

AGENDA FOR THE HEARING EXAMINER

Tuesday, February 6, 2018 9:00 AM Council Chambers

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. Case # VP17-0011; Address: 2802 SW 51st Street; Applicant: Cape Coral House, LLC
- B. Case # VP17-0014*; Address: 2730 SW 51st Street; Applicant: Roy and Marilyn Dirkmaat
- C. Case #: SE17-0013; Address: 4402 and 4406 Chiquita Boulevard South; Applicant: Andros Property Investment LLC; City of Cape Coral

3. DATE AND TIME OF NEXT HEARINGS

A. Tuesday, February 20, 2018, at 9:00 a.m., in Council Chambers

4. ADJOURNMENT

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

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

PLEDGE OF CIVILITY

We will be respectful of each other even when we disagree. We will direct all comments to the issues. We will avoid personal attacks. The hearing shall, to the extent possible, be conducted as follows:

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

Item Number: 2.A.

Meeting Date: 2/6/2018
Item Type: HEARINGS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Case # VP17-0011; Address: 2802 SW 51st Street; Applicant: Cape Coral House, LLC

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of N

the Strategic Plan?

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant, Steward G. Gibboney IV, seeks a vacation of plat for a canal right-of-way and underlying easements being a part of Eternity Canal, adjacent to Lots 1 and 2, Block 5008, Cape Coral Subdivision, Unit 72; the release of right-of-way, utilities, drainage, canal, and bridge maintenance easements being a part of Eternity Canal, adjacent to Lots 1 and 2, Block 5008, Cape Coral Subdivision, Unit 72; and a vacation of easements occupying a portion of Lots 1 and 2, Block 5008, Cape Coral Subdivision, Unit 72; property located at 2802 SW 51st Street.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Material"

PREPARED BY:

Kristin
Kantarze

Division- Planning
Department- Community
Development

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description

Backup Materials

Туре

Backup Material



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP17 : 0011

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

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

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

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

Cape Coral House LLC	Address: 22 W. Gay Street
	City: Columbus State: OH Zip 43215 Phone:
APPLICANT Steward G. Gibboney Iv, Manager	Address: Same
O Steward G. G. bone y A AUTHORIZED BEPRESENTATIVE IN COSE of	City: State: Zip Phone: C14 531 8973
EMAIL Gibby 4@ hotmail, com	Address: 8/80 (Sull Lane City: 47, Myers State: 1 Zip 3396 Phone: 239 250 29/16
Unit 72 Block 5008 Lot(s) 18 Address of Property 2802 SW 51St Street Ca	2+LAND OR 2443/783+788 Subdivision ape Coral, FL 33914
Current Zoning Residential	Plat Book 23 , Page 19 Strap Number 17-45-23-C1-05008.0010



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP17: 0011

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

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

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

OWNER/APPLICANT (PLE	ASE TYPE OR PRINT)		OWNER/APPT	TCANT SIGN	ATURE	
	(SIGNATUR	RE MUST B	E NOTARIZED)		00	
STATE OF FL	COUNTY OF	LEE				
Sworn to (or affirmed) an 20 17 by Strunged 6. as identification. Exp. Date 09-13-20.	GIBBONEY IV, who is	on this	day of _ known or who	has produce	ed cho DR. L.	e
Commission # FF 0507	IS B. SAYERS SICN # FF 050716 Explember 13, 2017	Dou	ne of Notary Pu	4/485		



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP17 · OOII

AU	THORIZATION TO REPRESE	NT PROPERTY OWNER(s)	
DI CASE DE ADVISED TUAT	Stanford G	. Gibboney II, N	NGR
PLEASE BE ADVISED THAT	(Name of person giv	ring presentation)	
IS AUTHORIZED TO REPRESENT M AGENCY, BOARD OF ZONING ADJU	E IN THE REQUEST TO THE USTMENTS AND APPEALS A	PLANNING & ZONING CON ND/OR CITY COUNCIL FOR	MMISSION/ LOCAL PLANNING
	1\$2.	- Land	
00 6	1\$2 + 008 LOT(S) +75	13/783 SUBDIVISION	
UNIT 72 BLOCK 5	LOT(S) 4-75	SUBDIVISION	
OR LEGAL DESCRIPTION	17452361	050080010	
OR LEGAL DESCRIPTION	110000	0.0000000000000000000000000000000000000	
LOCATED IN THE CITY OF CAPE	CORAL, COUNTY OF LEE, FL	ORIDA.	
Cape Coral House	110		
PROPERTY OWNER (Please Prin	nt)	PROPERTY OWNER	(Please Print)
Stund b. bx	/ MGK		
PROPERTY OWNER (Signature	& Title)	PROPERTY OWNER	(Signature & Title)
STATE OF T, COUNTY	of he		
	sairta Juli V	G day of	Aug., 2017, by
Subscribed and sworn to (or affirm	ned) before me this		his hour 2011 by
as identification.	who is personally known o	produced	NO PYZ
	notel no	Commission Number:	99048323
Motory Public - State of Florida		Commission value.	0504650
Commission # GG 048323 Si	gnature of Notary Public:	3 1	
My Comm. Expires Dec 5, 2020		7	O 1

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



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP17-0011

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

Cape Coral House LLC		
CORPORATION/COMPANY NAME		517-07
Steward G. Gibboney Iv, Manager		Dry // / Mgr
PROPERTY OWNER (PLEASE TYPE OR F	PRINT)	PROPERTY OWNER'S SIGNATURE
STATE OF FL , COUNTY	OF LEE	
Sworn to (or affirmed) and subscribe	d before me this _9*	day of Jugust, 2012, by
Stewno G. GILDONEY IV	who is personally know	
as identification.		
	Exp. Date: 09-13-	3-217 Commission Number: FF050914
DOUGLAS B. SAYERS	Signature of Notary	Public:
MY COMMISSION # FF 050716 EXPIRES: September 13, 2017 Bonded Thru Notary Public Underwriters	Printed name of Not	



VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP17.0011

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

			(SIGNATURE	MUST BE NOTARIZ	ZED)	11	12	
Cape Cora	l House I	LC, Manag	ger- Steward C	G. Gibboney Iv	Te	101	1 / Mgr	
APPLICANT NA	AME (PLEA	ASE TYPE OR	PRINT)	АРР	LICANT'S SIGI	NATURE		
		OUNTY OF _			1			
Sworn to (o	r affirmed) and subscr	ibed before me	this <u>9</u> day of onally known or pr	Zhigus	t - Day 1	, 20 <u>/7</u> by	
as identifica	ation.	bboney 1		09-13-2017)
	DOUG	LAS B. SAYERS		of Notary Public:	1	of gli	12 Jours	
	EVOIDES.	ISSION # FF 05071 September 13, 20 Notary Public Underwr	017 Printed har	me of Notary Publ	lic:	DUNGLAS AS S	YERS	

ATTN: City of Cape Coral, Florida

Hearing Examiner & City Council

RE: Vacation of Plat & Vacation of Rear Area

Lots 1 & 2, Block 5008, Unit 72, plus a portion of Eternity Canal

2802 SW 51st Street, Cape Coral FL

Dear Representatives:

I am the owner of the property located at 2802 SW 51st Street which is improved with a residential home. It is my intent to request to vacate 436.30 Sq. Ft. of platted utility and drainage easements to the rear 6.00 foot southern boundary of Lots 1 and 2 (where the easement meets the pie shaped Quit Claim area), less the easterly and westerly 6.00 feet on Lots 1 & 2, Block 5008, Unit 72 Cape Coral Subdivision.

Additionally it is my intent to request to vacate 3276.75 Sq. Ft. of right-of-way; any and all underlying easements reserved within the Quit Claim Deed (pie shaped) area, recorded at OR Book 2443 Page 0778 being a portion of the Eternity Canal right-of-way lying south of Lots 1 & 2, Block 5008 in Cape Coral, Unit 72 as recorded in Plat Book 23, Pages 9-26 of the public records of Lee County, Florida.

Finally it is my intent to request that the City release all right-of-way, public utility, drainage, and canal and bridge maintenance easements associated with the quit claim area granted by the City in Ordinance 75-93.

I am willing to deed to the City a contiguous 6.00 foot wide public utility and drainage easement over the portion of the Eternity Canal, which was quit claimed by the City of Cape Coral in 1993 in order to maintain a perimeter easement around the entire home site. Attached please find a sketch and description of the area proposed to be vacated and proposed to be deeded to the City.

If you have any additional requests you may email it to gibby4@hotmail.com. If there are any questions regarding this matter, please do not hesitate to contact me at 614 531 8973. Thank you for your time and consideration in this matter.

Sincerely,

Steward G. Gibbnoney IV, Agent

Steward G. Gibboney IV, Agent Cape Coral House LLC, Property Owner

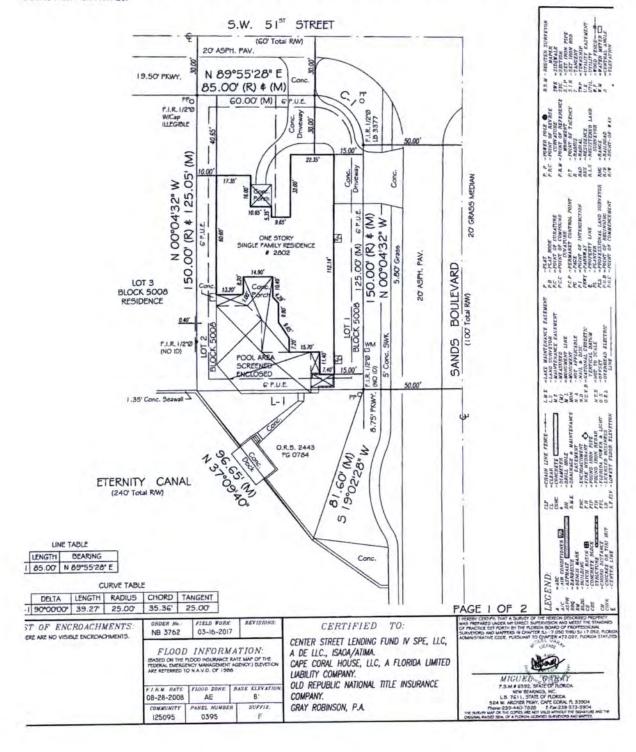
BOUNDARY SURVEY SCALE 1"=30"

PROPERTY ADDRESS: 2802 S.W. 5IST STREET, CAPE CORAL, FLORIDA, 33914

10TE(S):

- THIS BOUNDARY SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A COMMITMENT FOR TITLE INSURANCE, LEGAL DESCRIPTION PROVIDE BY OWNER.
- UNLESS SHOWWN, UNDERGROUND UTILITY, IMPROVEMENTS, FOUNDATION AND/OR SUBSURFACE STRUCTURES WERE NOT LOCATED BY THIS BOUNDARY SURVEY.
- BEARINGS ARE BASED ON THE CENTER LINE OF S.W. 51ST STREET HAVING A BEARING OF N 89°55'28" E PER RECORDED PLAR BOOK 23, PAGE 19.

 THE PURPOSE OF THIS SURVEY IS FOR USED IN OBTINING TITLE INSURANCE AND FINANCING AND SHOULD NOT BE USED FOR CONSTRUCTION PURPOSES.
- THE LAND(S) SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS OR OTHER RECORDED ENCUMBRANCES THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THE COUNTY.
- THE EXPECTED USE OF THE LAND, AS CLASSIFIED IN THE STANDARDS OF PRACTICE (5J-I7.051), IS "SUBURBAN". THE MINIMUN RELATIVE DISTANCE ACCURACY FOR THIS TYPE OF BOUNDARY SURVEY IS I FOOT IN 7,500 FEET. THE ACCURACY OBTAINED BY MEASUREMENT AND CALCULATION OF A CLOSED GEOMETRIC FIGURE WAS FOUND TO EXCEED THIS REQUIREMENT.
- THIS BOUNDARY SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP.
- DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
- ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF SIGNING PARTY OR PARTIES.





PROPERTY ADDRESS: 2802 SW 51st STREET, CAPE CORAL, FLORIDA 33914.

LEGAL DESCRIPTION: LOTSI AND 2, BLOCK 5008, CAPE CORAL, UNIT 72, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK, PAGE 9, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

5

A PORTION OF ETRNITY CANAL RIGHT-OF-WAY LYING SOUTH OF LOTS 1 & 2, BLOCK 5008, CAPE CORAL, UNIT 72, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 23, PAGE 9, OF THE PUBLIC RECORDS OF LEE COUNTY ,FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

A PARCEL OF LAND SOUTH OF ADJOING AND ADJACENT TO LOTS I AND 2, BLOCK 5008, CAPE CORAL, UNIT 72 AS RECORDED IN PLAT 800K 23, PAGE 19, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOW PER A SURVEY MADE BY WAYNE C. GREATHOUSE, PLS# 3877 IN AUGUST, 1993

BEGINNING AT THE SOUTHEAST CORNER OF LOT I, BLOCK 508, ON THE WEST RIGHT-OF-WAY LINE OF SANDS BOULEVARD, THENCE;

S 19° 02' 28' W, 81.60 FEET, TO THE WEST END OF THE EXISTING BRIDGE WINGWALL, THENCE; N 37° 09' 40° W, 96.65 FEET, TO THE SOUTHERN COMMON CORNER BETWEEN LOTS 2 AND 3, BLOCK 5008, THENCE:

N 89° 55' 28' E , 85.00 FEET ALONG ALL OF THE SOUTH LINE OF LOTS I AND 2, BLOCK 5008, TO THE POINT OF BEGINNING.

SUBJECT TO EXISTING DRAINAGE EASEMENTS, SUBJECT ALSO TO A RIGHT-OF-WAY EASEMENT ACROSS THE ENTIRE AREA FOR PUBLIC UTILITIES, DRAINAGE, AND CANAL/OR BRIDGE MAINTENANCE.

