



AGENDA FOR THE HEARING EXAMINER

Tuesday, February 7, 2017

9:00 AM

Council Chambers

VIDEO

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. Case #ZA16-0006*; Applicant: G & I Management Services, LLC;
Address: 409 and 411 Hancock Bridge Parkway
- B. Case #ZA16-0008*; Applicant: Quyen Truong; Address: 1627 SW
15th Avenue

3. DATE AND TIME OF NEXT HEARINGS

- A. Tuesday, February 21, 2017, at 9:00 a.m. in Council Chambers

4. ADJOURNMENT

In accordance with the Americans with Disabilities Act and Florida Statutes 286.26, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0411 for assistance, if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance.

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

PLEDGE OF CIVILITY

We will be respectful of each other even when we disagree.
We will direct all comments to the issues. We will avoid personal attacks.

The hearing shall, to the extent possible, be conducted as follows:

1. The Clerk shall read into the record the Ordinance or Resolution Title and Number, or the Applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
2. The Applicant, staff, and all Participants requesting to speak or present evidence or both the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
3. Staff will testify regarding proper notice of the Hearing in accordance with City requirements.
4. The Applicant may waive the Applicant's right to an evidentiary hearing if Applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the Applicant, a Public Hearing shall be held for all decisions requiring an ordinance or resolution.
5. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner, determines to proceed in a different order, taking proper consideration of fairness and due process:
 - The Applicant shall make the Applicant's presentation, including offering any documentary evidence, and introduce any witnesses as Applicant desires. The Applicant shall present the Applicant's entire case in thirty (30) minutes.
 - Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner with the agenda materials, as staff desires; summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in thirty (30) minutes.
 - Participants in opposition to or support of the application shall make their presentation in any order as determined by the Hearing Examiner. Each Participant shall present their argument in 5 minutes.
 - The Applicant may cross-examine any witness and respond to any testimony presented.
 - Staff may cross-examine any witness and respond to any testimony presented.
 - The Hearing Examiner may choose to allow Participants to respond to any testimony if the Hearing Examiner deems the response to be necessary to ensure fairness and due process.
 - The Hearing Examiner, may ask questions of the staff, Applicant, and Participants.
 - Final argument may be made by the Applicant, related solely to the evidence in the record.
 - Final argument may be made by the staff, related solely to the evidence in the record.
 - For good cause shown, the Hearing Examiner may grant additional time to any of the hereinabove time limitations.
 - The Hearing Examiner's, decisions must be based upon Competent Substantial Evidence in the record.

Item Number:	2.A.
Meeting Date:	2/7/2017
Item Type:	HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case #ZA16-0006*; Applicant: G & I Management Services, LLC; Address: 409 and 411 Hancock Bridge Parkway

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

Request for Approval of a rezoning from Corridor (CORR) to Multi-Family Residential (R-3) for two properties along Hancock Bridge Parkway.

LEGAL REVIEW:

EXHIBITS:

See attached 'Backup Material'

PREPARED BY:

Kristin
Kantarze Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

Chad Boyko, AICP, Principal Planner
(239) 573-3162
cboyko@capecoral.net

ATTACHMENTS:

Description

Backup Material

Type

Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0553

Case # 2A16-0006

REQUEST TO PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY AND COUNCIL
FOR A REZONING

FEE \$2,050.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

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

OWNER OF PROPERTY

G&I MANAGEMENT SERVICES LLC

Address: 314 SE 19 TER
City CAPE CORAL State: FL Zip 33990
Phone: 239 464 3310

Email: netmdiaz@hotmail.com

AUTHORIZED REPRESENTATIVE

MIGUEL DIAZ

Address: 314 SE 19 TER
City CAPE CORAL State: FL Zip 33990
Phone: 239 464 3310

Email: netmdiaz@hotmail.com

Unit 23 Block 1095 Lot(s) 44/45/46/47 Subdivision CAPE CORAL

Address of Property 409-411 HANCOCK BRIDGE PKWY N, CAPE CORAL, FL, 33990

Current Zoning CORR Plat Book _____, Page _____

Proposed Zoning R3 Strap Number 134423C 2010950440/134423C 2010950460

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

MIGUEL DIAZ

NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

(SIGNATURE MUST BE NOTARIZED)



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION

Questions: 239-574-0553

Case # 2916-0006

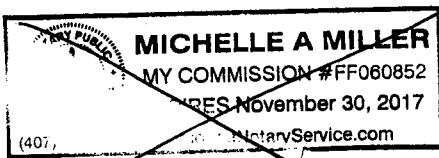
STATE OF FL, COUNTY OF Lee

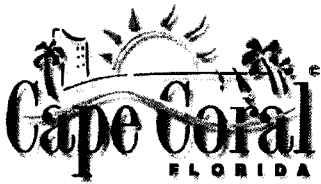
Sworn to (or affirmed) and subscribed before me this 31 day of May, 2016, by
Miguel Diaz who is personally known or produced DU D20054077 0610
as identification.

Exp. Date: 11/30/17 Commission Number: FF 060852

Signature of Notary Public: [Signature]

Printed name of Notary Public: Michelle Miller





DEPARTMENT OF COMMUNITY DEVELOPMENT

REQUEST FOR REZONING APPLICATION

Questions: 239-574-0553

Case # 2016-0006

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

I hereby acknowledge that I have read and understood the above affidavit on the 31 day of May, 2016

Miguel Diaz
NAME (PLEASE TYPE OR PRINT)

[Signature]
APPLICANT'S SIGNATURE

STATE OF FL COUNTY OF [Signature]

Subscribed and sworn to (or affirmed) before me this 31 day of May, 2016 by Miguel Diaz who is personally known or produced ID as identification.

Exp. Date: 11/17/16 Commission Number: FF060852

Signature of Notary Public: [Signature]

Printed name of Notary Public: Michelle A Miller



Letter of Intent

Date: 05/31/2016

To: City of Cape Coral

From: Miguel Diaz, Owner
G & I Management Services, LLC
314 SE 19 Ter, Cape Coral, FL 33990

RE: Rezoning and Future Land Use Amendment Request for the following property locations:

- **409 Hancock Bridge Parkway North, Cape Coral, FL 33990 (Lots 44/45, Block 1095, Unit 23) Strap # 134423C2010950440**
- **411 Hancock Bridge Parkway North, Cape Coral, FL 33990 (Lots 46/47, Block 1095, Unit 23) Strap # 134423C2010950460**

I, Miguel Diaz sincerely request a Rezoning of the properties mentioned above from actual zoning (CORR) to (R3-Mutifamily) and also request Future Land Use amendment from (PIRD) to (MF-Multifamily)

The granting of this Amendment will not be injurious to the area and as you can see the Land lots are surrounded (side by side) by other multifamily properties and the adjacent property located at **415 Hancock Bridge Parkway North, Cape Coral, FL 33990** is actually classified as (Zoning **R3-Multifamily**) and (**MF- Multifamily Future Land Use**)

I purchased the properties stated above in May 2016 and my intention is to build a multifamily building as per Cape Coral Building and Zoning regulations. We respectfully request the amendment to be approved.

Thank you for considering our request.

Sincerely,

Miguel Diaz

A handwritten signature in black ink, appearing to be 'Miguel Diaz', written over the printed name.

Planning Division Case Report

Case No: ZA16-0006

Applicant: G and I Management Services, LLC

Request: Approval of a rezoning from Corridor (CORR) to Multi-Family Residential (R-3) for two properties along Hancock Bridge Parkway.

Staff Recommendation: **Approval**

Location Information:

The site is two undeveloped parcels at 409 and 411 Hancock Bridge Parkway¹. The parcels are Lots 44 through 47 within Block 1095 and the site is 20,000 sq. ft. The surrounding area has commercial development to the north and a combination of undeveloped properties and residential dwelling units² to the east, west, and south. The site is in the Urban Service Transition area and centralized utilities are available.

<i>Subject Property:</i>	<i>Future Land Use</i>	<i>Zoning</i>
<i>Current:</i>	Pine Island Road District (PIRD)	Corridor (CORR)
<i>Proposed:</i>	N/A	Multi-Family Residential (R-3)
	<i>Surrounding Future Land Use</i>	<i>Surrounding Zoning</i>
<i>North:</i>	PIRD	CORR
<i>South:</i>	Multi-Family Residential (MF)	R-3
<i>East:</i>	MF	R-3
<i>West:</i>	PIRD	CORR

Summary:

The site has a Pine Island Road District (PIRD) Future Land Use designation and is zoned Corridor (CORR). Previously, the site had a Multi-Family Residential (MF) Future Land Use designation and a Multi-Family Residential (R-3) zoning designation. The Future Land Use and zoning were changed in 2002 and 2004, respectively. Duplexes are directly adjacent to the west and east sides of the site. The request is to rezone the site from CORR to R-3 in order to build residential dwelling units on the site. The applicant has also filed a Future Land Use Map Amendment (LU16-0006) to change the Future Land Use designation from PIRD to MF.

¹ A major arterial

² A mixture of single-family homes and duplexes.

The site has access from Hancock Bridge Parkway and is adjacent to PIRD Future Land Use to the north and south, however, properties with a MF Future Land Use designation are adjacent to the east. The proposed rezone would decrease the amount of land available for commercial development. But given that the site is surrounded on two sides by existing duplexes, commercial development on the 20,000 sq. ft. site challenging. The proposed rezone would allow the site to develop with up to eight residential dwelling units.

