

ORDINANCE 79 - 20

AN ORDINANCE OF CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, ESTABLISHING THE STONEWATER COMMUNITY DEVELOPMENT DISTRICT LOCATED WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF CAPE CORAL, FLORIDA, CONTAINING APPROXIMATELY 184.82 ACRES, PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING FOR THE ESTABLISHMENT OF THE BOUNDARIES FOR THE STONEWATER COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR THE DESIGNATION OF THE INITIAL BOARD MEMBERS; PROVIDING FOR THE DISTRICT NAME; PROVIDING FOR STATUTORY PROVISIONS GOVERNING THE DISTRICT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, DR Horton, Inc., a Delaware Corporation, has petitioned the City Council ("Council") of the City of Cape Coral, Florida, a political subdivision of the State of Florida, to establish the STONEWATER COMMUNITY DEVELOPMENT DISTRICT ("District"); and

WHEREAS, the Council, after proper published notice has conducted a public hearing on the petition and determined the following with respect to the factors to be considered in Section 190.005(1)(e) Florida Statutes, as required by Section 190.005(2)(c), Florida Statutes:

1. The petition is complete and meets the requirements of Section 190.005, Florida Statutes, and all statements contained within the petition are true and correct.
2. Establishment of the proposed District is not inconsistent with any applicable element or portion of the local comprehensive plan of the City of Cape Coral, Florida, or the State Comprehensive Plan.
3. The area of land within the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. The District is the best alternative available for delivering community development services and facilities to the area that will be serviced by the District.
5. The community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. The area that will be served by the District is amenable to separate special-district government.

WHEREAS, it is the policy of this State, as provided for in Section 190.002(2)(c), Florida Statutes, that the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, to ensure that neither the establishment nor operation of such district is a development order under Chapter 380, Florida Statutes, and that the district so established does not have any zoning or permitting powers governing development; and

WHEREAS, Section 190.004(3), Florida Statutes, provides that all governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION ONE: AUTHORITY FOR ORDINANCE

This Ordinance is adopted pursuant to Section 190.005(2), Florida Statutes, and other applicable provisions of law governing county ordinances.

SECTION TWO: ESTABLISHMENT OF THE STONEWATER COMMUNITY DEVELOPMENT DISTRICT

The Stonewater Community Development District is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference herein.

SECTION THREE: DESIGNATION OF INITIAL BOARD MEMBERS

The following five persons are herewith designated to be the initial members of the Board of Supervisors:

1. J. Wayne Everett
10541 Ben C Pratt Six Mile Cypress Pkwy.
Fort Myers, FL 33966
2. Debra A. Thomas
10541 Ben C Pratt Six Mile Cypress Pkwy.
Fort Myers, FL 33966
3. Landon Thomas
10541 Ben C Pratt Six Mile Cypress Pkwy.
Fort Myers, FL 33966
4. James Ratz
10541 Ben C Pratt Six Mile Cypress Pkwy.
Fort Myers, FL 33966
5. Chris Quarels
10541 Ben C Pratt Six Mile
Cypress Pkwy.
Fort Myers, FL 33966

SECTION FOUR: DISTRICT NAME

The community development district herein established shall henceforth be known as the "Stonewater Community Development District."

SECTION FIVE: STATUTORY PROVISIONS GOVERNING THE DISTRICT

The Stonewater Community Development District shall be governed by the provisions of Chapter 190, Florida Statutes, and all other applicable general and local law.

SECTION SIX: CONSENT TO SPECIAL POWERS

Upon the effective date of this Ordinance, the Stonewater Community Development District will be duly and legally authorized to exist and exercise all of its powers as set forth in Section 190.012(1), Florida Statutes, and as otherwise provided by law.

The Council hereby consents to the exercise by the Board of Supervisors of the District of special powers set forth in Section 190.012(2)(a) and 190.012(2)(d), Florida Statutes, to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural, and educational uses, as well as facilities for security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the District boundaries.