PAGE 2 OF 2

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THERE ARE NO VISIBLE ENCROACHMENTS.		ORDER No:	FIELD WORK: 03/16/2017	REVISIONS:	CERTIFIED TO:		TO ENDS	metro del metro del mentro del del munto della media della metro del conserva del metro della media della de
		(BASED ON THE PLO EMERGENCY MANAGE	FLOOD INFORMATION: (BASE) ON THE FLOOD MISSIMOS RATE MAY OF THE FEDERAL PHENSING MANAGEMENT AGENCY, ELEVATION ARE REFERRED TO NA.V.D. OF ROB		CENTER STREET LENDING FUND IV SPE, LLC, A DE LLC., ISADA/ATIMA. CAPE CORAL HOUSE, LLC. A FLORIDA LIMITED LIABILITY COMPANY.		MIGUEL GARRY	
		F.I.R.M. DATE: 08/28/2008	FLOOD ZONE:	BASE ELEVATION B'	COMPANY.	AL TITLE INSURANCE	NEW BEAR	STATE OF FLORIDA BINGS, INC. IS OF FLORIDA CAPE EORAL, TL 33990
		COMMUNITY 125095	PANEL NUMBE 0395	R SUFFIX:	GRAY ROBINSON, P.A.		1456 S.C. TRENTERRACE Priorie: 229 Set survey have un the curred are not not teac or a full-tax occupant terraceurs and	#40-TRZE DELALAR AND THE DRIENS, MIGIZ

THIS INSTRUMENT PREPARED BY AND RETURN TO:

Mark S. Weinberg, Esquire GrayRobinson, PA 333 SE 2rd Ave., Suite 3200 Miami, FL 33131

Certificate Containing Authorization of Cape Coral LLC, doing business in Florida as Cape Coral House, LLC an Ohio limited liability company

The undersigned having personal knowledge of the activities of the Companyand of the other facts recited herein, certifies that:

- 1. Cape Coral LLC, doing business in Florida as Cape Coral House, LLC, an Ohio limited liability company (the "Company") is the name used in the conduct of the Company's business under the Florida Limited Liability Company Act.
- That Steward G. Gibboney IV is the only member/owner and the sole authorized member (the "Member") of the Company.
- 3. The Company (1) is in good standing under the laws of Ohio and has been duly qualified to conduct business in the State of Florida, and (2) has not been dissolved nor are dissolution proceedings pending. Neither the Company nor any of its members is currently a debtor under the U.S. bankruptcy laws.
- 4. That Steward G. Gibboney IV, as Member, acting alone, be, and hereby is, authorized, empowered and directed for and in the name and on behalf of the Company to perform all acts and do all things that are required to be done, observed, performed by the Company in accordance with the Loan.
- 5. It is hereby confirmed that neither Robert W. Hayes II and Robert W. Gibboney IV have any ownership/membership interest in the Company and that Steward G. Gibboney IV has a 100% ownership/membership interest the Company.

Signature Page to Follow

1302985144 - # 2374396 vl

This Certificate is executed as of the day of March 2017.

STATE OF OHIO

COUNTY OF OLLAW GIVE

The foregoing instrument was SWORN TO AND SUBSCRIBED before me this Obday of March 2017 by Steward G. Gibboney IV who is personally known to me OR produced identification DoType of Identification Produced:

Print or Stamp Name: (NUTTHEY MOUNT HEVS
My Commission Expires: SEPT 13030



COURTNEY MAE WALTERS Notary Public, State of Ohio My Comm. Expires 09/01/2020 Recorded in Franklin County This Certificate is executed as of the 3 day of March 2017.

STATE OF OHIO

COUNTY OF CHICWARY

The foregoing instrument was SWORN TO AND SUBSCRIBED before me this \(\frac{\mathcal{O}}{2}\) day of March 2017 by Robert W. Hayes II who is personally known to me \(\pi\) OR produced identification \(\pi\) Type of Identification Produced: arivers license

Print or Stamp Name: (NYThey Moe Walter)
My Commission Expires: 57 Pt 13030



COURTNEY MAE WALTERS Notary Public, State of Ohio My Comm. Expires 09/01/2020 Recorded in Franklin County



Bepartment of State

I certify the attached is a true and correct copy of the application by CAPE CORAL LLC doing business in Florida as CAPE CORAL HOUSE LLC, an Ohio limited liability company, authorized to transact business within the state of Florida on February 17, 2016, as shown by the records of this office.

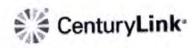
The document number of this limited liability company is M16000001373.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capital, this the Eighteenth day of February, 2016

THE STATE OF THE S

CR2EO22 (1-11)

Ken Detzen Ken Betzner Secretary of State



Attention:

Steward G. Gibboney IV 2802 SW 51st Street Cape Coral, FL 33914 Phone: (614)-531-8973

Subject: - No Objection Request

Site Address: 2802 SW 51st ST, Cape Coral Fl Strap # 17-45-23-C1-05008.0010

Dear Steward G. Gibboney IV

In regard to the referenced property above CenturyLink has **No Objection**. To vacate the rear 6.00 foot platted utility and drainage easement along the southern boundary of Lots 1 and 2 (where the easement meets the pie shaped Quit Claim area), less the easterly and westerly 6.00 feet on Lots 1 & 2, Block 5008, Unit 72 Cape Coral Subdivision. And to vacate any and all underlying easements reserved within the Quit Claim Deed (pie shaped) area, recorded at OR Book 2443 Page 0778 being a portion of the Eternity Canal right-of-way lying south of Lots 1 & 2, Block 5008 in Cape Coral, Unit 72 as recorded in Plat Book 23, Pages 9-26 of the public records of Lee County, Florida. As well as to vacate the additional upland area lying adjacent and east of the previously quit claimed portion of the Eternity Canal right-of-way. Steward G Gibboney IV is willing to deed to the City a contiguous 6.00 foot wide public utility and drainage easement over the portion of the Eternity Canal, which was quit claimed by the City of Cape Coral 1993 and the additional upland portion in order to maintain a perimeter easement around the entire home site. Attached please find a sketch and description of the area proposed to be vacated and proposed to be deeded to the City.

Sincerely

Justin Lane

THANK YOU!

Justin Lane
OSP Engineering
3301 Del Prado Blvd S
Office: (239)-984-7009

comcast

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

July 31, 2017

Steward G. Gibboney IV 22 W Gay Street Columbus, Ohio 43215

Re: Lots 1 & 2 Block 5008, Unit 72 (2802 SW 51st Street Cape Coral Fl.)

Dear Stewart G. Gibboney IV,

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

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

Cordially,

Mark Cook

Project Coordinator



Lee County Electric Cooperative, Inc.
Post Office Box 3455

North Fort Myers, FL 33918-3455 (239) 995-2121 • Fax (239) 995-7904

www.lcec.net

August 8, 2017

Mr. Steven Gibboney, IV, Agent 2802 SW 51stStreet Cape Coral, FL 33914

Re.

Letter of No Objection to Vacation of Utility Easement for 2802 SW 51st Street, Cape Coral, FL33914; Owner: Cape Coral House, LLC; Strap#: 174523C1050080010.

Dear Mr. Gibboney:

You have opened up negotiations, on behalf of your principal, Cape Coral House, LLC, concerning the vacation of a certain utility easements between Lots 1 and 2, Blk 5008, Unit 72, Cape Coral, Plat Book 23, Pages, 9 through 26 of the Public records of Lee County, Florida.

We have reviewed the sketches, the request submitted, and our internal records. LCEC has **no objection** to the vacation request as submitted and reflected in the sketches, nor the imposition of platted utility easements as depicted on a series of sketches prepared by Phillip M. Mould, PSM, dated 4/13/2017, having a project name of CC-u72-5008-1 also known as "Exhibits E" and "Exhibit F". In the after situation LCEC requires that there be a continuous perimeter easement, which will be satisfied by the removal of Exhibit E description and the impostion of Exhibit F.

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

Very truly yours,

Russel Goodman, SR/WA

Digitally signed by Russel Goodman, SR/WA DN: cn=Russel Goodman, SR/WA, o=Lee County Electric Co-operative, ou=Design and Engineering, emall=Russel.Goodman@lcec.net, c=US Date: 2017.08.08 17:06:45 -04'00'

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

Planning Division Case Report

Review Date: January 25, 2018

Applicant/

Property Owner: Cape Coral House, LLC

Steward G. Gibboney IV, Manager

Owner Address: 22 W. Gay Street

Columbus, OH 43215

Authorized

Representative Steward G. Gibboney IV, Manager of Cape Coral House, LLC

Requests: The applicant requests to vacate ± 3,276.75 sq. ft. of right-of-way (ROW) and all

underlying easements associated with the Eternity Canal, and \pm 436.30 sq. ft. of platted easements associated with Lots 1 and 2, Block 5008. The applicant also requests the City release ROW, public utility, drainage, and canal and bridge maintenance easements associated with the quit claim area granted by the City

in Ordinance 75-93.

Property Location: 2802 SW 51st Street

Cape Coral, FL 33914

Cape Coral Subdivision, Unit 72, Block 5008, Lots 1-2

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

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

Recommendation: Approval with Conditions

Urban Service Infill

Property Description:

The applicant owns a two-lot platted site, about 0.4 miles south of the intersection of Cape Coral Parkway and Sands Boulevard. The site has a single-family house with a pool that was constructed in 1995. According to the Lee County Property Appraiser (LEEPA) website, the house has a living area of 3,450 sq. ft. A dock is to the rear of the site. The site has a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning. All properties within 1,000 feet of the site share the same future land use and zoning designations.

The plat for Unit 72 shows this site has water frontage along the Eternity Canal. However, land with a bridge abutment to the south of the site occupies platted canal ROW that extends along the south property line of Lots 1 and 2. A seawall is along the entire length of this triangular-shaped ROW.

In 1993 the City adopted Ordinance 75-93 that declared a 3,277-sq. ft. triangular piece ROW to the south of Lots 1 and 2, Block 5008, as surplus property. The City at that time provided the current owner (Barbara Ruggiere) a Quit Claim Deed to this land. The applicant and current owner (Steward G. Gibboney IV, Manager, Cape Coral House, LLC) states the "quit-claim area" cannot be insured since ownership of this land cannot be demonstrated. If approved, this request would formally vacate this ROW and the abutting owner could demonstrate ownership of this land consistent with Chapter 177 of the Florida Statutes.

Zoning History of Block 1904

The Future Land Use of the site was changed from Single Family/Multi Family by PDP to Single Family by Ordinance 63-00.

The site has always had R-1B Zoning.

Analysis:

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

Request No. 1: Vacate 3,276.75 sq. ft. of ROW Adjacent to the Eternity Canal

This vacation involves ROW directly to the south of Lots 1 and 2. A Quit Claim Deed involving this area was granted by the City to a previous property owner. In granting the Quit Claim Deed, the City identified this land as surplus property and found that there was no identifiable need or reason for retaining it. A re-examination of this area by City staff in analyzing this vacation request confirms this area is not needed to serve a public purpose. Should bridge maintenance be necessary in the future, sufficient ROW between the applicant's site and the edge of the pavement of Sands Boulevard for accessing the bridge exists.

The subject ROW appears to have been maintained by the property owners dating back to at least 2001 based on aerial photographs from LEEPA. Improvements in this ROW include a concrete dock and a walking path. A survey of the site shows a small area of the pool enclosure located on this ROW and occupying an easement. Approval of this vacation will: 1) demonstrate private ownership of the "quit claim area" to lenders, title companies, and insurers that the owners have been maintaining; 2) eliminate a potential nonconforming structure; and 3) prohibit public access to this ROW.

Request No. 2: Vacate 3,276.75 sq. ft. of Easements Underlying the Subject ROW

The applicant seeks to vacate 3,276.75 sq. ft. of easements underlying the ROW described under Request No. 1. The utility providers lack facilities in these easements and all three providers have no objection to this request. The City also lacks facilities within these easements. Staff recommends that easements be deeded to the City for providing a six-foot wide perimeter easement around the expanded site.

Request No. 3: Release 3,276.75 sq. ft. Easements Underlying the Subject ROW

The applicant seeks a release of 3,276.75 sq. ft. of ROW, public utility, drainage, and canal and bridge maintenance easements. These easements were reserved by the City for the quit claim area in 1993 by Ordinance 75-93. Since these easements were not platted with Unit 72, Cape Coral Subdivision, the easements must be released by the City Council.

In evaluating this request, Planning has conferred with Public Works and Real Estate staff. Adequate easements within the ROW retained by the City will exist for bridge access and maintenance purposes. As a condition of approval, the applicant will provide the City with easements sufficient for maintaining a six-foot wide public utility and drainage easement around the site. No additional easements are needed by the City or utility providers for this site.

Request No. 4: Vacate 436.30 sq. ft. of Easements in Lots 1 and 2, Block 5008

The applicant seeks to vacate 436.30 sq. ft. of platted easements along the south property line of Lots 1 and 2. The utility providers lack facilities in these easements and all three providers have no objection to this request. The City also lacks facilities within this easement. This platted easement will no longer be necessary as the owner will be providing the City with six-foot wide replacement easement around the perimeter of the expanded site.

Consistency with the Comprehensive Plan

The City lacks specific policies in the Comprehensive Plan for vacations involving residential-zoned lands. This request is consistent with Policy 1.15 of the Future Land Use Element.

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

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

Staff comment: This request is consistent with Policy 1.15.a as the site is an estimated 15,890 sq. ft. following the ROW vacation and the property has one single-family home. This equates to a density of 2.7 dwelling units per acre. This density is less than the maximum 4.4 dwelling units per acre allowed within this future land use classification.

Recommendation:

Staff recommends approval of all vacation requests as well as the request to release easements associated with the quit claim area that was deeded by the City in 1993 with the following conditions.

Conditions of Approval

- The vacation of the 3,276.75 sq. ft. of ROW and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Phillip M. Mould entitled Vacation of Any and All Underlying Easements Over, Across and Through "Quit Claim Area" being a Portion of Eternity Canal, dated April 7, 2017.
- The vacation of the 436.30 sq. ft. of easements lying in Lots 1 and 2, Block 5008 shall be consistent
 with that shown in the sketch and accompanying legal description prepared by Phillip M. Mould
 entitled Vacation of 6-Foot-Wide Public Utility and Drainage Easement Lying in a Portion of Lot 1
 and Lot 2, Block 5008, dated April 13, 2017.
- 3. All ROW, public utility, drainage, and canal and bridge maintenance easements shall be released by the City for the quit claim area described in Ordinance 75-93.
- 4. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed for a six-foot wide easement that is consistent with that shown in the sketch and accompanying legal description prepared by Phillip M. Mould entitled 6-Foot-Wide Public Utility and Drainage Easement being a Portion of Eternity Canal, dated April 7, 2017. This deed shall be approved by the City Property Broker prior to execution.
- 5. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with an easement deed as described in Condition #4 above, and reimburses the Department of Community Development for all recording fees associated with this resolution.