The request is consistent with City of Cape Coral Land Use and Development Regulations (LUDR), Section 8.7 that discusses Commercial Siting Guidelines. The request is also consistent with Comprehensive Plan Policies 8.4 and 8.5 of the Future Land Use Element, which encourages multi-family as a buffer between commercial and single-family residential uses. Additionally, the property is not wholly consistent with Comprehensive Plan Policy 1.15 of the Future Land Use Element regarding commercial siting guidelines. The site is appropriate for multi-family development. Please also see the case report for LU16-0006 for this analysis.

Staff recommends approval of the requested rezoning.

Positive Aspects of Application:	<ul style="list-style-type: none">• Allow for development of duplex or multi-family residential units.• Allows development of a challenging infill site.• Maintains buffer for single-family residences to the east.
Negative Aspects of Application:	<ul style="list-style-type: none">• Reduces commercial land along a corridor.

Detailed Analysis:

Land Use and Development Regulations

The Planning Division reviewed this request based on the ten General Standards in LUDR, Section 8.7.3.B and offers the following analysis for consideration:

1. The extent to which the property is diminished by the proposed zoning of the property:

The requested rezone could slightly diminish the value of the property. R-3 zoning has a smaller list of allowed uses than the CORR district. The reduced range of uses could limit development flexibility. The rezone is requested by the applicant, therefore, concerns regarding diminished property values are less significant.

2. The extent to which the removal of a proposed change in zoning depreciates the value of other property in the area:

Planning staff finds that property to the east and south have R-3 zoning; the same zoning requested by the applicant. Future development on the site is likely to be residential and similar in size and configuration to properties to the east, west, and south. Therefore, the proposed rezone is not likely to depreciate the value of surrounding properties.

3. The suitability of the property for the zoning purpose:

Planning staff finds that the site is suited for R-3 zoning due to a number of factors such as parcel size, location within Block 1095, and surrounding development patterns. The site is only 20,000 sq. ft. and does not have full block depth. The site is surrounded on three sides by existing multi-family structures and is near a large number of single-family and multi-family properties in Block 1095. Analysis conducted for the applicant's Future Land Use amendment request also shows that the site is not well-suited for commercial development due to a number of factors, such as lack of unified ownership, integration, and lack of adequate depth.

4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed zoning:

The surrounding neighborhood has residential dwelling units to the east, west³, and south. There are also scattered undeveloped lots in the surrounding neighborhood. To the north across NE Van Loon Terrace is an office complex. The proposed rezone will likely result in

³ The residence to the west is a legal non-conforming duplex structure.

construction of residential dwelling units, which will be compatible with the surrounding neighborhood.

5. The relative gain to the community as compared to the hardship, if any imposed, from rezoning said property:

Planning staff finds that the proposed rezone to R-3 will result in the loss of commercial property along a four-lane arterial roadway. The City has a documented deficit of commercial land that has been identified in the Comprehensive Plan and in a 2016 Build-Out Study Analysis. Generally, any request to rezone or amend commercial property to a residential property is not viewed favorably, however, the proposed rezone is for a site that is relatively small. If the rezone is approved, the loss of 20,000 sq. ft. is likely to have minimal impact and should not cause a hardship to the community.

6. The community need for the use proposed by the zoning:

The City of Cape Coral has a documented need for multi-family housing as reported by a study conducted in 2016. The rezone will allow up to eight dwelling units, which could provide Cape Coral with additional multi-family residential housing.

7. Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land Use Plan for the development of the proposed property and surrounding property:

The Future Land Use was amended in 2002 from Multi-Family (MF) to Pine Island Road District (PIRD) via Ordinance 38-02. The property was rezoned in 2004 from Multi-Family Residential (R-3) to Corridor (CORR) via Ordinance 8-04.

8. The extent to which the proposed zoning promotes the health, safety, morals, or general welfare of this community:

The proposed R-3 zoning will be consistent with the City's Comprehensive Land Use Plan⁴ and the change will provide additional area for multi-family residential at an appropriate location. The proposed rezone should not negatively affect the health, safety, or welfare of the community because similar zoning already exists in general proximity to the subject property.

9. The extent to which the proposed zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan.

⁴ Pursuant to future adoption of a proposed FLU amendment (LU16-0006).

The subject parcel is located in the City's Urban Service Transition Area. Water, sewer, and irrigation are available. Future development will be required to connect to City utility system.

10. Whether the proposed zoning is consistent with the City of Cape Coral's Comprehensive Land Use Plan.

The proposed rezone is consistent Comprehensive Plan Policy 1.15 as the proposed Future Land Use classification is MF. Properties with the MF future land use are compatible with the R-3 district. Staff finds that the requested R-3 zoning is appropriate for the subject property. Planning staff also finds that the proposed rezone is consistent with Chapter 4 (Future Land Use Element), Policy 8.5 of the Comprehensive Plan, which states that multi-family residential is appropriate as a buffer between single-family residences and commercial development.

Public Notification

This case will be publicly noticed as required by LUDR, Section 8.3.2 as further described below.

Publication: A legal ad will be prepared and sent to the *New Press*. The ad will appear in the *News Press* a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

Written notice: Property owners located within 500 feet from the property line of the subject property will receive written notification of the scheduled public hearing. These letters will be mailed to the aforementioned parties a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

Posting of a Sign: A sign will posted on the subject property a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

Staff Recommendation:

This request is consistent with the City Comprehensive Plan and LUDR. Staff finds that rezone request is suitable for the property and the surrounding neighborhood. The Planning Division recommends **approval** of the rezone to R-3.

Staff Contact Information:

Chad Boyko, AICP, Principal Planner
(239) 573-3162
cboyko@capecoral.net



NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: ZA16-0006

REQUEST: Approval of a rezoning from Corridor (CORR) to Multi-Family Residential (R-3) for two properties along Hancock Bridge Parkway.

LOCATION: 409 and 411 Hancock Bridge Parkway

CAPE CORAL STAFF CONTACT: Chad Boyko, AICP, Principal Planner, (239) 573-3162, cboyko@capecoral.net

PROPERTY OWNER(S): G and I Management Services, LLC

AUTHORIZED REPRESENTATIVE: Miguel Diaz

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 AM on Tuesday, February 7th, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

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

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

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0001880278

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$

Run Times: 1

No. of Affidavits: 1

Run Dates: 01/28/17

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: ZA16-0006

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LOCATION: 409 and 411 Hancock Bridge Parkway

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AUTHORIZED REPRESENTATIVE: Miguel Diaz

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

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

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by order of
Rebecca van Deutekom, MMC,
City Clerk
REF # ZA16-0006
AD#1880278

1/28/2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: G & I Management Services LLC

APPLICATION NO: ZA16-0006

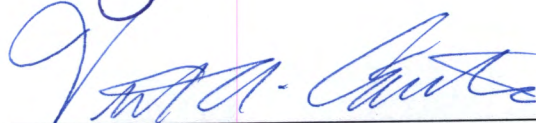
STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

DATED this 30 day of January, 2017.

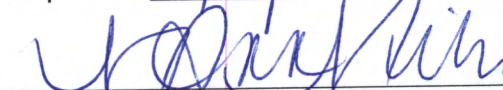


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 30 day of January, 2017, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 11/30/17 Commission # FF060852