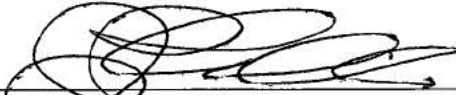
SECTION SEVEN: SEVERABILITY

If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION EIGHT: EFFECTIVE DATE

This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 14th DAY OF December, 2020.



JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	<u>aye</u>	NELSON	<u>excused</u>
GUNTER	<u>aye</u>	WELSH	<u>aye</u>
CARIOSCIA	<u>aye</u>	WILLIAMS	<u>excused</u>
STOUT	<u>aye</u>	COSDEN	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 15th DAY OF December, 2020.



KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
ord\Stonewater CDD

DESCRIPTION

Parcel in
Section 10, Township 44 South, Range 23 East
City of Cape Coral, Lee County, Florida

A tract or parcel of land lying in Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at Northeast Corner of said Section 10 run $S00^{\circ}00'02''W$ along the East line of said Section 10 for 1,370.94 feet; thence run $N89^{\circ}59'58''W$ for 50.00 feet to an intersection with the West line of the East 50 feet of said Section 10, being the West right of way line of Nelson Road, as described in a deed recorded in Official Records Book 791, at Page 464, Lee County Records, also being the Southeast corner of lands described in deed recorded in Instrument Number 2017000038486, Lee County Records and the POINT OF BEGINNING.

From said Point of Beginning run $S00^{\circ}00'02''W$ along said West right of way line for 1,321.42 feet to an intersection with the South line of the North Half (N 1/2) of said Section 10; thence run $N89^{\circ}56'37''W$ along said South line for 3,308.75 feet to an intersection with the Easterly line of lands described in deed recorded in Official Records Book 1763, at Page 3347, Lee County Records; thence run $N00^{\circ}02'12''E$ along said Easterly line for 2,567.46 feet to an intersection with the Southerly line of lands described in deed recorded in Instrument Number 2017000038486, Lee County Records; thence run along the Southerly and Easterly line of said lands the following two (2) courses: $N89^{\circ}39'59''E$ for 80.00 feet and $N00^{\circ}02'12''E$ for 80.00 feet to an intersection with the South line of the North 50 feet of said Section 10, also being the South right of way line of Tropicana Parkway, as described in a deed recorded in Official Records Book 1817, at Page 1072, Lee County Records; thence run along said South line right of way line the following two (2) courses: $N89^{\circ}39'59''E$ for 586.94 feet and $S89^{\circ}44'21''E$ for 45.08 feet to a point of cusp; thence run Southwesterly along an arc of a curve to the left of radius 20.00 feet (delta $90^{\circ}16'37''$) (chord bearing $S45^{\circ}07'20''W$) (chord 28.35 feet) for 31.51 feet to a point of tangency; thence run $S00^{\circ}00'58''E$ for 15.55 feet to a point of curvature; thence run Southwesterly along an arc of a curve to the right of radius 95.00 feet (delta $90^{\circ}31'55''$) (chord bearing $S45^{\circ}14'59''W$) (chord 134.97 feet) for 150.11 feet; thence run $S00^{\circ}10'27''W$ along a non-tangent line for 4.88 feet; thence run $S89^{\circ}49'33''E$ for 1,072.58 feet to a point of curvature; thence run Southeasterly along an arc of a curve to the right of radius 90.00 feet (delta $131^{\circ}25'30''$) (chord bearing $S24^{\circ}06'48''E$) (chord 164.07 feet) for 206.44 feet to a point of tangency; thence run $S41^{\circ}35'57''W$ for 69.72 feet; thence run $S48^{\circ}37'12''E$ for 121.52 feet to a point on a non-tangent curve; thence run Northerly along an arc of a curve to the left of radius 80.00 feet (delta $52^{\circ}34'05''$) (chord bearing $N05^{\circ}38'01''E$) (chord 70.85 feet) for 73.40 feet to a point of reverse curvature; thence run Northeasterly along an arc of a curve to the right of radius 65.00 feet (delta $140^{\circ}54'02''$) (chord bearing $N49^{\circ}47'59''E$) (chord 122.51 feet) for 159.85 feet to a point of tangency; thence run