Staff Contact Information

Mike Struve, AICP, LEED Green Associate, Development Management Team Coordinator

PH: 239-242-3255

Email: mstruve@capecoral.net

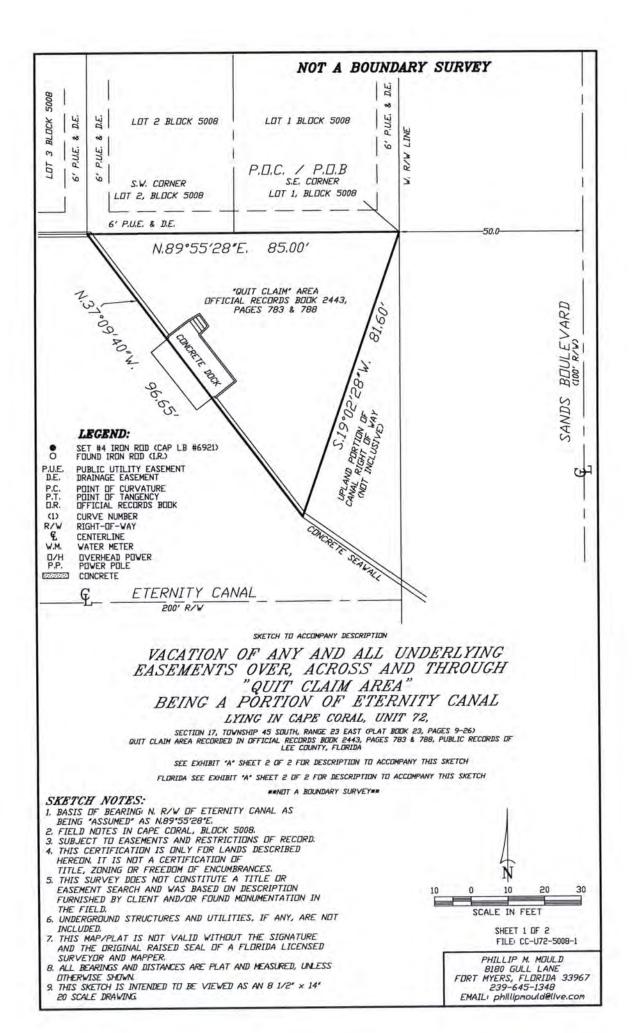


EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF ANY AND ALL UNDERLYING EASEMENTS OVER, ACROSS AND THROUGH "QUIT CLAIM AREA" BEING A PORTION OF ETERNITY CANAL

LYING IN CAPE CORAL, UNIT 72,

SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 23, PAGES 9-26)
QUIT CLAIM AREA RECORDED IN OFFICIAL RECORDS BOOK 2443, PAGES 783 & 788, PUBLIC RECORDS OF
LEE COUNTY, FLORIDA

SEE SHEET 1 DF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION
##NOT A BOUNDARY SURVEY##

DESCRIPTION:

A PORTION OF ETERNITY CANAL RIGHT-OF-WAY, LYING IN CAPE CORAL, UNIT 72, AS RECORDED IN PLAT BOOK 23, PAGES 9-26 (INCLUSIVE), SITUATE IN SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 5008
AND THE WEST RIGHT-OF-WAY LINE OF SANDS BOULEVARD (100
FEET WIDE), CAPE CORAL UNIT 72, AS RECORDED IN PLAT
BOOK 23, AT PAGES 9-26 (INCLUSIVE), PUBLIC RECORDS OF
LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE
RUN S.19°02'28*W. TO A POINT ALONG THE WATERS EDGE FACE
OF A CONCRETE SEAWALL FOR 81.60 FEET; THENCE RUN
N.37°09'40*W. ALONG SAID SEAWALL TO THE SOUTHWEST
CORNER OF LOT 2, SAID BLOCK 5008 FOR 96.65 FEET; THENCE
RUN N.89°55'28*E. ALONG SOUTH LINE OF LOT 2 AND LOT 1,
SAID BLOCK 5008, TO THE SOUTHEAST CORNER OF THE
AFORESAID LOT 1, BLOCK 5008 AND THE WEST RIGHT-OF-WAY
LINE OF THE AFORESAID SANDS BOULEVARD (100 FEET WIDE)
FOR 85.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 3276.75 SQ. FT, MORE OR LESS.

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

#6515 - STATE OF FLORIDA

4/7/2017

SHEET 2 OF 2 FILE: CC-U72-5008-1

> PHILLIP M. MOULD 8180 GULL LANE FORT MYERS, FLORIDA 33967 239-645-1348 EMAIL: phillipmould@live.com

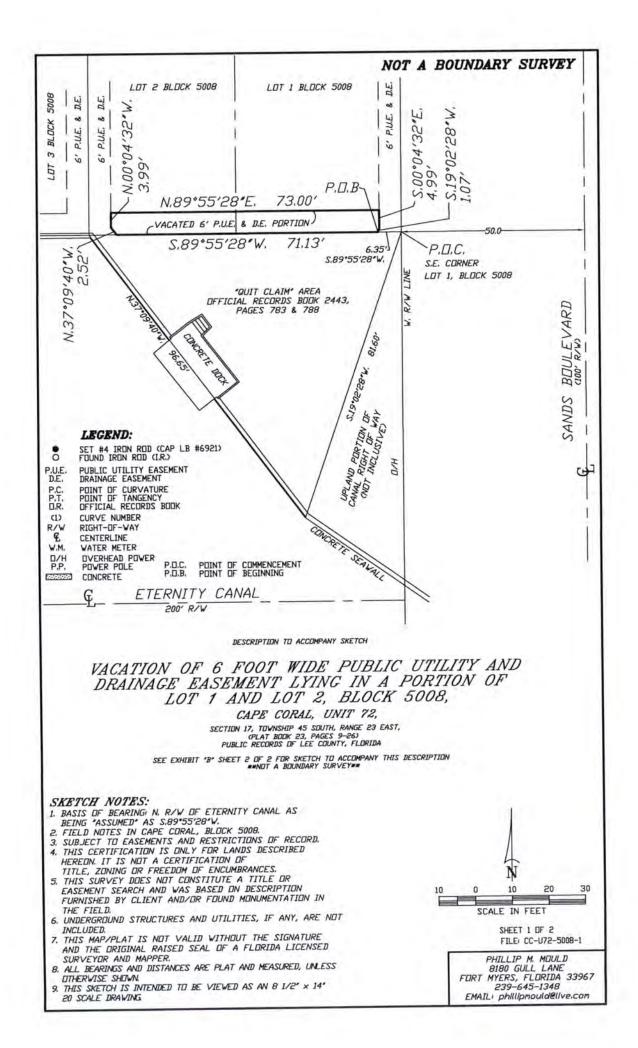


EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN A PORTION OF LOT 1 AND LOT 2, BLOCK 5008,

CAPE CORAL, UNIT 72,

SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST, (PLAT BOOK 23, PAGES 9-26) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION
##NOT A BOUNDARY SURVEY##

DESCRIPTION

VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN LOT 1 AND LOT 2, BLOCK 5008, CAPE CORAL, UNIT 72, AS RECORDED IN PLAT BOOK 23, PAGES 9-26 (INCLUSIVE), SITUATE IN SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE AFORESAID LOT 1, BLOCK 5008 AND THE WEST RIGHT-OF-WAY LINE OF SANDS BOULEVARD (100 FEET WIDE), SAID CAPE CORAL UNIT 72, AS RECORDED IN PLAT BOOK 23, AT PAGES 9-26 (INCLUSIVE), PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S.89°55'28'W. ALONG THE SOUTH LINE OF THE AFORESAID LOT 1 BLOCK 5008 FOR 6.32 FEET TO THE POINT OF BEGINNING, THENCE RUN S.89°55'28'W. ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 2, OF SAID BLOCK 5008 FOR 71.13 FEET; THENCE RUN N.37°09'40°W. FOR 2.52 FEET; THENCE RUN N.00°04'32'W. ALONG A LINE 6.00 FEET EAST OF THE WEST LINE LOT 2 SAID BLOCK 5008 AND 6.00 FEET NORTH OF THE SOUTH LINE SAID LOT 2 BLOCK 5008 FOR 3.99 FEET; THENCE RUN N.89°55′28″E. ALONG A LINE PARALLEL WITH AND 6.00 FEET NORTH OF THE SOUTH LINE OF THE AFORESAID LOT 1 AND LOT 2, BLOCK 5008 TO A POINT 6.00 FEET WEST OF THE WEST RIGHT-OF-WAY LINE OF THE AFORESAID SANDS BOULEVARD (100 FEET WIDE) FOR 73.00 FEET; THENCE RUN S.00°04'32'E, PARALLEL WITH AND 6.00 FEET WEST OF THE WEST RIGHT-DF-WAY LINE SAID SANDS BOULEVARD (100 FEET WIDE) FOR 4.99 FEET; THENCE RUN S.19°02'28'W. TO A POINT ALDNG THE SOUTH LINE SAID LOT 1, BLOCK 5008 FOR 1.07 FEET FOR A POINT OF BEGINNING.

CONTAINING: 436.30 SQ. FT, MORE OR LESS.

moul

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

#6515 - STATE OF FLORIDA

4/13/2017

SHEET 2 DF 2 FILE: CC-U72-5008-1

> PHILLIP M. MOULD 8180 GULL LANE FORT MYERS, FLORIDA 33967 239-645-1348 EMAIL: phillipmould@live.com

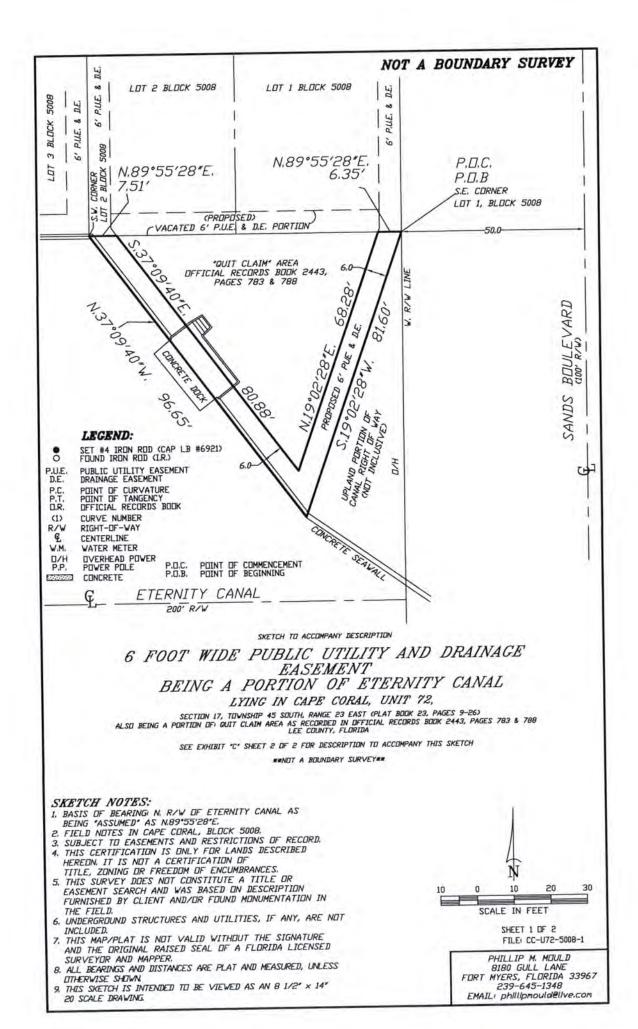


EXHIBIT "C"

SKETCH TO ACCOMPANY DESCRIPTION

6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT BEING A PORTION OF ETERNITY CANAL LYING IN CAPE CORAL, UNIT 72,

SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 23, PAGES 9-26)
ALSO BEING A PORTION OF QUIT CLAIM AREA AS RECORDED IN OFFICIAL RECORDS BOOK 2443, PAGES 783 & 788
LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

NOT A BOUNDARY SURVEY

DESCRIPTION

A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN ETERNITY CANAL RIGHT-OFWAY, CAPE CORAL, UNIT 72, AS RECORDED IN PLAT BOOK 23, PAGES 9-26 (INCLUSIVE), SITUATE IN SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID 6 FOOT WIDE EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 5008
AND THE WEST RIGHT-OF-WAY LINE OF SANDS BOULEVARD (100
FEET WIDE), CAPE CORAL UNIT 72, AS RECORDED IN PLAT
BOOK 23, AT PAGES 9-26 (INCLUSIVE), PUBLIC RECORDS OF
LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE
RUN S.19*02'28*W. TO A POINT ALONG THE WATERS EDGE FACE
OF A CONCRETE SEAWALL FOR 81.60 FEET; THENCE RUN
N.37*09'40*W. ALONG SAID SEAWALL TO THE SOUTHWEST
CORNER OF LOT 2, SAID BLOCK 5008 FOR 96.65 FEET;

THENCE RUN N.89*55'28*E. ALDNG THE SDUTH LINE DF LDT 2
BLOCK 5008 SAID CAPE CORAL UNIT 75 FOR 7.51 FEET; THENCE
RUN S.37*09'40*E. FOR 80.88 FEET; THENCE RUN N.19*02'28*E. TO
A POINT ALONG THE SOUTH LINE OF LOT 1 SAID BLOCK 5088
FOR 68.28 FEET; THENCE RUN N.89*55'28* ALONG SAID SOUTH
LINE TO THE SOUTHEAST CORNER SAID LOT 1 BLOCK 5008 AND
THE WEST RIGHT-OF-WAY LINE OF THE AFORESAID SANDS
BOULEVARD (100 FEET WIDE) FOR 6.35 FEET TO THE POINT OF
BEGINNING.

CONTAINING: 982.10 SQ. FT, MORE OR LESS.

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

#6515 - STATE OF FLORIDA

4/7/2017

SHEET 2 DF 2 FILE: CC-U72-5008-1

> PHILLIP M. MOULD 8180 GULL LANE FORT MYERS, FLORIDA 33967 239-645-1348 EMAIL: phillipmould@live.com

ORDINANCE 75 - 93

AN ORDINANCE DECLARING A TRIANGULAR-SHAPED PARCEL OF PROPERTY BEING A PART OF ETERNITY CANAL AS SHOWN ON THE PLAT CONTAINING LOTS 1 AND 2, BLOCK 5008, UNIT 72, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 23, PAGE 19, OF THE PUBLIC RECORDS OF LEE COUNTY, PROPERTY LOCATED NEAR THE INTERSECTION OF SANDS BOULEVARD AND SW 51ST STREET, AS UNUSABLE MUNICIPAL SURPLUS REAL PROPERTY NO LONGER NEEDED BY THE CITY, THE LEGAL DESCRIPTION OF THE PROPERTY IS CONTAINED HEREIN; AUTHORIZING AND DIRECTING THE MAYOR AND CLERK TO EXECUTE A DEED CONVEYING THE AFOREMENTIONED SURPLUS REAL PROPERTY TO MICHAEL AND BARBARA RUGGIERE, HUSBAND AND WIFE, AFTER THE GRANTEES HEREIN HAVE CONSTRUCTED A SEAWALL UPON SAID PROPERTY; A COPY OF THE PROPOSED DEED IS ATTACHED HERETO AS EXHIBIT "A"; RESERVING THE RIGHT-OF-WAY AND UTILITY EASEMENTS FOR THE CITY OF CAPE CORAL; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral Engineering Department and the City Manager has recommended that a parcel of land being a part of Eternity Canal as shown on the plat of Unit 72, Block 5008, Cape Coral Subdivision, is of no value and use to the City of Cape Coral, and would be of greater value to the City of Cape Coral if deeded to the property owner because of increased tax revenues; and

WHEREAS, after examination of the canal and after considering the recommendations of the Engineering Department and City Staff, it is evident that it would be in the best interest of the City to deed said parcel subject to right-of-way and utility easements for City of Cape Coral and Lee County in the future.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

Section 1. That the parcel of land being a part of Eternity Canal as shown on the plat containing Lots 1 and 2, Block 5008, Unit 72, Cape Coral Subdivision, said parcel being near the intersection of Sands Boulevard and the bridge spanning the Eternity Canal, more particularly described as follows:

A portion of Eternity Canal Right-of-Way lying South of Lots 1 & 2, Block 5008, Cape Coral, Unit 72, according to the Plat thereof recorded in Plat Book 23, Page 19 of the Public Records of Lee County, Florida, being more particularly described as follows:

A parcel of land South of, adjoining and adjacent to Lots 1 & 2, Block 5008, CAPE CORAL, Unit 72, as recorded in Plat Book 23, Page 19 in the Public Records of Lee County, Florida, described as follows per a survey made by Wayne C. Greathouse, PLS# 3877 in August, 1993:

BEGINNING at the Southeast Corner of Lot 1, Block 5008, on the West right of way line of Sands Boulevard, thence:

S 19°02'28"W, 81.60 feet, to the West end of the existing bridge wingwall, thence;

N 37°09'40"W, 96.65 feet, to the Southern Common Corner between Lots 2 & 3, Block 5008, thence;

N 89°55'28"E, 85.00 feet along all of the South Line of Lots 1 & 2, Block 5008, to the POINT OF BEGINNING, containing a computed area of 3277 square feet of land.

is hereby declared to be of no use to the City of Cape Coral because of its odd shape and location and as surplus property is no longer needed for municipal use or purposes that require retaining municipal ownership.