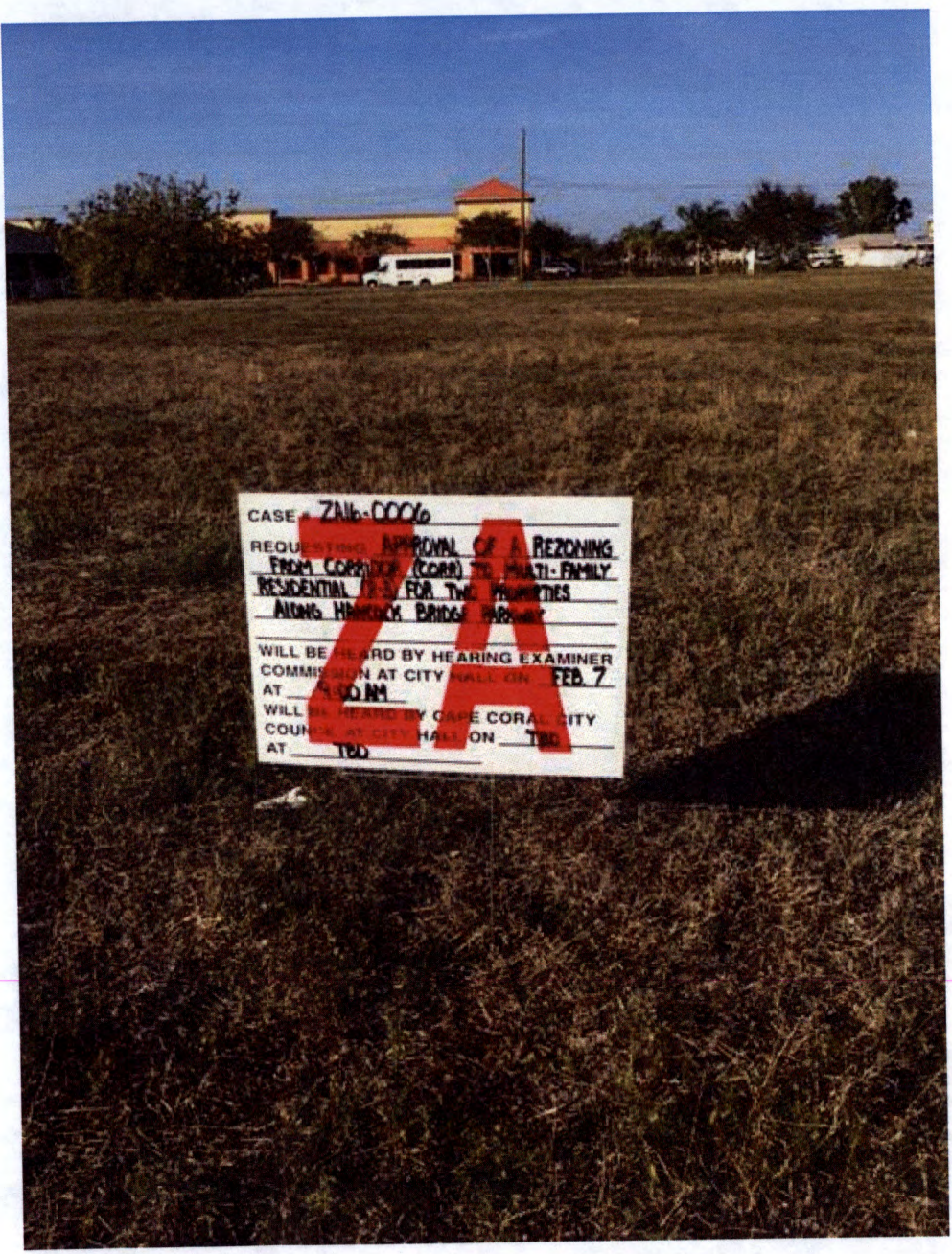
Signature of Notary Public

Michelle Miller
Print Name of Notary Public

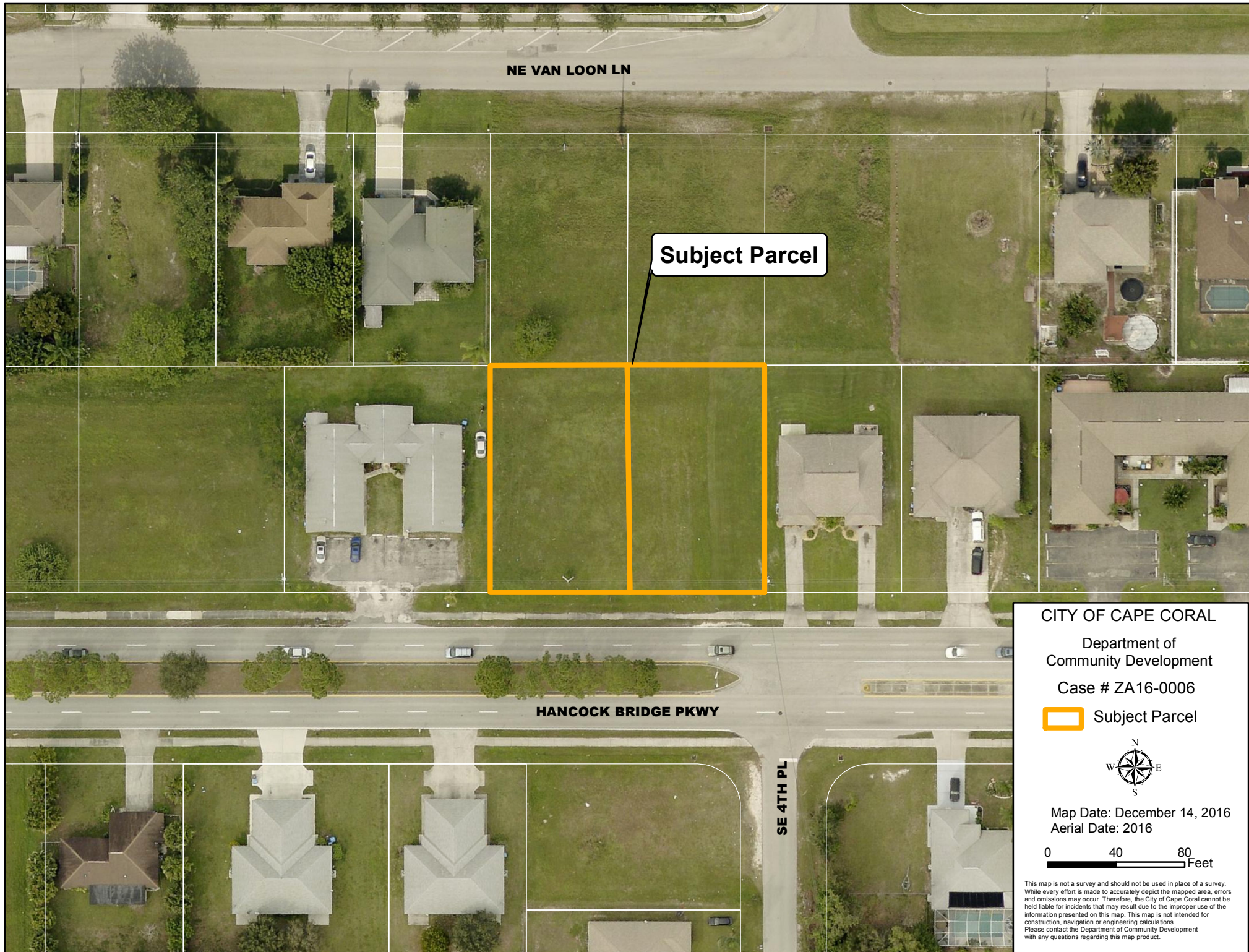


Shawn Baker

From: Shawn <heybudgirl@aol.com>
Sent: Friday, January 27, 2017 8:42 AM
To: Shawn Baker



Sent from my iPhone



NE VAN LOON LN

Subject Parcel


HANCOCK BRIDGE PKWY

SE 4TH PL

CITY OF CAPE CORAL

Department of
Community Development

Case # ZA16-0006

 Subject Parcel



Map Date: December 14, 2016
Aerial Date: 2016

0 40 80
Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.






CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP
500 Proximity Boundary

Case No. ZA16-0006

Legend

-  Subject Parcels
-  500' Boundary
-  CORR
-  R-1B
-  R-3

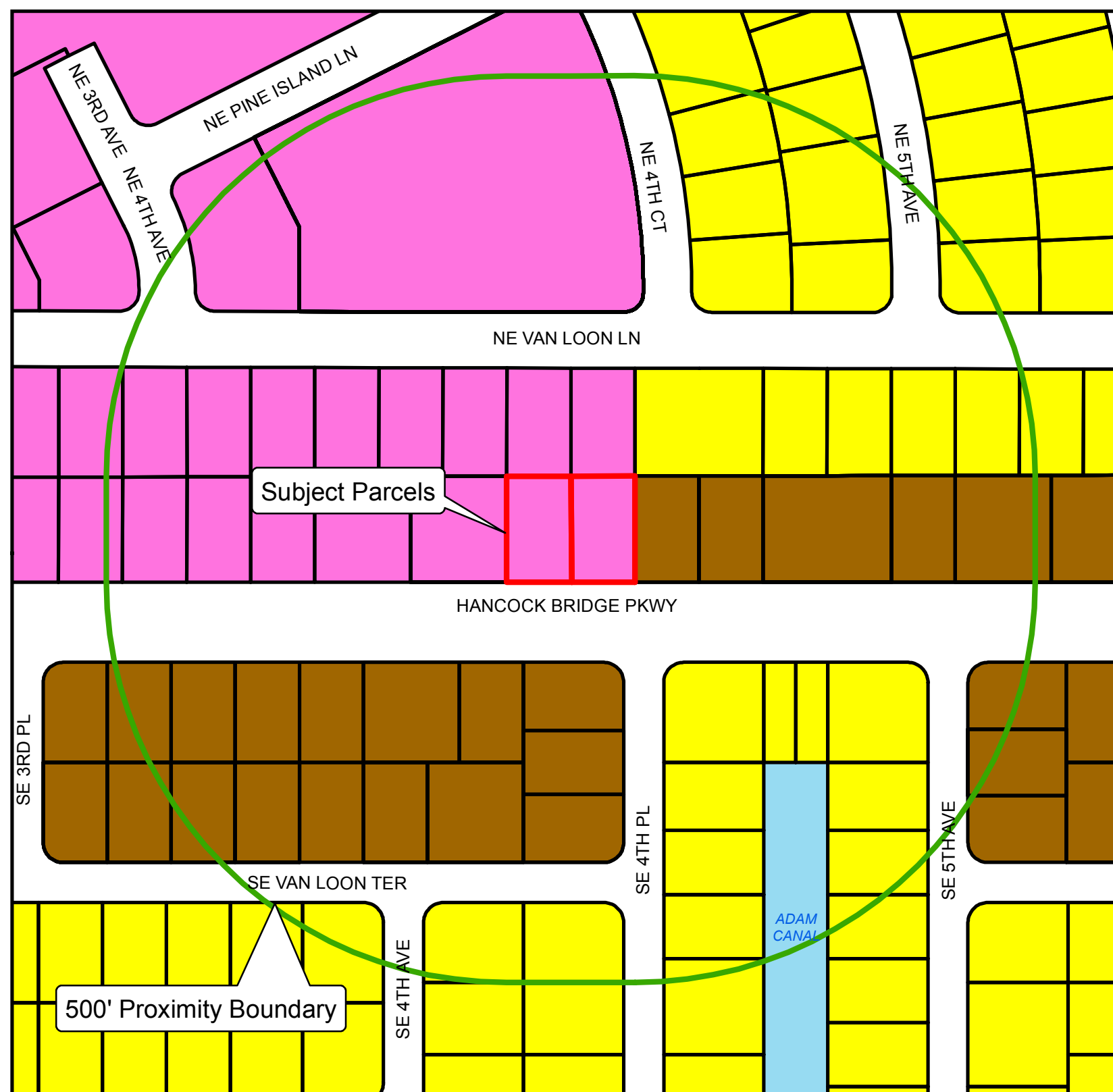


DECEMBER 12, 2016

0 60 120 180 240
Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

KRKA








CITY OF CAPE CORAL

Department of
Community Development
Planning Division

PROPOSED ZONING MAP 500 Proximity Boundary

Case No. ZA16-0006

Legend

-  Subject Parcels
-  500' Boundary
-  CORR
-  R-1B
-  R-3

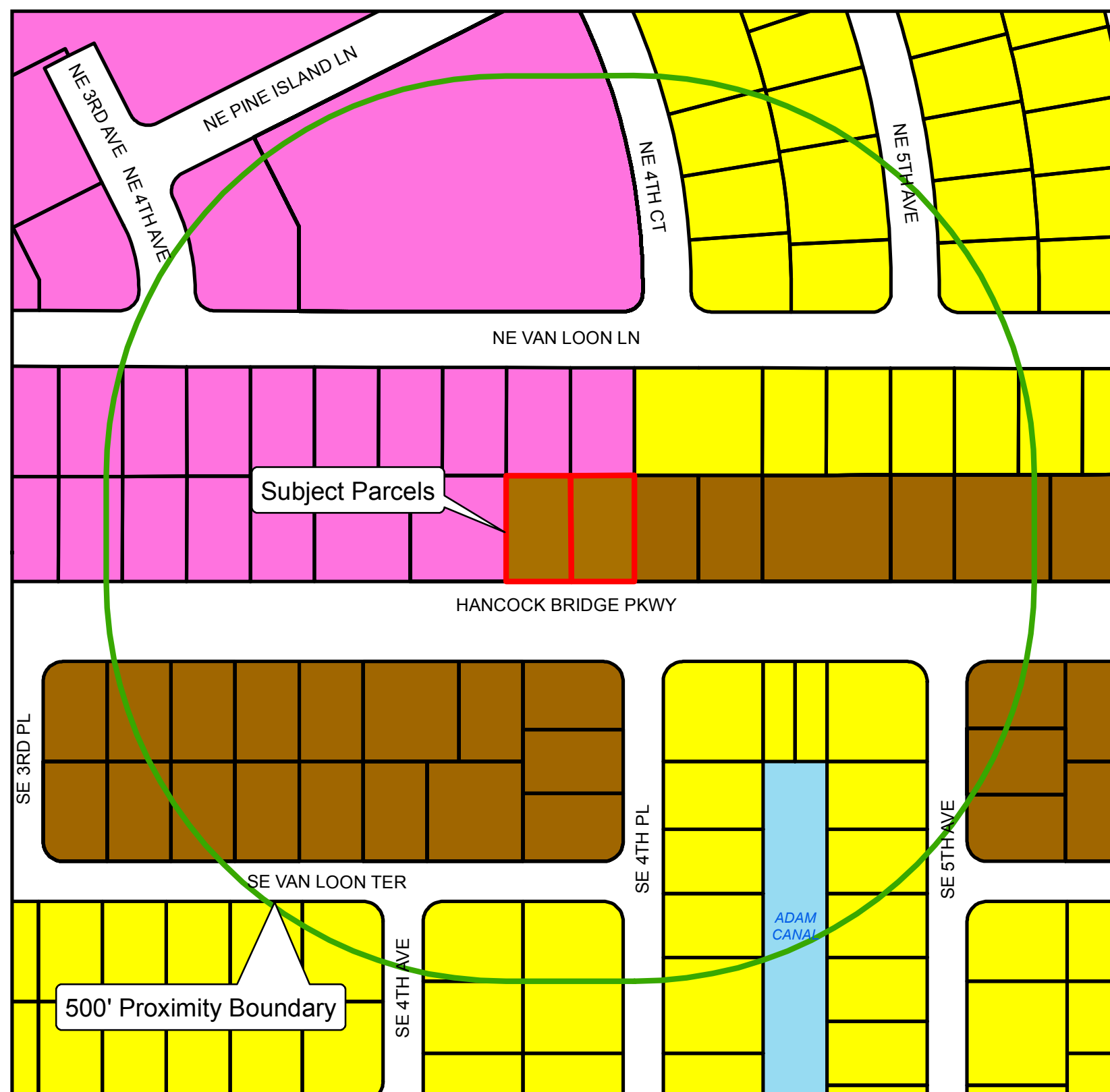


DECEMBER 12, 2016

0 60 120 180 240
Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

KRKA



CITY OF CAPE CORAL


Department of
Community Development
Planning Division

FUTURE LAND USE MAP 500 Proximity Boundary

Case No. ZA16-0006

Legend

 Subject Parcels

 500' Boundary

Future Land Use

 SF

 MF

 PIRD

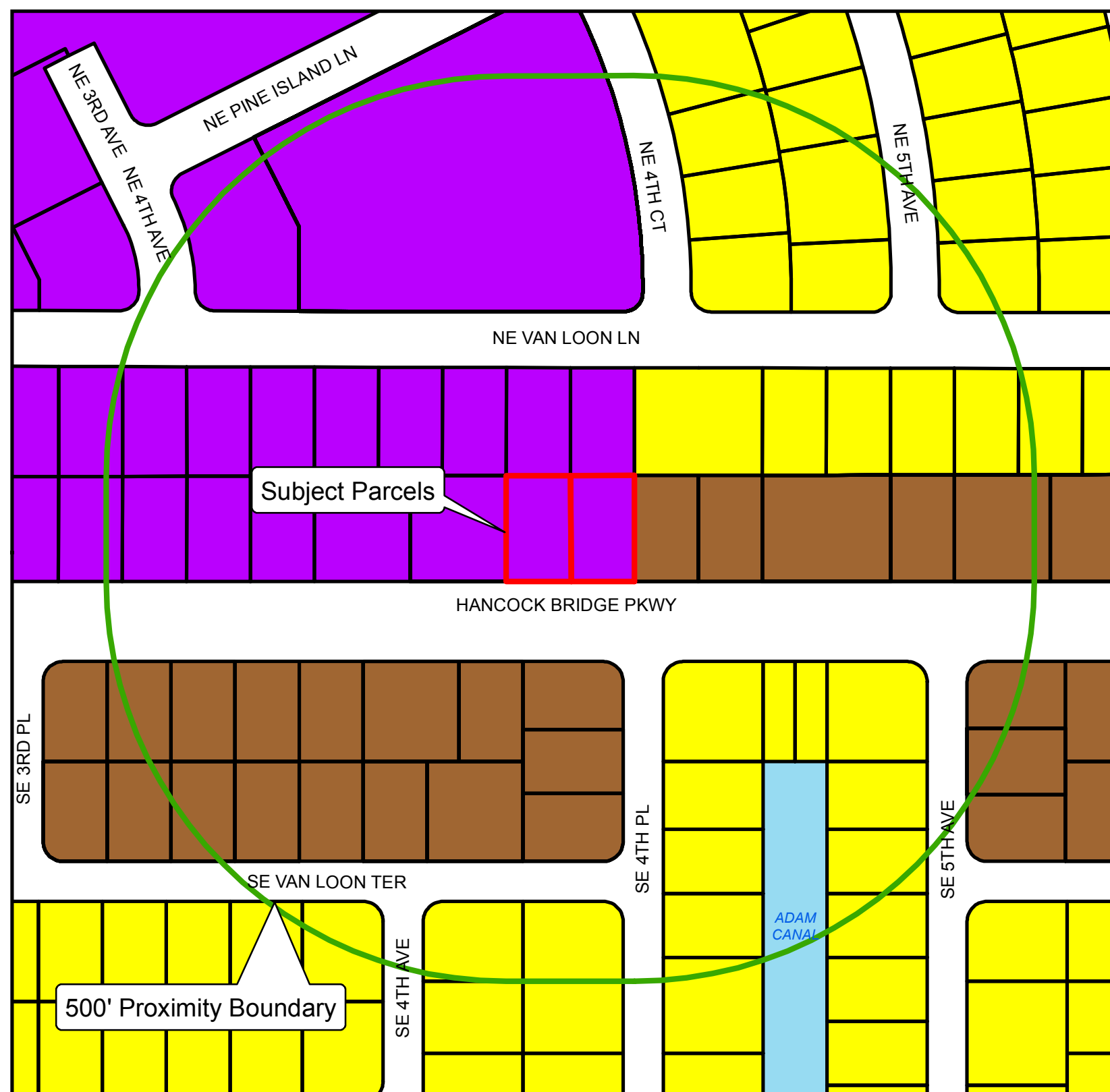


DECEMBER 12, 2016

0 60 120 180 240
Feet

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KRKA



Item Number: 2.B.
Meeting Date: 2/7/2017
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case #ZA16-0008*; Applicant: Quyen Truong; Address: 1627 SW 15th Avenue

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant is requesting a rezone for ± 1.81 acres from Residential Development (RD) to the Agricultural (A) zoning district.

LEGAL REVIEW:

EXHIBITS:

See attached 'Backup Material'

PREPARED BY:

Kristin Kantarze Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, AICP, Planning Team Coordinator, 239-573-3160, wdaltry@capecoral.net

ATTACHMENTS:

Description	Type
□ Backup Material	Backup Material
□ Unofficial Transcript - ZA16-0008 Public Comment Testimony	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0553

Case # 2A16-0008

REQUEST TO PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY AND COUNCIL
FOR A REZONING

FEE \$2,050.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

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

OWNER OF PROPERTY

QUYEN - TRUONG

Address: 1627 SW 15TH AVE

City Cape Coral State: FL Zip 33991

Phone: 239-634-5998

Email: DANIELTRUONG223@yahoo.com

AUTHORIZED REPRESENTATIVE

Address: _____

City _____ State: _____ Zip _____

Phone: _____

Email: _____

Unit _____ Block _____ Lot(s) ✓ Subdivision _____

Address of Property 3916 NW 32ND PL Cape Coral FL 33993

Current Zoning RD Plat Book _____, Page _____

Proposed Zoning A Strap Number 19-43-23-C3-05519.2000

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

QUYEN - TRUONG

NAME (PLEASE TYPE OR PRINT)

[Signature]
APPLICANT'S SIGNATURE

[Signature]

(SIGNATURE MUST BE NOTARIZED)



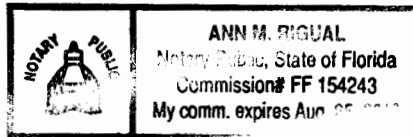
DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0553

Case # 2A16-0008

STATE OF FL, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 3RD day of MAY, 2016, by
QUYEN TRUONG who is personally known or produced FL as identification.