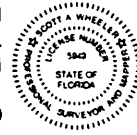
DESCRIPTION (CONTINUED)

S59°45'00"E for 183.91 feet to a point on a non-tangent curve; thence run Northerly along an arc of a curve to the left of radius 980.00 feet (delta 11°25'02") (chord bearing N19°41'03"E) (chord 194.96 feet) for 195.28 feet to a point of reverse curvature; thence run Northeasterly along an arc of a curve to the right of radius 60.00 feet (delta 76°22'58") (chord bearing N52°10'01"E) (chord 74.19 feet) for 79.99 feet to a point of tangency; thence run S89°38'30"E for 870.76 feet; thence run S54°06'35"E for 35.85 feet; thence run S00°19'29"E for 1,071.60 feet to an intersection with the Northerly line of said lands described in deed recorded in Instrument Number 2017000038486, Lee County Records; thence run along the Northerly, Westerly and Southerly line of said lands the following three (3) courses: N89°59'58"W for 19.88 feet; S00°00'02"W for 100.00 feet and S89°59'58"E for 256.86 feet to the POINT OF BEGINNING.

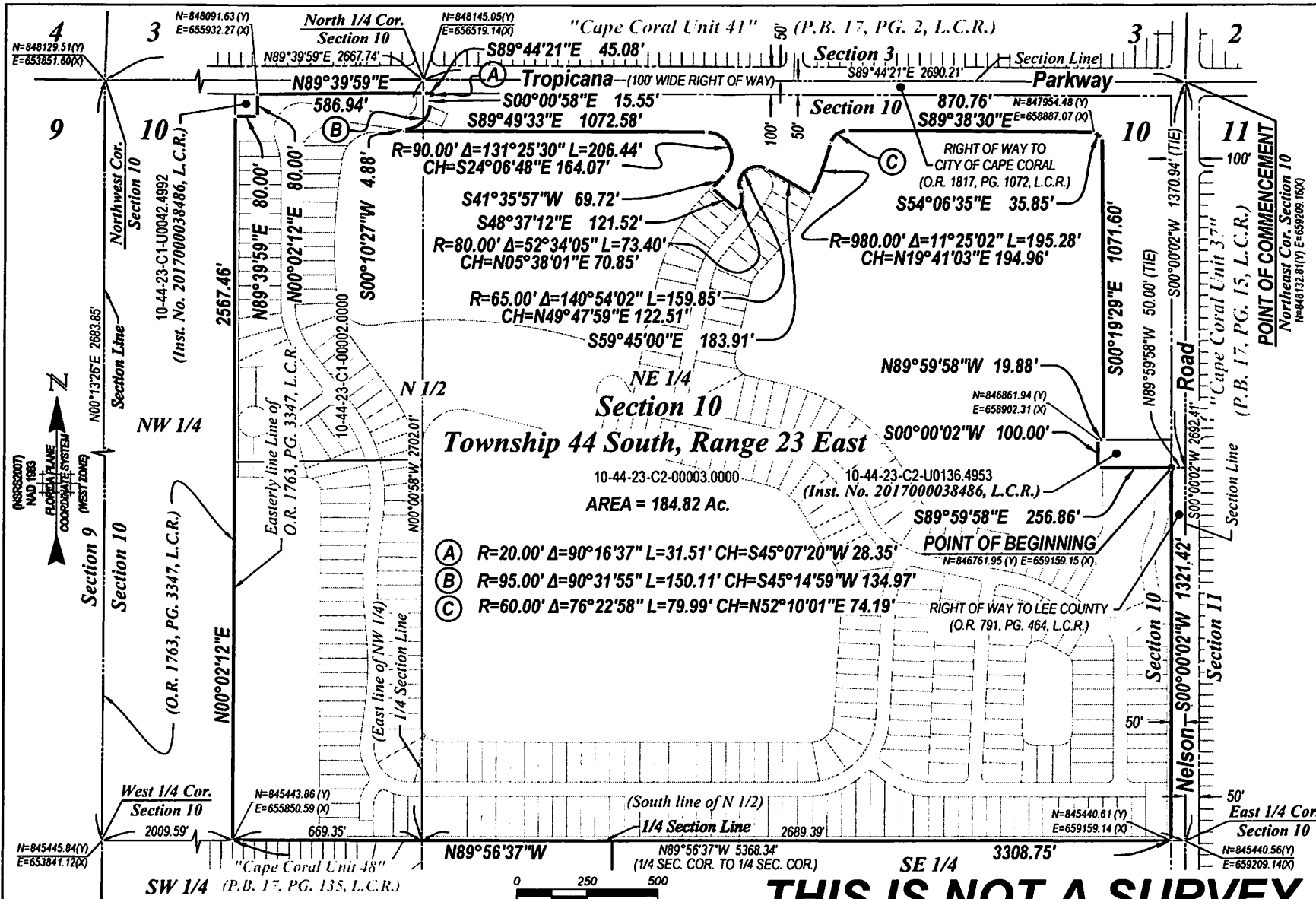
Containing 184.82 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the East line of the Northeast Quarter (NE 1/4) of said Section 10 to bear S00°00'02"W.

