



AGENDA FOR THE HEARING EXAMINER

Tuesday, November 13, 2018

9:00 AM

Council Chambers

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. WITHDRAWN BY APPLICANT - Case #VA18-0017*; Address: 1730 and 1822 Savona Parkway West; Applicant: Savona Parkway Apartments, LLC - Continued from October 16, 2018
- B. Case #SE18-0006*; Address: The site is at the northwest corner of Chiquita Boulevard and Trafalgar Parkway; Applicant: 38335 Chiquita Trafalgar, LLC
- C. Case #DE18-0025*; Address: 5116 SW 12th Place, Block 4518, Lots 29-30; Applicant: Mike Kazlauskas

3. DATE AND TIME OF NEXT HEARINGS

- A. Tuesday, December 4, 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: 11/13/2018
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

WITHDRAWN BY APPLICANT - Case #VA18-0017*; Address: 1730 and 1822 Savona Parkway West; Applicant: Savona Parkway Apartments, LLC - Continued from October 16, 2018

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 7.5-foot variance from the Land Use and Development Regulations (LUDR), Section 2.7.2.D, which allows a maximum height of 38 feet for buildings in the R-3 District.

LEGAL REVIEW:

EXHIBITS:

WITHDRAWAL LETTER
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
WITHDRAWAL LETTER	Backup Material

▣ Backup Materials	Backup Material
▣ 3 CC_Savona Bldg Ht Exhibit 8.16.18 enlarged	Backup Material
▣ 4 CC_Savona 40-plex Design Intent Drawings 8.16.18	Backup Material
▣ 5 CC_Savona 80-plex Design Intent Drawings 8.16.18	Backup Material
▣ 6 CC_Savona Site Plan Exhibit 8.16.18	Backup Material

Development
Construction
Property Management
Commercial & Residential
Real Estate

October 24, 2018

City of Cape Coral
Attn: Justin Heller, Planner
Department of Community Development
1015 Cultural Park Blvd
Cape Coral, FL 33990

RE: VA18-00017 Height Variance Request

Dear Mr. Heller,

Savona Parkway Apartments, LLC requests the above referenced variance request be withdrawn from consideration.

Should you have any questions, please let us know.

Regards,



Larry S. Nygard, Managing Member
Savona Parkway Apartments, LLC

**ROERS**

Building success.

200 45th Street South, Fargo, ND 58103 | www.roers.com | TEL: 701.356.5050 | FAX: 701.282.2121



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # VA18-0017

REQUEST TO HEARING EXAMINER FOR A VARIANCE

FEE: SINGLE-FAMILY RESIDENTIAL USE \$150.00 (\$150.00 PER EACH ADDITIONAL REQUEST) 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.

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

Savona Parkway Apartments, LLC.

Address: 200 45th St South

City: Fargo State: ND Zip 58103

Phone: 701-356-5050

APPLICANT

Savona Parkway Apartments, LLC. Larry Nygard - Managing Member

Address: 200 45th St South

EMAIL

lnyard@roers.com

City: Fargo State: ND Zip 58103

Phone: 701-356-5050

AUTHORIZED REPRESENTATIVE

Jeremy Easum

Address: 200 45th St South

EMAIL

jeasum@roers.com

City: Fargo State: ND Zip 58103

Phone: 701-219-4511

Unit 70 Block 4775 Lot(s) Subdivision

Address of Property 1730 & 1822 Savona Pkwy. W., Cape Coral, FL 33914

Current Zoning R-3 (future land use MF) Plat Book 22 , Page 81

Strap Number 04-45-23-C3-04775.0010 & 04-45-23-C3-04775.0000

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # _____

Savona Parkway Apartments, LLC. Larry Nygard - Managing Member

APPLICANT NAME (PLEASE TYPE OR PRINT)



APPLICANT'S SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF ND, COUNTY OF

Cass

Sworn to (or affirmed) and subscribed before me this 5th day of July, 2018 by

Larry Nygard

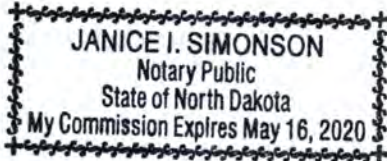
who is personally known or produced

personally known

as identification

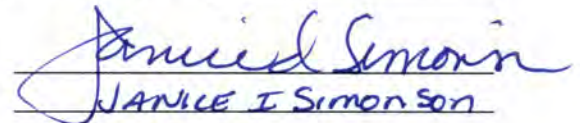
Exp. Date: _____

Commission Number: _____



Signature of Notary Public:

Printed name of Notary Public:


JANICE I Simonson



DEPARTMENT OF COMMUNITY DEVELOPMENT

CASE # _____

APPLICATION FOR VARIANCE

Questions: 239-574-0776

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)

Savona Parkway Apartments, LLC.

CORPORATION/COMPANY NAME

Savona Parkway Apartments, LLC. Larry Nygard - Managing Member

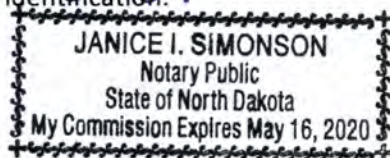
PROPERTY OWNER (PLEASE TYPE OR PRINT)


PROPERTY OWNER'S SIGNATURE

STATE OF ND, COUNTY OF Cass

Sworn to (or affirmed) and subscribed before me this 5th day of July 2018 by

Larry Nygard who is personally known or produced personally known
as identification.



Exp. Date: _____ Commission Number: _____

Signature of Notary Public: Janice I. Simonson

Printed name of Notary Public: Janice I. Simonson



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # _____

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

Larry Nygard, Jeremy Easum, Elissa Novotny or Tyler Petersen

(Name of person giving presentation)

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

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

UNIT 70 BLOCK 4775 LOT(S) SUBDIVISION

OR LEGAL DESCRIPTION

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

Savona Parkway Apartments, LLC. Larry Nygard - Managing Member

PROPERTY OWNER (Please Print)

Larry Nygard
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

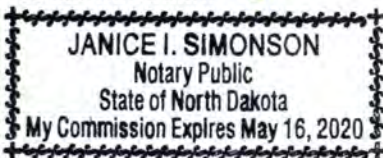
STATE OF Cass, COUNTY OF Cass

Subscribed and sworn to (or affirmed) before me this

Larry Nygard who is personally known or produced
as identification.

5th day of July, 2018 by

personally known



Exp. Date: _____

Commission Number: _____

Signature of Notary Public: _____

Printed name of Notary Public: _____

Janice I Simonson
Janice I Simonson

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # _____

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

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

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

Savona Parkway Apartments, LLC. Larry Nygard - Managing Member

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF ND COUNTY OF Cass

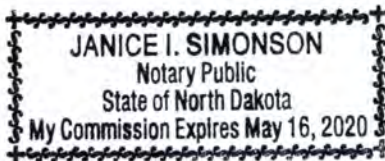
Sworn to (or affirmed) and subscribed before me on this 5th day of July, 2018 by Larry Nygard, who is personally known or who has produced personally know as Identification.

Exp. Date _____

Commission # _____

Signature of Notary Public

Print Name of Notary Public



August 16, 2018

City of Cape Coral
Department of Community Development Director
1015 Cultural Park Blvd
Cape Coral, FL 33990

Dear Director,

Current zoning classification for property at 1730 & 1822 Savona Parkway W, Cape Coral, FL 33914 is R-3 with the following dimensional regulations [Table R-3 Dimensional Regulations (R-3 District)]:

Max Density: Multi-family 16 du/acre

Minimum Setbacks: Front Yard = 25ft.

Side Yard = 7.5ft.

Rear Yard = 20ft.

Minimum Lot Width: 120ft.

Minimum Lot Depth: 100ft.

Maximum Building Height: 38ft.(c.)

(c) The Hearing Examiner may approve variances to permit additional height where one additional foot is added to the required front and side yards for each additional one foot of building height, and all other criteria for approval of a variance are met.

(Ord. 103-00, § 2, 10-23-2000)

A variance is requested to increase the maximum height from 38 feet to 39'-10" for the main roof and a max of 45'-6" for the architectural features that include the portion of the roof over the central building core with a bearing height at 45'-6" to conceal the elevator shaft over-run and the (2) architectural features per building that have a maximum height of 42'-6" to add architectural character.

- a. Special Conditions – The subject property is a two-lot platted parcel with an area of approximately 20 acres, currently zoned as R-3 and future zoning anticipated to be Residential Multi-Family Medium (RMM). This property is one of the few undeveloped lots that allow for a larger multi-family development to offset the housing shortage in Cape Coral, and we desire to maximize its potential by building 4-story apartment buildings to maximize the 16du/acre density permitted under the current R-3 Zoning. The District Regulations under Table R-3, subparagraph (c) note that *"the Hearing Examiner may approve variances to permit*

additional height where one additional foot is added to the required front and side yards for each additional one foot of building height, and all other criteria for approval of a variance are met” (Ord. 103-00, § 2, 10-23-2000). The proposed site plan shows that the 4-story buildings honor a minimum 100’ building setback where current zoning allows a minimum of 25’, meeting the requirements of the District Regulations for consideration of a height variance

- b. No Special Privilege – We do not believe this variance would give us special privilege because other multi-family complexes would be able to build to the maximum density per acre at other locations. Also, the conditions of the variance would not be applicable generally to other property within the same zoning district as we understand that the City of Cape Coral is in the process of revising the zoning districts and due to the size of these two 10acre lots, they would likely be reclassified in 2019 as Residential Multi-Family Medium (RMM) that would entitle property Owners within the same zoning district a maximum height of 50’-0”.
- c. Hardship – The literal interpretation of this ordinance would deprive us of building out the apartment complex site to the maximum allowed density of 16 units per acre due to the site area required for storm water management and parking, limiting site area to add an additional building footprint. A max 38’ height would limit the project to 3-story buildings totaling 240 units in lieu of 4-story buildings totaling 320 units. See attached Site Plan Exhibit demonstrating the site area necessary to meet the stormwater and parking requirements for a 320 unit complex that maximizes density with 16units/acre, assuming 4-stories to obtain the 320 units.
- d. Minimum Variance – A variance is requested to increase the maximum height from 38 feet to 39’-10” for the main roof and a max of 45’-6” for architectural features that include the following:
 - a. The portion of the roof over the central building core with a bearing height at 45’-6” to conceal the elevator shaft over-run. Note that an elevator is required per the Florida Building Code for buildings 4-stories.
 - b. The (2) architectural features per building that have a maximum height of 42’-6” to add architectural character and with the narrower portion of roof affected, the ridge height of the architectural feature is significantly less than the ridge height of the main roof that has a maximum (bearing) height of 39’-10”.

See attached Building Height Exhibit demonstrating the maximum height allowed for current zoning, guideline for additional height permitted pending approval of Hearing Examiner per (*Ord. 103-00, § 2, 10-23-2000*), and finally the height variance requested with conditions for the architectural features that also conceal the elevator shaft over-run.

- e. Purpose and Intent; Public Interest – This height variance will not be injurious to the area involved or otherwise detrimental to the public welfare as outlined below and is within purpose of this ordinance.
 - a. The height variance approval with the significant building setback provided will not impair adequate supply of daylight and air to adjacent properties.
 - b. The height variance approval for this apartment complex with its significant building setback and with it being fully fire sprinkled will not increase the hazard of fire or other dangers to this property or adjacent property.
 - c. The height variance approval will not diminish property values within the neighborhood for reasons noted above and will actually assist in providing for a more visually pleasing building exterior if the additional height is allowed for the architectural features.

Respectfully submitted,



Larry Nygard

Vice President Roers Development &

Managing Member Savona Parkway Apartments, LLC

July 11, 2018

RE: Savona Apartment Projects, Cape Coral, FL

To Whom It May Concern:

Savona Parkway Apartments, LLC (SPA) with Roers Development, Inc. serving as project developer, is the managing member of a joint venture tentatively named The Cape at Savona, LLC ("The Cape").

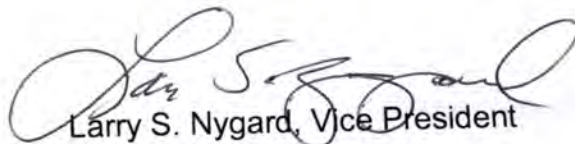
The Cape project consists of 320 apartments located at 1800 Savona Parkway West. I have attached a Development Agreement between Savona Parkway Apartments, LLC and Savona of SW Florida, LLC which describes the relationship of the parties and management authority of SPA in more detail.

As managing member, I will over see the development of this project and make my self available for any questions or clarifications.

Sincerely,



Larry S. Nygard, Managing Member
Savona Parkway Apartments, LLC Member
The Cape at Savona, LLC



Larry S. Nygard, Vice President
Roers Development, Inc.

MASTER AGREEMENT ON DEVELOPMENT AND OWNERSHIP

SAVONA PARKWAY APARTMENT PROJECT

This Master Agreement is made and entered into effective this 5th day of June, 2018, ("Effective Date") by and between:

SAVONA OF SW FLORIDA, LLC

14975 Technology Court
Fort Myers, FL 33912-4422
(hereinafter "SSWF")

and

SAVONA PARKWAY APARTMENTS LLC

200 45th St. S.
Fargo, ND 58103
(hereinafter "SPA")

RECITATONS:

- A. SSWF is the owner of 10 acres of undeveloped real property with a street address of 1822 Savona Parkway West, Cape Coral, Florida ("1822").
- B. SPA is the owner of 10 acres of undeveloped real property with a street address of 1730 Savona Parkway West, Cape Coral, Florida ("1730").
- C. Wen Wu and Maylene Kiang (collectively "Wu" whether one or more) is a financially successful business owner in the Fort Myers, Florida area. Wu owns a number of real estate investments. Wu is aware of the development plan for 1730. Wu owns SSWF. Wu wishes to capitalize on and participate in the simultaneous development of the SSWF property at 1822 as part of the same project as 1730.
- D. SPA and its principals, James P. Roers ("Jim") and Larry S. Nygard ("Larry"), formed SPA to develop, build, own, manage, and operate a 160 unit apartment complex located at 1730. Jim and Larry have significant experience in the development, design, construction, management and disposition of real estate assets. They have extensive experience performing these tasks with respect to multi-family apartment properties.
- E. Jim and Larry, through SPA, purchased 1730. They have also made significant progress regarding the development of the multi-family apartment project at 1730, including the commissioning of a detailed market study and the conducting of significant market research, regarding the suitability of the 1730 project in the Cape Coral, FL market. Jim and Larry have also caused SPA to do additional development work accomplished through the employing of the use of various

professionals, including, but not limited to, architects, engineers, surveyors, attorneys, financial consultants, environmental surveyors, and contractors.

- F. Wu became aware of the development plans for 1730. Wu desires to capitalize on and participate in the simultaneous development of 1822 along with 1730 for a total of 320 apartments (the "Project").
- G. Wu, Jim, Larry, SSWF and SPA believe that the economics and efficiencies of the larger development of both 1730 and 1822 at the same time will provide benefits to SSWF and to SPA. Based on these considerations, SSWF and SPA desire to join together for the benefit of the larger project.
- H. The parties desire to set forth the terms of their Master Agreement in this document.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties, the adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. **Recitations.** The Recitations previously set forth are incorporated into this Agreement.

Section 2. **Formation of Single Purpose Entity.** The parties agree to form a Single Purpose Entity ("SPE"), which will likely be a Florida Limited Liability Company. SPA will be responsible for taking the actions necessary to form the SPE. The sole purpose of the SPE will be to develop, build, own, operate for a profit and sell a 320 unit multi-family project located on 1730 and 1822 in Cape Coral, FL. This will be referred to as the "Project".

Section 3. **Operating Agreement.** In conjunction with forming the SPE, SPA will cause an Operating Agreement to be drafted fairly setting forth terms consistent with the terms of this Master Agreement and not favoring either party. Each party will have the right to have the Operating Agreement reviewed by an attorney representing only that party's interest.

Section 3.1. **Terms for the SPE Operating Agreement.** The Operating Agreement for the SPE will include the following provisions:

Section 3.1.1. The SPE will have as its only Members SSWF and SPA, each owning a 50% interest.

Section 3.1.2. The SPE will have a Board of Governors.

Section 3.1.3. The Board of Governors will consist of a minimum of five (5) Governors elected by the Members. The five (5) initial Governors will be: Wen Wu, Maylene Kiang, Larry S. Nygard, James P. Roers, and Richard Freund.

Section 3.1.4. The SPE will have a Managing Member who will act in accordance with the direction of the Board of Governors.

Section 3.1.5. The Initial Managing Member will be Larry S. Nygard.

Section 3.2. The Operating Agreement will restrict transfers of Member Interest in the SPE and Member Interest in Members of the SPE as follows:

Section 3.2.1. Member Interests in the SPE may only be sold or transferred as set forth in Section 8 of this Master Agreement.

Section 3.2.2. The Members agree to restrict their own LLCs, respectively SPA and SSWF as follows:

Section 3.2.2.1. For SPA, transfers of Member Interest may only be made between James P. Roers and Larry S. Nygard; between James P. Roers or Larry S. Nygard and their respective spouse or children; or to a Trust created by James P. Roers or Larry S. Nygard with the Trustor, his spouse and/or his children as the only beneficiaries.

Section 3.2.2.2. For SSWF, transfers of Member Interest may only be made between Wen Wu and Maylene Kiang; between Wen Wu and/or Maylene Kiang and their children; or to a Trust created by Wen Wu and/or Maylene Kiang with the Trustor, his or her spouse and/or his or her children as the only beneficiaries.

Section 4. **Ownership Structure of SPE.** The SPE will be owned as follows:

Section 4.1. 50% SPA (owned by James P. Roers and Larry S. Nygard)

Section 4.2. 50% Savona of SW Florida, LLC (owned by Wen Wu and Maylene Kiang).

Section 5. **Capital Structure of the SPE.** The capital structure of the SPE will include the following:

Section 5.1. SSWF will contribute the real property constituting 1822 which will be deemed to have a value of [REDACTED].

Section 5.2. SPA will contribute the real property constituting 1730 which will be deemed to have a value of [REDACTED].

Section 5.3. The real property contributed by each party will be considered part of the required capital contribution of each party.

Section 5.4. In addition to contributing the real property, SSWF and SPA are each obligated to contribute capital, which will be equity in the Project, in the amount of [REDACTED], for a total equity contribution of [REDACTED]. Fifty percent of this amount will come from SPA. Fifty percent of this amount will come from SSWF. The Project Management fee described in Section 6 will be part of the equity contribution of SPA.

Section 5.5. If additional capital is required above the amount of [REDACTED]

[REDACTED]

Section 5.6. The Project will have first mortgage debt in the amount of approximately [REDACTED]. If personal guaranties of this obligation are required they will be provided by SPA and SSWF. If personal guaranties are required from the principals that own SPA and SSWF Jim, Larry, Wen and Maylene will provide the requested guaranties. The Board of the SPE will determine what guaranties will be provided.

Section 5.7. If capital is required above the initial capital, and the Wu loan described in Section 5.5, the capital requirements will be met equally by SPA and SSWF. These additional amounts will be treated as loans which will accrue interest at the rate of 7% per annum.

Section 5.8. Any "Cash Calls" for additional capital will be as determined by the Board of Governors and will be only for the minimum required to meet the immediate needs of the SPE. A series of Cash Calls will be used if all funds are not needed at one time.

[REDACTED]

Section 6. **Project Management.** The day to day oversight of the Project will be provided by Jim and Larry operating through SPA and will be subject to the following terms and conditions:

Section 6.1. A fee of [REDACTED] will be earned by SPA for the providing of these Project Management services through completion of construction.

Section 6.2. The cost of travel to perform these services will be borne by SPA and will not be reimbursed by the SPE.

Section 6.3. One-half of this [REDACTED] fee ([REDACTED]) will be considered earned upon execution of the construction mortgage.

Section 6.4. The remaining one-half of this fee ([REDACTED]) will be earned either in equal monthly amounts over 25 months, commencing with the Effective Date, at the rate of [REDACTED] per month; or upon obtaining the final Certificate of Occupancy for the Project, whichever occurs first.

Section 6.5. The lease up and daily operations of the project will be managed by a qualified property management company experienced in residential rentals selected by joint decision of SPA and SSWF. The expenses associated with managing the lease up and daily operations of the apartments will be an expense of the project.

Section 6.6. This Project Management fee will not be paid to SPA, Jim or Larry, but will be retained by the SPE as a portion of the equity contribution required from SPA as part of the capital structure outlined in Section 5.4 until the Project is sold or refinanced as set forth in Sections 6.7 and 6.8.

Section 6.7. At the time the Project is sold, either to a Member or a third party, this Project Management fee will be paid to SPA, the same as any cash contribution to equity would be paid to SPA.

Section 6.8. If there is a refinancing of the Project resulting in equity being returned to the investors, this Project Management fee will be paid to SPA, the same as any cash contribution would be paid to SPA.

Section 7. **Professional Services and Expenses to Date.** Jim and Larry, both prior to and after the formation of SPA have spent considerable time and effort in the development of 1730 for multi-family housing. Numerous professionals have been employed to advance the development of the Project. It is the intent of all parties to utilize these same professionals for the expanded Project. The work product that has been provided by these professionals so far will become the property of the SPE. Responsibility for contract payment for work completed that will benefit the Project will be the responsibility of the SPE. Expenses paid to date by Jim and Larry total [REDACTED] as of April 30, 2018. This amount will be considered to be part of the capital contribution of SPA as referred to in Section 5.

Section 8. **Sale of Project or Interest in SPE.** The following apply to the sale of the Project or the sale of a party's Member Interest in the SPE:

Section 8.1. The parties acknowledge that following the completion of construction of the Project the Project will be made available for sale to a third party. The decision on whether to sell and the price and terms at which to sell to a third party will be

made by the Board of Governors. The Board of Governors must approve any contract for the sale of the Project.

Section 8.2. In the event either SPA or SSWF ("Selling Member") desires to sell their interest in the SPE to a third party, and it has received either a good faith offer from a third party acceptable to the Selling Member or has made an offer to a third party acceptable to a third party, the other Member of the SPE ("Non-Selling Member") will be given written Notice of Intent to Sell and the acceptable terms for the sale of the Member Interest in the SPE, including a copy of the written offer/acceptance with the third party at least twenty-one (21) days prior to any anticipated sale Closing Date. Any such offer/acceptance shall be conditioned on the Non-Selling Member not exercising its Right Of First Refusal ("ROFR"). The Non-Selling Member of the SPE shall have the right to match the terms and conditions which have been presented in good faith as acceptable to the Selling Member and the third party. This commitment by the Non-Selling Member must be made in writing within twenty-one (21) days of having received written notice from the Selling Member setting forth the terms of the proposed sale to a third party. If the Non-Selling Member agrees to meet those terms within that twenty-one (21) day period, the sale shall occur and Close between the Selling Member and the Non-Selling Member within ninety (90) days following the written Notice of Acceptance of the terms. If the Non-Selling Member does not elect to exercise its ROFR or fails to timely Close, the Selling Member may complete the sale to the third party on the same terms and conditions as were provided to the Non-Selling Member. If any of the terms and conditions are changed, the procedure for notice and the right to exercise the ROFR must be repeated. If Closing of the sale to the third party does not occur within 120 days of the Notice of Intent to Sell and Selling Member desires to sell, the procedure set forth herein must be repeated. A sale to a third party may not be negotiated and/or made prior to a Certificate of Occupancy being issued for the entire Project.

Section 8.3. In the event either SPA or SSWF desire to sell their Member Interest to a third party and provide the Notice of Intent to Sell and information as set forth in Section 8.2, the other Member may elect to join in the transaction and sell that Member's interest to the third party on the same terms and conditions as the original Selling Member. The remaining Member must give notice of exercise of this "Tag-Along Right" within the twenty-one (21) day period following written notice from Selling Member. If notice is given of exercise of the Tag-Along Right the sale to the third party may occur only if the third party purchases both Member Interests on the same price and terms. A sale to a third party may not be negotiated and/or made prior to a Certificate of Occupancy being issued for the entire Project.

Section 8.4. If a good faith offer is received by the SPE or by either party, SPA or SSWF, for the purchase of the Project the offer shall be brought promptly to the Board of Governors. If the Board of Governors finds the third party offer to be acceptable and the third party will purchase only the entire Project or only the Member Interests of both Members, constituting 100% of the outstanding Member Interests, both Members

and the SPE will be required to cooperate with the sale of the Project (an asset sale) or the sale of the Member Interests to the third party, provided both parties receive the same price and the same terms for each percent of Member Interest which either party is selling ("Drag-Along Right").

Section 8.5. All transaction and discussions between either Member and a third party must be conducted in good faith and not with an intent to have an advantage over the other Member in the SPE. Any prior or current relationship between the Member or its principals and the third party must be fully disclosed to all Members and to the Board of Governors of the SPE.

Section 8.6. Any inquiries received by either Member of the SPE or by any principals of either Member of the SPE from a third party seeking information concerning purchasing the Project or purchasing all Member Interests in the SPE will be promptly shared with the other Member and with the Board of Governors of the SPE.

Section 9. **Notices**. All notices, demands and any and all other communications which may be or are required to be given to or made by either party to the other in connection with this Agreement shall be in writing and shall be deemed to have been properly given if delivered by hand, sent by registered or certified mail, return receipt requested, or sent by recognized overnight courier service to the addresses set out below or to such other addresses as may be specified by written notice and delivered in accordance herewith, or to an e-mail address supplied by a party, or to such other numbers as may be specified by written notice and delivered in accordance herewith.

Section 9.1. Notice given by registered or certified mail, return receipt requested, will be recognized as being given as of the day following the date of deposit with the United States Postal Service, postage prepaid.

Section 9.2. Notice given by recognized overnight courier service will be deemed to have been given as of the day following the date of delivery by sender to the overnight courier service.

Section 9.3. Notice given by e-mail shall be deemed given on the date the e-mail is sent. A copy of any notice by e-mail shall be followed by the same notice given by First-Class Mail on the same date as the e-mail.

Section 9.4. Any notice by personal delivery shall be deemed given on the date of the personal delivery.

Section 9.5. Any notice to Savona of SW Florida, LLC shall go to:

Savona of SW Florida, LLC
14975 Technology Court
Fort Myers, FL 33912-4422
E-Mail: wenwu@houseowu.com

Section 9.6. Any notice to Savona Parkway Apartments LLC shall go to:

Savona Parkway Apartments LLC
200 45th St. S.
Fargo, ND 58103
E-Mail: Inygard@roers.com

Section 9.7. **With a copy (not constituting notice) to:**

John V. Boulger
Wold Johnson, PC
500 2nd Avenue North, Ste. 400
Fargo, ND 58102
E-Mail: jrboulger@woldlaw.com

Section 10. **Construction.**

Section 10.1. It is agreed between the parties that time is of the essence in each provision of this Agreement.

Section 10.2. This agreement represents the entire agreement between the parties regarding the subject matter herein and may be amended only by a writing signed by the parties.

Section 10.3. Failure to exercise any right or remedy available under this agreement at any time shall not be considered to be a waiver or release of the right to exercise that right or remedy.

Section 10.4. This agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of the State of Florida.

Section 10.5. If any part of this agreement shall be adjudged invalid, the remainder shall not be invalidated. Any part of any section found to be invalid shall not invalidate the remaining part of said section, and the invalid Section may be reformed to be valid and enforceable to the extent allowed by law.

Section 10.6. If and to the extent that applicable law confers any rights or imposes any duties inconsistent with or in addition to any other provisions of this Agreement, the affected section shall be considered amended to conform thereto.

Section 10.7. Words and phrases herein, including any acknowledgment hereof, if any, shall be construed as the singular or plural and as masculine, feminine, or neuter gender, according to context.

Section 10.8. References to "including" are deemed to be followed by "without limitation." The words "and" and "or" mean, and are used in the inclusive sense of "and/or." References to agreements, documents, guarantees and similar agreements and instruments shall be deemed to refer as well to all schedules, exhibits, addenda, attachments, and amendments thereto.

Section 10.9. Headings and titles of sections are for convenience only. The wording of each section shall govern over its heading.

Section 10.10. This agreement will be binding on the parties, their administrators, successors and assigns.

Section 10.11. This contract may be executed by the parties in separate parts with the signature of each party to a copy of the contract, even if not the same copy, constituting the creation of a binding contract between the parties.

Section 10.12. The signing of any documents and the transmission of the signature by facsimile machine or electronically, such as by pdf file or by other electronic means, will be considered to be sufficient execution, and each party agrees that the other party may rely on their signature, whether an original or reproduced by facsimile machine, photocopier, or electronically.

Section 10.13. Exercise of any right will not be considered to be an election of remedy or the exclusive remedy of a party.

Section 10.14. This Agreement will be interpreted in a fair and neutral manner without favoring one party over the other. No provision of this Agreement will be interpreted for or against any party because the provision was drafted by that party or its legal representative.

Section 10.15. All parties hereto have been fully involved in the negotiation and drafting of this Agreement. Accordingly, the parties hereto agree that any rule of construction of contracts resolving any ambiguities against the drafting party will be inapplicable to this Agreement.

Section 10.16. The parties agree to engage in fair dealing with each other at all times, and agree to deal with each other only in good faith.

Section 10.17. The obligations under this Agreement will remain in effect regardless of additional documents signed by the parties. These obligations will not be considered merged into additional or later documents, except by express written agreement that a merger is occurring.

Section 10.18. The Recitations to this Agreement shall be construed as a material and enforceable part of this Agreement for all purposes, and shall in no event be considered prefatory language or mere surplus.

Section 10.19. All parties are skilled and experienced business professionals, and all have contributed to the negotiation and drafting of this Agreement. As a result, in no event may any adverse construction of this Agreement be attributed to any party as the drafting party.

Section 10.20. All Exhibits and Schedules attached hereto are incorporated herein by reference and made a part of this Agreement as if fully set forth herein.

Section 10.21. There are no third-party beneficiaries to this Agreement. This Agreement is intended only to benefit the parties to this Agreement.

Section 11. **Dispute Resolution.** If any dispute develops among the parties to this Agreement, each party agrees it will, in good faith, attempt to negotiate a resolution. If the parties are not successful in negotiating a resolution, they agree they will participate in good faith in mediation with a neutral third-party Mediator. If mediation is not successful, the parties agree to submit this matter to binding arbitration in Cape Coral, Florida or other location agreed to by the parties. If they cannot agree on a single arbitrator, any party may petition the Circuit Court having jurisdiction in Lee County for the appointment of a single arbitrator or a three person arbitration panel. Notice of this application will be given to all parties. Arbitration shall be in accordance with the Revised Florida Arbitration Act.

Section 12. **No Obligation for Additional Business Opportunities.** The Members and principals of the Members of the SPE agree that this business relationship and the formation of the SPE does not obligate any of the principals or the Members of the SPE to present additional business opportunities involving the development of real estate in Florida or elsewhere to the other Member of the SPE. The formation of the SPE does not prohibit either party from engaging in transaction which may be in competition with the Project. The parties may elect to engage in additional business transactions with each other, but are not obligated to do so.

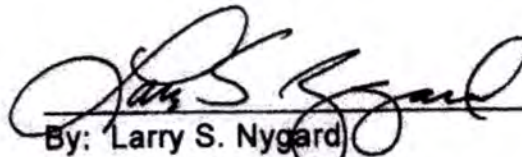
(Signature Pages Follow)

Dated this 5th day of JUNE, 2018.

SAVONA PARKWAY APARTMETNS LLC:



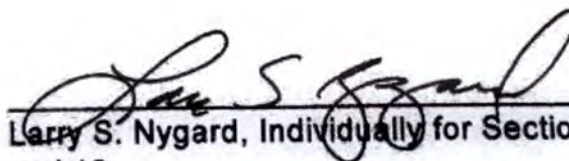
By: James P. Roers
Its: Managing Member



By: Larry S. Nygard
Its: Managing Member



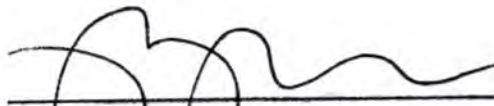
James P. Roers, Individually for Sections 8
and 12.



Larry S. Nygard, Individually for Sections 8
and 12.

Dated this 4th day of June, 2018.

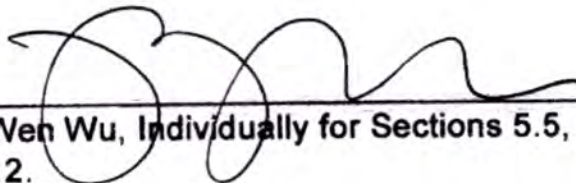
SAVONA OF SW FLORIDA, LLC:



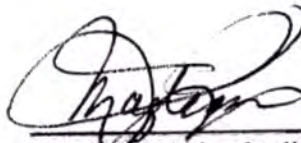
By: Wen Wu
Its: Managing Member



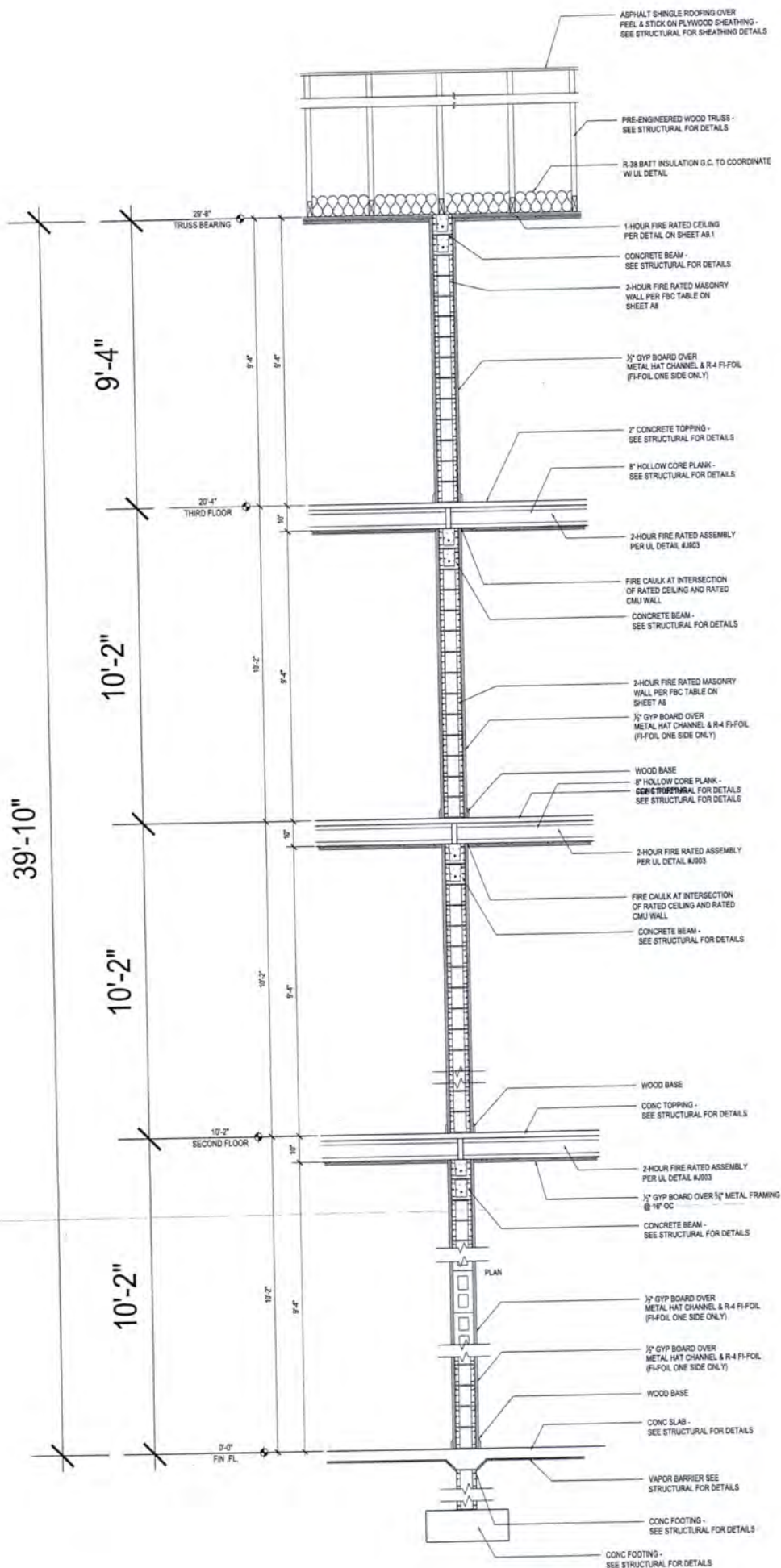
By: Maylene Wu
Its: Managing Member



Wen Wu, Individually for Sections 5.5, 8 and 12.



Maylene Wu, Individually for Sections 5.5, 8 and 12.



Prepared by and return to:
Michael S. Yashko, Esq.

Roetzel & Andress, L.P.A.
2320 First Street, Suite 1000
Fort Myers, FL 33901-2904
239-337-3850
File Number: 104269.0250A
Will Call No.:

[Space Above This Line For Recording Data]

Special Warranty Deed

This Special Warranty Deed made this 27th day of October, 2009 between **OB Savona, LLC**, a Florida limited liability company whose post office address is **2150 Goodlette Road North, Naples, FL 34102**, grantor, and **Savona of SW Florida, LLC**, a Florida limited liability company whose post office address is **14975 Technology Court, Fort Myers, FL 33912**, grantee:

(Whenever used herein the terms grantor and grantee include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Lee County, Florida**, to-wit:

A Parcel of land boated in the Section 4, Township 45 South, Range 23 East, Lee County, Florida; also being a portion of Block 4775, as shown on the Plat of Cape Coral Unit 70 as recorded in Plat Book 22 at Pages 58 through 67 of the Public Records of Lee County, Florida; and being more particularly described as follows:

BEGIN at the Southwest corner of Block 4775, as shown on the Plat of Cape Coral Unit 70, recorded in Plat Book 22 at Pages 58 through 87 of the Public Records of Lee County, Florida; the same being a point at the end of a curve and being on the East Right-of-Way line of S.W. 19th Avenue (70' Right-of-Way); Thence run North 00°41'05" West for a distance of 810.05 Feet to the beginning of a tangential circular curve concave to the southeast; thence run northeasterly along the arc of said curve to the right having a radius of 25.00 Feet through a central angle of 90°41'17", subtended by a chord of 35.57 Feet at a bearing of North 44°39'33" East, for an arc length of 39.57 Feet to the end of said curve and to a point on the South Right-of-Way line of Savona Parkway West (100' Right-of-Way); Thence run South 89°59'45" East along said line, for a distance of 483.31 Feet Thence run South 00°18'09" East for a distance of 860.01 Feet to a point on the North Right-of-Way line of S.W. 38th Terrace (70' Right-of-Way); Thence run North 89°59'48" West along said line, for a distance of 478.18 Feet to the beginning of a tangential circular curve concave to the northeast; thence run northwesterly along the arc of said curve to the right, having a radius of 25.00 Feet, through a central angle of 89°18'43", subtended by a chord of 35.14 Feet at a bearing of North 45°20'26" West for an arc length of 38.97 Feet to the end of said curve to the POINT OF BEGINNING.□□Containing 9.979 Acres, more or less.

Bearings refer to the North line of Block 4776, as shown on the Plat of Cape Coral Unit 70 as recorded in Plat Book 22 at Pages 58 through 67 of the Public Records of Lee County, Florida; as being South 89°59'48" East.

Parcel Identification Number: 04-45-23-C3-04775.0000

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property.

Together with Grantor's rights pursuant to the Shared Access Easement Agreement by and between Hope Hospice and Community Services, Inc., a Florida corporation and OB Savona, LLC, a Florida limited liability company dated October 19, 2009 and recorded as Instrument Number 2009000283220, Public Records of Lee County, Florida.

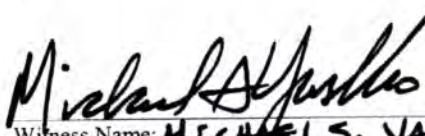
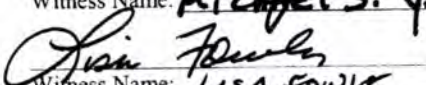
Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

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 claiming by, through or under grantors.

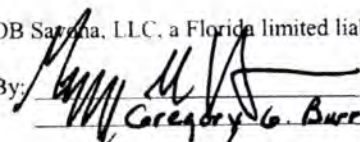
In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


Witness Name: MICHAEL S. YASHKO

Witness Name: LISA FOWLER

OB Savona, LLC, a Florida limited liability company

By:

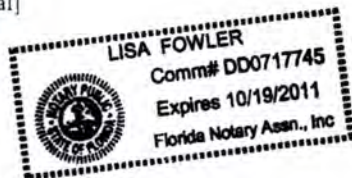

Gregory G. Burr, Operating Manager

(Corporate Seal)

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 27th day of October, 2009 by Gregory G. Burr Oper. Manager of OB Savona, LLC, a Florida limited liability company, on behalf of the corporation. He ☐ is personally known to me or ☒ has produced a driver's license as identification.

[Notary Seal]



Notary Public

Printed Name:

My Commission Expires:



LISA FOWLER

10/19/11

Prepared by & Return to:
Erik Halgrim
Old Florida Title
2080 McGregor Blvd. # 100
Fort Myers, Florida 33901

File Number: 17-0458

WARRANTY DEED

Made this February 13, 2018 By

Hope Hospice and Community Services, Inc., a Florida not for profit corporation

whose post office address is: 9470 Healthpark Ctr, Fort Myers, Florida 33908, hereinafter called the grantor
to

Savonna Parkway Apartments LLC, a North Dakota limited liability company

whose post office address is: 200 45th St S, Fargo, North Dakota 58103, hereinafter called the grantee

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of (\$1,750,000.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida, viz:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon.

Parcel ID: **04-45-23-C3-04775.0010**

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2017.

Prepared by & Return to:
Erik Halgrim
Old Florida Title
2080 McGregor Blvd. # 100
Fort Myers, Florida 33901

File Number: 17-0458

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:

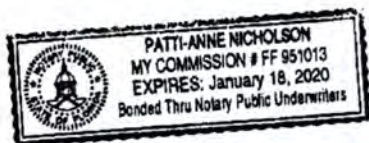
Ann M Kirby
Witness Printed Name Ann M. Kirby
William L. Iffland
Witness Printed Name William L. Iffland

**Hope Hospice and Community Services, Inc., a Florida
not for profit corporation**

Jill Lampley (Seal)
By: Jill Lampley
It's: CFO

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 13th day of February, 2018, by Jill Lampley, as CFO on behalf of Hope Hospice and Community Services, Inc., a Florida not for profit corporation, who has produced a valid Florida Driver's License as identification.



Patti-Anne Nicholson
Notary Public
Print Name: Patti-Anne Nicholson
My Commission Expires: 01-18-2020

Prepared by & Return to:
Erik Halgrim
Old Florida Title
2080 McGregor Blvd. # 100
Fort Myers, Florida 33901

File Number: 17-0458

EXHIBIT "A"

A parcel of land located in the Section 4, Township 45 South, Range 23 East, Lee County, Florida; also being a portion of Block 4775, as shown on the Plat of Cape Coral Unit 70 as recorded in Plat Book 22 at Pages 58 through 87 of the Public Records of Lee County, Florida; and being more particularly described as follows:

BEGIN at the Northeast corner of Block 4775, as shown on the Plat of Cape Coral Unit 70, recorded in Plat Book 22 at Pages 58 through 87 of the Public Records of Lee County, Florida; the same being a point at the end of a curve and being on the West Right-of-Way line of S.W. 17th Place (70' Right-of-Way); Thence run South 00 degrees 18' 09" East, along said line, for a distance of 810.01 Feet to the beginning of a tangential circular curve concave to the northwest; thence run southwesterly along the arc of said curve to the right, having a radius of 25.00 Feet, through a central angle of 90 degrees 18' 21", subtended by a chord of 35.45 Feet at a bearing of South 44 degrees 51' 02" West, for an arc length of 39.40 Feet to the end of said curve and a point on the North Right-of-Way line of S.W. 38th Terrace (70' Right-of-Way); Thence run North 89 degrees 59' 48" West, along said line, for a distance of 480.65 Feet; Thence run North 00 degrees 18' 09" West for a distance of 860.01 Feet to a point on the South Right-of-Way line of Savona Parkway West (100' Right-of-Way); Thence run South 89 degrees 59' 48" East, along said line, for a distance of 480.92 Feet to the beginning of a tangential circular curve concave to the southwest; thence run southeasterly along the arc of said curve to the right, having a radius of 25.00 Feet, through a central angle of 89 degrees 41' 39", subtended by a chord of 35.26 Feet at a bearing of South 45 degrees 08' 58" East, for an arc length of 39.14 Feet to the end of said curve and to the POINT OF BEGINNING.

Containing 9.979 Acres, more or less.

Bearings refer to the North line of Block 4775, as shown on the Plat of Cape Coral Unit 70 as recorded in Plat Book 22 at Pages 58 through 87 of the Public Records of Lee County, Florida; as being South 89 degrees 59' 48" East.

Planning Division Case Report
VA18-0017

Review Date: September 21, 2018

Owner: Savona Parkway Apartments, LLC.

Applicant: Larry Nygard, Managing Member, Savona Parkway Apartments, LLC

Representative: Jeremy Easum, Elissa Novotny, Tyler Petersen

Request: The applicant is requesting a 7.5-foot variance from the Land Use and Development Regulations (LUDR), Section 2.7.2.D, which allows a maximum height of 38 feet for buildings in the R-3 District.

Location: 1730 and 1822 Savona Parkway West
Unit 70. Block 4775.

Prepared By: Justin Heller, Planner

Reviewed By: Mike Struve, AICP, Planning Team Coordinator

Approved By: Robert Pederson, AICP, Planning Manager

Recommendation: **Denial**

Property Description/Background:

The 20-acre site is in southwest Cape Coral. This property has a Multi-Family (MF) Future Land Use Classification and Multi-Family Residential (R-3) Zoning. The site is surrounded by Single-Family Residential (R-1B) zoning.

The applicant proposes to construct five, four-story apartment buildings for 320 units (Exhibit 1). Two of the buildings will have 40 units each. The remaining three buildings will have 80 units each. The main access to the site will be from Savona Parkway West, with additional access on SW 19th Avenue and SW 17th Place.

The City defines building height as the vertical distance measured from the lowest finished floor elevation to the lowest point of the highest horizontal eave or to the highest point of the highest parapet wall, whichever is higher. The buildings will have a maximum height of 45 feet, six inches directly above the elevator shaft (Exhibit 2).

Analysis:

According to LUDR, Section 8.10.2, a variance is defined as *“a modification of the requirements of the City’s ordinance when such modification will not be contrary to the public interest where, because of*

conditions peculiar to the property involved and not the result of the actions of the applicant which occurred after the effective date of the ordinance, a literal interpretation of the ordinance would result in unnecessary and undue hardship."

The Planning Division has reviewed this application based on the five standards outlined within LUDR, Section 8.10.3a-e and offers the following analysis for consideration.

1. *Special Conditions: The special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structure or buildings in the same zoning district; that the special conditions and circumstances do not result from the actions of the applicant.*

Staff determination and analysis: Standard not met by the applicant.

The subject property is flat, rectangular, and appears to be free of any physical constraints that would otherwise affect construction on the site. The site meets the minimum area and depth requirements for the R-3 District. The design of the buildings chosen by the applicant is not compliant with the City maximum height requirements, thereby triggering this variance application. As a result, special conditions are not present in this case.

2. *No Special Privilege: The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.*

Staff determination and analysis: Standard not met by the applicant.

The R-3 district allows a maximum density of 16 units per acre. Other builders have achieved a density of about 16 units per acre without the need of a variance. The granting of this variance to allow additional building height so that the developer can attain the maximum building density would confer special privilege on the applicant.

3. *Hardship: That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardships on the applicant.*

Staff determination and analysis: Standard not met by the applicant.

The applicant plans to construct five, four-story apartment buildings, with 320 units. According to the applicant, if the buildings are built to the current height standard of 38 feet, they would be limited to three stories, resulting in 240 units.

Any hardship claimed by the applicant should be considered self-imposed as the applicant could modify the proposed design of these buildings to comply with the dimensional requirements of the R-3 District without the need for a variance. At least 240 units would be able to be built on the site if the buildings are built to the current standards. The number of

units may also be increased by reducing the unit size or adding and additional building. As a result, staff finds that reasonable use of this property exists.

4. *Minimum Variance: That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.*

Staff determination and analysis: Standard not met by the applicant.

The design of the project chosen by the applicant cannot be built without a variance. However, the buildings could be modified to comply with the height requirement. The applicant has not submitted any alternative designs for consideration that may reduce the extent of a variance. As a result, this request does not constitute the minimum variance required to make reasonable use of this property.

5. *Purpose and Intent; Public Interest: That the granting of the variance will be in harmony with the general intent and purpose of this ordinance, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

Staff determination and analysis: Standard met by the applicant.

The regulation requires that building height does not exceed 38 ft. The purpose of this regulation is to keep properties in a neighborhood to a consistent height. This helps prevent one neighbor from towering over another, where they could potentially block views or shade another property.

The subject parcel is separated from the adjacent properties by streets on all sides. The plans also show building setbacks greater than 106 ft., which are substantially larger than the minimum setback requirements. Increased setbacks generally help mitigate additional building height as viewed from the adjacent properties. In this case, some of the additional height is from architectural features which should improve the appearance of the buildings, thereby making the buildings more visually appealing to the surrounding properties.

LUDR, Table R-3 states in part that the Hearing Examiner may approve variances to permit additional height where one additional foot is added to the required front and side yards for each additional foot of building height, and all other criteria for approval of a variance are met. While staff has found that four of the standards for approving a variance have not been met, the developer has provided greater setbacks from all four property lines, which should help mitigate the increase in building height.

Based on the above analysis, staff finds that this variance is in harmony with the general intent and purpose of this ordinance and should not be injurious to the area involved or otherwise detrimental to the public welfare.

Consistency with the Comprehensive Plan

This request is consistent with Policy 1.15b 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.*

b. Multi-Family Residential: *Not more than 16 units per acre.*

Staff comment: This request is consistent with Policy 1.15.b as R-3 zoning is consistent with the Multi-Family Future Land Use Classification. The site is ±20 acres and with 320 units, this equates to a density of 16 units per acre, the maximum density allowed in this future land use classification.

Recommendation:

Given that the applicant does not meet all five standards for a variance under LUDR, Section 8.10.3a-e, as discussed above, the Planning Division recommends **denial** of the variance request.

Exhibit 1: Site Plan

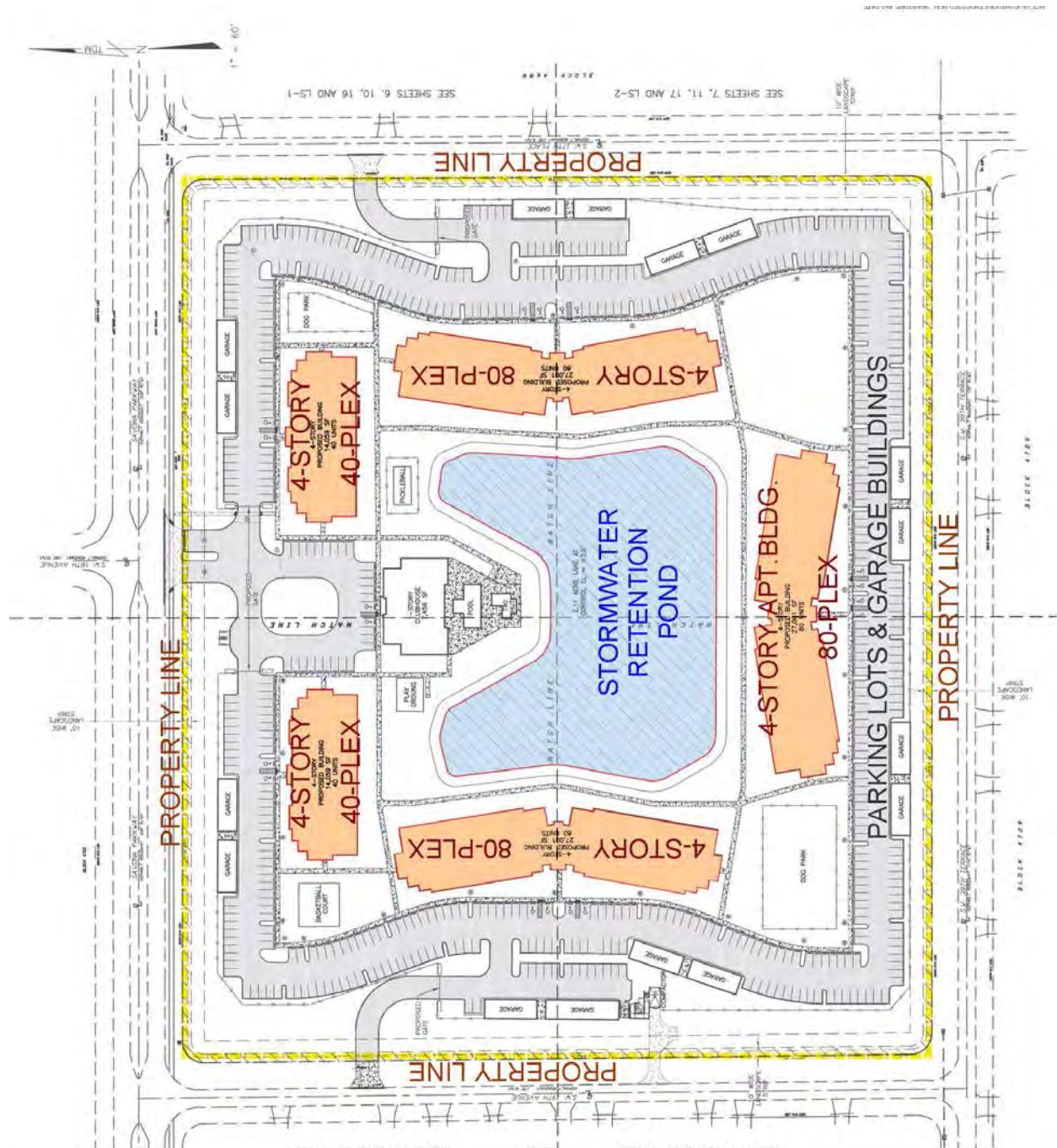
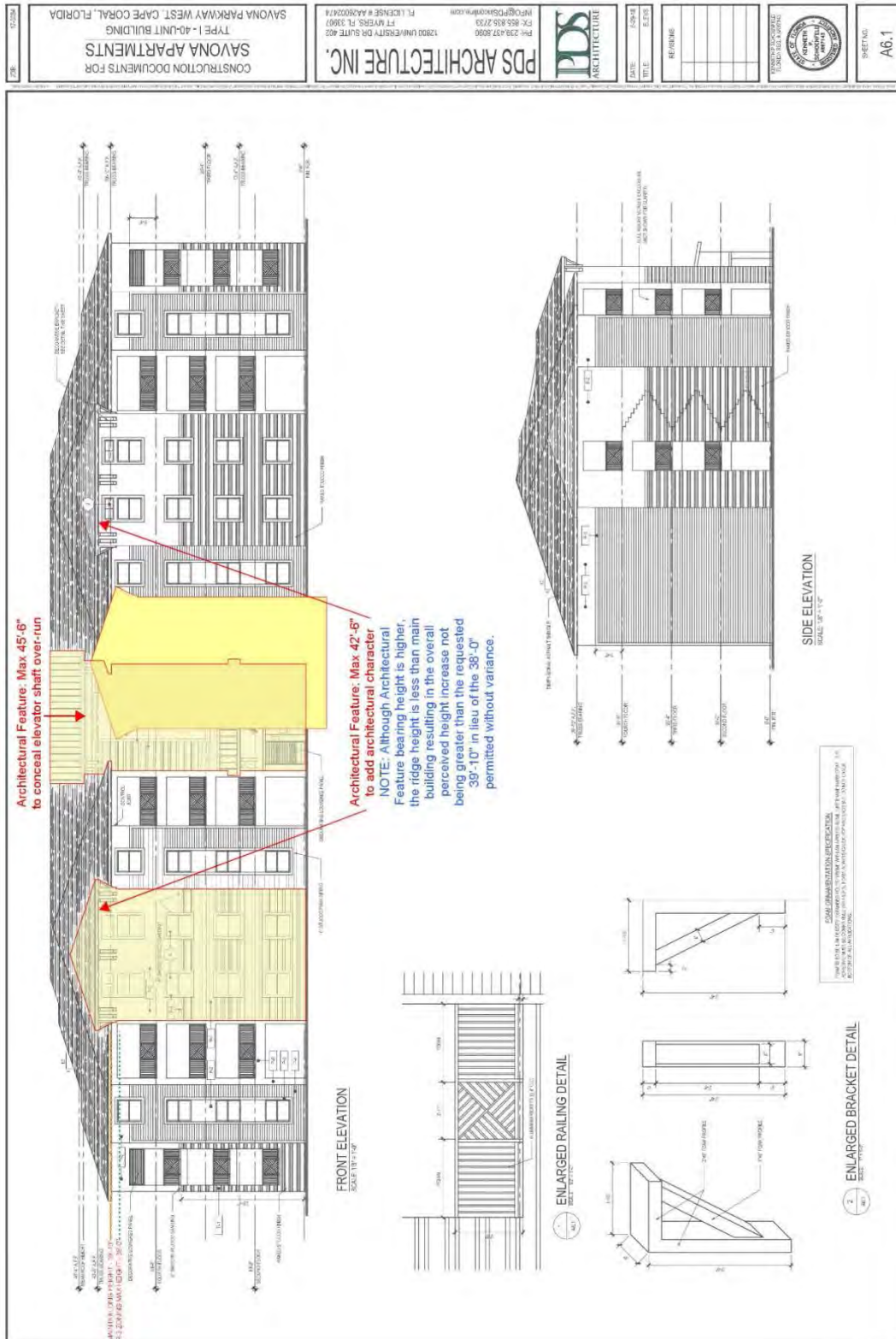
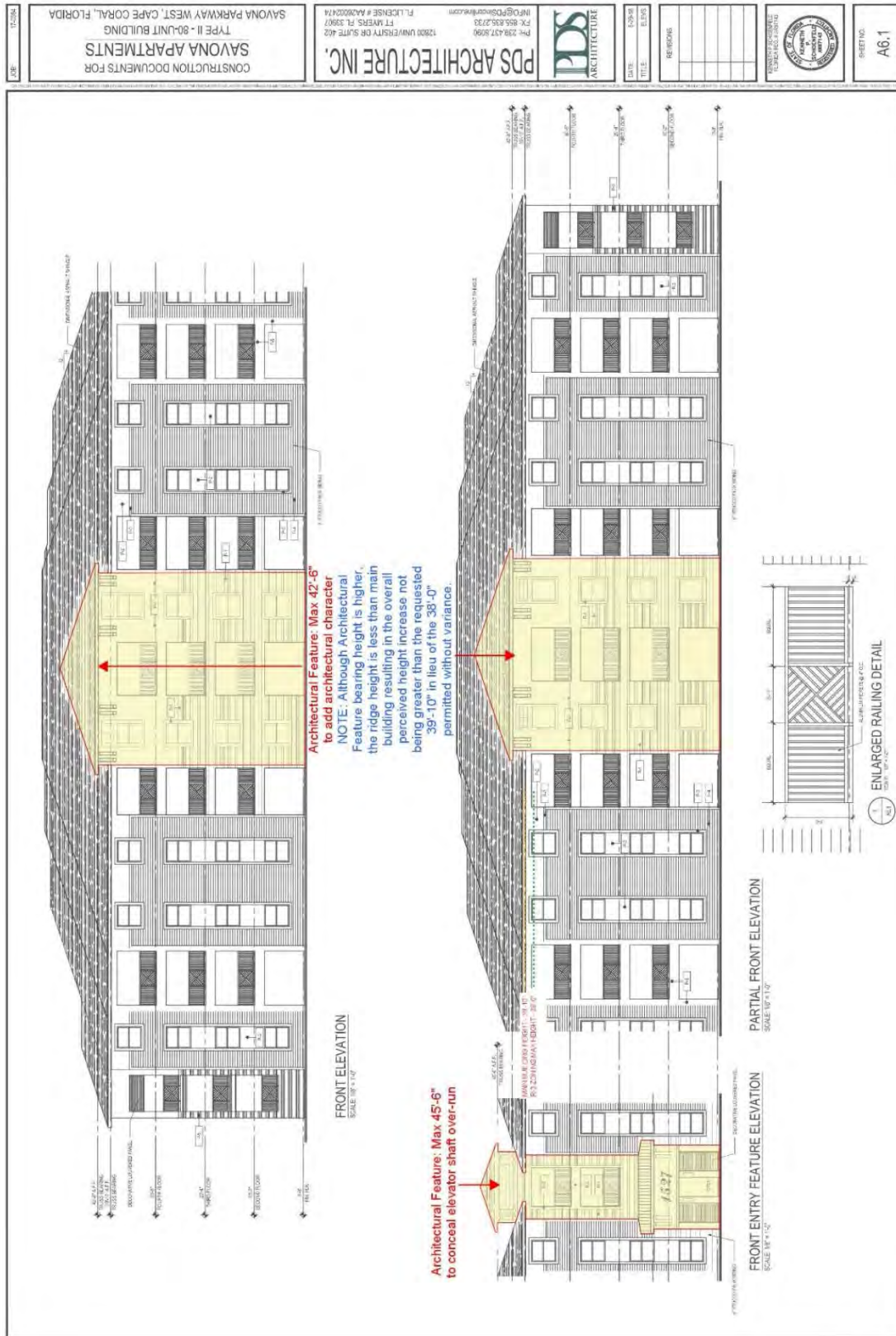


Exhibit 2: Building Elevations







NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VA18-0017

REQUEST: The applicant is requesting a 7.5-foot variance from the Land Use and Development Regulations (LUDR), Section 2.7.2.D, which allows a maximum height of 38 feet for buildings in the R-3 District.

LOCATION: 1730 and 1822 Savona Parkway West

CAPE CORAL STAFF CONTACT: Justin Heller, Planner, 239-573-0587, jheller@capecoral.net

PROPERTY OWNER(S): Savona Parkway Apartments, LLC

AUTHORIZED REPRESENTATIVE: Jeremy Easum, Elissa Novotny, Tyler Petersen

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, October 16, 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 (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

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

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

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

TOLL-FREE
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No. of Affidavits: 1

Run Dates: 10/06/18

Text of Ad:

NOTICE OF PUBLIC HEARING

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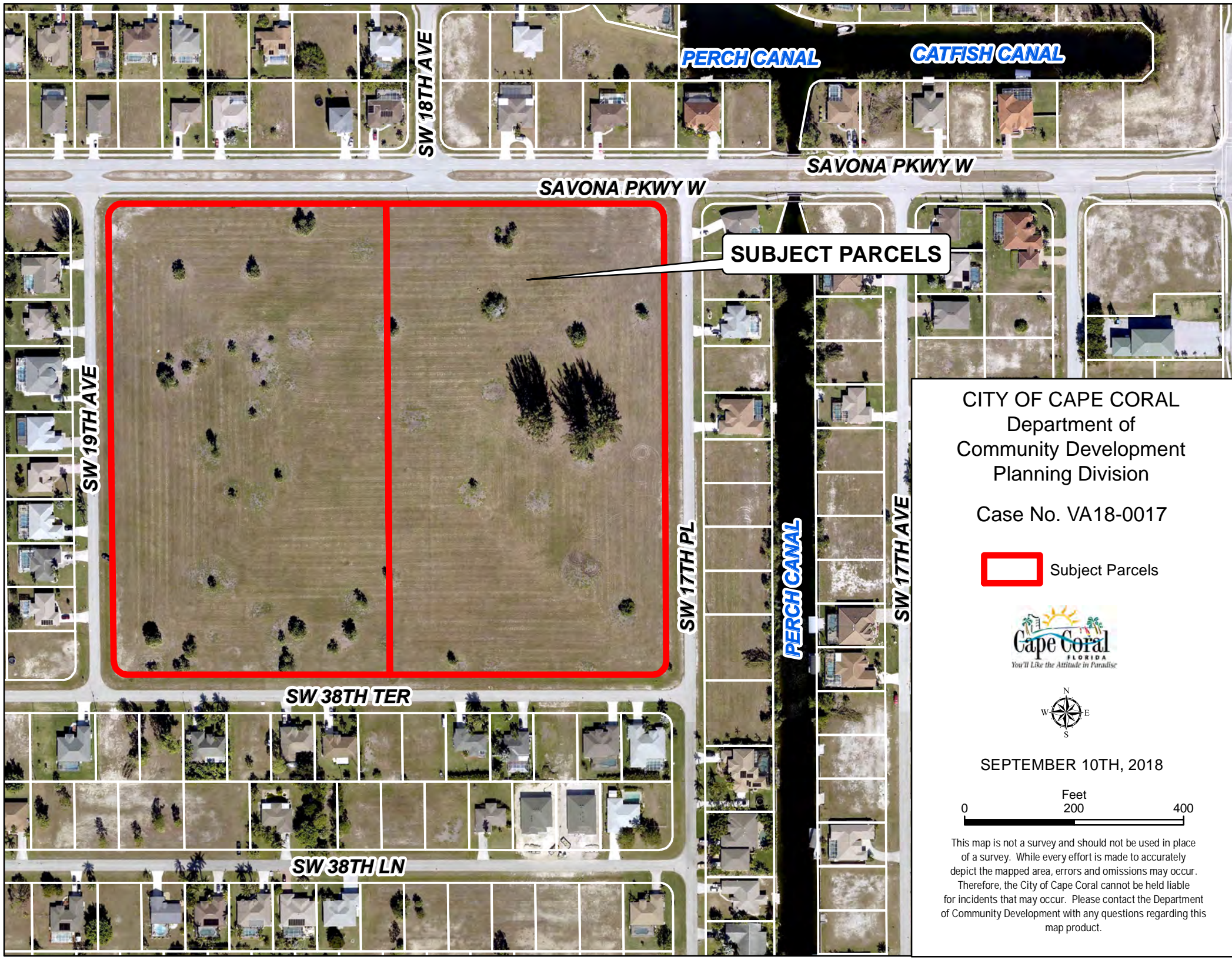
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by order of
Rebecca van Deutekom, MMC
City Clerk
REF # VA18-0017
AD# 3191459 Oct. 6, 2018



PERCH CANAL

CATFISH CANAL

SAVONA PKWY W

SAVONA PKWY W

SUBJECT PARCELS

SW 19TH AVE

SW 17TH PL

PERCH CANAL


SW 17TH AVE

SW 38TH TER

SW 38TH LN

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. VA18-0017

 Subject Parcels



SEPTEMBER 10TH, 2018

0 Feet 200 400


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. VA18-0017

LEGEND

 500' Proximity Boundary

 Subject Parcels

Zoning

 MR

 R-1A

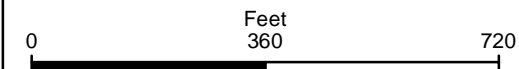
 R-1B

 R-3

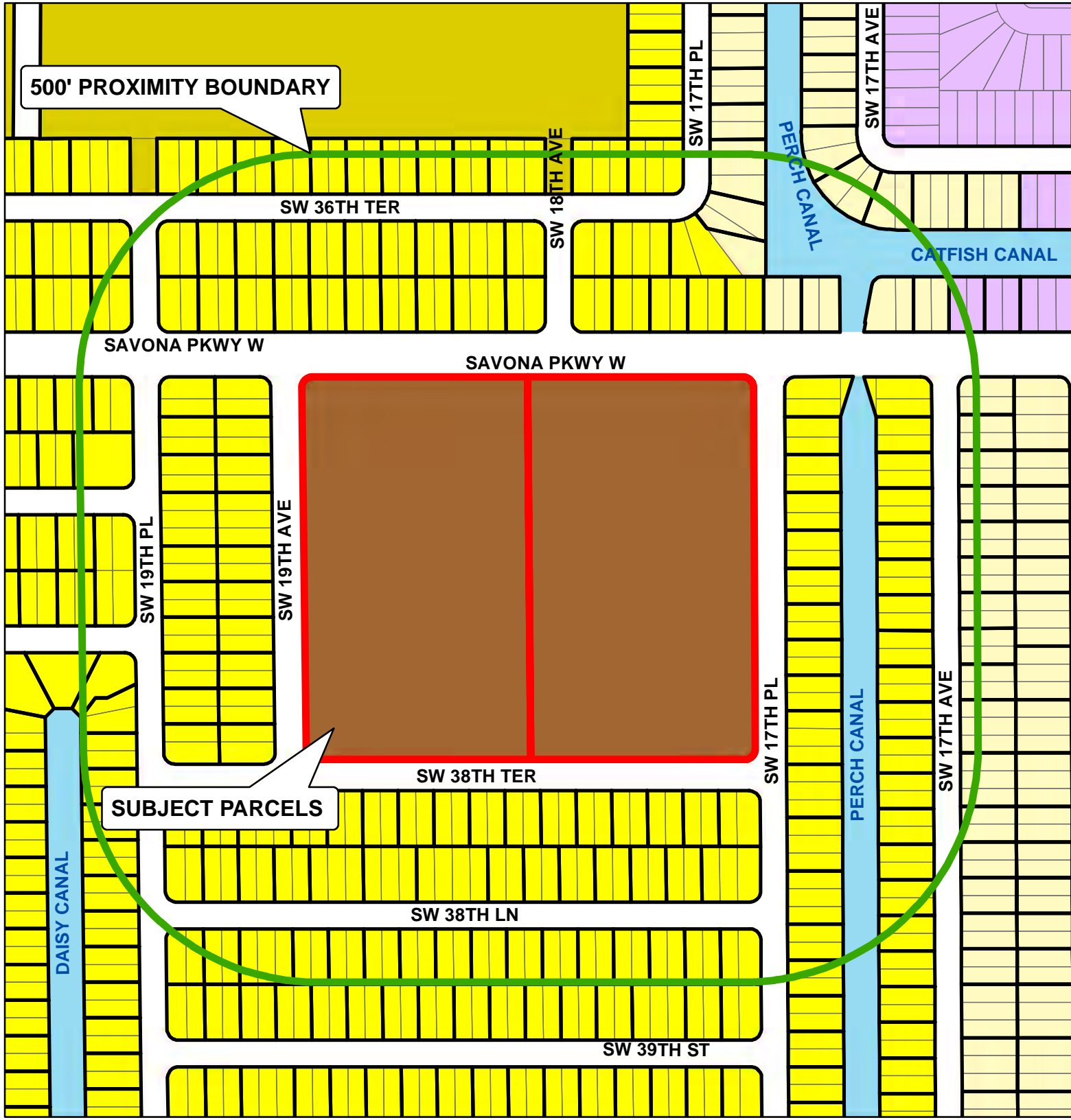
 RD



SEPTEMBER 10TH, 2018



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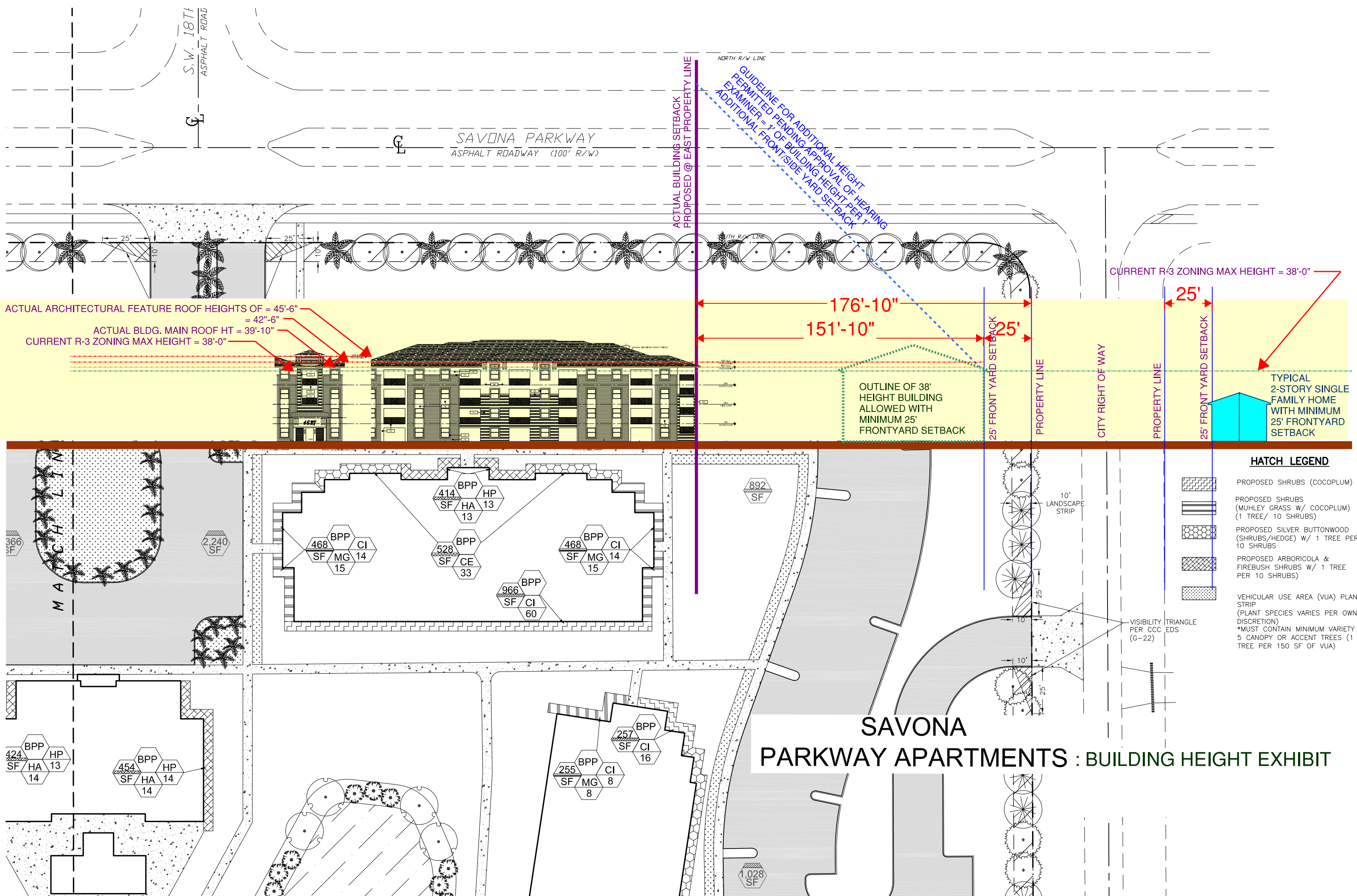


Owner_Name	Mailing_Ad	Mailing_Ci	Mailing_Zi
BOTELHO ROSA	36 MEEK AVE	MONO	ON L9W 6W8 C
FAIRHOMES ASHCROFT PROPERTIES LLC	203-139 MAIN ST	UNIONVILLE	ON L3R 2G6 CA
ZWART JOHN A + CAROLYN A	24293 ADELAIDE RD	STRATHROY	ON M7G 3H4 C
ACOSTA CLAUDIA	CRA 56 # 148-35 TORRE 1 APT 903	BOGOTA-CUNDINAMARCA	COLOMBIA
SR PARK RENTAL LLC BOUIN	25 ALLEE DE VERDALLE LA HUME	GUJAN MESTRAS 33470	FRANCE
HOME CHALLENGE LLC	AN DER TRAINIERBAHN 62	D-15366 HOPPEGARTEN	GERMANY
SCHROLLINGER JURGEN	LIFTENWEG 7B	82297 STEINDORF	GERMANY
RUANO FELIPE GARCIA + GARCIA SILVIA MELCHOR	30 CALLE 9-30 ZONA 11 VILLAS		
JIRON DE H/W	SAN CARLOS III	GUATEMALA CIUDAD	MEXICO
NILSSON BENGT + EVA	TREHORNIGEN 2	EKSJO SE 57595	SWEDEN
BKMP INVESTMENTS LLC	29 KNIGHTON GRANGE ROAD	LEICESTER	LE2 2LF UN
WILLIAMS PHILIP + YVONNE A	THE SHIELING DOG LANE KELSALL	TARPORLEY	CW6 0RP U
2018-2 IH2 BORROWER LP INVITATION HOMES TAX DEPT	1717 MAIN ST STE 2000	DALLAS	TX 75201
ABBOTT MICHAEL E + RHONDA L	1820 SW 38TH LN	CAPE CORAL	FL 33914
ABRO RAJA	48816 STONERIDGE DR	NORTHVILLE	MI 48168
ADVANTAIRA TRUST LLC FOR STEVEN PARKER IRA #6851001 81% + FOR IRENE PARKER IRA #6850801 19% T/C	5354 COCOA CT	CAPE CORAL	FL 33904
ALBERTS ROY TR FOR MARY M ALBERTS DISTRIBUTION LAND TRUST	2907 STONE SCHOOL RD	ANN ARBOR	MI 48104
ALEGIAN GROUP INC	1925 NE 10TH TER STE 101	CAPE CORAL	FL 33909
ALLISON BENNETT + NORA	1632 SW 36TH TER	CAPE CORAL	FL 33914
ANDERSON EDWARD	3718 SW 19TH AVE	CAPE CORAL	FL 33914
ANDERSON EDWARD L JR & MARCUS SHERRY A	13100 BELLA CASA CIR UNIT 125	FORT MYERS	FL 33966
ANDERSON ROBERT J + VICKI A	3730 SW 19TH AVE	CAPE CORAL	FL 33914
ARIAS ANA	4137 SW 7TH AVE	CAPE CORAL	FL 33914
ARIAS EVELYN E	1536 AMSTARDAM AVE 1ST FL	NEW YORK	NY 10031
ASSADI MARIO + SARAH TR FOR ASSADI FAMILY TRUST	5871 MARGARIDO DR	OAKLAND	CA 94618
BALL JAMES E + CONROY DIANE L H/W	1501 N ELM ST	JEFFERSON	IA 50129
BALLARD TOM + BAILEY JAMES J/T	3615 SW 17TH PL	CAPE CORAL	FL 33914
BARBOUR ENTERPRISES LIMITED PA	8911 DANIELS PKWY STE 6	FORT MYERS	FL 33912
BEARD WILLIAM C	1907 SAVONA PKWY W	CAPE CORAL	FL 33914
BENITEZ VALENTIN + ESTHER	3705 SW 19TH PL	CAPE CORAL	FL 33914
BERRY MICHAEL D + LAURA S	16514 LEE AVE	ORLAND PARK	IL 60467
BERTODATTO HENRY PISAPIA JEANA J/T	1732 SW 36TH TER	CAPE CORAL	FL 33914
BIER ALBERT S & KRISTIE	264 SUNDUST RD	EIGHTY FOUR	PA 15330
BRAUN ERIC & ALISON	1921 SAVONA PKWY W	CAPE CORAL	FL 33914
BUCHTER CINDA B + WARREN G	931 SW 34TH TER	CAPE CORAL	FL 33914
BUILDERS GRADE LLC LIGHTSTONE GROUP	1985 CEDAR BRIDGE AVE STE 1	LAKEWOOD	NJ 08701
BURNS ROY P	1811 SAVONA PKWY W	CAPE CORAL	FL 33914
BURT JAMES	1825 SAVONA PKWY W	CAPE CORAL	FL 33914
CALLENDER SHELLY R + DWAYNE	1734 SW 38TH TER	CAPE CORAL	FL 33914
CARLSON STEPHEN + SPANGARO GIOVANNA G	1837 SW 36TH TER	CAPE CORAL	FL 33914
CATALANO BETTY JO	3801 SW 19TH PL	CAPE CORAL	FL 33914
CAVELL GEORGE H + GAIL	3826 SW 19TH PL	CAPE CORAL	FL 33914
CERBERUS SFR HOLDINGS II L P	1850 PARWAY PL STE 900	MARIETTA	GA 30067
CHAMBON JOHN	4346 SW 19TH PL	CAPE CORAL	FL 33914
CHASE KIM	1833 SW 36TH TER	CAPE CORAL	FL 33914
CHERASIA KATHLEEN S	3720 SW 17TH AVE	CAPE CORAL	FL 33914
CLEVELAND CYNTHIA L	3727 SW 19TH PL	CAPE CORAL	FL 33914
COLLINS R STEPHEN	3705 SW 17TH PL	CAPE CORAL	FL 33914

CORONA PROPERTY HOLDINGS LLC	1310 SW 4TH TER	CAPE CORAL	FL	33991
CRAMPTON ROBERT M + CATHY A TR FOR CRAMPTON TRUST	12724 28TH ST W	MILAN	IL	61264
D R HORTON INC	10541 BEN C PRATT SIX MILE			
DEBONO GERALD SEAN M + DEBONO MICHAEL ANTHONY	CYPRESS PKWY STE 100	FORT MYERS	FL	33966
DELMAR PROPERTIES CAPE CORAL L	1836 SW 36TH TER	CAPE CORAL	FL	33914
DEMKO KAREN MARY & DEMKO STEPHEN MATTHEW IV	15496 ORLANDA DR	BONITA SPRINGS	FL	34135
DEUSTSCHE BANK NA TR FOR CERTIFICATES SERIES 2006-NC1	1726 SW 38TH LN	CAPE CORAL	FL	33914
DF BELLAIR ENTERPRISES LLC	5720 PREMIERE PARK DR	WEST PALM BEACH	FL	33407
DIAZ-RAMIREZ YAMILA	509 SW 52ND ST	CAPE CORAL	FL	33914
DIXON DENNIS W & WENDY M L/E	3717 CHIQUITA BLVD S	CAPE CORAL	FL	33914
DOKTOR INC	618 8TH AVE	LEHIGH ACRES	FL	33972
DOMINGUEZ JULIO CESAR	1207 SE 25TH TER	CAPE CORAL	FL	33904
DUENAS HUMBERTO + ANITA E	1722 SW 38TH TER	CAPE CORAL	FL	33914
DUTTON HOLDINGS LLC PRINT TEX USA	50 PAULISON AVE	RIDGEFIELD PARK	NJ	07660
EGGHART HEINRICH TR + EGGHART ELISABETH TR FOR EGGHART LIVING TRUST	11198 AMPERE CT	LOUISVILLE	KY	40299
ESPINO F + TERESITA	1911 MARTHAS RD	ALEXANDRIA	VA	22307
FERGUSON WILLIAM T + DEBORAH A	6 PAMELA CT	PLAINVIEW	NY	11803
FERNANDEZ ROBERT	1813 SW 36TH TER	CAPE CORAL	FL	33914
FICA MARGARITA R	14102 FENNSBURY DR	TAMPA	FL	33624
	PO BOX 1102	MIDDLEBURY	CT	06762
FLEITES JUAN S + VAZQUEZ NOIDA H/W	CALLE 2 #A4 VILLAS DE SAN FRAN	RIO PIEDRAS	PR	00927
FLY SOUTH LLC	735 ROSEDALE AVE	ROSELLE	IL	60172
FOSTER THOMAS E + LORI J	3727 SW 17TH AVE	CAPE CORAL	FL	33914
FRANZESE PHILIP + JOYCE	2326 SE 10TH PL	CAPE CORAL	FL	33990
FREIRE MARCOS A + SONIA	3719 SW 17TH AVE	CAPE CORAL	FL	33914
FROIS NATALIE	PO BOX 70652	NORTH DARTMOUTH	MA	02747
GAMABA CC LLC	2140 SW 8TH PL	CAPE CORAL	FL	33991
GAMEZ DANIEL	16731 NW 87TH CT	HIALEAH	FL	33018
GARCIA ANTONIO	19 RAVE ST	HICKSVILLE	NY	11801
GIARDINA GARY + KATHLEEN	3723 SW 19TH PL	CAPE CORAL	FL	33914
GOROS GEORGE T TR FOR G T GOROS TRUST	3802 SW 17TH AVE	CAPE CORAL	FL	33914
GRANDE FRANK	3807 EMERALD LAKE DR	MISSOURI CITY	TX	77459
GREBNER DARLENE TR FOR DARLENE GREBNER TRUST	2215 16TH AVE NW	ABERDEEN	SD	57401
GRIFFO TRUDI E & MARK D	3721 SW 17TH PL	CAPE CORAL	FL	33914
HADDIX DEBORAH J	3833 SW 17TH PL	CAPE CORAL	FL	33914
HAWKINS JOHN E + MARGARET T	3709 SW 17TH AVE	CAPE CORAL	FL	33914
HAYWARD GARY + ANGELA E	2300 SW 20TH ST	CAPE CORAL	FL	33991
HERNANDEZ ELLIMAY	1910 SW 36TH TER	CAPE CORAL	FL	33914
HERNANDEZ ESTEBAN + SUBERO JORGE T/C	2401 SW 17TH AVE	MIAMI	FL	33145
HOLLEY LARRY L + BEVERLY C TR FOR LARRY L + BEVERLY C HOLLEY TRUST	3719 SW 19TH PL	CAPE CORAL	FL	33914
HOPPER JODI L	1914 SW 38TH TER	CAPE CORAL	FL	33914
HUNGRY CATFISH FARMS LLC	7008 WOODSTOCK AVE	BATON ROUGE	LA	70809
HYLER JOHN G & MORGAN KELLY J	1927 SAVONA PKWY W	CAPE CORAL	FL	33914
JABT CORPORATION INC	5232 SW 5TH PL	CAPE CORAL	FL	33914
JAGLAL PRADEEP + SALIMA S	164 72TH AVE # 1	FRESH MEADOWS	NY	11365
JBH HOLDINGS LLC	4828 SW 17TH PL UNIT 8B	CAPE CORAL	FL	33914
JOHNSON MARVIN L + KAREN M	4688 MILLS RD	WALKER	IA	52352
KANE JONATHAN & JENNIFER	3819 SW 17 TH PL	CAPE CORAL	FL	33914
LAGANA LOUIS R IV & LAGANA CHRISTINA L	3809 SW 17TH AVE	CAPE CORAL	FL	33914
LAROC DEVELOPMENT LLC	295 GRANDE WAY UNIT 1603	NAPLES	FL	34110

LEE COUNTY DIST SCHOOL BOARD GULF MIDDLE	2855 COLONIAL BLVD	FORT MYERS	FL	33966
LEE DAVID S	164 WASHINGTON ST	FAIRHAVEN	MA	02719
M + S FLORIDA SERVICES INC	1222 SE 47TH ST STE C1	CAPE CORAL	FL	33904
MARKERT DIANE	23901 MONTAGUE DR	BROWNSTOWN	MI	48134
MARTINS PAUL	7 MARIAL DR	SOUTH DARTMOUTH	MA	02748
MASOUD MARIANNE	73 CENTER ST	BELLEVILLE	NJ	07109
MCFARLANE CHASE TERENCE & MCFARLANE				
NORMANDY ROSE	1729 SW 38TH LN	CAPE CORAL	FL	33914
MIEHLE JOHN TR + JOHN + SANDRA TIMMONS TRUST				
J/T FOR MIEHLE FAMILY TRUST	PO BOX 522	GENOA	NV	89411
MOLINA MARIA MARIA GARCIA	101 MOUNT VERNON ST APT B8	RIDGEFIELD PARK	NJ	07660
MORGAN DIANE + POST DAVID T/C	213 GUINEA HILL RD	SLATE HILL	NY	10973
MYERS JEREMY D	1923 SW 37TH TER	CAPE CORAL	FL	33914
NEILSON TODD B + CINDY M	3723 SW 17TH AVE	CAPE CORAL	FL	33914
NGUYEN CUONG V + LAM MAI N H/W	3708 SW 17TH AVE	CAPE CORAL	FL	33914
OPPORTUNITIES REAL ESTATE FUND	8461 SW 11TH RD	GAINESVILLE	FL	32607
ORTIZ ANDRES JR	1906 SW 36TH TER	CAPE CORAL	FL	33914
ORTIZ RICARDO + DALIA E	2264 SW 93RD CT	MIAMI	FL	33165
ORTIZ ROLANDO + ELSA	9350 SW 22ND TER	MIAMI	FL	33165
OTT KAY E	1828 SW 38TH LN	CAPE CORAL	FL	33914
PALAZZOLO CARL G 1/4 + EHRLICH ROBERT 1/4 +				
BILELLO RONALD A 1/4 + CINQUEMANI STEVEN 1/4 T/C	33 ARTHUR AVE	LYNBROOK	NY	11563
PERDOMO ELLIMAY HERNANDEZ	1910 SW 36TH TER	CAPE CORAL	FL	33914
PIQUION JOHNNY & ANGELA	1733 SW 38TH LN	CAPE CORAL	FL	33914
POINTER DASHAUN JAMAALL & TAYLOR-POINTER				
SHADAY MARIE	3713 SW 17TH AVE	CAPE CORAL	FL	33914
POLANCO ERIC + BLANCA E	3708 SW 19TH AVE	CAPE CORAL	FL	33914
PONTE KEVIN J + SANTOS DAVID T/C	4 JOHN WINTHROP ST	DARTMOUTH	MA	02747
QUESADA DIEGO P + TOLEDO MIRIAM H/W	1112 SW 45TH ST	CAPE CORAL	FL	33914
QUEVEDO TERESA	8871 NW 142ND ST	MIAMI LAKES	FL	33018
QUINTER DANE + DONNA	1928 SW 38TH ST	CAPE CORAL	FL	33914
RAO PETER D + RAO KAYLA A	3735 SW 17TH AVE	CAPE CORAL	FL	33914
REILLY JOHN T + MARINA	1920 SAVONA PKWY W	CAPE CORAL	FL	33914
REMBRANDT MICHAEL + VILMA	3825 SW 17TH PL	CAPE CORAL	FL	33914
ROSE JOAN C TR FOR JOAN C ROSE TRUST	1725 SW 38TH LN	CAPE CORAL	FL	33914
ROSS TALITHA K	1824 SW 38TH LN	CAPE CORAL	FL	33914
RUA JOSE R + MARIA L	419 NE 18TH PL	CAPE CORAL	FL	33909
RUSS JACOB W + CHERWATY MICHELLE A	3805 SW 19TH PL	CAPE CORAL	FL	33914
RUTH JEAN TAYLOR TR FOR RUTH JEAN TAYLOR TRUST	1722 SW 38TH LN	CAPE CORAL	FL	33914
SANTANA LUIS JAVIER + CABRERA MARTA M JARDIN				
CENTRAL	6 CALLE COLOSO	HUMACAO	PR	00791
SANTORICO RICHARD J TR FOR RICHARD J SANTORICO				
TRUST	1924 SAVONA PKWY W	CAPE CORAL	FL	33914
SANTOS DAVID + PONTE KEVIN T/C	10 GARRISON RD	NEW BEDFORD	MA	02745
SAVONA OF SW FLORIDA LLC	14975 TECHNOLOGY CT	FORT MYERS	FL	33912
SAVONNA PARKWAY APARTMENTS	200 45TH ST S	FARGO	ND	58103
SCARBRO PHILIP	2963 CUSSELL DR	SAINT JAMES CITY	FL	33956
SCHULZE JAMES C	665 93RD AVE N	NAPLES	FL	34108
SNOW LORI ANN	1623 SW 6TH AVE	CAPE CORAL	FL	33991
SNOW STEVEN	1925 SW 38TH ST	CAPE CORAL	FL	33914
SOLO OAK LLC	2110 PONDELLA RD	CAPE CORAL	FL	33909
SOMARU KRISHNA + BIBI	2313 SW 40TH TER	CAPE CORAL	FL	33914
SON CAL & MAO KIMMY	1828 SW 38TH TER	CAPE CORAL	FL	33914
SORKIN DAVID + LIZ	1725 SAVONA PKWY W	CAPE CORAL	FL	33914
SOUSA CATHY	97 ORCHARD ST	EAST PROVIDENCE	RI	02914

SOSA MANUEL D + KATHLEEN M	18 OVERLOOK CIR	HUDSON	NH	03051
STEITZ EILEEN + SPINNLER LAUREN	3813 SW 17TH AVE	CAPE CORAL	FL	33914
STOUT BARRY SR & CATHY	1733 SAVONA PKWY W	CAPE CORAL	FL	33914
SULLIVAN DENNIS E	1823 SW 38TH LN	CAPE CORAL	FL	33914
SWANKOSKY CRAIG R + EDITA C	1705 SAVONA PKWY W	CAPE CORAL	FL	33914
TALADRIZ SARA M	13229 LAKE LIVE OAK DR	ORLANDO	FL	32828
TAMAYO EDWINA JOSEFA	3712 SW 19TH AVE	CAPE CORAL	FL	33914
THUM VIOLET A	333 19TH ST N APT 102	FARGO	ND	58102
TORRES AMADO J + ALVAREZ MARIBEL H/W	1817 SW 36TH TER	CAPE CORAL	FL	33914
TUMAMING VICTOR M LORNA TUMAMING	356 PELTON AVE	STATEN ISLAND	NY	10310
TURNER JOHN S	1816 SW 38TH LN	CAPE CORAL	FL	33914
UNKNOWN HEIRS OF MARTEN BRIAN	1832 SW 36TH TER	CAPE CORAL	FL	33914
VAUGHAN JEFFREY R & VAUGHAN LESLIE S	1724 SW 36TH TER	CAPE CORAL	FL	33914
VERELINE PAUL J + DONNA	1921 SW 38TH ST	CAPE CORAL	FL	33914
VLADIMIR SLASTUSHINSKIY AND IR	45 LAKE LILLINONAH RD N	BRIDGEWATER	CT	06752
VO ANH + NGO KHANH	7847 KELVIN AVE	WINNETKA	CA	91306
WAGNER DUSTIN C & WAGNER TIFFANIE L	5844 22ND ST	ELK MOUND	WI	54739
WALLACE THOMAS O + KIMBERLY L	79 FITZWILLIAM LN	JOHNSTOWN	OH	43031
WEDEMEYER MARK A + SUSAN K TR FOR WEDEMEYER TRUST	1911 E 14TH ST	ATLANTIC	IA	50022
WEIDINGER HOWARD L + WEIDINGER HOWARD L TR FOR HOWARD L WEIDINGER TRUST	202 SW 45TH ST	CAPE CORAL	FL	33914
WELLS NANCY S + KIRK TIMOTHY H J/T	105 INGERSOLL GROVE	SPRINGFIELD	MA	01109
WENSEL PETER J + STEPHANIE L	3713 SW 19TH PL	CAPE CORAL	FL	33914
WESTON MARC & SAUNDRA	1714 SW PRECEDENCE RD	ANKENY	IA	50023
ZACCARINE KEITH L + RENEE M	6810 CLINTON ST	ELMA	NY	14059
ZYCH INVESTMENTS I LLC	5509 HARBOUR PRESERVE CIR	CAPE CORAL	FL	33914





FRONT ENTRY FEATURE



REAR PERSPECTIVE



AERIAL PERSPECTIVE



FRONT PERSPECTIVE

CONSTRUCTION DOCUMENTS FOR
SAVONA APARTMENTS
TYPE I - 40-UNIT BUILDING
SAVONA PARKWAY WEST, CAPE CORAL, FLORIDA

PDS ARCHITECTURE INC.

PH: 239.437.8090
FX: 855.835.2733
INFO@PDSincorline.com

12800 UNIVERSITY DR SUITE 402
FT MYERS, FL 33907
FL LICENSE # A426002474



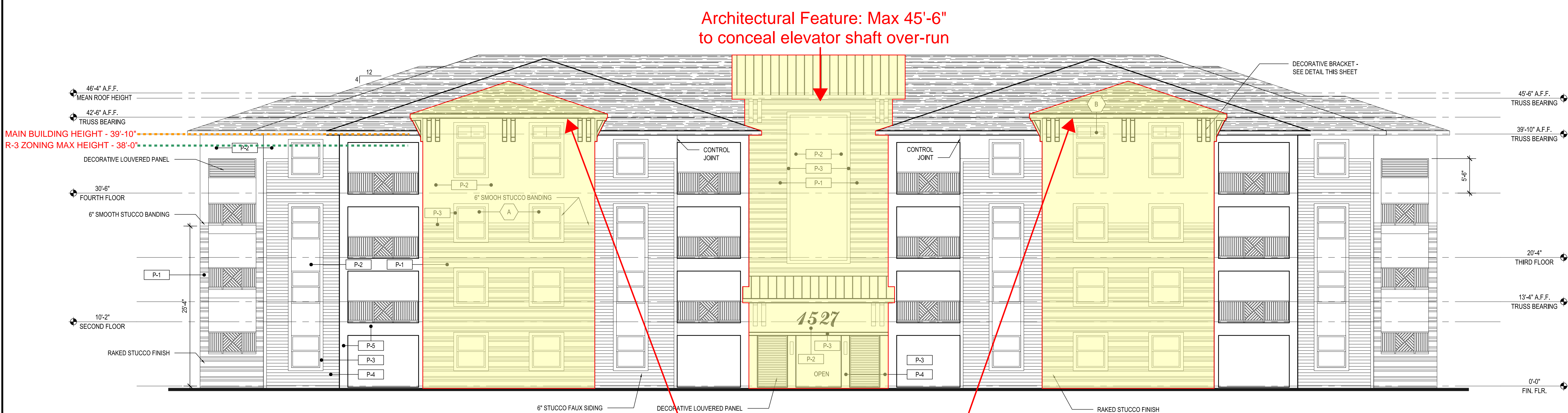
DATE: 6-29-18
TITLE:

REVISIONS	

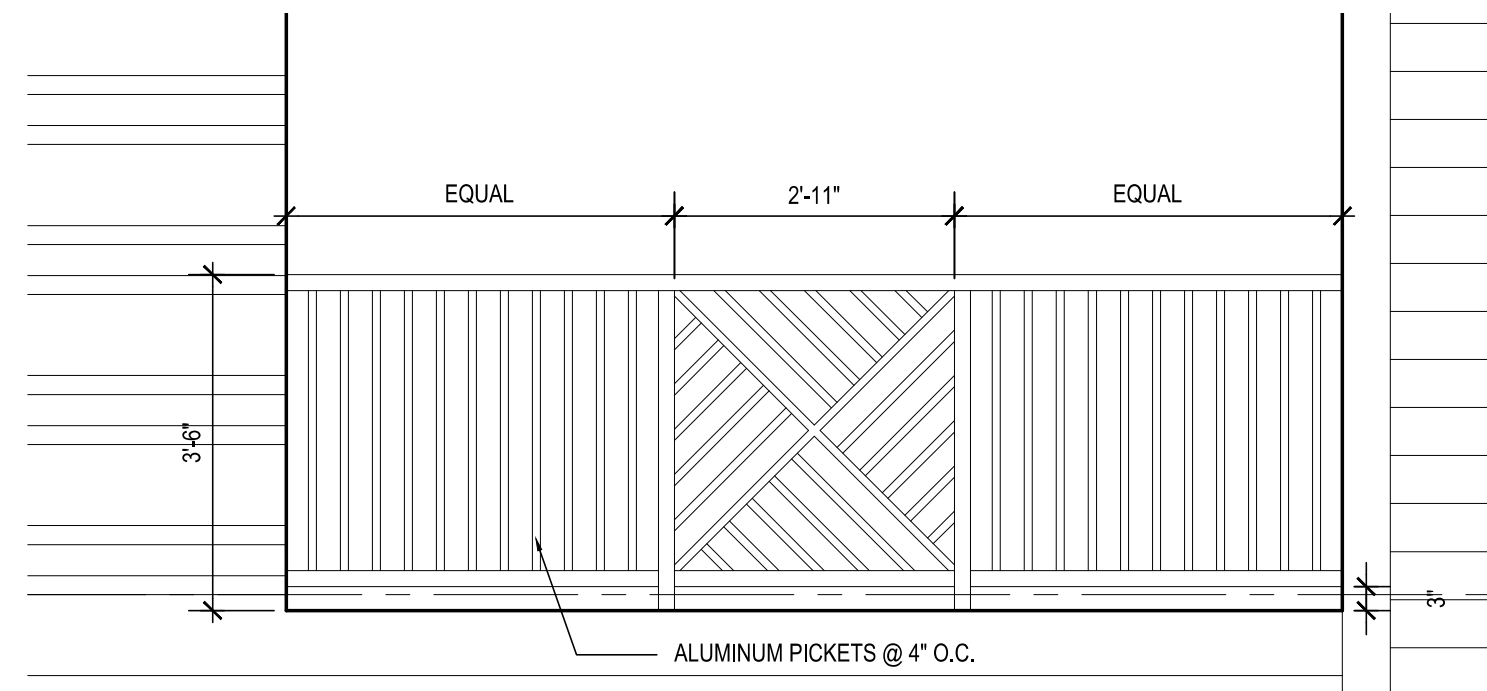
KENNETH P SCHOENFELD
FLORIDA REG. # AR97143

SHEET NO.

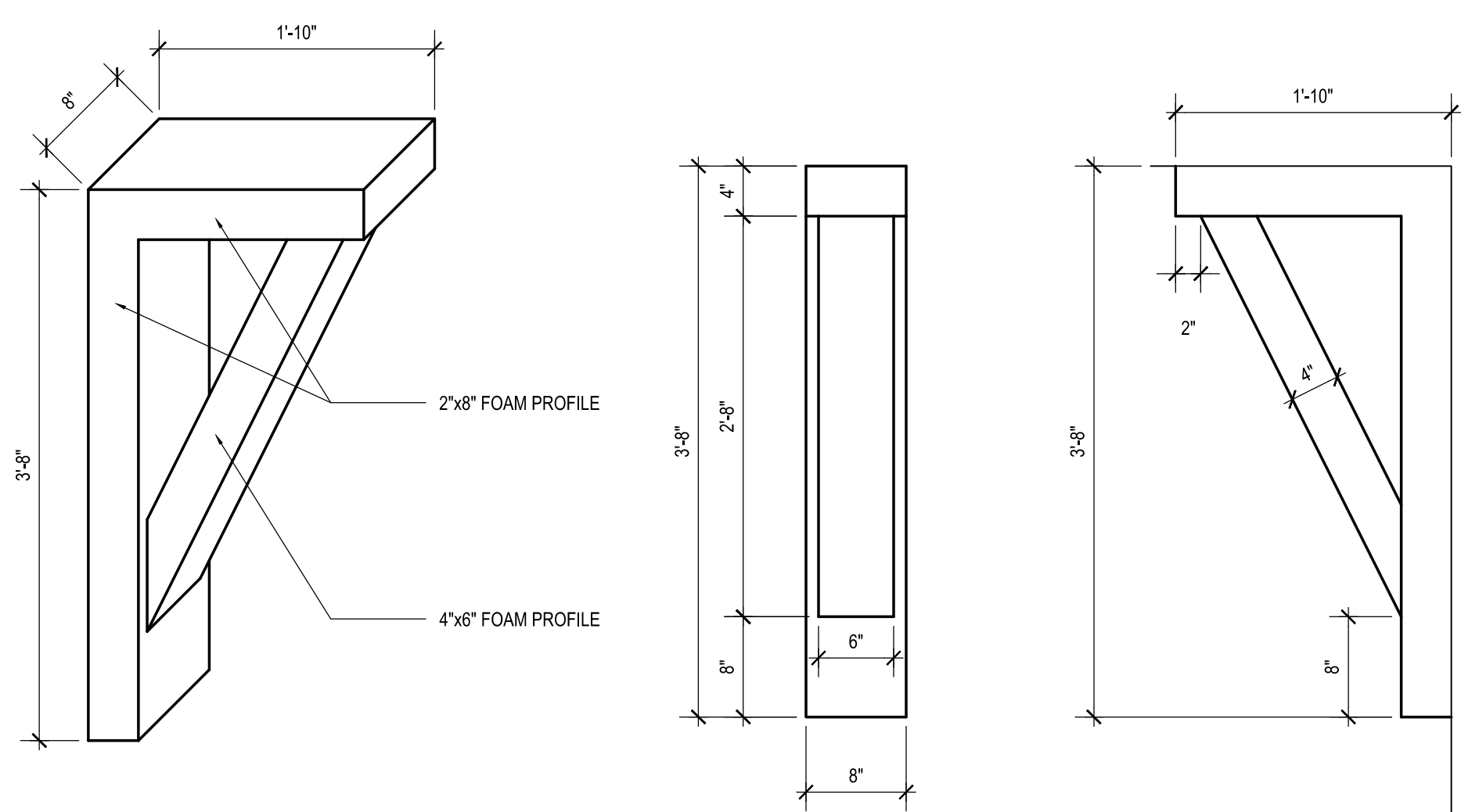
REVISIONS	



FRONT ELEVATION
SCALE: 1/8" = 1'-0"

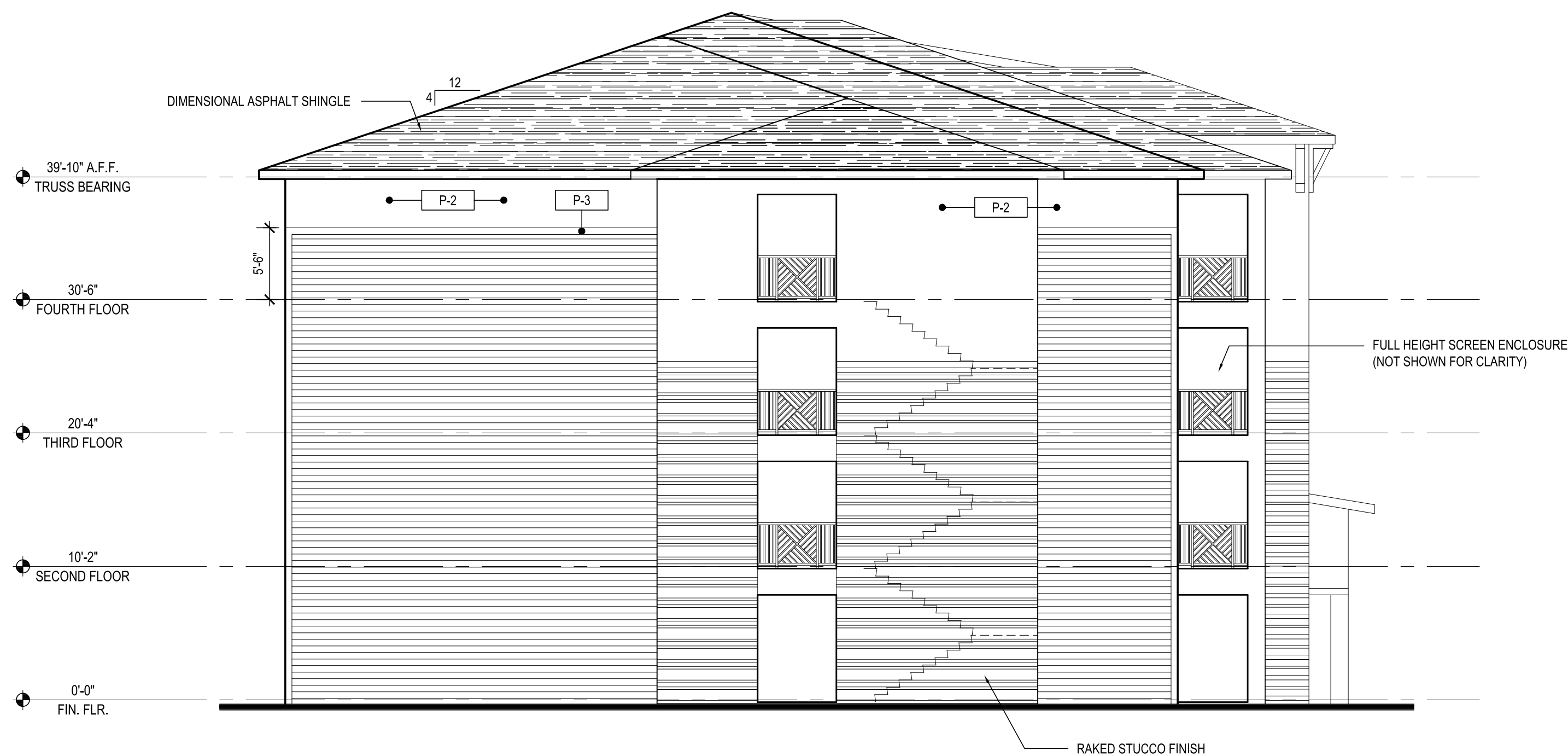


1 ENLARGED RAILING DETAIL
SCALE: 1/2" = 1'-0"

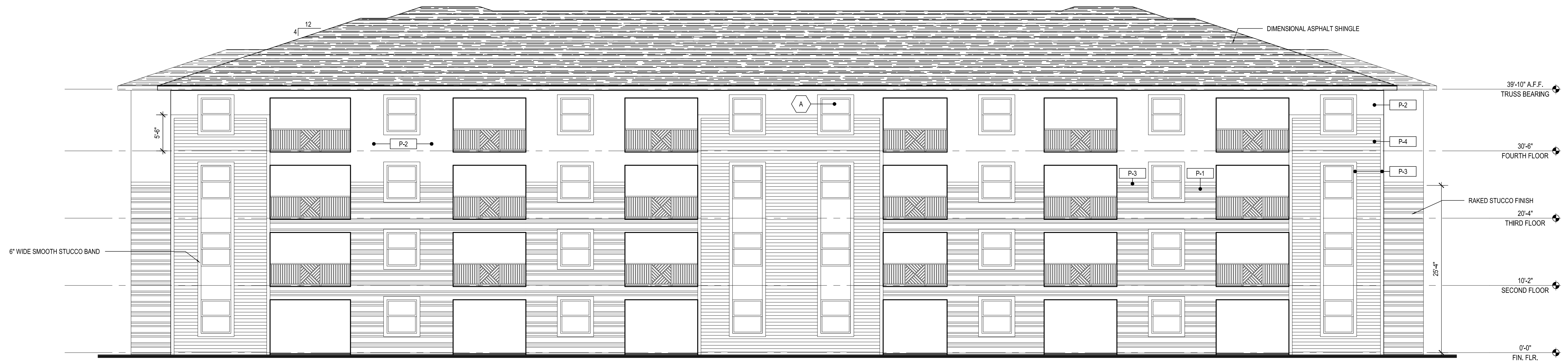


2 ENLARGED BRACKET DETAIL
SCALE: 1" = 1'-0"

FOAM ORNAMENTATION SPECIFICATION
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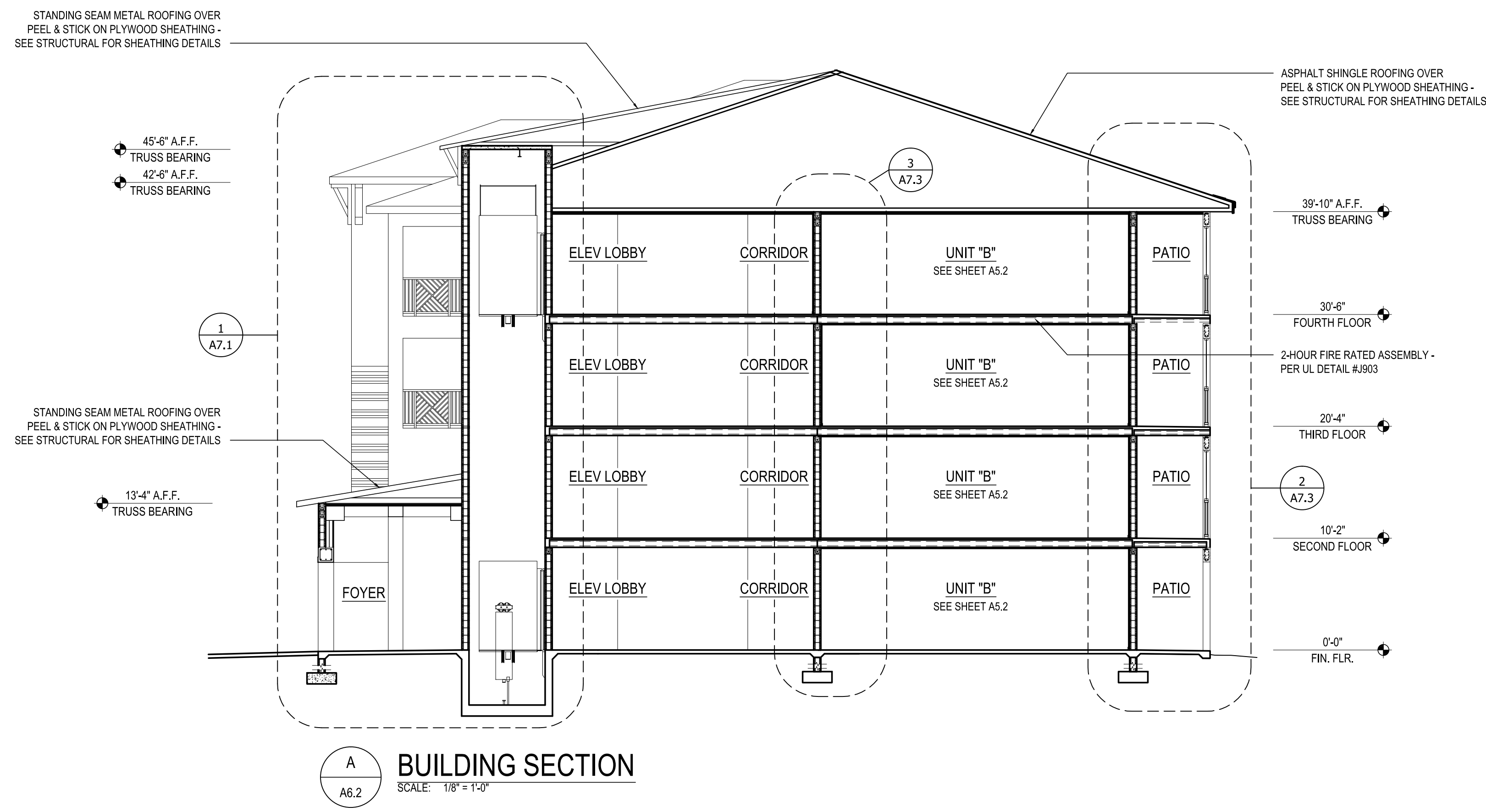


SIDE ELEVATION
SCALE: 1/8" = 1'-0"



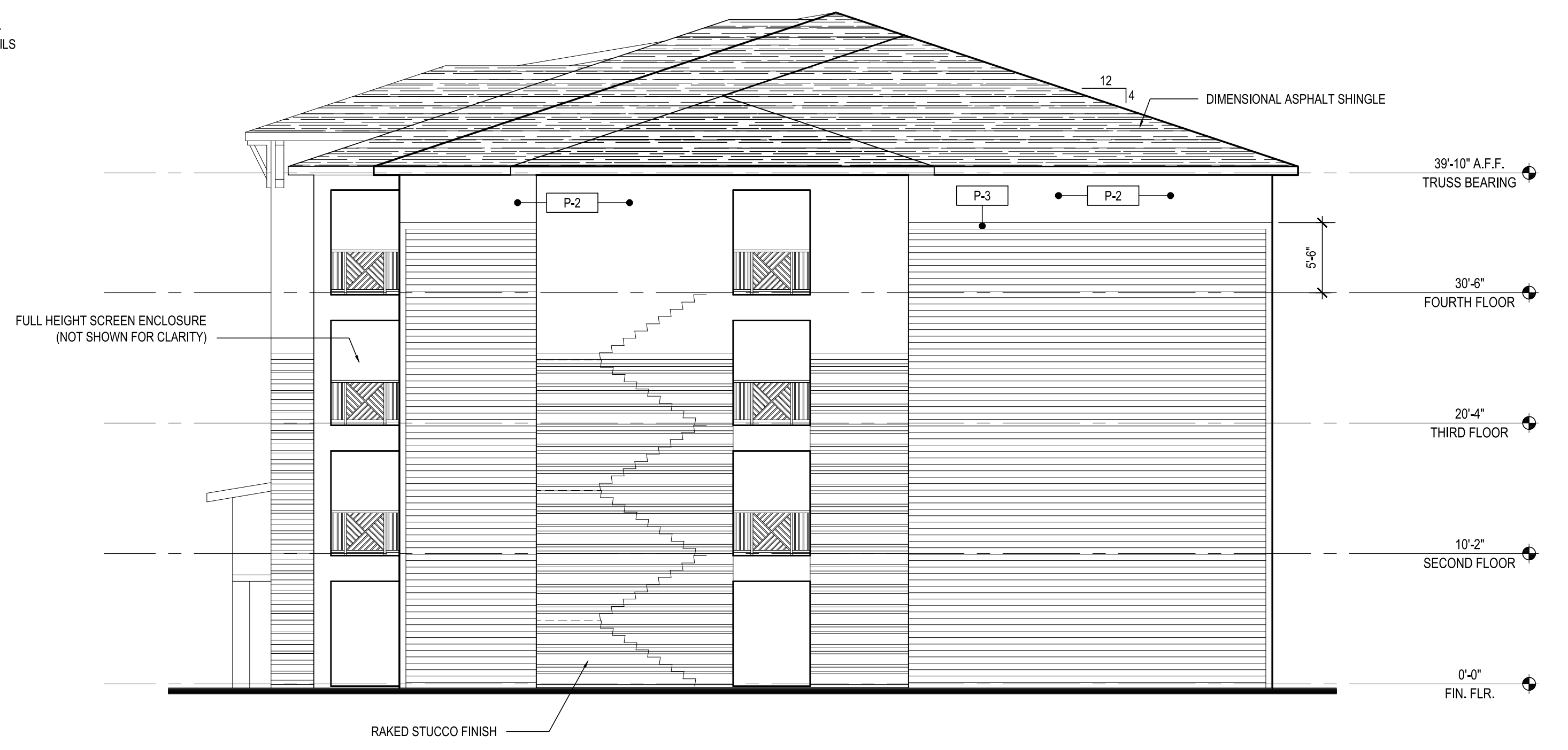
REAR ELEVATION

SCALE: 1/8" = 1'-0"

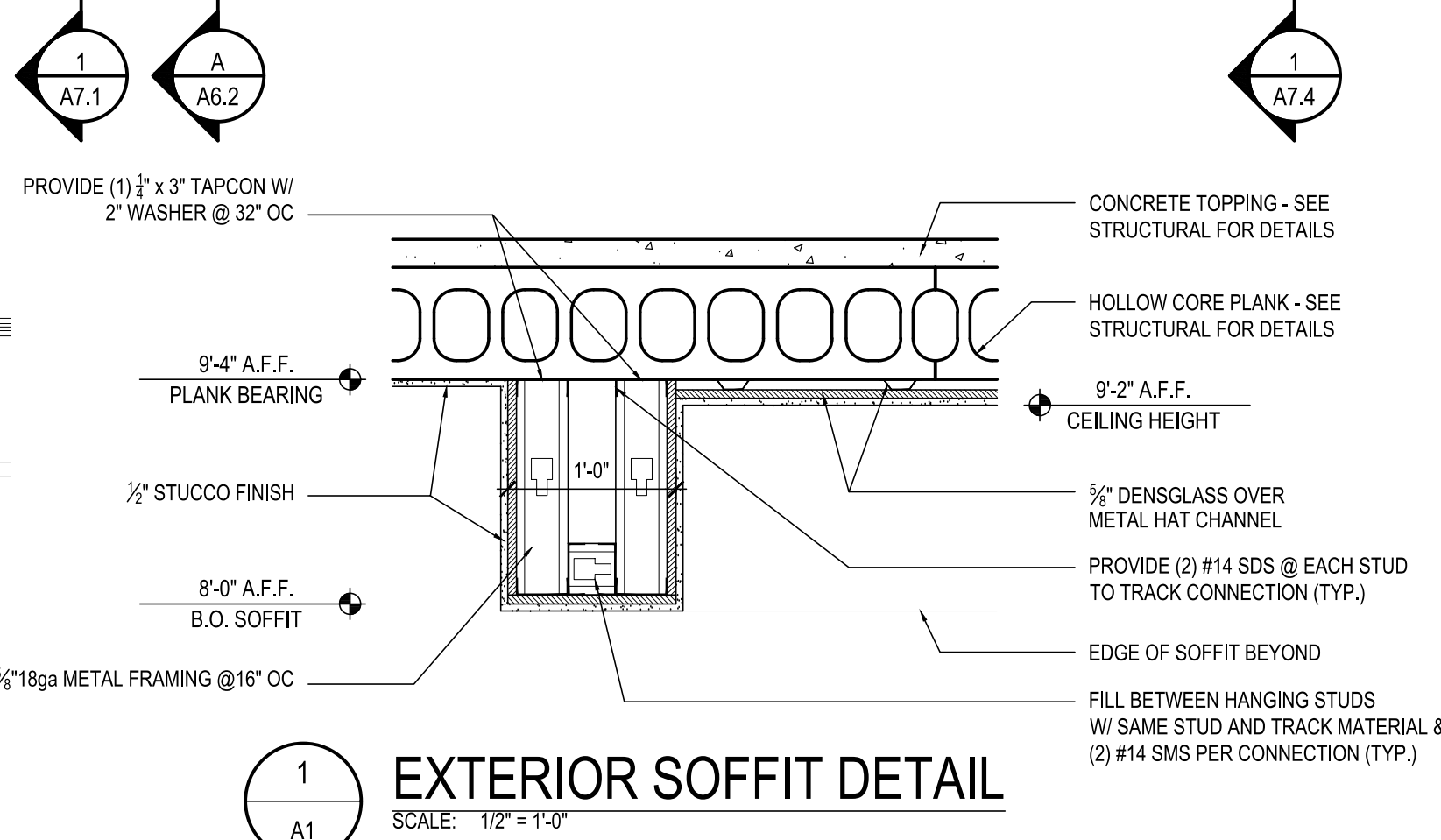
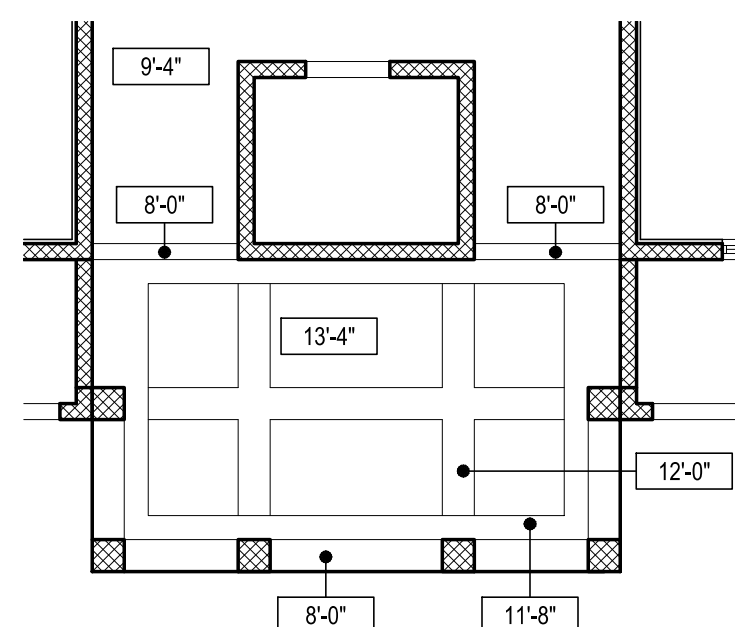
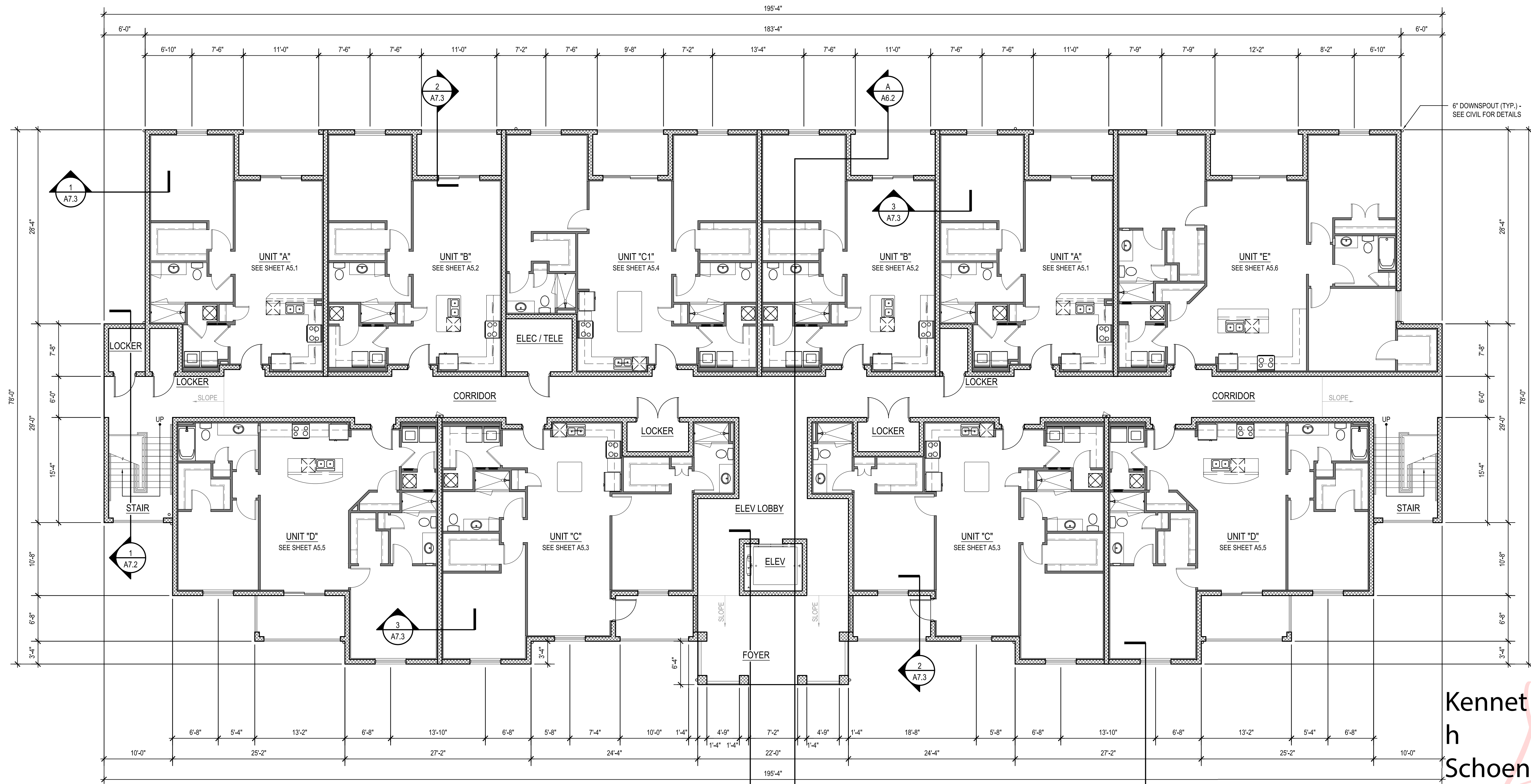
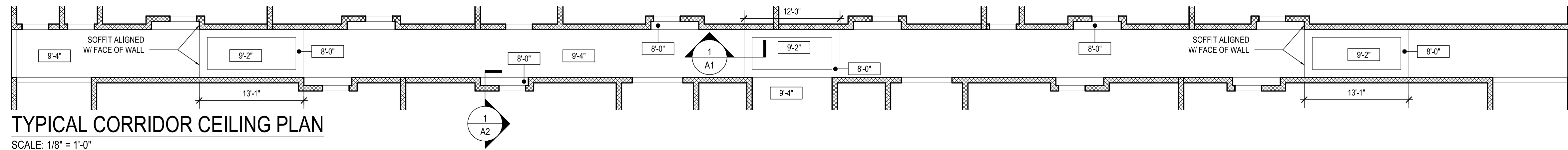


SIDE ELEVATION

SCALE: 1/8" = 1'-0"



REVISIONS	

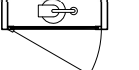


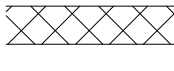

This item has been electronically signed and sealed by Kenneth P. Schoenfeld, R.A., On the date specified using a *SHA-1* authentication code.

Printed copies of this document are not considered signed and sealed and the *SHA-1* authentication code must be verified on any electronic copies.

ADAPTABLE UNIT NOTES	
ALL UNITS TO BE HANDICAP ADAPTABLE - SEE ENLARGED UNIT PLANS FOR ADDITIONAL DETAILS.	

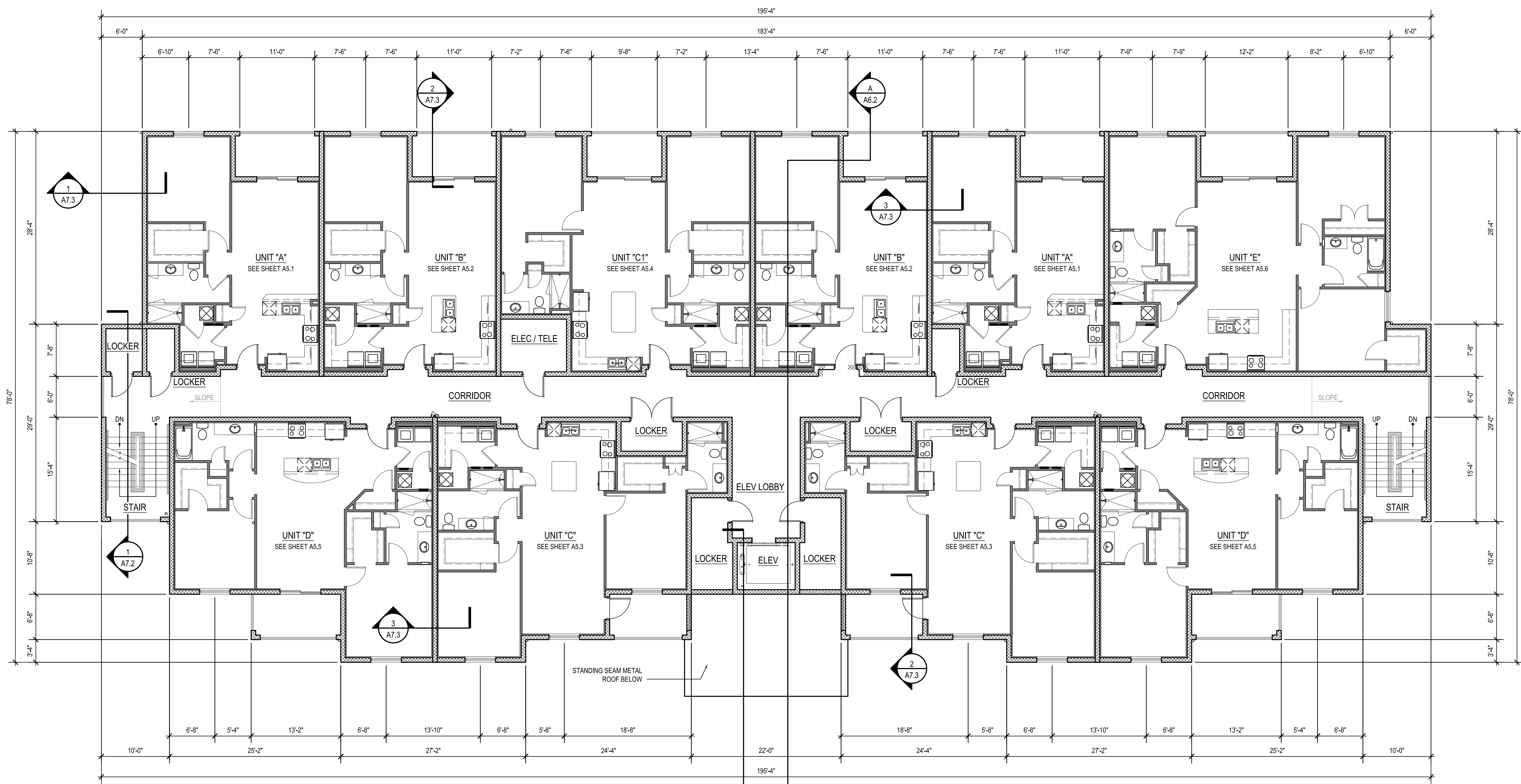
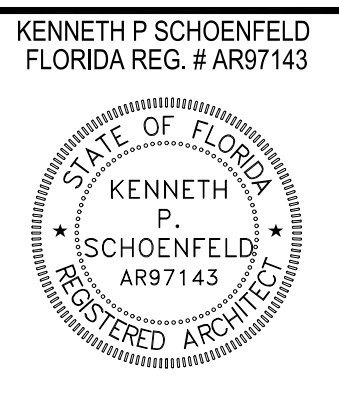
AREA TABULATION	
FIRST FLOOR	14,058 SQ. FT.
SECOND FLOOR	13,773 SQ. FT.
THIRD FLOOR	13,773 SQ. FT.
FOURTH FLOOR	13,773 SQ. FT.
TOTAL AREA	55,377 SQ. FT.

FIRE EXTINGUISHER LEGEND	
	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

WALL TYPE LEGEND	
	NEW 2-HOUR 8" CMU WALL
	NEW METAL STUD FRAMED WALL



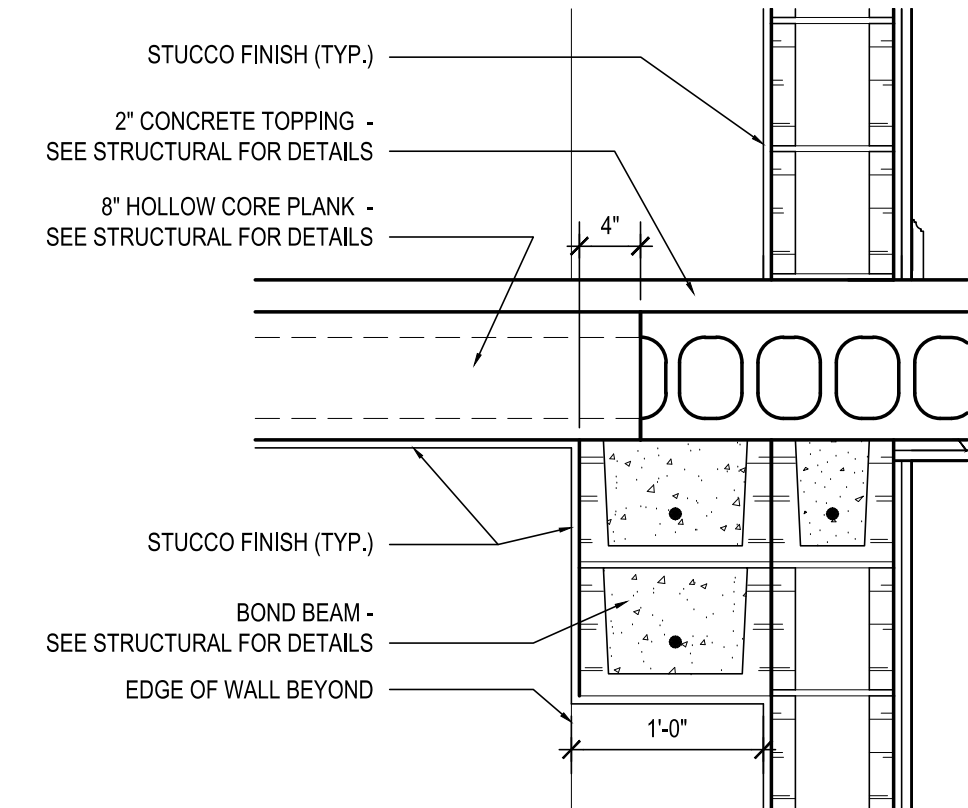
REVISIONS	



SECOND & THIRD LEVEL BUILDING PLAN

SCALE: 1/8" = 1'-0"
NOTE: ALL EXTERIOR MASONRY WALLS TO BE 2hr FIRE RATED PER FBC 722.3.2 ON SHEET A10.2

NOTE: ALL EXTERIOR WALKWAYS SHALL SLOPE TO DRAIN AT EDGE, AREAS W/O OPEN EDGE SHALL SLOPE TO NEAREST FLOOR DRAIN. G.C. SHALL COORDINATE ALL SLOPES & CONTACT ARCHITECT PRIOR TO CONST. WITH ANY QUESTIONS.



ENTRY SOFFIT DETAIL
SCALE: 1/2" = 1'-0"

ADAPTABLE UNIT NOTES	
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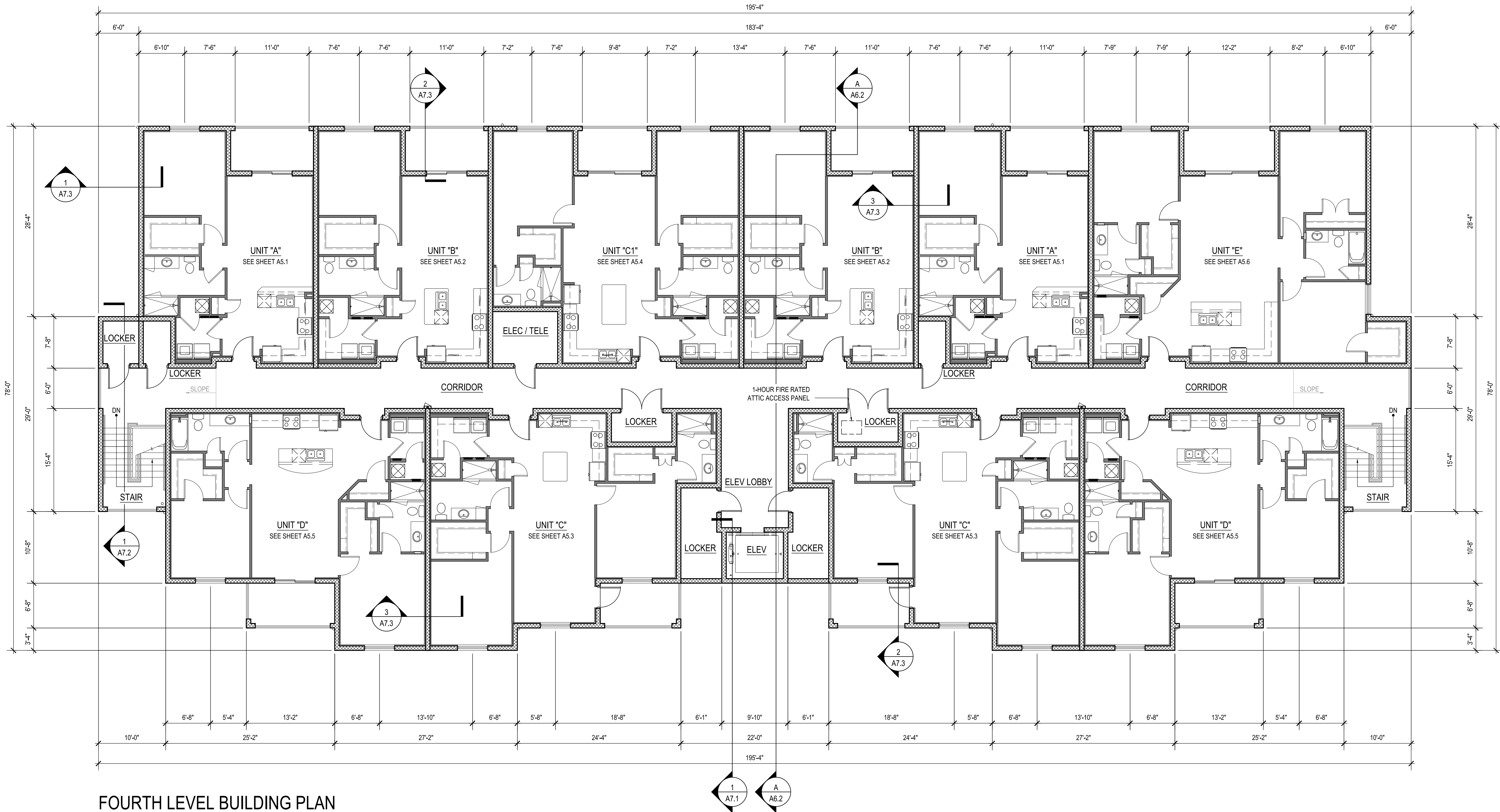
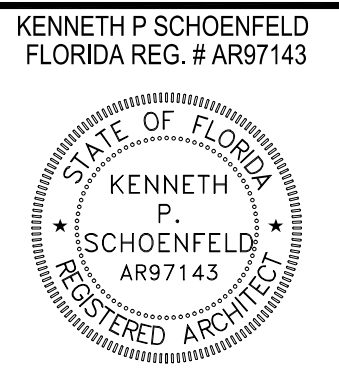
AREA TABULATION	
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THIRD FLOOR	13,773 SQ. FT.
FOURTH FLOOR	13,773 SQ. FT.
TOTAL AREA	55,377 SQ. FT.

FIRE EXTINGUISHER LEGEND	
	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

WALL TYPE LEGEND	
	NEW 2-HOUR 8" CMU WALL
	NEW METAL STUD FRAMED WALL



REVISIONS	



FOURTH LEVEL BUILDING PLAN

SCALE: 1/8" = 1'-0"
NOTE: ALL EXTERIOR MASONRY WALLS TO BE 2hr FIRE RATED PER FBC 722.3.2 ON SHEET A10.2

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ADAPTABLE UNIT NOTES	
ALL UNITS TO BE HANDICAP ADAPTABLE - SEE ENLARGED UNIT PLANS FOR ADDITIONAL DETAILS.	

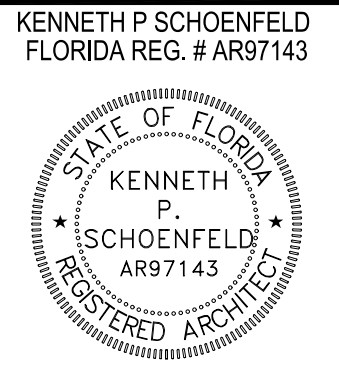
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TOTAL AREA	55,377 SQ. FT.

FIRE EXTINGUISHER LEGEND	
	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

WALL TYPE LEGEND	
	NEW 2-HOUR 8" CMU WALL
	NEW METAL STUD FRAMED WALL



REVISIONS	



ROOF VENTILATION

GENERAL INFORMATION

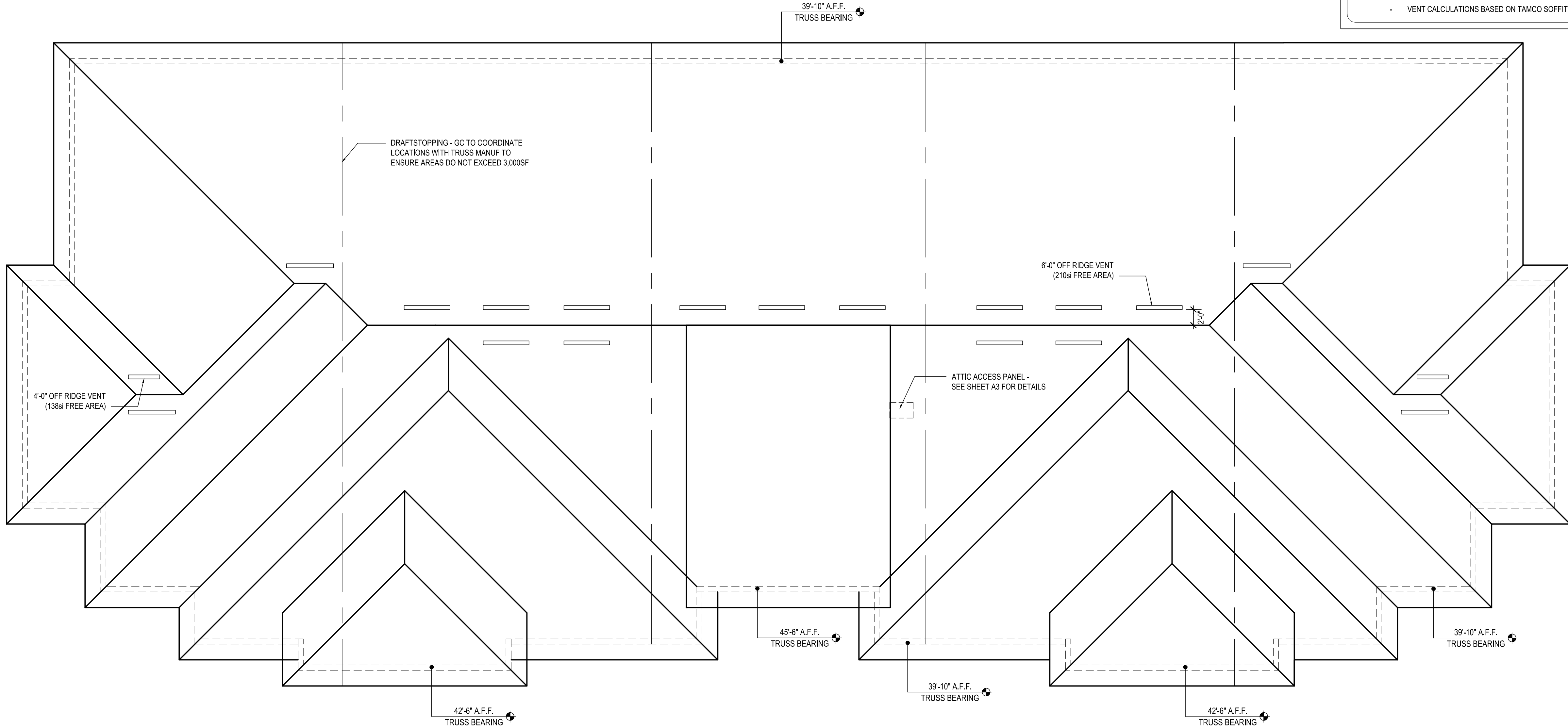
ROOF STRUCTURE CONSTRUCTION TYPE:	WOOD TRUSS
ATTIC FIRE SPRINKLER PROTECTION:	NO
DRAFT STOPPING:	NO
FIRE RATED LID ON UNDERSIDE OF TRUSS:	NO
VENTILATED ATTIC:	YES

VENTILATION REQUIREMENTS:

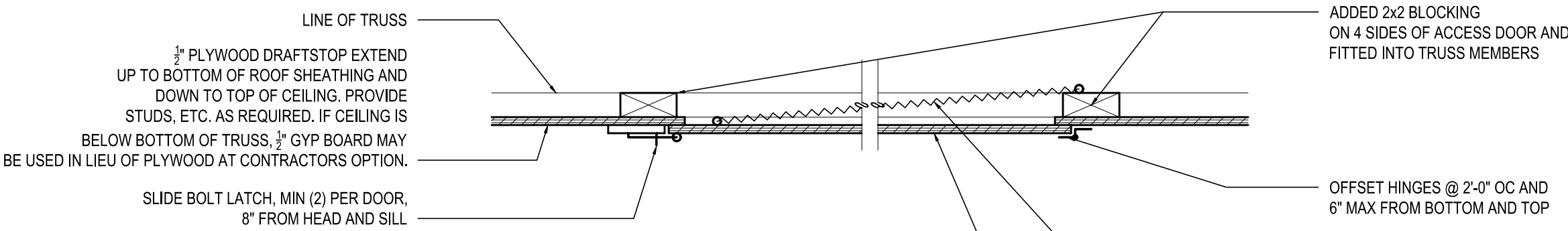
TOTAL ATTIC SQUARE FOOTAGE:	14,922 SF
VENTILATION BASED ON 1/150 or 1/300:	1/300 (14,922/ 300) = 49.74 SF X 50% = 24.87 SF X 144 = 3,582 SI MIN. 1/300 (14,922/ 300) = 49.74 SF X 50% = 24.87 SF X 144 = 3,582 SI MIN.
VENTILATED SOFFIT:	YES
TOTAL AREA OF VENTILATED SOFFIT:	1,149 S.F. X 5.9 SI/SF = 6,779 SI PROVIDED
RIDGE OR OFF-RIDGE VENTS:	(2) 4' OFF RIDGE VENT - (138 SI EACH) (17) 6' OFF RIDGE VENT - (210 SI EACH) = 3,846 SI PROVIDED

NOTES:

- VENT CALCULATIONS BASED ON TAMCO OFF RIDGE VENT FL APPROVAL #11100.4
- VENT CALCULATIONS BASED ON TAMCO SOFFIT VENT FL APPROVAL #12194-R6



ROOF PLAN
SCALE: 1/8" = 1'-0"



- NOTES:
- TRUSSES MUST BE DESIGNED TO ACCEPT ADDED WEIGHT OF DRAFTSTOPPING
 - JOINTS IN DRAFTSTOP MUST BE BACKED WITH SUPPORT STUDS IN TRUSS.
 - ANY ADDITIONAL FRAMING REQUIRED PERPENDICULAR TO THE TRUSSES IS TO BE PROVIDED AT THE GC'S EXPENSE

1 DRAFTSTOPPING DETAIL
SCALE: 1 1/2" = 1'-0"



FRONT ENTRY FEATURE



REAR PERSPECTIVE (PARTIAL)



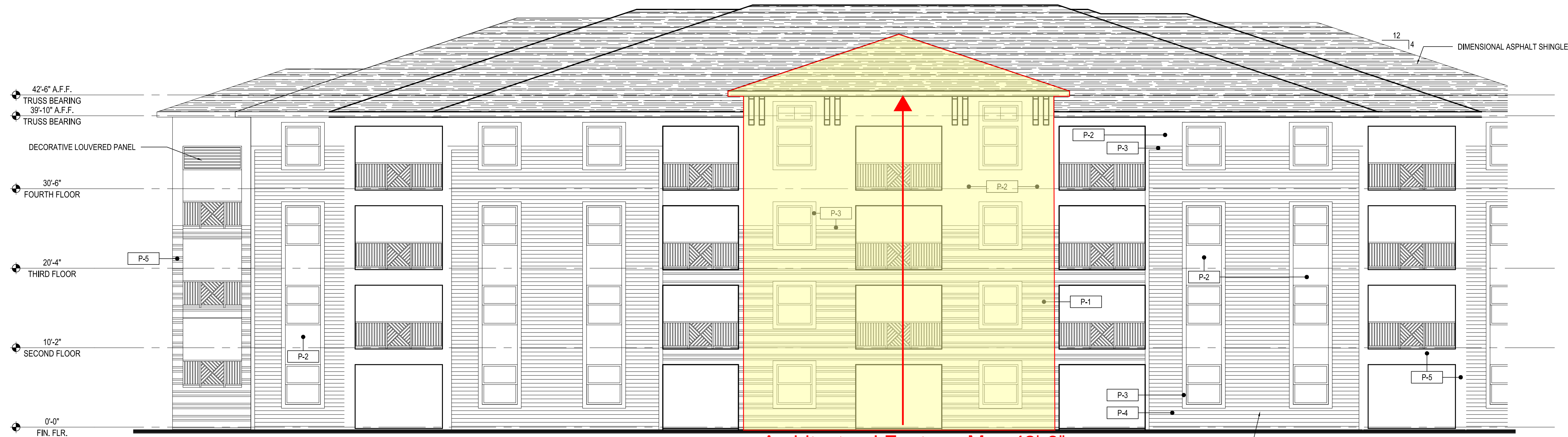
AERIAL PERSPECTIVE



FRONT PERSPECTIVE

REVISIONS	

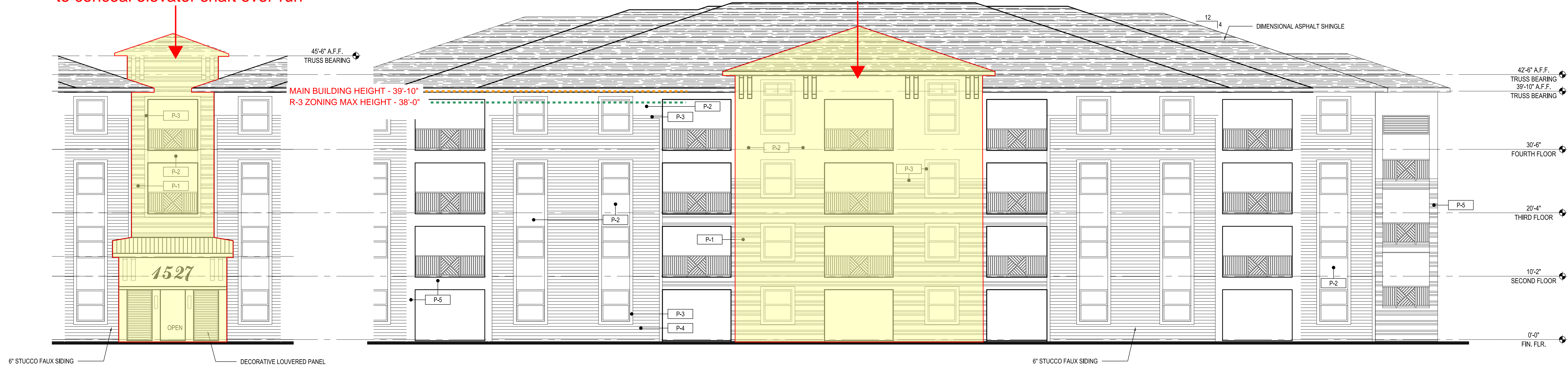
REVISIONS	



FRONT ELEVATION
SCALE: 1/8" = 1'-0"

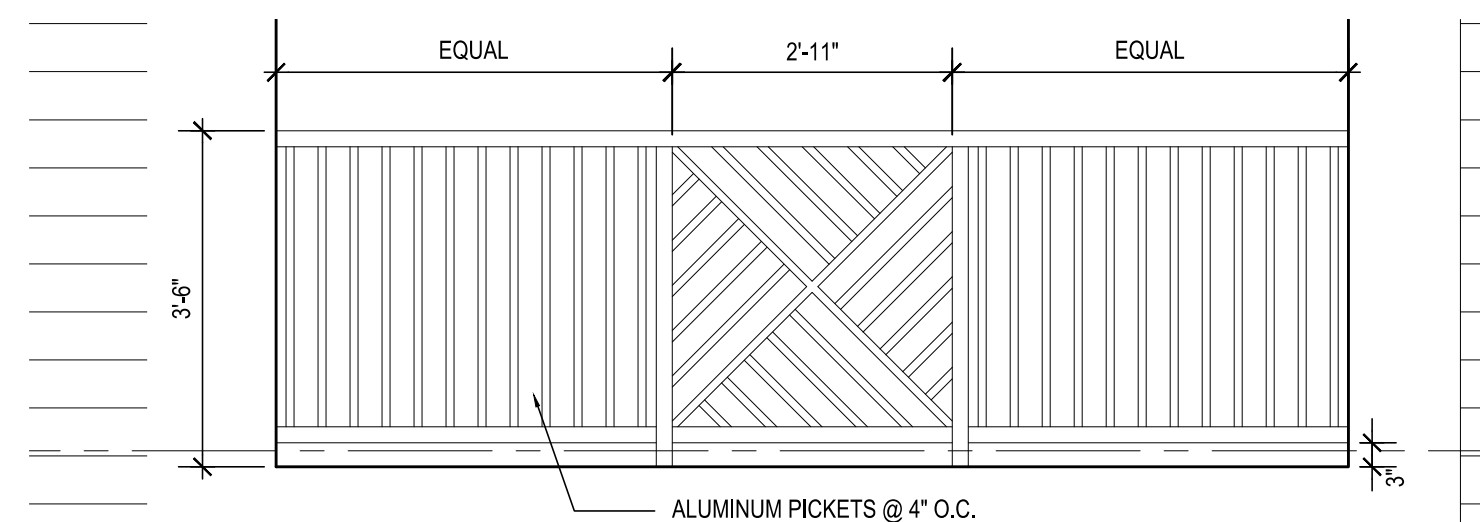
Architectural Feature: Max 42'-6"
to add architectural character
NOTE: Although Architectural
Feature bearing height is higher,
the ridge height is less than main
building resulting in the overall
perceived height increase not
being greater than the requested
39'-10" in lieu of the 38'-0"
permitted without variance.

Architectural Feature: Max 45'-6"
to conceal elevator shaft over-run

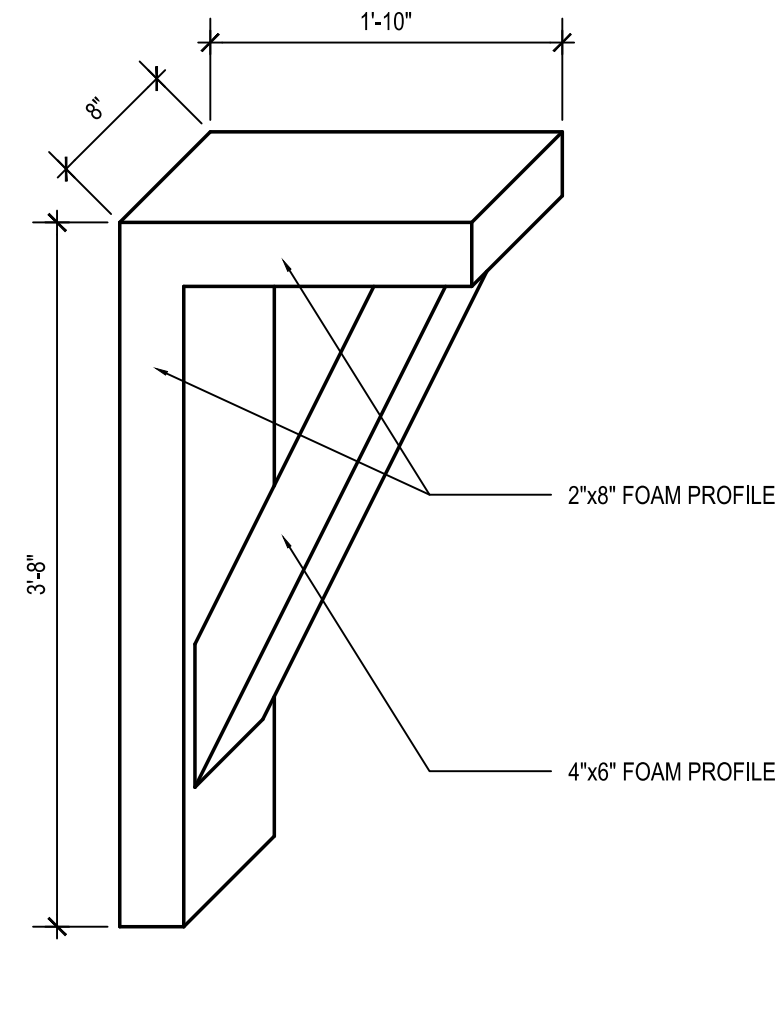


FRONT ENTRY FEATURE ELEVATION
SCALE: 1/8" = 1'-0"

PARTIAL FRONT ELEVATION
SCALE: 1/8" = 1'-0"

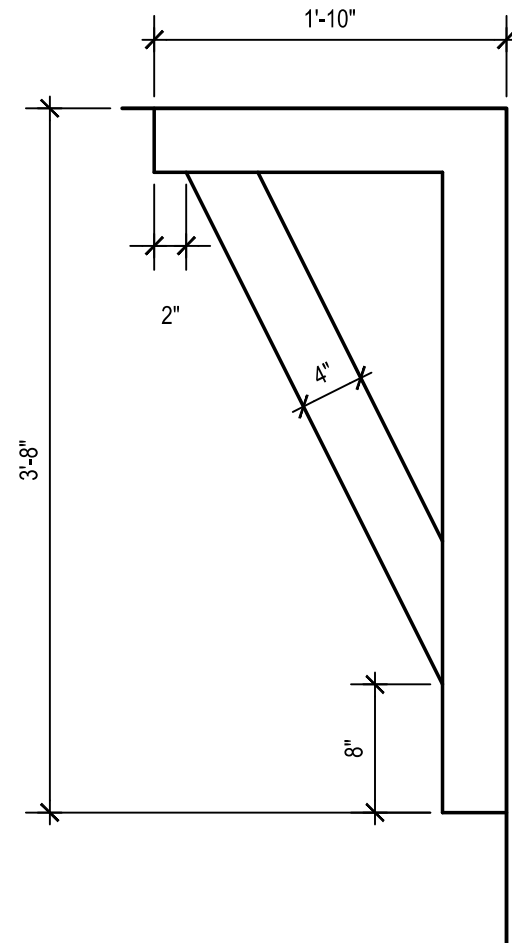


1
A6.1
ENLARGED RAILING DETAIL
SCALE: 1/2" = 1'-0"

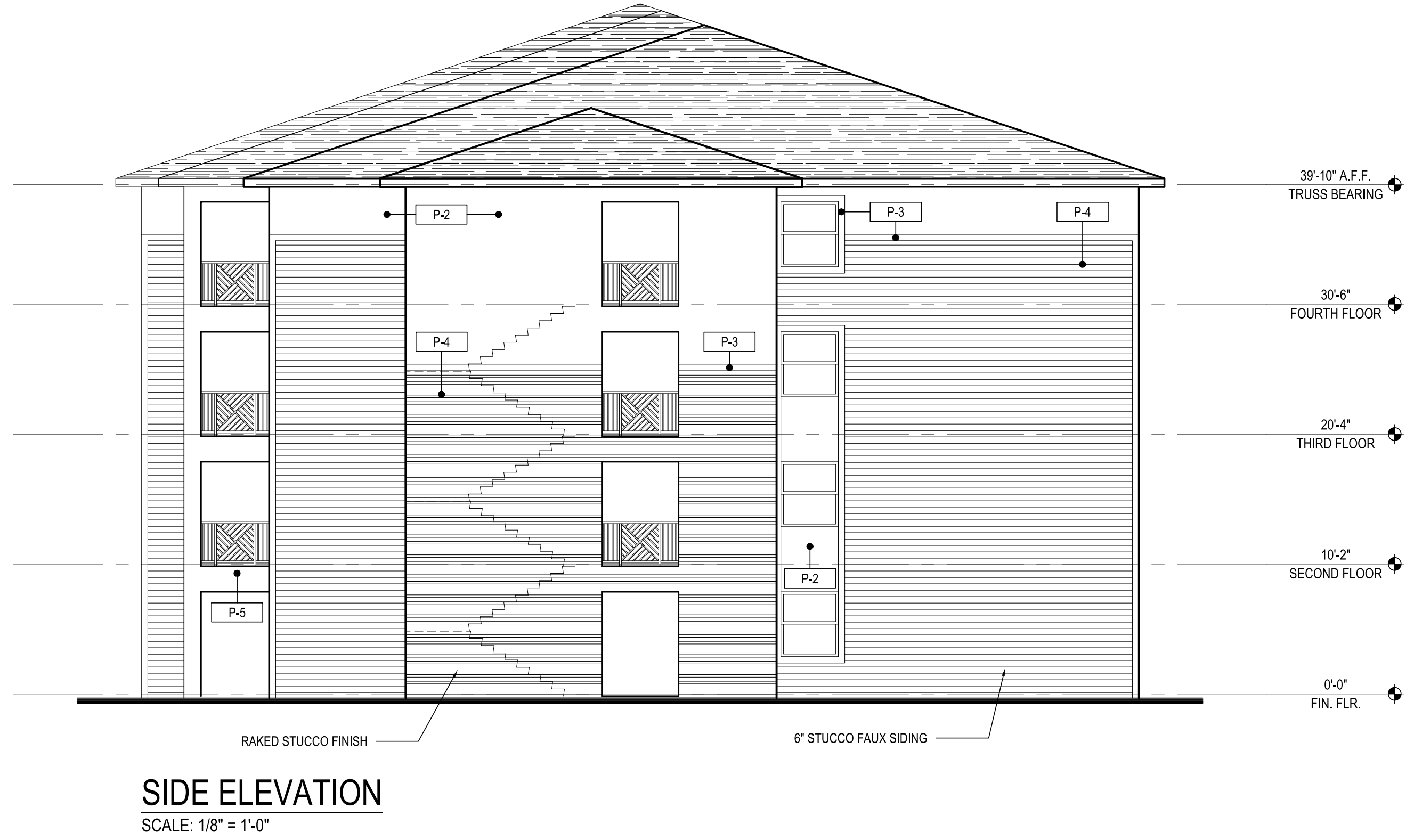


2
A6.1

ENLARGED BRACKET DETAIL
SCALE: 1" = 1'-0"

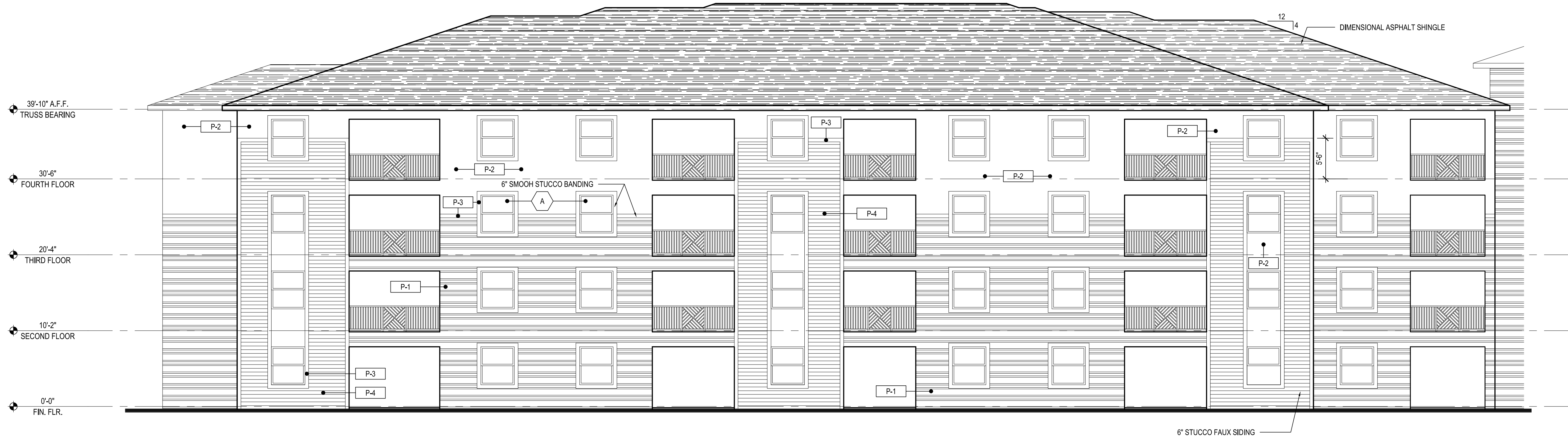


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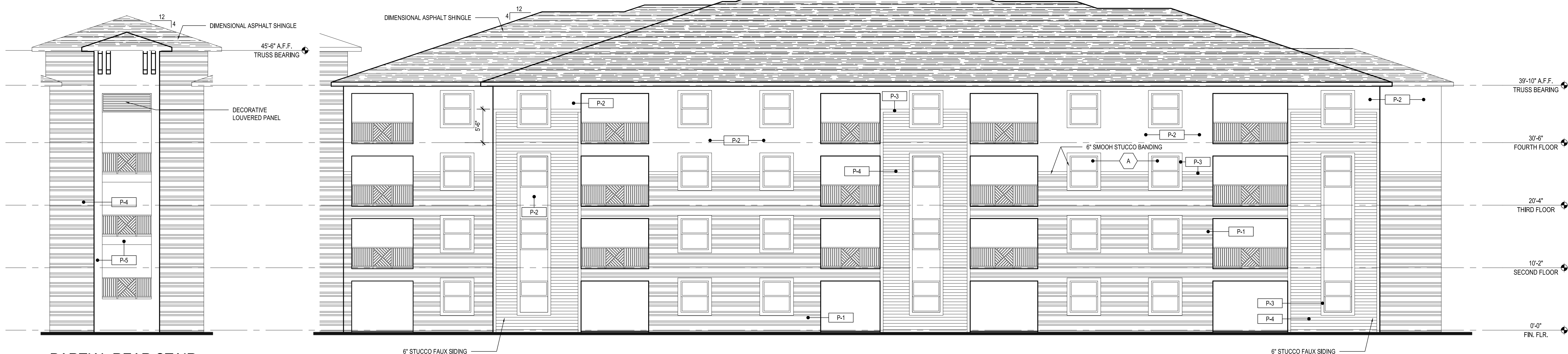


REVISIONS	

REVISIONS	



PARTIAL REAR ELEVATION
SCALE: 1/8" = 1'-0"



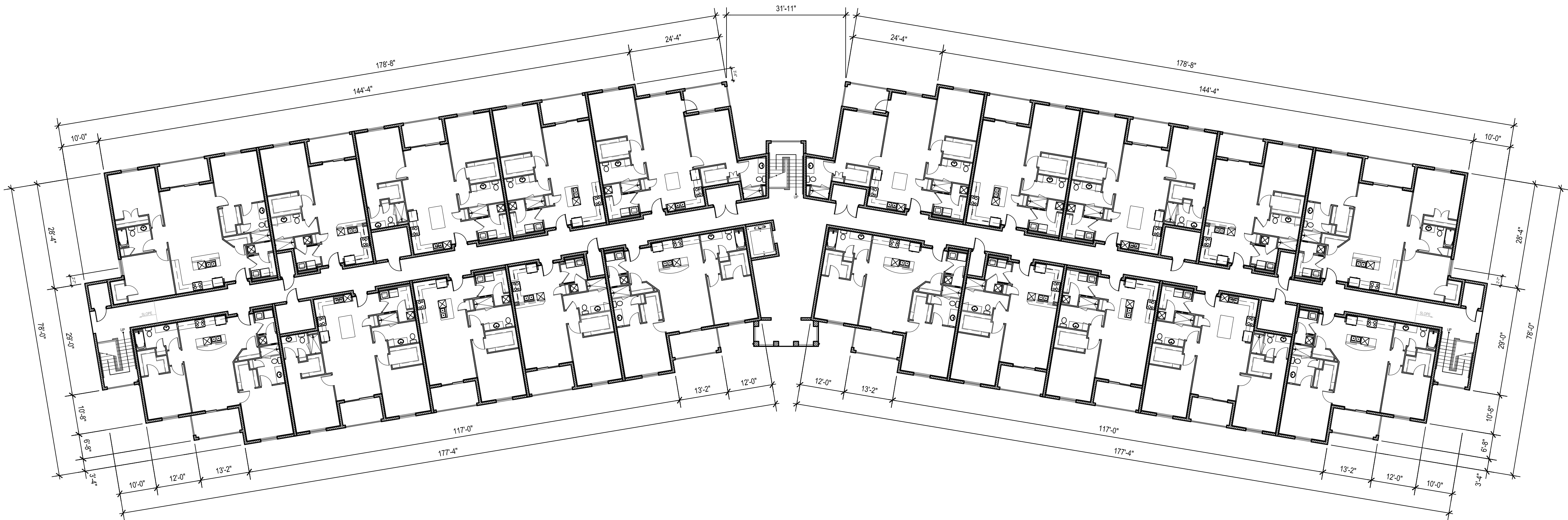
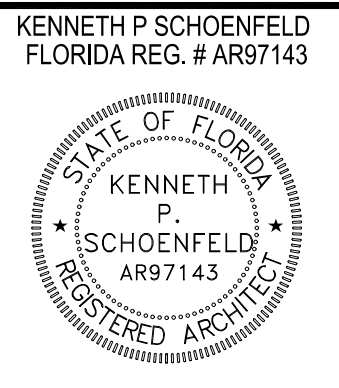
**PARTIAL REAR STAIR
FEATURE ELEVATION**
SCALE: 1/8" = 1'-0"

PARTIAL REAR ELEVATION
SCALE: 1/8" = 1'-0"



DATE:	6-29-18
TITLE:	1st LEVEL

REVISIONS	



FIRST LEVEL BUILDING PLAN

SCALE: 1/16" = 1'-0"
NOTE: ALL EXTERIOR MASONRY WALLS TO BE 2hr FIRE RATED PER FBC 722.3.2 ON SHEET A10.2

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Kenneth Schoenfeld, R.A.
Digitally signed by Kenneth Schoenfeld, R.A.
DN: cn=Kenneth Schoenfeld, R.A., o=State of Florida, AR97143, ou=PDS Architecture, Inc., email=ken@pdsinonline.com, c=US
Date: 2018.07.02 13:14:16 -04'00'

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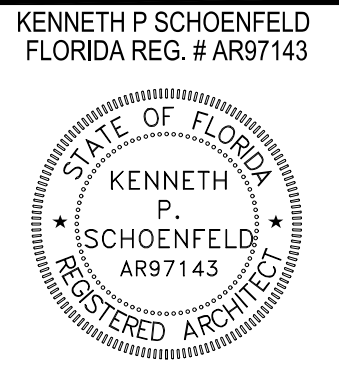
FIRE EXTINGUISHER LEGEND	
	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

AREA TABULATION	
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SECOND FLOOR	26,880 SQ. FT.
THIRD FLOOR	26,880 SQ. FT.
FOURTH FLOOR	26,880 SQ. FT.
TOTAL AREA	107,640 SQ. FT.

WALL TYPE LEGEND	
	NEW 2-HOUR 8" CMU WALL
	NEW METAL STUD FRAMED WALL



REVISIONS	



ENLARGED FIRST LEVEL BUILDING PLAN

SCALE: 1/8" = 1'-0"
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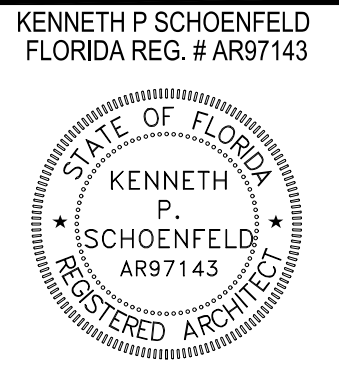
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REVISIONS	



ENLARGED FIRST LEVEL BUILDING PLAN

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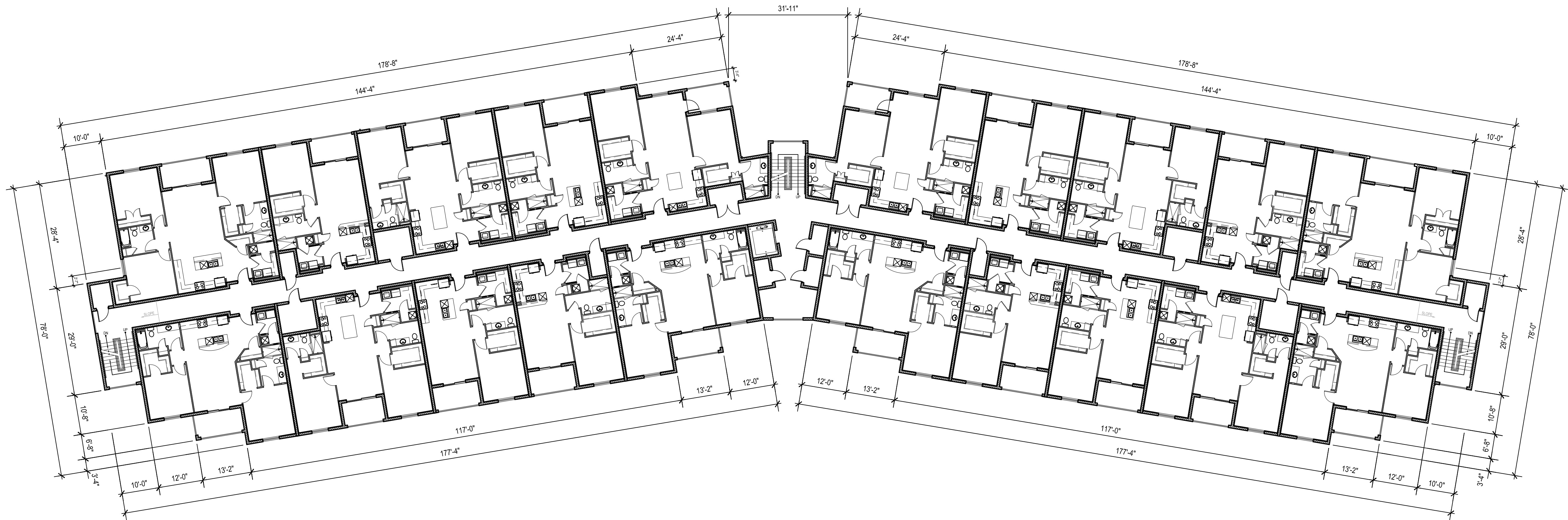
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FIRE EXTINGUISHER LEGEND	
	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

WALL TYPE LEGEND	
	NEW 2-HOUR 8" CMU WALL
	NEW METAL STUD FRAMED WALL



SECOND & THIRD LEVEL BUILDING PLAN

SCALE: 1/16" = 1'-0"
NOTE: ALL EXTERIOR MASONRY WALLS TO BE 2hr FIRE RATED PER FBC 722.3.2 ON SHEET A10.2

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FIRE EXTINGUISHER LEGEND	
	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

WALL TYPE LEGEND	
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	NEW METAL STUD FRAMED WALL

JOB: 17-0084

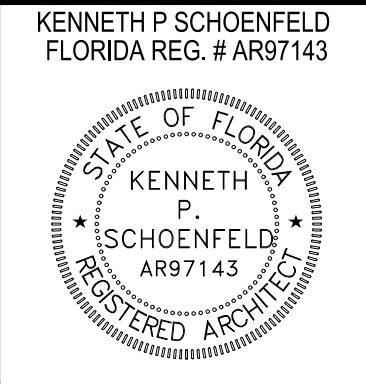
CONSTRUCTION DOCUMENTS FOR
SAVONA APARTMENTS
TYPE II - 80-UNIT BUILDING
SAVONA PARKWAY WEST, CAPE CORAL, FLORIDA

PDS ARCHITECTURE INC.
PH: 239.437.8090
FX: 855.835.2733
INFO@PDSincnline.com
12800 UNIVERSITY DR SUITE 402
FT MYERS, FL 33907
FL LICENSE # A26002474



DATE: 6-29-18
TITLE: 2nd & 3rd LEVEL

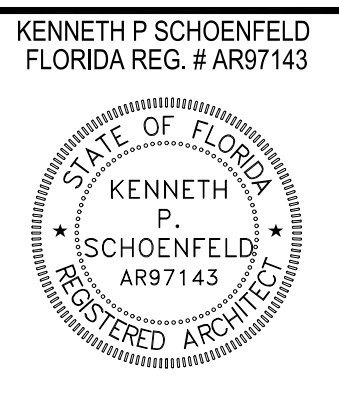
REVISIONS	



SHEET NO.
A2



REVISIONS	



ENLARGED SECOND & THIRD LEVEL BUILDING PLAN

SCALE: 1/8" = 1'-0"
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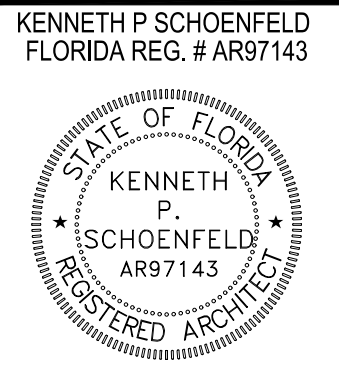
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	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

WALL TYPE LEGEND	
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REVISIONS	



ENLARGED SECOND & THIRD LEVEL BUILDING PLAN

SCALE: 1/8" = 1'-0"
NOTE: ALL EXTERIOR MASONRY WALLS TO BE 2hr FIRE RATED PER FBC 722.3.2 ON SHEET A10.2

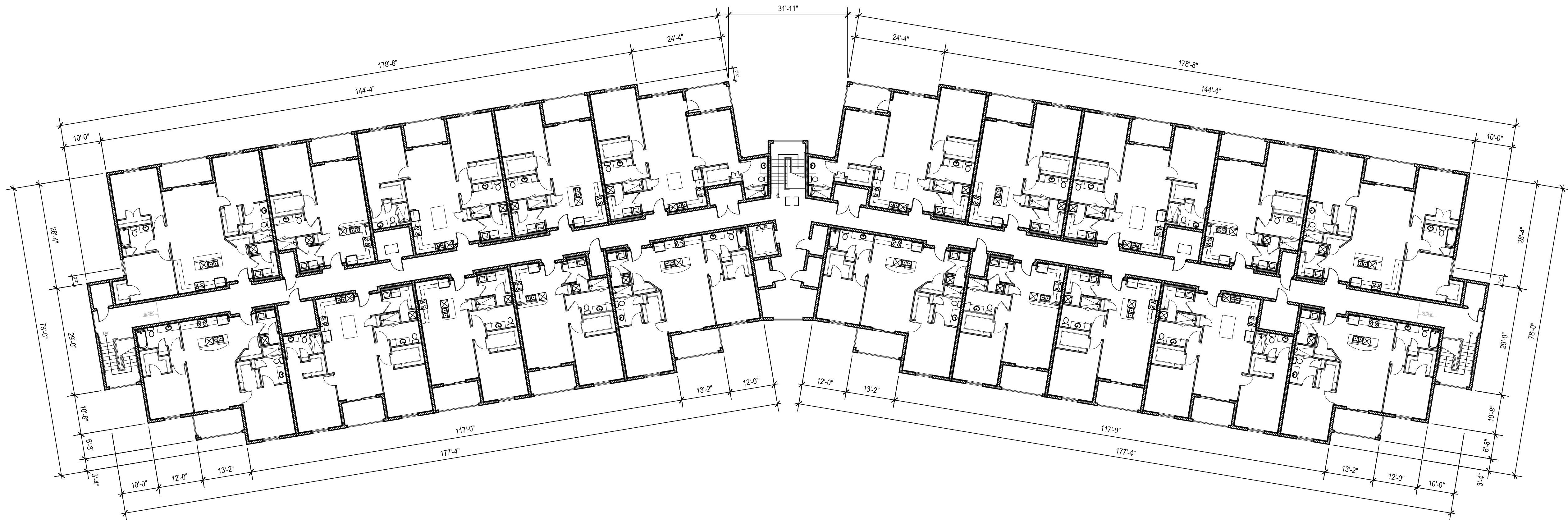
NOTE: ALL EXTERIOR WALKWAYS SHALL SLOPE TO DRAIN AT EDGE. AREAS W/O OPEN EDGE SHALL SLOPE TO NEAREST FLOOR DRAIN. G.C. SHALL COORDINATE ALL SLOPES & CONTACT ARCHITECT PRIOR TO CONST. WITH ANY QUESTIONS.

ADAPTABLE UNIT NOTES	
ALL UNITS TO BE HANDICAP ADAPTABLE - SEE ENLARGED UNIT PLANS FOR ADDITIONAL DETAILS.	

AREA TABULATION	
FIRST FLOOR	27,000 SQ. FT.
SECOND FLOOR	26,880 SQ. FT.
THIRD FLOOR	26,880 SQ. FT.
FOURTH FLOOR	26,880 SQ. FT.
TOTAL AREA	107,640 SQ. FT.

FIRE EXTINGUISHER LEGEND	
	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

WALL TYPE LEGEND	
	NEW 2-HOUR 8" CMU WALL
	NEW METAL STUD FRAMED WALL



FOURTH LEVEL BUILDING PLAN

SCALE: 1/16" = 1'-0"
NOTE: ALL EXTERIOR MASONRY WALLS TO BE 2hr FIRE RATED PER FBC 722.3.2 ON SHEET A10.2

NOTE: ALL EXTERIOR WALKWAYS SHALL SLOPE TO DRAIN AT EDGE, AREAS W/O OPEN EDGE SHALL SLOPE TO NEAREST FLOOR DRAIN. G.C. SHALL COORDINATE ALL SLOPES & CONTACT ARCHITECT PRIOR TO CONST. WITH ANY QUESTIONS.

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WALL TYPE LEGEND	
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	NEW METAL STUD FRAMED WALL

JOB: 17-0084

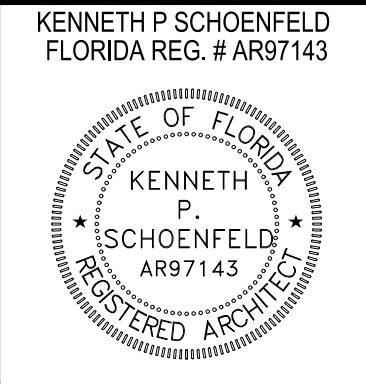
CONSTRUCTION DOCUMENTS FOR
SAVONA APARTMENTS
TYPE II - 80-UNIT BUILDING
SAVONA PARKWAY WEST, CAPE CORAL, FLORIDA

PDS ARCHITECTURE INC.
PH: 239.437.8090
FX: 855.835.2733
INFO@PDSincnline.com
12800 UNIVERSITY DR SUITE 402
FT MYERS, FL 33907
FL LICENSE # A26002474



DATE: 6-29-18
TITLE: 4th LEVEL

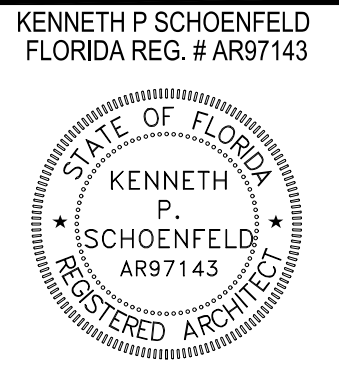
REVISIONS	



SHEET NO.
A3



REVISIONS	



ENLARGED FOURTH LEVEL BUILDING PLAN

SCALE: 1/8" = 1'-0"
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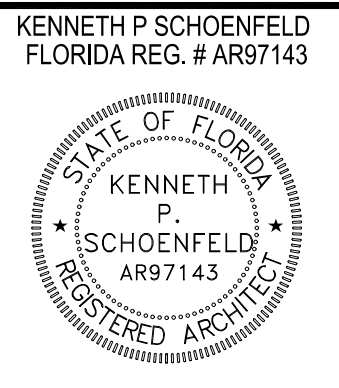
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WALL TYPE LEGEND	
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	NEW METAL STUD FRAMED WALL



REVISIONS	



ENLARGED FOURTH LEVEL BUILDING PLAN

SCALE: 1/8" = 1'-0"
NOTE: ALL EXTERIOR MASONRY WALLS TO BE 2hr FIRE RATED PER FBC 722.3.2 ON SHEET A10.2

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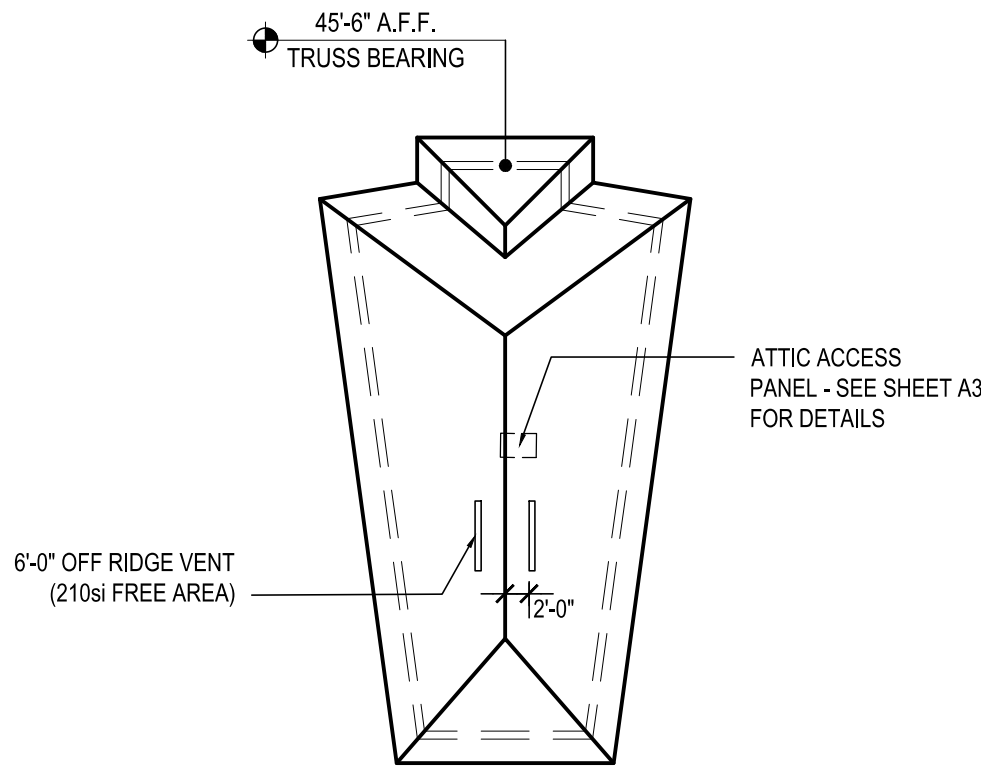
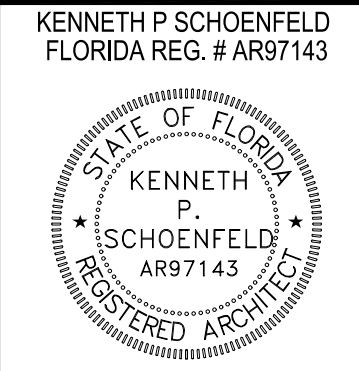
FIRE EXTINGUISHER LEGEND	
	FIRE EXTINGUISHER CABINET 5 LB. ABC TYPE (3A-10BC)

WALL TYPE LEGEND	
	NEW 2-HOUR 8" CMU WALL
	NEW METAL STUD FRAMED WALL

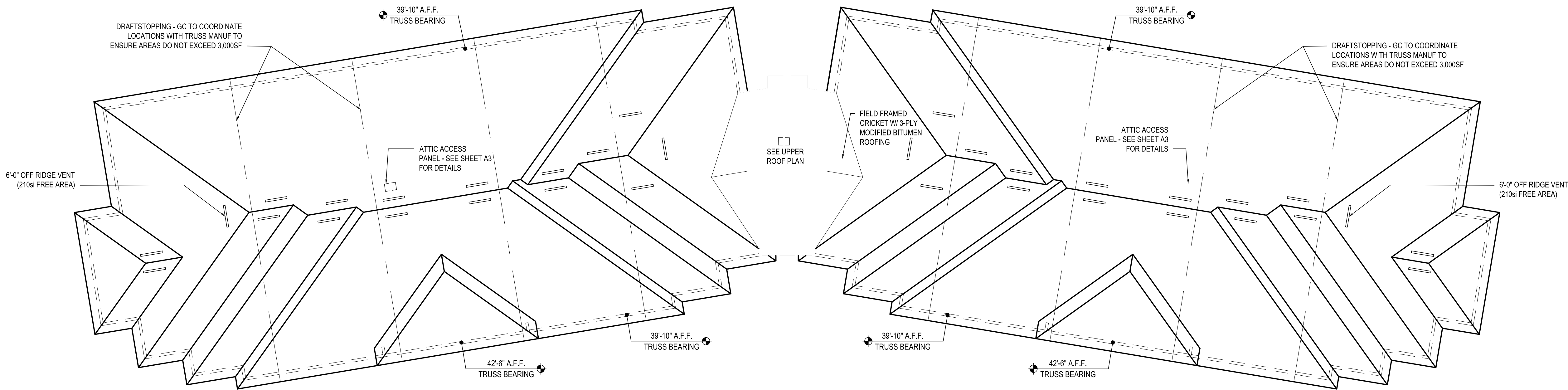


DATE:	6-29-18
TITLE:	ROOF

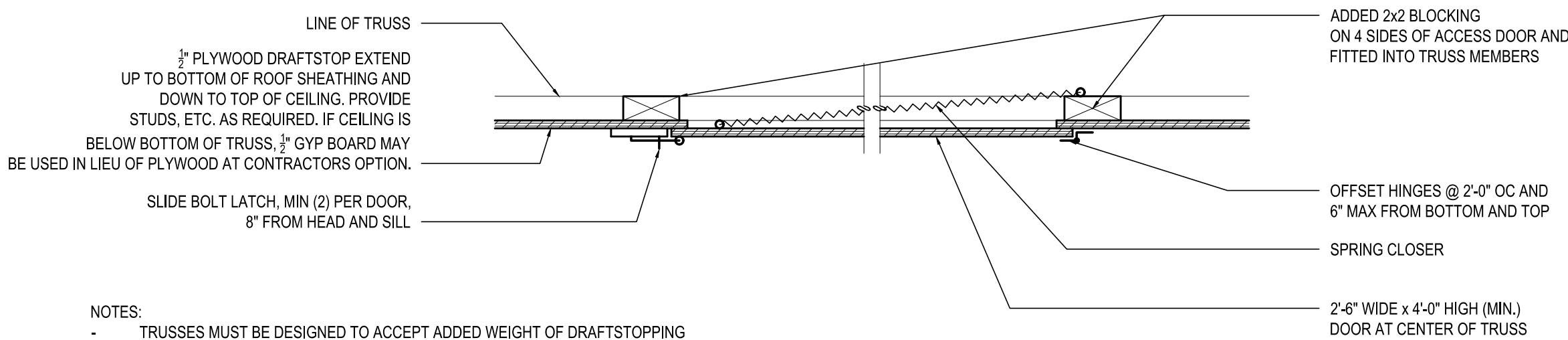
REVISIONS	



UPPER ROOF PLAN
SCALE: 1/16" = 1'-0"



ROOF PLAN
SCALE: 1/16" = 1'-0"



- NOTES:
- TRUSSES MUST BE DESIGNED TO ACCEPT ADDED WEIGHT OF DRAFTSTOPPING
 - JOINTS IN DRAFTSTOP MUST BE BACKED WITH SUPPORT STUDS IN TRUSS.
 - ANY ADDITIONAL FRAMING REQUIRED PERPENDICULAR TO THE TRUSSES IS TO BE PROVIDED AT THE GC'S EXPENSE

1
A4
DRAFTSTOPPING DETAIL
SCALE: 1 1/2" = 1'-0"

STREET ADDRESS

1730 & 1822 SAVONA PARKWAY WEST
CAPE CORAL, FL 33904

STRAP NUMBER

STRAP NOS. 04-45-23-C3-04775.0010
04-45-23-C3-04775.0000



1" = 100'

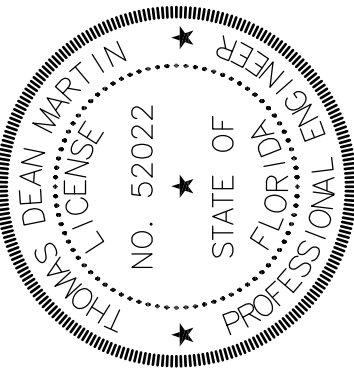


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SHEET #

3 of 27

SCALE: 1" = 100'



Dean Martin, P.E.
Florida # 52022

DATE:



Civil Engineering
and
Planning



43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone: (239) 433-4231
Fax: (239) 433-9632
dean@tdmconsulting.com
www.tdmcivilengineering.com

SAVONA
PARKWAY APARTMENTS
AERIAL LOCATION MAP

DATE	REVISIONS	DATE
02/15/2018		
DESIGNED BY:		
PEM		
DRAWN BY:		
PEM		
CHECKED BY:		
PEM		
TDM		
APPROVED BY:		
TDM		

DRAWING NAME: JOBS\Revs-Savona-Drawings\Civilsite

1730 & 1822 SAVONA PARKWAY WEST
CAPE CORAL, FL 33904

STRAP NOS. 04-45-23-C3-04775.0010
04-45-23-C3-04775.0000

CURRENT ZONING	=	R3
FUTURE LAND USE	=	MF
PROPOSED USE	=	MFR
EXIST. FLORIDA LAND USE CLASSIFICATIONS	=	#192 – INACTIVE LAND W/ STREET PATTERNS BUT W/O STRUCTURES
EXIST. SOIL TYPES	=	#13 – BOCA FINE SAND
	=	#18 – MATLACHA GRAVELLY FINE SAND, LIMESTONE SUBSTRATUM
IRRIGATION SERVICE	=	CITY OF CAPE CORAL REUSE WATER
ARCHEOLOGICAL SENSITIVITY LEVEL	=	NONE

NORTH:	R-3 TO ROW	= 10' WIDE LANDSCAPE STRIP
SOUTH:	R-3 TO R-1B	= 10' WIDE LANDSCAPE STRIP
EAST:	R-3 TO R-1B	= 10' WIDE LANDSCAPE STRIP
WEST:	R-3 TO R-1B	= 10' WIDE LANDSCAPE STRIP

NORTH (FRONT)	= 25'
SOUTH (STREET)	= 25'
EAST (STREET)	= 25'
WEST (STREET)	= 25'

PARCEL AREA:	869,394	SF	100.0%
PROPOSED BLDG. ROOF AREA:	140,111	SF	16.1%
PROPOSED PAVEMENT AREA:	207,839	SF	23.9%
PROPOSED CONCRETE AREA:	40,089	SF	4.6%
PROPOSED LAKE AREA @ CONTROL EL:	92,098	SF	10.6%
PROPOSED TOTAL IMPERVIOUS AREA:	480,128	SF	55.2%
PROPOSED OPEN GREEN AREA:	368,269	SF	42.4%
PROPOSED OTHER GREEN AREA:	3,176	SF	0.4%
PROPOSED LAKE BANK AREA:	17,811	SF	2.0%
PROPOSED TOTAL PERVIOUS AREA:	389,256	SF	44.8%

PER CAPE CORAL CODE OF ORDINANCES; ARTICLE V; SECTION 5.1

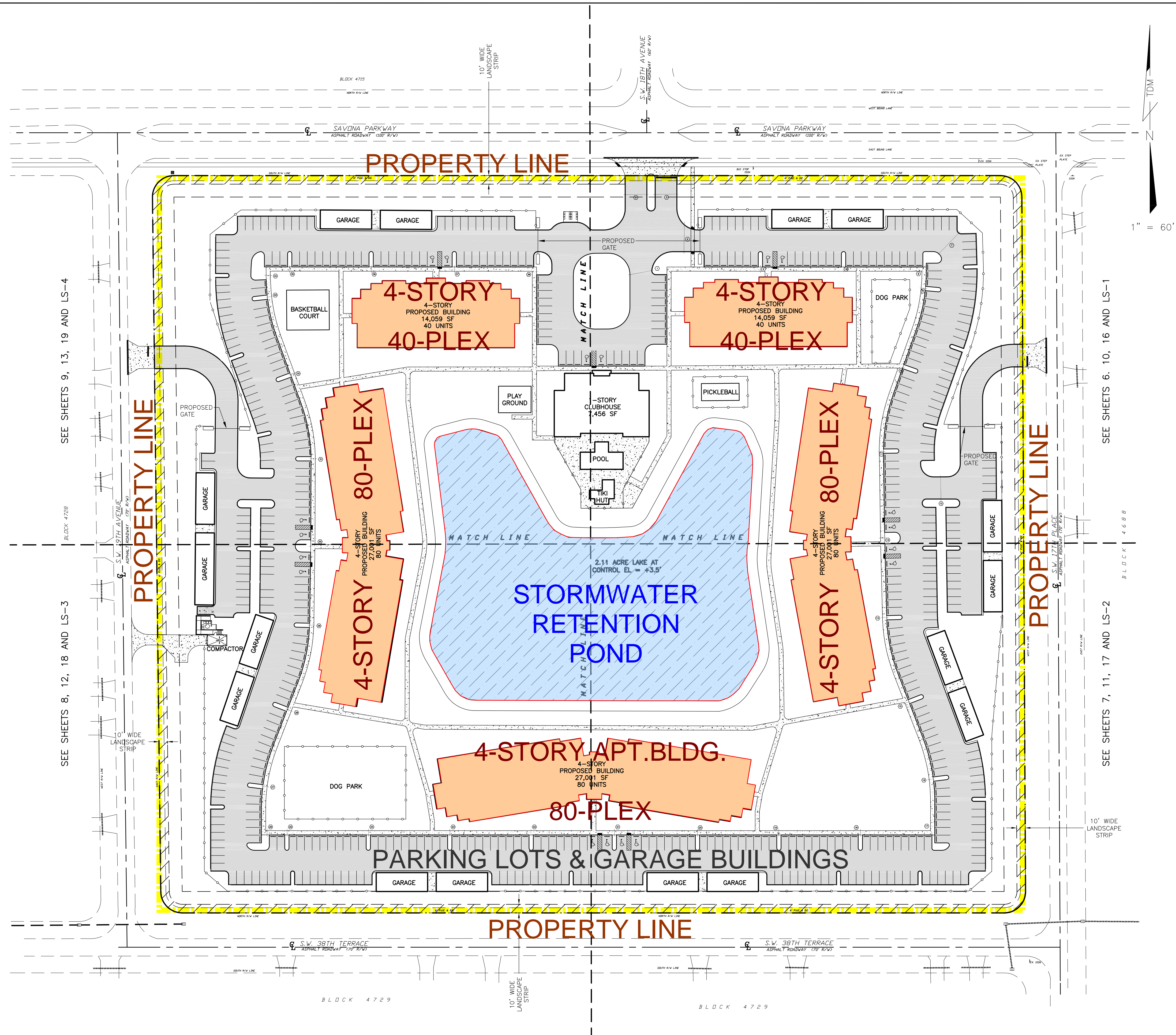
1 BEDROOM UNITS = 128 UNITS X 1.75 SPACES/UNIT = 224 SPACES
2 BEDROOM UNITS = 160 UNITS X 2.00 SPACES/UNIT = 320 SPACES
3 BEDROOM UNITS = 32 UNITS X 2.50 SPACES/UNIT = 80 SPACES


TOTAL PROVIDED SPACES = 631 SPACES INCLUDING 18 H.C. SPACES AND 82 GARAGE SPACES

PER ITE TRIP GENERATION, 10TH EDITION:
USE LUC 221 - MULTIFAMILY HOUSING (MID-RISE)
THE PROPOSE PROJECT HAS 320 DWELLING UNITS
RAW TRIP GENERATION:
AVG. VEHICLE TRIP ENDS - WEEKDAY = 1,740 (870 ENTERING, 870 EXITING)
AVG. VEHICLE TRIP ENDS - A.M. PEAK = 137 (28 ENTERING, 79 EXITING)
AVG. VEHICLE TRIP ENDS - P.M. PEAK = 105 (82 ENTERING, 53 EXITING)

THE PROPOSED SITE PROVIDES TRASH COMPACTOR TO ADEQUATELY HANDLE REFUSE AND SOLID WASTE.

ALLOWED	= 16 DEVELOPMENT UNITS PER ACRE
	= 16 UNITS/AC X 19.96 AC
	= 320 UNITS
PROPOSED	= 320 UNITS



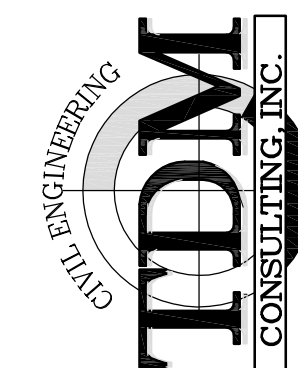
	DATE	REVISIONS	DATE:
			02/15/2018
			DESIGNED BY:
			PEM
			DRAWN BY:
			PEM
			CHECKED BY:
			TDM
			APPROVED BY:

DRAWING NAME: JOBS-Roers-Savona-Drawings\Civilite

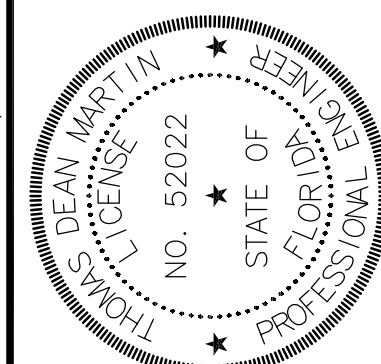
SAVONA PARKWAY APARTMENTS MASTER SITE PLAN

Civil Engineering
and
Planning

dean@tdmconsulting.com
www.tdmcivilengineering.com



43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone: (239) 433-4231
Fax: (239) 433-9632



Dean Martin, P.E.
Florida # 52022

#13HS

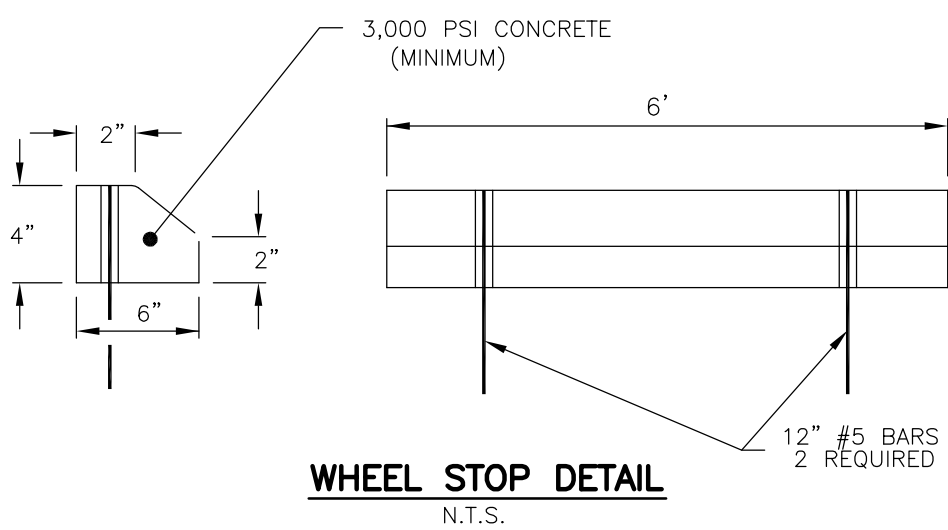
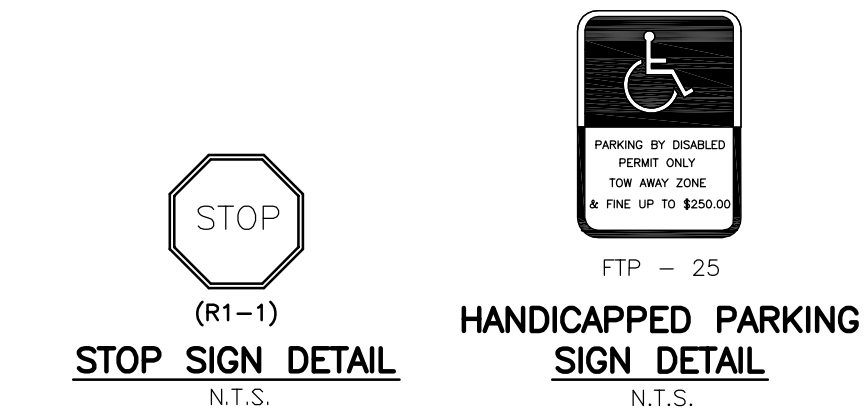
5 of 27

SCALE: 1" = 60'

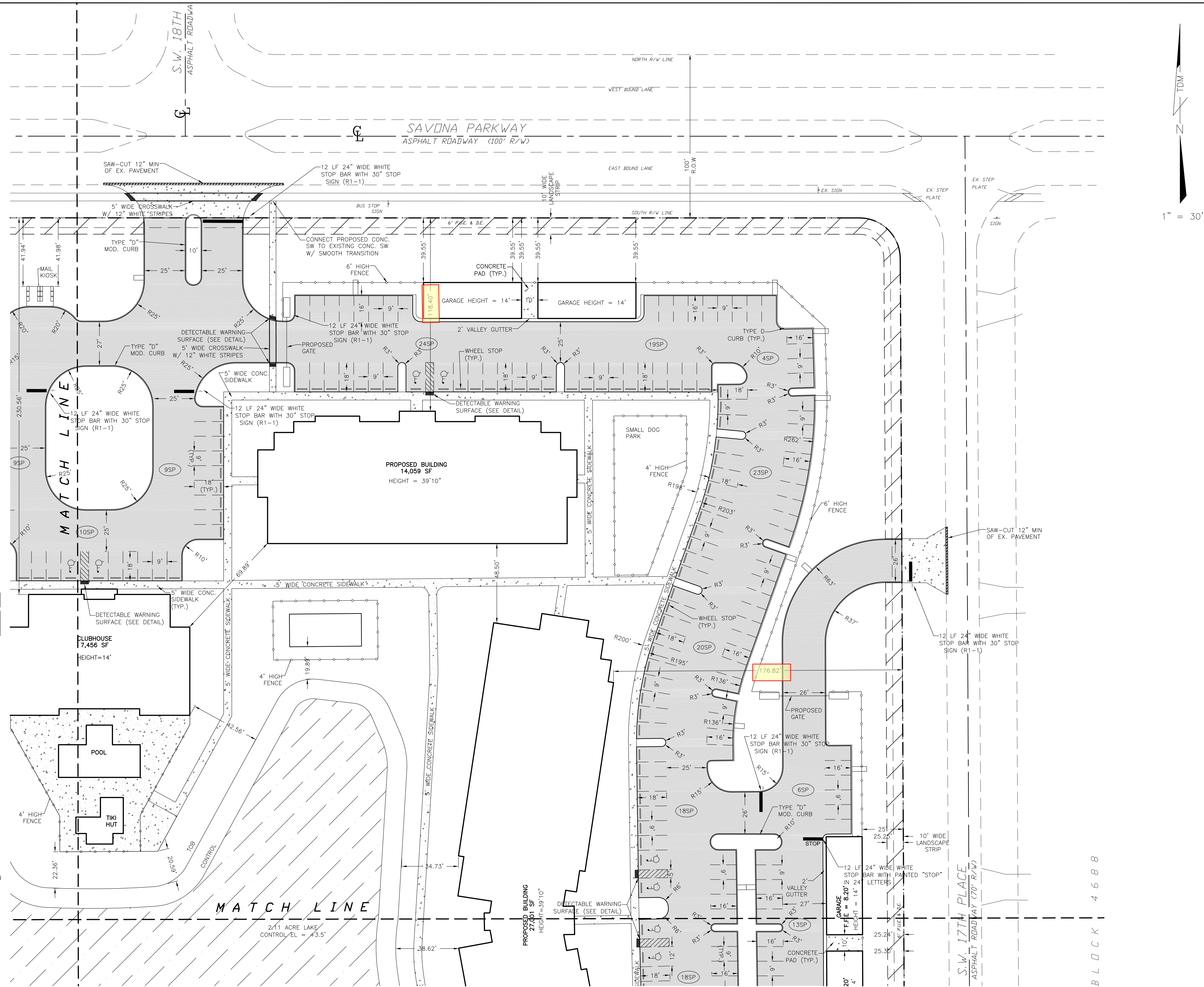
STREET ADDRESS
1730 & 1822 SAVONA PARKWAY WEST
CAPE CORAL, FL 33904

STRAP NUMBER
STRAP NOS. 04-45-23-C3-04775.0010
04-45-23-C3-04775.0000

- LEGEND**
- PROPOSED PAVEMENT
 - PROPOSED CONCRETE
 - RADIUS (5' UNLESS OTHERWISE NOTED)
 - E.O.P. EDGE OF PAVEMENT
 - R.O.W. RIGHT OF WAY
 - BSP NUMBER OF PARKING SPACES IN LOT
 - S.F. SQUARE FEET
 - P.U.E. PUBLIC UTILITY EASEMENT
 - D.E. DRAINAGE EASEMENT
 - C.C.C. CITY OF CAPE CORAL
 - C.B.S. CONCRETE BLOCK STRUCTURE
 - T.O.B. TOP OF BANK



- NOTES**
- ALL EXISTING AND PROPOSED GRADES ARE N.G.V.D. OF 1929.
 - THIS PARCEL LIES IN FLOOD ZONE "AE-E17".
 - THIS PROJECT PRESENTS NO ADVERSE IMPACTS ON LOCAL GROUND OR SURFACE WATERS.
 - THIS PROJECT DOES NOT ADVERSELY IMPACT THE FLOOD PLAIN OR ANY RIVERINE AREAS.
 - THIS SITE CAN BE USED SAFELY FOR THE DEVELOPMENT AS SHOWN WITHOUT UNDUE DANGER FROM FLOOD OR ADVERSE SOIL AND/OR FOUNDATION CONDITIONS.
 - THIS SITE DOES NOT EXHIBIT ANY SALT WATER PONDING.



DATE	DESIGNED BY	PEM	DRAWN BY	PEM	CHECKED BY	TDM	APPROVED BY	TDM
02/15/2018								

REVISIONS

DATE	REVISIONS

1" = 30'

SAVONA PARKWAY APARTMENTS

SITE DIMENSION PLAN

Civil Engineering and Planning

TDM CONSULTING, INC.

43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone: (239) 433-4231
Fax: (239) 433-9632

dean@tdmconsulting.com
www.tdmcivilengineering.com

NOT VALID WITHOUT EMBOSSED SEAL SIGNATURE AND DATE.

DEAN MARTIN
NO. 52022
STATE OF FLORIDA
PROFESSIONAL ENGINEER

DATE:

Dean Martin, P.E.
Florida # 52022

SHEET # 6 of 27

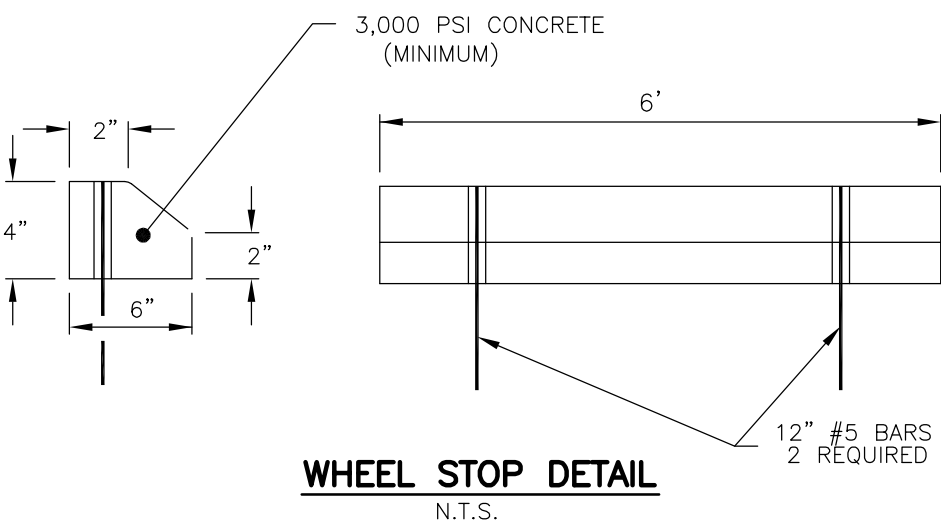
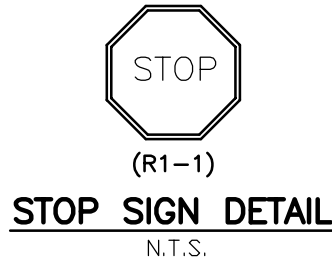
SCALE: 1" = 30'

STREET ADDRESS
1730 & 1822 SAVONA PARKWAY WEST
CAPE CORAL, FL 33904

STRAP NUMBER
STRAP NOS. 04-45-23-C3-04775.0010
04-45-23-C3-04775.0000

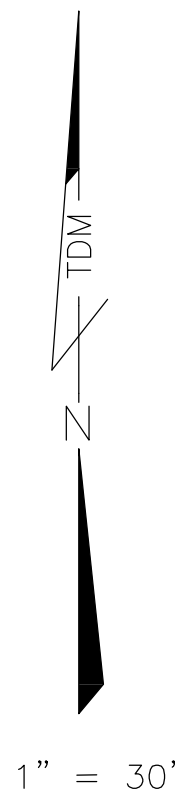
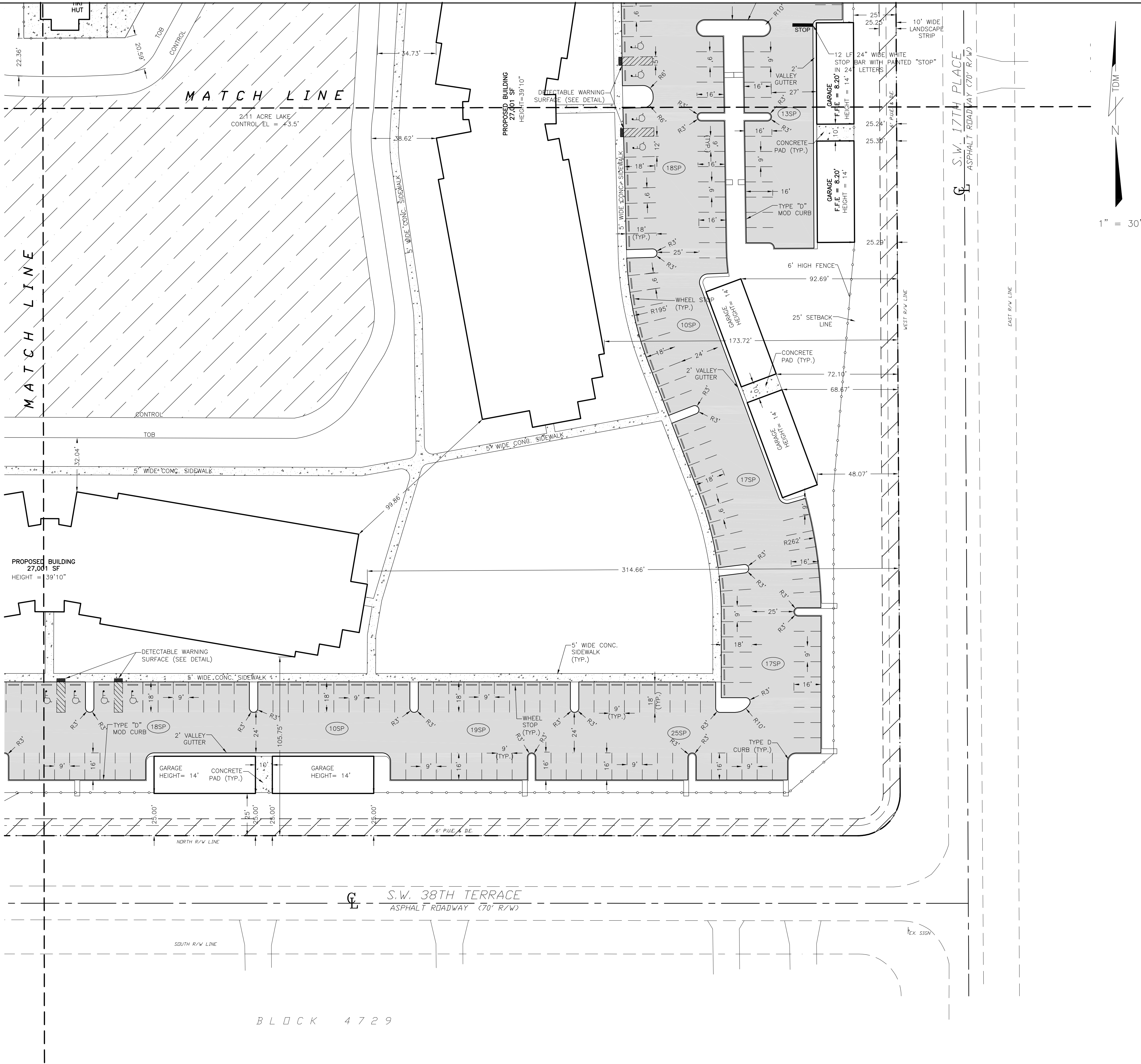
LEGEND

- PROPOSED PAVEMENT
PROPOSED CONCRETE
RADIUS (5' UNLESS OTHERWISE NOTED)
E.O.P. EDGE OF PAVEMENT
R.O.W. RIGHT OF WAY
BSP NUMBER OF PARKING SPACES IN LOT
S.F. SQUARE FEET
P.U.E. PUBLIC UTILITY EASEMENT
D.E. DRAINAGE EASEMENT
C.C.C. CITY OF CAPE CORAL
C.B.S. CONCRETE BLOCK STRUCTURE
T.O.B. TOP OF BANK



NOTES

- ALL EXISTING AND PROPOSED GRADES ARE N.G.V.D. OF 1929.
- THIS PARCEL LIES IN FLOOD ZONE "AE-EL7".
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- THIS PROJECT DOES NOT ADVERSELY IMPACT THE FLOOD PLAN OR ANY RIVERINE AREAS.
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DATE	DESIGNED BY	PEM	DRAWN BY	PEM	CHECKED BY	TDM	APPROVED BY	TDM
02/15/2018								

DATE	REVISIONS

SAVONA
PARKWAY APARTMENTS
SITE DIMENSION PLAN

Civil Engineering and Planning

dean@tdmconsulting.com
www.tdmcivilengineering.com

43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone: (239) 433-4231
Fax: (239) 433-9632

DATE: _____
Dean Martin, P.E.
Florida # 52022

SHEET # **7** of **27**

SCALE: 1" = 30'

STREET ADDRESS

1730 & 1822 SAVONA PARKWAY WEST
CAPE CORAL, FL 33904

STRAP NUMBER

STRAP NOS. 04-45-23-C3-04775.0010
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LEGEND

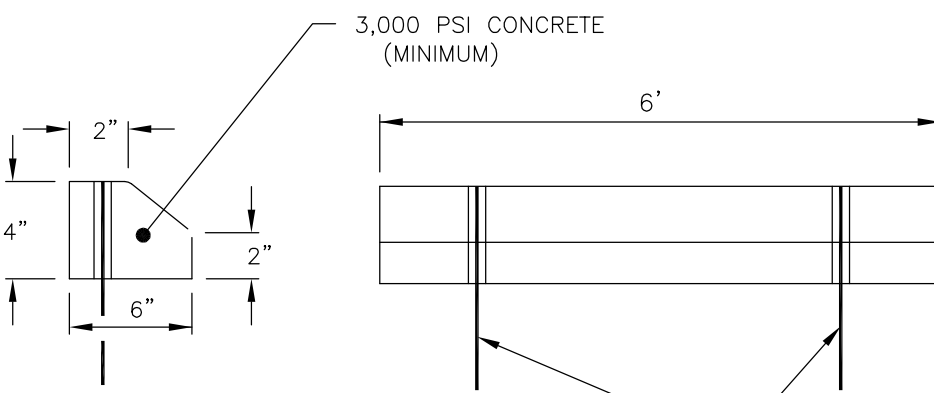
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C.B.S. CONCRETE BLOCK STRUCTURE
T.O.B. TOP OF BANK



STOP SIGN DETAIL
N.T.S.



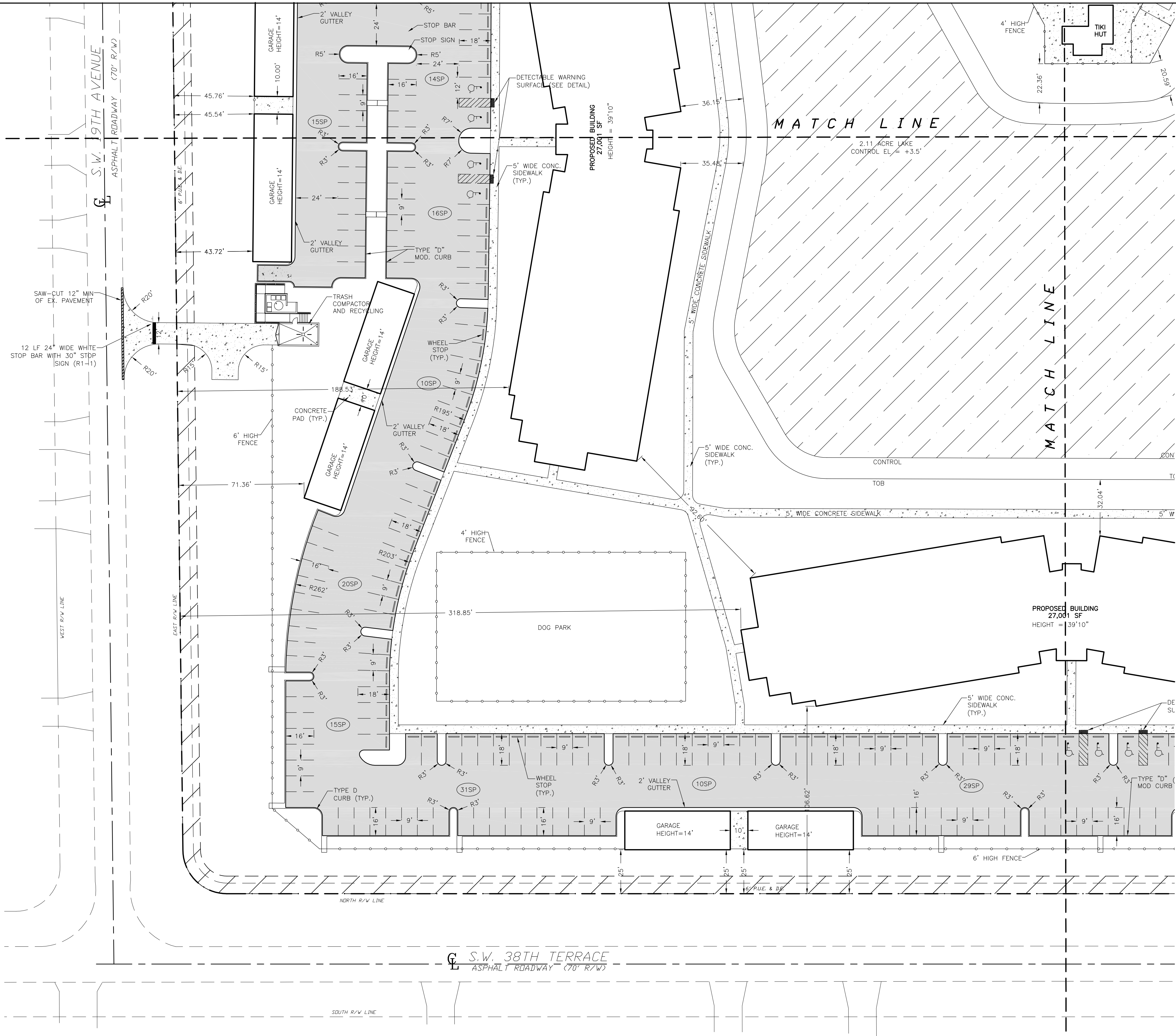
HANDICAPPED PARKING
SIGN DETAIL
N.T.S.



WHEEL STOP DETAIL
N.T.S.

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1" = 30'

DATE	02/15/2018
DESIGNED BY:	PEM
DRAWN BY:	PEM
CHECKED BY:	PEM
APPROVED BY:	TDM
DRAWING NAME:	JOBS/Revs-Savona-Drawings/Civil.e

REVISIONS	DATE

SAVONA
PARKWAY APARTMENTS
SITE DIMENSION PLAN

Civil Engineering
and
Planning

TDM
CONSULTING, INC.

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Fort Myers, FL 33907
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NOT VALID WITHOUT EMBOSSED SEAL SIGNATURE AND DATE.

DEAN MARTIN
NO. 52022
STATE OF
FLORIDA
PROFESSIONAL ENGINEER

DATE:
Dean Martin, P.E.
Florida # 52022

SHEET #	8 of 27
SCALE:	1" = 30'

Z:\JOBS\Revs\1730 & 1822 Savona Parkway - CDD\Drawings\Civil\Site2-Savona.dwg | Jan | 7/13/2018 11:07 AM

STREET ADDRESS
1730 & 1822 SAVONA PARKWAY WEST
CAPE CORAL, FL 33904

STRAP NUMBER
STRAP NOS. 04-45-23-C3-04775.0010
04-45-23-C3-04775.0000

LEGEND

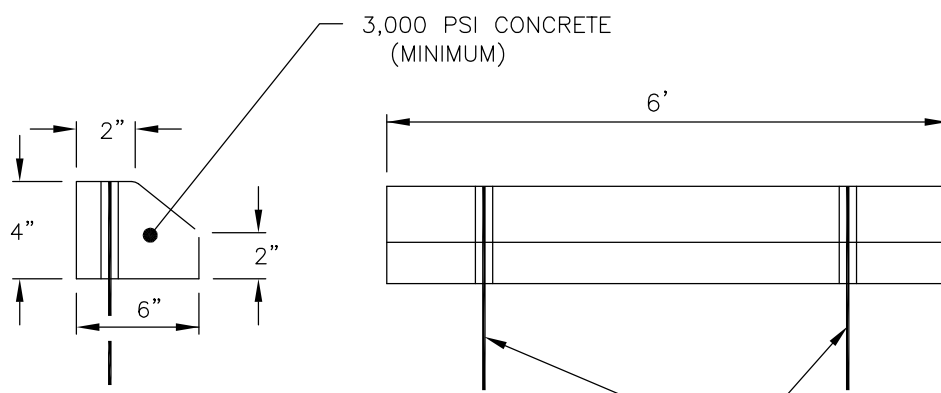
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C.B.S. CONCRETE BLOCK STRUCTURE
T.O.B. TOP OF BANK



STOP SIGN DETAIL
N.T.S.



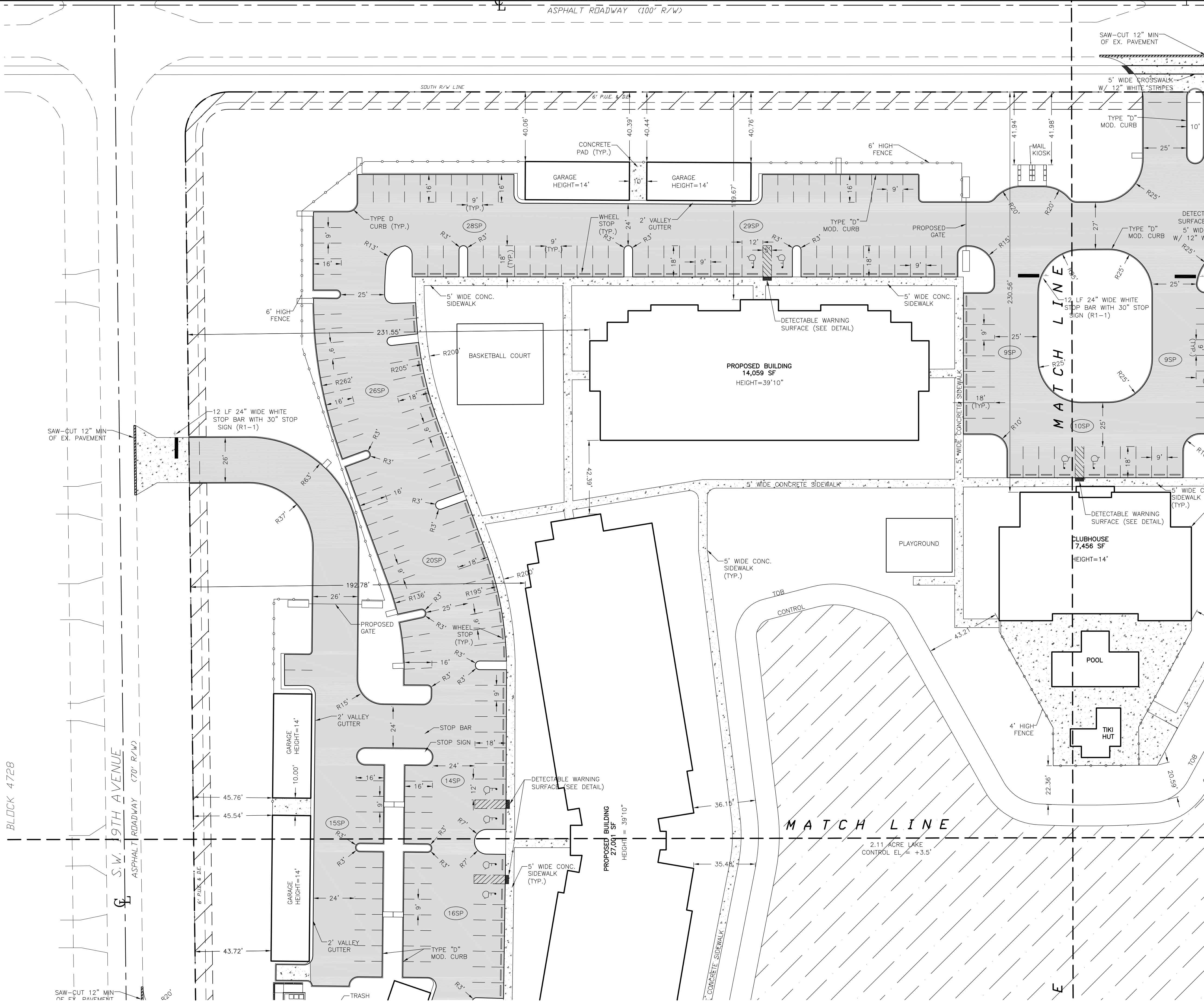
HANDICAPPED PARKING SIGN DETAIL
N.T.S.



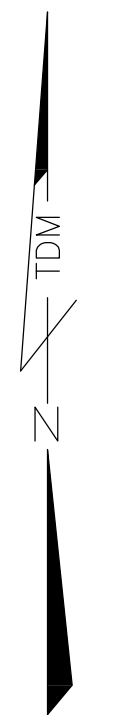
WHEEL STOP DETAIL
N.T.S.

NOTES

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1" = 30'



**SAVONA
PARKWAY APARTMENTS
SITE DIMENSION PLAN**

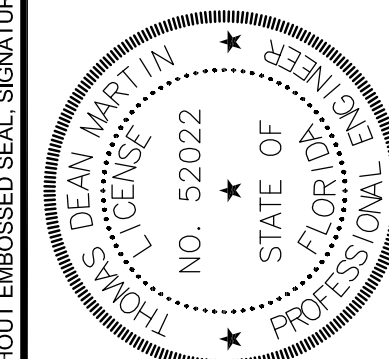
Civil Engineering
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Phone: (239) 433-4231
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NOT VALID WITHOUT EMBOSSED SEAL SIGNATURE AND DATE.



DATE:
Dean Martin, P.E.
Florida # 52022

SHEET #

9 of 27

SCALE: 1" = 30'

Item Number: 2.B.
Meeting Date: 11/13/2018
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case #SE18-0006*; Address: The site is at the northwest corner of Chiquita Boulevard and Trafalgar Parkway; Applicant: 38335 Chiquita Trafalgar, 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:

The applicant, Al Quattrone, is requesting to amend SE HEX Order 2-2018, that approved an Automotive Service Station Limited Use in the Pedestrian Commercial (C-1) District on Block 4819-A, Unit 71, Cape Coral Subdivision, at 1518 Chiquita Boulevard South. The applicant seeks to add Lots 1-3, Block 4819, Unit 71, Cape Coral Subdivision, to the project area along with an alley right-of-way that is proposed to be vacated adjacent to these same three lots. The site is at the northwest corner of Chiquita Boulevard and Trafalgar Parkway.

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
Backup Materials

Type
Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE18-0006

REQUEST FOR A SPECIAL EXCEPTION USE

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

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

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

OWNER OF PROPERTY

38335 Chiquita Trafalgar, LLC

Email: levans@creightondev.com

Address: 900 SW Pine Island Road, Suite 202

City: Cape Coral State FL Zip 33991

Phone: 239-673-7328

APPLICANT (if different from Owner)

Al Quattrone P.E.

Email: al@qa-inc.net

Address: 4301 Veronica Shoemaker Blvd

City: Fort Myers State FL Zip 33916

Phone: 239-936-5222

AUTHORIZED REPRESENTATIVE

Al Quattrone P.E.

Email: al@qa-inc.net

Address: 4301 Veronica Shoemaker Blvd

City: Fort Myers State FL Zip 33916

Phone: 239-936-5222

Unit 71 Block 4819A Lot(s) All blk 4819A Subdivision Cape Coral Unit 71

Address of Property 1518 Chiquita Blvd S. Cape Coral, FL 33991 (See Attachment A for additional addresses)

Plat Book 22 Page 105

Current Zoning C-1 Strap Number 21 44-23-C3-04819A000 (See Attachment A for additional straps)

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.

Al Quattrone, P.E.

NAME (PLEASE TYPE OR PRINT)

Quattrone & Associates, Inc.

CORPORATION/COMPANY NAME

APPLICANT'S SIGNATURE



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE18-0006

(SIGNATURE MUST BE NOTARIZED)

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

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 20 day of 9, 2018 by
Al Quathone who is personally known or produced
as identification.

Exp. Date: 7/23/19 Commission Number: FF902862
Signature of Notary Public: [Signature]
Printed name of Notary Public: Sharon Hrabak





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE18-0006

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

20th

day of

September

, 20

18

Al Quattrone, P.E.

PRINT APPLICANT'S NAME

APPLICANT'S SIGNATURE

STATE OF

FL

COUNTY OF

Lee

Subscribed and sworn to (or affirmed) before me this

20

day of

Sept

, 2018 by

Al Quattrone who is personally known or produced
as identification.



Exp. Date:

7/23/19

Commission Number:

FA902842

Signature of Notary Public:

Printed name of Notary Public:

Sharon Hrabak



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

Case # SE18-0006

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

Quattrone & Associates, Inc -Jeff Wright
(Name of person giving presentation)

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

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

UNIT 71 BLOCK 4819A LOT(S) SUBDIVISION Cape Coral Unit 71

OR LEGAL DESCRIPTION

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

38335 Chiquita Trafalgar, LLC-M. Dan Creighton

PROPERTY OWNER (Please Print)

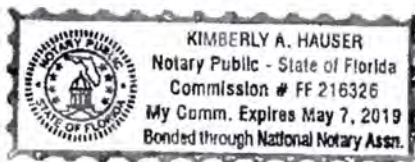
PROPERTY OWNER (Please Print)

M. Dan Creighton
PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF _____, COUNTY OF _____

Subscribed and sworn to (or affirmed) before me this 21 day of Sept, 2018, by
M. Dan Creighton who is personally known or produced
as identification.



Exp. Date: 5/7/19 Commission Number: FF 216326

Signature of Notary Public:

Printed name of Notary Public:

Kimberly A. Hauser
Kimberly A. Hauser

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



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

Case # SE18-0006

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.

Al Quattrone, P.E.

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

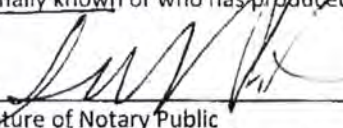

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 20 day of Sept,
2018 by Al Quattrone, who is personally known or who has produced
as identification.

Exp. Date 7/23/19
Commission # PE 902862


Signature of Notary Public

Sharon Hrabak
Print Name of Notary Public





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

Detail by Entity Name

Florida Limited Liability Company
38335 CHIQUITA TRAFALGAR, LLC

Filing Information

Document Number L18000134695
FEI/EIN Number NONE
Date Filed 05/31/2018
State FL
Status ACTIVE

Principal Address

900 SW PINE ISLAND ROAD, SUITE 202
CAPE CORAL, FL 33991

Mailing Address

900 SW PINE ISLAND ROAD, SUITE 202
CAPE CORAL, FL 33991

Registered Agent Name & Address

HF REGISTERED AGENTS, LLC
1715 MONROE STREET
FORT MYERS, FL 33901

Authorized Person(s) Detail

Name & Address

Title MGR

CREIGHTON, M. DAN
900 SW PINE ISLAND ROAD, SUITE 202
CAPE CORAL, FL 33991

Annual Reports

No Annual Reports Filed

Document Images

[05/31/2018 – Florida Limited Liability](#)

[View image in PDF format](#)



Engineers, Planners & Development Consultants

4301 Veronica Shoemaker Blvd Fort Myers, FL 33916
239 936.5222 | [QAINC.NET](mailto:al@qainc.net) | f 239 936 7228

October 24, 2018

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

RE: 7-Eleven # 1040031

Chiquita Boulevard & Trafalgar Parkway

I. Unit 71, Block 4819 and Lots 1 thru 3, Cape Coral Unit 71

Special Exception Application Letter of Intent

Dear Director:

The applicant is requesting an amendment to a previously approved special exception for an Automotive Service Station Limited Use in the Pedestrian Commercial (C-1) District. The applicant seeks to amend the current layout of the site to include, Lots 1, 2 and 3 of Cape Coral Unit 71, Block 4819, PB22 PG 105 which are located west of the original site on the opposite side of an alley which the applicant is concurrently proposing to vacate and also include within the project limits.

We respectfully request approval and if you have any comments or questions please do not hesitate to contact me at (239)936-5222 or al@qainc.net

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

LAND USE BREAKDOWN:			
TOTAL SITE AREA	166,855	SF	3.23 AC.
FUTURE DEVELOPMENT AREA	96,347	SF	1.84 AC.
PROJECT AREA	167,721	SF	2.18 AC.
BUILDING + CARPORT AREA	4,485	SF	0.10 AC.
PAVEMENT AREA (ON-SITE)	150,627	SF	3.14 AC.
OPEN SPACE	42,615	SF	0.93 AC.
TOTAL IMPERVIOUS AREA	155,152	SF	2.97 AC.
TOTAL PERVIOUS AREA	40,691	SF	0.88 AC.
PAVEMENT AREA (OFF-SITE)	17,721	SF	0.41 AC.

SITE PLAN LEGEND:

	PROPOSED PAVEMENT		CENTER LINE
	PROPOSED CONCRETE WALKS		EAST FEATURE (ACROSS WALKS, ETC.)
	PROPOSED BUILDING LINE		RIGHT OF WAY
	PAVEMENT TO BE MILL & RESURFACE		TYPE D CURVE
	PAINTED HANDICAP PARKING SYMBOL		EASEMENTS
	PAINTED STOP SIGN		DETECTABLE WARNING (PEDESTRIAN CROSSING)
	NUMBER OF PARKING SPACES IN ROW		PAINTED TRAFFIC ARROW

REFUSE AND SOLID WASTE DISPOSAL FACILITIES: LDC

1. A MINIMUM OVERHEAD CLEARANCE OF 22 FEET IS REQUIRED AND A 12" WIDE UNDISTURBED ACCESS OPENING MUST BE PROVIDED TO ACCOMMODATE ALL STORAGE AREA CONTAINERS.
2. ALL STORAGE AREAS / CONTAINERS MUST BE ADEQUATELY SHIELDED BY LANDSCAPED SCREEN OR SOLID FENCING/RAILINGS AT LEAST THREE SIDES USE OF CHAIN LINK FENCING TO THE REAR OF THE STORAGE AREA IS NOT ALLOWED. THE GATE CORNER FOR LABELING.
3. COMMERCIAL, INDUSTRIAL, & MILITARY DEVELOPMENT USING A COMPACTOR FOR GARBAGE COLLECTION MUST PROVIDE SUFFICIENT SPACE FOR THE COMPACTOR (INCLUDING REVERSE) IN ADDITION TO SPACE REQUIRED FOR RECYCLABLE COLLECTION.
4. CONCRETE WALL ENCLOSURES MAY NOT BE LOCATED WITHIN A PUBLIC UTILITY OR DRAINAGE EASEMENT.

BUILDING SIZE: 3,500 SQ. FT. - 300 SF CAPABILITY + 400 SF
POULTRY + PASTUREMENT + OTHER LIVESTOCK + 500 SF CAPABILITY

PROJECT PHASING PLAN
THE PROJECT SHALL BE CONSTRUCTED IN ONE (1) PHASE.



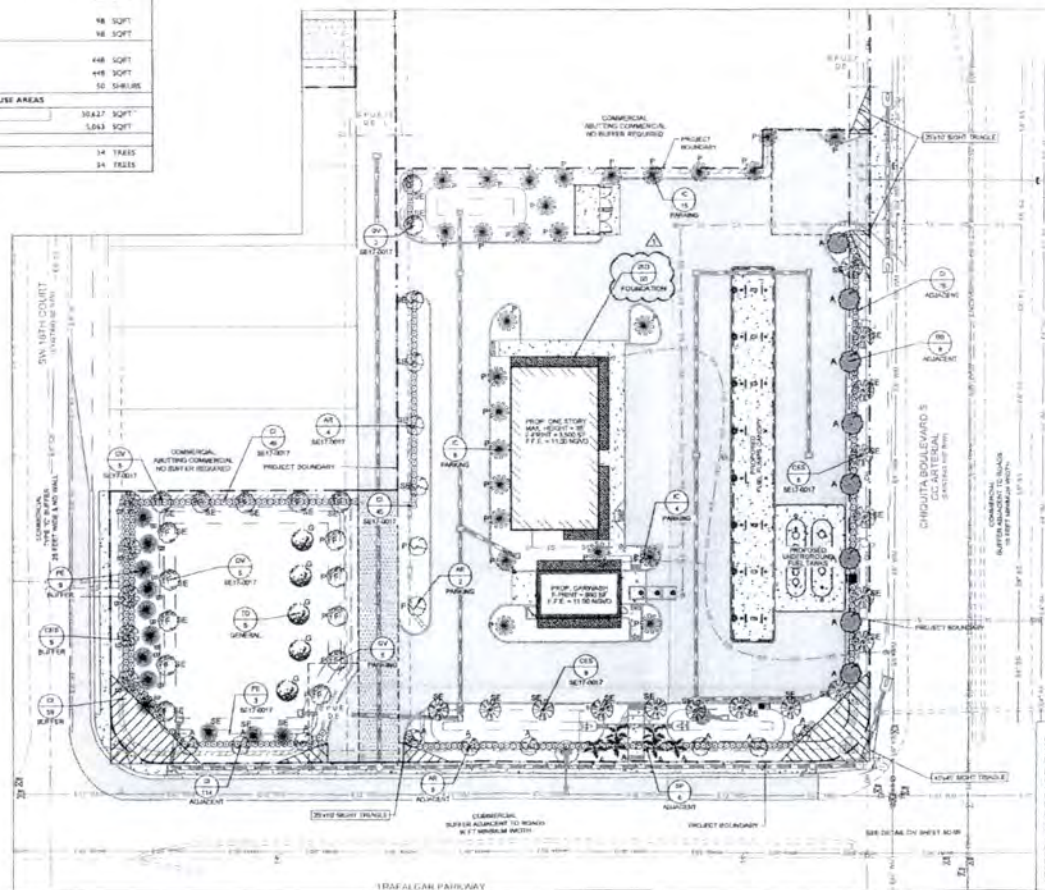
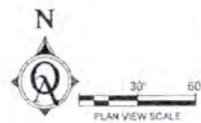
Q **Quattrone & Associates, Inc.**
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. • Fort Myers, Florida 33916 • 239/936-5222
Certificate of Accreditation Number 9485

70705 BASE.DWG

SOUTH PROPERTY LINE			
ABUTTING USE	ROW	PUBLIC RIGHT-OF-WAY	
	BUFFER TYPE	BUFFER WIDTH	WALL REQUIRED
	LAR	15'	NO
BUFFER YARD LENGTH		184' UNIT	
REDUCED BY DRIVE		40' UNIT	
VEGETATED LANDSCAPE LENGTH		144' UNIT	
CANOPY TREES REQUIRED	1.1 TREES/100'	11 TREES	
CANOPY TREES PROVIDED		11 TREES	
TREES REQUIRED (SIT 0017)	1.1 TREES/100'	11 TREES	
TREES PROVIDED		11 TREES	
SHRUBS REQUIRED	1.1 SHRUBS/100'	114 SHRUBS	
SHRUBS PROVIDED		114 SHRUBS	
WEST PROPERTY LINE			
ABUTTING USE	R/LA	SP/CL-FAMILY	
	BUFFER TYPE	BUFFER WIDTH	WALL REQUIRED
	C	25'	NO
BUFFER YARD LENGTH		115' UNIT	
REDUCED BY VARIETY TRIANGLE		45' UNIT	
VEGETATED LANDSCAPE LENGTH		70' UNIT	
CANOPY TREES REQUIRED (BUREA)	1.1 TREES/100'	11 TREES	
CANOPY TREES PROVIDED		11 TREES	
ACCENT TREES REQUIRED (BUREA)	1.1 TREES/100'	11 TREES	
ACCENT TREES PROVIDED		11 TREES	
TREES REQUIRED (SIT 0017)	1.1 TREES/100'	11 TREES	
TREES PROVIDED		11 TREES	
SHRUBS REQUIRED (BUREA)	1.1 SHRUBS/100'	114 SHRUBS	
SHRUBS PROVIDED		114 SHRUBS	
EAST PROPERTY LINE			
ABUTTING USE	ROW	PUBLIC RIGHT-OF-WAY	
	BUFFER TYPE	BUFFER WIDTH	WALL REQUIRED
	LAR	15'	NO
BUFFER YARD LENGTH		115' UNIT	
REDUCED BY DRIVE & VARIETY TRIANGLE		45' UNIT	
VEGETATED LANDSCAPE LENGTH		70' UNIT	
CANOPY TREES REQUIRED	1.1 TREES/100'	11 TREES	
CANOPY TREES PROVIDED		11 TREES	
ACCENT TREES REQUIRED (SIT 0017)	1.1 TREES/100'	11 TREES	
ACCENT TREES PROVIDED		11 TREES	
SHRUBS REQUIRED	1.1 SHRUBS/100'	114 SHRUBS	
SHRUBS PROVIDED		114 SHRUBS	

CITY OF CAPE CORAL LDR REQUIREMENTS			
PROJECT INFORMATION		SEVEN ELEVEN	
PROJECT ZONING CLASSIFICATION		PEDESTRIAN-COMMERCIAL C-1	
PROJECT #		170704	
LDR SEC 5.2.11.A.1 - TREE PLANTING REQUIREMENTS - CANOPY TREES			
TOTAL PROJECT AREA		11,722 SQFT	
1 CANOPY TREE PER 1,000 SF OF GROSS LAND AREA REQUIRED		12 TREES	
CANOPY TREES PROVIDED (PARKING & VEHICLE AREA)		14 TREES	
CANOPY TREES PROVIDED (SIT 0017)		19 TREES	
B&V TREES PROVIDED (SOUTH & EAST PL)		17 TREES	
BUREAU TREES PROVIDED (WEST PL)		9 TREES	
BUREAU TREES PROVIDED (SIT 0017)		13 TREES	
PALM TREES PROVIDED (SIT 0017) (SOUTH PL)		2 TREES	
ACCENT TREES PROVIDED (SIT 0017) (S & E PL)		18 TREES	
ACCENT TREES PROVIDED (DRY DETENTION)		3 TREES	
TOTAL TREE PLANTING PROVIDED		115 TREES	
LDR SEC 5.2.11.C.1 - FOUNDATION LANDSCAPING			
BUILDING 1 AREA (STORE)		3,500 SQFT	
1% FOUNDATION LANDSCAPING AREA REQUIRED		35 SQFT	
FOUNDATION LANDSCAPING AREA PROVIDED		150 SQFT	
FOUNDATION LANDSCAPING AREA PROVIDED		150 SQFT	
BUILDING 2 AREA (CASHWASH)		100 SQFT	
1% FOUNDATION LANDSCAPING AREA REQUIRED		10 SQFT	
FOUNDATION LANDSCAPING AREA PROVIDED		18 SQFT	
FOUNDATION LANDSCAPING AREA PROVIDED		18 SQFT	
TOTAL FOUNDATION AREA		448 SQFT	
FOUNDATION LANDSCAPING AREA PROVIDED		448 SQFT	
FOUNDATION LANDSCAPING AREA PROVIDED		448 SQFT	
TOTAL FOUNDATION LANDSCAPING PROVIDED @ 1% C		50 SHRUBS	
LDR SEC 5.2.11.C.3 - UNCOVERED SURFACE PARKING AND VEHICLE USE AREAS			
UNCOVERED SURFACE PARKING AND VEHICLE USE AREA		10,427 SQFT	
1% OF AREA REQUIRED AS LANDSCAPE		104.27 SQFT	
1 TREE PER 100 SQFT OF LANDSCAPE AREA		1 TREES	
CANOPY TREES PROVIDED		14 TREES	
CANOPY TREES PROVIDED		14 TREES	

NATIVE TREES & SHRUBS REQUIREMENT PER LDR 5.2.10B	
10% OF 100 REQUIRED TREES ARE NATIVE	10% (10 TREES)
24% OF 100 REQUIRED TREES ARE NATIVE	24% (24 TREES)
TREES SPECIES MIX PER LDR 5.2.10.C.4	
10 TREES REQUIRED	5 SPECIES REQUIRED
10 TREES REQUIRED	5 SPECIES REQUIRED



MASTER PLANT SCHEDULE				
SYMBOL	QUANTITY	COMMON NAME	SCIENTIFIC NAME	SPECIFICATION
SP	4	SABAL PALM	SABAL PALMETTO	10' CLEAR TRUNK MIN. 1/2" MIN. HT.
QV	17	LIVE OAK	QUERCUS VIRGINIANA	10' HT., 2" CAL., 4" SPREAD
AR	15	RED MAPLE	ACER RUBRUM	10' HT., 2" CAL., 4" SPREAD
TO	5	SAID CYPRUS	TAXODIUM DETICHUM	10' HT., 2" CAL., 4" SPREAD
FE	11	SLASH PINE	PINUS ELLIOTTI	10' HT., 2" CAL., 4" SPREAD
IC	37	DAKOTA HOLLY	ILEX CADUCEA	10' HT., 2" CAL., 4" SPREAD
CE	11	GREEN BUTTERNUTWOOD (ACCENT)	CONOCARPUS ERICETUS V. 1	10' HT., 1 1/2" CAL., 4" SPREAD
RE	8	SHADY LADY BLACK OLIVE	BUCCIA BUCHANANII	10' HT., 2" CAL., 4" SPREAD
CH	143	RED TIP COCONUT	CHRYSOBLANUS KALCO	14" HT., 4" CONTAINER 14" O.C.
DO	50	PALE DOCK	DIODEA COCCINEA	14" HT., 4" CONTAINER 14" O.C.
MISC				
SD		BAWA BOW	PASPALUS NOTATION	SAND GROUND
PL		RED STRAW PLANT		2" DEPTH THROUGHOUT

7-ELEVEN STORE #38335
LANDSCAPE PLAN

TRAFFALGAR PARKWAY & CHIKITA BLVD.

DATE: 01/17/2018
DRAWN BY: J. J. JONES
CHECKED BY: J. J. JONES
APPROVED BY: J. J. JONES

Quatrone & Associates, Inc.

Landscape, Planning, & Development Consultants

4301 Ventura Boulevard, Suite 100, Fort Myers, Florida 33919 • 239-936-1222

170705-LANDSCAPE.DWG

SHEET
LS-01
01 OF 02

Planning Division Case Report

SE18-0006

Review Date: October 26, 2018

Property Owner: 38335 Chiquita Trafalgar LLC

Owner Address: 900 SW Pine Island Road, Suite 202
Cape Coral, FL 33991

Authorized Rep. Quattrone and Associates, Inc. and Jeff Wright

Request: The applicant requests amending a special exception for an Automotive Service Station Limited Use in the Pedestrian Commercial (C-1) District that was approved by SE HEX Order 2-2018 to include Lots 1-3, Block 4819 along with part of a vacated alley.

Addresses: Land included in the original special exception approved by SE HEX Order 2-2018
1518 Chiquita Boulevard South
Block 4819-A, Unit 71, Cape Coral Subdivision
Strap Number: 21-44-23-C3-04819.A000

Land proposed to be added to the project
1529-1533 SW 16th Court
Lots 1-3, Block 4819, Unit 71, Cape Coral Subdivision, plus part of a vacated alley as shown and described in the attached exhibit.
Strap Numbers: 21-44-23-C3-04819.0010, 21-44-23-C3-04819.0020, and 21-44-23-C3-04819.0030

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

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

Recommendation: **Approval with Conditions**

Urban Service Area Infill

Right-of-Way Access: The existing site has frontage on two streets; Chiquita Boulevard South, a major arterial, and Trafalgar Parkway, a collector. The property being added to the project has frontage on SW 16th Court, a local street, and Trafalgar Parkway.

Site Description:

The 2.83-acre site is rectangular and is one parcel at the northwest corner of Chiquita Boulevard and Trafalgar Parkway. A 20-foot wide unimproved alley abuts the site the north and west.

The site is undeveloped and has a Commercial/Professional Future Land Use Classification and C-1 Zoning. All surrounding properties are also undeveloped and have the same future land use and zoning classifications.

Project Description:

SE HEX Order 2-2018 approved a special exception for an Automotive Service Station Limited Use¹ (hereafter referred to as a convenience store with fuel) at 1518 Chiquita Boulevard. This site consists of part of Block 4819-A, northwest of the intersection of Chiquita Boulevard and Trafalgar Parkway.

The project includes a 3,500-sq. ft. convenience store with a detached fuel canopy. The fuel island contains eight fuel dispensers allowing 16 vehicles to refuel at the same time. This project also includes a 980-sq. ft. car wash in a separate building south of the convenience store. Parking spaces are to the east of the convenience store between the convenience store and the fuel canopy. A stormwater treatment area is to the north of the convenience store. A site plan (SP18-0002) was approved by the City in June 2018, consistent with this design.

The applicant requests to amend SE HEX Order 2-2018 to add new land to the project. This area includes Lots 1-3 in Block 4819 and about 2,700 sq. ft. of platted alley that collectively totals ±19,438 sq. ft. These lands are to the west of the existing site. A separate application (VP18-0003/Resolution 244-18) for vacating the alley has been filed with the City.

Most of the stormwater treatment area will be relocated from north of the convenience store to Lots 1-3 (Figure 1). A reason for this change in the project design has not been provided by the owner. However, relocating the stormwater area to Lots 1-3 will release additional land with frontage along Chiquita Boulevard that provides greater visibility for new commercial development.

Zoning History of the Site

The Future Land Use Classification of all sites in Blocks 4819 and 4819-A has always been Commercial/Professional.

All sites in both blocks were rezoned from C-2 to C-1 by Ordinance 61-90.

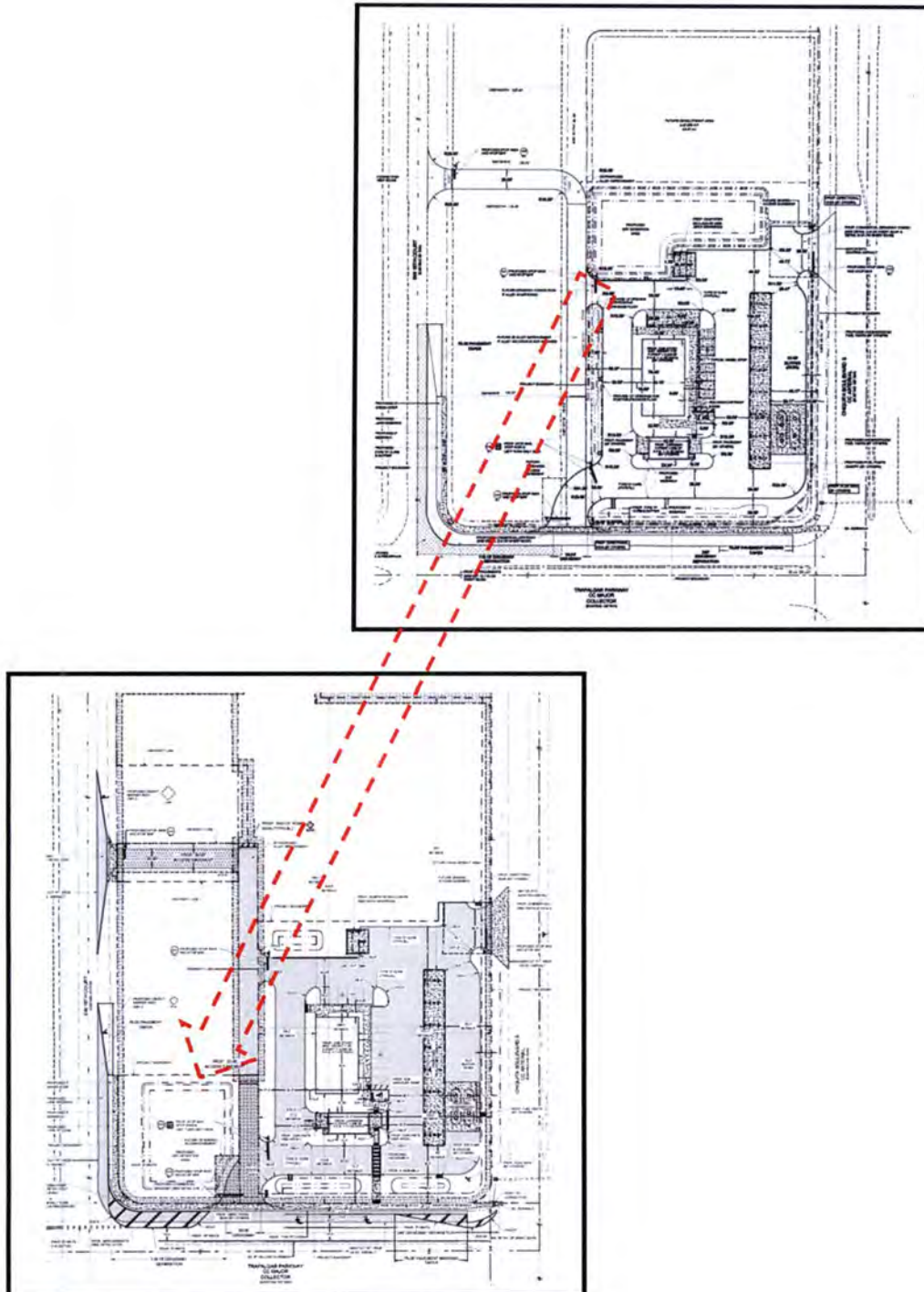
In 1994 a Planned Development Project (PDP) entitled "Trafalgar Plaza" was approved by the City Council for 33,072 sq. ft. of retail space for Blocks 4818-A and 4819-A. Since substantial construction never began on this project, the PDP was voided as required by the Land Use and Development Regulations (LUDR), Section 4.2.4H.

Analysis:

This application was reviewed based on LUDR, Section 2.7.7, the C-1 District, and the five standards in Section 8.8.5a-e for special exceptions uses. Compliance with conditions of approval appearing in Resolution SE 2-2009 was also evaluated.

¹ The City defines this use as "An establishment primarily engaged in the retail sale of motor fuel and lubricants, but which may also include facilities for washing, waxing, detailing, polishing, greasing, tire repair (no recapping or vulcanizing) and other minor incidental repairs."

Figure 1. Master site plan approved by SE HEX Order 2-2018 (above) and the amended master site plan associated with SE18-0006 (below) showing the relocation of the stormwater treatment area.



A. *Generally*

The C-1 Zoning is consistent with the Commercial/Professional Future Land Use Classification of the land being added to site. Convenience stores with fuel are allowed as a special exception in the C-1 District. This amendment will add 0.45 acres to the project. This area is square and contiguous with the existing site. The new area is sufficiently large for accommodating the relocation of the stormwater area and providing landscaping.

Twelve conditions in SE HEX Order 2-2018 appear below along with a brief status of compliance.

1. *Except for the driveway areas, lighting levels along all property lines shall not exceed 0.3 foot-candles. The Developer shall submit a lighting plan demonstrating compliance with this requirement prior to site plan approval. Staff comments: A lighting plan submitted with SP18-0002 demonstrates compliance with this condition.*
2. *Lighting trespass and glare shall be limited by using shielding and directional lighting methods. All free-standing lights on the site shall be aimed downward and away from the property lines. Staff comments: Information on the design of free-standing lights provided by the applicant with SP18-0002 demonstrates compliance with this condition.*
3. *Light fixtures mounted under the canopy shall be completely recessed into the canopy with flat lenses that are translucent and flush with the bottom surface of the canopy. Staff comments: A building permit (B18-08538) that was approved for the fuel canopy demonstrates compliance with this condition.*
4. *Lights shall not be mounted on the exterior sides or face of the fuel canopy and the sides of the canopy shall not be illuminated. Staff comments: A building permit (B18-08538) approved for the fuel canopy demonstrates compliance with this condition.*
5. *Vehicle services shall be limited to standard convenience store services of fuel, vacuum, water, and air, along with car washing and waxing. Automotive repairs are prohibited on this site. Staff comments: This prohibition on auto repairs will be administered by staff for the life of this project.*
6. *Any vending machines, automated teller machines (ATMs), or similar equipment or display items shall be inside the store. Staff comments: Compliance with this condition will be verified by staff during the nonresidential design inspection of the project and will continued to be administered for the life of the project.*
7. *The outdoor storage of products and materials is prohibited. This provision, however, shall not apply ice freezers that are used solely to store ice or to propane tank racks. Staff comments: Compliance with this condition will be verified by staff during the*

nonresidential design inspection of the project and will continued to be administered by staff for the life of the project.

8. *In addition to the canopy trees and shrubs required along Chiquita Boulevard and Trafalgar Parkway, plantings along both streets shall include a row of accent trees spaced 30 feet apart. The accent trees shall be staggered with the canopy trees to improve the buffering of both areas. Bald cypress and slash pines are prohibited in planting areas along these two streets. Staff comments: Sabal palms were substituted for accent trees along the south property line as allowed by the LUDRs. Green buttonwood trees are shown on the landscaping plan along the east property line. While bald cypress trees are proposed for the site, these trees are not proposed along either property line. Compliance with this condition will be verified during the landscaping inspection.*
9. *A single row of canopy trees and a row of shrubs shall be installed along the west property line. One canopy tree for each 30 linear feet of property line and one shrub for every three linear feet of property line shall be provided. Staff comments: SP18-0002 shows a single row of canopy trees and a single row of cocoplum shrubs along the western property line. Compliance will be verified during the landscaping inspection.*
10. *All landscaping on the site shall be maintained in good condition throughout the life of the project. Dead or removed shrubs and trees shall be replaced in accordance with LUDR, Section 5.2. Staff comments: This condition will be administered by staff for the life of this project.*
11. *The convenience store, car wash building, and columns of the gas canopy shall feature similar aesthetic characteristics including exterior materials and color. Staff comments: Site and building plans for the project show the convenience store, car wash, and fuel canopy will incorporate veneer stone and stucco materials into the finishes of all three buildings. Similar colors will be featured on all buildings. Compliance with this condition will be verified during the nonresidential design inspection.*
12. *The layout and design of the site shall be consistent with the Master Site Plan prepared by Quattrone and Associates, Inc., dated February 28, 2018, that appears in Exhibit A. Staff comments: The amendment to SE HEX Order 2-2018, if approved, will require a revised master site plan.*

B. Compatibility

Properties to the north, east, and south of the site have a Commercial/Professional Future Land Use Classification and C-1 Zoning. Properties to the west have a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning and are separated from the site by SW 16th Court. Single-family residences exist along this street.

The site will be part of a use involving a convenience store with fuel that includes a car wash. The eastern portion of the new land area will be a 20-foot wide drive isle that provides access to the convenience store and fuel pumps. Most of the new area, however, will be a stormwater treatment area. Except for the drive isle, the remainder of this area will be vegetated.

Proposed improvements on the site will be compatible with the area. The stormwater area represents a passive use as this feature does not generate traffic, produce noise, or require lighting. The site will be landscaped and will provide buffering of the rear of the convenience store and car wash buildings for residents living to the west of this development. A condition is recommended that restricts the development of this site as depicted on the amended site plan.

C. Minimum Lot Frontage; Access

The site has about 140 feet of frontage along Trafalgar Parkway and 130 feet of frontage along SW 16th Court. The eastern 20 feet of the site will be a drive isle that will provide access to an alley north and west of the convenience store. Most of the site will be a stormwater treatment area that will be landscaped. No parking will be provided on this site. Except for the drive isle along the eastern property line, no other driveways to this site will exist.

D. Building Location; Setbacks

No buildings are proposed for the 0.45-acre site.

E. Screening and Buffering

The landscaping code will require a Buffer "C" along the western property line of Lots 1-3. A single row of canopy trees and shrubs are required along the south property line adjacent to Trafalgar Parkway. Staff recommends a row of accent trees, spaced 30 feet apart, be installed along the south property line of Lot 1 to provide for consistency in landscaping along Trafalgar Parkway.

Consistency with the Comprehensive Plan:

This request is consistent with several policies of the Future Land Use and Transportation Elements as described below.

Future Land Use Element

Policy 1.15.c.

"...The Pedestrian Commercial (C-1) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C-1 District range from a variety of small or neighborhood-based commercial uses to large retail or service uses, which may serve a relatively large trade area and, which

may be developed as major shopping facilities. As many commercial uses have the potential to generated relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred locations for the C-1 District have direct access onto arterial or collector roads and adequate depth (a minimum of 250 feet) for larger-scale development..." **Staff comments:** The new land area has C-1 Zoning that is consistent with the Commercial/Professional Future Land Use Classification. The policy is supportive of this request.

Policy 1.17

"Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses." **Staff comments:** A Buffer "C" consisting of canopy trees, accent trees, and shrubs are required along the west property line of Lots 1-3 to provide buffering of the commercial use. The perimeter of Lots 1-3 will be landscaped. 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:** The site is in the City Urban Services Infill Area. This policy is supportive of this request.

Policy 8.3

"Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial development (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored." **Staff comments:** Landscaping will be installed around the perimeter of Lots 1-3. The new land area will not include a building or a dumpster. Except for a drive isle along the east side of the site, this area will be vegetated and will not be used for parking. The area will be used for stormwater treatment and will have no detrimental effect on surrounding residents. This policy is supportive of this request.

Transportation Element

Policy 2.1.5

"The City shall continue to require new development to incorporate design elements to accommodate and protect bicyclists and pedestrians." **Staff comments:** Required off-site improvements will include curb, gutter, and sidewalks along the west property line of Lots 1-3, adjacent to SW 16th Court. These improvements will be constructed at the expense of the developer. This policy is supportive of this request.

Recommendation:

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

1. The approval of this special exception amendment is contingent on the alley vacation request (VP18-0003) being approved by the City Council. In the event the alley vacation is withdrawn by the applicant or denied by the City Council, approval of this amendment shall be considered null and void.
2. Electronic Message Center (EMC) signs are prohibited on the west side of Lots 1-3 along SW 16th Court. For the purposes of this condition, an EMC sign is any electrically changeable sign whose variable message or graphic presentation capability can be electronically programmed by computer from a remote location. Furthermore, any sign that blinks, fluctuates, moves, or changes message, characters, or background is prohibited along SW 16th Court.
3. In addition to the canopy trees and shrubs required along Trafalgar Parkway, plantings along the south property line of entire site, including Lot 1, shall include a row of accent trees spaced 30 feet apart. The accent trees shall be staggered with the canopy trees to improve the buffering of the site. Bald cypress and slash pines are prohibited in planting areas along Trafalgar Parkway.
4. The layout and design of the site shall be consistent with the Master Site Plan prepared by Quattrone and Associates, Inc., May 7, 2018, that appears in the attached exhibit.
5. Except for Conditions #8 and #12 that appear in SE HEX Order 2-2018 that have been revised in this report and appear as Conditions #3 and #4 above, all other conditions appearing in SE HEX Order 2-2018 shall remain in full force and effect.

Staff Contact Information

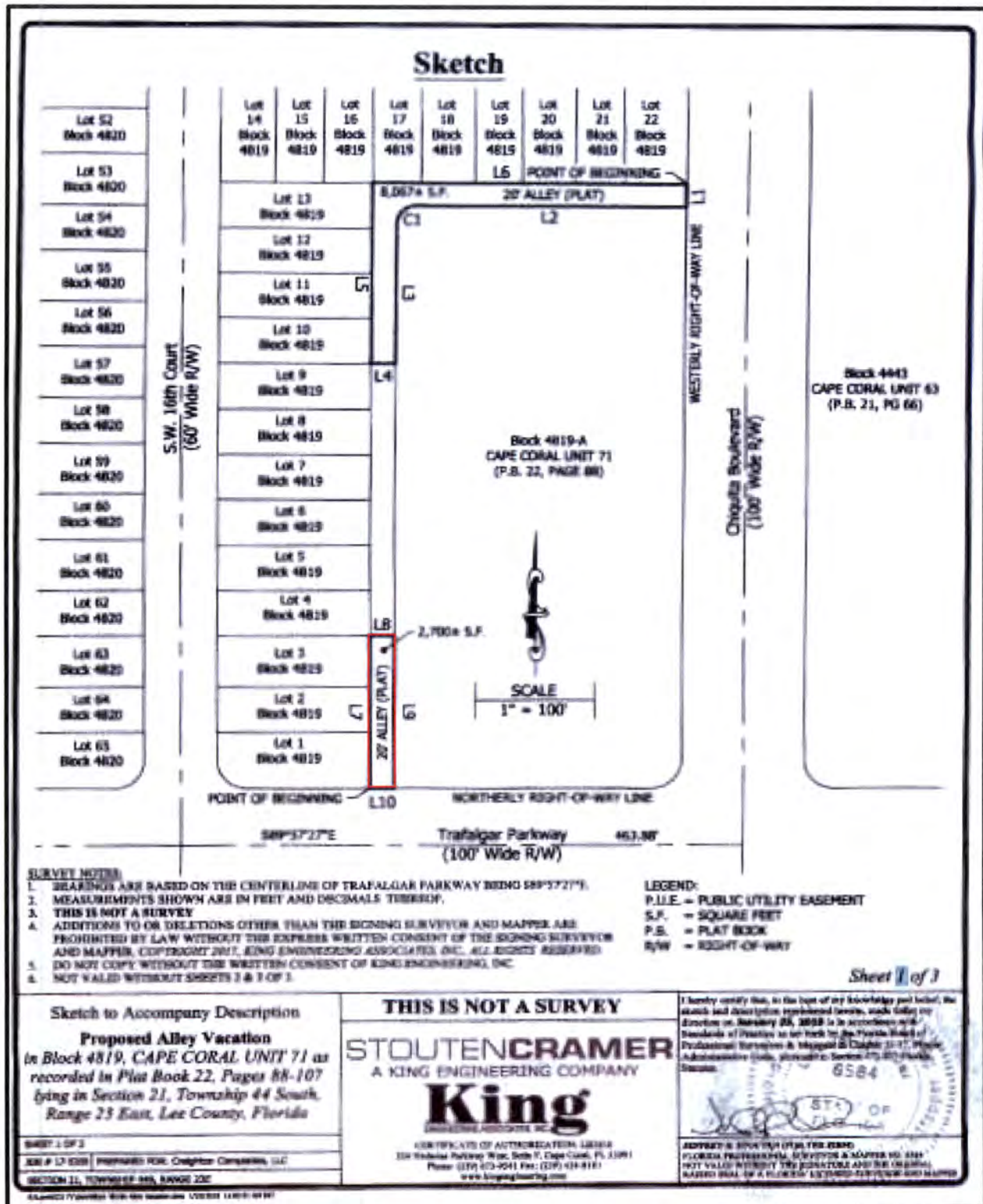
Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator
Planning Division
PH: 239-242-3255
Email: mstruve@capecoral.net

SE18-0006

Exhibit _____

Page _____ of _____

The new project area subject to the amendment of SE HEX Order 2-2018 consists of Lots 1-3, Block 4819, and the vacated alley adjacent to these same three lots that is outlined in red. A legal description of the vacated alley appears on the following page of this exhibit.



SE18-0006

Exhibit _____

Page _____ of _____

Description of the Alleyway Vacation Area Adjacent to Lots 1-3, Block 4819, Unit 71

Subject Parcel Description:

Beginning at the Southeast corner of Lot 1, Block 4819, CAPE CORAL UNIT 71 as recorded in Plat Book 22 at Pages 88 through 107, of the Public Records of Lee County, being a point on the Westerly line of a 20 feet wide alley as platted in said CAPE CORAL UNIT 71; thence run N00°10'17"W, along said Westerly right-of-way line, a distance of 134.98 feet to the Northeast corner of lot 3 of said block 4819; thence run S89°58'05"E, a distance of 20.00 feet to an intersection with the Westerly line of Block 4819-A of said CAPE CORAL UNIT 71; thence run along said Westerly line S00°10'17"E for a distance of 134.99 feet to the Southwest corner of said Block 4819-A; thence leaving said line run N89°57'27"W for 20.00 feet to the Point of Beginning.

Said Parcel Contains 2,700 sq. ft. (more or less)

Bearings are based on the centerline of Trafalgar Parkway being S89°57'27"E.



OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL
HEARING EXAMINER ORDER
SE HEX Order 2-2018
Rendered May 3, 2018

APPLICATION FOR: Special Exception (DCD Case #SE17-0017)

NAME OF OWNER: Stephen F. Haywood, as Successor Trustee of the Chiquita Trust Agreement under Trust dated November 21, 1983

NAME OF APPLICANT: Al Quattrone, P.E., Quattrone and Associates.

APPLICANT'S AUTHORIZED REPRESENTATIVE: Al Quattrone, P.E.; Louis E. Black; Charles Basinait, Esquire (Henderson, Franklin, Starnes and Holt)

PROPERTY ADDRESS: 1518 Chiquita Boulevard South
Block 4819-A, Unit 71, Cape Coral Subdivision
Strap Number: 21-44-23-C3-04819.A000

ZONING DISTRICT: Pedestrian Commercial (C-1)

FUTURE LAND USE DESIGNATION: Commercial/Professional

URBAN SERVICES AREA: Infill

DATE OF HEARING: May 1, 2018

I. **SUMMARY OF REQUEST**

The Applicant requests a Special Exception for an Automotive Service Station Limited Use (a convenience store with fuel pumps and car wash) in the Pedestrian Commercial (C-1) District.

II. **SUMMARY OF HEARING EXAMINER ORDER**

The Hearing Examiner **GRANTS** the special exception application, subject to the **CONDITIONS** set forth below.

III. **NOTICE OF HEARING**

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

IV. **PARTICIPANTS IN HEARING**

CITY STAFF: Michael Struve, AICP, Planning Team Coordinator¹

¹ Michael Struve was accepted as an expert witness in land planning issues, based upon his prior testimony before the Hearing Examiner on similar matters and also upon his C.V., which is on file with the City Clerk's office.

CITY CLERK'S OFFICE: Patricia Sorrels

APPLICANT'S REPRESENTATIVES: Al Quattrone, P.E.²; Charles Basinait, Esquire

MEMBERS OF PUBLIC: Renaldo DiMaio; Jean Bosso

CORRESPONDENCE FROM PUBLIC: Staff testified he had received no emails from the public.

TELEPHONE CALL FROM PUBLIC: Staff testified he had received one telephone call from the public, requesting information.

V. **EXHIBITS PROVIDED AT HEARING**

CITY STAFF'S EXHIBITS: previously submitted

APPLICANT'S EXHIBITS: Applicant's PowerPoint Presentation (labelled "Applicant's Exhibit #1" previously supplied in electronic format); copy of Master Site Plan (labelled "Applicant's Exhibit #2" previously supplied in electronic format and attached to this Order as an Exhibit); and C.V. of Alfred J. Quattrone, P.E. (labelled "Applicant's Exhibit #3 and the subject of Mr. Quattrone's testimony at hearing")³

PETITION PRESENTED BY RESIDENT RENALDO DIMAIO: Original Petition dated April 29, 2018, signed by twelve persons (name, signature, and address) representing themselves as residents of SW 15th Street and SW 16th Court. Mr. DeMaio testified under oath during the public participation section of the hearing that these persons actually signed the Petition and were residents of the specific addresses listed in the Petition. The Petition, which is on file with the City Clerk's Office, listed four bullet points in opposition to granting of the Special Exception.⁴

² Al Quattrone, P.E., was accepted as an expert witness in land planning issues, on the basis of his testimony before the Hearing Examiner regarding his education, experience, and other qualifications.

³ A copy of Applicant's Exhibits were given to the City Clerk as part of Applicant's presentation.

⁴ Applicant's Representative objected to the admission of this Petition into evidence on two grounds: that the Petition did not comply with the LUDR "prior submission" requirements of HEX hearings and, secondly, that it constituted impermissible hearsay in that Applicant did not have an opportunity to cross-examine the Petition signers or ascertain whether they are residents of nearby properties. In addition, Applicant's Representative objected to the admission of the Petition on substantive grounds in that he stated that the four bullet points were conclusory rather than a presentation of substantive facts. The Hearing Examiner overruled the objections and admitted the Petition into evidence on the grounds that (a) more leeway is given to private citizens at public testimony/comment during hearings in the submission of letters and similar documents; and (b) under the applicable LUDR sections, hearsay in HEX hearings is admissible under certain circumstances. Accordingly, the Hearing Examiner admitted the document into evidence as supplemental to Mr. DeMaio's testimony and subsequently determined the weight given to the document, as set forth below. The City Clerk has the original of this document.

VI. **REVIEW OF LUDR REQUIREMENTS**

Authority. The Hearing Examiner has the authority to approve or deny an application for a special exemption and prescribe appropriate conditions and safeguards (LUDR § 8.8.4).

Standard of Review of Evidence: Hearsay Evidence. The Hearing Examiner's decision is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court.

In rendering this decision, the Hearing Examiner must consider all competent substantial evidence in the record as defined in LUDR § 8.3.1.C.3.b.

Testimony by Staff, Applicant's Representative, and Members of the Public. The Hearing Examiner finds as facts all testimony set forth below, except to the extent (if any) that the Hearing Examiner specifically finds otherwise.

Special Exception. A Special Exception is a use which is essential to or would promote the public health, safety or welfare in a zoning district but which might impair the integrity and character of the district in which it is located or in adjoining districts, such that restrictions or conditions on location, size, extent and character of performance may be imposed in addition to those already imposed by the LUDRs (LUDR § 8.8.2).

VII. **DISCUSSION**

Site and Surrounding Area

Staff and the Applicant's Representative testified that the 2.83-acre subject property is undeveloped and is rectangular in shape. It constitutes one parcel at the northwest corner of Chiquita Boulevard and Trafalgar Parkway. A 20-foot wide unimproved alley abuts the site on the north and west.

Staff and the Applicant's Representative further testified that all immediately surrounding properties are also undeveloped and contain C-1 zoning and a Future Land Use Classification of Commercial/Professional.

Project Description

LUDR §11.1 defines an Automotive Service Station, Limited Use as follows:

an establishment primarily engaged in the retail sale of motor fuel and lubricants, but which may also include facilities for washing, waxing, detailing, polishing, greasing, tire repair (no recapping or vulcanizing) and other minor incidental repairs.

The Applicant's Representative testified that the project would consist of a 3,500 square foot convenience store with a detached fuel canopy; that the proposed fuel island would have eight (8) fuel dispensers, able to service sixteen (16) vehicles; and that there would also be a 980 square foot car wash.

The Applicant's Representative further testified that access would be via a shared driveway to Chiquita Boulevard as well as two driveways to the alley located to the west of the site.

Zoning History of the Subject Property

Staff testified that Block 4819-A has had a Commercial/Professional Future Land Use Designation since the adoption of the City Comprehensive Plan in 1989.

Staff further testified that the zoning of Block 4819-A was amended in 1990 from C-2 to C-1 by Ordinance 61-90.

Public Testimony and Public Input

Renaldo DiMaio testified against granting the special exception and provided a Petition dated April 29, 2018 containing the signatures of twelve persons. Discussion of this Petition is set forth in detail on page two, footnote 4 above. The Petition, and Mr. DiMaio's testimony, opposed the granting of the special exception on the grounds that a gas station with a convenience store in front of residential homes would devalue the homes; increase volume of traffic; create safety issues for the neighborhood children; and would sell cigarettes and alcohol to the detriment of families.

Jean Bosso testified that she co-owns the property across Chiquita from the proposed use and that she supported granting of the special exception use.

Staff testified that he had received phone call for further information.

VIII. COMPREHENSIVE PLAN CONSISTENCY

Consistency with the Comprehensive Plan (LUDR § 8.8.3)

Staff and the Applicant's Representative testified that the project is consistent with the following goals and policies of the Future Land Use Element and the Transportation Element of the City's Comprehensive Plan:

Future Land Use Element

Policy 1.6

"The City shall develop regulations that establish enhanced landscaping, buffering and signage standards and develop architectural design guidelines for nonresidential development."

Staff testified that landscaping would be provided around the site's perimeter and that all structures would comply with the City's nonresidential design standards.

Policy 1.15.c

"...The Pedestrian Commercial (C-1) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C-1 District range from a variety of small or neighborhood-based commercial uses to large retail or service uses, which may serve a relatively large trade area and, which may be developed as major shopping facilities. As many commercial uses have the potential to generated relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred locations for the C-1 District have direct access onto arterial or collector roads and adequate depth (a minimum of 250 feet) for larger-scale development..."

As set forth above, the site has C-1 Zoning, consistently with the Commercial/Professional Future Land Use Classification. Staff and the Applicant's Representative testified that the site has approximately 240 feet of depth and is at the intersection of an arterial (Chiquita) and a collector (Trafalgar) street.

Policy 1.17

"Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses."

As set forth elsewhere herein, the project will be required to have adequate buffering. In addition, the subject property is separated from existing residential uses by the adjacent property which is zoned C-1.

Objective 2

"Location of New Commercial Development: New commercial development shall be so located to provide minimal vehicle trip lengths, at or near transportation nodes, and compatible with neighboring residential uses."

As set forth above, the proposed project is located at transportation nodes. In addition, the property is separated from residential uses by properties which are zoned C-1 and the conditions set forth below will further enable compatibility with nearby residential uses.

Policy 4.1

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

Staff testified that the site is located within the Urban Services Infill area.

Policy 8.3

"Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial development (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored."

As set forth on the proposed site plan, the landscaping around the perimeter of the site is intended to buffer this use from surrounding properties. The subject property is separated from the nearby residential uses by other properties which are zoned C-1.

As also set forth on the proposed site plan, the fuel canopy and car wash would be oriented parallel to Chiquita and Trafalgar, respectively, and away from residential sites to the west.

Policy 8.4

"The City shall encourage transitions from commercial uses to less intensive land uses and site design that considers the following preferred characteristics to attain compatibility with adjacent residential uses:

a. Site Orientation

i. Vehicular access should be from a collector, arterial, access street, or an alley if the subject uses are located within the Downtown Community Redevelopment Area.

ii. Pedestrian access should be designed to provide internal and external circulation from adjacent neighborhoods.

iii. Streets should be designed with elements to provide visual or physical buffering [sic] may serve as boundaries between different intensities of land uses.

iv. Site improvements within commercial areas such as lighting, signage and landscaping should be designed and coordinated in order to create a positive identity and visual image throughout the development area.

- b. *Site design should promote the preservation and integration of mature trees, natural vegetation, natural and environmentally sensitive areas whenever feasible.*
- c. *Screening and landscaping*
 - i. *Creative and extensive use of landscaping and berming techniques for natural transitions between differing intensities of land uses is encouraged.*
 - ii. *Fences should not be used as a sole method of providing screening and buffering between differing intensities of land uses.*
 - iii. *The City shall review and revise landscaping and signage standards for commercial development to enhance the visual and physical environment to foster its integration of other land uses.*
- d. *Lighting used to illuminate parking areas, signs or structures should be placed and designed to deflect light away from adjoining property or public streets through fixture type, height, orientation and location."*

As set forth on the proposed site plan, the site would have direct access from Chiquita Boulevard as well as an alley to the west; landscaping would be around the perimeter of the site; free-standing lighting would be aimed downward and away from property lines and light fixtures mounted under the canopy would be recessed into the canopy.

Transportation Element

Policy 1.1.11

"Notwithstanding Policy 1.1.8 and Policy 1.1.9, all new development proposals that generate three hundred (300) or more cumulative trips in the peak hour shall submit a traffic impact study (TIS) in accordance with the City of Cape Coral Engineering Design Standards."

The Applicant's Representative testified that the proposed project would generate approximately 222 PM peak hour trips, thereby not triggering the 300 peak hour trip requirement of a Traffic Impact Statement (TIS).

Policy 2.1.5

"The City shall continue to require new development to incorporate design elements to accommodate and protect bicyclists and pedestrians."

Staff and the Applicant's Representative testified that the City would require off-site improvements at the Developer's expense, including sidewalks along Chiquita Boulevard along the site frontage.

Based upon her review of the foregoing Policies and testimony by staff and the Applicant's Representative, the Hearing Examiner finds that granting the requested Special Exception, as conditioned below, **is in compliance with, and is in furtherance of**, the requirements of all applicable provisions of the Comprehensive Plan.

IX. **SPECIAL EXCEPTION STANDARDS**

Special Exception Standards: [ALL MUST BE MET]

a. *Generally: Zoning District Requirements (LUDR §8.8.5 a)*

The C-1 Zoning District, which is consistent with the Commercial/Professional Future Land Use Designation, allows this requested use as a Special Exception. Staff and the Applicant's Representative testified that the site contains +/- 1.96 acres. The C-1 Zoning District lacks a minimum area requirement for this use.

Staff and the Applicant's Representative testified that, based on the foregoing and on the recent history of permitting similar establishments within the City of Cape Coral, the area and shape of this site is suitable for a convenience store with fuel pumps (gas station).

Based on the foregoing evidence, the Hearing Examiner finds that the requested Special Exception, as conditioned, **does comply** with all requirements of the zoning district in which the property is located, this ordinance, and all other applicable law.

b. *Compatibility. (LUDR §8.8.5 b)*

The site is at the intersection of two major streets; Chiquita Boulevard and Trafalgar Parkway. Staff and the Applicant's Representative testified that sites such as this one are generally considered preferable for gas station uses as these streets are designed to accommodate heavy volumes of traffic.

They further testified that corner properties also provide opportunities for multiple driveways that can improve site access, enhance visibility and traffic circulation within the site, and facilitate deliveries to these establishments.

As set forth in testimony and the site plan, the subject property is surrounded by properties with C-1 Zoning in all four directions. The nearest existing single-family dwelling is about 200 feet to the west.

Staff and the Applicant's Representative testified that lighting on commercial sites could disrupt nearby residents. Staff has proposed several conditions to address such light issues.

Staff and the Applicant's Representative further testified that, in general, gas stations capture trips from the traffic already passing the site, and that visits to

this development would generally be a secondary part of a linked trip such as from work to home. Further, staff and the Applicant's Representative testified that 44% of the estimated peak hour trips would represent new external trips, with the remaining 56% would constitute pass-by trips.

While noise from commercial uses has the potential to disrupt residents, since all surrounding sites have C-1 zoning, noise associated with this use would be likely to cause compatibility issues with the neighborhood.

The Hearing Examiner carefully considered the objections raised by public testimony, as well as the support for the proposed project as provided by another speaker. This property has been zoned C-1 since 1990, and, according to testimony, was zoned C-2⁵ prior to that time. Therefore, this property could have had as of-right commercial uses such as a bar/cocktail lounge/brewpub, carry-out/delivery food service establishment, flea market, etc.⁶ for at least the last twenty-eight (28) years. One or more of these of-right uses could potentially increase traffic from its current level, allow the sale of alcohol and cigarettes, and/or bring strangers into the area – all concerns raised in public comment in support of denial of this special exception use.⁷

In addition, the proposed special exception use is surrounded on all sides by property which is zoned C-1, which will provide separation from this use and the nearby residential uses.

The questions raised by the public at the hearing were valuable input into the Hearing Examiner process, and the Hearing Examiner finds that the Applicant's Representative and Staff addressed those concerns to the Hearing Examiner's satisfaction.

Based upon the foregoing evidence, the Hearing Examiner finds that, **as conditioned**, the tract of land is **suitable** for the type of special exception use proposed, by virtue of its location, shape, topography and the nature of surrounding development.

c. *Minimum Lot Frontage and Access (LUDR §8.8.5c)*

Staff and the Applicant's Representative testified that the site has approximately 500 feet of frontage on Chiquita Boulevard and 235 feet of frontage on Trafalgar Parkway.

⁵ No testimony was presented regarding uses allowable of right or by special exception in the previous C-2 zoning designation, but presumably commercial uses were included as well.

⁶ The Hearing Examiner is not commenting positively or negatively on the propriety of these uses in the C-1 zoning district

⁷ The Hearing Examiner does not accept as factual the public testimony that these uses and/or the requested special exception being considered herein, in and of themselves create problems for nearby residential or other uses.

As set forth on the site plan, a single driveway along Chiquita Boulevard is proposed and two other driveways along the alley would provide additional access.

Staff testified that the three driveways would provide options for customers, delivery vehicles, and service providers entering and exiting the site, and will promote traffic circulation within the development.

Based upon the foregoing evidence, the Hearing Examiner finds that the minimum lot frontage on a street **is sufficient** to permit properly spaced and located access points designed to serve the type of special exception use proposed. Wider spacing between access points and intersecting street right-of-way lines **is not required** under the above circumstances. All access points **are specifically approved** by the Hearing Examiner.

d. *Building Location and Setbacks. (LUDR §8.8.5d)*

Staff and the Applicant's Representative testified that the convenience store, fuel canopy and car wash buildings will exceed with the C-1 setback requirements.

Based upon the foregoing evidence, the Hearing Examiner finds that all buildings **will be** located an adequate distance from all property lines and street right-of-way lines. There is **no need** for greater building setback lines due to the lot having more than the minimum lot area required or to protect surrounding properties.

e. *Screening and Buffering. (LUDR § 8.8.5e)*

Staff testified that the City's landscaping code requires a 10-foot wide landscaped area along Chiquita Boulevard and Trafalgar Parkway, inclusive of canopy trees and shrubs. The Hearing Examiner accepts staff's recommendation that accent trees be installed along each street to enhance the buffering of the development and that additional plantings be placed along the west property line so that landscaping will be located around the perimeter of the site.

The Applicant's Representative agreed with this staff testimony.

Based on the foregoing evidence, the Hearing Examiner finds that, **as conditioned**, a continuous strip of properly maintained landscaped area **will be provided** by Applicant along the property lines and streets serving the premises as required by this zoning district. Such continuous strip of properly maintained landscaped area **may** contain walkways and driveway entrances.

As conditioned, the premises **will be** permanently screened from adjoining and contiguous properties by a fence, evergreen hedge and/or other approved enclosure when deemed appropriate to buffer the special exception use from surrounding uses.

X. CONDITIONS OF APPROVAL (LUDR § 8.8.4b)

The following conditions of approval shall apply to the grant of this Special Exception. Applicant's Representative testified that Applicant accepts all of the conditions set forth below.

1. Except for the driveway areas, lighting levels along all property lines shall not exceed 0.3 foot-candles. The Developer shall submit a lighting plan demonstrating compliance with this requirement prior to site plan approval.
2. Lighting trespass and glare shall be limited by using shielding and directional lighting methods. All free-standing lights on the site shall be aimed downward and away from the property lines.
3. Light fixtures mounted under the canopy shall be completely recessed into the canopy with flat lenses that are translucent and flush with the bottom surface of the canopy.
4. Lights shall not be mounted on the exterior sides or face of the fuel canopy and the sides of the canopy shall not be illuminated.
5. Vehicle services shall be limited to standard convenience store services of fuel, vacuum, water, and air, along with car washing and waxing. Automotive repairs are prohibited on this site.
6. Any vending machines, automated teller machines (ATMs), or similar equipment or display items shall be inside the store.
7. The outdoor storage of products and materials is prohibited. This provision, however, shall not apply to ice freezers that are used solely to store ice or to propane tank racks.
8. In addition to the canopy trees and shrubs required along Chiquita Boulevard and Trafalgar Parkway, plantings along both streets shall include a row of accent trees spaced 30 feet apart. The accent trees shall be staggered with the canopy trees to improve the buffering of both areas. Bald cypress and slash pines are prohibited in planting areas along these two streets.
9. A single row of canopy trees and a row of shrubs shall be installed along the west property line. One canopy tree for each 30 linear feet of property line and one shrub for every three linear feet of property line shall be provided.

10. All landscaping on the site shall be maintained in good condition throughout the life of the project. Dead or removed shrubs and trees shall be replaced in accordance with LUDR, Section 5.2.
11. The convenience store, car wash building, and columns of the gas canopy shall feature similar aesthetic characteristics including exterior materials and color.
12. The layout and design of the site shall be consistent with the Master Site Plan prepared by Quattrone and Associates, Inc., dated February 28, 2018, that appears in Exhibit A.

XI. **EXHIBITS ATTACHED TO ORDER**

The following document is attached to this Order and hereby incorporated by reference:

1. Exhibit "A": Master Site Plan dated February 28, 2018, prepared by Quattrone and Associates, Inc.

XII. **FINDINGS AND CONCLUSIONS**

Based upon the testimony set forth above and documentary exhibits presented during the Hearing, the Hearing Examiner finds and concludes as follows:

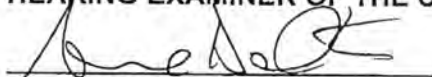
1. *Promotion of Public Health, Safety or Welfare.* The requested Special Exception, as conditioned, **is essential to or would** promote the public health, safety or welfare in the zoning district in which it is proposed to be located
2. *Consideration of Impairment of Integrity or Character of District.* The requested Special Exception, as conditioned, **will not** impair the integrity and character of the district in which it are located, or in adjoining districts.
3. *Meeting Minimum Requirements.* The requested Special Exception, as conditioned, **meets** the minimum requirements set forth in the LUDRs for this use. Nothing in this Decision shall be construed as reducing, modifying, or eliminating such minimum requirements.
4. *Consistency with Comprehensive Plan, LUDR, and All Other Applicable Law.* The requested Special Exception, as conditioned, **is consistent** with the requirements of the zoning district(s) in which the property is located, the City Comprehensive Plan, Land Use Development Regulations, and all other applicable law.

SE HEX ORDER 2-2018
MAY 3, 2018

The Hearing Examiner hereby **GRANTS** the request for the Special Exception filed by Applicant, **WITH THE TWELVE (12) CONDITIONS** set forth above.

This Order takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA


ANNE DALTON, ESQUIRE

5/3/18
DATE

ATTEST:



CITY CLERK

Exhibit "A" p. 1 of 1

The site plan illustrates the layout of CC Major Collector, detailing its intersection with Trafalgar Parkway and Chisuta Boulevard S. Key features include:

- Proposed Driveway Connections:** Detailed plans for new driveways are shown along the western and southern boundaries, including notes such as "PROPOSED DRIVEWAY CONNECTION (SEE DETAIL D-16 ON SHEET D-17)".
- Future Development Areas:** Several zones are designated for future growth, labeled as "FUTURE DEVELOPMENT AREA".
- Engineering Details:** The plan includes numerous annotations for traffic control and infrastructure, such as "PROPOSED STOP SIGN AND STOP BAR", "PROPOSED STREET LIGHTING", and "75.00 PAVEMENT TAPER".
- Pavement and Grading:** Specific callouts indicate "PROPOSED CONCRETED DRIVEWAY (SEE DETAIL D-18 ON SHEET D-19)" and "PROPOSED GRADE REPAIRS (BY OTHERS)".
- Orientation and Scale:** A north arrow and a graphic scale bar (0' to 60') are located in the upper right corner.
- Property Lines and Boundaries:** The project boundary is clearly delineated, separating it from adjacent lots and public roads.



NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: SE18-0006

REQUEST: The applicant, Al Quattrone, is requesting to amend SE HEX Order 2-2018, that approved an Automotive Service Station Limited Use in the Pedestrian Commercial (C-1) District on Block 4819-A, Unit 71, Cape Coral Subdivision, at 1518 Chiquita Boulevard South. The applicant seeks to add Lots 1-3, Block 4819, Unit 71, Cape Coral Subdivision, to the project area along with an alley right-of-way that is proposed to be vacated adjacent to these same three lots. The site is at the northwest corner of Chiquita Boulevard and Trafalgar Parkway.

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

PROPERTY OWNER: 38335 Chiquita Trafalgar, LLC

AUTHORIZED REPRESENTATIVES: Quattrone and Associates, Inc. and Jeff Wright

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, November 13, 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 (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

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

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

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.: 0003233943

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$382.07

Run Times: 1

No. of Affidavits: 1

Run Dates: 11/03/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE18-0006

REQUEST: The applicant, Al Quattrone, is requesting to amend SE HEX Order 2-2018, that approved an Automotive Service Station Limited Use in the Pedestrian Commercial (C-1) District on Block 4819-A, Unit 71, Cape Coral Subdivision, at 1518 Chiquita Boulevard South. The applicant seeks to add Lots 1-3, Block 4819, Unit 71, Cape Coral Subdivision, to the project area along with an alley right-of-way that is proposed to be vacated adjacent to these same three lots. The site is at the northwest corner of Chiquita Boulevard and Trafalgar Parkway.

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

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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.

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by order of
Rebecca van Deutekom, MMC
City Clerk
REF # SE18-0006
AD# 3233943 Nov. 3, 2018

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Quattrone

APPLICATION NO: SE18-0006

STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

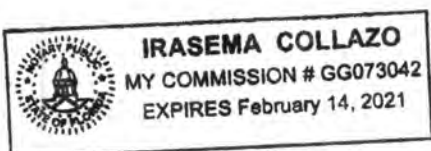
DATED this 5th day of November, 2018.

Vincent A. Cautero
Vincent A. Cautero, AICP

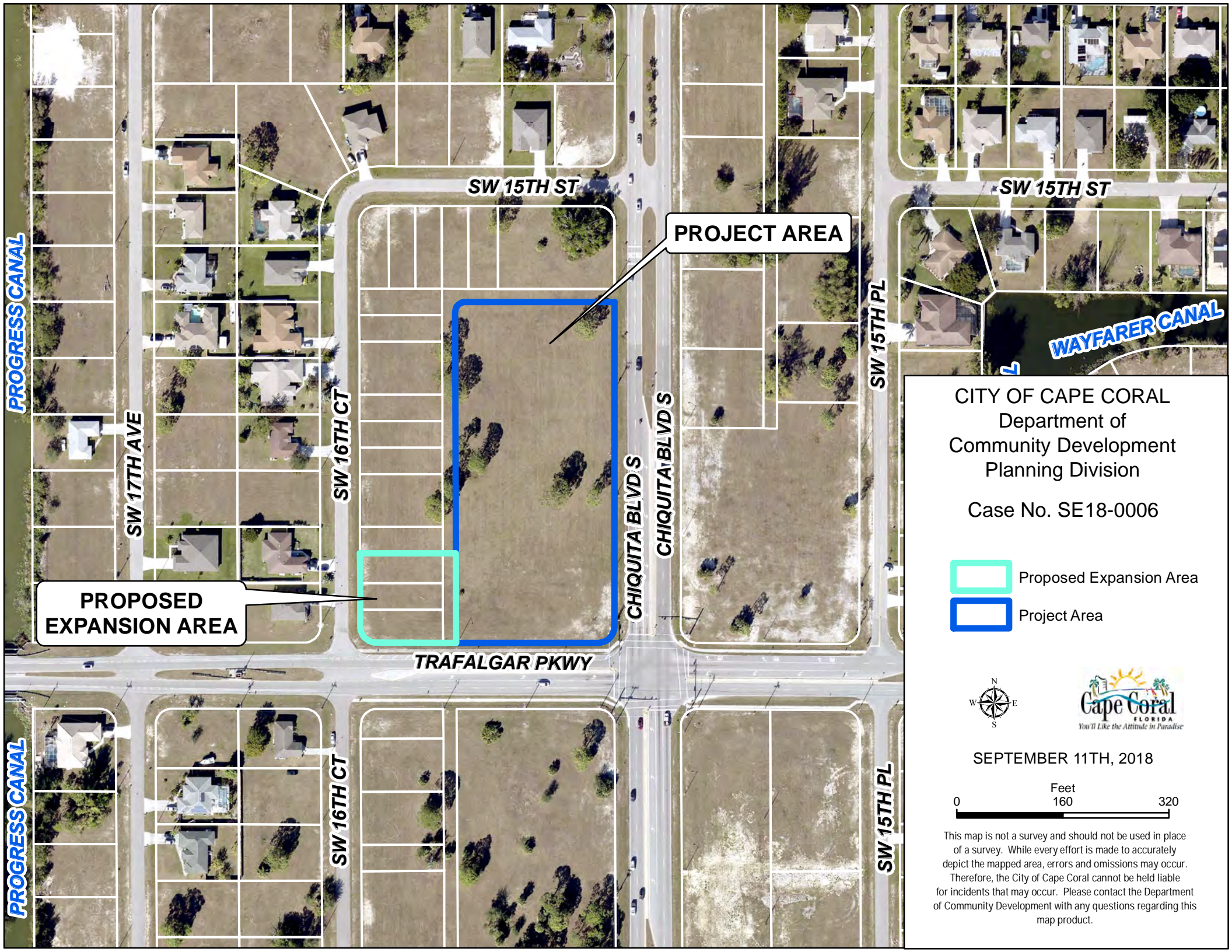
STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 3rd day of November, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 2/14/21 Commission # GG073042



Irasema Collazo
Signature of Notary Public
IRASEMA COLLAZO
Print Name of Notary Public



SW 15TH ST

SW 15TH ST

PROJECT AREA

WAYFARER CANAL

SW 15TH PL

CHIQUITA BLVD S

CHIQUITA BLVD S

TRAFALGAR PKWY

SW 15TH PL

SW 16TH CT



SW 16TH CT

SW 17TH AVE

PROPOSED
EXPANSION AREA

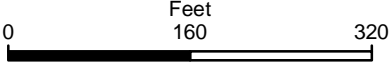
CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. SE18-0006

-  Proposed Expansion Area
-  Project Area



SEPTEMBER 11TH, 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.

500' PROXIMITY BOUNDARY

SW 14TH TER

SW 15TH ST

SW 17TH AVE

SW 16TH CT

CHIQUITA BLVD S

SW 15TH PL

TICONDEROGA CANAL

TRAFALGAR PKWY

TRAFALGAR PKWY

SW 16TH CT

CHIQUITA BLVD S

SW 15TH PL

TICONDEROGA CANAL

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Boundary

Case No. SE18-0006

LEGEND

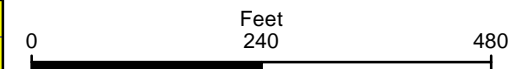
- 500' Proximity Boundary
- Proposed Expansion Area
- Project Area

Zoning

- C-1
- MR
- P-1
- R-1B
- RD



SEPTEMBER 11TH, 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: 2.C.
Meeting Date: 11/13/2018
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case #DE18-0025*; Address: 5116 SW 12th Place, Block 4518, Lots 29-30; Applicant: Mike Kazlauskas

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 199 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 1,399 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 CAPE CORAL HEARING EXAMINER
FOR A DEVIATION TO MARINE IMPROVEMENT STANDARDS

Case # DE DE18-0025

RESIDENTIAL FEE \$150.00; COMMERCIAL FEE \$673.00. In addition to the application fee, all advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing. In addition, the applicant shall be responsible for reimbursing the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the City from issuing any applicable permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

APPLICANT/OWNER OF PROPERTY

Mike Kazlauskas
Email Address mck6210@gmail.com

Address

5116 SW 12th PL
City Cape Coral State FL Zip Code 33914
Phone 631-872-4658

AUTHORIZED REPRESENTATIVE

Jimmy Williamson
Email Address permits@wbdocks.com

Address

1106 SE 12th Ct.
City Cape Coral State FL Zip Code 33990
Phone 239-283-2013

Location: Unit 64 Block 4518 Lot(s) 29+30 Subdivision ---

Legal Description 5116 SW 12th PL Cape Coral FL 33914

Address of Property 5116 SW 12th PL Cape Coral FL Plat Book --- Page ---

Current Zoning Single family residential Strap Number 15-45-23-C4-04518-0290

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

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

X Michael Kazlauskas
Name (Type or Print)

X [Signature]
Applicant's Signature

STATE OF New York COUNTY OF Suffolk

Sworn to (or affirmed) and subscribed before me this 19th day of July 2018, by
Michael KAZLAUSKAS, who is personally known or has produced
Florida License as identification.

[Signature]
LINDA F. MARTIN
Notary Public, State of New York
No. 01MA48839
Qualified in Suffolk County
Commission Expires November 3, 2021

Exp. Date 11/3/21 Commission # 01MA 464 8839

[Signature]

Signature of Notary Public

LINDA MARTIN

Print Name of Notary Public



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO CAPE CORAL HEARING EXAMINER

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Jimmy Williamson (WB Williamson Bros)
(Name of person giving presentation)

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

Deviation Request

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

BLOCK 4518 LOTS 29+30 UNIT 64 SUBDIVISION _____

OR LEGAL DESCRIPTION 5116 SW 12th PL Cape Coral FL 33914

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

x Michael Kazlauskas
PROPERTY OWNER (PLEASE PRINT)

x [Signature]
PROPERTY OWNER (SIGNATURE)

STATE OF New York COUNTY OF Suffolk

Sworn to (or affirmed) and subscribed before me this 19th day of 2018, by
Michael Kazlauskas, who is personally known or has produced
Florida License as identification.

[Signature]
LINDA F. MARTIN
Notary Public, State of New York
No. 01MA464839
Qualified in Suffolk County
Commission Expires November 3, 20__

Exp. Date 11-3-21 Commission Number 01MA464839

Linda Martin [Signature]

Signature of Notary Public

LINDA MARTIN

Print Name of Notary Public

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



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO CAPE CORAL HEARING EXAMINER

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

X Michael Kazlauskas
PROPERTY OWNER (PLEASE PRINT)

X [Signature]
PROPERTY OWNER (SIGNATURE)

STATE OF NEW YORK COUNTY OF Suffolk

Sworn to (or affirmed) and subscribed before me this 14th day of July 2018, by
Michael Kazlauskas, who is personally known or has produced
Florida License as identification.

[Signature]
LINDA F. MARTIN
Notary Public, State of New York
No. 01984404030
Qualified in Suffolk County
Commission Expires November 3, 2020

Exp. Date 11-3-21 Commission Number 01MA 464 8839

[Signature]

Signature of Notary Public

Linda F. Martin

Print Name of Notary Public

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

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

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

X Michael Kazlauskas X [Signature]
OWNER/APPLICANT (PLEASE TYPE OR PRINT) OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF NEW YORK COUNTY OF SUFFOLK

Sworn to (or affirmed) and subscribed before me on this 14th day of July,
2018 by Michael Kazlauskas, who is personally known or who has produced FLORIDA LICENSE
as identification.

Exp. Date 11-3-21
Commission # 01MA4648839

[Signature]

LINDA F. MARTIN
Notary Public, State of New York
No. 01MA4648839
Qualified in Suffolk County
Commission Expires November 3, 2021

[Signature]
Signature of Notary Public
LINDA F. MARTIN
Print Name of Notary Public

Wednesday, Aug.22nd 2018

Department of Community Development Director

City of Cape Coral

P.O. Box 150027

Cape Coral, FL 33915-0027

RE: Block 4518 Lots 29 + 30

Dear Director:

The purpose of this letter is to ask you to approve a dimensional marine deviation of a 1,399 - square foot wood dock that extends into the canal 29'0" and has 12'0" setbacks. Because our lot is oversized and we sit on a larger canal with a width of 125', we feel we have the room to construct a larger square footage dock and stay within the setback requirements.

We feel that the oversized shape of our property and the wider canal is different from other properties in the same zoning district. These special conditions do not result from our actions, but they do give us more room to accommodate this larger structure.

We feel that by applying for the deviation we are using the legal option that is available to many people who have oversized lots that sit on larger canals.

The literal interpretation of this ordinance would deprive us of the anticipated enjoyment we expected to have when we purchased this home on the waterfront.

The 1,399 – square foot dock is the minimum Variance that will allow us to get the full enjoyment out of our waterfront property.

Granting of this deviation would be within the purpose of this ordinance because it would not be injurious to the area or otherwise detrimental to the public welfare. The proposed dock would not impede on the adjacent properties, affect navigation in the canal, nor damage the surrounding landscape or wild life.

We respectfully request that you grant this dock deviance.

Sincerely,

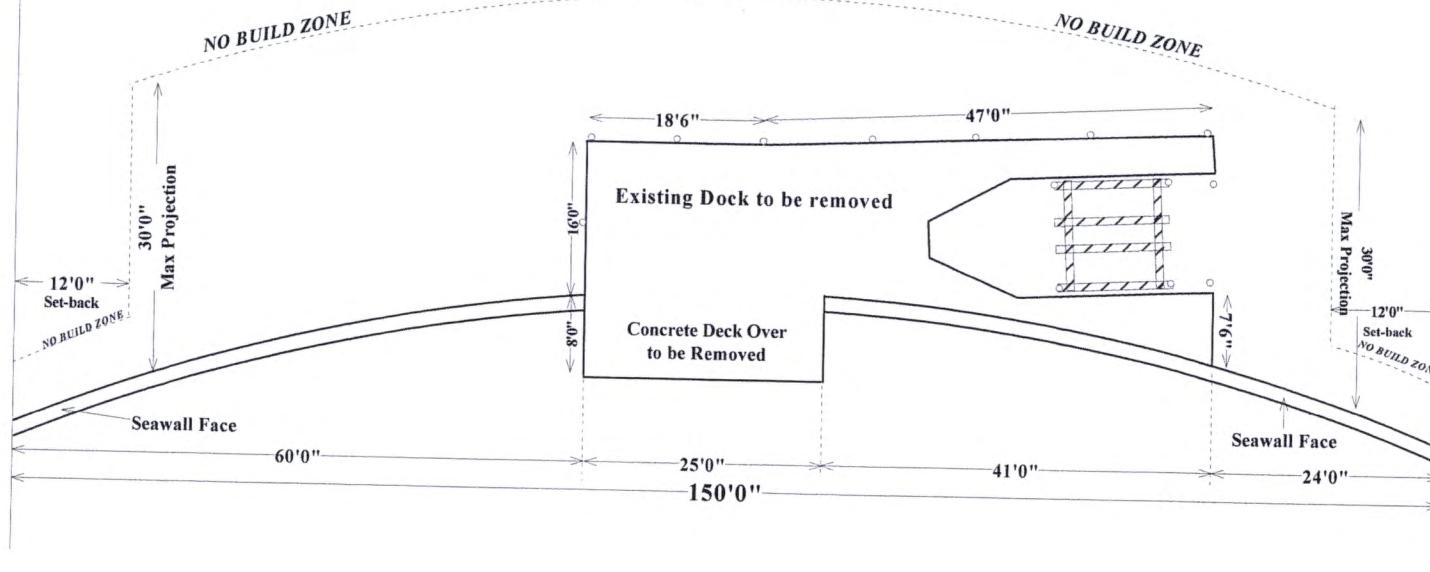
WB Williamson Brothers Inc.



Property Line

Gloriana Canal

Property Line



• 8" or 10" PILING

COPYRIGHT WILLIAMSON BROTHERS MARINE INC. 2018
DESIGN FOR WILLIAMSON BROTHERS MARINE CONSTRUCTION, INC PERMITTING ONLY

Total Square Feet over water: x,xxx

Scale: 1" = 20'
Measurements and Piling
locations are approximate

Proposed:
1. Existing Dock and Deck Over to be Removed.



4th Generation Marine Contractors

Bus: 239-283-2013 Fax: 239-772-2027

CUSTOMER NAME

Mike Kazlauskas

SITE ADDRESS

5116 SW 12th Pl, Cape Coral

Phone:

(631) 872-4658

DATE

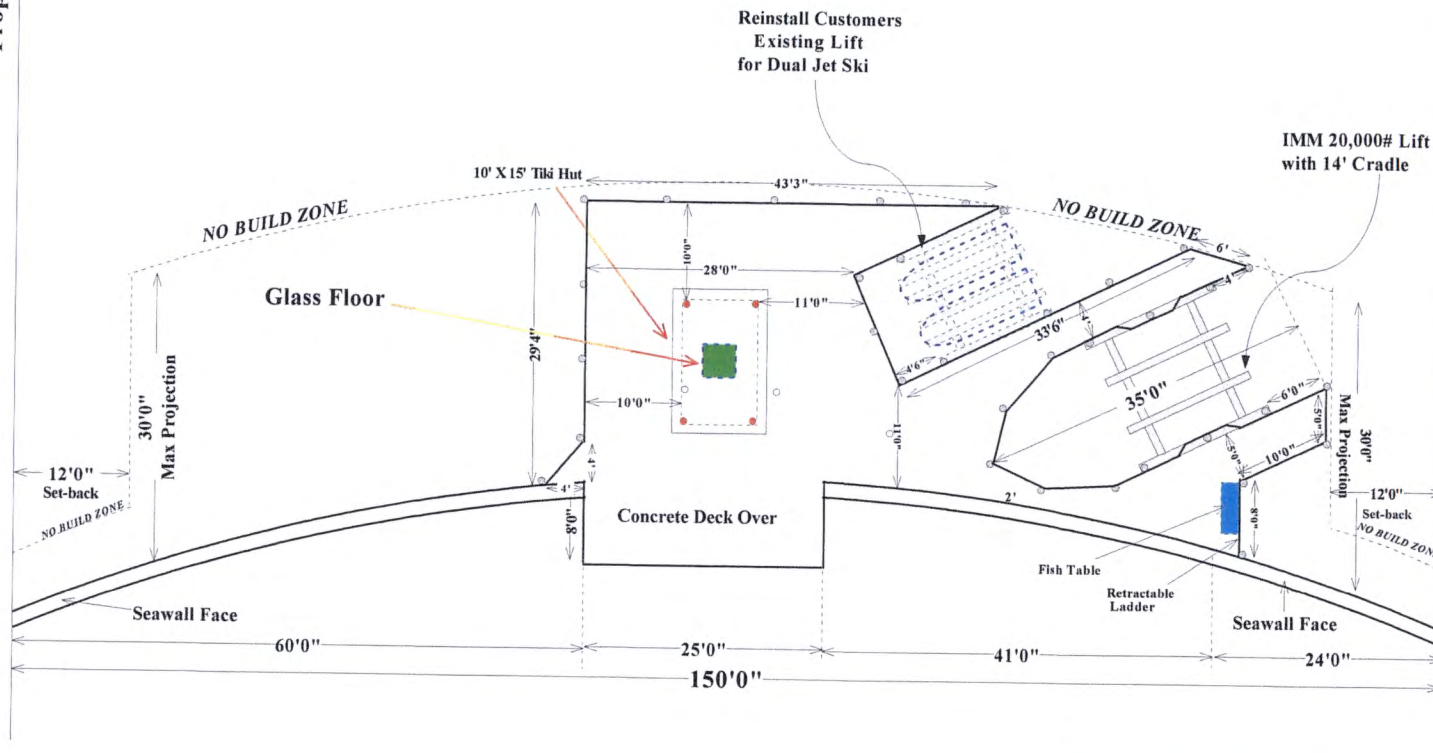
02/28/18

REVISION DATE

07/19/18

Property Line

Gloriana Canal



- 8" or 10" PILING

***Existing Dock to be removed**

COPYRIGHT WILLIAMSON BROTHERS MARINE INC. 2018
DESIGN FOR WILLIAMSON BROTHERS MARINE CONSTRUCTION, INC PERMITTING ONLY

Total Square Feet over water: 1,399

Scale: 1" = 20'

Measurements and Piling
locations are approximate

Proposed:

1. Construct +/- 1,399 square foot dock with Cool Grey & White Accents 1" x 6" WearDeck decking.
2. Construct +/- 200 square foot Concrete Deck Over with Cool Grey & White Accents 1" x 6" WearDeck decking.
3. IMM 20,000# Direct Drive lift 14'0" cradle with remote, limit switch and aluminum bunks.
4. 10x15 tiki hut.
5. Stainless Steel Hardware Throughout.
6. Fish Cleaning Station and Retractable Ladder.



4th Generation Marine Contractors

Bus: 239-283-2013 Fax: 239-772-2027

CUSTOMER NAME

Mike Kazlauskas

SITE ADDRESS

5116 SW 12th Pl, Cape Coral

Phone:

(631) 872-4658

DATE _____

REVISION DATE

02/28/18

07/19/18

SPECIFIC PURPOSE SURVEY OF
DOCK AS-BUILT
LOTS 29 & 30, BLOCK 4518,
CAPE CORAL, UNIT 64

SECTION 15, TOWNSHIP 45 SOUTH, RANGE 23 EAST
 (PLAT BOOK 21, PAGES 82-95)
 LEE COUNTY, FLORIDA

LEGEND:

●	SET #4 IRON ROD (CAP LB #6921)	R.W.B.	RECLAIM WATER BOX
○	FOUND IRON ROD (I.R.)	W.M.	WATER METER
□	CONCRETE MONUMENT (C.M.)	D/H	OVERHEAD POWER
P.R.M.	PERMANENT REFERENCE MONUMENT	P.P.	POWER POLE
P.U.E.	PUBLIC UTILITY EASEMENT	G.A.&W.	GUY ANCHOR & WIRE
D.E.	DRAINAGE EASEMENT	T.S.B.	TELEPHONE SERVICE BOX
P.C.	POINT OF CURVATURE	N/D	NAIL & DISK
O.R.	OFFICIAL RECORDS BOOK	N/T.T.	NAIL & TINTAB
(S)	AS PER SURVEY	ELEV.	ELEVATION
(P)	AS PER PLAT	B.M.	BENCHMARK
(I)	CURVE NUMBER	Ⓢ	TYPICAL ELEVATION
L1	LINE NUMBER	A/C	AIR CONDITIONER
R/W	RIGHT-OF-WAY	W.S.	WATER SYSTEM
℄	CENTERLINE	P.E.	POOL EQUIPMENT
		CONCRETE	CONCRETE

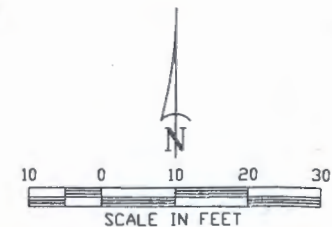
SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAY LINE OF S.W. 12TH PLACE, AS BEING S.00°38'20"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 4518.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. ISSUANCE OF THIS DRAWING, FROM THIS FIRM SHALL NOT RELIEVE THE BUILDER AND/OR CONTRACTORS OF THE RESPONSIBILITY TO REVIEW AND VERIFY ALL NOTES, DIMENSIONS, ELEVATIONS, AND ADHERENCE TO APPLICABLE BUILDING CODES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION. BUILDER MAY NEED TO ADJUST ELEVATION AND/OR SETBACKS PRIOR TO CONSTRUCTION IF OTHER RESTRICTIONS EXIST.
10. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 11X17, 20 SCALE DRAWING.

FLOOD ZONE: "AE" ELEVATION: 7.00' N.A.V.D.
 COMMUNITY No: 125095 PANEL No: 0395
 SUFFIX --- F REVISION DATE: 8/28/08
 MAP NUMBER: 12071C0395F

THIS SURVEY IS CERTIFIED TO:
 WILLIAMSON BROS, INC.

**THIS IS NOT A
 BOUNDARY SURVEY**



Curve number 2

Radius= 210.00'
 Delta= 41°36'06"
 Arc= 152.48'
 Chord= 149.15'
 Chord Brg.= N.20°09'43"W.

Curve number 1

Radius= 85.00'
 Delta= 41°36'06"
 Arc= 61.72'
 Chord= 60.37'
 Chord Brg.= S.20°09'43"E.

REVISED:	DESCRIPTION:	BY:	 PHILLIP M. MOULD PROFESSIONAL SURVEYOR AND MAPPER #6515 - STATE OF FLORIDA	
DATE OF LAST FIELD WORK: 8/18/18			HARRIS-JORGENSEN, LLC. 3046 DEL PRADO BLVD. S. 3A CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921	
DRAWN: RBH	CHECK: PMM	SCALE: 1"=20'		PROJ. #: CC-U64-4518-29
SURVEY DATE: 8/18/18	FILE NO.: 45-23-15	SHT.: 1		OF: 1
FLORIDA CERTIFICATE OF AUTHORIZATION LB #6921				

Planning Division Case Report
DE18-0025

Review Date: October 17, 2018

Owner/Applicant: Mike Kazlauskas

Authorized Representative: Jimmy Williamson

Request: A 199 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 1,399 sq. ft.

Location: 5116 SW 12th Place, Block 4518, Lots 29-30

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 13,381-sq. ft. site has a single-family home and dock with boat lift. The site is at the intersection of Gloriana Canal and Volunteer Canal and has about 150 ft. of water frontage. The canal width at the site is ranges from 120-265 ft. The surrounding area consists primarily of single-family homes. The site and all surrounding properties have a Single Family (SF) Future Land Use Classification and Single Family Residential (R-1B) Zoning.

Project Description:

The applicant proposes to construct a 1,399 sq. ft. dock with a boat slip, a jet ski slip, two lifts, and tiki hut. 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 345-sq. ft. deviation to allow a marine improvement that is 1,399sq. 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 150 ft. of water frontage and a maximum allowable projection of 30 ft. Applying the water frontage and allowable projection for the site, the following formula calculates the maximum area for a marine improvement.

$$(150 \text{ Frontage}) - 20 \times \frac{1}{2} (30 \text{ projection}) = 1,950 \text{ sq. ft.}$$

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 projection into the canals. These improvements also comply with the 12 ft. side setbacks. There is sufficient width in the canals to accommodate the dock, and the dock should not interfere with navigability or views of the waterway.

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

The intent of the regulation is to protect 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 a maximum area of 1,950 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 greater water frontage, like the subject site.

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

The applicant has a property with 150 ft. of water frontage, which is about twice as great when compared to most platted two-lot sites. 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 significantly larger than 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 less than 25% of the canal width or 29 ft. 4 in. into Gloriana Canal. The marine improvement will have no effect on the ability of others to navigate in this canal.

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 does not exceed the maximum area of 1,950 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 meets all setback requirements. The dock should have no negative effect on existing marine improvements in the canal.

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 1,399 sq. ft. dock is less than the 1,950 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 given the amount of water frontage of the site.

Comprehensive Plan:

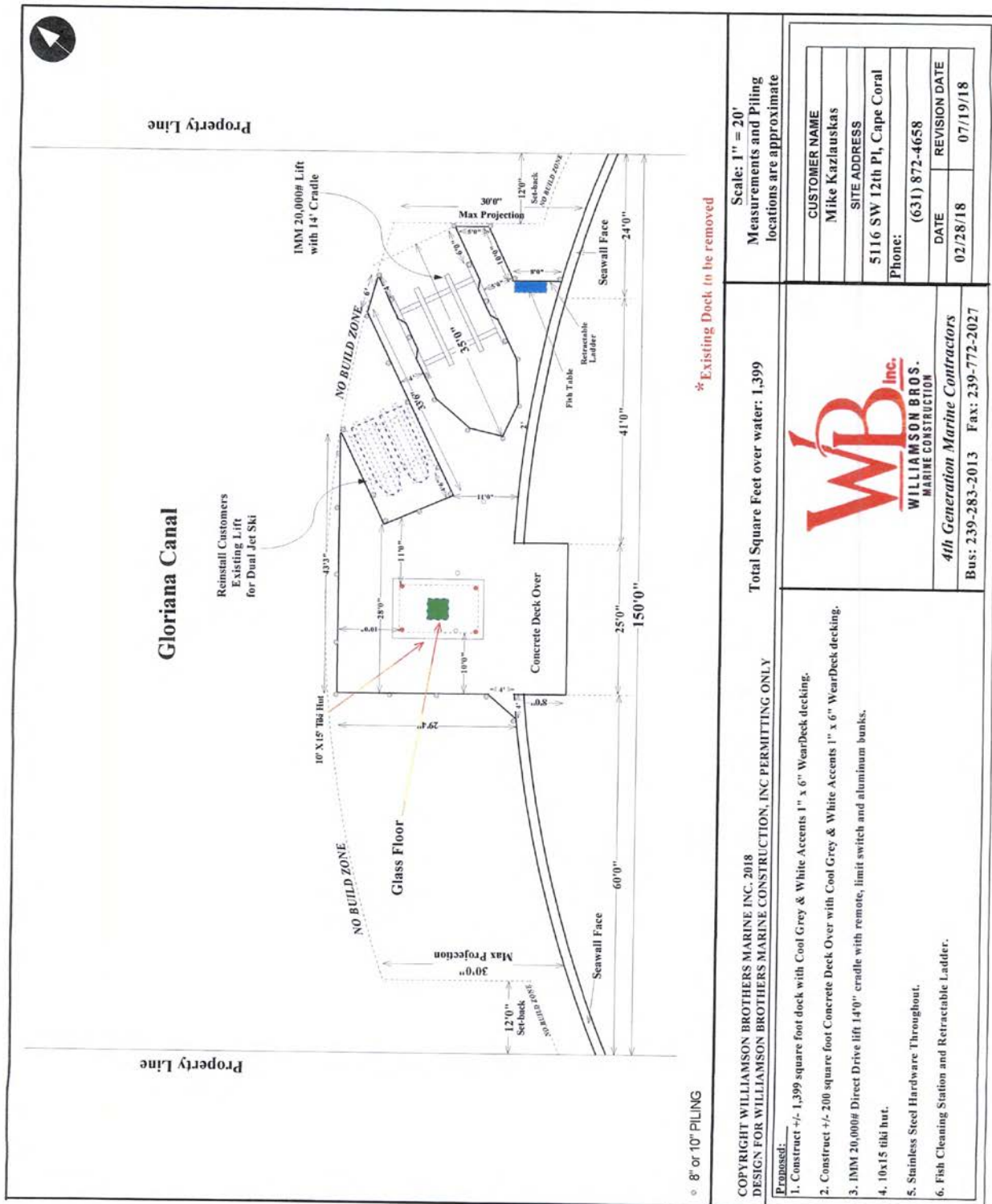
The project is consistent with Objective 1.3 and Policy 1.3.5 of the Conservation and Coastal Management Element of the Comprehensive Plan. The deviation does not propose introducing any new fueling or repair facilities in a residential area.

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 the sketch plan shown in Exhibit 1, provided by Williamson Bros. Marine Construction, bearing a revision date of 7/19/18.

Exhibit 1:





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: DE18-0025

REQUEST: A 199 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 1,399 sq. ft.

LOCATION: 5116 SW 12th Place, Block 4518, Lots 29-30

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

PROPERTY OWNER(S): Mike Kazlauskas

AUTHORIZED REPRESENTATIVE: Jimmy Williamson

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, November 13, 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 (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

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

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

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USA

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Run Times: 1

No. of Affidavits: 1

Run Dates: 11/03/18

Text of Ad:

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by order of
Rebecca van Deutekom, MMC
City Clerk
REF # DE18-0025
AD# 3233966 Nov. 3, 2018

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Michael Kazauskas

APPLICATION NO: DE18-0025

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 5th day of November, 2018.

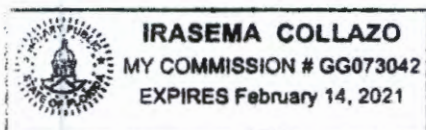
Vincent A. Cautero

Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

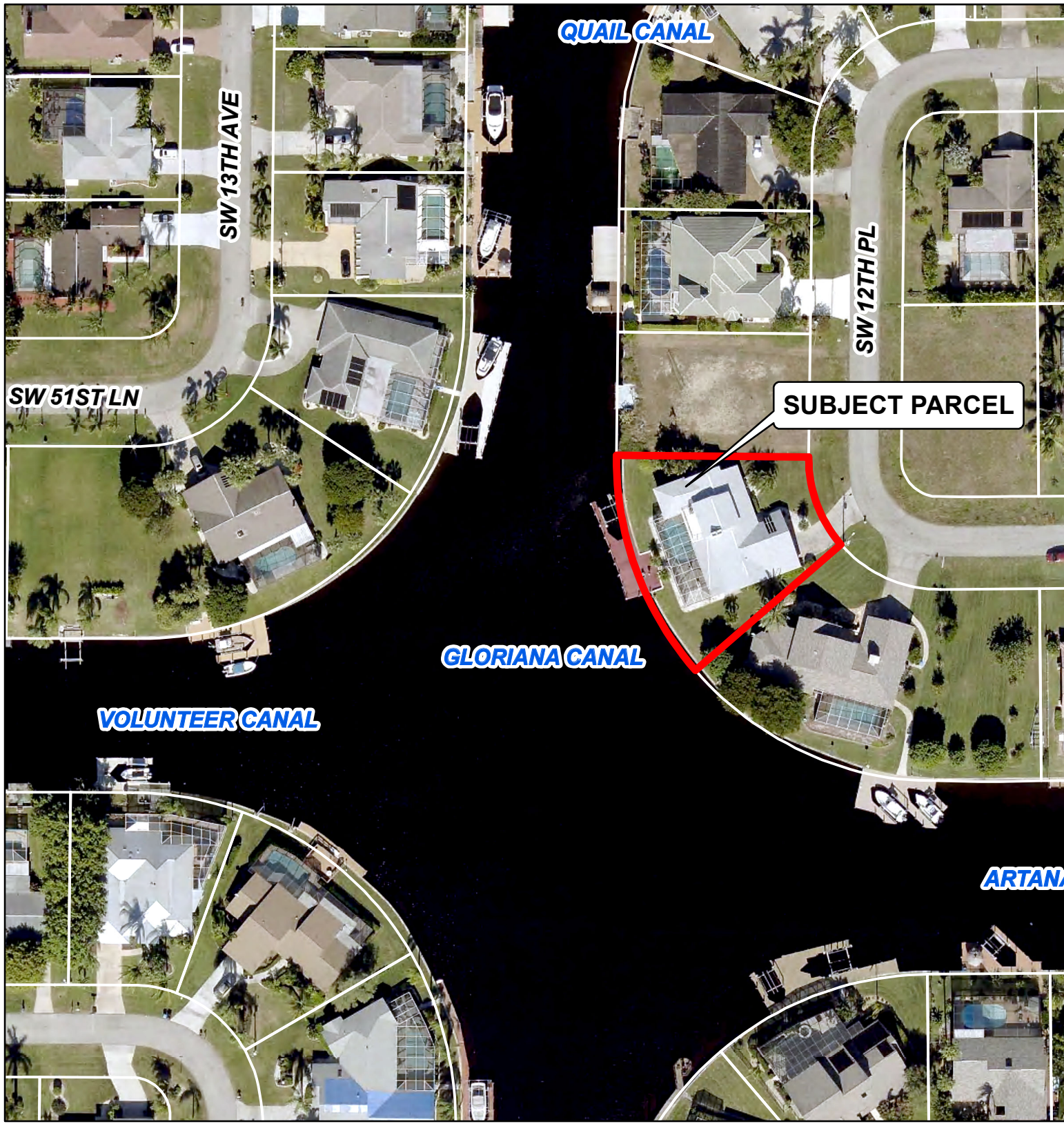
The foregoing instrument was acknowledged before me this 5th day of November, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 2/14/21 Commission # CG073042



Irasedma Collazo
Signature of Notary Public

IRASEMA COLLAZO
Print Name of Notary Public



SW 51ST TER

SW 13TH AVE

SW 12TH PL

SUBJECT PARCEL

SW 51ST LN

GLORIANA CANAL

VOLUNTEER CANAL

ARTANA

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. DE18-0025

 Subject Parcel



OCTOBER 5TH, 2018

0 Feet
80 160


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


CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Boundary

Case No. DE18-0025

LEGEND

 500' Proximity Boundary

 Subject Parcel

Zoning

 R-1B

 R-3



OCTOBER 5TH, 2018



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