

**AGENDA
PLANNING BOARD**

March 4
1:00 o'clock p.m.



PLANNING BOARD					
Jonathan Hart Ward 1	Charles Timmons Ward 2	Vacant Ward 3	Darlene Mitchell Ward 4	William "Tim" Keene, Ward 5	James Michael Ink Ward 6 Vice-Chair
Matt Leger Mayor's Appointment	Justin Stockman At Large Chair	Mariah Bakke At Large	Vacant At Large	Vacant At Large	

CITY COUNCIL CHAMBERS, 2200 SECOND STREET, FORT MYERS, FLORIDA

AGENDA

Please complete a "Request to Speak" form if you plan to address the Planning Board and submit to the recording secretary prior to the start of the meeting.

CALL TO ORDER

Pledge of Allegiance to the Flag of the United States of America	
Roll Call	
Approval of Minutes: August 2019 October 2019 November 2019 December 2019	
PUBLIC INPUT - NON-PUBLIC HEARING AGENDA ITEMS: (Four (4) minute time limit per speaker).	
1. PUBLIC HEARING: Consider an amendment to the Land Development Code Chapter 122, Public Facilities.	

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1:00 o'clock p.m.



2.	PUBLIC HEARING: Consider a request to vacate the platted 10' alley which bisects the lots within Block 27 of Evans Additions No. 2 Plat, as recorded in Plat Book 2, Page 1A. Ward 3 (Quasi-Judicial)	
Adjourn		

If a person decides to appeal any decision made by Planning Board 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.

Special Requirements: If you require special aid or services as addressed in the Americans with Disabilities Act, please contact the City Clerk's Office at (239) 321-7035 or for the hearing impaired, TDD telephone number (239) 332-2541.

**CITY OF FORT MYERS
PLANNING BOARD MEETING
(LOCAL PLANNING AGENCY)
MEETING MINUTES FROM AUGUST 7, 2019**

The Planning Board for the City of Fort Myers met in regular session at Oscar M. Corbin, Jr. City Hall, Council Chambers, 2200 Second Street, its regular meeting place in the City of Fort Myers, Florida, on Wednesday, August 7, 2019, at 1:00 p.m.

CALL TO ORDER – Chair, Justin Stockman, called the meeting to order at 1:02 p.m.

ROLL CALL

Recording Secretary Monique John completed roll call; all members present except William Keene, James Ink and Derrick Isaac.

Members Present

Darlene Mitchell
Justin Stockman
Jonathan Hart
Charles Timmons
Matthew Leger
Greg Fous

Members Absent

Derrick Isaac
James Ink
William Keene

Community Development Staff Present

Steven Belden, Community Development Director
Anthony Palermo, Assistant Community Development Director
Laura Tefft, Senior Planner
Monique John, Senior Staff Assistant

Other City Staff Present

Travis Cary, Assistant City Attorney
Gwen Carlisle, City Clerk
William Porter, Engineering Division, Staff Engineer

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City Clerk, Gwen Carlisle, swore in Matthew Leger for the Oath of Office.

Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF MINUTES: It was **moved** by Mr. Fous and **seconded** by Ms. Mitchell to approve the minutes from the 6 p.m. meeting on April 3, 2019. The Motion **passed unanimously** 6-0.

APPROVAL OF MINUTES: It was **moved** by Mr. Fous and **seconded** by Mr. Hart to approve the minutes from the minutes from May 1, 2019. The motion **passed unanimously** 6-0.

PUBLIC INPUT – NON-PUBLIC HEARING AGENDA ITEMS – None

NO. 1 EX PARTE: None

NO. 1 PUBLIC HEARING: CONSIDER A REQUEST TO REZONE TWO PARCELS OF LAND ZONED COMMERCIAL INTENSIVE (CI) TO THE HEAVY INDUSTRIAL (IH) ZONING DESIGNATION. THE PROPERTIES CONSISTING OF 10.20 ACRES, MORE OR LESS, ARE LOCATED AT 9039 HIGH COTTON LANE AND IDENTIFIED BY STRAP NUMBERS 15-44-25-P4-00100.0130 AND 15-44-25-P4-00061.0000. (QUASI-JUDICIAL)

STAFF REPORT

PUBLIC HEARING: Agenda Item #1 Consider a request to rezone two parcels of land consisting of 10.20 acres, more or less, located at 9039 High Cotton Lane and identified by STRAP Numbers 15-44-25-P4-00100.0130 and 15-44-25-P4-00061.0000 zoned Commercial Intensive (CI) to the Heavy Industrial (IH) zoning

1. Application Information

designation. (Quasi-Judicial)

Owner:	9039 High Cotton LLC
Agent:	Brian R. Smith, Ensite, Inc.
Address:	9039 High Cotton Lane, Fort Myers, FL 33905
Location:	East end of High Cotton Lane within High Cotton Lane Industrial Park, North of Dr. Martin Luther King Jr. Blvd., west of I-75 and south of Laredo Ave.
Size:	10.20 acres, more or less
STRAP No.:	15-44-25-P4-00100.0130 & 15-44-25-P4-00061.0000
Zoning:	Commercial Intensive (CI)
Future Land Use:	Industrial (IND)

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Request:	The rezoning of two parcels of land zoned Commercial Intensive (CI) to the Heavy Industrial (IH) zoning designation.
Case Number:	19RZ01

2. Request

Brian R. Smith, Ensite, Inc., representing the owner, request approval for the rezoning of two parcels of land zoned Commercial Intensive (CI) to the Heavy Industrial (IH) zoning designation. The rezoning will allow the property to include additional uses consistent with the surrounding industrial uses. A site plan is not required for the rezoning application and is not included.

3. Staff Review

The Fire Marshall, Public Works Department and Engineering Division staff reviewed the rezoning request and have no objections or comments. Planning staff supports the rezoning of the parcel from Commercial Intensive (CI) to Heavy Industrial (IH).

4. Comprehensive Plan Compliance

The Comprehensive Plan policies, the current action and standards that apply is Future Land Use Element, Policy 1.11 for **Industrial (IND)**:

Policy 1.11) Designate areas on the Future Land Use Map as Industrial (IND) that are areas integral to strengthening the City's economic base and future growth. These are the areas to which the City looks for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special location requirements, including transportation needs (e.g., air, rail, interstate access, and immediate access to arterial roadways); industrial levels of water, sewer, and fire protection; and are centrally located to reduce employee commuting distances. The Industrial areas contain research and development, laboratories, industrial activities, commercial and office uses; selective land use mixtures of industrial, manufacturing, research, and development, laboratories and office uses supporting the preceding uses; and properly buffered recreational uses. Expansion to heavy industrial uses in light industrial zones will require site plan and use approval through the Planned Unit Development process. Special consideration will be given to projects incorporating Leadership in Energy Efficient Design (LEED) standards. Residential uses are not permitted. New development or substantial expansion of existing industrial adjacent to incompatible land use districts may be approved through the Planned Unit Development process. Residential uses are not permitted on land within this land use district. Development intensities are limited to a floor area ratio of one (1 FAR).

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5. Public Notice

A total of 17 public notice letters were sent to property owners within 300 feet of the parcel. The property was posted with two signs alerting the general public about the case; an ad ran in the News-Press; and the case was posted in City Hall. All actions occurred at least 10 days prior to the August 7, 2019, meeting. One email of objection was received on June 24, 2019 and is attached to the staff report. No letters were returned undeliverable as of July 29, 2019.

6. Staff Recommendation

Staff finds the request for rezoning the of parcels located at 9039 High Cotton Lane, identified by STRAP Numbers 15-44-25-P4-00100.0130 and 15-44-25-P4-00061.0000, consistent with the Comprehensive Plan and Land Development Code, and staff recommends approval of the rezoning.

7. Recommended Action

Recommend approval of the request for rezoning of 10.2 acres, more or less, located at 9039 High Cotton Lane and identified by STRAP Numbers 15-44-25-P4-00100.0130 and 15-44-25-P4-00061.0000 consistent with the Comprehensive Plan and Land Development Code; and recommend approval to City Council.

END STAFF REPORT

Laura Tefft, Senior Planner for the City of Fort Myers, gave a brief overview of the 9039 High Cotton Lane rezone request.

Rose Marie Fusco, planner with Ensite Inc., agent for property owner, clarified that access to the site would be from High Cotton Lane and not be from Watts Road. She indicated that there is an application under review for the SIT permit.

At 1:26 p.m. Assistant City Attorney, Travis Cary, attended the meeting.

Mr. Stockman opened Public Comment in which there were none.

It was **moved** by Mr. Fous to recommend **approval** for the requested item with staff recommendations and the caveat that the current action standards apply to the Future Land Use element, **seconded** by Mr. Timmons and **unanimously approved** 6-0.

NO. 2 EX PARTE: None

NO. 2: PUBLIC HEARING: CONSIDER A REQUEST FOR A PLANNED UNIT DEVELOPMENT (PUD) TO ALLOW A MULTI-FAMILY DEVELOPMENT INCLUDING OPEN RESIDENTIAL, OPEN OFFICE AND ARTISANAL USES WITH A MAXIMUM OF 13 DWELLING UNITS AT 2528 THIRD STREET TO BE KNOWN AS THE

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GARDNER'S PARK GROVE PLANNED UNIT DEVELOPMENT. THE 0.87 ACRE, MORE OR LESS, PARCEL IS ZONED URBAN GENERAL. (QUASI-JUDICIAL)

STAFF REPORT

PUBLIC HEARING: Agenda Item #2 Consider a request for a Planned Unit Development (PUD) to allow a multi-family development including open residential, open office and artisanal uses with a maximum of 13 dwelling units, at 2528 Third Street to be known as the Gardner's Park Grove Planned Unit Development. The 0.87 acre, more or less, parcel is zoned Urban General. (Quasi-Judicial)

1. *Application Information*

Owner:	Fort Myers Land and Homes, LLC
Agent:	Veronica Martin, TDM Consulting, Inc.
Address:	2528 Third Street, Fort Myers, FL 33901
Location:	East of Fowler and west of Evans Ave./Park Ave. with frontage on Third Street, Fourth Street and Hough Street
Size:	0.87 acres, more or less
STRAP No.:	13-44-24-P3-02502.0050
Zoning:	Urban General (U-GEN)
Future Land Use:	Downtown (D/T)
Request:	A Planned Unit Development (PUD) on property located at 2528 Third Street to allow the construction of a multi-family development.
Case Number:	18-PUD-06

2. *Request*

Veronica Martin, TDM Consulting, Inc., representing the owner, requests the approval of a Planned Unit Development (PUD) to construct a multi-family development consisting of a mix of housing types with a maximum building height of 45 feet/three (3) stories to be located at 2528 Third Street. The proposed development requests a maximum of 15 dwelling units per acre (13 dwelling units) to include multi-family residential, artisanal, and open office uses as permitted in the Urban General zoning district. This property is permitted 10 dwelling units by right (12 du/ac x 0.87 ac = 10.44 du) and is requesting the 30% additional bonus units (15 du/ac x .87 ac = 13 du).

3. *Staff Review*

I. Schedule of Uses: The uses permitted on this site shall comply with the allowable uses of multi-family residential, artisanal, and open office uses as permitted in the Urban General zoning district.

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II. Warrants (Deviations from the Smart Code): The list of warrants proposed are as follows:

- (1) **Land Development Code Requirement:** Section 118.8.6.f.1. Urban General Summary Table. Residential Base Density of 12 units per acre maximum.
Warrant: Permit a Residential Base Density of 15 dwelling units per acre (13 dwelling units).
- (2) **Land Development Code Requirement** Section 118.8.6.f.1. Urban General Summary Table, Setbacks and Section 118.5.b.1.b Urban General zoning district regulations, setbacks. Front setback: 15 foot minimum, 25 foot maximum. Side setback: 5 foot minimum, 30 foot maximum. Rear setback: 10 foot minimum.
Warrant: Allow a minimum setback of 10 feet to Third Street, a minimum setback of 10 feet to Fourth Street, a minimum setback of 7.5 feet to Hough Street, and a minimum side setback of 5 feet.
- (3) **Land Development Code Requirement:** Section 118.8.5.a.6.f Parking lots abutting residential uses shall be secured by a combination of a solid six-foot wall of masonry or other materials as approved by the director, with four shade trees and 25 shrubs every 100 linear feet.
Warrant: Allow the parking lot adjacent to residential uses to have a modified wall and vegetation.
- (4) **Land Development Code Requirement:** Section 118.8.5.B.1.e Entrance orientation. Buildings shall have their principal entrances facing the street, however if physical constraints result in a condition where a side-facing entrance better complies with the intent of the downtown plan and urban-general district, a side-facing entrance may be approved by warrant as provided in section 118.8.3.
Warrant: Permit the buildings on Third Street and Fourth Street to have a side-facing principal entrance.
- (5) **Land Development Code Requirement:** Section 118.8.8.5.B.5.b Architectural Standards. Buildings shall have sloped roofs.
Warrant: Permit the Multi-family building identified as "Sage" to have a flat roof. If mechanical equipment is located on the roof it shall have a parapet wall a minimum of 42 inches.

III. Terms and Conditions: The terms and conditions for the Planned Unit Development (PUD) are as follows:

- a. This Planned Unit Development (PUD) known as Gardner's Park Grove Planned Unit Development (PUD) is for the construction of a maximum of 15 dwelling units per acre (13 dwelling units), containing multi-family residential, artisanal, and open office uses with a maximum building

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height of 45 feet/three (3) stories as permitted in the Urban General zoning district, Land Development Code Section 118.8.5.B.

- b. Bonus density shall be awarded on a percentage basis, per Land Development Code Section 118.8.5.A.4.a.1. Parcels greater than 0.5 acres. In addition to the base density, intensity and height allowed within the underlying zoning district, a 30% bonus density, intensity and height may be awarded to parcels which are greater than 0.5 acres. The base maximum density for this site is 12 dwelling units per acre with a 30% bonus density of 3.6 dwelling units per acre for a total of 15.6 dwelling units per acre. The size of the property is 0.87 acres; therefore, the site is eligible for a maximum density of 13 dwelling units per acre.
- c. Community contribution fee per Land Development Code Section 118.8.5.A.4.b. Upon approval of bonus density allocation by the city council, the developer/applicant shall pay a community contribution fee in the amount of \$10,000.00 per approved bonus dwelling unit that the city shall deposit in a community contribution fund. The funds shall be used for costs associated with the development of affordable/workforce housing, public open space/recreation areas, infrastructure improvements, public transportation, public parking, or other community facilities and amenities within the downtown and midtown areas only. Multi-phased projects may pay their community contribution fees at the time of building permit issuance for each phase. The request is for 3 bonus dwelling units for a total of \$30,000.
- d. The Planned Unit Development shall be constructed in accordance with the PUD Site Development Plan, Sheet 1, prepared by TDM Consulting, Inc., with a revision date of May, 2019; and the landscaping shall be installed in accordance with the Landscaping Plan, Pages L-1 and L-2, prepared by Gregory J. Diserio, Registered Landscape Architect, David M. Jones, Jr. and Associates, Inc. with an issue date of Jan. 31, 2019.
- e. Approve the warrants as contained in this staff report. Additionally, the applicant shall comply with all other requirements of the Land Development Code.
- f. The timeframes for construction are as follows: apply for building permits by July 15, 2024 commence construction by July 15, 2025 and complete all construction by July 15, 2029. If for any reason, the Developer is not able to meet the timeframes set forth above, the Developer must, no later than ninety (90) days prior to expiration of any of the timeframes set forth above, provide written notice to the City indicating its anticipated failure to meet the timeframes and provide a detailed explanation of the reason.
- g. The terms, conditions, and warrants for the Gardner's Park Grove Planned Unit Development, as reflected on the site development plan by

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TDM Consulting, Inc., with a revision date of May, 2019; and the landscaping plan, prepared by Gregory J. Diserio, Registered Landscape Architect, David M. Jones, Jr. and Associates, Inc. with an issue date of Jan. 31, 2019 and on file in the City Clerk's Office, set forth in this ordinance shall be binding on the Developer, its successors or assigns.

4. Comprehensive Plan Compliance

The Comprehensive Plan policies, the current action and standards that apply is **Downtown (D/T) Policy 1.7** as follows:

Policy 1.7) Areas on the Future Land Use Map designated as **Downtown (D/T)** in accordance with Map E will be redeveloped as the pre-eminent regional mixed-use development center. Properties located within the Downtown Historic District shall be developed or redeveloped in accordance with this policy and the Historic Preservation Element of the Comprehensive Plan. The maximum base (not including bonus) density allowed within the D/T District is 70-units/acre and the maximum base (not including bonus) intensity for non-residential uses is eight (8) FAR. The maximum densities and intensities for each zoning district shall be further defined by the Land Development Regulations. Additional density, intensity (FAR) and height may be approved only through the bonus incentive program, as described in Policy 1.9 and as implemented through standards and procedures in the Land Development Regulations. Bonus shall be approved through the Planned Unit Development process.

Action 1.7.1) Designate on the City's Zoning Map and provide land development regulations for uses appropriate for the redevelopment and revitalization of Downtown Fort Myers and the standards below, with institutional uses such as nonprofit organizations, schools, and churches and related uses allowed in all land use categories except Civic.

Policy 1.17) Within each land use classification, the Land Development Regulations shall distinguish between permitted uses and conditional uses. Planned Unit Development requirements shall be established in the Land Development Regulations.

Action 1.17.3) A Planned Unit Development is designed and developed in an integrated and cohesive fashion, under single ownership or unified control, providing for flexibility and clustering of uses. Specific standards and criteria shall be met in order for developments to be approved as a Planned Unit Development.

Policy 1.9) Bonus Incentive Program. The Bonus Incentive Program shall allow additional density, intensity, and height for new developments and redevelopment in the Downtown Future Land Use District and Midtown Future Land Use District, where appropriate. The number of bonus density residential dwelling units and the amount of bonus non-residential intensity available shall be based on surplus utility

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capacity, which is depicted geographically on Map F. Standards and procedure for awarding of bonus density, intensity, and height shall be specified in the Land Development Regulations, however the allowable bonus density and intensity shall not exceed the available surplus equivalent units as quantified based on utility system capacity on Map F. Any development or redevelopment project that is awarded for bonus density, intensity, or height is subject to a bonus incentive requirement, the standards and procedures for which shall be outlined in the Land Development Regulations. The cost of new infrastructure improvements necessary for the construction of any development will be paid by the developer. The City Manager or designee shall keep an account of all surplus equivalent dwelling units built and surplus equivalent dwelling units granted to approved, but unbuilt, developments.

Action 1.9.1) Bonus shall be awarded in accordance with the following parameters:

Standard 1.9.1.1) The maximum bonus that may be awarded for any development on any parcel that is greater than 0.5 acres is 30% of the base maximum.

Action 1.9.2) Bonus shall be approved through the Planned Unit Development process as described in the Land Development Regulations.

5. Public Notice

A total of 46 public notice letters were sent to property owners within 300 feet of the parcel. The property was posted with a sign alerting the general public about the case; an ad ran in the News-Press; and, the case was posted in City Hall. All actions occurred at least 10 days prior to the August 7, 2019, meeting. No comments or objections were received as of July 29, 2019.

6. Staff Recommendation

Staff finds the Gardner's Park Grove Planned Unit Development (PUD) at 2528 Third Street consistent with the Comprehensive Plan and Land Development Code and staff recommends approval of the request with the warrants and conditions contained in this staff report.

7. Recommended Action

Recommend approval of the Gardner's Park Grove Planned Unit Development at 2528 Third Street to allow the maximum of a 13 dwelling unit multi-family development, consisting of a mix of housing types with a maximum building height of 45 feet/three (3) stories, in accordance with the site development plan, warrants, and terms and conditions; and find the request consistent with the Comprehensive Plan and the Land Development Code; recommend approval of the project to the City Council.

END STAFF REPORT

Laura Tefft, Senior Planner for the City of Fort Myers, gave a brief overview of the rezone request.

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Veronica Martin, Senior Planner at TDM Consulting Inc., representing the owner, passed out a presentation packet to the Board regarding the agenda item. (See Exhibit 1)

Jerry Miller, property owner, gave a short presentation on the proposed project being requested.

Ms. Martin presented additional information on the proposed agenda item including architectural renderings of the proposed buildings.

Mr. Fous asked what the square footage of the smallest unit would be. Mr. Miller advised the square footage would be 750. Discussion was held regarding the density. Mr. Fous asked if the intention was to sell the property or to rent it and Mr. Miller advised that he planned on selling the buildings.

Mr. Timmons questioned which building had a nine (9) foot setback. Ms. Martin advised it would be the building located on Hough Street and that TDM Consulting is requesting for a variance of 7.5 feet for that setback rather than setback of 14 feet. Mr. Timmons stated that he feels that with the requested setbacks, the buildings are too close to the street and also take away from the aesthetics of the development.

Mr. Miller stated that there is only room for one (1) commercial unit on the property. Mr. Stockman stated that he would like to have it clarified that if the commercial building is placed on the property, there will be sufficient parking for everyone. Mr. Miller advised that if the commercial building is approved, then the staff would do calculations and make sure that the correct amount of parking spaces are installed in order to be compliant.

Mr. Stockman inquired if there would be any sidewalks. Ms. Martin advised that because driving area is considered an internal driveway and not a right of way, sidewalks are not required, however TDM Consulting would still be attempting to install sidewalks during the permitting process to provide a more pedestrian friendly facility.

William Porter, Staff Engineer, stated that the area is deemed an internal driveway and not a right of way, therefore the installation of sidewalks is not be required. Mr. Miller advised the Board that TDM Consulting will do their best to install sidewalks where possible during construction.

Mr. Stockman opened the meeting for public comment, seeing none, the item was closed for public comment and brought back to the Board for discussion and motion.

It was **moved** by Mr. Fous to recommend **approval** of staff recommendations for the proposed agenda item and **seconded** by Ms. Mitchell.

Mr. Timmons asked if there will be any sidewalks along the building on Hough Street. Mr. Miller advised that sidewalks will be provided in as many places as possible

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during construction and that there will also be an entrance into the building at the front.

Mr. Stockman stated that he would support moving forward with the motion, as long as it is in writing from the Planning Board to recommend to City Council the applicant address concerns regarding adequate parking for the commercial building whether it be a single unit building or two (2) unit commercial building and the access point from the parking lot to the front of the building. Mr. Stockman asked Mr. Timmons if he would agree to amend his motion.

Mr. Timmons stated that he agreed to **amend the motion** to support the conditions given by Mr. Stockman and the Board, Ms. Mitchell **seconded** the motion.

Mr. Hart stated that he did not agree with the conditional motion as he feels stipulating parking is not in the Boards purview.

Mr. Stockman called the motion to a vote, and the vote **passed** 5-1.

NO. 3: PUBLIC HEARING: CONSIDER A REQUEST FOR AN AMENDMENT TO THE FUTURE LAND USE MAP TO CHANGE 68.5 +/- ACRES OF THE 153.9 +/- ACRES OF PROPERTY LOCATED AT 5990 LUCKETT ROAD AND IDENTIFIED BY STRAP NUMBERS 15-44-25-P2-U2086.4854, 15-44-25-P2-U2085.4802, 15-44-25-P2-U2095.4843, AND 15-44-25-P3-U2077.4781 FROM CORRIDOR COMMERCIAL (C/C) TO INDUSTRIAL (IND) WITH THE REMAINING PROPERTY TO REMAIN INDUSTRIAL (IND) AND CONSERVATION (CON).

Mr. Stockman closed agenda item number 3 and reopened the first two (2) agenda items for all witnesses to be sworn in. Prospective witnesses and those persons that presented testimony were duly sworn by Travis Cary, Assistant City Attorney.

Mr. Stockman closed agenda items NO. 1 and 2 and reopened agenda item NO 3.

Laura Tefft, Senior Planner for the City of Fort Myers gave a brief overview of the request to amend the Future Land Use Map and stated that a Planned Unit Development application was received on August 6, 2019 but had not been reviewed by staff.

STAFF REPORT

PUBLIC HEARING: Agenda Item #3 Consider a request for an amendment to the Future Land Use Map to change 68.5 +/- acres of the 153.9 +/- acres of property located at 5990 Lockett Road and identified by STRAP Numbers 15-44-25-P2-U2086.4854, 15-44-25-P2-U2085.4802, 15-44-25-P2-U2095.4843, and 15-44-25-P3-U2077.4781 from Corridor Commercial (C/C) to Industrial (IND) with the remaining property to remain Industrial (IND) and Conservation (CON). (Quasi-judicial)

1. Application Information

Owner:	Lockett Industrial LLC
Agent:	E. Bruce Strayhorn, Esquire
Address:	5990 Lockett Road, Fort Myers, FL
Location:	Southeast Quadrant of I-75 and Lockett Road
Size:	153.87 +/- acres
STRAP No.:	15-44-25-P2-U2086.4854, 15-44-25-P2-U2085.4802, 15-44-25-P2-U2095.4843, 15-44-25-P3-U2077.4781
Zoning:	Commercial Intensive (CI) and Mixed Use (MU)
Future Land Use:	Industrial (IND), Corridor Commercial (C/C) and Conservation (CON)
Request:	Amend the Future Land Use Map classifications from Corridor Commercial (C/C) to Industrial (IND)
Case Number:	18-MAP-04

2. Request

E. Bruce Strayhorn, Esquire, agent for the Owner, is requesting to amend the Future Land Use Map for a 68.5 +/- acre portion of the 153.9 +/- acres of property located at 5990 Lockett Road and identified by STRAP Numbers 15-44-25-P2-U2086.4854, 15-44-25-P2-U2085.4802, 15-44-25-P2-U2095.4843, and 15-44-25-P3-U2077.4781 from Corridor Commercial (C/C) to Industrial (IND) to allow for future development. It is the intent of the present property owner to apply for a Planned Unit Development (PUD) to be approved concurrently with the adoption of the Future Land Use Map Amendment.

3. Staff Review

Lockett Industrial LLC is requesting a Future Land Use Map Amendment to change the classification of 68.5 +/- acres of the 153.9 +/- acres of property identified as Corridor Commercial (C/C) to Industrial (IND) for the property as identified by STRAP Numbers 15-44-25-P2-U2086.4854, 15-44-25-P2-U2085.4802, 15-44-25-P2-

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U2095.4843, and 15-44-25-P3-U2077.4781. The remainder of the property will maintain its Future Land Uses classification of Industrial (IND) and Conservation (CON). The maximum intensity of development attainable with the proposed Land Use Designation of Industrial (IND) is a total of 5,771,700 square feet (SF) with the remaining 932,184 SF located in Conservation Land (CON).

The subject property is located within the City of Fort Myers but properties to the east, north and part of the property to the west are located in unincorporated Lee County. The properties within the City of Fort Myers to the south are within the Conservation and Commercial Corridor Future Land Use Categories. The property within the City of Fort Myers to the west is located within the Industrial Future Land Use Category. The unincorporated Lee County properties are within the following Lee County Future Land Use Categories:

- West - Intensive Development
- North – Industrial Interchange
- North East & East – Urban Community

The proposed amendment is consistent with existing surrounding uses. The amendment will have no negative impact on historical and cultural resources. The impacts to public services are based on the maximum development potential for both the site’s existing future land use categories and the proposed future land use category. The Transportation Impact analysis and the Utility analysis are also based on those parameters.

Maximum Development Scenarios Pre and Post Amendment

CURRENT FUTURE LAND USE CATEGORIES

Future Land Use*	Acreage	Residential Density	Commercial Intensity (sq. ft.)	Industrial Intensity (sq. ft.)
Commercial Corridor	75	1,875 units (25 du/acre)	9,801,000 (FAR =3.0)	N/A
Industrial	79	N/A	N/A	3,441,240 (FAR=1.0)
Total	154			

PROPOSED FUTURE LAND USE CATEGORY

Future Land Use*	Acreage	Residential Density	Commercial Intensity (sq. ft.)	Industrial Intensity (sq. ft.)
Industrial	153.9			5,771,7000 (FAR = 1.0)

*Areas include Conservation lands to be preserved.

Both Parks and Schools have level of services determined by seasonal and year-round residential units. Under the current 75 acres of Commercial Corridor Future land use

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on site, the property could have up to 1,875 multi-family residential dwelling units. The Lee County School Board uses a student generation rate of .091 students per multi-family unit. This would generate approximately 171 students under the current future land use. The proposed future land use does not allow for residential development and would therefore not generate any students or impacts to the School District. Development under the proposed future land use would however generate tax revenues for the School District despite not generating any impacts.

Similarly, for Parks and Recreation, the existing future land use category, which would allow for 1,875 residential units, would have an impact on the demand for public parks. Standard 1.1.3.1 of the Fort Myers Comprehensive Plans lists 1 acre for 1,000 people for Community Parks and 2.5 acres for 1,500 people for Neighborhood Parks.

According to 2010 census data, the City of Fort Myers had a population of 62,298 people with a total of 37,057 residential units. This would equate to approximately 1.7 people per unit. With a total potential population of 3,188 people for the property, the current future land use would therefore generate a need for an additional 3 acres of Community Park area and 5 acres of Neighborhood park area. However, the proposed future land use category of Industrial does not generate any population or need for additional park area.

It is the intent of the present owner to apply for a Planned Unit Development (PUD) to be approved concurrently with the adoption of the Future Land Use Map Amendment.

4. Comprehensive Plan Compliance

The Comprehensive Plan policies, actions and standards that apply **are Industrial (IND) Policy 1.8** and **Conservation Lands (CON) Policy 1.11** as follows:

Policy 1.8) Industrial (IND) contains areas integral to strengthening the City's economic base and future growth. These are the areas to which the City looks for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special location requirements, including transportation needs (e.g., air, rail, interstate access, and immediate access to arterial roadways); industrial levels of water, sewer, and fire protection; and are centrally located to reduce employee commuting distances. The Industrial areas contain research and development, laboratories, industrial activities, commercial and office uses; selective land use mixtures of industrial, manufacturing, research, and development, laboratories and office uses supporting the preceding uses; and properly buffered recreational uses. Expansion to heavy industrial uses in light industrial zones will require site plan and use approval through the Planned Unit Development process. Special consideration will be given to projects incorporating Leadership in Energy Efficient Design (LEED) standards. Residential uses are not permitted. New development or substantial expansion of existing industrial adjacent to incompatible land use districts may be approved through the Planned Unit Development process. Residential uses are not permitted on land within this land use district. Development intensities are limited to a floor area ratio of one (1 FAR).

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Action 1.8.1) Designate well located areas on the Future Land Use Map and provide regulations within the Land Development Regulations for future industrial use.

Standard 1.8.1.1) Industrial areas shall be designated after consideration of the following criteria:

- a) Located in close proximity (ideally 2½ miles or less) to Interstate interchanges;
- b) Rail frontage;
- c) Immediate access to or frontage on an arterial roadway;
- d) Useable lot sizes-typically 200 feet or deeper;
- e) Distance from residences, schools, and historic districts or sites;
- f) Easy access for employees;
- g) Optimum minimum size of 10 acres; and,
- h) Located so as to avoid routing industrial traffic through residential areas.

Action 1.8.2) Designate as much existing industrial area for continued use as possible without jeopardizing good land use patterns.

Standard 1.8.2.1) Existing industrial areas are designated as contiguous areas of industrial use at least eight (8) acres in size, with no more than half of the area being vacant.

Standard 1.8.2.2) Existing industrial areas which do not meet the criteria contained in Standard 1.8.2.1 may still be designated for continued industrial use considering the following:

- a) Impacts on adjacent uses;
- b) Condition of structures;
- c) Economic feasibility of relocating the industries.

Standard 1.8.2.3) The Land Development Regulations shall maintain standards that ensure compatibility of industrial land uses with other land uses and to mitigate any adverse impacts to the adjacent property owners such as impacts caused by noise, glare, or fumes. Site specific development details will be reviewed during the Site Development Plan review process

Policy 1.11) Conservation Lands (CON) are areas containing regionally significant wetlands and/or uplands that are, or will be, owned and used for long-term conservation purposes. Conservation lands shall be shown as a separate category on the Future Land Use Map (FLUM) because they are regionally significant wetlands and uplands. These are areas where the South Florida Water Management District or the Army Corp of Engineers or the City, have required the conservation of lands, both uplands and wetlands, through easements, dedications or restrictions. Permitted land uses in conservation lands consist of very low-density residential uses, at a maximum density of one unit for twenty acres and passive recreational uses, requiring minimal clearing such as boardwalks, hiking, canoeing, and the like. If there are adjacent

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upland areas that are under common ownership, the permitted density of the conservation lands shall be the same as the upland area, but the dwelling units shall be developed on the adjacent uplands and subject to Standard 1.11.1.3. All regionally significant wetlands under public ownership are not permitted any residential densities. If density from wetland areas is going to be located on contiguous uplands, the property under common ownership shall be rezoned to a planned unit development. Utilities, public roads, and transit corridors can be located in conservation areas, but the installation shall be consistent with the Conservation and Coastal Management Element of this Comprehensive Plan.

Standard 1.11.1.1) Regionally significant wetlands are those wetlands which have been identified as wetlands in accordance with F.S. 373.019(17) and F.S. 371.019(22) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended by F.S. 373.4211, which are part of a regional functional system which due to the location, size, quality, hydrological value, and environmental value have a significance. Regionally significant lands are areas where the South Florida Water Management requires the conservation of the wetlands or uplands through easements, dedications, or restrictions. Regionally significant wetlands are those wetlands identified on the FLUM as conservation lands.

Standard 1.11.1.2) Drawn boundaries will be based on those submitted on the regulating agency's permit application and will be adjusted to match the final issued permit.

Standard 1.11.1.3) Residential density transfer from CON lands to any other Future Land Use classification (east of Interstate 75) for adjacent uplands shall not exceed 1.33 times ($1.33 * X$) the maximum allowable gross density of the adjacent uplands. (e.g. If the gross residential density on the adjacent uplands is three (3) dwelling units per acre then the maximum upland (net) density of the overall site shall be 3.99 dwelling units per acre. Net upland shall include land not designated by the Water Management District, Army Corp of Engineers, or the City as Conservation Lands through easements, dedications or restrictions.)

Standard 1.11.1.4) Wetlands that are not regionally significant will be designated as CON if required by the South Florida Water Management or Army Corp of Engineers.

Standard 1.11.1.5) All undeveloped City owned property along Billy's Creek shall be designated

5. Public Notice

A total of 37 public notice letters were sent to property owners within 300 feet of the parcel. The property was posted with signs alerting the general public about the case; an ad ran in the News-Press; and, the case was posted in City Hall. All actions occurred at least 10 days prior to the August 7, 2019 meeting.

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6. Staff Recommendation

Staff finds the Future Land Use Map amendment to change the classification of 68.5 +/- acres of the 153.9 +/- acres of property located at 5990 Lockett Road and identified by STRAP Numbers 15-44-25-P2-U2086.4854, 15-44-25-P2-U2085.4802, 15-44-25-P2-U2095.4843, and 15-44-25-P3-U2077.4781 from Corridor Commercial (C/C) to Industrial (IND), with the remaining property to remain Industrial (IND) and Conservation (CON) consistent with the Comprehensive Plan and Land Development Code. Staff recommends approval of the transmittal of the amendment to the Department of Economic Opportunity and other state, regional, and local agencies for formal review with the condition that the final adoption hearing for the Future Land Use Map Amendment be scheduled concurrently with the adoption of the Planned Unit Development (PUD).

7. Recommended Action

Recommend approval of the 5990 Lockett Road Future Land Use Map Amendment to change the classification of 68.5 +/- acres of the property identified as Corridor Commercial for the property located at 5990 Lockett Road, et.al.; and find the request internally consistent with the Comprehensive Plan and the Land Development Code. Recommend City Council approve transmittal of the amendment to the Department of Economic Opportunity and other state, regional, and local agencies for formal review with the following condition:

1. The final adoption hearing for the Future Land Use Map Amendment be scheduled concurrently with the adoption of the proposed Planned Unit Development (PUD).

END STAFF REPORT

Bruce Strayhorn, representative for the new owner of the property, stated that the property had been sold to the new owner since the agenda item was last heard at the May 1, 2019 meeting. Mr. Strayhorn stated that he had filed for a PUD (Planned Unit Development) as well since then.

Justin Stockman, Chairman of the Board, paused the presentations to request Ex Parte on this agenda item.

NO. 3 EX PARTE: None

Jennifer Sapen, Principal Planner for Barraco and Associates, passed out a copy of her presentation on the zoning update for the property since Barraco and Associates had applied for the property to be a PUD. (See Exhibit 2)

Mr. Stockman opened the Public Comment portion for the agenda item.

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Jimmy Picard, 5902 Burrwood Court, passed out two (2) land maps that were associated with his comments regarding the agenda item. (See Exhibit 3) Mr. Picard stated that most of the property owners are not local during season, therefore during the time of the meetings that the agenda item has been heard, enough owners were not able to speak on the agenda item. Mr. Picard stated that the property is a luxury RV resort. Mr. Picard also stated that there are concerns as far as the traffic and lighting, should the rezoning be approved, and also that the property values would diminish.

Jim Roope, 5551 Lockett Road A33, played a short video of Cypress Woods Lake produced by Mr. Picard, showing details about the RV resort.

Mark Ebelini, 1625 Hendry Street, stated that the PUD application for the Lockett Road properties are invalid as it is not consistent with the comprehensive plan. Mr. Ebelini also stated he has had extensive conversation with Mr. Strayhorn and had relayed the information to some of the residents of Cypress Woods RV resort. Mr. Hart asked which property Mr. Ebelini was representing. Mr. Ebelini stated he represents Phase 5 of the Cypress Woods Lakes Community.

Max Forgey, Forgey Planning Services, stated that the uses that would be on the property would be of concern to the residents. Mr. Forgey also stated that he would like a record of any future changes and uses that will be consistent with the Industrial Future Land Use category.

William Campos, 5730 Cypress Woods Resort Drive, stated that he is concerned that he did not get proper notification for the meeting. Mr. Campos also stated that the property would not be compatible with Industrial zoning and also that the traffic study that was done for the property was completed in off season, therefore the test was not accurate to the true indication of the traffic on the road.

Mark Conreux, 5551 Lockett Road Lot B14, stated that he is not in support of industrial development.

Donna Roope, 5551 Lockett Road A33, stated that she is against the change that could come from the rezoning of the property and also that the uses that would be on the property need to be discussed in more detail.

Sharon Hogg, 6190 Holstein Drive, stated that she is against the rezoning of the property.

Debra Kinsey, Holstein Drive, stated that she did not get any notifications for any of the meetings that have been scheduled in association with the Lockett Road request. Ms. Kinsey also stated that her daughter is not able to sell her home on the property due to the zoning and businesses that are behind the home already and that industrial would make the situation worse.

Mr. Hart explained to the public that the Board is only able to make recommendations to the City Council. The Board is not actually able to approve or deny any request. Mr. Hart also explained to the public that the request of the PUD is

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to change a property from Industrial to a Planned Unit Development (PUD), which would allow staff to negotiate with the developer regarding the uses to be permitted on the property. Mr. Hart asked for clarification regarding proper public notification and public notice signs for the meeting.

Laura Tefft, Senior Planner, stated that a sworn affidavit was provided, as well as photos, showing the time and date that the public notice signs for the meeting were placed, which was on July 23, 2019 at 7 p.m.

Mr. Fous asked about how the water flow of the properties inside Cypress Woods Lakes resort was altered. Mr. Strayhorn stated that there was an existing water management permit on the property as of current.

Mr. Fous asked Mr. Strayhorn to elaborate on the uses and the advantages to the surrounding properties with the PUD. Mr. Strayhorn stated that a PUD rezoning application had been submitted and that the benefit would be the knowledge of knowing the specific uses and where those uses would be allowed on the property. Mr. Fous asked for clarification on if the entrance would be at the end of the road, in which Mr. Strayhorn advised that was correct.

Mr. Stockman asked staff if Lockett Road, leading to I-75, is an arterial road. Mr. Porter advised that it is classified as an arterial road due to the amount of traffic on the road, and that there are also plans to widen the road. Mr. Stockman asked the staff to explain the PUD process and asked Mr. Strayhorn if he agreed with the "subject to" language that was proposed. Mr. Strayhorn stated he did agree.

Ms. Tefft addressed the question regarding the PUD process, stating that a PUD application was received from applicant and distributed to staff for review with copies being distributed to the engineering, planning and zoning, and fire departments. After the application is reviewed and comments received from staff, the comments would then be distributed to the applicant so that the comments may be addressed. Once all staff comments have been addressed, the PUD would then be brought back to the Planning Board at which time the public will be able to make comments about the PUD request as well. Ms. Tefft explained that once the PUD application is brought before the Planning Board for review, it will then be brought before City Council and at that time, the staff's intent is for the PUD and the Future Land Use Map Amendment to be presented to City Council at the same time for final adoption.

Mr. Hart asked how the public will have access to the information on the application. Ms. Tefft advised that the public may do a public records request for the application.

Mr. Strayhorn advised the Board that the full PUD application was provided to Mr. Ebelini.

Regarding the water management, Mr. Porter stated that when system plans come in, they are reviewed by the storm water manager.

Mr. Hart **moved** to recommend **approval** of the Future Land Use Amendment to City Council with the following condition:

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- The final adoption for the Future Land Use amendment must be scheduled concurrently with the adoption of the proposed Planned Unit Development.

Mr. Stockman clarified that the approval of the change to the Future Land Use Map would be subject to the approval of the Planned Unit Development. Mr. Hart stated that was correct.

Mr. Fous **seconded** the motion. Mr. Stockman called the motion to a vote and the motion **unanimously passed** 6-0.

NO. 4: OTHER BUSINESS: Matthew Leger was welcomed onto the Planning Board.

It was **moved** by Mr. Stockman, **seconded** by Mr. Timmons, and **unanimously approved** (6-0 vote) to adjourn the meeting.

The meeting adjourned at 3:27 p.m.

Note: For detailed information on the presentations and discussions held at the August 7, 2019, Planning Board Meeting, a recording of the meeting can be purchased from the City Clerk's Office or the meeting could be viewed at the City of Fort Myers Website at www.cityftmyers.com.

(Instructions: Go to City of Fort Myers Website; open Government and Officials meetings; select City Meetings; select 2019 City Board Meetings; scroll down and select Planning Board; and select the date of the Planning Board meeting.)

**CITY OF FORT MYERS
PLANNING BOARD MEETING
(LOCAL PLANNING AGENCY)
MINUTES OF OCTOBER 2, 2019 MEETING**

The Planning Board for the City of Fort Myers met in regular session at Oscar M. Corbin, Jr. City Hall, Council Chambers, 2200 Second Street, its regular meeting place in the City of Fort Myers, Florida, on October 2, 2019, at 1:00 p.m.

CALL TO ORDER – Chair, Justin Stockman, called the meeting to order at 1:00 p.m.

Pledge of Allegiance to the Flag of the United States of America.

ROLL CALL

Recording Secretary Monique John completed roll call; all members present except Greg Fous.

Members Present

Charles Timmons
Justin Stockman
Jonathan Hart
Matt Leger
James Ink
Darlene Mitchell
William Keene

Members Absent

Greg Fous

Community Development Staff Present

Steven Belden, Community Development Director
Anthony Palermo, Assistant Community Development Director
Nicole DeVaughn, Planning Manager
Laura Tefft, Senior Planner
Monique John, Senior Staff Assistant

Other City Staff Present

Grant Alley, City Attorney
Sherry Enright, City Attorney
William Porter, Engineering Division, Staff Engineer

PUBLIC INPUT – NON-PUBLIC HEARING AGENDA ITEMS: None

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NO. 1 EX PARTE: None

Prospective witnesses and those persons to present testimony were duly sworn by Grant Alley, City Attorney.

Nicole DeVaughn, Planning Manager, Community Development Department, stated that staff findings were as follows:

NO. 1 PUBLIC HEARING: CONSIDER A REQUEST TO REZONE A 0.88 +/- ACRE PARCEL OF LAND LOCATED AT 2626 SHRIVER DRIVE FROM RESIDENTIAL SINGLE-FAMILY ESTATE (RS-E) TO RESIDENTIAL SINGLE-FAMILY-5 (RS-5). (QUASI-JUDICIAL)

Staff Report

PUBLIC HEARING: Agenda Item #1 Consider a request to rezone 0.88 acres, more or less, located at 2626 Shriver Drive zoned Residential Single-Family Estate (RS-E) to the Residential Single-Family - 5 (RS-5) zoning designation. (Quasi-Judicial)

1. Application Information

Owner:	Klaus & Regina Weinmann
Agent:	Jason White, P.E. with Exceptional Engineering, Inc.
Address:	2626 Shriver Drive, Fort Myers, FL
Location:	West of McGregor Blvd. at the Northwest end of Shriver Drive
Size:	0.88 acres, more or less
STRAP No.:	23-44-24-P4-00020.0010
Zoning:	Residential Single-Family Estate (RS-E)
Future Land Use:	Residential Low Density (RLD)
Request:	The rezoning of 0.88 acres, more or less of land zoned Residential Single-Family Estate (RS-E) to the Residential Single-Family - 5 (RS-5) zoning designation.
Case Number:	19RZ03

2. Request

Jason White, P.E. of Exceptional Engineering Inc., representing the owners, requests approval for the rezoning of 0.88 acres, more or less of land zoned Residential Single-Family Estate (RS-E) to the Residential Single-Family - 5 (RS-5) zoning designation. The purpose of the rezoning is to provide consistent zoning with the properties to the west and south. A site plan is not required for the rezoning application and is not included.

3. Staff Review

The Fire Marshall, Public Works Department and Engineering Division staff reviewed the rezoning request and have no objections or comments. Planning staff supports the rezoning of the parcel from Residential Single-Family Estate (RS-E) to the Residential Single-Family - 5 (RS-5).

4. Comprehensive Plan Compliance

The Comprehensive Plan policies, the current action and standards that apply is Future Land Use Element, Policy 1.2 for **Residential Low Density (RLD)**:

Policy 1.2) Designate areas on the Future Land Use Map **Residential Low Density (RLD)** contain areas predominated by low-density, single-family residential and limited neighborhood commercial uses. The necessary infrastructure is in place, though upgrading of older systems may be necessary. A maximum of eight dwelling units per acre (8 du/acre) shall be allowed, bonus densities are not available in this land use designation. To preserve and enhance cohesive and walkable neighborhoods, neighborhood scale commercial may be permitted through the conditional use process outlined in the City's Land Development Regulations. Intensities for all properties within this land use district shall not exceed a floor area ratio of one-half (0.5 FAR). These areas shall also allow, as a conditional use, uses that complement a single-family neighborhood.

Action 1.2.1) To help preserve the rural character of the Buckingham Rural Community, the area known as the Heritage Lakes Single Family District (HLSFD) depicted on Map A-1, shall be very low density single-family having a maximum density of one dwelling unit per acre (1 du/acre) with a total of 185 dwelling units and related accessory uses. Commercial uses are prohibited. No amendment to the Land Development Code reducing buffer requirements for this area shall be permitted.

Action 1.2.2) The City shall periodically revise its Land Development Regulations to incorporate updated provisions for single-family, single-family/duplex development, and neighborhood commercial. Intensities for all properties within this land use district shall not exceed a floor area ratio of one-half (0.5 FAR).

Standard 1.2.2.1) Differing lot size, setback, coverage, height, and other restrictions shall be tailored to the various areas to preserve and enhance existing neighborhood form. Separate standards should be considered for historic districts.

Standard 1.2.2.2) Historic Districts shall be designated by the City and separate standards within the Historic Preservation Element and Land Development Regulations shall be set as needed to retain those qualities

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that distinguish their architecture, scale, massing, lot size, setback, and other features to preserve and enhance these neighborhoods.

Standard 1.2.2.3) Zero lot line, patio homes, pedestrian access-only dwelling units (such as live-work units, village homes, townhomes and/or cottage homes), and other innovative, yet still single-family housing forms, shall be encouraged in exclusive single-family areas in accordance with the Land Development Regulations.

Standard 1.2.2.4) Neighborhood scale commercial shall be considered to facilitate limited mixed-use developments and promote sustainable, walkable neighborhoods.

5. Public Notice

A total of 14 public notice letters were sent to property owners within 300 feet of the parcel. The property was posted with one sign alerting the general public about the case; an ad ran in the News-Press; and the case was posted in City Hall. All actions occurred at least 10 days prior to the October 2, 2019, meeting. No letters were returned, and no objections were received.

6. Staff Recommendation

Staff finds the request for rezoning the parcel located at 2626 Shriver Drive from Residential Single-Family Estate (RS-E) to the Residential Single-Family - 5 (RS-5) consistent with the Comprehensive Plan and Land Development Code, and staff recommends approval of the rezoning.

7. Recommended Action

Find the request for rezoning the parcel located at 2626 Shriver Drive from Residential Single-Family Estate (RS-E) to the Residential Single-Family - 5 (RS-5) consistent with the Comprehensive Plan and Land Development; and recommend approval to City Council.

End of Staff Report

A letter was sent in from a concerned resident in opposition to the zoning change for 2626 Shriver Drive. (See Exhibit 1)

Amy Thibaut, Pavese Law Firm on behalf of several residents from the Shriver Drive, spoke in opposition to the rezoning request. Ms. Thibaut advised she was representing the Singers' family, the Adams family, and the Landers' family.

Thomas Singer, 2642 McGregor Boulevard, spoke in opposition of the zoning change to 2626 Shriver Drive and passed around a book to the Board that spoke on the City of

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Fort Myers and its integrity of this development. Mr. Singer also showed pictures of Shell Park and its layout as well.

The Board discussed whether the lot would be able to be split and what the lot requirements would be. More discussion was had on the non-conformities of the property and if they should be permitted.

Mr. Keene asked Mr. Alley if the Board could place conditions on a conventional rezoning. Mr. Alley advised the Board can make a recommendation and rationale of the Board's findings, however there could not be legally binding conditions.

It was moved by Mr. Hart to recommend approval of the rezoning request 0.88 +/- acre parcel of land located at 2626 Shriver Drive from residential single-family estate (RS-E) to residential single-family-5 (RS-5) and seconded by Mr. Timmons.

Mr. Alley asked for confirmation if the motion was to find the request consistent with the Comprehensive Plan and the Land Development Code. Mr. Hart verified that was correct with a second from Mr. Timmons.

The motion was called to a vote and passed 5-2 with Ms. Mitchell and Mr. Fous not supporting the request.

NO. 2 EX PARTE: None

Anthony Palermo, Assistant Community Development Director, Community Development Department, stated that staff findings were as follows:

NO. 2 PUBLIC HEARING: CONSIDER A REQUEST TO AMEND THE FUTURE LAND USE MAP TO CHANGE 2.16 +/- ACRES FROM RESIDENTIAL LOW DENSITY (RLD) TO THE CORRIDOR COMMERCIAL (C/C) FUTURE LAND USE CATEGORY FOR PROPERTIES FRONTING LEMON STREET, BOUNDED BY EVANS AVENUE AND CRANFORD AVENUE. (QUASI-JUDICIAL)

Staff Report

PUBLIC HEARING: Agenda Item #2 Consider a request to amend the Future Land Use Map to change 2.16 +/- acres from Residential Low Density (RLD) to the Corridor Commercial (C/C) Future Land Use Category for properties fronting Lemon Street, bounded by Evans Avenue and Cranford Avenue. (Quasi-Judicial)

1. Application Information

Owner:	City of Fort Myers
Agent:	Tony Palermo, AICP, Assistant Director, Community Development Department

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Address:	2602, 2612, 2650, 2668/2676 Lemon Street, •Railroad Right of Way/Seminole Gulf Railroad, 2633, 2637 Dr. Martin Luther King, Jr. Blvd., Fort, Myers, FL.
Location:	North of Dr. Martin Luther King, Jr. Blvd. west of Evans Ave.; south of Lemon Street, east of Cranford Ave.
Size:	2.16acres +/-
STRAP Nos.:	134424P3006140100;134424P3006140210; 134424P3006140150;134424P3006140140; 134424P3006140030;134424P3006140010; 134424P3006140020.
Zoning:	Neighborhood Redevelopment (NR-1) – Proposed to be Commercial General (CG) per Rezoning 19RZ04.
Future Land Use:	Residential Low Density.
Request:	A request to amend the Future Land Use Map to change 2.16 +/- acres from Residential Low Density (RLD) to the Corridor Commercial (C/C) Future Land Use Category for properties fronting Lemon Street, bounded by Evans Avenue and Cranford Avenue.
Current Land Use:	Vacant; Warehouse; Office; Place of Worship; Railroad Right of Way; Accessory Structures including fences.
Case Number:	19RZ04

2. Request

City staff proposes to both rezone 2.16 +/- acres of land from Neighborhood Redevelopment (NR-1) to Commercial General (CG) and to amend the Future Land Use map from the Residential Low Density (RLD) category to the Corridor Commercial (C/C) category. The intent is to create a unified zoning district for the entire block consistent with the Comprehensive Plan. As is, the block has bifurcated zoning – part commercial and part residential. The Future Land Use is also bifurcated – part corridor commercial and part residential low-density.

3. Staff Review

The Fire Marshall, Public Works Department and Engineering Division staff reviewed the rezoning request and had no objections. Community Development staff supports the proposed Comprehensive Plan Map Amendment of the subject property.

4. Comprehensive Plan Compliance/Land Development Code

The Comprehensive Plan policies, action and standards that apply is Future Land Use Element 1, Policy 1.6 for **Corridor Commercial (C/C)**, per the proposed Future Land Use application. **Policy 1.6) Corridor Commercial (C/C) contains areas located along, or in close proximity, to existing commercial centers and corridors. Many of these areas are**

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included in redevelopment districts, as described in Action 3.2.3, and may have additional requirements. This district is intended to accommodate more intensive development; therefore, mixed use development incorporating neo-traditional and transit oriented development principles is encouraged. A maximum standard density established in the Land Development Regulations, not to exceed twenty-five dwelling units per acre (25 du/acre), with a maximum bonus density of up to sixty dwelling units per acre (60 du/acre) may be permitted through a process outlined in the City's Land Development Regulations. Criteria for bonus densities include, but are not limited to, incorporating Leadership in Energy Efficient Design (LEED) standards, neo-traditional and transit oriented design principles, pedestrian connectivity, exceptional architectural design, and other considerations. No new single-family development shall be permitted. A Floor Area Ratio no higher than three (3 FAR) shall be used as an index of intensity for non-residential development in this land use category.

The property is located on an infill location in proximity to established residential neighborhoods, commercial office, retail and industrial developments. The property is within the City's water and sewer franchise area and will have access to urban services in the City. Potable water and sewer are both readily available to the subject property. The property has and will continue to have municipal services including solid waste, stormwater, parks and recreation, public schools and other urban amenities. Lee Tran has stops on the subject property (Evans Avenue, Route 100) and nearby in front on McCullum Hall on Dr. Martin Luther King Jr. Boulevard (Route 20 and 15). This block of property is proximity of historic landmarks and important City resources including McCullum Hall, the IMAG Science Center, Midtown and more. Roberto Clemente Park is less than 1 mile to the east on Dr. Martin Luther King, Jr. Boulevard. The City of Palms Park in Midtown is about 0.5 mile to the southwest. Centennial Park, the historic downtown and the Caloosahatchee River are all less than 1 mile away to the west and north. The purpose of the NR-1 district is in per the Land Development Code (LDC) Section 118.7.5B.1. and is as follows: *By virtue of its location in the comprehensive plan of the city and in the community redevelopment plan entitled "Velasco Village Neighborhood Redevelopment Plan," it is the express intent of the Velasco Village Neighborhood Redevelopment District to promote the redevelopment of the area, which is to be predominantly developed with single-family homes, as a desirable and affordable residential area.*

Uses permitted in NR-1 are limited to single-family dwellings, home occupations, and accessory residential uses. Other uses may be considered by the Board of Adjustments as conditional uses including assisted living. The proposed zoning of CG is appropriate and consistent with the existing CG zoning found on the frontage of this block of Dr. Martin Luther King Jr. Boulevard. Per LDC Sec. 118.2.2. A.2. Commercial General (CG). It is the express intent of the CG District to provide areas for commercial activities that meet the retail shopping and service needs of the community. The existing CG zoning is about 90-100 feet deep. This is inadequate to support new commercial business, parking, buffers, and drainage required to operate per the LDC requirements. The proposed rezoning would add about 175 feet of depth to these lots on this block, more than adequate for quality commercial development. The CG zoning category includes a

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robust schedule of commercial office, retail and business services appropriate for a major arterial road such as Dr. Martin Luther King, Jr. Boulevard.

5. Public Notice

A total of 46 public notice letters were sent to property owners for the subject property and within 300 feet of the subject properties. The property was posted with a sign alerting the general public about the case; an ad ran in the News-Press; and, the case was posted in City Hall. All actions occurred at least 10 days prior to the October 2, 2019, meeting.

6. Staff Recommendation

Staff finds the Future Land Use Map amendment to change the classification of the subject properties fronting Lemon Street, bounded by Evans Avenue and Cranford Avenue from Residential Low Density (RLD) to Corridor Commercial (C/C) consistent with the Comprehensive Plan and Land Development Code and staff recommends approval of the request.

7. Recommended Action

Recommend approval of the Future Land Use Map Amendment to change the classification of 2.16 +/- acres of properties fronting Lemon Street, bounded by Evans Avenue and Cranford Avenue as Residential Low Density (RLD) to Corridor Commercial (C/C) and find the request internally consistent with the Comprehensive Plan and the Land Development Code; recommend City Council approve transmittal of the amendment to the Department of Economic Opportunity and other state, regional, and local agencies for formal review.

End of Staff Report

Mr. Stockman asked City Staff if any objections had been received regarding the agenda item request. Mr. Palermo stated he did not receive any objections.

Ms. Mitchell asked if there were any rejection letters sent in. Mr. Palermo advised there were not.

Mr. Hart asked how many of the buildings on the property had a current commercial use. Mr. Palermo advised 3 of the buildings had commercial uses.

Public comment was opened, and it was determined that each speaker would receive a total of four (4) minutes for agenda items one (1) and two (2) as both items will go together.

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Councilman Johnny Streets, 2162 Ben Street, spoke in opposition of the Plan Amendment request.

Anthony Thomas Jr., concerned resident, spoke in opposition of the request for Plan Amendment the property.

Stan Stouder, 2637 MLK Boulevard, spoke in favor of the Plan Amendment for the property.

Crystal Johnson, 2662 St. Charles St., spoke in opposition of the Plan Amendment for the property and requested it be kept as residential.

Public comment closed at this time.

Mr. Leger asked Staff if there will be required buffers. Mr. Palermo advised there would be buffers required based on the use of the parcels, however if the whole property were to be redeveloped, then all four sides of the property would need buffers.

The Board had more discussion with Staff about what could potentially go on the property if the request to be rezoned was approved. The Board then discussed the pros and cons of keeping the property as residential zoned residential vs rezoning it to commercial.

Mr. Hart moved to recommend approval of the request to amend the Future Land Use Map to change 2.16 +/- acres from Residential Low Density (RLD) to the Corridor Commercial (C/C) Future Land Use Category for properties fronting Lemon Street, and found the request internally consistent with the Comprehensive Plan and the Land Development Code and recommended City Council approve transmittal of the amendment to the Department of Economic Opportunities and other state and local agencies for formal review.

The motion was seconded by Mr. Ink. Mr. Palermo advised that the request, as a small-scale map amendment (under 10 acres) would not get formal state review. Mr. Hart agreed to the amendment on his motion and Mr. Ink seconded the amended motion.

The motion was called to a vote and passed 5-2, with Ms. Mitchell and Mr. Timmons not supporting the request.

At 2:45 p.m., Mr. Ink excused himself from the hearing.

NO 3 EX PARTE: None

Anthony Palermo, Assistant Community Development Director, Community Development Department, stated that staff findings were as follows:

NO. 3 PUBLIC HEARING: CONSIDER A REQUEST TO REZONE OF 2.16 +/- ACRES FROM NEIGHBORHOOD REDEVELOPMENT (NR-1) TO COMMERCIAL GENERAL

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**(CG) ZONING DESIGNATION FOR PROPERTIES FRONTING LEMON STREET,
BOUNDED BY EVANS AVENUE AND CRANFORD AVENUE. (QUASI-JUDICIAL)**

Staff Report

PUBLIC HEARING: Agenda Item #3 Consider a request to rezone of 2.16 +/- acres from Neighborhood Redevelopment (NR-1) to Commercial General (CG) zoning designation for properties fronting Lemon Street, bounded by Evans Avenue and Cranford Avenue. (Quasi-Judicial)

1. Application Information	
Owner:	City of Fort Myers
Agent:	Tony Palermo, AICP, Assistant Director, Community Development Department
Address:	2602, 2612, 2650, 2668/2676 Lemon Street, • Railroad Right of Way/Seminole Gulf Railroad, 2633, 2637 Dr. Martin Luther King, Jr. Blvd., Fort, Myers, FL.
Location:	North of Dr. Martin Luther King, Jr. Blvd. west of Evans Ave.; south of Lemon Street, east of Cranford Ave.
Size:	2.16 acres +/-
STRAP Nos.:	134424P3006140100;134424P3006140210; 134424P3006140150;134424P3006140140; 134424P3006140030;134424P3006140010; 134424P3006140020.
Zoning:	Neighborhood Redevelopment (NR-1)
Future Land Use:	Residential Low Density (RLD) - Proposed to be Corridor Commercial C/C per Plan Amendment (19MA02)
Request:	A request to rezone of 2.16 +/- acres from Neighborhood Redevelopment (NR-1) to Commercial General (CG) zoning designation for properties fronting Lemon Street, bounded by Evans Avenue and Cranford Avenue.
Current Land Use:	Vacant; Warehouse; Office; Place of Worship; Rail Road Right of Way; Accessory Structures including fences.
Case Number:	19RZ04

2. Request

City staff proposes to both rezone 2.16 +/- acres of land from Neighborhood Redevelopment (NR-1) to Commercial General (CG) and to amend the Future Land Use map from the Residential Low Density (RLD) category to the Corridor Commercial (C/C) category. The intent is to create a unified zoning district for the entire block consistent with the Comprehensive Plan. As is, the block has bifurcated zoning – part commercial and part residential. The Future Land Use is also bifurcated – part corridor commercial and part residential low-density.

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3. Staff Review

The Fire Marshall, Public Works Department and Engineering Division staff reviewed the rezoning request and had no objections. Community Development staff supports the rezoning of the subject property.

4. Comprehensive Plan Compliance/Land Development Code

The Comprehensive Plan policies, action and standards that apply is Future Land Use Element 1, Policy 1.6 for **Corridor Commercial (C/C)**, per the proposed Future Land Use application. **Policy 1.6) Corridor Commercial (C/C) contains areas located along, or in close proximity, to existing commercial centers and corridors. Many of these areas are included in redevelopment districts, as described in Action 3.2.3, and may have additional requirements. This district is intended to accommodate more intensive development; therefore, mixed use development incorporating neo-traditional and transit oriented development principles is encouraged. A maximum standard density established in the Land Development Regulations, not to exceed twenty-five dwelling units per acre (25 du/acre), with a maximum bonus density of up to sixty dwelling units per acre (60 du/acre) may be permitted through a process outlined in the City's Land Development Regulations. Criteria for bonus densities include, but are not limited to, incorporating Leadership in Energy Efficient Design (LEED) standards, neo-traditional and transit oriented design principles, pedestrian connectivity, exceptional architectural design, and other considerations. No new single-family development shall be permitted. A Floor Area Ratio no higher than three (3 FAR) shall be used as an index of intensity for non-residential development in this land use category.**

The property is located on an infill location in proximity to established residential neighborhoods, commercial office, retail and industrial developments. The property is within the City's water and sewer franchise area and will have access to urban services in the City. Potable water and sewer are both readily available to the subject property. The property has and will continue to have municipal services including solid waste, stormwater, parks and recreation, public schools and other urban amenities. Lee Tran has stops on the subject property (Evans Avenue, Route 100) and nearby in front on McCullum Hall on Dr. Martin Luther King Jr. Boulevard (Route 20 and 15). This block of property is proximity of historic landmarks and important City resources including McCullum Hall, the IMAG Science Center, Midtown and more. Roberto Clemente Park is less than 1 mile to the east on Dr. Martin Luther King, Jr. Boulevard. The City of Palms Park in Midtown is about 0.5 mile to the southwest. Centennial Park, the historic downtown and the Caloosahatchee River are all less than 1 mile away to the west and north. The purpose of the NR-1 district is in per the Land Development Code (LDC) Section 118.7.5B.1. and is as follows: *By virtue of its location in the comprehensive plan of the city and in the community redevelopment plan entitled "Velasco Village Neighborhood Redevelopment Plan," it is the express intent of the Velasco Village Neighborhood Redevelopment District to promote the redevelopment of the area, which is to be predominantly developed with single-family homes, as a desirable and affordable residential area.*

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Uses permitted in NR-1 are limited to single-family dwellings, home occupations, and accessory residential uses. Other uses may be considered by the Board of Adjustments as conditional uses including assisted living. The proposed zoning of CG is appropriate and consistent with the existing CG zoning found on the frontage of this block of Dr. Martin Luther King Jr. Boulevard. Per LDC Sec. 118.2.2. A.2. Commercial General (CG). It is the express intent of the CG District to provide areas for commercial activities that meet the retail shopping and service needs of the community. The existing CG zoning is about 90-100 feet deep. This is inadequate to support new commercial business, parking, buffers, and drainage required to operate per the LDC requirements. The proposed rezoning would add about 175 feet of depth to these lots on this block, more than adequate for quality commercial development. The CG zoning category includes a robust schedule of commercial office, retail and business services appropriate for a major arterial road such as Dr. Martin Luther King, Jr. Boulevard.

5. Public Notice

A total of 46 public notice letters were sent to property owners for the subject property and within 300 feet of the subject properties. The property was posted with a sign alerting the general public about the case; an ad ran in the News-Press; and, the case was posted in City Hall. All actions occurred at least 10 days prior to the October 2, 2019, meeting.

5. Staff Recommendation

Staff finds the request for rezoning the subject properties from the NR-1 zoning district to the CG zoning district consistent with the Comprehensive Plan and Land Development Code, and staff recommends APPROVAL of the rezoning.

7. Recommended Action

Find the request for rezoning a 2.16 +/- acre subject property fronting Lemon Street, bounded by Evans Avenue and Cranford Avenue from the NR-1 zoning district to the CG zoning district consistent with the Comprehensive Plan and Land Development Code; and recommend approval to City Council.

End Staff Report

Mr. Keene asked Staff if the Community Redevelopment Agency (CRA) would be recommending approval. Mr. Palermo advised that the CRA does not make recommendations on zoning.

Mr. Stockman opened the meeting for public comment on the item.

Councilman Johnny Streets stated he opposes the agenda item request and elaborated on why he believed it would not be beneficial.

Anthony Thomas, concerned resident, spoke in opposition of the request for rezoning.

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The Board discussed which allowed uses could potentially be on the property should the request be approved and what would be in the best interest.

Mr. Hart moved to find the request for rezoning of 2.16 +/- acres from Neighborhood Redevelopment (NR-1) to Commercial General (CG) zoning designation for properties fronting Lemon Street consistent with the Comprehensive Plan and Land Development Code and recommended approval to City Council. The motion was seconded by Mr. Keene.

The motion was called to vote and passed 4-2, with Ms. Mitchell and Mr. Timmons not supporting the request.

NO. 4 PUBLIC HEARING: CONSIDER AN AMENDMENT TO THE LAND DEVELOPMENT CODE CHAPTER 114, HISTORIC PRESERVATION.

It was requested for a motion to continue agenda item #4 to the next Planning Board meeting to be held November 6, 2019, at 1:00 p.m.

Mr. Stockman opened public comment and seeing none closed the public comment section.

It was **moved** by Mr. Keene and **seconded** by Mr. Timmons to continue the agenda item to the meeting being held on November 6, 2019, at 1:00 p.m.

The motion was called to a vote and unanimously **passed** 6-0

NO. 5 PUBLIC HEARING: CONSIDER AN AMENDMENT TO THE LAND DEVELOPMENT CODE CHAPTER 118, LAND USE REGULATIONS.

It was requested for a motion to continue agenda item #5 to the next Planning Board meeting to be held November 6, 2019, at 1:00 p.m.

Mr. Stockman opened public comment and seeing none closed the public comment section.

It was **moved** by Mr. Keene and **seconded** by Mr. Timmons to continue the agenda item to the meeting being held on November 6, 2019, at 1:00 p.m.

The motion was called to a vote and unanimously **passed** 6-0

NO. 6 OTHER BUSINESS

Seeing no other business, Mr. Stockman moved to adjourn.

The meeting adjourned at 3:15 p.m.

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Note: For detailed information on the presentations and discussions held at the October 2, 2019, Planning Board Meeting, a recording of the meeting can be purchased from the City Clerk's Office or the meeting could be viewed at the City of Fort Myers Website at www.cityftmyers.com.

(Instructions: Go to City of Fort Myers Website; open Government and Officials meetings; select City Meetings; select 2019 City Board Meetings; scroll down and select Planning Board; and select the date of the Planning Board meeting.)

DRAFT

**CITY OF FORT MYERS
PLANNING BOARD MEETING
(LOCAL PLANNING AGENCY)
MINUTES OF NOVEMBER 6, 2019 MEETING**

The Planning Board for the City of Fort Myers met in regular session at Oscar M. Corbin, Jr. City Hall, Council Chambers, 2200 Second Street, its regular meeting place in the City of Fort Myers, Florida, on November 6, 2019, at 1:00 p.m.

CALL TO ORDER – Chair, Justin Stockman, called the meeting to order at 1:00 p.m.

Pledge of Allegiance to the Flag of the United States of America.

ROLL CALL

Recording Secretary Monique John completed roll call. All members present.

Members Present

Charles Timmons
Darlene Mitchell
Justin Stockman
Jonathan Hart
Matthew Leger
James Ink

Members Absent

William Keene

Community Development Staff Present

Steven Belden, Community Development Director
Anthony Palermo, Assistant Community Development Director
Nicole DeVaughn, Planning Manager
Laura Tefft, Senior Planner
Monique John, Senior Staff Assistant

Other City Staff Present

Grant Alley, City Attorney
Sherry Enright, City Attorney
William Porter, Engineering Division, Staff Engineer

PUBLIC INPUT – NON-PUBLIC HEARING AGENDA ITEMS: None

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NO. 1 EX PARTE: None

Prospective witnesses and those persons to present testimony were duly sworn by Grant Alley, City Attorney.

NO. 1 PUBLIC HEARING: AMENDMENT TO THE TREELINE PRESERVE PUD (PREVIOUSLY APPROVED THROUGH ORDINANCE NO. 3376) TO ALLOW 500 DWELLING UNITS (A MAXIMUM OF 250 SINGLE FAMILY) WITH 25,000 SF OF OFFICE AND 75,000 SF OF RETAIL ON + 96.6 ACRES, LOCATED AT 11251 SR 82, FORT MYERS, FL. (19PUD01) WARD 6

Laura Tefft, Senior Planner, Community Development Department, stated that staff findings were as follows:

Staff Report

Agenda Item #1: Consider a request for an amendment to the Treeline Preserve Planned Unit Development (PUD) (previously approved through Ordinance No. 3376) to allow 500 dwelling units (a maximum of 250 single family) with 25,000 square feet of Office and 75,000 square feet of retail on 96.9 acres, more or less, located at 11251 State Road 82, Fort Myers, FL. (Quasi-Judicial)

1. Application Information	
Property owner:	Treeline Preserve Holdings, LLC
Agent for the applicant:	Jennifer Sapen AICP, Barraco and Associates, Inc.
Address	11251 S. R. 82, 2 parcels with Access Undetermined
Location:	On the Southeast corner of S. R. 82 and Buckingham Road, which is just north of the intersection of S. R. 82 & Lee Blvd.
STRAP number:	23-44-24-P2-00005.0000
Zoning:	PUD Treeline Preserve Planned Unit Development
Future Land Use:	Corridor Commercial (C/C)
Request:	An amendment to the Treeline Preserve Planned Unit Development.
Current Land Use:	Vacant
Case Number:	19PUD01

2. Request

Jennifer Sapen, AICP, agent, is requesting an amendment to the Treeline Preserve Planned Unit Development (PUD). This amendment is to allow 500 dwelling units (a maximum of 250 single family) with 25,000 square feet of office and 75,000 square feet of retail on 96.9 acres.

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The subject property was annexed into the city after the adoption of the Comprehensive Plan in 1989 and was assigned a future land use designation of Mixed Use (MU).

The Colonial Plaza Planned Unit Development (PUD) was approved on June 21, 2004, by Ordinance Number 3209 for a 96.3 acre, more or less, mixed-use development comprising of up to 200 multi-family dwelling units and 380,000 square feet of retail and 60,000 square feet of office.

An amendment to the Colonial Plaza PUD was approved on July 5, 2005, through Ordinance Number 3283 which increased the acreage by 0.6 acres, more or less, for a total of 96.9 acres, more or less, and for the construction of a maximum of 380,000 square feet of commercial, 60,000 square feet of office and a maximum of 800 multifamily and townhouse residential units with an approved Trip Conversion Table.

Ordinance Number 3376, approved January 16, 2007, was an amendment to the Colonial Plaza PUD to rename the planned unit development Treeline Preserve Planned Unit Development (PUD) and allowed the construction of a maximum of 800 multi-family residential units and 380,000 square feet of commercial and 60,000 square feet of office.

3. Staff Review

I. Schedule of Uses:

Residential

Accessory uses and structure
Administrative offices
Club, private
Dwelling Units:
 Multifamily
 Single family detached
 Zero lot line
 Single family attached
 Townhouse
Entrance gates and
 gatehouses
Excavation, water retention
Fences, walls
Models:
 Model display
group Model
homes
 Model units
 Model parking lot
 Model sales center
Parking lot, accessory
Recreational facilities, private-on-site

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Sales:

Real estate sales office, limited to sales of dwelling units within the development

Signs in accordance with Land Development Code

Temporary construction trailer

Commercial

All uses allowed in the CG zoning district plus:

Fast food restaurant with drive thru

II. Deviations: The list of deviations are as follows:

Deviation #1 - **Applicant wishes to defer to Planning Board** – Deviation from LDC Section 118.1.6.F.4.b which requires attached residential garages to have a minimum front setback of 25 feet where the doors face the right-of-way, to allow a minimum front setback of 20 feet, with 23 feet minimum to sidewalk.

Comment: Staff does not support. Front setback line as defined in Land Development Code Section 142.2 is measured from the edge of the right-of-way (property line).

Deviation #2 – Deviation from LDC Section 134.2.6.C.1 which requires a 50' wide right of-way for local streets to allow a 45' wide right-of-way on privately maintained gated roads.

Deviation # 3 – Deviation from LDC Section 134.2.25 which requires streets to provide a sidewalk on both sides of the road to allow sidewalks on only one side of private, gated residential roads.

Deviation #4 – Deviation from LDC Section 134.3.3.B.1 which requires all off-street parking facilities shall be so arranged that no vehicle shall have to back into the right-of-way of any street to allow off-street parking to back into the right-of-way.

Deviation #5 – Deviation from LDC Section 138-3(2)(b) which requires commercial development to provide 25% open space to allow open space to be calculated for the entire combined PUD, with a minimum of 10% open space provided on the commercial lots.

Deviation #6– Deviation from LDC Section 138-4 which requires the buffer along the perimeter of the proposed development, to allow the buffers located within the FP & L Easement to be located on the west side of the FP & L Easement.

Deviation #7– Deviation from LDC Section 130-97 which prohibits model home permits prior to the final plat approval to allow for model homes and model sales center prior to final plat approval.

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Deviation #8 - **Applicant wishes to defer to Planning Board** – Deviation from LDC Section 134.2.5 which requires a minimum townhouse driveway width of 10 feet to allow 8 foot driveways, with a minimum separation of 2.5 feet.

Comment: Staff does not support. The minimum width of a townhome or single-family attached driveway shall be ten feet. Average car and truck width are 6 to 8 feet. An 8-foot driveway is too narrow to accommodate reasonable access to vehicles.

III. Terms and Conditions:

The terms and conditions for the planned unit development are as follows:

- a. The Planned Unit Development Amendment is to increase the acreage by 0.6 acres, more or less, for a total of 96. 9 acres, more or less, and for the construction of a maximum of 75,000 square feet of retail, 380,000 square feet of commercial, 60,000 25,000 square feet of office and a maximum of 500 800 multi-family residential units (a maximum of 250 single family). The amount of commercial and office square footage may be reduced based on the Trip Conversion Table located on the site plan, if the maximum number of dwelling units are constructed. This parcel is located north of Lee Boulevard, south of Buckingham Road, east of The Forum Boulevard.
- b. The applicant shall prepare a subdivision plat in accordance with the subdivision platting requirements of F.S. 177 and Chapter 130 Subdivisions of the Land Development Code Growth Management Code. No site or building permits shall be issued until the subdivision requirements have been fulfilled as required by Chapter 130 of the Land Development Code. Growth Management Code.
- c. Wheel stops shall be provided for all parking spaces not located in driveways.
- d. Trash receptacles shall be provided for trash pick-up.
- e. Street lighting shall be provided for all new streets.
- f. All lighting must consist of full cut-off (90 degree) fixtures that prevent glare, directing illumination away from adjacent residential properties.
- g. The level of service on S.R. 82 currently functions at a level of service "F". No building permits will be issued until after the applicant enters into a development agreement pursuant to section 163.3221, F.S. The development agreement will include provisions that require the applicant to pay a proportionate share of the roadway improvements necessary to upgrade State Road 82 to an acceptable level of service. The improvements were identified in a master traffic study for State Road 82, initiated by the City.

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- h. The developer shall obtain any required Florida and Lee County Department of Transportation permits prior to construction. Copies of the Notice of Intent shall be provided to the City prior to the issuance of any applicable site permits, as determined by the Engineering Division.
- i. Driveways shown on the site plan are considered conceptual and actual driveway location shall be determined during the review for site work permits.
- j. The developer shall be required to loop the water main to the new main located on the north side of Lee Boulevard.
- k. The developer shall design their storm water management system to provide onsite drainage storage capacity for the future widening of State Road 82. If stormwater facilities are proposed within the Florida Power & Light easements, Florida Power and Light approval shall be required.
- l. Fire impact fees for the development shall be paid in full at the time of issuance of the first building permit within each phase.
- m. The developer agrees to pay twenty-five thousand dollars (\$25,000.00) at the time of issuance of the one-hundredth (100th) residential building permit. Said funds shall be held in escrow for landscaping along State Road 82 east of Interstate 75, for installation within the right-of-way between the pavement edge and the Treeline Preserve property lines or within the medians, with preference given to the right-of-way landscaping. The funds provided will be used after widening of State Road 82.
- n. The access point on Buckingham Road is conceptual. Buckingham Road is a county road and permitting shall be done through Lee County. The location of the access point may be required to shift due to public safety reasons. As an alternative, the access point may be reduced to a right-in/right-out which may require a full access point on Buckingham Road further to the east for residential access.
- o. The developer agrees to follow the design standards as outlined in Exhibit B.
- p. The applicant shall be subject to all other applicable requirements of the Growth Management Code for site development.
- q. The planned unit development for Treeline Preserve shall be effective upon approval. Construction shall commence within three (3) years and must be completed within seven (7) years.

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- r. The terms, conditions and deviations for the planned unit development, reflected on the site plan and landscape plan prepared by Barraco and Associates, Inc., with a revisions date July 19, 2019 ~~November 1, 2006~~, (Exhibit A), shall be binding on the applicant, their successors or assigns.

4. Comprehensive Plan Compliance

The Comprehensive Plan policies, actions and standards that apply are **Commercial Corridor**, Policy 1.6 and **Planned Unit Developments Policy 1.17** as follows:

Policy 1.6) Corridor Commercial (C/C) contains areas located along, or in close proximity, to existing commercial centers and corridors. Many of these areas are included in redevelopment districts, as described in Action 3.2.3, and may have additional requirements. This district is intended to accommodate more intensive development; therefore, mixed use development incorporating neo-traditional and transit-oriented development principles is encouraged. A maximum base density established in the Land Development Regulations, not to exceed twenty-five dwelling units per acre (25 du/acre), with a maximum bonus density of up to sixty dwelling units per acre (60 du/acre) may be permitted through a process outlined in the City's Land Development Regulations. Criteria for bonus densities include, but are not limited to, incorporating Leadership in Energy Efficient Design (LEED) standards, neo-traditional and transit-oriented design principles, pedestrian connectivity, exceptional architectural design, and other considerations. No new single-family development shall be permitted. A Floor Area Ratio no higher than three (3 FAR) shall be used as an index of intensity for non-residential development in this land use category.

Action 1.6.1) The Land Development Regulations shall provide design standards to facilitate Transit Oriented Development (TOD) designs. Once incorporated into the Land Development Regulations, this shall be a requirement for future developments located within TOD areas, to achieve bonus densities.

Standard 1.6.1.1) Single-family residential uses or platted lots existing or permitted as of October 26, 2010, shall be grandfathered and considered legal non-conforming uses. New single-family residential lots, other than bona fide caretaker residences, may be permitted through the Planned Unit Development process as detailed in Policy 1.17.

Action 1.6.2) All new developments in this category must connect to a potable water and sanitary sewer system.

Policy 1.17) Within each land use classification, the Land Development Regulations shall distinguish between permitted uses and conditional uses. Planned Unit Development requirements shall be established in the Land Development Regulations.

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Action 1.17.1) Permitted uses are those uses allowed without special review, as specified in the Land Development Regulations. Special review procedures may be required for some permitted uses, but not as rigorous a review as for a Planned Unit Development or conditional use.

Action 1.17.2) Conditional uses are uses that would not be appropriate generally or without restrictions throughout a particular district classification, but if controlled as to number, area, location, and relation to the neighborhood, may be an acceptable use.

Action 1.17.3) A Planned Unit Development is designed and developed in an integrated and cohesive fashion, under single ownership or unified control, providing for flexibility and clustering of uses. Specific standards and criteria shall be met in order for developments to be approved as a Planned Unit Development.

5. Public Notice

A total of 24 public notice letters were sent to property owners within 300 feet of the parcel. The property was posted with signs alerting the general public about the case, an ad ran in the News-Press, and the case was posted in City Hall. All actions occurred at least 10 day prior to the November 6, 2019 meeting. No letters were returned, and no written comments or objections were received as of October 29, 2019.

6. Staff Recommendation

The Fire Marshall reviewed the PUD Amendment Application and had no objections.

The Engineering Department and Planning Staff have the following objections:

1. Vehicular Interconnectivity between commercial and residential or alternate multi-family to multi-family needs to be done. The plans are still missing connectivity for the commercial.
2. Typical lot details do not show dimensions and have measurements from the sidewalk and lake control elevation, which are not acceptable.
3. Staff objects to the following deviations:
 - Deviation #1 – Deviation from LDC Section 118.1.6.F.4.b which requires attached residential garages to have a minimum front setback of 25 feet where the doors face the right-of-way, to allow a minimum front setback of 20 feet, with 23 feet minimum to sidewalk.
 - Deviation # 8 - Deviation from LDC Section 134.2.5 which requires a minimum townhouse driveway width of 10 feet to allow 8 foot driveways, with a minimum separation of 2.5 feet.

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7. Recommended Action

Recommend approval of the request for the amendment to the Treeline Preserve Planned Unit Development to allow 500 dwelling units (a maximum of 250 single family) with 25,000 square feet of Office and 75,000 square feet of retail per the Master Concept Plan prepared by Barraco and Associates, Inc. with a revision date of July 19, 2019 per the terms and conditions; and find the amendment consistent with the Comprehensive Plan and Land Development Code; and recommend approval to City Council, with the following staff recommendation:

1. Deny the requested deviations as follows:

- Deviation #1 – Deviation from LDC Section 118.1.6.F.4.b which requires attached residential garages to have a minimum front setback of 25 feet where the doors face the right-of-way, to allow a minimum front setback of 20 feet, with 23 feet minimum to sidewalk.
- Deviation # 8 - Deviation from LDC Section 134.2.5 which requires a minimum townhouse driveway width of 10 feet to allow 8 feet driveways, with a minimum separation of 2.5 feet.

End of Staff Report

Jennifer Sapen, AICP, agent presented a slideshow presentation for the Treeline Planned Unit Development. (Please see attached Agenda Item #1 Treeline PUD Presentation for full slideshow presentation.)

Laura Tefft, Senior Planner for the City of Fort Myers presented the staff report.

Jennifer Sapen AICP, Barraco and Associates, Inc., stated that the applicant would agree to remove the condition of the 23-foot sidewalk to alleviate any concern.

Mr. Stockman opened the public comment section and seeing none closed the section.

Mr. Leger questioned if there was any limitation to landscaping around the driveway, such as, if landscaping were done would it hinder the resident from accessing the driveway. Ms. Tefft advised there were no regulations on landscaping along driveways.

In response to the staff recommendation of denial for Deviation #1, Ms. Sapen explained that connecting the vehicular points between the residential and commercial require another gate and increase the costs of the project. She stated the design was created keeping in mind Complete Streets as there is a bike path and sidewalk for interconnectivity between the residential and commercial components of the project. Mr. Ink asked if the applicant would agree with interconnectivity for the vehicular points. Ms. Sapen stated that creating vehicular interconnectivity would raise the price of the project and they have interconnectivity for other types of mobility, walkers and bikers.

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Mr. Hart **moved** to recommend **approval** of the request for the amendment to the Treeline Preserve PUD to allow 500 dwelling units (a maximum of 250 single family) with 25,000 square feet of office and 75,000 square feet of retail per the master concept plan as prepared by Barraco and Associates Inc. with a revision date of July 19, 2019 per the terms and conditions and find the amendment consistent with the Comprehensive Plan and Land Development Code and recommend approval to the City Council.

Ms. Mitchell **seconded** the motion.

Mr. Ink asked Mr. Hart to amend the motion to add vehicular interconnectivity between the residential and commercial components of the project. The Board discussed the request for the amendment to the motion. Mr. Hart stated that he feels it should be the developer's decision and did not wish to amend the motion.

Ms. Mitchell **withdrew** her second to the original motion.

Having no second to the original motion, the **motion failed**.

Mr. Ink **moved** to recommend **approval** of the request for the amendment to the Treeline Preserve Planned Unit Development to allow 500 dwelling units (a maximum of 250 single family) with 25,000 square feet of office and 75,000 square feet of retail per the master concept plan as prepared by Barraco and Associates Inc. with a revision date of July 19, 2019 per the terms and conditions and find the amendment consistent with the Comprehensive Plan and Land Development Code and recommend approval to the City Council with the recommendation of a condition to add vehicular interconnectivity to Parcel B, should it be commercial.

Ms. Mitchell **seconded** the motion.

Mr. Timmons stated that he feels that the recommendation from staff to deny Deviations #1 and #2 should be withheld and added into the motion and that he did not agree with Deviation #4 either, as it would not be limited parking.

Mr. Stockman called the motion to a vote and the motion **passed** 5-1 with a nay from Mr. Timmons.

NO. 2 EX PARTE: None.

Mr. Leger stated he may have a conflict so he would abstain from commenting and voting on the agenda item.

NO. 2 PUBLIC HEARING: VACATION OF A 60' BY 590' PORTION OF THE PRINCE STREET RIGHT-OF-WAY LOCATED 250' SOUTH OF EDISON AVENUE TO THE CSX RAILROAD RIGHT-OF-WAY. (19V03) WARD 3

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Nicole DeVaughn, Planning Manager, Community Development Department, as well as applicant, stated that staff findings were as follows:

Staff Report

Agenda Item #2: Vacation of a 60’ by 590’ portion of the Prince Street right-of-way located 250’ South of Edison Avenue to the CSX Railroad right-of-way. Located within the Prince Street right-of-way as recorded in Plat Book 5, Page 19, lying in Section 19, Township 44 South, Range 25 East, City of Fort Myers, Lee County, Florida (Quasi-Judicial)

1. Application Information	
Property owner:	City of Fort Myers
Agent for the applicant:	David Douglas Association, Inc.
Address	Prince Street
Location:	This parcel is the Prince Street right-of-way, south of Edison Avenue and north of the CSX Railroad right-of-way.
Zoning:	Recreation (REC)
Future Land Use:	Recreation (REC)
Request:	Vacate a 60’ by 590’ portion of the Prince Street right-of way located 250’ South of Edison Avenue to the CSX Railroad right-of-way. Located within the Prince Street right-of-way as recorded in Plat Book 5, Page 19, lying in Section 19, Township 44 South, Range 25 East, City of Fort Myers, Lee County, Florida
Ward:	3
Case Number:	19-V-03

2. Request

The applicant is requesting to vacate a 60’ by 590’ portion of the Prince Street right-of-way located 250’ South of Edison Avenue to the CSX Railroad right-of-way. Located within the Prince Street right-of-way as recorded in Plat Book 5, Page 19, lying in Section 19, Township 44 South, Range 25 East, City of Fort Myers, Lee County, Florida

The applicant is requesting the vacation to facilitate future development of and to minimize vehicular traffic on the Stars Complex, which borders both sides of Prince Street.

Letters of no objection were received from CenturyLink and Comcast. TECO/Peoples Gas and Florida Power & Light have provided the comments below regarding their utilities within the requested vacation area:

1. TECO/Peoples Gas states that they would have “No Objection” to the requested vacation if the location of their 4” PE Gas Main was granted at 15 LF (UE) Utility Easement.

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2. Florida Power & Light has placed the conditions below on the vacation:
 1. The existing Florida Power & Light electric pole and services currently located within the proposed vacation area will be relocated to an area to be determined, at the sole expense of the Applicant.
 2. Florida Power & Light will invoice the Applicant for the relocation of said pole and services, to be paid within 45 days of receipt thereof.
 3. The Applicant will grant to Florida Power & Light a 15' Public Utility Easement running along the eastern side of the vacation area.
 4. The above conditions shall be satisfied prior to the issuance of any permits for work within the vacated area.

3. Comprehensive Plan Compliance

The Future Land Use Classification is Recreation. The Comprehensive Plan policies, actions and standards that apply are listed in Future Land Use Element 1, Policy 1.13 Recreation (REC); and Vacation of Easements are mentioned in the Recreation and Open Space Element 6, Policy 1.5, as follows:

Policy 1.13) Recreation (REC) areas shall be set aside to reserve land for parks, open space, active and passive recreation purposes.

Element 6. Recreation and Open Space:

The policy below is the only instance in which the Comprehensive Plan addresses the vacation of right-of-way or easements. The easement that is the subject of this application does not about the Caloosahatchee River, and therefore, does not need to be considered for public access to the river.

Policy 1.5) City waterfront ownership, easements, or right-of-way should be considered for public access use prior to being sold, vacated, or otherwise disposed of.

4. Public Notice

A total of 6 public notice letters were sent to property owners within 300 feet of the proposed vacation. The property was posted with signs alerting the general public of the zoning change; the agenda was posted at City Hall; and an ad ran in the News-Press; all actions taking place at least 10 days prior to the meeting. No letters were returned, and no objections were received as of the date of this staff report.

5. Staff Recommendation

Staff finds the vacation consistent with the Comprehensive Plan and the Land Development Code and staff recommends approval of the vacation of the improved Prince Street right-of-way with the TECO/Peoples Gas and Florida Power & Light conditions as listed below:

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1. A 15 LF (UE) Utility Easement is granted to TECO/Peoples Gas for the location of their 4" PE Gas Main.
2. Applicant satisfies the Florida Power & Light conditions as listed below:
 - a. The existing Florida Power & Light electric pole and services currently located within the proposed vacation area will be relocated to an area to be determined, at the sole expense of the Applicant.
 - b. Florida Power & Light will invoice the Applicant for the relocation of said pole and services, to be paid within 45 days of receipt thereof.
 - c. The Applicant will grant to Florida Power & Light a 15' Public Utility Easement running along the eastern side of the vacation area.
 - d. The above conditions shall be satisfied prior to the issuance of any permits for work within the vacated area.

6. Recommended Action

Find the vacation of the 60' by 590' portion of the improved Prince Street right-of-way located 250' South of Edison Avenue to the CSX Railroad right-of-way consistent with the Comprehensive Plan and the Land Development Code and recommend approval of the vacation to the City Council, with the following conditions:

1. A 15 LF (UE) Utility Easement is granted to TECO/Peoples Gas for the location of their 4" PE Gas Main.
2. Applicant satisfies the Florida Power & Light conditions as listed below:
 - a. The existing Florida Power & Light electric pole and services currently located within the proposed vacation area will be relocated to an area to be determined, at the sole expense of the Applicant.
 - b. Florida Power & Light will invoice the Applicant for the relocation of said pole and services, to be paid within 45 days of receipt thereof.
 - c. The Applicant will grant to Florida Power & Light a 15' Public Utility Easement running along the eastern side of the vacation area.
 - d. The above conditions shall be satisfied prior to the issuance of any permits for work within the vacated area.

End of Staff Report

Mr. Timmons asked if the right of way was a street or just grass. Ms. DeVaughn stated that the right of way was an improved roadway.

Mr. Ink asked if there would be a dead-end road which would hinder emergency vehicles from being able to properly maneuver. Ms. DeVaughn stated that there would not be a dead-end road situation that would cause any concerns for the emergency vehicles and that emergency exits would be available.

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Mr. Stockman opened public comment and hearing none closed the public comment section.

Mr. Leger advised that he had a family member that worked for the architect designing the proposed project which was why he was abstaining from this agenda item.

Mr. Ink **moved** to find the vacation of a 60' by 590' portion of the Prince Street right-of-way located 250' south of Edison Avenue to the CSX Railroad right-of-way consistent with the Land Development Code and Comprehensive Plan and recommended **approval** of the vacation to City Council with the following recommendations:

1. A 15 LF (UE) Utility Easement is granted to TECO/Peoples Gas for the location of their 4" PE Gas Main.
2. Applicant satisfies the Florida Power & Light conditions as listed below:
 - a. The existing Florida Power & Light electric pole and services currently located within the proposed vacation area will be relocated to an area to be determined, at the sole expense of the Applicant.
 - b. Florida Power & Light will invoice the Applicant for the relocation of said pole and services, to be paid within 45 days of receipt thereof.
 - c. The Applicant will grant to Florida Power & Light a 15' Public Utility Easement running along the eastern side of the vacation area.
 - d. The above conditions shall be satisfied prior to the issuance of any permits for work within the vacated area.
3. The vacation will not create a dead-end street situation.

Mr. Hart **seconded** the motion.

Mr. Timmons stated that he would like to add a condition that City Council be educated on the traffic studies and conditions of Prince Street. Mr. Alley asked for clarification on the added condition being requested. Mr. Ink stated that the Board was concerned about the amount of traffic on Prince Street and how it would impact the general public and a traffic study would help give a view of the amount of traffic there was on Prince Street.

Mr. Ink agreed to amend the motion to include the condition of City Council being educated on the traffic studies and conditions of Prince Street. Mr. Hart **seconded** the amended motion.

Mr. Stockman called the motion to a vote and the motion unanimously **passed** 6-0.

NO 3 EX PARTE: None

NO. 3 PUBLIC HEARING: TO CONSIDER A DEVELOPMENT AGREEMENT FOR CYPRESS VILLAGE LOCATED AT 4551 WINKLER AVE REGARDING PARKING AND TRAFFIC CIRCULATION ISSUES. WARD 6

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Anthony Palermo, Assistant Community Development Director, stated the development would be for low income families and provide affordable housing. Mr. Palermo also stated that the property was already zoned as commercial general.

Anthony Palermo, Assistant Community Development Director, stated that staff findings were as follows:

Staff Report

AGENDA ITEM#3 Development Agreement for Cypress Village located at 4551 Winkler Ave. regarding parking and traffic circulation issues. (Ward 6)

BACKGROUND The applicant, Shawn Wilson, Manager of Blue CASL 11, LLC, submitted a request for approval of a Development Agreement with the City of Fort Myers to facilitate the development of affordable housing at 4551 Winkler Avenue, (STRAP#3345-25-P1-00006.OO 10), known as Cypress Village.

The applicant proposes a 95-unit multi-family development with related infrastructure for persons with disabilities, low-income, and/or in need of supportive housing.

The subject property is vacant, located south of Colonial Boulevard, and on the east side of Winkler Avenue. Approximately 3.82 acres in size, it has Commercial General (CG) zoning and is within the Traditional Community (T/ C) Future Land Use category.

The proposed agreement proposes relief from the City's parking requirements and an exemption from turn-lane requirements and construction of a frontage road.

The application is pursuant to LDC Sec. 98.3.11 "Development Agreements."

"Development agreements made pursuant to this section are intended to protect and further the public health, safety and welfare by providing certain guarantees to land developers in exchange for their agreement to provide specified public facilities or services which are related to and consistent with the city's capital improvement planning and financing. "

Per LDC Sec. 98-3.11(b) development agreements are submitted to the Community Development Department for review and are recommended to the Planning Board and City Council.

"The Planning Board, after a public hearing, shall provide a recommendation to city council as to whether or not the city should become a party to the development agreement and if and what modifications should be made. The city council, upon the recommendation of the community development director and the Planning Board and after a public hearing, shall a make final determination on whether the city should become a party to the development agreement. "

The Development Agreement has also been noticed per the requirements of LDC Sec. 98-3.11 (d) including notice in the Fort Myers News Press, sign posting, and mailing to property owners within 300 feet of the subject properties.

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The applicant's agents state their client specializes in affordable housing for the disabled, the elderly, low-income individuals and families (Blue Sky Communities and CASL, Inc.).

Land Development Code Sec. 135.3.5 will require a total of 159 parking spaces for the proposed development. The applicant proposes 125 parking spaces, 1.2 spaces per dwelling units plus 10% guest parking. The applicant has provided parking analysis including data specific to this development for special needs populations. The applicant argues that there will be low rates of car ownership, private transportation by the developer for residents, and proximity to Lee Tran service.

The applicant's agents also state their case for exemption from a requirement (per Site Permit application SIT2019-00223) for a right-turn lane on Winkler Avenue.

The applicant's agents provided a Traffic Impact Study (TIS) making the case that it is the surrounding development, including the proposed Aldi's grocery store, creating the need for the improvements and not the impacts of this residential development, which will create less traffic impacts than a typical multi-family development.

The Development Agreement includes a description of the project (95 units of affordable housing), 125 off-street parking spaces, and a set aside of green open space large enough for 18 parking spaces.

The developer agrees to a parking study to confirm the parking is adequate. If the parking is inadequate, the open space will be utilized for parking.

The agreement also confirms the developer will not be required to construct turn lanes onto Winkler Avenue or any other off-site transportation improvements. The agreement is effective for five years.

The agreement and supportive documentation have been reviewed by Legal, Fire, Engineering and Community Development staff.

Recommended Action

Staff recommends approval of the Development Agreement, finding it is consistent with the Comprehensive Plan and Land Development Code.

End Staff Report

Veronica Martin, TDM Consulting representing the applicant Shawn Wilson, stated that the location was south of Winkler Avenue and the Colonial Boulevard section. Ms. Martin stated that she had met with staff to address any concerns and issues and to get them rectified. Ms. Martin stated that the two items that could not be addressed through the Land Development Code were being reviewed through the Administrative Deviation process and the Variance process. Regarding the Land Development Code Chapter 134, Ms. Martin stated that the applicant requested for the maximum 10% to provide 143

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parking spaces on site, and that her correspondence with staff was that it would be approved.

Ms. Martin stated that the development would include public transportation for the residents. Ms. Martin stated that the applicant had provided a condition in the Development Agreement that if parking studies demonstrate the need, then 18 extra parking spaces would be added to the development. Ms. Martin stated, regarding the possibility that a right turning lane would need to be constructed on Winkler Avenue, that the proposed residential development would not trigger the need for a right turn lane.

Mr. Timmons asked for clarification on where the turn lane would be. Ms. Martin advised it would be a right turn lane from Winkler onto the frontage road.

Mr. Ink stated he agreed with the proposed request, if there was a whereas clause in the Development Agreement, that if another development should be put in and require the construction of a turn lane, then the applicant would not seek any financial gain from the turn lane.

Mr. Stockman questioned that if the property reverts to a market property, would the owner be in agreement that at that time, the green space would be converted back to parking. Shawn Wilson, applicant, stated he would agree with that.

Mr. Stockman also suggested that even though the applicant would be responsible for the payment of the traffic studies, that they also agree to allow the City to engage the study.

Mr. Stockman opened public comment and hearing none, closed the public comment section.

Mr. Stockman **moved** to recommend **approval** of the Development Agreement as proposed and found it consistent with the Comprehensive Plan and Land Development Code with the following changes:

1. Paragraph 3 will read, "at the cost of the owner, the city will apply for and obtain a parking study which shall be done through standard procurement policies."
2. Add a new paragraph that states the agreement be conditioned upon the happening and the recording of a Land Use Restriction Agreement with the Florida Housing Finance Corporation and if the owner does not obtain a Land Use Restriction Agreement on or before 12 months from the date of this development, the agreement shall be void.
3. Add another paragraph that states, if at any point and time the Land Use Restriction Agreement becomes rendered no longer applicable to the property, the owner of the property will be required to revert the green space on the property back to parking.

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Mr. Ink suggested adding that the property owner will not seek any compensation if there is any imminent domain to the right turning lane.

Mr. Stockman **amended** his motion to add another condition that the owner agrees that the development agreement and the consideration afforded with it, will act as just compensation, if the city deems that they need to use imminent domain for the sole and express purposes of a turn lane for the access easement from Winkler Avenue to Glenford Avenue.

Mr. Ink **seconded** the motion. The motion was called to a vote and **passed** 6-0.

NO. 4 PUBLIC HEARING: CONSIDER AN AMENDMENT TO THE LAND DEVELOPMENT CODE CHAPTER 118, LAND USE REGULATIONS. CONTINUED FROM THE REGULAR MEETING TO BE HELD ON NOVEMBER 6, 2019, AT 1:00 P.M. IN CITY COUNCIL CHAMBERS.

Mr. Ink advised he would be abstaining from the vote on the agenda item, but not from the discussion, as he was employed with the firm that represents the City.

Fred Drovdic, Planner with Waldrop Engineering, stated the following changes:

- Page 3, Residential Districts, Commercial wireless telecommunication facility needed to be struck from the RS-5 and RS-E Districts, as well as, up to and through RS-D.
- Page 15, the reference on #52 needed to be unstruck and changed to 118.3.3.C.10
- Page 9 Section D, Serena Park Lots, has been added to the text.
- Heavy Industrial Permitted Use sections have been omitted on pages 15, 16, and 17.
- "Residential Density in Commercial Districts" table has been added to page 13.
- Stand alone pharmacy was added to permitted uses in the Light Industrial section.

Mr. Stockman suggested clarification on what assisted care would be defined as, on page 2 section (A2), or to at least clarify further that the list given was not exclusive.

Mr. Stockman opened public comment and seeing none closed the public comment section.

At 3:23 p.m., Mr. Hart advised he needed to be excused from the meeting.

Mr. Stockman moved to recommend approval of the amendment to the Land Development Code Chapter 118, Land Use Regulations and found the request consistent with the Land Development Code and recommended the approval to City Council with the following changes:

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1. On page 2 (A2), to either define assisted care facilities, or to make sure that the list that will be added elaborates whether it will be exclusive or non-exclusive.
2. On page 3, to remove commercial wireless telecommunications facility under both RS-E, RS-5, and RS-D.
3. On page 15, to separate out the uses in section A (6), and on item 52, unstrike the link to the citation section and that the section should be listed as 118.3.3.C.10.

Mr. Ink seconded the motion and the motion **passed unanimously** 4-0 with Mr. Ink abstaining.

NO. 6 OTHER BUSINESS

Seeing no other business, the meeting adjourned at 3:26 p.m.

Note: For detailed information on the presentations and discussions held at the November 6, 2019, Planning Board Meeting, a recording of the meeting can be purchased from the City Clerk's Office or the meeting could be viewed at the City of Fort Myers Website at www.cityftmyers.com.

(Instructions: Go to City of Fort Myers Website; open Government and Officials meetings; select City Meetings; select 2019 City Board Meetings; scroll down and select Planning Board; and select the date of the Planning Board meeting.)

**CITY OF FORT MYERS
PLANNING BOARD MEETING
(LOCAL PLANNING AGENCY)
MINUTES OF DECEMBER 4, 2019 MEETING**

The Planning Board of the City of Fort Myers, Florida, met in regular session at Oscar M. Corbin, Jr. City Hall, 2200 Second Street, its regular meeting place in the City of Fort Myers, Florida, on Wednesday, December 4, 2019, at 1:00 p.m.

CALL TO ORDER – Vice Chairman, Michael Ink, called the meeting to order at 1:04 p.m.

ROLL CALL

Recording Secretary Monique John completed roll call.

Members Present

Jonathan Hart
Charles Timmons
Darlene Mitchell
James Ink
William Keene
Matt Leger

Members Absent

Justin Stockman

Community Development Staff Present

Steven Belden, Community Development Director
Nicole DeVaughn, Planning Manager
Laura Tefft, Senior Planner
Monique John, Senior Administrative Assistant

Other City Staff Present

Grant Alley, City Attorney
Sherri Enright, Assistant Administrative Attorney

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

PUBLIC INPUT – NON-PUBLIC HEARING AGENDA ITEMS: None

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ITEM NO. 1 PUBLIC HEARING: CONSIDER AN AMENDMENT TO THE LAND DEVELOPMENT CODE CHAPTER 118, LAND USE REGULATIONS TO ADD EDISON FORD CULTURAL DISTRICT (EFC).

EX PARTE COMMUNICATION: None

Nicole DeVaughn, Planning Manager, Planning Division, Community Development Department, stated that staff findings were as follows:

STAFF REPORT

Agenda Item #1: The City proposes to create a new zoning district in Chapter 118 of the Land Development Code (LDC) to address the unique needs and character of the Edison & Ford Winter Estates and the nearby city-owned properties.

City staff proposes to also rezone + /- 24.31 acres of land from Residential Single-Family Duplex (RS-D), Single Family Estate (RS-E), and Neighborhood Commercial (NC) to the new-proposed Edison Ford Cultural District (EFC).

Area Impacted: The Edison-Ford Cultural District (EFC) will be assigned to the City-owned properties leased to the Thomas Edison and Henry Ford Winter Estates.

The properties are located on the Caloosahatchee River, fronting several streets including McGregor Blvd., Larchmont Ave., Virginia Ave., and Euclid Ave adjacent to but not within the Edison Park Historic District.

The overall area is + /- 24.31 acres, of which +/-3.38 acres is zoned RS-D (Single-Family Duplex); +/- 17.92 is zoned RS-E (Single Family Estate); and + /- 3.01 is zoned NC (Neighborhood Commercial).

Also see Attachment 1 Subject Property List for the address, STRAP numbers, and total acreage of the properties.

Intent: The EFC District is a new zoning category proposed for the Edison & Ford Winter Estates. The intent is as follows per proposed LDC Sec. 118.2.5.A.1.:

The majority of the property in this district includes historic property once the winter homes of Thomas Edison and Henry Ford. The district is intended to promote and maintain the preservation of historic structures, portray the legacy of these American legends in Fort Myers, and serve as an economically viable and visible cultural landmark to the community and world. These EFC district regulations shall establish the permitted uses for the property thereby enhancing the cultural value of the estates and surrounding neighborhoods.

Permitted Uses Existing Zoning):

RS-E: Single-family detached homes;

RS-D: Single-family attached, detached, zero lot line, two family (duplex), and townhomes;

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NC: Bank, Bed and Breakfast, Day Care. Hotel, Live-Work, Medical Office, Personal Care Services, Multifamily (16 dwelling units per acre), Retail, Self-Storage, and other commercial uses.

Permitted Uses (proposed for the EFC zoning district): Per the proposed LDC Sec. 118.2.5.A.2. the permitted uses are limited to current uses at Edison & Ford Winter Estates and to allow for related and accessory uses in the future. Permitted uses include: Museum, library, community center, food preparation, greenhouse or nursery, concession, offices, park, food service, retail sales, and special events.

Many uses are specifically limited as "an accessory use to a primary use located on the same lot or on a lot of common ownership in the EFC district."

Building Envelope Standards: Per the proposed LDC Sec. Sec. 118.2.5.A.3 building standards include setbacks, lot sizes, height, and maximum building coverage intended to allow for the Edison-Ford Estates to function and allow for future expansion while protecting the interests of surrounding neighbors.

STAFF RECOMMENDATIONS

Recommend approval of the request! to amend Land Development Code Chapter 118 Land Use Regulations to create regulations for the Edison Ford Cultural (EFC) district and find the request consistent with the Comprehensive Plan and the Land Development Code and recommend approval of the project to the City Council.

END OF STAFF REPORT

Mr. Ink asked if the proposal includes any non-city property. Ms. DeVaughn stated that the proposal did not include any non-city properties.

Mr. Keene asked if the proposal covers any other properties other than the ones in the Edison Park Historic District. Ms. DeVaughn stated that it did not. Ms. DeVaughn also stated that there were two (2) properties that were no longer included in the zoning district. Mr. Keene asked regarding setbacks, if there was a side exterior setback. Ms. DeVaughn stated that depending on if the road was vacated or not, there could be a side street setback as well as a side setback. Mr. Keene expressed concern regarding the 10-foot side setback for some properties. Mr. Alley clarified for the record that regarding Estate properties, that the Edison Ford Cultural District will be assigned to the city owned properties, leased to the Thomas Edison and Henry Ford estates and that all properties were city owned properties.

Mr. Keene asked what the Comprehensive Plan category was for the area. Ms. DeVaughn stated that the area was currently Traditional Community and the Estates were Residential Low Density (RLD). Mr. Keene asked if the proposed uses would be allowed under the zoning of RLD. Ms. DeVaughn stated that Limited Neighborhood Commercial was permitted through the conditional use process.

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Mr. Keene stated that his concern was about compatibility with the adjoining properties that were not under the city control and suggested considering something more adjacent to the other single-family homes.

Mr. Alley advised that representatives of the Edison Ford Winter Estates were present and prepared to speak.

Mike Flanders, President and CEO of the Edison Ford Winter Estates, stated that the purpose of the request was to have the zoning type e current and compatible with the uses that would be on the property and to have support services that will benefit the Estates.

PUBLIC INPUT: Hank Hendry, President of Lee Trust for Historic Preservation, stated that he was concerned if the property would be subject to review by the Historic Preservation Commission. Mr. Hendry stated, that since Ms. DeVaughn advised the Historic Preservation Commission would still have jurisdiction over the property, that he was in favor of the request.

Jack Mutzabaugh, 1665 Menlo Road, stated that he wanted to make sure there would be no incursions on his property line.

DISCUSSION: Mr. Keene asked what the maximum height was for the adjacent residential properties. Ms. DeVaughn stated that it was 35 feet for a single-family home.

Mr. Hart asked, if in the future development at the Edison Estates, would newer construction have to be historic in appearance rather than modern in appearance. Ms. DeVaughn stated that all new and reconstruction was governed by the Secretary of Interior Standards for Historic Preservation, so it would need to be compatible in mass and scale.

Mr. Keene asked if the new or reconstruction would require a Certificate of Review (COR). Ms. DeVaughn stated that it would. Mr. Alley stated it would most likely require a review in a quasi-judicial process based on substantial and competent evidence and providing due process. Mr. Alley also stated that the process would require that it comply with the deed of gift from Mrs. Edison and that it complies with the lease between the City of Fort Myers and the Edison Estates.

Mr. Keene stated that he was concerned about the 50-foot allowable height and 10-foot setback from the property line in the Edison Park Historic District and suggested the state having a slope in the area.

Ms. DeVaughn spoke with Mr. Flanders who agreed to a two (2) story height limitation on the historic properties.

MOTION: It was **moved** by Mr. Keene to recommend approval of the request to amend the Land Development Code chapter 118 Land Use Regulations to create regulations for the Edison Ford Cultural (EFC) District and find the request consistent with the Comprehensive Plan and the Land Development Code and

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recommend **approval** to City Council with the adjustment in allowable height on Section 3 for having a maximum of two (2) story height for the properties adjacent to the Edison Park Historic District and also to strike the waste management language, **seconded** by Ms. Mitchell and the Motion **passed** unanimously 6-0.

ITEM NO. 2 PUBLIC HEARING: REZONE 24.31 ACRES, MORE OR LESS, FROM RESIDENTIAL SINGLE-FAMILY ESTATE, RESIDENTIAL SINGLE-FAMILY DUPLEX & NEIGHBORHOOD COMMERCIAL TO THE NEW PROPOSED EDISON FORD CULTURAL DISTRICT (EFC) ZONING CATEGORY. (WARD 4) QUASI-JUDICIAL.

EX PARTE COMMUNICATION: None

Nicole DeV Vaughn, Planning Manager, Planning Division, Community Development Department, stated that staff findings were as follows:

BEGIN STAFF REPORT

AGENDA ITEM 2: Request to rezone 24.31 acres, more or less, from Residential Single-Family Estate, Residential Single-Family Duplex & Neighborhood Commercial Zoning Districts to the new Edison Ford Cultural District (EFC) zoning category. The property is located on the Caloosahatchee River, fronting several streets including McGregor Blvd., Larchmont Ave., Virginia Ave., and Euclid Ave adjacent to but not within the Edison Park Historic District. Ward 4 (Quasi-Judicial)

City staff proposes to also rezone + /- 24.31 acres of land from Residential Single-Family Duplex (RS-D), Single Family Estate (RS-E), and Neighborhood Commercial (NC) to the new-proposed Edison Ford Cultural District (ECD).

The City also proposes to create a new zoning district in Chapter 118 of the Land Development Code (LDC) to address the unique needs and character of the Edison & Ford Winter Estates and the nearby city owned properties.

Area Impacted: The Edison-Ford Cultural District (EFC) will be assigned to the City-owned properties leased to the Thomas Edison and Henry Ford Winter Estates.

The properties are located on the Caloosahatchee River, fronting several streets including McGregor Blvd., Larchmont Ave., Virginia Ave., and Euclid Ave adjacent to but not within the Edison Park Historic District.

The overall area is + /- 24.31 acres, of which +/-3.38 acres is zoned RS-D (Single-Family Duplex); + /- 17.92 is zoned RS-E (Single Family Estate); and + /- 3.01 is zoned NC (Neighborhood Commercial).

Also see Attachment 1 Subject Property List for the address, STRAP numbers, and total acreage of the properties.

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The subject properties are predominantly within the Residential Low Density (RLD) Future Land Use category, including the estates and museum. Properties fronting Larchmont Avenue, north of the laboratory and museum, are within the Traditional Community (T/ C) Future Land Use category.

Current Zoning:The current zoning is as follows:

- RS-D zoned parcels (Tract 5 and 6 — Larchmont Subdivision) 3.38 + /- acres;
- RS-E zoned parcels (Tracts 1, 2, and 3 — Edison and Ford properties) 17.92 + /acres;
- NC zoned parcels (Tract 4-Larchmont; Tracts 6A, 7, 8, 9, 10-Ford's Subdivision; Tract 11 & 12 — Lacolina Subdivision) 3.01 + /- acres.

Proposed Zoning: The proposed EFC district is intended to protect and enhance the unique historic and cultural value of the Edison -86 Ford Estates as well as the surrounding neighborhoods.

The permitted uses are intended to allow for current uses to continue while leaving open a limited number of potential uses. Many uses are described specifically as "accessory" to the primary use of the museum and historic estate houses.

Building standards, including setbacks, lot sizes, height, and maximum building coverage are intended to allow for the Edison-Ford Estates to function and expand while protecting the interests of surrounding neighbors.

PUBLIC NOTICE

A total of 186 public notice letters were sent to property owners within 300 feet of the properties included in the proposed rezoning. The properties were also posted with signs alerting the general public about the rezoning request; and an ad ran in the News Press; all actions occurring at least 10 days prior to the meeting.

STAFF RECOMMENDATIONS

Recommend approval of the request to rezone 24.31 acres, more or less, zoned Residential Single-Family (RS-E and RS-D) and Neighborhood Commercial (NC) to the proposed Edison Ford Cultural (EFC) zoning district; and find the request consistent with the Comprehensive Plan and the Land Development Code and recommend approval to the City Council.

END STAFF REPORT

PUBLIC INPUT: Jack Mutzabaugh, 1665 Menlo Road, stated that he would like to keep the area preserved as much as possible.

DISCUSSION: Mr. Keene stated, regarding Policy 1.2, that the staff should consider changing the Future Land Use Category for the Estates in the future to avoid the potential of objection to proposed projects. Mr. Keene also stated that he believes that

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the part of the Comprehensive Plan being discussed, could potentially mean that commercial uses on a designated property zoned for RLD, may still have to go through the Conditional Use process.

MOTION: It was **moved** by Mr. Keene to recommend approval of the request to rezone 24.31 acres, more or less, from Residential Single-Family Estate (RS-E), Residential Single Family Duplex (RS-D) & Neighborhood Commercial (NC) to the new proposed Edison Ford Cultural District (EFC) zoning category, **seconded** by Mr. Timmons and unanimously **approved** 6-0.

ITEM NO 3: PUBLIC HEARING CONSIDER AN AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 114, HISTORIC PRESERVATION.

Nicole DeVaughn, Planning Manager, Planning Division, Community Development Department, stated that staff findings were as follows:

BEGIN STAFF REPORT

AGENDA ITEM #3 – Chapter 114. Historic Preservation Amendment

The proposed amendment corrects references both within the chapter and to specific sections of the *Design Guidelines for Historic Preservation*. The only substantive change is to section 114-71, Table 1 Approval Matrix, to allow administrative approval to replace a concrete (non-ribbon) driveway with paver stones.

Sec. 114-2. - Definitions.

Secretary of the Interior's Standards for Rehabilitation means a federal document currently set forth in 36 CFR 67 establishing standards and guidelines for the appropriate rehabilitation and preservation of historic resources, as it may be amended from time-to-time. ~~See section 114-71.~~

Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings means a federal document that provides design and technical recommendations that assist in applying the Standards for Rehabilitation. ~~See section 114-71.~~

Sec. 114-3. - Procedure for designation of historic districts.

(a) through (k) no changes

(l) The historic properties database described in section 114-88 shall reflect all changes to historic districts as described in Article V ~~IV~~.

Sec. 114-4. - Procedure for designation of historic landmarks.

(a) though (d) no changes

(e) The historic properties database described in section 114-88 shall reflect all changes to historic landmark designations as described in Article V ~~IV~~.

Sec. 114-42. - Appointment, terms of members.

Each council member shall nominate one member and the mayor shall nominate one member and the two alternate members with all members to be

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appointed by the city council. After consideration of each nominee, the city council collectively shall make such appointments to the historic preservation commission as it deems appropriate. Nominees to the historic preservation commission that are not appointed by the city council shall be replaced with a new nomination from the person who holds the position of the elected official making the original nomination. The city council shall make the final decision on all appointments to the historic preservation commission. The members shall serve for a term of three years. Any member of the historic preservation commission may be reappointed from term-to-term upon nomination by the person holding the position of the elected official making the original nomination and appointment by the city council in the manner as provided in this section. Appointments to fill a vacancy on the historic preservation commission shall be made in the same manner as the original appointment as provided in this subsection for the remainder of the unexpired term. ~~Vacancies shall be filled within 60 days.~~ Members of the historic preservation commission shall serve at the pleasure of the city council. After nomination and appointment, the members of the historic preservation commission shall be sworn in by the city clerk to perform the duties of the office.

Sec. 114-71. Certificates of review required.

- (a) **When required.** A certificate of review must be obtained:
- (1) Before altering, relocating, or demolishing any structure, and before any new construction, within a historic district that has been designated by the City of Fort Myers.
 - (2) Before altering, relocating, or demolishing any structure, and before any new construction, on the site of a landmark that has been designated by the City of Fort Myers.
- (b) **When not required.** A certificate of review is not required for the following activities, as described later in this article:
- (1) A certificate of review is not required for ordinary repair and maintenance that does not change the design, material, or appearance of exterior elements; see section 114-4272(a)(1).
 - (2) The color of paint on painted surfaces may be changes without a certificate of review. However, see section 114-72(a)(2) for criteria regarding painting of unpainted surfaces including brick or masonry.
 - (3) During a state of emergency, certain required repairs may be made without a certificate of review; see section 114-81.
- (c) **Criteria.** Criteria for the issuance of certificates of review are found here and in sections 114-72 through 114-75.
- (1) These criteria include references to design guidelines that are contained in Chapters II and III of the ~~manual~~, "*Design Guidelines for Historic Preservation*," which may be revised from time to time, are adopted by reference as though set forth fully herein. Other chapters of this manual contain additional explanatory material about historic preservation in the City of Fort Myers.
 - (2) Design guidelines will be evaluated in a manner that takes into account technical feasibility and avoids creating unreasonable economic hardships.

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- (3) In historic districts, some criteria distinguish between properties that have been deemed “contributing” or “non-contributing” to the historic district, as those terms are defined in this Chapter and as shown on historic district maps in article V IV. Criteria that do not make this distinction apply to both contributing and non-contributing properties.
- (4) In addition to the criteria described in sections 114-72 through 114-75, consideration shall also be given to the U.S. Secretary of Interior’s *Standards for Rehabilitation*, which are highlighted reprinted as an appendix to the *Design Guidelines for Historic Preservation*.
- (5) Additionally, although they are not mandatory criteria for issuance of certificates of review, consideration should be given to the technical advice found in the U.S. Secretary of Interior’s *Guidelines for Rehabilitation of Historic Buildings*, part of which is reprinted as an appendix to the *Design Guidelines for Historic Preservation*.
- (d) **Issuance by historic preservation commission.** Certificates of review are issued by the historic preservation commission at a public hearing.
- (e) **Administrative issuance for minor exterior work.** In certain cases, this code specifically authorizes administrative approval of certificates of review for minor exterior work that does not involve substantial alterations, additions, or demolition that could impair the integrity of a building or structure. When so authorized, administrative approval may be issued through a letter from the community development director, or their designee, for the applications that meet the same review criteria that would be used by the historic preservation commission. The community development director, or their designee, may also refer an application for minor exterior work to the historic preservation commission for a decision. Appeals of administrative decisions will be decided by the historic preservation commission. See Table 1. Approval Matrix.

Table 1. Approval Matrix				
Action	Contributing		Non-Contributing	
	Admin.	COR	Admin.	COR
Additions				
1. All Additions		X		X
Canvas Awnings				
1. On a primary or street facade		X		X
2. All other facades	X		X	
Carpports				
1. Addition		X		X
2. Enclosure		X	X	

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Decks				
1. Not visible from the right-of-way	X		X	
2. With a structure (trellis, etc.) and visible		X	X	
Demolition				
1. Non-historic additions				
a. Attached		X		X
b. Free-standing	X		X	
2. All others		X		X
Doors, Garage Doors & Windows				
1. Change in material or style		X	X	
2. Change in opening greater than 10% of existing opening on the primary or street facade		X		X
3. Change in opening greater than 10% of existing opening on a secondary or non-street facade		X	X	
Exterior Materials & Appurtenances				
1. Siding		X	X	
2. Trim/Fascia		X	X	
3. Gutters				
a. Visible from street		X	X	
b. Not visible from street	X		X	
4. Lighting		X	X	
5. Mechanical Systems				
a. Impact to structure		X	X	
b. No impact to structure	X		X	
6 Restoration with documentation	X		X	
7. Handicapped Access				
a. Visible from street		X	X	
b. Not visible from street		X	X	
Hardscape				
1. Driveways (any material)		X		X
a. New (any material) or modify a ribbon driveway		X		X
b. Concrete to paver stones	X		X	
2. Sidewalks		X	X	
3. Patios				

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a. Visible from street		X		X
b. Not visible from street	X		X	
4. Pool & Pool decks				
a. Visible from street		X	X	
b. Not visible from street	X		X	
5. Landscape element	X		X	
Porches				
1. Open an enclosed porch				
a. With documentation	X		X	
b. Without documentation		X	X	
2. Porch enclosure on main facade		X		X
3. Porch enclosure on secondary facade		X	X	
Roof				
1. Change in material		X	X	
2. Change in shape		X		X
3. Alteration to character elements (skylights, etc.)		X	X	
Shutters and Storm Protection				
1. Removable (Temporary)	X		X	
2. Permanent & visible		X		X
3. Permanent & not visible	X		X	
Site Elements				
1. Fencing/Pergolas/Arbors				
a. Wood and metal fences, excluding chainlink	X		X	
b. All other fence types (including vinyl and chainlink)		X		X
2. Storage shed				
a. Custom designed	X		X	
b. Pre-Fabricated		X	X	
Signs				
1. New signs		X		X
2. Sign face change, no change to size or shape	X		X	
3. Blade signs (under canopy)	X		X	

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-Note: The planning division shall have discretion to defer to any level of approval to the historic preservation commission.

Sec. 114-72 Review criteria for existing buildings.

For maintaining, improving, and expanding existing buildings, evaluation of applications for certificates of review will consider the design guidelines described below as applied to the alteration and building in question. These design guidelines are found in Chapter II of the *Design Guidelines for Historic Properties*.

(a) Criteria for maintenance and improvements.

- (1) **Ordinary repair and maintenance.** ~~Guidance for ordinary repair and maintenance can be found in Chapter II, section A.1.~~ Certificates of review are not required for ordinary repair and maintenance that does not change the design, material, or appearance of exterior elements, ~~as further described in section A.1.~~
- (2) **Painting.** Paint colors are a matter of personal taste and are easily changed, so color changes do not require a certificate of review. Painting of unpainted brick or masonry is rarely acceptable. ~~Guidance on painting can be found in Chapter II, section A.2. *Design Guidelines for Historic Properties*.~~
- (3) **Replacement windows and doors.** Replacement windows and doors should respect the original character of historic buildings by retaining the original configuration and details of windows and doors. ~~Guidance on replacing windows and doors can be found in Chapter II, section A.3. *Design Guidelines for Historic Properties*.~~
- (4) **Substitute siding and trim.** Siding and trim should not be covered by materials that would change the building's character. ~~Guidance can be found in Chapter II, section A.4. *Design Guidelines for Historic Properties*.~~
- (5) **Replacement roofing.** Roofs should be maintained in their original styles and materials except when minor changes would not alter the overall character of the building. ~~Guidance can be found in Chapter II, section A.5. *Design Guidelines for Historic Properties*.~~
- (6) **Porches.** Porches should retain their original configuration and materials. ~~Guidance can be found in Chapter II, section A.6. *Design Guidelines for Historic Properties*.~~
- (7) **Fences.** Fences in front yards make a strong visual contribution to the historic streetscape and should not be removed or made incompatible with historic styles. ~~Guidance can be found in Chapter II, section A.7. *Design Guidelines for Historic Properties*.~~

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- (8) **Handicapped access.** Handicapped access should be provided in ways that maintain the character of the building and site. ~~Guidance can be found in Chapter II, section A.8. Design Guidelines for Historic Properties.~~
 - (9) **Accessory buildings.** Changes to accessory buildings such as garages and carports should avoid negative impacts on historic streetscapes. ~~Guidance can be found in Chapter II, section A.9. Design Guidelines for Historic Properties.~~
- (b) **Additional criteria for commercial and mixed-use buildings.**
- (1) **Replacement storefronts.** Storefronts need to evolve to meet current economic and code requirements but must respect the historic character of commercial districts and mixed-use buildings. ~~Guidance can be found in Chapter III, section B.1. Design Guidelines for Historic Properties.~~
 - (2) **Signs.** Signs should not damage or conceal architectural details or overwhelm the pedestrian scale of historic districts. ~~Guidance can be found in Chapter III, section B.2. Design Guidelines for Historic Properties.~~
- (c) **Criteria for enlarging buildings.**
- (1) **Additions.** Additions to a building should not visually overpower the original building, compromise its historic character, or destroy significant features or materials. ~~Guidance can be found in Chapter III, section C. Design Guidelines for Historic Properties.~~

Sec. 114-73. Review criteria for relocating buildings.

Before an existing building may be relocated, evaluation of an application for a certificate of review will consider the guidelines found in Chapter ~~II~~ III, ~~section A.~~ of *Design Guidelines for Historic Properties*.

- (a) For buildings that would be moved out of a historic district, these guidelines distinguish between contributing buildings and non-contributing buildings.
- (b) For buildings that would be moved into a historic district, these guidelines evaluate the architectural style and placement of the building on the new site.
- (c) For buildings that would be moved within a historic district, these guidelines evaluate both the existing site and the new site.
- (d) Guidelines are also provided for documentation of the original setting and physical aspects of the building and the moving process.

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Sec. 114-74. Review criteria for demolishing buildings.

In rare cases, demolition of a historic building may be justifiable despite damaging the historic conditions which were the basis of its designation. For an existing building proposed for demolition, evaluation of an application for a certificate of review will consider the guidelines found in Chapter ~~II~~ ~~III~~, ~~section B~~, of *Design Guidelines for Historic Properties*.

- (a) **Dangerous Conditions.** The Building Official may determine a dangerous condition that requires immediate demolition. A certificate of review may be approved administratively in this situation.
- (b) **Economic hardship.** A property owner may apply for a designation of unreasonable economic hardship when requesting a certificate of review for demolition.
- (c) **Insignificant accessory buildings.** A certificate of review may be approved administratively for the demolition of insignificant accessory buildings.
- (d) **Non-contributing buildings or structures.** A non-contributing building may be demolished to allow its replacement with a building that meets the criteria for new buildings in historic districts (see section 114-75).
- (e) **Contributing buildings or structures.** In the rare cases where a contributing building is allowed to be demolished, appropriate mitigation measures will be required.
- (f) **Additional criteria.** In addition to the guidelines found in ~~Chapter III~~, ~~section B~~, *the Design Guidelines for Historic Properties*, the following criteria will be considered when reviewing a certificate of review for demolition:
 - 1. The historic, scenic or architectural significance of the building structures or site shall be considered.
 - 2. The importance of the building or structure to the historic district shall be considered.
 - 3. The difficulty or the impossibility of reproducing such a building or structure because of its design, texture, material, detail or unique location shall be considered.
 - 4. The future utilization of the site, including any replacement buildings, structures or landscape, shall be considered.
 - 5. Whether the building or structure is one of the last remaining examples of its kind in the neighborhood, the county or the region shall be considered.
 - 6. The reasonable economic return of the building or structure shall be considered.
 - 7. Upon determination by the commission that demolition or removal of a building or structure is justified, relocation of the building or structure as a mitigating action should be considered.

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8. Upon determination by the commission that relocation of the building or structure is impractical, an archival recording, including photographic documentation, shall be made and copies of said material(s) provided to the Community Development Department for archival purposes.

Sec. 114-75. Review criteria for new construction.

For new construction in historic districts and on landmark sites, evaluation of applications for certificates of review will consider the guidelines found in the Chapter III, section C, Design Guidelines for Historic Properties. These guidelines address major aspects of new construction so that new buildings and other improvements will complement and enhance historic areas rather than compromise their integrity:

- (a) **Height.** The height of new buildings should be reasonably similar to historic buildings on the same of block or historic district.
- (b) **Proportion.** New buildings should be similar to nearby buildings in proportion of width to height.
- (c) **Rhythm.** The building's façade should maintain the rhythm of the historic streetscape. Entrances should be oriented to the street, and blank walls or garage doors should never dominate a prominent (street facing) façade.
- (d) **Setbacks.** The distance from the building to the front property line should be similar to adjacent and nearby buildings, even if that distance is greater than required by current city codes.
- (e) **Materials and texture.** New buildings should be compatible with adjacent and nearby buildings on the block as to materials and texture. Building materials and textures should be those used historically for all major surfaces.
- (f) **Roof shapes.** Roofs for new buildings should be similar to nearby buildings or in the historic district.
- (g) **Architectural details and decorative features.** The design of new buildings should take their cues from the basic forms and decorative elements of block or historic district.
- (h) **Styles.** Contemporary styles should be harmonious in form, material, and scale with the character of the block or historic district.
- (i) **Windows.** Window size and proportions should be similar to those used historically. To create larger surfaces of glass, consider combining several standard windows in a row. Mullions (muttons or grills) should be applied to the exterior of the window, sandwiching mullions between glass panes is highly discouraged.
- (j) **Infrastructure.** Infrastructure upgrades should enhance rather than detract from the character of historic district. Changes can dramatically affect the character of streets, alleys, sidewalks, street trees, on-street parking, lighting, etc.

Sec. 114-84. – Application requiring a rezoning.

- (a) When an application for a certificate of review will require rezoning before a building permit can be issued, the certificate of review application must be granted or denied before the rezoning can be considered by the Planning Board.
- (b) If the application is granted, the certificate of review shall be contingent on the rezoning being approved.

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- (c) If the certificate of review application is denied, an appeal that is filed pursuant to section 114-85(b) will be considered by the city council concurrently with the rezoning.
- (d) If the rezoning is approved in a way that requires changes to the certificate of review, the changes will be considered in the same manner as the original application.

HISTORIC PRESERVATION COMMISSION

The Historic Preservation Commission voted unanimously, 6-0, to recommend approval of the proposed changes to the Planning Board and City Council.

STAFF RECOMMENDATIONS

Find the amendment consistent with the Comprehensive Plan and recommend approval to the City Council.

END STAFF REPORT

PUBLIC INPUT: None

DISCUSSION: Mr. Keene asked if the City regulates the design guidelines. Ms. DeVaughn stated that was correct and that the guidelines were maintained by staff. Mr. Alley confirmed that the Community Development Department maintained the guidelines and that the City Clerk's office would have a copy, as well as the guidelines were accessible for any persons that would like to request the information.

MOTION: It was **moved** by Mr. Keene to find the request consistent with the Comprehensive Plan and recommend approval of the amendments to City Council, **seconded** by Ms. Mitchell and unanimously **approved** 6-0.

OTHER BUSINESS: Hearing no other business the meeting adjourned at 2:16 p.m.

Note: For detailed information on the presentations and discussions held at the December 4, 2019, Planning Board Meeting, a recording of the meeting can be purchased from the City Clerk's Office or the meeting could be viewed at the City of Fort Myers Website at www.cityftmyers.com.

(Instructions: Go to City of Fort Myers Website; open Government and Officials meetings; select City Meetings; select 2019 City Board Meetings; scroll down and select Planning Board; and select the date of the Planning Board meeting.)

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AGENDA ITEM #1 – Chapter 122. Public Facilities Amendment

The proposed amendment is to City Code Chapter 122, Article III, Section 122.161 Definitions and Section 122.166 Specific Prohibited Discharges, and adding Section 122.179 Disposal Requirements for Dental Facilities.

Sec. 122-161. - Definitions.

For the purpose of this division, the following phrases and words shall have the meanings assigned, except in those instances where the content clearly indicates a different meaning:

Approval authority means the state department of environmental protection (FDEP).

Authorized representative of an industrial user means:

- (1) If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems re-established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship; a general partner or proprietor, respectively.
- (3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subsections (1) through (3) above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

Biochemical oxygen demand or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

Best management practices or *BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.

Bio-hazardous waste means any solid or liquid waste which may present any threat of infections to humans including, but not limited to, non liquid human tissue and body parts, laboratory and veterinary wastes, discarded sharps, human blood, blood products and body fluids, bandages, gauzes or super-saturated sponges containing blood or body fluids from areas such as, but not limited to operating rooms, delivery rooms, trauma centers, emergency rooms or autopsy rooms. Other such devices which, after rinsing, retain visible blood adhering to inner surfaces such as intravenous tubing, hemodialysis filters and catheters.

Carbonaceous biochemical oxygen demand (CBOD 5) means the quantity of oxygen utilized in the carbonaceous biochemical oxidation of organic matter present in water or wastewater, reported as a five-day value determined using approved methods.

Categorical industrial user means an industrial user subject to pretreatment standards under Rule 62-625.410 Fac. including 40 CFR Chapter 1, Sub-chapter 4, Part 405 through 471, also July 1, 2009, hereby adopted and incorporated by reference.

Chemical oxygen demand (COD) means the quantity of oxygen required to satisfy the carbon in a wastewater sample as determined by chemical oxidation of the waste with a strong oxidation agent-acid solution.

Clean Water Act (CWA) means 33 USC 1251 et seq., commonly known as the Federal Water Pollution Control Act, as may be amended from time-to-time.

Control authority means the public works director, superintendent, pretreatment officer, or designee.

Conventional pollutant means BOD, COD, nitrogen, phosphorus; suspended solids; pH and fecal coliform bacteria; and any additional pollutant identified in the POTW National Pollution Discharge Elimination System Permit (NPDES) where the POTW is designed to treat such pollutants to the degree required by the POTW NPDES permit.

Daily maximum means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily maximum limit means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in

units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Department means the public works department and it shall have jurisdiction and cognizance over the POTW of the city and all matters relating to the use, management, operation, and maintenance thereof.

Direct discharge means the discharge of treated or untreated wastewater into the waters of the state.

Environmental Protection Agency (EPA) means an agency of the United States or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the CWA.

Floatable oil means oil, fat or grease in a physical state such that it will separate, by gravity, from wastewater by treatment in an approved pretreatment facility, device, or mechanism.

Grab sample means a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Hazardous substance means any toxic pollutant listed or designated pursuant to section 307(a), section 311(b)(2)(A) or section 102, CWA; any hazardous air pollutant listed under section 112, Clean Air Act; any imminently hazardous chemical substance or mixture with respect to which the public works director has taken action pursuant to section 7 of the Toxic Substance Control Act (40 CFR 712 and 716); any substance listed under Superfund in 40 CFR 116, 117 or 302; any material having the characteristics identified under or listed pursuant to section 3001 of Resource Conservation and Recovery Act (RCRA) and listed in 40 CFR 261.

Hazardous waste pharmaceutical is a pharmaceutical that is a solid waste, as defined in Title 40 of the Federal Regulations (40 CFR) Section 261.2, and exhibits one or more characteristics identified in 40 CFR Part 261 Subpart C or is listed in 40 CFR Part 261 Subpart D.

Healthcare facility means any person that is lawfully authorized to:

- (1) Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or
- (2) Distribute, sell, or dispense pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers,

health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals.

(3) Healthcare facility does not include pharmaceutical manufacturers.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers and vacuum-pump tank trucks.

Incompatible pollutant means a waste constituent which interferes with the operation and performance of the POTW.

Indirect discharge means the discharge or production of non-domestic pollutants from any source regulated under section 307(b), (c) or (d), CWA (33 USC 1317) into the POTW.

Industrial user means a source of industrial or non-residential discharge.

Industrial waste means the liquid waterborne pollutants resulting from processes or operations employed in industrial establishments, as defined in the Standard Industrial Classification Manual, (SIC) 1972, Office of Management and Budget of the federal government, as amended and supplemented, under the following divisions:

- (1) Division A: Agricultural, forestry and fishing.
- (2) Division B: Mining.
- (3) Division D: Manufacturing.
- (4) Division E: Transportation, communication, electric gas, and sanitary service.
- (5) Division I: Services.

Industrial wastewater discharge permit (IWDP) means a permit issued by the city authorizing the discharge of industrial wastewater into the POTW by an industrial user.

Instantaneous limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event. If the POTW would like the flexibility to measure compliance with either a single grab sample or sample representative of the discharge day, the POTW should establish both daily maximum and instantaneous limits.

Interference means inhibition or disruption of the POTW processes or operations which contribute to a violation of any requirement of the city NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405, CWA (33 USC 13-15) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act, 42 USC 6901 et seq. (SWDA), the Clean Air Act, the Toxic Substance Control Act

or more stringent state criteria applicable to the method of disposal or use employed by the POTW.

Local limit means specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

Lower explosive limit (LEL) means the minimum concentration of combustible gas or vapor in air that will ignite.

Maximum allowable concentration (MAC) means the maximum permitted amount of a specified pollutant in a volume of water or wastewater.

National categorical pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c), CWA (33 USC 1317) which applies to a specific category of industrial users.

National Pollution Discharge Elimination System (NPDES) permit means any permit or equivalent document or requirements issued by the federal or state water pollution control agency to regulate the discharge of pollutants from the POTW pursuant to section 402, CWA (33 USC 1342).

National pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the Department under Chapter 403, Florida Statutes, which applies to industrial users. The term includes prohibitive discharge standards established in section 122-166.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c), CWA which will be applied to such source if such standards are thereafter promulgated in accordance with that section. This definition shall include all provisions included in the definition in F.A.C. 62-625.200(13)(a)(b)(c).

Nonindustrial user means a user of the POTW not in the industrial user classification as defined herein.

Notice of violation (NOV) means a written notice informing a user that a violation of this division has occurred.

Notify means contact by telephone, in person or via certified United States Mail, return receipt requested as specified in this division.

Pass through means a discharge that exits from the POTW to the receiving waters of the city or to the reclaimed water system sludge or deep well injection system in quantities or concentrations which, alone or in conjunction with the discharge or discharges from other sources, is a cause of a violation of any requirement of any permit held by the POTW including an increase in the magnitude or duration of the violation.

pH means a quantitative expression for acidity or alkalinity of an aqueous solution. Theoretically $pH = \log$ (base 10) pH, where pH is the concentration of hydrogen ions in grams per liter. Scale ranges from 0 to 14, pH 7 being neutral, less than 7 acid, more than 7 alkaline.

Pharmaceutical means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, and defined by Title 21 of the Code of Federal Regulations Part 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. Pharmaceutical does not include dental amalgam or sharps.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

Pollutant means any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological material, radioactive material, heat, wrecked or discharged equipment, rock sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means the manmade or man induced alteration of the chemical, physical, biological or radiological integrity of water.

Premises means a parcel of real estate or portion thereof including any improvements thereon which is determined by the control authority to be a single user for the purposes of receiving, using and paying for sewer services.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to or in lieu of discharging or otherwise introducing such pollutants into a POTW. It is also the reduction or alteration of the nature of pollutant properties in wastewater, to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes by other means, except as prohibited by F.A.C. 62-625.410(5).

Pretreatment officer means the person that administers the operations of the Industrial Pretreatment Program, ensures compliance with all city, state, and federal pretreatment regulations, issues permits for new and renewing industries, conducts site inspections, issues notices of and calculates penalties for violations of city, state, and federal pretreatment regulations.

Pretreatment requirement means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Pretreatment review committee means a panel made up of the following individuals whose main function is to review user appeals relating to IWDP issues, chief building inspector or designee, public works director, pretreatment officer, superintendent and city attorney or designee.

Prohibited discharge standards means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 122-166.

Public works director means the person designated by the city to administrate the activities of the public works department, supervise the operation of the POTW, maintain records of such operation, prepare operating budgets and make recommendations to city council concerning activities within his responsibility and authority. The public works director shall comply with all applicable public participation requirements of section 101(e) of the CWA and F.A.C. 62-625 in the enforcement of National Categorical Pretreatment Standards.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212, CWA, (33 USC 1292) which is owned by the city, any devices and systems used to pump, store, treat, recycle and reclaim municipal sewage or industrial wastes of a liquid nature, public sewers that convey wastewater to the POTW treatment plant, not including pipes, sewers or other conveyances not connected to a facility providing treatment, and any sewers that convey wastewaters to the POTW from persons outside the city who are users of the POTW by contractor agreement with the city.

Reclaimed water means water, which as a result of treatment of waste, is suitable for direct beneficial use or a controlled use that would not occur otherwise.

Reclaimed water system means the reclaimed water including any pipes, tanks and other apparatus used to collect, store, distribute or supply reclaimed water to its destination. Reclaimed water system is part of the POTW.

Replacement costs means expenditures for obtaining and installing equipment, accessories or appurtenances necessary to retain design capacity and performance of the POTW throughout the jurisdiction of the city.

Reverse distributor means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

Shall means mandatory; *may* means permissive.

Significant industrial user (SIU) means except as provided in subsection (8) of this definition of SIU, a significant industrial user is:

- (1) A categorical industrial user; and
- (2) Has a SIC code for which the national categorical pretreatment standards apply; or
- (3) Has a discharge flow of 25,000 gallons or more per average work day of process water (excluding sanitary, non-contact cooling and boiler blow down wastewater) to the POTW; or

- (4) Has an average consumption of potable water of 25,000 gallons or more per day, but excluding condominiums and purely domestic sanitary, non-contact cooling and boiler blow down wastewater; or
- (5) Contributes a waste stream which makes up five percent or more of the average dry weather hydraulic or organic (CBOD, total suspended solids (TSS), etc.) capacity of the treatment plant; or
- (6) Has in its waste toxic or priority pollutants as defined pursuant to section 307, CWA; or
- (7) Has a discharge which, in the judgment of the control authority or the state department of environmental protection may reasonably be expected to have a significant adverse impact either singly or in a combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the reclaimed water quality or air emissions generated by the system or has the potential to endanger the POTW workers; or
- (8) Upon finding that an IU meeting the criteria in subsections (2), (3), (4), (5), (6), and (7) of this definition has no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with F.A.C. 62-625.500(2)(e); determine that such industrial user is not a significant industrial user.

Significant noncompliance (SNC) means an industrial user shall be deemed to be in significant noncompliance when any one or more of the following criteria are satisfied:

- (1) Sixty-six percent or more of the wastewater samples exceed the same pretreatment standard over a six-month period by any magnitude; or
- (2) Thirty-three percent or more of the wastewater samples exceed the same pretreatment standard by more than the technical review criteria (TRC) in a six-month period; or for conventional pollutants, TRC = 1.4 or 40 percent over the limit. For all other pollutants, TRC = 1.2 or 20 percent over the limit.
- (3) Any violation occurs that the control authority may have reason to believe has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass through; or endangered the health of the POTW personnel or the public; or
- (4) A discharge occurs which causes imminent endangerment to human health/welfare or to the environment and resulting in the POTW use of its emergency authority to halt or prevent such a discharge; or
- (5) Failure to meet within 90 days a compliance schedule milestone contained in an IWDP or compliance schedule such as, but not limited to, failure to start or complete construction, or attain final compliance by the compliance schedule date; or

- (6) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules; or
- (7) The SIU fails to provide required reports within 45 days from the due date; or
- (8) The SIU fails to accurately report noncompliance; or
- (9) The SIU refuses to permit entry to the control authority for inspection, etc., as specified herein.
- (10) Any other violation(s), which may include a violation of BMPs, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

Significant violation means any violation or group of violations of an industrial user IWDP which establishes a condition of significant noncompliance.

Slug load or slug discharge means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in section 122-165. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

Slug/spill containment plan means a detailed plan showing facilities and operating procedures to provide protection from accidental discharge.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended or supplemented.

Standard methods means the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

Superintendent means the person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this division. The term also means a duly authorized representative of the superintendent.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in water, wastewater or other liquids and which is removable by laboratory filtering.

Time proportional composite sample means a sample consisting of a minimum of eight equal volume discrete portions collected at equal time intervals over the composite period.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the approval authority of the EPA under provisions of CWA 307(a) or other acts.

Twenty-four-hour flow proportional sample means a sample consisting of several effluent portions collected during a 24-hour period in which the portions of sample are proportionate to the flow and combined to form a representative sample.

Unpolluted wastewater shall mean any wastewater which is substantially free of pollutants and is discharged from the following:

- (1) Rain downspouts and drains;
- (2) Footing drains;
- (3) Stormwater and surface water drains;
- (4) Cooling water systems.

Unpolluted wastewater shall contain, by definition, none of the following:

- (1) BOD in excess of ten mg/l;
- (2) Suspended solids in excess of ten mg/l;
- (3) Free of emulsified greases or oils;
- (4) Acids or alkalis;
- (5) Phenols or other substances imparting taste or odor in receiving waters;
- (6) Toxic or poisonous substances;
- (7) Noxious or odorous gases;
- (8) Temperature in excess of 150 degrees Fahrenheit or 65.5 degrees Celsius.

Any wastewater judged by the state department of environmental protection to be admissible to streams and watercourses under the jurisdiction of water quality established by said department for the particular stream or watercourse into which such unpolluted wastewater is to be discharged.

User means any person, firm, corporation or governmental entity that discharges, causes or permits the indirect discharge of wastewater into the POTW.

Waste means sewage and any and all other substances, liquid; solid; gaseous or radioactive, associated with human habitation or of human or animal origin or from any producing, manufacturing or processing operation of whatever nature, including such substances placed within containers of whatever nature prior to and for purposes of disposal.

Wastewater means the liquid and water containing industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, institutions and any other source, whether treated or untreated which is contributed to or permitted to enter the POTW.

Wastewater constituents and characteristics means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(Ord. No. 3450, § 1, 3-17-2008; Ord. No. 3637, § 1, 7-16-2012)

SECTION 3. The Land Development Code of the City of Fort Myers, Florida, Article III Chapter 122, Subsection 122-166 is hereby amended to read as follows:

§ 122-166. Specific prohibited discharges

- (a) No person shall discharge wastewater containing pollutants in excess of the local limits for those pollutants which have been established for the city using standard procedures, calculations and methods acceptable to FDEP to protect against pass through, interference, protection of POTW employees, and adverse affects on wastewater residuals disposal. No industrial user shall discharge process waste streams, unregulated waste streams, or dilute waste streams in excess of the concentrations set forth by the director. Local limits shall be included as permit conditions and attached to each IWDP wastewater permit issued.
- (b) The established local limits are subject to change and shall be modified as needed based on regulatory requirements and standards, POTW operation, performance and processes, the industrial user base, potable water quality and domestic wastewater characteristics. Modifications to the established local limits must be reviewed and approved by FDEP prior to implementation. Implementation shall be effective 60 days from notice of acceptance of the modified limits by FDEP. Permitted industrial users shall also be issued an addendum to their wastewater discharge permit containing the new local limits.
- (c) The established local limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. At his or her discretion, the director may impose mass limitations in addition to or in place of the concentration-based limitations. Users discharging waste with high levels of some pollutants will be subject to high strength wastewater surcharges. The charge schedule for these pollutants will be established by the city. The charges will be based upon the operation and maintenance costs of the treatment facilities and the volume and strength of the waste discharged by the user. The surcharges will be periodically updated to reflect changes in treatment costs.
- (d) A copy of the approved local limits and a schedule of the high strength wastewater surcharges will be available upon request from the public works director.

- (1) No person shall discharge or cause to be discharged materials, waters or wastes if it appears likely, in the opinion of the control authority, that such waste can harm either the sewers, sewer system or equipment, sewage treatment process or equipment, or have adverse affect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. The public works director shall, in forming his opinion as to the acceptability of these wastes, give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of sewers, nature of sewage treatment, process capacity of the POTW, degree of treatability of wastes in the POTW and other pertinent factors. Specific substances prohibited are:
- a. *Slugs*. No person shall discharge any given constituent in a slug as defined in section 122-161.
 - b. *Maximum allowable ether solubles*. Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of 400 mg/l either soluble or containing substances which may solidify or become viscous at temperatures between 32 degrees and 140 degrees Fahrenheit, zero degrees and 60 degrees centigrade.
 - c. *Prohibition of acid and plating wastes*. Waters or wastes containing strong acid wastes or concentrated plating solutions, whether neutralized or not, are prohibited.
 - d. *Maximum pollutant concentrations*. No person shall discharge sewage or wastewater in excess of the concentrations set forth in the established local limits for the city unless:
 1. An exception has been granted the user under the provisions of subsection (7) of this section; or
 2. The IWDP of the user provides a special permit condition, a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedure to reduce the concentration of pollutants to levels not exceeding the standards set forth in the established local limits for the city within a fixed period of time. Dilution of waste in an effort to reduce concentrations is prohibited.
 - e. *Sludges*. Any semi-liquid waste with a solid concentration in excess of 2,500 mg/l; residues left after treatment of petroleum oils; any semi-solid waste from a chemical process; mud from a drill hole in boring; sediment in a steam boiler; a precipitate from oils, such as the products from crankcase oils in engines or any liquid slurry of very fine solids with slime or mud like appearance.
 - f. *Prohibition of odor-causing substance*. Any waters, or wastes containing odor-producing substances are prohibited. Any water or waste that contains phenols in excess of 71.49 mg/l by weight are prohibited. Wastewater being discharged into the POTW shall have a minimum dissolved oxygen concentration of 3.0 mg/l.

- g. *Prohibition of radioactive wastes.* Any radioactive wastes or isotopes as may exceed limits established by the control authority in compliance with applicable state or federal regulations. The radioactive isotopes I(131) and p(32) used at hospitals are not prohibited, if properly diluted at the source.
- h. *Prohibition of corrosive wastes.* Any substance, acid, or alkaline that have corrosive properties capable of causing damage or hazard to structures, equipment, or personnel of the treatment works. Any water or waste having a pH lower than 6.0 or higher than 10.0 free acids and alkalis of such waste must be neutralized.
- i. *Prohibition of hazardous substances.* Any substance defined as hazardous in any federal, state or local regulation.
- j. *Prohibition of excessive waste concentration materials which exert or cause.*
 - 1. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions) which is not removable by existing wastewater treatment plant processes.
 - 2. Any pollutant, including abnormal BOD, COD, suspended solids, phosphorus, or nitrogen in such quantities as to cause interference in the POTW.
 - k. Any wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).
- (2) *Liquid waste transport, hauling and discharge.* No person owning a vacuum truck or other liquid waste transport trucks shall discharge, directly or indirectly, such sewage into the POTW unless such person shall first have applied for and received a truck discharge operation permit from the superintendent. All applicants for a truck discharge operation permit shall complete such forms as required by the superintendent, pay appropriate fees and agree in writing to abide by the provisions herein and any special conditions or regulations established by the superintendent. The owners of such vehicles shall affix and display the permit number on the side of each vehicle used for such purposes. Such permits shall be valid for a period of one year from the date of issuance, provided that such permit shall be subject to revocation by the superintendent for violation of any provision of this division or reasonable regulation established by the superintendent. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The superintendent shall designate the locations and times where the contents of such trucks may be discharged and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the POTW or any sewer line or appurtenance thereto.
- (3) *Other holding tank waste.* No person shall discharge any other holding tank waste including portable toilet waste into the POTW unless he has

received permission and has been issued a permit by the superintendent or unless allowed otherwise under the terms and conditions of the permit, permission must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees and shall comply with the conditions of the permit issued by the superintendent. Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste.

- (4) *National categorical pretreatment standards.* Certain industrial users are now or hereafter shall become subject to national categorical pretreatment standards promulgated by the EPA specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to a national pretreatment standard shall comply with all requirements of such standard and shall also comply with any additional or more stringent limitations contained herein. Compliance with the national pretreatment standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three years following promulgation of the standards unless shorter compliance time is specified in the standard. Compliance with national pretreatment standards for new sources shall be required upon promulgation of the standard, except where expressly authorized by an applicable national pretreatment standard. The control authority may impose mass or concentration based categorical standards as per rule 62-625.410(4), F.A.C. An alternative limit may be imposed using the combined wastestream formula per rule 62-625.410(6), F.A.C. a user may obtain a variance per rule 62-625.700, F.A.C. or a net gross adjustment to a categorical standard per rule 62-625.820, F.A.C. No industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.
- (5) *State requirements and limitations.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements in limitations or those contained in this division. The city reserves the right to establish by regulation more stringent limitations or requirements from dischargers to the POTW, if deemed necessary to comply with the objectives set forth herein.
- (6) *Dangerous discharge prevention and notification requirements.*
 - a. *Plan for accidental discharges.* Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated herein. Any facilities necessary to prevent accidental discharge or prohibited materials shall be provided and maintained at the cost and expense of the owner or user. Upon request of the control authority, detailed plans showing facilities and

operating procedures to provide this protection shall be submitted to the city for review and shall be approved by the public works director before construction of the facility. No new industrial user shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the control authority. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to maintain the industrial user facility, as necessary to meet the requirements herein.

- b. *Telephone notification.* Any person causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to the health and welfare of persons, the environment or which is likely to cause interference with the POTW shall notify the public works director immediately. In the absence of the public works director, notification will be given to the city employee in charge of the POTW.
 - c. *Written report.* Within five days following such occurrence, the user shall provide the public works director with a detailed written report describing the cause of the discharge and measures taken or to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liabilities which may be imposed by this regulation or other applicable law.
 - d. *Notice to employees.* A notice shall be permanently posted on the user bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who make calls or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
- (7) *Determination of exemptions.* The public works director may grant an exemption to a discharge limitation or prohibition based on sound technical judgment provided that all of the following conditions are met:
- a. The exemption does not create any upset, interference or pass through of the POTW.
 - b. The exemption is for a limited predetermined duration.
 - c. The exemption does not allow the user to exceed any state or federal discharge limitation or equivalent mass balance limits established by the control authority.
 - d. The exemption must be provided in writing to the user prior to discharge above limits as set forth and approved by the FDEP. A copy of the approved local limits is available upon request from the public works department.
- (e) No User shall introduce or cause to be introduced into the POTW

any hazardous waste pharmaceuticals from healthcare facilities and reverse distributors.

(Ord. No. 3450, § 1, 3-17-2008; Ord. No. 3637, § 2, 7-16-2012)

SECTION 4. The Land Development Code of the City of Fort Myers, Florida, Article III Chapter 122, Subsection 122-179 is hereby added to read as follows:

§ 122-179. Disposal Requirements for Dental Facilities that Remove or Place Amalgam Fillings.

- 1) Definitions. For the purposes of this section the following words and phrases shall be as defined herein.
 - a) Amalgam Separator is a device that employs filtration, settlement, centrifugation, or ion exchange to remove amalgam and its metal constituents from a dental office vacuum system before it discharges to the sewer.
 - b) Amalgam Waste is and includes non-contact amalgam (amalgam scrap that has not been in contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing amalgam); amalgam sludge captured by chairside traps, vacuum pump filters, screens, and other amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.
 - c) ANSI/ADA Standard No. 108 is the American National Standards Institute and American Dentistry Association standard for Amalgam Separators.
 - d) Existing Source is any facility subject to this Section whose first discharge to the sewer collection system occurred on or before July 14, 2017.
 - e) ISO 11143 is the International Organization for Standardization's standard for Amalgam Separators.
 - f) New Source is any facility subject to this Section whose first discharge to the sewer system occurs after July 14, 2017 and must comply immediately upon commencement of discharge.

- 2) All owners and operators of dental facilities that remove or place amalgam fillings shall comply with the following reporting and waste management practices:
 - a) For existing sources, the One-Time Compliance Report is due no later than October 12, 2020 or no later than 90 days after transfer of ownership.
 - b) For new sources, the One-Time Compliance Report is due within 90 days of the start of discharge to the sewer collection system.
 - c) No person shall rinse chairside traps, vacuum screens, or amalgam separators equipment in a sink or other connection to the sanitary sewer.
 - d) Owners and operators of dental facilities shall ensure that all staff members who handle Amalgam Waste are trained in the proper handling, management, and disposal of mercury containing material and fixer containing solutions and shall maintain training records that shall be available for inspection by the Pretreatment Officer or designee during normal business hours.
 - e) Amalgam Waste shall be stored and managed in accordance with the Instructions of the recycler or hauler of such materials.

- f) Bleach and other chlorine containing disinfectants shall not be used to disinfect the vacuum line system.
 - g) The use of bulk mercury is prohibited. Only pre-capsulated dental amalgam is permitted.
- 3) All owners and operators of dental vacuum suction systems, except as set forth in subsections (4) and (5) of this section shall comply with the following:
- a) An ISO 11143 or ANSI/ADA Standard No. 108 certified Amalgam Separator or equivalent device shall be installed for each dental vacuum suction system on or before July 14, 2020; provided however, that all dental facilities that are newly constructed on and after the effective date of this ordinance shall include an installed ISO 11143 or ANSI/ADA Standard No. 108 certified Amalgam Separator device. The installed device must be ISO 11143 or ANSI/ADA Standard No. 108 certified as capable of removing a minimum of 95 percent of amalgam. The Amalgam Separator system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction system operation. Neither the separator device nor the related plumbing shall include an automatic flow bypass. For facilities that require an Amalgam Separator that exceeds the practical capacity of ISO 11143 test methodology, a non-certified separator will be accepted, provided that smaller units from the same manufacturer and of the same technology are ISO certified.
 - b) Proof of certification and installation records shall be submitted to the Pretreatment Officer within 30 days of installation.
 - c) Amalgam Separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be available for immediate inspection upon request therefor by the Pretreatment Officer or designee during normal business hours. Records shall be maintained for a minimum of three years.
- 4) Facilities with vacuum suction systems that meet all the following conditions may apply to the Pretreatment Officer for an exemption to the requirements of subsection (3) of this section:
- a) The system is a dry vacuum pump system with an air-water separator.
 - b) The sedimentation tank is non-bottom draining, with the drain above the anticipated maximum level of accumulated sludge.
 - c) Evidence of regular pump outs by a licensed hauler (a minimum of once a year, or more often if either directed by the manufacturer or necessary to keep solids from exiting through the drain) is maintained and open to inspection by the Pretreatment Officer during normal business hours.
 - d) The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.

An owner or operator whose facility meets conditions (1) through (4) may apply for this exemption by written letter to the Pretreatment Officer. The Pretreatment Officer or designee will review the system and, if the exemption is approved, shall provide a written letter of exemption.

An exemption obtained pursuant to this subsection (4) shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the facility shall comply with subsection 3 of this section before commencing further operation.

- 5) Dental dischargers that exclusively practice one or more of the following specialties are not subject to the requirements of this section: (a) Orthodontics; (b) Periodontics; (c) Oral and Maxillofacial Surgery; (d) Radiology; (e) Oral Pathology or Oral Medicine; (f) Endodontics and Prosthodontics.
- 6) Dental practices that do not place dental amalgam, and do not remove amalgam, except in limited emergency or unplanned or unanticipated circumstances, are exempt from the requirements Section, provided the dental practice:
 - a) Submits the following statement to the City of Fort Myers, signed by a responsible corporate officer, general partner, proprietor, or a duly authorized officer by the applicable compliance deadline identified in this Section:

"This facility is a dental discharger subject to this rule and does not place or remove dental amalgam except in limited emergency or unplanned, unanticipated circumstances. I am a responsible corporate officer, a general partner or proprietor (if the facility is a partnership or sole proprietorship), or an authorized officer, in accordance with the requirements of Florida Statute Section 279.02(1) of the above named dental facility, and certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
 - b) Removes Dental Amalgam for limited emergency or unplanned, unanticipated circumstances, and
 - c) The dental practice notifies the City of any changes affecting the applicability of this certification.
- 7) Disposal of hauled wastewater from dental facilities to the sanitary sewer must be in accordance with City of Fort Myers Land Development Code Section 122.166 (d)(1), (d)(2) and shall be subject to industrial pretreatment requirements.

Dental dischargers that fail to comply with this section will be considered significant industrial users, and will be subject to the requirements herein, including actions against prohibited discharges and permitting identified in City

Planning Board
Public Hearing
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of Fort Myers Land Development Code Section 122-178.

STAFF RECOMMENDATIONS

Find the amendment consistent with the Comprehensive Plan and recommend approval to the City Council.

**CITY OF FORT MYERS
PLANNING BOARD MEETING
PUBLIC HEARING
MARCH 5, 2020**

Agenda Item #2: Vacation of the platted 10' alley, running from Cranford Ave. to Palm Ave. north of Edison Ave., which bisects the lots within Block 27 of Evans Addition No. 2 Plat, as recorded in Plat Book 2, Page 1A lying in Section 24, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida. (Quasi-Judicial)

1. Application Information

Property owner:	Truly Nolen of America, Inc. – 2715 Edison Ave. Daniel B. Baxwell – 2729 Edison Ave. Merle G. Wallace Trust – 2743/2761 Edison Ave. 2301 Cranford Avenue LLC – 2301 Cranford Ave.
Agent for the applicant:	Veronica Martin, TDM Consulting, Inc.
Address:	Alley adjacent to 2715 Edison Ave.
Location:	Alley running from Cranford Ave. to Palm Ave. north of Edison Ave.
Zoning:	Light Industrial (IL)
Future Land Use:	Industrial (IND)
Request:	Vacate the platted 10' alley, running from Cranford Ave. to Palm Ave. north of Edison Ave., which bisects the lots within Block 27 of Evans Addition No. 2 Plat, as recorded in Plat Book 2, Page 1A lying in Section 24, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida.
Ward:	3
Case Number:	19-V-05

2. Request

The applicant, Truly Nolen of America, Inc., is requesting to vacate the unimproved platted 10' alley, running east from Cranford Ave. to Palm Ave. north of Edison Ave. and south of Lafayette St., which bisects the lots within Block 27 as shown on the Evans Addition No. 2 Plat, as recorded in Plat Book 2, Page 1A lying in Section 24, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida. Additionally, three other property owners are affected by the vacation request all of which have submitted executed, Agent Authorization and Ownership Affidavits; Disclosure of Interest and Authorization Forms; and Disclosure of Support or Not to Object forms.

The applicant intends to redevelop the property at 2715 Edison Avenue which is bisected by the unimproved platted alley. A building was constructed across the alley at 2743/2761 Edison Ave., which has been on the Lee County tax roll since 1943.

2. *Staff Review*

The Fire Marshall, Public Works Department, Engineering Division staff, and Planning staff reviewed the vacation request and had no objections or comments.

Letters of no objection were received from Comcast and TECO/Peoples Gas. CenturyLink and Florida Power & Light have provided the comments below regarding their utilities within the requested vacation area:

1. CenturyLink states that they will abandon in place the buried cable and remove above ground facilities to vacate the valley at this location at the customer's expense. Prior to this being done provisions must be made, new easements secured, and facilities constructed to serve any existing CenturyLink customers that may be affected by the request.
2. Florida Power & Light stated they will remove their existing facilities and vacate the existing easement at this location at the customer's expense. Prior to this being done provisions must be made, new easements secured, and facilities constructed to serve any existing FP & L customers that may be affected by this request.

Staff finds the vacation consistent with the Comprehensive Plan and the Land Development Code and staff recommends approval of the vacation of the platted 10' alley which bisects the lots within Block 27 of Evans Addition No. 2 Plat, as recorded in Plat Book 2, Page 1A conditions as listed below:

1. Applicant satisfies the following CenturyLink conditions
 - a. At the applicant's (Truly Nolan of America, Inc.) expense Centurylink will abandon in place the buried cable and remove above ground facilities to vacate the valley at this location.
 - b. Prior to this being done provisions must be made, new easements secured, and facilities constructed to serve any existing CenturyLink customers that may be affected by the request.
2. Applicant satisfies the following Florida Power & Light conditions
 - a. FP & L will remove their existing facilities and vacate the existing easement at this location at the applicant's (Truly Nolan of America, Inc.) expense.
 - b. Prior to this being done provisions must be made, new easements secured, and facilities constructed to serve any existing FP & L customers that may be affected by this request.

3. *Comprehensive Plan Compliance*

The Future Land Use Classification is Recreation. The Comprehensive Plan policies, actions and standards that apply are listed in Future Land Use Element 1, Policy 1.13 Recreation (REC); and Vacation of Easements are mentioned in the Recreation and Open Space Element 6, Policy 1.5, as follows:

Policy 1.13) Recreation (REC) areas shall be set aside to reserve land for parks, open space, active and passive recreation purposes.

Element 6. Recreation and Open Space:

The policy below is the only instance in which the Comprehensive Plan addresses the vacation of right-of-way or easements. The easement that is the subject of this application does not abut the Caloosahatchee River, and therefore, does not need to be considered for public access to the river.

Policy 1.5) City waterfront ownership, easements, or right-of-way should be considered for public access use prior to being sold, vacated, or otherwise disposed of.

4. Public Notice

A total of 39 public notice letters were sent to property owners within 300 feet of the proposed vacation. The property was posted with signs alerting the general public of the zoning change; the agenda was posted at City Hall; and an ad ran in the News-Press; all actions taking place at least 10 days prior to the meeting. One letter was returned, and no objections were received as of the date of this staff report.

5. Recommended Action

Find the vacation consistent with the Comprehensive Plan and the Land Development Code and recommend approval to City Council of the vacation of the unimproved platted 10' alley which bisects the lots within Block 27 of Evans Addition No. 2 Plat, as recorded in Plat Book 2, Page 1A with the conditions as listed below:

1. Applicant satisfies the following CenturyLink conditions
 - a. At the applicant's (Truly Nolan of America, Inc.) expense Centurylink will abandon in place the buried cable and remove above ground facilities to vacate the valley at this location.
 - b. Prior to this being done provisions must be made, new easements secured, and facilities constructed to serve any existing CenturyLink customers that may be affected by the request.

2. Applicant satisfies the following Florida Power & Light conditions
 - a. FP & L will remove their existing facilities and vacate the existing easement at this location at the applicant's (Truly Nolan of America, Inc.) expense.
 - b. Prior to this being done provisions must be made, new easements secured, and facilities constructed to serve any existing FP & L customers that may be affected by this request.



City of Fort Myers
Planning Division
1825 Hendry Street, Suite 101
Fort Myers, FL 33901
Phone: 239-321-7993

Date: August 26, 2019

TO: THE HONORABLE MAYOR AND CITY COUNCIL, CITY OF FORT MYERS,
FLORIDA

**PETITION TO VACATE
STREET, ALLEY OR UTILITY EASEMENT**

We, the undersigned, hereby declare that we are all of the owners of real property adjacent to and abutting upon the street, alley, or easement described below; that said street, alley, or easement serves no worthwhile public purpose, and hereby petition the City Council of the City of Fort Myers, Florida, that same be closed, abandoned, and vacated, and that the real estate involved revert to the abutting property owners in equal shares or as provided by law. We agree to pay the application fee to cover the costs for advertising and recording involved herewith.

Legal description of street, alley, or easement to be closed or vacated (below or attached):

See Attached.

Respectfully submitted,

Signature of all Owner & Name

Address:

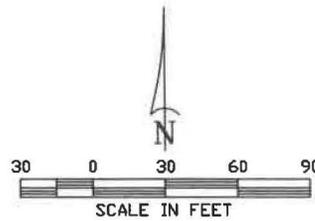
Printed Below the signature:

Robert W Hartley
Robert W. Hartley

432 S. Williams Blvd. Tucson AZ 85711

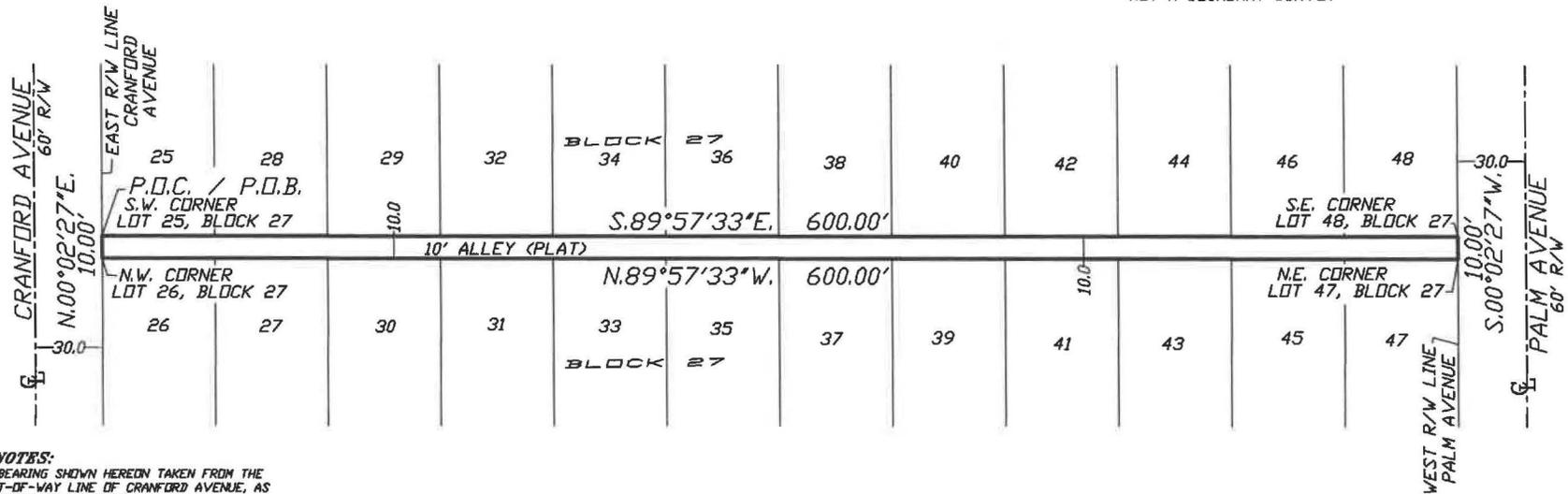
LEGEND:

- O.R. OFFICIAL RECORDS BOOK
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- R/W RIGHT-OF-WAY
- ⊕ CENTERLINE
- P.U.E. PUBLIC UTILITY EASEMENT



SKETCH TO ACCOMPANY DESCRIPTION
**ALLEY VACATION IN BLOCK 27,
 EVANS ADDITION NO. 2,
 PLAT BOOK 2, PAGE 1A,
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
 LEE COUNTY, FLORIDA**

SKETCH TO ACCOMPANY DESCRIPTION
 SEE EXHIBIT 'A' FOR DESCRIPTION
 TO ACCOMPANY THIS SKETCH
 NOT A BOUNDARY SURVEY



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE, AS BEING ASSUMED AS N.00°02'27\"/>

SHEET 1 OF 2

DRAWN: PMM	CHECK: FBH	SCALE 1"=60'	PROJ. # CRANFORD VACATION	HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. 100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921
SKETCH DATE 8/16/19		FILE NO. 44-24-24	SHT.- 1 OF - 1	
FLORIDA CERTIFICATE OF AUTHORIZATION # LB6921				

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH:
*ALLEY VACATION IN BLOCK 27,
EVANS ADDITION NO. 2,
PLAT BOOK 2, PAGE 1A,
SECTION 24, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA*

DESCRIPTION:

COMMENCING AT A POINT ALONG THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE (60 FEET WIDE) AND THE SOUTHWEST CORNER OF LOT 25, BLOCK 27, EVANS ADDITION NO. 2, AS RECORDED IN PLAT BOOK 2, PAGE 1A, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN S.89°57'33"E. ALONG THE NORTH LINE OF A 10 FOOT WIDE ALLEY, IN THE AFORESAID BLOCK 27, TO A POINT ALONG THE WEST RIGHT-OF-WAY LINE OF PALM AVENUE (60 FEET WIDE), SAID POINT BEING THE SOUTHEAST CORNER OF LOT 48, OF THE AFORESAID BLOCK 27, FOR 600.00 FEET; THENCE RUN S.00°02'27"W. ALONG THE WEST RIGHT-OF-WAY LINE SAID PALM AVENUE (60 FEET WIDE), TO THE NORTHEAST CORNER OF LOT 48, OF THE AFORESAID BLOCK 27, FOR 10.00 FEET; THENCE RUN N.89°57'33"W. ALONG THE SOUTH LINE OF A 10 FOOT WIDE ALLEY, IN AFORESAID BLOCK 27, TO A POINT ALONG THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE (60 FEET WIDE), SAID POINT BEING THE NORTHWEST CORNER OF LOT 26, OF THE AFORESAID BLOCK 27, FOR 600.00 FEET; THENCE RUN N.00°02'27"E. ALONG THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE (60 FEET WIDE), TO THE SOUTHWEST CORNER OF LOT 25, OF THE AFORESAID BLOCK 27, FOR 10.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 6,000.00 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
8/16/19

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921



**43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone 239-433-4231 Fax 239-433-9632
www.tdmcivilengineering.com
Certificate of Authorization # 29086**

December 20, 2019

The City of Fort Myers
Mayors Office
2200 Second Street
Fort Myers, FL 33901

**Reference: Letter of Intent
Vacation of Alley Application
2715 Edison Avenue, Fort Myers**

Dear Mayor Henderson and City Council,

Please accept this document as a formal Letter of Intent requesting to vacate the platted alley as shown on the Evans Addition No. 2 Plat, Block 27 (PB 2, Page 1A). The alley runs from Cranford Avenue to Palm Avenue and the applicant intends to vacate the entire alley. This area of Fort Myers was platted in 1887 and, per the Plat, a 10-foot wide alley bisects the lots of Block 27 (see attached Plat Book 2, Page 1A).

Applicant: Truly Nolen of America, Inc.
432 S. Williams Blvd.
Tucson, AZ 85711
Robert Hartley, VP
Property Address: 2715 Edison Avenue

Affected property owners: Daniel B. Maxwell
(Block 27) 922 Diplomat Pkwy
Cape Coral, FL 33909
Property Address: 2729 Edison Avenue

Merle G. Wallace Trust
PO Box 1585
Fort Myers, FL
Merle G. Wallace, Trustee
Property Address: 2743/2761 Edison Avenue

2301 Cranford Avenue, LLC
74 Clarendon St, Suite A
Boston, MA 02116
Paul Roiff, Manager

Property Address: 2301 Cranford Avenue

Authorized Agent: Veronica Martin, TDM Consulting, Inc.
43 Barkley Circle, Suite 200
Fort Myers, FL 33907

Currently, there are existing buildings and pavement on top of the alley. Per the Lee County Property Appraiser, the existing building at 2715 Edison Avenue has been on the tax roll since 1978 and the building at 2743/2761 Edison Avenue has been on the tax roll since 1943. The alley seems to have been forgotten about since the plat in 1887 and per Land Development Code Sec. 134.2.11, an alley is required to be located in an easement or right-of-way at least 22 feet wide. The platted alley is only 10 feet wide and short of acquiring additional land from the adjacent property owners, it's impossible to construct or use the alley as intended.

The applicant, Truly Nolen, owns the property at 2715 Edison Avenue. The property, which has one STRAP number, is split in 2 with the alley between each parcel. The property at 2743/2761 Edison Avenue has the same type of configuration. Truly Nolen intends to redevelop their property with a new building and parking. It's logical for the applicant to vacate an unused alley in order to form one solid parcel that's more conducive for development.

Letters of No Objection from all local utility providers are included with this application. Please note that FPL and CenturyLink have existing infrastructure within the alley. The applicant will be required to pay for the abandonment and removal of existing lines and poles and provide a new easement during the Site Permit application process.

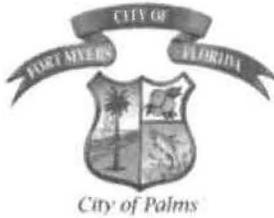
Your time and attention to this request is greatly appreciated. Please feel free to contact this office if you have any questions or need additional information.

Sincerely,

TDM CONSULTING, INC.



Veronica Martin
Senior Planner



City of Fort Myers
Planning Division
1825 Hendry Street, Suite 101
Fort Myers, FL 33901
Phone: 239-321-7993

**APPLICATION FOR VACATION
(PUBLIC RIGHT-OF-WAY, EASEMENT, PLAT, ALLEY, ETC.)**

1) PROJECT NAME:

Truly Nolen

2) Owner(s): Name, address, and email of all owners of the property. Name and address of all parties having interests in the subject property, including owners, major stockholders of corporations and beneficiaries of trusts (attach sheets if needed).

Owner(s):

2729 Edison Ave:
24-44-24-P2-02727.0340
Daniel B. Maxwell
922 Diplomat Pkwy
Cape Coral, FL 33909

Corporations:

2715 Edison Ave:
24-44-24-P2-02727.0260
Truly Nolen of America, Inc.
432 S. Williams Blvd.
Tucson, AZ 85711
Robert Hartley, VP

2743/2761 Edison Ave:
24-44-24-P2-02727.0400
Merle G. Wallace Trust
PO Box 1585
Fort Myers, FL 33902
Merle G. Wallace, Trustee

2301 Cranford Ave:
24-44-24-P2-02727.0250
2301 Cranford Avenue, LLC
74 Clarendon St., Suite A
Boston, MA 02116
Paul Roiff, Manager

3) Agent: Contact person (agent) authorized to receive all communications regarding this application:

Name: Veronica Martin, TDM Consulting, Inc.
Address: 43 Barkley Circle, Suite 200
City, State, Zip: Fort Myers, FL 33907
Office phone: 239-433-4231
Cell phone:
Email address: vmartin@tdmconsulting.com

4) Developer, if applicable:



City of Fort Myers
Planning Division
1825 Hendry Street, Suite 101
Fort Myers, FL 33901
Phone: 239-321-7993

Name: Truly Nolen of America, Inc., Robert Hartley
Address: 432 S. Williams Blvd.
City, State, Zip: Tucson, AZ 85711
Office phone: 520-322-4060
Cell phone: _____
Email address: RW.Hartley@trulymail.net

- 5) Is this an application to vacate what: Public right-of-way (ROW), Easement (if so, what type-utility, drainage, etc), Alley, Platted Subdivision or portions thereof?

Platted Alley

- 6) Is this a Vacation Application for a public right-of-way (ROW), alley, platted subdivision or portions thereof **currently improved and in use?**

No

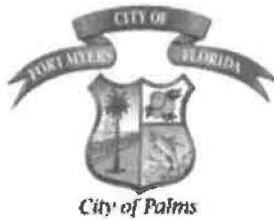
- 7) If you answered "Yes" to Question 6, identify the appropriate monetary exchange. [Formula: $AV/SFP = V/SF$. V/SF multiplied by square footage of the right-of-way, alley, platted subdivision or portions thereof = Monetary Exchange]

NA

Assessed Value of Property (AV) abutting the area to be vacated:

Square Footage of the Property (SFP):

Value per Square Foot (V/SF):



City of Fort Myers
 Planning Division
 1825 Hendry Street, Suite 101
 Fort Myers, FL 33901
 Phone: 239-321-7993

8) Square footage of the right-of-way, alley, platted subdivision or portions thereof:
 6,000 sf

9) Description of Location of Property; if there are adjacent streets, please list them:

North - LaFayette St.

South – Edison Ave.

East – Palm Ave.

West – Cranford Ave.

10) Property Address or Location and Strap #:

No. of Parcels: 4

1st Address: 2301 Cranford Ave, Fort Myers

Strap #1: 24-44-24-P2-02727.0250

2nd Address: 2715 Edison Ave, Fort Myers

Strap #2: 24-44-24-P2-02727.0260

3rd Address: 2743/2761 Edison Ave, Fort Myers

Strap #3: 24-44-24-P2-02727.0400

4th Address: 2729 Edison Ave, Fort Myers

Strap #4: 24-44-24-P2-02727.0340

11) Date Property Acquired:

2301 Cranford Ave – Oct. 26, 2018

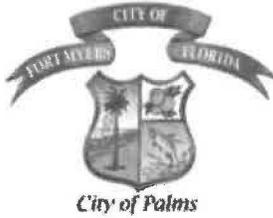
2715 Edison Ave - September 11, 1985

2743/2761 Edison Ave – Jan. 26, 2011

2729 Edison Ave – July 20, 2005,

12) Specially Regulated Areas within the City: Is your property on or within any of the following? Signify by marking with an “X” for yes or no:

	Yes	No
On Cleveland Avenue		X
On Dr. Martin Luther King Jr. Blvd.		X
On Veronica S. Shoemaker Blvd.		X
Within the Urban Reserve Area		X
Within the Downtown Redevelopment Area governed by the Smart Code, Chapter 118, Article 8		X



City of Fort Myers

Planning Division
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Within the Coastal High Hazard Area along the Caloosahatchee River as defined by the State		X
Within the flood zone of Billy's Creek		X
Within any flood zone as identified by state agencies		X
Environmentally sensitive area		X
Within the Dunbar Bellevue Annexation Area		X
Within a Development of Regional Impact (DRI)		X
Are you partnering with the City on this project		X

13) From the Future Land Use Map:

Future Land Use Classification
 (LU) of your Parcel:

	<u>Industrial</u>
LU to North:	<u>Industrial</u>
LU to South:	<u>Industrial</u>
LU to East:	<u>Industrial</u>
LU to West:	<u>Industrial</u>

14) From the Official Zoning Map:

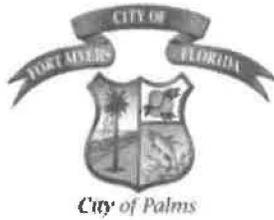
Zoning Classification of
 your Parcel:

	<u>Light Industrial</u>
Zoning to North:	<u>Light Industrial</u>
Zoning to South:	<u>Heavy Industrial</u>
Zoning to East:	<u>Light Industrial</u>
Zoning to West:	<u>Light Industrial</u>

Wallace International Trucks (auto repair)

15) Surrounding Businesses By Name and Description of Use (e.g. Smith's Auto Service Center, repair of semi-trucks):

Your Parcel:	<u>Truly Nolen</u>
North:	<u>LaFayette St., then Food to Go & Best of the Best Catering Facility (warehouse), SFR, and vacant lots</u>
South:	<u>Edison Ave., then Farmers Market</u>
East:	<u>Palm Ave, then Estate Landscaping (landscaping & maintenance)</u>
West:	<u>Cranford Ave., then Cummins Sales and Service (auto repair)</u>



City of Fort Myers
Planning Division
1825 Hendry Street, Suite 101
Fort Myers, FL 33901
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16) Dimensions, Size of Property:

Length:	310 feet ±
Width:	600 feet ±
Area in s.f:	186,000 sf ±
Acres:	4.27 ac ±

17) Has a public hearing been held regarding this property in the past five (5) years?
If so, in whose name and why?

No

18) Please fill in the Request for Petition to Vacate, BELOW, and sign in **BLUE** ink.

AGENT AUTHORIZATION AND AFFIDAVIT

I, Paul Roiff, Manager

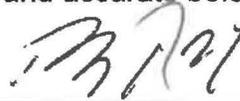
being first duly sworn, depose and say that I am the authorized representative of the owner(s) of the property described as:

No. of Parcels: 1
Addresses: 2301 Cranford Ave., Fort Myers, FL 33916
Strap #: 24-44-24-P2-02727.0250

Agent Information: Veronica Martin, TDM Consulting Inc.
Address: 43 Barkley Cir, Suite 200
City, State, Zip: Fort Myers, FL 33907
Office phone: 239-433-4231
Cell phone: _____
Email address: VMartin@tdmconsulting.com

I hereby certify that the answers to the questions in this application and all sketches, data, and other supplementary materials attached to and made a part of the application are honest and true to the best of my knowledge and belief. I understand this application must be completed and accurate before a hearing can be advertised.

Signature:



Printed Name:

PAUL ROIFF

Sworn to and subscribed before me this 30 day of AUGUST, 2019, by

Paul Roiff

, who is personally known

to me or has produced DL as identification. He/she acknowledged before me that he/she has executed this instrument for the reasons therein expressed.

Notary Public Signature:



Notary Public Name:

My commission expires:



Keith J. Beardsley
Notary Public, Commonwealth of Massachusetts
My Commission Expires May 2, 2025

AGENT AUTHORIZATION AND AFFIDAVIT

I, Robert Hartley

being first duly sworn, depose and say that I am the authorized representative of the owner(s) of the property described as:

No. of Parcels: 1
Addresses: 2715 Edison Ave., Fort Myers, FL 33916
Strap #: 24-44-24-P2-02727.0260

Agent Information: Veronica Martin, TDM Consulting, Inc.
Address: 43 Barkley Cir, Suite 200
City, State, Zip: Fort Myers, FL 33907
Office phone: 239-433-4231
Cell phone:
Email address: vmartin@tdmconsulting.com

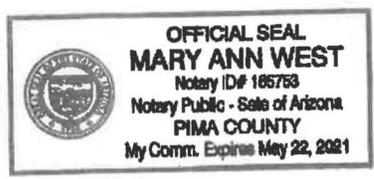
I hereby certify that the answers to the questions in this application and all sketches, data, and other supplementary materials attached to and made a part of the application are honest and true to the best of my knowledge and belief. I understand this application must be completed and accurate before a hearing can be advertised.

Signature: Robert W Hartley
Printed Name: Robert W. Hartley

Sworn to and subscribed before me this 26 day of August, 2019, by Robert W. Hartley, who is personally known

to me or has produced _____ as identification. He/she acknowledged before me that he/she has executed this instrument for the reasons therein expressed.

Notary Public Signature: Mary Ann West
Notary Public Name: Mary Ann West
My commission expires:



AGENT AUTHORIZATION AND AFFIDAVIT

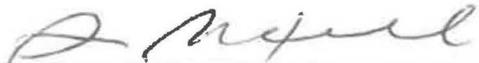
I, Daniel B. Maxwell

being first duly sworn, depose and say that I am the authorized representative of the owner(s) of the property described as:

No. of Parcels: 1
Addresses: 2729 Edison Ave, Fort Myers, FL 33916
Strap #: 24-44-24-P2-02727.0340

Agent Information: Veronica Martin, TDM Consulting, Inc.
Address: 43 Barkley Circle, Suite 200
City, State, Zip: Fort Myers, FL 33907
Office phone: 239-433-4231
Cell phone:
Email address: VMartin@tdmconsulting.com

I hereby certify that the answers to the questions in this application and all sketches, data, and other supplementary materials attached to and made a part of the application are honest and true to the best of my knowledge and belief. I understand this application must be completed and accurate before a hearing can be advertised.

Signature: 
Printed Name: DAN MAXWELL

Sworn to and subscribed before me this 3 day of SEPT, 2019, by
DAN MAXWELL, who is personally known

to me or has produced _____ as identification.
He/she acknowledged before me that he/she has executed this instrument for the reasons therein expressed.

Notary Public Signature: 
Notary Public Name: _____
APR 11 2020

My commission expires:



JACK EDWARD LONG
MY COMMISSION # FF 980844
EXPIRES: April 11, 2020
Bonded Thru Budget Notary Services

AGENT AUTHORIZATION AND AFFIDAVIT

I, Merle G. Wallace, Trustee

being first duly sworn, depose and say that I am the authorized representative of the owner(s) of the property described as:

No. of Parcels: 1
Addresses: 2743/2761 Edison Avenue, Fort Myers, FL 33916
Strap #: 24-44-24-P2-02727.0400

Agent Information: Veronica Martin, TDM Consulting, Inc.
Address: 43 Barkley Circle, Suite 200
City, State, Zip: Fort Myers, FL 33907
Office phone: 239-433-4231
Cell phone: _____
Email address: vmartin@tdmconsulting.com

I hereby certify that the answers to the questions in this application and all sketches, data, and other supplementary materials attached to and made a part of the application are honest and true to the best of my knowledge and belief. I understand this application must be completed and accurate before a hearing can be advertised.

Signature: + Merle G. Wallace Trustee
Printed Name: Merle G. Wallace

Sworn to and subscribed before me this 20th day of August, 2019, by
Merle G. Wallace, who is personally known

to me or has produced Keys as identification.
He/she acknowledged before me that he/she has executed this instrument for the reasons therein expressed.

Notary Public Signature: Holly L Bacon
Notary Public Name: Holly L. Bacon
My commission expires: _____



DISCLOSURE OF INTEREST AND AUTHORIZATION FORM

[Corporate or Partnership Owner]

I, Paul Roiffe

As Manager

of 2301 Cranford Avenue, LLC.

being first duly sworn, depose and say that

Name: Paul Roiffe

Address: 74 Clarendon St., Suite A, Boston, MA 02116

is the owner of the property described as:

No. of Parcels: 1

Addresses: 2301 Cranford Ave.

Strap #: 24-44-24-P2-02727.0250

I do hereby appoint Veronica Martin, TDM Consulting, Inc. as the Owner's authorized agent and/or attorney for the purpose of representing its interests in the above-described property which is the subject matter of this application and proposed hearing. I understand that this application must be complete and accurate before a hearing can be advertised.

Signature of Owner:



Printed Name:

Paul Roiffe

Sworn to and subscribed before me this 3 day of August, 2019, by

Paul Roiffe, who is personally known to me

or who has produced DL as identification. He/she has acknowledged to me and before me that he/she executed this instrument for the purposes therein expressed.

My commission expires: 5-2-25

Notary Public

Keith J. Beardsley

Notary Public, Commonwealth of Massachusetts

My Commission Expires May 2, 2025



DISCLOSURE OF INTEREST AND AUTHORIZATION FORM

[Corporate or Partnership Owner]

I, Robert Hartley
As Vice President
Of Truly Nolen of America, Inc.

being first duly sworn, depose and say that

Name: Truly Nolen of America, Inc.
Address: 432 S. Williams Blvd., Tuscon, AZ 85711

is the owner of the property described as:

No. of Parcels: 1
Addresses: 2715 Edison Ave., Fort Myers, FL 33916
Strap #: 24-44-24-P2-02727.0260

I do hereby appoint Veronica Martin, TDM Consulting, Inc. as the Owner's authorized agent and/or attorney for the purpose of representing its interests in the above-described property which is the subject matter of this application and proposed hearing. I understand that this application must be complete and accurate before a hearing can be advertised.

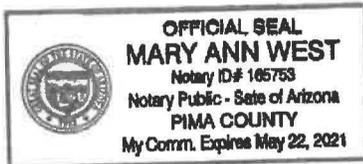
Signature of Owner: *Robert W Hartley*
Printed Name: Robert W. Hartley

Sworn to and subscribed before me this 26 day of August, 2019, by Robert W. Hartley, who is personally known to me or who has produced _____ as identification. He/she has acknowledged to me and before me that he/she executed this instrument for the purposes therein expressed.

Mary Ann West
Notary Public

My commission expires:

Mary Ann West
Print Notary Name



DISCLOSURE OF INTEREST AND AUTHORIZATION FORM

[Individual Owner]

I, Daniel B. Maxwell, being first duly sworn, depose and say that I am the owner of the property described as:

No. of Parcels: 1
Addresses: 2729 Edison Ave, Fort Myers, FL 33916
Strap #: 24-44-24-P2-02727.0340

I do hereby appoint Veronica Martin, TDM Consulting, Inc. as my authorized agent and/or attorney for the purpose of representing my interests in the above-described property which is the subject matter of this application and proposed hearing. I understand that this application must be complete and accurate before a hearing can be advertised.

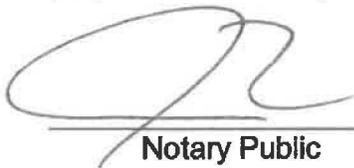
Signature of
Owner:



Printed Name:

DAN MAXWELL

Sworn to and subscribed before me this 3 day of SEPT, 2019, by DAN MAXWELL, who is personally known to me or who has produced _____ as identification. He/she has acknowledged to me and before me that he/she executed this instrument for the purposes therein expressed.



Notary Public

My commission expires: APR 11, 2020

JACK LONG
Print Notary Name



JACK EDWARD LONG
MY COMMISSION # FF 980844
EXPIRES: April 11, 2020
Bonded Thru Budget Notary Services

DISCLOSURE OF INTEREST AND AUTHORIZATION FORM

[Trustee Owner]

I, Merle G. Wallace, Trustee, being first duly sworn, depose and say that I am the owner of the property described as:

No. of Parcels: 1
Addresses: 2743/2761 Edison Avenue, Fort Myers, FL 33916
Strap #: 24-44-24-P2-02727.0400

I do hereby appoint Veronica Martin, TDM Consulting, Inc. as my authorized agent and/or attorney for the purpose of representing my interests in the above-described property which is the subject matter of this application and proposed hearing. I understand that this application must be complete and accurate before a hearing can be advertised. I hereby disclose that the four largest beneficiaries of the Trust are as follows:

Merle G. Wallace

Signature: Merle G. Wallace Trustee
Printed Name: Merle G. Wallace

Sworn to and subscribed before me this 20th day of August, 2019, by Merle G. Wallace, who is personally known to me or who has produced Known as identification. He/she has acknowledged to me and before me that he/she executed this instrument for the purposes therein expressed.

Holly L. Bacon
Notary Public
Holly L. Bacon
Print Notary Name

My commission expires:



DISCLOSURE OF SUPPORT OR NOT TO OBJECT

(Principal)

Accurate and complete disclosure is required from time of application submittal up to the time of the actual public hearing. It is the principal's responsibility to disclose any and all information regarding compensation paid, offered or received up to the time of the public hearing. Opportunity will be provided at the public hearing to disclose any additional information not included on this form.

Describe all monies or compensation paid or offered to a person(s) or entity to support or not object to a matter which is set for a public hearing. Disclosure shall be required whether compensation was paid or offered to person or entity or to a third party.

(Compensation includes money, property, services or any other commodity having any economic value or any promise or agreement to provide the same in the future).

I, Paul Roiffe, Manager

Address: 74 Clarendon St., Suite A

City, State, Zip: Boston, MA 02116

Office phone: _____

Cell phone: _____

Email address: _____

do hereby acknowledge that I have read the requirements for Disclosure of Support or Not To Object and offer the following written disclosure. Compensation given or Offered:

None.

Reason for Compensation: Support or Not To Object (circle applicable option).

Any failure to make disclosure shall render the relief or item being sought by the Principal invalid.

Violation may also cause any prior approvals to be overturned and can defeat any vested rights as a result of such prior approval, in addition to any other remedies allowed by law.

ACKNOWLEDGEMENT

REQUIREMENTS FOR DISCLOSURE OF SUPPORT OR

NOT TO OBJECT

The City Code, Sub-Part A, Administrative Code, Chapter 2, Administration, Article II, City Council requires disclosure be made for all items requiring a public hearing before City Council as follows:

Sec. 2-40. Disclosure requirements. The following provisions related to disclosures are to be made by principals at public hearings. The term principal shall include and extend to any other person or entity appearing on behalf of a principal, including, but not limited to agents, representatives, attorneys, contract purchasers, or any other individual or entity acting on behalf of a principal purchaser or owner.

- (1) All persons or entities seeking any approval, contract, concession, license or any other relief that requires a public hearing before the city council are required to comply with the disclosure requirements. Provided, however, that in cases in which the relief sought is related to a land use application, disclosure shall be required only by the applicant for such relief. Except to the extent such disclosure is prohibited by a confidentiality order from a court of competent jurisdiction, such persons or entities shall:
 - a. In all items requiring a public hearing, including land use matters, disclose in writing to the city council or verbally on the record at such public hearing, all moneys or compensation paid or offered to a person(s) or entity to support or not object to a matter which is set for a public hearing. Disclosure shall be required whether compensation was paid or offered to the person or entity or to a third party. Compensation includes money, property, services or any other commodity having any economic value or any promise or agreement to provide the same in the future. The disclosure shall include the name of the person or entity offered the compensation, the specific compensation offered, what the person was requested to do or refrain from doing in exchange for said compensation, and whether and to whom the compensation was paid; and
 - b. In all items requiring a public hearing, including land use matters, disclose in writing to the city clerk or verbally on the record at such public hearing, all moneys or compensation as defined above, sought or requested by a person(s) or entity to support or not object to a matter which is set for a public hearing. Disclosure shall be required whether compensation was requested for or paid to the requestor or a third party. The disclosure shall include the name of the person or entity seeking the compensation, the specific compensation sought, what the person offered to do or refrain from doing in exchange for said compensation, and whether the compensation was actually paid and to whom.
- (2) Any violation of the above shall render the relief or item being sought by the principal voidable by the city council. Violation may also cause any prior

approvals to be overturned and can defeat any vested rights as a result of such prior approval, in addition to any other remedies allowed by law.

I do hereby acknowledge that I have read the requirements for Disclosure of Support or Not To Object listed above and recognize that this disclosure must be made in writing and stated verbally on the record at the public hearing.

Signature of
Principal:



Printed Name:

PAUL ROTH

Sworn to and subscribed before me this 31 day of AUGUST, 2019, by Paul Roth, who is personally known to me or who has produced DL as identification. He/she has acknowledged to me and before me that he/she executed this instrument for the purposes therein expressed.



Notary Public

My commission expires: 5.2.25

Print Notary Name



Keith J. Beardsley
Notary Public, Commonwealth of Massachusetts
My Commission Expires May 2, 2025

DISCLOSURE OF SUPPORT OR NOT TO OBJECT

(Principal)

Accurate and complete disclosure is required from time of application submittal up to the time of the actual public hearing. It is the principal's responsibility to disclose any and all information regarding compensation paid, offered or received up to the time of the public hearing. Opportunity will be provided at the public hearing to disclosure any additional information not included on this form.

Describe all monies or compensation paid or offered to a person(s) or entity to support or not object to a matter which is set for a public hearing. Disclosure shall be required whether compensation was paid or offered to person or entity or to a third party.

(Compensation includes money, property, services or any other commodity having any economic value or any promise or agreement to provide the same in the future).

I, Robert Hartley

Address: 432 S. Williams Blvd.

City, State, Zip: Tuscon, AZ 85711

Office phone: 520-322-4060

Cell phone:

Email address:

do hereby acknowledge that I have read the requirements for Disclosure of Support or Not To Object and offer the following written disclosure. Compensation given or Offered:

None

Reason for Compensation: Support or Not To Object (circle applicable option).

Any failure to make disclosure shall render the relief or item being sought by the Principal invalid.

Violation may also cause any prior approvals to be overturned and can defeat any vested rights as a result of such prior approval, in addition to any other remedies allowed by law.

ACKNOWLEDGEMENT

REQUIREMENTS FOR DISCLOSURE OF SUPPORT OR

NOT TO OBJECT

The City Code, Sub-Part A, Administrative Code, Chapter 2, Administration, Article II, City Council requires disclosure be made for all items requiring a public hearing before City Council as follows:

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- (1) All persons or entities seeking any approval, contract, concession, license or any other relief that requires a public hearing before the city council are required to comply with the disclosure requirements. Provided, however, that in cases in which the relief sought is related to a land use application, disclosure shall be required only by the applicant for such relief. Except to the extent such disclosure is prohibited by a confidentiality order from a court of competent jurisdiction, such persons or entities shall:
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approvals to be overturned and can defeat any vested rights as a result of such prior approval, in addition to any other remedies allowed by law.

I do hereby acknowledge that I have read the requirements for Disclosure of Support or Not To Object listed above and recognize that this disclosure must be made in writing and stated verbally on the record at the public hearing.

Signature of
Principal:

Printed Name:

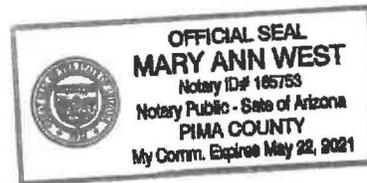
Robert W. Hartley
Robert W. Hartley

Sworn to and subscribed before me this 26 day of August, 2019, by Robert W. Hartley, who is personally known to me or who has produced _____ as identification. He/she has acknowledged to me and before me that he/she executed this instrument for the purposes therein expressed.

Mary Ann West
Notary Public

Mary Ann West
Print Notary Name

My commission expires:



DISCLOSURE OF SUPPORT OR NOT TO OBJECT

(Principal)

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(Compensation includes money, property, services or any other commodity having any economic value or any promise or agreement to provide the same in the future).

I, Daniel B. Maxwell,

Address: 922 Diplomat Pkwy

City, State, Zip: Cape Coral, FL 33909

Office phone:

Cell phone:

Email address:

do hereby acknowledge that I have read the requirements for Disclosure of Support or Not To Object and offer the following written disclosure. Compensation given or Offered:

None.

Reason for Compensation: Support or Not To Object (circle applicable option).

Any failure to make disclosure shall render the relief or item being sought by the Principal invalid.

Violation may also cause any prior approvals to be overturned and can defeat any vested rights as a result of such prior approval, in addition to any other remedies allowed by law.

ACKNOWLEDGEMENT

REQUIREMENTS FOR DISCLOSURE OF SUPPORT OR NOT TO OBJECT

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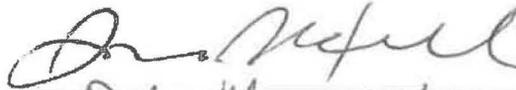
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approvals to be overturned and can defeat any vested rights as a result of such prior approval, in addition to any other remedies allowed by law.

I do hereby acknowledge that I have read the requirements for Disclosure of Support or Not To Object listed above and recognize that this disclosure must be made in writing and stated verbally on the record at the public hearing.

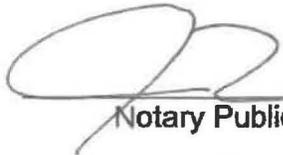
Signature of
Principal:



Printed Name:

Dan Maxwell

Sworn to and subscribed before me this 3 day of SEPT, 2019, by DAN MAXWELL, who is personally known to me or who has produced _____ as identification. He/she has acknowledged to me and before me that he/she executed this instrument for the purposes therein expressed.



Notary Public

JACK LONG

Print Notary Name

My commission expires: APR 11, 2020



JACK EDWARD LONG
MY COMMISSION # FF 980644
EXPIRES: April 11, 2020
Bonded Thru Budget Notary Services

DISCLOSURE OF SUPPORT OR NOT TO OBJECT

(Principal)

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(Compensation includes money, property, services or any other commodity having any economic value or any promise or agreement to provide the same in the future).

I, Merle G. Wallace, Trustee

Address: ~~PO Box 1585~~ 27850 RIVERWALK WAY
City, State, Zip: Fort Myers, FL 33902 Bonita Springs, FL 34134
Office phone: 239-334-1000
Cell phone: 239-691-2993
Email address: dwgilkey@comcast.net

do hereby acknowledge that I have read the requirements for Disclosure of Support or Not To Object and offer the following written disclosure. Compensation given or Offered:

None

Reason for Compensation: Support or Not To Object (circle applicable option).

Any failure to make disclosure shall render the relief or item being sought by the Principal invalid.

Violation may also cause any prior approvals to be overturned and can defeat any vested rights as a result of such prior approval, in addition to any other remedies allowed by law.

ACKNOWLEDGEMENT

REQUIREMENTS FOR DISCLOSURE OF SUPPORT OR NOT TO OBJECT

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approvals to be overturned and can defeat any vested rights as a result of such prior approval, in addition to any other remedies allowed by law.

I do hereby acknowledge that I have read the requirements for Disclosure of Support or Not To Object listed above and recognize that this disclosure must be made in writing and stated verbally on the record at the public hearing.

Signature of
Principal:

Printed Name:

Merle H. Wallace Trustee
Merle G. WALLACE

Sworn to and subscribed before me this 20th day of August, 2019, by Merle G. Wallace, who is personally known to me or who has produced Keys as identification. He/she has acknowledged to me and before me that he/she executed this instrument for the purposes therein expressed.

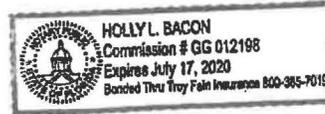
Holly L. Bacon

Notary Public

Holly L. Bacon

Print Notary Name

My commission expires:



TITLE CERTIFICATION TRULY NOLEN OF AMERICA

Pavese Law Firm (as Agent/Title Company)

Plat Number: TBD

Development Order Number: TBD

Effective Date of Title Certification: August 15, 2019

Certified To: The City of Fort Myers

I have searched the Public Records of Lee County, Florida and have examined the title to the real property more particularly described in the metes and bounds description attached hereto as Exhibit "A." I have made a careful examination of the Public Records of Lee County, Florida, with respect to the real property described in attached Exhibit "A." Based on the foregoing, we hereby certify Record Title to the above described real property, as of the Effective Date of the Title Certification set forth above, is vested in:

Title to the property is vested in:

Truly Nolen of American, Inc., an Arizona company, by Warranty Deed recorded in Official Records Book 1803, Page 4250, Public Records of Lee County, Florida.

The following are all of those persons or entities holding a mortgage secured by the property.

The following are all easements and rights of way affecting the property to be platted, whether recorded or unrecorded:

1. Ten (10) foot wide alley as shown on the plat of Evans Addition No. 2 subdivision, recorded in Plat Book 2, Page 1A, of the Public Records of Lee County, Florida.

Note, this is not a certification of ownership of any oil, gas, and mineral rights or interests.

This certification is provided pursuant to the requirements of § 177.041, Florida Statute, for the uses and purposes specifically stated therein and is not to be used as the basis for the issuance of a title insurance commitment or policy. Pursuant to s. 627.7843, Florida Statutes, the maximum liability of the issuer of this property information report for errors or omissions in this property information report is limited to the amount paid for this property information report, and is further limited to the person(s) expressly identified by name in the property information report as the recipient(s) of the property information report.

By: _____

Charles Mann
Managing Partner

A handwritten signature in black ink, appearing to read 'Charles Mann', is written over the signature line. The signature is stylized and cursive.

EXHIBIT "A"

Lots 26, 28, 29, 30, 31, 32, and West 20 feet of Lot 34, all of Block 27 of Evans Addition No. 2, according to the plat or plat thereof, recorded in Plat Book 2, Page 1-A, Lee County, Florida.

Area Location Map
Vacation of Platted Alley

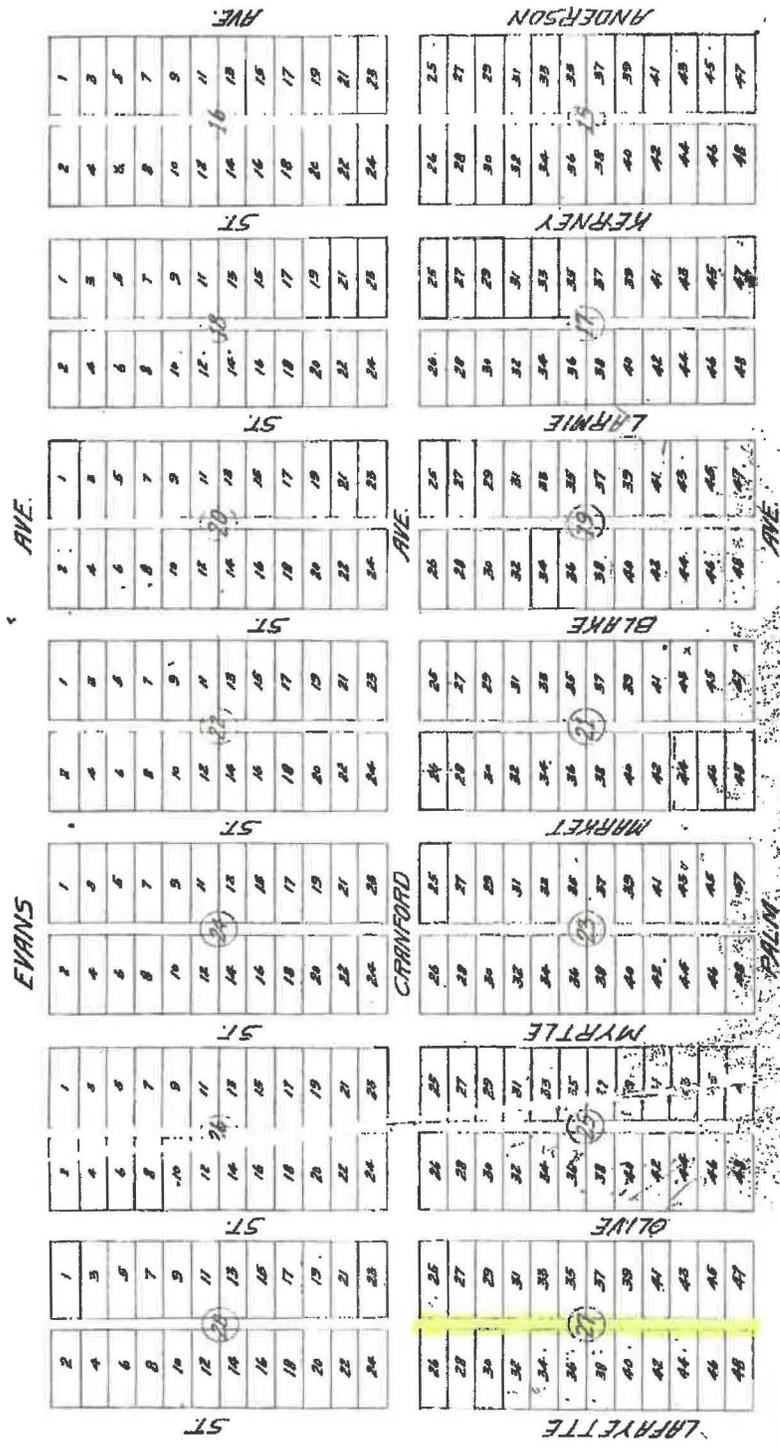


PLAT BOOK 2 PAGE 1A

EVANS ADDITION

NO. 2.

TO THE TOWN OF FORT MYERS.
 LOTS BEING 50' x 150'.
 STREETS 68' WIDE.
 AVENUES 80' WIDE.



COPIED BY
 Daily of



December 20, 2019

Ms. Veronica Martin
TDM Consulting, Inc.
43 Barkley Circle, Suite 200
Fort Myers, FL 33907

Re: Request for a Letter of No Objection to Vacate Alley
at 2715 Edison Avenue, Fort Myers
Strap Number: 24-44-24-P2-02727.0260

Dear Ms. Martin:

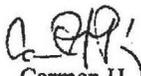
Embarq Florida, Inc. (d/b/a CenturyLink until further notice) has reviewed the document for the above referenced information. Based on the review, we have cables and terminals inside that alley.

We will abandon in place the buried cable and remove above ground facilities to vacate the valley at this location at the customer's expense. Prior to this being done provisions must be made, new easements secured and facilities constructed to serve any existing CenturyLink customers that may be affected by your request.

At the time you wish to proceed, we will develop a cost quote that will have to be paid in full before any work can start.

If you should require additional information, please contact me at (239) 336-2011.

Sincerely,


Carmen H. Perez
Engineer II

2820 Cargo St
Fort Myers, FL 33916
Tel: (239) 237-4835
Fax: (239) 336-2045
www.centurylink.com



December 17, 2019

TDM Consulting Inc
43 Barkley Cir
Ft Myers, FL 33907

Re: Truly Nolen - 2715 Edison Ave

Dear TDM Consulting Inc,

The following information is provided in response to your inquiry concerning existing electric facilities on the above referenced property.

FPL will remove our existing facilities and vacate the existing easement at this location at the customer's expense. Prior to this being done provisions must be made, new easements secured and facilities constructed to serve any existing FPL customers that may be affected by your request.

At the time you wish to proceed, an engineering deposit will be required in the amount of \$0.00; this amount will be applied to the cost of this job when it moves forward. Should you choose not to complete the work the deposit would be forfeited to cover costs incurred by FPL in preparing the job.

Please contact me at 239-332-9167 should you have any questions or concerns.

Yours truly,

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

Mike Dildine
Technical Specialist II



**12600 Westlinks Drive
Fort Myers, Fl. 33913
Phone: 239-432-1805**

August 16, 2019

TDM Consulting
Ashley Gervais
43 Barkley Circle, Suite 200
Fort Myers, Fl. 33907

Re: 2715 Edison Ave, Fort Myers (Lee County)

Dear Ashley Gervais,

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

Should you require additional information or assistance, please feel free to contact me here at 239-318-1524.

Cordially,

A handwritten signature in cursive script, appearing to read "Mark Cook".

Mark Cook
Project Coordinator



August 16, 2019

Ashley Gervais
Project Coordinator
Russ Carter Fence, Inc
43 Barkley Circle, Suite 200
Fort Myers, Florida 33907
Phone: (239) 433-4231
Fax: (239) 433-9632
Email: AGervais@tdmconsulting.com

RE: Letter of "No Objection"
Petition to Occupy and/or Encroach (UE) Utility Easement/Alleyway
Site Address: 2715 Edison Avenue
STRAP: 24-44-24-P2-02727.0260
Folio: 10173430
Municipality: Fort Myers
County: Lee

TECO Peoples Gas System has received and reviewed your request to Petition to Occupy and/or Encroach the (UE) Utility Easement and/or Alleyway along and/or within the Property @ **2715 Edison Avenue** referenced above.

TECO Peoples Gas System currently has **no Natural Gas infrastructure** along and/or within the (UE) Utility Easement and/or Alleyway within the Property @ **2715 Edison Avenue (STRAP: 24-44-24-P2-02727.0260 - Folio: 10173430)** in Fort Myers, Lee County.

Therefore, TECO Peoples Gas System currently has **"No Objection"** to the purpose and/or intent to Petition to Occupy and/or Encroach the (UE) Utility Easement and/or Alleyway along and/or within the Property @ 2715 Edison Avenue in Fort Myers, Lee County

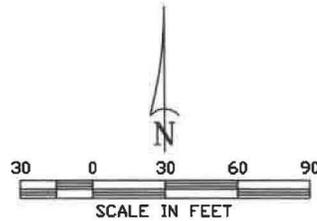
Should you have any questions or require further information, please contact me at (239) 690-5517 (Office), (239) 896-0812 (Mobile) or by Email at mdaloi@tecoenergy.com

Sincerely,

Marilyn D. Aloï
Gas Design Project Manager

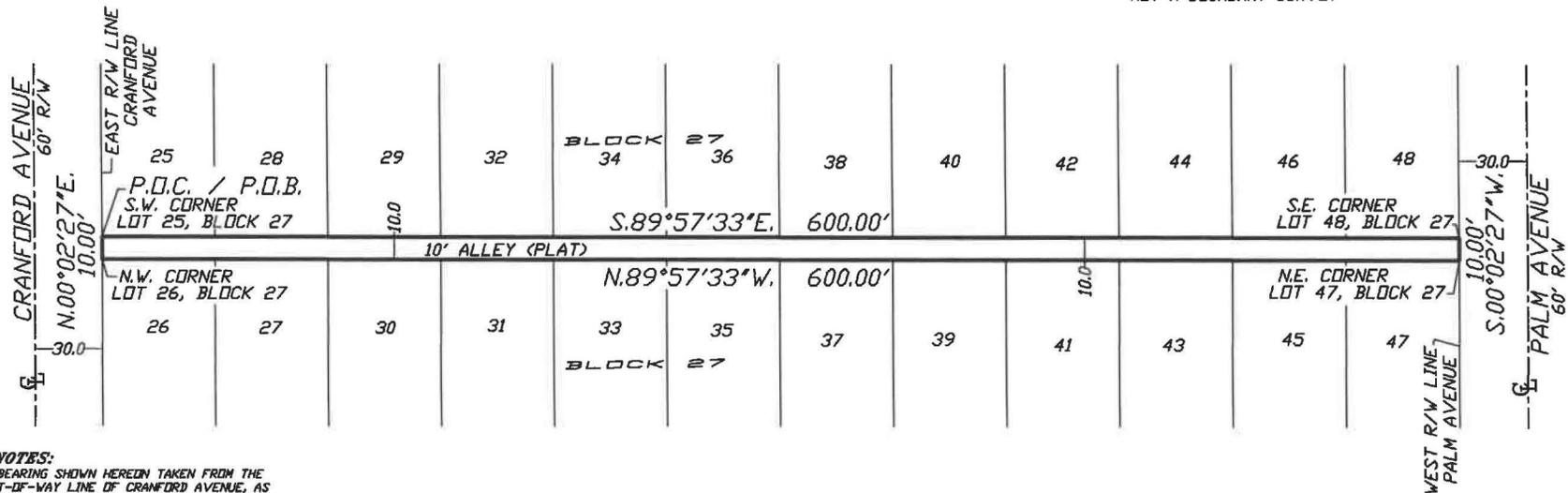
LEGEND:

O.R. OFFICIAL RECORDS BOOK
 P.O.B. POINT OF BEGINNING
 P.O.C. POINT OF COMMENCEMENT
 R/W RIGHT-OF-WAY
 CL CENTERLINE
 P.U.E. PUBLIC UTILITY EASEMENT



SKETCH TO ACCOMPANY DESCRIPTION
**ALLEY VACATION IN BLOCK 27,
 EVANS' ADDITION NO. 2,
 PLAT BOOK 2, PAGE 1A,
 SECTION 24, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
 LEE COUNTY, FLORIDA**

SKETCH TO ACCOMPANY DESCRIPTION
 SEE EXHIBIT 'A' FOR DESCRIPTION
 TO ACCOMPANY THIS SKETCH
 NOT A BOUNDARY SURVEY



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREDIN TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE, AS BEING "ASSUMED" AS N100°02'27"E.
2. FIELD NOTES IN EVAN ADDITION NO. 2 FILE.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREDIN. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. THIS SKETCH/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
7. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
8. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2 x 14", 60 SCALE DRAWING.

SHEET 1 OF 2

DRAWN: PMM	CHECK: FBH	SCALE: 1"=60'	PROJ. # CRANFORD VACATION	HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. 100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921
SKETCH DATE 8/16/19		FILE NO. 44-24-24	SHT. - 1 OF - 1	
FLORIDA CERTIFICATE OF AUTHORIZATION # LB6921				

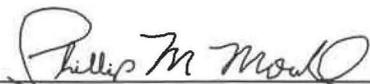
EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH:
*ALLEY VACATION IN BLOCK 27,
EVANS ADDITION NO. 2,
PLAT BOOK 2, PAGE 1A,
SECTION 24, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA*

DESCRIPTION:

COMMENCING AT A POINT ALONG THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE (60 FEET WIDE) AND THE SOUTHWEST CORNER OF LOT 25, BLOCK 27, EVANS ADDITION NO. 2, AS RECORDED IN PLAT BOOK 2, PAGE 1A, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN S.89°57'33"E. ALONG THE NORTH LINE OF A 10 FOOT WIDE ALLEY, IN THE AFORESAID BLOCK 27, TO A POINT ALONG THE WEST RIGHT-OF-WAY LINE OF PALM AVENUE (60 FEET WIDE), SAID POINT BEING THE SOUTHEAST CORNER OF LOT 48, OF THE AFORESAID BLOCK 27, FOR 600.00 FEET; THENCE RUN S.00°02'27"W. ALONG THE WEST RIGHT-OF-WAY LINE SAID PALM AVENUE (60 FEET WIDE), TO THE NORTHEAST CORNER OF LOT 48, OF THE AFORESAID BLOCK 27, FOR 10.00 FEET; THENCE RUN N.89°57'33"W. ALONG THE SOUTH LINE OF A 10 FOOT WIDE ALLEY, IN AFORESAID BLOCK 27, TO A POINT ALONG THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE (60 FEET WIDE), SAID POINT BEING THE NORTHWEST CORNER OF LOT 26, OF THE AFORESAID BLOCK 27, FOR 600.00 FEET; THENCE RUN N.00°02'27"E. ALONG THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE (60 FEET WIDE), TO THE SOUTHWEST CORNER OF LOT 25, OF THE AFORESAID BLOCK 27, FOR 10.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 6,000.00 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
8/16/19



Real Property Information

Account

24-44-24-P2-02727.0250

Original Account

24-44-24-P2-02727.0250

Owner

2301 CRANFORD AVENUE LLC

Physical Address

2301 CRANFORD AVE
FORT MYERS FL 33916

Tax Year Status

2018 **PAID**

Instrument No

2018000255846

Mailing Address

74 CLARENDON ST
BOSTON MA 02116
USA

Legal Description

EVANS ADD.NO.2 BLK 27 PB 2 PG 1A LOTS 25 + 27

Outstanding Balance as of 8/14/2019 \$0.00

Additional Options:

- [eNotify](#)
- [Tax Detail](#)
- [Payments Made](#)
- [All Unpaid Taxes](#)
- [Tax History](#)
- [Link to Property Appraiser's Tax Estimator](#)

See also:





Real Property Information

Account
24-44-24-P2-02727.0260

Original Account
24-44-24-P2-02727.0260

Owner
TRULY NOLEN OF AMERICA INC
TREASURY DEPT

Physical Address
2715 EDISON AVE
FORT MYERS FL 33916

Tax Year Status
2018 PAID
Book/Page
1803/4250

Mailing Address
PO BOX 43550
TUCSON AZ 85733
USA

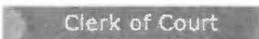
Legal Description

EVANS ADD NO 2 BLK 27 PB 2 PG 1A LTS 26 28 29 30 31 32 + PT 34
Outstanding Balance as of 8/13/2019 \$0.00

Additional Options:

- [eNotify](#)
- [Tax Detail](#)
- [Payments Made](#)
- [All Unpaid Taxes](#)
- [Tax History](#)
- [Link to Property Appraiser's Tax Estimator](#)

See also:





Real Property Information

Account

24-44-24-P2-02727.0340

Original Account

24-44-24-P2-02727.0340

Owner

MAXWELL DANIEL B

Physical Address

2729 EDISON AVE
FORT MYERS FL 33916

Tax Year Status

2018 PAID

Book/Page

4840/756

Mailing Address

922 DIPLOMAT PKWY
CAPE CORAL FL 33909
USA

Legal Description

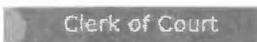
EVANS 2ND ADD. BLK 27 PB 2 PG 1A E 30 FT OF LOT 34

Outstanding Balance as of 8/14/2019 \$0.00

Additional Options:

- [eNotify](#)
- [Tax Detail](#)
- [Payments Made](#)
- [All Unpaid Taxes](#)
- [Tax History](#)
- [Link to Property Appraiser's Tax Estimator](#)

See also:





Real Property Information

Account

24-44-24-P2-02727.0400

Original Account

24-44-24-P2-02727.0400

Owner

WALLACE MERLE G TR
FOR MERLE G WALLACE TRUST

Physical Address

2743/2761 EDISON AVE
FORT MYERS FL 33916

Tax Year Status

2018 **PAID**

Instrument No

2011000033552

Mailing Address

PO BOX 1585
FORT MYERS FL 33902
USA

Legal Description

EVANS ADD.NO.2 BLK 27 PB 2 PG 1A LOTS 33 + 35 THRU 48

Outstanding Balance as of 8/14/2019 \$0.00

Additional Options:

- [eNotify](#)
- [Tax Detail](#)
- [Payments Made](#)
- [All Unpaid Taxes](#)
- [Tax History](#)
- [Link to Property Appraiser's Tax Estimator](#)

See also:



Prepared by:

Karen S. Vuichard, an employee of
Florida Hometown Title & Escrow LLC,
900 SW Pine Island Road, Suite 206
Cape Coral, Florida 33991

File Number: 02-18-1564

Warranty Deed

This Indenture, made this 26th October, 2018 A.D.

Between

Maxguard US LLC, a Florida Limited Liability Company

whose post office address is: 1308 SW 27th Terrace, Cape Coral, Florida 33914

a company existing under the laws of the State of Florida, Grantor

and

2301 Cranford Avenue LLC, A Florida Limited Liability Company

whose post office address is: 74 Clarendon Street, Boston MA 02116 Grantee,

Witnesseth, that the said Grantor, for and in consideration of the sum of Three Hundred Fifteen Thousand dollars & no cents, (\$315,000.00), to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in the County of Lee, State of Florida, to wit:

Lots 25 and 27, Block 27, Evans 2nd Addition, a subdivision according to the plat thereof, as recorded in Plat Book 2, Page 1-A, of the Public Records of Lee County, Florida.

Subject to taxes for the current year, covenants, restrictions and easements of record, if any.

Parcel Identification Number: 24-44-24-P2-02727.0250

And the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the said Grantor has caused this instrument to be executed in its name by its duly authorized officer and caused its corporate seal to be affixed the day and year first above written.

Maxguard US LLC, a Florida Limited Liability Company

Signed and Sealed in Our Presence:

By: Marie B. Code
Marie B Code
Its: Authorized Signatory, as authorized by resolution recorded at Instrument # 2017000048258 of the Public Records of Lee County, Florida

Witness#1

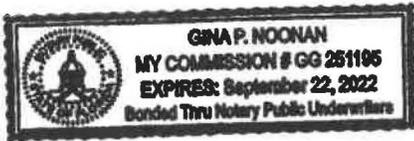
[Signature]
Sign/ Print Name B. Noonan

Witness#2

[Signature]
Sign/ Print Name KUWICHARD

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 26th day of October, 2018, by Marie B Code, the Authorized Signatory of Maxguard US LLC, a Florida Limited Liability Company A company existing under the laws of the State of Florida, on behalf of the company. She is personally known to me or has produced _____ as identification.



[Signature] (Seal)
Notary Public
Notary Printed Name: Gina P Noonan
My Commission Expires: 9-22-22

9.000
1163212
10-15-85

1991603

This Indenture.

Made this 11th day of September A. D. 1985,
Between LOUISE J. RUKE

RECORD VERIFIED - CHARLIE GREEN, CLERK OF
BY: H. FERNSTROM, D.C. ©

OFF REC 1-80 316 4250

of the County of Lee and State of Florida
party of the first part, and TRULY NOLEN OF AMERICA, INC.,
a corporation existing under the laws of the State of Arizona /
having its principal place of business in the County of and
State of party of the second part, whose correct address
is 5391 Hallandale Beach Blvd., Hollywood, FL 33023;

Witnesseth, that the said party of the first part, for and in consideration
of the sum of TEN DOLLARS and other valuable consideration Dollars
to her in hand paid, the receipt whereof is hereby acknowledged, ha
granted, bargained, sold, aliened, remised, released, enfeoffed, conveyed and con-
firmed and by these presents does grant, bargain, sell, alien, remise, release,
enfeoff, convey and confirm unto the said party of the second part and its succes-
sors and assigns forever, all that certain parcel of land lying and being in the
County of Lee and State of Florida, more particularly
described as follows:

Lots 26, 28, 29, 30, 31, 32 and West 20' of Lot 34, all of
Block 27 of that certain Subdivision known as EVANS ADDITION
NO. 2, according to the map or plat thereof on file and recorded
in the office of the Clerk of the Circuit Court of Lee County,
Florida, according to the plat thereof as recorded in Plat Book
2 at Page 1, Lee County Records, sometimes known as Plat Book 2, Page
1a, Lee County Records.
SUBJECT TO easements, restrictions and reservations of record
and taxes for the year 1985 and subsequent years.

THE PROPERTY HEREIN TRANSFERRED BY GRANTOR DOES NOT CONSTITUTE
THE HOMESTEAD OF GRANTOR AS HOMESTEAD IS DEFINED PURSUANT TO THE
CONSTITUTION OF THE STATE OF FLORIDA, AND HAS NEVER CONSTITUTED
THE HOMESTEAD OF GRANTOR; THE RESIDENCE OF GRANTOR IS LOCATED AT
1832 ARDMORE ROAD, FORT MYERS, FLORIDA.

Documentary Tax - PD: \$ 1650.00
Intangible Tax - PD:
By CHARLIE GREEN, CLERK, LEE COUNTY.
H. Fernstrom Deputy Clerk

Together with all the tenements, hereditaments and appurtenances, with
every privilege, right, title, interest and estate, dower and right of dower, reversion,
remainder and easement thereto belonging or in anywise appertaining:

To Have and to Hold the same in fee simple forever.
And the said party of the first part does covenant with the said party of
the second part that she is lawfully seized of the said premises, that they are
free of all incumbrance, and that she has good right and lawful authority
to sell the same, and that said party of the first part doth hereby fully warrant
the title to said land, and will defend the same against the lawful claims of all
persons whomsoever.

In Witness Whereof, the said party of the first part has hereunto
set her hand and seal the day and year above-written.

Signed, Sealed and Delivered in Our Presence:

Barbara A. Bellmple

Louise J. Ruke
Louise J. Ruke

This instrument was prepared by:
DAVID L. WARD, Attorney at Law,
2160 Second St., Fort Myers, FL 33902.

State of Florida

County of LEE

I Herby Certify That on this 11th day of September A. D. 1985, before me personally appeared

LOUISE J. RUKE

to me known to be the person described in and who executed the foregoing conveyance to TRULY NOLEN OF AMERICA, INC.

and severally acknowledged the execution thereof to be her free act and deed for the uses and purposes therein mentioned;

my signature and official seal at Fort Myers and State of Florida, the day and year last aforesaid. (Seal)

My Commission Expires _____

Notary Public

Notary Public, State of Florida. My Commission Expires: Aug. 31, 1989. Bonded Through Tally Insurance Co.

REC-1803 PG 14 251

RECORDED IN OFFICIAL RECORDS OF LEE COUNTY, FLORIDA SEP 13 4 23 PM '85

PLEASE RETURN TO: DAVID L. WADE, P.O. BOX 298, FORT MYERS, FL 33902

PLEASE RETURN TO: DAVID L. WADE, P.O. BOX 298, FORT MYERS, FL 33902

Handwritten signature/initials

Date ABSTRACT OF DESCRIPTION

TO

TO CORPORATION

Mortgage First

Prepared by and return to:
Sharon M. Zuccaro, Esq.

Henderson, Franklin, Starnes & Holt, P.A. (B)
3451 Bonita Bay Boulevard Suite 206
Bonita Springs, FL 34134
239-344-1100
File Number: Shell.Wallace
Will Call No.: 35

[Space Above This Line For Recording Data]

Special Warranty Deed

This Instrument Was Prepared Without Opinion of Title.

This Special Warranty Deed made this 24 day of January, 2011 between Merle G. Wallace, an unremarried widow whose post office address is 3805 Liberty Square, Fort Myers, FL 33908, grantor, and Merle G. Wallace, as Trustee of the Merle G. Wallace Revocable Trust Dated June 3, 2010, with full power and authority either to protect, conserve and to sell, or to lease, or to encumber, or otherwise to manage and dispose of the real property described herein, as provided for in Florida Statute 689.071, whose post office address is 3805 Liberty Square, Fort Myers, FL 33908, 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:

Lots 33, 35, 36, 37 and 38, of Block 27, EVANS ADDITION No. 2, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida in Plat Book 2, at Page 1, Public Records of Lee County, Florida.

Parcel Identification Number: 24-44-24-P2-02727.0330

Subject to taxes for 2011 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

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

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

And the grantor hereby covenants with said 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:

James L. Woodhouse
Witness Name: JAMES L. WOODHOUSE

Merle G. Wallace (Seal)
Merle G. Wallace

Marisa Spradlin
Witness Name: MARISA SPRADLIN

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 26 day of January, 2011 by Merle G. Wallace, who is personally known or has produced a driver's license as identification.

[Notary Seal]

Marisa Spradlin
Notary Public

Printed Name: Marisa Spradlin

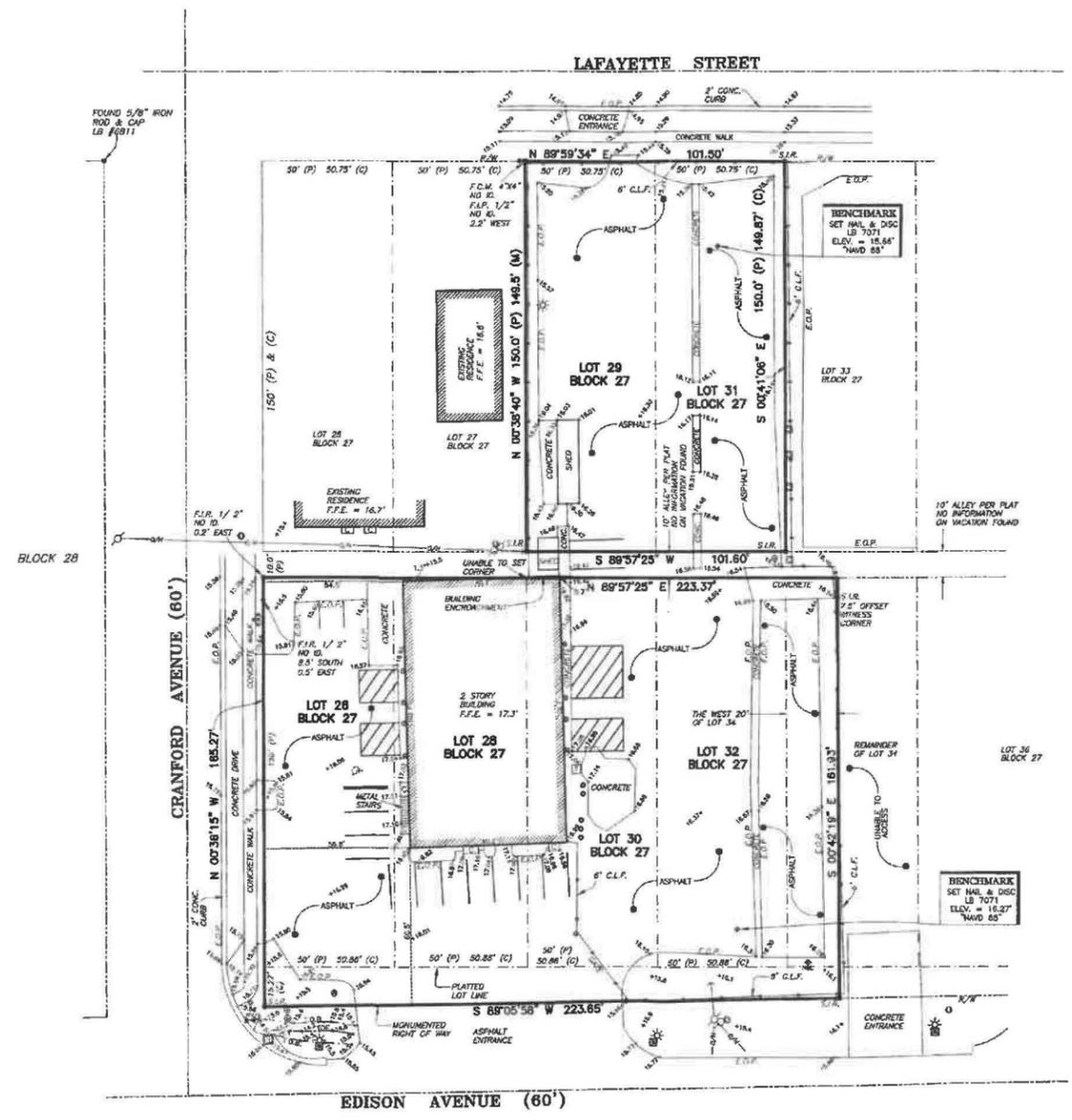
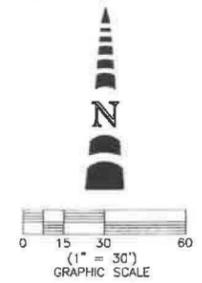
My Commission Expires: July 8, 2011



MARISA SPRADLIN
MY COMMISSION # DD 666258 EXPIRES
July 8, 2011
BONDED THRU TROY FAIN INSURANCE, INC.

SURVEY PLAT

OF A PARCEL LYING IN
SECTION 24, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF FORT MYERS, LEE COUNTY, FLORIDA



DESCRIPTION: O.P. 1803, PAGE 4250
LOTS 26, 28, 29, 30, 31, 32 AND WEST 20' OF LOT 34, ALL OF BLOCK 27 OF THAT CERTAIN SUBDIVISION KNOWN AS EVANS ADDITION NO. 2, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 1, LEE COUNTY RECORDS, SOMETIMES KNOWN AS PLAT BOOK 2, PAGE 19, LEE COUNTY RECORDS.

NOTES:
SURVEY BASED ON THE LEGAL DESCRIPTION SHOWN, TITLE CERTIFICATION AS PREPARED BY PAVISE LAW FIRM HAVING AN EFFECTIVE DATE OF AUGUST 15, 2019, THE PLAT OF EVANS ADDITION NO. 2 AS RECORDED IN PLAT BOOK 2 AT PAGE 1 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR STATE ROAD 739 HAVING PROJECT NUMBER 12001-101, DATED 2-18-01, AND FOUND MONUMENTATION.
BEARINGS ARE BASED ON THE EAST RIGHT-OF-WAY LINE OF CRANFORD AVENUE AS BEARING N.00°36'15"W.

PARCEL LIES IN FLOOD ZONE "X", HAVING NO BASE FLOOD ELEVATION. THIS INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 1207100288F, EFFECTIVE DATE 12-07-2018.

THE F.E.M.A. FLOOD ZONE INFORMATION INDICATED HEREIN IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.

THE ELEVATIONS SHOWN HEREON ARE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D. 88) IN FEET AND DECIMALS THEREOF AND BASED UPON CONTINUOUSLY OPERATING FLORIDA PERMANENT REFERENCE NETWORK (FPRN) STATIONS MAINTAINED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION.

IRON RODS "SET" ARE 5/8" X 18" REBAR WITH ORANGE CAP BEARING CORPORATION NO. 7071.

UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE SHOWN OR NOTED.

WETLANDS, IF ANY, WERE NOT LOCATED.

THIS PLAT PREPARED AS A BOUNDARY & TOPOGRAPHIC SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY. SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

DATE OF LAST FIELD WORK: 9-13-2019.

FOR THE FIRM:

DENIS J. O'CONNELL, JR.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LSE 5430
DATE SIGNED: 9/17/19

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
THIS BOUNDARY & TOPOGRAPHIC SURVEY IS ONLY FOR THE LANDS AS DESCRIBED. IT IS NOT A CERTIFICATE OF TITLE, ZONING, EASEMENTS OR FREEDOM OF ENCUMBRANCES.
THIS SURVEY WAS PREPARED WITH BENEFIT OF A TITLE CERTIFICATION AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

- LEGEND:**
- E.C.P. = EDGE OF PAVEMENT
 - R/W = RIGHT-OF-WAY
 - D.C. = DRAINAGE CASSEMENT
 - P.U.E. = PUBLIC UTILITY EASEMENT
 - P.B. = PLAT BOOK
 - S.I.R. = SET SURF IRON ROD & CAP LBN 7071
 - U.E. = UTILITY EASEMENT
 - F.I.R. = FOUND IRON ROD
 - F.M. = FOUND
 - F.C.M. = FOUND CONCRETE MONUMENT
 - CONC. = CONCRETE
 - (P) = PLAT
 - (M) = MEASURED
 - (C) = CALCULATED
 - LB = LICENSED BUSINESS
 - F.I.P. = FOUND IRON PIPE
 - O.R. = OFFICIAL RECORDS BOOK
 - C.L.F. = CHAIN LINK FENCE
 - F.F.E. = FINISHED FLOOR ELEVATION
 - T.O.B. = TOP OF BANK
 - T.S. = TOP OF SLOPE
 - N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
 - TR = TRANSFORMER
 - NGL = NATURAL GAS LINE WARNER POST
 - ES = ELECTRIC SERVICE
 - SS = SEWER SERVICE
 - IV = IRRIGATION VALVE
 - THS = TRILLY HOLDEN SIGN
 - CB = CATCH BASIN
 - FL = FENCE LINE
 - CP = CONCRETE PAD
 - AW = AWAY WIRE ANCHOR
 - OHU = OVERHEAD UTILITY LINES
 - WPP = WOOD POWER POLE
 - M = MELL
 - B = BOLLARD
 - SS = STREET SIGN
 - FH = FIRE HYDRANT
 - LP = LIGHT POLE
 - WM = WATER METER
 - SE = SPOT ELEVATION
 - TS = TELEPHONE SERVICE BOX
 - PE = POST WITH ELECTRICAL OUTLET

TRULY NOLEN

TITLE: BOUNDARY & TOPOGRAPHIC SURVEY

METRON
SURVEYING & MAPPING, LLC

LAND SURVEYORS-PLANNERS
LB# 7071

10970 S. CLEVELAND AVENUE
SUITE #605
FORT MYERS, FLORIDA 33907
PHONE: (239) 275-8575
FAX: (239) 275-8457

www.metronfl.com

FILE NAME: 14497SR2.DWG	FIELD BOOK/PAGE: 514/65-69	PROJECT NO.: 14497	SHEET: 1 OF 1
SURVEY DATE: 9-10-19	DRAWN BY: JDF	SCALE: 1" = 30'	CHECKED BY: (S-T-R) DJO
		24-44-24	