



## **AGENDA FOR THE HEARING EXAMINER**

Tuesday, January 19, 2021

9:00 AM

Council Chambers

### **1. HEARINGS CALLED TO ORDER**

### **2. HEARINGS**

- A. VP20-0014\*; Address: 913 SW 11th Court; Applicant: Jacob Meyer and Brian Barnhart
- B. ZA20-0011\*; Address: 3215-3227 Gulfstream Parkway 3216-3240 NW 16th Terrace; Applicant: City of Cape Coral

### **3. DATE AND TIME OF NEXT HEARINGS**

- A. Tuesday, February 2, 2021, 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.



**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL

Item Number:	2.A.
Meeting Date:	1/19/2021
Item Type:	HEARINGS

**TITLE:**

VP20-0014\*; Address: 913 SW 11th Court; Applicant: Jacob Meyer and Brian Barnhart

**REQUESTED ACTION:**

Approve or Deny

**SUMMARY EXPLANATION AND BACKGROUND:**

The owners of 913 SW 11th Court seek to vacate 1,305 sq. ft. of canal right-of-way to extend the site to the edge of the waterbody to allow a seawall to be constructed along the new eastern property line.

**STRATEGIC PLAN ALIGNMENT:**

1. 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

**RECOMMENDATIONS:**

Department of Community Development recommends approval with conditions.

**SOURCE OF ADDITIONAL INFORMATION:**

Justin Heller, Senior Planner, Email: [jheller@capecoral.net](mailto:jheller@capecoral.net)

**FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:**

1. Will this action result in a Budget Amendment? No

**PREPARED BY:**

Jessica Cruz      Division- Planning      Department- Community Development

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Application and Related Case Information	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION

For Internal Use Only

Case VP20-0014

Date 10-15-20

Tel. (239) 574-0776

Fax (239) 574-0591

P.O. Box 150027

Cape Coral, FL 33915-0027

OCT 15 '20 AM 8:37

**VACATIONS OF A PLAT, EASEMENTS, AND RIGHT-OF-WAY APPLICATION**

**VACATIONS REQUIREMENTS**

1. Application, Acknowledgement Form, Authorization to Represent.
  - All forms must be filled out completely and legible.
  - All forms must be signed by the property owner(s) and must be notarized.
  - If the owner does not own the property in his/her personal name (e.g. LLC, trust, etc.), the owner must sign all applicable forms in his/her corporate capacity.
  - If the authorized representative is an attorney, the application and the Acknowledgement Form may be signed by the attorney, and an Authorization to Represent Property Owner Form is not required.

2. Letter of intent clearly identifying the request and why the vacation is sought.

3. Proof of title to the tract or parcel of land covered by the plat or, of the plat of which vacation is sought.

4. Letters of approval from the following utility companies:

LCEC (Electric)	Century Link (Telephone)	Comcast (Cable)
Russell Goodman	John Schroeder	Mark Cook
Design and Engineering Coordinator	Engineer	Project Coordinator
PO Box 3455 North Ft Myers, FL 33918-3455	8441 Littleton Rd. North Fort Myers, FL 33903	12600 Westlinks Drive Suite 4 Fort Myers, FL 33913
Russel.goodman@lcec.net	John.schroeder@centurylink.com	Mark_cook@comcast.com
(239) 656-2112	(239) 336-2012	(239) 432-1805

5. Sketches and legal descriptions of the area proposed to be vacated.
6. If there are any deed restrictions on the property, a copy of the restrictions will be required.
7. Certified topographic survey (done within the past six months, and showing all pavement, utility and drainage features in said area, including but not limited to water, sewer and irrigation lines and manholes; power, cable and utility lines and poles; catch basins, inlets, pipes, and swales. In the case where no features exist, a signed, sealed and dated certification by a Florida registered Professional Engineer can be submitted which certifies that there are no such roadway, utility or drainage features within the limits of and adjacent to the proposed vacated area.
8. Any additional required supporting documents.
9. Refer to LDC, Section 3.4.5 for information on regulations concerning vacations.





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**VACATIONS OF PLAT REQUEST TO THE HEARING EXAMINER AND CITY COUNCIL**

**FEE: \$843.00** – In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4) Advertising costs must be paid prior to public hearing otherwise the case may be continued to a future hearing date.

If the vacation is approved, the applicant shall be responsible for reimbursing the City to record the final resolution or ordinance with the Lee County Clerk of Court. Until these fees are 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, or certificates of occupancy for any property covered by the resolution or ordinance.

<b>PROPERTY INFORMATION</b>	
Project Name:	_____
Location/Address	913 SW 11th Ct, Cape Coral, FL 33991
Strap Number	22-44-23-C1-04355.00
Unit	63
Block	4355
Lot (s)	1&2
Strap Number	_____
Unit	_____
Block	_____
Lot (s)	_____
Plat Book	_____
Page	_____
Future Land Use	_____
Current Zoning	_____
<b>PROPERTY OWNER (S) INFORMATION</b>	
Owner	Jacob Meyer
Address	2617 Stonyhill Ct
Phone	2390-770-8354
City	Cape Coral
Email	Jacob@bbandcrealty.com
State	FL
Zip	33991
Owner	Brian Barnhart
Address	2644 Fairmont Cove
Phone	239-246-8828
City	Cape Coral
Email	Brianwbarnhart@gmail.com
State	FL
Zip	33991
<b>APPLICANT INFORMATION (If different from owner)</b>	
Applicant	_____
Address	_____
Phone	_____
City	_____
Email	_____
State	_____
Zip	_____
<b>AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)</b>	
Representative	_____
Address	_____
Phone	_____
City	_____
Email	_____
State	FL
Zip	_____



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

**(ALL SIGNATURE MUST BE NOTARIZED)**

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.

CORPORATION/COMPANY NAME (IF APPLICABLE)

Brian Barnhart  
OWNER'S NAME (TYPE OR PRINT)

[Signature]  
OWNER'S SIGNATURE

Jacob Meyer  
OWNER'S NAME (TYPE OR PRINT)

[Signature]  
OWNER'S SIGNATURE

APPLICANT NAME (TYPE OR PRINT)

APPLICANT SIGNATURE

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

STATE OF FL

COUNTY OF LEE

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 27<sup>th</sup> day of May, 2020 by Jacob + Brian know is personally known to me or produced [Signature] as identification.

Exp Date: 03-11-2023 Commission Number: \_\_\_\_\_



KATHRYN LESLIE MIGNANO  
Commission # GG 310374  
Expires March 11, 2023  
Bonded Title Budget Notary Services

Signature of Notary Public: [Signature]

Printed Name of Notary Public: Kathryn L. Mignano





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**AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)**

PLEASE BE ADVISED THAT \_\_\_\_\_  
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST BEFORE THE HEARING EXAMINER  
AND CITY COUNCIL.

UNIT \_\_\_\_\_ BLOCK \_\_\_\_\_ LOT(S) \_\_\_\_\_ SUBDIVISION \_\_\_\_\_

OR LEGAL DESCRIPTION \_\_\_\_\_

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

\_\_\_\_\_  
PROPERTY OWNER (Please Print)

\_\_\_\_\_  
PROPERTY OWNER (Signature & title)

\_\_\_\_\_  
PROPERTY OWNER (Please Print)

\_\_\_\_\_  
PROPERTY OWNER (Signature & title)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribe before me, by means of ☐ physical presence or ☐ online  
notarization, on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_,  
know is personally known to me or produced \_\_\_\_\_ as identification.

Exp Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

Signature of Notary Public: \_\_\_\_\_

Printed Name of Notary Public: \_\_\_\_\_

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



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**ACKNOWLEDGEMENT FORM**

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

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

I will have the opportunity at the hearing to present 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 and recording costs. All fees are to be submitted to the City of Cape Coral with the application.

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 28<sup>th</sup> Day of May, 2020.

\_\_\_\_\_  
CORPORATION/COMPANY NAME

Brian Barnhart

Jacob Meyer

OWNER'S NAME (TYPE or PRINT)

[Signature]

[Signature]

OWNER'S SIGNATURE

STATE OF FL

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 27<sup>th</sup> day of May, 2020 by Jacob + Brian, know is personally known to me or produced DL as identification.

Exp Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_



KATHRYN LESLIE MIGNANO  
Commission # GG 310374  
Expires March 11, 2023  
Bonded Thru Budget Notary Services

Signature of Notary Public: [Signature]

Printed Name of Notary Public: Kathryn Mignano





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**DOCUMENTARY EVIDENCE (LDC, Section 3.1.11F.6)**

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

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

Brian Bernhart Jaws Mayr  
OWNER/APPLICANT  
(PLEASE TYPE OR PRINT)

[Signature] [Signature]  
OWNER/APPLICANT SIGNATURE

**(SIGNATURE MUST BE NOTARIZED)**

STATE OF FL  
COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 27th day of May, 2020 by Jacob & Brian,  
know is personally known to me or produced [Signature] as identification.

Exp Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

Signature of Notary Public: [Signature]

Printed Name of Notary Public: Kathryn L. Mignano



KATHRYN LESLIE MIGNANO  
Commission # GG 310374  
Expires March 11, 2023  
Bonded Time Budget Notary Services



### **Vacations of Plats, Easements, and Right-of-Way Regulations**

#### **Section 3.4.5. Vacations of Plats, Easements, and Rights-of-way.**

The purpose and intent of this section is to provide procedures for City Council to vacate rights-of-way, easements, and plats pursuant to authority granted under Florida law. The City Council may adopt ordinances vacating plats in whole or in part of subdivisions within the corporate limits of the city, returning the property covered by such plats either in whole or in part into acreage for the purpose of taxation, or vacating public rights-of-way, public easements, or other property in response to applications filed from adjoining property owners.

##### **A. General.**

1. The city may retain an easement for utilities or drainage over any vacated right-of-way and that no use may be made of vacated right-of-way which will be inconsistent with or interfere with the retained easement. The party seeking vacation of a plat, city street, alley, canal, other right-of-way, public easement, or other property must show or submit the following:
  - a. Petitioner has color of title to the tract or parcel of land covered by the plat or portion of 1796 the plat of which vacation is sought, unless the petitioner is the City of Cape Coral;
  - b. Letter of approval from Lee County Electric Cooperative, Inc.;
  - c. Letter of approval from affected telephone companies;
  - d. Letter of approval from affected cable companies; and
  - e. Letter of approval from any other affected utility companies (e.g., water, sewer);
2. Applicants requesting to vacate rights-of-way or easements shall provide a recent boundary survey or survey sketch of the property prepared by a registered surveyor showing the area to be vacated and provide a complete legal description(s). The survey or sketch shall show all pavement and all utility and drainage facilities, including water, sewer, cable lines, utility poles, swales, ditches, manholes, and catch basins. Separate drawings and legal descriptions are required for each vacation area when right-of-way and easement configurations differ.

##### **B. Standards and Criteria. Applications for vacations shall be reviewed in accordance with the following criteria:**

1. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes.
2. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes.



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3. Whether any required easements are necessary to accommodate the vacation of any plat, easement, or right-of-way.
4. If alternate routes are required or available that do not cause adverse impacts to surrounding areas.
5. Whether local utility providers have given consent to the vacation of the plat, easements, or rights-of-way. The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation.