EXHIBIT "A"

A portion of Eternity Canal Right-of-Way lying South of Lots 1 & 2, Block 5008, Cape Coral, Unit 72, according to the Plat thereof recorded in Plat Book 23, Page 19 of the Public Records of Lee County, Florida, being more particularly described as follows:

A parcel of land South of, adjoining and adjacent to Lots 1 & 2, Block 5008, CAPE CORAL, Unit 72, as recorded in Plat Book 23, Page 19 in the Public Records of Lee County, Florida, described as follows per a survey made by Wayne C. Greathouse, PLS# 3877 in August, 1993:

BEGINNING at the Southeast Corner of Lot 1, Block 5008, on the West right of way line of Sands Boulevard, thence:

S 19°02'28"W, 81.60 feet, to the West end of the existing bridge wingwall, thence;

N 37°09'40"W, 96.65 feet, to the Southern Common Corner between Lots 2 & 3, Block 5008, thence;

N 89°55'28"E, 85.00 feet along all of the South Line of Lots 1 & 2, Block 5008, to the POINT OF BEGINNING, containing a computed area of 3277 square feet of land.

Subject to existing drainage easements. Subject also to a rightof-way easement across the entire quit claimed area for public utilities, drainage, and canal and/or bridge maintenance.

93 NOV 15 PH 4: 14

RAMCO FORM 6 QUIT-CLAIM DEED 11666 This Instrument Prepared by: 3488449 Marilyn W. Miller Assistant City Attorney PO Box 150027 Cape Coral, FL 33915-0027
Property Appraisers Parcel Identification (Folio) Number(s): Granteels| S.S. #(s): SPACE ABOVE THIS LINE FOR RECORDING DATA SPACE ABOVE THIS LINE FOR PROCESSING DATA October , A.D. 19 93 This Quit-Claim Beed, Executed this 26th day of The City of Cape Coral, a municipal corporation first party, to Barbara Ruggiere whose post office address is 723 Manette Lane Valley Cottage, NY 10989 second party: (Wherever used herein the terms "first party" and "second party" shall include singular and plurst, he'rs, legal representatives, and assigns of individuals, and the succession and assigns of corporations, wherever the context so admits or requires.) Witnesseth, That the said first party, for and in consideration of the sum of \$ 10.00 in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Florida , to wit: , State of See attached Exhibit "A" and "B" & FECCAS ATTEND - CHANNE CARRY CIEK & & ch M 1 to.made, DC 5 To Have and to Hold The same together with all and singular the appurtenances thereunto belonging on in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever. In Witness Whereaf, The said first party has signed and sealed these presents the day and year first Signed, sealed and delivered in the presence of: Mayor ape Coral Jorgensen 150027, Cape Coral, FL 33915-0027 STATE OF FLORIDA COUNTY OF LEE I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Joseph M. Mazurkiewicz, Jr., Mayor, and Eula R. Jorgensen, City Cierk
to me known to be the person S described in and who
executed the foregoing Quit-Claim Deed and they acknowledged before me that they executed the same. WITNESS my hand and official seal in the County and State last aforesaid this 28 day of FICIAL NOTARY SEAL NANCY JAUSTEN NOTARY PUBLIC STATE OF FLORIDA COMMISSION NO. CC305726 MY COMMISSION EXP. SEPT 13,1997

EXHIBIT "A"

A portion of Eternity Canal Right-of-Way lying South of Lots 1 & 2, Block 5008, Cape Coral, Unit 72, according to the Plat thereof recorded in Plat Book 23, Page 19 of the Public Records of Lee County, Florida, being more particularly described as follows:

A parcel of land South of, adjoining and adjacent to Lots 1 & 2, Block 5008, CAPE CORAL, Unit 72, as recorded in Plat Book 23, Page 19 in the Public Records of Lee County, Florida, described as follows per a survey made by Wayne C. Greathouse, PLS# 3877 in August, 1993:

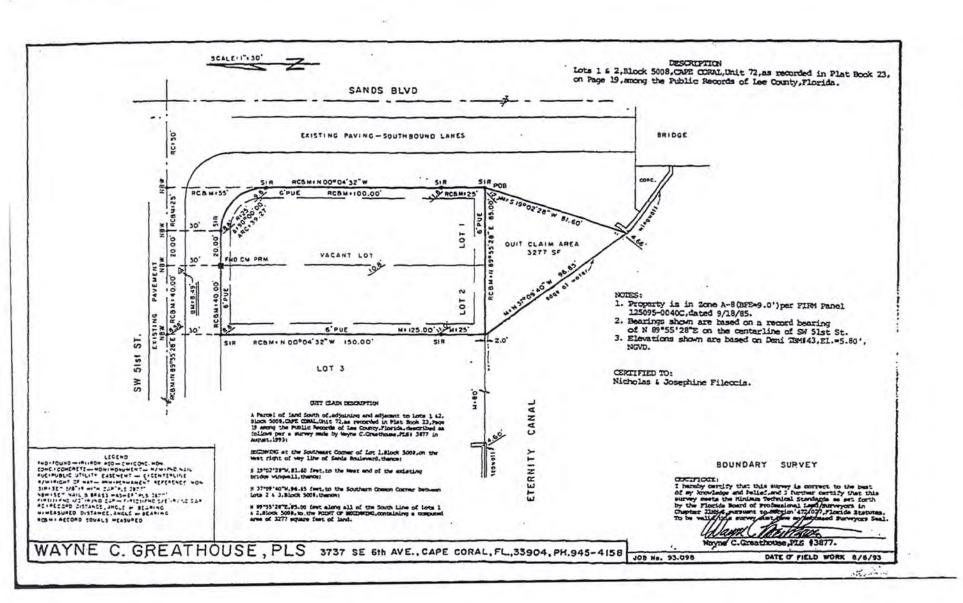
BEGINNING at the Southeast Corner of Lot 1, Block 5008, on the West right of way line of Sands Boulevard, thence:

S 19°02'28"W, 81.60 feet, to the West end of the existing bridge wingwall, thence;

N 37°09'40"W, 96.65 feet, to the Southern Common Corner between Lots 2 & 3, Block 5008, thence;

N 89°55'28"E, 85.00 feet along all of the South Line of Lots 1 & 2, Block 5008, to the POINT OF BEGINNING, containing a computed area of 3277 square feet of land.

Subject to existing drainage easements. Subject also to a right-of-way easement across the entire quit claimed area for public utilities, drainage, and canal and/or bridge maintenance.





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

TOLL-FREE 888-516-9220 Local# 239-335-0258

FNPLegals@gannett.com

CITY OF CAPE CORAL_DEPT OF COM Customer:

1015 CULTURAL PARK BLVD

CAPE CORAL FL 33990

Run Times: 1

Address:

Run Dates: 01/27/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: VP17-0011

REQUEST: The applicant, Steward G. Gibboney IV, seeks a vacation of plat for a canal right-of-way and underlying easements being a part of Eternity Canal, adjacent to Lots 1 and 2, Block 5008, Cape Coral Subdivision, Unit 72; the release of right-of-way, utilities, drainage, canal, and bridge maintenance easements being a part of Eternity Canal, adjacent to Lots 1 and 2, Block 5008, Cape Coral Subdivision, Unit 72; and a vacation of easements occupying a portion of Lots 1 and 2, Block 5008, Cape Coral Subdivision, Unit 72; property located at 2802 SW 51st Street.

LOCATION: 2802 SW 51st Street

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

PROPERTY OWNER: Cape Coral House, LLC

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, February 6, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

HOW TO CONTACT: Any person may

0002690723 Ad No .:

\$411.59

Net Amt:

No. of Affidavits:

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

by order of Rebecca van Deutekom, MMC City Clerk REF # VP17-0011 AD# 2690723 Jan, 27, 2018

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APP	LICATION	OF: Cape Cora	I House LL	C				_
APP	LICATION N	NO: <u>VP17-0011</u>						
STATE OF F)) §)						
I, Vincent A. following:	Cautero, Al	CP having first l	been duly s	worn accord	ling to I	aw, stat	e on my oa	ath the
That I ar	ng duties as	ctor of the Department of the	City of Cap	e Corai.				
written n	otice and p	by of Cape Cora oublication has Section 8.3.2A.	been provid	ction 8.3.2A ded. Also,	and S posting	ection 8 of a s	3.11.3.A al ign has be	I required een done
DATED this	29th	day of	Jan	nary		2018		
				Wint	a.	Can	ute	,
					Vincent	A. Cau	tero, AICP	

STATE OF FLORIDA COUNTY OF LEE

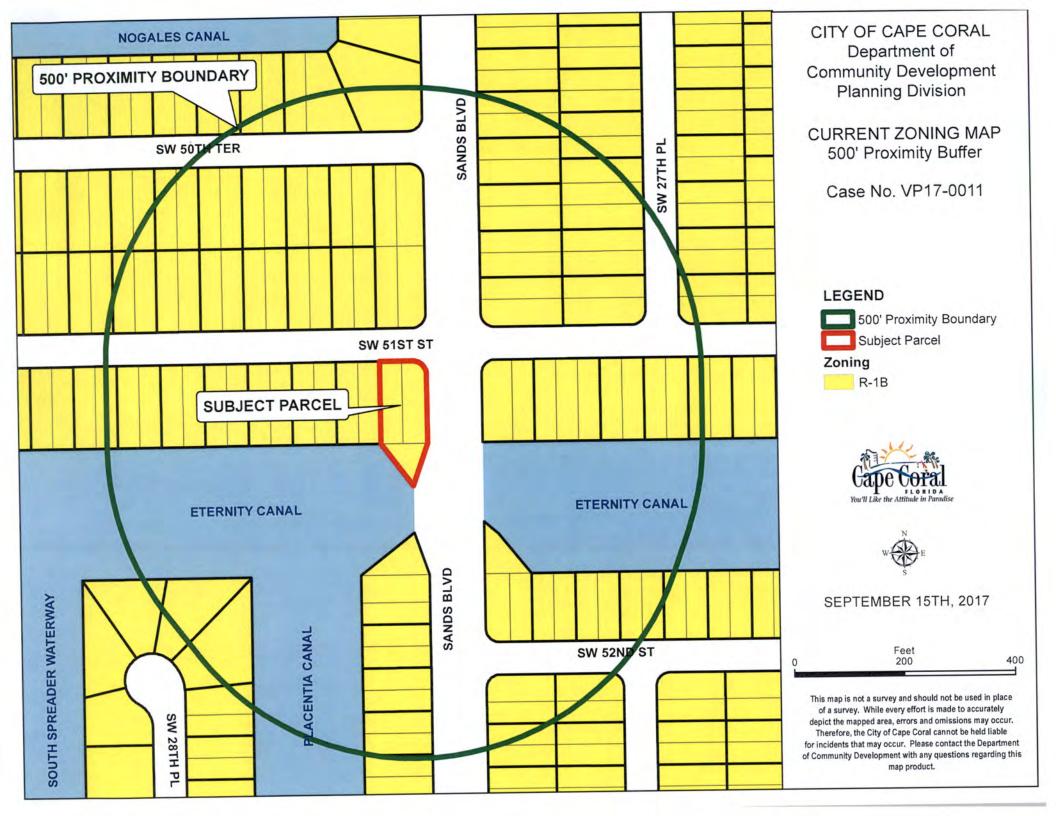
The foregoing instrument was acknowledged before me this 2018 day of 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

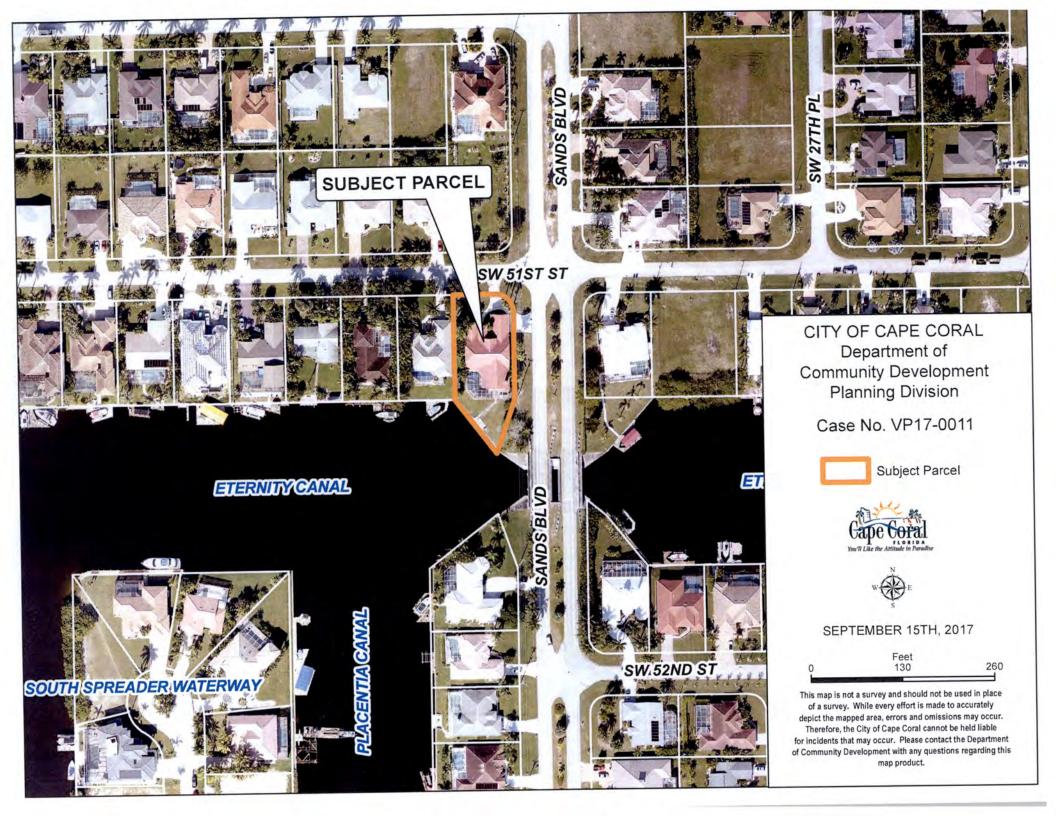
ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Exp. Date 12 6/20 Commission # 6/6030474

Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public





Item Number: 2.B.