Exp. Date: 8/25/18 Commission Number: FF 154243
Signature of Notary Public: [Signature]
Printed name of Notary Public: Ann M. Riquel





DEPARTMENT OF COMMUNITY DEVELOPMENT

REQUEST FOR REZONING APPLICATION

Questions: 239-574-0553

Case # ZA16-0008

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

I hereby acknowledge that I have read and understood the above affidavit on the 9 day of June, 20 16

QUYEN TRUONG

NAME (PLEASE TYPE OR PRINT)

[Signature]

APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF

Lee

Subscribed and sworn to (or affirmed) before me this 9 day of June, 2016 by Quyen Truong who is personally known or Driver's License

as identification.

Exp. Date: 2/16/19 Commission Number: FF200044



Signature of Notary Public:

[Signature]

Name of Notary Public:

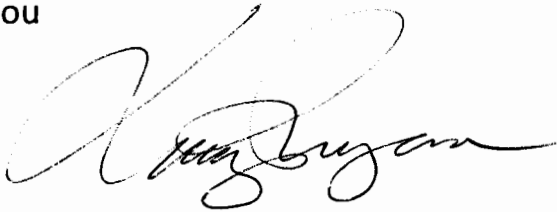
Jennifer Loumaugh

My name is Quyen Truong:

I am the owner of property 3816 NW 32nd Pl., Cape Coral, FL 33993

Total 1.82 Acre Lot. Zoning RD. Now I need to request change to zone A (Agricultural). I want to do for nursery and plant food tree in my lot.

Thank you

A handwritten signature in black ink, appearing to read "Quyen Truong", written in a cursive style.

Planning Division Staff Report

ZA 16-0008

Review Date: October 19, 2016

Prepared By: Wyatt Daltry, AICP, Planning Team Coordinator

Review Approval: Robert Pederson, AICP, Planning Manager

Recommendation: Denial

Applicant: Quyen Truong
1627 SW 15th Avenue
Cape Coral, FL 33991

Property Owners: Lena Van + Quyen Truong
1627 SW 15th Avenue
Cape Coral, FL 33991

Request: The applicant is requesting a rezone for ±1.81 acres from Residential Development (RD) to the Agricultural (A) zoning district.

Positive Aspects of Application:	<ul style="list-style-type: none">Proposed zoning designation is consistent with future land use map classification
Negative Aspects of Application:	<ul style="list-style-type: none">Activities permitted in the Agricultural zoning designation may disrupt nearby existing residential usesA 1.81-acre site is likely too small for agricultural opportunities
Mitigating Factors:	<ul style="list-style-type: none">Small site may not create sufficient traffic to negatively affect road network

STRAP Number: 18-43-23-C3-05519.2000

Site Address: 3816 NW 32nd Place
Cape Coral, FL 33991

Site Area: 78,804 square feet
±1.81 acres

<i>Subject Property:</i>	<i>Future Land Use</i>	<i>Zoning</i>
<i>Current:</i>	Single Family and Multi-Family Residential by PDP (SM)	Residential Development (RD)
<i>Proposed:</i>	N/A	Agricultural (A)
	<i>Surrounding Future Land Use</i>	<i>Surrounding Zoning</i>
<i>North:</i>	SM	RD
<i>South:</i>	Mixed Use (MX), and SM	RD
<i>East:</i>	SM	RD
<i>West:</i>	SM	A

Urban Service

Area: Reserve

City Water: No

City Sewer: No

Type of

Access Road: NW 32nd Place, a local road. The site is 800' west of Burnt Store Road, a principal arterial road.

Site Visit: October 7, 2016

Applicable Regulations

- Section §163.3194, F.S. requires that “all land development regulations enacted or amended...to be consistent with the adopted comprehensive plan.”

STAFF RECOMMENDATION

For the reasons discussed below, staff believes the Agricultural zoning district is consistent with the Comprehensive Plan, but the specific request may disrupt existing adjacent residences and the existing character of the area. Staff recommends **Denial** of the proposed rezoning request.

Background/Analysis:

The site is adjacent to NW 32nd Place, a local road. The subject property is unimproved, but surrounding properties on Block 5591 (67% developed; 4 of 6 lots) have single-family residences on large residential lots. The site is approximately 450' in depth and 175' in width. The current owner purchased the property in February 2016.

The single-family structures on this block were built between 2004 and 2006. Sporadic single-family development exists to the north. The property is adjacent to a large agricultural parcel to the west (38.54 acres) that has been utilized as a borrow pit.

The Future Land Use Map classification of SM has been present since 1989. The subject property lies between two single-family residential lots, in the middle of the block.

Historically, the Agricultural (A) zoning district has been treated as a holding district for unsubdivided tracts in Cape Coral. Most of these tracts are in NW Cape Coral. The Agricultural zoning district has been considered to be consistent with the Mixed Use, Pine Island Road District, Public Facilities, and SM future land use map classifications. Since the adoption of the Comprehensive Plan in 1989, only two properties have been rezoned to the Agricultural district.

The site represents an outlier; at 1.81 acres it is larger than the standard 10,000-square foot, two-lot parcel, but it is subdivided as part of Cape Coral Subdivision. In spite of the lack of utilities, several nearby properties have developed with single-family residences, thus creating a residential character for the area. Consequently, there is a possibility that rezoning a mid-block property to Agricultural may permit uses that could have a negative impact to the character of the neighborhood.

Comprehensive Plan

The proposed rezone is consistent between the current SM future land use map classification and the zoning.

Land Use and Development Regulations -- Section 8.7 Amendments:

Staff reviewed this request in accordance with Section 8.7 Amendments, .3 Consistency with Comprehensive Plan and General Standards, B. 1.-10. of the Land Use and Development Regulations and

provides the following analysis. This section is used for future land use map amendments, comprehensive plan amendments, and for rezone requests.

1. The extent to which the value of the property is diminished by the proposed land use restriction or zoning of the property.

The rezoning of this property from RD to the A district **would not likely** diminish the land value because this proposed district increases the number of permitted and special exception uses.

2. The extent to which the removal of a proposed land use restriction or change depreciates the value of other properties in the area.

The proposed zoning district is **not anticipated** to depreciate the value of other properties in the area.

3. The suitability of the property for the zoning purpose or land use restriction imposed on the property as zoned.

The proposed zoning district would be consistent with the **current** land use classification of SM, which has been in place since 1989.

4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed land use restriction or zoning.

The surrounding area has a single family residential character. The subject property is located in the middle of Block 5591, on a local roadway (NW 32nd Place). A large borrow pit site is located to the west. The site is located between two existing single family detached residences, and the proposed rezoning could disrupt the residential nature present in the area. The request is **not compatible** with the surrounding area.

5. The relative gain to the community as compared to the hardship, if any imposed, by the proposed land use restrictions or from rezoning said property.

The purpose of this rezoning is to increase the City's inventory of agricultural properties. However, the location of the site is mid-block, disrupting a contiguous block of residential properties. As a result, this proposed rezoning **creates more hardships than gains** to the community.

6. The community need for the use proposed by the zoning or land use restriction.

While there has been a push toward urban farming nationwide, it is uncertain whether the proposed rezoning request would provide a benefit to the community. The subject property is ±1.81 acres, too small for an effective agricultural use. There is a **weak need** for the uses proposed by the proposed rezoning, given the property's size.

7. Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land Use Plan for the development of the proposed property and surrounding property.

The subject property is not developed. The property has been classified as SM since 1989.

8. The extent to which the proposed land use restriction or zoning promotes the health, safety, morals, or general welfare of this community.

Approval of this rezone should have a **negligible effect** upon the health, general welfare, safety, or morals of the community due to the small size of the site. Providing a zoning designation that is consistent with the future land use map classification should have a **positive effect** on the general welfare for the community. It should be noted, however, that a consistent zoning designation, Residential Development, already exists for the site. Residential Development zoning may be considered more compatible with nearby residential uses than the Agricultural district.

9. The extent to which the proposed land use, land use restriction, or zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan.

Impacts on infrastructure for development on this site will be **negligible** due to the size of the site, and the intention to develop the site with agricultural uses. Facility capacity exists for the transportation infrastructure network. Utilities are not available at this location.

10. Whether the proposed land use restriction, removal of a restriction, or zoning is consistent with the City of Cape Coral Comprehensive Land Use Plan.

Both the existing and proposed zoning designations are compatible with the SM future land use classification. However, due to the mid-block location, and the close proximity of single-family residences on adjacent lots, the proposed rezone would be considered an example of “spot-zoning” and thus inconsistent with the Comprehensive Plan.

Public Notification

This case will be publicly noticed as required by LUDR, Section 8.3.2.A as further described below.

Publication: A legal ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners to rezone the property described within this report. The ad will appear in the *News-Press* a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner. Following the public hearing before the Commission, the ad announcing the final public hearing before the City Council

will appear once in the *News-Press*. The ad will appear in the newspaper not less than 10 days prior to the date of the final public hearing before the City Council.