C. Additional Procedures and Noticing Requirements. In addition to the standard notice requirements required by this Code, the following additional notice requirements apply for vacations:

1. Specific notice requirements for vacations. Public hearing notices to vacate a plat or portion thereof shall be published once a week for two consecutive weeks, the first publication being not less than two weeks prior to the date of public hearing on the petition.
2. If the parcel to be vacated includes an alley, all property owners serviced by the alley and all property owners serviced by a connecting alley shall be noticed.
3. Adoption and recording of resolution and ordinance. After public hearing, the City Council may approve an application for a vacation if it determines there is no reasonably foreseeable public use for the vacated area. Approval of a vacation shall be by resolution or ordinance. The City may retain easements for utilities or drainage in and upon the vacated area. Upon adoption of the resolution vacating the plat or portion thereof, the City Clerk shall furnish to the petitioner a certified copy thereof and the petitioner shall cause the same to be recorded in the public records of the county and shall return a copy, showing the recording information, to the Department of Community Development.
4. Effect. The adoption and recording of a vacation shall have the effect of vacating all streets and alleys and city-owned easements shown on the portion of the plat so vacated, unless the resolution or ordinance specifically reserved unto the city such city-owned easements or such streets or alleys. If public rights-of-way are vacated, the resolution or ordinance shall specify whether or not easements are reserved therein for utilities and drainage. The resolution or ordinance shall not have the effect of vacating any public canal shown on the portion of the plat vacated, unless the resolution or ordinance specifically so provides.
5. Petitioner's responsibility. The city, City Council, and all officers, employees, and agents thereof shall not assume any responsibility or liability for any matters and things to be done or completed by the petitioner pursuant to the provisions hereof. It is recognized that this procedure may affect substantial interests in real property and other proprietary rights, and the petitioner shall assume full and complete responsibility for compliance with the requirements of law and these procedures in connection with or arising out of any vacation proceedings instituted by the petitioner.



## Letter of Intent

May 27, 2020

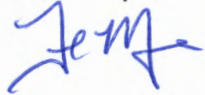
Re: 913 SW 11<sup>th</sup> Ct, Cape Coral, FL 33991

To Whom it may concern at The City of Cape Coral,

Please use this letter as our formal letter of intent to apply for a vacation of plat for 913 SW 11<sup>th</sup> Ct, in Cape Coral, FL. We have purchased this Single Family Residential Lot and would like to install a concrete seawall with Williamson and Sons. For this installation to occur, we have been notified by Williamson and Sons that a vacation of plat has to be received before a permit can be issued. We respectfully request this be approved so we can proceed forward with Seawall installation.

Regards,

Jacob Meyer



Brian Barnhart



5/29/2020



# GEOMETRIC SURVEYING INC.

2804 DEL PRADO BLVD S, SUITE 202

CAPE CORAL, FL 33904

(239)-540-6257



913 SW 11 COURT, CAPE CORAL, FLORIDA 33991

## PROPOSED PARCEL TO BE VACATED

THIS IS NOT A SURVEY



### LEGAL DESCRIPTION:

A PORTION OF WINDIGO CANAL RIGHT OF WAY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 4355, THENCE RUN N82°25'28"E FOR 27.98 FEET TO THE FACE OF AN EXISTING SEAWALL, THENCE RUN N20°34'32"W ALONG SAID SEAWALL FOR 6.58 FEET, THENCE RUN N25°05'56" FOR 96.66 FEET TO THE NORTHEAST CORNER OF LOT 2, BLOCK 4355, THENCE RUN SOUTHERLY ALONG A CURVE WITH A RADIUS OF 6682.95 FEET FOR 92.18 FEET (DELTA: 0°47'25", CHORD BEARING: S08°16'14"E, CHORD: 92.18") TO THE POINT OF BEGINNING.

CONTAINING: 1,305 SQ.FT. OR 0.03 ACRES

### GRAPHIC SCALE



1 INCH = 40 FEET

### CERTIFICATION:

GSD CONSTRUCTION, LLC.

### ABBREVIATIONS:

CL = CENTER LINE  
U.E. = UTILITY EASEMENT  
D.E. = DRAINAGE EASEMENT  
D.M.E. = DRAINAGE & MAINTENANCE EASEMENT

### SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY: THAT THE SKETCH OF THIS SPECIFIC SURVEY WAS PREPARED UNDER MY SUPERVISION AND THAT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17.050-52 OF THE FLORIDA ADMINISTRATIVE CODE PURSUANT TO 472 OF THE FLORIDA STATUTES AND THAT THE SKETCH THEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

BY: 

06/04/2020

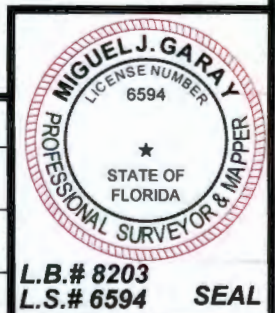
(DATE)

PROFESSIONAL LAND SURVEYOR AND MAPPER LS#6594  
STATE OF FLORIDA (NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER)

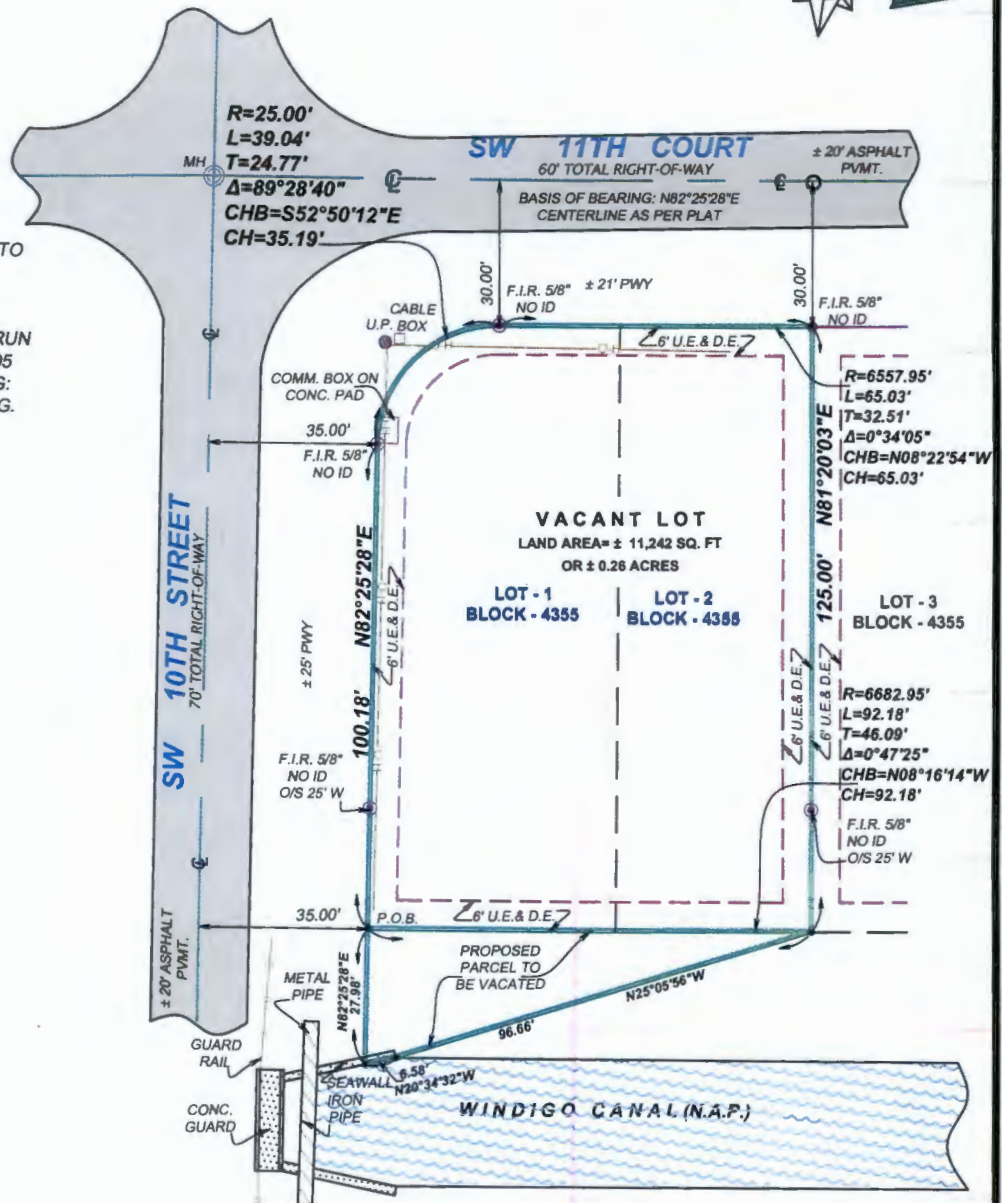
### SURVEYOR'S NOTES:

1. THIS SKETCH IS BASED ON INFORMATION FURNISHED BY CLIENT OR CLIENTS REPRESENTATIVE.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON PLAT

DRAWN BY:	AHV
FIELD DATE:	06/04/2020
SURVEY NO:	20-000631
SHEET:	1 OF 1



L.B.# 8203  
L.S.# 6594 SEAL







# GEOMETRIC SURVEYING INC.

2804 DEL PRADO BLVD S, SUITE 202

CAPE CORAL, FL 33904

(239)-540-6257



## LOCATION SKETCH

SCALE = N.T.S.



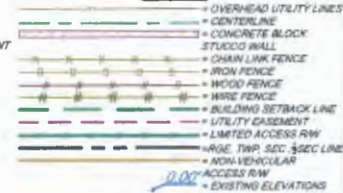
## VIEW OF SUBJECT PROPERTY

913 SW 11 COURT, CAPE CORAL, FLORIDA 33991

## ABBREVIATIONS

A = ARC	ELEV. = ELEVATION	P.V.M.T. = PAVEMENT	T = TANGENT
A.C. = AIR CONDITIONER PAD	ENCR. = ENCROACHMENT	PL. = PLANTER	T.B. = TELEPHONE BOOTH
A.E. = ANCHOR EASEMENT	F.H. = FIRE HYDRANT	P.B. = PLAT BOOK	T.B.M. = TEMPORARY BENCHMARK
A.R. = ALUMINUM ROD	F.I.P. = FOUND IRON PIPE	P.G. = PAGE	T.U.E. = TECHNOLOGY UTILITY EASEMENT
A.S. = ALUMINUM SHED	F.I.R. = FOUND IRON ROD	P.L. = PROPERTY LINE	T.S.B. = TRAFFIC SIGNAL BOX
ASPH. = ASPHALT	F.F.E. = FINISHED FLOOR ELEVATION	P.C.C. = POINT OF COMPOUND CURVATURE	T.S.P. = TRAFFIC SIGNAL POLE
B.C. = BLOCK CORNER	F.N.D. = FOUND NAIL & DISK	P.C.P. = PERMANENT CONTROL POINT	T.W.P. = TOWNSHIP
B.D.G. = BUILDING	FT. = FEET	P.C. = POINT OF CURVATURE	UTL. = UTILITY
B.M. = BENCH MARK	N.F.I.P. = NATIONAL FLOOD INSURANCE PROGRAM	P.O.T. = POINT OF TANGENCY	U.E. = UTILITY EASEMENT
B.O.B. = BASIS OF BEARING	F.N. = FOUND NAIL	P.O.C. = POINT OF COMMENCEMENT	U.P. = UTILITY POLE
B.S.L. = BUILDING SETBACK LINE	H. = HIGH OR (HEIGHT)	P.O.B. = POINT OF BEGINNING	W.M. = WATER METER
(C) = CALCULATED	I.N.A.E.R. = INGRESS AND EGRESS EASEMENT	P.R.C. = POINT OF REVERSE CURVATURE	W.F. = WOOD FENCE
C.B. = CATCH BASIN	I.C.V. = IRRIGATION CONTROL VALVE	P.R.W. = PARKWAY	W.P. = WOOD PORCH
C.B.S. = CONCRETE BLOCK STUCCO	I.D.P. = IDENTIFICATION ILLEGIBLE	P.R.M. = PERMANENT REFERENCE MONUMENT	W.R. = WOOD ROOF
C.B.W. = CONCRETE BLOCK WALL	I.F. = IRON FENCE	P.S.M. = PROFESSIONAL SURVEYOR & MAPPER	W.V. = WATER VALVE
CH. = CHORD	L.B. = LICENSED BUSINESS	P.L.S. = PROFESSIONAL LAND SURVEYOR	M.L. = MONUMENT LINE
CH.B. = CHORD BEARING	L.P. = LIGHT POLE	P.P. = POWER POLE	S. = CENTER LINE
CL. = CLEAR	L.F.E. = LOWEST FLOOR ELEVATION	P.P.S. = POOL PUMP SLAB	Δ = DELTA
C.O. = CLEAN OUT	L.M.E. = LAKE MAINTENANCE EASEMENT	P.U.E. = PUBLIC UTILITY EASEMENT	
C.L.F. = CHAIN LINK FENCE	I. = MINUTES	(R) = RECORD	
C.M.E. = CANAL MAINTENANCE EASEMENT	(M) = MEASURED	R.R. = RAIL ROAD	
CONC. = CONCRETE	M.B. = MAIL BOX	RES. = RESIDENCE	
C.U.P. = CONCRETE UTILITY POLE	M.E. = MAINTENANCE EASEMENT	R.W. = RIGHT-OF-WAY	
C.P. = CONCRETE PORCH	M.H. = MANHOLE	RAD. = RADIUS OR RADIAL	
C.S. = CONCRETE SLAB	N.A.P. = NOT A PART OF	RGE. = RANGE	
C.W. = CONCRETE WALL	N.A.V.D. = NORTH AMERICAN VERTICAL DATUM 1988	R.O.E. = ROOF OVERHANG EASEMENT	
D.E. = DRAINAGE EASEMENT	N.V.D. = NATIONAL GEODETIC VERTICAL DATUM 1929	SEC. = SECTION	
D.H. = DRILL HOLE	N.O. = NO IDENTIFICATION	STY. = STORY	
D.M.E. = DRAINAGE MAINTENANCE EASEMENT	N.T.S. = NOT TO SCALE	SWK. = SIDEWALK	
DRIVE = DRIVEWAY	# OR NO. = NUMBER	S.I.R. = SET IRON ROD	
D. = DEGREES	O.S. = OFFSET	S.I.P. = SET IRON PIPE	
E.B. = ELECTRIC BOX	O.H. = OVERHEAD	S.N.D. = SET NAIL & DISK	
E.T.P. = ELECTRIC TRANSFORMER PAD	O.H.L. = OVERHEAD UTILITY LINES	S. = SOUTH	
	O.R.B. = OFFICIAL RECORDS BOOK	S.P. = SCREENED PORCH	
	O.V.H. = OVERHANG	S.V. = SEWER VALVE	
		" = SECONDS	

## LEGEND



## SURVEYOR NOTES:

- THERE MAY BE EASEMENTS RECORDED IN THE PUBLIC RECORDS NOT SHOWN ON THIS SURVEY.
- EXAMINATIONS OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THE PROPERTY.
- THIS SURVEY MAY BE SUBJECT TO DEDICATIONS, LIMITATIONS, RESTRICTIONS, RESERVATIONS, ENCUMBRANCES OR EASEMENTS OF RECORD THE SAME THAT MAY NOT BE NOTED OR DEPICTED HEREON.
- LEGAL DESCRIPTIONS PROVIDED BY CLIENT OR ATTESTING TITLE COMPANY.
- BOUNDARY SURVEY MEANS A DRAWING AND/OR A GRAPHIC REPRESENTATION OF THE SURVEY WORK PERFORMED IN THE FIELD, COULD BE DRAWN AT A SHOWN SCALE AND/OR NOT TO SCALE; THE WALLS OR FENCES MAY BE EXAGGERATED FOR CLARITY PURPOSES.
- EASEMENTS AS SHOWN ARE PER PLAT, UNLESS NOTED OR DEPICTED OTHERWISE.
- THE TERM "ENCROACHMENT" REFERS TO ABOVE GROUND INTRUSIONS OF IMPROVEMENTS ONTO SUBJECT PROPERTY FROM ADJOINERS PROPERTY OR ONTO ADJOINERS PROPERTY FROM SUBJECT PROPERTY.
- ARCHITECTS AND ENGINEERS SHALL VERIFY ZONING REGULATIONS, RESTRICTIONS, SETBACKS AND WILL BE RESPONSIBLE FOR SUBMITTING PLANS WITH CORRECT INFORMATION TO BUILDING AND ZONING OFFICIALS OR ANY OTHER AUTHORITIES FOR APPROVAL OF PLANS FOR NEW CONSTRUCTION. THEY WILL ALSO BE RESPONSIBLE FOR SUBMITTING PLANS WITH CORRECT PROPOSED BUILDING HEIGHTS AND PROPOSED FINISHED FLOOR ELEVATION WITH DATUM FOR NEW BUILDINGS TO THE PROPER AUTHORITIES IN NEW CONSTRUCTION.
- UNLESS OTHERWISE SHOWN RECORD AND MEASURED CALLS ARE IN SUBSTANTIAL AGREEMENT.
- UNDERGROUND UTILITIES ARE NOT DEPICTED HEREON.
- UNLESS OTHERWISE NOTED, THIS FIRM HAS NOT ATTEMPTED TO LOCATE UNDERGROUND FOOTINGS AND/OR FOUNDATIONS.
- FENCE OWNERSHIP NOT DETERMINED.
- THIS PLAN OF SURVEY, HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON, THE CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PARTY.
- FENCE TIES ARE TO CENTERLINE OF THE SAME.
- WALL TIES ARE TO THE FACE OF THE SAME.

## FLOOD ZONE INFORMATION:

THE NFIP FLOOD MAPS HAVE DESIGNATED THE HEREIN DESCRIBED LAND TO BE SITUATED IN:  
FLOOD ZONE: "X"  
BASE FLOOD ELEVATION: N/A  
COMMUNITY: 12071  
PANEL: 0265  
SUFFIX: F  
DATE OF FIRM: 08/28/2008  
THE SUBJECT PROPERTY DOES NOT LIE IN A SPECIAL FLOOD HAZARD AREA.

## SURVEYOR'S CERTIFICATION:

THEREBY CERTIFY: THAT THE SKETCH OF THIS BOUNDARY SURVEY WAS PREPARED UNDER MY SUPERVISION AND THAT IT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS & MAPPERS IN CHAPTER 53-17.050.052 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472 OF THE FLORIDA STATUTES AND THAT THE SKETCH HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

BY:

MIGUEL J. GARAY

05/15/2020

(DATE OF FIELDWORK)

PROFESSIONAL SURVEYOR AND MAPPER L.S.# 6594 STATE OF FLORIDA  
(NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.)

REVISED ON:

REVISED ON:

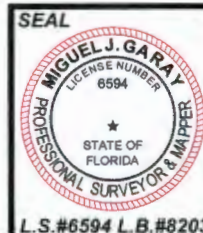
DRAWN BY: AHV

FIELD DATE: 05/15/2020

SURVEY NO: 20-000631

SHEET: 1 OF 2

THIS PAGE IS NOT VALID WITHOUT ALL OTHERS



L.S.#6594 L.B.#8203





# GEOMETRIC SURVEYING INC.

2804 DEL PRADO BLVD S, SUITE 202

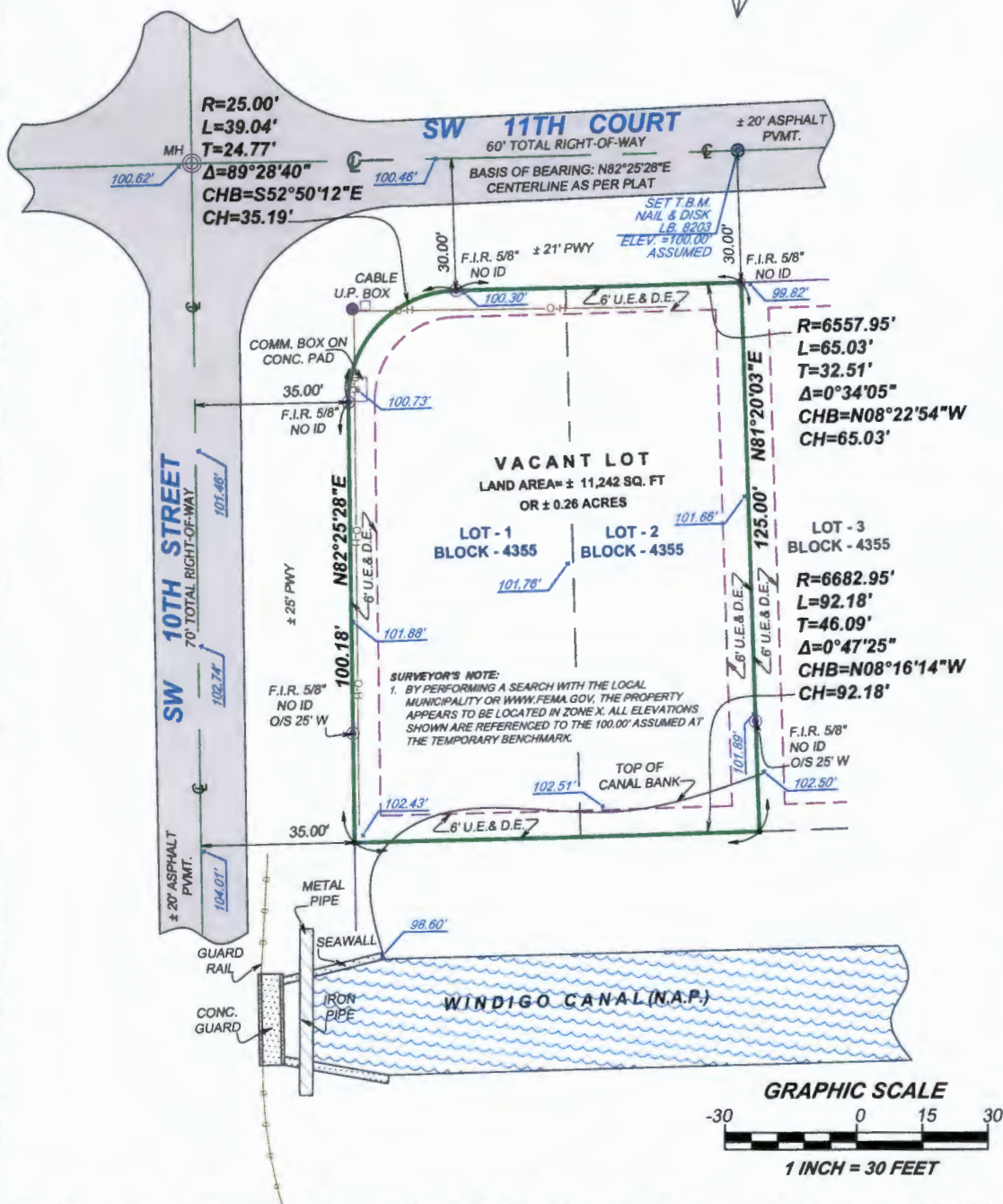
CAPE CORAL, FL 33904

(239)-540-6257



## MAP OF BOUNDARY SURVEY

913 SW 11 COURT, CAPE CORAL, FLORIDA 33991



SEAL



L.S.#6594 L.B.#8203

### LEGAL DESCRIPTION:

LOTS 1 AND 2, BLOCK 4355, UNIT 63, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 21, PAGES 48 THROUGH 81, INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

### CERTIFICATION:

GSD CONSTRUCTION, LLC.

DRAWN BY:

AHV

FIELD DATE:

05/15/2020

SURVEY NO:

20-000831

SHEET:

2 OF 2

THIS PAGE IS NOT VALID WITHOUT ALL OTHERS



**Attention:**

Jacob Meyer

Broker/Owner

BB&C RealtyMobile:239-318-0384

[jacob@bbandcrealty.com](mailto:jacob@bbandcrealty.com)

**Subject:** - No Objection Letter.

**Site Address:** 913 SW 11TH CT CAPE CORAL FL 33991

Strap# 22-44-23-C1-04355.0010

To whom it my concern

Regarding the referenced property above CenturyLink has **No Objection** to the Vacation of the back portion of the property along the seawall. CenturyLink will hold & bill responsible parties that damage CenturyLink Facilities along the south side of the property along SW 10<sup>th</sup> ST.

Sincerely

*Justin Lane*

THANK YOU!

***Justin Lane***

Construction Project Administrator

Fort Myers District

2820 Cargo St

Fort Myers FL 33916

Office: (239)-237-3748

[justin.lane@centurylink.com](mailto:justin.lane@centurylink.com)



**12600 Westlinks Drive Suite 4  
Fort Myers, Fl. 33913  
Phone: 239-432-1805**

Reference Plat Easement Approval for: **STRAP: 22-44-23-CI-04355.0010 Folio ID: 10076012**

Comcast has reviewed the proposed revised plat for the above referenced property and found the easements provided have no objections to the placement of a sea wall. If you have any further concerns, please contact me at (239) 986-6995.