Meeting Date: 2/6/2018
Item Type: HEARINGS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Case # VP17-0014*; Address: 2730 SW 51st Street; Applicant: Roy and Marilyn Dirkmaat

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 Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant, Marilyn Dirkmaat, seeks a vacation of plat for a canal right-of-way and underlying easements being a part of Eternity Canal, adjacent to Lots 22 and 23, Block 5007, Cape Coral Subdivision, Unit 72, and a vacation of easements occupying a portion of Lots 22 and 23, Block 5007, Cape Coral Subdivision, Unit 72.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Material"

PREPARED BY:

Kristin
Kantarze

Division- Planning
Department- Community
Development

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description Type

Backup MaterialsBackup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case# VP17-0014

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

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

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

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

OWNER OF PROPERTY Roy & Marilyn Dirkmaat	Address: $2730 \text{ Sw} 51^{\text{St}}$ (t. Oty: Cape Curel State: FL Zip 33914 Phone: $717 - 725 - 1311$
Marilyndirkmaat agmail.com BMAIL	Address: 240 Sandringham Court Oty: Knoxville State: TN Zp 37934 Phone: 717-725-1311
AUTHORIZED REFRESENTATIVE Ph.II.p Mould EMAIL ph.II.pmould@live.com	Address: 3046 Del Prado Blvd S, suite 31. Oty: Cape Corel State: FL Zip 33904 Phone: 239-257-2624
Unit 72 Block 5007 Lot(s) 224 Address of Property 2730 SW 57 Current Zoning	Strap Number Subdivision Cape Coral Cape Coral FL 33914 Plat Book 23 , Page 9-26



Case# VP17-0014

Questions: 239-574-0776

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

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OWNER OF PROPERTY	2/20 (1) (1) (1)
Roy + Marilya Dirkmaat	Address: $2730 \text{ Sw} 51^{st} \text{ St}$
1.10	Oty: Cape Coral State: FL Zip 33914
	Address: $2/30 \text{ SW S/} \text{ ST,}$ Oty: $Cape Corel$ State: FL Zip $339/4$ Phone: $717-725-131$
Marilyndirkmaat agmail.com BMAIL	we allo C. In law Court
marity noir Nmaai la gmanie	Address 270 Sand Agents
EMAIL *	Oty: Knoxville State: TN Zip 37934
	Phone. 7/7- 723-13/1
AUTHORIZED REPRESENTATIVE	2011 212 12 Red C 0.1031
Phillip Mould	Address: 3046 Del Prado Divo 3, Suites
BMAIL phillipmould@ live.com	Oty: Cape Corel State: FL 2p 33904
	Address: 3046 Del Prado Blud S, suite 32 Oty: Cape Corel State: FL Zip 33904 Phone: 239-257-2624
Unit 72 Block 5007 Lot(s) 224	23 Subdivision Cape Coral
Address of Departure () () ()	ST ST. Cape Coral FL 33914
Address of Property 2730 SW 51	or, cape coral 12 oot
Current Zoning	Plat Book
	Strap Number



Questions: 239-574-0776

Case# VP17-0014

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.

Case # VP17 · 0014

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

(SIGNATURE MUST BENOTARIZED		1	
APPLICANTINAME (PLEASETYPE OR PR	M 49 APPLICA	ANT SSGNATURE	M	
STATE OF TW, COUNTY OF K Sworn to (or affirmed) and subscribe Man yn Dickmagt as identification.	d before me this 10 day of swho is personally known or production. Date: 4-19-22 considering Signature of Notary Public: Printed name of Notary Public:	uced Valid	Jan Volle Haines Volle	nai



DEPARTMENT OF COMMUNITY DEVELOPMENT VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP17-0014

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

CORPORATION/COMPANYNAME	
Roy A. Dirk	naat 1877
PROPERTY OWNER (PLEASE TYPÉ OR	PRINT) PROPERT DWNER SSIGNATURE
STATE OF TIV, COUNTY	of knox
Sworn to (or affirmed) and subscribe A. Didenact as identification.	ed before me this 10 day of July 2017, by who is personally known or produced Valid TW DU
	Exp. Date: 4-2279 Commission Number:
WANNES !!	Signature of Notary Public: Seyn and Flum Willing
STATE OF	Printed name of Notary Public: Suprance Haines Valman (SIGNATUREMUST BENOTARIZED)
TENNESSEE	

Case# VP17-0014

Questions: 239-574-0776

VACATION OF PLAT APPLICATION

ACKNOWLEDGEMENT FORM

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CORPORATION/COMPANY NAME	
Marilyn L. Di	Kingat Many
PROPERTY OWNER (PLEASE TYPE OR P	PROPERT DOWNERS GRATURE
STATE OF TW , COUNTY	
Sworn to (or affirmed) and subscribe	who is personally known or produced Valid TW DL
as identification.	16-22
	Exp. Date: 4-22-17 Commission Number: MA
WEE HAINES VO	Signature of Notary Public: Synany James J
STATE	Printed name of Notary Public Supranez Faines Vollman (SIGNATURE MUST BENOTARIZED)
TENNESSEE NOTARY PUBLIC	
PUBLIC	
LOUNT COUNT	



Case# VP17-0014

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)				
PLEASE BE ADM SED THAT Phillip Mould (Name of person giving presentation)				
IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR				
UNIT 72 BLOOK 5007 LOT(S) $22+23$ SUBDIVISION				
ORLEGAL DESCRIPTION 2730 SW 51st Street, Cape Cora				
LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.				
Roy A. Dirkmaat PROPERTY OWNER (Please Print) PROPERTY OWNER (Please Print)				
PROPERTY OWNER (Signature & Title) PROPERTY OWNER (Signature & Title)				
STATEOF TN, COUNTY OF KNOX				
Subscribed and sworn to (or affirmed) before me this A marilyn Dirkmapho is personally known or produced as identification.				
Exp. Date: 4-22-19 Commission Number:				
State Signature of Notary Public:				
TENNESSEE Printed name of Notary Public: Suprange Faines Vollman				

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

Case# YP17-0014

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

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

I have read the above requirement and agree to comply with this provision
OWNER APPLICANT (PLEASE TYPE OR PRINT) OWNER APPLICANT SIGNATURE
(SIGNATUREMUST BENOTARIZED)
State of Tourney and subscribed before me on this D day of July 2017 by Ray A Dickmaat, who is personally known or who has produced valid TV DL as identification. Exp. Date 4-22-19 Commission # VA Signature of Notary Public State Of Tennessee Notary Public



Case # VP17-0014

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OWNER APPLICANT (PLEASE TYPE OR PRINT) OWNER APPLICANT (PLEASE TYPE OR PRINT)
(SIGNATURE MUST BE NOTARIZED)
STATEOF TN COUNTY OF KNOX
Sworn to (or affirmed) and subscribed before me on this 10 day of July 2017 by Marilyn Divingst who is personally known or who has produced Valid TN DV as identification.
Exp. Date 4-22-19 Commission # Va Sgnature/of Notary Public 11
Surrance Haines Vollman
Print Name of Notary Public
STATE OF TENNESSEE HOTARY

September 14, 2017

Director Vince Cautero
Department of Community Development
City of Cape Coral
P.O. Box 150027
Cape Coral, Florida 33915-0027

RE: Vacation of Plat - Rear Easement and portion of Canal Right of Way

Lots 22 and 23, Block 5007, Unit 72 2730 SW 51st Street, Cape Coral

Dear Mr. Cautero:

As the property owner of the above captioned property, I am requesting to vacate the rear platted 6.00 foot wide public utility and drainage easement less the east and the west 6.00 feet (where the easement meets the side public utility and drainage easements) on Lots 22 and 23, Block 5007, Unit 72 Cape Coral Subdivision as well as the adjoining upland area of canal right of way. I am willing to deed to the City of Cape Coral a contiguous 6.00 foot wide public utility and drainage easement over the portion of this upland canal right of way in order to maintain a perimeter easement around the homesite.

Attached please find my application, letters of "no objection" from the utility companies and sketches and descriptions of the areas proposed to be vacated and proposed to be deeded to the City.

I have attached exhibits for the quit claim portion of the Eternity Canal, the vacation of easements of the portion of the Eternity Canal, a 6 foot public utility easement portion of the Eternity Canal, and the vacation of the 6 foot public utility easement.

I appreciate your consideration of this request. Please do not hesitate to contact me, if you should have any questions.

Respectfully submitted,

Roy and Marilyn DIrkmaat 717-725-1311 cell marilyndirkmaat@gmail.com 240 Sandringham Court Knoxville, TN 37934



Attention:

Marilyn Dirkmaat 240 Sandringham CT Knoxville, TN 37934 Phone: (717) 725-1311

Subject: - No Objection Request

Site Address: 2730 SW 51st ST Cape Coral, FL 33914

Strap# 17-45-23-C2-05007.0220

Dear Marilyn Dirkmaat

In regard to the referenced property above CenturyLink has **No Objection** to the Vacation of Plat described by Marilyn Dirkmatt of 6' utility easement on south side/ rear and portion of the canal right of way of property.

Sincerely

THANK YOU!

Justin Lane
OSP Engineering
3301 Del Prado Blvd S
Office: (239)-984-7009
justin.lane@centurylink.com



12600 Westlinks Drive suite 4 Fort Myers Fl. 33913

Phone: 239-432-1805

August 24, 2017

Marilyn Dirkmaat 240 Sandringham Court Knoxville, TN. 37934

Re: 2730 SW 51st Street Cape Coral Fl.

Dear Marilyn Dirkmaat,

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

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

Cordially,

Mark Cook

Project Coordinator



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

www.lcec.net

September 8, 2017

Mrs. Marilyn Dirkmaat 240 Sandringham Court Knoxville, TN 37934

Re:

Letter of No Objection to Vacation of Utility Easement for 2730 SW 51st Street, Cape Coral, FL 33914; Owner: Marilyn and Roy Dirkmaat; Strap#: 174523C2050070220.

Dear Mrs. Dirkmaat:

You have opened up negotiations, on behalf of you and your husband, concerning the vacation of a certain utility easements between Lots 22 and 23, Blk 5007, Unit 72, Cape Coral, Plat Book 23, Pages, 9 through 26 of the Public records of Lee County, Florida.

We have reviewed the sketches, the request submitted, and our internal records. LCEC has no objection to the vacation request as submitted and reflected in the sketches, nor the imposition of platted utility easements as depicted on a series of sketches prepared by Phillip M. Mould, PSM, dated 7/24/2017, having a project name of CC-u72-5007-1. In the after situation LCEC requires that there be a continuous perimeter easement, which will be satisfied by the removal of Exhibit D description and the impostion of Exhibit C.

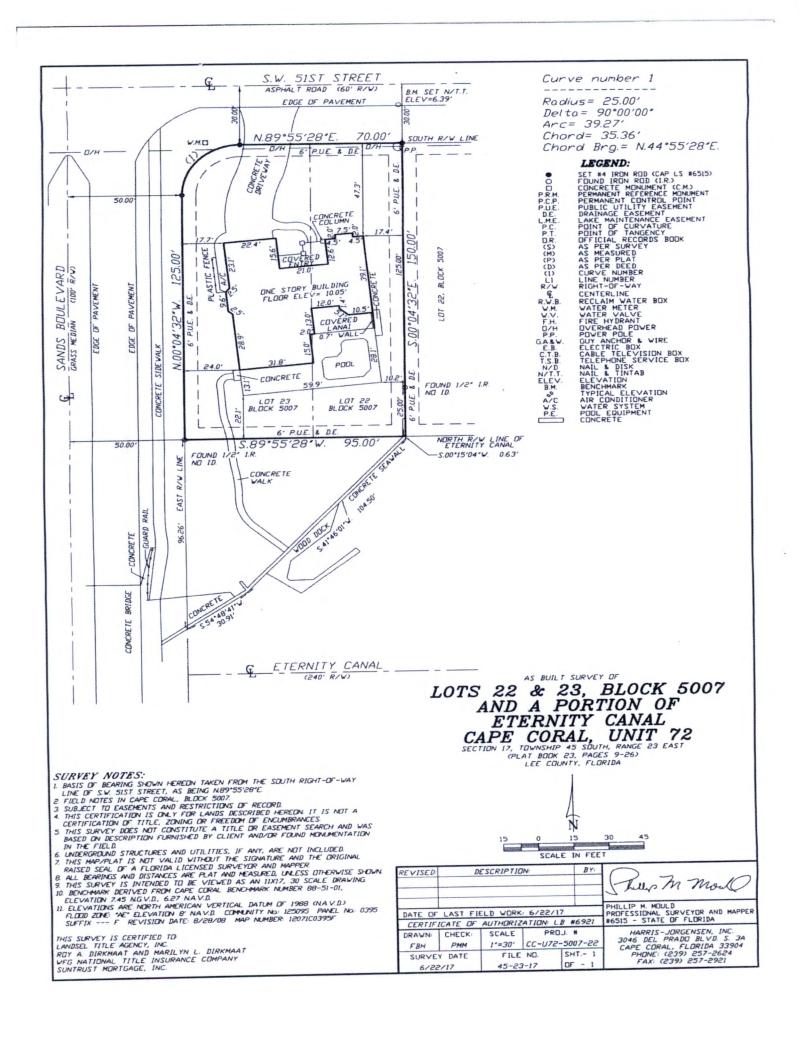
Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at russel.goodman@lcec.net.

Very truly yours,

SR/WA

Digitally signed by Russel Goodman, SR/WA Russel Goodman, DN: cn=Russel Goodman, SR/WA, o=Lee County Electric Co-operative, ou=Design and Engineering, email=Russel.Goodman@lcec.net, c=US Date: 2017.09.08 11:00:23 -04'00'

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



This Instrument Prepared by & return to:

Name:

Landsel Title Agency, Inc.

Address:

3208 Chiquita Blvd S., Suite 216

Cape Coral, FL 33914 File No. SF-1965SND

Parcel I.D. #: 17-45-23-C2-05007.0220

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS WARRANTY DEED Made the 3rd day of July, A.D. 2017, by ORLANDO CEDRES, A SINGLE

MAN, hereinafter called the grantor, to ROY A. DIRKMAAT and MARILYN L. DIRKMAAT, HUSBAND AND WIFE, whose post office address is 240 SANDRINGHAM CT, KNOXVILLE, TN 37934, hereinafter called the grantees:

> (Wherever used herein the terms "grantor" and "grantees" include all the parties to this instrument, singular and plural, the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Witnesseth: That the grantor, for and in consideration of the sum of \$10.00 and other valuable consideration, receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the grantees all that certain land situate in Lee County, State of Florida, viz:

Lots 22 and 23, Block 5007, Cape Coral Unit 72, according to the Plat thereof as recorded in Plat Book 23, page(s) 9 through 26, inclusive, of the Public Records of Lee County, Florida.

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.

SUBJECT TO TAXES FOR THE YEAR 2017 AND SUBSEQUENT YEARS, RESTRICTIONS, RESERVATIONS, COVENANTS AND EASEMENTS OF RECORD, IF ANY.

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 grantees that he is lawfully seized of said land in fee simple; that he has good right and lawful authority to sell and convey said land, and 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, 2016.

In Witness Whereof, the said grantor has signed and s	sealed these presents, the day and year first above written.	
Signed, sealed and delivered in the presence of:		
Strak Orlaney	L.S.	
Witness Signature	ORLANDO CEDRES	
Did Wellief	Address:	
Printed Name	14930 Caleb Dr, Ft Myers, FL 33908	
Witness Signature		
AJ Acherman		
Printed Name		
STATE OF	before me this 30 day of ML 2017, by ORLAND as identification. Signature of Notary	DC
Notary Public State of Florida Sarah Delaney My Commission GG 107338 Expires 05/23/2021	My commission expires D5/23/3/	

: ·;*

Planning Division Case Report

Review Date:

January 19, 2018

Applicant/

Property Owner:

Roy and Marilyn Dirkmaat

Owner Address:

2730 SW 51st Street Cape Coral, FL 33914

Authorized

Representative

Phillip Mould

Request:

The applicant requests to vacate ±3,749.64 sq. ft. of right-of-way (ROW) and all underlying easements associated with the Eternity Canal and ±496.61 sq. ft. of

platted easements associated with Lots 22 and 23, Block 5007.

