



AGENDA FOR THE HEARING EXAMINER

Tuesday, August 7, 2018

9:00 AM

Council Chambers

VIDEO

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. Case # SE18-0004*; Address: 236 El Dorado Parkway East; Applicant: Edward Krassenstein
- B. Case # DE18-0016*; Address: 5612 Lancelot Lane; Applicant: James and Amy Graf

3. DATE AND TIME OF NEXT HEARINGS

- A. Tuesday, August 21, 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: 8/7/2018
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case # SE18-0004*; Address: 236 El Dorado Parkway East; Applicant: Edward Krassenstein

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant is requesting a Special Exception for a model home use in the Single Family (R-1B) District

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Material"

PREPARED BY:

Kristin
Kantarze Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description	Type
Backup Materials	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0553

Case # SE18-0004

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

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

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

OWNER OF PROPERTY

Address: 15128 Anchorage Way
City: Ft Myers State FL Zip 33908
Email: edbr1871@gmail.com Phone: 609-226-3140

APPLICANT (if different from Owner)

Address: 4818 Coronado Pkwy #16
City: Cape Coral State FL Zip 33904
Email: BH4610@gmail.com Phone: 239-229-1199

AUTHORIZED REPRESENTATIVE

Address: 4818 Coronado Pkwy #16
City: Cape Coral State FL Zip 33904
Email: BH 4610@gmail.com Phone: 239-229-1199

Unit 4 Part 2 Block 151 Lot(s) 32+33 Subdivision CAPE CORAL
Address of Property 236 El Dorado Pkwy E. CAPE CORAL, FL 33904
Plat Book 12 Page 21
Current Zoning Residential Strap Number 13-45-23-C4-00151-0320

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.

BRIAN HAAG
NAME (PLEASE TYPE OR PRINT)

Windward Construction LLC
CORPORATION/COMPANY NAME
APPLICANT'S SIGNATURE

(SIGNATURE MUST BE NOTARIZED)



DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # SE18-0004

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0553

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

STATE OF Florida, COUNTY OF Lee

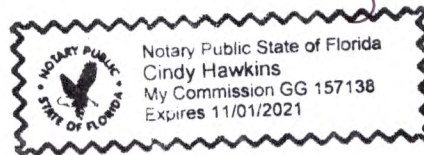
Sworn to (or affirmed) and subscribed before me this 15th day of May, 2018, by
Brian Haas who is personally known or produced
as identification.

Exp. Date: 11/1/2021 Commission Number: GG 157138

Signature of Notary Public:

Printed name of Notary Public:

Cindy Hawkins
Cindy Hawkins





DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # _____

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0553

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

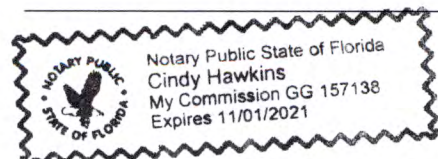
By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

I hereby acknowledge that I have read and understood the above affidavit on the
2nd day of May, 2018
BRIAN HAAG APPLICANT'S SIGNATURE
PRINT APPLICANT'S NAME

STATE OF Florida COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 2nd day of May, 2018, by
Brian Haag who is personally known or produced
as identification.

Exp. Date: 11/1/2021 Commission Number: 66 157138
Signature of Notary Public: Cindy Hawkins
Printed name of Notary Public:





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0553

Case # SE18-0004

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

BRIAN HAAG
(Name of person giving presentation)

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

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

UNIT 4 part 2 BLOCK 151 LOT(S) 32+33 SUBDIVISION CAPE CORAL

OR LEGAL DESCRIPTION Cape Coral, Unit 4 PT 2 BLK 151 PB 12 PG 21 Lots 32, 33

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

Brian Krassenstein

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

[Signature]

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 2ND day of MAY, 2018, by BRIAN KRASSENSTEIN who is personally known or produced as identification.

Exp. Date: 4/5/20 Commission Number: FF 9789104

Signature of Notary Public: [Signature]

Printed name of Notary Public: MICHELLE STEVENSON



MICHELLE STEVENSON
MY COMMISSION # FF 978964
EXPIRES: April 5, 2020
Bonded Thru Budget Notary Services

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

MODEL HOME ESCROW AGREEMENT

Questions: 239-574-0553

RE: Case # SE18-0004

MODEL HOME SPECIAL EXCEPTION
RESTORATION AGREEMENT (CASH DEPOSIT)

THIS AGREEMENT made and entered into this _____ day of _____, 20____,
between the CITY OF CAPE CORAL, FLORIDA, a municipal corporation, herein after "CITY", and
_____ hereinafter "OWNER".