Digitally signed
by Scott A.
Wheeler, PSM
Date: 2020.06.25
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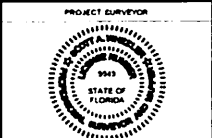
Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949



Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
www.barraco.net
2271 MCGREGOR BLVD., SUITE 100
FORT MYERS, FLORIDA 33902-2000
PHONE (239) 481-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7905 - SURVEYING LD-6940

D.R. HORTON
13500 TRELLENE AVENUE SOUTH
SUITE 3
FORT MYERS, FLORIDA 33913
PHONE (239) 561-3200
FAX (239) 561-3225
WWW.DRHORTON.COM

**A PARCEL OF LAND
IN
SECTION 10
TOWNSHIP 44 SOUTH
RANGE 23 EAST
CITY OF CAPE CORAL,
LEE COUNTY,
FLORIDA**



FILE NAME	23303RD03.DWG
LAYOUT	3
LOCATION	J:\23303RD\03.SURVEY\H03MKTCH
PLOT DATE	WED 5:13:20 - 1 03 PM
PLOT BY	PETER GLESH
DRAWING DATA	
SURVEY DATE	04-JR-2019
DRAWN BY	P. GLESH
CHECKED BY	SAW
SCALE	1"=50'
FIELD BOOK	

PLAN REVISIONS	
12-12-2019	REVISE BOUNDARY CLIENT
05-13-2020	REVISE BOUNDARY

STRAP NUMBERS	
RESIDENTIAL DEVELOPMENT AREA	
SKETCH TO ACCOMPANY DESCRIPTION	
PROJECT / FILE NO	SHEET NUMBER
23303 / 23531	3 OF 3
10-44-23	

THIS IS NOT A SURVEY

Digitally signed
by Scott A.
Wheeler, PSM
Date: 2020.06.25
10:33:04 -04'00'
SCOTT A. WHEELER (FOR THE FIRM - LB-6940)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5949
DATE SIGNED:

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL
RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

- NOTES:
- ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF. UNLESS OTHERWISE NOTED DISTANCES ARE ALSO (U.S. SURVEY FEET) GROUND AND CAN BE MULTIPLIED BY 0.99994118 TO OBTAIN GRID DISTANCES.
 - D.B. - DENOTES DEED BOOK.
 - INST. No.- DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
 - O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
 - (P) - DENOTES PLAT.
 - P.B. - DENOTES PLAT BOOK.
 - PG. - DENOTES PAGE.
 - BEARINGS AND COORDINATES HEREON ARE STATE PLANE FLORIDA WEST ZONE (NAD1983 (NSRS 2007)) AND ARE BASED THE EAST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 10 TO BEAR S00°00'02"W.
 - DESCRIPTION IS ATTACHED.