Property Location:

2730 SW 51st Street

Cape Coral Subdivision, Unit 72, Block 5007, Lots 22-23

Strap No. 17-45-23-C2-05007.0220

Prepared By:

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

Approved By:

Robert H. Pederson, AICP, Planning Manager

Recommendation:

Approval with conditions

Urban Service

Infill

Property Description:

The applicants own a two-lot platted site, about 0.4 miles south of the intersection of Cape Coral Parkway and Sands Boulevard. The site has a single-family house with a pool that was constructed in 2000. According to the Lee County Property Appraiser website, the house has a living area of 2,340 sq. ft. A dock that includes a boat canopy is to the rear of the site. The site has a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning, and all properties within 1,000 feet of the site share the same future land use and zoning classifications.

The plat for Unit 72 shows this site has water frontage along the Eternity Canal that has a platted width of 240 feet. However, land with a bridge abutment to the south of the site occupies platted canal ROW that extends along the south property line of Lots 22 and 23. A seawall is along the entire length of this triangular-shaped ROW.

Zoning History of Block 1904

The Future Land Use of the site was changed from Single Family/Multi Family by PDP to Single Family by Ordinance 63-00.

The site has always had R-1B Zoning.

Analysis:

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

The applicant owns Lots 22 and 23 in Block 5007 and is therefore eligible to apply for all three vacations analyzed below.

Request No. 1: Vacate 3,749.64 sq. ft. of ROW Adjacent to the Eternity Canal

This vacation involves the ROW between the southern property line of Lots 22 and 23 and the seawall along the Eternity Canal. This ROW is improved that includes landscaping and a path leading from the applicants' house to the boat dock. The ROW the applicant requests to vacate is not needed for bridge maintenance or any other foreseeable public purpose. As a result, there is no benefit gained by the City for retaining this area as ROW. The City will retain sufficient ROW along the bridge for maintenance and utility purposes. Approval of this request will allow the applicant to expand their site and make improvements to this area. A small amount of land will be added to the tax rolls and City maintenance obligations will be reduced by eliminating this ROW.

Request No. 2: Vacate 3,749.64 sq. ft. of Easements Underlying the Subject ROW

The applicant seeks to vacate 3,749.64 sq. ft. of easements underlying the ROW described above in Request No. 1. All three utility providers lack facilities in these easements. None of these providers object to this request. The City also lacks facilities within this easement. Staff recommends that easements be deeded to the City for providing a six-foot wide perimeter easement around the expanded site.

Request No. 3: Vacate 496.61 sq. ft. of Easements in Lots 22 and 23, Block 5007

The applicant seeks to vacate 496.61 sq. ft. of platted easements along the south property line of Lots 22 and 23. All three utility providers lack facilities in these easements and do not object to this request. The City lacks facilities within this easement. This easement will no longer be necessary as the owner will be providing the City with six-foot wide replacement easement around the perimeter of the expanded site.

Consistency with the Comprehensive Plan

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

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

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

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

Staff comment: This request is consistent with Policy 1.15.a as the site is an estimated 17,865 sq. ft. following the ROW vacation and the property has one single-family home. This equates to a density of 2.4 dwelling units per acre. This density is less than the maximum 4.4 dwelling units per acre allowed within this future land use classification.

Recommendation:

Staff recommends approval of the requested vacations with the following conditions.

Conditions of Approval

- 1. The vacation of the 3,749.64 sq. ft. of ROW and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled *Vacation of Canal Right-Of-Way and Any and All Underlying Easements of a Portion of Eternity Canal*, dated January 19, 2018.
- 2. The vacation of the 496.61 sq. ft. of easements lying in Lots 22 and 23, Block 5007 shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled *Vacation of 6 Foot Wide Public Utility and Drainage Easement Lying in a Portion of Lot 22 and Lot 23, Block 5007*, dated January 19, 2018.
- 3. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed for a six-foot wide easement sufficient for providing a continuous easement around the site consistent with that shown in the sketch and accompanying legal description entitled 6 Foot Wide Public Utility and Drainage Easement Being a Portion of Eternity Canal, dated January 19, 2018. This deed shall be approved by the City Development Services Manager and Property Broker prior to execution.
- 4. This resolution shall be recorded with the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with an easement deed as described in Condition #4 above, and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deed.

Staff Contact Information

Mike Struve, AICP, LEED Green Associate, Development Management Team Coordinator

PH: 239-242-3255

Email: mstruve@capecoral.net

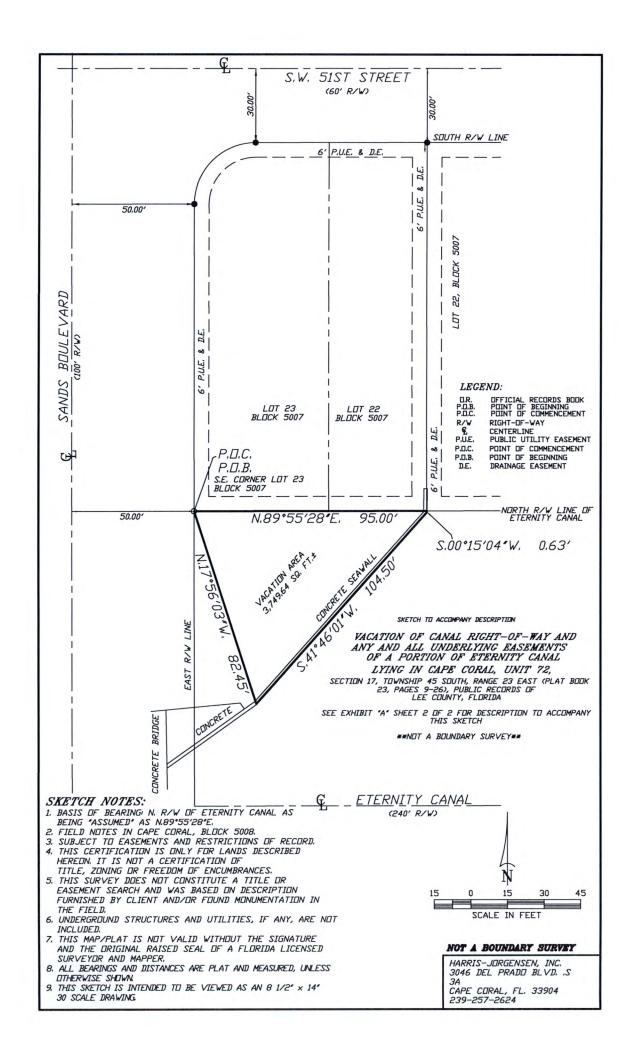


EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF CANAL RIGHT-OF-WAY AND ANY AND ALL UNDERLYING EASEMENTS OF A PORTION OF ETERNITY CANAL

LYING IN CAPE CORAL, UNIT 72,

SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 23, PAGES 9-26)
LEE COUNTY, FLORIDA

SEE SHEET 1 DF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION
NOT A BOUNDARY SURVEY

DESCRIPTION

A PORTION OF ETERNITY CANAL RIGHT-OF-WAY, LYING IN CAPE CORAL, UNIT 72, AS RECORDED IN PLAT BOOK 23, PAGES 9-26 (INCLUSIVE), SITUATE IN SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 23, BLOCK 5007 AND THE EAST RIGHT-OF-WAY LINE OF SANDS BOULEVARD (100 FEET WIDE), CAPE CORAL UNIT 72, AS RECORDED IN PLAT BOOK 23, AT PAGES 9-26 (INCLUSIVE), PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN N89°55′28°E. ALONG THE NORTH LINE OF ETERNITY CANAL (240 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 72 TO THE SOUTHEAST CORNER OF LOT 22, SAID BLOCK 5007 FOR 95.00 FEET; THENCE RUN S.00°15′04″W. TO THE WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 0.64 FEET; THENCE RUN S.41°46′01″W. ALONG SAID SEAWALL FOR 104.50 FEET; THENCE RUN N.17°56′03″W. TO A POINT ALONG THE AFORESAID EAST RIGHT-OF-WAY LINE OF SANDS BOULEVARD (100 FEET WIDE) AND THE SOUTHWEST CORNER SAID LOT 23, BLOCK 5007 FOR 82.45 FEET TO THE POINT OF BEGINNING.

CONTAINING: 3,749.64 SQ. FT, MORE OR LESS.

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

Tillis M Moul

1/19/18

NOT A BOUNDARY SURVEY

HARRIS-JORGENSEN, INC. 3046 DEL PRADO BLVD. .S 3A CAPE CORAL, FL. 33904 239-257-2624

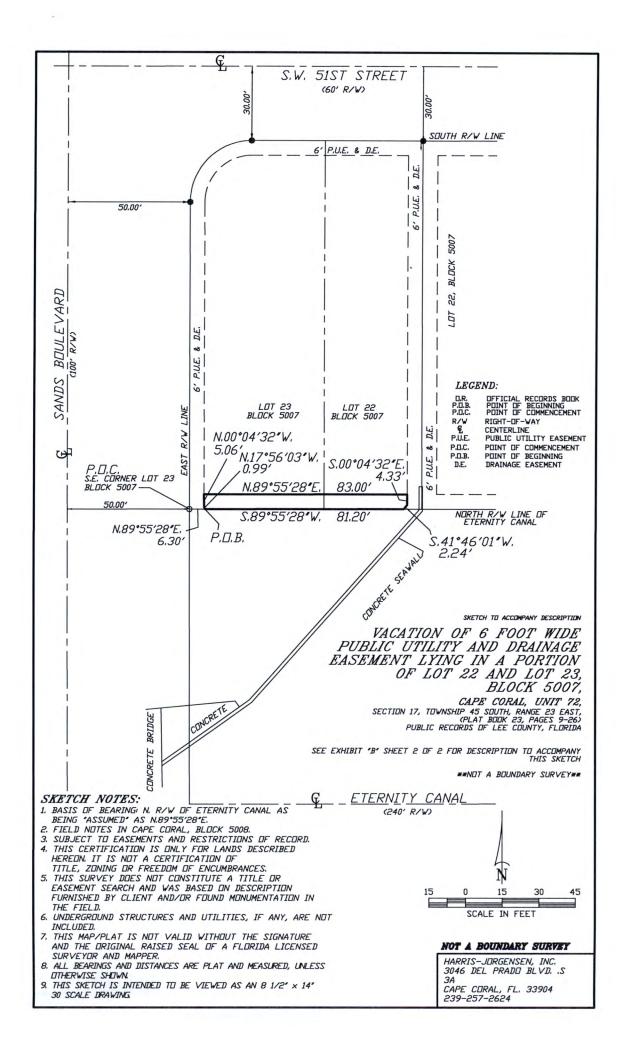


EXHIBIT "B"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN A PORTION OF LOT 22 AND LOT 23, BLOCK 5007,

CAPE CORAL, UNIT 72,

SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST, (PLAT BOOK 23, PAGES 9-26) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 DF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION
*****NOT A BOUNDARY SURVEY***

DESCRIPTION

VACATION OF A PORTION OF A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN LOT 22 AND LOT 23, BLOCK 5007, CAPE CORAL, UNIT 72, AS RECORDED IN PLAT BOOK 23, PAGES 9-26 (INCLUSIVE), SITUATE IN SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE AFORESAID LOT 23, BLOCK 5007 AND THE EAST RIGHT-OF-WAY LINE OF SANDS BOULEVARD (100 FEET WIDE), SAID CAPE CORAL UNIT 72, AS RECORDED IN PLAT BOOK 23, AT PAGES 9-26 (INCLUSIVE), PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.89°55′28″E. ALONG THE SOUTH LINE OF THE AFORESAID LOT 23 BLOCK 5007 FOR 6.30 FEET TO THE POINT OF BEGINNING; THENCE RUN N.17°56′03″W. FOR 0.99 FEET; THENCE RUN N.00°04′32″W. FOR 5.06 FEET; THENCE RUN N.89°55′28″E. ALONG A LINE 6 FEET NORTH OF AND PARALLEL WITH SAID LOT 22 AND 23 BLOCK 5007 FOR 83.00 FEET; THENCE RUN S.00°04′32″E. FOR 4.33 FEET; THENCE RUN S.41°46′01″W. TO A POINT ALONG THE NORTH LINE OF ETERNITY CANAL SAID CAPE CORAL UNIT 72 FOR 2.24 FEET; THENCE RUN S.89°55′28″W. ALONG SAID NORTH LINE FOR 81.20 FEET TO THE POINT OF BEGINNING.

CONTAINING: 496.61 SQ. FT, MORE OR LESS.

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

#6515 - STATE OF FLORIDA

1/19/18

SHEET 2 DF 2

NOT A BOUNDARY SURVEY

HARRIS-JORGENSEN, INC. 3046 DEL PRADO BLVD. .S 3A

CAPE CORAL, FL. 33904 239-257-2624

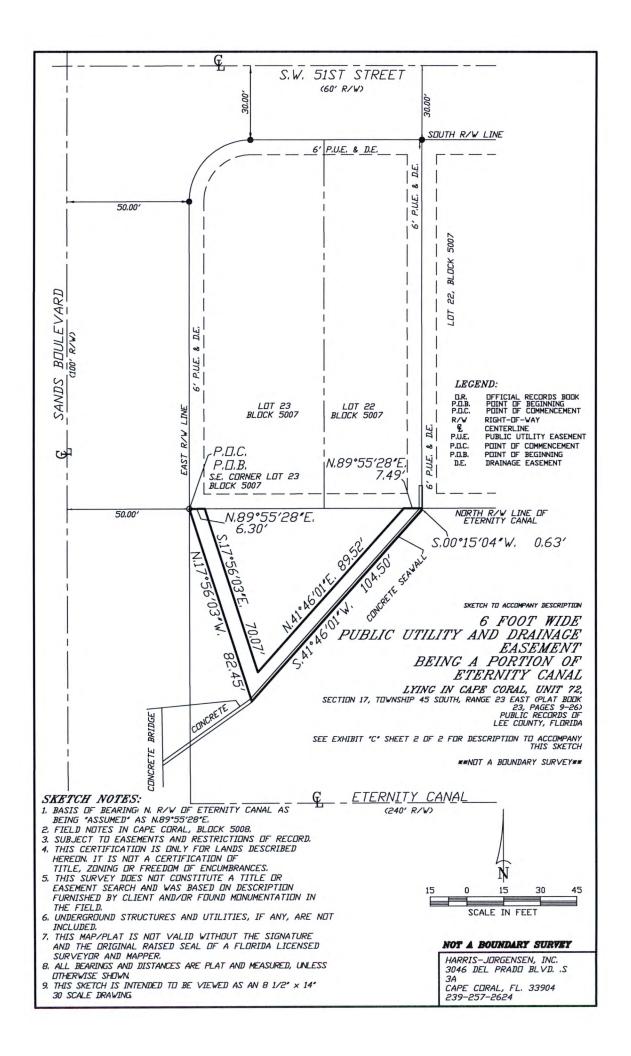


EXHIBIT "C"

SKETCH TO ACCOMPANY DESCRIPTION

6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT BEING A PORTION OF ETERNITY CANAL

LYING IN CAPE CORAL, UNIT 72,

SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 23, PAGES 9-26)
ALSO BEING A PORTION OF QUIT CLAIM AREA AS RECORDED IN OFFICIAL RECORDS BOOK 2443, PAGES 783 & 788
LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

NOT A BOUNDARY SURVEY

DESCRIPTION:

A 6 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING IN ETERNITY CANAL RIGHT-OF-WAY, CAPE CORAL, UNIT 72, AS RECORDED IN PLAT BOOK 23, PAGES 9-26 (INCLUSIVE), SITUATE IN SECTION 17, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID 6 FOOT WIDE EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF LOT 23, BLOCK 5007 AND THE EAST RIGHT-OF-WAY LINE OF SANDS BOULEVARD (100 FEET WIDE), CAPE CORAL UNIT 72, AS RECORDED IN PLAT BOOK 23, AT PAGES 9-26 (INCLUSIVE), PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE RUN N.89°55′28″E. FOR 6.30 FEET; THENCE RUN S.17°56′03″E. FOR 70.07 FEET; THENCE RUN N.41°46′01″E. TO A POINT ALONG THE NORTH RIGHT OF WAY LINE ETERNITY CANAL (240 FEET WIDE) SAID CAPE CORAL UNIT 72 FOR 89.52 FEET; THENCE RUN N.89°55′28″E. TO THE SOUTHEAST CORNER LOT 22, SAID BLOCK 5007 FOR 7.49 FEET; THENCE RUN S.00°15′04″W. TO A POINT ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 0.63 FEET; THENCE RUN S.41°46′01″W. ALONG SAID SEAWALL FOR 104.50 FEET; THENCE RUN TO A POINT ALONG THE EAST RIGHT OF WAY SAID SANDS BOULEVARD (100 FEET WIDE) AND THE SOUTHWEST CORNER SAID LOT 23, BLOCK 5007 FOR 82.45 FEET TO THE POINT OF BEGINNING.

CONTAINING: 1,041.97 SQ. FT, MORE OR LESS.

PHILLIP M. MOULD

PROFESSIONAL SURVEYOR AND MAPPER

moul

#6515 - STATE OF FLORIDA

1/19/18

SHEET 2 DE 2

NOT A BOUNDARY SURVEY

HARRIS-JORGENSEN, INC. 3046 DEL PRADO BLVD.,S 3A CAPE CORAL, FL. 33904 239-257-2624



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

TOLL-FREE 888-516-9220

Local # 239-335-0258

Email

FNPLegals@gannett.com

Customer:
Address:

CITY OF CAPE CORAL_DEPT OF COM

1015 CULTURAL PARK BLVD

CAPE CORAL FL 33990

USA

Ad No.:

0002690702

Net Amt: \$385.76

Run Times: 1

Run Dates: 01/27/18

No. of Affidavits:

1

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: VP17-0014

REQUEST: The applicant, Marilyn Dirkmaat, seeks a vacation of plat for a canal right-of-way and underlying easements being a part of Eternity Canal, adjacent to Lots 22 and 23, Block 5007, Cape Coral Subdivision, Unit 72, and a vacation of easements occupying a portion of Lots 22 and 23, Block 5007, Cape Coral Subdivision, Unit 72.

LOCATION: 2730 SW 51st Street CAPE CORAL STAFF CONTACT: Mike Struve, AICP, Planning Team Coordinator, 239-24-3255, mstruve@capecoral.net

PROPERTY OWNER(S): Roy and Marilyn Dirkmaat

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, February 6, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the re-

cord. Please reterence 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.

by order of Rebecca van Deutekom, MMC City Clerk REF # VP17-0014 AD# 2690702 Jan, 27, 2018

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Roy and Marilyn Dirkmaat
APPLICATION NO: VP17-0014
STATE OF FLORIDA)) § COUNTY OF LEE)
I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:
That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.
That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.
DATED this 29th day of January, 2018.
Vinta. Cauter
Vincent A. Cautero, AICP

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29th day of January 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

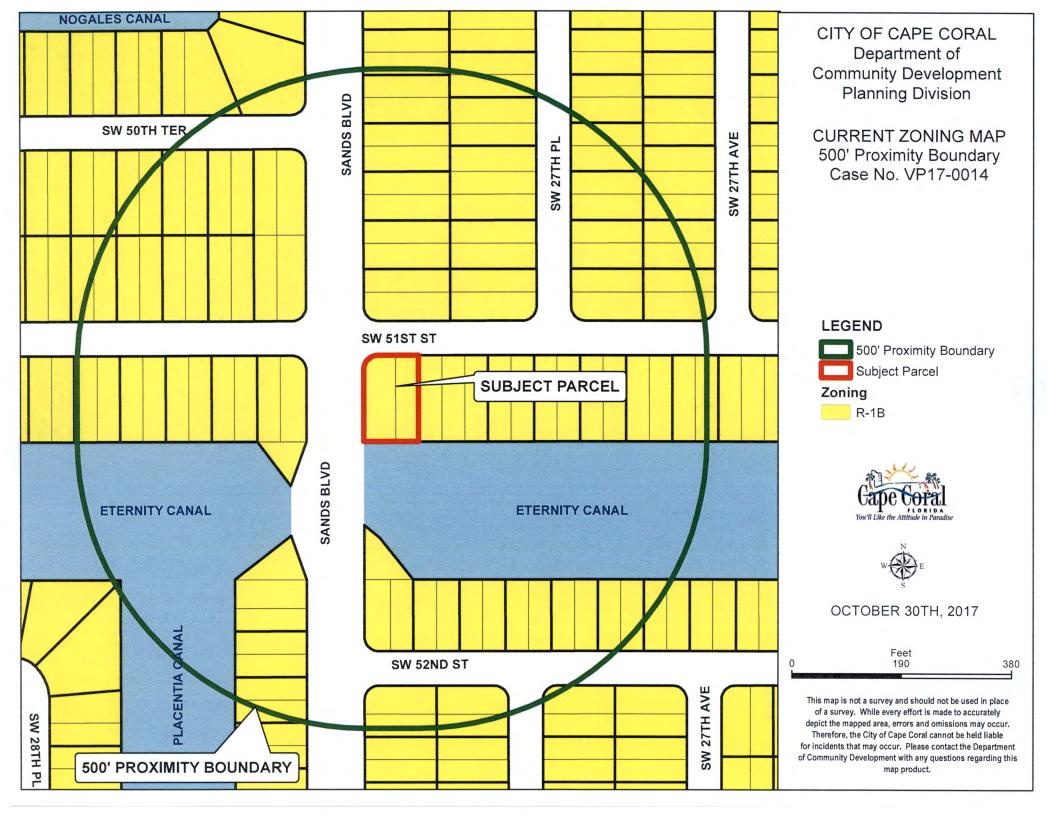
AY COMMISSION # GG030474

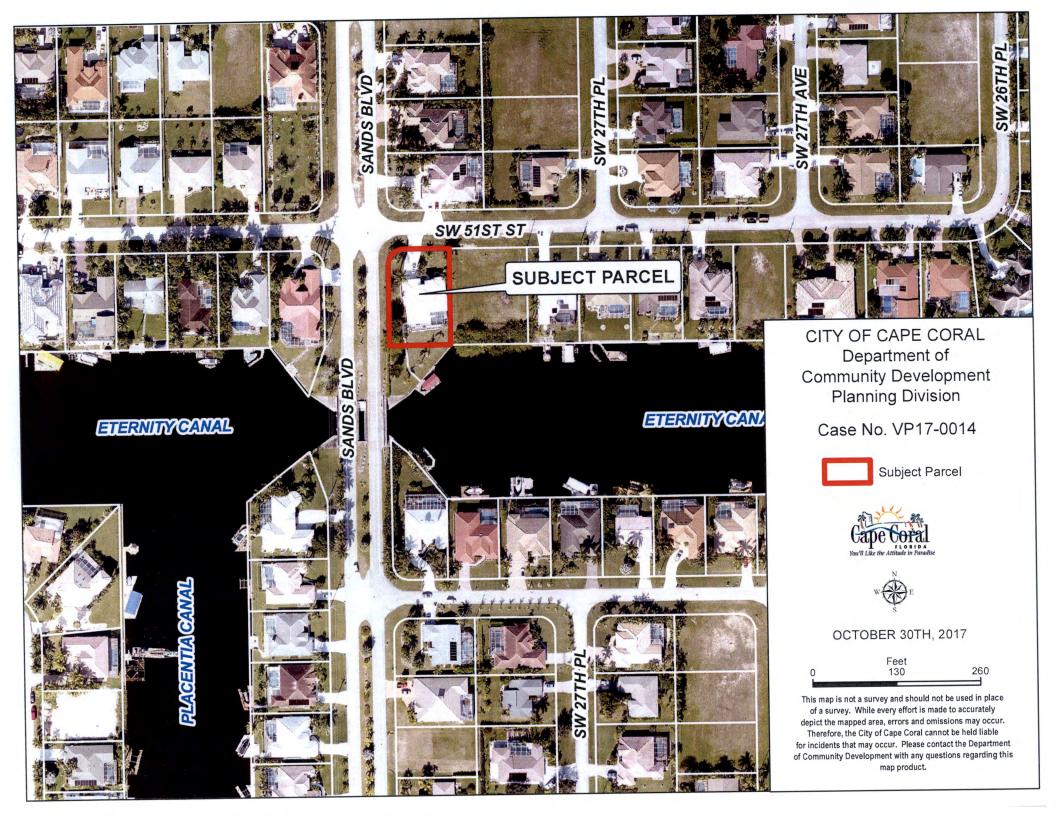
Exp. Date 12 6/20 Commission #66030474

Signature of Notary Public

Elisabeth A. Delgado

Print Name of Notary Public





Item Number: 2.C.

2.0.

Meeting Date:

2/6/2018

Item Type: HEARINGS

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Case #: SE17-0013; Address: 4402 and 4406 Chiquita Boulevard South; Applicant: Andros Property Investment LLC; City of Cape Coral

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are

listed below.

If No, will it harm the intent or success of

the Strategic Plan?

No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant is requesting a Special Exception for a model home use in the Residential Development (RD) District.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Material"

PREPARED BY:

Kristin
Kantarze

Division- Planning
Department- Community
Development

SOURCE OF ADDITIONAL INFORMATION:

Justin Heller, Planner, 239-574-0587, jheller@capecoral.net

ATTACHMENTS:

Description Type

Backup MaterialsBackup Material



Department of Community Development

Case # SE

SE17-0013

REQUEST TO BOARD OF ZONING ADJUSTMENT & APPEAL FOR A SPECIAL EXCEPTION

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

OWNER OF PROPERTY	Address: So23 Pelican Blvd.
Email: Dfromholz agmail. com	City <u>Cape Caral</u> State FL Zip 33914 Phone: 702.204.9435
APPLICANT (if different from Owner) Beathe Development Corp.	Address: 857 SE 47th St. City Cape Coral State FL Zip 33904
	Phone: 239 · 257 · 3295
AUTHORIZED REPRESENTATIVE Paul Beattle	Address: 857 SE 47th St- City Cape (Crai State FL Zip 33904
Email: office a beatheder. com	Phone: 239.881.5203
Unit 10 Block 53-54 Lot(s) 4741	
Address of Property 4402 Chiquita B	Plat Page Page
	mber 09.45.23.63.04741.0530
THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONA	L REQUIRED SUPPORTING DOCUMENTS
The owner of this property, or the applicant agrees to contapplicable Federal, State, and County laws and certifies knowledge.	form to all applicable laws of the City of Cape Coral and to all that all information supplied is correct to the best of their
Do I Roallia	CORPORATION/COMPANY NAME
NAME (PLEASE TYPE OR PRINT)	APPLICANT'S SIGNATURE
STATE OF (SIGNATURE N	JUST BE NOTARIZED)
Sworn to (or affirmed) and subscribed before me this who is personally keeps identification and subscribed before me this who is personally keeps identification and subscribed before me this	day of 20 , 20 , by a nown or produced
as identification CARCIA KATT CARV PUBLIC KATT CARV PUBLIC KATT CARV PUBLIC EXP. Date: 2/2 Signature of Notar	4/19 Commission Number: (5668 3899)
Signature of Notar	
Printed name of N	otary Public: Kait Garcia

Special Exception



F-DCD-5008 Rev B

Rev. 01/20/11

Department of Community Development

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 I	nave read and understood the day of	ne above affidav		20 1
PRINT APPLICANT'S NAME	the	APPLICANT	'S SIGNATURE	
STATE OF PL	, COUNTY OF	U		
Subscribed and sworn to (or a Paul Beathe as identification. KAITI GARCIA NOTARY PUBLIC STATE OF FLORIDA Commit GG083829 Expires 2/24/2019	affirmed) before me this who is personally known is personally kno	Commission	day of Segnation Number: God Court	07. ,2017 by G083829 ia Garcia

Page 3 of 4



Department of Community Development

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED	THAT Paul Beathe (Name of person giving presentation)			
IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR				
(Type of Public Hearing	- i.e., PDP, Zoning, Special Exception, Variance, etc.)			
UNIT 10 BLOC	K 4741 LOT(S) 53-54 SUBDIVISION Cape Coral			
OR LEGAL DESCRIPTION	ON 09.45.23.63.04741.0530			
	4402 Chiquita Blud. S. Cape Carai, Pr			
LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.				
Andros Property PROPERTY OWNER	(Please Print) Deanna Fromphy (Please Print) ROPERTY OWNER (Please Print)			
Mana Ston	who & some hot			
PROPERTY OWNER (Signature & Title) STATE OF , COUNTY OF				
· · · · · · · · · · · · · · · · · · ·				
Subscribed and sworn to (or affirmed) before me do day of Sept., 2017, by Deanna Frankolz who is personally known or produced as identification.				
KATTI GARCIA NOTARY PUBLIC NOTARY PUBLIC E STATE OF FLORIDA Comm# GG083829 E STATE OF FLORIDA	Exp. Date: 2019 Commission Number: 66083889			
	Signature of Notary Public: V Songia			
	Printed name of Notary Public: Kaiti Garda			
Commentation controls				

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



Visit our Design Center

(239) 257-3295 1213 Cape Coral Parkway E. Cape Coral, Florida 33904

9/25/17

Attn: Director Department of Community Development 1015 Cultural Park Blvd. S. Cape Coral, FL 33990

Re: Special Exception Use

4402 & 4406 Chiquita Blvd. S. Cape Coral, FL 33914

Unit 70

Blk 4741

Lots 53, 54, 55, & 56

Dear Director,

I wish to apply for a Special Exception Use on the property described above, to construct and operate a model home center.

We intend to comply with all applicable codes including an abundant, lush landscaping program that will exceed code minimums substantially.

We respectfully request you grant this special exception requires.

Respectfully,

Paul Beattie President

Beattie Development Corp.

239-257-3295

office@beattiedev.com www.beattiedev.com

www.Beattiedev.com State License: CGC 1514291

Planning Division Case Report SE17-0013

Review Date: January 6, 2018

Property Owner Andros Property Investment LLC; City of Cape Coral

Applicant: Beattie Development Corp.