Written notice: Property owners located within 500 feet from the property line of the land which the petitioners request to rezone will receive written notification of the scheduled public hearings. These letters will be mailed to the aforementioned parties a minimum of 10 days prior to the public hearing scheduled before the Planning and Zoning Commission.

Posting of a Sign: A large sign identifying the case and providing salient information will be posted on the property, as another means of providing notice of the rezoning request.

Recommendation:

Planning staff has reviewed this request in accordance with Section 8.7 Amendments, .3 Consistency with the Comprehensive Plan and General Standards A., B. 1.-10 of the Land Use and Development Regulations and the City's Comprehensive Plan. Planning Division recommends **denial** of the rezoning request.

Staff Contact Information:

Wyatt Daltry, AICP
Planning Team Coordinator
Department of Community Development
Planning Division
(239) 573-3160
email: wdaltry@capecoral.net

NOT SUBDIVIDED

WEST LINE OF THE SE 1/4 OF THE SE 1/4 OF SECTION 18

FUTURE CONSTRUCTION NOTE: NO ABSTRACT OF TITLE WAS PROVIDED. EASEMENTS SHOWN ARE FROM THE RECORD PLAT OR DEED ONLY. CONTRACTOR MUST VERIFY WITH CITY OR COUNTY THERE ARE NO OTHER EASEMENTS OR BUILDING SETBACK REQUIREMENTS BURDENING THE PROPERTY PRIOR TO PERMITTING AND CONSTRUCTION.

TRACT 1

TRACT 3

REMAINDER OF TRACT 2 NOT INCLUDED

NORTH 175 FEET OF TRACT 2

79311.1 SQ. FT. +/-
1.82 ACRES +/-

CALOOSA PARKWAY

350.00'

174.97'

FIR 5/8" #4348

S 0°18'15"W 175.03'

UTIL. RISER

FIR 1/2" #4348

EDGE OF PAVEMENT

NW 32nd PLACE (60')

BOUNDARY SURVEY

THE NORTH 175' OF TRACT 2, BLOCK 5519, UNIT 91, CAPE CORAL, A SUBDIVISION ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 24, PAGES 88 THROUGH 98, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

CERTIFIED TO:

QUYEN TROUNG

SPO CONSTRUCTION

BASIS FOR BEARINGS: NW 32nd PLACE - PLAT BEARING

COMMUNITY NUMBER	MAP & PANEL NUMBER	SUFFIX	DATE OF SURVEY	DATE OF FIRM INDEX	FIRM ZONE	BASE FLOOD ELEVATION	N/A
125095	12071C0235	F	8/28/08	8/28/08	X		

LEGEND	SYMBOL	DESCRIPTION
+0.0		EXISTING ELEVATION
■		UTILITY RISER
●		UTILITY POLE
⊙		FIRE HYDRANT
□		CATCH BASIN
(P)		PLAT
(F)		FIELD
(D)		DEED
(C)		COMPUTED
—X—		WIRE FENCE
—/—		WOOD FENCE
NAVD		NORTH AMERICAN VERTICAL DATUM OF 1988

FIR = FOUND IRON ROD	SR = SET IRON ROD 1/2" LB#7075	PU & DE = PUBLIC UTILITY & DRAINAGE EASEMENT	SN&D = SET NAIL & DISK LB #7075	PRM = PERMANENT REFERENCE MONUMENT	FM&D = FOUND NAIL & DISK	POB = POINT OF BEGINNING	FE COR = FENCE CORNER	CONC = CONCRETE	W = NOT FIELD MEASURED	LME = LAKE MAINTENANCE EASEMENT	DE = DRAINAGE EASEMENT
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THIS SURVEY IS HEREBY CERTIFIED CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES. NO UNDERGROUND STRUCTURES HAVE BEEN LOCATED BY THIS SURVEY. ANY REFERENCE TO UNDERGROUND STRUCTURES IF ANY IS APPROXIMATE UNLESS OTHERWISE SHOWN. ALL FIELD MEASURED DIRECTIONS AND DISTANCES ARE IN SUBSTANTIAL AGREEMENT WITH THE DIRECTIONS & DISTANCES OF RECORD FOR THE PARCEL SURVEYED. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. NO ABSTRACT OF TITLE WAS PROVIDED. EASEMENTS SHOWN ARE FROM THE RECORD PLAT OR DEED ONLY. CONTRACTOR MUST VERIFY WITH CITY OR COUNTY THERE ARE NO OTHER EASEMENTS OR BUILDING SETBACK REQUIREMENTS BURDENING THE PROPERTY PRIOR TO PERMITTING AND CONSTRUCTION.

Eric C. Davis

C.E. DAVIS, CERTIFICATE NO. 4839
-OR- ERIC C. DAVIS, FSM # 5544
LB #7075



DAVIS
SURVEYING INC.

WWW.DAVISLANDSURVEYS.COM

4536 SE 16th PLACE SUITE 3
CAPE CORAL, FLORIDA 33904
TEL (239) 549-6454
FAX (239) 549-2548
CONTACT@DAVISLANDSURVEYS.COM

JOB NUMBER:

16-1057



NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: ZA16-0008

REQUEST: The applicant is requesting a rezone for ±1.81 acres from Residential Development (RD) to the Agricultural (A) zoning district.

LOCATION: 3816 NW 32nd Place
Cape Coral, FL 33991

CAPE CORAL STAFF CONTACT: Wyatt Daltry, AICP, Planning Team Coordinator, 239-573-3160,
wdaltry@capecoral.net

PROPERTY OWNER(S): Lena Van + Quyen Truong

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 AM on Tuesday, February 7th, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

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

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

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

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Ad No.: 0001880323

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Net Amt: \$

Run Times: 1

No. of Affidavits: 1

Run Dates: 01/28/17

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: ZA16-0008

REQUEST: The applicant is requesting a rezone for ±1.81 acres from Residential Development (RD) to the Agricultural (A) zoning district.

LOCATION: 3816 NW 32nd Place
Cape Coral, FL 33991

CAPE CORAL STAFF CONTACT: Wyatt Daltry, AICP, Planning Team Coordinator, 239-573-3160, wdaltry@capecoral.net

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

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

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by order of
Rebecca van Deutekom, MMC
City Clerk
REF # ZA16-0008
AD#1880323

1/28/2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Lena Van + Quyen Truong

APPLICATION NO: ZA16-0008

STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

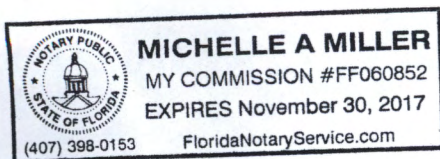
DATED this 30 day of January, 2017.

Vincent A. Cautero

Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 30 day of January, 2017, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.



Exp. Date 11/30/17 Commission # FF060852

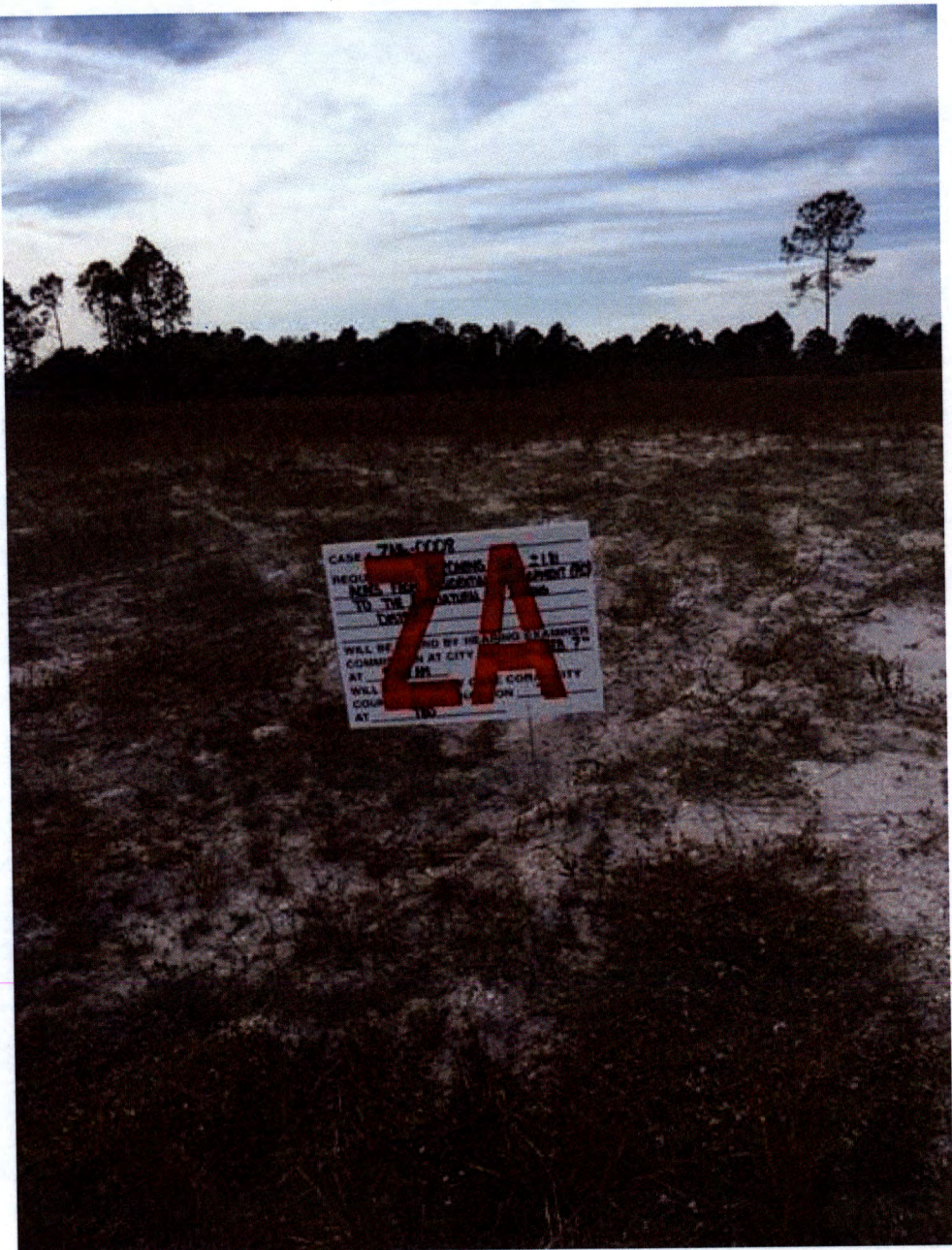
Michelle Miller
Signature of Notary Public

Michelle Miller
Print Name of Notary Public

Shawn Baker

From:
Sent:
To:

Shawn <heybuddgirl@aol.com>
Friday, January 27, 2017 8:43 AM
Shawn Baker



Sent from my iPhone

NW 39TH LN

NW 32ND PL

ONYX CANAL

OLMOS CANAL


BURNT STORE RD N

Subject Parcel

CITY OF CAPE CORAL

Department of
Community Development

Case # ZA16-0008

 Subject Parcel



Map Date: December 14, 2016
Aerial Date: 2016

0 125 250
Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

CALOOSA






CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP
500 Proximity Boundary

Case No. ZA16-0008

Legend

-  Subject Parcel
-  500' Boundary
-  A
-  R-1B
-  RD

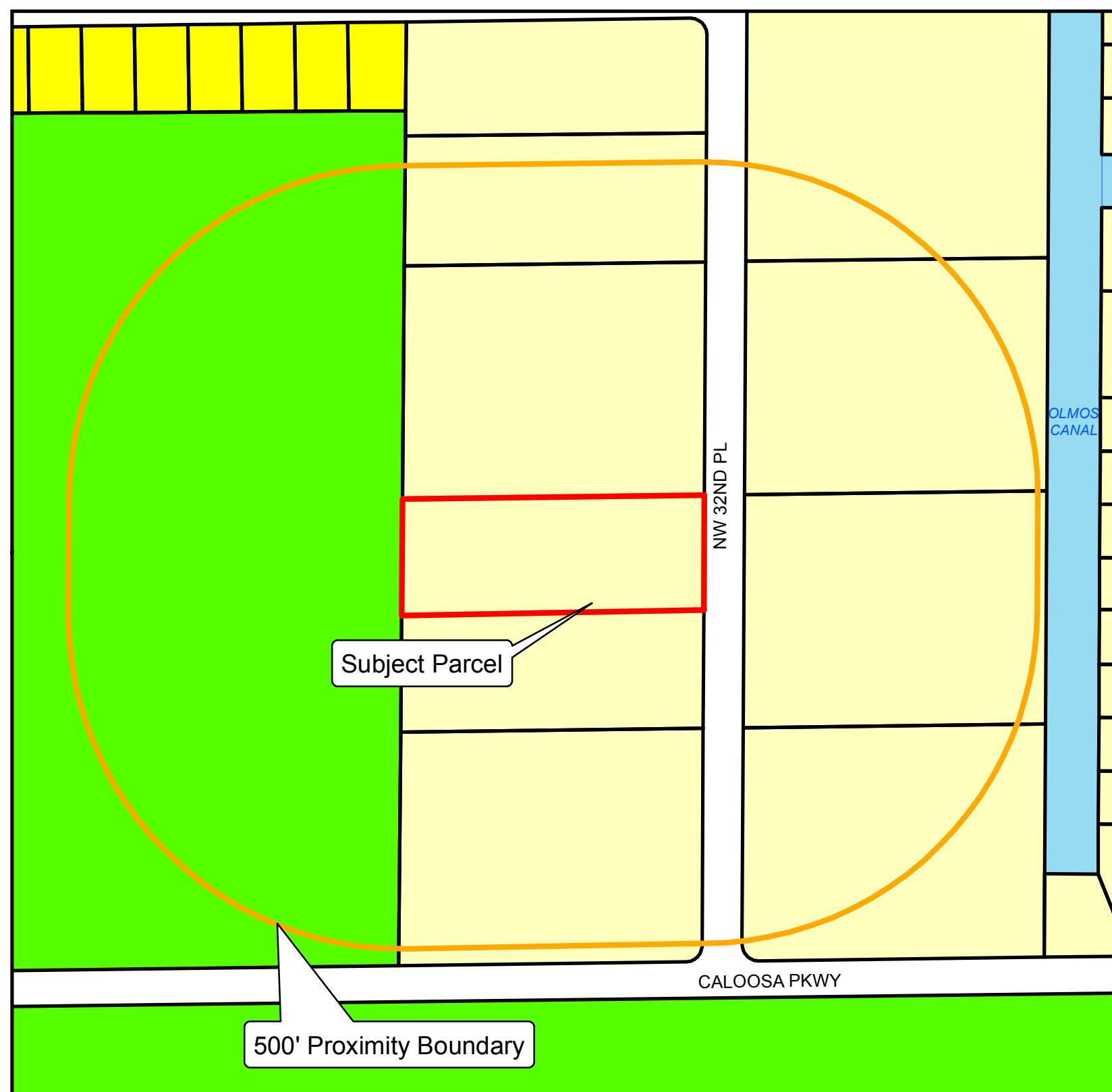


DECEMBER 12, 2016

0 80 160 240 320 Feet

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Planning Division

PROPOSED ZONING MAP 500 Proximity Boundary

Case No. ZA16-0008

Legend

-  Subject Parcel
-  500' Boundary
-  A
-  R-1B
-  RD

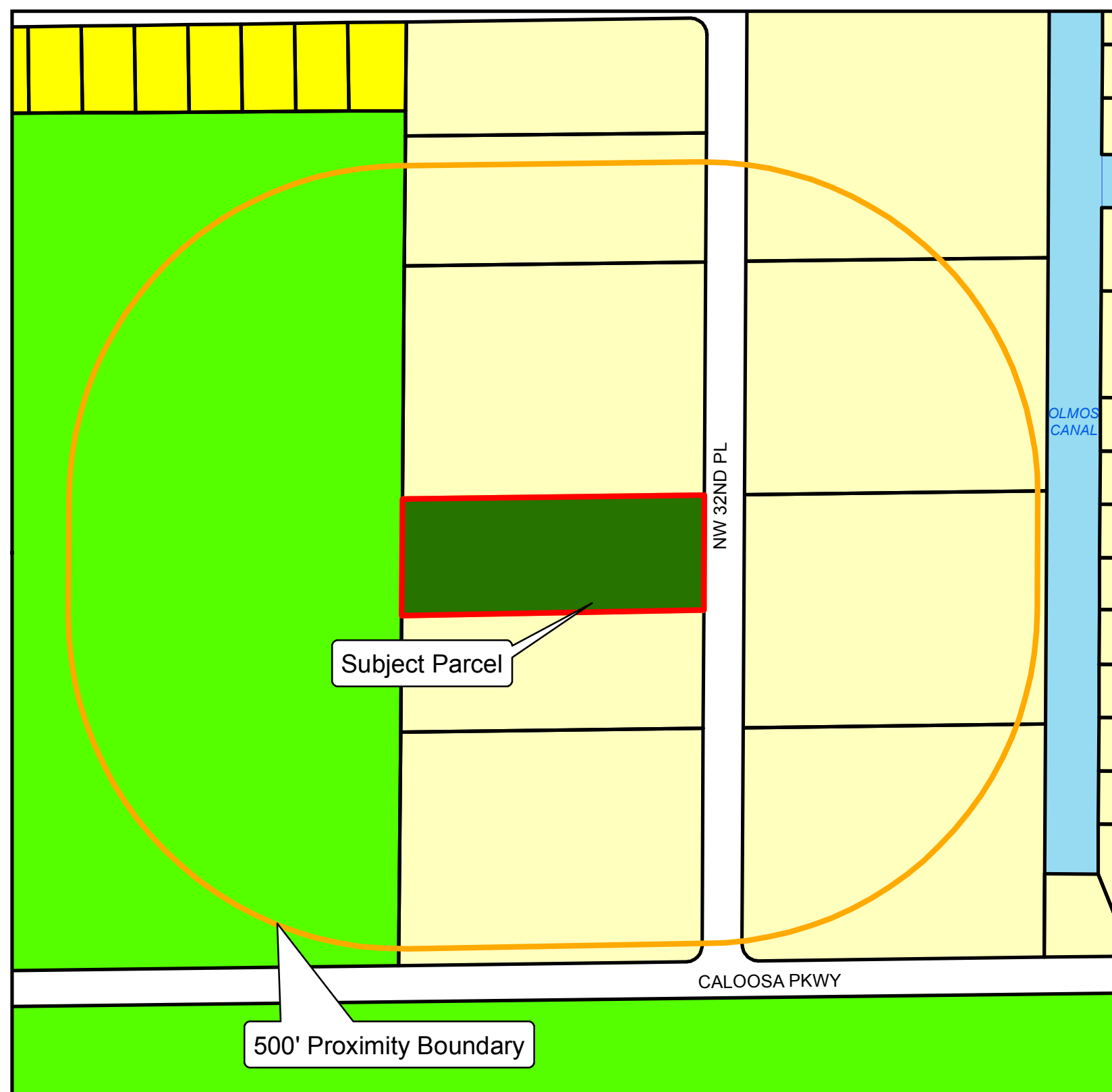


DECEMBER 12, 2016

0 80 160 240 320 Feet

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CITY OF CAPE CORAL

Department of
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Planning Division



FUTURE LAND USE MAP 500 Proximity Boundary

Case No. ZA16-0008

Legend

-  Subject Parcel
-  500' Boundary

Future Land Use

-  SM
-  MX

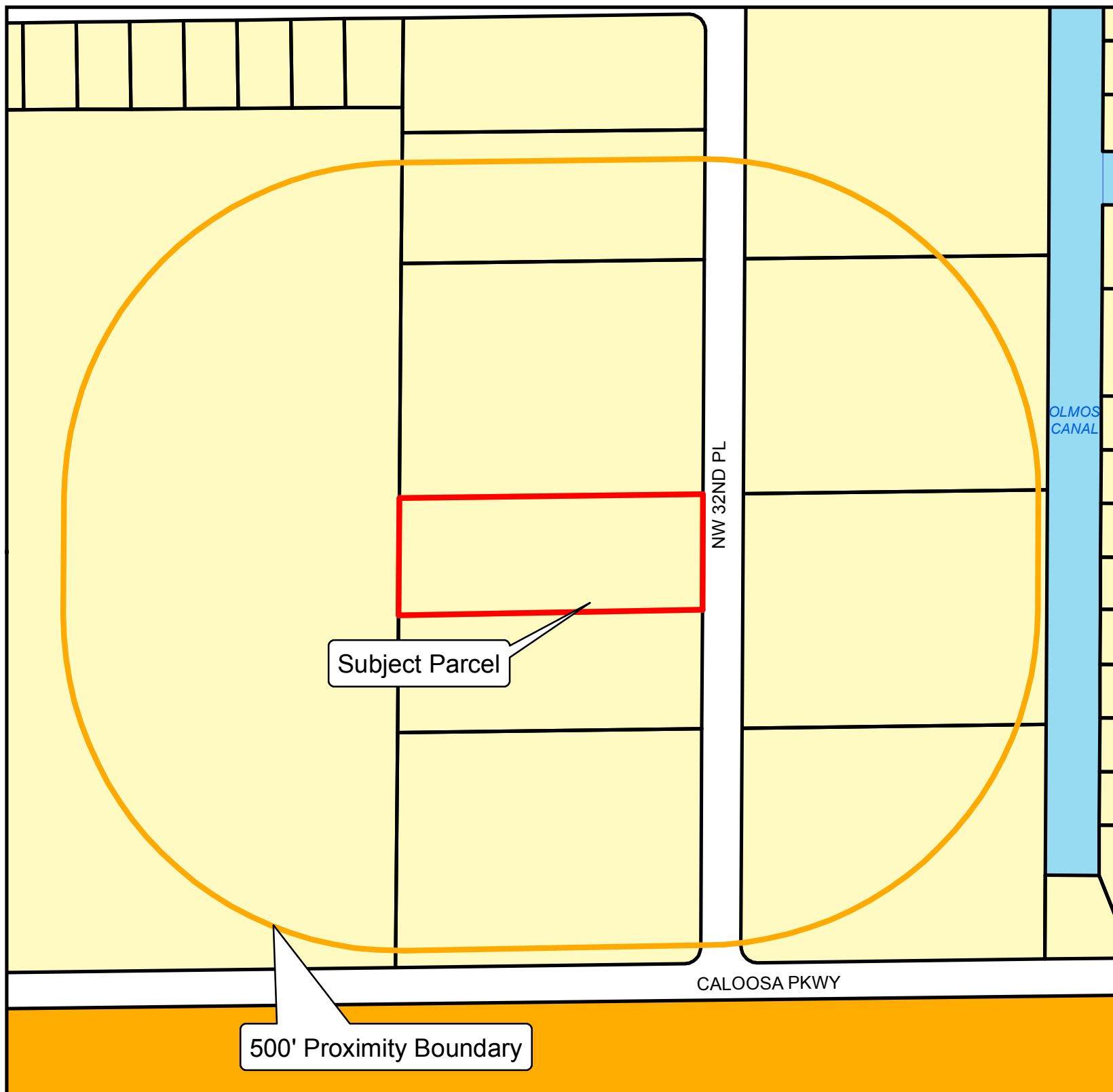


DECEMBER 12, 2016

0 80 160 240 320 Feet

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KRKA



Unofficial Transcript

Excerpt from February 7, 2017 Hearing Examiner Hearing

Case #ZA16-0008 Public Comment

REQUESTED BY: Madam Hearing Examiner Dalton

Start stop time 08 41 57

ARBERTBERRY: Good morning. My name is Melissa Arterberry, last name spelled A-R-T-E-R-B-E-R-R-Y.

DALTON: And how do you spell Melissa?

ARTERBERRY: M-E-L-I-S-S-A.

DALTON: Ah, the traditional way.

ARTERBERRY: The only way.

DALTON: Yes ma'am.

ARTERBERRY: Um, I reside at 3822 NW 32nd Place, which is just next door to the land that's, is being questioned to be rezoned to the agricultural. Um, we have resided at the property for two years now and um, all the neighbors, everyone in the community is residential. Our property is I believe just over, like, approximately three and a half acres. Um, our concern is that with the agricultural changeover, what that will do to our property values, um, we purchased our home for over \$400,000. It wasn't a small investment. I think that's a pretty substantial investment for a home in a residential area, and our concern is when you go to agricultural, what does, how does that impact our property value. Um, I'm not sure when he talks about in his um request here, um, he wanted to have a nursery and, and I quote, it says "I want to do for nursery and plant food tree in my lot." So, with over an acre to plant food trees and have a nursery, um, to me that's a

business now that he's requesting to have, and that lot is very small, it, while it's under two acres, we have residential homes with children that live right next door to that. The traffic coming in and out, um, to us would be a nuisance. There's a safety issue involved with a commercial business being right between two residential homes that have children, as well as other children in the neighborhood and on that same block. Um, I don't know what sort of noise this is going to create, what sort of operating hours would then be, you know, going on right next door to us. Um, this has already been denied once, um, it's in the report that um, since 1989 only two other rezonings have been granted to agricultural. To me, right in a residential neighborhood, that's not grounds to um, be in a very small limited category to then rezone to agricultural. Um, it states that it creates more hardships than gains, which we totally agree with as residents in the neighborhood. Um, there does not appear to be a strong need for a nursery in our neighborhood. Um, it also speaks to in, in point number ten, um, due to the mid-block location and the close proximity of single family residences on adjacent lots, the proposed rezone would be considered an example of spot zoning and thus inconsistent with the comprehensive plan. So we just want to reiterate that we are um, concerned about this rezoning. We do not want it to happen, um, and want to go on record as stating such.

DALTON: Thank you. May I ask you a question?

ALTERBERRY: Sure.

DALTON: You said in the beginning of your presentation that it would affect the property values. I, I think I can extract the answer, but I'd rather have you testify. I'm assuming that you are saying that it would be a negative impact.

ALTERBERRY: Yes ma'am. We think it would be uh diminish our property values, that they would have a negative impact. Definitely.

DALTON: Okay, thank you. I just wanted to clarify that one point.

ALTERBERRY: Sure, thank you.

DALTON: Thank you very much. Okay. Um, ma'am, you had, you wanted to testify as well?

KIEFFER: My name is Cindy Kieffer.

DALTON: How do I spell your name Ms. Keiffer?

KIEFFER: The first name is C-I-N-D-Y.

DALTON: Yes ma'am.

KIEFFER: The last name is K-I-E-F-F-E-R.

DALTON: Okay.

KIEFFER: I live at 3840 NW 32nd Place which is on the same road um, a couple lots down from where this spot is, and I just want to go on record saying I am not for this. It is in between two residential houses that are already built that have kids, um, it seems like it is going to be a business which would be, to me, not a very, where where we are located, um, it's it's just, it's between two residential houses. It doesn't seem like there should be a nursery right in between there. It is, it's, it's all houses right there, and um, it seems like it would be a safety issue with more people coming in and out of that end of the road, and I just want to go on record saying I am not for this.

DALTON: Okay. Thank you very much. Um, sir, did you want to testify?

UNKNOWN MEMBER OF THE PUBLIC: No.

DALTON: No? Alright.

ALTERBERRY: May I add one thing?

DALTON: Um, sure.

ALTERBERRY: Do I need to restate my name?

DALTON: No.

ALTERBERRY: Um, I just wanted to add that, um, when this lot was bought by this gentleman, um, we had, um concerns because there were, there was not any permits that were obtained and he cleared his lot of all the trees pre-existing. Um, we went out when this was being happened, when this was occurring. There were no permits. Um, we actually got the City involved because when we went out, our concern was that our natural trees that were pre-existing before we bought our home were right on the property line. We had our lot staked. They never put in stakes for their lot which was fine. I went out and showed that the people that he hired to work to clear his property, the stakes, and said please do not take any of my trees down. They cut down our natural pre-existing trees. I called the City of Cape Coral Police Department, they came out, they made a report of it. Um, we then had to work with him to um, the gentleman that was operating the vehicle that cut them down, he actually owns a tree business. He ended up um, repaying us by bringing royal trees out to our property. Um, but my concern is that we've already had problems with this gentleman and how he's operating his lot. Um, so much so that we had to get the police involved. Um, he first of all didn't want to compensate us for cutting down our trees and he said to my husband, and I quote um "it's not my problem." But he hired the workers to clear his lot that did this. So, my concern is just future problems we may have, given what's already transpired.

DALTON: Thank you very much, I appreciate that.