Sincerely,

Travis Harrison  
Project Coordinator

*Travis Harrison*





revised

Lee County Electric Cooperative, Inc.  
Post Office Box 3455  
North Fort Myers, FL 33918-2455  
(239) 995-2121 • Fax (239) 995-7904  
[www.lcec.net](http://www.lcec.net)

October 16, 2020

Mr. Jacob Meyer  
Mr. Brian Barnhart  
BB&C Realty  
4706 CHIQUITA BLVD. S., SUITE 200  
CAPE CORAL, FL 33904

Re: Letter of No Objection to Vacation of Canal Right of Way and Utility Easement for 913 SW 11<sup>th</sup> Court, Cape Coral, FL 33991; Owners: Brian Barnhart and Jacob Meyer, tenants in common; Strap: 22-44-23-C1-04355.0010

Dear Mr. Meyer:

You have opened up negotiations, on behalf of you and Mr. Barnhart concerning a request for vacation upon a certain parcel in Cape Coral, Florida.

We have reviewed the sketches, the request submitted, and our internal records. LCEC has **no objection** to the request. However, LCEC requires a continuous perimeter easement surrounding your property in order to serve you. Therefore, in the after situation to the vacation, as petitioner you will have to provide to the appropriate local jurisdiction, and impose six-foot wide easements along the seawall and the side easements so that there is a continuous perimeter easement located upon the parcel.

Should no definitive governmental action, or no approval by local jurisdiction be received by you, the petitioner, this letter will terminate upon six months from the date listed above. This letter is not assignable to a third party, and is non-recordable. This letter will become immediately void upon recordation.

Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at [russel.goodman@lcec.net](mailto:russel.goodman@lcec.net).

Best regards,

Russ Goodman,  
SR/WA

Digitally signed by Russ  
Goodman, SR/WA  
Date: 2020.10.16 11:19:33 -04'00'

Russel Goodman, SR/WA  
Senior Right of Way Agent

**Review Date:** December 15, 2020

**Property Owners:** Jacob Meyer and Brian Barnhart

**Location:** 913 SW 11<sup>th</sup> Court  
Lots 1-2, Block 4355, Unit 63

**Request:** The owners request to vacate 1,305 sq. ft. of Windigo Canal right-of-way (ROW), adjacent to the east property line of Lots 1-2, Block 4355, Unit 63.

**Prepared By:** Justin Heller, Senior Planner

**Reviewed By:** Mike Struve, AICP, Planning Team Coordinator

**Approved By:** Robert H. Pederson, AICP, Planning Manager

**Recommendation:** **Approval with conditions**

**Property Description:**

The applicants own a vacant two-lot platted site at 913 SW 11<sup>th</sup> Court that abuts the Windigo Canal. This corner parcel is adjacent to a bridge crossing at SW 10<sup>th</sup> Street. The site has a Single Family (SF) Future Land Use Classification and Single Family Residential (R-1) Zoning. All surrounding properties share the same future land use and zoning classifications.

The plat shows this site has about 92 feet of water frontage along the Windigo Canal. However, a triangular strip of unexcavated canal ROW (dry land) exists between the rear or east property line and the water. For most platted water-front sites in the City, the rear property line extends to the edge of the waterbody. The applicants seek to vacate 1,305 sq. ft. of ROW to extend the site to the edge of the waterbody to allow a seawall to be constructed along the new eastern property line. (Exhibit 1).

**Analysis:**

LDC, Section 3.4.5B state that applications for vacations shall be reviewed in accordance with the following criteria:

1. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes. ***Staff response: This vacation was reviewed by Public Works and it was determined that the underlying easements may be needed by the City for future maintenance, construction, and renovation of the canal or bridge. As a result, the City shall retain all easements underlying the vacated area.***
2. Whether any required easements are necessary to accommodate the vacation of any plat, easement, or right-of-way. ***Staff response: The applicants are vacating the right-of-way to facilitate construction of a seawall. The City shall retain all underlying easements. No new easements are needed.***

3. If alternate routes are required or available that do not cause adverse impacts to surrounding areas. **Staff response: As the ROW vacation only involves unexcavated canal ROW, the vacation will not negatively affect the navigability or visibility of boaters using the Windigo Canal.**
4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit an area. **Staff response: As this vacation does not include a request to vacate either an alley or street ROW, this criterion is not applicable.**
5. Whether local utility providers have given consent to the vacation of the plat, easements, or rights-of-way. The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation. **Staff response: All three utility providers have issued letters of no objection regarding this vacation. LCEC does require that a continuous easement be provided around the perimeter of the site. The City will retain all underlying easements in the vacated area as a condition of approval to allow for future utility installation and maintenance.**

### **Consistency with the Comprehensive Plan**

The City lacks specific policies in the Comprehensive Plan for vacations involving residential-zoned lands.

This request is consistent with Policy 1.15 of the Future Land Use Element.

**Policy 1.15:** *Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.*

- a. Single Family Residential: *Sites of 10,000 square feet and greater, with densities not to exceed 4.4 units per acre.*

Staff comment: The site has R-1 zoning that is consistent with the Single Family Future Land Use Classification (FLUC). The site is an estimated 11,234 sq. ft. and the property will be eventually developed with one single-family home. This equates to a density of about 3.9 dwelling units per acre. This density is less than the maximum 4.4 dwelling units per acre allowed within the FLUC.

### **Recommendation:**

Staff recommends **approval** of the requested vacation with the following conditions.

1. The vacation of the 1,305 sq. ft. of ROW and shall be consistent with that shown in the sketch and accompanying legal description prepared by Geometric Surveying, Inc., dated June 4, 2020, entitled "PROPOSED PARCEL TO BE VACATED".
2. The City shall retain a right-of-way easement across the property granted for the purpose of entering upon said property for the expansion of the canal system, including a right-of-way across



said parcel for the maintenance, construction, and renovation of the canal or bridge and providing an easement across said property for utilities, including but not limited to: water, sewer, irrigation, electrical and drainage, to expand the existing canal and/or bridge in the future and to survey, construct, operate, maintain, remove, replace or abandon drainage and/or utility facilities and to access the area to maintain, construct, renovate or to expand or enlarge the adjoining bridge and canal right-of-way in, along, under, above, and upon said area.

3. The Petitioners shall pay to the City of Cape Coral the cost of recording this resolution with the Office of the Lee County Clerk of Court.
4. The City shall record this resolution with the Office of the Lee County Clerk of Court following the receipt of the recording fees from the Petitioners.

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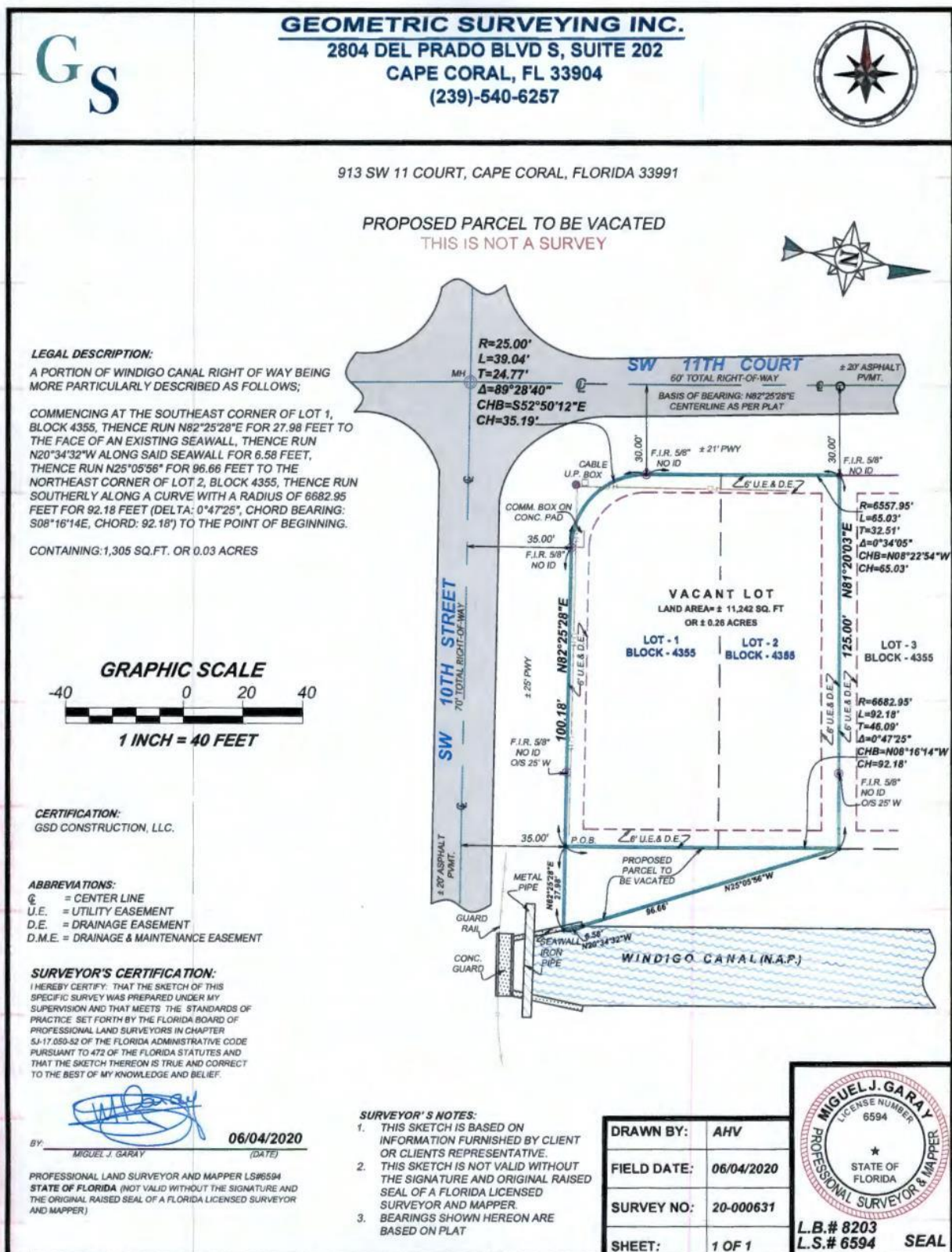
**Staff Contact Information**

Justin Heller, Senior Planner

PH: 239-574-0587

Email: [jheller@capecoral.net](mailto:jheller@capecoral.net)

## Exhibit 1





**SUBJECT PARCEL**

SW 11TH CT

SW 10TH ST

SW 11TH CT

SW 12TH AVE

**CITY OF CAPE CORAL**

Department of  
Community Development  
Planning Division

**AERIAL MAP**

**CASE NO. VP20-0014**

**LEGEND**

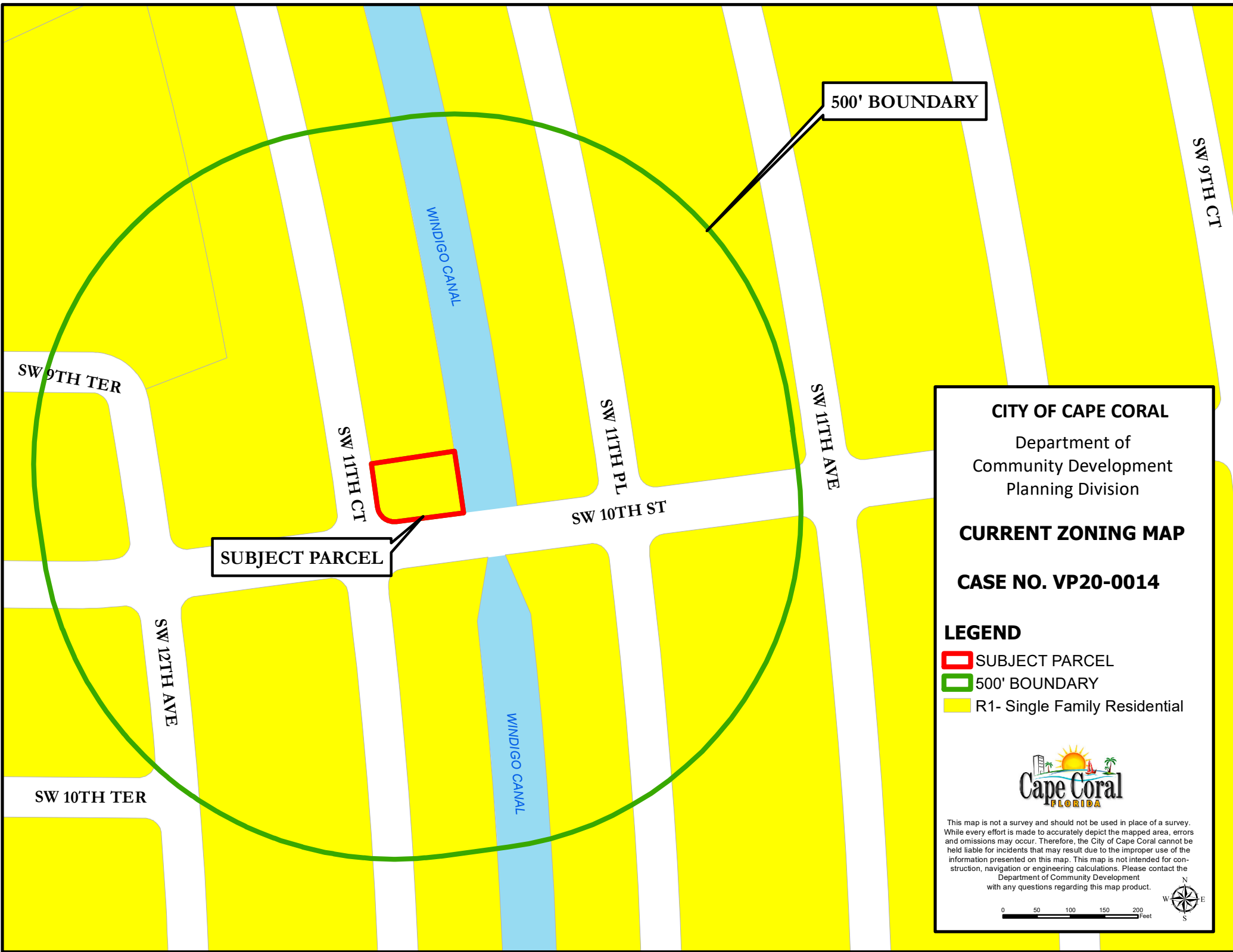
 **SUBJECT PARCEL**



0 20 40 60 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.





500' BOUNDARY

SW 9TH CT

SW 9TH TER

SW 11TH CT

SW 11TH PL

SW 11TH AVE

SW 10TH ST

SUBJECT PARCEL

SW 12TH AVE

SW 10TH TER

WINDIGO CANAL

WINDIGO CANAL




CITY OF CAPE CORAL

Department of  
Community Development  
Planning Division

CURRENT ZONING MAP

CASE NO. VP20-0014

LEGEND

-  SUBJECT PARCEL
-  500' BOUNDARY
-  R1- Single Family Residential



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.

0 50 100 150 200 Feet





**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL

<b>Item Number:</b>	<b>2.B.</b>
<b>Meeting Date:</b>	<b>1/19/2021</b>
<b>Item Type:</b>	<b>HEARINGS</b>

**TITLE:**

ZA20-0011\*; Address: 3215-3227 Gulfstream Parkway 3216-3240 NW 16th Terrace; Applicant: City of Cape Coral

**REQUESTED ACTION:**

Approve or Deny

**SUMMARY EXPLANATION AND BACKGROUND:**

Summary: Rezone from Commercial (C) zoning to Single-Family Residential (R1) zoning for seven properties, comprising 2.29 acres in NW Cape Coral.

**STRATEGIC PLAN ALIGNMENT:**

1. 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

**RECOMMENDATIONS:**

Department of Community Development recommends approval.

**SOURCE OF ADDITIONAL INFORMATION:**

Wyatt Daltry, AICP, Planning Team Coordinator, Email: [wdaltry@capecoral.net](mailto:wdaltry@capecoral.net)

**FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:**

1. Will this action result in a Budget Amendment? No

**PREPARED BY:**

Jessica Cruz      Division- Planning      Department- Community Development

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Application and Related Materials	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION

For Internal Use Only

Case \_\_\_\_\_

Date \_\_\_\_\_

Tel. (239) 574-0776

Fax (239) 574-0591

P.O. Box 150027

Cape Coral, FL 33915-0027

**REZONING APPLICATION**

**NOTE TO APPLICANT:** The completed application must be legible, and all items must be provided at the time of submission.

**REZONING REQUIREMENTS**

1. ☐ **Applicant's portion of request shall be typewritten, and signature notarized.**
  - All forms (Application, Acknowledgement Form, Authorization to Represent) must be signed by the property owner or the applicant. If the Authorized Representative is an attorney, the application and the Acknowledgement Form may be signed by the attorney and an Authorization to Represent Form is not required.
  - If there are any deed restrictions on the property, a copy of the restrictions will be required.
2. ☐ **Letter of intent stating the actual request and why the request is being made.**
3. ☐ **Certified survey done within past six (6) months MAY be required.**
4. ☐ **If the subject property is within 500 feet of any County properties, the applicant must provide a typewritten list of all affected property owners within the area. The list must be prepared in label format and contain the following information; name, address, city, and zip-code.**
5. ☐ **Please refer to Rezones Section 3.4.6. (page 7) for additional required documentation.**

**NOTE:** In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 3.4.6.). 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.

It is required that applicant and/or representative attend both the hearing examiner and city council meetings.





DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION

Tel. (239) 574-0776  
Fax (239) 574-0591  
P.O. Box 150027  
Cape Coral, FL 33915-0027

**REZONE REQUEST**

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. 3.4.6). Advertising costs will be billed and must be paid prior to hearing.

***PROPERTY INFORMATION***

Location/Address \_\_\_\_\_

Strap Number \_\_\_\_\_ Unit \_\_\_\_\_ Block \_\_\_\_\_ Lot (s) \_\_\_\_\_

Plat Book \_\_\_\_\_ Page \_\_\_\_\_ Future Land Use \_\_\_\_\_

Current Zoning \_\_\_\_\_ Proposed Zoning \_\_\_\_\_

***PROPERTY OWNER (S) INFORMATION***

Owner \_\_\_\_\_ Address \_\_\_\_\_

Phone \_\_\_\_\_ City \_\_\_\_\_

Email \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Owner \_\_\_\_\_ Address \_\_\_\_\_

Phone \_\_\_\_\_ City \_\_\_\_\_

Email \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

***APPLICANT INFORMATION (If different from owner)***

Applicant \_\_\_\_\_ Address \_\_\_\_\_

Phone \_\_\_\_\_ City \_\_\_\_\_

Email \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

***AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)***

Representative \_\_\_\_\_ Address \_\_\_\_\_

Phone \_\_\_\_\_ City \_\_\_\_\_

Email \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_



**DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

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Fax (239) 574-0591  
P.O. Box 150027  
Cape Coral, FL 33915-0027

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

**(ALL SIGNATURE MUST BE NOTARIZED)**

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.

\_\_\_\_\_  
CORPORATION/COMPANY NAME (IF APPLICABLE)

\_\_\_\_\_  
OWNER'S NAME (TYPE OR PRINT)

\_\_\_\_\_  
OWNER'S SIGNATURE

\_\_\_\_\_  
OWNER'S NAME (TYPE OR PRINT)

\_\_\_\_\_  
OWNER'S SIGNATURE

\_\_\_\_\_  
APPLICANT NAME (TYPE OR PRINT)

\_\_\_\_\_  
APPLICANT SIGNATURE

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribe before me, by means of ☐ physical presence or ☐ online notarization, on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_, know is personally known to me or produced \_\_\_\_\_ as identification.

Exp Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

NOTARY STAMP HERE

Signature of Notary Public: \_\_\_\_\_

Printed Name of Notary Public: \_\_\_\_\_



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION

Tel. (239) 574-0776  
Fax (239) 574-0591  
P.O. Box 150027  
Cape Coral, FL 33915-0027

**AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)**

PLEASE BE ADVISED THAT \_\_\_\_\_  
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST BEFORE THE HEARING EXAMINER  
AND CITY COUNCIL.

UNIT \_\_\_\_\_ BLOCK \_\_\_\_\_ LOT(S) \_\_\_\_\_ SUBDIVISION \_\_\_\_\_

OR LEGAL DESCRIPTION \_\_\_\_\_

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

\_\_\_\_\_  
PROPERTY OWNER (Please Print)

\_\_\_\_\_  
PROPERTY OWNER (Signature & title)

\_\_\_\_\_  
PROPERTY OWNER (Please Print)

\_\_\_\_\_  
PROPERTY OWNER (Signature & title)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribe before me, by means of ☐ physical presence or ☐ online  
notarization, on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_,  
know is personally known to me or produced \_\_\_\_\_ as identification.

Exp Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

NOTARY STAMP HERE

Signature of Notary Public: \_\_\_\_\_

Printed Name of Notary Public: \_\_\_\_\_

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





**DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

Tel. (239) 574-0776  
Fax (239) 574-0591  
P.O. Box 150027  
Cape Coral, FL 33915-0027

**ACKNOWLEDGEMENT FORM**

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

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

I will have the opportunity at the hearing to present 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 and recording costs. All fees are to be submitted to the City of Cape Coral with the application.

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 \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
CORPORATION/COMPANY NAME

\_\_\_\_\_  
OWNER'S NAME (TYPE or PRINT)

\_\_\_\_\_  
OWNER'S SIGNATURE

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribe before me, by means of ☐ physical presence or ☐ online notarization, on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_, know is personally known to me or produced \_\_\_\_\_ as identification.

Exp Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

NOTARY STAMP HERE

Signature of Notary Public: \_\_\_\_\_

Printed Name of Notary Public: \_\_\_\_\_



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION

Tel. (239) 574-0776  
Fax (239) 574-0591  
P.O. Box 150027  
Cape Coral, FL 33915-0027

**DOCUMENTARY EVIDENCE (LDC, Section 3.1.11F.6)**

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

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

\_\_\_\_\_  
OWNER/APPLICANT  
(PLEASE TYPE OR PRINT)

\_\_\_\_\_  
OWNER/APPLICANT SIGNATURE

**(SIGNATURE MUST BE NOTARIZED)**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

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**REZONES REGULATIONS**

- A. Manner of Initiation. Applications for a change in zoning may be initiated in the following manner:
1. The City Council upon its own motion;
  2. The Planning and Zoning Commission upon its own motion;
  3. The property owner(s) of at least fifty-one percent of the land in the proposed rezone area;
  4. The City Manager for a City initiated rezone; or
  5. The Community Development Department, following approval of a similar use determination.
- B. Review Criteria. An application for a rezone shall be reviewed in accordance with the following criteria:
1. Whether the proposed zoning district proposed is consistent with the City Comprehensive Plan;
  2. Whether the full range of uses allowed in the proposed zoning district will be compatible with existing uses in the area under consideration;
  3. Whether the range of uses allowed in the proposed zoning district will be compatible with existing and potential uses in the area under consideration;
  4. Whether the proposed zoning district will serve a community need or broader public purpose;
  5. The characteristics of the proposed rezone area are suitable for the uses permitted in the proposed zoning district; and
  6. Whether a zoning district other than the district requested will create fewer potential adverse impacts to existing uses in the surrounding area.
- C. Effective date of approval. A rezone shall take effect upon City Council adoption of the ordinance approving the rezone.
- D. New application after denial. No application for a rezone which has been previously denied by the City Council shall be accepted for at least one year after the date of denial. An application to rezone property to a designation that is different than the designation which was denied by the City Council, will be accepted and considered without consideration of time since the previous application was denied.



CITY OF CAPE CORAL  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
MEMORANDUM

TO: Rob Hernandez, City Manager

FROM: Vincent A. Cautero, Community Development Director  
Wyatt Daltry, Planning Team Coordinator

DATE: October 29, 2020

SUBJECT: City-initiated Future Land Use Map Amendment Request, LU20-0007 and City-initiated Rezoning Request, ZA20-00011

---

Executive Summary

Staff recommends the City initiate both a future land use map amendment and a rezone request for Lots 1-9 and 50-59 of Block 4276, Unit 61. The area is located at 3216-3240 NW 16<sup>th</sup> Terrace and 3215-3227 Gulfstream Parkway, and comprises 2.29 acres.

Background

The purpose of these requests is to amend seven properties from a Commercial future land use and zoning to a Single-Family future land use and zoning.

Block 4276 is at the corner of Burnt Store Road and Gulfstream Parkway, and the current Commercial future land use and zoning was established recently in 2019. However, the subject properties lack the opportunity for direct frontage on Burnt Store Road.

The City was contacted by a property owner in this subject area and stated that the legal, non-conforming status of their home which is caused by the commercial designation is an impediment to selling their home. Much of the impediment is due to financial institutions being less likely to lend money to purchase non-conforming structures. Furthermore, the property owner is concerned that the commercial designation is premature due to the lack of utilities and visibility from Burnt Store Road.

Staff believes the lack of commercial visibility of these properties and lack of utilities makes the properties more suitable for residential development currently. Amending the future land use and zoning for these properties would provide the property owners an opportunity to develop or sell their land in the near term. Both the future land use amendment and the rezone are proposed to run concurrently for Council adoption.

The application is attached for your signature. Please contact me or Wyatt Daltry, Planning Team Coordinator at (239) 573-3160, if you have any questions.

VAC/wad(LU20-0007 and ZA20-0011memoofintent)  
Attachment

**STAFF REPORT**

ZA20-0011

City of Cape Coral

DOCKET/CASE/APPLICATION NUMBER

Wyatt Daltry, AICP, Planning Team

Coordinator (239) 573-3160,

wdaltry@capecoral.net

STAFF PLANNER

APPLICANT/PROPERTY OWNER

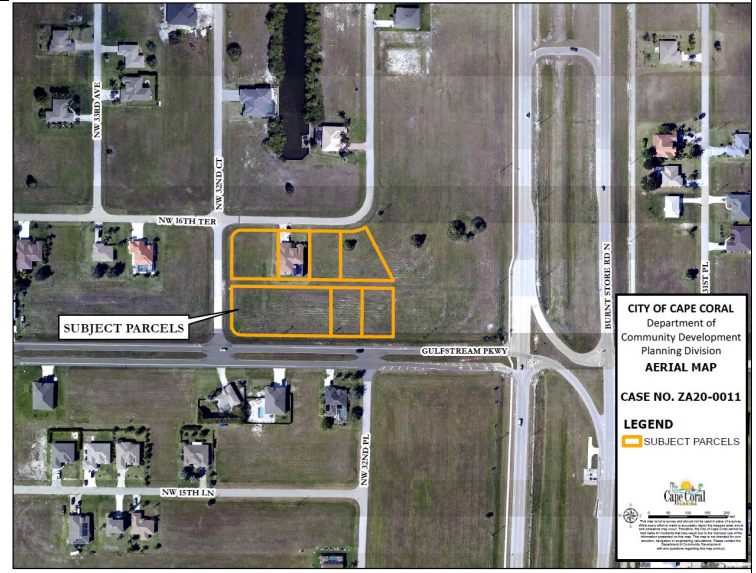
3215-3227 Gulfstream Parkway

3216-3240 NW 16<sup>th</sup> Terrace

PROPERTY ADDRESS/LOCATION

**BRIEF SUMMARY OF REQUEST**

City-initiated rezone from the Commercial (C) zoning district to the Single-Family Residential (R1) zoning district for seven parcels (2.29 acres).



MAP SOURCE

EXISTING ZONING	EXISTING LAND USE	PROPOSED zoning	SITE IMPROVEMENTS	SIZE OF PROPERTY
Commercial (C)	Commercial/ Professional (CP) (under review to SF)	Single Family Residential (R1)	1 single-family residence	99,569 square feet 2.29 acres (7 parcels)

**STAFF RECOMMENDATION:** Approval

<b>Background:</b>	<ul style="list-style-type: none"> <li>The seven properties were changed to Commercial (C) in 2019</li> <li>Property owners within the area have indicated a desire to return to residential</li> </ul>
<b>Positive Aspects of Application:</b>	<ul style="list-style-type: none"> <li>Properties are across the street from other single-family residential uses</li> <li>Area has residential character</li> <li>Surrounding area lacks utilities which is an impediment to commercial development</li> </ul>
<b>Negative Aspects of Application:</b>	<ul style="list-style-type: none"> <li>Commercial properties are present to east, could impact area</li> </ul>
<b>Mitigating Factors:</b>	<ul style="list-style-type: none"> <li>Properties lack frontage on principal arterial roadway and lack commercial viability in the near-to-midterm until utilities arrive</li> </ul>

Additional Site Information

**Street Addresses:** 3215-3227 Gulfstream Parkway  
3216-3240 NW 16<sup>th</sup> Terrace

**Urban Service Area:** Reserve

**City Water and Sewer:** No.

**Street Access:** The site is accessible from Gulfstream Parkway, a collector roadway and NW 16<sup>th</sup> Terrace, a local roadway

**STRAP Numbers:** 31-43-23-C3-04276.0010  
31-43-23-C3-04276.0040  
31-43-23-C3-04276.0060  
31-43-23-C3-04276.0080  
31-43-23-C3-04276.0500  
31-43-23-C3-04276.0520  
31-43-23-C3-04276.0540

**Block/Lot(s):** Block 4276, Lots 1-9, 50-59

**Subdivision:** Cape Coral Subdivision

**Case Planner:** Wyatt Daltry, AICP, Planning Team Coordinator

**Review Approved By:** Robert Pederson, AICP, Planning Manager

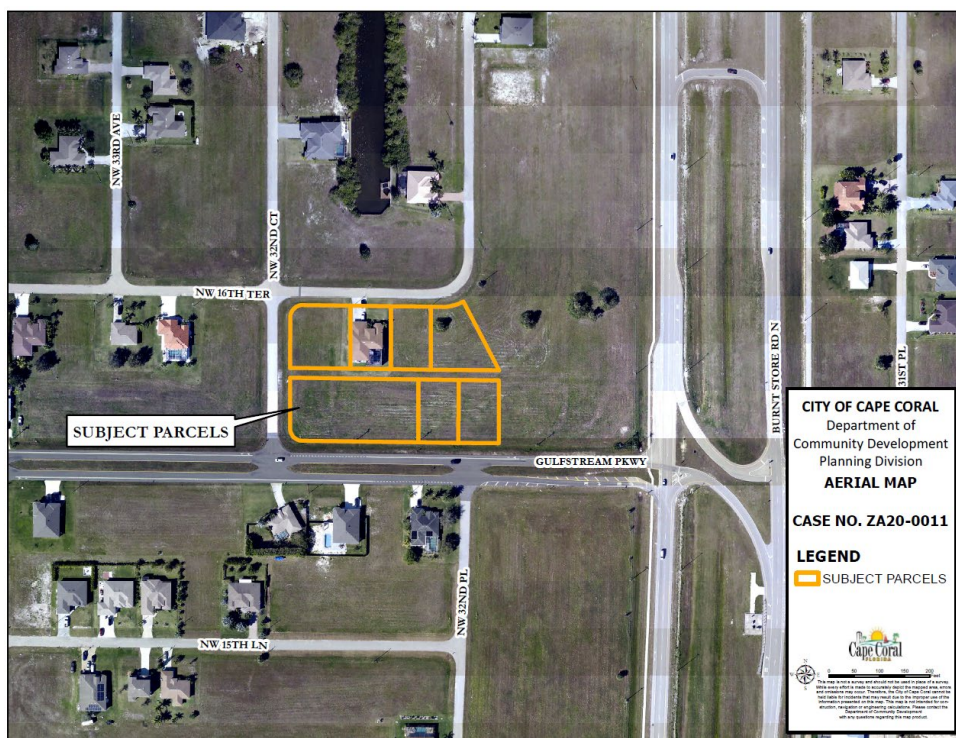
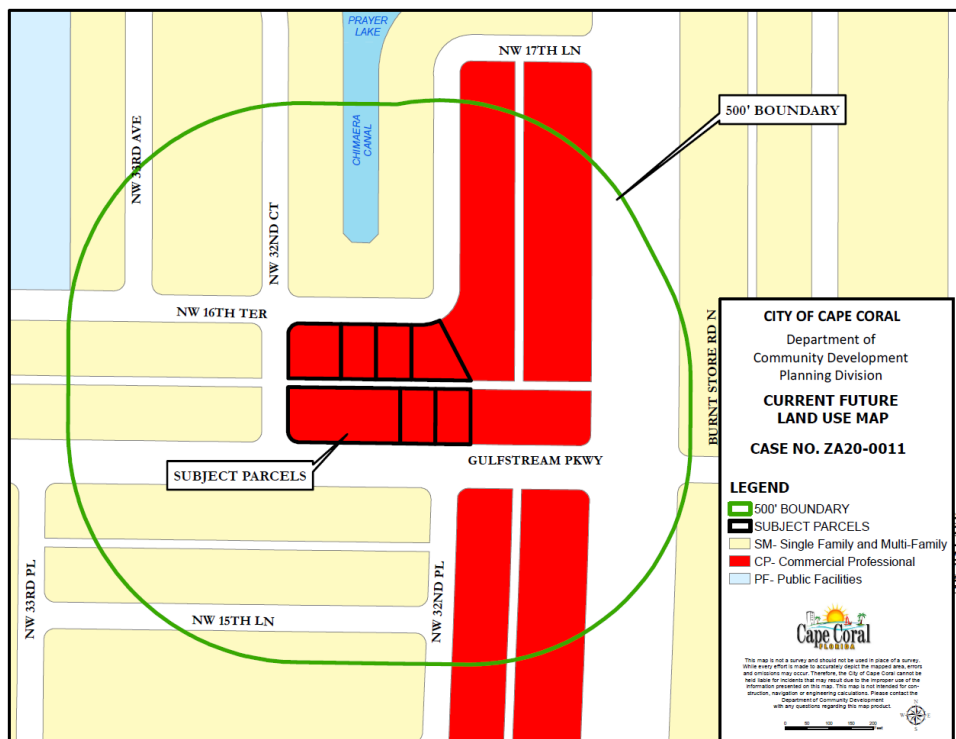
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Zoning and Land Use Information:

<b>Subject Property:</b>	<b>Future Land Use</b>	<b>Zoning</b>
<i>Current:</i>	CP	Commercial (C)
<i>Proposed:</i>	Not applicable – not a land use change.  However, the City has presented a Single-Family Residential future land use map amendment to the Planning and Zoning Commission	Single-Family Residential (R1)
<b>Surrounding Areas</b>	<b>Future Land Use</b>	<b>Zoning</b>
<i>North:</i>	Single-Family and Multi-Family (SM)	Single-Family Residential (R1)
<i>South:</i>	SM	R1
<i>East:</i>	CP	C
<i>West:</i>	SM	R1

## Future Land Use Map and Aerial Map



## **Background**

The subject properties were amended to Commercial/Professional in April 2019 (Ordinance 2-19) and rezoned to Commercial in August 2019 (Ordinance 4-19). These properties are undeveloped, save for one single-family residence.

The surrounding area is a mix of single-family and duplex residential uses to the north, west, and south and commercial areas to the east. The commercial areas located to the east have frontage on Burnt Store Road (County Road 765), a principal arterial roadway, which was the reason why all of Block 4276 was amended to a commercial designation in 2019.

However, the subject area represents a “panhandle” of Block 4276, and absent lot assemblage, lacks the opportunity for direct frontage on Burnt Store Road. The lack of visibility of these properties and lack of utilities in the near and medium term makes these properties suboptimal for commercial development, but attractive for residential development.

The City is in the process of amending the future land use map classification to Single-Family Residential (SF), as that amendment was presented before the Planning and Zoning Commission on January 6, 2021. This rezone is proposed to provide consistency with that amendment, in the event that it is approved by the City Council.

## **Conservation and Coastal Management Element**

### **Comprehensive Plan Analysis**

Staff analyzed the Comprehensive Plan to determine what policies apply to the proposed future land use map amendment.

Policy 4.1.1: The City shall coordinate efforts with Lee County to relieve deficiencies identified in the *Southwest Florida Region, Statewide Regional Evacuation Study Program for Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties*, prepared by the Southwest Florida Regional Planning Council in 2010 and will provide sufficient and appropriate personnel to implement and expedite the County’s evacuation plan.

...

Policy 4.1.3: Development review for projects within the coastal high hazard area shall consider significant impacts upon evacuation routes and sheltering, and shall require appropriate mitigation, if deemed necessary.

**Burnt Store Road is a principal arterial roadway and evacuation route which is under County jurisdiction (County Road 765). Portions of Burnt Store Road are four-lane divided highway but most of Burnt Store Road’s length consists of two-lane, undivided road surface. Burnt Store Road is the only roadway providing access to Charlotte County in NW Cape Coral, and in parts is located within the County Evacuation Zone A.**

**Reducing the amount of commercial proximate to this roadway would result in a reduction in potential traffic generation, as indicated in the Impact Assessment Summary below. This reduction in traffic generation potential would be invaluable should an evacuation be required in response to a tropical event.**

## **Transportation Element**

Staff reviewed the Transportation Element, Policy 4.2.3 for further guidance.

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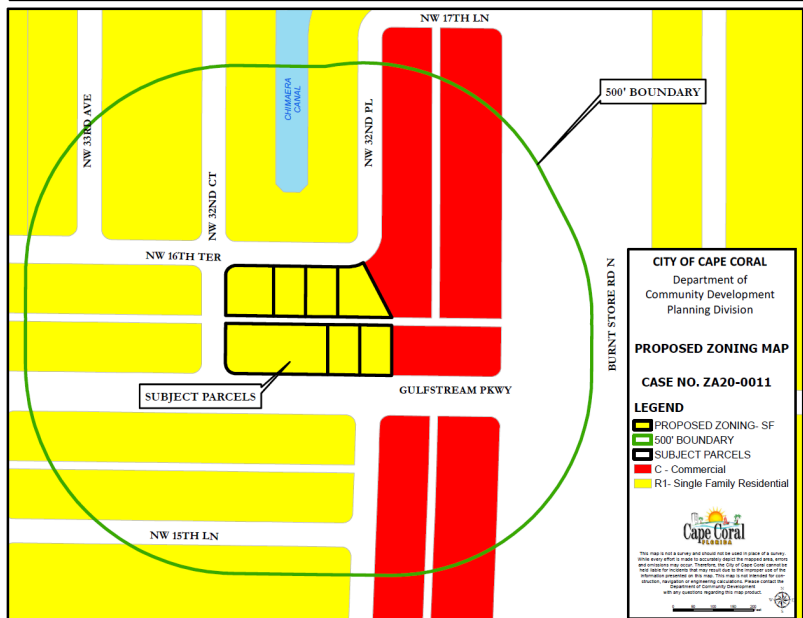
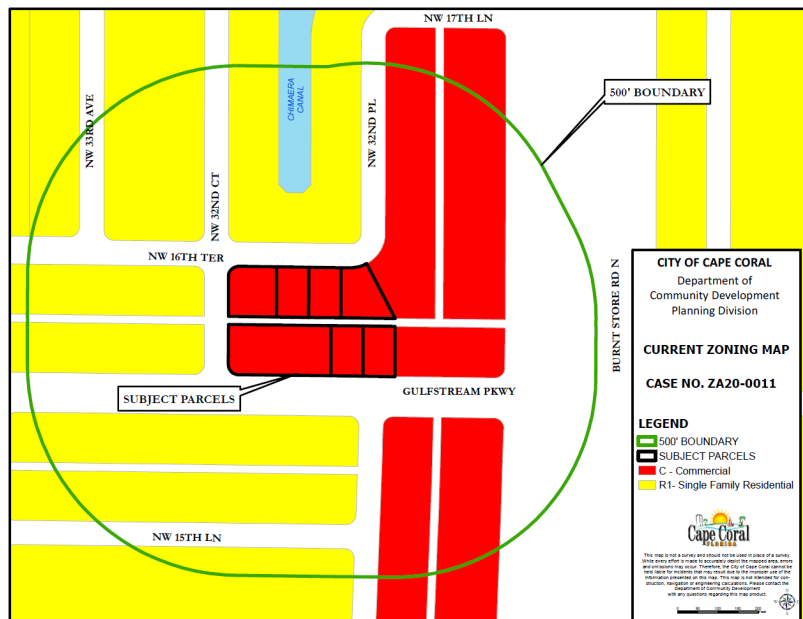
Policy 4.2.3: The City will continue to maintain or improve existing emergency evacuation times, as determined by the 2001 Regional Hurricane Evacuation Study Update prepared by the Southwest Florida Regional Planning Council.

**Reducing potential traffic generation by amending the future land use to a residential land use would positively affect emergency evacuation times for Burnt Store Road, which is a vital arterial roadway for residents of NW Cape Coral.**

**Overall, the rezone meets the policies of the Comprehensive Plan, above.**

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## Current and Proposed Zoning Maps



**Land Use and Development Regulations -- Section 3.4.6.B, Land Development Code:**

Staff reviewed this request in accordance with Section 3.4.6.B Rezones, of the Land Development Code and provides the following analysis. This section is used for rezone requests.

1. Whether the proposed zoning district is consistent with the City Comprehensive Plan.

A rezone to R1 **would** be consistent with the Single-Family future land use map classification proposed for the site. Per the Comprehensive Plan analysis above, the proposed zoning district is consistent with the City's Comprehensive Plan.

2. Whether the full range of uses allowed in the proposed zoning district will be compatible with existing uses in the area under consideration.

The existing use in the area consists of one single-family detached residence. The full range of uses permitted in the Single-Family Residential zoning district includes single-family residential uses and incidental civic infrastructure uses. The full range of uses **will** be compatible with existing uses in the area.

3. Whether the range of uses allowed in the proposed zoning district will be compatible with existing and proposed uses in the area under consideration.

As there are no buffering and landscaping requirements for abutting residential uses, and that uses proposed for the future in this area are single-family residences, the full range of uses **will** be compatible with both existing and proposed uses in the area.

4. Whether the proposed zoning district will serve a community need or broader public purpose.

The subject area is not a strong candidate for commercial development at this time. Removing restrictions for residential development and reducing traffic impacts (if developed) on a major evacuation route can improve evacuation times. This district **may** serve a community need.

5. The characteristics of the proposed rezone area are suitable for the uses permitted in the proposed zoning district; and

The property is relatively compact and is adjacent to other single-family residence blocks. The development pattern in the area is overwhelmingly single-family in nature, and as such, the characteristics of the proposed rezone are **suitable** for the uses permitted.

6. Whether a zoning district other than the district requested will create fewer potential adverse impacts to existing uses in the surrounding area.

The R1 district is the least intensive district that permits single-family residential development on 10,000-square foot parcels. Therefore, **no** other zoning district will create fewer potential adverse impacts.

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## **Public Notification**

This case will be publicly noticed as required by LDC, Section 3.1.10 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 Hearing Examiner, 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 Hearing Examiner.

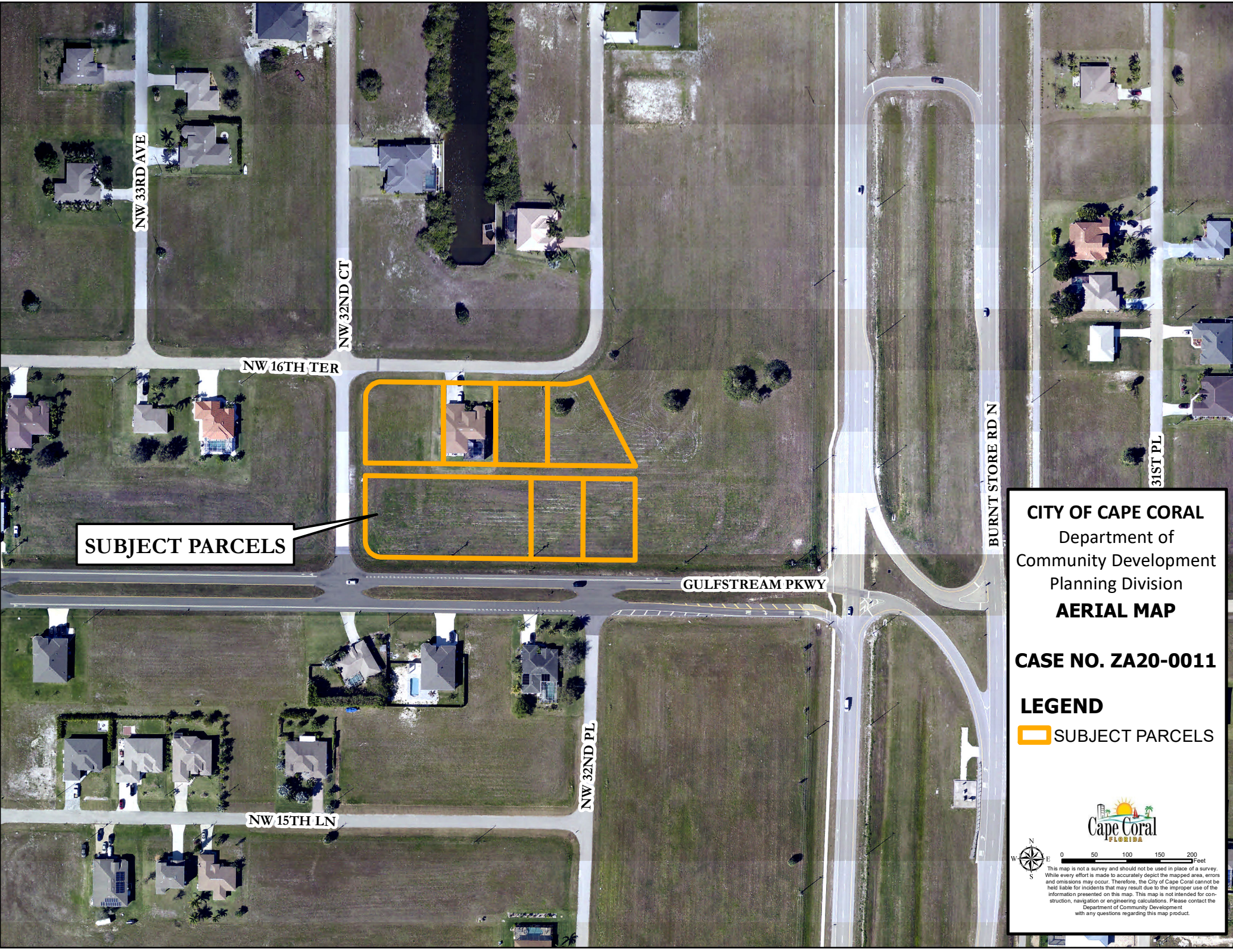
Posting of a Sign: A large sign identifying the case and providing salient information will be posted on the property, as another means of providing notice of the rezoning request.

## **Recommendation:**

Planning staff has reviewed this request in accordance with Section 3.4.6.B of the Land Development Code and the City's Comprehensive Plan. Planning Division recommends **approval** of the rezone request.


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**CITY OF CAPE CORAL**  
Department of  
Community Development  
Planning Division  
**AERIAL MAP**

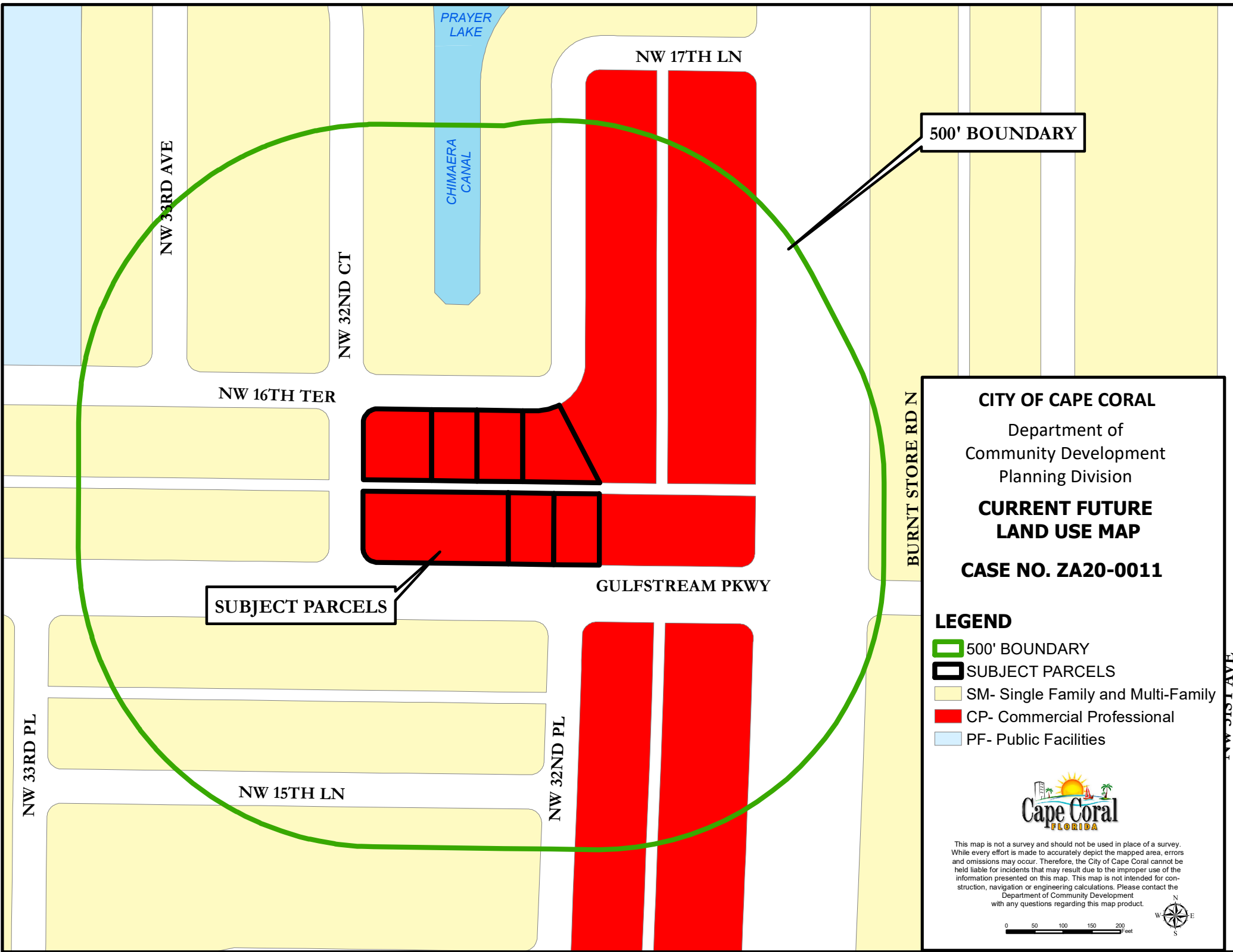
**CASE NO. ZA20-0011**

**LEGEND**  
 **SUBJECT PARCELS**

  
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.

  
0 50 100 150 200 Feet





500' BOUNDARY

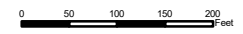
SUBJECT PARCELS

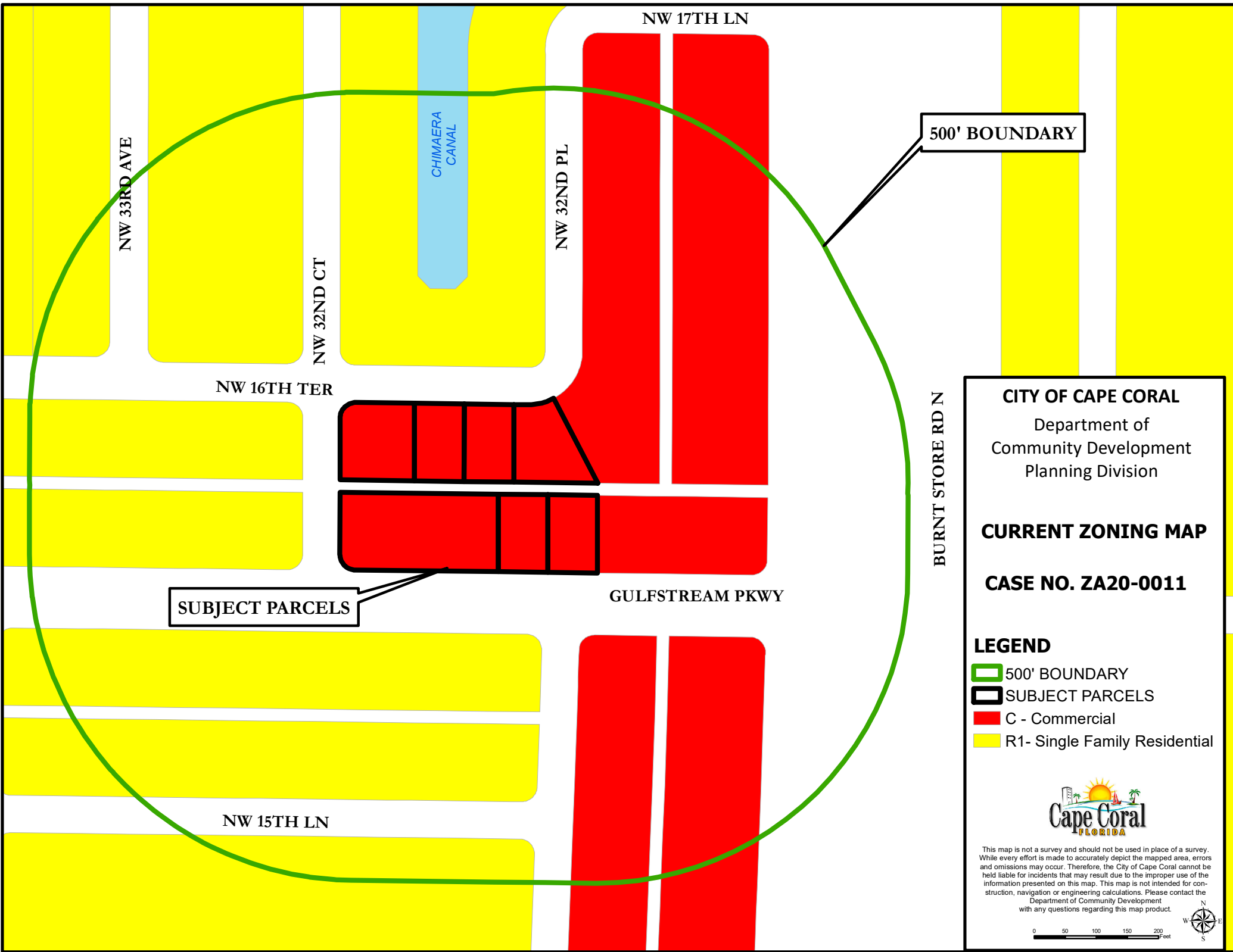
**CITY OF CAPE CORAL**  
Department of  
Community Development  
Planning Division  
**CURRENT FUTURE  
LAND USE MAP**  
**CASE NO. ZA20-0011**

- LEGEND**
- 500' BOUNDARY
  - SUBJECT PARCELS
  - SM- Single Family and Multi-Family
  - CP- Commercial Professional
  - PF- Public Facilities



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500' BOUNDARY

SUBJECT PARCELS

**CITY OF CAPE CORAL**  
Department of  
Community Development  
Planning Division

**CURRENT ZONING MAP**

**CASE NO. ZA20-0011**

**LEGEND**  

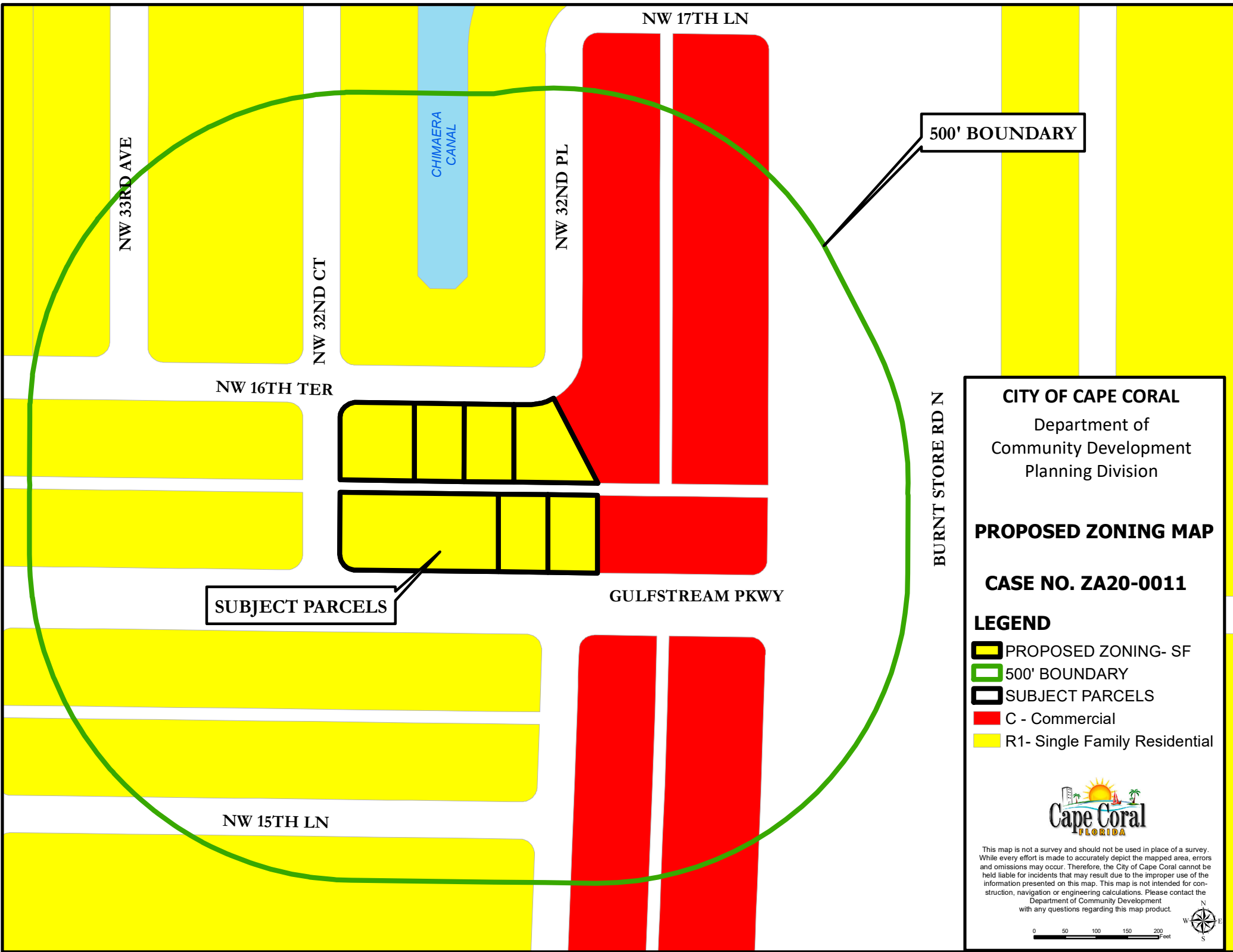
500' BOUNDARY

SUBJECT PARCELS

C - Commercial

R1- Single Family Residential

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500' BOUNDARY

SUBJECT PARCELS

**CITY OF CAPE CORAL**  
Department of  
Community Development  
Planning Division

**PROPOSED ZONING MAP**

**CASE NO. ZA20-0011**

**LEGEND**

- PROPOSED ZONING- SF
- 500' BOUNDARY
- SUBJECT PARCELS
- C - Commercial
- R1- Single Family Residential

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