Authorized

Representative: Paul Beattie

Request: The applicant is requesting a Special Exception for a model home use in the

Residential Development (RD) District.

Location: 4402 and 4406 Chiquita Boulevard South

Unit 70, Block 4741, Lots 53, 54, 55, 56

Prepared By: Justin Heller, Planner

Reviewed By: Mike Struve, AICP, Planning Team Coordinator

Approved By: Robert Pederson, AICP, Planning Manager

Recommendation: Approval

Urban Service

Area: Transition

Background:

The site is in southwest Cape Coral along Chiquita Boulevard South. The site has frontage on SW 44th St. and Chiquita Boulevard South. The surrounding area is primarily single-family homes and undeveloped lots. A neighborhood storage facility is being developed to the south of the site. The site and all properties in Block 4741 have Residential Development (RD) Zoning and a Single-Family (SF) Future Land Use (FLU) Classification. Properties to the east and west have Single-Family (R-1B) Zoning, while properties to the south are zoned Pedestrian Commercial (C-1) and have a Commercial Professional (CP) FLU Classification.

The model home will be on Lots 53 and 54. The parking lot and stormwater treatment area for the model home is proposed for Lots 55 and 56 (4406 Chiquita Boulevard South) on property owned by the City. This site is improved with a lift station. After the model home has been converted to a single-family home, the driveway and parking lot will remain on the site and will provide access and parking for the lift station. Seven parking spaces will be provided, with access to the parking lot from S.W. 44th Street. Landscaping is proposed along the perimeter of the parking lot.

Analysis:

The Planning Division reviewed this application based on the Land Use and Development Regulations (LUDR), Section 2.7.3 the RD District, and the five standards in Section 8.8.5a-e, and offers the following analysis.

Analysis of the requirements per LUDR Section 8.8.5a-e

a) Generally:

The site has RD Zoning and a Single-Family FLU Classification. Model homes are allowed as a Special Exception with a minimum area of 15,000 square feet for the first model home site, and 10,000 square feet for each additional model home. One model home is proposed and the 21,110-square foot site meets the land area requirement.

b) Compatibility:

All parcels in Block 4741 have a Single-Family FLU Classification and RD Zoning. The RD District has special regulations for model homes including hours of operation, lighting, and prohibiting real estate sales. These regulations are intended to enhance the compatibility of this use with neighboring residential properties. At the conclusion of the five-year term for this use, the model home will be converted to a single-family home; a permitted use in the RD District. This use will be compatible with the surrounding area that is primarily residential in nature.

c) Minimum Lot Frontage; Access:

The site meets all the minimum dimensional requirements for the RD District including minimum lot depth and width.

Access to the parking lot will be from S.W. 44th Street. Model homes typically do not generate large numbers of trips, with most trips occurring during the daytime. Since model homes cannot open until 9:00 a.m., the hours of operation should not conflict with weekday commuters traveling on SW 43rd Lane or Chiquita Boulevard. Because of the low number of trips, along with the timing of these trips, this use should not have a detrimental effect on the neighborhood.

d) Building Location; Setbacks:

The model home meets the setbacks for the RD District.

e) Screening and Buffering:

The site plan shows a continuous row of shrubs screening the perimeter of the parking lot.

Analysis of the requirements per LUDR, Section 2.7.3D.2a-k:

- a. Minimum site area of 15,000 square feet for the first model home site and a minimum of 10,000 square feet for each additional model home site adjoining. *The site has a combined area of 21,110 square feet, thus the minimum land area criterion has been met.*
- b. The parking lot for a model home site(s) shall be set back a minimum of five feet from the side property line and 15 feet from the rear property line. The setback area shall contain at least a five-foot landscaped buffer to the adjoining rear and side property lines. *The parking lot meets the minimum setbacks.*
- c. No parking directly to the rear of the model home site(s) on one building site. *This Special Exception involves two parcels. The parking lot will be south of the model home with access from SW 44th St.*
- d. Parking: five paved spaces on site for the first model home site, three additional paved spaces for each additional model home site. **Seven parking spaces will be provided.**
- e. Vehicle parking entrance to the model home site shall be from the street which faces the front entrance to the model home unless this condition conflicts with Department of Transportation standards or *City of Cape Coral Engineering Design Standards*. On corner sites where the garage is on the side of the structure, the entrance to the parking area may be located on the same side as the driveway to the garage. *Access to the parking lot is on SW 44th St. which is consistent with City of Cape Coral Engineering Design Standards.*
- f. Time limit: five years maximum unless conforms to all provisions of this ordinance. *This Special Exception is limited to five years beginning from the date of approval. An extension to this five-year period would require an amendment to the Special Exception Use.*
- g. Deposit required: This will be required prior to the approval of a site plan for the parking lot.
- h. Model home sites may be open for business between 9:00 a.m. and 9:00 p.m. daily. *This will be monitored by staff.*
- i. Outside lighting permitted, except from 10:00 p.m. to 7:00 a.m. This will be monitored by staff.
- j. Security lighting: two security lights, one in front and one at rear of building. *A maximum of two security lights may be installed; one each at the front and rear of the building.*
- k. Model homes must be used exclusively for the display and sale of model homes. No construction office or other real estate uses permitted. *This will be monitored by staff.*

Comprehensive Plan:

This project is consistent with the following policies of the Future Land Use Element of the Comprehensive Plan.

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

Staff Comment: The City has regulations restricting the type and number of signs allowed on model home sites.

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

Staff Comment: The City requires enhanced landscape buffering around model home parking lots.

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

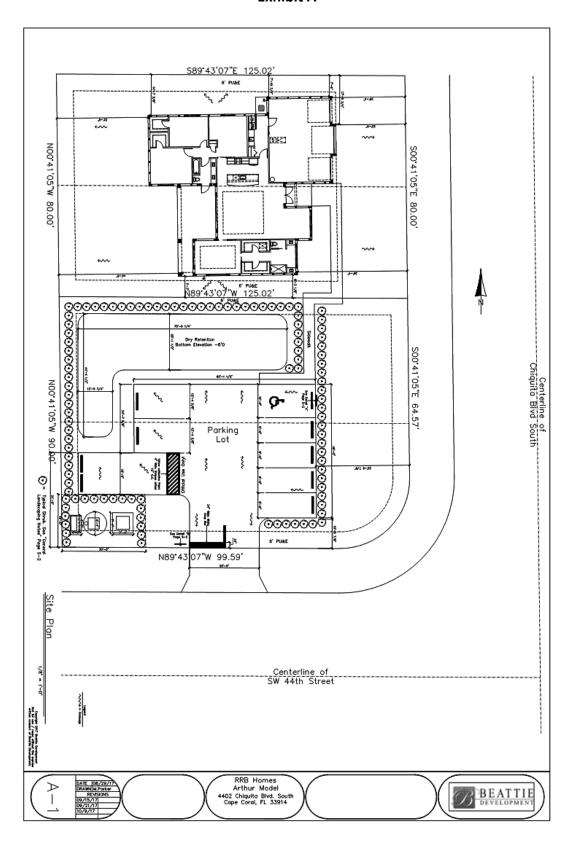
Staff Comment: The City has parking standards for model home sites which this project will meet.

Recommendation:

The Planning Division recommends **approval** with the following conditions:

- 1. The developer shall screen the entire perimeter of the parking lot with a continuous hedge, consisting of shrubs spaced no greater than three feet on center. The hedge shall be installed at a minimum height of 32 inches and be in at least a seven seven-gallon container. The shrubs shall be maintained at a minimum height of 42 inches at maturity.
- 2. The driveway to the house shall be blocked or roped off to prevent its use during the life of the Special Exception Use.
- 3. Special Exception approval for the model home will be subject to the lease of the City site being approved by the City Council.
- 4. Prior to site plan approval for the parking lot, the developer shall provide a deposit payable to the City for the removal or restoration of the parking lot. A similar deposit shall be provided by the developer to the City for the installation of a driveway to the garage in the event the driveway is not constructed by the developer as part of the model home.

Exhibit A





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

TOLL-FREE

Local#

Email

888-516-9220

239-335-0258

FNPLegals@gannett.com

Customer:

CITY OF CAPE CORAL_DEPT OF COM

Ad No.:

0002690731

Address:

1015 CULTURAL PARK BLVD

CAPE CORAL FL 33990

Net Amt: \$345.17

USA

Run Times: 1

No. of Affidavits:

Run Dates: 01/27/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE17-0013

REQUEST: The applicant is requesting a Special Exception for a model home use in the Residential Development (RD) District.

LOCATION: 4402 and 4406 Chiquita Boulevard South

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

PROPERTY OWNER(S): Andros Property Investment LLC; City of Cape Coral

AUTHORIZED REPRESENTATIVE: Paul Beattie

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, February 6, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

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

by order of Rebecca van Deutekom, MMC City Clerk REF # 5E17-0013 AD# 2690731 Jan, 27, 2018

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Beattie Development
APPLICATION NO: SE17-0013
STATE OF FLORIDA)) § COUNTY OF LEE)
I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:
That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.
That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.
DATED this 29th day of January, 2018.
Vincent A. Cautero, AICP

STATE OF FLORIDA COUNTY OF LEE

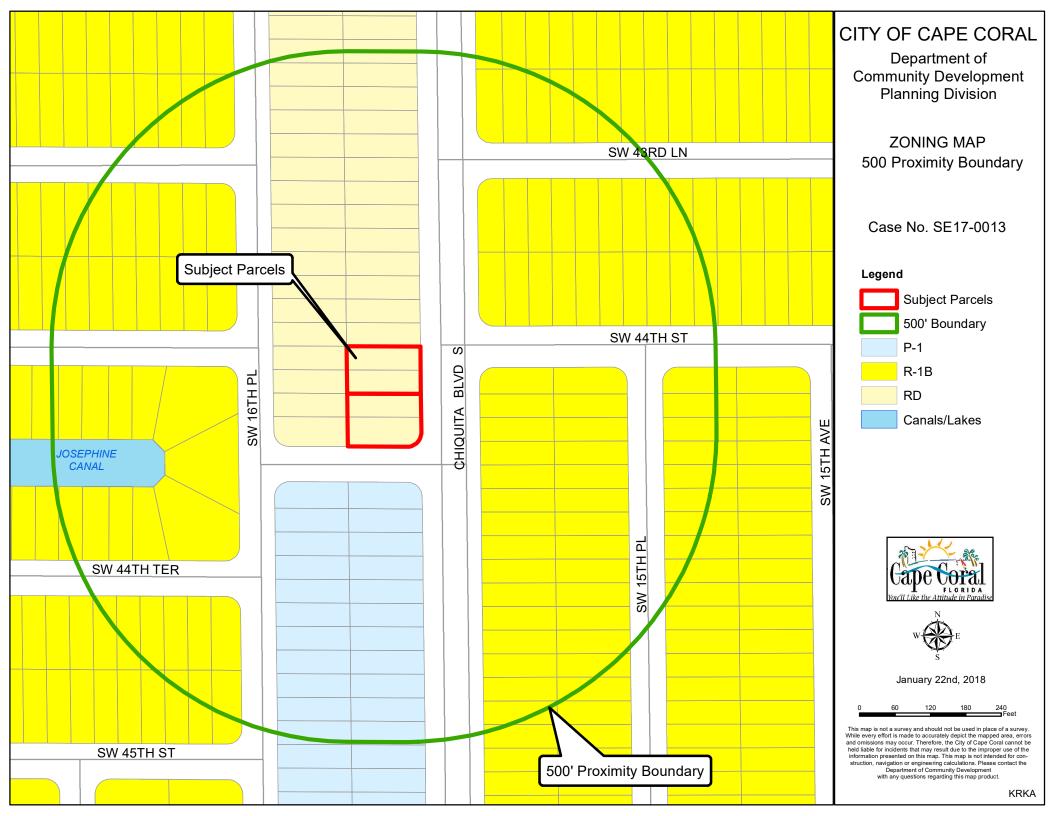
The foregoing instrument was acknowledged before me this 24 day of 300, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

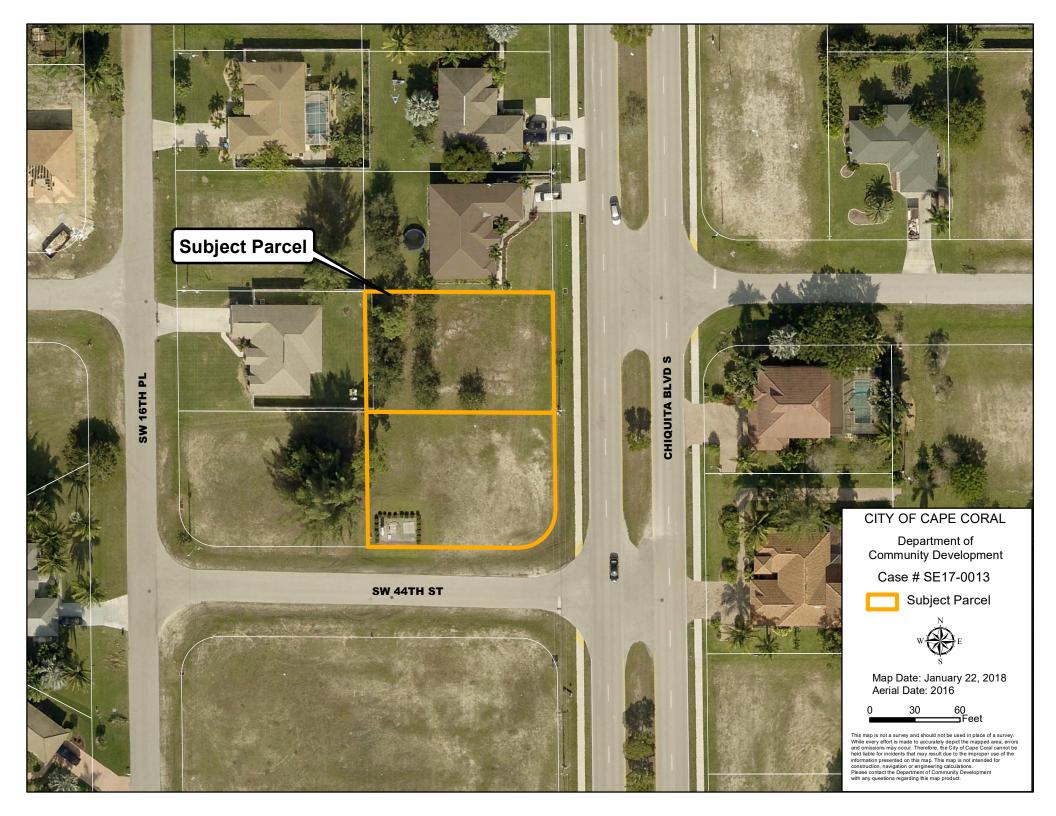
ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Exp. Date 12/16/20 Commission #4603047

Signature of Notary Public

Elisabeth A. Delgado Print Name of Notary Public





Item

3.A.

Number: Meeting

2/6/2018

Date:

Item Type:

DATE AND TIME OF NEXT

MEETING

AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Tuesday, February 20, 2018, at 9:00 a.m., in Council Chambers

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division-Department-

SOURCE OF ADDITIONAL INFORMATION: