



## **AGENDA FOR THE HEARING EXAMINER**

Tuesday, May 15, 2018

9:00 AM

Council Chambers

VIDEO

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

### **2. HEARINGS**

- A. Case # DE18-0005\*; Address: 1011 SW 47th Terrace; Applicant: Shorestone Development
- B. Case # PDP17-0005\*; Address: Meta at Cape Harbour Subdivision, Tracts C-4, C-5, and C-6, Block 7005; and Tract R-1, Block 7004; Applicant: CRE Cape Harbour Marina, LLC and CRE Cape Harbour Land LLC
- C. Case # VP18-0002\*; Address: 5201 Sunset Court; Applicant: Thomas W. and Sandra Hays Thorne

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

- A. Tuesday, June 5, 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:** 5/15/2018  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # DE18-0005\*; Address: 1011 SW 47th Terrace; Applicant: Shorestone Development

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

The applicant is requesting a five-foot deviation to LUDR, Section 5.2.13.C.2 to allow a five-foot wide landscape buffer along SW 47<sup>th</sup> Terrace and SW 11<sup>th</sup> Terrace.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Material"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

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

**ATTACHMENTS:**

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



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PROCEDURE LIST FOR LANDSCAPE DEVIATION REQUEST  
Questions: 239-574-0553

Case # DE18-0005

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

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

APPLICANT/OWNER OF PROPERTY

Paulette J. Ducharme

Email Address \_\_\_\_\_

Address

5339 Del Monte Court

Cape Coral FL Zip Code 33904

Phone (239) 997-4000

AUTHORIZED REPRESENTATIVE

Al Quattrone, P.E.

Email Address al@qainc.net & sergio@qainc.net

Address

4301 Veronica Shoemaker Blvd

Fort Myers FL Zip Code 33916

Phone (239) 936-5222

Location: Unit 65 Block 3340 & 3339 Lot(s) 1 thru 3, & 49 Subdivision 3080 Cape Coral

Legal Description \_\_\_\_\_

Address Of Property \_\_\_\_\_ Plat Book 21, Page 153 & 154

Current Zoning R-3 Multifamily Strap Number 10-45-23-C3-03339.0490

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

Al Quattrone, P.E.

Name (Type or Print)

Applicant's Signature

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 16 day of Feb 20 18, by \_\_\_\_\_, who is personally known or has produced \_\_\_\_\_ as identification.



Exp. Date July 13, 19 Commission # FF9007862

Signature of Notary Public

Print Name of Notary Public





DEPARTMENT OF COMMUNITY DEVELOPMENT  
PROCEDURE LIST FOR LANDSCAPE DEVIATION REQUEST

Questions: 239-574-0553

Case # DE18-0005

ACKNOWLEDGEMENT FORM

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

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

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

I understand that I am responsible for recording the approved Resolution/Ordinance with the Lee County Clerk of Circuit Courts and providing a copy of the recorded Resolution/Ordinance to the City of Cape Coral Planning Division.

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.

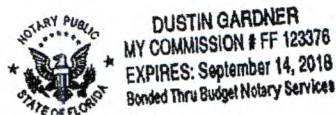
Paulette J. Ducharme  
PROPERTY OWNER (PLEASE PRINT)

[Signature]  
PROPERTY OWNER (SIGNATURE)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 8<sup>th</sup> day of February 2018, by  
Paulette Ducharme, who is personally known or has produced  
as identification.

Exp. Date 9/14/18 Commission Number FF 123376



[Signature]  
Signature of Notary Public  
Dustin Gardner  
Print Name of Notary Public



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PROCEDURE LIST FOR LANDSCAPE DEVIATION REQUEST  
Questions: 239-574-0553

Case # DE18-0005

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT Al Quattrone, P.E. (Representative of Quattrone & Associates, Inc)  
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE APPEAL TO THE PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR

Landscape Deviation

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

BLOCK 3340 & 3339 LOTS 1 thru 3, & 49 UNIT 65 SUBDIVISION 3080 Cape Coral

OR LEGAL DESCRIPTION

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

Paulette J. Ducharme  
PROPERTY OWNER (PLEASE PRINT)

  
PROPERTY OWNER (SIGNATURE)

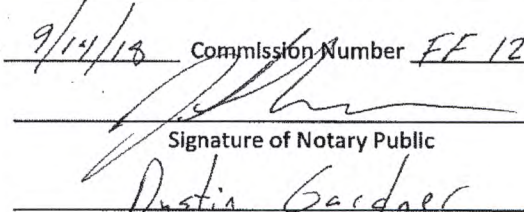
STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 8<sup>th</sup> day of February 20 18, by  
Paulette Ducharme, who is personally known or has produced  
as identification.



DUSTIN GARDNER  
MY COMMISSION # FF 123376  
EXPIRES: September 14, 2018  
Bonded Thru Budget Notary Services

Exp. Date 9/14/18 Commission Number FF 123376

  
Signature of Notary Public

Dustin Gardner  
Print Name of Notary Public

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



February 5<sup>th</sup>, 2018

City of Cape Coral  
Community Development Department  
815 Nicholas Pkwy E,  
Cape Coral, FL 33990

**Project: Dalton Homes – 1011 SW 47<sup>th</sup> Terrace**  
**Letter of Intent for Landscape Deviation Request**

Dear Staff:

The applicant Sitzmark Investments, LLC is requesting relief for the above referenced project from a section of the City of Cape Coral Land Development Code:

- Section 5.2.13.C.2 – Landscaping adjacent to roads

The proposed project consists of three (3) story multifamily complex located within R-3 Multifamily Residential District. The subject corner property is 0.76 acres, located on the northeast quadrant of the intersection of SW 47<sup>th</sup> Terrace & SW 11<sup>th</sup> Avenue, abutting the Baruna Canal.

## **DEVIATIONS**

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We are requesting the following deviations:

- **Deviation 1A from Section 5.2.13.C.2 – Landscaping Adjacent to SW 47<sup>th</sup> Terrace**  
Whereas a 10' wide buffer area is required.

**Request:** The applicant requests 5' wide buffer area for the entire frontage of SW 47<sup>th</sup> Terrace. The lot depth is ±125' however due to the corner lot configuration it increases requiring a 10' wide buffer area.

- **Deviation 1B from Section 5.2.13.C.2 – Landscaping Adjacent to SW 11<sup>th</sup> Avenue**  
Whereas a 10' wide buffer area is required.

**Request:** The applicant requests 5' wide buffer area for the entire frontage of SW 11<sup>th</sup> Avenue. The lot depth is ±125' however due to the corner lot configuration it increases requiring a 10' wide buffer area

## JUSTIFICATION

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- The parcel is only 0.76 acres, therefore, the land to develop is limited.
- The parcel depth is limited considering the parking, sidewalks, easement and setbacks it restricts the area allowed for the construction for a feasible building.
- The parcel would require a 5' wide buffer area since the parcel depth is  $\pm 125'$ , however due to the corner lot configuration it increases, in our opinion it should be considered a narrow lot.
- The lot depth is  $\pm 125'$  however due to the corner lot configuration it increases requiring a 10' wide buffer area.

In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner (or the City Council, when applicable) shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, and the effect the requested deviation would have on the community appearance. Additionally, the Hearing Examiner (or the City Council, when applicable) shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.

Sincerely,  
Quattrone & Associates, Inc.

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

Al Quattrone, P.E.  
President

## LETTER OF AUTHORIZATION

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as address and strap number as follows:

**1011 SW 47<sup>th</sup> Terrace, Cape Coral FL 33914**  
**10-45-23-C3-03339.0490**

The property described herein is the subject of an application for zoning or development. We hereby designate **QUATTRONE & ASSOCIATES, INC.** as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning, water management and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered.

  
Owner / Authorized Representative

**Paulette J. Ducharme - Manager**  
Printed Name

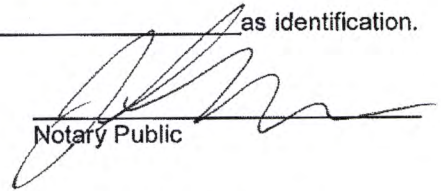
**Sitzmark Investments, LLC**  
Name of Company / LLC /

STATE OF FL  
COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 8<sup>th</sup> day of February, 2018, by

**Paulette J. Ducharme**, who is personally known to me or who has produced

\_\_\_\_\_ as identification.

  
Notary Public

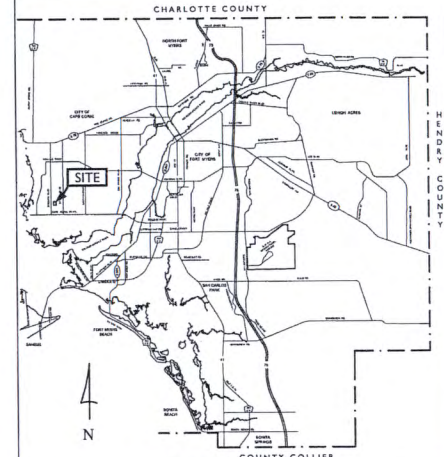
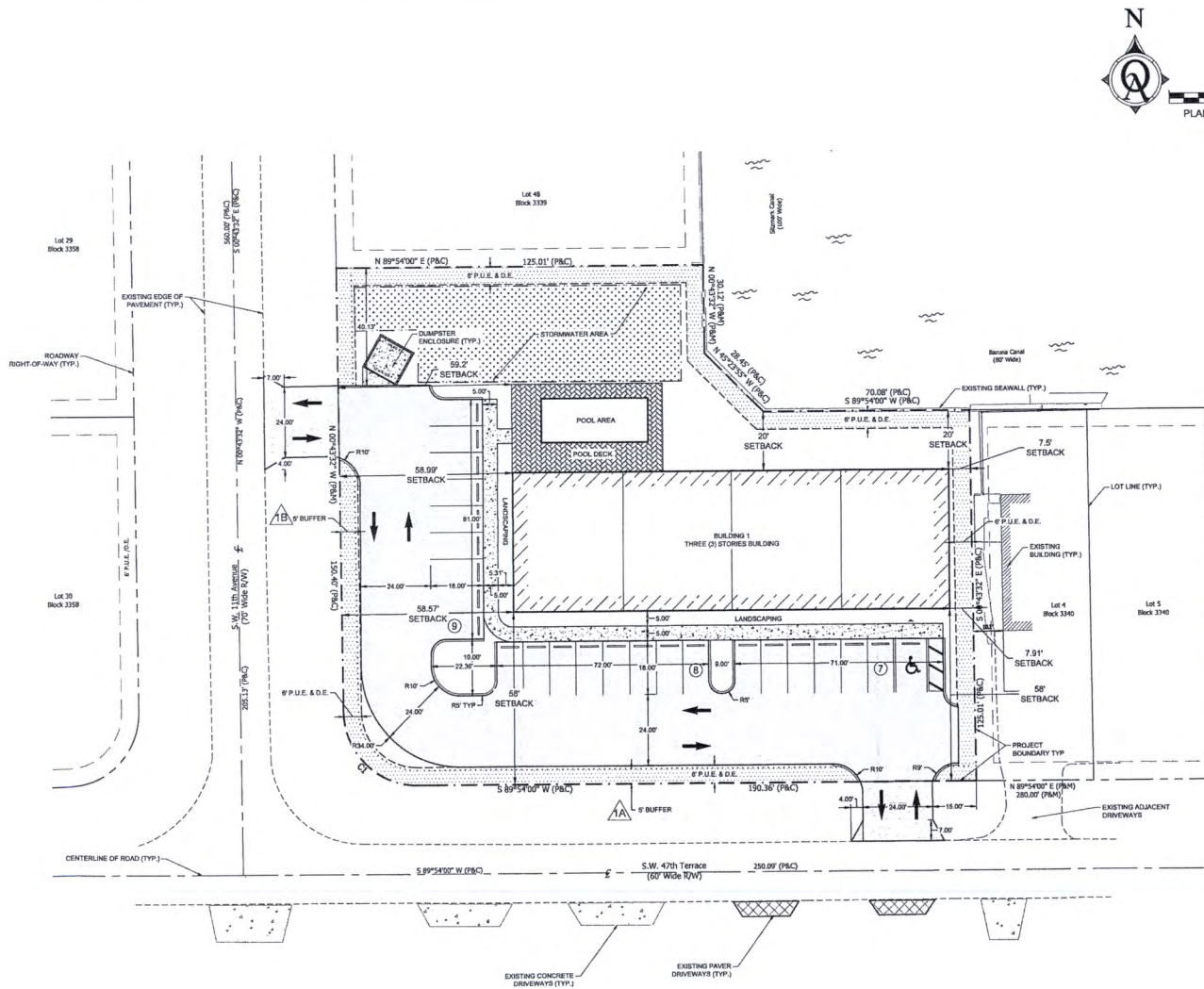
Dustin Gardner  
Print Name and stamped



# DALTON HOMES - 1011 SW 47th TERRACE

LOCATED IN SECTION 10, TOWNSHIP 45 -S, RANGE 23 -E, LEE COUNTY, FLORIDA

## MASTER CONCEPT PLAN



### PROJECT SUMMARY:

**ZONING/REZONING**  
R3 - MULTI FAMILY RESIDENTIAL DISTRICT

**STRAP #**  
10-45-23-C3033390490

**PROJECT ACREAGE**  
0.76 ACRE (33,219.94 SF)

**PROJECT INTENSITY**  
TOTAL DWELLING UNITS = 12 UNITS

### DEVIATIONS

- △A DEVIATE FROM 5.2.13.C.2 TO ALLOW A 5' WIDE BUFFER ABUTTING SW 47TH TERRACE
- △B DEVIATE FROM 5.2.13.C.2 TO ALLOW A 5' WIDE BUFFER ABUTTING SW 11TH AVENUE



**Quattrone & Associates, Inc.**  
Engineers, Planners, & Development Consultants  
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QA@me.com





## Lee County Property Appraiser

Tax Year 2017

[Next Parcel Number](#) [Previous Parcel Number](#) [Tax Estimator](#) [Cape Coral Fees](#) [Tax Bills](#) [Print](#)

## Property Data

STRAP: 10-45-23-C3-03339.0490 Folio ID: 10105691

## Owner Of Record - Sole Owner

SHORESTONE DEVELOPMENT  
4630 AMBER VALLEY PKWY  
FARGO ND 58104

## Site Address

1011 SW 47TH TER  
CAPE CORAL FL 33914

## Property Description

Do not use for legal documents!

CAPE CORAL UNIT 65  
BLK 3339 PB 21 PG 153  
LOT 49 AND BLK 3340  
PB 21 PG 153 LOTS 1-3

## Classification / DOR Code

VACANT RESIDENTIAL / 00

[\[ Tax Map Viewer \]](#) [\[ View Comparables \]](#)


[ Pictometry Aerial Viewer ]



## Current Working Values



Just

208,000

As Of

08/11/2017

## Attributes

Land Units Of Measure

Units

Frontage

Depth

Total Number of Buildings

Total Bedrooms / Bathrooms

Total Living Area

1st Year Building on Tax Roll

Historic District

UT

2.00

0

0

0

0

0

N/A

No

## Image of Structure



## Exemptions



## Values (2017 Tax Roll)



## Taxing Authorities



## Sales / Transactions



## Building/Construction Permit Data



## Parcel Numbering History



## Location Information

Previous [TRIMs](#) [Proposed Tax Notices](#) are available for the following tax years [Home](#)  
[ 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 ]



**Solid Waste (Garbage) Roll Data**



**Flood and Storm Information**



**Appraisal Details (2017 Tax Roll)**

DE18-0005

**Review Date:** April 9, 2018

**Property Owner:** Shorestone Development

**Authorized Representative:** Al Quattrone

**Request:** The applicant is requesting a five-foot deviation to LUDR, Section 5.2.13.C.2 to allow a five-foot wide landscape buffer along SW 47<sup>th</sup> Terrace and SW 11<sup>th</sup> Ave.

**Location:** 1011 SW 47<sup>th</sup> Terrace  
Strap: 10-45-23-C3-03339.0490

**Prepared By:** Justin Heller, Planner

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

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

**Recommendation:** **Approval**

	<b><i>Zoning</i></b>	<b><i>Future Land Use</i></b>
<b><i>Subject Parcel:</i></b>	Multi-Family (R-3)	Multi-Family (MF)
	<b><i>Surrounding Zoning</i></b>	<b><i>Surrounding Future Land Use</i></b>
<b><i>North:</i></b>	Single-Family (R-1B)	Single-Family (SF)
<b><i>South:</i></b>	R-3	MF
<b><i>East:</i></b>	R-3	MF
<b><i>West:</i></b>	R-1B	SF

**Background:**

The vacant 0.76-acre site is in SW Cape Coral on Sitzmark Canal at the corner of SW 47<sup>th</sup> Terrace and SW 11<sup>th</sup> Avenue. The site is zoned Multi-Family (R-3) and has a Future Land Use (FLU) of Multi-Family (MF). The applicant plans to build a three-story, multi-family building on the site.

**Analysis:**

LUDR, Section 5.2.19 addresses deviations to the City landscaping regulations. Such requests may be approved by the Hearing Examiner provided the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:

1. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or,
2. Literal conformity with the regulations would inhibit innovation or creativity in design.

Based on the Letter of Intent filed with the City, the applicant is seeking relief from this landscaping requirement based on hardship.

LUDR, Section 5.2.19.B states *“In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner (or the City Council, when applicable) shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimension, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, and the effect the requested deviation would have on the community appearance. Additionally, the Hearing Examiner (or the City Council, when applicable) shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the City.”*

***“Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship.”***

Because the site is on a corner, a small portion has a depth greater than 135 feet. This requires a 10-foot landscape strip along the street frontage. The remainder of the site has a depth of 135 feet or less, which only requires a five-foot landscape strip along the street frontage. Other properties on this block are only required to have a five-foot landscape strip. Due to conditions which are not a result of the applicant, a literal enforcement of the regulation would result in an unnecessary or undue hardship on the applicant.

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

Staff response: Yes. The site is on a corner of the canal which contributes to an unusual configuration of the property. The shape of the site requires the building and parking to be oriented to the front of the site reducing the area available for landscaping.

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

Staff response: Impossible: No. Impractical: Yes. A City standard affecting compliance is a visibility triangle required at the corner of the site, adjacent to the intersection of the two streets. This area of the site has the greatest depth. However, the Engineering and Design Standards require a 25 ft. X 25 ft. unobscured area for maintaining clear visibility for motorists approaching this intersection. As a result, the part of the site with the greatest is restricted from landscaping to maintain clear sight conditions.

Other site constraints such as setbacks, parking, and water management make compliance with this section impractical but not impossible. The development plan could be altered to fit the 10-foot landscape buffer.

***What effect would the requested deviations would have on community appearance?***

Staff response: The deviation would have little to no negative effect on community appearance. If the deviation is approved, the site would have the similar landscaping requirements as other multi-family properties on the block. While the deviation will allow for a narrower planting area along the two streets, the total number of trees and shrubs required for the site will remain unchanged.

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

Staff response: Yes. Staff finds that approval of the deviation will not create any adverse or harmful effects on the surrounding area.

**Comprehensive Plan:**

Staff has reviewed the Comprehensive Plan and finds that the project is consistent with Policy 1.15b of the Future Land Use Element of the Comprehensive Plan which states: Multi-Family Residential shall not have more than 16 units per acre.

**Recommendation:**

Planning staff finds that the deviation will not be contrary to public interest and will be in harmony with the general intent and purpose of the LUDRs. Staff recommends **approval** of the requested landscape deviation.





## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** DE18-0005

**REQUEST:** The applicant is requesting a five-foot deviation to LUDR, Section 5.2.13.C.2 to allow a five-foot wide landscape buffer along SW 47<sup>th</sup> Terrace and SW 11<sup>th</sup> Terrace.

**LOCATION:** 1011 SW 47<sup>th</sup> Terrace

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

**PROPERTY OWNER(S):** Shorestone Development

**AUTHORIZED REPRESENTATIVE:** Al Quattrone

**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, May 15, 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 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.

# The News-Press media group

news-press.com A GANNETT COMPANY

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

**TOLL-FREE**  
888-516-9220

**Local #**  
239-335-0258

**Email**  
FNPLegals@gannett.com

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

**Ad No.:** 0002901968

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

**Net Amt:** \$345.17

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 05/05/18

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** DE18-0005

**REQUEST:** The applicant is requesting a five-foot deviation to LUDR, Section 5.2.13.C.2 to allow a five-foot wide landscape buffer along SW 47th Terrace and SW 11th Terrace.

**LOCATION:** 1011 SW 47th Terrace

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

**PROPERTY OWNER(S):** Shorestone Development

**AUTHORIZED REPRESENTATIVE:**  
Al Quattrone

**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, May 15, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

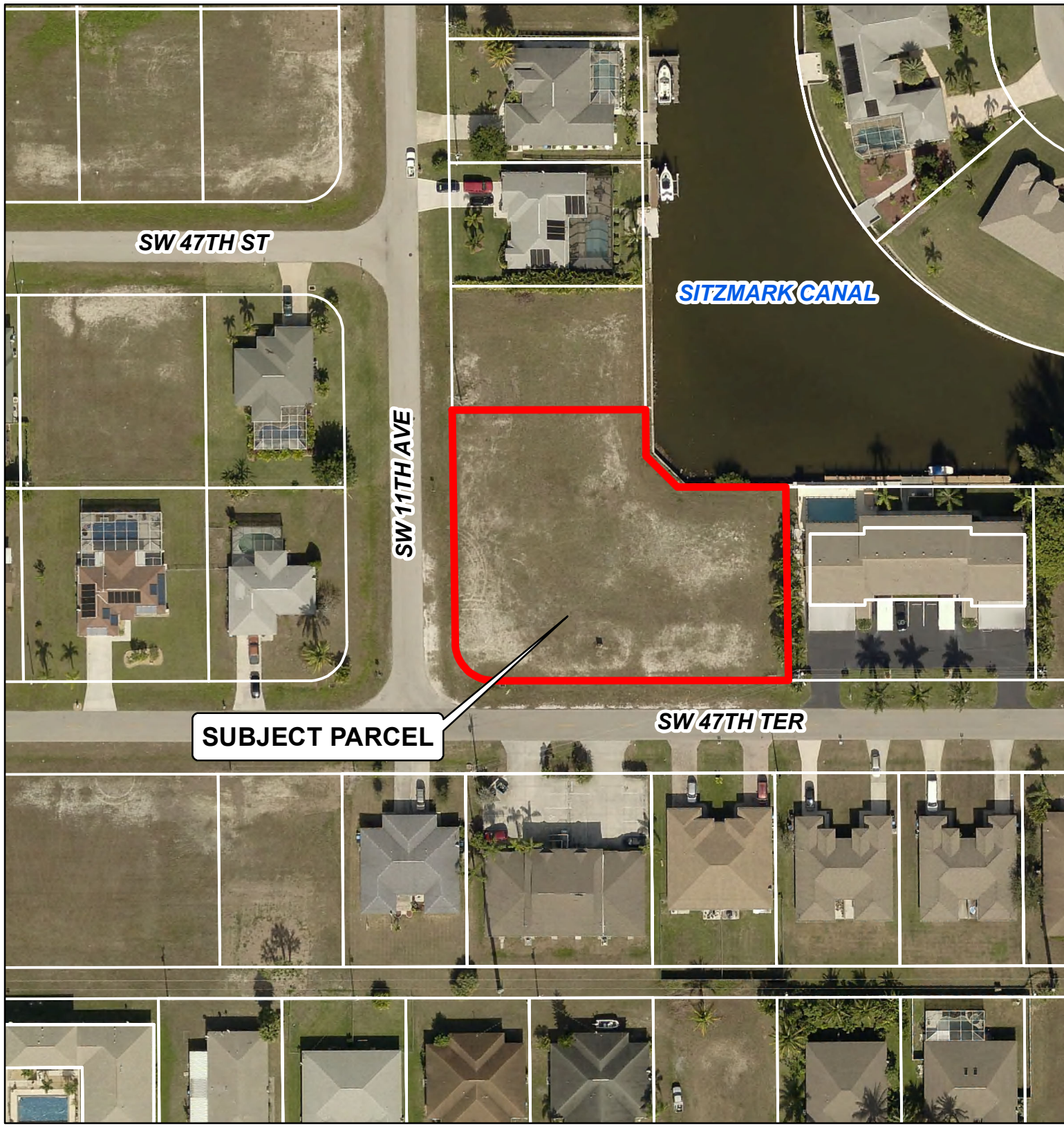
**HOW TO CONTACT:** Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please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

**ADA PROVISIONS:** In accordance with the Americans With Disabilities Act, persons needing a special accommoda-



tion to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of  
Rebecca van Deutekom, MMC  
City Clerk  
REF # DE18-0005  
AD# 2901968 May 5, 2018



SW 47TH ST

SW 47TH ST

SITZMARK CANAL

BARUNA CANAL

SW 11TH AVE

SUBJECT PARCEL

SW 47TH TER

CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

Case No. DE18-0005



Subject Parcel



FEBRUARY 28TH, 2018

0 80 160  
Feet

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

500' PROXIMITY BOUNDARY

SW 46TH TER

SW 47TH ST

SUBJECT PARCEL

SW 11TH AVE

SITZMARK CANAL

SW 10TH AVE

SW 47TH ST

SW 9TH PL

BARUNA CANAL

SW 47TH TER

SW 9TH PL

CAPE CORAL PKWY W

CAPE CORAL PKWY W


CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT ZONING MAP  
500' Proximity Boundary

Case No. DE18-0005

LEGEND

 500' Proximity Boundary

 Subject Parcel

Zoning

 P-1

 R-1B

 R-3

 RD



FEBRUARY 28TH, 2018



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**Item Number:** 2.B.  
**Meeting Date:** 5/15/2018  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # PDP17-0005\*; Address: Meta at Cape Harbour Subdivision, Tracts C-4, C-5, and C-6, Block 7005; and Tract R-1, Block 7004; Applicant: CRE Cape Harbour Marina, LLC and CRE Cape Harbour Land LLC

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

A PROJECT AMENDING ORDINANCE 89-06, AS PREVIOUSLY AMENDED BY ORDINANCES 28-97, 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04, AND 69-05 APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "META AT CAPE HARBOUR" FOR CERTAIN PROPERTY DESCRIBED AS META AT CAPE HARBOUR SUBDIVISION TRACTS C-4, C-5, AND C-6, BLOCK 7005, AND TRACT R-1, BLOCK 7004, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT EL DORADO PARKWAY WEST AND CHIQUITA BOULEVARD SOUTH; GRANTING A REPLAT OF PART OF TRACT R-1, BLOCK 7004 TO BE KNOWN HEREAFTER AS TRACT C-7; ALLOWING PEDESTRIAN COMMERCIAL (C-1) TRACTS TO DEVELOP WITHOUT COMPOUND USE BUILDINGS; GRANTING SUBDIVISION PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS.

**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
▣ Backup Material	Backup Material
▣ ORD 3-01, PDP00-800011	Backup Material
▣ ORD 8-98, PDP97-800021	Backup Material
▣ ORD 28-97 PDP96-800017	Backup Material
▣ ORD 42-03, PDP02-800011	Backup Material
▣ ORD 60-97, PDP97-800012	Backup Material
▣ ORD 69-05, PDP 05-800005	Backup Material
▣ ORD 80-01, PDP 01-800003	Backup Material
▣ ORD 82-98, PDP98-800013	Backup Material
▣ ORD 89-06, PDP 05-800007	Backup Material
▣ ORD 120-04, PDP 04-800005	Backup Material



## PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION

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

Project Name:

PDP Amendment for R-1, C-4, C-5 and C-6 Tracts within Meta at Cape Harbour

Project Number:

To help prepare this application, the applicant should obtain copies of the following:

- Land Use and Development Regulations (this document is linked)
  1. Land Development Regulations (Article 4)
  2. Parking Requirements (Article 5.1)
  3. Landscape Ordinance (Article 5.2)
  4. Sign Ordinance (Article 7)
- NFPA 1 Fire Prevention Code
- Engineering Design Standards

The advisory review is conceptual only and any staff comments are subject to change based on detailed information with an application to the City of Cape Coral. Formal review may result in additional changes not noted at this time. The final design or project must comply with the Land Use and Development Regulations, Engineering Design Standards, City Code of Ordinances, Comprehensive Plan and other applicable laws and regulations.

### ACKNOWLEDGEMENT

I Linda Miller, as the owner of this property or the duly Authorized Representative, agree to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State and County laws, and certify that all information supplied is correct to the best of my knowledge.

In addition, I understand that prior to the issuance of the Certificate of Occupancy for this development, the engineer of record must supply the Department of Community Development with record drawings and a letter of substantial compliance for the project.

In addition, I authorize the staff of the City of Cape Coral to enter upon the property for purposes of investigating and evaluating the request made through this application.

**Please note: Advertising fees must be paid in full at least 10 days prior to public hearing or the item may be pulled from the agenda and continued to a future date once the fees have been paid.**

(Name of Entity)

\* Avalon Engineering, Inc / By: Linda Miller, Authorized Agent

By: NAME AND TITLE (PLEASE TYPE OR PRINT)

Avalon Engineering Inc, Senior Planner

Linda Miller  
SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 29 day of Aug, 2017, by

LINDA MILLER who is personally known or produced  
as identification.

Exp. Date: 8/26/2021 Commission Number: GG#123343

Signature of Notary Public:

Printed name of Notary Public:

Linda G. Brooks  
LINDA G. BROOKS

\*Please include additional pages for multiple property owners.



**Authorization to Represent Property Owner(s) –  
Property Owner is a Corporation, Limited Liability Company (LLC),  
Limited Company (LC), Partnership, Limited Partnership, or Trustee**

Please be advised that

Avalon Engineering, Inc

(Name of Authorized Representative(s) and business entity, if any)

is authorized to submit an application and represent me in the hearing(s) to the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals and /or City Council for a Planned Development Project.

Unit \_\_\_\_\_ Block 7005 Lot Tract C-4 & C-5 Subdivision META at Cape Harbour

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

\* CRE Cape Harbour Land, LLC

Rudy Newell

\*\* Name of Entity (Corporation, Partnership, LLC, etc)

Title of Signatory

Vice President

x Rudy Newell  
Signature

Name (Please print or type)

(SIGNATURE MUST BE NOTARIZED)

STATE OF MINNESOTA, COUNTY OF

HENNERIN

Sworn to (or affirmed) and subscribed before me this 29<sup>th</sup> day of JULY, 2017, by  
RUDY NEWELL who is personally known or produced  
as identification.



Exp. Date: January 31, 2021 Commission Number: 31075838

Signature of Notary Public:

Printed name of Notary Public:

Cristina Aurora Zhang  
Cristina Aurora Zhang

\*Please include additional pages for multiple property owners.

**\*\*Notes:**

If the applicant is a corporation, then it is executed by the corp. pres. or v. pres, sec, tres, or a director, .

If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should be signed by the Company's "Managing Member."

If the applicant is a partnership, then a partner can sign on behalf of the partnership.

If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.

If the applicant is a trust, then they must include their title of "trustee."

In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

RN

authorized representative  
or property owner's initials



**Authorization to Represent Property Owner(s) –  
Property Owner is a Corporation, Limited Liability Company (LLC),  
Limited Company (LC), Partnership, Limited Partnership, or Trustee**

Please be advised that

Avalon Engineering, Inc

(Name of Authorized Representative(s) and business entity, if any)

is authorized to submit an application and represent me in the hearing(s) to the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals and /or City Council for a Planned Development Project.

Unit \_\_\_\_\_ Block 7004 & 7005 Lot Tract R-1 and C-6 Subdivision META at Cape Harbour

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

\* CRE Cape Harbour Marina, LLC

\*\* Name of Entity (Corporation, Partnership, LLC, etc)

Rudy Newell

Title of Signatory

Vice President

Signature

Name (Please print or type)

(SIGNATURE MUST BE NOTARIZED)

STATE OF MINNESOTA, COUNTY OF KENNEBEC

Sworn to (or affirmed) and subscribed before me this 24<sup>TH</sup> day of JULY, 2017, by  
RUDY NEWELL who is personally known or produced  
as identification.



Exp. Date: January 31, 2021 Commission Number: 31075830

Signature of Notary Public:

Printed name of Notary Public:

Cristina Aurora Zhang  
Cristina Aurora Zhang

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

**\*\*Notes:**

If the applicant is a corporation, then it is executed by the corp. pres. or v. pres, sec, tres, or a director, .

If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should be signed by the Company's "Managing Member."

If the applicant is a partnership, then a partner can sign on behalf of the partnership.

If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.

If the applicant is a trust, then they must include their title of "trustee."

In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.



## PDP Applicant Checklist

**Project Name:** PDP Amendment for R-1, C-4, C-5 and C-6 Tracts within Meta at Cape Harbour

**Applicant must submit the completed application and the associated documentation listed below, collated into 17 separate packets (one (1) original and 16 copies). These are minimum requirements for all PDP applications. Based on the nature of your project, additional items may be required by staff.**

### Incomplete submittals will not be accepted

- \_\_\_\_\_ All application pages must be initialed by the property owner or their authorized representative
- \_\_\_\_\_ 24" x 36" engineered PDP Development Plans, including landscape buffer areas and building elevations – See pages 7 – 10 for further information
- \_\_\_\_\_ Certified Boundary Surveys, in NGVD 1929, completed within the last six (6) months showing elevations – See page 7 for further information
- \_\_\_\_\_ PDP application fees paid in full at time of application – See page 11 for further information
- \_\_\_\_\_ Letter of Intent (LOI) – See page 6 for further instructions
- \_\_\_\_\_ Environmental Survey/Report – See page 7 for further instructions
- \_\_\_\_\_ Warranty or Quit Claim Deed – Applicant shall provide a copy of Warranty or Quit Claim Deed for one hundred (100) percent of the property comprising the Planned Development Project.
- \_\_\_\_\_ Vacation of Plat requests must include letter of "No Objection" from the electric company, the telephone company, and the cable company – See page 9 for further instructions
- \_\_\_\_\_ Page 1 must be signed and notarized by either all property owner(s) or the authorized agent
- \_\_\_\_\_ The "Authorization to Represent Property Owners", page of the application, must be signed by all property owner(s) and notarized
- \_\_\_\_\_ Properties owned by corporations, limited liability companies, limited partnerships, general partnerships, and trustees must provide legal documentation (For example, the Articles of Incorporation) listing persons authorized to sign for the entity and in these situations the property owner(s) must sign all applicable PDP forms in their corporate capacity.

**As an alternative to submitting everything in paper format, the applicant may opt to submit the following:**

- ☒ 11 sets of plans, in paper format, as described above
- ☒ 11 signed and sealed Boundary Surveys, in paper format, as described above
- ☒ One (1) copy of the application & all other documents you are submitting for review
- ☒ 1 CD/DVD with PDFs of documents you are submitting:
  - Each document you are submitting needs to be a separate PDF, appropriately identified by name. For example, the application will be one PDF, titled "Application", the Letter of Intent will be another PDF, titled "Letter of Intent", plans, boundary surveys, etc.

## GENERAL INFORMATION

Project Name: PDP Amendment for Tract R-1, C-4, C-5 and C-6 of Meta at Cape Harbour  
Applicant: CRE Cape Harbour Marina, LLC & CRE Cape Harbour Land, LLC  
Address: 5207 Stratford Court, Cape Coral, Florida 33904  
Phone: 813-898-2828 Fax: \_\_\_\_\_ E-Mail: [apollack@fletcherfischer.com](mailto:apollack@fletcherfischer.com) (Anne Pollick)

\*Property Owner: CRE Cape Harbour Marina, LLC & CRE Cape Harbour Land, LLC  
Address: 8117 Preston Road, Ste. 450, Dallas, Texas 75225 / 14785 Preston Rd., Dallas Texas 75254  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: [apollack@fletcherfischer.com](mailto:apollack@fletcherfischer.com)  
Authorized Representative: Avalon Engineering, Inc  
Address: 2503 Del Prado Blvd Suite 200, Cape Coral, Florida 33904  
Phone: 239-573-2077 Fax: 239-573-2076 E-Mail: [linda@avaloneng.com](mailto:linda@avaloneng.com)

### Location

Unit: \_\_\_\_\_ Block: 7004 and 7005 Lot(S): Tracts R-1, C-4, C-5, and C-6

Subdivision: Meta at Cape Harbour Strap Number(s): 21-45-23-C2-004C4-0000, 21-45-23-C2-004R1.0000,

21-45-23-C2-004C6.0000

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

Property Address: Shell Cove Drive and Cape Harbour Drive

Plat Book: 71 Page: 74-80 Current Zoning: C-1 Future Land Use: Mixed Use

This application includes the following requests: (Please check all that apply)			
<input checked="" type="checkbox"/> Subdivision	<input type="checkbox"/> Special Exception	<input type="checkbox"/> Rezoning	<input type="checkbox"/> Variance
<input type="checkbox"/> Deviation to Landscaping	<input type="checkbox"/> Deviation to Non-residential Design Standards	<input type="checkbox"/> Deviation to Engineering Design Standards (EDS)	<input type="checkbox"/> All Other Deviation Requests
<input type="checkbox"/> Borrow Pit	<input type="checkbox"/> Vacation of Plat		

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



## PROPERTY and PROJECT DEVELOPMENT DATA

a.	Zoning District	<u>C-1</u>		
b.	Future Land Use Class	<u>CP</u>		
c.	Area of Subject Property	<u>2.57</u>	acres	
d.	Type of Development	<u>Mixed Use</u>		
e.	Estimated Number of Employees	<u>N/A</u>		
	Number of Seats in Assembly	<u>N/A</u>		
f.	Parking Spaces Required	<u>N/A</u>		
g.	Parking Spaces Provided	<u>N/A</u>		
h.	Parking and Street Area	<u>N/A</u>	sq. ft.	<u>      </u> % of Site
i.	Ground Floor Building Area	<u>N/A</u>	sq. ft.	<u>      </u> % of Site
j.	Total Floor Area	<u>N/A</u>	sq. ft.	<u>      </u> % of Site
k.	Building Heights	<u>N/A</u>	feet	<u>      </u> stories
l.	Total Proposed Impervious Surface Area	sq. ft. <u>N/A</u>		% of Site <u>      </u>
m.	Permanent Open Space	sq. ft. <u>N/A</u>		% of Site <u>      </u>
	Landscaped Area	<u>N/A</u>	sq. ft.	% of Site <u>      </u>
n.	Recreation Area	<u>N/A</u>	sq. ft.	% of Site <u>      </u>

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans.

NOT APPLICABLE

o.	Number of Dwelling Units (du)	<u>      </u>		
p.	Gross Density (du/acres)	<u>      </u>		
q.	Number, Type, and Floor Area of each Dwelling Unit:			
1.	Efficiency	<u>      </u>	Floor Area <u>      </u>	sq. ft. <u>      </u>
2.	1 Bedroom	<u>      </u>	Floor Area <u>      </u>	sq. ft. <u>      </u>
3.	2 Bedroom	<u>      </u>	Floor Area <u>      </u>	sq. ft. <u>      </u>
4.	3 Bedroom	<u>      </u>	Floor Area <u>      </u>	sq. ft. <u>      </u>
5.	4 Bedroom	<u>      </u>	Floor Area <u>      </u>	sq. ft. <u>      </u>

## PROPERTY and PROJECT DEVELOPMENT DATA

a.	Zoning District	<u>C-1</u>		
b.	Future Land Use Class	<u>CP</u>		
c.	Area of Subject Property	<u>          </u>	acres	
d.	Type of Development	<u>Mixed Use</u>		
e.	Estimated Number of Employees	<u>N/A</u>		
	Number of Seats in Assembly	<u>N/A</u>		
f.	Parking Spaces Required	<u>N/A</u>		
g.	Parking Spaces Provided	<u>N/A</u>		
h.	Parking and Street Area	<u>N/A</u>	sq. ft.	<u>          </u> % of Site
i.	Ground Floor Building Area	<u>N/A</u>	sq. ft.	<u>          </u> % of Site
j.	Total Floor Area	<u>N/A</u>	sq. ft.	<u>          </u> % of Site
k.	Building Heights	<u>N/A</u>	feet	<u>          </u> stories
l.	Total Proposed Impervious Surface Area	sq. ft. <u>N/A</u>		% of Site <u>          </u>
m.	Permanent Open Space	sq. ft. <u>N/A</u>		% of Site <u>          </u>
	Landscaped Area	<u>N/A</u>	sq. ft.	% of Site <u>          </u>
n.	Recreation Area	<u>N/A</u>	sq. ft.	% of Site <u>          </u>

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans.

NOT APPLICABLE

o.	Number of Dwelling Units (du)	<u>          </u>		
p.	Gross Density (du/acres)	<u>          </u>		
q.	Number, Type, and Floor Area of each Dwelling Unit:			
1.	Efficiency	<u>          </u>	Floor Area <u>          </u>	sq. ft. <u>          </u>
2.	1 Bedroom	<u>          </u>	Floor Area <u>          </u>	sq. ft. <u>          </u>
3.	2 Bedroom	<u>          </u>	Floor Area <u>          </u>	sq. ft. <u>          </u>
4.	3 Bedroom	<u>          </u>	Floor Area <u>          </u>	sq. ft. <u>          </u>
5.	4 Bedroom	<u>          </u>	Floor Area <u>          </u>	sq. ft. <u>          </u>



### LETTER OF INTENT

Please include a Letter of intent (LOI), stipulating your request, addressed to the Community Development Director. This letter must specify all applicable requests. Such requests may include any and/or all of the following:

- a. General purpose and intent of the PDP
- b. Subdivision requests – See Article 4.1 and 4.2.5
- c. Rezoning requests specifying the actual request and explanation of need for the rezoning
- d. Special exception requests and explanation of need for the special exception
- e. Variance requests specifying the actual request and explanation of need. All variance requests must address the five (5) criteria for the granting the a variance, per Land Use and Development Regulations, section 8.10. Note: Variances run with the land.
- f. Vacation of Plat as outlined in section 8.11 and explanation of vacation request
- g. Borrow pit requests as outlined in section 3.23, 4.2.5, and 8.3.2

### DEVIATION REQUEST LETTER(S) Not Applicable

Applicant must complete a separate deviation request letter for each deviation type requested. Please ensure that proper justification for the requested deviation accompanies each request. Staff will not analyze any requested deviation that does not include justification for the deviation sought and this may result in a rejection of your application. Refer to the appropriate section of the LUDRs for guidance on the criteria for which a particular deviation may be sought. Note: Deviations do not run with the land.

- Landscaping Deviations shall be in accordance with Section 5.2.19
- Non-residential Design Standards Deviations shall be in accordance with Section 5.6.10 Deviation,
- Engineering Design Standards (EDS) Deviations in accordance with sheet 1, "Foreword" paragraph 5,
- All Other Deviation Requests, shall be in accordance with Section 4.2.4.K

### TRAFFIC GENERATION ESTIMATE Not Applicable

The following will determine the need of a Traffic Impact Statement. Trip Generation Estimate, based on the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation manual:

ITE Code \_\_\_\_\_ Is estimate based on locally collected data? \_\_\_\_\_

Regression equation (if used) \_\_\_\_\_

Independent Variable \_\_\_\_\_

Daily Two Way Trip Estimate \_\_\_\_\_

Peak Hour (of generator) Entering \_\_\_\_\_

Peak Hour (of generator) Exiting \_\_\_\_\_

Total Peak Hour (of generator) \_\_\_\_\_

Peak Hour Entering and Exiting trips greater than 300 trips \_\_\_\_\_

If the total peak hour traffic exceeds 300 trips, a Traffic Impact Statement (TIS) will be required. A methodology meeting with the City staff is required prior to submitting the TIS. The methodology meeting will be scheduled after the initial submittal of the PDP application.



## GRAPHIC STANDARDS: GENERAL INFORMATION

<b>Sheet # of submitted plans:</b>	The Development Plan shall be of sufficient scale to show all detail. The scale of the Plan shall be illustrated by a graphic scale on every sheet. The date and true north arrow shall be shown on every sheet. The following general information is required:
<u>Sheets 1 and 2</u>	1. Names and addresses of the owners, planner, architect, landscape architect Engineer and surveyor.
<u>Sheets 1 and 2</u>	2. A General Location and Vicinity Map (plat sheet). Please indicate the relationship of the proposed project site to surrounding existing land uses, zonings, future land uses, community facilities, major streets, utilities and any other principal buildings or physical features in and adjoining the subject property. These features shall be indicated for a distance of three hundred (300) feet from the outside boundaries of the subject property. Indicate all names and locations of adjoining subdivisions, development projects, unplatted properties, and streets within unincorporated Lee County.
<u>Provided</u>	3. Certified Boundary Survey, completed within the last 6 months, meeting the Minimum Technical Standards as set forth in Chapter 5J-17, Florida Administrative Code.

## EXISTING PROPERTY CONDITIONS

<b>Sheet # of submitted plans:</b>	
<u>Sheets 1 and 2</u>	1. Acreage of land within property.
<u>Survey</u>	2. Boundary lines of the project and their bearings and distances.
<u>N/A</u>	3. Existing and proposed easements and their locations, widths and distance, as well as existing structures.
<u>N/A</u>	4. Streets and waterways on and adjacent to the project, their names, widths and other dimensions as may be required.
<u>N/A</u>	5. The location of all existing utilities connections available to the property site.
<u>N/A</u>	6. Tree Survey: The location, quantity, diameter/caliper, botanical and common name, and native status of all heritage trees and other existing trees with a caliper of two inches or greater, and whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be indicated on a separate sheet. Reference 5.2.6 of the City's Land Development Regulations. The City is a designated "Tree City" and tree retention is encouraged.
<u>N/A</u>	7. Environmental Site Survey - see the City's guidelines for conducting an environmental survey
<u>Survey</u>	8. Flood elevation data and flood zone boundary lines delineated, if applicable.
<u>N/A</u>	9. Any other significant existing features, as may be required by the Director.



## DEVELOPMENT PLANS

### NOT APPLICABLE

**Sheet # of  
submitted  
plans:**

Sheets 1  
and 2

N/A

N/A

N/A

N/A

N/A

N/A

N/A

N/A

Survey

N/A

N/A

N/A

N/A

The Development Plan should be viewed as a conceptual plan and not construction drawings or a site plan. A high level detailed site plan with information not needed will be rejected at submittal. The Development Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following.

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

## ADDITIONAL INFORMATION

Sheet # of  
submitted  
plans:

N/A

**1. Landscape Maintenance:**

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

N/A

**2. Maintenance Assurance:**

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

N/A

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

Copies of proposed restriction or protective covenants, if any.

N/A

**4. Economics:**

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

N/A

**5. Vacation of Plat**

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

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



# REPLAT OF BLOCK 7005 R-1

## SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

- Sheet # of  
submitted  
plans
- The Subdivision Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following with accurate dimensions to the nearest one-hundredth of a foot. If flexibility is requested for property lines prior to Plat recording, this request must be requested in the Letter of Intent (LOI).
- On Plat 1. Contours at an interval of not greater than one foot.
- On Plat 2. Access roads and their relationship to existing and proposed streets, alleys and other public ways.
- On Plat 3. Setback lines, permanent open space, recreation areas, separation strips, existing and proposed landscape areas and general land use activity areas.
- On Plat 4. Location of areas and their acreages, if any, to be reserved or dedicated for public parks, playgrounds, schools, or other public uses, including bikeways or walks.
- On Plat 5. Proposed lot numbers, lot lines, lot dimensions, lot areas, lot descriptions, lot locations, minimum yard requirements, and any other appropriate data and information for areas or parcels within the project property lines which have been designated for subdivision for any purpose or use.
- On Plat 6. Utility locations on and adjacent to the project showing proposed dimensions and connections to existing utility systems.
- On Plat 7. All dimensions, angles, bearings and similar data on the plan shall be tied to primary control points approved by the City Engineer. The location and description of said control points shall be given.
- On Plat 8. Approximate location of proposed and existing surface water management system components including treatment, storage, conveyance, and discharge locations.
- On Plat 9. Project boundary lines, right-of-way lines of streets, waterways, easements and other rights-of-way. Bearings or deflection angles, radii, arcs and central angles of all curves with dimensions to the nearest minute shall be provided for the center line of all streets and easements. Block corner radii dimensions shall also be shown.
- On Plat 10. Name of each street, waterway, easement or other right-of-way and the designation of all buildings, parking areas, access roads, permanent open spaces, recreation areas, separation strips, landscaped areas, dedication or reserved areas, and other land use activity areas by name, use, purpose or other appropriate method as well as by width, length, land area or floor area devoted to such use or purpose.
- On Plat 11. Certification of title and dedication, on plat, showing that the applicant is the owner and a statement by such owner dedicating streets, rights-of-way and any other sites for public use, if any.
- On Plat 12. Certification by the City Engineer, on plat, that a surety bond, certified check or other guarantee has been posted with the City in sufficient amount to assure completion of all such required site improvements.
- On Plat 13. Certificate of approval for recording, on plat, suitable to be signed by the Mayor as applicable, to indicate that the plan has been approved for recording.
- On Plat 14. Any other appropriate certification required by the Governing Body or Necessary to comply with Florida Statutes, Chapter 177.

## Detail by Entity Name

Foreign Limited Liability Company  
CRE CAPE HARBOUR MARINA, LLC

### Filing Information

**Document Number** M18000000328  
**FEI/EIN Number** 37-1760799  
**Date Filed** 01/11/2018  
**State** DE  
**Status** ACTIVE

### Principal Address

4600 WELLS FARGO CENTER, 90 S 7TH ST  
MINNEAPOLIS, MN 55402

### Mailing Address

4600 WELLS FARGO CENTER, 90 S 7TH ST  
MINNEAPOLIS, MN 55402

### Registered Agent Name & Address

C T CORPORATION SYSTEM  
1200 SOUTH PINE ISLAND ROAD  
PLANTATION, FL 33324

### Authorized Person(s) Detail

#### **Name & Address**

Title VP

HINIKER, KEVIN  
4600 WELLS FARGO CENTER, 90 S 7TH ST  
MINNEAPOLIS, MN 55402

Title VP

NEWELL, RUDY  
4600 WELLS FARGO CENTER, 90 S 7TH ST  
MINNEAPOLIS, MN 55402

### Annual Reports

**No Annual Reports Filed**

### Document Images

01/11/2018 -- Foreign Limited [View image in PDF format](#)





[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

## Detail by Entity Name

Foreign Limited Liability Company  
CRE CAPE HARBOUR LAND, LLC

### Filing Information

Document Number	M14000009097
FEI/EIN Number	N/A
Date Filed	12/19/2014
State	DE
Status	ACTIVE

### Principal Address

4600 Wells Fargo Center  
90 South 7th St.  
Minneapolis, MN 55402

Changed: 04/12/2017

### Mailing Address

4600 Wells Fargo Center  
90 South 7th St.  
Minneapolis, MN 55402

Changed: 04/12/2017

### Registered Agent Name & Address

C T CORPORATION SYSTEM  
1200 SOUTH PINE ISLAND ROAD  
PLANTATION, FL 33324

### Authorized Person(s) Detail

#### **Name & Address**

Title Manager/Member

CRE GS PROPERTIES, LLC  
4600 Wells Fargo Center  
90 South 7th St.  
Minneapolis, MN 55402

Title Manager of CRE GS Properties LLC

O'Neill, Rory  
4600 Wells Fargo Center  
90 South 7th St.  
Minneapolis, MN 55402



### Annual Reports

Report Year	Filed Date
2015	04/30/2015
2016	04/08/2016
2017	04/12/2017

### Document Images

<a href="#">04/12/2017 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/08/2016 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/30/2015 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">12/19/2014 -- Foreign Limited</a>	<a href="#">View image in PDF format</a>

INCUMBENCY CERTIFICATE

of

CRE CAPE HABOUR LAND, LLC

The undersigned, being the Managing Member of CRE Cap Harbour Land, LLC (the "Company") hereby certifies as follows:

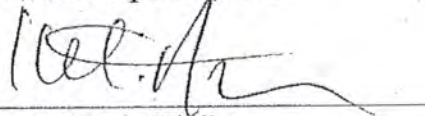
The following named individuals, are duly elected, qualified and acting officers of the Company and hold the office set forth opposite their name and such persons have the authority to execute and furnish any and all documents on the Company's behalf.

<u>Name</u>	<u>Office</u>
Rory O'Neill	President
Kevin Hiniker	Vice President
David J. Parrin	Vice President
Karlien De Clercq	Vice President
Rudy Newell	Vice President

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the 18<sup>th</sup> day of January 2018.

*MANAGING MEMBER:*

CRE GS Properties, LLC



Name: Kevin Hiniker

Title: Vice President

**LIMITED LIABILITY COMPANY AGREEMENT**

**OF**

**CRE CAPE HARBOUR LAND, LLC**

*A Member-Managed Limited Liability Company*

This document is the Limited Liability Company Agreement (the "Agreement") of CRE Cape Harbour Land, LLC (the "Company"), a limited liability company formed on December 17, 2014 under the Delaware Limited Liability Company Act, as amended from time to time (6 Del. C. §18-101, et seq.) (the "Act").

**1. Initial and Additional Members**

- (a) The initial member of the Company is CRE GS Properties, LLC (the "Initial Member")
- (b) Additional members may be admitted by the Initial Member. No additional member shall have the power to assign or encumber its interest in the Company or any portion thereof without the prior written consent of the Initial Members.

**2. Purpose**

The Company may engage in any business or activities that may lawfully be engaged in by a limited liability company formed under the Act, including without limitation the acquisition of investments and assets, either directly or by the acquisition of the beneficial interest in a trust that holds title thereto. The Company shall have the power to do any and all acts necessary, appropriate, proper, advisable, incidental or convenient to or for the furtherance of the purposes described herein, including without limitation the power to acquire and dispose of investments, enter into agreements and borrow funds.

**3. Management and Control**

- (a) The management of the Company shall be vested to the Initial Member, with exclusive power and authority over the management and control of the Company in its capacity. The Initial Member shall be entitled to exercise any power or authority vested in it in a manner that is at its sole and absolute discretion. The Initial Member may provide for classes or groups of members having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members. For the avoidance of doubt, the Initial Member's powers shall include the power to delegate any of the powers and authority vested in it to such officers or other agents as it may designate. The Initial Member hereby appoints the following persons as initial officers of the Company:



Rory O'Neill – President

Julie Braun – Vice President and Secretary

Kevin Hiniker – Vice President

Kim Gualtieri – Vice President

Judd Gilats – Vice President

- (b) If any additional member is admitted, such additional member shall have no implied power or authority to participate in the management or control of the Company, nor any power to bind the Company. Certain sections of the Act (including, by way of illustration, §18-502 relating to the compromise of obligations to make contributions and §18-801 relating to dissolution of the Company) vest in members a power to vote on or consent in the absence of a contrary provision in the limited liability company agreement. All such "default" provisions are intended to be superseded by this Agreement, and all powers to vote on or consent to any matter covered by any such provision shall be vested exclusively in the Initial Member. Additional members shall have no right to inspect or copy any books or records of the Company without the consent of the Initial Member.

#### **4. Finance**

- (a) The Initial Member or any additional member may, but shall have no obligation to, make any contribution to the Company. All profits and losses of the Company shall be allocated exclusively to the Initial Member and any additional members in proportion to their respective pro rata shares in each class of membership.
- (b) If any additional member is admitted, the Initial Member shall determine the timing, amount and form of any contribution required or permitted to be made by such member. The amount of profit or loss to be allocated to any additional member shall be determined by the Initial Member, and the timing, amount and form of any distributions shall be determined by the Initial Member.
- (c) If any additional member is admitted, the Initial Member shall maintain a capital account for each member to reflect such member's contributions and withdrawals and such member's allocable share of each item of profit or loss. Such capital accounts shall be maintained in a manner that is consistent with the applicable provisions of Subchapter K of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder.

#### **5. Amendments**

This Agreement may be amended by the Initial Member.

**6. Authorized Person**

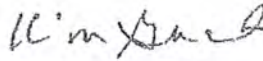
In addition to the undersigned (whether collectively or individually), each of Rory O'Neill, Julie Braun, Kevin Hiniker, Kim Gualtieri and Judd Gilats is designated as an "authorized person" for the purpose of executing any document required or permitted to be filed with the Delaware Secretary of State pursuant to the Act.

**7. Effective Date**

The effective date of this Agreement is December 17, 2014.

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of December 17, 2014.

CRE GS Properties, LLC



---

By: Kim Gualtieri  
Its: Vice President





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

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September 29, 2017  
Revised April 30, 2018

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

PROJECT: META AT CAPE HARBOUR PDP AMENDMENT FOR BLOCK 7004, TRACT R-1  
AND BLOCK 7005, TRACTS C-4, C-5 & and a portion of C-6 ONLY

SUBJECT: PLANNED DEVELOPMENT PROJECT (PDP) AMENDMENT OF ORDINANCE  
28-97, AS AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 3-01, 80-01, 42-03,  
120-04, 69-05, and 89-06

Dear Mr. Cautero:

On behalf of our property owners, CRE Cape Harbour Land LLC and CRE Cape Harbour Marina, LLC, we are requesting an amendment to the above referenced ordinances for Tracts R-1, C-4, C-5 and a portion of Tract C-6 within the Meta at Cape Harbour Subdivision, for the purpose of re-platting a portion of R-1 and amending language related to the permitted uses as stated within Ordinance 89-06.

#### PROJECT HISTORY

The Meta at Cape Harbour development, as part of Cape Harbour Subdivision, was approved by Ordinance 80-0, in October of 2001. When approved, the development plan consisted of a specific number of traditionally zoned Tracts that were designated for a specific type of commercial or multi-family residential use.

In June of 2004, the City of Cape Coral amended the Land Use and Development Regulations, by Ordinance 60-04, to permit compound use buildings and multi-family development within Lots/Tracts that are zoned C-1 and have a Mixed Use Land Use designation and which met the conditions within the City's Comprehensive Future Land Use Element for Mixed Use parcels. The first compound use buildings, within the Meta project and within the City of Cape Coral, were approved and constructed on Tracts C-2 & C-3 by Ordinance 120-04, which provided for Multi-family dwelling units to be located within the Pedestrian Commercial Zoned Tracts.

In March of 2011, the City of Cape Coral further amended the City's Land Use and Development Regulations, by Ordinance 2-11, to permit multi-family units to be developed within Lots/Tracts that are zoned C-1 (Professional Commercial), have a Land Use designation of Mixed Use (MX), which have been approved through the City's Planned Development Process (PDP), and which met the amended Mixed Use requirements within the City's Comprehensive Plan.



Currently, the Land Use and Development Regulations and the City's Comprehensive Plan allow Mixed Use Land Use Projects that had obtained approved through the City's PDP process prior to October 23, 2010, that are zoned C-1 to develop as a compound use building development, as a compound use site with both MF residential and a commercial use on the same Lot/Tract, or as a commercial development for office, retail, service, or restaurant uses.

As such, the City's current Land Use and Development Regulations would permit the remaining undeveloped Tracts within the Meta at Cape Harbour project (R-1, C-4, C-5, and a portion of Tract C-6) to be developed as Multi-family as long as a commercial use was established on the same tract, as stand-alone compound use buildings, as stand-alone commercial uses, or any combination of MF, compound use buildings, or commercial uses as permitted within the City's C-1 Zoning District.

However, Ordinance 89-06, while it provides for the development of Meta at Cape Harbour to be all uses which are permitted within the City's C-1 (Pedestrian Commercial) Zoning District, the Ordinance also states in Section II.A.2 that Meta at Cape Harbour has been approved for "compound use buildings on Pedestrian Commercial (C-1) Tracts", suggesting that other permitted uses within the City's Pedestrian Commercial Zoning District, such as commercial use, or a MF development that includes a commercial use.

Construction has been completed on the Recreation Tract (A), three (3) of the Residential Tracts, (R-3, R-2, R-5), three (3) of the Commercial Tracts (C-1, C-2, C-3) and a few of the residential waterfront lots. The remaining undeveloped Tracts, R-1 (hereby called C-7), C-4, C-5, and a portion of Tract C-6 are seeking the ability to develop each tract to meet the market needs for this community, which may consist of compound use buildings, MF residential with a commercial use, or just commercial uses.

This PDP requests the following:

#### REPLAT/SUBDIVISION APPROVAL

The applicant requests approval to re-plot 2.57 acres of Tract B, Block 7004 (aka R-1), within the Meta at Cape Harbour Subdivision, into a development Tract to be hereinafter known as C-7, as shown on the Preliminary Subdivision Plan, pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations.

Final platting shall be accomplished in accordance with Chapter 177 of the Florida Statutes.

#### MODIFICATION TO ORDINANCE #89-06

The applicant requests that Section II, A, 2, within Ordinance 89-06, be amended as follows: "The Meta at Cape Harbour has been approved for the following uses on Tracts zoned C-1 (Pedestrian Commercial District): "multi-family dwelling units that include a commercial use on each Tract, compound use buildings, boat slips, marina, hotel, restaurants, office, commercial services, and all other commercial uses listed as permitted uses within the City's C-1 Zoning District (attached). Single family and Multi-family uses are approved for Tracts or Lots zoned R-3. Private roads, surface water management tracts and a wall buffering system are also allowed uses within this development."



As previously approved for this project, the applicant requests the ability to continue to distribute the allowable density and intensity for the entire development on a project-wide basis.

#### Public Interest

- By offering new housing options within the City, this development will be contributing to meeting the Comprehensive Plan Housing Element goal that endeavors to, "provide good quality housing in safe, clean neighborhoods, offering a broad choice of options to meet the needs of present and future residents..."
- The development of uniquely designed quality housing will help maintain and/or increase taxable property values, which is beneficial to the City as a whole.
- This development's future success is dependent on its distinct character, unique development styles and opportunities for multiple developers, and its success will help complete the development of Meta at Cape Harbour, a quality mixed use project within the City of Cape Coral.

#### CONSISTENCY WITH THE COMPREHENSIVE PLAN

The following Comprehensive Plan policies and goals are relevant to this project.

##### Housing Element

Goal: To provide good quality housing in safe, clean neighborhoods, offering a broad choice of options in both type (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status.

##### Future Land Use Element

Policy 1.15. f. Mixed Use: The mixed use designation is intended to encourage the development of planned projects that include more than one type of use.

Properties one (1) acre and greater: Larger properties are prime candidates for mixed use developments. These properties shall include more than one type of use. The mix of uses may include residential, retail, office, services, light industrial, preservation/open space, public facilities, parkland, or historical resources. Such uses may be mixed horizontally on a site or may be within a compound use building, i.e. differing uses within one building or structure, consisting of residential and retail office, and/or services. Mixed Use developments approved prior to October 23, 2010 may continue to abide by the development requests granted within their respective adopted development orders or approved site plans.

Policy 4.1: Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas.

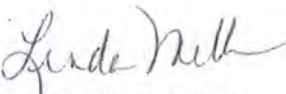
Policy 8.5: The City encourages the use of multi-family residential, compound buildings, professional offices, and parks as transitional uses between commercial development and low-density residential neighborhood.

Cautero/Meta at Cape Harbour PDP Amendment  
September 29, 2017  
Revised April 30, 2018  
Page 4

Adoption of these refinements to the development order will allow the design team to continue to make the vision of this distinct development a reality. Should you or your staff have questions regarding this request please let me know.

Sincerely,

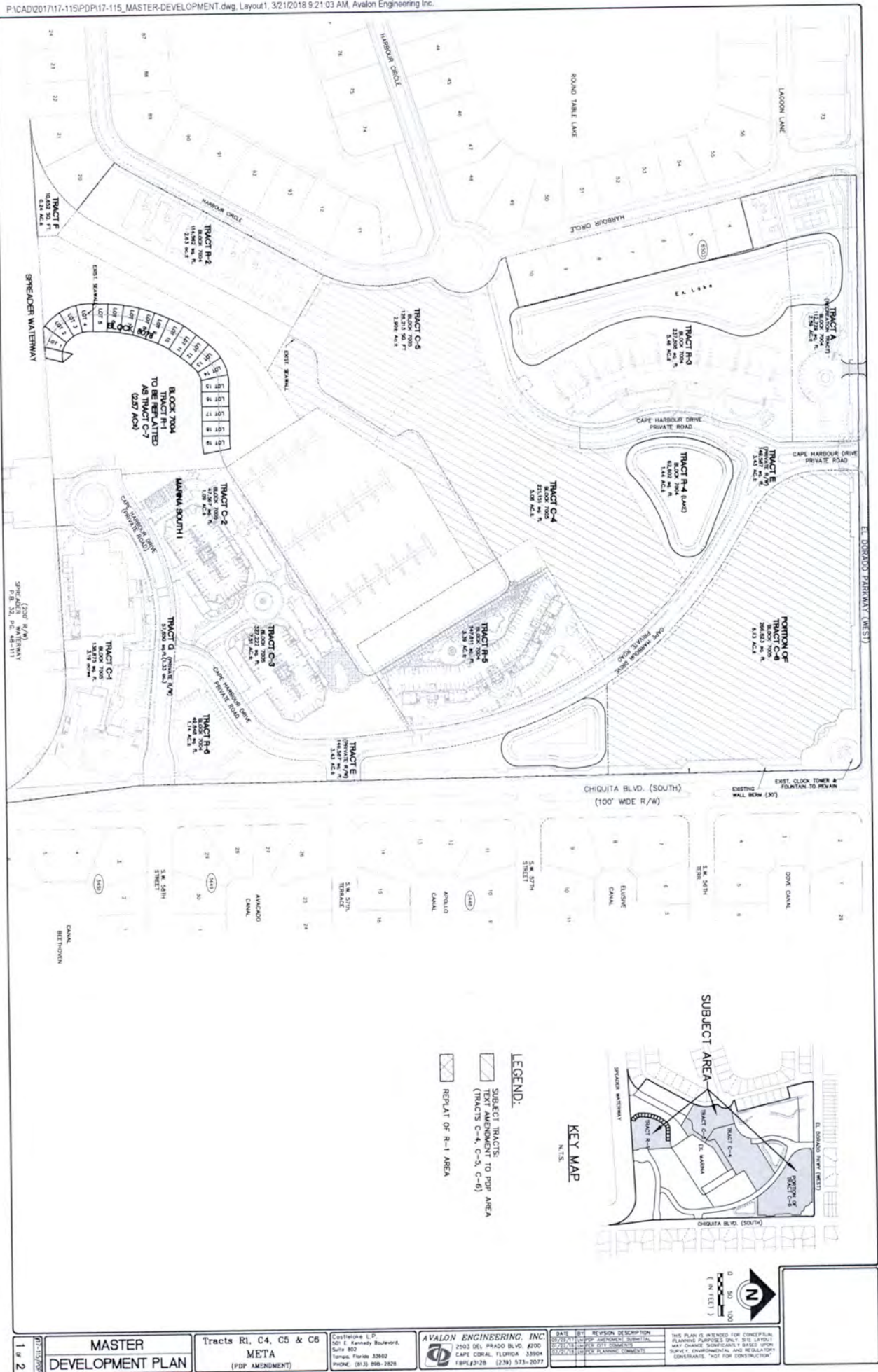
AVALON ENGINEERING, INC.

A handwritten signature in cursive script, appearing to read "Linda Miller".

Linda Miller, AICP  
Senior Planner

c: Anne Pollack, Fletcher & Fischer





06/29/78	(M)	FOR AMENDMENT SUBMITTING
07/29/78	(M)	FOR CITY COMMISSION
08/23/78	(M)	FOR PLANNING COMMISSION
09/27/78	(M)	FOR CONSTRUCTION

# **Protected Species Assessment**

**November 2017**

Prepared for:

**CRE Cape Harbour Land LLC  
and  
CRE Cape Harbour Marina, LLC  
8117 Preston Road Ste 450  
Dallas, Texas 75225**

Prepared by:

**Avalon Engineering, Inc.**  
2503 Del Prado Boulevard South, Suite 200  
Cape Coral, Florida 33904



## INTRODUCTION

This site consists of three undeveloped parcels (C-6, C-4/C-5, and the remaining portion of R-1) within the Meta at Cape Harbour Subdivision, containing approximately 16.38 acres.

Single Family residential lots and the Cape Harbour residential portion of the project are adjacent to the lots within this assessment.

The parcels are located in Section 21, Township 45S, Range 23E, on Shell Drive and Cape Harbour Drive.

## SITE CONDITIONS

A site inspection was conducted by Scott Tucker on November 1, 2017. The weather was sunny with temperatures in the mid 80's.

## VEGETATION CLASSIFICATIONS

The table below displays the (#1) vegetative associations found on the subject parcel. These vegetative associations were identified using the Florida Land Use Cover Classification System. (FLUCCS) and are shown on the table below. Also included is a description of each FLUCCS association below.

FLUCCS CODE	DESCRIPTION	APPROXIMATE ACREAGE
192	Inactive land with street patterns but without structures (routinely mowed).	16.38
	<b>TOTAL ACREAGE</b>	

## SURVEY METHOD

To provide at least 100% visual coverage, four centered transects were completed at 25' to 30' intervals within the construction area. This method was selected to examine for the presence or absence of protected or listed species within the entire construction area.

If a sign or sighting was observed, an aerial photograph was marked depicting the approximate location. The attached scale aerial map depicts the results of this survey. Other listed protected species which could occur on the subject parcel according to City of Cape Coral which were surveyed for are as follows:

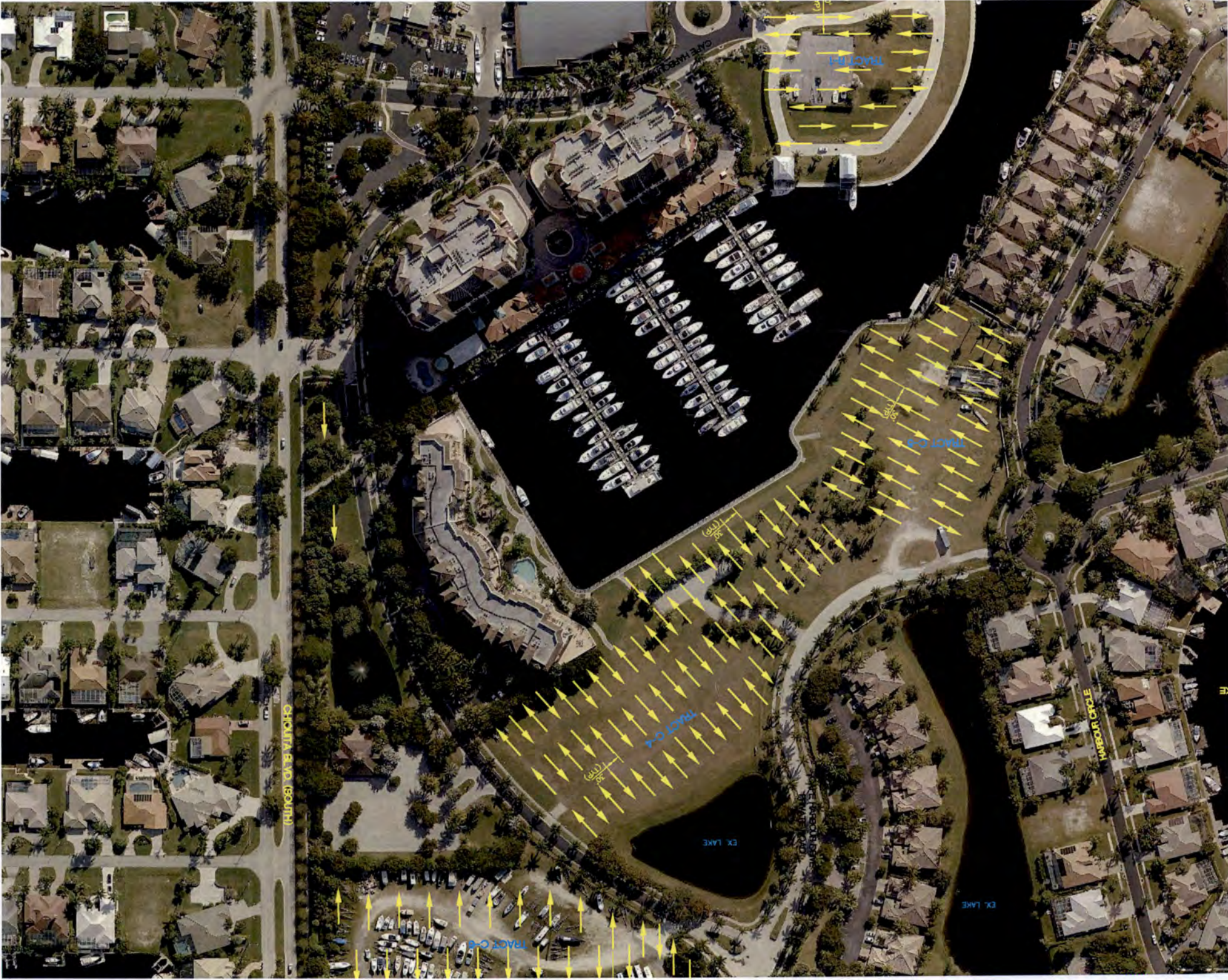
SPECIES	SCIENTIFIC NAME	OBSERVED
Burrowing Owl	Athene cunicularia	No
Gopher Tortoise	Gopherus polyphemus	No

## **RESULTS**

The Protected Species Survey revealed the presence of no species listed by either the U.S. Fish & Wildlife Service (USFWS) or by the Florida Fish & Wildlife Conservation Commission (FFWCC).

Attachment: Transect Line Map







# CITY OF CAPE CORAL

## Burrowing Owl/Gopher Tortoise Affidavit

Contractor or Owner  
CRE Cape Marina LLC

Block 7004

Lot R-1, C-6

Unit

Strap # SEE APPLICATION

Site Address Shell Drive and Cape Harbour Drive

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

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

☒ None (0) ☐ One (1) ☐ Two (2) ☐ Three (3) ☐ Four (4) ☐ (Other) \_\_\_\_\_

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

☐ OPTION 1: STATE AND/OR FEDERAL PERMITS ARE NECESSARY. I understand that State and/or Federal permits are required prior to the commencement of development activity.

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

☒ OPTION 2: NO STATE PERMITS ARE NECESSARY. No Burrowing Owl and/or Gopher Tortoise burrows exist on or adjacent to the aforementioned property, including those located in abutting City rights-of-way.

☐ OPTION 3: NO STATE PERMITS ARE NECESSARY. Appropriate buffers will be maintained during all phases of construction.

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

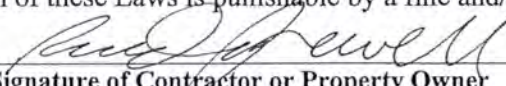
By accepting local building permits, I hereby assume all responsibility to ensure the protection of Burrowing Owls and/or Gopher Tortoises and their burrow(s) during all phases of construction activity. I will maintain a protection zone during all phases of construction. The protection zone should extend a radius of 10 feet (20-foot diameter) from the Burrowing Owl burrow entrance, and/or 25 feet (50-foot diameter) from the Gopher Tortoise burrow entrance. **All burrows must be staked using the aforementioned dimensions.** Permanent installation of a T-perch is recommended for Burrowing Owls. I understand that molesting, harassing, or injuring Burrowing Owls or Gopher Tortoises or their burrows is a crime. The City is required to notify the law enforcement division of the Florida Fish & Wildlife Conservation Commission if a Wildlife violation is observed.

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

I understand that the City is not liable for an applicant's failure to obtain state and/or federal permits, is not liable for the applicant's failure to fulfill obligations imposed by a state and/or federal agency, and is not liable for any actions taken by the applicant that result in violations to state and/or federal law. Further, I also understand that the City requires that all applicable state and federal permits be obtained **prior to** the commencement of development activities. I am fully aware that the failure to secure such permits will result in a **Stop Work Order** being issued on my site.

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

BY: RUDY NEWELL, VICE PRESIDENT  
Print Name & Title of Contractor or Property Owner

  
Signature of Contractor or Property Owner  
(Signature Must be Notarized)

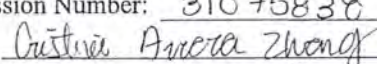
STATE OF Minnesota, COUNTY OF Hennepin

Subscribed and sworn to (or affirmed) before me this 7 day of December, 2017, by

Rudy Newell who is personally known or produced \_\_\_\_\_  
Printed name of person signing as identification



CRISTINA AURORA ZHANG  
NOTARY PUBLIC - MINNESOTA  
MY COMMISSION EXPIRES 01/31/21

Exp. \_\_\_\_\_ Commission Number: 31075838  
Signature of Notary Public:   
Printed name of Notary Public: Cristina Aurora Zhang



# CITY OF CAPE CORAL

## Burrowing Owl/Gopher Tortoise Affidavit

Contractor or Owner

CRE Cape Harbour Land LLC

Block 7005

Lot C-4, C-5

Unit

Strap # SEE APPLICATION

Site Address Shell Drive and Cape Harbour Drive

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

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

☒ None (0) ☐ One (1) ☐ Two (2) ☐ Three (3) ☐ Four (4) ☐ (Other) \_\_\_\_\_

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

☐ OPTION 1: STATE AND/OR FEDERAL PERMITS ARE NECESSARY. I understand that State and/or Federal permits are required prior to the commencement of development activity.

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

☒ OPTION 2: NO STATE PERMITS ARE NECESSARY. No Burrowing Owl and/or Gopher Tortoise burrows exist on or adjacent to the aforementioned property, including those located in abutting City rights-of-way.

☐ OPTION 3: NO STATE PERMITS ARE NECESSARY. Appropriate buffers will be maintained during all phases of construction.

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

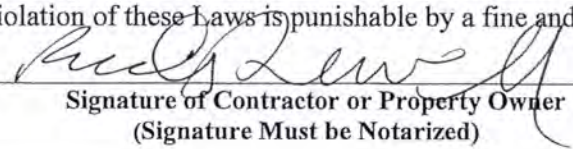
By accepting local building permits, I hereby assume all responsibility to ensure the protection of Burrowing Owls and/or Gopher Tortoises and their burrow(s) during all phases of construction activity. I will maintain a protection zone during all phases of construction. The protection zone should extend a radius of 10 feet (20-foot diameter) from the Burrowing Owl burrow entrance, and/or 25 feet (50-foot diameter) from the Gopher Tortoise burrow entrance. All burrows must be staked using the aforementioned dimensions. Permanent installation of a T-perch is recommended for Burrowing Owls. I understand that molesting, harassing, or injuring Burrowing Owls or Gopher Tortoises or their burrows is a crime. The City is required to notify the law enforcement division of the Florida Fish & Wildlife Conservation Commission if a Wildlife violation is observed.

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

I understand that the City is not liable for an applicant's failure to obtain state and/or federal permits, is not liable for the applicant's failure to fulfill obligations imposed by a state and/or federal agency, and is not liable for any actions taken by the applicant that result in violations to state and/or federal law. Further, I also understand that the City requires that all applicable state and federal permits be obtained prior to the commencement of development activities. I am fully aware that the failure to secure such permits will result in a Stop Work Order being issued on my site.

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

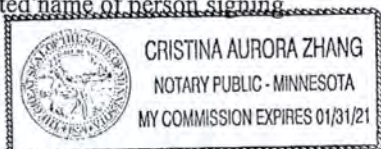
BY: RUDY NEWELL, VICE PRESIDENT  
Print Name & Title of Contractor or Property Owner

  
Signature of Contractor or Property Owner  
(Signature Must be Notarized)

STATE OF Minnesota, COUNTY OF Hennepin

Subscribed and sworn to (or affirmed) before me this 1 day of December, 2017, by

Rudy Newell who is personally known or produced  
Printed name of person signing as identification



Exp. \_\_\_\_\_ Commission Number: 31075838  
Signature of Notary Public: Cristina Aurora Zhang  
Printed name of Notary Public: Cristina Aurora Zhang



Cape Harbour Estimate of Existing and Available PM Peak Hour Traffic Trips  
Summary prepared on 5/24/2016

Type of Uses (Existing)	ITE Code	Trip Generator Manual Rate per use	# of Units or Square Footage	# of PM Peak Hour Trips Generated
Quality Restaurant	831	9.02 per 1000 sq.ft.	4,700 + 6,500	101.02
High Turn Over Restaurant	932	18.49 per 1000 sq.ft.	2,200	40.68
Coffee Shop	937	36.16 per 1000 sq.ft.	2,500	90.40
Retail	826	5.02 per 1000 sq.ft.	3,400 + 3,600 + 1325	41.79
General and Boat Sales Office	710	1.49 per 1000 sq.ft.	3,200 + 6,547	14.52
Boat Storage	420	0.21 per slip	160 spots / 27,384	33.60
Boat Slips	420	0.21 per slip	76 slips	15.96
Multi-family	230	0.52 per unit	278 units	144.56
Single Family	210	1.02 per dwelling unit	19 lots	19.38
Personal Service (Hair salon & Spa)	918	1.93 per 1000 sq.ft.	2,700	5.21
Total Estimated PM Peak Hour Trips for Existing Uses				507.12
Total Estimated PM Peak Hour Trips available for the undeveloped tracts within Cape Harbour (970 max. - 507.12 existing)				462.88
Type of Use (Proposed for vacant tracts-for build-out)		Trip Generator Manual Rate per use	# of Units or Square Footage	# of PM Peak Hour Trips Generated
Congregate Care Facility	253	0.20 per unit	250 rooms	50.00
Residential Condo Units	230	0.52 per dwelling unit	300 units	156.00
Hotel	310	0.74 per occupied room	200 room	148.00
High Turn over Restaurant	932	18.49 per 1000 sq.ft.	3,000	55.47
General Office	710	1.49 per 1000 sq.ft.	2,000	2.98
Retail	826	5.02 per 1000 sq.ft.	3,000	15.06
Total PM Peak Hour trips for the additional uses that could be developed within Cape Harbour				427.51
Summary Notes:				
PM Peak Hour Trips change with each change of use within the rental units.				
This summary does not take into account any reduction for capture rates.				
The single family lots west of Meta have been removed from this summary.				



Cape Harbour Estimate of Existing and Available PM Peak Hour Traffic Trips  
Summary prepared on 6/21/2017 for a Build-Out of the remaining tracts R-1, C-4, C-5, and C-6 with MF units only

Type of Uses (Existing)	ITE Code	Trip Generator Manual Rate per use	# of Units or Square Footage	# of PM Peak Hour Trips Generated
Quality Restaurant	831	9.02 per 1000 sq.ft.	4,700 + 6,500	101.02
High Turn Over Restaurant	932	18.49 per 1000 sq.ft.	2,200	40.68
Coffee Shop	937	36.16 per 1000 sq.ft.	2,500	90.40
Retail	826	5.02 per 1000 sq.ft.	3,400 + 3,600 + 1325	41.79
General and Boat Sales Office	710	1.49 per 1000 sq.ft.	3,200 + 6,547	14.52
Boat Storage	420	0.21 per slip	160 spots / 27,384	33.60
Boat Slips	420	0.21 per slip	76 slips	15.96
Multi-family	230	0.52 per unit	278 units	144.56
Single Family	210	1.02 per dwelling unit	19 lots	19.38
Personal Service (Hair salon & Spa)	918	1.93 per 1000 sq.ft.	2,700	5.21
Total Estimated PM Peak Hour Trips for Existing Uses				507.12
Total Estimated PM Peak Hour Trips available for the undeveloped tracts within Cape Harbour (970 max. - 507.12 existing)				462.88
Type of Use (Proposed for vacant tracts- for build-out)		Trip Generator Manual Rate per use	# of Units or Square Footage	# of PM Peak Hour Trips Generated
Residential Condo Units	230	0.52 per dwelling unit	722	375.44
Total PM Peak Hour trips for the proposed units				375.44
Summary Notes:				
PM Peak Hour Trips change with each change of use within the rental units.				
This summary does not take into account any reduction for capture rates.				
The single family lots west of Meta have been removed from this summary.				

Tract C-1	Boat Storage	160 slips	1 per 4 slips
	Retail in Boat House	6,547 sqft	4.5 spaces per 1000
	Restaurant	6,524 sqft	1 per 100
	Out-door seating	136 seats	1 per 4 seats
<b>Total Tract C-1</b>			
Tract C-2 / C-3			
Marina Building # 2	Multi - Use	8,267 sq ft	4.0 spaces per 1000
Tower # 1	Multi - family	110 Du	2.0 spaces per 2-bedroom (44)
			2.5 spaces per 3-bedroom (66)
	Kiosk	1,800 sqft	4.0 spaces per 1000
Marina Building # 1	Multi - Use	9,130 sq ft	4.0 spaces per 1000
Tower # 2	Multi-family	110 DU	2.0 spaces per 2-bedroom (44)
			2.5 spaces per 3-bedroom (66)
	Kiosk	1,800 sq ft	4.0 spaces per 1000
<b>Total Tract C-2 / C-3</b>			
Tract C-4/ C-5	Multi-use	None	
Tract C-6	Sales office	4,020	1 space per 300 square feet
Tract R-5	Multi-family	58 DU	2.0 spaces per unit
Block 7004 Tract B	Multi-Use	None	
	Restaurant / Retail	None	1 space per 100 / 1 space per 200
	Dry Storage	None	1 per 4 slips/stalls
Block 7003 Lots 1-19	Single Family	19 Lots	2 spaces per homesite



Parking spaces required	Spaces provided on site at the time of permitting	Spaces provided off-site at the time of permitting / where	Deviation obtained at the time of the site permit
40	0	40 / Total of 94 / C-2	
30	0	30 / Total of 94 /C-2	
66	36	30 / Total of 51 / R-6	
34 - 13 = 21	0	34/ Total of 51 / R-6	reduction of 13 spaces
<b>157</b>	<b>36 on-site</b>	<b>94 + 51 = 145 spaces</b>	
34	54 (surface parking)	N/A	N/A
88			
165			
8			
37	256 spaces in garage and 24 surface parking spaces	18 spaces from MB # 1 surface parking	No deviation requested
88			
165			
8	250 in garage		
593	506 in garage 24 spaces		
14	65 provided		
116	123 spaces provided		
N/A			
N/A			
N/A			

Deviation obtained in a later Ordinances	Current parking spaces required	Current parking provided	Overage / Shortage
	40	0	
	30	0	
	66	36	
	21	51 on Tract R-6	
	<b>157</b>	<b>87</b>	<b>-70</b>
	34	garage only	
1.36 spaces per unit / 89-06	60	garage only	
1.36 spaces per unit / 89-06	90	garage only	
	8	garage only	
	37	garage only	
1.36 spaces per unit / 89-06	60	garage only	
1.36 spaces per unit / 89-06	90	garage only	
	8	garage only	
	387	506 + 24 surface parking = 530	143
1.36 spaces per unit / 89-06	0		
1.36 spaces per unit / 89-06	14	65	51
N/A	116	123	7
1.36 spaces per unit / 89-06	0		
1 space per 250 sq.ft.	0		
one parking space required	0		
one space per homesite	19		



This instrument was prepared by:  
Julie M. Drake, Esquire  
Bolaños Truxton, PA  
12800 University Drive, Suite 350  
Fort Myers, Florida 33907

### ACCESS EASEMENT AGREEMENT

This Access Easement Agreement (the "Easement Agreement") is made effective this 3<sup>rd</sup> day of April, 2009 (the "Effective Date"), between Realmark Cape Marina, LLC, a Florida limited liability company ("RCM") and Realmark Homes, LLC, a Florida limited liability company (the "RH").

#### Preliminary Statement

RCM is the owner of that certain real property situate, lying and being in Lee County, Florida, as more particularly described on Exhibit "A" hereto (the "RCM Property").

RH is the owner of that certain real property situate, lying and being in Lee County, Florida, as more particularly described on Exhibit "B" hereto (the "RH Property") consisting of nineteen (19) residential lots (the "Lots", and each being referred to herein as a "Lot").

RH desires to obtain and RCM desires to grant to RH easements for vehicular access to the Lots.

NOW THEREFORE, in consideration of the sum of Ten and No/100 (\$10.00) Dollars, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties have agreed, as follows:

1. Preliminary Statement. The Preliminary Statement is true and correct and, by this reference is incorporated into and made part of this Easement Agreement.

2. Grant of Easements. RCM hereby grants to RH and any subsequent owners of Lots within the RH Property a perpetual non-exclusive easement, in favor of each owner of a Lot, together with his lessees, licensees, invitees, family members and guests, for vehicular ingress and egress over, through and across that portion of the RCM Property, which is described on Exhibit "C" (the "Easement").

3. Right to Modify. RCM shall have the right to relocate and/or reduce the road width of the Easement, from time to time, within the RCM Property in accordance with the requirements of any and all applicable governmental authority. RCM shall also have the right to restrict traffic to travel one-way, in accordance with signage to be placed within the Easement.

4. Obstructions. No barriers, fences, walls, ditches, barricades, or other structures will be erected on or along the Easement so as to unreasonably burden or interfere with the purpose for which the Easement was granted.

5. Term and Amendment. This Easement Agreement shall become effective upon its recordation in the Public Records of Lee County, Florida, and shall run with the land, regardless of whether specifically mentioned in any subsequent deed or conveyance of all or a part of the RCM or RH Property. This Easement Agreement may be amended or modified only by an instrument signed by the all of the owners of the RCM or RH Property. No amendment shall become effective prior to a duly executed and acknowledged copy being recorded in the Public Records of Lee County, Florida.

6. Not a Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the RCM or RH Property to the general public or for any public use or purpose whatsoever.

7. Severability. Invalidation of any term or provision of this Easement Agreement, by judgment or court order, shall not affect any of the other provisions hereof which shall remain in full force and effect.

8. Successors and Assigns. The Easement Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and/or assigns.

9. Interpretation. Unless the context otherwise requires, the use of the singular shall include the plural and vice versa. The headings used herein are for convenience only and shall not be given any weight in interpreting or construing the substantive provisions hereof.

10. Exhibits. All exhibits referenced herein and attached hereto are incorporated in this Easement Agreement by this reference.

11. Governing Law. This Easement Agreement shall be governed by and construed in accordance with the laws of the State of Florida.



IN WITNESS WHEREOF, the parties have executed this Easement Agreement and on this 3<sup>rd</sup> of April, 2009.

Signed, sealed and delivered  
in the presence of:

Grantor:

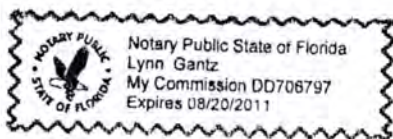
Realmark Cape Marina, LLC,  
a Florida limited liability company

Sign: [Signature]  
Print Name: Aileen Gibbs  
Sign: [Signature]  
Print Name: JANE Kirkman

By: [Signature]  
Craig A. Dearden, President

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was sworn to and acknowledged before me this 3<sup>rd</sup> day April, 2009, by Craig A. Dearden, as Vice President of Realmark Cape Marina, LLC, a Florida limited liability corporation. He (☒) is personally known to me or ( ) has produced \_\_\_\_\_ identification.



[Signature]  
Notary Public, State of Florida  
Print Name: Lynn Gantz  
My commission expires: 08/20/2011

Grantee:

Realmark Homes, LLC,  
a Florida limited liability company

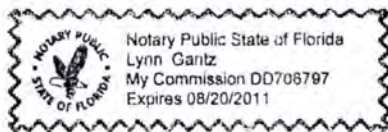
Sign: [Signature]  
Print Name: Aileen Gibbs

By: [Signature]  
Craig A. Dearden,  
Vice President

Sign: [Signature]  
Print Name: JANE Kirkman

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was sworn to and acknowledged before me this 3<sup>rd</sup>  
day April, 2009, by Craig A. Dearden, as Vice-President of Realmark Homes, LLC, a  
Florida limited liability corporation. He (☒) is personally known to me or ( ) has  
produced \_\_\_\_\_ identification.



[Signature]  
Notary Public, State of Florida  
Print Name: Lynn Garitz  
My commission expires: 08/20/2011





**Index of Exhibits**

- A.        **The RCM**
- B.        **The RH Property**
- C.        **Easement**



Exhibit "A"

The RCM Property

Tract R-1 of Meta at Cape Harbour, according to the plat thereof, recorded in Plat Book 71 at Page 74 of the Public Records of Lee County, Florida.

Less and except the RH Property.

Exhibit "B"

The RH Property

The Waterfront at Cape Harbour, recorded as Instrument Number  
2008000125434 in the Public Records of Lee County, Florida

Exhibit "C"

Easement



EXHIBIT CLEGAL DESCRIPTION:

A TWENTY-FIVE FOOT (25') MAINTENANCE AND ACCESS EASEMENT LYING IN TRACT R-1, BLOCK 7004, META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND SITUATED IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

COMMENCE AT THE SOUTHWEST CORNER OF TRACT R-1, META AT CAPE HARBOUR. FROM SAID POINT OF COMMENCEMENT RUN N87°02'56"E ALONG THE SOUTHERLY LINE OF SAID TRACT R-1 FOR A DISTANCE OF 218.64 FEET TO THE POINT OF BEGINNING, BEING A NON-TANGENT POINT OF CURVATURE OF A 116.54 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST, TO WHICH A RADIAL LINE BEARS S35°04'12"W, HAVING A CENTRAL ANGLE OF 9°49'25", A CHORD BEARING AND DISTANCE OF N50°01'08"W AND 19.96 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 19.98 FEET TO A POINT OF COMPOUND CURVATURE OF A 140.78 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, TO WHICH A RADIAL LINE BEARS S45°18'46"W, HAVING A CENTRAL ANGLE OF 49°40'27", A CHORD BEARING AND DISTANCE OF N19°51'01"W AND 118.27 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 122.05 FEET TO THE POINT OF COMPOUND CURVATURE OF A 383.23 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, TO WHICH A RADIAL LINE BEARS S88°47'27"W, HAVING A CENTRAL ANGLE OF 16°16'25", A CHORD BEARING AND DISTANCE OF N06°55'39"E AND 108.48 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 108.85 FEET TO THE POINT OF COMPOUND CURVATURE OF A 486.97 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, TO WHICH A RADIAL LINE BEARS N74°02'08"W, HAVING A CENTRAL ANGLE OF 11°23'00", A CHORD BEARING AND DISTANCE OF N21°39'22"E AND 96.59 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 96.75 FEET TO THE POINT OF COMPOUND CURVATURE OF A 536.60 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, TO WHICH A RADIAL LINE BEARS N58°03'12"W, HAVING A CENTRAL ANGLE OF 10°15'02", A CHORD BEARING AND DISTANCE OF N37°04'19"E, 95.87 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 96.00 FEET TO THE POINT OF COMPOUND CURVATURE OF A 122.76 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, TO WHICH A RADIAL LINE BEARS N47°48'10"W, HAVING A CENTRAL ANGLE OF 47°40'38", A CHORD BEARING AND DISTANCE OF N66°02'09"E AND 99.23 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 102.15 FEET; THENCE RUN N89°52'29"E FOR A DISTANCE OF 121.04 FEET TO A NON-TANGENT POINT OF CURVATURE OF A 131.81 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, TO WHICH A RADIAL LINE BEARS S02°40'48"W, HAVING A CENTRAL ANGLE OF 13°02'55", A CHORD BEARING AND DISTANCE OF N86°09'20"E AND 29.95 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 30.02 FEET TO AN INTERSECTION WITH A LINE THAT BEARS S10°22'07"E; THENCE RUN S10°22'07"E FOR A DISTANCE OF 25.00 FEET TO A NON-TANGENT POINT OF CURVATURE OF A 156.81 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, TO WHICH A RADIAL LINE BEARS S10°22'07"E, HAVING A CENTRAL ANGLE OF 12°48'55", A CHORD BEARING AND DISTANCE OF S86°02'20"W AND 35.00 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 35.07 FEET; THENCE RUN S89°52'29"W FOR A DISTANCE OF 120.45 FEET TO THE POINT OF CURVATURE OF A 93.35 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, TO WHICH A RADIAL LINE BEARS N01°04'27"E, HAVING A CENTRAL ANGLE OF 47°40'38", A CHORD BEARING AND DISTANCE OF S66°02'09"W AND 79.02 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 81.35 FEET TO THE POINT OF COMPOUND CURVATURE OF A 511.60 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, TO WHICH A RADIAL LINE BEARS N47°48'10"W, HAVING A CENTRAL ANGLE OF 10°08'17", A CHORD BEARING AND DISTANCE OF S37°07'42"W AND 90.40 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 90.52 FEET TO THE POINT OF COMPOUND CURVATURE OF A 461.97 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, TO WHICH A RADIAL LINE BEARS N62°46'36"W, HAVING A CENTRAL ANGLE OF 11°14'05", A CHORD BEARING AND DISTANCE OF S21°36'22"W AND 90.44 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 90.58 FEET TO THE POINT OF COMPOUND CURVATURE OF A 358.23 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, TO WHICH A RADIAL LINE BEARS N74°05'00"W, HAVING A CENTRAL ANGLE OF 16°27'57", A CHORD BEARING AND DISTANCE OF S06°48'01"W AND 102.60 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 102.95 FEET TO THE POINT OF COMPOUND CURVATURE OF A 115.78 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, TO WHICH A RADIAL LINE BEARS S84°21'54"W, HAVING A CENTRAL ANGLE OF 50°16'35", A CHORD BEARING AND DISTANCE OF S19°30'12"E AND 98.37 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 101.60 FEET TO THE POINT OF COMPOUND CURVATURE OF A 91.54 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, TO WHICH A RADIAL LINE BEARS S44°50'10"W, HAVING A CENTRAL ANGLE OF 31°17'52", A CHORD BEARING AND DISTANCE OF S60°48'46"E AND 49.39 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 50.00 FEET TO AN INTERSECTION WITH A LINE THAT BEARS S14°50'44"W; THENCE RUN S14°50'44"W FOR A DISTANCE OF 4.24 FEET TO AN INTERSECTION WITH THE SOUTHERLY LINE OF TRACT R-1; THENCE RUN ALONG SAID SOUTHERLY LINE S87°02'56"W FOR A DISTANCE OF 44.50 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 17,160 sq. ft. OR 0.39 ACRES, MORE OR LESS.

## DESCRIPTION TO ACCOMPANY SKETCH

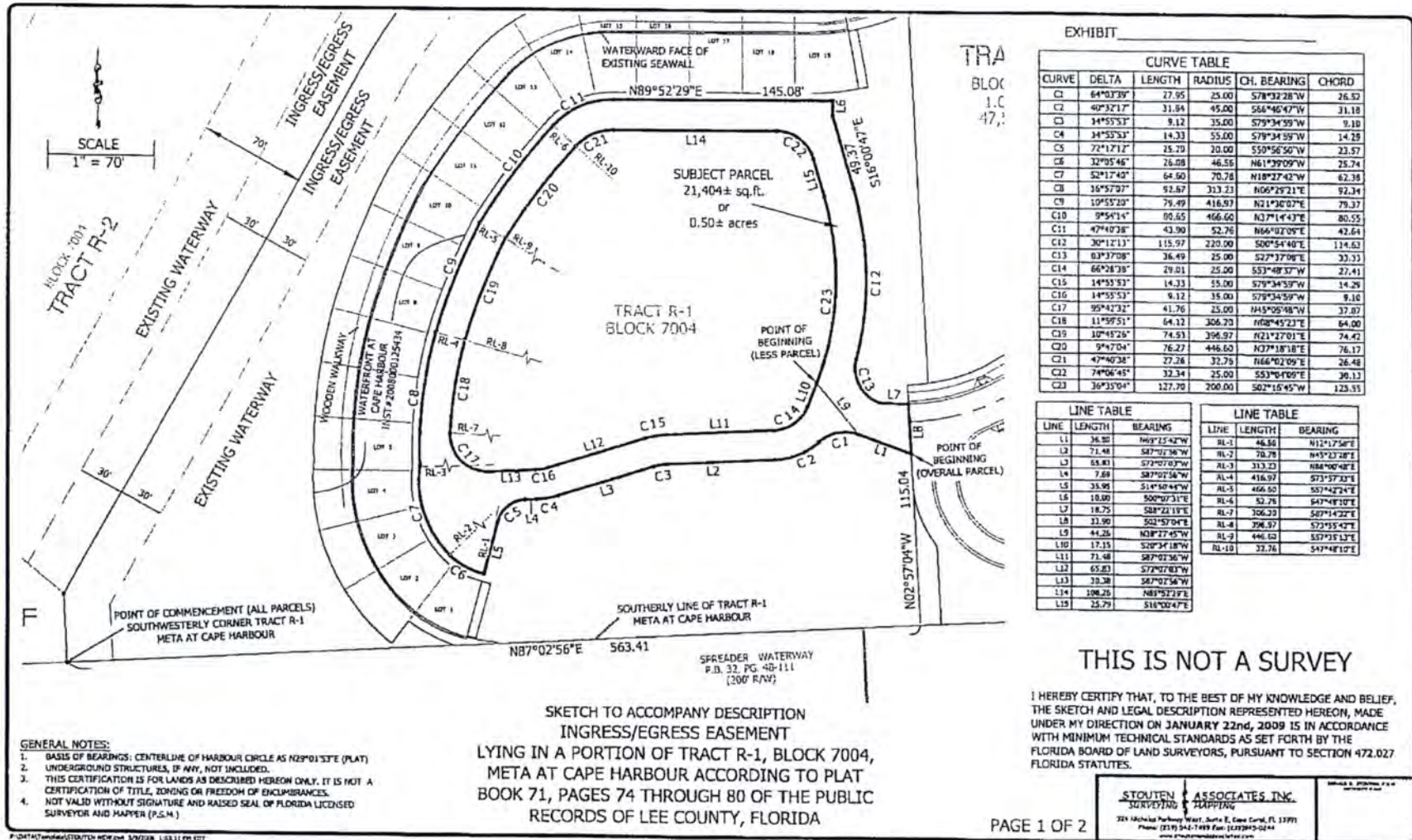
TWENTY-FIVE FOOT (25') MAINTENANCE AND ACCESS EASEMENT

A PORTION OF TRACT R-1, BLOCK 7004, META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

STOUTEN & ASSOCIATES, INC.  
SURVEYING & MAPPING  
311 Hickory Pointe West, Suite E, Cape Coral, FL 33904  
Phone: (239) 542-7499 Fax: (239) 542-6244  
www.stoutenandassociates.com

PAGE 2 OF 2







## PERMANENT UTILITY EASEMENT

**T**his Grant of Easement, made this 3rd day of August, 2009  
by and between **Realmark Cape Marina, L.L.C.**, a Florida limited liability company, whose  
address is 5789 Cape Harbour Drive, Suite 201, Cape Coral, Florida 33914 as "Grantor",  
and the **CITY OF CAPE CORAL**, a Florida Municipal Corporation, whose mailing address is P.O.  
Box 150027, Attention Real Estate Division, Cape Coral, Florida 33915-0027, as "Grantee".

**WITNESSETH** that said Grantor(s), for and in consideration of the sum of Ten and 00/100 Dollars  
(\$10.00) and other good and valuable consideration to said Grantor(s) in hand paid by said  
Grantee, the receipt whereof is hereby acknowledged, has granted and conveyed to the said  
Grantee, and Grantee's successors and assigns forever, a perpetual easement to survey,  
construct, operate, maintain, remove, replace or abandon utility facilities, in, along, under, above  
and upon the following described land, situate, lying and being in Lee County, Florida, to wit:

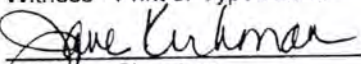
A Public Utility Easement lying in a portion of Tract R-1, Block 7004, Meta at  
Cape Harbour according to Plat Book 71, Pages 74 through 80 of the Public  
Records of Lee County, Florida and situated in Section 21, Township 45 South,  
Range 23 East, Lee County, Florida being more particularly described in Exhibit  
"A", which is attached hereto and incorporated herein by reference.

Reserving unto the Grantor, his successors and assigns forever, the right to construct, maintain,  
install, operate and place upon the above described easement any surface improvements,  
including, without limitation, driveways, curbing, and landscaping provided that such does not  
unreasonably interfere with the utility facilities constructed within said property. Grantor(s), his  
successors and assigns, agrees to assume all liability for any damage to any surface  
improvements constructed by Grantor(s) within the above easement, which result from the actions  
of the Grantee, including, but not limited to, any construction, maintenance or repairs to the utility  
facilities located within the above described easement, in accordance with Section 3.14.5 of the  
City of Cape Coral Land Use and Development Regulations.

**In Witness** Whereof, Grantor(s) has hereunto set their hand(s) the day and year first above  
written.

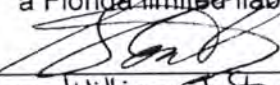
  
Witness - Signature

Craig A. Dearden  
Witness - Print or Type Name

  
Witness - Signature

JANE KIRKMAN  
Witness - Print or Type Name

Realmark Cape Marina, L.L.C.,  
a Florida limited liability company

By:   
Print Name: William J. Stout, Jr.  
Title: Owner





STATE OF: FL §  
COUNTY OF: Lee §



The foregoing instrument was acknowledged before me this 3rd day  
August, 2009 by William J. Stout, as Owner  
of Realmark Cape Marina, L.L.C., a Florida limited liability company  
who is is not personally known by me or has produced \_\_\_\_\_  
\_\_\_\_\_ as identification. (DESCRIBE IDENTIFICATION)

Prepared by:  
City of Cape Coral  
Real Estate Division  
P.O. Box 150027  
Cape Coral, FL 33915-0027  
Strap # 21-45-23-C2-004R1.0000

Julie Peterson  
Notary Signature  
Print Name: Julie Peterson  
(seal)

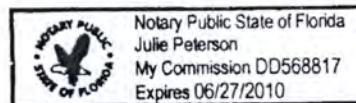
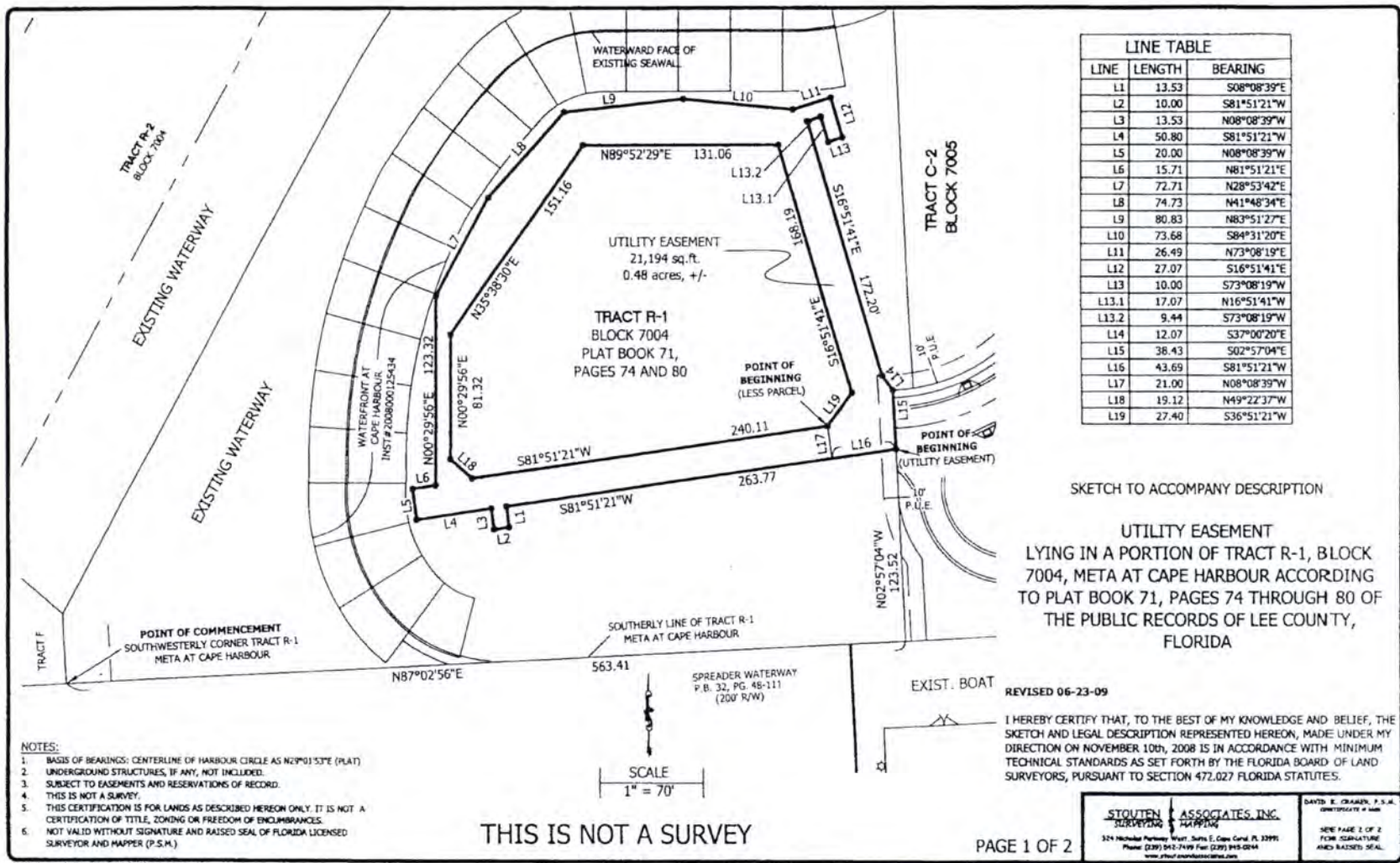


Exhibit A



**LEGAL DESCRIPTION:**

A UTILITY EASEMENT LYING IN A PORTION OF TRACT R-1, BLOCK 7004, META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND SITUATED IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

COMMENCE AT THE SOUTHWESTERLY CORNER OF TRACT R-1, META AT CAPE HARBOUR, BEING A POINT OF THE SOUTHERLY LINE OF SAID TRACT R-1. THENCE RUN N87°02'56"E ALONG SAID SOUTHERLY LINE FOR A DISTANCE OF 563.41 FEET; THENCE LEAVING SAID SOUTHERLY LINE RUN N02°57'04"W FOR A DISTANCE OF 123.52 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING RUN S81°51'21"W FOR A DISTANCE OF 263.77 FEET; THENCE RUN S08°08'39"E FOR A DISTANCE OF 13.53 FEET; THENCE RUN S81°51'21"W FOR A DISTANCE OF 10.00 FEET; THENCE RUN N08°08'39"W FOR A DISTANCE OF 13.53 FEET; THENCE RUN S81°51'21"W FOR A DISTANCE OF 50.80 FEET; THENCE RUN N08°08'39"W FOR A DISTANCE OF 20.00 FEET; THENCE RUN N81°51'21"E FOR A DISTANCE OF 15.71 FEET; THENCE RUN N00°29'56"E FOR A DISTANCE OF 123.32 FEET; THENCE RUN N28°53'42"E FOR A DISTANCE OF 72.71 FEET; THENCE RUN N41°48'34"E FOR A DISTANCE OF 74.73 FEET; THENCE RUN N83°51'27"E FOR A DISTANCE OF 80.83 FEET; THENCE RUN S84°31'20"E FOR A DISTANCE OF 73.68 FEET; THENCE RUN N73°08'19"E FOR A DISTANCE OF 26.49 FEET; THENCE RUN S16°51'41"E FOR A DISTANCE OF 27.07 FEET; THENCE RUN S73°08'19"W FOR A DISTANCE OF 10.00 FEET; THENCE RUN N16°51'41"W FOR A DISTANCE OF 17.07 FEET; THENCE RUN S73°08'19"W FOR A DISTANCE OF 9.44 FEET; THENCE RUN S16°51'41"E FOR A DISTANCE OF 172.20 FEET; THENCE RUN S37°00'20"E FOR A DISTANCE OF 12.07 FEET; THENCE RUN S02°57'04"E FOR A DISTANCE OF 38.43 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 65,092± sq ft. or 1.49± ACRES.

**LESS:**

A PORTION OF TRACT R-1, BLOCK 7004, META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND SITUATED IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

COMMENCE AT THE SOUTHWESTERLY CORNER OF TRACT R-1, META AT CAPE HARBOUR, BEING A POINT OF THE SOUTHERLY LINE OF SAID TRACT R-1. THENCE RUN N87°02'56"E ALONG SAID SOUTHERLY LINE FOR A DISTANCE OF 563.41 FEET; THENCE LEAVING SAID SOUTHERLY LINE RUN N02°57'04"W FOR A DISTANCE OF 123.52 FEET; THENCE RUN S81°51'21"W FOR A DISTANCE OF 43.69 FEET; THENCE RUN N08°08'39"W FOR A DISTANCE OF 21.00 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING RUN S81°51'21"W FOR A DISTANCE OF 240.11 FEET; THENCE RUN N49°22'37"W FOR A DISTANCE OF 19.12 FEET; THENCE RUN N00°29'56"E FOR A DISTANCE OF 81.32 FEET; THENCE RUN N35°38'30"E FOR A DISTANCE OF 151.16 FEET; THENCE RUN N89°52'29"E FOR A DISTANCE OF 131.06 FEET; THENCE RUN S16°51'41"E FOR A DISTANCE OF 168.19 FEET; THENCE RUN S36°51'21"W FOR A DISTANCE OF 27.40 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 43,898± sq ft. or 1.01± ACRES.

OVERALL PARCEL CONTAINS 21,194± sq ft. or 0.48± ACRES.

(BASIS OF BEARINGS: CENTERLINE OF HARBOUR CIRCLE AS N29°01'53"E (PLAT)).

DESCRIPTION TO ACCOMPANY SKETCH  
(REVISED 06-23-09)

UTILITY EASEMENT  
LYING IN A PORTION OF TRACT R-1, BLOCK 7004,  
META AT CAPE HARBOUR ACCORDING TO PLAT  
BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC  
RECORDS OF LEE COUNTY, FLORIDA

PAGE 2 OF 2

STOVITEN SURVEYING & ENGINEERING	ASSOCIATES, INC. PLANNING	DAVID E. QUINN, P.E. REGISTERED PROFESSIONAL ENGINEER
1144 McArthur Parkway, Suite 100, Cape Coral, FL 33904 Phone: (239) 543-7499 Fax: (239) 940-0244 www.stovitenassociates.com		



# **Meta at Cape Harbour PDP Amendment (PDP17-0005)**

Planning Division  
Final Project Staff Report

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

Approved by Robert H. Pederson, AICP, Planning Manager

*May 7, 2018*

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## **PURPOSE**

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

- Description of the Cape Harbour Project
- Description of the project area;
- Requests, analysis, and recommendations;
- General standards and requirements for PDPs;
- Concurrency review;
- Consistency with the City Comprehensive Plan; and
- Project recommendation.

## **DESCRIPTION OF THE CAPE HARBOUR PROJECT**

The applicant seeks to amend a PDP entitled "Meta at Cape Harbour." This project was approved by Ordinance 28-97 and subsequently has been amended by Ordinances 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04, 69-05, and 89-06.

Cape Harbour is a mixed-use project at the southwest corner of Chiquita Boulevard and El Dorado Parkway. The project was approved in 1997 (Ordinance 28-97) and has been amended several times in subsequent years. The development consists of three phases: Cape Harbour Subdivision – Phase 2-A, Cape Harbour Subdivision – Phase 2-B, and Meta at Cape Harbour.

Phase 2-A and 2-B have been approved for 84 detached single-family dwellings with associated infrastructure that includes gated private roads, surface water management tracts, and a wall along El Dorado Parkway West.

The Meta at Cape Harbour phase has been approved for single-family and multi-family dwelling units on Multi-Family Residential (R-3) tracts and compound use buildings on C-1 tracts. Other approved uses include boat slips, hotel, retail, restaurant, and office uses.

## **PROJECT AREA**

This PDP amendment involves 17.22 acres of the 55.64 acres that comprise the Meta at Cape Harbour phase (Figure 1). Information on the three sites appear in Table 1.



Figure 1. Aerial Map Showing the Tracts in Meta Involved in the PDP Amendment.



Table 1. Information on the Parcel in Meta at Cape Harbour Involved in this PDP Amendment.

Tract(s)	Owner	FLU	Zoning	Area (acres)	Existing Uses
C4 and C5	CRE Cape Harbour Land LLC	Mixed Use	C-1	7.98	Mainly vacant; limited parking
Most of C-6	CRE Cape Harbour Marina LLC	Mixed Use	C-1	6.67	Real estate sales
Part of R-1	CRE Cape Harbour Marina LLC	Mixed Use	C-1	2.57	Private street; parking
<b>TOTAL</b>				<b>17.22</b>	



## REQUESTS, ANALYSIS, AND RECOMMENDATIONS

Two requests are sought in this PDP amendment.

1. A replat of a portion of Tract R-1. A replat was triggered when the owner of the site at 5915 Shell Cove Drive sold a small area of land to the owner of Lot 1 in Block 8078 for enlarging a  $\pm 1,760$ -sq. ft. site. This lot was one of 19 similarly small lots approved by Ordinance 89-06 for developing "Funky Fish Houses." These houses are small, two-story dwelling that lack garages and have frontage oriented along the waterway south of the Cape Harbour Marina. Since land within a previously approved subdivision was split from one site and added to another property without first replatting, a PDP amendment is required to replat the sites. Until a replat is approved, the City cannot issue development permits for the affected parcels.
2. An amendment to language appearing in Ordinance 89-06 is requested. This ordinance restricts multi-family units to compound use buildings on C-1 zoned tracts in Meta. Compound use buildings are buildings that contain both residential and nonresidential uses in the same structure. The applicant requests that Tracts C-4, C-5, C-6, and R-1 be allowed to be developed with multi-family units in residential buildings that lack one or more nonresidential uses.

### Analysis: Replat

Staff has analyzed the replat request based on LUDR, Section 4.2.5.I (Subdivision of Land) and Section 2.7.7 (C-1 District). The replatting or resubdivision of land within the City can be approved only by PDP.

The C-1 District has a minimum lot width at the building line requirement of 25 feet that this site exceeds. This district lacks other common dimensional requirements, like minimum lot area.

As a result of this replat, Tract R-1 will be diminished by  $\pm 1,417$  sq. ft. The tract will have a new area of 2.57 acres that will be sufficient for nonresidential, compound use, or mixed-use development. An ingress/egress access easement provides access to owners of the Funky Fish House lots to the west of this site. Utility easements around the perimeter of the site provide areas for the installation and maintenance of utilities.

### Recommendation

Staff recommends **approval** of the replat request.

### Analysis: PDP Amendment to Eliminate the Compound Use Requirement

Cape Harbour is a mixed-use development. Uses allowed in the C-1 District can be developed on the C-1 Tracts. However, multi-family dwellings can only occur on these same tracts within a compound use building. The amendment sought by the applicant is intended to provide the developer with greater flexibility in how future residential and nonresidential uses can be arranged on a particular tract. The amendment would eliminate requiring residential units in a compound use building. However, the C-1 tracts could not be developed exclusively with multi-family units as the C-1 District regulations requires multi-family units on C-1 Tracts only in conjunction with another use on the same property.

### Recommendation

Staff supports this request as this amendment will provide the developer with greater flexibility while ensuring that each tract has a nonresidential use or component. This amendment will allow each



individual tract to be developed under one of three scenarios: 1) with one or more compound use buildings; 2) with one or more nonresidential uses allowed in the C-1 District; or 3) with multi-family units occupying one or more residential buildings with at least one nonresidential use on the same tract.

#### **GENERAL STANDARDS AND REQUIREMENTS FOR PDPS**

This project was also evaluated for compliance with general standards and requirements found in LUDR, Section 4.2 that is provided below.

- A. *Environmental control standards:* This project involves an amendment to an existing PDP and does not authorize new development beyond that previously approved. The applicant has submitted a Protected Species Assessment for the subject sites that reported no species listed by either the U.S. Fish and Wildlife Service or the Florida Fish and Wildlife Commission. The project complies with this standard.
- B. *Maintenance of improvements:* This amendment does not authorize new development. Compliance with City landscaping regulations will be reviewed at the time of site plan review.
- C. *Consistency with Comprehensive Plan:* This project is consistent with several policies and goals in the Comprehensive Plan that are discussed in greater detail later in this report.
- D. *Financial Responsibility:* This amendment does not authorize new development. As a result, this standard is not applicable.
- E. *Dimensional requirements:* One C-1 zoned parcel is being replatted. The parcel has an area of 2.57 acres. The site complies with the minimum dimensional standards of the C-1 District.
- F. *Maximum density:* No new development is proposed by this project. However, C-1 sites with a Mixed Use Future Land Use Classification can be developed with residential dwelling units consistent with those requirements in the C-1 District.
- G. *Minimum parcel size:* The project is in the City Urban Services Infill Area. As a result, there is no minimum parcel or project area for this PDP amendment.
- H. *Time limitation:* Consistent with LUDR, Section 4.2.5F.3.b(3), the approval of the development plan shall lapse unless a final development plan and subdivision plat is submitted within two years from the date of such approval or within one year of the last permit approval from all appropriate regulatory bodies, whichever is less.
- I. *Ownership requirements:* Two property owners own 100% of the land area covered by this PDP amendment.
- J. *Special exceptions:* No special exceptions are sought as part of this PDP amendment.
- K. *Deviations:* No deviations are sought as part of this PDP amendment.

- L. *Underground Utilities:* This PDP does not authorize new development. However, new development on each tract in the future will feature underground utilities.

## CURRENCY REVIEW

The Meta at Cape Harbour PDP met concurrency requirements for roads, sewer, water, drainage, solid waste, and parks when the project was approved in 2001 by Ordinance 80-01. Since this PDP amendment does not involve a change in entitlements that would allow the subject tracts to be developed with greater density or intensity than previously approved, the project is concurrent with City services. However, consistent with a condition appearing in Ordinance 89-06, when existing and proposed uses within the Meta development generate more than 970 trips per weekday P.M. peak hour, an amendment to the Meta PDP must be adopted to accommodate a new threshold for the total number of trips as well as for proposed transportation improvements.

## CONSISTENCY WITH THE COMPREHENSIVE PLAN

This project is consistent with the policies listed below.

### Capital Improvement Element

Policy 1.1. Development Orders or building permit shall not be issued unless adequate capacity exists or is assured in order to maintain the adopted level of service standards for public facilities. **Staff comments: Ordinance 89-06 requires when existing and proposed uses combined within the Meta development generate more than 970 trips per weekday P.M. peak hour, an amendment to the Meta PDP must be adopted to accommodate a new threshold for the total number of trips as well as proposed transportation improvements. This policy is supportive of this request.**

### Conservation and Coastal Management Element

**Policy 1.2.1.** By 2009, the City of Cape Coral will adopt regulations to ensure that, prior to property development, or habitat alteration, of any kind, owners of properties having viable native habitat and/or, which may contain habitat for protected species, undergoing significant development and/or habitat alteration, will be required to provide an environmental survey of their properties and undertake acceptable mitigation, as appropriate. **Staff comments: A protected species assessment of the site, prepared by Avalon Engineering, Inc., was conducted on November 1, 2017. No state or federally protected species were reported nor sensitive lands found. This policy is supportive of this request.**

**Policy 1.2.17:** The City shall require, as a condition of approval for Planned Development Projects and Site Plan Reviews, a protected species survey, which reflects the current conditions (at the time of the review) on the development site. If listed species are known to inhabit or use the site, the applicant shall prepare a protected species management plan. **Staff comments: A protected species assessment of the site, prepared by Avalon Engineering, Inc., was conducted on November 1, 2017. No state or federally protected species were reported nor sensitive lands found. As a result, a protected species management plan was not required. This policy is supportive of this request.**



Housing Element

**Goal:** To provide good quality housing in safe, clean neighborhoods, offering a broad choice of options in both type (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status. **Staff comments:** The C-1 tracts in Meta can be developed with multi-family units in compound use buildings or in separate residential buildings provided a use allowed in the C-1 District occupies the tract. The City has a documented need for additional multi-family housing and this type of housing provides a housing option beyond single-family dwellings that dominate the existing housing stock in the City. This policy is supportive of this request.

Future Land Use Element

**Policy 1.15.f.** Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area ... **Mixed Use:** The mixed use designation is intended to encourage the development of planned projects that include more than one type of use. The baseline maximum permitted densities/intensities of various uses within the mixed use designation will be 4.4 dwelling units per acre for a residential component and 0.5 FAR (Floor Area Ratio) for nonresidential uses. For example, a project combining multi-family and commercial uses would be subject to Policies 1.15.b. and/or 7.7 for the multi-family portion, and Policy 1.15.c. or 1.15.d for the commercial portion. Additional residential density, up to sixteen dwelling units per acre and additional non-residential development, to the total maximum FAR permitted would be available through participation in development incentive programs and/or participation in the City's Transfer of Development Rights (TDR) program. **Staff comments:** The Meta tracts subject to this PDP amendment have a Mixed Use Future Land Use Classification and C-1 Zoning. Each tract can be developed with commercial uses allowed in the C-1 District, compound use buildings, or with multi-family units provided another commercial use is employed on the same tract. This policy is supportive of this request.

**Policy 1.20:** The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways. **Staff comments:** Cape Harbour is a recognized mixed-use development in the City. The project supports a variety of housing types and lot areas. A substantial number of residential units are concentrated in two tall buildings. The project features signage and landscaping that provides the development with a common identify. This policy is supportive of this request.

**Policy 4.1:** Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas. **Staff comments:** Cape Harbour is in the City Urban Services Infill Area. This policy is supportive of this request.

**Policy 5.3.** New commercial development shall meet all the requirements for adequate facilities based on the level of service standards adopted for roads, potable water and sanitary sewer, solid waste, storm water facilities and other services in this plan. **Staff comments:** The Meta at Cape Harbour PDP met concurrency requirements for roads, sewer, water, drainage, solid waste, and parks when the project



was first approved in 2001 by Ordinance 80-01. Since this PDP amendment does not involve a change in entitlements that would allow the subject tracts to be developed with greater density or intensity than previously approved, the project is concurrent with City services.

#### Transportation Element

**Policy 2.2.6:** In order to promote bicycling, walking, and other alternative modes of transportation, the City shall provide incentives for the development of mixed use projects, commercial activity centers, and alternative subdivision design and lot layouts. **Staff comments:** Cape Harbour is a mixed-use development. This project includes private streets, walkways, and promenades that are dispersed throughout the project area. The project also includes private dock facilities and a public marina that supports travel by boat. This policy is supportive of this request.

#### Public Schools Facilities Element

**Policy 2.4:** The Lee County School District shall notify the City of Cape Coral within 10 working days of receiving mitigation and vesting school concurrency for any residential development. **Staff comments:** The City notified Lee County School of the proposed PDP amendment. The School District responded within 10 days that the project would have no impact on student stations. This policy is supportive of this request.

#### **PROJECT RECOMMENDATION**

Staff finds that this PDP amendment is consistent with the Comprehensive Plan and LUDRs. Staff recommends approval of all applicant requests that are part of this amendment and recommends approval of the PDP.

---

#### **Staff Contact Information**

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

PH: 239-242-3255

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

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USA

**Net Amt:** \$474.32

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 05/05/18

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** PDP17-0005

**REQUEST:** A PROJECT AMENDING ORDINANCE 89-06, AS PREVIOUSLY AMENDED BY ORDINANCES 28-97, 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04, AND 69-05 APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "META AT CAPE HARBOUR" FOR CERTAIN PROPERTY DESCRIBED AS META AT CAPE HARBOUR SUBDIVISION TRACTS C-4, C-5, AND C-6, BLOCK 7005, AND TRACT R-1, BLOCK 7004, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT EL DORADO PARKWAY WEST AND CHIQUITA BOULEVARD SOUTH; GRANTING A REPLAT OF PART OF TRACT R-1, BLOCK 7004 TO BE KNOWN HEREFTER AS TRACT C-7; ALLOWING PEDESTRIAN COMMERCIAL (C-1) TRACTS TO DEVELOP WITHOUT COMPOUND USE BUILDINGS; GRANTING SUBDIVISION PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS.

**LOCATION:** Meta at Cape Harbour Subdivision, Tracts C-4, C-5, and C-6, Block 7005; and Tract R-1, Block 7004

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

**PROPERTY OWNER(S):** CRE Cape Harbour Marina, LLC and CRE Cape Harbour Land LLC

**AUTHORIZED REPRESENTATIVE:** Linda Miller, Avalon Engineering, 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 May 15, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

After the Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review



the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

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

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

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

by order of  
Rebecca van Deutekom, MMC  
City Clerk  
REF # PDP17-0005  
AD# 2901980 May 5, 2018



## NOTICE TO PROPERTY OWNERS WITHIN CAPE HARBOUR DEVELOPMENT

**CASE NUMBER:** PDP17-0005

**REQUEST:** A PROJECT AMENDING ORDINANCE 89-06, AS PREVIOUSLY AMENDED BY ORDINANCES 28-97, 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04, AND 69-05 APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "META AT CAPE HARBOUR" FOR CERTAIN PROPERTY DESCRIBED AS META AT CAPE HARBOUR SUBDIVISION TRACTS C-4, C-5, AND C-6, BLOCK 7005, AND TRACT R-1, BLOCK 7004, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT EL DORADO PARKWAY WEST AND CHIQUITA BOULEVARD SOUTH; GRANTING A REPLAT OF PART OF TRACT R-1, BLOCK 7004 TO BE KNOWN HEREAFTER AS TRACT C-7; ALLOWING PEDESTRIAN COMMERCIAL (C-1) TRACTS TO DEVELOP WITHOUT COMPOUND USE BUILDINGS; GRANTING SUBDIVISION PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS.

**LOCATION:** Meta at Cape Harbour Subdivision, Tracts C-4, C-5, and C-6, Block 7005; and Tract R-1, Block 7004

**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):** CRE Cape Harbour Marina, LLC and CRE Cape Harbour Land LLC

**AUTHORIZED REPRESENTATIVE:** Linda Miller, Avalon Engineering, Inc.

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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.

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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/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.





## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** PDP17-0005

**REQUEST:** A PROJECT AMENDING ORDINANCE 89-06, AS PREVIOUSLY AMENDED BY ORDINANCES 28-97, 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04, AND 69-05 APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "META AT CAPE HARBOUR" FOR CERTAIN PROPERTY DESCRIBED AS META AT CAPE HARBOUR SUBDIVISION TRACTS C-4, C-5, AND C-6, BLOCK 7005, AND TRACT R-1, BLOCK 7004, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT EL DORADO PARKWAY WEST AND CHIQUITA BOULEVARD SOUTH; GRANTING A REPLAT OF PART OF TRACT R-1, BLOCK 7004 TO BE KNOWN HEREAFTER AS TRACT C-7; ALLOWING PEDESTRIAN COMMERCIAL (C-1) TRACTS TO DEVELOP WITHOUT COMPOUND USE BUILDINGS; GRANTING SUBDIVISION PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS.

**LOCATION:** Meta at Cape Harbour Subdivision, Tracts C-4, C-5, and C-6, Block 7005; and Tract R-1, Block 7004

**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):** CRE Cape Harbour Marina, LLC and CRE Cape Harbour Land LLC

**AUTHORIZED REPRESENTATIVE:** Linda Miller, Avalon Engineering, 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 May 15, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

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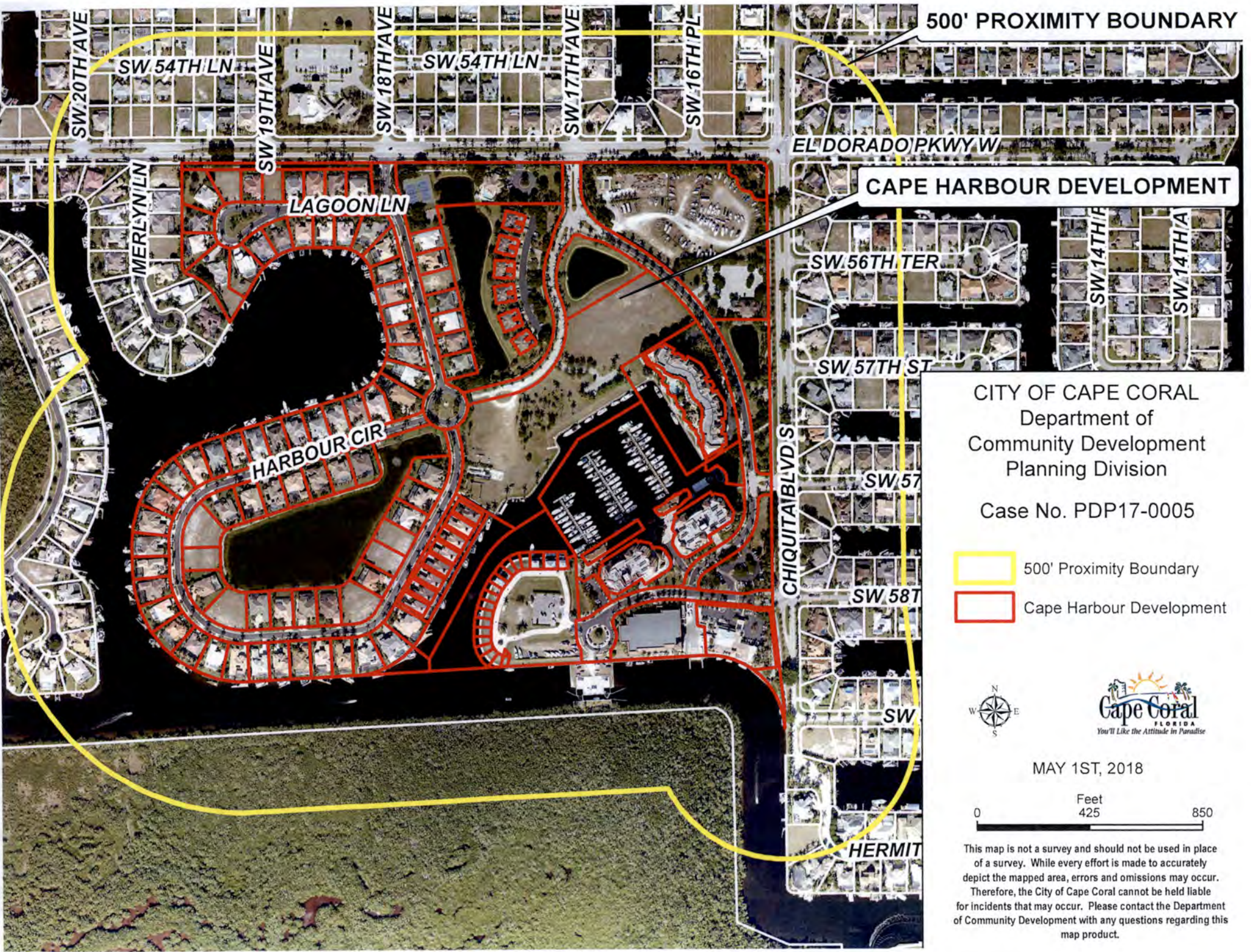


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500' PROXIMITY BOUNDARY

CAPE HARBOUR DEVELOPMENT

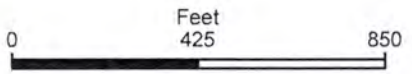
CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

Case No. PDP17-0005

-  500' Proximity Boundary
-  Cape Harbour Development



MAY 1ST, 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. PDP17-0005

LEGEND

500' Proximity Boundary

Subject Area

Zoning

C-1

PRES-Regulated by FLU

R-1B

R-3

RD

RE

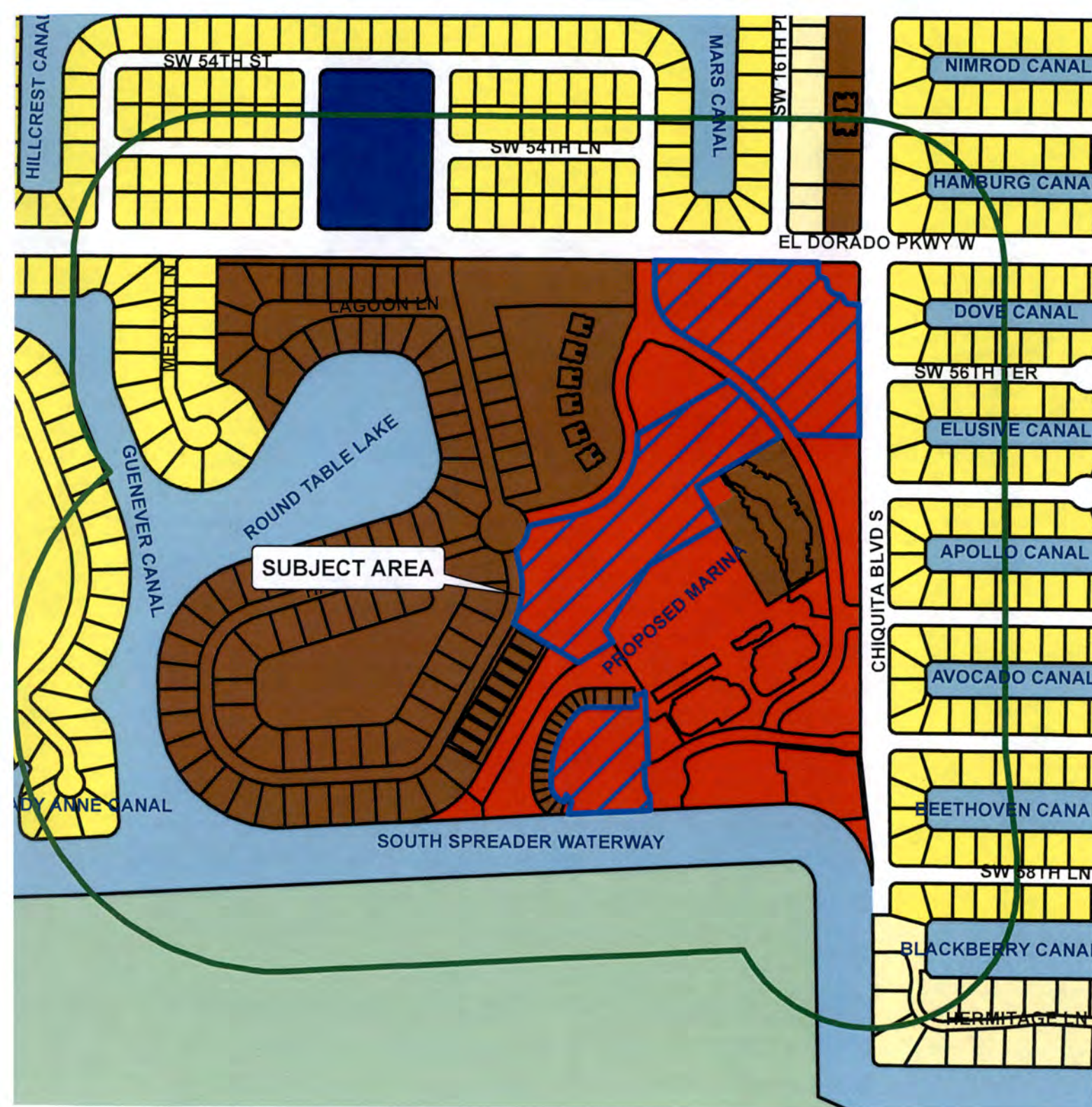
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MAY 1ST, 2018



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Owner_Name	Mailing_Ad	Mailing_Ci	Mai Mailing_Zi
GATTRINGER ERICH + DOBUSCH ELFRIEDE H/W	21 QUELLENWEG	ALTENBERG 4203	AUSTRIA
ROMBOUTS PETER	OOSTENEINDE 23	BEERSE 2340	BELGIUM
2213841 ONTARIO INC	1 LAKESIDE DR R2	PUSLINCH	ON N0B 1J0 CA
DIBRINA MICHELE + ROSA MARIA	1091 MOSS ST	SUDBURY	ON P3A 2H6 CA
DROZD ANGELYN	91 HEMAN ST APT 4	ETOBICOKE	ON M8V 1X4 C
FRANK SANGIULIANO INVESTMENTS LTD	5-2650 MEADOWVALE BLVD	MISSISSAUGA	ON L5N 6M5 C
MALOUIN JEAN	1712 JARDINS DES SAPINS GDNS	GLOUCESTER	ON K1C 8E3 CA
PAPADOPOULOS MARENS	126 DEVON RD UNIT 2	BRAMPTON	ON L6T 5B3 CA
SCOTT KYLE & RITCHIE JODY	1043 HURLWOOD LN	SEVERN	ON L3V 0Y6 CA
UNDERHILL LINDA DIANE TR FOR UNDERHILL			
2014 RESIDENCE TRUST	52925 NOVA SCOTIA LINE RR 1	PORT BURWELL	ON N0J 1T0 CA
VAN DEN HEUVEL CRISTIAAN	874 FULLER AVE	PENETANGUISHENE	ON L9M 1G8 C
DOHRN OLAV	OSTERBROOKSWEG 65	SCHENEFELD 22869	GERMANY
FRANZ KLAUS + KARIN	KUHLENKOTTERWEG 26	44795 BOCHUM	GERMANY
CANAHUATI JOSE J	PO BOX 219	SAN PEDRO SULA	HONDURAS
BELLEVUE RESIDENZ IMMO AG	SUEDSTRASSE 24	8034 ZURICH	SWITZERLAI
OLIVER STRAETZ LIVING TRUST + VELMYRAT			
GURBANMYRADOV REVOCABLE LIVING TRUST	BOLLWERKSTRASSE 5	BINNINGEN	4102 SWITZ
VON PRONDZYNSKI HEINZ N F M + VON			
PRONDZYN SKI MICHAELA K E H/W	SCHNABELSBERGSTR 61	CH 8840 EINSIEDEN	SWITZERLAI
	BALI HAI WHINS LANE WHEELTON		
NOBLETT PHILIP	CHORLEY	PR6 8HN LANCASHIRE	UNITED KIN
ADAMSON CHESTER + CONNIE	5805 CHIQUITA BLVD S	CAPE CORAL	FL 33914
ALMONTI ANGELO T + GUBITOSI DAVID M J/T	352 FIFTH ST STE A	WHITEHALL	PA 18052
ANDERSON JOHN + PEGGY C	228 SCHLAVIN CT	LINO LAKES	MN 55014
ANGEL RICHARD + DUBIN MARLA	9152 KOSTNER AVE	SKOKIE	IL 60076
COMMUNITY BANK OF RAYMORE ARCHER JOHN			
T TR + HUND JIM TR + MESSINA MICHAEL J TR			
FOR MARK B LUMBARD TRUST	PO BOX 200	RAYMORE	MO 64083
ASSB LLC	2201 CAMERON DR	SAINT PAUL	MN 55125
BAIER ERIK + JULIE A	5131 CREEK DR	WESTERN SPRINGS	IL 60558
BALL-LLOVERA GEORGE + BALL-LLOVERA			
CHRISTINE E H/W	1526 SW 54TH TER	CAPE CORAL	FL 33914
BEBO JAMES P TR FOR JAMES P BEBO TRUST	10285 89TH AVE N	MAPLE GROVE	MN 55369
BIEL JAMES MICHAEL & BIEL SANDRA RAYE	1713 EL DORADO PKWY W	CAPE CORAL	FL 33914
BRACKETT PAUL W + DEBORAH K	1517 SW 57TH TER	CAPE CORAL	FL 33914
BRADFIELD JOHN L & PAM L	5411 SW 17TH AV	CAPE CORAL	FL 33914
BRANCA ANTHONY P	1732 SW 54TH LN	CAPE CORAL	FL 33914
BROWN THERESA + ROSE TIMOTHY	1517 SW 57TH ST	CAPE CORAL	FL 33914
BUNTING BLAINE A	10337 N BUNTING RD	BISHOPVILLE	MD 21813
CABANA ROBERT E & JANET O	5606 MERLYN LN	CAPE CORAL	FL 33914
CALAMELA PATRICIA L/E	1709 EL DORADO PKWY W	CAPE CORAL	FL 33914
CAPE HARBOUR SERVICES INC	5723 CHIQUITA BLVD S	CAPE CORAL	FL 33914
CAPETRANS INC	1516 EL DORADO PKWY W	CAPE CORAL	FL 33914
CARAVETTA ANTHONY J + CARAVETTA ANTHONY			
JR	5328 SW 28TH PL	CAPE CORAL	FL 33914
CARNEVALE CHERYL A	1929 EL DORADO PKWY W	CAPE CORAL	FL 33914
CARUSO STEVEN J	ONE INDUSTRIAL WAY	GEORGETOWN	MA 01833
CARUSO STEVEN J TR FOR 5719 CHIQUITA			
BOULEVARD RALTY TRUST	1 INDUSTRIAL WAY	GEORGETOWN	MA 01833
CHENEY CHRIS	5505 MERLYN LN	CAPE CORAL	FL 33914



CHIERCO OLGA M	5410 CHIQUITA BLVD S #102	CAPE CORAL	FL 33914
CHIQUITA INVESTMENTS LLC	5848 CAPE HARBOUR DR	CAPE CORAL	FL 33914
CLIFTON JAY W & AMANDA J	543 E W 700TH N	CRAWFORDSVILLE	IN 47933
CLINE KAREN J TR FOR VAL SLASKI RUST	1529 EL DORADO PKWY W	CAPE CORAL	FL 33914
COLAGEO DARLENE F	550 LIBERTY ST # 801	BRAINTREE	MA 02184
CRAIG JOANN M TR FOR JOANN M FOWLER REV TRUST	10379 S HIGHLAND LN	OLATHE	KS 66061
CSANYI EDITH TR FOR EDITH CSANYI TRUST	5007 AGUALINDA BLVD	CAPE CORAL	FL 33914
CSEPLO ROBERT E	175 PARKER CT	CHARDON	OH 44024
CULLIP GARY + SANDRA LOUISE	1523 SW 58TH LN	CAPE CORAL	FL 33914
DANDREA MATTHEW + SARAH	1721 SW 54TH LN	CAPE CORAL	FL 33914
DANNY LEE ROBINSON TRUST + PATRICIA A ROBINSON TRUST	PO BOX 477	LISBON	OH 44432
DIMARZO NICOLE	5410 CHIQUITA BLVD S # 201	CAPE CORAL	FL 33914
DOLSON JAMES + MARLIES	1913 SW 54TH LN	CAPE CORAL	FL 33914
DZIUBA ALEXANDRA + VICTOR	1616 REDWOOD AVE	MILLVILLE	NJ 08332
EMATRURO PETER D + CAMILLE R	1725 EL DORADO PKWY W	CAPE CORAL	FL 33914
EVANGELISTA JOSE + STELLA	7071 ORCHARD LAKE RD STE 333	WEST BLOOMFIELD	MI 48322
FANO FAMILY TRUST + FANO DENISE & COSMAS JAMES	1705 SW 54TH LN	CAPE CORAL	FL 33914
FANO ROBERT D + SUSAN J L/E	1900 SW 54TH LN	CAPE CORAL	FL 33914
FIEBIG DIETER	540 SE 5TH AVE	CAPE CORAL	FL 33990
FLORIDA CONFERENCE ASSOCIATION OF SEVENTH DAY ADVENTISTS	351 S STATE ROAD 434	ALTAMONTE SPRINGS	FL 32714
FRANCESCHINI PETER J + FRANCESCHINI ADRIANA C	1729 SW 54TH LN	CAPE CORAL	FL 33914
FULMER RANDY A + R TRACEY TR FOR FULMER TRUST	1521 SW 57TH ST	CAPE CORAL	FL 33914
FYOCK KEN + MARY P	17449 VIA LUGANO CT	MIROMAR LAKES	FL 33913
GALE DARI L TR + SERRITELLA ANTHONY P TR + BELLIO DEBRA ANTONETTE TR FOR ALBERT R BELLIO FAMILY TRUST	1207 SW 52ND TER	CAPE CORAL	FL 33914
GAVIRIA RODRIGO + GAVIRIA MARCOLFIA + GAVIRIA SANDRA J/T	1629 EL DORADO PKWY W	CAPE CORAL	FL 33914
GEARHART DEAN A & MARIA TR FOR DEAN & MARIA GEARHART TRUST	5409 CHIQUITA BLVD S	CAPE CORAL	FL 33914
GLOVER DORENE A	5801 CHIQUITA BLVD S	CAPE CORAL	FL 33914
GOLIA GEORGE A & MERIDITH O	4 FIRST ST	OCEAN CITY	NJ 08226
GONZALEZ ALEX + JUSTINE	1913 EL DORADO PKWY W	CAPE CORAL	FL 33914
GORLA CLAUDIA D TR FOR CLAUDIA D GORLA TRUST	5514 MERLYN LN	CAPE CORAL	FL 33914
GRAY WILLIAM + PAMELA	1530 SW 57TH ST	CAPE CORAL	FL 33914
GRONHAUG OLE-JOHAN TR + GRONHAUG ELINOR MARIE TR FOR GRONHAUG FAMILY TRUST	1520 SW 57TH TER	CAPE CORAL	FL 33914
GUENETTE PAULETTE TR LAFLEUR ROXANE TR FOR NORMAND PAULETTE GUENETTE TRUST	5415 SW 17TH AVE	CAPE CORAL	FL 33914
HAAG KEVIN D + KIMBERLY M	1531 HERMITAGE LN	CAPE CORAL	FL 33914
HARTWIG KURT T	5407 CHIQUITA BLVD S	CAPE CORAL	FL 33914
HENRY JOANNE	5424 SW 16TH PL	CAPE CORAL	FL 33914
HINKLE CHRISTOPHER J+ KRISHA R	1733 SW 54TH LN	CAPE CORAL	FL 33914
HISLE WILLIAM E JR	5303 BUCK CREEK RD	FINCHVILLE	KY 40022
HOLTON JAMES	1904 SW 54TH LN	CAPE CORAL	FL 33914
HOMES AND LAND GROUP LLC	2644 FAIRMONT COVE CT	CAPE CORAL	FL 33991



HOPF SUSAN E TR FOR SUSAN E HOPF TRUST	11333 S BROOKVIEW CT	HAUBSTADT	IN 47639
HOPKO PHILIP P + DOROTHY J	1535 SW 58TH LN	CAPE CORAL	FL 33914
HOSLER DORIS MAE	1921 SW 54TH LN	CAPE CORAL	FL 33914
HOVERSEN PATRICIA J + RAY D	17081 JACKSON TRAIL	LAKEVILLE	MN 55044
HYNDMAN HEATH D & ANGELA D	1517 SW 56TH TER	CAPE CORAL	FL 33914
IMOK PROPERTIES LLC	PO BOX 371	PORT CLINTON	OH 43452
JACKSON GARY L + CARLA P	1525 SW 57TH ST	CAPE CORAL	FL 33914
JEANNE M SCHWERKOSKE TRUST + JAMES M SCHWERKOSKE TRUST	5721 COMPASS CT	CAPE CORAL	FL 33914
JENSEN THEODORE & CAROL TR FOR THEODORE + CAROL JENSEN TRUST	5521 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
JOHNSON DONALD R TR FOR DONALD R + KAREN Y JOHNSON TRUST	5605 MERLYN LN	CAPE CORAL	FL 33914
JORGENSEN MARILYN J TR FOR MARILYN J JORGENSEN TRUST	5641 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
KELLY ROY + MARGARET	5637 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
KENNEN BERNARD + JACQUELINE TR FOR BERNARD + J KENNEN TRUST	1175 BIRD LN	SANIBEL	FL 33957
KHALIL PASCALE AZZI ABI	1716 SW 54TH LN	CAPE CORAL	FL 33914
KING JANE V TR FOR JANE V KING TRUST	5701 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
KIRCHNER LAURENCE L SR & KIRCHNER CYNTHIA D TR FOR KIRCHNER FAMILY TRUST	1517 SW 58TH ST	CAPE CORAL	FL 33914
KIRKEY TERRY & KATHY	3077 HIDDENWOOD DR	SANDY	UT 84092
KLINKMAN DONALD J + MARIE A	50 SILVER THORNE DR	BUFFALO	NY 14221
KLOUS JAMES T & CAROL L TR FOR JAMES T & CAROL L KLOUS JOINT REVOCABLE LIVING TRUST	5709 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
KNOLL WILLIAM + PATRICIA	1514 SW 58TH LANE	CAPE CORAL	FL 33914
KNUREK JOAN	5633 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
KOUCHOUKOS ANDREW F	1516 SW 58TH ST	CAPE CORAL	FL 33914
KRAVER MARK P + NITA L	1525 SW 58TH ST	CAPE CORAL	FL 33914
KURKOWSKI JEFFREY J	44 KEY HAVEN RD	KEY WEST	FL 33040
LEANDER KEITH & DANIELA TR FOR LEANDER FAMILY REVOCABLE TRUST	5809 CHIQUITA BLVD S	CAPE CORAL	FL 33914
LEVINE MELISSA + LEVINE RICHARD	307 SE 5TH ST	CAPE CORAL	FL 33990
LONG MICHAEL + CONNIE	5610 MERLYN LN	CAPE CORAL	FL 33914
LUCKE ANN M + ROBERT E	1522 SW 58TH LN	CAPE CORAL	FL 33914
LUNDGREN ERIC C & JERI A	5727 CHIQUITA BLVD S	CAPE CORAL	FL 33914
MACEDO SCOTT N + MARIA C	5309 SW 25TH CT	CAPE CORAL	FL 33914
MAJEWSKI MAREK + EWA	4529 SW 13TH AV	CAPE CORAL	FL 33914
MAJOCKA JOHN S TR FOR JOHN S MAJOCKA TRUST	1520 SW 56TH TER	CAPE CORAL	FL 33914
MARLING WILLIAM H + MARCIA TR FOR WILLIAM H + MARCIA F MARLING JOINT REV TRUST	5717 COMPASS CT	CAPE CORAL	FL 33914
MATTESICH JOHN E + MARIA	822 HARVARD PL	FORT LEE	NJ 07024
MAYER GERHARD TR FOR GEMA TRUST	5729 COMPASS CT	CAPE CORAL	FL 33914
MCCORD PAUL + DEBBIE	1924 SW 54TH LN	CAPE CORAL	FL 33914
MCGOWAN CAROL A TR THOMAS A + CAROL A MCGOWAN TRUST	1528 EL DORADO PKWY W	CAPE CORAL	FL 33914
MCNEILL MARK R + DAWN E	5517 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
MI-LAND INVESTMENT GROUP LLC	5514 SW 12TH AVE	CAPE CORAL	FL 33914
MOODY STEVEN M	5510 MERLYN LN	CAPE CORAL	FL 33914
MORSE KENNETH S	1729 EL DORADO PKWY W	CAPE CORAL	FL 33914



MOSES PAUL A	1530 SW 56TH TER	CAPE CORAL	FL 33914
NEWELL GARY R SR TR + NEWELL HEATHER M TR FOR GARY R NEWELL SR TRUST 50% + FOR HEATHER M NEWELL TRUST 50%	4430 CORRAL RD	WARRENTON	VA 20187
OCONNOR RICKY GENE & OCONNOR SHARI J	1905 SW 54TH LN	CAPE CORAL	FL 33914
OMALLEY ROBERT M	26360 AUGUSTA CREEK	BONITA SPRINGS	FL 34134
PALMS AND MORE INC	546 CORAL DR	CAPE CORAL	FL 33904
PANSING STEVEN L + COLLEEN K	1515 SW 58TH LN	CAPE CORAL	FL 33914
PAPPAS HARRY TR + PAPPAS SHARON TR FOR HARRY PAPPAS REV TRUST 1/2 FOR SHARON PAPPAS REV TRUST 1/2	10034 ROSEMONT ST	ROSEMONT	IL 60018
PENNINGTON CLARENCE + SHERRI J	PO BOX 623	MARTINSBURG	WV 25402
PETERS ENTERPRISES INC	1552 BEECHWOOD TRL	FORT MYERS	FL 33919
PETRECCA NICHOLAS + LAUREN F	1916 SW 54TH LN	CAPE CORAL	FL 33914
PINA RAMON + SOBEIDA	1901 EL DORADO PKWY W	CAPE CORAL	FL 33914
POLLASTRINI MATTHEW J TR FOR MATTHEW J POLLASTRINI TRUST	180 AUGUSTA CIR	WAVERLY	IA 50677
POPE JUDY B TR FOR JUDY B POPE TRUST	5509 MERLYN LN	CAPE CORAL	FL 33914
PRENTICE PAUL G + ADELAIDE	1525 SW 56TH TER	CAPE CORAL	FL 33914
PRICE JAMES C + NANCY K TR FOR PRICE FAMILY TRUST	5807 HARBOUR CIR	CAPE CORAL	FL 33914
RANDY L CALHOUN LIVING TRUST + NANETTE B CALHOUN LIVING TRUST	5809 CHIQUITA BLVD S	CAPE CORAL	FL 33914
RAYMOND KIMBERLY ANN & RAYMOND PATRICK	1521 SW 58TH ST	CAPE CORAL	FL 33914
RAYNOR RANDY J	1516 SW 57TH TER	CAPE CORAL	FL 33914
REICH LUCIA	1713 SW 54TH LN	CAPE CORAL	FL 33914
RILEY WILLIAM EDWARD + SHIRLEY	5412 SW 16TH PL	CAPE CORAL	FL 33914
ROBERT W BARLETTA TRUST + NANCY J BARLETTA TRUST	5420 SW 16TH PL	CAPE CORAL	FL 33914
ROSS DOROTHY E TR FOR DOROTHY E ROSS TRUST	1521 EL DORADO PKWY W	CAPE CORAL	FL 33914
RUPRECHT THOMAS G TR FOR THOMAS G RUPRECHT TRUST	5625 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
RUSSELL JAMES N TR FOR JAMES N RUSSELL TR	2006 EL DORADO PKWY W	Cape Coral	FL 33914
SABRA DEVELOPMENTS LLC	4822 AGUALINDA BLVD	CAPE CORAL	FL 33914
SANCHEZ ROBERTO	1905 EL DORADO PKWY W	CAPE CORAL	FL 33914
SAOUD JOAN	280 MILL RD	HO HO KUS	NJ 07423
SCHAUDE WULF TR FOR SCHAUDE FAMILY TRUST	2002 EL DORADO PKWY W	CAPE CORAL	FL 33914
SCHLESINGER SUSAN + SCHLESINGER-HAHN KATHRYN ET AL	1522 SW 58TH ST	CAPE CORAL	FL 33914
SCHORN DIETER + BRIGITTA	5705 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914
SEARLES LORI A	5410 CHIQUITA BLVD S #103	CAPE CORAL	FL 33914
SHARP LAURIE A	5701 CHIQUITA BLVD S	CAPE CORAL	FL 33914
SHAW LEON D + RUTH K	1524 SW 56TH TER	CAPE CORAL	FL 33914
SHEA JAMES P TR FOR JAMES P SHEA TRUST	PO BOX 210279	AUBURN HILLS	MI 48321
SIEMENS STEVEN A + SANDRA K	1532 EL DORADO PKWY W	CAPE CORAL	FL 33914
SMITH JEFFREY A + CHRISTINE	5426 SW 20TH AVE	CAPE CORAL	FL 33914
SNEDEGAR ROBERT S	7235 BIDDICK CT	NEW ALBANY	OH 43054
SPEAR REALTY LLC	PO BOX 334	COOPERSBURG	PA 18036
SPEARS SUE LIN + LARRY DUNCAN	1720 SW 54TH LN	CAPE CORAL	FL 33914
STEFANACCI LOUIS J + ELAINE M	1531 SW 58TH LN	CAPE CORAL	FL 33914

SUSAN K TAPPAN TRUST + STEVEN M			
LASHBROOK TRUST	1928 EL DORADO PKWY W	CAPE CORAL	FL 33914
TAMIRISA KIRAN C +MITHILESH K	5705 CHIQUITA BLVD S	CAPE CORAL	FL 33914
TELPS INVESTMENTS LLC	1300 10TH AVE SW	WAVERLY	IA 50677
THYLEN HAKAN + MAUD	2270 FIRST STREET	FORT MYERS	FL 33901
TIDWELL PAUL M & SONYA M	1525 EL DORADO PKWY W	CAPE CORAL	FL 33914
DEPT OF ENVIR PROTECTION TIITE/REC + PARKS			
CHARLOTTE HARBOR STATE BUFFER PRESERVE	3900 COMMONWEALTH BLVD	TALLAHASSEE	FL 32399
TOLSON JUDITH A TR FOR JUDITH A TOLSON			
TRUST	5410 CHIQUITA BLVD S #203	CAPE CORAL	FL 33914
TREMONTEDWARD JR & JOY	1708 SW 54TH LN	CAPE CORAL	FL 33914
VALENTINI LEONARDO + ANGELA	8 SOLOMON DR	BEAR	DE 19701
VITALE ARTHUR F + ROSEMARIE A	5613 MERLYN LN	Cape Coral	FL 33914
WAITMAN TED D + DEBORAH A	5725 COMPASS CT	CAPE CORAL	FL 33914
WALKER LOUIS + COLLEEN	1705 EL DORADO PKWY W	CAPE CORAL	FL 33914
WEEKS DAVID O + JAN A CO TR FOR DAVID O +			
JAN A WEEKS TRUST	5506 MERLYN LN	CAPE CORAL	FL 33914
WOJCIECHOWSKI DARIUSZ + WASEWICZ			
JOANNA	117 ARBOR WAY	STROUDSBURG	PA 18360
WONG K T + FLORENCE Y	12815 ROCKWELL CT	POWAY	CA 92064
WORMINGTON WILLIAM L & WORMINGTON			
AIDA C	5629 HARBOUR PRESERVE CIR	CAPE CORAL	FL 33914



INSTR # 5066312

COUNCILMEMBER STEVENS

PDP 00-00800011  
01/03/01

OR BK 03365 PG 1938

RECORDED 02/16/01 02:34 PM  
CHARLIE GREEN CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 33.00  
DEPUTY CLERK K Cartwright

ORDINANCE 3 - 01

3300 Billed

AN ORDINANCE AMENDING ORDINANCE 28-97, AS PREVIOUSLY AMENDED BY ORDINANCES 60-97, 8-98, AND 82-98, A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR"; PROVIDING FOR AMENDED PDP DEVELOPMENT PLAN APPROVAL FOR CERTAIN PROPERTY LOCATED IN CAPE CORAL UNIT 75 (CAMELOT) AND CERTAIN PROPERTY LOCATED IN CAPE HARBOUR SUBDIVISION-PHASE 2-A AND PHASE 2-B, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CHIQUITA BOULEVARD SOUTH AND EL DORADO PARKWAY WEST; VACATING CERTAIN 6-FOOT PUBLIC UTILITY EASEMENTS ALONG THE SIDE LOT LINES OF BLOCK 6503, LOTS 2-3, 5-6, 50, 55, 61, 67-73, UNIT 75, CAPE HARBOUR SUBDIVISION - PHASE 2-A, AND BLOCK 6503, LOTS 11-27, 32-48, AND 74-93, UNIT 75, CAPE HARBOUR SUBDIVISION - PHASE 2B AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral on May 19, 1997, by Ordinance 28 - 97 and was amended on September 29, 1997 by Ordinance 60 - 97 and on May 5, 1998 by Ordinance 8 - 98 and on January 11, 1999 by Ordinance 82 - 98, and

WHEREAS, an application from Realmark Cape Harbour, LLC, Gus B. and Marilyn S. Nuckols, Coastland Homes, Inc., and William J. Stout, Jr. has been received requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Cape Harbour; requesting vacation of plat; and

WHEREAS, said application received is by parties holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

WHEREAS, a portion of the project area of the Cape Harbour PDP has been platted as Cape Harbour Subdivision-Phase 2-A and 2-B; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency on January 10, 2001; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

**SECTION I. PDP APPROVAL AMENDING ORDINANCE 28-97 AS AMENDED BY ORDINANCES 60-97, 8-98, AND 82-98.**

That the City of Cape Coral City Council having reviewed the application requesting amendment of a Planned Development Project for Cape Harbour, and amendment of Ordinance 28 - 97 as amended by Ordinances 60-97, 8-98, and 82-98, does hereby approve the amendment of the Cape Harbour Planned Development Project, PDP number 00-00800011, and approves vacation of certain 6-foot public utility easements along the side lot lines of Block 6503, Lots 2-3, 5-6, 50, 55, 61, 67-73, Unit 75, Cape Harbour Subdivision - Phase 2-A, and Block 6503, Lots 11-27, 32-48, and 74-93, Unit 75, Cape Harbour Subdivision - Phase 2B as Revised

Easement Vacation plan prepared by Avalon Engineering, Inc., dated May 11, 2000 with revisions dated June 27, 2000 and described as follows:

THE VACATION OF THE 6.00 FOOT PUBLIC DRAINAGE AND UTILITY EASEMENTS AS DESCRIBED IN PLAT BOOK 60, PAGE 27-28, CAPE HARBOUR SUBDIVISION - PHASE 2A, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA; SAID EASEMENTS BEING FURTHER DESCRIBED AS FOLLOWS:

ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 2 AND 3;  
ADJACENT TO AND PARALLEL WITH THE SOUTHERLY LOT LINE OF LOT 3;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 5 AND 6;  
ADJACENT TO AND PARALLEL WITH THE SOUTHERLY LOT LINE OF LOT 6;  
ADJACENT TO AND PARALLEL WITH THE SOUTHERLY LOT LINE OF LOT 50;  
ADJACENT TO AND PARALLEL WITH THE NORTHERLY LOT LINE OF LOT 50;  
ADJACENT TO AND PARALLEL WITH THE NORTHERLY LOT LINE OF LOT 55;  
ADJACENT TO AND PARALLEL WITH THE EASTERLY LOT LINE OF LOT 61;  
ADJACENT TO AND PARALLEL WITH THE WESTERLY LOT LINE OF LOT 61;  
ADJACENT TO AND PARALLEL WITH THE WESTERLY LOT LINE OF LOT 67;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 67 AND 68,  
AND LOTS 68 AND 69;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 70 AND 71,  
AND LOTS 71 AND 72;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 72 AND 73;

BLOCK 6503, CAPE HARBOUR SUBDIVISION - PHASE 2A, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

SAID EASEMENTS CONTAIN APPROXIMATELY 14,299.38 SQUARE FEET (0.328 +/- AC); and;

THE VACATION OF THE 6.00 FOOT PUBLIC DRAINAGE AND UTILITY EASEMENTS AS DESCRIBED IN PLAT BOOK 65, PAGE 55-57, CAPE HARBOUR SUBDIVISION - PHASE 2B, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA. SAID EASEMENTS BEING FURTHER DESECRIBED AS FOLLOWS:

ADJACENT TO AND PARALLEL WITH THE NORTHERLY LOT LINE OF LOT 11;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 11 AND 12;  
ADJACENT TO AND PARALLEL WITH THE NORTHERLY LOT LINE OF LOT 13;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 13 AND 14,  
AND LOTS 14 AND 15;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 15 AND 16,  
AND LOTS 16 AND 17;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 17 AND 18,  
AND LOTS 18 AND 19;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 19 AND 20,  
AND LOTS 20 AND 21;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 21 AND 22,  
AND LOTS 22 AND 23;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 23 AND 24,  
AND LOTS 24 AND 25;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 25 AND 26,  
AND LOTS 26 AND 27;  
ADJACENT TO AND PARALLEL WITH THE WESTERLY LOT LINE OF LOT 27;  
ADJACENT TO AND PARALLEL WITH THE SOUTHERLY LOT LINE OF LOT 32;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 32 AND 33,  
AND LOTS 33 AND 34;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 34 AND 35,  
AND LOTS 35 AND 36;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 36 AND 37,  
AND LOTS 37 AND 38;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 38 AND 39,  
AND LOTS 39 AND 40;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 40 AND 41,  
AND LOTS 41 AND 42;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 42 AND 43,  
AND LOTS 43 AND 44;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 44 AND 45,  
AND LOTS 45 AND 46;  
ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 47 AND 48;  
ADJACENT TO AND PARALLEL WITH THE NORTHERLY LOT LINE OF LOT 48;



ADJACENT TO AND PARALLEL WITH THE EASTERLY LOT LINE OF LOT 74;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 74 AND 75,  
 AND LOTS 75 AND 76;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 76 AND 77,  
 AND LOTS 77 AND 78;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 78 AND 79,  
 AND LOTS 79 AND 80;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 81 AND 82,  
 AND LOTS 82 AND 83;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 84 AND 85,  
 AND LOTS 85 AND 86;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 86 AND 87,  
 AND LOTS 87 AND 88;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 88 AND 89;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 90 AND 91,  
 AND LOTS 91 AND 92;  
 ALONG AND PARALLEL WITH THE COMMON LOT LINES OF LOTS 92 AND 93,  
 AND LOTS 93 AND 12;

BLOCK 6503, CAPE HARBOUR SUBDIVISION - PHASE 2B, CITY OF CAPE  
 CORAL, LEE COUNTY, FLORIDA.

SAID EASEMENT CONTAIN APPROXIMATELY 77,407.80 SQUARE FEET (1.777  
 +/- AC),

Approval of the amended PDP shall be subject to the terms and  
 conditions set forth below.

## SECTION II. FINDING OF FACT/CONCLUSION OF LAW

...

### D. Legal Descriptions

1. The legal description of the entire property that is  
 subject to the extant PDP Development Order(s) is as follows:

~~A tract of land situated in Tract "E", Cape Coral Unit 75  
 (Camelot) according to Plat Book 33, Pages 37 through 49 of  
 the Public Records of Lee County, Florida, and a portion of  
 Tracts "B" and "D" of said Cape Coral Unit 75, more  
 particularly described in Exhibit "B", Legal Description,  
 Proposed 120 Lot Subdivision;~~

~~together with:~~

~~A tract of Land situated in Lots 14, 15, and 30, Block  
 6501, Tract "B" and Tract "C", all in Cape Coral Unit 75  
 (Camelot) according to Plat Book 33, Pages 37 through 49 of  
 the Public Records of Lee County, Florida, being more  
 particularly described in Exhibit "C", Wall & Fountain Area  
 Description.~~

~~The subdivision is limited to the area identified in  
 Exhibit "B". Exhibits "B" and "C" are attached hereto and  
 incorporated by reference herein.~~

a tract of land situated in Unit 75 (Camelot) according to  
 Plat Book 33, Pages 37 Through 49 of the Public Records of  
 Lee County, Florida, to include the following: all of Tract  
 "B" in its entirety, all of Tract "C" in its entirety, all of  
 Tract "D" in its entirety and all of Tract "E" in its  
 entirety of said Unit 75 as more particularly described  
 herein,

together with the Replat of said Tracts "B", "D" And "E"  
 known As "Cape Harbour Subdivision Phase 2-A" and "Cape  
 Harbour Subdivision Phase 2-B",

together with a tract of land situated in Lots 14, 15, and  
 30, Block 6501, in Cape Coral Unit 75 (Camelot) according to  
 Plat Book 33, Pages 37 through 49 of the Public Records of

Lee County, Florida being more particularly described as follows:

Beginning at the intersection of the centerline of Merlyn Lane and the south right-of-way line of El Dorado Parkway West (100 foot right-of-way); thence run N89°43' 07"W along said south right-of-way line for 64.50 feet; thence run S00°16'53"W, leaving said right-of-way line, for 20.00 feet; thence run S89°43'07"E for 12.41 feet; thence run S40°29'26"E for 23.11 feet; thence run S00°16'53"W for 10.00 feet; thence run S89°43'07"E for 74.00 feet; thence run N00°16'53"E for 10.00 feet; thence run N45°16'53"E for 21.92 feet to a point of intersection with a line parallel to and 22.00 feet south of said right-of-way line; thence run S89°43'07"E along said parallel line for 117.00; thence run S00°16'53"W for 22.00 feet; thence run N89°43'07"W to the Point of Beginning, excepting from the preceding description the following described portion of Merlyn Lane right-of-way: Beginning at said intersection of said centerline of said Merlyn Lane and said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to a non-tangent point of intersection with a curve concave to the southwest, being also the westerly right-of-way line of said Merlyn Lane; thence run along said westerly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = S44°43'07"E 35.36 feet) for 39.27 feet to a point of tangency; thence run S00°16'53"W along said westerly right-of-way line for 22.50 feet; thence run S89°43'07"E, leaving said westerly right-of-way line, for 50.00 feet to a point of intersection with the easterly right-of-way line of said Merlyn Lane; thence run N00°16'53"E along said easterly right-of-way line for 22.50 feet to the point of curvature of a curve concave to the southeast; thence run along said easterly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = N45°16'53"E, 35.36 feet) for 39.27 feet to a point of intersection with said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to the point of beginning of said exception.

2. The legal description of the portion of the Planned Development Project (PDP) Development Plan for Cape Harbour that is amended by this Development Order is as follows:

Block 6503, Lots 2-3, 5-6, 50, 55, 61, 67-73, Unit 75, Cape Harbour Subdivision - Phase 2-A, , City Of Cape Coral, According to Plat Book 60, Page 27-28 , Lee County, Florida, together with

Block 6503, Lots 11-27, 32-48, And 74-93, Unit 75, Cape Harbour Subdivision - Phase 2B, City Of Cape Coral, According to Plat Book 65, Page 55-57, Lee County, Florida.

### **SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL**

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled this 29th day of January, 2001, that the Planned Development Project application for amendment submitted by Realmark Cape Harbour, LLC, Gus B. and Marilyn S. Nuckols, Coastland Homes, Inc., and William J. Stout, Jr. is hereby ordained approved subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.



**SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS**

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application for Development Approval filed for Cape Harbour.
- B. This Development Order shall be binding on the Developer and its heirs, assignees, or successors in interest. Those portions of this Development Order which clearly apply only to the project developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within Cape Harbour.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review pursuant to Sections 163.3220-163.3243, Florida Statutes, unless it is found by the City Council, after due notice and hearing, that one or more of the following is present:
  - 1. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City:
  - 2. Substantial deviations include but are not limited to:
    - a. Any change which requires a variance to code and above those specifically incorporated herein.
    - b. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
    - c. An expiration of the period of effectiveness of this Development Order as herein provided.
    - d. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as

indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved in accordance with Chapter 163, Florida Statutes, and all local approvals have been obtained.

- H. The deadline for commencing physical development under this Development Order shall be two (2) years from the date of adoption of the Order or one (1) year from final permit approval from all appropriate governmental jurisdictions, whichever is less, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Council upon a finding of excusable delay in any proposed development activity and that considerations have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order within two (2) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a certificate of compliance or occupancy on some substantial portion of the project (e.g., water management system or major road system). This Development Order shall otherwise terminate in five (5) years from the date of this Development Order, unless an extension is approved by this Council. An extension may be granted if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For the process of determining when the build-out date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.
- I. The Director of the Cape Coral Department of Community Development or his designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reportings shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.



- K. Copies of this recorded Development Order will be forwarded to the Developer, the Department of Community Affairs, and all permitting agencies. Upon this Development Order becoming effective, notice of its adoption shall be recorded in the Office of the Clerk of the Circuit Court by the City, as provided in Section 163.3239, Florida Statutes.

#### SECTION V. SEVERABILITY.

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

#### SECTION VI. EFFECTIVE DATE.

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of the County and thirty (30) days after having been received by the State Land Planning Agency pursuant to Section 163.3239, Florida Statutes. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the developer and are subject to the requirements and review pursuant to Chapter 163, Florida Statutes.

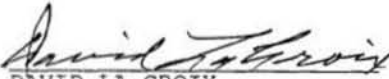
ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 29th DAY OF January, 2001.

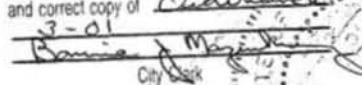
  
ARNOLD E. KEMPE, MAYOR

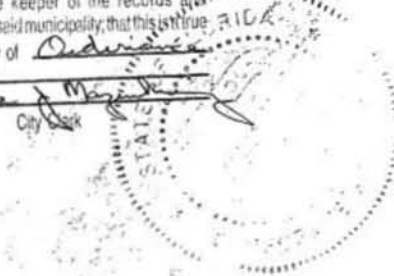
ATTESTED TO AND FILED IN MY OFFICE THIS 31st DAY OF January, 2001.

  
BONNIE J. MAZURKIEWICZ  
CITY CLERK

APPROVED AS TO FORM:

  
DAVID LA CROIX  
CITY ATTORNEY  
ord/pdp008-11

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality; that this is true and correct copy of Ordinance  
3-01  
  
City Clerk



28:50 BILLED

ORDINANCE 8 - 98

4418905

OR2978 PG2268

AN ORDINANCE AMENDING ORDINANCE 28-97 AS AMENDED BY ORDINANCE 60-97, A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR", PDP 96-00800017; PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR CERTAIN PROPERTY DESCRIBED AS A TRACT OF LAND SITUATED IN TRACT "E", CAPE CORAL UNIT 75 (CAMELOT), AND A PORTION OF TRACTS "B", "C", AND "D" OF SAID CAPE CORAL UNIT 75, TOGETHER WITH A TRACT OF LAND SITUATED IN LOTS 14, 15, AND 30, BLOCK 6501, IN CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CHIQUITA BOULEVARD SOUTH AND EL DORADO PARKWAY WEST; APPROVING REVISION AND EXPANSION OF THE PROJECT AREA TO INCLUDE A TRACT OF LAND SITUATED IN TRACT "D", CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED HEREIN, THE EXPANDED AREA TO BE KNOWN AS THE "CAPE HARBOUR RECREATIONAL AREA AND MARINA COMPLEX" PHASE, AND APPROVING THE FOLLOWING FOR THE SAID "CAPE HARBOUR RECREATIONAL AREA AND MARINA COMPLEX" PHASE: TWO ADDITIONAL SUBPHASES; A SITE PLAN FOR THE FIRST SUBPHASE; A DEVIATION OF THREE (3) INCHES TO SECTION 3.9.6.B.1.a. OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A MAXIMUM HEIGHT OF SIX (6) FEET THREE (3) INCHES IN A COMMERCIAL ZONING DISTRICT; A DEVIATION OF TWELVE (12) FEET TO SECTION 3.9.6.B.1.b. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A SETBACK OF THIRTEEN (13) FEET FROM THE FRONT PROPERTY LINES OF TRACT "D" ALONG CHIQUITA BOULEVARD SOUTH; AND A DEVIATION OF 46 PARKING SPACES TO THE 84 PARKING SPACES REQUIRED BY SECTION 5.1.7. OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, TABLE OF PARKING STANDARDS, TO ALLOW 38 PARKING SPACES; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral on May 19, 1997, by Ordinance 28-97 and amended on September 29, 1997 by Ordinance 60-97; and

WHEREAS, an application from Avatar Properties, Inc. has been received requesting an amendment to the Planned Development Project (PDP) for Cape Harbour (PDP 96 - 00800017); requesting revision and expansion of the project area with additional subphases, site plan approval for the first subphase, and deviations to the City of Cape Coral Land Use and Development Regulations; and

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

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

SECTION I. PDP APPROVAL AMENDING ORDINANCE 28-97 AS AMENDED BY ORDINANCE 60-97, REVISION AND EXPANSION OF THE PROJECT AREA WITH ADDITIONAL SUBPHASES, SITE PLAN, AND DEVIATIONS FROM CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS.

That the City Council having reviewed the application requesting amendment of a Planned Development Project for Cape Harbour PDP number 96-00800017, amending Ordinance 28 - 97 as amended by Ordinance 60-97 to approve revision and expansion of the project area to include a tract of land situated in Tract "D", Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, being more particularly described herein, the expanded area to be known as the "Cape Harbour Recreational Area and Marina Complex" phase, and requesting the following approvals for the said "Cape Harbour Recreational Area and Marina Complex" phase: Two additional subphases, Site Plan for the first subphase which provides private ingress and egress, buffer area and water management tracts as per the development plan set prepared by Avalon Engineering, Inc., dated March 25, 1998, with revisions dated April 2, 1998, and April 20, 1998; a deviation of three (3) inches to Section 3.9.6.B.1.a. of the City of Cape Coral Land Use and Development Regulations to allow a development wall system with a maximum height of six (6) feet three (3) inches in a commercial zoning district; a deviation of twelve (12) feet to Section 3.9.6.B.1.b. of the Land Use and Development Regulations to allow a development wall system with a setback of thirteen (13) feet from the front property lines of Tract "D" along Chiquita Boulevard South; and a deviation of 46 parking spaces to the 84 parking spaces required by Section 5.1.7. of the City of Cape Coral Land Use and Development Regulations, Table of Parking Standards, to allow 38 parking spaces.

Having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida does hereby approve the PDP, said amendment to Ordinance 28-97 as amended by Ordinance 60-97 approving revision and expansion of the project area with additional subphases, Site Plan for the first subphase of the "Cape Harbour Recreational Area and Marina Complex" phase, and Deviations to the City of Cape Coral Land Use and Development Regulations. Approval of the PDP shall be subject to the terms and conditions set forth below.

RECORDED BY  
SUSAN ROSTOW, D.C.



SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Cape Harbour development (including the original "Cape Harbour" together with the "Cape Harbour East" phase and "Cape Harbour Recreational Area and Marina Complex" phase) is a residential Planned Development Project (PDP) with a commercial recreational area and marina complex. This development consists of homesites for two hundred ten (210) detached single family dwelling units with associated infrastructure including gated private roads, along with a development wall/fountain/clock tower system and a recreation area and marina complex on  $\pm 72.13$  acres of land located in Unit 75. The first subphase of the "Cape Harbour Recreational Area and Marina Complex" will contain 2,480 square feet of building area, 4,824 square feet of pool and deck, 17,150 square feet of courts, and 76 wet slips on  $\pm 9.41$  acres of land. The Cape Harbour development, including the "Cape Harbour East", phase will contain 44.30 acres of residential lots. Approximately 13.12 acres of the site will be platted for ingress, egress, and internal site circulation and 2.47 acres of the site are to be provided as surface water management tracts. The development will occur in three phases, "Cape Harbour", "Cape Harbour East", and "Cape Harbour Recreational Area and Marina Complex" each having two subphases with a build out for all subphases in five (5) years.
- B. The proposed conditions below meet the criteria found in Section 163.3227, Florida Statutes.
- C. The name of the legal and equitable owner is Avatar Properties, Inc.
- D. The legal description of the property is as follows:

A TRACT OF LAND SITUATED IN CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA CONSISTING OF THE FOLLOWING: ALL OF TRACT "C" AND A PORTION OF TRACTS "B" AND "D" OF SAID UNIT 75, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS (SEE ACCOMPANYING SKETCH, EXHIBIT "A"):

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "C", BEING ALSO NORTHEAST CORNER OF SAID TRACT "B" AND A POINT ON THE SOUTH LINE OF EL DORADO PARKWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN  $S89^{\circ}43'07''E$  ALONG THE LINE COMMON TO SAID TRACT "C" AND SAID RIGHT-OF-WAY LINE FOR 1074.84 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ON THE LINE COMMON TO SAID TRACT "C", SAID RIGHT-OF-WAY LINE AND THE WEST RIGHT-OF-WAY LINE OF CHIQUITA BOULEVARD SOUTH ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $90^{\circ}21'27''$  (CHORD =  $S44^{\circ}32'35''E$ , 35.47 FEET) FOR 39.43 FEET; THENCE RUN  $S00^{\circ}38'20''W$  ALONG THE LINE COMMON TO SAID TRACT "C" AND SAID WEST RIGHT-OF-WAY LINE FOR 99.98 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE SE  $1/4$  (SOUTHEAST ONE-QUARTER) OF SECTION 16, TOWNSHIP 45 SOUTH, RANGE 23 EAST; THENCE RUN  $S00^{\circ}31'37''E$  ALONG THE LINE COMMON TO SAID TRACT "C" AND SAID WEST RIGHT-OF-WAY LINE FOR 534.92 FEET TO A POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "C" AND SAID TRACT "D" THENCE CONTINUE RUNNING  $S00^{\circ}31'37''E$  ALONG SAID LINE COMMON TO SAID TRACT "D" AND SAID WEST RIGHT-OF-WAY LINE FOR 525.74 FEET; THENCE RUN  $S89^{\circ}28'23''W$ , LEAVING SAID COMMON LINE, FOR 111.55 FEET TO A NON-TANGENT POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF  $21^{\circ}36'44''$  (CHORD =  $N43^{\circ}33'50''W$ , 28.12 FEET) FOR 28.29 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF  $53^{\circ}50'35''$  (CHORD =  $N27^{\circ}26'55''W$ , 113.19 FEET) FOR 117.47 FEET; THENCE RUN  $N00^{\circ}31'37''W$  FOR 320.17 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $89^{\circ}11'30''$  (CHORD =  $N45^{\circ}07'22''W$ , 35.11 FEET) FOR 38.92 FEET; THENCE RUN  $N89^{\circ}43'07''W$  FOR 231.98 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 500.00 FEET AND A CENTRAL ANGLE OF  $18^{\circ}33'33''$  (CHORD =  $S81^{\circ}00'06''W$ , 161.25 FEET) FOR 161.96 FEET; THENCE RUN  $S71^{\circ}43'20''W$  FOR 557.28 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND CENTRAL ANGLE OF  $62^{\circ}57'52''$  (CHORD =  $S40^{\circ}14'24''W$ , 26.11 FEET) FOR 27.47 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF  $58^{\circ}15'19''$  (CHORD =  $N20^{\circ}22'11''W$ , 82.75 FEET) FOR 86.42 FEET; THENCE RUN  $N76^{\circ}32'04''E$  FOR 192.74 FEET TO A POINT OF INTERSECTION WITH SAID LINE COMMON TO SAID TRACT "B" AND SAID TRACT "D"; THENCE RUN  $N00^{\circ}16'53''E$  ALONG SAID LINE COMMON TO SAID TRACT "B" AND SAID TRACT "D" FOR 162.15 FEET TO THE POINT COMMON TO SAID TRACTS "B", "C" AND "D"; THENCE RUN  $N13^{\circ}27'56''W$  ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "C" FOR 516.87 FEET; THENCE RUN  $N00^{\circ}16'53''E$  ALONG SAID COMMON LINE FOR 157.94 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 20.357 ACRES, MORE OR LESS;

TOGETHER WITH:

A TRACT OF LAND SITUATED IN TRACT "E", CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND A PORTION OF TRACTS "B" AND "D" OF SAID CAPE CORAL UNIT 75, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS (SEE ACCOMPANYING SKETCH, EXHIBIT "B"):

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "B", BEING ALSO THE NORTHEAST CORNER OF LOT 30, BLOCK 6501 OF SAID CAPE CORAL UNIT 75 AND A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF EL DORADO PARKWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN  $S00^{\circ}16'53''W$  ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID BLOCK 6501 FOR 395.78 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID COMMON LINE ON SAID CURVE HAVING A RADIUS OF 30.86 FEET AND A CENTRAL ANGLE OF  $72^{\circ}15'53''$  (CHORD =  $S35^{\circ}51'03''E$ , 36.39 FEET) FOR 38.92 FEET TO THE

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POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID COMMON LINE ON SAID CURVE HAVING A RADIUS OF 190.00 FEET AND A CENTRAL ANGLE OF 103°07'57" (CHORD = S20°25'00"E, 297.67 FEET) FOR 342.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND ROUND TABLE LAKE; THENCE RUN THE FOLLOWING COURSES ALONG SAID COMMON LINE: N31°08'57"E FOR 313.47 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN ALONG SAID CURVE HAVING A RADIUS OF 225.00 FEET AND A CENTRAL ANGLE OF 59°07'56" (CHORD = N60°42'55"E, 222.04 FEET) FOR 232.21 FEET TO THE POINT OF TANGENCY, THEN S89°43'07"E FOR 118.56 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST, THEN ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 76°15'11" (CHORD = S51°35'31"E, 154.35 FEET) FOR 166.36 FEET TO THE POINT OF TANGENCY, THEN S13°27'56"E FOR 236.57 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN ALONG SAID CURVE HAVING A RADIUS OF 200.00 FEET AND A CENTRAL ANGLE OF 86°15'00" (CHORD = S29°39'34" W, 273.44 FEET) FOR 301.07 FEET TO THE POINT OF TANGENCY AND POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "E"; THENCE RUN THE FOLLOWING COURSES ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID ROUND TABLE LAKE AND / OR GUENEVER CANAL: S72°47'04"W FOR 582.43 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN ALONG SAID CURVE HAVING A RADIUS OF 405.00 FEET AND CENTRAL ANGLE OF 74°08'07" (CHORD = S35°43'01"W, 488.23 FEET) FOR 524.03 FEET TO THE POINT OF TANGENCY, THEN S01°21'03"E FOR 102.05 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THEN ALONG SAID CURVE HAVING A RADIUS OF 430.00 FEET AND A CENTRAL ANGLE OF 85°13'44" (CHORD = S43°57'55"E, 582.27 FEET) FOR 639.64 FEET TO THE POINT OF TANGENCY AND POINT OF INTERSECTION WITH THE NORTH LINE OF THE SOUTH SPREADER WATERWAY; THENCE RUN N87°03'07"E ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID SOUTH SPREADER WATERWAY FOR 451.65 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, BEING ALSO A POINT ON THE WESTERLY CUSP OF SAID TRACT "D"; THENCE RUN THE FOLLOWING COURSES ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID TRACT "D"; ALONG SAID CURVE HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF 58°01'04" (CHORD = N58°02'25"E, 290.97 FEET) FOR 303.78 FEET TO THE POINT OF TANGENCY, THEN N29°01'53"E FOR 525.52 FEET; THENCE CONTINUE RUNNING N29°01'53"E, LEAVING SAID TRACT "E", FOR 3.15 FEET THENCE RUN S58°51'34"E FOR 16.67 FEET; THENCE RUN N30°02'18"E FOR 47.62 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 51.10 FEET AND A CENTRAL ANGLE OF 26°46'53" (CHORD = N43°36'33"E, 23.67 FEET) FOR 23.89 FEET; THENCE RUN N53°18'56"W FOR 44.57 FEET; THENCE RUN N77°31'25"W FOR 125.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE WEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 375.00 FEET AND CENTRAL ANGLE OF 25°56'31" (CHORD = N00°29'41"W, 168.34 FEET) FOR 169.79 FEET TO THE POINT OF TANGENCY; THENCE RUN N13°27'56"W FOR 44.19 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 62°57'52" (CHORD = N18°01'00"E, 26.11 FEET) FOR 27.47 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 06°15'30" (CHORD = N46°22'11"E, 9.28 FEET) FOR 9.28 FEET TO A POINT ON SAID CURVE, BEING ALSO A POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "D" AND SAID TRACT "B"; THENCE CONTINUE RUNNING ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 92°44'16" (CHORD = N03°07'43"W, 123.05 FEET) FOR 137.58; THENCE RUN N76°32'04"E FOR 192.74 FEET TO A POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "D"; THENCE RUN N00°16'53"E ALONG SAID COMMON LINE FOR 162.15 FEET TO A POINT COMMON TO SAID TRACT "B", SAID TRACT "D" AND TRACT "C" OF SAID UNIT 75; THENCE RUN N13°27'56"W ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "C" FOR 516.87 FEET; THENCE RUN N00°16'53"E FOR 157.94 FEET TO THE POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE OF SAID EL DORADO PARKWAY WEST; THENCE RUN N89°43'07"W ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID SOUTH RIGHT-OF-WAY LINE FOR 1119.71 FEET TO THE POINT OF BEGINNING; AND

WALL & FOUNTAIN AREA

A TRACT OR LAND SITUATED IN LOTS 14, 15 AND 30, BLOCK 6501, TRACT "B" AND TRACT "C", ALL IN CAPE CORAL UNIT 75 (CAMELOT), ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF MERLYN LANE AND THE SOUTH RIGHT-OF-WAY LINE OF EL DORADO PARKWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 64.50 FEET; THENCE RUN S00°16'53"W, LEAVING SAID RIGHT-OF-WAY LINE, FOR 20.00 FEET; THENCE RUN S89°43'07"E FOR 12.41 FEET; THENCE RUN S40°29'26"E FOR 23.11 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 22.00 FEET SOUTH OF SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN S89°43'07"E ALONG SAID PARALLEL LINE FOR 834.36 FEET; THENCE RUN S40°29'26"E, LEAVING SAID PARALLEL LINE FOR 20.47 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH SAID PARALLEL LINE; THENCE RUN S89°43'07"E ALONG SAID PARALLEL LINE FOR 604.91 FEET; THENCE RUN S40°29'26"E, LEAVING SAID PARALLEL LINE FOR 20.47 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH SAID PARALLEL LINE; THENCE RUN S89°43'07"E FOR 543.06 FEET; THENCE RUN S00°16'53"W, LEAVING SAID PARALLEL LINE, FOR 10.86 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 21.33 FEET AND CENTRAL ANGLE OF 79°00'42" (CHORD = S39°13'28"E, 27.14 FEET) FOR 29.41 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 18.67 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = S39°13'04"E, 23.76 FEET) FOR 25.75 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN



ALONG SAID CURVE HAVING A RADIUS OF 39.19 FEET AND A CENTRAL ANGLE OF 89°38'00" (CHORD = S44°32'31"E, 55.25 FEET) FOR 61.31 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 18.67 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = S49°51'19"E, 23.75 FEET) FOR 25.75 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 21.33 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = S49°51'39"E, 27.14 FEET) FOR 29.41 FEET TO A POINT OF TANGENCY; THENCE RUN S89°21'40"E FOR 11.24 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 22.00 FEET WEST OF THE WEST RIGHT-OF-WAY LINE OF CHIQUITA BOULEVARD SOUTH (100 FOOT RIGHT-OF-WAY); THENCE RUN S00°31'37"E ALONG SAID PARALLEL LINE FOR 92.01 FEET; THENCE RUN N89°28'23"E FOR 22.00 FEET TO A POINT OF INTERSECTION WITH SAID WEST RIGHT-OF-WAY LINE; THENCE RUN N00°31'37"W ALONG SAID WEST RIGHT-OF-WAY LINE FOR 110.57 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE S.E. 1/4 (SOUTHEAST ONE-QUARTER) OF SECTION 16, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; THENCE RUN N00°38'20"E CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, FOR 99.98 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID WEST RIGHT-OF-WAY LINE AND SAID SOUTH RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°21'27" (CHORD = N44°32'35"W, 35.47 FEET) FOR 39.43 FEET TO A POINT OF TANGENCY; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY FOR 2359.55 FEET TO THE POINT OF BEGINNING, EXCEPTING FROM THE PRECEDING DESCRIPTION THE FOLLOWING DESCRIBED PORTION OF MERLYN LANE RIGHT-OF-WAY: BEGINNING AT SAID INTERSECTION OF SAID CENTERLINE OF SAID MERLYN LANE AND SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 50.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST. BEING ALSO THE WESTERLY RIGHT-OF-WAY LINE OF SAID MERLYN LANE; THENCE RUN ALONG SAID WESTERLY RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00" (CHORD = S44°13'07"E, 35.36 FEET) FOR 39.27 FEET TO A POINT OF TANGENCY; THENCE RUN S00°16'53"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 22.50 FEET; THENCE RUN S89°43'07"E, LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, FOR 50.00 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SAID MERLYN LANE; THENCE RUN N00°16'53"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 22.50 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID EASTERLY RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00" (CHORD = N45°16'53"E, 35.36 FEET) FOR 39.27 FEET TO A POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 50.00 FEET TO THE POINT OF BEGINNING OF SAID EXCEPTION; AND

A TRACT OF LAND SITUATED IN TRACT "D", CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS (SEE ACCOMPANYING SKETCH, EXHIBIT "C"):

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT "D" OF SAID UNIT 75, BEING ALSO THE SOUTHEAST CORNER OF TRACT "C" OF SAID CAPE CORAL UNIT 75 AND A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF CHIQUITA BOULEVARD SOUTH (100' R/W); THENCE RUN S00°31'37"E ALONG THE EASTERLY LINE OF SAID TRACT "D" AND SAID WESTERLY RIGHT-OF-WAY LINE FOR 525.74 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE RUNNING S00°31'37"E ALONG SAID COMMON LINE FOR 207.45 FEET; THENCE RUN S57°26'59"W, LEAVING SAID COMMON LINE, FOR 680.30 FEET; THENCE RUN N32°33'01"W FOR 315.61 FEET TO A POINT OF INTERSECTION WITH THE FACE (WATERWARD SIDE) OF AN EXISTING SEAWALL; THENCE CONTINUE RUNNING N32°31'37"W FOR 257.38 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 40.00 FEET SOUTHEASTERLY FROM THE FACE OF AN EXISTING SEAWALL; THENCE RUN N33°55'58"E ALONG SAID PARALLEL LINE FOR 268.26 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 60.00 FEET SOUTHEASTERLY FROM THE FACE OF AN EXISTING SEAWALL; THENCE RUN N59°00'45"E ALONG SAID PARALLEL LINE FOR 283.21 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 80.00 SOUTHWESTERLY FROM THE FACE OF AN EXISTING SEAWALL; THENCE RUN S30°50'48"E ALONG SAID PARALLEL LINE FOR 328.84 FEET; THENCE RUN N57°26'59"E FOR 80.04 FEET TO A POINT OF INTERSECTION WITH THE FACE OF AN EXISTING SEAWALL; THENCE CONTINUE RUNNING N57°26'59"E FOR 86.80 FEET TO A POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 37°51'00" (CHORD = S35°26'42"E, 81.08 FEET) FOR 82.58 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 21°36'44" (CHORD = S43°33'50"E, 28.12 FEET) FOR 28.29 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A LINE BEARING N89°28'23"E; THENCE RUN N89°28'23"E ALONG SAID LINE FOR 111.56 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 409,946 SQUARE FEET (9.411 ACRES), MORE OR LESS.

- E. The subject property has ±42.32 acres with a zoning district of Multi-Family Residential (R-3) and ±20.36 acres zoned Single Family Residential (R-1B), and ±0.03 acres zoned single family residential, waterfront (R-1BW), and ±9.41 acres zoned Pedestrian Commercial (C-1) pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as amended. The subject property has a Future Land Use designation of Mixed Use.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the provisions of the respective Multi-Family Residential, Single Family Residential, and Pedestrian Commercial Districts of the Land Use and Development Regulations, Cape Coral, Florida, as amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity

of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

- G. The Application for Development Approval is consistent with the requirements of Chapter 163, Florida Statutes.
- H. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- I. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- J. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- K. The term "Developer" for purposes of this development order, shall mean and refer to Avatar Properties, Inc., its heirs, successors in interest, lessees, and/or assigns.

### SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled this 15th day of June, 1998, that the Planned Development Project application for amendment submitted by Avatar Properties, Inc., is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

#### GENERAL CONSIDERATIONS

- A. All of the provisions and conditions of approval of Ordinance 28 - 97 as amended by amended by Ordinance 60 - 97, which are not otherwise addressed herein, including but not limited to "Drainage/Water Quality" conditions, shall remain in full force and effect for "Cape Harbour", the "Cape Harbour East" phase, and the "Cape Harbour Recreational Area and Marina Complex" phase.
- B. The Developer shall participate in its pro-rata share of any user fee or taxing district for operation of the Chiquita boat lock, if such is approved by the City Council in the future.
- C. No oil changing, boat repairs, or storage of boats (other than at the 76 wet slips) or boat trailers shall be permitted in the Cape Harbour Recreational Area and Marina Complex.
- D. The Developer shall display manatee awareness signs and informational literature in the Cape Harbour Recreational Area and Marina Complex in locations conspicuous to mariners.
- E. The use of the pump out facilities shall be for the exclusive use of owners/lessees of the Cape Harbour Marina slips.

### SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project application for amendment filed for Cape Harbour.
- B. The deadline for commencing physical development of "Cape Harbour Recreational Area and Marina Complex" under this Development Order shall be two (2) years from the date of adoption of the Order or one (1) year from final permit approval from all appropriate governmental jurisdictions, whichever is less, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Council upon a finding of excusable delay in any proposed development activity and that considerations have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order as "Cape Harbour Recreational Area and Marina Complex" within two (2) years from the date of rendition of this Development Order, development approval of the amendment shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a certificate of compliance or occupancy on some substantial portion of the project (e.g., water management system or major road system). This Development Order shall otherwise terminate in five (5) years from the date of this Development Order, unless an extension is approved by this Council. An extension may be granted if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For the process of determining when the build-out date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.

### SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall

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in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

**SECTION VI. EFFECTIVE DATE.**

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of the County and thirty (30) days after having been received by the State Land Planning Agency pursuant to Section 163.3239, Florida Statutes. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer and are subject to the requirements and review pursuant to Chapter 163, Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 15th DAY OF June, 1998.

Roger G. Butler  
ROGER G. BUTLER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 18th DAY OF June, 1998.

Bonnie J. Vent  
BONNIE J. VENT, CITY CLERK

LEGAL REVIEW:

BRC  
BRUCE R. CONROY  
CITY ATTORNEY  
ord\97800021.pdp

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CHARLIE GREEN, CLERK  
LEE COUNTY, FL  
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✓ City of Cape Coral  
PO Box 150027  
Cape Coral FL 33915-0027

ORDINANCE 28 - 97

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RECORD VERIFIED - CHARLIE GREEN, CLERK  
BY: C. KELLER, D.C.

BEING RE-RECORDED TO ADD EXHIBITS A THROUGH C

AN ORDINANCE APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR"; PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR CERTAIN PROPERTY DESCRIBED AS A TRACT OF LAND SITUATED IN TRACT "E", CAPE CORAL UNIT 75 (CAMELOT), AND A PORTION OF TRACTS "B", "C", AND "D" OF SAID CAPE CORAL UNIT 75, TOGETHER WITH A TRACT OF LAND SITUATED IN LOTS 14, 15, AND 30, BLOCK 6501, IN CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED

AT THE SOUTHWEST CORNER OF CHIQUITA BOULEVARD SOUTH AND EL DORADO PARKWAY WEST; GRANTING PDP APPROVAL; GRANTING REPLAT AND SUBDIVISION OF TRACT "E", CAPE CORAL UNIT 75 (CAMELOT), AND A PORTION OF TRACTS "B" AND "D" OF SAID CAPE CORAL UNIT 75, FOR A 120 LOT RESIDENTIAL SUBDIVISION WHICH PROVIDES PRIVATE INGRESS AND EGRESS, BUFFER AREA AND WATER MANAGEMENT TRACTS; REZONING A PORTION OF TRACT "D" INCLUDED WITHIN THE CAPE HARBOUR SUBDIVISION, MORE PARTICULARLY DESCRIBED HEREIN, FROM PEDESTRIAN COMMERCIAL (C-1) TO MULTI-FAMILY RESIDENTIAL (R-3); GRANTING A SPECIAL EXCEPTION TO ALLOW FOR TWO MODEL HOME SITES, EACH LOCATED ON ANY THREE CONTIGUOUS LOTS WITHIN CAPE HARBOUR SUBDIVISION WHICH SHALL COMPLY WITH ALL SPECIAL REGULATIONS WITHIN THE LAND USE AND DEVELOPMENT REGULATIONS FOR MODEL HOME SITES; APPROVING SITE PLAN; APPROVING A VARIANCE OF TWO (2) FEET THREE (3) INCHES TO SECTION 3.9.1 A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A MAXIMUM HEIGHT OF SIX (6) FEET THREE (3) INCHES IN A RESIDENTIAL DISTRICT; APPROVING A VARIANCE OF THREE (3) INCHES TO SECTION 3.9.6 B.1.A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A MAXIMUM HEIGHT OF SIX (6) FEET THREE (3) INCHES IN A COMMERCIAL DISTRICT; APPROVING A VARIANCE OF SEVENTEEN (17) FEET TO SECTION 3.9.1 A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITHIN THE FRONT SETBACK LINES OF LOTS 14, 15, AND 30; APPROVING A VARIANCE OF TWELVE (12) FEET TO SECTION 3.9.6 B.1.b. (1) OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL/CLOCK TOWER SYSTEM WITH A FRONT SETBACK OF THIRTEEN (13) FEET IN A ZONING COMMERCIAL DISTRICT; APPROVING A VARIANCE OF TWO (2) FEET TO SECTION 3.9.6 B.1.b. (3) OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL/CLOCK TOWER SYSTEM WITH A SIDE SETBACK OF THIRTEEN (13) FEET IN A COMMERCIAL ZONING DISTRICT ON A CORNER LOT; APPROVING A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS FOR ROADS TO ALLOW PRIVATE INGRESS AND EGRESS COMMON AREAS A MINIMUM OF FIFTY (50) FEET IN WIDTH; APPROVING A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS FOR ROADS TO ALLOW TYPICAL SECTIONS FOR PRIVATE ROADS TO BE AS PER THE SUBMITTED DEVELOPMENT PLAN SET; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, an application from Avatar Properties, Inc. has been received requesting approval of a Planned Development Project (PDP) for Cape Harbour; requesting replat and subdivision approval, rezoning, special exception, site plan approval, variances, and deviations from Cape Coral Engineering Design Standards; and

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

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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



SECTION I. PDP APPROVAL, REPLAT, SUBDIVISION, REZONING, SPECIAL EXCEPTION, SITE PLAN, VARIANCES, AND DEVIATIONS FROM CAPE CORAL ENGINEERING DESIGN STANDARDS.

That the City Council having reviewed the application requesting approval of a Planned Development Project for Cape Harbour PDP number 96-00800017, requesting replat and subdivision of Tract "E", Cape Coral Unit 75 (Camelot), and a portion of Tracts "B" and "D" of said Cape Coral Unit 75, for a 120 lot residential subdivision which provides private ingress and egress, buffer area and water management tracts as per the development plan set prepared by Avalon Engineering, Inc., dated March 15, 1996 with revisions dated February 21, 1997, together with supplemental plans of wall and fountain prepared by Stouten-Stevenot and Associates, Inc., dated August 29, 1996 and October 8, 1996, with revisions dated October 22, 1996; rezoning a portion of Tract "D" included within the Cape Harbour subdivision (refer to legal description included in Exhibit "A", a copy of which is attached hereto and incorporated herein by reference) from Pedestrian Commercial (C-1) to Multi-family Residential (R-3); a special exception to allow for two model home sites, each located on any three contiguous lots within Cape Harbour Subdivision which shall comply with all special regulations within the Land Use and Development Regulations for Model Home Sites; site plan review; a variance of two (2) feet three (3) inches to Section 3.9.1 A. of the Land Use and Development Regulations to allow a development wall system with a maximum height of six (6) feet three (3) inches in a residential district; a variance of three (3) inches to Section 3.9.6 B.1.a. of the Land Use and Development Regulations to allow a development wall system with a maximum height of six (6) feet three (3) inches in a commercial district; a variance of seventeen (17) feet to Section 3.9.1 A. of the Land Use and Development Regulations to allow a development wall system within the front setback lines of Lots 14, 15, and 30, Block 6501, Unit 75; a variance of twelve (12) feet to Section 3.9.6 B.1.b.(1) of the Land Use and Development Regulations to allow a development wall/clock tower system with a front setback of thirteen (13) feet in a zoning commercial district; a variance of two (2) feet to Section 3.9.6 B.1.b.(3) of the Land Use and Development Regulations to allow a development wall/clock tower system with a side setback of thirteen (13) feet in a commercial zoning district on a corner lot; a deviation from Cape Coral Engineering Design Standards for roads to allow private ingress and egress common areas a minimum of fifty (50) feet in width; and a deviation from Cape Coral Engineering Design Standards for roads to allow typical sections for private roads to be as per the above referenced development plan set. The aforementioned deviations to Cape Coral Engineering Design Standards do not apply to the portion of roads within the City right-of-way. Having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida does hereby approve the PDP, said replat of a portion of the existing Subdivision for Cape Coral Camelot, Subdivision, rezoning, Special Exception, Site Plan, Variances, and deviations from Cape Coral Engineering Design Standards from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Cape Harbour development is a residential Planned Development Project (PDP). This development consists of homesites for one hundred twenty (120) detached single family dwelling units with associated infrastructure, including gated private roads, along with a development wall/fountain/clocktower buffering system on  $\pm 43.35$  acres of land located in Unit 75. The proposed development will contain  $\pm 30.68$  acres of residential lots. Approximately 7.85 acres of the site will be dedicated as road right-of-way,  $\pm 2.38$  acres will be dedicated as buffer tracts and  $\pm 3.04$  acres of the site are to be dedicated as surface water management tracts. The development will occur in two (2) phases with a build out in five (5) years.
- B. The proposed conditions below meet the criteria found in Section 163.3227, Florida Statutes.

C. The name of the legal and equitable owner is Avatar Properties, Inc.

D. The legal description of the property is as follows:

A tract of land situated in Tract "E", Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, and a portion of Tracts "B" and "D" of said Cape Coral Unit 75, more particularly described in Exhibit "B", Legal Description, Proposed 120 Lot Subdivision;

together with:

A tract of Land situated in Lots 14, 15, and 30, Block 6501, Tract "B" and Tract "C", all in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, being more particularly described in Exhibit "C", Wall & Fountain Area Description.

The subdivision is limited to the area identified in Exhibit "B". Exhibits "B" and "C" are attached hereto and incorporated by reference herein.

E. The subject parcel has ±42.32 acres zoned multi-family residential (R-3), ±0.08 acres zoned single family residential (R-1B), ±0.03 acres zoned single family residential, waterfront (R-1BW), and ±0.93 acres zoned Pedestrian Commercial (C-1), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as amended.

F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the provisions of the respective Multi-Family Residential, Pedestrian Commercial, and Single Family Residential Districts of the Land Use and Development Regulations, Cape Coral, Florida, as amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

G. The Application for Development Approval is consistent with the requirements of Chapter 163, Florida Statutes.

H. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.

I. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.

J. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.

K. The term "Developer" for purposes of this development order, shall mean and refer to Avatar Properties, Inc., its heirs, successors in interest, lessees, and/or assigns.

### SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled this 19th day of May, 1997, that the Planned Development Project application for Development Approval submitted by Avatar Properties, Inc., is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.



A. DRAINAGE/WATER QUALITY

1. This project is permitted under the South Florida Water Management District (SFWMD) "No Notice" permitting process. Because of the close proximity of this project to the Spreader waterway, the Developer must observe the requirements of the Florida Department of Environmental Regulation (D.E.R.) consent order # 15.
2. The Developer shall provide, as part of the site's overall management plan, regularly scheduled street and parking lot vacuum sweeping to help ensure optimal stormwater runoff quality.
3. Prior to the issuance of any building permits, if applicable, the Developer shall coordinate with the City of Cape Coral, the Florida Department of Environmental Protection (DEP), and the SFWMD in the siting of any on-site temporary transfer and storage facilities for all special or hazardous waste that may be generated within the project site. Any facility constructed on-site shall be located as far away from the surface water management system as feasible.
4. At completion of construction, as required by the conditions imposed by SFWMD and prior to the issuance of a Certificate of Occupancy, the Developer will be required to provide certification by the Engineer of Record that all stormwater infrastructure and facilities have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral, and should consist of the wording "Construction Compliance Certification" and the Engineer of Record shall conduct periodic inspections during construction to substantiate the certification of construction compliance, as provided for in the review and approval of the Cape Harbour PDP.
5. The Developer shall install sod as per grade elevations provided by the City from the property line of the project site to the street pavement. No seed or mulch shall be permitted in this area. Walkways may not extend into the right-of-way to ensure proper drainage flow. No drainage pipes shall extend from the perimeter development wall system that discharge into the swale area.
6. The Developer shall obtain a right-of-way permit and shall comply with City of Cape Coral Engineering Design Standards for the Harbour Circle access driveway. Driveway elevations in the right-of-way shall be as established by the City and shall not impede the flow of stormwater runoff in the City swale. The radius curb at the entrance for Harbour Circle shall not extend into the right-of-way.

B. ENERGY

The Developer shall incorporate at a minimum the following energy conservation measures into this development:

1. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
2. The Developer shall participate in the Lee County Electric Cooperative "Good Sense" home program.
3. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).
4. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Cape Coral Department of Community Development.

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5. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
6. Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs.
7. Planting of shade trees to provide shade for all street and parking areas.
8. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
9. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
10. Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
11. Consideration by any project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with the above conditions.
12. Provision of bicycle/pedestrian system connecting all land uses to be placed along arterial and collector roads within the project. The system is to be consistent with local government requirements.
13. Provision of bicycle racks or storage facilities in recreational, commercial, and multi-family residential areas.

#### C. HURRICANE EVACUATION

Prior to issuance of the building permits, the Developer shall meet with the Lee County Disaster Preparedness and Cape Coral emergency management officials to discuss and identify (if appropriate) any areas in the common portion of the project that may be utilized as public shelter. A letter documenting this meeting shall be submitted to the City.

#### D. WETLANDS, VEGETATION, AND WILDLIFE

1. Ongoing control and removal of nuisance exotic plants on-site is required including but not limited to Casuarina sp. (Australian Pine), Melaleuca quinquenervia (melaleuca), and schinus terebinthifolius (Brazilian Pepper).
2. The Developer shall provide permanent maintenance of landscaping and screening throughout the life of this development.

#### E. FIRE PROTECTION

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

#### F. WATER CONSERVATION

1. The Developer shall incorporate the use of water conserving devices as required by state law (Section 553.14, Florida Statutes).
2. For the purpose of non-potable water conservation, the development should require, through the use of deed



restriction, the utilization of xeriscape principals, where feasible, in the design and installation of the project's landscaping.

3. No irrigation should take place on the site between the hours of 9:00 A.M. and 5:00 P.M. after the establishing of landscaping, and prior to the installation and hook-up to the secondary water system, if applicable. After the secondary water system is installed, there will be no watering restrictions unless mandated by the City or SFWMD for conservation or other health, safety, and welfare reasons.
4. The Developer shall be responsible for payment of Contributions in Aid of Construction as required by City Council.

G. SOLID WASTE

1. The Developer and tenants of the project should investigate methods of reducing solid waste volume at the project.
2. The Developer and tenants of the project shall identify to the City, the presence of and the proper on-site handling and temporary storage procedures for hazardous waste that may be generated on-site, in accordance with local, regional and state hazardous waste programs.
3. The Developer will require that an EPA/FDEP approved holding storage tank be provided on-site along with the proper monitoring devices if a prospective user has the potential for producing toxic or industrial waste. These wastes will be disposed of off-site by a company licensed to dispose of such wastes.
4. The Developer shall inform the waste hauler and disposer of the nature of any hazardous waste on the site, to determine if, and the extent of, any special precautions that may be necessary.
5. There will be no on-site solid waste disposal facilities.
6. The Developer will participate in recycling programs.
7. Solid waste disposal shall be provided through Lee County, Florida pursuant to Special Act, Chapter 85-447. Current and planned facilities have sufficient capacity to meet the demands of this development.

H. WASTEWATER MANAGEMENT

1. The Developer shall provide assurances that any wastewater, containing hazardous waste materials, shall be segregated from everyday wastewater and handled in accordance with Florida Department of Environmental Protection (FDEP) criteria.
2. The Developer shall design, construct, and install all on-site improvements required by the City to connect Cape Harbour to the City's wastewater collection system. Said design, construction, and installation shall be accomplished, in accordance with prevailing City design criteria, using the City's Master Plan as the design guide, and shall be subject to City inspection and approval prior to acceptance.
3. The Developer shall be responsible for payment of Contributions in Aid of Construction as approved by City Council.
4. The Developer shall be responsible for payment of all fees, including but not limited to Capital Expansion Fees, as required by the ordinances of the City of Cape Coral.

I. WATER SERVICE

1. The Developer shall design, construct and install all on-site improvements required by the City to connect Cape Harbour to the City's water system. Said design, construction, and installation shall be accomplished, in accordance with prevailing City design criteria, using the City's Master Plan as the design guide, and shall be subject to City inspection and approval prior to acceptance.
2. The Developer shall be responsible for payment of Contributions in Aid of Construction as required by City Council.
3. The Developer shall be responsible for payment of all fees, including but not limited to Capital Expansion Fees, in accordance with the ordinances of the City of Cape Coral.

J. AIR QUALITY

1. If any of the individual tract owners/developers create a complex source of pollution as defined by DEP rules, they shall apply directly to DEP for permitting.
2. Each individual tract development will be required to comply with all federal, state and local laws and codes governing air quality and emissions.

K. HISTORICAL/ARCHAEOLOGICAL

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

L. TRANSPORTATION

1. The traffic impact assessment upon which this Development Order for Cape Harbour PDP is based assumes project build-out in 2002. The traffic impact assessment included the expected impacts of single family detached housing and other associated proposed land uses.
2. The traffic impacts of this development do not degrade roadway and intersection level of service (LOS) below LOS standards adopted in the City of Cape Coral Comprehensive Plan.
3. The Developer shall provide the City of Cape Coral all appropriate Road Impact Fees at the time of application for each building permit.
4. The Developer shall provide the City of Cape Coral with an annual traffic monitoring report each year until the development reaches build-out. Preparation of the report shall not begin until the Developer provides the City of Cape Coral with an acceptable methodology for preparing the report.  
Should this report show impacts greater than those estimated at the time of the original project approval, additional mitigating actions will be required.
5. The Developer shall provide an internal bicycle/pedestrian circulation system for Cape Harbour.
6. The Developer shall install a left turn lane from El Dorado Parkway West to Cape Harbour Circle.
7. The City shall not accept either the dedication or the responsibility of maintenance of the private roadways within Cape Harbour at any time unless and until such roadways are improved to comply with City regulations including Cape Coral Engineering Design Standards. Any improvements necessary to comply with said standards shall be borne totally by the Developer.



M. SUBDIVISION

1. The subdivision shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
2. If the subdivision or phase is to be recorded prior to the completion of the site improvement, a surety bond or certified check shall be posted in a sufficient amount to assure completion of all required site improvements including streets, utilities, drainage, and grading. Such surety bond or certified check shall be returned to the applicant once the Director has determined that all required improvements have been satisfactorily completed.
3. The Director shall submit the Plat for the Mayor's signature after all required site improvements have been satisfactorily completed. Such Plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.

N. GENERAL CONSIDERATIONS

1. The Developer may be entitled to credit for contributions, construction, expansion, or acquisition of public facilities, that require impact fees or exactions to meet the same needs.
2. The Developer shall be liable and responsible for maintenance of the streets, right-of-way, common area landscaping and buffering, and all other common area improvements within Cape Harbour not dedicated to and accepted by the City until such time as the Cape Harbour Homeowner's Association assumes full responsibility.
3. The Developer may install a maximum of seven (7) ten (10) square foot subdivision identification signs flanking the driveway entrances and at the clock tower.

O. CONCURRENCY

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

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application for Development Approval filed for Cape Harbour.
- B. This Development Order shall be binding on the Developer and its heirs, assignees, or successors in interest. Those portions of this Development Order which clearly apply only to the project developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within Cape Harbour.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.

E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.

G. Subsequent requests for local development permits shall not require further review pursuant to Sections 163.3220-163.3243, Florida Statutes, unless it is found by the City Council, after due notice and hearing, that one or more of the following is present:

1. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City;
2. Substantial deviations include but are not limited to:
  - a. Any change which requires a variance to code and above those specifically incorporated herein.
  - b. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
  - c. An expiration of the period of effectiveness of this Development Order as herein provided.
  - d. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved in accordance with Chapter 163, Florida Statutes, and all local approvals have been obtained.

H. The deadline for commencing physical development under this Development Order shall be two (2) years from the date of adoption of the Order or one (1) year from final permit approval from all appropriate governmental jurisdictions, whichever is less, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Council upon a finding of excusable delay in any proposed development activity and that considerations have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order within two (2) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a certificate of compliance or occupancy on some substantial portion of the project (e.g., water management system or major road system). This Development Order shall otherwise terminate in five (5) years from the date of this Development Order, unless an extension is approved by this Council. An extension may be granted if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape

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Coral at the time of their review and approval, or arising due to the extension, have been identified. For the process of determining when the build-out date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.

- I. The Director of the Cape Coral Department of Community Development or his designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reportings shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.

- K. Copies of this recorded Development Order will be forwarded to the Developer, the Department of Community Affairs, and all permitting agencies. Upon this Development Order becoming effective, notice of its adoption shall be recorded in the Office of the Clerk of the Circuit Court by the City, as provided in Section 163.3239, Florida Statutes.

#### SECTION V. SEVERABILITY.

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

#### SECTION VI. EFFECTIVE DATE.

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of the County and thirty (30) days after having been received by the State Land Planning Agency pursuant to Section 163.3239, Florida Statutes. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the developer and are subject to the requirements and review pursuant to Chapter 163, Florida Statutes.

ADOPTED AT A REGULAR COUNCIL MEETING THIS 19th DAY OF May, 1997.

Roger G. Butler  
ROGER G. BUTLER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 27th DAY OF May, 1997.

Bonnie J. Ventrone  
BONNIE J. VENTRONE, CITY CLERK

LEGAL REVIEW:

Bruce R. Conroy  
BRUCE R. CONROY  
CITY ATTORNEY  
ord\96800017.pdp

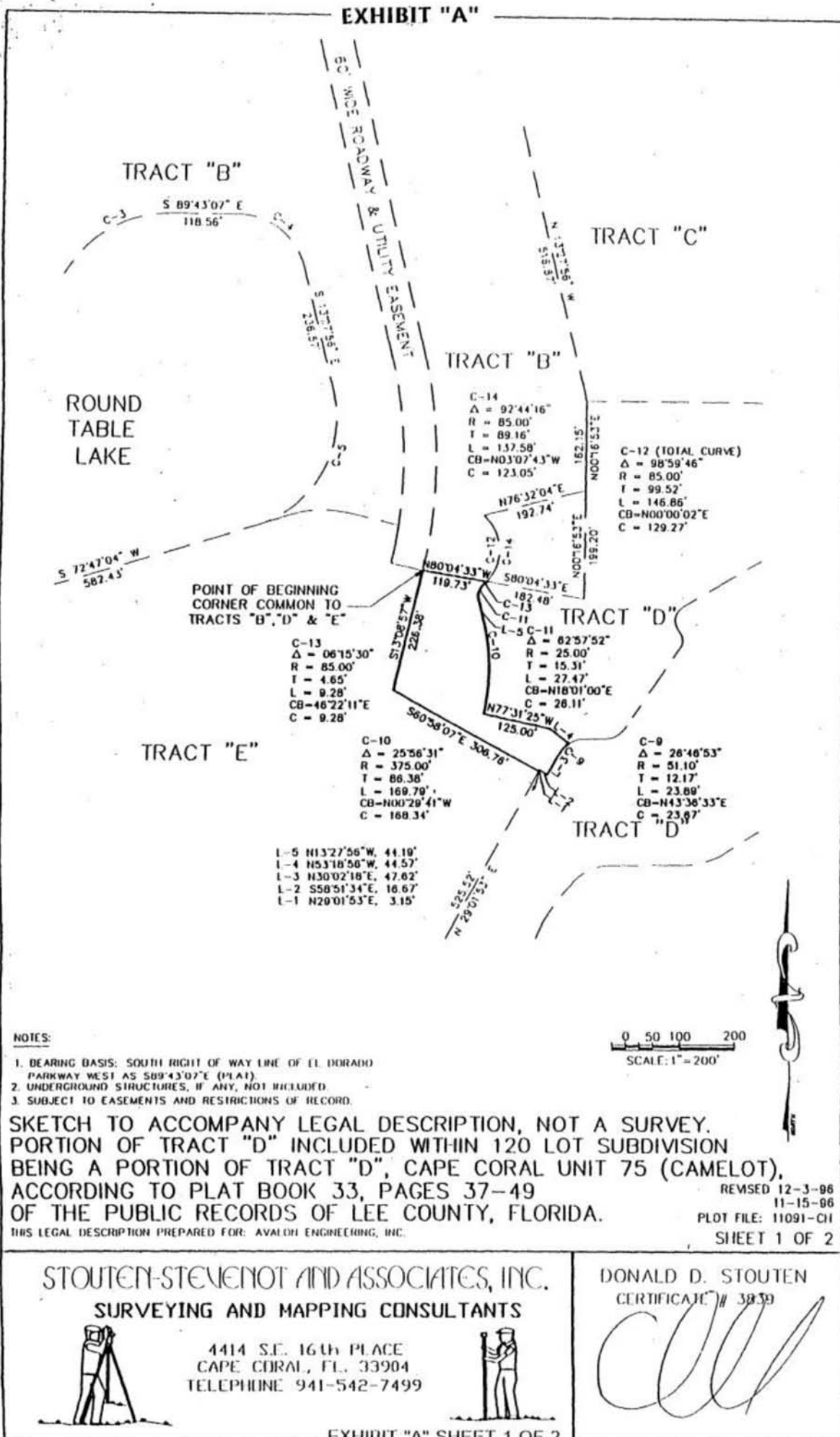
I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality, that this is a true and correct copy of Ordinance 28-97

Bonnie J. Ventrone  
City Clerk

0R2839 PG2659

0R2848 PG3528

# EXHIBIT "A"



0R2848 P63529

**STOUTEN-STEVENOT AND ASSOCIATES, INC.**  
**SURVEYING AND MAPPING CONSULTANTS**



4414 S.E. 16th PLACE  
 CAPE CORAL, FL. 33904  
 TELEPHONE 941-542-7499



**DONALD D. STOUTEN**  
**CERTIFICATE # 3839**

*(Signature)*



# EXHIBIT "A" (CONTINUED)

## LEGAL DESCRIPTION, PORTION OF TRACT "D" INCLUDED WITHIN 120 LOT SUBDIVISION

A TRACT OF LAND SITUATED IN TRACT "D", CAPE CORAL UNIT 75 (CAMELOT)  
ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE  
COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER COMMON TO SAID TRACT "D", TRACT "B" OF SAID UNIT 75  
AND TRACT "E" OF SAID UNIT 75; THENCE RUN S13°08'57"W ALONG THE LINE  
COMMON TO SAID TRACT "D" AND SAID TRACT "E" FOR 226.38 FEET; THENCE RUN  
S60°58'07"E ALONG THE LINE COMMON TO SAID TRACT "D" AND SAID TRACT "E" FOR  
306.76 FEET; THENCE RUN N29°01'53"E, LEAVING SAID TRACT "E", FOR 3.15  
FEET; THENCE RUN S58°51'34"E FOR 16.67 FEET; THENCE RUN N30°02'18"E FOR  
47.62 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST;  
THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 51.10 FEET AND A CENTRAL  
ANGLE OF 26°46'53" (CHORD = N43°36'33"E, 23.67 FEET) FOR 23.89 FEET;  
THENCE RUN N53°18'56"W FOR 44.57 FEET; THENCE RUN N77°31'25"W FOR 125.00  
FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE  
WEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 375.00 FEET AND A  
CENTRAL ANGLE OF 25°56'31" (CHORD = N00°29'41"W, 168.34 FEET) FOR 169.79  
FEET TO THE POINT OF TANGENCY; THENCE RUN N13°27'56"W FOR 44.19 FEET TO  
THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG  
SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 62°57'52"  
(CHORD = N18°01'00"E, 26.11 FEET) FOR 27.47 FEET TO THE POINT OF REVERSE  
CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE  
HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 06°15'30" (CHORD =  
N46°22'11"E, 9.28 FEET) FOR 9.28 FEET TO A POINT ON THE LINE COMMON TO  
SAID TRACT "B" AND SAID TRACT "D"; THENCE RUN N80°04'33"W ALONG THE LINE  
COMMON TO SAID TRACT "B" AND SAID TRACT "D" FOR 119.73 FEET TO THE POINT OF  
BEGINNING.

### NOTES:

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF FL. DORADO  
PARKWAY WEST AS S09°43'07"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY.  
BEING A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVALON ENGINEERING, INC.

11-15-96  
PLOT FILE: 11091-CH  
SHEET 2 OF 2

### STOUTEN-STEVENOT AND ASSOCIATES, INC. SURVEYING AND MAPPING CONSULTANTS



4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 3839

0R2848 PG353U

[illegible]

**NOTES:**

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLA1).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION; NOT A SURVEY.

TRACT OF LAND CONTAINING

SKETCH TO ACCOMPANY LEGAL DESCRIPTION, NOT A SURVEY.  
TRACT OF LAND CONTAINING PROPOSED 120 LOT SUBDIVISION,  
BEING TRACT "E" CAPE CORAL UNIT 75 (CAMELOT),  
A PORTION OF TRACT "B", CAPE CORAL UNIT 75 (CAMELOT) AND  
A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVALON ENGINEERING, INC.

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS

4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499

DONALD D. STOUTEN  
CERTIFICATE # 3839

REVISED 12-3-96  
11-15-96  
PLOT FILE: 11091-CH  
SHEET 1 OF 4

OR2848 Pg3531



[illegible]


1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION, NOT A SURVEY.  
TRACT OF LAND CONTAINING PROPOSED 120 LOT SUBDIVISION,  
BEING TRACT "E" CAPE CORAL UNIT 75 (CAMELOT),  
A PORTION OF TRACT "B", CAPE CORAL UNIT 75 (CAMELOT) AND  
A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.  
THIS LEGAL DESCRIPTION PREPARED FOR: AVALON ENGINEERING, INC.

REVISED 12-3-96  
11-15-96  
PLOT FILE: 11091-CH  
SHEET 2 OF 4

4414 S.E. 16th PLACE  
CAPE CURAL, FL. 33904  
TELEPHONE 941-542-7499

DONALD D. STOUTEN  
CERTIFICATE # 28139



# EXHIBIT "B" (CONTINUED)

## LEGAL DESCRIPTION, PROPOSED 120 LOT SUBDIVISION

A TRACT OF LAND SITUATED IN TRACT "E", CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND A PORTION OF TRACTS "B" AND "D" OF SAID CAPE CORAL UNIT 75, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "B", BEING ALSO THE NORTHEAST CORNER OF LOT 30, BLOCK 6501 OF SAID CAPE CORAL UNIT 75 AND A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF EL DORADO PARKWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN S00°16'53"W ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID BLOCK 6501 FOR 395.78 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID COMMON LINE ON SAID CURVE HAVING A RADIUS OF 30.86 FEET AND A CENTRAL ANGLE OF 72°15'53" (CHORD = S35°51'03"E, 36.39 FEET) FOR 38.92 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID COMMON LINE ON SAID CURVE HAVING A RADIUS OF 190.00 FEET AND A CENTRAL ANGLE OF 103°07'57" (CHORD = S20°25'00"E, 297.67 FEET) FOR 342.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND ROUND TABLE LAKE; THENCE RUN THE FOLLOWING COURSES ALONG SAID COMMON LINE: N31°08'57"E FOR 313.47 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN ALONG SAID CURVE HAVING A RADIUS OF 225.00 FEET AND A CENTRAL ANGLE OF 59°07'56" (CHORD = N60°42'55"E, 222.04 FEET) FOR 232.21 FEET TO THE POINT OF TANGENCY, THEN S89°43'07"E FOR 118.56 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST, THEN ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 76°15'11" (CHORD = S51°35'31"E, 154.35 FEET) FOR 166.36 FEET TO THE POINT OF TANGENCY, THEN S13°27'56"E FOR 236.57 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN ALONG SAID CURVE HAVING A RADIUS OF 200.00 FEET AND A CENTRAL ANGLE OF 86°15'00" (CHORD = S29°39'34"W, 273.44 FEET) FOR 301.07 FEET TO THE POINT OF TANGENCY AND POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "E"; THENCE RUN THE FOLLOWING COURSES ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID ROUND TABLE LAKE AND/OR GUENEVER CANAL: S72°47'04"W FOR 582.43 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN ALONG SAID CURVE HAVING A RADIUS OF 405.00 FEET AND A CENTRAL ANGLE OF 74°08'07" (CHORD = S35°43'01"W, 488.23 FEET) FOR 524.03 FEET TO THE POINT OF TANGENCY, THEN S01°21'03"E FOR 102.05 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, THEN ALONG SAID CURVE HAVING A RADIUS OF 430.00 FEET AND A CENTRAL ANGLE OF 85°13'44" (CHORD = S43°57'55"E, 582.27 FEET) FOR 639.64 FEET TO THE POINT OF TANGENCY AND POINT OF INTERSECTION WITH THE NORTH LINE OF THE SOUTH SPREADER WATERWAY; THENCE RUN N87°03'07"E ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID SOUTH SPREADER WATERWAY FOR 451.65 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE

### NOTES:

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY.  
TRACT OF LAND CONTAINING PROPOSED 120 LOT SUBDIVISION,  
BEING TRACT "E" CAPE CORAL UNIT 75 (CAMELOT),  
A PORTION OF TRACT "B", CAPE CORAL UNIT 75 (CAMELOT) AND  
A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVALON ENGINEERING, INC.

11-15-96  
PLOT FILE: 11091-CH  
SHEET 3 OF 4

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS



4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 3839



# EXHIBIT "B" (CONTINUED)

## LEGAL DESCRIPTION, PROPOSED 120 LOT SUBDIVISION

(CONTINUED)

NORTHWEST, BEING ALSO A POINT ON THE WESTERLY CUSP OF SAID TRACT "D"; THENCE RUN THE FOLLOWING COURSES ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID TRACT "D": ALONG SAID CURVE HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF 58°01'04" (CHORD = N58°02'25"E, 290.97 FEET) FOR 303.78 FEET TO THE POINT OF TANGENCY, THENCE N29°01'53"E FOR 525.52 FEET; THENCE CONTINUE RUNNING N29°01'53"E, LEAVING SAID TRACT "E", FOR 3.15 FEET; THENCE RUN S58°51'34"E FOR 16.67 FEET; THENCE RUN N30°02'18"E FOR 47.62 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 51.10 FEET AND A CENTRAL ANGLE OF 26°46'53" (CHORD = N43°36'33"E, 23.67 FEET) FOR 23.89 FEET; THENCE RUN N53°18'56"W FOR 44.57 FEET; THENCE RUN N77°31'25"W FOR 125.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE WEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 375.00 FEET AND A CENTRAL ANGLE OF 25°56'31" (CHORD = N00°29'41"W, 168.34 FEET) FOR 169.79 FEET TO THE POINT OF TANGENCY; THENCE RUN N13°27'56"W FOR 44.19 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 62°57'52" (CHORD = N18°01'00"E, 26.11 FEET) FOR 27.47 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 06°15'30" (CHORD = N46°22'11"E, 9.28 FEET) FOR 9.28 FEET TO A POINT ON SAID CURVE, BEING ALSO A POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "D" AND SAID TRACT "B"; THENCE CONTINUE RUNNING ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 92°44'16" (CHORD = N03°07'43"W, 123.05 FEET) FOR 137.58 FEET; THENCE RUN N76°32'04"E FOR 192.74 FEET TO A POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "D"; THENCE RUN N00°16'53"E ALONG SAID COMMON LINE FOR 162.15 FEET TO A POINT COMMON TO SAID TRACT "B", SAID TRACT "D" AND TRACT "C" OF SAID UNIT 75; THENCE RUN N13°27'56"W ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "C" FOR 516.87 FEET; THENCE RUN N00°16'53"E FOR 157.94 FEET TO THE POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE OF SAID EL DORADO PARKWAY WEST; THENCE RUN N89°43'07"W ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID SOUTH RIGHT-OF-WAY LINE FOR 1119.71 FEET TO THE POINT OF BEGINNING.

### NOTES:

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS 58°43'07"E (1941).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY.  
TRACT OF LAND CONTAINING PROPOSED 120 LOT SUBDIVISION,  
BEING TRACT "E" CAPE CORAL UNIT 75 (CAMELOT),  
A PORTION OF TRACT "B", CAPE CORAL UNIT 75 (CAMELOT) AND  
A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVALON ENGINEERING, INC.

11-15-96  
PLOT FILE: 11091-C1  
SHEET 4 OF 4

### STOUTEN-STEVENOT AND ASSOCIATES, INC. SURVEYING AND MAPPING CONSULTANTS



4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 3839

0R2848 P63534

97 JUL 25 AM 8:57

## EXHIBIT "C"

## WALL &amp; FOUNTAIN AREA DESCRIPTION:

A TRACT OF LAND SITUATED IN LOTS 14, 15 AND 30, BLOCK 6501, TRACT "D" AND TRACT "C", ALL IN CAPE CORAL UNIT 75 (CAMELOT), ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF MERLYN LANE AND THE SOUTH RIGHT-OF-WAY LINE OF EL DORADO PARKWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 64.50 FEET; THENCE RUN S00°16'53"W, LEAVING SAID RIGHT-OF-WAY LINE, FOR 20.00 FEET; THENCE RUN S89°43'07"E FOR 12.41 FEET; THENCE RUN S40°29'26"E FOR 23.11 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 22.00 FEET SOUTH OF SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN S89°43'07"E ALONG SAID PARALLEL LINE FOR 834.36 FEET; THENCE RUN S40°29'26"E, LEAVING SAID PARALLEL LINE FOR 20.47 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH SAID PARALLEL LINE; THENCE RUN S89°43'07"E ALONG SAID PARALLEL LINE FOR 604.91 FEET; THENCE RUN S40°29'26"E, LEAVING SAID PARALLEL LINE FOR 20.47 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH SAID PARALLEL LINE; THENCE RUN S89°43'07"E FOR 543.06 FEET; THENCE RUN S00°16'53"W, LEAVING SAID PARALLEL LINE, FOR 10.86 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 21.33 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 539°13'28"E, 27.14 FEET) FOR 29.41 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 18.67 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 539°13'04"E, 23.76 FEET) FOR 25.75 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 39.19 FEET AND A CENTRAL ANGLE OF 89°38'00" (CHORD = 544°32'31"E, 55.25 FEET) FOR 61.31 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 18.67 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 549°51'19"E, 23.75 FEET) FOR 25.75 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 21.33 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 549°51'39"E, 27.14 FEET) FOR 29.41 FEET TO A POINT OF TANGENCY; THENCE RUN S89°21'40"E FOR 11.24 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 22.00 FEET WEST OF THE WEST RIGHT-OF-WAY LINE OF CHORUTA BOULEVARD SOUTH (100 FOOT RIGHT-OF-WAY); THENCE RUN S00°31'37"E ALONG SAID PARALLEL LINE FOR 92.01 FEET; THENCE RUN N89°28'23"E FOR 22.00 FEET TO A POINT OF INTERSECTION WITH SAID WEST RIGHT-OF-WAY LINE; THENCE RUN N00°31'37"W ALONG SAID WEST RIGHT-OF-WAY LINE FOR 110.57 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE S.E. 1/4 (SOUTHEAST ONE-QUARTER) OF SECTION 16, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; THENCE RUN N00°38'20"E, CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, FOR 99.98 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID WEST RIGHT-OF-WAY LINE AND SAID SOUTH RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°21'27" (CHORD = N44°32'35"W, 35.47 FEET) FOR 39.43 FEET TO A POINT OF TANGENCY; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 2359.55 FEET TO THE POINT OF BEGINNING, EXCEPTING FROM THE PRECEEDING DESCRIPTION THE FOLLOWING DESCRIBED PORTION OF MERLYN LANE RIGHT-OF-WAY:

BEGINNING AT SAID INTERSECTION OF SAID CENTERLINE OF SAID MERLYN LANE AND SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 50.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST, BEING ALSO THE WESTERLY RIGHT-OF-WAY LINE OF SAID MERLYN LANE; THENCE RUN ALONG SAID WESTERLY RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°01'00" (CHORD = S44°43'07"E, 35.36 FEET) FOR 39.27 FEET TO A POINT OF TANGENCY; THENCE RUN S00°16'53"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 22.50 FEET; THENCE RUN S89°43'07"E, LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, FOR 50.00 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SAID MERLYN LANE; THENCE RUN N00°16'53"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 22.50 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID EASTERLY RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00" (CHORD = N45°16'53"E, 35.36 FEET) FOR 39.27 FEET TO A POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 50.00 FEET TO THE POINT OF BEGINNING OF SAID EXCEPTION.

0R2848 PG3585

# CAPE CORAL DAILY BREEZE

PUBLISHED DAILY  
CAPE CORAL, FLA.

## Affidavit of Publication

State of Florida  
County of Lee

Before the undersigned authority personally appeared  
Don Langer.....who on oath says that he is the  
Advertising Rep.....of the Cape Coral Daily Breeze  
newspaper, published at Cape Coral, Lee County, Florida  
that the attached copy of advertisement, being a notice  
of Proposed Enactment of Ordinance.....  
in the matter of.....28-97.....

.....in the  
.....Court, was published  
in said newspaper in the issues of

May 9, 1997.....

Affiant further says that the said Cape Coral Daily Breeze  
is a newspaper published at Cape Coral, said Lee County,  
Florida and that the said newspaper has heretofore been  
continuously published in said Lee County, Florida, daily, and  
has been entered as a second class mail matter at the post  
office in Fort Myers in said Lee County, Florida, for a period  
of one year next preceding the first publication of the  
attached copy of advertisement; and affiant further says that  
he has neither paid nor promised any person, firm or  
corporation any discount, rebate, commission or refund for  
the purpose of securing this advertisement for publication in  
the said newspaper.

*Don Langer*

Sworn to and subscribed before me this 9th day  
of May 1997

Notary Public.....  
My commission expires.....  
05115

OFFICIAL NOTARY SEAL  
REBECCA M. HARRIS  
NOTARY PUBLIC, STATE OF FLORIDA  
COMMISSION NO. CC607470  
MY COMMISSION EXP. DEC. 12, 2000

### NOTICE OF PROPOSED ENACTMENT OF ORDINANCE

The Council of the CITY OF  
CAPE CORAL hereby gives notice  
of its intent to enact Ordinance  
28-97 - AN ORDINANCE  
APPROVING A PLANNED DEVELOPMENT  
PROJECT IN THE CITY OF CAPE CORAL,  
FLORIDA ENTITLED "CAPE HARBOUR";  
PROVIDING FOR PLANNED DEVELOPMENT  
PROJECT APPROVAL FOR CERTAIN  
PROPERTY DESCRIBED AS A TRACT OF  
LAND SITUATED IN TRACT "E", CAPE  
CORAL UNIT 75 (CAMELOT), AND A PORTION  
OF TRACTS "B", "C", AND "D" OF  
SAID CAPE CORAL UNIT 75, TOGETHER WITH  
A TRACT OF LAND SITUATED IN  
LOTS 14, 15, AND 30, BLOCK  
6501, IN CAPE CORAL UNIT 75  
(CAMELOT) ACCORDING TO  
PLAT BOOK 33, PAGES 37  
THROUGH 49 OF THE PUBLIC  
RECORDS OF LEE COUNTY,  
FLORIDA AS MORE PARTICULARLY  
DESCRIBED HEREIN; PROPERTY LOCATED AT THE  
SOUTHWEST CORNER OF  
CHICUITA BOULEVARD  
SOUTH AND EL DORADO  
PARKWAY WEST; GRANTING  
PDP APPROVAL; GRANTING  
REPLAT AND SUBDIVISION OF  
TRACT "E", CAPE CORAL  
UNIT 75 (CAMELOT), AND A  
PORTION OF TRACTS "B"  
AND "D" OF SAID CAPE  
CORAL UNIT 75, FOR A 120  
LOT RESIDENTIAL SUBDIVISION  
WHICH PROVIDES PRIVATE  
INGRESS AND EGRESS,  
BUFFER AREA AND WATER  
MANAGEMENT TRACTS; RE-  
ZONING A PORTION OF  
TRACT "D" INCLUDED  
WITHIN THE CAPE HARBOUR  
SUBDIVISION, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM PEDESTRIAN  
COMMERCIAL (C-1) TO  
MULTI-FAMILY RESIDENTIAL  
(R-3); GRANTING A SPECIAL  
EXCEPTION TO ALLOW FOR  
TWO MODEL HOME SITES,  
EACH LOCATED ON ANY  
THREE CONTIGUOUS LOTS  
WITHIN CAPE HARBOUR  
SUBDIVISION WHICH SHALL  
COMPLY WITH ALL SPECIAL  
REGULATIONS WITHIN THE  
LAND USE AND DEVELOPMENT  
REGULATIONS FOR  
MODEL HOME SITES; APPROVING  
SITE PLAN; APPROVING A VARIANCE OF

TWO (2) FEET THREE (3)  
INCHES TO SECTION 3.9.1 A.  
OF THE LAND USE AND DEVELOPMENT  
REGULATIONS TO ALLOW A DEVELOPMENT  
WALL SYSTEM WITH A MAXIMUM HEIGHT  
OF SIX (6) FEET THREE (3) INCHES IN A  
RESIDENTIAL DISTRICT; APPROVING A  
VARIANCE OF THREE (3) INCHES TO  
SECTION 3.9.6 B.1.A. OF THE LAND USE  
AND DEVELOPMENT REGULATIONS TO  
ALLOW A DEVELOPMENT WALL SYSTEM  
WITH A MAXIMUM HEIGHT OF SIX (6)  
FEET THREE (3) INCHES IN A COMMERCIAL  
DISTRICT; APPROVING A VARIANCE OF  
SEVENTEEN (17) FEET TO SECTION 3.9.1  
A. OF THE LAND USE AND DEVELOPMENT  
REGULATIONS TO ALLOW A DEVELOPMENT  
WALL/CLOCK TOWER SYSTEM WITH A  
FRONT SETBACK OF THIRTEEN (13) FEET  
IN A ZONING COMMERCIAL DISTRICT;  
APPROVING A VARIANCE OF TWO (2) FEET  
TO SECTION 3.9.6 B.1.b.(3) OF THE LAND  
USE AND DEVELOPMENT REGULATIONS TO  
ALLOW A DEVELOPMENT WALL/CLOCK  
TOWER SYSTEM WITH A SIDE SETBACK OF  
THIRTEEN (13) FEET IN A COMMERCIAL  
DISTRICT ON A CORNER LOT; APPROVING  
A DEVIATION FROM CAPE CORAL  
ENGINEERING DESIGN STANDARDS FOR  
ROADS TO ALLOW PRIVATE INGRESS AND  
EGRESS COMMON AREAS A MINIMUM OF  
FIFTY (50) FEET IN WIDTH;

APPROVING A DEVIATION FROM CAPE CORAL  
ENGINEERING DESIGN STANDARDS FOR  
ROADS TO ALLOW TYPICAL SECTIONS FOR  
PRIVATE ROADS TO BE AS PER THE  
SUBMITTED DEVELOPMENT PLAN SET;  
PROVIDING FOR FINDINGS OF FACT AND  
CONCLUSIONS OF LAW; PROVIDING FOR  
ACTION ON REQUEST AND CONDITIONS OF  
APPROVAL; PROVIDING FOR LEGAL EFFECT  
AND LIMITATIONS OF THIS PDP  
DEVELOPMENT ORDER AND ADMINISTRATIVE  
REQUIREMENTS; PROVIDING SEVERABILITY  
AND AN EFFECTIVE DATE.

The public hearing will be held on the 19th day of May, 1997, in the Council meeting room of Cape Coral City Hall on Nicholas Parkway, during a regular Council session beginning at 1:00 p.m. Copies of this Ordinance may be obtained from the City Clerk's Office during normal office hours at the City Hall on Nicholas Parkway for a nominal fee. Interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that, for such purpose, subject person may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.  
Bonnie J. Vent, CMC-AAE  
City Clerk  
May 9, 1997  
05115



**CAPE CORAL DAILY BREEZE**  
**PUBLISHED DAILY**  
**CAPE CORAL, FLA.**  
**Affidavit of Publication**

State of Florida  
 County of Lee

Before the undersigned authority personally appeared  
Don Langer who on oath says that he is the  
Advertising Rep of the Cape Coral Daily Breeze  
 newspaper, published at Cape Coral, Lee County, Florida  
 that the attached copy of advertisement, being a notice  
 of adoption of Ordinance  
 in the matter of #28-97  
 in the  
 Court, was published  
 in said newspaper in the issues of  
 May 23, 1997

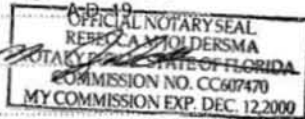
Affiant further says that the said Cape Coral Daily Breeze  
 is a newspaper published at Cape Coral, said Lee County,  
 Florida and that the said newspaper has heretofore been  
 continuously published in said Lee County, Florida, daily, and  
 has been entered as a second class mail matter at the post  
 office in Fort Myers in said Lee County, Florida, for a period  
 of one year next preceding the first publication of the  
 attached copy of advertisement; and affiant further says that  
 he has neither paid nor promised any person, firm or  
 corporation any discount, rebate, commission or refund for  
 the purpose of securing this advertisement for publication in  
 the said newspaper.

Sworn to and subscribed before me this 23rd day  
 of May 1997

Notary Public

My commission expires

05219



**NOTICE OF ADOPTION OF ORDINANCE #28-97**  
 Notice is hereby given of the enactment by the Cape Coral City Council on May 19, 1997, of ORDINANCE 28-97, AN ORDINANCE APPROVING A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR", PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR CERTAIN PROPERTY DESCRIBED AS A TRACT OF LAND SITUATED IN TRACT "E", CAPE CORAL UNIT 75 (CAMELOT), AND A PORTION OF TRACTS "B", "C", AND "D" OF SAID CAPE CORAL UNIT 75, TOGETHER WITH A TRACT OF LAND SITUATED IN LOTS 14, 15, AND 30, BLOCK 6501, IN CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN. PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CHIUQUITA BOULEVARD SOUTH AND EL DORADO PARKWAY WEST; GRANTING POP APPROVAL; GRANTING REPLAT AND SUBDIVISION OF TRACT "E", CAPE CORAL UNIT 75 (CAMELOT), AND A PORTION OF TRACTS "B" AND "D" OF CAPE CORAL UNIT 75, FOR A 120 LOT RESIDENTIAL SUBDIVISION WHICH PROVIDES PRIVATE INGRESS AND EGRESS, BUFFER AREA AND WATER MANAGEMENT TRACTS; REZONING A PORTION OF TRACT "D" INCLUDED WITHIN THE CAPE HARBOUR SUBDIVISION. MORE PARTICULARLY DESCRIBED HEREIN, FROM PEDESTRIAN COMMERCIAL (C-1) TO MULTI-FAMILY RESIDENTIAL (R-3); GRANTING A SPECIAL EXCEPTION TO ALLOW FOR TWO MODEL HOME SITES, EACH LOCATED ON ANY THREE CONTIGUOUS LOT WITHIN CAPE HARBOUR SUBDIVISION WHICH SHALL COMPLY WITH ALL SPECIAL REGULATIONS WITHIN THE LAND USE AND DEVELOPMENT REGULATIONS FOR MODEL HOME SITES; APPROVING SITE PLAN; APPROVING A VARIANCE OF TWO (2) FEET THREE (3) INCHES TO SECTION 3.9.1 A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A MAXIMUM HEIGHT OF SIX (6) FEET THREE (3) INCHES IN A RESIDENTIAL DISTRICT; APPROVING A VARIANCE OF THREE

(3) INCHES TO SECTION 3.9.6 B.1.A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A MAXIMUM HEIGHT OF SIX (6) FEET THREE (3) INCHES IN A COMMERCIAL DISTRICT; APPROVING A VARIANCE OF SEVENTEEN (17) FEET TO SECTION 3.9.1 A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITHIN THE FRONT SETBACK LINES OF LOTS 14, 15, AND 30; APPROVING A VARIANCE OF TWELVE (12) FEET TO SECTION 3.9.6 B.1.b.(1) OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL/CLOCK TOWER SYSTEM WITH A FRONT SETBACK OF THIRTEEN (13) FEET IN A ZONING COMMERCIAL DISTRICT; APPROVING A VARIANCE OF TWO (2) FEET TO SECTION 3.9.6 B.1.b.(3) OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL/CLOCK TOWER SYSTEM WITH A SIDE SETBACK OF THIRTEEN (13) FEET IN A COMMERCIAL ZONING DISTRICT ON A CORNER LOT; APPROVING A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS FOR ROADS TO ALLOW PRIVATE INGRESS AND EGRESS COMMON AREAS A MINIMUM OF FIFTH (50) FEET IN WIDTH; APPROVING A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS FOR ROADS TO ALLOW TYPICAL SECTIONS FOR PRIVATE ROADS TO BE AS PER THE SUBMITTED DEVELOPMENT PLAN SET; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS POP DEVELOPMENT ORDER AND ADMINISTRATION REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

This Ordinance will become effective immediately upon its passage by the Cape Coral City Council. Copies may be obtained from the City Clerk's Office during normal office hours for a nominal fee.

Bonnie J. Vent, CMC-AAE  
 City Clerk  
 May 23, 1997  
 05219

03/12/03

03/14/03

03/28/03

04/01/03

04/08/03

04/11/03

04/15/03

04/16/03

04/17/03

05/21/03

05/27/03

INSTR # 5849354

Official Records BK 03955 PG 3130

RECORDED 06/09/2003 03:46:44 PM

CHARLIE GREEN, CLERK OF COURT

LEE COUNTY

RECORDING FEE 136.50

DEPUTY CLERK W Miller

## ORDINANCE 42 - 03

AN ORDINANCE AMENDING ORDINANCE 28-97, AS PREVIOUSLY AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 3-01, AND 80-01, A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR"; PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR A PORTION OF CERTAIN PROPERTY DESCRIBED AS ALL OF THE META AT CAPE HARBOUR SUBDIVISION, IN ITS ENTIRETY, LEE COUNTY, FLORIDA, TOGETHER WITH ALL OF CAPE HARBOUR SUBDIVISION PHASE 2-A, IN ITS ENTIRETY, LEE COUNTY, FLORIDA, TOGETHER WITH ALL OF CAPE HARBOUR SUBDIVISION, PHASE 2-B, IN ITS ENTIRETY, LEE COUNTY, FLORIDA, TOGETHER WITH A TRACT OF LAND SITUATED IN LOTS 14, 15, AND 30, BLOCK 6501, IN CAPE CORAL UNIT 75 (CAMELOT), LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; GRANTING ADJUSTMENT OF PHASE BOUNDARIES TO TRANSFER LOT 3, BLOCK 6503 FROM "CAPE HARBOUR SUBDIVISION-PHASE 2-A" TO THE "META AT CAPE HARBOUR" PHASE; REZONING LAND SITUATED IN THE META AT CAPE HARBOUR SUBDIVISION AS FOLLOWS:  $\pm 1.44$  ACRES SITUATED IN TRACT R-4, BLOCK 7004, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PEDESTRIAN COMMERCIAL (C-1),  $\pm 0.17$  ACRES SITUATED IN TRACT R-5, BLOCK 7004, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "B", FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PEDESTRIAN COMMERCIAL (C-1),  $\pm 1.14$  ACRES SITUATED IN TRACT R-6, BLOCK 7004, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "C", FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PEDESTRIAN COMMERCIAL (C-1),  $\pm 0.26$  ACRES SITUATED IN TRACT E, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "D", FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PEDESTRIAN COMMERCIAL (C-1); APPROVING THE VACATION OF PLAT PURSUANT TO SECTION 8.11 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS AS FOLLOWS: VACATING THE INTERIOR LOT LINE BETWEEN TRACTS C-4 AND C-5, BLOCK 7005, VACATING THE INTERIOR LOT LINE BETWEEN TRACT C-4, BLOCK 7005 AND TRACT R-4, BLOCK 7004, VACATING THE INTERIOR LOT LINE BETWEEN TRACTS C-2 AND C-3, BLOCK 7005, VACATING THE INTERIOR LOT LINE AND EASEMENTS BETWEEN TRACT A, BLOCK 7004 AND LOT 3, BLOCK 6503, VACATING A PORTION OF TRACT E (PRIVATE ROAD RIGHT-OF WAY, CAPE HARBOUR DRIVE) AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "E", VACATING THE COMMON LOT LINE BETWEEN TRACT C-4 AND TRACT E, BLOCK 7005, VACATING THE COMMON LOT LINE BETWEEN TRACT C-5 AND TRACT E, BLOCK 7005; APPROVING AN AMENDED DEVELOPMENT PLAN PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, INCLUDING SITE PLAN; APPROVING A SPECIAL EXCEPTION FOR A CLUBS, PRIVATE, USE ON PROPERTY LOCATED IN A MULTI-FAMILY RESIDENTIAL (R-3) ZONING DISTRICT, IN ORDER TO EXPAND THE PRIVATE CLUB USE LOCATED IN TRACT A, BLOCK 7004, TO INCLUDE LOT 3, BLOCK 6503; GRANTING A DEVIATION TO DELETE THE SIX HUNDRED (600) FOOT MAXIMUM DISTANCE BETWEEN SHARED PARKING AND THE PUBLIC ENTRANCE TO THE PRINCIPAL BUILDING WHICH CONTAINS THE USES ASSOCIATED WITH THE SHARED PARKING REQUIRED BY SECTION 5.1.2.E.2, SHARED PARKING, OF THE LAND USE AND DEVELOPMENT REGULATIONS, IN ORDER TO ALLOW SHARED PARKING AMONG ALL COMMERCIAL USES WITHIN THE META AT CAPE HARBOUR DEVELOPMENT; A DEVIATION TO DELETE THE SIX HUNDRED (600) FOOT MAXIMUM DISTANCE BETWEEN SATELLITE PARKING AND THE PUBLIC ENTRANCE OF THE PRINCIPAL BUILDING WHICH

CONTAINS THE USE ASSOCIATED WITH THE SATELLITE PARKING REQUIRED BY SECTION 5.1.2.D.2, SATELLITE PARKING, OF THE LAND USE AND DEVELOPMENT REGULATIONS, IN ORDER TO ALLOW SATELLITE PARKING, REGARDLESS OF LOCATION, FOR USE BY ALL COMMERCIAL USES WITHIN THE META AT CAPE HARBOUR DEVELOPMENT; GRANTING A DEVIATION OF ELEVEN (11) FEET TO THE TWENTY (20) FOOT MINIMUM SETBACK REQUIRED BY SECTION 3.1.7, ACCESSORY USES, RECREATIONAL FACILITIES, OF THE LAND USE AND DEVELOPMENT REGULATIONS THAT REQUIRES RECREATIONAL FACILITIES, COURT AREAS, AND ASSOCIATED FENCING, MEET ALL SETBACK REQUIREMENTS OF THE ZONING DISTRICT IN WHICH THEY ARE LOCATED, IN ORDER TO ALLOW TENNIS COURTS AND ASSOCIATED FENCING TO BE CONSTRUCTED AS ACCESSORY STRUCTURES IN CONJUNCTION WITH THE PRIVATE CLUB USE LOCATED ON TRACT A, BLOCK 7004, AND LOT 3, BLOCK 6503, WITH A NINE (9) FOOT SETBACK ALONG HARBOUR CIRCLE; GRANTING A DEVIATION OF FIFTEEN (15) FEET TO THE MINIMUM TWENTY-FIVE (25) FOOT FRONT SETBACK REQUIRED BY SECTIONS 3.9.2. AND 3.9.6.B.1.B, FENCES, SHRUBBERY, AND WALLS, REQUIRED SETBACKS, OF THE LAND USE AND DEVELOPMENT REGULATIONS, IN ORDER TO ALLOW A WALL/BUFFER SYSTEM TO BE CONSTRUCTED IN THE FRONT YARDS OF TRACT R-3 AND TRACT A, BLOCK 7004 AND TRACT C-5, BLOCK 7005, ALONG CAPE HARBOUR DRIVE WITH A TEN (10) FOOT FRONT SETBACK; GRANTING A DEVIATION OF TWO (2) FEET TO THE MAXIMUM SIX (6) FOOT HEIGHT ALLOWED BY SECTION 3.9.6.B.1.A, FENCES, SHRUBBERY, AND WALLS, OF THE LAND USE AND DEVELOPMENT REGULATIONS, IN ORDER TO ALLOW A WALL/BUFFER SYSTEM TO BE CONSTRUCTED ALONG CAPE HARBOUR DRIVE (ON TRACT R-3, BLOCK 7004), HARBOUR CIRCLE (WESTERN BOUNDARY OF TRACT C-5, BLOCK 7005) AND ADJACENT TO THE VILLAS AT HARBOUR POINT (SOUTHERN BOUNDARY OF TRACT C-5, BLOCK 7005), WITH A MAXIMUM HEIGHT OF EIGHT (8) FEET; GRANTING A DEVIATION OF TWO HUNDRED EIGHTY-TWO (282) FEET TO THE MAXIMUM THIRTY-EIGHT(38) FOOT BUILDING HEIGHT REQUIRED BY SECTION 2.7.2.D, TABLE R-3, DIMENSIONAL REGULATIONS, MAXIMUM BUILDING HEIGHT, OF THE LAND USE AND DEVELOPMENT REGULATIONS, IN ORDER TO ALLOW A MAXIMUM BUILDING HEIGHT OF THREE HUNDRED TWENTY (320) FEET (24 RESIDENTIAL FLOORS OVER PARKING) ON TRACT R-1, BLOCK 7004; GRANTING A DEVIATION OF THIRTY-NINE (39) FEET TO THE MAXIMUM THIRTY-EIGHT (38) FOOT BUILDING HEIGHT REQUIRED BY SECTION 2.7.2.D, TABLE R-3, DIMENSIONAL REGULATIONS, MAXIMUM BUILDING HEIGHT, OF THE LAND USE AND DEVELOPMENT REGULATIONS, IN ORDER TO ALLOW A MAXIMUM BUILDING HEIGHT OF SEVENTY-SEVEN (77) FEET (5 RESIDENTIAL FLOORS OVER PARKING) ON TRACT R-5, BLOCK 7004; A DEVIATION OF FIFTEEN (15) FEET TO THE MINIMUM TWENTY-FIVE (25) FOOT FRONT SETBACK REQUIRED BY SECTION 2.7.7.D., TABLE C-1, DIMENSIONAL REGULATIONS, MINIMUM YARDS, OF THE LAND USE AND DEVELOPMENT REGULATIONS, IN ORDER TO ALLOW A PORTION OF A PARKING GARAGE TO BE CONSTRUCTED ON TRACT C-4, BLOCK 7005 WITH A TEN (10) FOOT FRONT SETBACK; GRANTING A DEVIATION OF TEN (10) FEET TO THE MINIMUM TWENTY (20) FOOT REAR SETBACK REQUIRED BY SECTION 2.7.7.D., TABLE C-1, DIMENSIONAL REGULATIONS, MINIMUM YARDS, OF THE LAND USE AND DEVELOPMENT REGULATIONS, IN ORDER TO ALLOW A BUILDING TO BE CONSTRUCTED ON TRACT C-4, BLOCK 7005, WITH A TEN (10) FOOT REAR SETBACK; APPROVING AN AMENDMENT TO ORDINANCE 80-01 SECTION III.O.9., ACTION ON REQUEST AND CONDITIONS OF APPROVAL, GENERAL CONDITIONS, TO ALLOW THE DIRECTOR OF THE COMMUNITY DEVELOPMENT DEPARTMENT, TO REDUCE, TO THE EXTENT ALLOWED BY SECTION 5.1.2.B.3, THE NUMBER OF PARKING SPACES REQUIRED BY SECTION 5.1.7., TABLE OF PARKING STANDARDS, LAND USE AND DEVELOPMENT REGULATIONS, IN LIEU OF REQUIRING AN AMENDMENT TO THE DEVELOPMENT ORDER; AND TO ALLOW THE DIRECTOR OF THE COMMUNITY DEVELOPMENT DEPARTMENT, TO GRANT DEVIATIONS TO SIGN REGULATIONS, TO THE EXTENT ALLOWED BY SECTION 7.15., LAND USE AND DEVELOPMENT REGULATIONS, IN LIEU OF REQUIRING AN AMENDMENT TO THE DEVELOPMENT ORDER, AND TO ALLOW DEVIATIONS TO THE ENGINEERING DESIGN STANDARDS TO BE APPROVED BY THE DIRECTORS OR DESIGNEES OF THE PUBLIC WORKS DEPARTMENT AND THE DEPARTMENT OF COMMUNITY DEVELOPMENT, TO THE EXTENT THAT SAID DIRECTORS OR DESIGNEES MAY APPROVE DEVIATIONS TO THE STANDARDS, IN ACCORDANCE WITH THE ENGINEERING DESIGN STANDARDS, IN LIEU OF REQUIRING AN AMENDMENT TO THE DEVELOPMENT ORDER, AND TO ALLOW DEVIATIONS TO SECTION 3.16, MARINE IMPROVEMENTS, LAND USE AND



DEVELOPMENT REGULATIONS, TO BE APPROVED BY THE BOARD OF ZONING ADJUSTMENT AND APPEALS, TO THE EXTENT THAT THE BOARD OF ZONING ADJUSTMENT AND APPEALS MAY APPROVE DEVIATIONS, IN ACCORDANCE WITH SECTION 3.16.9, DEVIATIONS, MARINE IMPROVEMENTS, LAND USE AND DEVELOPMENT REGULATIONS, IN LIEU OF REQUIRING AN AMENDMENT TO THE DEVELOPMENT ORDER; APPROVING AN AMENDMENT TO THE CONDITION OF APPROVAL IN ORDINANCE 80-01 SECTION III.O.17., TO ELIMINATE THE REQUIREMENT THAT THE DENSITIES AND INTENSITIES OF USES SHALL BE BELOW 80 PERCENT OF THE THRESHOLD FOR A DEVELOPMENT OF REGIONAL IMPACT (DRI) AND TO REQUIRE THAT THE DENSITIES AND INTENSITIES OF USES SHALL BE BELOW 100 PERCENT OF THE THRESHOLD FOR A DEVELOPMENT OF REGIONAL IMPACT (DRI); APPROVING AN AMENDMENT TO ORDINANCE 80-01 SECTION III.O.18., ACTION ON REQUEST AND CONDITIONS OF APPROVAL, GENERAL CONDITIONS, TO REPEAL THE MATRIX OF ALLOWABLE COMMERCIAL USES FOR META AT CAPE HARBOUR, IDENTIFIED IN EXHIBIT "I" OF ORDINANCE 80-01, AND TO HEREBY REPLACE SUCH MATRIX WITH A MATRIX OF ALLOWABLE COMMERCIAL USES AS PROVIDED IN EXHIBIT "F" ATTACHED TO THIS ORDINANCE; APPROVING THE ELIMINATION OF ALL REQUIREMENTS STATED IN ORDINANCE 80-01, SECTION III.O.2., ACTION ON REQUEST AND CONDITIONS OF APPROVAL, GENERAL CONDITIONS, PERTAINING TO A HELICOPTER LANDING ZONE; APPROVING THE ELIMINATION OF THE REQUIREMENT CONTAINED IN ORDINANCE 80-01, SECTION III.O.24., ACTION ON REQUEST AND CONDITIONS OF APPROVAL, GENERAL CONDITIONS, THAT ANY PART OF A BUILDING ROOF THAT IS VISIBLE FROM ANY STREET ADJACENT TO SUCH BUILDING BE CONSTRUCTED OF TILE OR A MATERIAL FASHIONED TO LOOK LIKE TILE; APPROVING THE ELIMINATION OF THE CONDITION OF APPROVAL STATED IN ORDINANCE 80-01 SECTION III.O.25., ACTION ON REQUEST AND CONDITIONS OF APPROVAL, GENERAL CONDITIONS, THAT REQUIRES THE EXTERIOR FINISH OF ALL BUILDINGS IN THE DEVELOPMENT TO CONSIST OF EITHER STUCCO OR A MASONRY FINISH OR A MATERIAL FASHIONED TO LOOK LIKE STUCCO; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral on May 19, 1997, by Ordinance 28-97, on September 29, 1997, as amended by Ordinance 60-97, on May 5, 1998, by Ordinance 8-98, on January 11, 1999, on January 29, 2001, by Ordinance 3-01, and on October 1, 2001 by Ordinance 80-01; and

WHEREAS, an application from Realmark Cape Marina LLC, Realmark Cape Harbour LLC, Villas at Harbour Pointe Homeowners Association, Inc., St. Andrews Development Group, Robert Biggs Jr. TR, Realmark Valencia LLC, Realmark Meta LLC, Realmark Marina View LLC, and Meta at Cape Harbour Community Association, Inc., has been received requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Meta at Cape Harbour; requesting amendment of Ordinance 28-97 as amended by Ordinances 60-97, 8-98, 82-98, 8-98, 3-01, and 80-01, adjustment of phase boundaries, Rezoning, Vacation Of Plat, Special Exception, amendment of Development Plan including Site Plan approval, Deviations to The Land Use and Development Regulations, amendment to development order conditions, and elimination of development order conditions; and

WHEREAS, said application received is by parties holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

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

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

**SECTION I. PDP APPROVAL AMENDING ORDINANCE 28-97 AS AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 8-98, 3-01, AND 80-01, ADJUSTMENT OF PHASE BOUNDARIES, REZONING, VACATION OF PLAT, SPECIAL EXCEPTION, AMENDMENT OF DEVELOPMENT PLAN APPROVAL INCLUDING SITE PLAN APPROVAL, DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS, AMENDMENT TO DEVELOPMENT ORDER CONDITIONS, ELIMINATION OF DEVELOPMENT ORDER CONDITIONS.**

Having reviewed the application requesting approval of a Planned Development Project for Meta at Cape Harbour (PDP Amendment) PDP number 02-00800011, requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Meta at Cape Harbour; requesting amendment of Ordinance 28-97 as amended by Ordinances 60-97, 8-98, 82-98, 8-98, 3-01, and 80-01, adjustment of phase boundaries, Rezoning, Vacation Of Plat, Special Exception, amendment of Development Plan including Site Plan approval, Deviations to The Land Use And Development Regulations, amendment to development order conditions, and elimination of development order conditions, and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the following from the date of adoption of this ordinance:

**A. ADJUSTMENT OF PHASE BOUNDARIES**

Phase boundaries are hereby adjusted to transfer Lot 3, Block 6503 from "Cape Harbour Subdivision-Phase 2-A" to the "Meta at Cape Harbour" phase.

**B. REZONING**

Rezoning property pursuant to Section 8.7 of the City of Cape Coral Land Use and Development Regulations as follows:

1. The  $\pm 1.44$  acres situated in Tract R-4, Block 7004, Meta at Cape Harbour, as more particularly described in Exhibit "A", are hereby rezoned from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1);
2. The  $\pm 0.17$  acres situated in Tract R-5, Block 7004, Meta at Cape Harbour, as more particularly described in Exhibit "B", are hereby rezoned from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1);
3. The  $\pm 1.14$  acres situated in Tract R-6, Block 7004, Meta at Cape Harbour, as more particularly described in Exhibit "C", are hereby rezoned from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1);
4. The  $\pm 0.26$  acres situated in Tract E, Meta at Cape Harbour, as more particularly described in Exhibit "D", are hereby rezoned from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1).

**C. VACATION OF PLAT**

Vacation of plat pursuant to Section 8.11 of the City of Cape Coral Land Use and Development Regulations as follows:

1. The vacation of the interior lot line between Tracts C-4 and C-5, Block 7005;
2. The vacation of the interior lot line between Tract C-4, Block 7005 and Tract R-4, Block 7004;
3. The vacation of the interior lot line between Tracts C-2 and C-3, Block 7005;
4. The vacation of the interior lot line and easements between Tract A, Block 7004 and Lot 3, Block 6503;
5. The vacation of a portion of Tract E (private road right-of way, Cape Harbour Drive) as more particularly described in Exhibit "E";

6. The vacation of the common lot line between Tract C-4 and Tract E, Block 7005;
7. The vacation of the common lot line between Tract C-5 and Tract E, Block 7005.

D. AMENDMENT OF DEVELOPMENT PLAN APPROVAL

Amendment of Development Plan approval including site plan, in accordance with Meta at Cape Harbour (P.D.P Amendment) Development Plan, Sheet 4 of 4, dated August 23, 2002 of the P.D.P. Amendment Master Plans for Meta at Cape Harbour plan set, and also bearing a revision date of March 3, 2003, prepared by Avalon Engineering, Inc. and with Sheets 1-3 of the Meta at Cape Harbour plan set, dated September 26, 2002, prepared by R. J. McCormack Architect, Inc. for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations.

E. SPECIAL EXCEPTION

A Special exception for a "clubs, private" use on property located in a Multi-Family Residential (R-3) Zoning District, in order to expand the private club use located in Tract A, Block 7004, to include Lot 3, Block 6503.

F. DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS

1. A deviation to delete the six hundred (600) foot maximum distance between shared parking to the public entrance to the principal building which contains the uses associated with the shared parking required by Section 5.1.2.E.2, Shared Parking, of the Land Use and Development Regulations, in order to allow shared parking among all commercial uses within the Meta at Cape Harbour development;
2. A deviation to delete the six hundred (600) foot maximum distance of satellite parking between the public entrance to the principal building which contains the use associated with the satellite parking required by Section 5.1.2.D.2, Satellite Parking, of the Land Use and Development Regulations, in order to allow satellite parking, regardless of location, for use by all commercial uses within the Meta at Cape Harbour development;
3. A deviation of eleven (11) feet to the twenty (20) foot minimum setback required by Section 3.1.7, Accessory Uses, Recreational Facilities, of the Land Use and Development Regulations, that requires recreational facilities, court areas, and associated fencing, meet all setback requirements of the zoning district in which they are located, in order to allow tennis courts and associated fencing to be constructed as accessory structures in conjunction with the Private Club use located on Tract A, Block 7004, and Lot 3, Block 6503, with a nine (9) foot setback along Harbour Circle.
4. A deviation of fifteen (15) feet to the minimum twenty-five (25) foot setback required by Sections 3.9.2. and 3.9.6.B.1.b, Fences, Shrubbery, and Walls, Required Setbacks, of the Land Use and Development Regulations, in order to allow a wall/buffer system to be constructed in the front yards of Tract R-3 and Tract A, Block 7004 and Tract C-5, Block 7005 along Cape Harbour Drive with a ten (10) foot front setback;
5. A deviation of two (2) feet to the maximum six (6) foot height allowed by Section 3.9.6.B.1.a, Fences, Shrubbery and Walls, of the Land Use and Development Regulations, in order to allow a wall/buffer system to be constructed along Cape Harbour Drive (on Tract R-3, Block 7004), Harbour Circle (western boundary of Tract C-5, Block 7005) and adjacent to the Villas at Harbour Point (southern boundary of Tract C-5, Block 7005), with a maximum height of approximately eight (8) feet;
6. A deviation of two hundred eighty-two (282) feet to the maximum thirty-eight(38) foot building height required by Section 2.7.2.D, Table R-3, Dimensional Regulations, Maximum Building Height, of the Land Use and Development Regulations, in order to allow a maximum building height of three hundred twenty (320) feet (24 residential floors over parking) on Tract R-1, Block 7004;
7. A deviation of thirty-nine (39) feet to the maximum thirty-eight(38) foot building height required by Section 2.7.2.D, Table R-3, Dimensional Regulations, Maximum Building Height, of the Land Use and Development Regulations, in order to allow a maximum



building height of seventy-seven (77) feet (5 residential floors over parking) on Tract R-5, Block 7004;

8. A deviation of fifteen (15) feet to the minimum twenty-five (25) foot setback required by Section 2.7.7.D., Table C-1, Dimensional Regulations, Minimum Yards, of the Land Use and Development Regulations, in order to allow a portion of a parking garage to be constructed on Tract C-4, Block 7005 with a ten (10) foot front setback;
9. A deviation of ten (10) feet to the minimum twenty (20) foot setback required by Section 2.7.7.D., Table C-1, Dimensional Regulations, Minimum Yards, of the Land Use and Development Regulations, in order to allow a building to be constructed on Tract C-4, Block 7005 with a ten (10) foot rear setback.

#### G. AMENDMENT TO CONDITIONS OF APPROVAL

1. An amendment to Ordinance 80-01 Section III.O.9., Action on Request and Conditions of Approval, General Conditions, to allow the Director of the Community Development Department, to reduce, to the extent allowed by Section 5.1.2.B.3, the number of parking spaces required by Section 5.1.7., Table of Parking Standards, Land Use and Development Regulations, in lieu of requiring an amendment to the development order; and to allow the Director of the Community Development Department, to grant deviations to sign regulations, to the extent allowed by Section 7.15., Land Use and Development Regulations, in lieu of requiring an amendment to the development order, and to allow deviations to the Engineering Design Standards to be approved by the Directors or designees of the Public Works Department and the Department of Community Development, to the extent that said Directors or designees may approve deviations to the Standards, in accordance with the Engineering Design Standards, in lieu of requiring an amendment to the development order, and to allow deviations to Section 3.16, Marine Improvements, Land Use and Development Regulations, to be approved by the board of zoning adjustment and appeals, to the extent that the board of zoning adjustment and appeals may approve deviations, in accordance with Section 3.16.9, Deviations, Marine Improvements, Land Use and Development Regulations, in lieu of requiring an amendment to the development order;
2. Elimination of all requirements contained in Ordinance 80-01 Section III.O.17., Action on Request and Conditions of Approval, General Conditions, that the densities and intensities of uses shall be below 80 percent of the threshold for a Development of Regional Impact (DRI) and to require that the densities and intensities of uses shall be below 100 percent of the threshold for a Development of Regional Impact (DRI);
3. An amendment to the condition of approval in Ordinance 80-01 Section III.O.18., Action on Request and Conditions of Approval, General Conditions, to repeal the matrix of allowable commercial uses for Meta at Cape Harbour, identified in Exhibit "I" of Ordinance 80-01, and to hereby replace such matrix with a matrix of allowable commercial uses as provided in Exhibit "F" attached to this ordinance;

#### H. ELIMINATION OF CONDITIONS OF APPROVAL

1. Elimination of all requirements stated in Ordinance 80-01, Section III.O.2., Action on Request and Conditions of Approval, General Conditions, pertaining to a helicopter landing zone;
2. Elimination of all requirements stated in Ordinance 80-01 Section III.O.25., Action on Request and Conditions of Approval, that requires the exterior finish of all buildings in the development to consist of either stucco or a masonry finish or a material fashioned to look like stucco.
3. Elimination of the condition of approval in Ordinance 80-01, Section III.O.24., Action on Request and Conditions of Approval, General Conditions, in its entirety, that requires any part of a building roof that is visible from any street adjacent to such building to be constructed of tile or a material fashioned to look like tile.

Approval of the PDP shall be subject to the terms and conditions set forth below.

**SECTION II. FINDING OF FACT/CONCLUSION OF LAW**

- A. The Cape Harbour development, as amended herein, is a mixed use Planned Development Project (PDP). The overall development consists of three (3) phases. The first phase is platted as Cape Harbour Subdivision-Phase 2-A. The second phase is platted as Cape Harbour Subdivision-Phase 2-B. The third phase is known as the "Meta at Cape Harbour" phase.

1. The first and second phases of the Cape Harbour development consist of the following:

- a. Homesites for 84 detached single family dwelling units with associated infrastructure including gated private roads, surface water management tracts, and a development wall/fountain/clocktower buffering system. The first two phases, including infrastructure for 84 detached dwelling units, are complete.
- b. The first and second phases are subject to conditions provided in Ordinance 28-97 as amended by Ordinance 3-01. The first and second phases are not subject to the conditions of approval described in Section III., the Legal effect and limitations and administrative requirements provided in Section IV., Severability provided in Section V., or Effective Date provided in Section VI. of this ordinance.

2. The "Meta at Cape Harbour" phase consists of the following uses:

- a. A maximum of 437 total dwelling units comprised as follows:
  - i. A maximum of 308 dwelling units located in a Multi-Family Residential (R-3) Zone (Tracts R-1, R-2, R-3, and R-5, Block 7004);
  - ii. A maximum of 129 dwelling units located in a Pedestrian Commercial (C-1) Zone (Tracts C-1, C-2, C-3, C-4, C-5, C-6 Block 7005 and/or Tract R-4, Block 7004); Such dwelling units in the Pedestrian Commercial (C-1) Zone shall only be allowed if the City of Cape Coral City Council approves an Ordinance that allows residential units in the Pedestrian Commercial (C-1) Zone. Such 129 dwelling units located in a Pedestrian Commercial (C-1) Zone would equate to 21 percent of the maximum dwelling units allowable within the subject property zoned Pedestrian Commercial (C-1) and that are also within the Mixed Use future land use map area;
- b. 76 boat slips;
- c. A hotel with a maximum of 144 hotel rooms and/or suites;
- d.  $\pm 125,000$  square feet of shopping center uses (as defined by Trip Generation, 6<sup>th</sup> ed., Institute of Transportation Engineers) including, but not limited to, two (2) restaurants totaling not more than  $\pm 25,000$  square feet;
- e.  $\pm 60,000$  square feet of office space;
- f. private roads, surface water management tracts; and a development wall/fountain/clocktower buffering system.

The infrastructure development for the "Meta at Cape Harbour" phase shall occur in one (1) phase with a buildout in five (5) years from the effective date of Ordinance 80-01.

- C. The "Meta at Cape Harbour" phase is not subject to conditions or terms of approval provided in Ordinance 28-97 as amended by Ordinance 3-01.
- D. The name(s) of the legal and equitable owner(s) are Realmark Cape Marina LLC, Realmark Cape Harbour LLC, Villas at Harbour Pointe Homeowners Association, Inc., St. Andrews Development Group, Robert Biggs Jr. TR, Realmark Valencia LLC, Realmark Meta LLC, Realmark Marina View LLC, and Meta at Cape Harbour Community Association, Inc.

## E LEGAL DESCRIPTIONS

1. The legal description of the entire property that is subject to the extant PDP Development Order(s) is described in Exhibit "G".
2. The legal description of the portion of the Planned Development Project (PDP) Development Plan for Cape Harbour that is amended by this Development Order and known as the "Meta at Cape Harbour" phase is described as follows:

All of the Meta At Cape Harbour Subdivision, in its entirety, according to Plat Book 71, Pages 74 through 80 of the Public Records Of Lee County, Florida;

together with Lot 3, Block 6503, Cape Harbour Subdivision, Phase 2-A according to Plat Book 60, Pages 27 through 28 of the Public Records of Lee County, Florida.

3. The legal descriptions of the properties rezoned by this ordinance are indicated as follows:
  - a.  $\pm 1.44$  acres situated in Tract R-4, Block 7004, Meta at Cape Harbour, as more particularly described in Exhibit "A", from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1);
  - b.  $\pm 0.17$  acres situated in Tract R-5, Block 7004, Meta at Cape Harbour, as more particularly described in Exhibit "B", from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1). The property described in Exhibit "B" shall be known as Tract "CR-5" for purposes of this ordinance;
  - c.  $\pm 1.14$  acres situated in Tract R-6, Block 7004, Meta at Cape Harbour, as more particularly described in Exhibit "C", from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1);
  - d.  $\pm 0.26$  acres situated in Tract E, Meta at Cape Harbour, as more particularly described in Exhibit "D", from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1). The property described in Exhibit "D" shall be known as Tract "CE" for purposes of this ordinance.
- F. The developable property, excluding private right-of way within Tract E, "Meta at Cape Harbour" phase of the Cape Harbour PDP has 31.20 acres zoned C-1 (Pedestrian Commercial) and 18.99 acres zoned R-3 (Multi-Family Residential), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 55.64 acres with a Future Land Use designation of Mixed Use.
- G. All existing and future structures and uses, population density, building intensity, and building height shall conform with the respective provisions of the Pedestrian Commercial (C-1) and Multi-Family Residential (R-3) Zoning Districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- H. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- I. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- J. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- K. The term Developer for purposes of this development order shall mean and refer to Realmark Cape Marina LLC and Realmark Cape Harbour LLC, Villas at Harbour Pointe Homeowners



Association, Inc., St. Andrews Development Group, Robert Biggs Jr. TR, Realmark Valencia LLC, Realmark Meta LLC, Realmark Marina View LLC, and Meta at Cape Harbour Community Association, Inc., its successors in interest, lessees, and/or assigns.

### SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the Planned Development Project application for Development Approval submitted from Realmark Cape Marina LLC and Realmark Cape Harbour LLC, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

#### A. DRAINAGE/WATER QUALITY

1. This project is permitted under the South Florida Water Management District (SFWMD) "No Notice" permitting process. Because of the close proximity of this project to the Spreader waterway, the Developer must observe the requirements of the Florida Department of Environmental Regulation (D.E.R.) consent order # 15.
2. The Developer shall provide, as part of the site's overall management plan, regularly scheduled parking lot vacuum sweeping to help ensure optimal stormwater runoff quality protection.
3. Prior to the issuance of any site plan or building permits, if applicable, the Developer shall coordinate with the City of Cape Coral, the Florida Department of Environmental Protection (FDEP), and the SFWMD in the siting of any on-site temporary transfer and storage facilities for all special or hazardous waste that may be generated within the project site. Any facility constructed on-site shall be located as far away from the surface water management system as feasible.
4. At completion of construction, as required by the conditions imposed by SFWMD and prior to the issuance of a Certificate of Occupancy, the Developer will be required to provide certification by the Engineer of Record that all stormwater infrastructure and facilities have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral, and should consist of the wording "Construction Compliance Certification".
5. The Developer shall install sod as per grade elevations provided by the City from the property line of the project site to the street pavement. No seed or mulch shall be permitted in this area.

#### B. ENERGY

1. The Developer shall incorporate at a minimum the following energy conservation measures into this development, through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Cape Coral City Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the first alternative shall be utilized and the following features must be included:
  - a. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
  - b. Use of energy efficient features in window design (e.g., tinting and exterior shading).
  - c. Use of operable windows and ceiling fans.
  - d. Installation of energy-efficient appliances and equipment.

- e. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).
- f. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Cape Coral Department of Community Development.
- g. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
- h. Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs.
- i. Planting of shade trees to provide shade for all street and parking areas.
- j. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- k. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- l. Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- m. Consideration by the project architectural review committee(s) if any exists, of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with the above conditions.
- n. Provision of bicycle/pedestrian system connecting all land uses to be placed along arterial and collector roads within the project. The system is to be consistent with local government requirements, except as otherwise approved by Ordinance 80-01.
- o. Provision of bicycle racks or storage facilities in recreational, commercial, and multi-family residential areas.

C. HURRICANE EVACUATION/SHELTERING

- 1. Prior to issuance of the building permits, the Developer shall meet with the Lee County Emergency Management, and Cape Coral Emergency Management officials to discuss and identify (if appropriate) any areas in the common portion of the project that may be utilized as public shelter. A letter documenting this meeting shall be submitted to the City.
- 2. The Developer shall encourage actual site users and developers to incorporate within their building design the sheltering demands of the employees and their families.

D. WETLANDS, VEGETATION, AND WILDLIFE

- 1. Ongoing control and removal of nuisance exotic plants onsite is required, including but not limited to, Casuarina sp. (Australian Pine), Melaleuca quinquenervia (melaleuca), and schinus terebinthifolius (Brazilian Pepper).
- 2. All landscaping and screening required in the subject development by either this Development Order or the City Code of Ordinances or the City Land Use and Development Regulations shall be maintained in good condition throughout the life of this development.

## E. FIRE PROTECTION

1. Fire impact fees shall be paid as specified by City Ordinance.
2. The Developer shall review site development plans with the Cape Coral Fire Department to incorporate fire protection design recommendations into the project.
3. High-rise buildings present different/additional demands upon the fire protection services provided by the City. In order to help mitigate those demands, the developer will be required to provide enhanced fire protection and safety features in and around any high-rise buildings constructed within the development. These enhanced features will be identified early in the design phase and will become part of the designs for the high-rise buildings. The Fire, Rescue and Emergency Management Services Department will work closely with the developer and his designer to ensure these features are designed into the buildings before final construction permit approval.

## F. WATER CONSERVATION

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

## G. SOLID WASTE

1. The Developer and tenants of the project should investigate methods of reducing solid waste volume at the project.
2. The Developer and tenants of the project shall identify to the City, the presence of and the proper on-site handling and temporary storage procedures for hazardous waste that may be generated on-site, in accordance with local, regional, and state hazardous waste programs.
3. The Developer will require that an EPA/DEP approved holding storage tank be provided on-site along with the proper monitoring devices if a prospective user has the potential for producing toxic or industrial waste. These wastes shall be disposed of off-site by a company licensed to dispose of such wastes.
4. The Developer shall inform the waste hauler and disposer of the nature of any hazardous waste on the site, to determine if, and the extent of, any special precautions that may be necessary.
5. No solid waste disposal facilities shall be located on site.
6. The Developer will participate in recycling programs.
7. Solid waste disposal shall be provided through Lee County, Florida pursuant to Special Act, Chapter 85-447. Current and planned facilities have sufficient capacity to meet the demands of this development.

## H. WASTEWATER MANAGEMENT

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



3. Wastewater containing hazardous materials shall be segregated and handled in accordance with Florida Department of Environmental Protection (DEP) criteria. Wastewater entering the City system shall meet quality limitations as specified by City Ordinance(s).
4. Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
5. The Developer shall connect to City wastewater facilities within thirty (30) days notification of requirement for connection.
6. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the Wastewater system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

#### I. WATER SERVICE

1. Water service is available to the site.
2. The Developer shall design, construct and install all improvements required by the City to connect to the City's water system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
4. The Developer shall connect to City water facilities within thirty (30) days notification of requirement for connection.
5. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the water system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

#### J. IRRIGATION SERVICE

1. Irrigation service is available to the site.
2. Connection to the City's irrigation system is optional. If Developer elects to connect to the City's irrigation system, then the Developer shall design, construct and install all improvements required by the City to connect to the City's irrigation system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).
4. The Developer shall grant appropriate easements to the City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the irrigation system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

#### K. AIR QUALITY

1. If any of the individual tract owners/developers create a complex source of pollution as defined by DEP rules, they shall apply directly to DEP for permitting.

2. Each individual tract development will be required to comply with all federal, state and local laws and codes governing air quality and emissions.

L. HISTORICAL/ARCHAEOLOGICAL

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

M. TRANSPORTATION

1. The traffic impact assessment upon which this Development Order for the Cape Harbour PDP, as amended herein, is based assumes project buildout in five years. The traffic impact assessment included the expected impacts of 84 single family dwelling units, 437 multi-family condominiums,  $\pm 25,000$  square feet of quality restaurants,  $\pm 100,000$  square feet of retail, a hotel with 144 hotel rooms and/or suites, 60,000 square feet of office use, 50 boat slips for Cape Harbour residents, and 26 boat slips for public use.
2. The traffic impacts of this development do not degrade roadway and intersection level of service (LOS) below LOS standards adopted in the City of Cape Coral Comprehensive Plan.
3. The Developer shall provide the City of Cape Coral all appropriate Road Impact Fees at the time of application for each building permit.
4. The Developer shall provide the City of Cape Coral with an Annual Traffic Monitoring Report each year until the development reaches buildout. Preparation of the report shall not begin until the Developer provides the City of Cape Coral with an acceptable methodology for preparing the report. If this report shows impacts greater than those estimated at the time of original approval and/or determines that the LOS is degraded below adopted LOS standards, the Developer shall provide mitigation actions acceptable to the City to ensure that all roadways and intersections shall be improved so as to maintain the adopted peak hour LOS standard.
5. The City of Cape Coral shall not accept either the dedication or the maintenance of the private roadways within the subject development at any time unless and until such roadways are improved to comply with City regulations, including Cape Coral Engineering Design Standards. Any improvements necessary to comply with said standards shall be borne totally by the Developer.

N. GENERAL CONSIDERATIONS

1. The Developer may be entitled to credit for contributions, construction, expansion, or acquisition of public facilities, that require impact fees or exactions to meet the same needs. The local government and the Developer may enter into a capital contribution front-ending agreement to reimburse the Developer for voluntary contributions in excess of his fair share.
2. Prior to issuance of a permit, the Developer shall enter into an agreement, in a form acceptable to the City Attorney, regarding obligations resulting from landscaping located in utility easements.
3. All of the provisions and conditions of approval of Ordinance 28-97 as amended by Ordinance 3-01 and 80-01 which are not addressed herein, shall remain in full force and effect for the Cape Harbour Planned Development Project including the "Meta at Cape Harbour" phase.
4. The special exception for clubs, private, use on property located in a Multi-Family Residential (R-3) Zoning District located within Tract A, Block 7004 and Lot 3, Block 6503 shall be developed substantially in conformance with the Recreational Site Plan, Sheet 3, dated September 26, 2002, prepared by R. J. McCormack Architect, Inc. with additional landscaping. This approval shall not be construed to allow the operation of

any such use requiring a Special Exception on any other property in the subject development. The aforesaid Special Exception use may be established at any time within six (6) years from the effective date of this development order. After such initial six (6) year time period, however, if the aforesaid Special Exception use is not actively in operation or is abandoned for a period of one (1) year, then the Special Exception use shall be deemed to have been abandoned and the Special Exception approved herein shall terminate as provided in the City of Cape Coral Land Use and Development Regulations

5. The allowable uses on Tract R-6, Block 7004 shall be limited to a stormwater treatment area or an Automotive Parking Establishment.
6. In the event any additional rezoning(s), Special Exception(s), variance(s), or deviation(s), are sought for any area within the subject development, such rezoning(s), Special Exception(s) variance(s), or deviation(s), shall not be approved except as part of an amendment to this development order. However, a reduction to the number of parking spaces required by Section 5.1.7., Table of Parking Standards, Land Use and Development Regulations may be approved by the Director of Community Development, to the extent that the Director of Community Development may reduce the number of parking spaces to be required for a development in accordance with Section 5.1.2.B.3, and deviations to sign regulations may be approved by the Director of Community Development, to the extent that such deviations may be approved by the Director of Community Development in accordance with Section 7.15 of the Land Use and Development Regulations, in lieu of requiring an amendment to the development order, and deviations to the Engineering Design Standards may be approved by the Directors or designees of the Public Works Department and the Department of Community Development, to the extent that said Directors or designees may approve deviations to the Standards in accordance with the Forward of the Engineering Design Standards, in lieu of requiring an amendment to the development order, and deviations to Section 3.16, Marine Improvements, Land Use and Development Regulations, may be approved by the board of zoning adjustment and appeals, to the extent that the board of zoning adjustment and appeals may approve deviations in accordance with Section 3.16.9, Marine Improvements, Deviations, Land Use and Development Regulations, in lieu of requiring an amendment to the development order.
7. The densities and intensities of uses shall be below 100 percent of the threshold for a Development of Regional Impact (DRI) as described in Chapter 24-24 F.A.C., as may be amended. If any proposed site development would cause the subject development to exceed the DRI thresholds, the Developer shall follow procedures and be reviewed in accordance with Chapter 24-24 F.A.C., as may be amended. The maximum floor area of shopping center (retail) and office uses approved herein are based on the condition that, as necessary to maintain the project under the DRI threshold, the Developer shall designate at least 50 boat slips for the exclusive use of owners or lessees of dwelling units within the Cape Harbour PDP and not available for lease or purchase to parties not owning or leasing a dwelling unit within the Cape Harbour PDP. The Developer shall have the right to make all 76 boat slips available to the public as long as the project impacts remain below the DRI thresholds.
8. Commercial uses shall be limited as indicated in the matrix of allowable uses indicated in Exhibit "F". However, in the event the City of Cape Coral City Council approves an Ordinance that allows residential units in commercial buildings (i.e. on floors above commercial uses) such use shall be permitted within C-1 (Pedestrian Commercial) Zoning Districts located in the "Meta at Cape Harbour" development provided such use would otherwise comply in all respects with such Ordinance.
  - a. Any such residential use shall be limited to multi-family residential use in conjunction with another use within the subject property.
  - b. The subject property, as well as any structures containing both non-residential use(s), and multi-family residential use(s) shall be designed and maintained so as to ensure and protect the compatibility of the non-residential and multi-family residential uses through the provision of features that include, but are not limited to, features that serve to minimize the transmission of noise associated with or resulting from the non-residential uses(s) such as soundproofing and use



compatibility; the direction away from the multi-family residential use(s) of lighting associated with or used in conjunction with non-residential use(s) such as shielding of exterior lighting, window treatments, and awnings; and features that serve to maximize the separation of all non-residential pedestrian and vehicular accessways and parking areas from residential pedestrian and vehicular accessways and parking areas, such as assigned parking for residential units, pass keys for residential spaces, and secure elevators and features that serve to maximize the separation of all non-residential pedestrian and vehicular accessways and parking areas. In addition, a minimum of ten (10) percent of the area of the site on which the mixed used (residential and non-residential) development is located shall be maintained by the property as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements, landscaped areas, recreation areas, and/or the areas of minimum yard(s) that area not covered with impervious surface or used for parking. The area of parking lot islands shall not be considered to be open space for purposes of satisfying the minimum open space requirement for such a development.

9. In the event the City Council adopts one or more ordinances eliminating one or more of the uses identified in Exhibit "F" as allowable uses in the applicable zoning district(s), then such uses shall be deemed to be no longer allowable unless they were lawfully established as non-conforming uses at the time the Cape Coral City Council adopted the ordinance(s) disallowing them.
10. The hotel approved herein may contain accessory uses generally located within hotels, including but not limited to, one or more meeting and banquet rooms or convention facilities, cocktail lounges, snack bars, coffee shops, and/or restaurants, and other retail and service shops. The establishment of such accessory uses shall be in addition to and shall not affect the approval of the  $\pm 125,000$  square feet of retail uses, which may include two (2) restaurants, totaling not more than  $\pm 25,000$  square feet, approved herein.
11. The boundary wall/fence approved herein shall be constructed in accordance with the specifications of the Meta at Cape Harbour Site Plan, Sheet 1, and the Recreation Site Plan, Sheet 2, both prepared by R.J. McCormack Architect, Inc., dated May 12, 2003, and the Harbour Circle Buffer Wall and the Typical Pedestrian Entry Areas plans, both prepared by Bradford & Co Design Group, Inc., dated May 8, 2003. All construction on Tracts "C-4" and "C-5" is prohibited until the construction of the entire boundary wall/fence as approved herein is completed.

O. **CONCURRENCY**

The Meta at Cape Harbour (PDP Amendment) PDP is concurrent for roads, sewer, water, drainage, solid waste, and parks based on the analysis of the proposed development and specific mitigation programs specified herein.

**SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS**

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the Meta at Cape Harbour (PDP Amendment) PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the Meta at Cape Harbour (PDP Amendment) PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review unless it is found by the Cape Coral Planning and Zoning Commission/Local Planning Agency, after due notice and hearing, that a substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City, has occurred and/or would result from the issuance of the local development permit. Substantial deviations include but are not limited to:
  1. A greater than five (5) percent increase in the square footage of the development.
  2. Any change that requires a variance to code or other requirements over and above those specifically incorporated herein.
  3. An expiration of the period of effectiveness of this Development Order as herein provided.
  4. A failure to carry out Development Order conditions and/or Developer commitments incorporated within the Development Order to mitigate impacts to the extent indicated in the Development Order, or in accordance with the Development Order.

Upon a finding that any of the above is present, the City may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved, and all local approvals have been obtained.

- H. The physical development authorized under this Development Order shall terminate in ten years from the date of adoption of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually

## LEGAL DESCRIPTION:

A PARCEL OF LAND CONSISTING OF TRACT R-4, META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND LYING IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23, EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID TRACT R-4, BEING ALSO THE NORTHEASTERLY CORNER OF TRACT C-4 OF SAID META AT CAPE HARBOUR AND A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF CAPE HARBOUR DRIVE; THENCE RUN S59°01'53"W FOR 364.89 FEET TO THE SOUTHWESTERLY CORNER OF SAID TRACT R-4, BEING ALSO THE NORTHWESTERLY CORNER OF SAID TRACT C-4, A POINT ON THE EASTERLY RIGHT OF WAY OF CAPE HARBOUR DRIVE AND A POINT ON A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG THE LINE COMMON TO SAID TRACT R-4 AND SAID CAPE HARBOUR DRIVE RIGHT OF WAY FOR THE FOLLOWING TEN COURSES: ALONG SAID CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 265.00 FEET AND A CENTRAL ANGLE OF 18°06'24" (CHORD=N13°32'36"W, 83.40 FEET) FOR 83.74 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE EAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 215.00 FEET AND A CENTRAL ANGLE OF 47°27'13" (CHORD=N01°07'49"E, 173.02 FEET) FOR 178.07 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 19°05'28" (CHORD=N34°24'09"E, 28.19 FEET) FOR 28.32 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 115.00 FEET AND A CENTRAL ANGLE OF 19°05'28" (CHORD=N34°24'09"E, 38.14 FEET) FOR 38.32 FEET TO THE POINT OF TANGENCY, THEN RUN N24°51'25"E FOR 2.93 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 93°35'51" (CHORD=N71°39'20"E, 36.45 FEET) FOR 40.84 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 129.00 FEET AND A CENTRAL ANGLE OF 19°27'55" (CHORD=S71°16'42"E, 43.62 FEET) FOR 43.83 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 185.00 FEET AND A CENTRAL ANGLE OF 22°01'56" (CHORD=S69°59'41"E, 70.70 FEET) FOR 71.14 FEET TO THE POINT OF TANGENCY, THEN RUN S58°58'43"E FOR 65.85 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 900.00 FEET AND A CENTRAL ANGLE OF 07°04'43" (CHORD=S55°26'21"E, 111.12 FEET) FOR 111.19 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 62,602 SQUARE FEET (1.44 ACRES), MORE OR LESS.

Official Records BK 03955 PG 3146

### GENERAL NOTES:

1. BASIS OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING S89°43'07"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

SKETCH OF TRACT R-4, META AT CAPE HARBOUR, ZONE CHANGE PARCEL.  
LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY

FOR: REALMARK CAPE HARBOUR, LLC

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-22-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

SHEET 1 OF 2

STOUTEN AND ASSOCIATES, INC.

SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO.18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499

DONALD D. STOUTEN, P.S.M.  
CERTIFICATE #3829

*Handwritten signature of Donald D. Stouten*

Exhibit "A"  
Sheet 1 of 2





**LEGAL DESCRIPTION:**

A PARCEL OF LAND SITUATED IN TRACT R-5, META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND LYING IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23, EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID TRACT R-5; THENCE RUN N59°01'53"E ALONG THE NORTHERLY LINE OF SAID TRACT R-5 FOR 79.57 FEET; THENCE RUN S30°48'47"E FOR 91.82 FEET; THENCE RUN S59°02'20"W FOR 79.52 FEET TO A POINT ON THE WESTERLY LINE OF SAID TRACT R-5; THENCE RUN N30°50'48"W ALONG SAID WESTERLY LINE FOR 91.81 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 7,303 SQUARE FEET (0.17 ACRES), MORE OR LESS.

**GENERAL NOTES:**

1. BASIS OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING S89°43'07"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

**SKETCH OF PARCEL IN TRACT R-5, META AT CAPE HARBOUR, ZONE CHANGE PARCEL. LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY**

FOR: REALMARK CAPE HARBOUR, LLC

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-22-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

PDP 02-00800011  
META AT CAPE HARBOUR  
AMENDMENT

SHEET 1 OF 2

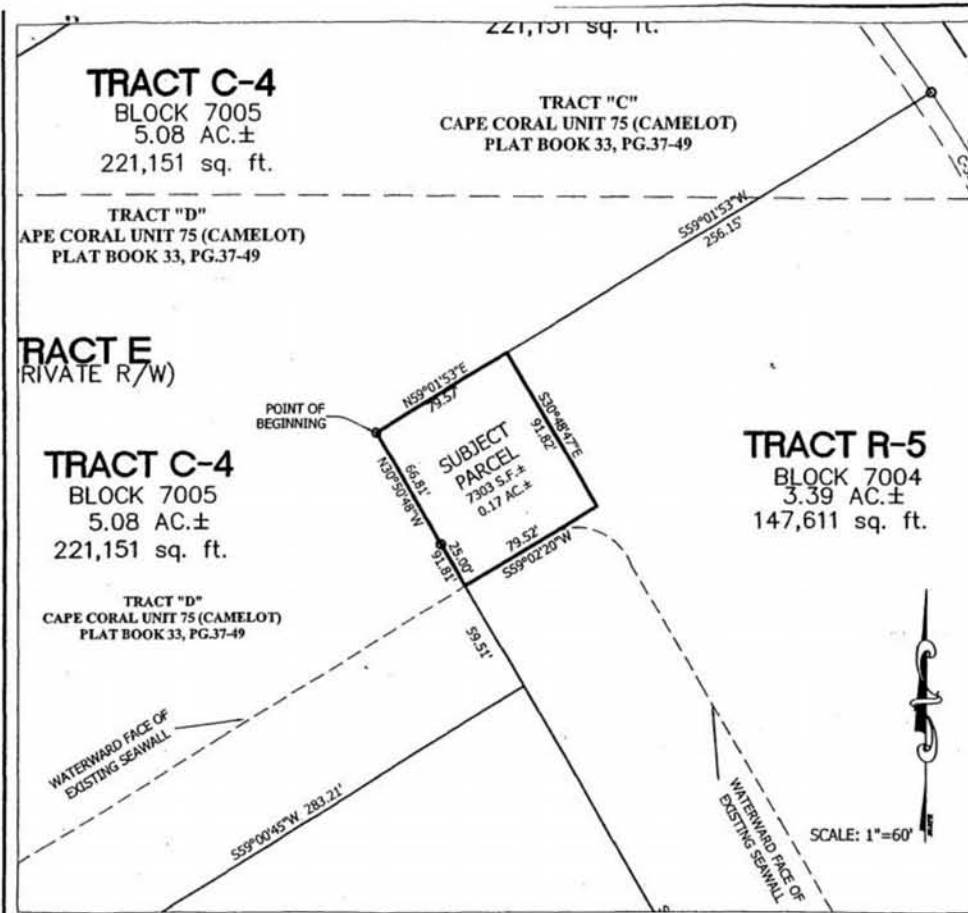
**STOUTEN AND ASSOCIATES, INC.**  
SURVEYING AND MAPPING CONSULTANTS  
4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499

DONALD D. STOUTEN, P.S.M.  
CERTIFICATE # 5808



*Handwritten signature of Donald D. Stouten*

Exhibit "B"  
Sheet 1 of 2



GENERAL NOTES:

1. BASES OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING S89°43'07\"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

**SKETCH OF PARCEL IN TRACT R-5, META AT CAPE HARBOUR, ZONE CHANGE PARCEL. LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY**

FOR: REALMARK CAPE HARBOUR, LLC

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-22-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

SHEET 2 OF 2

**STOUTEN AND ASSOCIATES, INC.**  
SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499



DONALD D. STOUTEN, P.S.M.  
CERTIFICATE # 3839

*[Handwritten signature]*

Exhibit "B"  
Sheet 2 of 2



Exhibit "C"  
Sheet 1 of 2

## LEGAL DESCRIPTION:

A PARCEL OF LAND CONSISTING OF TRACT R-6, META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND LYING IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23, EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID TRACT R-6, BEING ALSO A POINT ON THE SOUTH RIGHT OF WAY LINE OF CAPE HARBOUR DRIVE AND THE WEST RIGHT OF WAY LINE OF CHIQUITA BOULEVARD SOUTH; THENCE RUN S00°31'37"E ALONG THE LINE COMMON TO SAID TRACT R-6 AND SAID CHIQUITA BOULEVARD SOUTH FOR 358.03 FEET TO THE SOUTHEAST CORNER OF SAID TRACT R-6, BEING ALSO A POINT ON THE NORTH RIGHT OF WAY LINE OF SAID CAPE HARBOUR DRIVE; THENCE RUN ALONG THE LINE COMMON TO SAID TRACT R-6 AND SAID CAPE HARBOUR DRIVE RIGHT OF WAY THE FOLLOWING TWELVE COURSES: S89°28'23"W FOR 48.01 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 67.00 FEET AND A CENTRAL ANGLE OF 22°31'55" (CHORD=S78°12'25"W, 26.18 FEET) FOR 26.35 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 87.00 FEET AND A CENTRAL ANGLE OF 24°33'58" (CHORD=S79°13'27"W, 37.02 FEET) FOR 37.30 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE CONCAVE TO THE NORTH, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 475.00 FEET AND A CENTRAL ANGLE OF 03°41'18" (CHORD=N86°38'55"W, 30.57 FEET) FOR 30.58 FEET TO THE POINT OF TANGENCY, THEN RUN N84°48'16"W FOR 118.75 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 102°21'57" (CHORD=N33°37'17"W, 38.96 FEET) FOR 44.67 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 39°45'50" (CHORD=N37°26'37"E, 51.01 FEET) FOR 52.05 FEET TO THE POINT OF TANGENCY, THEN RUN N57°26'59"E FOR 123.61 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 200.00 FEET AND A CENTRAL ANGLE OF 57°58'36" (CHORD=N28°27'41"E, 193.85 FEET) FOR 202.38 FEET TO THE POINT OF TANGENCY, THEN RUN N00°31'37"W FOR 22.92 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00" (CHORD=N44°28'23"E, 35.36 FEET) FOR 39.27 FEET TO THE POINT OF TANGENCY; THENCE RUN N89°28'23"E FOR 25.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 49,848 SQUARE FEET (1.14 ACRES), MORE OR LESS.

## SKETCH OF TRACT R-6, META AT CAPE HARBOUR, ZONE CHANGE PARCEL.

## LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY

FOR: REALMARK CAPE HARBOUR, LLC

## GENERAL NOTES:

1. BASIS OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING S89°43'07"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-22-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

SHEET 1 OF 2

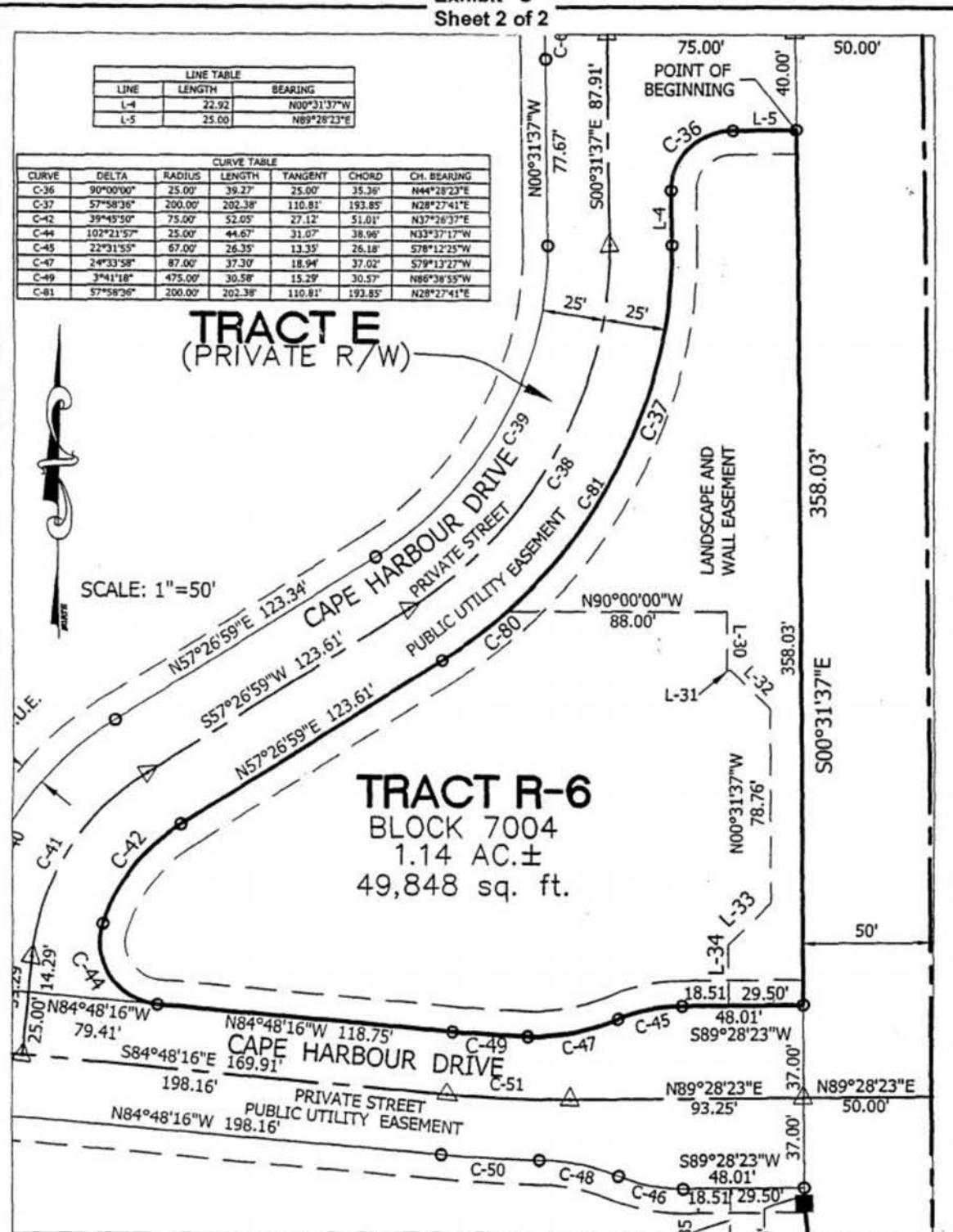
STOUTEN AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO.18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499



DONALD D. STOUTEN, F.S.M.  
CERTIFICATE # 9333

Exhibit "C"  
Sheet 2 of 2



SKETCH OF TRACT R-6, META AT CAPE HARBOUR, ZONE CHANGE PARCEL.  
LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY

GENERAL NOTES:

1. BASIS OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING S89°43'07"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

FOR: REALMARK CAPE HARBOUR, LLC

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-22-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

SHEET 2 OF 2

STOUTEN AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO.18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499

DONALD D. STOUTEN, P.S.M.

CERTIFICATE NO. 3829

### LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED IN TRACT E (CAPE HARBOUR DRIVE), META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND LYING IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23, EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID TRACT E (CAPE HARBOUR DRIVE), THE SOUTHWESTERLY CORNER OF TRACT C (LAKE) OF SAID META AT CAPE HARBOUR AND A POINT ON A CURVE ON THE NORTHEASTERLY RIGHT OF WAY LINE OF HARBOUR CIRCLE, SAID POINT BEING THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $55^{\circ}22'12''$  (CHORD= $S75^{\circ}46'50''E$ , 23.23 FEET) FOR 24.16 FEET TO THE POINT OF TANGENCY; THENCE RUN  $N76^{\circ}32'04''E$  FOR 172.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 215.00 FEET AND A CENTRAL ANGLE OF  $67^{\circ}00'24''$  (CHORD= $N43^{\circ}01'52''E$ , 237.35 FEET) FOR 251.44 FEET TO A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS  $S89^{\circ}43'07''E$ ; THENCE RUN  $S89^{\circ}43'07''E$  ALONG SAID LINE FOR 25.29 FEET TO A NON TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 240.00 FEET AND A CENTRAL ANGLE OF  $67^{\circ}58'37''$  (CHORD= $S42^{\circ}32'46''W$ , 268.33 FEET) FOR 284.74 FEET TO THE POINT OF TANGENCY; THENCE RUN  $S76^{\circ}32'04''W$  FOR 177.41 FEET TO A NON TANGENT INTERSECTION WITH THE EASTERLY RIGHT OF WAY LINE OF SAID HARBOUR CIRCLE BEING ALSO A POINT ON A CURVE CONCAVE TO THE WEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF  $26^{\circ}10'02''$  (CHORD= $N34^{\circ}59'53''W$ , 38.48 FEET) FOR 38.82 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 11,247 SQUARE FEET (0.26 ACRES), MORE OR LESS.  
SAID TRACT CONTAINS 23,268 SQUARE FEET (0.53 ACRES), MORE OR LESS.

### GENERAL NOTES:

1. BASIS OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING  $S89^{\circ}43'07''E$  (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

SKETCH OF PARCEL IN TRACT E, META AT CAPE HARBOUR, ZONE CHANGE PARCEL.  
LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY

FOR: REALMARK CAPE HARBOUR, LLC

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-27-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

STOUTEN AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS  
4423 S.E. 16th PLACE, NO.18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499

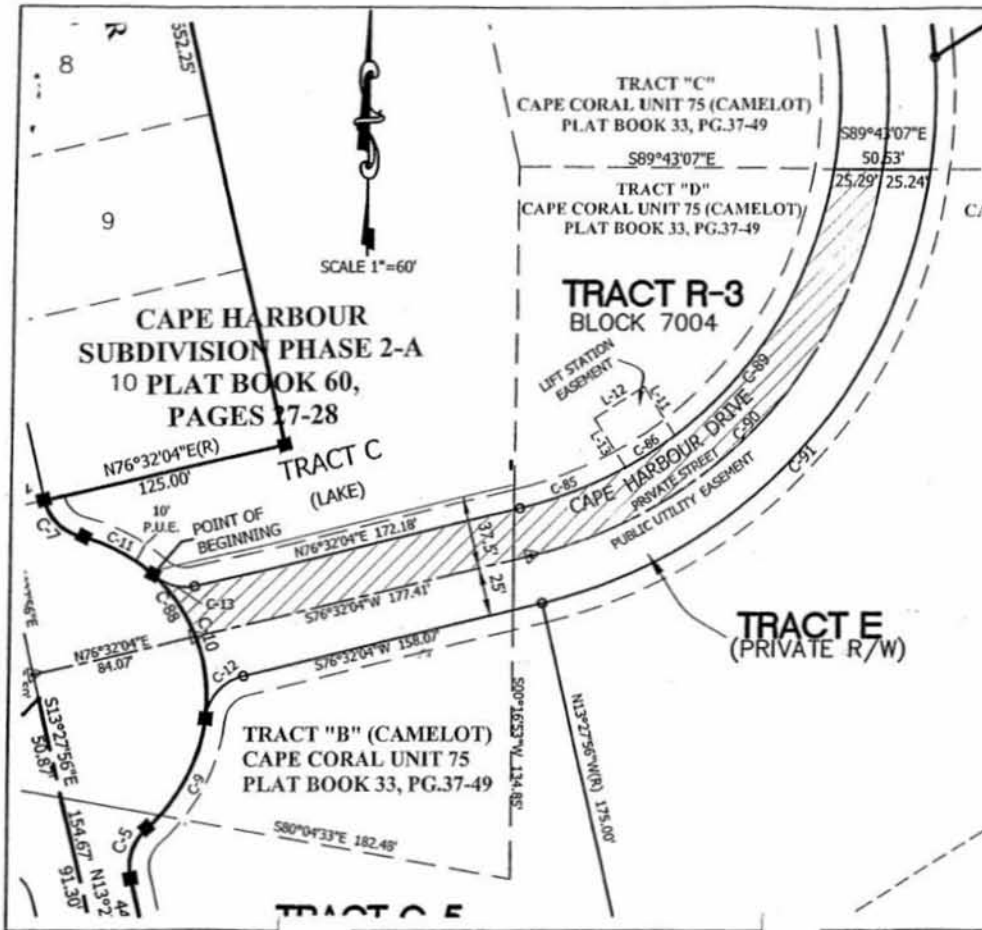
DONALD D. STOUTEN, P.S.M.  
CERTIFICATE # 2839

SHEET 1 OF 2

Exhibit "D"  
Sheet 1 of 2

Official Records BK 03955 PG 3152





CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD
C-10	54°33'28"	85.00'	86.94'	43.87'	77.91'
C-12	70°04'04"	25.00'	30.57'	17.52'	28.70'
C-13	55°22'12"	25.00'	24.16'	13.12'	23.27'
C-85	15°32'33"	215.00'	58.32'	29.34'	58.14'
C-86	8°03'25"	215.00'	30.23'	15.14'	30.21'
C-88	26°10'02"	85.00'	38.82'	19.75'	38.48'
C-89	67°00'28"	215.00'	251.44'	142.32'	237.35'
C-90	67°08'32"	240.00'	284.74'	161.81'	268.33'

GENERAL NOTES:

1. BASIS OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING S89°43'07"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

SKETCH OF PARCEL IN TRACT E, META AT CAPE HARBOUR, ZONE CHANGE PARCEL.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY

FOR: REALMARK CAPE HARBOUR, LLC

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-27-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

STOUTEN AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS  
4423 S.E. 14th PLACE, NO.18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499

SHEET 2 OF 2

DONALD D. STOUTEN P.S.M.  
CERTIFICATE # 588

Exhibit "D"  
Sheet 2 of 2

**LEGAL DESCRIPTION:**

A PARCEL OF LAND SITUATED IN TRACT E (CAPE HARBOUR DRIVE), META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND LYING IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23, EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID TRACT E (CAPE HARBOUR DRIVE), THE SOUTHWESTERLY CORNER OF TRACT C (LAKE) OF SAID META AT CAPE HARBOUR AND A POINT ON A CURVE ON THE NORTHEASTERLY RIGHT OF WAY LINE OF HARBOUR CIRCLE, SAID POINT BEING THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $55^{\circ}22'12''$  (CHORD=  $575^{\circ}46'50''$ E, 23.23 FEET) FOR 24.16 FEET TO THE POINT OF TANGENCY; THENCE RUN  $N76^{\circ}32'04''$ E FOR 172.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 215.00 FEET AND A CENTRAL ANGLE OF  $67^{\circ}00'24''$  (CHORD= $N43^{\circ}01'52''$ E, 237.35 FEET) FOR 251.44 FEET TO A NON TANGENT INTERSECTION WITH A LINE WHICH BEARS  $S89^{\circ}43'07''$ E; THENCE RUN  $S89^{\circ}43'07''$ E ALONG SAID LINE FOR 50.53 FEET TO A NON TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 265.00 FEET AND A CENTRAL ANGLE OF  $68^{\circ}45'45''$  (CHORD= $S42^{\circ}09'12''$ W, 299.29 FEET) FOR 318.03 FEET TO THE POINT OF TANGENCY; THENCE RUN  $S76^{\circ}32'04''$ W FOR 158.07 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $70^{\circ}04'04''$  (CHORD=  $S41^{\circ}30'02''$ W, 28.70 FEET) FOR 30.57 FEET TO A POINT ON A CURVE ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF SAID HARBOUR CIRCLE BEING ALSO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE WEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF  $54^{\circ}33'28''$  (CHORD= $N20^{\circ}48'44''$ W, 77.91 FEET) FOR 80.94 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 23,268 SQUARE FEET (0.53 ACRES), MORE OR LESS.

**GENERAL NOTES:**

1. BASIS OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING  $S89^{\circ}43'07''$ E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

SKETCH OF PARCEL IN TRACT E, META AT CAPE HARBOUR, STREET VACATION PARCEL.

**LEGAL DESCRIPTION TO ACCOMPANY  
SKETCH, NOT A SURVEY**

FOR: REALMARK CAPE HARBOUR, LLC

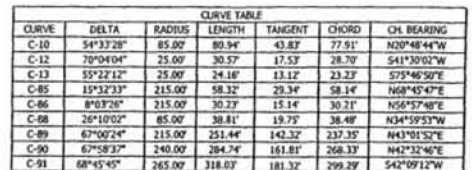
I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-27-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

**STOUTEN AND ASSOCIATES, INC.**  
SURVEYING AND MAPPING CONSULTANTS

4123 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499

SHEET 1 OF 2  
DONALD D. STOUTEN, P.E.  
CERTIFICATE 3838

Exhibit "E"  
Sheet 1 of 2



1. BASIS OF BEARINGS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST BEING S89°43'07"E (PLAT)
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESERVATIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY  
SKETCH, NOT A SURVEY

I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEY REPRESENTED HEREON, MADE UNDER MY DIRECTION ON 08-22-02 IS IN ACCORDANCE WITH MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

SHEET 2 OF 2  
DONALD D. STOUTEN, P.E.  
CERTIFICATE # 3428

**STOUTEN AND ASSOCIATES, INC.**  
SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL. 33904  
TELEPHONE (941) 542-7499



Exhibit "F"  
Sheet 1 of 2

MATRIX OF ALLOWABLE COMMERCIAL USES  
FOR  
META AT CAPE HARBOUR

ALLOWABLE USES PER TRACT ARE INDICATED BY ✓; USES NOT ALLOWED ARE INDICATED BY ×

USE		TRACTS									
		C-1	C-2	C-3	C-4	C-5	C-6	R-4	R-8	CR-3	CE
1.	Assisted Living Facility	X	X	X	X	X	X		X	X	X
2.	Automatic Teller Machine (ATM)		/	/	/	/	/		X	X	/
3.	Automotive Parking Establishment		/	/	/	/	/		X	X	/
4.	Automotive Parts Store	X	X	X	X	X	X	X	X	X	X
5.	Banks and Financial Establishments-(Group I-Commercial Banks; Group II-Federal Banks, Commodity Brokers)	/	/	/	/	/	/	/	X	/	/
6.	Bar or Cocktail Lounge		/	/	/	/	/	/		X	/
7.	Boat Parts Store		/	/	/	/	/		X	X	/
8.	Building Material Sales-Group I	X	X	X	X	X	X	X		X	X
9.	Business Offices-Group I (Professional)	/	/	/	/	/	/		X	X	/
	Business Offices-Group II (Service Establishments) (Bail Bond, Blood Banks, Collection Services, Employment Agencies)			X	X	X	X	X		X	X
10.	Carryout/Delivery Food Service Establishment	/	/	/	/	/	/	/		X	/
11.	Child Care Facility	X	X	X	/	/	/		X	X	/
12.	Cleaning and Maintenance Services	X	X	X	X	X	X	X	X	X	X
13.	Clothing Store, General	/	/	/	/	/	/		X	/	/
14.	Clubs: Fraternal and Membership Organization		/	/	/	/	/	/		X	/
15.	Contractors and Builders-Group I and II	X	X	X	X	X	X	X	X	X	X
16.	Cultural Facilities, Private		/	/	/	/	/	/		X	/
17.	Day Care Center, Adult	X	X	X	X	X	/		X	X	/
18.	Department Store	/	/	/	/	/	/		X	/	/
19.	Drug Store	/	/	/	/	/	/		X	/	/
20.	Essential Service (Water/Sewer Pipes, Fire Hydrants, Electrical Wires)	/	/	/	/	/	/		X	/	/
21.	Essential Service Facilities-Group I (Buildings or Above Ground Structures to Provide Electric, Telephone, Cable, Water, Sewer)	/	/	/	/	/	/		X	/	/
	Essential Service Facilities-Group II (Water/Sewerage Treatment Facilities, Electric Substation)	X	X	X	X	X	X	X	X	X	X
22.	Florist Shop	/	/	/	/	/	/	/	X	/	/
23.	Flea Market, Indoor	/	/	/	/	/	/	X	X	/	X
24.	Food Stores-Group I and II (Group I-Grocery; Group II-Bulk Provisions)	/	/	/	/	/	/	X	X	/	X
25.	Government Uses-Group I and II	/	/	/	/	/	/	/	X	/	/
26.	Hardware Store	/	/	/	/	/	/		X	/	/
27.	Health Care Facilities-Group I, II, III and IV	X	X	X	X	X	X	X	X	X	X
28.	Hobby, Toy, Game Shops		/	/	/	/	/		X	/	/
29.	Hotel/Motel and Resort	X	X	X	/	/	/	/	X	/	/
30.	Household/Office Furnishings-Group I and II (Group I-Furniture; Group II-Curtains, China, Etc.)	/	/	/	/	/	/		X	/	/
31.	Insurance Company	/	/	/	/	/	/	/	X	/	/
32.	Lawn and Garden Supply Store	X	X	X	X	X	X	X	X	X	X
33.	Marina	/	/	/	/	/	/		X	/	/
34.	Medical Office	/	/	/	/	/	/		X	/	/
35.	Mortgage Broker	/	/	/	/	/	/		X	/	/
36.	Mortuary, Funeral Home and Crematory	X	X	X	X	X	X	X	X	X	X
37.	Motion Picture Theater	X	X	X	X	X	X		X	X	X
38.	Nature and Wildlife Preserves	X	X	X	X	X	X	X	X	X	X
39.	Newsstand	/	/	/	/	/	/	/		X	/
40.	Nightclub	/	/	/	/	/	/		X	/	/
41.	Non-Store Retailers-Groups I and IV	X	X	X	X	X	X		X	X	X
42.	Package Store	/	/	/	/	/	/		X	/	/
43.	Parks, Group-I, II and IV (Group I-Non-Profit; Group II-Arts/Cultural; Group IV-Civic Center/Conv. Hall)	/	/	/	/	/	/	/	X	/	/
	Parks, Group III (Major, Regional & State Parks)	X	X	X	X	X	X	X	X	X	X
44.	Personal Services-Groups I, II and IV (Group I-Barber Shop; Group II-Shoe Repair; Group IV-Babysitting; Shopping Service)	/	/	/	/	/	/		X	/	/
	Personal Services-Group III (Sale, Rental of Health Related Devices)	X	X	X	X	X	X	X	X	X	X
45.	Pet Services								X		
46.	Pet Shop								X		
47.	Pharmacy		/	/	/	/	/		X	/	/
48.	Photofinishing Lab	/	/	/	/	/	/		X	/	/
49.	Place of Worship	X	X	X	X	X	X	X	X	X	X
50.	Printing Services Establishment	/	/	/	/	/	/	/		X	/
51.	Private Park	/	/	/	/	/	/		X	/	/
52.	Radio and Television Stations	X	X	X	X	X	X	X	X	X	X
53.	Recreation, Commercial-Group I (Coin Operated or	X	X	X	X	X	X	X	X	X	X

**Exhibit "F"**  
**Sheet 2 of 2**  
**MATRIX OF ALLOWABLE COMMERCIAL USES**  
**FOR**  
**META AT CAPE HARBOUR**

ALLOWABLE USES PER TRACT ARE INDICATED BY ✓; USES NOT ALLOWED ARE INDICATED BY ✕

[illegible]

The legal description of the entire property that is subject to the extant PDP Development Orders is as follows:

All of the Meta At Cape Harbour Subdivision, in its entirety, according to Plat Book 71, Pages 74 through 80 of the Public Records Of Lee County, Florida;

together with all of Cape Harbour Subdivision Phase 2-A, in its entirety, according to Plat Book 60, Pages 27 through 28;

together with all of Cape Harbour Subdivision, Phase 2-B, in its entirety, according to Plat Book 65, Pages 55 through 57 of The Public Records Of Lee County, Florida,

together with a tract of land situated in Lots 14, 15, and 30, Block 6501, in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida being more particularly described as follows:

Beginning at the intersection of the centerline of Merlyn Lane and the south right-of-way line of El Dorado Parkway West (100 foot right-of-way); thence run N89°43' 07"W along said south right-of-way line for 64.50 feet; thence run S00°16'53"W, leaving said right-of-way line, for 20.00 feet; thence run S89°43'07"E for 12.41 feet; thence run S40°29'26"E for 23.11 feet; thence run S00°16'53"W for 10.00 feet; thence run S89°43'07"E for 74.00 feet; thence run N00°16'53"E for 10.00 feet; thence run N45°16'53"E for 21.92 feet to a point of intersection with a line parallel to and 22.00 feet south of said right-of-way line; thence run S89°43'07"E along said parallel line for 117.00; thence run S00°16'53"W for 22.00 feet; thence run N89°43'07"W to the Point of Beginning, excepting from the preceding description the following described portion of Merlyn Lane right-of-way: Beginning at said intersection of said centerline of said Merlyn Lane and said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to a non-tangent point of intersection with a curve concave to the southwest, being also the westerly right-of-way line of said Merlyn Lane; thence run along said westerly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = S44°43'07"E 35.36 feet) for 39.27 feet to a point of tangency; thence run S00°16'53"W along said westerly right-of-way line for 22.50 feet; thence run S89°43'07"E, leaving said westerly right-of-way line, for 50.00 feet to a point of intersection with the easterly right-of-way line of said Merlyn Lane; thence run N00°16'53"E along said easterly right-of-way line for 22.50 feet to the point of curvature of a curve concave to the southeast; thence run along said easterly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = N45°16'53"E, 35.36 feet) for 39.27 feet to a point of intersection with said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to the point of beginning of said exception.



thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.

- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

#### SECTION V. SEVERABILITY.

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

#### SECTION VI. EFFECTIVE DATE.

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

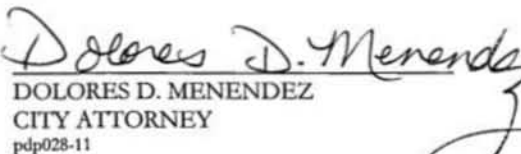
ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION  
THIS 27<sup>th</sup> DAY OF May, 2003.

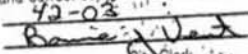
  
ARNOLD E. KEMPE, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 9<sup>th</sup> DAY OF June, 2003.

  
BONNIE J. VENT, CITY CLERK

APPROVED AS TO FORM:

  
DOLORES D. MENENDEZ  
CITY ATTORNEY  
pdp028-11

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality, that this is a true and correct copy of Ordinance  
42-03  
  
City Clerk

## ORDINANCE 60 - 97

60.00  
B1110

AN ORDINANCE AMENDING ORDINANCE 28 - 97, A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR", PDP 96-00800017; PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR CERTAIN PROPERTY DESCRIBED AS A TRACT OF LAND SITUATED IN TRACT "E", CAPE CORAL UNIT 75 (CAMELOT), AND A PORTION OF TRACTS "B", "C", AND "D" OF SAID CAPE CORAL UNIT 75, TOGETHER WITH A TRACT OF LAND SITUATED IN LOTS 14, 15, AND 30, BLOCK 6501, IN CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CHIQUITA BOULEVARD SOUTH AND EL DORADO PARKWAY WEST; APPROVING REVISION AND EXPANSION OF THE PROJECT AREA FOR A REPLAT AND SUBDIVISION TO INCLUDE A TRACT OF LAND SITUATED IN UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, TO INCLUDE THE FOLLOWING: ALL OF TRACT "C" IN ITS ENTIRETY, ALL OF TRACT "B" IN ITS ENTIRETY, AND A PORTION OF TRACT "D" OF SAID UNIT 75 AS MORE PARTICULARLY DESCRIBED HEREIN AND WHICH SHALL BE KNOWN AS THE "CAPE HARBOUR EAST" PHASE OF CAPE HARBOUR; ADDING ADDITIONAL PHASES; GRANTING REPLAT AND SUBDIVISION OF SAID TRACT "C", TRACT "B", AND A PORTION OF TRACT "D"; REZONING OF UNIT 75, BLOCK 6502 TRACT "C" AND A PORTION OF UNIT 75, BLOCK 6502 TRACT "D" INCLUDED WITHIN THE "CAPE HARBOUR EAST" PHASE FROM PEDESTRIAN COMMERCIAL (C-1) TO SINGLE FAMILY RESIDENTIAL (R-1B); REZONING OF A PORTION OF UNIT 75, BLOCK 6502 TRACT "B" INCLUDED WITHIN THE "CAPE HARBOUR EAST" PHASE FROM MULTI-FAMILY RESIDENTIAL (R-3) TO SINGLE FAMILY RESIDENTIAL (R-1B); GRANTING A SPECIAL EXCEPTION TO ALLOW FOR AN ADDITIONAL MODEL HOME SITE LOCATED ON ANY THREE CONTIGUOUS LOTS WITHIN THE "CAPE HARBOUR EAST" PHASE WHICH SHALL COMPLY WITH ALL SPECIAL REGULATIONS WITHIN THE LAND USE AND DEVELOPMENT REGULATIONS FOR MODEL HOME SITES; PROVIDING SITE PLAN REVIEW; APPROVING DEVIATIONS FROM THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, SECTION 2.7.1., TABLE R-1 AS FOLLOWS: 1.) A DEVIATION OF 3,950 SQUARE FEET TO THE MINIMUM 10,000 SQUARE FEET LOT AREA REQUIREMENT TO PERMIT BUILDING SITES WITH A MINIMUM AREA OF 6,050 SQUARE FEET, 2.) A DEVIATION OF TWENTY-FIVE (25) FEET TO THE MINIMUM LOT WIDTH REQUIREMENT OF EIGHTY (80) FEET TO PERMIT BUILDING SITES WITH A MINIMUM LOT WIDTH OF FIFTY-FIVE (55) FEET, 3.) A DEVIATION OF TEN (10) FEET TO THE MINIMUM THIRTY (30) FOOT FRONT SETBACK REQUIREMENT TO PERMIT A MINIMUM SETBACK OF TWENTY (20) FEET FROM THE FRONT PROPERTY LINES, 4.) A DEVIATION OF FIVE (5) FEET TO THE MINIMUM TEN (10) FOOT SIDE SETBACK REQUIREMENT TO PERMIT A MINIMUM SETBACK OF FIVE (5) FEET FROM THE SIDE PROPERTY LINES, 5.) A DEVIATION OF TEN (10) PERCENT TO THE MAXIMUM BUILDING COVERAGE AREA OF FORTY (40) PERCENT TO PERMIT A MAXIMUM BUILDING COVERAGE AREA OF FIFTY (50) PERCENT; APPROVING A DEVIATION OF TWO (2) FEET THREE (3) INCHES TO SECTION 3.9.1 A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A MAXIMUM HEIGHT OF SIX (6) FEET THREE (3) INCHES IN A RESIDENTIAL DISTRICT; APPROVING A DEVIATION OF SEVENTEEN (17) FEET TO SECTION 3.9.1 A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM ALONG EL DORADO PARKWAY WEST WITHIN THE FRONT SETBACK LINES OF PROPOSED TRACT A AND TRACT B BLOCK 6505; APPROVING A DEVIATION OF TEN (10) FEET TO THE MINIMUM THIRTY (30) FOOT FRONT SETBACK REQUIREMENT TO PERMIT A WALL/CLOCK TOWER WITH A SETBACK OF THIRTEEN (13) FEET FROM THE FRONT PROPERTY LINES; APPROVING A DEVIATION OF TWO (2) FEET TO SECTION 3.8.2 OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL/CLOCK TOWER SYSTEM WITH A SIDE SETBACK OF THIRTEEN (13) FEET IN A RESIDENTIAL ZONING DISTRICT ON A CORNER LOT; APPROVING A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS FOR ROADS TO ALLOW PRIVATE INGRESS AND EGRESS COMMON AREAS AT A MINIMUM OF FIFTY (50) FEET IN WIDTH AND A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS FOR ROADS TO ALLOW TYPICAL SECTIONS FOR PRIVATE ROADS TO BE AS PER THE ABOVE REFERENCED DEVELOPMENT PLAN SET; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

RECORD VERIFIED - CHARLIE GREEN, CLERK  
By: J. MURPHY, D.C.

WHEREAS, "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral on May 19, 1997, by Ordinance 28-97; and

WHEREAS, an application from Avatar Properties, Inc. has been received requesting an amendment to the Planned Development Project (PDP) for Cape Harbour (PDP 96-00800017); requesting revision and expansion of the project area for a replat and subdivision under additional phases and, rezoning, special exception, deviations to the City of Cape Coral Land Use and Development Regulations, Deviations to City of Cape Coral Engineering Design Standards, and Site Plan Approval; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency on September 3, 1997; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

**SECTION I. PDP APPROVAL AMENDING ORDINANCE 28 - 97, REPLAT, SUBDIVISION, REZONING, SPECIAL EXCEPTION, SITE PLAN, DEVIATIONS FROM CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, AND DEVIATIONS FROM CAPE CORAL ENGINEERING DESIGN STANDARDS.**

That the City Council having reviewed the application requesting amendment of a Planned Development Project for Cape Harbour PDP number 96-00800017, amending Ordinance 28 - 97 to approve revision and expansion of the project area to include a tract of land situated in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, consisting of the following: All of Tract "C" and a portion of Tracts "B" and "D" of said Unit 75, said tract being more particularly described herein, the expanded area to be known as the "Cape Harbour East" phase, and requesting the following approvals for the said "Cape Harbour East" phase: replat and subdivision of a tract of land situated in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, consisting of the following: All of Tract "C" and a portion of tracts "B" and "D" of said Unit 75, said tract being more particularly described in Exhibit A, adding 90 single family residential lots to the "Cape Harbour" subdivision which provides private ingress and egress, buffer area and water management tracts as per the development plan set prepared by Avalon Engineering, Inc., dated April 7, 1997 with revisions dated June 18, 1997; rezoning of Unit 75, Block 6502 Tract "C" and a portion of Unit 75, Block 6502 Tract "D" included within the "Cape Harbour East" phase (refer to legal description included in Exhibit "A") from Pedestrian Commercial (C-1) to Single Family Residential (R-1B); rezoning of a portion of Unit 75, Block 6502 Tract "B" included within the "Cape Harbour East" phase (refer to legal description included in Exhibit "A") from Multi-Family Residential (R-3) to Single Family Residential (R-1B); a special exception to allow for an additional model home site located on any three contiguous lots within the "Cape Harbour East" phase which shall comply with all special regulations within the Land Use and Development Regulations for Model Home Sites; site plan review; deviations from the City of Cape Coral Land Use and Development Regulations, Section 2.7.1., Table R-1 as follows: 1.) a deviation of 3,950 square feet to the minimum 10,000 square feet lot area requirement to permit building sites with a minimum area of 6,050 square feet; 2.) a deviation of twenty-five (25) feet to the minimum lot width requirement of eighty (80) feet to permit building sites with a minimum lot width of fifty-five (55) feet; 3.) a deviation of ten (10) feet to the minimum thirty (30) foot front setback requirement to permit a minimum setback of twenty (20) feet from the front property lines; 4.) a deviation of five (5) feet to the minimum ten (10) foot side setback requirement to permit a minimum setback of five (5) feet from the side property lines; 5.) a deviation of ten (10) percent to the maximum building coverage area of forty (40) percent to permit a maximum building coverage area of fifty (50) percent; a deviation of two (2) feet three (3) inches to Section 3.9.1 A. of the Land Use and Development Regulations to allow a development wall system with a maximum height of six (6) feet three (3) inches in a residential district; a deviation of seventeen (17) feet to Section 3.9.1 A. of the Land Use and Development Regulations to allow a development wall system along El Dorado Parkway West within the front setback lines of proposed Tract A and Tract B Block 6505; a deviation of ten (10) feet to the minimum thirty (30) foot front setback requirement to permit a wall/clock tower with a setback of thirteen (13) feet from

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the front property lines; a deviation of two (2) feet to Section 3.8.2 of the Land Use and Development Regulations to allow a development wall/clock tower system with a side setback of thirteen (13) feet in a residential zoning district on a corner lot; a deviation from Cape Coral Engineering Design Standards for roads to allow private ingress and egress common areas at a minimum of fifty (50) feet in width; and a deviation from Cape Coral Engineering Design Standards for roads to allow typical sections for private roads to be as per the above referenced development plan set. The aforementioned deviations to Cape Coral Engineering Design Standards do not apply to the portion of roads within the City right-of-way.

Having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida does hereby approve the PDP, said amendment to Ordinance 28 - 97 for replat of a portion of the existing Subdivision for Cape Coral Camelot, Subdivision, Rezoning, Special Exception, Site Plan, Deviations to the City of Cape Coral Land Use and Development Regulations, and Deviations from Cape Coral Engineering Design Standards from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

## SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Cape Harbour development (including the original "Cape Harbour" together with the "Cape Harbour East" phase) is a residential Planned Development Project (PDP). This development consists of homesites for two hundred ten (210) detached single family dwelling units with associated infrastructure including gated private roads, along with a development wall/fountain/clock tower system on  $\pm 62.72$  acres of land located in Unit 75. The proposed "Cape Harbour East" development combined with the original Cape Harbour development will contain 44.30 acres of residential lots. Approximately 13.12 acres of the site will be platted for ingress, egress, and internal site circulation and 2.47 acres of the site are to be provided as surface water management tracts. The development will occur in two phases, "Cape Harbour" and "Cape Harbour East" each having two sub-phases. The "Cape Harbour East" sub-phases will be built out in ten (10) years.

- B. The proposed conditions below meet the criteria found in Section 163.3227, Florida Statutes.

- C. The name of the legal and equitable owner is Avatar Properties, Inc.

- D. The legal description of the property is as follows:

A tract of land situated in Tract "E", Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, and a portion of Tracts "B" and "D" of said Cape Coral Unit 75, more particularly described in Exhibit "B", Legal Description, Proposed 120 Lot Subdivision;

together with:

A tract of Land situated in Lots 14, 15, and 30, Block 6501, Tract "B" and Tract "C", all in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, being more particularly described in Exhibit "C", Wall & Fountain Area Description; and

A tract of land situated in Cape Coral Unit 75 (Camelot) according to Plant Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, consisting of the following: All of Tract "C" and a portion of tracts "B" and "D" of said Unit 75, said tract being more particularly described in Exhibit "A".

- E. The subject property has  $\pm 42.32$  acres with a zoning district of Multi-Family Residential (R-3) and  $\pm 20.36$  acres zoned Single Family Residential (R-1B), and  $\pm 0.03$  acres zoned single family residential, waterfront (R-1BW) pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as amended. The subject property has a Future Land Use designation of Mixed Use.

- F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the provisions of the respective Multi-Family Residential and Single Family Residential Districts of the Land Use and Development Regulations, Cape Coral, Florida, as amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The Application for Development Approval is consistent with the requirements of Chapter 163, Florida Statutes.
- H. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- I. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- J. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- K. The term "Developer" for purposes of this development order, shall mean and refer to Avatar Properties, Inc., its heirs, successors in interest, lessees, and/or assigns.

### SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled this 29th day of September, 1997, that the Planned Development Project application for amendment submitted by Avatar Properties, Inc., is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

#### A. DRAINAGE/WATER QUALITY

The Developer shall obtain a right-of-way permit and shall comply with City of Cape Coral Engineering Design Standards for the Harbour Circle access driveway and the access driveway to the Cape Harbour East phase from El Dorado Parkway West. Driveway elevations in the right-of-way shall be as established by the City and shall not impede the flow of stormwater runoff in the City swale. The radius curb at the entrance for Harbour Circle and the access driveway to the Cape Harbour East phase from El Dorado Parkway West shall not extend into the right-of-way.

#### B. GENERAL CONSIDERATIONS

1. All of the provisions of Ordinance 28 - 97 which are not addressed herein remain in full force and effect for "Cape Harbour" and the "Cape Harbour East" phase.
2. The Developer shall be liable and responsible for maintenance of the streets, right-of-way, common area landscaping and buffering, stormwater infrastructure, and all other common area improvements within Cape Harbour not dedicated to and accepted by the City until such time as the Cape Harbour Homeowner's Association assumes full responsibility.

### SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project application for amendment filed for Cape Harbour.

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- B. The deadline for commencing physical development of "Cape Harbour East" under this Development Order shall be two (2) years from the date of adoption of the Order or one (1) year from final permit approval from all appropriate governmental jurisdictions, whichever is less, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Council upon a finding of excusable delay in any proposed development activity and that considerations have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order as "Cape Harbour East" within two (2) years from the date of rendition of this Development Order, development approval of the amendment shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a certificate of compliance or occupancy on some substantial portion of the project (e.g., water management system or major road system). This Development Order shall otherwise terminate in ten (10) years from the date of this Development Order, unless an extension is approved by this Council. An extension may be granted if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For the process of determining when the build-out date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.

#### SECTION V. SEVERABILITY.

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

#### SECTION VI. EFFECTIVE DATE.

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of the County and thirty (30) days after having been received by the State Land Planning Agency pursuant to Section 163.3239, Florida Statutes. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer and are subject to the requirements and review pursuant to Chapter 163, Florida Statutes.

ADOPTED AT A REGULAR COUNCIL MEETING THIS 29th DAY OF September, 1997.

Roger G. Butler  
ROGER G. BUTLER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 3rd DAY OF October, 1997.

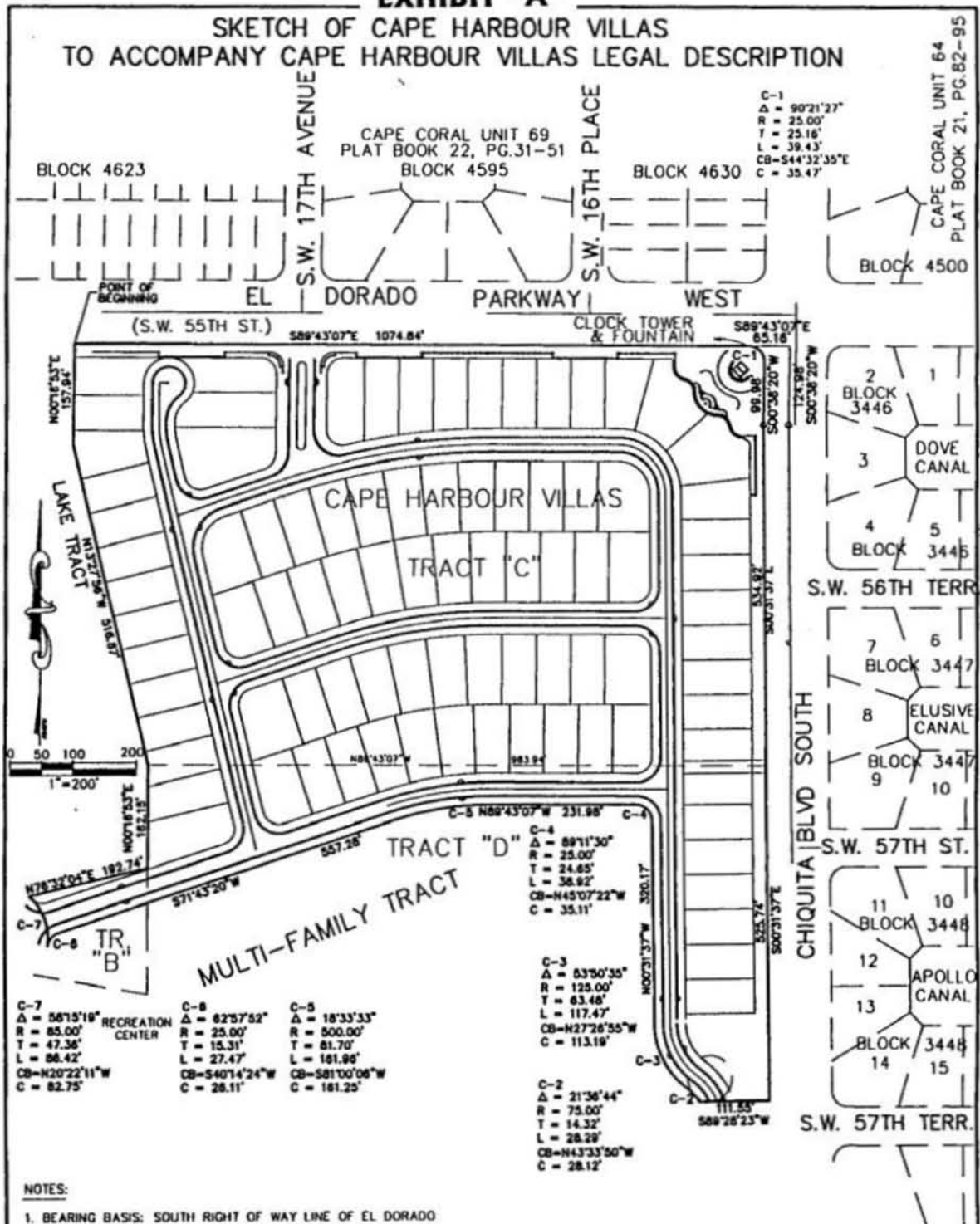
Bonnie J. Vent  
BONNIE J. VENT, CITY CLERK

#### LEGAL REVIEW:

BRC  
BRUCE R. CONROY  
CITY ATTORNEY  
ord\97800012.pdp

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality, that this is a true and correct copy of Ordinance 60-97  
Bonnie J. Vent  
City Clerk



**EXHIBIT "A"****SKETCH OF CAPE HARBOUR VILLAS  
TO ACCOMPANY CAPE HARBOUR VILLAS LEGAL DESCRIPTION****NOTES:**

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS 589°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION, NOT A SURVEY.  
A TRACT OF LAND CONTAINING A PORTION OF  
OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVATAR PROPERTIES, INC. AND AVALON ENGINEERING, INC.

PLOT FILE: CH-VILLA  
SHEET 1 OF 2

**STOUTEN-STEVENOT AND ASSOCIATES, INC.**  
**SURVEYING AND MAPPING CONSULTANTS**

4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499

**DONALD D. STOUTEN, P.S.M.**  
CERTIFICATE # 3839

*[Signature]*

## EXHIBIT "A" (CONTINUED)

### LEGAL DESCRIPTION OF CAPE HARBOUR VILLAS TO ACCOMPANY SKETCH OF CAPE HARBOUR VILLAS

A TRACT OF LAND SITUATED IN CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CONSISTING OF THE FOLLOWING: ALL OF TRACT "C" AND A PORTION OF TRACTS "B" AND "D" OF SAID UNIT 75, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "C", BEING ALSO THE NORTHEAST CORNER OF SAID TRACT "B" AND A POINT ON THE SOUTH LINE OF EL DORADO PARKWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN S89°43'07"E ALONG THE LINE COMMON TO SAID TRACT "C" AND SAID RIGHT-OF-WAY LINE FOR 1074.84 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ON THE LINE COMMON TO SAID TRACT "C", SAID RIGHT-OF-WAY LINE AND THE WEST RIGHT-OF-WAY LINE OF CHIQUITA BOULEVARD SOUTH ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°21'27" (CHORD = S44°32'35"E, 35.47 FEET) FOR 39.43 FEET; THENCE RUN S00°38'20"W ALONG THE LINE COMMON TO SAID TRACT "C" AND SAID WEST RIGHT-OF-WAY LINE FOR 99.98 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE SE1/4 (SOUTHEAST ONE-QUARTER) OF SECTION 16, TOWNSHIP 45 SOUTH, RANGE 23 EAST; THENCE RUN S00°31'37"E ALONG THE LINE COMMON TO SAID TRACT "C" AND SAID WEST RIGHT-OF-WAY LINE FOR 534.92 FEET TO A POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "C" AND SAID TRACT "D"; THENCE CONTINUE RUNNING S00°31'37"E ALONG SAID LINE COMMON TO SAID TRACT "D" AND SAID WEST RIGHT-OF-WAY LINE FOR 525.74 FEET; THENCE RUN S89°28'23"W, LEAVING SAID COMMON LINE, FOR 111.55 FEET TO A NON-TANGENT POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 21°36'44" (CHORD = N43°33'50"W, 28.12 FEET) FOR 28.29 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 53°50'35" (CHORD = N27°26'55"W, 113.19 FEET) FOR 117.47 FEET; THENCE RUN N00°31'37"W FOR 320.17 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 89°11'30" (CHORD = N45°07'22"W, 35.11 FEET) FOR 38.92 FEET; THENCE RUN N89°43'07"W FOR 231.98 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 500.00 FEET AND A CENTRAL ANGLE OF 18°33'33" (CHORD = S81°00'06"W, 161.25 FEET) FOR 161.96 FEET; THENCE RUN S71°43'20"W FOR 557.28 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 62°57'52" (CHORD = S40°14'24"W, 26.11 FEET) FOR 27.47 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 58°15'19" (CHORD = N20°22'11"W, 82.75 FEET) FOR 86.42 FEET; THENCE RUN N76°32'04"E FOR 192.74 FEET TO A POINT OF INTERSECTION WITH SAID LINE COMMON TO SAID TRACT "B" AND SAID TRACT "D"; THENCE RUN N00°16'53"E ALONG SAID LINE COMMON TO SAID TRACT "B" AND SAID TRACT "D" FOR 162.15 FEET TO THE POINT COMMON TO SAID TRACTS "B", "C" AND "D"; THENCE RUN N13°27'56"W ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "C" FOR 516.87 FEET; THENCE RUN N00°16'53"E ALONG SAID COMMON LINE FOR 157.94 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 20.357 ACRES, MORE OR LESS.

#### NOTES:

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

#### LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY.

A TRACT OF LAND CONTAINING TRACT "C", A PORTION OF TRACT "B" AND A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT), ACCORDING TO PLAT BOOK 33, PAGES 37-49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVATAR PROPERTIES, INC. AND AVALON ENGINEERING, INC.

PLOT FILE: CH-VILLA  
SHEET 2 OF 2

### STOUTEN-STEVENOT AND ASSOCIATES, INC. SURVEYING AND MAPPING CONSULTANTS

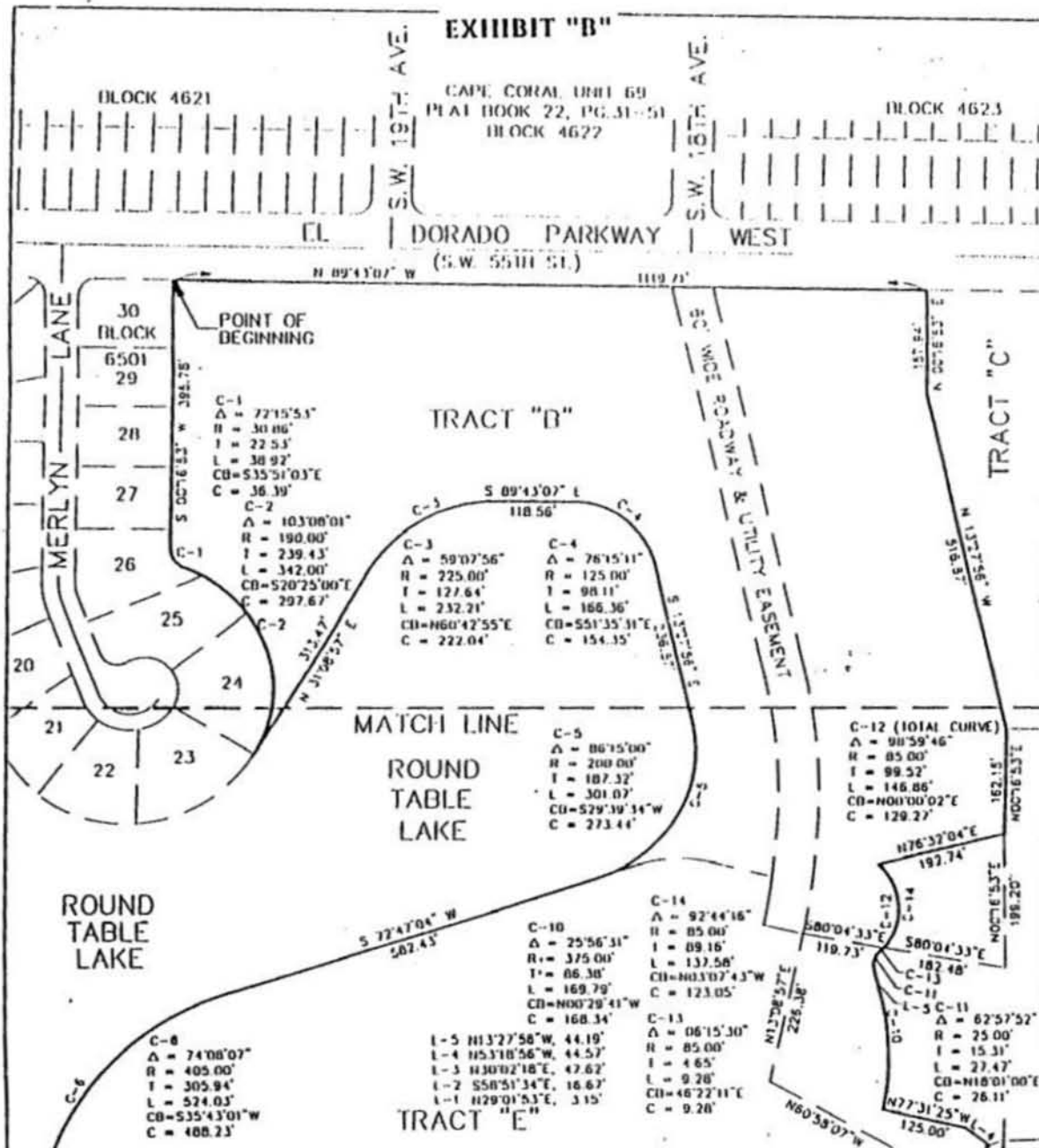
4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



DONALD D. STOUTEN, P.S.M.  
CERTIFICATE # 3839

0R2877 P60059

**EXHIBIT "B"**



**NOTES:**

1. DEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLA1).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION, NOT A SURVEY.  
TRACT OF LAND CONTAINING PROPOSED 120 LOT SUBDIVISION,  
BEING TRACT "E" CAPE CORAL UNIT 75 (CAMELOT),  
A PORTION OF TRACT "B", CAPE CORAL UNIT 75 (CAMELOT) AND  
A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVALON FURNITURE, INC.

REVISED 12-3-86  
11-15-88  
PLOT FILE: 11091-CII  
SHEET 1 OF 4

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS



4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499

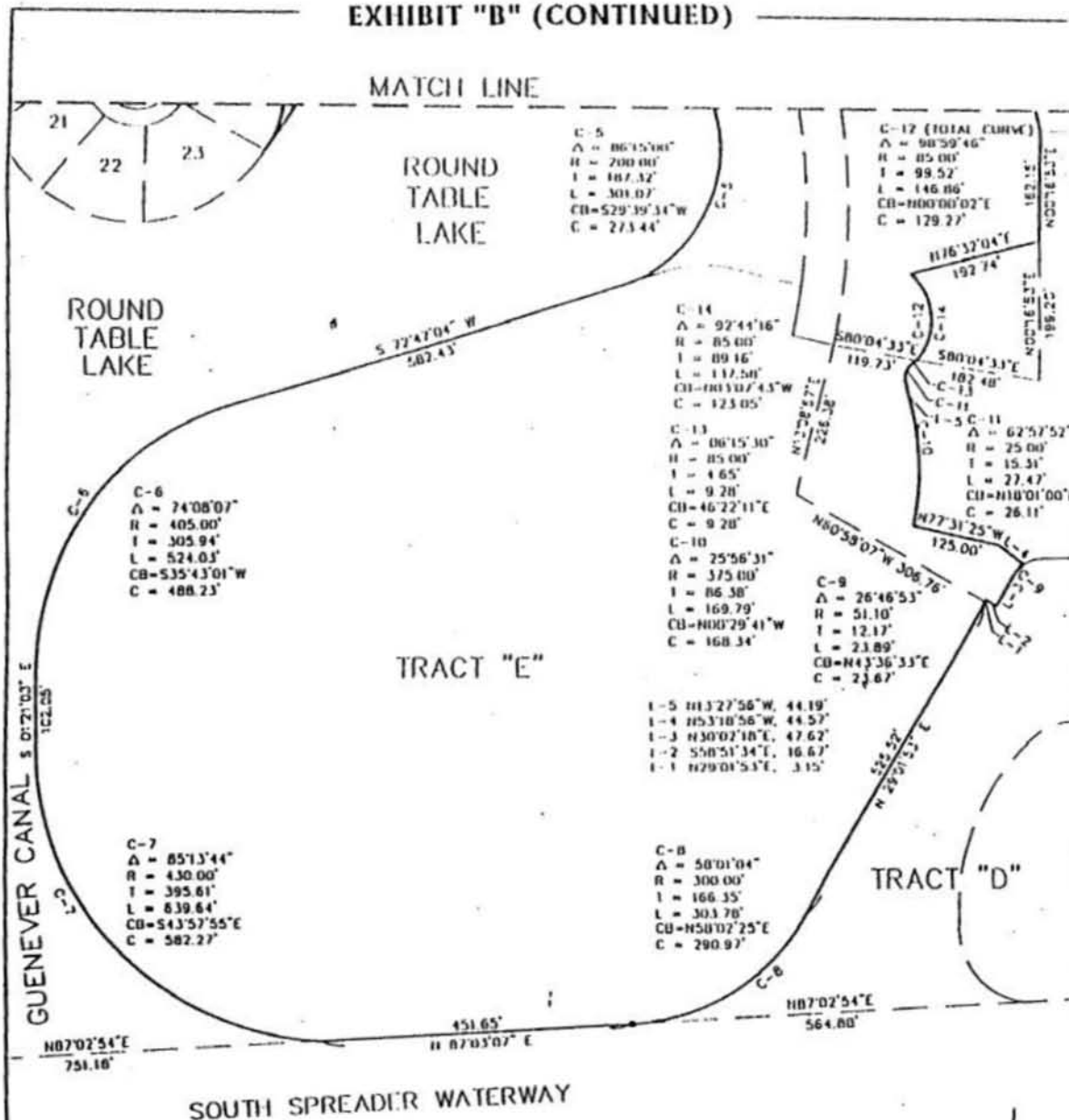


DONALD D. STOUTEN  
CERTIFICATE # 3830

CERTIFICATE # 5850



EXHIBIT "B" (CONTINUED)



NOTES:

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS  $589^{\circ}43'07''E$  (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION, NOT A SURVEY.  
TRACT OF LAND CONTAINING PROPOSED 120 LOT SUBDIVISION,  
BEING TRACT "E" CAPE CORAL UNIT 75 (CAMELOT),  
A PORTION OF TRACT "B", CAPE CORAL UNIT 75 (CAMELOT) AND  
A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVALON ENGINEERING, INC.

0 50 100 200  
SCALE: 1" = 200'

REVISED 12-3-98

11-15-96

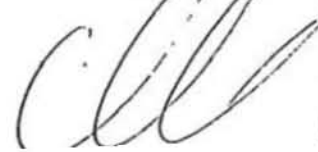
PLOT FILE: 11091-C1

SHEET 2 OF 4

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS

4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499

DONALD D. STOUTEN  
CERTIFICATE # 38159



# EXHIBIT "B" (CONTINUED)

## LEGAL DESCRIPTION, PROPOSED 120 LOT SUBDIVISION

OR2877 P60062

A TRACT OF LAND SITUATED IN TRACT "E", CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND A PORTION OF TRACTS "B" AND "D" OF SAID CAPE CORAL UNIT 75, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "B", BEING ALSO THE NORTHEAST CORNER OF LOT 30, BLOCK 6501 OF SAID CAPE CORAL UNIT 75 AND A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF EL DORADO PARKWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN S00°16'53"W ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID BLOCK 6501 FOR 395.78 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID COMMON LINE ON SAID CURVE HAVING A RADIUS OF 30.86 FEET AND A CENTRAL ANGLE OF 72°15'53" (CHORD = S35°51'03"E, 36.39 FEET) FOR 38.92 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID COMMON LINE ON SAID CURVE HAVING A RADIUS OF 190.00 FEET AND A CENTRAL ANGLE OF 103°07'57" (CHORD = S20°25'00"E, 297.67 FEET) FOR 342.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND ROUND TABLE LAKE; THENCE RUN THE FOLLOWING COURSES ALONG SAID COMMON LINE: N31°08'57"E FOR 313.47 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN ALONG SAID CURVE HAVING A RADIUS OF 225.00 FEET AND A CENTRAL ANGLE OF 59°07'56" (CHORD = N60°42'55"E, 222.04 FEET) FOR 232.21 FEET TO THE POINT OF TANGENCY, THEN S89°43'07"E FOR 118.56 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST, THEN ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 76°15'11" (CHORD = S51°35'31"E, 154.35 FEET) FOR 166.36 FEET TO THE POINT OF TANGENCY, THEN S13°27'56"E FOR 236.57 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, THEN ALONG SAID CURVE HAVING A RADIUS OF 200.00 FEET AND A CENTRAL ANGLE OF 86°15'00" (CHORD = S29°39'34"W, 273.44 FEET) FOR 301.07 FEET TO THE POINT OF TANGENCY AND POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "E"; THENCE RUN THE FOLLOWING COURSES ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID ROUND TABLE LAKE AND/OR GUENEVER CANAL: S72°47'04"W FOR 582.43 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN ALONG SAID CURVE HAVING A RADIUS OF 405.00 FEET AND A CENTRAL ANGLE OF 74°08'07" (CHORD = S35°43'01"W, 488.23 FEET) FOR 524.03 FEET TO THE POINT OF TANGENCY, THEN S01°21'03"E FOR 102.05 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, THEN ALONG SAID CURVE HAVING A RADIUS OF 430.00 FEET AND A CENTRAL ANGLE OF 85°13'44" (CHORD = S43°57'55"E, 582.27 FEET) FOR 639.64 FEET TO THE POINT OF TANGENCY AND POINT OF INTERSECTION WITH THE NORTH LINE OF THE SOUTH SPREADER WATERWAY; THENCE RUN N87°03'07"E ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID SOUTH SPREADER WATERWAY FOR 451.65 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE

### NOTES:

1. DEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY.  
TRACT OF LAND CONTAINING PROPOSED 120 LOT SUBDIVISION,  
BEING TRACT "E" CAPE CORAL UNIT 75 (CAMELOT),  
A PORTION OF TRACT "B", CAPE CORAL UNIT 75 (CAMELOT) AND  
A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVALON ENGINEERING, INC.

11-15-98  
PLOT FILE: 11091-C11  
SHEET 3 OF 4

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS



4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 11091

*[Handwritten signature]*

## EXHIBIT "B" (CONTINUED)

## LEGAL DESCRIPTION, PROPOSED 120 LOT SUBDIVISION

0R2877 P60063

(CONTINUED)

NORTHWEST, BEING ALSO A POINT ON THE WESTERLY CURVE OF SAID TRACT "D"; THENCE RUN THE FOLLOWING COURSES ALONG THE LINE COMMON TO SAID TRACT "E" AND SAID TRACT "D": ALONG SAID CURVE HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF 58°01'04" (CHORD = N58°02'25"E, 290.97 FEET) FOR 303.78 FEET TO THE POINT OF TANGENCY, THENCE N29°01'53"E FOR 525.52 FEET; THENCE CONTINUE RUNNING N29°01'53"E, LEAVING SAID TRACT "E", FOR 3.15 FEET; THENCE RUN S58°51'34"E FOR 16.67 FEET; THENCE RUN N30°02'18"E FOR 47.62 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 51.10 FEET AND A CENTRAL ANGLE OF 26°46'53" (CHORD = N43°36'33"E, 23.67 FEET) FOR 23.89 FEET; THENCE RUN N53°18'56"W FOR 44.57 FEET; THENCE RUN N77°31'25"W FOR 125.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE WEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 375.00 FEET AND A CENTRAL ANGLE OF 25°56'31" (CHORD = N00°29'41"W, 168.34 FEET) FOR 169.79 FEET TO THE POINT OF TANGENCY; THENCE RUN N13°27'56"W FOR 44.19 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 62°57'52" (CHORD = N18°01'00"E, 26.11 FEET) FOR 27.47 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 06°15'30" (CHORD = N46°22'11"E, 9.28 FEET) FOR 9.28 FEET TO A POINT ON SAID CURVE, BEING ALSO A POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "D" AND SAID TRACT "B"; THENCE CONTINUE RUNNING ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 92°44'16" (CHORD = N03°07'43"W, 123.05 FEET) FOR 137.58 FEET; THENCE RUN N76°32'04"E FOR 192.74 FEET TO A POINT OF INTERSECTION WITH THE LINE COMMON TO SAID TRACT "B" AND SAID TRACT "D"; THENCE RUN N00°16'53"E ALONG SAID COMMON LINE FOR 162.15 FEET TO A POINT COMMON TO SAID TRACT "B", SAID TRACT "D" AND TRACT "C" OF SAID UNIT 75; THENCE RUN N13°27'56"W ALONG THE LINE COMMON TO SAID TRACT "D" AND SAID TRACT "C" FOR 516.87 FEET; THENCE RUN N00°16'53"E FOR 157.94 FEET TO THE POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE OF SAID EL DORADO PARKWAY WEST; THENCE RUN N89°43'07"W ALONG THE LINE COMMON TO SAID TRACT "B" AND SAID SOUTH RIGHT-OF-WAY LINE FOR 1119.71 FEET TO THE POINT OF BEGINNING.

## NOTES:

1. DEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS 589°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY.  
TRACT OF LAND CONTAINING PROPOSED 120 LOT SUBDIVISION,  
BEING TRACT "E" CAPE CORAL UNIT 75 (CAMELOT),  
A PORTION OF TRACT "B", CAPE CORAL UNIT 75 (CAMELOT) AND  
A PORTION OF TRACT "D", CAPE CORAL UNIT 75 (CAMELOT),  
ACCORDING TO PLAT BOOK 33, PAGES 37-49  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

THIS LEGAL DESCRIPTION PREPARED FOR: AVALON ENGINEERING, INC.

11-15-96  
PLOT FILE: 11091-CH  
SHEET 4 OF 4

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS



4414 S.E. 16th PLACE  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 3039



## EXHIBIT "C"

OR2877 Pg0064

### WALL & FOUNTAIN AREA DESCRIPTION:

A TRACT OF LAND SITUATED IN LOTS 14, 15 AND 30, BLOCK 6501, TRACT "B" AND TRACT "C", ALL IN CAPE CORAL UNIT 75 (CAMELOT), ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF MERLYN LAKE AND THE SOUTH RIGHT-OF-WAY LINE OF EL DORADO PARKWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 64.50 FEET; THENCE RUN S00°16'53"W, LEAVING SAID RIGHT-OF-WAY LINE, FOR 20.00 FEET; THENCE RUN S89°43'07"E FOR 12.41 FEET; THENCE RUN S40°29'26"E FOR 23.11 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 22.00 FEET SOUTH OF SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN S89°43'07"E ALONG SAID PARALLEL LINE FOR 834.36 FEET; THENCE RUN S40°29'26"E, LEAVING SAID PARALLEL LINE FOR 20.47 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH SAID PARALLEL LINE; THENCE RUN S89°43'07"E ALONG SAID PARALLEL LINE FOR 804.91 FEET; THENCE RUN S40°29'26"E, LEAVING SAID PARALLEL LINE, FOR 20.47 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH SAID PARALLEL LINE; THENCE RUN S89°43'07"E FOR 543.06 FEET; THENCE RUN S00°16'53"W, LEAVING SAID PARALLEL LINE, FOR 10.88 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 21.33 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 539°13'28"E, 27.14 FEET) FOR 29.41 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 18.87 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 539°13'04"E, 23.76 FEET) FOR 25.75 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 38.19 FEET AND A CENTRAL ANGLE OF 89°38'00" (CHORD = 544°32'31"E, 55.25 FEET) FOR 61.31 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 18.87 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 549°51'18"E, 23.75 FEET) FOR 25.75 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 21.33 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 549°51'38"E, 27.14 FEET) FOR 29.41 FEET TO A POINT OF TANGENCY; THENCE RUN S89°21'40"E FOR 11.24 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 22.00 FEET WEST OF THE WEST RIGHT-OF-WAY LINE OF CHLOUTIA BOULEVARD SOUTH (100 FOOT RIGHT-OF-WAY); THENCE RUN S00°31'37"E ALONG SAID PARALLEL LINE FOR 92.01 FEET; THENCE RUN N89°28'23"E FOR 22.00 FEET TO A POINT OF INTERSECTION WITH SAID WEST RIGHT-OF-WAY LINE; THENCE RUN N00°31'37"W ALONG SAID WEST RIGHT-OF-WAY LINE FOR 110.57 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE S.E. 1/4 (SOUTHEAST ONE-QUARTER) OF SECTION 16, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; THENCE RUN N00°38'20"E, CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, FOR 99.90 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID WEST RIGHT-OF-WAY LINE AND SAID SOUTH RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°21'27" (CHORD = N44°32'35"W, 35.47 FEET) FOR 39.43 FEET TO A POINT OF TANGENCY; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 2359.55 FEET TO THE POINT OF BEGINNING, EXCEPTING FROM THE PRECEDING DESCRIPTION THE FOLLOWING DESCRIBED PORTION OF MERLYN LAKE RIGHT-OF-WAY: BEGINNING AT SAID INTERSECTION OF SAID CENTERLINE OF SAID MERLYN LAKE AND SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 50.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST, BEING ALSO THE WESTERLY RIGHT-OF-WAY LINE OF SAID MERLYN LAKE; THENCE RUN ALONG SAID WESTERLY RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°01'00" (CHORD = 544°43'07"E, 35.36 FEET) FOR 39.27 FEET TO A POINT OF TANGENCY; THENCE RUN S00°16'53"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 22.50 FEET; THENCE RUN S89°43'07"E, LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, FOR 50.00 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SAID MERLYN LAKE; THENCE RUN N00°16'53"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 22.50 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID EASTERLY RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00" (CHORD = N45°16'53"E, 35.36 FEET) FOR 39.27 FEET TO A POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 50.00 FEET TO THE POINT OF BEGINNING OF SAID EXCEPTION.

# EXHIBIT "C"

OR2877 P00065

CHARLIE GREEN LEE CTY, FL  
97 OCT 13 AM 8:59

## WALL & FOUNTAIN AREA DESCRIPTION:

A TRACT OF LAND SITUATED IN LOTS 14, 15 AND 30, BLOCK 654, TRACT "H" AND TRACT "C", ALL IN CAPE CORAL UNIT 75 (CAMELOT), ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF MERLYN LAKE AND THE SOUTH RIGHT-OF-WAY LINE OF EL DORADO PATHWAY WEST (100 FOOT RIGHT-OF-WAY); THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 84.50 FEET; THENCE RUN S00°16'53"W, LEAVING SAID RIGHT-OF-WAY LINE, FOR 20.00 FEET; THENCE RUN S89°43'07"E FOR 12.41 FEET; THENCE RUN S40°29'26"E FOR 23.11 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 22.00 FEET SOUTH OF SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN S89°43'07"E ALONG SAID PARALLEL LINE FOR 834.36 FEET; THENCE RUN S40°29'26"E, LEAVING SAID PARALLEL LINE FOR 20.47 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH SAID PARALLEL LINE; THENCE RUN S89°43'07"E ALONG SAID PARALLEL LINE FOR 804.91 FEET; THENCE RUN S40°29'26"E, LEAVING SAID PARALLEL LINE, FOR 20.47 FEET; THENCE RUN S00°16'53"W FOR 10.00 FEET; THENCE RUN S89°43'07"E FOR 74.00 FEET; THENCE RUN N00°16'53"E FOR 10.00 FEET; THENCE RUN N45°16'53"E FOR 21.92 FEET TO A POINT OF INTERSECTION WITH SAID PARALLEL LINE; THENCE RUN S89°43'07"E FOR 543.06 FEET; THENCE RUN S00°16'53"W, LEAVING SAID PARALLEL LINE, FOR 10.88 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 21.33 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 538°13'28"E, 27.14 FEET) FOR 29.41 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 18.87 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 538°13'04"E, 23.76 FEET) FOR 25.75 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 39.19 FEET AND A CENTRAL ANGLE OF 89°38'00" (CHORD = 544°32'31"E, 55.25 FEET) FOR 61.31 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 18.87 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 548°51'19"E, 23.75 FEET) FOR 25.75 FEET TO THE POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 21.33 FEET AND A CENTRAL ANGLE OF 79°00'42" (CHORD = 548°51'38"E, 27.14 FEET) FOR 29.41 FEET TO A POINT OF TANGENCY; THENCE RUN S89°21'40"E FOR 11.24 FEET TO A POINT OF INTERSECTION WITH A LINE PARALLEL TO AND 22.00 FEET WEST OF THE WEST RIGHT-OF-WAY LINE OF CHORITA BOULEVARD SOUTH (100 FOOT RIGHT-OF-WAY); THENCE RUN S00°31'37"E ALONG SAID PARALLEL LINE FOR 82.01 FEET; THENCE RUN N89°28'23"E FOR 22.00 FEET TO A POINT OF INTERSECTION WITH SAID WEST RIGHT-OF-WAY LINE; THENCE RUN N00°31'37"W ALONG SAID WEST RIGHT-OF-WAY LINE FOR 110.57 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE S.E. 1/4 (SOUTHEAST ONE-QUARTER) OF SECTION 16, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; THENCE RUN N00°38'20"E, CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, FOR 99.98 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID WEST RIGHT-OF-WAY LINE AND SAID SOUTH RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°21'27" (CHORD = N44°32'35"W, 35.47 FEET) FOR 39.43 FEET TO A POINT OF TANGENCY; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 2359.55 FEET TO THE POINT OF BEGINNING, EXCEPTING FROM THE PRECEDING DESCRIPTION THE FOLLOWING DESCRIBED PORTION OF MERLYN LAKE RIGHT-OF-WAY: BEGINNING AT SAID INTERSECTION OF SAID CENTERLINE OF SAID MERLYN LAKE AND SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 50.00 FEET TO A NON-TANGENT POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST, BEING ALSO THE WESTERLY RIGHT-OF-WAY LINE OF SAID MERLYN LAKE; THENCE RUN ALONG SAID WESTERLY RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00" (CHORD = S44°43'07"E, 35.36 FEET) FOR 39.27 FEET TO A POINT OF TANGENCY; THENCE RUN S00°16'53"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 22.50 FEET; THENCE RUN S89°43'07"E, LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, FOR 50.00 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SAID MERLYN LAKE; THENCE RUN N00°16'53"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 22.50 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID EASTERLY RIGHT-OF-WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00" (CHORD = N45°16'53"E, 35.36 FEET) FOR 39.27 FEET TO A POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE; THENCE RUN N89°43'07"W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 50.00 FEET TO THE POINT OF BEGINNING OF SAID EXCEPTION.



COUNCILMEMBER STEVENS PDP 05-00800005  
03/21/05  
03/22/05  
03/24/05

INSTR # 6765542  
OR BK 04688 Pgs 0502 - 507; (6pgs)  
RECORDED 04/29/2005 11:25:13 AM  
CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY, FLORIDA  
RECORDING FEE 52.50  
DEPUTY CLERK G Sherwood

ORDINANCE 69 - 05

AN ORDINANCE AMENDING ORDINANCE 28-97, AS PREVIOUSLY AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 3-01, 80-01, 42-03 AND 120-04, A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR"; AMENDING THE PLANNED DEVELOPMENT PROJECT APPROVAL FOR A PORTION OF CERTAIN PROPERTY DESCRIBED AS THE META AT CAPE HARBOUR SUBDIVISION, LOCATED IN SECTIONS 16 AND 21, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CONSISTING OF TRACTS C-1, C-2, C-3, C-4, C-5, C-6, BLOCK 7005, AND TRACT R-4, BLOCK 7004, ALL IN LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; APPROVING AN INCREASE IN THE TOTAL NUMBER OF DWELLING UNITS FROM 129 TO 296 DWELLING UNITS LOCATED IN A PEDESTRIAN COMMERCIAL (C-1) ZONING DISTRICT; AND APPROVING A REDUCTION OF THE TOTAL COMMERCIAL SQUARE FOOTAGE OF THE SHOPPING CENTER USE FROM 125,000 SQUARE FEET TO 110,000 SQUARE FEET; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral, by Ordinance 28-97, and as amended by Ordinance 60-97, Ordinance 8-98, by Ordinance 3-01, Ordinance 80-01, Ordinance 42-03, and Ordinance 120-04; and

WHEREAS, an application from Realmark Cape Marina L.L.C., Realmark Meta L.L.C., and Realmark Marina Grill, L.L.C. has been received requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Meta at Cape Harbour; requesting amendment of Ordinance 28-97 as amended by Ordinances 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, and 120-04; and

WHEREAS, said application received is by parties holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

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

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

**SECTION I. AMENDMENT OF PDP APPROVAL AMENDING ORDINANCE 28-97 AS AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 3-01, 80-01, 42-03 AND 120-04.**

Having reviewed the application requesting amendment of a Planned Development Project for Meta at Cape Harbour (PDP Amendment) PDP 05-00800005, requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Meta at Cape Harbour; requesting amendment of Ordinance 28-97, as amended by Ordinances 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, and 120-04, amendment of Development Plan including an increase in the total number of dwelling units from 129 to 296 dwelling unit located in a Pedestrian Commercial (C-1) zoning district, and a reduction in the total commercial square footage of the shopping center use from 125,000 square feet to 110,000 square feet, and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant this PDP amendment from the date of adoption of this ordinance:



## SECTION II. FINDINGS OF FACT/CONCLUSION OF LAW

- A. The Cape Harbour development is a mixed use Planned Development Project (PDP). The overall development consists of three (3) phases. The first phase is platted as Cape Harbour Subdivision-Phase 2-A. The second phase is platted as Cape Harbour Subdivision-Phase 2.
- B. The third phase is known as the "Meta at Cape Harbour" phase.
1. The first and second phases of the Cape Harbour development have been approved for the following:
    - a. Homesites for 84 detached single family dwelling units with associated infrastructure including gated private roads, surface water management tracts, and a development wall/fountain/clocktower buffering system. The first two phases, including infrastructure for 84 detached dwelling units, are complete.
    - b. The provisions of this Ordinance apply only to the property more particularly described in Section II.D.2. of this development order.
  2. The "Meta at Cape Harbour" phase has been approved for the following uses:
    - a. A maximum of 604 total dwelling units comprised as follows:
      - i. A maximum of 308 dwelling units located in a Multi-Family Residential (R-3) zone (Tracts R-1, R-2, R-3, and R-5, Block 7004);
      - ii. A maximum of 296 dwelling units located in a Pedestrian Commercial (C-1) Zone (Tracts C-1, C-2, C-3, C-4, C-5, C-6 Block 7005 and/or Tract R-4, Block 7004). Such 296 dwelling units located in a Pedestrian Commercial (C-1) zone would equate to 49 percent of the maximum dwelling units allowable within the subject property zoned Pedestrian Commercial (C-1) and that are also within the Mixed Use future land use map area;
    - b. 76 boat slips;
    - c. a hotel with a maximum of 144 hotel rooms and/or suites;
    - d. 110,000 square feet of shopping center uses (as defined by Trip Generation, 6<sup>th</sup> ed., Institute of Transportation Engineers) including, but not limited to, two (2) restaurants totaling not more than  $\pm 25,000$  square feet;
    - e.  $\pm 60,000$  square feet of office space;
    - f. private roads, surface water management tracts; and
    - g. a development wall/fountain/clocktower buffering system.
- B. The "Meta at Cape Harbour" phase is not subject to conditions or terms of approval provided in Ordinance 28-97 as amended by Ordinance 3-01. All of the provisions and conditions of approval of Ordinance 28-97 as amended by Ordinance 3-01, 80-01, 42-03, and 120-04, which are not addressed herein, shall remain in full force and effect for the Cape Harbour Planned Development Project including the "Meta at Cape Harbour" phase.
- C. The name(s) of the legal and equitable owner(s) of the property described in Section II.D.2 of this development order are Realmark Cape Marina L.L.C., Realmark Meta L.L.C., and Realmark Marina Grill, L.L.C.
- D. LEGAL DESCRIPTIONS
1. The legal description of the entire property that is subject to the extant PDP Development Order(s) is described as follows:

All of the Meta At Cape Harbour Subdivision, in its entirety, according to Plat Book 71, Pages 74 through 80 of the Public Records Of Lee County, Florida;

together with all of Cape Harbour Subdivision Phase 2-A, in its entirety, according to Plat Book 60, Pages 27 through 28;

together with all of Cape Harbour Subdivision, Phase 2-B, in its entirety, according to Plat Book 65, Pages 55 through 57 of The Public Records Of Lee County, Florida,

together with a tract of land situated in Lots 14, 15, and 30, Block 6501, in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida being more particularly described as follows:

Beginning at the intersection of the centerline of Merlyn Lane and the south right-of-way line of El Dorado Parkway West (100 foot right-of-way); thence run N89°43'07"W along said south right-of-way line for 64.50 feet; thence run S00°16'53"W, leaving said right-of-way line, for 20.00 feet; thence run S89°43'07"E for 12.41 feet; thence run S40°29'26"E for 23.11 feet; thence run S00°16'53"W for 10.00 feet; thence run S89°43'07"E for 74.00 feet; thence run N00°16'53"E for 10.00 feet; thence run N45°16'53"E for 21.92 feet to a point of intersection with a line parallel to and 22.00 feet south of said right-of-way line; thence run S89°43'07"E along said parallel line for 117.00; thence run S00°16'53"W for 22.00 feet; thence run N89°43'07"W to the Point of Beginning, excepting from the preceding description the following described portion of Merlyn Lane right-of-way: Beginning at said intersection of said centerline of said Merlyn Lane and said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to a non-tangent point of intersection with a curve concave to the southwest, being also the westerly right-of-way line of said Merlyn Lane; thence run along said westerly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = S44°43'07"E 35.36 feet) for 39.27 feet to a point of tangency; thence run S00°16'53"W along said westerly right-of-way line for 22.50 feet; thence run S89°43'07"E, leaving said westerly right-of-way line, for 50.00 feet to a point of intersection with the easterly right-of-way line of said Merlyn Lane; thence run N00°16'53"E along said easterly right-of-way line for 22.50 feet to the point of curvature of a curve concave to the southeast; thence run along said easterly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = N45°16'53"E, 35.36 feet) for 39.27 feet to a point of intersection with said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to the point of beginning of said exception.

2. The legal description of the portion of the Planned Development Project (PDP) Development Plan for Cape Harbour that is amended by this Development Order is described as follows:

A parcel of land lying in Sections 16 and 21, Township 45 South, Range 23 East, consisting of Tract R-4, Block 7004, and Tracts C-1, C-2, C-3, C-4, C-5, and C-6, Block 7005, Meta At Cape Harbour Subdivision in the City of Cape Coral according to Plat Book 71, Pages 74 through 80 of the Public Records of Lee County, Florida.

- E. The subject property as described above in Section II.D.2. has approximately 30.16 acres with a Future Land Use designation of Mixed Use and has a zoning designation of Pedestrian Commercial (C-1), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the respective provisions of the Pedestrian Commercial (C-1) and Multi-Family Residential (R-3) zoning districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida,

and other governmental jurisdictions. Failure of this development order to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

- G. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- H. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- I. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- J. The term Developer for purposes of this development order shall mean and refer to Realmark Cape Marina L.L.C. and Realmark Cape Harbour L.L.C., their successors in interest, lessees, and/or assigns.

### SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the application for the amended Planned Development Project for approval submitted by Realmark Cape Marina L.L.C., Realmark Meta L.L.C., and Realmark Marina Grill, L.L.C. is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare:

#### GENERAL CONSIDERATIONS

Although Developer may construct a building or other structure that cantilevers over the water that is a part of Tract R-1, Block 7004, no other building or structure or part thereof shall be constructed or located in the water that is a part of any of Tracts R-1 and R-4, Block 7004, or Tracts C-2, C-3, C-4, C-5, or C-6, Block 7005, except that Developer may construct in such water, within the confines of the Developer's private water rights, marine improvement(s) in accordance with the City of Cape Coral's Land Use and Development Regulations.

### SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application for amendment, PDP 05-00800005.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order, which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the Meta at Cape Harbour (PDP Amendment) PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.



- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided.
- G. Subsequent requests for local development permits shall not require further review unless it is found by the Cape Coral City Council, after due notice and hearing, that a substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City, has occurred and/or would result from the issuance of the local development permit. Substantial deviations include but are not limited to:
1. A greater than five (5) percent increase in the square footage of the development.
  2. Any change that requires a variance to code or other requirements over and above those specifically incorporated herein.
  3. An expiration of the period of effectiveness of this Development Order as herein provided.
  4. A failure to carry out Development Order conditions and/or Developer commitments incorporated within the Development Order to mitigate impacts to the extent indicated in the Development Order, or in accordance with the Development Order.

Upon a finding that any of the above is present, the City may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved, and all local approvals have been obtained.

- H. The physical development of the property described in Section II.D.2, therein, shall terminate in ten years from the date of adoption of this Development Order. The remaining property under the legal description of this Development Order, Section II.D.1 will terminate on the dates so noted in their respective development orders. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title, to the undeveloped portion of the subject property described in Section II.D.2., shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time a final development report shall be submitted to the City.

- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

**SECTION V. SEVERABILITY.**

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

**SECTION VI. EFFECTIVE DATE.**

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

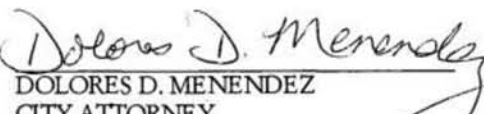
ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 18<sup>th</sup> DAY OF April, 2005.



  
ERIC FEICHTHALER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 22<sup>nd</sup> DAY OF April, 2005.

  
BONNIE J. VENT, CITY CLERK

APPROVED AS TO FORM:

  
DOLORES D. MENENDEZ  
CITY ATTORNEY  
pdp058-5

  
I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and the seal of said municipality; that this is a true and correct copy of Ordinance 69-05.  
  
BONNIE J. VENT  
City Clerk

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COUNCILMEMBER STEVENS

PDP#01-00800003

9/07/01

9/14/01

10/1/01

**INSTR # 5264621**

**OR BK 03506 PG 0645**

RECORDED 10/19/01 03:22 PM  
CHARLIE GREEN CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 222.00  
DEPUTY CLERK W Miller

ORDINANCE 80 - 01

AN ORDINANCE AMENDING ORDINANCE 28-97, AS PREVIOUSLY AMENDED BY ORDINANCES 60-97, 8-98, 82-98, AND 3-01, A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR"; PROVIDING FOR REPEAL OF ORDINANCES 60-97, 8-98, AND ORDINANCE 82-98, ADDING AN ADDITIONAL PHASE, REVISION AND EXPANSION OF THE PROJECT AREA TO INCLUDE A TRACT OF LAND SITUATED IN A PORTION OF TRACTS "B", ALL OF TRACT "C", AND A PORTION OF TRACT "D", ALL LYING IN CAPE CORAL UNIT 75 AS MORE PARTICULARLY DESCRIBED HEREIN, THE REVISED AND EXPANDED AREA TO BE KNOWN AS THE "META AT CAPE HARBOUR" PHASE; VACATION OF ALL INTERIOR LOT LINES AND EASEMENTS WITHIN THE PROJECT BOUNDARY OF THE "META AT CAPE HARBOUR" PHASE AS MORE PARTICULARLY DESCRIBED HEREIN WHILE PROVIDING LANDSCAPE AND UTILITY EASEMENTS AND AN INGRESS/EGRESS EASEMENT ON THE RESULTING PARCELS AS SHOWN ON THE SUBDIVISION PLAN; REPLAT AND SUBDIVISION APPROVAL OF A PORTION OF TRACT "B", ALL OF TRACT "C", AND A PORTION OF TRACT "D", ALL LYING IN CAPE CORAL UNIT 75, LOTS 1 AND 2, BLOCK 6503, TRACT B, AND TRACT C, ALL LYING IN CAPE HARBOUR SUBDIVISION-PHASE 2-A, AND LOTS 13 THROUGH 19, BLOCK 6503, CAPE HARBOUR SUBDIVISION-PHASE 2-B, AS MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING THE FOLLOWING APPROVALS FOR THE SAID "META AT CAPE HARBOUR" PHASE: DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, REZONING AS FOLLOWS:  $\pm 12.542$  ACRES SITUATED IN TRACTS B, C, AND D, UNIT 75, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, FROM R-1B (SINGLE FAMILY RESIDENTIAL) TO C-1 (PEDESTRIAN COMMERCIAL),  $\pm 6.88$  ACRES SITUATED IN TRACTS B, C, AND D, UNIT 75, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT B, FROM R-1B (SINGLE FAMILY RESIDENTIAL) TO R-3 (MULTI-FAMILY),  $\pm 0.383$  ACRES SITUATED IN TRACT B, UNIT 75, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT C, FROM R-3 (MULTI-FAMILY) TO C-1 (PEDESTRIAN COMMERCIAL),  $\pm 2.738$  ACRES SITUATED IN TRACT D, UNIT 75, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT D, FROM C-1 (PEDESTRIAN COMMERCIAL) TO R-3 (MULTI-FAMILY),  $\pm 0.930$  ACRES SITUATED IN TRACT D, UNIT 75, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT E, FROM R-1B (SINGLE FAMILY RESIDENTIAL) TO R-3 (MULTI-FAMILY),  $\pm 0.511$  ACRES SITUATED IN TRACT D, UNIT 75, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT F, FROM C-1 (PEDESTRIAN COMMERCIAL) TO R-3 (MULTI-FAMILY),  $\pm 6.302$  ACRES SITUATED IN TRACT D, UNIT 75, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT G, FROM R-3 (MULTI-FAMILY) TO C-1 (PEDESTRIAN COMMERCIAL),  $\pm 3.110$  ACRES SITUATED IN TRACT D, UNIT 75, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT H, FROM C-1 (PEDESTRIAN COMMERCIAL) TO R-3 (MULTI-FAMILY); APPROVING SITE PLAN FOR PURPOSES OF DEVELOPMENT PLAN APPROVAL, PURSUANT TO SECTION 4.2 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, A SPECIAL EXCEPTION TO ALLOW "CLUBS, PRIVATE", IN AN R-3 (MULTI-FAMILY) ZONING DISTRICT, A SPECIAL EXCEPTION TO ALLOW A SELF-SERVICE FUEL PUMP STATION IN A C-1 (PEDESTRIAN COMMERCIAL) ZONING DISTRICT; APPROVING THE FOLLOWING DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS, AS MORE PARTICULARLY DESCRIBED HEREIN: DEVIATIONS TO ALLOW REDUCTION OF THE MINIMUM LIVING AREA REQUIREMENTS ON THE GROUND FLOOR, MINIMUM FRONT SETBACK FOR A WALL OR FENCE,



AND PARKING REQUIREMENTS; DEVIATIONS TO ALLOW AN INCREASE IN THE MAXIMUM FENCE OR WALL HEIGHT AND MAXIMUM BUILDING HEIGHT; DEVIATIONS TO ALLOW CONSTRUCTION IN A C-1 (PEDESTRIAN COMMERCIAL) ZONING DISTRICT WITH NO REQUIREMENT FOR SIDEWALKS, CONCRETE CURBING AND GUTTERS, AND PAVING THAT PORTION OF THE UNPAVED STREET LYING BETWEEN THE CURB AND GUTTER AND THE STREET; AND DEVIATIONS TO THE ENGINEERING AND DESIGN STANDARDS TO ALLOW ALTERNATIVE STANDARDS FOR LOCAL ROADS AND ALTERNATIVE PLACEMENT AND STANDARDS FOR SIDEWALKS; A DEVIATION FROM THE ENGINEERING AND DESIGN STANDARDS TO ALLOW SUBSTITUTION OF ALTERNATE SIDEWALK PEDESTRIAN LOCATIONS/ROUTES AS SHOWN ON THE PLAN SET TITLED "CONSTRUCTION PLANS FOR 'META AT CAPE HARBOUR'" SHEETS 1-21, DATED MARCH 9, 2001, AND ALSO BEARING REVISION DATES OF JUNE 1 2001 AND AUGUST 3, 2001, PREPARED BY AVALON ENGINEERING, INC.; PROVIDING FOR AMENDED PDP DEVELOPMENT PLAN APPROVAL FOR CERTAIN PROPERTY LOCATED IN CAPE CORAL UNIT 75 (CAMELOT) AND CERTAIN PROPERTY LOCATED IN CAPE HARBOUR SUBDIVISION-PHASE 2-A AND PHASE 2-B, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CHIQUITA BOULEVARD SOUTH AND EL DORADO PARKWAY WEST; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral on May 19, 1997, by Ordinance 28 - 97, on September 29, 1997, by Ordinance 60 - 97, on May 5, 1998, by Ordinance 8 - 98, on January 11, 1999, by Ordinance 82 - 98, and on January 29, 2001, by Ordinance 3-01; and

WHEREAS, an application from Realmark Cape Harbour, LLC has been received requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Cape Harbour (PDP 96-00800017); requesting approval of a Planned Development Project (PDP) titled "Meta at Cape Harbour"; requesting repeal of Ordinances 60-97, 8-98, and Ordinance 82-98, adding an additional phase, revision and expansion of the project area, vacation of plat, replat, subdivision, Development Plan approval, including site plan approval as shown on the "Construction Plans for 'Meta at Cape Harbour'", rezoning, special exceptions, deviations to the City of Cape Coral Land Use and Development Regulations, deviation to the Engineering Design Standards; and

WHEREAS, said application received is by party holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency on September 12, 2001; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

**SECTION I. PDP APPROVAL AMENDING ORDINANCE 28-97 AS AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 8-98, AND 3-01**

Having reviewed the application requesting amendment of a Planned Development Project for Cape Harbour PDP number 96-00800017, amending Ordinance 28-97 as amended by Ordinances 60-97, 8-98, 82-98, and 3-01, requesting repeal of Ordinances 60-97, 8-98, and 82-98, requesting the addition of an additional phase, requesting revision and expansion of the project area to include a tract of land situated in a portion of Tract "B", all of Tract "C", and a portion of Tract "D", all lying in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49, of the Public Records of Lee County, Florida, being more particularly described herein, the revised and expanded area to be known as the "Meta at Cape Harbour" phase; requesting vacation of all interior lot lines and easements within the project boundary of the "Meta at Cape Harbour" phase as more particularly described herein while providing landscape and utility easements and an ingress/egress easement on the resulting parcels as shown on the Subdivision Plan, Sheet 5 of 6 of the plan set titled "PDP Plans for 'Meta at Cape Harbour'", dated October 30, 2000, and also bearing revision dates of June 11, 2001, August 3, 2001, and August 24, 2001, prepared by Avalon Engineering, Inc., requesting replat and subdivision of a portion of Tract "B", all of Tract "C", and a portion of Tract "D", all lying in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49, Lots 1 and 2, Block 6503, Tract B, Landscape and Buffer Area, and Tract C, Lake, all lying in Cape Harbour Subdivision-Phase 2-A according to Plat Book 60, Pages 27 and 28, and Lots 13 through 19, Block 6503, Cape Harbour Subdivision-Phase 2-B according to Plat Book 65, Pages 55 through 57, all of the Public Records of Lee County, City of Cape Coral, Lee County, Florida, as more particularly described herein; and requesting the following approvals for the said "Meta at Cape Harbour" phase: subdivision, and rezoning as follows:  $\pm 12.542$  acres situated in Tracts B, C, and D, Unit 75, as more particularly described in Exhibit A, from R-1B (Single Family Residential) to C-1 (Pedestrian Commercial),  $\pm 6.88$  acres situated in Tracts B, C, and D, Unit 75, as more particularly described in Exhibit B, from R-1B (Single Family Residential) to R-3 (Multi-Family),  $\pm 0.383$  acres situated in Tract B, Unit 75, as more particularly described in Exhibit C, from R-3 (Multi-Family) to C-1 (Pedestrian Commercial),  $\pm 2.738$  acres situated in Tract D, Unit 75, as more particularly described in Exhibit D, from C-1 (Pedestrian Commercial) to R-3 (Multi-Family),  $\pm 0.930$  acres situated in Tract D, Unit 75, as more particularly described in Exhibit E, from R-1B (Single Family Residential) to R-3 (Multi-Family),  $\pm 0.511$  acres situated in Tract D, Unit 75, as more particularly described in Exhibit F, from C-1 (Pedestrian Commercial) to R-3 (Multi-Family),  $\pm 6.302$  acres situated in Tract D, Unit 75, as more particularly described in Exhibit G, from R-3 (Multi-Family) to C-1 (Pedestrian Commercial),  $\pm 3.110$  acres situated in Tract D, Unit 75, as more particularly described in Exhibit H, from C-1 (Pedestrian Commercial) to R-3 (Multi-Family); development plan approval, including site plan approval, pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations, in accordance with plan sets titled "PDP Plans for 'Meta at Cape Harbour'", Sheets 1-6, dated October 30, 2000, and also bearing revision dates of June 11, 2001, August 3, 2001, and August 24, 2001, prepared by Avalon Engineering, and "Construction Plans for

'Meta at Cape Harbour'" Sheets 1-21, dated March 9, 2001, and also bearing revision dates of June 1, 2001, and August 3, 2001; requesting a special exception to allow "Clubs, Private", in an R-3 (Multi-Family) Zoning District on the Recreation/Park tract, requesting a special exception to allow a Self-Service Fuel Pump Station in a C-1 (Pedestrian Commercial) Zoning District on the Commercial #1 tract, requesting a deviation of fifteen (15) feet from the setbacks required for fences/walls under Sections 3.9.2 and 3.9.6.B.1.b. of the City of Cape Coral Land Use and Development Regulations to allow continuation of a wall/buffer system along Chiquita Boulevard with varying setbacks with a minimum setback of ten (10 feet) in an R-3 (Multi-Family) and a C-1 (Pedestrian Commercial) Zoning District; requesting a deviation of approximately one (1) foot from the maximum wall height of six (6) feet allowed under Section 3.9.1.A. and 3.9.6.B.1.a. of the City of Cape Coral Land Use and Development Regulations to allow continuation of a wall/buffer system along Chiquita Boulevard with varying heights with a maximum height of approximately seven (7) feet in an R-3 (Multi-Family) and a C-1 (Pedestrian Commercial) Zoning District; requesting a deviation of forty-six (46) parking spaces from the eighty-four (84) spaces required under Section 5.1.7, Table of Parking Standards, of the City of Cape Coral Land Use and Development Regulations to allow the continuing operation of the marina and clubhouse as constructed with thirty-eight (38) spaces; requesting a deviation from Section 3.17.1 of the City of Cape Coral Land Use and Development Regulations to allow construction in a C-1 (Pedestrian Commercial) Zoning District with no requirement for sidewalks, concrete curbing and gutters, and for paving that portion of the unpaved street lying between the curb and gutter and the street; requesting a deviation of 212 feet from Section 2.7.2 D., Table R-3, Dimensional Regulations, Maximum Building Height, to allow building heights at a maximum of 250 feet (22 residential floors over parking), in lieu of the maximum 38 feet within Residential Tract #1 (as indicated on the Development Plan, Sheet 6 of 6 of the "PDP Plans for 'Meta at Cape Harbour'"); a deviation of 900 square feet from Section 2.7.2 D., Table R-3, Dimensional Regulations, (e), to eliminate the requirement that not less than 900 square feet of living area be located on the ground floor and so as to allow for the provision of parking on the ground floor beneath the residential floors within Residential Tracts #1 and #5 (as indicated on the Development Plan, Sheet 6 of 6 of the "PDP Plans for 'Meta at Cape Harbour'"); a deviation of 22 feet from Section 2.7.2.D., Table R-3, Dimensional Regulations, Maximum Building Height, to increase the maximum building heights from 38 feet to a maximum of 60 feet (4 residential floors over parking) within Residential Tract #5 (as indicated on the Development Plan, Sheet 6 of 6 of the "PDP Plans for 'Meta at Cape Harbour'"); requesting a deviation to the City of Cape Coral Engineering Design Standards, Local Roads, Sheet 50, to allow roadway cross section and details as shown on the plan set titled "Construction Plans for 'Meta at Cape Harbour'" Sheets 1-21, dated March 9, 2001, and also bearing revision dates of June 1, 2001, and August 3, 2001, prepared by Avalon Engineering, Inc.; requesting a deviation from the Engineering and Design Standards, to allow substitution of alternate sidewalk pedestrian locations/routes as shown on the plan set titled "Construction Plans for 'Meta at Cape Harbour'" Sheets 1-21, dated March 9, 2001, and also bearing revision dates of June 1, 2001, and August 3, 2001, prepared



by Avalon Engineering, Inc., and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the aforesaid PDP, said amendment to Ordinance 28-97 as amended by Ordinances 60-97, 8-98, 82-98, and 3-01, approve the repeal of Ordinances 60-97, 8-98, and 82-98, vacation of plat, replat, revision and expansion of the project area, subdivision, rezoning, Development Plan approval including site plan approval, special exceptions, deviations to the City of Cape Coral Land Use and Development Regulations, and Deviation to the Engineering Design Standards described above from the date of adoption of this ordinance. Approval of the PDP shall be subject to the terms and conditions set forth below.

## **SECTION II. FINDING OF FACT/CONCLUSION OF LAW**

A. The Cape Harbour development, as amended herein, is a mixed use Planned Development Project (PDP). The overall development consists of three (3) phases. The first phase is platted as Cape Harbour Subdivision-Phase 2-A. The second phase is platted as Cape Harbour Subdivision-Phase 2-B. The third phase is known as the "Meta at Cape Harbour" phase.

1. The first and second phases of the Cape Harbour development consists of the following:

a. Homesites for 84 detached single family dwelling units with associated infrastructure including gated private roads, surface water management tracts, and a development wall/fountain/clocktower buffering system. The first two phases, including infrastructure for 84 detached dwelling units, are complete.

b. The first and second phases are subject to conditions provided in Ordinance 28-97 as amended by Ordinance 3-01. The first and second phases are not subject to the conditions of approval described in Section III., the Legal effect and limitations and administrative requirements provided in Section IV., Severability provided in Section V., or Effective Date provided in Section VI. of this ordinance.

2. The "Meta at Cape Harbour" phase consists of the following:

a. A maximum of 308 multi-family dwelling units; 76 boat slips; a hotel with 125 sleeping rooms; ±140,000 square feet of shopping center uses (as defined by Trip Generation, 6<sup>th</sup> ed., Institute of Transportation Engineers) including, but not limited to, two (2) restaurants totaling not more than ±25,000 square feet; ±60,000 square feet of office space; private roads, surface water management tracts; and a development wall/fountain/clocktower buffering system. The infrastructure development for the "Meta at

Cape Harbour" phase shall occur in one (1) phase with a buildout in five (5) years.

- b. The "Meta at Cape Harbour" phase is not subject to conditions or terms of approval provided in Ordinance 28-97 as amended by Ordinance 3-01.
- B. The proposed conditions below meet the criteria found in Section 163.3227, Florida Statutes.
- C. The name(s) of the legal and equitable owner(s) are Realmark Cape Harbour, LLC.
- D. LEGAL DESCRIPTIONS
  - 1. The legal description of the entire property that is subject to the extant PDP Development Order(s) is described in Exhibit J.
  - 2. The legal description of the portion of the Planned Development Project (PDP) Development Plan for Cape Harbour that is amended by this Development Order and known as the "Meta at Cape Harbour" phase is described in Exhibit K.
- E. The "Meta at Cape Harbour" phase of the Cape Harbour PDP has 28.14 acres zoned C-1 (Pedestrian Commercial) and 21.77 acres zoned R-3 (Multi-Family Residential), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. The subject property has approximately 55.41 acres with a Future Land Use designation of Mixed Use.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the respective provisions of the C-1 (Pedestrian Commercial) or the R-3 (Multi-Family Residential) Zoning District, as applicable, of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The Application for Development Approval is consistent with the requirements of Chapter 163, Florida Statutes.
- H. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- I. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- J. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and

the City of Cape Coral Land Use and Development Regulations.

- K. The term Developer for purposes of this development order shall mean and refer to Realmark Cape Harbour, LLC, its successors in interest, lessees, and/or assigns.

### SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled this 1st day of October, 2001, that the Planned Development Project application for amendment submitted by Realmark Cape Harbour, LLC, is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare. The following conditions apply only to the "Meta at Cape Harbour" phase.

#### A. DRAINAGE/WATER QUALITY

1. This project is permitted under the South Florida Water Management District (SFWMD) "No Notice" permitting process. Because of the close proximity of this project to the Spreader waterway, the Developer must observe the requirements of the Florida Department of Environmental Regulation (D.E.R.) consent order # 15.
2. The Developer shall provide, as part of the site's overall management plan, regularly scheduled parking lot vacuum sweeping to help ensure optimal stormwater runoff quality protection.
3. Prior to the issuance of any site plan or building permits, if applicable, the Developer shall coordinate with the City of Cape Coral, the Florida Department of Environmental Protection (FDEP), and the SFWMD in the siting of any on-site temporary transfer and storage facilities for all special or hazardous waste that may be generated within the project site. Any facility constructed on-site shall be located as far away from the surface water management system as feasible.
4. At completion of construction, as required by the conditions imposed by SFWMD and prior to the issuance of a Certificate of Occupancy, the Developer will be required to provide certification by the Engineer of Record that all stormwater infrastructure and facilities have been constructed in accordance with the design approved by SFWMD and the City of Cape Coral, and should consist of the wording "Construction Compliance Certification".
5. The Developer shall install sod as per grade elevations provided by the City from the property line of the project site to the street pavement. No seed or mulch shall be permitted in this area.



## B. ENERGY

1. The Developer shall incorporate at a minimum the following energy conservation measures into this development, through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Cape Coral City Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the first alternative shall be utilized and the following features must be included:
  - a. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to service the project area.
  - b. Use of energy efficient features in window design (e.g., tinting and exterior shading).
  - c. Use of operable windows and ceiling fans.
  - d. Installation of energy-efficient appliances and equipment.
  - e. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).
  - f. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Cape Coral Department of Community Development.
  - g. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
  - h. Selection, installation, and maintenance of plants, trees, and other vegetation and landscape design features that have minimal requirements for water, fertilizer, maintenance, and other needs.
  - i. Planting of shade trees to provide shade for all street and parking areas.
  - j. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
  - k. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.

- l. Provision for structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- m. Consideration by the project architectural review committee(s) if any exists, of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development and compliance with the above conditions.
- n. Provision of bicycle/pedestrian system connecting all land uses to be placed along arterial and collector roads within the project. The system is to be consistent with local government requirements.
- o. Provision of bicycle racks or storage facilities in recreational, commercial, and multi-family residential areas.

#### C. HURRICANE EVACUATION

1. Prior to issuance of the building permits, the Developer shall meet with the Lee County Disaster Preparedness and Cape Coral emergency management officials to discuss and identify (if appropriate) any areas in the common portion of the project that may be utilized as public shelter. A letter documenting this meeting shall be submitted to the City.
2. The Developer shall encourage actual site users and developers to incorporate within their building design the sheltering demands of the employees and their families.

#### D. WETLANDS, VEGETATION, AND WILDLIFE

1. Ongoing control and removal of nuisance exotic plants onsite is required, including but not limited to, *Casuarina* sp. (Australian Pine), *Melaleuca quinquenervia* (melaleuca), and *schinus terebinthifolius* (Brazilian Pepper).
2. All landscaping and screening required in the subject development by either this Development Order or the City Code of Ordinances or the City Land Use and Development Regulations shall be maintained in good condition throughout the life of this development.

#### E. FIRE PROTECTION

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

## F. WATER CONSERVATION

1. The Developer shall incorporate the use of water conserving devices as required by state law (Section 553. 14, Florida Statutes).
2. For the purpose of non-potable water conservation, the development should require, through the use of deed restriction, the utilization of xeriscape principals, where feasible, in the design and installation of the project's landscaping.
3. Irrigation will be accomplished in accordance with City Ordinance(s) or South Florida Water Management District mandate as applicable.

## G. SOLID WASTE

1. The Developer and tenants of the project should investigate methods of reducing solid waste volume at the project.
2. The Developer and tenants of the project shall identify to the City, the presence of and the proper on-site handling and temporary storage procedures for hazardous waste that may be generated on-site, in accordance with local, regional, and state hazardous waste programs.
3. The Developer will require that an EPA/DEP approved holding storage tank be provided on-site along with the proper monitoring devices if a prospective user has the potential for producing toxic or industrial waste. These wastes shall be disposed of off-site by a company licensed to dispose of such wastes.
4. The Developer shall inform the waste hauler and disposer of the nature of any hazardous waste on the site, to determine if, and the extent of, any special precautions that may be necessary.
5. No solid waste disposal facilities shall be located on site.
6. The Developer will participate in recycling programs.
7. Solid waste disposal shall be provided through Lee County, Florida pursuant to Special Act, Chapter 85-447. Current and planned facilities have sufficient capacity to meet the demands of this development.

## H. WASTEWATER MANAGEMENT

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



subject to City inspection and approval prior to acceptance.

3. Wastewater containing hazardous materials shall be segregated and handled in accordance with Florida Department of Environmental Protection (DEP) criteria. Wastewater entering the City system shall meet quality limitations as specified by City Ordinance(s).
4. Sewer impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s).
5. The Developer shall connect to City wastewater facilities within thirty (30) days notification of requirement for connection.
6. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the Wastewater system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

#### I. WATER SERVICE

1. Water service is available to the site.
2. The Developer shall design, construct and install all improvements required by the City to connect to the City's water system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Water impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinances(s).
4. The Developer shall connect to City water facilities within thirty (30) days notification of requirement for connection.
5. The Developer shall grant appropriate easements to City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the water system that were constructed by Developer by bill of sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

#### J. IRRIGATION SERVICE

1. Irrigation service is available to the site.

2. Connection to the City's irrigation system is optional. If Developer elects to connect to the City's irrigation system, then the Developer shall design, construct and install all improvements required by the City to connect to the City's irrigation system. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance.
3. Irrigation betterment fees and/or all other applicable fees shall be paid as specified by City Ordinance(s).
4. The Developer shall grant appropriate easements to the City for utility service prior to issuance of a building permit. Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the irrigation system that were constructed by Developer by Bill of Sale in a form satisfactory to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

#### K. AIR QUALITY

1. If any of the individual tract owners/developers create a complex source of pollution as defined by DEP rules, they shall apply directly to DEP for permitting.
2. Each individual tract development will be required to comply with all federal, state and local laws and codes governing air quality and emissions.

#### L. HISTORICAL/ARCHAEOLOGICAL

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

#### M. TRANSPORTATION

1. The traffic impact assessment upon which this Development Order for the Cape Harbour PDP, as amended herein, is based assumes project buildout in five years. The traffic impact assessment included the expected impacts of 84 single family dwelling units, 308 multi-family condominiums, ±25,000 square feet of quality restaurants, ±115,000 square feet of shopping center, a hotel with 125 sleeping rooms, 60,000 square feet of office use, 50 boat slips for Cape Harbour residents, and 26 boat slips for public use.
2. The traffic impacts of this development do not degrade roadway and intersection level of service (LOS) below LOS standards adopted in the City of Cape Coral Comprehensive Plan.

3. Based on existing and projected volumes and conditions, the following schedule of improvements for "Meta at Cape Harbour", will be necessary to meet the requirements of paragraph 2 above:
4. The Developer shall provide the City of Cape Coral all appropriate Road Impact Fees at the time of application for each building permit.
5. The Developer shall provide the City of Cape Coral with an Annual Traffic Monitoring Report each year until the development reaches buildout. Preparation of the report shall not begin until the Developer provides the City of Cape Coral with an acceptable methodology for preparing the report. If this report shows impacts greater than those estimated at the time of original approval and or determines that the LOS is degraded below adopted LOS standards, the Developer shall provide mitigation actions to assure that all roadways and intersections shall be improved so as to maintain the adopted peak hour LOS standard.
6. The City of Cape Coral shall not accept either the dedication or the maintenance of the private roadways within the subject development at any time unless and until such roadways are improved to comply with City regulations, including Cape Coral Engineering Design Standards. Any improvements necessary to comply with said standards shall be borne totally by the Developer.

#### N. SUBDIVISION

1. The Developer shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
2. Prior to any final Subdivision Plat approval, either the Developer shall satisfactorily complete all of the required site improvements, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements, as determined by the City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements have been satisfactorily completed.
3. The Director shall submit the Subdivision Plat for the Mayor's signature after all required site improvements have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete of all required site improvements. Such Plat shall then be recorded with the Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded mylar copy of the Plat shall be submitted to the City.

#### O. GENERAL CONSIDERATIONS

1. The Developer may be entitled to credit for contributions, construction, expansion, or



acquisition of public facilities, that require impact fees or exactions to meet the same needs. The local government and the Developer may enter into a capital contribution front-ending agreement to reimburse the Developer for voluntary contributions in excess of his fair share.

2. The Developer will meet with Lee County EMS to discuss the need and availability of a designated helicopter landing zone. If a helicopter landing facility is to be sited, a copy of the letter of determination from The Federal Aviation Administration shall be provided to the City.
3. Prior to issuance of a permit, the Developer shall enter into an agreement, in a form acceptable to the City Attorney, regarding obligations resulting from landscaping located in utility easements.
4. All of the provisions and conditions of approval of Ordinance 28-97 as amended by Ordinance 3-01 which are not addressed herein, including but not limited to "Drainage/Water Quality" conditions, shall remain in full force and effect for the Cape Harbour Planned Development Project including the "Meta at Cape Harbour" phase.
5. Prior to the issuance of a Site Plan Permit, the Developer shall grant an ingress/egress easement to the City of Cape Coral, acceptable to the City of Cape Coral, extending from the Chiquita boat lock to Chiquita Boulevard. The Developer shall retain the right to relocate said easement until final plat approval, in order to accommodate construction activities. The said easement shall be entirely within an area that is in a stable condition, capable of being traversed by two-wheel-drive vehicles equipped only for highway use. Development activities or any other activities conducted on the subject parcel shall, in no instance, result in failure to maintain a continuous, uninterrupted ingress/egress easement, 24 hours per day and 365 days per year. The Developer shall provide upon the face of any replat for the subdivision granted herein, an ingress/egress easement dedication acceptable to the City of Cape Coral.
6. The Development of parcels in the "Meta at Cape Harbour" Phase, as shown on the Subdivision Plan, shall proceed through the Site Plan Review Process for development, as described in the City of Cape Coral Land Use and Development Regulations, as same may hereafter be amended.
7. The Special Exception granted herein to allow "Clubs, Private", on the Recreation/Park tract, shall be limited solely to the Recreation/Park tract, and shall not be construed to allow the operation of any such use requiring a Special Exception on any other property in the subject development. The aforesaid Special Exception use may be established at any time within six (6) years from the effective date of this development order. After

such initial six (6) year time period, however, if the aforesaid Special Exception use is not actively in operation or is abandoned for a period of one (1) year, then the Special Exception use shall be deemed to have been abandoned and the Special Exception approved herein shall terminate as provided in the City of Cape Coral Land Use and Development Regulations

8. The Special Exception granted herein to allow a Self-Service Fuel Pump Station in a C-1 (Pedestrian Commercial) Zoning District on the Commercial #1 tract shall be limited as follows:
  - a. Such special exception approval shall be limited to the Commercial #1 tract, and shall not be construed to allow the operation of such a use requiring a Special Exception on any other property in the subject development. The aforesaid Special Exception use may be established at any time within six (6) years from the effective date of this development order. After such initial six (6) year time period, however, if the aforesaid Special Exception use is not actively in operation or is abandoned for a period of one (1) year, then the Special Exception use shall be deemed to have been abandoned and the Special Exception approved herein shall terminate as provided in the City of Cape Coral Land Use and Development Regulations.
  - b. The Special Exception to allow a Self-Service Fuel Pump Station in a C-1 Zoning District shall be limited to operation of a fuel dock facility for the purpose of fueling marine vessels and not for the fueling of land-based vehicles. Employees of the Self-service Fuel Pump Station may perform fueling of vessels. The fuel dock facility may be developed as an accessory use to a retail facility that is accessed from the street.
  - c. Any above ground tanks, signage, or structures located on the Commercial #1 tract other than buildings shall be completely screened by landscaping and/or walls from the view of the Chiquita Boulevard right-of-way.
9. In the event any additional rezoning(s), Special Exception(s), variance(s), or deviation(s), are sought for any area within the subject development, such rezoning(s), Special Exception(s) variance(s), or deviation(s), shall not be approved except as part of an amendment to this development order.
10. No bottom painting, and/or preparation of bottom surfaces, including but not limited to, sandblasting, sanding, pressure washing for paint removal and use of chemical paint removal compounds shall be allowed at any marina use that may be located in the subject development. This shall not be construed to prohibit washing and/or waxing of

- boat surfaces at such marina use(s). Marine vessel repair, if any, occurring at such marina use(s) shall be limited to minor repairs and rigging.
11. The Developer shall participate in its pro-rata share of any user fee or taxing district for the operation of the Chiquita boat lock, if such is approved by the City Council in the future.
  12. The Developer shall provide and display approved manatee awareness signs and informational literature in locations conspicuous to mariners using the marina and boat ramp.
  13. All lighting for the "Meta at Cape Harbour" phase shall be arranged so as to direct the light away from offsite residential properties. Lighting trespass and glare shall be limited to a reasonable level through the use of shielding and directional lighting methods, including, but not limited to, fixture type and orientation, location, and height. The lighting for the "Meta at Cape Harbour" phase shall be designed so that the light measured along the subject property boundary shall not exceed one (1) foot-candle.
  14. Prior to issuance of a permit, the Developer shall enter into an agreement, in a form acceptable to the City Attorney, regarding obligations resulting from landscaping located in utility easements.
  15. The building setback for all development in the "Meta at Cape Harbour" phase shall be as indicated on the Development Plan, Sheet 6 of 6 of the plan set titled "PDP Plans for 'Meta at Cape Harbour'", dated October 30, 2000, and also bearing revision dates of June 11, 2001 August 3, 2001, and August 24, 2001, prepared by Avalon Engineering, Inc., as approved herein.
  16. Within one year of issuance of any development permit for the subject property, including but not limited to site plan permit(s), for any development within the Meta at Cape Harbour PDP, the Developer shall complete all landscape improvements, including but not limited to wall construction, earthwork, and plant installation, as indicated on the Chiquita Landscape Buffer Schematic Design dated August 2001, prepared by Johnson Engineering.
  17. The densities and intensities of uses shall be below 80 percent of the threshold for a Development of Regional Impact (DRI) as described in Chapter 24-24 F.A.C., as may be amended. If any proposed site development would cause the subject development to exceed the DRI thresholds, the Developer shall follow procedures and be reviewed in accordance with Chapter 24-24 F.A.C., as may be amended. The maximum floor area of shopping center (retail) and office uses approved herein are based on the condition that, as necessary to maintain the project under the DRI threshold, the Developer shall designate at least 50 boat slips for the exclusive



use of owners or lessees of dwelling units within the Cape Harbour PDP and not available for lease or purchase to parties not owning or leasing a dwelling unit within the Cape Harbour PDP. The Developer shall have the right to make all 76 boat slips available to the public as long as the project impacts remain below the DRI thresholds.

18. Commercial uses shall be limited as indicated in the matrix of allowable uses indicated in Exhibit I. However, in the event the City of Cape Coral City Council approves an Ordinance that allows residential units in commercial buildings (i.e. on floors above commercial uses) such use shall be permitted within C-1 (Pedestrian Commercial) Zoning Districts located in the "Meta at Cape Harbour" development provided such use would otherwise comply in all respects with such Ordinance.
19. In the event the City Council adopts one or more ordinances eliminating one or more of the uses identified in Exhibit I as allowable uses in the applicable zoning district(s), then such uses shall be deemed to be no longer allowable unless they were lawfully established as non-conforming uses at the time the Cape Coral City Council adopted the ordinance(s) disallowing them.
20. Restriction on building heights in Commercial Tract #6 shall be as follows:
  - a. Maximum height at the building setback line parallel to El Dorado Parkway (West) and Chiquita Boulevard (South), as indicated on the Development Plan Sheet 6 of 6 of the plan set titled "PDP Plans for 'Meta at Cape Harbour'", dated October 30, 2000, and also bearing revision dates of June 11, 2001, August 3, 2001, and August 24, 2001, prepared by Avalon Engineering, Inc., shall be 38 feet.
  - b. Maximum building heights may be increased by one-foot for every one-foot of additional setback measured from El Dorado Parkway (West) and Chiquita Boulevard (South).
21. The hotel approved herein may contain accessory uses generally located within hotels, including but not limited to, one or more meeting and banquet rooms or convention facilities, cocktail lounges, snack bars, coffee shops, and/or restaurants, and other retail and service shops. The establishment of such accessory uses shall be in addition to and shall not affect the approval of the ±140,000 square feet of shopping center uses, which may include two (2) restaurants, totaling not more than ±25,000 square feet, approved herein.
22. Prior to issuance of permit, Developer shall enter into a Utilities Agreement, in a form acceptable to the City Attorney, regarding the installation and transfer of water, sewer and irrigation utilities from the Developer to the City. The Developer shall

design, construct and install all improvements required by the City to connect to the subject utility. Said design, construction, and installation shall be accomplished in accordance with prevailing City design criteria and shall be subject to City inspection and approval prior to acceptance. Impact fees, betterment fees, and/or all other applicable fees shall be paid as specified by City Ordinance(s). Prior to connection of this development to City utility facilities, the Developer shall convey to the City the component parts of the subject utility system, as approved by the City, that were constructed by the Developer by Bill of Sale in a form acceptable to the City Attorney, together with such other evidence as may be required by the City that the utility system proposed to be transferred to the City is free of all liens and encumbrances.

23. The architectural style of the development, including but not limited to all buildings and structures, shall be substantially similar to the architectural style portrayed in the architectural renderings attached hereto as composite Exhibit L and incorporated herein by reference.
24. Although the roofs of the buildings in the development may be constructed of materials other than tile, any part of a building roof that is visible from any street adjacent to such building shall be constructed of tile or a material fashioned to look like tile.
25. Although the structural elements of buildings in the development may consist of block masonry, structural steel, precast concrete, poured concrete, other materials, or a combination of any of the foregoing, the exterior finish of all buildings in the development shall consist of either a stucco or masonry finish or a material fashioned to look like stucco.
26. In the event a hotel is located on Commercial Tract #6, no part of such hotel shall be located less than one hundred (100) feet from the property line adjacent to Chiquita Boulevard or from the property line adjacent to El Dorado Parkway.
27. No dry boat storage facility shall be located on any property in the development other than on Commercial Tract #1. In the event a dry boat storage facility is located on Commercial Tract #1, no part of the building(s) or other structure(s) containing such facility shall be located less than two hundred fifty (250) feet from the property line adjacent to Chiquita Boulevard.
28. In the event a restaurant use is located on Commercial Tract #1, no part of the building(s) or structure(s) containing such restaurant use shall be located less than seventy-five (75) feet from the property line adjacent to Chiquita Boulevard. In addition, the maximum sound level generated by such

restaurant use, when measured from any property located east of Chiquita Boulevard in a residential land use classification, shall not exceed sixty-six (66) dBA between 7:00 a.m. and 10:00 p.m. or sixty (60) dBA between 10:00 p.m. and 6:00 a.m. Furthermore, the kitchen and the employee entrance of such restaurant use shall be located on the west end of any restaurant structure located on Commercial Tract #1 and all deliveries and refuse disposal associated with such restaurant use shall take place on the west end of such restaurant structure.

29. All commercial areas in the development shall remain accessible to the public during the hours that uses located in such commercial areas are open for business. This provision shall not, however, require that the public have access to any private club or clubs that may be located on properties on which such use(s) are allowable.

P. CONCURRENCY

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

**SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS**

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the Meta at Cape Harbour PDP.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the Meta at Cape Harbour PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.



- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the Developer to comply with any City Ordinance or other regulations adopted after the effective date of this Development Order.
- G. Subsequent requests for local development permits shall not require further review pursuant to Sections 163.3220-163.3243, Florida Statutes, unless it is found by the City Council, after due notice and hearing, that one or more of the following is present:
1. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City.
  2. Substantial deviations include but are not limited to:
    - a. Any change which requires a variance to code and above those specifically incorporated herein.
    - b. An increase of more than five (5) percent in density, parking requirements, trip generation rates, water or sewer usage, or building square footage.
    - c. An expiration of the period of effectiveness of this Development Order as herein provided.
    - d. If development order conditions and applicant commitments incorporated within the Development Order to mitigate impacts are not carried out as indicated to the extent or in accordance with the Development Order, then this shall be presumed to be a substantial deviation from the Development Order.

Upon a finding that any of the above is present, the City Council may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved in accordance with Chapter 163, Florida Statutes, and all local approvals have been obtained.

- H. The deadline for commencing physical development under this Development Order shall be nine (9) years from the date of adoption of the Order, provided that this effective period may be extended by the Council upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order within nine

(9) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a certificate of compliance or occupancy on some substantial portion of the project (e.g., water management system or major road system). This Development Order shall otherwise terminate in ten years from the date of this Development Order, unless an extension is approved by this Council. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For the process of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.

- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title to the undeveloped portion of the subject property, shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time, a final development report shall be submitted to the City.

- K. Copies of this recorded Development Order will be forwarded to the Department of Community Affairs, and all permitting agencies. Upon this Development Order becoming effective, notice of its adoption shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, as provided in Section 163.3239, Florida Statutes.

#### SECTION V. SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no

manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

**SECTION VI. EFFECTIVE DATE.**

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of the County and thirty (30) days after having been received by the State Land Planning Agency pursuant to Section 163.3239, Florida Statutes. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer and are subject to the requirements and review pursuant to Chapter 163, Florida Statutes.

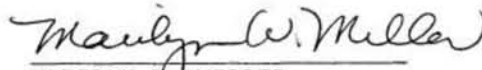
ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 1st DAY OF October, 2001.

  
ARNOLD E. KEMPE, MAYOR

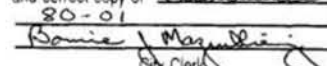
ATTESTED TO AND FILED IN MY OFFICE THIS 15th DAY OF October, 2001.

  
BONNIE J. MAZURKIEWICZ  
CITY CLERK

APPROVED AS TO FORM:

  
MARILYN W. MILLER  
ACTING CITY ATTORNEY  
ord/pdp018-3

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality; that this is a true and correct copy of Ordinance

80-01  
  
City Clerk



LEGAL DESCRIPTION:

A TRACT OF LAND SITUATED IN TRACTS B, C AND D, CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT C, BEING ALSO A POINT ON THE SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST; THENCE RUN S89°43'07"E ALONG THE NORTH LINE OF SAID TRACT C AND SAID SOUTH RIGHT OF WAY LINE FOR 360.29 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE RUNNING S89°43'07"E ALONG SAID COMMON LINE FOR 714.55 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID COMMON LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°21'27" (CHORD=S44°32'35"E, 35.47 FEET) FOR 39.43 FEET TO THE POINT OF TANGENCY, BEING ALSO A POINT ON THE EAST LINE OF SAID TRACT C AND THE WEST RIGHT OF WAY LINE OF CHUQUITA BOULEVARD; THENCE RUN S00°38'20"W ALONG SAID COMMON LINE FOR 99.98 FEET; THENCE RUN S00°31'37"E ALONG SAID COMMON LINE FOR 1060.66 FEET; THENCE RUN S89°28'23"W, LEAVING SAID COMMON LINE, FOR 111.56 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 21°36'44" (CHORD=N43°33'50"W, 28.12 FEET) FOR 28.29 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 37°51'00" (CHORD=N35°26'42"W, 81.08 FEET) FOR 82.58 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING N57°26'59"E; THENCE RUN N57°26'59"E ALONG SAID LINE FOR 101.05 FEET; THENCE RUN N05°44'35"W FOR 18.48 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 925.00 FEET AND A CENTRAL ANGLE OF 29°03'28" (CHORD=N20°16'19"W, 464.10 FEET) FOR 469.12 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING S59°01'53"W; THENCE RUN S59°01'53"W ALONG SAID LINE FOR 249.15 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTH; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 500.00 FEET AND A CENTRAL ANGLE OF 15°33'40" (CHORD=S79°30'10"W, 135.38 FEET) FOR 135.80 FEET TO THE POINT OF TANGENCY; THENCE RUN S71°43'20"W FOR 557.28 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 62°57'52" (CHORD=S40°14'24"W, 26.11 FEET) FOR 27.47 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE WEST, BEING ALSO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF HARBOUR CIRCLE; THENCE RUN ALONG SAID EASTERLY RIGHT OF WAY ON SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 30°40'47" (CHORD=N06°34'56"W, 44.97 FEET) FOR 45.51 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING N76°32'04"E; THENCE RUN N76°32'04"E ALONG SAID LINE FOR 177.41 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 240.00 FEET AND A CENTRAL ANGLE OF 78°00'39" (CHORD=N37°31'45"E, 302.11 FEET) FOR 328.77 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING N59°01'53"E; THENCE RUN N59°01'53"E ALONG SAID LINE FOR 419.90 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTH-WEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 925.00 FEET AND A CENTRAL ANGLE OF 07°40'11" (CHORD=N55°08'37"W, 123.73 FEET) FOR 123.82 FEET TO THE POINT OF TANGENCY; THENCE RUN N58°58'43"W FOR 245.96 FEET; THENCE RUN N00°16'53"E FOR 204.32 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 546,317 SQUARE FEET (12.542 ACRES), MORE OR LESS.

NOTES:

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY (NO.1)  
PROPOSED ZONE CHANGE FROM R-1B TO C-1,

A TRACT OF LAND SITUATED IN TRACTS B, C AND D,  
CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33,  
PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY,  
FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

THIS SKETCH PREPARED FOR: REALMARK CAPE HARBOUR, INC.

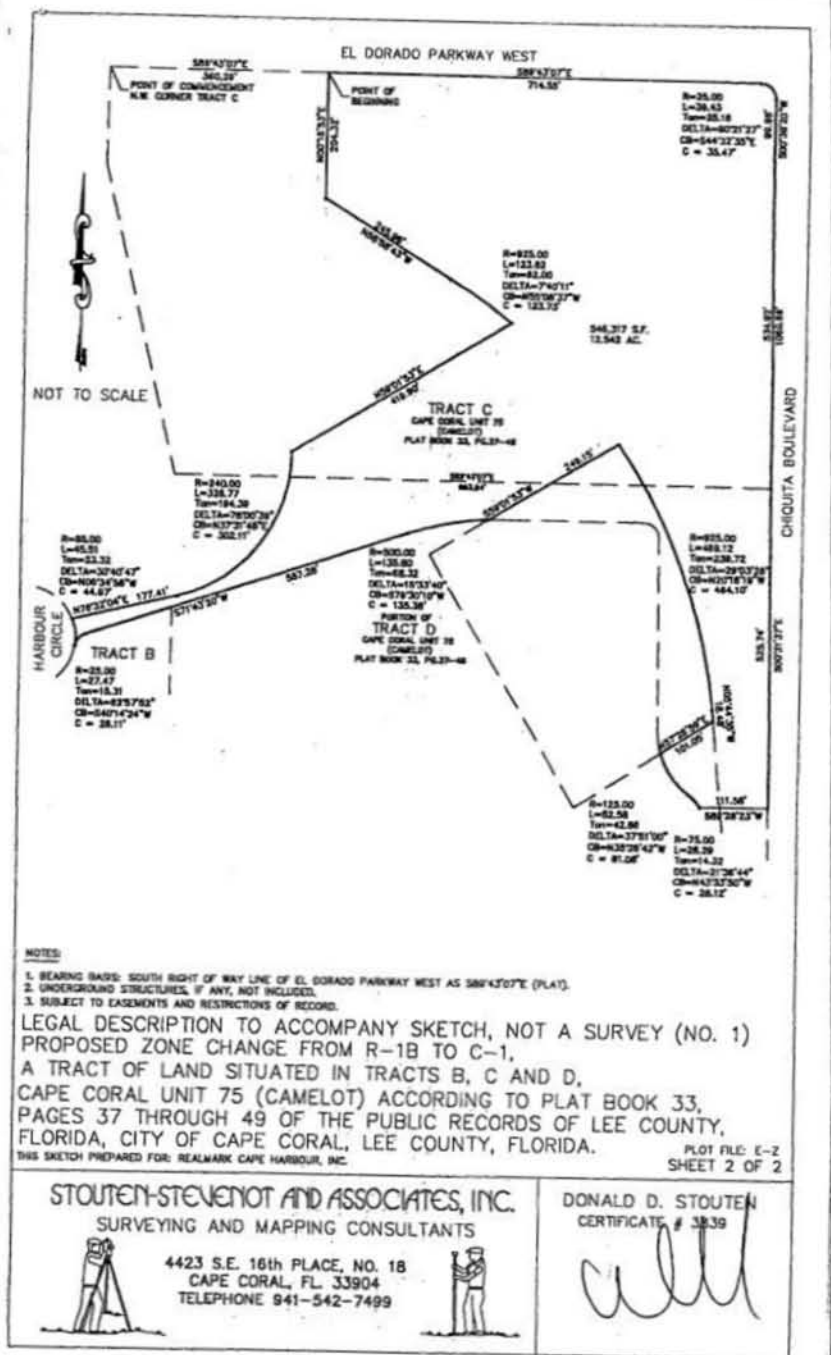
PLOT FILE: E-Z  
SHEET 1 OF 2

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 6839



**LEGAL DESCRIPTION:**

A TRACT OF LAND SITUATED IN TRACTS B, C AND D, CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT C, BEING ALSO A POINT ON THE SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST; THENCE RUN  $S89^{\circ}43'07''E$  ALONG THE NORTH LINE OF SAID TRACT C AND SAID SOUTH RIGHT OF WAY LINE FOR 360.29 FEET; THENCE RUN  $S00^{\circ}16'53''W$ , LEAVING SAID COMMON LINE, FOR 204.32 FEET; THENCE RUN  $S58^{\circ}58'43''E$  FOR 245.86 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 925.00 FEET AND A CENTRAL ANGLE OF  $07^{\circ}40'11''$  (CHORD= $S55^{\circ}08'37''E$ , 123.73 FEET) FOR 123.82 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING  $S38^{\circ}01'53''W$ ; THENCE RUN  $S58^{\circ}01'53''W$  ALONG SAID LINE FOR 418.90 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 240.00 FEET AND A CENTRAL ANGLE OF  $78^{\circ}00'38''$  (CHORD= $S37^{\circ}31'45''W$ , 302.11 FEET) FOR 326.77 FEET TO THE POINT OF TANGENCY; THENCE RUN  $S76^{\circ}32'04''W$  FOR 177.41 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST, BEING ALSO A POINT ON THE EASTERLY LINE OF HARBOUR CIRCLE AND THE WESTERLY LINE OF SAID TRACT B; THENCE RUN ALONG SAID COMMON LINE ON SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF  $27^{\circ}34'31''$  (CHORD= $N35^{\circ}42'35''W$ , 40.52 FEET) FOR 40.91 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING  $N78^{\circ}32'04''E$ , BEING ALSO THE NORTHWESTERLY LINE OF SAID TRACT B AND THE SOUTHEASTERLY LINE OF TRACT C (LAKE) OF CAPE HARBOUR SUBDIVISION-PHASE 2-A ACCORDING TO PLAT BOOK 60, PAGES 27 AND 28 OF THE PUBLIC RECORDS OF LEE COUNTY; THENCE RUN  $N78^{\circ}32'04''E$  ALONG SAID COMMON LINE FOR 192.74 FEET TO THE SOUTHEASTERLY CORNER OF SAID TRACT C (LAKE), BEING ALSO THE NORTHEASTERLY CORNER OF SAID TRACT B AND A POINT ON THE WEST LINE OF SAID TRACT D; THENCE RUN  $N00^{\circ}16'53''E$  ALONG THE EAST LINE OF SAID TRACT C (LAKE) AND THE WEST LINE OF SAID TRACT D FOR 162.15 FEET TO THE SOUTHWESTERLY CORNER OF SAID TRACT C OF SAID CAPE CORAL UNIT 75; THENCE RUN ALONG THE EASTERLY LINE OF SAID TRACT C (LAKE) AND SAID TRACT C OF SAID CAPE CORAL UNIT 75 THE FOLLOWING COURSES:  $N13^{\circ}27'56''W$  FOR 516.87 FEET AND  $N00^{\circ}16'53''E$  FOR 157.94 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 299,917 SQUARE FEET (6.885 ACRES), MORE OR LESS.

**NOTES:**

1. BEARING BASIS: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS  $S89^{\circ}43'07''E$  (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY (NO. 2)  
PROPOSED ZONE CHANGE FROM R-1B TO R-3,

A TRACT OF LAND SITUATED IN TRACTS B, C AND D,  
CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33,  
PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY,  
FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

THIS SKETCH PREPARED FOR: REALMARK CAPE HARBOUR, INC.

PLAT FILE: E-2  
SHEET 1 OF 2

**STOUTEN-STEVENOT AND ASSOCIATES, INC.**  
SURVEYING AND MAPPING CONSULTANTS



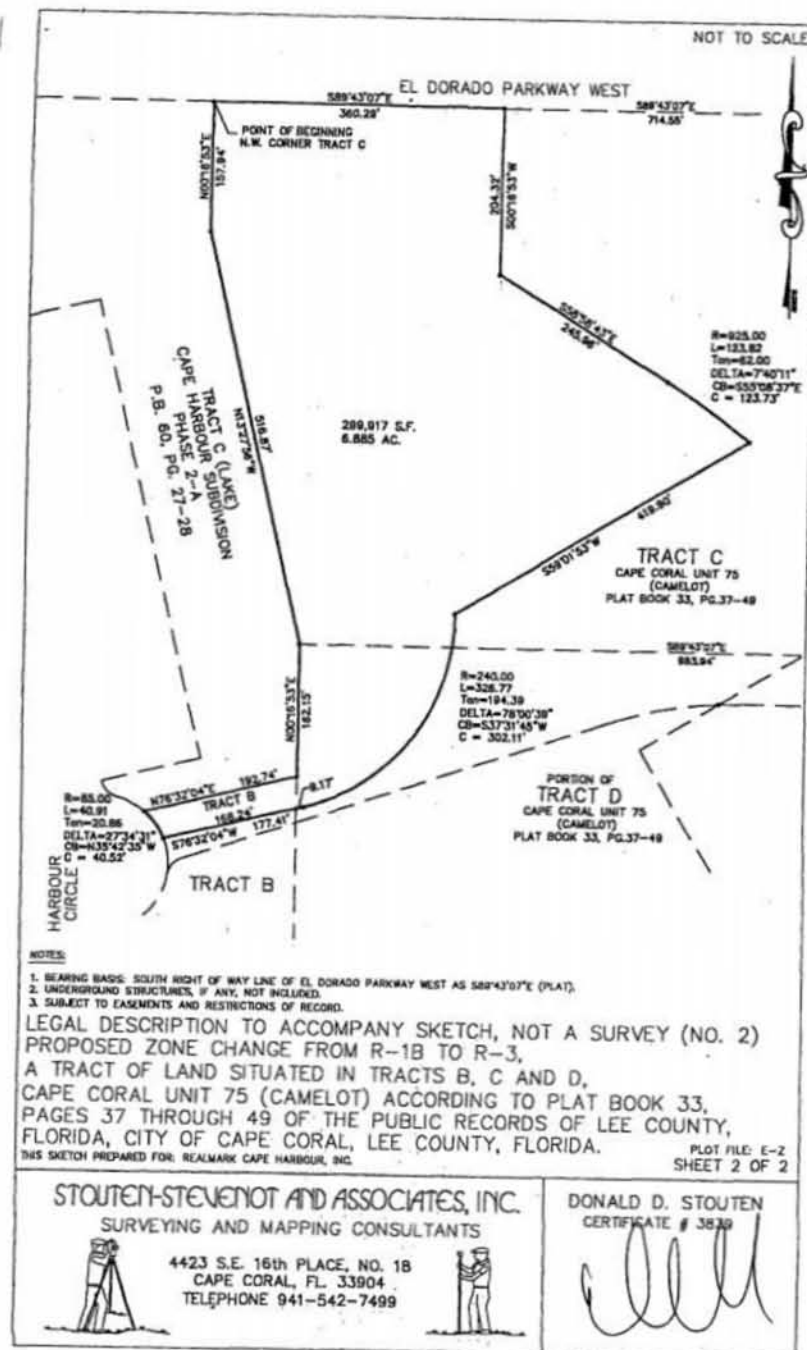
4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL 33904  
TELEPHONE 941-542-7499



**DONALD D. STOUTEN**  
CERTIFICATE # 3839

*(Handwritten signature of Donald D. Stouten)*





LEGAL DESCRIPTION:

A TRACT OF LAND SITUATED IN TRACT B, CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT D, BEING ALSO THE SOUTHWEST CORNER OF SAID TRACT C AND A POINT ON THE EAST LINE OF TRACT C (LAKE) OF CAPE HARBOUR SUBDIVISION—PHASE 2-A ACCORDING TO PLAT BOOK 60, PAGES 27 AND 28 OF THE PUBLIC RECORDS OF LEE COUNTY; THENCE RUN S00°16'53"W ALONG THE WEST LINE OF SAID TRACT D, BEING ALSO THE EAST LINE OF SAID TRACT C (LAKE) AND THE EAST LINE OF SAID TRACT B, FOR 217.84 FEET TO THE POINT OF BEGINNING, BEING A POINT ON THE LINE COMMON TO SAID TRACTS D AND B; THENCE CONTINUE RUNNING S00°16'53"W ALONG SAID COMMON LINE FOR 143.41 FEET TO THE SOUTHEAST CORNER OF SAID TRACT B; THENCE RUN N80°04'33"W ALONG THE LINE COMMON TO SAID TRACTS B AND D FOR 182.48 FEET TO THE SOUTHWEST CORNER OF SAID TRACT B, BEING ALSO A POINT ON A CURVE CONCAVE TO THE NORTHWEST AND A POINT ON THE EASTERLY RIGHT OF WAY LINE OF HARBOUR CIRCLE; THENCE RUN ALONG THE WESTERLY LINE OF SAID TRACT B AND SAID EASTERLY RIGHT OF WAY LINE ON SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF 34°28'57" (CHORD=N25°58'57"E, 50.39 FEET) FOR 51.16 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST; THENCE, LEAVING SAID RIGHT OF WAY, RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 62°57'52" (CHORD=N40°14'24"E, 26.11 FEET) FOR 27.47 FEET TO THE POINT OF TANGENCY; THENCE RUN N71°43'20"E FOR 149.02 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 16,702 SQUARE FEET (0.383 ACRES), MORE OR LESS.

NOTES:

1. BEARING BASE: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY (NO. 3)  
PROPOSED ZONE CHANGE FROM R-3 TO C-1,

A TRACT OF LAND SITUATED IN TRACT B,  
CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33,  
PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY,  
FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

THIS SKETCH PREPARED FOR: REALMARK CAPE HARBOUR, INC.

PLOT FILE: E-Z  
SHEET 1 OF 2

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS

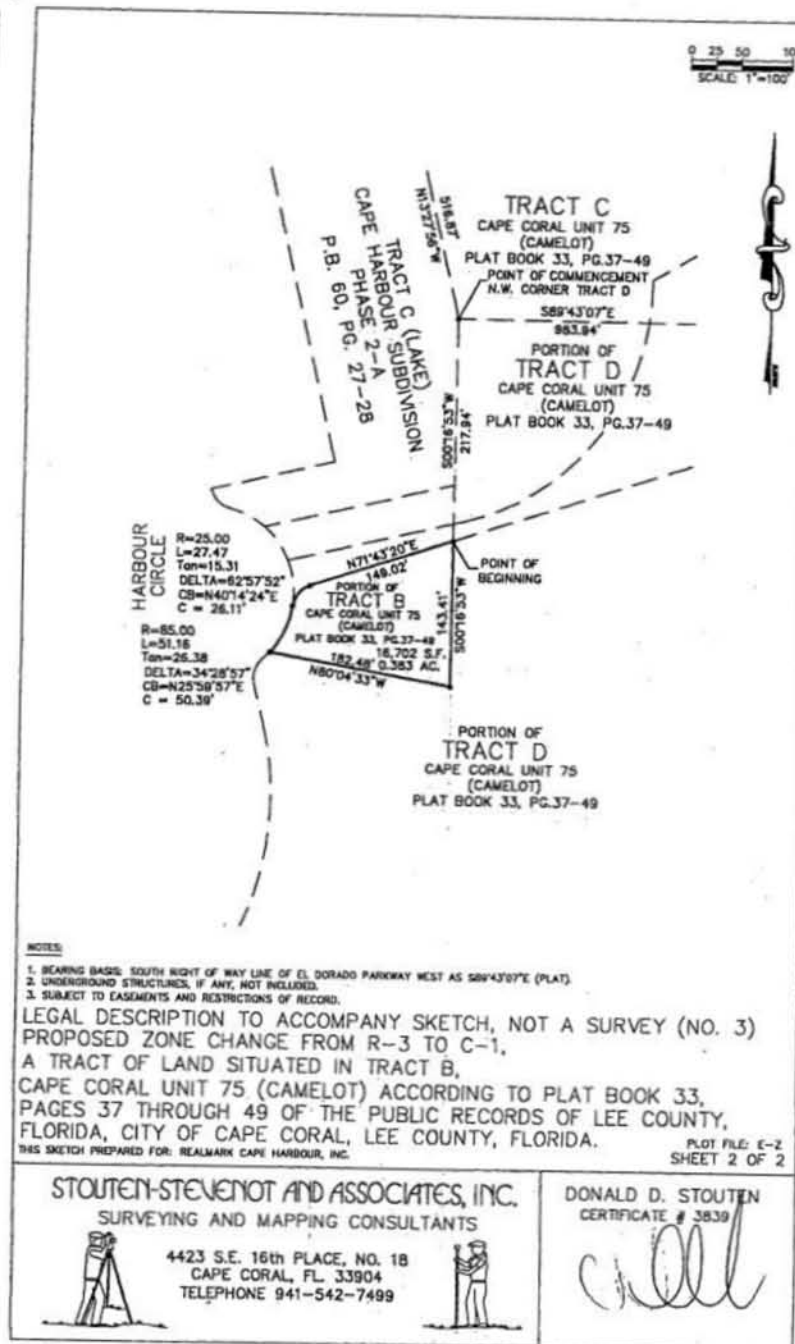
4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL. 33904  
TELEPHONE 841-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 3839

**Exhibit C**  
Sheet 2 of 2

OR BK 03506 PG 0672





**Exhibit D**

Sheet 1 of 2

**LEGAL DESCRIPTION:**

A TRACT OF LAND SITUATED IN TRACT D, CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT D, BEING ALSO THE SOUTHEAST CORNER OF SAID TRACT C AND A POINT ON THE WEST RIGHT OF WAY LINE OF CHIQUITA BOULEVARD; THENCE RUN S00°31'37"E ALONG THE EAST LINE OF SAID TRACT D AND SAID WEST RIGHT OF WAY LINE FOR 525.74 FEET; THENCE RUN S89°28'23"W LEAVING SAID RIGHT OF WAY LINE FOR 111.56 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 21°36'44" (CHORD=N43°33'50"W, 28.12 FEET) FOR 28.29 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 37°31'00" (CHORD=N35°26'42"W, 81.08 FEET) FOR 82.58 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING S57°25'59"W, BEING ALSO THE POINT OF BEGINNING; THENCE RUN S57°25'59"W ALONG SAID LINE FOR 186.84 FEET; THENCE RUN N30°30'48"W FOR 480.15 FEET; THENCE RUN N59°01'53"E FOR 111.63 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTH; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 500.00 FEET AND A CENTRAL ANGLE OF 02°59'53" (CHORD=N88°46'56"E, 26.18 FEET) FOR 26.18 FEET TO THE POINT OF TANGENCY; THENCE RUN S89°43'07"E FOR 231.98 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 89°11'30" (CHORD=S45°07'22"E, 35.11 FEET) FOR 38.92 FEET TO THE POINT OF TANGENCY; THENCE RUN S00°31'37"E FOR 320.17 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 15°58'35" (CHORD=S08°31'29"E, 34.78 FEET) FOR 34.89 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 119,289 SQUARE FEET (2.738 ACRES), MORE OR LESS.

**NOTES:**

1. BEARING BASE: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'07"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY (NO. 4)  
PROPOSED ZONE CHANGE FROM C-1 TO R-3,

A TRACT OF LAND SITUATED IN TRACT D,  
CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33,  
PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY,  
FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

THIS SKETCH PREPARED FOR: REALMARK CAPE HARBOR, INC.

PLOT FILE: E-Z  
SHEET 1 OF 2

**STOUTEN-STEVENOT AND ASSOCIATES, INC.**  
SURVEYING AND MAPPING CONSULTANTS



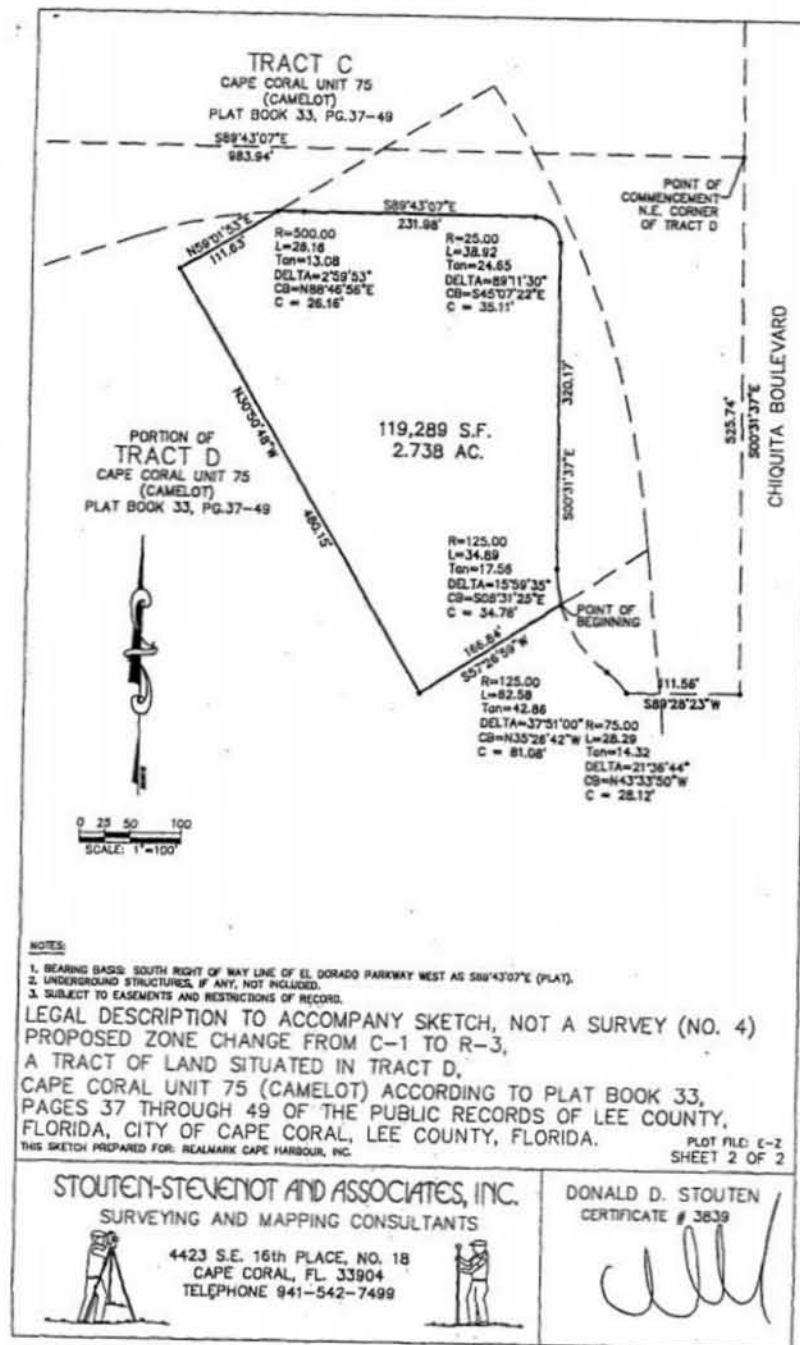
4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



**DONALD D. STOUTEN**  
CERTIFICATE # 3839

# Exhibit D

Sheet 2 of 2



**Exhibit E**

Sheet 1 of 2

**LEGAL DESCRIPTION:**

A TRACT OF LAND SITUATED IN TRACTS C AND D, CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT D, BEING ALSO THE SOUTHEAST CORNER OF SAID TRACT C AND A POINT ON THE WEST RIGHT OF WAY LINE OF CHOCUITA BOULEVARD; THENCE RUN S00°31'37"E ALONG THE EAST LINE OF SAID TRACT D AND SAID WEST RIGHT OF WAY LINE FOR 525.74 FEET; THENCE RUN S89°28'23"W, LEAVING SAID RIGHT OF WAY LINE, FOR 111.56 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 21°38'44" (CHORD=N43°33'50"W, 28.12 FEET) FOR 28.29 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 37°21'00" (CHORD=N35°28'42"W, 81.08 FEET) FOR 82.56 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE RUNNING ALONG SAID CURVE HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 15°58'35" (CHORD=N08°31'25"W, 34.78 FEET) FOR 34.89 FEET TO THE POINT OF TANGENCY; THENCE RUN N00°31'37"W FOR 325.17 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 89°11'30" (CHORD=N45°07'22"W, 35.11 FEET) FOR 38.82 FEET TO THE POINT OF TANGENCY; THENCE RUN N89°43'07"W FOR 231.98 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTH; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 500.00 FEET AND A CENTRAL ANGLE OF 02°59'53" (CHORD=S88°46'56"W, 26.16 FEET) FOR 26.16 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING N59°01'33"E; THENCE RUN N59°01'33"E ALONG SAID LINE FOR 248.15 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 825.00 FEET AND A CENTRAL ANGLE OF 29°03'28" (CHORD=S20°16'18"E, 464.10 FEET) FOR 468.12 FEET TO THE POINT OF TANGENCY; THENCE RUN S05°44'35"E FOR 18.48 FEET; THENCE RUN S57°28'59"W FOR 101.05 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 40,532 SQUARE FEET (0.930 ACRES), MORE OR LESS.

**NOTES:**

1. BEARING SAID SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS SHOWN ON PLAT.
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION CORRECTED: 08-02-01

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY (NO. 5)

PROPOSED ZONE CHANGE FROM R-1B TO R-3,

A TRACT OF LAND SITUATED IN TRACTS C AND D,

CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

THIS SKETCH PREPARED FOR: REALMARK CAPE HARBOR, INC.

PLAT FILE: E-Z  
SHEET 1 OF 2

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS



4423 S.E. 18th PLACE, NO. 18  
CAPE CORAL, FL 33904  
TELEPHONE 941-542-7499

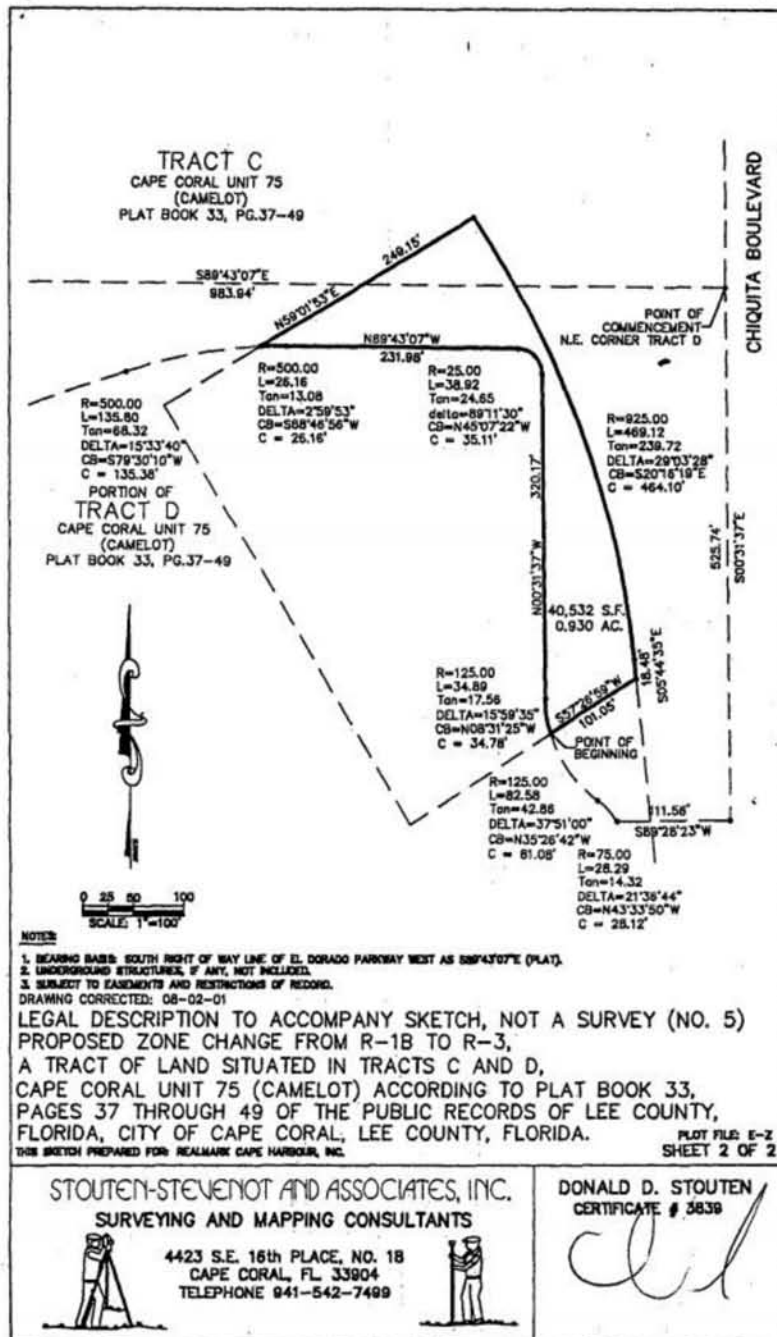


DONALD D. STOUTEN  
CERTIFICATE # 3839



## Exhibit E

Sheet 2 of 2



LEGAL DESCRIPTION:

A TRACT OF LAND SITUATED IN TRACT D, CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT D, BEING ALSO THE SOUTHEAST CORNER OF SAID TRACT C AND A POINT ON THE WEST RIGHT OF WAY LINE OF CHICQUITA BOULEVARD; THENCE RUN S00°31'37"E ALONG THE EAST LINE OF SAID TRACT D AND SAID WEST RIGHT OF WAY LINE FOR 565.74 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE RUNNING S00°31'37"E ALONG SAID COMMON LINE FOR 187.45 FEET; THENCE RUN S57°28'59"W, LEAVING SAID COMMON LINE, FOR 359.54 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHEAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 41°24'35" (CHORD=N36°44'42"E, 70.71 FEET) FOR 72.27 FEET TO THE POINT OF TANGENCY; THENCE RUN N57°28'59"E FOR 123.61 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 175.00 FEET AND A CENTRAL ANGLE OF 57°58'36" (CHORD=N28°27'41"E, 169.62 FEET) FOR 177.08 FEET TO THE POINT OF TANGENCY; THENCE RUN N00°31'37"W FOR 87.91 FEET; THENCE RUN N89°28'23"E FOR 75.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 22,243 SQUARE FEET (0.511 ACRES), MORE OR LESS.

NOTES:

1. BEARING BASES: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S89°43'37"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY (NO. 6)  
PROPOSED ZONE CHANGE FROM C-1 TO R-3.

A TRACT OF LAND SITUATED IN TRACT D,  
CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33,  
PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY,  
FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

THIS SKETCH PREPARED FOR: REALMARK CAPE HARBOR, INC.

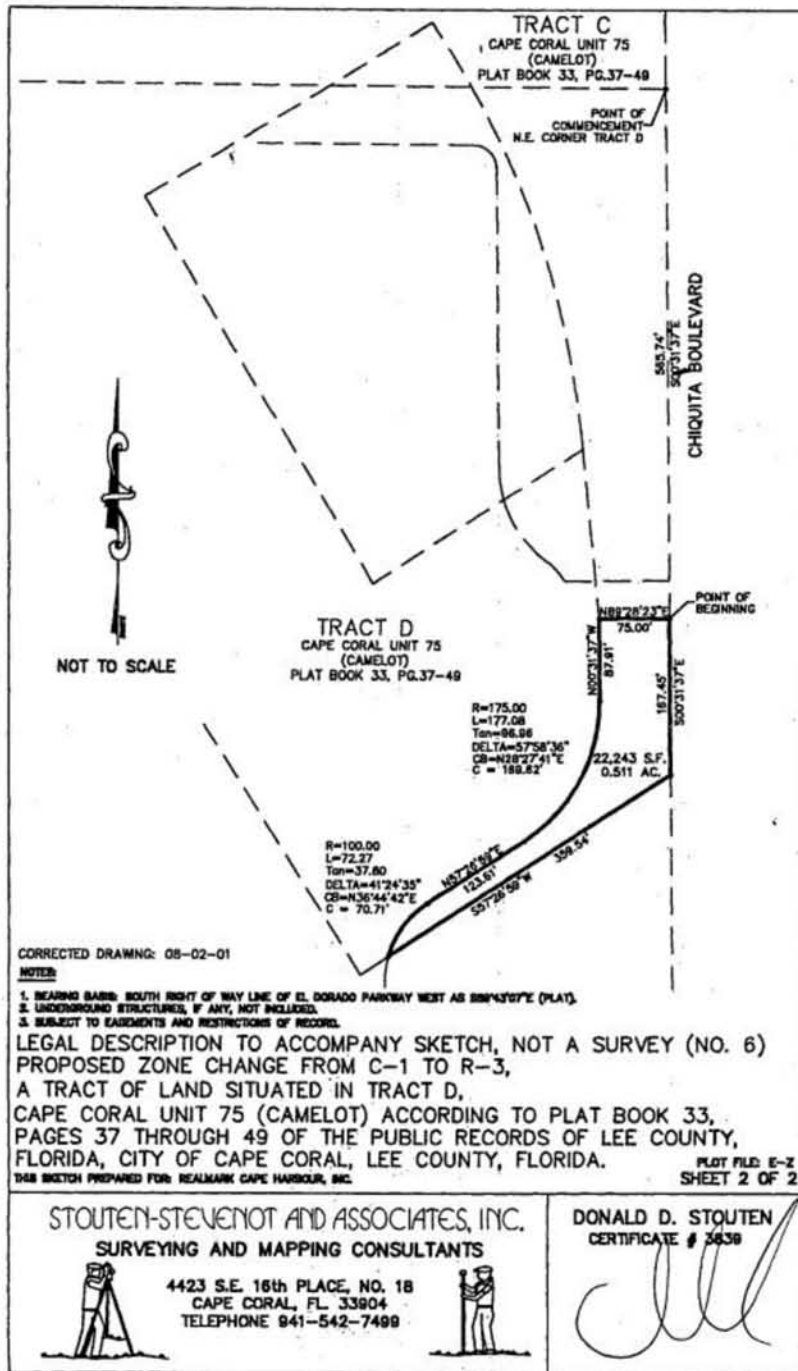
PLOT FILE: E-Z  
SHEET 1 OF 2

STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL. 33904  
TELEPHONE 941-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 3839





LEGAL DESCRIPTION:

A TRACT OF LAND SITUATED IN TRACT D, CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT D, BEING ALSO A POINT ON THE RIGHT OF WAY LINE OF SOUTH SPREADER WATERWAY AND THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTH-WEST; THENCE RUN ALONG THE SOUTHERLY LINE OF SAID TRACT D AND THE NORTHERLY RIGHT OF WAY LINE OF SAID SOUTH SPREADER WATERWAY ON SAID CURVE HAVING A RADIUS OF 287.83 FEET AND A CENTRAL ANGLE OF 92°25'28" (CHORD=N46°44'20"W, 415.57 FEET) FOR 464.30 FEET TO THE POINT OF TANGENCY; THENCE RUN S87°02'55"W ALONG SAID COMMON LINE FOR 467.08 FEET; THENCE RUN N02°56'46"W, LEAVING SAID COMMON LINE, FOR 410.71 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 140.00 FEET AND A CENTRAL ANGLE OF 05°18'02" (CHORD=N60°06'00"E, 12.95 FEET) FOR 12.95 FEET TO THE POINT OF TANGENCY; THENCE RUN N57°26'39"E FOR 271.88 FEET; THENCE RUN S32°33'01"E FOR 315.00 FEET; THENCE RUN N57°26'58"E FOR 35.80 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE EAST; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 18°34'02" (CHORD=S06°45'23"W, 32.26 FEET) FOR 32.41 FEET TO THE POINT OF TANGENCY; THENCE RUN S02°31'38"E FOR 35.12 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTH; THENCE RUN ALONG SAID CURVE HAVING A RADIUS OF 525.00 FEET AND A CENTRAL ANGLE OF 05°46'30" (CHORD=S88°36'23"E, 52.89 FEET) FOR 52.92 FEET TO THE POINT OF TANGENCY; THENCE RUN S88°45'08"E FOR 136.86 FEET; THENCE RUN N89°28'23"E FOR 118.24 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID TRACT D, BEING ALSO THE WEST RIGHT OF WAY LINE OF CHOCUITA BOULEVARD; THENCE RUN S00°31'37"E ALONG SAID COMMON LINE FOR 43.85 FEET; THENCE RUN S08°37'12"E ALONG SAID COMMON LINE FOR 376.80 FEET; THENCE RUN S00°31'37"E ALONG SAID COMMON LINE FOR 85.29 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 274,505 SQUARE FEET (6.302 ACRES), MORE OR LESS.

NOTES:

1. BEARING BASE: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS S88°45'01"E (PLAT).
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY (NO. 7)  
PROPOSED ZONE CHANGE FROM R-3 TO C-1.

A TRACT OF LAND SITUATED IN TRACT D,

CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33,  
PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY,  
FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

THIS SKETCH PREPARED FOR: REALMARK CAPE HARBOR, INC.

PLOT FILE: E-Z  
SHEET 1 OF 2

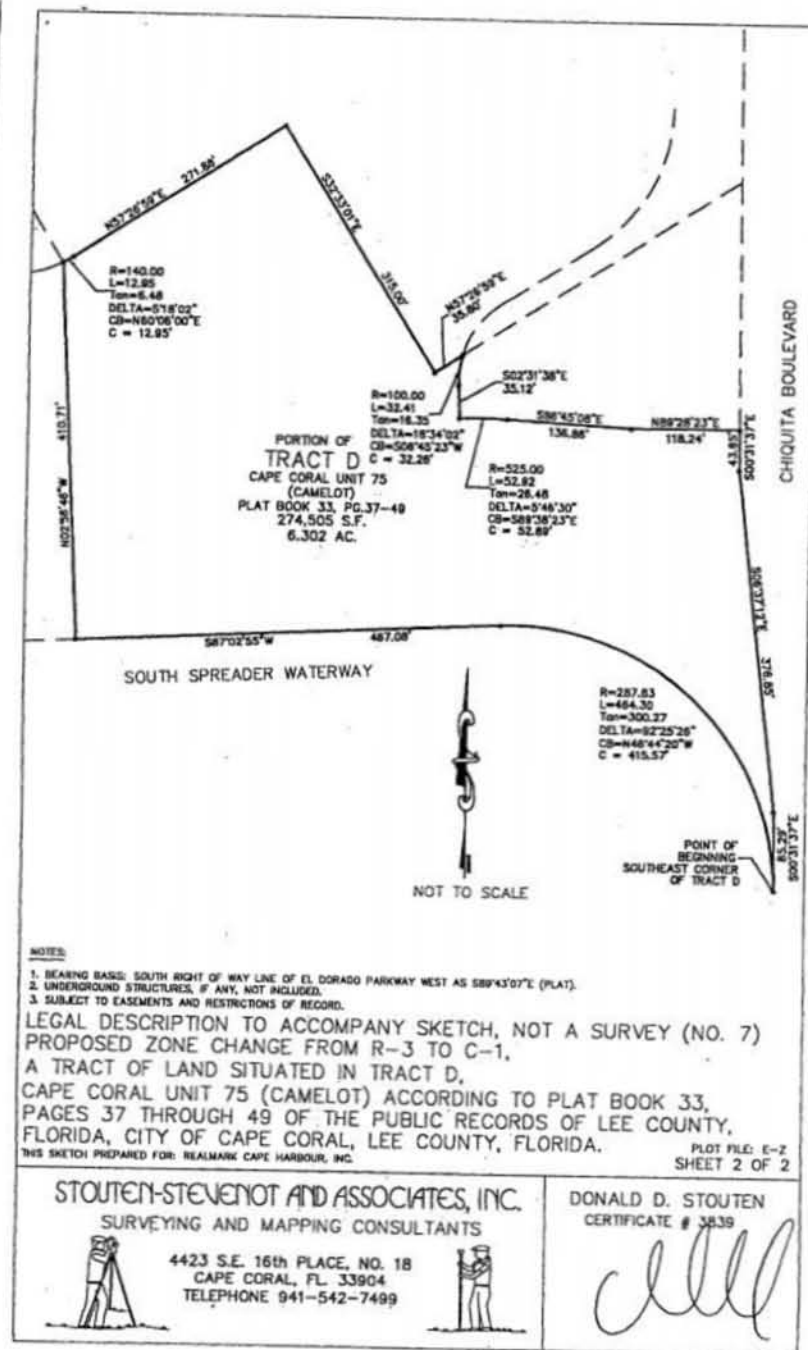
STOUTEN-STEVENOT AND ASSOCIATES, INC.  
SURVEYING AND MAPPING CONSULTANTS



4423 S.E. 16th PLACE, NO. 18  
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TELEPHONE 941-542-7499



DONALD D. STOUTEN  
CERTIFICATE # 3839



**LEGAL DESCRIPTION:**

A TRACT OF LAND SITUATED IN TRACT D, CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 19 OF SAID BLOCK 8503, BEING ALSO A POINT ON THE WESTERLY LINE OF SAID TRACT D AND A POINT ON A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG THE EASTERLY LINE OF SAID BLOCK 8503 AND THE WESTERLY LINE OF SAID TRACT D ON SAID CURVE HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF 10°31'40" (CHORD=NS41°7'43"E, 55.05 FEET) FOR 55.12 FEET TO THE POINT OF TANGENCY; THENCE RUN N29°01'53"E ALONG SAID COMMON LINE FOR 527.66 FEET; THENCE RUN S58°51'34"E, LEAVING SAID COMMON LINE, FOR 17.65 FEET; THENCE RUN S59°28'00"E FOR 100.68 FEET; THENCE RUN N57°28'24"E FOR 137.41 FEET; THENCE RUN S32°33'01"E FOR 207.40 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE NORTHWEST, BEING ALSO THE FACE OF AN EXISTING SEAWALL; THENCE RUN ALONG SAID FACE OF SAID SEAWALL THE FOLLOWING COURSES: ALONG SAID CURVE HAVING A RADIUS OF 140.00 FEET AND A CENTRAL ANGLE OF 27°07'27" (CHORD=57°18'45"W, 65.66 FEET) FOR 66.28 FEET TO A NON-TANGENT INTERSECTION WITH A LINE BEARING S89°52'29"W, THEN RUN S89°52'29"W ALONG SAID LINE FOR 131.20 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 82.84 FEET AND A CENTRAL ANGLE OF 50°05'17" (CHORD=58°02'01"W, 78.60 FEET) FOR 81.18 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 378.52 FEET AND A CENTRAL ANGLE OF 13°41'54" (CHORD=53°07'48"W, 90.28 FEET) FOR 90.50 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 481.46 FEET AND A CENTRAL ANGLE OF 11°13'57" (CHORD=52°13'20"W, 90.32 FEET) FOR 90.46 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE EAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 357.72 FEET AND A CENTRAL ANGLE OF 18°28'13" (CHORD=50°47'51"W, 102.48 FEET) FOR 102.83 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 115.27 FEET AND A CENTRAL ANGLE OF 50°17'19" (CHORD=51°29'36"E, 97.95 FEET) FOR 101.17 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE TO THE NORTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 98.74 FEET AND A CENTRAL ANGLE OF 42°22'38" (CHORD=56°31'41"E, 71.38 FEET) FOR 73.03 FEET TO A NON-TANGENT INTERSECTION WITH THE SOUTH LINE OF SAID TRACT D AND THE NORTH RIGHT OF WAY LINE OF SOUTH SPREADER WATERWAY; THENCE RUN S87°02'54"W ALONG SAID COMMON LINE FOR 287.46 FEET; THENCE RUN N02°57'05"W, LEAVING SAID COMMON LINE, FOR 43.70 FEET; THENCE RUN N50°26'20"W FOR 76.34 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 135,479 SQUARE FEET (3.110 ACRES), MORE OR LESS.

**NOTES:**

1. BEARING BASE: SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST AS SHOWN ON PLAT.
2. UNDERGROUND STRUCTURES, IF ANY, NOT INCLUDED.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION CORRECTIONS: 06-02-01

LEGAL DESCRIPTION TO ACCOMPANY SKETCH, NOT A SURVEY (NO. 8)  
PROPOSED ZONE CHANGE FROM C-1 TO R-3,

A TRACT OF LAND SITUATED IN TRACT D,  
CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33,  
PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY,  
FLORIDA, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

THIS SKETCH PREPARED FOR: REALMARK CAPE HARBOR, INC.

PLAT FILE: E-2  
SHEET 1 OF 2

**STOUTEN-STEVENOT AND ASSOCIATES, INC.**  
SURVEYING AND MAPPING CONSULTANTS

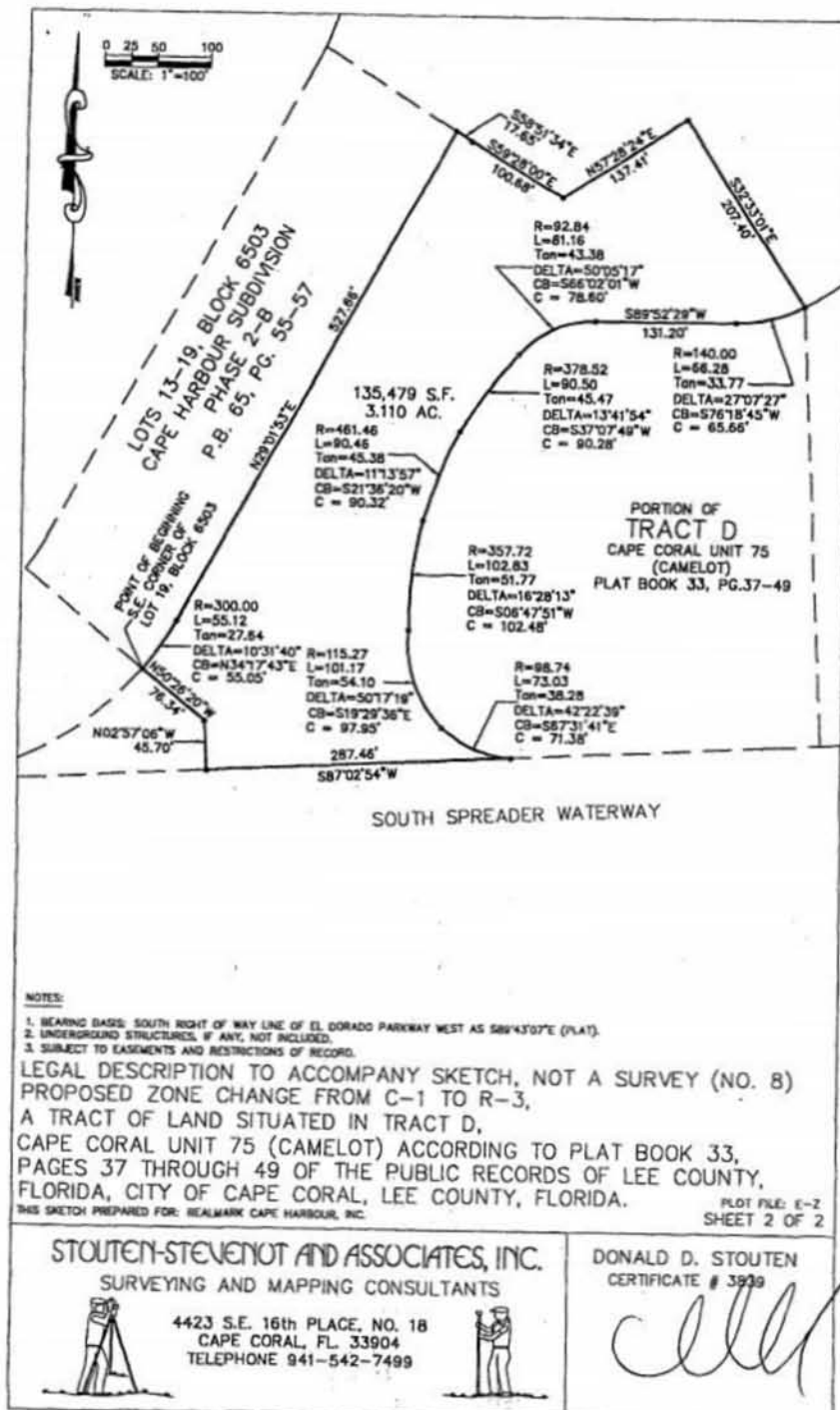


4423 S.E. 16th PLACE, NO. 18  
CAPE CORAL, FL 33904  
TELEPHONE 941-542-7499



**DONALD D. STOUTEN**  
CERTIFICATE # 3639





**MATRIX OF ALLOWABLE COMMERCIAL USES  
FOR  
META AT CAPE HARBOUR**

ALLOWABLE USES PER TRACT ARE INDICATED BY ✓; USES NOT ALLOWED ARE INDICATED BY ✕

	PERMITTED USE	COMMERCIAL TRACTS					
		1	2	3	4	5	6
1.	Assisted Living Facility	✕	✕	✕	✕	✕	✕
2.	Automatic Teller Machine (ATM)	✓	✓	✓	✓	✓	✓
3.	Automotive Parking Establishment	✕	✕	✕	✕	✕	✕
4.	Automotive Parts Store	✕	✕	✕	✕	✕	✕
5.	Banks and Financial Establishments-Group I and II (Group I-Commercial Banks; Group II-Federal Banks, Commodity Brokers)	✓	✓	✓	✓	✓	✓
6.	Bar or Cocktail Lounge	✓	✓	✓	✓	✓	✓
7.	Boat Parts Store	✓	✓	✓	✓	✓	✓
8.	Building Material Sales-Group I	✕	✕	✕	✕	✕	✕
9.	Business Offices-Group I (Professional) Business Offices-Group II (Service Establishments) (Bail Bond, Blood Banks, Collection Services, Employment Agencies)	✕	✕	✕	✕	✕	✕
10.	Carryout/Delivery Food Service Establishment	✓	✓	✓	✓	✓	✓
11.	Child Care Facility	✕	✕	✕	✕	✕	✕
12.	Cleaning and Maintenance Services	✕	✕	✕	✕	✕	✕
13.	Clothing Store, General	✓	✓	✓	✓	✓	✓
14.	Clubs: Fraternal and Membership Organization	✓	✓	✓	✓	✓	✓
15.	Contractors and Builders-Group I and II	✕	✕	✕	✕	✕	✕
16.	Cultural Facilities, Private	✓	✓	✓	✓	✓	✓
17.	Day Care Center, Adult	✕	✕	✕	✕	✕	✕
18.	Department Store	✓	✓	✓	✓	✓	✓
19.	Drug Store	✓	✓	✓	✓	✓	✓
20.	Essential Service (Water/Sewer Pipes, Fire Hydrants, Electrical Wires)	✓	✓	✓	✓	✓	✓
21.	Essential Service Facilities-Group I (Buildings or Above Ground Structures to Provide Electric, Telephone, Cable, Water, Sewer) Essential Service Facilities-Group II (Water/Sewerage Treatment Facilities, Electric Substation)	✕	✕	✕	✕	✕	✕
22.	Florist Shop	✓	✓	✓	✓	✓	✓
23.	Flea Market, Indoor	✓	✓	✓	✓	✓	✓
24.	Food Stores-Group I and II (Group I-Grocery; Group II-Bulk Provisions)	✓	✓	✓	✓	✓	✓
25.	Government Uses-Group I and II	✓	✓	✓	✓	✓	✓
26.	Hardware Store	✓	✓	✓	✓	✓	✓
27.	Health Care Facilities-Group I, II, III and IV	✕	✕	✕	✕	✕	✕
28.	Hobby, Toy, Game Shops	✓	✓	✓	✓	✓	✓
29.	Hotel/Motel and Resort	✕	✕	✕	✕	✕	✕
30.	Household/Office Furnishings-Group I and II (Group I-Furniture; Group II-Curtains, China, Etc.)	✓	✓	✓	✓	✓	✓
31.	Insurance Company	✓	✓	✓	✓	✓	✓
32.	Lawn and Garden Supply Store	✕	✕	✕	✕	✕	✕
33.	Marina	✓	✓	✓	✓	✓	✓
34.	Medical Office	✓	✓	✓	✓	✓	✓
35.	Mortgage Broker	✕	✕	✕	✕	✕	✕
36.	Mortuary, Funeral Home and Crematory	✕	✕	✕	✕	✕	✕
37.	Motion Picture Theater	✕	✕	✕	✕	✕	✕
38.	Nature and Wildlife Preserves	✕	✕	✕	✕	✕	✕
39.	Newsstand	✓	✓	✓	✓	✓	✓
40.	Nightclub	✓	✓	✓	✓	✓	✓
41.	Non-Store Retailers-Groups I and IV	✕	✕	✕	✕	✕	✕
42.	Package Store	✓	✓	✓	✓	✓	✓
43.	Parks, Group-I, II and IV (Group I-Non-Profit; Group II-Arts/Cultural; Group IV-Civic Center/Conv. Hall) Parks, Group III (Major, Regional & State Parks)	✕	✕	✕	✕	✕	✕
44.	Personal Services-Groups I, II and IV (Group I-Barber Shop; Group II-Shoe Repair; Group III-Not Allowed; Group IV-Babysitting; Shopping Service) Personal Services-Group III (Sale, Rental of Health Related Devices)	✕	✕	✕	✕	✕	✕
45.	Pet Services	✓	✓	✓	✓	✓	✓
46.	Pet Shop	✓	✓	✓	✓	✓	✓
47.	Pharmacy	✓	✓	✓	✓	✓	✓
48.	Photofinishing Lab	✓	✓	✓	✓	✓	✓
49.	Place of Worship	✕	✕	✕	✕	✕	✕
50.	Printing Services Establishment	✓	✓	✓	✓	✓	✓
51.	Private Park	✓	✓	✓	✓	✓	✓
52.	Radio and Television Stations	✕	✕	✕	✕	✕	✕
53.	Recreation, Commercial-Group I (Group I-Coin Operated or Pool Hall)	✕	✕	✕	✕	✕	✕
54.	Religious Facility	✕	✕	✕	✕	✕	✕
55.	Rental Establishments-Group I and II (Group I-Recreational Items (Bicycles); Group II-Household (Movie Rental)	✓	✓	✓	✓	✓	✓
56.	Repair Shops-Group I and II (Group I-Small Items (T.V., Clocks); Group II-Precision Equip. (Navigational)	✓	✓	✓	✓	✓	✓

**Exhibit I**

OR BK 03506 PG 0684

Sheet 2 of 2

**MATRIX OF ALLOWABLE COMMERCIAL USES  
FOR  
META AT CAPE HARBOUR**

ALLOWABLE USES PER TRACT ARE INDICATED BY ✓; USES NOT ALLOWED ARE INDICATED BY ✕

	PERMITTED USE	COMMERCIAL TRACTS					
		1	2	3	4	5	6
37.	Research, Development and Testing Laboratories						
38.	Restaurants-Group I, II, III and IV (Group I-Refreshment Stand; Group II-Convenience (Sandwich Shop) Group III-Standard; Group IV-Dinner Theater)						
39.	Restaurant, Fast Food						
60.	Schools, Commercial						
61.	Schools, Non-Profit, Private, Public or Parochial-Group II						
62.	Social Services-Group I and II						
63.	Specialty Retail Shops-Group I, II, III and IV (Group I-Small Items (Bait & Tackle); Group II-Clothing and Accessories; Group III, Misc. (Sporting Goods); Group IV-Large Items (Pool Tables))						
64.	Studio						
65.	Transportation Services-Group I and II (Group I-Water Oriented; Group II-Automobile Oriented)						
66.	Used Merchandise Stores-Group I and II						
67.	Variety Store						
68.	Veterinary and Animal Clinics						



The legal description of the entire property that is subject to the extant PDP Development Orders is as follows:

a tract of land situated in Unit 75 (Camelot) according to Plat Book 33, Pages 37 Through 49 of the Public Records of Lee County, Florida, to include the following: all of Tract "B" in its entirety, all of Tract "C" in its entirety, all of Tract "D" in its entirety and all of Tract "E" in its entirety of said Unit 75 as more particularly described herein,

together with the Replat of said Tracts "B", "D" And "E" known As "Cape Harbour Subdivision Phase 2-A" and "Cape Harbour Subdivision Phase 2-B",

together with a tract of land situated in Lots 14, 15, and 30, Block 6501, in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida being more particularly described as follows:

Beginning at the intersection of the centerline of Merlyn Lane and the south right-of-way line of El Dorado Parkway West (100 foot right-of-way); thence run N89°43' 07"W along said south right-of-way line for 64.50 feet; thence run S00°16'53"W, leaving said right-of-way line, for 20.00 feet; thence run S89°43'07"E for 12.41 feet; thence run S40°29'26"E for 23.11 feet; thence run S00°16'53"W for 10.00 feet; thence run S89°43'07"E for 74.00 feet; thence run N00°16'53"E for 10.00 feet; thence run N45°16'53"E for 21.92 feet to a point of intersection with a line parallel to and 22.00 feet south of said right-of-way line; thence run S89°43'07"E along said parallel line for 117.00; thence run S00°16'53"W for 22.00 feet; thence run N89°43'07"W to the Point of Beginning, excepting from the preceding description the following described portion of Merlyn Lane right-of-way: Beginning at said intersection of said centerline of said Merlyn Land and said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to a non-tangent point of intersection with a curve concave to the southwest, being also the westerly right-of-way line of said Merlyn Lane; thence run along said westerly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = S44°43'07"E 35.36 feet) for 39.27 feet to a point of tangency; thence run S00°16'53"W along said westerly right-of-way line for 22.50 feet; thence run S89°43'07"E, leaving said westerly right-of-way line, for 50.00 feet to a point of intersection with the easterly right-of-way line of said Merlyn Lane; thence run N00°16'53"E along said easterly right-of-way line for 22.50 feet to the point of curvature of a curve concave to the southeast; thence run along said easterly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = N45°16'53"E, 35.36 feet) for 39.27 feet to a point of intersection with said

south right-of-way line; thence run N89°43'07"W along  
said south right-of-way line for 50.00 feet to the  
point of beginning of said exception.

The legal description of the portion of the Planned Development Project (PDP) Development Plan for Cape Harbour that is known as the "Meta at Cape Harbour" phase is described as follows:

A TRACT OF LAND CONSISTING OF A PORTION OF TRACT B, ALL OF TRACT C AND A PORTION OF TRACT D, ALL LYING IN CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49; LOTS 1 AND 2, BLOCK 6503, TRACT B, LANDSCAPE AND BUFFER AREA AND TRACT C, LAKE, ALL LYING IN CAPE HARBOUR SUBDIVISION-PHASE 2-A ACCORDING TO PLAT BOOK 60, PAGES 27 AND 28; AND LOTS 13 THROUGH 19, BLOCK 6503, CAPE HARBOUR SUBDIVISION-PHASE 2-B ACCORDING TO PLAT BOOK 65, PAGES 55 THROUGH 57, ALL OF THE PUBLIC RECORDS OF LEE COUNTY, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT B, LANDSCAPE AND BUFFER AREA, LYING IN SAID CAPE HARBOUR SUBDIVISION-PHASE 2-A, BEING ALSO A POINT ON THE EAST RIGHT OF WAY LINE OF HARBOUR CIRCLE AND A POINT ON THE SOUTH RIGHT OF WAY LINE OF EL DORADO PARKWAY WEST (100' R/W); THENCE RUN  $S89^{\circ}43'07''E$  ALONG THE NORTH LINE OF SAID TRACT B, LANDSCAPE AND BUFFER AREA, AND ALONG SAID SOUTH RIGHT OF WAY LINE FOR 125.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT B, BEING ALSO THE NORTHWEST CORNER OF SAID TRACT C, LAKE; THENCE CONTINUE RUNNING  $S89^{\circ}43'07''E$  ALONG THE NORTH LINE OF SAID TRACT C, LAKE, AND ALONG SAID SOUTH RIGHT OF WAY LINE FOR 179.72 FEET TO THE NORTHEAST CORNER OF SAID TRACT C, LAKE, BEING ALSO THE NORTHWEST CORNER OF SAID TRACT C OF SAID CAPE CORAL UNIT 75; THENCE CONTINUE RUNNING  $S89^{\circ}43'07''E$  ALONG THE NORTH LINE OF SAID TRACT C AND ALONG SAID SOUTH RIGHT OF WAY LINE FOR 1074.84 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN ALONG THE NORTHEASTERLY LINE OF SAID TRACT C AND THE SOUTH- WESTERLY RIGHT OF WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $90^{\circ}21'27''$  (CHORD= $S44^{\circ}32'35''E$ , 35.47 FEET) FOR 39.43 FEET TO THE POINT OF TANGENCY, BEING ALSO A POINT ON THE EAST LINE OF SAID TRACT C AND A POINT ON THE WEST RIGHT OF WAY LINE OF CHIQUITA BOULEVARD SOUTH (100' R/W); THENCE RUN  $S00^{\circ}38'20''W$  ALONG THE EAST LINE OF SAID TRACT C AND SAID WEST RIGHT OF WAY LINE FOR 99.98 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 16, TOWNSHIP 45 SOUTH, RANGE 23 EAST, BEING ALSO THE NORTH LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 21, TOWNSHIP 46 SOUTH, RANGE 23 EAST; THENCE  $S00^{\circ}31'37''E$  ALONG SAID EAST LINE OF SAID TRACT C AND SAID WEST RIGHT OF WAY LINE FOR 534.92 FEET TO THE SOUTHEAST CORNER OF SAID TRACT C; BEING ALSO THE NORTHEAST CORNER OF SAID TRACT D OF SAID CAPE CORAL UNIT 75; THENCE CONTINUE RUNNING  $S00^{\circ}31'37''E$  ALONG THE EAST LINE OF SAID TRACT D AND SAID WEST RIGHT OF WAY LINE FOR 1044.42 FEET; THENCE RUN  $S06^{\circ}37'12''E$  ALONG SAID COMMON LINE FOR 376.85 FEET; THENCE RUN  $S00^{\circ}31'37''E$  ALONG SAID COMMON LINE FOR 85.29 FEET TO THE CUSP OF A CURVE CONCAVE TO THE SOUTHWEST; SAID CUSP BEING A POINT ON THE EASTERLY



RIGHT OF WAY LINE OF SOUTH SPREADER WATERWAY ACCORDING TO PLAT BOOK 32, PAGES 48 THROUGH 111; THENCE RUN ALONG THE SOUTHERLY LINE OF SAID TRACT D AND ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID SOUTH SPREADER WATERWAY ON SAID CURVE HAVING A RADIUS OF 287.83 FEET AND A CENTRAL ANGLE OF  $92^{\circ}25'26''$  (CHORD= $N46^{\circ}44'20''W$ , 415.57 FEET) FOR 464.30 FEET TO THE POINT OF TANGENCY, BEING ALSO A POINT ON THE SOUTHERLY LINE OF SAID TRACT D AND A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SAID SOUTH SPREADER WATERWAY; THENCE RUN  $S87^{\circ}02'57''W$  ALONG SAID SOUTHERLY LINE AND ALONG SAID NORTHERLY RIGHT OF WAY LINE FOR 1321.52 FEET TO THE CUSP OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, BEING ALSO A POINT ON THE WESTERLY LINE OF SAID TRACT D AND A POINT ON THE EASTERLY LINE OF CAPE HARBOUR SUBDIVISION-PHASE 2-B; THENCE RUN ALONG SAID WESTERLY LINE AND SAID EASTERLY LINE ON SAID CURVE HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF  $47^{\circ}29'24''$  (CHORD= $N63^{\circ}18'15''E$ , 241.60 FEET) FOR 248.66 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 19, BLOCK 6503 OF SAID CAPE HARBOUR SUBDIVISION-PHASE 2-B, BEING ALSO THE NORTHEASTERLY CORNER OF LOT 20 OF SAID BLOCK 6503; THENCE RUN  $N50^{\circ}26'20''W$  ALONG THE LINE COMMON TO SAID LOTS 19 AND 20 FOR 145.00 FEET TO A POINT ON A CURVE CONCAVE TO THE NORTHWEST, SAID POINT BEING ALSO THE SOUTHWESTERLY CORNER OF SAID LOT 19, THE NORTHWESTERLY CORNER OF SAID LOT 20 AND A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF SAID HARBOUR CIRCLE; THENCE RUN ALONG THE NORTHWESTERLY LINE OF SAID LOT 19 AND THE SAID SOUTHEASTERLY RIGHT OF WAY LINE ON SAID CURVE HAVING A RADIUS OF 155.00 FEET AND A CENTRAL ANGLE OF  $10^{\circ}31'47''$  (CHORD= $N34^{\circ}17'46''E$ , 28.45 FEET) FOR 28.49 FEET TO THE POINT OF TANGENCY; THENCE RUN  $N29^{\circ}01'53''E$  ALONG THE NORTHWESTERLY LINE OF SAID LOTS 13 THROUGH 19 OF SAID BLOCK 6503 AND SAID SOUTHEASTERLY RIGHT OF WAY LINE FOR 513.47 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST; THENCE RUN ALONG THE NORTHWESTERLY LINE OF SAID LOT 13 AND SAID SOUTHEASTERLY RIGHT OF WAY LINE ON SAID CURVE HAVING A RADIUS OF 298.86 FEET AND A CENTRAL ANGLE OF  $03^{\circ}44'56''$  (CHORD= $N27^{\circ}09'25''E$ , 19.55 FEET) FOR 19.55 FEET TO A POINT ON SAID CURVE, BEING ALSO THE NORTHWESTERLY CORNER OF SAID LOT 13, A POINT ON THE WESTERLY LINE OF SAID TRACT D OF SAID CAPE CORAL UNIT 75 AND A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SAID HARBOUR CIRCLE; THENCE RUN ALONG SAID WESTERLY LINE OF SAID TRACT D AND SAID EASTERLY RIGHT OF WAY LINE THE FOLLOWING COURSES: CONTINUE ON SAID CURVE HAVING A RADIUS OF 298.86 FEET AND A CENTRAL ANGLE OF  $38^{\circ}44'53''$  (CHORD= $N05^{\circ}54'31''E$ , 198.29 FEET) FOR 202.12 FEET TO THE POINT OF TANGENCY, THEN RUN  $N13^{\circ}27'56''W$  FOR 44.19 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $62^{\circ}57'52''$  (CHORD= $N18^{\circ}01'00''E$ , 26.11 FEET) FOR 27.47 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, AND THEN RUN ALONG SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF  $06^{\circ}15'29''$  (CHORD= $N46^{\circ}20'41''E$ , 9.28 FEET) FOR 9.28 FEET TO A POINT ON SAID CURVE, BEING ALSO A POINT ON THE LINE BETWEEN SAID TRACT D AND SAID TRACT B OF

SAID CAPE CORAL UNIT 75 AND A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SAID HARBOUR CIRCLE; THENCE RUN ALONG THE WESTERLY LINE OF SAID TRACT B AND SAID EASTERLY RIGHT OF WAY LINE ON SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF  $92^{\circ}44'13''$  (CHORD= $N03^{\circ}07'45''W$ , 123.04 FEET) FOR 137.58 FEET TO A POINT ON SAID CURVE, BEING ALSO THE NORTHWESTERLY CORNER OF SAID TRACT B, THE SOUTHWESTERLY CORNER OF SAID TRACT C, LAKE, AND A POINT ON SAID EASTERLY RIGHT OF WAY LINE OF HARBOUR CIRCLE; THENCE RUN ALONG THE SOUTHWESTERLY LINE OF SAID TRACT C, LAKE, AND SAID EASTERLY RIGHT OF WAY LINE ON SAID CURVE HAVING A RADIUS OF 85.00 FEET AND A CENTRAL ANGLE OF  $26^{\circ}56'04''$  (CHORD= $N62^{\circ}57'44''W$ , 39.59 FEET) FOR 39.96 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST; THENCE RUN ALONG SAID SOUTHWESTERLY LINE OF SAID TRACT C, LAKE, AND SAID EASTERLY RIGHT OF WAY LINE ON SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF  $62^{\circ}57'52''$  (CHORD= $N44^{\circ}56'57''W$ , 26.11 FEET) FOR 27.47 FEET TO THE LINE BETWEEN SAID TRACT C, LAKE, AND LOT 10, BLOCK 6503 OF SAID CAPE HARBOUR SUBDIVISION-PHASE 2-A, BEING ALSO A POINT ON SAID EASTERLY RIGHT OF WAY LINE; THENCE RUN  $N76^{\circ}32'04''E$  ALONG THE LINE COMMON TO SAID TRACT C, LAKE, AND SAID LOT 10 FOR 125.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 10; THENCE RUN  $N13^{\circ}27'56''W$  ALONG THE SOUTHWESTERLY LINE OF SAID TRACT C, LAKE, AND THE NORTHEASTERLY LINE OF SAID LOT 10 AND LOTS 3 THROUGH 9 OF SAID BLOCK 6503 FOR 652.25 FEET TO THE POINT COMMON TO SAID LOT 3, SAID LOT 2 OF SAID BLOCK 6503 AND SAID SOUTH- WESTERLY LINE OF SAID TRACT C, LAKE; THENCE RUN  $S76^{\circ}32'04''W$  ALONG THE LINE COMMON TO SAID LOTS 2 AND 3 FOR 125.00 FEET TO THE POINT COMMON TO SAID LOT 2, SAID LOT 3 AND THE NORTH- EASTERLY RIGHT OF WAY LINE OF SAID HARBOUR CIRCLE; THENCE RUN  $N13^{\circ}27'56''W$  ALONG THE SOUTH- WESTERLY LINE OF SAID LOTS 1 AND 2 OF SAID BLOCK 6503 AND SAID NORTHEASTERLY RIGHT OF WAY LINE FOR 93.11 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, BEING ALSO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 1; THENCE RUN ALONG SAID SOUTHWESTERLY LINE AND SAID NORTHEASTERLY RIGHT OF WAY LINE ON SAID CURVE HAVING A RADIUS OF 325.00 FEET AND A CENTRAL ANGLE OF  $13^{\circ}44'49''$  (CHORD= $N06^{\circ}35'31''W$ , 77.79 FEET) FOR 77.98 FEET TO THE POINT OF TANGENCY, BEING ALSO A POINT ON THE WESTERLY LINE OF SAID LOT 1; THENCE RUN  $N00^{\circ}16'53''E$  ALONG SAID WESTERLY LINE AND SAID EASTERLY RIGHT OF WAY LINE FOR 10.51 FEET TO THE NORTHWEST CORNER OF SAID LOT 1, BEING ALSO THE SOUTHWEST CORNER OF SAID TRACT B, LANDSCAPE AND BUFFER AREA; THENCE CONTINUE RUNNING  $N00^{\circ}16'53''E$  ALONG THE WESTERLY LINE OF SAID TRACT B AND SAID EASTERLY RIGHT OF WAY LINE FOR 20.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 2,413,395 SQUARE FEET (55.404 ACRES), MORE OR LESS.

11

12

13



**Exhibit L**

Sheet 1 of 4

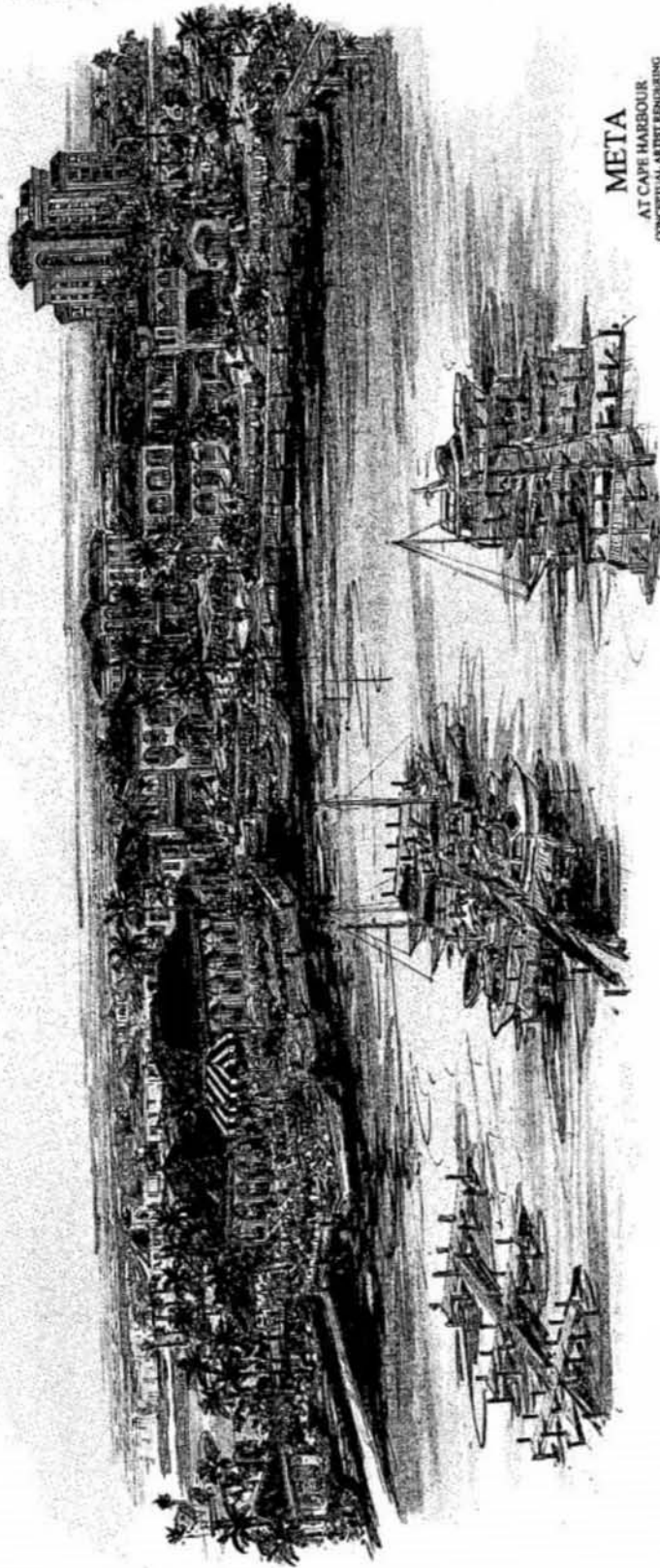
OR BK 03506 PG 0690



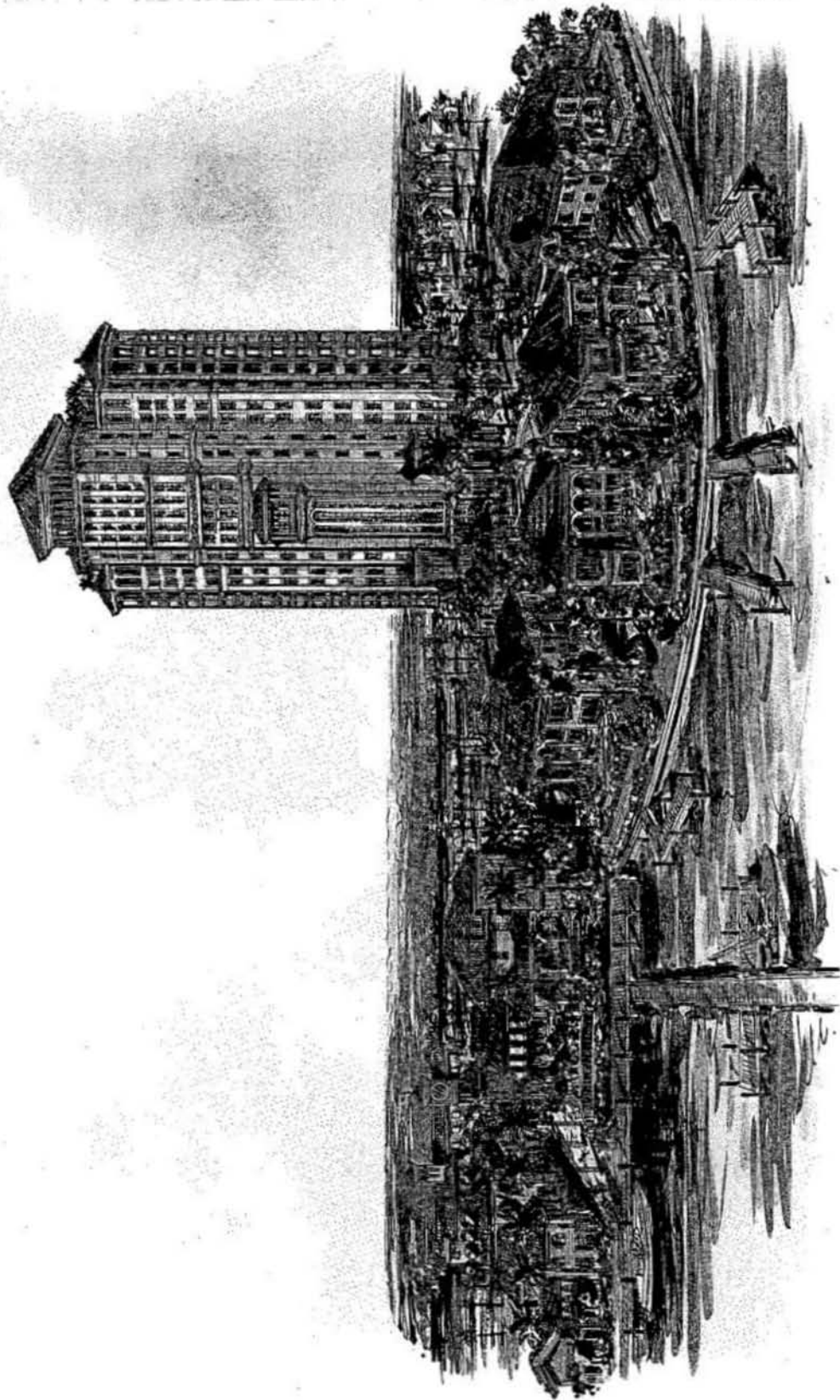
**META**

EXHIBIT L  
OR BK 03506 PG 0690

**Exhibit L**  
Sheet 2 of 4

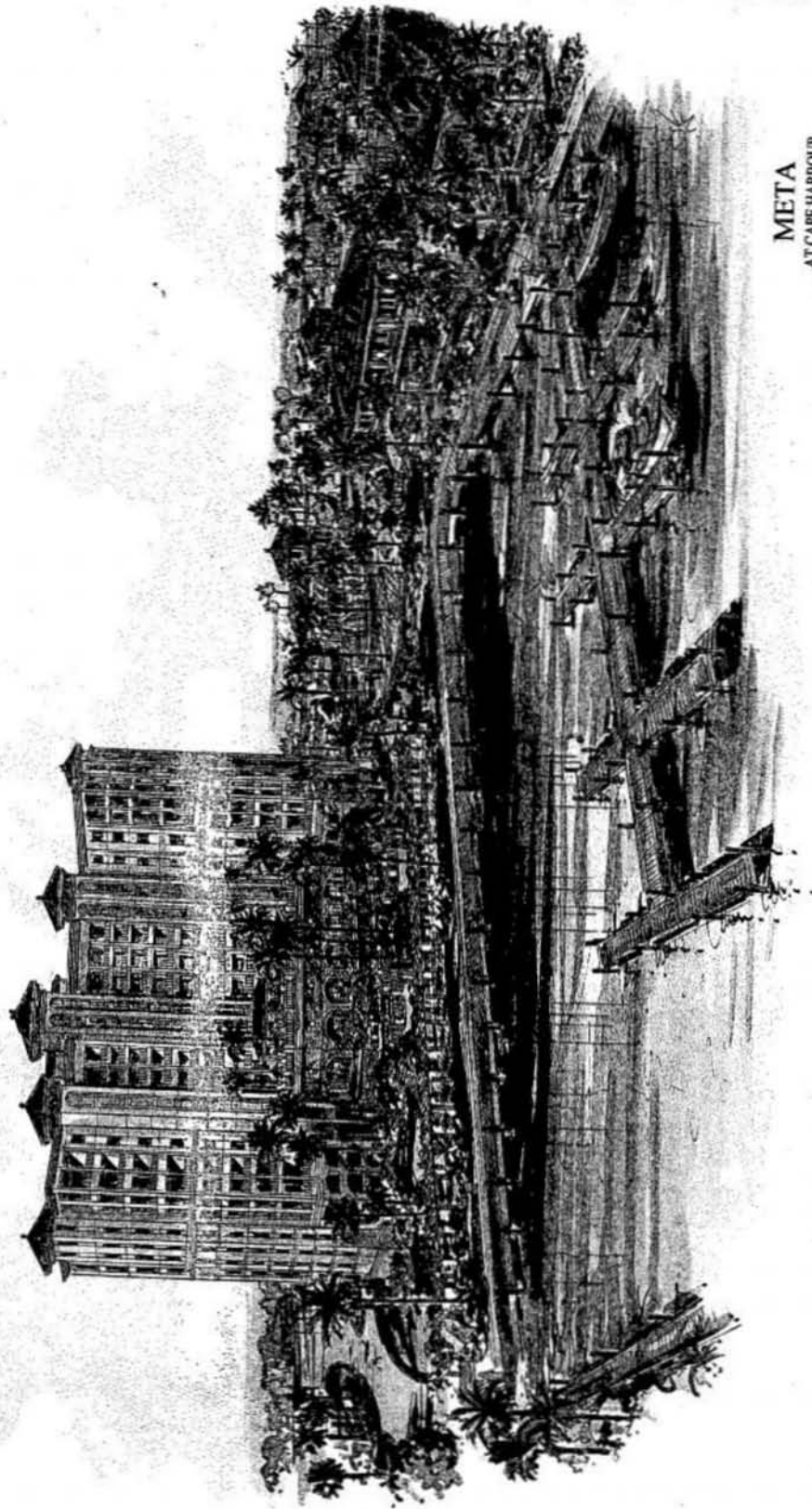


**META**  
AT CAPE HARBOUR  
CONCEPTUAL ARTIST RENDERING  
(VIEW FROM CENTER OF HARBOUR  
LOOKING TOWARD COMMERCIAL PARCEL 4 & 5)





**Exhibit L**  
Sheet 4 of 4



**META**  
AT CAPE HARBOUR  
CONCEPTUAL ARTIST RENDERING  
(VIEW FROM CENTER OF MAINA  
LOOKING TOWARD RESIDENTIAL PARCELS 5  
AND 6 (RESIDENTIAL PARCEL #3, INCLUDING  
EXISTING CLUBHOUSE FACILITY))

12/22/98

37.50 Billed

4552840

## ORDINANCE 82-98

0R3066 P64070

RECORDED BY  
SUSAN KOSTOM, D.C.

AN ORDINANCE AMENDING ORDINANCE 28-97, AS PREVIOUSLY AMENDED BY ORDINANCES 60-97 AND 8-98, A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR"; PROVIDING FOR PLANNED DEVELOPMENT PROJECT APPROVAL FOR CERTAIN PROPERTY LOCATED IN CAPE CORAL UNIT 75 (CAMELOT), AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CHIQUITA BOULEVARD SOUTH AND EL DORADO PARKWAY WEST; APPROVING REVISION AND EXPANSION OF THE PROJECT AREA TO INCLUDE A TRACT OF LAND SITUATED IN UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, TO ENCOMPASS THE FOLLOWING: ALL OF TRACT "B" IN ITS ENTIRETY, ALL OF TRACT "C" IN ITS ENTIRETY, ALL OF TRACT "D" IN ITS ENTIRETY AND ALL OF TRACT "E" IN ITS ENTIRETY OF SAID UNIT 75 AS MORE PARTICULARLY DESCRIBED HEREIN, TOGETHER WITH THE REPLAT OF SAID TRACTS "B", "D", AND "E", KNOWN AS "CAPE HARBOUR SUBDIVISION PHASE 2-A" IN ITS ENTIRETY, TOGETHER WITH A TRACT OF LAND SITUATED IN LOTS 14, 15, AND 30, BLOCK 6501, IN CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; GRANTING REPLAT AND SUBDIVISION OF A TRACT OF LAND SITUATED IN TRACTS "B" AND "D", CAPE CORAL UNIT 75 (CAMELOT) ACCORDING TO PLAT BOOK 33, PAGES 37 THROUGH 49 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, SAID TRACT BEING MORE PARTICULARLY DESCRIBED HEREIN; ADDING AN ADDITIONAL PHASE TO BE KNOWN AS THE "COACH HOMES AT CAPE HARBOUR" PHASE; REVISING PHASE BOUNDARIES TO TRANSFER A PORTION OF THE "RECREATIONAL AREA AND MARINA COMPLEX" PHASE TO THE "COACH HOMES AT CAPE HARBOUR" PHASE AND APPROVING THE FOLLOWING FOR THE SAID "COACH HOMES AT CAPE HARBOUR" PHASE: REZONING FROM C-1 (PEDESTRIAN COMMERCIAL) TO R-3 (MULTI-FAMILY RESIDENTIAL) DISTRICTS, SITE PLAN APPROVAL, SPECIAL EXCEPTION TO ALLOW FOUR (4) UNITS TO SERVE AS MODEL HOMES SITES, EACH UNIT LOCATED WITHIN ANY BUILDING SHOWN ON THE SITE PLAN, WITH A DEVIATION TO SECTION 2.7.D OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW THE REQUIRED PARKING FOR THE MODEL HOME SITES TO BE PROVIDED AT A TEMPORARY GRASS PARKING AREA, A DEVIATION OF THREE (3) INCHES TO THE SIX (6) FOOT MAXIMUM FENCE HEIGHT ALLOWED BY SECTION 3.9.1.A. OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A MAXIMUM HEIGHT OF SIX (6) FEET THREE (3) INCHES IN A MULTI-FAMILY RESIDENTIAL ZONING DISTRICT, A DEVIATION OF TWENTY-TWO (22) FEET TO SECTION 3.9.1.A. OF THE LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A DEVELOPMENT WALL SYSTEM WITH A SETBACK OF EIGHT (8) FEET FROM THE FRONT PROPERTY LINES OF TRACT "D" ALONG CHIQUITA BOULEVARD SOUTH, A DEVIATION OF TWENTY (20) FEET TO THE THIRTY (30) FOOT FRONT SETBACK REQUIRED BY SECTION 2.7, TABLE R-3 OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS TO ALLOW A FRONT SETBACK OF TEN (10) FEET, A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS TO PERMIT A PRIVATE CUL-DE-SAC +1,053 FEET IN LENGTH HAVING AN OUTSIDE PAVEMENT RADIUS OF FORTY-FIVE (45) FEET AND A RADIUS OF FORTY-NINE (49) FEET AT THE OUTSIDE OF THE RIGHT-OF-WAY, A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS TO ALLOW PRIVATE INGRESS AND EGRESS A MINIMUM OF FORTY (40) FEET IN WIDTH IN LIEU OF A PUBLIC RIGHT-OF-WAY WITH A SIXTY (60) FOOT WIDTH, AND A DEVIATION FROM CAPE CORAL ENGINEERING DESIGN STANDARDS TYPICAL SECTION FOR LOCAL ROADS TO ALLOW THE TYPICAL SECTION

SHOWN ON THE DEVELOPMENT PLAN SET; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral on May 19, 1997, by Ordinance 28 - 97 and was amended on September 29, 1997 by Ordinance 60 - 97 and amended on May 5, 1998 by Ordinance 8 - 98; and

WHEREAS, an application from Avatar Properties, Inc. has been received requesting an amendment to the Planned Development Project (PDP) for Cape Harbour (PDP 96 - 00800017); requesting revision and expansion of the project area, replat and subdivision, adding an additional phase, revising phase boundaries, rezoning, site plan approval, special exception, deviations to the City of Cape Coral Land Use and Development Regulations, and deviations to City of Cape Coral Engineering Design Standards; and

WHEREAS, the request has been reviewed by the Cape Coral Planning and Zoning Commission/Local Planning Agency on January 6, 1999; and

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

**SECTION I. PDP APPROVAL AMENDING ORDINANCE 28 - 97 AS PREVIOUSLY AMENDED BY ORDINANCES 60-97 AND 8-98, REVISION AND EXPANSION OF THE PROJECT AREA, REPLAT AND SUBDIVISION, ADDITION OF AN ADDITIONAL PHASE, REVISION OF PHASE BOUNDARIES, REZONING, SITE PLAN APPROVAL, SPECIAL EXCEPTION, DEVIATIONS TO THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, AND DEVIATIONS TO CITY OF CAPE CORAL ENGINEERING DESIGN STANDARDS.**

That the City Council having reviewed the application requesting amendment of a Planned Development Project for Cape Harbour PDP number 96-00800017, amending Ordinance 28 - 97 as previously amended by Ordinance 60 - 97 and as amended by Ordinance 8 - 98, to approve revision and expansion of the project area to include a tract of land situated in Unit 75 (Camelot) according to Plat Book 33, Pages 37 Through 49 of the Public Records of Lee County, Florida, to include the following: all of Tract "B" in its entirety, all of Tract "C" in its entirety, all of Tract "D" in its entirety and all of Tract "E" in its entirety of said Unit 75 as more particularly described herein together with the Replat of said Tracts "B", "D" And "E" known As "Cape Harbour Subdivision Phase 2-A" together with a tract of land situated in Lots 14, 15, and 30, Block 6501, in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records Of Lee County, Florida as more particularly described within ordinance 28-97, granting replat and subdivision of a tract of land situated in Tracts "B" and "D", Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the

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Public Records of Lee County, Florida, said tract being more particularly described in Exhibit A (Legal Description, Portion of Tracts "B" & "D", Proposed Parcel Boundary, Cape Harbour), adding an additional phase to be known as the "Coach Homes At Cape Harbour" phase, revising phase boundaries to transfer a portion of the "Recreational Area And Marina Complex" phase, described as a portion of Tract "D", Cape Coral Unit 75 (Camelot), according to Plat Book 33, Pages 37-49 of the Public Records of Lee County, Florida, as more particularly described in Exhibit "B" (Legal Description, Portion of Tract "D" Area to be Removed from Proposed Phase II Recreation/Marina Tract, Cape Harbour P.D.P.) to the "Coach Homes at Cape Harbour" phase, and approving the following for the said "Coach Homes at Cape Harbour" phase which consists of a tract of land situated in Tract "D", Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida, said tract being more particularly described in Exhibit C (Legal Description, Portion of Tract "D", Proposed Coachhouse Parcel, Cape Harbour): rezoning from C-1 (Pedestrian Commercial to R-3 (Multi-Family Residential) district, development with an unspecified subphasing schedule, Site Plan which provides private ingress and egress, buffer area, and water management tracts as per the development plan set prepared by Avalon Engineering, Inc., dated July 15, 1998 with revisions dated September 22, 1998; a special exception to allow four (4) units within the Coach Homes at Cape Harbour phase to serve as model home sites, each unit located within any building shown on the site plan with a deviation to Section 2.7.D. of the City of Cape Coral Land Use and Development Regulations to allow the required parking for the model home sites to be provided at a temporary grass parking area, a deviation of three (3) inches to Section 3.9.1.A. of the City of Cape Coral Land Use and Development Regulations to allow a development wall system with a maximum height of six (6) feet three (3) inches in a Multi-Family Residential zoning district; a deviation of twenty-two (22) feet to Section 3.9.1.A. of the Land Use and Development Regulations to allow a development wall system with a setback of eight (8) feet from the front property lines of Tract "D" along Chiquita Boulevard South; a deviation of twenty (20) feet to the thirty (30) foot front setback required by Section 2.7, Table R-3 of the City of Cape Coral Land Use and Development Regulations to allow a front setback of ten (10) feet, a deviation from Cape Coral Engineering Design Standards to permit a private cul-de-sac of  $\pm 1,053$  in length having an outside pavement radius of forty-five (45) feet and a radius of forty-nine (49) feet at the outside of the right-of-way, a deviation from Cape Coral Engineering Design Standards to allow private ingress and egress at a minimum of forty (40) feet in width in lieu of a public right-of-way with a sixty (60) foot width, and a deviation from Cape Coral Engineering Design Standards typical section for local roads to allow the typical section shown on the development plan set.

Having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida does hereby approve the PDP, said amendment to Ordinance 28-97 as previously amended by Ordinances 60-97 and 8-98, approving revision and expansion of the project area, replat and subdivision, adding an additional phase, revising phase boundaries, rezoning, site plan approval, special exception, deviations to the City of Cape Coral Land Use and Development Regulations, and deviations to City of Cape

Coral Engineering Design Standards. Approval of the PDP shall be subject to the terms and conditions set forth below.

## SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Cape Harbour development (including the original "Cape Harbour" together with the "Cape Harbour East" phase, "Cape Harbour Recreational Area and Marina Complex" phase, and the "Coach Homes at Cape Harbour") is a mixed use Planned Development Project (PDP) with residential units and a commercial recreational area and marina complex with associated waterways. This development consists of homesites for two hundred ten (210) detached single family dwelling units and sixty-four (64) multi-family dwelling units with associated infrastructure including gated, private roads, along with a development wall/fountain/clock tower system and a recreation area and marina complex on ±92.025 acres of land located in Unit 75. The "Cape Harbour Recreational Area and Marina Complex" will contain 7,456 square feet of building area, 9,688 square feet of pool and deck, 14,400 square feet of courts, and 76 wet slips on ±6.43 acres of land. The Cape Harbour development, including the "Cape Harbour East" phase will contain ±44.30 acres of single family residential lots. The "Coach Homes at Cape Harbour" phase will contain ±11.31 acres of land to be developed with multi-family units. Approximately 14.51 acres of the site will be platted for ingress, egress, and internal site circulation. Approximately 3.69 acres of the site are to be provided as surface water management tracts and ±5.14 acres are to be provided for waterway access. Approximately 6.38 acres are slated to be developed within a future phase which will require a future amendment(s). The development will occur in four phases, "Cape Harbour" and "Cape Harbour East" each having two sub-phases, "Cape Harbour Recreational Area and Marina Complex" having three subphases with a build out for all aforementioned phases and subphases in five (5) years from their respective approval dates, and "Coach Homes at Cape Harbour" having an unspecified subphasing schedule with a buildout in ten (10) years.
- B. The proposed conditions below meet the criteria found in Section 163.3227, Florida Statutes.
- C. The name of the legal and equitable owner is Avatar Properties, Inc.
- D. The legal description of the property is as follows:
- a tract of land situated in Unit 75 (Camelot) according to Plat Book 33, Pages 37 Through 49 of the Public Records of Lee County, Florida, to include the following: all of Tract "B" in its entirety, all of Tract "C" in its entirety, all of Tract "D" in its entirety and all of Tract "E" in its entirety of said Unit 75 as more particularly described herein,
- together with the Replat of said Tracts "B", "D" And "E" known As "Cape Harbour Subdivision Phase 2-A",
- together with a tract of land situated in Lots 14, 15, and 30, Block 6501, in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records

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Of Lee County, Florida being more particularly described as follows:

Beginning at the intersection of the centerline of Merlyn Lane and the south right-of-way line of El Dorado Parkway West (100 foot right-of-way); thence run N89°43' 07"W along said south right-of-way line for 64.50 feet; thence run S00°16'53"W, leaving said right-of-way line, for 20.00 feet; thence run S89°43'07"E for 12.41 feet; thence run S40°29'26"E for 23.11 feet; thence run S00°16'53"W for 10.00 feet; thence run S89°43'07"E for 74.00 feet; thence run N00°16'53"E for 10.00 feet; thence run N45°16'53"E for 21.92 feet to a point of intersection with a line parallel to and 22.00 feet south of said right-of-way line; thence run S89°43'07"E along said parallel line for 117.00; thence run N00°16'53"E for 22.00 feet; thence run N89°43'07"W to the Point of Beginning, excepting from the preceding description the following described portion of Merlyn Lane right-of-way: Beginning at said intersection of said centerline of said Merlyn Lane and said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to a non-tangent point of intersection with a curve concave to the southwest, being also the westerly right-of-way line of said Merlyn Lane; thence run along said westerly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = S44°43'07"E 35.36 feet) for 39.27 feet to a point of tangency; thence run S00°16'53"W along said westerly right-of-way line for 22.50 feet; thence run S89°43'07"E, leaving said westerly right-of-way line, for 50.00 feet to a point of intersection with the easterly right-of-way line of said Merlyn Lane; thence run N00°16'53"E along said easterly right-of-way line for 22.50 feet to the point of curvature of a curve concave to the southeast; thence run along said easterly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = N45°16'53"E, 35.36 feet) for 39.27 feet to a point of intersection with said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to the point of beginning of said exception.

- E. The subject property has ±53.0 acres with a zoning district of Multi-Family Residential (R-3) and ±20.36 acres zoned Single Family Residential (R-1B), and ±0.03 acres zoned single family residential, waterfront (R-1BW), and ±13.9 acres zoned Pedestrian Commercial (C-1) pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as amended. The subject property has a Future Land Use designation of Mixed Use.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the provisions of the respective Multi-Family Residential, Single Family Residential, and Pedestrian Commercial Districts of the Land Use and Development Regulations, Cape Coral, Florida, as amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this agreement to

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address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

- G. The Application for Development Approval is consistent with the requirements of Chapter 163, Florida Statutes.
- H. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- I. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- J. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- K. The proposed development is located within Unit 75 which is the subject of that Settlement Agreement date March 29, 1977, by and between the Florida Department of Community Affairs f/k/a the Florida Division of State Planning and Avatar Properties, Inc., f/k/a GAC Properties, Inc.
- L. The term "Developer" for purposes of this development order, shall mean and refer to Avatar Properties, Inc., its heirs, successors in interest, lessees, and/or assigns.

### **SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL**

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled this 11th day of January, 1999, that the Planned Development Project application for amendment submitted by Avatar Properties, Inc., is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare.

#### **GENERAL CONSIDERATIONS**

1. All of the provisions and conditions of approval of Ordinance 28 - 97 as previously amended by Ordinance 60 - 97 and Ordinance 8 - 98 which are not addressed herein, including but not limited to "Drainage/Water Quality" conditions, shall remain in full force and effect for "Cape Harbour", the "Cape Harbour East" phase, the "Cape Harbour Recreational Area and Marina Complex" phase and the "Coach Homes at Cape Harbour" phase.
2. The Developer shall grant an access easement to the City of Cape Coral extending from the Chiquita boat lock to Chiquita Boulevard. The Developer shall retain the right to relocate said easement until final plat approval, in order to accommodate construction activities. The said easement shall be entirely within an area that is in a stable condition, capable of being traversed by two-wheel-drive vehicles equipped for normal, highway use. Neither Development activities nor any other activities conducted on the

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subject parcel shall, in any instance, result in failure to maintain a continuous, uninterrupted access easement, 24 hours per day and 365 days per year. The Developer shall stipulate upon the face of any replat for the subdivision granted herein, an easement dedication acceptable to the City.

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**SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS**

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project application for amendment filed for Cape Harbour.
- B. The deadline for commencing physical development of the "Coach Homes at Cape Harbour" phase under this Development Order shall be two (2) years from the date of adoption of the Order or one (1) year from final permit approval from all appropriate governmental jurisdictions, whichever is less, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Council upon a finding of excusable delay in any proposed development activity and that considerations have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order as "Coach Homes at Cape Harbour" within two (2) years from the date of rendition of this Development Order, development approval for such "Coach Homes at Cape Harbour" shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a certificate of compliance or occupancy on some substantial portion of the project (e.g., water management system or major road system). The Development Order amendments approved by this ordinance shall otherwise terminate in ten (10) years from the date of this Development Order, unless an extension is approved by this Council. The termination for the "Cape Harbour", "Cape Harbour East" phase, and the "Cape Harbour Recreational Area and Marina Complex" phase is not amended by this ordinance and is five (5) years from their respective approval dates. An extension may be granted if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For the process of determining when the build-out date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.

**SECTION V. SEVERABILITY.**

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

SECTION VI. EFFECTIVE DATE.

Upon its adoption by the Cape Coral City Council, this ordinance shall take effect when it has been recorded in the public records of the County and thirty (30) days after having been received by the State Land Planning Agency pursuant to Section 163.3239, Florida Statutes. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer and are subject to the requirements and review pursuant to Chapter 163, Florida Statutes.

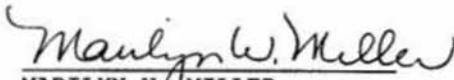
ADOPTED AT A REGULAR COUNCIL MEETING THIS 14th DAY OF January, 1999.

  
ROGER G. BUTLER, MAYOR

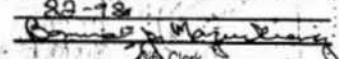
ATTESTED TO AND FILED IN MY OFFICE THIS 15th DAY OF January, 1999.

  
BONNIE J. MAZURKIEWICZ  
CITY CLERK

LEGAL REVIEW:

  
MARILYN W. MILLER  
ACTING CITY ATTORNEY  
ord\pdp98813

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality, that this is a true and correct copy of Ordinance 80-93.

  
City Clerk

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CHARLIE GREEN, CLERK  
LEE COUNTY, FL  
99 JAN 25 AM 10:49

✓  
CAPE CORAL CITY CLERK  
P.O. BOX 150027  
CAPE CORAL, FL 33915



06/13/06

06/19/06

06/20/06

08/14/06

## ORDINANCE 89 - 06

AN ORDINANCE AMENDING ORDINANCE 28-97, AS PREVIOUSLY AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04, AND 69-05, A PLANNED DEVELOPMENT PROJECT ENTITLED "META AT CAPE HARBOUR" FOR A PORTION OF CERTAIN PROPERTY DESCRIBED AS CAPE CORAL SUBDIVISION, UNIT 75 (CAMELOT), CAPE HARBOUR SUBDIVISION, PHASE 2-A, AND PHASE 2-B, AND META AT CAPE HARBOUR SUBDIVISION TRACTS C-1 THROUGH C-6, BLOCK 7005, AND TRACTS R-1, R-4, R-5 AND R-6, BLOCK 7004, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT EL DORADO PARKWAY WEST AND CHIQUITA BOULEVARD SOUTH; GRANTING REPLAT AND SUBDIVISION OF 0.95 ACRES OF TRACT B, BLOCK 7004, INTO NINETEEN (19) SINGLE-FAMILY LOTS TO BE KNOWN AS LOTS 1-19, BLOCK 7003; APPROVING THE REZONING OF 4.30 ACRES WITHIN TRACT B, BLOCK 7004, FROM MULTI-FAMILY RESIDENTIAL (R-3) TO PEDESTRIAN COMMERCIAL (C-1); GRANTING, FOR LOTS 1 THROUGH 19, BLOCK 7003 ONLY, THE FOLLOWING DEVIATIONS FROM SECTIONS 2.7.2.D.3, TABLE R-3, DIMENSIONAL REGULATIONS, SECTION 3.1.2A.1.A, GARAGES, SECTION 3.16.2.E, MARINE IMPROVEMENTS, AND SECTION 5.1.7.G, PARKING STANDARDS, OF THE LAND USE AND DEVELOPMENT REGULATIONS AS FOLLOWS: A DEVIATION OF EIGHT THOUSAND FIVE HUNDRED TWENTY-SEVEN (8,527) SQUARE FEET FROM THE MINIMUM LOT AREA OF TEN THOUSAND (10,000) SQUARE FEET, TO ALLOW A LOT AREA OF ONE THOUSAND FOUR HUNDRED SEVENTY-THREE (1,473) SQUARE FEET; A DEVIATION OF SIXTY (60) FEET FROM THE MINIMUM LOT WIDTH AT THE BUILDING LINE OF EIGHTY (80) FEET TO ALLOW A LOT WIDTH AT THE BUILDING LINE OF TWENTY (20) FEET; A DEVIATION OF FIFTY-SIX (56) FEET FROM THE MINIMUM LOT DEPTH OF ONE HUNDRED (100) FEET TO ALLOW A LOT DEPTH OF FORTY-FOUR (44) FEET; A DEVIATION OF FIVE HUNDRED (500) SQUARE FEET FROM THE MINIMUM LIVING AREA OF ONE THOUSAND (1,000) SQUARE FEET TO ALLOW A MINIMUM LIVING AREA OF FIVE HUNDRED (500) SQUARE FEET; A DEVIATION OF TWENTY FIVE (25) FEET FROM THE MINIMUM FRONT YARD REQUIREMENT OF TWENTY-FIVE (25) FEET IN ORDER TO ELIMINATE THE REQUIREMENT FOR A FRONT YARD AND ALLOW CONSTRUCTION UP TO THE FRONT PROPERTY LINE; A DEVIATION OF SEVEN AND ONE-HALF (7.5) FEET FROM THE MINIMUM SIDE YARD REQUIREMENT OF SEVEN AND ONE-HALF (7.5) FEET IN ORDER TO ELIMINATE THE REQUIREMENT FOR A SIDE YARD AND ALLOW CONSTRUCTION UP TO THE SIDE PROPERTY LINE; A DEVIATION OF TWENTY (20) FEET FROM THE MINIMUM REAR YARD REQUIREMENT OF TWENTY (20) FEET IN ORDER TO ELIMINATE THE REQUIREMENT FOR A REAR YARD AND ALLOW CONSTRUCTION UP TO THE REAR PROPERTY LINE; A DEVIATION FROM THE REQUIREMENT THAT SINGLE FAMILY HOMES HAVE A GARAGE, IN ORDER TO ALLOW THE STRUCTURES WITHOUT A GARAGE; A DEVIATION FROM THE REQUIREMENT OF TWO PARKING SPACES FOR A SINGLE-FAMILY HOME, IN ORDER TO ALLOW THE SINGLE FAMILY HOMES WITH ONE SPACE; A DEVIATION OF TWELVE (12) FEET FROM THE REQUIREMENT THAT MARINE IMPROVEMENTS PROJECTING SIX (6) FEET INTO THE WATERWAY BE AT LEAST TWELVE (12) FEET FROM THE WATERFRONTAGE LINE ENDS, TO ALLOW SUCH MARINE IMPROVEMENTS TO EXTEND TO THE ENDS OF THE WATERFRONTAGE LINE; A DEVIATION FROM THE PROHIBITION OF OVERHEAD STRUCTURES ON ANY DOCK OTHER THAN AN APPROVED BOAT CANOPY OR SUN SHELTER, IN ORDER TO ALLOW SUCH OVERHEAD STRUCTURES; GRANTING, FOR TRACT C-1 BLOCK 7005, AND TRACT B, BLOCK 7004 ONLY, THE FOLLOWING DEVIATIONS FROM SECTION 2.7.7.D, TABLE C-1, MINIMUM YARDS, AS FOLLOWS: A DEVIATION OF TWENTY FIVE (25) FEET FROM THE MINIMUM FRONT YARD REQUIREMENT, IN ORDER TO ELIMINATE THE REQUIREMENT FOR A FRONT YARD AND ALLOW CONSTRUCTION UP TO THE FRONT PROPERTY LINE; A DEVIATION OF TEN (10) FEET FROM THE MINIMUM SIDE AND REAR YARD REQUIREMENTS OF TEN (10)

FEET IN ORDER TO ELIMINATE THE REQUIREMENT FOR A SIDE AND REAR YARD, AND ALLOW CONSTRUCTION UP TO THE SIDE AND REAR PROPERTY LINES; GRANTING, FOR TRACTS C-2 THROUGH C-6, AND TRACT B, BLOCK 7004 ONLY, THE FOLLOWING DEVIATIONS FROM SECTION 5.1.7.G. OF THE LAND USE AND DEVELOPMENT REGULATIONS THAT REQUIRES TWO (2) AND THREE (3) BEDROOM UNITS TO PROVIDE TWO (2.0) AND TWO AND ONE HALF (2.5) PARKING SPACES RESPECTIVELY, IN ORDER TO ALLOW 1.36 PARKING SPACES FOR EACH TWO (2) OR THREE (3) BEDROOM MULTI-FAMILY UNIT; A DEVIATION FROM THE REQUIREMENT OF ONE PARKING SPACE PER ONE HUNDRED (100) SQUARE FEET OF RESTAURANT USE, AND ONE SPACE PER EVERY TWO HUNDRED (200) SQUARE FEET OF RETAIL USE, TO ALLOW ONE SPACE PER TWO HUNDRED-FIFTY (250) SQUARE FEET; GRANTING, FOR TRACT B, BLOCK 7004 ONLY, A DEVIATION FROM THE REQUIREMENT THAT A MARINA (DRY STORAGE) USE PROVIDE ONE SPACE PER FOUR (4) UNIT STALLS IN ORDER TO ALLOW A MARINA (DRY STORAGE) USE TO PROVIDE NO ADDITIONAL PARKING; GRANTING APPROVAL TO CONSTRUCT TEMPORARY PARKING LOTS ON ANY TRACT TO PROVIDE PARKING DURING CONSTRUCTION OF THE PROJECT; GRANTING A DEVIATION FROM THE REQUIREMENTS OF ARTICLE VII, SIGNS, OF THE LAND USE AND DEVELOPMENT REGULATIONS ONLY AS THEY PERTAIN TO THE SIZE, HEIGHT, LOCATION, AND TOTAL SIGNS PERMITTED IN ACCORDANCE WITH THE CONDITIONS DESCRIBED HEREIN; PROVIDING THAT PHYSICAL DEVELOPMENT FOR ALL PROPERTIES LOCATED IN THE "META AT CAPE HARBOUR" DEVELOPMENT PROJECT SHALL TERMINATE TWENTY (20) YEARS FROM THE DATE OF ADOPTION OF THIS ORDINANCE; PROVIDING FOR SUBMITTAL OF ANNUAL TRAFFIC MONITORING REPORT(S), AT THE CITY'S REQUEST; PROVIDING THAT EXISTING AND PROPOSED USES WITHIN THE META AT CAPE HARBOUR DEVELOPMENT PROJECT GENERATE NO MORE THAN THE MAXIMUM NUMBER OF WEEKDAY PM PEAK HOUR TRIPS OF 970; PROVIDING FOR ALL PERMITTED USES WITHIN THE PEDESTRIAN COMMERCIAL (C-1) ZONING DISTRICT BE ALLOWED RATHER THAN THOSE SPECIFIED IN THE MATRIX OF ALLOWABLE COMMERCIAL USES; REDUCING THE SETBACK FOR ALL STRUCTURES ALONG EL DORADO PARKWAY AND CHIQUITA BOULEVARD TO THIRTY (30) FEET; INCREASING THE HEIGHT FOR ALL STRUCTURES ALONG EL DORADO PARKWAY AND CHIQUITA BOULEVARD FROM THIRTY-EIGHT (38) FEET TO FIFTY (50) FEET, AND ALLOWING AN ADDITIONAL FOOT OF HEIGHT FOR EVERY FOOT OF ADDITIONAL SETBACK; EXPANDING THE AREA UPON WHICH DRY STORAGE OF BOATS IS ALLOWED FROM TRACT C-1, BLOCK 7004 ONLY, TO INCLUDE TRACT B, BLOCK 7004; APPROVING AN AMENDED DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral, by Ordinance 28-97, and as amended by Ordinance 60-97, Ordinance 8-98, Ordinance 82-98, Ordinance 3-01, Ordinance 80-01, Ordinance 42-03, Ordinance 120-04, and Ordinance 69-05; and

WHEREAS, an application from Realmark Cape Marina, LLC, Realmark Cape Harbour, LLC Realmark Meta, LLC, Realmark Marina South, LLC, Realmark Marina South II, LLC, and Realmark Marina Grill LLC, has been received requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Meta at Cape Harbour; requesting amendment of Ordinance 28-97 as amended by Ordinances 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04 and 69-05; and

WHEREAS, said application received is by parties holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

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

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

SECTION I. PDP APPROVAL AMENDING ORDINANCE 28-97 AS AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04, AND 69-05, REPLAT AND SUBDIVISION, REZONING, DEVIATIONS, AND AMENDMENT TO DEVELOPMENT ORDER CONDITIONS.

Having reviewed the application requesting amendment of a Planned Development Project for Meta at Cape Harbour, requesting amendment to a portion of a Planned Development Project (PDP) Development Plan, requesting amendment of Ordinance 28-97, as amended by Ordinances 60-97, 8-98, 82-98, 3-01, 80-01, 42-03, 120-04 and 69-05, to include replat and subdivision, rezoning, deviations, amendment to development order conditions, and requesting approval to utilize all tracts for temporary parking during the construction of the project; and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the following from the date of adoption of this ordinance subject to the terms and conditions set forth below:

A. REPLAT AND SUBDIVISION APPROVAL

Replat of a portion of Tract B, Block 7004, Meta at Cape Harbour, for nineteen (19) single-family lots hereinafter known as Lots 1-19, Block 7003, as shown on the Subdivision Plan, pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations. Final platting shall be accomplished in accordance with Chapter 177 of the Florida Statutes:

B. REZONING

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

From Multi-Family Residential (R-3) To Pedestrian Commercial (C-1)

The 4.30+/- acres situated in Tract B, Block 7004, Meta at Cape Harbour, as more particularly described in the attached Exhibit "A".

C. DEVIATIONS FROM THE LAND USE AND DEVELOPMENT REGULATIONS

1. The following Deviations are approved herein for Lots 1-19, Block 7003 from Section 2.7.2.D.3 Table R-3, Dimensional Regulations, and are subject to the conditions stated in Section III.B. General Considerations:
  - a. A deviation of eight thousand five hundred twenty-seven (8,527) square feet from the Minimum Lot Area of ten thousand (10,000) square feet to allow single family lots of one thousand four hundred seventy-three (1,437) square feet for single-family residential use only.
  - b. A deviation of sixty (60) feet from the Minimum Lot Width at the building line of eighty (80) feet to allow a single-family home to be constructed on a lot with a width of twenty (20) feet at the building line.
  - c. A deviation of fifty-six (56) feet from the Minimum Lot Depth of one hundred (100) feet to allow a single-family lot with a depth of forty-four (44) feet.
  - d. A deviation of five hundred (500) square feet from the Minimum Living Area of 1,000 square feet to allow the construction of single-family homes with a minimum living area of five hundred (500) square feet.
  - e. A deviation of twenty-five (25) feet from the Minimum Front Yard requirement of twenty-five (25) feet in order to eliminate the requirement for a front yard and allow construction up to the front property line.

- f. A deviation of seven and one-half (7.5) feet from the Minimum Side Yard requirement of seven and one-half (7.5) feet in order to eliminate the requirement for a side yard and allow construction up to the side property line.
  - g. A deviation of twenty (20) feet from the Minimum Rear Yard requirement of twenty (20) feet in order to eliminate the requirement for a rear yard and allow construction up to the rear property line.
2. A deviation from Section 3.1.2.A.1.a., to eliminate the requirement that all single-family structures have a garage, in order to allow the single-family structures on Lots 1-19, Block 7003, without a garage.
3. A deviation of twelve (12) feet from Section 3.16.2.B.1, Marine Improvements, that requires a marine improvement which extends more than six (6) feet into a waterway to be located not less than twelve (12) feet from the ends of the water frontage line, to allow for the construction of a dock to extend to the property lines of Lots 1-19, Block 7003.
4. A deviation from the prohibition of overhead structures on any dock other than an approved boat canopy or sun shelter, in order to allow such overhead structures on the docks constructed at Lots 1-19, Block 7003. No structure, other than the deck approved herein, shall be permitted over water. Overhead structures for purposes of this ordinance shall be non-habitable, open air decking to be used only for casual outdoor activities. Railings and/or guardrails shall be constructed in accordance with the 2004 Florida Building Code, Sections 1012.1, 1012.2, and 1012.3. A solid masonry wall in place of a railing shall be permitted.
5. The following deviations from Section 2.7.7.D. Table C-1, Dimensional Regulations, are approved herein for Tract C-1, Block 7005, and Tract B, Block 7004;
  - a. A twenty-five (25) foot deviation from the twenty-five (25) foot minimum front yard requirement to allow a zero (0) foot front yard.
  - b. A ten (10) foot deviation from the ten (10) foot side, and the ten (10) foot rear yard requirements, except for the Restaurant along Chiquita Boulevard on Tract C-1, Block 7005.
6. Approving a parking deviation from Section 5.1.7.G. of the Land Use and Development Regulations which requires two (2) bedroom and three (3) bedroom multi-family units to provide two (2.0), and two and one half (2.5) parking spaces respectively, to provide 1.36 parking spaces for either a two or three bedroom multi-family unit on Tracts C-2 through C-6, and Tract B, Block 7004.
7. Approving a parking deviation for Tracts C-2, through C-6, and Tract B, Block 7004, from Sections 5.1.7.I. and J. of the Land Use and Development Regulations which requires one parking space per every one hundred (100) square feet of restaurant use and one parking space per every two hundred (200) square foot of retail use, to allow a Restaurant, Standard Group III, and retail uses to provide one space per every two hundred-fifty (250) square feet. For any use other than restaurant or retail, the aforementioned parking deviations shall not apply to any use that requires a higher parking standard.
8. Approving a parking deviation from Section 5.1.7.M. of the Land Use and Development Regulations which requires a Marina-Dry Storage use to provide one space per four unit stalls in order to require no additional parking for a Marina-Dry Storage use on Tract B, Block 7004.

#### D. AMENDMENT TO CONDITIONS OF APPROVAL

1. Physical development for all of the property within the "Meta at Cape Harbour" development project shall terminate twenty (20) years from the date of adoption of this ordinance.



2. The Traffic Impact Statement (TIS) was performed by Metro Transportation on August 27, 2001 addressing the impact on the surrounding network of 970 trips per weekday P.M. peak hour for the expected combined total impacts of the following land uses as described in the 6th Edition of the Trip Generation Report published by the Institute of Transportation Engineers (ITE): Single-Family Detached Housing (ITE Land Use Code 210) Residential Condominium/Townhouse (ITE Land Use Code 230) including dwelling units within compound use buildings, Quality Restaurant (ITE Land Use Code 931), Shopping Center (ITE 820), Hotel (ITE Land Use Code 310), General Office Building (ITE Land Use Code 710), and Marina (ITE Land Use Code 420). The following conditions shall apply:
- a. Calculations of the number of trips generated by the Meta development will be determined using the latest version of the Trip Generation, Internal Capture and Pass by (TIPS) software developed and owned by the Florida Department of Transportation for use in traffic analysis by and for the Florida Department of Transportation, public and private entities. Calculations of the trip generation will be based on the following ITE Land Use Code independent variables: ITE LU 210/Dwelling Units, ITE LU 230/Dwelling Units, ITE LU 931/s.f. Gross Floor Area, ITE LU 310/Rooms, ITE LU 710/ s.f. Gross Floor Area, ITE LU 420/Berths. The trip reduction calculation will be based on the following internal capture percentages: 25% rate for residential uses and 10% for each of the following uses: shopping center, general office, and quality restaurant.
  - b. In the event TIPS software is not available, trip generation calculations shall be based on the latest version of the Trip Generation Book, the Trip Generation Handbook both published by the Institute of Transportation Engineers(ITE) and the latest version of the Site Impact Handbook developed by the Florida Department of Transportation (FDOT).
  - c. With each application for a site plan or building permit within the Meta development, the Developer shall document to the City the number of trips generated by the portion of the development already built, plus the number of trips generated by the portion of the development that is seeking site or building permit.
  - d. No site plan or building permit will be issued and no development will be approved when the City determines, based on the information and documentation provided pursuant to paragraphs a., b., and c. above, that the combined total of the uses within the Meta development generate more than 970 trips, regardless of the fact that the use was previously approved.
  - e. When existing and proposed uses within the Meta development generate more than 970 trips, an amendment to the Meta Planned Development Project must be adopted in order to accommodate a new threshold for total number of trips as well as for proposed transportation improvement. The Developer shall perform a new TIS following the guidelines set forth in the Engineering Design Standards, to ensure that the proposed development meets concurrency for roads, and in order to accommodate a new threshold for total number of trips as well as for proposed transportation improvement. No site plan or building permit will be issued until an amendment to the Meta Planned Development Project is adopted. Prior to adoption of a Planned Development Project amendment, the new TIS must be approved by the Public Works Director or his designee, that establishes a new threshold for the combined total of trips generated by the Meta development during the weekday peak hour.
3. All restrictions on the square footage of a hotel are hereby deleted. The trips generated by the hotel and any accessory uses in the development are subject to the PM peak hours trips.
4. The Developer shall not be required to submit either an annual report or a yearly monitoring report. Instead, the City of Cape Coral reserves the right to request Annual Traffic Monitoring Report(s) before the development reaches buildout.

Preparation of the report shall not begin until the Developer provides the Public Works Director or designee with an acceptable methodology for preparing the report. If this report shows impacts greater than those estimated at the time of original approval and/or determines that the LOS is degraded below adopted LOS standards, the Developer shall provide mitigation actions to assure that all roadways and intersections shall be improved so as to maintain the adopted peak hour LOS standard.

5. The setback for all structures in Tract C-6 fronting El Dorado Parkway and Tract C-6 and Tract C-1 fronting Chiquita Boulevard is reduced from forty (40) feet to thirty (30) feet.
6. In the event a hotel or other commercial use is located on Tract C-6, the setback requirement is hereby reduced from one hundred (100) feet to thirty (30) feet from the property line adjacent to Chiquita Boulevard or from the property line adjacent to El Dorado Parkway.
7. The maximum height at the building setback line parallel to El Dorado Parkway (West) and Chiquita Boulevard (South) of thirty-eight (38) feet is increased to fifty (50) feet for the construction of a hotel or other structure. The maximum building heights may be increased by one foot for every one foot of additional setback measured from El Dorado Parkway (West) and Chiquita Boulevard (South).
8. Dry storage of boats may be located on Tract B, Block 7004 in addition to Tract C-1, Block 7005.
9. In the event a restaurant use is located on Tract C-1, the setback requirement is hereby reduced from seventy-five (75) feet to thirty (30) feet from the property line adjacent to Chiquita Boulevard.
10. The Developer is not limited to uses identified in the "Matrix of Allowable Commercial Uses". Instead, all commercial uses permitted by the City's Land Use and Development Regulations in the Pedestrian Commercial (C-1) zoning district are allowed.

## SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Cape Harbour development is a mixed use Planned Development Project (PDP). The extant PDP development consists of three (3) phases. The first phase is platted as Cape Harbour Subdivision-Phase 2-A. The second phase is platted as Cape Harbour Subdivision-Phase 2-B. The third phase is known as the "Meta at Cape Harbour" phase.
  1. The first and second phases of the Cape Harbour development have been approved for the following:
    - a. Homesites for 84 detached single-family dwelling units with associated infrastructure including gated private roads, surface water management tracts, and a development wall/fountain/clocktower buffering system. The first two phases, including infrastructure for 84 detached dwelling units are complete.
    - b. The provisions of this Ordinance apply only to the "Meta at Cape Harbour" property as more particularly described in Section II.D.2. of this development order.
  2. The "Meta at Cape Harbour" phase has been approved for the following uses:

Single-family and multi-family dwelling units within Multi-Family Residential (R-3) tracts, compound use buildings on Pedestrian Commercial (C-1) tracts, boat slips, a hotel, retail uses, restaurants, office uses, private roads, surface water management tracts, and a wall buffering system.
- B. The "Meta at Cape Harbour" phase is not subject to conditions or terms of approval provided in Ordinance 28-97 as amended by Ordinance 3-01. All of the provisions and conditions of approval of Ordinance 28-97 as amended by Ordinance 3-01, 80-01, and 42-

03, 120-04 and 69-05, which are not addressed herein, shall remain in full force and effect for the Cape Harbour Planned Development Project including the "Meta at Cape Harbour" phase.

- C. The name(s) of the legal and equitable owner(s) of the property described in Section II.D.2 of this development order are Realmark Cape Marina, LLC, Realmark Cape Harbour, LLC, Realmark Meta, LLC, Realmark Marina South, LLC, Realmark Marina South II, LLC, and Realmark Marina Grill LLC.

D. LEGAL DESCRIPTIONS

1. The legal description of the entire property that is subject to the extant PDP Development Order(s) is described as follows:

All of the Meta At Cape Harbour Subdivision, in its entirety, according to Plat Book 71, Pages 74 through 80 of the Public Records Of Lee County, Florida;

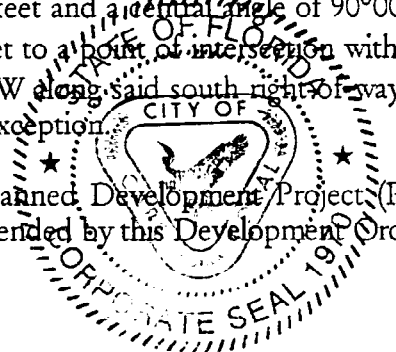
together with all of Cape Harbour Subdivision Phase 2-A, in its entirety, according to Plat Book 60, Pages 27 through 28;

together with all of Cape Harbour Subdivision, Phase 2-B, in its entirety, according to Plat Book 65, Pages 55 through 57 of The Public Records Of Lee County, Florida,

together with a tract of land situated in Lots 14, 15, and 30, Block 6501, in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida and Tract "A", Cape Harbour Subdivision, Phase 2-A, according to Plat Book 60, Pages 27 through 28 of the Public Records of Lee County, Florida being more particularly described as follows:

Beginning at the intersection of the centerline of Merlyn Lane and the south right-of-way line of El Dorado Parkway West (100 foot right-of-way); thence run N89°43'07"W along said south right-of-way line for 64.50 feet; thence run S00°16'53"W, leaving said right-of-way line, for 20.00 feet; thence run S89°43'07"E for 12.41 feet; thence run S40°29'26"E for 23.11 feet; thence run S00°16'53"W for 10.00 feet; thence run S89°43'07"E for 74.00 feet; thence run N00°16'53"E for 10.00 feet; thence run N45°16'53"E for 21.92 feet to a point of intersection with a line parallel to and 22.00 feet south of said right-of-way line; thence run S89°43'07"E along said parallel line for 117.00; thence run S00°16'53"W for 22.00 feet; thence run N89°43'07"W to the Point of Beginning, excepting from the preceding description the following described portion of Merlyn Lane right-of-way: Beginning at said intersection of said centerline of said Merlyn Lane and said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to a non-tangent point of intersection with a curve concave to the southwest, being also the westerly right-of-way line of said Merlyn Lane; thence run along said westerly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = S44°43'07"E 35.36 feet) for 39.27 feet to a point of tangency; thence run S00°16'53"W along said westerly right-of-way line for 22.50 feet; thence run S89°43'07"E, leaving said westerly right-of-way line, for 50.00 feet to a point of intersection with the easterly right-of-way line of said Merlyn Lane; thence run N00°16'53"E along said easterly right-of-way line for 22.50 feet to the point of curvature of a curve concave to the southeast; thence run along said easterly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = N45°16'53"E, 35.36 feet) for 39.27 feet to a point of intersection with said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to the point of beginning of said exception.

2. The legal description of the portion of the Planned Development Project (PDP) Development Plan for Cape Harbour that is amended by this Development Order is described as follows:



A parcel of land lying in Sections 16 and 21, Township 45 South, Range 23 East, consisting of Tracts R-1, and R-4, Block 7004, and Tracts C-1, C-2, C-3, C-4, C-5, and C-6, Block 7005, Meta At Cape Harbour Subdivision in the City of Cape Coral according to Plat Book 71, Pages 74 through 80 of the Public Records of Lee County, Florida.

- E. The subject property as described above in Section II.D.2. has approximately 55.64 acres with a Future Land Use designation of Mixed Use. The developable property, excluding private right-of-way within Tract E "Meta at Cape Harbour" phase of the Cape Harbour PDP has 35.93 acres zoned C-1 (Pedestrian Commercial) and 14.17 acres zoned R-3 (Multi-Family Residential), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform to the respective provisions of the Pedestrian Commercial (C-1) and Multi-Family Residential (R-3) Zoning Districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this development order to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.
- G. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- H. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- I. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- J. The term Developer for purposes of this development order shall mean and refer to Realmark Cape Marina LLC, Realmark Cape Harbour LLC, Realmark Meta, LLC, Realmark Marina South, LLC, Realmark Marina South II, LLC, and Realmark Marina Grill, LLC, their successors in interest, lessees, and/or assigns.

### SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the application for the amended Planned Development Project for approval submitted by Realmark Cape Marina LLC, Realmark Cape Harbour LLC, Realmark Meta LLC, Realmark Marina South, LLC, Realmark Marina South II, LLC, and Realmark Marina Grill LLC is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare:

#### A. SUBDIVISION

1. The Developer shall meet all requirements of Section 4.2.11., Minimum Design Standards, City of Cape Coral Land Use and Development Regulations.
2. Prior to any final subdivision plat approval, and after the City of Cape Coral approves the construction plans for the required site improvements, either the Developer shall satisfactorily complete all of the required site improvements, or the Developer shall provide a surety bond or certified check in an amount of the estimated cost to complete all required site improvements, as determined by the City. Such surety bond or certified check shall be returned to the Developer after the Director has determined that all required improvements have been satisfactorily completed.

The Director shall submit the subdivision plat for the Mayor's signature after all required site improvements have been satisfactorily completed or the City has received a surety bond or certified check in an amount of the estimated cost to complete all required site improvements. Such Plat shall then be recorded with the



Lee County Clerk pursuant to Chapter 177, Florida Statutes. A duplicate recorded Mylar copy of the Plat shall be submitted to the City.

B. GENERAL CONSIDERATIONS

1. The developer may install, without restriction as to size, height, location, and number of signs, any sign(s) that are not prohibited in the Multi-Family Residential (R-3) zoning district, and the Pedestrian Commercial (C-1) zoning district, so long as such sign(s) are not visible from outside of the subject property. The foregoing waiver of regulation of sign(s) in the development as to size, height, location, and number of signs granted herein do not preclude the Director of the Department of Community Development from making further administrative sign deviations. However, a sign deviation request will be reviewed in accordance with Chapter 7.1 of the Land Use and Development Regulations. Neither any waiver approved herein nor any deviation that may be approved hereafter shall be approved if it would have the effect of allowing a type or category of sign that would otherwise be prohibited by Article VII of the Land Use and Development Regulations.
2. All deviations to the Land Use and Development Regulations approved herein for Lots 1-19, Block 7003, shall only apply as long as the use of the property is single-family. In the event the developer seeks a use other than single-family through an amendment to this development order, then the deviations approved herein shall be null and void. Such other use shall also comply with all other regulations of the zoning district as well as this development order. Rental of the structures on Lots 1-19, Block 7003, for periods of less than one (1) week shall not be construed as use of the properties for other than single-family residential use.
3. No structure, other than the overhead deck approved herein, shall be permitted over water. Overhead structures for purposes of this ordinance shall be non-habitable, open air decking to be used only for casual outdoor activities. Railings and/or guardrails shall be constructed in accordance with the Florida Building Code in effect at the time of application for building permits.

SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application filed for the "Meta at Cape Harbour" PDP amendment.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order, which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the project.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.
- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided.
- G. Subsequent requests for local development permits shall not require further review unless it is found by the Cape Coral Planning and Zoning Commission/Local Planning Agency after

due notice and hearing, that a substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City, has occurred and/or would result from the issuance of the local development permit. Substantial deviations include but are not limited to:

1. A greater than five (5) percent increase in the square footage of the development.
2. Any change that requires a variance to code or other requirements over and above those specifically incorporated herein.
3. An expiration of the period of effectiveness of this Development Order as herein provided.
4. A failure to carry out Development Order conditions and/or Developer commitments incorporated within the Development Order to mitigate impacts to the extent indicated in the Development Order, or in accordance with the Development Order.

Upon a finding that any of the above is present, the City may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved, and all local approvals have been obtained.

- H. The time for which all physical development on all property within the "Meta at Cape Harbour" development project shall occur shall be twenty years from the date of adoption of this Development Order. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors, shall submit a new Traffic Impact Study if the proposed development plans to exceed the total Weekday PM trips of 970. Preparation of the report shall not begin until the Developer provides the City of Cape Coral with an acceptable methodology for preparing the report. If this report shows impacts greater than those estimated at the time of original approval and/or determines that the LOS is degraded below adopted LOS standards, the Developer shall provide mitigation actions to assure that all roadways and intersections shall be improved so as to maintain the adopted peak hour LOS standard.
- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

## SECTION V. SEVERABILITY.

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

SECTION VI. EFFECTIVE DATE.

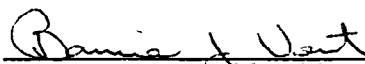
This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 14<sup>th</sup> DAY OF August, 2006.



ERIC FEICHTHALER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 18<sup>th</sup> DAY OF August, 2006.



BONNIE J. VENT, CITY CLERK

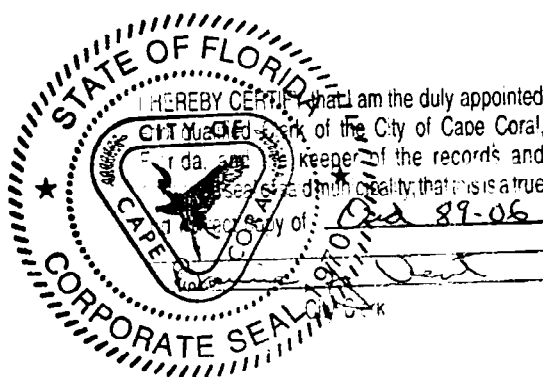
APPROVED AS TO FORM:



DOLORES D. MENENDEZ

CITY ATTORNEY

pdp058-7-Meta



LEGAL DESCRIPTION

A PORTION OF TRACT R-1, BLOCK 7004, META AT CAPE HARBOUR ACCORDING TO PLAT BOOK 71, PAGES 74 THROUGH 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND SITUATED IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

BEGIN AT THE SOUTHWEST CORNER OF TRACT R-1, META AT CAPE HARBOUR. FROM SAID POINT OF BEGINNING RUN N02°57'06"W FOR A DISTANCE OF 45.70 FEET TO A POINT ON THE CENTERLINE OF A 60.00 FOOT INGRESS / EGRESS EASEMENT; THENCE RUN N29°01'53"E ALONG SAID CENTERLINE FOR A DISTANCE OF 402.63 FEET TO THE POINT OF CURVATURE OF A 400 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 28°26'31", A CHORD AND CHORD BEARING OF N43°15'08"E, 196.53 FEET, RUN ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 198.56 FEET; THENCE RUN N57°28'24"E FOR A DISTANCE OF 137.41 FEET TO THE WESTERLY LINE OF TRACT C-3; THENCE LEAVING SAID CENTERLINE, RUN S32°33'01"E ALONG SAID WESTERLY LINE OF TRACT C-3 FOR A DISTANCE OF 207.40 FEET TO THE NORTHWEST CORNER OF TRACT C-2; THENCE RUN S02°57'05"E ALONG THE WESTERLY LINE OF SAID TRACT C-2 FOR A DISTANCE OF 248.20 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF CAPE HARBOUR DRIVE, ALSO BEING THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, THE RADIUS POINT OF WHICH BEARS N08°24'34"W, 125.00 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 5°26'57", A CHORD AND CHORD BEARING OF S84°18'55"W, 11.88 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 11.89 FEET; THENCE RUN S87°02'24"W FOR A DISTANCE OF 1.79 FEET; THENCE RUN S02°57'05"E FOR A DISTANCE OF 62.56 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, THE RADIUS POINT OF WHICH BEARS N90°00'00"E, 75.00 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 38°13'02", A CHORD AND CHORD BEARING OF S19°06'31"E, 49.10 FEET, RUN ALONG THE ARC FOR A DISTANCE OF 50.03 FEET TO A NON-TANGENT INTERSECTION WITH A LINE THAT BEARS S02°57'05"E; THENCE RUN S02°57'05"E FOR A DISTANCE 52.22; THENCE RUN S87°02'56"W FOR A DISTANCE OF 577.07 FEET TO THE POINT OF BEGINNING.

LESS :

COMMENCING AT THE SOUTHWEST CORNER OF TRACT R-1, META AT CAPE HARBOUR, RUN ALONG THE SAID SOUTH LINE OF SAID TRACT R-1 N87°02'56"E, 257.01 FEET TO A NON-TANGENT POINT OF CURVATURE, BEING ALSO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN ALONG THE ARC OF A 106.83 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, THE RADIUS POINT OF WHICH BEARS N17°39'35"E, 106.83 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 18°52'29", A CHORD AND CHORD BEARING OF N62°54'10"W, 35.03 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 35.19 FEET; THENCE RUN S37°06'58"W FOR A DISTANCE OF 18.67 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A 116.54 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, THE RADIUS POINT OF WHICH BEARS N37°35'47"E, 116.54 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 7°17'47", A CHORD AND CHORD BEARING OF N48°45'19"W, 14.83 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 14.84 FEET TO THE POINT OF NON-TANGENT COMPOUND CURVATURE OF A 140.78 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, THE RADIUS POINT OF WHICH BEARS N45°18'46"E, 140.78 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 49°40'27", A CHORD AND CHORD BEARING OF N19°51'01"W, 118.27 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 122.05 FEET TO THE NON-TANGENT POINT OF COMPOUND CURVATURE OF A 383.23 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, THE RADIUS POINT OF WHICH BEARS N88°47'27"E, 383.23 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 16°16'25", A CHORD AND CHORD BEARING OF N06°55'39"E, 108.48 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 108.85 FEET TO THE NON-TANGENT POINT OF COMPOUND CURVATURE OF A 486.97 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, THE RADIUS POINT OF WHICH BEARS S74°02'08"E, 486.97 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 11°23'00", A CHORD AND CHORD BEARING OF N21°39'22"E, 96.59 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 96.75 FEET TO THE POINT OF NON-TANGENT COMPOUND CURVATURE OF A 536.60 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, THE RADIUS POINT OF WHICH BEARS S58°03'12"E, 536.60 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 10°15'02", A CHORD AND CHORD BEARING OF N37°04'19"E, 95.87 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 96.00 FEET TO THE NON-TANGENT POINT OF COMPOUND CURVATURE OF A 122.76 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, THE RADIUS POINT OF WHICH BEARS S47°48'10"E, 122.76 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 47°40'38", A CHORD AND CHORD BEARING OF N66°02'09"E 99.23, FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 102.15 FEET; THENCE RUN N89°52'29"E, 121.04 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A 131.81 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, THE RADIUS POINT OF WHICH BEARS N02°40'48"E, 131.81 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 13°02'55", A CHORD AND CHORD BEARING OF N86°09'20"E, 29.95 FEET; THENCE RUN ALONG SAID ARC FOR 30.02 FEET; THENCE RUN S10°22'07"E, 65.00 FEET TO A NON-TANGENT POINT OF CURVATURE OF A 196.81 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, THE RADIUS POINT OF WHICH BEARS N10°22'01"W, 196.81 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 12°32'20", A CHORD AND CHORD BEARING OF S85°54'03"W, 42.99 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 43.07 FEET; THENCE RUN S89°52'29"W, 119.61 FEET TO THE NON-TANGENT POINT OF CURVATURE OF A 57.76 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, THE RADIUS POINT OF WHICH BEARS S00°07'31"E, 57.76 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 47°40'38", A CHORD AND CHORD BEARING OF S66°02'09"W, 46.69 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 48.06 FEET TO THE NON-TANGENT POINT OF COMPOUND CURVATURE OF A 471.60 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, THE RADIUS POINT OF WHICH BEARS S47°48'10"E, 471.60 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 9°55'56", A CHORD AND CHORD BEARING OF S37°13'52"W, 81.65 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 81.75 FEET TO THE NON-TANGENT POINT OF COMPOUND CURVATURE OF A 421.97 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, THE RADIUS POINT OF WHICH BEARS S63°00'18"E, 421.97 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 10°57'37", A CHORD AND CHORD BEARING OF S21°30'52"W, 80.60 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 80.72 FEET TO THE NON-TANGENT POINT OF COMPOUND CURVATURE OF A 318.23 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, THE RADIUS POINT OF WHICH BEARS S75°01'37"E, 318.23 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 16°53'07", A CHORD AND CHORD BEARING OF S06°31'52"W, 93.44 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 93.78 FEET TO THE NON-TANGENT POINT OF COMPOUND CURVATURE OF A 75.78 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, THE RADIUS POINT OF WHICH BEARS S82°38'18"E, 75.78 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 52°00'11", A CHORD AND CHORD BEARING OF S18°38'24"E, 66.44 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 68.78 FEET TO THE POINT OF NON-TANGENT COMPOUND CURVATURE OF A 51.56 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, THE RADIUS POINT OF WHICH BEARS N44°26'38"E, 51.56 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 31°53'55", A CHORD AND CHORD BEARING OF S61°30'19"E, 28.34 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE FOR 28.71 FEET; THENCE RUN S14°50'44"W, 44.24 TO A POINT ON SAID SOUTH LINE OF SAID TRACT R-1; THENCE RUN ALONG SAID SOUTH LINE S87°02'56"W FOR A DISTANCE OF 6.14 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 4.3 ACRES , MORE OR LESS.

DESCRIPTION TO ACCOMPANY SKETCH

A PORTION OF TRACT R-1, BLOCK 7004,  
META AT CAPE HARBOUR ACCORDING TO PLAT  
BOOK 71, PAGES 74 THROUGH 80 OF THE  
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

REVISED 6-22-06 (FOR CITY COMMENTS)

PAGE 2 OF 2

STOUTEN ASSOCIATES, INC.  
SURVEYING & MAPPING  
4423 SE 16th Place, Unit 18, Cape Coral, FL 33904  
Phone: (239) 842-7499 Fax: (239) 846-0244  
www.stoutenassociates.com

WILLIAM L. STOUTEN, P.E.  
Professional Engineer  
No. 12345

P:\DATA\Templates\STOUTEN NEW.dwt 5/9/2006 1:03:11 PM EDT







COUNCILMEMBER STEVENS

PDP 04-00800005

03/10/04

08/02/04

08/09/04

08/11/04

08/17/04

08/25/04

09/20/04

09/30/04

INSTR # 6494709

OR BK 04471 Pgs 3029 - 3035; (7pgs)

RECORDED 10/21/2004 09:51:18 AM

CHARLIE GREEN, CLERK OF COURT

LEE COUNTY, FLORIDA

RECORDING FEE 61.00

DEPUTY CLERK C Keller

ORDINANCE 120 - 04

① AN ORDINANCE AMENDING ORDINANCE 28-97, AS PREVIOUSLY AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 3-01, 80-01 AND 42-03, A PLANNED DEVELOPMENT PROJECT IN THE CITY OF CAPE CORAL, FLORIDA ENTITLED "CAPE HARBOUR"; AMENDING THE PLANNED DEVELOPMENT PROJECT APPROVAL FOR A PORTION OF CERTAIN PROPERTY DESCRIBED AS THE META AT CAPE HARBOUR SUBDIVISION, TOGETHER WITH A PORTION OF CAPE HARBOUR SUBDIVISION PHASE 2-A, TOGETHER WITH A PORTION OF CAPE HARBOUR SUBDIVISION, PHASE 2-B, TOGETHER WITH LOTS 14, 15, AND 30, BLOCK 6501, IN CAPE CORAL, UNIT 75, (CAMELOT), ALL IN LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; GRANTING DEVIATIONS TO THE MINIMUM REQUIREMENTS OF SECTION 2.7.2.D. TABLE R-3, DIMENSIONAL REGULATIONS, AS FOLLOWS: A TWENTY-FIVE (25) FOOT DEVIATION TO THE MINIMUM 25 FOOT FRONT YARD, A SEVEN AND ONE-HALF (7.5) FOOT DEVIATION TO THE MINIMUM SEVEN AND ONE-HALF (7.5) FOOT SIDE YARD, A TWENTY (20) FOOT DEVIATION TO THE MINIMUM TWENTY FOOT REAR YARD, A TEN (10) FOOT DEVIATION TO THE MINIMUM TEN (10) FOOT REAR YARD FOR POOLS AND SCREEN ENCLOSURES, TO ALLOW STRUCTURES IN TRACT R-1, BLOCK 7004 WITH A ZERO (0) FOOT FRONT, SIDE AND REAR YARD; GRANTING DEVIATIONS FROM SECTION 2.7.7.D. TABLE C-1, DIMENSIONAL REGULATIONS, TO THE MINIMUM REQUIREMENTS, AS FOLLOWS: A TWENTY-FIVE (25) FOOT DEVIATION TO THE MINIMUM TWENTY-FIVE (25) FOOT FRONT YARD, A TEN (10) FOOT DEVIATION TO THE MINIMUM TEN (10) FOOT SIDE YARD, A TEN (10) FOOT DEVIATION TO THE MINIMUM TEN (10) FOOT REAR YARD, TO ALLOW STRUCTURES IN TRACTS C-2, C-3, C-4 AND C-5, BLOCK 7005, AND TRACT R-4, BLOCK 7004, WITH A ZERO (0) FOOT FRONT, SIDE AND REAR YARD; GRANTING A TWENTY-FIVE (25) FOOT A DEVIATION FROM THE MINIMUM TWENTY-FIVE (25) FOOT FRONT YARD REQUIREMENT OF SECTION 2.7.7.D. TABLE C-1, DIMENSIONAL REGULATIONS, TO ALLOW STRUCTURES IN TRACT C-6 WITH A ZERO (0) FOOT FRONT YARD; GRANTING AMENDED DEVELOPMENT PLAN APPROVAL PURSUANT TO SECTION 4.2 OF THE LAND USE AND DEVELOPMENT REGULATIONS; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR ACTION ON REQUEST AND CONDITIONS OF APPROVAL; PROVIDING FOR LEGAL EFFECT AND LIMITATIONS OF THIS PDP DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the "Cape Harbour" Planned Development Project was approved by the City Council of the City of Cape Coral by Ordinance 28-97, and as amended by Ordinance 60-97, Ordinance 8-98, Ordinance 82-98, Ordinance 3-01, Ordinance 80-01, and Ordinance 42-03; and

WHEREAS, an application from Realmark Cape Marina, L.L.C. and Realmark Meta, L.L.C. has been received requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Meta at Cape Harbour; requesting amendment of Ordinance 28-97 as amended by Ordinances 60-97, 8-98, 82-98, 3-01, 80-01, and 42-03, amendment of Development Plan including deviations to the Land Use and Development Regulations; and

WHEREAS, said application received is by parties holding title to ownership of one hundred percent (100%) of the property included in the requested amendment; and

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

WHEREAS, the City Council has considered the recommendations of the Planning and Zoning Commission/Local Planning Agency.

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

**SECTION I. AMENDMENT OF PDP APPROVAL AMENDING ORDINANCE 28-97 AS AMENDED BY ORDINANCES 60-97, 8-98, 82-98, 3-01, 80-01, AND 42-03 AMENDMENT OF DEVELOPMENT PLAN APPROVAL INCLUDING DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS.**

Having reviewed the application requesting amendment of a Planned Development Project for Meta at Cape Harbour (PDP Amendment) PDP number 04-00800005, requesting amendment to a portion of a Planned Development Project (PDP) Development Plan for Meta at Cape Harbour; requesting amendment of Ordinance 28-97 as amended by Ordinances 60-97, 8-98, 82-98, 3-01, 80-01 and 42-03, amendment of Development Plan including deviations to the Land Use And Development Regulations, and having considered the recommendations of the Planning and Zoning Commission and the Local Planning Agency, the City Council of the City of Cape Coral, Florida, does hereby grant the following from the date of adoption of this ordinance:

**A. AMENDMENT OF DEVELOPMENT PLAN APPROVAL**

Amendment of Development Plan approval, in accordance with Meta at Cape Harbour (PDP Amendment) Development Plan, Sheet 1 of 1, dated March 10, 2004, prepared by Avalon Engineering, Inc. for purposes of development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations.

**B. DEVIATIONS TO THE LAND USE AND DEVELOPMENT REGULATIONS**

1. A deviation of twenty-five (25) feet to the minimum twenty-five (25) foot front yard required by Section 2.7.2.D. Table R-3, Dimensional Regulations, in order to allow structures in Tract R-1, Block 7004, with a zero (0) foot front yard.
2. A deviation of seven and a half (7.5) feet to the minimum seven and a half (7.5) foot side yard required by Section 2.7.2.D. Table R-3, Dimensional Regulations, in order to allow structures in Tract R-1, Block 7004, with a zero (0) foot side yard.
3. A deviation of twenty (20) feet to the minimum twenty (20) foot rear yard required by Section 2.7.2.D. Table R-3, Dimensional Regulations, in order to allow structures in Tract R-1, Block 7004, with a zero (0) foot rear yard.
4. A deviation of ten (10) feet to the minimum ten (10) foot rear yard required by Section 2.7.2.D. Table R-3, Dimensional Regulations, in order to allow pools and screen enclosures in Tract R-1, Block 7004, with a zero (0) foot rear yard.
5. A deviation of twenty-five (25) feet to the minimum twenty-five (25) foot front yard required by Section 2.7.7.D. Table C-1, Dimensional Regulations, in order to allow structures in Tracts C-2, C-3, C-4, C-5, and C-6, Block 7005, and Tract R-4, Block 7004, with a zero (0) foot front yard.
6. A deviation of ten (10) feet to the minimum ten (10) foot side yard required by Section 2.7.7.D. Table C-1, Dimensional Regulations, in order to allow structures in Tracts C-2, C-3, C-4, and C-5, Block 7005, and Tract R-4, Block 7004, with a zero (0) or more foot side yard.
7. A deviation of ten (10) feet to the minimum ten (10) foot rear yard required by Section 2.7.7.D. Table C-1, Dimensional Regulations, in order to allow structures in Tracts C-2, C-3, C-4, and C-5, Block 7005, and Tract R-4, Block 7004, with a zero (0) foot rear yard.

Approval of the PDP shall be subject to the terms and conditions set forth below.

## SECTION II. FINDING OF FACT/CONCLUSION OF LAW

- A. The Cape Harbour development is a mixed use Planned Development Project (PDP). The overall development consists of three (3) phases. The first phase is platted as Cape Harbour Subdivision-Phase 2-A. The second phase is platted as Cape Harbour Subdivision-Phase 2-B. The third phase is known as the "Meta at Cape Harbour" phase.
1. The first and second phases of the Cape Harbour development have been approved for the following:
    - a. Homesites for 84 detached single family dwelling units with associated infrastructure including gated private roads, surface water management tracts, and a development wall/fountain/clocktower buffering system. The first two phases, including infrastructure for 84 detached dwelling units, are complete.
    - b. The provisions of this Ordinance apply only to the property more particularly described in Section II.D.2. of this development order.
  2. The "Meta at Cape Harbour" phase has been approved for the following uses:
    - a. A maximum of 437 total dwelling units comprised as follows:
      - i. A maximum of 308 dwelling units located in a Multi-Family Residential (R-3) zone (Tracts R-1, R-2, R-3, and R-5, Block 7004);
      - ii. A maximum of 129 dwelling units located in a Pedestrian Commercial (C-1) zone (Tracts C-1, C-2, C-3, C-4, C-5, C-6, Block 7005 and/or Tract R-4, Block 7004). Such 129 dwelling units located in a Pedestrian Commercial (C-1) zone would equate to 21 percent of the maximum dwelling units allowable within the subject property zoned Pedestrian Commercial (C-1) and that are also within the Mixed Use future land use map area;
    - b. 76 boat slips;
    - c. a hotel with a maximum of 144 hotel rooms and/or suites;
    - d.  $\pm 125,000$  square feet of shopping center uses (as defined by Trip Generation, 6<sup>th</sup> ed., Institute of Transportation Engineers) including, but not limited to, two (2) restaurants totaling not more than  $\pm 25,000$  square feet;
    - e.  $\pm 60,000$  square feet of office space;
    - f. private roads, surface water management tracts; and
    - g. a development wall/fountain/clocktower buffering system.
- B. The "Meta at Cape Harbour" phase is not subject to conditions or terms of approval provided in Ordinance 28-97 as amended by Ordinance 3-01. All of the provisions and conditions of approval of Ordinance 28-97 as amended by Ordinances 3-01, 80-01, and 42-03, which are not addressed herein, shall remain in full force and effect for the Cape Harbour Planned Development Project including the "Meta at Cape Harbour" phase.
- C. The name(s) of the legal and equitable owner(s) of the property described in Section II.D.2 of this development order are Realmark Cape Marina, L.L.C. and Realmark Meta, L.L.C.
- D. LEGAL DESCRIPTIONS
1. The legal description of the entire property that is subject to the extant PDP Development Order(s) is described as follows:



All of the Meta At Cape Harbour Subdivision, in its entirety, according to Plat Book 71, Pages 74 through 80 of the Public Records of Lee County, Florida;

together with all of Cape Harbour Subdivision Phase 2-A, in its entirety, according to Plat Book 60, Pages 27 through 28;

together with all of Cape Harbour Subdivision, Phase 2-B, in its entirety, according to Plat Book 65, Pages 55 through 57 of the Public Records of Lee County, Florida,

together with a tract of land situated in Lots 14, 15, and 30, Block 6501, in Cape Coral Unit 75 (Camelot) according to Plat Book 33, Pages 37 through 49 of the Public Records of Lee County, Florida being more particularly described as follows:

Beginning at the intersection of the centerline of Merlyn Lane and the south right-of-way line of El Dorado Parkway West (100 foot right-of-way); thence run N89°43'07"W along said south right-of-way line for 64.50 feet; thence run S00°16'53"W, leaving said right-of-way line, for 20.00 feet; thence run S89°43'07"E for 12.41 feet; thence run S40°29'26"E for 23.11 feet; thence run S00°16'53"W for 10.00 feet; thence run S89°43'07"E for 74.00 feet; thence run N00°16'53"E for 10.00 feet; thence run N45°16'53"E for 21.92 feet to a point of intersection with a line parallel to and 22.00 feet south of said right-of-way line; thence run S89°43'07"E along said parallel line for 117.00; thence run S00°16'53"W for 22.00 feet; thence run N89°43'07"W to the Point of Beginning, excepting from the preceding description the following described portion of Merlyn Lane right-of-way: Beginning at said intersection of said centerline of said Merlyn Lane and said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to a non-tangent point of intersection with a curve concave to the southwest, being also the westerly right-of-way line of said Merlyn Lane; thence run along said westerly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = S44°43'07"E 35.36 feet) for 39.27 feet to a point of tangency; thence run S00°16'53"W along said westerly right-of-way line for 22.50 feet; thence run S89°43'07"E, leaving said westerly right-of-way line, for 50.00 feet to a point of intersection with the easterly right-of-way line of said Merlyn Lane; thence run N00°16'53"E along said easterly right-of-way line for 22.50 feet to the point of curvature of a curve concave to the southeast; thence run along said easterly right-of-way line on said curve having a radius of 25.00 feet and a central angle of 90°00'00" (chord = N45°16'53"E, 35.36 feet) for 39.27 feet to a point of intersection with said south right-of-way line; thence run N89°43'07"W along said south right-of-way line for 50.00 feet to the point of beginning of said exception.

2. The legal description of the portion of the Planned Development Project (PDP) Development Plan for Cape Harbour that is amended by this Development Order is described as follows:

A parcel of land lying in Sections 16 and 21, Township 45 South, Range 23 East consisting of Tracts R-1 and R-4, Block 7004 and Tracts C-2, C-3, C-4, C-5, and C-6, Block 7005, Meta At Cape Harbour Subdivision. In the City of Cape Coral according to Plat Book 71, Pages 74 through 80 of the Public Records of Lee County, Florida.

- E. The subject property has approximately 55.64 acres with a Future Land Use designation of Mixed Use. The developable property, excluding private right-of-way within Tract E "Meta at Cape Harbour" phase of the Cape Harbour PDP has 31.20 acres zoned Pedestrian Commercial (C-1) and 18.9 acres zoned Multi-Family Residential (R-3), pursuant to the authority of Chapter 166, Florida Statutes, and the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended.
- F. All existing and future structures and uses, population density, building intensity, and building height shall conform with the respective provisions of the Pedestrian Commercial (C-1) and Multi-Family Residential (R-3) zoning districts of the Land Use and Development Regulations, Cape Coral, Florida, as same may hereafter be amended. In addition, the

development shall obtain all local development permits from the City of Cape Coral, Florida, and other governmental jurisdictions. Failure of this development order to address a particular permit, condition, term, restriction, or zoning regulation shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, restrictions, or zoning regulations.

- G. The proposed development is not located in an Area of Critical State Concern, pursuant to the provisions of Chapter 380.05, Florida Statutes.
- H. The proposed development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- I. The proposed development, as noted, is consistent with the adopted City of Cape Coral Comprehensive Plan, and the City of Cape Coral Land Use and Development Regulations.
- J. The term Developer for purposes of this development order shall mean and refer to Realmark Cape Marina, L.L.C. and Realmark Meta, L.L.C., their successors in interest, lessees, and/or assigns.

### SECTION III. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it ordained by the City Council of Cape Coral, Florida, in public meeting duly advertised, constituted and assembled, that the application for the amended Planned Development Project for approval submitted by Realmark Cape Marina, L.L.C. and Realmark Meta, L.L.C., is hereby ordained approved, subject to the following conditions, restrictions, and limitations deemed necessary for the public health, safety, and welfare:

#### GENERAL CONSIDERATIONS

Although Developer may construct a building or other structure that cantilevers over the water that is a part of Tract R-1, Block 7004, no other building or structure or part thereof shall be constructed or located in the water that is a part of any of Tracts R-1 and R-4, Block 7004, or Tracts C-2, C-3, C-4, C-5, or C-6, Block 7005, except that Developer may construct in such water, within the confines of the Developer's private water rights, marine improvement(s) in accordance with the City of Cape Coral's Land Use and Development Regulations.

### SECTION IV. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

- A. This Development Order shall constitute an ordinance of the City of Cape Coral, adopted by this Council in response to the Planned Development Project Application for amendment, PDP 04-00800005.
- B. This Development Order shall be binding on the Developer. Those portions of this Development Order, which clearly apply only to the project Developer, shall not be construed to be binding upon future owners of the project lots. It shall be binding upon any builder/developer who acquires any tract of land within the Meta at Cape Harbour (PDP Amendment) PDP.
- C. The terms and conditions set out in this document constitute a basis upon which the Developer and City may rely in future actions necessary to implement fully the final development contemplated by this Development Order.
- D. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.
- E. Any references herein to any governmental agency shall be construed to mean to include any future instrumentality which may be created and designated as successor in interest to or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

- F. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided.
- G. Subsequent requests for local development permits shall not require further review unless it is found by the Cape Coral Planning and Zoning Commission/Local Planning Agency, after due notice and hearing, that a substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse impacts which were not evaluated in the review by the City, has occurred and/or would result from the issuance of the local development permit. Substantial deviations include but are not limited to:

1. A greater than five (5) percent increase in the square footage of the development.
2. Any change that requires a variance to code or other requirements over and above those specifically incorporated herein.
3. An expiration of the period of effectiveness of this Development Order as herein provided.
4. A failure to carry out Development Order conditions and/or Developer commitments incorporated within the Development Order to mitigate impacts to the extent indicated in the Development Order, or in accordance with the Development Order.

Upon a finding that any of the above is present, the City may order a termination of all development activity until such time as a new PDP Application for Development Approval has been submitted, reviewed and approved, and all local approvals have been obtained.

- H. The physical development of the property described in Section II.D.2 therein, shall terminate in ten years from the date of adoption of this Development Order. The remaining property under the legal description of this Development Order, Section II.D.1 will terminate on the dates so noted in their respective development orders. The Council may grant an extension if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to Cape Coral at the time of their review and approval, or arising due to the extension, have been identified. For purposes of determining when the buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits. All conditions imposed on the subject development shall remain in full force and effect throughout the life of the development unless rescinded or amended by the City and shall not be affected by any termination of the authorization for physical development.
- I. The Director of the Cape Coral Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order. Upon reasonable notice by the City and at all reasonable times, the Developer shall allow the City of Cape Coral, its agents, employees, and/or representatives, access to the project site for the purpose of assuring compliance with this Development Order.
- J. The Developer, or its successors in title, to the undeveloped portion of the subject property described in Section II.D.2., shall submit a report annually to the Cape Coral City Council, the Director, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission.

The first monitoring report shall be submitted to the Director not later than one (1) year from the effective date of this order, and further reports shall be submitted not later than annually thereafter. The Developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from tenants or owners of individual lots or units. Annual Monitoring Reports including Traffic Monitoring Reports shall be required until such time as the project is complete, at which time a final development report shall be submitted to the City.

- K. Within thirty (30) days of adoption of this Ordinance, this Development Order shall be recorded in the Office of the Clerk of the Circuit Court by the Developer or Authorized Representative, who shall thereafter return the original recorded Development Order to the City.

**SECTION V. SEVERABILITY.**

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

**SECTION VI. EFFECTIVE DATE.**

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council. Permits issued prior to or after the effective date of this Ordinance are obtained solely at the risk of the Developer.

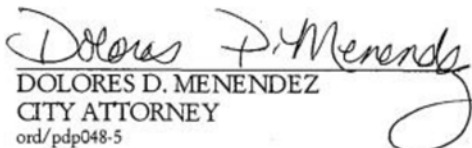
ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 12<sup>th</sup> DAY OF October, 2004.

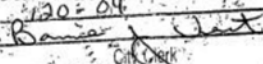
  
ARNOLD E. KEMPE, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 18<sup>th</sup> DAY OF October, 2004.

  
BONNIE J. VENT, CITY CLERK

APPROVED AS TO FORM:

  
DOLORES D. MENENDEZ  
CITY ATTORNEY  
ord/pdp048-5

I HEREBY CERTIFY that I am the duly appointed and qualified Clerk of the City of Cape Coral, Florida, and the keeper of the records and corporate seal of said municipality, that this is a true and correct copy of Ordinance  
120-04  
  
City Clerk





**Item Number:** 2.C.  
**Meeting Date:** 5/15/2018  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # VP18-0002\*; Address: 5201 Sunset Court; Applicant: Thomas W. and Sandra Hays Thorne

**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 owners, Thomas W. and Sandra Hays Thorne, seek a vacation of plat for a canal right-of-way and underlying easements being a part of the Bimini and Sunset Canals, adjacent to part of Lot 27, Lot 28, and part of Lot 29, Block 127, Cape Coral Subdivision, Unit 5, and a vacation of easements occupying a portion of Lots 27, 28, and 29, Block 127, Cape Coral Subdivision, Unit 5; property located at 5201 Sunset Court.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Material"

**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
Backup Material	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0002

JAN 24 18 15.23

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

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

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

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

OWNER OF PROPERTY

THOMAS W. AND SANDRA HAYS THORNE Address: 5214 SUNSET CT  
City: CAPE CORAL State: FL Zip 33904  
Phone: 239-410-6262

APPLICANT

GREGORY P. BELLA Address: 4637 SE 1ST AVE  
EMAIL GREG@GBCUSTOMHOMESINC.COM City: CAPE CORAL State: FL Zip 33904  
Phone: 239-826-4159

AUTHORIZED REPRESENTATIVE

GREGORY P. BELLA Address: 4637 SE 1ST AVE  
EMAIL GREG@GBCUSTOMHOMESINC.COM City: CAPE CORAL State: FL Zip 33904  
Phone: 239-826-4159

Unit 5 Block 127 Lot(s) 27-29 Subdivision \_\_\_\_\_  
Address of Property 5201 SUNSET CT, CAPE CORAL, FL 33904  
Current Zoning RES Plat Book 11, Page 86  
Strap Number 13-45-23-C4-00127.0270



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0002

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

(SIGNATURE MUST BE NOTARIZED)

GREGORY P. BELLA  
APPLICANT NAME (PLEASE TYPE OR PRINT)

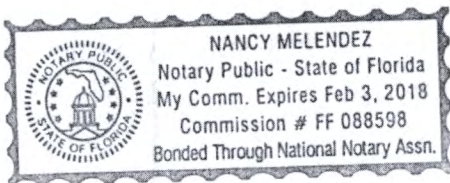
[Signature]  
APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF LEE  
Sworn to (or affirmed) and subscribed before me this 22<sup>nd</sup> day of December, 2017 by  
Gregory Paul Bella who is personally known or produced FDL B400295682100 Exp. 6/10/21  
as identification.

Exp. Date: 2/3/2018 Commission Number: FF 088598

Signature of Notary Public: [Signature]

Printed name of Notary Public: Nancy Melendez







DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0002

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.

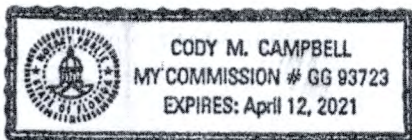
By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

N/A  
CORPORATION/COMPANY NAME  
THOMAS W. THORNE  
SANDRA HAYS THORNE  
PROPERTY OWNER (PLEASE TYPE OR PRINT)

[Signature]  
PROPERTY OWNER'S SIGNATURE

STATE OF FL, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 20 day of 12, 2017 by  
Thomas and Sandra Thorne who is personally known or produced FL DL  
as identification.



Exp. Date: 4/12/21 Commission Number: GG 93723  
Signature of Notary Public: [Signature]  
Printed name of Notary Public: Cody M. Campbell  
(SIGNATURE MUST BE NOTARIZED)



DEPARTMENT OF COMMUNITY DEVELOPMENT  
VACATION OF PLAT APPLICATION  
Questions: 239-574-0776

Case # VP18-0002

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

GREGORY P. BELLA  
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR

VACATION OF CANAL RIGHT OF WAY BETWEEN SEAWALL AND PROPERTY LINE

UNIT 5 BLOCK 127 LOT(S) 27-29 SUBDIVISION

OR LEGAL DESCRIPTION

5201 SUNSET CT  
CAPE CORAL, FL 33904

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

THOMAS W. THORNE  
PROPERTY OWNER (Please Print)

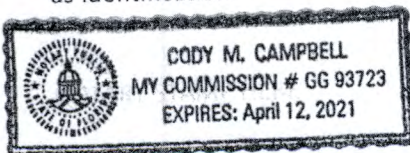
[Signature]  
PROPERTY OWNER (Signature & Title)

SANDRA HAYS THORNE  
PROPERTY OWNER (Please Print)

[Signature]  
PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 20 day of Dec, 2017 by Thomas & Sandra Thorne who is personally known or produced FL DL'S as identification.



Exp. Date: 4/12/21 Commission Number: GG 93723  
Signature of Notary Public: [Signature]  
Printed name of Notary Public: Cody M. Campbell

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





DEPARTMENT OF COMMUNITY DEVELOPMENT  
VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0002

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.

THOMAS W. THORNE  
SANDRA HAYSTHORNE  
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

[Signature]  
OWNER/APPLICANT SIGNATURE

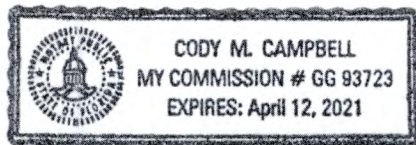
(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me on this 20 day of December, 2017 by Thomas & Sandra Thorne, who is personally known or who has produced FL DL'S as identification.

Exp. Date 4/12/21  
Commission # GG 93723

Cody M. Campbell  
Signature of Notary Public  
Cody M. Campbell  
Print Name of Notary Public





CUSTOM HOMES, INC.

Lic. #CBC056061

4637 SE 1st Ave • Cape Coral, Florida 33904 • Phone/Fax: 239.540.7088 • [www.gbcustomhomesinc.com](http://www.gbcustomhomesinc.com)

December 29, 2017

City of Cape Coral  
Department of Community Development

Subject: Letter of Intent - Vacation of Canal Right of Way  
Thomas W. and Sandra Hays Thorne  
5201 Sunset Ct, Cape Coral, FL 33904  
Strap: 13-45-23-C4-00127.0270

To whom it may concern,

We are requesting a vacation of canal right of way between the existing seawall and the property line and vacation of easement underlying the canal right of way to be vacated. We are also requesting vacation of the 6' public utility easement along the canal property line which will be relocated upon approval of this vacation application.

There are three sketches attached showing the proposed changes. Also attached are the application, approval letters from utilities, a boundary survey, a warranty deed and a separate letter of people we are requesting notices be sent to.

Please contact me if you have any questions or need any additional information.

Sincerely,  
Authorized representative for owners Thomas W. and Sandra Hays Thorne

Gregory P. Bella  
President  
GB Custom Homes, Inc.  
4637 SE 1<sup>st</sup> Ave  
Cape Coral, FL 33904  
Cell: 239-826-4159  
Email: [greg@gbcustomhomesinc.com](mailto:greg@gbcustomhomesinc.com)

Property owners:  
Thomas W. and Sandra Hays Thorne  
5214 Sunset Ct  
Cape Coral, FL 33904



Prepared by: Record and Return To: Gail Dalby  
CAPE CORAL TITLE INSURANCE AGENCY, INC.  
1307 Cape Coral Parkway East  
Cape Coral, Florida 33904  
File Number: 65101

### General Warranty Deed

Made this 5th day of December, 2017, A.D. By THOMAS W. THORNE and SANDRA HAYS THORNE, HUSBAND AND WIFE, whose address is: 5214 SUNSET CT., CAPE CORAL, FL 33904, hereinafter called the grantor, to THOMAS W. THORNE and SANDRA HAYS THORNE, Husband and Wife, whose address is: 5214 SUNSET CT., Cape Coral, Florida 33904, hereinafter called the grantee:  
(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, the successors and assigns of corporations)

**Witnesseth**, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida, viz:

**Lots 27, 28 and 29, Block 127, Unit 5, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 11, Page(s) 81 thru 90, inclusive, in the Public Records of Lee County, Florida. Less and Except the following described two parcels of land.**

**PART of Lot 29, Block 127, Unit 5, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 11, Page(s) 81 thru 90, inclusive, in the Public Records of Lee County, Florida, described as follows:**

**Beginning at the Southeasterly corner of the aforesaid Lot 29; thence run N.34° 24'40"W. for 105.39 feet to a point on the Northwesterly line of said Lot 29; thence run N.34° 30'00"E along the Northwesterly line of said Lot 29 for 20.00 feet to the Northeasterly corner of said Lot 29; thence run S.59° 30'00"E. along the Northeasterly line of said Lot 29 for 114.12 feet to the point of beginning.**

**And Less that**

**PART of Lots 27 and 28, Block 127, Unit 5, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 11, Page(s) 81 thru 90, inclusive, in the Public Records of Lee County, Florida, described as follows:**

**Beginning at the Easterly Lot corner common to Lots 26 and 28 of the aforesaid Block 127; thence run S.58° 00'00"W. along the Lot line common to Lots 26, 28 and 27 for 96.25 feet to the Southwesterly corner of the aforesaid Lot 27; thence run N.25° 00'00"W. along the Westerly line of said Lot 27 for 15.00 feet; thence run N.66° 57'37"E. for 95.59 feet to the point of beginning.**

Subject TO covenants, restrictions, and easements of record, if any.

**Parcel ID Number: 13-45-23-C4-00127.0270,**

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

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

**And** the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes for the calendar year 2018.

**In Witness Whereof**, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

**TWO Separate Witnesses Required**

Witness  
Printed Name: GAIL DALBY

Witness  
Printed Name: GRAYAL E ALLEN

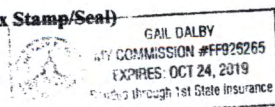
State of FLORIDA  
County of Lee

T. W. Thorne (L.S.)  
THOMAS W. THORNE

Sandra Hays Thorne (L.S.)  
SANDRA HAYS THORNE

The foregoing instrument was acknowledged before me this 5th day of Dec, 2017, by \*Thomas W. Thorne and Sandra Hays Thorne who is/are personally known to me or who has produced as identification.

(Affix Stamp/Seal)



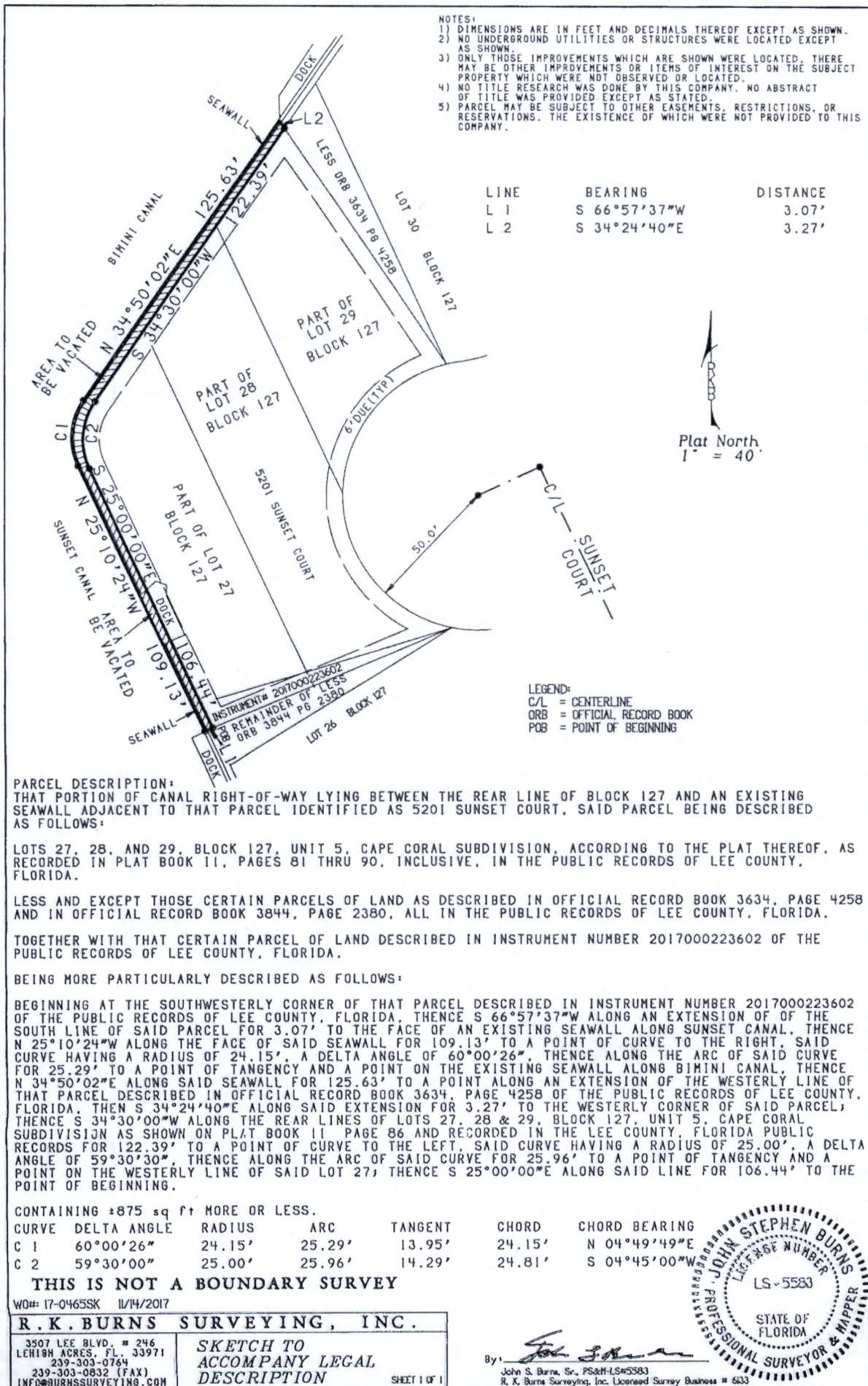
Notary Public Signature

Notary

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_





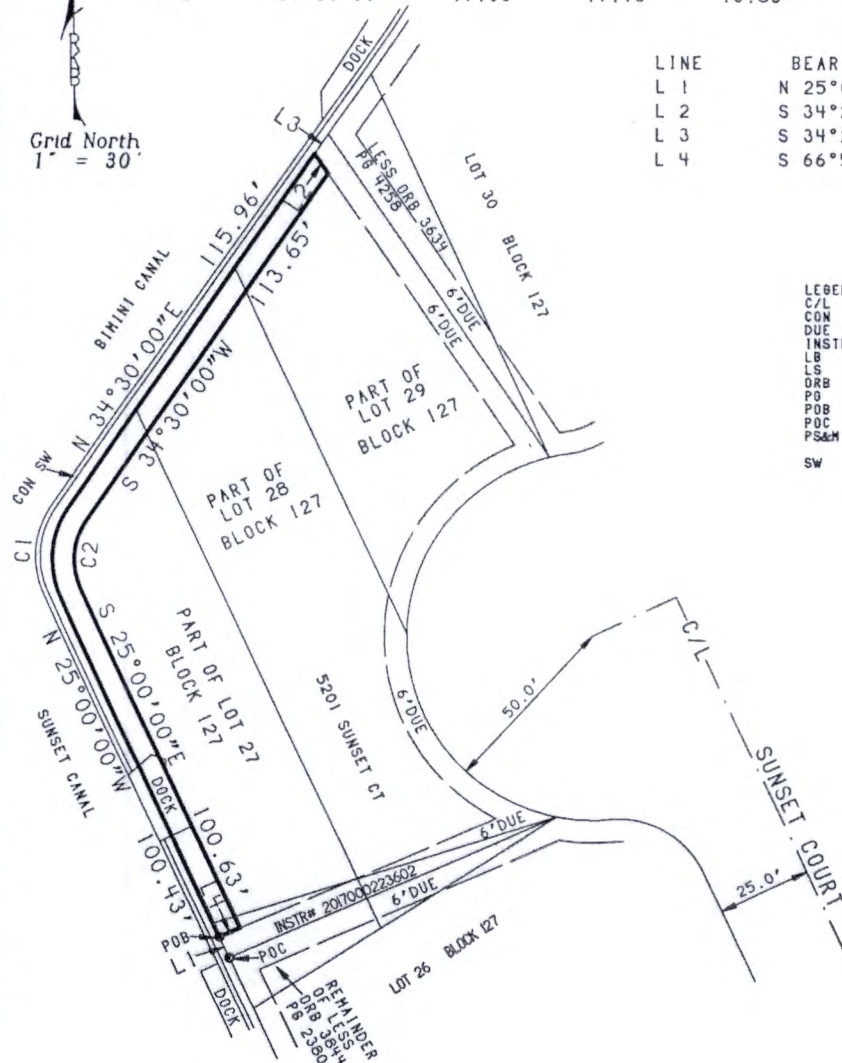






Grid North  
1" = 30'

LEGEND:  
C/L = CENTERLINE  
CON = CONCRETE  
DUE = DRAINAGE & UTILITY EASEMENT  
INST = INSTRUMENT  
LB = LICENSED BUSINESS  
LS = LICENSED SURVEYOR  
ORB = OFFICIAL RECORD BOOK  
PG = PAGE  
PDB = POINT OF BEGINNING  
PDC = POINT OF COMMENCEMENT  
P<sup>SM</sup> = PROFESSIONAL SURVEYOR  
= MAPPER  
SW = SEAWALL



MORE PARTICULARLY DESCRIBED AS FOLLOWS:

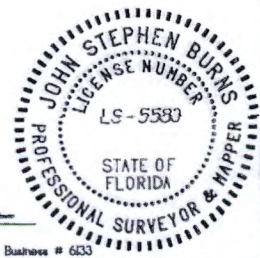
CONTAINING 1429 SQUARE FEET, MORE OR LESS

SHEET 1 OF 1

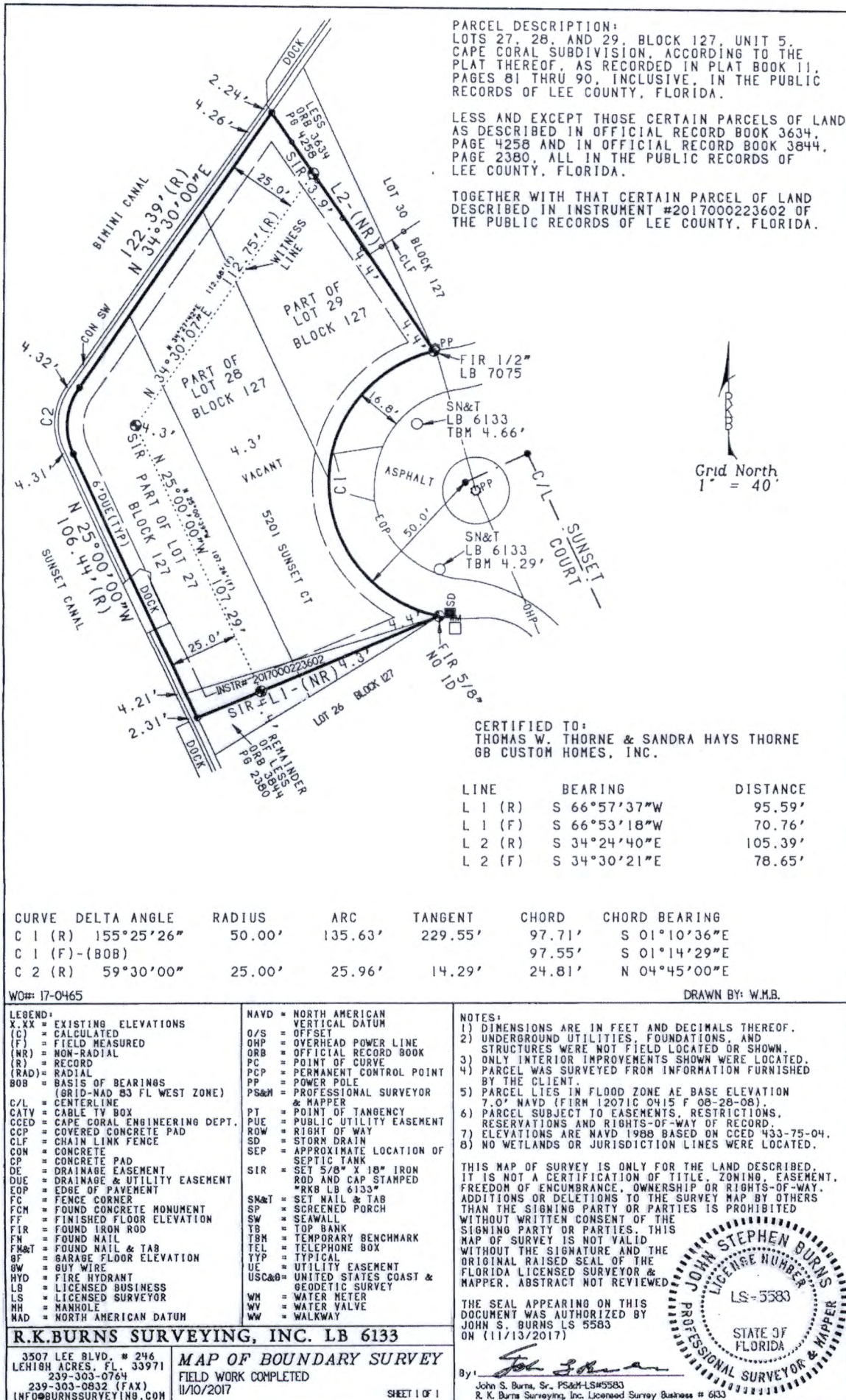
- THE SEAL APPEARING ON THIS  
DOCUMENT WAS AUTHORIZED BY  
JOHN S. BURNS LS 5583  
ON (12/11/2017)

By: John S. Burns  
John S. Burns, Sr., PS&M-LS#5583  
R. K. Burns Surveying, Inc. Licensed Survey Business # 6233

SKETCH AND LEGAL  
DESCRIPTION - PORTION OF  
DRAINAGE & UTILITY  
EASEMENT TO BE VACATED









Lee County Electric Cooperative, Inc.  
Post Office Box 3455  
North Fort Myers, FL 33918-3455  
(239) 995-2121 • Fax (239) 995-7904  
[www.lcec.net](http://www.lcec.net)

January 23, 2018

Mr. Greg Bella  
GB Custom Homes, Inc.  
4637 SE 1<sup>st</sup> Avenue  
Cape Coral, FL 33990

Re: Letter of No Objection to Vacation of Canal Right of Way 5201 Sunset Ct., Cape Coral; Owner:  
Thomas Thorne and Sandra Thorne, husband and wife; Strap#: 13-45-23-C4-00127.0270.

Dear Mr. Bella:

You have opened up negotiations, on behalf of your client's, the Thorne's, concerning the vacation of a certain lands at the rear of Lots 27-29, Block 127, Cape Coral Subdivision Unit 5, Plat Book Page 11, Page 86, of the Public Records of Lee County, Florida.

We have reviewed the Plat, the request submitted with sketch and description, and our internal records. LCEC has **no objection** to the vacation as submitted and reflected in the request given. LCEC has no rights, nor facilities in the canal right of way area. We service the parcel from the street side of the property.

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

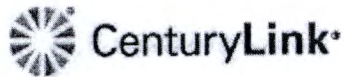
Very truly yours,

Russel Goodman,  
SR/WA

Digitally signed by Russel Goodman, SR/WA  
DN: cn=Russel Goodman, SR/WA, o=Lee  
County Electric Co-operative, ou=Design and  
Engineering,  
email=Russel.Goodman@lcec.net, c=US  
Date: 2018.01.23 15:49:56 -05'00'

Russel Goodman, SR/WA  
Senior Right of Way Agent





**Attention:**

Gregory P. Bella  
[greg@gbcustomhomesinc.com](mailto:greg@gbcustomhomesinc.com)  
4637 SE 1<sup>st</sup> Ave  
Cape Coral, Fl 33904  
Phone: (239) 826-4159

**Subject:** - No Objection Request/ Vacation of plat

**Site Address:** 5201 Sunset CT, Cape Coral, Fl 33904  
Strap# 13-45-23-C4-00127.0270

Dear Greg Bella

In regard to the referenced property above CenturyLink has **No Objection** to the Vacation of Plat described by Greg Bella. This will effectively move the property line and the 6' P.U.E along the canal approximately 3' toward the canal to the line of the existing seawall.

Sincerely

THANK YOU!

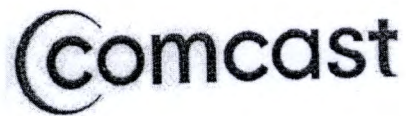
*Justin Lane*

OSP Engineering

3301 Del Prado Blvd S

Office: (239)-984-7009

[justin.lane@centurylink.com](mailto:justin.lane@centurylink.com)



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

December 21, 2017

GB Custom Homes, Inc.  
C/O Gregory Bella  
4637 SE 1<sup>st</sup> Ave  
Cape Coral, Florida 33904

Re; 5201 Sunset Court, Cape Coral, Fl. 33904 (Strap# 13-45-23-C4-00127.0270)

Dear Gregory Bella,

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

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

Cordially,

A handwritten signature in black ink, appearing to read "Mark Cook".

Mark Cook  
Project Coordinator



**Review Date:** April 26, 2018

**Property Owner:** Thomas W. and Sandra Hays Thorne

**Applicant:** Gregory P. Bella, GB Custom Homes, Inc.

**Owner Address:** 5214 Sunset Court  
Cape Coral, FL 33904

**Request:** To vacate ±875 sq. ft. of canal right-of-way (ROW) and all underlying easements, and 1,429 sq. ft. of platted easements in Lots 27 and 28 and part of Lot 29, Block 127.

**Property Location:** 5201 Sunset Court  
Lots 27 and 28 and part of Lot 29, Block 127, Unit 5, Cape Coral Subdivision  
Strap number: 13-45-23-C4-00127.0270

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

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

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

**Urban Service** Infill

**Property Description:**

The Thornes' own a 16,242-sq. ft. site in southeastern Cape Coral at the intersection of Bimini and Sunset Canals. A single-family dwelling was demolished from the site in 2017.

The site has a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning and all properties within 1,200 feet share the same future land use classification and zoning.

**Request**

A sketch of the site shows about a three-foot wide strip of canal ROW between the edge of the seawall and the north and west property lines. This ROW includes a concrete dock. For most platted water-front sites in the City, the rear property line extends to the edge of the canal. The applicant seeks to vacate 875 sq. ft. of ROW to extend the site to the edge of the seawall.

**Zoning History of Block 1904**

The site has always had a Single Family Future Land Use Classification and R-1B Zoning.

**Analysis:**

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

Thomas W. and Sandra Hays Thorne own the site at 5201 Sunset Court and are, therefore, eligible to apply for all three vacations.

**Request No. 1: Vacate 875 sq. ft. of ROW Adjacent to the Bimini and Sunset Canals**

This vacation involves the ROW between the northern property line of Lots 27, 28, part of Lot 29, and the western property line of Lot 27. Improvements in this ROW include a seawall and a concrete dock. The width of the ROW between the property line and the face of the seawall varies from about 3.1 to 3.3 feet. The width of this ROW is too narrow to provide any current or foreseeable benefit to the public. As a result, there is no benefit gained by the City for retaining this ROW. Approval of this request will allow the applicant to modestly expand their site. Besides adding a small amount of land to the tax rolls, City maintenance obligations will be slightly reduced by eliminating this ROW.

**Request No. 2: Vacate 875 sq. ft. of Easements Underlying the Subject ROW**

The applicant seeks to vacate 875 sq. ft. of easements underlying the ROW described above in Request No. 1. All three utility providers lack facilities in these easements. None of these providers object to this request. The City also lacks facilities within this easement. Staff recommends that easements be deeded to the City for providing a six-foot wide perimeter easement around the expanded site.

**Request No. 3: Vacate 1,429 sq. ft. of Easements in Lots 27, 28, and part of Lot 29, Block 127**

The applicant seeks to vacate 1429 sq. ft. of platted easements along the north property line of Lots 27 and 28 and part of Lot 29, and the western property line of Lot 27. All three utility providers lack facilities in these easements and do not object to this request. The City lacks facilities within this easement. This easement will no longer be necessary as the owner will be providing the City with six-foot wide replacement easement around the perimeter of the expanded site.

**Consistency with the Comprehensive Plan**

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

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

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

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



**Staff comment:** This request is consistent with Policy 1.15.a as the site is ±17,117 sq. ft. following the ROW vacation and the property is planned to have one single-family home. This equates to a density of 2.5 dwelling units per acre. This density is less than the maximum 4.4 dwelling units per acre allowed within this future land use classification.

**Recommendation:**

Based on the above analysis, staff recommends **approval** of the requested vacations with the following conditions.

**Conditions of Approval**

1. The vacation of the 875-sq. ft. of ROW and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by R. K. Burns Surveying, Inc. dated November 14, 2017.
2. The vacation of the 1,429-sq. ft. of platted easements in Lots 27 and 28 and part of Lot 29, Block 127 shall be consistent with that shown in the sketch and accompanying legal description prepared by R. K. Burns Surveying, Inc. dated December 11, 2017.
3. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed for a six-foot wide easement that is consistent with that shown in the sketch and accompanying legal description prepared by R. K. Burns Surveying, Inc. dated December 11, 2017. This deed shall be approved by the City Property Broker prior to execution.
4. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with an easement deed as described in Condition #3 above, and reimburses the City for all recording fees associated with this resolution.

---

**Staff Contact Information**

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

PH: 239-242-3255

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

# The News-Press media group

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239-335-0258

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FNPLegals@gannett.com

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

**Ad No.:** 0002902006

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

**Net Amt:** \$407.90

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 05/05/18

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** VP18-0002

**REQUEST:** The owners, Thomas W. and Sandra Hays Thorne, seek a vacation of plat for a canal right-of-way and underlying easements being a part of the Bimini and Sunset Canals, adjacent to part of Lot 27, Lot 28, and part of Lot 29, Block 127, Cape Coral Subdivision, Unit 5, and a vacation of easements occupying a portion of Lots 27, 28, and 29, Block 127, Cape Coral Subdivision, Unit 5; property located at 5201 Sunset Court.

**LOCATION:** 5201 Sunset Court

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

**PROPERTY OWNER(S):** Thomas W. and Sandra Hays Thorne

**AUTHORIZED REPRESENTATIVE:** Gregory Bella

**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, May 15, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

**HOW TO CONTACT:** Any person may appear at the public hearing and be



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

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

by order of  
Rebecca van Deutekom, MMC  
City Clerk  
REF # VP18-0002  
AD# 2902006 May 5, 2018



## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** VP18-0002

**REQUEST:** The owners, Thomas W. and Sandra Hays Thorne, seek a vacation of plat for a canal right-of-way and underlying easements being a part of the Bimini and Sunset Canals, adjacent to part of Lot 27, Lot 28, and part of Lot 29, Block 127, Cape Coral Subdivision, Unit 5, and a vacation of easements occupying a portion of Lots 27, 28, and 29, Block 127, Cape Coral Subdivision, Unit 5; property located at 5201 Sunset Court.

**LOCATION:** 5201 Sunset Court

**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):** Thomas W. and Sandra Hays Thorne

**AUTHORIZED REPRESENTATIVE:** Gregory Bella

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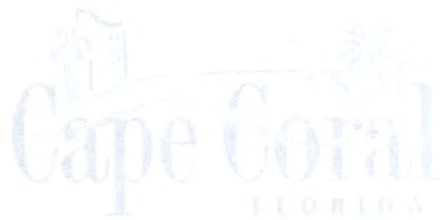
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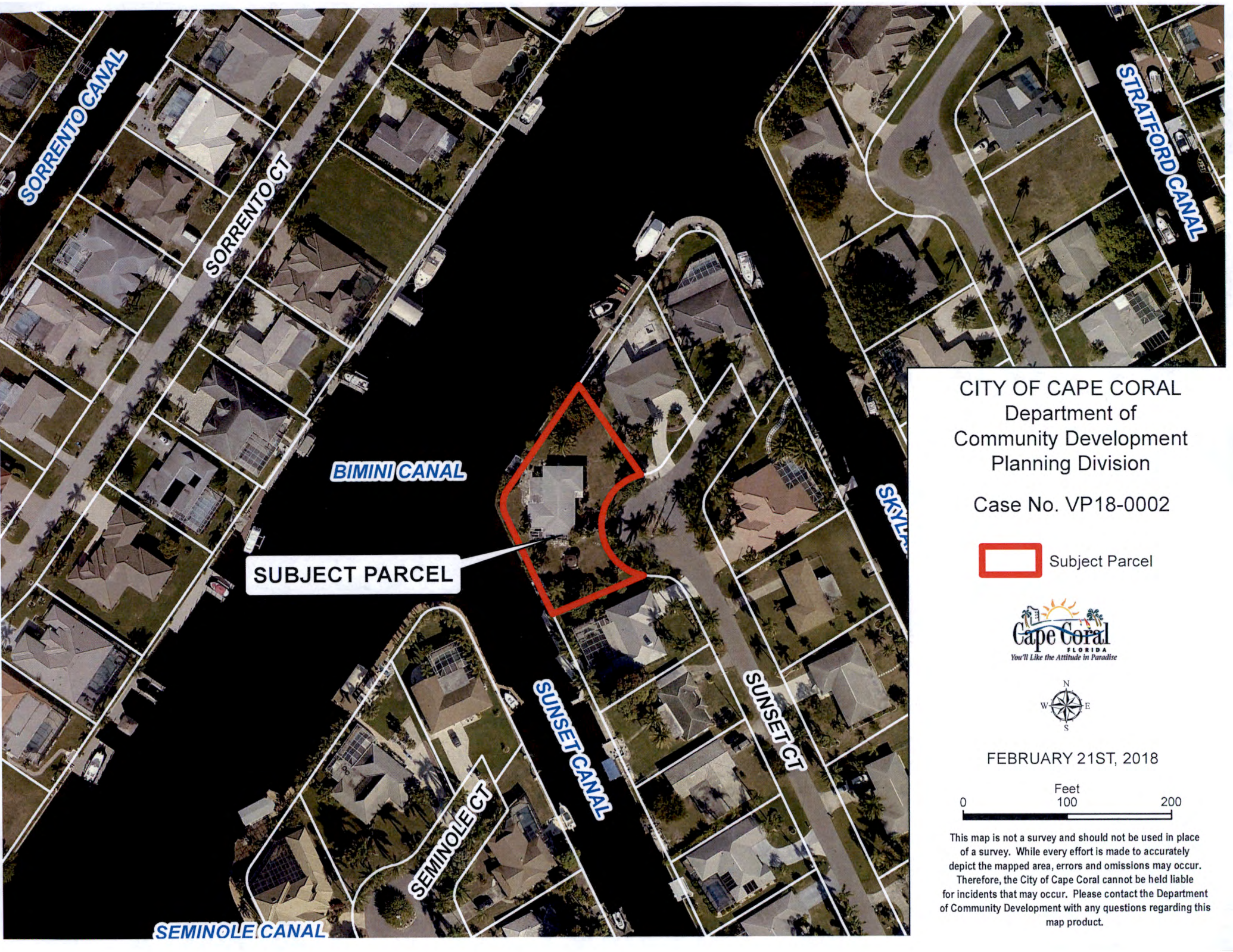
**HOW TO CONTACT:** Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please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








CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

Case No. VP18-0002

 Subject Parcel



FEBRUARY 21ST, 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. VP18-0002

LEGEND

 500' Proximity Boundary

 Subject Parcel

Zoning

 R-1B



FEBRUARY 21ST, 2018



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Item Number:	3.A.
Meeting Date:	5/15/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Tuesday, June 5, 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:**