



## **AGENDA FOR THE HEARING EXAMINER**

Tuesday, April 17, 2018

9:00 AM

Council Chambers

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

### **2. HEARINGS**

- A. Case # SE17-0010\*; Address: 2125 SW Santa Barbara Place; Applicant: Ali Bigi
- B. Case # SE18-0001\*; Address: 801 Cape Coral Parkway West; Applicant: Ram Kumar Kashyap and Jaswant Kashyap, Trustees of the Kashyap Revocable Trust
- C. Case # DE18-0004; Address: 3908 SE 18th Place; Applicant: William Gottfried

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

- A. Tuesday, May 1, 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:

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

**Item Number:** 2.A.  
**Meeting Date:** 4/17/2018  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # SE17-0010\*; Address: 2125 SW Santa Barbara Place; Applicant: Ali Bigi

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

The applicant, DeBono's Inc., is requesting a Special Exception for a Rental Establishment, Group III Use in the Pedestrian Commercial (C-1) District on property described as Lots 17-21, Block 3047, Unit 62, Cape Coral Subdivision; property located at 2125 SW Santa Barbara Place.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Materials"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

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

**ATTACHMENTS:**

Description	Type
▣ CASE #SE17-0010	Backup Material
▣ AUTHORIZATION TO REPRESENT FORM	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0010

REQUEST FOR A SPECIAL EXCEPTION USE

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

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

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

OWNER OF PROPERTY

ALI BIGI

Email: \_\_\_\_\_

Address: 144 GOVERNORS HILL RD

City: OXFORD State CT Zip 06478

Phone: 203-232-6862

APPLICANT (if different from Owner)

DEBONO'S  
DEBONO'S INC DBA STOP AND GO

Email: \_\_\_\_\_

Address: 2200 SANTA BARBARA BLVD.

City: CAPE CORAL State FL Zip 33991

Phone: 239-574-5757

AUTHORIZED REPRESENTATIVE

CHARLES DEBONO

Email: CDEBONO591@AOL.COM

Address: 2015 CORNWALLIS PKWY

City: CAPE CORAL State FL Zip 33904

Phone: 239-910-6032

Unit 62 Block 3047 Lot(s) 17-18 Subdivision \_\_\_\_\_

Address of Property 2125 SW SANTA BARBARA PL

Plat Book 21 Page 28

Current Zoning \_\_\_\_\_ Strap Number 26-44-23-C3-03047-0170

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.

CHARLES DEBONO

NAME (PLEASE TYPE OR PRINT)

DEBONO'S STOP AND GO  
CORPORATION/COMPANY NAME

APPLICANT'S SIGNATURE





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0010

**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.

CHARLOS DEBONO

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

[Signature]  
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

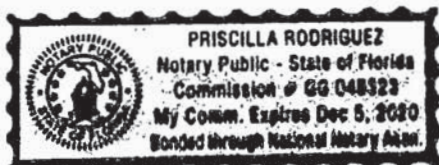
STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 27 day of Dec  
2017 by Charles DeBono, who is personally known or who has produced FDH  
as identification.

Exp. Date 12/5/20  
Commission # 99048323

[Signature]  
Signature of Notary Public

Priscilla Rodriguez  
Print Name of Notary Public





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0010

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

27<sup>th</sup>

day of

DECEMBER

, 20

17

CHARLES DEBONO

PRINT APPLICANT'S NAME

APPLICANT'S SIGNATURE

STATE OF

FL

COUNTY OF

Lee

Subscribed and sworn to (or affirmed) before me this

27

day of

Dec

, 2017, by

Charles L DeBono

who is personally known or produced

FDPH

as identification.

Exp. Date:

12/5/20

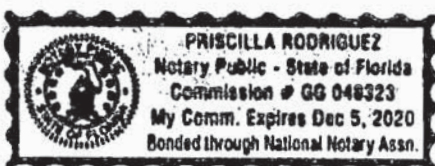
Commission Number:

GG048323

Signature of Notary Public:

Printed name of Notary Public:

Priscilla Rodriguez





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

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

CHARLES DEBONO  
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

[Signature]  
OWNER/APPLICANT SIGNATURE

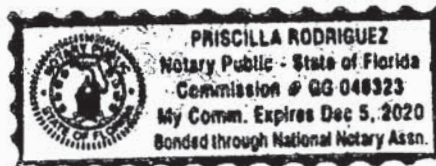
(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 27 day of Dec  
2017 by Charles L Debono, who is personally known or who has produced FLDH  
as identification.

Exp. Date 12/5/20  
Commission # 09048323

[Signature]  
Signature of Notary Public  
Priscilla Rodriguez  
Print Name of Notary Public







SW SANTA BARBARA PLACE (60')

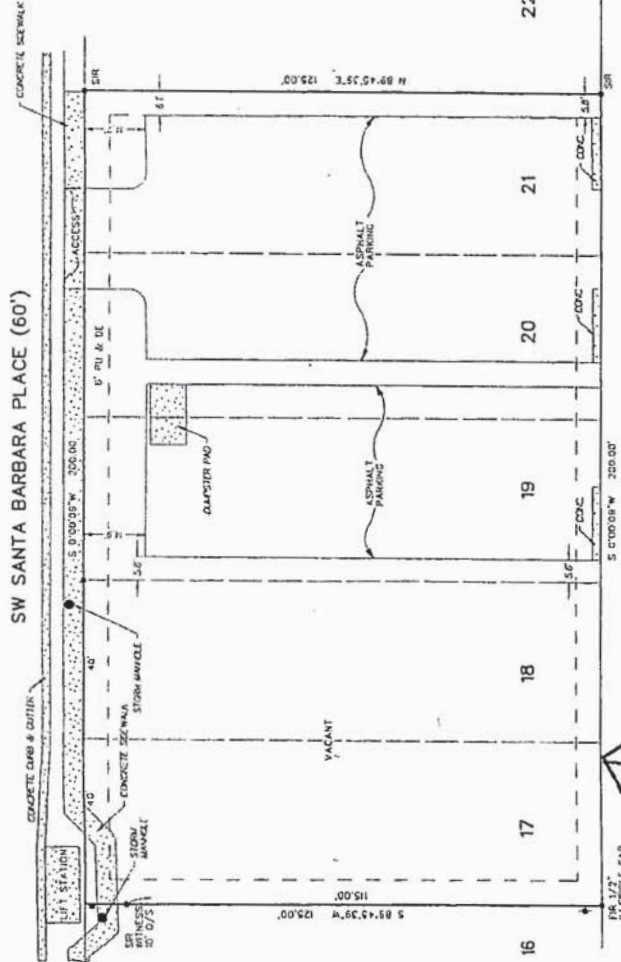
**DAVIS SURVEYING INC.**  
 1100 W. LINDSEY AVE. SUITE 100  
 TAMPA, FL 33606  
 TEL: (813) 281-1111  
 FAX: (813) 281-1112  
 WWW.DAVIS-SURVEYING.COM

**17-1203**

**BOUNDARY SURVEY**

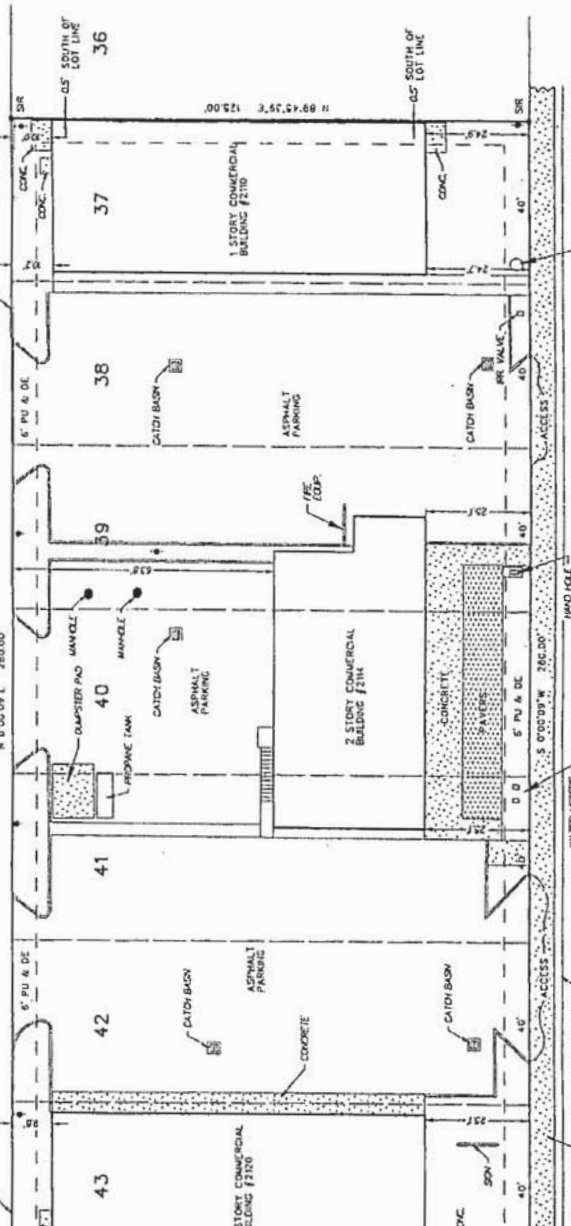
CAPE CORAL UNIT 62, BLOCK 3047, PLAT BOOK 21 PAGE 28, LOTS 17 THROUGH 21  
 AND  
 CAPE CORAL UNIT 62, BLOCK 3047, PLAT BOOK 21 PAGE 28, LOTS 17 THROUGH 21  
 AND  
 CAPE CORAL UNIT 62, BLOCK 3047, PLAT BOOK 21 PAGE 28, LOTS 17 THROUGH 21

**CERTIFIED TO THE FOLLOWING DEEDS:**  
 DEED A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, AX, AY, AZ, BA, BB, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BU, BV, BW, BX, BY, BZ, CA, CB, CC, CD, CE, CF, CG, CH, CI, CJ, CK, CL, CM, CN, CO, CP, CQ, CR, CS, CT, CU, CV, CW, CX, CY, CZ, DA, DB, DC, DD, DE, DF, DG, DH, DI, DJ, DK, DL, DM, DN, DO, DP, DQ, DR, DS, DT, DU, DV, DW, DX, DY, DZ, EA, EB, EC, ED, EE, EF, EG, EH, EI, EJ, EK, EL, EM, EN, EO, EP, EQ, ER, ES, ET, EU, EV, EW, EX, EY, EZ, FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FL, FM, FN, FO, FP, FQ, FR, FS, FT, FU, FV, FW, FX, FY, FZ, GA, GB, GC, GD, GE, GF, GG, GH, GI, GJ, GK, GL, GM, GN, GO, GP, GQ, GR, GS, GT, GU, GV, GW, GX, GY, GZ, HA, HB, HC, HD, HE, HF, HG, HH, HI, HJ, HK, HL, HM, HN, HO, HP, HQ, HR, HS, HT, HU, HV, HW, HX, HY, HZ, IA, IB, IC, ID, IE, IF, IG, IH, II, IJ, IK, IL, IM, IN, IO, IP, IQ, IR, IS, IT, IU, IV, IW, IX, IY, IZ, JA, JB, JC, JD, JE, JF, JG, JH, JI, JJ, JK, JL, JM, JN, JO, JP, JQ, JR, JS, JT, JU, JV, JW, JX, JY, JZ, KA, KB, KC, KD, KE, KF, KG, KH, KI, KJ, KK, KL, KM, KN, KO, KP, KQ, KR, KS, KT, KU, KV, KW, KX, KY, KZ, LA, LB, LC, LD, LE, LF, LG, LH, LI, LJ, LK, LL, LM, LN, LO, LP, LQ, LR, LS, LT, LU, LV, LW, LX, LY, LZ, MA, MB, MC, MD, ME, MF, MG, MH, MI, MJ, MK, ML, MM, MN, MO, MP, MQ, MR, MS, MT, MU, MV, MW, MX, MY, MZ, NA, NB, NC, ND, NE, NF, NG, NH, NI, NJ, NK, NL, NM, NN, NO, NP, NQ, NR, NS, NT, NU, NV, NW, NX, NY, NZ, OA, OB, OC, OD, OE, OF, OG, OH, OI, OJ, OK, OL, OM, ON, OO, OP, OQ, OR, OS, OT, OU, OV, OW, OX, OY, OZ, PA, PB, PC, PD, PE, PF, PG, PH, PI, PJ, PK, PL, PM, PN, PO, PP, PQ, PR, PS, PT, PU, PV, PW, PX, PY, PZ, QA, QB, QC, QD, QE, QF, QG, QH, QI, QJ, QK, QL, QM, QN, QO, QP, QQ, QR, QS, QT, QU, QV, QW, QX, QY, QZ, RA, RB, RC, RD, RE, RF, RG, RH, RI, RJ, RK, RL, RM, RN, RO, RP, RQ, RR, RS, RT, RU, RV, RW, RX, RY, RZ, SA, SB, SC, SD, SE, SF, SG, SH, SI, SJ, SK, SL, SM, SN, SO, SP, SQ, SR, SS, ST, SU, SV, SW, SX, SY, SZ, TA, TB, TC, TD, TE, TF, TG, TH, TI, TJ, TK, TL, TM, TN, TO, TP, TQ, TR, TS, TT, TU, TV, TW, TX, TY, TZ, UA, UB, UC, UD, UE, UF, UG, UH, UI, UJ, UK, UL, UM, UN, UO, UP, UQ, UR, US, UT, UU, UV, UW, UX, UY, UZ, VA, VB, VC, VD, VE, VF, VG, VH, VI, VJ, VK, VL, VM, VN, VO, VP, VQ, VR, VS, VT, VU, VV, VW, VX, VY, VZ, WA, WB, WC, WD, WE, WF, WG, WH, WI, WJ, WK, WL, WM, WN, WO, WP, WQ, WR, WS, WT, WU, WV, WW, WX, WY, WZ, XA, XB, XC, XD, XE, XF, XG, XH, XI, XJ, XK, XL, XM, XN, XO, XP, XQ, XR, XS, XT, XU, XV, XW, XX, XY, XZ, YA, YB, YC, YD, YE, YF, YG, YH, YI, YJ, YK, YL, YM, YN, YO, YP, YQ, YR, YS, YT, YU, YV, YW, YX, YY, YZ, ZA, ZB, ZC, ZD, ZE, ZF, ZG, ZH, ZI, ZJ, ZK, ZL, ZM, ZN, ZO, ZP, ZQ, ZR, ZS, ZT, ZU, ZV, ZW, ZX, ZY, ZZ



20' PAVED ALLEY

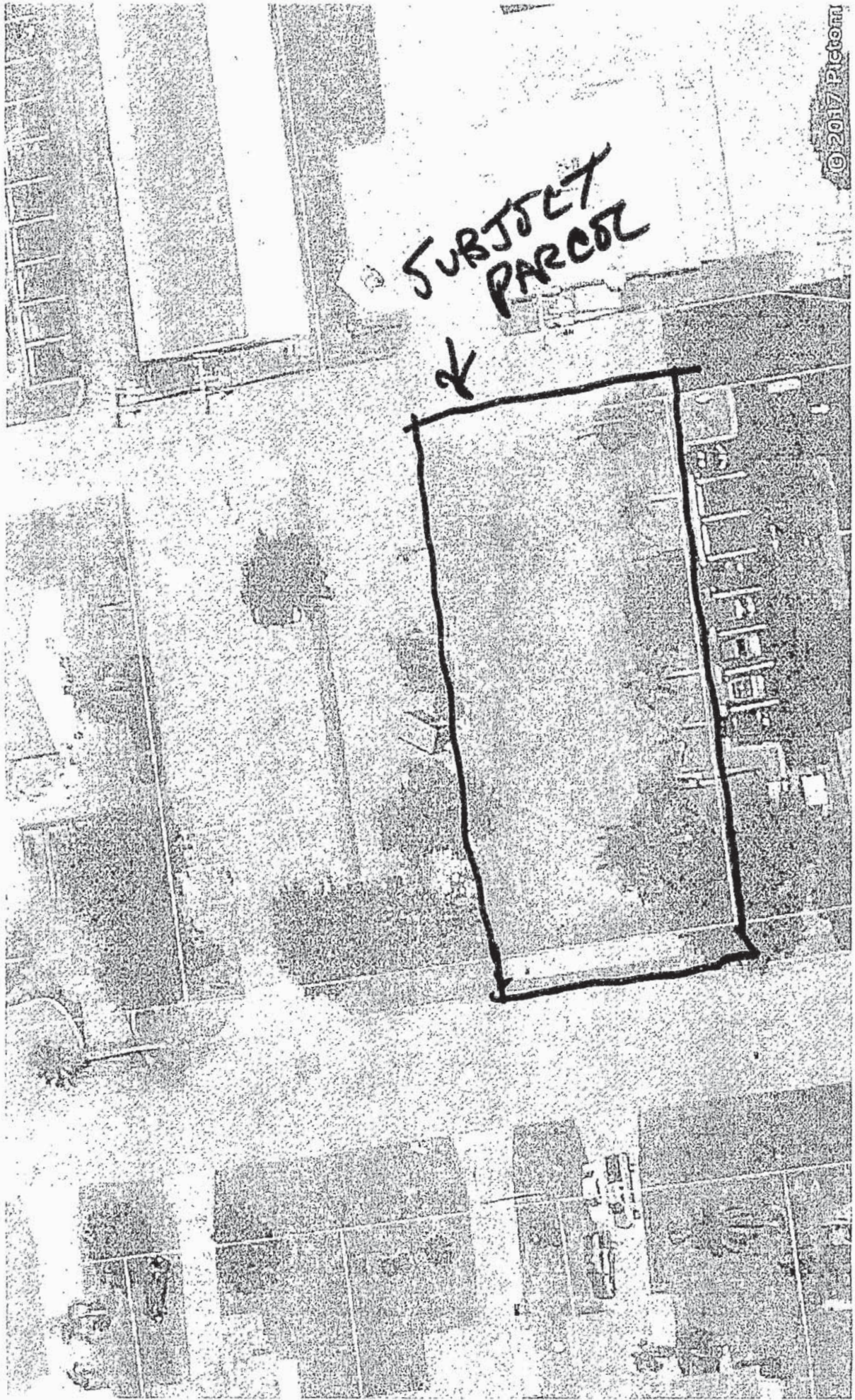
WE WOULD BE ABLE  
 TO STACK PARK THE  
 TRUCKS WITH 10' WIDTH  
 WE COULD GO 7 TRUCKS  
 WIDE AND 3 DEEP  
 ON THE 20' TRUCKS  
 4 DEEP ON THE 20' TRUCKS  
 AND 4 DEEP ON THE  
 17' TRUCKS  
 WOULD ALSO BE ABLE  
 TO STACK PARK, TOTAL  
 NUMBERS OF TRUCKS AND TRAILERS WILL NEED TO BE DETERMINED  
 AFTER WE ESTABLISH THE PARKING SCHEME