NOW, THEREFORE, in consideration of the mutual terms contained herein, and for other good and
valuable consideration, the parties agree as follows:

1. OWNER or OWNER's lessee or sub-lessee is utilizing the real property described as:

Lots 32+33 Block 151, Unit 4, Plat Book 12, Page 21

STRAP#: 13-45-23-C4-0051. 0320

Legal Description (metes & bounds): Lots 32, 33 BLK 151, Unit 4 Part 2 PB 12 PG 21

Address: 236 EL Dorado Pkwy E, Cape Coral 33904 as a
model home pursuant to law.

2. OWNER is required by Section 2.7.1.D.1, 2.7.2.D.2, 2.7.3.D.2, 2.7.5.D.2, and 2.7.18.D.9 of the
Cape Coral Land Use Regulations to deposit funds or other financial instruments payable to the
City of Cape Coral to insure that the property used as a model home site is restored to all
requirements of the zoning district in which said property is located when said model home use
terminates.
3. OWNER has deposited with the CITY cash in the amount of \$ 5,000.00 as security to
guarantee restoration of the site upon termination or abandonment of the model home special
exception use. The CITY shall retain these funds during the entire term of the special exception
use.
4. OWNER and CITY agree that the CITY may use the aforesaid funds to fully restore the subject
property to the requirement of the zoning district in which the property is located in the event
that one or more of the following events shall occur:
- (1) The structure has been abandoned as a model by OWNER, or any lessee or sub-lessee
of the property for more than thirty (30) days; or
 - (2) The model home is sold as a residence; or
 - (3) The time limit for the special exception use as a model home has expired.

In the event the OWNER and/or lessee or sub-lessee of the OWNER fully restores the property at his or
her own expense, or in the event any unused monies remain after the full restoration of the subject
property by the CITY, any unused monies shall be refunded to the OWNER.



May 14, 2018

Re: 236 El Dorado Pkwy East

To Whom it May Concern:

With respect to the above referenced addressed, Windward Construction intends to build a model home and pool that will be homogeneous with the surrounding neighborhood.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brian Haag', with a stylized flourish at the end.

Brian Haag
Managing Member

Planning Division Case Report
SE18-0004

Review Date:	June 27, 2018
Property Owner	Edward Krassenstein
Applicant:	Windward Construction, Brian Haag
Representative:	Brian Haag
Request:	The applicant is requesting a Special Exception for a model home use in the Single Family (R-1B) District.
Location:	236 El Dorado Parkway East Unit 4, Block 151, Lots 32-33
Prepared By:	Justin Heller, Planner
Reviewed By:	Mike Struve, AICP, Planning Team Coordinator
Approved By:	Robert Pederson, AICP, Planning Manager
Recommendation:	Approval
Urban Service Area:	Transition

Background:

The site is in southeast Cape Coral with frontage on El Dorado Pkwy E. and Bayshore Ave. The surrounding area is primarily single-family homes with scattered undeveloped lots. The site and all properties within 2,00 ft. have Single Family Residential (R1-B) Zoning and a Single-Family Residential (SF) Future Land Use (FLU) Classification. One model home with a pool is proposed on the site with five parking spaces. Landscaping is proposed along the perimeter of the parking lot. A preliminary site plan and landscaping plan appears in Exhibit A.

Analysis:

The Planning Division reviewed this application based on the Land Use and Development Regulations (LUDR), Section 2.7.1 the R-1B District, and the five standards in Section 8.8.5a-e, and offers the following analysis.

Analysis of the requirements per LUDR Section 8.8.5a-e

a) Generally:

The site has R-1B Zoning and a Single-Family FLU Classification. Model homes are allowed as a Special Exception with a minimum area of 15,000 square feet for the first model home site, and 10,000 square feet for each additional model home. One model home is proposed and the 15,758-square foot site meets the land area requirement.

b) Compatibility:

All surrounding parcels have a Single-Family FLU Classification and R-1B Zoning. The R1-B District has special regulations for model homes including hours of operation, lighting, and prohibiting real estate sales. These regulations are intended to enhance the compatibility of this use with neighboring residential properties. At the conclusion of the five-year term for this use, the model home will be converted to a single-family home; a permitted use in the R-1B District. This use will be compatible with the surrounding area that is residential in nature.

c) Minimum Lot Frontage; Access:

The site meets all the minimum dimensional requirements for the R-1B District including minimum lot depth and width. Access to the parking lot will be from El Dorado Parkway East. Model homes do not generate large numbers of trips, with most trips occurring during the daytime. Since model homes cannot open until 9:00 a.m., the hours of operation should not conflict with weekday commuters. Because of the low number of trips, along with the timing of these trips, this use should not have a detrimental effect on the neighborhood.

d) Building Location; Setbacks:

The model home meets the setbacks for the R-1B District.

e) Screening and Buffering:

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

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

a. Minimum site area of 15,000 square feet for the first model home site and a minimum of 10,000 square feet for each additional model home site adjoining. ***The site has an area of 15,758 square feet, thus the minimum land area criterion has been met.***

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

- c. No parking directly to the rear of the model home site(s) on one building site. ***The parking lot will be on the north side of the model home with access from El Dorado Pkwy E.***
- d. Parking: five paved spaces on site for the first model home site, three additional paved spaces for each additional model home site. ***This project involves one model home and five parking spaces will be provided.***
- e. Vehicle parking entrance to the model home site shall be from the street which faces the front entrance to the model home unless this condition conflicts with Department of Transportation standards or *City of Cape Coral Engineering Design Standards*. On corner sites where the garage is on the side of the structure, the entrance to the parking area may be located on the same side as the driveway to the garage. ***Access to the parking lot is from El Dorado Parkway East which is consistent with City of Cape Coral Engineering Design Standards.***
- f. Time limit: five years maximum unless conforms to all provisions of this ordinance. ***This Special Exception is limited to five years beginning from the date of approval. An extension to this five-year period would require an amendment to the Special Exception Use.***
- g. Deposit required: ***This will be required prior to the approval of a site plan for the parking lot.***
- h. Model home sites may be open for business between 9:00 a.m. and 9:00 p.m. daily. ***This will be monitored by staff.***
- i. Outside lighting permitted, except from 10:00 p.m. to 7:00 a.m. ***This will be monitored by staff.***
- j. Security lighting: two security lights, one in front and one at rear of building. ***A maximum of two security lights may be installed; one each at the front and rear of the building.***
- k. Model homes must be used exclusively for the display and sale of model homes. No construction office or other real estate uses permitted. ***This will be monitored by staff.***

Comprehensive Plan:

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

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

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

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

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

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

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

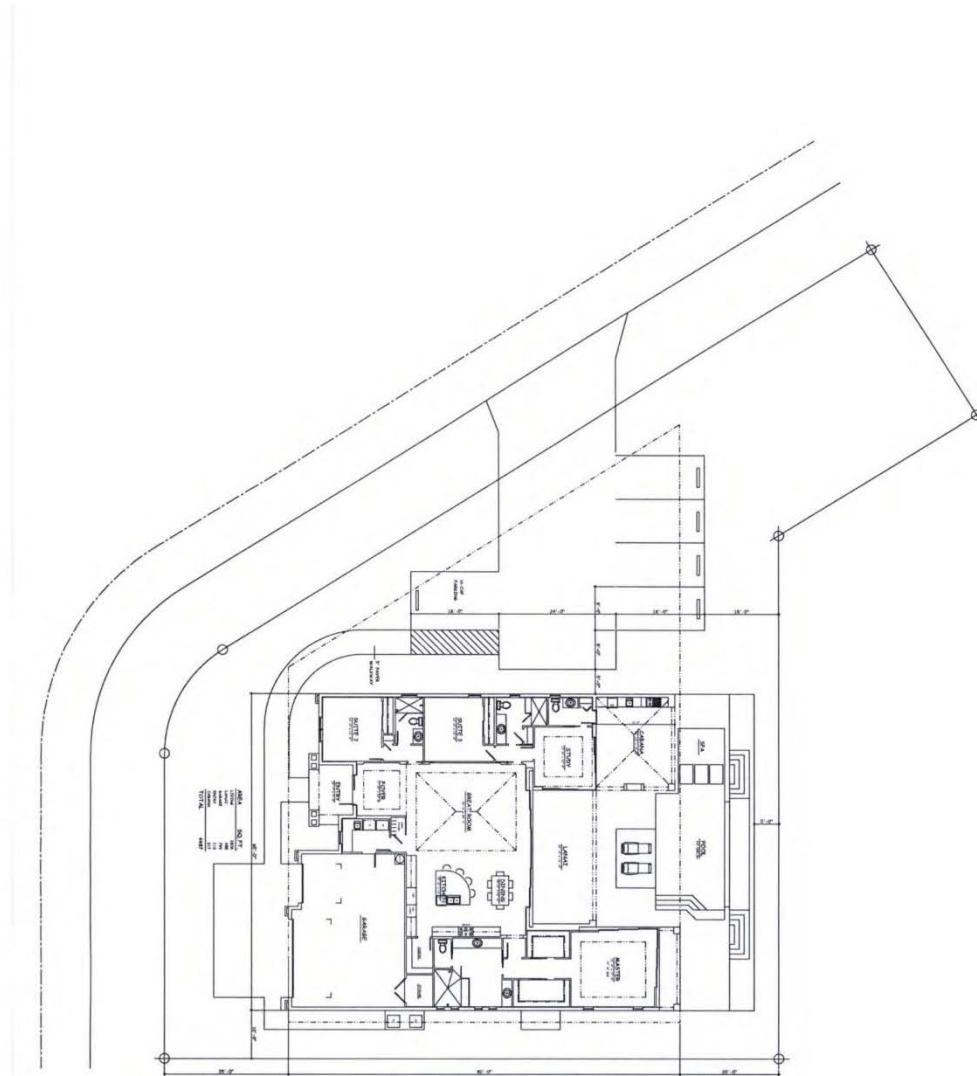
Recommendation:

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

1. The developer shall screen the perimeter of the parking lot with a continuous hedge, consisting of shrubs spaced no greater than three feet on center. The hedge shall be installed at a minimum height of 32 inches and be in at least a seven-gallon container. The shrubs shall be maintained at a minimum height of 42 inches at maturity.
2. Prior to site plan approval for the parking lot, the developer shall provide a deposit payable to the City for the removal of the parking lot. A similar deposit shall be provided by the developer to the City for the installation of a driveway to the garage in the event the driveway is not constructed by the developer as part of the model home.

EXHIBIT A

Preliminary Site Plan

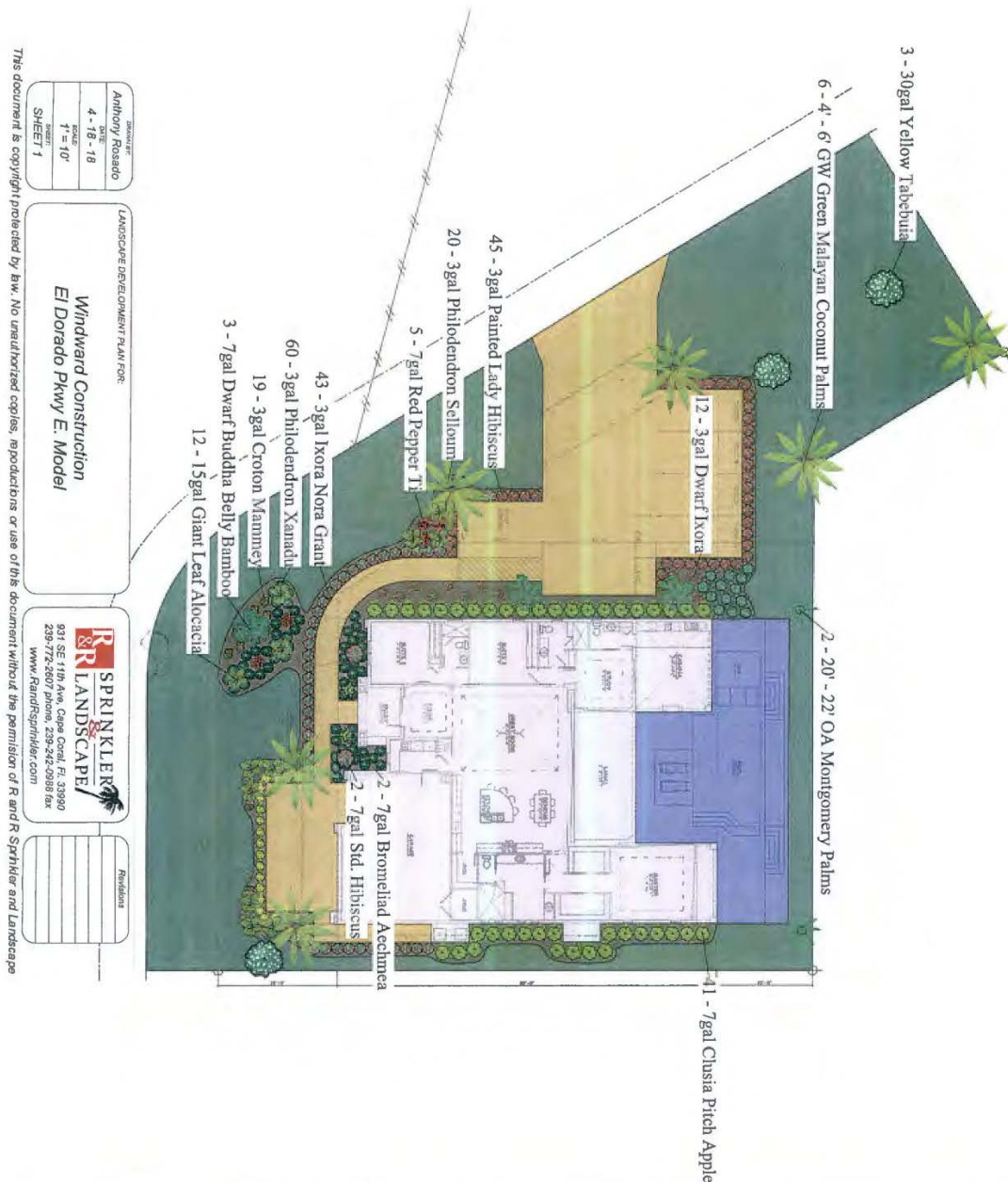


236 EL DORADO Pkwy E.

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A RESIDENCE FOR:	NEW MODEL	VINTAGE DESIGN & HOME SERVICES INC. 2926 S.E. 8th Pl. CAPE CORAL, FL. 33904 (239) 945-6695	BUILT BY: WINDWARD CONST. GULFCOAST ENGINEERING, LLC 3002 DEL PRADO BLVD. Cape Coral, Florida 33904	DWN BY:	REVISION
	PRELIMINARY PLAN			R.E.S.	
				CHE BY:	
				R.E.S.	
				DATE:	
				3/30/18	
				JOB #:	

Preliminary Landscape Plan



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LANDSCAPE DEVELOPMENT PLAN FOR:

Windward Construction
El Dorado Pkwy E. Model

SPRINKLER & LANDSCAPE
931 SE 11th Ave, Cape Coral, FL 33904
239-775-2607 phone, 239-242-0988 fax
www.RandRSprinkler.com

PROVISIONS

© 2018 WINDWARD CONST. LLC ALL RIGHTS TO THIS PLAN OR ANY DERIVATIVE OF THIS PLAN REMAIN THE SOLE PROPERTY OF WINDWARD CONSTRUCTION LLC. ANY UNAUTHORIZED USE OF THIS PLAN IS PUNISHABLE BY LAW.						
<div><div></div></div>	A RESIDENCE FOR:	VINTAGE DESIGN & HOME SERVICES INC. 2926 S.E. 8th Pl. CAPE CORAL, FL. 33904 (239) 945-6695	BUILT BY:	WINDWARD CONST.	DWN BY:	REVISION
	PRELIMINARY PLAN:		GULFCOAST ENGINEERING, LLC	CHK BY:	R.E.S.	
			3302 DEL PINO BLVD. Cape Coral, Florida 33904	DATE:	R.E.S.	
					2/10/18	
					JOB #:	

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CAPE CORAL FL 33990
USA

Net Amt: \$337.79

Run Times: 1

No. of Affidavits: 1

Run Dates: 07/28/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE18-0004

REQUEST: The applicant is requesting a Special Exception for a model home use in the Single Family (R-1B) District.

LOCATION: 236 El Dorado Parkway East

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

PROPERTY OWNER(S): Edward Krassenstein

AUTHORIZED REPRESENTATIVE: Windward Construction, Brian Haag

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, August 7, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources

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

by order of
Rebecca van Deutekom, MMC
City Clerk
REF # SE18-0004
AD# 3060918 July 28, 2018

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Windward Construction

APPLICATION NO: SE18-0004

STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

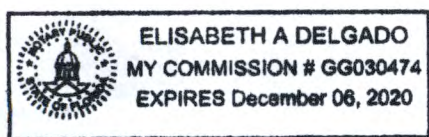
DATED this 30th day of July, 2018.

Vincent A. Caution, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 30th day of July, 2018, by Vincent A. Caution, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # GG030474



Elisabeth A. Delgado
Signature of Notary Public




Elisabeth A. Delgado
Print Name of Notary Public

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Boundary

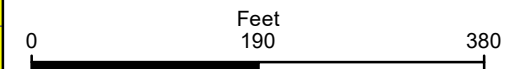
Case No. SE18-0004

LEGEND

-  500' Proximity Boundary
-  Subject Parcel
- Zoning**
-  R-1B



JUNE 29TH, 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

Case No. SE18-0004

 Subject Parcel



JUNE 29TH, 2018

0 Feet 50 100


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.

Item Number: 2.B.
Meeting Date: 8/7/2018
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case # DE18-0016*; Address: 5612 Lancelot Lane; Applicant: James and Amy Graf

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 459-sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations (LUDR) to allow a marine improvement with an area of 1,659 sq. ft.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Materials"

PREPARED BY:

Kristin
Kantarze Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description	Type
□ Backup Materials	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO BOARD OF ZONING ADJUSTMENT & APPEAL
FOR A MARINE IMPROVEMENT DEVIATION

Case # DE 18-0016

FEE RESIDENTIAL USE \$150.00 / ALL OTHER USES \$673.00 - 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.

APPLICANT/OWNER OF PROPERTY

James & Amy Graf

Email Address Jim@awf-inc.com

Address

5612 Lanceolt Lane

Cape Coral Zip Code 33914

Phone 710-352-3288

AUTHORIZED REPRESENTATIVE

Stokes Marine Inc.

Email Address permitting@stokesmarine.com FL Myers Zip Code 33908

Address

15955 Pine Ridge Rd

Phone 239-489-3625

Location: Unit 75 Block 6500 Lot(s) 62 Subdivision Cape Coral

Legal Description

Address Of Property 5612 Lanceolt Lane Plat Book 33, Page 41

Current Zoning SFR/01 Strap Number 21.45-23-C1-001.00.0620

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.

