridaNotaryService.com





DEPARTMENT OF COMMUNITY DEVELOPMENT REQUEST FOR REZONING APPLICATION Questions: 239-574-0553

ACKNOWLEDGEMENT FORM

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

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

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

I understand 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 Bl day of Mal , 20 ll
MIGNER DIAZ
NAME (PLEASE TYPE OR PRINT) APPUICANT'S SIGNATURE - STATE OF COUNTY OF
Subscribed and sworn to (or affirmed) before me this 3 day 10th, 2014 by who is personally known or produced by
as identification. Exp. Date: 11 17/16 Commission Number: FOLO0553
Signature of Notary Public:
Rezoning request application 6 9 15 MICHELLE A MILLER MY COMMISSION #FF060852 EXPIRES November 30, 2017

Letter of Intent

Date: 05/31/2016

To: City of Cape Coral

From: Miguel Diaz, Owner G & I Management Services, LLC 314 SE 19 Ter, Cape Coral, FL 33990

RE: Rezoning and Future Land Use Amendment Request for the following property locations:

- 409 Hancock Bridge Parkway North, Cape Coral, FL 33990 (Lots 44/45, Block 1095, Unit 23) Strap # 134423C2010950440
- 411 Hancock Bridge Parkway North, Cape Coral, FL 33990 (Lots 46/47, Block 1095, Unit 23) Strap # 134423C2010950460

I, Miguel Diaz sincerely request a Rezoning of the properties mentioned above from actual zoning (CORR) to (R3-Mutifamily) and also request Future Land Use amendment from (PIRD) to (MF-Multifamily)

The granting of this Amendment will not be injurious to the area and as you can see the Land lots are surrounded (side by side) by other multifamily properties and the adjacent property located at **415 Hancock Bridge Parkway North, Cape Coral, FL 33990** is actually classified as (Zoning **R3**-Multifamily) and (**MF**- Multifamily Future Land Use)

I purchased the properties stated above in May 2016 and my intention is to build a multifamily building as per Cape Coral Building and Zoning regulations. We respectfully request the amendment to be approved.

Thank you for considering our request.

Sincerely, Miguel Diaz

Planning Division Case Report

Case No:	ZA16-0006
Applicant:	G and I Management Services, LLC
Request:	Approval of a rezoning from Corridor (CORR) to Multi-Family Residential (R-3) for two properties along Hancock Bridge Parkway.
Staff Recommendation:	Approval

Location Information:

The site is two undeveloped parcels at 409 and 411 Hancock Bridge Parkway¹. The parcels are Lots 44 through 47 within Block 1095 and the site is 20,000 sq. ft. The surrounding area has commercial development to the north and a combination of undeveloped properties and residential dwelling units² to the east, west, and south. The site is in the Urban Service Transition area and centralized utilities are available.

Subject	Future Land Use	Zoning	
Property:			
Current:	Pine Island Road District (PIRD)	Corridor (CORR)	
Proposed:	N/A	Multi-Family Residential (R-3)	
	Surrounding Future Land Use	Surrounding Zoning	
North:	PIRD	CORR	
South:	Multi-Family Residential (MF)	R-3	
East:	MF	R-3	
West:	PIRD	CORR	

Summary:

The site has a Pine Island Road District (PIRD) Future Land Use designation and is zoned Corridor (CORR). Previously, the site had a Multi-Family Residential (MF) Future Land Use designation and a Multi-Family Residential (R-3) zoning designation. The Future Land Use and zoning were changed in 2002 and 2004, respectively. Duplexes are directly adjacent to the west and east sides of the site. The request is to rezone the site from CORR to R-3 in order to build residential dwelling units on the site. The applicant has also filed a Future Land Use Map Amendment (LU16-0006)to change the Future Land Use designation from PIRD to MF.

¹ A major arterial

² A mixture of single-family homes and duplexes.

January 3, 2017 ZA16-0006 Page 2 of 5

The site has access from Hancock Bridge Parkway and is adjacent to PIRD Future Land Use to the north and south, however, properties with a MF Future Land Use designation are adjacent to the east. The proposed rezone would decrease the amount of land available for commercial development. But given that the site is surrounded on two sides by existing duplexes, commercial development on the 20,000 sq. ft. site challenging. The proposed rezone would allow the site to develop with up to eight residential dwelling units.

The request is consistent with City of Cape Coral Land Use and Development Regulations (LUDR), Section 8.7 that discusses Commercial Siting Guidelines. The request is also consistent with Comprehensive Plan Policies 8.4 and 8.5 of the Future Land Use Element, which encourages multi-family as a buffer between commercial and single-family residential uses. Additionally, the property is not wholly consistent with Comprehensive Plan Policy 1.15 of the Future Land Use Element regarding commercial siting guidelines. The site is appropriate for multi-family development. Please also see the case report for LU16-0006 for this analysis.

Staff recommends <u>approval</u> of the requested rezoning.

Positive Aspects of Application:	 Allow for development of duplex or multi-family residential units. Allows development of a challenging infill site. Maintains buffer for single-family residences to the east.
Negative Aspects of Application:	Reduces commercial land along a corridor.

January 3, 2017 ZA16-0006 Page 3 of 5

Detailed Analysis:

Land Use and Development Regulations

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

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

The requested rezone could slightly diminish the value of the property. R-3 zoning has a smaller list of allowed uses than the CORR district. The reduced range of uses could limit development flexibility. The rezone is requested by the applicant, therefore, concerns regarding diminished property values are less significant.

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

Planning staff finds that property to the east and south have R-3 zoning; the same zoning requested by the applicant. Future development on the site is likely to be residential and similar in size and configuration to properties to the east, west, and south. Therefore, the proposed rezone is not likely to depreciate the value of surrounding properties.

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

Planning staff finds that the site is suited for R-3 zoning due to a number of factors such as parcel size, location within Block 1095, and surrounding development patterns. The site is only 20,000 sq. ft. and does not have full block depth. The site is surrounded on three sides by existing multi-family structures and is near a large number of single-family and multi-family properties in Block 1095. Analysis conducted for the applicant's Future Land Use amendment request also shows that the site is not well-suited for commercial development due to a number of factors, such as lack of unified ownership, integration, and lack of adequate depth.

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

The surrounding neighborhood has residential dwelling units to the east, west³, and south. There are also scattered undeveloped lots in the surrounding neighborhood. To the north across NE Van Loon Terrace is an office complex. The proposed rezone will likely result in

³ The residence to the west is a legal non-conforming duplex structure.

construction of residential dwelling units, which will be compatible with the surrounding neighborhood.

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

Planning staff finds that the proposed rezone to R-3 will result in the loss of commercial property along a four-lane arterial roadway. The City has a documented deficit of commercial land that has been identified in the Comprehensive Plan and in a 2016 Build-Out Study Analysis. Generally, any request to rezone or amend commercial property to a residential property is not viewed favorably, however, the proposed rezone is for a site that is relatively small. If the rezone is approved, the loss of 20,000 sq. ft. is likely to have minimal impact and should not cause a hardship to the community.

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

The City of Cape Coral has a documented need for multi-family housing as reported by a study conducted in 2016. The rezone will allow up to eight dwelling units, which could provide Cape Coral with additional multi-family residential housing.

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

The Future Land Use was amended in 2002 from Multi-Family (MF) to Pine Island Road District (PIRD) via Ordinance 38-02. The property was rezoned in 2004 from Multi-Family Residential (R-3) to Corridor (CORR) via Ordinance 8-04.

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

The proposed R-3 zoning will be consistent with the City's Comprehensive Land Use Plan⁴ and the change will provide additional area for multi-family residential at an appropriate location. The proposed rezone should not negatively affect the health, safety, or welfare of the community because similar zoning already exists in general proximity to the subject property.

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

⁴ Pursuant to future adoption of a proposed FLU amendment (LU16-0006).

The subject parcel is located in the City's Urban Service Transition Area. Water, sewer, and irrigation are available. Future development will be required to connect to City utility system.

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

The proposed rezone is consistent Comprehensive Plan Policy 1.15 as the proposed Future Land Use classification is MF. Properties with the MF future land use are compatible with the R-3 district. Staff finds that the requested R-3 zoning is appropriate for the subject property. Planning staff also finds that the proposed rezone is consistent with Chapter 4 (Future Land Use Element), Policy 8.5 of the Comprehensive Plan, which states that multifamily residential is appropriate as a buffer between single-family residences and commercial development.

Public Notification

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

<u>Publication</u>: A legal ad will be prepared and sent to the *New Press*. The ad will appear in the *News Press* a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

<u>Written notice</u>: Property owners located within 500 feet from the property line of the subject property will receive written notification of the scheduled public hearing. These letters will be mailed to the aforementioned parties a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

<u>Posting of a Sign</u>: A sign will posted on the subject property a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

Staff Recommendation:

This request is consistent with the City Comprehensive Plan and LUDR. Staff finds that rezone request is suitable for the property and the surrounding neighborhood. The Planning Division recommends **approval** of the rezone to R-3.

Staff Contact Information:

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





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: ZA16-0006

- **<u>REQUEST:</u>** Approval of a rezoning from Corridor (CORR) to Multi-Family Residential (R-3) for two properties along Hancock Bridge Parkway.
- LOCATION: 409 and 411 Hancock Bridge Parkway

<u>CAPE CORAL STAFF CONTACT</u>: Chad Boyko, AICP, Principal Planner, (239) 573-3162, <u>cboyko@capecoral.net</u>

PROPERTY OWNER(S): G and I Management Services, LLC

AUTHORIZED REPRESENTATIVE: Miguel Diaz

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, February 7th, 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, <u>www.capecoral.net/publichearing</u> (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.

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



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

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD CAPE CORAL FL 33990 USA

Run Times: 1

Run Dates: 01/28/17

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: ZA16-0006

REQUEST: Approval of a rezoning from Corridor (CORR) to Multi-Family Residential (R-3) for two properties along Hancock Bridge Parkway.

LOCATION: 409 and 411 Hancock Bridge Parkway

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

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AUTHORIZED REPRESENTATIVE: Miguel Diaz

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After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/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 accommodaNo. of Affidavits: 1

Ad No.:

Net Amt:

0001880278

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by order of Rebecca van Deutekom, MMC, City Clerk REF # ZA16-0006 AD#1880278 1/28/2017

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: G & I Management Services LLC

§

APPLICATION NO: ZA16-0006

STATE OF FLORIDA

COUNTY OF LEE

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

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

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

DATED this

day of

2017

Exp. Date //

Vincent A. Cautero, AICP

Commission #

STATE OF FLORIDA COUNTY OF LEE



Signature of Notary Public

KD

Print Name of Notary Public



Sent from my iPhone

1

From: Sent: To:

Shawn <heybudgirl@aol.com>. Friday, January 27, 2017 8:42 AM Shawn Baker








FEB 1 3 2017

CITY CLERKS OFFICE

FIVED

OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL HEARING EXAMINER RECOMMENDATION CITY OF CAPE CORAL

ZA HEX Recommendation 1-2017 Rendered February 7, 2017

APPLICATION FOR: Rezoning from Corridor (CORR) Zoning to Multi-Family Residential (R-3) Zoning

DCD Case # ZA16-0006

NAME OF APPLICANT/OWNER: G and I Management Services, LLC

APPLICANT'S REPRESENTATIVE: Albert Baeza

PROPERTY ADDRESSES, LEGAL DESCRIPTIONS AND STRAP NUMBERS:

- 409 Hancock Bridge Parkway North, Cape Coral, FL 33990 Legal Description: Lots 44/45, Block 1095, Unit 23 STRAP # 134423C2010950440
- 411 Hancock Bridge Parkway North, Cape Coral, FL 33990 Legal Description: Lots 46/47, Block 1095, Unit 23 STRAP # 134423C2010950460

CURRENT ZONING: Corridor (CORR)

FUTURE LAND USE CATEGORY: Pine Island Road District (PIRD)

HEARING DATE: February 7, 2017

I. SUMMARY OF REQUEST

Rezoning of two (2) undeveloped parcels (containing a total of 20,000 square feet) along Hancock Bridge Parkway from Corridor (CORR) to Multi-Family Residential (R-3).

II. SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends approval of the application for rezoning of both parcels, with the caveat set forth immediately below.

The Applicant has concurrently filed a request for a Future Land Use Map Amendment (LU 16-0006) to change the Future Land Use designation from PIRD to MF (Multi-Family Residential). That request is beyond the scope of the Hearing Examiner's jurisdiction to consider and is therefore not addressed in this Recommendation. However, the Hearing Examiner notes that the recommendation of approval set forth herein is dependent upon the City Council's granting such Future Land Use designation change. If City Council denies the application for change of the Future Land Use designation, the recommendation of approval set forth herein would be moot. The Hearing Examiner advised the applicant's representative of this possible scenario.

ZA HEX RECOMMENDATION 1-2017 February 7, 2017

III. NOTICE OF HEARING

Based on the testimony of City Staff Chad Boyko at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, Section 8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

IV. PARTICIPANTS IN HEARING

CITY STAFF: Chad Boyko

CITY CLERK'S OFFICE: Elisabeth Delgado

APPLICANT'S REPRESENTATIVE: Albert Baeza

MEMBERS OF PUBLIC: none

CORRESPONDENCE FROM PUBLIC: none

APPLICANT'S AND CITY STAFF'S EXHIBITS: previously submitted.

REVIEW OF STATUTORY AND LUDR REQUIREMENTS

<u>Authority.</u> Section 163.3194, F.S. and Cape Coral Ordinance 24-16 require the Hearing Examiner to review and make a recommendation to City Council about consistency of a rezoning application to the City's adopted Comprehensive Plan and whether the requested rezoning should be granted.

<u>Standard of Review of Evidence: Hearsay Evidence.</u> The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. In rendering this recommendation, the Hearing Examiner must consider all competent substantial evidence in the record, as defined in City Ordinance 23-16.

<u>Rezoning Standards.</u> In reviewing the rezoning application for consistency with the Comprehensive Plan of the City of Cape Coral (including the Future Land Use Map and its accompanying text), the Hearing Examiner must apply the general standards set forth in LUDR Section 8.7.3.

ZA HEX RECOMMENDATION 1-2017 February 7, 2017

V. <u>DISCUSSION</u>

Site and Surrounding Area.

The property, which totals 20,000 square feet, consists of two (2) undeveloped parcels with site addresses, respectively, of 409 and 411 Hancock Bridge Parkway.¹

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To the north of the subject property is commercial development. Duplexes are directly adjacent to the subject property on the east and west side. Undeveloped property is to the south.

The site is in the Urban Service Transition area and centralized utilities are available.

The site currently has a Pine Island Road District (PIRD) Future Land Use designation and is zoned Corridor (CORR). Previously, the site had a Multi-Family Residential (MF) Future Land Use designation and a Multi-Family Residential (R-3) zoning designation. The Future Land Use designation was changed in 2002 and zoning was changed in 2004.

Applicant has filed a request to rezone the site to the previous designation of R-3 in order to build residential dwelling units on the site. The applicant has also filed a Future Land Use Map Amendment (LU16-0006)to change the Future Land Use designation from PIRD to the previous designation of MF.

The site has access from Hancock Bridge Parkway and is adjacent to PIRD Future Land Use to the north and south, however, adjacent properties have a MF Future Land Use designation.

Consideration of General Standards Set Forth in LUDR Section 8.7.3

1. <u>The extent to which the value of the property is diminished by the</u> proposed land use restriction or zoning of the property.

Staff testified that the requested rezoning might diminish the value of the property somewhat, as R-3 zoning has a smaller list of allowed uses than the CORR district. Such reduced range of uses could limit development flexibility.

However, this consideration is offset by the fact that this rezoning has been requested by the applicant itself. In addition, staff testified that commercial development on the 20,000 sq. ft. site would be challenging, as it is flanked by duplexes. Staff testified that the proposed rezone would allow the site to develop with up to eight residential dwelling units.

¹ Hancock Bridge Parkway is a major arterial road.

After balancing the above considerations, the Hearing Examiner recommends that City Council find that the value of the property **will not be diminished** by the rezoning.

2. <u>The extent to which the removal of a proposed land use restriction or</u> <u>change in zoning depreciates the value of other property in the area.</u>

The requested rezoning would result in the subject parcel having the same zoning as property to the east and south. Planning staff testified that future development on the site is likely to be residential and similar in size and configuration to properties to the east, west, and south. Staff testified that the proposed rezone is not likely to depreciate the value of surrounding properties. By incorporating the staff presentation into his presentation, the applicant's representative agreed.

The Hearing Examiner recommends a finding that the proposed rezoning is **not anticipated** to depreciate the value of other properties in the area.

3. <u>The suitability of the property for the zoning purpose or land use</u> restriction imposed on the property as zoned.

Planning staff testified that the site is suited for R-3 zoning due to a number of factors such as parcel size, location within Block 1095, and surrounding development patterns. At 20,000 square feet, the site lacks full block depth. The site is surrounded on three sides by existing multi-family structures and is near a large number of single-family and multi-family properties in Block 1095. Staff further testified that the site is not well-suited for commercial development due to lack of unified ownership, integration, and lack of adequate depth.

Based on staff's testimony, the Hearing Examiner recommends that City Council find that the property **is suitable** for the proposed rezoning.

4. <u>The character of the neighborhood, existing uses, zoning of nearby and</u> <u>surrounding properties, and compatibility of the proposed land use</u> <u>restriction or zoning.</u>

Staff testified that the surrounding neighborhood has residential dwelling units to the east, west, and south, as well as undeveloped lots. To the north across NE Van Loon Terrace is an office complex. Staff further testified that the proposed rezone is likely to result in construction of residential dwelling units, which will be compatible with the surrounding neighborhood.

Accordingly, the Hearing Examiner recommends that City Council find the proposed rezoning is **compatible** with the character of the neighborhood, existing uses, and zoning of nearby and surrounding properties.

ZA HEX RECOMMENDATION 1-2017 February 7, 2017

5. <u>The relative gain to the community as compared to the hardship, if any</u> <u>imposed, by the proposed land use restrictions or from rezoning said</u> <u>property.</u>

Planning staff testified that the proposed rezone to R-3 will result in the loss of commercial property along a four-lane arterial roadway. As Cape Coral has a documented deficit of commercial land as set forth in the City's Comprehensive Plan and in the 2016 Build-Out Study Analysis, this would be a hardship to the community if the rezoning were granted.

Staff further testified that a mitigating factor in this analysis would be the size of the property in that the loss of a 20,000 square feet commercial parcel is likely to have minimal impact and should not cause a hardship to the community.

After considering the above factors, the Hearing Examiner recommends that City Council find the proposed rezoning would **create more gains than hardships** to the community.

6. <u>Community need for the use proposed by the zoning or land use</u> <u>restriction.</u>

Staff testified that the City of Cape Coral has a documented need for multi-family housing as reported by a study conducted in 2016. Staff further testified that the rezone will allow up to eight dwelling units, which could provide Cape Coral with additional multi-family residential housing.

The Hearing Examiner recommends that City Council find the **community needs** the use proposed by the applicant.

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

The subject property has had a Future Land Use designation of Pine Island Road District (PIRD) since 2002, a period of fifteen (15) years.

The subject property has had the Corridor (CORR) zoning district designation since 2004, a period of thirteen (13) years.

The Hearing Examiner recommends that City Council find the subject property has been vacant for thirteen (13) years under its current zoning.

8. <u>The extent to which the proposed land use restriction or zoning promotes</u> <u>the health, safety, morals, or general welfare of this community.</u> Staff testified that the proposed R-3 zoning will be consistent with the City's Comprehensive Land Use Plan and the change will provide additional area for multi-family residential at an appropriate location. Staff further testified that the proposed rezone should not negatively affect the health, safety, or welfare of the community because similar zoning already exists in general proximity to the subject property.

The Hearing Examiner recommends that City Council find that this rezoning **will promote** the general welfare of the community under the above findings of fact.

9.

<u>The extent to which the proposed land use, land use restriction, or zoning</u> <u>will impact the level of service standards for public facilities as specified in</u> the Comprehensive Plan

Staff testified that the subject parcel is located in the City's Urban Service Transition Area and that water, sewer, and irrigation are available. Future development will be required to connect to City utility system.

The Hearing Examiner recommends that City Council find that the impact of the proposed rezoning on level of service standards for public facilities will be **manageable**.

10. <u>Whether the proposed land use restriction, removal of a restriction, or</u> <u>zoning is consistent with the City of Cape Coral Comprehensive Land</u> <u>Use Plan.</u>

If the property's Future Land Use Classification is changed to MF, the proposed rezone will be consistent with the requirements of Comprehensive Plan Policy 1.15. Properties with the MF Future Land Use designation are compatible with the R-3 district.

Staff testified that the requested R-3 zoning is appropriate for the subject property. Planning staff also recommends a finding that the proposed rezone is consistent with Chapter 4 (Future Land Use Element), Policy 8.5 of the Comprehensive Plan, which states that multi-family residential zoning is appropriate as a buffer between single-family residences and commercial development.

For all of the above reasons, the Hearing Examiner recommends that the City Council find the proposed rezoning to be **compatible** with the future land use classification that currently exists for the subject property and the proposed rezoning to be **consistent** with the goals and objectives of the Comprehensive Plan.

VI. RECOMMENDATIONS

Based upon the testimony and documentary exhibits presented during the Hearing, the Hearing Examiner recommends that:

- 1. the City Council find the requested rezoning is consistent with the requirements of the Comprehensive Plan of the City of Cape Coral, and
- 2. the City Council approve the requested rezoning.

This Recommendation is effective on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

ANNE DALTON, ESQUIRE

DATE

ATTEST:

John Szerlag

The information you requested regarding Ordinance 16-17 (petition ZA16-0006) is attached.

Best regards,

Vincent A. Cautero, AICP Community Development Director City of Cape Coral <u>vcautero@capecoral.net</u> 239-574-0600

NOTE: Florida has a very broad public records law, and under Florida law, most written communications to or from city staff regarding city business to include your e-mail address is considered public records and will be made available to the public and the media upon request. If you do not want your email message and or your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing. Additionally, this communication is intended only for the addressee. If you are not the intended recipient, do not copy, disclose, or distribute this message to anyone else. If you have received this communication in error, please contact the sender of the message to inform him or her of the error and then delete this message.



Future Land Use and Zoning Chronology

Block 1095

1

Lots 44-47 owned by G and I Management Services, LLC

2002 - Future Land Use Change from Multi-Family Residential (MF) to Pine Island Road District (PIRD) (Ord. 38-02).

2004 - Rezone from Multi-Family Residential (R-3) to Corridor (CORR)(Ord 8-04).

2017 - Future Land Use changed from Pine Island Road District (PIRD) to Multi-Family (MF)(Ord 16-17).

Lots 18-43 (to the west) have the same Future Land Use and Zoning history as Lots 44-47.

Lots 48-101 have retained their Multi-Family Residential (MF) Future Land Use and Multi-Family Residential (R-3) zoning since 1989.

Lots 102-155 have retained their Single-Family Residential (SF) Future Land Use and Single-Family Residential (R-1B) zoning since 1989.

Item A.(2) Number: 4/17/2017 Date: 4/17/2017 Item ORDINANCES/RESOLUTIONS -Type: Public Hearings





TITLE:

Ordinance 17-17 (PDP 16-0011*) Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: Recommends approval of the Project, subject to the terms and conditions set forth in the recommendation order attached as back-up. Staff Recommendation: Recommends approval with conditions.

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending Ordinance 6-98, which approved a Planned Development Project entitled "A-1 Shelters Self Storage, Hancock Creek Site," providing for PDP approval for certain property located at 2555 NE Pine Island Road and near the southeast corner of Diplomat Parkway East and NE 24th Avenue; expanding the project area by 6.1 acres; rezoning 8.3 acre from Corridor (CORR) to Corridor district with the Commerce Park Overlay (CORR/CPO); granting a deviation from the requirement that no more than 30% of the front surface of any exterior wall facing any public right-of-way except alleys shall be metal to allow a wall facing Diplomat Parkway to be composed entirely of metal; granting a deviation of 12 feet, 4 inches, from the maximum wall height of 8 feet to allow a wall facing Diplomat Parkway 20 feet, 4 inches in height; granting a deviation from the requirement that building walls used for meeting the screening requirement within a CPO buffer be composed of stucco, brick, stone, textured concrete masonry units, or other concrete surfaces to allow the walls of four buildings near the western property line of the enclosed storage facility to be composed of metal; granting a deviation from the requirements of the Non-residential Design Standards to allow all buildings associated with the enclosed storage facility to be exempt from the Non-residential Design Standards.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 17-17 Staff Presentation HEX Recommendation Order Back-up from Hearing Examiner Hearing

PREPARED BY:

Division- Department-City Attorney

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, Planning Team Coordinator

ATTACHMENTS:

Description

- D Ordinance 17-17 (PDP 16-0011)
- Staff presentation
- HEX Recomendation Order
- Back-up from Hearing Examiner Hearing

Туре

Ordinance Backup Material Backup Material Backup Material

PDP16-0011

ORDINANCE 17 - 17

AN ORDINANCE AMENDING ORDINANCE 6-98 WHICH APPROVED A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "A-1 SHELTERS SELF STORAGE, HANCOCK CREEK SITE" PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR CERTAIN PROPERTY DESCRIBED AS PART OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTIES LOCATED AT 2555 NE PINE ISLAND ROAD AND NEAR THE SOUTHEAST CORNER OF DIPLOMAT PARKWAY EAST AND NE 24TH AVENUE; EXPANDING THE PROJECT AREA BY 6.10 ACRES TO INCLUDE A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN, TOGETHER WITH A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; REZONING 8.3 ACRES FROM CORRIDOR (CORR) TO CORRIDOR DISTRICT WITH THE COMMERCE PARK OVERLAY (CORR/CPO); GRANTING A DEVIATION FROM THE REQUIREMENT THAT NO MORE THAN 30% OF THE FRONT SURFACE OF ANY EXTERIOR WALL FACING ANY PUBLIC RIGHT-OF-WAY EXCEPT ALLEYS SHALL BE METAL TO ALLOW A WALL FACING DIPLOMAT PARKWAY TO BE COMPOSED ENTIRELY OF METAL; GRANTING A DEVIATION OF TWELVE FEET, FOUR INCHES FROM THE MAXIMUM WALL HEIGHT OF EIGHT FEET TO ALLOW A WALL FACING DIPLOMAT PARKWAY TWENTY FEET, FOUR INCHES IN HEIGHT; GRANTING A DEVIATION FROM THE REQUIREMENT THAT BUILDING WALLS USED FOR MEETING THE SCREENING REQUIREMENT WITHIN A CPO BUFFER BE COMPOSED OF STUCCO, BRICK, STONE, TEXTURED CONCRETE MASONRY UNITS, OR OTHER CONCRETE SURFACES TO ALLOW THE WALLS OF FOUR BUILDINGS NEAR THE WESTERN PROPERTY LINE OF THE ENCLOSED STORAGE FACILITY TO BE COMPOSED OF METAL; GRANTING A DEVIATION FROM THE REQUIREMENTS OF THE NON-RESIDENTIAL DESIGN STANDARDS TO ALLOW ALL BUILDINGS ASSOCIATED WITH THE ENCLOSED STORAGE FACILITY TO BE EXEMPT FROM THE NON-RESIDENTIAL DESIGN STANDARDS; 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 AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AN EFFECTIVE DATE.

WHEREAS, the "A-1 Shelters Self Storage, Hancock Creek Site" Planned Development Project was approved by the Cape Coral City Council by Ordinance 6-98; and

WHEREAS, an application from Kirby Family Limited Partnership #3 has been received requesting an amendment of the "A-1 Shelters Self Storage, Hancock Creek Site" Planned Development Project (PDP); requesting an expansion to the project area, rezoning, deviations, and development plan approval; and

WHEREAS, the request has been reviewed by the Cape Coral Hearing Examiner; and

WHEREAS, the City Council has considered the recommendations of the Hearing Examiner.

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

SECTION I. PDP APPROVAL, REZONING, DEVIATIONS, DEVELOPMENT PLAN.

Having reviewed the application requesting approval of a Planned Development Project amendment for "A-1 Shelters Self Storage, Hancock Creek Site" PDP, requesting the following:

The expansion of the project area to include 6.10 acres southeast of the intersection of Diplomat Parkway East and NE 24th Avenue, described as Parcels 1 and 2 herein; and

A rezoning of the extant PDP project area of 7.6 acres along with land described as Parcel 2 herein, consisting of an additional 0.7 acres, from Corridor (CORR) to Corridor District with the Commerce Park Overlay (CORR/CPO); and

A deviation from the City of Cape Coral Land Use and Development Regulations, Section 2.7.13J.5.d that limits metal to 30% of the front surface of exterior walls facing public rights-of-way to allow a wall facing Diplomat Parkway to be composed entirely of metal; and

A deviation of 12 feet, four inches from the City of Cape Coral Land Use and Development Regulations, Section 2.7.13J.6.c(2) that limits walls to a maximum height of eight feet to allow a wall facing Diplomat Parkway with a height of 20 feet, four inches; and

A deviation from the City of Cape Coral Land Use and Development Regulations, Section 2.7.13J.6.c(5) that requires building walls used for meeting the screening requirement within a CPO Buffer to be composed of stucco, brick, stone, textured concrete masonry units, or other concrete surfaces to allow the walls of four building near the western property line of the enclosed storage facility to be composed of metal; and

A deviation from the City of Cape Coral Land Use and Development Regulations, Section 5.6 that requires non-residential buildings to meet minimum architectural standards to allow all buildings associated with the enclosed storage facility to be exempt from the non-residential design standards; and

Having considered the recommendations of the Hearing Examiner, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP approval, and approve development plan in accordance with plan set entitled "PDP Master Plans for Stor-Rite Storage Facility Expansion," Sheets 1 through 14, dated August 15, 2016, and also bearing a revision date of January 12, 2017, prepared by Avalon Engineering, Inc.; sketch and legal description of the PDP site, Sheets 1-3, dated December 22, 2016, prepared by Stouten Cramer Professional Surveyors, and wall elevation of the enclosed storage facility, File #16-1120, prepared by Gersdorf and Gersdorf, Inc. Architects. All aforementioned sheets appear in composite Exhibit "A" 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 "A-1 Shelters Self Storage, Hancock Creek Site" development is a non-residential Planned Development Project (PDP). This project currently consists of 121,780 square feet of miniwarehouse, office, and caretaker residence uses on 7.6 acres at 2555 NE Pine Island Road. An additional 455 square feet of building area for administrative uses is proposed as part of the PDP amendment.

This PDP amendment will add 6.1 acres to the project area with access from Diplomat Parkway. This land will be developed with an enclosed storage use that will contain a perimeter wall and 79,361 square feet of building area. Storage on this site is approved for, but not limited to, recreational vehicles. This property will also include a 149-square-foot building with restrooms and electrical and mechanical equipment.

- B. The name(s) of the legal and equitable owner(s) is Kirby Family Limited Partnership #3.
- C. The legal description of the property subject to the extant PDP Development Order is as follows:

PART OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 4, THENCE; NORTH 89°47'36" EAST, 1332.14 FEET, ALONG PART OF THE NORTH LINE OF

SAID SECTION 4, TO THE EAST LINE OF NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, THENCE; SOUTH 04°56'55" EAST, 677.55 FEET, ALONG SAID EAST LINE, TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 4, AND TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND DESCRIBED HEREIN, THENCE; SOUTH 04°56'55" EAST, 1029.67 FEET, ALONG THE AFORESAID EAST LINE, TO THE NORTHERLY R/W LINE OF PINE ISLAND ROAD (SR-78) (66' ROAD R/W), THENCE; SOUTH 61°59'29" WEST, 325.63 FEET, TO THE EAST SIDE OF A PROPOSED 60' ROAD R/W, THENCE; NORTH 04°56'55" WEST, 1182.54 FEET, ALONG THE EAST SIDE OF A PROPOSED 60' ROAD R/W, TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION, THENCE; NORTH 89°52'56" EAST, 300.68 FEET, ALONG SAID LINE, TO THE TRUE POINT OF BEGINNING, CONTAINING A COMPUTED AREA OF 7.608 OF LAND SUBJECT TO EASEMENTS, RESTRICTIONS ACRES AND RESERVATIONS OF RECORD AND TAXES FOR THE CURRENT YEAR AND ALL SUBSEQUENT YEARS.

The legal descriptions of the two properties that are being added to the extant PDP project area are as follows:

PARCEL 1 (O.R. 4751, Pg. 2927):

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHWEST CORNER OF TRACT "D", BLOCK 6951, AS SHOWN ON THE PLAT OF HANCOCK CREEK COMMERCE PARK, PHASE 1, RECORDED IN PLAT BOOK 43 AT PAGES 8 THROUGH 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN SOUTH 89°52'56" WEST FOR A DISTANCE OF 300.00 FEET; THENCE RUN NORTH FOR A DISTANCE OF 543.36 FEET; THENCE RUN NORTH 47°25'02" WEST FOR A DISTANCE OF 245.35 FEET; THENCE RUN NORTH 23°53'26" WEST FOR A DISTANCE OF 156.33 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100'), AS DESCRIBED IN OFFICIAL RECORDS BOOK 2840 AT PAGES 2685 THROUGH 2687 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ALSO BEING THE BEGINNING OF A NON-TANGENTAL CIRCULAR CURVE CONCAVE NORTHWEST, WHOSE RADIUS POINT BEARS NORTH 19°45'23" WEST A DISTANCE OF 850.00 FEET THEREFROM; THENCE RUN NORTHEASTERLY ALONG SAID LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 850.00 FEET, THROUGH A CENTRAL ANGLE OF 08°56'30", SUBTENDED BY A CHORD OF 132.52 FEET AT A BEARING OF NORTH 65°46'22" EAST, FOR AN ARC LENGTH OF 132.65 FEET TO THE END OF SAID CURVE, ALSO BEING THE NORTHWESTERLYMOST CORNER OF TRACT "A", AS SHOWN ON THE PLAT OF HANCOCK CREEK COMMERCE PARK, PHASE 1, RECORDED IN PLAT BOOK 43 AT PAGES 8 THROUGH 10 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN THE FOLLOWING ELEVEN (11) COURSES ALONG THE WESTERLY LINES OF SAID TRACT "A": THENCE RUN SOUTH 13°50'31" EAST FOR A DISTANCE OF 69.72 FEET; THENCE RUN SOUTH 32°15'11" EAST FOR A DISTANCE OF 79.79 FEET; THENCE RUN SOUTH 47°32'06" EAST FOR A DISTANCE OF 94.41 FEET; THENCE RUN SOUTH 69°11'47" EAST FOR A DISTANCE OF 34.29 FEET; THENCE RUN NORTH 51°50'39" EAST FOR A DISTANCE OF 24.73 FEET; THENCE RUN SOUTH 70°28'12" EAST FOR A DISTANCE OF 61.97 FEET; THENCE RUN SOUTH 53°27'48" EAST FOR A DISTANCE OF 26.00 FEET TO THE INTERSECTION WITH THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; THENCE CONTINUE SOUTH 53°27'48" EAST FOR A DISTANCE OF 69.88 FEET; THENCE RUN SOUTH 61°12'51" EAST A DISTANCE OF 63.69 FEET; THENCE RUN SOUTH 10°06'09" EAST FOR A DISTANCE OF 27.60 FEET; THENCE RUN SOUTH 40°08'39" EAST FOR A DISTANCE OF 70.63 FEET TO THE NORTHWEST CORNER OF TRACT "D" AS SHOWN ON SAID PLAT OF HANCOCK CREEK COMMERCE PARK, PHASE 1; THENCE RUN SOUTH 00°07'04" EAST. ALONG THE WEST LINE OF SAID TRACT "D", FOR A DISTANCE OF 520.63 FEET TO THE POINT OF BEGINNING. CONTAINING 5.380 ACRES, MORE OR LESS. BEARINGS REFER TO THE EAST RIGHT-OF-WAY LINE (60') OF N.E. 24TH AVENUE AS SHOWN ON THE PLAT OF CAPE CORAL UNIT 47, PART 2, RECORDED IN PLAT BOOK 23 AT PAGES 112 THROUGH 124 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; ALSO BEING THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; AS BEING NORTH 05°12'18" WEST.

TOGETHER WITH:

PARCEL 2 (INSTRUMENT NUMBER 2013000001569):

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF TRACT D, BLOCK 6951, AS SHOWN ON THE PLAT OF HANCOCK CREEK COMMERCE PARK, PHASE 1, AS RECORDED IN PLAT BOOK 43, PAGES 8 THROUGH 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN NORTH 89°52'56" EAST, ALONG THE SOUTH LINE OF SAID TRACT D, FOR A DISTANCE OF 72.70 FEET TO A POINT ON THE WEST LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3036, PAGES 2251 THROUGH 2253 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN SOUTH 04°56'55" EAST ALONG SAID WEST LINE, FOR A DISTANCE OF 290.00 FEET; THENCE RUN SOUTH 89°52'56" WEST FOR A DISTANCE OF 35.00 FEET; THENCE RUN NORTH 31°02'52" WEST FOR A DISTANCE OF 243.94 FEET; THENCE RUN NORTH 04°56'55" WEST FOR A DISTANCE OF 80.00 FEET; THENCE RUN NORTH 89°52'56" EAST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 89°52'56" EAST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 04°56'55" WEST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 89°52'56" EAST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 04°56'55" WEST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 89°52'56" EAST FOR A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.688 ACRES, MORE OR LESS. BEARINGS REFER TO THE SOUTH LINE OF SAID TRACT "D", AS BEING NORTH 89°52'56" EAST.

The legal description for the 13.7-acre project area that includes all lands governed by this PDP amendment appears in Exhibit "B."

D. 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:

PART OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 4, THENCE; NORTH 89°47'36" EAST, 1332.14 FEET, ALONG PART OF THE NORTH LINE OF SAID SECTION 4, TO THE EAST LINE OF NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, THENCE; SOUTH 04°56'55" EAST, 677.55 FEET, ALONG SAID EAST LINE, TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 4, AND TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND DESCRIBED HEREIN, THENCE; SOUTH 04°56'55" EAST, 1029.67 FEET, ALONG THE AFORESAID EAST LINE, TO THE NORTHERLY R/W LINE OF PINE ISLAND ROAD (SR-78) (66' ROAD R/W), THENCE; SOUTH 61°59'29" WEST, 325.63 FEET, TO THE EAST SIDE OF A PROPOSED 60' ROAD R/W, THENCE; NORTH 04°56'55" WEST, 1182.54 FEET, ALONG THE EAST SIDE OF A PROPOSED 60' ROAD R/W, TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION, THENCE; NORTH 89°52'56" EAST, 300.68 FEET, ALONG SAID LINE, TO THE TRUE POINT OF BEGINNING, CONTAINING A COMPUTED AREA OF 7.608 ACRES OF LAND SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD AND TAXES FOR THE CURRENT YEAR AND ALL SUBSEQUENT YEARS.

TOGETHER WITH:

PARCEL 2 (INSTRUMENT NUMBER 2013000001569):

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF TRACT D, BLOCK 6951, AS SHOWN ON THE PLAT OF HANCOCK CREEK COMMERCE PARK, PHASE 1, AS RECORDED IN PLAT BOOK 43, PAGES 8 THROUGH 10, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN NORTH 89°52'56" EAST, ALONG THE SOUTH LINE OF SAID TRACT D, FOR A DISTANCE OF 72.70 FEET TO A POINT ON THE WEST LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3036, PAGES 2251 THROUGH 2253 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN SOUTH 04°56'55" EAST ALONG SAID WEST LINE, FOR A DISTANCE OF 290.00 FEET; THENCE RUN SOUTH 89°52'56" WEST FOR A DISTANCE OF 35.00 FEET; THENCE RUN NORTH 31°02'52" WEST FOR A DISTANCE OF 243.94 FEET; THENCE RUN NORTH 04°56'55" WEST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 89°52'56" EAST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 89°52'56" EAST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 04°56'55" WEST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 89°52'56" EAST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 04°56'55" WEST FOR A DISTANCE OF 70.00 FEET; THENCE RUN NORTH 89°52'56" EAST FOR A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.688 ACRES, MORE OR LESS. BEARINGS REFER TO THE SOUTH LINE OF SAID TRACT "D", AS BEING NORTH 89°52'56" EAST.

by rezoning said property from CORRIDOR (CORR) to CORRIDOR DISTRICT with the COMMERCE PARK OVERLAY (CORR/CPO), 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. The "A-1 Shelters Self Storage, Hancock Creek Site" PDP subject parcel has 13.7 acres zoned Corridor with the Commerce Park Overlay (CORR/CPO), 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 13.7 acres with a Future Land Use designation of Pine Island Road District (PIRD).
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Corridor with the Commerce Park Overlay (CORR/CPO) 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.
- G. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- H. The "A-1 Shelters Self Storage, Hancock Creek Site" PDP, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- I. The term Developer for purposes of this development order shall mean and refer to Kirby Family Limited Partnership #3, its successors in interest, lessees, and/or assigns.

SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for development approval submitted by Kirby Family Limited Partnership #3, 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. 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. 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), Schinus terebinthifolius (Brazilian Pepper) and Cupianopsis anacardioide (Carrotwood), 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 submit a copy of an approved Environmental Resource Permit from the South Florida Water Management District to the City prior to the commencement of land clearing activities.
- 4. The Developer shall comply with the State of Florida regulations pertaining to the protection of gopher tortoise burrows located on the site and a protective barrier composed of stakes, silt fence, and rope or other suitable materials shall be placed around all gopher tortoise burrows, including any that are discovered during the life of the project. This requirement shall be waived if the Developer provides the City with evidence of a funded permit prior to the issuance of any City of Cape Coral permit. The Developer shall seek a gopher tortoise relocation permit for some or all of the gopher tortoises that must be removed from the site, if such permit is available at the time of development. Only as a last resort shall the Developer seek a gopher tortoise take permit. Entombment of tortoise is strictly prohibited at all times, regardless of the type of permit procured by the applicant.
- 5. 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.

C. WASTEWATER MANAGEMENT

- 1. Wastewater (sewer) service is available to the site.
- 2. The Developer shall design, construct and install all improvements required by the City to connect to the City's wastewater system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.

D. 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.

E. 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.

F. 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. All provisions and conditions contained in the "A-1 Shelters Self Storage, Hancock Creek Site" PDP as approved by Ordinance 6-98 shall remain in full force and effect, except as otherwise stated in this Development Order.
- 3. Any vehicle, boat, or item stored within the enclosed storage facility shown on Sheet 5, entitled "Master Development Plan," shall be screened from view from outside this facility by a wall, building, or a combination of a wall and building.
- 4. Shrubs within the required CPO Buffers along the western property line of the enclosed storage use shall be maintained at a minimum height of 48 inches at maturity.
- 5. The width of the CPO Buffers along the western property line of the enclosed storage use shall range from 18 to 36 feet as shown on Sheet 13 of 14 entitled "Master Landscape Plan." Changes that reduce the buffer width may be approved by the DCD Director, or designee, provided good cause is demonstrated by the Developer, compliance with the CPO minimum buffer width is achieved, and such changes affect no more than 10% of the total buffer length.

G. CONCURRENCY

The "A-1 Shelters Self Storage, Hancock Creek Site" 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 "A-1 Shelters Self Storage, Hancock Creek Site" PDP.
- B. This Development Order shall be binding on the Developer.
- 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. 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.
- 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. This Development Order shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. The Developer shall be responsible for reimbursing the City for all recording fees within 30 days of being notified by the City that the Development Order has been recorded.

SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION VI. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer. ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	LEON	
BURCH	ERBRICK	
CARIOSCIA	WILLIAMS	
STOUT	COSDEN	

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2017.

REBECCA VAN DEUTEKOM CITY CLERK

APPROVED AS TO FORM:

11

BRIAN R. BARTOS ASSISTANT CITY ATTORNEY ord/PDP16-0011 A-1 Shelters Self Storage



GENERAL CONSTRUCTION NOTES

- REFER TO CONTRACT DOCUMENTS AND TECHNICAL SPECIFICATIONS FOR ADDITIONAL INFORMATION, CONTRACTOR'S RESPONSIBILITIES AND DETAIL.
- 2. THE CONTRACTOR SHALL BE REQUIRED TO MEET ALL "MAINTENANCE OF TRAFFIC" REQUIREMENTS AS PRESCRIBED IN THE CURRENT "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION", F.H.W.A. MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, PART VI, CURRENT EDITION, AND ALL APPLICABLE SECTIONS OF THE ROAD AND TRAFFIC DESIGN STANDARDS, FLORIDA DEPARTMENT OF TRANSPORTATION, CURRENT EDITION.
- 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING ALL UTILITIES IN THE AREA OF CONSTRUCTION PRIOR TO BEGINNING CONSTRUCTION. IT WILL BE THE CONTRACTOR'S RESPONSIBILITY TO COORDINATE ANY UTILITY RELOCATION WITH THE UTILITY COMPANY SUCH THAT ALL CONFLICTS ARE RESOLVED. NO COMPENSATION OR TIME EXTENSION WILL BE ISSUE TO THE CONTRACTOR FOR DELAYS CAUSED BY UTILITIES.
- 4. THE CONTRACTOR SHALL COMPLY WITH CURRENT FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) SPECIFICATIONS. SPECIFICALLY IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE "SPECIFICATIONS FOR ROAD BRIDGE CONSTRUCTION" AND THE "ROAD AND TRAFFIC DESIGN STANDARDS". UNLESS OTHERWISE NOTED.
- 5. CONTRACTOR SHALL VERIFY ALL BUILDING DIMENSIONS WITH THE ARCHITECTURAL PLANS PRIOR TO CONSTRUCTION. ANY DISCREPANCY NOT CALLED TO THE ENGINEER'S ATTENTION PRIOR TO THE ACCOMPLISHMENT OF THE WORK SHALL BE CORRECTED BY AND AT THE CONTRACTOR'S EXPENSE.
- 6. THERE ARE NOT KNOWN WELLS LOCATED ON THIS JOB SITE. IF ANY WELLS ARE LOCATED DURING CONSTRUCTION THE CONTRACTOR IS RESPONSIBLE TO NOTIFY THE FNGINFFR.
- 7. ALL PRACTICABLE AND NECESSARY EFFORT SHALL BE TAKEN DURING CONSTRUCTION TO CONTROL AND PREVENT EROSION AND TRANSPORT OF SEDIMENT TO SURFACE DRAINS, SWALES AND OUTFALLS. (REFER TO EROSION CONTROL PLAN)
- WHERE THE NEW PAVEMENT IS DISCONTINUED IT SHALL BE FLUSH WITH OR HAVE A SMOOTH TRANSITION WITH ADJACENT PAVEMENT.
- 9. ALL INVERT ELEVATIONS NOTED FOR DRAINAGE STRUCTURES ARE FLOW LINE ELEVATIONS.
- 10. ALL EXISTING AND PROPOSED GRADES SHOWN REFER TO N.G.V.D. 1929. (UNLESS OTHERWISE NOTED)
- 11. AT THE CONTRACTOR'S EXPENSE, ALL FRAMES, COVERS, VALVE BOXES, METER BOXES AND MANHOLES SHALL BE ADJUSTED TO FINISHED GRADE UPON COMPLETION OF PAVING OR RELATED CONSTRUCTION.
- 12. ANY SURPLUS MATERIAL WILL REMAIN THE PROPERTY OF THE OWNER; AND THE CONTRACTOR, AT HIS EXPENSE SHALL STOCKPILE THE SURPLUS MATERIAL AS DIRECTED BY OWNER.
- 13. THE LIMITS OF CONSTRUCTION SHALL MATCH THE LIMITS OF CLEARING & GRUBBING UNLESS OTHERWISE NOTED ON PLANS.
- 14. ALL UTILITY WORKMANSHIP AND MATERIALS FOR THIS PROJECT SHALL BE IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND STANDARDS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP), THE STATE OF FLORIDA DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES (HRS), AND THE CITY OF CAPE CORAL UTILITY DIVISION, UNLESS OTHERWISE NOTED.
- 15. IT IS THE CONTRACTOR'S RESPONSIBILITY TO LOCATE AND VERIFY THE SIZE, DEPTH AND LOCATION OF ALL UTILITIES IN THE FIELD WITHIN THE PROJECT LIMITS PRIOR TO CONSTRUCTION. ANY UTILITIES THAT ARE DISTURBED OR DAMAGED BY THE CONTRACTOR SHALL BE IMMEDIATELY REPAIRED OR REPLACED AT HIS EXPENSE. ANY DISCREPANCY NOT CALLED TO THE ENGINEER'S ATTENTION PRIOR TO THE ACCOMPLISHMENT OF THE WORK SHALL BE CORRECTED AT THE CONTRACTOR'S EXPENSE. THE ENGINEER AND/OR OWNER WILL NOT GUARANTEE ANY LOCATIONS AS SHOWN ON THESE PLANS OR THOSE OMITTED FROM THE SAME.
- 16. ALL DISTURBED AREAS WITHIN PROJECT SITE AND CITY R/W'S SHALL BE REGRADED AS REQUIRED AND STABILIZED WITH SOD. VACANT LOT AREAS THAT ARE DISTURBED DURING CONSTRUCTION SHALL BE SEEDED & MULCHED.
- 17. CONCRETE SIDEWALK: USE CLASS I, 3000 PSI (MININUM) CONCRETE. APPLY A BROOM FINISH AND MAKE VERTICAL SAW CUTS AT 5' ON CENTER AT A DEPTH OF 1/4 OF THE SLAB THICKNESS. PROVIDE PRE-FORMED EXPANSION JOINTS AT 100' ON CENTER.
- 18. ALL HANDICAP SPACES, RAMPS, AND ACCESS AREA'S SHALL COMPLY IN STRICT ACCORDANCE WITH THE "AMERICAN DISABILITY ACT" (ADA) (28 CFR PART 36), AND "ACCESSIBILITY BY HANDICAPPED PERSONS" CHAPTER 553. PART V. FLORIDA STATUES. ANY DISCREPANCY SHALL BE CALLED TO THE ENGINEERS ATTENTION PRIOR TO CONSTRUCTION.
- 19. CONCRETE CURB & GUTTER AND STRAIGHT CURB: USE CLASS I, 3000 PSI (MINIMUM) CONCRETE. MAKE VERTICAL SAW CUTS EVERY 10' ON CENTER WITH PRE-MOLDED EXPANSION JOINTS EVERY 100' ON CENTER.
- 20. PAVEMENT MARKINGS AND SIGNS SHALL BE IN STRICT ACCORDANCE WITH THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (M.U.T.C.D.) FOR STREETS AND HIGHWAYS" AND FDOT STANDARD INDEX #17346.
- 21. STORM DRAIN (SD) AND ROOF DRAIN (RD) SHALL BE REINFORCED CONCRETE PIPE, ADS N-12, ALUMINUM, PVC SDR-35, A-2000 PVC, OR AS SHOWN ON PLANS. "FEED PIPE" SHALL BE ADS N-12, PVC SDR-35 OR A-2000 PVC. NO STEEL PIPE, NON REINFORCED CONCRETE PIPE, OR FIBER REINFORCED PIPE.
- 22. THE CONTRACTOR SHALL SUBMIT TO THE ENGINEER SHOP DRAWINGS OF ANY AND ALL MATERIALS, STRUCTURES, PIPING, VALVES, VALVE BOXES, ETC, TO BE USED ON SITE PRIOR TO ORDERING OR INSTALLING, INCLUDING MFG. OF SAME.
- 23. ALL STORMDRAIN PIPE CONNECTIONS AND JOINTS SHALL BE IN ACCORDANCE WITH CITY OF CAPE CORAL DESIGN STANDARDS (SHEET L-2), FDOT INDEX 201 AND 280 AND FDOT SPEC. 430-7

RIGHT-OF-WAY CONSTRUCTION NOTES

- GENERAL CONSTRUCTION NOTES).
- PRIOR TO COMMENCING ANY WORK WITHIN THE CITY RIGHT-OF-WAYS, THE 2. CONTRACTOR SHALL SET-UP A PRE-CONSTRUCTION MEETING WITH THE CITY AND/OR ASPHALT WITHIN THE RIGHT-OF-WAYS.
- 3. APPROVAL BY THE CITY OF CORAL TRANSPORTATION DEPARTMENT
- PLAN. ALL PROPOSED GRADES IN THE ALLEYS, DRIVEWAYS AND STREET RIGHTS-OF-WAY SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
- 5. THE CITY OF CAPE CORAL SURVEY DEPARTMENT SHALL COMPLETE ALL SURVEY THE CONTRACTOR'S EXPENSE PRIOR TO ENGINEERING FINAL.
- SITE THAT DO NOT MEET A.D.A. MINIMUM REQUIREMENTS SHALL BE REPLACED. CONCRETE FORMS ARE REQUIRED ON BOTH SIDES OF REPLACEMENT CURBS.
- ANY WORK OR MATERIALS THAT DO NOT CONFORM TO THE SPECIFICATIONS TO REMOVAL AND REPLACEMENT AT THE CONTRACTOR'S EXPENSE.
- THE CONTRACTOR IS RESPONSIBLE FOR ALL RESTORATION IN THE CITY NOTES)
- 9. ALL CITY TRAFFIC SIGNS AND MAILBOXES IN OR ADJACENT TO THE RIGHT-OF-WAY THAT MUST BE RELOCATED SHALL BE COORDINATED WITH THE CITY TRAFFIC COORDINATE THE TEMPORARY AND FINAL LOCATIONS WITH THE LOCAL POST OFFICE.
- RE-ROUTING OF CITY DRAINAGE PIPES AND STRUCTURES (IF ANY).
- ANY) WITH L.C.D.O.T. AND THE CITY OF CAPE CORAL TRAFFIC DEPARTMENT.

MISC. NOTES

- MAY BE ADJUSTED ON SITE BY OWNER OR OWNER REPRESENTATIVE.
- 2. THE SIZES AND LOCATIONS OF THE UNDERGROUND ELECTRIC CONDUITS, SLEEVES, OF THEIR FACILITIES. THE SITE CONTRACTOR SHALL BE RESPONSIBLE FOR
- CORAL.
- 4. PLANTINGS AT BOTTOM OF RETENTION / DETENTION AREAS I.E. TREES, PALMS AND

CENTURY LINK (TELEPHONE) P.O. BOX 1370 FORT MYERS, FL 33901 (239) 336-2011

LEE COUNTY ELECTRIC COOPERAT 4980 BAYLINE DR. N. FT. MYERS, FL 33917 (239) 656–2296

CITY OF CAPE CORAL/UTILITIES DE P.O. BOX 150027 CAPE CORAL, FL 33915-0027 (239) 574-0854

CONSTRUCTION OF NEW DRIVEWAYS AND ALLEYS SHALL BE IN STRICT ACCORDANCE WITH THE CURRENT CONSTRUCTION STANDARDS AND SPECIFICATIONS OF THE CITY OF CAPE CORAL, FLORIDA AND OTHER STANDARDS REFERENCED HEREIN (REFER TO

INSPECTORS. CITY REQUIREMENTS FOR MATERIAL TEST REPORTS AND PROCEDURES SHOULD BE VERIFIED BY THE CONTRACTOR AND THE REPORTS SHALL BE AVAILABLE TO THE INSPECTORS AT THE TIME OF INSPECTION. THE CONTRACTOR SHALL SCHEDULE AND COORDINATE INSPECTIONS AND OBTAIN APPROVAL PRIOR TO PLACEMENT OF CONCRETE

PRIOR TO WORKING WITHIN THE RIGHT-OF-WAYS, THE CONTRACTOR IS REQUIRED TO OBTAIN ALL THE NECESSARY RIGHT-OF-WAY PERMITS AND PROVIDE THE NECESSARY WORK ZONE CONTROLS AND SAFETY REQUIREMENTS. PRIOR TO CONSTRUCTION, THE CONTRACTOR IS REQUIRED TO PREPARE A TRAFFIC MAINTENANCE PLAN AND OBTAIN

4. THE CONTRACTOR SHALL NOTE THAT THE DESIGN ELEVATIONS SHOWN ON THE PLANS WITHIN THE RIGHT-OF-WAY SHOWN MAY DIFFER FROM THE CITY'S MASTER DESIGN

LAYOUT WITHIN THE RIGHT-OF-WAY FOR CURB, STORM WATER STRUCTURES, ROAD WIDENING AND ALLEY IMPROVEMENTS PER THE CITY MASTER PLAN. THE CONTRACTOR SHALL COORDINATE THIS LAYOUT WITH THE CITY. ALL PROPERTY SURVEY MONUMENTS WITHIN THE CITY OF CAPE CORAL'S RIGHT-OF-WAY SHALL BE IN PLACE AND MARKED PRIOR TO REQUESTING CITY LAYOUT OR INSPECTIONS. ANY SURVEY MONUMENT OR CORNER DISTURBED OR DESTROYED DURING CONSTRUCTION SHALL BE REPLACED AT

6. ALL BROKEN OR VERTICALLY MISALIGNED CURB/SIDEWALK DIRECTLY ADJACENT TO THE

CONTAINED HEREIN OR ANY WORK PERFORMED WITHOUT A CITY INSPECTION IS SUBJECT

RIGHT-OF-WAYS DISTURBED OR DAMAGED DURING CONSTRUCTION INCLUDING SWALE RE-GRADING (REFER TO EROSION CONTROL PLAN AND GENERAL CONSTRUCTION

DEPARTMENT. TEMPORARY MAILBOXES SHALL BE MADE AVAILABLE TO THE OWNER(S) AND POSTAL DELIVERY SERVICE DURING CONSTRUCTION. THE CONTRACTOR SHALL

10. THE CONTRACTOR SHALL COORDINATE WITH THE CITY SITE DEVELOPMENT AND REVIEW DIVISION THE INSTALLATION, INSPECTIONS AND PROVIDE SURVEY LAYOUT FOR THE

11. PRIOR TO CONSTRUCTION NEAR OR ADJACENT TO TRAFFIC SIGNALS, THE CONTRACTOR SHALL NOTIFY THE LEE COUNTY DEPARTMENT OF TRANSPORTATION (L.C.D.O.T.) TRAFFIC SIGNAL MAINTENANCE DIVISION AND/OR CITY OF CAPE CORAL TRAFFIC DEPT. TO ENSURE THE PROPER OPERATION OF THE SIGNAL AND OTHER APPURTENANCES. THE CONTRACTOR SHALL COORDINATE THE RELOCATION OF SIGNAL BOXES AND LOOPS (IF

FINAL ALIGNMENTS, MATERIALS, COLORS, FINISHES, FOR PEDESTRIAN HARDSCAPE AREAS

TRANSFORMERS, ENCLOSURES, LIGHT POLES AND OTHER APPURTENANCES ARE BASED UPON THE DESIGN PROVIDED BY THE LEE COUNTY ELECTRIC COOPERATIVE (LCEC). THE LCEC SHALL VERIFY ACTUAL LOCATION, SIZE AND DEPTH PRIOR TO INSTALLATION COORDINATING THE CONSTRUCTION OF THE OTHER SITE-RELATED IMPROVEMENTS (I.E. PAVING, DRAINAGE, WATER, SEWER, ETC.) WITH THE VERIFIED LAYOUT BY LCEC.

3. OUTDOOR LIGHTING SHALL COMPLY WITH ALL CITY OF CAPE CORAL CODES, STANDARDS AND REGULATIONS, AND SHALL BE DESIGNED IN A FASHION TO PROVIDE ADEQUATE VISIBILITY WITHIN THE DEVELOPMENT WHILE NOT ADVERSELY IMPACTING ADJOINING PROPERTIES. PRIOR TO ISSUANCE OF ANY BUILDING PERMIT, SITE LIGHTING PLAN AND PHOTOMETRIC PLAN SHALL BE SUBMITTED AND APPROVED BY THE CITY OF CAPE

SHRUBS, MUST NOT INTERFERE WITH THE VOLUME OF STORMWATER STORAGE, OR IMPEDE THE FLOW OF RUNOFF. TREES AND SHRUBS MUST NOT INTERFERE WITH THE REQUIRED SIDE SLOPES AND SHALL NOT BE PLANTED ON SLOPES GREATER THAN 3:1. RETENTION / DETENTION AREAS MUST BE STABILIZED WITH SOD UNLESS AN ALTERNATIVE METHOD IS SPECIFICALLY PERMITTED PRIOR TO PLANS APPROVAL. NO ORGANIC MULCH WILL BE PERMITTED IN RETENTION / DETENTION AREAS. LAND USE REGULATION 5.2

UTILITY COMPANIES

	COMCAST CABLE 1418 SE 10TH STREET CAPE CORAL, FL 33990 (239) 574–2020
ΠVE, INC.	WASTE PRO 13110 RICKENBACKER PARKWAY FT. MYERS, FL 33913 (239) 337–0800
DEPARTMENT	TECO / PEOPLES GAS 5901 ENTERPRISE PARKWAY FT. MYERS, FL 33905 (239) 690-5507

GENERAL UTILITY NOTES

- ALL WATER, SEWER AND IRRIGATION CONSTRUCTION SHALL CONFORM TO THE LATEST VERSION OF THE CITY OF CAPE CORAL STANDARD DETAILS AND SPECIFICATIONS; AND THE SOUTHERN STANDARD PLUMBING CODE.
- 2. WATER AND IRRIGATION PIPE SMALLER THAN 2" SHALL BE POLYVINYL CHLORIDE, (PVC) AND SHALL CONFORM TO ASTM D-1785, CLASS 1120 OR 1220, SCHEDULE 80 PVC. WATER AND IRRIGATION PIPE 2" BUT LESS THAN 4" IN DIAMETER SHALL BE PVC CLASS 200, DR-21 CONFORMING TO ASTM 2241 WITH RING-TYPE JOINTS. WATER AND IRRIGATION PIPE 4" INCHES. UP TO AND INCLUDING 12" INCHES IN DIAMETER SHALL BE AWWA C-900, CLASS 150, DR-18. UNLESS OTHERWISE NOTED ON PLANS. ANY WATER AND IRRIGATION PIPE UNDER PAVEMENT SHALL BE DUCTILE IRON PIPE (D.I.P.) PRESSURE CLASS 250 WITH A CEMENT MORTAR LINING, CONFORMING TO ANSI/AWWA A21.51/C151. ALL MAINS SHALL HAVE 36" MINIMUM COVER FROM FINISHED GRADE.
- 3. THE CONTRACTOR SHALL UTILIZE RESTRAINED JOINTS FOR THE INSTALLATION OF WATER, FORCE MAIN AND IRRIGATION PIPING.
- 4. GRAVITY SEWER PIPE 4" IN DIAMETER AND GREATER SHALL BE PVC AND SHALL CONFORM TO ASTM D-3034, SDR 26; 36 INCH MINIMUM COVER, UNLESS OTHERWISE SHOWN.
- 5. INSTALLATION OF SERVICE METERS AND CONNECTIONS TO EXISTING CITY OF CAPE CORAL UTILITIES SHALL BE PERFORMED BY AND COORDINATED WITH THE CITY OF CAPE CORAL UTILITY DEPARTMENT AT THE CONTRACTORS EXPENSE. THE LOCATION OF THE CONNECTION POINTS MAY REQUIRE FIELD ADJUSTMENT TO BE PERFORMED AT THE CONTRACTOR'S EXPENSE. IMPACT FEES SHALL BE PAID BY THE OWNER.
- WHERE WATER, IRRIGATION AND SEWER MAINS CROSS, THE MINIMUM VERTICAL 6. SEPARATION SHALL BE 12 INCHES. WHERE THIS IS NOT POSSIBLE, THE WATER MAIN SHALL BE ENCASED IN A PVC SLEEVE OR THE JOINTS SHALL BE SEPARATED TEN (10) FEET EITHER SIDE OF THE POINT OF CROSSING. THE CONTRACTOR SHALL COMPLY WITH RULE 62-555.345 FAC.; AND SHALL INCLUDE THE COSTS FOR DEFLECTING PIPE, ROLL-DOWNS OR ENCASEMENT IN THE PRICE OF THE PIPE.
- TESTING AND COMPACTION OF TRENCH BACKFILL, SUBGRADE, AND BASE SHALL BE IN 7 ACCORDANCE WITH THE STANDARD SPECIFICATIONS.
- ALL UTILITY PIPING, INCLUDING SERVICES, SHALL BE COLOR CODED AS FOLLOWS: POTABLE WATER - BLUE (SERVICES MAY BE WHITE P.V.C. W/MARKING TAPE IF BLUE IS NOT AVAILABLE) SEWER - GREEN

IRRIGATION/FIRE - LAVENDER (SERVICES MAY BE GRAY P.V.C. W/MARKING TAPE IF LAVENDER IS NOT AVAILABLE)

- 9. ALL WATER, SEWER, IRRIGATION, FORCE MAINS, SERVICES AND LATERALS SHALL HAVE DETECTABLE TAPE INSTALLED OVER THE PIPE WITH 12" MINIMUM TO 18" MAXIMUM COVER FROM PROPOSED GRADE.
- 10. WATER, FIRE AND IRRIGATION MAINS, INCLUDING SERVICES, SHALL BE FLUSHED AND PRESSURE TESTED IN ACCORDANCE WITH AWWA C-600. THE UTILITY COMPANY AND ENGINEER SHALL BE PRESENT DURING THE TESTING
- 11. WATER MAINS AND SERVICES SHALL BE DISINFECTED AND TESTED IN ACCORDANCE AWWA C-651 AND RULE 62-555.345 FAC, INCLUDING PROVIDING SAMPLE POINTS AS REQUIRED BY THE HEALTH DEPARTMENT.
- 12. ALL FRAMES, COVERS, VALVE BOXES, METER BOXES AND MANHOLES SHALL BE ADJUSTED TO FINISHED GRADE UPON COMPLETION OF PAVING OR RELATED CONSTRUCTION.
- 13. ANY WORK OR MATERIALS WHICH DO NOT CONFORM TO THE SPECIFICATIONS OR ANY WORK PERFORMED WITHOUT THE KNOWLEDGE OF THE CAPE CORAL UTILITY INSPECTORS OR REPRESENTATIVES IS SUBJECT TO REMOVAL AND REPLACEMENT OF SAME TO BE COMPLETED AT THE CONTRACTOR'S EXPENSE.
- 14. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING ALL AFFECTED UTILITIES IN THE AREA 72 HOURS PRIOR TO BEGINNING CONSTRUCTION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO COORDINATE WITH ALL UTILITY COMPANIES AND THE ENGINEER TO RESOLVE CONFLICTS WITH EXISTING UTILITIES IN A TIMELY MANNER TO AVOID DELAYS IN COMPLETING THE PROJECT.
- 15. ACCEPTANCE OF THE COMPLETED UTILITY SYSTEMS WILL NOT BE GIVEN UNTIL AS-BUILT PLANS HAVE BEEN SUBMITTED AND ACCEPTED BY THE ENGINEER.
- 16. UTILITY CONTRACTOR SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH PROVIDING UNDERGROUND PHONE AND ELECTRIC SERVICE TO BUILDING(S).
- 17. THE CONTRACTOR IS RESPONSIBLE FOR NOTIFYING THE UTILITY DEPT (574-0852) A MINIMUM OF 48 HOURS PRIOR TO ANY SHUTDOWN, TIE-IN OR PRESSURE TEST ON THE WATER. IRRIGATION OR SEWER MAIN. ALSO, THE CONTRACTOR WILL DISTRIBUTE ANY INTERRUPTION OF SERVICE NOTICES TO ALL EFFECTED PARTIES AND THE CITY WILL DISTRIBUTE ALL BOIL WATER NOTICES AND RESCISSION NOTICES.
- 18. THE CONTRACTOR IS PROHIBITED FROM TURNING OFF ANY EXISTING MAIN LINE VALVES. THESE WILL BE TURNED OFF BY A REPRESENTATIVE OF THE CITY UTILITY DEPARTMENT AT THE CONTRACTORS ARRANGED TIME AND DATE.
- 19. BACKFLOW PREVENTION DEVICES SHALL BE TESTED BY A CERTIFIED CROSS CONNECTION CONTROL TECHNICIAN IN THE PRESENCE OF A CITY OF CAPE CORAL REPRESENTATIVE.
- 20. THE CONTRACTOR OR OWNERS REPRESENTATIVES WILL BE RESPONSIBLE FOR OBTAINING AN APPROPRIATE SIZED TEMPORARY JUMPER ASSEMBLY WITH METER FROM THE CITY OF CAPE CORALS UTILITY COLLECTION AND DISTRIBUTION DEPARTMENT AT (239) 574-0852 PRIOR TO RECEIVING CITY WATER FOR CONSTRUCTION AND/OR TYING INTO ANY EXISTING POTABLE WATER MAIN LINES. A BILLING ACCOUNT MUST BE SET UP THROUGH THE CITY'S CUSTOMER BILLING DEPARTMENT PRIOR TO INSTALLATION. A REPRESENTATIVE FROM THE CITY OF CAPE CORAL'S SITE DEVELOPMENT AND REVIEW DIVISION AT (239) 242-3244 MUST BE NOTIFIED 48 HOURS IN ADVANCE OF INSTALLATION AND BE PRESENT TO WITNESS AND RECORD THE INSTALLATION PROCESS. ACCOUNT DOCUMENTATION MUST BE SUBMITTED TO THE SITE DEVELOPMENT AND REVIEW INSPECTOR AT THE TIME OF METER INSTALLATION. AFTER CONSTRUCTION IS COMPLETE AND BEFORE THE TEMPORARY JUMPER AND METER IS REMOVED ALL POTABLE WATER MAINS SHALL BE FLUSHED AND PRESSURE TESTED PER AWWA SECTION C600 AND DISINFECTED PER AWWA C-651.

LEGEN	D	'. Edwards, P.E. SE# 38615
C-1/ COM	ZONING AND LANDUSE	Joseph W. Ed FL. LICENSE#
	LIGHT POLE (BY OTHERS)	Jos FL.
	HANDICAP RAMP (12:1 MAX. SLOPE)	PTUAL YOUT UPON ATORY TION"
	DRAINAGE CURB CUT	CONCEPTU, SITE LAYOU BASED UPC D REGULATO NSTRUCTION
	ROCK BOULDER RIP-RAP OVER FILTER FABRIC	DED FOR S ONLY. FICANTLY VTAL ANI
==]==	EXIST. STORM DRAIN & INLET	IS INTEN PURPOSE GE SIGNIF VIRONMET TS. "NOT
	DETENTION AREAS	THIS PLAN PLANNING MAY CHAN SURVEY, EN CONSTRAN
]	PROP. STORM DRAIN & INLET	
P-25	STRUCTURE I.D. *	L /27/1
×.	EXISTING ELEVATION (NGVD)	× SCRIPTION × SUBMITTA MENTS (08 MENTS (12) MENTS (12)
6.50 ×	PROPOSED ELEVATION (NGVD)	
6.50 _×	DESIGN ELEVATION (NGVD) ** DRAINAGE FLOW ARROW	REVISIOI PDP INITIAL APER CITY PER STAFF
$\sim -$		E BY /16 BE /17 BE
	SEWER MAIN AND MANHOLE SEWER LATERAL W/ CLEANOUT	DAT 08/15 09/21 01/12
		<i>INC.</i> #200 33904 –2077
	METER AND/OR BACKFLOW DEVICE	ERING, ado blvd. Florida (239) 573
₩ 	EX. FIRE HYDRANT ASSEMBLY PROP. FIRE HYDRANT ASSEMBLY	VE.
₩ ≪ I —⋈ —	EX. WATER MAIN & G.V.	<i>ENGINI</i> 2503 del pi cape coral FBPE#3128
— ►	PROP. WATER MAIN & G.V.	DN EN 2503 CAPE FBPE ₄
X 111	PROP. DDCV WITH FDC	AVALO
— P — P ~ O2 P — P —	POWER POLE W/OVERHEAD LINES	#3
\bigtriangleup	TRANSFORMER PAD (BY OTHERS, COORDINATE W/ELEC. COMPANY)	Partnership Lane orida 33904 2–5430 by P.E.
Т	PHONE/CABLE BOX (BY OTHERS)	amily Pc 46th Lc oral, Flori 9) 542– 1an Kirby
	CONCRETE	Kirby F 1406 SE Cape Cc PH: (23 ATT: Bri
	DETECTABLE WARNING MATERIAL	AGE D DRIDA
	HEAVY DUTY ASPHALT PAVEMENT (SEE SECTION) SEE SHEET 5 FOR PAVEMENT SECTION KEY MAP	LF STORA PANSION ISLAND ROAL COUNTY, FL(
	TYPICAL ASPHALT PAVEMENT (SEE SECTION) SEE SHEET 5 FOR PAVEMENT SECTION KEY MAP	SELF EXP/ INE ISL
** ALL INCLU ARE	STRUCTURE TABLES (INLET AND/OR MANHOLE) DESIGN ELEVATIONS WITHIN CITY R/W JDING PAVEMENT, WALKS, DRIVES & ALLEYS TO BE COORDINATED WITH CITY PUBLIC (S DEPT. PRIOR TO CONSTRUCTION.	STOR-RITE FACILITY 2555 N.E. H CAPE CORAL -
ALL	EXISTING AND PROPOSED ELEVATIONS SHOWN REFER TO N.G.V.D. 1929	GENERAL NOTES AND LEGENDS
		#16-501 /000
		#16-501/PDP

2 OF 14







EXISTING SETBACKS:		REQU
SIDE (EAST): 20.0'	FEET	SIDE
FRONT (SOUTH): 34.8'	FEET	FRO
SIDE (WEST): 20.0'	FEET	SIDE
REAR (NORTH): 165.5'	FEET	REAF
EXIST. HEIGHT: 19.4'	FEET	MAX.









ADJACENT "LIBERTY HEALTH PARK" UNDER CONSTRUCTION PROJECT LIMITS		
		EX. F.H. (TYP)
EX. STORAGE BLDG.	EX. STORAGE BLDG.	
EXISTING STORAGE FACILITY (EXISTING UTILITIES TO REMAIN)	EX. STORAGE BLDG.	EX. STORAGE BLDG.
_DG.	EX. STORAGE BLDG.	EX. F.H. (TYP)
GE BLDG. EX. STORAGE BLDG.	 _DG.	
ADJACENT DEVELOPMENT UNDER CONSTRUCTION (BY OTHERS)		TRACT E DETENTION AREA 69,122 SQ. FT. ± (1.59 ACRES ±)
LOT 1 BLOCK 6951		$\begin{array}{c} \leftarrow \\ \leftarrow \\ \leftarrow \end{array}$
	,	,









	Joseph W. Edwards, P.E. FL. LICENSE# 38615
0 50 100 (IN FEET)	A VALON ENGINEERING, INC. Date BY REVISION DESCRIPTION THIS PLAN IS INTENDED FOR CONCEPTUAL 08/15/16 08/15/16 BE PDP INITIAL CITY SUBMITTAL THIS PLAN IS INTENDED FOR CONCEPTUAL 09/21/16 BE A PER CITY COMMENTS (08/29/16) THIS PLAN IS INTENDED FOR CONCEPTUAL 09/21/16 BE A PER CITY COMMENTS (08/29/16) THIS PLAN IS INTENDED FOR CONCEPTUAL CAPE CORAL, FLORIDA 33904 01/12/17 BE PER CITY COMMENTS (08/29/16) MAY CHANGE SIGNIFICANTLY BASED UPON FBPE#3128 (239) 573–2077 DIATE CONSTRANTS. "NOT FOR CONSTRUCTION"
	Kirby Family Partnership #3 1406 SE 46th Lane Cape Coral, Florida 33904 PH: (239) 542–5430 ATT: Brian Kirby P.E.
	STOR-RITE SELF STORAGE FACILITY EXPANSION 2555 N.E. PINE ISLAND ROAD CAPE CORAL - LEE COUNTY, FLORIDA
	MASTER PHASING PLAN
	#16-501/PDP 11 of 14



EXISTIN	ig plant list: (8	3 1/2)	OF	STE)
SYMBOL	COMMON NAME Botanical name	EA.	W/ CREDITS	NATIVE
\bigcirc	LIVE OAK Quercus virginiana	6	18	YES
	MAHOGANY Swietenia mahogani	4	12	YES
(во)	BLACK OLIVE Bucida buceras	25	75	YES
	NORFOLK ISLAND PINE Araucaria heterophylla	12	24	YES
EXISTIN	IG TREES	47	129	100%
	CABBAGE PALM Sable palmeto	6	6	YES
	QUEEN PALM Syagrus romanzoffianum	7	7	NO
EXISTIN	IG PALMS	13	13	46%
\sim	COCOPLUM Chrysobalanus Icaco	138		YES
EXISTIN	IG SHRUBS	138		100%

	TING LANDSC 2 OF PROJEC				
PROVIDED: 168 TREES (PROP. 26 EA. (EXIST. 60 EA. (142 w/CREDITS)					
PROVIDED: 549 SHRUBS (PROP. 411 EA.) (EXIST. 138 EA.)					
	PROPOSED PLANT LIST: (S 1/2) OF SITE)				
SYMBOL	COMMON NAME Botanical name	HEIGHT/CAL. (Min. at Planting)	TREES W/ CREDITS	PALM (Quantity)	
	SILVER BUTTONWOOD	10' / 2"	26		
$ \mathcal{N} $	Conocarpus erectus var. sericeus	15' / 4"	0		

VX var. ser TREES SUB COCOPL Chrysobo \odot SHRUBS SU

TOTALS PR

TREE SPECIES MIX: REQUIRED: 5 MIN. (MINIMUM 50% OF CANOPY AND ACCENT TREES AND MINIMUM 30% OF SHRUBS SHALL BE FLORIDA NATIVE.) PROVIDED: 7 TOTAL (92% TREES AND 100% SHRUBS FLORIDA NATIVE.)

arpus erectus ericeus	15' / 4"	0		
3 TOTAL		26		100%
PLUM	18"/ 3 GAL.		0	YES
palanus Icaco	32"/ 7 GAL.		411	TES
JB TOTAL			411	100%
ROVIDED:		26	411	100%

	Joseph W. Edwards, P.E. FL. LICENSE# 38615
0 25 50 (IN FEET)	THIS PLAN IS INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY. SITE LAYOUT MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENVIRONMENTAL AND REGULATORY CONSTRANTS. "NOT FOR CONSTRUCTION"
	DATE BY REVISION DESCRIPTION 08/15/16 BE PDF INITIAL CITY SUBMITTAL 09/21/16 BE APER CITY COMMENTS (08/29/16) 01/12/17 BE PER STAFF COMMENTS (12/27/16)
	A VALON ENGINEERING, INC. 2503 DEL PRADO BLVD. #200 CAPE CORAL, FLORIDA 33904 FBPE#3128 (239) 573-2077
	Kirby Family Partnership #3 1406 SE 46th Lane Cape Coral, Florida 33904 PH: (239) 542–5430 ATT: Brian Kirby P.E.
	STOR-RITE SELF STORAGE FACILITY EXPANSION 2555 N.E. PINE ISLAND ROAD CAPE CORAL - LEE COUNTY, FLORIDA
	MASTER LANDSCAPE
	#16-501/PDP 12 OF 14


<	\leftarrow							A VALON ENGINEERING, 2503 DEL PRADO BLVD. CAPE CORAL, FLORIDA FBPE#3128 (239) 573
								nership #3 33904 10
31	POSED EXPAN REQUIREMENTS: JFFER REQUIREMENT B REQUIREMENTS: JFFER REQUIREMENT	79 TREES S= 61 CANOPY 18 ACCENT	TREES TREES	<u> </u> (PROVID (103 EA	. (118	18 TREES 3 w/CREDITS) 769 SHRUBS	AGE Kirby Fan I 406 SE 4 Cape Cora D PH: (239) ORIDA ATT: Brian
_	PROPOS	ED PLANT LI	st (n. 1/	2 OF	SITE)			STO ANSI AND A NTY,
	COMMON NAME Botanical name	HEIGHT/CAL. (Min. at Planting)	TREES W/ CREDITS	PALM (Quantity	SHRUBS	NATIVE		
	LIVE OAK	10' / 2"	30			YES		STOR-RITE SE FACILITY E 2555 N.E. PINE CAPE CORAL - LEE
	Quercus virginiana	15' / 4"	0					5 N.F
	DAHOON HOLLY	10' / 2"	0			YES		FA FA 255(
	ILex cassine	15' / 4"	15x2 (30)					S' CAP
) [SILVER BUTTONWOOD	10' / 2"	24			YES		
′	Conocarpus erectus var. sericeus	15' / 4"	0					
	NORFOLK ISLAND	10' / 2"	16			YES		CAPE
	PINE Araucaria heterophylla	15' / 4"	0			YES		Ŵ
:5	SUB TOTAL		85 (100)		1	100%		
	CABBAGE PALM	16'	-	18				
	CABBAGE PALM Sable palmeto	16				YES		
K	S SUB TOTAL			18		100%		
1	COCOPLUM	18"/ 3 GAL.			0	YES		
	Chrysobalanus Icaco	32"/ 7 GAL.			769			MAST
	BS SUB TOTAL				769	100%		
JE								
	LS PROVIDED:		85 (100)	18	769	100%		#16-501/PDP
	LS PROVIDED:		85 (100)	18	769	100%		#16-501/PDP 13 OF 14

	LANDSCAPE PROVIDED: (TOTAL PROJECT SITE)							
TREE REQUIREMENTS: 181 TREES PER BUFFER REQUIREMENTS= 140 CANOPY TREES 41 ACCENT TREES					OP. TR	REES: EES: ALMS:	<u>36 TREES</u> 47 EA. (129) 111 EA. (126) 13 (13) 8 (18)	
SHRUE	SHRUB REQUIREMENTS: 1,301 SHRUBS PER BUFFER REQUIREMENTS= 1,301 MISC. SHRUBS					PROVIDED: 1,318 SHRUBS		
	PROPSE	D PLANT LIST	: (TOTA	L)				
SYMBOL	COMMON NAME Botanical name	HEIGHT/CAL. (Min. at Planting)	TREES W/ CREDITS	PALM (Quantity)	SHRUBS	NATIVE		
	LIVE OAK	/E OAK 10' / 2"				YES		
	Quercus virginiana	15' / 4"	0					

0

15x2 (30)

16

0

50

0

111 (126)

111 (126) 18

18

18

0

1,180

1,180

| 1,180 | 100%

10' / 2"

15' / 4"

10' / 2"

15' / 4"

10' / 2"

15' / 4"

16'

18"/ 3 GAL.

32"/ 7 GAL.

- DESIGN STANDARDS.
- 2.
- 3.
- EXCEED 50% OF THE REQUIRED TREES.
- 6. OTHERWISE DESIGNATED ON THE PLANS.
- (7') FEET OF WALKS.
- 8.
- 9.
- SEED, MULCHED OR HYDROSEEDED.
- 11. IMMEDIATELY AT THE CONTRACTOR'S EXPENSE.

12.

- D1785, SCHEDULE 40 PVC).
- C. THE LANDSCAPE CONTRACTOR SHALL PROVIDE "AS-BUILT"
- ELECTRICAL CODE AND N.F.P.A. 70.

"CANOPY" (MATURE HEIGHT EXCESS OF 15') MIN. HEIGHT OF (10') FEET, A MIN. DIAMETER OF (2") INCHES WHEN MEASURED AT A HEIGHT OF (12") INCHES ABOVE THE GROUND.

<u>"ACCENT"</u> (MATURE HEIGHT OF 6'-15') MIN. HEIGHT OF (8') FEET, A MIN. DIAMETER OF (1-1/2") INCHES WHEN MEASURED AT A HEIGHT OF (6") INCHES ABOVE THE GROUND.

"PALMS" MINIMUM HEIGHT OF 16' OVERALL. IF PLANTED WITHIN 10' FEET OF A WALKWAY PROVIDE MINIMUM OF 10' FEET CLEAR TRUNK AT PLANTING.

<u>"SHRUBS"</u> SHALL BE 18" HEIGHT, (3) THREE GAL MIN. "SHRUBS IN BUFFER YARDS SHALL BE 32" HEIGHT, (7) SEVEN GAL. MIN.

EXIST	EXISTING PLANT LIST: (TOTAL SITE)					
SYMBOL	COMMON NAME Botanical name	EA.	W/ CREDITS	NATIVE		
0	LIVE OAK Quercus virginiana	6	18	YES		
	(M) MAHOGANY Swietenia mahogani		12	YES		
ВО	BLACK OLIVE Bucida buceras	25	75	YES		
(SP)	NORFOLK ISLAND PINE Araucaria heterophylla	12	24	YES		
EXISTIN	47	129	100%			
	CABBAGE PALM Sable palmeto	6	6	YES		
	QUEEN PALM Syagrus romanzoffianum	7	7	NO		
EXISTIN	13	13	46%			
\sim	COCOPLUM Chrysobalanus Icaco	138		YES		
EXISTIN	G SHRUBS	138		100%		

TREE SPECIES MIX:

DAHOON HOLLY

PINE

TREES SUB TOTAL

PALMS SUB TOTAL

SHRUBS SUB TOTAL

J.S

VV.

 \odot

W

ILex cassine

NORFOLK ISLAND

Araucaria heterophylla

SILVER BUTTONWOOD

I Conocarpus erectus

CABBAGE PALM

Chrysobalanus Icaco

Sable palmeto

COCOPLUM

TOTALS PROVIDED:

var. sericeus

REQUIRED: 5 MIN.

(MINIMUM 50% OF CANOPY AND ACCENT TREES AND MINIMUM 30% OF SHRUBS AND GROUND COVER SHALL BE FLORIDA NATIVE.)

PROVIDED: 7 TOTAL (97% TREES AND 100% SHRUBS FLORIDA NATIVE.) PLANTING NOTES:

YES

YES

YES

100%

YES

100%

YES

100%

- 1. MULTI-TRUNK TREES TO HAVE 3 MAIN LEADERS GUYED. 2. REMOVE ALL TREE STAKING ACCESSORIES
- AT THE END OF THE FIRST YEAR MAINTENANCE PERIOD.
- 3. PLANT TREE AT A DEPTH WHICH WILL ENSURE PROPER DRAINAGE AND VIGOROUS GROWTH
- 4. NO ORGANIC MULCH WILL BE PERMITTED IN RETENTION/DETENTION AREAS.
- 5. CANOPY TREES PLANTED WITHIN 7' (FEET) OF ANY ROADWAY OR WALK OR PUBLIC UTILITIES SHALL PROVIDE A ACCEPTABLE ROOT BARRIER PER CITY OF CAPE CORAL.

GENERAL LANDSCAPING NOTES:

THE LANDSCAPE PLAN REPRESENTS THE MINIMUM REQUIRED BY THE CITY OF CAPE CORAL ORDINANCES 107-07. THE LANDSCAPE CONTRACTOR SHALL PROVIDE THE OWNER WITH DETAILED LANDSCAPE PLANS FOR HIS APPROVAL. THESE PLANS SHALL INCLUDE ALL PLANTINGS AND PLANTER TREATMENTS. THE LANDSCAPE CONTRACTOR SHALL ALSO PROVIDE DETAILED LANDSCAPE PLANS FOR ACCENT SHRUBS AND TREATMENTS AROUND BUILDINGS. ALL LANDSCAPING SHALL MEET THE MINIMUM REQUIREMENTS OF THE CITY OF CAPE CORAL ORDINANCES 107-07 &

ALL PLANTS, TREES & SHRUBS SHALL BE FLORIDA NO. 1 OR BETTER AS DESCRIBED IN LATEST EDITION OF "GRADES AND STANDARDS FOR NURSERY PLANTS", STATE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.

ALL "CANOPY" (MATURE HEIGHT EXCESS OF 15') TREES SHALL HAVE A MINIMUM HEIGHT OF (10') TEN FEET, A MINIMUM DIAMETER OF (2") TWO INCHES WHEN MEASURED AT A HEIGHT OF (12") TWELVE INCHES ABOVE THE GROUND.

4. ALL "ACCENT" (MATURE HEIGHT OF 6'-15') TREES SHALL HAVE A MINIMUM HEIGHT OF (8') EIGHT FEET, A MINIMUM DIAMETER OF (1-1/2") ONE AND ONE HALF INCHES WHEN MEASURED AT A HEIGHT OF (6") SIX INCHES ABOVE THE GROUND.

5. ALL "PALM TREES" SHALL HAVE A MINIMUM HEIGHT OF 16' OVERALL. IF PLANTED WITHIN 10' FEET OF A WALKWAY PALM SHALL HAVE A MINIMUM OF 10' FEET CLEAR TRUNK AT PLANTING. THE NUMBER OF PALM TREES PLANTED SHALL NOT

ALL "SHRUBS" SHALL BE (3) THREE GAL MIN., AND HAVE A MINIMUM HEIGHT OF (18") EIGHTEEN INCHES WHEN PLANTED. SHRUBS REQUIRED IN BUFFER YARDS MUST BE (7) SEVEN GAL. MIN., AND HAVE A MINIMUM HEIGHT OF 32". UNLESS

7. A 30" INCHES MINIMUM DEEP ROOT BARRIER, (3') FEET EACH SIDE OF PLANTING (PER CITY CODE) IS REQUIRED ALONG ALL R/W WHERE TREES ARE PLANTED WITHIN

PLANTINGS NEAR UTILITY INFRASTRUCTURE INCLUDING OVERHEAD TRANSMISSION OR DISTRIBUTION LINES SHALL MEET PLANTING SEPARATIONS AS INDICATED IN TABLE 1 ("MINIMUM SEPARATION DISTANCE BETWEEN TREES AND OVERHEAD TRANSMISSION OR DISTRIBUTION LINES") OF CAPE CORAL LANDSCAPE ORDINANCE 107-07.

PLANTINGS AT BOTTOM OF RETENTION/DETENTION AREAS I.E. TREES, PALMS AND SHRUBS MUST NOT INTERFERE WITH THE VOLUME OF STORMWATER STORAGE, OR IMPEDE THE FLOW OF RUNOFF. TREES AND SHRUBS MUST NOT INTERFERE WITH THE REQUIRED SIDE SLOPES AND SHALL NOT BE PLANTED ON SLOPES GREATER THAN 3:1. RETENTION/DETENTION AREAS MUST BE STABILIZED WITH SOD UNLESS AN ALTERNATIVE METHOD IS SPECIFICALLY PERMITTED PRIOR TO PLANS APPROVAL. NO ORGANIC MULCH WILL BE PERMITTED IN RETENTION/DETENTION AREAS.

10. ALL PERVIOUS AREAS WITHIN THE PROJECT SITE SHALL BE SOLID BAHIA SOD, UNLESS OTHERWISE NOTED. CONTRACTOR SHALL RESTORE ALL EXISTING SOD AND LANDSCAPING DISTURBED ON SITE DURING OR AS A RESULT OF CONSTRUCTION. ALL UNPAVED PORTIONS AND/OR SOD DISTURBED IN CITY RIGHT-OF-WAY SHALL BE RE-SODDED WITH SOLID BAHIA SOD IN ACCORDANCE WITH THE CAPE CORAL PUBLIC WORKS DEPARTMENT STANDARDS. ALL OTHER DISTURBED AREAS SHALL BE

THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL TREES AND SOD FOR A PERIOD OF 90 DAYS AFTER THE LANDSCAPING IS COMPLETED AND ACCEPTED. ANY PLANTINGS THAT PERISH WITHIN THIS 90 DAY PERIOD SHALL BE REPLACED

THE LANDSCAPE CONTRACTOR SHALL PROVIDE AN AUTOMATIC IRRIGATION SYSTEM PLAN TO BE APPROVED BY THE OWNER OR THE OWNER'S REPRESENTATIVE PRIOR TO INSTALLATION. PROPOSED SYSTEM SHALL BE FROM THE EXIST. CITY IRRIGATION WATER SUPPLY OR A WELL. THE CONTRACTOR SHALL COORDINATE AND INSTALL CONNECTIONS TO THE IRRIGATION SYSTEM PER THE CITY OF CAPE CORAL REQUIREMENTS. (AN EXISTING SYSTEM MAY BE MODIFIED)

A. IRRIGATION PIPING SHALL BE ASTM D1785, SCHEDULE 40 OR 80 WITH 12" MINIMUM COVER.

B. PIPING UNDER PAVEMENT SHALL BE IN A PVC SLEEVE (ASTM

DRAWINGS AND OPERATION MANUALS. D. ALL ELECTRICAL WORK SHALL CONFORM TO THE NATIONAL







Curve and Line Tables

CURVE	RAI	DIUS	LENGTH	DELTA	CHORD E	BEARING	CHORD LENGT
C1	85	0.00	132.65	08°56'30"	N65°46	5'22"E	132.52
				LINE TAB	LE		
		L	INE	BEARI	NG	LENGT	Н
			L1	N89°52'	57"E	373.38	'
			L2	S04°56'	55"E	1029.67	71
			L3	S61°59'2	29"W	325.63	1
			L4	N04°56'	55"W	892.54	1
			L5	S89°52'	56"W	35.00'	
			L6	N31°02'	52"W	243.94	'
			L7	N04°56'55"W		80.00'	
			L8	S89°52'59"W		230.00	1
			L9	N00°00'00"E		543.36	1
		L	.10	N47°25'02"W		245.35	1
			.11	N23°53'26"W		156.33	
			.12	S13°50'31"E		69.72'	
		L	.13	S32°15'	11"E	79.79'	
			.14	S47°32'	06"E	94.41'	
			.15	S69°11'		34.29'	
			.16	N51°50'		24.73'	
			.17	S70°28'		61.97'	
			.18	S53°27'		26.00'	
			.19	S53°27'		69.88'	
			.20	S61°12'		63.69'	
			.21	S10°06'		27.60'	
			.22	S40°08'		70.63'	
		L	.23	S00°07'	04"E	520.63	'

THIS IS NOT A SURVEY		Tables to Accompany Sketch	Not Valid without Sheet 1 & 3 of 3	
		Subject Parcel A Tract of land lying in Sections 3 & 4, Township 43 South, Range 24 East, City of Cape Coral, Lee County, Florida		
Sheet 2 of 3 JOB # 16-1472 PREPARED FOR: AVALON ENGINEERING SECTIONS 3 & 4, TOWNSHIP 43S, RANGE 24E		STOUTENCRAMER PROFESSIONAL SURVEYORS	I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 22, 2016 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.	
		CERTIFICATE OF AUTHORIZATION: LB7922	See Sheet 1 of 3 for Signature and Seal	
		324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181	JEFFREY D. STOUTEN (FOR THE FIRM)	
		www.scisurvey.com	FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6584 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPE	

Description

Subject Parcel Description:

Parcel of land lying in Sections 3 and 4, Township 44 South, Range 24 East, City of Cape Coral, Lee County, Florida being more particularly described as follows:

Beginning at the Southwest corner of tract D, Block 6951, Hancock Creek Commerce Park Phase I as recorded in Plat Book 43 at Page 10 of the Public Records of Lee County, Florida, thence run N89°52'57"E, along the South line of said Tract D, a distance of 373.38 feet to an intersection with the East line of the Northwest quarter of the Northwest quarter of said Section 4: thence run S04°56'55"E, along said East line, a distance of 1.029.67 feet to an intersection with the Northerly right-of-way line of Pine Island Road (State Road 78); thence run S61°59'29"W, along said Northerly Right-of-way line, a distance of 325.63 feet; thence run N04°56'55"W, departing said Northerly Right-of-way line, a distance of 892.54 feet; thence run S89°52'56"W a distance of 35.00 feet; thence run N31°02'52"W a distance of 243.94 feet; thence run N04°56'55"W a distance of 80.00 feet; thence run S89°52'59"W a distance of 230.00 feet; thence run N00°00'00"E a distance of 543.36 feet; thence run N47°25'02"W a distance of 245.35 feet; thence run N23°53'26"W a distance of 156.33 feet to an intersection with the Southerly right-of-way line of Diplomat Parkway (100 feet wide) being a point on a non-tangent curve; thence run 132.65 feet along the arc of said non-tangent curve to the left of radius 850.00 feet, concave to the Northwest, to which a radial line bears S19°45'23"E, having a delta angle of 08°56'30", a chord bearing of N65°46'22"E and a chord length of 132.52 feet; thence run S13°50'31"E a distance of 69.72 feet; thence run S32°15'11"E a distance of 79.79 feet; thence run S47°32'06"E a distance of 94.41 feet; thence run S69°11'47"E a distance of 34.29 feet; thence run N51°50'39"E a distance of 24.73 feet; thence run S70°28'12"E a distance of 61.97 feet; thence run S53°27'48"E a distance of 26.00 feet to an intersection with the North line of said Section 4; thence continue S53°27'48"E a distance of 69.88 feet; thence run S61°12'51"E a distance of 63.69 feet; thence run S10°06'09"E a distance of 27.60 feet; thence run S40°08'39"E a distance of 70.63 feet to the Northwest corner of said Tract D; thence run S00°07'04"E, along the West line of said Tract D, a distance of 520.63 feet to the Point of Beginning.

Said Parcel Contains 595,728 sq. ft. (more or less)

Bearings are based on the Northerly right-of-way line of Pine Island Road (S.R. 78) being S61°59'29"W.

THIS IS NOT A SURVEY		Tables to Accompany Sketch	
		Subject Parcel A Tract of land lying in Sections 3 & 4, Township 43 South, Range 24 East, City of Cape Coral, Lee County, Florida	Not Valid without Sheets 1 & 2 of 3
	Sheet 3 of 3	STOUTENCRAMER PROFESSIONAL SURVEYORS	I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 22, 2016 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.
		CERTIFICATE OF AUTHORIZATION: LB7922	See Sheet 1 of 2 for Signature and Seal
JOB # 16-1472	PREPARED FOR: AVALON ENGINEERING	324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181	JEFFREY D. STOUTEN (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6584
SECTIONS 3 & 4, TOWNSHIP 43S, RANGE 24E		www.scisurvey.com	NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER











PLEASE REVISE BUILDING DIMENSIONS PER THESE DIMENSIONS. APPROVED BY OWNER.

EXHIBIT "B"

A-1 SHELTERS SELF STORAGE, HANCOCK CREEK SITE PDP AMENDMENT <u>Parcel Description:</u>

Parcel of land lying in Sections 3 and 4, Township 44 South, Range 24 East, City of Cape Coral, Lee County, Florida being more particularly described as follows:

Beginning at the Southwest corner of tract D, Block 6951, Hancock Creek Commerce Park Phase I as recorded in Plat Book 43 at Page 10 of the Public Records of Lee County, Florida, thence run N89°52'57"E, along the South line of said Tract D, a distance of 373.38 feet to an intersection with the East line of the Northwest quarter of the Northwest quarter of said Section 4; thence run S04°56'55"E, along said East line, a distance of 1,029.67 feet to an intersection with the Northerly right-of-way line of Pine Island Road (State Road 78); thence run S61°59'29"W, along said Northerly Right-of-way line, a distance of 325.63 feet; thence run N04°56'55"W, departing said Northerly Right-of-way line, a distance of 892.54 feet; thence run S89°52'56"W a distance of 35.00 feet; thence run N31°02'52"W a distance of 243.94 feet; thence run N04°56'55"W a distance of 80.00 feet; thence run S89°52'59"W a distance of 230.00 feet; thence run N00°00'00"E a distance of 543.36 feet; thence run N47°25'02"W a distance of 245.35 feet; thence run N23°53'26"W a distance of 156.33 feet to an intersection with the Southerly right-of-way line of Diplomat Parkway (100 feet wide) being a point on a non-tangent curve; thence run 132.65 feet along the arc of said non-tangent curve to the left of radius 850.00 feet, concave to the Northwest, to which a radial line bears S19°45'23"E, having a delta angle of 08°56'30", a chord bearing of N65°46'22"E and a chord length of 132.52 feet; thence run S13°50'31"E a distance of 69.72 feet; thence run S32°15'11"E a distance of 79.79 feet; thence run S47°32'06"E a distance of 94.41 feet; thence run S69°11'47"E a distance of 34.29 feet; thence run N51°50'39"E a distance of 24.73 feet; thence run S70°28'12"E a distance of 61.97 feet; thence run S53°27'48"E a distance of 26.00 feet to an intersection with the North line of said Section 4; thence continue S53°27'48"E a distance of 69.88 feet; thence run S61°12'51"E a distance of 63.69 feet; thence run S10°06'09"E a distance of 27.60 feet; thence run S40°08'39"E a distance of 70.63 feet to the Northwest corner of said Tract D; thence run S00°07'04"E, along the West line of said Tract D, a distance of 520.63 feet to the Point of Beginning.

Said Parcel Contains 595,728 sq. ft. (more or less)

Bearings are based on the Northerly right-of-way line of Pine Island Road (S.R. 78) being S61°59'29"W.

Planning Division City of Cape Coral

A-1 Shelters Self Storage Amendment Ordinance 17-17

Cape Coral City Council

April 17, 2017



Owner:	Kirby Family Limited Partnership #3
Authorized Rep:	Avalon Engineering
Project:	Nonresidential PDP
Location:	2555 NE Pine Island Road
Area:	13.7 acres

PDP 16-0011

2555 NE Pine Island Road



Requests

• Rezone from the Corridor to the Corridor with the CPO.

 Deviations to the Land Use and Development Regulations.

• Expanding the project area by 6.1 acres.



New Development Adjacent to the Site



West of the site: Multi-family project East of the site: Health care facility

Background

• Project originally approved by Ordinance 6-98.

• Consists of self-storage units on 7.6 acres.

 121,700 sq. ft. of storage, office, and caretaker residence uses.

Existing Mini-Warehouse Development



Caretaker residence & office

Storage units

PDP Amendment

• Adding 6.1 acres to the project.

O New area to be utilized for enclosed storage.

• Seven buildings will store 145 RVs.

• New building area is 79,361 sq. ft.



Development Plan for the Enclosed Storage Use

Rezoning

Rezone to add the CPO to 8.3 acres.



Existing Zoning Map

Proposed Zoning Map

Analysis

- O The rezone is consistent with the ten standards for evaluating a rezone (LUDR, Section 8.7.3).
- The rezone will eliminate a legal nonconforming use.
- O The rezone will provide uniform zoning for the 13.7-acre site.
- The rezone is consistent with Policy 1.15 of the FLU Element and Policy 2.7 of the Economic Development Element.

Three Deviations to CPO Requirements

- A deviation that limits metal to 30% of walls facing public a street.
 - Will allow for an all metal wall facing Diplomat Parkway.
- A deviation that restricts building walls within a CPO buffer to stucco, brick, stone, or concrete.
 - Will allow for metal building walls within a CPO Buffer.
- A deviation that limits wall height in a CPO buffer to eight feet.
 - Will allow a gate facing Diplomat to be 20 feet, 4 inches.

Deviation to the Nonresidential Design Standards

 A deviation from the City architectural standards for nonresidential buildings.



General Standards for PDPs (LUDR, Section 4.2) Complies with the applicable standards for PDPs.

Concurrency

Meets concurrency requirements for City services.

Comprehensive Plan

Consistent with several policies and one goal in the Comprehensive Plan.

Project Recommendations

<u>Planning Division</u> Recommends approval.

Hearing Examiner

The Hearing Examiner recommended approval with staff conditions, following a public hearing on February 21.

Correspondence

None.

CITY OF CAPE CORAL, FLORIDA OFFICE OF THE HEARING EXAMINER

PDP HEX Recommendation 1-2017 Rendered February 28, 2017 A-1 SHELTERS SELF STORAGE PDP DCD Case # PDP 16-0001

SECTION I. RECOMMENDATION OF APPROVAL OF A-1 SHELTERS SELF STORAGE PDP - AMENDMENT OF ORDINANCE 6-98 DCD CASE # 16-0011

Pursuant to City of Cape Coral Land Use and Development Regulations ("LUDRs") Article IV, §4.2, Planned Development Project Procedure, the Applicant has requested the Hearing Examiner's recommendation of approval to the City Council regarding the A-1 SHELTERS SELF STORAGE PLANNED DEVELOPMENT PROJECT, including: (a) expansion of PDP area from 7.6 acres to 13.7 acres; (b) approval of a Master Development Plan for a Mini-Warehouse, Caretaker Residence, Administrative Office, Storage Enclosed (RV Storage) use; (c) approval of a Zoning Map Amendment to apply the Corridor Overlay District to the southern 8.3 acres; (d) approval of a Deviation to LUDR §2.7.13 to permit a fence 20'4" within a Commerce Park Overlay District; (e) approval of a Deviation to LUDR§ 2.17.13.J.5.d to permit a wall facing a City Right of Way to contain more than 30% metal; (f) approval of a Deviation to LUDR § 2.17.13.J.6.c.(5) to permit the wall of a building used as the opaque feature within a Commerce Park Overlay Buffer to be a metal material and not include a stucco finish; (g) approval of a Deviation to all requirements associated with LUDR, §5.6 - Non-Residential Design Standards; (h) approval of a Phasing Plan for the RV Storage to permit the covered areas to be constructed in phases; (i) establishment of a 10 year expiration date for the physical development granted within this PDP (collectively referred to herein as "the Project").

The Hearing Examiner hereby recommends approval of the Project, subject to the terms and conditions set forth below. Such recommendation is inclusive of the documents which are attached hereto as Composite Exhibit "A" and hereby incorporated by reference:

Plan Set entitled "PDP Master Plans for Stor-Rite Storage Facility Expansion," Sheets 1 through 14, dated August 15, 2016, and also bearing a revision date of January 12, 2017, prepared by Avalon Engineering, Inc.; sketch and legal description of the PDP site, Sheets 1-3, dated December 22, 2016, prepared by Stouten Cramer Professional Surveyors, and wall elevation of the enclosed storage facility, File #16-1120, prepared by Gersdorf and Gersdorf, Inc. Architects.

SECTION II. REVIEW OF LUDR REQUIREMENTS

1. <u>Authority.</u> The Hearing Examiner has the authority (i) to recommend to the City Council approval or denial of an application for those planned development projects which are set forth in LUDR §4.2.5.F2, as amended by Cape Coral Ordinance 24-16, and (ii) if the recommendation is for approval, to recommend the establishment of appropriate conditions and safeguards (LUDR §4.2.5.F2, as amended by Ordinance 24-16).

2. <u>Specific Authority Regarding Rezoning Recommendations.</u> F.S. § 163.3194 and Cape Coral Ordinance 24-16 require the Hearing Examiner to review and make a recommendation to City Council about consistency of a rezoning application to the City's adopted Comprehensive Plan and whether the requested rezoning should be granted.

3. <u>Standard of Review of Evidence; Hearsay Evidence.</u> The Hearing Examiner's decision is based on whether the Application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. In rendering this Recommendation, the Hearing Examiner gave full and complete consideration to the request of the Applicant, the recommendations of staff, the documentary evidence presented at the hearing, the documentary evidence submitted by Applicant post-hearing in accordance with the HEX Interim Order of November 1, 2016, for Filing Post-Hearing Written Submittal, and the testimony of all interested persons.

Hearsay evidence may be used to supplement or explain other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court.

In rendering her Recommendations, the Hearing Examiner must consider all competent substantial evidence in the record as defined in City Ordinance 23-16.

4. Notice of Hearing, Participants, and Submission of Documentary Evidence

Based on the testimony of City Staff Michael Struve at the beginning of the Hearing on February 21, 2017, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of LUDR Article VIII, §8.3, Public Hearings.

The Hearing participants were City Staff Michael Struve, AICP; City Clerk Representative Elisabeth Delgado; and Applicant's Representative, Linda Miller of Avalon Engineering. No members of the public testified and no emails were received by staff prior to the Hearing.

All documentary evidence considered by the Hearing Examiner was submitted prior to the Hearing, in accordance with City requirements. The Applicant's Representative incorporated the staff report and staff's testimony into her presentation. Accordingly, all references below to "staff testimony" should be construed as testimony by the Applicant as well.

SECTION III. RECOMMENDED GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW

- <u>Street Address, STRAP Number and Legal Description of PDP Property.</u> The subject property has a street address of 2555 NE Pine Island Road, Cape Coral, FL. The Strap Numbers are 04-44-24-C1-00012.0010 and 04-44-24-C1-0012.0030. The legal description is attached hereto as Exhibit "A" and hereby incorporated by reference.
- 2. <u>Legal and Equitable Owner of Subject Property.</u> The legal and equitable owners of the subject property are the Kirby Family LP #3 and Kirby FLP3.
- 3. <u>Current Zoning Districts, Future Land Use Designation, and Urban Services</u> <u>Transition Area.</u> The subject property is located in the Corridor (CORR) Zoning District. Its Future Land Use Designation is Pine Island Road District (PIRD).
- 4. <u>Description of Property Contained in the PDP.</u> Staff testified that the 13.7-acre site has frontage along two streets, Pine Island Road (a Principal Arterial) to the south and Diplomat Parkway (a Minor Arterial) to the north. While the site will have driveways along both streets, the main access will be from Pine Island Road as it presently exists.

Staff further testified that the site is irregular in shape and relatively long and narrow. The site has a length of over 2,100 feet and at its narrowness point, a width of only 70 feet. The southern-most 7.6 acres have a self-storage facility that includes a stormwater pond. The remaining 6.1 acres is forested and has a small wetland (less than 0.2 acres).

5. <u>Hancock Creek Commerce Park Development of Regional Impact (DRI).</u> Staff testified that the northern 5.4 acres of the subject site had been part of the Hancock Creek Commerce Park Development of Regional Impact (DRI).

Staff testified that this DRI was adopted in 1989 but abandoned by the City in 2011. Only three parcels were developed in the 218-acre DRI, as changes in market conditions were no longer favorable for industrial development.

6. <u>Previously Approved PDP with Deviations.</u> The Applicant's Representative testified that a PDP entitled "A-1 Shelters Self Storage, Hancock Creek Site" was approved in 1998 for the southernmost 7.6 acres of this site. This PDP was

codified in Ordinance 6-98, which approved 121,700 square feet of self-storage uses, including office space and caretaker residence uses, with two (2) deviations.¹

This site was zoned Industrial (I-1) at that time, but the City in 2011 rezoned the property (and other properties in the area) to the Corridor Zoning District, with a change in the future land use classification to the Pine Island Road District (PIRD). Staff testified that these changes were made to improve the development potential of lands near the VA Clinic that opened in 2012.

7. <u>Description of the Proposed Project.</u> The PDP amendment requests the addition of 6.1 acres (north of the self-storage facility) into the project. This land would be developed with an enclosed storage use. Several buildings with connecting walls would enclose an area for storing recreational vehicles (RVs), although other vehicles or items may be stored in this area as well.

The Master Development Plan shows seven (7) buildings with covered stalls for 145 RVs. The height of the buildings and walls would be 14 feet, two inches and would provide a seamless screening treatment for the RVs. Landscaping would be installed around the perimeter of the site for buffering.

This amendment also involves adding the Commerce Park Overlay (CPO) to 8.3 acres, including the existing self-storage site.

The self-storage facility is classified as a mini-warehouse use and is a legal nonconforming use, as this use is not allowed in the Corridor Zoning District. However, mini-warehouses are a permitted use in the CPO. Accordingly, applying the CPO zoning would eliminate a nonconforming use. It would provide an added benefit of assuring the entire 13.7-acre site has uniform zoning and a single PDP approval.

- 8. <u>Summary of Applicant's Requests.</u> Staff's summary of Applicant's requests is as follows:
 - A rezone of 8.3 acres from Corridor District to Corridor District with the CPO.
 - A deviation from the requirement that limits metal to 30% of the front surface of exterior walls facing a public right-of-way.
 - A deviation to allow a wall with a height of 14 feet, two inches, and an entryway feature with a height of 20 feet, four inches in a CPO Buffer.
 - A deviation from the requirement that building walls meeting the opaque feature requirement within a CPO Buffer must be surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surfaces.

¹ One was a deviation of 12 feet from the minimum front setback requirement of 50 feet and the other was a deviation of 58 parking spaces to allow a project with four (4) parking spaces.

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- A deviation from the nonresidential design standards for buildings associated with the enclosed storage use.
- Development Plan approval.

SECTION IV. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: APPLICATION FOR REZONING TO APPLY COMMERCE PARK OVERLAY TO CORRIDOR ZONING DISTRICT

<u>Rezoning Application.</u> The Applicant seeks rezoning approval to apply the CPO Zoning District to 8.3 acres which are zoned Corridor. This area includes the 7.6-acre mini-warehouse use. An additional 0.7 acres near the northwest corner of the mini-warehouse facility is also proposed to be rezoned.

In reviewing this rezoning application for consistency with the Comprehensive Plan of the City of Cape Coral (including the Future Land Use Map and its accompanying text), the Hearing Examiner is required to apply the general standards set forth in LUDR § 8.7.3.B, in conjunction with the requirements of LUDR §2.7.13, including but not limited to the specific requirements of the Commerce Park Overlay (CPO) as set forth in LUDR §2.7.13J.

- A. Application of General Standards. LUDR §8.7.3.B.
 - 1. The extent to which the value of the property is diminished by the proposed land use restriction or zoning of the property.

Staff testified that the rezoning should have a positive effect on the value of this property since the CPO allows several manufacturing and light industrial uses that are prohibited in the Corridor District. As a general rule, property values increase as the number of uses increase. Therefore, the options available to an owner to utilize his property increase.

In this particular case, the existing mini-warehouse use is a legal nonconforming use that was originally established when the parcel had Industrial Zoning. The rezone will eliminate this nonconformity since this use is allowed in the CPO.

Based on the above testimony of staff, the Hearing Examiner recommends that City Council find that the value of the subject property would not be diminished by the proposed rezoning.

2. The extent to which the removal of a proposed land use restriction or change in zoning depreciates the value of other property in the area.

Staff testified that the rezone should not have a significant effect on surrounding property values.

Large, unplatted parcels to the **north** have Corridor/CPO Zoning or Preservation Zoning. The Hearing Examiner recommends a finding that the proposed rezoning **would not depreciate the value of the property to the north.**

Property to the **west** consists of a 32-acre mixed-use subdivision approved in 2014 by Ordinance 38-14. A site plan (SP16-0027) for a 320unit, multi-family development on 32.88 acres was recently approved by the City. As set forth below, the Hearing Examiner recommends approval of the conditions recommended by staff in this application. Those conditions include the requirement of a buffer with an opaque fence or wall with landscaping along the western property line of the mini-warehouse development. Staff testified that buffers that include an opaque fence or wall with landscaping on the exterior are typically required along property lines of sites developed with CPO uses. The Hearing Examiner recommends a finding that the proposed rezoning, with the indicated condition in place, **would not depreciate the value of the property to the west**.

The site to the **east** has Corridor/CPO Zoning and is being developed with a health care facility use. The Hearing Examiner recommends a finding that the proposed rezoning **would not depreciate the value of the property to the east.**

In summary, the Hearing Examiner recommends that the City Council find the proposed rezoning is not anticipated to depreciate the value of other properties to the north, east and west. The Hearing Examiner cannot make a recommendation regarding the impact on the properties to the south, as no testimony was presented on this matter.

3. The suitability of the property for the zoning purpose or land use restriction imposed on the property as zoned.

The property is currently zoned Corridor (CORR). According to LUDR §2.7.13, the Corridor District"

"was established....2. To promote such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), residential, golf courses, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities." PDP HEX RECOMMENDATION 1-2017 A-1 SHELTERS SELF STORAGE PDP DCD CASE # PDP 16-0011 FEBRUARY 28, 2017

The Hearing Examiner recommends that the Council make a finding of fact that the property is better suited for the CPO rezoning proposed by Applicant. LUDR § 2.7.13J states:

"The purpose of the Commerce Park Overlay (CPO) is to expand the uses available in designated geographic areas of the Corridor Zoning District while also relaxing building design criteria and increasing required buffering. The Commerce Park Overlay allows a mix of commercial service and industrial uses. The Commerce Park Overlay is intended to provide for the expansion of existing enterprises that without the CPO are non-conforming uses, but which, nonetheless, are significant contributors to the economy of the City. The CPO provides these uses flexibility, so that they can expand in a manner that allows them to economically comply with the aesthetic vision of the Corridor District. The Commerce Park Overlay shall not be construed to be a separate zoning district, but is an overlay in the Corridor District."

Staff testified that the proposed rezoning of this site is suitable for the following reasons:

- The site has a PIRD Future Land Use and Corridor zoning.
- The site has a sizeable area, e.g., over seven acres.
- The site abuts three other properties with Corridor/CPO Zoning. Other properties with Corridor/CPO Zoning also exist in this area, although not adjacent.
- The rezone will eliminate a legal nonconforming use, as the existing mini-warehouse use is prohibited in the Corridor District but allowed in the CPO.

Staff further testified that the City regulations do not generally allow R.V.s to be parked in residential driveways for a period in excess of twenty-four (24) hours. Accordingly, the Hearing Examiner recommends that the Council find the following fact, in addition to finding the above facts:

 Provision of additional storage of RV's in this Zoning District would be a significant contributor to the economy of the City. It would provide a safe and legal place for Cape Coral residents to store these vehicles and therefore encourage more visitors and residents to travel to Cape Coral with such vehicles.

Based on the foregoing, the Hearing Examiner recommends that City Council find the property is well suited for the proposed rezoning.

4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed land use restriction or zoning.

Staff presented the table embedded immediately below to show the zoning of nearby and surrounding properties.

Subject Parcel	Zoning	Future Land Use (FLU)	Existing Use
Current:	Corridor	PIRD	Mini warehouse use
Proposed:	Corridor/CPO	No change proposed	No change proposed
	Surrounding Zoning	Surrounding FLU	Surrounding Existing Uses
North:	Preservation and Corridor/CPO	Natural Resources/ Preserve	Undeveloped
South:	Pine Island Road ROW/Incorporated Lee	Pine Island Road ROW/ Incorporated Lee	Undeveloped
East:	Corridor/CPO	PIRD	Being developed with a health care facilities use
West:	Corridor	PIRD	Being developed with a multi-family use

Although a rezone would eliminate a legal nonconforming use, staff testified as to the full range of permitted uses in the CPO. The CPO allows several light industrial and manufacturing uses that are prohibited in the Corridor District. For developing CPO properties, a landscape buffer is required between the development and public rights-of-way and between the CPO site and any property not included in the development. The CPO also requires compliance with City architectural standards.

Staff testified that the existing mini-warehouse use generates a small number of PM peak hour trips. The site has frontage on Pine Island Road, a Major Arterial. This CPO permits several industrial and manufacturing uses that frequently involve transporting goods and products on major roads.

Accordingly, the Hearing Examiner recommends that City Council find the proposed rezoning is compatible with the character of the neighborhood, existing uses, and zoning of nearby and surrounding properties.

5. The relative gain to the community as compared to the hardship, if any imposed, by the proposed land use restrictions or from rezoning said property.

Staff testified that there would be neither a gain nor a hardship to the community in this proposed rezoning.

However, as set forth above, rezoning to CPO would eliminate a nonconforming use on the site, thereby allowing the Applicant to rebuild the facility in the event of disaster. In addition, staff testified that the proposed rezoning would provide uniformity in CPO coverage throughout the 13.7 acre project. These facts, in the larger sense, represent a gain to the community.

Based on the foregoing recommended findings of fact, the Hearing Examiner recommends that City Council find **the proposed rezoning** would create more gains than hardships to the community.

6. Community need for the use proposed by the zoning or land use restriction.

Staff testified that the CPO zoning allows for a wider array of light manufacturing and industrial uses than the Corridor District; that the City has a deficiency in land supporting these types of uses; and that the property has access to centralized utilities and frontage along a major road. Staff further testified that these factors enhance the suitability of the site for the CPO.

In addition, the Hearing Examiner incorporates the discussion under Standard 5 above by reference.

The Hearing Examiner recommends that City Council find the community needs the use proposed by the applicant.

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

Staff testified that the future land use category of the subject property was changed from Industrial to Pine Island Road District by Ordinance 20-11 in **2011.** Staff further testified that the subject property was rezoned from Industrial to Corridor by Ordinance 52-11 in **2011.**

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

Staff testified that approval of this rezone will have little to no negative effect upon the health, safety, morals, or general welfare of the

community. In a positive sense, the elimination of the nonconforming use will benefit the larger community in allowing Applicant to continue this use in the event that the structures currently on it are destroyed via disaster.

The Hearing Examiner recommends that City Council find that this rezoning will promote the health and general welfare of the community.

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

Staff testified that level of service standards would be unaffected.

The Hearing Examiner recommends that City Council find that the impact of the proposed rezoning on level of service standards for public facilities will be negligible.

10. Whether the proposed land use restriction, removal of a restriction, or zoning is consistent with the City of Cape Coral Comprehensive Land Use Plan.

Policy 1.15.m. of the Future Land Use Element states that the Pine Island Road District allows for two zoning categories: Village and Corridor. Therefore, the Corridor Zoning for the subject property is consistent with the Comprehensive Land Use Plan.

In addition, properties with Corridor Zoning may have the CPO Overlay, which is also consistent with the Comprehensive Land Use Plan.

The request is also consistent with Policy 2.7 of the Economic Development Element, which encourages development in the neighborhood centered around the Veterans Administration Clinic.

For all of the above reasons, the Hearing Examiner recommends that the City Council find the proposed rezoning to be **compatible with the future land use classification that currently exists for the subject property and the proposed rezoning to be consistent with the goals and objectives of the Comprehensive Plan.**

<u>Recommendation Regarding Rezoning to Apply CPO Zoning District.</u> For all the reasons set forth above, the Hearing Examiner recommends that the City Council **grant the rezoning** to apply the CPO Zoning District to 8.3 acres which are zoned Corridor, including the 7.6- acre mini-warehouse use and an additional 0.7 acres near the northwest corner of the mini-warehouse facility.

SECTION V. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: DEVIATION FROM LUDR §2.7.13J.5.d TO ALLOW METAL COMPONENT OF EXTERIOR WALL TO EXCEED 30% LIMIT

1. <u>Deviation Criteria.</u> Deviation criteria applicable to planned development projects is set forth in LUDR §4.2.4.K as follows:

"To provide design flexibility in developing land through the PDP process, deviations from....standards of the zoning district of the site in question, including but not limited to, area, dimensional, and other standards, may be approved in a PDP development order.... provided that the PDP demonstrates **unique and innovative design** which would be enhanced by the approval of such deviation(s) and that the intent of such regulations to **protect the health, safety and welfare of the public** would be served by the approval of the deviation...."

2. Applicant's Request.

The Applicant seeks a deviation from LUDR §2.7.13J.5.d (Exemption from architectural requirements of the Corridor Zoning District), which requires that no more than 30% of the front surface of any exterior wall facing any public right-of-way (except alleys) shall be metal. This deviation would apply to the wall along the north side of the enclosed storage site. It has frontage on Diplomat Parkway.

3. Hearing Testimony.

Staff testified that the metal wall facing Diplomat Parkway is about 75 feet long and would be approximately 187 feet south of this right-of-way. The Applicant has proposed landscaping along Diplomat Parkway and the drive isle approaching the wall to buffer and partially screen this structure.

Staff testified that this deviation is consistent with the unique and innovative design criterion found in LUDR, Section 4.2.4.K as the metal wall enclosing the storage yard will produce a uniform, seamless appearance to the development.

Staff further testified that this request would not adversely affect the health, safety or welfare of the public as the factors referenced above would contribute to this structure being inconspicuous to motorists traveling past this site.

4. Recommended Findings of Fact and Approval of Deviation.

It is recommended that the City Council find the above facts to be true and, based thereon, make a finding that the proposed deviation would constitute a

unique and innovative design and that the deviation would promote the health, safety, and welfare of the community.

The Hearing Examiner recommends that City Council **approve** this deviation.

SECTION VI. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: DEVIATION FROM LUDR §2.7.13J.6.c(5) TO ALLOW BUILDING WALLS WITH METAL SERVICES

1. Deviation Criteria.

The deviation criteria from Section V.1. immediately above are incorporated by reference herein.

2. Applicant's Request.

The Applicant requests a deviation to LUDR, Section 2.7.13J.6.c(5) which requires the walls of a building which are used as the opaque feature within a Commerce Park Buffer must be surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface. The Applicant requests building walls with metal surfaces.

3. <u>Hearing Testimony.</u>

Staff presented the following testimony. This deviation request applies to the western property line of the enclosed storage site, since a CPO Buffer is required along this property line. Accordingly, the analysis of this deviation requires a review of both the landscape buffer and the requested deviation for metal surfaced walls.

Staff testified that the CPO Buffer would include two opaque features: buildings and walls. These structures would both be metal and would have identical heights, resulting in a seamless screening treatment.

Staff recommended the inclusion of the following conditions in the approval of this deviation:

- i. Required shrubs within the Buffer X and Buffer W along the west property line of the enclosed storage use shall be maintained at a minimum height of 48 inches at maturity; and
- ii. The width of the CPO Buffer X and Buffer W along the western property line of the enclosed storage site shall range from 18 to 36 feet as shown on Sheet 13 of the Master Landscape Plan. Changes in the width of these buffers may be approved by the DCD

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Director provided good cause is demonstrated by the Applicant, compliance with the CPO minimum buffer width is achieved, and such changes affect no more than 10% of the total length of these two buffers combined.

The Applicant was in agreement with these two (2) conditions.

Based upon the recommended conditions set forth above, Staff is recommending a finding that the combination of the consistency in screening materials and the enhanced buffer width is consistent with the unique and innovative design criterion. Staff further is recommending a finding that Applicant's request is consistent with protecting the health, welfare, and safety of the public as the buildings along this property line will not be visible from a public right-of-way.

4. Recommended Findings of Fact and Approval of Deviation with Conditions.

It is recommended that the City Council find the above facts to be true and, based thereon, make a finding that the proposed deviation, as conditioned, would constitute a unique and innovative design and that the deviation would promote the health, safety, and welfare of the community.

The Hearing Examiner recommends that City Council **approve** this deviation request with the two conditions set forth above.

SECTION VII. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: DEVIATION FROM LUDR §2.7.13J.6.c(2) TO ALLOW AN ENTRYWAY FEATURE WITH A HEIGHT EXCEEDING EIGHT FEET

1. Deviation Criteria.

The deviation criteria from Section V.1. above are incorporated by reference herein.

2. Applicant's Requests.

LUDR § 2.7.13J.6.c(2) limits walls in a CPO buffer to eight feet in height, measured from finished grade of the land, excluding the height of any berm. The Applicant requests two deviations from this requirement. First would be an entryway feature with a height of 20 feet, four inches, which would constitute a deviation of 12 feet, four inches. Applicant requests a further deviation from this section to allow the remaining walls and facades of the buildings enclosing the RV storage area to have a uniform height of 14 feet, two inches.

3. Hearing Testimony.
The Applicant testified that, in general, the height of the RVs which would be stored at this facility is from ten to fourteen feet.

Staff testified that, based on the height of RVs, the deviation for the height of the walls and facades is sought to provide a consistent screen of the facility (and the RVs) from surrounding properties as well as passing traffic.

The intention of the entryway deviation request of 20 feet, four inches is not only to call attention to the entrance of the storage facility from Diplomat Parkway for motorists who are trying to find the facility but also to promote a project which is compatible with surrounding uses.

4. Recommended Findings of Fact and Approval of Deviation.

It is recommended that the City Council find the above facts to be true and, based thereon, make a finding that both parts of the requested deviation would constitute unique and innovative designs and that the deviation would promote the health, safety, and welfare of the community.

The Hearing Examiner recommends that City Council **approve** this deviation.

SECTION VIII. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: DEVIATION FROM LUDR §5.6 WHICH SETS FORTH NON-RESIDENTIAL DESIGN STANDARDS.

1. Deviation Criteria.

In considering whether the Applicant's request should be granted, it is important to review the intention of the Non-Residential Design Standards as set forth in LUDR §5.6.1:

"[The intention of this section]... is to ensure that future non-residential developments and compound use buildings will have a high level of overall aesthetic appeal and visual interest, thereby supporting [the City of Cape Coral's] economic vitality while also protecting the health, safety and welfare of the public."

LUDR §5.6.10 sets forth the criteria for granting deviations from the Non-Residential Design Standards, as follows: the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of the applicable section; further, **either** of the following criteria must apply:

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.

LUDR, Section 5.6.10.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, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. 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."

2. Applicant's Request.

The Applicant has requested a deviation from all requirements associated with LUDR, Section 5.6 entitled "Non-residential design standards" for eight (8) buildings with the enclosed storage use. Seven of the buildings will provide protection for RVs stored on this site. The other building has an area of 149 square feet containing bathrooms along with electrical and mechanical equipment.

3. Hearing Testimony.

i. Are site constraints present (like shape, topography, dimensions, or area of the properties) that would interfere or impede with the implementation of the nonresidential design standards? Staff testified that there are no site constraints interfering with such implementation.

ii. Are other regulations or locational factors present that make compliance with the nonresidential design standards impossible or impractical? Staff testified that several factors are present that make compliance with this section impractical, as follows:

(a) The nature of the development. A combination of buildings and walls would form the perimeter of the storage yard. Except for the entryway feature off Diplomat Parkway, the site would appear to have an uninterrupted 14-foot metal wall around the site. The buildings would be roofed and would mimic the appearance of a carport with multiple stalls for storing RVs.

(b) *The CPO regulations.* CPO Buffers are required for the western property line of the site. Both the Buffer X and W subtypes allow metal walls with no required architectural treatments.

(c) The visibility of the buildings from outside the development. The sides of the buildings would have the appearance of a metal wall and would provide for a seamless transition between the building and walls of the site. One building would be placed in the center of the storage area but would not be visible from outside the site.

(d) Land uses on surrounding properties. The storage use would likely be visible only along the west property line of the site. Southwest of the site, a 32.88-acre property is being developed with 320 multifamily units. Approved plans for this residential development shows a row of trees along the eastern property line adjacent to the enclosed storage site. CPO Buffers are required along the west property line of the storage site that would provide suitable "softening" of the perimeter wall. The site would likely not be visible from residents or businesses to the east as lands with Preservation Zoning are adjacent to the development. The nearest buildings on the site from both Pine Island Road and Diplomat Parkway would be behind walls and would not be visible from either right-of-way.

(iii). What effect would the requested deviation would have on the community appearance?

Staff testified that the requested deviation is anticipated to have little if any negative effect on community appearance for the following reasons:

• The integration of several buildings into the perimeter wall enclosing the storage area would provide for seamless screening of the use. The outer walls of these building would be indistinguishable from adjoining metal walls used for screening this use; and

- Landscaping on the outer perimeter of the development would buffer this use and reduce the starkness of the walls; and
- The distance of the development from Pine Island Road and Diplomat Parkway, coupled with Preservation lands to the east of the site, would contribute to a development that is largely hidden from view except for along the west side of the site.

(iv) What effect would the deviation have on the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas?

Staff testified that no negative effects are expected, as loading areas are absent from this development. All RVs would be stored within the enclosed area and would not be visible except to customers visiting this business.

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

Staff testified that the health, safety, and welfare of the public would be served by the approval of this deviation for three reasons. First, the wall around this storage use would shield the public for RVs and items stored within the enclosed area. Secondly, aesthetic appeal would be achieved by providing a continuous, seamless screening treatment around the site that would be well buffered. Thirdly, the relatively remote location of this development with direct access only from Diplomat Parkway would mean this site would be rather inconspicuous to most residents living and working in this area.

4. Recommended Findings of Fact and Approval of Deviation.

It is recommended that the City Council find the above facts to be true and, based thereon, make a finding that literal conformity with the non-residential design standard regulations would inhibit innovation or creativity in design; that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of these standards.

The Hearing Examiner recommends that City Council approve this deviation.

SECTION IX. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: EXPANSION OF THE PROJECT AREA OF THE PDP.

Applicant's Request.

Applicant has requested the addition of 6.1 acres north of the existing self-storage facility into the project area. This new land area has frontage on Diplomat Parkway and would be developed with an enclosed storage use.

Hearing Testimony.

Staff supported this request, testifying that it will result in all land within the project area having identical future land use and zoning designations. The properties within the PDP are contiguous with one another and would extend the project area from Pine Island Road to Diplomat Parkway. Access to the project will be available from both streets. The configuration of the parcel being added to the PDP is irregular and has limited frontage on Diplomat Parkway.

Staff further testified that the site is appropriate for a storage use that does not place a high premium on visibility from the street.

Recommended Finding of Fact and Approval of Request for Expansion.

The Hearing Examiner recommends that the City Council find the above testimony as findings of fact.

In addition, the Hearing Examiner recommends that City Council find that having ingress and egress for the RVs on both Pine Island Road and Diplomat Parkway will facilitate the owners' removal of RVs in the event of the pending occurrence of a disaster, as Pine Island Road is an evacuation route for residents of Pine Island.

The Hearing Examiner recommends that City Council **approve** Applicant's request to expand the project area by adding 6.1 acres north of the existing self-storage facility into the project area.

SECTION X. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW: GENERAL STANDARDS AND REQUIREMENTS SET FORTH IN LUDR §4.2.4

1. <u>Compliance with General Standards and Requirements Set Forth in LUDR §4.2.4</u> All planned development projects must conform to the general standards and requirements set forth in LUDR § 4.2.4. For the reasons set forth in this Recommendation, the Hearing Examiner recommends that the City Council make the following findings of fact and conclusions of law and thereby determine that the Project is in compliance with all applicable standards and requirements, as follows:

A. Environmental Control Standards (LUDR §4.2.4A)

An Environmental Survey, dated June, 2016, was submitted by W. Dexter Bender and Associates, Inc. on behalf of Applicant. This report did not identify state or federally protected species on this site. However, staff testified that his field inspection revealed a small area of wetlands on the site, which will require an inspection by the South Florida Water Management District and, possibly, an environmental resource permit. Applicant's Representative acknowledged the existence of wetlands and testified that Applicant would comply with all requirements of SFWMD.

In addition, staff reviewed the four (4) General environmental control criteria and performance standards set forth in LUDR §5.4.1 through LUDR §5.4.4 and testified that the project is compliant therewith.

Accordingly, the Hearing Examiner recommends a finding that this Standard has been met.

B. Maintenance of Improvements (LUDR §4.2.4B)

General landscape areas are shown on the development plan. Compliance with the City's landscaping regulations will be reviewed when a site plan for the project is submitted following PDP approval.

Accordingly, the Hearing Examiner recommends a finding that this Standard has been met.

- C. Consistency with the Comprehensive Plan (LUDR §4.2.4C) As discussed elsewhere in this Recommendation, the Hearing Examiner recommends a finding that the Project, as conditioned, **is consistent** with the Comprehensive Plan.
- D. *Financial Responsibility (LUDR §4.2.4D)* The Applicant **should not be** required to provide a statement of financial responsibility to the City.
- E. Dimensional Requirements (LUDR §4.2.4E) The Hearing Examiner recommends a finding that the project is **compliant** with dimensional requirements for the Corridor District.
- F. *Maximum Density (LUDR §4.2.4 F)* This Standard **does not apply** to this nonresidential Project.
- *G. Minimum Parcel Size (LUDR §4.2.4.G)* The Corridor Zoning District does not have a minimum lot area requirement and the project site is not in the Urban Services Reserve Area. Accordingly, this Standard **does not apply**.
- H. Time Limitation(LUDR §4.2.4.H)

Substantial construction is required to commence within two (2) years from the date of project approval or within **one** (1) year from the last permit approval for all appropriate regulatory bodies, whichever is less.

- *I. Ownership Requirements(LUDR §4.2.4.I)* The Applicant **holds** title to 100% of the subject property.
- J. Special Exceptions (LUDR §4.2.4.J) No special exceptions were requested by Applicant.
- *K. Deviations (LUDR §4.2.4.K)* The requested deviations **should be granted** for reasons set forth above.
- L. Underground Utilities (LUDR §4.2.4.L) Utilities will be placed underground.
- 2. <u>Concurrency.</u> The Hearing Examiner recommends that the City Council make a finding of fact that the project will meet all concurrency requirements for solid waste, drainage, potable water, sewer and transportation, as detailed in the Table below (set forth as Table 2 in the staff report).

SERVICE	FACILITY DESIGN CAPACITY	USAGE	STATUS
Solid Waste ²	1,836 Tons	1,384 Tons	Capacity exists
Drainage ³	NA	NA	NA
Potable Water	30.1 MGD ⁴	9.4 MGD	Capacity exists
Sewer	28.4 MGD	12.8 MGD	Capacity exists
Roads			
NE Pine Island Road⁵	Level of Service D	13,300	Capacity exists
	Level of Service D	7,300	Capacity exists
Diplomat Parkway		AADT ⁶	
		No data	

3. Consistency with All Applicable Law, Ordinances and Regulations.

Staff testified that the project is consistent with the following Goals and Policies of the Comprehensive Plan:

² Solid waste services are provided by Lee County Government.

³ Projects are reviewed for compliance with South Florida Water Management District standards during site plan review.

⁴ MGD stands for millions of gallons per day.

⁵ East of SW 19th Avenue as reported by Lee County DOT.

⁶ AADT stands for average annual daily trips.

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Conservation and Coastal Management Element	Future Land Use Element	Infrastructure Element	Transportation Element	Economic Development
Policies 1.1.7, 1.2.1, 1.2.17,	Policies 1.9, 1.15.m,	Goal 2	Policies 1.1.1,	Policy 2.7
1.5.2, and 1.7.9	1.17, 4.1, 5.3, 8.2,		2.1.1, 2.1.5, and	
	and 8.3		2.2.3	

Based upon the above, and the recommended findings of fact and conclusions set forth elsewhere in this Recommendation, the Hearing Examiner recommends that the City Council find that the Project, as conditioned, **is consistent** with the requirements of the Zoning District(s) in which the property is located, the Comprehensive Plan, the Land Use Development Regulations, City ordinances, and all other applicable local, state, and federal law.

SECTION XI. LEGAL EFFECT AND LIMITATIONS OF THIS RECOMMENDED DEVELOPMENT ORDER; ADMINISTRATIVE REQUIREMENTS

- 1. This is a Recommendation by the Cape Coral Hearing Examiner to the City Council of Cape Coral, in response to the Planned Development Project Application filed for the A-1 SHELTERS SELF STORAGE PDP.
- 2. If this Project is approved by City Council, it is recommended that Council's Development Order be binding on the Applicant.
- 3. If this Project is approved by City Council, it is recommended that the terms and conditions set out in the City Council's approved Development Order constitute a basis upon which the Applicant and City may rely in future actions necessary to implement fully the final development contemplated by such Order.
- 4. If this Project is approved by City Council, it is recommended that the City Council find that the proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- 5. If this Project is approved by City Council, it is recommended that the City Council declare that all conditions, restrictions, stipulations, and safeguards contained in Council's approved Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- 6. If this Project is approved by City Council, it is recommended that any references by the City Council to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as

successor in interest to, or which otherwise possesses any of the powers and duties of, any referenced governmental agency in existence on the effective date of Council's Development Order, if any.

- 7. If this Project is approved by City Council, it is recommended that approvals granted by City Council's Development Order are limited and that any such approval shall not be construed to obviate the Applicant's duty to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. It is further recommended that such approval, if any, shall also not obviate the duty of the Applicant to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- 8. If this Project is approved by City Council, it is recommended that the physical development authorized under the City Council's Development Order terminate in six (6) years from the date of adoption of a Development Order, if any, unless

an extension is approved by the appropriate governing body. Such body may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. It is recommended that all conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.

- 9. If this Project is approved by City Council, it is recommended that the Director of the Cape Coral Department of Community Development or his/her designee ("Director"), shall be the local official responsible for assuring compliance with this Development Order and that, upon reasonable notice by the City and at all reasonable times, the Applicant shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- 10. If this Project is approved by City Council, it is recommended that the Applicant, or its successors in title to the undeveloped portion of the subject property, be required to submit a report annually to the Director and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.
- 11. Within thirty (30) days of the effective date of an Order, if any, entered by the City Council, it is recommended that Council require such Development Order to be

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> recorded with the Office of the Lee County Clerk of the Circuit Court by the City of Cape Coral and the Applicant to be responsible for reimbursing the City for all recording fees within 30 days of being notified by the City thereof.

SECTION XII. EFFECTIVE DATE

- 1. This Recommendation takes effect on the date specified below.
- 2. Permits issued prior to the City Council consideration of this Application are obtained solely at the risk of the Applicant.

SECTION XIII. ATTACHMENT OF EXHIBIT(S)

The following Exhibit(s) are attached hereto and hereby incorporated by reference:

Composite Exhibit "A": Plan Set entitled "PDP Master Plans for Stor-Rite Storage Expansion," Sheets 1 through 14, dated August 15, 2016, and also bearing a Facility revision date of January 12, 2017, prepared by Avalon Engineering, Inc.; sketch and legal description of the PDP site, Sheets 1-3, dated December 22, 2016, prepared by Stouten Cramer Professional Surveyors, and wall elevation of the enclosed storage facility, File #16-1120, prepared by Gersdorf and Gersdorf, Inc. Architects.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

ANNE DALTON. ESQUIRE

ATTESTED TO AND FILED IN MY OFFICE IN THIS 2nd DAY OF March 2017



Composite Exhibit "A" 18 pages

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JEFFREY D. STOUTEN (FOR THE FIRM) FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6584	1////			nc: (239) 673-			SANDON ENGINEERING	DOS # 16-1472 PREPARED FOR
See Sheet I of 3 for Signature and Seal	CERTIFICATE OF AUTHORIZATION: LB7922 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991							
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I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 22, 2016 is in secondance with Professional Surveyors & Mappers in Chapter 5,-17, Florida Professional Surveyors & Mappers in Chapter 5,-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.		PROFESSIONAL SURVEYORS				ĘЗ	(o 7 1994S	
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Description

Subject Parcel Description:

Parcel of land lying in Sections 3 and 4, Township 44 South, Range 24 East, City of Cape Coral, Lee County, Florida being more particularly described as follows:

Beginning at the Southwest corner of tract D, Block 6951, Hancock Creek Commerce Park Phase I as recorded in Plat Book 43 at Page 10 of the Public Records of Lee County, Florida, thence run N89°52'57"E, along the South line of said Tract D, a distance of 373.38 feet to an intersection with the East line of the Northwest quarter of the Northwest quarter of said Section 4; thence run S04°56'55"E, along said East line, a distance of 1,029.67 feet to an intersection with the Northerly right-of-way line of Pine Island Road (State Road 78); thence run S61°59'29"W, along said Northerly Right-of-way line, a distance of 325.63 feet; thence run N04°56'55"W, departing said Northerly Right-of-way line, a distance of 892.54 feet; thence run S89°52'56"W a distance of 35.00 feet; thence run N31°02'52"W a distance of 243.94 feet; thence run N04°56'55"W a distance of 80.00 feet; thence run S89°52'59"W a distance of 230.00 feet; thence run N00°00'00"E a distance of 543.36 feet; thence run N47°25'02"W a distance of 245.35 feet; thence run N23°53'26"W a distance of 156.33 feet to an intersection with the Southerly right-of-way line of Diplomat Parkway (100 feet wide) being a point on a non-tangent curve; thence run 132.65 feet along the arc of said non-tangent curve to the left of radius 850.00 feet, concave to the Northwest, to which a radial line bears S19°45'23"E, having a delta angle of 08°56'30", a chord bearing of N65°46'22"E and a chord length of 132.52 feet; thence run S13°50'31"E a distance of 69.72 feet; thence run S32°15'11"E a distance of 79.79 feet; thence run S47°32'06"E a distance of 94.41 feet; thence run S69°11'47"E a distance of 34.29 feet; thence run N51°50'39"E a distance of 24.73 feet; thence run S70°28'12"E a distance of 61.97 feet; thence run S53°27'48"E a distance of 26.00 feet to an intersection with the North line of said Section 4; thence continue S53°27'48"E a distance of 69.88 feet; thence run S61°12'51"E a distance of 63.69 feet; thence run S10°06'09"E a distance of 27.60 feet; thence run S40°08'39"E a distance of 70.63 feet to the Northwest corner of said Tract D; thence run S00°07'04"E, along the West line of said Tract D, a distance of 520.63 feet to the Point of Beginning.

Said Parcel Contains 595,728 sq. ft. (more or less)

Bearings are based on the Northerly right-of-way line of Pine Island Road (S.R. 78) being S61°59'29"W.

		Tables to Accompany Sketch	
THIS IS NOT A SURVEY		Subject Parcel A Tract of land lying in Sections 3 & 4, Township 43 South, Range 24 East, City of Cape Coral, Lee County, Florida	Not Valid without Sheets 1 & 2 of 3
	Sheet 3 of 3	STOUT/ENCRAMER PROFESSIONAL SURVEYORS	I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 22 , 2016 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.
		CERTIFICATE OF AUTHORIZATION: LB7922	See Sheet 1 of 2 for Signature and Seal
XOB # 16-1472 PREPARED FOR: AVALON ENGINEERING SECTIONS 3 & 4, TOWNSHIP 43S, RANGE 24E		324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 Phone: (239) 673-9541 Fax: (239) 424-8181	JEFFREY D. STOUTEN (FOR THE FIRM)
		www.scisurvey.com	FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6554 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER





PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION PROPERTY OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY (LLC), LIMITED COMPANY (LC), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUST

	Stor-Rite Self Storage Facility Expansion for RV Storage	
Project Number:	PDP16-0011	

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

Brian R. Kirby ______, 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) * Kirby Family LP #3		BRK
By: NAME AND TITLE (PLEASE TY Brian R. Kirby, Trustee	PE OR PRINT)	SIGNATURE
STATE OF, COUNT	(SIGNATURE MUST BE NOTARIZE	ED)
	ibed before me this <u>5th</u> day of <u>July</u> who is <u>personally known</u> or produced	20 <u>16</u> , by
LYNDA G. BROOKS Commission # FF 012481 Expires August 26, 2017 Bonded Thru Troy Fein Insurance 800-385-7019		Sind Down
*Please include additional page	Printed name of Notary Public: 49 s for multiple property owners.	Add G. Brooks

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	Avalon Engineering, I	nc.	
	(Name of Authorized Repr	resentative(s) and business e	ntity, if any)
is authorized to submit an Planning Agency, Board of	application and represent me i Zoning Adjustments and Appea	n the hearing(s) to the Plann als and /or City Council for a	ning & Zoning Commission/Local Planned Development Project.
Unit Block	Lot	Subdivision Cape Cor	al
Or Legal Description:	X (described as an exhibit A in	n Microsoft Word format an	d attached hereto)
Kirby Family LP #3		Trustee	
** Name of Entity (Corpora	tion, Partnership, LLC, etc)	Title of Signatory Brian R. Kirby	
Signature		Name (Please print or ty	pe)
STATE OF _FL, ((SIGNATURE N COUNTY OF	AUST BE NOTARIZED)	
Brian R. Kirby	subscribed before me this <u>5th</u> who is personally known	day of _ ^{July} , 20 <u>16</u> , by or produced	
as identification.			
LYNDA G. BROOK Commission # FF Expires August 26, Bended Thru Trey Fein Insure	012481		a Aldato
*Please include additional	pages for multiple property ow	ners.	

**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: _____ Stor-Rite Self Storage Facility Expansion for RV Storage

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:

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

authorized representative

or property owner's initials

GENERAL INFORMATION

Project Name:	Stor-Rite Self Sto	rage Facility E	Expansion for R\	/ Storage			
Applicant:	Kirby Family LP #3	Kirby Family LP #3 & Kirby FLP 3 By: Brian R. Kirby, Trustee					
Address:	1406 SE 46th Lane	, Cape Coral,	Florida 33904				
Phone: 239-542-5430	Fax:		E-Mai	l: brian@a	a1shelters.com		
*Property Owner: Sa	me as Applicant						
Address							
Phone		Fax		E-Mail			
Authorized Representat	ive		Avalon Enginee	ring, Inc. / Linda	Miller		
	503 Del Prado Bouleva	rd South, Sui	te 200, Cape Co	ral, Florida 3390	4		
Phone 239-573-207			9-573-2076	E-Mail	Linda@avaloneng.com		
Location							
Unit	Bl	ock F0401 a	ind F0400	Lot(S) 1 and	1000		
Subdivision Cape C	Coral	Strap N	lumber(s) 04-	44-24-C1-00012	.0010 and 04-44-24-C1-00012.0030		
Legal Description	X (Described as	s Exhibit A in	Microsoft Wo	rd Format and	attached hereto)		
Property Address:	2555 N.E. Pine Island	Road and A	ccess Undeterm	ined, Cape Coral	, Florida 33909		
OR 2014 and Plat Book OR4709/1829	3390 and 4709/1831	Current Zoning	Corrid	or & CPO	Future Land Use PIRD		
	This appli		des the follow ck all that app				
Subdivision	Special Excep	tion	X Rezon		Variance		
X Deviation to Landscaping	Deviation to Non-residential D Standards	esign	Engineerin Standards	ig Design	X All Other Deviation Requests Wall height		
Borrow Pit	Vacation of P	lat		· -/			

*Please include additional pages for multiple property owners.

PROPERTY and PROJECT DEVELOPMENT DATA

a.	Zoning District	Corridor and CPO/Requesting CPO
b.	Future Land Use Class	Pine Island Road
c.	Area of Subject Property	13.68 acres Existing Self Storage 7.61 Acres Proposed RV Storage 6.07
d.	Type of Development	Commercial
e.	Estimated Number of Employees	N/A
	Number of Seats in Assembly	N/A
f.	Parking Spaces Required Existing Self Storage	13 Proposed RV Storage -N/A
g.	Parking Spaces Provided Existing Self Storage	13 Inc. 1 H/C Space Proposed RV Storage -N/A
h.	Parking and Street Area	sq. ft % of Site
i.	Ground Floor Building Area Existing Setf Storage	121.235 sq. ft. 36 % of Site Proposed RV Storage 79, 361 30%
j.	Total Floor Area Existing Self Storage	121,235 sq. ft% of Site Proposed RV Storage 79, 361 30%
k.	Building Heights	20 feet 2 stories Existing Office Area
1.	Total Proposed Impervious Surface Area	sq. ft. 226,729 Existing Self Storage % of Site _ 69 Proposed RV Storage 170, 290 64%
m.	Permanent Open Space	sq. ft Existing Self Storage % of Site Proposed RV Storage 94,039 36%
	Landscaped Area	sq. ft. % of Site
n.	Recreation Area	<u>N/A</u> sq. ft. % of Site <u>N/A</u>

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans. NOT APPLICABLE

....

0.	Num	ber of Dwelling Units (du)	
p.	Gros	s Density (du/acres)		
q.	Num	ber, Type, and Floor A	rea of each Dwelling Unit:	
	1.	Efficiency	Floor Area	sq. ft
	2.	1 Bedroom	Floor Area	sq. ft
	3.	2 Bedroom	Floor Area	sq. ft
	4.	3 Bedroom	Floor Area	sq. ft
	5.	4 Bedroom	Floor Area	sq. ft



LETTER OF INTENT

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

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

DEVIATION REQUEST LETTER(S)

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

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

TRAFFIC GENERATION ESTIMATE

SEE ATTACHED TRAFFIC GENERATION STATEMENT

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

ITE Code Is estimate based on locally collected data?	
Regression equation (if used)	
Independent Variable	
Daily Two Way Trip Estimate	
Peak Hour (of generator) Entering	
Peak Hour (of generator) Exiting	
Total Peak Hour (of generator)	
Peak Hour Entering and Exiting trips greater than 300 trips	

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

GRAPHIC STANDARDS: GENERAL INFORMATION

Sheet # of
submittedThe Development Plan shall be of sufficient scale to show all detail.The scale of the Plan shall be
arrow shall be shown on every
sheet. The following general information is required:

1

1

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

- 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.
- Provided

 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: 1 1. Acreage of land within property. 1 and Boundary lines of the project and their bearings and distances. Survey 2. 3. Existing and proposed easements and their locations, widths and distance, as well as existing structures. 1 Streets and waterways on and adjacent to the project, their names, widths and other dimensions 4 as may be required. 8 and 9 The location of all existing utilities connections available to the property site. 6. Tree Survey: The location, quantity, diameter/caliper, botanical and common name, and native See PSA 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. Provided 7. Environmental Site Survey - see the City's guidelines for conducting an environmental survey 8. Flood elevation data and flood zone boundary lines delineated, if applicable. 1 9. Any other significant existing features, as may be required by the Director. N/A



DEVELOPMENT PLANS

MASTER DEVELOPMENT PLANS ONLY

The Development Plan should be viewed as a conceptual plan and not construction drawings or a site Sheet # of plan. A high level detailed site plan with information not needed will be rejected at submittal. The submitted Development Plan shall show the following information, as applicable to the type of project being plans: proposed, including the proposed dimensions, size, location and arrangement of the following. 1. Name of project, north arrow, date and scale. 1 4, 5 and 2. Elevations, (drawing of front, sides, and rear faces of buildings), and use of all proposed buildings Bldg. El. and structures. Landscape Internal and peripheral landscaping locations showing landscape area sizes and overall dimensions Plans 3. of the various planting areas, providing calculations per Article 5.2. Approximate location of curb cuts, driveways, access roads, alleys, and parking areas indicating the 4 and 5 4 number of spaces and all dimensions. 4 and 5 Location of existing and proposed pedestrian walks, malls, yards, and open areas. 5. Location, number, dimensions, character and orientation of all existing and proposed signs. 4 and 5 Location and heights of all proposed buffers, fences, screens, and walls. 4 and 5 7. 4 and 5 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 8 and 9 of connection to the existing system and buildings, if applicable, including: a) Estimate of the average daily flow for potable water. Estimate of the average daily flow of wastewater b) Estimate of the average daily flow for irrigation water. c) 8 and 9 Location of all known existing and proposed easements and /or right of way. N/A 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 Provided streets out to a collector. 13. Location and character of all outside waste disposal facilities and existing or proposed appropriate N/A Existing curb side pick up screening. See Phasing Schedule

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.

> authorized representative or property owner's initials
ADDITIONAL INFORMATION

Sheet # of submitted plans:			
Provided	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.	
Provided	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.	
N/A	3.	If seeking Subdivision approval; Covenants: Copies of proposed restriction or protective covenants, if any.	
Provided	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.	
<u>N/A</u>	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 	
	submitted plans: Provided Provided	submitted plans: Provided 1. Provided 2. N/A 3. Provided 4.	submitted plans: Provided 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. Provided 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. N/A 3. If seeking Subdivision approval; Covenants: Copies of proposed restriction or protective covenants, if any. Provided 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. N/A 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



NOT APPLICABLE SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Sheet # of submitted plans

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

- - 2. Access roads and their relationship to existing and proposed streets, alleys and other public ways.

1. Contours at an interval of not greater than one foot.

- 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.
- 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
X	PDP - without Subdivision		\$2,525.00	\$2,525.00
X	 ** Additional charge for PDP's in excess of ten (10) acres: <u>4</u> acres x \$55.00 for each acre or portion thereof in excess of 10 acres. 	of \$	aximum cap 3,625.00 for tional acres)	\$ 220.00
	PDP - with Subdivision		\$2,815.00	\$
	 ** 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. 	of \$	aximum cap 3,915.00 for itional acres)	\$
	Fire Review			
X	Fire review (mandatory)		\$104.00	\$ 104.00
	The review (manager)			
	Public Hearing			
X			\$665.00	\$ 665.00
	Public Hearing			\$ 665.00 \$
	Public Hearing PDP - without Subdivision PDP - with Subdivision		\$665.00	\$
×	Public Hearing PDP - without Subdivision		\$665.00 \$1,415.00	\$
×	Public Hearing PDP - with Subdivision Zoning Amendment within PDP Vacation of Plat within PDP		\$665.00 \$1,415.00 \$1,165.00	\$ \$1,165.00 \$
	Public Hearing PDP - without Subdivision PDP - with Subdivision Zoning Amendment within PDP Vacation of Plat within PDP Variance/Deviation within PDP		\$665.00 \$1,415.00 \$1,165.00 \$880.00	\$ \$1,165.00 \$
	Public Hearing PDP - with Subdivision Zoning Amendment within PDP Vacation of Plat within PDP		\$665.00 \$1,415.00 \$1,165.00 \$880.00 \$1,250.00	\$ \$1,165.00 \$ \$ 1,250.00

* 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)



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION PROPERTY OWNER IS A CORPORATION, LIMITED LIABILITY COMPANY (LLC), LIMITED COMPANY (LC), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUST

Project Name: Project Number:

Stor-Rite Self Storage Facility Expansion for RV Storage

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 Brian R. Kirby ______, 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) * Kirby FLP 3	Bek
By: NAME AND TITLE (PLEASE TYPE OR PRINT) Brian R. Kirby, Trustee	SIGNATURE
(SIGNATURE MUST BE NOTARIZ	ZED)
Sworn to (or affirmed) and subscribed before me this <u>5th</u> day of <u>July</u> Brian R. Kirby who is <u>personally known</u> or produced	, 20 <u>16</u> , by
as identification.	
LYNDA G. BROOKS Commission # FF 012481 Expires August 26, 2017 Bonded Thru Tiey Fain Insurance 800-385-7019 Bonded Thru Tiey Fain Insurance 800-385-7019 Printed name of Notary Public:	ynde G. Brooks
*Please include additional pages for multiple property owners.	
PDP Application June, 2014 Page 1 of 11	authorized representative or property owner's initials

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

Please be advised that	Avalon Engineeri	ng, Inc.			
Fieldse be duvised that _	(Name of Authorized Repre	resentative(s) and business entity, if any)			
is authorized to submit an appli Planning Agency, Board of Zoni	cation and represent me ir ng Adjustments and Appea	n the hearing(s) to the Planning & Zoning Commission/Local Is and /or City Council for a Planned Development Project.			
Unit Block _FC	1000 Lot 1000	Subdivision Cape Coral			
	described as an exhibit A in	Microsoft Word format and attached hereto) Trustee			
* Kirby FLP 3		Title of Signatory			
** Name of Entity (Corporation,	Partnership, LLC, etc)	Brian R. Kirby			
Signature		Name (Please print or type)			
STATE OF, COUL	NTY OF LEE	IUST BE NOTARIZED)			
Sworn to (or affirmed) and subs	cribed before me this _5th	day of, 20 <u>16</u> , by			
Brian R. Kirby	who is personally known	or produced			
as identification.					
LYNDA G. BROOKS Commission # FF 012481 Expires August 26, 2017 Bonded Thru Troy Fain Insurance 800-385-701					
*Please include additional page	es for multiple property owr	ners.			

**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.

authorized representative or property owner's initials

PDP Applicant Checklist

Project Name: _____ Stor-Rite Self Storage Facility Expansion for RV Storage

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:

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

authorized representative or property owner's initials

GENERAL INFORMATION

roject Name:	Stor-Rite Self Stora	ge Facility E	kpansion for RV Stor	rage	
opplicant:	Kirby Family LP #3 &	#3 & Kirby FLP 3 By: Brian R. Kirby, Trustee			
ddress:	1406 SE 46th Lane, 0	Cape Coral, I	Florida 33904		
hone: 239-542-5430	Fax:		E-Mail:	brian@a	a1shelters.com
Property Owner: San	ne as Applicant				
ddress					
hone		Fax		E-Mail	
uthorized Representation	/e		Avalon Engineering,	Inc. / Linda	Miller
	3 Del Prado Boulevaro	South, Suite	e 200, Cape Coral, F	lorida 33904	4
hone 239-573-2077	,	Fax 239	-573-2076	E-Mail	Linda@avaloneng.com
nitCape Co		Strap N		ot(S) 1 and 24-C1-00012	1000 .0010 and 04-44-24-C1-00012.0030
egal Description	X (Described as 2555 N.E. Pine Island		Microsoft Word F		
OR 2014 and OR 2014 and OR4709/1829	Page 4709/1831	Current Zoning	Corridor &		Future Land Use PIRD
			des the following ck all that apply)	requests:	
Subdivision	Special Except	ion	X Rezoning		Variance
X Deviation to Landscaping	Deviation to Non-residential De Standards		Deviation Engineering D Standards (ED	esign	X All Other Deviation Requests Wall height

*Please include additional pages for multiple property owners.

Vacation of Plat

Borrow Pit

PROPERTY and PROJECT DEVELOPMENT DATA

a.	Zoning District	Corridor and CPO/Requesting CPO
b.	Future Land Use Class	Pine Island Road
с.	Area of Subject Property	13.68 ACTES Existing Self Storage 7.61 Acres Proposed RV Storage 6.07
d.	Type of Development	Commercial
e.	Estimated Number of Employees	N/A
с.	Number of Seats in Assembly	N/A
f.	Parking Spaces Required Existing Self Storage	13 Proposed RV Storage -N/A
g.	Parking Spaces Provided Existing Self Storage	
h.	Parking and Street Area	sq. ft% of Site
i.	Ground Floor Building Area Existing Self Storage	121,235 sq. ft. 36 % of Site Proposed RV Storage 79, 361 30%
i.	Total Floor Area Existing Self Storage	121,235 sq. ft % of Site Proposed RV Storage 79, 361 30%
k.	Building Heights	20 feet 2 stories Existing Office Area
L	Total Proposed Impervious Surface Area	sq. ft. 226,729 Existing Self Storage % of Site 69 Proposed RV Storage 170, 290 64%
m.	Permanent Open Space	sq. ft Existing Self Storage % of Site Proposed RV Storage 94,039 36%
	Landscaped Area	sq. ft. % of Site
n.	Recreation Area	sq. ft. % of Site

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans. NOT APPLICABLE

ο.	Num	ber of Dwelling U	inits (du)		
p.		s Density (du/acr		1	
q.	Num	ber, Type, and Fle	oor Area of each	n Dwelling Unit:	
	1.	Efficiency		Floor Area	sq. ft
	2.	1 Bedroom		Floor Area	sq. ft
	3.	2 Bedroom		Floor Area	sq. ft
	4.	3 Bedroom		Floor Area	sq. ft
	5.	4 Bedroom		Floor Area	sq. ft

LETTER OF INTENT

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

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

DEVIATION REQUEST LETTER(S)

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

- Landscaping Deviations shall be in accordance with Section 5.2.19
- Non-residential Design Standards Deviations shall be in accordance with Section 5.6.10 Deviation,
- Non-residential Design Standards Deviations shall be in accordance with sheet 1, "Foreword" paragraph 5,
 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

SEE ATTACHED TRAFFIC GENERATION STATEMENT

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

ITE Code	Is estimate based on locally collected data?
Regression equation (if used)	
Independent Variable	
Daily Two Way Trip Estimate	
Peak Hour (of generator) Entering	
Peak Hour (of generator) Exiting	
Total Peak Hour (of generator) Peak Hour Entering and Exiting trips great	er than 300 trips
hear your currening and exiting tube Preas	- Contraction of the second

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
submittedThe 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:

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

1

 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: 1. Acreage of land within property. 1 1 and 2. Boundary lines of the project and their bearings and distances. Survey 3. Existing and proposed easements and their locations, widths and distance, as well as existing structures. 4. Streets and waterways on and adjacent to the project, their names, widths and other dimensions 1 as may be required. The location of all existing utilities connections available to the property site. 8 and 9 5. 6. Tree Survey: The location, quantity, diameter/caliper, botanical and common name, and native See PSA 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. 7. Environmental Site Survey - see the City's guidelines for conducting an environmental survey Provided Flood elevation data and flood zone boundary lines delineated, if applicable. 1 8. 9. Any other significant existing features, as may be required by the Director. N/A



DEVELOPMENT PLANS

MASTER DEVELOPMENT PLANS ONLY

The Development Plan should be viewed as a conceptual plan and not construction drawings or a site Sheet # of plan. A high level detailed site plan with information not needed will be rejected at submittal. The submitted Development Plan shall show the following information, as applicable to the type of project being plans: proposed, including the proposed dimensions, size, location and arrangement of the following. Name of project, north arrow, date and scale. 1 1. 4, 5 and 2. Elevations, (drawing of front, sides, and rear faces of buildings), and use of all proposed buildings Bldg. El. and structures. 3. Internal and peripheral landscaping locations showing landscape area sizes and overall dimensions Landscape Plans 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 4 and 5 number of spaces and all dimensions. Location of existing and proposed pedestrian walks, malls, yards, and open areas. 4 and 5 5. Location, number, dimensions, character and orientation of all existing and proposed signs. 4 and 5 6. Location and heights of all proposed buffers, fences, screens, and walls. 4 and 5 7. Location of all existing and proposed buildings and structures with setback distances from the 4 and 5 8. property lines and roadways. 9. Location of all known existing and proposed water, sewer and irrigation mains including the point 8 and 9 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 Estimate of the average daily flow for irrigation water. c) 10. Location of all known existing and proposed easements and /or right of way. 8 and 9 11. Location of proposed outdoor lighting, showing direction, height and type. N/A 12. An exhibit providing the peak hour trip distribution at the project entrance and adjacent local Provided streets out to a collector. 13. Location and character of all outside waste disposal facilities and existing or proposed appropriate N/A Existing curb side pick up screening. See Phasing

Schedule 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:		
Provided	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.
Provided	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.
N/A	3.	If seeking Subdivision approval; Covenants: Copies of proposed restriction or protective covenants, if any.
Provided	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.
<u>N/A</u>	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

NOT APPLICABLE SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Sheet # of submitted plans	The Subdivision Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following with accurate dimensions to the nearest one-hundredth of a foot. If flexibility is requested for property lines prior to Plat recording, this request must be requested in the Letter of Intent (LOI).
1	 Contours at an interval of not greater than one foot.
	2. Access roads and their relationship to existing and proposed streets, alleys and other public ways.
_	 Setback lines, permanent open space, recreation areas, separation strips, existing and proposed landscape areas and general land use activity areas.
	 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.
	 Utility locations on and adjacent to the project showing proposed dimensions and connections to existing utility systems.
	 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.
	 Approximate location of proposed and existing surface water management system components including treatment, storage, conveyance, and discharge locations.
<u> </u>	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.
1	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 *

	Deview		Fees	Your Costs
	Administrative Review		\$2,525.00	\$2,525.00
X	PDP - without Subdivision ** Additional charge for PDP's in excess of ten (10) acres: <u>4</u> acres x \$55.00 for each acre or portion thereof in excess of	of	naximum cap \$3,625.00 for litional acres)	\$ 220.00
X	10 acres.		\$2,815.00	\$
	PDP - with Subdivision ** 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.	of	maximum cap \$3,915.00 for ditional acres)	\$
		1		
-	Fire Review Fire review (mandatory)		\$104.00	\$ 104.00
	Public Hearing	1	\$665.00	\$ 665.00
X	PDP - without Subdivision		\$1,415.00	\$
	PDP - with Subdivision		\$1,165.00	\$1,165.00
X	Zoning Amendment within PDP		\$880.00	\$
	Vacation of Plat within PDP		\$1,250.00	\$ 1,250.00
X	Variance/Deviation within PDP		\$1,365.00	\$
	Special Exception within PDP		\$1,725.00	\$
	Borrow Pit within PDP		Tota	\$ 5,929.00
		•		

* 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)





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

August 15, 2016 Revised January 27, 2017

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

PROJECT: STOR-RITE EXPANSION - RV STORAGE 2555 NE PINE ISLAND ROAD

SUBJECT: REVISED PLANNED DEVELOPMENT PROJECT (PDP) LETTER OF INTENT

Dear Mr. Cautero:

It is the intent of the property owner, Kirby Family LP # 3 and Kirby FLP 3, to request approval of a Commerce Park Overlay Planned Development Project (PDP), consisting of 13.7 acres. The purpose of the PDP is to expand the Stor-rite development and provide the following uses: Mini-Warehouse, Caretaker/Watchman Residence, Administrative Office, and Storage Enclosed for (RV Parking/Storage).

The subject property is between Diplomat Parkway on the north and Pine Island Road on the south, just east of NE 24th Avenue. The site consists of two parcels; the southern parcel is approx 7.6 acres and was developed as a mini-warehouse facility in 1998. The northern parcel is approx 6.1 acres and is currently vacant. The southern parcel is zoned Corridor and has a Land Use Designation of Pine Island Road District. The northern parcel is zoned Corridor/Commerce Park Overlay District and has a Land Use Designation of Pine Island Road District.

The existing mini warehouse facility was developed under the City's C-3 (Highway Commercial Zoning District) and complied with the requirements of that district when constructed in 1998. The City of Cape Coral rezoned the parcel to Corridor in 2003. The current mini-warehouse use is not a permitted use within the City of Cape Coral's Corridor Zoning District. The applicant is requesting approval to amend the City's Zoning Map to apply the Commerce Park Overlay District to this existing developed parcel. Applying the Commerce Park Overlay District to the southern parcel will bring the existing mini-warehouse use into compliance and also provide a consistent zoning district for the proposed expansion.

The existing Stor-rite development (southern parcel) consists of 18 self-storage buildings, containing a total of 121,325 square feet. Minor modifications are being proposed to the existing site to provide a connection to the northern development and improve the registration office and main entrance area. An additional 274 square feet is being added to the administrative office.

The RV Parking/Storage Facility (northern parcel) will provide sever (7) covered parking areas for a total of 145 Recreational Vehicles storage/parking areas, a restroom and mechanical building and an covered entrance area.

The subject parcels are adjacent to the Hancock Creek Commerce Park on the east and two parcels zoned Corridor and Commerce Park Overlay to the west (along NE 24th Street), of which, the southern parcel is currently under development as a Mixed Use project consisting of Multi-family units, Commercial out-parcels and a Assistant Living Facility. To the north of the subject parcel, across Diplomat Parkway, are Commerce Park Overlay (CPO) zoned parcels that are currently vacant. To the south of the subject parcel is Pine Island Road, and parcels not currently within the City of Cape Coral Limits, zoned Commercial.

This PDP will request approval of a Zoning Map Amendment to apply the Commerce Park Overlay District to the southern parcel, deviations to the City's Land Use and Development Regulations for architectural requirements within the Non-Residential Design Standards and to the CPO Special Regulations, Master Development Plan approval to developed a fully enclosed RV storage facility within the northern parcel and to make minor improvements to the existing Stor-rite entrance and office area, and approval of a Phasing Plan.

The specific requests within this PDP are as follows:

I. Zoning Map Amendment to map the CPO Zoning District onto the solithern parcel

The applicant requests approval to amend the City of Cape Corals Zoning Map to apply the Commerce Park Overlay to the southern 8.3 acres currently zoned Corridor. This zoning amendment is for two parcels, the existing mini-warehouse site consisting of 7.6 acres and a portion of the northern parcel, lying in the northwest corner of the south ern parcel containing 0.7 acres. The legal descriptions and sketch of these two parcels are provided as Exhibits A and B.

Corridor Zoning with the Commerce Park Overlay District is consistent with the City's Pine Island Road Land Use and Policy 1.15.m and will permit the existing Mini-Warehouse and the proposed Storage Enclosed uses.

As required by Section 8.7.3.A and 8.7.3.B of the City's Land Use and Development Regulations, the Zoning Map Amendment requested within this PD² is consistent with the City of Cape Coral's Comprehensive Plan and these General Standards:

Comprehensive Plan Consistencies

The City of Cape Coral's Pine Island Road Land Use specifics two zoning categories, Village or Corridor, which when applied to parcels with this Land Use are determined to be consistent with the City's Comprehensive Plan - Future Land Use Element Policy 1.15.m.

The location of the parcel complies with the City's Policies and methods of determining the proper locations for commercial uses within the City (Objective 3 of the Future Land Use Element of the City's Comprehensive Plan).

General Standards:

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

The proposed zoning amendment will increase the value of the property by permitting the proposed uses and by allowing for the expansion of a successful commercial business. The proposed zoning will support the highest and best use of the subject property.

2. The extent to which the change in zoning depreciates the value of other property in the area;

The proposed zoning amendment will have little effect on the surrounding parcels as the development parcels to the east and the northwest are zoned Commerce Park Overlay and the current mini-warehouse use has been established on the southern parcel for almost 20 years. New development has been approved for both sides of the southern parcel, along Pine Island Road. The west side will consists of a mixed use development with multi-family units and commercial tracts along Pine Island Road and the east side will contain a office building.

3. The suitability of the property for the zoning being proposed on the property;

The subject parcel is suited for the proposed zoning due to the close proximity to other Commerce Park Overlay parcels and the ability for the subject parcel to be combined with the northern parcel for expansion of a successful commercial business.

The City staff has continued to support commercial zoning district and commercial development in designated areas, along major arterials, in order to increase the amount of commercial uses provided within the City.

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

The parcels lying south of Diplomat Parkway, east of NE 24th, west of Hancock Creek Boulevard and north of Pine Island Road, which surround the subject parcel, are zoned Corridor, Corridor/Commerce Park Overlay, or Preserve. Most of the parcels surrounding the subject parcel are within the Hancock Creek Commerce Park Subdivision, a commercial subdivision which permits a variety of commercial and light industrial uses.

The City of Cape Coral has approved the Development plans for a mixed-use development to the west of the site, which will contain a Multi-family development and some commercial out-parcels, and a commercial project (medical office building) to the east of the site. The site to the west has been cleared for construction. At the time of submittal of this PDP, construction has not commenced on the site to the east.

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

There will be a positive effect for the subject parcel and a gain to the community. The proposed zoning will help promote a unified development for the north and south parcels. The proposed development will share facilities, utilize the existing city services within this area, and provide a limited amount of incress and egress areas for the size of the development reducing the impact to *City* services and public facilities.

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

The City of Cape Coral is deficient in commercial acreage and has determined the amount of commercial square foot needed on Pine Island Road, Policy 1.15.m. Even though the zoning amendment requested for the subject parcel does not actually increase commercial acreage it does provide a means to expand a successful commercial use along Pine Island Road.

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

The subject parcels was rezoned to Corridor by the City in 2()03. The zoning for the subject parcel and the area surrounding the site was established with the City's approval of the Pine Island Road District and again with the establishment of the Commerce Park Overlay District. The rezoning to Corridor occurred on an existing developed site (southern parcel) and created a non-conforming use on a well established mini-warehouse use.

The City of Cape Coral mapped the Commerce Park Overlay District to the northern parcel and the parcels to the east of the subject parcel within the Hancock Creek Commerce Park in 2011, by Ordinance 52-11. The northern parcel has remained undeveloped since it was rezoned to Corridor and then to Corridor with the Commerce Park Overlay.

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

The purpose of the Commerce Park Overlay (CPO) as stated in Section 2.7.13.J of the City of Cape Coral's Land Use and Development Regulations is to expand the uses available in designated geographic areas of the Corridor Zoning district. The Commerce Park Overlay allows a mix of commercial service and industrial uses.

The Commerce Park Overlay is intended to provide for the expansion of existing enterprises that without the CPO are non-conforming uses, as is the case with this development.

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

The proposed zoning will not impact the level of service standards for public facilities as the request is to map the overlay district within an already Corridor Zone Parcel. Some of the CPO uses, like the proposed development, are low traffic generators and required less water than other commercial uses within the Corridor Zoning District.

This development will share facilities, utilize the existing city services within the area, and require less ingress and egress than other commercial developments of this size.

II. Approval of the Proposed Uses

The applicant requests approval of these uses: Mini-Warehouse Caretaker/Watchman Residence Storage Enclosed (for RV Storage) Administrative Office

The mini-warehouse use is existing on 7.61 acres and contains 18 self-storage buildings, 13 parking spaces, an Administrative Office and the Caretaker/Watchman residence.

The RV (Storage Enclosed) use is proposed on 6.07 acres and will contain seven (7) covered parking areas ranging in size from 30 - 50 feet deep and 122 - 446 feet in length to provide for parking/storage for 145 Recreational Vehicles.

The RV (Storage Enclosed) development will provide a continuous opaque feature around the entire development. The opaque feature will consisting of fences and walls (the back of building) for six (6) of the seven (7) covered parking areas. The use of the same material (painted metal) and the fact that the fence connects to the buildings and will constructed at the same height (14' 2") of the wall fully meets the intent of the Commerce Park Overlay Buffer Yard requirements for a continuous opaque screening around the entire development. The required height of the opaque feature within the CPO buffer requirements is eight (8) feet, the proposed opaque feature will be installed six (6) feet higher than required providing a much greater screening due to the height of the items being stored within the facility. The proposed opaque features (fence and back of wall) will require the following deviations to the City's Land Use and Development Regulations - CPO dimensional requirements and the Non-Residential Design Standards:

III. a. <u>Deviation to the City of Cape Coral's Land Use and Development Regulations Section</u> 2.7.13 Commerce Park Overlay- Fence Height

The applicant requests approval of a twelve (12) foot four (4) inch deviation to Section 2.7.13.J.6.c (2) of the City's Land Use and Development Regulations, which permits a fence eight feet (8) in height within a Commerce Park Buffer Yard, in order to provide a fence that connects to the wall of the buildings within the RV storage area (Storage Enclosed) at a height of twenty (20) feet four (4) inches. The majority of the fence and the rear wall of the proposed buildings will have a maximum height of 14 feet 2 inches, and will be constructed of the same material and be of the same height to form a continuous screening around the entire project. The Entry Feature into the Storage Area will be the only area where the height will exceed the fence height of 14 feet 2 inches. The Entry Feature will have a height of 20 feet 4 inches.

As required by Section 4.4 K of the City's Land Use and Development Regulations please accept these justifications for the approval of the requested deviation:

Unique and Innovative Design / Protect the Health, Safety and Welfare of the Public.

Storage Enclosed Uses are required to provide an opaque screen around the storage area. In order to fully meet this requirement and due to the height of the vehicles being stored/parked within the site the opaque fence would need to be of the same height as the covered parking area. The applicant is requesting the fence height deviation in order to comply with the screening requirements for this use and to provide a development that is completely screened from the adjacent parcels.

The incorporation of the fence and building wall (rear of the buildings) into a visual barrier with shared architectural features is an innovation previously used with success at one of the applicant's other facilities within the City of Cape Coral. This design approach provides a unique screening of this facility, improves security, and provides a pleasing passive visual appearance for this low intensity commercial use.

All of the operational functions of this storage facility will be within the enclosed area, not visible to the surrounding properties and out of public view.

III. b. <u>Deviation to the City of Cape Coral's Land Use and Development Regulations Section</u> 2.17.13.J.5.d. - Special Regulations within the Commerce Park Overlay District

The applicant requests approval of a deviation to Section 2.17.13.J.5.d., Special Regulations, which requires that no more than 30% of the front surface of any exterior wall facing a public right-of-way shall be metal in order to provide a secondary entrance into the facility from Diplomat Parkway consisting of metal.

As required by Section 4.4.K of the City's Land Use and Development Regulations, please accept these justifications for the approval of the requested deviation:

Unique and Innovative Design / Protect the Health, Safety and Welfare of the Public

This development is proposing a secondary entrance off of Diplomat Parkway for the RV Storage Facility. The facility entrance is setback 187 feet from the Public Right of Way (Diplomat Parkway), well beyond the building setback requirements. Access to the facility is within a 30 feet tree and shrub lined driveway. Other than landscaping and the access drive no other function of this use is proposed outside of the facility, or within the front setback, minimizing the visibility of the proposed exterior wall (entrance area) facing a public right of way.

The incorporation of the fence and building wall (rear of the buildings) into a visual barrier with shared architectural features is an innovation previously used with success at one of the applicant's other facilities within the City of Cape Coral. This design approach provides a unique screening of this facility, improves security, and provides a pleasing passive visual appearance for this low intensity commercial use.

III. c. <u>Deviation to the City of Cape Coral's Land Use and Development Regulations Section</u> 2.17.13.J.6.c.(5) Commerce Park Buffer

The applicant requests approval of a deviation to Section 2.17.13.J.6.c.(5) - Commerce Park Buffer for a wall of a building used as the opaque feature within the required Commerce Park Buffer shall be surfaced with stucco, brick, stone or textured concrete masonry units, in order to provide, within the RV Storage Facility, a wall of a building, within a portion of a required Commerce Park Buffer, that is constructed of metal and does not contain a stucco finish.

As required by Section 4.4.K of the City's Land Use and Development Regulations, please accept these justifications for the approval of the requested deviation:

Unique and Innovative Design / Protect the Health, Safety and Welfare of the Public

The buffer yard along the western property line of the RV Storage Facility consists of two types of opaque features, a fence and a wall (rear of the building). Even though the fence and the wall are proposed to be of the same material, Section 2.7.13.J.6.c.(5) would require the portion of the opaque feature that is the wall (rear of the building) to be surfaced with stucco or a textured concrete, while not requiring the opaque fence to be surfaced with stucco.

The incorporation of the fence and building wall (rear of the building) into a visual barrier with shared architectural features is an innovation previously used with success at one of the applicant's other facilities within the City of Cape Coral. This design approach provides a unique screening of this facility, improves security, and provides a pleasing passive visual appearance for this low intensity commercial use.

In addition to a opaque feature (fence and wall of a building), the buffer yard contains a wider than required green space, with a minimum width of 18 feet to a maximum width 36 feet, and the required trees, shrubs.

III. d. <u>Deviation to the City of Cape Coral's Land Use and Development Regulations Section 5.6</u> Non-Residential Design Standards, in its entirely

The applicant has developed a distinctive architectural approach that makes a rather industrial type use (Storage of Vehicles) look passive and non-intrusive. This approach involves incorporating a fence/wall (with a protective roof) that visually hides the internal functions of the storage of RVs and also provides a functional cover that protects these vehicles from the elements.

An economic relief from the architectural standards being requested will allow this method to be utilized to its fullest extent, enclosing the entire facility, forming a compound that minimizes sound and virtually eliminates the visual impact of the storing of the RVs.

The applicant requests a deviation to Section 5.6 - Non-Residential Design Standards, in its entirely, in order to utilize a design approach which will provide this distinctive type of screening, improve security, and provide a pleasing passive visual appearance for this low intensity commercial use.

As permitted by Section 5.6 of the City's Land Use and Development Regulations, please accept these justifications for the approval of the requested deviation:

Unnecessary or Undue Hardship / Not Contrary to the Public Interest

The RV Storage area is actually a fenced compound with portions of the fence being roofed to protect the stored vehicles. Although the City may define the roofed structures as a building, and require architectural features on the sides of the building, these structures are not typical nor should they be viewed as conventional in any way. These roofed structures are more of an enclosure system and as such should not be required to meet the architectural requirements associated with a commercial building. Applying the Non-Residential Designs Standards to this project is not necessary or economically feasible. The distinctive design of the fence/wall system, the location of the project being behind an existing development from Pine Island Road and deeper within the site from Diplomat Parkway, and the specialize use (RV storage) makes this project a suitable development to obtain approval of this deviation. Approving the deviation will not be detrimental to the health, safety or welfare of the public and will permit the utilization of a distinctive type of screening which will screen the proposed use and provide a visual pleasing development.

IV. Approval of the Phasing Plan

The applicant requests approval to phase the development. All site work, including landscaping and buffering and the installation of the opaque fence and walls, will be constructed within Phase 1. The seven (7) covered parking space areas will be provided through the life of the PDP as needed.

V. Master Development Plan Approval

The applicant is requesting Master Development Plan approval. Site Plan approval, as required by Section 4.4. of the City's Land Use and Development Regulations, will be requested for the construction of the project under a separate application process.

VI. PDP Expiration Date

The applicant requests approval to terminate the physical development granted within this PDP ten (10) years from the date of approval.

Approving this Planned Development Project will provide for the expansion of a successful miniwarehouse facility with a much needed place for the storage of Retre ational Vehicles. Should you or your staff have questions regarding this project, please feel free to contact me.

Sincerely,

AVALON ENGINEERING, INC.

Linda Miller, AICP Senior Planner

G:/2016/16-501/City/PDP/PDP 3rd Review Comments/PDP Final Letter of Intent revised 3 (NRDS 5.6 and Fence height).doc



GENERAL CONSTRUCTION NOTES

- REFER TO CONTRACT DOCUMENTS AND TECHNICAL SPECIFICATIONS FOR ADDITIONAL INFORMATION, CONTRACTOR'S RESPONSIBILITIES AND DETAIL.
- THE CONTRACTOR SHALL BE RECURED TO MEET ALL "MANITOMAGE OF TRAFFIC" RECOMPLIATION AS PRESENTED IN THE CUMERT "STAMAND STRETCATORS FOR ROAD SWEETS, NAT N, CONTRACT TOORS, AND ALL WARDED EXCIDENT OF THE ROAD WORKER, NAT N, CONTRACT TOORS, FLORED DEPARTMENT OF TRANSPORTATION, CUMERT LOTION.
- 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING ALL UTLITES IN THE AREA OF CONSTRUCTION INFOR TO BEGINNING CONSTRUCTION. IT INLL BE INE CONTINUETING RESPONSIBLE/TO GOODINALE ANY UTLITY RELOCATION WITH THE UTLITY COMPANY SUCH THAT ALL CORFLICTS ARE RESOLVED. NO COMPENSION OF TIME EXTENSION WILL BE ISSUE TO THE CONTRACTOR FOR DULYY CAUSED BY UTLITES.
- THE CONTRACTOR SHALL COMPLY WITH CURRENT FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) SPECIFICATIONS, SPECIFICALLY IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE "SPECIFICATIONS FOR RADA INDECE CONSTRUCTION" AN THE "TROAD AND TRAFFIC DESIGN STANDARDS", UNLESS OTHERWISE NOTED.
- CONTRACTOR SHALL VERY ALL BLADING DWENSIONS WITH THE ARCHITECTURAL PLANS PRIOR TO CONSTRUCTION. MAY DESCREPANCY NOT CALLED TO THE ENGNEEDY: ATTENTON PRIOR TO THE ACCOMPLISHMENT OF THE WORK SHALL BE CORRECTED BY AND AT THE CONTRACTOR'S EXPENSE.
- THERE ARE NOT KNOWN WELLS LOCATED ON THIS JOB SITE IF ANY WELLS ARE LOCATED DURING CONSTRUCTION THE CONTRACTOR IS RESPONSIBLE TO NOTIFY THE DIGINEER.
- ALL PRACTICABLE AND NECESSARY DFFORT SHALL BE TAKEN DURING CONSTRUCTION TO CONTROL AND PREVENT ENGINED AND TRANSPORT OF SEDMENT TO SUIFACE DRAINS, SHALES AND OUTFALLS, REFER TO ENGINE CONTROL PLAN.
- WHERE THE NEW PAVEMENT IS DISCONTINUED IT SHALL BE FLUSH WITH OR HAVE A SMOOTH TRANSITION WITH ADJACENT PAVEMENT. B. ALL INVENT ELEVATIONS NOTED FOR DRAINAGE STRUCTURES ARE FLOW LINE ELEVATIONS.
- 10. ALL DESTRIC AND PROPOSED GRADES SHOWN REFER TO N.G.V.D. 1828. (UNLESS OTHERWISE NOTED) 11.
- AT THE CONTRACTOR'S EXPENSE, ALL FRAMES, COVERS, VALVE BOXES, METER BOXES AND MANHOLES SHALL BE ADJASTED TO PHENED GRADE UPON COMPLETION OF PAVING OR RELATED CONSTRUCTION. 12.
- ANY SURPLUS MATERIAL WILL REMAIN THE PROPERTY OF THE OWNER; AND THE CONTRACTOR, AT HIS EXPENSE SHALL STOCKPILE THE SURPLUS MATERIAL AS DIRECTED BY OWNER.
- 13. THE LIMITS OF CONSTRUCTION SHALL MATCH THE LIMITS OF CLEARING & GRUBBING UNLESS OTHERWISE NOTED ON PLANS.
- 14. ALL UTULTY WORKAWASHP AND MATCHALS FOR THIS PROJECT SHALL BE IN STREET ACCORDANCE WITH HIS SPECIFICATIONS AND STANDARDS OF THE OPARTILLET OF DEWISION-BUTCH, ROTECTION (OP). THE STATE OF TLORGE DEVANDENT OF FAULT AND REMANJULTATIVE SERVICES (HIRS), AND THE GITY OF CAPE DORAL UTULTY DIVISION, UNLESS OF DEMANDER AND SA.
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- 14. ALL DISTURBED AREAS WITHIN PROJECT SITE AND CITY R/W'S SHALL BE REDRADED AS REQUIRED AND STABILIZED WITH SOC VACANT LOT AREAS THAT ARE DISTURBED DURING CONSTRUCTION SHALL BE SEEDED & MULCHED.
- 17, CONCRETE SIDEWALK: USE CLASS I, 3000 PSI (MININUM) CONCRETE. APPLY A BIRDOM FINISH AND MAKE VERTICAL SAW CUTS AT 3' ON CONTEXT A DEPTH OF 1/4 OF THE SLAB THECHNESS. PROVIDE PRE-FORMED EXPANSION JOINTS AT 100' ON CENTER.
- 18. ALL HANDICAP SPACE, RAMPS, AND ACCESS AREA'S BHALL COMPLY IN STRICT ACCORDANCE WITH THE "ANDICIAN DEARBUTY ACT" (ACA) (28 CPR PART 36), AND "ACCESSIBLUT BY INANCIENCE DESCRIPT CAMPLER 352, PART 34, DATE APPLICATION, CONSTRUCTION, CON
- CONCRETE CURB & GUTTER AND STRAIGHT CURB: USE CLASS I, 3000 PB (MINMUN) CONCRETE. MAKE VERTICAL SAM CUTS EVERY 10' ON GENTER WITH PRE-MOLDED EPRANDRUM JOINTS EVERY 100' ON CONCRET.
- PAVEMENT MARKINGS AND SIGNS SHALL BE IN STRICT ACCORDANCE WITH THE "MANUAL ON UNFORM TRAFFIC CONTROL DEWICES (M.U.T.C.D.) FOR STRIETS AND HIGHWAYS" AND FDOT STANDARD RIDEX #17346.
- 21. STORN DRAIN (3D) AND ROOT DRAIN (RD) SHALL BE RENFORCED CONCRETE PRE, ADS N=12, ALIMBRIAN, PAC SDR=35, A=2000 PVC, OR AS SHORN ON PLANS, "FEED PRE" SHALL BE ADS N=12, PVC 30R=35 OR A=2000 PVC, OR AS SHORN ON PLANS, "FEED PRE" CONCRETE PRE, OR FIBER RENFORCED PPE.
- THE CONTRACTOR SHALL SUBMIT TO THE ENGINEER SHOP DRAWINGS OF ANY AND ALL MATERIALS, STRUCTURES, PPING, VALVES, VALVE BOXES, ETC, TO BE USED ON SITE PROR TO ORDERING OF INSTALLING, INCLUDING UNFG OF SAME
- ALL STORMORAN PIPE COMMECTIONS AND JOINTS SHALL BE IN ACCORDANCE WITH CITY OF CAPE CORAL DESIGN STANDARDS (SHEET L-2), FOOT INDEX 201 AND 280 AND TOTO THEF AND.

RIGHT-OF-WAY CONSTRUCTION NOTES

CAPE CORAL, FLORIDA AND OTHER STANDARDS REFERENCED HEREIN (REFER GENERAL CONSTRUCTION NOTES).

PROR TO WORKING WITHIN THE RIGHT-OF-WAYS, THE CONTRACTOR IS REQUIRED TO OBTAIN ALL THE NECESSARY ROAT-OF-WAY PERMITS AND PROVED THE HELCESSARY KORK ZONE CONTROLS AND SALETY RECOMPONENTS. PROR TO CONSTRUCTION, THE CONTRACTOR IS REQUIRED TO PREPARE A TRAFFIC MANTENANCE FLAM AND OBTAIN APPROVAL BY THE CITY OF CONTACT. TRANSPORTATION OF DEPARTMENT.

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THE CONTRACTOR IS RESPONSIBLE FOR ALL RESTORATION IN THE CITY ROHT-OF-MAYS DISTURBED OR DAMAGED DURING CONSTRUCTION INCLUDING SWALE RE-ORDERING (REST). TO EPIGEDU CONTING, FLAN AND GENERAL CONSTRUCTION

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MISC. NOTES

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UTILITY COMPANIES

CENTURY LINK (TELEPHONE) P.O. BOK 1370 FORT MYERS, FL 33801 (238) 336-2011

(239) 656-2296

LEE COUNTY ELECTRIC COOPERATIVE, INC. 4900 BAYLINE DR. N. FT. MYERS, PL 33017

CITY OF CAPE CORAL/AUTLITIES DEPARTMENT P.O. BOX 150027 CAPE CORAL FL 33015-0027 (238) 574-0854

COMCAST CABLE 1418 SE 10TH STREET CAPE CORAL, FL 33090 (239) 574-2020

WASTE PRO 13110 RICKENBACKER PARKWAY FT. WYERS, FL 33913 (230) 337-0800

TECO / PEOPLES GAS 3001 ENTERPRISE PARKWAY FT, MYERS, FL 33805 (238) 680-5507

- GENERAL UTILITY NOTES CONSTRUCTION OF NEW DRIVEWAYS AND ALLEYS SHALL BE IN STRUCT ACCORDANCE WITH THE CURRENT CONSTRUCTION STANDARDS AND SPECIFICATIONS OF THE CITY OF
- ALL WATER, SEWER AND IMPIGATION CONSTRUCTION SHALL CONFORM TO THE LATEST VERSION OF THE CITY OF CAPE CORAL STANDARD DETAILS AND SPECIFICATIONS; AND THE SOUTHEEN STANDARD PLUMING CODE. NARMAN, COMBINED MITCH, MITCH,
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- THE CONTRACTOR SHALL UTILIZE RESTRAINED JOINTS FOR THE INSTALLATION OF WATER, FORCE MAIN AND IRRIGATION PIPING.
- ORAVITY SEVER PIPE 4" IN DIAMETER AND OREATER SHALL BE PYC AND SHALL CONFORM TO ASTM D-3034, SOR 28: 36 INCH WINHUM COVER, UNLESS OTHERWISE SHOWN
- 5. NOTALLATION OF SOFWICE METTERS AND COMMECTIONS TO EXISTING EITY OF CAPE CORAL UTLITES SHALL BE PORTORING BY AND COORDMAKED WITH THE CITY OF CAPE CORAL UTLITES SHALL BE PORTORING BY AND COORDMAKED WITH THE CITY OF CAPE CORRECTION FOUNDS AND A THE COMMENTER SPIRALE FILE LOCATION OF THE COMMECTION FOUNDS MAY RECOME FILED ADJUSTICATION BE FOREORING AT THE CONTRACTORY DOUBLE MAYARCH TESS SHALL BE FAND BY THE GOMER.
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- 7. TESTING AND COMPACTION OF TRENCH BACKFILL, SUBGRADE, AND BASE SHALL BE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS. ALL UTULTY FRINC, NCLURG GENERGES HALL BE COLOR CODED AS FOLLOWE POTABLE WATER - BLUE (SERVICES MAY BE WHITE P.V.C. WAMARDING TAPE # BLUE IS NOT AVALABLE) SEMEN - GOEDN
- SENER TO MEET LAVENDER (SERVICES MAY BE GRAY P.V.C. W/MARGING TAPE IF LAVENDER IS NOT AVAILABLE)
- ALL WATER, SEWER, INNIGATION, FORCE MANS, SERVICES AND LATERALS SHALL HAVE DETECTABLE TAKE INSTALLED OVER THE PIPE WITH 12" WINNER TO 18" MAXIMUM COVER FROM PROPOSED GRADE.
- 10. WATE, THE AND REGATOR MANS, INCLUDING SERVICES, SHALL BE FLUSHED AND PRESSURE TSTO IN ACCORDANCE WITH AWAY C-400. THE UTILITY COMPANY AND DIGNETS SHALL BE PRESENT DURING THE TESTING.
- WATER MARS AND SERVICES SHALL BE DISNFECTED AND TESTED IN ACCORDANCE AWKA C-051 AND RALE 82-555.346 FAC, INCLUDING PROVIDING SAMPLE FORMTS AS REQUIRED BY THE HEALTH DEPARTMENT.
- 12. ALL FRAMES, COMPRI, VALVE BOXES, METER BOXES AND MANHALES SHALL BE ADJUSTED TO FINISHED GRADE UPON COMPLETION OF PAVING OR RELATED CONSTRUCTION.
- 1. ANY WORK OR MATERIALS WHICH DO NOT COMPORE TO THE SPECIFICATIONS OR ANY MORK PERFORMED WHICH THE KNOWLEDG OF THE CAPE COMAL UTLITY HEMPECTORS OR HEMPECHATHERS IS SERVECT TO REMOVE AND REPLACEMENT OF SAME TO BE COMPLETED AT THE CONTRACTOR'S EMPERE.
- 14. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING ALL AFFECTED UTLITES IN THE AREA 72 HOURS PRIOR TO BEDNING CONSTRUCTION. IT SHALL BE THE CONTRACTORS RESPONSIBLET TO DOCORDING WITH AUXIENT AND THE DIGMEER TO RESOLUTION CONFLICTS WITH DUSTING UTLITES IN A TIMELY MARKET NO AND DELAYS IN COMPLEX. WITH DUSTING UTLITES IN A TIMELY MARKET TO AND DELAYS IN COMPLEX.
- 15. ACCEPTANCE OF THE COMPLETED UTILITY SYSTEMS WILL NOT BE GIVEN UNTIL AS-BUILT PLANS HAVE BEEN SUBWITTED AND ACCEPTED BY THE ENGINEER.
- 18. UTILITY CONTRACTOR SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH PROVIDING UNDERGROUND PHONE AND ELECTRIC SERVICE TO BUILDING(S).
- 18. THE CONTRACTOR IS PROHEITED FROM TURINING OFF ANY EXISTING MAIN LINE VALUES. THESE WILL BE TURNED OFF BY A REPRESENTATIVE OF THE CITY UTUITY DEPARTMENT AT THE CONTRACTORS ARRANGED THAT AND DATE.
- 19. BACKFLOW PREVENTION DEVICES SHALL BE RESTED BY A CERTIFIED CROSS CONNECTION CONTROL TECHNICIAN IN THE PRESENCE OF A CITY OF CAPE, CORAL REPRESENTATIVE.
- 20. THE CONTRACTOR OR OWNERS REPRESENTATIVES NUL BE RESPONSIBLE FOR OBTANING AN APPROPRIATE SIZE TEMPORATY AMPERA ASSEMELY INTI-HETPOLTING ETY OF CAPE CONSIGNITIETY CALLETON AND DESTRUTION DEPARTMENT AT (238) 574–685 PROVIDE TO RECEIVED CITY WATTER FOR CONSTRUCTION AND/OR THEOR WITO AT EXEMPTION FOR DESTRUTION AND ADDRESS A BLUNG ACCOUNT MOST BE SET UP THEODON THE CITY'S COSTOMER BLUNG CAPE CONSTRUCTION STORE SET UP THEODON THE CITY'S COSTOMER BLUNG CAPE CONST VENT CONTRACTORY WATTER FOR CAPE CONST VENT CONTRACTORY AND PROVIDENT AND THEODON THE CITY'S COSTOMER BLUNG CAPE CONST VENT CONTRACTORY AND PROVIDENT AND THEORY DAVIDS ACCOUNT AND ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS AND ADDRESS ADDRESS ADDRESS AND ADDRESS ADDRESS ADDRESS AND ADDRESS ADDRESS ADDRESS AND ADDRESS ADDRESS ADDRESS ADDRESS ADDRESS ADDRESS ADDRESS ADDRESS ADDRESS ADDRE DEPARTMENT FINDER TO INSTALLATION. A REPRESENTATIVE, FINDE INE CITY OF CARE, CORAL'S TE DEVELOPMENT, NO REPRESE MORISMA I (23) 242-3544 TO WINNESS AND RECORD THE INSTALLATION PROCESS. ADCOUNT DOCUMENTATION THE ENDERGY AND AND ATTEX CONSTRUCTION IS COMPLETE AND REFORM SHALL RE FLUIDHED AND PRESSURE TISTED PER AWMA SECTION CEDD AND DEMARCETLE PER AWMA C-BOL

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TREE_REQUIREMENTS: 181 TREES PER BUFFER REQUIREMENTS- 140 CAMPY TREES 41 ACCENT TREES	PROVIDED: 286 TREES EXIST. TREES: 47 EA. (129) PROP. TREES: 111 EA. (128) EXIST. PALMS: 13 (13) PROP. PALM: 18 (18)
SHRUB REQUIREMENTS: 1.301 SHRUBS	PROVIDED: 1.318 SHRUBS

	FROFOE	D FLAMI LIDI	. (101/	L/		
SYMBOL.	COMMON NAME Botonical name	HEIGHT/CAL. (Min. at Plenting)	TREES W/ CREDITS	PALM (Quantity)	SHRUBS	NATIVE
0	LIVE OAK	10' / 2"	30			YES
0	Querous virginiano	15' / 4°	0			
()	DAHOON HOLLY	10' / 2"	D			YES
U	a.er consina	15' / 4"	15=2 (30)			TES
Mz	NORFOLK ISLAND	10' / 2"	16			YES
w	V PINE Arouearlo hotorophyllo	15' / 4"	0			TES
A	SILVER BUTTONWOOD Conocarpus prectus vor. sericeus	10' / 2"	50			YES
U		15' / 4"	0			16.5
TREES	SUB TOTAL		111 (126)			100%
63	CABBAGE PALM	16'		18		YES
PALMS	SUB TOTAL			18		100%
0	COCOPLUM	18"/ 3 GAL			0	YES
0	Derysebelietus icoco	32"/ 7 GAL			1,180	.53
SHRUE	S SUB TOTAL				1,180	1003
TOTA	LS PROVIDED		m (126)	18	1,180	100%

"CANDPY" (WATURE HEIGHT EXCESS OF 15') MIN. HEIGHT OF (10') FEET, A MIN. DIAMETER OF (2') INCHES WHEN MEASURED AT A HEIGHT OF (12') INCHES ABOVE THE GROUND.

"ACCENT" (MATURE HEIGHT OF 6'-15') MIN. HEIGHT OF (8') FEET, A MIN. DIAMETER OF (1-1/2') INCHES WHEN MEASURED AT A HEIGHT OF (6') INCHES ABOVE THE GROUND.

"PALMS" MINIMUM HEIGHT OF 16' OVERALL IF PLANTED WITHIN 10' FEET OF A WALKWAY PROVIDE MINIMUM OF 10' FEET CLEAR TRUNK AT PLANTING.

"SHRUBS" SHALL BE 18" HEICHT, (3) THREE GAL MIN. "SHRUBS' IN BUFFER YAROS SHALL BE 32" HEICHT, (7) SEVEN GAL. MIN.

PLANTING NOTES: 1. MULTI-TRUNK TREES TO HAVE 3 MAIN LEADERS CUYED. 2. REMOVE ALL TREE STAKING ACCESSORES AT THE DND OF THE FIRST YEAR MAINTENANCE PERIOD.

3. PLANT TREE AT A DEPTH WHICH WILL ENSUME PROPER ORAINAGE AND VIGOROU'S GROWTH 4. NO ORGANIC MULCH WILL BE PERMITTED IN RETENTION/DETENTION AREAS. 5. CANOPY TREES PLANTED WITHIN 7'

(FEET) OF ANY ROADWAY OR WALK OR PUBLIC UTILITIES SHALL PROVIDE A ACCEPTABLE ROOT BARRIER PER CITY OF CAPE CORAL

STMBOL COMMON NAME Botonicol nome		EA.	CREDITS	MATHE	
( )	LIVE OAK Quercus virginiano		18	YES	
•	MANOGANY Salatania mahagani	4	12	YES	
(80)	BLACK OLIVE Bucida Bucerso	25	75	YES	
۲	NORFOLK ISLAND PINE Anaucaria koterophylle	12	24	YES	
XISTI	IG TREES	47	129	100%	
633	CABBACE PALM Soble poimeto	6	8	YES	
	QUÉEN PALM Syagrus ramanzoffianum	7	7	NO	
EXISTI	ICI PALMS	13	13	46%	
(17)	COCOPLUM Drysebelanus toron	138		YES	
EVIRT	ICI SHIPUBS	138	-	100%	

TREE SPECIES MIX:

REQUIRED: 5 MIN. (WIRHARM SOS OF CANOPY AND ACCENT TREES AND MINIMUM SOR OF SHRUBS AND GROUND COVER SHALL BE FLORIDA HATIVE.) (978 TREES AND LODE SHRUBS FLORIDA NATIVE.)

#### GENERAL LANDSCAPING NOTES:

- THE LANDSCARE PLAN REPRESENTS THE WHIMLIN REQUIRED BY THE OTY OF CAPE CONSIL ORDINALITY OF 10-70. THE LORINGE CONTAINING THE OTY OF CAPE CONSIL ORDINALITY OF 10-70. THE LORINGE CONTAINING AND THE PROVIDE THE SHALL INCLUDE ALL PLANTINGS AND PLANTER THE THE THE LINDSCAPE CONTRACTOR SHALL ALSO PROVIDE DETALD LANDSCAPE PLANS FOR ACCENT SHILLING AND RELINENTS AND BUILDINGS, ALL LANDSCAPE PLANS SHALL INCLUDE OF THE CITY OF CAPE CORAL ORDINALIZES 107-07 & DESIGN STIMONODS. 1. 2.
- ALL PLANTS, TREES & SHRUBS SHALL BE FLORIDA NO. 1 OR BETTER AS DESCRIBED IN LATEST EDITION OF "GRADES AND STANDARDS FOR NURSERY PLANTS", STATE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.
- ALL "CANOPY" (MATURE HEIGHT EXCESS OF 15") TREES SHALL HAVE A MINIMUM HEIGHT OF (10") TEN FEET, A MINIMUM DIAMETER OF (2") TWO INCHES WHEN MEASURED AT A HEIGHT OF (12") TWELVE INCHES ABOVE THE GROUND. 3.
- all "accent" (wature heront of 6'-15) trees shall have a minimum heront of (6') ergnt free, a minimum lameter of (1-1/2') one and one haus incises more massive the cound. Incises more massive the cound
- ALL "PAIN TREES" SHALL HAVE A MINIMUM OF HEAT OF THE MOUTH THE MOUTH WITHIN 10 "FEIT OF A MALYRAY PAIN SHALL HAVE A MINIMUM OF 10" FEIT CLEAR TRANKA FF PAINTING THE MUMBER OF PAIN TREES PLANTED SHALL NOT EXCEED SORL OF THE REQUIRED TREES.
- ALL "SHUBS" SHALL BE (3) THEE CAL MIN, AND HAVE A MINIMUM HEIGHT OF (18") DEHTEIN MICHES WHEN PLANTED. SHRUBS REQUIRED IN BUFFER YARDS MUST BE (7) SEVEN CAL, MIN, AND HAVE A MINIMUM HEIGHT OF 32", UNLESS OTHERMISE DESIGNATED ON THE PLANS. 6.
- A 30" INCHES MINIMUM DEEP ROOT BARNER, (3') FEET EACH SIDE OF PLANTING (PER CITY CODE) IS REQUIRED ALONG ALL R/W WHERE TREES ARE PLANTED WITHIN (7') FEET OF WALKS. 7.
- PLANTINGS NEAR UTUITY INTRASTRUCTURE INCLUDING OVERHEAD TRANSMISSION OR DISTRBUTION LINES SHALL MEET PLANTING SEPARATIONS AS INDICATED IN TABLE I (UNIMMUM SEPARATION DISTANCE BETHEET AND OVERHEAD TRANSMISSION OR DISTRBUTION LINES") OF CAPE CORAL LANDSCAPE ORDINANCE 107-07. 8.
- CAN BUILDRUIKE UNDOWN OF CONTRACT OF CONTRACT OF CONTRACT, OF CONTRACT 9.
- ALL PERVIOUS AREAS WITHIN THE PROLECT STE SHALL BE SOLID BAHAA SOO, UNICESS OTHERMESI NOTID, CONTRACTOR SHALL RESTORE ALL DUSTING SOO AND LANDSCAPRE DESTURBED ON STER DURING CR AS A RESULT OF CONSTRUCTOR-ALL URPAYNED PORTINGS AND/OR SOO DISTURBED IN CITY RICHT-OF-BAY SHALL BE RE-SOLODE WITH SOLID BACKING SOO IN ACCOUNT WITH THE CAPE CORAL PUBLIC BONKS DEPARTURED STANDARDS, ALL OTHER DISTURBED AREAS SHALL BE SEE, MALCHED ON HYNDRUEDLDD. 10.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL TREES AND SOD FOR A POBDO OF 80 DAYS AFTER THE LANDSCAPRIG IS COMPLETED AND ACCEPTED. ANY PLANTINGS THAT PERSIN WITHIN THIS 80 DAYS. 11.
- THE LANDSCAPE CONTINUENDS ALL PROVIDE AN AUTOMATIC RENGATION SYSTEM PLAN TO BE APPROVED BY THE OWNER ON THE OWNER'S REPRESENTATIVE PROF. WATER SAMPLY OF A WELL THE CONTRACTOR SHALL CORRENT AND INSTALL CONNECTIONS TO THE RENGATION SYSTEM PER THE CITY OF CAPE CORAL REQUEREMENTS. (M. DISTING SYSTEM MAY BE MOVIFED) 12





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# **Curve and Line Tables**

		CURVE TABLE		
CURVE RAI	DIUS LENGT	H DELTA CHORD	BEARING CHORI	D LENGTH
C1 85	0.00 132.65		246'22"E 1	32.52
		LINE TABLE		
	LINE	BEARING	LENGTH	
	L1 L2	N89°52'57"E S04°56'55"E	373.38'	
	L3	S61°59'29"W	325.63'	
	L4	N04°56'55"W	892.54'	
	L5 L6	S89°52'56"W N31°02'52"W	35.00'	
	L7	N04°56'55"W	80.00'	
	L8	S89°52'59"W	230.00'	
	L9 L10	N00°00'00"E N47°25'02"W	543.36' 245.35'	
	L10	N23°53'26''W	156.33'	
	L12	\$13°50'31"E	69.72'	
	L13	S32°15'11"E	79.79	
	L14 L15	S47°32'06"E S69°11'47"E	94.41' 34.29'	
	L16	N51°50'39"E	24.73'	
	L17	S70°28'12"E	61.97'	
	L18 L19	S53°27'48"E S53°27'48"E	26.00' 69.88'	
	L20	S61°12'51"E	63.69'	
	L21	S10°06'09"E	27.60'	
	L22 L23	S40°08'39"E S00°07'04"E	70.63'	
			320.03	
	Ta	bles to Accompar	ny Sketch	
THIS IS NOT A SURVEY	A Traci Townsh	bles to Accompar Subject Par t of land lying in S ip 43 South, Rang pe Coral, Lee Cou	ny Sketch cel Sections 3 & 4, re 24 East, City	Not Valid without Sheet 1 & 3 of 3
THIS IS NOT A SURVEY Sheet 2 of 3	A Tract Townshi of Ca	Subject Pare t of land lying in S ip 43 South, Rang	ny Sketch cel Sections 3 & 4, ce 24 East, City unty, Florida AMER	Not Valid without Sheet 1 & 3 of 3 I hereby certify that, to the best of my knowledge and belief sketch and description represented hereon, made under my direction on <b>December 22, 2016</b> is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florid Administrative Code, pursuant to Section 472.027 Florida Statutes.
	A Tract Townshi of Caj S	Subject Para t of land lying in S ip 43 South, Rang pe Coral, Lee Con TOUTENCR PROFESSIONAL SURV RTIFICATE OF AUTHORIZ	ny Sketch cel Sections 3 & 4, e 24 East, City unty, Florida <b>AMER</b> EYORS EXATION: LB7922	I hereby certify that, to the best of my knowledge and belief sketch and description represented hereon, made under my direction on <b>December 22, 2016</b> is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florid Administrative Code, pursuant to Section 472.027 Florida
	A Tract Townsh of Ca S	Subject Para t of land lying in S ip 43 South, Rang pe Coral, Lee Cou TOUTENCR PROFESSIONAL SURV	ny Sketch Sections 3 & 4, se 24 East, City unty, Florida AMER EYORS ZATION: LB7922 , Cape Coral, FL 33991	I hereby certify that, to the best of my knowledge and belie sketch and description represented hereon, made under my direction on <b>December 22, 2016</b> is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florid Administrative Code, pursuant to Section 472.027 Florida Statutes.

# Description

#### Subject Parcel Description:

Parcel of land lying in Sections 3 and 4, Township 44 South, Range 24 East, City of Cape Coral, Lee County, Florida being more particularly described as follows:

Beginning at the Southwest corner of tract D, Block 6951, Hancock Creek Commerce Park Phase I as recorded in Plat Book 43 at Page 10 of the Public Records of Lee County, Florida, thence run N89°52'57"E, along the South line of said Tract D, a distance of 373.38 feet to an intersection with the East line of the Northwest quarter of the Northwest quarter of said Section 4; thence run S04°56'55"E, along said East line, a distance of 1,029.67 feet to an intersection with the Northerly right-of-way line of Pine Island Road (State Road 78); thence run S61°59'29"W, along said Northerly Right-of-way line, a distance of 325.63 feet; thence run N04°56'55"W, departing said Northerly Right-of-way line, a distance of 892.54 feet; thence run S89°52'56"W a distance of 35.00 feet; thence run N31°02'52"W a distance of 243.94 feet; thence run N04°56'55"W a distance of 80.00 feet; thence run S89°52'59"W a distance of 230.00 feet; thence run N00°00'00"E a distance of 543.36 feet; thence run N47°25'02"W a distance of 245.35 feet; thence run N23°53'26"W a distance of 156.33 feet to an intersection with the Southerly right-of-way line of Diplomat Parkway (100 feet wide) being a point on a non-tangent curve; thence run 132.65 feet along the arc of said non-tangent curve to the left of radius 850.00 feet, concave to the Northwest, to which a radial line bears \$19°45'23"E, having a delta angle of 08°56'30", a chord bearing of N65°46'22"E and a chord length of 132.52 feet; thence run S13°50'31"E a distance of 69.72 feet; thence run S32°15'11"E a distance of 79.79 feet; thence run S47°32'06"E a distance of 94.41 feet; thence run S69°11'47"E a distance of 34.29 feet; thence run N51°50'39"E a distance of 24.73 feet; thence run S70°28'12"E a distance of 61.97 feet; thence run S53°27'48"E a distance of 26.00 feet to an intersection with the North line of said Section 4; thence continue S53°27'48"E a distance of 69.88 feet; thence run S61°12'51"E a distance of 63.69 feet; thence run S10°06'09"E a distance of 27.60 feet; thence run S40°08'39"E a distance of 70.63 feet to the Northwest corner of said Tract D; thence run S00°07'04"E, along the West line of said Tract D, a distance of 520.63 feet to the Point of Beginning.

Said Parcel Contains 595,728 sq. ft. (more or less)

Bearings are based on the Northerly right-of-way line of Pine Island Road (S.R. 78) being S61°59'29"W.

#### Tables to Accompany Sketch Subject Parcel THIS IS NOT A SURVEY A Tract of land lying in Sections 3 & 4, Not Valid without Sheets 1 & 2 of 3 Township 43 South, Range 24 East, City of Cape Coral, Lee County, Florida I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 22, 2016 is in accordance with STOUT/ENCRAMER Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida PROFESSIONAL SURVEYORS Sheet 3 of 3 Administrative Code, pursuant to Section 472.027 Florida Statutes. See Sheet 1 of 2 for Signature and Seal CERTIFICATE OF AUTHORIZATION: LB7922 324 Nicholas Parkway West, Suite F, Cape Coral, FL 33991 JEFFREY D. STOUTEN (FOR THE FIRM) JOB # 16-1472 PREPARED FOR: AVALON ENGINEERING Phone: (239) 673-9541 Fax: (239) 424-8181 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6584 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINA RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND 1 SECTIONS 3 & 4, TOWNSHIP 43S, RANGE 24E www.scisurvey.com SED SURVEYOR AND MA

# A-1 Shelters Self Storage, Hancock Creek Site PDP Amendment (PDP16-0011)

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

February 10, 2017

### PURPOSE

This document provides a single, consolidated review for a Planned Development Project (PDP) amendment entitled "A-1 Shelters Self Storage, Hancock Creek Site." Within this report the following topics are addressed:

- Description of the site.
- Previously granted entitlements for the site.
- Need for the PDP amendment.
- Description of the proposed project.
- Analysis of applicant requests.
- Analysis of general standards and requirements for PDPs.
- Concurrency review.
- Consistency with the City Comprehensive Plan.
- Consistency with the SW Florida Regional Planning Council Strategic Regional Plan.
- Summary of the positive and negative aspects of the project.
- Project recommendation.

# DESCRIPTION OF THE SITE

The 13.7-acre site has frontage along two streets; Pine Island Road to the south and Diplomat Parkway to the north. Pine Island Road is classified as a Principal Arterial and Diplomat Parkway is classified as a Minor Arterial. While the site will have driveways along both streets, the main access will be from Pine Island Road as it presently exists. The site is in the Urban Services Transition Area.

The site is irregular in shape and relatively long, but narrow. The site has a length of over 2,100 feet and at its narrowness point, a width of only 70 feet. The southern-most 7.6 acres has a self-storage facility that includes a stormwater pond. The remaining 6.1 acres is forested and has a small wetland (less than 0.2 acres).

The northern 5.4 acres of the site was part of the Hancock Creek Commerce Park Development of Regional Impact (DRI). This DRI was adopted in 1989 but abandoned by the City in 2011. Only three parcels developed in the 218-acre DRI, as changes in market conditions were no longer favorable for industrial development.

# PREVIOUSLY APPROVED ENTITLEMENTS FOR THE SITE

A PDP for the southern 7.6 acres was approved in 1998 for "A-1 Shelters Self Storage, Hancock Creek Site." Ordinance 6-98 granted the following:

- A deviation of 12 feet from the minimum front setback requirement of 50 feet; and
- A deviation of 58 parking spaces to allow a project with four parking spaces.

The PDP approved 121,700 sq. ft. of self-storage uses that included office space and caretaker residence uses. This site was zoned Industrial (I-1) at the time. In 2011 the City charged the future land use classification to the Pine Island Road District and zoning to the Corridor District. Similar land use and zoning changes were made to other properties in this area to improve the development potential of lands near the VA Clinic that opened in 2012.

# NEED FOR THE PDP AMENDMENT

A PDP was required for this project in 1998. At that time the City required all developments of three acres or more to obtain entitlements through the PDP process.

A PDP amendment is now required for the following reasons:

- 1. A rezone is sought for property within a previously approved PDP (LUDR, Section 4.2.5.A.3).
- 2. Additional lands are being incorporated into the PDP project area (LUDR, Section 4.2.5.A.3).
- 3. Deviations from several wall requirements can be requested only by PDP (LUDR, Section 4.2.4.K).

# DESCRIPTION OF THE PROPOSED PROJECT

The PDP amendment includes adding 6.1 acres (north of the self-storage facility) into the project. This land will be developed with an enclosed storage use. Several buildings with connecting walls will enclose an area for storing recreational vehicles (RVs), although other vehicles or items may be stored in this area as well. The Master Development Plan shows seven buildings with covered stalls for 145 RVs. The height of the buildings and walls will be 14 feet, two inches and will provide a seamless screening treatment for the RVs. Landscaping will be installed around the perimeter of the site for buffering.

This amendment also involves adding the Commerce Park Overlay (CPO) to 8.3 acres, including the existing self-storage site. The self-storage facility is classified as a mini-warehouse use and since this use is not allowed in the Corridor District, it is considered a legal nonconforming use. Because mini-warehouses are allowed as a permitted use in the CPO, applying the CPO will eliminate a nonconforming use and provide an added benefit of assuring the entire 13.7-acre site has uniform zoning and a single PDP approval.

#### ANALYSIS OF APPLICANT REQUESTS

Within this PDP amendment, the Developer requests the following:

- A rezone of 8.3 acres from the Corridor District to the Corridor District with the CPO.
- A deviation from the requirement that limits metal to 30% of the front surface of exterior walls facing a public right-of-way.
- A deviation of 12 feet, four inches to allow an entryway feature in a CPO Buffer that is 20 feet, four inches tall.

- A deviation from the requirement that building walls meeting the opaque feature requirement within a CPO Buffer must be surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surfaces.
- A deviation from the nonresidential design standards for buildings associated with the enclosed storage use.
- Development Plan approval.

# A) Rezoning

# Request:

The Developer seeks a rezone to apply the CPO to 8.3 acres which are zoned Corridor. This area includes the 7.6-acre mini-warehouse use. An additional 0.7 acres near the northwest corner of the mini-warehouse facility is also proposed to be rezoned.

# Analysis:

Staff reviewed this application based on LUDR, Section 2.7.13, which sets out the requirements of the Corridor District and the CPO, and the ten General Standards within LUDR, Section 8.7.3.B and provides the following analysis:

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

The rezone should have a positive effect on the value of this property since the CPO allows several manufacturing and light industrial uses that are prohibited in the Corridor District. As a general rule, property values increase as the number of uses and, therefore, options available to an owner in utilizing his property increase. In this particular case, the existing mini-warehouse use is a legal nonconforming use that was originally established when the parcel had Industrial Zoning. The rezone will eliminate this nonconformity since this use is allowed in the CPO.

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

The rezone should not have a significant effect on surrounding property values. Large, unplatted parcels to the north have Corridor/CPO Zoning or Preservation Zoning. Property to the west consists of a 32-acre mixed-use subdivision approved in 2014 by Ordinance 38-14. A site plan (SP16-0027) for a 320-unit, multi-family development on 32.88 acres was recently approved by the City. The site to the east has Corridor/CPO Zoning and is being developed with a health care facility use.

The rezone of the site will require a buffer with an opaque fence or wall with landscaping along the western property line of the mini-warehouse development. Buffers that include an opaque fence or wall with landscaping on the exterior are typically required along property lines of sites developed with CPO uses.

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

LUDR, Section 2.7.13J states "The purpose of the Commerce Park Overlay (CPO) is to expand the uses available in designated geographic areas of the Corridor Zoning District while also relaxing building design criteria and increasing required buffering. The CPO allows a mix of commercial service and industrial uses. The CPO is intended to provide for the expansion of existing enterprises that without the CPO are non- conforming uses, but which, nonetheless, are significant contributors to the economy of the City. The CPO provides these uses flexibility, so that they can expand in a manner that allows them to economically comply with the aesthetic vision of the Corridor District. The CPO shall not be construed to be a separate zoning district, but is an overlay in the Corridor District."

The rezone of this site is suitable for the following reasons:

- 1. The site has a PIRD Future Land Use and Corridor zoning.
- 2. The site has a sizeable area; over seven acres.
- 3. The site abuts three other properties with Corridor/CPO Zoning. Other properties with Corridor/CPO Zoning also exist in this area, although not adjacent.
- 4. The rezone will eliminate a legal nonconforming use, as the existing mini warehouse use is prohibited in the Corridor District but allowed in the CPO.
- 4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed zoning;

Land use, zoning, and existing uses of the site and adjacent parcels are shown in Table 1.

# Table 1. Zoning, Future Land Use Designations, and Existing Uses of the Site and Surrounding Parcels.

Subject Parcel	Zoning	Future Land Use (FLU)	Existing Use
Current:	Corridor	PIRD	Mini warehouse use
Proposed:	Corridor/CPO	No change proposed	No change proposed
	Surrounding Zoning	Surrounding FLU	Surrounding Existing Uses
North:	Preservation and Corridor/CPO	Natural Resources/Preserve	Undeveloped
South:	Pine Island Road ROW/Incorporated Lee	Pine Island Road ROW/Incorporated Lee	Undeveloped
East:	Corridor/CPO	PIRD	Being developed with a health care facilities use
West:	Corridor	PIRD	Being developed with a multi-family use

The site is in an area that lacks the platted 5,000 sq. ft. lots that dominate much of the City. Sites to the immediate east and west are being developed. The nearest developed parcels with established businesses have hospice, insurance, and church uses which are 360 to over 600 feet away.

Although a rezone will eliminate a legal nonconforming use, the staff analysis considers the full range of permitted uses in the CPO. The CPO allows several light industrial and

manufacturing uses that are prohibited in the Corridor District. For developing CPO properties, a landscape buffer is required between the development and public rights-ofway and between the CPO site and any property not included in the development. The CPO also requires compliance with City architectural standards.

The existing mini-warehouse use generates a small number of PM peak hour trips. The site has frontage on Pine Island Road, a Major Arterial. This CPO permits several industrial and manufacturing uses that frequently involve transporting goods and products on major roads.

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

Since the property is developed and significant redevelopment of the site is not proposed at this time, staff does not envision a short-term hardship or gain to the community. Viewed more broadly, applying the CPO to the site will allow for a wider array of light industrial and manufacturing uses than allowed in the Corridor District. Such uses are appropriate for this area of the City. The CPO will eliminate a nonconforming use on this site and also provide uniformity in CPO coverage throughout the 13.7-acre project.

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

The CPO allows a wider array of light manufacturing and industrial uses than the Corridor District. The City has a deficiency in land that supports these types of uses. Furthermore, this property has access to centralized utilities and frontage along a major road. These factors enhances the suitability of the site for the CPO.

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

The future land use of this site was changed from Industrial to Pine Island Road District by Ordinance 20-11. The site was rezoned from Industrial to Corridor by Ordinance 52-11.

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

Approval of this rezone will have little to no negative effect upon the health, safety, morals, or general welfare of the community. The application of the CPO will eliminate a nonconforming use that exists on this site and provide the owner with additional options for redeveloping the site in the future, with appropriate safeguards in place.

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

Since a major redevelopment of this site is not proposed, level of service standards will be unaffected by this rezone. The site is in the Urban Service Transition Area. Potable water

and sewer services are available to the site. The project generates an estimated 27 trips per P.M. peak hour.

10. Whether the proposed zoning is consistent with the City Comprehensive Land Use Plan.

The Corridor Zoning is consistent with the Pine Island Road District Future Land Use, as outlined within Policy 1.15 of the Future Land Use Element. Properties with Corridor Zoning are eligible for the CPO Overlay. The request is also consistent with Policy 2.7 of the Economic Development Element.

# **Recommendation:**

Staff recommends approval of this rezone.

# B) LUDR Deviations

# Request

The Developer requests a deviation to LUDR, Section 2.7.13J.5.d that limits metal to 30% of the front surface of exterior walls facing public rights-of-way.

This deviation applies to wall along the north side of the enclosed storage site with frontage on Diplomat Parkway.

# Analysis

Staff analyzed this request based on LUDR, Section 4.2.4.K. "Deviations." Deviations to the LUDRs provide flexibility in developing land through the PDP process. Such requests allow for standards different from those appearing in the LUDRs for zoning of the site and that may include area, dimensional, and other regulations. The City Council may approve one or more deviations within a PDP, provided the project demonstrates a unique and innovative design that would be enhanced by the approval of the deviation(s), and the public health, safety, and welfare would be served by the approval of the deviation(s).

LUDR, Section 4.2.4.K provides examples of unique and innovative design elements that may include but are not limited to the following:

- 1. Providing usable common space within the development to offset and compensate for decreases in typical lot sizes or yard requirements;
- 2. Applying different requirements than those found within the applicable zoning district in question to promote compatibility with surrounding uses;
- 3. Providing places for public assembly that are linked together and centrally located for accessibility;
- 4. Locating buildings and dwelling units to provide optimum access to open space areas; and,
- 5. Providing for the integration and preservation of natural resources within development.

The metal wall facing Diplomat Parkway is about 75 feet long. The wall will be about 187 feet south of this right-of-way. Landscaping along Diplomat Parkway and the drive isle approaching the wall will buffer and partially screen this structure. This deviation is consistent with the unique and innovative design criterion found in LUDR, Section 4.2.4.K as the metal wall enclosing the storage yard will produce a uniform, seamless appearance to the development. This request will not aclversely affect the health

safety or welfare of the public as several factors will contribute to this structure being inconspicuous to motorists traveling past this site. These factors include landscaping in front of the wall, the length of the wall, and the distance of the wall from Diplomat Parkway.

### Recommendation

Staff recommends approval.

### Request

The Developer requests a deviation to LUDR, Section 2.7.13J.6.c(5) for building walls meeting the screening requirement within a CPO Buffer to have stucco, brick, stone, textured concrete masonry units, or other concrete surfaces. The Developer proposes building walls with metal surfaces.

### Analysis

Staff analyzed this request based on LUDR, Section 4.2.4.K. "Deviations."

This deviation applies to the western property line of the enclosed storage site since a CPO Buffer is required along this property line. A CPO Buffer is not required along the eastern property line since the Preservation Zoning of the adjacent parcel to the east does not require a similar buffer.

The CPO Buffer will include two opaque features, buildings and walls. These structures will both be metal and will have identical heights. A seamless screening treatment will result compared to a screening treatment comprised of two of more materials if the building walls were composed of a different material. The CPO Buffer will exceed the minimum 15-foot width, as this buffer will vary from 18 to 36 feet in width. Over 500 linear feet of buffer will have a width of 36 feet. Staff finds the combination of the consistency in screening materials and the enhanced buffer width to be consistent with the unique and innovative design criterion found in LUDR, Section 4.2.4.K. This request is consistent with protecting the health, welfare, and safety of the public as the buildings along this property line will not be visible from a public right-of-way. It is recommended that shrubs planted in this area be maintained at 48 inches at maturity to provide better buffering from the adjacent multi-family project under construction to the west.

# Recommendation

Staff recommends approval of this deviation with the following conditions:

- 1. Required shrubs within the Buffer X and Buffer W along the west property line of the enclosed storage use shall be maintained at a minimum height of 48 inches at maturity.
- 2. The width of the CPO Buffer X and Buffer W along the western property line of the enclosed storage site shall range from 18 to 36 feet as shown on Sheet 13 of the Master Landscape Plan. Changes in the width of these buffers may be approved by the DCD Director provided good cause is demonstrated by the Developer, compliance with the CPO minimum buffer width is achieved, and such changes affect no more than 10% of the total length of these two buffers combined.

# Request

The Developer requests a deviation of 12 feet, four inches to LUDR, Section 2.7.13J.6.c(2) that limits walls in a CPO buffer to eight feet. An entryway feature will have a height of 20 feet, four inches. Except for the entryway, the walls and facades of buildings enclosing the RV storage area and will have a uniform height of 14 feet, two inches.

## Analysis

Based on the height of RVs, the deviation is sought to screen these vehicles from surrounding properties. The height of the walls and storage buildings will be similar to provide a consistent screening treatment when viewed from the outside of the storage facility. The entryway will have a height of 20 feet, four inches and this additional height will call attention to the entrance of the storage facility from Diplomat Parkway. Staff finds that this deviation will apply a different requirement (e.g., wall height) than exists in the CPO regulations, and the additional height will provide better screening for the RVs than a shorter wall, and as a result, approval of this request will promote the public health, safety, and welfare of the community.

#### Recommendation

Staff recommends approval this deviation.

#### Request

The Developer requests a deviation from all requirements associated with LUDR, Section 5.6 entitled "Non-residential design standards." This deviation is sought for eight buildings with the enclosed storage use. Seven of the buildings will provide protection for RVs stored on this site. The other building has an area of 149 sq. ft. that contains bathrooms along with electrical and mechanical equipment.

LUDR, Section 5.6.10 addresses deviations requested to the City's architectural requirements for nonresidential buildings. Such requests may be approved by the City Council 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; or,
- 2. Literal conformity with the regulations would inhibit innovation or creativity in design.

LUDR, Section 5.6.10.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, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. 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."* 

#### Analysis

Are site constraints present (like shape, topography, dimensions, or area of the properties) that would interfere or impede with the implementation of the nonresidential design standards?

Staff response: No. While the property is irregularly shaped and rather narrow, there are no physical features associated with the site that would interfere with complying with the architectural standards.

Are other regulations or locational factors present that make compliance with this section (i.e., the nonresidential design standards) impossible or impractical?

Staff response: Several factors are present that make compliance with this section impractical.

The nature of the development. A combination of buildings and walls will form the perimeter of the storage yard. Except for the entryway feature off Diplomat Parkway, the site will appear to have an uninterrupted 14-foot metal wall around the site. The buildings will be roofed and will mimic the appearance of a carport with multiple stalls for storing RVs.

The CPO regulations. CPO Buffers are required for the western property line of the site. Both the Buffer X and W subtypes allow metal walls with no required architectural treatments.

The visibility of the buildings from outside the development. The sides of the buildings will have the appearance of a metal wall and will provide for a seamless transition between the building and walls of the site. One building will be placed in the center of the storage area but will not be visible from outside the site.

Land uses on surrounding properties. The storage use will likely be visible only along the west property line of the site. Southwest of the site, a 32.88-acre property is being developed with 320 multi-family units. Approved plans for this residential development shows a row of trees along the eastern property line adjacent to the enclosed storage site. CPO Buffers are required along the west property line of the storage site that will provide suitable "softening" of the perimeter wall. The site will likely not be visible from residents or businesses to the east as lands with Preservation Zoning are adjacent to the development. The nearest buildings on the site from both Pine Island Road and Diplomat Parkway will be behind walls and will not be visible from either right-of-way.

What effect will the requested deviation would have on the community appearance?

Staff response: The requested deviation is anticipated to have little if any negative effect on community appearance for the following reasons.

- The integration of several buildings into the perimeter wall enclosing the storage area will provide for seamless screening of the use. The outer walls of these building will be indistinguishable from adjoining metal walls used for screening this use.
- Landscaping on the outer perimeter of the development will buffer this use and reduce the starkness of the walls.
- The distance of the development from Pine Island Road and Diplomat Parkway, coupled with Preservation lands to the east of the site, will contribute to a development that is largely hidden from view except for along the west side of the site.

What affect would the deviation have on the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas?

Staff response: There will be no negative affect as loading areas are absent from this development. All RVs will be stored within the enclosed area and will not be visible except to customers visiting this business.

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

Staff response: The health, safety, and welfare of the public will be served by the approval of this deviation as the wall around this storage use will shield the public from RVs and items stored within the enclosed area. Aesthetic appeal will be achieved by providing a continuous, seamless screening treatment around the site that will be well buffered. Furthermore, the relatively remote location of this development with direct access only from Diplomat Parkway will mean this site will be rather inconspicuous to most residents living and working in this area.

### Recommendation

Staff recommends approval of this deviation.

# C) Expand Project Area of the PDP

#### Request:

The PDP amendment includes adding 6.1 acres north of the existing self-storage facility into the project area. This new land area has frontage on Diplomat Parkway that will be developed with an enclosed storage use.

#### Analysis:

All land within the project area will have identical future land use and zoning designations. Both properties within the PDP are contiguous with one another and will extend the project area from Pine Island Road to Diplomat Parkway. Access to the project will be available from both streets. The configuration of the parcel being added to the PDP is irregular and has limited frontage on Diplomat Parkway. While this parcel is poorly suited for most retail and office uses, the site is appropriate for a storage use that does not place a high premium on visibility from the street.

#### **Recommendation:**

Staff recommends approval of expanding the project area of the PDP.

#### ANALYSIS OF GENERAL STANDARDS AND REQUIREMENTS FOR PDPS

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

A. Environmental control standards: A June, 2016 Environmental Survey was submitted by W. Dexter Bender and Associates, Inc. This report did not identify state or federally protected species on this site. City staff reported a small area of wetlands on the site during a field inspection. An Environmental Resource Permit will likely be needed from the South Florida Water Management District. The project is compliant with the four standards in LUDR, Section 5.4.

- B. *Maintenance of improvements:* General landscape areas are shown on the development plan. Compliance with City landscaping regulations will be reviewed when a site plan for the project is submitted.
- C. *Consistency with Comprehensive Plan:* This project is consistent with several policies and goals contained within the Comprehensive Plan discussed in greater detail elsewhere in this report.
- D. *Financial Responsibility:* This standard is not applicable as the owner will not be required to provide a statement of financial responsibility for this project.
- E. *Dimensional requirements:* The project is compliant with dimensional requirements for the Corridor District.
- F. Maximum density: This project does not involve a residential use. This standard is not applicable.
- G. *Minimum parcel size:* The Corridor District does not have a minimum lot area requirement. In addition, the project is not in the Urban Services Reserve Area.
- H. *Time limitation:* Substantial construction is required to commence within two years from the date of project approval or within one year fo the last permit approval for all appropriate regulatory bodies, whichever is less.
- I. *Ownership requirements:* Two entities, Kirby Family LP #3 and Kirby FLP own all property within the PDP project area.
- J. Special exceptions: This project does not involve a special exception use.
- K. *Deviations:* One deviation to the LUDRs is sought to allow a wall within a CPO buffer to have a maximum height of 14 feet, two inches.
- L. Underground Utilities: New utilities serving the site will be placed underground.

# **CURRENCY REVIEW**

The project will meet concurrency requirements for solid waste, drainage, potable water, sewer, and transportation. Details are provided in Table 2.

SERVICE	FACILITY DESIGN CAPACITY	USAGE	STATUS
Solid Waste ¹	1,836 Tons	1,384 Tons	Capacity exists
Drainage ²	NA	NA	NA
Potable Water	30.1 MGD ³	9.4 MGD	Capacity exists
Sewer	28.4 MGD	12.8 MGD	Capacity exists
Roads NE Pine Island Road ⁴ Diplomat Parkway	Level of Service D Level of Service D	13,300 7,300 AADT ⁵ No data	Capacity exists Capacity exists

# Table 2. Information on Design Capacity, Usage, and Concurrency Status for Various Services.

# CONSISTENCY WITH THE COMPREHENSIVE PLAN

The project is consistent with the following goals and policies. The specific language associated with each goal and policy identified below appears in Exhibit "A."

Conservation and Coastal Management Element	Future Land Use Element	Infrastructure Element	Transportation Element	Economic Development
Policies 1.1.7, 1.2.1, 1.2.17,	Policies 1.9, 1.15.m,	Goal 2	Policies 1.1.1,	Policy 2.7
1.5.2, and 1.7.9	1.17, 4.1, 5.3, 8.2,		2.1.1, 2.1.5, and	
	and 8.3		2.2.3	

# CONSISTENCY WITH THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL STRATEGIC REGIONAL POLICY PLAN

The project is consistent with one strategy in the Economic Development Element of this plan.

*"Increase the retention and expansion of local business and industry and encourage local entrepreneurial development."* 

¹ Solid waste services are provided by Lee County Government.

² Projects are reviewed for compliance with South Florida Water Management District standards during site plan review.

³ MGD stands for millions of gallons per day.

⁴ East of SW 19th Avenue as reported by Lee County DOT.

⁵ AADT stands for average annual daily trips.

# SUMMARY OF THE POSITIVE AND NEGATIVE ASPECTS OF THE PROJECT

# **POSITIVE ASPECTS OF THE PROJECT**

- The commercial site has frontage along two major streets.
- Applying the CPO to the self-storage site will eliminate a nonconforming use.
- The project will generate a low number of vehicle trips.

# **NEGATIVE ASPECTS OF THE PROJECT**

• A site plan for a multi-family project to the immediate west of the site was recently approved.

# MITIGATING MEASURES

• The perimeter of the site will be screened by a combination of buildings and walls with landscaping placed on the outside of these structures.

# PROJECT RECOMMENDATION

Staff finds that this PDP amendment with conditions is consistent with the City LUDRs and Comprehensive Plan. Staff supports all requests made by the applicant and recommends approval.

# A-1 Shelters Self Storage, Hancock Creek Site PDP Amendment EXHIBIT "A"

#### **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 with the Capital Improvements and Infrastructure Elements of this Comprehensive Plan, and consistent the City's Facilities Planning Report, prepared by Montgomery Watson Harza (MWH) in 2005."

#### Policy 1.2.1

"By 2009, the City of Cape Coral will adopt regulations to ensure that, prior to property development, or habitat alteration, of any kind, owners of properties having viable native habitat and/or which may contain habitat for protected species, undergoing significant development and/or habitat alteration, will be required to provide an environmental survey of their properties and undertake acceptable mitigation, as appropriate."

#### Policy 1.2.17

"The City shall require, as a condition of approval for Planned Development Projects and Site Plan Reviews, a protected species survey, which reflects the current conditions (at the time of the review) on the development site. If listed species are known to inhabit or use the site, the applicant shall prepare a protected species management plan."

#### Policy 1.5.2

"The City will continue to conserve and protect its wetlands in accordance with standards set by FDEP and SFWMD. The City shall direct future land uses incompatible with protection and conservation of wetlands away from wetlands. The evaluation of incompatibility shall include the following factors for land uses: types, intensity, density, extent, distribution, and location of allowable land uses. The evaluation of incompatibility shall include the following attributes of the wetlands: types, value, function, size, conditions, and location."

#### Policy 1.7.9.

"The City will continue its policy of requiring all applicants for City building permits to complete an affidavit stating they have inspected the proposed building site for the presence of burrowing owl nests. The applicant shall be required to state whether state and federal permits to remove the owl burrows are needed or whether the development can be completed without removing the owl burrows, in which case the contractor shall accept full responsibility for protecting the owl burrows from actions of employees or sub-contractors."

#### Future Land Use Element

#### Policy 1.9

"The City will issue no development orders or construction permits, which result in a reduction in the level of service for any affected public facility below the level of service standard adopted in this comprehensive plan."

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#### Policy 1.15.m

"Pine Island Road District: Under this land use designation, at least two distinctive zoning categories will be allowed: Village and Corridor zoning. The Village zone is intended to promote maximum pedestrian friendliness and minimal automobile traffic between residential areas, shopping destinations, a variety of entertainment establishments, and employment opportunities. The Corridor zone designation will be placed on the land located between the Villages and will include larger scale. less pedestrian-oriented uses. This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road. The Pine Island Road District will be defined as the union of two major mixed-use areas defined below as follows: ...

... Corridor: The land located between the Villages and includes such uses as, retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single family residential, multi-family residential golf courses, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Policy 1.15.i of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.j of the 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 4.1

"Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas."

#### Policy 5.3

"New commercial development shall meet all of the requirements for adequate facilities based on the level of service standards adopted for roads, potable water and sanitary sewer, solid waste, storm water facilities and other services in this plan."

#### Policy 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 areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should

December 27, 2016 Exhibit "A" PDP16-0011 Page 3

not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored."

#### Infrastructure Element

#### Goal 2

"Provision of Sanitary Sewer, Drainage, Potable Water, and Solid Waste Services – the City of Cape Coral will provide sanitary sewer, drainage, and potable water facilities, and will coordinate with private and County sources for the provision of solid waste facilities to meet existing and projected needs identified in this plan."

### **Transportation Element**

#### Policy 1.1.1

"The City shall review professionally accepted studies and current traffic counts to determine levels of service standards within Cape Coral. The City hereby adopts the following peak hour, peak season Level of Service Standards for the following facilities:

- a) Del Prado Boulevard (Cape Coral Parkway to SR 78) LOS E Del Prado Boulevard (SR 78 to US 41) – LOS D
- b) State Road 78 (Pine Island Road) West of Del Prado Boulevard LOS C State Road 78 (Pine Island Road) East of Del Prado Boulevard – LOS D
- c) Pondella Road LOS E
- d) Hancock Bridge Parkway (City Limits to Del Prado Boulevard) LOS E
- e) Cape Coral Parkway (Cape Coral Bridge to Pelican Boulevard) LOS E
- f) Burnt Store Road/Veterans Parkway Corridor LOS E
- g) All other local, collector, and arterial roadways LOS D
- h) All other limited access facilities LOS D
- i) All other roads within City jurisdictions LOS D"

#### Policy 2.1.1

"The City will continue to implement specific, non-motorized transportation policies and programs within the Urban Services Infill and Transition Areas, which will eventually result in the establishment of regularly maintained and improved bicycle and pedestrian facilities throughout the City of Cape Coral."

#### Policy 2.1.5

"The City shall continue to require new development to incorporate design elements to accommodate and protect bicyclists and pedestrians."

#### Policy 2.2.3

"Through the Planned Development Project (PDP) process and other site plan review procedures, the City shall require new development to accommodate public transit, bicycles, pedestrians, and other alternative modes in the project's site design."

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#### **Economic Development Element**

#### Policy 2.7

"The City of Cape Coral shall maximize economic growth by developing and implementing a marketing strategy to encourage development in the neighborhood centered around the Veterans Administration Clinic. Scheduled to open in 2012, the facility owned by the United States Department of Veterans Affairs (located on 30 acres at the northwest corner of Corbett Road and Diplomat Parkway East) is designed to provide primary and Speciality healthcare to a population of 202,000 veteraris throughout Southwest Florida. The purpose of the marketing strategy is to optimize support to the facility, that will in turn benefit the local economy, by attracting a concentration of development that would have a synergistic relationship with the Veterans Administration clinic. To this end, the City may take a variety of actions, including, but not limited to, consideration of modifications to the regulatory framework, creation of specific advertizing campaigns to focus attention on this area, and considerctic of incentives to attract development such as office and medical parks, assisted living facilities, ho tels, and light industrial enterprises." COUNCILMEMBER MONROE

PDP 97-00800020 1/12/98

# ORDINANCE 6 - 98

## 4331642

AN ORDINANCE APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "A-1 SHELTERS SELF STORAGE, HANCOCK CREEK SITE"; PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR CERTAIN PROPERTY DESCRIBED AS PART OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST AS MORE PARTICULARLY DESCRIBED

HEREIN; PROPERTY LOCATED AT 2555 PINE ISLAND ROAD NE; GRANTING DEVIATION OF FIFTEEN (15) FEET FROM THE LAND USE AND DEVELOPMENT REGULATIONS FRONT SETBACK REQUIREMENT OF FIFTY (50) FEET TO PERMIT A FRONT SETBACK OF THIRTY FIVE (35) FEET; GRANTING DEVIATION OF FIFTY EIGHT (58) SPACES FROM THE LAND USE AND DEVELOPMENT REGULATIONS PARKING REQUIREMENT OF SIXTY TWO (62) SPACES TO REQUIRE FOUR (4) SPACES; AND GRANTING SITE PLAN APPROVAL; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, an application from Lynn A. Kirby, Trustee has been received requesting approval of a Planned Development Project (PDP) for A-1 Shelters Self Storage, Hancock Creek Site, PDP 97-00800020; Deviation of fifteen (15) feet from the Land Use and Development Regulations front setback requirement of fifty (50) feet to permit a front setback of thirty five (35) feet; Deviation of fifty eight (58) spaces from the Land Use and Development Regulations parking requirement of sixty two (62) spaces to require four (4) spaces; and Site Plan Approval; and

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

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

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

#### SECTION I. PDP APPROVAL.

The City of Cape Coral City Council having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, does hereby grant said PDP approval, deviation of fifteen (15) feet from the Land Use and Development Regulations front setback requirement of fifty (50) feet to permit a front setback of thirty five (35) feet; Deviation of fifty eight (58) spaces from the Land Use and Development Regulations parking requirement of sixty two (62) spaces to require four (4) spaces; and Site Plan Approval 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 A-1 Shelters Self Storage, Hancock Creek Site development is a Light Industrial Planned Development Project (PDP). This development consists of rentable self-storage units on 7.61 acres of land located at 2555 Pine Island Road NE. The proposed development will contain 121,700 square feet of self-storage units and associated office space. 1400 square feet on a second story will be devoted to a caretakers residence. Approximately 2.66 acres of the site will be provided for ingress, egress, and internal site circulation and 1.48 acres of the site are to be provided as surface water management tracts. The development will occur in 1 phase(s) with a build out in 10 years.

B. The proposed conditions below meet the criteria found in Section 163.3227, Florida Statutes.

C. The name of the legal and equitable owner is Lynn A. Kirby, Trustee.

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D. The legal description of the property is as follows:

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COMMENCING at the Northwest corner of Section 4, Township 44 South, Range 24 East, Lee County, Florida thence;

- North 89°47'36" East, 1332.14 feet, along part of the North line of Section 4, to the East line of the Northwest 1/4 of the Northwest 1/4 of Section 4, thence;
- South 04°56'55" East, 677.55 feet, along said East Line, to the North line of the South 1/2 of the Northwest 1/4 of the Northwest 1/4 of Section 4, and to the TRUE POINT OF BEGINNING of the tract of land described herein, thence;
- South 04°56'55" East, 1029.67 feet, along the aforesaid East line, to the Northerly R/W line of Pine Island Road (SR-78) (66'R/W), thence;
- 4. South 61°59'29" West, 325.63 feet, to the East side of a proposed 60' R/W, thence;
- South 04°56'55" West, 1182.54 feet, along the East side of a proposed 60' road R/W, to the North line of the South 1/2 of the Northwest 1/4 of the Northwest 1/4 of section 4, thence;
- North 89°52'56" east, 300.68 feet, along said line, to the TRUE POINT OF BEGINNING, containing a computed area of 7.608 acres of land.
- E. The subject parcel has 7.61 acres with a zoning district of I-1 (Industrial), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as amended. The subject parcel has a Future Land Use designation of Light Industrial.

F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the provisions of the I-1 (Industrial) Zoning District of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended except as modified herein. 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.

- G. The Application for Development Approval is consistent with the requirements of Chapter 163, Florida Statutes.
- H. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- J. 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.
- K. The term "Developer" for purposes of this development order, shall mean and refer to Lynn A. Kirby, Trustee, his or her heirs, 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 this 9th day of February, 1998, that the Planned Development Project application for Development Approval submitted by Lynn A. Kirby, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

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#### A. DRAINAGE/WATER QUALITY

- Prior to the issuance of any building permits, a general permit and stormwater discharge certification shall be obtained from the South Florida Water Management District (SFWMD). 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.
- The Developer shall provide, as part of the site's overall management plan, regularly scheduled parking lot vacuum sweeping to help ensure optimal stormwater runoff quality protection.
- 3. Prior to the issuance of any building permits, if applicable, the Developer shall coordinate with the City of Cape Coral, the Florida Department of Environmental Protection (DEP), and the SFWMD in the siting of any on-site temporary transfer and storage facilities for all special or hazardous waste that may be generated within the project site. Any facility constructed on-site shall be located as far away from the surface water management system as feasible.
- 4. 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. ENERGY

Where feasible, the Developer shall incorporate at a minimum the following energy conservation measures into this development:

- 1. Use of energy efficient features in window design (e.g., tinting and exterior shading).
- 2. Use of operable windows and ceiling fans.
- Installation of energy-efficient appliances and equipment.
- Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
- 5. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
- Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs.
- 7. Planting of shade trees to provide shade for all street and parking areas.
- Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- Provision of bicycle racks or storage facilities in recreational, commercial, and multifamily residential areas.

#### C. HURRICANE EVACUATION

The Developer shall incorporate the sheltering demands of the employees and their families, if possible, within their building design.

#### D. WETLANDS, VEGETATION, AND WILDLIFE

- Ongoing control and removal of nuisance exotic plants on-site is required including but not limited to Casuarina sp. (Australian Pine), Melaleuca quinquenervia (melaleuca), and schinus terebinthifolius (Brazilian Pepper).
- Required on-site landscaping and screening shall be maintained throughout the life of this development.

 A protective barrier composed of stakes (or other scrap lumber) and rope or other suitable material shall be placed around all existing trees to remain as shown on submitted development plans.

- (a) The protective barrier shall be erected prior to land preparation or construction activities.
- (b) The protective barrier shall be placed at or greater than the full dripline of all protected trees and shall be maintained and remain in place until all major construction activity is terminated.
- (c) No equipment, chemicals, soil deposits or construction materials shall be placed within such protective barriers.
- (d) Light construction activities subsequent to the removal of protective barriers shall be accomplished with light machinery or hand labor.

#### E. FIRE PROTECTION

- The Developer shall review site development plans with the fire department to incorporate fire protection design recommendations into the project.
- 2. Fire impact fees shall be paid as specified by City Ordinance.
- F. WATER CONSERVATION
  - The Developer shall incorporate the use of water conserving devices as required by state law (Section 553. 14, Florida Statutes).
  - For the purpose of non-potable water conservation, the development shall utilize xeriscape principals in the design and installation of the project's landscaping.
  - 3. No irrigation shall take place on the site between the hours of 9:00 A.M. and 5:00 P.M. after the establishing of landscaping, and prior to the installation and hook-up to the secondary water system, if applicable. After the secondary water system is installed, there will be no watering restrictions unless mandated by the City or SFWMD for conservation or other health, safety, and welfare reasons.

#### G. SOLID WASTE

- The Developer and tenants of the project shall utilize all methods of reducing solid waste volume generated at the project.
- 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 will be disposed of off-site by a company licensed to dispose of such wastes.
- 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 on-site solid waste disposal facilities shall be located on the site.
- 6. The Developer shall participate in recycling programs.
- Solid waste disposal shall be provided through Lee County, Florida pursuant to Special Act, Chapter 85-447. Current and planned facilities have sufficient capacity to meet the demands of this development.

#### H. WASTEWATER MANAGEMENT

- 1. Wastewater (sewer) service is 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.
- 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).
- Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
- The Developer shall connect to City wastewater facilities within thirty (30) days notification of requirement for connection.
- The Developer shall grant appropriate easements for the future utility service as required by the City.

#### I. WATER SERVICE

- 1. Water 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 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.
- Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
- The Developer shall connect to City water facilities within thirty (30) days notification of requirement for connection.
- The Developer shall grant appropriate easements for the future utility service as required by the City.

#### J. IRRIGATION SERVICE

1, Irrigation service is not available to the site.

- 2. When service becomes available to the site, the 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. 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.
- Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).

#### K. AIR QUALITY

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- If the development creates a complex source of pollution as defined by Florida Department of Environmental Protection (DEP) rules, application shall be made directly to DEP for permitting.
- The development will be required to comply with all federal, state and local laws and codes governing air quality and emissions.

#### L. HISTORICAL/ARCHAEOLOGICAL

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

#### M. TRANSPORTATION

- The traffic impact assessment upon which this development order for A-I Shelters Self Storage, Hancock Creek Site PDP is based assumes project buildout in 5 years. The traffic impact assessment included the expected impacts of Light Industrial proposed land use(s).
- 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.
- The Developer shall provide the City of Cape Coral all appropriate Road Impact Fees at the time of application for each building permit.
- 4. The Developer shall provide the City of Cape Coral with an Annual Traffic Monitoring Report each year until the development reaches buildout. Preparation of the report shall not begin until the Developer provides the City of Cape Coral with an acceptable methodology for 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.

#### N. CONCURRENCY

The A-1 Shelters Self Storage, Hancock Creek Site 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 for Development Approval filed for A-1 Shelters Self Storage, Hancock Creek Site.
- B. This Development Order shall be binding on the Developer.

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.

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- 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.
- JR2923 10277 Any references herein to any governmental agency shall be construed to mean to include any E. 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 pursuant to Sections 163.3220-163.3243, Florida Statutes, unless it is found by the City Council, after due notice and hearing, that a substantial deviation from the terms or conditions of this Development Order, 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, has occurred and/or would result from the issuance of the local development permit. Substantial deviations include but are not limited to:
  - 1. A greater than five (5) percent increase in the square footage of the development.
  - 2. Any change that requires a variance to code or other requirements over and above those specifically incorporated herein.
  - 3. An expiration of the period of effectiveness of this Development Order as herein provided.
  - 4. A failure to carry out Development Order conditions and/or Developer commitments incorporated within the Development Order to mitigate impacts to the extent indicated in the Development Order, or in accordance with 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 in accordance with Chapter 163, Florida Statutes, and all local approvals have been obtained.

H. The deadline for commencing physical development under this Development Order shall be two (2) years from the date of adoption of the Order or one (1) year from final permit approval from all appropriate governmental jurisdictions, whichever is less, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Council upon a finding of excusable delay in any proposed development activity and that considerations have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order within two (2) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a certificate of compliance or occupancy on some substantial portion of the project (e.g., water management system or major road system). This Development Order shall otherwise terminate in 10 years from the date of this Development Order, unless an extension is approved by this Council. An extension may be granted 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 the process of determining when the build-out date has been exceeded, the time

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shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.

- 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.
  - The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

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

K. Copies of this recorded Development Order will be forwarded to the Developer, the Department of Community Affairs, and all permitting agencies. Upon this Development Order becoming effective, notice of its adoption shall be recorded in the Office of the Clerk of the Circuit Court by the City, as provided in Section 163.3239, Florida Statutes.

#### SECTION V. SEVERABILITY.

J.

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.

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of the County and thirty (30) days after having been received by the State Land Planning Agency pursuant to Section 163.3239, Florida Statutes. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer and are subject to the requirements and review pursuant to Chapter 163, Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 94 DAY OF Follower, 1998.

ER G. BUTLER, MA

ATTESTED TO AND FILED IN MY OFFICE THIS 11th DAY OF Former, 1998.

BONNIE J. VENTACITY CLERK

LEGAL REVIEW:

BRUCE R. CONROY

CITY ATTORNEY ord/97800020.pdp

City of Cape Corafs Po Bax 150027 Cape Coral Sul

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Cota, Florida, and the keeper of the records and corporate see of said municipality; that this is a true and ponect copy of

City Clerk

# Department of Community Development Planning Division

# AFFIDAVIT

IN RE: APPLICATION OF: Kirby Family LP #3 & Kirby FLP

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APPLICATION NO: PDP16-0011

STATE OF FLORIDA ) ) COUNTY OF LEE )

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

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

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

DATED this

day of

ebruar 2017 .

Vincent A. Cautero, AICP

# STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was acknowledged before me this 10 day of 100 day of



Commission #T Exp. Date Signature of Notary Public

Print Name of Notary Public





## NOTICE TO SURROUNDING PROPERTY OWNERS

# CASE NUMBER: PDP16-0011

**<u>REQUEST</u>**: The owners, Kirby Family LP #3 and Kirby FLP 3, seek to amend Ordinance 6-98 which approved a planned development project in Cape Coral, Florida entitled "A-1 Shelters Self Storage, Hancock Creek Site" providing for planned development project approval for property at 2555 NE Pine Island Road and near the southeast corner of Diplomat Parkway East and NE 24th Avenue; expanding the planned development project area by 6.1 acres, rezoning 8.3 acres from the Corridor to the Corridor District with the Commerce Park Overlay; granting a deviation to the Land Use and Development Regulations, Section 2.7.13J; granting development plan approval.

LOCATION: 2555 NE Pine Island Road

<u>CAPE CORAL STAFF CONTACT:</u> Mike Struve, Planning Team Coordinator, 239-242-3255, <u>mstruve@capecoral.net</u>

PROPERTY OWNERS: KIRBY FAMILY LP #3 and Kirby FLP 3

AUTHORIZED REPRESENTATIVE: Linda Miller, Avalon Engineering, Inc.

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the Hearing Examiner will hold a public hearing at 9:00 AM on Tuesday, January 10, 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.

**DETAILED INFORMATION:** The case report and colored maps for this application are available at the City of Cape Coral website, <u>www.capecoral.net/publichearing</u> (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.

<u>ADA PROVISIONS</u>: 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.

<u>APPEALS:</u> 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.

Department of Community Development Post Office Box 150027 • Cape Coral, Florida 33915-0027 1015 Cultural Park Blvd. • Cape Coral, Florida 33990 Email: planningquestions@capecoral.net








Item B.(1) Number: 4/17/2017 Date: 4/17/2017 Item ORDINANCES/RESOLUTIONS -Type: Introductions





### TITLE:

Ordinance 12-17 (LU 16-0012) Set Public Hearing Date for May 1, 2017

### **REQUESTED ACTION:**

### STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below. If No, will it harm the intent or success of the Strategic Plan?

### PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS: <u>P&Z recommendation:</u>

At the April 5, 2017 meeting, the Planning and Zoning Commission/Local Planning Agency voted (5-0) to recommend approval of Ordinance 12-17. There were three speakers during public hearing. Staff received two letters of correspondence, one in support and one in opposition.

### **Staff Recommendation:**

Staff recommends approval of the requested future land use map amendment.

### SUMMARY EXPLANATION AND BACKGROUND:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Future Land Use Map from Single Family and Multi- Family by PDP to Single Family Residential for properties located in Units 33, 34, 35, 36-1, 37, 38, 41, 48, 49, 50, 54, 58, and 59, Cape Coral Subdivision, for properties located in the Whispering Pines Subdivision, and for properties lying in Section 10, Township 44 South, Range 23 East, Lee County, Florida; from Single Family and Multi-Family by PDP to Multiple Family Residential for properties located in Units 33, 37 and 58, Cape Coral Subdivision, and lying in Sections 29 and 32, Township 43 South, Range 24 East, Lee County, Florida; from Commercial Activity Center to Single Family Residential for properties located in Unit 49, Cape Coral Subdivision; from Commercial Activity Center to Multiple Family Residential for properties located in Unit 49, Cape Coral Subdivision; and from Urban Services Reserve Area to Urban Services Transition Area for properties located in Units 59, 60, 76, and 81, Cape Coral Subdivision, and for properties located in the West Cape Estates Subdivision. This large scale future land use amendment is a follow-up to LU 15-0004 (Ordinance 59-15) which brought over 4,000 acres in northern Cape Coral from the Urban Services Reserve Area into the Urban Services Transition Area.

### LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

### **EXHIBITS**:

Ordinance 12-17 (LU 16-0012) - revised version Staff Presentation

### PREPARED BY:

Division- Department-	City Attorney
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### SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator

### ATTACHMENTS:

#### Description

D Ordinance 12-17 (LU 16-0012) - revised version

Staff Presentation

### Туре

Backup Material Backup Material

#### LU 16-0012

#### ORDINANCE 12 - 17

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM SINGLE FAMILY AND MULTI-FAMILY BY PDP TO SINGLE FAMILY RESIDENTIAL FOR PROPERTIES LOCATED IN UNITS 33, 34, 35, 36-1, 37, 38, 41, 48, 49, 50, 54, 58, AND 59, CAPE CORAL SUBDIVISION, FOR PROPERTIES LOCATED IN THE WHISPERING PINES SUBDIVISION, AND FOR PROPERTIES LYING IN SECTIONS 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; FROM SINGLE FAMILY AND MULTI-FAMILY BY PDP TO MULTI-FAMILY RESIDENTIAL FOR PROPERTIES LOCATED IN UNITS 33, 37 AND 58, CAPE CORAL SUBDIVISION, AND LYING IN SECTIONS 29 AND 32, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; FROM COMMERCIAL ACTIVITY CENTER TO SINGLE FAMILY RESIDENTIAL FOR PROPERTIES LOCATED IN UNIT 49, CAPE CORAL SUBDIVISION; FROM COMMERCIAL ACTIVITY CENTER TO MULTI-FAMILY RESIDENTIAL FOR PROPERTIES LOCATED IN UNIT 49, CAPE CORAL SUBDIVISION; AND FROM URBAN SERVICES RESERVE AREA TO URBAN SERVICES TRANSITION AREA FOR PROPERTIES LOCATED IN UNITS 59, 60, 76, AND 81, CAPE CORAL SUBDIVISION, AND FOR PROPERTIES LOCATED IN THE WEST CAPE ESTATES SUBDIVISION, ALL AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by the CITY OF CAPE CORAL regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

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

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

### FROM SINGLE FAMILY AND MULTI-FAMILY BY PDP TO SINGLE FAMILY RESIDENTIAL

	Cape Co	oral Subdivision
Unit	Block	Lots
34-0	2053	44-68
35-0	2053	69-86
34-0	2054	4-28
34-0	2099	31-55
34-0	2100	44-72
36-1	2100	73-106 + Tract A
33-0	2247	1-95
33-0	2248	1-56
33-0	2249	1-21
33-0	2250	1-24
33-0	2251	1-26
33-0	2252	1-26
33-0	2253	1-73
33-0	2254	1-69

	0055	
33-0	2255	1-75
33-0	2256	1-75
33-0	2258	1-46
33-0	2259	1-46
33-0	2260	1-15
33-0	2262	1-6
33-0	2263	1-48
33-0	2264	1-48
33-0	2265	1-54
33-0	2266	1-56
33-0	2267	1-72
33-0	2271	1-37
33-0	2272	1-26
33-0	2272	1-26
33-0	2275	1-26
		······
33-0	2275	1-26
33-0	2276	1-26
33-0	2277	1-56
33-0	2278	1-22
33-0	2279	1-36
33-0	2280	1-48
33-0	2281	1-3
33-0	2282	1-3
33-0	2283	1-64
33-0	2284	1-77
33-0	2285	1-62
33-0	2286	1-24
33-0	2287	1-67
35-0	2361	1-24
35-0	2362	1-25
35-0	2363	1-20
		1-36
35-0	2364	· · · · · · · · · · · · · · · · · · ·
35-0	2365	1-44
35-0	2366	1-50
35-0	2367	1-58
35-0	2368	1-64
35-0	2369	1-70
35-0	2370	1-78
35-0	2371	1-25
35-0	2372	1-33
35-0	2375	1-37
35-0	2376	1-23
35-0	2384	1-70
35-0	2385	1-82
35-0	2386	1-46
35-0	2387	1-69
34-0	2388	1-48
34-0	2389	1-48
34-0	2389	1-48
34-0	2392	1-28
35-0	2393	1-45
35-0	2394	1-38
35-0	2397	1-42
35-0	2398	1-38
35-0	2399	1-40

35-0	2400	1-85 + Tract A
35-0	2401	1-42
35-0	2402	1-42
35-0	2403	1-42
35-0	2404	1-42
35-0	2405	1-42
35-0	2406	1-42
35-0	2400	1-32
35-0	2407	1-32
35-0	2408	1-40
35-0	2410	1-70
35-0	2411	1-80
35-0	2412	1-78
35-0	2413	1-96
35-0	2414	1-53
35-0	2415	1-40
34-0	2416	1-60
34-0	2417	1-60
34-0	2418	1-56
34-0	2419	1-74
34-0	2420	Tract A
34-0	2421	1-46
34-0	2422	1-46
34-0	2423	1-46
34-0	2424	1-76
34-0	2425	1-82
34-0	2426	1-60
34-0	2427	1-64
34-0	2428	1-64
34-0	2429	1-60
34-0	2430	1-64
34-0	2431	1-62
34-0	2432	1-78
34-0	2433	1-44
34-0	2434	1-44
34-0	2435	1-44
34-0	2436	1-76
34-0	2437	1-86
34-0	2437	1-70
34-0	2439	1-70
34-0	2439	1-70
34-0	2440	1-48
		1-48
34-0	2442	
34-0	2443	1-48
34-0	2444	1-62
34-0	2445	1-62
34-0	2446	1-56
34-0	2447	1-90
34-0	2448	1-90
34-0	2450	1-62
34-0	2451	1-60
34-0	2452	1-48
34-0	2453	1-60
34-0	2454	1-60
34-0	2455	1-60

34-0	2456	1-50
34-0	2457	1-50
34-0	2458	1-50
34-0	2459	1-30
34-0	2460	1-78
		1-63 + portion of vacated
		canal as described in OR
34-0	2461	Book 4829/Page 1042
34-0	2462	1-42
34-0	2463	1-41
34-0	2464	1-53
34-0	2465	1-100
34-0	2466	1-84
34-0	2467	1-37
34-0	2468	1-49
36-1	2475	25-48
36-1	2476	40-78
36-1	2477	29-56
36-1	2478	32-62
		18-54 + property described
		in OR Book 2203/Page
37-0	2550	395
37-0	2551	1-74
37-0	2552	1-96
37-0	2553A	1-44
37-0	2554	1-56
38-0	2555	1-74
38-0	2556	1-64
37-0	2557	1-64
37-0	2558	1-42
37-0	2559	1-78
37-0	2560	1-78
37-0	2561	1-78
37-0	2562	1-42
37-0	2563	1-42
37-0	2564	1-94
37-0	2565	1-32
37-0	2566	1-32
37-0	2567	1-32
37-0	2568	1-32
37-0	2569	1-32
37-0	2570	1-32
37-0	2571	1-33
37-0	2574	1-2; 20-34
37-0	2575	1-38
37-0	2576	1-58
37-0	2577	1-62
37-0	2578	1-76
37-0	2579	1-64
37-0	2581	1-65
37-0	2582	1-82
37-0	2583	1-49
37-0	2584	1-31
37-0	2585	1-98
	2586	1-34
37-0	2587	1-42

37-0	2588	1-48
37-0	2589	1-56
37-0	2590	1-58
37-0	2591	1-58
37-0	2592	1-62
37-0	2593	1-62
37-0	2594	1-58
37-0	2595	1-58
37-0	2596	1-62
37-0	2597	1-42
37-0	2598	1-76
37-0	2599	1-58
37-0	2600	1-74
37-0	2601	1-46
37-0	2602	1-46
37-0	2603	1-46
37-0	2604	1-105
37-0	2605	1-87
37-0	2605	1-55
37-0	2607	1-33
38-0	2608	1-55
38-0	2609	1-91
37-0	2610	1-86
37-0	2610	1-42
37-0	2612	1-42
37-0	2612	1-54
	2613	1-54
37-0 37-0		1-54
	2615	1-42
37-0	2616	
37-0	2617	1-33
38-0	2618	1-57
38-0	2619	1-2
38-0	2675	22-42
38-0	2676	25-48
38-0	2681	31-60
38-0	2682	29-56
41-0	2840	1-64
41-0	2841	1-62
41-0	2898	1-68
41-0	2899	1-71
49-0	3620	3-40
48-0	3621	1-64
48-0	3622	1-49
49-0	3623	1-40
49-0	3624	1-37
49-0	3625	10-48
49-0	3626	1-46
49-0	3628	1-53
49-0	3636	1-70
48-0	3637	1-44
48-0	3638	1-46
48-0	3639	1-54
48-0	3640	1-28
48-0	3641	1-54
48-0	3642	1-46

48-0	3643	1-44
48-0	3644	1-54
48-0	3645	1-62
48-0	3646	1-76
48-0	3647	1-76
48-0	3648	3-35
48-0	3649	1-44
48-0	3650	1-66
48-0	3651	1-66
48-0	3652	1-73
48-0	3653	1-9 + Tract A
48-0	3654	1-66
48-0	3655	1-54
48-0	3656	1-54
48-0	3657	1-60
48-0	3658	1-68
48-0	3659	1-53
49-0	3663	30-78
49-0	3664	1-53
49-0	3665	1-48
48-0	3666	1-28
49-0	3666	29-53
48-0	3667	1-70
48-0	3668	1-52
48-0	3669	1-46
48-0	3670	1-78
48-0	3671	1-47
48-0	3672	1-67
48-0	3673	1-83
48-0	3674	1-47
48-0	3675	1-29
50-0	3680	1-64
50-0	3681	1-35
50-0	3684	1-60
50-0	3686	1-89
50-0	3687	1-62
50-0	3688	1-54
50-0		All of Block 3689
50-0	3690	1-77
50-0	3691	1-60
50-0	3692	1-70
50-0	3693	1-70
50-0	3694	1-60
50-0	3695	1-60
50-0	3696	1-70
50-0	3697	1-48
50-0	3698	1-68
50-0	3699	1-61
54-0	3917	1-58
54-0	3918	1-16
54-0	3919	1-81
54-0	3920	1-47
54-0	3921	1-41
		1 (1
54-0	3922	1-61

54-0 $3924$ $1-37$ $54-0$ $3926$ $1-31$ $54-0$ $3926$ $1-83$ $54-0$ $3927$ $1-52$ $54-0$ $3928$ $1-52$ $54-0$ $3929$ $1-52$ $54-0$ $3930$ $1-62$ $54-0$ $3931$ $1-62$ $54-0$ $3932$ $1-60$ $54-0$ $3932$ $1-60$ $54-0$ $3933$ $1-60$ $54-0$ $3933$ $1-60$ $54-0$ $3935$ $1NST #2006000394539$ $54-0$ $3936$ $1-59$ $54-0$ $3937$ $1-78$ $54-0$ $3938$ $1-70$ $54-0$ $3939$ $1-60$ $54-0$ $3940$ $1-60$ $54-0$ $3941$ $1-70$ $54-0$ $3942$ $1-70$ $54-0$ $3943$ $1-60$ $54-0$ $3944$ $1-56$ $54-0$ $3944$ $1-56$ $54-0$ $3944$ $1-56$ $54-0$ $3946$ $1-78$ $54-0$ $3946$ $1-78$ $54-0$ $3946$ $1-78$ $54-0$ $3947$ $1-64$ $54-0$ $3948$ $1-83$ $54-0$ $3949$ $1-72$ $59-0$ $4127$ $1-6, 67-72$ $59-0$ $4150$ $1-49$ $59-0$ $4152$ $1-46$
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54-0 $3930$ $1-62$ $54-0$ $3931$ $1-62$ $54-0$ $3932$ $1-60$ $54-0$ $3933$ $1-60$ $54-0$ $3933$ $1-60$ $54-0$ $3935$ $1-18 + Tract A + vacated$ $right-of-way$ as described in $54-0$ $3936$ $1-59$ $54-0$ $3936$ $1-59$ $54-0$ $3937$ $1-78$ $54-0$ $3938$ $1-70$ $54-0$ $3939$ $1-60$ $54-0$ $3940$ $1-60$ $54-0$ $3941$ $1-70$ $54-0$ $3942$ $1-70$ $54-0$ $3942$ $1-70$ $54-0$ $3942$ $1-70$ $54-0$ $3943$ $1-60$ $54-0$ $3944$ $1-56$ $54-0$ $3944$ $1-56$ $54-0$ $3945$ $1-75$ $54-0$ $3946$ $1-78$ $54-0$ $3947$ $1-64$ $54-0$ $3948$ $1-83$ $54-0$ $3949$ $1-72$ $59-0$ $4127$ $1-6, 67-72$ $59-0$ $4130$ $1-2$ $59-0$ $4150$ $1-49$ $59-0$ $4151$ $1-35$ $59-0$ $4152$ $1-46$
54-0 $3931$ $1-62$ $54-0$ $3932$ $1-60$ $54-0$ $3933$ $1-60$ $54-0$ $3933$ $1-60$ $54-0$ $3935$ $1-18 + Tract A + vacated right-of-way as described in INST #200600039453954-039361-5954-039361-5954-039371-7854-039381-7054-039391-6054-039401-6054-039411-7054-039421-7054-039421-7054-039431-6054-039441-5654-039441-5654-039451-7554-039451-7554-039461-7854-039471-6454-039481-8354-039491-7259-041271-6, 67-7259-041501-4959-041501-4959-041501-46$
54-0 $3932$ $1-60$ $54-0$ $3933$ $1-60$ $1-18 + Tract A + vacatedright-of-way as described inINST #200600039453954-03935INST #200600039453954-039361-5954-039371-7854-039381-7054-039391-6054-039401-6054-039401-6054-039411-7054-039421-7054-039431-6054-039431-6054-039441-5654-039451-7554-039461-7854-039471-6454-039481-8354-039491-7259-041271-6, 67-7259-041501-4959-041501-4959-041521-46$
54-0 $3933$ $1-60$ $1-18 + Tract A + vacatedright-of-way as described in54-0393554-0393654-0393654-0393754-039381-7054-0393954-039391-6054-039401-6054-039401-6054-039411-7054-039421-7054-039421-7054-039431-6054-039441-5654-039441-5654-039461-7854-039461-7854-039471-6454-039481-8354-039491-7259-041301-259-041501-4959-041521-46$
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54-0 $3935$ right-of-way as described in INST #2006000394539 $54-0$ $3936$ $1-59$ $54-0$ $3937$ $1-78$ $54-0$ $3937$ $1-70$ $54-0$ $3939$ $1-60$ $54-0$ $3940$ $1-60$ $54-0$ $3940$ $1-60$ $54-0$ $3941$ $1-70$ $54-0$ $3942$ $1-70$ $54-0$ $3942$ $1-70$ $54-0$ $3943$ $1-60$ $54-0$ $3943$ $1-60$ $54-0$ $3944$ $1-56$ $54-0$ $3945$ $1-75$ $54-0$ $3945$ $1-78$ $54-0$ $3947$ $1-64$ $54-0$ $3947$ $1-64$ $54-0$ $3949$ $1-72$ $59-0$ $4127$ $1-6, 67-72$ $59-0$ $4150$ $1-49$ $59-0$ $4151$ $1-35$ $59-0$ $4152$ $1-46$
54-03935INST #200600039453954-039361-5954-039371-7854-039381-7054-039391-6054-039401-6054-039411-7054-039421-7054-039431-6054-039431-6054-039441-5654-039451-7554-039461-7854-039471-6454-039481-8354-039491-7259-041271-6, 67-7259-041501-4959-041511-3559-041521-46
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54-039461-7854-039471-6454-039481-8354-039491-7259-041271-6, 67-7259-041301-259-041501-4959-041511-3559-041521-46
54-0 $3947$ $1-64$ $54-0$ $3948$ $1-83$ $54-0$ $3949$ $1-72$ $59-0$ $4127$ $1-6, 67-72$ $59-0$ $4130$ $1-2$ $59-0$ $4150$ $1-49$ $59-0$ $4151$ $1-35$ $59-0$ $4152$ $1-46$
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54-039491-7259-041271-6, 67-7259-041301-259-041501-4959-041511-3559-041521-46
59-041271-6, 67-7259-041301-259-041501-4959-041511-3559-041521-46
59-041301-259-041501-4959-041511-3559-041521-46
59-041501-4959-041511-3559-041521-46
59-0     4151     1-35       59-0     4152     1-46
59-0 4152 1-46
59-0 4153 1-43
59-0 4154 1-36
59-0 4155 1-42
59-0 4156 1-36
59-0 4157 1-31
59-0 4158 1-45
59-0 4159 1-48
59-0 4160 1-50
59-0 4161 1-36
59-0 4162 1-36
59-0 4163 1-37
59-0 4164 1-35
59-0 4165 1-54
59-0 4166 1-54
59-0 4167 1-54
59-0 4168 1-54
59-0 4169 1-48
59-0 4170 1-48
59-0 4171 1-48
59-0 4172 1-48
59-0 4173 1-44
59-0 4174 1-44
59-0 4175 1-44

59-0	4177	1-64
59-0	4178	1-34
58-0	5300	1-14
58-0		ll of Block 5300A
58-0	5301	1-50
58-0	5302	1-56
58-0	5303	1-56
58-0	5304	1-58
58-0	5305	1-58
58-0	5306	1-58
58-0		1-49
	5307	
58-0	5308	1-58
58-0	5309	1-60
58-0	5310	1-60
58-0	5311	1-42
58-0	5312	1-42
58-0	5313	1-42
58-0	5314	1-60
58-0	5315	1-40
58-0	5316	1-46
58-0	5317	1-39
58-0	5318	1-33, 36-48
58-0	5319	1-20
58-0	5320	1-34
58-0	5321	1-56
58-0	5322	1-42
58-0	5323	1-46
58-0	5324	1-67
58-0	5325	1-91
58-0	5326	1-57
58-0	5327	1-36
58-0	5330	1-50
58-0	5331	1-34
58-0	5332	1-39
58-0	5333	1-55
58-0	5334	1-50
58-0	5335	1-84
58-0	5336	1-38
58-0	5338	1-48
58-0	5339	1-46
58-0	5340	1-24
58-0	5341	1-30
58-0	5342	1-22
58-0	5343	1-60
58-0	5344	1-33
58-0	5347	1-47
58-0	5348	1-52
58-0	5349	1-36
58-0	5350	1-49
58-0	5351	1-55
58-0	5352	1-54
58-0	5353	1-54
58-0	5354	1-54
58-0	5355	1-54
	+	

AND

Lots 15 and 16, Block 3649, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144, inclusive, in the Public Records of Lee County, Florida, and

Lots 17 and 18, Block 3649, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144, inclusive, in the Public Records of Lee County, Florida, and

The North ¹/₂ of the NE ¹/₄ of the SE ¹/₄ in Section 10, Township 44 South, Range 23 East, less rightof-way for roads.

ALSO, Part of the SE ¹/₄ of Section 10, Township 44 South, Range 23 East, City of Cape Coral, Florida, more particularly described as follows:

Commencing at the Southeast corner of Section 10: Thence N89°50'40"W along the South line of said SE  $\frac{1}{4}$ , 1,343.75 feet to the Southeast corner of the West  $\frac{1}{2}$  of said SE  $\frac{1}{4}$  and the Place of Beginning of this description; thence continue N89°50'40"W, 671.875 feet; thence N00°00'44W, 2,689.05 feet to a point on the North line of said SE  $\frac{1}{4}$ , which point is 672.26 feet S89°55'52"E from the center post of Section 10; thence S89°55'52"E, 672.26 feet to the Northeast corner, of the NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ ; thence S00°00'15"E, 840.35 feet along the East line of said NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ ; thence N89°53'16"W, 16.39 feet; thence S19°53'16"E 187 feet; thence S08°09'54"W, 332.24 feet to the Northeast corner of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ ; thence S00°00'15"E along the East line said fractional section 1,345.03 feet to the Place of Beginning.

ALSO, the West ¹/₂ of the West ¹/₂ of the SE ¹/₄ of Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, more particularly described as follows:

Commencing at the SE corner of Section 10; thence N89°50'40"W along the South line of said SE ¹/₄ 2,015.63 feet to the Point of Beginning of this description; thence continue N89°50'40"W 671.875 feet to the South ¹/₄ corner of Section 10; thence N00°01'14"W along the West line of said SE ¹/₄ 2,688.04 feet to the center post of Section 10; thence S89°55'52"E along the North line of said SE ¹/₄ 672.26 feet; thence S00°00'44"E 2,689.05 feet to the Place of Beginning. Bearing derived from recorded Plat of Cape Coral Unit 48, Plat Book 17, Pages 135 through 144 in the Public Records of Lee County, Florida.

AND Lots 1 and 2, Block 3648, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144 in the Public Records of Lee County, Florida.

AND Lot 19, Block 3648, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144 in the Public Records of Lee County, Florida.

### AND

Lots 1, 7-10, 12-18, and 43-46, Block A, of an unrecorded plat of Whispering Pines Subdivision, Lee County, Florida.

### AND

A tract or parcel of land located in the South ½ of the NE ¼ of the SE ¼ of Section 10, Township 44 South, Range 23 East, City of Cape Coral as described in Official Records Book 1760, Page 3532 of the Public Records of Lee County, Florida.

### AND

The SW ¹/₄ of the SE ¹/₄ and the NW ¹/₄ of the SE ¹/₄ and the South ¹/₂ of the NE ¹/₄ and the SE ¹/₄ of Section 10, Township 44 South, Range 23 East.

LESS and except Lot 9, Block A of an unrecorded plat of Whispering Pines Subdivision, Public Records of Lee County, Florida.

### FROM SINGLE FAMILY AND MULTI-FAMILY BY PDP TO MULTI-FAMILY RESIDENTIAL

	Cape Coral Subdivision
Unit	Block
37-0	All of Block 2580
58-0	All of Block 5345

### AND

A tract of land consisting of a portion of Block 2257, Cape Coral Unit 33 according to Plat Book 16, Pages 40 through 61 of the Public Records of Lee County, Florida, and lying in Sections 29 and 32, Township 43 South, Range 24 East, City of Cape Coral, Lee County, Florida being more particularly described as follows:

Beginning at the Northwesterly corner of said Block 2257, being also the southwesterly corner of Lot 1, Block 2260 of said Cape Coral Unit 33, a point on the easterly line of Section 30, Township 43 South, Range 24 East and a point on the westerly line of said Section 29; thence run N89°59'11"E along the northerly line of said Block 2257 and the southerly line of said Lot 1 for 150 feet to the southeasterly corner of said Lot 1, being also the southwesterly corner of NE 26th Street right-of-way; thence continue running N89°59'11"E along said northerly line of said Block 2257 and the southerly right-of-way line of NE 26th Street for 974.84 feet to the point of curvature of a curve concave to the Southwest; thence run along the northeasterly line of said Block 2257 and southwesterly right-of-way line of NE 26th Street along said curve having a radius of 25 feet and a central angle of 90°00'16" (Chord - S45'00'41"E, 35.36 feet) for 39.27 feet to the point of tangency, being also a point on the easterly line of said Block 2257 and a point on the westerly right-of-way line of NE 19th Avenue; thence run along said easterly line of said Block 2257 and said westerly right-of-way line the following three (3) courses: S00°00'33"E for 192.73 feet to the point of curvature of a curve concave to the Northeast, then run along said curve having a radius of 3,110 feet and a central angle of 17°58'17" (Chord - S08°59'42"E, 971.50 feet) for 975.48 feet to the point of reverse curvature with a curve concave to the Northwest, then run along said curve having a radius of 50 feet and a central angle of 107°58'17" (Chord - S36°00'18"W, 80.89 feet) for 94.22 feet to the point of tangency, being also a point on the southerly line of said Block 2257 and a point on the northerly right-of-way line of Kismet Parkway (NE 24th Street); thence run S89°59'27"W along said southerly right-of-way line of said Block 2257 and said northerly right-of-way line for 936.22 feet; thence run N00'21'00"W, leaving said common line, for 695.01 feet; thence run S89°59'27"W for 310.62 feet to an intersection with the westerly line of said Block 2257, being also the easterly line of said Section 30 and the westerly line of Section 29; thence run N00°19'41"W along said westerly line of said Block 2257, said easterly line of said Section 30 and said westerly line of said Section 29 for 547.65 feet to the point of beginning.

Said tract of land contains 1,266,076 square feet (29.065 acres), more or less, and Buildings 1-34 and common area of Concordia Cape Coral.

	Cape Co	oral Subdivision
Unit	Block	Lots
49-0	3629	1-68
49-0	3630	1-31
49-0	3635	1-54
49-0	3660	9-65
49-0	3661	1-36

### FROM COMMERCIAL ACTIVITY CENTER TO SINGLE FAMILY RESIDENTIAL

### FROM COMMERCIAL ACTIVITY CENTER TO MULTI-FAMILY RESIDENTIAL

	Cape C	oral Subdivision
Unit	Block	Lots
49-0		All of Block 3631
49-0		All of Block 3634
49-0	3661	37-52

### FROM URBAN SERVICES RESERVE AREA TO URBAN SERVICES TRANSITION AREA

	Cape Cor	al Subdivision	
Unit	Block	Lots	
59-0	4148	4-39	
59-0	4149	1-34	
60-0	4224	1-24	
81-0	5219	Tract A	
76-0	6405	1-2 + Tract C	
76-0	6406	1-7 + Tract B	
76-0	6407	1-8 + Tract A	
76-0	6408	1-4 + Tracts I, J, K	
	West Cape E	states Subdivision	
	7010	1-28 + Tracts A-E	

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this plan amendment shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete, or if timely challenged, the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184(3)(c)4., F.S., whichever is applicable.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2017.

### VOTE OF MAYOR AND COUNCILMEMBERS:

MARNI L. SAWICKI, MAYOR

SAWICKI BURCH CARIOSCIA STOUT

_____

LEON ______ ERBRICK ______ WILLIAMS _____ COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____ 2017.

REBECCA VAN DEUTEKOM CITY CLERK

APPROVED AS TO FORM:

BRIAN R. BARTOS ASSISTANT CITY ATTORNEY ord/LU16-0012

### Cape Coral City Council May 1, 2017 ORDINANCE 12-17 LU16-0012

# Ordinance 12-17

- Applicant: City of Cape Coral
- Location: Approximately 2,900 acres of Northern Cape Coral
- Urban Services Area: Transition and Reserve

# Ordinance 12-17

### • Request:

Current FLU	Proposed FLU	Acreage
Single Family/Multi-Family by PDP (SM)	Single-Family Residential (SF)	2,686.04
SM	Multi-Family Residential (MF)	63.16
Commercial Activity Center (CAC)	SF	29.39
CAC	MF	29.66
No FLUMA: Reserve Area	No FLUMA: Transition Area	57.13













 Roughly the same area identified in Ordinance 59-15, which brought the area to the Transition.

Affects approximately 9,600 properties

 Will remove the possibility for multi-family residential development for the majority of properties

96% of area to be changed to Single Family Residential

• 38% of properties are developed; City policy is to consider extension of utilities after area is 30% developed

 First substantial area north of Pine Island Road to receive central utilities

 Prepares area for development after utilities are provided.

• Four areas of MF are proposed; two of which are existing MF developments

CAC proposed to be amended to SF and MF in one area; 60 acres



• Finally, one area proposed to be amended without FLUMA change

Area is to be changed from Urban Services Reserve
Area to Transition



### **Considerations – Comprehensive Plan**

• Proposed amendment is consistent with multiple policies in Infrastructure Element; Policies 1.1.6, 2.1.1, and 2.2.1.

 These policies indicate the need for the city to continue its dual water Utility Expansion project to unserved areas that met criterion set forth in the Utility Master Plan update.

### Recommendation

Planning Division staff recommends <u>approval</u> for the following reasons:

The request is consistent with the Comprehensive Plan

• The need to provide centralized water and sewer facilities to relax the strain on the environment

Planning Division has received no correspondence

### **P&Z Recommendation**

At the April 5, 2017 meeting, the Planning and Zoning Commission/Local Planning Agency voted (5-0) to recommend approval of Ordinance 12-17. There were three speakers during public input. Staff received two letters of correspondence, one in support and one in opposition.



Item B.(2) Number: 4/17/2017 Date: 4/17/2017 Item ORDINANCES/RESOLUTIONS -Type: Introductions





### TITLE:

Ordinance 18-17 (ZA 16-0010*) Set Public Hearing Date for May 1, 2017

### **REQUESTED ACTION:**

Approve or Deny

### STRATEGIC PLAN INFO:

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

### PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Hearing Examiner Recommendation: Recommends approval of the application for rezoning. Staff Recommendation: Recommends approval of the application for rezoning.

### SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Official Zoning Map by rezoning property located at 9 Del Prado Boulevard North from Professional Office (P-1) to Pedestrian Commercial (C-1) zone.

### LEGAL REVIEW:

### EXHIBITS:

Ordinance 18-17 Staff Presentation - introduction HEX Recommendation Order Back-up from Hearing Examiner Hearing dated 3/21/2017

### **PREPARED BY:**

Division- Department- City

Attorney

### SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator

### ATTACHMENTS:

### Description

- D Ordinance 18-17 (ZA 16-0010)
- **D** Staff Presentation introduction
- HEX Recommendation Order
- Back-up from Hearing Examiner Hearing dated 3/21/2017

### Туре

Ordinance Backup Material Backup Material

Backup Material

#### ORDINANCE 18 – 17

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL OFFICIAL ZONING DISTRICT MAP OF ALL PROPERTY WITHIN THE LIMITS OF THE CITY OF CAPE CORAL BY REZONING PROPERTY DESCRIBED AS LOTS 5-6, BLOCK 1502, CAPE CORAL, UNIT 17, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM PROFESSIONAL OFFICE (P-1) TO PEDESTRIAN COMMERCIAL (C-1) ZONE; PROPERTY IS LOCATED AT 9 DEL PRADO BOULEVARD NORTH; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral City Council has considered testimony, evidence, documentation and the application submitted by STEPHEN W. BUCKLEY, TRUSTEE, for rezoning the belowdescribed property from PROFESSIONAL OFFICE (P-1) TO PEDESTRIAN COMMERCIAL (C-1) ZONE, and considered the recommendations of the Hearing Examiner and City Staff, and has considered the City of Cape Coral Comprehensive Plan with this zoning request.

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

Section 1. That the City of Cape Coral Official Zoning District Map of all of the property within the limits of the City of Cape Coral is hereby amended with respect to real property described as follows:

#### PROFESSIONAL OFFICE (P-1) TO PEDESTRIAN COMMERCIAL (C-1) ZONE

LOTS 5 AND 6, BLOCK 1502, UNIT 17, CAPE CORAL SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 14, PAGES 23 THROUGH 38, AND THAT PORTION OF THE ADJOINING ALLEY VACATED IN OFFICIAL RECORDS BOOK 2203, PAGE 393, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 9 DEL PRADO BOULEVARD NORTH

and the City administrative office shall amend the City of Cape Coral Official Zoning District Map to reflect this zoning change.

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

Section 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall become effective immediately upon passage by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	LEON	-
BURCH	 ERBRICK	
CARIOSCIA	 WILLIAMS	
STOUT	 COSDEN	

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2017.

REBECCA VAN DEUTEKOM CITY CLERK

APPROVED AS TO FORM:

v

BRIAN R. BARTOS ASSISTANT CITY ATTORNEY ord\ZA16-0010






# ZA16-0010

- Applicant: Steven Buckley, Trustee
- Location: 9 Del Prado Boulevard North; Unit 17, Block 1502, Lots 5-6, Cape Coral Subdivision
- Urban Services Area: Infill
- Request: A rezone from Professional Office (P-1) to Pedestrian Commercial (C-1) for a 11,090 square-ft. (0.25 acre) site.

# Background

- One site 11,090 square feet
- Zoning has been P-1 since 1990, office building constructed in 1989

 C-1 zoning on rest of block, bordering property on 3 sides

Planning Division staff recommends <u>approval</u>

#### OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL HEARING EXAMINER RECOMMENDATION

#### ZA HEX Recommendation 4-2017 Rendered March 21, 2017

APPLICATION FOR: Rezoning from Professional Office. (P-1) Zoning District to the Pedestrian Commercial (C-1) Zoning District DCD Case # ZA16-0010

NAME OF APPLICANT/OWNER: Steven Buckley, Trustee

APPLICANT'S REPRESENTATIVE: Q. Brady Minor & Associates

PROPERTY ADDRESSES, LEGAL DESCRIPTIONS AND STRAP NUMBERS:

 9 Del Prado Boulevard North, Cape Coral, FL 33909
Unit 17, Block 1502, Lots 5-6 plus vacated alley, Cape Coral Subdivision
STRAP Number: 08-44-24-C4-01502.0050

**CURRENT ZONING:** Professional Office (P-1)

FUTURE LAND USE CATEGORY: Commercial/Professional (CP)

HEARING DATE: March 21, 2017

#### I. SUMMARY OF REQUEST

The applicant requests a rezoning from Professional Office (P-1) to Pedestrian Commercial (C-1) for an 11,090 square foot (0.25 acre) site

#### II. SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends **approval** of the application for rezoning.

#### III. NOTICE OF HEARING

Based on the testimony of City Staff Wyatt Daltry at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, Section 8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

#### IV. PARTICIPANTS IN HEARING

CITY STAFF: Wyatt Daltry, AICP

CITY CLERK'S OFFICE: Elisabeth Delgado

APPLICANT'S REPRESENTATIVE: Wayne Arnold, AICP, of Q. Brady Minor and Associates

#### ZA HEX RECOMMENDATION 4-2017 March 21, 2017

#### MEMBERS OF PUBLIC: none

CORRESPONDENCE FROM PUBLIC: Staff testified that he had received one (1) telephone call requesting information.

APPLICANT'S AND CITY STAFF'S EXHIBITS: previously submitted

#### V. <u>REVIEW OF STATUTORY AND LUDR REQUIREMENTS</u>

<u>Authority</u>. Section 163.3194, F.S. and Cape Coral Ordinance 24-16 require the Hearing Examiner to review and make a recommendation to City Council about consistency of a rezoning application to the City's adopted Comprehensive Plan and whether the requested rezoning should be granted.

<u>Standard of Review of Evidence; Hearsay Evidence.</u> The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. In rendering this recommendation, the Hearing Examiner must consider all competent substantial evidence in the record, as defined in City Ordinance 23-16.

<u>Rezoning Standards.</u> In reviewing the rezoning application for consistency with the Comprehensive Plan of the City of Cape Coral, the Hearing Examiner must apply the general standards set forth in LUDR Section 8.7.3.

#### VI. TESTIMONY AT HEARING

#### Applicant's Incorporation of Staff Report and Staff Testimony

The Applicant's Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into his presentation and requested the Hearing Examiner to recommend that City Council find the Staff Input as findings of fact.

#### Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony referenced below is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision hereunder.

#### VII. DISCUSSION

#### Site and Surrounding Area.

Staff testified that the 0.25-acre site was developed in 1989 with a two-story office building. The Applicant's Representative testified that the building is

currently occupied with tenants. The property has 135 feet of depth with direct access to Del Prado Boulevard, a major arterial roadway.

The current zoning district, Professional Office (P-1), was in place at the time of construction. Staff testified that there has not been a future land use map amendment or rezone since the adoption of the Comprehensive Plan and LUDRs shortly following this construction.

Staff's table regarding the Future Land Use classifications and Zoning Districts of the subject property and the surrounding properties, as set forth in the staff report of February 28, 2017, is set forth *in toto* below as recommended findings of fact herein:

Subject Property:	Future Land Use	Zoning
Current:	Commercial/Professional (CP)	P-1
Proposed:	N/A	C-1
	Surrounding Future Land Use	Surrounding Zoning
North:	PF	C-1
South:	СР	C-1
East:	Multi-Family Residential (MF) and Single-Family Residential (SF)	Multi-Family Residential (R-3) and C-1
West:	СР	C-1

The Hearing Examiner further notes that the Applicant's Representative testified at the Hearing that the subject property is directly surrounded on all sides by properties with the C-1 zoning designation, that assemblage of larger commercial sites and future redevelopment would be aided if this property were to be rezoned to be consistent with surrounding properties on Block 1502, and that the requested C-1 zoning would be consistent with the Commercial/Professional Future Land Use Map Classification for the site.

#### Consideration of General Standards Set Forth in LUDR Section 8.7.3

1. <u>The extent to which the value of the property is diminished by the</u> proposed land use restriction or zoning of the property.

Staff testified that the proposed change in zoning districts would increase the number of uses permitted by right and by special exception.

The Hearing Examiner recommends that City Council find that the value of the property **will not be diminished** by the rezoning.

2. <u>The extent to which the removal of a proposed land use restriction or</u> change in zoning depreciates the value of other property in the area.

Due to the commercial character of the surrounding properties as set forth above, the Hearing Examiner recommends a finding that the proposed rezoning is **not anticipated** to depreciate the value of other properties in the area.

3. <u>The suitability of the property for the zoning purpose or land use</u> restriction imposed on the property as zoned.

Staff testified that the proposed zoning district is consistent with the Future Land Use Map Classification of CP.

Based on the above testimony, the Hearing Examiner recommends that City Council find that the property **is suitable** for the proposed rezoning.

4. <u>The character of the neighborhood, existing uses, zoning of nearby and</u> <u>surrounding properties, and compatibility of the proposed land use</u> <u>restriction or zoning.</u>

As set forth in the above table and in Staff's testimony, the surrounding area has a commercial character. In addition, the Applicant's Representative testified that the property is adjacent to a 6-lane divided roadway near the intersection of Del Prado Boulevard and Hancock Bridge Parkway, which is developed with commercial uses at this intersection.

Accordingly, the Hearing Examiner recommends that City Council find the proposed rezoning is **compatible** with the character of the neighborhood, existing uses, and zoning of nearby and surrounding properties.

5. <u>The relative gain to the community as compared to the hardship, if any</u> <u>imposed, by the proposed land use restrictions or from rezoning said</u> <u>property.</u>

Staff testified that the effect of this rezoning is to increase the City's inventory of commercial properties, which would increase the City's tax base in an area that already has a commercial character.

In addition, the Applicant's Representative testified that having a common Zoning District for this property and the adjoining properties would create positive opportunities for all of the properties.

After considering the above factors, the Hearing Examiner recommends that City Council find the proposed rezoning would **create more gains than hardships** to the community.

6. <u>Community need for the use proposed by the zoning or land use</u> <u>restriction.</u>

Staff testified that additional commercial lands that result in an increase in the community's tax base would provide a benefit to the community.

Based on the foregoing testimony, the Hearing Examiner recommends that City Council find the **community needs** the use proposed by the applicant.

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

The property is not vacant. However, as set forth above, granting this rezoning would allow the property to be redeveloped in conjunction with the surrounding parcels.

8. <u>The extent to which the proposed land use restriction or zoning promotes</u> <u>the health, safety, morals, or general welfare of this community.</u>

Staff testified that the proposed rezoning should have a somewhat positive, although mostly negligible effect on the general welfare of the community. Staff further noted that the current zoning designation, Professional Office, is consistent with the current future land use map classification.

Based upon the foregoing testimony, the Hearing Examiner recommends that City Council find that this rezoning **will promote** the general welfare of the community.

9. <u>The extent to which the proposed land use, land use restriction, or zoning</u> will impact the level of service standards for public facilities as specified in the Comprehensive Plan

Staff testified that Impacts on infrastructure for development on this site would be negligible due to the small size of the site, that facility capacity exists for the transportation infrastructure network, and that utilities are available at this location.

The Hearing Examiner recommends that City Council find the proposed rezoning will have **no significant negative impact** on level of service standards for public facilities hereunder.

10. <u>Whether the proposed land use restriction, removal of a restriction, or</u> zoning is consistent with the City of Cape Coral Comprehensive Land <u>Use Plan.</u>

Staff testified that the Application is compatible with Objective 2, Policy 3.1 and Policy 3.4 of the Future Land Use Element of the City's Comprehensive Plan in that the proposed rezoning is consistent with the location of commercial areas at or near transportation nodes and major commercial corridors.

ZA HEX RECOMMENDATION 4-2017 March 21, 2017

> For all of the above reasons, the Hearing Examiner recommends that the City Council find the proposed rezoning to be **compatible** with the future land use classification that currently exists for the subject property and the proposed rezoning to be **consistent** with the goals and objectives of the Comprehensive Plan.

#### VIII. <u>RECOMMENDATIONS</u>

Based upon the testimony and documentary exhibits presented during the Hearing, the Hearing Examiner recommends that:

- the City Council find the requested rezoning is consistent with the requirements of the Comprehensive Plan of the City of Cape Coral, if the City Council approves the Applicant's requested Future Land Use Map amendment which is being heard concurrently with this rezoning request; and
- 2. the City Council approve the requested rezoning.

This Recommendation is effective on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

NE DALTON, ESQUIRE

DATE

TTEST:



case # 2A16-0010

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

#### REQUEST FOR A REZONING

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

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

OWNER OF PROPERTY				
Stephen W. Buckley, Trustee	Address: PO Box 2366			
	City Fort Myers State: FL	Zip 33902		
Email:	Phone:			
AUTHORIZED REPRESENTATIVE				
D. Brent Addison, P.E., Vice President	Address: 3800 Via Del Rey			
Q. Grady Minor & Associates, P.A.	City Bonita Springs State: FL	Zip 34134		
Email: <u>baddison@gradyminor.com</u>	Phone: 239-947-1144			
Unit 17 Block 1502 Lot(s) Below	Subdivision Cape Coral Unit 17			
Address of Property 9 Del Prado Blvd.	-			
Current Zoning P-1	Plat Book 14 , Page 25	5		
Proposed Zoning C-1 Strap Nur	mber 08-44-24-C4-01502.0050			

Lots 5 + 6 + 10 ft. VAC OR 2203, PG. 393

### THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

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

Cape Coral		
DEPARTMENT OF COMMUNITY	DEVELOPMENT	Case #
REQUEST FOR REZONING APP	LICATION	
Questions: 239-574-0776		
		7
	//	
	(SIGNATURE MUST BE NOTARIZED)	
Stephen W. Buckley, Trustee	1.1	n Tr.
NAME (PLEASE TYPE OR PRINT)	APPLICANT'S	SIGNATURE
	_ V	
STATE OF, COUN	TY OF LEE	U
Sworn to (or affirmed) and subsci	ribed before me this $\frac{13}{12}$ day of $\frac{3}{12}$	ember, 2016, by
Stephen W. Buckley, Trustee	who is personally known or produced	
as identification.		$\bigcap$
	Exp. Date: Commission	Number:
	Signature of Notary Public:	graa a Brins
	Printed name of Notary Public: SIGNATURE MUST BE NOTARIZED)	Notary Public State of Florida       Linda A Downs       Wy Commission EE 871699       Expires 03/30/2017
AU	THORIZATION TO REPRESENT PROPERTY OV	WNER(s)
Rezoning request application 11	-10-16	Page 3 of 6



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

#### ACKNOWLEDGEMENT FORM



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

Case #	

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

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

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

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

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

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

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

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

I hereby acknowledge that I h	we read and understood the above affidavit on the $13$ day of December , 20 16
Stephen W. Buckley, Trustee NAME (PLEASE TYPE OR PRIN	All Sk
STATE OF <u>FL</u> , C	
Subscribed and sworn to (or a Stephen W. Buckley, Trustee	firmed) before me this 3 day December, 20 <u>16, by</u> who is personally known or
as identification.	
	xp. Date: Commission Number:
	Signature of Notary Public: / Mada a. Druns
	Printed name of Notary Public:
	Notary Public State of Florida Linda A Downs My Commission EE 871699 Expires 03/30/2017
Rezoning request application	11-10-16 Page 5 of 6



# 9 Del Prado N Rezone Request

### Letter of Intent

The applicant is seeking to rezone the subject 0.25 acre parcel (#08-44-24-C4-01502.0050) from the P-1 to the Pedestrian Commercial (C-1) zoning district. The parcel has C-1 zoning adjacent on the three non-roadway property boundaries. The property is essentially an island, and the zoning change is appropriate to allow assemblage of property to support commercial development consistent with the surrounding zoning and City of Cape Coral Comprehensive Plan.

The property is designated Commercial/Professional (CP) on the Future Land Use Map. This land use category is supportive of the C-1 zoning district, which is designed to facilitate a range of commercial uses from neighborhood commercial through major shopping facilities with large trade areas.

The existing P-1 zoning district designation for this small property does not allow lot assemblage and future redevelopment of the site. The C-1 zoning district is the appropriate zoning district for this site and the application meets the Land Use and Development Regulations standards for approval of zoning district amendments.

### § 8.7 Amendments.

# .3 Consistency with Comprehensive Plan and general standards.

# A. No amendment shall be approved or effective unless it is determined by City Council to be consistent with the Comprehensive Plan.

The property is designated Commercial/Professional (CP) on the Future Land Use Map. This land use category is supportive of the C-1 zoning district, which is designed to facilitate a range of commercial uses from neighborhood commercial through major shopping facilities with large trade areas.

c. Commercial/Professional (CP): Intensities of use in the Commercial/Professional land use classification shall not exceed a floor to lot area ratio (FAR) of 1.0. Density, as permitted within the Flexible Development Overlay District (see below), shall not exceed 16 units per acre. (Note: Zoning districts compatible with this classification may also be used in conjunction with the Mixed Use (MX) future land use classification. When used in conjunction with the MX Classification, densities, intensities and other parameters, as described for these districts may differ from those described for the CP Classification.) Permitted uses will ultimately depend upon the zoning district of the subject parcel. Generally, three zoning districts are found in the Commercial/Professional future land use

# 9 Del Prado N Rezone Request

### Letter of Intent

classification. However the City may develop additional zoning districts, compatible with the CP future land use classification, in the future.

B. The Hearing Examiner, the Planning and Zoning Commission/ Local Planning Agency and the City Council shall apply the following general standards in their consideration of amendments of the Land Use and Development Regulations, the Comprehensive Plan, the Future Land Use Map, and the Official Zoning Map:

(Ord. 68-91, 8-26-1991)

**1.** The extent to which the value of the property is diminished by the proposed land use restriction or zoning of the property;

The value of the property will not be diminished once the zoning amendment occurs. In fact the value of the subject property and surrounding properties are enhanced due to the ability to assemble parcels under a single common zoning district designation.

# **2.** The extent to which the removal of a proposed land use restriction or change in zoning depreciates the value of other property in the area;

The change in zoning will not depreciate any nearby property and will result in an appreciation of property values.

# **3.** The suitability of the property for the zoning purpose or land use restriction imposed on the property as zoned;

The existing P-1 zoning district designation is not consistent with the Future Land Use designation of the property. The C-1 is the most suitable zoning district designation as all adjacent are presently designated as C-1.

# 4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed land use restriction or zoning;

The character of the neighborhood is supportive of the types of uses permitted in the C-1 zoning district. The property is adjacent to a 6-lane divided roadway near the intersection of Del Prado Boulevard and Hancock Bridge Parkway, which is developed with commercial uses at the intersection.

# 5. The relative gain to the community as compared to the hardship, if any imposed, by the proposed land use restrictions or from rezoning said property;

# 9 Del Prado N Rezone Request

# Letter of Intent

There is no hardship created to the City by the proposed rezoning, but rather the zoning change will create positive business opportunities resulting from a common zoning district for all contiguous properties.

### 6. The community need for the use proposed by the zoning or land use restriction;

The Comprehensive Plan envisions this property to be commercial and the C-1 zoning district is one of the three commercial zoning districts that are consistent with the C/P Future Land Use category. The Future Land Use Map suggests that this property is needed at this location.

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

The subject property currently is developed with a small office building. Once the rezoning occurs, the site will have commercial zoning consistent with neighboring properties which will result in future redevelopment opportunities consistent with surrounding properties.

# 8. The extent to which the proposed land use restriction or zoning promotes the health, safety, morals, or general welfare of this community;

The zoning change will have no direct impact on the health, safety and general welfare of the City. The zoning change is consistent with the City's long term future development plans.

# 9. The extent to which the proposed land use, land use restriction, or zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan; and (Ord. 68-91, 8-26-1991)

The zoning change in and of itself will have no public facility impact. Any future redevelopment of the site will be reviewed at the time of local development plan approval to insure that level of service standards will be maintained.

# **10.** Whether the proposed land use restriction, removal of a restriction, or zoning is consistent with the City of Cape Coral Comprehensive Land Use Plan.

The proposed zoning change to the C-1 zoning district is consistent with the Future Land Use Element of the City of Cape Coral Comprehensive Land Use Plan. The C-1 zoning district is one of three commercial zoning districts that the Commercial/Professional (CP) Future Land Use Category describes as being consistent with the land use category.

# Cape Coral ArcGIS Web Map



# Planning Division Case Report ZA16-0010

Review Date:	February 28, 2017
Applicant and	Steven Buckley, Trustee
	P.O. Box 2366
	Fort Myers, FL 33902
Site Address:	9 Del Prado Boulevard North
	Cape Coral, FL 33909
Location:	Unit 17, Block 1502, Lots 5-6 plus vacated alley, Cape Coral Subdivision
	08-44-24-C4-01502.0050
Authorized	D. Brent Addison, P.E., Vice President
Representative:	Q. Grady Minor & Associates
	3800 Via Del Rey
	Bonita Springs, FL 34134
	(239) 947-1144
Case Staff:	Wyatt Daltry, AICP, Planning Team Coordinator
Review Approved	
By:	Robert Pederson, AICP, Planning Manager
Purpose/Request:	The applicant requests a rezone from Professional Office (P-1) to Pedestrian Comn
	(C-1) for an 11,090 square foot (0.25 acre) site.

Subject Property:	Future Land Use	Zoning
Current:	Commercial/Professional (CP)	P-1
Proposed:	N/A	C-1
	Surrounding Future Land Use	Surrounding Zoning
North:	PF	C-1
South:	СР	C-1
East:	Multi-Family Residential (MF) and Single-Family Residential (SF)	Multi-Family Residential (R-3) and C-1
West:	СР	C-1

#### Urban Service Area: Infill

City Water and Sewer: The area is served by City water and sewer

**Type of Access:**The site has access to Del Prado Boulevard, an arterial road.

Positive Aspects of Application:	•	C-1 zoning permits additional commercial development opportunities Uses allowed in C-1 should be compatible with nearby development
Negative Aspects of Application:	•	There may be a slight traffic increase or change in the characteristics of traffic
Mitigating Factors:	•	Small site; relatively small impacts anticipated

Site Visit: January 25, 2017

#### **Applicable Regulations**

• Section §163.3194, F.S. requires that "all land development regulations enacted or amended...to be consistent with the adopted comprehensive plan."

#### **STAFF RECOMMENDATION**

For the reasons discussed below, staff believes the Pedestrian Commercial zoning district is consistent with the Comprehensive Plan. Staff recommends **Approval** of the proposed rezone.

#### Background/Analysis:

The 0.25-acre site has an existing two-story office building constructed in 1989. The Professional Office (P-1) zoning was in place at the time of construction. There has not been a future land use map amendment or rezone since the adoption of the Comprehensive Plan and Land Use and Development Regulations.

The property has 135 feet of depth with direct access to Del Prado Boulevard, a major arterial roadway.

The applicant's letter of intent notes this property is surrounded on all sides by properties with the C-1 zoning designation. It further notes that assemblage of larger commercial sites and future redevelopment would be aided if this property was rezoned to be consistent with surrounding properties on Block 1502. The proposed C-1 zoning would be consistent with the Commercial/Professional Future Land Use Map Classification for the site.

#### **Comprehensive Plan**

C-1 zoning is consistent with the CP future land use map classification. The rezone is consistent with Objective 2 and Policies 3.1 and 3.4 of the Future Land Use Element.

#### Land Use and Development Regulations -- Section 8.7 Amendments:

Staff reviewed this request in accordance with Section 8.7 Amendments, .3 Consistency with Comprehensive Plan and General Standards, B. 1.-10. of the Land Use and Development Regulations and provides the following analysis. This section is used for future land use map amendments, comprehensive plan amendments, and for rezone requests.

1. <u>The extent to which the value of the property is diminished by the proposed land use restriction or zoning</u> of the property.

A rezone from P-1 to C-1 **would not likely** diminish the land value because this proposed district increases the number of permitted and special exception uses.

2. <u>The extent to which the removal of a proposed land use restriction or change depreciates the value of other properties in the area.</u>

The proposal is **not anticipated** to depreciate the value of other properties in the area.

3. <u>The suitability of the property for the zoning purpose or land use restriction imposed on the property as</u> <u>zoned.</u>

The proposed zoning district will be consistent with the land use classification of CP Future Land Use Map Classification.

4. <u>The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed land use restriction or zoning.</u>

The surrounding area has a commercial character. The site is at the intersection of Del Prado Boulevard and Hancock Bridge Parkway. Existing commercial development is nearby, particularly to the north and south. The proposed rezone is **compatible** with the surrounding area.

5. <u>The relative gain to the community as compared to the hardship, if any imposed, by the proposed land</u> <u>use restrictions or from rezoning said property.</u>

The effect of this rezoning is to increase the City's inventory of commercial properties. The proposal would increase the City's tax base in an area that has a commercial character. As a result, this proposed rezone **does not create more hardship than gain** to the community.

6. <u>The community need for the use proposed by the zoning or land use restriction.</u>

Additional commercial lands that result in an increase in the community's tax base would provide a benefit to the community. There is a **need** for the uses permitted by the proposed rezone.

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

The subject property is developed with a two-story office building, constructed in 1989.

8. <u>The extent to which the proposed land use restriction or zoning promotes the health, safety, morals, or general welfare of this community.</u>

Approval of this rezone should have a **negligible effect** upon the health, general welfare, safety, or morals of the community due to the small size of the site. Providing a zoning designation that is consistent with the future land use map classification should have a **positive effect** on the general welfare for the community. It should be noted, however, that a consistent zoning designation, Professional Office, already exists for the site.

9. <u>The extent to which the proposed land use, land use restriction, or zoning will impact the level of service</u> standards for public facilities as specified in the Comprehensive Plan.

Impacts on infrastructure for development on this site will be **negligible** due to the size of the site. Facility capacity exists for the transportation infrastructure network. Utilities are available at this location.

10. Whether the proposed land use restriction, removal of a restriction, or zoning is consistent with the City of Cape Coral Comprehensive Land Use Plan.

Both the existing and proposed zoning designations are **consistent** with the CP future land use classification.

#### **Public Notification**

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

<u>Publication</u>: A legal ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners to rezone the property described within this report. The ad will appear in the *News-Press* a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner. Following the public hearing before the Hearing Examiner, the ad announcing the final public hearing before the City Council will appear once in the *News-Press*. The ad will appear in the newspaper not less than 10 days prior to the date of the final public hearing before the City Council.

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

<u>Posting of a Sign</u>: A large sign identifying the case and providing salient information will be posted on the property, as another means of providing notice of the rezoning request.

#### **Recommendation:**

Planning staff has reviewed this request in accordance with Section 8.7 Amendments, .3 Consistency with the Comprehensive Plan and General Standards A., B. 1.-10 of the Land Use and Development Regulations and the City's Comprehensive Plan. Planning Division recommends **approval** of the rezone request.

#### **Staff Contact Information:**

Wyatt Daltry, AICP Planning Team Coordinator Department of Community Development Planning Division (239) 573-3160 email: <u>wdaltry@capecoral.net</u>





# NOTICE TO SURROUNDING PROPERTY OWNERS

#### CASE NUMBER: ZA16-0010

- **<u>REQUEST</u>**: The applicant requests a rezone from Professional Office (P-1) to Pedestrian Commercial (C-1) for an 11,090 square foot (0.25 acre) site.
- LOCATION: Unit 17, Block 1502, Lots 5-6 plus vacated alley, Cape Coral Subdivision 08-44-24-C4- 01502.0050

<u>CAPE CORAL STAFF CONTACT</u>: Wyatt Daltry, AICP, Planning Team Coordinator, 239-573-3160, <u>wdaltry@capecoral.net</u>

PROPERTY OWNER(S): Steven Buckley, Trustee

AUTHORIZED REPRESENTATIVE: D. Brent Addison, P.E., Vice President Q. Grady Minor & Associates

**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, March 21, 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, <u>www.capecoral.net/publichearing</u> (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.

<u>APPEALS</u>: 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.



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

Р	lease contact us with changes or cancellation TOLL-FREE 888-516-9220	ns as soon as possible, otherwis Local # 239-335-0258	e no further action needed. Email FNPLegals@gannett.com
Customer:	CITY OF CAPE CORAL_DEPT OF COM	Ad No.:	0001987136
<u>Address:</u>	1015 CULTURAL PARK BLVD CAPE CORAL FL 33990 USA	Net Amt:	\$
Run Times:	1	No. of Affidavits:	1
Run Dates:	03/11/17		
Text of Ad:	NOTICE OF PUBLIC HEARING		
CASE NUMBER: ZA1 REQUEST: The applic	6-0010 ant requests a rezone from Professional Office (P-1) to		
Pedestrian Commerci	al (C-1) for an 11,090 square foot (0.25 acre) site.		
08-44-24	Slock 1502, Lots 5-6 plus vacated alley, Cape Coral Subdivision I-C4- 01502.0050 CONTACT: Wyatt Daltry, AICP, Planning Team Coordinator, y@capecoral.net		
PROPERTY OWNER(S)	: Steven Buckley, Trustee		
AUTHORIZED REPR Minor & Associates	ESENTATIVE: D. Brent Addison, P.E., Vice President Q. Grady		
	<b>HEARING:</b> Notice is hereby given that the City of Cape Coral II hold a public hearing at 9:00AM on Tuesday, March 21, 2017 oned case. The public hearing will be held in the City of Cape ers, 1015 Cultural Park Boulevard, Cape Coral, FL.		
All interested parties before the Hearing public hearing may h this public hearing w will be available 5 da Coral Community De Blvd., Cape Coral, FL.	s are invited to appear and be heard. All materials presented Examiner will become a permanent part of the record. The se continued to a time and date certain by announcement at ithout any further published notice. Copies of the staff report ays prior to the hearing. The file can be reviewed at the Cape velopment Department, Planning Division, 1015 Cultural Park		
scheduled for a publ	iner has made a written recommendation, the case will be ic hearing before the City Council who will review the recom- e a final decision. You will receive another public hearing no- scheduled for a City Council hearing.		
available at the City on 'Public Hearing In	<b>'ION:</b> The case report and colored maps for this application are of Cape Coral website, www.capecoral.net/publichearing (Click nformation', use the case number referenced above to access, at the Planning Division counter at City Hall, between the 4:30 PM		
ty Development, Pla	Any person may appear at the public hearing and be heard, es of conduct. You are allowed sufficient time to write or ap- aring to voice your objections or approval. Written comments or will be entered into the record. Please reference the case n your correspondence and mail to: Department of Communi- nning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. continued from time to time as necessary.		
needing a special acc the Human Resource 1015 Cultural Park Bo sistance; if hearing in	accordance with the Americans With Disabilities Act, persons commodation to participate in this proceeding should contact s Department whose office is located at Cape Coral City Hall, bulevard, Cape Coral, Florida; telephone 1-239-574-0530 for as- mpaired, telephone the Florida Relay Service Numbers, 1-800- 300-955-8770 (v) for assistance.		
by order of Rebecca van Deuteko	m, MMC		
AD# 1987136	Mar. 11, 2017		









Item 10.A. Number: 10.A. Meeting 4/17/2017 Date:

Item Type: UNFINISHED BUSINESS AGENDA REQUEST FORM CITY OF CAPE CORAL



**TITLE:** Water Quality - Update

# **REQUESTED ACTION:**

### STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below. If No, will it harm the intent or success of the Strategic Plan?

# PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

# SUMMARY EXPLANATION AND BACKGROUND:

# LEGAL REVIEW:

**EXHIBITS:** Water Quality Memo

# PREPARED BY:

Division- Department-

# SOURCE OF ADDITIONAL INFORMATION:

#### ATTACHMENTS:

#### Description

Water Quality Memo

**Type** Backup Material

#### MEMORANDUM

# CITY OF CAPE CORAL PUBLIC WORKS DEPARTMENT

- TO: Mayor Sawicki and Council Members
- FROM: Paul Clinghan, Public Works Director & XO Connie Jarvis, Environmental Resources Manager
- DATE: April 14, 2017
- SUBJECT: Lake Okeechobee Level and Release Information 04/14/2017

As of Thursday, April 13, 2017, the elevation of Lake Okeechobee was 12.07 feet. Inflows into the lake were 338 cfs, total outflows were not available. Current discharges at S-77 were 538 cfs, and 37 cfs at S-79.

Salinities in the river near Fort Myers were 16.69 PSU. Salinities at Shell Point were 34.04 PSU. Red tide was detected at very low to low concentrations in the nearshore Lee County waters.

In the Lee County weekly check, the presence of blue green algae was noted at the Alva boat ramp and upstream of the Franklin locks.

The Corps is continuing pulsed releases for an average flow of 450 cfs based on lake levels.

Attached is a map showing the position of Caloosahatchee River Locks.

PC/CJ:ol (Weekly Lake Okeechobee Level and Release Information 04/14/2017) Attachment; Caloosahatchee River Locks map



Item 10.B. Number: 10.B. Meeting 4/17/2017 Date: UNFINISHED BUSINESS

# AGENDA REQUEST FORM CITY OF CAPE CORAL



# TITLE:

Resolution 53-17 Approving the Participation by the City in the Lake Okeechobee Regional Compact (Advanced by Mayor Sawicki)

# **REQUESTED ACTION:**

Approve or Deny

# STRATEGIC PLAN INFO:

- 1. Will this action result in a Budget Amendment? No
- 2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below. If No, will it harm the intent or success of the Strategic Plan?

# PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

# SUMMARY EXPLANATION AND BACKGROUND:

A resolution authorizing and approving the participation by the City in the Lake Okeechobee Regional Compact, said agreement being a joint effort by officials in a nineteen county area encompassing the Northern Everglades and the Lake Okeechobee Watershed to work together across jurisdictional boundaries to create, support, and advance a comprehensive plan addressing environmental and economic challenges associated with discharges from Lake Okeechobee, and to develop a joint strategic plan to successfully meet those challenges.

# LEGAL REVIEW:

Dolores D. Menendez, City Attorney

# EXHIBITS:

Resolution 53-17

# **PREPARED BY:**

Division- Department-City Attorney

# SOURCE OF ADDITIONAL INFORMATION:

# ATTACHMENTS:

# Description

D Resolution 53-17

**Type** Resolution

#### RESOLUTION 53 - 17

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING AND APPROVING THE PARTICIPATION BY THE CITY IN THE LAKE OKEECHOBEE REGIONAL COMPACT; SAID AGREEMENT BEING A JOINT EFFORT BY OFFICIALS IN A NINETEEN COUNTY AREA ENCOMPASSING THE NORTHERN EVERGLADES AND THE LAKE OKEECHOBEE WATERSHED TO WORK TOGETHER ACROSS JURISDICTIONAL BOUNDARIES TO CREATE, SUPPORT, AND ADVANCE A COMPREHENSIVE PLAN ADDRESSING ENVIRONMENTAL AND ECONOMIC CHALLENGES ASSOCIATED WITH DISCHARGES FROM LAKE OKEECHOBEE, AND TO DEVELOP A JOINT STRATEGIC PLAN TO SUCCESSFULLY MEET THOSE CHALLENGES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, each of the 164 municipalities and 19 counties located within the Comprehensive Everglades Restoration Program study area in Central, Southwest and South Florida have substantial water quality challenges that critically impact the sustainability, economic vitality, and growth of each of their communities (hereinafter the "Lake Okeechobee Regional Community"); and

WHEREAS, since the start of construction of the Herbert Hoover Dike in 1932, the flood control and water delivery system that serves Florida's urban and agricultural interests has substantially impacted the natural ecosystem and threatened essential wildlife habitats; and

WHEREAS, the Central and Southern Florida Project significantly altered the landscape of the Kissimmee, Lake Okeechobee, St. Lucie, and Caloosahatchee watersheds, and forever changed the way water is managed throughout Central and South Florida; and

WHEREAS, the Lake Okeechobee Watershed, the Florida Everglades and its coastal estuaries are an internationally unique ecosystem, a national treasure, and a critical component of Florida's economy; and

WHEREAS, restoration of the Lake Okeechobee Watershed, the Everglades ecosystem, and coastal estuaries are vital to Florida's future by protecting Florida's environment, economy, and water supplies; and

WHEREAS, each of the affected governments face both unique and analogous water challenges requiring regional cooperation as a consequence of environmental, ecological, and economic interdependence; and

WHEREAS, the 164 cities and 19 counties located within the Comprehensive Everglades Restoration Program study area play a major role in protecting local water quality and reducing stormwater runoff; and

WHEREAS, only together can the Lake Okeechobee Regional Community effectively address the myriad of longstanding water issues shared by their local government; and

WHEREAS, the Lake Okeechobee Regional Community is wholly resolved to improving regional water conditions and mitigating future impacts to water quality through abiding local initiatives and indelible collaborative planning.

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

Section 1. That the City of Cape Coral shall work in close collaboration with other parties to this compact to develop a strategic plan utilizing the best available science, emphasizing regional sustainability and vitality, remaining sensitive to the limitations of local resources, and acknowledging the diverse economic, ecological and environmental challenges each community faces.

Section 2. That the City of Cape Coral shall work in close collaboration with other parties to this compact to develop a joint policy position urging the United States Congress and the Florida Legislature to take special actions, including passing legislation that recognizes the unique vulnerabilities of Lake Okeechobee and the surrounding Everglades and estuarine systems, and to

further a joint policy position that includes specific recommendations regarding the allocation of federal and/or state funding.

Section 3. That the City of Cape Coral shall work in close collaboration with other parties to this compact in developing joint position statements on proposed State legislation including, but not limited to: land management, stormwater runoff, septic to sewer programs, and allocation of state and federal resources.

Section 4. That the City of Cape Coral shall work in close collaboration with other parties to this compact in drafting conceptual state and federal legislation for maintaining infrastructure, mitigating runoff from urban and agricultural lands, and improving water quality of and water flows through Lake Okeechobee, Everglades and coastal estuaries.

Section 5. That the City of Cape Coral shall commit appropriate staff resources and expertise within budget constraints as part of a Regional Planning Team with other parties to this compact. Staff resources shall be dedicated towards developing and implementing a Regional Action Plan, understanding therefore no local government will work ex parte or contra to the mutually adopted resolution of all parties to this compact. This does not limit local governments to advocating for projects or policies that are only mutually agreed upon by all parties.

Section 6. The Adopted Regional Action Plan shall, at a minimum, include the following components:

- (a) A list of those local and regional projects and programs all parties to the compact mutually agree are critical to Everglades restoration, protection and improvement of local water supplies and water quality, enhancement of natural area and the economic vitality of our communities.
- (b) Local Projects/Programs: Septic maintenance and septic to central sewer programs; local fertilizer ordinances and fertilizer education programs; stormwater best management practices (BMP's); agricultural BMP's; golf course BMP's.
- (c) Current Regional Projects: The Comprehensive Everglades Restoration Plan (CERP) and the projects identified on Integrated Delivery Schedule (IDS) including, but not limited to, Rehabilitation of the Herbert Hoover Dike; Central Everglades Planning Project (CEPP); C-43 West Basin Reservoir; C-44 Reservoir; Tamiami Trail Bridging Project; Lake Okeechobee Watershed Planning Project; and the Kissimmee River Restoration Project.

Section 7. That the City of Cape Coral shall commit to participating in an annual regional summit, including the opportunity to host a congress with other parties to this compact in furtherance of the resolutions stated herein and for so long as the parties to the compact are resolved to its purpose.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2017.

# MARNI L. SAWICKI, MAYOR

# VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	 LEON	<u> </u>
BURCH	 ERBRICK	
CARIOSCIA	 WILLIAMS	<u> </u>
STOUT	 COSDEN	

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____ 2017.

> REBECCA VAN DEUTEKOM, CITY CLERK

APPROVED AS TO FORM:

Soloces M lenendy____ d DOLORES D. MENENDEZ CITY ATTORNEY

Res\Lake Okeechobee Regional Compact
Item Number: 11.A. Meeting Date: 4/17/2017 Item Type: NEW BUSINESS



# TITLE:

Beyond Tribute - Salute to Veterans (Advanced by Mayor Sawicki)

# **REQUESTED ACTION:**

Staff Direction

# STRATEGIC PLAN INFO:

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

# PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

# SUMMARY EXPLANATION AND BACKGROUND:

# LEGAL REVIEW:

# EXHIBITS:

Email re: Beyond Tribute - Salute to Veterans USCM sample resolution

# PREPARED BY:

РТ	Division-	Department- Council Offices
		Offices

# SOURCE OF ADDITIONAL INFORMATION: Council Offices

# ATTACHMENTS:

# Description

**D** Email re: Beyond Tribute - Salute to Veterans

**Type** Backup Material

# USCM sample resolution

**Backup Material** 

From: Jill Walker <jwalker@flcities.com> Sent: Wednesday, March 22, 2017 4:25 PM Subject: Beyond Tribute -- Salute to Veterans

#### Dear Mayor,

Per our discussion at the Board meeting today. Please have your city adopt the attached resolution and also, please encourage cities in your local/regional league to adopt the resolution as well.

C. Scott Dudley Legislative Director Florida League of Cities Office: 850-701-3656 Cell: 850-570-7296 Fax: 850-222-3806 Web: <u>www.floridaleagueofcities.com</u>

# REDEFINING VETERANS DAY AND MEMORIAL DAY

WHEREAS, most polls show that a majority of Americans support our troops; and

WHEREAS, the United States of America has a volunteer military that is composed of less than one percent of the population; and

WHEREAS, more than 1.6 million Americans have served in Operation Enduring Freedom and Operation Iraqi Freedom; and

WHEREAS, nearly 5,000 soldiers have lost their lives in Iraq and Afghanistan, 58,000 were killed in Vietnam, 54,000 in Korea, and 400,000 in WWII, as well as numerous others killed and wounded in conflicts and accidents while in service to their country; and

WHEREAS, nearly 300,000 veterans currently suffer from PTSD, Traumatic Brain Injury, and other mental health disorders; and

WHEREAS, the current population of homeless veterans fluctuates between 500,000-800,000 during the course of a year; and

WHEREAS, the survival rate for the severely wounded has increased, as has the long-term recovery period for our wounded veterans and their caregivers; and

WHEREAS, home caregivers and volunteers (mothers, fathers, wives, husbands, brothers, sisters, concerned citizens, etc.) providing support to military service members who have been either wounded in combat operations or as a result of line-of-duty activities are given no government assistance and are dependent on not-for-profit organizations for support; and

WHEREAS, those service members returning from numerous extended deployments in combat zones face difficult personal and family issues which have led to abnormally high rates of divorce and suicide; and

WHEREAS, while physical wounds of war are more detectable, PTSD and other psychological wounds are as debilitating and dangerous to the life of a returning veteran and their families; and

WHEREAS, Americans' attention to past generations of veterans has faded, and this will also likely happen with this generation of veterans after current conflicts are resolved; and

WHEREAS, Memorial Day and Veterans Day are mainly observed by the general public through participation in retail sales events or by enjoying a day off work; and

WHEREAS, military men and women and their families serve honorably on our behalf; and

WHEREAS, the citizens of the United States support and honor our military service members and their families; and

WHEREAS, the honor and soul of our country depends on how we treat those that defend our freedom; and

WHEREAS, on Memorial Day, we should remember those who made the ultimate sacrifice for our nation; and

WHEREAS, on Veterans Day, we should honor the service of those who have returned home; and

WHEREAS, the Beyond Tribute initiative aims to enhance the meaning of and change how we celebrate Memorial Day and Veterans Day; and

WHEREAS, Beyond Tribute is a not-for-profit organization that will gather donated funds and disburse grants to A-rated veteran service organizations that provide vitally needed services for our veterans and military families; and

NOW, THEREFORE, BE IT RESOLVED, that the U.S. Conference of Mayors supports the Beyond Tribute initiative in its effort to engage the American public in recasting Memorial Day and Veterans Day as days of service; and

NOW, THEREFORE, BE IT RESOLVED, that the U.S. Conference of Mayors supports the Beyond Tribute initiative in its effort to engage the American public on Memorial Day and Veterans Day by encouraging businesses and consumers to contribute to charitable organizations whose purpose is to assist wounded veterans, including those suffering from post-traumatic stress disorder, traumatic brain injury and other "invisible wounds of war"; and

BE IT FURTHER RESOLVED, that members of the U.S. Conference of Mayors will encourage their local businesses, chambers of commerce and constituents to participate in the Beyond Tribute initiative and begin to redefine how we celebrate our national holidays in a manner that truly honors and supports our service members.

Item Number: 11.B. Meeting Date: 4/17/2017 Item Type: NEW BUSINESS

AGENDA REQUEST FORM CITY OF CAPE CORAL



# TITLE:

Discussion of P3 State Lands Dedication Modification

# **REQUESTED ACTION:**

Informational

# STRATEGIC PLAN INFO:

- 1. Will this action result in a Budget Amendment? No
- 2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below. If No, will it harm the intent or success of the Strategic Plan?

# PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

# SUMMARY EXPLANATION AND BACKGROUND:

# LEGAL REVIEW:

# **EXHIBITS**:

Memo Appraisal

# **PREPARED BY:**

Division- Department-

# SOURCE OF ADDITIONAL INFORMATION:

John Szerlag, City Manager Michael Ilczyszyn, Assistant City Manager

#### ATTACHMENTS:

# Description

n Memo

**Type** Backup Material

# Appraisal

Additional Back-up Memo

Backup Material Backup Material

#### MEMORANDUM

# CITY OF CAPE CORAL CITY MANAGER'S OFFICE

TO:	Mayor Sawicki and City Council
FROM:	John Szerlag, City Manager Michael Ilczyszyn, Assistant City Manager
DATE:	April 7, 2017
SUBJECT:	P3 State Lands Dedication Modification (See attached drawing)

As adopted through Ordinance 26-16 entering a Public-Private Partnership with Lamar Company, LLC (Lamar), Article 6-Permits and Government Approvals, section c., the city is responsible for obtaining any necessary permissions and approvals for the contemplated use of the South Site from the State Board of Trustees of the Internal Improvement Trust Fund, and from any other entity as required by Dedication No. 23255, and will diligently pursue this approval in good faith.

For the past several months, Lamar and the City have been taking the necessary steps for this approval. The City applied for a modification to dedication no. 23255 to remove the restriction prohibiting for-profit businesses from using the site. During our discussion with the State of Florida Bureau of Public Land Administration who processes such applications, we were made aware of two possible paths forward:

- 1. Request a one-time waiver lifting the restriction for the sole purpose of accommodating the P3 agreement with Lamar. This option would require a recurring annual payment to the state as part of the dedication amendment. The final amount negotiated is unknown, but DEP staff advised us this amount could have been between 15% and 50% of the gross revenue generated from the project.
- 2. Obtain an appraisal to purchase the removal of the for-profit use restriction from the dedication in perpetuity. This option requires a one-time payment to the state for lifting the restriction. This option also contained two possibilities:
  - a. Purchase the removal of the restriction on the entire site (\$495,000), or
  - b. Purchase the removal of the restriction for the portion of the site needed to accommodate the P3 agreement (\$48,562).

Based upon the financial results of the appraisal, the time constraints within the P3 agreement for obtaining permits and starting construction, and the processes within the DEP for amending the dedication, staff has notified the state we would like to proceed using option 2.b. above. It secures the modification to the dedication, has the least financial exposure, and can be accomplished in the timeframes established in the original P3 agreement. If any Council member would like to discuss this further, please contact our office or let the City Clerk know and we can add this item to the April 24th City Council meeting. If this is not requested, we will close this item.

# JS:rm

C: Dolores Menendez, City Attorney Victoria Bateman, Finance Director Vince Cautero, DCD Director Steve Griffin, Assistant City Attorney Dawn Andrews, Property Broker



# **INTRODUCTION**

#### TITLE PAGE

#### REAL ESTATE APPRAISAL REPORT

OF

PROJECT: P3 ENTRANCE SIGN-CITY OF CAPE CORAL B/A FILE # 17-7701 COUNTY: LEE

#### **EFFECTIVE DATE**

#### MARCH 10, 2017

#### PREPARED FOR

#### BUREAU OF APPRAISAL, DIVISION OF STATE LANDS FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 3900 COMMONWEALTH BOULEVARD TALLAHASSEE, FL 32399-3000 ATTENTION: WAYNE GRIFFIN, SENIOR APPRAISER

#### PREPARED BY

WILLIAM E. STEWART, JR. STEWART & COMPANY 5237 SUMMERLIN COMMONS BOULEVARD, #388 FORT MYERS, FL 33907

File #: 17-003

# Stewart & Company

Real Estate Analysts

# Stewart & Company

5237 Summerlin Commons Blvd., Suite 388 Fc. Myers, FL 33907 239-275-2207 E-mail:billstewart@stewartcoappraisal.com

# **Real Estate Analysts**

# LETTER OF TRANSMITTAL

March 27, 2017

Bureau of Appraisal, Division of State Lands Florida Department of Environmental Protection 3900 Commonwealth Boulevard Tallahassee, FL 32399-3000 Attn: Mr. Wayne Griffin, Senior Appraiser

> Re: Project: P3 Entrance Sign, City of Cape Coral B/A File #: 17-7701 File No: 17-003

Dear Mr. Griffin:

As you requested, I have made an appraisal of the above-referenced subject property. This property is legally and physically described within the body of the attached appraisal report intended to comply with the reporting requirements set forth under Standard Rule 2 of the Uniform Standards of Professional Appraisal Practice together with the *Supplemental Appraisal Standards for Board of Trustees* of the Division of State Lands, Bureau of Appraisal, Florida Department of Environmental Protection dated March 2016.

The purpose of this appraisal is to estimate the market value of the subject property considering different scenarios, in fee simple interest, under market conditions existing as of March 10, 2017. It is my understanding that this appraisal is to be used for negotiation to release a use restriction on the site, based upon the detailed Scope of Appraisal contained in the Addendum to this report. Market value is discussed within the body of the appraisal report.

After consideration of all the above data, you will find that, it is my opinion that the value of removing the perpetual use restriction on the subject property, in terms of cash and in fee simple ownership, under market conditions existing as of March 10, 2017, was:

The basis for this conclusion is explained in detail in the content of the attached appraisal report. Reference is made to the Assumptions and Limiting Conditions which are described in detail on Page 5 within said report. The estimated exposure time applicable to the subject is 6 months to 9 months. In addition, the estimated value of allowing a one-time waiver of the perpetual use restriction to allow "for profit' use as detailed in the Scope of Appraisal document in the Addendum, based upon the market value of the site with no restriction, as of March 10, 2017, was:

FORTY EIGHT THOUSAND SIX HUNDRED DOLLARS......(\$48,600)

Both value estimates are subject to the hypothetical condition that the site is vacant, and no consideration is given to the existing office building and site improvements being utilized by the Cape Coral Chamber of Commerce as a welcome center.

For the purpose of estimating value under the sales comparison approach, this appraisal relies only on sales between private parties and no governmental sales were utilized. The transactions between private parties are sufficient to estimate a value for the subject property.

Respectfully submitted,

STEWART & COMPANY, INC.

& Man

William E. Stewart, Jr., TRAI State-Certified General Real Estate Appraiser RZ233

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# GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

The legal description and acreage calculation furnished us is assumed to be correct. We assume no responsibility for matters legal in character, nor do we render any opinion as to the title, which is assumed to be good.

The property is appraised on the basis of an unencumbered estate being conveyed to the purchaser, and full cash payment being received by the seller.

I do not assume any responsibility for the condition of the property or the correction of any defects now existing or that may develop in the future.

The sketches and maps in this report are to assist the reader in visualizing the property. We have made no survey of the property and assume no liability in connection with such matters.

I believe the information contained in this report which was furnished by others to be reliable, but assume no responsibility for its accuracy.

The appraisal of this property has been made assuming responsible ownership and capable management.

Disclosure of the contents of this appraisal report is governed by the By-Laws and Regulations of the Appraisal Institute.

Neither all nor any part of the contents of this report, (especially any conclusions as to value, the identity of the appraisers or the firm with which they are connected, or any reference to the Appraisal Institute or to the MAI or SRA designations), shall be disseminated to the public through advertising media, public relations media, news media, sales media, or any other public means of communication without the prior written consent and approval of the appraiser.

I am prepared, but not required, to give testimony or attendance in court by reason of this appraisal, with reference to the property in question, unless additional arrangements are made therefore. The zoning information utilized in this appraisal was obtained from the appropriate regulatory office and is assumed to be correct.

The existence of toxic waste has not been considered. Our physical inspection and aerial inspection of the property did not indicate any obvious evidence of improper storage or dumping of hazardous waste on the property. The appraiser is not qualified to detect such substances. The value estimated is predicated upon the assumption that there is no such material on or in the property that would cause a loss in value. We urge the client to retain an expert in this field, if desired.

I hereby assume that there are no undisclosed or hidden environmental conditions or contaminants, or building materials that will have any negative impact on the subject property.

### **QUALIFICATIONS OF WILLIAM E. STEWART, JR.**

#### EDUCATION:

Graduate of The University of Florida in 1972 Bachelor of Science in Business Administration Major in Real Estate and Urban Land Studies

Society of Real Estate Appraisers

Course 101: Introduction to Appraising Real Property, 1971 and 1984 Course 201: Principles of Income Property Valuation, 1975 Professional Practices Seminar, 1975 and 1979

American Institute of Real Estate Appraisers
Course II: Appraisal of Urban Properties, 1976
Course VI: Investment Analysis, 1979
Standards of Professional Practice: Ethics Seminar, 1980, 1986, and 1991

Seminars on varied subjects

#### **MEMBERSHIPS:**

Member (MAI) of the Appraisal Institute, West Coast Florida Chapter

#### EXPERIENCE:

Hunnicutt & Associates, Inc., Private Appraisal Department, 1972-77 Associated with John Sawyer, MAI, SRPA, 1977-1978 Associated with Paul R. Jacobs, Inc., 1978 and 1979 Jacobs, Stewart & Associates, Inc., 1980 Stewart, Stephan & Bowen, Inc., 1980 to 2010 Stewart & Company, 1998 to Present

#### LICENSES:

State-Certified General Real Estate Appraiser RZ233 in Florida

#### **MISCELLANEOUS:**

Qualified as an expert witness in the Lee, Collier, Hendry, and Charlotte Counties Qualified as a fee appraiser by the Florida Department of Environmental Protection Qualified as a fee appraiser by the South Florida Water Management District

# CERTIFICATION

B/A File #:17-7701Owner:City of Cape Coral, Subject to Restriction in favor of State of FloridaProject:P3 Entrance Sign, City of Cape Coral, Lee County

I certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions and conclusions are limited only by the reported assumptions, limiting conditions, and legal instructions, and my personal, impartial, and unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in, or no bias with respect to, the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

I have made a personal inspection of the property that is the subject of this report, and the property owner, and his/her designated representative, was given the opportunity to accompany the appraiser on the property inspection.

The use of this report is subject to the requirements of the State of Florida relating to review by the Florida Real Estate Appraisal Board.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

The appraisal was made and the appraisal report prepared in conformity with Appraisal Foundation's Uniform Standards for Professional Appraisal Practice, and the FDEP Supplemental Appraisal Standards for the Board of Trustees dated March 2016.

The reported analyses, opinions and conclusion were developed, and this report was prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Practice.

That I have not revealed the results of such appraisal to other than the proper officials of the Bureau of Appraisal, Division of State Lands, and will not do so until authorized by same, or until required by due process-of-law, or until release from this obligation by having publicly testified as to such results.

As of the date of this report, I have completed the continuing education program of the Appraisal Institute.

The appraiser has provided no services with regard to the subject property in the past three years.

it is my opinion that the value of removing the perpetual use restriction on the subject property, in terms of cash and in fee simple ownership, under market conditions existing as of March 10, 2017, was:

In addition, the estimated value of allowing a one-time waiver of the perpetual use restriction to allow "for profit' use as detailed in the Scope of Appraisal document in the Addendum, based upon the market value of the site with no restriction, as of March 10, 2017, was:

Both value estimates are subject to the hypothetical condition that the site is vacant, and no consideration is given to the existing office building and site improvements being utilized by the Cape Coral Chamber of Commerce as a welcome center.

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Stewart & Company Inc. William E. Stewart, Jr., MAI State-Certified General Real Estate Appraiser RZ233

### **EXECUTIVE SUMMARY**

PROJECT: P3 Entrance Sign, City of Cape Coral

B/A File #: 17-7701

LOCATION: The subject property is located on the north side of Cape Coral Parkway at the western end of the Cape Coral Bridge, Cape Coral, Florida.

OWNER: The subject property is currently owned by the City of Cape Coral, with the land use restriction in favor of the State of Florida.

EFFECTIVE DATE OF APPRAISAL: March 10, 2017

DATE OF REPORT: March 27, 2017

TAX ID NUMBER: Part of Lee County STRAP # 08-45-24-C4-00001.0000

SIZE: The subject property consists of 1.818 acres subject to the use restriction, according to information supplied by my client. The footprint of the area considered for the one time waiver of the use restriction, including a surrounding maintenance buffer is 7,770 square feet.

PRESENT USE: The subject is currently improved, but at the request of the client is being considered as vacant land for the purposes of this appraisal.

HYPOTHETICAL CONDITION: At the request of the client, both value estimates are subject to the hypothetical condition that the site is vacant, and no consideration is given to the existing office building and site improvements being utilized by the Cape Coral Chamber of Commerce as a welcome center.

HIGHEST & BEST USE: The highest and best use for the subject site as if vacant is for eventual office development use. The type and level of development is based upon the specific scenario considering the use restriction.

ZONING/LAND USE: The subject is zoned P-1, or Professional, by the City of Cape Coral, and the site is designated PF, or Public Facilites, on the Cape Coral Future Land Use Plan map.

IMPROVEMENTS: There are no improvements being considered in the appraisal. Please refer to the Hypothetical Condition.

INTEREST APPRAISED: Fee simple interest

MARKET VALUE ESTIMATE: To Remove the Use Restriction: \$495,000 One-Time Waiver of Restriction: \$48,600

APPRAISER: Stewart & Company, Inc. William E. Stewart Jr., MAI

# **PREMISES OF THE APPRAISAL**

# **SCOPE OF WORK**

The performance of this appraisal encompasses the necessary research and analysis to prepare a report intended to comply with the reporting requirements set forth under Standard Rule 2 of the Uniform Standards of Professional Appraisal Practice together with the *Supplemental Appraisal Standards for Board of Trustees* of the Division of State Lands, Bureau of Appraisal, Florida Department of Environmental Protection dated March 2016.

In addition, this appraisal has a detailed Scope of Appraisal provided by the client, a copy of which is included in the Addendum to this report. In summary, this Scope of Appraisal requests a value to permanently remove a use-restriction from the subject property and also a value for a one-time waiver to the use restriction for a specific portion of the site.

In regard to the subject properties, the following steps were undertaken:

1. The property was inspected on March 10, 2017 by William E. Stewart, Jr., the appraiser. The appraiser was met at the site by Dawn Andrews, the Property Broker for the City of Cape Coral. The photographs in this report were taken by the appraiser on the date of inspection.

2. As of the appraisal date, the subject property in improved with a building utilized by the Cape Coral Chamber of Commerce. At the request of the client, and as outlined in the Hypothetical Condition, the values in the appraisal consider the site as if vacant and available to be put to the highest and best use estimated for each scenario.

3. This appraisal primarily utilized the sales comparison approach. The cost approach and the income approach were not utilized in this analysis as they do not provide a credible value estimate in this particular case, in my opinion.

4. Regional, Lee County and market area data were based on information available in the office files of Stewart & Company. The neighborhood description was based on physical inspection of the area.

5. The subject tracts data was based on: a physical inspection of the sites, maps available on the Lee County Property Appraiser's website, and maps and surveys provided by our client. The other information concerning the subject properties was compiled from public records of the Lee County Property Appraiser.

6. In estimating the highest and best use for the property, an analysis was made of the data obtained from the previous steps noted, plus analysis contained in later portions of the report.

7. In developing the estimate of market value, the market data used was collected from Stewart & Company office files, brokers, sale services, and other persons knowledgeable about the subject properties and marketplace.

8. After assembling and analyzing the data contained within the appraisal, the final estimates of market value were made.

### CLIENT AND INTENDED USER

The client for this appraisal is the Bureau of Appraisal, Division of State Lands of the Florida Department of Environmental Protection. The client is the only reported intended user.

#### **INTENDED USE OF THE APPRAISAL**

The purpose and intended use of the appraisal is to estimate the value of the land use restriction on the 1.818 acres and the value for a one time waiver of the restriction of the 7,770 SF of area within the 1.818 acres.

# **DEFINITION OF VALUE AND EFFECTIVE DATE**

The purpose of this appraisal is to estimate the market value of the subject property, in terms of cash and in fee simple ownership, as of March 10, 2017.

#### **DEFINITIONS**

For the purposes of this appraisal, the definition of market value is taken from the Supplemental Appraisal Standards for the Board of Trustees, dated March 2, 2016, as follows:

"The most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under the following conditions:

Buyer and seller are typically motivated;

Both parties are well informed or well advised, and acting in what they consider their own best interests;

A reasonable time is allowed for exposure in the open market;

Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and

The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

Other definitions which are pertinent to the appraisal are described in the South Florida Water Management District Administrative Policy and Procedure as follows:

**Fee Simple Title** - A title signifies ownership of all the rights in a parcel of real property subject only to limitations of the four powers of government.

**Exposure Time** - Exposure time is the estimated length of time the property would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of appraisal.

# **RIGHTS OR INTEREST BEING APPRAISED**

We are appraising fee simple ownership in the subject property, with consideration of the existing land use restriction.

# **PRESENTATION OF DATA**

#### LOCATION MAP



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#### MARKET AREA MAP

Stewart & Company

# MARKET AREA ANALYSIS

### DEFINITION

A market area is defined in *The Appraisal of Real Estate, Fourteenth Edition* as "The geographic or locational Delineation of the market for a specific category of real estate, i.e., the area in which alternative, similar properties effectively compete with the subject property in the minds of probable, potential purchasers and users."

Social, economic, governmental and environmental forces influence property values in the vicinity of a subject property which, in turn, directly affects the value of the subject property itself. Market area occupants usually have an observable commonality of interests. Obviously, no group of inhabitants, buildings, or business enterprises can possess identical features or attributes, but a market area is perceived to be relatively uniform.

### PHYSICAL DESCRIPTION

The subject market area can generally be described as those properties in the southeastern part of the City of Cape Coral, which is the original commercial district in the City and is still commonly known as downtown Cape Coral. The primary commercial intersection in this area is Cape Coral Parkway East and Del Prado Boulevard South. This market area extends north along Del Prado Boulevard approximately ten blocks, and south approximately two blocks. On Cape Coral Parkway the area extends east to the Caloosahatchee River, and west to around Coronado Parkway, although there is some expansion further west.

Transportation access through the market area is provided by Cape Coral Parkway, which is a six-lane divided road through the neighborhood west of Del Prado Boulevard and five lanes east of Del Prado Boulevard, and by Del Prado Boulevard, also a six-lane road. Cape Coral Parkway provides the primary east/west access in the southerly part of Cape Coral, and intersects the Cape Coral Bridge across the Caloosahatchee River to Fort Myers approximately four miles east of Chiquita Boulevard. Other access roads within the market area are two-lane paved roads. Overall access to the area is considered very good.

The topography of the subject market area is generally level, with drainage being considered adequate. While most of the area is upland, there are small areas of wetland located within the market area, but these are scattered. Utilities available within this area include water service, sewage disposal, telephone service and electricity. Irrigation water is also available. Overall, utility availability is considered good.

#### DEVELOPMENTAL ACTIVITY

Historically, this was the first commercial area to develop within the City, and has remained commercially oriented. The uses within the area are a mix of retail, professional office, restaurants, service facilites, and other similar uses. No change to this mix is anticipated in the foreseeable future.

There has been new development within the recent past, with some vacant sites developed, and some older existing improvements removed for new commercial buildings. Development within the area has continued steadily over the past ten years.

Market activity within the area has also been steady. There have been sales of vacant sites for development, and as mentioned some of these sites have been developed. In addition, there is sales and rental activity in improved properties of all types. Occupancies are good overall and prices and rental rates are gradually increasing as development continues.

### MARKET AREA LIFE CYCLE

The life cycle of a market area usually consists of the following stages:

1. Growth - A period during which the market area gains public favor and acceptance.

- 2. Stability A period of equilibrium without marked gains or losses.
- 3. Decline A period of diminishing demand.
- 4. Revitalization A period of renewal, modernization, and increasing demand.

Although these stages describe the life cycle of market areas and districts in a general way, they should not be used as specific guides to market trends. Many market areas remain stable for a very long time and decline is not necessarily eminent in all older areas. Unless decline is caused by a specific external influence, it may proceed at a barely perceptible rate and can be interrupted by a change in use or a revival of demand. Therefore, there is no definite life expectancy for a market area. In my opinion, the subject market area is in a period of revitalization.

#### CONCLUSIONS/TRENDS

The market area generally consists of properties in the area generally known as downtown Cape Coral. This area is showing signs of improvement, which is projected to continue into the foreseeable future.

### SITE DATA

#### LEGAL DESCRIPTION

No legal description of the 1.818 acre parcel to be appraised in order to estimate the removal of the use restriction was provided to the appraiser. The location and configuration of this parcel were obtained from an exhibit provided by the client and prepared by the City of Cape Coral, and identified as "2015-0095 Approximate Available Area." The size of the area to be considered was provided by the client in the Scope of Appraisal shown in the Addendum to the appraisal.

The sketch showing the approximate available area is below, with the area to be appraised outlined in



The legal description of the area to be considered in the one-time waiver was not provided, but the area was provided in the Scope of Appraisal document, and the information about the footprint is shown in the document below.





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# **RECORD OF OWNERSHIP**

Ownership of the subject property is reportedly vested in the name of the City of Cape Coral according to the Lee County Property Appraiser tax roll information. However, as detailed in the Scope of Appraisal document, this site was originally owned by the State of Florida, was Dedicated to Lee County (Dedication 23255) subject to a perpetual *restriction* against any use of the property for "*private*" and/or "*for profit*" uses. In 2004, Lee County *assigned* (transferred) <u>all of its rights, title and interests</u> in the subject 1.818 acres, along with additional adjacent land, to the City of Cape Coral. The perpetual use restriction in favor of the State of Florida is being considered in this appraisal.

# SALES HISTORY

There have been no sales of the subject site during the past three years according to the Lee County Tax Roll.

# AERIAL PLAT



# SUBJECT PHOTOGRAPHS



Cape Coral Parkway Looking West from the Subject Site

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Cape Coral Parkway Looking East from the Subject Site



Subject Site Looking at the approximate Location of the Proposed Sign



Subject Site Looking South toward Cape Coral Parkway at the approximate Location of the Proposed Sign



Subject Site Looking East from near the west Property Line



Subject Water Frontage Looking Northeasterly



Existing Improvements not considered in Appraisal

# DESCRIPTION OF PROPERTY

LOCATION: The subject property is located on the north side of Cape Coral Parkway, just west of the foot of the Cape Coral Bridge in Cape Coral, Florida. The street address of the existing improvements on the site, not included in this analysis, is 2051 Cape Coral Parkway, Cape Coral, Florida 33904.

ACCESSIBILITY: Vehicular access to the subject property would be gained via the frontage on Cape Coral Parkway. The site has both east and west bound ingress and egress, with two eastbound lanes, two westbound lanes, and a center turn land at the site. In addition, the site has frontage on the mouth of a canal into the Caloosahatchee River. The water frontage is rock riprap, and there is not dedicated boat dockage or storage.

SHAPE: The subject site is irregular in shape.

SIZE: The portion of the site subject to the use restriction being considered in this appraisal is 1.818 acres, or 79,192 square feet. The portion of the site being considered in the analysis of the one-time waiver of the use restriction is 7,770 square feet, which includes the foot print of the sign site and surrounding maintenance buffer areas.

TOPOGRAPHY: The site is level with some vegetation, primarily sod and Australian Pine trees. The canal and Caloosahatchee River frontage has a rock rip-rap seawall.

FLOOD ZONE: The subject property is located mostly in flood hazard zone AE-EL9 as identified by Flood Map Number 12071C0410F dated August 28, 2008. Typically, improved properties in this zone do require flood insurance.

EASEMENTS & ENCROACHMENTS: There are no known detrimental easements or encroachments affecting the subject property. As mentioned, there is the use rustication described in the Scope of Appraisal in the Addendum, which limits use of the site to public and non-profit uses only, with no private or for-profit uses allowed.

STREET IMPROVEMENTS: Cape Coral Parkway is a five-lane road which provides the primary ingress and egress for the southeastern part of Cape Coral. This road has two eastbound lanes, two westbound lanes, and a center turn lane at the subject site. Overall road access is considered good.

ZONING/LAND USE: The subject property is currently zoned P-1, or Professional District, by the City of Cape Cora. This district is to encourage the development of professional and related office complexes in areas suitable to such activities.

The subject site is designated PF, or Public Facilities, under the Cape Coral Future Land Use Plan. This category consists of schools, public safety buildings and religious establishments. This land use plan designation is consistent with the use restriction currently encumbering the site, but it is considered probable that if the use restriction were removed and proper application made, a revision of the land use plan could be obtained to allow development under the existing zoning.
HAZARDOUS SUBSTANCES OR TOXIC WASTE: There is no evidence that garbage and debris have been dumped on the subject property. There is no evidence of toxic waste or hazardous materials, but the appraiser is not qualified to conduct an in-depth environmental audit.

IMPROVEMENTS: There are no improvements on the site being considered in this analysis.

UTILITIES: At the present time, utilities available to the site include telephone and electricity, plus water, sewer and irrigation water provided by the City of Cape Coral. Overall utility availability is considered adequate.

ASSESSMENT & TAXES: The subject property is a part of the site identified by Lee County Tax Parcel Number 08-45-24-C4-00001.0000. The 2016 Market Assessed Value for the site was \$1,034,236, and the site was wholly exempt from ad valorem taxes due to government ownership.

# **ANALYSIS AND DATA CONCLUSIONS**

# HIGHEST AND BEST USE ANALYSIS

# DEFINITION

Highest and best use is defined in The Appraisal of Real Estate, 14th Edition as "the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value."

It is recognized that, in cases where a site has existing improvements, the highest and best use of the site may be different from the existing use. However, the existing use will continue unless and until the land value in its highest and best use exceeds the sum of the value of the entire property in its existing use and the cost to remove the improvements.

# HIGHEST AND BEST USE AS IF VACANT

The highest and best use of the site as if vacant is takes into consideration several factors. These include legally permissible uses, physically possible uses, financially feasible uses and maximally productive uses. In estimating highest and best use, it was necessary to analyze the subject with the use restriction in place, and without the use restriction.

# LEGALLY PERMISSIBLE USES

First, the legally permissible uses to which the subject property could be put must be estimated. The site is zoned professional office use, and has a land use plan designation of public facilities. In addition, the site is encumbered with the land use restriction that limits development to public buildings or buildings owned by non-profits.

With the use restriction in place, and considering existing land use regulations, the property could be legally developed with office type uses that are public in nature or non-profit. This might include government buildings, a school, administrative buildings for a non-profit, and other similar structures.

Were the use restriction removed, the land use regulations would control legal uses. With the P-1 zoning, almost any type of professional office building would be permitted. While the PF land use plan designation is more restrictive, limiting uses to public structures, it is considered likely that this could be changed to a land use plan designation more compatible with the zoning and surrounding land use plan designation. Therefore, without the land use restriction in place, professional office development is considered legally permissible.

# PHYSICALLY POSSIBLE USES

Next, the physically possible uses must be considered. Only those uses considered legally permissible will be discussed in considering physically possible uses. With the size and configuration of the site, any of the legally permissible uses could be physically possible, with the size of the improvements the restricting factor.

# FINANCIALLY FEASIBLE USES

Next, financially feasible uses must be considered. A use is financially feasible if the income or value benefits that accrue from the use or ownership sufficiently exceed the expenses involved. Factors to be considered include supply and demand, land use patterns and overall property location.

In examining the market within the area at the present time, the development of the site with a professional office use is considered financially feasible. The market is much more limited for the site with the land use restriction in place, and the number of types of financially feasible uses is very limited. This could include an improvement similar to that which exists on the site, the Chamber of Commerce Welcome Center, or other similar uses.

Without the land use restriction in place, there are more uses that could be considered financially feasible. These uses would include general professional office and medical offices, in addition to the non-profit and public uses discussed.

# MAXIMALLY PRODUCTIVE USES

Finally, the highest and best (or maximally productive) use for the subject site must be estimated. Based upon the current market, the subject site could be used for professional office development, with or without the land use restriction in place. The intensity and type of professional office development would be the factors government by the land use restriction.

# THE APPRAISAL PROCESS

The appraisal process is a procedure for estimating the market value of real property. This process involves gathering all pertinent information available from the market which may influence the value of the subject property. This data is then used in estimating value based upon the three generally accepted approaches to value which are the cost approach, the income approach, and the sales comparison approach. The valuation process as a whole is composed of integrated, interrelated, and inseparable techniques and procedures designed to produce a convincing and reliable estimate of value, usually market value.

# COST APPROACH

The cost approach is defined as that approach in appraisal analysis which is based upon the proposition that an informed purchaser would pay no more than the cost of producing a substitute property with the same utility as the subject property. It is assumed that the potential purchaser considers producing a substitute property with the same utility as the property being appraised. This analysis involves the cost to buyer of producing an exact replica of the subject property, in the same location and condition as the subject property, as of the effective date of the appraisal.

The cost approach is based on an understanding that market participants relate value to cost. In the cost approach the value of a property is derived by adding the estimated value of the land to the current cost of constructing a reproduction or replacement for the improvements and then subtracting the amount of depreciation (i.e., deterioration and obsolescence) in the structures from all causes. Profit for coordination by the entrepreneur is included in the value indication. This approach is particularly useful in valuing new or nearly new improvements and properties that are not frequently exchanged in the market. Cost approach techniques can also be employed to derive information needed in the sales comparison and income capitalization approaches to value.

The current costs to construct the improvements can be obtained from cost estimators, cost estimating publications, builders, and contractors. Depreciation is measured through market research and the application of specific valuation procedures. Land value is estimated separately in the cost approach.

# **INCOME ANALYSIS**

Income analysis is defined as that procedure in appraisal analysis which converts anticipated benefits (dollar income or amenities) to be derived from the ownership of property into a value estimate. Anticipated future income and/or reversions are discounted to a present-worth figure through one or more appropriate techniques. Details about the discounting and capitalization process considered appropriate are discussed in the income approach.

The specific data that an appraiser investigates for this approach might include the property's gross income expectancy, the expected reduction in gross income caused by vacancy and collection loss, the anticipated annual operating expenses, the pattern and duration of the property's income stream, and the anticipated resale value or the value of other real property interest reversions. After income and expenses are estimated, the income stream or streams are capitalized by applying an appropriate rate or factor, or converted into present value through discounting. In discounted cash flow analysis, the quantity, variability, timing, and duration of a set of periodic incomes and the quantity and timing of the reversion are specified and discounted to a present value at a specified yield rate. The rates used for capitalization or discounting are derived from acceptable rates of return for similar properties.

# SALES COMPARISON APPROACH

The sales comparison approach is described in <u>The Appraisal of Real Estate</u>, <u>Twelfth Edition</u>, <u>published by the Appraisal Institute</u> as the process in which a market value estimate is derived by analyzing the market for similar properties and comparing these properties to the subject property. Estimates of market rent, cost, depreciation, and other value parameters may be derived in the other approaches to value using comparative techniques. Often these elements are also analyzed in the sales comparison approach to estimate the adjustments to be made to the sale prices of comparable properties. The comparative techniques of analysis applied in the sales comparison approach are fundamental to the valuation process.

In the sales comparison approach, market value is estimated by comparing the subject property to similar properties that have recently sold, are listed for sale, or are under contract (i.e., recently drawn up purchase offers accompanied by a cash or equivalent deposit). A major premise of the sales comparison approach is that the market value of the property is directly related to the prices of comparable, competitive properties.

The comparative analysis performed in this approach focuses on similarities and differences among properties and transactions that affect value. These may include differences in the property rights appraised, the motivations of buyers and sellers, financing terms, market conditions at the time of sale, size, location, physical features and, if the properties produce income, economic characteristics. Elements of comparison are tested against market evidence to determine which elements are sensitive to change and how they affect value."

# **RECONCILIATION ANALYSIS**

The reconciliation analysis is an evaluation process where the appraiser carefully evaluates value indications from each of the three approaches. The reliability of each approach to the present appraisal problem is examined and weight is given to the accuracy, reliability, quantity of data available for use

in each approach, and the approach in which the market participant typically has the greatest confidence.

# **IDENTIFICATION OF APPLICABLE VALUATION PROCEDURE**

As discussed previously, neither the cost approach nor the income approach is utilized in this appraisal. Because this is appraised as a vacant site, only the sales comparison approach to value provides a credible value estimate, in our opinion. Please see the hypothetical condition regarding the existing improvements in other location of this report.

# VALUATION BY THE SALES COMPARISON APPROACH

In the valuation of the subject property by the sales comparison approach, a search has been made for properties that are similar to the subject. In this search, several sales of properties were uncovered throughout the general area. It should be noted that, while properties such as the subject may vary in total size, age, and in many of the basic features, they tend to develop certain units of comparison which are uniform in the market.

The application of the sales comparison approach involves selecting a number of competitive properties which have recently sold on the market. The information derived from this selection is analyzed through either an adjustment process or a gross income multiplier analysis which develops indications of what the competitive properties would have sold for if they possessed all the important characteristics of the subject property. These indications fall into a pattern surrounding one figure, which when appropriately rounded, is an indication of the market value of the subject property as of the date of the appraisal.

The reliability of this approach is dependent upon the availability and verification of the comparable sales data. The degree of comparability between the competitive properties and the subject, and the absence of non-typical conditions affecting the sales price of those properties are also important items that are considered. Therefore, this approach is particularly applicable when an active market provides sufficient quantities of reliable data which can be verified from authoritative sources.

Several transactions have been uncovered and analyzed and the following have been considered for a more detailed analysis, discussion, and comparison. Your attention is directed to the following market data sheets which include a detailed description of each transaction analyzed. In order to provide the estimate of value for the land use restriction, the property is first analyzed as if there was not a land use restriction, but with the existing land use regulations of zoning and land use plan designation.

After this value is estimated, the value of the site with the land use restriction in place is estimated. This required searching for land sales with more limited uses than those used to estimate value for the subject without the land use restriction in place. While no sales with similar land use restrictions were found, sales were found that allowed the appraiser to estimate a change in value for more limited uses on a site without a change in land use regulations similar to the subject.

Along Del Prado Boulevard, primarily on the west side of the boulevard, the sites zoned for commercial use run from Del Prado Boulevard back to the next street to the west which runs parallel to Del Prado Boulevard. There are two rows of back-to-back lots in these blocks, one row which fronts Del Prado Boulevard and on row which fronts the parallel side street. However, both sets of lots have the same commercial zoning and land use plan designation, but the lots on the side street have neither the frontage nor the exposure of the sites on the boulevard, and therefore while legally permitted uses are the same for both sets of lots, the market tends to restrict land uses in a manner similar to the land use provide an indication of how this land use restriction would affect value.

Sales 1 through 5 on the following pages provide indications of value for the site without the restriction, and Sales 6 through 9 provide indications with the restriction. The sales write-ups are followed by the location map and the analysis.

# LAND SALES

#### Land Sale No. 1



## **Property Identification**

Record ID Property Type Address

#### Tax ID

Sale Data Grantor Grantee Sale Date Deed Book/Page Property Rights Conditions of Sale Financing Sale History Legal Desc. Verification

Sale Price Cash Equivalent 7926 Commercial 4642 Del Prado Boulevard S., Fort Myers, Lee County, Florida 33904 07-45-24-C3-00362.0180

West Coast Fund, LLC East Coat Waffles, Inc. September 30, 2015 2015000215367 Fee simple Amr's length Cash No market transaction in the prior three years Very lengthy Public records, Confirmed by William Stewart

\$325,000 \$325,000

# Land Sale No. 1 (Cont.)

Land Data	
Zoning	SC, South Cape Downtown District
Topography	Level and cleared
Utilities	Full public
Shape	Rectangular
Future Land Use Plan	Downtown Mixed, City of Cape Coral
Highest and Best Use	Commercial Development
Access	Good signalized corner
Land Size Information	
Gross Land Size	0.592 Acres or 25,788 SF
Indicators	
Sale Price/Gross Acre	\$548,986
Sale Price/Gross SF	\$12.60

# <u>Remarks</u>

Since this sale the site has been developed with a Waffle House Restaurant. The site is located at the corner of Del Prado Boulevard S. and SE 47th Street, which is a signalized intersection. The site is within the CRA district for Cape Coral. There was a convenience store on this site that was removed after the sale.

INSTR # 2015000215367, Doc Type D, Pages 5, Recorded 10/05/2015 at 11:44 AM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$2275.00 Rec. Fee \$44.00 Deputy Clerk ERECORD

NCS: 102209 First American Title Ins. Co. Six Concourse Parkway Suite 2000

Atlanta, GA 30328 Prepared By and Return To: Janice Island, Esq. Waffle House, Inc. 5986 Financial Drive Norcross, GA 30071

> Tax Parcel No.: 07-45-24-C3-00362.0180 07-45-24-C3-00362.0230

> > WARRANTY DEED (Florida)

#### STATE OF FLORIDA COUNTY OF LEE

Made this <u>20</u> day of <u>EATEMBER</u>, 2015 by WEST COAST FUND, LLC, an Arizona limited liability company, whose post office address is 15210 N. Scottsdale Rd., Suite 230, Scottsdale, Arizona 85254, hereinafter called the Grantor, to EAST COAST WAFFLES, INC., a Georgia corporation, whose post office address is P.O. Box 6450, Norcross, Georgia 30091, hereinafter called the Grantee.

(Whenever used herein the term "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)

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), and other valuable considerations, the receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto Grantee, all that certain land situate in Lee County, Florida and described as:

See Exhibit "A" attached hereto and incorporated herein by reference (the "Property")

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

5pept=44-

1

AND Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that Grantor has good right and lawful authority to sell and convey said Property; that Grantor hereby fully warrants the title to said Property and will defend the same against the lawful claims of all persons whomsoever; and that said Property is free from all encumbrances except those permitted exceptions listed on <u>Exhibit "B"</u> attached hereto and made a part hereof for all purposes (the "Permitted Exceptions").

TO HAVE AND TO HOLD the above described Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, his, her or its successors, heirs and assigns, as the case may be, forever; and Grantor does hereby bind Grantor and Grantor's successors, heirs, executors and administrators, as the case may be, to Warrant and Forever Defend all and singular the said Property unto the said Grantee and Grantee's successors, heirs and assigns, as the case may be, against every person whomsoever claiming, or to claim the same, or any part thereof, except as to the Permitted Exceptions.

Notwithstanding anything in this instrument to the contrary, the Permitted Exceptions shall only affect the Property to the extent that such Permitted Exceptions are valid and effective as of the date of this instrument and the mere reference to such Permitted Exceptions in this instrument shall not be deemed to impose, re-impose, or reinstate such Permitted Exceptions if such Permitted Exceptions are not valid and effective as of the date of this instrument.

Grantor herein warrants and covenants that for a period equal to the lesser of (a) fifty (50) years after the date this deed is recorded and (b) the maximum time allowed under state law as of the date this deed is recorded, Grantor will not buy, sell, lease or otherwise make available any land either now controlled by Grantor or which becomes subject to Grantor's control subsequent to the date this deed is recorded, within one city block or 1,000 lineal feet, whichever is greater, of the Property (not including the Property) (such area which does not include the Property being referred to herein as the "Restricted Land") for use for any restaurant or foodservice purposes (including, without limitation, any fast food, sit-down, carry-out or drive-through restaurant, café, diner, buffet, or self-service food counter or the service or provision of food for consumption on or off such Restricted Land which has been prepared, assembled, packaged or cooked on such Restricted Land) and regardless of whether such use is the primary or subordinate use of such Restricted Land. This covenant shall run with title to the Restricted Land and shall be binding upon Grantor, its successors, assigns, and beneficiaries. Grantor does further agree that it will not convey any parcel within the Restricted Land except by lease or deed containing restrictive covenants equivalent to the above. Any subsequent purchaser or lessee of the Restricted Land does hereby agree to be bound by these same provisions and agrees that the foregoing covenant is attached to and runs with title to such Restricted Land.

[Remainder of page intentionally left blank; Signatures appear on following page]

2

#### INSTR # 2015000215367 Page Number: 3 of 5

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

#### WITNESSES:

#### **GRANTOR:**

By:

WEST COAST FUND, LLC,

Robert B. Helmand, Sole Member

an Arizona limited liability company

(SEAL)

Signed, sealed and delivered in the presence of:

Witness #1 Print Name: Traci Pairsh

Witness #2

Print Name: Hangh French

STATE OF <u>ARE2014</u> COUNTY OF <u>MARECOPA</u>

The foregoing instrument was acknowledged before me this <u>30</u> day of <u>SEPTEMBEA</u>, 2015, by Robert B. Helmand, as the Sole Member of West Coast Fund, LLC, an Arizona limited liability company, who is personally known to me, or who has produced as identification and who did take an oath.

(Notarial Seal)



hat	
Notary Public	

Print Name

My Commission Expires: 11/25/2017

Commission Number: 328282

3.

#### INSTR # 2015000215367 Page Number: 4 of 5

#### EXHIBIT "A"

#### Property

# LOTS 18, 19, 20, 21, 22, 23 AND 24, BLOCK 362, UNIT 7, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 12, PAGES 101 THROUGH 128, INCLUSIVE, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA;

And commonly described as 4642 DEL PRADO BLVD S. and 1523 SE 47TH STREET, CAPE CORAL, FL 33904 including building, appurtenances and fixtures located therein.

Exhibit "A"

#### EXHIBIT "B"

#### **Permitted Encumbrances**

- 1. The lien of taxes for the year 2015 and all subsequent years, which are not yet due and payable.
- 2. Provisions of the Plat of Cape Coral Unit 7, recorded in Plat Book 12, Page 101 of the Public Records of Lee County, Florida.
- Lee County Ordinance No. 86-14 recorded in Official Records Book 2189, Page 3281, as amended by Lee County Ordinance No. 86-38 recorded in Official Records Book 2189, Page 3334, providing for the mandatory solid waste collection and the imposition of special assessments for said collection services.

Exhibit "B"

#### Land Sale No. 2



<u>Property Identification</u> Record ID Property Type Address

Tax ID

Sale Data Grantor Grantee Sale Date Deed Book/Page Property Rights Conditions of Sale Financing Sale History Legal Desc. 7922 Commercial 3904-3908 Del Prado Boulevard S., Cape Coral, Lee County, Florida 33910 06-45-24-C3-00526.0100 and 06-45-24-C3-00526.0120

Brian Joseph Majkowski, trustee Bullet Boots LLC and Charles Thomas Hallatt September 11, 2015 2015000201352 Fee simple Arm's length Cash to seller None in the prior three years Lots 10-13, Block 526, Cape Coral Unit 11

# Land Sale No. 2 (Cont.)

Verification	CoStar and public records, Confirmed by William Stewart
Sale Price Cash Equivalent	\$251,000 \$251,000
<u>Land Data</u> Zoning Topography Utilities Shape Future Land Use Plan Highest and Best Use Access	C-1, Commercial Professional Level and cleared Full public Rectangular Commercial Professional-City of Cape Coral Commercial development Good, southbound ingress and egress only
<u>Land Size Information</u> Gross Land Size	0.459 Acres or 19,994 SF
<u>Indicators</u> Sale Price/Gross Acre Sale Price/Gross SF	\$546,841 \$12.55

<u>Remarks</u> This site is on a high visibility, high traffic area of Del Prado Boulevard.

INSTR # 2015000201352, Doc Type D, Pages 1, Recorded 09/16/2015 at 11:16 AM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$1757.00 Rec. Fee \$10.00 Deputy Clerk JWATKINS

Prepared by: Record and Return To: Marci A. Smith CAPF: CORAI, TITLE INSURANCE AGENCY, INC. 1307 Cape Coral Platway East Cape Coral, Florida 33904 File Number: 61463

#### **General Warranty Deed**

Made this ______ day of September, 2015, A.D. By BRIAN JOSEPH MAJKOWSKI, Individually and as Trustee of the Brian Joseph Majkowski Revocable Trust Made February 19, 2015, whose address is: 10866 POND RIDGE DR, FORT MYERS, FL 33913, hereinafter called the grantor, to BULLET BOOTS, LLC, a Florida Limited Liability Company, and CHARLES THOMAS HALLATT, whose address is: 921 SE 15TH AVE, CAPE CORAL, FL 33990, hereinafter called the grantee:

(Whenever used herein (herein "granter" and "granter" include all the parties to this instrument and the heur, legal representatives and assigns of individuals, the successors and assigns of exportations)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida, viz:

Lots 12 & 13, Block 526, Unit 11, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 13, Page(s) 42 to 48, inclusive, in the Public Records of Lee County, Florida.

and

Lots 10 & 11, Block 526, Unit 11, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 13, Page(s) 42 to 48, inclusive, in the Public Records of Lee County, Florida.

Subject TO covenants, restrictions, and easements of record, if any.

Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon. Said property is vacant land.

Parcel ID Number: 06-45-24-C3-00526.0120, 06-45-24-C3-00526.0100

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.

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 whomsoever; and that said land is free of all encumbrances except taxes for the calendar year 2015.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Struck, scaled and delivered in our presence **TWO Separate Witnesses Required** 

Taulo Unif Corpor

BRIAN JOSEPH MAJKOWSKI, Individually and as Trustee

_(L.S.)

Muci (Ibrut k Marci A. Smith Printed Normer

State of Florida County of Lee

The foregoing instrument was acknowledged before me this ______ (44) day of September, 2015, by BRIAN JOSEPH MAJKOWSKI, Individually and as Truster of the Brian Joseph Majkowski Revocable Trust Made February 19, 2015, who is/arc personally known to me or with this produced _______

	MARCIA SMITH
(A)	AT COMMISSION # FF 105764 EXPRES: December 13, 2013
	Bandad They Poland Hanzance Agency

(Affix Stamp/Scal)

------

Marci A. Smith Printed

12-My Commission Expires:

Stewart & Company

#### Land Sale No. 3



#### **Property Identification**

Record ID	
<b>Property Type</b>	
Address	

Tax ID

Sale Data Grantor Grantee Sale Date Deed Book/Page Property Rights Conditions of Sale Financing Sale History Legal Desc. Verification

Sale Price Cash Equivalent Upward Adjustment 7919 Commercial 1707 E. Cape Coral Parkway, Cape Coral, Lee County, Florida 33904 08-45-24-C4-00363.0010

BK Sunshine Properties LLC 1707 Cape Coral LLC December 01, 2015 2015000262008 Fee simple Arm's length Cash None in the prior three years Lengthy Listing broker; Other sources: CoStar, Public records, Confirmed by William Stewart

\$1,000,000 \$1,000,000 t \$20,000

Stewart & Company

# Land Sale No. 3 (Cont.)

Adjusted Price	\$1,020,000
Land Data	
Zoning	SC, South Cape Downtown District
Topography	Cleared and level
Utilities	Full public
Shape	Rectangular
Future Land Use Plan	Downtown Mixed-City of Cape Coral
Highest and Best Use	Commercial development
Access	Good corner location
<u>Land Size Information</u> Gross Land Size	1.348 Acres or 58,719 SF
<u>Indicators</u> Sale Price/Gross Acre Sale Price/Gross SF	\$741,840 Actual or \$756,677 Adjusted \$17.03 Actual or \$17.37 Adjusted

# <u>Remarks</u>

At the time of the sale this site was improved with a small office building which was removed. After demolition, a new car wash was built on the site. Demolition costs were not available, but were estimated to be approximately \$20,000. The site was under contract for almost one year as approval for the car wash was obtained prior to closing. INSTR # 2015000262008, Doc Type D, Pages 2, Recorded 12/08/2015 at 02:05 FM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$7000.00 Rec. Fee \$18.50 Deputy Clerk TKING



This instrument propered by: ROBERT E. MESSICK, ESO. Icard, Merrill, Cullis, Timm, Furen 8 (Graburg, P.A. 2033 Main SL, Suite 600 Senseta, FL 34237 \$1,000,000.00 Property Appreliser's Parcel ID Numbers: 08-45-24-C4-00363.0019

#### WARRANTY DEED

THIS INDENTURE, effective this ______day of December, 2015, between BK Sunshine Properties, LLC, a Florida limited liability company, whose post office address is: 4418 SE 19th Avenue, Cape Coral, FL 33904 (referred to herein as "Grantor"), and 1707 Cape Coral, LLC, a Florida limited liability company flvia J. S. Mont Investments, LLC, a Florida limited liability company, whose post office address is: c/o 1717 Cape Coral Pkwy. East, Cape Coral, FL 33904 (referred to herein as "Grantoe").

WITNESSETH, that said Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars and in connection with a 1031 Exchange, and other good and valuable consideration, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

See attached Exhibit "A" - Legal Description (the "Property").

Subject to (1) real estate taxes for calendar year 2016 and subsequent years; (2) zoning and/or restrictions and prohibitions imposed by any governmental authority and (3) restrictions, easements, and other matters appearing of public record.

Grantor does hereby fully warrant the title to the Property, and will defend the same against the lawful claims of all persons whomsoever. "Grantor" and "Grantee" are used for singular or plural, as context requires.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered

Printed Name

in our presence: Dß

berto Herranz Printed Name:

ASHICY Rectosie Site

GRANTOR

BK SUNSHINE PROPERTIES, LLC, a Florida limited liability company

By 200

Bernard P. Keenan, as Trustee of the Bernard P. Keenan Revocable Living Trust dated January 22, 2009, as Manager

The foregoing instrument was acknowledged before me this _____ day of December, 2015 by Bernard P. Keenan, as Trustee of the Bernard P. Keenan Revocable Living Trust dated January 22, 2009, as Manager, of BK SUNSHINE PROPERTIES, LLC, a Florida limited liability company,  $\Box$  who is personally known to me, or  $\Box$  who produced  $D_{C1} + C_{C1} + C_{C2} +$ 

JENNIFER LOLMAUCH MY COMMISSION # FF 200044 EXPIRES: Fabruary 16, 2019 Rorded This Picket Inscisso Agency (SEAL)

NOTARY PUBLIC My Commission Expires: 2

#### EXHIBIT "A"

#### LEGAL DESCRIPTION

#### PARCEL 1:

Lots 1, 2, 3, 4, 5, 6, 7, 24, 25, 26, 27, 28, 29 and 30, Block 363 of CAPE CORAL UNIT 7, according to the Plat thereof as recorded in Plat Bock 12, Page(s) 101 through 128, inclusive, of the Public Records of Lee County, Florida.

#### PARCEL 2:

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AND PARKING, as established by Grant of Cross Easement recorded in Official Records Book 2998, Page 1337, as reformed by Order Granting Reformation Of The Grant Of Cross Easement recorded in Official Records Instrument No. 2010000180958, both of the Public Records of Lee County, Florida, over and across the following described tract:

Lots 8, 9, 10, 11 and 12 and Lots 19, 20, 21, 22 and 23, Block 363 of CAPE CORAL UNIT 7, according to the Plat thereof as recorded in Plat Book 12, Page(s) 101 through 128, inclusive, of the Public Records of Lee County, Florida.

00376524-1

#### Land Sale No. 4



#### **Property Identification**

Record ID Property Type Address

#### Tax ID

Sale Data Grantor Grantee Sale Date Deed Book/Page Property Rights Conditions of Sale Financing Sale History Legal Desc. Verification

Sale Price Cash Equivalent 7920 Commercial 3212 Del Prado Boulevard S., Cape Coral, Lee County, Florida 33993 06-45-24-C2-00500.0010

ICR Capital LLC Matlacha Homes LLC July 08, 2016 2016000145843 Fee simple Arm's length Cash to seller June 2015 for \$125,000 Lengthy Public records by William E. Stewart

\$195,000 \$195,000

#### Land Sale No. 4 (Cont.)

Land Data	
Zoning	C-1, Commercial
Topography	Level and cleared
Utilities	Full public
Shape	Rectangular
Future Land Use Plan	Commercial Professional-City of Cape Coral
Highest and Best Use	Commercial development
Access	Good, waterfront location. Southbound ingress and egress only.
Land Size Information	
Gross Land Size	0.459 Acres or 19,994 SF
Indicators	
Sale Price/Gross Acre	\$424,837
Sale Price/Gross SF	\$9.75
	ψ

# <u>Remarks</u>

While nothing has been built on this site since the sale, in 2015 this site began the permitting process for a small medical office building. This process has since lapsed and the infrastructure permit is void. The site has canal frontage with a seawall, and access, under bridges, to the Caloosahatchee River.

INSTR # 2016000145843, Doc Type D, Pages 2, Recorded 07/08/2016 at 02:46 FM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$1365.00 Rec. Fee \$18.50 Deputy Clerk ERECORD

Prepared by: Laura Whiteley Security Title & Abstract, LLC 13121 University Drive Fort Myers, Florida 33907 File Number: 2016-0379

#### **General Warranty Deed**

Made this July 8, 2016 A.D. by ICR Capital, LLC, a Florida Limited Liability Company and Msarmstrong, LLC, a Florida Limited Liability Company, whose address is: 4822 Aqualinda Blvd., Cape Coral, Florida 33914, hereinafter called the grantor, to Matlacha Homes, LLC, a Florida Limited Liability Company, whose post office address is: 3722 Tropicana Parkway W., Cape Coral, Florida 33993, hereinafter called the grantee:

(Whenever used herein the term "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)

Witnesseth, that the grantor, for and in consideration of the sum of One Hundred Ninety Five Thousand dollars & no cents, (\$195,000.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida, viz:

Lots 1 and 2, Block 602, CAPE CORAL UNIT 21, according to the plat thereof as recorded in Plat Book 13, pages 149 through 173, Public Records of Lee County, Florida. and

Lots 1, 2 and 3, Block 500, CAPE CORAL UNIT 12, according to the plat thereof as recorded in Plat Book 13, pages 49 through 55, Public Records of Lee County, Florida.

a/k/a 3212 Del Prado Boulevard South, Cape Coral, Florida 33904

Parcel ID #: 06-45-24-C2-00500.0010

Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon.

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.

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 whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2015.

Page: 1 of 2

. . .

. . . ...

#### INSTR # 2016000145843 Page Number: 2 of 2

Prepared by: Laura Whiteley Security Title & Abstract, LLC 13121 University Drive Fort Myers, Florida 33907 File Number: 2016-0379

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

.

Laura Whiteley Witness Printed Name

Signed, sealed and delivered in our presence:

ICR Chpital, LLC, a Florida Limited Liability Company

n,

(Seal)

Ishak Rojowski, Managing Member

ess Printed Name

Msarmstroug, LLC, a Florida Linhted Liability Company (Scal) Mark Armstrong, Managing Member

State of County of

The foregoing instrument was acknowledged before me this ______ day of July, 2016, by Ishak Rojowski, Managing Member of ICR Capital, LLC, a Florida Limited Liability Company and Mark Armstrong, Managing Member of Masaristrong, LLC, a Florida Limited Liability Company, who is personally known to me or who has produced defined to the second sec

LAURA WHITELEY Compassion & FF 205080 Expressions 22, 2019 Notary Rublic Laura Whiteley Print Name: **.**716 Seal My Commission Expires:

Page: 2 of 2

## Land Sale No. 5



<u>Property Identification</u> Record ID Property Type Address

7923 Commercial 4320 Del Prado Boulevard S., Cape Coral, Lee County, Florida 33904 07-45-24-C2-00336.0440

Tax ID

Sale Data	
Grantor	Gonzalo Dussan
Grantee	Bill Antar and Dima Antar
Sale Date	October 31, 2016
Deed Book/Page	2016000236232
Property Rights	Fee simple
<b>Conditions of Sale</b>	Arm's length
Financing	Cash
Sale History	No market transaction within the prior three years
Legal Desc.	Lots 44-49, Block 336, Cape Coral Unit 7
Verification	CoStar and Public Records, Confirmed by William Stewart
Sale Price	\$300,000
Cash Equivalent	\$300,000

# Land Sale No. 5 (Cont.)

<u>Land Data</u>	
Zoning	P-1, Commercial Professional
Topography	Cleared and level
Utilities	Full public
Shape	Rectangular
Future Land Use Plan	Commercial Professional-City of Cape Coral
Highest and Best Use	Commercial development
Access	Good, Del Prado Blvd and two corners
Land Size Information	
Gross Land Size	0.711 Acres or 30,971 SF
<u>Indicators</u>	
Sale Price/Gross Acre	\$421,941
Sale Price/Gross SF	\$9.69

# <u>Remarks</u>

This site has frontage on Del Prado Boulevard S. between SE 43rd Terrace to the north and SE 44th Street to the south. While there are corners at both the north and south lines of the site allowing both north and south ingress and egress, neither is signalized. This site is within the Cape Coral CRA district.

INSTR # 2016000236232, Doc Type D, Pages 2, Recorded 11/07/2016 at 03:23 PM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$2100.00 Rec. Fee \$18.50 Deputy Clerk PSMITH

Prepared by and return to: Crystal Reyes, an employee of Realty Title Solutions, LLLP 2314 Del Prado Bivd S, Suite 3 Cape Coral, FL 33990 (239) 242-2015

File No.: 16-3319 Consideration Amount: \$300,000.00 Deed State Tax/Stamps: \$2,100.00

#### WARRANTY DEED

This indenture made on October 31, 2016 A.D., by

#### Gonzalo Dussan, a married man

whose address is: 14216 NW 21st Street , Pembroke Pines, Florida 33028 Hereinafter called the "Grantor", to

Bill Antar and Dima Antar, husband and wife

whose address is: **3306 Del Prado Bivd S.**, **Cape Coral, Florida 33904** Hereinafter called the "Grantee",

(Which terms "Grantor" and "Grantee" shall include singular or plural, corporation or individual, and either sex, and shall include heirs, legal representatives, successors and assigns of the same)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida, to-wit:

Lots 44, 45, 46, 47, 48 and 49, Block 336, CAPE CORAL SUBDIVISION UNIT 7, according to the plat thereof as recorded in Plat Book 12, Pages 101 through 128, inclusive, of the Public Records of Lee County, Florida.

Parcel Identification Number: 07-45-24-C2-00336.0440

**Together** with all the tenements, hereditaments and appurtenances thereto belonging or in any way appertaining.

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

Page: 1 of 2

#### INSTR # 2016000236232 Page Number: 2 of 2

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 whomsoever; and that said land is free of all encumbrances except convents, restrictions and easements of record, and taxes accruing subsequent to December 31, 2016.

In Witness Whereof, the grantor has hereinto set their hand(s) and seal(s) the day and year first above written.

Gonzalo - Seller Dussan

Signed, sealed and delivered in our presence:

WINIGHT Y

Witness Signature **Print Name** 

Witness signature Print Name: Jece

State of

County of <u>Lee</u>

seal



Notary Print Name My Commission Expires:

#### Page: 2 of 2

#### Land Sale No. 6



#### <u>Property Identification</u> Record ID Property Type Address

7925 Commercial 4521 SE 15th Avenue, Cape Coral, Lee County, Florida 33904 07-45-24-C3-00395.0250

Sale Data

Tax ID

Grantor Grantee Sale Date Deed Book/Page Property Rights Conditions of Sale Financing Sale History Legal Desc. Verification Frank Toscano William J. Wawrzniak and Regina T. Wawrzyniak April 29, 2016 2016000092062 Fee simple Arm's length Cash to seller Dec. 2015 for \$50,000 Lots 25 and 26, Block 395, Cape Coral Unit 7 Public records, Confirmed by William Stewart

Sale Price Cash Equivalent \$57,000 \$57,000

# Land Sale No. 6 (Cont.)

Land Data	
Zoning	SC, South Cape Downtown District
Topography	Level and cleared
Utilities	Full public
Shape	Rectangular
Future Land Use Plan	Downtown Mixed-City of Cape Coral
Highest and Best Use	Commercial development
Access	Good road frontage
Land Size Information	
Gross Land Size	0.303 Acres or 13,199 SF
Indicators	
Sale Price/Gross Acre	\$188,119
Sale Price/Gross SF	\$4.32

<u>Remarks</u> This is a typical commercial site within the downtown CRA of Cape Coral. Most nearby improvements are professional office buildings.

INSTR # 2016000092062, Doc Type D, Pages 1, Recorded 04/29/2016 at 02:55 PM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$399.00 Rec. Fee \$10.00 Deputy Clerk TKING

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Prepared by: Elizabeth A Nyce Bay Brezze Title Services, LLC 3401 Hancock Bridge Parkway North Fort Myers, Florida 33903

File Number: 2016-4639 Consideration: \$57000

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#### **General Warranty Deed**

Made this April 29, 2016 A D By Frank Toscano, a single man, whose address is: 37 Bellevic Avenue, Westerly, Rhode Island 02891, heremafter called the grantor, to William J. Wawrzyniak and Regina T. Wawrzyniak, husband and wife, whose post office address is 1810 SE 45th Street, Cape Coral, Florida 33904, hereinafter called the grantee:

(Whenever used herein the turns "granter" and "granter" include all the parties to this maturated and the horn, legal representatives and assigns of individuals, and the successors and margins of exponentions)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida, viz

Lots 25 and 26, Block 395, CAPE CORAL SUBDIVISION, UNIT 7, according to the Plat thereof recorded at Plat Book 12, Pages 101 through 128, inclusive, of the Public Records of Lee County, Florida.

Parcel ID Number: 07-45-24-("3-00395.0250

Subject property IS (SNO) the bosnestead property of the grantor.

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

And the granter hereby covenants with said granter that the granter is lawfully seized of said land in fee simple, that the granter has good right and lawful authority to sell and convey said land; that the granter hereby fully warrants the title to said land and will defend the same against the lawful clasms of all persons whomsoever, and that said land is free of all encumbrances except taxes accruing subsequent to December 31, (user inpurprier year) 2015

In Witness Whereof, the said granter has signed and scaled these presents the day and year first above written.

D

Signed scaled and delivered in our presence: *THIS DOCUMENT MUST CONTAIN 2 SEPARATE NON-RELATED WITNESSES, THE NOTARY MAY SERVE AS A WITNESS BUT MUST ALSO SIGN ON THE WYTNESS LINE*

Ellefattu	Front Jorcono (sei)
Witness #1 Signature Elle E. Josten	Frink Toscano Adrea 37 Bellevic Avenue, Westerly, Rhude Island 02891
Canavar	
Winness Stignature EL-124 beth Any	here
State of <del>[UserInput as State for acknowledgement] .</del> County of [UserLaput os County for acknowledgement] L	es.

The foregoing instrument was acknowledged before me this 29th day of April. 2016, by Frank Toscano, a single man, who is/are personally known to me or who has produced [UBERHUPLET as type of 10) as identification. Notary Seal:

ELLE E. JOSTEN	Notary Public y	
STATE OF FLORIDA	My Commission Expires:	
Commil FF054224		
Expres 9/16/2017		

Elle E. Josten 911017

#### Land Sale No. 7



# <u>Property Identification</u> Record ID Property Type

Address Tax ID

Sale Data Grantor Grantee Sale Date Deed Book/Page Property Rights Conditions of Sale Financing Sale History Legal Desc. Verification

Sale Price Cash Equivalent

Land Data Zoning 7924 Commercial 4503 SE 16th Place, Cape Coral, Lee County, Florida 33904 07-45-24-C3-00344.0500

Shoreland Holdings LLC Orchid Commercial Property, LLC April 01, 2016 2016000072554 Fee simple Arm's length Cash to seller None in the prior three years Lots 50 & 51, Block 344, Cape Coral Unit 7 Loopnet and public records, Confirmed by William Stewart

\$45,000 \$45,000

SC, South Cape Downtown District

Stewart & Company

# Land Sale No. 7 (Cont.)

Topography Utilities Shape Future Land Use Plan Highest and Best Use Access	Level and cleared Full public Rectangular Downtown Mixed-City of Cape Coral Commercial development Good road frontage
<u>Land Size Information</u> Gross Land Size	0.302 Acres or 13,155 SF
<u>Indicators</u> Sale Price/Gross Acre Sale Price/Gross SF	\$149,007 \$3.42

<u>Remarks</u> This is a typical commercial site within the downtown CRA of Cape Coral. Most nearby improvements are professional office buildings.

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INSTR # 2016000072554, Doc Type D, Pages 1, Recorded 04/07/2016 at 10:54 AM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$315.00 Rec. Fee \$10.00 Deputy Clerk JMILLER

#### **Corporate Warranty Deed**

This Indenture, made this <u>internet day of Applie</u>, 20<u>110</u>, A.D. Between SHORELAND HOLDINGS, LLC, a Florida Limited Liability Company, whose post office address is: 1411-1 SE 47TH ST, Cape Coral, Florida 33904, Grantor, and

ORCHID COMMERCIAL PROPERTY, LLC, a Florida Limited Liability Company, whose post office address is: 1911 SE 20TH ST, Cape Coral, Florida 33990, Grantee,

Witnesseth, that the said Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in the County of Lee, State of Florida, to wit:

Lots 50 & 51, Block 344, Unit 7, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 12, Page(s) 101 to 128, inclusive, in the Public Records of Lee County, Florida.

Subject To taxes for the calendar year 2016, covenants, restrictions and easements of record, if any. Parcel Identification Number: 07-45-24-C3-00344.0500

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

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

And, the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the said Granter has caused this instrument to be executed in its name by its duly suthorized officer and caused its corporate seal to be affixed the day and year first above written.

Signed and Sealed in Our Presence: TWO Separate Witnesses Required

STEPHEN Merkli

en via Page

SHORELAND HOLDINGS, LLC, a Florida

Its, Manager

Limited Liability Company

Dobita

State of ______

(Affix Stamp/Seal)

The foregoing instrument was acknowledged before me this 14 day of 142. 2015, by Kevin Page, Manager of SHORELAND HOLDINGS, LLC, a Florida Limited Liability Company, on behalf of the company. He/She is personally known to me or has produced a as identification.

Notary Public Signature Notary

Printed Name: _______ My Commission Expires: ______

Prepared by: Marci A. Smith, an employee of CAPE CORAL TITLE INSURANCE AGENCY, INC., 1307 Cape Coral Parkway East Cape Coral, Florida 33904 File Number: 62418


#### Land Sale No. 8



#### <u>Property Identification</u> Record ID Property Type

Property Type Address

#### Tax ID

Sale Data Grantor Grantee Sale Date Deed Book/Page Property Rights Conditions of Sale Financing Sale History Legal Desc. Verification 7921 Commercial 3833 & 3839 SE 15th Place, Cape Coral, Lee County, Florida 33904 06-45-24-C3-00526.0990 and 06-45-24-C3-00526.1010

FDIC, receiver for First Community Bank ROWA Holdings, LLC August 12, 2015 2015000179759 Fee simple Arm's length, but sold out of foreclosure Cash None in the prior three years Lots 99-103, block 526, Cape Coral unit 11 CoStar and Public records, Confirmed by William Stewart

# Land Sale No. 8 (Cont.)

Sale Price Cash Equivalent	\$47,500 \$47,500
Land Data Zoning Topography Utilities Shape Future Land Use Plan Highest and Best Use Access	P-1, Professional Level and cleared Full public Rectangular Commercial Professional-City of Cape Coral Office development Good, residential street
Land Size Information Gross Land Size	0.574 Acres or 25,003 SF
<u>Indicators</u> Sale Price/Gross Acre Sale Price/Gross SF	\$82,753 \$1.90

#### **Remarks**

This site is located within the same zoning categories as the sites fronting Del Prado Boulevard, but it does not have the direct frontage on the boulevard, and access is via a parallel residential street. Development along this residential street is a mix of office and residential duplex.

INSTR # 2015000179759, Doc Type D, Pages 1, Recorded 08/17/2015 at 02:32 FM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$332.50 Rec. Fee \$10.00 Deputy Clerk MNOLAN

Ryan L. Snyder, Esq. 11031 Gatewood Drive Bradonton, FL 34211

#### Parent ID Number: See Legal Description **Special Warranty Deed**

This Indenture, Made this 12th day of August , 2015 A.D. Between Federal Deposit Insurance Corporation, as Receiver for First Community This Indenture, Bank of Southwest Florida of the Courty of Pinellas sue of Florida granter, and ROWA Holdings, LLC, a Florida limited liability company

whose address or 2733 Oak Ridge Court, Suite 101, Fort Myers, FL 33901

of the County of LOGO , Suze of FLOZICLA , granice. Witnesseth that the GRANTOR, for sed in consideration of the scan of and other good and valuable consideration to GRANTOR in hand paid by GRANTEF, the script whereof in hereby achaostadged, has granted, burgined and valuable consideration to GRANTOR in hand paid by GRANTEF, the script whereof in hereby achaostadged, has granted, burgined and valuable consideration to GRANTEF and GRANTEFS here, accessors and emigras farters, the following destrict land senses, hung and borg in the County of LOGO Star of FLOZICLA to with

yes advise in the Conty of Lee Sur of Florida wein Lots 99, 100, 101, 102, and 103, Block 526, Capo Coral Unit 11, according to the map or plat thereof, as recorded in Plat Book 13, Page(s) 42 through 48, of the Public Records of Lee County, Florida.

Parcel ID Numbers: 06-45-24-C3-00526.0990 and 06-45-24-C3-00526.1010

Subject to current taxes, easements and restrictions of record.

Together with all tenances, housingness and appendiances there belonging or an anywor oppositiving To Have and to Hold, de serve is for surger forwar.

And the granter bereby covenants with and granter that granter is lawfelly solited of and in fee simple, that granter has good right and lawful andority to cell and convey said back that granter hereby fully warrants the title to said land will defend the same against the lawful chiens of all persons claiming by, through as under granter.

In Witness Whereof, the granter has horizons an its hand and scal the day and year first above with

	igned, sealed and delivered in Printed Name : Markov Printed Name : Markov Printed Name : 000	toin .	Corporation Community B Clark T. Hi Attoznoy-in		for First ant Florida (Seel)	•
s	TATE OF Florida				(Corporate Seal)	
	COUNTY OF Pinellas The forceing instruct who add CLARK T. Biggs, Att Corporation, as Rec on behalf of the co the ispenselly laws to me or who has	ordeged before are this 1 orney-in-Fact of Giver for First rporation	Federal Depe Community Bar	nk of Southwes		
	EMILY C. DROUN OMMESSION # FF 034929 PRES: July 9, 2017 The Natary Pedia Linderatures		Printed Nam Notary Publ My Contrastee Espin		orn C pani-	~

#### Land Sale No. 9



Property Identification Record ID Property Type Address Tax ID

Sale Data Grantor Grantee Sale Date Deed Book/Page Property Rights Conditions of Sale Financing Sale History Legal Desc. Verification 7927 Commercial 1408 SE 47th Avenue, Cape Coral, Lee County, Florida 33904 07-45-24-C3-00360.0670

Source 2, LLC Welcome Home Development Corp. May 31, 2016 2016000124576 Fee simple Arm's length Cash None in the prior three years Lots 67 and 68, Block 360, Cape Coral Unit 7 Loopnet and public records, Confirmed by William Stewart

Sale Price Cash Equivalent \$49,900

\$49,900

# Land Sale No. 9 (Cont.)

Land Data	
Zoning	SC, South Cape Downtown District
Topography	Level and cleared
Utilities	Full public
Shape	Rectangular
Future Land Use Plan	Downtown Mixed-City of Cape Coral
Highest and Best Use	Commercial development
Access	Good frontage, plus a paved alley at the rear
Land Size Information	
Gross Land Size	0.143 Acres or 6,250 SF
<u>Indicators</u>	
Sale Price/Gross Acre	\$348,951
Sale Price/Gross SF	\$7.98

<u>Remarks</u> This site is located within a commercial area north of Cape Coral Parkway and west of Del Prado Boulevard. The area is part of the overall area known as downtown Cape Coral, and is also within the Cape Coral CRA.

INSTR # 2016000124576, Doc Type D, Pages 2, Recorded 06/10/2016 at 11:31 AM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D \$349.30 Rec. Fee \$18.50 Deputy Clerk CFELTMAN

# **Warranty Deed**

This Indenture, made, May 31, 2016 A.D. Between Source 2 LLC whose post office address is: 1229 SW 21st Ter, Cape Coral, Florida 33991 a limited liability company existing under the laws of the State of Florida, Grantor and Welcome Home Development Corp, a Florida Corporation whose post office address is: 1336 Cape Coral Parkway E, Suite 2, Cape Coral, Florida 33904, Grantee,

Witnesseth, that the said Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to it in hand paid by the said Grantce, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in the County of Lee, State of Florida, to wit:

Lots 67 and 68, Block 360, Unit 7, CAPE CORAL, according to the plat thereof, recorded in Plat Book 12, page 119, of the Public Records of Lee County, Florida.

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Subject to taxes for the current year, covenants, restrictions and easements of record, if any.

Parcel Identification Number: 07-45-24-C3-00360.0670

And the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

Florida Corporate Deed/Letter

#### INSTR # 2016000124576 Page Number: 2 of 2

In Witness Whereof, the said Grantor has caused this instrument to be executed in its name by its duly authorized manager/member the day and year first above written.

Source/2 LLG

Signed and Sealed in Our Presence: By: Jon R. Minto Its: Authorized Member IA'I Witness # izaatur tha Witness Print J Florida State of County of Lee . The foregoing instrument was acknowledged before me this 31st day of May, 2016, by Jon R. Minto, the Authorized Member of Source 2 LLC A limited liability company existing under the laws of the State of Florida, on behalf of the limited liability company. He/She is personally known to me or has produced <u>Florida</u> TD as identification. (Scal) Notary Public Signature Notary Printed Name: Arigelo My Commission Expires:: A 1. Prepared by:

Prepared by: Jennifer Parks, an employee of Entitled, LLC, 2180 West First Street, Suite 530 Fort Myers, Florida 33901 File Number: 16ENT-0273 Sales Price: \$49900 Doc Stamps: \$349.3

(NOTARY SEAL)



Florida Corporate Deed/Letter

## SALES LOCATION MAP



Stewart & Company

# ANALYSIS-LAND USE RESTRICTION

The sales will be analyzed in two groups. First, Sales Number 1 through Number 5, and Sale Number 9, will be analyzed in order to estimate the value of the site as if the land use restriction had been removed. Next, Sales Number 6 through Number 9 will be analyzed to estimate the value with the land use restriction in place. The difference between these two estimates represents the value of the land use restriction.

Sale Number 1 is the September 2015 sale of the site at 4642 Del Prado Boulevard South for \$325,000. This site contains 25,788 square feet, and the sale develops a price per square foot of \$12.60. In comparing this site to the subject, the only measurable difference is in zoning and land use. This site has the more intensive SC zoning compared to the P-1 zoning of the subject, and the site has the DM land use designation, compared to the PF designation of the subject. The subject will need to revise the land use plan prior to development. While the sale has a corner location on Del Prado Boulevard, the corner is not signalized and access is considered similar to the subject. Overall, this sale is considered superior to the subject.

Sale Number 2 is the September 2015 sale of the site at 3904-3908 Del Prado Boulevard for \$251,000. This site contains 19,994 square feet, and the sale develops a price per square foot of \$12.55. In comparing this sale to the subject, it is considered superior with regard to zoning as it has the more intensive C-1 zoning, and superior with regard to land use plan as it has the CP designation. Access for this site is considered inferior, as it has only southbound ingress and egress, with no median cuts at the site. This site, at less than 20,000 square feet, is considered to reflect a higher unit price than parcels larger than 20,000 square feet. Overall, this sale is considered superior to the subject.

Sale Number 3 is the December 2015 sale of the site at 1707 Cape Coral Parkway for \$1,020,000, after consideration of demolition costs. This site contains 58,719 square feet, and the sale develops a price per square foot of \$17.37 (adjusted). In comparing this site to the subject, the location at a corner with three road frontage is considered superior to the subject. In addition, the SC zoning and DM land use plan designation are considered superior. Finally, access resulting from the multiple road frontages is considered superior to the subject. Overall, this sale is considered superior to the subject.

Sale Number 4 is the July 2016 sale of the site at 3212 Del Prado Boulevard for \$195,000. This site contains 19,994 square feet, and the sale develops a price per square foot of \$9.75. This sale, located significantly north of the downtown business district of Cape Coral, is considered to have a location inferior to the subject. The sale was included in the analysis due to the water frontage similar to the subject. After comparison with Sale Number 5 below, however, the water frontage is not estimated to provide any effect on value. Ingress and egress is southbound only and access is considered inferior. The zoning and land use designations for this sale are both considered superior to the subject, as with the other sales. At less than 20,000 square feet, this site is considered to reflect a higher unit price than would the subject. Overall, this site is considered superior to the subject.

Sale Number 5 is the October 2016 sale of the site at 4320 Del Prado Boulevard for \$300,000. This site contains 30,971 square feet, and the sale develops a price per square foot of \$9.69. This site is very similar to the subject in most aspects, with the only measurable difference being in land use regulations. This site has the same zoning as the subject, and no adjustment is necessary. The site does have a superior land use plan designation, however. Overall, this site is considered superior to the subject.

Sale Number 9 is the May 2016 sale of the site located at 1408 SE 47th Street in Cape Coral for \$49,900. This site contains 6,250 square feet and the sale develops a price per square foot of \$7.98. In comparing this site to the subject, the size is much smaller than the subject and with no land use restriction in-place, this very small size is considered restrictive to potential development and inferior to the subject. The land use regulations are considered superior to the subject as with the other sales. The location, while within a commercial area, is considered inferior as there is no major road frontage. Overall, this sale is considered inferior to the subject with no land use restriction in-place.

The preceding sales were utilized in an effort to arrive at an indicated value for the subject property without the land use restriction by the sales comparison approach. The most reliable technique, in my opinion, is the price per square foot of land area. All of the sales are within the immediate market area of the subject and all are considered to provide good indications of value.

In comparing these comparable properties, factors which are considered include overall location, market conditions, zoning and land use, topography and access. The following chart summarizes the comparisons between the sales and the subject.

		LAND SALES	SS	UMMAR	Y-RESTI	RICT	ION R	EMOVED		
	DATE		Γ	SALES			RICE	COMPARISON		OVERALL
#	OF SALE	LOCATION		PRICE	AREA (SF)	PER	SQ. FT.	FEATURES	ADJ.	ADJ.
1	Sep-15	4642 Del Prado Boulevard S.	\$	325,000	25,788	\$		Market Conditions	=	
		Cape Coral						Utilities	=	
		Lee County						Location	=	
								Size	=	
								Zoning/Land Use		
								Topo/configuration	= .	
								Access	=	
2	Sep-15	3904-3908 Del Prado Blvd. S.	\$	251,000	19.994	\$	12.55	Market Conditions	=	
- · · ·		Cape Coral	ľ	,		Ť		Utilities	1 =	
		Lee County			1			Location	-	
								Size	l -	
			i i					Zoning/Land Use		
		· · · ·	i i					Topo/configuration	- =	1
								Access	+	
3	Dec-15	1707 E. Cape Coral Parkway	\$	1,020,000	58,719	\$	17 07	Market Conditions	=	
· · -	Dec-15	Cape Coral	12	1,020,000	50,719	Þ	17.37	Utilities	-	
		Lee County	1					Location		
		Lee County						Size	-	
								Zoning/Land Use	-	
-								Topo/configuration	=	
								Access		
4	Jul-16	3212 Del Prado Boulevard S.	\$	195,000	19,994	\$	9.75	Market Conditions	=	-
		Fort Myers	l					Utilities	=	
		Lee County						Location	+	
								Size		
	r							Zoning/Land Use		
								Topo/configuration	=	
	<b>v.</b> 1							Access	+	
5	Oct-16	4320 Del Prado Boulevard S.	\$	300,000	30,971	\$	9.69	Market Conditions	=	-
-		Cape Coral	Ľ					Utilities	=	i i
		Lee County						Location	=	
								Size	=	
-								Zoning/Land Use	-	
								Topo/configuration	=	
			ļ			,		Access	=	
9	May-16	1408 SE 47th Street	\$	49,900	6,250	\$	7.98	Market Conditions	=	+
		Cape Coral	ľ			-		Utilities	. =	
		Lee County						Location	++	
		·····						Size	+	
			1					Zoning/Land Use		
	· · · · ·							Topo/configuration	=	
								Access	=	

As can be seen from these comparisons, the range of price per square foot is from a low of \$7.98 for Sale Number 9 to a high of \$17.37 for Sale Number 3. All of the sales except Number 9 are considered superior, with Sales Number 4 and Number 5 slightly superior. Sale Number 9 is the least comparable of the sales considered, and given the least weight. After consideration of all of the date, the estimated unit value for the subject is \$9.00, resulting in an overall value without the land use restriction of \$712,718 or, in round figures, \$713,000.

Next, Sales Number 6 through Number 9 are analyzed in order to estimate the value of the site "as-is", with the land use restriction in place. This is the more problematic of the two value estimates, as there were no sales found with similar land use restrictions. Therefore, it was necessary to find a situation that provided an equivalent difference in value with the legal restriction.

Along Del Prado Boulevard, south of Veteran's Parkway, there are many areas in which the commercial zoning is one block deep. Each block contains lots fronting Del Prado Boulevard, and lots fronting the parallel side street. The sites fronting Del Prado Boulevard are able to fully take advantage of the commercial land use regulations, and this is reflected in the sales prices as shown is Sales Number 1 through Number 5. For the sites on the back sides of the blocks, however, while the land use regulations are the same, the market has effectively placed a "use restriction" because of the lack of exposure and frontage. This results in much lower prices for sites of the same size, and with similar and use regulations. While not exactly the same situation as the subject site, it is, in our opinion, an equivalent situation that provides a means for measurement of the effect of the land use restriction as the sales used reflect the 'market imposed restriction" and making another adjustment would be inappropriate.

Sale Number 6 is the April 2016 sale of the site a 4521 SE 15th Avenue for \$57,000. This site contains 13,199 square feet and the sale develops a price per square foot of \$4.32. In comparing this site to the subject, the location of the site is considered inferior to the subject. The size, at less than 20,000 square feet, reflects a higher unit price that would the subject. In addition, the SC zoning and DM land use plan designation are considered superior to the subject. Overall, this sale is considered superior to the subject with the land use restriction in place.

Sale Number 7 is the April 2016 sale of the site at 4503 SE 16th Place in Cape Coral for \$45,000. This site contains 13,155 square feet and the sale develops a price per square foot of \$3.42. This sale is considered to have a location inferior to the subject. The size, at less than 20,000 square feet, results in a higher unit price than would the subject. The land use regulations are considered superior to the subject. Overall, this sale is considered superior to the subject with the land use restriction in place.

Sale Number 8 is the August 2015 sale of the site located at 3833/3839 SE 15th Place in Cape Coral for \$47,500. This site contains 25,003 square feet and the sale develops a price per square foot of \$1.90. This sale was sold out of foreclosure by the FDIC and the price is considered low for this reason. In addition, the location is considered inferior to the subject as this site is north of the downtown business district. As with the other sales, the land use regulations are considered superior to the subject site. Overall, this sale is considered inferior to the subject.

Sale Number 9 is the May 2016 sale of the site located at 1408 SE 47th Street in Cape Coral for \$49,900. This site contains 6,250 square feet and the sale develops a price per square foot of \$7.98. In comparing this site to the subject, the size is much smaller than the subject and the sale is considered to reflect a higher unit price for this reason. With the more limited uses that are possible with the land use restriction in=place, the size is of less importance in this comparison. The land use regulations are considered superior to the subject as with the other sales. Overall, this sale is considered superior to the subject.

The preceding sales were utilized in an effort to arrive at an indicated value for the subject property without the land use restriction by the sales comparison approach. The most reliable technique, in my

opinion, is the price per square foot of land area. All of the sales are within the immediate market area of the subject and all are considered to provide good indications of value.

In comparing these office properties, factors which are considered include overall location, market conditions, zoning and land use, topography and access. The chart below summarizes the comparisons between the sales and the subject.

		LAND SALE	ES SI	JMMAR	Y-REST	RIC	ΓΙΟΝΙ	N PLACE		
6	Apr-16	4521 SE 15th Avenue Cape Coral	\$	57,000	13,199	\$	4.32	Market Conditions Utilities	0 D	
· ·		Lee County						Location	+	
			ł					Size		
· -								Zoning/Land Use		
· ·	· · ·	-						Topo/configuration		
						1		Access	=	
7	Apr-16	4503 SE 16th Place	\$	45,000	13,155	\$	3.42	Market Conditions	=	
		Cape Coral	1			]		Utilities	=	
_		Lee County		1				Location	+	
								Size	-	
								Zoning/Land Use		
			1					Topo/configuration	=	
-		· ·						Access	=	
8	Aug-15	3833/3839 SE 15th Place	\$	47,500	25,003	\$	1.90	Market Conditions	++	++
		Cape Coral						Utilities	=	
		Lee County				1		Location	++	
			1					Size	=	
								Zoning/Land Use		
								Topo/configuration	=	
	· .							Access	=	
9	May-16	1408 SE 47th Street	\$	49,900	6,250	\$	7.98	Market Conditions	=	
		Cape Coral	1			1		Utilities	=	
		Lee County						Location	=	
						1		Size	-	
								Zoning/Land Use		
		1	1					Topo/configuration	=	
			1					Access	=	
	L								1	

As can be seen from these comparisons, the range of price per square foot is from a low of \$1.90 for Sale Number 8 to a high of \$7.98 for Sale Number 9. All of the sales are considered, with Sales Number 7 and Number 8 bracketing the subject value. After consideration of all of the date, the estimated unit value for the subject as-is is \$2.75, resulting in an overall value with the land use restriction of \$217,773 or, in round figures, \$218,000.

Finally, the value of the land use restriction is estimated by subtracting the value with the restriction in place of \$218,000 for the value without the restriction of \$713,000. This provides an indication of value for the land use restriction of \$495,000.

# ANALYSIS-ONE TIME WAIVER OF RESTRICT

Next, the estimated value of a one-time waiver of the land use restriction is estimated. This one time waiver would allow the informational and advertising sign proposed by the City of Cape Coral.

This informational and advertising sign will be an electronic billboard, with a base located near the southwest corner of the site. The sign itself will be approximately 45 feet high. It was reported that the sign will be used primarily for commercial advertising purposes, but that the City of Cape Coral will have some use privileges, and during time of emergency, the City of Cape Coral will be able to have total use of the sign to provide evacuation directions and for other informational purposes.

The one-time waiver would not be time limited, but would be into perpetuity. The land area for the footprint of the sign and the maintenance areas is provided by the client as 7,770 square feet.

Because this one-time waiver is into perpetuity, The City of Cape Coral will effectively have obtained a fee simple value for this area. The City already has some use rights to the area, and could place a sign on the site for public and non-profit purposes without removing the waiver, although the cost of the sign for these purposes is considered prohibitive.

The full fee simple value of this area would be \$9.00 per square foot. As mentioned, however, the City already possess some use rights to the site, and the value of these use rights can be measured by the estimated value of the site with the restriction in place of \$2.75. In my opinion, the difference of \$6.25 per square foot represents the value of the one-time waiver to the land use restriction.

Multiplying the waiver area of 7,770 square feet by the estimated value of the waiver of \$6.25 per square foot provides an indication of overall value of \$48,562 or, in round figures, \$48,600.

# **RECONCILIATION AND FINAL VALUE CONCLUSION**

At this point in the appraisal, all factors and data believed to have any relationship to the market value of the subject property have been considered in detail. The sales comparison approach to value has provided a credible indication of value for the subject, both with and without the land use restriction in place. In addition, results for the analysis using the sales comparison approach were utilized to estimate the value of a one-time waiver of the land use restriction. As discussed, neither the cost approach nor the income approaches are utilized in this appraisal.

The subject property is appraised as a vacant site and the sales comparison approach provides a good simulation of what the property would sell for in the local market considering the various scenarios. Any differences between the sale properties and the subject are examined, and a final value for the subject is estimated.

After consideration of all the above data, you will find that, it is my opinion that the value of removing the perpetual use restriction on the subject property, in terms of cash and in fee simple ownership, under market conditions existing as of March 10, 2017, was:

FOUR HUNDRED NINETY FIVE THOUSAND DOLLARS ......(\$495,000)

The basis for this conclusion is explained in detail in the content of the attached appraisal report. Reference is made to the Assumptions and Limiting Conditions which are described in detail on Page 5 within said report. The estimated exposure time applicable to the subject is 6 months to 9 months.

In addition, the estimated value of allowing a one-time waiver of the perpetual use restriction to allow "for profit' use as detailed in the Scope of Appraisal document in the Addendum, based upon the analysis discussed, as of March 10, 2017, was:

FORTY EIGHT THOUSAND SIX HUNDRED DOLLARS......(\$48,600)

Both value estimates are subject to the hypothetical condition that the site is vacant, and no consideration is given to the existing office building and site improvements being utilized by the Cape Coral Chamber of Commerce as a welcome center.

STEWART & COMPANY, INC.

Willinghald

William E. Stewart, Jr., MAI State-Certified General Real Estate Appraiser RZ233

# ADDENDA

# SCOPE OF APPRAISAL

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The scope of The subject property is a 1.818-acre tract of State (TIITF) owned land that on January 4, 1961, along with other adjacent land, was Dedicated to Lee County (Dedication 23255) subject to a perpetual *restriction* against any use of the property for "*private*" and/or "*for profit*" uses. In 2004, Lee County *assigned* (transferred) <u>all of its rights, title and interests</u> in the subject 1.818 acres, along with additional adjacent land, to the City of Cape Coral. On July 10, 2007, the City of Cape Coral conveyed a 99-year land lease of the subject 1.818 acres (originally thought to be 2.14 acres) to the Cape Coral Chamber of Commerce to accommodate an existing Welcome Center and Chamber Offices building on the property, its attendant parking and to allow other uses deemed compatible with the "restriction language" of the Dedication. On June 13, 2016, the City of Cape Coral adopted *Ordinance 26-16* (City Ordinance) to allow a public-private partnership pursuant to §287.05712, Florida Statutes, between the *City* and *Lamar Outdoor Advertising* for two electronic changing message center structures, or entry features, that would provide both commercial and public information messaging, including public emergency content messaging, which is a deemed by the City to be a public benefit. The purpose of this assignment is to:

- measure the value of removing the "perpetual *restriction* against any use of the 1.818-acre subject property for "*private*" and/or "*for profit*" uses", using the "Before" and "After" valuation to:
  - a) value the subject 1.818-acre tract in the "Before" condition, subject to the existing "restriction against any use of the property for private and/or for profit uses, and, based on the Hypothetical Condition that the Cape Coral Chamber of Commerce building and site improvements <u>do not exist</u> as of the date of value.
  - b) value the subject 1.818-acre tract in the "After" condition, based on the Hypothetical Condition that the restriction against private and/or for-profit uses has been removed as of the date of value, and also on the Hypothetical Condition that the Cape Coral Chamber of Commerce building and site improvements <u>do not exist</u> as of the date of value.
  - c) compare the value estimate results from of a) and b) above to determine the arithmetic difference between the two valuation scenarios, which will reflect the value of removing the restriction against private and/or for-profit uses from the subject 1.818-acre subject property.
- estimate the value of allowing a ONE-TIME Waiver of the *restriction* against "*private*" and/or "*for profit*" use of a specific "footprint" and surrounding maintenance buffer containing 7,770 square feet that is within the 1.818-acre tract, to construct an *Entry Structure* (2-faced, electronic changing message center) through a *public-private partnership*. The appraiser will need to:
  - a) determine the best method to estimate the value of the one-time waiver to allow the specific use of the 7,770 square feet to construct and maintain the Entry Structure, and only that use
  - b) vet the method to be used with the DEP Senior Appraiser managing the assignment and/or the Chief Appraiser.

In the request for proposals, the appraisers will be requested to provide a bid based on a normal Delivery time and the corresponding fee quote, and, a *second fee quote* based on a Delivery time that is <u>two weeks earlier</u>.

CHECKLIST

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Bureau of Appraisal – Appraisal Checklist Page 2

# BUREAU OF APPRAISAL - APPRAISAL CHECKLIST PART ONE

# GENERAL --- VACANT LAND

1	Is a completed "Executive Summary" included for	Yes	Page No. 10	No	N/A
-	each parcel and/or final opinion of value?				
2	Does the appraisal follow the recommended general format for narrative appraisal reports (this format should be used by the fee appraiser as a general guide)?				
PREM	IISES OF THE APPRAISAL				
3	Is there a description of the extent of the process (scope) of collecting, confirming and reporting data?	$\boxtimes$	13/80		
4	Is the Bureau of Appraisal's definition of market value, or other defined value, used?	$\boxtimes$	14		
5	Is the intended use (function) and user of the appraisal identified?	$\boxtimes$	14		
6	Are the property interests (rights) appraised identified? (e.g. fee simple, leased fee, easement, fee simple subject to)		15		
7	Does the appraisal state any Extraordinary Assumptions and Hypothetical Conditions?	$\boxtimes$	14		
8	Does the appraisal report consider whether a fractional interest, physical segment or partial holding contributes pro rata to the value of the whole?				
9	Are the effective date of value and the date of the appraisal report stated?	$\boxtimes$	14		
PRES	ENTATION OF DATA				
10	Is a legal description of the property appraised included in the report?	$\boxtimes$	21		
11	Is a five-year subject sales history included?	$\boxtimes$	23		
12	Does the appraiser explain why the previous sale of the subject, if within five years, was not used in the valuation?				$\boxtimes$

Bureau of Appraisal – Appraisal Checklist Page 3

rage 5		Yes	Page No.	No	N/A
13	Is any current agreement of sale, option or listing of the property under appraisal analyzed?				
14	Was a neighborhood analysis provided including a discussion of market trends, either positive or negative, which affects the subject property?		19		
15	Is a land use analysis provided which discusses existing land use and zoning designations, impending use restrictions or proposed concurrency or land use planning restrictions?		28		
16	Does the appraisal report provide the current assessed value of the subject property?	$\boxtimes$	28		
DESC	RIPTION OF SUBJECT				
17	Are photographs and an aerial included?	$\boxtimes$	24		
18	Does the appraisal report describe the size, shape and other physical characteristics of the site/land?	$\boxtimes$	28		
19	Does the appraisal report describe access to the property?	$\boxtimes$	28		
20	If the access is poor, inadequate or substandard, does the appraisal address its affect, with supporting market evidence, on value?				$\boxtimes$
21	Does the appraisal describe the topography of the property?	$\boxtimes$	28		
22	Does the appraisal report describe the location of the property?	$\boxtimes$	28		
23	Does the appraisal report describe the property's road frontage?	$\boxtimes$	28		
24	Does the appraisal report describe the property's water frontage?	$\boxtimes$	28		
25	Does the appraisal report describe utilities available and their proximity to the property?	$\boxtimes$	28		
26	Does the appraisal report describe nuisances and hazards, if any, affecting the value of the property?	$\boxtimes$	28		

Bureau of Appraisal – Appraisal Checklist

Page 5 27 Does the appraisal report describe any existing and/or potential environmental hazards affecting the value of the property?

28	Is the tax assessment included?	$\boxtimes$	28		
29	Does the appraisal report describe the drainage and the existence of flood plain conditions affecting the value of the property?		28		
30	Does the appraisal report discuss any easements, encroachments and rights-of-way affecting the value of the property and the affect on value?		28		
31 ANAL	Does the appraisal report discuss the affect on the value of the property as a result of outstanding oil, gas and mineral interests? YSIS OF DATA AND CONCLUSIONS				
*** 1					
rignes	st and Best Use	Yes	Page No.	No	N/A
32	Is the highest and best use of the property "as vacant" and "as improved," if applicable, analyzed?	$\boxtimes$	31		

33	Is the highest and best use based on an "economic use" of the property?		31	
Land V	aluation			
34	Is a minimum of 3 sales included and analyzed?	$\boxtimes$	37	
35	Are photographs and an aerial of the sales included?	$\boxtimes$	37	
36	Did the appraiser include a sale and listing location map that also shows the subject?		71	
37	Is the unit of comparison appropriate for the subject's market?	$\boxtimes$		
38	Are the comparable sales similar to the subject in highest and best use?	$\boxtimes$		
39	If the comparable sales are not similar in highest and best use, is an adequate discussion included as to why the sales are used?			
40	Are the comparable sales adjusted for cash equivalency or otherwise clearly explained?			
41	If you included comparable sales to governmental units and/or non-profit groups, were they analyzed separately with appropriate comments explaining differences, if any, compared to private transactions?			
42	If the appraisal report includes extraordinary assumptions and hypothetical conditions are their impacts on value adequately supported and reported in the reconciliation and final value estimate?		77	
43	If you provide a discounted cash flow moDel in valuing the subject property, did you also provide a sales comparison, or other, approach to arrive at the present value of the subject property?			

Bureau of Appraisal – Appraisal Checklist Page 7

44 Are demolition costs, if any, appropriately considered for the comparable sales and the subject property?

Yes Page No. No X

Bureau of Appraisal – Appraisal Checklist Page 10

#### BUREAU OF APPRAISAL - APPRAISAL CHECKLIST PART THREE

Reconciliation

78	Is the quality and quantity of data considered and reconciled and the applicability or suitability of the approaches considered and reconciled?	Yes	Page No. 77	
79	Is the final value estimate consistent with the highest and best use, the data, and analyses presented in the report?	$\boxtimes$	77	
80	Does the appraisal report consider and analyze the effect on value, if any, of the assemblage of the various estates or component parts of a property, refraining from estimating the value of the whole property simply by adding together the individual values of the various estates or component parts without explanation?			
81	In arriving at a final value estimate, does the appraisal consider the value impact (cost to cure/stigma) of environmental hazards and/or other contamination (underground storage tanks, toxic waste disposal, etc.) before concluding the "as is" value?			
Mise	ellaneous			
82	Does the report provide an estimate of the property's anticipated exposure time, as required by USPAP?	$\boxtimes$	Letter	
83	Does the appraisal explain and support the exclusion of any of the usual valuation approaches?	$\boxtimes$	33	
84	Are Extraordinary Assumptions and Hypothetical Conditions repeated, or referenced with all statements of the final opinion of value?	$\boxtimes$		

SIGNED: COMPANYCOL

DATE: 3/20/17

## MEMORANDUM

# CITY OF CAPE CORAL CITY MANAGER'S OFFICE

TO:	Mayor Sawicki and Council Members
FROM:	John Szerlag, City Manager Michael Ilczyszyn, Assistant City Manager
DATE:	April 17, 2017
SUBJECT:	P3 State Lands Dedication Modification: Additional Information

As additional information to clarify the payments required by the State, the following information is being provided:

- 1. The State of Florida will not accept payment from a private entity for any option presented in the April 7, 2017 memo on this subject.
- 2. LAMAR Corp, LLC will sign an agreement to pay 100% of the amount due to the State for the modification.
- 3. The City of Cape Coral will make the initial payment of \$48,600 to the Department of Environmental Protection for the formal amendment to dedication removing the forprofit use restriction.
- 4. LAMAR Corp, LCC will repay the initial payment of \$48,600 to the City of Cape Coral over the initial term (10 years) of the agreement with interest.

As stated in the memo dated April 7, 2017, there was an option to request a one-time waiver from the State wherein DEP staff advised the City the State would require an annual payment throughout the life of the agreement between 15% and 50% of the revenue from the P3 agreement. This amount was based on gross revenue received. While the final negotiated amount from this option remains unknown, the option selected positions the P3 agreement on the original timeline and keeps us in a position where the City can retain 100% of the revenue negotiated. There is no Council action required to proceed with this option.

#### JS/MI:rm

C: Dolores Menendez, City Attorney Steven Griffin, Assistant City Attorney Victoria Bateman, Finance Director Vince Cautero, Community Development Director Dawn Andrews, Property Broker