SANTA BARBARA BOULEVARD (100')

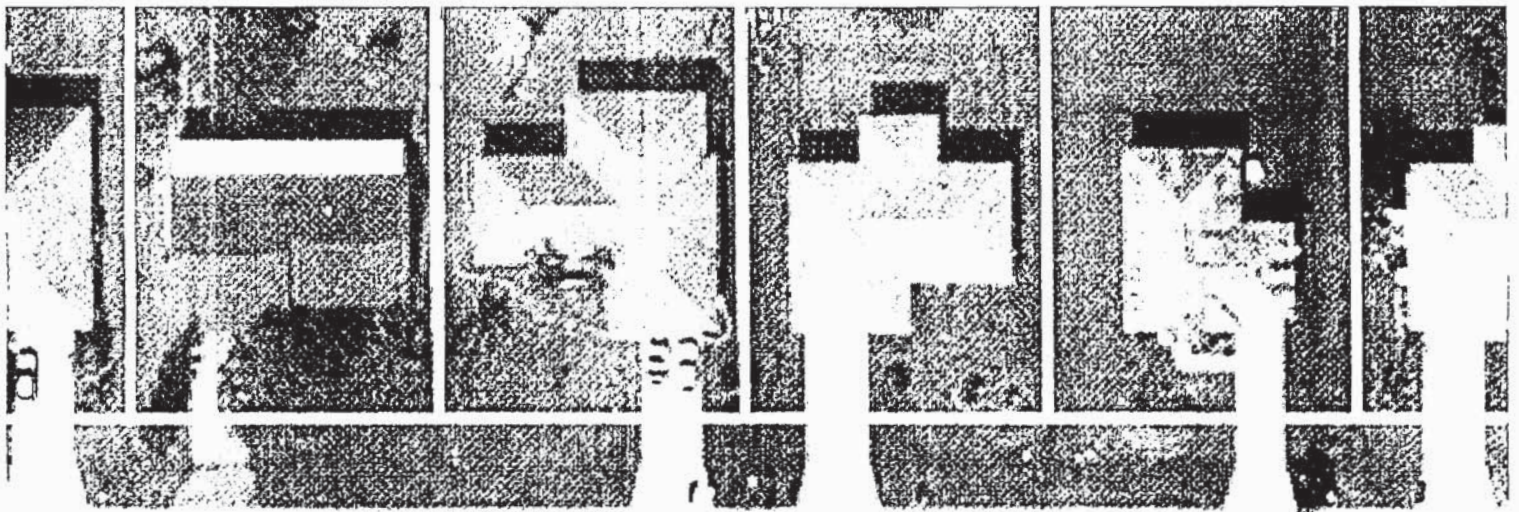


# UHAUL LOT

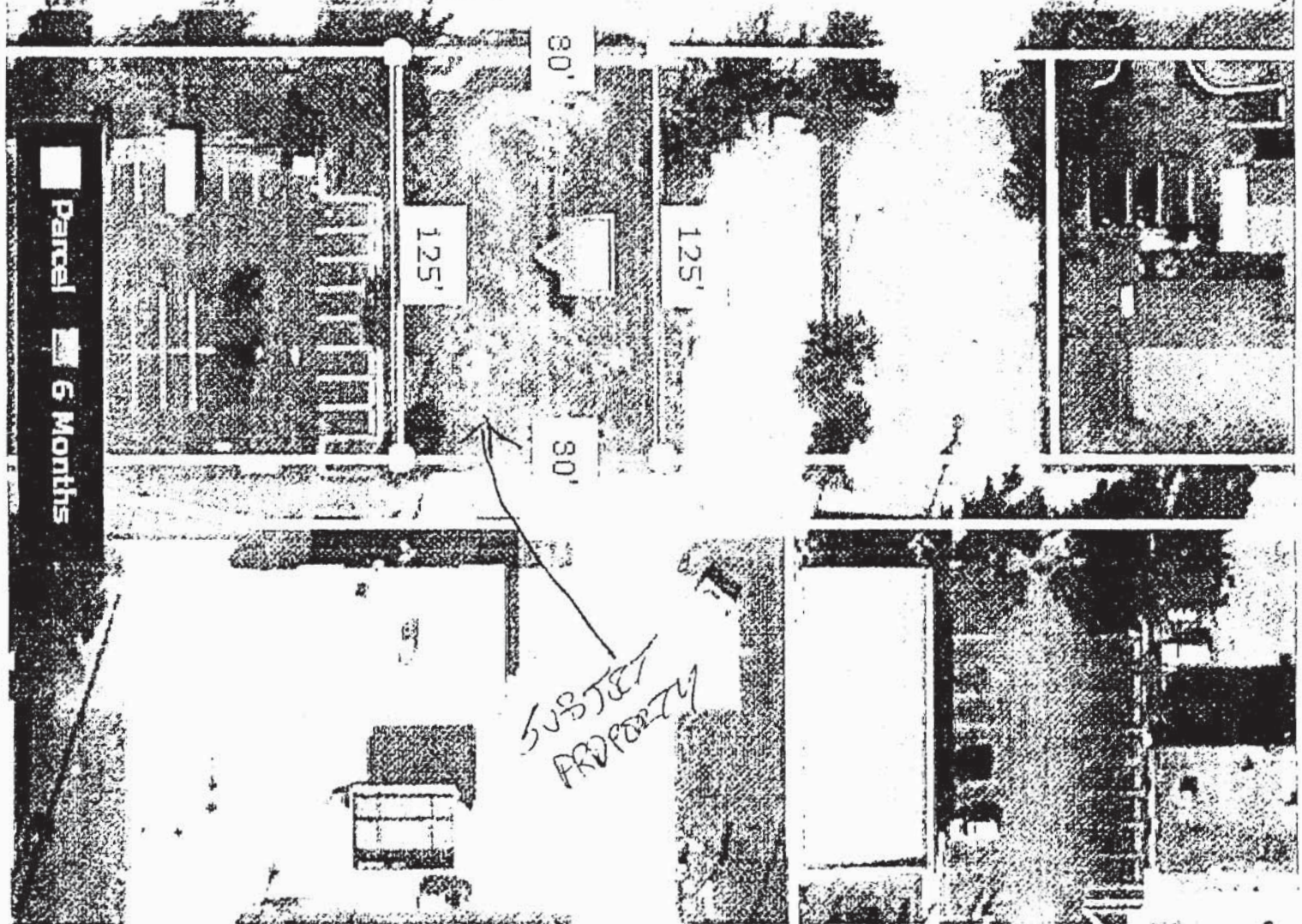


© 2017 Pictom





SW Santa Barbara Pl



Santa Barbara



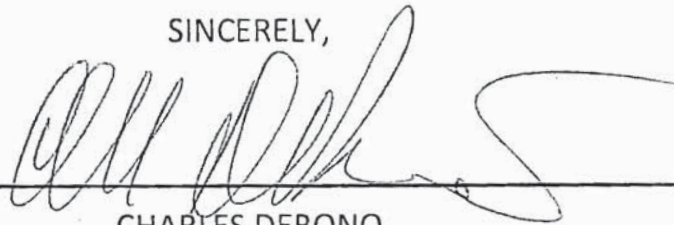


DEBONO'S INC  
D/B/A DEBONO'S STOP AND GO  
2200 SANTA BARBARA BLVD.  
CAPE CORAL FLORIDA 33991  
PHONE: (239)-574-5757

RE: CITY OF CAPE CORAL SPECIAL EXCEPTION

THIS LETTER IS TO ACCOMPANY OUR SPECIAL EXCEPTION REQUEST. IT IS OUR INTENTION TO RENT A PARKING LOT LOCATED AT 2125 SW SANTA BARBARA PLACE CAPE CORAL FLORIDA 33991. THIS PARKING LOT WILL BE USED TO PARK OUR LARGER U-HAUL TRUCKS AND ANY OVERFLOW OF TRUCKS AND TRAILERS WE MAY HAVE IN OUR INVENTORY. THEY WILL BE PARKED BACK TO BACK AND SIDE BY SIDE TO MAXIMIZE THE SPACE ON THE PROPERTY. THE PUBLIC WILL NOT BE ALLOWED ON THE LOT. WE WILL MOVE AND PARK ALL VEHICLES AND EQUIPMENT ON THE PROPERTY. THERE WILL BE NO INGRESS OR EGRESS FROM THE PROPERTY TO THE PUBLIC. THANK YOU FOR YOUR HELP AND COOPERATION ON THIS MATTER

SINCERELY,

A handwritten signature in black ink, appearing to read 'Charles Debono', is written over a horizontal line.

CHARLES DEBONO

PRESIDENT

239-910-6032

## Planning Division Case Report

SE17-0010

**Review Date:** April 5, 2018

**Property Owner:** Ali Bigi

**Owner Address:** 144 Governors Hill Road  
Oxford, CT 06478

**Applicant:** DeBono's Inc.

**Authorized Rep:** Charles DeBono

**Request:** The applicant is requesting a Special Exception for a Rental Establishment, Group III Use.

**Location:** 2125 SW Santa Barbara Place  
Cape Coral, FL 33991  
Unit 62, Block 3047, Lots 17-21, Strap number: 26-44-23-C3-03047.0170

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

**Reviewed By:** Robert H. Pederson, AICP, Planning Manager

**Recommendation:** **Approval with conditions**

**Urban Service Area:** Infill

**Right of Way Access:** The site has frontage and driveway access along SW Santa Barbara Place, a local street. The site also has access to a 20-foot wide alley to the east.

### Property Description

The site consists of Lots 17-21 in Block 3047. The site is rectangular with an area of 25,000 sq. ft. Lots 19-21 (the north end) are improved with a parking lot for three commercial buildings at 2110-2120 Santa Barbara Boulevard, to the east of the site. Lots 17 and 18 to the south are unimproved.

The site has a Commercial/Professional Future Land Use Classification and Pedestrian Commercial (C-1) Zoning. Sites to the north, east, and south share the same future land use and zoning classifications. Sites to the west of SW Santa Barbara Place have a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning.

### Background

The applicant, Charles DeBono, owns the site at 2200 Santa Barbara Boulevard. The site received a Special Exception (SE 11-83-247) for gasoline pumps in conjunction with a convenience store in 1983, and in 2000 received a Special Exception (Resolution 9-2000) for a Rental Establishment, Group III Use.



The Special Exception for the rental establishment was amended by Resolution 20-17. A condition of Resolution 20-17 limits the location, number, and types of vehicles that can be parked on this site.

Based on discussions with the applicant, a Special Exception is sought for the site at 2125 SW Santa Barbara Place to allow parking of larger rental trucks on this site that are prohibited at 2200 Santa Barbara Boulevard. Trucks with lengths over 21.58 feet are prohibited at the DeBono site.

**Figure 1. Map showing 2125 SW Santa Barbara Place to the north (subject to this Special Exception) and 2200 Santa Barbara Boulevard to the south.**



#### Zoning History of the Site

The site has always had a Future Land Use Classification of Commercial/Professional.

The zoning of Lots 17 and 18 was amended by Ordinance 16-11 from R-3 to C-1. The zoning of Lots 19-21 was amended by Ordinance 18-02 from R-3 to C-1.

## Analysis

Staff reviewed this application based on the Land Use and Development Regulations (LUDR), Section 2.7.7, the C-1 District, and the five standards in Section 8.8.5a-e for Special Exceptions.

### 1. Generally

Rental Establishment, Group III uses are allowed by Special Exception in the C-1 District. This use has no minimum area requirement or other special regulations. Group III Uses allow the renting of cars, small vans and trucks, recreation vehicles, and utility trailers. According to the letter of intent, larger U-Haul trucks that cannot be lawfully parked at 2200 Santa Barbara Boulevard along with other rental vehicles will be parked on the site. Prior discussions with Mr. DeBono revealed that the 26-foot long trucks<sup>1</sup> are the most popular length of vehicle rented and returned to his business at 2200 Santa Barbara Boulevard.

### 2. Compatibility

The site is surrounded on three sides (north, east, and south) with C-1 Zoning. The site to the north has a multi-family dwelling (Table 1). Sites to the west, across SW Santa Barbara Place, have R-1B Zoning and single-family dwellings. Residential sites to the north and the west would likely be the most affected by the operation of this use. Adverse effects related to this use would include noise, lighting, and traffic.

**Table 1. Zoning, Future Land Use, and Existing Uses at 2125 SW Santa Barbara Place and Surrounding Sites.**

	<b>Zoning</b>	<b>Future Land Use (FLU)</b>	<b>Existing Use</b>
<b>Subject Parcel</b>	Pedestrian Commercial (C-1)	Commercial/Professional	Parking lot
	<b>Surrounding Zoning</b>	<b>Surrounding FLU</b>	<b>Surrounding Uses</b>
<b>North:</b>	Pedestrian Commercial (C-1)	Commercial/Professional	Multi-family dwelling
<b>South:</b>	Pedestrian Commercial (C-1)	Commercial/Professional	Parking lot
<b>East:</b>	Pedestrian Commercial (C-1)	Commercial/Professional	Commercial development including a gas station
<b>West:</b>	Single Family Residential (R-1B)	Single Family	Single-family dwellings

<sup>1</sup> U-Haul trucks with a length of 26 feet have a front to rear bumper length of 34 feet, one inch. (<https://www.uhaul.com/>).



#### Noise

Rental vehicles being maneuvered on the site will increase activity, but it is not known if additional noise would be generated to a level inconsistent with City ordinances. Residents most affected by any increase in noise would likely be to the north and west. Noise would be most noticeable to residents when vehicles are entering or leaving the site before and after standard working hours (before 8:00 A.M. and after 5:00 P.M.). Staff recommends limiting the transporting of rental vehicles to 2125 SW Santa Barbara Place between 7:00 A.M. and 7:00 P.M. to minimize the exposure of noise and lighting experienced by residents.

#### Lighting

Vehicle headlights could be disruptive to residents to the north and west. Placing restrictions on when rental vehicles can enter and leave the site will alleviate most conflicts involving lighting. Landscaping to the north and west of the rental parking area will further reduce glare from headlights.

#### Traffic

The existing parking lot is used by several businesses to the east at 2110-2120 Santa Barbara. As a result, this site currently generates an unknown number of trips. While a trip generation estimate was not provided with the application, based on the number of trucks the site could likely accommodate (10-20), staff anticipates the P.M. peak hour number of trips generated by the Special Exception use will be low compared to many commercial uses. An identical use approved by the City in 2016 that involved a mix of 17 rental vehicles had an estimated 15 P.M. peak hour trips.<sup>2</sup>

### *3. Minimum Lot Frontage; Access*

The C-1 District has no minimum frontage requirement. The site has about 200 feet of frontage on SW Santa Barbara Place to the west and along an alley to the east. A single driveway exists along SW Santa Barbara Place. The site is accessible by way of two separate drive isles from the alley. No additional driveways are anticipated.

### *4. Building Location; Setbacks*

There are no buildings on the site. The site is currently used for customer parking. No new buildings are proposed or necessary for the Special Exception Use.

### *5. Screening and Buffering*

Prior to construction of improvements on the southern half of the site, site plan approval will be required. Since the improvements will include new off-street parking areas, the site will need to comply with the City landscaping regulations (see LUDR, Section 5.2.3). New

---

<sup>2</sup> Ordinance 56-16 that approved a Special Exception for a Rental Establishment Group III Use for a Home Depot Store at 2508 Skyline Boulevard.

landscaping will include a Buffer 'C' along the west property line. These plantings will provide buffering and partial screening of the trucks parked on this site. Staff recommends landscaping between the parked rental vehicles and the north property line to buffer this commercial use from this adjacent residential use.

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

The project is consistent with the following goals and policies.

#### Future Land Use Element

##### **Policy 1.15.c**

*Commercial/Professional (CP): Intensities of use in the Commercial/Professional land use classification shall not exceed a floor to lot area ratio (FAR) of 1.0 ... The Pedestrian Commercial (C-1) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C-1 District range from a variety of small or neighborhood-based commercial uses to larger retail or service uses, which may serve a relatively large trade area and, which may be developed as major shopping facilities. As many commercial uses have the potential to generate relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred locations for the C-1 District have direct access onto arterial or collector roads and adequate depth (a minimum of 250 feet) for larger-scale development.* **Staff comments:** The site has C-1 Zoning that is consistent with the Commercial/Professional Future Land Use Classification. This policy is supportive of this request.

##### **Policy 1.17**

*"Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses."* **Staff comments:** A landscape buffer will be required along the west property line adjacent to residential sites. Landscaping will be required between the parking area of the rental vehicles and the north property line to protect existing residential uses to the north. This policy is supportive of this request.

##### **Policy 8.2**

*"Land development regulations, adopted pursuant to s. 163.3202, F.S., will require the buffering of incompatible land uses."* **Staff comments:** Landscaping will be installed to the north and west of the parking area for vehicles to buffer the commercial use from adjacent residential uses. This policy is supportive of this request.

##### **Policy 8.3**

*"Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial development (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of*



*any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored."* The site will lack a dumpster, loading docks, and rooftop equipment that typically requires screening. Trips to the site are anticipated to be low. Landscaping to the north and west will provide buffering for adjacent residential uses. This policy is supportive of this request.

**Recommendation:**

The Planning Division recommends approval with the following conditions:

**Conditions of Approval**

1. The parking of rental vehicles on the site shall be limited to Lots 17 and 18.
2. A site plan for improvements to the site shall be approved by the City prior to the issuance of a certificate of use for a Rental Establishment, Group III Use. The site plan shall include a striping plan that identifies spaces for the parking of rental vehicles and drive isles for the internal circulation of vehicles on the site.
3. Single staggered rows of canopy and accent trees spaced 25 feet apart shall be planted for the width of the site to provide buffering between the parked rental vehicles and the residential dwellings to the north.
4. Rental vehicles shall not be moved to or from the site between the hours of 7:00 P.M. and extending to 7:00 A.M. the following day.

---

**Staff Contact Information**

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

PH: 239-242-3255

Email: [mstruve@capecoral.net](mailto:mstruve@capecoral.net)





## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** SE17-0010

**REQUEST:** The applicant, DeBono's Inc., is requesting a Special Exception for a Rental Establishment, Group III Use in the Pedestrian Commercial (C-1) District on property described as Lots 17-21, Block 3047, Unit 62, Cape Coral Subdivision; property located at 2125 SW Santa Barbara Place.

**LOCATION:** 2125 SW Santa Barbara Place, Cape Coral, FL

**CAPE CORAL STAFF CONTACT:** Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

**PROPERTY OWNER:** Ali Bigi

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, April 17, 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 five days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

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

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

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

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

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Local #  
239-335-0258

Email  
FNPLegals@gannett.com

**Customer:** CITY OF CAPE CORAL\_DEPT OF COM

**Ad No.:** 0002844992

**Address:** 1015 CULTURAL PARK BLVD  
CAPE CORAL FL 33990  
USA

**Net Amt:** \$345.17

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 04/07/18

**Text of Ad:**

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE17-0010

REQUEST: The applicant, DeBono's Inc., is requesting a Special Exception for a Rental Establishment, Group III Use in the Pedestrian Commercial (C-1) District on property described as Lots 17-21, Block 3047, Unit 62, Cape Coral Subdivision; property located at 2125 SW Santa Barbara Place.

LOCATION: 2125 SW Santa Barbara Place, Cape Coral, FL

CAPE CORAL STAFF CONTACT: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

PROPERTY OWNER: Ali Bigi

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, April 17, 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.

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DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, [www.capecoral.net/publ](http://www.capecoral.net/publ) (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.

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by order of  
Rebecca van Deutekom, MMC  
City Clerk  
REF # SE17-0010  
AD# 2844992 Apr. 7, 2018



Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Debono's

APPLICATION NO: SE17-0010

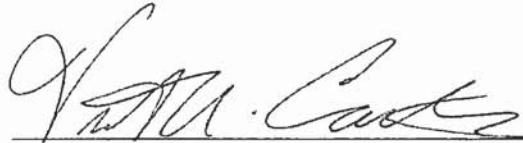
STATE OF FLORIDA       )  
                                  ) §  
COUNTY OF LEE        )

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.

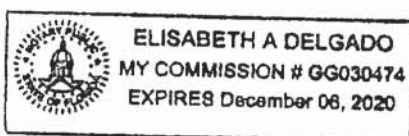
DATED this 9<sup>th</sup> day of April, 2018.

  
\_\_\_\_\_  
Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of April, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

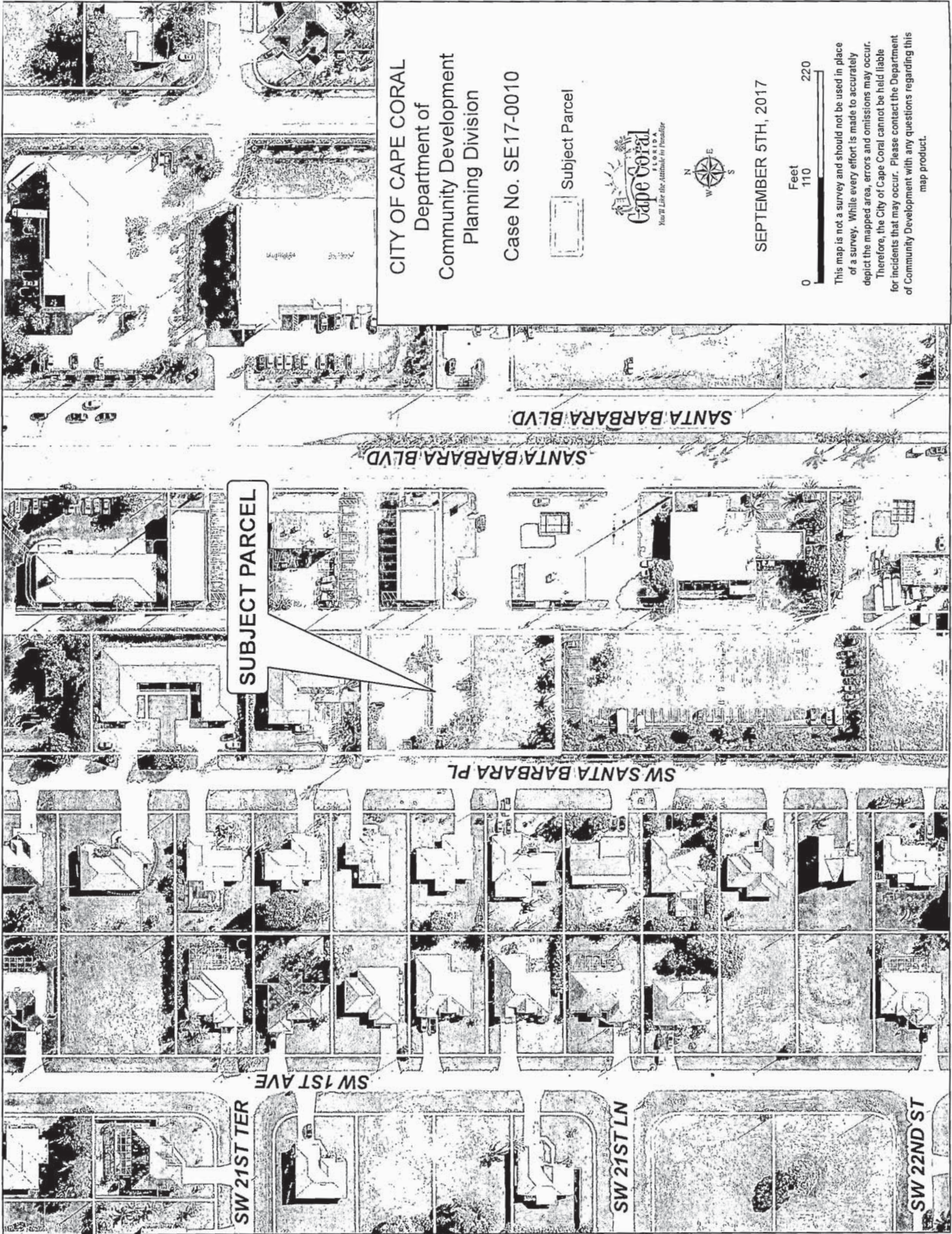
Exp. Date 12/6/20 Commission # 66030474



  
\_\_\_\_\_  
Signature of Notary Public

Elisabeth A. Delgado  
\_\_\_\_\_  
Print Name of Notary Public





CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

Case No. SE17-0010



Subject Parcel



SEPTEMBER 5TH, 2017



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.

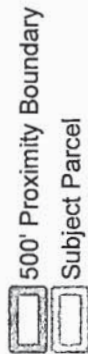


CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT ZONING MAP  
500' Proximity Buffer

Case No. SE17-0010

LEGEND



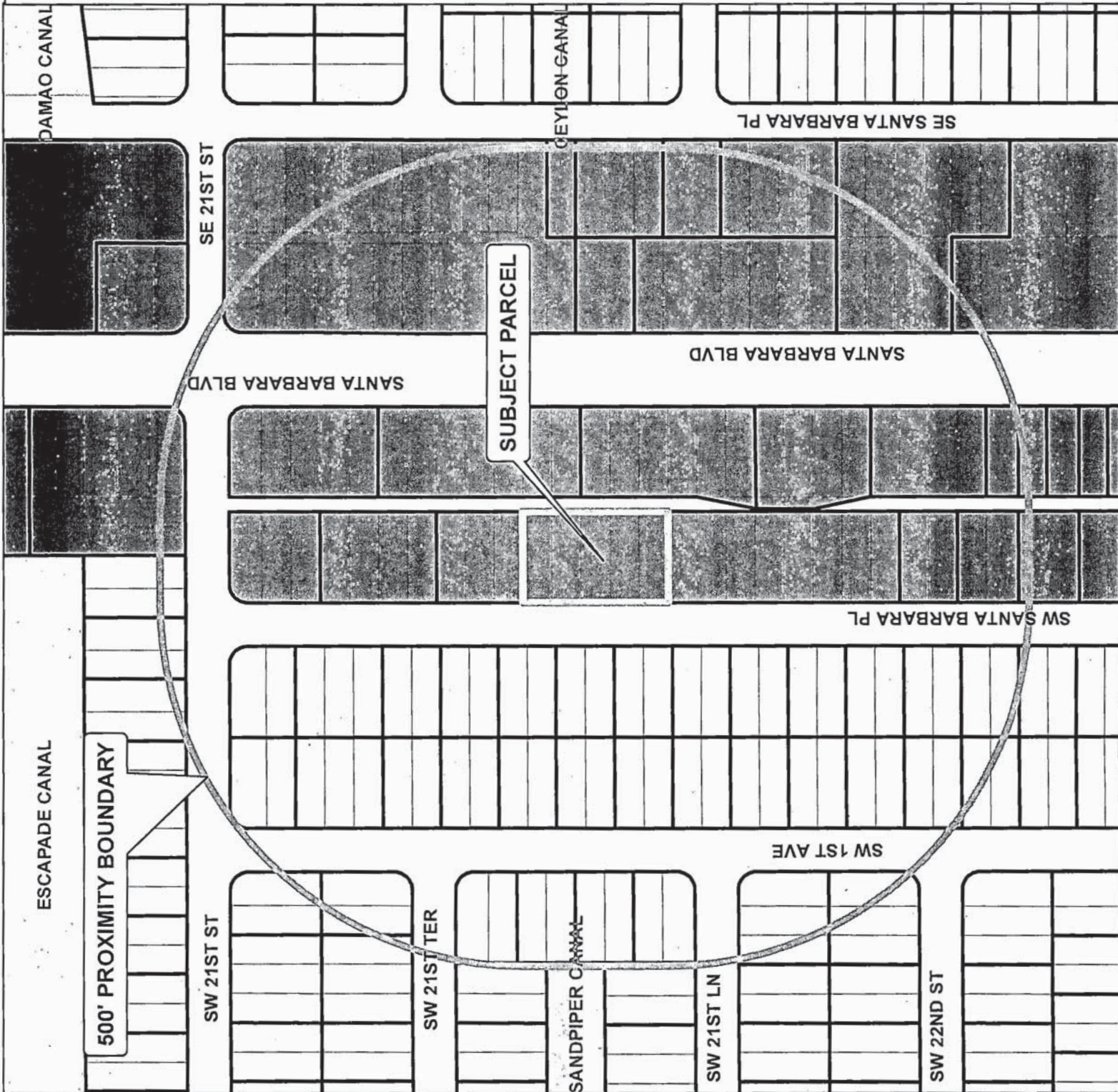
Zoning



SEPTEMBER 5TH, 2017



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

Case # SE17-0010

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

Jack Martin

(Name of person giving presentation)

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

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

UNIT

BLOCK

LOT(S)

SUBDIVISION

OR LEGAL DESCRIPTION

Cape Coral unit 62 Site 3047 PB 21  
PG 28 Lots 17 Thru 21

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

Ali Bigi  
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

[Signature]  
PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF Connecticut, COUNTY OF

New Haven

Subscribed and sworn to (or affirmed) before me this

12

day of December, 2017 by

Ali Bigi  
as identification.

who is personally known or produced

RI Drivers License

Exp. Date:

My commission expires 11/30/2021  
Commission Number:

Signature of Notary Public:

Printed name of Notary Public:

[Signature]  
Jessica Lomonte

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





DEPARTMENT OF COMMUNITY DEVELOPMENT  
SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE17-0010

FEB 5 10 15 52 \*

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

CHARLES DEBONO  
(Name of person giving presentation)

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

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

UNIT 62 BLOCK 3047 LOT(S) 12-21 SUBDIVISION

OR LEGAL DESCRIPTION

26-44-23-03 03047. 0170

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

ALL BIC  
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

[Signature]  
PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF

Mano Haven

Subscribed and sworn to (or affirmed) before me this 29 day of DEC, 2017 by BIG AL who is personally known or produced as identification.

FL Dr. Lic B200-000-712240

Exp. Date: 10/31/2022 Commission Number:

Signature of Notary Public:

Printed name of Notary Public:

[Signature]  
Ana G. Velez

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

**Item Number:** 2.B.  
**Meeting Date:** 4/17/2018  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # SE18-0001\*; Address: 801 Cape Coral Parkway West; Applicant: Ram Kumar Kashyap and Jaswant Kashyap, Trustees of the Kashyap Revocable Trust

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

The applicant, Creighton Construction & Management, LLC, is seeking to amend Resolution SE 6-2012, as amended by Resolution SE 6-2015 that approved an automotive service station limited use in the Pedestrian Commercial (C-1) District on property described as Lots 23-27, Block 1696 by amending conditions that limited the hours of operation of the establishment and prohibited the outdoor storage of products and materials on the site; property is located at 801 Cape Coral Parkway West.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Materials"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

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



ATTACHMENTS:

Description	Type
▣ CASE #SE18-0001 PART I	Backup Material
▣ CASE #SE18-0001 PART II	Backup Material
▣ RESOLUTION 53-12 BACK UP	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE18-0001

REQUEST FOR A SPECIAL EXCEPTION USE

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

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

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

OWNER OF PROPERTY Ram Kumar Kashyap & Jaswant  
Kashyap, Trustees of the Kashyap Revocable Trust

Address: 4505 Arniel Place

City: Fairfax State VA Zip 22030

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

APPLICANT (if different from Owner)  
Creighton Construction & Management, LLC

Address: 900 SW Pine Island Rd, Suite 202

City: Cape Coral State FL Zip 33991

Email: dcreighton@creightonde.com

Phone: \_\_\_\_\_

AUTHORIZED REPRESENTATIVE  
Banks Engineering

Address: 10511 Six Mile Cypress Pkwy, Suite 101

City: Fort Myers State FL Zip 33936

Email: shewitt@bankseng.com

Phone: 239-770-2527

Unit 64 Block 1696 Lot(s) 23-27 plus part of Subdivision Cape Coral

Address of Property 801 Cape Coral Pkwy W vacated alley

Plat Book 21 Page 94

Current Zoning Pedestrian Commercial C-1 Strap Number 15-45-23-C2-01696.0260

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.

M. Dan Creighton

NAME (PLEASE TYPE OR PRINT)

Creighton Construction & Management, LLC

CORPORATION/COMPANY NAME

[Signature]  
APPLICANT'S SIGNATURE





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

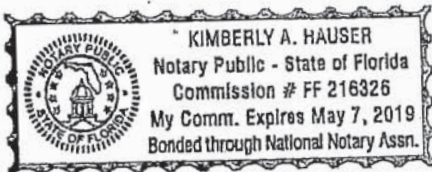
(SIGNATURE MUST BE NOTARIZED)

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

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 9th day of JAN 2018, by M. Dan Creighton who is personally known or produced as identification.

Exp. Date: 5/7/2019 Commission Number: FF216326



Signature of Notary Public:  
Printed name of Notary Public:

Kimberly A. Hauser  
KIMBERLY A. HAUSER



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

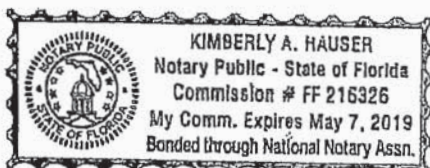
9th day of January, 2018

M. Dan Creighton  
PRINT APPLICANT'S NAME

[Signature]  
APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 9th day of January, 2018 by M. Dan Creighton who is personally known or produced as identification.



Exp. Date: 5/7/2019 Commission Number: FF 216326  
Signature of Notary Public: [Signature]  
Printed name of Notary Public: KIMBERLY A. HAUSER





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Banks Engineering and Henderson Franklin Starnes and Holt, PA

(Name of person giving presentation)

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

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

23-27 plus

UNIT 64 BLOCK 1696 LOT(S) portion of SUBDIVISION Cape Coral  
vacated alley

OR LEGAL DESCRIPTION 15-45-23-C2-01696.0260

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

Ram Kumar Kashyap, Trustee of the Kashyap Revocable Trust

PROPERTY OWNER (Please Print)

R. Kashyap, R. TRUST.

PROPERTY OWNER (Signature & Title)

Jaswant, Trustee of the Kashyap Revocable Trust

PROPERTY OWNER (Please Print)

Jaswant Kashyap, R. Trust

PROPERTY OWNER (Signature & Title)

STATE OF VIRGINIA, COUNTY OF FAIRFAX

Subscribed and sworn to (or affirmed) before me this 8th day of January, 2018 by  
\_\_\_\_\_ who is personally known or produced  
as identification.

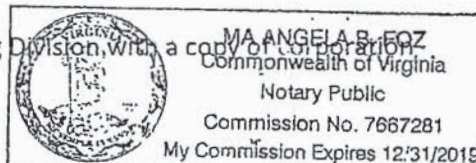
Exp. Date: 12-31-19 Commission Number: 766 7281

Signature of Notary Public:

Printed name of Notary Public:

MA - ANGELA FID

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





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

**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.

M. Dan Creighton

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

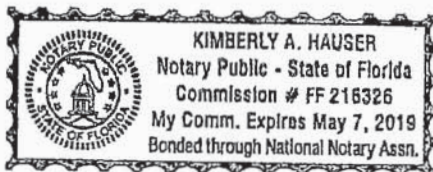
(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 9th day of January, 2018 by M. Dan Creighton, who is personally known or who has produced \_\_\_\_\_ as identification.

Exp. Date 5/7/2019  
Commission # FF2110326

\_\_\_\_\_  
Signature of Notary Public  
Kimberly A. Hauser  
Print Name of Notary Public







Professional Engineers, Planners & Land Surveyors



January 12, 2018

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

Reference: PROPOSED AMENDMENT TO CONDITIONS OF SPECIAL EXCEPTION SE 6-2015  
7-Eleven, 801 Cape Coral Parkway W  
LETTER OF INTENT

To Whom It May Concern:

It is the intent of our client, Creighton Commercial Development, LLC, to request an amendment to the hours of operation of a previously approved Special Exception pursuant to SE 6-2015 for fuel sales for the above referenced project. The site comprises 0.63 acres and is located at 801 Cape Coral Parkway West and is presently developed with a 7-Eleven with 8 self-service fuel pumps. The existing conditions limit the hours of operation from 5 am to 1 am with deliveries restricted from 6am to 11 pm. The applicant seeks to amend the hours of operation to allow for 24-hour operation.

Attached for your review is the following information:

1. Completed Special Exception Application
2. Application Fee of \$833.00
3. Existing Special Exception Approval
4. Letter of Support from neighbors

Since the request is limited to amending the condition regarding the hours of operation, no changes are proposed to the survey, traffic, site plan or landscaping. Changing the hours of operation will have no bearing on the existing special exception's previously deemed consistency with the five (5) standards outlined within Section 8.8.5a-e which covers special exceptions. There are no adjacent single-family uses and the only adjacent multi-family development to the north has provided a letter of support. The additional 4 hours of operation will not have any impact on the existing compatibility.

There are several relevant factors that the applicant submits in support of the requested 24-hour operation.

- Letter of Support attached from neighbors
- It should be noted that the store itself is a permitted use in the C-1 district (Convenience food and beverage store is included in Food Stores, Group I) and the special exception is only required for the self-service fuel pumps. If the gas pumps were not in operation, the store could operate 24-hours without the special exception.
- The following existing 24-hour businesses have the exact same future land use classification and zoning as the subject property (Commercial Professional/CP and Pedestrian Commercial/C-1):
  - o Circle K with 10 fuel pumps, 1603 Cape Coral Pkwy
  - o Walmart, 3920 Skyline Blvd

S:\Jobs\27x\2744\Documents\City\Special Exception Application\2017 SE 24-hr req\2744-Letter of Intent-Special Exception.doc

• SERVING THE STATE OF FLORIDA •

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

- o Circle K with 8 fuel pumps, 3704 Skyline Blvd
  - o 7-Eleven with 16 fuel pumps, 345 Cape Coral Pkwy
- There are many careers that require employees to be at work at 3AM such as the trash industry, mechanics, etc. These employees need gas on their way to work, as well as coffee and snacks to get them going in the AM. When the first convenience store/gas station you pass in the AM is closed, that business is no longer convenient to them on a normal work day and they will find somewhere else to conduct their business.
- The site is located at a major intersection of a 6-lane major arterial roadway (Cape Coral Pkwy) and a 4-lane minor arterial roadway (Skyline Blvd). The following existing 24-hour businesses are located at similar or less intense intersections:
  - o Circle K with 10 fuel pumps at intersection of 4-lane major arterial (Chiquita) and a 4-lane minor arterial (Cape Coral Pkwy)
  - o Walmart at intersection of 4-lane collector (Mohawk) and a 4-lane minor arterial (Skyline)
  - o Circle K with 8 fuel pumps at intersection of 4-lane minor arterial (Skyline) and a 2-lane local road (SW 37<sup>th</sup>)
  - o CVS at intersection of 6-lane major arterial (Cape Coral Pkwy) and a 4-lane minor arterial (Coronado)
  - o Walgreens at intersection of 6-lane major arterial (Cape Coral Pkwy) and a 4-lane minor arterial (Coronado)
  - o 7-Eleven with no fuel pumps at intersection of a 4-lane minor arterial (Coronado) and a 2-lane collector (Miramar)
  - o Circle K with 4 fuel pumps at intersection of a 6-lane major arterial (Cape Coral Pkwy) and a 2-lane local roadway (SE 6<sup>th</sup> Ave)
  - o 7-Eleven with 16 fuel pumps at intersection of a 6-lane major arterial (Cape Coral Pkwy) and a 2-lane minor arterial (Palm Tree)
- The following existing 24-hour businesses are also adjacent to residential as follows:
  - o Walmart at 3920 Skyline is adjacent to existing multi-family.
  - o 7-Eleven with 16 fuel pumps at 345 Cape Coral Parkway is adjacent to existing multi-family and existing single-family. It also has existing single-family across SE 47<sup>th</sup> Terr, a 2-lane road, as well as existing multi-family diagonal across Palm Tree, a 2-lane road.
  - o 7-Eleven with no fuel pumps at 4833 Coronado has existing multi-family across Miramar, 2-lane roadway, and Coronado, a 4-lane road.

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

Sincerely,  
BANKS ENGINEERING



Stacy Ellis Hewitt, AICP  
Director of Planning





Professional Engineers, Planners & Land Surveyors



March 29, 2018

Mr. Mike Struve, AICP, LEED Green Associate  
City of Cape Coral  
Department of Community Development  
Planning Division  
1015 Cultural Park Boulevard  
Cape Coral, Florida 33990

Reference: SE18-0001  
PROPOSED AMENDMENT TO CONDITIONS OF SPECIAL EXCEPTION SE 6-2015  
7-Eleven, 801 Cape Coral Parkway W

Dear Mr. Struve,

The applicant is in receipt of the staff report dated March 14, 2018 for the above referenced project and agrees with staff's recommended conditions with the exception of proposed conditions 2 and 4. regarding the removal of the propane tank rack located outside of the existing store on the subject property.

The applicant is requesting that Condition 2 of SE18-0001 be modified to read as follows:  
"Resolution SE6-2015, condition 3, is revised to allow for the placement of a propane tank rack on the outside of the store not exceeding 72" tall, 48" inches wide and 24" inches deep."

The applicant is also requesting that Condition 4 of SE18-00001 be revised to read as follows:  
"Restrictions on the hours of operation for the gas and convenience store uses shall not be eliminated until the north and west buffers referenced in Condition #1 have been restored consistent with the approved landscaping plan and been inspected by the City."

Propane tanks are a critical necessity for customers, especially during storm season. Allowing the propane storage rack to remain will continue to provide this service to the residents in the area without the need to travel to a Walmart, Lowes, Home Depot or other destination farther from home. Most gas stations have a propane tank rack and this project must provide the rack in order to meet the consumer's expectations as well as maintain a competitive business.

This proposed change will have no bearing on the existing special exception's previously deemed consistent with the five (5) standards outlined within Section 8.8.5a-e which covers special exceptions. There are no adjacent single-family uses and the only adjacent multi-family development to the north has provided a letter of support. Allowing the propane storage rack to remain will not have any impact on the existing compatibility.

• SERVING THE STATE OF FLORIDA •

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

Page 2 of 2

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

Sincerely,  
BANKS ENGINEERING

A handwritten signature in dark ink, appearing to read 'Stacy Ellis Hewitt', with a stylized flourish at the end.

Stacy Ellis Hewitt, AICP  
Director of Planning



November 15, 2017

City of Cape Coral  
1015 Cultural Park Blvd.  
Cape Coral, FL

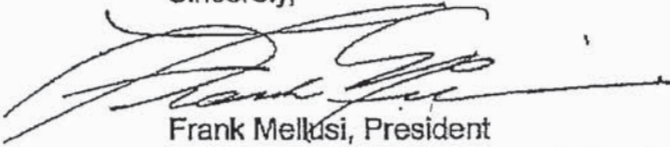
**RE: 7-Eleven- 801 Cape Coral PKWY W. Cape Coral, FL**

Dear Cape Coral Planning and Zoning Commission,

I, Frank Mellusi am president and long-term resident of Malabar Condominium Association, Inc., the directly adjacent property located to the North of the 7-Eleven identified above. We support 7-Eleven and Creighton's request for this location to be open for operation for both the store and fuel 24 hours a day, 7 days a week. This 7-Eleven has been a great neighbor and a great business in our community.

Should you have any questions please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Mellusi', with a long horizontal line extending to the right.

Frank Mellusi, President  
Malabar Condominium Association, Inc.  
PO Box 1846  
Fort Myers, FL 33902

## RESOLUTION SE 6 - 2012

A RESOLUTION PURSUANT TO THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE VIII, ADMINISTRATION, SECTION 8.3, PUBLIC HEARINGS, AND SECTION 8.8, SPECIAL EXCEPTIONS, AND THE CITY OF CAPE CORAL COMPREHENSIVE PLAN, GRANTING A SPECIAL EXCEPTION TO CONSTRUCT AND OPERATE AN AUTOMOTIVE SERVICE STATION LIMITED USE IN A PEDESTRIAN COMMERCIAL (C-1) ZONE ON REAL PROPERTY DESCRIBED AS LOTS 23 - 27, BLOCK 1696, UNIT 65, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 801-809 CAPE CORAL PARKWAY WEST; PROVIDING AN EFFECTIVE DATE.

WHEREAS, an application by CREIGHTON COMMERCIAL DEVELOPMENT, LLC, has been submitted and reviewed by the Planning and Zoning Commission, the City of Cape Coral, and has been presented to the City of Cape Coral Board of Zoning Adjustment and Appeals at a Public Hearing for Special Exception.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING ADJUSTMENT AND APPEALS OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. That the City of Cape Coral Board of Zoning Adjustment and Appeals having specifically considered the recommendations of the City of Cape Coral Planning and Zoning Commission, Local Planning Agency, the City of Cape Coral Planning Division, and the presentation made at the Public Hearing, the criteria set forth in the City of Cape Coral Code Article VIII, Administration, Section 8.3, Public Hearings, and Section 8.8, Special Exceptions, the City of Cape Coral Comprehensive Plan and the application materials submitted with Application SE 11-0013 the Board of Zoning Adjustment and Appeals hereby grants the below-described real property A SPECIAL EXCEPTION TO CONSTRUCT AND OPERATE AN AUTOMOTIVE SERVICE STATION LIMITED USE IN A PEDESTRIAN COMMERCIAL (C-1) zone on the below-described property:

## LEGAL DESCRIPTION:

LOTS 23, 24, 25, 26, AND 27, BLOCK 1696, UNIT 65, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGES 82 THROUGH 95, INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF A VACATED ALLEY DESCRIBED IN RESOLUTION NO. 6-07, RECORDED IN INSTRUMENT #2007000117988 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

PROPERTY LOCATED AT: 801-809 CAPE CORAL PARKWAY WEST

Section 2. The applicant shall meet the following terms and conditions:

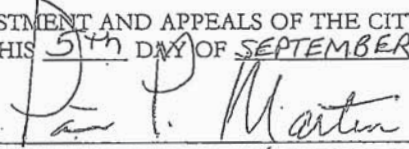
1. To minimize light trespass on surrounding properties and to reduce glare associated with on-site lighting, the following conditions are prescribed:
  - a. Lighting levels along the northern property line of Lots 23-27 shall not exceed 0.1 foot-candles. The developer shall submit a lighting plan for staff review that demonstrates compliance with this requirement prior to site plan approval for the project.
  - b. Lighting trespass and glare shall be limited to a reasonable level through the use of shielding and directional lighting methods. All free-standing lights on the site shall be aimed downward and away from the property lines.
  - c. Light fixtures mounted under the canopy shall be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface of the canopy.
  - d. Lights shall not be mounted on the top or sides of the canopy and the canopy sides shall not be illuminated.
2. No vending machines or automated teller machines (ATMs) shall be placed on the outside of the store.



3. The outdoor storage of products and materials is prohibited. This provision, however, shall not apply to ice machines that are used solely to store ice.
4. Hours of operation for the proposed development shall be limited to the hours beginning at 6:00 a.m. and ending at 11:00 p.m.
5. The trash receptacle enclosure approved for this development shall include colors and materials common to those used for the gas station building.
6. To promote continuity within the development, the wall located within the buffer yard along the western property line of Lot 23 shall be eight feet in height and shall be of identical design to the wall erected along the northern property line of the development.

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


ADOPTED BY THE BOARD OF ZONING ADJUSTMENT AND APPEALS OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 5<sup>th</sup> DAY OF SEPTEMBER, 2012.

  
PATRICIA P. MARTIN, CHAIRPERSON  
BOARD OF ZONING ADJUSTMENT  
AND APPEALS

ATTESTED TO AND FILED IN MY OFFICE THIS 14<sup>th</sup> DAY OF September, 2012.

  
REBECCA VAN DEUTEKOM  
CITY CLERK

APPROVED AS TO FORM:

  
BRIAN R. BARTOS  
ASSISTANT CITY ATTORNEY  
SE11-0013-conditions

RESOLUTION SE 6 - 2015

A RESOLUTION AMENDING RESOLUTION SE 6-2012, WHICH GRANTED A SPECIAL EXCEPTION TO CONSTRUCT AND OPERATE AN AUTOMOTIVE SERVICE STATION LIMITED USE IN A PEDESTRIAN COMMERCIAL (C-1) ZONE ON REAL PROPERTY DESCRIBED AS LOTS 23 - 27, BLOCK 1696, UNIT 65, CAPE CORAL SUBDIVISION BY AMENDING THE TERMS AND CONDITIONS; PROPERTY LOCATED AT 801-809 CAPE CORAL PARKWAY WEST; PROVIDING AN EFFECTIVE DATE.

WHEREAS, an application to amend Resolution SE 6-2012 by M. DAN CREIGHTON has been submitted and reviewed by the Planning and Zoning Commission, the City of Cape Coral, and has been presented to the City of Cape Coral Board of Zoning Adjustment and Appeals at a Public Hearing for Special Exception.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING ADJUSTMENT AND APPEALS OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. That the City of Cape Coral Board of Zoning Adjustment and Appeals having specifically considered the recommendations of the City of Cape Coral Planning and Zoning Commission, Local Planning Agency, the City of Cape Coral Planning Division, and the presentation made at the Public Hearing, the criteria set forth in the City of Cape Coral Code Article VIII, Administration, Section 8.3, Public Hearings, and Section 8.8, Special Exceptions, the City of Cape Coral Comprehensive Plan and the application materials submitted with Application SE 15-0004 the Board of Zoning Adjustment and Appeals hereby grants an amendment to Resolution SE 6-2012, which granted the below-described real property A SPECIAL EXCEPTION TO CONSTRUCT AND OPERATE AN AUTOMOTIVE SERVICE STATION LIMITED USE IN A PEDESTRIAN COMMERCIAL (C-1) zone on the below-described property:

LEGAL DESCRIPTION: LOTS 23, 24, 25, 26, AND 27, BLOCK 1696; UNIT 65, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGES 82 THROUGH 95, INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF A VACATED ALLEY DESCRIBED IN RESOLUTION NO. 6-07, RECORDED IN INSTRUMENT #2007000117988 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

PROPERTY LOCATED AT: 801-809 CAPE CORAL PARKWAY WEST

Section 2. The following condition contained within Resolution SE 6-2012 is hereby amended as follows:

4. Hours of operation for the development shall be limited to the hours beginning at 5:00 a.m. and ending at 1:00 a.m. the following day. Hours for deliveries for the development shall be limited to the hours beginning at 6:00 a.m. and ending at 11:00 p.m.

All provisions and conditions contained in Resolution SE 6-2012 shall remain in full force and effect, except as otherwise stated in this Resolution.

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

ADOPTED BY THE BOARD OF ZONING ADJUSTMENT AND APPEALS OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 5<sup>TH</sup> DAY OF AUGUST, 2015.


  
DANIEL READ, CHAIRMAN  
BOARD OF ZONING ADJUSTMENT  
AND APPEALS



ATTESTED TO AND FILED IN MY OFFICE THIS 17<sup>th</sup> DAY OF August  
2015.

  
REBECCA VAN DEUTEKOM  
CITY CLERK

APPROVED AS TO FORM:

  
BRIAN R. BARTOS  
ASSISTANT CITY ATTORNEY  
SE15-0004

## RESOLUTION 52 - 12

A RESOLUTION PURSUANT TO THE CITY OF CAPE CORAL CODE OF ORDINANCES, LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE VIII, ADMINISTRATION, SECTION 8.3, PUBLIC HEARINGS, SECTION 8.8, SPECIAL EXCEPTIONS, AND SECTION 8.9, APPEALS, AND THE CITY OF CAPE CORAL COMPREHENSIVE PLAN, APPROVING THE DECISION OF THE BOARD OF ZONING ADJUSTMENT AND APPEALS THAT APPROVED RESOLUTION SE 6-2012 WHICH GRANTED A SPECIAL EXCEPTION TO CONSTRUCT AND OPERATE AN AUTOMOTIVE SERVICE STATION LIMITED USE IN A PEDESTRIAN COMMERCIAL (C-1) ZONE ON REAL PROPERTY DESCRIBED AS LOTS 23 - 27, BLOCK 1696, UNIT 65, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 801-809 CAPE CORAL PARKWAY WEST; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral Board of Zoning Adjustment and Appeals has specifically considered the request of CREIGHTON COMMERCIAL DEVELOPMENT, LLC, for a Special Exception as described herein, and, at a Public Hearing on September 5, 2012, granted the aforesaid request by approving Resolution SE 6-2012.

WHEREAS, the Applicant, THOMAS W. KOTOWSKI, is exercising his right to appeal to the Cape Coral City Council.

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

Section 1. That the City of Cape Coral City Council having specifically considered the decision of the Cape Coral Board of Zoning Adjustment and Appeals, the recommendation of the City of Cape Coral Planning and Zoning Commission, Local Planning Agency, and the Planning Division of the City of Cape Coral, and the presentation made by the Applicant(s) before this Board at a public meeting, and the criteria set forth in the City of Cape Coral Land Use and Development Regulations, Article VIII, Administration, Section 8.3, Public Hearings, and Section 8.8, Special Exceptions, the City of Cape Coral Comprehensive Plan, the application materials submitted with Application AP 12-0005, and all other evidence presented, hereby approves the decision of the Board of Zoning Adjustment and Appeals that approved Resolution SE 6-2012 which granted A SPECIAL EXCEPTION TO CONSTRUCT AND OPERATE AN AUTOMOTIVE SERVICE STATION LIMITED USE IN A PEDESTRIAN COMMERCIAL (C-1) ZONE for the below-described property:

## LEGAL DESCRIPTION:

LOTS 23, 24, 25, 26, AND 27, BLOCK 1696, UNIT 65, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGES 82 THROUGH 95, INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF A VACATED ALLEY DESCRIBED IN RESOLUTION NO. 6-07, RECORDED IN INSTRUMENT #2007000117988 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

PROPERTY LOCATED AT: 801-809 CAPE CORAL PARKWAY WEST

for the reason that the aforesaid special exception meets all of the criteria identified in the City of Cape Coral Land Use and Development Regulations, Section 8.8, Special Exceptions.

Section 2. CREIGHTON COMMERCIAL DEVELOPMENT, LLC, shall meet the following terms and conditions:

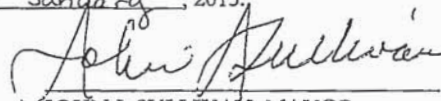
1. To minimize light trespass on surrounding properties and to reduce glare associated with on-site lighting, the following conditions are prescribed:



- a. Lighting levels along the northern property line of Lots 23-27 shall not exceed 0.1 foot-candles. The developer shall submit a lighting plan for staff review that demonstrates compliance with this requirement prior to site plan approval for the project.
  - b. Lighting trespass and glare shall be limited to a reasonable level through the use of shielding and directional lighting methods. All free-standing lights on the site shall be aimed downward and away from the property lines.
  - c. Light fixtures mounted under the canopy shall be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface of the canopy.
  - d. Lights shall not be mounted on the top or sides of the canopy and the canopy sides shall not be illuminated.
2. No vending machines or automated teller machines (ATMs) shall be placed on the outside of the store.
  3. The outdoor storage of products and materials is prohibited. This provision, however, shall not apply to ice machines that are used solely to store ice.
  4. Hours of operation for the proposed development shall be limited to the hours beginning at 6:00 a.m. and ending at 11:00 p.m.
  5. The trash receptacle enclosure approved for this development shall include colors and materials common to those used for the gas station building.
  6. To promote continuity within the development, the wall located within the buffer yard along the western property line of Lot 23 shall be eight feet in height and shall be of identical design to the wall erected along the northern property line of the development.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS 28<sup>th</sup> DAY OF January, 2013.

  
JOHN J. SULLIVAN, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	<u>may</u>
MCCLAIN	<u>aye</u>
CARIOSCIA	<u>may</u>
NESTA	<u>aye</u>
CHULAKES-LEETZ	<u>aye</u>
ERBRICK	<u>aye</u>
MCGRAIL	<u>may</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 13<sup>th</sup> DAY OF February, 2013.

  
REBECCA VAN DEUTEKOM,  
CITY CLERK

APPROVED AS TO FORM:

  
DOLORES D. MENENDEZ  
CITY ATTORNEY

res/ap12-0005-confirm approval sc

## Planning Division Case Report

SE18-0001

**Review Date:** April 10, 2018

**Property Owner:** Ram Kumar Kashyap and Jaswant Kashyap, Trustees of the Kashyap Revocable Trust

**Owner Address:** 4505 Arniel Place  
Fairfax, VA 22030

**Applicant:** Creighton Construction and Management, LLC

**Authorized Rep.** Banks Engineering

**Request:** The applicant is seeking to amend Resolution SE 6-2012, as amended by Resolution SE 6-2015 that approved an automotive service station limited use on the site. The amendments would remove limits on the hours of operation for the establishment and allow the storage of products outside the store.

**Site Address:** 801 Cape Coral Parkway West  
Unit 64, Block 1696, Lots 23-27 plus part of a vacated alley  
Strap number: 15-45-23-C2-01696.0260

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

**Reviewed By:** Robert H. Pederson, AICP, Planning Manager

**Recommendation:** Approval with conditions

**Urban Service Area:** Infill

**Right of Way Access:** The site has frontage and access both along Skyline Boulevard (a minor arterial) and Cape Coral Parkway (a major arterial).

**Site Visit:** March 12, 2018

### Site Description:

The site comprises 27,525 sq. ft. in Unit 64, Block 1696 in southern Cape Coral. The site has a 2,940-sq. ft. convenience store with a detached fuel canopy that has four gas pumps consisting of two refueling stations per pump. Uses surrounding the site include multi-family development to the north and south, a professional office use to the east, and a City lift station to the west. Information on zoning, future land use, and existing development on the site and surrounding properties appears in Table 1.



**Table 1. Zoning, Future Land Use Classifications, and Existing Uses on the Site and Surrounding Parcels.**

	<b>Zoning</b>	<b>Future Land Use (FLU)</b>	<b>Existing Use</b>
<b>Subject Parcel</b>	Pedestrian Commercial (C-1)	Commercial/Professional	Automotive service station limited
	<b>Surrounding Zoning</b>	<b>Surrounding FLU</b>	<b>Surrounding Existing Uses</b>
<b>North:</b>	Multi-Family Residential (R-3)	Multi-Family	Multi-family
<b>South:</b>	Cape Coral Pkwy/ Multi-Family Residential (R-3)	Cape Coral Pkwy/ Multi-Family	Multi-family
<b>East:</b>	Skyline Blvd ROW/Professional Office (P-1)	Skyline Blvd ROW/Commercial/Professional	Office building
<b>West:</b>	Professional Office (P-1)	Commercial/Professional	Lift station

#### **Development History of the Subject Property**

A Special Exception was granted by the Board of Zoning Adjustment and Appeals (BZA) for an automotive service station limited use (hereafter referred to as a gas station) by Resolution SE 6-2012. Coinciding with the Special Exception request, a variance seeking setback relief from the north property line and a landscaping deviation along the west property line were also requested. All three requests were for developing a 7-Eleven gas station on the site. The variance and landscaping deviation were approved by Resolution VA 11-0012 and Resolution DE 12-0009, respectively.<sup>1</sup>

The Special Exception was approved with several conditions, two of which are identified below that the applicant requests to amend as part of this current application.

1. Limitations on the hours of operation for the development beginning at 6:00 a.m. and ending at 11:00 p.m. In 2015 the Special Exception was amended by the BZA to extend the hours of operation beginning at 5:00 a.m. and ending at 1:00 a.m. the following day.<sup>2</sup> The applicant requests that the limits on the hours of operation be removed for the development.
2. Prohibitions on the outdoor storage of products and materials. The applicant requests that an existing propane tank rack be allowed outside the store.

A site plan (SP11-0030) was approved on October 23, 2013. Following the approval of building plans for the project and subsequent construction, a certificate of occupancy was issued for the convenience store by the City on January 22, 2015.

<sup>1</sup> The decisions made by the BZA in approving the Special Exception and variance were later appealed to the City Council (Resolutions 52-12 and 53-12, respectively) with each decision made by the BZA ultimately affirmed by the City Council.

<sup>2</sup> Hours for deliveries to the site continued to be limited between 6:00 a.m. and 11:00 p.m.

## **Zoning History of the Site**

The Future Land Use Classification of the site was amended from Multi Family to Commercial/Professional by Ordinance 145-05.

The zoning of the site was amended from R-3 to C-1 by Ordinance 76-11.

## **Analysis:**

The current requests would permit 24-hour operations at the site and allow a propane tank rack outside the store. This application was reviewed based on the Land Use and Development Regulations (LUDR), Section 2.7.7, the C-1 District, and the five standards in Section 8.8.5a-e for Special Exception Uses. Compliance with conditions governing this development appearing in Resolutions SE 6-2012 and SE 6-2015 was also evaluated. Both requests are analyzed together below except where noted.

### *1. Generally*

The C-1 Zoning is consistent with the Commercial/Professional Future Land Use Classification. Gas stations are allowed as a Special Exception in the C-1 District.

### *2. Compatibility*

#### Extending the Hours of Operation

The applicant requests removing the current restriction on the business hours to allow the establish to operate 24 hours a day. The 7-Eleven establishment has been operating for over three years. In August of 2015, the BZA amended the condition governing the Special Exception to ease the restrictions on the hours of operation of the development. The amended hours of operation now begin at 5:00 a.m. and end at 1:00 a.m. the following day.

Limiting the hours of operation were originally recommended by staff to protect residents north of the site in the Malabar Arms Condominiums. This 28-unit community would be most affected by the project since they share a common property line with the site. As part of this Special Exception application, a letter was received from the Malabar Condominium Association supporting removing the limits on the hours of operation on the gas station.

Planning staff discussed the project with the Cape Coral Police Department. No problems with the site or the operation of the gas station were identified. A review of Code Compliance records revealed there were no active cases involving the site.

In support of this request, the applicant points to several businesses with identical future land use classifications and zoning that lack such restrictions. However, this argument ignores that fact that this use required Special Exception approval. As such, conditions governing physical aspects of the site, as well as the operation of the use, may be imposed



to promote compatibility with the surrounding area. In this case, site-specific factors included the closeness of multi-family development to the north, the small area of the site, and the reduced setback from the north property line. While not common, the City has imposed limits on the hours of operation for commercial and industrial uses approved by Special Exception or in a Planned Development Project.

The applicant identifies several gas stations that are open 24 hours that are at the intersection of two major streets. In doing so, it is implied that the use on the subject site has been unfairly burdened by having limits placed on the hours of operation, whereas other sites at major intersections were not similarly restricted. However, site-specific factors as well as surrounding land use patterns unique to the site at 801 Cape Coral Parkway resulted in a condition limiting the hours of operation.

Lastly, three businesses identified in the letter of intent are adjacent to a residential site that operates without limited hours. While one of the sites has a gas station, the other two businesses involve food stores – a use that is different than that of a gas station. Food stores are generally allowed as a permitted use in most commercial and mixed-use zoning districts in the City. Permitted uses, unlike Special Exceptions, cannot have conditions imposed on this type of use.

While staff does not find some of the arguments made by the applicant as compelling, the removal of the limits on the hours of operation on the gas station should not harm the surrounding area. The community most likely affected by the operation of the gas station, Malabar Arms, supports the removal of these limits. Other residential sites to the south are across Cape Coral Parkway, a six-lane street. Staff is unaware of any negative affects the initial relaxing of the limits of the operation has had on the community since 2015. Allowing the business to remain open an additional four hours each day does not appear to create any anticipated hardship on this area.

#### Allowing the Storage of Products Outside the Store

The applicant requests that an existing propane tank rack be allowed outside the building. The dimensions of the rack are about 72 x 48 x 24 inches or 48 cubic feet. This rack is near the southeast corner of the store.

The existing condition that prohibits the outdoor storage of products and materials is to maintain an orderly site. Establishments that store products outdoors can negatively affect the aesthetics of a site when the area devoted to these materials is large or when the materials are not well maintained and appear disorganized or cluttered. Such materials may also be placed on sidewalks that can impede pedestrians from entering or leaving the business.

Since propane tanks contain pressured gas, these tanks generally cannot be placed inside of small commercial buildings thus necessitating their placement outside a store<sup>3</sup>. Propane tanks are commonly used by homeowners who operate grills requiring this gas. Propane availability can assume greater importance for areas prone to tropical storms when power outages frequently limit food preparation options for extended periods.

While part of the rack is on a sidewalk of the site, this structure does not impede access to the convenience store. The rack appears to be well-maintained and is modest in area. This structure does not adversely affect the aesthetics of the site nor the compatibility of this use on the surrounding area.

### *3. Minimum Lot Frontage; Access*

The site has about 135 feet of frontage along Skyline Boulevard and 205 feet of frontage along Cape Coral Parkway. Driveways are present along both Skyline Boulevard and Cape Coral Parkway. Each driveway is restricted to allow only right-in, right-out traffic movements. Twelve parking spaces on the east and south sides of the building.

### *4. Building Location; Setbacks*

The convenience store received a seven-foot setback variance to allow the convenience store to be 18 feet from the north property line. Other setbacks for both the convenience store and gas canopy meet or exceed those standards established for the C-1 District.

### *5. Screening and Buffering*

Landscaped buffers exist along the north and west property lines. The trees and shrubs present along the north property line appear in good condition. However, several trees are missing based on the approved landscaping plan for the site. Except for one tree near the south property line, the buffer along the west property line is lacking all required trees. Both buffers do have eight-foot tall walls with landscaping on the outside of each wall.

Consistent with the approved landscaping plan, trees and shrubs are present along the east and south property lines, adjacent to Skyline Boulevard and Cape Coral Parkway, respectively.

## **Consistency with Conditions Appearing in Resolutions SE 6-2012 and SE 6-2015**

1. To minimize light trespass on surrounding properties and to reduce glare associated with on-site lighting, the following conditions are prescribed:

---

<sup>3</sup> National Fire Protection Association (NFPA) regulations would prohibit propane tanks inside a typical convenience store.



- a. Lighting levels along the northern property line of Lots 23-27 shall not exceed 0.1 foot-candles. The Developer shall submit a lighting plan for staff review that demonstrates compliance with this requirement prior to site plan approval for the project.
- b. Lighting trespass and glare shall be limited to a reasonable level through the use of shielding and directional lighting methods. All free-standing lights on the site shall be aimed downward and away from the property lines.
- c. Light fixtures mounted under the canopy shall be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface of the canopy.
- d. Lights shall not be mounted on the top or sides of the canopy and the canopy sides shall not be illuminated.

**Staff comments:** A lighting plan was reviewed during the site plan review process that demonstrated compliance with the lighting levels imposed along the northern property line. Free-standing lights on the site are aimed downtown to minimize light trespass. Lights on the gas canopy are limited to those that are recessed and are under the canopy. The project is compliant with all four lighting conditions.

2. No vending machines or automated teller machines (ATMs) shall be placed on the outside of the store.

**Staff comments:** Vending machines and ATMs are absent on the outside of the store. The project is compliant with this condition.

3. The outdoor storage of products and materials are prohibited. This provision, however, shall not apply to ice machines that are used solely to store ice.

**Staff comments:** A propane tank rack exists along the south side of the convenience store. The applicant requests amending this condition to allow this structure to remain on the site. Staff supports this request with conditions.

4. Hours of operation for the development shall be limited to the hours beginning at 5:00 a.m. and ending at 1:00 a.m. the following day. Hours for deliveries for the development shall be limited to the hours beginning at 6:00 a.m. and ending at 11:00 p.m.

**Staff comments:** The project is compliant with limitations on the hours of operation and deliveries to the site.

5. The trash receptacle enclosure approved for this development shall include colors and materials common to those used for the gas station building.

**Staff comments:** The walls of the enclosure feature a color that matches the main color of the walls of the convenience store. The project complies with this condition.

6. To promote continuity within the development, the wall located within the buffer yard along the western property line of Lot 23 shall be eight feet in height and shall be of identical design to the wall erected along the northern property line of the development.

**Staff comments:** The walls along the north and west property lines are eight feet in height. Both walls appear identical in design. The project complies with this condition.

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

The project is consistent with the following goals and policies.

#### Future Land Use Element

##### **Policy 1.15.c**

*Commercial/Professional (CP): Intensities of use in the Commercial/Professional land use classification shall not exceed a floor to lot area ratio (FAR) of 1.0 ... The Pedestrian Commercial (C-1) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C-1 District range from a variety of small or neighborhood-based commercial uses to larger retail or service uses, which may serve a relatively large trade area and, which may be developed as major shopping facilities. As many commercial uses have the potential to generate relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred locations for the C-1 District have direct access onto arterial or collector roads and adequate depth (a minimum of 250 feet) for larger-scale development.* **Staff comments:** The site has C-1 Zoning that is consistent with the Commercial/Professional Future Land Use Classification. This policy is supportive of this request.

##### **Policy 1.17**

*"Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses."* **Staff comments:** Landscaped buffers that include an eight-foot tall wall are along the north and west property lines. With plantings recommended by staff to bring each buffer into compliance with the approved landscaping plan, this project will be consistent with this policy.

##### **Policy 8.2**

*"Land development regulations, adopted pursuant to s. 163.3202, F.S., will require the buffering of incompatible land uses."* **Staff comments:** Landscaping is along all four property lines. This policy is supportive of this request.

##### **Policy 8.3**

*"Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial*



*development (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored."* The site has landscaping along all property lines. Buffers along the north and west property lines include an eight-foot tall wall. The dumpster is on the south side of the site, away from residential properties, and is screened. Loading docks are absent. This policy is supportive of this request.

**Recommendation:**

This request is consistent with the Comprehensive Plan and the five standards for evaluating Special Exceptions. Staff recommends **approval** with the following conditions.

1. The Developer shall install plantings in the north and west buffers to comply with the approved landscaping plan for the project. Restrictions on the hours of operation for the gas and convenience store shall not be eliminated until the north and west buffers have been restored consistent with the approved landscaping plan for the site and have been inspected by the City.
2. One propane tank rack shall be allowed on the south side on the convenience store. The area of the rack shall not exceed 60 cubic feet. The location of the propane tank rack shall not interfere with people utilizing the sidewalk on the south side of the building. Except for the propane tank rack and ice machines used to store ice, no other products or materials may be stored outdoors.
3. Hours for fuel deliveries to the development shall continue to be limited to the hours beginning at 6:00 a.m. and ending at 11:00 p.m.

---

**Staff Contact Information**

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator  
Planning Division  
PH: 239-242-3255  
Email: [mstruve@capecoral.net](mailto:mstruve@capecoral.net)



## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** SE18-0001

**REQUEST:** The applicant, Creighton Construction & Management, LLC, is seeking to amend Resolution SE 6-2012, as amended by Resolution SE 6-2015 that approved an automotive service station limited use in the Pedestrian Commercial (C-1) District on property described as Lots 23-27, Block 1696 by amending conditions that limited the hours of operation of the establishment and prohibited the outdoor storage of products and materials on the site; property is located at 801 Cape Coral Parkway West.

**LOCATION:** 801 Cape Coral Parkway West

**CAPE CORAL STAFF CONTACT:** Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, [mstruve@capecoral.net](mailto:mstruve@capecoral.net)

**PROPERTY OWNER(S):** Ram Kumar Kashyap and Jaswant Kashyap, Trustees of the Kashyap Revocable Trust

**AUTHORIZED REPRESENTATIVE:** Banks Engineering

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, April 17, 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 five days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

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

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

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

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

Department of Community Development  
Post Office Box 150027 • Cape Coral, Florida 33915-0027  
1015 Cultural Park Blvd. • Cape Coral, Florida 33990  
Email: [planningquestions@capecoral.net](mailto:planningquestions@capecoral.net)



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USA

**Net Amt:** \$389.45

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 04/07/18

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

CASE NUMBER: SE18-0001

**REQUEST:** The applicant, Creighton Construction & Management, LLC, is seeking to amend Resolution SE 6-2012, as amended by Resolution SE 6-2015 that approved an automotive service station limited use in the Pedestrian Commercial (C-1) District on property described as Lots 23-27, Block 1696 by amending conditions that limited the hours of operation of the establishment and prohibited the outdoor storage of products and materials on the site, property is located at 801 Cape Coral Parkway West.

**LOCATION:** 801 Cape Coral Parkway West

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

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by order of  
Rebecca van Deutekom, MMC  
City Clerk  
REF # SE18-0001  
AD# 2845001 Apr. 7, 2018



Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Kashyap - 7-11

APPLICATION NO: SE18-0001

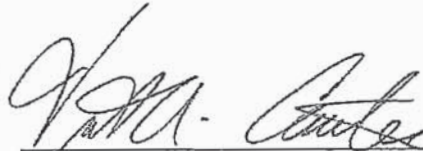
STATE OF FLORIDA       )  
                                  ) §  
COUNTY OF LEE        )

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.

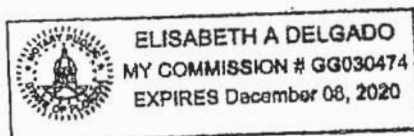
DATED this 9<sup>th</sup> day of April, 2018.



Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of April, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.



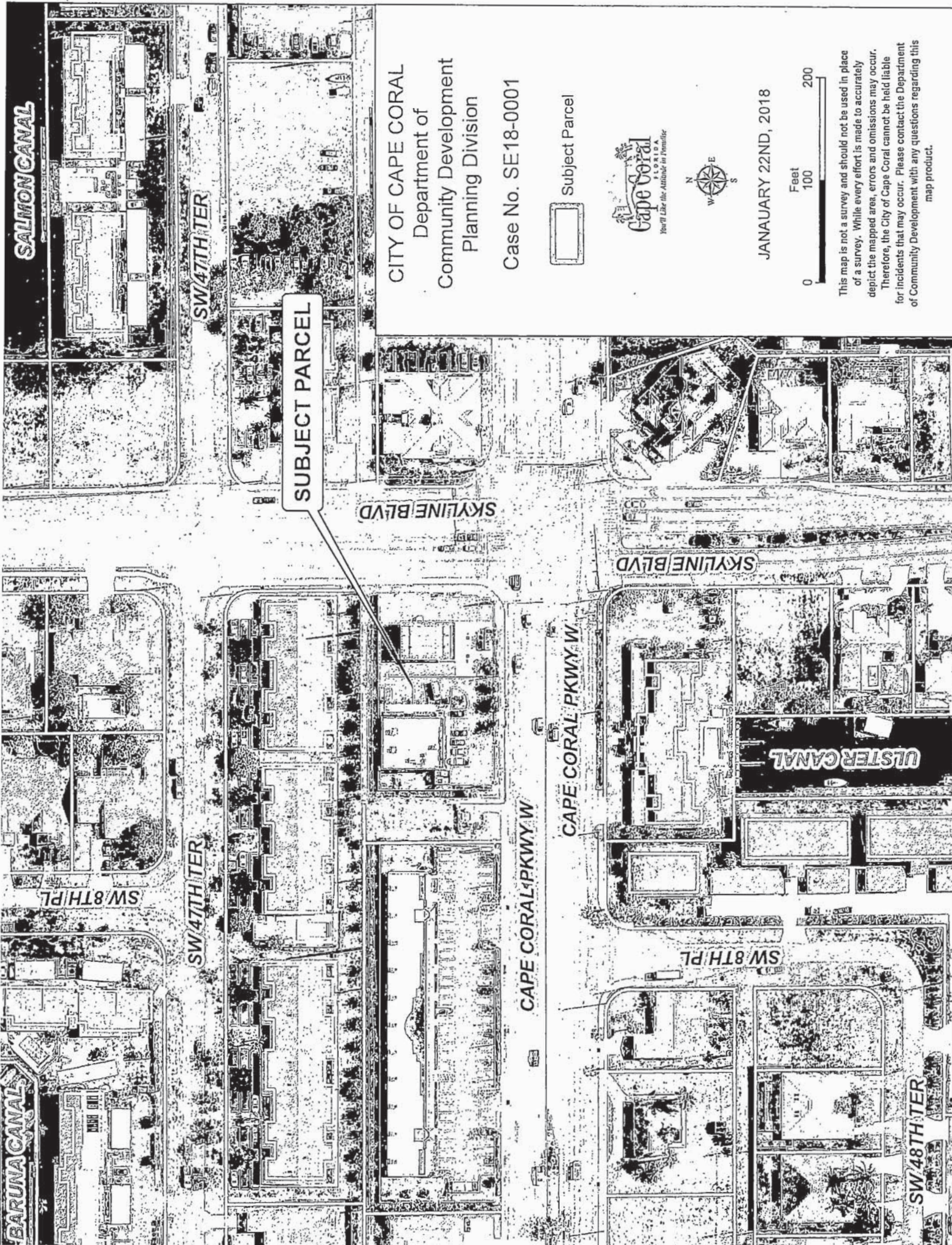
Exp. Date 12/6/20 Commission # 66030474



Signature of Notary Public

Elisabeth A. Delgado  
Print Name of Notary Public





SALMON CANAL

SW 47TH TER

SUBJECT PARCEL

SKYLINE BLVD

CAPE CORAL PKWY W

CAPE CORAL PKWY E

ULSTER CANAL

SW 8TH PL

SW 48TH TER

CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division  
Case No. SE18-0001



Subject Parcel



JANUARY 22ND, 2018



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.



CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

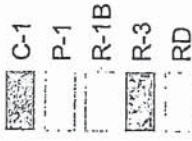
CURRENT ZONING MAP  
500' Proximity Boundary

Case No. SE18-0001

LEGEND



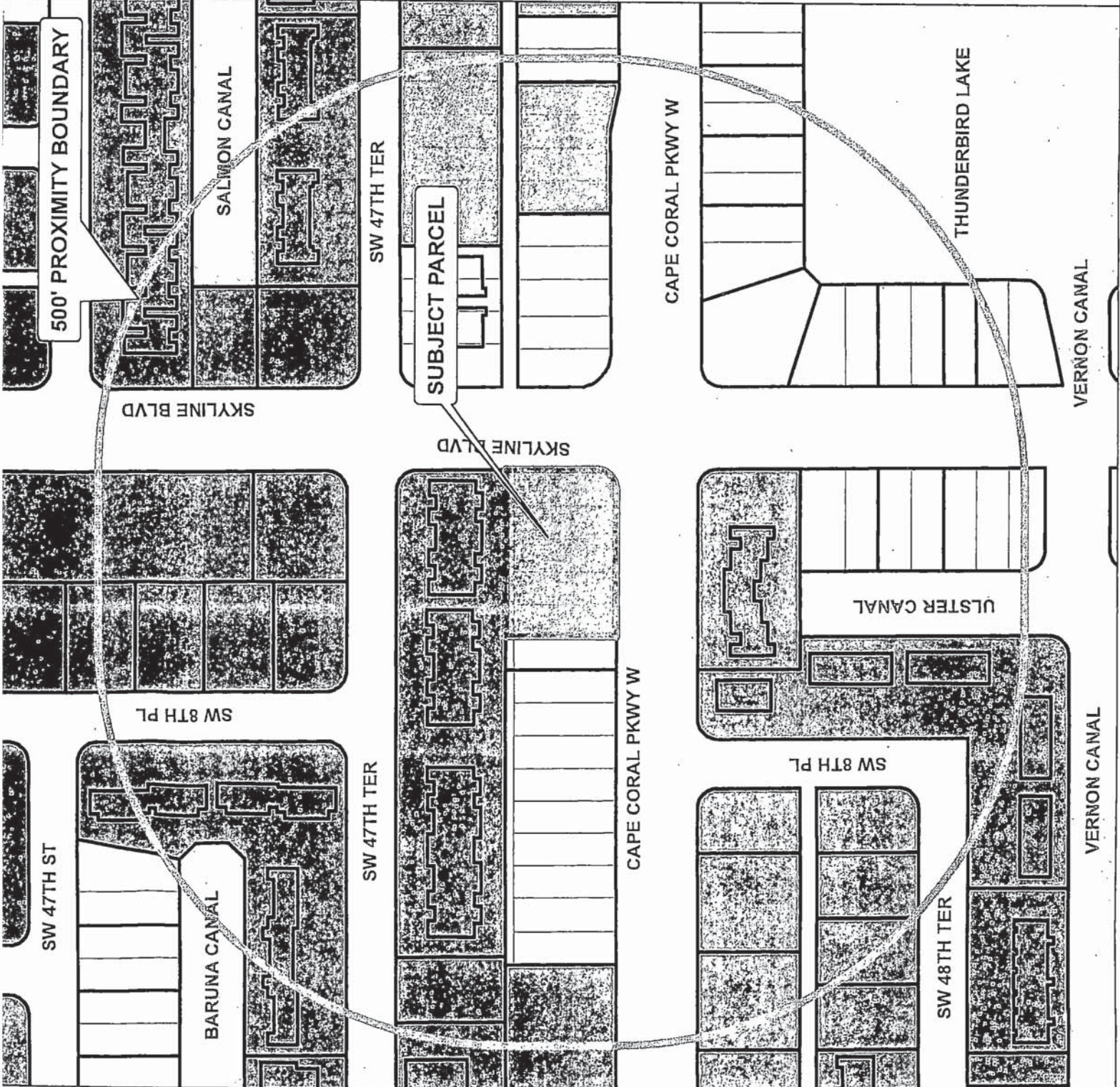
Zoning



JANUARY 22ND, 2018



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## RESOLUTION 53 - 12

A RESOLUTION PURSUANT TO THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE VIII, ADMINISTRATION, SECTION 8.3, PUBLIC HEARINGS, SECTION 8.10, VARIANCES, AND SECTION 8.9, APPEALS, AND THE CITY OF CAPE CORAL COMPREHENSIVE PLAN, APPROVING THE DECISION OF THE BOARD OF ZONING ADJUSTMENT AND APPEALS THAT APPROVED RESOLUTION VA 11-2012 WHICH GRANTED A DIMENSIONAL VARIANCE OF SEVEN (7) FEET FROM THE MINIMUM REAR SETBACK REQUIREMENT OF TWENTY-FIVE (25) FEET IN ORDER TO PERMIT THE CONSTRUCTION OF AN AUTOMOTIVE SERVICE STATION LIMITED USE EIGHTEEN (18) FEET FROM THE REAR PROPERTY LINE IN A PEDESTRIAN COMMERCIAL (C-1) ZONE ON REAL PROPERTY DESCRIBED AS LOTS 23-27, BLOCK 1696, UNIT 65, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 801-809 CAPE CORAL PARKWAY WEST; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral Board of Zoning Adjustment and Appeals has specifically considered the request of CREIGHTON COMMERCIAL DEVELOPMENT, LLC, for a Dimensional Variance as described herein, and, at a Public Hearing on September 5, 2012, granted the aforesaid request by approving Resolution VA 11-2012; and

WHEREAS, THOMAS W. KOTOWSKI is exercising his right to appeal to the Cape Coral City Council.

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

Section 1. That the City of Cape Coral City Council having specifically considered the decision of the Cape Coral Board of Zoning Adjustment and Appeals, the recommendation of the City of Cape Coral Planning and Zoning Commission, Local Planning Agency, and the Planning Division of the City of Cape Coral, and the presentation made by the Applicant(s) before this Board at a public meeting, and the criteria set forth in the City of Cape Coral Land Use and Development Regulations, Article VIII, Administration, Section 8.3, Public Hearings, and Section 8.10, Variances, the City of Cape Coral Comprehensive Plan, the application materials submitted with Application AP 12-0006, and all other evidence presented, hereby approves the decision of the Board of Zoning Adjustment and Appeals that approved Resolution VA 11-2012, which granted A DIMENSIONAL VARIANCE OF SEVEN (7) FEET FROM THE MINIMUM REAR SETBACK REQUIREMENT OF TWENTY-FIVE (25) FEET IN ORDER TO PERMIT THE CONSTRUCTION OF AN AUTOMOTIVE SERVICE STATION LIMITED USE EIGHTEEN (18) FEET FROM THE REAR PROPERTY LINE IN A PEDESTRIAN COMMERCIAL (C-1) ZONE for the below-described property:

LOTS 23, 24, 25, 26, AND 27, BLOCK 1696, UNIT 65, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGES 82 THROUGH 95, INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF A VACATED ALLEY DESCRIBED IN RESOLUTION NO. 6-07, RECORDED IN INSTRUMENT #2007000117988 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

PROPERTY LOCATED AT: 801-809 CAPE CORAL PARKWAY WEST

for the reason that such dimensional variance meets all of the criteria identified in the City of Cape Coral Land Use and Development Regulations, Section 8.10, Variances.

Section 2. CREIGHTON COMMERCIAL DEVELOPMENT, LLC, shall meet the following terms and conditions:

1. The variance may only be utilized with the proposed gas station development as depicted on a site plan prepared by Banks Engineering dated August 1, 2011, and bearing a revision date of May 21,



2012. This variance shall be considered null and void should Lots 23-27 within Block 1696 develop with a use other than that of an Automotive Service Station Limited use.

2. An eight-foot masonry wall shall be located within the northern and western landscape buffers. No certificate of occupancy will be issued until construction of the wall has been completed.

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

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 28<sup>th</sup> DAY OF January, 2013.

  
JOHN J. SULLIVAN, MAYOR

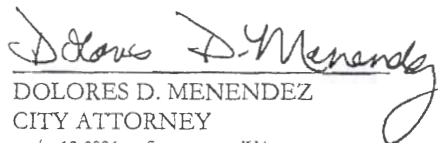
VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	<u>aye</u>
MCCLAIN	<u>aye</u>
CARIOSCIA	<u>aye</u>
NESTA	<u>aye</u>
CHULAKES-LEETZ	<u>aye</u>
ERBRICK	<u>aye</u>
MCGRAIL	<u>aye</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 13<sup>th</sup> DAY OF February 2013.

  
REBECCA VAN DEUTEKOM  
CITY CLERK

APPROVED AS TO FORM:

  
DOLORES D. MENENDEZ  
CITY ATTORNEY  
res/ap12-0006confirmapprovedVA

**Item Number:** 2.C.  
**Meeting Date:** 4/17/2018  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # DE18-0004; Address: 3908 SE 18th Place; Applicant: William Gottfried

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

A 6.5-foot deviation to Section 3.16.2.B.2 of the Land Use and Development Regulations (LUDR) to allow a marine improvement with a projection of 36.5 feet

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Materials"

**PREPARED BY:**

Kristin                      Division- Planning                      Department- Community  
Kantarze                      Development

**SOURCE OF ADDITIONAL INFORMATION:**

Justin Heller, Planner, 239-574-0587, [jheller@capecoral.net](mailto:jheller@capecoral.net)

**ATTACHMENTS:**

Description	Type
Backup Materials	Backup Material





DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST TO CAPE CORAL HEARING EXAMINER  
FOR A DEVIATION TO MARINE IMPROVEMENT STANDARDS

Case # DE 18-0004

FEB 8 18 9.03\*

**RESIDENTIAL FEE \$150.00; COMMERCIAL FEE \$673.00.** In addition to the application fee, all advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing. In addition, 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 permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

APPLICANT/OWNER OF PROPERTY

William D. Gottfried  
Email Address BGottfried59@gmail.com

Address 3908 SE 18<sup>TH</sup> PL  
City Cape Coral State FL Zip Code 33904  
Phone 414-310-0513

AUTHORIZED REPRESENTATIVE

Aquamarine Const. Inc  
Email Address Rmoreau@ComCast.net  
Jayne4gary@earthlink.net  
Location: Unit 11 Block 547 Lot(s) 11-12 Subdivision —

Address 3812 SE 18<sup>TH</sup> PL  
City Cape Coral State FL Zip Code 33904  
Phone 671-0209 Jayne

Legal Description 054524C4005470110

Address of Property 3908 SE 18<sup>TH</sup> PL Plat Book 13 Page 45  
Current Zoning Residential Strap Number 054524C4005470110

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

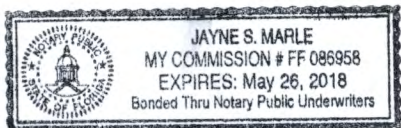
If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

William D. Gottfried  
Name (Type or Print)

William D. Gottfried  
Applicant's Signature

STATE OF Florida COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 30 day of JANUARY, 2018, by William D. Gottfried, who is personally known or has produced DR. License as identification.



Exp. Date 5/26/18 Commission # FF086958

Jayne S Marle  
Signature of Notary Public

Jayne S Marle  
Print Name of Notary Public



DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST TO CAPE CORAL HEARING EXAMINER

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Jayne S. Marle  
(Name of person giving presentation)

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

BLOCK 547 LOTS 11-12 UNIT 11 SUBDIVISION \_\_\_\_\_

OR LEGAL DESCRIPTION 054524 C4 605470110

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

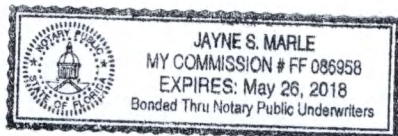
William D. Gottfried  
PROPERTY OWNER (PLEASE PRINT)

William D. Gottfried  
PROPERTY OWNER (SIGNATURE)

STATE OF Florida COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 30<sup>th</sup> day of JANUARY 2018, by  
William D. Gottfried, who is personally known or has produced  
DR. License as identification.

Exp. Date 5/26/18 Commission Number FF086958



Jayne S. Marle  
Signature of Notary Public  
Jayne S. Marle  
Print Name of Notary Public

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





DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST TO CAPE CORAL HEARING EXAMINER

**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.

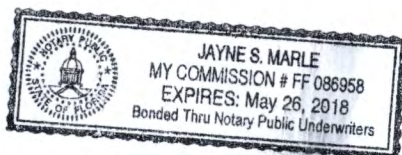
William D. Gottfried  
PROPERTY OWNER (PLEASE PRINT)

William D. Gottfried  
PROPERTY OWNER (SIGNATURE)

STATE OF Florida COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 30 day of JANUARY 2018, by  
William D. Gottfried, who is personally known or has produced  
Dr License as identification.

Exp. Date 5/26/18 Commission Number FF086958



Jayne S Marle  
Signature of Notary Public

Jayne S. Marle  
Print Name of Notary Public

**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.

William D. Gottfried  
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

William D. Gottfried  
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF Florida COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 30<sup>th</sup> day of JANUARY, 2018 by William D. Gottfried, who is personally known or who has produced Dr. License as identification.

Exp. Date 5/26/18  
Commission # FF086958

Jayne S. Marle  
Signature of Notary Public

Jayne S. Marle  
Print Name of Notary Public







3812 SE 18<sup>th</sup> PL. Cape Coral, Florida 33904 Phone: (239) 243-4011 E-mail: rmoreau@comcast.net

**Jan. 30, 2018**

**Prepared For:** City of Cape Coral  
PO Box 150027  
Cape Coral FL. 33915

**RE: Marine Improvement deviation for:**

**William D. Gottfried 3908 SE 18<sup>th</sup> PL. Cape Coral FL. 33904**

The purpose of this letter is to obtain a deviation from the City of Cape Coral Land Use and Development Regulation 3.16.2(2).

The deviation being requested is to add 2 10" pilings 6'6" farther out into the 200' canal for tide slides for an existing 40' boat at his residence.

The hardship that requires the deviation is the following:

The 10" pilings will secure the boat better during tide changes and winds.

Thank You

Richard Moreau  
3812 SE 18<sup>th</sup> PL.  
Cape Coral, FL 33904  
239-243-4011  
CGC 1507652

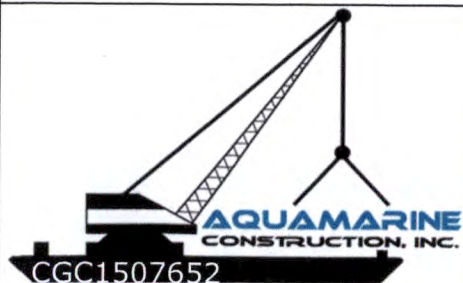
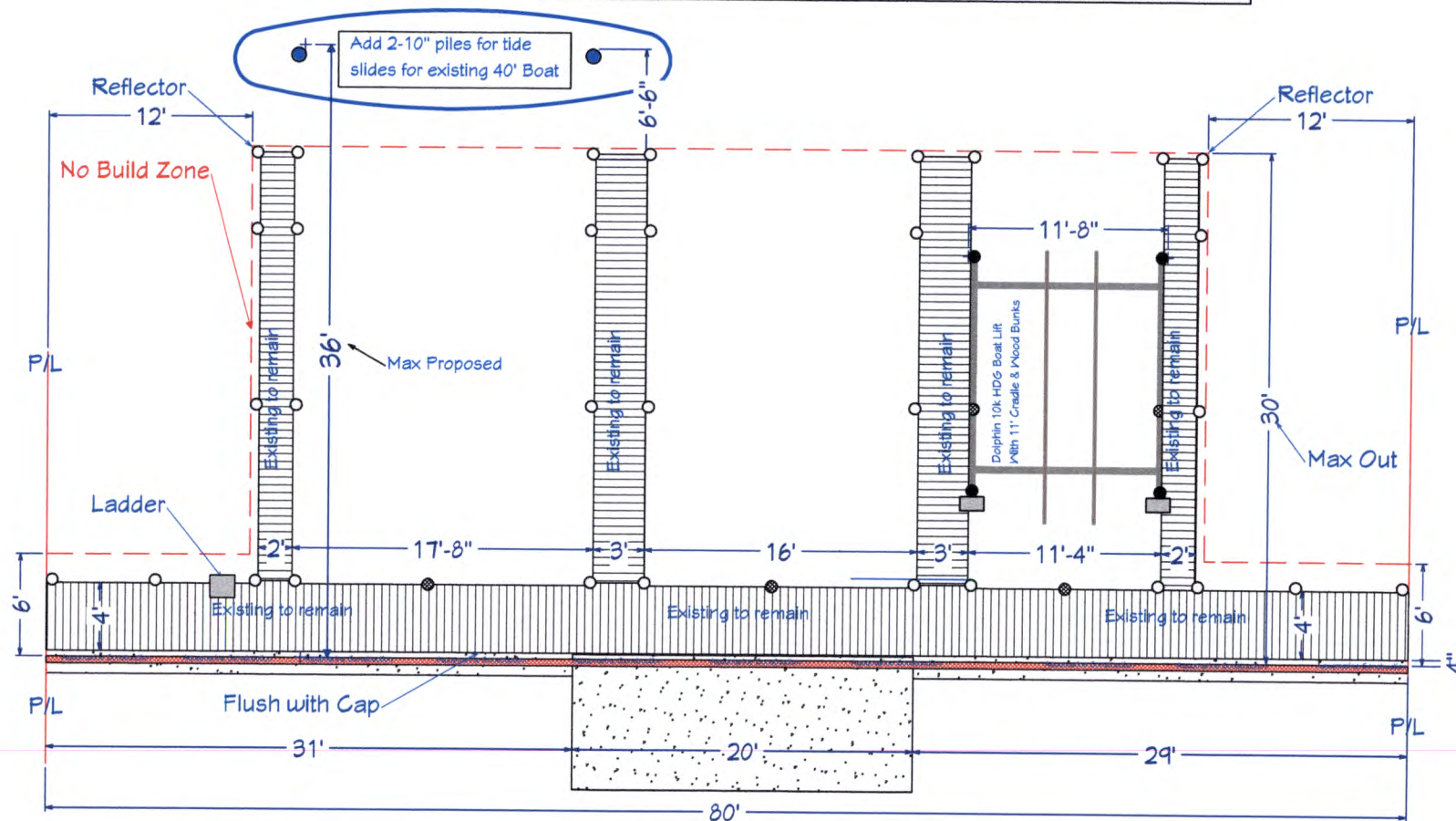
**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

NO.	DESCRIPTION	BY	DATE
1	New Dock	MD	6/20/17
2	Deviation	MD	1/11/18
3			
4			
5			

575 Sf Total Dock  
575 Sf New Dock  
430 Sf Removed

10" lift Piling  
Piling 6' above  
Finish Dock

Piling Cut  
Under Deck  
8" Lift Piling



Aquamarine Construction

3812 Se 18th Pl  
Cape Coral , FL 33904  
239-243-4011  
[www.aquamarinecapecoral.com](http://www.aquamarinecapecoral.com)

\* ALL PILINGS ARE 8" DIA. 2.5 CCA  
TREATED UNLESS OTHERWISE  
INDICATED

\* **ALL MEASUREMENTS ARE APPROXIMATE**

\*ALL STRINGERS & SUB STRINGERS ARE  
ROUGH CUT 2 X 8 .60 CCA

\*ALL HEADERS ARE BOLTED W/1/2" HDG  
Fasteners

\*Decking Direction May Differ from plan

PROJECT  
DESCRIPTION  
Bill Gotfried  
3908 Se 18th Pl  
Cape Coral, FL  
33904

SCALE:  
1"=  
10'

D2





	STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans. Amt	Just Value	Taxable Value
i	05-45-24-C4-00547.0110	10188414	GOTIFRIED WILLIAM D &	3908 SE 18TH PL, CAPE CORAL	2-2017	\$ 435,000	\$ 377,904	\$ 358,963



**Planning Division Case Report**  
**DE18-0004**

**Review Date:** March 26, 2018

**Owner/Applicant:** William Gottfried

**Authorized Representative:** Aquamarine Construction Inc.

**Request:** A 6.5-foot deviation to Section 3.16.2.B.2 of the Land Use and Development Regulations (LUDR) to allow a marine improvement with a projection of 36.5 feet.

**Location:** 3908 SE 18<sup>th</sup> PL, Unit 11, Block 547, Lots 11-12

**Prepared By:** Justin Heller, Planner

**Reviewed By:** Mike Struve, AICP, Planning Team Coordinator

**Approved By:** Robert Pederson, AICP, Planning Manager

**Recommendation:** **Approval**

**Property Description:**

The 10,000-sq. ft. site is improved with a single-family home and marine improvements that include a dock with boat lift. The site has 80 feet of frontage on Picardy Canal where it intersects with Pearl Canal. Picardy Canal is about 200 feet wide next to the applicant's property. Marine improvements at this site are limited to a maximum projection of 30 feet.

The surrounding area consists primarily of single-family homes. The site and all surrounding properties have a Single Family Residential (SF) Future Land Use Classification and Single-Family Residential (R-1B) Zoning.

**Project Description:**

The applicant proposes to install two mooring pilings that will extend westward from the existing marine improvement. These pilings will extend 36.5 feet into the canal from the outer edge of the seawall. A sketch of the proposed marine improvements is provided in Exhibit 1.



**Analysis:**

LDR, Section 3.16.2.B.2 states, "Except as provided below, no part of any marine improvement, including but not limited to docks, mooring posts, boat lifts, lift structures, and/or walkways shall project into a waterway to a point more than 25% of the calculated waterway width or 30 feet, whichever is less, as measured from the water frontage line.

The Planning Division has reviewed this application based on LUDR, Section 3.16, and offers the following analysis:

LUDR, Section 3.16.9.C allows for deviations for marine improvements based upon the following general standards:

1. *The deviation is not contrary to the public interest.*

The marine improvement complies with the maximum allowed deck area and the 12-foot side setbacks. There is sufficient width in the canal to accommodate the two pilings, and these structures will not interfere with navigability or views of the waterway.

2. *The deviation will be in harmony with the general intent and purpose of this section.*

The intent of the regulation is to protect navigability in canals and boating access to adjacent properties. The pilings will project 18% into Picardy Canal, less than 25% of the waterway width. The pilings will not extend into the canal as far as the applicant's boat that is 40 feet in length. As a result, the pilings will not restrict navigation or access any more than already exists.

3. *Conditions do not exist which are the result of the applicant.*

The applicant has a property on an extra wide (200 ft.) saltwater canal with direct access to the Caloosahatchee River. It can be reasonably expected that a larger marine improvement could be constructed in this canal to accommodate the larger vessel owned by the applicant, so long as navigability and access are not impeded. Therefore, conditions do not exist which are a result of the applicant.

4. *A literal enforcement of the regulations involved would result in unnecessary or undue hardship.*

The owner requests two additional pilings to safely secure their 40-foot vessel. The existing dock and boat are oriented perpendicular to the seawall. The two additional pilings will more safely secure the vessel and prevent potential property damage from boat wakes and severe weather. The pilings will not impede navigation or access and will be in harmony with the general intent and purpose of this section. Therefore, staff finds

the inability of the applicant to construct the marine improvement can be considered an unnecessary or undue hardship.

#### **Specific Deviation Review Criteria Pursuant to LUDR Section 3.16.9.C**

*1. Effect of proposed deviation on navigability of the waterway involved.*

The proposed pilings will project 36.5 feet or 18% into Picardy Canal, less than 25% of the waterway width. The property is at a “T” intersection with Pearl Canal, that allows additional space for boats to navigate around the marine improvements on the applicant’s property. The marine improvements will have no effect on the ability of others to navigate in these canals.

*2. Design, size and proposed location of the marine improvement for which the deviation is sought.*

The design and area of the marine improvements meet City code requirements. The proposed pilings also meet all setback requirements.

*3. Effect, if any, that the proposed deviation would have on any extant marine improvements in the subject waterway.*

The pilings should have no negative effect on existing marine improvements in the canals.

*4. Is the minimum deviation from the provisions of the applicable section necessary to avoid the unnecessary or undue hardship required herein.*

The requested deviation is the minimum needed to safely moor the 40-foot vessel.

#### **Comprehensive Plan:**

The project is consistent with Objective 1.3 and Policy 1.3.5 of the Conservation and Coastal Management Element of the Comprehensive Plan. The deviation does not involve fueling or repair facilities in a residential area.

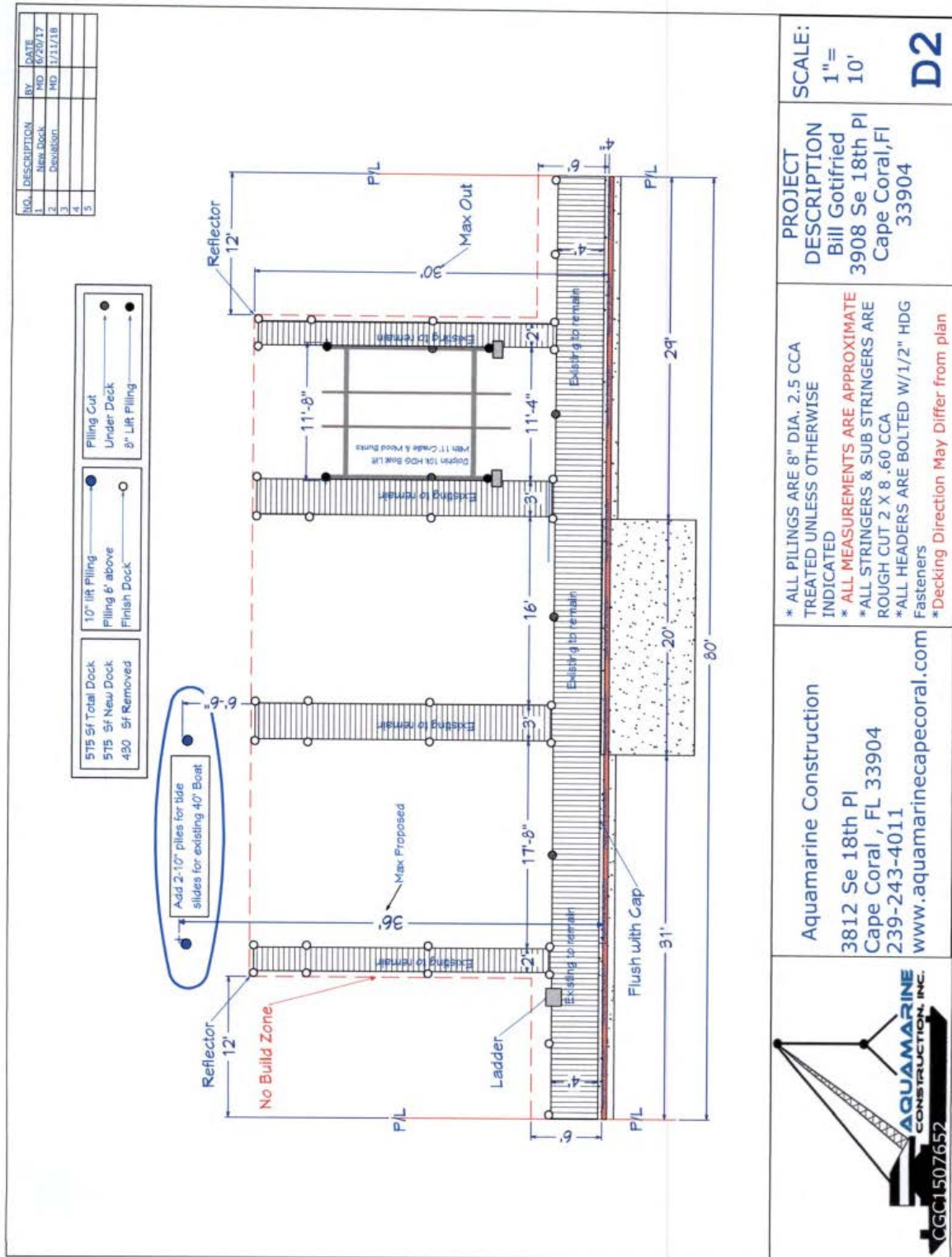
#### **Recommendation:**

Planning staff finds that the proposed deviation meets the intent of the City LUDRs and meets the requirements for a deviation under LUDR, Section 3.16.9.B.2. Staff recommends **approval** with the following condition.



- 1) The dock shall be consistent with the sketch plan identified as D2, dated June 20, 2017 and bearing a revision date of January 11, 2018, prepared by Aquamarine Construction.

Exhibit 1:







## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** DE18-0004

**REQUEST:** A 6.5-foot deviation to Section 3.16.2.B.2 of the Land Use and Development Regulations (LUDR) to allow a marine improvement with a projection of 36.5 feet.

**LOCATION:** 3908 SE 18<sup>th</sup> PL, Unit 11, Block 547, Lots 11-12

**CAPE CORAL STAFF CONTACT:** Justin Heller, Planner, 239-574-0587, [jheller@capecoral.net](mailto:jheller@capecoral.net)

**PROPERTY OWNER(S):** William Gottfried

**AUTHORIZED REPRESENTATIVE:** Aquamarine Construction Inc.

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, April 17, 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/publichearing](http://www.capecoral.net/publichearing) (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

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

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

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**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 04/07/18

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** DE18-0004

**REQUEST:** A 6.5-foot deviation to Section 3.16.2.B.2 of the Land Use and Development Regulations (LUDR) to allow a marine improvement with a projection of 36.5 feet.

**LOCATION:** 3908 SE 18th PL, Unit 11, Block 547, Lots 11-12

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

**PROPERTY OWNER(S):**  
William Gottfried

**AUTHORIZED REPRESENTATIVE:**  
Aquamarine Construction Inc.

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by order of  
Rebecca van Deutekom, MMC  
City Clerk  
REF # DE18-0004  
AD# 2845011 Apr. 7, 2018

Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: William Gottfried

APPLICATION NO: DE18-0004

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 9<sup>th</sup> day of April, 2018.


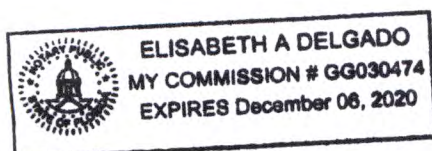


Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of April, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

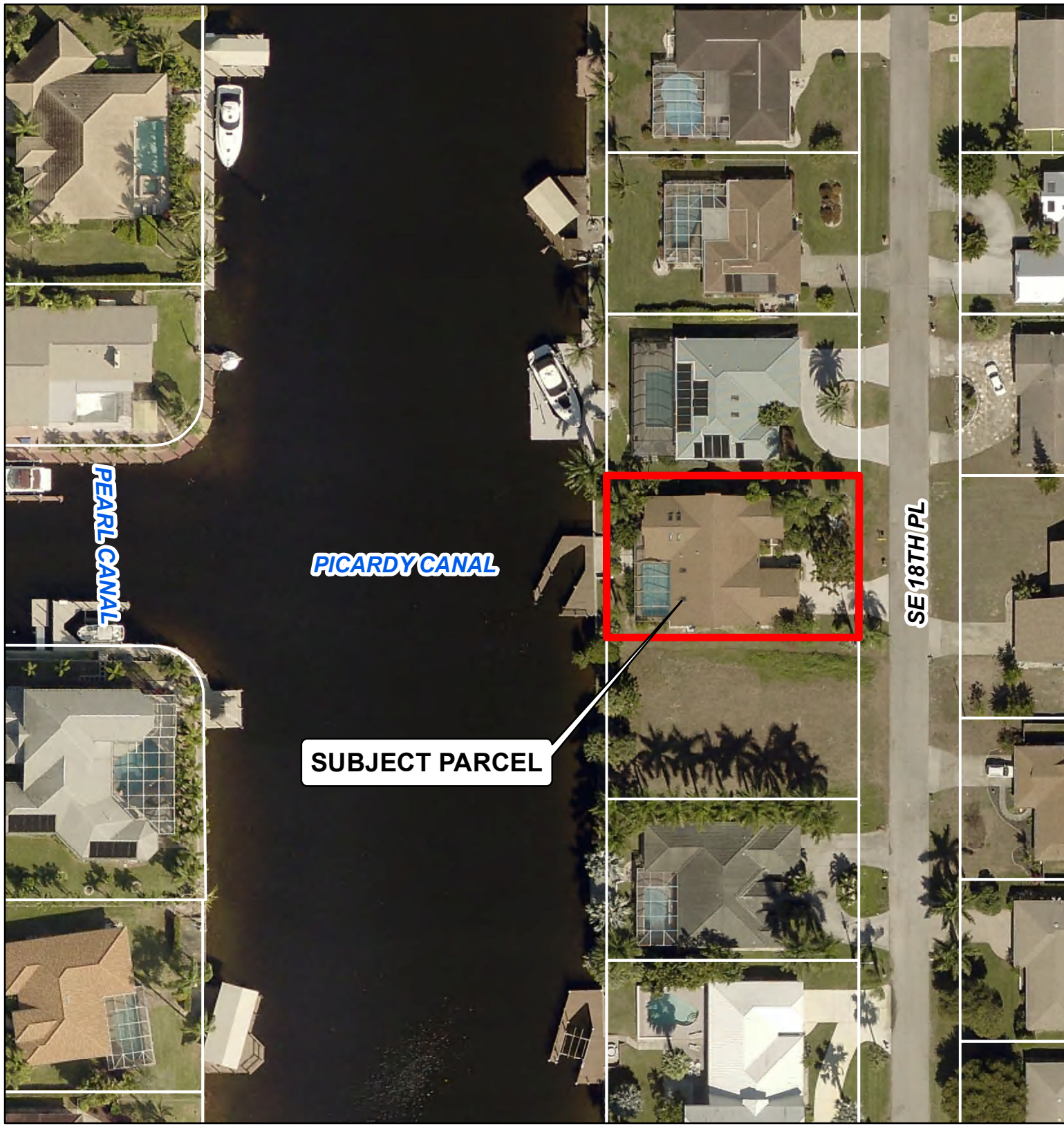
Exp. Date 12/6/20 Commission # 66030474



Signature of Notary Public


Elisabeth A. Delgado  
Print Name of Notary Public





CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

Case No. DE18-0004

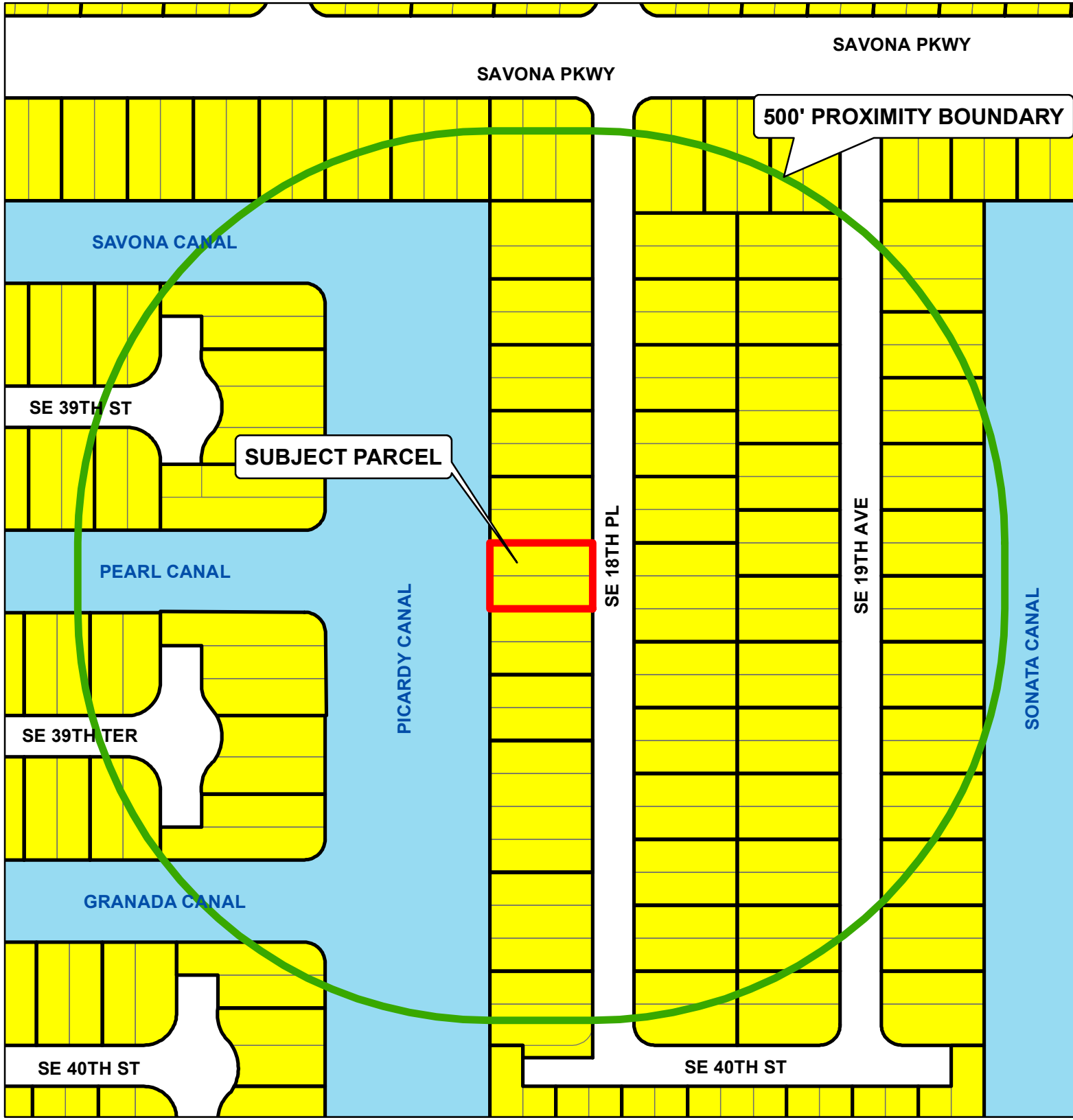
 Subject Parcel



FEBRUARY 28TH, 2018

0 Feet 60 120

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.





CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT ZONING MAP  
500' Proximity Boundary

Case No. DE18-0004

**LEGEND**

 500' Proximity Boundary

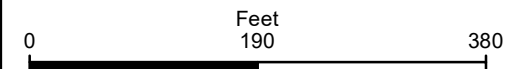
 Subject Parcel

**Zoning**

 R-1B



FEBRUARY 28TH, 2018



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Item Number:	3.A.
Meeting Date:	4/17/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Tuesday, May 1, 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:**

WHAT THE ORDINANCE ACCOMPLISHES:

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**