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

B. Wyman Stokes

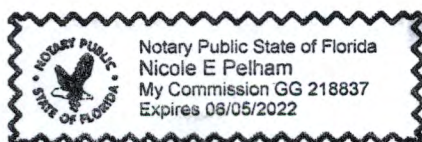
Name (Type or Print)

[Signature]
Applicant's Signature

STATE OF Florida COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 12 day of June 2018, by B. Wyman Stokes, who is personally known or has produced _____ as identification.

Exp. Date 6/5/22 Commission # 66218837



[Signature]
Signature of Notary Public
Nicole Pelham

Print Name of Notary Public



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # _____

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, 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.

(SIGNATURE MUST BE NOTARIZED)

Stokes Marine, Inc.

CORPORATION/COMPANY NAME

James Graf Amy Graf

PROPERTY OWNER (PLEASE TYPE OR PRINT)

[Signature] Amy Graf

PROPERTY OWNER'S SIGNATURE

STATE OF Ohio, COUNTY OF Scioto

Sworn to (or affirmed) and subscribed before me this 4th day of June, 2018, by JAMES GRAF who is personally known or produced

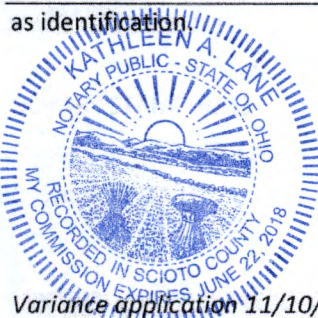
as identification

Exp. Date: 6-22-18 Commission Number: 2013-RE-458014

Signature of Notary Public:

Printed name of Notary Public:

[Signature]
KATHLEEN A. LANE



Variance application 11/10/16



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # _____

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Tony Wallis / Nicole Pelham
(Name of person giving presentation)

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

5612 Incelot Lane, Cape Coral, FL 33914
(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT

BLOCK

6500

LOT(S)

62

SUBDIVISION

CH

OR LEGAL DESCRIPTION

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

James Graf

PROPERTY OWNER (Please Print)

J. Graf - owner

PROPERTY OWNER (Signature & Title)

Amy Graf

PROPERTY OWNER (Please Print)

Amy Graf

PROPERTY OWNER (Signature & Title)

STATE OF

Ohio

COUNTY OF

Scioto

Subscribed and sworn to (or affirmed) before me this

4th

day of

June

, 2018 by

JAMES GRAF

as identification.

Exp. Date:

6-22-18

Commission Number:

2013-RE-458014

Signature of Notary Public:

Kathleen A. Lane

Printed name of Notary Public:

KATHLEEN A. LANE



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



15955 PINE RIDE RD
FORT MYERS, FL. 33908
239-489-3625 (OFFICE)
239-693-3625 (FAX)

June 22, 2018

City Of Cape Coral
PO Box 150027
Cape Coral, FL 33915

RE: Block 6500 PB 33 PG 41 Lot 62

Dear Director:

The purpose of this request is to obtain a deviation of 459 Sq. Ft. from the marine improvement areas specified in Section 3.16.N.1 of the City of Cape Coral Land Use and Development Regulation.

The deviation request is to allow safe access around a second vessel being stored at this location without removing the existing dock. This lot has 165' of frontage. Based on the calculation used for Cape coral maximum square footage, they should be allowed to have 2,175 square feet of dock.

The issuance of this deviation will not give special privileges as there are other residences on the canal with boat docks and boat lifts. The current dock design will remain inside the 12' property line set back and will not extend beyond the maximum protrusion into the waterway.

Sincerely,

Planning Division Case Report
DE18-0016

Review Date: July 2, 2018

Owner/Applicant: James and Amy Graf

Authorized Representative: Stokes Marine Inc.

Request: A 459-sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations (LUDR) to allow a marine improvement with an area of 1,659 sq. ft.

Location: 5612 Lancelot Lane, Block 6500, Lot 62

Prepared By: Justin Heller, Planner

Reviewed By: Mike Struve, AICP, Planning Team Coordinator

Approved By: Robert Pederson, AICP, Planning Manager

Recommendation: **Approval**

Property Description:

The 16,499-sq. ft. site is improved with a single-family home and dock with boat lift. The site is on the South Spreader Waterway and has about 165 ft. of water frontage. The South Spreader Waterway is about 188 ft. wide at the site. The surrounding area consists primarily of single-family homes with the Charlotte Harbour Buffer Preserve to the south. The site and all surrounding properties on the block have a Mixed Use (MX) Future Land Use Classification and Single-Family Residential (R-1B) Zoning.

Project Description:

The applicant proposes to construct an additional boat slip with lift onto their existing dock. A sketch of the proposed marine improvements is provided in Exhibit 1.

LUDR, Section 3.16.2.D restricts marine improvements to a maximum area of 1,200 sq. ft. The applicant requests a 459-sq. ft. deviation to allow a marine improvement that is 1,659 sq. ft.

LUDR, Section 3.16.2.D.1 states:

“For parcels with more than 40 feet of water frontage, the maximum deck surface area coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus 20 feet times one-half times the linear feet of the maximum projection into the waterway (25% of the calculated width of the waterway or 30 feet, whichever is less). However, the maximum deck surface area allowed under this section shall not exceed 1,200 square feet for marine improvements which project from parcels utilized for single-family residential dwelling units in R-1B, RD, RE, and/or RX zoning districts.”

The site has about 165 ft. of water frontage and a maximum allowable projection of 30 ft. into the South Spreader. Applying the water frontage and allowable projection for the site, the following formula calculates the maximum area for a marine improvement.

$$(165 \text{ Frontage}) - 20 \times \frac{1}{2} (30 \text{ projection}) = 2,175 \text{ sq. ft.}$$

Analysis:

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

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

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

The proposed dock complies with the maximum allowed projections into the canals. These improvements also comply with the minimum 12 ft. side setbacks. There is sufficient width in the two canals to accommodate the dock, and the dock should not interfere with navigability or residents' views of the waterways.

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

The intent of the regulation is to protect the navigability of canals and the aesthetics of waterfront properties by limiting the maximum area of marine improvements through the application of a formula that considers canal width and the amount of linear water frontage of the site. Based solely on the formula found in LUDR, Section 3.16.2.D.1, that calculates the maximum area allowed, the site would be allowed a marine improvement with an area of 2,175 sq. ft.

The regulation also states that no marine improvement shall exceed 1,200 sq. ft. Staff notes that this ordinance was likely intended for two-lot platted sites with 80-100 feet of water frontage and does not take into account properties with significantly greater water frontage, similar to the subject site.

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

The applicant has a property with 165 ft. of water frontage, which is about twice that of a standard two-lot homesite. It can be reasonably expected that a larger marine improvement could be accommodated on the site. Therefore, conditions do not exist which are a result of the applicant.

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

The property owner could reasonably expect to construct a larger marine improvement to fully utilize the property. The formula in LUDR, Section 3.16.2.D.1 would allow the applicant a marine improvement almost two times the stated maximum improvement area. The inability to construct an improvement over the 1,200 sq. ft. could be considered a hardship because the formula considers factors that affect navigability and safety. The area of the improvement would be appropriate for the site and will not adversely affect the waterways or surrounding properties. Therefore, the inability of the applicant to construct the marine improvement can be considered an undue hardship.

Specific Deviation Review Criteria Pursuant to LUDR Section 3.16.9.C

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

The proposed dock will project 25% of the canal width or 30 ft. into the South Spreader Waterway. The marine improvements will have no adverse effect on the ability of others to navigate in these canals.

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

The design and location of the proposed improvements meet City code requirements. The collective area of the dock is well below the maximum area of 2,175 sq. ft. as calculated by the formula provided in Section 3.16.2.D.1.

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

The proposed dock additions meet all setback requirements. The dock should have no negative effect on existing marine improvements in the canals.

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

The proposed deviation is not necessarily the minimum deviation, however, a 1,659 sq. ft. dock is less than the 2,175 sq. ft. improvement that would be permitted using the formula in Section 3.16.2.D.1. The area of the marine improvement would be appropriate for the site given the amount of water frontage.

Comprehensive Plan:

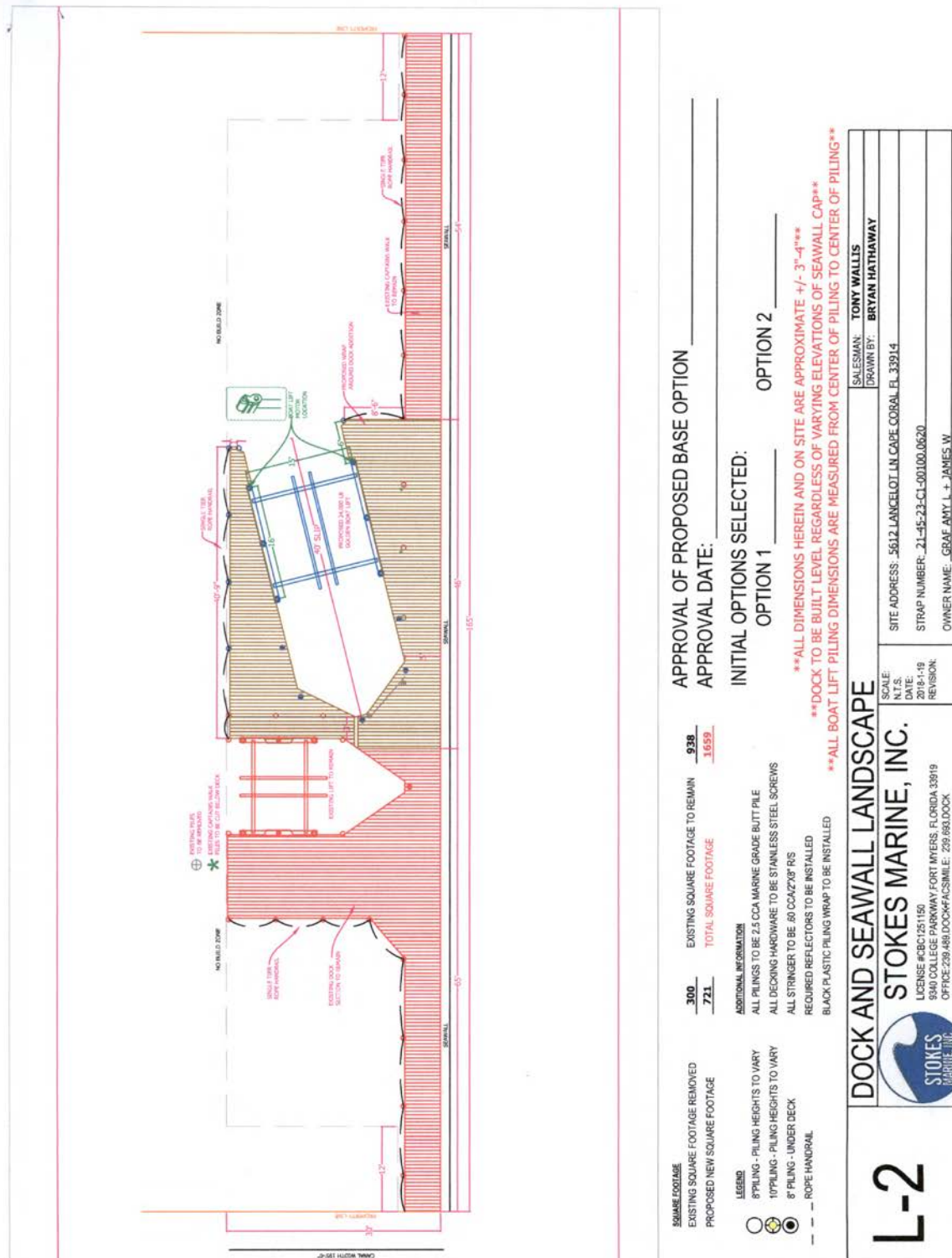
The project is consistent with Objective 1.3 and Policy 1.3.5 of the Conservation and Coastal Management Element of the Comprehensive Plan. The deviation does not propose introducing any new fueling or repair facilities in a residential area.

Recommendation:

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

- 1) The dock shall be consistent with Sheet L-2, provided by Stokes Marine, Inc. that is dated January 18, 2018.

Exhibit 1:



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.: 0003061008

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$345.17

Run Times: 1

No. of Affidavits: 1

Run Dates: 07/28/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: DE18-0016

REQUEST: A 459-sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations (LUDR) to allow a marine improvement with an area of 1,659 sq. ft.

LOCATION: 5612 Lancelot Lane

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

PROPERTY OWNER(S): James and Amy Graf

AUTHORIZED REPRESENTATIVE: Stokes Marine Inc.

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, August 7, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special 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 # DE18-0016
AD# 3061008 July 28, 2018

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: James and Amy Graf

APPLICATION NO: DE18-0016

STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

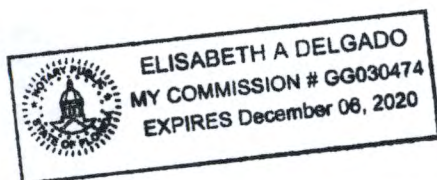
DATED this 30th day of July, 2018.

Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 30th day of July, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # 66030474



Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public

EL DORADO PKWY W

EL DORADO PKWY W

MORDRED CANAL

GUENEVER CANAL

SAGRAMORE PL

LANCELOT LN

CASTLE BASIN

SOUTH SPREADER WATERWAY

HARBOUR PRESERVE CIR

PENNANT CT

NIMUE CANAL

500' PROXIMITY BOUNDARY


SUBJECT PARCEL


CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Boundary

Case No. DE18-0016

LEGEND

 500' Proximity Boundary

 Subject Parcel

Zoning

 PRES-Regulated by FLU

 R-1B

 RE



JULY 23RD, 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.



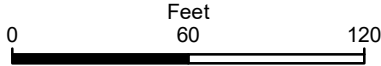
CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. DE18-0016

 Subject Parcel



JULY 23RD, 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.

Item Number:	3.A.
Meeting Date:	8/7/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Tuesday, August 21, 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: