

Mayor

John Gunter

Council Members

District 1: Gloria Raso Tate

District 2: Dan Sheppard

District 3: Tom Hayden

District 4: Jennifer I. Nelson

District 5: Robert M. Welsh

District 6: Keith E. Long

District 7: Jessica Cosden



1015 Cultural Park Blvd.
Cape Coral, FL

City Manager

Rob Hernandez

City Attorney

Dolores Menendez

City Auditor

Andrea R. Russell

City Clerk

Kimberly Bruns

**AGENDA FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

January 5, 2022

4:30 PM

Council Chambers

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.

VIDEO

1. MEETING CALLED TO ORDER

A. MAYOR GUNTER

2. INVOCATION/MOMENT OF SILENCE

A. COUNCILMEMBER SHEPPARD

3. PLEDGE OF ALLEGIANCE

A. COUNCILMEMBER SHEPPARD

4. ROLL CALL

A. MAYOR GUNTER, COUNCIL MEMBERS COSDEN, HAYDEN,
LONG, NELSON, SHEPPARD, TATE, WELSH

5. CHANGES TO AGENDA/ADOPTION OF AGENDA

6. RECOGNITIONS/ACHIEVEMENTS

A. NONE

7. APPROVAL OF MINUTES

A. Regular Meeting - December 15, 2021

8. CITIZENS INPUT TIME

A maximum of 60 minutes is set for input of citizens on matters
concerning the Consent Agenda and City Government within Council
jurisdiction to include Resolutions appearing in Sections other than Public

Hearings and Public Input; 3 minutes per individual.

9. BUSINESS

A. CONSENT AGENDA

- (1) Resolution 1-22 Award BID# BPW2191MM and corresponding contract for the Canal Maintenance Dredging FY21-22 project to LPS Utilities Inc., dba LPS Contracting in the amount of \$1,205,898.40 with a 10% City-controlled contingency of \$120,589.84 for a total of \$1,326,488.24. Authorize the City Manager or designee to execute the agreement, change orders and purchase orders; Department: Public Works; Dollar Value: \$1,326,488.24; (Stormwater Fund)
- (2) Resolution 2-22 Approve agreement for grant funding between the City of Cape Coral and the State of Florida to procure equipment to mitigate exposure to hazardous, cancer-causing chemicals through an apparatus bay ventilation system. Additionally, authorize the City Manager or designee to execute all procurement-related documents: Department: Fire; Award Value: \$19,200; City Match: (25%) \$4,800; (General Fund)
- (3) Resolution 3-22 Award RFP#RPW2144MC, and the corresponding contract, for the Bridge System Master Plan project to Volkert, Inc., for a not to exceed amount of \$273,424 and authorize the City Manager or designee to execute the agreement(s), change order(s), and purchase order(s); Department: Office of Capital Improvements; Dollar Amount: \$273,424; (General Fund \$200,000, 6 Cents Gas Tax \$73,424)
- (4) Resolution 6-22 Approve Narcotics Enforcement Task Force (NETFORCE) Memorandum of Understanding with the State Attorney and law enforcement agencies within Florida's Twentieth Judicial Circuit including the counties of Charlotte, Collier, Glades, Hendry, and Lee, and authorizing the Chief of Police to execute all necessary documents for the Cape Coral Police Department; Department: Police; Dollar Value: N/A
- (5) Resolution 8-22 Approve Impact Fee Deferral Agreements between City of Cape Coral and Habitat for Humanity of Lee and Hendry Counties; Department: Development Services; Dollar Value: \$56,686.60; (Fund: N/A)
- (6) Resolution 9-22 Approve a Substantial Amendment to the 2020-2024 City of Cape Coral Consolidated Plan and 2021-2022 One Year Community Development Block Grant (CDBG) Action Plan; Department: Development Services; Dollar Value: \$27,000; (Fund: CDBG)
- (7) Resolution 10-22 Approve License Agreements between City of Cape Coral and Meta at Cape Harbour Community Association, Inc., and City of Cape Coral and LDC Cape Harbour Holdings, LLC and City of Cape Coral and SHM Cape

Harbour, LLC for the temporary use of portions of their ownerships within Cape Harbour for event parking, participant registration and activities, spectators and vendors attending the Tour de Cape community event on January 21 - January 23, 2022; authorizing the City Manager or his designee to execute the License Agreements; Department: Public Works / Property Management Division; Dollar Value: N/A; (Fund: N/A)

B. PERSONNEL ACTIONS

- (1) Resolution 11-22 Approve Job Title Change from "Economic Development Manager" to "Economic and Business Development Officer"; Department: City Manager's Office; Dollar Value: N/A; (Fund: N/A)

C. PETITIONS TO COUNCIL

- (1) NONE

D. APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

- (1) Community Development Block Grant - 5 Vacancies
- (2) Golf Course Advisory Board - 2 Vacancies

E. FOLLOW UP ITEMS FROM CITY MANAGEMENT

- (1) Water Quality - Update

10. ORDINANCES/RESOLUTIONS

A. Public Hearings

- (1) Ordinance 51-21 (LU21-0003) Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An Ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial /Professional (CP) to Multi-Family Residential (MF) for property described as Lots 15-27, Block 1458, Unit 16; Lots 45-52 and 59-72, Block 1322, Unit 18; Lots 1-24 and 31-34, Block 3083, Unit 62; and Lots 1-22, Block 4454, Unit 63; from Commercial/Professional (CP) to Single Family Residential (SF) for property described as Lots 1-26, Block 4448, Unit 63; and Lots 1-8 and 12-20, Block 3169, Unit 66; from Multi-Family Residential (MF) to Commercial Activity Center (CAC) for property described as Lots 15-22, Block 4685, Unit 70; from Multi-Family Residential (MF) to Single Family Residential (SF) for property described as Lots 1-44, Block 4727, Unit 70; and from Pine Island Road District (PIRD) to Single Family Residential (SF) for property described as Lots 42-61, Block 1501, Unit 47, Part 1; Lots 1-32, Block 3570, Unit 47, Part 1; Lots 1-18, 22-34, and 37-45, Block 3571, Unit 47, Part 1; Lots 1-8 and 21-26, Block 3575,

Unit 47, Part 1; Lots 19-21, Block 3571, Unit 47, Part 4; Lots 3-10, Block 2030, Unit 31, Part 2; and Lots 24-46, Block 4560, Unit 68, all in Cape Coral Subdivision.

Applicant: City of Cape Coral

Acreage: 41.25 acres

Planning and Zoning Commission recommendation: Approval

City Planning recommendation: Approval

(2) Ordinance 74-21 (LU21-0005) Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial (a Lee County designation) to Pine Island Road District (PIRD) land use for property described as two parcels of land lying in Section 5, Township 44 South, Range 24 East, Lee County, Florida, as more particularly described herein; property located at 1930 NE Pine Island Road and 1352-1356 Del Pine Drive.

Applicant: The Paul V. Campbell and Joan E. Campbell Revocable Trust

Property acreage: 1.30 acres

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

(3) Ordinance 98-21 (TXT20-0008) First Public Hearing; Set Second and Final Public Hearing for January 19, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Development Code, by Amending Article 4, "Zoning Districts," Chapter 1, "General Provisions," Section 4.1.6., "Uses by Zoning District – Use Hierarchy," Table 4.1.6 Use Table, regarding Industrial Business Centers; by Amending Article 4, "Zoning Districts," Chapter 2, "Specific Regulations by District," Section 4.2.11., "Commercial Corridor (CC)," regarding Industrial Business Centers; by Amending Article 5, "Development Standards," Chapter 2, "Accessory Structures," Section 5.2.7., "Fences and Walls," regarding Fences and Walls in the Non-Residential and Mixed-Use zoning districts; by Amending Article 5, "Development Standards," Chapter 11, "Conditional Uses," to create Section 5.11.13., "Industrial Business Centers," regarding the establishment of zoning regulations for Industrial Business Centers; and by Amending Article 11, "Definitions," Chapter 1, General Provisions," Section 11.2., "Definitions," regarding Industrial Business Centers. (Applicant: City of Cape Coral)

Planning and Zoning Commission Recommendation: Approval

City Planning Staff Recommendation: Approval

(4) Ordinance 102-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance repeals Ordinance 88-21 which approved and

granted to South Florida Water Management District a perpetual conservation easement, in order to approve and grant to South Florida Water Management District a new perpetual conservation easement upon property owned by the City located in Section 4, Township 45 South, Range 23 East, Lee County, Florida, as more particularly described herein; and authorizes and directs the Mayor to execute the Deed of Conservation Easement-Passive Recreational Uses. (Applicant: Brought forward by the City Management.)

- (5) ITEM WITHDRAWN FROM AGENDA DUE TO A NOTICING ERROR - Ordinance 77-21 (LU21-0007) Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by changing the Future Land Use Map from Commercial/Professional (CP) to Single-Family Residential (SF) land use for property described as Lots 25-49, Block 2179, and Lots 24-56, Block 2233, Unit 33, Cape Coral Subdivision; property located on NE 19th Avenue and NE 23rd Terrace, south of Kismet Parkway and East of NE 17th Place.

Applicant: City of Cape Coral

Property acreage: 6.96 acres

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

B. Introductions

- (1) Ordinance 75-21 (LU21-0006) Set Public Hearing for January 19, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Single-Family/Multi-Family (SM) to Commercial Activity Center (CAC) land use for property described as a tract or parcel of land lying in a portion of the northeast quarter (NE 1/4) of Section 36, Township 43 South, Range 22 East, Lee County, Florida, being more particularly described herein; property located at 4120 and 4140 Kismet Parkway.

Applicants: Equity Trust Company Custodian FBO John W. Keenan Roth IRA; Alma and Ralph Santillo

Acreage: 3.3

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

- (2) Ordinance 78-21 (LU21-0011) Set Public Hearing for January 19, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral

Comprehensive Plan by changing the Future Land Use Map from Commercial/Professional (CP) to Multi-Family Residential (MF) land use for property described as Lots 1-6, 9, 10, and 15-20, Block 1006, Unit 24, Cape Coral Subdivision; property located at 1342-1348, 1402, 1414-1416, and 1502-1512 SE 1st Place.

Applicant: City of Cape Coral

Property acreage: 1.71 acres

City Planning Division Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

- (3) Ordinance 90-21 (LU21-0014) Set Public Hearing for January 19, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Multi-Family Residential (MF) to Single-Family Residential (SF) land use for property described as Lots 1-58, Block 4186, and Tract A, Block 4186A, all in Unit 59, Cape Coral Subdivision; amending the Future Land Use Map from Single-Family/Multi-Family (SM) to Single-Family Residential (SF) Land Use for property described as Lots 1-40, Block 4191, Unit 59, Cape Coral Subdivision; property located southwest of the intersection of Tropicana Parkway West and NW 33rd Avenue.

Applicant: City of Cape Coral

Acreage: 30.76 acres

City Planning Division recommendation: Approval

Planning and Zoning Commission recommendation: Approval

- (4) Ordinance 101-21 (LU21-0009) Set Public Hearing for January 19, 2022

WHAT ORDINANCE 101-21 ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial/Professional (CP) to Multi-Family Residential (MF) land use for property described as Lots 15 through 23, Block 3230, Cape Coral Unit 66; property located at 1425 Gleason Parkway. (Applicant: Gary L. Traylor)

City Planning Staff Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

- (5) Ordinance 1-22 Set Public Hearing for January 19, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Cape Coral Code of Ordinances, Chapter 2, "Administration", Article V, "Boards and Commissions", Division 12, "Youth Council", Section 2-120.49, "Youth Council", pertaining to qualifications and responsibilities of Youth Council members. (Applicant: Brought forward by Councilmember Cosden)

- (6) Ordinance 3-22 Set Public Hearing for January 19, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Ordinance 67-21, which adopted the City of Cape Coral Operating Budget, Revenues and Expenditures, and Capital Budget for Fiscal Year 2022, by increasing the total revenues and expenditures by a total of \$7,636,604. (Applicant: Brought forward by City Management)

- (7) Ordinance 5-22 Set Public Hearing for February 2, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Code of Ordinances, Chapter 11, Local Business Tax, Article I, General Provisions, Section 11-16, Schedule of Business Taxes to provide that local business taxes are levied and due from vacation rentals operating in the City. (Applicant: Brought forward by City Management.)

11. UNFINISHED BUSINESS

- A. Follow Up Items for Council

12. NEW BUSINESS

- A. NONE

13. REPORTS OF THE MAYOR AND COUNCIL MEMBERS

14. REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

15. TIME AND PLACE OF FUTURE MEETINGS

- A. A Committee of the Whole Meeting is Scheduled for Wednesday, January 12, 2022 at 3:00 p.m. in Council Chambers

16. MOTION TO ADJOURN

**GENERAL RULES AND PROCEDURES REGARDING
THE CAPE CORAL CITY COUNCIL AGENDA**

In accordance with the Americans with Disabilities Act and Section of 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Office of the City Clerk at least forty-eight (48) hours prior to the meeting. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

Persons wishing to address Council under Citizens Input may do so during the designated time at each meeting. No prior scheduling is necessary. All speakers must have their presentations approved by the City Clerk's office no later than 3:00 PM the day of the meeting. Any citizen may appear before the City Council at the scheduled PUBLIC HEARING/INPUT to comment on the specific agenda item being considered. No prior scheduling is necessary.

When recognized by the presiding officer, a speaker shall address the City Council from the designated speaker's lectern, and shall state his or her name and whom, if anyone, he or she represents. An address shall only be required if necessary to comply with a federal, state or local law.

Copies of the agenda are available in the main lobby of Cape Coral City Hall and in the City Council Office, 1015 Cultural Park Boulevard. Copies of all back-up documentation are also available for review in the lobby of Council Chambers. You are asked to refrain from removing any documentation. If you desire copies, please request they be made for you. Copies are 15 cents per page. Agendas and back-up documentation are also available on-line on the City website (capecoral.net) after 4:00 PM on the Thursday prior to the Council Meeting.

PUBLIC HEARINGS*DEPARTMENT OF COMMUNITY DEVELOPMENT CASES**

In all public hearings for which an applicant or applicants exist and which would affect a relatively limited land area, including but not limited to PDPs, appeals concerning variances or special exceptions, and small-scale rezonings, the following procedures shall be utilized in order to afford all parties or their representatives a full opportunity to be heard on matters relevant to the application:

1. The applicant, as well as witnesses offering testimony or presenting evidence, will be required to swear or affirm that the testimony they provide is the truth.
2. The order of presentation will begin with the City staff report, the presentation by the applicant and/or the applicant's representative; witnesses called by the applicant, and then members of the public.
3. Members of the City Council may question any witness on relevant issues, by the applicant and/or the applicant's representative, City staff, or by any member of the public.
4. The Mayor may impose reasonable limitations on the offer of testimony or evidence and refuse to hear testimony or evidence that is not relevant to the issue being heard. The Mayor may also impose reasonable limitations on the number of witnesses heard when such witnesses become repetitive or are introducing duplicate testimony or evidence. The Mayor may also call witnesses and introduce evidence on behalf of the City Council if it is felt that such witnesses and/or evidence are necessary for a thorough consideration of the subject.
5. After the introduction of all-relevant testimony and evidence, the applicant shall have the opportunity to present a closing statement.
6. If a person decides to appeal any decision made by the City Council 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.

Quasi-Judicial Hearings

For all quasi-judicial hearings, the following procedures shall be used to afford all parties a full opportunity to be heard on matters relevant to the application.

1. The applicant, as well as witnesses offering testimony, or presenting evidence, will be required to swear or affirm the testimony they provide is the truth.
2. The order of presentation will begin with the city staff report, followed by the presentation by the applicant or their representative, followed by witnesses called by the applicant. City staff may also call witnesses and experts. The members of the public will be offered an opportunity to speak after all witnesses and experts. (Note: The Mayor may change the order of presentations)
3. The applicant or their representatives and the city staff may cross examine individuals offering testimony.

4. Members of the City Council may question any witness on relevant issues raised by the applicant or applicant's representatives, city staff, or by any member of the public.
5. The Mayor may impose reasonable time limitations on the offer of testimony or evidence and refuse to hear testimony or evidence that is not relevant to the issue being heard. The Mayor may also impose reasonable limitations on the number of witnesses heard when such witnesses become repetitive or are introducing duplicate testimony or evidence. The Mayor may also call witnesses and introduce evidence on behalf of the City Council if it is believed that such witnesses and/or evidence are necessary for a thorough consideration of the subject.
6. After the introduction of all relevant testimony and evidence and conclusion of cross examination, the applicant shall have the opportunity to present a closing statement.
7. If any person decides to appeal any decision made by the City Council 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.



**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL

Item Number:	7.A.
Meeting Date:	1/5/2022
Item Type:	APPROVAL OF MINUTES

TITLE:

Regular Meeting - December 15, 2021

ORDINANCES AND RESOLUTIONS:

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

12/15 Regular Meeting minutes for review and approval.

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:

Approve

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns, City Clerk, 1-239-574-0417

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

n/a

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

PREPARED BY:

Kimberly Bruns Division- Managerial Department- City Clerk's Department

ATTACHMENTS:

Description	Type
1. Regular Meeting - December 15, 2021	Backup Material

**MINUTES FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

December 15, 2021

Council Chambers

4:30 P.M.

Meeting called to order by Mayor Gunter at 4:30 p.m.

INVOCATION/MOMENT OF SILENCE – Councilmember Nelson

PLEDGE OF ALLEGIANCE – Councilmember Nelson

Roll Call: Mayor Gunter, Councilmembers Cosden, Hayden, Long, Nelson, Sheppard, Tate, and Welsh were present.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Councilmember Tate moved, seconded by Councilmember Hayden, to approve the Agenda, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

Regular Meeting – December 1, 2021

Councilmember Nelson moved, seconded by Councilmember Tate, to approve the minutes for the December 1, 2021 Regular Meeting, as presented. Voice Poll: All "ayes." Motion carried.

CITIZENS INPUT TIME

Thomas Shadrach appeared to discuss the Parks GO Bond Budget update and Tourist Development Council (TDC) Funding Summary and possible available funding.

Councilmember Tate addressed the TDC inquiry for available funding. Council is working toward getting their seat back on the TDC. After tonight's meeting, there should be one Councilmember in attendance at TDC meetings. She discussed the items that the City has benefitted from and those they cannot qualify for.

Councilmember Nelson discussed the various funds availability from TDC. She announced a webinar that Staff will be attending on the 20th through the VCB (Visitor & Convention Bureau) that will train people how to write grants.

Mayor Gunter stated that he has been working with the State delegation in SWFL along with our County Commissioners to try to reestablish the seat on TDC. The seat was voluntarily relinquished, and it would take some time to getting this fixed.

City Manager Hernandez responded to the Yacht Club comment. He discussed the report of having 60 percent design completed on that facility. Based on that, he acknowledged that the number does deviate from what was shown on the graph. It is estimated at \$43M based on the cost inflation with construction, whereas earlier it was anticipated to be approximately \$36M.

BUSINESS

CONSENT AGENDA

- 1) Resolution 268-21 Approve Contract #SFN2221KS, with InfoSend, Inc. and approve waiver of the procurement procedures for continuation of bill processing, printing and mailing services in an estimated annual amount of \$360,000 for the term of three months or until a new contract is awarded, whichever is sooner. Authorize the City Manager or designee to execute the agreement(s), change order(s), contract amendment(s), renewal(s), and purchase orders; Department: Finance; Estimated Annual Dollar Amount: \$360,000; (Water & Sewer Fund)
- 2) Resolution 269-21 Approve Amendment #1 to Contract #CW17-53/SH-A with Alpha 1 Staffing + Search Firm, LLC.; Contract #CW17-53/SH-B with Coherent Staffing Solutions, Inc; Contract #CW17-53/SH-C with Hiring4U, Inc.; and, Contract #CW17-53/SH-D with People Ready Florida, Inc to provide Temporary Personnel Services to various City facilities in accordance with their respective unit prices in an estimated annual amount of \$275,000. Authorize the City Manager or designee to execute the agreements, amendments and any renewals. Department: Financial Services. Dollar Value: \$275,000 (Various funds such as General Fund; Enterprise funds)
- 3) Resolution 274-21 Acceptance of Drug Recognition Expert (DRE) Call Out Subcontract Grant Agreement, to conduct DRE evaluations on an overtime basis; Department: Police; Grant Award Value \$10,000; No City Match
- 4) Resolution 276-21 Award Invitation to Bid #BPW2201AP and corresponding contract for Local Road Resurfacing FY2022 to Pavement Maintenance, LLC of Fort Myers, FL, in the amount of \$4,044,746.94 with a 5% City-controlled contingency of \$202,237.35 for a total project cost of \$4,246,984.29. Authorize the City Manager or designee to execute the contract and any subsequent amendments, purchase orders and change orders; Department: Public Works; Dollar Value: \$4,246,984.29; (Road Resurfacing Fund, General Fund, and Water and Sewer Fund)
- 5) Resolution 279-21 Approve a Pilot Solid Waste Bulk Drop Off Site with Waste Pro, authorizing funds for staffing at Bulk Solid Waste Drop site and hauling of solid waste collected, and authorizing the waiver of procurement procedures; Department: Public Works; Dollar Value (Solid Waste Fund-Outside Services \$88,000) and (Solid Waste Fund-Trash Removal of approximately \$59,000)
- 6) Resolution 258-21 Approve Final Plat for the reconfiguration of existing platted townhouse lots in phase 2 of Coral Lakes Tract 3. This replat will increase the size of the smaller lots, reducing the total lot count in this tract from 242 to 230 lots; Department: Development Services; Dollar Value: N/A; (Fund: N/A)
- 7) Resolution 277-21 Approve Final Plat of VA Pine Island South. This plat recombines six undeveloped acreage parcels of land lying between Diplomat Parkway and Pine Island Road east of Corbett Road. This subdivision plat will create two new platted parcels to facilitate further permitting and development of the property. There are no improvements proposed at this time; Department: Development Services; Dollar Value: N/A; (Fund: N/A)
- 8) Resolution 281-21 Approve Amendment #2 to Agreement CON-UEP17-49/SH for the North 2 Utilities Extension Project for Construction Engineering and Inspection Services with Greeley and Hansen LLC in the amount of \$927,737 Department: City Manager Office of Capital Improvements Dollar Value \$927,737
- 9) Settlement Agreement in the case of Greeley and Hansen, LLC v. City of Cape Coral, Case No. 21-CA-002974

Mayor Gunter asked if any Councilmember wanted to pull any item. There were none.

Councilmember Tate moved, seconded by Councilmember Nelson, to approve items 9(A)(1), 9(A)(2), 9(A)(3), 9(A)(4), 9(A)(5), 9(A)(6), 9(A)(7), 9(A)(8), and 9(A)(9), as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

PERSONNEL ACTIONS

Resolution 280-21 Approve creation of nine new position classifications; Department: Various

City Manager Hernandez explained Resolution 280-21. Council has already approved the creation of the positions in the FY22 Budget, and this would create the classifications and pay ranges.

Councilmember Tate moved, seconded by Councilmember Nelson, to approve Resolution 280-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Municipal Police Employees' Pension Trust Fund Board of Trustees - Ratification of 5th Trustee

City Clerk Bruns stated that the Cape Coral Police Employees' Pension Board of Trustees selected Paul Blanchard to serve as the "5th Trustee". Mr. Blanchard's term is effective November 1, 2021 through October 31, 2025. The Cape Coral Police Employees' Pension Board of Trustees respectfully requests that the City Council accept and affirm the appointment as a ministerial duty of the Council.

Councilmember Tate moved, seconded by Councilmember Nelson, to approve the appointment (of Paul Blanchard to serve as the "5th Trustee" on the Municipal Police Employees' Pension Trust Fund Board of Trustees as a ministerial duty of the Council).

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

Youth Council - At-Large Senior Vacancy

City Clerk Bruns explained the following:

- One Senior Vacancy from At-Large from home schooling other source, including but not limited to, a private school, charter school, or virtual school.
- One application received from Jimei Lin from Mariner High School.
- Please note if Jimei Lin is selected to fill the At-Large vacancy, one Youth Council vacancy will remain.

Councilmember Tate moved, seconded by Councilmember Hayden, to appoint Jimei Lin to fill the At-Large Senior vacancy of the Youth Council.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

Councilmember Hayden discussed the preference of not pursuing or accepting any more applications to fill the Oasis High School vacancy.

There were no objections.

City Clerk Brunns replied in the affirmative.

Districting Commission - 1 Vacancy

City Clerk Brunns explained the following:

- City Clerk's Office reached out to remaining applicants to determine if they were interested in being considered for appointment.
- One applicant withdrew, but all three remaining applicants were interested in consideration.
- Applicants were not invited to the meeting since Council had indicated they had the applications for review.

Applicants:

Robert David Crum-WITHDRAWN
Christina Grade Redman
Andrew James Sund
Cathy Ann Tunney

Discussion held regarding if every District had representation on the Board.

Councilmember Welsh pointed out that Mr. Sund was the highest vote getter in the last meeting who did not get appointed to the Commission.

Councilmember Nelson, seconded by Councilmember Hayden, to appoint Andrew James Sund to the Districting Commission.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

ADDENDUM: Tourist Development Council – Appoint Informational Representative from Council – Brought forward by Mayor Gunter

Mayor Gunter explained this agenda item. He discussed the following:

- Important to appoint an Informational Representative to participate in TDC meetings until we have a non-voting representative on that Board
- Bill will be required through the legislative delegation to reestablish this seat
- Will not be able to happen until next year
- There is contradictory information in the State regulation regarding the makeup of the Board; requested copy of the Bill and Florida Statute for review
- Recommended getting a volunteer or appoint Councilmember to participate in the meetings
- Next Meeting: January 13th at 9:00 a.m. until 12:00 p.m. (2nd Thursday)

Councilmember Hayden mentioned that January 11th was the deadline to file a Bill. He inquired if Councilmembers Nelson or Tate would be interested.

Councilmember Nelson nominated Councilmember Tate.

Councilmember Nelson moved, seconded by Councilmember Hayden, to appoint Councilmember Tate as the Informational Representative from Council to the Tourist Development Council.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

Councilmember Tate asked if a letter of notification of our selection was necessary.

Mayor Gunter stated he would write a letter to the TDC to inform them that City Council has appointed Councilmember Tate to be our Informational Representative for the City of Cape Coral.

Councilmember Nelson recommended that Mayor Gunter send that letter to Tamara Pigott, VCB Executive Director.

FOLLOW UP ITEMS FROM CITY MANAGEMENT

Water Quality - Update

Environmental Resources Manager Robert provided an update on the Water Quality:

- Water Quality is good in the region
- LOSOM will start at the beginning of the year
- C-43 Reservoir not effective until 2025
- Some Blue Green Algae at the Davis Boat Ramp
- Red Tide is currently either absent or very low offshore of Lee County

Interim Public Works Director Ilczyszyn provided an update on the Bubble Curtain:

- Permit update – moving forward with upland work and hold off on the in-water work
- Working with Communications on two page cut sheet for 14 homes immediately adjacent to the properties
- Survey group will stake out the easements
- Solitude will put in directional drill for the lines from the cabinets to the seawall
- Modifying project management approach
- Email sent to Army Corps of Engineers this morning, email back this afternoon indicating that there was no status update on their side
- Waiting for regulatory permits

Councilmember Tate requested the information available to share with the 14 homes in her District. She also requested a map of those homes.

Interim Public Works Director Ilczyszyn responded in the affirmative.

Councilmember Hayden questioned why the permits were taking so long.

Interim Public Works Director Ilczyszyn explained the following:

- Biologists have written the staff report which goes through a series of a process
- That Biological Opinion has to go through a series of reviews before the National Marine Fisheries who will actually issue a formal Biological Opinion on the impact of a specific permitting activity on an endangered species.
- The Army Corps has to wait until they get that formal Biological Opinion before they can release the permit.
- We are waiting to receive that Biological Opinion to get its final stamp at the National Marine Fisheries which will then go to the Army Corps of Engineers.
- He has been given assurance from the local permitting district that once they have that Biological Opinion, they will issue the permit.
- Approvers are unknown, but it is not the Army Corps of Engineers.
- He can request that from them and see if we can understand the approval process, and he would share that information with an email to Council.

Councilmember Hayden expressed his concern about getting it before the rainy season.

Interim Public Works Director Ilczyszyn noted that if approval was not received by January 31st, we could look for outside support to get this issue completed. Staff was planning for two days of in-water work at each location. It is estimated to be 20 days from the time that we have the material on site. Inland work is being done now to shorten the timeline.

Councilmember Tate asked if these are the same people that are waiting for permits for the Yacht Club come April.

Interim Public Works Director Ilczyszyn stated the Corps is permitting all regulatory actions that relate to endangered species. The distinction between the two projects is that in the bubble curtain situation it is a new technology not previously authorized or permitted at those specific locations. The difference with the Yacht Club is that the seawall, marina, and the boat ramp already exist and already have been permitted. Renewal replacements are a lower level of scrutiny. He noted that he was working directly with the US Army Corps of Engineers Permitting Section Chief for the Fort Myers District.

ORDINANCES/RESOLUTIONS

Public Hearings

Resolution 267-21 (VP21-0009*) Public Hearing

***Quasi-Judicial, All Persons Providing Testimony Must Be Sworn In**

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for a portion of the Catfish Canal right-of-way and all underlying easements located adjacent to Lots 15-19, Block 4685, Cape Coral Unit 70; providing for the vacation of plat for public utility and drainage easements adjacent to the Catfish Canal associated with Lots 15-19, Block 4685, Cape Coral Unit 70; providing for the vacation of plat of all internal lot lines and internal platted easements associated with Lots 15-22, Block 4685, Cape Coral Unit 70; property located at 3622 Chiquita Boulevard South.

Applicant: Newcom Real Properties, LLC

Acreage: 1.70 acreage

Hearing Examiner Recommendation: Approval with conditions

City Planning recommendation: Approval with conditions

City Clerk Bruns read the title of the Resolution and administered the oath.

Planning Team Coordinator Struve discussed the following displayed slides:

- Resolution 267-21 VP 21-0009
- Owner, Rep, Request, Location
- Site Map, Aerial Map
- Current Zoning Map
- Background
- Canal ROW and underlying easement area requested to be vacated 5,411 sf (0.12 acres)
- Vacate perimeter easements in Lots 15-19, vacate internal easements in Lots 15-22, vacate internal lot lines of Lots 15-22, easements will be granted by the owner to provide a continuous perimeter easement
- Analysis (LDC 3.4.5B)
- Staff recommendation – approval with conditions
- HEX recommended approval with staff conditions, no speakers at Public Hearing
- Correspondence – two phone calls – informational; one email - opposed

Public Hearing opened.

Joe Mazurkiewicz, President, BJM Consulting, Inc., appeared on behalf of the applicant/owner. He highlighted that the site of the additional depth on the waterfront has great opportunities for restaurants and professional offices. He discussed changes to the Land Use and Zoning which would allow for mixed used developments. By the end of January, this area would be available for marketing for economic incentives as a high social area for commercial and non-residential project. He requested approval of this vacation.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to approve Resolution 267-21, as presented.

Councilmember Welsh inquired if they were planning on filling in the canal.

Planning Team Coordinator Struve responded that the area indicated in red would be filled in. The applicant would cap it with a seawall.

Councilmember Welsh asked if the one email of opposition was from a nearby resident.

Planning Team Coordinator Struve responded in the affirmative. He noted that resident indicated he was opposed to the rezoning of the site. This vacation has no effect on any new uses.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 96-21 Public Hearing (Continued from December 1, 2021)

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance authorizes and directs the Mayor to enter into an "Amended Master Lease Agreement for All Charter Schools and Facilities" with the Cape Coral Charter School Authority for the lease of property owned by the City of Cape Coral at 3519 Oasis Boulevard, 3519B Oasis Boulevard, 3507 Oasis Boulevard, 3415 Oasis Boulevard, and 2817 SW 3rd Lane.

City Clerk Bruns read the title of the Ordinance.

Assistant City Manager Barron explained the following:

- Ordinance 96-21
- The City entered into a Master Lease Agreement with the Cape Coral Charter School Authority in October 2011 for the lease of properties that comprise the Cape Coral Charter School system.
- Page 2 - changes of annual rent payment from \$3.2M to \$1.5M
- Page 3 - premises section D maintenance – second line - lessor responsibilities
- Page 4 – Lessor language update
- Parking area – change in responsible party to the City
- Section E. Access – removed the five days written notice to school administration for access
- Section G. Alterations – removed the option to no longer providing consent; they are not allowed to make any structural changes
- Page 11 – Legal change – Section J. Attorney's Fees

Councilmember Tate noted that the Charter School Governing Board approved the changes unanimously.

Public Hearing opened and continued from last meeting.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt Ordinance 96-21, as presented.

Councilmember Welsh inquired if we were giving up our rights to be used for other City activities with this lease.

City Attorney Menendez responded that she did not see that ownership was being given to the Lessee. She questioned if it would be disrupting their activity.

Councilmember Welsh stated he would be in favor of utilizing the buildings for other activities if the need arises.

Assistant City Manager Barron stated that the City could work with the School Administration to help cover the debt for the use of the facilities. The lease did not include the Middle School Gym Use Agreement which was pending.

Mayor Gunter inquired about revisiting and modifying Chapter 26. He inquired about the timeline for the modification.

Assistant City Manager Barron stated that this would be worked on by Staff after the start of the new year. She has had discussions with the City Attorney and the Finance Director. She opined that there probably will not be any major changes. She pointed out with City Council agreeing to provide financial support and to keep our excellent Charter Schools continuing, the directive that we received was that we were to get more involved with the operational side of the Schools. She discussed the transitional process of operations such as custodial and IT services. There were some challenges and now taking steps necessary to have a clear idea and plan on how to move forward with finalizing the transition and making changes to Chapter 26. She noted the School was putting their budget together now, and Staff wants to get Council involved sooner in their review of that budget.

Mayor Gunter asked if Council would be reviewing Chapter 26 sometime between the end of the school year and the beginning of the following school year.

Assistant City Manager Barron stated it would probably be before then. It was anticipated that Staff would work on it after the first of the year.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 99-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance creating Chapter 29, Economic Development and Business Incentive Programs, of the City of Cape Coral Code of Ordinances, by establishing Article I, General Provisions; providing for purpose, intent, and authority; providing definitions; creating an Economic and Business Development Incentive Fund; providing for general program requirements and guidelines; establishing Article II, Incentives; creating a Local Job Creation Incentive Program; providing for the Florida Qualified Target Industry Tax Refund; creating Creative Cape Arts Incentive Program; creating Cape Collaborates Small Business Partner Program; creating a Business Infrastructure Grant; creating an Enhanced Property Value Recapture Grant. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

City Manager Hernandez noted that this had already been presented at three public workshops and requested Council consider the following changes:

- Section 29-3 add the phrase "program, administration, implementation, and monitoring" as eligible uses to be funded through the Economic and Business Development Incentive Fund
- Add a new bullet point which reads: "Utility bills and business taxes" to Section 29-4(k)(3), this section talks about applicants that would be disqualified, anyone that has outstanding monies owed to the City
- Section 29-4(n) replace the word "division" with "program"
- Section 29-10(e)(7) – for clarification that we make the following changes in the chart: category between \$45M and \$99.9M for projects that are funded in the CRA the length of time shall be 20 years or the remaining life of the CRA if the project is within the CRA, whichever is less

- In the \$100M plus category – “the length shall be 25 years or the remaining life of the CRA if the project is within the CRA whichever is less”

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt Ordinance 99-21, as modified, (with the following revisions: In Sec 29-3, add “Program administration, implementation, and monitoring” as a new bullet point; Insert “utility bills and business taxes” to Sec. 29-4(k)(3); in Sec 29-4(n) replace “division” with “Program”; and in Sec 29-10(e)(7), the chart should state, in the \$45 – 99.9 million category, the length of time shall be 20 years or the remaining life of the CRA, if the project is within the CRA, whichever is less. In the \$100M plus category, the length shall be 25 years or the remaining life of the CRA, if the project is within the CRA, whichever is less).

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted “aye.” Eight “ayes.” Motion carried 8-0.

Ordinance 100-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance of the City Council of the City of Cape Coral creating and establishing the Cape Competes Advisory Board; amending the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article V, Boards and Commissions, creating Division 16, Cape Competes Advisory Board; providing purpose and creation; powers and duties; membership and appointment, term, and vacancies and forfeiture of office; meetings, procedures, records and quorum; compensation. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

City Manager Hernandez noted that this had already been presented at three public workshops and noted the following:

- The Cape Competes Advisory Board is created to serve as a voice of local businesses to assist them in their ability to do business in the City, maintain a positive relationship with the local business community and the City, and to enhance the overall business climate within the City.
- The Advisory Board is created to make recommendations and furnish input and helpful information to the City Council to assist them in their policy making as it pertains to the local business community.
- The Advisory Board shall make nonbinding policy recommendations specifically related to the relationship between local businesses and the City.
- Staff recommended a seven-member group.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Cosden, to adopt Ordinance 100-21, as presented.

Councilmember Tate requested that one of the members of the Board be specific to the Executive Director of the Cape Coral Chamber of Commerce or her designee.

City Manager Hernandez suggested language to be clearer if Council so desired.

City Attorney Menendez stated that the Ordinance as written and presented today did not allow for the Executive Director of the Cape Coral Chamber of Commerce to be on the Board. The language could be added to the Ordinance to allow for this change.

Councilmember Tate stated she would like to make this change if Council supported it.

Mayor Gunter reviewed the membership of the Board. He noted that Section 2-120.63.A.6. has two owners which would make the Board seven members.

City Attorney Menendez stated the Ordinance can be changed to increase the membership to eight members. In addition to all the members, there would always be one member that would be the Executive Director or designee of the Chamber of Commerce.

Mayor Gunter supported the additional person to be outlined as an individual from the Chamber of Commerce.

Councilmember Welsh was in favor with adding an eighth seat or keeping it "as-is". He suggested having a term less than three years.

Councilmember Nelson agreed with the eighth seat, and she opined that it made sense to include the Chamber of Commerce.

Councilmember Cosden also agreed with the eighth seat.

Motion maker and second agreed to amend the motion to make it an eight-member Board, and the eighth member being the CEO or their designee of the Chamber of Commerce of Cape Coral for three-year terms.

Councilmember Welsh suggested changing the three-year term to a one-year term.

Mayor Gunter asked if any Councilmember wished to discuss Councilmember Welsh's suggestion. There were none.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

Resolution 264-21 Public Input

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution provides that the City elects to use the uniform method of collecting non-ad valorem special assessments levied within certain portions of the incorporated area of the City described within the resolution, states a need for such levy, and provides for the mailing of the resolution. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Resolution.

Financial Services Director Mason explained the following:

- The Resolution provides that the City elects to use the uniform method of collecting non-ad valorem special assessments levied within certain portions of the incorporated area of the City described within the Resolution, states a need for such levy, and provides for the mailing of the Resolution.
- Requirement for future assessment such as alley ways assessments

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Nelson moved, seconded by Councilmember Tate, to approve Resolution 264-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Cosden, Gunter, Hayden, and Long voted "aye." Eight "ayes." Motion carried 8-0.

Introductions

Councilmember Nelson left the dais at 5:53 p.m. and returned at 5:56 p.m.

Ordinance 51-21 (LU21-0003) Set Public Hearing for January 5, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An Ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial /Professional (CP) to Multi-Family Residential (MF) for property described as Lots 15-27, Block 1458, Unit 16; Lots 45-52 and 59-72, Block 1322, Unit 18; Lots 1-24 and 31-34, Block 3083, Unit 62; and Lots 1-22, Block 4454, Unit 63; from Commercial/Professional (CP) to Single Family Residential (SF) for property described as Lots 1-26, Block 4448, Unit 63; and Lots 1-8 and 12-20, Block 3169, Unit 66; from Multi-Family Residential (MF) to Commercial Activity Center (CAC) for property described as Lots 15-22, Block 4685, Unit 70; from Multi-Family Residential (MF) to Single Family Residential (SF) for property described as Lots 1-44, Block 4727, Unit 70; and from Pine Island Road District (PIRD) to Single Family Residential (SF) for property described as Lots 42-61, Block 1501, Unit 47, Part 1; Lots 1-32, Block 3570, Unit 47, Part 1; Lots 1-18, 22-34, and 37-45, Block 3571, Unit 47, Part 1; Lots 1-8 and 21-26, Block 3575, Unit 47, Part 1; Lots 19-21, Block 3571, Unit 47, Part 4; Lots 3-10, Block 2030, Unit 31, Part 2; and Lots 24-46, Block 4560, Unit 68, all in Cape Coral Subdivision.

Applicant: City of Cape Coral

Acreage: 41.25 acres

Planning and Zoning Commission recommendation: Approval

City Planning recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 5, 2022 in Council Chambers.

Ordinance 74-21 (LU21-0005) Set Public Hearing for January 5, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial (a Lee County designation) to Pine Island Road District (PIRD) land use for property described as two parcels of land lying in Section 5, Township 44 South, Range 24 East, Lee County, Florida, as more particularly described herein; property located at 1930 NE Pine Island Road and 1352-1356 Del Pine Drive.

Applicant: The Paul V. Campbell and Joan E. Campbell Revocable Trust

Property acreage: 1.30 acres

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 5, 2022 in Council Chambers.

Ordinance 77-21 (LU21-0007) Set Public Hearing for January 5, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by changing the Future Land Use Map from Commercial/Professional (CP) to Single-Family Residential (SF) land use for property described as Lots 25-49, Block 2179, and Lots 24-56, Block 2233, Unit 33, Cape Coral Subdivision; property located on NE 19th Avenue and NE 23rd Terrace, south of Kismet Parkway and East of NE 17th Place.

Applicant: City of Cape Coral

Property acreage: 6.96 acres

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 5, 2022 in Council Chambers.

Ordinance 98-21 (TXT20-0008) Set First Public Hearing for January 5, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Development Code, by Amending Article 4, "Zoning Districts," Chapter 1, "General Provisions," Section 4.1.6., "Uses by Zoning District – Use Hierarchy," Table 4.1.6 Use Table, regarding Industrial Business Centers; by Amending Article 4, "Zoning Districts," Chapter 2, "Specific Regulations by District," Section 4.2.11., "Commercial Corridor (CC)," regarding Industrial Business Centers; by Amending Article 5, "Development Standards," Chapter 2, "Accessory Structures," Section 5.2.7., "Fences and Walls," regarding Fences and Walls in the Non-Residential and Mixed-Use zoning districts; by Amending Article 5, "Development Standards," Chapter 11, "Conditional Uses," to create Section 5.11.13., "Industrial Business Centers," regarding the establishment of zoning regulations for Industrial Business Centers; and by Amending Article 11, "Definitions," Chapter 1, General Provisions," Section 11.2., "Definitions," regarding Industrial Business Centers. (Applicant: City of Cape Coral)

Planning and Zoning Commission Recommendation: Approval

City Planning Staff Recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

The first public hearing was scheduled for January 5, 2022 in Council Chambers.

Ordinance 102-21 Set Public Hearing for January 5, 2022

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance repealing Ordinance 88-21 which approved and granted to South Florida Water Management District a perpetual conservation easement in order to approve and grant to South Florida Water Management District a new perpetual conservation easement upon property owned by the City located in Section 4, Township 45 South, Range 23 East, Lee County, Florida, as more particularly described herein; authorizing and directing the Mayor to execute the Deed of Conservation Easement-Passive Recreational Uses; a copy of the deed of Conservation Easement-Passive Recreational Uses is attached hereto and incorporated herein by reference. (Applicant: Brought forward by the City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 5, 2022 in Council Chambers.

UNFINISHED BUSINESS

Follow Up Items for Council

None.

NEW BUSINESS

None.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Nelson – Topics: Attended Downtown City Tree Lighting Event; attended with other Councilmembers and the Mayor a Legislative Luncheon in Naples hosted by Senators Passidomo and Rodriques; also attended with the Mayor and his wife the PACE Center for Girls Funky Fundraiser that raised over \$30K; also attended with Council the City Hall Tree Lighting; looking forward to the Boat-A-Long this weekend.

Councilmember Sheppard – Topics: Wished everyone a happy holiday.

Councilmember Tate – Topics: Attended the City Hall Tree Lighting; Charter School received a grant for \$350K with help from Representative Giallombardo, the Brian Rist Foundation, Dr. Carol Rae Culliton and the Gunterberg Foundation, all PTOs matched those funds; Wished everyone Merry Christmas and Happy New Year.

Councilmember Welsh – Topics: Interested in being the Council Liaison on Cape Competes. Attended the Mayor Scholarship Fundraiser at Coral Oaks with Councilmember Hayden; attended the Brotherhood of Heroes Anniversary Party; Wished everyone Happy Holidays.

Councilmember Cosden – Topics: No report and wished everyone Happy Holidays.

Councilmember Hayden – Topics: Attended the Mayor Scholarship Fundraiser at Coral Oaks which raised about \$24K; attended the Tree Lightings; also attended the Brotherhood of Heroes Military Museum Resource Center Event last week at Cape Cabaret; Saturday morning attended the Pancake Breakfast for foster children and their families at Fire Station 9.

Councilmember Long – Topics: No report.

Mayor Gunter – Topics: 12/2/21 along with Councilmember Tate attended the opening of Cabinet Genies; 12/3/21 Guest Speaker at the Cape Coral Gulf Coast Rotary Club; 12/4/21 attended the kickoff for the Mayor Scholarship Fundraising Event at Coral Oaks Golf Course; 12/4/21 attended the Northwest Neighborhood Association (NWN) meeting at Tropicana Park; attended the Holiday Festival of Lights with fellow Councilmembers; 12/7/21 attended the Annual Pre-Luncheon with Senators Passidomo and Rodrigues along with several Councilmembers; also attended the PACE Center for Girls Fundraiser; Tree Lighting Event at City Hall, thanked the City Manager and the Interim Public Works Director for putting that together; 12/10/21 attended the Brotherhood of Heroes Anniversary and Christmas Party with several Councilmembers; 12/14/21 attended the Luncheon at Cape Coral Chrysler Dodge and Jeep; also attended several other Christmas parties throughout the City. He thanked Staff for what they do each and every day for our community. Wished everyone a very Merry Christmas, Happy Hanukah, Happy Holidays, and the best for the New Year. He also wished the community's business owners the best of luck for next year. He thanked our First Responders for all that they do in our community throughout the year.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: No Report.

City Manager: Announced that the City of Cape Coral Police Department received accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA). Recognized Detective Jennifer Silko and Morgan Mills for Chief Sizemore's go to people on accreditation. He reported that Chief Sizemore was selected by his peers from Sarasota to Marco Island as the 2021 Southwest Florida Police Chief Association's Outstanding Law Enforcement Chief Executive. He reminded the public that this Friday, December 17th, City Hall would be closed between 12:00 to 4:30 p.m. He wished everyone Happy Holidays and a prosperous New Year.

Mayor Gunter acknowledged the importance of the national accreditation the Police Department received. He mentioned that the Fire Department was also moving forward with pursuing their accreditation.

TIME AND PLACE OF FUTURE MEETINGS

A Regular Meeting of the Cape Coral City Council was scheduled for Wednesday, January 5, 2022 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:11 p.m.

Submitted by,

Kimberly Bruns, CMC
City Clerk



AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number: A.(1)

Meeting Date: 1/5/2022

Item Type: **CONSENT AGENDA**

TITLE:

Resolution 1-22 Award BID# BPW2191MM and corresponding contract for the Canal Maintenance Dredging FY21-22 project to LPS Utilities Inc., dba LPS Contracting in the amount of \$1,205,898.40 with a 10% City-controlled contingency of \$120,589.84 for a total of \$1,326,488.24. Authorize the City Manager or designee to execute the agreement, change orders and purchase orders; Department: Public Works; Dollar Value: \$1,326,488.24; (Stormwater Fund)

ORDINANCES AND RESOLUTIONS:

WHAT THE RESOLUTION ACCOMPLISHES:

The Resolution awards a bid for the Canal Maintenance Dredging FY21-22 Project to LPS Utilities, Inc. d/b/a LPS Contracting and authorizes the City Manager or his designee to execute the contract, purchase orders and change orders and provides for approval of a contingency amount.

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

Over the years, the City of Cape has performed maintenance dredging as canals have silted in, biological growth has occurred, and/or tidal forces have shifted the sea floor, which reduces the City's Stormwater Conveyance system.

Bathymetric surveys of all the canals in the SE quadrant of the city were completed in 2020. From the survey, 22 canals were identified as not meeting the current level of service set for our canal system. These canals have less than 3 foot at mean low tide. Any depth greater than 5 feet at mean low water is considered an "A" level of service.

On July 14, 2021, Invitation to Bid BPW2191MM was issued to secure a contract for the Canal Maintenance Dredging FY21-22 project and 42 plan holders downloaded the documents.

On August 13, 2021, five responses were received. The bidders were as follows: Ahtna Marine & Construction Co. LLC of Pompano Beach, FL; Arbor Tree and Land Inc. of West Palm Beach, FL; LPS Utilities Inc dba LPS Contracting of Woodstock, IL; Poseidon Dredge & Marine Inc., of Lantana, FL. and Waterfront Property Services, LLC dba Gator Dredging of Clearwater, FL

After evaluation, Staff recommends awarding a contract to LPS Utilities Inc., dba LPS Contracting as the lowest responsive responsible bidder meeting the requirements and specifications outlined in the bid documents

If approved, the contract is to be completed in 365 days from the notice to proceed for a contract amount of \$1,205,898.40 with a 10% City-controlled contingency of \$120,589.84 for a total of \$1,326,488.24.

The Interim Department Director is requesting a 10% City-Controlled Contingency in case of unexpected expenses. The Expenditure of Contingency, if any, will be subject to approval of specific change orders by the project manager, if justified upon identified needs with appropriate scope and cost to address specific needs.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

RECOMMENDATIONS:

Staff recommends approval of the bid award and corresponding contract for Bid#BPW2191MM to LPS Utilities Inc. DBA LPS Contracting.

SOURCE OF ADDITIONAL INFORMATION:

Michael Ilcyszyn, Interim Public Works Director, 1-239-574-0457

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

Funding

Dredging Outside Services 440-30415-534120

Contract amount of \$1,205,898.40 with a 10% City-controlled contingency of \$120,589.84 for a total of \$1,326,488.24.

1. Will this action result in a Budget Amendment?

PREPARED BY:

Wanda
Roop

Division- Procurement

Department- Finance

ATTACHMENTS:

Description	Type
▣ 1. Resolution 1-22	Resolution
▣ 2. Bid Matrix #BPW2191MM	Backup Material
▣ 3. Maps	Backup Material

RESOLUTION 1-22

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR THE CANAL MAINTENANCE DREDGING FY21-22 PROJECT TO LPS UTILITIES, INC. D/B/A LPS CONTRACTING; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT, PURCHASE ORDERS, AND CHANGE ORDERS; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 14, 2021, INVITATION TO BID BPW2191MM was issued for the Maintenance Dredging FY21-22 project; and

WHEREAS, having received five bids, the City Manager recommends the award of the bid to LPS Utilities, Inc. d/b/a LPS Contracting, as the lowest qualified responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid, in the amount of \$1,205,898.40, subject to a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract; and

WHEREAS, the City Manager requests City Council to award the bid to LPS Utilities, Inc. d/b/a LPS Contracting for the Canal Maintenance Dredging FY21-22 project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby awards the bid for the Maintenance Dredging FY21-22 project to LPS Utilities, Inc. d/b/a LPS Contracting, in the amount of \$1,205,898.40, subject to a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

Section 2. The City Council hereby approves Contract CON-BPW2191MM between the City of Cape Coral and LPS Utilities, Inc. d/b/a LPS Contracting, for the Maintenance Dredging FY21-22 project in the amount of \$1,205,898.40, subject to a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

Section 3. The City Council hereby authorizes the City Manager or the City Manager's designee to enter into change orders for work required other than as contemplated in the contract documents with an appropriate scope and cost to address those needs, subject to payment of a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

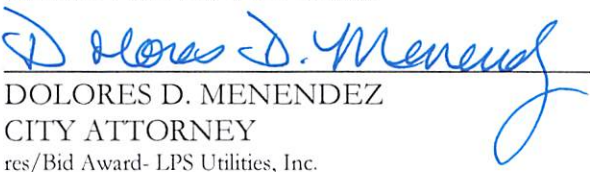
GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY

res/Bid Award- LPS Utilities, Inc.

City of Cape Coral
Canal Maintenance Dredging – FY21-22
CONTRACT #: CON-BPW2191MM

THIS CONTRACT is made this ____ day of _____, 2022 by and between the **CITY OF CAPE CORAL, FLORIDA**, hereinafter called "**CITY**", and **LPS UTILITIES INC., d.b.a. LPS CONTRACTING**, doing business as a Limited Liability Company, located at 3509 Lily Pond Road, Woodstock, IL 60098 hereinafter called "**CONTRACTOR**".

WITNESSETH: For and in consideration of the payments and agreements mentioned hereinafter:

1. The CONTRACTOR will commence and complete the Canal Maintenance Dredging FY21-22 in accordance with the Contract Documents.
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the project described in the Contract Documents.
3. The CONTRACTOR will commence work as required by the CONTRACT DOCUMENTS as stipulated in the written NOTICE TO PROCEED and will complete the same within three hundred sixty five (365) calendar days from and including the date of commencement unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS. Time is of the essence in the performance of this agreement. The CONTRACTOR agrees that liquidated damages will be assessed in the amount of \$500.00 per calendar day for each calendar day that contract is not completed beyond the completion date required by the CONTRACT DOCUMENTS.
4. The CONTRACTOR agrees to perform all the WORK described in the CONTRACT DOCUMENTS for a total price of \$1,205,898.40 said amount being the Total quoted amount as listed on the CONTRACTOR'S Official Bid Proposal Form for this project, specifically Exhibit A hereto and made a part hereof
5. This agreement may be terminated by the CITY for its convenience upon thirty (30) days prior written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this agreement. Such amount shall be paid by the CITY after inspection of the work to determine the extent of performance under this agreement, whether completed or in progress.
6. The Term "Contract Documents" shall include this Contract, addenda, Contractor's Bid except when it conflicts with any other contractual provision, the Notice to Proceed, the Bonds, the Bid Package prepared and issued by the CITY, the General Conditions, the Specifications and Drawings, any Special Conditions, together with all Written Amendments, Change Orders, Work Change Directives or Field Orders. In the event of conflict between any provision of any other document referenced herein as part of the contract and this agreement, the terms of this agreement shall control.
7. **Assignment:** This agreement may not be assigned except with the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
8. **Disclosure:** The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the agreement.
9. **Administration of Agreement:** The Interim Public Works Director or his representative shall administer this agreement for the CITY.

City of Cape Coral
Canal Maintenance Dredging – FY21-22
CONTRACT #: CON-BPW2191MM

10. **Governing Law:** The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible to pay for its own reasonable costs and attorney's fees.
11. **Amendments:** No Amendments or variation of the terms or conditions of this agreement shall be valid unless in writing and signed by the parties.
12. **Payments:** CITY shall make payment and CONTRACTOR shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice unless, within a fifteen (15) day period, CITY notifies CONTRACTOR in writing of its objection to the amount of such invoice, together with CITY'S determination of the proper amount of such invoice. CITY shall pay any undisputed portion of such invoice within such thirty (30) day period. If CITY shall give such notice to the CONTRACTOR within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, CITY shall promptly pay the CONTRACTOR the amount so determined, less any amounts previously paid by CITY with respect to such invoice. In the event it is determined that CITY has overpaid such invoice, the CONTRACTOR shall promptly refund to the CITY the amount of such overpayment.
13. **Contractor's Representations:** In order to induce CITY to enter into the Agreement CONTRACTOR makes the following representations:
- CONTRACTOR has been familiarized with the Contract Documents and the nature and extent of the work required to be performed, locality, local conditions, and Federal, State, and Local laws, ordinances, rules and regulations that in any manner may affect costs, progress or performance of the work.
- CONTRACTOR has studied carefully all reports of investigations and tests of subsurface, and latent physical conditions at the site which may affect cost, progress or performance of the Work. This information was relied upon by ENGINEER in the preparation of the Drawings and Specifications.
- CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.
- CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- CONTRACTOR has given CITY written notice of all conflicts, errors or discrepancies that have been discovered in the CONTRACT DOCUMENTS and the written resolution thereof by CITY is acceptable to CONTRACTOR.
14. **Indemnity:** The CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.

City of Cape Coral
Canal Maintenance Dredging – FY21-22
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15. **Other Provisions:** The CITY reserves unto itself sole authority to execute and authorize the issuance of change order(s), directives, or other documents to the CONTRACTOR which impact on or change the contract time or price. These actions by the CITY will be taken after due consideration of the recommendations and analysis of the ENGINEER. This provision supersedes any other contradictory provisions within the Contract Documents.
16. **Invalid Provision:** The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
17. **Record Keeping:** The awarded bidder shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City of Cape Coral reserves the right to determine the record-keeping method in the event of non-conformity. If a Public Construction Bond is required records shall be maintained for ten (10) years, after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

Records of the Contractor's personnel, sub-consultants, and the costs pertaining to the Project shall be kept in accordance with generally accepted accounting practices.

Contractor shall keep full and detailed accounts and financial records pertaining to the provision of services for the City. Prior to commencing work, Contractor shall review with and obtain the City's approval of the accounting procedures and records to be utilized by the Contractor on the Project. Contractor shall preserve the aforementioned Project records for a period of ten (10) years after final payment, or for such longer period as may be required by law.

18. **Public Record:** Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Consultant, refuses to allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with this contract, unless the records are exempt from disclosure.
19. **Insurance:** Unless otherwise specified, CONTRACTOR shall, at its own expense, carry and maintain the following minimum insurance coverage, as well as any insurance coverage required by law:
- a. **Commercial General Liability** - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:
 - \$1,000,000 per occurrence
 - \$2,000,000 general aggregate
 - \$1,000,000 products and completed operations
 - \$1,000,000 personal and advertising injury
 - b. **Business Auto Liability** - The following Automobile Liability will be required, and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:
 - \$1,000,000 combined single limit (CSL); or
 - \$500,000 bodily injury per person
 - \$1,000,000 bodily injury per accident
 - \$500,000 property damage per accident
 - c. **Longshore and Harbor Workers' Compensation & Employers' Liability** - Statutory benefits as defined by federal law for job injuries that occur on the navigable waters of the United States as described in the Longshore and Harbor Workers' Compensation Act ("LHWCA") to include all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Employers' Liability will have minimum limits of:

City of Cape Coral
Canal Maintenance Dredging – FY21-22
CONTRACT #: CON-BPW2191MM

Longshore and Harbor Workers' Compensation
Statutory Limits

Employers' Liability
\$1,000,000 per accident
\$1,000,000 disease limit

- d. Pollution/Environmental Pollution Liability – cover third parties against bodily injury and property damage caused by hazardous waste materials released during business operations, reimbursement of mandated off-site clean-up costs, and Legal costs to investigate or settle pollution-related claims. Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:
\$1,000,000 per occurrence
\$2,000,000 general aggregate
- e. CONTRACTOR shall require its subcontractors to provide for such benefits and carry and maintain the foregoing types of insurance at no expense to the CITY. CITY shall be named as an "Additional Insured" under the CONTRACTORS General Liability Insurance Policy with respect to the services performed by the CONTRACTOR or by the OWNER.
- f. Prior to commencing any Work under this Agreement, CONTRACTOR shall submit to the CITY a certificate or certificates of insurance evidencing that such benefits have been provided and that such insurance is being carried and maintained. Such certificates shall stipulate that the insurance will not be cancelled or materially changed without thirty (30) days prior written notice by certified mail to the CITY and shall also specify the date such benefits and insurance expire. CONTRACTOR agrees that such benefits shall be provided, and such insurance carried and maintained until the Work has been completed and accepted by the CITY.
- g. Such benefits and such coverage as are required herein, or in any other document to be considered a part hereof, shall not be deemed to limit CONTRACTORS liability under this agreement.
20. **Public Construction Bond**: Any Contractor entering into a contract for the construction of a public building or public work, or for any repairs upon a building or public work shall, before commencing work, execute, deliver to the City of Cape Coral, and record in the public records of Lee County, Florida, a public construction bond issued by a surety authorized to do business in the State of Florida. The amount of the bond shall be 100% of contract amount.
21. **Unauthorized Aliens**: The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this ITB. This applies to any sub-contractors used by the Contractor as well.
22. **Annual Appropriation Contingency**: Pursuant to Florida Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.
23. **Immigration Affidavit Certification and E-Verify Validation**

As a condition precedent to entering into this CONTRACT, and in compliance with The Immigration and Nationality Act (INA), 8 U.S.C. Section 1324a(e) Section 274A(e) and Florida Statute State Section §448.095, Contractor or Consultant and their subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021. The Employment Eligibility Verification System (E-Verify), is operated by the Department of Homeland Security in partnership with the Social Security Administration.

City of Cape Coral
Canal Maintenance Dredging – FY21-22
CONTRACT #: CON-BPW2191MM

The following conditions must be met by all Contractors, Consultants and Subcontractors:

- a. Contractor or Consultant shall require each of its subcontractors to provide them with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor, Consultant or Bidder shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this AGREEMENT.
 - b. The CITY, Contractor, Consultant, Bidder or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated The Immigration and Nationality Act (INA) contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) Section §448.09(1), Florida Statute or the provisions of this section shall terminate the contract with the person or entity.
 - c. The CITY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor or Consultant otherwise complied, shall promptly notify Contractor or Consultant and they shall immediately terminate the contract with the subcontractor.
 - d. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section §448.095(2)(d), Florida Statute. Contractor or Consultant acknowledges that upon termination of this AGREEMENT by the CITY for a violation of this section by Contractor or Consultant, that the Contractor or Consultant may not be awarded a public contract for at least one (1) year. Contractor or Consultant further acknowledges that Contractor or Consultant is liable for any additional costs incurred by the CITY as a result of termination of any contract for a violation of this section.
 - e. **Subcontracts:** Contractor, Consultant or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor or Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
24. **Scrutinized Companies List:** Pursuant to 287.135 Florida Statute, s. 215.4725 and s. 215.473, companies contracting with public agencies are prohibited from contracting for goods or services over one million (\$1,000,000) dollars that appear on the Scrutinized Companies List.
25. **Electronic Signatures:** The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.
26. **Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.
27. **Entire Agreement:** This Contract constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

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City of Cape Coral
Canal Maintenance Dredging – FY21-22
CONTRACT #: CON-BPW2191MM

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials this Agreement which shall be deemed an original on the date last signed as below written.

(CITY SEAL)

ATTEST:

Kimberly Bruns, CMC

City Clerk

CITY:

CITY OF CAPE CORAL

Roberto Hernandez

City Manager

Date

CITY LEGAL REVIEW:

For Dolores Menendez
City Attorney

Date: _____

12/6/2021

CONTRACTOR:

Company: LPS UTILITIES INC., d.b.a. LPS CONTRACTING

Signature: _____

Printed Name: Jennifer Wilson

Title: President

Date: 12/10/21

EXHIBIT A



Title Page:

Project Title: BPW2191MM Canal Maintenance Dredging – FY 21-22

Company Name: LPS Utilities Inc. DBA LPS Contracting

Contact: Trent Meyer Project Manager

Phone: 815-276-1731

Email: trent.meyer@lps-contracting .com

Address: 300 Sadowski Causeway Suite 308 Key Colony Beach, FL 33051

Entity Type: Corporation

Headquarters Address: 3509 Lily Pond Rd, Woodstock, IL 60098

Website Address: www.lps-contracting.com

Company Phone: 305-240-9882

State of Florida License #s:

Certified Underground Utility Contractor: CUC1224542

General Contractor License: CGC1516588



Cover Letter

Proposer: LPS Utilities, Inc. DBA LPS Contracting.

President: Jennifer Wilson

Project Manager: Trent Meyer

Superintendent: Joe Merryman

Administrative: Tara Hoover

Legal Status: Corporation

Year Entity Was Organized: 2014

Address: 3509 Lily Pond Rd Woodstock, IL 60098

LPS is a production orientated company that focuses on quality to receive the customers greatest satisfaction. We set deadlines and pursue those deadlines with high standards to obtain them. All work performed is done by qualified personnel in order to create the best possible product. No matter what the size of the job we will tackle it with everything we have and ensure positive outcomes. Every job is done with the highest level of safety to protect our employees and the community.

LPS Contracting has been in Monroe county for 3 years. We specialize in marine construction and underground utilities. The following are services we provide:

- Dredging
- Dock Installation
- Pile Installation
- Seawalls
- Shoreline installation and Stabilization
- Earthwork and Excavation
- Demolitions
- Underground Sewer and Water
- Box Culverts
- Rip Rap


LPS is able to complete projects that no other contractor's can complete because of our vast experience in multiple areas of construction as well as owning all of our own specialized equipment. LPS has worked on jobs all across the country from installing 30,000' of oil pipeline and pump station pads in North Dakota to installing 10'000 of 72" watermain in Oklahoma. We have completed projects of magnificent proportion. Possibly one of our highest scale projects would be tunneling a 36" watermain



20' deep underneath the Mississippi River from one side to the other. We also have general contracted new building construction in North Chicago as well as completed large scale demolition projects in Chicago.

Furthermore, specifically in Monroe County we are very apt to the style of construction here as we own all of our own specialized marine construction equipment including barges, push boats, excavators, suction trailers, hopper barges, sheet pile hammers, pile driving compactors, steel punches, etc. We also use excavators for all of our pile/dock installation and removal in lieu of conventional methods completing our projects up to 3x faster than competitors. Our dredging operation is state of the art. Having our excavators outfitted with Trimble GPS technology tied into the vertical datum for every project truly makes the operation seamless. No digging out of the footprint or too deep/shallow. With this technology and the use of our hopper barges we can move on average 1,000cyds p/day of dredged material.

LPS also completes all of its own marine construction, utility projects, and site work in house. We do not sub out any of scopes of work. This way we have complete control over all of our own projects and schedule.

ATTACHMENT A CITY OF CAPE CORAL INVITATION TO BID - BIDDER ACKNOWLEDGEMENT	
BIDS DUE NO LATER THAN: 1:30 PM August 13, 2021 BIDS WILL BE OPENED: 2:00 PM August 13, 2021	BID NO. BPW2191MM
AGENCY MAILING DATE July 14, 2021	BID TITLE Canal Maintenance Dredging FY21-22
FEDERAL EMPLOYER IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER: (The City of Cape Coral may collect your Social Security Number for one or more of the following purposes: identification and verification; credit worthiness; billing and payment; data collection, reconciliation, tracking, benefit processing and tax reporting. Social Security Numbers are also used as a unique numeric identifier and may be used for such purposes.)	
VENDOR NAME LPS utilities Inc. DBA LPS Contracting	
VENDOR MAILING ADDRESS 3509 City Pond Road	
CITY, STATE & ZIP Woodstock IL, 60098	
TELEPHONE NUMBER 305-240-9892	FAX NUMBER N/A
TOLL FREE NUMBER N/A	
E-MAIL ADDRESS info@lps-contracting.com	
<p>Non-Collusion: I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder and that the bidder is in compliance with all requirements. In submitting a bid to the City of Cape Coral, the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the City of Cape Coral all rights, title and interest in and all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Cape Coral. At the City's discretion, such assignment shall be made and become effective at the time the purchasing agency tenders final payment to the bidder.</p> <p>Signature: <u></u> Date: <u>08/09/2021</u></p>	

INVITATION TO BID: This Official Bid Form, Bidder Information, Instructions to Bidders, Special Conditions, Specifications, Addenda and/or any other pertinent documents form a part of this bid and by reference are made a part thereof. This Official Bid Form **MUST** be signed and returned with Bid.

PURPOSE: It is the purpose and intent of the Invitation to Bid to secure bids for item(s) and/or services as listed herein for the City of Cape Coral, Florida, hereinafter called the City.

SEALED BIDS: All bid sheets and this form must be executed and submitted in a sealed envelope (DO NOT INCLUDE MORE THAN ONE BID PER ENVELOPE). The face of the envelope shall contain, in addition to the above addresses, the date and time of the bid opening and bid number. Bids not submitted on the attached Official Bid Form shall be rejected. All bids are subject to the conditions specified herein. Those, which do not comply with these conditions, are subject to rejection.

1. EXECUTION OF BID: The Official Bid Form must contain a manual signature of an authorized representative. Bid must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made by bidder to his/her bid price must be initialed.

ATTACHMENT B**FORM 3A – INTEREST IN COMPETITIVE BID**☒ If N/A, check box and return with bid documents**FORM 3A - INTEREST IN COMPETITIVE BID FOR PUBLIC BUSINESS (mark N/A if not applicable)**

LAST NAME - FIRST NAME - MIDDLE INITIAL	OFFICE POSITION HELD
MAILING ADDRESS	AGENCY
CITY ZIP COUNTY	ADDRESS OF AGENCY

WHO MUST FILE THIS STATEMENT Sections 112.313(3) and 112.313(7), Florida Statutes, prohibit certain business relationships on the part of public officers and employees, their spouses, and their children. See Part III, Chapter 112, Florida Statutes and/or the brochure entitled "A Guide to the Sunshine Amendment and Code of Ethics for Public Officers, Candidates and Employees" for more details on these prohibitions. However, Section 112.313(12), Florida Statutes, provides certain limited exemptions to the above-referenced prohibitions, including one where the business is awarded under a system of sealed, competitive bidding; the public official has exerted no influence on bid negotiations or specifications; and where disclosure is made, prior to or at the time of the submission of the bid, of the official's or his spouse's or child's interest and the nature of the intended business. This form has been promulgated by the Commission on Ethics for such disclosure, *if and when applicable* to a public officer or employee.

INTEREST IN COMPETITIVE BID FOR PUBLIC BUSINESS (Required by 112.313(12)(b), Fla. Stat.)

1. The competitive bid to which this statement applies has been/will be (strike one) submitted to the following government agency:		
2. The person submitting the bid is:	NAME ▼	POSITION ▼
3. The business entity with which the person submitting the bid is associated is:		
4. My relationship to the person or business entity submitting the bid is as follows:		
5. The nature of the business intended to be transacted in the event that this bid is awarded is as follows:		
a. The realty, goods and/or services to be supplied specifically include: _____		
b. The realty, goods and/or services will be supplied for the following period of time: _____		
c. Will the contract be subject to renewal without further competitive bidding? ____ Yes ____ No. If so, how often? _____		
6. Additional comments:		
7. SIGNATURE	DATE SIGNED	DATE FILED

FILING INSTRUCTIONS If you are a state officer or employee required to disclose the information above, please file this form with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 3600 Maclay Blvd. South, Suite 201, Tallahassee, FL 32312. If you are an officer or employee of a political subdivision of this state and are subject to this disclosure, please file the statement with the Supervisor of Elections of the county in which the agency in which you are serving has its principal office

NOTICE: UNDER THE PROVISIONS OF FLORIDA STATUTES #112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.00

ATTACHMENT C**BID SECURITY REQUIREMENTS FORM**

Each person or entity submitting a sealed bid is required to post bid security in an amount equal to 5% of the total base bid or amount identified in the special conditions. The security shall be payable to the City of Cape Coral and may be in the form of a bid bond, cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or security of a type listed in Part II of Chapter 625, Florida Statutes.

The bid security of each bidder will be held by the city during the bid evaluation period. After the bid is formally awarded by City Council, the unsuccessful bidders who posted security other than a bid bond will have their security returned to them no later than ten (10) days after the bid award.

The bid security of the successful bidder will be held by the City until such time as the bidder executes the written contract with the City. If the bidder fails or refuses to execute the contract in accordance with the bid documents or fails or refuses to provide any other instruments required by the bid specifications (i.e. performance bond, insurance, etc.), the bid security shall be forfeited to the City.

Bids shall be unconditionally accepted and may not be altered or corrected by the bidder. Erroneous bids may be withdrawn only with permission of City Council and subject to the restrictions contained in Section 2-144(a) (9) of the City Code. If a bidder requests to withdraw his or her bid without meeting the requirements of Section 2-144(a) (9) of the City Code and/or without City Council approval, the City may retain the bid security or take action against any bid bond which is posted as security.

The Bidder agrees to the bid security requirements as listed above.

BID # BPW2191MM DATE 08/13/2021

Attached hereto is a bid security in the form of a Bid Bond
for the written sum of one million two hundred five thousand eight hundred ninety eight
(Security Type: Bond, Cashier's Check, Etc.) and four tenths

Dollars (\$1,205,898.40).

FIRM NAME: UPS Utilities Inc. DBA UPS Contracting

ADDRESS: 3509 Lily Pond Road
Woodstock IL 60098

JL
Signature

Jennifer Wilson
Name (Printed)

President
Official Title

Authorized under the laws of the State of Florida and authorized by the law to submit this bid and perform all services and/or furnish materials and equipment required under the contract documents.

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

LPS Utilities Inc. DBA LPS Contracting
3509 Lily Pond Road
Woodstock, IL 60098

SURETY:

(Name, legal status and principal place of business)

The Cincinnati Insurance Company
P.O. Box 145496
Cincinnati, OH 45250-5496

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)

City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, FL 33990

BOND AMOUNT: \$ 5%

Five Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

CANAL MAINTENANCE DREDGING - FY21-22 (BPW2191MM)

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 13th day of August, 2021



(Witness)



(Witness) Dania Banks

LPS Utilities Inc. DBA LPS Contracting

(Principal)

(Seal)

By:

(Title)

President

The Cincinnati Insurance Company

(Surety)

(Seal)

By:

(Title) Jarrett Merlucci

Attorney-in-Fact

THE CINCINNATI INSURANCE COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY, a corporation organized under the laws of the State of Ohio, and having its principal office in the City of Fairfield, Ohio, does hereby constitute and appoint

James Hunter, Jr., Christian Collins, Richard Zimmerman, Dale Belis, Joseph Nielson, Ian Nipper, Jessica Reno, Edward Clark, Shawn Burton, Jarrett Merlucci, Don Bramlage, Laura Mosholder, Daniel Oaks, Charles Nielson, Kevin Wojtowicz, David Hoover, Charles Nielson, of Miami Lakes, FL its true and lawful Attorney(s)-in-Fact to sign, execute, seal and deliver on its behalf as Surety, and as its act and deed, any and all bonds, policies, undertakings, or other like instruments, as follows:

Twenty Million Dollars and 00/100 (\$20,000,000.00)

This appointment is made under and by authority of the following resolution passed by the Board of Directors of said Company at a meeting held in the principal office of the Company, a quorum being present and voting, on the 6th day of December, 1958, which resolution is still in effect:

"RESOLVED, that the President or any Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 7th day of December, 1973.

"RESOLVED, that the signature of the President or a Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

IN WITNESS WHEREOF, THE CINCINNATI INSURANCE COMPANY has caused these presents to be sealed with its corporate seal, duly attested by its Vice President this 10th day of May, 2012.



STATE OF OHIO) ss:
COUNTY OF BUTLER)

THE CINCINNATI INSURANCE COMPANY

Stephen A. Janta

Vice President

On this 10th day of May, 2012, before me came the above-named Vice President of THE CINCINNATI INSURANCE COMPANY, to me personally known to be the officer described herein, and acknowledged that the seal affixed to the preceding instrument is the corporate seal of said Company and the corporate seal and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporation.



Mark J. Huller

MARK J. HULLER, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration
date. Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Secretary of THE CINCINNATI INSURANCE COMPANY, hereby certify that the above is a true and correct copy of the Original Power of Attorney issued by said Company, and do hereby further certify that the said Power of Attorney is still in full force and effect.

GIVEN under my hand and seal of said Company at Fairfield, Ohio.
this 13th day of August, 2021



Scott R. Bolen

Assistant Secretary

ATTACHMENT D

CONTACTS

ACCOUNT MANAGER OR SALES REP.

Name: Trent Meyer
Phone: N/A
Cell: 815-276-1731
Email: trent.meyer@lps-contracting.com

EMERGENCY CONTACT.

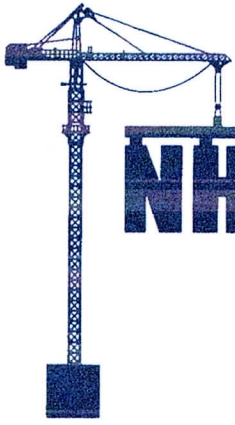
Name: Ali Ghamlouch
Phone: N/A
Cell: 701-729-2693
Email: ali.ghamlouch@lps-contracting.com

Day to Day Operations Contact (during business hours)

Name: Brian Johnson
Phone: N/A
Cell: 305-680-9285
Email: brian.johnson@lps-contracting.com

Day to Day Operations Contact (after business hours)

Name: Brandon Demarais
Phone: N/A
Cell: 815-347-7059
Email: brandon.demarais@lps-contracting.com

**NHC****NIELSON, HOOVER & COMPANY**

August 11, 2021

City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, FL 33990

RE: Principal: LPS Utilities Inc. DBA LPS Contracting
Project: CANAL MAINTENANCE DREDGING - FY21-22 (BPW2191MM)

To Whom It May Concern:

This is to advise you that our office provides Bid, Performance, and Payment Bonds for LPS Utilities Inc. DBA LPS Contracting. Their Surety is The Cincinnati Insurance Company, which carries an A.M. Best Rating of A+ XV and is listed in the Department of the Treasury's Federal Register.

Based upon normal and standard underwriting criteria at the time of the request, we should be in a position to provide Performance and Payment Bonds for LPS Utilities Inc. DBA LPS Contracting for the above captioned project. We obviously reserve the right to review the final contractual documents, bond forms and obtain satisfactory evidence of funding prior to final commitment to issue bonds.

LPS Utilities Inc. DBA LPS Contracting is an excellent contractor and we hold them in high regard. We feel extremely confident in our contractor and encourage you to offer them an opportunity to execute any upcoming projects.

This letter is not an assumption of liability, nor is it a bid or performance and payment bond. It is issued only as a bonding reference requested by our respected client.

Sincerely,

Jarrett Merlucci
Resident Agent

ATTACHMENT F**BUSINESS ETHICS REQUIREMENTS**

1. During the course of pursuing contracts with Owner and while performing contract work in accordance with this agreement, Contractor agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the Owner best interests.
2. Contractor shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Owner's best interests. These obligations shall apply to the activities of contractor employees, agents, subcontractors, subcontractor employees, consultants of contractor, etc.

Contractor employees, agents, subcontractors, material suppliers (or their representatives) should not make or cause to be made any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to Owner's representatives, employees or their relatives.

Contractor employees, agents or subcontractors (or their relatives) should not receive any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from representatives of subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the project.

3. Contractor agrees to notify a designated Owner representative within 48 hours of any instance where the Contractor becomes aware of a failure to comply with the provisions of this article.
4. The e-mail address and/or telephone number to report any concerns related to any possible violations of the Owner's Business Ethics Expectations are as follows:

E-mail: Mark Milkovich, mmilkovi@capecoral.net Telephone: 239-574-0844.

5. Upon request by Owner, Contractor agrees to provide a certified Management Representation Letter executed by selected Contractor representatives in a form agreeable to Owner stating that they are not aware of any situations violating the business ethics expectations outlined in this contract or any similar potential conflict of interest situations.
6. Contractor agrees to include this clause in all contracts with subcontractors and material suppliers receiving more than \$25,000 in funds in connection with the Owner's project.
7. Contractor shall permit interviews of employees, reviews and audits of accounting or other records by Owner representative(s) to evaluate compliance with the business ethics standards. Such reviews and audits will encompass all dealings and activities of Contractor's employees, agents, representatives, vendors, subcontractors, and other third parties paid by Contractor in their relations with Owner's current or former employees or employee relatives.
8. Contractor agrees to implement a program requiring their employees sign acknowledgements that they have read and understand Owner's Business Ethics Expectations and the related obligations outlined in this contract exhibit.

Signature

Date 08/09/2021

ATTACHMENT G

CORPORATE RESOLUTION

I, Jennifer Wilson, Secretary of LPS Contracting corporation organized and existing under the laws of the State of Illinois, hereby certify that at a meeting of the Board of Directors of the Corporation duly called and held on 10/02, 2017, at which a quorum was present and acting throughout, the following resolutions were adopted and are now in full force and effect:

RESOLVED that the following individuals of this corporation are authorized to execute on behalf of this corporation a Bid and Agreement to City of Cape Coral, Florida for the construction of the Canal Maintenance Dredging - FY 21-22
(Project Name)

I further certify that the names of the officers of this corporation and any other persons authorized to act under this resolution and their official signatures are as follows:

NAME	OFFICIAL TITLE	OFFICIAL SIGNATURE
<u>Jennifer Wilson</u>	<u>President</u>	<u>[Signature]</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Corporation address: 3509 Lily Pond Road Woodstock IL 60098

Corporation phone number: 305-240-9882

IN WITNESS WHEREOF, I have hereunto subscribed my name as Secretary and affixed the seal of the corporation this 09th day of August, 2021.

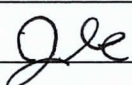
SECRETARY: Jennifer Wilson DATE: 08/09/2021

(Signature) [Signature]

ATTACHMENT H**SCRUTINIZED COMPANIES - CERTIFICATION FORM**

Pursuant to 287.135 Florida Statute, 215.4725 and 215.473, companies contracting with public agencies are prohibited from contracting for good or services that appear on the Scrutinized Companies List. This form is to certify that the "Vendor/Company Name" below hereby swears or affirms that as of the signature date below that "Vendor/Company Name" is not listed on a Scrutinized Companies list. By authorized signature (authorized to enter into binding agreements), representative from this company, further affirms the following:

1. This "Vendor/Company Name" is not participating in a boycott of Israel such that company is not refusing to deal, is not terminating business activities, or taking any other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israel controlled territories, in a discriminatory manner.
2. This "Vendor/Company Name" does not appear on the Scrutinized Companies with Activities on Sudan List, where the State Board of Administration (<http://www.sbafla.com/>) has established and maintains the following criteria:
 - a. Have a material business relationship with the government of Sudan or a government-created project involving oil related, mineral extraction, or power general activities, or
 - b. Have a material business relationship involving the supply of military equipment, or
 - c. Impart mineral benefit to disadvantaged citizens that are typically located in the geographic Periphery of Sudan, or
 - d. Have been complicit in the genocidal campaign in Darfur.
3. This "Vendor/Company Name" does not appear on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List where the State Board of Administration (<http://www.sbafla.com/>) has established the following criteria:
 - a. Have a material business relationship with the government of Iran or a governmental-created project involving oil related or mineral extraction activities, or
 - b. Have made material investments with the effect of significantly enhancing Iran's petroleum sector.
4. The "Vendor/Company Name" is not engaged in business operations in Cuba or Syria.
5. The company identified below in the section entitled "Vendor/Company Name" understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney's fees, and/or costs. "Vendor/Company Name" further understands that any contract with an agency for goods or services may be terminated at the option of the agency if the company is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and/or with business operations in Cuba or Syria.

Vendor/Company Name:	LPS UTILITIES INC. DBA LPS CONTRACTING
Street Address:	3509 Lily Pond Road
City / State / Zip Code:	WOODSTOCK IL, 60098
Vendor/Company Telephone Number:	305-240-9882
Email Address:	info@lps-contracting.com
Vendor FEIN:	47-1979143
Authorized Signature:	
Printed Name/Title:	Jennifer Wilson
Date of Signature:	08/09/2021

ATTACHMENT I**Immigration Affidavit Certification**

The City of Cape Coral Invitation to Bid; Request for Proposal or Quotation #: BPW2191MM

Project Name: Canal Maintenance Dredging – FY21-22.


This Affidavit is required and should be signed, notarized by an authorized principal of the firm, and submitted with formal Invitations to Bid (ITB's) and Request for Proposals (RFP) submittals, Request for Quotation submittals.

Consultant's or Bidder's or Contractors are required to enroll in the E-Verify program, and provide acceptable evidence of their enrollment, at the time of the submission of the solicitation Consultant's/bidder's proposal shown above.

Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company. Failure to include this Affidavit and acceptable evidence of enrollment in the E-Verify program may deem the Consultant / Bidder/Contractor's proposal as nonresponsive. The City of Cape Coral will not intentionally award City contracts to any Consultant who knowingly employs unauthorized alien workers, constituting a violation of the employment provision contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act ("INA"). The City of Cape Coral may consider the employment by any Consultant/Bidder/Contractor of unauthorized aliens a violation of Section 274A (e) of the INA. Such Violation by the recipient of the Employment Provisions contained in Section 274A (e) of the INA shall be grounds for unilateral termination of the contract by The City of Cape Coral. Consultant/Bidder/Contractor attests that they are fully compliant with all applicable immigration laws (specifically to the 1986 Immigration Act and subsequent Amendment(s)) and agrees to comply with the provisions of the Memorandum of Understanding with E-Verify and to provide proof of enrollment in The Employment Eligibility Verification System (E-Verify), operated by the Department of Homeland Security in partnership with the Social Security Administration at the time of submission of the Consultant's or Bidder's or Contractor's submitted proposal.

Company Name LPS utilities INC. DBA LPS contracting

Authorized Printed Name Jennifer Wilson Title President

Signature Date 08/09/2021 

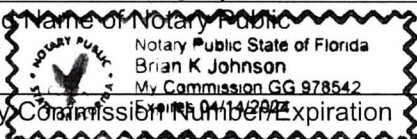
State of Florida County of Monroe

The foregoing instrument was signed and acknowledged before me this 09 day of August 2021, by

Jennifer Wilson who has produced Personally Known as identification.
(Print or Type Name) (Type of Identification and Number)


Notary Public Signature

Brian Johnson
Printed Name of Notary Public

 Exp 04-14-2024
Notary Commission Number Expiration

The signee of this affidavit guarantees, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made.

ATTACHMENT J**SWORN STATEMENT ON PUBLIC ENTITY CRIMES
UNDER SECTION 287.133(3)(a) FLORIDA STATUTES**

This form must be signed and sworn to in the presence of a notary public or other officer authorized to administer oaths.

1. This sworn statement is submitted

to LPS Utilities INC. DBA LPS Contracting
(Print name of the public entity)

by Jennifer Wilson President
(Print individual's name and title)

for LPS Utilities INC. DBA LPS Contracting
(Print name of entity submitting sworn statement)

whose business address is 3509 Lily Pond Road Woodstock IL 60098

(If applicable) its Federal Employer Identification Number (FEIN) is 47-1979143

If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement on an attached sheet (required as per IRS Form W-9). (Social Security Number required for one or more of the following purposes: identification and verification; credit worthiness; billing and payment; data collection, reconciliation, tracking, benefit processing and tax reporting. Social Security Numbers are also used as a unique numeric identifier and may be used for such purposes.

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including but not limited to, and bid or contract for goods or services to be provided to any public entity or agency or political subdivision or any other state or of the United States, and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
1. A predecessor or successor of a person convicted of a public entity crime, or:
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those offices, directors, executives, partners, shareholders, employees, members and agents who are active in the management of the affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not fair market value under an arm's length agreement, shall be a facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

**SWORN STATEMENT ON PUBLIC ENTITY CRIMES
UNDER SECTION 287.133(3)(a) FLORIDA STATUTES**


5. I understand that a "person" as defined in Paragraph 287.133(1)(c), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of the entity.
6. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting those sworn statements. (*Please indicate which statement applies.*)

X Neither the entity submitted this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity nor affiliate of the entity have been charged with and **convicted** of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, member, or agents who are active in management of the entity, or an affiliate of the entity have been charged with and **convicted** of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, member, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been subsequent **proceeding** before a Hearing Officer of the State of Florida, Division of Administrative Hearing and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OR ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature) 

(Date) 08/09/2021

STATE OF Florida
COUNTY OF Manatee

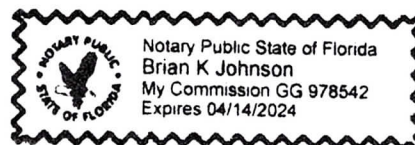
PERSONALLY APPEARED BEFORE ME, the undersigned authority, Jennifer Wilson

(Name of individual signing)

who, after first being sworn by me, affixed his/her signature in the space provided above on this 9th day of August, 2021.


(NOTARY PUBLIC)

My Commission Expires: 04-14-2024



ATTACHMENT K

ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS

Insurance: The following insurance will be required by the CITY OF CAPE CORAL. Any questions regarding the insurance requirements should be directed to the Risk Manager, (239) 574-0529.

Minimum Insurance Requirements: *Risk Management in no way represents that the insurance required is sufficient or adequate to protect the vendors' interest or liabilities. The following are the required minimums the vendor must maintain throughout the duration of this contract. The City reserves the right to request additional documentation regarding insurance provided*

a. Commercial General Liability - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

- \$1,000,000 per occurrence
- \$2,000,000 general aggregate
- \$1,000,000 products and completed operations
- \$1,000,000 personal and advertising injury

b. Business Auto Liability - The following Automobile Liability will be required, and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:

- \$1,000,000 combined single limit (CSL); or
- \$500,000 bodily injury per person
- \$1,000,000 bodily injury per accident
- \$500,000 property damage per accident

c. Longshore and Harbor Workers' Compensation & Employers' Liability - Statutory benefits as defined by federal law for job injuries that occur on the navigable waters of the United States as described in the Longshore and Harbor Workers' Compensation Act ("LHWCA") to include all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Employers' Liability will have minimum limits of:

Longshore and Harbor Workers' Compensation
Statutory Limits

Employers' Liability

- \$1,000,000 per accident
- \$1,000,000 disease limit
- \$1,000,000 disease – policy limit

****The required minimum limit of liability shown in a. and b. may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."***

d. Pollution/Environmental Pollution Liability – cover third parties against bodily injury and property damage caused by hazardous waste materials released during business operations, reimbursement of mandated off-site clean-up costs, and Legal costs to investigate or settle pollution-related claims. Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

- \$1,000,000 per occurrence
- \$2,000,000 general aggregate

****Minimum completed operations period—5 years for environmental services/work and site/dirt work (excavation, paving, landscaping, and digging) and is inclusive of mold/bacteria coverage.***

Verification of Coverage:

1. Coverage shall be in place prior to the commencement of any work and throughout the duration of the contract. A certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

a. The "Certificate Holder" shall read as follows:

City of Cape Coral
P.O. Box 150027
Cape Coral, Florida 33915-0027

b. The "Description of Operations/Locations/Vehicles" shall read as follows: *"The City of Cape Coral is named as an Additional Insured with respect to the General Liability policy, including Products and Completed Operations coverage."*

Special Requirements:

1. An appropriate "Indemnification" clause shall be made a provision of the contract.

2. It is the responsibility of the general contractor to ensure that all subcontractors comply with all insurance requirements.

All certificates of insurance must be on file with and approved by the City of Cape Coral before the commencement of any work activities.

Statement of Offeror:

We understand the requirements requested and agree to fully comply.

Jennifer Wilson / President
OFFEROR'S NAME AND TITLE

[Signature]
AUTHORIZED SIGNATURE

08/09/2021
DATE



LPSUT-1

OP ID: A86

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/10/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hausman Kunkel, Inc. 40 S. Prospect Roselle, IL 60172 Hausman Kunkel, Inc.	630-894-7510	CONTACT NAME: Hausman Kunkel, Inc. PHONE (A/C, No, Ext): 630-894-7510 FAX (A/C, No): 630-894-4333 E-MAIL ADDRESS: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> <tr> <td>INSURER A: Navigators Specialty Ins Co</td> <td></td> </tr> <tr> <td>INSURER B: Progressive Insurance</td> <td>10194</td> </tr> <tr> <td>INSURER C: American Longshore Mutual Asso</td> <td></td> </tr> <tr> <td>INSURER D: Evanston Insurance Co. "A"</td> <td>35378</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Navigators Specialty Ins Co		INSURER B: Progressive Insurance	10194	INSURER C: American Longshore Mutual Asso		INSURER D: Evanston Insurance Co. "A"	35378	INSURER E:		INSURER F:	
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INSURER E:																
INSURER F:																
INSURED LPS Utilities, Inc DBA LPS Contracting 3509 Lily Pond Road Woodstock, IL 60098																

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> P&I GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			NY19MPK15772801	07/02/2021	07/02/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			03217826-0	01/27/2021	01/27/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			NY19LIA15772802	07/02/2021	07/02/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below			ALMA02275-01	07/27/2021	07/27/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Equipment Floater			9CD9899	07/02/2021	07/02/2022	Schedule 276,000 Ded 2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CAPEC-1

City of Cape Coral
 P.O. Box 150027
 Cape Coral, FL 33915

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



ATTACHMENT L

BUSINESS QUALIFICATION QUESTIONNAIRE

THIS FORM MUST BE SUBMITTED AND SIGNED WITH BID PACKAGE

Business must be legal in the State of Florida prior to bidding the type of work required by this project.

SUBMITTED BY: LPS UTILITIES INC. DBA LPS CONTRACTING
Name of Bidder

3509 Lily Pond Road
Street or PO Box

WOODSTOCK FL 32098
City, State & Zip Code

(305) 240-9882
Phone

() Individual () Partnership ☒ Corporation () Joint Venture

The undersigned guarantees the truth and accuracy of all statements and all answers to questions hereinafter made.

1. Person to Contact: Trent Meyer Title: Operations Manager
Telephone Number: (305) 240-9882 Email: info@lps-contracting.com

2. How many years has your organization been in business as a General Contractor under your present name?
4 years Year established: 2017

3. Under what other names has your organization operated? LPS UTILITIES INC.

4. List below the names, titles and addresses of officers, owners, and partners:

Jennifer Wilson - President - 3509 Lily Pond Road ^{WOODSTOCK} FL, 32098
Trent Meyer - Operations Manager - 300 Sadowski Causeway, ^{Suite 308} Key Colony Beach, FL 32098
Tara Hoover - Secretary - 3509 Lily Pond Road ^{WOODSTOCK} FL 32098

5. Prepare a list as indicated on Table I – Completed Projects (attached) of the last five (5) projects of this type your organization has completed.

ATTACHMENT L

Page 2 of 8

6. Prepare a list as indicated on Table II – Current Projects (attached) of projects of this type that your organization is currently engaged in.

7. Have you ever failed to complete any work awarded to you?

When? N/A

Where? N/A

Why? N/A

8. BONDING INFORMATION:

Surety Company: Cincinnati Insurance Company

Address: 6200 S. Gilmore Road

Fairfield, OH 45014-5141

Surety Agent or Underwriting Contact: Nielson, Hoover and Company

License Number: N/A

Address: 15050 NW 79th Court, Suite 200

Miami Lakes Florida 33016

County: Miami - Dade County

Contact Name: Dania Banks

Phone: (305) 772-2663

Email Address: dbanks@nielsonbonds.com

Aggregate Bonding Capacity: \$ 2,000,000.00

Available Bonding Capacity as of date of this submittal: \$ 2,000,000.00

Aggregate Bonding Capacity: \$ 2,000,000.00

Available Bonding Capacity as of date of this submittal: \$ 2,000,000.00

ATTACHMENT L

Page 3 of 8

Please attach a letter from surety as evidence of bonding capacity.

Have Bid, Performance or Payment Bond claims ever been made to a Surety for this Contractor on any project, within the past ten (10) years?

☐ YES NO ☒

If YES, include as an Attachment, details describing the claim, name of company or person making the claim, and the resolution of claim. If the answer is NO, attach as an Attachment a letter from the Surety Company stating the referenced status of the Contractor for the time period.

In the past ten (10) years, has any Surety company refused to bond the Contractor on any project?

☐ YES NO ☒

If YES, include as an Attachment, details specifying the reasons given for that refusal, and the name and address of the Surety Company that refused to bond.

In the past ten (10) years, has any Surety company refused to bond the Contractor's parent or subsidiaries on any project?

☐ YES NO ☒

If YES, include as an Attachment, details specifying the reasons given for that refusal, and the name and address of the Surety Company that refused to bond.

9. Enclose a sample Certificate of Insurance.

10. Provide registration, permits, and licensing information, and copies, if applicable.

State Certification No: GGC1528934

Date: 08/31/2022

City Competency Certificate No: N/A

Date: N/A

City Occupational License No: N/A

Date: N/A

11. List types of work normally performed by your own forces:

LPS Contracting specialize in marine construction and
underground utilities. Our services we provide are dredging,
Dock installation, Pile installation, Seawalls, Shoreline installation
and stabilization, Earthwork and Excavation, Demolitions, underground
sewer and water, Box culverts, and Rip Rap.

ATTACHMENT L

Page 4 of 8

12. Submit no less than three financial references:

① Keys Decks and Docks
 ② BMO Harris Bank
 ③ Core and Main

} Please also see attached sheet

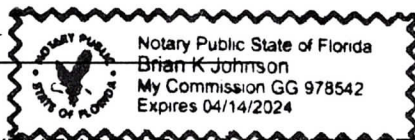
13. Accompanying the proposal submittal, but in a separate sealed envelope, Prime Firm is to provide one copy of:

- A) Last three (3) consecutive years financial statements.
- B) The financial statements must contain a detailed balance sheet, detailed income statement, statement of cash flow, and notes to the financial statement.

All Financial documents, outlined above, are required to be submitted in a sealed envelope. Proposals that are received without the proper financial documents may be deemed non-responsive.

By: LPS Utilities INC. PBA LPS Contracting [Signature]Witness: Brandon Demarais [Signature] Title: Project ManagerDate: 08/09/2021Sworn to and subscribed before me this 9th day of AUGUST 2021.[Signature]

Notary Public

04-14-2024

My Commission Expires

NOTE: IF A JOINT VENTURE, EACH CONTRACTOR MEMBER SHALL COMPLETE AN INDIVIDUAL CONTRACTORS QUALIFICATION QUESTIONNAIRE FORM.

LPS Credit References

- **Keys Decks and Docks**

Contact: Tracie Catalano

Phone Number: 954-545-0660

Email: tracie@keysdecksanddocks.com

Address: 1150 SW 10th Avenue, Pompano Beach, FL

- **BMO Harris Bank**

Contract: Kathy Obrochta

Phone Number: 847-870-2959

Email: kathy.obrochta@bmo.com

Address: 3225 Kirchoff Road, Rolling Meadows, IL 60008

- **Core and Main**

Contact: Steven Vargas

Phone Number: 305-972-4665

Email: steven.vargas@coreandmain.com

Address: 18701 SW 108th Avenue, Miami, FL 33157

ATTACHMENT L

Page 5 of 8

TABLE I – COMPLETED PROJECTS (Reference Document)

PROJECT TITLE & LOCATION	YOUR CONTRACT AMOUNT	CONTRACTOR OR SUB	REQUIRED COMPLETION DATE	ACTUAL COMPLETION DATE	NAME, ADDRESS, PHONE #, & Email
Sunrise Isle canal dredging 520 Sombreno Beach Road Marathon FL 33050	\$1,100,000.00	LPS contracting	01/30/2019	01/16/2019	Roger Guerrero 954-303-1459 rogerguerrero171302@gmail.com Address - 520 520 Sombreno Beach Road Marathon FL 33050
Caloosa Cove Resort dredging 73801 Overseas Hwy Islamorada FL 33036	\$375,000.00	LPS contracting	09/01/2018	08/12/2018	Shiv Shahi 561-889-6621 shiv@aecbuild.com address - 73801 73801 overseas Hwy Islamorada FL 33036
Sombreno Beach Rd dredging 2000, 2010 2020 Sombreno Beach Rd, Marathon FL 33050	\$315,000.00	LPS contracting	02/01/2019	01/23/2019	Clive Mc+2 clive@magnum.com 786-553-4555 address - 2000 2000 Sombreno Beach Rd, Marathon FL 33050
Hemphill Compound Project 57223 Morton Street, Grassy Key FL 33050	\$400,000.00	LPS contracting	04/15/2020	03/30/2020	Tony D'Ascanio 305-743-7130 tdascanio@designsourcegroup.com address: 57223 57223 Morton Street, Grassy Key FL 33050
Sunset Point Farm dredge 56195 Overseas Hwy Marathon FL 33050	\$225,000.00	LPS contracting	01/10/2019	12/3/2018	Scott Goli sgoli7@aol.com address: 56195 Overseas Hwy Marathon FL 33050 Phone: N/A

Please note this document must be completed in its entirety. Any missing or omitted information may result in a non-responsive bid and your proposal may be disqualified. This Document will also be used as a reference document and the City will verify references.

ATTACHMENT L

Page 6 of 8

TABLE II – CURRENT PROJECTS (Reference Document)

PROJECT TITLE & LOCATION	YOUR CONTRACT AMOUNT	CONTRACTOR OR SUB	REQUIRED COMPLETION DATE	ESTIMATED COMPLETION DATE	NAME, ADDRESS, PHONE #, & Email
15 th Street circle dredging		LPS			Thomas Carden Lot 3 15 th Street Circle Key Colony Beach FL 33051 815-329-5220 thomas.carden@cloischnitt.com
15 th Street circle canal Key Colony Beach FL 33051	\$335,716,000	Contracting	08/2021	08/2021	
780 10 th Street Seawall		LPS			Luis Alonso 780 10 th Street Key Colony Beach FL 33051 305-343-0587 lalonso@kazimangmt.com
780 10 th Street Key Colony Beach FL 33051	\$200,000.00	Contracting	08/2021	08/2021	
Compass Pointe		LPS			Tony D'Ascanio 11506 Overseas Highway Marathon FL 33050 305-743-7130 info@designsource.com
700 39 th Street Marathon FL 33050	\$400,000.00	Contracting	08/2021	08/2021	
Seabreeze Islamorada		LPS			Burke Construction 3210 Flagler Ave Key West FL 33040 305-468-6604 info@bucine.net
87401 Old Highway Islamorada FL 33036	\$2.3 million	Contracting	09/2021	09/2021	

Please note this document must be completed in its entirety. Any missing or omitted information may result in a non-responsive bid and your proposal may be disqualified. This Document will also be used as a reference document and the City will verify references.

ATTACHMENT L

Page 7 of 8

SUBCONTRACTOR LISTING

List all proposed subcontractors to be used for this project regardless of racial or gender grouping or dollar value of work to be performed. The City has the right to reject subcontractors that do not meet the City requirements. If you are claiming minority status it is required to attach the State of Florida issued certification showing minority status. Subcontractors must meet all Licensing, Insurance and Bonds requirements where applicable.

IF NOT USING SUBCONTRACTORS, PLEASE INDICATE AS SUCH.

Please note this document must be completed in its entirety.

Firm Name, Address, and Telephone Number	Description of Work to be Performed (Be Specific)	Estimated Dollar Value of Work	MBE/WBE
① Ardaman & Associates, Inc. ② 9970 Bavaria Road, Fort Myers, Florida 33913 ③ 239-768-6600	Sediment Sampling	\$ 11,255	-
① Hyatt Survey ② 2012 Lena Road, Bradenton, Florida 34211 ③ 941-748-4693	Pre and Post Surveys	\$ 127,600	WBE
_____ _____ _____		\$	
_____ _____ _____		\$	

ATTACHMENT L

Page 8 of 8

**CONTRACTOR'S SELF-PERFORMED
WORK EVALUATION FORM**

1	Total Estimated Project Cost (from bid form)	\$ 1,205,698.40
2	Total Work Performed by Subcontractors listed on "Subcontractor Listing Form"	\$ 138,855.00
3	Value of Work Proposed to be Self-Performed by Contractor, (line 1 minus line 2)	\$ 1,067,043.40
4	Percentage of "Project Cost" (line 1) Proposed to Be Self-Performed by Contractor (line 3 divided by line 1 as a percentage (%))	88.49 %


ATTACHMENT M**DRUG FREE WORKPLACE CERTIFICATION**

In order for the City of Cape Coral to continue as a drug-free workplace, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid/proposal a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid/proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

UPS UTILITIES INC. DBA UPS CONTRACTING
Company Name (please print)


Jennifer Wilson
Authorized Signature

Date: 08/09/2021

ATTACHMENT N NON-COLLUSIVE AFFIDAVIT

State of FloridaCounty of Monroe

Jennifer Wilson being first duly sworn, deposes and says that he is LPS utilities DBA LPS contracting the party making the fore-going proposal or bid, that such (*partner or officer of the firm, etc.*) proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, or to fix overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the City of Cape Coral of any person interested in the proposed contract; and that all statements in said proposal or bid are true.

Jennifer Wilson / corporation
(Bidder, if the bidder is an individual;
Partner, if the bidder is a partnership;
Officer, if the bidder is a corporation)

LPS utilities INC. DBA LPS contracting
(Company Name)

STATE OF FloridaCOUNTY OF Monroe

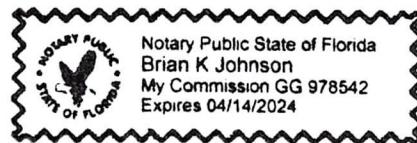
The foregoing instrument was acknowledged before me this 10th day of August, 2021
by Jennifer Wilson - President (name and title of corporate officer) of

LPS Utilities Inc DBA LPS Contracting (name of corporation), a Illinois (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced Personally Known (type of identification) as identification.

Brian Johnson
(Signature/line for notary public)

Brian Kenneth Johnson
(Name of notary type, printed or stamped)

Notary Public
(Title or rank)

My commission expires: 04-14-2024

(Serial number if any)

ATTACHMENT O**PUBLICLY OWNED VACANT SITE IDENTIFICATION**

The intent of this form is to identify proposed use by a Contractor of a publicly owned vacant site(s). **This form DOES NOT provide authorization of the use of any publicly owned vacant site(s) by a Contractor.**

It is the responsibility of the contractor to obtain any necessary permits, all permissions to utilize site(s) and applicable insurances, whether it is on private or public land, to store any equipment or material on any vacant sites throughout the duration of this project. If the Contractor intends to use a City owned site(s) for equipment and/or material storage and/or staging, a Permissive Use License Agreement (PULA) must be executed prior to construction start. It is the Contractor's responsibility to contact the City's Real Estate Division to gain authorization to use the proposed site(s). All sites, either public or private, must be restored to their prior condition before the contractor leaves that road segment to begin the next road segment. Copies of authorizations and permits for use of public or private sites shall be provided to the City's Project Manager.

The Contractor has identified the following site(s) for use during the proposed project. The Contractor shall attach additional pages as necessary to include all proposed sites. Include the Lot(s) or Tract, Block, Subdivision, Unit, Plat Book number, and Page(s) as recorded in the Public Records of Lee County, Florida for all proposed sites intended for use.

Lot / Tract: LOTS 32 and 33

Block: BLOCK 71

Subdivision: N/A

Unit: Unit 6

Plat Book: Plat Book 11

Page(s): Page 74 through N/A

Lot / Tract: LOTS 16 + 17 + S/W Exit

Block: BLOCK 41 A

Subdivision: N/A

Unit: Unit 6 Part 2

Plat Book: Plat Book 11

Page(s): Page 60 through N/A

ATTACHMENT O**PUBLICLY OWNED VACANT SITE IDENTIFICATION**

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The Contractor has identified the following site(s) for use during the proposed project. The Contractor shall attach additional pages as necessary to include all proposed sites. Include the Lot(s) or Tract, Block, Subdivision, Unit, Plat Book number, and Page(s) as recorded in the Public Records of Lee County, Florida for all proposed sites intended for use.

Lot / Tract: Lot 53 & 54

Block: Block 614

Subdivision: N/A

Unit: Unit 21

Plat Book: Plat Book 13

Page(s): Page 152 through N/A

Lot / Tract: Lot 55 & 56

Block: Block 614

Subdivision: N/A

Unit: Unit 21

Plat Book: Plat Book 13

Page(s): Page 152 through N/A

ATTACHMENT P

References

Bidder must demonstrate the ability to perform contracts of this size.

PROVIDE THREE COMMERCIAL REFERENCES:

1. Caloosa Cove Resort
Company Name
73801 Overseas Hwy
Mailing Address
Islamorada, FL, 33036
City, State, Zip Code
Most Recent Date of Service: 8-12-18 Brief Description of Service: Maintenance dredged
5700 yds from a commercial marina and
entrance channel.
- Shiv Shahi
Contact Person
(561) 889-6621
Phone Number
shiv@acubuild.com
Email address
2. Sunrise Isle Homeowners Association
Company Name
104 Sunrise Drive
Mailing Address
Marathon FL 33050
City, State, Zip Code
Most Recent Date of Service: 1-16-19 Brief Description of Service: Maintenance dredge
and haul off of 23,000 cyds of material from a
residential canal.
- Roger Guerrero
Contact Person
(954) 303-1459
Phone Number
rogerguerrero171302@gmail.com
Email address
3. West Coast Inland Navigation
Company Name district
200 E. Miami Avenue
Mailing Address
Venice, FL, 33425
City, State, Zip Code
Most Recent Date of Service: 12-15-2020 Brief Description of Service: Maintenance dredge
3,750 foot long, 20 foot wide channel to -5.0
feet MLLW in Lyons Bay.
- Justin McBride
Contact Person
239-677-1354
Phone Number
justin@wciind.net
Email address

ATTACHMENT Q
OFFICIAL BID PROPOSAL
 PAGE 1 of 5

BID NUMBER: BPW2191MM**DUE DATE: August 13, 2021****BID TITLE: Canal Maintenance Dredging FY 21-22**

The Undersigned having read, reviewed and accepted the terms, conditions, and specifications issued by CITY OF CAPE CORAL and having inspected the work area and conditions affecting and governing same, hereby proposes to provide all equipment, tools, and supplies and to perform all labor necessary for the work as specified and described in Official Bid Proposal Tabulation and for the price(s) listed therein, and included as part of this official bid proposal.

The Undersigned declares that the statements and representations made in this proposal are true in every respect and that the said proposal is in all respects fair and made without collusion or fraud, and that no member of the City Council or any other agent or employee of the City, directly or indirectly, is interested in this bid proposal or in any profits expected to accrue therefrom.

The Undersigned acknowledges receipt of the following addenda, and the cost, if any, of such revisions has been included in the price of the bid.

Addendum #: <u>1</u>	Date: <u>08/09/2021</u>	Addendum #: _____	Date: _____
Addendum #: <u>2</u>	Date: <u>08/09/2021</u>	Addendum #: _____	Date: _____

PRICES SHALL BE EFFECTIVE FOR ONE HUNDRED AND EIGHTY (180) DAYS FROM BID OPENING DATE, AND THEREAFTER IF ACCEPTED BY THE CITY FOR THE TERM DESIGNATED IN THIS BID.

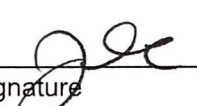
If awarded a contract on the basis of this bid, the Contractor will commence work as required by the Contract Documents as stipulated in the Notice to Proceed and complete all work by the date determined in the Work Order. Contractor agrees that liquidated damages will be assessed in the amount of \$ 200.00 per calendar day for each calendar day that contract is not completed beyond the completion date required by the Contract Documents.

LPS UTILITIES INC. DBA LPS CONTRACTING
 Company Name

3509 Lily Pond Road
 Address

WOODSTOCK IL 60098
 City, State, Zip Code

305-240-9882
 Phone Number


 Signature

Jennifer Wilson / President
 Printed Name & Title

08/09/2021
 Date

info@lps-contracting.com
 Email

OFFICIAL BID FORM

FY 2021-2022 Canal Maintenance Dredging

GROUP A: Canals 8 through 20

Item	Description	Qty	U	Unit Price	Extended Price
1	Pre-Dredge Survey	13	EA	\$3,500.00	\$ 45,500.00
2	Post-Dredge Survey	13	EA	\$3,500.00	\$ 45,500.00
3	Dredging and Dewatering	11,800	CY	\$32.20	\$ 379,960.00
4	Transportation and Disposal of Dredged Material	11,800	CY	\$14.00	\$ 165,200.00
5	Dredge Launch	1	EA	\$49,560.00	\$ 49,560.00
SUBTOTAL:					\$ 685,720.00
6	Mobilization (shall be MAX 3% of Subtotal of items 1-5)	1	LS	\$20,571.60	\$ 20,571.60
7	Demobilization (shall be MIN 3% of Subtotal of items 1-5)	1	LS	\$20,571.60	\$ 20,571.60
GROUP A: TOTAL BID:					\$ 726,863.20

The City reserves the right to award by Group(s) or split the award between contractors as best serves the requirements of the City of Cape Coral. The City reserves the right to not award any of the Groups or portion of Groups based on returned bids and available budgeted funding.

OFFICIAL BID FORM

FY 2021-2022 Canal Maintenance Dredging

GROUP B: Canals 2, 3, 5 and 21

Item	Description	Qty	U	Unit Price	Extended Price
1	Pre-Dredge Survey	4	EA	\$4,375.00	\$ 17,500.00
2	Post-Dredge Survey	4	EA	\$4,375.00	\$ 17,500.00
3	Dredging and Dewatering	2,500	CY	\$40.25	\$ 100,625.00
4	Transportation and Disposal of Dredged Material	2,500	CY	\$17.50	\$ 43,750.00
5	Dredge Launch	1	EA	\$61,950.00	\$ 61,950.00
SUBTOTAL:					\$ 241,325.00
6	Mobilization (shall be MAX 3% of Subtotal of items 1-5)	1	LS	\$7,239.75	\$ 7,239.75
7	Demobilization (shall be MIN 3% of Subtotal of items 1-5)	1	LS	\$7,239.75	\$ 7,239.75
GROUP B: TOTAL BID:					\$ 255,804.50

The City reserves the right to award by Group(s) or split the award between contractors as best serves the requirements of the City of Cape Coral. The City reserves the right to not award any of the Groups or portion of Groups based on returned bids and available budgeted funding.

OFFICIAL BID FORM

FY 2021-2022 Canal Maintenance Dredging

GROUP C: Canals 1, 6 and 7

Item	Description	Qty	U	Unit Price	Extended Price
1	Pre-Dredge Survey	3	EA	5,500.00	\$ 16,500.00
2	Post-Dredge Survey	3	EA	5,500.00	\$ 16,500.00
3	Dredging and Dewatering	1,000	CY	50.60	\$ 50,600.00
4	Transportation and Disposal of Dredged Material	1,000	CY	22.00	\$ 22,000.00
5	Dredge Launch	1	EA	77,880.00	\$ 77,880.00
SUBTOTAL:					\$ 183,480.00
6	Mobilization (shall be <u>MAX</u> 3% of Subtotal of items 1-5)	1	LS	5,504.40	\$ 5,504.40
7	Demobilization (shall be <u>MIN</u> 3% of Subtotal of items 1-5)	1	LS	5,504.40	\$ 5,504.40
GROUP C: TOTAL BID:					\$ 194,488.80

The City reserves the right to award by Group(s) or split the award between contractors as best serves the requirements of the City of Cape Coral. The City reserves the right to not award any of the Groups or portion of Groups based on returned bids and available budgeted funding.

OFFICIAL BID FORM

FY 2021-2022 Canal Maintenance Dredging

GROUP D: Canal 4 - Normandy South

Item	Description	Qty	U	Unit Price	Extended Price
1	Pre-Dredge Survey	1	EA	6,500.00	\$ 6,500.00
2	Post-Dredge Survey	1	EA	6,500.00	\$ 6,500.00
3	Dredging and Dewatering	700	CY	59.80	\$ 41,860.00
4	Transportation and Disposal of Dredged Material	700	CY	26.00	\$ 18,200.00
5	Dredge Launch	1	EA	92,040.00	\$ 92,040.00
SUBTOTAL:					\$ 165,100.00
6	Mobilization (shall be <u>MAX</u> 3% of Subtotal of items 1-5)	1	LS		\$ 4,953.00
7	Demobilization (shall be <u>MIN</u> 3% of Subtotal of items 1-5)	1	LS		\$ 4,953.00
GROUP D: TOTAL BID:					\$ 175,006.00

The City reserves the right to award by Group(s) or split the award between contractors as best serves the requirements of the City of Cape Coral. The City reserves the right to not award any of the Groups or portion of Groups based on returned bids and available budgeted funding.

OFFICIAL BID FORM					
FY 2021-2022 Canal Maintenance Dredging					
GROUP E: Canal 22 - Riverhead South					
Item	Description	Qty	U	Unit Price	Extended Price
1	Pre-Dredge Survey	1	EA	\$ 6,000.00	\$ 6,000.00
2	Post-Dredge Survey	1	EA	\$ 6,000.00	\$ 6,000.00
3	Dredging and Dewatering	1,000	CY	\$ 55.20	\$ 55,200.00
4	Transportation and Disposal of Dredged Material	1,000	CY	\$ 24.00	\$ 24,000.00
5	Dredge Launch	1	EA	\$ 84,960.00	\$ 84,960.00
SUBTOTAL:					\$ 176,160.00
6	Mobilization (shall be MAX 3% of Subtotal of items 1-5)	1	LS	\$ 5,284.80	\$ 5,284.80
7	Demobilization (shall be MIN 3% of Subtotal of items 1-5)	1	LS	\$ 5,284.80	\$ 5,284.80
GROUP E: TOTAL BID:					\$ 186,729.60
The City reserves the right to award by Group(s) or split the award between contractors as best serves the requirements of the City of Cape Coral. The City reserves the right to not award any of the Groups or portion of Groups based on returned bids and available budgeted funding.					

OFFICIAL BID FORM					
FY 2021-2022 Canal Maintenance Dredging					
ALL-INCLUSIVE PROJECT TO INCLUDE GROUPS A through E					
Item	Description	Qty	U	Unit Price	Extended Price
1	Pre-Dredge Survey	22	EA	\$ 3,500.00	\$ 77,000.00
2	Post-Dredge Survey	22	EA	\$ 3,500.00	\$ 77,000.00
3	Dredging and Dewatering	17,000	CY	\$ 32.20	\$ 547,400.00
4	Transportation and Disposal of Dredged Material	17,000	CY	\$ 14.00	\$ 238,000.00
5	Dredge Launch	4	EA	\$ 49,560.00	\$ 198,240.00
SUBTOTAL:					\$ 1,137,640.00
6	Mobilization (shall be MAX 3% of Subtotal of items 1-5)	1	LS	\$ 34,129.20	\$ 34,129.20
7	Demobilization (shall be MIN 3% of Subtotal of items 1-5)	1	LS	\$ 34,129.20	\$ 34,129.20
GROUPS A through E: TOTAL BID:					\$ 1,205,898.40
An all-inclusive project cost for all five Groups to be combine as one complete project.					

The City reserves the right to award areas separately or all-inclusive, based on funding availability.

PAGE 5 of 5

Remarks by Bidder:

If there are deviations, they MUST be listed below, otherwise none will be allowed. If additional space is required, attach a second sheet to this Bid Proposal Form. If nothing is listed below, it will be interpreted as meaning NO DEVIATIONS.

Contractor (LPS utilities INC. DBA LPS contracting) will be completing this project using mechanical dredging method.

Company: LPS utilities INC. DBA LPS contracting

Signature: JL

Name Printed: Jennifer Wilson

Title: President

Date: 08/09/2021

THIS PAGE MUST BE COMPLETED AND SIGNED BY AN AUTHORIZED SIGNER AND RETURNED AS PART OF YOUR BID.

BID PREPARATION CHECKLIST

The Bid Preparation Checklist is a guide to assist the Bidder in verifying the completeness of their response. The Bid Preparation Checklist does not relieve the Bidder of the responsibility of ensuring that all requirements of this solicitation are included with submittal of their response. Check off each of the following as you comply:

Read the entire Invitation to Bid document.

- ☒ Bid Invitation - signed Bidder Acknowledgements (Attachment A)
- ☒ Form 3A Interest in Competitive Bid for Public Business. If applicable (Attachment B)
- ☒ Bid Security Requirement Form (Attachment C)
- ☒ Contact List (Attachment D)
- ☒ Performance & Payment Bond (Attachment E) - Letter from Bond company
- ☒ Business Ethics Requirements (Attachment F)
- ☒ Corporate Resolution (Attachment G)
- ☒ Scrutinized Companies (Attachment H)
- ☒ E-Verify Affidavit (Attachment I)
- ☒ Sworn Stmt on Entity Crimes(Attachment J)
- ☒ Acknowledgement of Insurance (Attachment K)
- ☒ Business Questionnaire (Attachment L)
- ☒ Drug Free Workplace Cert (Attachment M)
- ☒ Non-Collusive Affidavit (Attachment N)
- ☒ Vacant Property (Attachment O)
- ☒ References (Attachment P)
- ☒ Completed Signed Official Bid Proposal Form. (Attachment Q)
This bid contains **5** pages for the Official Bid Proposal. All pages **MUST** be completed, returned and the form signed where indicated. Failure to return **ALL** pages of the bid proposal may result in rejection of your bid. Failure to sign your bid proposal may result in rejection of your bid.
- ☒ Copies of Licenses & Permits
- ☒ (1) One original bid, one (1) copy of bid and one (1) readable/reproducible disk (CD) or flash drive completely duplicating the original bid.

The outer packaging shall clearly state Company Name, Invitation to Bid Title, Invitation to Bid Number, Solicitation Opening Date and Time.

The documents mentioned on this page must be provided. Failure to provide or properly execute these items/documents may result in your bid being considered non-responsive and, if so, will be rejected and not considered for award by City Council.

2020 / 2021
MONROE COUNTY BUSINESS TAX RECEIPT
EXPIRES SEPTEMBER 30, 2021

Business Name: PUMPING THE KEYS INC

RECEIPT# 29240-116359

Owner Name: RENE H CASTILLO

Business Location: MO CTY
TAVERNIER, FL 33070

Mailing Address:
PO BOX 373184
KEY LARGO, FL 33037

Business Phone:
Business Type: MOBILE (MOBILE CONCRETE PUMPING)

1

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
25.00	0.00	25.00	0.00	0.00	0.00	25.00

Paid 109-19-00000429 07/08/2020 25.00

THIS BECOMES A TAX RECEIPT
WHEN VALIDATED

Danise D. Henriquez, CFC, Tax Collector
PO Box 1129, Key West, FL 33041

THIS IS ONLY A TAX.
YOU MUST MEET ALL
COUNTY AND/OR
MUNICIPALITY PLANNING
AND ZONING REQUIREMENTS.

MONROE COUNTY BUSINESS TAX RECEIPT

P.O. Box 1129, Key West, FL 33041-1129
EXPIRES SEPTEMBER 30, 2021

Business Name: PUMPING THE KEYS INC

RECEIPT# 29240-116359

Owner Name: RENE H CASTILLO

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Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
25.00	0.00	25.00	0.00	0.00	0.00	25.00

Paid 109-19-00000429 07/08/2020 25.00



Ron DeSantis, Governor

Hailey Beshears, Secretary



STATE OF FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

MEYER, TRENT T

LPS CONTRACTING
308 SADOWSKI CAUSEWAY
KEY COLONY BEACH FL 33051

LICENSE NUMBER: CGC1528936

EXPIRATION DATE: AUGUST 31, 2022

Always verify licenses online at MyFloridaLicense.com

Do not alter this document in any form.

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Ron DeSantis, Governor

Halsey Beshears, Secretary



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE UNDERGROUND UTILITY & EXCAVATION CO HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

MEYER, TRENT T

LPS CONTRACTING
308 SADOWSKI CAUSEWAY
KEY COLONY BEACH FL 33051

LICENSE NUMBER: CUC1225696

EXPIRATION DATE: AUGUST 31, 2022

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Ron DeSantis, Governor

Halsey Beshears, Secretary



STATE OF FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

MULLAR, BRANDON EDWARD

LPS CONTRACTING
308 CROTON STREET
DUCK KEY FL 33050

LICENSE NUMBER: CGC1516588

EXPIRATION DATE: AUGUST 31, 2022

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Name:	MULLAR, BRANDON EDWARD (Primary Name)
	LPS CONTRACTING (DBA Name)
Main Address:	308 CROTON STREET
	DUCK KEY Florida 33050
County:	MONROE
License Mailing:	
LicenseLocation:	308 CROTON STREET
	DUCK KEY FL 33050
County:	MONROE

License Type:	Certified General Contractor
Rank:	Cert General
License Number:	CGC1516588
Status:	Current,Active
Licensure Date:	12/22/2008
Expires:	08/31/2020

Special Qualifications	Qualification Effective
Construction Business	12/22/2008

Alternate Names

[View Related License Information](#)[View License Complaint](#)

2601 Blair Stone Road, Tallahassee FL 32399

Customer Contact Center

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Ron DeSantis, Governor

Halsey Beshears, Secretary



STATE OF FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE UNDERGROUND UTILITY & EXCAVATION CO HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

MULLAR, BRANDON EDWARD

LPS CONTRACTING
308 CROTON STREET
DUCK KEY FL 33050

LICENSE NUMBER: CUC1224542

EXPIRATION DATE: AUGUST 31, 2022

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Licensee Details

Licensee Information

Name: MULLAR, BRANDON EDWARD (Primary Name)
LPS CONTRACTING (DBA Name)
Main Address: 308 CROTON STREET
DUCK KEY Florida 33050
County: MONROE
License Mailing:

LicenseLocation: 308 CROTON STREET
DUCK KEY FL 33050
County: MONROE

License Information

License Type:	Certified Underground Utility and Excavation Contractor
Rank:	Cert Under
License Number:	CUC1224542
Status:	Current,Active
Licensure Date:	04/09/2008
Expires:	08/31/2020

Special Qualifications	Qualification Effective
Construction Business	04/09/2008

Alternate Names

[View Related License Information](#)[View License Complaint](#)

7601 Blair Stone Road, Tallahassee FL 32399 <http://www.floridaclear.com> Customer Contact Center 800-955-6666

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State of Florida

Department of State

I certify from the records of this office that LPS UTILITIES INC. is an Illinois corporation authorized to transact business in the State of Florida, qualified on October 2, 2017.

The document number of this corporation is F17000004417.

I further certify that said corporation has paid all fees due this office through December 31, 2020, that its most recent annual report/uniform business report was filed on June 25, 2020, and that its status is active.

I further certify that said corporation has not filed a Certificate of Withdrawal.

*Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this
the Seventeenth day of November,
2020*



Randy Bue
Secretary of State

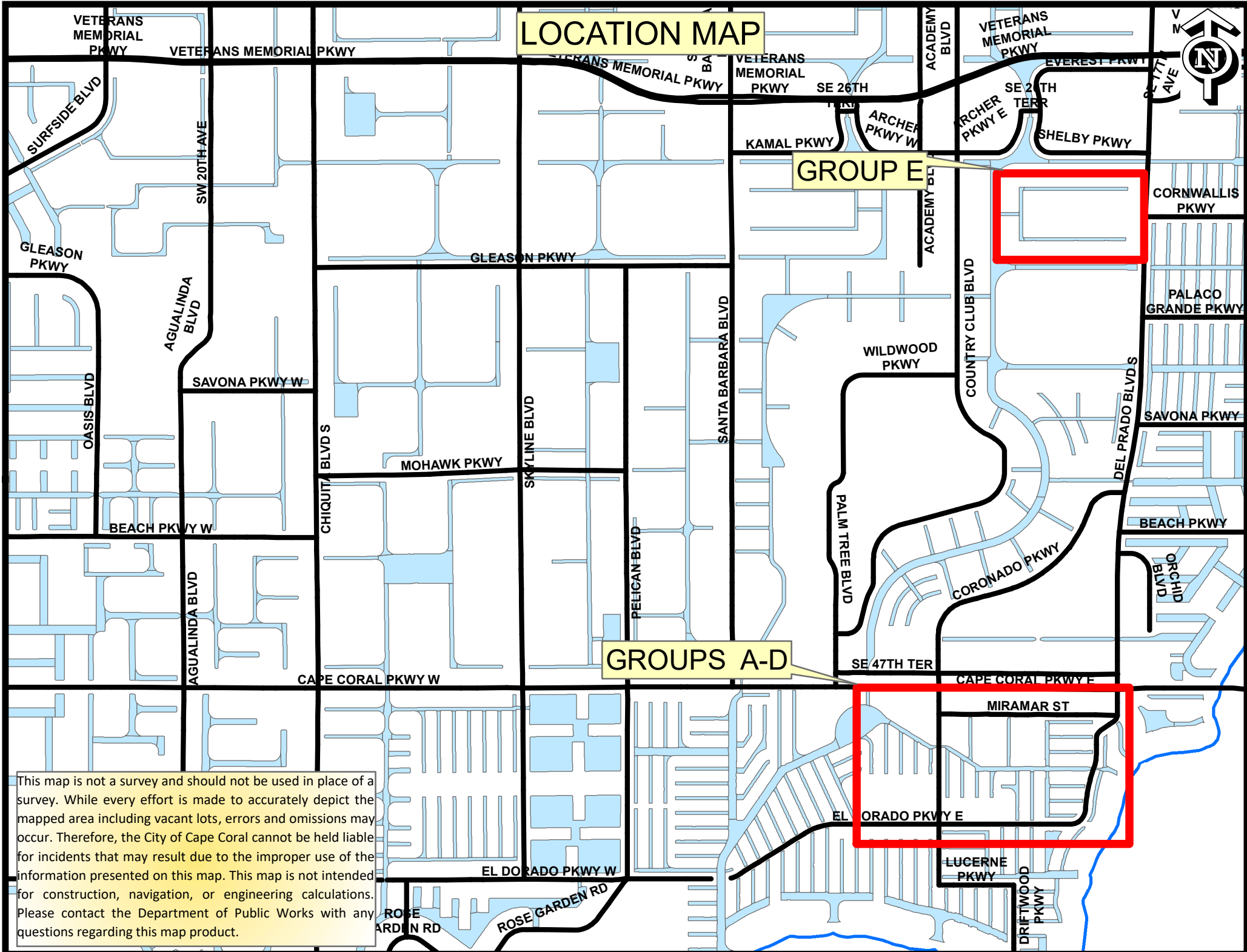
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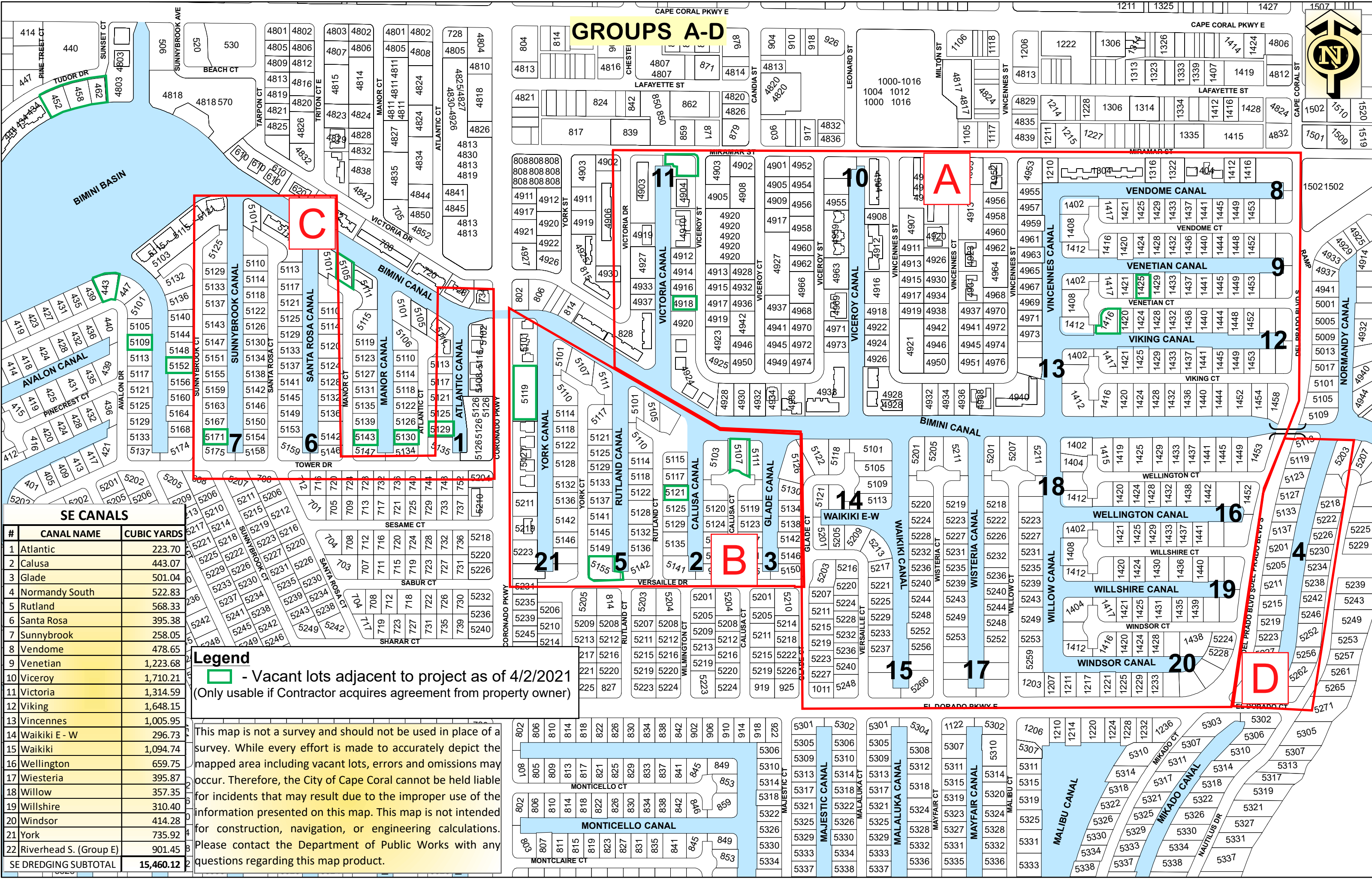
To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

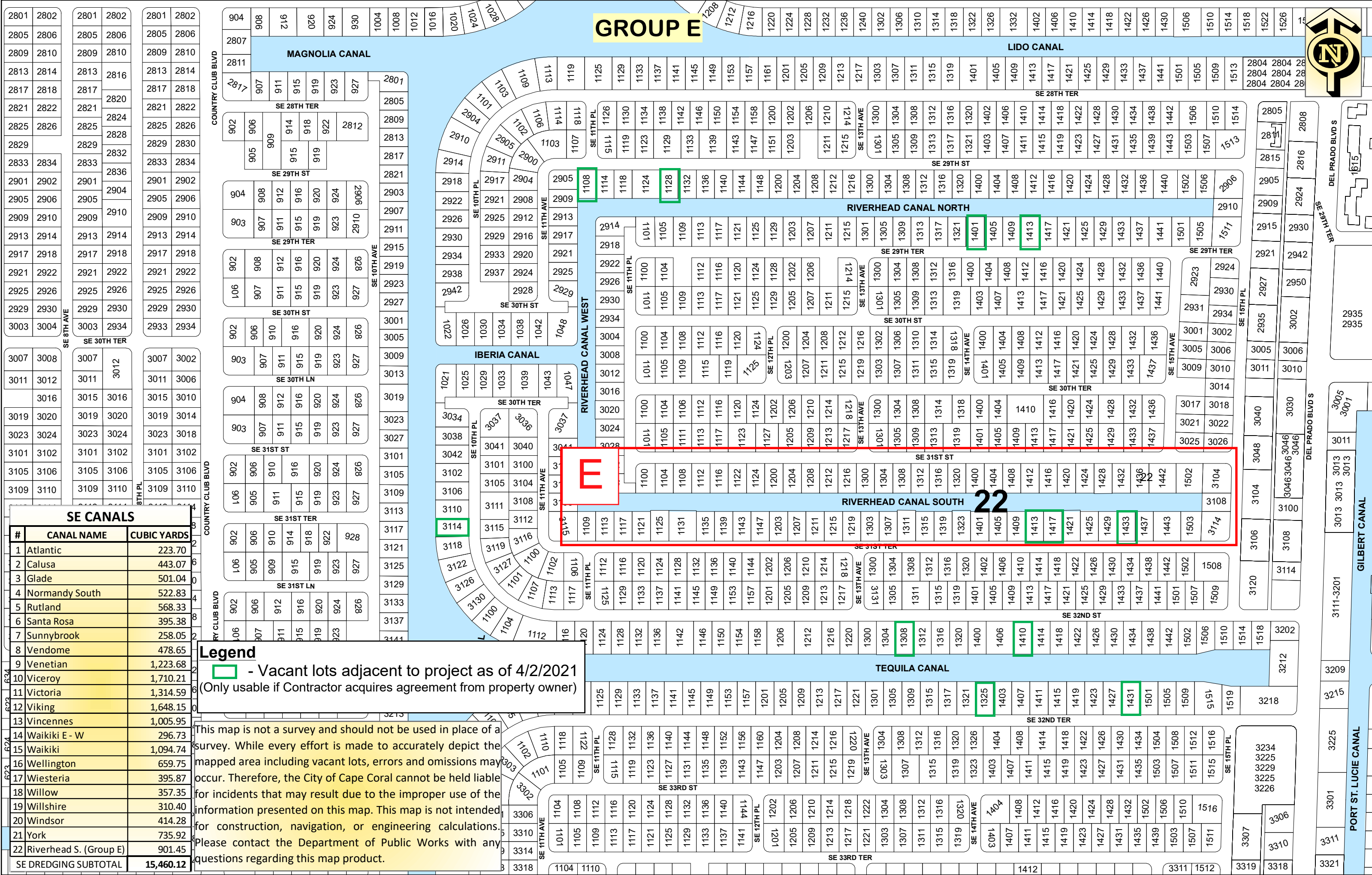
<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>

CANAL MAINTENANCE DREDGING FY21-22 --- BPW2191MM

CANAL GROUP	AHTNA MARINE & CONSTRUCTION COMPANY, LLC POMPANO BEACH, FL	ARBOR TREE AND LAND, INC WEST PALM BEACH, FL	LPS UTILITIES INC dba LPS CONTRACTING LILY POND ROAD, WOODSTOCK, IL	POSEIDON DREDGE & MARINE INC. LANTANA, FL	WATERFRONT PROPERTY SERVICES, LLC dba Gator Dredging CLEARWATER, FL
	TOTAL BID PRICE	TOTAL BID PRICE	TOTAL BID PRICE	TOTAL BID PRICE	TOTAL BID PRICE
GROUP A	\$955,420.95	\$878,104.00	\$726,863.20	\$1,075,505.60	\$1,336,000.00
GROUP B	\$489,854.08	\$299,344.00	\$255,904.50	\$351,835.20	\$334,300.00
GROUP C	\$425,376.56	\$350,330.00	\$194,488.80	\$234,798.48	\$175,800.00
GROUP D	\$387,809.30	\$271,466.00	\$175,006.00	\$119,445.04	\$162,000.00
GROUP E	\$447,139.01	\$290,440.00	\$186,729.60	\$137,465.04	\$214,000.00
ALL-INCLUSIVE	\$2,705,600.91	\$1,553,960.00	\$1,205,898.40	\$1,905,653.80	\$1,959,500.00







SE CANALS		
#	CANAL NAME	CUBIC YARDS
1	Atlantic	223.70
2	Calusa	443.07
3	Glade	501.04
4	Normandy South	522.83
5	Rutland	568.33
6	Santa Rosa	395.38
7	Sunnybrook	258.05
8	Vendome	478.65
9	Venetian	1,223.68
10	Viceroy	1,710.21
11	Victoria	1,314.59
12	Viking	1,648.15
13	Vincennes	1,005.95
14	Waikiki E - W	296.73
15	Waikiki	1,094.74
16	Wellington	659.75
17	Wiesteria	395.87
18	Willow	357.35
19	Willshire	310.40
20	Windsor	414.28
21	York	735.92
22	Riverhead S. (Group E)	901.45
SE DREDGING SUBTOTAL		15,460.12

Legend
[Green Box] - Vacant lots adjacent to project as of 4/2/2021
(Only usable if Contractor acquires agreement from property owner)

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 including vacant lots, 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 Public Works with any questions regarding this map product.



AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number: A.(2)

Meeting Date: 1/5/2022

Item Type: CONSENT AGENDA

TITLE:

Resolution 2-22 Approve agreement for grant funding between the City of Cape Coral and the State of Florida to procure equipment to mitigate exposure to hazardous, cancer-causing chemicals through an apparatus bay ventilation system. Additionally, authorize the City Manager or designee to execute all procurement-related documents: Department: Fire; Award Value: \$19,200; City Match: (25%) \$4,800; (General Fund)

ORDINANCES AND RESOLUTIONS:

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution approves the Florida Department of Financial Services grant award for Cancer Mitigation Equipment in the amount of \$24,000, with matching funds required by the City, and authorizes the City Manager or designee to execute all documents related to the grant award.

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The Cape Coral Fire Department applied for and was awarded the Firefighter Cancer Decontamination Grant. The proposed project is designed to mitigate exposure to hazardous, cancer-causing chemicals through the installation of an apparatus bay ventilation system at Fire Station 5.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

No

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

RECOMMENDATIONS:

Staff recommends that City Council approve the agreement and authorize the City Manager or designee to execute all grant documents related to purchase orders and contracts.

SOURCE OF ADDITIONAL INFORMATION:

Ryan W. Lamb, Fire Chief
rlamb@capecoral.gov
239-242-3601

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

FY2022 Budget; General Fund

1. Will this action result in a Budget Amendment? Yes

PREPARED BY:

Kierstan Lynch, Grant
Coordinator/Writer

Division- Administration

Department- Fire

ATTACHMENTS:

	Description	Type
▣	1. Resolution 2-22	Resolution
▣	2. Map	Backup Material

RESOLUTION 2 - 22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES GRANT AWARD FOR CANCER MITIGATION EQUIPMENT IN THE AMOUNT OF \$24,000, WITH MATCHING FUNDS REQUIRED BY THE CITY; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO THIS GRANT AWARD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature created the Firefighter Cancer Decontamination Equipment Grant Program within the Division of State Fire Marshal to provide financial assistance for fire departments to procure equipment, supplies, and training designed to mitigate exposure to hazardous, cancer-causing chemicals; and

WHEREAS, the City of Cape Coral has been awarded grant funding in the amount of \$24,000, with \$19,200 to be paid by the State of Florida Department of Financial Services, and matching funds in the amount of \$4,800 to be provided by the City for an exhaust/filtration system in Fire Station #5; and

WHEREAS, the City Council desires to accept the Firefighter Cancer Decontamination Equipment Grant Program grant award and to authorize the City Manager to execute the Grant Agreement between the State of Florida Department of Financial Services and City of Cape Coral, attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby accepts the Firefighter Cancer Decontamination Equipment Grant Program grant award in the amount of \$24,000, with \$19,200 to be paid by the State of Florida Department of Financial Services, and matching funds in the amount of \$4,800 to be provided by the City for an exhaust/filtration system in Fire Station #5 as set forth in the "Grant Agreement Between Department of Financial Services and City of Cape Coral". A copy of the grant agreement is attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the City Manager to execute the Grant Agreement and any related documents.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ

CITY ATTORNEY

Res\Grant -Cancer Mitigation - Fire

EXHIBIT A

**GRANT AGREEMENT
BETWEEN
DEPARTMENT OF FINANCIAL SERVICES
AND
CITY OF CAPE CORAL**

THIS GRANT AGREEMENT (Agreement) is made and entered into by and between the Department of Financial Services (Department), an agency of the state of Florida (State), and City of Cape Coral (Grantee), and is effective as of the date last signed. The Department and the Grantee are sometimes referred to herein individually as a "Party" or collectively as the "Parties."

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, the Florida Legislature created the Firefighter Cancer Decontamination Equipment Grant Program within the Division of State Fire Marshal (Division) to provide financial assistance to help career fire departments, combination fire departments, and volunteer fire departments procure equipment, supplies, and training designed to mitigate exposure to hazardous, cancer-causing chemicals;

WHEREAS, the Florida Legislature has appropriated funds for the 2021-2022 State fiscal year to the Department to implement section 633.137, F.S., for the specific purposes stated therein, and the Division has the authority to administer the program and annually award grants upon the terms and conditions set forth herein and in Rule 69A-37.503, Florida Administrative Code (F.A.C.);

WHEREAS, to be a recipient of State funds under this grant program, the Grantee has identified a source of nonstate funding in an amount that is equal to or exceeds 25% the funding provided to Grantee under this Agreement; and

WHEREAS, the Grantee represents that it is fully qualified and eligible to receive these grant funds and will use them for the purposes identified herein.

NOW, THEREFORE, the Department and the Grantee do mutually agree as follows:

1. Performance Requirements:

The Grantee shall perform the tasks specified herein in accordance with the terms and conditions of this Agreement, including its attachments, addenda, and exhibits, which are incorporated by reference herein. The performance requirements are more specifically described in Attachment 2, Statement of Work (SOW). The definitions of terms and acronyms in the SOW will apply herein, unless otherwise defined in this Agreement.

2. Compliance with Laws, Rules, Regulations, and Policies:

The Grantee shall comply with the applicable local, state, and federal laws, rules, regulations, and policies including, but not limited to, those identified in this Agreement.

3. Agreement Duration:

The term of this Agreement begins on the date the Agreement is last signed (effective date) and ends on the last day of the State's fiscal year in which the grant was awarded. The Department shall not be obligated to pay for costs incurred by the Grantee related to this Agreement prior to this Agreement's effective date or after its ending date. The term of this Agreement may not be extended or renewed.

4. Payment and Funding Considerations:

- 4.1. **Funding:** This Agreement is a cost-reimbursement agreement, subject to a minimum 25% match of funds from a nonstate source of funding, not to exceed the amount of funds stated in Attachment 1, Specific Grant Awards. Such funds will be paid by the Department in consideration of the Grantee's performance of the requirements as set forth by the terms and conditions of this Agreement. Pursuant to section 287.0582, F.S., for any agreement binding the State or the Department for a period in excess of one State fiscal year, the State's and the Department's performance and obligation to pay under that agreement are contingent upon an annual appropriation by the Legislature.
- 4.2. **Payment Process:** Subject to the terms and conditions established by this Agreement, the pricing method per deliverable established in the SOW, and the billing procedures established by the Department, the Department agrees to pay the Grantee in accordance with section 215.422, F.S., for its performance under this Agreement, as described in the SOW. The applicable interest rate can be obtained at:
<http://www.myfloridacfo.com/Division/AA/Vendors/default.htm>.
- 4.3. **Grantee Rights:** A Vendor Ombudsman has been established within the Department. The duties of the Vendor Ombudsman include acting as an advocate for grantees who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be reached at (850) 413-5516.
- 4.4. **Taxes:** The Department is exempted from the payment of State sales and use tax and Federal Excise Tax. Unless otherwise provided by law, the Grantee shall not be exempt from paying State sales and use tax to the appropriate governmental agencies, nor shall the Grantee be exempted from paying its suppliers for any taxes on materials used to fulfill its contractual obligations under this Agreement. The Grantee shall not use the Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement. The Grantee shall provide the Department its taxpayer identification number upon request.
- 4.5. **Invoicing and Acceptance:** All charges for performance under this Agreement or for reimbursement of expenses authorized by the Department shall be submitted to the Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee must submit invoices in accordance with the time requirements specified in the SOW. The Department will reimburse the Grantee for the performance required by the Agreement and any authorized expenses only upon the timely and satisfactory completion of the applicable performance and compliance requirements of the SOW. Payment for the deliverables is conditioned upon written acceptance by the Department's designated contract manager (Contract Manager) identified in Section 34, below. If the Department determines that circumstances warrant, the Department may accept partial performance and make partial payments for partial performance.
5. **Expenditures:**
All expenditures must be in compliance with the laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to the State's Reference Guide for State Expenditures. The Grantee shall submit invoices for performance or expenses in accordance with the requirements of this reference guide, which can be obtained at:
<http://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>. The Grantee may not spend funds received under this Agreement for the purposes of lobbying the Florida legislature, the judicial branch, or a State agency.
6. **Governing Laws of the State:**
6.1. **Governing Law:** The Grantee agrees that this Agreement is entered into in the State, and will be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State. Each Party shall perform its obligations herein in accordance with the

terms and conditions of this Agreement. Without limiting the provisions of Section 28, Dispute Resolution, the exclusive venue of any legal or equitable action that arises out of or relates to this Agreement will be the appropriate State court in Leon County, Florida; in any such action, the Parties waive any right to jury trial.

- 6.2. Ethics:** The Grantee shall comply with the requirements of sections 11.062 and 216.347, F.S. The Grantee shall not, in connection with this or any other agreement with the State, directly or indirectly: (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or State employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty; or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or State employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Department's Inspector General, or other authorized State official, the Grantee shall provide any type of information the Inspector General deems relevant to the Grantee's integrity or responsibility. Such information may include, but will not be limited to, the Grantee's business or financial records, documents, or files of any type or form that refer to or relate to this Agreement. The Grantee shall retain such records in accordance with the record retention requirements of Part V of Attachment 3, Audit Requirements for Awards of State and Federal Financial Assistance. Only the provisions applicable to State funding in Attachment 3, Audit Requirements for Awards of State and Federal Financial Assistance, are applicable to this grant.

- 6.3. Employment Eligibility Verification:** N/A

- 6.4. Advertising:** Subject to chapter 119, F.S., the Grantee shall not publicly disseminate any information concerning this Agreement without prior written approval from the Department, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking the Grantee's name and either a description of this Agreement or the name of the Department or the State in any material published, either in print or electronically, to any entity that is not a Party to this Agreement, except potential or actual authorized distributors, dealers, resellers, or service representatives.

- 6.5. Sponsorship:** As required by section 286.25, F.S., if the Grantee is a nongovernmental organization which sponsors a program that is financed wholly or in part by State funds, including any funds obtained through this Agreement, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (Grantee's name) and the State of Florida, Department of Financial Services." If the sponsorship reference is in written material, the words "State of Florida, Department of Financial Services" must appear in the same size letters or type as the name of the Grantee.

7. Mandatory Disclosure Requirements:

- 7.1. Conflict of Interest:** This Agreement is subject to chapter 112, F.S. The Grantee shall disclose the name of any officer, director, employee, or other agent who is also an employee of the State. The Grantee shall also disclose the name of any State employee who owns, directly or indirectly, more than a five percent (5%) interest in the Grantee or its affiliates.
- 7.2. Convicted Vendor List:** The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.133(1)(a), F.S., are placed on the convicted vendor list. Pursuant to section 287.133(2)(a), F.S.: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or

replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.”

- 7.3. **Discriminatory Vendor List:** The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.134(1)(a), F.S., are placed on the discriminatory vendor list. Pursuant to section 287.134(2)(a), F.S.: “An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

- 7.4. **Continuing Duty of Disclosure of Legal Proceedings:** N/A

- 7.5. **Antitrust Violator Vendor List:** The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.137(1)(a), F.S., are placed on the antitrust violator vendor list. Pursuant to section 287.137(2)(a), F.S.: “A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity.”

- 7.6. **Department Inspection of Records:** Pursuant to section 216.1366, F.S., the Grantee shall permit the Department to inspect the Grantee’s financial records, papers, and documents that are directly related to the performance of the Agreement or the expenditure of state funds and the Contractor’s programmatic records, papers, and documents which the Department determines are necessary to monitor the performance of the Agreement or to ensure that the terms of the Agreement are being met. The Contractor shall provide such records, papers, and documents to the Department’s Contract Manager within 10 business days after a request is made to the Contractor.

- 7.7. **Foreign Gifts and Contracts:** The Grantee shall comply with any applicable disclosure requirements in section 286.101, F.S. Pursuant to section 268.101(7), F.S.: “In addition to any fine assessed under [section 286.101(7)(a)], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause.”

8. Funding Requirements of Section 215.971(1), F.S.:

- 8.1. The Grantee shall perform all tasks contained in the SOW.

- 8.2. Receipt by the Grantee of the Department’s written acceptance of the units of deliverables specified herein is a condition precedent to payment under this Agreement and is contingent upon the Grantee’s compliance with the specified performance measure (i.e., each deliverable must satisfy at least the minimum acceptable level of service specified in the SOW and the Department shall apply the applicable criteria stated in the SOW to determine satisfactory completion of each deliverable).

- 8.3. If the Grantee fails to meet the minimum level of service specified in the SOW, the Department shall apply the financial consequences for such failure as specified herein.
 - 8.4. The Grantee may only expend funding under this Agreement for allowable costs resulting from obligations incurred during the term of this Agreement.
 - 8.5. The Grantee shall refund to the Department any balance of unobligated funds that was advanced or paid to the Grantee.
 - 8.6. The Grantee shall refund to the Department all funds paid in excess of the amount to which the Grantee is entitled under the terms and conditions of this Agreement.
9. **Advance Payments:** If authorized by sections 215.422(15) or 216.181(16), F.S., and approved in writing by the Department, the Grantee may be provided an advance as part of this Agreement.
10. **Final Invoice:** The Grantee shall submit its final invoice to the Department no later than thirty (30) calendar days after the Agreement ends or, in the case of termination, when this Agreement is terminated. If the Grantee fails to do so, the Department may, at its sole discretion, refuse to honor any request submitted by the Grantee after this time period and may consider the Grantee to have forfeited any and all rights to payment under this Agreement.
11. **Return or Recoupment of Funds:**
- 11.1. If the Grantee or its independent auditor, if applicable, discovers that an overpayment has been made, the Grantee shall repay said overpayment within forty (40) calendar days of notification of discovery without prior notification from the Department. If the Department first discovers an overpayment has been made, the Department will notify the Grantee in writing. Should repayment not be made in a timely manner, the Department shall be entitled to charge interest at the lawful rate of interest on the outstanding balance beginning forty (40) calendar days after the date of notification or discovery. A check for the amount due should be sent to the Department's Contract Manager and made payable to the "Department of Financial Services."
 - 11.2. Notwithstanding the damages limitations of Section 29, if the Grantee's non-compliance with any provision of this Agreement results in additional costs or monetary loss to the Department or the State, the Department may recoup the costs or losses from monies owed to the Grantee under this Agreement or any other Agreement between the Grantee and any State entity. If additional costs or losses are discovered when no monies are available under this Agreement or any other Agreement between the Grantee and any State entity, the Grantee shall repay such costs or losses to the Department within thirty (30) calendar days of the date of discovery or notification, unless the Department agrees, in writing, to an alternative timeframe.
12. **Audits and Records:**
- 12.1. Representatives of the Department, including, but not limited to, the State's Chief Financial Officer or the State's Auditor General or representatives of the federal government shall have access to any of the Grantee's books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.
 - 12.2. The Grantee shall maintain books, records, and documents in accordance with the generally accepted accounting principles to sufficiently and properly reflect all expenditures of funds provided by the Department under this Agreement.
 - 12.3. The Grantee shall comply with all applicable requirements of section 215.97, F.S., and Attachment 3, Audit Requirements for Awards of State and Federal Financial Assistance. If the Grantee is required to undergo an audit, the Grantee shall disclose all related-party transactions to the auditor.
 - 12.4. The Grantee shall retain all the Grantee records, financial records, supporting documents, statistical records, and any other documents, including electronic storage media, pertinent to this

Agreement in accordance with the record retention requirements of Part V of Attachment 3, Audit Requirements for Awards of State and Federal Financial Assistance or the period required by the General Records Schedules maintained by the Florida Department of State (available at <https://dos.myflorida.com/media/703328/gsl-sl-2020.pdf>) whichever is longer. The Grantee shall cooperate with the Department to facilitate the duplication and transfer of such records or documents upon the Department's request. If the Grantee is required to comply with section 119.0701, F.S., then compliance with the retention of records in accordance with section 119.070(2)(b)4, F.S., will fulfill the above stated requirement. If the Grantee's record retention requirements terminate prior to the requirements stated herein, the Grantee may meet the Department's record retention requirements for the Agreement by transferring its records to the Department at the time, and by destroying duplicate records in accordance with section 501.171, F.S., and if applicable, section 119.0701, F.S. The Grantee shall adhere to established information destruction standards such as those established by the National Institute of Standards and Technology Special Publication 800-88, "Guidelines for Media Sanitization" (2014) (available at: <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>

- 12.5. The Grantee shall include the aforementioned audit and recordkeeping requirements in all approved subgrantee agreements and assignments.
- 12.6. The Grantee agrees to reimburse the State for the reasonable costs of investigation incurred by the Department's Inspector General or other authorized state official for investigations of the Grantee's compliance with the terms of this Agreement or any other agreement between the Grantee and the State which results in the suspension or debarment of the Grantee. Such costs include, but they are not limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Grantee shall not be responsible for any costs of investigations that do not result in the Grantee's suspension or debarment.
- 12.7. The Grantee understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the Department's Inspector General in any investigation, audit, inspection, review, or hearing. The Grantee shall comply with this duty and ensure that its contracts issued under this Agreement, if any, impose this requirement, in writing, on its contractors.
13. **Public Records:** Grantee shall comply with the applicable requirement of Addendum A, Public Records Requirements, which is incorporated by reference herein. All references to "Contractor" within Addendum A refer to "Grantee." All references to "Contract within Addendum A refer to "Agreement."
14. **Assignments, Subgrants, and Contracts:**
 - 14.1. Unless otherwise specified in the SOW, or through prior written approval of the Department, the Grantee may not: 1) subgrant any of the funds provided to the Grantee by the Department under this Agreement; 2) contract its duties or responsibilities under this Agreement out to a third party; or 3) assign any of the Grantee's rights or responsibilities hereunder, unless specifically permitted by law to do so. Any such subgrant, contract, or assignment occurring without the prior written consent of the Department will be null and void. If the Department approves the transfer of any of the Grantee's obligations under this Agreement, the Grantee remains responsible for all work performed and all expenses incurred in connection with the Agreement. In addition, this Agreement will bind the successors, assigns, and legal representatives of the Grantee, and of any legal entity that succeeds the Grantee, to the Grantee's obligations to the Department.
 - 14.2. The Grantee agrees to be responsible for all work performed and all expenses incurred in fulfilling the obligations of this Agreement. If the Department permits the Grantee to contract all or part of the work contemplated under this Agreement, including entering into contracts with vendors for services, it is understood by the Grantee that all such contractual arrangements must be evidenced by a written document containing all provisions necessary to ensure the contractor's

compliance with applicable state and federal laws. The Grantee further agrees that the Department shall not be liable to the contractor for any expenses or liabilities incurred under the contract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the contract. The Grantee, at its expense, will defend the Department against such claims.

14.3. The Grantee agrees that the Department may assign or transfer the Department's rights, duties, or obligations under this Agreement to another governmental entity upon giving prior written notice to the Grantee.

14.4. The Grantee agrees to make payments to its subgrantees and contractors, if any, within seven (7) business days after receipt of full or partial payments from the Department in accordance with section 287.0585, F.S., unless otherwise stated in the agreement(s) between the Grantee and the contractor(s). Unless the Grantee and the subgrantee(s) or contractor(s) contract for an alternate payment schedule, the Grantee's failure to pay its subgrantees or contractors, if any, within seven (7) business days will result in a statutory penalty charged against the Grantee and paid to the subgrantee or contractor in the amount of one-half of one (1) percent of the amount due per day from the expiration of the period allowed herein for payment. Such statutory penalty will be in addition to actual payments owed and will not exceed fifteen (15) percent of the outstanding balance due.

15. **MyFloridaMarketPlace:** Disbursements under this Agreement are disbursements of State financial assistance to a recipient as defined in the Florida Single Audit Act, section 215.97, F.S., and are exempt from the MyFloridaMarketPlace Transaction Fee pursuant to Rule 60A-1.031(3)(i), F.A.C. Payments will be made according to the SOW and not through the MyFloridaMarketPlace system.

16. Nonexpendable Property:

16.1. For the requirements of this Section of the Agreement, "nonexpendable property" is the same as "property" as defined in section 273.02, F.S. (equipment, fixtures, and other tangible personal property of a non-consumable and nonexpendable nature).

16.2. All nonexpendable property purchased under this Agreement must be listed on the property records of the Grantee in accordance with the requirements of Rule 69I-72.002, F.A.C. For the purposes of section 273.03, F.S., the Grantee is the custodian of all nonexpendable property and shall be primarily responsible for the supervision, control, and disposition of the property in his or her custody (but may delegate its use and immediate control to a person under his or her supervision and may require custody receipts). The Grantee must submit an inventory report to the Department with the final expenditure report and inventory annually and maintain accounting records for all nonexpendable property purchased under the Agreement. The records must include information necessary to identify the property, which at a minimum, must include the following: property tag identification number; description of the item(s); if a group of items, the number and description of the components; physical location; name, make or manufacturer; year and/or model; manufacturer's serial number(s); date of acquisition; cost or value at date of acquisition; date last inventoried; and the current condition of the item.

16.3. The nonexpendable property must not be relocated, distributed, gifted, or loaned to any other fire service provider, agency, or individual. At no time shall the Grantee dispose of nonexpendable property purchased under this Agreement without the prior written permission of, and in accordance with instructions from, the Department. In addition to its plain meaning, "dispose of" includes, selling, exchanging, transferring, distributing, gifting, and loaning. If the Grantee proposes to dispose of the nonexpendable property, or take any other action that will impact its ownership of the property or modify the use of the property other than for the purposes stated herein, the Department shall have the right, in its sole discretion, to demand that the Grantee reimburse the Department the fair market value of the impacted nonexpendable property.

- 16.4. The Grantee is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, nonexpendable property purchased with State funds and held in its possession for use in accordance with this Agreement. The Grantee shall immediately notify the Department, in writing, upon discovery of any property loss with the date and reason(s) for the loss.
- 16.5. The Grantee is responsible for the correct use of all nonexpendable property obtained using funds provided by this Agreement and for the implementation of adequate maintenance procedures to keep the nonexpendable property in good operating condition.
- 16.6. A formal amendment to this Agreement is required prior to the purchase of any item of nonexpendable property not listed in Attachment 1, Specific Grant Awards.
- 16.7. Title (ownership) to all nonexpendable property acquired with funds from this Agreement will be vested in the Grantee, subject to the requirements of Section 17 below.

17. Disposition of Property:

The Grantee shall provide advance written notification to the Department, if during the five (5) year period following the termination of this Agreement or the depreciable life of the nonexpendable property (determined by the depreciation schedule in use by the Grantee) purchased under this Agreement, whichever period is shorter, the Grantee proposes to dispose of or take any other action that will impact its ownership of the nonexpendable property or modify the use of the nonexpendable property from the purposes authorized herein. If any of these situations arise, the Department shall have the right, in its sole discretion, to demand that the Grantee immediately reimburse the Department the fair market value of the impacted nonexpendable property valued at the time of disposition or modified use.

18. Additional Requirements Applicable to the Purchase of, or Improvements to, Real Property:
N/A

19. Data Security and Information Resource Acquisition: N/A

20. Insurance:

- 20.1. The Grantee shall, at its sole expense, maintain insurance coverage of such types and with such terms and limits as may be reasonably associated with the Agreement. Adequate insurance coverage is a material obligation of the Grantee, and the failure to maintain such coverage may void the Agreement. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under this Agreement. All insurance policies must be through insurers authorized to write policies in the State. Specific insurance requirements, if any, are listed in the SOW.
- 20.2. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible will be the sole responsibility of the Grantee.

21. Patents, Copyrights, and Royalties: N/A

22. Intellectual Property Rights: Each party shall retain its intellectual property rights to its intellectual property. No intellectual property is to be created or otherwise developed by Grantee for the Department under this Agreement.

23. Independent Contractor Status: It is mutually understood and agreed to that at all times during the Grantee's performance of its duties and responsibilities under this Agreement Grantee is acting and performing as an independent contractor. The Department shall neither have nor exercise any control or direction over the methods by which the Grantee shall perform its work and functions other than as

provided herein. Nothing in this Agreement is intended to or will be deemed to constitute a partnership or joint venture between the Parties.

- 23.1. Unless the Grantee is a State agency, the Grantee (and its officers, agents, employees, subrecipients, contractors, or assignees), in performance of this Agreement, shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. Further, unless specifically authorized to do so, the Grantee shall not represent to others that, as the Grantee, it has the authority to bind the Department or the State.
 - 23.2. Unless the Grantee is a State agency, neither the Grantee nor its officers, agents, employees, subrecipients, contractors, or assignees, are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.
 - 23.3. The Grantee agrees to take such actions as may be necessary to ensure that each subrecipient or contractor will also be deemed to be an independent contractor and will not be considered or permitted to be in a joint venture with the State nor an agent, servant, or partner of the State as a result of this Agreement.
 - 23.4. Unless agreed to by the Department in the SOW, the Department will not furnish services of support (e.g., office space, office supplies, telephone service, secretarial, clerical support, etc.) to the Grantee, its subrecipient, contractor, or assignee.
 - 23.5. The Department shall not be responsible for withholding taxes with respect to the Grantee's compensation hereunder. The Grantee shall have no claim against the Department for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits, or employee benefits of any kind. The Grantee shall ensure that its employees, subrecipients, contractors, and other agents, receive all legally required benefits and insurance coverage from an employer other than the State.
 - 23.6. At all times during the Agreement period, the Grantee must comply with the reporting and Reemployment Assistance contribution payment requirements of chapter 443, F.S.
- 24. Electronic Funds Transfer:** The Grantee agrees to enroll in Electronic Funds Transfer (EFT), offered by the State's Chief Financial Officer within thirty (30) calendar days of the date the last Party signed this Agreement. Copies of the authorization form and a sample blank enrollment letter can be found at:
<http://www.myfloridacfo.com/Division/AA/Vendors/>.
- Questions should be directed to the EFT Section at (850) 413-5517. Once enrolled, invoice payments will be made by EFT.
- 25. Entire Agreement:** This Agreement consists of all documents listed in the order of precedence below, each of which is incorporated into, and is an integral part of, the Agreement, and together they embody the entire Agreement. This Agreement supersedes all previous oral or written communications, representations, or agreements on this subject. Any conflicts among these documents will be resolved in accordance with the following order of precedence:
- i. Attachment 1, Specific Grant Awards;
 - ii. Attachment 2, Statement of Work;
 - iii. This Agreement;
 - iv. Attachment 3, Audit Requirements for Awards of State and Federal Financial Assistance (with its Exhibit 1);
 - v. Addendum A, Public Records Requirements; and
 - vi. Attachment 4, Index of Applicable Laws and Regulations.
- 26. Time is of the Essence:** Time is of the essence regarding the performance requirements set forth in this Agreement. The Grantee is obligated to timely complete the deliverable(s) under this Agreement

and to comply with all other deadlines necessary to perform the Agreement which include, but are not limited to, attendance of meetings or submittal of reports.

27. Termination:

27.1. Termination Due to the Lack of Funds: If funds become unavailable for the Agreement's purpose, such event will not constitute a default by the Department or the State. The Department agrees to notify the Grantee in writing at the earliest possible time if funds are no longer available. If funds become unavailable, including if any State funds upon which this Agreement depends are withdrawn or redirected, the Department may terminate this Agreement by providing written notice to the Grantee. The Department shall be the final authority as to the availability of funds and will not reallocate funds earmarked for this Agreement to another program thus causing "lack of funds."

27.2. Termination for Cause: The Department may terminate this Agreement if the Grantee fails to: (1) satisfactorily complete the deliverables within the time specified in the Agreement; (2) maintain adequate progress, thus endangering performance of the Agreement; (3) honor any term of the Agreement; or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Grantee shall continue to perform any work not terminated. The Department's rights and remedies in this clause are in addition to any other rights and remedies provided by law or under the Agreement. The Grantee shall not be entitled to recover any cancellation charges or lost profits. Upon termination, the Department may require that the Grantee return to the Department any funds that were used for ineligible purposes under the Agreement or applicable program laws, rules, and regulations governing the use of funds under the Agreement.

27.3. Termination for Convenience: The Department may terminate this Agreement, in whole or in part, by providing written notice to the Grantee that the Department determined, in its sole discretion, it is in the State's interest to do so. The Grantee shall cease performance upon receipt of the Department's notice of termination, except as necessary to complete the continued portion of the Agreement, if any. The Grantee shall not be entitled to recover any cancellation charges or lost profits.

28. Dispute Resolution: Unless otherwise stated in the SOW, the Department shall decide disputes concerning the performance under the Agreement, reduce the decision to writing, and serve a copy on the Grantee. If a Party is dissatisfied with the dispute resolution decision, jurisdiction for any dispute arising under the terms of the Agreement will be in the State courts, and the venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the Parties agree to be responsible for their own costs and attorneys' fees incurred in connection with disputes arising under the terms of the Agreement.

29. Indemnification:

29.1. The Grantee shall be fully liable for the actions of its agents, employees, partners, subrecipients, or contractors and shall fully indemnify, defend, and hold harmless the State and the Department, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Grantee, its agents, employees, partners, subrecipients, or contractors, provided, however, that the Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Department.

29.2. Further, the Grantee shall fully indemnify, defend, and hold harmless the State and the Department from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to a violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation

will not apply to the Department's misuse or modification of the Grantee's products or the Department's operation or use of the Grantee's products in a manner not contemplated by the Agreement. If any product is the subject of an infringement suit, or in the Grantee's opinion is likely to become the subject of such suit, the Grantee may at its sole expense procure for the Department the right to continue using the product or to modify it to become non-infringing. If the Grantee is not reasonably able to modify or otherwise secure for the Department the right to continue using the product, the Grantee shall remove the product and refund the Department the amounts paid in excess of a reasonable rental for past use. The Department shall not be liable for any royalties.

- 29.3. The Grantee's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or the Department giving the Grantee: (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at the Grantee's sole expense, and (3) assistance in defending the action at the Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by the State or the Department in any legal action without the Grantee's prior written consent, which will not be unreasonably withheld.

NOTE: For the avoidance of doubt, if the Grantee is a State agency or subdivision, as defined in section 768.28(2), F.S., pursuant to section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability to the other Party for the other Party's negligence.

30. **Force Majeure and Notice of Delay from Force Majeure:** Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor caused by the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subrecipients, contractors, or suppliers if no alternate source of supply is available. However, if a delay arises from the foregoing causes, the Party shall take all reasonable measures to mitigate all resulting delay or disruption in accordance with the Party's performance requirements under this Agreement. If the Grantee believes any delay is excusable under this Section, the Grantee shall provide written notice to the Department describing the delay or potential delay and the cause of the delay within five (5) calendar days after the Grantee first had reason to believe that a delay could result if the Grantee could reasonably foresee that a delay could result or within ten (10) calendar days after the date the Grantee first learned of the delay if the delay is not reasonably foreseeable. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. The Department, in its sole discretion, will determine if the delay is excusable under this Section and will notify the Grantee of its decision in writing. If an extension is legally permissible, and if one will be granted, the Department's notice will state the extension period. **THE FOREGOING CONSTITUTES THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** The Grantee shall not assert a claim for damages against the Department and shall not be entitled to an increase in this Agreement price or payment of any kind from the Department for any reason. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this Section, after the causes have ceased to exist, the Grantee shall resume performance, unless the Department determines, in its sole discretion, that the delay will significantly impair the ability of the Grantee to timely complete its obligations under this Agreement, in which case the Department may terminate the Agreement in whole or in part.
31. **Severability:** If any provision of this Agreement, in whole or in part, is held to be void or unenforceable by a court of competent jurisdiction, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable, and all other provisions remain in full force and effect.

32. Survival: Any right or obligation of the Parties in the Agreement, which, by its express terms or nature and context, is intended to survive termination or expiration of the Agreement, will survive any such termination or expiration.

33. Execution in Counterparts: The Agreement may be executed in counterparts, each of which will be deemed an original and all of which will constitute but one and the same instrument.

34. Contact Information for Grantee and Department Contacts:

Department's Contract Manager:

Susan Schell, Safety Programs Manager
Bureau of Fire Standards and Training
Division of State Fire Marshal
11655 NW Gainesville Road
Ocala, FL 34482
Telephone number: (352) 369-2800
Susan.Schell@myfloridacfo.com

Grantee's Payee: City of Cape Coral

Grantee's Contract Manager:

Name:	Finanical Services Deptment	Name:	Grant Coordinator, Cape Coral Fire Dept.
Address:	PO Box 150027 Cape Coral, FL 33915	Address:	1115 SE 9th Ave Cape Coral, FL 33990
Phone:	239-574-0491	Phone:	239-242-3669
Fax:		Fax:	239-242-3309
Email:		Email:	klynch@capecoral.gov

If any of the information provided in this Section changes after the execution of this Agreement, the Party making such change will notify the other Parties in writing of such change. Such changes will not require a written amendment to the Agreement.

35. Notices:

The contact information provided in the immediately preceding Section must be used by the Parties for all communications under the Agreement. Where the terms "written notice" or notice "in writing" are used to specify a notice requirement herein, said notice will be deemed to have been given when (i) personally delivered; (ii) transmitted via facsimile with confirmation of receipt or email with confirmation of receipt if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid); (iii) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a recognized overnight delivery service; or (iv) on the date actually received, except if there is a date of the certification of receipt, then on that date.

IN WITNESS THEREOF, and in consideration of the mutual covenants set forth above and the attachments, addenda, and exhibits hereto, the Parties have caused to be executed this Agreement by their undersigned duly authorized officials.

Grantee: City of Cape Coral

Department of Financial Services:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

By: Wk

City Attorney's Office

Date: 11/30/2021

Attachment 1, Specific Grant Awards

The Department has established a funding award for Grantee in an amount not to exceed \$14,400.00 for the grant period during the 2021-2022 State fiscal year.

Per the Grant Award Letter, Grantee's authority to expend State grant funds referenced above is conditioned upon Grantee's expenditure of \$4,800.00 in matching funds. The total expenditures that must be accounted for by the Grantee are \$19,200.00, and are authorized for the following equipment, supplies, and training:

1 vehicle exhaust capture system

Grantee shall submit all supporting documentation to the Department in accordance with the requirements of Attachment 2, Section B.3., Deliverables, of this Agreement.

Attachment 2, Statement of Work

A. PROGRAM REQUIREMENTS

The Division of State Fire Marshal (Division) is to enter into grant agreements to provide financial assistance to help career fire departments, combination fire departments, and volunteer fire departments procure equipment and supplies designed to mitigate exposure to hazardous, cancer-causing chemicals when the Florida Legislature appropriates funding for this purpose to the Department for the Firefighter Cancer Decontamination Equipment Grant Program. The Division prioritizes the annual award of grants to those career, combination, and volunteer fire departments demonstrating need via participation in the annual Florida Fire Service Needs Assessment Survey, in compliance with the requirement to submit fire incident data as required in Rule 69A-66.004, F.A.C., in compliance with the Florida Firefighters Occupational Health and Safety Act (or has a plan for correction for any noncompliance issue filed with the Division), and in compliance with the requirement to provide a minimum 25% match of nonstate funding for the amount of funding requested and proof of that funding. Grantees shall only use funds to:

- (a) Purchase vehicle exhaust capture systems that are either mounted in the stations or on the vehicles and are compliant with the standards of National Fire Protection Association (NFPA) 1500, Standard on Fire Department Occupational Safety, Health, and Wellness Program, as specified in Rule 69A-62.025, F.A.C.
- (b) Purchase personal protective equipment extractor units that are designed to operate using 110-volt alternating current (AC); however, additional costs such as wiring and installation will not be covered.
- (c) Purchase personal protective equipment extractor units not designed to operate using 110-volt AC current; however, additional costs such as wiring and installation will not be covered.
- (d) Purchase second issued hoods, gloves, and helmet earflaps that are compliant with the standards of NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, as specified in Rule 69A-37.060, F.A.C., and that can be exchanged at the scene or in quarters after fire extinguishment.
- (e) Purchase other equipment that is used to mitigate exposure to hazardous, cancer-causing chemicals when specifically authorized by the Division.
- (f) Purchase supplies that are used to mitigate exposure to hazardous, cancer-causing chemicals when specifically authorized by the Division.
- (g) Provide educational training designed to mitigate exposure to hazardous, cancer-causing chemicals when specifically authorized by the Division.

B. SCOPE OF WORK

1. The Grantee's Responsibilities:

- a. The Grantee shall perform the tasks as specified in Section 3, Deliverables, and comply with the requirements of the Agreement.
- b. The Grantee shall remain in compliance with all grant award eligibility requirements during the Agreement term, including, but not limited to, the following:
 - 1) Maintenance of all fire department profile and roster records within the electronic online database of the Bureau of Fire Standards and Training.
 - 2) Submission of all incident reports to the Florida Fire Incident Reporting System (FFIRS).
 - 3) Compliance with the Florida Firefighter Occupational Health and Safety Act or the requirements of the Grantee's filed plan for correction.
 - 4) Maintenance of a written Agreement with the fire service provider under which the fire department is operating.
- c. To fulfill the requirements of Rule 69A-37.503(7)(a), F.A.C., the Grantee hereby acknowledges receipt of this Agreement as the Department's award notification and shall

return this signed Agreement to the Department within thirty (30) days of the Department's award notification to the Grantee. The signed Agreement must be attached to an email and sent to FirefighterGrant@myfloridacfo.com.

2. The Department's Responsibilities:

- a. To fulfill the requirements of Rule 69A-37.503(7)(a), F.A.C., the Department shall provide this Agreement to the Grantee for its signature and deem the timely receipt of this signed Agreement via an email attachment from Grantee via FirefighterGrant@myfloridacfo.com to be the Grantee's notice of acceptance of the award.
- b. The Department shall conduct all verification activities associated with the Grantee's expenditures for the items authorized in Attachment 1, Specific Grant Awards, including expenditure of the match amount stated in Attachment 1, Specific Grant Awards.
- c. The Department shall provide reimbursement of properly documented and authorized expenditures.

3. Deliverables:

The Grantee shall perform the following tasks as specified:

Deliverable 1 – Expend Funds for Authorized Equipment, Supplies, and Training		
Tasks	Performance Measures and Due Date	Financial Consequences
Expend funds for items as authorized in Attachment 1, Specific Grant Awards.	<p>For authorized equipment and supply purchases: Submit to the Department an invoice that clearly reflects the description of the item(s), number of units, and cost per unit for the equipment and supplies purchased; and proof of payment for such items. Upon receipt of such items, submit to the Department copies of documentation confirming receipt.</p> <p>For authorized training: Submit to the Department an invoice and any additional documentation necessary to clearly describe the training, the purpose and benefits of the training, the dates and times for the training to be conducted, and proof of payment for the scheduled training. Upon completion of the training, provide proof of attendance and completion of the training by the number of participants that received the training.</p>	Funds expended for the authorized items will be reimbursed on a per item basis only if the receipts and other documentation submitted validate compliance with all stated terms and conditions for the item.

	Due Dates: For each authorized use of funding, the funds must be fully obligated for the authorized use on or before the last day of the State fiscal year for the grant award period.	
Deliverable 1 State Funds Payment Amount Must Not Exceed Amount Stated in Attachment 1:		
TOTAL Payment Amount must not exceed total grant award stated in Attachment 1		

4. Expenditure and Reconciliation Report:

Pursuant to section 215.971, F.S., the Department's Contract Manager must produce a final reconciliation report reconciling all funds paid out to the Grantee under this Agreement against all funds expended by the Grantee in performance of this Agreement. In addition, the Department's Contract Manager must verify that the Grantee has expended the required amount of matching funds in accordance with the requirements of Attachment 1, Specific Grant Awards. If the Department's Contract Manager requests documentation from the Grantee's Contract Manager for these purposes, the Grantee must submit such documentation to the Department within ten (10) business days of receipt of the Department's request. See Section C.3. below for further detail regarding the documentation and reporting requirements for State fund and matching fund expenditures.

C. SPECIAL PROVISIONS

1. Agreement Duration:

This Agreement is effective (effective date) on the date last signed and will end on the last day of the State's fiscal year in which the grant was awarded. The Grantee may commence its performance of the requirements of the Agreement as of the date it submits a signed copy of the Agreement to the Department in accordance with the requirements of Section B.1.c., above.

2. Demonstration of Performance and Acceptance of Deliverables:

The deliverables will be accepted by the Department's Contract Manager only after the Grantee has provided proof of payment and receipt of the authorized items. If the Department rejects a deliverable, all costs associated with correction of that deliverable shall be at the Grantee's expense. The Grantee shall work diligently to timely correct all deficiencies noted by the Department. Final acceptance of the deliverable shall be considered to occur when the deliverable has been approved by the Department. The Agreement will be considered complete upon acceptance by the Department of all deliverables required under the Agreement. The Department may independently verify the receipt by Grantee of deliverables beyond the methods described in this Section. The Grantee must provide proof of payment and receipt of the authorized items to be entitled to retain funds provided under the Agreement.

3. Payment Amount, Invoice Submittal, and Payment Schedule: The payment obligation of the Department shall not exceed the amount of State funds to be awarded as stated in Attachment 1. The deliverable amount specified in Attachment 1, establishes the maximum reimbursable amount for the authorized item and not the value of the item. The Grantee's entitlement to retain funds is dependent upon the following: the Grantee timely submitted an accurate and acceptable invoice and any other necessary supporting documentation as described in Section B.3., Deliverables; the funds were fully obligated by the Grantee as of June 30th of the State's fiscal

year in which the grant was awarded and were disbursed by the Department on or before September 30th of the same calendar year; and, in accordance with Agreement Section 8, Funding Requirements of Section 215.971, F.S., the funds were expended by the Grantee for allowable costs incurred in performance of the requirements of this Agreement. If the Department does not receive all documentation necessary from the Grantee to confirm its acceptance of all deliverables, the Grantee shall return all excess funds it has received.

In addition to the documents identified in Section B.3., Deliverables, the Department may require any additional information from the Grantee that the Department deems necessary to verify that the Grantee has fulfilled the requirements of the Agreement.

If the Agreement is terminated early, the Department shall only pay for completed and accepted deliverables.

4. **Travel and Expenses:** Per diem and travel expenses are not authorized and will not be reimbursed under this Agreement.
5. **Financial Consequences for Failure to Timely and Satisfactorily Perform:** Failure to comply with the requirements of Section B.3., Deliverables, will result in automatic task rejection and the deliverable shall not be invoiced or paid until correction of the task. Failure to complete the required duties as outlined in the SOW shall result in the rejection of the invoices. Failure to complete all deliverables in accordance with the requirements of the Agreement, and, in particular, as specified above in Section B.3., Deliverables, will result in assessment by the Department of the specified financial consequences.

This provision for financial consequences shall in no manner affect the Department's right to terminate the Agreement as provided elsewhere in the Agreement.

6. **Notification of Instances of Fraud:** Instances of Grantee operational fraud or criminal activities shall be reported to the Department's Contract Manager within twenty-four (24) hours of being made aware of the incident.
7. **Grantee's Responsibilities upon Termination:** If the Department issues a Notice of Termination to Grantee, except as otherwise specified by the Department in that notice, the Grantee shall:
 - a. Stop work under the Agreement on the date and to the extent specified in the notice.
 - b. Complete performance of such part of the work as shall not have been terminated by the Department.
 - c. Take such action as may be necessary, or as the Department may specify, to protect and preserve any property which is in the possession of Grantee and in which the Department has or may acquire an interest.
 - d. Upon the effective date of termination of the Agreement, Grantee shall transfer, assign, and make available to the Department all property and materials belonging to the Department. No extra compensation will be paid to Grantee for its services in connection with such transfer or assignment.
8. **Nondiscrimination:** The Grantee shall not unlawfully discriminate against any individual employed in the performance of this Agreement due to race, religion, color, sex, physical handicap unrelated to such person's ability to engage in this work, national origin, ancestry, or

age. The Grantee shall provide a harassment-free workplace and give any allegation of harassment priority attention and action.

9. Limitation of Liability:

- a. For all claims against Grantee under the Agreement, and regardless of the basis on which the claim is made, Grantee's liability under this Agreement for direct damages shall be limited to the dollar amount of this Agreement. This limitation shall not apply to claims arising under the Indemnity paragraphs contained in the Agreement.
- b. Neither Party shall be liable to the other for special, indirect, punitive, or consequential damages, including lost data or records, even if the Party has been advised that such damages are possible. Neither Party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and the Department may, in addition to other remedies available to them at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them.

- End of Attachment 2, Statement of Work -

ATTACHMENT 3



Department of Financial Services
Division of Accounting and Auditing – Bureau of Auditing

**AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE**

The administration of resources awarded by the Department of Financial Services (Department) to the Grantee may be subject to audits and/or monitoring by the Department, as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the Grantee agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Grantee is appropriate, the Grantee agrees to comply with any additional instructions provided by Department staff to the Grantee regarding such audit. The Grantee further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

Part I: Federally Funded

This part is applicable if the Grantee is a state or local government or a nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A grantee that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this form lists the federal resources awarded through the Department by this agreement. In determining the federal awards expended in its fiscal year, the Grantee shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the Grantee conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the Grantee shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A grantee that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the Grantee expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Grantee resources obtained from other than federal entities).

Part II: State Funded

1. In the event that the Grantee expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Grantee (for fiscal years ending June 30, 2017, or thereafter), the Grantee must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

2. Department by this agreement. In determining the state financial assistance expended in its fiscal year, the Grantee shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.
3. For the audit requirements addressed in Part II, paragraph 1, the Grantee shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
4. If the Grantee expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, or thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the Grantee expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the Grantee's resources obtained from other than state entities).

Part III: Other Audit Requirements

N/A

Part IV: Report Submission

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR §200.512, by or on behalf of the Grantee directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of the Grantee directly to each of the following:

- a. The Department at each of the following addresses:

Electronic copies (preferred): Susan.Schell@MyFloridacfo.com

or

Paper (hard copy):

Susan Schell

Department of Financial Services

200 East Gaines Street

Tallahassee, Florida 32399-0340

- b. The Auditor General's Office at the following address:

Auditor General

Local Government Audits/342

Claude Pepper Building, Room 401

111 West Madison Street

Tallahassee, Florida 32399-1450

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Any reports, management letters, or other information required to be submitted to the Department pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
4. Grantees, when submitting financial reporting packages to the Department for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Grantee in correspondence accompanying the reporting package.

Part V: Record Retention

The Grantee shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this agreement for a period of five (5) years from the date the audit report is issued, and shall allow the Department, or its designee, the CFO, or Auditor General access to such records upon request. The Grantee shall ensure that audit working papers are made available to the Department, or its designee, the CFO, or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by the Department.

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

EXHIBIT 1

**Federal Resources Awarded to the Grantee
Pursuant to this Agreement Consist of the Following:**

1. Federal Program A:

N/A

2. Federal Program B:

N/A

**Compliance Requirements Applicable to the Federal Resources
Awarded Pursuant to this Agreement are as Follows:**

1. Federal Program A:

N/A

2. Federal Program B:

N/A

**State Resources Awarded to the Grantee
Pursuant to this Agreement Consist of the Following:**

Matching Resources for Federal Programs:

1. Federal Program A:

N/A

2. Federal Program B:

N/A

Subject to Section 215.97, F.S.:

1. State Project A:

State Project: Fire Decontamination Equipment Grant Program

State Awarding Agency: State of Florida, Department of Financial Services

Catalog of State Financial Assistance Title and Number: Fire Decontamination Equipment Grants,
43.013

Amount: The amount listed in the first paragraph of Attachment 1, Specific Grant Awards, of this
Agreement

2. State Project B:

N/A

**Compliance Requirements Applicable to State Resources Awarded
Pursuant to this Agreement Are as Follows:**

The requirements of this Agreement, section 633.137, F.S., and Rule 69A-37.503, F.A.C.

Attachment 4
Index of Applicable Laws and Regulations

1. Statutory Requirements:

Chapter 112, F.S. (conflict of interest)
Chapter 119, F.S. (public records and exceptions to disclosure)
Sections 11.062 and 216.347, F.S. (prohibitions on the use of state funds for lobbying purposes)
Section 216.1366, F.S. (inspection of records)
Section 286.101, F.S. (foreign gifts and contracts)
Section 286.25, F.S. (sponsorship)
Section 287.133, F.S. (convicted vendor list)
Section 287.134, F.S. (discriminatory vendor list)
Section 287.137, F.S. (antitrust violator vendor list)
Americans with Disabilities Act
Immigration and Nationality Act

2. Audit Requirements:

Section 20.055, F.S. (audit investigations)
Section 215.34, F.S. (return or recoupment of funds)
Section 215.97, F.S., Florida Single Audit Act
Section 215.971, F.S., Agreements Funded with Federal or State Assistance

3. Financial Requirements:

Section 215.422, F.S. (payments from state funds)
Section 273.02, F.S. (nonexpendable tangible personal property)
Section 287.0585, F.S. (payments to subcontractors)
Rule 60A-1.031, F.A.C. (MyFloridaMarketPlace)
Chief Financial Officer Memoranda Nos. 1, 2, and 4 (effective July 1, 2020)

DEPARTMENT OF FINANCIAL SERVICES
Public Records Requirements

Addendum A

1. Public Records Access Requirements.

- a. If the Contractor is acting on behalf of the Department in its performance of services under the Contract, the Contractor must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by the Contractor in conjunction with the Contract (Public Records), unless the Public Records are exempt from public access pursuant to section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Contract if the Contractor refuses to allow public access to Public Records as required by law.

2. Public Records Requirements Applicable to All Contractors.

- a. For purposes of the Contract, the Contractor is responsible for becoming familiar with Florida's Public Records law, consisting of chapter 119, F.S., section 24(a) of Article I of the Florida Constitution, or other applicable state or federal law (Public Records Law).
- b. All requests to inspect or copy Public Records relating to the Contract must be made directly to the Department. Notwithstanding any provisions to the contrary, disclosure of any records made or received by the State in conjunction with the Contract is governed by Public Records Law.
- c. If the Contractor has a reasonable, legal basis to assert that any portion of any records submitted to the Department is confidential, proprietary, trade secret, or otherwise not subject to disclosure ("Confidential" or "Trade Secret") under Public Records Law or other legal authority, the Contractor must simultaneously provide the Department with a separate redacted copy of the records the Contractor claims as Confidential or Trade Secret and briefly describe in writing the grounds for claiming exemption from the Public Records Law, including the specific statutory citation for such exemption. The un-redacted copy of the records must contain the Contract name and number and must be clearly labeled "Confidential" or "Trade Secret." The redacted copy of the records should only redact those portions of the records that the Contractor claims are Confidential or Trade Secret. If the Contractor fails to submit a redacted copy of records it claims are Confidential or Trade Secret, such action may constitute a waiver of any claim of confidentiality.
- d. If the Department receives a Public Records request, and if records that have been marked as "Confidential" or "Trade Secret" are responsive to such request, the Department will provide the Contractor-redacted copies to the requester. If a requester asserts a right to the portions of records claimed as Confidential or Trade Secret, the Department will notify the Contractor that such an assertion has been made. It is the Contractor's responsibility to assert that the portions of records in question are exempt from disclosure under Public Records Law or other legal authority. If the Department becomes subject to a demand for discovery or disclosure of the portions of records the Contractor claims as Confidential or Trade Secret in a legal proceeding, the Department will give the Contractor prompt notice of the demand, when possible, prior to releasing the portions of records the Contractor claims as Confidential or Trade Secret (unless disclosure is otherwise prohibited by applicable law). The Contractor shall be responsible for defending its determination that the redacted portions of its records are Confidential or Trade Secret. No right or remedy for damages against the Department arises from any disclosure made by the Department based on the Contractor's failure to promptly legally protect its claim of exemption and commence such protective actions within ten days of receipt of such notice from the Department.
- e. If the Contractor claims that the records are "Trade Secret" pursuant to section 624.4213, F.S., and all the requirements of section 624.4213(1), F.S., are met, the Department will respond to the Public Records Request in accordance with the provisions specified in that statute.
- f. The Contractor shall ensure that exempt or confidential and exempt Public Records are not disclosed except as permitted by the Contract or by Public Records Law.

3. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

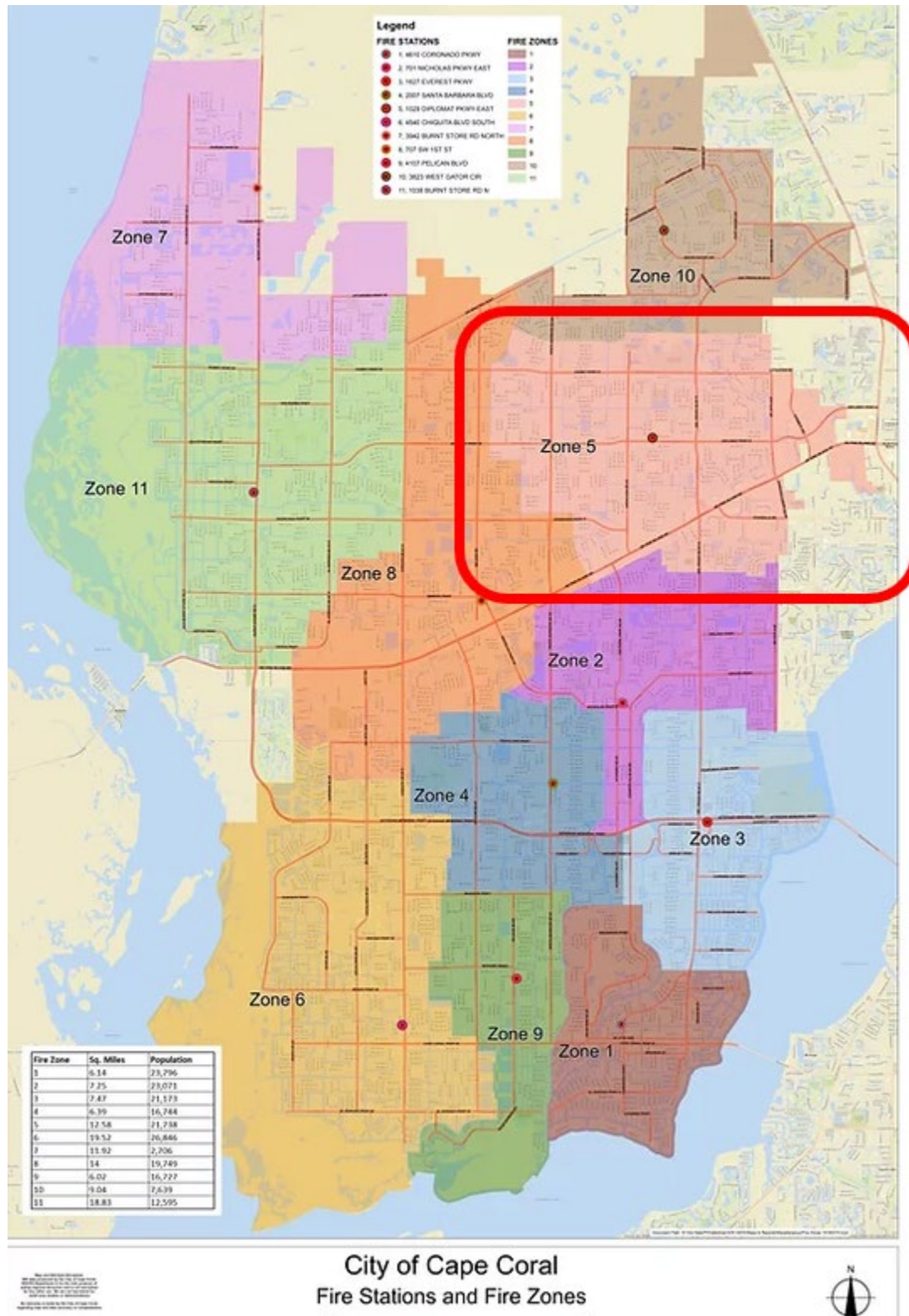
If the Contractor is a "contractor" as defined in section 119.0701(1)(a), F.S., the Contractor shall:

- a. Keep and maintain Public Records required by the Department to perform the service.
- b. Upon request, provide the Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, F.S., or as otherwise provided by law.
- c. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the Public Records to the Department.
- d. Upon completion of the Contract, transfer, at no cost, to the Department all Public Records in possession of the Contractor or keep and maintain Public Records required by the Department to perform the service. If the Contractor transfers all Public Records to the Department upon completion of the Contract, the Contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the Contractor keeps and maintains Public Records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the Department, upon request from the Department's custodian of Public Records, in a format specified by the Department as compatible with the information technology systems of the Department. These formatting requirements are satisfied by using the data formats as authorized in the Contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the Contractor is authorized to access.
- e. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT PUBLIC RECORDS AT:**

Telephone: (850) 413-3149
Email: PublicRecordsRequest@myfloridacfo.com
Mailing Address: The Department of Financial Services
Office of Open Government
PL-11, The Capitol
Tallahassee, Florida 32399-0301

A Contractor who fails to provide the Public Records to the Department within a reasonable time may be subject to penalties under section 119.10, F.S.

Fire Station 5: 1029 Diplomat Pkwy





AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number: A.(3)

Meeting Date: 1/5/2022

Item Type: **CONSENT AGENDA**

TITLE:

Resolution 3-22 Award RFP#RPW2144MC, and the corresponding contract, for the Bridge System Master Plan project to Volkert, Inc., for a not to exceed amount of \$273,424 and authorize the City Manager or designee to execute the agreement(s), change order(s), and purchase order(s); Department: Office of Capital Improvements; Dollar Amount: \$273,424; (General Fund \$200,000, 6 Cents Gas Tax \$73,424)

ORDINANCES AND RESOLUTIONS:

WHAT THE RESOLUTION ACCOMPLISHES:

The Resolution awards a contract for the Bridge System Master Plan project to Volkert, Inc., and authorizes the City Manager or his designee to execute the contract, purchase orders and change orders.

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

Cape Coral has over 400 miles of navigable canals with 140 City-owned bridges. There are various bridge types throughout the city including box culverts, pipe arch culverts and concrete slab deck bridges, each with their own maintenance requirements.

Bridges with spans of over 20 feet are inspected biannually by the Florida Department of Transportation. Bridges with spans under 20 feet are the responsibility of the City to inspect. Reports are provided to the City with repair recommendations. The City also has a bridge maintenance program, and performs cleaning and routine basic maintenance of the bridges.

The existing City bridges were designed for a lifespan of 50 years. Most of the City's bridges were built between 1970 and 1980, and several bridges may soon need major rehabilitation or replacement.

The City requested proposals from qualified Engineering Professionals to provide professional services for the inspection and evaluation of all 140 City owned bridges and to develop a Master Plan for the rehabilitation/replacement of each bridge.

On May 5, 2021, Request for Proposal RPW2144MC was issued to secure a contract for the Bridge System Master Plan project and 32 plan holders downloaded the documents.

On June 8, 2021, six proposals were received from: Ayres Associates of Cape Coral, FL; Cardno, Inc. of Fort Myers, FL; DRMP, Inc. of Fort Myers, FL; Kisinger Campo & Associates of Fort Myers, FL; T.Y. Lin International of Fort Myers, FL; and Volkert, Inc. of Fort Myers, FL.

On July 27, 2021, the Selection Advisory Committee (SAC) interviewed the three firms recommended by the evaluation committee. The SAC ranked the firms in the following order: #1 Volkert, Inc.; #2 T.Y. Lin International; and, #3 Cardno, Inc.

Proposals were evaluated based on the City of Cape Coral, Code of Ordinance Article VII: Purchase and Sale of Real and Personal Property Section 2-144 (h)(3)(d) Consultant's Competitive Negotiation Act.

On July 30, 2021, the City Manager approved the SAC ranking and negotiations started with the #1 ranked firm Volkert, Inc.

If the Contract is approved, the contract includes a substantial completion timeframe of 240 calendar days and 270 calendar days for final completion after the Notice To Proceed is issued. The contract is for a not to exceed amount of \$273,424.22.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

RECOMMENDATIONS:

Staff recommends approval of the corresponding contract, for the Bridge System Master Plan project to Volkert, Inc.

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, P.E.

Director of Capital Improvements

1-239-574-0464

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

Fund:

6 Cent Gas Tax 106-30106-553102-30-55-541030-000-000

General Fund 001-30005-553102-30-55-541030-000-000

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

PREPARED BY:

Wanda

Roop

Division- Procurement

Department- Finance

ATTACHMENTS:

Description	Type
<input type="checkbox"/> 1. Resolution 3-22	Resolution
<input type="checkbox"/> 2. SAC Evaluation Matrix - RFP-RPW2144MC	Backup Material

RESOLUTION 3 - 22

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, AWARDING THE CONTRACT FOR THE BRIDGE SYSTEM MASTER PLAN PROJECT TO VOLKERT, INC., AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT, PURCHASE ORDERS AND CHANGE ORDERS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 5, 2021, REQUEST FOR PROPOSAL (RFP) #RPW2144MC was issued for the Bridge System Master Plan project; and

WHEREAS, on June 8, 2021, the City received six (6) proposals; and

WHEREAS, after evaluation of the proposals, Volkert, Inc. was ranked as the top responsive responsible proposer meeting the requirements and specifications outlined in the RFP; and

WHEREAS, staff recommends awarding the contract for the Bridge System Master Plan project to Volkert, Inc., in the amount of \$273,424.22, not to exceed budgetary limits; and

WHEREAS, the City Manager recommends entering into a contract between the City of Cape Coral and Volkert, Inc. for the Bridge System Master Plan project, in the amount of \$273,424.22, not to exceed budgetary limits.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby awards the contract for the Bridge System Master Plan to Volkert, Inc., in the amount of \$273,424.22, not to exceed budgetary limits.

Section 2. The City Council hereby authorizes the City Manager to enter into a Contract between the City of Cape Coral and Volkert, Inc. for the Bridge System Master Plan project and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
res/Award RFP-Volkert, Inc.

EXHIBIT 1



CITY OF CAPE CORAL

Agreement

for

BRIDGE SYSTEM MASTER PLAN

RPW2144MC

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PROFESSIONAL
SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between the City of Cape Coral, Florida, a municipal corporation of the State of Florida, hereinafter referred to as the “City” and Volkert, Inc., an Alabama corporation authorized to do business in Florida, located at RSA Tower, 11 North Water Street, Suite 1800, Mobile AL 36602 hereinafter referred to as “Consultant” or “Engineer”.

WITNESSETH:

WHEREAS, the City is a municipality providing to its citizens a comprehensive range of municipal services including general government, public safety, community development, public works, planning, utilities, and parks and recreation; and

WHEREAS, the City desires to contract with the Consultant to provide Professional Services for “Bridge System Master Plan”. The Consultant shall include all work necessary for the design and assistance with bidding of the project per the scope of professional services; and

WHEREAS, the Consultant hereby certifies that it has been granted and possesses valid, current licenses to do business in the State of Florida, Lee County, Florida and the City of Cape Coral, issued by the respective agencies responsible for regulating and licensing the professional services to be provided and performed by the Consultant pursuant to this Agreement; and

WHEREAS, Consultant has reviewed the professional services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth; and

WHEREAS, the selection and engagement of the Consultant has been made by the City in accordance with the provisions of the Consultant’s Competitive Negotiation Act, Section 287.055, Florida Statutes, and in accordance with the provisions of all City procurement standards.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Consultant, intending to be legally bound, covenant and agree as follows:

ARTICLE 1
RECITALS

The recitals set forth above are true and correct and are incorporated herein by reference.

ARTICLE 2
DEFINITIONS

- 2.1 City: The term “City” shall mean the “City of Cape Coral, Florida”
- 2.2 Consultant: The term “Consultant” shall mean Volkert, Inc., an Alabama corporation authorized to do business in Florida.
- 2.3 Contract Documents: The term “Contract Documents” shall mean this Agreement, the City’s

Request for Proposals for the Project ("RFP"), the Consultant's responses and submissions to the RFP, and all drawings and specifications prepared and/or adopted by Consultant and its sub-consultants. Any special conditions, together with all written amendments, change orders, addendums, attached exhibits and signed forms will become a part of this agreement and are incorporated herein.

- 2.4 Work: The term "Work" shall mean everything expressly or implicitly required to be furnished or performed for the design of a fully, constructible, operational and functioning Project, including but not limited to, that work described in Exhibit "A" - "Scope of Professional Services" as attached hereto.
- 2.5 Construction: The term "Construction" shall mean everything expressly or implicitly required to construct a fully operational and functioning Project.
- 2.6 Project: The term "Project" shall mean the Professional Services for Project.
- 2.7 Project Area: The term "Project Area" shall mean the City of Cape Coral
- 2.8 Substantial Completion: Completion of the Services outlined in the Scope of Professional Services with completion and readiness for final payment, as set forth in this Agreement, as per Scope of Services and per the timelines as outlined in the Consultant's Summary of Work Schedule.
- 2.9 Final Completion: Acceptance of Work in accordance with this Agreement and designated City Project Manager, with any necessary corrections completed, so that the Professional Services can be utilized for the purposes for which it is intended.
- 2.10 Contract Duration: The time for this agreement will be Two Hundred Forty (240) calendar days for substantial completions and Two Hundred Seventy (270) calendar days for final completion.

ARTICLE 3 SCOPE OF PROFESSIONAL SERVICES

Consultant hereby agrees to provide and perform the professional services required and necessary to complete the services and Work as set forth in Exhibit "A," entitled Scope of Professional Services as indicated in said exhibit which is attached hereto and made a part of this Agreement. Consultant shall be responsible for providing and performing all services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks and work set forth in the Scope of Professional Services as attached hereto as Exhibit "A".

ARTICLE 4 CONTRACT MODIFICATIONS

The City reserves the right to make any contract modifications it so desires, including but not limited to the deletion or removal of specific tasks or activities from the scope of the Work to be performed hereunder. All contract modifications shall be performed in accordance with the terms and conditions of this Agreement. No extra Work shall be performed unless ordered in writing by the City prior to the installation of such Work and upon the terms agreed to in advance by the City.

ARTICLE 5 ADDITIONAL PROFESSIONAL SERVICES

The City may, without invalidating this Agreement, require that Consultant perform professional services

("Additional Professional Services") in addition to those identified as Professional Services in this Agreement. If the Consultant believes a professional service to be beyond those included in the Professional Services, Consultant shall notify the City in writing, and obtain the City's written authorization to proceed with such service as an Additional Professional Service for such service to be considered an Additional Professional Service. These Additional Professional Services shall be provided by the Consultant if directed and authorized in advance, in writing, by the City and if Consultant is reasonably qualified to provide the services. Additional Professional Services shall be performed under and governed by the terms and provisions of this Agreement. The City shall pay Consultant for all Additional Professional Services directed and authorized in writing and in advance by the City, except that the City shall not be obligated to pay for any such Additional Professional Services or any other services which result from or are caused by Consultant's breach of its obligations under this Agreement.

Furthermore, and notwithstanding the foregoing and the City's right to require performance of Additional Professional Services under this Agreement, the City may desire to enter into subsequent agreement(s) with Consultant for Consultant to provide further implementation and integration services. In such event, the City and Consultant will negotiate and endeavor to enter into subsequent agreement(s) for the furnishing of such further services.

ARTICLE 6

TIME FOR PERFORMANCE

- 6.1 Following the execution of this Agreement by both parties and after Consultant has complied with the insurance requirements set forth herein, the City shall issue to Consultant a written notice to proceed. Following the issuance of such a written notice to proceed, Consultant shall commence Work within fourteen (14) calendar days and shall carry on all services and work in a timely and diligent manner to substantial completion within Two Hundred Forty (240) calendar days, which shall be completed as required in Exhibit "C: - Consultant's Work Schedule and Two Hundred Seventy (270) calendar days for final completion.
- 6.2 Should Consultant be obstructed or delayed in the prosecution or completion of its obligations under this Agreement as a result of causes beyond the control of Consultant, or its sub-consultants and/or subcontractors and not due to their fault or neglect, Consultant shall notify the City, in writing, within five (5) calendar days after the commencement of such delay stating the cause(s) thereof and requesting an extension of Consultant's time of performance. Upon receipt of Consultant's request for an extension of time, the City shall grant the extension if the City, in its sole discretion, determines that the delay(s) encountered by Consultant or its sub-consultant(s) and/or sub-contractor(s), is due to unforeseen causes and not attributable to their fault or neglect.
- 6.3 Consultant shall be required as a condition of this Agreement to prepare and submit to the City, Consultant's Work schedule. The Consultant's Work schedule shall set forth in an understandable fashion the schedule for all the various phases and/or tasks required to perform and complete all the services set forth or described in Exhibit "C" - "Consultant's Work Schedule." The Consultant's Work schedule of planned and actual Work progress shall be updated and submitted by Consultant to the City no later than the tenth day of each month, commencing with the issuance of the notice to proceed.
- 6.4 Consultant's services shall be performed as expeditiously as is consistent with professional skill and care in the orderly progress of the Project. Consultant represents to the City that it shall deliver its services in accordance with the Consultant's Schedule of Work established for the Project which is attached hereto as Exhibit "C" - "Consultant's Work Schedule" and shall appropriately adjust the delivery of its services if necessary and approved by the City, as the Project proceeds. Consultant acknowledges that time is

of the essence with respect to the delivery of its services hereunder and that the time limits set forth in the City's schedule shall not, except for a written determination by the City that reasonable cause exists for the schedule to be exceeded by Consultant.

- 6.5 Notwithstanding anything contained herein to the contrary, Consultant shall not be entitled to recover any monetary damages it may sustain as a result of any delay caused by the City, any separate design professional employed by the City, Consultant or any other causes whatsoever. Consultant further agrees that it shall make no claim for compensation for such delays and will accept in full satisfaction for such delays any extensions of time which are granted to it by the City.

ARTICLE 7 QUALITY CONTROL

Consultant shall develop and employ a comprehensive quality control program designed to protect the City from patent or latent defects in any Work related to the Project or in Work performed on the Project by third parties. At a minimum, Consultant will follow guidelines listed in the Consultant's most recent quality control and/or practices manual, and any subsequent revisions or updates, provided such guidelines to not conflict with any of the Contract Documents.

ARTICLE 8 CONSULTANT'S PERSONNEL

- 8.1 Licensing. Consultant agrees to obtain and maintain throughout the period this Agreement is in effect, all such licenses as are required to do business in the State of Florida, Lee County, Florida and the City of Cape Coral, including but not limited to, licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the professional services provided and performed by Consultant pursuant to this Agreement. Consultant is required to notify City within five (5) calendar days of any pending, or newly initiated, disciplinary or other actions imposed on Consultant or its sub consultants by any regulatory or licensing authority.
- 8.2 Qualified Personnel. Consultant agrees when the services to be provided and performed related to a professional service(s) which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all Basic Professional Services and Additional Professional Services to be provided pursuant to this Agreement.
- 8.3 Consultant's Project Manager. Consultant agrees to employ and designate in writing, a qualified, and if required by law, a licensed professional to serve as the Consultant's Project Manager. Consultant's Project Manager shall be authorized and responsible to act on behalf of Consultant with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement. Consultant's Project Manager shall have full authority to bind and obligate Consultant on any matters arising under this Agreement unless substitute arrangements have been furnished and agreed to with the City in writing. Consultant agrees that the Project Manager shall devote whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by Consultant throughout the entire period this Agreement is in effect. During the term of the Project, Consultant's Project Manager shall neither have nor undertake any other assignment or engagement on behalf of Consultant other than serving as Project Manager in connection with the Project, if such assignment interferes with the abilities of Project Manager to complete the work on this assignment or unless otherwise agreed in advance by the City. The person selected to serve as Consultant's Project Manager shall be subject to the prior approval and acceptance of the City.

- 8.4 Removal of Personnel. Consultant agrees, within ten (10) calendar days of receipt of a written request from the City, to promptly remove and replace the Consultant's Project Manager or any other personnel employed or retained by Consultant or any personnel of a sub consultant or subcontractor engaged by Consultant to provide and/or perform services and or Work pursuant to the requirements of this Agreement, who the City shall request in writing to be removed, which request may be made by the City with or without cause.

ARTICLE 9

SUB-CONSULTANTS AND SUBCONTRACTORS

- 9.1 Definition. A sub-consultant or subcontractor is a person or organization who has a direct contract with Consultant to perform any part of the Work associated with the Project. Nothing contained in this Agreement shall create any type of contractual relationship between the City and any subcontractor and/or sub-consultant.
- 9.2 Consultant's Selection of Subcontractors and Sub-consultants. Consultant, within fourteen (14) calendar days after execution of this Agreement, shall furnish, in writing to the City, the names of persons or entities proposed to be sub-consultants and/or subcontractors on the Project (referred to in this paragraph as "sub-consultants"), along with copies of proposals and contracts between Consultant and such sub-consultant(s). The City shall promptly reply to Consultant in writing whether the City, after due investigation, has reasonable objections to any such proposed person or entity. Failure of the City to reply within fourteen (14) calendar days after its receipt of such information shall constitute notice of no reasonable objection. All sub-consultants shall be duly licensed pursuant to any applicable requirements and regulations of the State of Florida. Consultant shall use its best efforts to propose and retain sub-consultants appropriately qualified, locally based (Cape Coral - Fort Myers - Lee County, Florida) and/or minority owned and operated Consultants with experience in the Lee County area. Consultant shall not, without reasonable cause and after obtaining the approval of the City (which approval shall not be unreasonably withheld) change a sub-consultant or its role which has been previously selected and approved by the City. Consultant shall be responsible to the City for the damages to the extent caused by the negligent acts or omissions of, or services provided by or through its sub-consultants. The City's review, approval or rejection of proposed sub-consultants or their respective proposals or contracts will not relieve Consultant of its responsibilities under this Agreement, or for the actions or omissions of such sub-consultants.
- 9.3 Sub contractual Relations. By an appropriate written agreement, Consultant shall require each subcontractor or sub-consultant, to the extent of the Work to be performed by the subcontractor or sub-consultant, to be bound to Consultant by the terms of this Agreement and to assume toward Consultant all obligations and responsibilities which Consultant, by this Agreement, assumes towards the City. Consultant shall make available to each proposed subcontractor or sub-consultant prior to the execution of any such agreement, a copy of this Agreement.
- 9.4 Responsibilities for Acts and Omissions. Consultant shall be responsible to the City for the acts and omissions of its employees and agents and its subcontractors and/or sub-consultants, their agents and employees, and all other persons performing any Work or supplying any service under a contract with Consultant.

ARTICLE 10

COOPERATION WITH PROJECT PARTICIPANTS

- 10.1 Consultant shall cooperate with the City, and others working on the Project to avoid interference, inconvenience or damage. To aid in avoiding conflicts, Consultant, without additional charge or

compensation, shall make all reasonable modifications in its services or the scheduling of its services as may be directed by the City. Consultant agrees that it has become familiar with the Project and accepts responsibility for all necessary coordination of its services with the work of other parties working on the Project or any adjacent projects affected thereby.

- 10.2 Consultant will assume primary coordination of its Work with the work of others. As part of said service, Consultant shall be primarily responsible for the coordination and compilation of all design documents pertaining to the Project.
- 10.3 In the event of a dispute between Consultant and others working on the Project, Consultant and the others working on the project shall present their dispute to the City, who shall make a decision with respect to the matter in dispute. Consultant agrees to proceed with the furnishing of its services in accordance with any decision which is rendered by the City.

ARTICLE 11 COMPENSATION

11. Contract Price. The City shall pay to the Consultant in full and complete satisfaction for all services, materials and equipment furnished by the Consultant under the terms of this Agreement the not to exceed sum of Two Hundred Seventy-Three Thousand Four Hundred Twenty-Four Dollars and Twenty-Two Cents (\$273,424.22) Exhibit "B" – "Schedule of Values". The total. Any additional work required by the City will be negotiated and will utilize the negotiated hourly rates Exhibit "D" – "Personnel Hourly Rates" contained in this agreement.

Payment of Contract Price.

- 11.1 Basic Compensation. Subject to the Not to Exceed Price and the satisfaction of the conditions precedent set forth in paragraph 11.3 below, and in exchange for the proper performance of the Basic Professional Services, Consultant shall be compensated on an hourly basis in conformity with the Personnel Hourly Rates Exhibit "D" wherein such rates are fixed for the duration of this contract. Exhibit "D" shall set forth the name of the identity of each individual performing services on the Project for which compensation shall be paid to Consultant by the City together with the corresponding billable rate for each individual. The City shall not be liable to Consultant for payment of services performed by any individual not identified on Exhibit "D" absent written approval by the City prior to the individual performing services. The billable rate for each individual who is an employee of the Consultant is based upon actual hourly rate of compensation paid by Consultant to the employee as set forth in Exhibit "D" times the agreed upon multiplier. Notwithstanding the foregoing or any provision of Exhibit "D", the Consultant shall not be entitled to recover any mark-up on services furnished by Consultant's subcontractors or other third parties provided.
- 11.2 Schedule of Values. The Consultant billing shall be based on the Schedule of Values - Exhibit "B" establishing a separate estimated amount for each Task of the Consultant's work. In no event, shall the Consultant be entitled to receive compensation in excess of the amount ascribed to any task unless otherwise previously approved by the City in writing. The not to exceed amounts set include not only the fees to the Consultant for its services to be performed but also any third-party costs associated with a Task. Reimbursable Expenses incurred by Consultant are defined in Exhibit "G".
- 11.3 Applications for Payment. The Consultant shall deliver to the City an Application for Payment reflecting the tasks completed in Exhibit "B", "Schedule of Values", which shall be approved in writing. City shall make payment of the Application for Payment within thirty (30) days of the City's receipt of such Application for Payment unless, within a fifteen (15) day period, City notifies the Consultant in writing of its objection to the amount of such Application for Payment, together with City's determination of the proper amount of such Application of Payment. City shall pay any undisputed portion of such

Application of Payment within such thirty (30) day period. With each Application for Payment, the Consultant shall submit such evidence as may be necessary, in the opinion of the City, to demonstrate the work performed during such month and the percentage of completion of each category of the Work. In no event, shall the cost of the Work exceed the Contract Price referred to in Article 11 shown above.

- 11.4 Certification and Release Documentation. In each Application for Payment, the Consultant shall certify that there are no known claims outstanding at the date of this application, that all due and payable bills with respect to the Work have been paid to date or shall be paid from the proceeds of this Application for Payment, and that there is no known basis for the filing of any claims on account of the Work, and that all work has been performed in strict conformity with the requirements of the Contract Documents and that the Consultant is unaware of any defective work. This certification will include that all sub-consultants have been paid for outstanding work. Concurrent with each Application for Payment, the Consultant shall execute and furnish waiver of claims through the effective date of the previous Application for Payment.
- 11.5 Joint Checks and or Direct Payments. The City reserves the right to issue joint checks to the Consultant and its subcontractors and materialmen, or, to make direct payments to the Consultant's subcontractors or materialmen, if, in the City's sole judgment, it is necessary to do so to ensure payment to the aforesaid parties. The amounts of said joint or direct checks shall be deducted from the Contract Price.
- 11.6 Final Payment. Provided that the Consultant has fully performed its obligations hereunder, final payment, including retainage amounts, shall be made by the City to the Consultant on or about thirty (30) days following final performance of all Work and the Consultant's submittal of a final Application for Payment therefore and final Affidavit. In this regard, it is further agreed that the final Application for Payment shall not be made until the Consultant has fully and finally completed all tasks and delivers to the City a complete release of all claims arising or which could arise out of this Agreement. The acceptance of final payment by the Consultant shall constitute a waiver of all claims by the Consultant except those previously made in writing and identified by the Consultant as unsettled at the time of the final Application for Payment.
- 11.7 Payment is Not Acceptance. The payment of any Application for Payment by the City, including the final Application for Payment does not constitute approval of, or acceptance of that portion of the Work to which such payment relates nor shall such payment relieve the Consultant of its obligations nor constitute a waiver of any claim which the City may then have or thereafter discover.
- 11.8 Payments Withheld. The City may decline to pay an application for payment submitted by Consultant, in whole or in part, to the extent reasonably necessary to protect the City if:
- 11.8.1 Consultant is not entitled to payment in the amount specified in the application for payment;
 - 11.8.2 Consultant is in default of its obligations hereunder;
 - 11.8.3 Appropriate backup data and documentation required by the City is not submitted with the application for payment;
 - 11.8.4 The application for payment is not otherwise appropriately substantiated;
 - 11.8.5 Any known or alleged, willful, wanton or negligent act, error or omission of Consultant which gives rise to a claim by the City or by some other party against the City; or
 - 11.8.6 Any other reason the City is permitted to withhold payment under any other provision of this Agreement.
- 11.9 Interest. In the event of a bona fide dispute by the City for any sums for which payment has been requested, no interest shall be due on such disputed sums until the dispute is resolved, provided that all undisputed sums shall have been paid in due course.
- 11.10 Compensation for Additional Professional Services. For Additional Professional Services of Consultant

directed and authorized in writing and in advance by the City, as described in Article 5, the City shall pay to Consultant a Not to Exceed Amount, as mutually agreed upon in writing by the parties which shall be the sole and exclusive compensation payable to Consultant in connection with the performance of such Additional Professional Services.

ARTICLE 12 INSURANCE

Consultant shall, at all times during the performance of this Agreement, provide and maintain the following types of insurance protecting the interests of the City and Consultant with coverages and limits of liability not less than those set forth below:

12.1 Workers Compensation Insurance. Consultant shall maintain worker's compensation insurance, insuring its liability under the Workers Compensation and Occupational Disease Laws of the State of Florida, with limits of liability not less than the minimum statutory limits imposed by applicable State and Federal laws. The worker's compensation insurance policy must include employer's liability with a minimum limit of \$1,000,000.00 for each accident.

12.2 Comprehensive General Liability Insurance. Consultant shall maintain comprehensive general liability insurance which shall be written on an "occurrence" basis and afford the following coverages:

12.2.1 Premises – operation

12.2.2 Explosion, collapse and underground property damage (XCU)

12.2.3 Products/completed operations

12.2.4 Blanket contractual liability

12.2.5 Personal injury

12.2.6 Advertising injury

12.2.7 Premises medical payments

12.2.8 Property damage

12.2.9 Additional insureds - employees and temporary workers

12.2.10 Newly acquired organizations

12.2.11 Property damage liability

12.2.12 Independent contractors

12.2.13 The commercial general liability insurance to be maintained by Consultant must include products and completed operations, and contractual liability. The City shall be named as an additional insured on the comprehensive general liability policy. The limits of liability associated with Consultant's comprehensive general liability policy shall not be less than the following:

12.2.13.1 \$1,000,000.00 each occurrence

12.2.13.2 \$2,000,000.00 aggregate

12.2.14 Notwithstanding anything contained herein to the contrary, the coverages under the comprehensive general liability policy to be furnished by Consultant must be afforded on a policy form no more restrictive than the last edition of the commercial general liability policy filed by the Insurance Services Office.

12.3 Vehicular Liability Insurance. Consultant shall maintain business vehicular liability insurance covering all owned, non-owned, and hired vehicles used in connection with the Work to be provided hereunder with combined minimum limits of \$2,000,000.00 single limit for bodily injury and property damage per occurrence/aggregate.

- 12.4 Excess Liability Insurance. Consultant shall maintain excess liability insurance in an amount not less than \$2,000,000 combined single limit bodily/property damage, in excess of the general liability insurance described above.
- 12.5 Professional Liability Insurance. Consultant shall maintain professional liability insurance with a minimum level of liability coverage of not less than \$2,000,000.00 per occurrence/\$4,000,000.00 in aggregate insuring the City against losses arising out of the delivery of professional services by Consultant and its sub-consultants. Consultant shall also ensure that each of its sub-consultants shall maintain professional liability insurance with minimum limits of liability coverage not less than \$1,000,000.00 per occurrence/\$2,000,000.00 in aggregate insuring the City against losses arising out of the provision of professional services by each in connection with the Project. The deductibles associated with the professional liability insurance policies to be furnished by Consultant and its sub-consultants shall not exceed \$100,000.00 per claim. Consultant shall provide to the City certificates reflecting the City as a certificate holder with respect to the professional liability insurance policies maintained by Consultant and sub-consultants.
- 12.6 Property Insurance. It is Consultant's responsibility to carry its own property insurance including insurance on equipment that will not become an integral part of the Project.
- 12.7 Certificate of Insurance. Prior to performing any services hereunder, Consultant shall file with the City a certificate of insurance in a form acceptable to the City. The certificate of insurance shall reflect the City as an additional named insured on Consultant's comprehensive general liability, excess liability, and business vehicular liability policies. In addition, the City shall be reflected as the certificate holder with respect to Consultant's professional liability and worker's compensation insurance. The certificate of insurance furnished by Consultant shall contain a provision that the coverages afforded under the policy described thereon will not be cancelled until at least thirty (30) days prior written notice has been given to the City. Also, to be included on the policy for the Certificate of Insurance under the "Description of Operations /Locations/Vehicles/Exclusions added by endorsement/Special Provisions" section, the Contract Number "RPW2144MC" and Title of Project - "Bridge System Master Plan".
- 12.8 Ratings of Companies. All companies issuing the policies provided for herein shall be licensed or approved by the Department of Insurance, State of Florida, and shall have a financial rating no lower than II and a policy holder surplus rating no lower than (A) as listed in A.M. Best TK Rating Guide, current edition or interim report. Companies with ratings lower than those specified herein will be acceptable only upon the written consent of the City.
- 12.9 Primary Coverage. The insurance required hereunder is primary and direct and shall apply to any loss prior to any insurance coverage carried by the City or any other party.
- 12.10 Extent of Coverages. The insurance coverages referred to above are set forth in full in their respective policy forms. The foregoing descriptions of such policies are not intended to be complete or to limit any provision of the actual policies and should said description be narrower than the coverages afforded under the actual policies of insurance, the provisions of the actual policies of insurance shall govern.
- 12.11 Waiver of Subrogation. Consultant's insurance policies shall be endorsed to provide that the insurers waive their rights of subrogation against the City and to provide that the policies afford primary coverage over any other applicable insurance coverage.
- 12.12 Sub-consultant Insurance Requirements. Except as otherwise specified herein, Consultant shall require that

all sub-consultants and subcontractors performing Work on the Project to maintain the same coverages and policy limits as Consultant is required to furnish hereunder. An insurance provision, including waivers of subrogation, identical to the provisions of Article 12 of this Agreement and shall be included by Consultant in each written subcontract or sub-consultant agreement issued by it in conjunction with the Project.

ARTICLE 13 INDEMNIFICATION

In consideration of the first One Hundred and No/100 Dollars (\$100.00) to be paid hereunder and to the fullest extent permitted by law, Consultant agrees to indemnify and hold harmless the City and its agents, servants and employees, from and against any and all claims, costs, expenses, damages, or liability (including reasonable attorneys' fees and costs of defense) caused by, attributable to, arising out of, or resulting from Consultant's negligence, recklessness, or intentional wrongful conduct in the performance of professional services under this Agreement and those of its sub-consultants, agents and employees. Consultant is not obligated to indemnify the City in any manner whatsoever for the City's own negligence. Consultant's monetary limitation under this indemnity provision shall be limited to the sum of Two Million and No/100 Dollars (\$2,000,000.00). The parties agree that the foregoing sum bears a reasonable relationship to this Agreement. This indemnity provision shall be considered a material part of the specifications governing Consultant's performance under this Agreement. This indemnity provision is intended to comply with Florida laws on indemnity and, specifically, to comply with Sections 725.06 and 725.08, Florida Statutes, and is to be interpreted in such a manner as to be enforceable.

ARTICLE 14 DRAFTING FORMATS AND STANDARDS

In performing professional services hereunder, Consultant shall review and incorporate the City's drafting formats and office drafting standards into any drawings and specifications generated in connection with the provisions of this Agreement.

ARTICLE 15 COPYRIGHTS AND LICENSES

All drawings, sepias, electronic media and specifications prepared in connection with the Project shall remain the property of the City and Consultant shall not be entitled to a repeat design fee or any other compensation should the City elect to utilize said drawings, sepias, electronic media and specifications in connection with additional alterations or remodeling or additions to the Project to which said design documents originally pertain. Consultant hereby assigns to the City any and all right, title, and interest it may possess in the design documents and materials produced in connection with this Agreement, including but not limited to, all statutory and common law copyrights it possesses in said documents and materials. The future use of said materials shall be at the sole discretion of the City. The City agrees to hold Consultant harmless from any claims based upon the future use of said materials in connection with any purpose other than the Project or future maintenance or support of the Project.

ARTICLE 16 PERMITS

Consultant will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the City in obtaining all reviews, approvals and permits, with respect to the Consultant's data, surveys, studies, software programs, specifications, calculations, estimates, plans, drawings, or any other documents furnished, required by any governmental body having authority over the Project. Consultant will be similarly responsible for preparing and submitting all required specifications and

other supportive information necessary to assist the City in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect. The City shall, at Consultant's request, assist in obtaining required signatures and provide Consultant with all information known to be available to the City to assist the Consultant in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

ARTICLE 17 CITY'S RESPONSIBILITIES

- 17.1 The City's Representative. The City shall designate a Project Representative who shall be fully acquainted with the Project and shall define the lines of City authority to approve changes in the Project. He or she shall render decisions promptly and furnish information expeditiously.
- 17.2 Lines of Authority. The City shall establish and maintain lines of authority for its personnel and shall provide this definition to the Consultant and all other affected parties.
- 17.3 Existing Design. The City shall provide to Consultant all documentation in its possession pertaining to the Project.
- 17.4 Annual Appropriation Contingency. The City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.
- 17.5 Project Fault or Defect. If the City becomes aware of any fault or defect in the Project, or in the specifications or drawings for the Project, it shall give prompt written notice thereof to Consultant.

ARTICLE 18 CONSULTANT'S REPRESENTATIONS

In order to induce the City to enter this Agreement, Consultant makes the following express representations:

- 18.1 Consultant has reviewed and confirmed that the basis and approach taken by the City in its Project planning represents sound programming and provides an adequate basis for the performance of Consultant's services hereunder.
- 18.2 Consultant has familiarized itself with the Scope of Work and the nature and extent of the Work to be performed, local conditions, and federal, state and local laws, ordinances, rules and regulations that in any manner affect costs, progress or performance of the work.
- 18.3 Consultant represents that the Work can be performed within the time frames contemplated in the Consultant's Work Schedule, a copy of which is attached hereto as Exhibit "C."
- 18.4 Consultant has reviewed the Scope of Work and has provided the City with written notice of all conflicts, errors or discrepancies it has discovered in the Scope of Work and the cost to the City of addressing such conflicts, errors or discrepancies.
- 18.5 Consultant has familiarized itself with the nature and the extent of the proposed Project contemplated under the City's program and local conditions and affirmatively represents that no conditions are known

to exist which would have a cost or scheduling impact on the Project.

ARTICLE 19
ACCURACY, TECHNICAL SUFFICIENCY OF SERVICES
PROVIDED BY CONSULTANT

- 19.1 Notwithstanding anything contained herein to the contrary, it is understood and agreed between the parties that the City is not examining any data, surveys, studies, software programs, specifications, calculations, plans, drawings, or any other documents furnished hereunder by Consultant for accuracy and technical sufficiency and is not under any obligation to inspect the Project. Furthermore, it is understood and agreed between the parties that neither the review, approval, nor acceptance by the City of data, surveys, studies, software programs, specifications, calculations, estimates, plans, drawings, or any other documents furnished hereunder by Consultant shall in any way relieve Consultant of responsibility for the adequacy, completeness, and accuracy of its work, and in no event shall the City's review, approval, acceptance of or payment for such services be construed to operate as a waiver of any of the City's rights under this Agreement or of any cause of action it may have, arising out of the performance of this Agreement.
- 19.2 Consultant further acknowledges that it, alone, is responsible for the accuracy, completeness, and technical sufficiency of all Work performed under this Agreement, and that the information contained in the City's Request for Proposals and Project descriptions does not relieve, release, or in any way whatsoever diminish the Consultant's ultimate responsibility for the accuracy, completeness, and technical sufficiency of the Project and any work performed hereunder.
- 19.3 Consultant agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, adoption and coordination of all data, surveys, studies, software programs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments and other services, work and materials performed, provided and/or furnished by Consultant or by any sub-consultant retained or engaged by Consultant pursuant to this Agreement. Consultant shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies, surveys, software programs, specifications, calculations, estimates, plans, drawings, documents and instruments, and other services or materials resulting from the negligent act, errors or omissions or any intentional misconduct of Consultant or any sub-consultants engaged by Consultant.

ARTICLE 20
TERMINATION OR SUSPENSION OF AGREEMENT

- 20.1 The City reserves the right to terminate this Agreement without cause and without regard to fault or breach upon thirty (30) calendar days written notice to Consultant, effective immediately, unless otherwise provided in said notice. In the event of a termination for the City's convenience, the Consultant shall only be due those sums which are due for Work performed as of the date of termination. Upon Consultant's receipt of such payment, the parties shall have no further obligation hereunder. It is understood and agreed that no fee or other compensation or payment shall be due and payable to Consultant for unperformed Work associated with this Agreement.
- 20.2 If the City fails to make payment on conforming or non-disputed invoices when due for Consultant's services and expenses, Consultant may, upon ten (10) calendar days written notice to the City, suspend performance of services under this Agreement. Unless payment in full is received by Consultant within ten (10) calendar days from the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, Consultant shall have no liability to the City for delay or damages

caused the City because of such suspension of services. Should the City fail to satisfy the payment due Consultant within sixty (60) calendar days from the date the payment was originally due, Consultant shall be entitled to terminate this Agreement for cause. If Consultant fails to perform the services described herein or fails to respond with responsible promptness to the City, the City, without waiving the City's right to terminate as a result thereof, may suspend performance of the City's obligations under this Agreement (including, but not limited to, the City's obligation to make payment) on thirty (30) calendar days written notice to Consultant.

- 20.3 Notwithstanding anything contained herein to the contrary, the City shall be entitled to terminate this Agreement for cause should Consultant fail to perform the services contemplated herein, perform any of its obligations hereunder, or otherwise fail to respond with reasonable promptness to the requests of the City. In the event of such a termination for cause, the City shall be entitled to recover from Consultant such additional costs as it incurs in procuring performance of Consultant's remaining obligations hereunder. If the City terminates this Agreement hereunder and it is determined, for any reason, that sufficient ground did not exist for the City to terminate this Agreement hereunder, the Consultant as its sole and exclusive remedy shall be entitled to and due only those sums which are due for Work performed as of the date of termination as if the termination were for no fault or breach.

ARTICLE 21 SPECIAL PROVISIONS

- 21.1 Consultant accepts the relationship of trust and confidence established between it and the City by this Agreement.
- 21.2 Consultant warrants that it has not employed or retained any company or person, other than an employee working solely for Consultant, to solicit or secure this Agreement and that it has not paid any person, company, corporation, individual or Consultant, other than a bona fide employee working solely for Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.
- 21.3 Any person or affiliate who has been placed on the Convicted Vendor List following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract or subcontract with a public entity, for construction or repair of a public building or public work, may not submit bids or leases of real property to a public entity, may not be awarded or perform any Work a contractor, supplier, subcontractor, or Consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY 2 for a period of thirty-six (36) months from the date of being placed on the Convicted Vendors List. Consultant agrees not to use any sub-consultants whose names appear on the Convicted Vendors List.
- 21.4 Consultant represents to the City that it is experienced in design and that it will perform its services under this Agreement in a skillful and competent manner.
- 21.5 Consultant represents that it presently has no interest and shall acquire no interest either direct or indirect, which would conflict in any manner with the performance of services required hereunder. Consultant further agrees that no person having any such interest shall be employed or engaged by Consultant for said performance. If Consultant, for itself or on behalf of its sub-consultants, is about to engage in representing another client, which it in good faith believes would result in a conflict of interest with the Work being performed by Consultant or such sub-consultant under this Agreement, then it will promptly bring such potential conflict of interest to the City's attention, in writing. The City will advise

Consultant in writing, within ten (10) calendar days as to the period of time required by the City to determine if such a conflict of interest exists. If the City determines there is a conflict of interest, Consultant or such sub-consultant shall decline the representation upon written notice by the City. If the City determines that there is not such a conflict of interest, then the City shall give its written consent to such representation.

21.6 If Consultant or sub-consultant accepts such a representation without obtaining the City's prior written consent, and if the City subsequently determines that there is a conflict of interest between such representation and the Work being performed by Consultant or such sub-consultant under this Agreement, then Consultant or such sub-consultant agrees to promptly terminate such representation. Consultant shall require each of its sub-consultants to comply with the provisions of this section. Should the Consultant fail to advise or notify the City as provided herein above, of representation which could, or does, result in a conflict of interest, or should Consultant fail to discontinue such representation, the City may consider such failure a justifiable cause to terminate this Agreement.

21.7 Consultant agrees to maintain the business ethics expected by the City. In that regard, Consultant shall:

21.7.1 During the course of pursuing contracts with owner and while performing contract work in accordance with this agreement, Consultant agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the Owner's best interests. Consultant shall take reasonable actions to prevent any conditions which could result in a conflict with the City's best interests. These obligations shall apply to the activities of Consultant's employees, agents, sub-consultants, sub-contractor employees, etc. Consultant employees, agents, subcontractors, material suppliers (or their representatives) should not make or cause to be made any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to the City's representatives, employees or their relatives. Consultant's employees, agents, or subcontractors (or their relatives) should not receive any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from contractors, representatives of contractors, subcontractors, representatives of subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the Project. Consultant agrees to notify the City within forty-eight (48) hours of any instance where the Consultant becomes aware of a failure to comply with the provisions of this article. The email address to report any concerns related to any possible violations is mconnell@capecoral.gov. Upon request of the City, Consultant agrees to provide a certified Management Representation Letter executed by selected Consultant representatives in a form agreeable to City stating that they are not aware of any situations violating the business ethics expectations outlines above or any similar potential conflict of interest situations. Consultant agrees to include this clause in all contracts with sub-consultants and suppliers receiving more than twenty-five thousand (\$25,000) dollars in funds in connections with the City's project. Consultant shall permit interviews of employees, reviews and audits of accounting or other records by City representative(s) to evaluate compliance with the business ethics standards. Such reviews and audits will encompass all dealings and activities of Consultant's employees, agents, representatives, vendors, sub-consultants, and other third parties paid by Consultant in their relations with the City's current or former employees or employee relatives. This provision survives the expiration of this Agreement. Consultant agrees to implement a program requiring their employees sign acknowledgements that they have read and understand City's Business Ethics Expectations and the related obligation outlined in this contract.

21.7.2 Consultant, sub-consultants, subcontractors, suppliers, and other entities connected with this

Project shall permit interviews of employees, reviews and audits of accounting or other records by authorized City representative(s) to evaluate compliance with the business ethics expectations stated in this article. Such reviews and audits will encompass all dealings and activities of Consultant's employees, agents, representatives, vendors, sub-consultants, subcontractors, suppliers, and other third parties paid by Consultant in their relations with the City's current or former employees or employee relatives.

- 21.7.3 Consultant, sub-consultants, subcontractors, suppliers, and other entities connected with this Project agree to implement a program requiring their key employees in any connection with this Project sign acknowledgments that they have read and understand the City's Business Ethics Expectations and related obligations outlined in this article.
- 21.7.4 Consultant, by execution of this Agreement, represents that it possesses that degree of care, learning, skill, ability and is properly licensed and qualified to perform the Basic Professional Services and any Additional Professional Services (as directed and approved in Article 3 hereof) and that it and its sub-consultants and/or subcontractors, and suppliers will undertake to use the degree of skill and care of performance of obligations under this Agreement, which are utilized by professionals in the same field performing the same or similar services under the same or similar circumstances for similar infrastructure projects. Consultant acknowledges that all professional services provided under this Agreement will meet or exceed the requirements of this Agreement, including without limitation, the standard of care required by this Agreement; that any design documents prepared by Consultant with respect to the Project will meet or exceed the City's Project requirements as specified in this Agreement or otherwise provided by the City to Consultant. Consultant agrees to use the services of competent, qualified personnel, and, when required by law, properly licensed sub-consultants and other professionals for the execution of its services. Consultant will use commercially reasonable efforts and skill to endeavor to protect the interests of the City and the City's residents at all times.

ARTICLE 22

CONSULTANT'S RECORDS

- 22.1 Records of the Consultant's personnel, sub-consultants, suppliers, and the costs pertaining to the Project shall be kept in accordance with generally accepted accounting practices.
- 22.2 Consultant shall keep full and detailed accounts and financial records pertaining to the provision of services for the City. Prior to commencing work, Consultant shall review with and obtain the City's approval of the accounting procedures and records to be utilized by the Consultant on the Project. Consultant shall preserve the Project records for a period of ten (10) years after final payment, or for such longer period as may be required by law.
- 22.3 As the City is subject to the public records requirements of Chapter 119, Florida Statutes, the Consultant shall comply with Florida's Public Records Law. Specifically, the Consultant shall:
- 22.3.1 Keep and maintain public records required by the City to perform the service.
- 22.3.2 Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- 22.3.3 Ensure that public records that are exempt or confidential and from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Consultant does not transfer the records to the City.

- 22.3.4 Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-574-0411, cityclerk@capecoral.gov, City of Cape Coral, 1015 Cultural Park Boulevard, Cape Coral, FL 33990

ARTICLE 23
RIGHT OF AUDIT - EXAMINATION OF RECORDS

Records for all contracts, specifically including but not limited to "Not to Exceed" subcontracts (i.e. fixed price or stipulated sum contracts, unit price, costs plus or time & material contracts with or without a guaranteed maximum (or not-to-exceed amounts) shall upon seven (7) calendar days written notice from the City shall be open to inspection and subject to audit, scanning, and/or reproduction during normal business working hours. Such audits may be performed by any City representative or any outside representative engaged by the City for the purpose of examining such records. Such records must be complete and made available at Consultant's offices located in Lee County, Florida. The City or its designee may conduct such audits or inspections throughout the term of this Agreement and for a period of four (4) years after final payment or longer if required by law. The City's representatives may (without limitation) conduct verifications such as counting employees at the construction site, witnessing the distribution of payroll, verifying information and amounts through interviews and written confirmations with Consultant's employees, field and agency labor, subcontractors and vendors.

- 23.1 Consultant's "records" as referred to in this Agreement shall include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the City's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any contract document. Such records shall include (hard copy, as well as computer readable data if it can be made available), written policies and procedures; time sheets, payroll registers, payroll records; cancelled payroll checks, subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, negotiation notes, etc.); original bid estimates; estimating worksheets; correspondence; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; invoices and related payment documentation; general ledger, information detailing cash and trade discounts earned, insurance rebates and dividends; and any other Consultant records which may have a bearing on matters of interest to the City in connection with the Consultant's dealings with the City (all foregoing hereinafter referred to as "records") to the extent necessary to adequately permit evaluation and verification of any and all of the following:
- 23.1.1 Compliance with contract requirements for deliverables;

- 23.1.2 Compliance with approved plans and specifications;
- 23.1.3 Compliance with the City's business ethics expectations;
- 23.1.4 Compliance with contract provisions regarding the pricing of change orders;
- 23.1.5 Accuracy of Consultant's representations regarding the pricing of invoices; and
- 23.1.6 Accuracy of Consultant representations related to claims submitted by Consultant or any of its payees.
- 23.2 Consultant shall require all payees (examples of payees include sub-consultants, subcontractors, material suppliers, insurance carriers, etc.) to comply with the provisions of this article by including the requirements hereof in a written contract agreement between Consultant and payee. Consultant will ensure that all payees (including those entering into lump sum contracts) have the same right to audit provisions contained in this Agreement. This provision survives the expiration of this Agreement.
- 23.3 Owner authorized representative(s) shall have reasonable access to Consultant's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with this article.
- 23.4 If an audit inspection or examination in accordance with this article discloses overpricing or overcharges to the City (of any nature) by Consultant and/or Consultant's subcontractors and/or sub-consultants the City shall be entitled to adjustment and reimbursement or recovery in the amount of such overpricing or overcharging. If the amount of the overpricing or overcharging is determined to be more than One Hundred Thousand and No/100 Dollars (\$100,000.00), in addition to making adjustments for the overcharges, the reasonable actual cost of the City's audit shall be reimbursed to the City by Consultant. Any adjustments and/or payments which must be made as a result of any such audit or inspection of Consultant's invoices and/or record shall be made within a reasonable amount of time (not to exceed forty-five (45) calendar days) from presentation of the City's findings to Consultant. This provision shall survive the expiration of this Agreement.
- 23.5 In addition to the normal paperwork documentation Consultant typically furnishes to the City, in order to facilitate efficient use of the City's resources when reviewing and/or auditing Consultant's billings and related reimbursable cost records, Consultant agrees to furnish (upon request) the following types of information in the specified computer (PC) readable file format(s):

<u>Type of Record</u>	<u>PC Readable File Format</u>
Monthly Job Cost Detail	.pdf and Excel
Detailed Job Cost History to Date	.pdf and Excel
Monthly Labor Distribution detail (if not already separately detailed in the Job Cost Detail).	.pdf and Excel
Total Job to date Labor Distribution detail (if not already included)	.pdf and Excel
Employee Timesheets documenting time worked by all individuals who charge reimbursable time to the Project	.pdf and Excel
Weekly Task Reports listing names and hours and tasks of personnel who worked on the Project	.pdf

Weekly Project Manager Reports	.pdf
Detailed subcontract/sub-consultant status reports (showing original subcontract value, approved subcontract/sub-consultant change orders, subcontractor/sub-consultant invoices, payment to subcontractors/sub-consultants/etc.)	.pdf and Excel
Copies of executed subcontracts with all subcontractors/sub-consultants	.pdf
Copies of all executed change orders issued to subcontractors/sub-consultants	.pdf
Copies of all documentation supporting all reimbursable job costs (subcontractor/ sub-consultant) payment applications, vendor invoices, internal cost charges, etc.	.pdf

ARTICLE 24 CLAIMS AND DISPUTES

- 24.1 Prior to the filing of any litigation by the City or Consultant against the other (and, except as described below, as a precondition to any such filing), the City and Consultant shall engage in pre-suit non-binding mediation. Such mediation may be requested by either party, at any time, and shall be conducted the same as if such mediation were ordered by a Florida Circuit Court (i.e., in accordance with, and subject to, all of the laws and rules applicable to court-ordered mediation). Such mediation shall be conducted within a reasonable period of time after the same is requested in writing by either party. If the parties are unable to agree upon the selection of a mediator, either party may petition or request that the Circuit Court in Lee County, Florida (or the Mediation Coordinator for the Courts of Lee County, Florida) appoint a mediator. A mediator who is so appointed may only be challenged for cause, and not peremptorily. While the request for and the conducting of such a mediation may be a precondition to the filing of a civil action, in the event either party is in jeopardy of losing its right to sue (e.g., the statute of limitations is about to expire), then suit may be filed before a mediation is conducted provided that mediation is requested before, or simultaneously with the filing of such suit, and is conducted before the named defendant in the suit is required to respond to the complaint. If the scheduling of the mediation requires, the plaintiff in the suit shall grant the defendant an appropriate extension of time to respond to the complaint so as to permit the mediation to be conducted before the defendant must so respond. The mediation contemplated hereunder shall be conducted, unless otherwise agreed by the parties, in Lee County, Florida. The parties shall bear the mediator's fee and any filing fees associated with the mediation equally.
- 24.2 The City and Consultant agree that any litigation between them arising out of, resulting from, or relating to this Agreement or the Project shall be venued in a state court of competent jurisdiction in Lee County, Florida.

ARTICLE 25 ANNUAL APPROPRIATION CONTINGENCY

Pursuant to Florida Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of

future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.

ARTICLE 26
DAMAGE TO PROPERTY

Consultant shall be responsible for all claims filed for damage to private property owned by third parties as well as all damage to public property relating in any fashion whatsoever to Consultant's performance of Work hereunder. The Consultant will work cooperatively with the City in establishing a damage claim program acceptable to the City for processing and satisfying property damage which arises during the course of the Project.

ARTICLE 27
SAFETY AND OSHA COMPLIANCE

27.1 The Contractor shall comply in all respects with all Federal, State and Local Safety and Health Regulations. Copies of the Federal regulations may be obtained from the U.S. Department of Labor, Occupation Safety and Health Administration (OSHA), Washington DC 20210 or their regional offices.

27.2 The Contractor shall comply in all respects with the applicable Workman's Compensation Laws.

ARTICLE 28
EQUAL EMPLOYMENT OPPORTUNITY

During the term of the Agreement, Consultant agrees it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin or handicap. Consultant shall comply with all aspects of the Americans with Disabilities Act ("ADA") during the performance of this Agreement.

ARTICLE 29
PROPRIETARY INFORMATION

Except as otherwise provided in this Agreement, Consultant agrees not to divulge, furnish, or make available to any third parties, Consultant or organization, without the City's prior written consent, or unless instant to the proper performance of Consultant's obligations hereunder, or in the course of any judicial or legislative proceeding where such information has been properly subpoenaed, any nonpublic information concerning services to be rendered by Consultant or any of its sub-consultants or subcontractors under this Agreement.

ARTICLE 30
COMPLIANCE WITH IMMIGRATION LAWS

The City will not intentionally award contracts to any party who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 A(e) Section 274 A(e) of the Immigration and Nationality Act ("INA"). The City may consider the employment by Consultant of unauthorized aliens to be a violation of Section 274 A(e) of the INA. Such violation by Consultant of the employment provisions contained in Section 274 A(e) of the INA shall be grounds for unilateral termination of this Agreement by the City. Consultant affirmatively represents to the City that it is fully compliant with all applicable immigration laws, including but not limited to, the 1986 Immigration Act and subsequent amendments. This applies to any sub-contractors used by the submitting firm as well.

ARTICLE 31
OBSERVANCE OF LAWS,
RULES, REGULATIONS, CODES
AND ORDINANCES

Consultant shall observe and at all times fully comply with all applicable laws, rules, regulations, codes and ordinances of any federal, state or local government agency or regulatory body which in any manner affect or apply to the Work or Consultant's performance hereunder. Consultant shall require all of its agents, representatives, employees and sub-consultants to observe and comply with the said laws, rules, regulations, codes and ordinances.

ARTICLE 32
PUBLICITY

Publicity and public announcements pertaining to the Project shall be approved by the City in writing prior to release.

ARTICLE 33
MISCELLANEOUS

- 33.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- 33.2 No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, signed by the parties against whom the enforcement of such modification, waiver, amendment, discharge, or change is sought.
- 33.3 Nothing contained in this Agreement shall create a contractual relationship or cause of action in favor of a third party against either the City or Consultant.
- 33.4 This Agreement and the Exhibits attached hereto constitute the entire Agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged herein.
- 33.5 This Agreement shall be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.
- 33.6 All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular, or plural as the identity of the person(s) or entity may require.
- 33.7 In the event of any conflict between the terms of this Agreement and any other Contract Documents including Specifications for the Project, the provisions of this Agreement shall govern and control.
- 33.8 If any provision or any portion of any provision of this Agreement or the application of any such provision or portion thereof to any person or circumstance shall be held invalid or unenforceable, the remaining portion of such provision and the remaining provisions of this Agreement, or the application of such provision held invalid, or unenforceable to persons or circumstances other than those to which it has been invalid or unenforceable, shall not be affected thereby.
- 33.9 In the event of any dispute as to the precise meaning of any term contained herein, the principles

of construction and interpretations that written instruments be construed against the drafter shall not apply.

- 33.10 Consultant shall not assign, subcontract or transfer any interest in this Agreement without the prior written consent of the City.
- 33.11 The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.
- 33.12 All articles, titles, or captions contained in this Agreement are for convenience only and shall not be deemed a part of this Agreement and shall not affect the meaning or interpretation of this Agreement.
- 33.13 If Consultant is comprised of more than one (1) entity, each such entity shall be jointly and severally liable hereunder. **HOWEVER, PURSUANT TO F.S. 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.**
- 33.14 All notices, demands, or other communications made pursuant to this Agreement shall be in writing and copies thereof shall be simultaneously directed to the parties listed below. Further, all notices, demands, or other communications shall be deemed to have been duly given by mailing, unless otherwise specified, by United States registered or Certified Mail, Return Receipt Requested, with proper postage prepaid at the following address:

Notice to Consultant:

Company Name
Attn: Person
Street Address
City, State. zip code

If to the City:

Procurement Division
Attn: Mr. Mark Connelly
PO Box 150027
Cape Coral, FL 33915

With a copy to City Legal:

Dolores D. Menendez, Esq.
Attorney for the City of Cape Coral
P.O. Box 150027
Cape Coral, FL 33915

or to such other address or to such other persons as any party may designate to the other for such purpose in the manner herein above set forth.

- 33.15 The parties hereto shall, at any time and from time to time following the execution hereof, execute and deliver all such further instruments and take all such further action as may be reasonably necessary or appropriate in order to carry out more effectively the purposes of this Agreement.
- 33.16 Every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning and shall not be strictly construed for or against any party.

ARTICLE 34
IMMIGRATION AFFIDAVIT CERTIFICATION
AND E-VERIFY VALIDATION

As a condition precedent to entering into this CONTRACT, and in compliance with The Immigration and Nationality Act (INA), 8 U.S.C. Section 1324a(e) Section 274A(e) and Florida Statute State Section §448.095, Contractor or Consultant and their subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021. The Employment Eligibility Verification System (E-Verify), is operated by the Department of Homeland Security in partnership with the Social Security Administration.

The following conditions must be met by all Contractors, Consultants and Subcontractors:

- a. Contractor or Consultant shall require each of its subcontractors to provide them with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor, Consultant or Bidder shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this AGREEMENT.
- b. The CITY, Contractor, Consultant, Bidder or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated The Immigration and Nationality Act (INA) contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) Section §448.09(1), Florida. Statute or the provisions of this section shall terminate the contract with the person or entity.
- c. The CITY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor or Consultant otherwise complied, shall promptly notify Contractor or Consultant and they shall immediately terminate the contract with the subcontractor.
- d. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section §448.095(2)(d), Florida Statute. Contractor or Consultant acknowledges that upon termination of this AGREEMENT by the CITY for a violation of this section by Contractor or Consultant, that the Contractor or Consultant may not be awarded a public contract for at least one (1) year. Contractor or Consultant further acknowledges that Contractor or Consultant is liable for any additional costs incurred by the CITY as a result of termination of any contract for a violation of this section.
- e. ***Subcontracts:*** Contractor, Consultant or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor or Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

(END OF SECTION)

IN WITNESS, WHEREOF, OWNER AND CONTRACTOR HAVE SIGNED THIS AGREEMENT. THIS AGREEMENT WILL BE EFFECTIVE ON _____ (WHICH IS THE EFFECTIVE DATE OF THE CONTRACT).

OWNER:

City of Cape Coral, Florida

Signature:

Typed Name: Roberto Hernandez

Title: City Manager

Date:

Signature

Attest:

Title: City Clerk

Typed

Name: Kimberly Bruns, CMC

Date:

Address for giving notices:

City of Cape Coral (Attn: Procurement)

1015 Cultural Park Blvd.

2nd Floor

Cape Coral, FL 33990

CONTRACTOR:

Volkert Inc.

Signature:

Typed

Name:

Title:

Date:

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign with corporate resolution.)

Signature

Attest:

Title:

Typed

Name:

Date:

Address for giving notices:

Volkert Inc. (Attn: Alexander Caso)

1408 N Westshore Blvd., Suite 600

Tampa, FL 33607

State of Florida

Contractor License No.:

(as applicable)

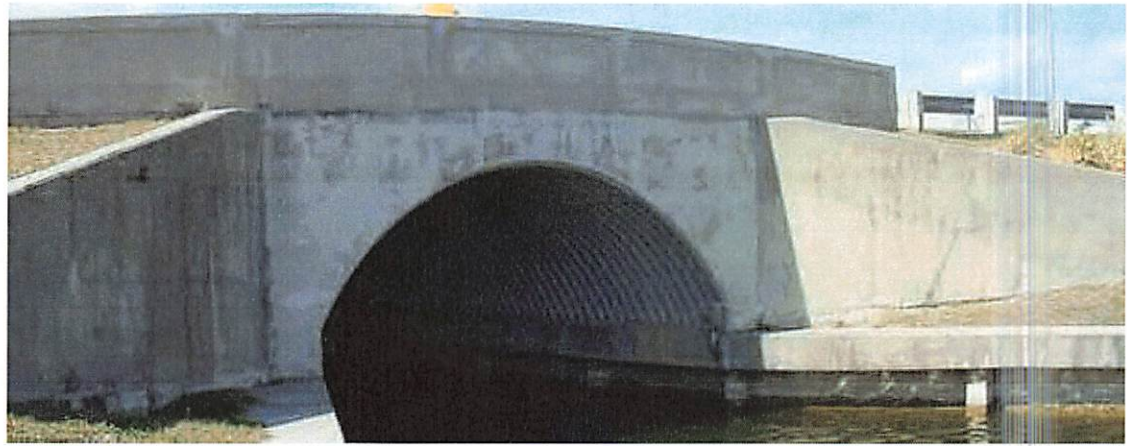
LEGAL REVIEW:

Signature and Date:

Typed Name: for Dolores Menendez, ESQ.

Title: City Attorney

EXHIBIT A



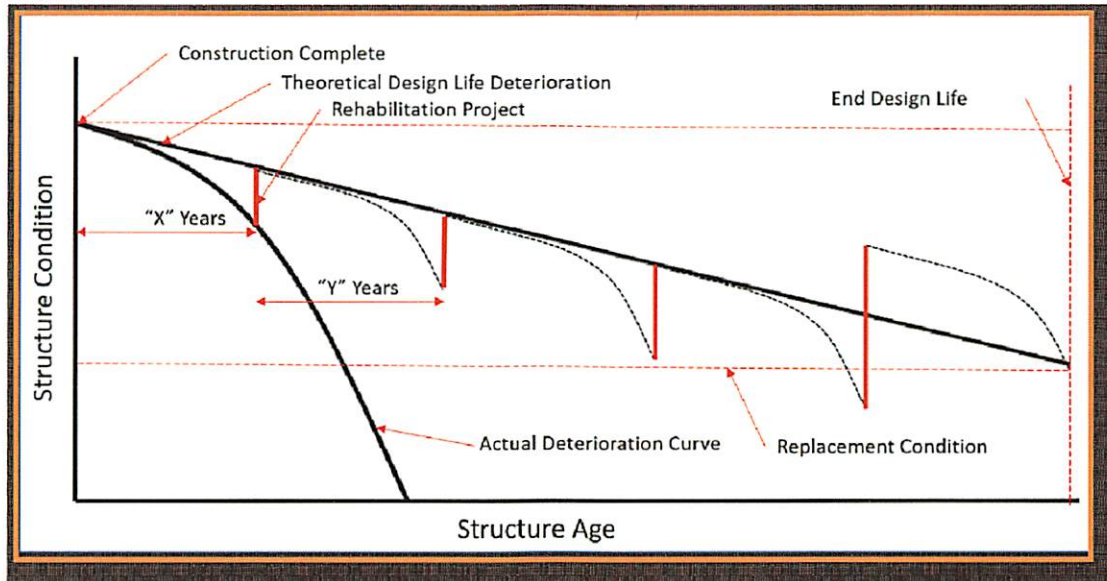
**CITY OF CAPE CORAL
BRIDGE SYSTEM MASTER PLAN
RPW2144MC
SCOPE OF WORK & PROBABLE COSTS**



VOLKERT

The City of Cape Coral (City) was incorporated in 1970 and is Florida's third largest city by land mass. The City was ranked ninth on Forbes' list of "America's Fastest Growing Cities" in 2018 with a 26% growth in population from 2010 to 2019 according to the US Census. The City, often referred to as a "Waterfront Wonderland", has over 400 miles of canals and an inventory of 140 bridges, which includes a mix of box culverts, pipe arch culverts and concrete slab bridges, over which motorists navigate these waterways.

Most of these structures were built for a 50-year design life so many of them are nearing the end of that life span, thusly an increasing number of the structures will soon need major rehabilitation or even replacement. It is noted that cyclical routine preventative activities as simple as washing bridges in saltwater environments, maintaining the integrity of joints (cleaning and resealing), sealing decks, cleaning deck drains, etc. can often lead to structures safely exceeding their original service life. The graphic below illustrates how preventative maintenance and rehabilitation can influence the design life of a structure.



The proposed **Bridge System Master Plan (BSMP)** will serve as the primary tool for the preservation of the aging bridge inventory maintained by the City. A successful BSMP must seek a balanced approach to preservation and replacement. Faced with budget limitations, bridge owners across the country are striving to be more strategic and creative by adopting and implementing systematic processes for bridge preservation as an integral component of their overall asset management program. Volkert's approach to assisting owners with this goal will follow a logical three-phase process that aligns with the Scope of Work for this contract.

TASK 1: EVALUATION OF BRIDGE STRUCTURES

Conducting a baseline condition assessment of the existing bridge inventory is the critical first step towards implementation of a BSMP. This evaluation will include the following items:

- ◆ Structural Components - Inspection of deck, superstructure, substructure, culvert walls & slabs, etc.
- ◆ Minimum Vertical Clearance - 2'-0" drift clearance and recreational craft clearance for navigable waterways
- ◆ ADA/Pedestrian Compliance – Adequate lighting and positive separation from vehicular traffic
- ◆ Vehicular Capacity and Bicyclist Accommodations – Feasibility to widen structure in the future
- ◆ Maintenance of Traffic – Can traffic be maintained without detour during repair or rehabilitation

Volkert has inspected every one of the structures maintained by Cape Coral at least once over the course of the past 20 years. Therefore, Volkert has a comprehensive understanding of the current state of these structures and their critical deficiencies. As an example, in 2020 Volkert completed an in-depth inspection of the City's 68 sonovoid slab bridges that are prone to early structural defects due to failure of longitudinal shear keys and shallow concrete cover. This level of historical knowledge of the City's bridges is a distinct advantage Volkert brings to the table that no other firm can match.

We already performed a preliminary review of the 138 inspection reports included as Exhibit C of the RFP and generated the inventory summary table on the following page.

METRICS	NUMBER	% OF STRUCTURES	COMMENTS
Bridges in Inventory	138	100%	Based on Inspection reports provided in Exhibit C of the RFP
Structurally Deficient	12	9%	Indicates structural adequacy of bridge
Functionally Obsolete	43	31%	Indicates operational adequacy of bridge
Sufficiency Rating < 50	4	3%	FHWA minimum for replacement funding
Sufficiency Rating < 80	55	40%	FHWA minimum for rehabilitation funding
Posted for Weight Restrictions	5	4%	Some legal Florida vehicles are not allowed to cross bridge
Scour Critical	4	3%	Bridges rated as unstable due to scour or potential scour
< 10 years remaining life	36	26%	Assuming average design life of 50 years
Average Structure Age	44	N/A	Average age, in years, of all structures
Structures missing Year Built	24	17%	Bridges with no "Year Built" information in inspection report

With this knowledge base as our foundation, Volkert will complete a comprehensive review of all 138 inspection reports to identify any bridges and/or culverts with missing or outdated information. We understand deficiencies can sometimes worsen quickly if not properly addressed so additional field reviews of these structures will be performed as need. We will conduct new independent inspections of 37 bridges in the City's inventory whose last inspections were performed by others. There are two additional bridges (locations to be provided by the City) which Volkert will inspect for a total of 140 structures that Volkert will assume responsibility for inspection data validity.

Three metrics to note in the summary table are structural deficiency, functional obsolescence, and the sufficiency rating. These will factor into Phase 2 of the overall BSMP implementation and are explained in further detail on the following page.

STRUCTURALLY DEFICIENT: Classification assigned to a bridge when at least one of the following conditions are met:

1. Numerical Condition Rating (NCR) of 4 or less for:

- ◆ Item 58 - Deck; or
- ◆ Item 59 - Superstructures; or
- ◆ Item 60 - Substructures; or
- ◆ Item 62 - Culvert and Retaining Walls.

2. Appraisal Rating of 2 or less for:

- ◆ Item 67 - Structural Condition; or
- ◆ Item 71 - Waterway Adequacy.

Per the National Bridge Inspection Standards (NBIS), an NCR of 4 is defined as "Poor Condition" where advanced section loss, deterioration or spalling are observed. Appraisal Ratings are used to evaluate a structure in relation to the level of service which it provides compared to a new structure built to current standards and an appraisal rating of 2 is defined as "intolerable requiring high priority of replacement".

FUNCTIONALLY OBSOLETE: This classification is independent of 'Structurally Deficient' and is assigned to a structure when at least one of inspection item listed below receives an appraisal rating of 3 or less.

1. An appraisal rating of 3 or less for:

- ◆ Item 67 – Structural Condition
- ◆ Item 68 – Deck Geometry
- ◆ Item 69 – Under clearances
- ◆ Item 71 – Waterway Adequacy
- ◆ Item 72 – Approach Roadway Alignment



SCOPE OF WORK

SUFFICIENCY RATING: This metric is an aggregate comprised of (55%) structural adequacy and safety, (30%) serviceability and functional obsolescence and (15%) essentiality for public use. Sufficiency ratings are used at the Federal and State level to determine whether a bridge that is structurally deficient or functionally obsolete should be repaired or replaced. A bridge with a Sufficiency Rating of 80 or less is eligible for rehabilitation funding and a bridge with a Sufficiency Rating less than 50 is eligible for major rehabilitation or replacement funding.

TASK 2: MASTER PLAN DEVELOPMENT

Today local agencies and municipalities are constantly challenged with finding ways to balance limited infrastructure budgets against the ever-increasing maintenance, rehabilitation and replacement needs of an aging bridge inventory. A primary function of a BSMP is to enable owners to prioritize those needs and consolidate capital improvement projects for an optimal use of funding to ensure the highest safety potential is achieved. Volkert proposes a 4-step prioritization process.

STEP 1 – PRIORITY GROUPS

A grouping system is required to catalog all the maintenance/repair/rehabilitation needs by degree of severity. The Priority Groups proposed by Volkert for the City's BSMP are developed with primary guidance obtained from the FDOT "Bridge and Other Structures Reporting Manual" (Topic No. 850-010-030-k) along with secondary guidance found in the Federal Highway Administration (FHWA) "Bridge Maintenance Reference Manual" and "Bridge Preservation Guide."

We propose the following four Priority Groups (PG):

- ◆ **PG 1 – Emergency Maintenance (NCR = 1 or 2):** Repairs must begin immediately to repair critical damages on the structure to protect the safety of the traveling public. Ref. Bridge and Other Structures Inspection Reporting Manual, Section 4.3.1.
- ◆ **PG 2 – Urgent Maintenance (NCR = 3 or 4) & Upgrading Safety Features:** Repairs required to correct deficiencies or defects to protect the integrity of the structure or maintain a desired level of performance and public safety. Ref. Bridge and Other Structures Inspection Reporting Manual, Section 4.3.2.
- ◆ **PG 3 – Routine Maintenance (NCR = 5):** Maintenance or repairs required to maintain an existing level of performance and prevent additional deterioration or to extend the service life of the structure. Ref. Bridge and Other Structures Inspection Reporting Manual, Section 4.3.3.
- ◆ **PG 4 – Informational (NCR = 6 or 7):** Work superficial to the integrity of the structure being identified to make the Area Maintenance Engineer or Area Operations Engineer aware of the condition. Ref. Bridge and Other Structures Inspection Reporting Manual, Section 4.3.4.

These groups correspond to FDOT Work Order classifications except that "Upgrading Safety Features" was added to PG 2. Each Priority Group can be subdivided when further detail is required using Priority Levels A, B, and C which generally relate to primary members, secondary members, and operational conditions respectively.

It is noted that none of the inspection reports we reviewed from the City had NCR values less than 4.

STEP 2 – PERFORMANCE MEASURES

Once the groupings are established, the next step is to set performance measure target(s), or minimum Level of Service (LOS), which is where the key metrics identified in Phase 1 come into play. As an example, FDOT uses the FHWA NBI rating system for their primary performance measure. The figure below compares FDOT and FHWA rating criteria with some minor adjustments.

Excellent		Good		Fair	Poor				FDOT
9	8	7	6	5	4	3	2	1	
Good			Fair		Poor				FHWA
9	8	7	6	5	4	3	2	1	

The FDOT Transportation Asset Management Plan (TAMP) sets their target at 90% of State Highway System (SHS) bridge inventory to be in "Excellent" or "Good" condition. This is a good starting point for consideration in the City's BSMP, but we will coordinate with the City's Public Works Maintenance Manager, Mr. William Corbett, PE, to solicitate his input and final concurrence on a recommended performance measure target.

STEP 3 – REPAIR/REPLACEMENT COSTS

Using the deficiencies detailed in the inspection reports, verified by further field investigations when needed, we will generate a matrix of estimated deficiencies quantities for the entire bridge inventory segregated by priority groups. Repair costs will be estimated on a bridge-by-bridge basis primarily using FDOT historic unit cost data. Additionally, repairs will be plotted geographically so that similar repairs, such as the installation of sour countermeasures, can be



SCOPE OF WORK

performed in the same area of the City thus reducing contractor mobilization costs.

We will also calculate estimated replacement costs for each bridge based on deck area and the application of per square foot bridge prices from the FDOT Structures Design Guidelines Chapter 9 (BDR Cost Estimating). These cost estimates will assume the new structures are built to meet current functional and safety design standards (e.g. correct lane widths, pedestrian accommodations, TL-4 crash tested barriers, etc.). Also included in the replacement estimate will be cost escalation, mobilization, maintenance of traffic, design services and construction inspection services.

STEP 4 – WORK PLAN BUDGETING

Once priority groups and performance measure targets are assigned to each maintenance and repair/rehabilitation activity associated with each structure; the prioritization process can proceed to the final step which is program budgeting. The challenge with this step is how to determine the most cost-effective mix of preventive maintenance, routine maintenance and repair/rehabilitation, and replacement over the remaining life of the bridges. This is where we will use the **Life Cycle Cost Analysis (LCCA)** technique to develop our recommendations. LCCA is defined as an economic analysis of competing project implementation alternatives, considering all significant costs of ownership over the economic life of each alternative expressed in equivalent dollars. A number of different techniques based on the concept of discounting are available to calculate equivalent dollars, but FHWA recommends the “Present Worth” approach which brings initial and future dollar costs to a single point in time.

Two key components of LCCA are the analysis period and activity timing. Analysis period equates to the remaining service life of an existing bridge which can be estimated using either statistical techniques or through empirical methods. Activity timing is the number of years from the start of the analysis period when a repair, rehabilitation or replacement will be completed (essentially a long-term work schedule). LCCA uses the Present Worth will be incorporated using

We will use LCCA as a tool to evaluate different budgeting scenarios representing generalized approaches to bridge program management. Each scenario will consider a different combination of Priority Group repairs/rehabs and bridge replacement options for the City’s entire bridge inventory. The following are three examples of budgeting scenarios Volkert has evaluated for other agencies:

- ◆ **Scenario A** – Provide for all priority group preservation/maintenance and repair work tasks associated with each structure plus eventual replacement through annualized budgeting.
- ◆ **Scenario B** – Provide for low to moderate expenditures (priority group selection will vary by structure) through annualized budgeting. Exclude high expenditure structure replacements which can be handled through special appropriations. (High expenditure will be defined through coordination with owner)
- ◆ **Scenario C** – Make minimal expenditures for preservation/maintenance or repair work tasks and implement priority replacement schedule for all structures through annualized budgeting (This is not a recommended approach but often presented for cost comparison purposes)

TASK 3: CONTINUING ENGINEERING SERVICES

A BSMP must be developed in a manner that can be easily updated and/or modified because structure maintenance and preservation is a dynamic process. To that end, Volkert will be ready to assist the City with all services needed to maintain the BSMP. This includes calling on our bridge inspection services (topside and underwater) on a routine basis to review ongoing repairs or at a moment’s notice in the event of a bridge emergency or engaging our technical expertise in structural design and evaluation techniques.

TASK 4: GIS WEB SERVICES

As an added value, Volkert has extensive GIS experience building SQL Server based geodatabases to manage data for clients across a variety of industries. We will apply this experience to design a customized GIS layer for integration with the City’s asset management program, Cartegraph. This bridge metrics layer will be developed in close coordination with the City’s Public Works staff to ensure it meets their needs. It will include relevant bridge data such as the latest inspection reports, maintenance activities and repair priority level to provide an instant snapshot on the current condition of any structure in the City’s inventory.



SCOPE OF WORK

SCHEDULE & DELIVERABLES

The following list of Task deliverables will be provided to the City with the duration to completion beginning after receiving NTP:

- ◆ Task 1: Bridge Inventory Evaluation Summary – Completion **90 days** after NTP
- ◆ Task 2: Master Plan Development – Completion **270 days** after NTP
 - Bridge System Master Plan Report w/ Prioritization List and Work Plan Budget
 - DRAFT Report submittal **180 days** after NTP
 - FINAL Report submittal **270 days** after NTP
- ◆ Task 3: Continuing Engineering Services – As needed
- ◆ Task 4: GIS Web Services – Completion **270 days** after NTP
 - GIS layer containing bridge metrics for integration with Cartegraph

OPTIONAL SERVICES
GEOTECHNICAL

Item Description	Unit	Unit Price
Lee County Soil Boring per 6 borings to be billed at actual costs	Each	\$ 125.00
101-Aggregate Carbonates & Organic Matter FM 5-514	Test	\$ 150.00
102-Aggregate Org. Impurities S& for Concrete AASHTO T21	Test	\$ 55.00
103-Aggregate Shell Content of Coarse Aggregate FM 5-555	Test	\$ 105.00
104-Aggregate Sieve Anlsys of Fine & Coarse AASHTO T27	Test	\$ 75.00
105-Aggregate Soundness AASHTO T104	Test	\$ 330.00
106-Aggregate Specific Gravity/Absorption Coarse AASHTO T85	Test	\$ 92.00
107-Aggregate Total Moisture Content by Drying AASHTO T255	Test	\$ 44.00
108-Aggregate Unit Mass & Voids AASHTO T19	Test	\$ 55.00
109-Aggregate Specific Gravity/Absorption Fine AASHTO T84	Test	\$ 105.00
200-Asphalt Bulk Specific Gravity FM 1-T166	Test	\$ 55.00
201-Asphalt Content FM 5-563	Test	\$ 145.00
204-Asphalt Gradation FM 1-T030	Test	\$ 85.00
206-Asphalt Los Angeles (LA) Abrasion Coarse Agg FM 3-C535	Test	\$ 365.00
207-Asphalt Los Angeles (LA) Abrasion Small Agg FM 1-T096	Test	\$ 315.00
209-Asphalt Pavement Coring – 4" dia with Base Depth Check	Each	\$ 250.00
210-Asphalt Pavement Coring – 4" dia without Base Depth Check	Each	\$ 200.00
211-Asphalt Pavement Coring – 6" dia with Base Depth Check	Each	\$ 275.00
212-Asphalt Pavement Coring – 6" dia without Base Depth Check	Each	\$ 225.00
300-Concrete Beam Flexural Testing ASTM C78	Test	\$ 60.00
301-Concrete Compressive Strength of Grout\Mortar ASTM C109	Test	\$ 33.00
302-Concrete Cylinder Curing, Capping & Breaking ASTM C39	Test	\$ 35.00
303-Concrete Drilled Cores & Sawed Beams ASTM C42	Test	\$ 60.00
305-Concrete Pavement Coring - 4" Dia	Each	\$ 200.00
306-Concrete Pavement Coring - 6" Dia	Each	\$ 225.00
401-Geo Auger Borings- Hand & Truck/Mud Bug	LF	\$ 11.20
402-Geo Auger Borings- Track	LF	\$ 15.40
403-Geo Backhoe (Owned)	Day	\$ 1,200.00
405-Geo Barge (Owned)	Day	\$ 3,010.00
407-Geo Chainsaw (Owned)	Day	\$ 82.00
415-Geo Double Ring Infiltration ASTM D3385	Each	\$ 575.00
416-Geo Dozer (Owned)	Day	\$ 1,600.00
418-Geo Drill Crew Support Vehicle	Day	\$ 270.00
422-Geo Extra SPT Samples-Barge/Track/Amphibious 000-050 Ft	Each	\$ 105.00
423-Geo Extra SPT Samples-Barge/Track/Amphibious 050-100 Ft	Each	\$ 105.00
424-Geo Extra SPT Samples-Barge/Track/Amphibious 100-150 Ft	Each	\$ 120.00
425-Geo Extra SPT Samples-Barge/Track/Amphibious 150-200 Ft	Each	\$ 120.00
427-Geo Extra SPT Samples-Truck/Mud Bug 000-050 Ft	Each	\$ 105.00
428-Geo Extra SPT Samples-Truck/Mud Bug 050-100 Ft	Each	\$ 105.00
429-Geo Extra SPT Samples-Truck/Mud Bug 100-150 Ft	Each	\$ 120.00
430-Geo Extra SPT Samples-Truck/Mud Bug 150-200 Ft	Each	\$ 120.00
432-Geo Field Permeability 0-10 Ft (Open - End Borehole Method)	Each	\$ 335.00
434-Geo Ground Penetrating Radar (GPR)	Hour	\$ 315.00
435-Geo Grout Boreholes- Barge/Track/Amphibious 000-050 Ft	LF	\$ 8.50

Item Description	Unit	Unit Price
436-Geo Grout Boreholes- Barge/Track/Amphibious 050-100 Ft	LF	\$ 11.25
437-Geo Grout Boreholes- Barge/Track/Amphibious 100-150 Ft	LF	\$ 17.25
438-Geo Grout Boreholes- Barge/Track/Amphibious 150-200 Ft	LF	\$ 25.00
440-Geo Grout Boreholes- Truck/Mud Bug 000-050 Ft	LF	\$ 6.25
441-Geo Grout Boreholes- Truck/Mud Bug 050-100 Ft	LF	\$ 8.00
442-Geo Grout Boreholes- Truck/Mud Bug 100-150 Ft	LF	\$ 13.10
443-Geo Grout Boreholes- Truck/Mud Bug 150-200 Ft	LF	\$ 18.00
445-Geo Grouted Monitor Well 2" 000-050 Ft	LF	\$ 33.00
450-Geo Piezometer 2" 000-050 Ft	LF	\$ 44.00
453-Geo Rock Coring Barge/Track/Amphibious 000-050 Ft less than 4" ID	LF	\$ 62.00
455-Geo Rock Coring Barge/Track/Amphibious 050-100 Ft less than 4" ID	LF	\$ 78.00
457-Geo Rock Coring Barge/Track/Amphibious 100-150 Ft less than 4" ID	LF	\$ 85.00
459-Geo Rock Coring Barge/Track/Amphibious 150-200 Ft less than 4" ID	LF	\$ 105.00
463-Geo Rock Coring Truck/Mud Bug 000-050 Ft less than 4" ID	LF	\$ 45.00
465-Geo Rock Coring Truck/Mud Bug 050-100 Ft less than 4" ID	LF	\$ 55.00
467-Geo Rock Coring Truck/Mud Bug 100-150 Ft less than 4" ID	LF	\$ 60.00
473-Geo SPT Barge/Track/Amphibious 000-050 Ft	LF	\$ 22.00
474-Geo SPT Barge/Track/Amphibious 050-100 Ft	LF	\$ 28.90
475-Geo SPT Barge/Track/Amphibious 100-150 Ft	LF	\$ 53.00
476-Geo SPT Barge/Track/Amphibious 150-200 Ft	LF	\$ 70.00
478-Geo SPT Truck-Mud Bug 0-50 Ft	LF	\$ 15.50
479-Geo SPT Truck-Mud Bug 50-100 Ft	LF	\$ 18.10
480-Geo SPT Truck-Mud Bug 100-150 Ft	LF	\$ 32.00
481-Geo SPT Truck-Mud Bug 150-200 Ft	LF	\$ 42.00
483-Geo Temp Casing 3" Barge/Track/Amphibious 0-050 Ft	LF	\$ 14.50
484-Geo Temp Casing 3" Barge/Track/Amphibious 50-100 Ft	LF	\$ 17.50
485-Geo Temp Casing 3" Barge/Track/Amphibious 100-150 Ft	LF	\$ 21.00
486-Geo Temp Casing 3" Barge/Track/Amphibious 150-200 Ft	LF	\$ 26.00
488-Geo Temp Casing 3" Truck/Mud Bug 000-050 Ft	LF	\$ 10.30
489-Geo Temp Casing 3" Truck/Mud Bug 050-100 Ft	LF	\$ 14.00
490-Geo Temp Casing 3" Truck/Mud Bug 100-150 Ft	LF	\$ 17.50
491-Geo Temp Casing 3" Truck/Mud Bug 150-200 Ft	LF	\$ 22.00
515-Geo Undisturbed Samples Barge/Track/Amphibious 000-050 Ft	Each	\$ 225.00
516-Geo Undisturbed Samples Barge/Track/Amphibious 050-100 Ft	Each	\$ 250.00
517-Geo Undisturbed Samples Barge/Track/Amphibious 100-150 Ft	Each	\$ 305.00
518-Geo Undisturbed Samples Barge/Track/Amphibious 150-200 Ft	Each	\$ 360.00
519-Geo Undisturbed Samples Truck/Mud Bug 000-050 Ft	Each	\$ 200.00
520-Geo Undisturbed Samples Truck/Mud Bug 050-100 Ft	Each	\$ 210.00
521-Geo Undisturbed Samples Truck/Mud Bug 100-150 Ft	Each	\$ 220.00
522-Geo Undisturbed Samples Truck/Mud Bug 150-200 Ft	Each	\$ 260.00
525-Geo Well Development	Hour	\$ 182.00
531-Geo Truck/Mudbug Drill Rig and Crew (2-person)	Hour	\$ 190.00

Item Description	Unit	Unit Price
532-Geo Truck/Mudbug Drill Rig and Crew (3-person)	Hour	\$ 270.00
533-Geo Track/Barge Drill Rig and Crew (2-person)	Hour	\$ 190.00
534-Geo Track/Barge Drill Rig and Crew (3-person)	Hour	\$ 270.00
535-Geo Clearing Equip- Tractor, Bush Hog Attachment	Day	\$ 1,400.00
536-Geo Clearing Equip-Skid Steer/ASV, ForestMulching Attach	Day	\$ 1,600.00
537-Geo Clearing Equip-Skid Steer/ASV, Brush Cutter Attach	Day	\$ 1,600.00
538-Geo Clearing Equipment	Day	\$ 2,100.00
539-Geo Wash Boring for Rock Cores 0-50 Ft	LF	\$ 10.00
540-Geo Wash Boring for Rock Cores 50-100 Ft	LF	\$ 12.25
541-Geo Wash Boring for Rock Cores 100-150 Ft	LF	\$ 22.00
603-Mobilization Asphalt Coring equipment	Each	\$ 350.00
606-Mobilization Concrete Coring	Each	\$ 350.00
608 Mobilization Drill Rig Amphibious	Each	\$ 10,750.00
609-Geo Mobilization Drill Rig Barge Mount	Each	\$ 9,500.00
610-Geo Mobilization Drill Rig Track Mount	Each	\$ 3,250.00
612-Geo Mobilization Drill Rig Truck Mount	Each	\$ 510.00
614-Geo Mobilization Mudbug/All Terrain Vehicle	Each	\$ 780.00
618-Geo Mobilization Support Boat	Each	\$ 500.00
619-Geo Mobilization Tri-Pod	Each	\$ 1,310.00
620-Mobilization of Clearing Equipment	Each	\$ 600.00
701-MOT Attenuator Truck	Hour	\$ 208.00
702-MOT Channelizing Devices - Type I, II, VP, Drum (each)	Each	\$ 5.00
706-MOT Portable Sign	Each	\$ 45.00
708-MOT Provide Channelizing Devices - Cone	Each	\$ 5.00
710-MOT Shadow Vhcle w/ Adv. Warning Arrow & Attenuator	Hour	\$ 280.00
712-MOT Support Vehicle	Hour	\$ 155.00
800-Soils Chloride Soil or Water (FM 5-552)	Test	\$ 110.00
803-Soils Consolidation - Constant Strain (ASTM D4186)	Test	\$ 580.00
804-Soils Consolidation - Extended Load Increments (AASHTO T216)	Day	\$ 150.00
805-Soils Corrosion Series (FM 5-550 through 5-553)	Test	\$ 305.00
806-Soils Direct Shear Consolidated Drained/ Point AASHTO T 236	Test	\$ 355.00
810-Soils Limerock Bearing Ratio (LBR)(FM 5-515)	Test	\$ 350.00
811-Soils Liquid Limit (AASHTO T 89)	Test	\$ 60.00
812-Soils Materials Finer than 200 Sieve (FM 1-T011)	Test	\$ 45.00
817-Soils Moisture Content Laboratory (AASHTO T 265)	Test	\$ 15.50
819-Soils Organic Content Ignition (FM 1 T-267)	Test	\$ 46.00
821-Soils Particle Size Analysis (AASHTO T 88) (Including Hydrometer)	Test	\$ 200.00
822-Soils Particle Size Analysis (AASHTO T 88) (No Hydrometer)	Test	\$ 70.00
823-Soils Permeability Constant Head (AASHTO T 215)	Test	\$ 320.00
824-Soils Permeability Falling Head (FM 5-513)	Test	\$ 300.00
825-Soils pH Soil or Water (FM 5-550)	Test	\$ 39.00
826-Soils Plastic Limit & Plasticity Index (AASHTO T 90)	Test	\$ 70.00
827-Soils Proctor Modified (FM 1-T 180)	Test	\$ 124.00

Item Description	Unit	Unit Price
828-Soils Proctor Standard (AASHTO T 99)	Test	\$ 120.00
829-Soils Resistivity Soil or Water (FM 5-551)	Test	\$ 58.00
832-Soils Splitting Tensile Strength of Rock Cores (ASTM D3967)	Test	\$ 145.00
833-Soils Sulfate Soil or Water (FM 5-553)	Test	\$ 70.00
838-Soils Unconfined Compression - Rock (ASTM D7012, Method C)	Test	\$ 138.00
Tierra Non Drop Menu Standard Test Items		
Arsenic (Method 6010/7471)	Each	\$ 9.00
Asbestos Samples	Each	\$ 15.00
BTEX and MTBE (Method 8260)	Each	\$ 65.00
Chlorinated Herbicides (Method 8151)	Each	\$ 100.00
Drilling Permit Costs IE DEP	Each	\$ 250.00
EDR Report	Each	\$ 500.00
Field Sampling Kit (soil)	Each	\$ 75.00
Field Sampling Survey Kit (water)	Each	\$ 75.00
Flagman and Barricades 2-Man Crew Own Equipment	Day	\$ 1,080.00
Handheld GPS	Per Day	\$ 80.34
Mercury Individual (Method 6010/7471)	Each	\$ 25.00
Organic Vapor Analyzer (OVA)	Day	\$ 150.00
Organochlorine Pesticides (Method 8081)	Each	\$ 100.00
Organophosphorous Pesticides (Method 8141)	Each	\$ 125.00
Polyaromatic Hydrocarbons (Method 8270)	Each	\$ 100.00
Polychlorinated Biphenals (8082)	Each	\$ 75.00
Power Auger Boring (includes decontamination to a depth of 25 feet)	Foot	\$ 11.90
RCRA 8 Metals (Method 6010/7471)	Each	\$ 65.00
RCRA Metals Individual (Method 6010/7471)	Each	\$ 9.00
Semi-Volatiles (Method 8270)	Each	\$ 200.00
Site Clearing to Access Boring or Test Locations	Hour	\$ 210.00
SPLP/TCLP Metals	Each	\$ 198.00
TPH Method FL-Pro	Each	\$ 65.00
Ultr Low Trace Mercury GW Individual (Method 1631)	Each	\$ 75.00
Volatile Organics (Method 8260)	Each	\$ 95.00
Volatile Organics BTEX/MTBE(Method 8260)	Each	\$ 60.00

EXHIBIT B

SCHEDULE OF VALUES

Volkert, Inc.

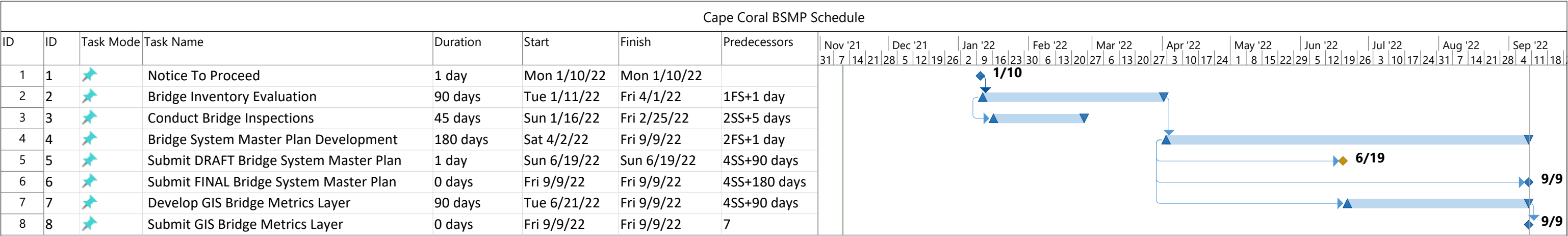
The following values are

Not To Exceed (NTE) Dollar amounts

(Includes all Sub-Consultant Fees)

SCHEDULE of VALUES BY TASK	
TASK LISTING	SUMMARY FEE
TASK 1 – Evaluation of Structures	\$97,097.56
TASK 2 – Master Plan Development	\$107,092.02
TASK 3 – Continuing Engineering Services	\$38,351.67
TASK 4 – GIS Web Services/Database Management	\$15,244.97
Optional Engineering Support Services	\$2,500.00
Geotechnical Optional Services	\$7,500.00
Reimbursable Expenses	\$5,638.00
Total Not to Exceed Fee	\$273,424.22

EXHIBIT C



Project: Cape Coral BSMP Sche
Date: Thu 11/11/21

Task

Split

Milestone

Summary

◆

Project Summary

Inactive Task

Inactive Milestone

Inactive Summary

◆

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks

External Milestone

Deadline

Progress

Manual Progress



EXHIBIT D
PERSONNEL BILLABLE HOURLY RATES

Tierra Inc

Firm Name	Employee Name	Task(s) Associated	Billing Title	Billable Hourly Rate
Tierra Inc.	Larry Moore	Geotechnical	Sr. Engineer 3	\$ 203.92
Tierra Inc.	Manny Valdes	Geotechnical	Sr. Chief Scientist 2	\$ 149.25
Tierra Inc.	Michael Bair	Contamination	Sr. Chief Scientist 2	\$ 163.59
Tierra Inc.	Daniel Ruel	Geotechnical	Engineer 2	\$ 120.21
Tierra Inc.	Thomas Musgrave	Geotechnical	Engineer 2	\$ 148.18
Tierra Inc.	Susan Fries	Geotechnical	Engineer 1	\$ 89.75
Tierra Inc.	Kaitlyn Waterman	Geotechnical	Engineer 1	\$ 97.60
Tierra Inc.	Sammy Awad	Geotechnical	Engineering Technician	\$ 76.80
Tierra Inc.	Kevin Lo	Geotechnical	Sr. Engineer 2	\$ 212.72
Tierra Inc.	Brittany Garcia	Geotechnical	Secretary/Clerical	\$ 79.08
Tierra Inc.	Susanne Webb	Geotechnical	Sr. CADD Designer	\$ 103.84
Tierra Inc.	Brian Sawaska	Geotechnical	Sr. CADD Designer	\$ 117.84
Tierra Inc.	Joseph Antinori	Geotechnical	Project Engineer 2	\$ 174.71
Tierra Inc.	Kevin Scott	Geotechnical	Sr. Engineer 1	\$ 184.53
Tierra Inc.	Erick Frederick	Geotechnical	Sr. Engineer 1	\$ 162.29
Tierra Inc.	Marc Novak	Geotechnical	Sr. Engineer 1	\$ 181.06
Tierra Inc.	Jeffery Berg	Geotechnical	Sr. Engineering Technician	\$ 95.96
Tierra Inc.	Rene Hernandez	Geotechnical	Sr. Engineering Technician	\$ 87.49
Tierra Inc.	Chris Garth	Contamination	Sr. Scientist 1	\$ 132.40

EXHIBIT D
PERSONNEL BILLABLE HOURLY RATES

(Please include all positions associated with this project) Table MUST match with Project Cost Spreadsheet – Costs Shown for/Tasks by Position, Qualifications of Individuals – Shown in Schedule C Overall Project Schedules and Exhibits Must Match)

Firm Name	Employee Name	Task(s) Associated	Billing Title	Billable Hourly Rate
Volkert, Inc.	Alexander Caso, PE	Tasks 1, 2, 3 & 4	Sr. Project Manager	\$244.25
Volkert, Inc.	Aaron Immel, PE	Tasks 1, 2, & 3	Sr. Engineer 3	\$226.58
Volkert, Inc.	Lacy Love, PE	Tasks 2 & 3	Sr. Engineer 3	\$237.48
Volkert, Inc.	Lloyd Pitts, PE	Tasks 2 & 3	Sr. Engineer 3	\$214.56
Volkert, Inc.	Alan Jayroe, PE	Tasks 2 & 3	Sr. Engineer 3	\$189.19
Volkert, Inc.	Swapnil Chogle, PE	Tasks 2 & 3	Sr. Engineer 1	\$211.68
Volkert, Inc.	Vincent DePianta, PE	Tasks 1, 2, & 3	Project Engineer 1	\$134.12
Volkert, Inc.	Kyle Vargha, PE	Tasks 2 & 3	Project Engineer 1	\$122.44
Volkert, Inc.	Christopher Fuller, PE	Tasks 2 & 3	Engineer 2	\$115.61
Volkert, Inc.	Edward Rucks, CBI	Task 1	Sr. Bridge Inspector	\$154.67
Volkert, Inc.	Elliott Coon, CBI	Task 1	Sr. Bridge Inspector	\$97.09
Volkert, Inc.	Matt Massotto, CBI	Task 1	Sr. Bridge Inspector	\$79.25
Volkert, Inc.	David Walker, CBI	Task 1	Sr. Bridge Inspector	\$81.43
Volkert, Inc.	Steve Eorgan, CBI	Task 1	Sr. Bridge Inspector	\$109.34
Volkert, Inc.	Scott Hughes, CBI	Task 1	Sr. Bridge Inspector	\$108.18
Volkert, Inc.	Tom McCutcheon, CBI	Task 1	Sr. Bridge Inspector	\$82.30
Volkert, Inc.	Josh Bias	Task 1	Asst. Bridge Inspector	\$66.02
Volkert, Inc.	Keith Hoogland, SUCBI	Task 1	Sr. Underwater	\$112.90
Volkert, Inc.	Dion Qualls, SUCBI	Task 1	Sr. Underwater	\$112.90
Volkert, Inc.	Denise Jensen, UCBI	Task 1	Sr. Underwater	\$98.78
Volkert, Inc.	Melissa Franklin	Task 1	Project Administrator	\$76.80
Volkert, Inc.	Natasha Hart	Task 1	Project Administrator	\$71.86
Volkert, Inc.	John Saunders, PE	Task 2	Sr. Engineer 3	\$244.25
Volkert, Inc.	Manuel Richardson, PE	Task 2	Project Engineer 2	\$170.70

EXHIBIT D (cont'd)
PERSONNEL BILLABLE HOURLY RATES

(Please include all positions associated with this project) Table MUST match with Project Cost Spreadsheet – Costs Shown for/Tasks by Position, Qualifications of Individuals – Shown in Schedule C Overall Project Schedules and Exhibits Must Match)

Firm Name	Employee Name	Task(s) Associated	Billing Title	Billable Hourly Rate
Volkert, Inc.	Jerald Overstreet	Task 4	Sr. GIS Analyst	\$132.79
Volkert, Inc.	Chris Scharth	Task 4	Sr. GIS Analyst	\$114.59
Volkert, Inc.	Sara Maurer	Task 4	GIS Specialist II	\$72.68
Volkert, Inc.	Kyle Ley	Task 4	GIS Specialist I	\$71.12

* There is no staff classification for landscape architect

EXHIBIT E Personnel Qualifications

Bridge System Master Plan TITLE CLASSIFICATIONS

Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
Engineer 1	0	BS or BA & EIT or PE Required	Entry level, EIT Certification with BS degree. Performs calculations and design tasks under immediate and daily supervision.
Engineer 2	3	BS or BA & EIT or PE Required	Typically has 3-5 years of experience. Trusted developing engineer, preparing for PE registration. Capable of performing tasks with general guidance and minimal supervision.
Project Engineer 1	5	BS or BA & PE Required	Newly registered PE and/or has PHD, taking leadership and ownership of projects or significant project tasks. Responsible for direct client interface on questions of technical nature. Heavily relied on by Project Manager. Limited project management responsibilities on small projects.
Project Engineer 2	10	BS or BA & PE Required	Has significant coordination responsibility for large project tasks and/or various engineering disciplines.
Sr. Engineer 1	15	BS or BA & PE Required	Relied on for design team leadership & QA on complex projects. May be designated as the Project Manager on less complex projects.
Sr. Engineer 2	20	BS or BA & PE Required	Typically, responsible for the most complex technical designs and has QA oversight for the entire project. Provides a higher level of expertise in specialized areas.
Sr. Engineer 3	25	BS or BA & PE Required	Considered a regional expert in a specialized discipline of engineering. Provides highest level of QA/QC and engineering design leadership for the most complex projects.
Sr. Project Manager	15	BS or BA & PE or PG Required	Primary interface with client. Entrusted to function independently on behalf of firm with regard to contracts, change orders, business development with existing and new clients, critical decisions and negotiations with clients. Coordinating and leading project teams. Clients see as a preferred point of contact.
Architect	10	BS or BA & AIA Registration Req.	Typically has 10 years or more experience, licensed architect with diverse knowledge of architecture principles and practices. Responsible for finished plans, specifications and material approvals. Is also responsible for large project tasks and/or deliverables. May supervise a small staff of architects and technicians.
Construction Administrator	8	High School or GED; Associates degree preferred	Responsible for handling and organizing administrative documentation associated with construction services. Responsible for reviewing status of construction services being provided against timelines and schedules.



Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
Construction Project Representative 1	5	High School or GED	With routine supervision, evaluates construction projects. Determines compliance with building codes, ordinances, zoning regulations and contract specifications.
Construction Project Representative 2	10	High School or GED	Evaluates construction projects to determine compliance with building codes, ordinances, zoning regulations and contract specifications. Works with less on-site supervision, however, reports directly to a more experienced construction project representative.
Construction Manager 1	15	High School or GED	Responsible for supervision of construction project representatives on large scale projects. Duties may also include training and mentoring, balancing workload and making project recommendations.
Construction Manager 2	20	High School or GED	Responsible for supervision of construction project representatives on large scale projects. Duties may also include training and mentoring, balancing workload and making project recommendations. Has more senior experience than a Construction Manager 1.
Survey Technician	2	High School or GED	Rodman or surveying capable of performing with less detailed instruction. Works under the direction of a survey crew chief.
Survey Crew Chief	5	High School or GED	Supervisor of survey crew working under the direction of a Licensed Surveyor.
Sr. Land Surveyor	10	PLS Required	Must be licensed Land Surveyor in the State of Florida; Involved in survey data/drawings production process under guidance of engineers or more senior survey staff. Provides Survey Leadership to Technicians, CAD staff, and or less experienced Surveyors for production of survey data/drawings for clients. Responsible for QA/QC of own work and work of others.
Sr. CAD Designer	10	High School or GED; Associates Degree Preferred	Performs many of the less complex tasks typically performed by engineers/architects with significant independence; typically spending 70% of the time actually designing for engineer/architect's approval; designs at a level comparable to an experienced EIT or non-licensed architect; works with clients and consultants to ensure that deliverables will be properly formatted and all data can be exchanged efficiently. Prepares complete set(s) of complex drawings.



Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
CAD Technician 1	2	High School or GED	Performs standard CAD assigned duties. Performs some more advanced CAD duties as part of training and development. Resolves routine questions and problems and defers more complex issues to higher levels.
CAD Technician 2	5	High School or GED; Associates preferred	Edits to plan sheets are more advanced, yet still supervised; produces exhibits, details and maps from concept drawings or sketches, performs unsupervised simple calculations; more advanced calculations are supervised; detailed instruction provided only on new work assignments; begins to get non-routine assignments; able to recognize gaps in knowledge and proactively seeks guidance. Duties and tasks are frequently non-routine. Resolves most questions and problems and refers only the most complex issues to higher level.
Project Administrator	8	High School or GED; Associates preferred	Integrated with the technical production process and is relied on to understand the needs of the project team and apply skill set to areas of need without instructed to do so.
Project Analyst	5	High School or GED Associates preferred	Typically, responsible for an accounting process such as Accounts Payable or Accounts Receivable.
Scientist	3	BS or BA Required	Trusted "junior" scientist. Becoming a relied upon resource for technical work product.
Sr. Scientist 1	5	BS or BA Required	Takes on leadership and ownership of projects or significant project tasks and deliverables. Management comfortable with employee having direct client interface. Heavily relied on by Project Manager.
Sr. Scientist 2	10	BS or BA Required	Clearly understands/grasps the implications of scientific findings and their relationship to engineering solutions.
Project Manager	10	BS or BA & PE or PG Required	Coordinates and leads project teams. Demonstrates high level of competency in project accounting. Functions independently with regard to contracts and change orders.
Operations Manager	20	BS or BA & PE Required	Responsible for ensuring project quality and client satisfaction with specific geographic, client and/or market sectors. Coordinates with and/or supervises project managers or other professionals performing work within the programs.



Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
GIS Specialist I	0-3	High School or GED; A.A.S. preferred in GIS or other related technical field of study	Performs skilled digital mapping involving preparation and maintenance of digital maps, converting hand drawn maps into a digital format for use in a Geographic Information System (GIS), managing data in such a way that historical records will reflect changes; ArcGIS experience including but not limited to constructing polygons using coordination geometry, heads up digitizing over imagery, mixed project creation, use and manipulation of geodatabases.
GIS Specialist II	3-5	High School or GED; A.A.S. in GIS or other related technical field of study and plus 3-5 years of experience	Performs all of the duties of a GIS Specialist I with less guidance and supervision, plus: the ability to perform more advanced editing functions and query related operations; performs more of a supervision/mentor role to those in the position of GIS Specialist I.
Sr. GIS Analyst	6	BS or PA plus 6 years if no degree, 8 years of experience	4-year degree (or equivalent combination of education and experience) that includes GIS coursework with typically 6+ years of experience, including responsible ownership of GIS projects or significant tasks. Has strong understanding of GIS methodologies and GIS technology. Able to mentor and supervise other GIS analysts and review and direct their work.
I&C Project Manager	5	BS or BA & PE or if no degree 5 years of experience in related field	Coordinates and leads project teams. Demonstrates high level of competency in project accounting. Functions independently with regard to contracts and change orders. Has knowledge of industrial control systems or motor control centers or security/surveillance systems or power generating equipment.
I&C Engineer 3	3	BS or BA & PE Required	Typically has 3-5 years of experience. Trusted developing engineer. Capable of performing tasks with general guidance and minimal supervision. Has knowledge of industrial control systems or motor control centers or security/surveillance systems.
I&C Sr CAD Designer	5	High School or GED; Associates Preferred	Performs many of the less complex tasks typically performed by engineers with significant independence; typically spending 70% of the time actually designing for engineer approval; works with clients and consultants to ensure that deliveries will be properly formatted, and that data can be exchanged efficiently; prepare complete sets of complex drawings.



Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
I&C Field Engineer	5	BS or PA plus 6 years if no degree, 8 years of experience	Responsible for installation and/or maintenance of industrial control systems, analytic systems, high power equipment, electronic surveillance and access control. Coordinates with city personnel and contractors to perform work outlined in contracts.
* Hydrogeologist 1	0-3	BS or BA Required	Entry level with BS degree. Performs calculations and design tasks under immediate and daily supervision.
Hydrogeologist 2	3	BS or BA & preparing for PG	Typically has 3-5 years of experience. Trusted developing engineer, preparing for PG registration. Capable of performing tasks with general guidance and minimal supervision.
* Project Scientist 1	5	BS or BA & PG Required	Newly registered PG and/or has PHD, taking leadership and ownership of projects or significant project tasks. Responsible for direct client interface on questions of technical nature. Heavily relied on by Project Manager. Limited project management responsibilities on small projects.
* Project Scientist 2	10	BS or BA & PG Required	Has significant coordination responsibilities for large project tasks and deliverables for various engineering disciplines.
* Sr. Hydrogeologist 1	15	BS or BA & PG Required	Relied on for design team leadership & QA on complex projects. May be designated as the project Manager on less complex projects.
* Sr. Hydrogeologist 2	20	BS or BA & PG Required	Typically has responsibility for the most complex technical designs and has QA oversight for the work project. Provides higher level expertise in specialized areas.
* Sr. Hydrogeologist 3	25	BS or BA & PG Required	Considered a regional expert in a specified discipline of engineering. Provides highest level of QA/QC and engineering design leadership for the most complex projects.
Surface/Ground Water Hydrogeologist	3	BS or BA & PG or PE	Typically has 3-5 years of experience. Trusted developing engineer, registered as PG or PE. Has specialized experience in integrated surface/ground water modeling. Capable of performing tasks with general guidance and minimal supervision.
* Sr. Surface/Ground Water Hydrogeologist 1	15	MS & PG or PE Required	Relied on for design team leadership & QA on complex projects. Has specialized experience in integrated surface/ground water modeling. May be designated as the project Manager on less complex projects.
* Sr. Surface/Ground Water Hydrogeologist 2	20	MS & PG or PE Required	Typically has responsibility for the most complex technical designs and has QA oversight for the work project. Has specialized experience in integrated surface/ground water modeling. Provides higher level expertise in specialized areas.



Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
Clerical	0-3 yrs	High School or GED	Receives Direction and review from Project Team Members to assist with clerical tasks; Assists to prepare and organize visual exhibits. Engaged in Office Work
Senior Clerical	3-5 yrs.	High School or GED; Associates Preferred	Provide complete administrative support to department or project. Approves clerical staff work.
Principal in Charge	20	BS or BA & PE Required	The Principal in Charge is a Registered Professional Engineer who holds full project responsibility and authority to represent the firm. It is his responsibility to assure that all necessary corporate and staff resources are available. The authority of the Principal in Charge, combined with an extensive understanding of the work to be performed, provides the project team and staff with strong leadership, technical direction and expert supervisory guidance of all work undertaken by the firm. The Principal is ultimately the lead for the firm.
Landscape Designer		BA in Landscape Architecture	May supervise other design staff. Responsible for creating a rough design, working on drawing, concentrating on specs and significant factors, and determining the overall expenses involved in the project. They contribute widely in the development of state parks, recreational sites, and landscape design of highway roadsides. Their obligations also include drafting a long-term outline of a project and creating an elaborated strategy with the help of certain specifications in building sites which very well matched with the landscape. They may conduct an on-field investigation to guide the environmental design. They utilize their creative skills to blend the construction with the beauty of nature for developing a suitable, pleasant, and esthetically delighting piece of area. These areas may be customized lawns, parks, walks, main roads, etc. Landscape designers carry out detailed construction site examinations which include analysis of soil, grown plants and trees, natural and landscape lighting, visual conception, and architectural style of the intended project or property.
Ecologist	2	Bachelor of Science in Biology, Environmental Science or Similar	Certified Ecologist. Ecologist are scientists who study the environment. Using knowledge of a variety of scientific disciplines, ecologists may collect, examine, and report information on the quality of soil, food, air, and water. Some typical tasks of ecologist include conducting field research, which comprises scientific processes to examine animals over a long period of time and observe characteristics sch as the animals' life history patterns, population numbers, diet, behavior, and habitat use; analyze laboratory data; prepare written reports; monitor animal population; may supervise work of technicians and technologists' and advise clients.



Classification	Min Yrs. Exp.	License Requirements	Role Synopsis and Progression
Professional Surveyor	0	Licensed Surveyor & Mapper, State of Florida Registered Land Surveyor	Plans, organizes, and direct work of one or more survey parties engaged in surveying earth's surface to determine precise location and measurements of points, elevations, lines, areas, and contours for construction, mapmaking, land division, titles, mining or other purposes. Researches previous survey evidence, maps, deeds, physical evidence, and other records to obtain data needed for surveys. Develops new data from photogrammetric records. Determines methods and procedures for establishing or re-establishing survey control. Keeps accurate notes, records, sketches to describe and certify work performed. Coordinates findings with work of engineering and architectural personnel, clients and other concerned with project. Assumes legal responsibility for work.

EXHIBIT F

TABLE 1 - FFF SUMMARY

PREPARED BY: Alexander Caso

MULTIPLIER:	2.8224
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PROJECT: BRIDGE SYSTEM MASTER PLAN
RPW2144MC

VOLKERT

1.00 - EVALUATION OF STRUCTURES		Alexander Caso Project Manager	Aaron Immel Sr. Engineer 3	Lloyd Pitts Sr. Engineer 3	Lacy Love Sr. Engineer 3	Swapnil Chogle Sr. Engineer 1	Vincent DePlanta Project Engineer 1	Kyle Vargha Project Engineer 1	Edward Rucks Sr. Bridge Inspector	Elliott Coon Sr. Bridge Inspector	Keith Hoogland Sr. Underwater Inspector	Dion Qualls Sr. Underwater Inspector	Denise Jensen Sr. Underwater Inspector	Melissa Franklin Project Administrator																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							
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2.00 - MASTER PLAN DEVELOPMENT		Alexander Caso Project Manager	Aaron Immel Sr. Engineer 3	Lloyd Pitts Sr. Engineer 3	Lacy Love Sr. Engineer 3	Swapnil Chogle Sr. Engineer 1	Vincent DePlanta Project Engineer 1	Kyle Vargha Project Engineer 1												TOTAL BY TASK UNWEIGHTED	TOTAL BY TASK WEIGHTED
		\$86.54	\$80.28	\$76.02	\$84.14	\$75.00	\$47.52	\$43.38													
PUBLIC WORKS DEPARTMENT																					
2.1	Develop Priority Groups	8.0	8.0	4.0	8.0	8.0	40.0													\$4,812.56	\$13,582.97
2.2	Establish Performance Measures	8.0	8.0	4.0	8.0	8.0	40.0													\$4,812.56	\$13,582.97
2.3	Develop Repair/Replacement Cost Estimates	8.0	16.0	8.0	8.0	8.0	80.0													\$7,659.68	\$21,618.68
2.4	Work Plan Budgeting (Life Cycle Cost Analysis)	16.0	32.0	16.0	8.0	32.0	160.0													\$15,846.24	\$44,724.43
2.5	Report Preparation	8.0	8.0	4.0	8.0	8.0	40.0													\$4,812.56	\$13,582.97
HRS--SUBTOTAL		48.0	72.0	36.0	40.0	64.0	360.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$0.00	\$0.00
S--SUBTOTAL		\$4,153.92	\$5,786.16	\$2,736.72	\$3,365.60	\$4,880.00	\$17,167.20	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$37,943.60	\$107,092.02
TOTAL: 2.00 - MASTER PLAN DEVELOPMENT																				\$37,943.60	\$107,092.02

3.00 - CONTINUING ENGINEERING SERVICES		Alexander Caso Project Manager \$86.54	Aaron Immel Sr. Engineer 3 \$80.28	Lloyd Pitts Sr. Engineer 3 \$76.02	Lacy Love Sr. Engineer 3 \$84.14	Swapnil Chogle Sr. Engineer 1 \$75.00	Vincant DePlanta Project Engineer 1 \$47.52	Kyle Vargha Project Engineer 1 \$43.38																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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4.00 - GIS WEB SERVICES/DATABASE MANAGEMENT	Alexander Caso Project Manager	Aaron Immel Sr. Engineer 3	Lloyd Pitts Sr. Engineer 3	Lacy Love Sr. Engineer 3	Swapnil Chogle Sr. Engineer 1	Vincent DePianta Project Engineer 1	Kyle Vargha Project Engineer 1	Jerald Overstreet Sr. GIS Analyst	Chris Scharh Sr. GIS Analyst	Sara Maurer GIS Specialist II	Kyle Ley GIS Specialist I									TOTAL BY TASK UNWEIGHTED	TOTAL BY TASK WEIGHTED
	\$86.54	\$80.28	\$76.02	\$84.14	\$75.00	\$47.52	\$43.38	\$47.05	\$40.60	\$25.75	\$25.20										
PUBLIC WORKS DEPARTMENT																					
4.1 New Project Creation	2.0							2.0	8.0	2.0										\$943.49	\$1,818.16
4.2 Create Survey 123 forms	2.0							2.0	8.0	12.0	24.0									\$1,505.78	\$4,249.91
4.3 Develop Bridge Metrics Layer for Cartograph Integration	2.0							2.0	8.0	32.0	16.0									\$1,819.18	\$5,134.45
4.4 Database Maintenance & Revisions	2.0							6.0	4.0	16.0	16.0									\$1,432.98	\$4,044.44
HRS--SUBTOTAL	8.0	0.0	0.0	0.0	0.0	0.0	0.0	12.0	28.0	62.0	56.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
S-SUBTOTAL	\$692.32	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$564.60	\$1,136.80	\$1,596.50	\$1,411.20	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,401.42
																		Total Hours:	166.0		\$15,244.97
TOTAL: 4.00 - GIS WEB SERVICES/DATABASE MANAGEMENT																				\$5,401.42	\$15,244.97

5.00 -		name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	name Job Title	TOTAL BY TASK UNWEIGHTED	TOTAL BY TASK WEIGHTED
PUBLIC WORKS DEPARTMENT																								
	HRS--SUBTOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$0.00	\$0.00
	\$--SUBTOTAL	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL: 5.00 -																						\$0.00	\$0.00	

CONSULTANTS / SUBCONTRACTORS / MISCELLANEOUS WORK																															TOTAL BY TASK UNWEIGHTED	TOTAL BY TASK UNWEIGHTED		
	Total						\$	Total						\$	Total						\$	Total						\$	Total					
PUBLIC WORKS DEPARTMENT																															#REF!	#REF!		

Table 1 - Reimbursable Expenses			
Vehicle Travel Allowance	200 miles roundtrip (Tampa to Cape Coral) x 3 trips x 1 vehicle x 0.56	\$	336.00
	200 miles roundtrip (Tampa to Cape Coral) x 1 trip x 1 vehicle x 0.56	\$	112.00
Lodging	3 inspectors x 3 nights/trip x 3 trips x \$117	\$	3,159.00
	1 extra inspector x 3 nights/trip x 1 trip x \$117	\$	351.00
Meals	3 inspectors x 3 days x 3 trips x \$56	\$	1,512.00
	1 extra inspector x 3 days x 1 trip x \$56	\$	168.00

#REF!	#REF!
\$91,335.82	\$257,786.22

Optional Engineering Support Services:	\$	2,500.00
Geotechnical Optional Services:	\$	7,500.00
Reimbursable Expenses:	\$	5,638.00
Grand Total:	\$	<u>273,424.22</u>

EXHIBIT G

REIMBURSABLE EXPENSES

Reimbursable Expenses	
ITEM	BASIS OF CHARGE
Telephone (Long Distance)	Actual Cost
Postage and Shipping	Actual Cost
Commercial Air Travel	Actual Cost (Coach)
Vehicle Travel Allowance (or)	\$0.56 /Mile or Current IRS Rate
Vehicle Rental/Gas	Actual Cost
Lodging (Per Person)	Actual Cost or NTE \$117.00
**MEALS:	In accordance with the GSA M&IE FY 2021 schedule for Travel utilizing the "Fort Myers, Florida" rates **
Breakfast	\$14.00 **
Lunch	\$16.00 **
Dinner	\$26.00 **
Reproduction (Photocopy) 8 ½" x 11" B&W	\$0.05
8 ½" x 11" Color	\$0.05
8 ½" x 14" B&W	\$0.05
8 ½" x 14" Color	\$0.05
11" x 14" B&W	\$0.10
11" x 14" Color	\$0.10
Reproduction (Blue/White Prints)	\$0.50
Printing/Binding	Actual Cost
Mylar Sheets	Actual Cost
Photographic Supplies & Services	Actual Cost
Bond Expenses	Actual Cost
Tolls	Actual Cost
Permit Fees	Actual Cost
11"x17" B&W	\$0.20
11"x17" Color	\$0.50
24"x36" B&W	\$0.75
24"x36" Color	\$1.00
CD/DVD	\$1.00
Aerials	\$2.00
Courier Service	Actual Cost
Sub-consultants Fees on their LETTERHEAD	Actual Cost – No Markup
Construction Vehicles	

EXHIBIT H

CITY OF CAPE CORAL
DESIGNER / ENGINEER / CONSTRUCTION MANAGER
TRUTH-IN-NEGOTIATIONS
For Negotiated Fees

The undersigned hereby certifies under the penalties of perjury that the wage rate and other costs used to support its compensation are accurate, complete and current at the time of contracting.

The undersigned agrees that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the City determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

Company Name: Tierra Inc

Project Title: City of Cape Coral Bridge System Plan

Representative Name: Henri V Jean

Representative Title: EVP

Representative Signature: 

Date Signed: 8-20-2021

This is in compliance to FS 287.055

Notary Name: Kristin Gaebel

Notary Address: 7351 Temple Terrace Hwy

Tampa, FL 33637

County: Hillsborough

Notary Date: 8-20-2021

Notary Seal:





EXHIBIT H

CITY OF CAPE CORAL
DESIGNER / ENGINEER / CONSTRUCTION MANAGER
TRUTH-IN-NEGOTIATIONS
For Negotiated Fees

The undersigned hereby certifies under the penalties of perjury that the wage rate and other costs used to support its compensation are accurate, complete and current at the time of contracting.

The undersigned agrees that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the City determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

Company Name: Volkert, Inc.

Project Title: Bridge System Master Plan

Representative Name: Bo Sanchez, PE

Representative Title: Vice President

Representative Signature: Bo Sanchez

Date Signed: August 24, 2021

This is in compliance to FS 287.055

Notary Name: Jessica Jeannette Williams

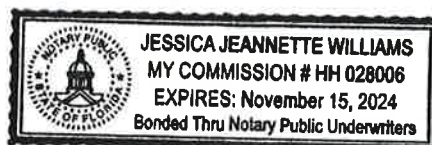
Notary Address: 1408 N Westshore Blvd., Suite 600

Tampa, FL 33607

County: Hillsborough County

Notary Date: 8/24/2021

Notary Seal: Jessica Jeannette Williams



City of Cape Coral
 July 27, 2021
 Average scores of five members
 RPW2144MC
 Proposal Matrix - Bridge System Master Plan

	Understanding of City's Requirements and Approach for Meeting Them Possible Points = 25	Qualification of the Firm or Team Possible Points = 35	Qualification / Experience of Key Personnel and Team Possible Points = 20	Team Management & Ability to Complete Work Possible Points = 10	Prior Experience - City of Cape Coral Possible Points = 5	Prior Similar Experience and References Possible points = 5	Local Professional = (0-10)	SWMBE = (0-5)	Total Score	Ranking
Proposer	Scoring									
Cardno, Inc.	20.6	32.2	16.6	8.6	4.4	4.2	7	0	93.6	3
T.Y. Lin International	22.6	31	16.4	8.4	4.6	3.6	7	0	93.6	2
Volkert, Inc.	24.8	33.4	18.6	10	4.8	4.2	7	0	102.8	1



AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number: A.(4)

Meeting Date: 1/5/2022

Item Type: **CONSENT AGENDA**

TITLE:

Resolution 6-22 Approve Narcotics Enforcement Task Force (NETFORCE) Memorandum of Understanding with the State Attorney and law enforcement agencies within Florida's Twentieth Judicial Circuit including the counties of Charlotte, Collier, Glades, Hendry, and Lee, and authorizing the Chief of Police to execute all necessary documents for the Cape Coral Police Department; Department: Police; Dollar Value: N/A

ORDINANCES AND RESOLUTIONS:

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution approves the Narcotics Enforcement Task Force Memorandum of Understanding with the State Attorney of the Twentieth Judicial Circuit of Florida and local law enforcement agencies and authorizes the Chief of Police to execute the Memorandum of Understanding.

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

- 1.This is the third renewal of the NETFORCE Task Force Memorandum of Understanding (MOU).
- 2.The intent of the NETFORCE Task Force is to combat organized crime, racketeering, narcotics, money laundering, and other drug-related criminal enterprises in the State of Florida's Twentieth Judicial Circuit.
- 3.The parties to this agreement are contributing personnel and resources in support of NETFORCE efforts, with the operations of NETFORCE being coordinated with the State Attorney and other NETFORCE members.
- 4 . The Task Force will allow for specialization and an ongoing and coordinated approach to intercepting and dismantling criminal enterprises.
5. The Task Force will utilize training and support functions, and pool investigative and administrative resources.
6. The agencies agree to utilize state and federal laws to prosecute criminal, civil, and forfeiture actions against identified violators.
7. The current MOU expires on December 31, 2021. This renewal will extend that period until December 31, 2022

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

RECOMMENDATIONS:

Staff recommends the approval of the Narcotics Enforcement Task Force (NETFORCE) Memorandum of Understanding with the State Attorney and law enforcement agencies within Florida's Twentieth Judicial Circuit.

SOURCE OF ADDITIONAL INFORMATION:

Anthony Sizemore, Chief of Police
(239) 574-0623
asizemor@capecoral.gov

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

N/A

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

PREPARED BY:

Martha LaForest, Sr. Admin.
Specialist

Division- Administration

Department- Police

ATTACHMENTS:

Description	Type
▣ 1. Resolution 6-22	Resolution

RESOLUTION 6 – 22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE NARCOTICS ENFORCEMENT TASK FORCE MEMORANDUM OF UNDERSTANDING WITH THE STATE ATTORNEY OF THE TWENTIETH JUDICIAL CIRCUIT OF FLORIDA AND LOCAL LAW ENFORCEMENT AGENCIES; AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE MEMORANDUM OF UNDERSTANDING; PROVIDING AN EFFECTIVE DATE.

WHEREAS, local law enforcement agencies are joining together as the “Narcotics Enforcement Task Force” (NETFORCE) to combat organized crime, racketeering, narcotics, money laundering, and other drug-related criminal enterprises in the Twentieth Judicial Circuit, including Charlotte County, Collier County, Glades County, Hendry County, and Lee County, Florida; and

WHEREAS, NETFORCE will allow for specialization and an ongoing and coordinated approach to interrupting and dismantling those criminal enterprises enumerated above, as well as common utilization of training and support functions and the pooling of investigative and administrative resources; and

WHEREAS, the participating agencies will be able to make more efficient use of their respective powers and resources and thereby provide a higher quality of law enforcement services to the public through the cooperation of the parties and the operation of a cooperative multi-agency law enforcement task force; and

WHEREAS, it is recommended that the City Council approve the Memorandum of Understanding to allow the participation of the Cape Coral Police Department in the NETFORCE narcotics task force.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the Narcotics Enforcement Task Force Memorandum of Understanding with the State Attorney of the Twentieth Judicial Circuit of Florida, together with the law enforcement agencies for Charlotte County, Collier County, Lee County Port Authority, Fort Myers, Glades County, Marco Island, Hendry County, Lee County, Punta Gorda, Naples, Clewiston, Sanibel, and Cape Coral. A copy of the Memorandum of Understanding is attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the Chief of Police to execute the Narcotics Enforcement Task Force Memorandum of Understanding.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

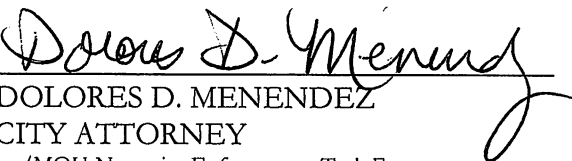
GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/MOU-Narcotics Enforcement Task Force

EXHIBIT A



20th Judicial Circuit – State of Florida

NARCOTICS ENFORCEMENT TASK FORCE MEMORANDUM OF UNDERSTANDING

WHEREAS, the below subscribed law enforcement agencies have joined together in a task force (hereinafter referred to as the “Narcotics Enforcement Task Force” or “NETFORCE”) intended to combat organized crime, racketeering, narcotics, money laundering, and other drug-related criminal enterprises in the Twentieth Judicial Circuit, including Charlotte County, Collier County, Glades County, Hendry County, and Lee County, Florida, and to allow for specialization and an ongoing and coordinated approach to interrupting and dismantling those enterprises, as well as common utilization of training and support functions and the pooling of investigative and administrative resources; and

WHEREAS, the undersigned agencies agree to utilize applicable state and federal laws to prosecute criminal, civil, and forfeiture actions against identified violators, as appropriate; and

WHEREAS, the undersigned agencies acknowledge that they can make more efficient use of their respective powers and resources and thereby provide a higher quality of law enforcement services to the public through the cooperation of the parties and the operation of a cooperative multi-agency law enforcement task force or association, which will be known as the Narcotics Enforcement Task Force, (hereinafter referred to as the “NETFORCE”);

NOW THEREFORE, the Parties agree as follows:

The State Attorney of the 20th Judicial Circuit, State of Florida, (hereinafter "State Attorney"), and each of the undersigned law enforcement agencies approve, authorize and enter into this Memorandum of Understanding (hereinafter the "Agreement"), at the request of the State Attorney, to implement the NETFORCE for the purposes and goals indicated.

Additional parties may, at the request of a participating member, and with the approval of the State Attorney, enter into this Agreement at a later date as evidenced by their signing of this Agreement. Any party may cancel its participation in this Agreement upon delivery of written notice of cancellation to the State Attorney. The NETFORCE may cooperate with other agencies, including federal agencies, although such agencies need not be parties to this Agreement.

STATEMENT OF INTENT, NETFORCE GOALS, AND PROVISIONS FOR VOLUNTARY COOPERATION

It is the intention of the State Attorney to establish this multi-agency task force as a mechanism by which area law enforcement agencies can dedicate resources into a centralized unit for the purpose of targeting offenders who perpetrate crimes in violation of the laws related to vice, organized crime, racketeering, narcotics and other criminal enterprises. The NETFORCE will place emphasis on targeting such violators who commit criminal acts in multiple jurisdictions, or whose singular criminal episode involves investigative activity in multiple jurisdictions.

While the seizure and civil forfeiture of assets is an effective tool in combating organized criminal activity, the seizure and forfeiture of assets shall not take priority over the primary function of the NETFORCE, which shall be to enforce and prosecute criminal law violations.

Nothing herein shall otherwise limit the ability of participating NETFORCE members to provide, as provided by or allowed by law, such assistance in any enforcement action as may be lawfully requested by a law enforcement officer having jurisdiction over an incident, crime or matter under consideration.

The parties to this Agreement are contributing personnel and resources in support of the NETFORCE efforts, with the operations of the NETFORCE being coordinated with the State Attorney and other NETFORCE members.

PROCEDURE FOR REQUESTING ASSISTANCE

Law enforcement officers assigned to NETFORCE operations pursuant to this Agreement shall be empowered to render assistance and take enforcement action in accordance with the law and the terms of this Agreement. Execution of this Agreement and continued participation by the State Attorney and one or more NETFORCE member agencies shall constitute a general reciprocal, continuing request for and granting of assistance between the members of the task force, which shall be considered authorized in accordance with the

provisions of this Agreement. No additional or specific formal request for assistance is required.

ORGANIZATION, COMMAND, AND SUPERVISORY RESPONSIBILITY

Each participating agency shall contribute personnel and resources to the NETFORCE in such numbers as are agreed to by the participating agency and the State Attorney. Participating agencies shall assign personnel to the NETFORCE based upon their investigative experience and the operational needs of the task force. Final acceptance of personnel assigned to the NETFORCE shall rest with the State Attorney. The respective participating agencies shall retain full responsibility for the compensation, retirement, insurance, liability, acts, omissions, conduct, and discipline of their own personnel assigned to the NETFORCE.

The State Attorney, or her designee, shall be responsible for the supervision of the NETFORCE, including the authority to direct resources, establish written policies, regulations, and guidelines, including but not limited to a "Best Practices Manual", and otherwise provide for the approval of assigned personnel to the NETFORCE, the administrative operation of the NETFORCE, and overall law enforcement and intelligence objectives of the NETFORCE.

The State Attorney, or her designee, shall have responsibility for the overall direction and administration of NETFORCE activities, and authority to implement all directives. All NETFORCE cases will be monitored and supervised by the State Attorney, or her designee, as stated above.

The participating agencies shall retain operational command and day-to-day administration of their individual agencies' operations and personnel. The participating agencies shall also assign sufficient qualified supervisors to ensure adequate supervision of the personnel assigned to the NETFORCE.

Activities shall be considered NETFORCE authorized only when approved and actually directed as provided herein by the State Attorney or her designee. No extension of jurisdiction or authority is granted by this Agreement for law enforcement activities unless approved and supervised as provided herein and related to NETFORCE operations. Pursuant to the provisions of Section 27.251, Florida Statutes, the State Attorney shall appoint, at will, specific municipal or county police officers or sheriff's deputies assigned to the NETFORCE as Special Investigators of the Office of the State Attorney with powers of arrest throughout the 20th Judicial Circuit. The arrest powers granted by this section may be exercised only in the furtherance of the conduct of the business of the NETFORCE. The salary of such municipal or county police officer or sheriff's deputy shall be paid by the city, county, or sheriff by which the investigator is principally employed, and with the consent of the county, sheriff, or municipality. Additionally, several member agencies have also entered into mutual aid agreements under Chapter 23 of the Florida Statutes. The exercise of the powers granted under the special investigator appointments discussed above shall be pursuant to such mutual aid agreements, if in existence, and limited to acts necessary and proper to the purposes of the NETFORCE.

If a conflict, contravention, or contradiction arises between an order or direction provided by the State Attorney, her designee, or the NETFORCE Lead Investigator, and a member's employing agency's rules, regulations, general orders, standard operating procedures, or policies, the conflict shall be promptly reported to the State Attorney, and to that NETFORCE member's agency supervisor. The State Attorney, in conjunction with the NETFORCE member's agency supervisor, shall attempt to resolve the conflict in a manner that will allow the NETFORCE operation to continue appropriately. At no time will a participating NETFORCE member be requested or required to violate his/her own agency's policies or rules in order to implement a NETFORCE initiative. At no time shall a NETFORCE member knowingly violate the policies, rules, regulations, general orders, standard operating procedures, or policies, of the Office of the State Attorney.

FUNDING AND ADMINISTRATION

NETFORCE shall be funded by contributions of equipment, resources, and staffing from the individual budgets of the participating agencies, and as such will not have a centralized annual budget.

Additionally, the Collier County Sheriff's Office is the recipient of a High Intensity Drug Trafficking Areas (HIDTA) program federal grant, administered by the Office of National Drug Control Policy (ONDCP), to assist law enforcement in reducing drug trafficking and drug production in the United States, and disrupting the market for illegal drugs by dismantling or disrupting drug trafficking and money laundering organizations. As a grantee of the HIDTA program, the Collier County Sheriff's Office is accountable for the use of HIDTA grant funds, and shall comply with the governing policies of the HIDTA program related to HIDTA grant awards. The authorization of, and accounting for, any NETFORCE expenditures will be the responsibility of the Collier County Sheriff's Office, to the extent that the costs are funded – as permitted – by the federal grant disbursed by ONDCP. Further, nothing in this Agreement shall be read to supersede any existing agreements between Collier County Sheriff's Office and the ONDCP.

All participating agencies shall use a deconfliction process in all investigations, including case, subject, and target deconfliction of all enforcement or operational activities. This process shall be established by the Collier County Sheriff's Office in accordance with their HIDTA mandate, and used by all participating agencies in every NETFORCE case or investigation.

All participating agencies shall store and maintain files, documents, and storage equipment in compliance with applicable state and federal law, and in compliance with the requirements of the federal HIDTA program.

FORFEITURES AND DISTRIBUTIONS

All forfeiture proceedings related to funds or property seized in the course of NETFORCE investigations or cases shall be handled by the seizing agency. No funds or other property

seized by NETFORCE operations are to be utilized by any participating agency prior to successful forfeiture, or, if no forfeiture is pursued, until title or interest in the property otherwise vests in one or more member agencies by operation of law.

The distribution of assets from a forfeiture case will be calculated by the percentage of resources expended during each individual case, outside the regular course of business, as well as total staffing performing duties to further the goals of the NETFORCE at the time of the seizure, outside the normal performance of duties, for each individual case. Currency or money which has been seized as part of a NETFORCE operation or case, and ordered forfeited by a court, shall be distributed to the agencies participating in forfeiture distribution after payment of any costs attributable to the State Attorney's Office or the NETFORCE task force, in accordance with applicable State and Federal law, according to the staffing contributions or resources expended outside the normal course of business. Other personal property which is seized and forfeited shall be sold by the seizing agency in accordance with applicable state and federal law, and the cash proceeds of the sale shall be disbursed according to this Agreement, less the costs of the sale to be retained by the Sheriff.

PRIVILEGES, IMMUNITIES, COSTS AND LIABILITY-RELATED ISSUES

Any participating agency that furnishes equipment pursuant to this agreement must bear the cost of loss or damage to that equipment and must pay any expense incurred in the operation and maintenance of that equipment.

Each participating agency engaging in NETFORCE initiatives pursuant to this Agreement agrees to assume its own liability and responsibility for the acts, omissions, or conduct of such participating agency's agents or personnel while such agents or personnel are engaged in NETFORCE activities/initiatives, and shall remain responsible for the compensation, retirement, workers compensation and other benefits accruing to the benefit of said participating agents or personnel, as further discussed below. Each participating agency to this Agreement expressly declines responsibility for the acts or omissions of the agents or personnel of another participating agency. As stated above, no NETFORCE member shall be requested or required to violate his/her own agency's policies or rules in order to implement a NETFORCE initiative, including, but not limited to, policies governing the Use of Force.

Each participating agency agrees to furnish necessary personnel, property, police equipment, vehicles, and resources in order to effect the purposes of the NETFORCE, and agrees to bear the cost of loss or damage to its equipment, vehicles or property so provided. Each participating agency understands and agrees that it will be responsible for its own liability and bear its own costs with regard to its property and resources, or personnel expenses incurred by reason of death, injury or incidents giving rise to liability while engaged in NETFORCE activities/initiatives.

The privileges and immunities from liability, exemption from laws, ordinances, and rules, and all pension, insurance, relief, disability, workers' compensation, salary (including overtime compensation or compensatory time), death and other benefits that apply to the activity of an employee of a participating agency when performing the employee's duties

within the territorial limits of the employee's agency shall apply to the employee to the same degree, manner, and extent while such employee acts under this Agreement. The provisions of this section shall apply with equal effect to paid, volunteer, and auxiliary agents or employees, or other personnel, to the extent otherwise authorized by law and allowed by the originating agency's policy and command.

Each participating agency hereby shall, to the extent permitted by law, indemnify from any liability and hold harmless the other participating agencies, their officials, officers, deputies, employees, agents, or volunteers against liability including, but not limited to, court costs and attorneys' fees, arising from any actions, causes of action, suits, trespasses, damages, judgments, executions, claims, and demands of any kind whatsoever, in law or in equity, brought against the indemnitees, their officials, officers, deputies, employees, agents, or volunteers as a result of another agency's negligent acts or the negligent acts of its officials, officers, deputies, employees, agents or volunteers', while acting within the scope of their employment.

Each participating agency providing personnel to the NETFORCE shall be responsible for acquiring and/or maintaining adequate insurance coverage upon its personnel assigned to the NETFORCE in the same manner as is provided by and for the personnel of the other participating agencies by their respective agency(ies). Such insurance shall include, where applicable: unemployment compensation, worker's compensation, general liability, law enforcement liability or legal liability, errors and omission, life, health, major medical, and any other insurance coverage normally extended to such agencies and/or their officials, officers, deputies, agents, employees, and volunteers. The policy(ies), to the extent applicable, shall also defend and indemnify the elected officials, officers, deputies, agents, employees, and volunteers for any liability claims, causes of action, judgments, damages, losses, costs or expenses, including reasonable attorney fees, arising directly or indirectly from any act or omission of their officials, officers, deputies, agents, employees, and volunteers.

Nothing in this Agreement shall constitute a waiver of any available immunities or defenses, and the limits of liability under any property and casualty insurance policy for some or all the participating agencies may not be added together to determine the maximum amount of liability for any participating agency.

Nothing in this Agreement is intended or is to be construed as any transfer or contracting away of the powers or functions of one party hereto to the other. This Agreement is solely for the benefit of the participating agencies. No right, remedy, cause of action, or claim shall accrue to the benefit of any third party with respect to this Agreement or any of its provisions.

EVIDENCE AND RECORDS

Evidence shall be collected and maintained in conformance with the lead investigating agency's evidence policies, and all evidence seized in NETFORCE operations shall be maintained by the lead investigating agency in each individual case.

TERM OF AGREEMENT

This Agreement shall become effective as to the executing Parties upon execution by the State Attorney of the 20th Judicial Circuit, State of Florida, and at least one other participating agency. As each additional Party executes this Agreement, it shall be effective as to the newly executing Party as of the date of such execution.

This Agreement is an internal agreement between the Parties, and does not confer any rights, privileges, or benefits to any other party or the public.

Nothing in this Agreement is intended to conflict with current laws, regulations, or policies of either Party. If a term of this Agreement is inconsistent with any such authority, that term shall be invalid but the remaining terms and conditions of this Agreement shall remain in full force and effect.

The terms of this Agreement will become effective as to each individual executing Party on the date signed by said individual executing Party. This Agreement shall remain in full force and effect as to all participating Parties until December 31, 2022, unless canceled in writing by the State Attorney, or as canceled in writing by an individual Party as provided herein. This Agreement may be duplicated for dissemination to all Parties, and such duplicates shall be of the same force and effect as the original. Execution of this Agreement may be signified by properly signing the signature page, the original of which shall be returned to, and maintained by, the State Attorney. Under no circumstances may this Agreement be renewed, amended, or extended except by written agreement signed by the participating Parties.

IN WITNESS WHEREOF, the authorized representatives of the Parties hereto sign on the date specified.

Date: _____
AMIRA D. FOX
State Attorney of the Twentieth Judicial
Circuit of Florida

Date: _____
KEVIN J. RAMBOSK
Sheriff
Collier County, Florida

Date: _____
BILL PRUMMELL
Sheriff
Charlotte County, Florida

Date: _____
SHAWN CHAMBERLAIN
Chief of Police
Lee County Port Authority, Florida

DERRICK DIGGS
Chief of Police
Fort Myers, Florida

THOMAS LEWIS
Chief of Police
Clewiston, Florida

DAVID HARDIN
Sheriff
Glades County, Florida

WILLIAM DALTON
Chief of Police
Sanibel, Florida

TRACY FRAZZANO
Chief of Police
Marco Island, Florida

ANTHONY SIZEMORE
Chief of Police
Cape Coral, Florida

STEVE WHIDDEN
Sheriff
Hendry County, Florida

APPROVED AS TO FORM:
By: _____
City Attorney's Office
Date: 12/13/09

CARMINE MARCENO
Sheriff
Lee County, Florida

PAM DAVIS
Chief of Police
Punta Gorda, Florida

TOM WESCHLER
Chief of Police
Naples, Florida



AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number: A.(5)

Meeting Date: 1/5/2022

Item Type: CONSENT AGENDA

TITLE:

Resolution 8-22 Approve Impact Fee Deferral Agreements between City of Cape Coral and Habitat for Humanity of Lee and Hendry Counties; Department: Development Services; Dollar Value: \$56,686.60; (Fund: N/A)

ORDINANCES AND RESOLUTIONS:

WHAT THE RESOLUTION ACCOMPLISHES:

The Resolution approves Developer Agreements between the City of Cape Coral and Habitat for Humanity of Lee and Hendry counties for multiple properties and authorizes the Mayor to execute these agreements, and authorizes the City Manager or his designee to execute the owner agreements upon sale of said properties to eligible buyers.

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

In June 2018, the City Council adopted Ordinance 36-18. This ordinance created an impact fee deferral program for qualified not-for-profit agencies participating in the City's housing programs. Deferred impact fees are payable when the property changes hands or is refinanced with cash out (in accordance with the City's Subordination of Mortgage Policy). To date, 39 deferrals have been approved and none of these properties have changed hands or refinanced with cash out since the pilot programs inception (2017). All deferrals are recorded against the property with the Lee County Clerk of Court to ensure payment when a transfer occurs. The pilot program is set to expire in 2022 or 100 homes, whichever is sooner, with the option for the City Council to extend. When the program was approved by the City Council the intent was not to reduce the cost to the homeowners (they receive grant subsidy) but to allow our non-profit affordable housing partners the ability to build additional units. The underlying understanding at the program's inception was that these units would change hands far into the future.

The ordinance requires Developer Agreements with the developer for each individual property. The resolution approves 10 deferral agreements for homes being developed by Habitat for Humanity of Lee and Hendry Counties.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan? No

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING

PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

RECOMMENDATIONS:

City Planning recommends approval.

SOURCE OF ADDITIONAL INFORMATION:

Vince Caetero, AICP, Development Services Director, 574-0600

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

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

PREPARED BY:

Amy
Yearsley Division- City
 Planning Department- Development
 Services

ATTACHMENTS:

	Description	Type
▣	1. Resolution 8-22	Backup Material
▣	2. List of Addresses	Backup Material

RESOLUTION 8-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING DEVELOPER AGREEMENTS BETWEEN THE CITY OF CAPE CORAL AND HABITAT FOR HUMANITY OF LEE AND HENDRY COUNTIES FOR MULTIPLE PROPERTIES; AUTHORIZING THE MAYOR TO EXECUTE THESE AGREEMENTS; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE OWNER AGREEMENTS UPON SALE OF SAID PROPERTIES TO ELIGIBLE BUYERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council approved the Single Family Impact Fee Deferral Pilot Program by Ordinance 36-18; and

WHEREAS, in accordance with Ordinance 36-18 Habitat for Humanity of Lee and Hendry Counties has applied for deferral of impact fees on ten homes; and

WHEREAS, Ordinance 36-18 requires the execution of a Developer Agreement for each property that receives a deferral; and

WHEREAS, Ordinance 36-18 requires the execution of an Owner Agreement for each property upon sale to an eligible buyer.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the Developer Agreements between the City of Cape Coral and Habitat for Humanity of Lee and Hendry Counties.

Section 2. The City Council authorizes the Mayor to execute the Developer Agreements.

Section 3. The City Council authorizes the City Manager or his designee to execute Owner Agreements upon sale to eligible buyers.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL CITY COUNCIL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

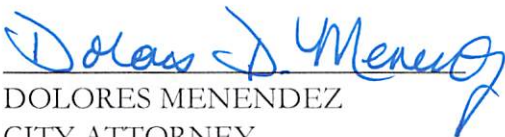
VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	NELSON	_____
TATE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


DOLORES MENENDEZ
CITY ATTORNEY

Res/Affordable Housing Impact Fee Deferral Agreements

Below are the addresses for Consent Agenda 5 (Resolution 8-22)

419 NE JUANITA PL
2203 NE 33RD LN
213 NE 31ST TER
2104 NE 10TH PL
2030 NE 17TH AVE
335 NE 23RD ST
1713 NE 4TH PL
1812 NE 7TH AVE
1216 NW 13TH AVE
1214 NW 8TH PL



AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number: A.(6)

Meeting Date: 1/5/2022

Item Type: **CONSENT AGENDA**

TITLE:

Resolution 9-22 Approve a Substantial Amendment to the 2020-2024 City of Cape Coral Consolidated Plan and 2021-2022 One Year Community Development Block Grant (CDBG) Action Plan; Department: Development Services; Dollar Value: \$27,000; (Fund: CDBG)

ORDINANCES AND RESOLUTIONS:

WHAT THE RESOLUTION ACCOMPLISHES:

The Resolution authorizes a substantial amendment to the 2020-2024 City of Cape Coral Consolidated Plan and 2021-2022 One Year Community Development Block Grant (CDBG) Entitlement Program, authorizes the City Manager or his designee to prepare and submit the amendment to the US Department of Housing and Urban Development and authorizes the City Manager or his designee to execute all agreements and documents necessary for submission of the amendment and the use of such funds.

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The City receives an annual CDBG allocation. The City sets aside the allowable 20% of the annual allocation for program administration. Unused administration funds must be reprogrammed to eligible projects and activities. Under CDBG regulations, the reallocation of funding to new projects and activities requires a substantial amendment to the City's approved Consolidated Plan and Annual Action Plan. Both the Consolidated Plan and Annual Action Plan were previously adopted by the City Council by resolutions 253-20 and 171-21 respectively.

This substantial amendment reallocates \$27,000 in CDBG administration funding to two new projects and activities. The first project is the rehabilitation of a group home for men with developmental disabilities (\$15,000). This project will be undertaken by Down Syndrome Supported Living, Inc. The second project is Housing Counseling (\$12,000). This project will be undertaken by Habitat for Humanity of Lee and Hendry Counties, which is a HUD-approved housing counseling agency.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

RECOMMENDATIONS:

City Planning Division recommends approval.

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, AICP, Development Services Director, 239-574-0600

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

Re-allocation of unexpended prior year Community Development Block Grant Funds to FY22.

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

PREPARED BY:

Amy Yearsley, Housing
Coordinator

Division- City
Planning

Department- Development
Services

ATTACHMENTS:

Description	Type
1. Resolution 9-22	Backup Material

RESOLUTION 9-22

A RESOLUTION AUTHORIZING A SUBSTANTIAL AMENDMENT TO THE 2020-2024 CITY OF CAPE CORAL CONSOLIDATED PLAN AND 2021-2022 ONE YEAR ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT PROGRAM; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO PREPARE AND SUBMIT THE AMENDMENT TO THE US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL AGREEMENTS AND DOCUMENTS NECESSARY FOR SUBMISSION OF THE AMENDMENT AND THE USE OF SUCH FUNDS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Resolution 253-20 approved the 2020-2024 City of Cape Coral Consolidated Plan; and

WHEREAS, Resolution 171-21 approved the 2021 Community Development Block Grant (CDBG) One Year Action Plan; and

WHEREAS, the City desires to amend the plan to allocate unspent administrative funds to the Utility Connection Grant Program; and

WHEREAS, the City has followed procedures consistent with 24 CFR 91.505 to amend the respective approved plans; and

WHEREAS, the City has followed procedures consistent with the City of Cape Coral CDBG Citizen Participation Plan to amend the respective approved plans.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. The City Council for the City of Cape Coral hereby authorizes the substantial amendment to the 2020-2024 City of Cape Coral Consolidated Plan and the 2021 One Year CDBG Action Plan. A copy of the amendment is attached hereto as Exhibit 1.

Section 2. The City Council authorizes and directs the City Manager or his designee to prepare all required materials necessary for the submission of the amendment to the U.S. Department of Housing and Urban Development.

Section 3. The City Council authorizes the City Manager or his designee to execute all agreements and documents necessary for submission of the amendments and the use of such funds.

Section 4. Effective Date. This Resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL CITY COUNCIL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	NELSON	_____
TATE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	CODEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES MENENDEZ
CITY ATTORNEY
Res/CDBG Amendment

EXHIBIT 1



Substantial Amendment



City of Cape Coral

Substantial Amendment

2020-2024 Consolidated Plan and 2021-2022

One Year Action Plan

Resolution xx-2022

Public Comment Version 1.0

Background/Summary

The City of Cape Coral is an entitlement recipient of federal funds from the US Department of Housing and Urban Development HUD for the Community Development Block Grant (CDBG) Program. In 2008 (under the 2008/2009 CDBG Action Plan) the City was awarded \$7,065,484 in Neighborhood Stabilization Program One funds. In 2010 (under the 2010/2011 CDBG Action Plan) the City was awarded \$3,048,210 in Neighborhood Stabilization Program Three funds. In 2021-2022 the City was awarded \$1,070,609 in CDBG funding.

In accordance with 24 CFR 91.505, the City of Cape Coral is submitting a substantial amendment to the 2020-2024 City of Cape Coral Consolidated Plan and 2021-2022 One Year Action Plan proposing to include rehabilitation of affordable housing as a priority need and reallocate unused administration funds to the rehabilitation activity to fund the rehabilitation of a group home for developmentally disabled men. Additionally, this amendment will clearly identify housing counseling as an activity for both the Affordable Housing and Public Service Priority Needs.

Federal regulations require that the grantee provide citizens with reasonable notice of and an opportunity to comment on any substantial amendment to the Plan in accordance with 24 CFR 91.10. A detailed summary of the proposed change has been outlined throughout this amendment.

Substantial Amendment

Program Year 2020-2024 Consolidated Plan and 2021 One Year CDBG Action Plan

The 2020-2024 Five Year Consolidated Plan includes Priority Need One – Increase access to affordable housing. This priority need is being expanded to include rehabilitation of owner/rental housing as an allowable activity. This substantial amendment will add this rehabilitation activity to SP-25 and AP-38 and fund the activity from unused administration funds. These activities will be administered by Habitat for Humanity of Lee and Hendry Counties and Down Syndrome Supported Living.

SP-25 Revisions

1	PRIORITY NEED NAME	INCREASE ACCESS TO AFFORDABLE HOUSING
PRIORITY LEVEL	High	
POPULATION	Extremely Low/ Low/ Moderate Income Households Large Families Families with Children	
GEOGRAPHIC AREAS AFFECTED	City Wide	
ASSOCIATED GOALS	Homeowner Assistance Acquisition <u>Rehabilitation</u> <u>Housing Counseling</u>	
DESCRIPTION	Support the provision of decent housing by increasing the availability/accessibility of affordable housing. The City will address the priority need by funding activities including, but not limited to, homeowner assistance and by the acquisition of land for the development of affordable housing.	
BASIS FOR RELATIVE PRIORITY	The City conducted a comprehensive community participation process and needs assessment to determine and prioritize needs. Needs identified in the Consolidated Plan were the result of input received by residents, housing providers, non-profit organizations, social service providers, and other relevant stakeholders. A thorough analysis of data provided in the Needs Assessment and Market Analysis also lead to priority need determinations.	

AP20 Revisions - Annual Goals and Objectives

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Homeowner Assistance	2020	2024	Affordable Housing	City of Cape Coral	Increase Access to Affordable Housing	CDBG: \$449,207 <u>\$476,207</u> State Housing Initiative Partnership Program (SHIP): \$500,000	Direct Financial Assistance to Homebuyers: 5 Households Assisted Rehabilitation of owner-occupied housing – 20 <u>Housing Counseling – 12 households</u> <u>Rehabilitation/Special Needs - 1</u>

AP20 Revisions – Goal Descriptions

1	GOAL NAME	HOMEOWNER ASSISTANCE
	GOAL DESCRIPTION	SUPPORT HOMEOWNERSHIP OPPORTUNITIES AND AFFORDABILITY BY PROVIDING DIRECT FINANCIAL ASSISTANCE TO LOW AND MODERATE INCOME HOMEBUYERS. ASSIST LOW INCOME HOMEOWNERS <u>AND PERSONS WITH SPECIAL NEEDS</u> WITH HEALTH, SAFETY, AND/OR WELFARE RELATED REPAIRS TO THEIR HOMES. THIS MAY INCLUDE INCLUDING MANDATORY CONNECTION TO CITY WATER AND SEWER. <u>PROVIDE HOMEBUYER COUNSELING TO HOUSEHOLDS PURCHASING HOMES THROUGH THE CDBG/SHIP PROGRAMS.</u>

AP15 Revisions – Priority Table

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 2				Expected Amount Available Reminder of ConPlan	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	Public - Federal	Acquisition Admin and Planning Economic	1,070,603	0	<u>\$27,000</u>	1,070,603	3,211,809	CDBG funds will be utilized in accordance

		Development Housing Public Improvements Public Services						with this plan to further address community development, housing, and public service needs in Cape Coral
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AP38 Revisions – Projects Summary

1	PROJECT NAME	HOMEOWNERSHIP ASSISTANCE
	TARGET AREA	CITY OF CAPE CORAL
	GOALS SUPPORTED	AFFORDABLE HOMEOWNERSHIP
	NEEDS ADDRESSED	INCREASE ACCESS TO AFFORDABLE HOUSING
	FUNDING	CDBG: \$369,207 CDBG: \$80,000 CDBG - \$15,000 CDBG – \$12,000
	DESCRIPTION	PROJECT WILL COMPRISE OF THREE <u>FIVE</u> ACTIVITIES – GAP FINANCING FOR THE PURCHASE OF NEW OR EXISTING HOUSING BY INCOME ELIGIBLE HOUSEHOLDS, REHABILITATION OF PROPERTIES FOR SALE TO LOW AND MODERATE INCOME HOUSEHOLDS, DOWN PAYMENT/CLOSING COST ASSISTANCE TO INCOME ELIGIBLE HOUSEHOLDS, <u>REHABILITATION OF HOMES OWNED OR OCCUPIED BY LOW INCOME /SPECIAL NEEDS PERSONS, AND HOUSING COUNSELING IN ACCORDANCE WITH CDBG REGULATIONS.</u>
	TARGET DATE	9/30/2022
	ESTIMATE THE NUMBER AND TYPE OF FAMILIES THAT WILL BENEFIT FROM THE PROPOSED ACTIVITIES	IT IS ESTIMATED THAT 5 HOUSEHOLDS WILL BE ASSISTED THROUGH HABITAT FOR HUMANITY AND 20 THROUGH THE UTILITY CONNECTION PROGRAM.

	<u>IT IS ESTIMATED 1 SPECIAL NEEDS HOUSEHOLD WILL RECEIVE ASSISTANCE.</u>
LOCATION DESCRIPTION	THIS IS A SCATTERED SITE PROJECT. PROPERTIES WILL BE LOCATED THROUGHOUT THE CITY OF CAPE CORAL.
PLANNED ACTIVITIES	HABITAT FOR HUMANITY HOMEOWNERSHIP CITY OF CAPE CORAL UTILITY CONNECTION PROGRAM <u>DOWN SYNDROME SUPPORTED LIVING</u>

Federal regulations require for the City provide the public with reasonable notice of and an opportunity to comment on any substantial amendments in accordance with 24 CFR 91.19. The 30-day comment period will commence on Thursday, December 9, 2022 and end on January 8, 2022. The public may view the document at the Department of Development Services, City Hall, 1015 Cultural Park Blvd, Cape Coral, FL 33990, between the hours of 7:30 AM and 3:30 PM – Monday through Friday. In addition, the substantial amendment has been posted on the City's website at www.capecoral.gov.

The public is encouraged to comment upon the proposed substantial amendment by submitting written comments to the Department of Development Services at PO Box 150027, Cape Coral, FL 33915-0027 or to ayearsle@capecoral.gov. The City Council will consider the amendment at the Wednesday, January 5, 2022 City Council Meeting in City Council Chambers City Hall, 1015 Cultural Park Blvd, Cape Coral, FL 33990 at 4:30 PM.

The City of Cape Coral must consider any comments or views of residents, agencies, or other interested parties received in writing or orally at public hearings in preparation of the final amendment. A summary of these comments has been included as Exhibit B.

Exhibit A — Affidavit of Publication - RESERVED

Exhibit B — Public Comment Received - RESERVED



AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number: A.(7)

Meeting Date: 1/5/2022

Item Type: **CONSENT AGENDA**

TITLE:

Resolution 10-22 Approve License Agreements between City of Cape Coral and Meta at Cape Harbour Community Association, Inc., and City of Cape Coral and LDC Cape Harbour Holdings, LLC and City of Cape Coral and SHM Cape Harbour, LLC for the temporary use of portions of their ownerships within Cape Harbour for event parking, participant registration and activities, spectators and vendors attending the Tour de Cape community event on January 21 - January 23, 2022; authorizing the City Manager or his designee to execute the License Agreements; Department: Public Works / Property Management Division; Dollar Value: N/A; (Fund: N/A)

ORDINANCES AND RESOLUTIONS:

WHAT THE RESOLUTION ACCOMPLISHES:

The Resolution approves the License Agreements between the City of Cape Coral and META at Cape Harbour Community Association, Inc. and the City of Cape Coral and LDC Cape Harbour Holdings, LLC, and the City of Cape Coral and SHM Cape Harbour, LLC, for the temporary use by the City of portions of property located within Cape Harbour for the Tour de Cape Community Event.

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The City's Park and Recreation Department is hosting the 31st Annual Tour de Cape community event on January 21 - January 23, 2022.

The event activities begin and close at the Cape Harbour development. Staff has requested temporary use of portions of the property owners' properties to host the activities and event.

The term of each License begins on January 18 and terminates on January 25 to allow for set up and break down of the event. The License Agreements will allow event parking, participant registration and activities, spectators and vendors attending the Tour de Cape event on site at no charge to the City.

Staff recommends approval and authorization for the City Manager or his designee to execute License Agreements with Meta at Cape Harbour Community Association, Inc., LDC Cape Harbour Holdings, LLC and SHM Cape Harbour, LLC for the temporary use of portions of their ownerships within Cape Harbour for event parking, participant registration and activities, spectators and vendors attending the Tour de Cape community event on January 21 - January 23, 2022.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

No

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

RECOMMENDATIONS:

Approve

SOURCE OF ADDITIONAL INFORMATION:

Todd King, Special Events Supervisor
Parks and Recreation
239-573-3121

Kerry Runyon, Parks & Recreation Director
239-573-3110

Dawn Y. Andrews, Property Broker
Public Works / Property Management Division
239-574-0735

Michael Ilczyszyn, Interim Public Works Director
239-574-0457

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

N/A

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

PREPARED BY:

Dawn Y. Andrews, Property Broker	Division- Property Management	Department- Public Works
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ATTACHMENTS:

Description	Type
▣ 1. Resolution 10-22 (with license agreements signed by legal and parties)	Backup Material
▣ 2. Location Map - Tour de Cape 2022	Backup Material
▣ 3. PA Sheet - 5781-5793 Cape Harbour Drive	Backup Material
▣ 4. PA Sheet - RW Tract E - Meta at Cape Harbour	Backup Material
▣ 5. PA Sheet - RW Tract G - Meta at Cape Harbour	Backup Material
▣ 6. PA Sheet - Tract C6 - Meta at Cape Harbour	Backup Material
▣ 7. PA Sheet - Tracts C4 & C5 - Meta at Cape Harbour	Backup Material

RESOLUTION 10 - 22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE LICENSE AGREEMENTS BETWEEN THE CITY OF CAPE CORAL AND META AT CAPE HARBOUR COMMUNITY ASSOCIATION, INC., AND THE CITY OF CAPE CORAL AND LDC CAPE HARBOUR HOLDINGS, LLC, AND THE CITY OF CAPE CORAL AND SHM CAPE HARBOUR, LLC, FOR THE TEMPORARY USE BY THE CITY OF PORTIONS OF PROPERTY LOCATED WITHIN CAPE HARBOUR FOR THE TOUR DE CAPE COMMUNITY EVENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City is hosting the 30th Annual Tour de Cape community event on January 21, 2022 through January 23, 2022, at Cape Harbour; and

WHEREAS, staff has requested temporary use of portions of property owned by Meta at Cape Harbour Community Association, Inc., LDC Cape Harbour Holdings, LLC, and SHM Cape Harbour, LLC, located within Cape Harbour for event parking, participant registration and activities, spectator viewing, and vendors on site from January 21, 2022, through January 23, 2022, to allow for set-up and break-down for the event; and

WHEREAS, City staff recommends entering into License Agreements with Meta at Cape Harbour Community Association, Inc., LDC Cape Harbour Holdings, LLC, and SHM Cape Harbour, LLC, for the temporary use of a portion of property located within Cape Harbour for the Tour de Cape community event on January 21, 2022 through January 23, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the License Agreements between the City of Cape Coral and Meta at Cape Harbour Community Association, Inc., and the City of Cape Coral and LDC Cape Harbour Holdings, LLC, and the City of Cape Coral and SHM Cape Harbour, LLC for the temporary use of a portion of property located within Cape Harbour for the Tour de Cape community event on January 21, 2022 through January 23, 2022. Copies of the agreements are attached hereto as Exhibits 1, 2, and 3.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the License Agreements.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

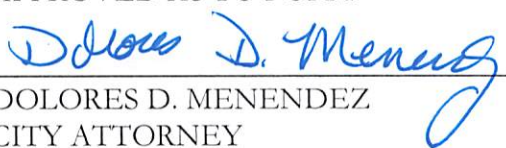
GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/License Agreements-Tour de Cape

EXHIBIT 1

LICENSE AGREEMENT

THIS LICENSE AGREEMENT made and entered into this ____ day of January, 2022 by **Meta at Cape Harbour Community Association, Inc.**, a Florida not-for-profit corporation, hereinafter referred to as "Licensor", and the City of Cape Coral, a Florida municipal corporation, hereinafter referred to as "Licensee".

WHEREAS, Licensee desires to utilize certain real properties located in Cape Coral, Lee County, Florida described on Exhibit "A" attached hereto, owned by Meta at Cape Harbour Community Association, Inc.; and

WHEREAS, the Licensor desires to grant a License to Licensee to use the properties for purposes set forth hereinafter under the terms and conditions set forth hereinafter for the Tour de Cape community event in January 2022.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do hereby agree as follows:

1. The above recitals are true and correct.
2. Licensor grants to Licensee the right to use the properties described in Exhibit "A" for a community function, known as the Tour de Cape, offered by the City of Cape Coral on January 21st through January 23rd, 2022.
3. The term of this License shall begin on January 18, 2022 and shall terminate on January 25, 2022.
4. Licensor grants Licensee the right to use the properties for ingress and egress for event participant participation, however, as a condition precedent to Licensee using the properties and holding the event on the properties, Licensee will provide a

Certificate of Coverage. The Licensee, the City of Cape Coral, is self-insured and carries General Liability insurance. Nothing in this agreement shall be construed as consent for the City of Cape Coral to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

5. Licensee indemnifies Licensor from any and all claims, demands, losses, suits, actions of any kind or nature, arising out of the use of the properties by Licensee or any events being held on the properties by Licensee. Nothing in this agreement shall be construed as consent for the City of Cape Coral to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

6. This agreement shall be governed by the laws of the State of Florida and may not be modified absent written documentation executed by the parties.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties have hereunto affixed their hand and seal
on the date and year first written above.

Signed, Sealed and Delivered
in presence of:

LICENSEE:
City of Cape Coral,
a Florida municipal corporation

Witness

By: _____
Roberto Hernandez, City Manager

Witness

State of Florida

County of Lee

The foregoing instrument was acknowledged before me this ____ day of January,
2022 by Roberto Hernandez, City Manager of the City of Cape Coral, a Florida municipal
corporation, who is personally known to me and who did not take an oath.

Notary Public
(SEAL)

AS TO FORM:


Brian Bartos, Assistant City Attorney

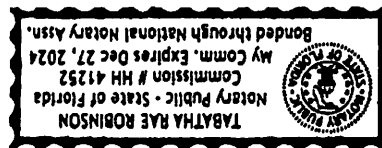
LICENSOR:
Meta at Cape Harbour Community
Association, Inc., a Florida not-for-
profit corporation

[Signature]
Witness STEPHEN M. GIBBS
[Signature]
Witness ALLEN GIBBS

[Signature]
By Jane Kirkman, President

State of FL
County of Lee

The foregoing instrument was acknowledged before me this 3rd day of January, 2022, by Jane Kirkman, President of Meta at Cape Harbour Community Association, Inc., a Florida not-for-profit corporation, who is personally known to me or who has produced _____ and who did not take an oath. (type of identification)



Notary Public [Signature]
(SEAL)

EXHIBIT A

Tracts "E" and "G", Meta at Cape Harbour, according to the plat thereof, as recorded in Plat Book 71, Pages 74 through 80, of the Public Records of Lee County, Florida.

AKA: Strap #21-45-23-C2-0040E.00CE and
Strap #21-45-23-C2-0040G.00CE

EXHIBIT 2

LICENSE AGREEMENT

THIS LICENSE AGREEMENT made and entered into this ____ day of January, 2022 by **LDC Cape Harbour Holdings, LLC**, a Florida limited liability company, hereinafter referred to as "Licensors", and the City of Cape Coral, a Florida municipal corporation, hereinafter referred to as "Licensee".

WHEREAS, Licensee desires to utilize certain real properties located in Cape Coral, Lee County, Florida described on Exhibit "A" attached hereto, owned by LDC Cape Harbour Holdings, LLC; and

WHEREAS, the Licensors desire to grant a License to Licensee to use the properties for purposes set forth hereinafter under the terms and conditions set forth hereinafter for the Tour de Cape community event in January 2022.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do hereby agree as follows:

1. The above recitals are true and correct.
2. Licensors grant to Licensee the right to use the properties described in Exhibit "A" for a community function, known as the Tour de Cape, offered by the City of Cape Coral on January 21st through January 23rd, 2022.
3. The term of this License shall begin on January 18, 2022 and shall terminate on January 25, 2022.
4. Licensors grant Licensee the right to use the properties for event participant registration, participant breakfast areas, event parking and vendor display areas, however, as a condition precedent to Licensee using the properties and holding the event

on the properties, Licensee will provide a Certificate of Coverage. The Licensee, the City of Cape Coral, is self-insured and carries General Liability insurance. Nothing in this agreement shall be construed as consent for the City of Cape Coral to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

5. Licensee indemnifies Licensors from any and all claims, demands, losses, suits, actions of any kind or nature, arising out of the use of the properties by Licensee or any events being held on the properties by Licensee. Nothing in this agreement shall be construed as consent for the City of Cape Coral to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

6. This agreement shall be governed by the laws of the State of Florida and may not be modified absent written documentation executed by the parties.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties have hereunto affixed their hand and seal
on the date and year first written above.

Signed, Sealed and Delivered
in presence of:

LICENSEE:
City of Cape Coral,
a Florida municipal corporation

Witness

By: _____
Roberto Hernandez, City Manager

Witness

State of Florida

County of Lee

The foregoing instrument was acknowledged before me this ____ day of January,
2022 by Roberto Hernandez, City Manager of the City of Cape Coral, a Florida municipal
corporation, who is personally known to me and who did not take an oath.

(SEAL)

Notary Public

AS TO FORM:


Brian Bartos, Assistant City Attorney

LICENSOR:
LDC Cape Harbour Holdings, LLC, a
Florida limited liability company

Clara L. Diaz
Witness
[Signature]
Witness

By: [Signature]
Rosa Eckstein Schechter
Title: Vice President

State of Florida
County of Miami-Dade

The foregoing instrument was acknowledged before me this 20th day of December, 20 21 by Rosa Eckstein Schechter, Vice President of LDC Cape Harbour Holdings, LLC, a Florida limited liability company on behalf of the company, who is personally known to me or who has produced _____ and who did not take an oath: _____
(type of identification)

(SEAL)

Clara L. Diaz
Notary Public

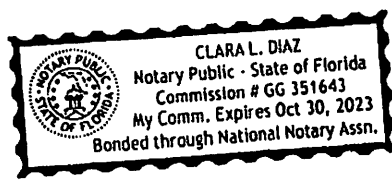


EXHIBIT A

Tracts C-4 and C-5, Block 7005, Meta At Cape Harbour, according to the plat thereof, as recorded in Plat Book 71, Pages 74 through 80, in the Public Records of Lee County, Florida.

AKA: Strap #21-45-23-C2-004C4.0000

EXHIBIT 3

LICENSE AGREEMENT

THIS LICENSE AGREEMENT made and entered into this ____ day of January, 2022 by **SHM Cape Harbour, LLC**, a Delaware limited liability company hereinafter referred to as "Licensor", and the City of Cape Coral, a Florida municipal corporation, hereinafter referred to as "Licensee".

WHEREAS, Licensee desires to utilize certain real properties located in Cape Coral, Lee County, Florida described on Exhibit "A" attached hereto, owned by SHM Cape Harbour, LLC; and

WHEREAS, the Licensor desires to grant a License to Licensee to use the property for purposes set forth hereinafter under the terms and conditions set forth hereinafter for the Tour de Cape community event in January 2022.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do hereby agree as follows:

1. The above recitals are true and correct.
2. Licensor grants to Licensee the right to use the property described in Exhibit "A" for a community function, known as the Tour de Cape, offered by the City of Cape Coral on January 21st through January 23rd, 2022.
3. The term of this License shall begin on January 18, 2022 and shall terminate on January 25, 2022.
4. Licensor grants Licensee the right to use the property for event participant registration, participant breakfast areas, event parking and vendor display areas,

however, as a condition precedent to Licensee using the property and holding the event on the property, Licensee will provide a Certificate of Coverage. The Licensee, the City of Cape Coral, is self-insured and carries General Liability insurance. Nothing in this agreement shall be construed as consent for the City of Cape Coral to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

5. Licensee indemnifies Licensor from any and all claims, demands, losses, suits, actions of any kind or nature, arising out of the use of the property by Licensee or any events being held on the property by Licensee. Nothing in this agreement shall be construed as consent for the City of Cape Coral to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

6. This agreement shall be governed by the laws of the State of Florida and may not be modified absent written documentation executed by the parties.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties have hereunto affixed their hand and seal on the date and year first written above.

Signed, Sealed and Delivered
in presence of:

LICENSEE:
City of Cape Coral,
a Florida municipal corporation

Witness

By: _____
Roberto Hernandez, City Manager

Witness

State of Florida

County of Lee

The foregoing instrument was acknowledged before me this ____ day of January, 2022 by Roberto Hernandez, City Manager of the City of Cape Coral, a Florida municipal corporation, who is personally known to me and who did not take an oath.

(SEAL)

Notary Public


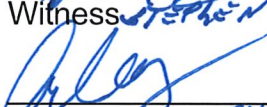
AS TO FORM:




Brian Bartos, Assistant City Attorney

LICENSOR:
SHM Cape Harbour, LLC, a
Delaware limited liability company

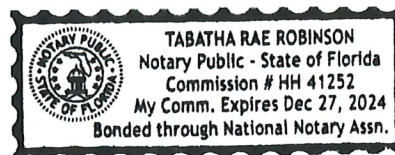
BY: **Safe Harbor Marinas, LLC**, a
Delaware limited liability company,
as its Member


Witness STEPHEN A. GELBER

Witness Aileen Gibbs

By: 
Name: Jane Kirkman
Title: RVP

State of FL
County of Lee

The foregoing instrument was acknowledged before me this 3rd day of January, 2022 by Jane Kirkman, the RVP of Safe Harbor Marinas, LLC, a Delaware limited liability company, the Member of SHM Cape Harbour, LLC, a Delaware limited liability company on behalf of the companies, who is personally known to me or who has produced _____ (type of identification) and who did not take an oath.



(SEAL)

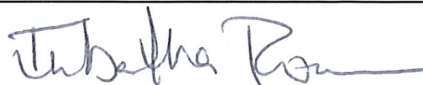








Notary Public 

EXHIBIT A

The common area portions of Tract C-2 and Tract C-3, Block 7005, Meta at Cape Harbour Subdivision, as recorded in Plat Book 71, Pages 74 through 80, inclusive of the Public Records of Lee County, Florida.

AKA: 5781 & 5793 Cape Harbour Drive, Cape Coral, Florida



	<u>Building/Construction Permit Data</u> Generated on 12/17/2021 11:37 AM
	<u>Parcel Numbering History</u> ⓘ Generated on 12/17/2021 11:37 AM
	<u>Location Information</u> Generated on 12/17/2021 11:37 AM
	<u>Solid Waste (Garbage) Roll Data</u> Generated on 12/17/2021 11:37 AM
	<u>Flood and Storm Information</u> Generated on 12/17/2021 11:37 AM
	<u>Address History</u> Generated on 12/17/2021 11:37 AM
	<u>Appraisal Details (2021 Tax Roll)</u> Generated on 12/17/2021 11:37 AM
	<u>Appraisal Details (Current Working Values)</u> Generated on 12/17/2021 11:37 AM

[Previous Parcel Number](#)

Generated on 12/17/2021 11:37 AM

[Next Parcel Number](#) [New Query](#) [Search Results](#) [Home](#)
TRIM (proposed tax) Notices are available for the following tax years

[[2007](#) [2008](#) [2009](#) [2010](#) [2011](#) [2012](#) [2013](#) [2014](#) [2015](#) [2016](#) [2017](#) [2018](#) [2019](#) [2020](#) [2021](#)]

Tax Year **2019**

[Next Parcel Number](#) [Previous Parcel Number](#) [Tax Estimator](#) [Cape Coral Fees](#) [Tax Bills](#) [Print](#)

Property Data

STRAP: 21-45-23-C2-0040E.00CE Folio ID: 10471381

+ Owner Of Record - Sole Owner

META AT CAPE HARBOUR COMM ASSN
c/o REALMARK MGMT SERVICES
5793 CAPE HARBOUR DR STE 116
CAPE CORAL FL 33914

Site Address

RIGHT OF WAY
CAPE CORAL FL

Property Description

Do not use for legal documents!

META AT CAPE HAROUR PB 71 PGS 7480 TRACT E

Classification / DOR Code

RIGHT-OF-WAY / 94



[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)



[Pictometry Aerial Viewer]



Just 0 As Of 07/14/2019

Attributes

Land Units Of Measure ACUnits  3.97

Total Number of Buildings	0
---------------------------	---

Total Bedrooms / Bathrooms	0
----------------------------	---

Total Living Area 0

1st Year Building on Tax Roll	N/A
-------------------------------	-----

Historic Designation	No
----------------------	----

Image of Structure



Exemptions



Taxing Authorities



Sales / Transactions

Sale Price	Date	OR Number	Type	Description	Vacant/Improved
100.00	10/04/2002	3746/3668	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
1,684,400.00	01/14/2000	3210/4187	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
18,079,600.00	06/30/1999	3141/497	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
100.00	11/15/1988	2032/1977	04	Sales disqualified as a result of examination of the deed	V

Disqualified (Multiple STRAP # - 01,03,04,07)	
+	Building/Construction Permit Data
+	Parcel Numbering History ⓘ
+	Location Information
+	Solid Waste (Garbage) Roll Data
+	Flood and Storm Information
+	Address History
+	Appraisal Details (2019 Tax Roll)
+	Appraisal Details (Current Working Values)

[Previous Parcel Number](#) [Next Parcel Number](#) [New Query](#)
[Search Results](#) [Home](#)

TRIM (proposed tax) Notices are available for the following tax years
[[2007](#) [2008](#) [2009](#) [2010](#) [2011](#) [2012](#) [2013](#) [2014](#) [2015](#) [2016](#) [2017](#) [2018](#) [2019](#)]

Tax Year **2019**

[Next Parcel Number](#) [Previous Parcel Number](#) [Tax Estimator](#) [Cape Coral Fees](#) [Tax Bills](#) [Print](#)

Property Data

STRAP: 21-45-23-C2-0040G.00CE Folio ID: 10471388

+ Owner Of Record - Sole Owner

META AT CAPE HARBOUR COMM ASSN
c/o REALMARK MGMT SERVICES
5793 CAPE HARBOUR DR STE 116
CAPE CORAL FL 33914

Site Address

RIGHT OF WAY
CAPE CORAL FL

Property Description

Do not use for legal documents!

META AT CAPE HARBOUR PB 71 PGS 7480 TRACT G

Classification / DOR Code

RIGHT-OF-WAY / 94



[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)



[Pictometry Aerial Viewer]



Current Working Values



Just	0	As Of	07/14/2019
------	---	-------	------------

Attributes

Land Units Of Measure  ACUnits  1.33

Total Number of Buildings	0
---------------------------	---

Total Bedrooms / Bathrooms	0
----------------------------	---

Total Living Area 0

1st Year Building on Tax Roll	N/A
---	-----

Historic Designation	No
----------------------	----

Image of Structure



+

Exemptions



Values (2019 Tax Roll)



+

Taxing Authorities

1

Sales / Transactions

Sale Price	Date	OR Number	Type	Description	Vacant/Improved
100.00	10/04/2002	3746/3668	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
1,684,400.00	01/14/2000	3210/4187	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
18,079,600.00	06/30/1999	3141/497	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
100.00	04/25/1990	2145/3463	04	Sales disqualified as a result of examination of the deed	I

Disqualified (Multiple STRAP # - 01,03,04,07)	
+	Building/Construction Permit Data
+	Parcel Numbering History ⓘ
+	Location Information
+	Solid Waste (Garbage) Roll Data
+	Flood and Storm Information
+	Address History
+	Appraisal Details (2019 Tax Roll)
+	Appraisal Details (Current Working Values)

[Previous Parcel Number](#) [Next Parcel Number](#) [New Query](#)
[Search Results](#) [Home](#)

TRIM (proposed tax) Notices are available for the following tax years
[[2007](#) [2008](#) [2009](#) [2010](#) [2011](#) [2012](#) [2013](#) [2014](#) [2015](#) [2016](#) [2017](#) [2018](#) [2019](#)]

Tax Year **2021**
[Previous Parcel Number](#) [Next Parcel Number](#) [Tax Estimator](#) [Cape Coral Fees](#) [Tax Bills](#) [Print](#)

Property Data

STRAP: 21-45-23-C2-004C6.0000 Folio ID: 10471380

Generated on 12/17/2021 11:50 AM

[+ Owner Of Record - Sole Owner](#)
[\[Change Address\]](#)


LDC CAPE HARBOUR HOLDINGS LLC
550 BILTMORE WAY STE 1110
CORAL GABLES FL 33134

Site Address

Site Address maintained by **E911 Program Addressing**

5703 CAPE HARBOUR DR
CAPE CORAL FL 33914

Property Description

Do not use for legal documents!



META AT CAPE HARBOUR
PB 71 PGS 74-80
TRACT C-6 LESS PORTS
DESC IN INST #2012000193561

[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)

[\[Pictometry Aerial Viewer \]](#)


Current Working Values



Just

1,216,532

Attributes

Land Units Of Measure	UT
Units	32.00
Total Number of Buildings	1
Total Bedrooms / Fixtures	0 / 8
Gross Building Area	3,168
1st Year Building on Tax Roll	2001
Historic Designation	No

Image of Structure


[◀ Photo Date March of 2019 ▶](#) ☐ View other photos

Last Inspection Date: 03/20/2019



Exemptions

Generated on 12/17/2021 11:50 AM


[Values \(2021 Tax Roll\)](#)


Generated on 12/17/2021 11:50 AM











Taxing Authorities

Generated on 12/17/2021 11:50 AM



Sales / Transactions

Generated on 12/17/2021 11:50 AM

	<div><u>Building/Construction Permit Data</u> Generated on 12/17/2021 11:50 AM</div>
	<div><u>Parcel Numbering History</u> ⓘ Generated on 12/17/2021 11:50 AM</div>
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[Previous Parcel Number](#)

Generated on 12/17/2021 11:50 AM

TRIM (proposed tax) Notices are available for the following tax years

[[2007](#) [2008](#) [2009](#) [2010](#) [2011](#) [2012](#) [2013](#) [2014](#) [2015](#) [2016](#) [2017](#) [2018](#) [2019](#) [2020](#) [2021](#)]

[Next Parcel Number](#) [New Query](#) [Search Results](#) [Home](#)

		21-45-23-C2-004C3.0000	21-45-23-C2-004R5.0000		
100.00	02/14/2003	3849/2932	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
4,870,000.00	09/13/2002	3731/3815	02	Sales qualified but excluded from sales ratio analysis Qualified (Multiple STRAP # / 06-09I)	V
1,684,400.00	01/14/2000	3210/4187	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
18,079,600.00	06/30/1999	3141/497	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
100.00	04/25/1990	2145/3463	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	I

+

Building/Construction Permit Data

+

Parcel Numbering History ⓘ

+

Location Information

+

Solid Waste (Garbage) Roll Data

+

Flood and Storm Information

+

Address History

+

Appraisal Details (2019 Tax Roll)

+

Appraisal Details (Current Working Values)



**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL

Item Number:	B.(1)
Meeting Date:	1/5/2022
Item Type:	PERSONNEL ACTIONS

TITLE:

Resolution 11-22 Approve Job Title Change from "Economic Development Manager" to "Economic and Business Development Officer"; Department: City Manager's Office; Dollar Value: N/A; (Fund: N/A)

ORDINANCES AND RESOLUTIONS:

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution authorizes the change of classification title from "Economic Development Manager" to "Economic and Business Development Officer" in the City Manager's Office.

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

Request for approval of position title change from "Economic Development Manager" to "Economic and Business Development Officer." There is no change to job description, salary range or pay grade.

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:

Approval

SOURCE OF ADDITIONAL INFORMATION:

Lisa Sonogo, Human Resources Director, 239-574-0528
Rob Hernandez, City Manager, 239-574-0450

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

N/A

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

PREPARED BY:

Gabrielle Division- Administration Department- Human

Lovejoy

Resources

ATTACHMENTS:

Description	Type
1. Resolution 11-22	Backup Material

RESOLUTION 11 - 22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AUTHORIZING THE CHANGE OF CLASSIFICATION TITLE FROM ECONOMIC DEVELOPMENT MANAGER TO ECONOMIC AND BUSINESS DEVELOPMENT OFFICER IN THE CITY MANAGER'S OFFICE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is currently a classification in the City Manager's office of Economic Development Manager at Pay Grade NB118; and

WHEREAS, Section 2-36 of the Code of Ordinances provides regulations concerning position classifications, paygrades, and changes to classifications and number of positions in departments; and

WHEREAS, the City Manager desires to change the title of the Economic Development Manager classification to Economic and Business Development Officer with no change in duties or pay grade.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The City Council hereby approves the change of classification title from Economic Development Manager at Pay Grade NB118 to Economic and Business Development Officer at Pay Grade NB118, while maintaining the same job description.

SECTION 2. Effective Date. This Resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	NELSON	_____
TATE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Position-Change Title – Economic Development Officer

EXHIBIT A



Economic and Business Development Officer

Class Code:
Pay Grade NB118

Bargaining Unit: SALARY EMPLOYEE

CITY OF CAPE CORAL
Established Date: Apr 2, 2018
Revision Date: Jan 5, 2022

SALARY RANGE

\$39.31 - \$62.90 Hourly
\$81,764.80 - \$130,832.00 Annually

GENERAL STATEMENT OF JOB:

SAFETY SENSITIVE: No

FINGERPRINTING REQUIRED: Yes

Under the general direction of the City Manager, coordinates the resources of the City into a unified team and leads that team in the pursuance of the City's Economic and Business Development Mission. The Mission is to expand, diversify, and improve the City's tax base and employment opportunities. The Economic and Business Development Office is engaged primarily in two functions, retaining and expanding existing business/employers and bringing new business/employers to the City. Supervises and reviews the work of subordinate professional staff. Performs related administrative and professional work as required.

Responsibilities and Reporting During an Emergency Situation: If assigned, employees in this classification will be required to report and carry out duties as directed for the duration of an emergency. Depending on the nature of the emergency, this may require working around the clock for several days on short notice.

SPECIFIC DUTIES AND RESPONSIBILITIES:

The intent of this job description is to provide a representative summary of the major duties and responsibilities performed by incumbents of this job. Incumbents may be requested to perform job-related tasks other than those specifically presented in this description.

- Prepares and implements the City's Economic Development Master Plan, and all other monthly and annual work plans needed for the successful implementation of the City's economic and business development strategies and directives of the City Manager.

- Produces and manages the annual budget of the Office.
- Evaluates assigned personnel for efficiency and effectiveness; initiates personnel actions of hiring, promotion, discipline, termination, training and development; resolves or refers personnel problems or grievances; directs and assigns work to employees that report to them; and provides technical support and guidance in their work activities.
- Monitors the progress of Economic and Business Development programs and various local economic indicators. Produces regular management reports regarding same for the City Council, City Manager, community leaders and other interested parties.
- Manages the advertising functions of the Economic and Business Development Office and advertising contract(s).
- Works closely with the City's Office of Communications to promote the City and communicate its many attributes.
- Reviews and provides input on Development Services plans, proposals and planned development projects.
- Functions as the primary liaison between the City and other organizations directly involved in economic and business development in the area, such as Enterprise Florida, Lee County Office of Economic Development, Southwest Florida Economic Development Alliance, Fort Myers Economic Development Office, Southwest Florida Regional Planning Council, Florida Gulf Coast University, Florida Job Service, and the Chamber of Commerce of Cape Coral.
- Represents the City by attending meetings, conducting educational programs, and speaking to business and civic organizations.
- Oversees the production of brochures, videos, Internet home page information, and other communication vehicles created by or for the Economic and Business Development Office.
- Directs various programs to encourage the development and growth of Cape Coral's small business community.
- Oversees all Economic and Business Development Office grant request activities.
- Calculates the viability of a company's potential economic impact to the City.
- Translates and acts on information learned at trade shows and lead generation venues.
- Communicates goals and project updates to the City Manager/Assistant City Manager/Assistant to the City Manager and others as needed.
- Facilitates positive interactions on behalf of the City. Establishes relationships and works cooperatively with City elected officials, management staff, boards and commissions, employees, community leaders and the general public.
- May assist with union negotiations, to include research, data analysis, suggestions, strategizing; serves as management representative on labor relations team and participates in active negotiations at the bargaining table as needed.
- May be required to operate a motor vehicle in performance of assigned tasks.
- Performs other related duties and assignments as required.

MINIMUM QUALIFICATIONS:

Education and Experience

- Bachelor's degree from an accredited college or university in Public Administration, Economic Development, Business Administration or related field.
- Ten (10) years of experience in the field of economic development, finance, business consulting, business administration, business marketing, community development, real estate development, planning or public administration; including two (2) years of experience in a government setting.

- Three (3) years of supervisory experience.

Licenses or Certifications

- Must possess a valid driver's license from any state and obtain a valid Florida driver's license within thirty (30) days of hire or promotion.

OTHER JOB REQUIREMENTS

- None.

PREFERRED QUALIFICATIONS

- Master's degree from an accredited college or university in Public Administration, Economic Development, Business Administration or related field.

ADDITIONAL MINIMUM QUALIFICATIONS REQUIRED: KNOWLEDGE, SKILLS, AND ABILITIES:

Knowledge of:

- Infrastructure improvement planning, including use and growth management concepts.
- Principles and operations of Community Redevelopment Areas (CRA's), Downtown Development Areas (DDA's) and Business Improvement Districts (BID's).
- Best practices in economic development incentives.
- Operating and capital budget preparation and monitoring principles and practices.
- City's practices and procedures, as well as the resources of various county and state government and economic development agencies.
- Regional, state and federal land development permitting, licensing and zoning requirements; familiarity with land development regulations and principles as they affect business and economic development projects and pre-platted communities such as Cape Coral.
- Commercial lending practices and non-traditional forms of financing.
- Procedural and legal aspects of real estate transactions.
- Municipal organization and modern office support functions.
- Research methods and techniques.
- Presentation and marketing methods.
- Report and record maintenance principles and techniques.
- Business English, the application of such to a variety of formats and styles.
- Standard human resources practices and procedures.
- Effective supervisory principles and techniques.
- Modern office equipment and various computer programs and applications.

Skill in:

- Developing solutions and options on a per-case basis and marketing to the client.
- Creating, analyzing, interpreting and applying statistical, legal and financial data to influence commercial expansion and business/job growth.
- Public speaking and networking opportunities at local, regional and national events.
- Prioritizing mission and client requirements with available resources.
- Generating project opportunities with the Commercial real estate community.
- Leadership and management to guide personnel under charge.
- Written, verbal, electronic, and visual communications for effective expression and clarity.
- The operation of various computer or other electronic devices.
- Planning, organization, prioritization, and time management.

Ability to:

- Acquire, analyze, and assemble details, facts, and concepts into coherent, cohesive, and pragmatic thoughts that can be used to identify problems, create solutions, and implement plans.
- Seek and create opportunities for a competitive advantage over surrounding communities to enhance business recruitment.
- Influence, coordinate and complete mission essential functions efficiently.
- Interpret demographic and economic trends in support of the City's long-range land development plans and opportunities.
- Understand and apply various economic development practices which would facilitate the overall objectives of the Office.
- Successfully negotiate multiple-party contracts.
- Manage an advertising program.
- Plan, develop and implement daily, short- and long-term goals and strategies.
- Effectively develop a team approach to economic and business development when working with external economic development partners.
- Analyze corporate and business financial statements to calculate the viability of a company and its potential contribution to the City.
- Learn and utilize new skills and information to improve job performance and efficiency.
- Understand diverse projects and balance multiple assignments.
- Assemble, organize and present, in written and oral form, statistical, financial or descriptive information derived from a variety of sources.
- Learn Citywide administrative regulations; applicable Citywide departmental policies; the Personnel Ordinance and the Collective Bargaining Agreements as required to complete tasks and assignments.
- Relate and respond to people from varying educational and cultural backgrounds beyond giving and receiving instructions, to include applying consistent courtesy and tact in considerable public contact and/or confrontational situations.
- Establish and maintain effective working relationships with supervisor, support staff, staff from other departments and other local, state and federal government agencies.
- Be adaptable to performing under frequent deadlines, re-prioritization of tasks and assignments, and in response to emergencies.
- Convey a sense of authority and influence.
- Apply sound judgment and interpretation based on acquired knowledge in circumstances where limited standardization exists, and make decisions in accordance with established laws, regulations, ordinances, departmental policies and procedures
- Read and interpret various materials, ranging from moderate to complex terminology, associated with job functions.
- Understand and perform advanced mathematical skills, i.e., formulas, graphs, and charting principles.

- Exercise high level of discretion due to the sensitive and confidential nature of information processed.
- Perform duties independently with minimal supervision and review with emphasis in achieving results on City initiatives.
- Analyze and interpret problems, and draw conclusions.
- Create and maintain complex, professional documents, spreadsheets, charts, graphs, presentations, databases, and desktop publishing.

MINIMUM STANDARDS REQUIRED:

WORK

ENVIRONMENT/

CONDITIONS

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Tasks are generally performed in a common office environment.

PHYSICAL

DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The position involves *light physical demands*, such as exerting up to 20 lbs. of force occasionally, and/or up to 10 lbs. of force frequently, and/or a negligible amount of force constantly to move objects. Tasks may require prolonged periods of visual concentration and require moderate levels of eye/hand/foot coordination.

Requires the ability to speak, hear (perceive sound) and/or signal people to convey and exchange information; differentiate between colors or shades of color; read a variety of materials, at times complex; apply principles of rational problem-solving; record and deliver information, explain procedures, issue and follow oral and written instructions; and communicate effectively and efficiently in Standard English.



**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL

Item Number:	D.(1)
Meeting Date:	1/5/2022
Item Type:	APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

TITLE:

Community Development Block Grant - 5 Vacancies

ORDINANCES AND RESOLUTIONS:

REQUESTED ACTION:

Appoint

SUMMARY EXPLANATION AND BACKGROUND:

Vacancy: Five vacancies (Appointed by Council)

Expiration: 12/31/2024

Applications: Five application received:

1. Bridges, Robert M.
2. DiFederico, Darlene
3. Hartman, Sean D. (current Member)
4. Hill, Martha C. (current Member)
5. Sand II, George A.

Action Item #1: Appoint 5 Regular Members

Advertisement: The vacancy was advertised on 10/22/2021 and 11/19/2021 in the Breeze and posted on the City's website and social media outlets.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

RECOMMENDATIONS:

Approval

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns, City Clerk, 1-239-574-0417

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

n/a

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

PREPARED BY:

Shana Dixon, Recording
Secretary

Division- Managerial

Department- City
Clerk

ATTACHMENTS:

Description	Type
▣ 1. Applicant – Bridges, Robert M.	Backup Material
▣ 2. Applicant – DiFederico, Darlene	Backup Material
▣ 3. Applicant – Hartman, Sean D.	Backup Material
▣ 4. Applicant – Hill, Martha C.	Backup Material
▣ 5. Applicant – Sand II, George A.	Backup Material

EXEMPT

Per Section 119.071 of the
State Statutes, certain
information on this
application must be
redacted.

**CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM**

RECEIVED

Initials: RB

This Appointment Information Form, when completed, signed and filed with the City Clerk's Office, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and, therefore, is open to public inspection by any person.

YOU ARE RESPONSIBLE TO KEEP THE INFORMATION ON THIS FORM CURRENT. APPLICATIONS WILL BE RETAINED IN THE CLERK'S OFFICE IN ACCORDANCE WITH STATE RECORDS RETENTION LAWS.

Please Type, if possible (or print clearly)

Date: 11/03/2021

RECEIVED

Name: Bridges Robert M
(Last) (First) (Middle)

E-mail address: Rbridges6917@gmail.com

NOV - 5 2021

Address: (H) [REDACTED] Zip Code [REDACTED]
(O) [REDACTED] Zip Code [REDACTED]

**CITY OF CAPE CORAL
CITY CLERKS OFFICE**

Phone: (H) [REDACTED] (O) [REDACTED] (C) [REDACTED]

Occupation: Realtor

Employer: Royal Shell Position: Sales associate How Long: 1yr

Education: Highest education level achieved and institutions attended:

Name & Location	Dates Attended	Degrees Earned

Have you ever held a professional or business license or certificate? Yes XX No

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title	Issue Date	Issuing Authority
<u>Real estate sales associate</u>	<u>7/13/2021</u>	<u>FLDBR</u>

Board(s) /Commission(s) for which you are applying:

Community Development Block Grant/Citizens Advisory Board

1. Are you a U.S. Citizen? Yes XX No

2. Are you a Cape Coral Resident? Yes XX No

3. Are you currently serving on a City Board(s)? Yes No XX

If yes, which Board(s) and since when?

4. Have you ever served on a City Board(s)? Yes No XX

If yes, which Board(s) and when?

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?

Yes No XX If yes, what Board, etc. and since when?

RECEIVED

Work Experience:

Chicago Police Department, Detective Retired March 2021

Community Involvement:

Chicago Public Schools Local school council, 45th ward advisory committee

Interests/Activities:

Fishing, golf

Why do you desire to serve on this/these Board(s)?

I desire to serve on these boards to better the community I now call home. I feel that my previous experience in public service along with my involvement in the community would benefit the citizens of Cape Coral.

How did you learn about the vacancy? ☐ Cape Coral Website ☐ Newspaper ☐ Facebook ☐ Word of Mouth

A resume or separate sheet with additional information may be included.

Florida law requires that members of certain Boards file a financial disclosure form. Would you be willing to file a financial disclosure form? Yes^{xx} ☐ No ☐

The City of Cape Coral Code of Ordinances, Section 2-60 has a limitation on offices held; however, this can be waived by a two-thirds (2/3) vote of City Council. If you are already serving on a Board, Authority, or Commission for the City of Cape Coral or for another governmental agency, you would have to be approved by a two-thirds (2/3) vote.

The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Robert Brink

Signature

11/03/2021

Date

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed:

Date: _____

Yes ☐ No ☐

Council Action:

Date: _____

CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM

RECEIVED

Initials: DD

OCT 6 2021

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CITY OF CAPE CORAL
CITY CLERK'S OFFICE

YOU ARE RESPONSIBLE TO KEEP THE INFORMATION ON THIS FORM CURRENT. APPLICATIONS WILL BE RETAINED IN THE CLERK'S OFFICE IN ACCORDANCE WITH STATE RECORDS RETENTION LAWS.

Please Type, if possible (or print clearly)

Date: 9-25-21

Name: D. Federico Darlene
(Last) (First) (Middle)

E-mail address: DDCLAZZ@Gmail.com

Address: (H) 5341 SW 11th Pl Zip Code 33914

(O) Zip Code

Phone: (H) (O) (C) 239-940-7079

Occupation: Real Estate

Employer: Self Position: How Long: 25 yrs

Education: Highest education level achieved and institutions attended:

Name & Location	Dates Attended	Degrees Earned
Rochester Institute of Technology Rochester, NY		Finance

Have you ever held a professional or business license or certificate?

Yes ☒ No ☐

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title	Issue Date	Issuing Authority
Real Estate License		FL

Board(s) /Commission(s) for which you are applying:

Community Development Block Grant Board

1. Are you a U.S. Citizen?

Yes ☒ No ☐

2. Are you a Cape Coral Resident?

Yes ☒ No ☐

3. Are you currently serving on a City Board(s)?

Yes ☐ No ☒

If yes, which Board(s) and since when?

4. Have you ever served on a City Board(s)?

Yes ☐ No ☒

If yes, which Board(s) and when?

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?

Yes ☐ No ☒ If yes, what Board, etc. and since when?

Work Experience:

I have 25 yrs in being a landlord. I have worked with landlords to apply for Block Grants. I am a Accountant & have years of tax experience

Community Involvement:

Interests/Activities:

making our Community the best it can be.

Why do you desire to serve on this/these Board(s)?

I believe I could make a difference

How did you learn about the vacancy? ☐ Cape Coral Website ☐ Newspaper ☒ Facebook ☐ Word of Mouth

A resume or separate sheet with additional information may be included.

The City of Cape Coral Code of Ordinances, Section 2-60 has a limitation on offices held; however, this can be waived by a two-thirds (2/3) vote of City Council. If you are already serving on a Board, Authority, or Commission for the City of Cape Coral or for another governmental agency, you would have to be approved by a two-thirds (2/3) vote.

The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature Danina DiFederer

Date 9-25-21

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed: Date: _____

Yes ☐ No ☐

Council Action: Date: _____

NOV 10 2021

CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORMInitials: SHCITY OF CAPE CORAL
CITY CLERK'S OFFICE

This Appointment Information Form, when completed, signed and filed with the City Clerk's Office, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and, therefore, is open to public inspection by any person.

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Please Type, if possible (or print clearly)

Date: 11/10/2021

Name: Hartman Sean David
(Last) (First) (Middle)

E-mail address: theseandh@outlook.com

Address: (H) 4137 SW 7th Ave Zip Code 33914
(O) _____ Zip Code _____

Phone: (H) _____ (O) _____ (C) 954-328-2173

Occupation: Political operative

Employer: Advanced Micro Targeting Position: _____ How Long: 1 mo.

Education: Highest education level achieved and institutions attended:

Name & Location Dates Attended Degrees Earned
Edison State College 2010-2013 AA

Have you ever held a professional or business license or certificate?

Yes ☐ No ☒

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title

Issue Date

Issuing Authority

Board(s) /Commission(s) for which you are applying:

CDBG

1. Are you a U.S. Citizen?

Yes ☒ No ☐

2. Are you a Cape Coral Resident?

Yes ☒ No ☐3. Are you currently serving on a City Board(s)?Yes ☒ No ☐

If yes, which Board(s) and since when?

CDBG - Chair

4. Have you ever served on a City Board(s)?

Yes ☒ No ☐

If yes, which Board(s) and when?

See above5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?Yes ☐ No ☒ If yes, what Board, etc. and since when?

Work Experience:

Customer Service 10+ years

Community Involvement:

SA Cape Alliance Church
COBG
Cape Coral Business Alliance

Interests/Activities:

Government

Why do you desire to serve on this/these Board(s)?

I love to serve

How did you learn about the vacancy? ☐ Cape Coral Website ☐ Newspaper ☐ Facebook ☐ Word of Mouth

A resume or separate sheet with additional information may be included.

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The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature



Date

8th
11/10/2024

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed:

Date: _____

Yes ☐

No ☐

Council Action:

Date: _____

CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM

OCT 21 2021

Initials: OK

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City Clerk's Office
CITY CLERKS OFFICE

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Please Type, if possible (or print clearly)

Date: 10/21/2021

Name: HILL MARTHA CALBIMONTE
(Last) (First) (Middle)

E-mail address: hill.martha@ymail.com

Address: (H) 215 SE 15th PL Apt 107 Cape Coral Zip Code 33990
(O) _____ Zip Code _____

Phone: (H) _____ (O) _____ (C) (239) 443-6345

Occupation: Retired

Employer: _____ Position: _____ How Long: _____

Education: Highest education level achieved and institutions attended:

Name & Location

Dates Attended

Degrees Earned

Barry University 2007 Master in Pastoral Theology
University of South Florida 1997 B.A. in English
Universidad Rafael Landívar, Guatemala 1990 B.S. in Communication

Have you ever held a professional or business license or certificate?

Yes ☐ No ☒

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title

Issue Date

Issuing Authority

Board(s) /Commission(s) for which you are applying:

Community Development Block Grant / Citizens Advisory Board

1. Are you a U.S. Citizen?

Yes ☒ No ☐

2. Are you a Cape Coral Resident?

Yes ☒ No ☐

3. Are you currently serving on a City Board(s)?

Yes ☒ No ☐

If yes, which Board(s) and since when?

Community Development Block Grant / Citizens Advisory Board

4. Have you ever served on a City Board(s)?

Yes ☒ No ☐

If yes, which Board(s) and when?

Education Advisory Board 1994

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?

Yes ☐ No ☒ If yes, what Board, etc. and since when?

Work Experience:

20th Judicial Circuit / Family Court Services 2016 - 2019
The News-Press 1992 - 2014
Cue Pasa Southwest Florida 1990-1992 (own business)

Community Involvement:

wide range of volunteering (can provide certificates of appreciation on request)

Interests/Activities:

Family law self-help services to people in need, mostly Hispanic. Please visit my website www.familylawforms.org

Why do you desire to serve on this/these Board(s)?

Serving my community is part of my civic duty.

How did you learn about the vacancy? ☐ Cape Coral Website ☐ Newspaper ☐ Facebook ☒ Word of Mouth

A resume or separate sheet with additional information may be included.

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I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature

Martha Hill

Date

10/21/2021

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed:

Date: _____

Yes ☐

No ☐

Council Action:

Date: _____

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CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM

Initials: MB

DEC 3 2021

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CITY OF CAPE CORAL
CITY CLERK'S OFFICE

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Please Type, if possible (or print clearly)

Date: 12/1/2021

Name: Sand II George A.
(Last) (First) (Middle)

E-mail address: swflsrealtor@gmail.com

Address: (H) 2512 NW 24th Street, Cape Coral, FL Zip Code 33993
(O) 1715 Cape Coral Parkway W., #14, Cape Coral, FL Zip Code 33914

Phone: (H) _____ (O) _____ (C) 239-281-3299

Occupation: Realtor

Employer: REMAX Trend Position: Broker Associate How Long: 5 Years

Education: Highest education level achieved and institutions attended:

Name & Location	Dates Attended	Degrees Earned
<u>Mariner High School</u>	<u>1989-1993</u>	<u>Diploma</u>

Have you ever held a professional or business license or certificate?
If "Yes", please provide the title, issue date and issuing authority.

Yes ☒ No ☐

License/Certificate Title	Issue Date	Issuing Authority
<u>Real Estate Sales Associate</u>	<u>2003</u>	<u>DBPR - FREC</u>
<u>Real Estate Broker</u>	<u>2018</u>	<u>DBPR - FREC</u>

Board(s) /Commission(s) for which you are applying:

Community Development Block Grant / Citizen's Advisory Committee

1. Are you a U.S. Citizen? Yes ☒ No ☐
2. Are you a Cape Coral Resident? Yes ☒ No ☐
3. Are you currently serving on a City Board(s)? Yes ☐ No ☒
If yes, which Board(s) and since when?

4. Have you ever served on a City Board(s)? Yes ☐ No ☒
If yes, which Board(s) and when?

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?
Yes ☐ No ☒ If yes, what Board, etc. and since when?

RECEIVED

Work Experience:

Publix - 15 Years

Realtor - 19 Years

CITY OF CAPE CORAL
CITY CLERK'S OFFICE

Community Involvement:

Currently have Adopt A Road along Embers Pkwy between El Dorado and Burnt Store Road.

Interests/Activities:

Boating, Real Estate, Family Time/Activities

Why do you desire to serve on this/these Board(s)?

To become more involved in the process of how things are committed in our Community. Our family has been residence of Cape Coral since 1989 and our children are involved in the community events and we would like to help ensure a great future for the City.

How did you learn about the vacancy? ☒ Cape Coral Website ☐ Newspaper ☐ Facebook ☐ Word of Mouth

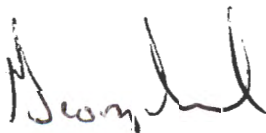
A resume or separate sheet with additional information may be included.

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I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature



Date 12-01-2021

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed: Date: _____

Yes ☐

No ☐

Council Action: Date: _____



**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL

Item Number:	D.(2)
Meeting Date:	1/5/2022
Item Type:	APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

TITLE:

Golf Course Advisory Board - 2 Vacancies

ORDINANCES AND RESOLUTIONS:

REQUESTED ACTION:

Appoint

SUMMARY EXPLANATION AND BACKGROUND:

Vacancy: Two vacancies (Appointed by Council)

Expiration: 1 Member Term expires 12/31/2022 (to fill prior Member Term)

1 Member Term expires 2/3/2023 (to fill prior Member Term)

Applications: One application received:

1. Cittadino, Garry S.

Action Item #1: Appoint 1 Regular Member

Advertisement: The vacancy was advertised on 10/29/2021, 11/19/2021, 12/1/2021, and 12/3/2021 in the Breeze and posted on the City's website and social media outlets.

Should the applicant be selected, one vacancy would remain. The City Clerk's Office will continue to pursue applications to fill the remaining vacancy.

Please note:

Jodi Pickett resigned effective 10/19/2021.

Duane Hord resigned effective 11/14/2021.

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?

RECOMMENDATIONS:

Approval

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns, City Clerk, 1-239-574-0417

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

n/a

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

PREPARED BY:

Shana Dixon, Recording
Secretary

Division- Managerial

Department- City Clerk's
Department

ATTACHMENTS:**Description****Type**

▣ 1. Application - Cittadino, Garry S.

Backup Material

DEC 6 2021

CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM

Initials: _____

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CITY OF CAPE CORAL
CITY CLERK'S OFFICE

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Please Type, if possible (or print clearly)

Date: 11/30/21

Name: Cittadino Garry S
(Last) (First) (Middle)

E-mail address: dwgma@hotmail.com

Address: (H) 3504 SW 17th Ave. Cape Coral Zip Code 33914

(O) _____ Zip Code _____

Phone: (H) 732-567-2261 (O) _____ (C) _____

Occupation: Retired

Employer: _____ Position: _____ How Long: _____

Education: Highest education level achieved and institutions attended:

Name & Location	Dates Attended	Degrees Earned
Kean University	1/01 - 6/03	Master's Educational Administration and Supervision

Have you ever held a professional or business license or certificate? Yes ☒ No ☐

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title	Issue Date	Issuing Authority
Teaching	1/80	State of New Jersey

Board(s) /Commission(s) for which you are applying:

Golf Course Advisory Board

1. Are you a U.S. Citizen? Yes ☒ No ☐

2. Are you a Cape Coral Resident? Yes ☒ No ☐

3. Are you currently serving on a City Board(s)? Yes ☐ No ☒

If yes, which Board(s) and since when?

4. Have you ever served on a City Board(s)? Yes ☐ No ☒

If yes, which Board(s) and when?

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?

Yes ☐ No ☒ If yes, what Board, etc. and since when?

Work Experience:

Teacher of Health, Physical Education, and Driver Education
1/80 - 6/2014
Part owner of G+G Decks and Construction 3/81 - 1/2012
Lowes - part time - Seasonal - 2009 - Present

Community Involvement:

Coached and helped out the local youth athletic program
in Howell N.J.

Interests/Activities:

All sports, Fishing, Bike riding, play in the 50+ Softball
League of Cape Coral, Golfing -

Why do you desire to serve on this/these Board(s)?

To bring a different perspective to the Governing Body and to
help improve the Golf experience for all of the members of the
Committee.

How did you learn about the vacancy? ☐ Cape Coral Website ☐ Newspaper ☒ Facebook ☒ Word of Mouth

A resume or separate sheet with additional information may be included.

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The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature



Date

11/30/21

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed:

Date: _____

Yes _____ No _____

Council Action:

Date: _____



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	E.(1)
Meeting Date:	1/5/2022
Item Type:	FOLLOW UP ITEMS FROM CITY MANAGEMENT

TITLE:

Water Quality - Update

ORDINANCES AND RESOLUTIONS:

REQUESTED ACTION:

SUMMARY EXPLANATION AND BACKGROUND:

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

RECOMMENDATIONS:

SOURCE OF ADDITIONAL INFORMATION:

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

1. Will this action result in a Budget Amendment?

PREPARED BY:

Division- Department-


ATTACHMENTS:

Description	Type
1. Water Quality Memo	Backup Material

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: Rob Hernandez, City Manager

FROM: Michael Ilczyszyn, Interim Public Works Director 

DATE: January 3, 2022

SUBJECT: Water Quality Update

Current water quality conditions:

As of Monday, January 3, 2022, the stage of Lake Okeechobee is at 15.48 ft; higher than last year's stage (approximately 13 ft). Total inflows to the Lake are 429 cfs, and outflows from the Lake are 2,316 cfs, with approximately half directed towards the Caloosahatchee to maintain healthy salinity levels in the estuary during the dry season and the other half towards the South through the Everglades Agricultural Areas (EAA).

Blue Green Algae blooms are not present on Lake Okeechobee and no algae has been observed along the Caloosahatchee River and Estuary by county or city staff this past week.

Red Tide is currently absent in most Southwest Florida.

Bubble curtains update:

Three out of ten bubble curtains have been delivered and are stored on City premises.

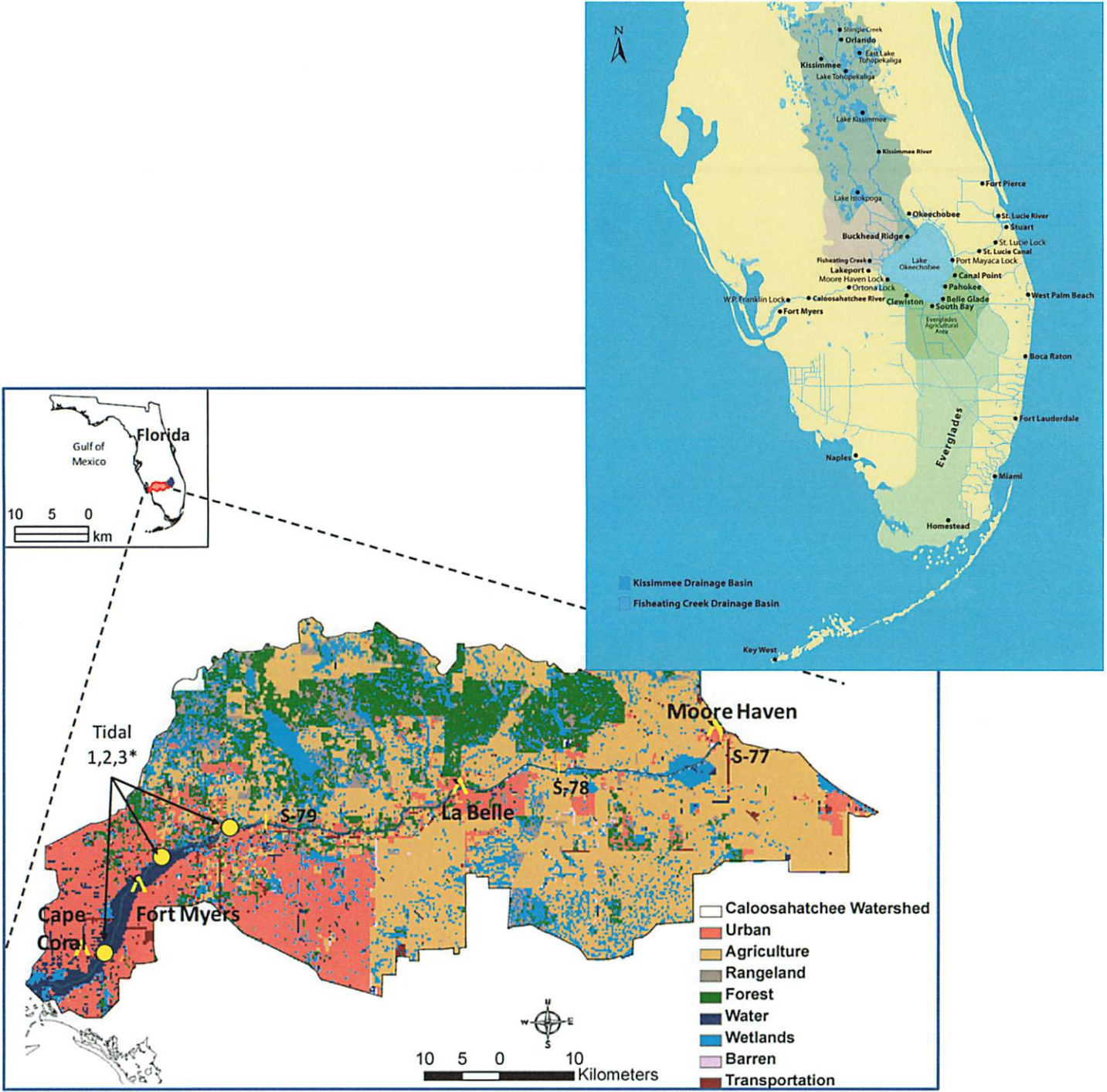
Staff is awaiting a response to our submittal on a Request for Additional Information (RAI) from the Department of Environmental Protection (DEP) to include two final determinations on submerged sovereign State Lands. The DEP flagged the two northern sites as being within a Sovereign Submerged State Land. As such, staff determined it will be more time efficient to move the bubble curtains outside of those submerged State Lands and has updated the permit application to resolve this RAI.

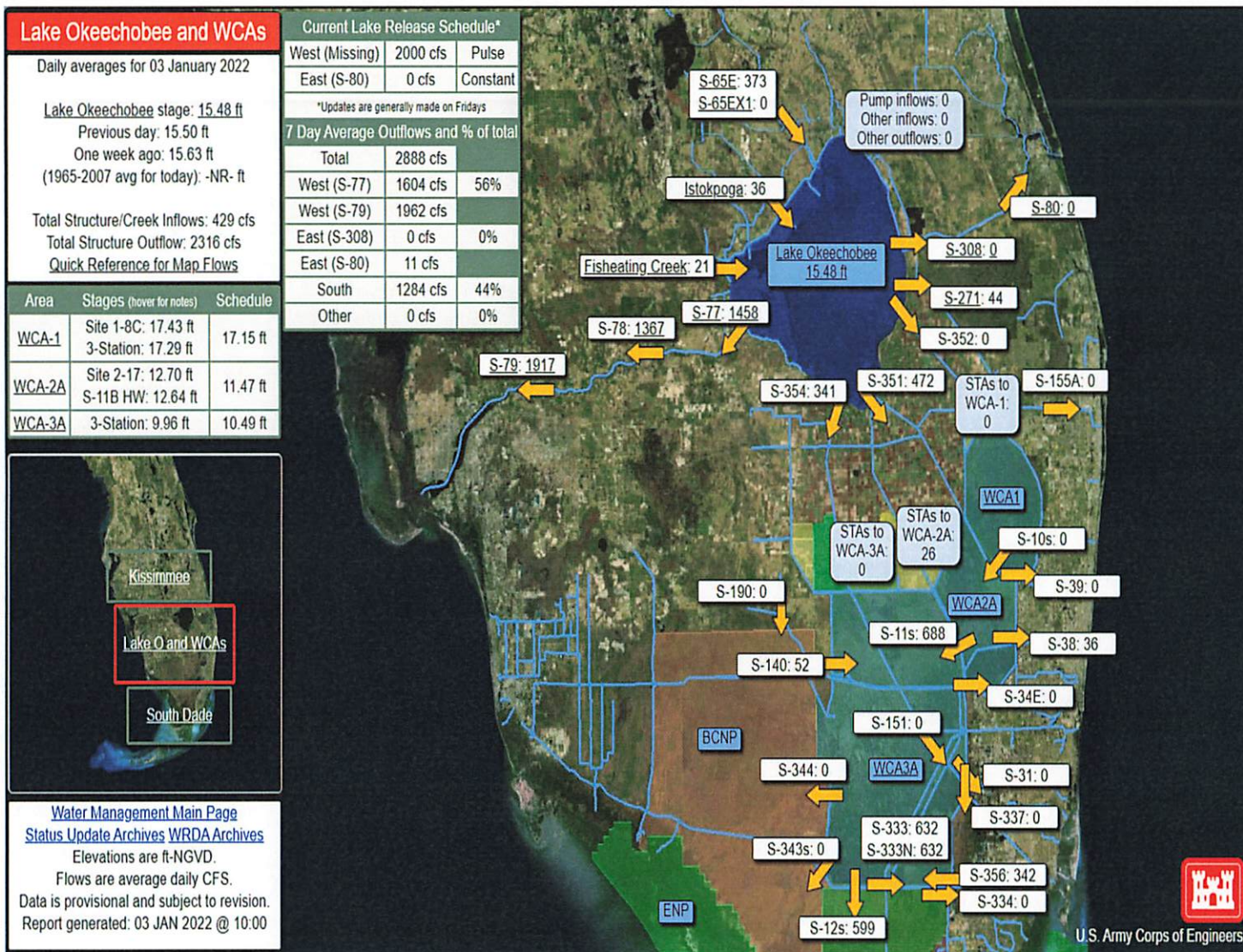
MI:mr (Weekly Lake Okeechobee Level and Release Information)

Attachments: Map showing drainage basins of the Lake Okeechobee (1 page)
Current Lake's inflows and outflows from the USACOE (1 page)
Bubble curtains installation education flyer (2 pages)

C: Maya Robert, Environmental Resource Manager

Attachment 1: Map showing drainage basins of the Lake Okeechobee





Attachment 2: Current Lake's inflows and outflows from the USACOE

Attachment 3: Bubble curtains installation education flyer

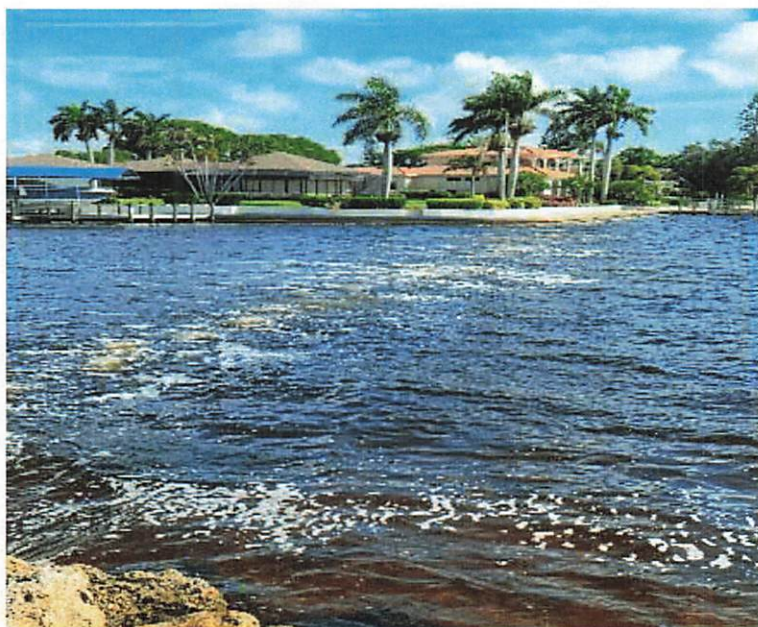


Photo: This is a picture of the bubble curtain in operation in the Mandolin Canal in Cape Coral.

BUBBLE CURTAIN INSTALLATION

Dear Cape Coral Resident,

The City is installing bubble curtains in select canals to help keep blue-green algae at bay. The curtains are a simple, effective and environmentally friendly solution to blue-green algae. Equipment that will operate a bubble curtain will be installed in the City easement adjacent to your property. An air compressor will send air to lines below the surface of the water and create bubbles.

**A diagram of the equipment is on the reverse side of this flyer.*



What is a bubble curtain and what does it do?

It is a system that produces bubbles in a deliberate arrangement in water. The bubbles rise and act as a barrier, breaking the spread of algae.

Are the air compressors noisy?

When in use they sound similar to an air conditioning unit on the side of a house.

How many hours will the air compressors run?

Compressors will only be active when blue-green algae is present. Duration varies based on the incoming tide.

How many bubble curtains will be installed and where?

Initially, the City will install 10 bubble curtains at the following locations where the canal meets the Caloosahatchee River: Mandolin Canal, Minstrel Canal, Plato Canal, Lido Canal, Chantrey Canal, Palaco Grande Canal, Moody Canal, Mackenzie Canal, Everest Canal, Coral Pointe Canal.

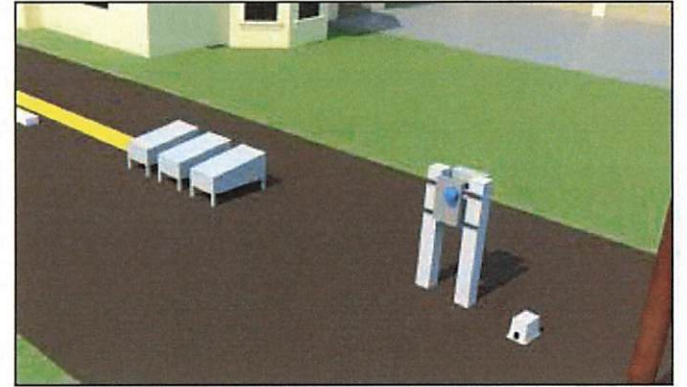
How much did the bubble curtains cost and where did the money come from?

In June, City Council approved \$1 million from the Stormwater Reserve Fund to use for water quality projects, and \$750,000 is allocated to the bubble curtains.

FOR QUESTIONS CONTACT:

Allen Chenoweth
Project Manager
(239) 574-0579

achenoweth@capecoral.gov





**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	A.(1)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

TITLE:

Ordinance 51-21 (LU21-0003) Public Hearing

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

An Ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial /Professional (CP) to Multi-Family Residential (MF) for property described as Lots 15-27, Block 1458, Unit 16; Lots 45-52 and 59-72, Block 1322, Unit 18; Lots 1-24 and 31-34, Block 3083, Unit 62; and Lots 1-22, Block 4454, Unit 63; from Commercial/Professional (CP) to Single Family Residential (SF) for property described as Lots 1-26, Block 4448, Unit 63; and Lots 1-8 and 12-20, Block 3169, Unit 66; from Multi-Family Residential (MF) to Commercial Activity Center (CAC) for property described as Lots 15-22, Block 4685, Unit 70; from Multi-Family Residential (MF) to Single Family Residential (SF) for property described as Lots 1-44, Block 4727, Unit 70; and from Pine Island Road District (PIRD) to Single Family Residential (SF) for property described as Lots 42-61, Block 1501, Unit 47, Part 1; Lots 1-32, Block 3570, Unit 47, Part 1; Lots 1-18, 22-34, and 37-45, Block 3571, Unit 47, Part 1; Lots 1-8 and 21-26, Block 3575, Unit 47, Part 1; Lots 19-21, Block 3571, Unit 47, Part 4; Lots 3-10, Block 2030, Unit 31, Part 2; and Lots 24-46, Block 4560, Unit 68, all in Cape Coral Subdivision.

Applicant: City of Cape Coral

Acreage: 41.25 acres

Planning and Zoning Commission recommendation: Approval

City Planning recommendation: Approval

REQUESTED ACTION:

Introduction

SUMMARY EXPLANATION AND BACKGROUND:

This case involves a city-initiated Future Land Use Map Amendment for multiple properties in 14 blocks covering approximately 41 acres. In most instances, a commercial or mixed-use future land use classification will be changed to a residential future land use classification to recognize existing long-standing residential development patterns in these blocks. In several instances the FLU will be amended to bring it into consistency with the current zoning.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

No

ELEMENT D: IMPROVE THE CITY'S IMAGE WITH THE PURPOSE OF BUILDING LASTING RELATIONSHIPS WITH OUR RESIDENTS AND VALUABLE PARTNERSHIPS WITH OTHER ORGANIZATIONS, AND CONTINUALLY PROVIDE A WELL-BALANCED AND POSITIVE WORKPLACE FOR OUR INTERNAL STAKEHOLDERS.

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

RECOMMENDATIONS:

Planning and Zoning Commission: Approval

City Planning: Approval

SOURCE OF ADDITIONAL INFORMATION:

Vince Caetero, Director of Development Services, 574-0600

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

N/A

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

PREPARED BY:

Jessica M. Cruz, Planning
Division

Division- City
Planning

Department- Development
Services

ATTACHMENTS:

Description	Type
▣ 1. Ordinance 51-21 Updated Effective Date	Backup Material
▣ 2. Application and Related Case Information	Backup Material
▣ 3. PowerPoint	Presentation
▣ 4. Revised PowerPoint presented at meeting	Backup Material

ORDINANCE 51 - 21

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 15-27, BLOCK 1458, UNIT 16; LOTS 45-52 AND 59-72, BLOCK 1322, UNIT 18; LOTS 1-24 AND 31-34, BLOCK 3083, UNIT 62; AND LOTS 1-22, BLOCK 4454, UNIT 63; FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-26, BLOCK 4448, UNIT 63; AND LOTS 1-8 AND 12-20, BLOCK 3169, UNIT 66; FROM MULTI-FAMILY RESIDENTIAL (MF) TO COMMERCIAL ACTIVITY CENTER (CAC) LAND USE FOR PROPERTY DESCRIBED AS LOTS 15-22, BLOCK 4685, UNIT 70; FROM MULTI-FAMILY RESIDENTIAL (MF) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-44, BLOCK 4727, UNIT 70; FROM PINE ISLAND ROAD DISTRICT (PIRD) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 42-61, BLOCK 1501, UNIT 47, PART 1; LOTS 1-32, BLOCK 3570, UNIT 47, PART 1; LOTS 1-18, 22-34, AND 37-45, BLOCK 3571, UNIT 47, PART 1; LOTS 1-8 AND 21-26, BLOCK 3575, UNIT 47, PART 1; LOTS 19-21, BLOCK 3571, UNIT 47, PART 4; LOTS 3-10, BLOCK 2030, UNIT 31, PART 2; AND LOTS 24-46, BLOCK 4560, UNIT 68, ALL IN CAPE CORAL SUBDIVISION; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by THE CITY OF CAPE CORAL regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF)

LOTS 45-52 AND 59-72, TOGETHER WITH THE EAST 10 FEET OF A VACATED ALLEY, BLOCK 1322, CAPE CORAL SUBDIVISION, UNIT 18, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 13, PAGES 96-120, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 15-27, BLOCK 1458, CAPE CORAL SUBDIVISION, UNIT 16, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 13, PAGES 76-88, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 1-24 AND 31-34, TOGETHER WITH THE WEST 10 FEET OF A VACATED ALLEY, BLOCK 3083, CAPE CORAL SUBDIVISION, UNIT 62, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGES 21-38, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 1-22, BLOCK 4454, CAPE CORAL SUBDIVISION, UNIT 63, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE FAMILY RESIDENTIAL (SF)

LOTS 1-8 AND 12-20, BLOCK 3169, CAPE CORAL SUBDIVISION, UNIT 66, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 22, PAGES 2-26, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 1-26, BLOCK 4448, CAPE CORAL SUBDIVISION, UNIT 63, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGES 48-81, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

FROM MULTI-FAMILY RESIDENTIAL (MF) TO COMMERCIAL ACTIVITY CENTER (CAC)

LOTS 15-22, BLOCK 4685, CAPE CORAL SUBDIVISION, UNIT 70, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 22, PAGES 58-87, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

FROM MULTI-FAMILY RESIDENTIAL (MF) TO SINGLE FAMILY RESIDENTIAL (SF)

LOTS 1-44, BLOCK 4727, CAPE CORAL SUBDIVISION, UNIT 70, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 22, PAGES 58-87, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

FROM PINE ISLAND ROAD DISTRICT (PIRD) TO SINGLE FAMILY RESIDENTIAL (SF)

LOTS 42-61, BLOCK 1501, CAPE CORAL SUBDIVISION, UNIT 47, PART 1, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 24, PAGES 5-11, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 3-10, BLOCK 2030, CAPE CORAL SUBDIVISION, UNIT 31, PART 2, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 23, PAGES 6-8, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 1-32, BLOCK 3570, CAPE CORAL SUBDIVISION, UNIT 47, PART 1, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 24, PAGES 5-11, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 19-21, BLOCK 3571, CAPE CORAL SUBDIVISION, CAPE CORAL UNIT 47, PART 4, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 29, PAGE 16, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 1-18, 22-34, AND 37-45 BLOCK 3571, CAPE CORAL SUBDIVISION, UNIT 47, PART 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 24, PAGES 5-11, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 24-46, BLOCK 4560, CAPE CORAL SUBDIVISION, UNIT 68, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 23, PAGES 100-108, OF THE PUBLIC

RECORDS OF LEE COUNTY, FLORIDA

AND

LOTS 1-8 AND 21-26, BLOCK 3575, CAPE CORAL SUBDIVISION, UNIT 47, PART 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 24, PAGES 5-11, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	NELSON	_____
TATE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu21-0003
6/2/21



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

FUTURE LAND USE MAP AMENDMENT (FLUMA) APPLICATION

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

FLUMA APPLICATION REQUIREMENTS

1. ☒ Letter of intent stating the actual request and why the request is being made
2. ☒ 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.
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 prepare in label format and contain the following information; name, address, city, and zip-code.
5. ☒ The applicant must provide a traffic projection of the number of trips that are anticipated to be generated by the revised Land Use including the distribution of these trips onto the roadway system. The applicant may also be required to perform a more detailed traffic impact analysis based on the City's traffic impact guidelines.
6. ☒ Chapter 163, Florida Statutes, requires that comprehensive plan map amendments be City Council must hold a submittal hearing (1st public hearing) prior to sending amendments to DEO. (Council may approve for submittal or deny proposed land use map amendments. Only approved amendments are submitted to DEO.) DEO then has ninety (90) days to review and respond to the proposed amendments. Upon receipt of DEO comments or objections, the local government has sixty (60) days to approve, deny, or approve with modifications the proposed land use map amendments.
7. ☒ Comprehensive Plan Amendments are reviewed by the Planning and Zoning Commission and City Council. Planning and Zoning Commission is an advisory body to City Council and makes recommendations on all amendments.
8. ☒ Please refer to the Future Land Use Map Amendment Section 3.5.2. for additional information.

NOTE: IF ANY OF THE ABOVE INFORMATION IS ON A SHEET LARGER THAN 11 X 17, THE APPLICANT MUST SUPPLY SEVENTEEN (17) COPIES TO BE USED FOR DISTRIBUTION. IN ADDITION TO THE APPLICATION FEE, ALL REQUIRED ADVERTISING COSTS ARE TO BE PAID BY THE APPLICANT (ORD 39-03, SECTION 3.5.2.). ADVERTISING COSTS WILL BE BILLED AND MUST BE PAID PRIOR TO HEARING.



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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

FUTURE LAND USE MAP AMENDMENT (FLUMA) APPLICATION

PROPERTY INFORMATION

Project Name: FLU Calibration Priority 1

Location/Address see Attachment A

Strap Number see Attachment A Unit Block Lot (s)

Plat Book Page Future Land Use multiple Current Zoning multiple

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 City of Cape Coral Address 1015 Cultural Park Blvd

Phone (239) 573-3160 City Cape Coral

Email wdaltry@capecoral.net State FL Zip 33915-0027

AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)

Representative Wyatt Daltry Address 1015 Cultural Park Blvd

Phone (239) 573-3160 City Cape Coral

Email wdaltry@capecoral.net State FL Zip 33915-0027



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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Cape Coral, FL 33915-0027

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.

ROBERTO HERNANDEZ

NAME (PLEASE TYPE OR PRINT)

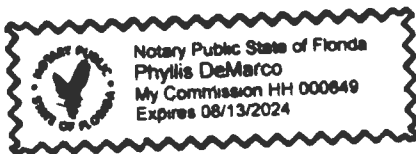
[Signature]

AUTHORIZED SIGNATURE

STATE OF Florida

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, this 26th day of February, 2021 by Roberto Hernandez who is personally known to me or produced _____ as identification.



Exp Date: 8/13/2024 Commission Number: HH 000649

Signature of notary Public:

Phyllis DeMarco

Printed Name of Notary Public:

Phyllis DeMarco



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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ESTIMATED PEAK HOUR TRIP

Parcel Size: Width N/A Depth N/A Sq. Ft. _____ Acreage 56.14

Soil Type: multiple

Urban Services Area: (check one) Infill X Transition Reserve X

Natural Resources (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):

Animal Species: (list any endangered, threatened, or species of special concern on-site)

Estimated Development:

- Estimate total lot coverage _____ %
- Estimate total building floor area: _____ Sq. ft.
- Estimate type of future development and percentages:
(e.g. business offices, commercial retail, automotive repair, etc.)

Estimated peak hour trip ends:

If 300 or less peak hour trip ends are projected, the applicant must provide the source of the traffic projection. If more than 300 peak hour trip ends are projected, a traffic impact study must be completed and submitted as part of the application (see attachments).

City Sewer: YES ☒ NO ☒

City Water: YES ☒ NO ☒



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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 26th Day of February, 2021.

City of Cape Coral
CORPORATION/COMPANY NAME

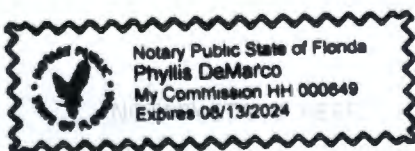
ROBERTO HERNANDEZ
OWNER'S NAME (TYPE or PRINT)

[Signature]
OWNER'S SIGNATURE

STATE OF FLORIDA

COUNTY OF LEE

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, this 26th day of February, 2021 by Roberto Hernandez who is personally known to me or produced _____ as identification.



Exp Date: 8/13/2024 Commission Number: HH 000649

Signature of notary Public:

Phyllis DeMarco

Printed Name of Notary Public:

Phyllis DeMarco



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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Wyatt Daltry, AICP, CFM

(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 multiple properties, see Attachment A

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

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & title)

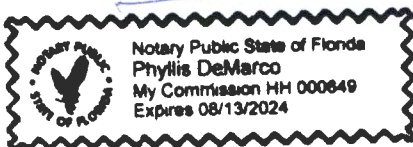
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & title)

STATE OF FLORIDA

COUNTY OF LEE

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☒ online
notarization, this 26th day of February, 2021 by Roberto Hernandez who
is personally known to me or produced _____ as identification.



Exp Date: 8/13/2024 Commission Number: HH 000649

Signature of notary Public:

Printed Name of Notary Public:

Phyllis DeMarco
Phyllis DeMarco

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

FUTURE LAND USE MAP AMENDMENTS

- A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following reasons:
1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
 3. The amendment results in compatible land uses within a specific area.
 4. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.
 5. The amendment is consistent with the City's ability to provide adequate public facilities and services.
 6. The amendment prepares the City for future growth, such as reflecting changing development patterns, identifying demands for community services, reflecting changes necessary to accommodate current and planned growth in population, and facilitating community infrastructure and public services.
- B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated in the following manner:
1. The City Council by its own motion;
 2. The Planning and Zoning Commission by its own motion;
 3. The City Manager for City initiated requests; or
 4. By a petition of one or more property owners of at least 51% of the property owners of an area proposed for amendment.
- C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the requirements of Chapter 163, Florida Statutes, and the following criteria:
1. Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;
 2. The amendment protects the health, safety, and welfare of the community;
 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site;
 4. The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community or traffic that cannot be mitigated through application of the development standards in this Code;



DEPARTMENT OF COMMUNITY DEVELOPMENT
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5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.; and
 6. Other factors deemed appropriate by the Commission and City Council.
- D. Effective date of approval. The effective date of a future land use map amendment shall be in accordance with Chapter 163, Florida Statutes.

MEMORANDUM

CITY OF CAPE CORAL DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: Rob Hernandez, City Manager

FROM: Vincent Cautero, Community Development Director 

DATE: February 23, 2021

SUBJECT: City-initiated Future Land Use Map Amendment Request - LU 21-0003

Executive Summary

Previously my staff and I met with you to discuss prioritization of land use and zoning changes that should be made due to future land use map amendment requests for multiple properties as part of a recalibration of the Future Land Use Map. The elements of this request include the following changes:

- From Commercial/Professional (CP) to Multi-Family Residential (MF) for 11.11 acres;
- From CP to Single-Family Residential (SF) for 19.41 acres;
- From MF to Commercial Activity Center (CAC) for 1.70 acres;
- From MF to SF for 5.00 acres; and
- From Pine Island Road District (PIRD) to SF for 18.92 acres.

Overall, the area comprises approximately 56 acres.

Background

This amendment will correct efforts from the early 2000's to 2010, when the Future Land Use Map was amended ahead of an effort to make all future land use map amendments subject to local referenda. As you know, this proposed constitutional amendment failed. As a result of that effort, the City was more aggressive in identifying future commercial and mixed-use properties.

The areas to be changed are scattered through the City; a map series identifying these areas is attached. This request identifies what staff considers to be the highest priority properties in need of amendment. A follow-up effort to rezone these properties will be brought forward parallel to this amendment.

The application and future land use maps (existing and proposed) are attached for your signature. As always, please contact me if you have any questions.

VAC/WAD:eh (Memo City-Initiated FLUMA LU21-0003 02-22-2021.docx)

Attachments

PLANNING DIVISION STAFF REPORT
LU21-0003

PROPERTY ADDRESSES: Multiple addresses. See property summaries.	APPLICANT: City of Cape Coral 1015 Cultural Park Blvd. Cape Coral, FL 33915-0027
SUMMARY OF REQUEST <p>This case involves a city-initiated large-scale Future Land Use Map Amendment for multiple properties in 14 blocks (41.6 acres). In most instances, a commercial or mixed-use future land use classification will be changed to a residential future land use classification to recognize existing long-standing residential development patterns in these blocks.</p> <p>Following the FLUMA's, rezones for most of these sites will be needed to bring the zoning into consistency with the new Future Land Use Classification. The Rezones will be processed in a separate City-initiated application.</p> <p>Once completed, an estimated 134 residential buildings, mainly single-family dwellings, will become legal conforming uses. These changes will allow owners to expand or rebuild these buildings. These changes may also ease the ability of the owners to obtain conventional financing, purchase insurance, and ultimately market and sell these sites as residential properties.</p>	

EXISTING ZONING	EXISTING LAND USE	PROPOSED LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R1, RML, NC, C, P, CORR	CP, MF, PIRD	CAC, MF, SF	A mix of vacant and developed properties	41.16 acres

STAFF RECOMMENDATION: Approval

Positive Aspects of Application:	An estimated 134 single-family, duplex, and multi-family buildings or dwelling units will become legal conforming uses. This amendment will also allow construction of new single-family dwellings in blocks with established residential development.
Negative Aspects of Application:	The amendment will result in a loss of commercial and mixed-use land uses for just under 40 acres.
Mitigating Factors:	Commercial development has not occurred in the subject blocks since the future land uses were last amended. These sites have marginal potential for commercial development, due several factors, including existing residential development, the small area of the sites, the lack of property assembly, and location along local streets. This amendment will also result in a reduction of future water, sewer, and solid waste demand.

Review Date: May 25, 2021

Prepared By: Justin Heller, Senior Planner

Reviewed By: Mike Struve, Planning Team Coordinator

Approved By: Robert Pederson, Planning Manager

Area of proposed changes:

FLU Transition Type	Acres
CP to MF	10.51
PIRD to SF	18.57
CP to SF	4.97
MF to CAC	2.04
MF to SF	5.07

Total Acreage: 41.16 acres

Proposed changes, by Land Use Classification:

To Commercial Activity Center (CAC): 2.04 acres
To Multi-Family (MF): 10.51 acres
To Single-Family Residential (SF): 28.61 acres

Residential Land Uses: 39.12 acres
Non-Residential Land Uses: 2.04 acres

Net Change, by Land Use Classification:

Commercial Activity Center: +2.04 acres
Commercial/Professional: -15.48 acres
Multi-Family Residential: +3.40 acres
Pine Island Road District: -18.57 acres
Single-Family Residential: +28.61 acres

Residential Land Uses: +32.01 acres
Non-Residential Land Uses: -32.01 acres

Zoning: Various

Urban Service Area:	Infill, Transition
City Water and Sewer:	Most areas are serviced by City water and sewer
Type of Street Access:	Most sites have frontage and access limited to local streets.
Location:	Ten of the 14 subject blocks are between Pine Island Road and Veteran's Memorial Parkway. See the map on page 4 for the location of all sites.

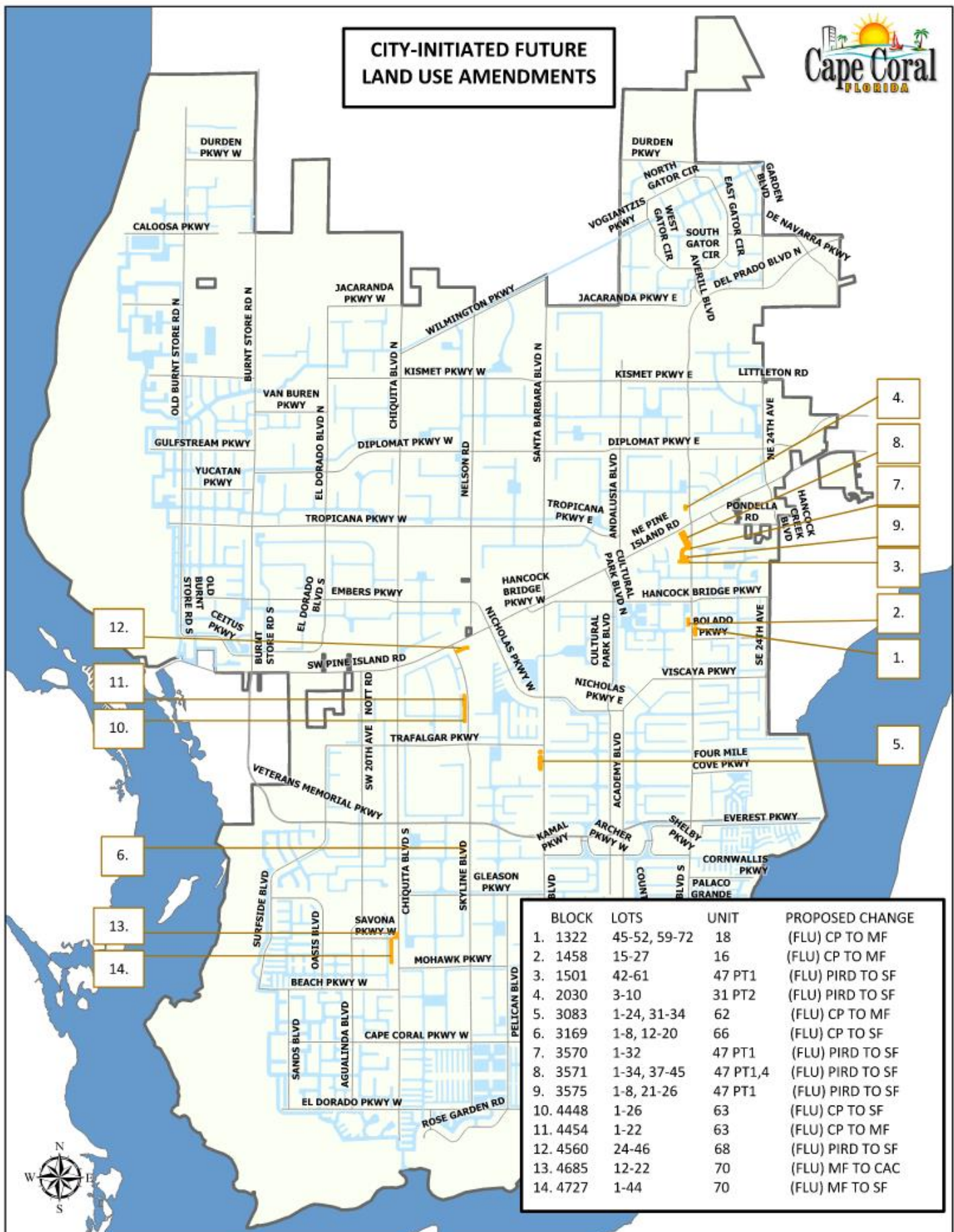
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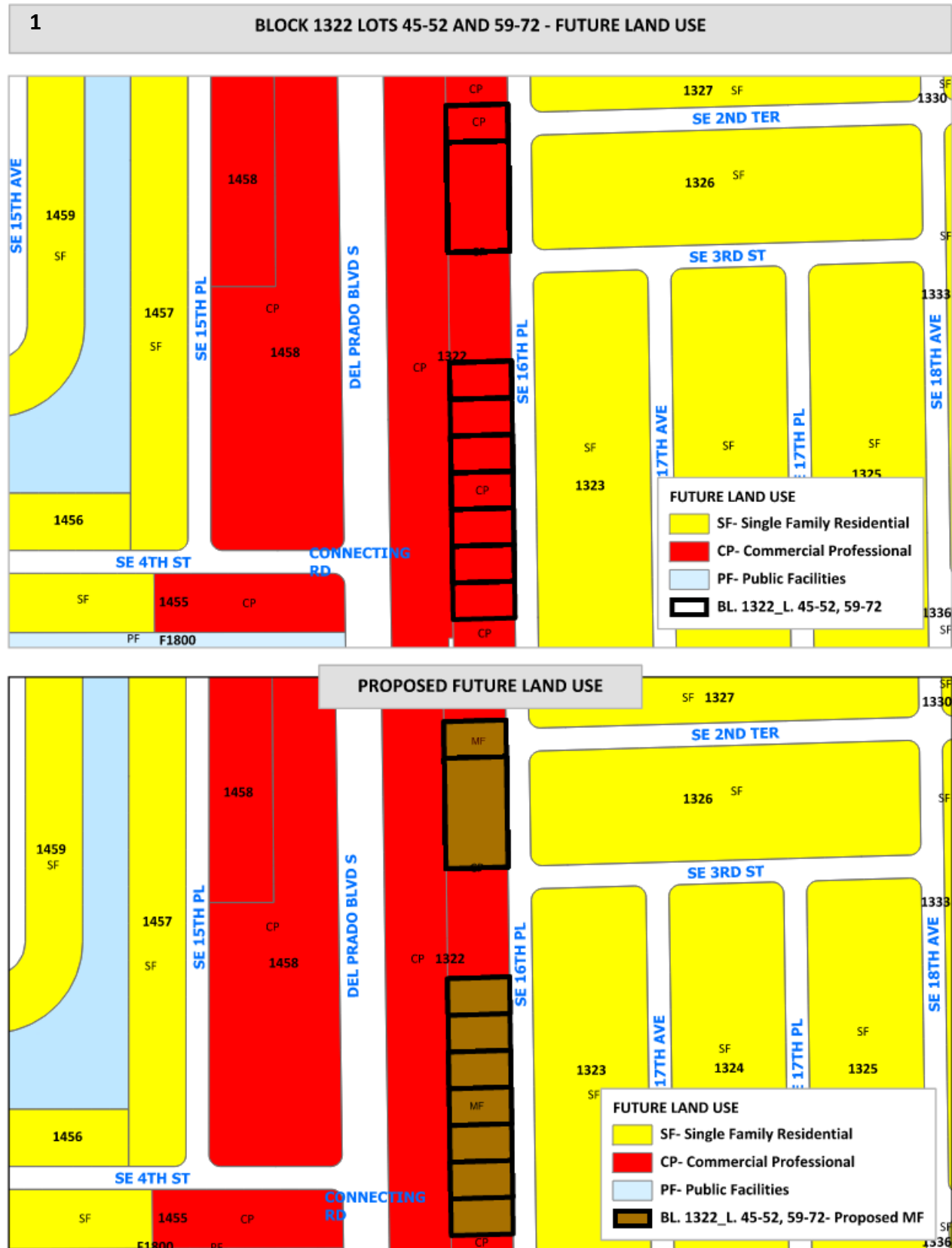
In 1989, the City adopted the Future Land Use Map and Comprehensive Plan in accordance with the Local Government Comprehensive Planning and Land Development Act of 1985. The City adopted the Land Use and Development Regulations (LUDR) the following year.

In 2019 the City adopted Ordinance 2-19 that resulted in land use changes to 1,817 acres across the City. This case set the groundwork for the adoption of the new Land Development Code (LDC) and the implementation for several new zoning districts associated with the LDC. Most sites addressed by this amendment were not included in the 2019 Future Land Use Map Amendments (FLUMA).

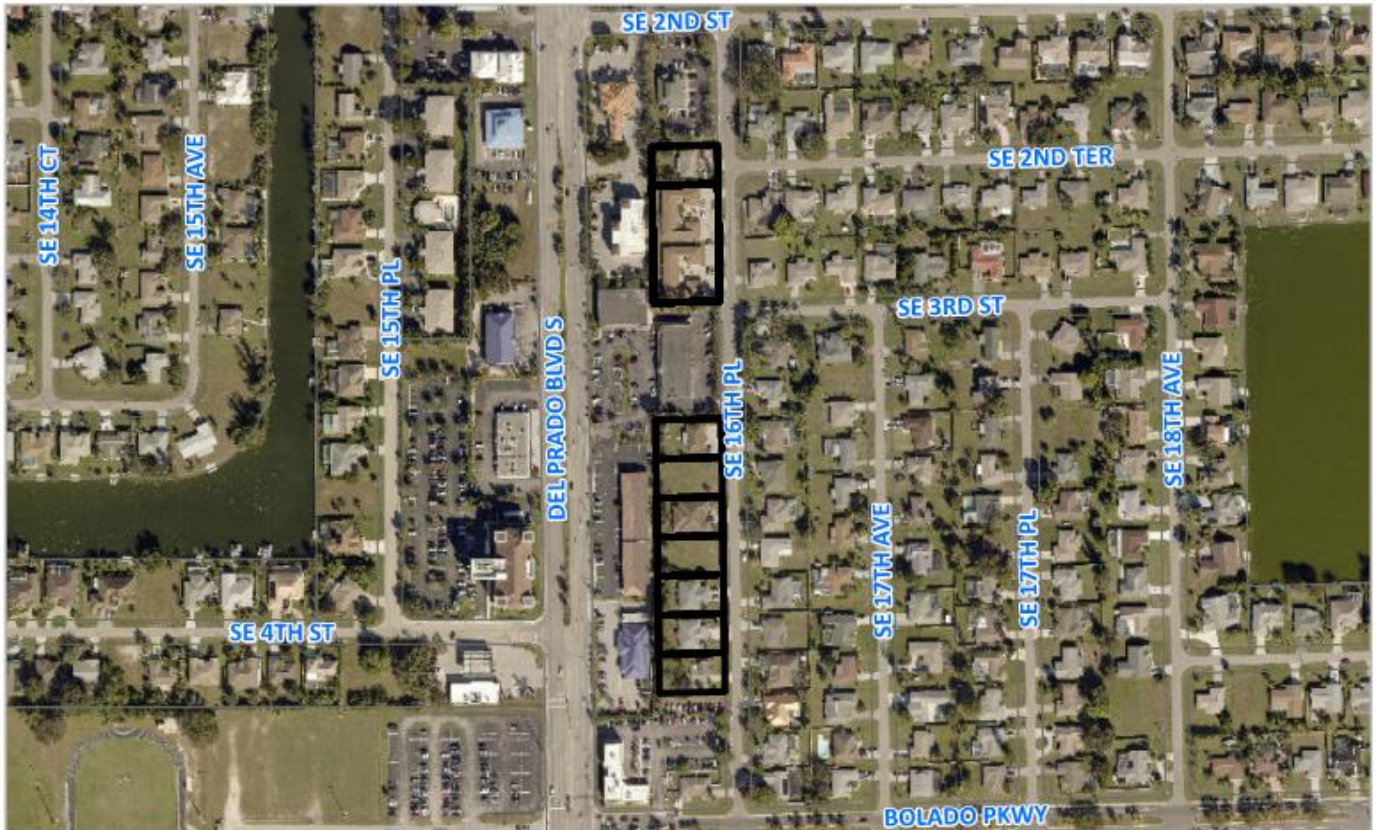
This case involves changes to the Future Land Use Map to recognize and reflect existing land use patterns. While most properties involved have zoning designations that are consistent with their respective future land use classifications, the existing land use and zoning classifications are counter to the prevailing development patterns existing in the affected blocks. Most of these blocks have firmly established residential patterns. Unimproved properties in these blocks are generally small in area, are not part of any property assembly, and road frontage is limited to local streets. While most sites have commercial or mixed-use land use and zoning, the likelihood of these sites being developed with nonresidential uses in the future given the existing land use patterns, appears to be low. As a result, the City has initiated the land use changes that will later be followed by corresponding zoning changes. This will permit new residential development to occur in these blocks. These changes will allow development to continue within these blocks in an orderly and predictable fashion and offer maximum protection to those residents living in these areas.

In several instances, the existing zoning of several sites in a block is inconsistent with the future land use classification. In this case, a land use change is recommended to bring the new land use into consistency with the existing zoning. This change will then allow the City to issue development permits for these sites.



ANALYSIS:

1

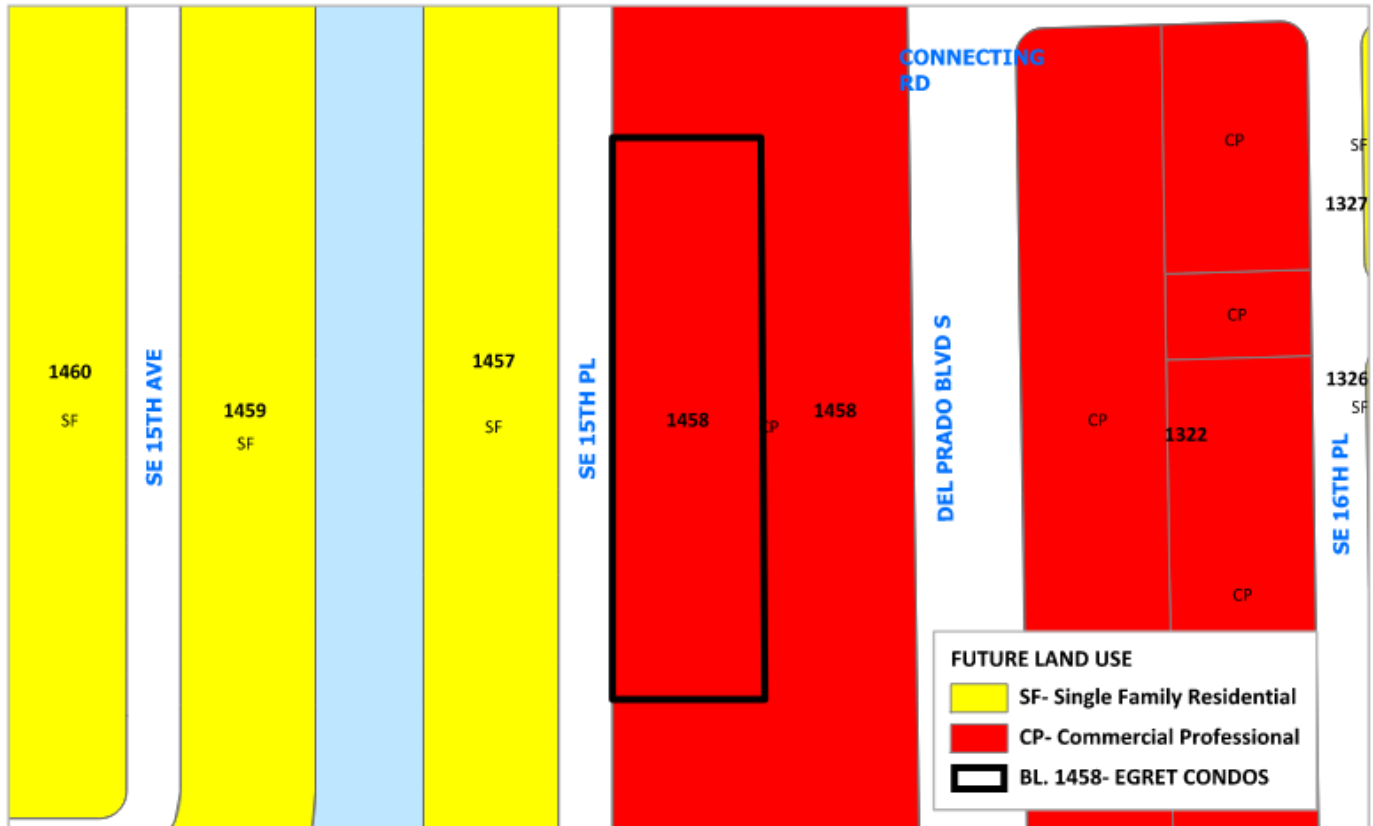
BLOCK 1322 LOTS 45-52, 59-72 - AERIAL

Recommend changing the Future Land Use from Commercial Professional (CP) to Multi-Family (MF) for Lots 45-52 and 59-72. Location: 212-224 SE 16th PL. and 312-402 SE 16th PL. Area = 2.73 Acres.

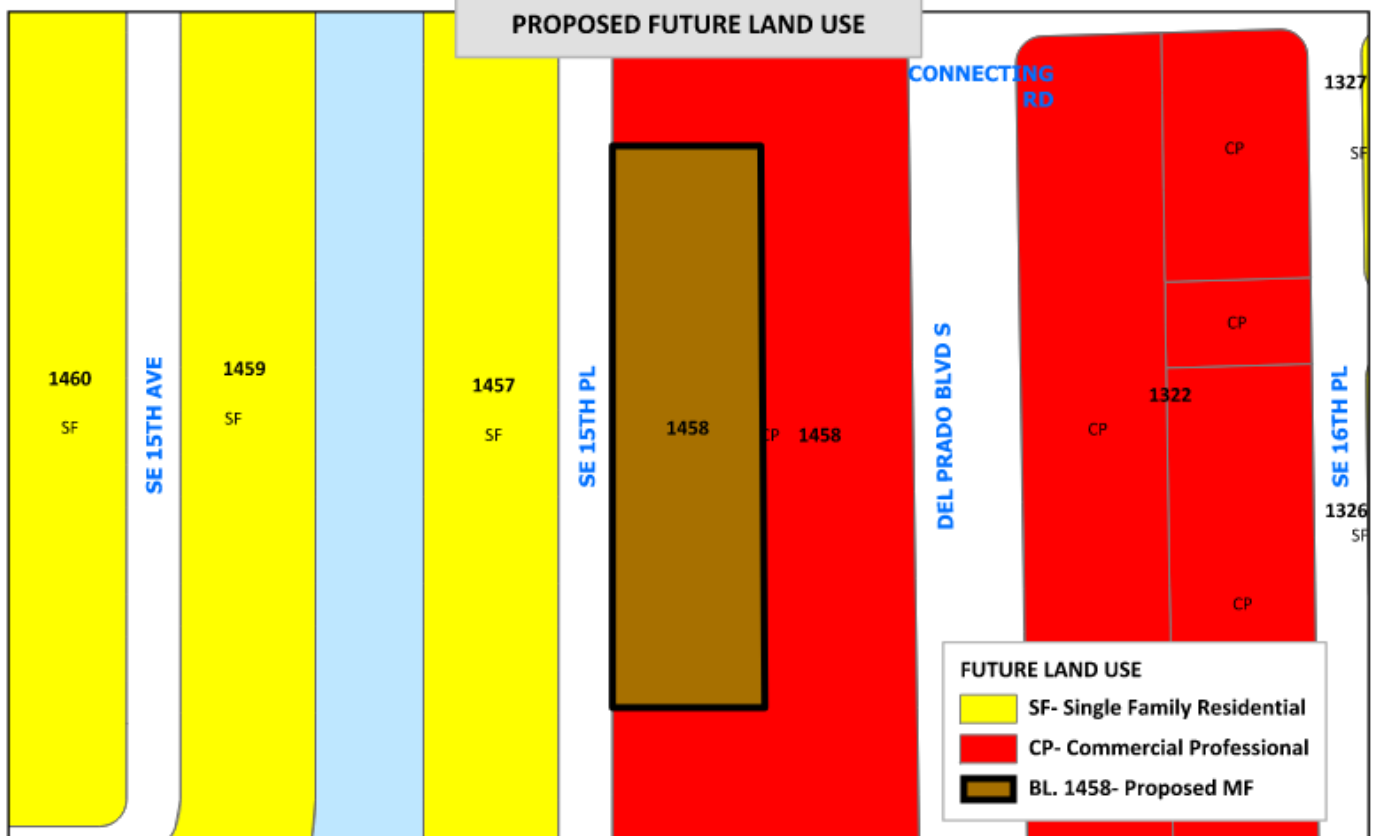
- Lots 45-46 containing the northmost duplex (circa 1984) were rezoned to RML by Ord 4-19. Lots 59-72 were rezoned to RML by Ord 4-19.
- Lots 47 - 52 containing the two 6-plexes (circa 1980) were rezoned to P1 by a 2006 privately initiated request (Ord 145-06).
- Zoning and FLU are inconstant for Lots 59-72 and Lots 45-46.
- Five of the 9 parcels are improved with duplexes developed around 1986. The southernmost property is a City-owned pump station.
- Existing duplexes provide a good transition between Block 1323 to the immediate east, and the commercial strip center and professional office buildings to the west.
- Neither of the two vacant lots share ownership with an adjacent property, indicating no assemblage has occurred.
- The amendment will provide consistency between the FLU and zoning for 8 of the 9 parcels. Seven nonconforming residential uses will be eliminated.

2

EGRET CONDOS- BLOCK 1458 LOTS 15-27- FUTURE LAND USE

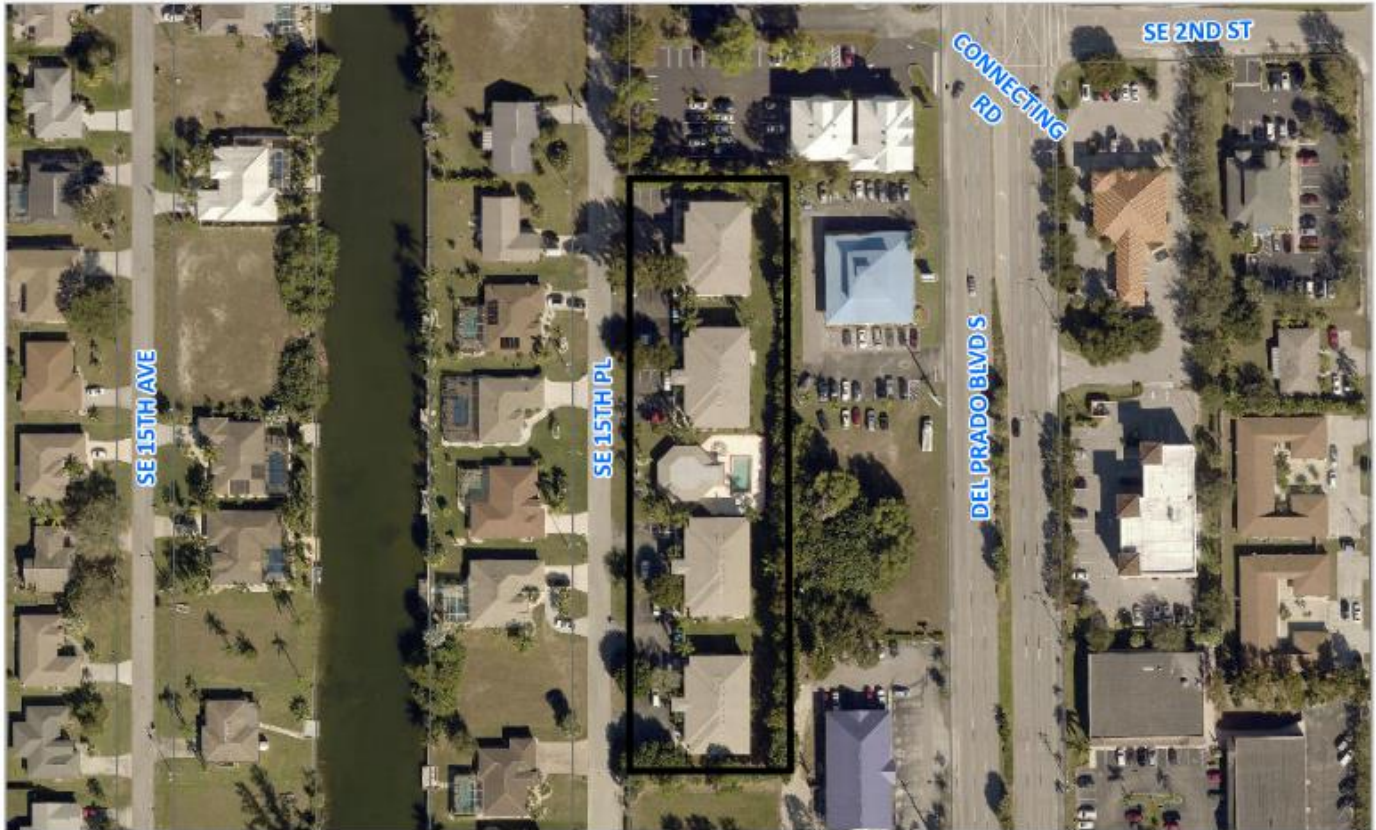


PROPOSED FUTURE LAND USE



2

EGRET CONDOS - BLOCK 1458 LOTS 15-27 - AERIAL

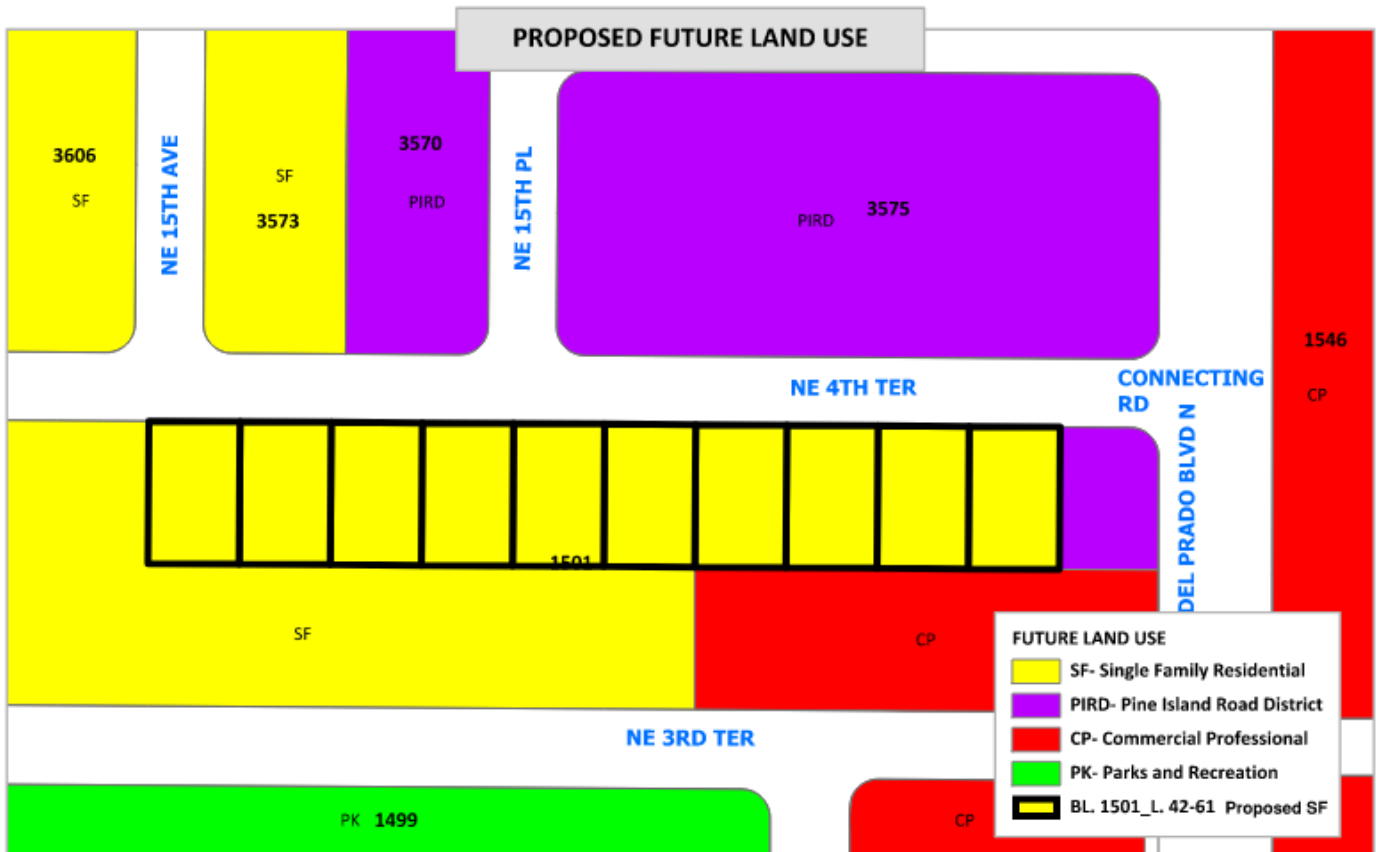
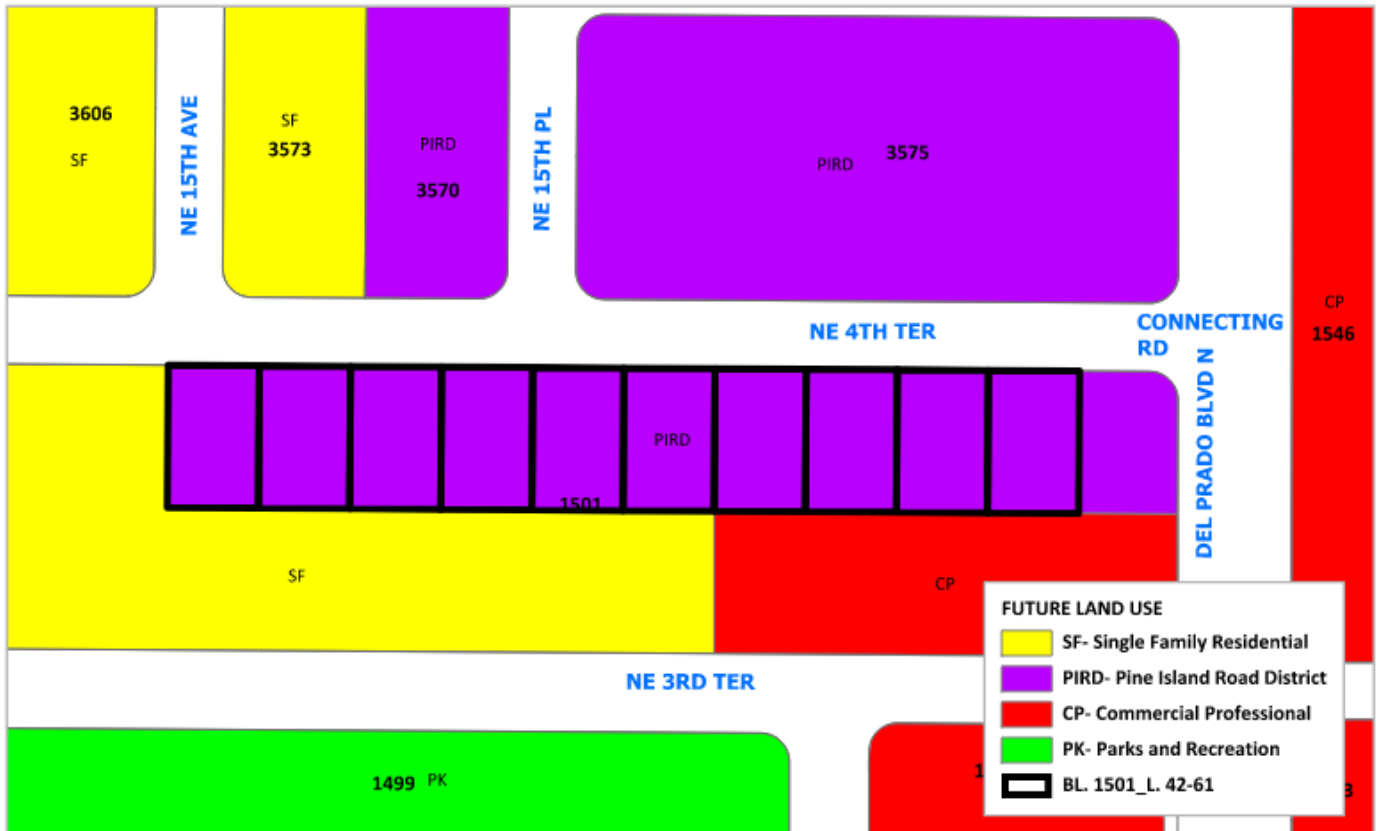


Recommend changing Future Land Use from Commercial Professional (CP) to Multi-Family (MF) for the Egret Condo Property, Lots 15-27. Location: 203-223 SE 15th PL. Area = 1.66 Acres.

- Rezoned from R-3 to C by ORD 4-19.
- Property contains four multi-family buildings with a clubhouse and pool. This site was improved around 1981.
- A rezone to Multi-Family Residential Low (RML) will be required after the adoption of the FLU amendment. If approved, a nonconforming use will be eliminated.

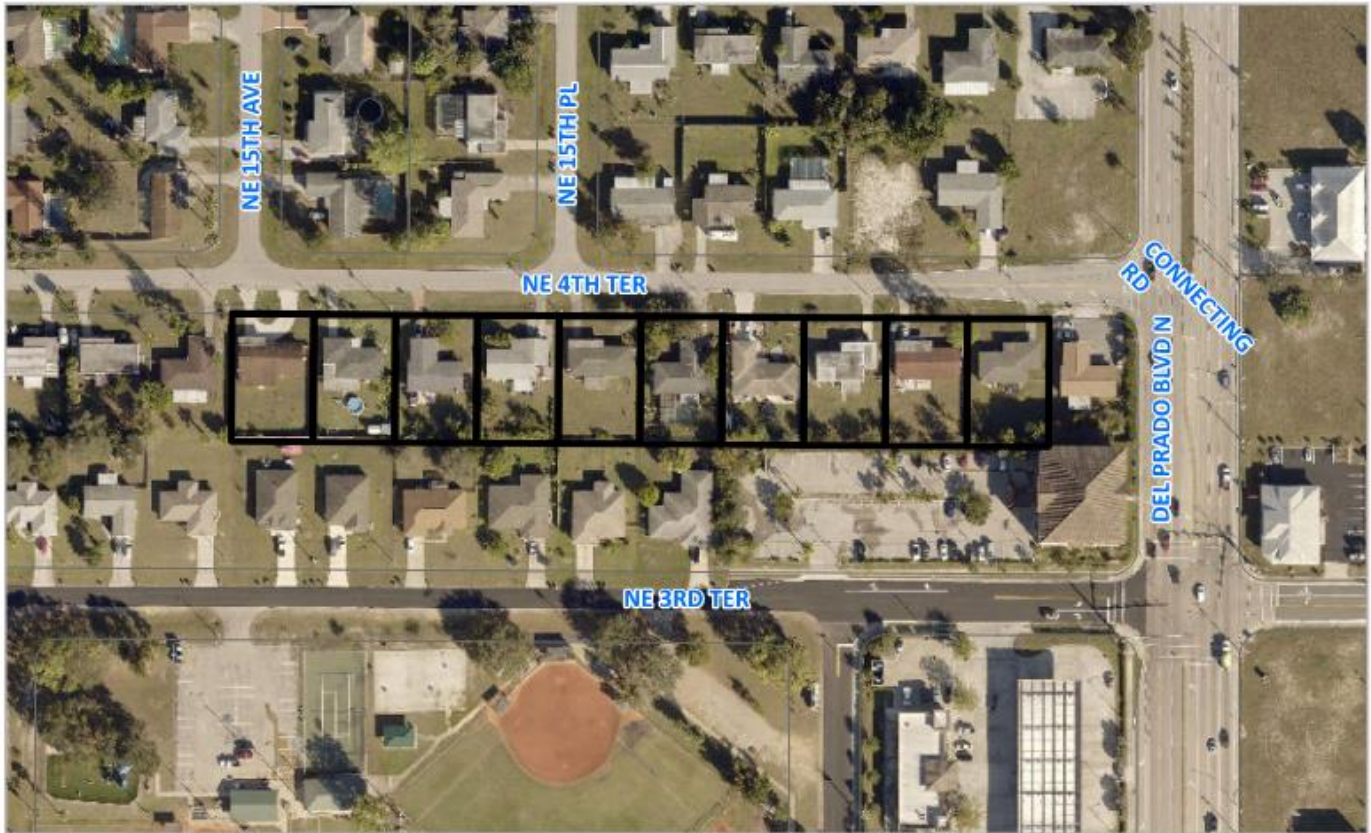
3

BLOCK 1501 LOTS 42-61- FUTURE LAND USE



3

BLOCK 1501 LOTS 42 - 61 - AERIAL

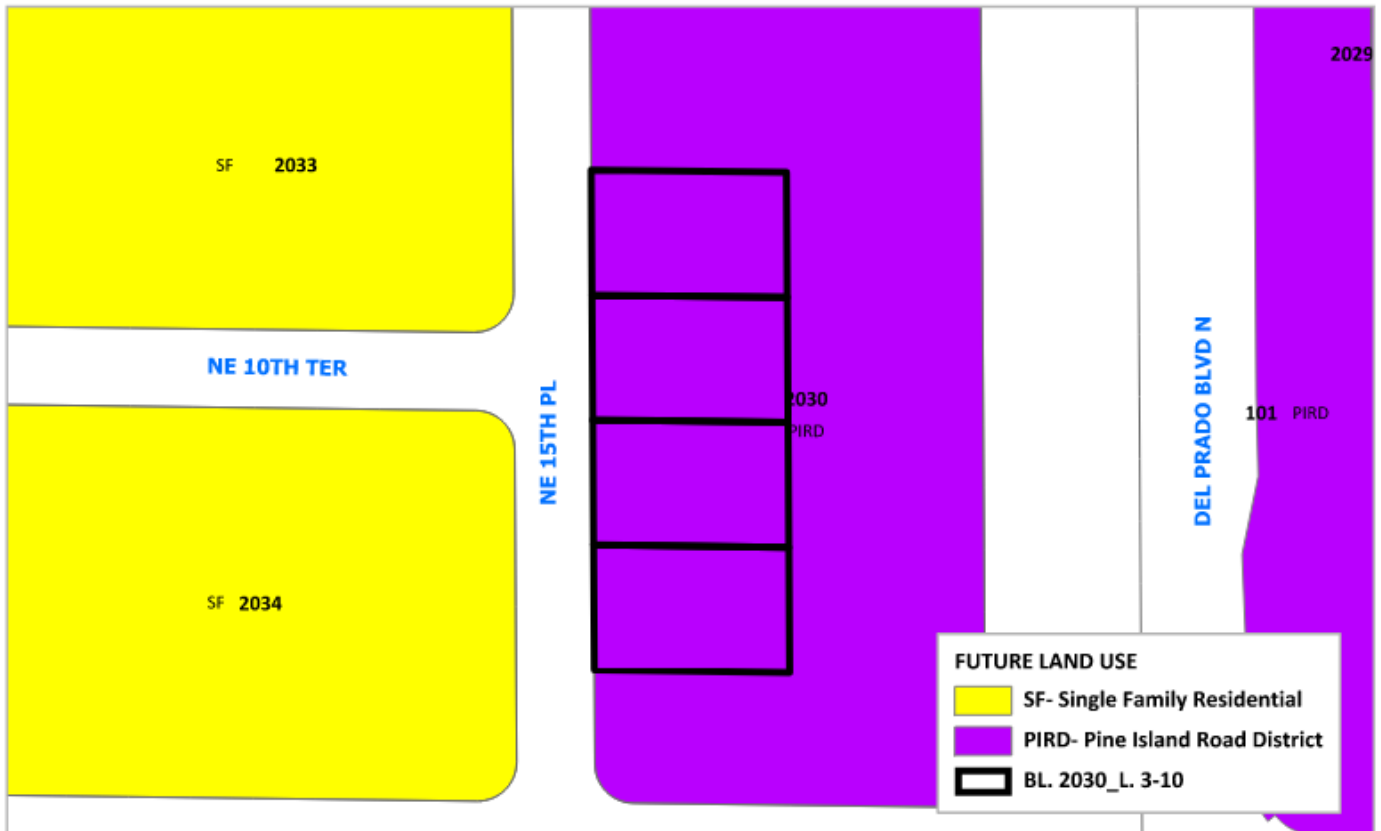


Recommend changing Future Land Use from Pine Island Road District (PIRD) to Single Family (SF) for Lots 42-61. Location: 1502-1538 NE 4TH TER. Area = 2.3 Acres.

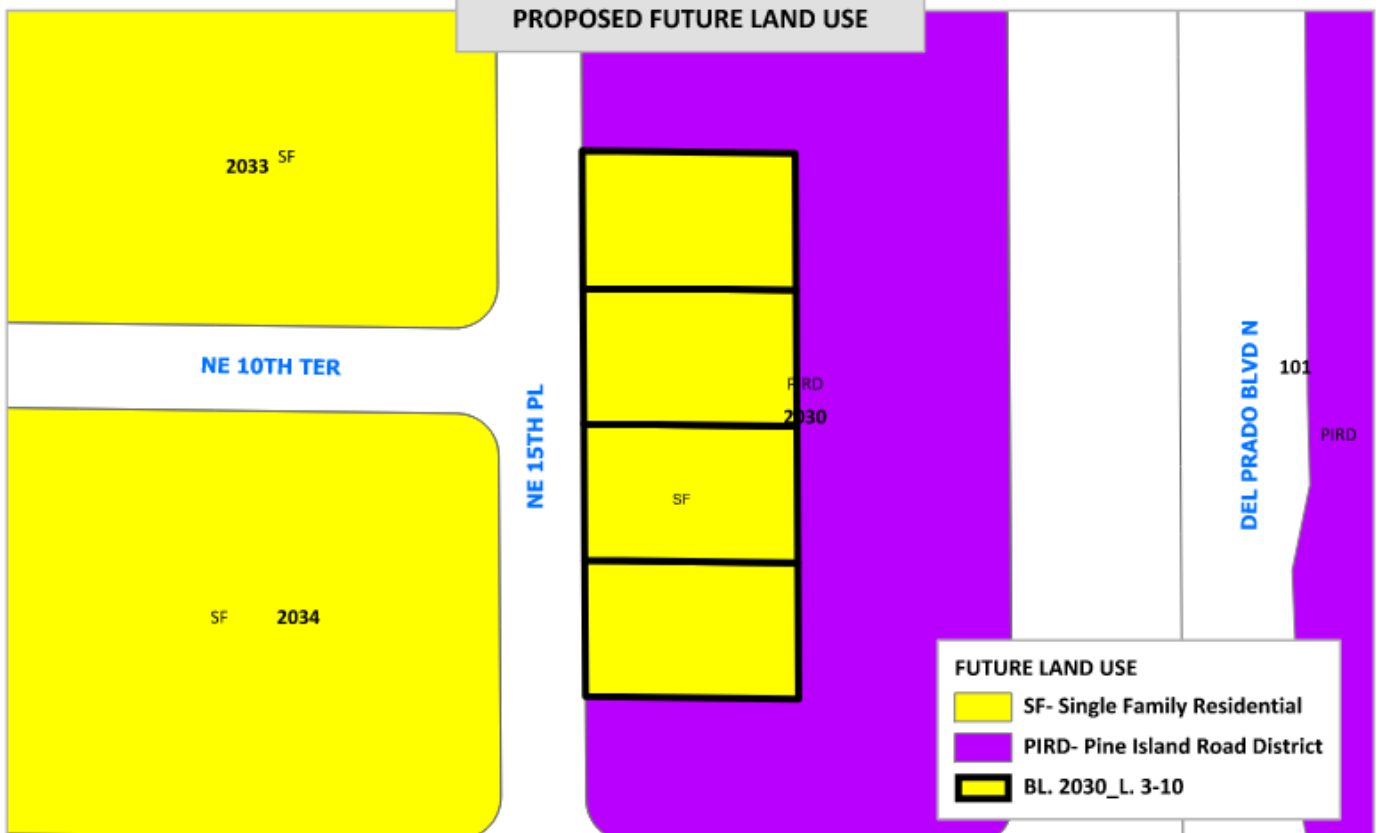
- Lots 40-41 to the east along Del Prado contain a professional office constructed around 1970.
- Lots 42-61 contain single-family homes.
- The Future Land Use was amended to PIRD in 2002 and rezoned to CORR in 2004.
- No assembly of property has occurred since.
- All 10 of the properties are improved with single-family homes.
- A rezone to Single Family Residential (R1) will be required after the adoption of the FLU amendment. If approved, 10 nonconforming uses will be eliminated.

4

BLOCK 2030 LOTS 3-10- FUTURE LAND USE



PROPOSED FUTURE LAND USE



4

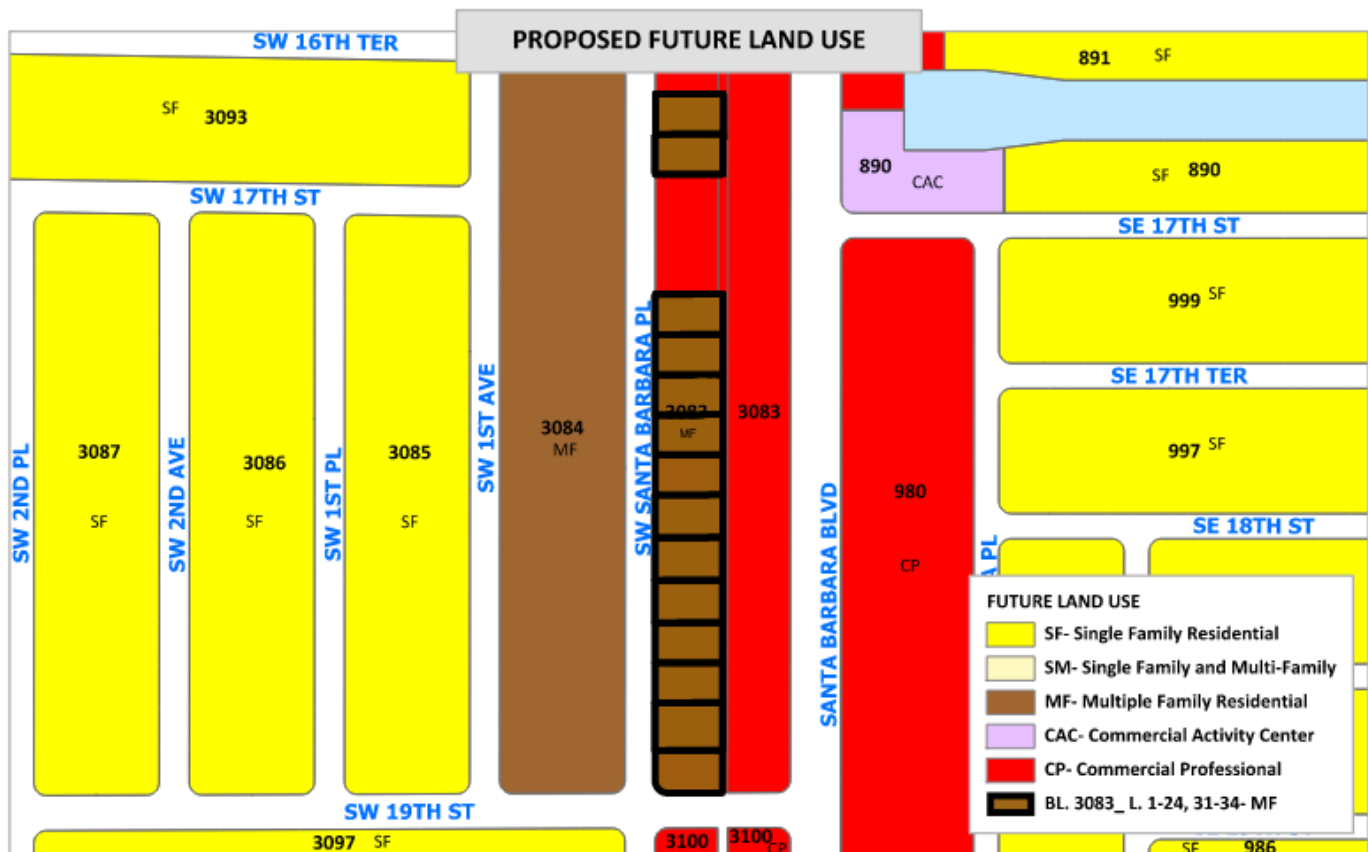
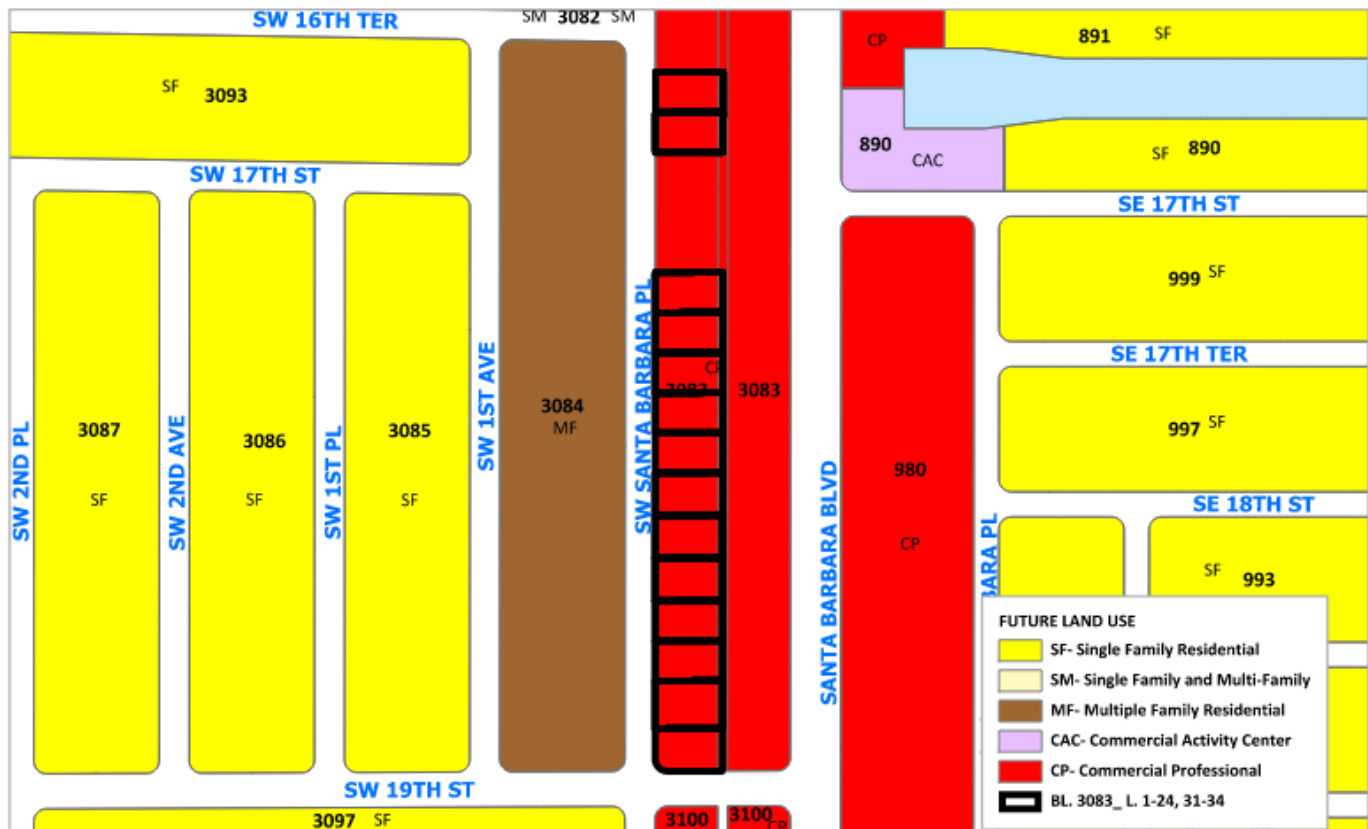
BLOCK 2030 LOTS 3-10- AERIAL

Recommend changing Future Land Use from Pine Island Road District (PIRD) to Single Family (SF) for Lots 3-10. Location: 1005-1017 NE 15TH PL. Area = 0.91 Acres.

- The lots currently have Pine Island Road District (PIRD) Land Use and Commercial Corridor (CC) zoning.
- This combination is consistent but does not reflect current use patterns.
- FLU and zoning history: CP to PIRD by ORD 38-02; R-1B to CORR by ORD 8-04.
- Three of four parcels are improved with Single Family Homes.
- No direct access to Del Prado Blvd.
- Single-family (R1) zoning is to the west. Adjacent lots are owned by City of Cape Coral and are used for stormwater ponds and the Del Prado Linear Park.
- No commercial assemblage has occurred.
- A rezone to Single Family Residential (R1) will be required after the adoption of the FLU amendment. If approved, three nonconforming uses will be eliminated.

5

BLOCK 3083 LOTS 1-24 AND 31-34- FUTURE LAND USE



5

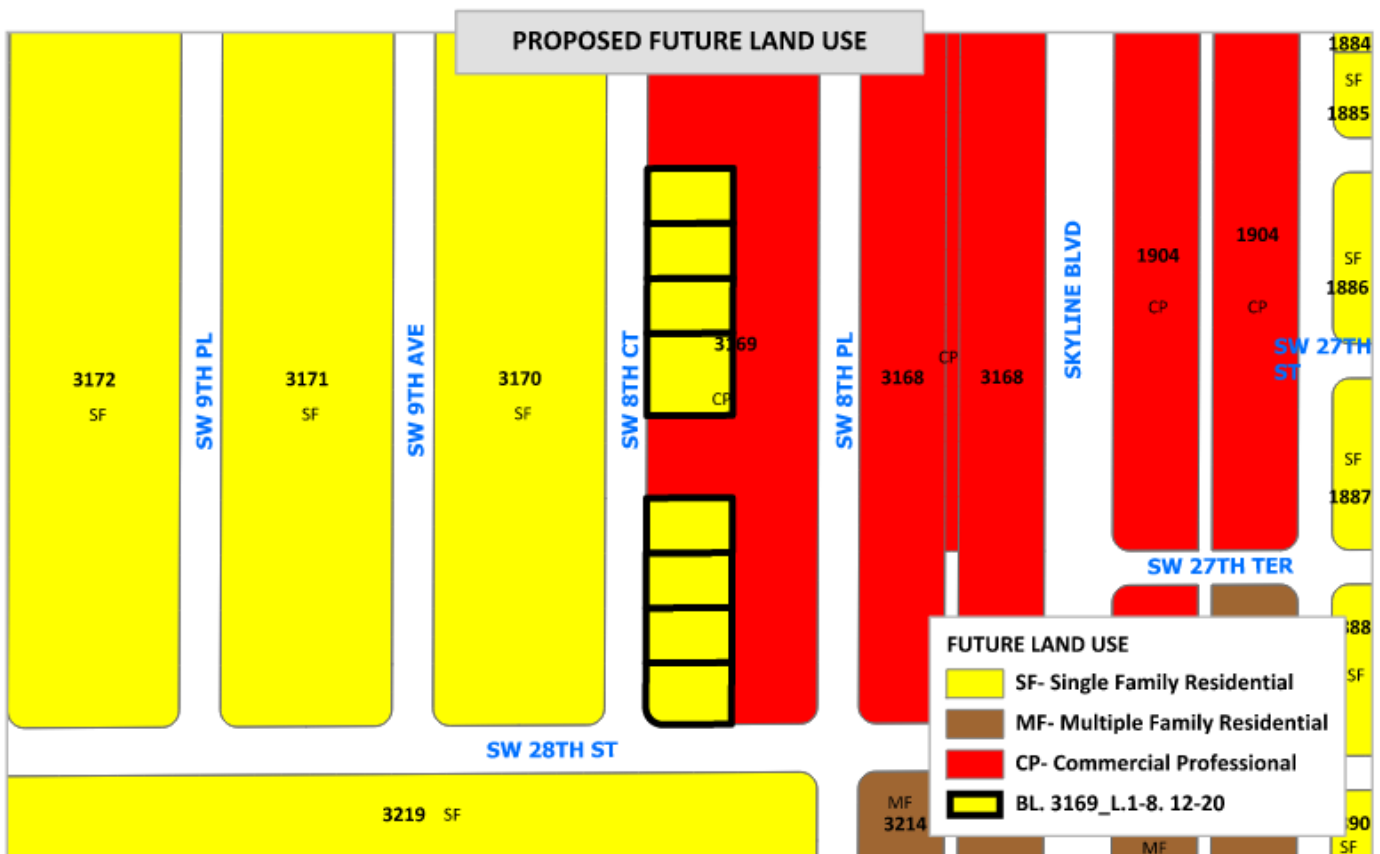
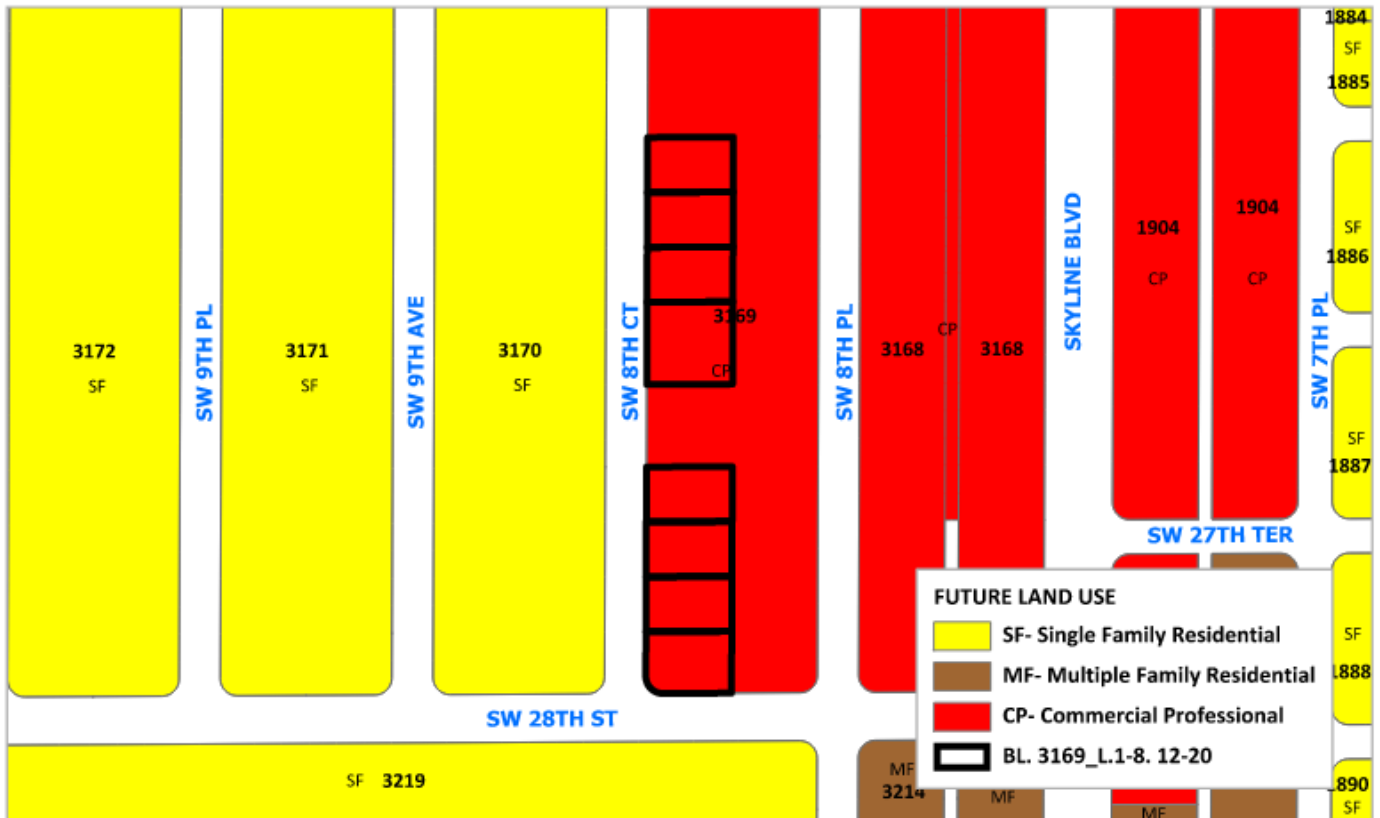
BLOCK 3083 LOTS 1-24 AND 31-34- AERIAL

Recommend changing FLU from Commercial Professional (CP) to Multi-Family (MF) for Lots 1 –24 and 31-34. Location: 1709 - 1825 SW Santa Barbara PL and 1621-1627 SW Santa Barbara PL. Area = 3.57 Acres

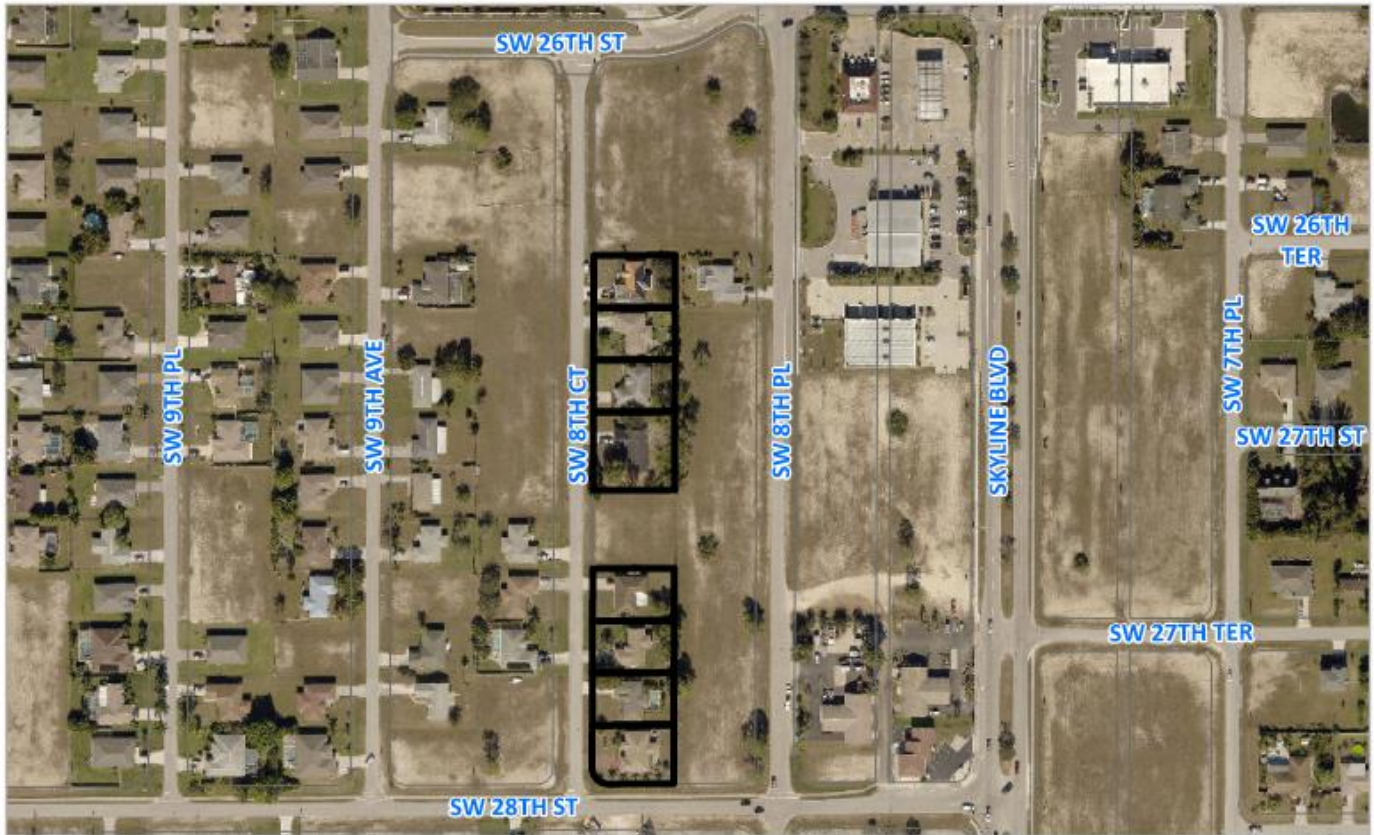
- A 20-foot wide alley was previously vacated by Resolution 19-02.
- The FLU was changed from MF to CP by ORD 59-07; the zoning was changed from R-3 to C-1 by ORD 16-11.
- Thirteen of the 14 sites are developed. Most have duplexes.
- Three existing vacant lots between the duplexes were purchased in 2008 that constitute an assembly of property with frontage on Santa Barbara Boulevard.
- New development on the remaining commercial lots will require landscape buffers.
- No commercial lot assemblage has occurred.
- A rezone to Residential Multi-Family Low (RML) will be required after the adoption of the FLU amendment. If approved, 13 nonconforming uses will be eliminated.

6

BLOCK 3169 LOTS 1-8, 12-20- FUTURE LAND USE



6

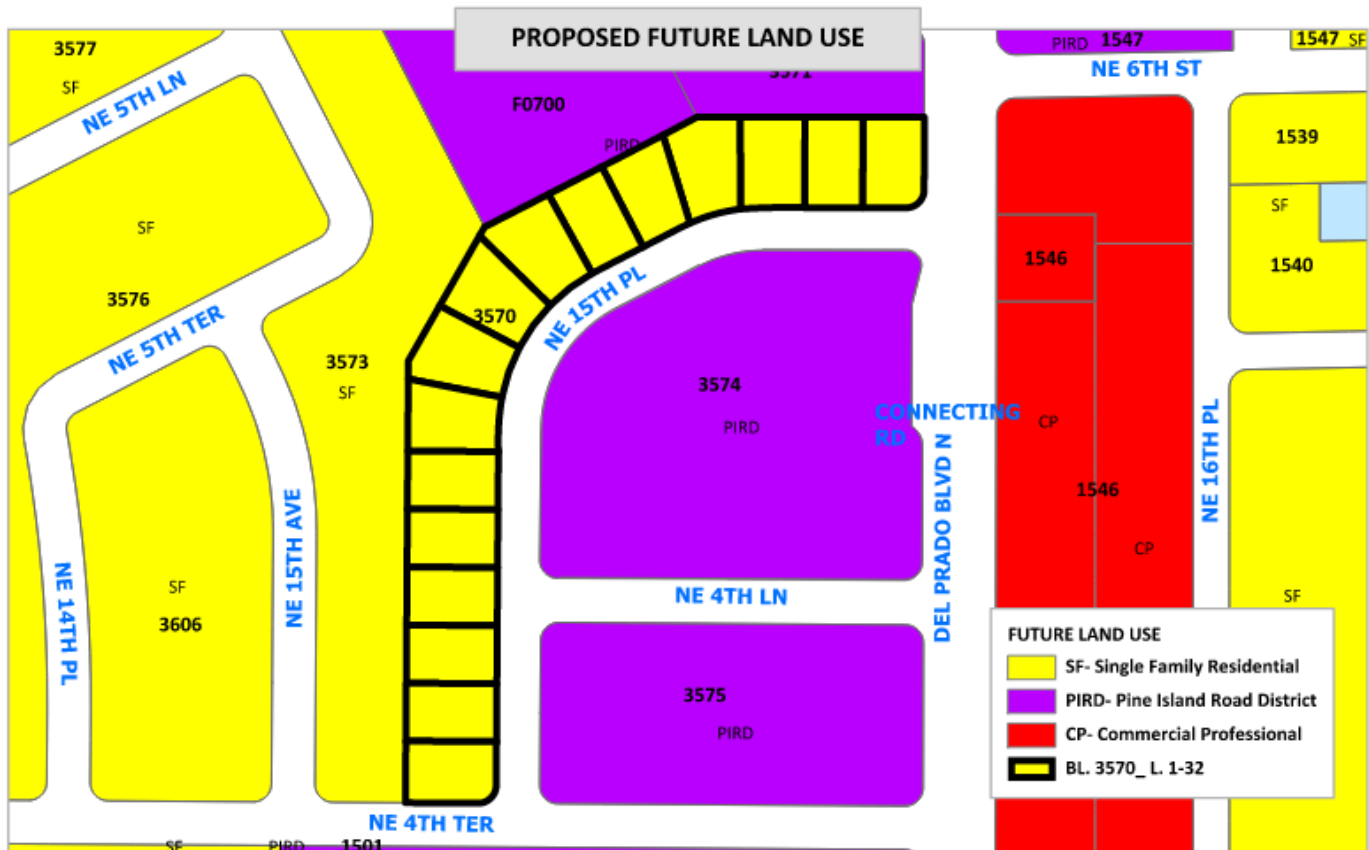
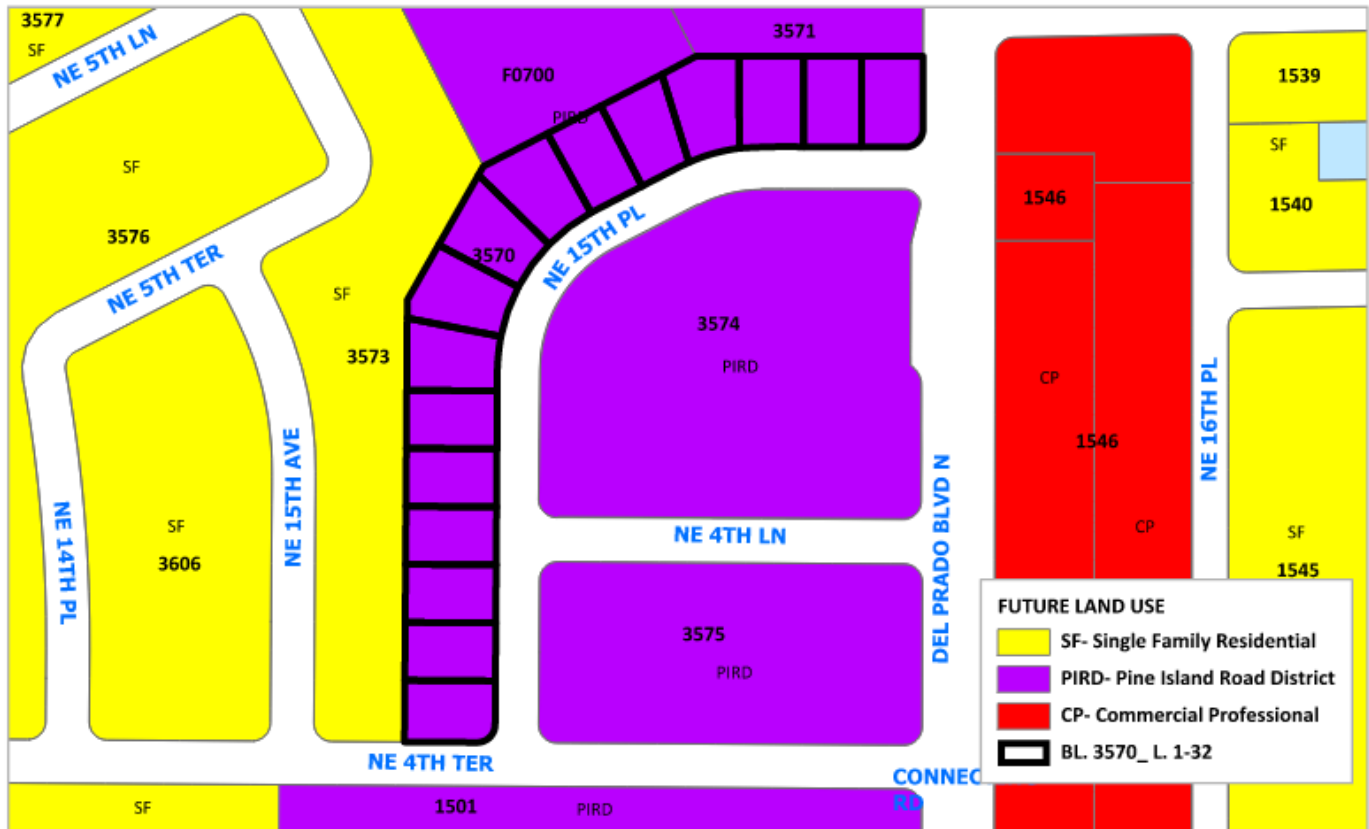
BLOCK 3169 LOTS 1-8, 12-20- AERIAL

Recommend changing Future Land Use from Commercial Professional (CP) to Single Family (SF) for Lots 1-8, 12-20. Location: 2621-2701 SW 8TH CT and 2711-2723 SW 8TH CT. Area = 1.97 acres.

- Subject area consists of 8 parcels, all of which have single-family residences.
- FLU and Zoning History. SM to SF by ORD 27-06; SF to CP by ORD 11-08; R-1B to C-1 by ORD 26-11.
- The owner of the excluded parcel in the middle of the single-family homes has ownership of several adjacent Lots on the eastern half of the block.
- A rezone to Single Family Residential (R1) will be required after the adoption of the FLU amendment. If approved, eight nonconforming uses will be eliminated.

7

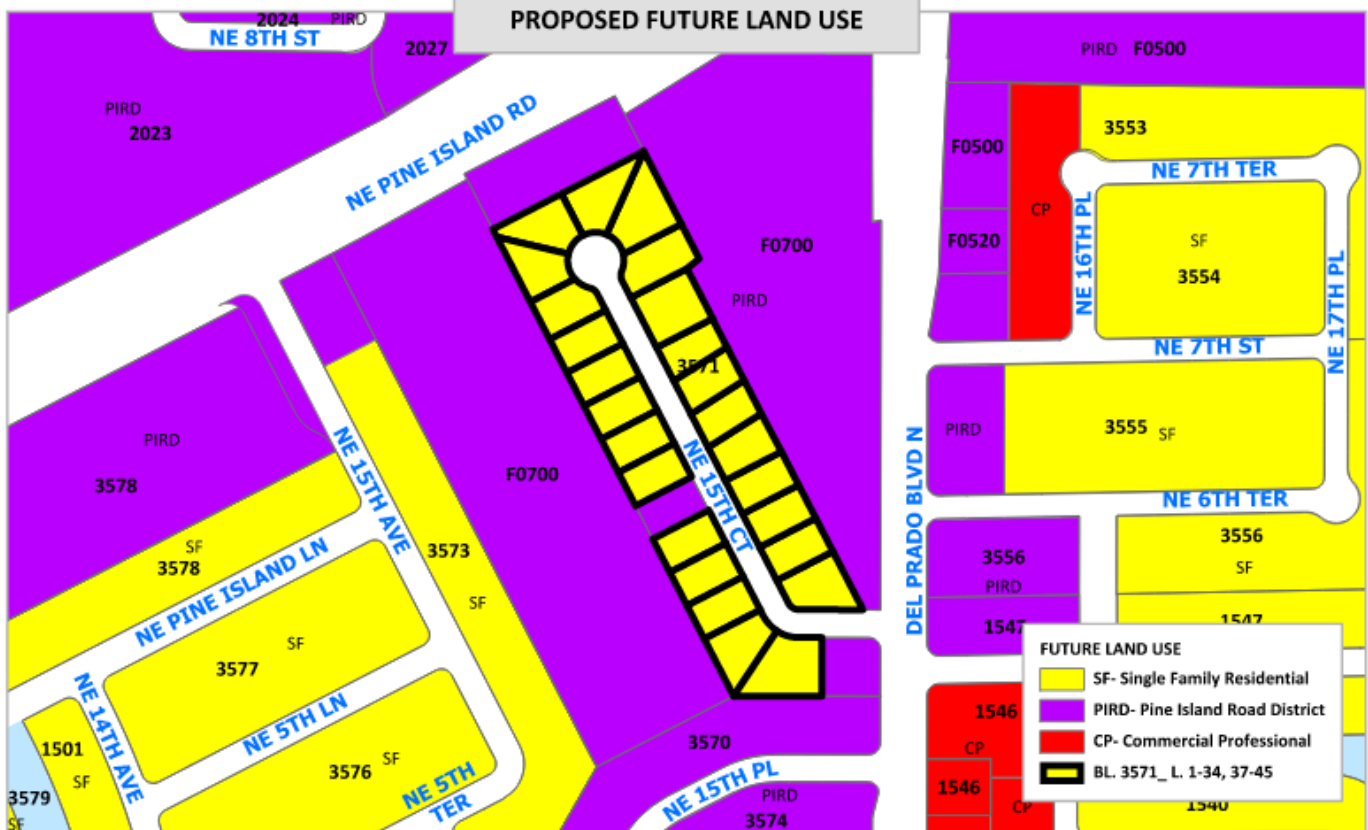
BLOCK 3570 LOTS 1-32- FUTURE LAND USE





Recommend changing Future Land Use from Pine Island Road District (PIRD) to Single Family (SF) for Lots 1-32. Location: 402-526 NE 15TH PL. Area = 3.93 Acres.

- Established single-family dwellings exist on all the subject sites.
- The FLU was amended to PIRD in 2002. These sites were rezoned to CORR in 2004.
- No property assembly has occurred.
- A rezone to Single Family Residential (R1) will be required after the adoption of the FLU amendment. If approved, 16 nonconforming uses will be eliminated.



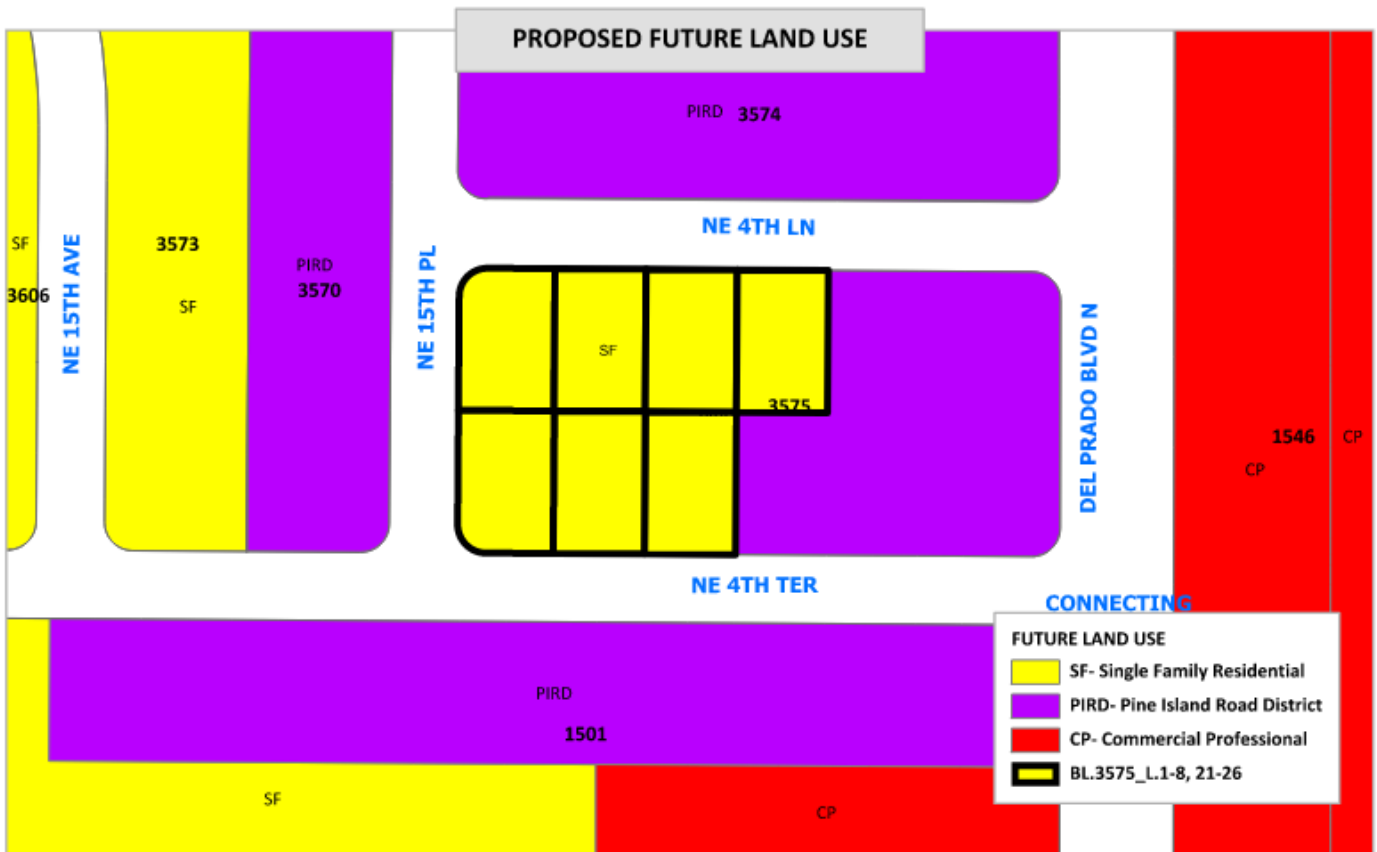
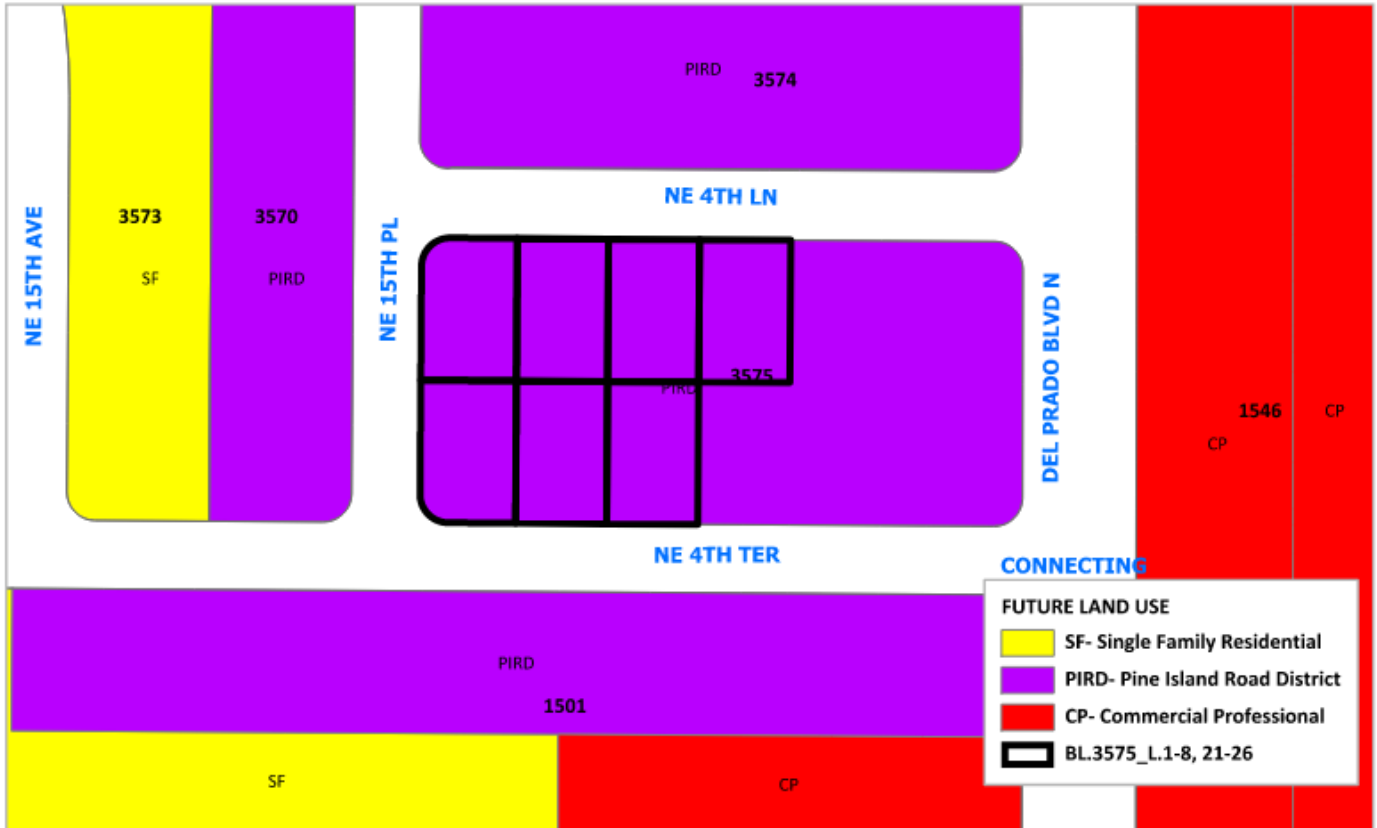


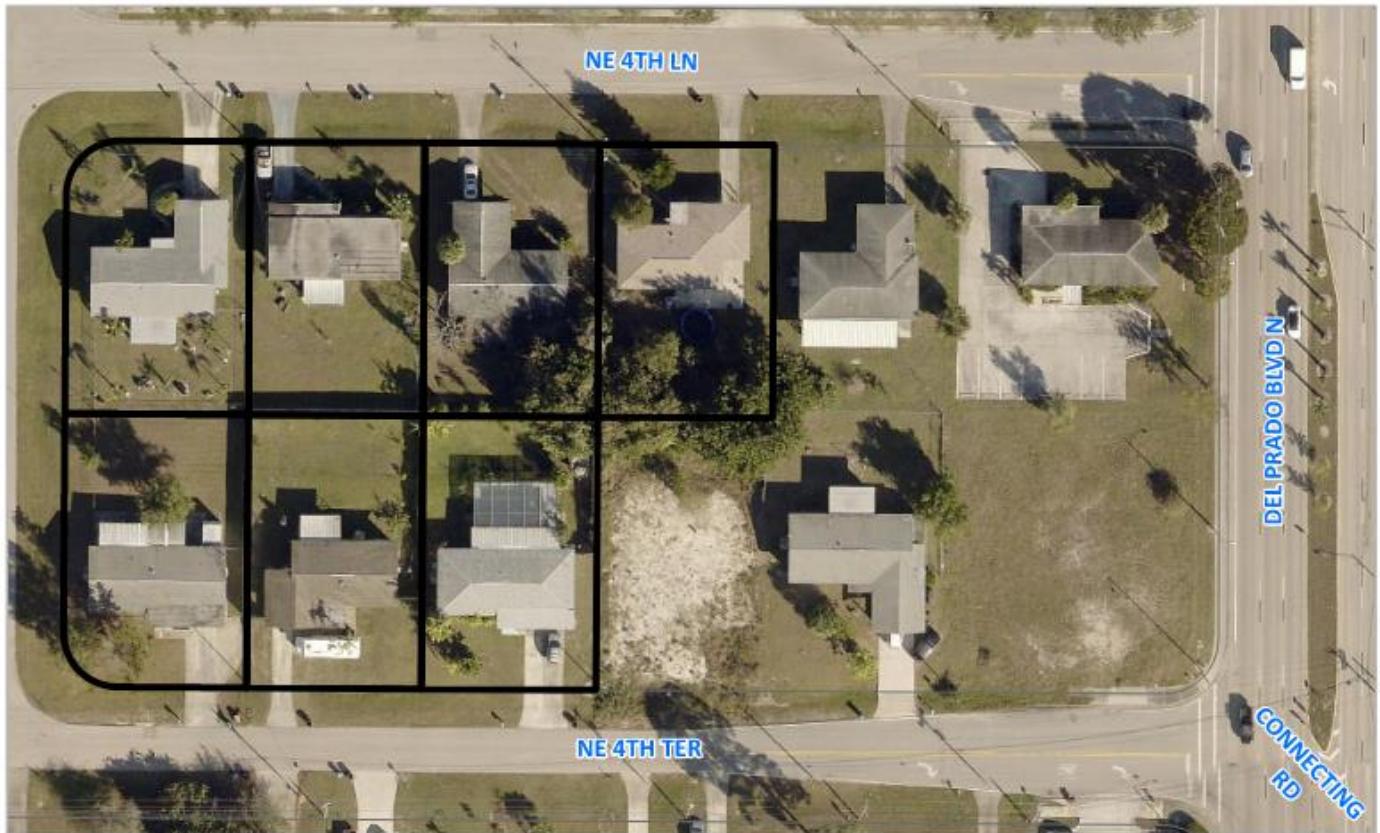
Recommend changing Future Land Use from Pine Island Road District (PIRD) to Single Family (SF) for Lots 1-34 and Lots 37-45. Location: 607-655 NE 15TH CT. Area = 7.04 Acres.

- The Future Land Use was changed from Commercial/Professional (CP) to Pine Island Road District (PIRD) in 2002.
- The sites were rezoned to Commercial Corridor (CC) in 2004.
- Historic residential land use pattern.
- The southeastern-most parcel on block with frontage on Del Prado is an existing office building and is not included as part of this amendment.
- No apparent property assembly for commercial purposes has been observed.
- A rezone to Single Family Residential (R1) will be required after the adoption of the FLU amendment. If approved, 24 nonconforming uses will be eliminated.

9

BLOCK 3575 LOTS 1-8 AND 21-26- FUTURE LAND USE



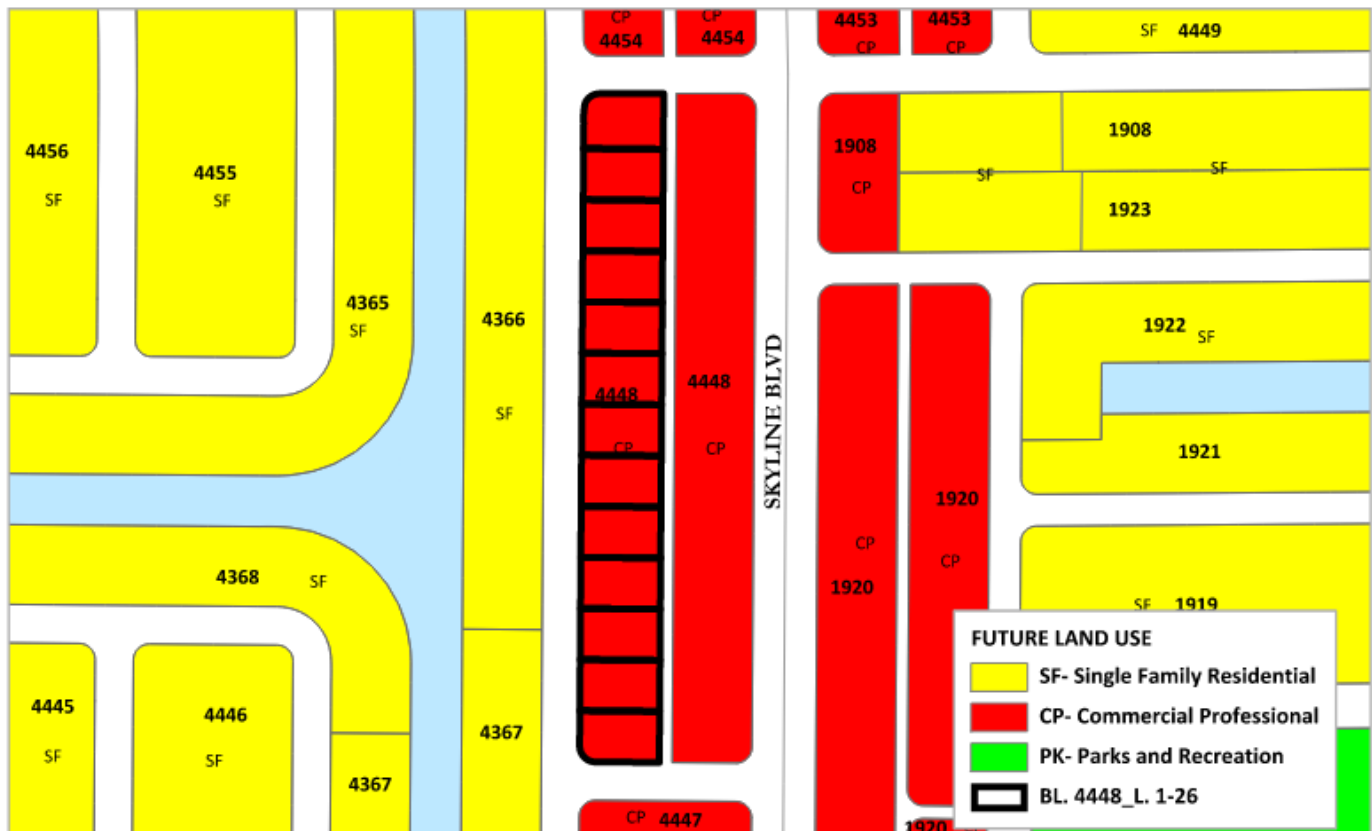


Recommend changing Future Land Use from Pine Island Road District (PIRD) to Single-Family (SF) for Lots 1-8 and Lots 21-26. Location: 1520-1532 NE 4TH LN and 1519-1527 NE 4TH TER. Area = 1.62 Acres.

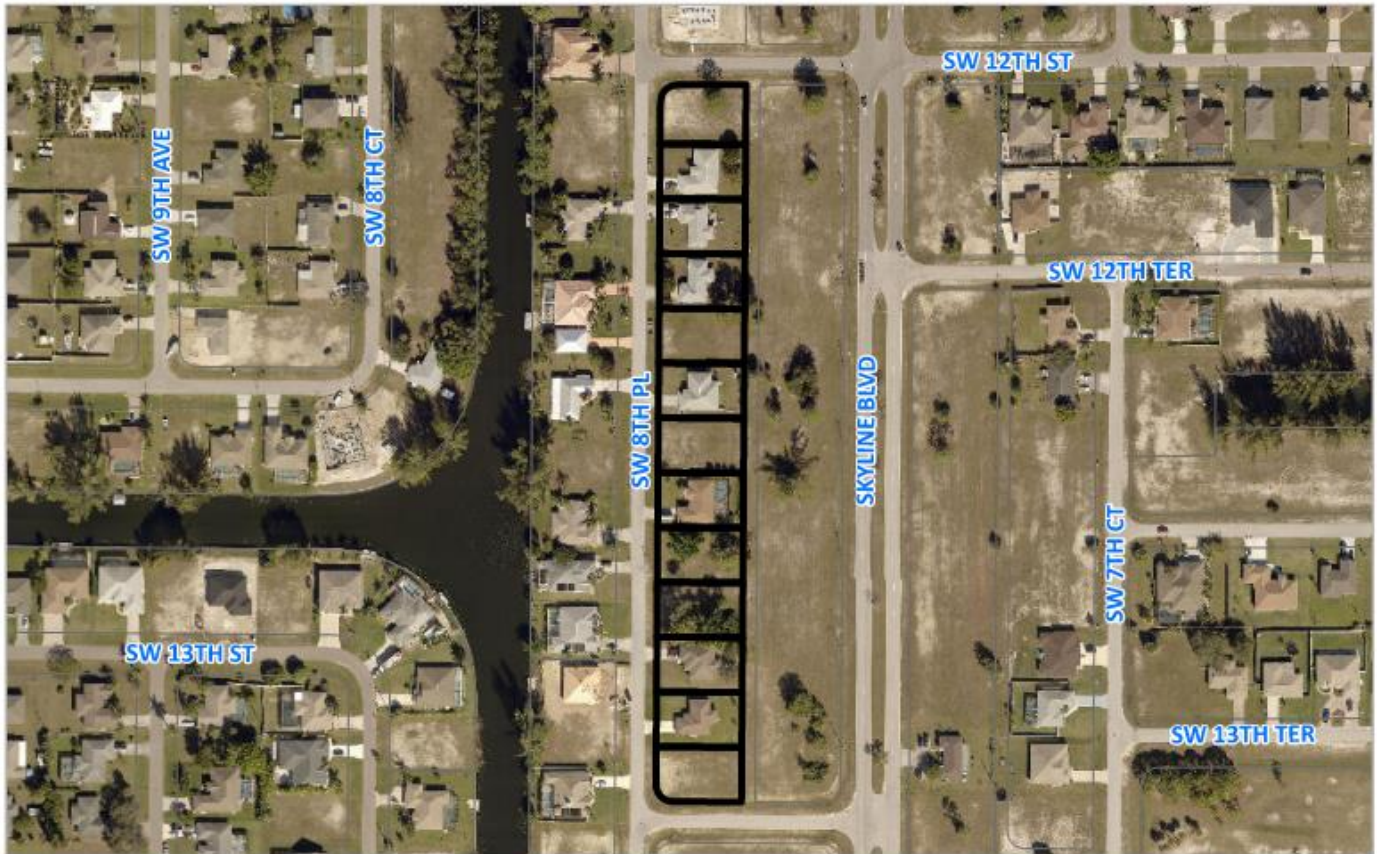
- Some assembly has occurred on the eastern half of the block (four of six parcels).
- The FLU classification of the sites was amended to PIRD in 2002. The sites were rezoned to CORR in 2004.
- All parcels developed with single-family homes.
- A rezone to Single Family Residential (R1) will be required after the adoption of the FLU amendment. If approved, seven nonconforming uses will be eliminated.

10

BLOCK 4448 LOTS 1-26 FUTURE LAND USE



10

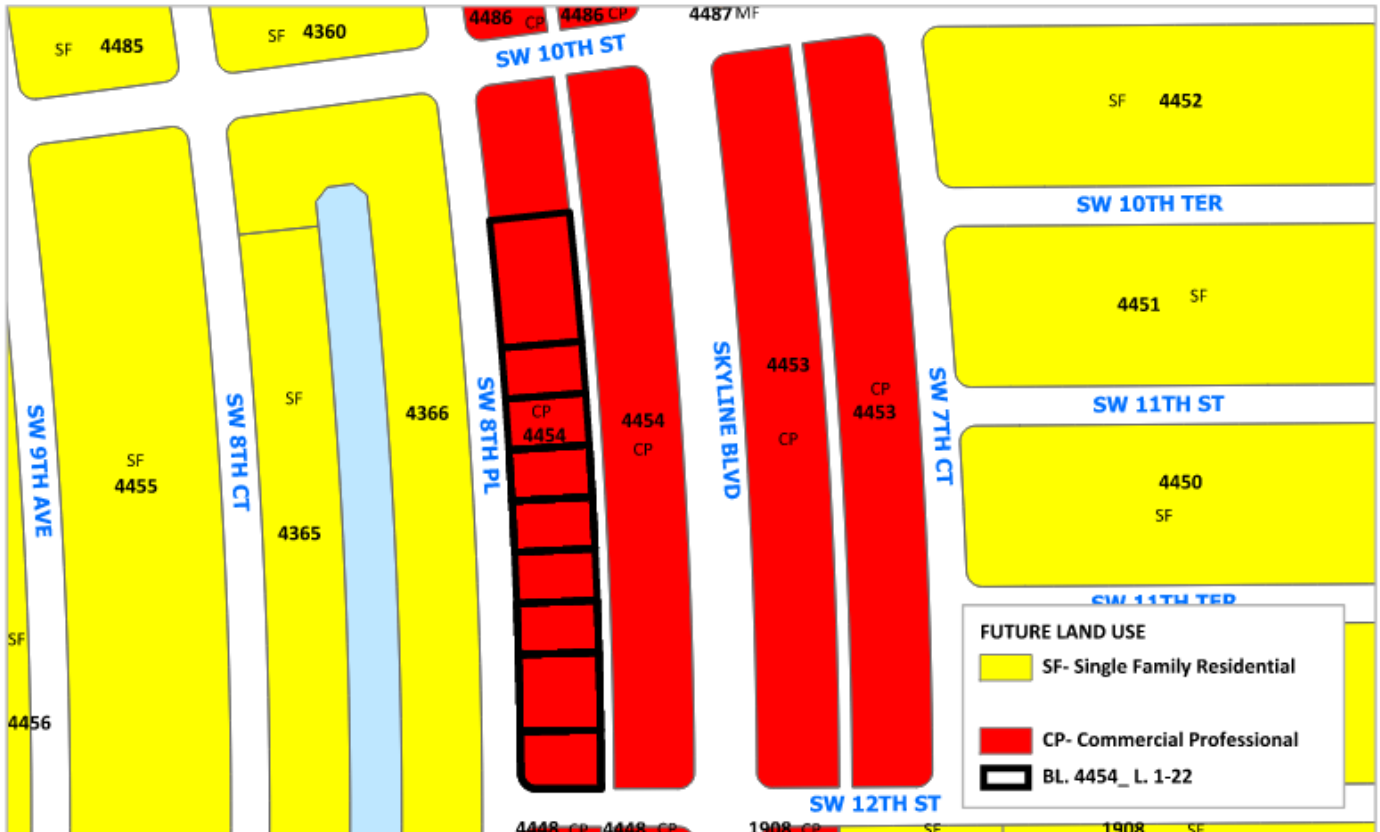
BLOCK 4448 LOTS 1-26- AERIAL

Recommend changing Future Land Use from Commercial Professional (CP) to Single Family (SF) for Lots 1-26. Location: 1201-1317 SW 8TH PL. Area = 3.0 Acres.

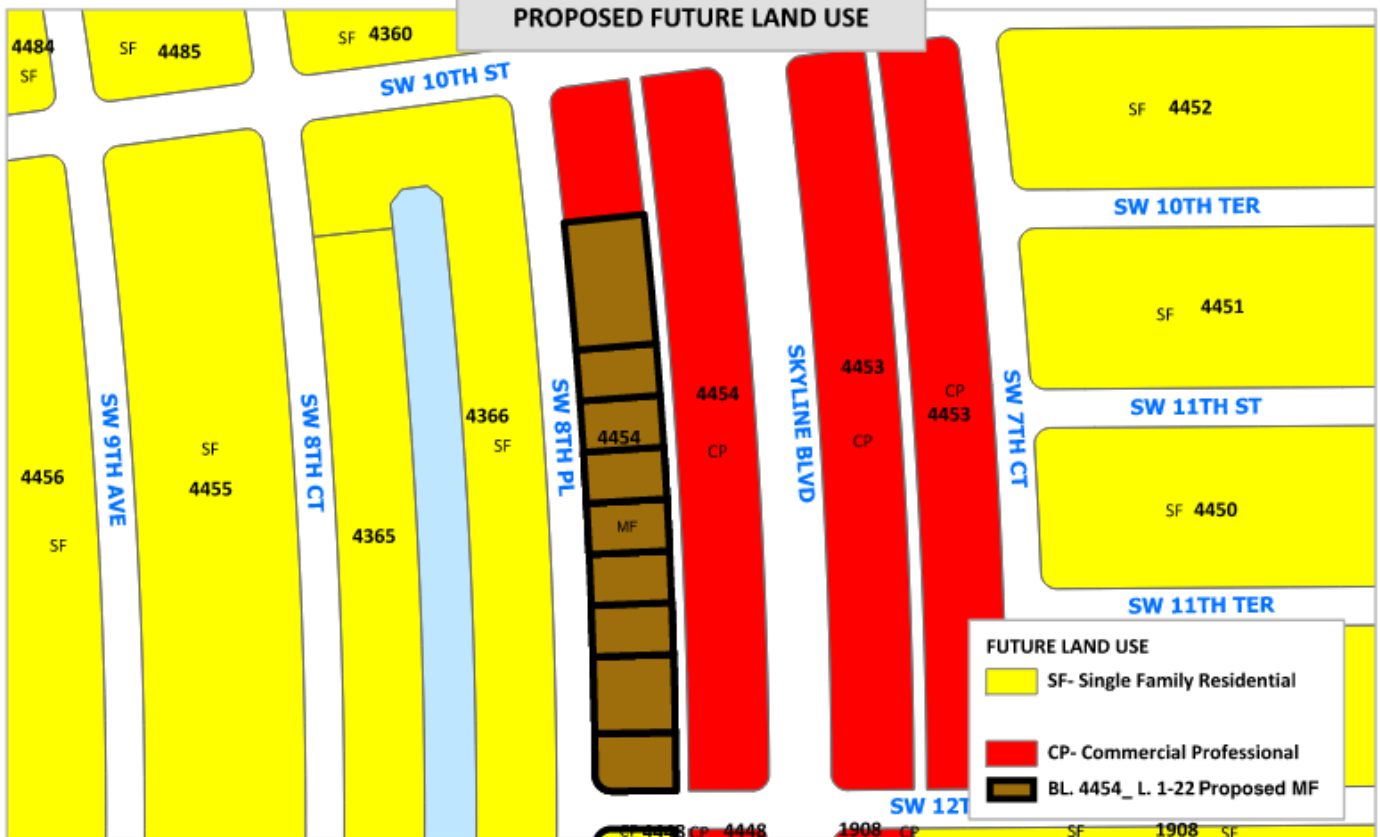
- Seven of the thirteen parcels have single-family dwellings.
- An alley exists that prevents full-block development.
- The sites have had CP FLU since 2008 and commercial zoning since 2011.
- Property assembly is not evident on the western half of block.
- A rezone to Single Family Residential (R1) will be required after the adoption of the FLU amendment. If approved, seven nonconforming uses will be eliminated.

11

BLOCK 4454 LOTS 1-22 FUTURE LAND USE



PROPOSED FUTURE LAND USE



11

BLOCK 4454 LOTS 1-22- AERIAL

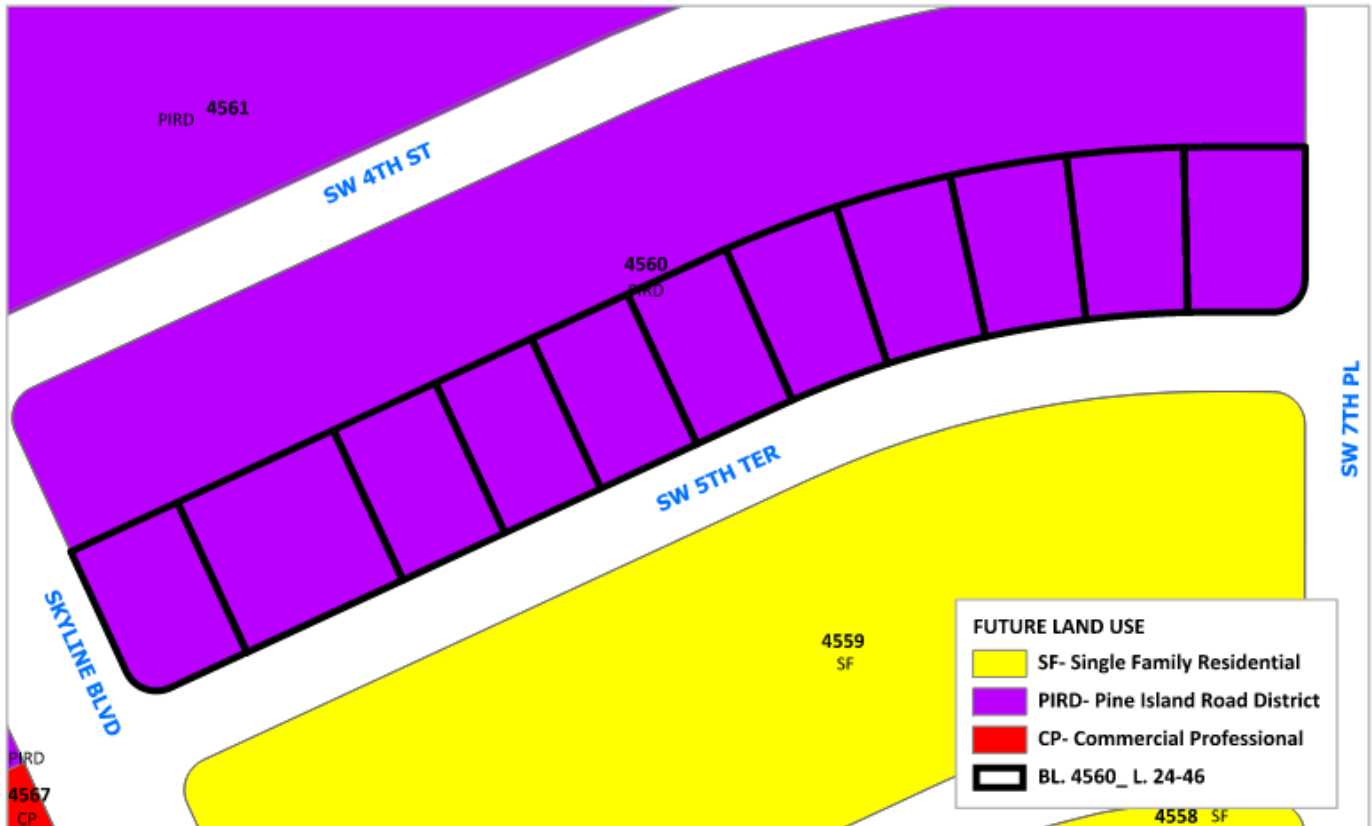


Recommend changing Future Land Use from Commercial Professional (CP) to Multi-Family (MF) for Lots 1-22. Location: 1013-1124 SW 8TH PL. Area = 2.55 Acres.

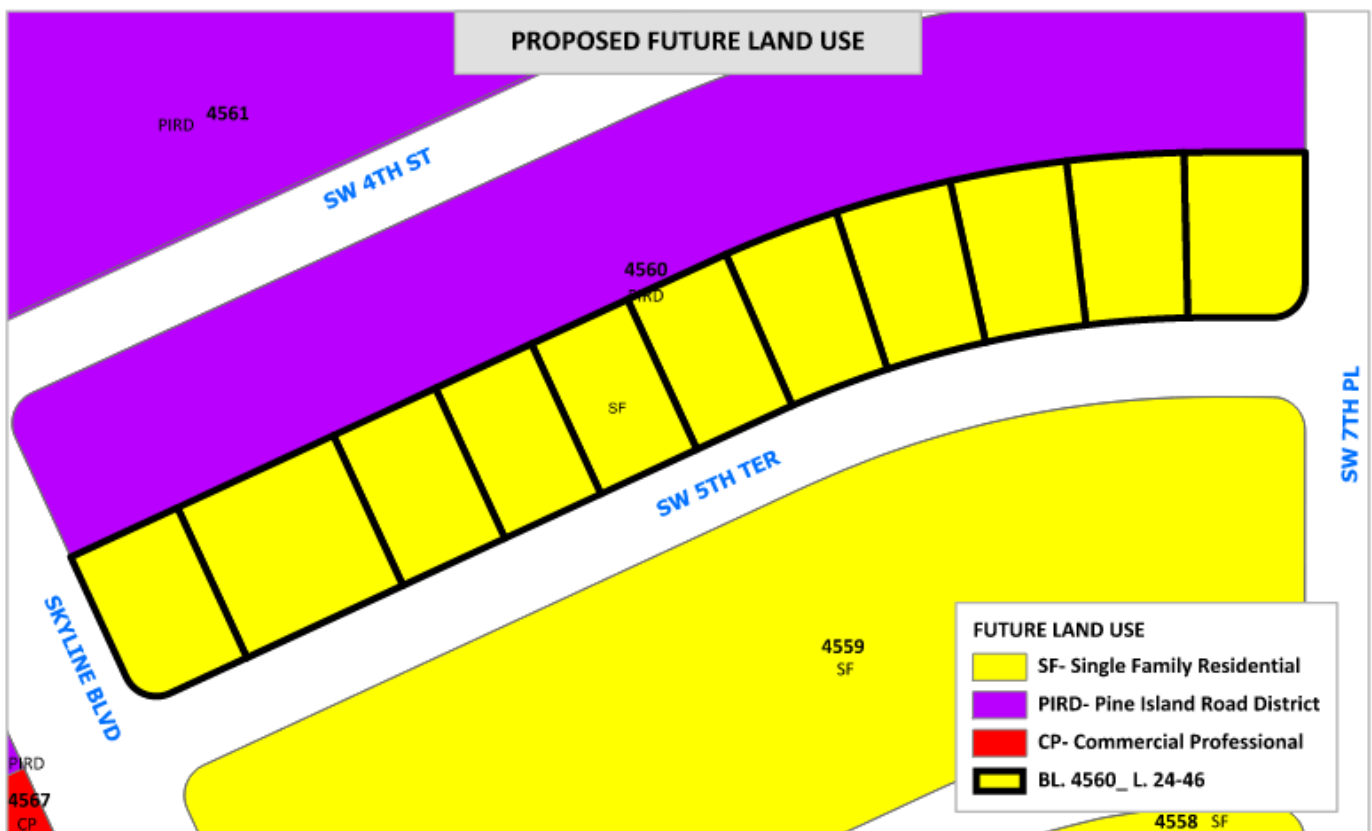
- FLU and Zoning history. R-3 to RD by ORD 61-90; SM to MF by ORD 86-08; MF to CAC by ORD 32-10; RD to MR by ORD 43-11; CAC to CP by ORD 2-19; MR to C by ORD 4-19.
- Sporadic ownership on block
- All nine parcels are developed - four with single-family dwellings and five with duplexes.
- An alley in the block prevents full-block depth.
- No commercial development is present on the western half of block.
- No property assembly is evident.
- A rezone to Residential Multi-Family Low (RML) will be required after the adoption of the FLU amendment. If approved, nine nonconforming uses will be eliminated.

12

BLOCK 4560 LOTS 24-46- FUTURE LAND USE

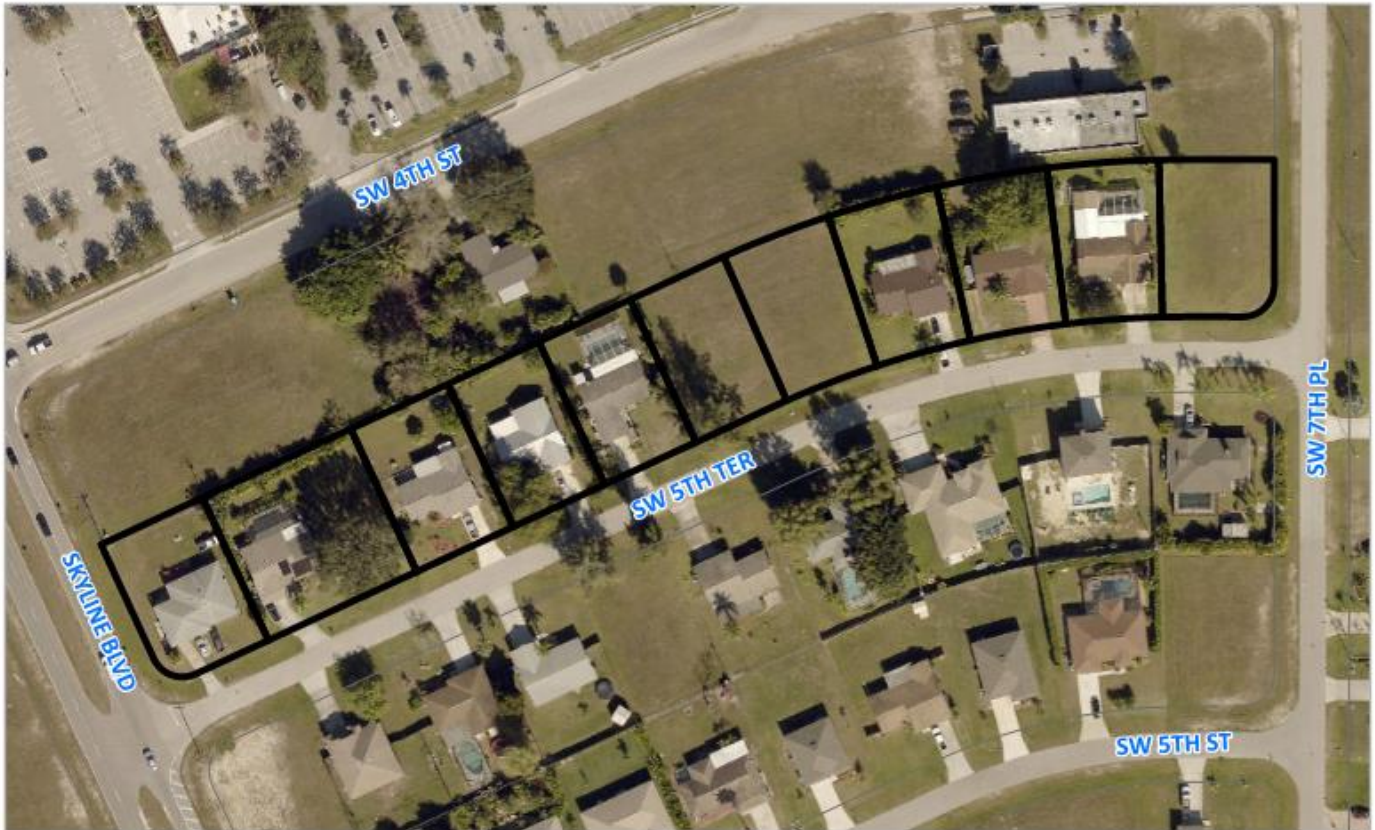


PROPOSED FUTURE LAND USE



12

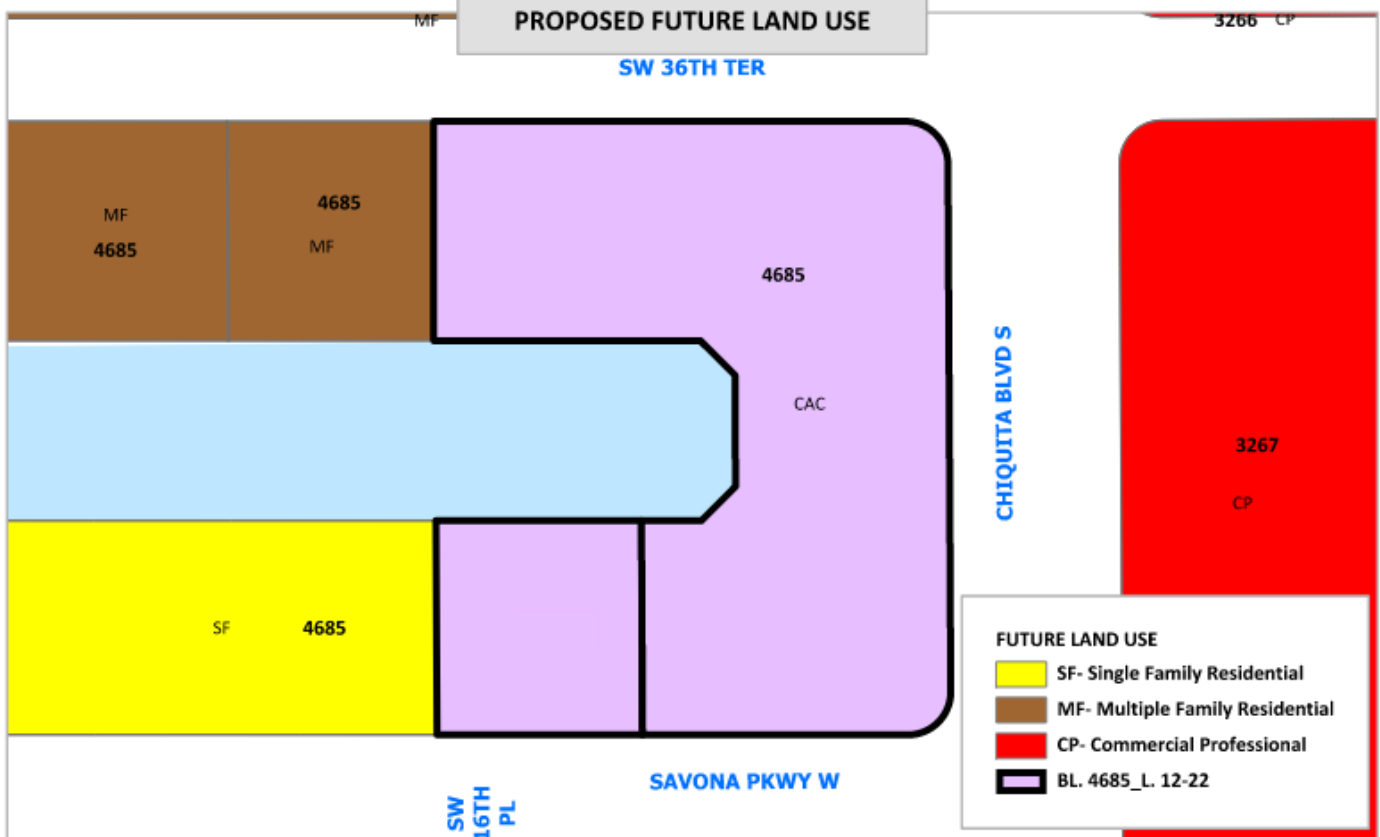
BLOCK 4560 LOTS 24-46- AERIAL



Recommend changing Future Land Use from Pine Island Road District (PIRD) to Single Family (SF) for Lots 24-46. Location: 725-767 SW 5TH TER. Area = 2.77 Acres.

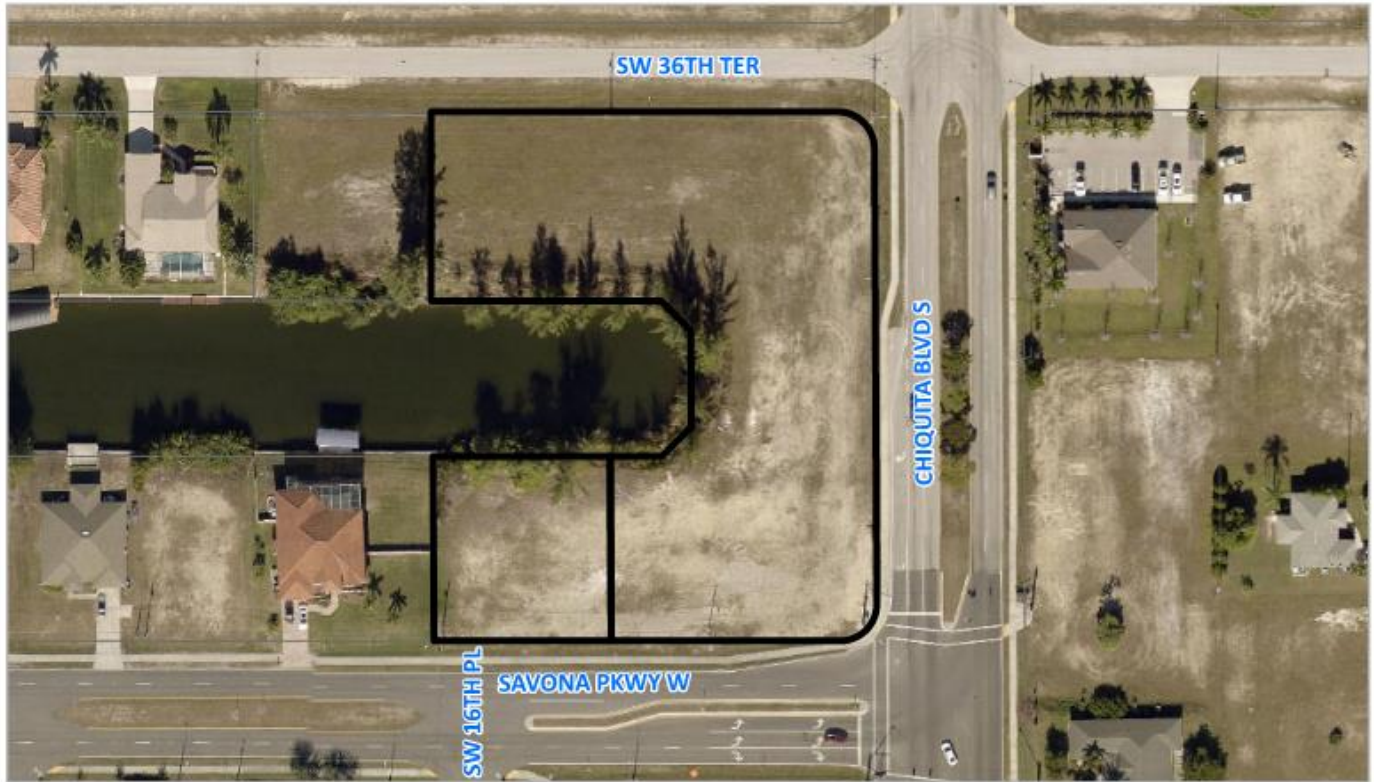
- FLU and Zoning history; CP to PIRD by ORD 38-02; R-1B to CORR by ORD 8-04.
- Eight of eleven sites are developed with single-family dwellings.
- All homes were constructed between 1981-85.
- A rezone to Single Family Residential (R1) will be required after the adoption of the FLU amendment. If approved, eight nonconforming uses will be eliminated.

BLOCK 4685 LOTS 12-22 - FUTURE LAND USE



13

BLOCK 4685 LOTS 12-22- AERIAL

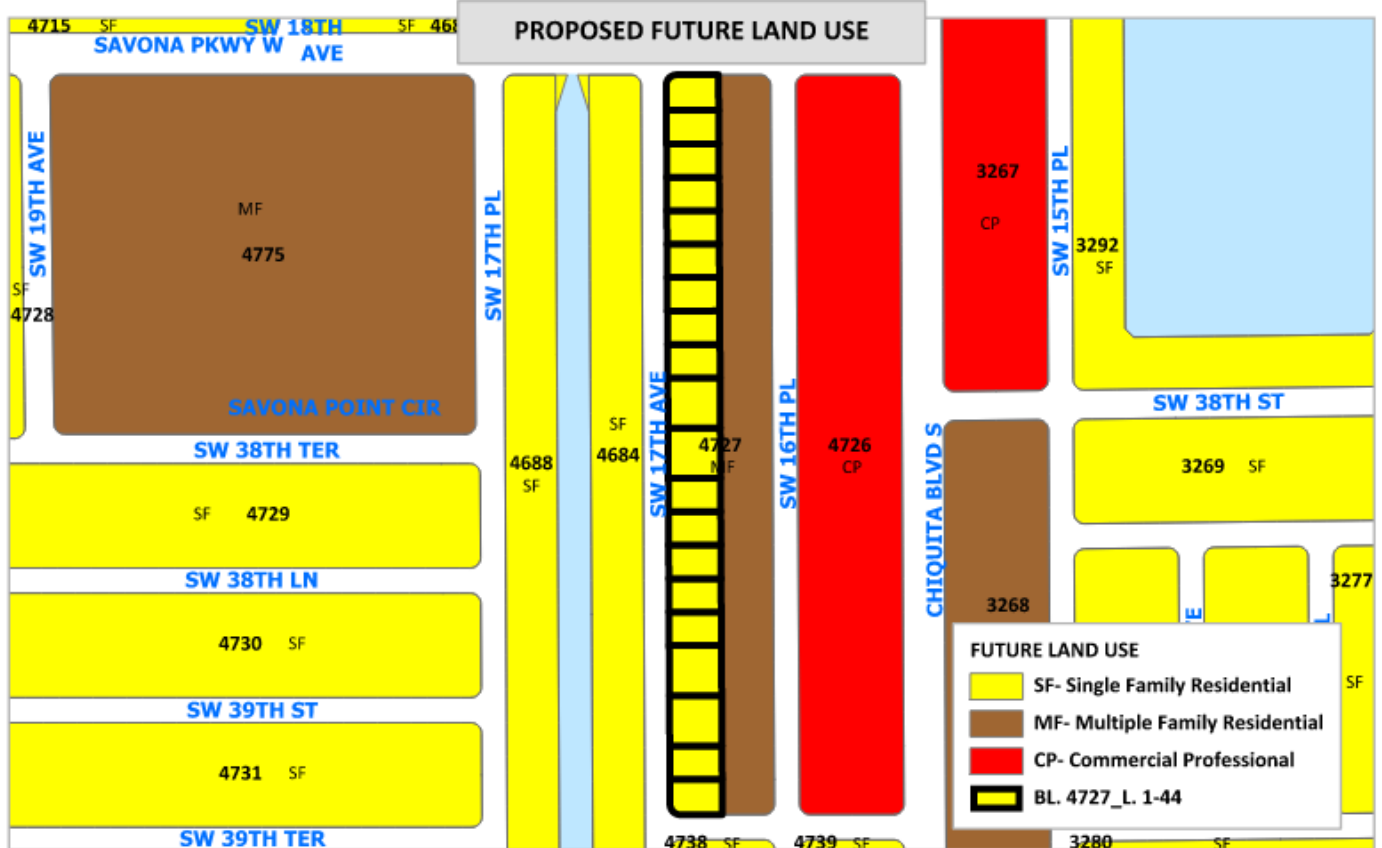
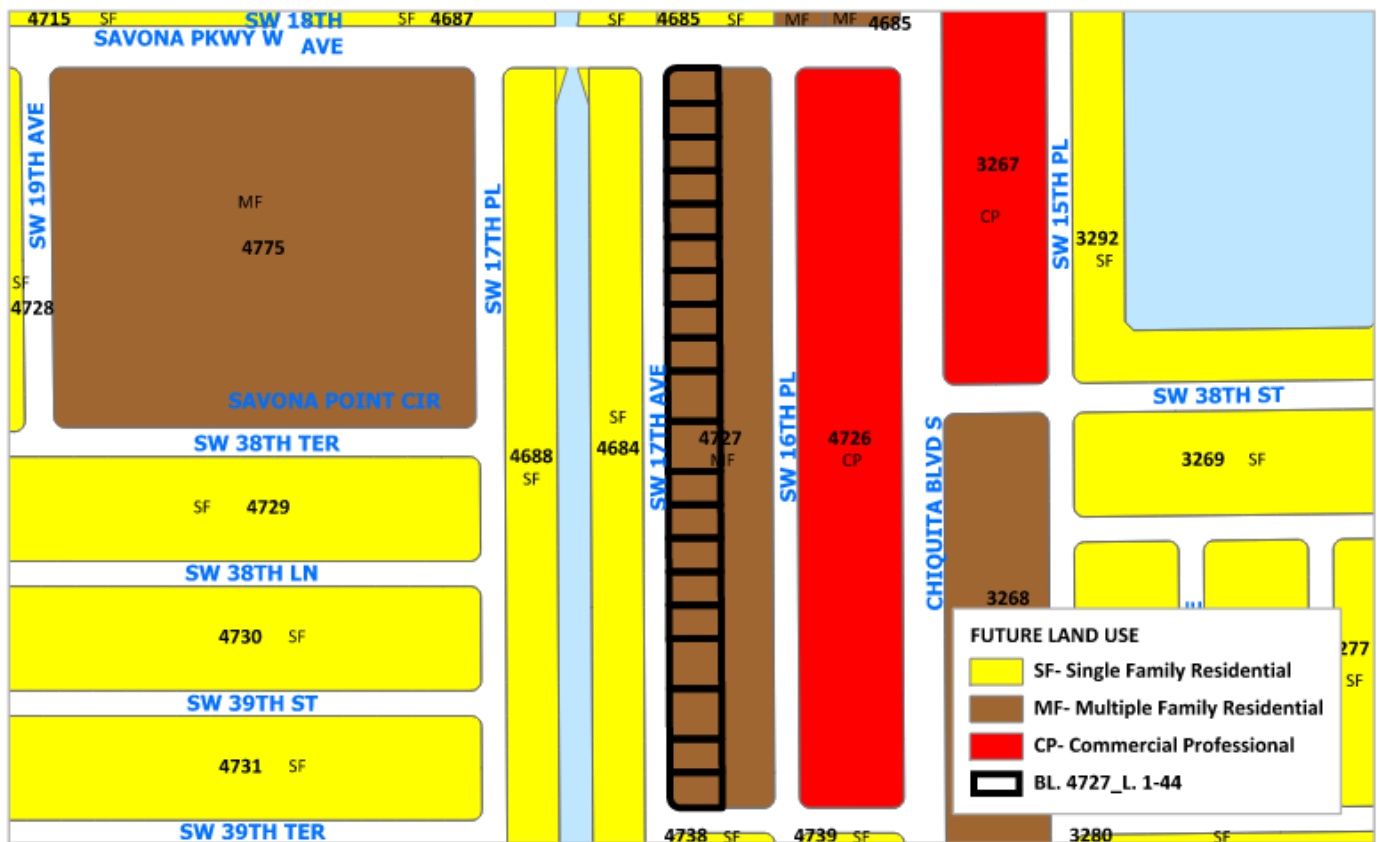


Recommend changing Future Land Use back to Commercial Activity Center (CAC) from Multi-Family (MF) for Lots 12-22. Location: 1611 Savona Parkway W and 3622 Chiquita Boulevard S. Area = 2.04 Acres.

- The Neighborhood Commercial (NC) Zoning is inconsistent with the Multi-Family (MF) Future Land Use Classification.
- The FLUC prior to 2019 was CAC.
- The site is at the end of a block at the intersection of two major streets (Chiquita and Savona).
- Lots 15-22 are under common ownership.

14

BLOCK 4727 LOTS 1-44- FUTURE LAND USE



14

BLOCK 4727 LOTS 1-44-AERIAL



**Recommend changing Future Land Use from Multi-Family (MF) to Single Family (SF) for Lots 1-44.
Location: 3705-3919 SW 17TH AVE. Area = 5.07 Acres.**

- The lots currently have R1 Zoning that is inconsistent with the Multi-Family FLUC.
- FLU and Zoning history: R-3 to RD by ORD 61-90; SM to MF by ORD 93-05; RD to R1 by ORD 4-19.
- Seventeen out of twenty parcels are developed with single-family dwellings.
- If approved, permits can be issued for the remaining vacant parcels.

Additional Site Information

Protected Species

Should protected species be identified on the sites as part of the development review of the site, the City will abide by Policy 1.2.5 of the Conservation and Coastal Management Element, which states: “The City will assist in the implementation of and compliance with all state and federal regulations concerning species listed as endangered, threatened, species of special concern, or commercially exploited by monitoring development activities, providing information on listed species in building permit packages, and assisting in investigations as requested.”

The City requires an environmental survey prior to the issuance of any land clearing, site clearing, or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, state, or federal protective or mitigation measures may be required of the developer prior to beginning work on the site.

Utilities

All sites are in the Urban Services Infill and Urban Services Transition areas as designated by the City Comprehensive Plan. Centralized utilities are available in these areas.

Soils and Drainage

The sites have a variety of soil classifications. Some soils may have limitations for development, which are typically overcome by importing fill. The soil types should not present an obstacle to future land development although special feasibility studies may be required.

REGIONAL PLAN ANALYSIS

Southwest Florida Regional Planning Council’s (SWFRPC) Strategic Regional Policy Plan (SRPP):

This amendment is not in conflict with the SRPP.

Lee County Metropolitan Planning Organization’s (MPO) 2040 Long Range Transportation Plan:

This amendment has no effect on the MPO’s 2040 Long Range Transportation Plan.

COMPREHENSIVE PLAN ANALYSIS

Staff analyzed the Comprehensive Plan to determine what policies support or undermine the proposed future land use map amendment. The FLU amendment is consistent with those pertinent policies of the Comprehensive Plan as identified below.

Future Land Use Element

Policy 1.12: The City will continue to conduct commercial land needs studies to identify potential areas of the City, which could accommodate commercially designated land, and then amend the Future Land Use Map, consistent with the studies, findings, and recommendations, and other provisions of the Comprehensive Plan.

The City will continue to review areas in the City that are better suited for commercial development and amend the FLU map accordingly.

Policy 1.7: Multi-family residential location:

1.) Proximity to major roadways.

To prevent the establishment of multi-family residential development far in the middle of predominantly single-family neighborhoods, an appropriate location for multi-family residential development is adjacent to or within $\frac{1}{4}$ mile of major roadways such as arterial and collector roadways, as identified by Figure 7 City Roadway Classifications.

Lands proposed to be amended to a Multi Family FLUC are within $\frac{1}{4}$ mile of major roadways including Del Prado Boulevard, Skyline Boulevard, and Santa Barbara Boulevard. No Multi Family FLUC changes are proposed involving lands in the middle of a single-family residential block.

2.) Proximity to non-residential land uses.

An appropriate location for multi-family residential development is adjacent to or within $\frac{1}{4}$ mile of non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

Sites that involve proposed changes to the Multi Family FLUC are within $\frac{1}{4}$ mile of non-residential land uses.

3.) Transitioning from commercial uses to less intense uses.

Multi-family residential uses have traditionally provided a role in buffering single-family uses or neighborhoods from nearby commercial development.

Therefore, an appropriate location for Multi-family residential development is physically between single-family development and non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

Sites that involve proposed changes to the Multi Family FLUC are typically between lands with Single Family and Commercial/Professional Future Land Use Classifications. The Multi Family sites are anticipated to

serve as a viable transitional land use between more intensive commercial uses and low-density residential development. SF and CP and will serve as a transitional use area to buffer single-family uses from nearby commercial uses.

4.) Assemblage opportunities and adjacency to existing multi-family residential.

Sites that involve proposed changes to the Multi Family FLUC are adjacent to existing multi-family sites.

Policy 1.14: The City of Cape Coral's commercial siting guidelines

Major Intersection: *The proposed CAC on Block 4685 is at the intersection of Chiquita Boulevard South (major arterial) and Savona Parkway West (collector). The proposed amendment meets this guideline.*

Adequate Depth: *Depth of 300 ft on the assembled CAC lots exceeds the preferred minimum of 250 feet. The proposed amendment meets this guideline.*

Compactness: *CAC parcels have a horseshoe shape due to a canal. The end cap of the canal ends at one of the subject sites and could be vacated to provide additional depth. Generally, the site is compact in a square or rectangular shape. The proposed amendment meets this guideline.*

Integration: *Sidewalks and crosswalks on two sides of the proposed CAC area connect with surrounding neighborhoods. Non-residential properties are located south of Block 4685, across Savona Parkway West. The proposed amendment partially meets this guideline.*

Assembly: *Proposed CAC Lots 15-22 are under common ownership. Lots 12-14 are vacant and under separate ownership. If these lots were assembled with Lots 15-22, the total area would be about 2 acres which is less than the ideal 3 acres. The proposed amendment does not meet this guideline.*

Intrusion: *The CAC area would be adjacent to MF and SF properties on the west side. An existing single-family home is setback about 40 feet from the east property line. A minimum 10 ft landscape buffer with wall would be required for future commercial development. This should help minimize any intrusion on the adjacent single-family parcel. Furthermore, as stated above, the site is located at the major intersection of Chiquita Boulevard South and Savona Parkway West, a generally inappropriate location for residential uses. The proposed amendment meets this guideline.*

Access: *The proposed CAC parcels have frontage on three streets. The largest parcel has over 350 feet of frontage along Chiquita. The City of Cape Coral has an access management plan for most arterial roads in Cape Coral, such as Chiquita Boulevard South. The proposed amendment meets this guideline.*

Ownership Pattern: *Only two owners. Lots 15-22 have already been combined into one parcel. The proposed amendment meets this guideline.*

The proposed amendment meets 6 commercial siting guidelines, partially meets 1, and doesn't meet 1.

OBJECTIVE 2: Location of New Commercial Development: New commercial development shall be so located to provide minimal vehicle trip lengths, at or near transportation nodes, and compatible with neighboring residential uses.

The proposed CAC on Block 4685 is at the end of the block at the intersection of Del Prado Boulevard and Savona Parkway, a transportation node. When developed with one or more commercial uses, the site is in a prime location for providing goods and services to residents at the local or neighborhood level.

Policy 8.1: The City will prohibit the expansion or replacement of land uses which are inconsistent with the Future Land Use Element.

The proposed Land Use Classifications are consistent with the Future Land Use Element of the Comprehensive Plan.

Policy 8.5: The City encourages the use of multi-family residential, compound buildings, professional offices, and parks as transitional uses between commercial development and low-density residential neighborhood.

Sites proposed for a Multi-Family FLU amendment are generally located between Commercial/Professional and Single Family FLUC lands. As such, these Multi-Family lands will serve as a transitional land use between commercial and low-density residential sites.

Impact Assessment Summary

The following calculations summarize approximate conditions for each municipal service analyzed. To determine the impact assessment, staff utilized the adopted future land use and zoning designations to determine the existing impacts at buildout. Therefore, the impacts discussed in this assessment do not necessarily reflect the actual number of dwelling units, population, etc. present within the subject area.

Proposed changes to Single-Family Residential lands assumes a density of 4.4 dwelling units per acre. Multi-Family Residential lands assumes a density of 25 units/acre.

Commercial Activity Center and Pine Island Road District will assume a floor-area-ratio of 0.25, with retail uses for 50% of the area. Using this assumption, the current 2.04 acres of CAC area would result in 11,107.8 square feet of non-residential development. The remaining 50% is proposed to be developed with residential uses at 16 units/acre (CAC) and 25 units/acre (PIRD).

For non-residential land uses, areas proposed for Commercial/Professional. For purposes of the land use amendment, the impact assessment summary of the proposed use assumes a floor-area-ratio of 0.25, with retail (15.58 acres of CP). These impacts are summarized in the table below.

	Existing Acres	Existing Commercial (Sq. Ft.)	Proposed Acres	Proposed Commercial (Sq. Ft.)
CAC*	0	0	2.04	11,107
CP	15.48	168,577	0	0
PIRD*	18.57	101,113	0	0
Total		269,690		11,107
	Existing Acres	Existing Dwelling Units	Proposed Acres	Proposed Dwelling Units
CAC*	0	0	2.04	16
MF	7.11	177	10.51	262
PIRD**	18.57	232	0	0
SF	0	0	28.61	125
Total		409		403

*impact halved assuming 50/50 non-residential/residential split

** as above, density at 25 du/acre

Commercial Square Footage

Existing: 269,690 sq. ft.
Proposed: 11,107 sq. ft.
Net Change: -258,583 sq. ft.

Dwelling Units

Existing: 409 (177 MF + 232 PIRD)
Proposed: 403 (16 CAC + 262 MF + 125 SF)
Net Change: -6 dwelling units

Population*

Existing: 1,149
Proposed: 1,132
Net Change: -17

* 2.81 persons/household = avg. household size; 2015-2019 census data for Cape Coral

Water Use

Existing: 162,707 gal/day total (269,690 square feet x 0.3 gal/sq ft/day = 80,907 gal/non-residential/day plus 409 du x 200 gal/du/day = 81,800gal/residential/day)
Proposed: 83.932 gal/day total (11,107 square feet x 0.3 gal/sq ft/day = 3,332 gal/non-

residential/day plus 403 du x 200 gal/du/day = 80,600 gal/residential/day)

Net Change: -78,775 gal/day

Facility Capacity: 30.1 MGD

Permitted Usage: 16.9 MGD

Avg. Daily Usage: 16.3 MGD

Sewage

Existing: 162,707 gal/day total (269,690 square feet x 0.3 gal/sq ft/day = 80,907 gal/non-residential/day plus 409 du x 200 gal/du/day = 81,800gal/residential/day)

Proposed: 83,932 gal/day total (11,107 square feet x 0.3 gal/sq ft/day = 3,332 gal/non-residential/day plus 403 du x 200 gal/du/day = 80,600 gal/residential/day)

Net Change: -78,775 gal/day

Facility Capacity: 28.4 MGD

Avg. Daily Usage: 22.5 MGD

Solid Waste

Existing Generation: 42,123 lbs. total/day (36,677 non-residential/day (269,690 square feet x 0.136 lbs/sq ft/day) plus 5,446 residential/day (1,149 persons x 4.74 lbs/person/day))

Proposed: 6,876 lbs. total/day (1,511 non-residential/day (11,107 square feet x 0.136 lbs/sq ft/day) plus 5,365 residential/day (1,132 persons x 4.74 lbs/person/day)

Net Change: -35,247 lbs./day

Facility Capacity: 1,836 tons/day

Existing Demand: 1,384 tons/day

Capacity Available: Yes

Traffic/Daily Trips Estimate

Existing Generation: 1,145 PM peak trips/hour

Proposed: 309 PM peak trips/hour

Net Change: -836 PM peak hour trips

Facility Capacity: All roadways meet or surpass the minimum acceptable Level of Service Standard of "D."

Capacity Available: Yes

Development Impact Analysis

Hurricane Evacuation

The subject area is in Evacuation Zones B and C. Based on the summation of the amendment impacts above, there should be little to no impact on hurricane evacuation times.

Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. The proposed amendment would slightly reduce park demand.

Protected Species

The City requires an environmental survey prior to the issuance of any land clearing, site clearing, or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, state, or federal protective or mitigation measures may be required of the developer to proceed.

School Impacts

There will be a slight increase in students, due to the increase of single-family dwelling units resulting from this amendment.

Existing dwelling units:	409 dwelling units (409 MF)
Existing students:	37 (412 x .091 MF/unit)
Proposed dwelling units:	403 dwelling units (128 SF + 262 MF)
Proposed students:	61 (125 x .292 SF/unit + 278 x .091 MF/unit)
Change:	+24 students

Recommendation:

The FLU amendment is consistent with the Comprehensive Plan as identified above. Approximately 134 single-family, duplex, and multi-family buildings will be reverted to legal, conforming uses. This amendment will also allow for the construction of new single-family dwellings in blocks with established residential development and will result in a reduction of future water, sewer, and solid waste demand. The FLU and zoning for some parcels will be brought into consistency allowing permits to be issued for these sites. As a result, the Planning Division recommends **adoption** of the proposed large-scale future land use map amendment request.



500 FOOT NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: LU21-0003

ORDINANCE 51-21: AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 15-27, BLOCK 1458, UNIT 16; LOTS 45-52 AND 59-72, BLOCK 1322, UNIT 18; LOTS 1-24 AND 31-34, BLOCK 3083, UNIT 62; AND LOTS 1-22, BLOCK 4454, UNIT 63; FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-26, BLOCK 4448, UNIT 63; AND LOTS 1-8 AND 12-20, BLOCK 3169, UNIT 66; FROM MULTI-FAMILY RESIDENTIAL (MF) TO COMMERCIAL ACTIVITY CENTER (CAC) LAND USE FOR PROPERTY DESCRIBED AS LOTS 12-22, BLOCK 4685, UNIT 70; FROM MULTI-FAMILY RESIDENTIAL (MF) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-44, BLOCK 4727, UNIT 70; FROM PINE ISLAND ROAD DISTRICT (PIRD) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 42-61, BLOCK 1501, UNIT 47, PART 1; LOTS 1-32, BLOCK 3570, UNIT 47, PART 1; LOTS 1-18, 22-34, AND 37-45, BLOCK 3571, UNIT 47, PART 1; LOTS 1-8 AND 21-26, BLOCK 3575, UNIT 47, PART 1; LOTS 19-21, BLOCK 3571, UNIT 47, PART 4; LOTS 3-10, BLOCK 2030, UNIT 31, PART 2; AND LOTS 24-46, BLOCK 4560, UNIT 68, ALL IN CAPE CORAL SUBDIVISION; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

UPCOMING PUBLIC HEARING: Notice is hereby given that the Cape Coral Planning and Zoning Commission will hold a public hearing at 9:00 A.M. on June 2, 2021 on the above mentioned case. The public hearing will be held in the 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 Planning and Hearing Commission 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 five days prior to the hearing. The file can be reviewed at the Community Development Department, 1015 Cultural Park Blvd., Cape Coral, FL.

After the Planning and Zoning Commission has made a written recommendation, the case may 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 if 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.

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.

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

Department of Community Development
Post Office Box 150027 • Cape Coral, Florida 33915-0027
1015 Cultural Park Blvd. • Cape Coral, Florida 33990
Email: planningquestions@capecoral.net

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.





NOTICE TO AFFECTED PROPERTY OWNERS

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Department of Community Development
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NOTICE OF CHANGE OF LAND USE

The City of Cape Coral Proposes to Adopt ORDINANCE 51 - 21, AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 15-27, BLOCK 1458, UNIT 16; LOTS 45-52 AND 59-72, BLOCK 1322, UNIT 18; LOTS 1-24 AND 31-34, BLOCK 3083, UNIT 62; AND LOTS 1-22, BLOCK 4454, UNIT 63; FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-26, BLOCK 4448, UNIT 63; AND LOTS 1-8 AND 12-20, BLOCK 3169, UNIT 66; FROM MULTI-FAMILY RESIDENTIAL (MF) TO COMMERCIAL ACTIVITY CENTER (CAC) LAND USE FOR PROPERTY DESCRIBED AS LOTS 12-22, BLOCK 4685, UNIT 70; FROM MULTI-FAMILY RESIDENTIAL (MF) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-44, BLOCK 4727, UNIT 70; FROM PINE ISLAND ROAD DISTRICT (PIRD) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 42-61, BLOCK 1501, UNIT 47, PART 1; LOTS 1-32, BLOCK 3570, UNIT 47, PART 1; LOTS 1-18, 22-34, AND 37-45, BLOCK 3571, UNIT 47, PART 1; LOTS 1-8 AND 21-26, BLOCK 3575, UNIT 47, PART 1; LOTS 19-21, BLOCK 3571, UNIT 47, PART 4; LOTS 3-10, BLOCK 2030, UNIT 31, PART 2; AND LOTS 24-46, BLOCK 4560, UNIT 68, ALL IN CAPE CORAL SUBDIVISION; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

A public hearing on the ordinance will be held Wednesday, June 2, 2021 at 9:00 a.m. at the City of Cape Coral, City Hall Chambers, 1015 Cultural Park Blvd., Cape Coral, Florida 33990. At this public hearing, the Planning and Zoning Commission will consider a recommendation to change the City's future land use map amendment request. Accordingly, members of the general public and real property owners in the community are invited to appear and speak at the public hearing. Written comments filed with the Director will also be entered into the record. A copy of the map and the proposed amendment under consideration will be available for inspection and will be provided to the public at cost at the City Clerk's office between 7:30 a.m. and 4:30 p.m., Monday through Friday excluding holidays. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that subject person 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. In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk no later than 4:00 p.m. on the day prior to the meeting.

Kimberly Bruns, CMC
City Clerk





Ordinance 51-21

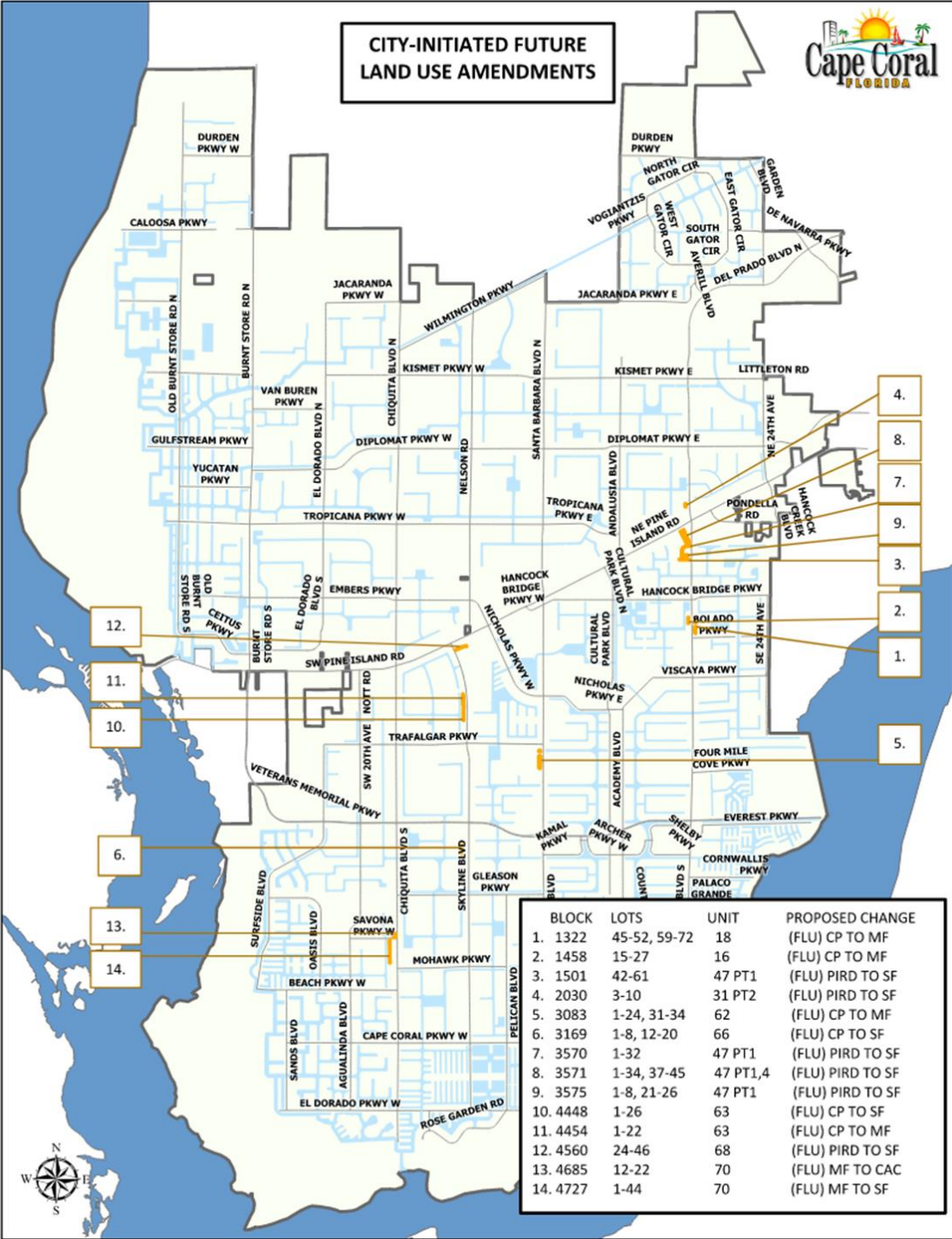
Cape Coral City Council Public Hearing



Request:

- This case involves a city-initiated Future Land Use Map Amendment for multiple properties in 14 blocks covering approximately 41.25 acres.
 - Proposed changes:
 - PIRD to SF = 18.57 acres
 - CP to MF = 10.51 acres
 - MF to SF = 5.07 acres
 - CP to SF = 4.97 acres
 - MF to CAC = 1.70 acres
- | Net Change: |
|---|
| Single-Family Residential: +28.61 acres |
| Pine Island Road District: -18.57 acres |
| Commercial/Professional: -15.48 acres |
| Multi-Family Residential: +3.74 acres |
| Commercial Activity Center: +1.70 acres |

Case #: LU21-0003
Applicant: City of Cape Coral
Location: Multiple

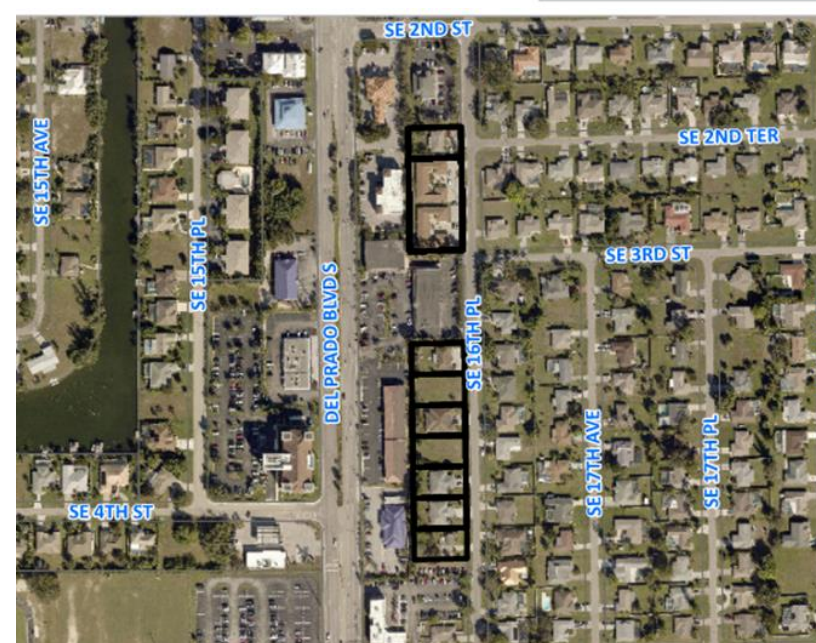
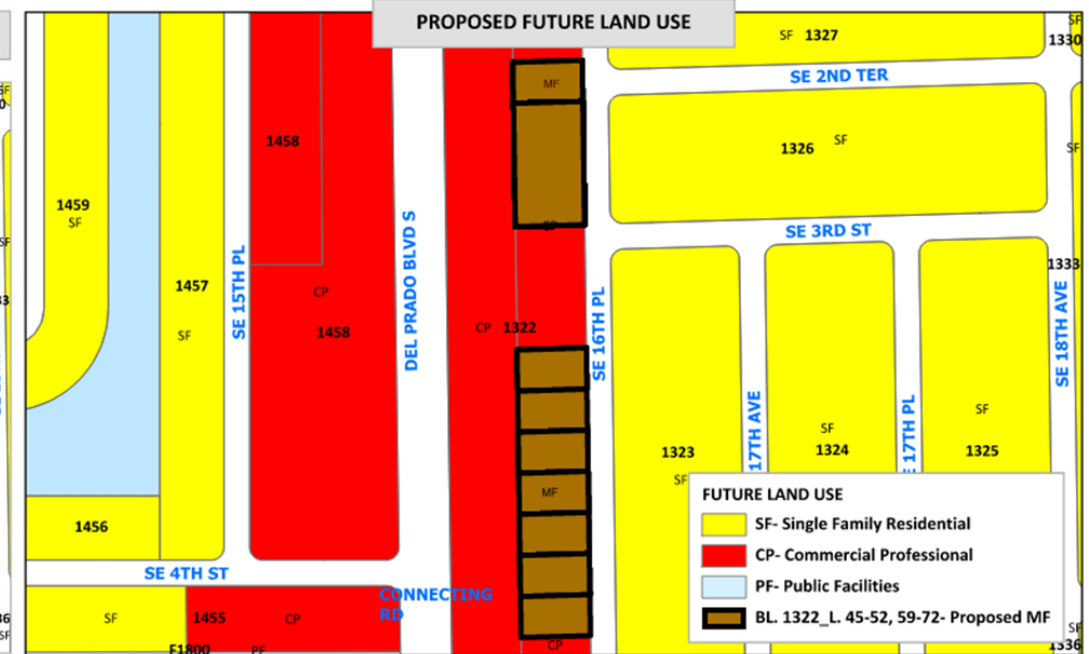
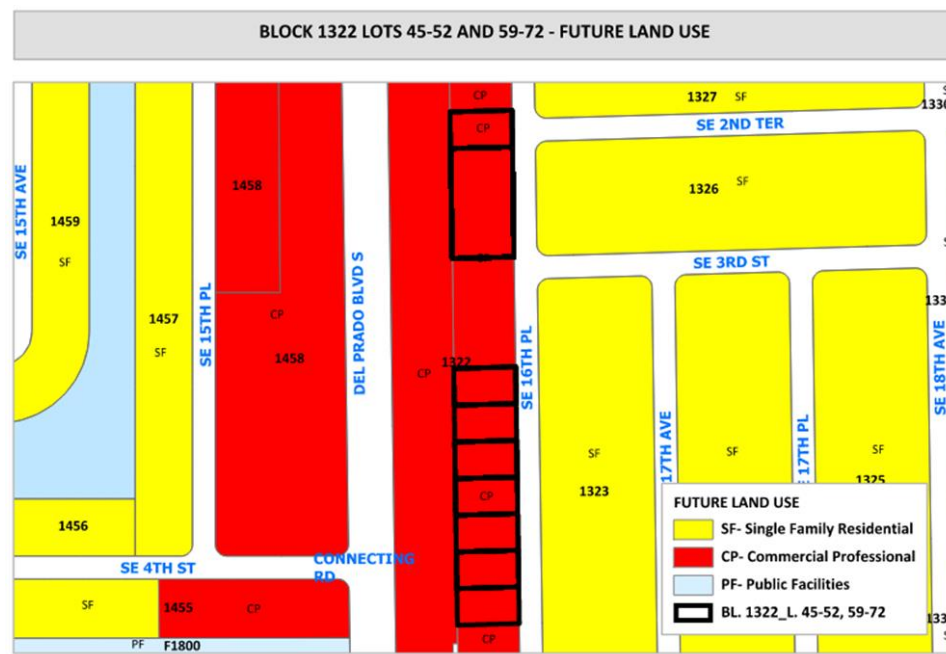


Background:

- In most instances, a commercial or mixed-use future land use classification will be changed to a residential future land use classification to recognize existing long-standing residential development patterns in these blocks.
- In several instances the FLU will be amended to bring it into consistency with the current zoning.

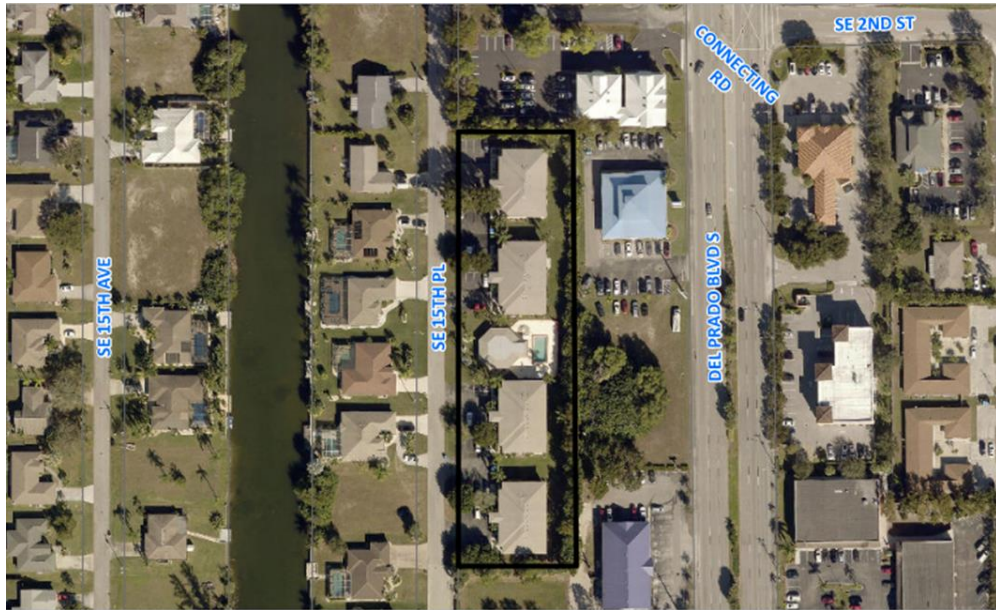
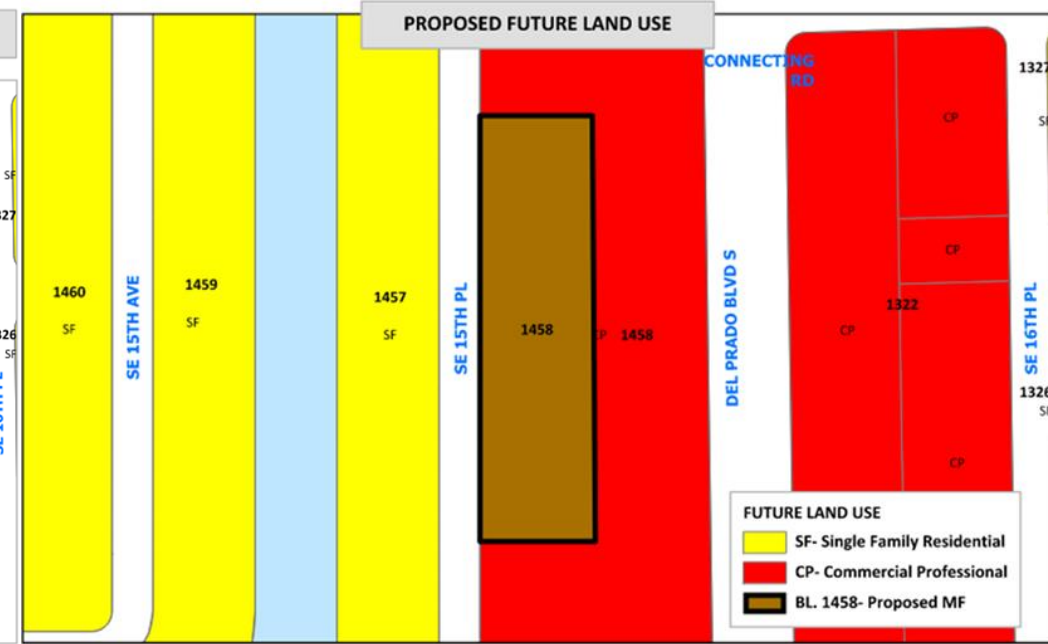
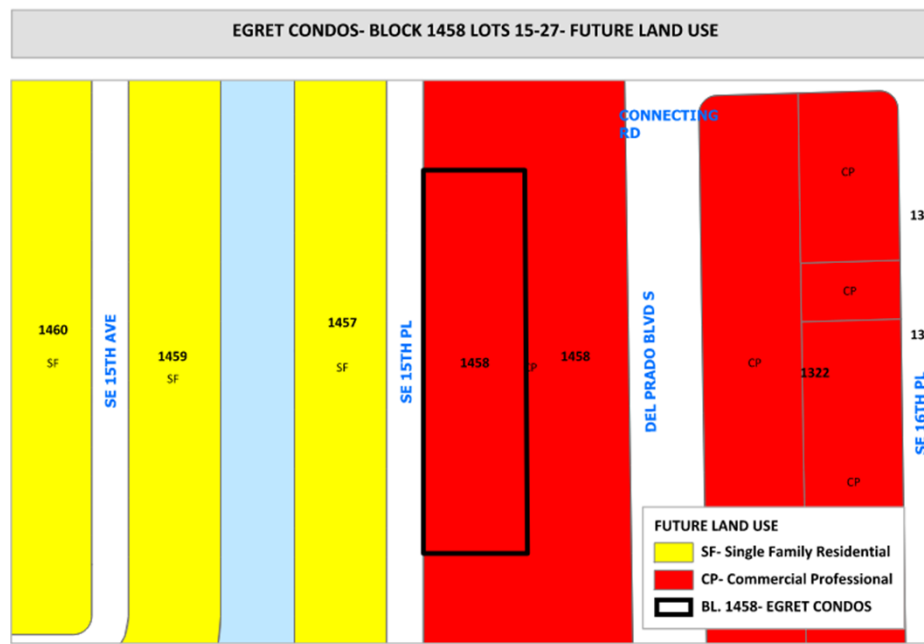
Analysis:

**Block 1322. Change from Commercial Professional (CP) to Multi-Family (MF) for Lots 45-52 and 59-72 along the Del Prado Corridor.
Area = 2.73 Acres.**



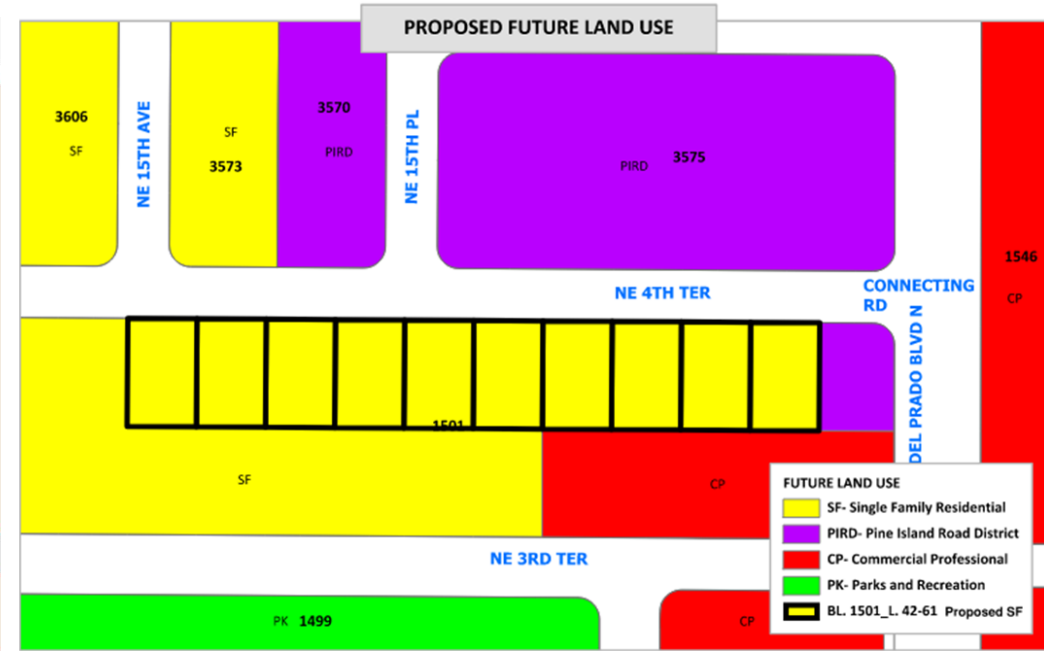
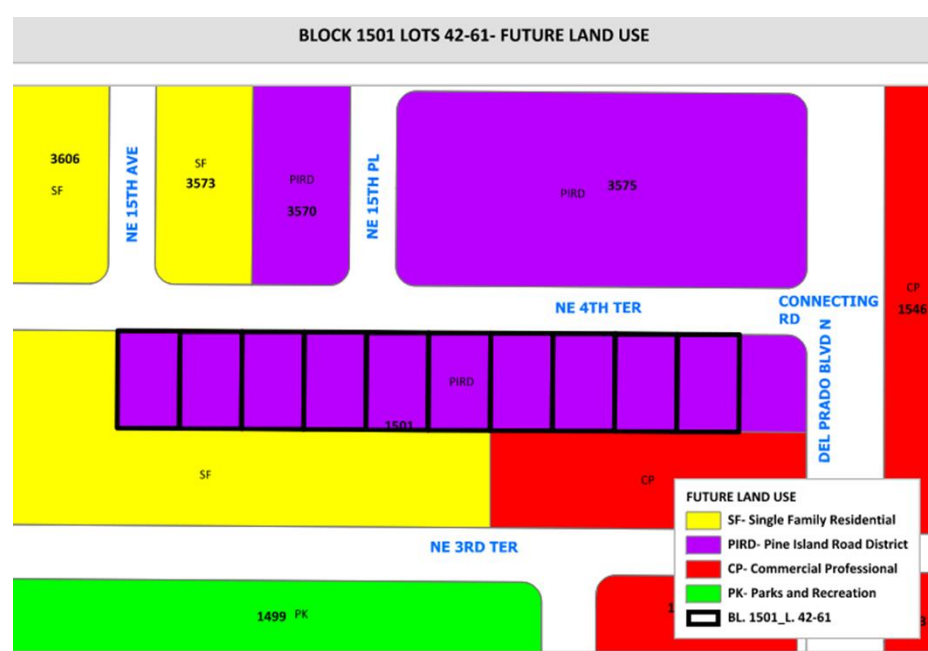
- The RML Zoning and CP FLU are inconsistent for Lots 59-72 and Lots 45-46.
- Six of 9 parcels are improved with duplexes or multi-family buildings. The southernmost property is a City-owned pump station.
- Existing duplexes provide a transition between single-family homes to the east and commercial buildings to the west.
- Neither of the two vacant lots share ownership with an adjacent property, indicating no assemblage has occurred.
- The amendment will provide consistency between the FLU and zoning for 8 of the 9 parcels.
- Seven nonconforming residential uses will become conforming.

Block 1458. Change from Commercial Professional (CP) to Multi-Family (MF) for the Egret Condo Property, Lots 15-27. Area = 1.66 Acres.



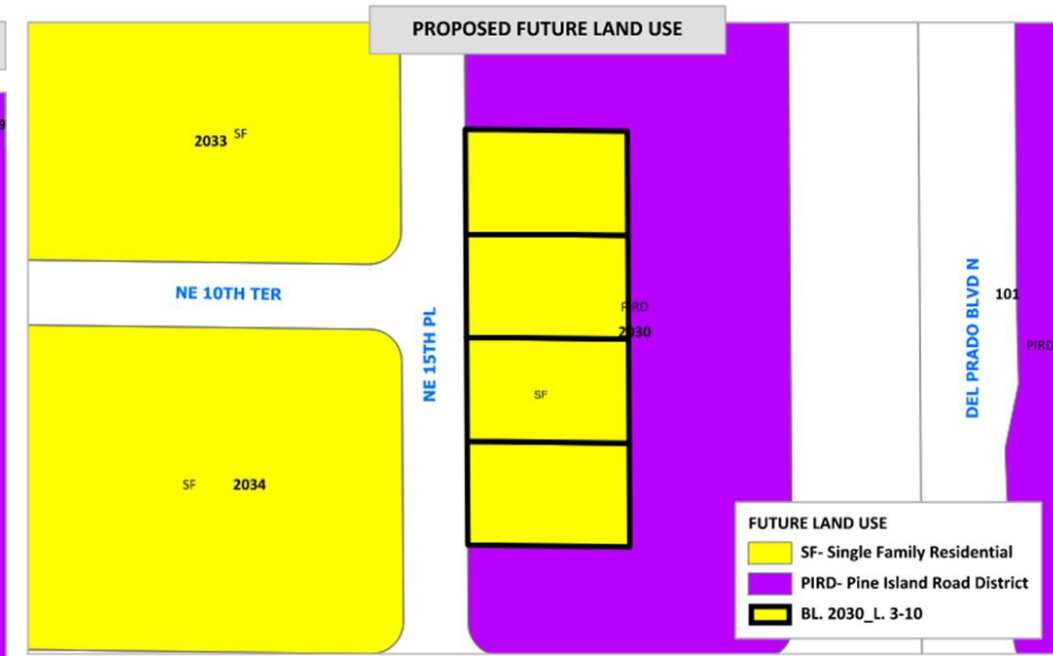
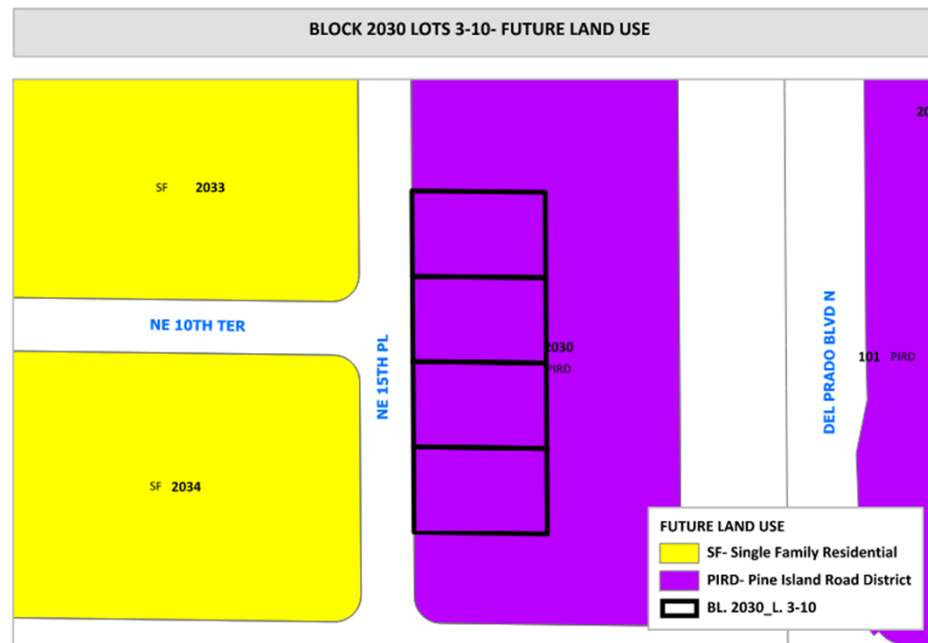
- Rezoned from R-3 to C in 2019.
- Property contains four multi-family buildings.
- Low probability of redevelopment to a commercial use.
- If approved, the use will become conforming.

Block 1501. Change from Pine Island Road District (PIRD) to Single Family (SF) for Lots 42-61. Area = 2.3 Acres.



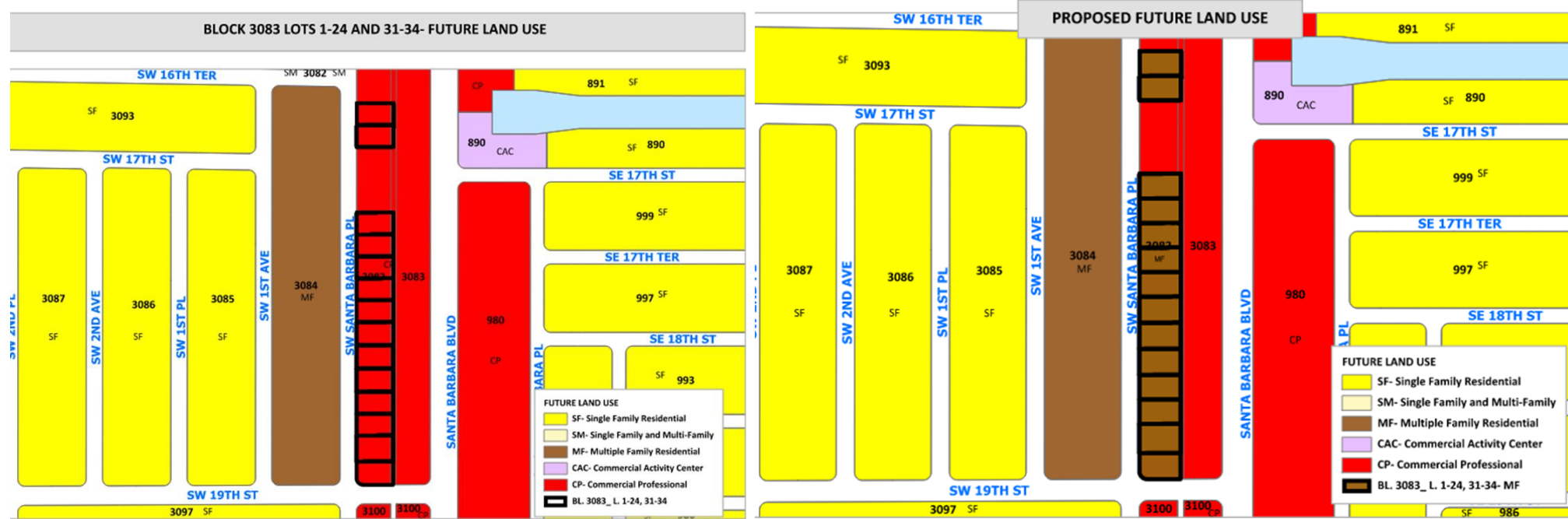
- Lots 42-61 contain single-family homes.
- Lots 40-41 along Del Prado contain a professional office.
- The FLU was amended to PIRD in 2002 and rezoned to CORR in 2004.
- No assembly of property has occurred since.
- All 10 of the properties are improved with single-family homes.
- If approved, 10 nonconforming uses will become conforming.

Block 2030. Change from Pine Island Road District (PIRD) to Single Family (SF) for Lots 3-10.
Area = 0.91 Acres.



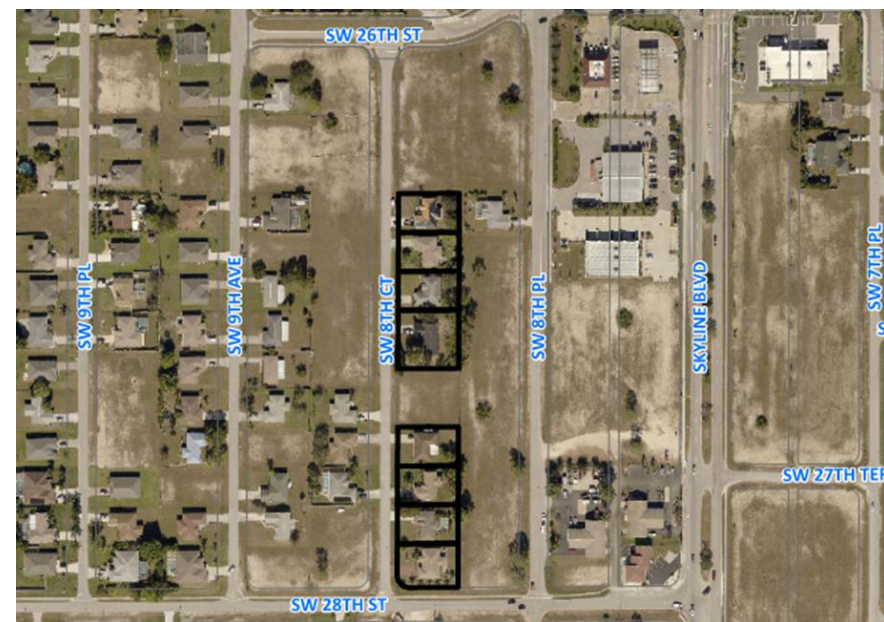
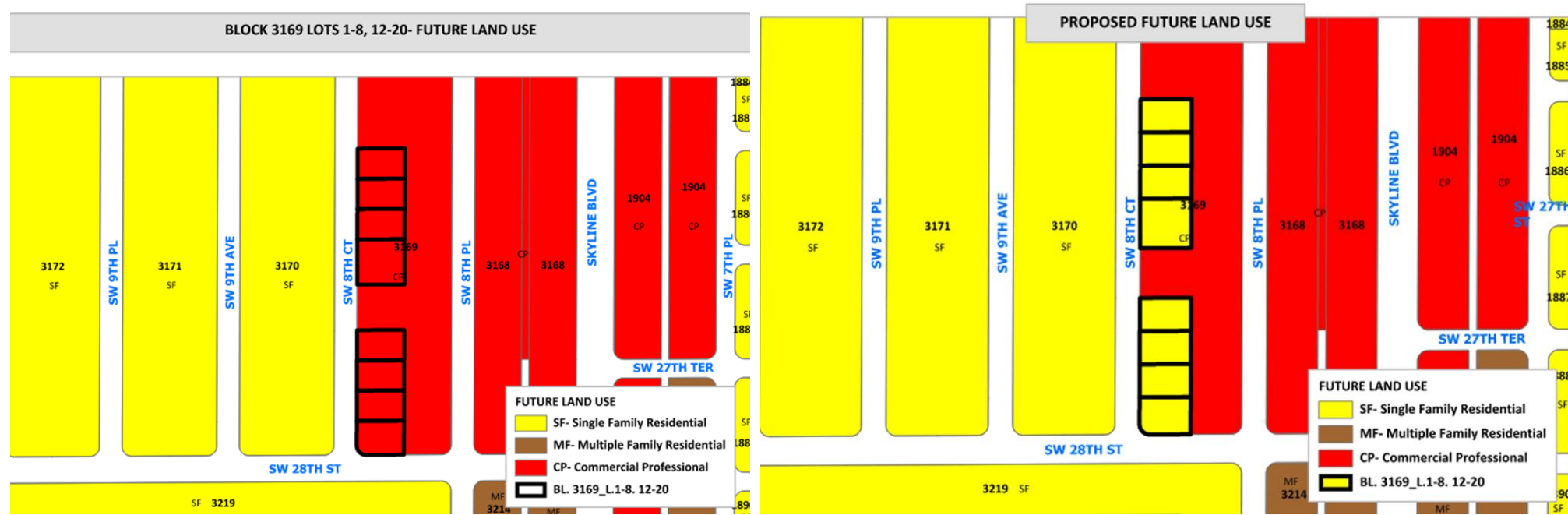
- The PIRD FLU and CC zoning are consistent but do not reflect use patterns.
- Three of four parcels are improved with Single Family Homes.
- No direct access to Del Prado Blvd.
- Single-family (R1) zoning is to the west. Adjacent lots owned by City of Cape Coral and are used for stormwater ponds.
- No commercial assemblage has occurred.
- If approved, 3 nonconforming uses will become conforming.

**Block 3083. Change from Commercial Professional (CP) to Multi-Family (MF) for Lots 1-24 and 31-34 along Santa Barbara Blvd.
Area = 3.57 Acres**



- FLU MF to CP in 2007; Zoning R-3 to C-1 in 2011.
- Thirteen of the 14 sites are developed. Most have duplexes.
- Three existing vacant lots between the duplexes constitute an assembly of property with frontage on Santa Barbara Boulevard.
- If approved, 13 nonconforming uses will become conforming.

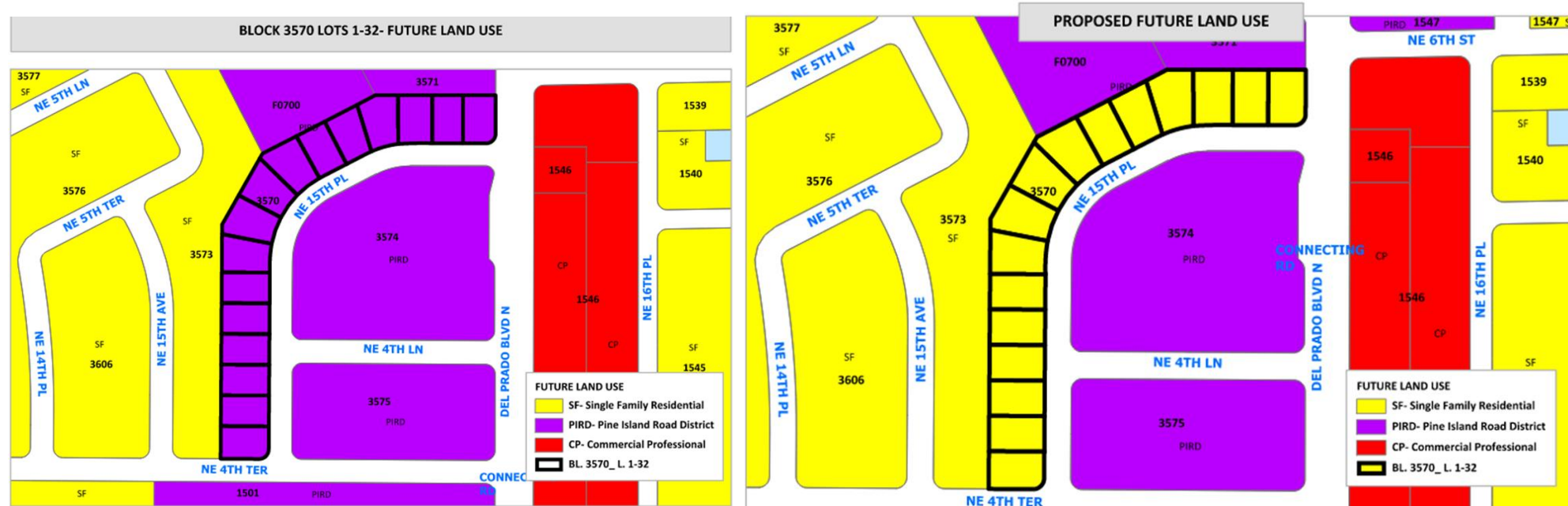
Block 3169. Change from Commercial Professional (CP) to Single Family (SF) for Lots 1-8, 12-20. Area = 1.97 acres.



- Consists of 8 parcels, all of which are improved with single-family residences.
- FLU SF to CP in 2008; Zoning R-1B to C-1 in 2011.
- Owner of the excluded parcel in the middle has ownership of several adjacent lots on the eastern half of the block.
- If approved, eight nonconforming uses will become conforming.

Block 3570. Change from Pine Island Road District (PIRD) to Single Family (SF) for Lots 1-32.

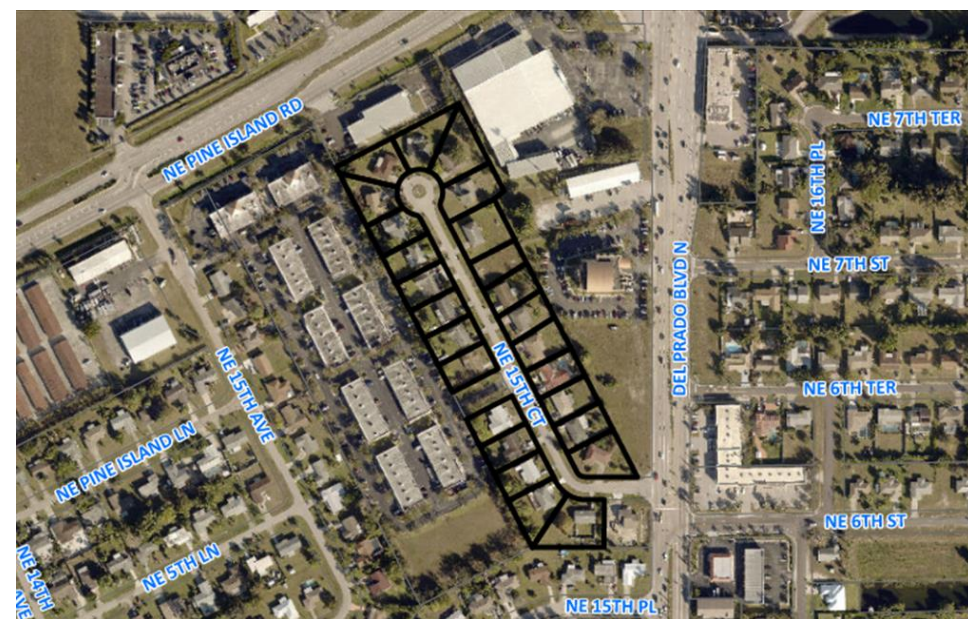
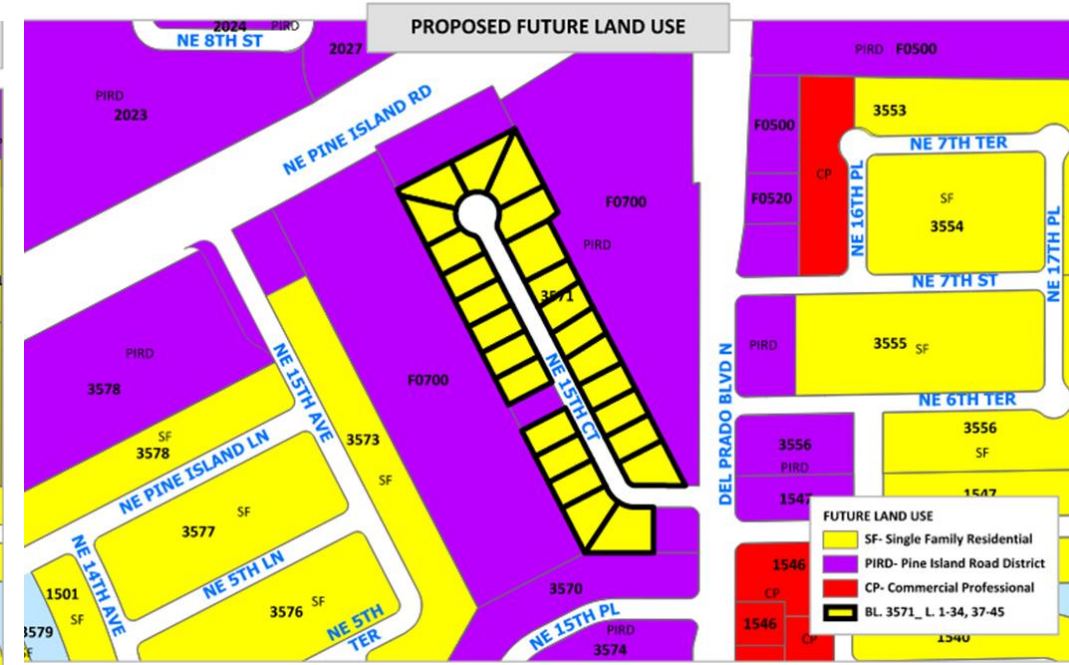
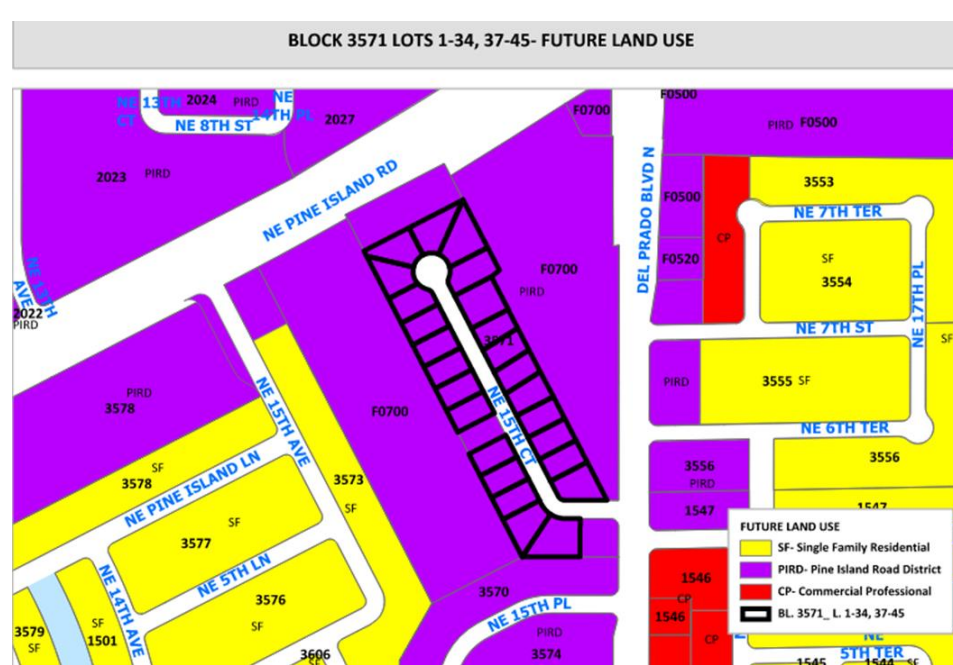
Area = 3.93 Acres.



- Established single-family dwellings exist on all the subject sites.
- FLU amended to PIRD in 2002 and rezoned to CORR in 2004.
- No property assembly has occurred.
- If approved, 16 nonconforming uses will become conforming.

Block 3571. Change from Pine Island Road District (PIRD) to Single Family (SF) for Lots 1-34 and Lots 37-45.

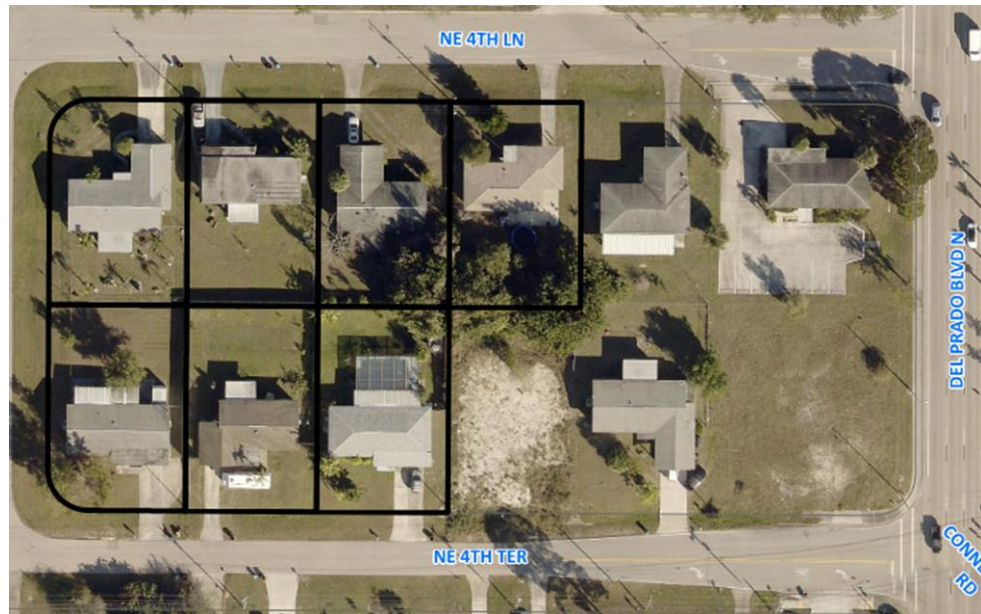
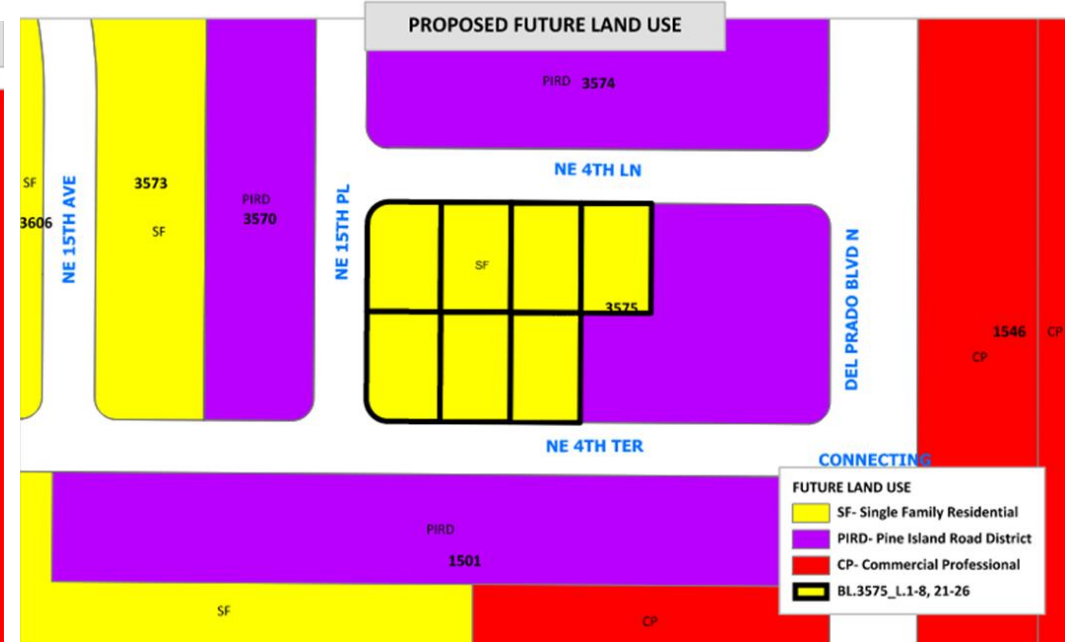
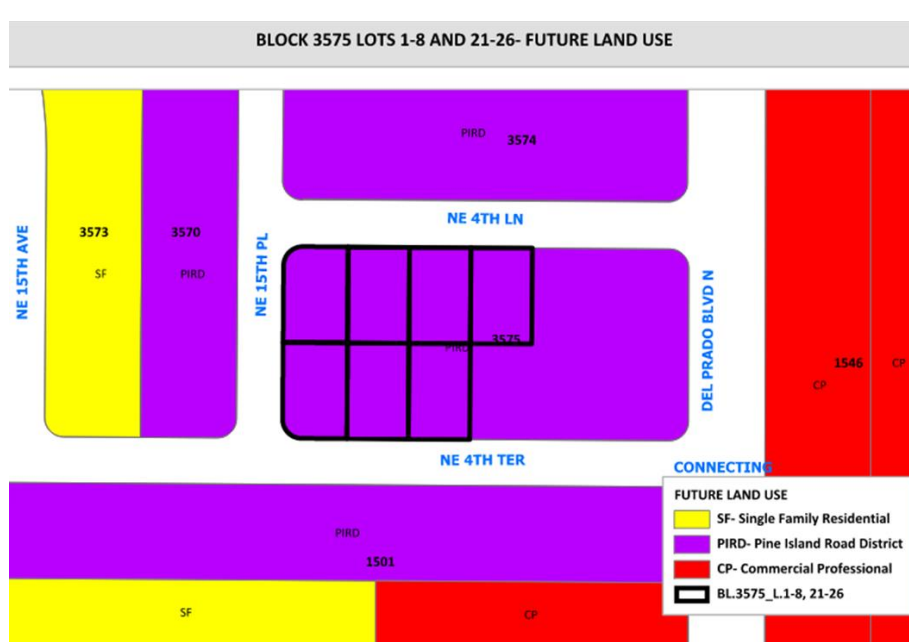
Area = 7.04 Acres.



- FLU amended from CP to PIRD in 2002 and rezoned to CC in 2004.
- Historic residential land use pattern.
- Southeastern-most parcel with frontage on Del Prado has an existing office building and is not included as part of this amendment.
- No property assembly has been observed.
- If approved, 24 nonconforming uses will become conforming.

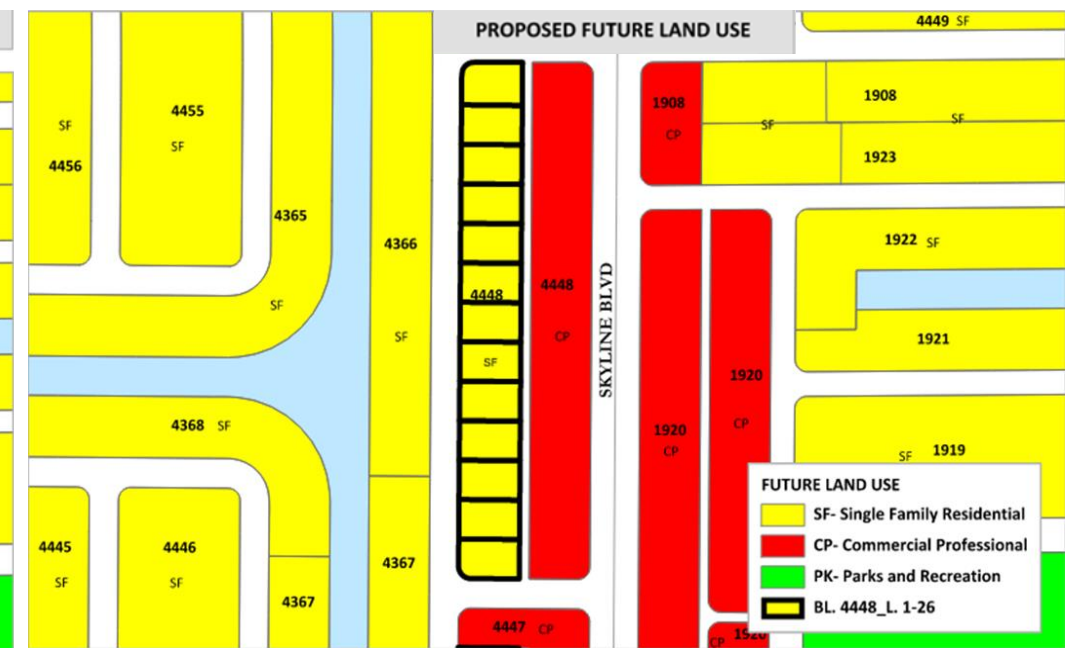
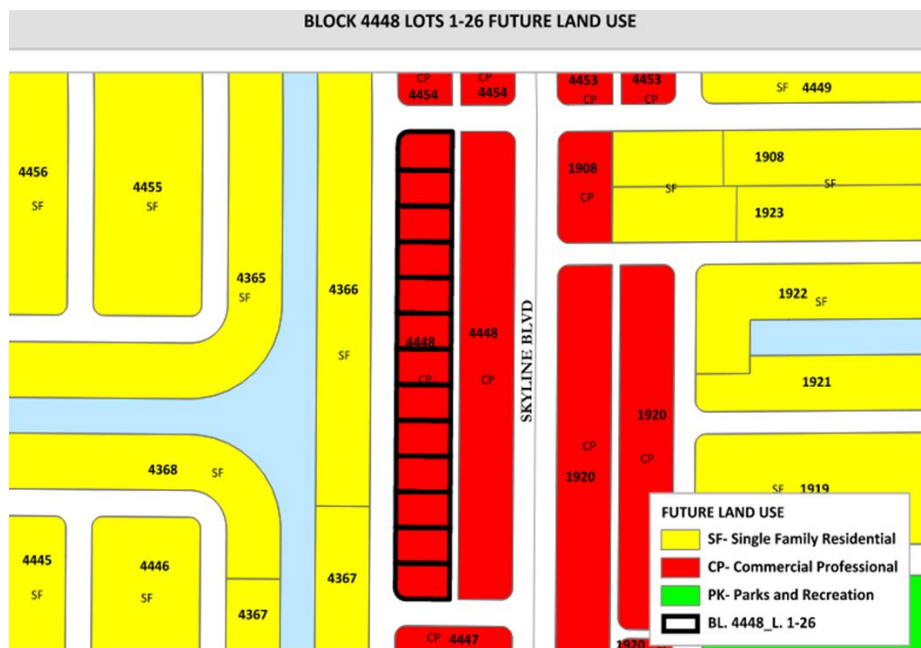
Block 3575. Change from Pine Island Road District (PIRD) to Single-Family (SF) for Lots 1-8 and Lots 21-26.

Area = 1.62 Acres.



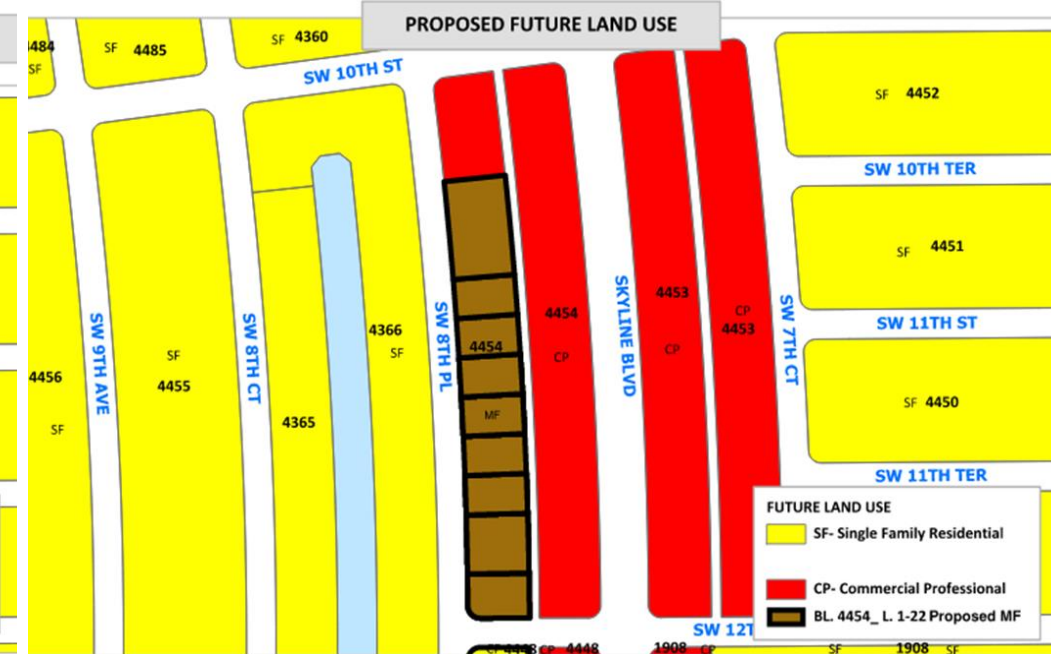
- **FLU amended to PIRD in 2002 and rezoned to CORR in 2004.**
- **Some assembly has occurred on the eastern half of the block (four of six parcels).**
- **All included parcels developed with single-family homes.**
- **If approved, 7 nonconforming uses will become conforming.**

Block 4448. Change from Commercial Professional (CP) to Single Family (SF) for Lots 1-26.
Area = 3.0 Acres.



- Sites have had CP FLU since 2008 and commercial zoning since 2011.
- Seven of the thirteen parcels have single-family dwellings.
- An alley exists that inhibits full-block development.
- Property assembly not evident on the western half of the block.
- If approved, 7 nonconforming uses will become conforming.

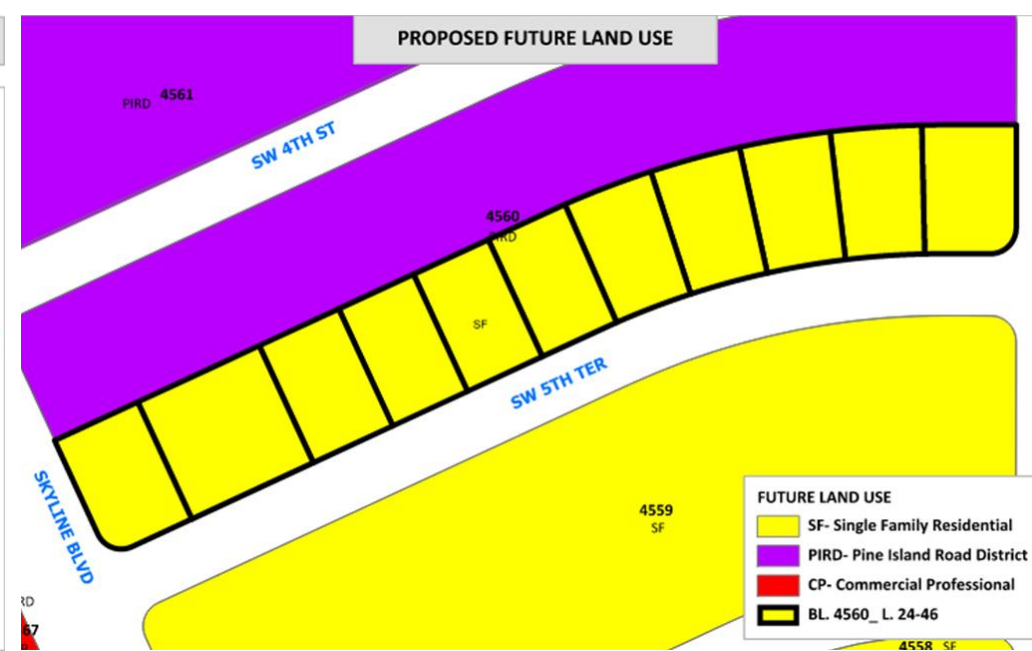
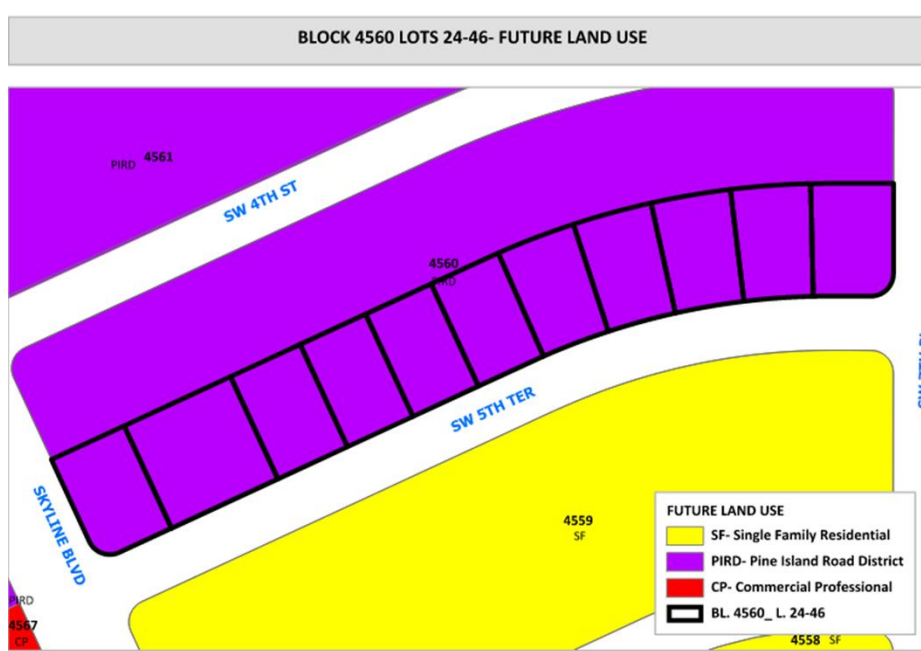
Area = 2.55 Acres.



- **FLU changed from CAC to CP in 2019; Zoning changed from MR to C in 2019.**
- **All parcels are developed - 4 with single-family dwellings and 5 with duplexes.**
- **An alley in the block prevents full-block depth.**
- **No commercial development is present on the western half of block.**
- **If approved, 9 nonconforming uses will become conforming.**

Block 4560. Change from Pine Island Road District (PIRD) to Single Family (SF) for Lots 24-46.

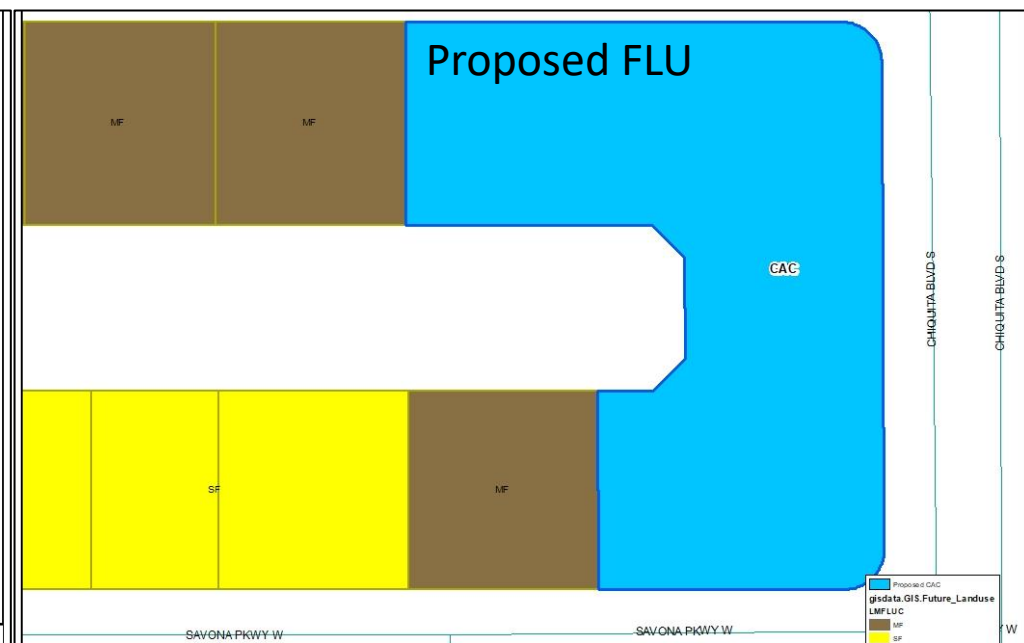
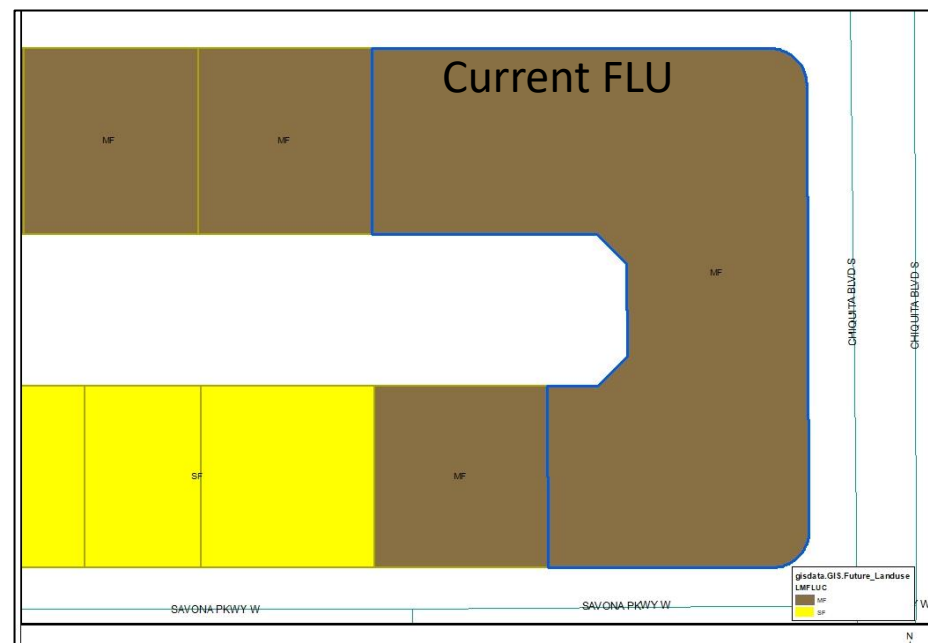
Area = 2.77 Acres.



- FLU amended from CP to PIRD in 2002; Zoning from R-1B to CORR in 2004.
- Eight of 11 sites are developed with single-family dwellings.
- Property assembly is not evident.
- If approved, 8 nonconforming uses will become conforming.

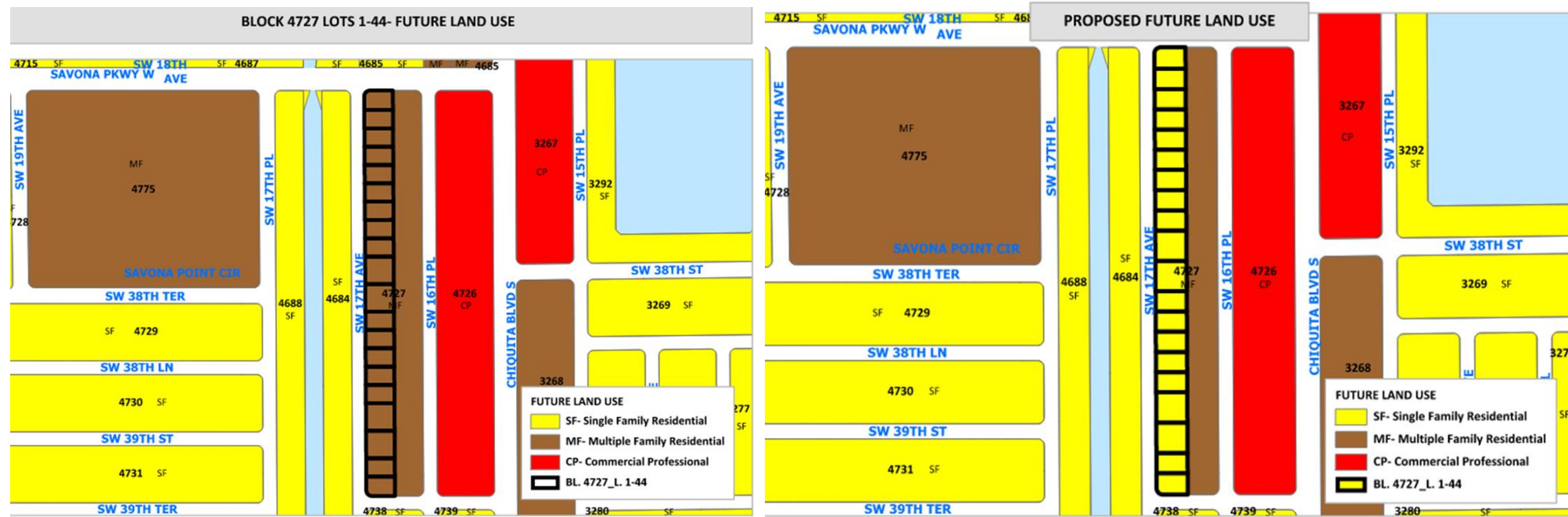


**Block 4685. Change back to Commercial Activity Center (CAC) from Multi-Family (MF) for Lots 15-22.
Area = 1.7 Acres.**



- The Neighborhood Commercial (NC) Zoning is inconsistent with the Multi-Family (MF) Future Land Use Classification.
- The Future Land Use prior to 2019 was CAC.
- Lots are unimproved.
- The site is at the end of a block at the intersection of two major streets (Chiquita and Savona).
- If approved, the FLU and zoning will be consistent, and permits can be issued for the parcel.

**Block 4727. Change
from Multi-Family
(MF) to Single Family
(SF) for Lots 1-44.
Area = 5.07 Acres.**



- **The R1 Zoning is inconsistent with the Multi-Family FLUC.**
- **FLU was changed from SM to MF in 2005; Rezoned from RD to R1 in 2019.**
- **Seventeen out of 20 parcels are developed with single-family dwellings.**
- **If approved, permits can be issued for the remaining vacant parcels.**

Comprehensive Plan:

The Future Land Use Map amendments are consistent with the following policies and objectives from the Future Land Use Element:

Policy 1.12: The City will continue to conduct commercial land needs studies.

Policy 1.7: Multi-family residential location: *Amendment meets all 4 guidelines.*

Policy 1.14: The City of Cape Coral's commercial siting guidelines: *The amendment meets 6 commercial siting guidelines, partially meets 1, and doesn't meet 1.*

Policy 8.1: The City will prohibit the expansion or replacement of land uses which are inconsistent with the Future Land Use Element. *The proposed Land Use Classifications are consistent with the Future Land Use Element of the Comprehensive Plan.*

Policy 8.5: The City encourages the use of multi-family residential,as transitional uses between commercial development and low-density residential neighborhood. *These Multi-Family lands will serve as a transitional land use between commercial and low-density residential sites.*

OBJECTIVE 2: Location of New Commercial Development: *The proposed CAC is at the end of a block at a major intersection and is in a prime location for providing goods and services to residents at the local level.*

Summary:

134± single-family, duplex, and multi-family buildings will be reverted to legal, conforming uses.

These amendments will also allow for the construction of new single-family dwellings in blocks with established residential development and will result in a reduction of future water, sewer, and solid waste demand.

The FLU and zoning for several sites will be brought into consistency allowing permits to be issued for these parcels.

Rezoning for most of these sites will be needed to bring the zoning into consistency with the new Future Land Use Classification. The Rezoning will be processed in a separate City-initiated application.

Recommendations:

The Planning Division recommends transmittal of the proposed Future Land Use Map Amendment requests.

The Planning and Commission voted to recommend transmittal of Ordinance 51-21.

Correspondence:

Staff had previously received 25 emails and phone calls: 4 in support, 4 opposed, and 19 requesting additional information.

New:

Thank you!
Questions and Discussion





Ordinance 51-21

Cape Coral City Council Public Hearing

January 5, 2022



Request and Background:

- This case involves a City-initiated Future Land Use Map Amendment for multiple properties in 14 blocks covering 41.25 acres.
- In most instances, a commercial or mixed-use future land use classification (FLUC) will be changed to a residential FLUC to recognize existing long-standing residential development patterns in these blocks.
- In two instances the FLUC will be amended to bring the new land use into consistency with the current zoning.
- For most blocks, a City-initiated rezone will be needed to bring the rezoning into consistency with the new FLU.

Summary of Changes

Proposed changes:

PIRD to SF = 18.57 acres

CP to MF = 10.51 acres

MF to SF = 5.07 acres

CP to SF = 4.97 acres

MF to CAC = 1.70 acres

Net Change:

Single-Family Residential: +28.61 acres

Pine Island Road District: -18.57 acres

Commercial/Professional: -15.48 acres

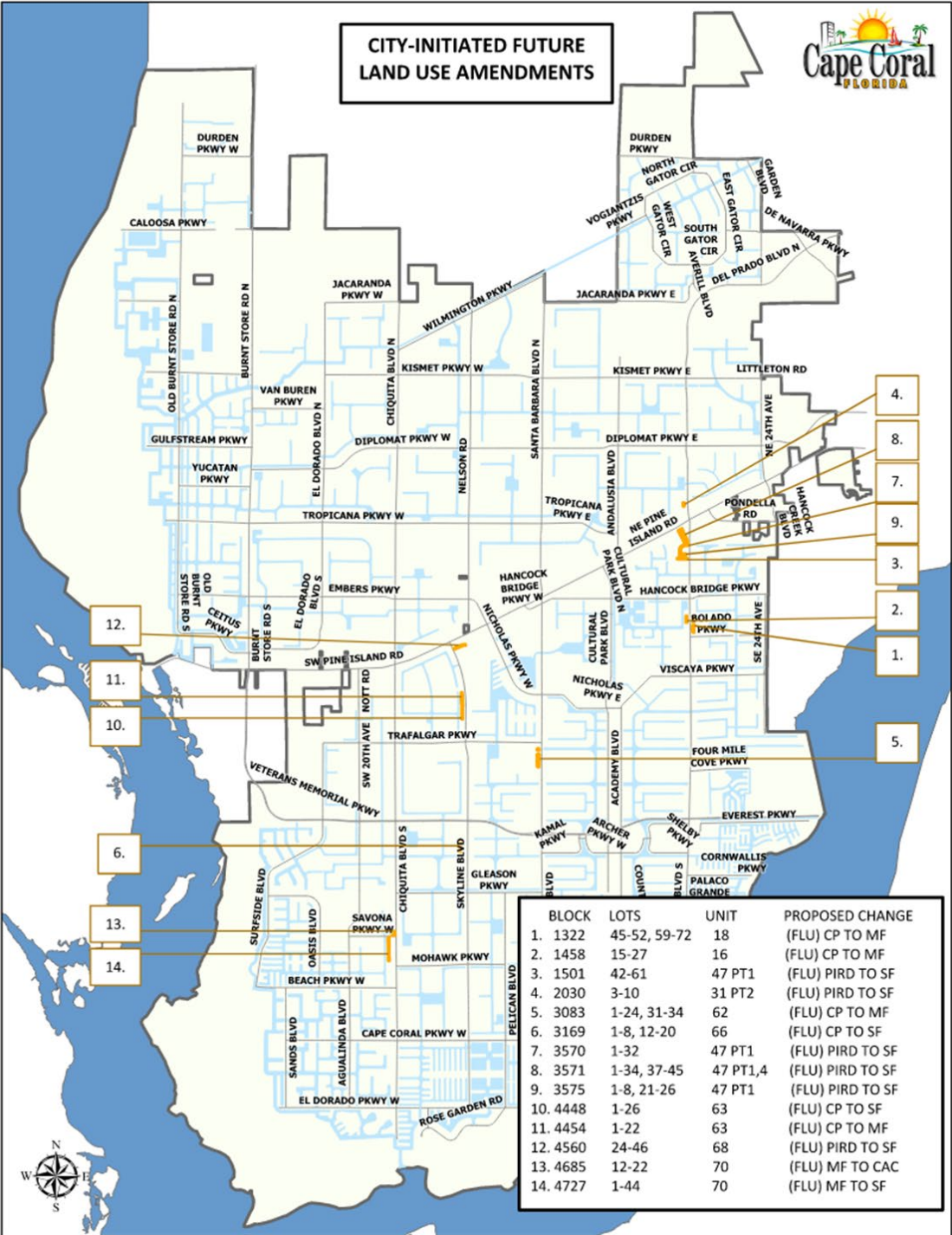
Multi-Family Residential: +3.74 acres

Commercial Activity Center: +1.70 acres

Reasons for the proposed changes- features shared by most sites

- **Established residential development**
- **Small platted sites**
- **Little to no property assembly**
- **Sites with frontage along local streets**

Case #: LU21-0003
Applicant: City of Cape Coral
Location: Multiple

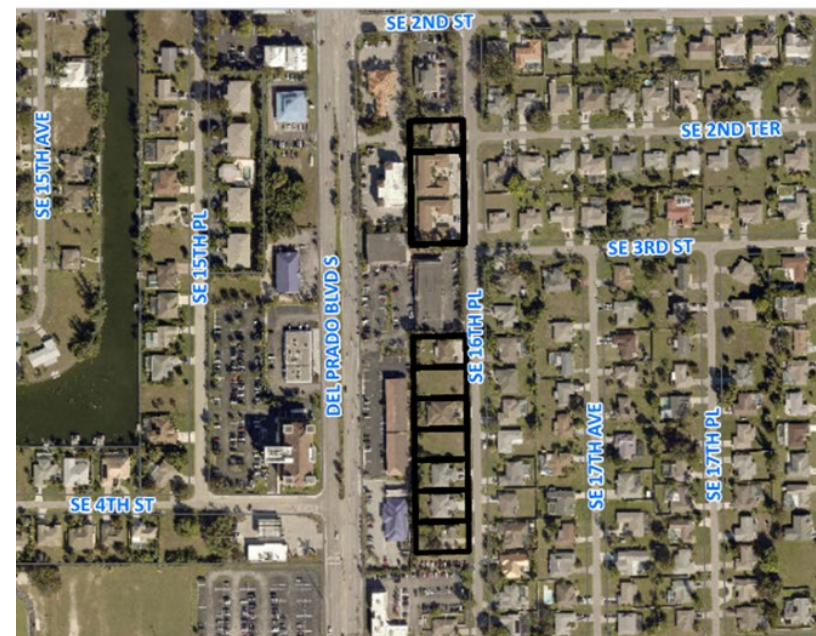
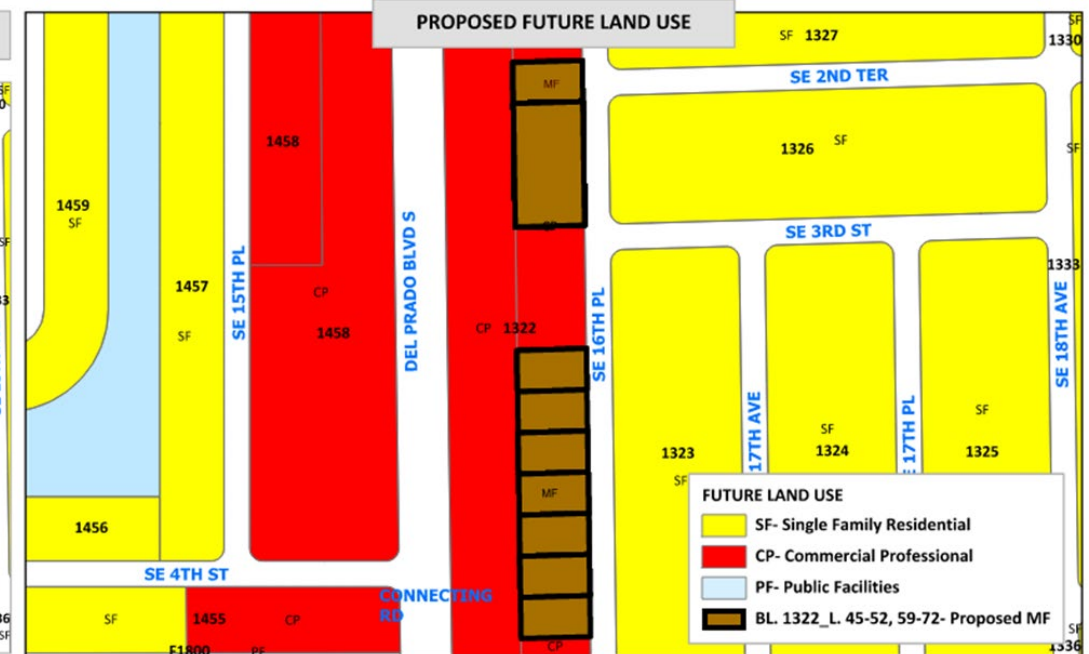
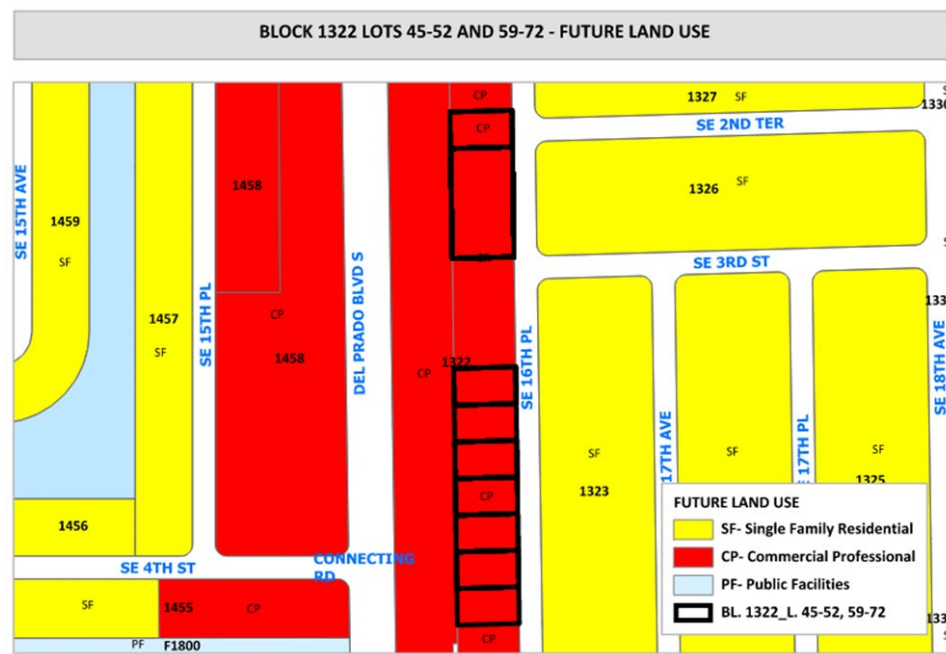


Project History

- **June 2, 2021: Planning & Zoning Commission Public Hearing (6-1)**
- **July 28, 2021: City Council PH (7-0)**
- **October 6, 2021: Planning & Zoning Commission PH (6-0)**
- **January 5, 2022: City Council PH (adoption)**

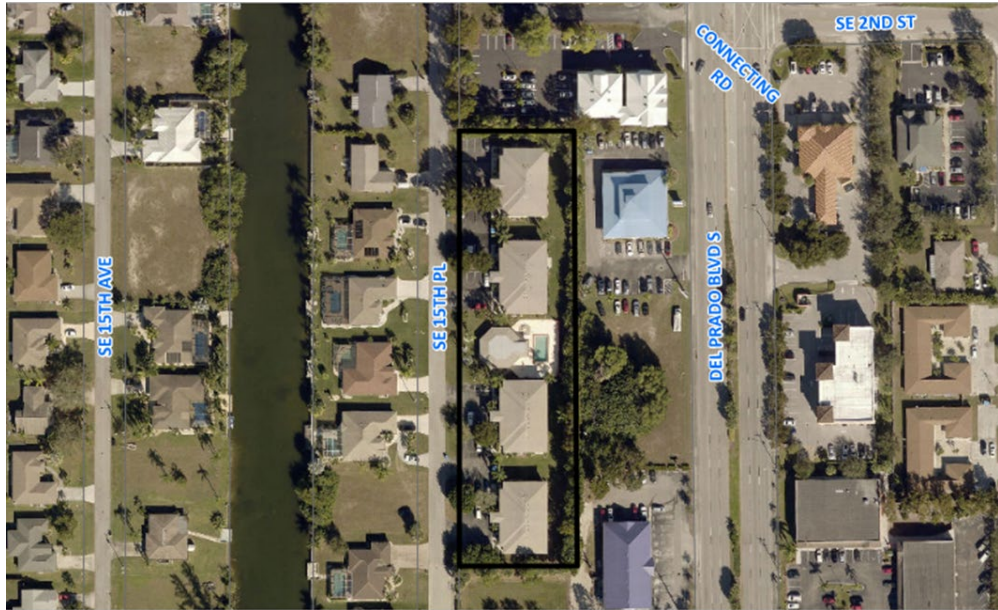
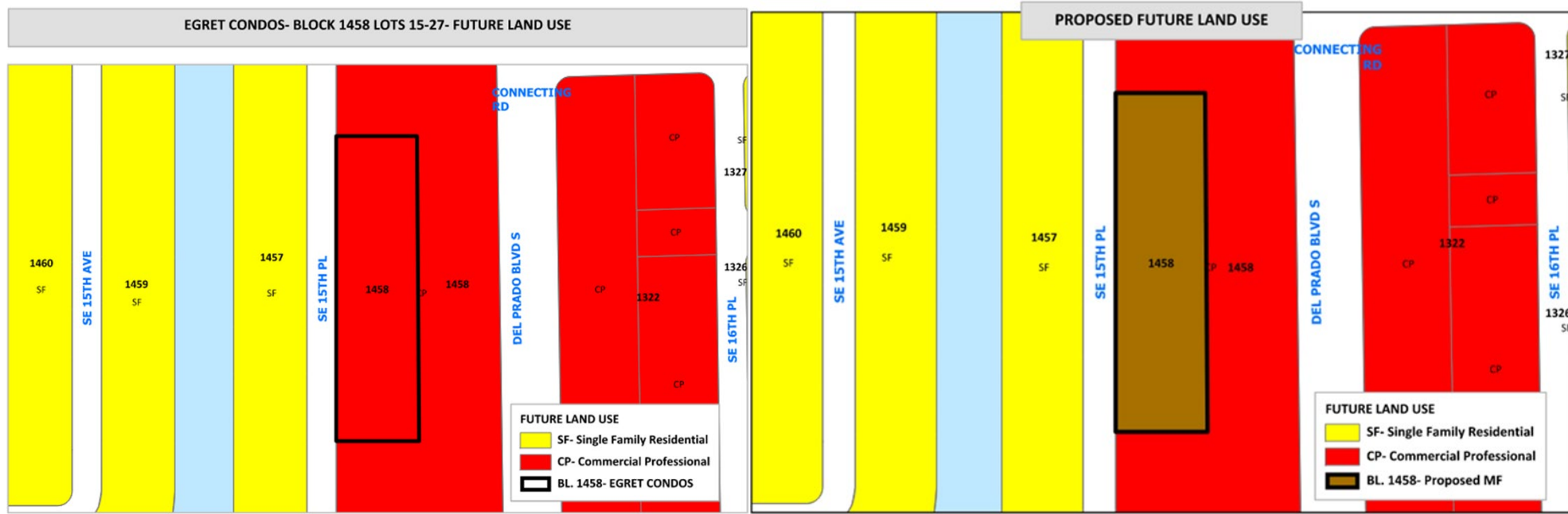
- **Companion rezoning cases have been recommended for approval by the Hearing Examiner (ZA21-0009 and ZA21-0014).**

Block 1322. Change from Commercial Professional (CP) to Multi-Family (MF) for Lots 45-52 and 59-72 along the Del Prado Corridor.
Area = 2.73 Acres.



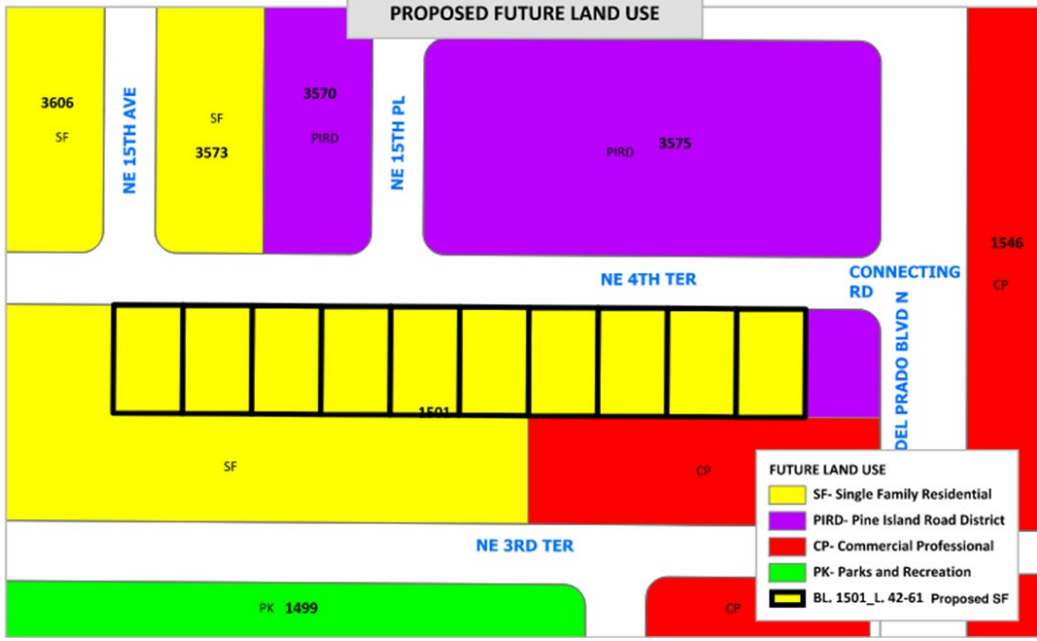
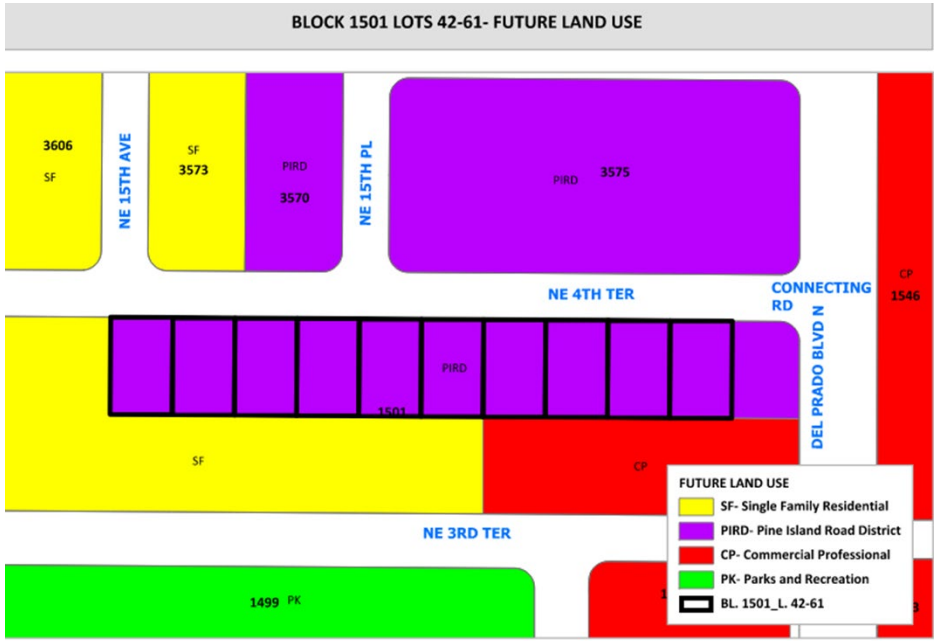
- The RML Zoning and CP FLU are inconsistent for Lots 59-72 and Lots 45-46.
- Six of 9 parcels are improved with duplexes or multi-family buildings. The southernmost property is a City-owned pump station.
- Existing duplexes provide a transition between single-family homes to the east and commercial buildings to the west.
- Neither of the two vacant lots share ownership with an adjacent property, indicating no assemblage has occurred.
- The amendment will provide consistency between the FLU and zoning for 8 of the 9 parcels.
- Seven nonconforming residential uses will become conforming.

Block 1458. Change from Commercial Professional (CP) to Multi-Family (MF) for the Egret Condo Property, Lots 15-27. Area = 1.66 Acres.



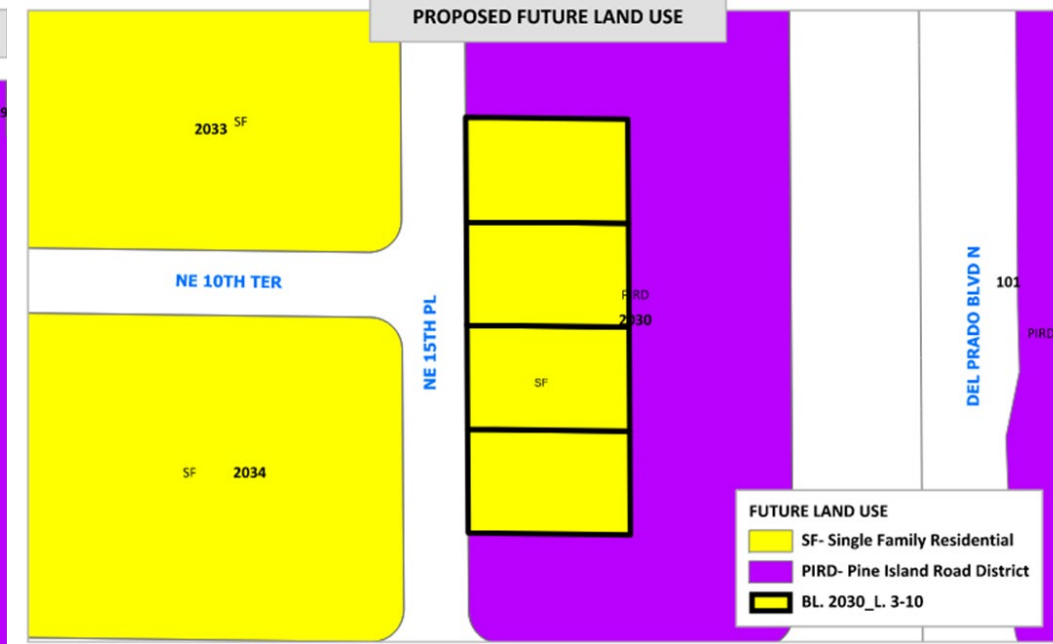
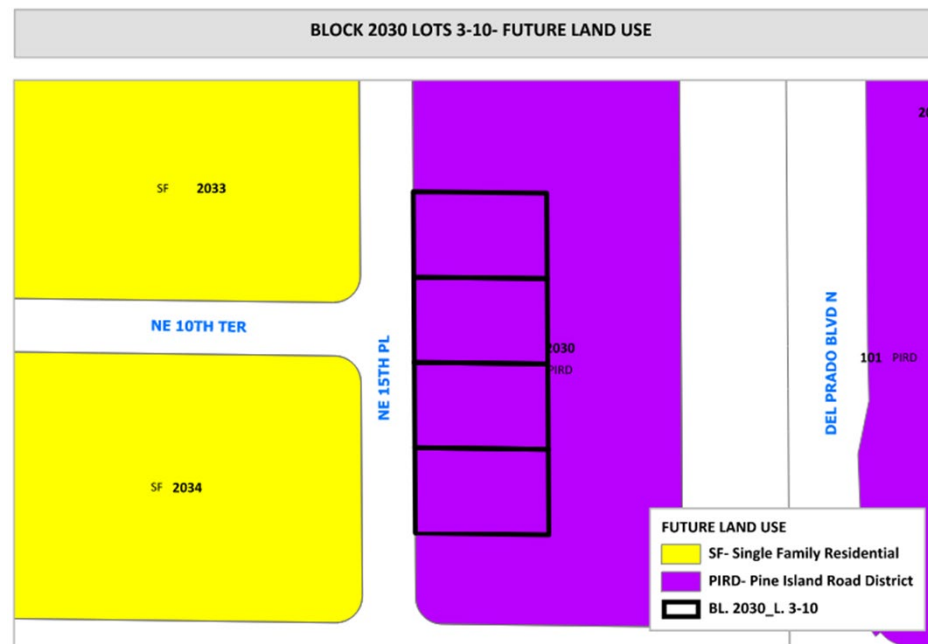
- Rezoned from R-3 to C in 2019.
- Property contains four multi-family buildings.
- Low probability of redevelopment to a commercial use.
- If approved, the use will become conforming.

Block 1501. Change from Pine Island Road District (PIRD) to Single Family (SF) for Lots 42-61. Area = 2.3 Acres.



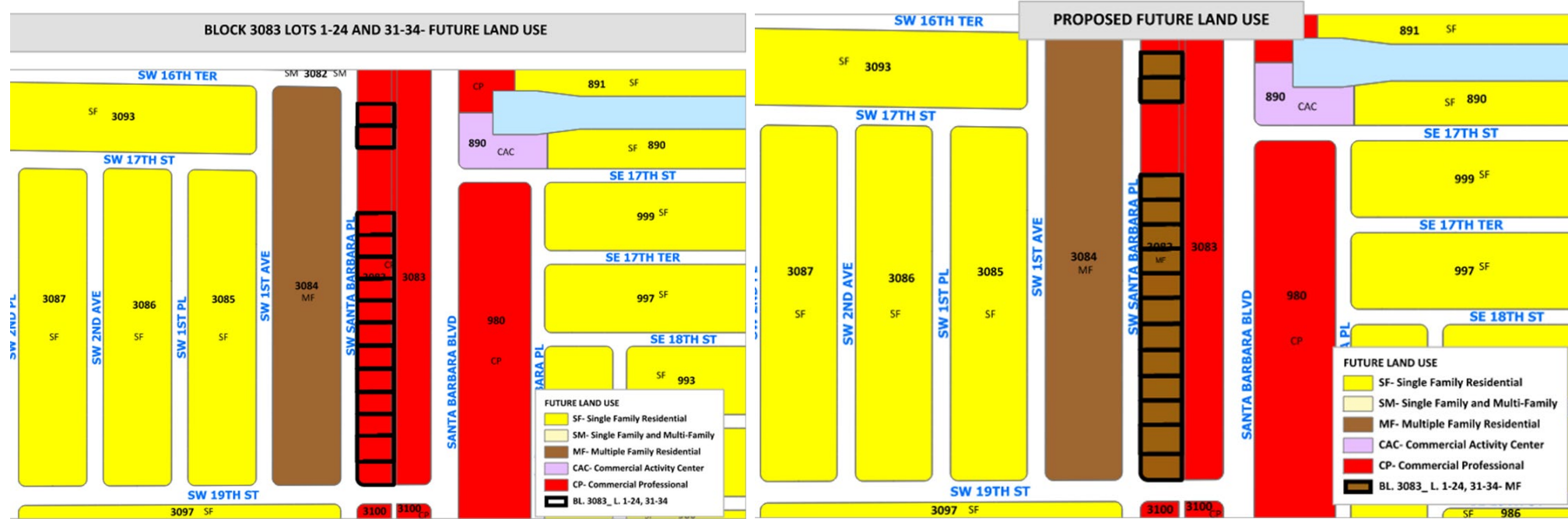
- Lots 42-61 contain single-family homes.
- Lots 40-41 along Del Prado contain a professional office.
- The FLU was amended to PIRD in 2002 and rezoned to CORR in 2004.
- No assembly of property has occurred since.
- All 10 of the properties are improved with single-family homes.
- If approved, 10 nonconforming uses will become conforming.

Block 2030. Change from Pine Island Road District (PIRD) to Single Family (SF) for Lots 3-10. Area = 0.91 Acres.



- The PIRD FLU and CC zoning are consistent but do not reflect use patterns.
- Three of four parcels are improved with Single Family Homes.
- No direct access to Del Prado Blvd.
- Single-family (R1) zoning is to the west. Adjacent lots owned by City of Cape Coral and are used for stormwater ponds.
- No commercial assemblage has occurred.
- If approved, 3 nonconforming uses will become conforming.

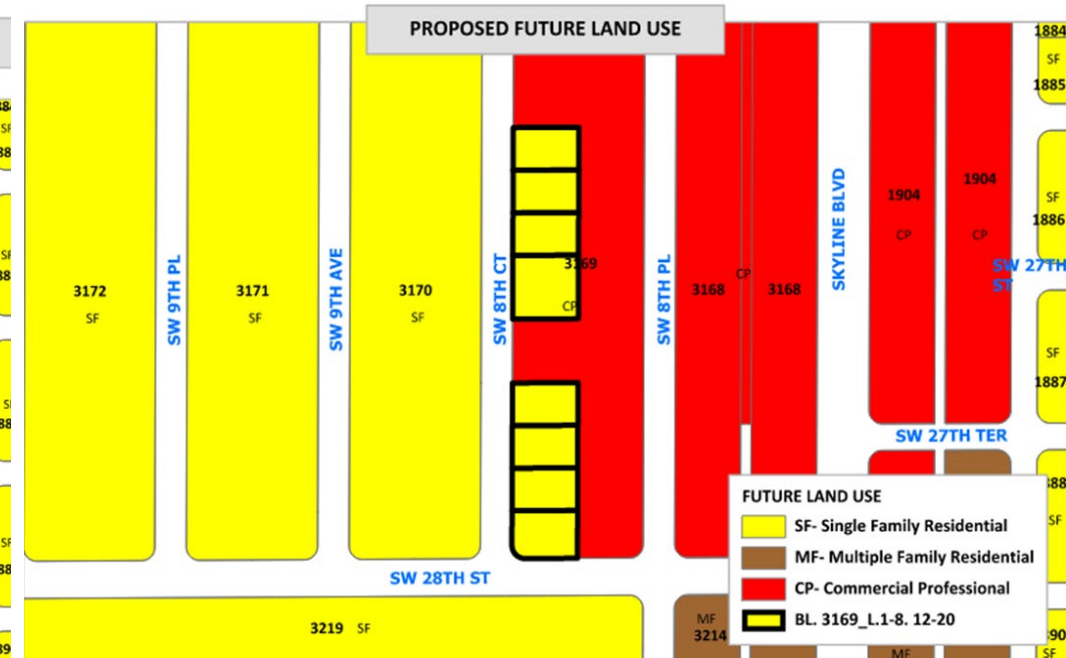
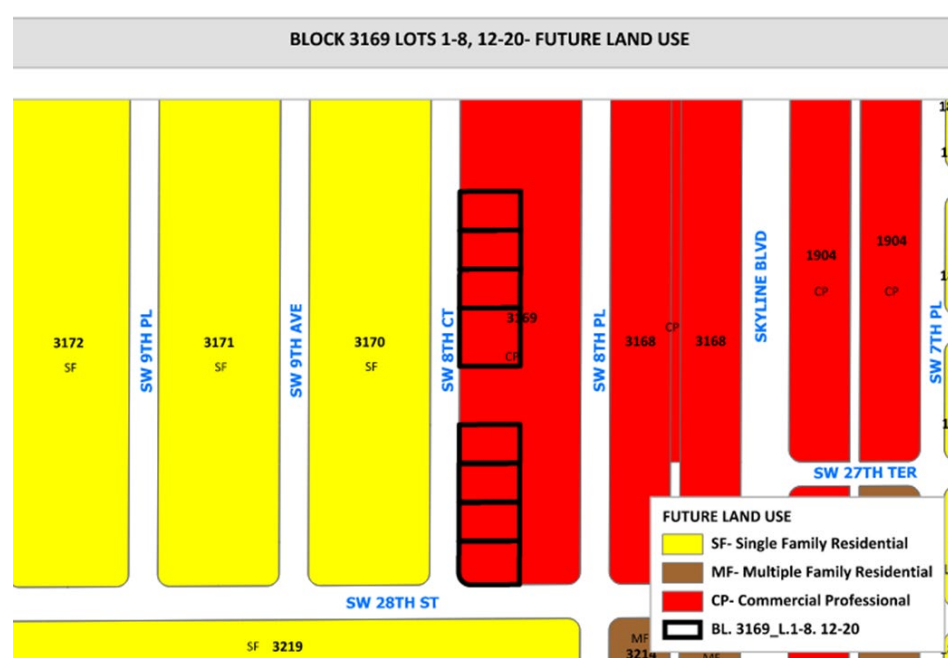
Block 3083. Change from Commercial Professional (CP) to Multi-Family (MF) for Lots 1-24 and 31-34 along Santa Barbara Blvd.
Area = 3.57 Acres



- FLU MF to CP in 2007; Zoning R-3 to C-1 in 2011.
- Thirteen of the 14 sites are developed. Most have duplexes.
- Three existing vacant lots between the duplexes constitute an assembly of property with frontage on Santa Barbara Boulevard.
- If approved, 13 nonconforming uses will become conforming.



Block 3169. Change from Commercial Professional (CP) to Single Family (SF) for Lots 1-8, 12-20. Area = 1.97 acres.



- Consists of 8 parcels, all of which are improved with single-family residences.
- FLU SF to CP in 2008; Zoning R-1B to C-1 in 2011.
- Owner of the excluded parcel in the middle has ownership of several adjacent lots on the eastern half of the block.
- If approved, eight nonconforming uses will become conforming.

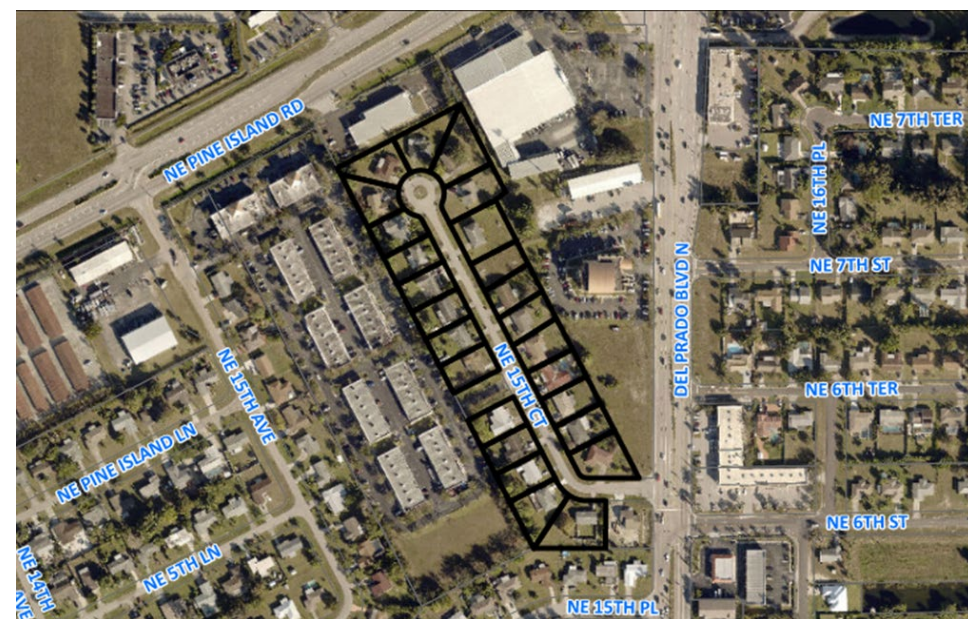
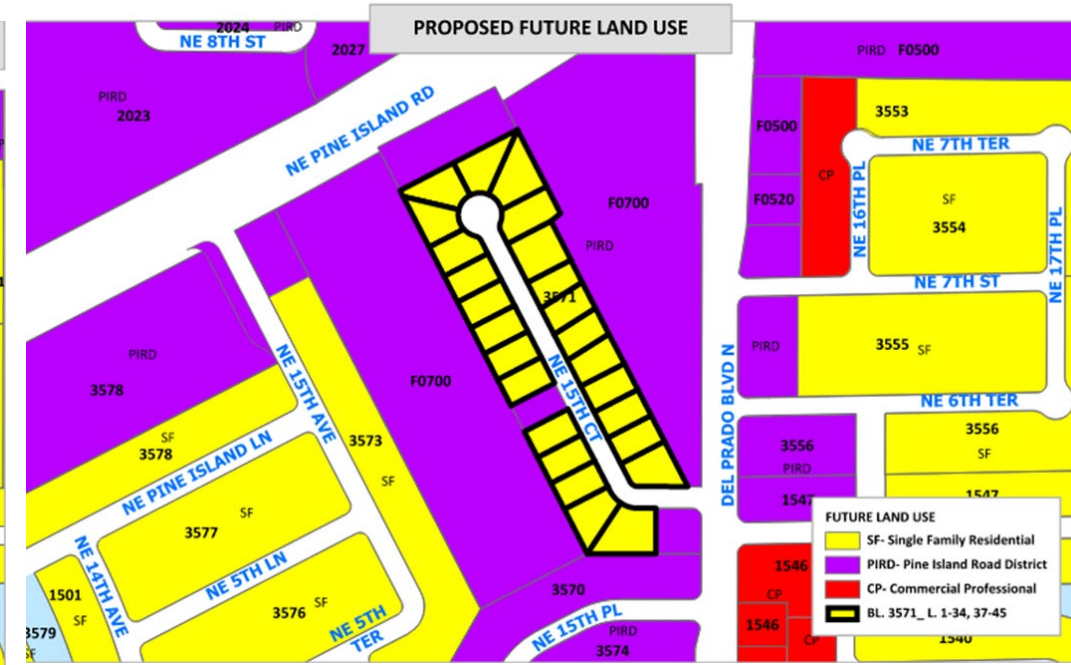
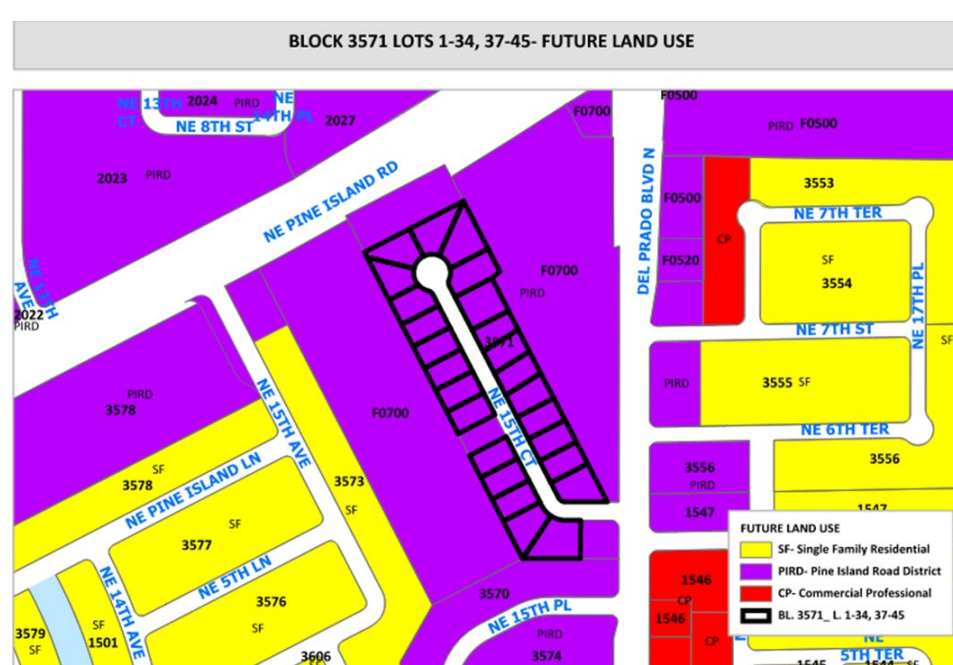
Area = 3.93 Acres.



- Established single-family dwellings exist on all the subject sites.
- FLU amended to PIRD in 2002 and rezoned to CORR in 2004.
- No property assembly has occurred.
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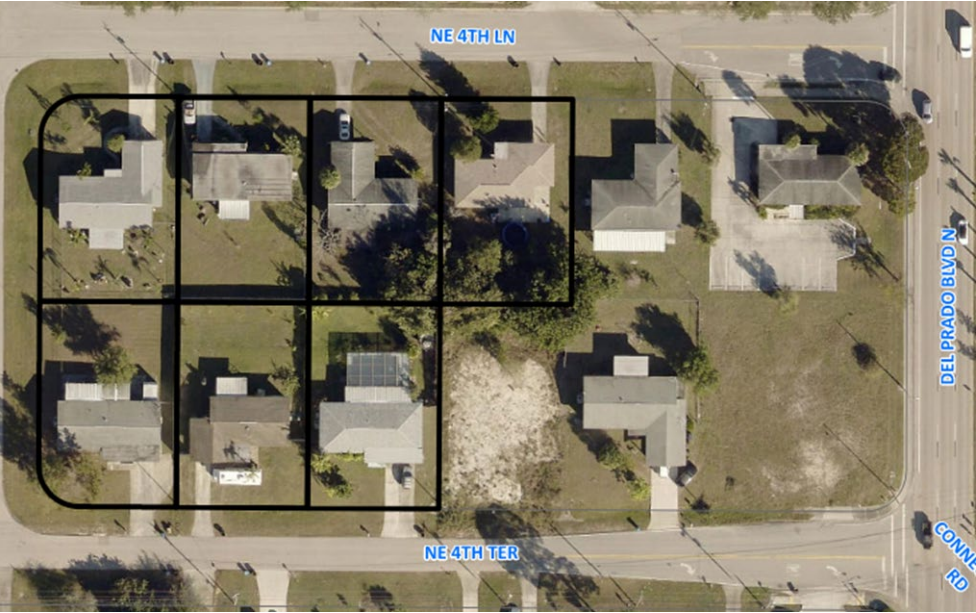
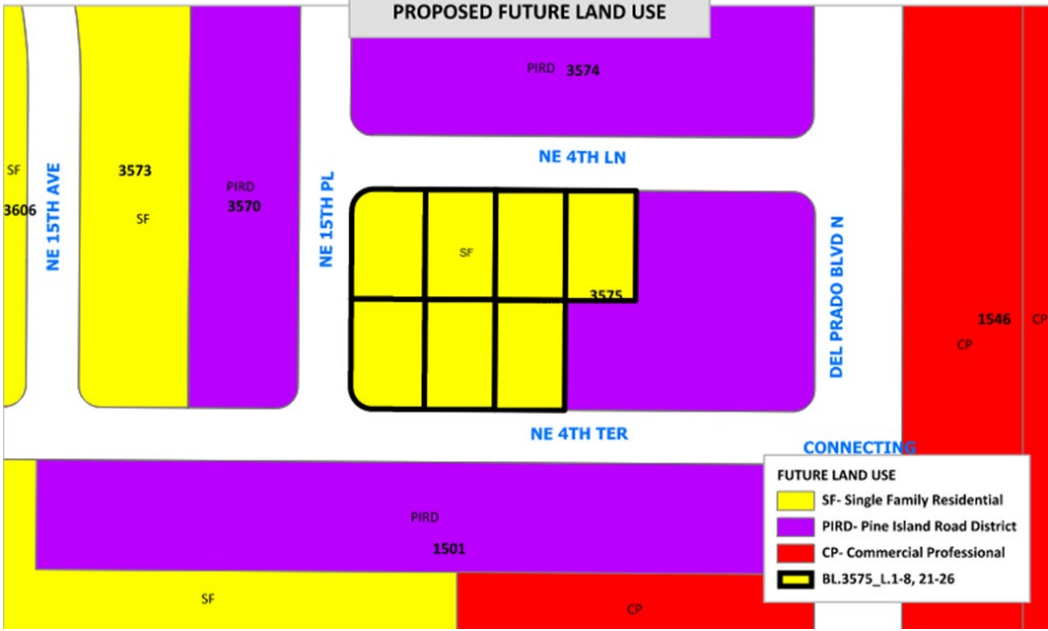
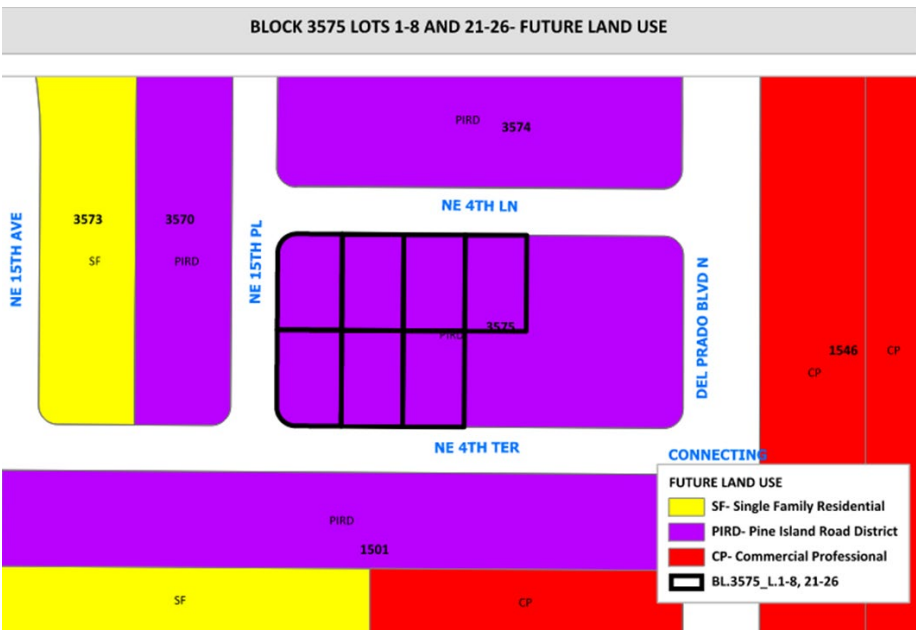
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Area = 7.04 Acres.



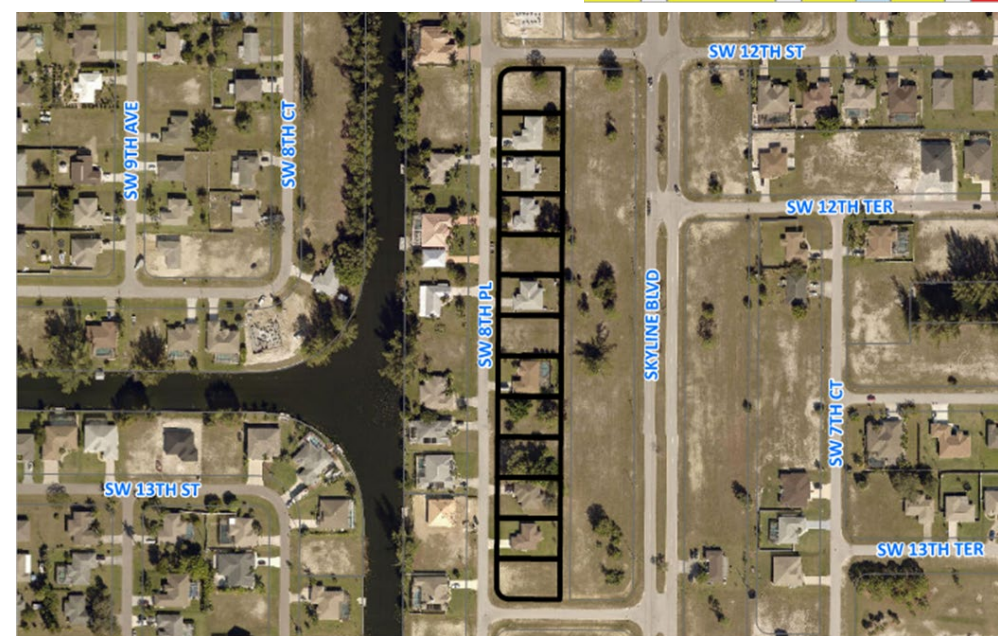
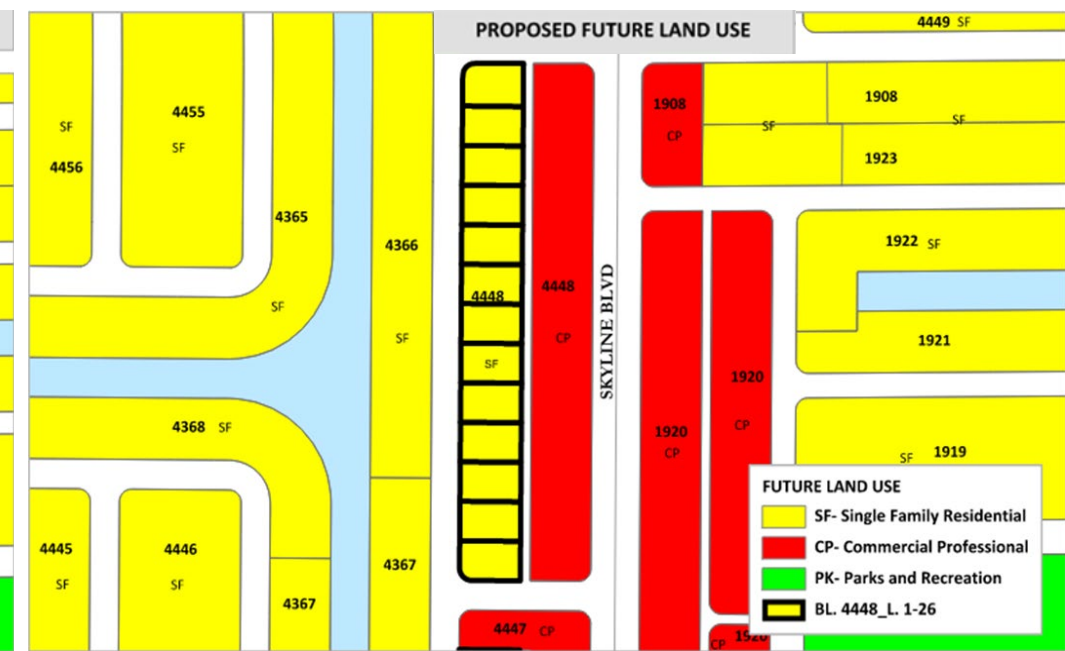
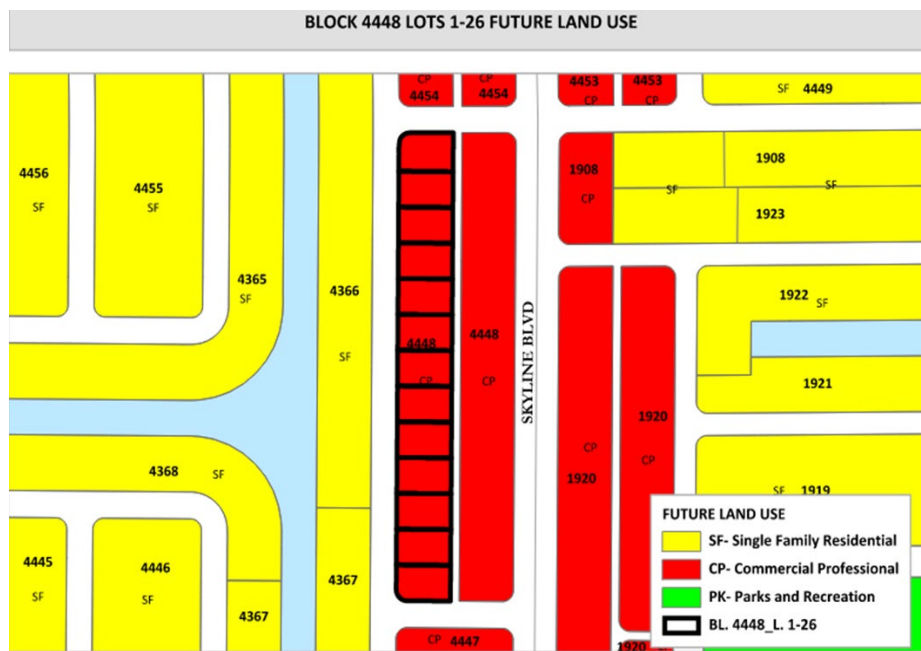
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- Southeastern-most parcel with frontage on Del Prado has an existing office building and is not included as part of this amendment.
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Area = 1.62 Acres.



- **FLU amended to PIRD in 2002 and rezoned to CORR in 2004.**
- **Some assembly has occurred on the eastern half of the block (four of six parcels).**
- **All included parcels developed with single-family homes.**
- **If approved, 7 nonconforming uses will become conforming.**

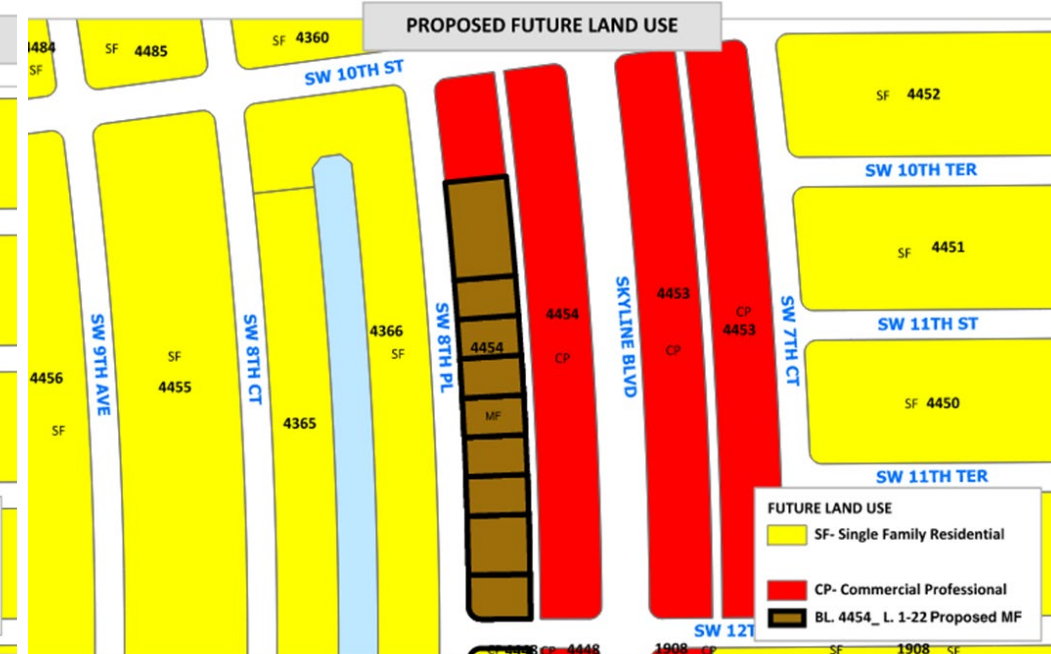
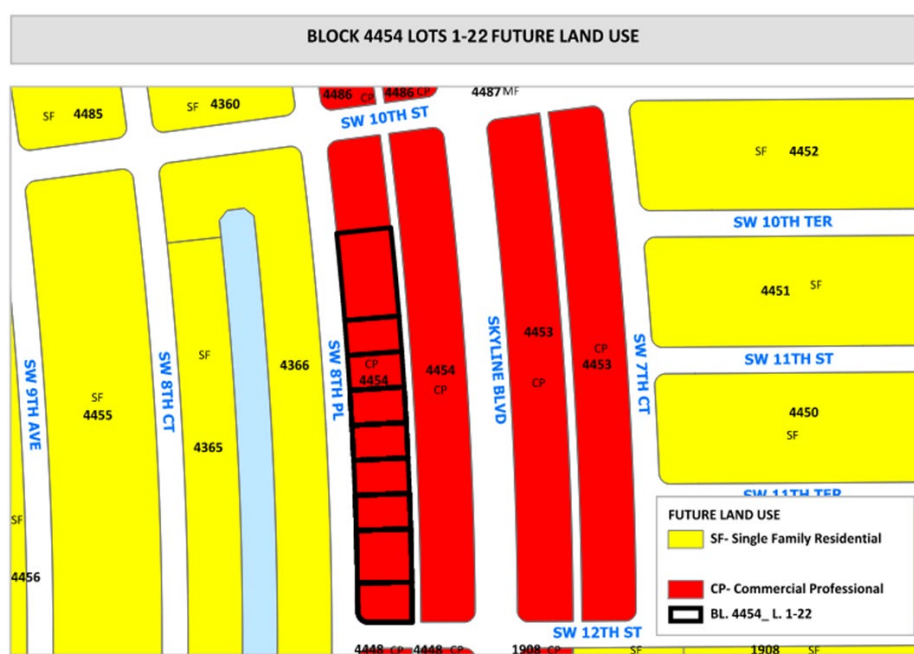
Block 4448. Change from Commercial Professional (CP) to Single Family (SF) for Lots 1-26.
Area = 3.0 Acres.



- Sites have had CP FLU since 2008 and commercial zoning since 2011.
- Seven of the thirteen parcels have single-family dwellings.
- An alley exists that inhibits full-block development.
- Property assembly not evident on the western half of the block.
- If approved, 7 nonconforming uses will become conforming.

Block 4454. Change from Commercial Professional (CP) to Multi-Family (MF) for Lots 1-22.

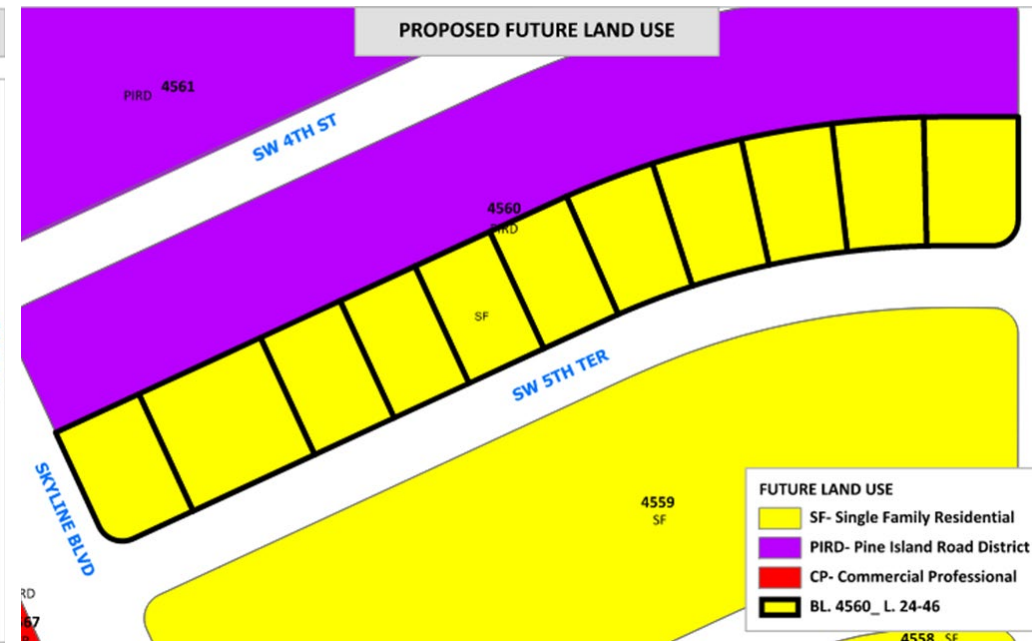
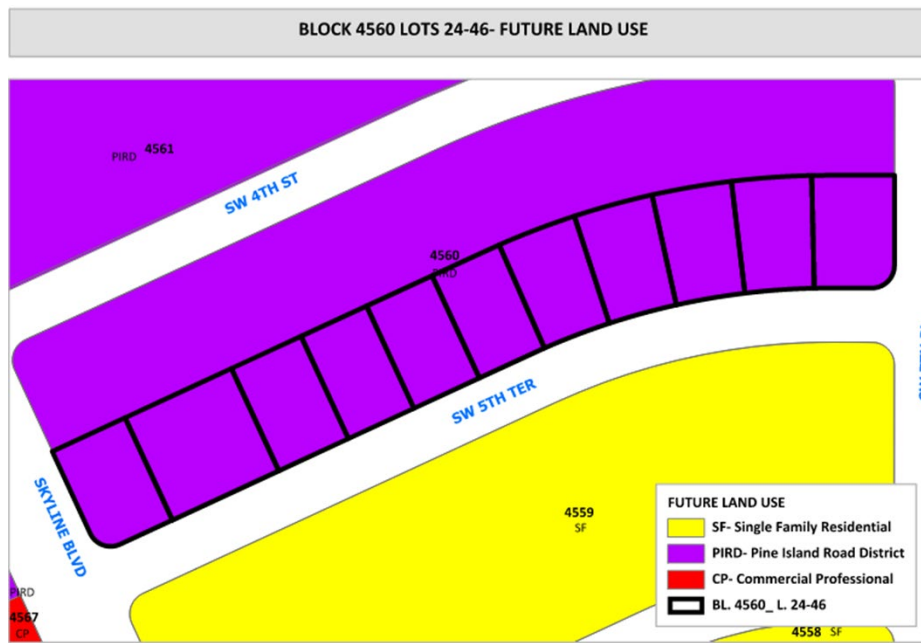
Area = 2.55 Acres.



- FLU changed from CAC to CP in 2019; Zoning changed from MR to C in 2019.
- All parcels are developed - 4 with single-family dwellings and 5 with duplexes.
- An alley in the block prevents full-block depth.
- No commercial development is present on the western half of block.
- If approved, 9 nonconforming uses will become conforming.

Block 4560. Change from Pine Island Road District (PIRD) to Single Family (SF) for Lots 24-46.

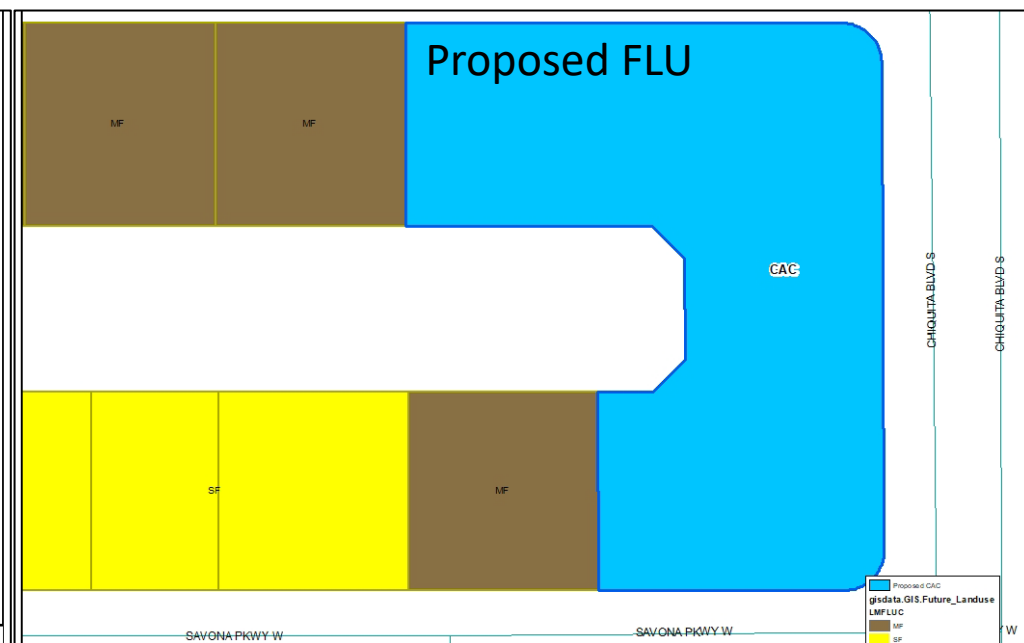
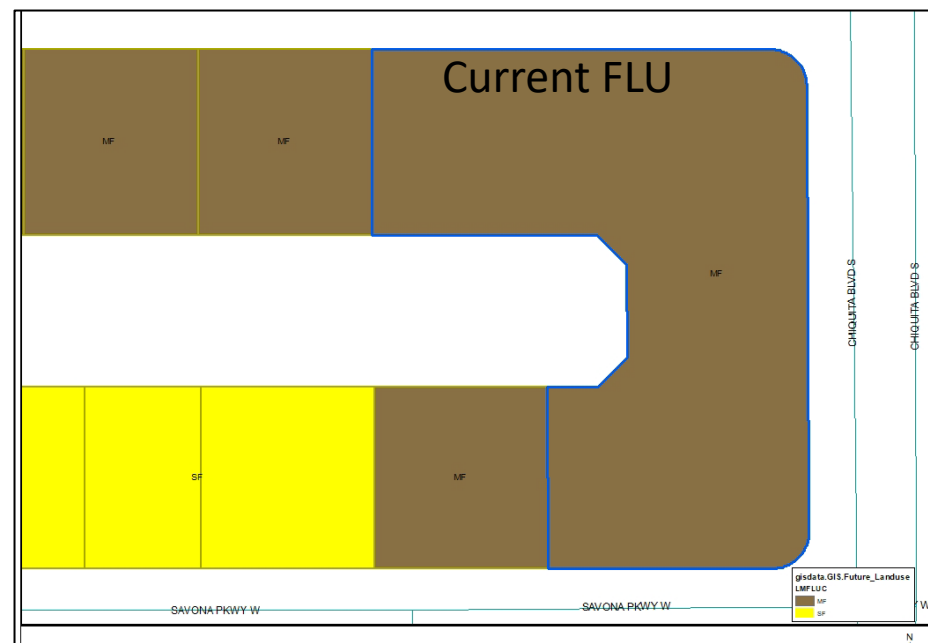
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- Property assembly is not evident.
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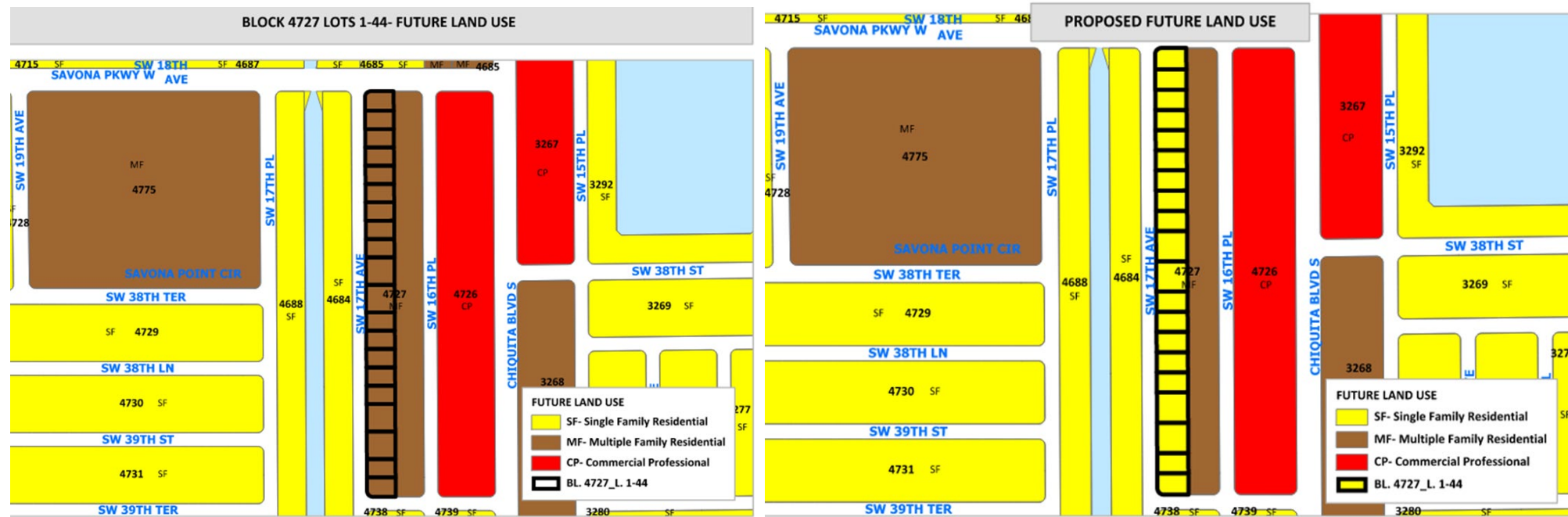


**Block 4685. Change back to Commercial Activity Center (CAC) from Multi-Family (MF) for Lots 15-22.
Area = 1.7 Acres.**



- The Neighborhood Commercial (NC) Zoning is inconsistent with the Multi-Family (MF) Future Land Use Classification.
- The Future Land Use prior to 2019 was CAC.
- Lots are unimproved.
- The site is at the end of a block at the intersection of two major streets (Chiquita and Savona).
- If approved, the FLU and zoning will be consistent, and permits can be issued for the parcel.

Block 4727. Change from Multi-Family (MF) to Single Family (SF) for Lots 1-44. Area = 5.07 Acres.



- The R1 Zoning is inconsistent with the Multi-Family FLUC.
- FLU was changed from SM to MF in 2005; Rezoned from RD to R1 in 2019.
- Seventeen out of 20 parcels are developed with single-family dwellings.
- If approved, permits can be issued for the remaining vacant parcels.



Summary:

134± single-family, duplex, and multi-family buildings will be reverted to legal, conforming uses.

These amendments will also allow for the construction of new single-family dwellings in blocks with established residential development and will result in a reduction of future water, sewer, and solid waste demand.

The FLU and zoning for several sites will be brought into consistency allowing permits to be issued for these parcels.

Rezoning for most of these sites will be needed to bring the zoning into consistency with the new Future Land Use Classification. The rezoning will be processed in a separate City-initiated application.

Recommendations:

The Planning Division recommends adoption of the proposed Future Land Use Map Amendment.

The Planning and Commission voted to recommend transmittal of Ordinance 51-21.

Correspondence:

Staff had previously received 25 emails and phone calls: 4 in support, 4 opposed, and 19 requesting additional information.

Thank you!
Questions and Discussion



Comprehensive Plan:

The Future Land Use Map amendments are consistent with the following policies and objectives from the Future Land Use Element:

Policy 1.12: The City will continue to conduct commercial land needs studies.

Policy 1.7: Multi-family residential location: *Amendment meets all 4 guidelines.*

Policy 1.14: The City of Cape Coral's commercial siting guidelines: *The amendment meets 6 commercial siting guidelines, partially meets 1, and doesn't meet 1.*

Policy 8.1: The City will prohibit the expansion or replacement of land uses which are inconsistent with the Future Land Use Element. *The proposed Land Use Classifications are consistent with the Future Land Use Element of the Comprehensive Plan.*

Policy 8.5: The City encourages the use of multi-family residential,as transitional uses between commercial development and low-density residential neighborhood. *These Multi-Family lands will serve as a transitional land use between commercial and low-density residential sites.*

OBJECTIVE 2: Location of New Commercial Development: *The proposed CAC is at the end of a block at a major intersection and is in a prime location for providing goods and services to residents at the local level.*



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	A.(2)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

TITLE:

Ordinance 74-21 (LU21-0005) Public Hearing

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial (a Lee County designation) to Pine Island Road District (PIRD) land use for property described as two parcels of land lying in Section 5, Township 44 South, Range 24 East, Lee County, Florida, as more particularly described herein; property located at 1930 NE Pine Island Road and 1352-1356 Del Pine Drive.

Applicant: The Paul V. Campbell and Joan E. Campbell Revocable Trust

Property acreage: 1.30 acres

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The owner requests a future land use map amendment to amend the site to the Pine Island Road District from an unincorporated Lee County future land use designation. The site (three parcels) was annexed into Cape Coral earlier this year. The amendment will allow the site to develop with commercial uses such as offices, restaurants, retail, service, light industrial, or other similar uses. The owner has also applied for a rezone to Commercial Corridor.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT A: INCREASE ECONOMIC DEVELOPMENT AND REDEVELOPMENT IN THE CITY

ELEMENT B: ENHANCE FINANCIAL SUSTAINABILITY DURING ALL ECONOMIC TIMES

RECOMMENDATIONS:

Planning and Zoning Commission: Approval

City Planning Division: Approval

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, Director of Development Services, 574-0600

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

N/A

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

PREPARED BY:

Jessica Cruz, Planning
Technician

Division- City
Planning

Department- Development
Services

ATTACHMENTS:

Description	Type
▣ 1. Ordinance 74-21 (LU 21-0005)	Ordinance
▣ 2. Backup Materials	Backup Material
▣ 3. PowerPoint	Backup Material
▣ 4. Revised PowerPoint presented at meeting	Backup Material

ORDINANCE 74 - 21

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL (A LEE COUNTY DESIGNATION) TO PINE ISLAND ROAD DISTRICT (PIRD) LAND USE FOR PROPERTY DESCRIBED AS TWO PARCELS OF LAND LYING IN SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT 1930 NE PINE ISLAND ROAD AND 1352-1356 DEL PINE DRIVE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by THE PAUL V. CAMPBELL AND JOAN E. CAMPBELL REVOCABLE TRUST, regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM COMMERCIAL (A LEE COUNTY DESIGNATION) TO PINE ISLAND ROAD DISTRICT (PIRD)

PARCEL 1:

FROM THE SOUTHEAST CORNER OF SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, RUN NORTHERLY ALONG THE EAST LINE OF SAID SECTION 5 FOR 33 FEET TO THE NORTH LINE OF THE COUNTY ROAD KNOWN AS PONDELLA ROAD; THENCE RUN WESTERLY ALONG THE NORTH LINE, PARALLEL TO AND 33 FEET FROM THE CENTER LINE OF SAID ROAD FOR 2,520 FEET; THENCE RUN NORTH ALONG A PERPENDICULAR TO SAID ROAD FOR 1438 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREBY DESCRIBED. FROM SAID POINT OF BEGINNING CONTINUE NORTH ON THE SAME COURSE FOR 273.22 FEET; THENCE RUN SOUTHWESTERLY ALONG THE ROAD KNOWN AS PINE ISLAND ROAD FOR 170.89 FEET; THENCE RUN SOUTH, PERPENDICULAR TO PONDELLA ROAD 191.35 FEET, THENCE RUN EAST, PARALLEL TO PONDELLA ROAD FOR 150 FEET TO THE POINT OF BEGINNING. KNOWN AS LOTS 22 AND 23, BLOCK B, DEL PINE MANOR, AN UNRECORDED SUBDIVISION.

PARCEL 2:

FROM THE SOUTHEAST CORNER OF SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, RUN NORTHERLY ALONG THE EAST LINE OF SAID SECTION 5 FOR 33 FEET TO THE NORTH LINE OF THE COUNTY ROAD KNOWN AS PONDELLA ROAD, THENCE RUN WESTERLY ALONG SAID NORTH LINE PARALLEL TO AND 33 FEET FROM THE CENTER LINE OF SAID ROAD FOR 2520 FEET, THENCE RUN NORTH ALONG A PERPENDICULAR TO SAID ROAD FOR 1288 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED. FROM SAID POINT OF BEGINNING CONTINUE NORTH ON THE SAME COURSE FOR 150 FEET, THENCE RUN WEST PARALLEL TO SAID NORTH LINE OF PONDELLA ROAD FOR 150 FEET, THENCE RUN SOUTH PERPENDICULAR TO SAID NORTH LINE FOR 150 FEET, THENCE RUN EAST

PARALLEL TO SAID ROAD FOR 150 FEET TO THE POINT OF BEGINNING.

WHICH IS ALSO DESCRIBED AS LOTS 24 AND 25, BLOCK "B" OF DEL-PINE MANOR, AN UNRECORDED PLAT.

PROPERTY LOCATED AT: 1930 NE PINE ISLAND ROAD AND 1352-1356 DEL PINE DRIVE

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	NELSON	_____
TATE	_____	WELSH	_____
SHEPPARD	_____	WILLIAMS	_____
HAYDEN	_____	CODEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu21-0005



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

For Internal Use Only

Case 4421-0005

Date 3-9-21

Tel. (239) 574-0776

Fax (239) 574-0591

P.O. Box 150027

Cape Coral, FL 33915-0027

FUTURE LAND USE MAP AMENDMENT (FLUMA) APPLICATION

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

FLUMA APPLICATION REQUIREMENTS

1. ☒ Letter of intent stating the actual request and why the request is being made
2. ☒ 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.
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 prepare in label format and contain the following information; name, address, city, and zip-code.
5. ☒ The applicant must provide a traffic projection of the number of trips that are anticipated to be generated by the revised Land Use including the distribution of these trips onto the roadway system. The applicant may also be required to perform a more detailed traffic impact analysis based on the City's traffic impact guidelines.
6. ☐ Chapter 163, Florida Statutes, requires that comprehensive plan map amendments be City Council must hold a submittal hearing (1st public hearing) prior to sending amendments to DEO. (Council may approve for submittal or deny proposed land use map amendments. Only approved amendments are submitted to DEO.) DEO then has ninety (90) days to review and respond to the proposed amendments. Upon receipt of DEO comments or objections, the local government has sixty (60) days to approve, deny, or approve with modifications the proposed land use map amendments.
7. ☐ Comprehensive Plan Amendments are reviewed by the Planning and Zoning Commission and City Council. Planning and Zoning Commission is an advisory body to City Council and makes recommendations on all amendments.
8. ☐ Please refer to the Future Land Use Map Amendment Section 3.5.2. for additional information.

NOTE: IF ANY OF THE ABOVE INFORMATION IS ON A SHEET LARGER THAN 11 X 17, THE APPLICANT MUST SUPPLY SEVENTEEN (17) COPIES TO BE USED FOR DISTRIBUTION. IN ADDITION TO THE APPLICATION FEE, ALL REQUIRED ADVERTISING COSTS ARE TO BE PAID BY THE APPLICANT (ORD 39-03, SECTION 3.5.2.). ADVERTISING COSTS WILL BE BILLED AND MUST BE PAID PRIOR TO HEARING.



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FUTURE LAND USE MAP AMENDMENT (FLUMA) APPLICATION

PROPERTY INFORMATION

Project Name: Lots 22, 23, 24 and 25 Campbell Trust FLUMA Application

Location/Address 1930 NE Pine Island Road, Cape Coral, FL 33909
054424010000B0220, 054424010000B0230

Strap Number and 054424010000B0240 Unit Block R Lot (s) 22,23,24,25
General Commercial,
Two-Family
Conservation District

Plat Book Page Future Land Use Intensive Development Current Zoning Conservation District

PROPERTY OWNER (S) INFORMATION

Owner Paul and Joan Campbell Trust Address 900 NW Avenue

Phone 239-470-3601 City Cape Coral

Email camptoninc@aol.com State FL Zip 33993

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



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ESTIMATED PEAK HOUR TRIP

Parcel Size: Width 150'+/- Depth 341.3' (west) 423.2' (east) Sq. Ft. 57,352+/- Acreage 1.3166

Soil Type: Soil Unit 102 Boca Fine Sand, Urban Land Complex

Urban Services Area: (check one) Infill _____ Transition Reserve ☒

Natural Resources (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):

Animal Species: (list any endangered, threatened, or species of special concern on-site)

Estimated Development:

- Estimate total lot coverage 13+/- %
- Estimate total building floor area: 10,015+/- Sq. ft.
- Estimate type of future development and percentages: Commercial Retail (i.e. Automotive Tire (e.g. business offices, commercial retail, automotive repair, etc.) Retail) 100%

Estimated peak hour trip ends: 30 PM Peak Hour Trips (Traffic Impact Statement attached)

If 300 or less peak hour trip ends are projected, the applicant must provide the source of the traffic projection. If more than 300 peak hour trip ends are projected, a traffic impact study must be completed and submitted as part of the application (see attachments).

City Sewer: YES ☒ NO ☐

City Water: YES ☒ NO ☐



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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 22 Day of February, 2021.

CORPORATION/COMPANY NAME

Paul and Joan Campbell Trust

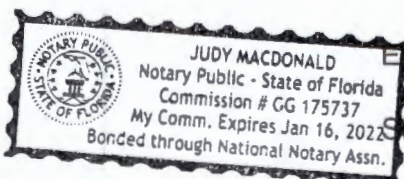
OWNER'S NAME (TYPE or PRINT)

Paul Campbell Trustee
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, this 22 day of FEB, 2021 by Paul Campbell who is personally known to me or produced FL DL as identification.



Exp Date: _____ Commission Number: _____

Signature of notary Public: Judy MacDonald

Printed Name of Notary Public: _____



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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.

Paul Campbell
PROPERTY OWNER (Please Print)

Paul Campbell Trustee
PROPERTY OWNER (Signature & title)

PROPERTY OWNER (Please Print)

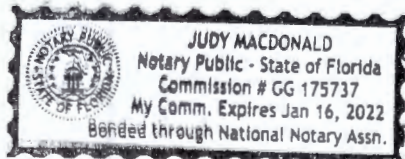
PROPERTY OWNER (Signature & title)

STATE OF FL

COUNTY OF LEE

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online
notarization, this 22 day of FEB, 2021 by Paul Campbell who
is personally known to me or produced FLDL as identification.

Exp Date: _____ Commission Number: _____



Signature of notary Public: Judy MacDonald

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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FUTURE LAND USE MAP AMENDMENTS

- A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following reasons:
1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
 3. The amendment results in compatible land uses within a specific area.
 4. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.
 5. The amendment is consistent with the City's ability to provide adequate public facilities and services.
 6. The amendment prepares the City for future growth, such as reflecting changing development patterns, identifying demands for community services, reflecting changes necessary to accommodate current and planned growth in population, and facilitating community infrastructure and public services.
- B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated in the following manner:
1. The City Council by its own motion;
 2. The Planning and Zoning Commission by its own motion;
 3. The City Manager for City initiated requests; or
 4. By a petition of one or more property owners of at least 51% of the property owners of an area proposed for amendment.
- C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the requirements of Chapter 163, Florida Statutes, and the following criteria:
1. Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;
 2. The amendment protects the health, safety, and welfare of the community;
 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site;
 4. The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community or traffic that cannot be mitigated through application of the development standards in this Code;



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5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.; and
 6. **Other factors** deemed appropriate by the *Commission and City Council*.
- D. Effective date of approval. The effective date of a future land use map amendment shall be in accordance with Chapter 163, Florida Statutes.

February 18, 2021

Mr. Chad Boyko

City of Cape Coral

Department of Community Development – Planning Division

P.O. Box 150027

Cape Coral, FL 33915-0027

Subject: Future Land Use Map Amendment Application – Letter of Intent

Dear Mr. Boyko,

This letter of intent for a Future Land Use Map Amendment (FLUMA) is for our property located at 1930 NE Pine Island Road, Cape Coral, Florida 33909. Our intention is to develop the subject property into a commercial retail use (i.e., automotive tire retail) after the property has been annexed with the City of Cape Coral. This FLUMA includes strap numbers 054424010000B0220, 054424010000B0230 and 054424010000B0240. Based on the current Cape Coral Future Land Use Map, all adjacent properties around the property are part of the Pine Island Road District future land use with the exception of one property located at 1325 Hibiscus Drive. The subject property once developed into a commercial retail will fit perfectly within the Pine Island Road District. If approved, the FLUMA will enable this property to be developed commercially and will be a great improvement and better use of the property and will be consistent with the Pine Island Road Development District's overall land use plan.

We sincerely hope that the City will approve this FLUMA application. Please feel free to contact me if you have any questions at (239) 470-3601 or via email at camponinc@aol.com.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul and Joan Campbell Trust", followed by the word "Trustees" written in a similar cursive style.

Paul and Joan Campbell Trust

Property Owners

MICKELSEN JOHN
2655 SE 19TH AVE
CAPE CORAL, FL 33904

ROI INVESTMENTS + PROPERTIES LLC MICHAEL YDAVOY
8100 GLENFINNAN CIR
FORT MYERS, FL 33912

SKALKA DONALD R
2443 RD 3300
DEWEESE, NE 68934

PARCEL 1:

FROM THE SOUTHEAST CORNER OF SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, RUN NORTHERLY ALONG THE EAST LINE OF SAID SECTION 5 FOR 33 FEET TO THE NORTH LINE OF THE COUNTY ROAD KNOWN AS PONDELLA ROAD; THENCE RUN WESTERLY ALONG THE NORTH LINE, PARALLEL TO AND 33 FEET FROM THE CENTER LINE OF SAID ROAD FOR 2,520 FEET; THENCE RUN NORTH ALONG A PERPENDICULAR TO SAID ROAD FOR 1438 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREBY DESCRIBED. FROM SAID POINT OF BEGINNING CONTINUE NORTH ON THE SAME COURSE FOR 273.22 FEET; THENCE RUN SOUTHWESTERLY ALONG THE ROAD KNOWN AS PINE ISLAND ROAD FOR 170.89 FEET; THENCE RUN SOUTH, PERPENDICULAR TO PONDELLA ROAD 191.35 FEET, THENCE RUN EAST, PARALLEL TO PONDELLA ROAD FOR 150 FEET TO THE POINT OF BEGINNING. KNOWN AS LOTS 22 AND 23, BLOCK B, DEL PINE MANOR, AN UNRECORDED SUBDIVISION.

PARCEL 2:

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WHICH IS ALSO DESCRIBED AS LOTS 24 AND 25, BLOCK "B" OF DEL-PINE MANOR, AN UNRECORDED PLAT.

ALTA/NSPS LAND TITLE SURVEY

GENERAL SURVEY NOTES:

1. BEARING STRUCTURE IS BASED ON THE MONUMENTED SOUTHERLY RIGHT OF WAY LINE OF PINE ISLAND ROAD, BEING N61°59'54"E PER FOOT RIGHT OF WAY MAP OF STATE ROAD 78, SECTION 12060-2515, DATED 05-13-1991.
2. THIS SURVEY REFLECTS ONLY MATTERS OF RECORD AS PROVIDED BY THE CLIENT OR CLIENTS REPRESENTATIVE.
3. THIS SURVEY WAS MADE ON THE GROUND. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPREHEND ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. ENGINEER AND CONTRACTOR SHALL VERIFY MEASUREMENTS OF CONNECTIONS TO EXISTING UTILITIES BEFORE ORDERING MATERIALS AND BEFORE COMMENCEMENT OF CONSTRUCTION. IF THERE IS A DISCREPANCY BETWEEN THE MEASUREMENTS SHOWN HEREON AND THE VERIFYING MEASUREMENTS, THIS SURVEYOR SHALL BE CONTACTED IMMEDIATELY TO FURTHER VERIFY THE DISCREPANCY.
4. THIS SITE LIES IN ZONE(S) "X", BASED ON FLOOD INSURANCE RATE MAP NO. 12071C0270F, COMMUNITY NO. 125124, UNINCORPORATED LEE COUNTY, FLORIDA, HAVING AN EFFECTIVE DATE OF 08-28-2008.
5. ACCORDING TO FLORIDA STATUTES, CHAPTER 472.025, A LAND SURVEYOR SHALL NOT AFFIX HIS SEAL OR NAME TO ANY PLAN OR DRAWING WHICH DEPICTS WORK WHICH HE IS NOT LICENSED TO PERFORM OR WHICH IS BEYOND HIS PROFESSION OR SPECIALTY THEREIN. THEREFORE, WE ARE UNABLE TO CERTIFY AS TO MUNICIPAL ZONING COMPLIANCE, INTERPRETATION OF ZONING CODES OR THE DETERMINATION OF VIOLATIONS THEREOF.
6. THIS SURVEY MADE WITH BENEFIT OF COMMITMENT FOR TITLE NO. NCS-1033318-PHX1, EFFECTIVE OCTOBER 22, 2020, ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY. THE LEGAL DESCRIPTION SHOWN HEREIN IS THE SAME AS THE LEGAL DESCRIPTION SET FORTH IN SCHEDULE A OF THE TITLE COMMITMENT REFERENCED HEREON.
7. THIS "BOUNDARY AND TOPOGRAPHIC SURVEY" WAS MADE IN ACCORDANCE WITH LAWS AND/OR STANDARDS OF PRACTICE FOR THE STATE OF FLORIDA.
8. THE PROPERTY HAS DIRECT ACCESS TO DEL PINO DRIVE, A PAVED PUBLIC RIGHT-OF-WAY.
9. OBSERVABLE SURFACE EVIDENCE OF UTILITIES SERVING THE PROPERTY AND STORM DRAINAGE FEATURES ARE SHOWN HEREON.
10. ALL PARCELS AND/OR LOTS SHOWN HEREON ARE CONTIGUOUS BETWEEN SAID PARCELS AND/OR LOTS AND DO NOT CREATE ANY GAPS, GORES OR HIJAUSES.
11. NO SURFACE EVIDENCE OF SITE USE AS A CEMETERY WAS OBSERVED.
12. ELEVATIONS ARE BASED ON BENCHMARK DESIGNATION BM 504, BEING: 11.49 FEET, NAVD 88, PUBLISHED BY FLORIDA DEPARTMENT OF TRANSPORTATION DISTRICT ONE (CONVERTED FROM PUBLISHED ELEVATION OF 12.679 FEET, NGVD 29 USING VERTCON).
13. THE MAPPED FEATURES SHOWN HEREON ARE RELATIVE TO FLORIDA STATE PLANE COORDINATE SYSTEM WEST ZONE, NAD(83)-(2011)-(EPOCH 2010.0000), ESTABLISHED PER FOOT FPRN.

NOTES PERTAINING TO TABLE A ITEMS OF ALTA/NSPS LAND TITLE SURVEY STANDARDS

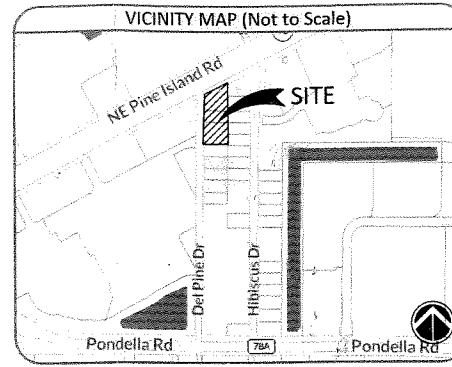
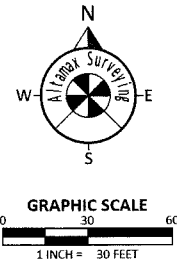
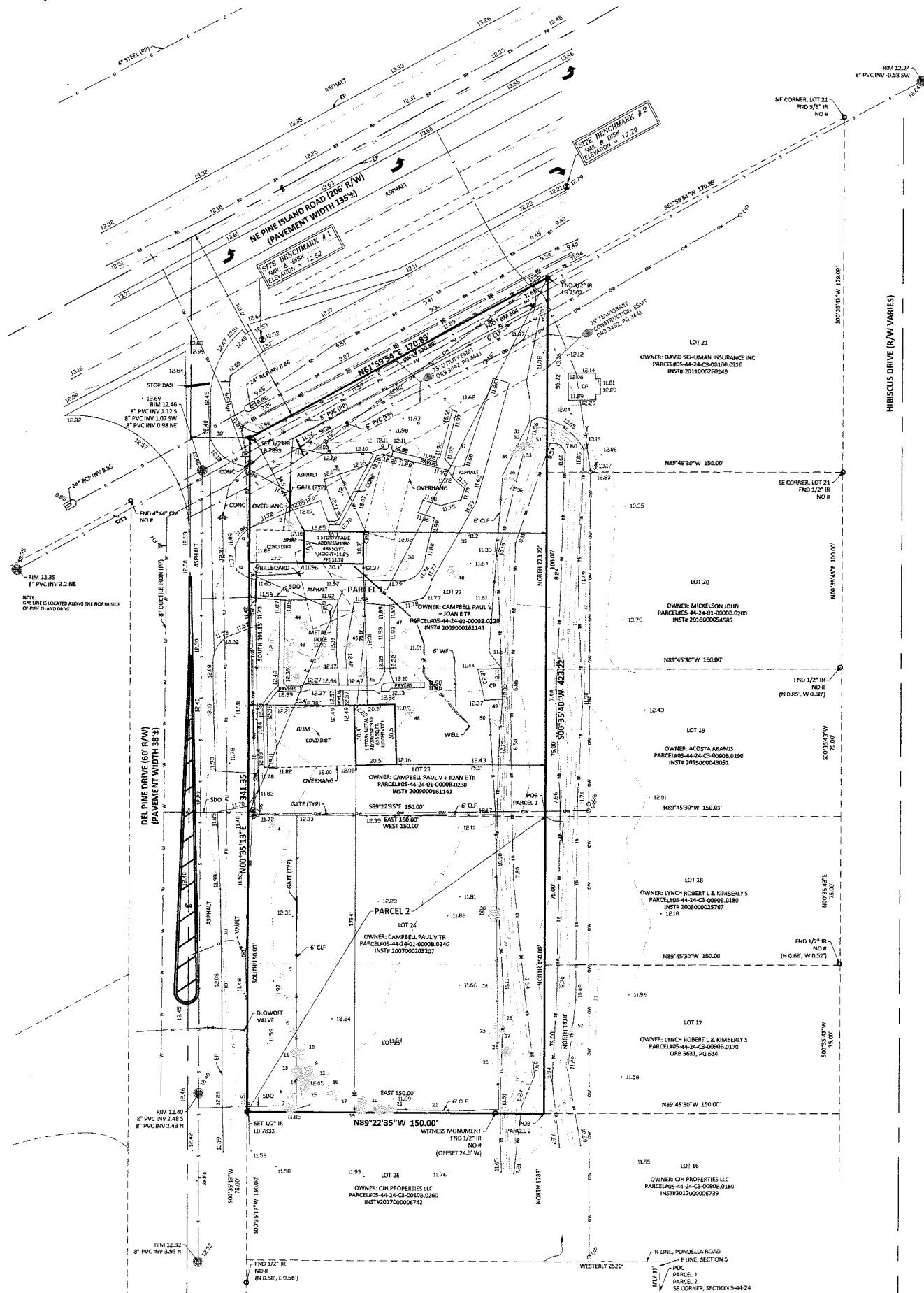
ITEM 10(A)(B): WITH RESPECT TO ADJOINING PROPERTIES, NO DIVISION OR PARTY WALLS WERE OBSERVED.

ITEM 16: NO EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR ADDITIONS WAS OBSERVED.

ITEM 17: SURVEYOR IS NOT AWARE OF ANY PROPOSED CHANGES IN STREET RIGHT-OF-WAY LINES AND DID NOT OBSERVE ANY EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.

ITEM 18: NO DELINEATED WETLANDS WERE OBSERVED

Tree CHART		
Tree ID	DBI/Size	Tree Type
1	17"	PALM
2	6"	PALM
3	12"	UNIDENTIFIED
4	12"	PALM
5	11"	PALM
6	18"	PALM
7	4"	RAIN
8	7.7"	RAIN
9	4"	RAIN
10	3"	OAK
11	4"	RAIN
12	14"	PALM
13	7"	RAIN
14	2"	RAIN
15	5"	RAIN
16	8"	HOLLY
17	10"	RAIN
18	3"	RAIN
19	9"	RAIN
20	8"	RAIN
21	4"	RAIN
22	8"	UNIDENTIFIED
23	9"	OAK
24	8"	RAIN
25	10"	RAIN
26	17"	OAK
27	5"	OAK
28	15"	OAK
29	15"	MAPLE
30	12"	MAPLE
31	4"	PALM
32	4"	PALM
33	4"	PALM
34	6"	PALM
35	7"	PALM
36	9"	OAK
37	7"	OAK
38	14"	OAK
39	14"	OAK
40	12"	MAPLE
41	6"	CITRUS
42	17"	PALM
43	8"	UNIDENTIFIED
44	6"	PALM
45	5"	CITRUS
46	6"	CITRUS
47	18"	UNIDENTIFIED
48	18"	PALM
49	8"	OAK
50	4"	PALM
51	40"	PALM - CITRUS
52	3"	PALM



DESCRIPTION:

PARCEL 1

FROM THE SOUTHEAST CORNER OF SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, RUN NORTHERLY ALONG THE EAST LINE OF SAID SECTION 5 FOR 33 FEET TO THE NORTH LINE OF THE COUNTY ROAD KNOWN AS PONDELLA ROAD; THENCE RUN WESTERLY ALONG THE NORTH LINE, PARALLEL TO AND 33 FEET FROM THE CENTER LINE OF SAID ROAD FOR 2,520 FEET; THENCE RUN NORTH ALONG A PERPENDICULAR TO SAID ROAD FOR 1438 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREBY DESCRIBED, FROM SAID POINT OF BEGINNING THENCE NORTH ON A PERPENDICULAR TO SAID ROAD 1438 FEET TO THE SOUTHWESTERLY ALONG THE LINE KNOWN AS PINE ISLAND ROAD FOR 170.89 FEET; THENCE RUN SOUTH, PERPENDICULAR TO PONDELLA ROAD 191.35 FEET; THENCE RUN EAST, PARALLEL TO PONDELLA ROAD FOR 150 FEET TO THE POINT OF BEGINNING, KNOWN AS LOTS 22 AND 23, BLOCK B, DE PIN MINE AREA, AN UNRECORDED SUBDIVISION.

PARCEL 2

FROM THE SOUTHEAST CORNER OF SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, RUN NORTHERLY ALONG THE EAST LINE OF SAID SECTION 5 FOR 33 FEET TO THE NORTH LINE OF THE COUNTY ROAD KNOWN AS PONDELLA ROAD, THENCE RUN WESTERLY ALONG SAID NORTH LINE PARALLEL TO AND 33 FEET FROM THE CENTER LINE OF SAID ROAD FOR 2520 FEET, THENCE RUN NORTH ALONG A PERPENDICULAR TO SAID ROAD FOR 1288 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED, FROM SAID POINT OF BEGINNING CONTINUE NORTH ON THE SAME COURSE FOR 150 FEET, THENCE RUN WEST PARALLEL TO SAID NORTH LINE OF PONDELLA ROAD FOR 150 FEET, THENCE RUN SOUTH PERPENDICULAR TO SAID NORTH LINE FOR 150 FEET, THENCE RUN EAST PARALLEL TO SAID ROAD FOR 150 FEET TO THE POINT OF BEGINNING.

WHICH IS ALSO DESCRIBED AS LOTS 24 AND 25, BLOCK "B" OF DEL-PINE MANOR, AN UNRECORDED PLAT

SCHEDULE B-2 EXCEPTIONS NOTES

9. Permanent Utility Easement, granted from Jeanine M. Mount, as to an undivided 1/4 interest, Mason A. Campbell, Jr., and Elizabeth J. Campbell Trust dated August 18, 1997, as to an undivided 1/2 interest and Paul V. Campbell and Joan E. Campbell Trust Agreement dated January 23, 1997, as to an undivided 1/4 interest, as tenants in common to the City of Cape Coral, a Florida municipal corporation, recorded in Official Records: Book 3492, Page 3441.
(AFFECTS SUBJECT PROPERTY, AS SHOWN HEREON)

10. Terms and conditions of the Addendum to Agreement for the Wholesale of Potable Water by Lee County, Florida to the City of Cape Coral, Florida between Lee County, Florida, a charter county and a political subdivision of the State of Florida and the City of Cape Coral, a Florida municipal corporation recorded in Official Records Book 4634, Page 830.
(AFFECTS SUBJECT PROPERTY, BLANKET IN NATURE)

ZONING INFORMATION:

NOT PROVIDED AT TIME OF SURVEY

PARKING COUNT:

REGULAR SPACES:	NON:
HANDICAP SPACES:	NON:
TOTAL SPACES:	NON:

LAND AREA:

57,352 SQUARE FEET
1.3166 ACRES
MORE OR LESS.

ALTA/NSPS Land Title Survey Certification

To: The Reinalt-Thomas Corporation, a Michigan corporation; Halle Properties, L.L.C., an Arizona limited liability company; First American Title Insurance Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 5, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10(a), 13, 16, 17 and 18 of Table A thereof. The field work was completed on 11/16/2020.

Date: 11/16/2020

JAMES D. BRAY PSM 6507

This Survey is "Not Valid" without the signature and the original raised seal of this Florida licensed Surveyor and Mapper, unless provided with electronic signature with the ability to validate. (See: www.altamassurveying.com for instructions on signature validation). The seal appearing on this document was authorized by the signing Professional Surveyor and Mapper on the Date of the electronic signature.

LEGEND

- BB - BOTTOM OF BANK
BHIM - BUILDING HEIGHT MEASUREMENT
⊙ - BENCHMARK
⊖ - BOLLARD
-E- - BURIED ELECTRIC LINE
-C- - CHAIN LINK FENCE
C - CENTERLINE
CMC - CONCRETE MONUMENT
CONC - CONCRETE
COV - COVERED
CPD - CONCRETE PAD
B - BURIED STORM/RAINLINE
E - EASEMENT NUMBER
E - ELECTRICAL METER
E - EASEMENT
ESMT - EDGE OF PAVEMENT
FL - FLORIDA DEPARTMENT OF TRANSPORTATION
FIR - FIRE INSURANCE RATE MAP
FIR - FINISHED FLOOR ELEVATION
-FH- - FIRE HYDRANT
-FM- - BURIED FENCE MAIN LINE
FND - FOUND
-FO- - FIBER OPTIC CABLE LINE
-G- - BURIED GAS LINE
-G- - GUY WIRE ANCHOR
INSTV - RECORD INSTRUMENT
INV - INVERT ELEVATION
IB - IRON ROD
L - LICENSED SURVEYOR
☆ - LIGHT POLE
-L- - MITERED END SECTION
NVD - NORTH AMERICAN VERTICAL DATUM
NAD - NORTH AMERICAN DATUM
NGVD - NATIONAL GEODETIC VERTICAL DATUM
ORB - OFFICIAL RECORDS BOOK
OW - OVERHEAD WIRE
PB - PLAT BOOK
PP - PLAN PLANS
P - PAGE
POB - POINT OF BEGINNING
POC - POINT OF COMMENCEMENT
PC - POLYNY CHORDS PIE
RCP - REINFORCED CONCRETE PIPE
-R- - REUSE WATER LINE
-R- - REUSE WATER VALVE
-R- - RIGHT-OF-WAY
⊙ - SANITARY MANHOLE
-S- - BURIED SANITARY LINE
SD - SHOWN FOR DIRECTION ONLY
SN - SIGN
XBL - SPOT ELEVATION
-B- - BURIED TELECOMMUNICATIONS LINE
-TB- - TOP OF BANK
-T- - TRAFFIC SIGN
TV - TELEVISION BOX
TY - TYPICAL
C - UTILITY POLE
-W- - BURIED WATER LINE
-W- - WATER METER

ADDRESS:

1930 NE PINE ISLAND ROAD
CAPE CORAL, FL 33909

Job Information

JOB NO. 903929
CF NO. LEE-5-44-24-SPC
FIELD DATE: 11/16/2020
SCALE: 1" = 30'
DRAWN BY: PJT

Revisions

[illegible]

Altamax Surveying

910 Belle Avenue, Suite 1100

Casselberry, Fl. 32708
Phone: 407-677-0200

Licensed Business No. 7833

www.altamassurveying.com



SHEET 1 OF 1

* REDUCED SIZE

DATE: 23 February 2021

TO: Lee Thompson, H&T Consultants, Inc

FROM: Scott Israelson

RE: Traffic Impact Statement
Discount Tire Store
Pine Island Road

Introduction

Traffic Impact Group, LLC has been retained to prepare a traffic impact statement for the proposed Discount Tire Store located on the southeast corner of Pine Island Road (SR 78) & Del Pine Drive. The site address is 1930 NE Pine Island Road, Cape Coral.

The site is occupied by Campbell's Ornamental Concrete. The proposed new development would consist of a 7,490 SF tire store.

The two existing driveways would be closed. A new driveway would be constructed approximately 200 feet south of Pine Island Road (SR 78) and a second new driveway would be constructed to align with the Target and Olive Garden driveway across Del Pine Drive.

The subject property is in the process of annexation into the City of Cape Coral. This Traffic Statement follows both Lee County and City of Cape Coral guidelines.

Trip Generation

A trip generation analysis has been prepared in accordance with the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 10th Edition, using the Average Rate for all time periods. The analysis uses Land Use 848 "Tire Store".

Table 1 summarizes the trip generation estimates for the proposed addition.

Table 1 - ITE Trip Generation								
Average Weekday Driveway Volumes					AM Peak Hour		PM Peak Hour	
Land Use	ITE Code	Size		Daily Trips	Enter	Exit	Enter	Exit
Tire Store	848	7.5	Th.Sq.Ft. GFA	214	13	7	13	17

The proposed development is estimated to result in 30 PM peak hour trips. According to Lee County Traffic Impact Study Guidelines for developments with fewer than 300 peak hour trips, the analysis

must include a check for turn lanes or other site related improvements, and a Concurrency Level of Service Analysis.

Trip distribution for driveway analysis was assumed to be 90% to/from the north and 10% to/from the south. **Figure 1** shows a graphical representation of peak hour trips at the site accesses.

Turn Lanes

The *Lee County Administrative Code 11-4* provides the Turn Lane Policy for Lee County, using warrants based on roadway classification, posted roadway speed, number of turning movements during the peak hour, opposing and advancing peak hour volumes, and access/traffic control.

Del Pine Drive is a city maintained local street with a posted speed limit of 30 mph.

County Code for local street requires a left-turn lane on two-lane facilities when left turns exceed 60 vehicles and the opposing through traffic volume exceeds 500 vehicles in the peak hour. Based on trip generation estimates, a left-turn lane is not required.

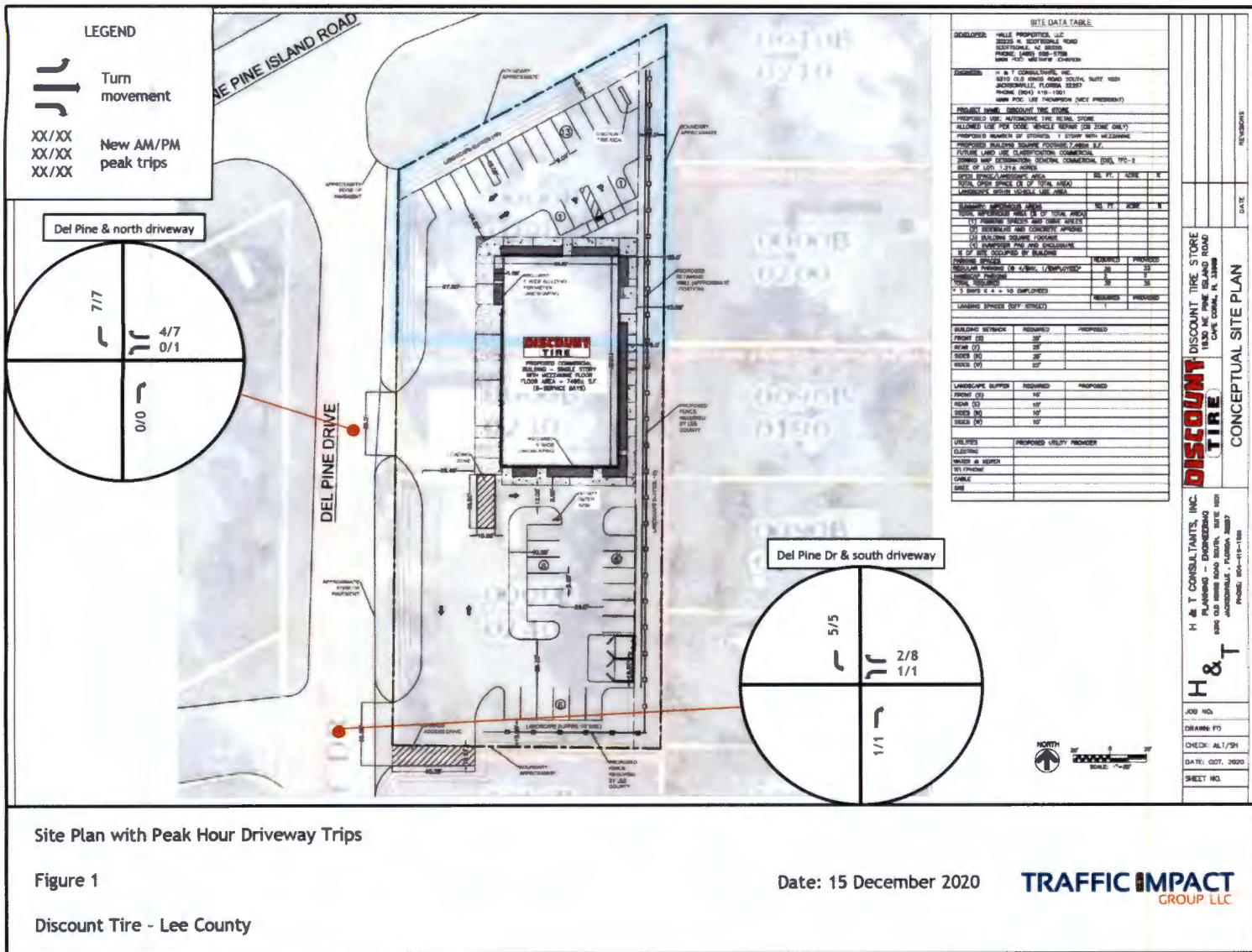
County Code requires a right-turn lane on local streets when right turns exceed 60 vehicles in the peak hour. Based on trip generation estimates, a right-turn lane is not required. See **Figure 1** for peak hour driveway turning movement estimates.

Concurrency Analysis

Table 2 summarizes the concurrency analysis for the proposed development. The existing traffic volumes were retrieved from the *Lee County 2017 Count Spreadsheet* and using the applicable *k* and *d* factors.

Table 2 - Roadway Segment Concurrency - PM Peak Hour										
Roadway	From	To	Lanes	Adopted Pk Hr Capacity	Existing Pk Hr Vol	Encumb Pk Hr Volumes	Develop Pk Hr Volumes	Full Build Pk Hr Vol	Level of Service	Avail Cap
Pine Island Rd (SR 78)	Del Prado	Barrett Rd	4L	2,100	1,843	-	27	1,870	C	yes
Pondella Rd	SR 78	Orange Grove Blvd	4L	1,890	736	-	3	739	B	yes

The concurrency analysis shows that roadways in the study area will operate within their adopted peak hour capacity.



Cape Coral Future Land Use Amendment

According to City FLUMA application requirements, a traffic impact study is required for developments that generate 300 or more peak hour trips.

The proposed development is estimated to result in 30 PM peak hour trips.

Conclusion

The proposed development does not meet County thresholds for turn lanes.


The proposed development meets County standards for roadway concurrency.

According to City of Cape Coral FLUMA application guidelines, a traffic impact study is not required for the proposed development.

Your review and approval of this statement will be greatly appreciated. If you have any questions, please feel free to contact me any time at 407.607.6985.

PLANNING DIVISION STAFF REPORT
LU21-0005

PROPERTY ADDRESSES 1930 NE Pine Island Road 1356 Del Pine Drive 1352 Del Pine Drive	APPLICANT/PROPERTY OWNER Paul and Joan Campbell Trust
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SUMMARY OF REQUEST The applicant requests a future land use map amendment from the Lee County future land use designation of Commercial to the City of Cape Coral future land use designation of Pine Island Road District (PIRD). The site is three parcels, totals 1.31 acres, and was annexed into the City of Cape Coral in 2021.	
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MAP SOURCE

STAFF RECOMMENDATION: Approval

Positive Aspects of Application:	Future Land Use amendment adds commercial/mixed use entitlements along a major roadway. Further strengthens commercial corridor along Pine Island Road.
Negative Aspects of Application:	The site is not at or near a major intersection.
Mitigating Factors:	The site is still along a commercial corridor and is an extension of a commercial node extending from intersection of Del Prado Boulevard and Pine Island Road.

SITE INFORMATION

Urban Service Area: The site was recently annexed, and due to the availability municipal utilities, the site is considered to be in the Transition area.

City Water and Sewer: The site was recently annexed into the City of Cape Coral and water and sewer are available by extension.

Street Access: The site has road frontage on Pine Island Road, a state-maintained principal arterial, and Del Pine Drive, a Lee County maintained local road.

STRAP Numbers: 04-44-24-C1-00009.0000
04-44-24-C2-00009.0020
04-44-24-C3-00009.0030

Block/Lot(s): The site is not platted within a subdivision.

Site Area: 1.31 acres

Site:	Future Land Use	Zoning
Current:	Commercial (Lee County Designation)	Agricultural (AG-2) ¹ (Lee County Designation)
Proposed:	Pine Island Road District (PIRD)	N/A
	Surrounding Future Land Use	Surrounding Zoning
North:	PIRD	Commercial Corridor (CC)
South:	PIRD	CC
East:	PIRD	CC
West:	PIRD	CC

Urban Service Area: Transition

City Water/Sewer: Yes

Type of Access Road: The site has frontage on Pine Island Road – a Florida Department of Transportation (FDOT) maintained principal arterial – and Del Pine Drive – a Lee County maintained local road.

¹ A Lee County zoning designation

Soil Types and Limitations for Development:

Map Unit		Limitations	
		Dwellings without basements	Small commercial buildings
42	Wabasso Sand, Limestone Substratum	Moderate (wetness)	Moderate (wetness)
33	Oldsmar Sand	Moderate (wetness)	Moderate (wetness)

The soil in the area presents moderate limitations for dwellings and small commercial buildings. These limitations are typically overcome by using various engineering solutions, such as importing fill. The soil type, therefore, may not present an obstacle to any proposed amendment. However, special feasibility studies may be required at the development stage of the property.

Drainage: Must comply with South Florida Water Management District and the City of Cape Coral Engineering Design Standards.

Natural Resources: The site consists of undeveloped land. The overall hydrology is considered non-hydric.

Flora & Fauna Habitat: Prior to any permit for development being issued, an environmental survey must be undertaken, and mitigation performed to minimize the impacts of development, if any, on the protected species habitat.

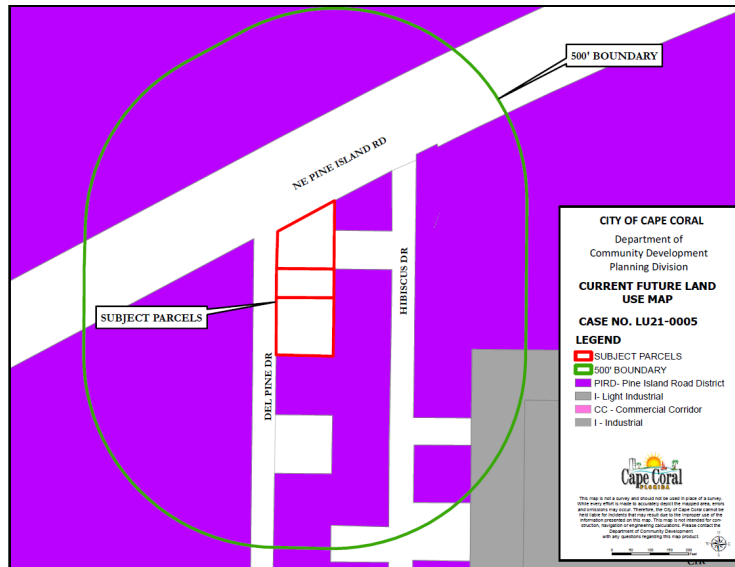
FINDINGS OF FACT

The site is three parcels that were recently annexed into the City of Cape Coral. The site is 1.31 acres and is at the intersection of Pine Island Road and Del Pine Drive. The site is at the southeast corner of NE Pine Island Road and Del Pine Drive. NE Pine Island Road is a state-maintained principal arterial and Del Pine Drive is a Lee County-maintained local road. The site is in unincorporated Lee County and has a future land use designation of "Intensive Development" and a combination of zoning district. The two more northern parcels have a zoning of Commercial General and the southern parcel has a zoning of Two-Family Conservation. The future land use designation and the zoning districts are Lee County designations. The applicant has also filed a Future Land Use Map Amendment to amend the site's future land use to Pine Island Road District (PIRD). Future development would also require a rezone.

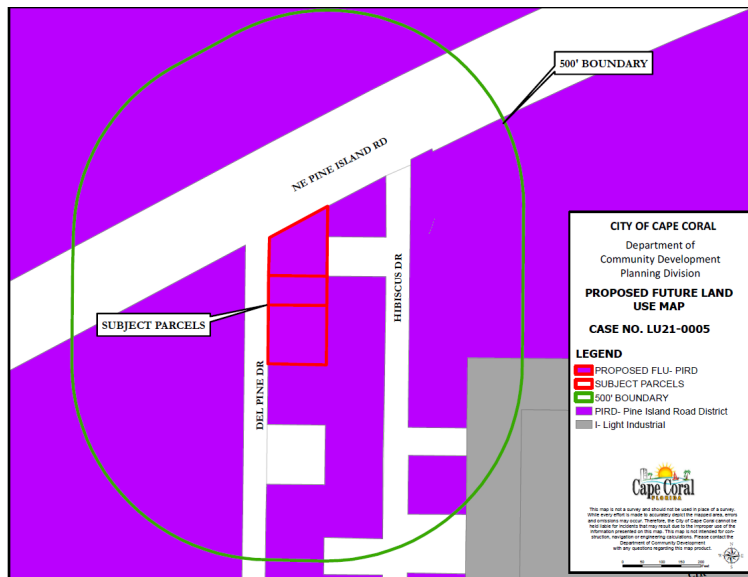
The site is developed with a commercial business and a couple of buildings. Surrounding development consists of commercial shopping centers to the north and west, single-family homes to the south, and an office building to the east.

The site is adjacent to the Cape Coral city limits to the north, west, and east, however, the site is separated from these properties by NE Pine Island Road and Del Pine Drive to the north and west, respectively. The applicant is seeking to amend the site's Lee County future land use designation to the Pine Island Road District (PIRD) future land use designation. The applicant has also filed an application for a rezone to Commercial Corridor (CC). The future land use amendment, along with a rezone would allow the applicant to develop the site with commercial or mixed-use development.

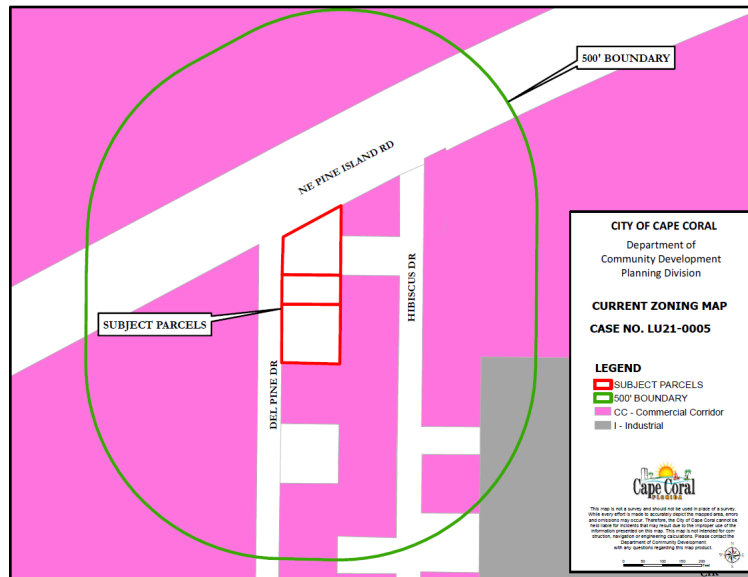
CURRENT FUTURE LAND USE



PROPOSED FUTURE LAND USE



CURRENT ZONING DESIGNATION



ANALYSIS

Cape Coral Comprehensive Plan – Chapter 4, Future Land Use Element

Below is the descriptions of the proposed future land use designation for the site. The site currently has a Lee County future land use designation of Commercial. In order for any development to occur, the site must receive a City of Cape Coral future land use designation and subsequently a zoning designation.

Staffs analysis will also focus on whether or not the site is still appropriate for the existing land use based upon various policies in the Future Land Use element.

Policy 1.15

Pine Island Road District (PIRD)

This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road.

Corridor: Includes such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single-family residential, multi-family residential, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Multi-family residential uses may be developed at a density of twenty-five units per acre, for sites of four acres or more. Multi-family residential uses may consist of no less than fifty units or have a density no less than ten or more units per acre. No duplexes are permitted. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities

shall be subject to Policy 1.15.h., of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.i. of the Future Land Use Element.

Staff Response: The site has frontage along Pine Island Road and is surrounded by parcels with the same future land use designation to the north, south, east, and west. The site is less than 4 acres in size, therefore, there is no residential uses allowed. The site is 53,352 square feet, therefore, an FAR of 1.25 would allow a maximum commercial intensity of 66,690 square feet.

Policy 1.13

This policy aims to promote commercial future land use designations and commercial development along commercial nodes. Commercial nodes are defined as “a compact concentration of commercial land within a relatively small area”. Ideal commercial nodes are located around or in the vicinity of intersection of four or six-lane divided parkways or boulevards. The policy also provides further details on the shape and size of parcels at commercial nodes.

Response: The site is approximately 3,400 feet east of the nearest commercial node – the intersection Del Prado Boulevard and Pine Island Road. The area surrounding the site has PIRD future land use designation that extends to the commercial node. While the site is not part of the original Pine Island Road Master Plan, the site is near properties that were included in the Master Plan which designated properties along Pine Island Road with a future land use designation compatible with the Master Plan. Policy 1.13 allows for commercial nodes to extend out from the intersection if commercial future land use or zoning extends out from the intersection. Predominantly, properties along Pine Island Road have the PIRD future land use designation, therefore, staff finds that the site is part of an existing commercial node.

Policy 1.14:

The City of Cape Coral’s commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Within this broad, general context, consideration of properties proposed for conversion to a commercial future land use shall be based upon the following commercial siting guidelines:

Major Intersection

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a “new” commercial property (a commercial property not abutting any existing commercial properties) or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be

any distance from the intersection, provided that such properties are integrated with existing properties (see below: Integration).

Response: The site is approximately 3,400 feet away from a major intersection (Pine Island Road and Del Prado Boulevard), however, according to the guideline above, the site represents an extension of commercial node due to the PIRD designation extending out from the intersection. There is commercial development in all four directions from the intersection. Development within the PIRD designation has occurred north and west of the site. Planning staff finds that the site is at a major intersection and the proposed future land use designation and is consistent with this commercial siting guideline.

Adequate Depth

Ideally, a commercial property should extend not only along the adjacent collector or arterial roadway, but also should extend inward with adequate depth to accommodate the necessary parking, buffering, retention, and open area for the future commercial development. In Cape Coral, most City blocks are rows of back-to-back lots approximately 250 feet deep. Ideally, then, adequate depth is achieved if any number of contiguous properties, owned by the same landowner (see Ownership Pattern, below) occupy the entire 250 feet of depth. Adequate depth would not be achieved if the subject properties have different owners or if the contiguous properties are not reasonably compact (see below).

Response: The site is along an arterial roadway, however, the parcel depth is only 150 feet. While the site consists of three parcels, all of the parcels are under the same ownership. Planning staff finds that because the parcels have a depth less than 250 feet but are owned by the same individual, the proposed future land use designation is partially consistent with this commercial siting guideline.

Compactness

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

Response: The site is a collection of three parcels that are fairly rectangular in shape and is compact. The shape of the parcel should allow for a quality commercial development along a major arterial, therefore, Planning staff finds that the proposed future land use designation is consistent with this commercial siting guideline.

Integration

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

Response: There is some existing commercial development adjacent to the site as well as some pre-existing residences to the south. There is very little opportunity for commercial linkage due to the site's frontage on local roads. Additionally, the nearby adjacent properties have a large number of fragmented owner, which would make integration difficult. Planning Staff finds the future land use of the site is not consistent with this commercial siting guideline.

Assembly

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial developments that might serve the City as shopping and/or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product. Properties proposed for conversion to a commercial future land use, where such properties would represent an expansion of an existing commercial area may be considered "assembled," for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

Response: The site is three parcels that were recently annexed into Cape Coral from Lee County. Unlike the majority of parcels in Cape Coral, the site is not pre-platted. The site is smaller than three acres and assembled under one owner. The size and ownership of the site should discourage strip development, therefore, Planning staff finds that the proposed future land use designation is consistent with this commercial siting guideline.

Intrusion

"Intrusion," as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no hard and fast guidelines for determining when a proposed commercial use would be intrusive to surrounding development. However, expansions of existing commercial areas are generally considered less intrusive than the establishment of new commercial areas. Commercial areas may be considered less intrusive to adjacent multi-family development than to adjacent single family development. Commercial development that is separated from a residential area by a street, canal, a vegetative buffer, or other geographic features, may be considered less intrusive than commercial development that directly abuts a residential area. The degree of compactness (see above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties (properties proposed for conversion to a commercial future land use classification, which do not abut existing commercial properties) are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While intrusion is subjective and

depends on many factors, a rule of thumb is that the proposed commercial property would not likely be intrusive if adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

Response: The site is undeveloped and the only adjacent development are an office building to the east and four single-family homes to the south that are within unincorporated Lee County. A mixed-use development is to north across Pine Island Road.. Planning staff finds that while there is limited adjacent commercial development, nearby parcels are already developed with large commercial uses and the chance of intrusion is limited. Planning staff finds that the proposed future land use designation is partially consistent with this commercial siting guideline.

Access

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Use and Development Regulations refer to these as “dedicated City parking areas.” These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City’s interest to promote conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant’s agreement to own and manage the site.

b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

Response: The site is not near a City-owned parking lot and does not have frontage on a roadway with an access management plan. However, the site does have frontage and potential access from an arterial road. Planning staff finds that the site has the preferred ideal access from an arterial street, however, the site is not near a City-owned parking lot, therefore, the sites proposed future land use designation is partially consistent with this commercial siting guideline.

Ownership Pattern

An ideal commercial node is a cohesive, compact, interrelated network of commercial properties. Properties proposed for conversion to a commercial future land use, which properties consist of multiple parcels, or groups of parcels, under multiple ownership are unlikely to develop as a true “commercial node.” Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may

also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development (see Policy 1.13, above). Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

Response: As discussed earlier, the site is three parcels under common ownership. While the properties have not been “combined” into one parcel, it is likely that the parcels would have little development value on their own, making their future combination most likely. Planning staff finds that the site proposed future land use designation is consistent with this commercial siting guideline.

Summary

Policy 1.14 contains eight commercial siting guidelines. Overall, the site is consistent with four guidelines (major intersection, compactness, assembly, and ownership pattern); partially consistent with three guidelines (adequate depth, intrusion, and access). The subject area is not consistent with one of the guidelines (integration). **Policy 1.14** does not require a proposed amendment to meet a certain threshold of guidelines for approval or denial, rather the guidelines are meant to provide a compatibility analysis.

ECONOMIC DEVELOPMENT MASTER PLAN ANALYSIS

The amendment is not directly supported or in conflict with the City Economic Development Master Plan. The site is not within an Economic Opportunity Area, and the site is too small for the addition of multi-family housing.

REGIONAL PLAN ANALYSIS

Southwest Florida Regional Planning Council’s (SWFRPC) Strategic Regional Policy Plan (SRPP):

This proposed PIRD future land use designation is partially consistent with the SRPP Strategy that prioritizes locating commercial development along transportation corridors.

Lee County Metropolitan Planning Organization’s (MPO) 2040 Long Range Transportation Plan:

Pine Island Road has not been identified for improvements or widening in the MPO’s 2040 Long Range Transportation Plan.

IMPACT ASSESSMENT SUMMARY

The following calculations summarize approximate conditions for each municipal service analyzed. A more complete analysis of each service is included in the text that follows the calculations. To determine the impact assessment, staff utilized the adopted future land use and zoning designations to determine the existing impacts. Therefore, the impacts discussed in this assessment do not necessarily reflect the actual number of dwelling units, population, etc.

The existing land use classification for the site is Commercial – which is a Lee County future land use designation. Since the site has been annexed, the site cannot be developed until a future land use amendment and zoning change have been enacted. This impact assessment summary will not consider the existing future land use designation. The site is proposed for the PIRD future land use designation. The applicant has also filed a rezone to amend the site's zoning to Commercial Corridor (CC) which is the only zoning district compatible with the PIRD future land use designation. The maximum intensity permitted under the PIRD future land use classification is a floor-to-area ratio (FAR) of 1.25. Historical development in Cape Coral has occurred at an FAR of 0.25. For purposes of this impact assessment summary, staff will assume an FAR of 0.5. This FAR would result in the site developing with approximately 26,676 sq. ft. of commercial space.

Commercial Square Footage

Existing:	N/A
Proposed:	26,676 sq. ft.
Net Change:	+26,676 sq. ft.

Dwelling Units

Existing:	N/A
Proposed:	N/A
Net Change:	N/A

Population*

Existing:	N/A
Proposed:	N/A
Net Change:	N/A

* 2.54 persons/household = avg. household size; 2010 Census

Water Use

Existing:	N/A
Proposed:	8,002 gal/day at 0.3 gal/sq. ft./day
Net Change:	+8,002 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Sewage

Existing:	N/A
Proposed:	8,002 gal/day at 0.3 gal/sq. ft./day
Net Change:	+8,002 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Solid Waste

Existing Generation: N/A
 Proposed: 3,627 lbs./day at 0.136 lbs/sq ft./day
 Net Change: +3,627 lbs./day
 Facility Capacity: 1,836 tons/day
 Existing Demand: 1,384 tons/day
 Capacity Available: Yes

Traffic/Daily Trips

Existing Generation: N/A
 Proposed: 10 AM trips/hour and 33 PM trips/hour²
 Net Change: +10 AM hour trips and +33 PM hour trips
 Facility Capacity: Access from a principal arterial street and a local street
 Capacity Available: Yes

Hurricane Evacuation

The site is in the Storm Surge C/Evacuation Zone C. The amendment will not result in residential units so there will be no impact on evacuation times.

Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. Additional park facilities will not be required due to no additional residential units.

Protected Species

The City requires an environmental survey prior to the issuance of any land clearing/site clearing or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, State or Federal protective or mitigation may be required.

School Impacts

There will be an increase in the number of dwelling units because of the proposed future land use map amendment request and an increase in the projected number of students. The increase in dwelling units will result in an increase upon the demand on school facilities. Due to the current designation of Pine Island Road District, there are no existing residential units for this analysis.

Existing dwelling units: 0 dwelling units
 Existing students: 0
 Proposed dwelling units: 0 dwelling unit
 Proposed students: 0

² Using ITE Generation Rate for Shopping Center

Change: +0 students

PUBLIC NOTIFICATION

Publication: A display ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners to amend the land use of 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 Planning and Zoning Commission. Following the public hearing before the Commission, the display 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. The display ads will not be published in the legal section of the *News-Press*.

Written notice: Property owners located within 500 feet from the property line o 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 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 land use amendment request.

RECOMMENDATION

Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, the proposed amendment to Pine Island Road District is consistent with the Comprehensive Plan and compatible with the surrounding area, therefore, Planning Division staff recommends **approval** of the proposed small-scale Future Land Use Map amendment request.

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



500 FOOT NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: LU21-0005

REQUEST: The applicant requests a future land use map amendment from the Lee County future land use designation of Commercial to the City of Cape Coral future land use designation of Pine Island Road District (PIRD). The site is three parcels, totals 1.31 acres, and was annexed into the City of Cape Coral in 2021.

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

UPCOMING PUBLIC HEARING: Notice is hereby given that the Cape Coral Planning and Zoning Commission will hold a public hearing at 9:00 A.M. on September 1st, 2021 on the above-mentioned case. The public hearing will be held in the 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 Planning and Zoning Commission 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 five days prior to the hearing. The file can be reviewed at the Community Development Department, 1015 Cultural Park Blvd., Cape Coral, FL.

After Planning and Zoning Commission 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 if 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, upon request at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

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.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Office 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 1-800-955-8770 (v) for assistance.

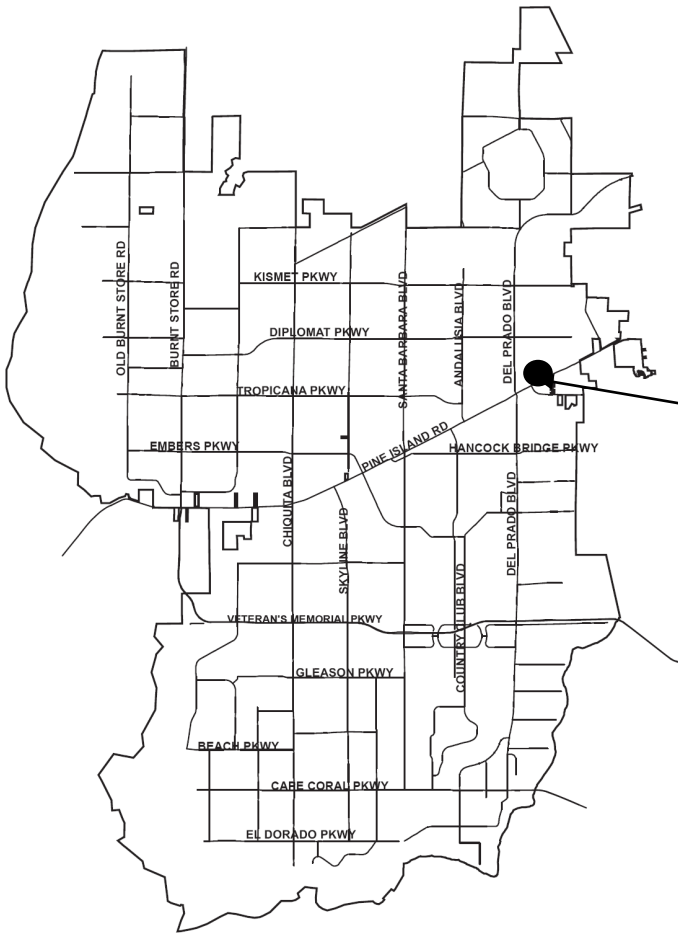
APPEALS: If a person decides to appeal any decision made by the Planning and Zoning Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings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

NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt **ORDINANCE 74-21 AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL (A LEE COUNTY DESIGNATION) TO PINE ISLAND ROAD DISTRICT (PIRD) LAND USE FOR PROPERTY DESCRIBED AS TWO PARCELS OF LAND LYING IN SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT 1930 NE PINE ISLAND ROAD AND 1352-1356 DEL PINE DRIVE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.**

A public hearing on the ordinance will be held Wednesday, September 1st, 2021 at 9:00 a.m. at the City of Cape Coral, City Hall Chambers, 1015 Cultural Park Blvd., Cape Coral, Florida 33990. At this public hearing, the Planning and Zoning Commission will consider a recommendation to change the City's future land use map amendment request. Accordingly, members of the general public and real property owners in the community are invited to appear and speak at the public hearing. Written comments filed with the Director will also be entered into the record. A copy of the map and the proposed amendment under consideration will be available for inspection and will be provided to the public at cost at the City Clerk's office between 7:30 a.m. and 4:30 p.m., Monday through Friday excluding holidays. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that subject person 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. In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk no later than 4:00 p.m. on the day prior to the meeting.

Kimberly Bruns, CMC
City Clerk



Ordinance 74-21
LU21-0005

**COMMERCIAL (A LEE COUNTY
LAND USE DESIGNATION TO
PINE ISLAND ROAD DISTRICT
(PIRD) FOR PROPERTY AT THE
INTERSECTION OF PINE
ISLAND ROAD AND DEL PINE
DRIVE**

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Paul & Joan Campbell

APPLICATION NO: LU21-0005


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 23rd day of August, 2021.



Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

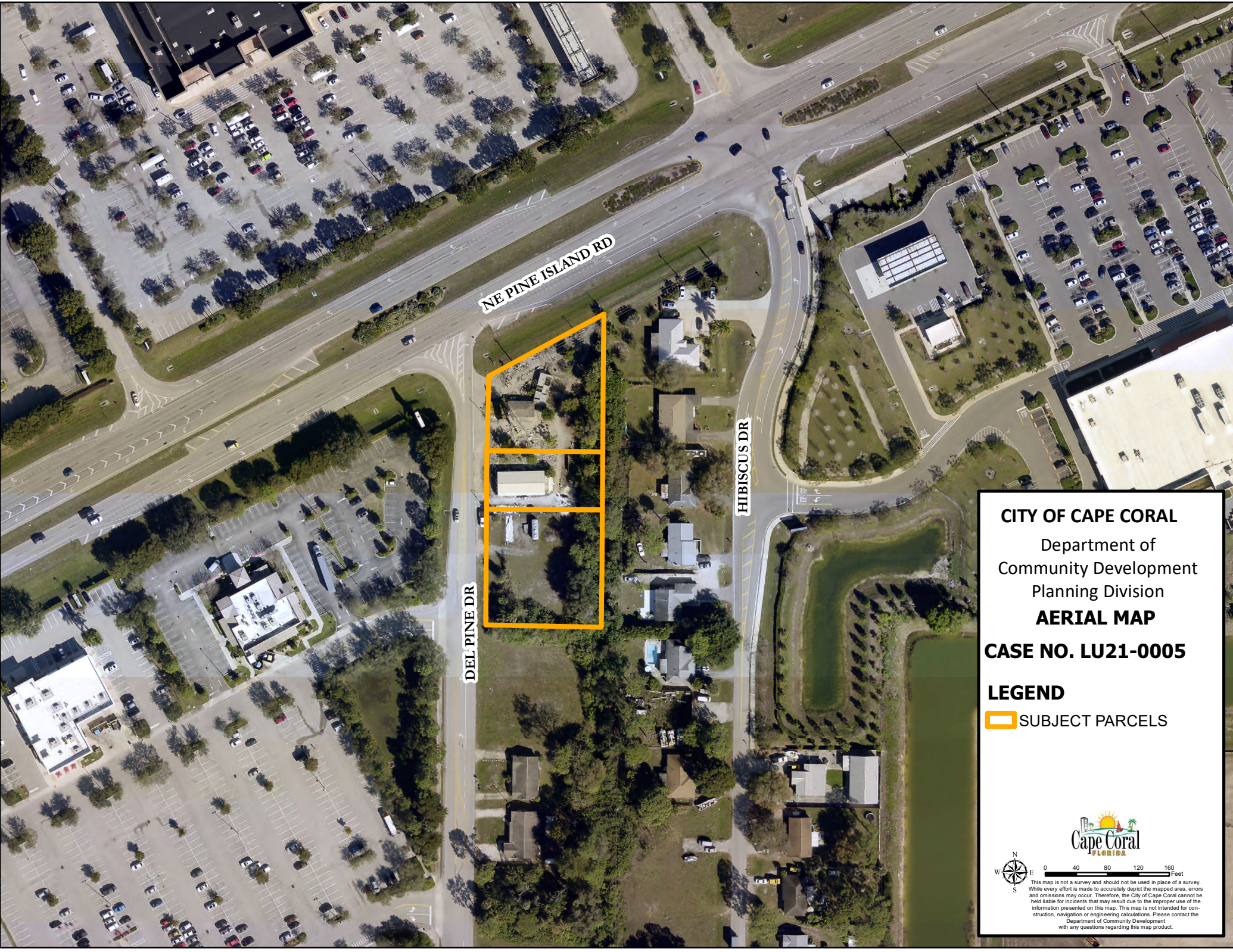
The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, on this 23rd day of August, 2021, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/16/24 Commission # HH061317




Signature of Notary Public

Elisabeth A. Helsel
Print Name of Notary Public



NE PINE ISLAND RD

HIBISCUS DR

DEL PINE DR

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

CASE NO. LU21-0005

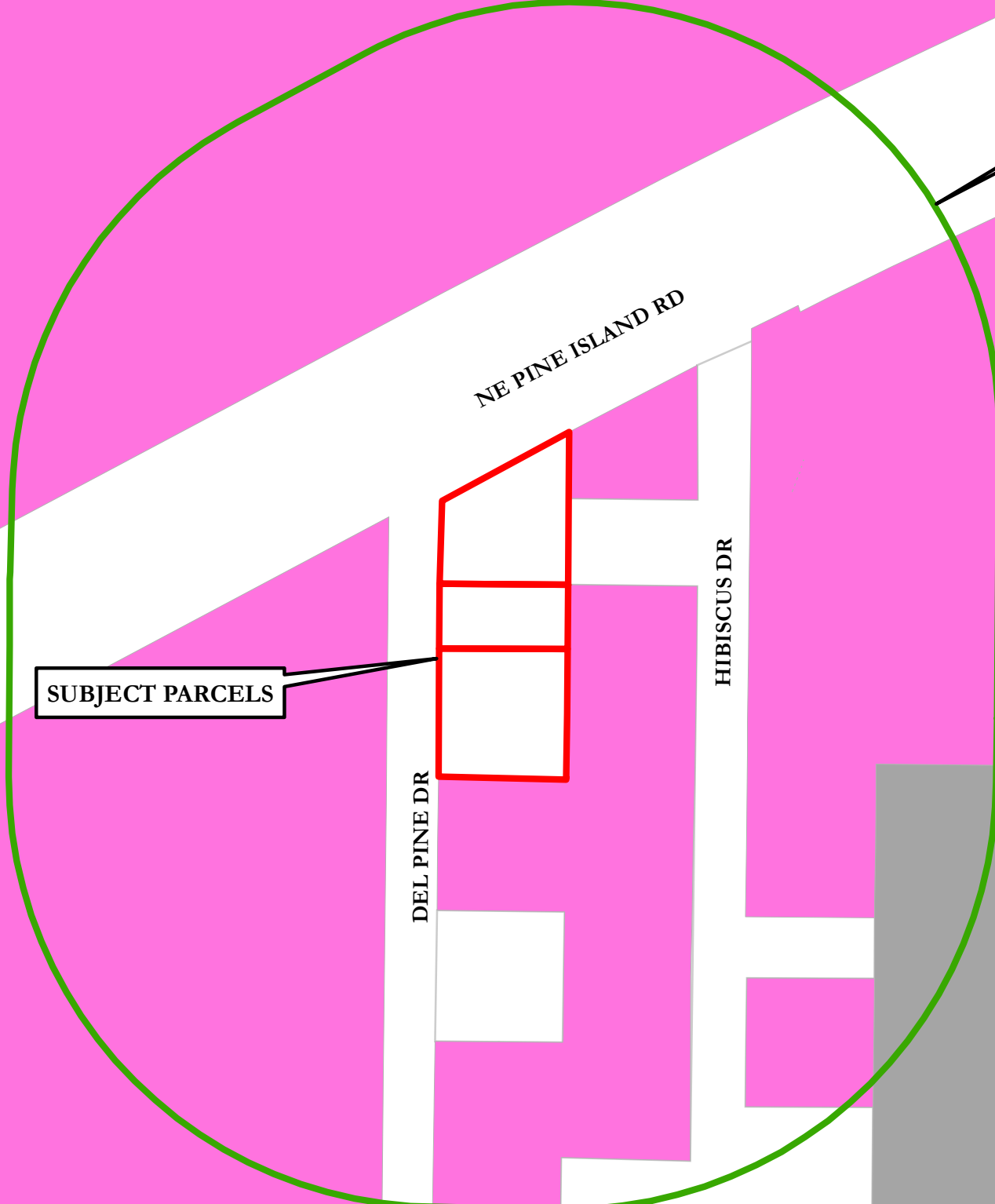
LEGEND

 **SUBJECT PARCELS**



0 40 80 120 160 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

SUBJECT PARCELS

NE PINE ISLAND RD





HIBISCUS DR

DEL PINE DR

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

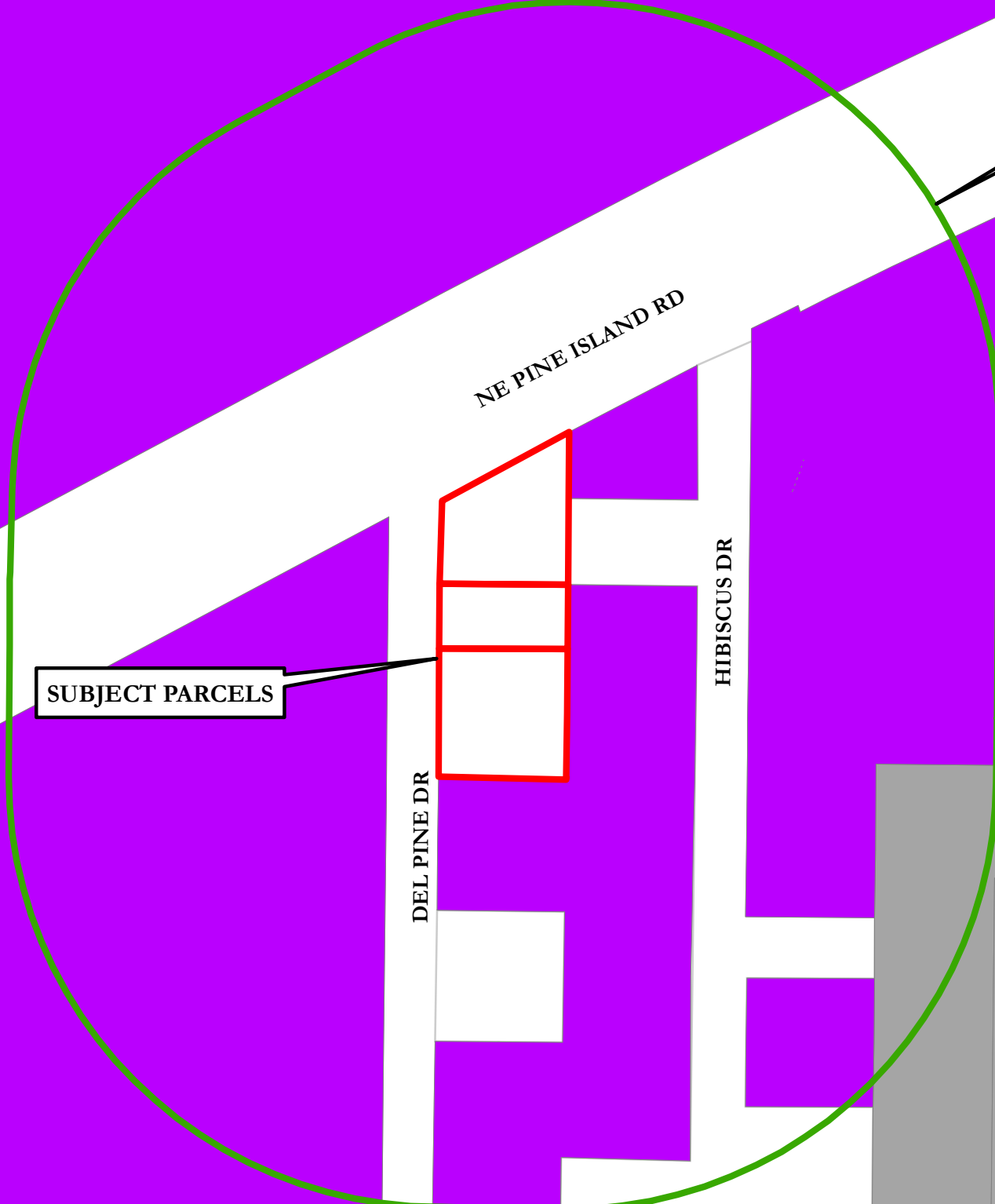
CURRENT ZONING MAP
CASE NO. LU21-0005

LEGEND

-  SUBJECT PARCELS
-  500' BOUNDARY
-  CC - Commercial Corridor
-  I - Industrial

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500' BOUNDARY

SUBJECT PARCELS







CITY OF CAPE CORAL

Department of
Community Development
Planning Division

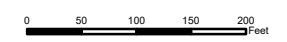
CURRENT FUTURE LAND USE MAP

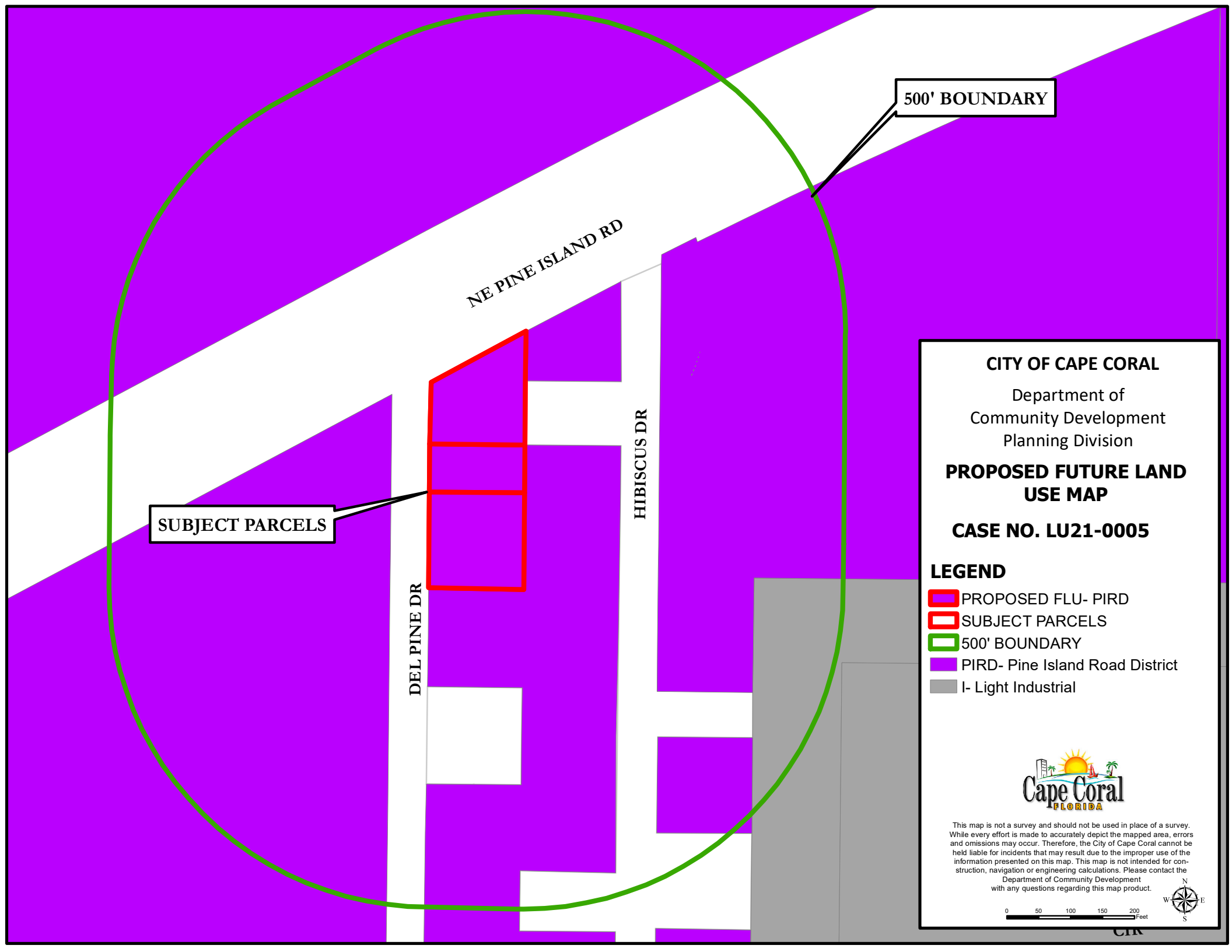
CASE NO. LU21-0005

LEGEND

-  SUBJECT PARCELS
-  500' BOUNDARY
-  PIRD- Pine Island Road District
-  I- Light Industrial
-  CC - Commercial Corridor
-  I - Industrial

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500' BOUNDARY

NE PINE ISLAND RD

HIBISCUS DR

DEL PINE DR

SUBJECT PARCELS






CITY OF CAPE CORAL

Department of
Community Development
Planning Division

PROPOSED FUTURE LAND USE MAP

CASE NO. LU21-0005

LEGEND

-  PROPOSED FLU- PIRD
-  SUBJECT PARCELS
-  500' BOUNDARY
-  PIRD- Pine Island Road District
-  I- Light Industrial



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0 50 100 150 200 Feet



City of Cape Coral



Ordinance 74-21/LU21-0005

Cape Coral City Council



Ordinance 74-21 / LU21-0005

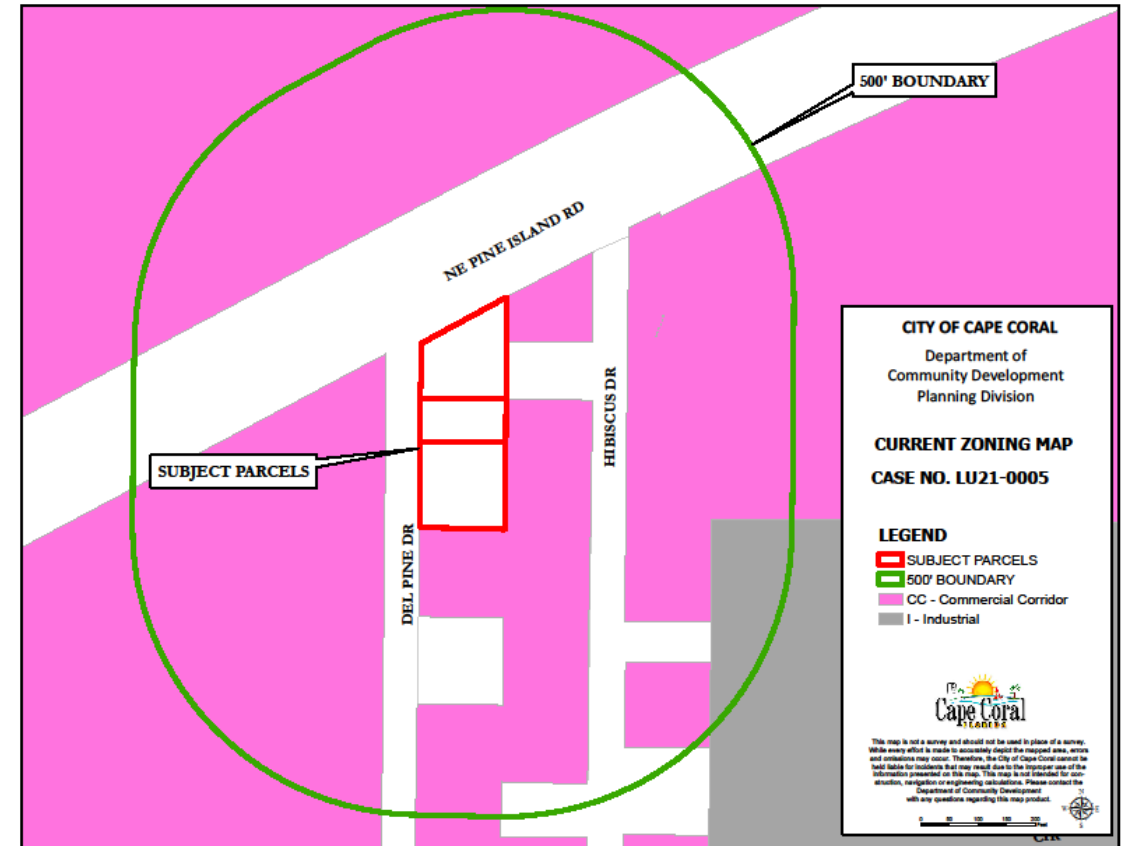
- **Applicant: Paul and Joan Campbell Trust**
- **Site Size: 1.31 acres**
- **Location: Intersection of Del Pine Drive and Pine Island Road**
- **Urban Services: Transition**
- **Request: Future Land Use Map Amendment from Commercial (Lee County Designation) to Pine Island Road District (PIRD).**

Ordinance 74-21 / lu21-0005

Aerial Map

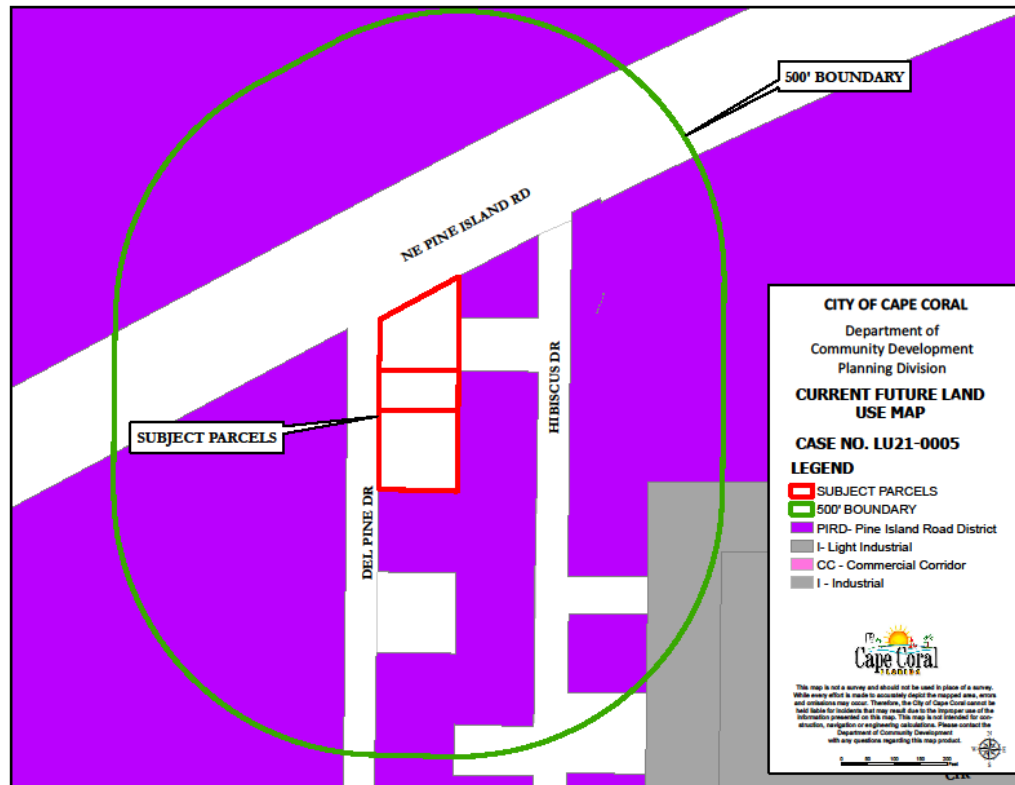


Zoning Map

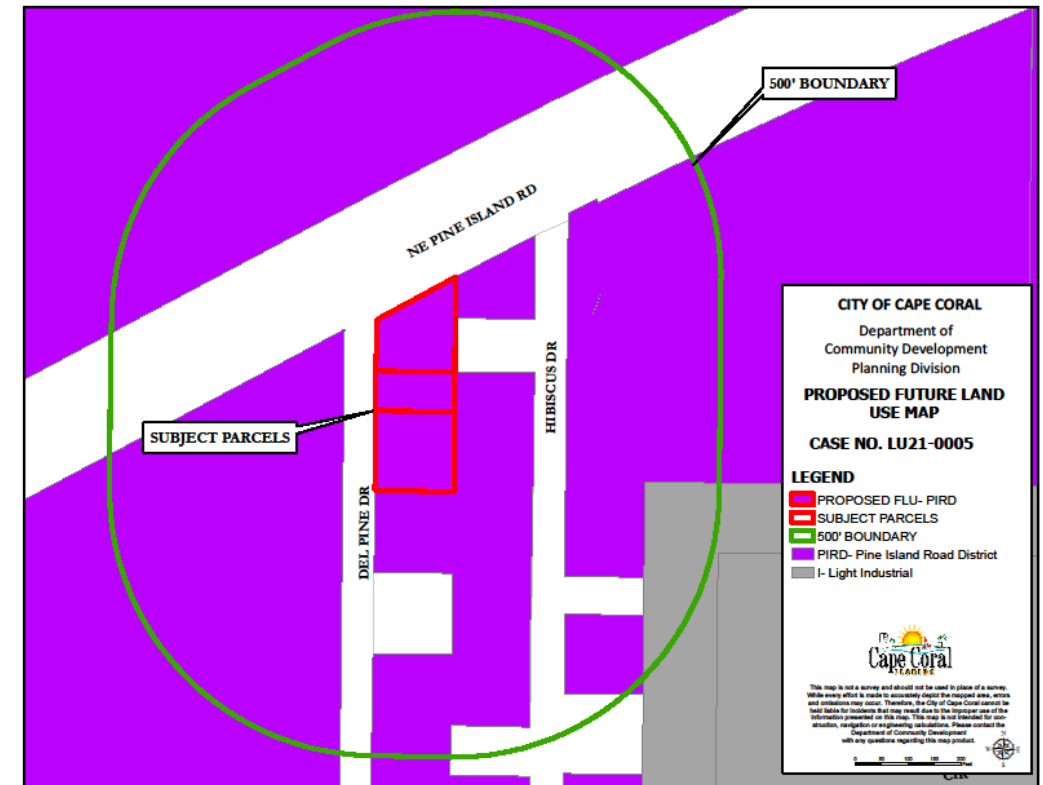


Ordinance 74-21 / lu21-0005

Current FLU – Commercial



Proposed FLU - PIRD



Ordinance 74-21 / lu21-0005

Findings of Fact

- **Site recently annexed into Cape Coral**
- **Applicant seeks to develop commercially**
- **Frontage on Pine Island Road**
- **Site retains Lee County land use / zoning until changed by City**
- **Site is considered extension of commercial node**

Analysis – Comprehensive Plan

Chapter 4, Future Land Use Element, Policy 1.15

Pine Island Road District

- ☐ “Encourages mixed-use development at key intersections along Pine Island Road”
- ☐ Sets FAR at max of 1.25
- ☐ Max intensity for site is 71,329 sq. ft.

Analysis – Comprehensive Plan

Chapter 4, Future Land Use Element, Policy 1.14

Commercial Siting Guidelines

- **Consistent with 4 guidelines – major intersection, compactness, assembly, and ownership pattern**
- **Partially consistent with 3 guidelines – adequate depth, intrusion, and access**
- **Not consistent with 1 guideline - integration**

Ordinance 74-21 / lu21-0005

Recommendation

Planning staff recommends approval.

Planning and Zoning Commission recommended approval by a vote of 7-0.

THANK YOU
any questions?





Ordinance 74-21/LU21-0005

Cape Coral City Council



Ordinance 74-21 / LU21-0005

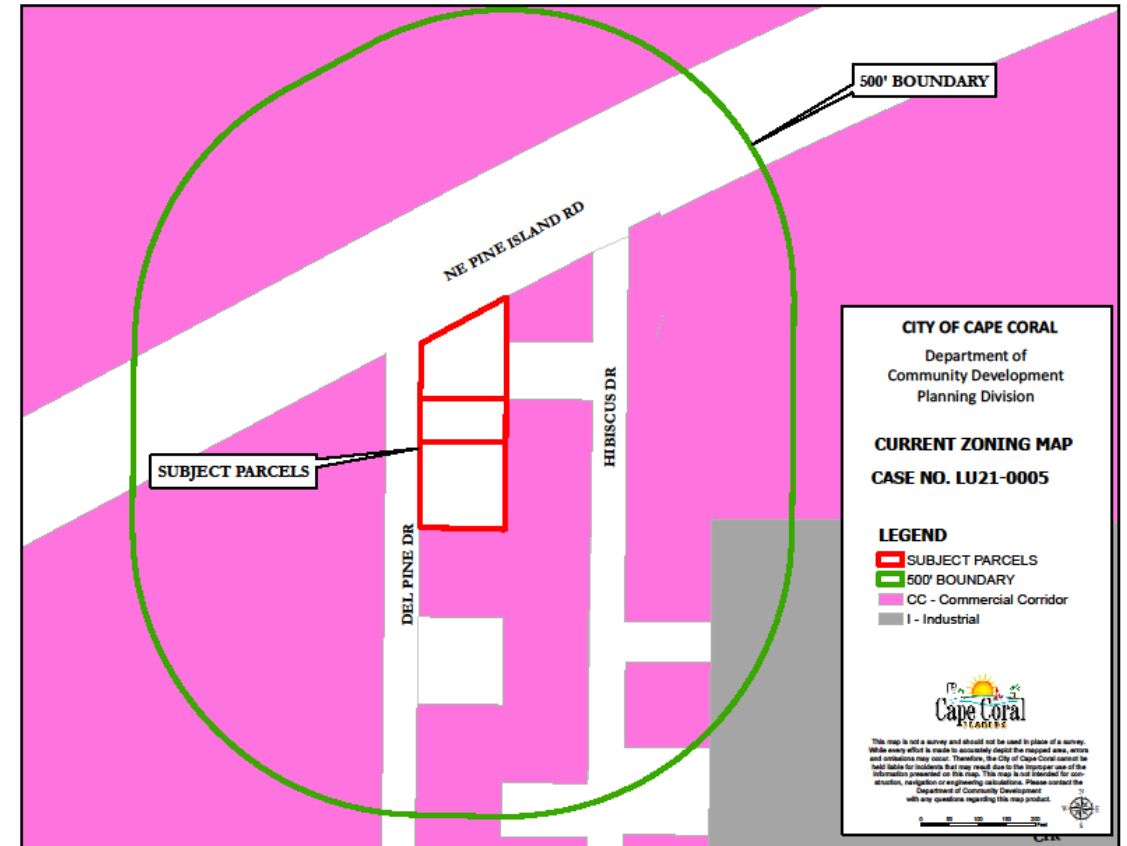
- **Applicant: Halle Properties, LLC**
- **Site Size: 1.31 acres**
- **Location: Intersection of Del Pine Drive and Pine Island Road**
- **Urban Services: Transition**
- **Request: Future Land Use Map Amendment from Commercial (Lee County Designation) to Pine Island Road District (PIRD).**

Ordinance 74-21 / lu21-0005

Aerial Map



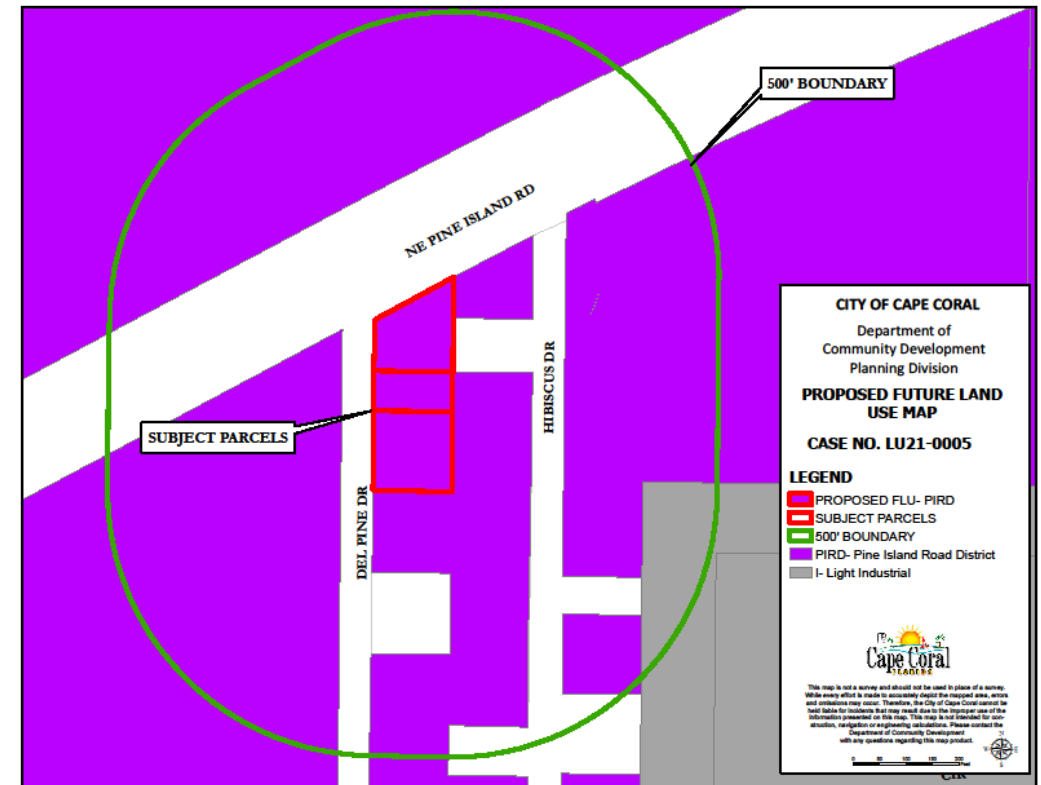
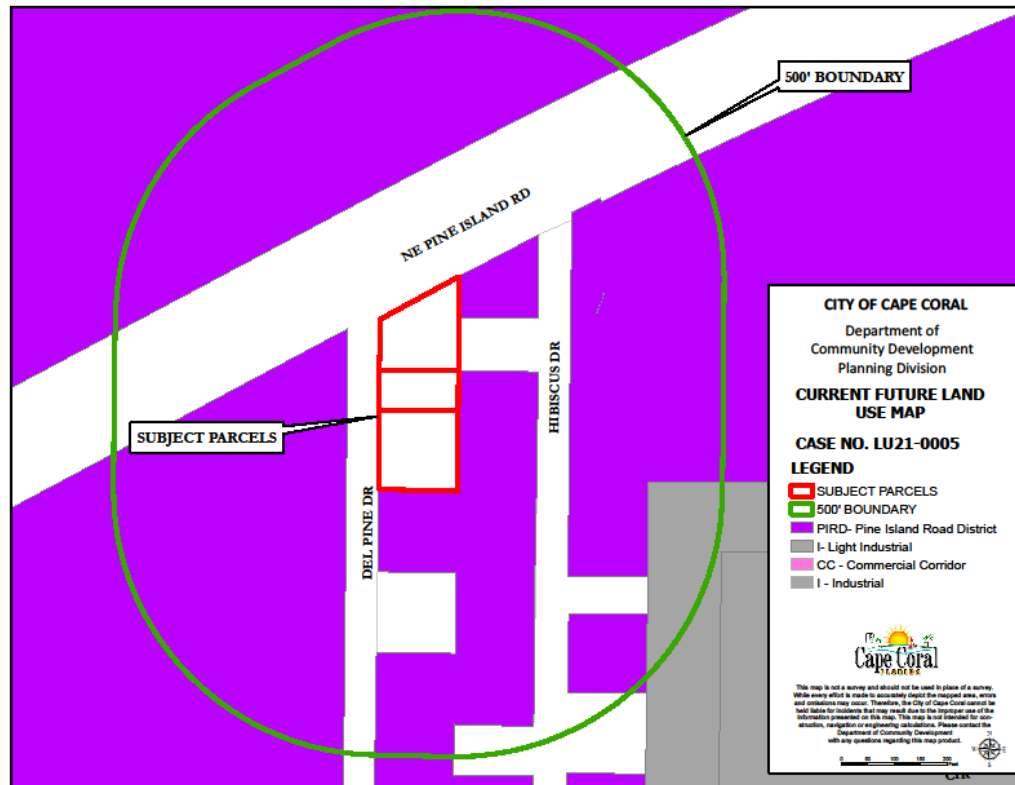
Zoning Map



Ordinance 74-21 / lu21-0005

Current FLU – Commercial (Lee County)

Proposed FLU - PIRD



Ordinance 74-21 / lu21-0005

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Ordinance 74-21 / lu21-0005

Recommendation

Planning staff recommends approval.

Planning and Zoning Commission recommended approval by a vote of 7-0.

THANK YOU
any questions?





**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	A.(3)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

TITLE:

Ordinance 98-21 (TXT20-0008) First Public Hearing; Set Second and Final Public Hearing for January 19, 2022

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Development Code, by Amending Article 4, "Zoning Districts," Chapter 1, "General Provisions," Section 4.1.6., "Uses by Zoning District – Use Hierarchy," Table 4.1.6 Use Table, regarding Industrial Business Centers; by Amending Article 4, "Zoning Districts," Chapter 2, "Specific Regulations by District," Section 4.2.11., "Commercial Corridor (CC)," regarding Industrial Business Centers; by Amending Article 5, "Development Standards," Chapter 2, "Accessory Structures," Section 5.2.7., "Fences and Walls," regarding Fences and Walls in the Non-Residential and Mixed-Use zoning districts; by Amending Article 5, "Development Standards," Chapter 11, "Conditional Uses," to create Section 5.11.13., "Industrial Business Centers," regarding the establishment of zoning regulations for Industrial Business Centers; and by Amending Article 11, "Definitions," Chapter 1, General Provisions," Section 11.2., "Definitions," regarding Industrial Business Centers. (Applicant: City of Cape Coral)

Planning and Zoning Commission Recommendation: Approval

City Planning Staff Recommendation: Approval

REQUESTED ACTION:

Introduction

SUMMARY EXPLANATION AND BACKGROUND:

Ord 98-21 adds the "Industrial Business Center" as a Conditional Use to the Commercial Corridor zoning district. The Industrial Business Center use allows for light manufacturing, warehouse, and other industrial uses to locate in the Commercial Corridor district by right as long as certain conditions are met prior to establishment of the business. The conditions include construction of a wall around the site, additional landscaping, prohibitions on storage, and not allowing the use to produce or use any hazardous chemicals or materials. Allowing Industrial Business Centers as a conditional use should streamline development for these uses as similar uses previously required a special exception and a public hearing. Ord 98-21 was created as an Economic Development Office initiative.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT A: INCREASE ECONOMIC DEVELOPMENT AND REDEVELOPMENT IN THE CITY

ELEMENT B: ENHANCE FINANCIAL SUSTAINABILITY DURING ALL ECONOMIC TIMES

ELEMENT D: IMPROVE THE CITY'S IMAGE WITH THE PURPOSE OF BUILDING LASTING RELATIONSHIPS WITH OUR RESIDENTS AND VALUABLE PARTNERSHIPS WITH OTHER ORGANIZATIONS, AND CONTINUALLY PROVIDE A WELL-BALANCED AND POSITIVE WORKPLACE FOR OUR INTERNAL STAKEHOLDERS.

RECOMMENDATIONS:

Planning and Zoning Commission Recommendation: Approval

City Planning Staff Recommendation: Approval

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, Director, Development Services Department, 574-0600

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

N/A

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

PREPARED BY:

Shawn Baker, Planning
Technician

Division- City
Planning

Department- Development
Services

ATTACHMENTS:

	Description	Type
▣	1. Ordinance 98-21	Ordinance
▣	2. Power Point	Backup Material

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND DEVELOPMENT CODE, BY AMENDING ARTICLE 4, "ZONING DISTRICTS," CHAPTER 1, "GENERAL PROVISIONS," SECTION 4.1.6., "USES BY ZONING DISTRICT – USE HIERARCHY," TABLE 4.1.6 USE TABLE, REGARDING INDUSTRIAL BUSINESS CENTERS; BY AMENDING ARTICLE 4, "ZONING DISTRICTS," CHAPTER 2, "SPECIFIC REGULATIONS BY DISTRICT," SECTION 4.2.11., "COMMERCIAL CORRIDOR (CC)," REGARDING INDUSTRIAL BUSINESS CENTERS; BY AMENDING ARTICLE 5, "DEVELOPMENT STANDARDS," CHAPTER 2, "ACCESSORY STRUCTURES," SECTION 5.2.7., "FENCES AND WALLS," REGARDING FENCES AND WALLS IN THE NON-RESIDENTIAL AND MIXED-USE ZONING DISTRICTS; BY AMENDING ARTICLE 5, "DEVELOPMENT STANDARDS," CHAPTER 11, "CONDITIONAL USES," TO CREATE SECTION 5.11.13., "INDUSTRIAL BUSINESS CENTERS," REGARDING THE ESTABLISHMENT OF ZONING REGULATIONS FOR INDUSTRIAL BUSINESS CENTERS; AND BY AMENDING ARTICLE 11, "DEFINITIONS," CHAPTER 1, GENERAL PROVISIONS," SECTION 11.2., "DEFINITIONS," REGARDING INDUSTRIAL BUSINESS CENTERS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

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

SECTION 1. The City of Cape Coral Land Development Code, Article 4, Chapter 1, Section 4.1.6., Table 4.1.6 Use Table, is hereby amended as follows:

Section 4.1.6. – Uses by zoning district – Use hierarchy.

...

Table 4.1.6 Use Table

The following table of permitted uses, when read together with the definitions set forth in Article 11 shall be used to determine the zoning district in which a given use may be established.

Use Table																		
P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																		
PUD zoning allows all uses consistent with the Future Land Use Classification																		
	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R 1	RML	RMM	RE	A	P	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
...																		
Industrial	Dry Cleaning/Laundry Plant								P									
	Extraction w/ancillary use					SE			P									
	Industrial, Heavy								P									
	Industrial, Light								P			SE						
	Industrial Business Centers								P			CU						
	Laboratory - medical, research, testing							SE	P	SE		SE						
	Energy Resource Generation					SE			P									
	Storage, Heavy Equipment								P	SE								
	Storage, Outdoor Screened								P	SE		CU						

Storage, Outdoor								P									
Solid Waste Transfer					SE			SE									
Warehouse								P			P*						
...																	

SECTION 2. The City of Cape Coral Land Development Code, Article 4, Chapter 2, Section 4.2.11., “Commercial corridor (CC),” is hereby amended as follows:

...

- B. Specific conditions for multi-family residential, single-family attached with 3 units or greater, industrial business centers, outdoor screened storage, and self-storage facilities are established in Article 5, Chapter 11.

SECTION 3. The City of Cape Coral Land Development Code, Article 5, Chapter 2, Section 5.2.7., “Fences and walls,” is hereby amended as follows:

Section 5.2.7. Fences and walls.

...

- C. Non-Residential and Mixed-Use Zoning Districts.

1. Construction of fences or walls must meet the following restrictions:

- a. Maximum height: six feet, ~~(except that~~ property in a commercial, professional, or mixed-use zoning district, which contains a non-residential use, and which abuts a residential use, whether such use is in a residential zoning district or mixed-use zoning district, may erect a fence or wall up to eight feet in height along the side(s) of the property which abut(s) a residential use. For purposes of this subsection, Aa property shall be deemed to abut another property if the two properties are immediately adjacent to each other share a common border or property line or if the two properties are separated by only an alley. Properties separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.
- b. Industrial business center uses in the Commercial Corridor (CC) zoning district shall construct an opaque wall that is 6 feet in height around the perimeter of the property.
- ~~bc.~~ Required setbacks:

Front	No part of a fence <u>or wall</u> shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence <u>or wall</u> enclose any portion of the front facade of the principal structure, <u>except as provided in Section 5.2.7.C.1.b for Industrial Business Centers.</u>
Side (not on a corner site)	None
Side (corner site)	None for free-standing residential uses in mixed-use zoning districts; 7 feet for non-residential and compound uses in Marketplace Residential the Neighborhood Commercial and Commercial Corridor zoning districts; 10 feet for non-residential and compound uses in all other commercial, professional, and mixed-use zoning districts
Rear (not on alley)	None
Rear (on alley)	10 feet

...

SECTION 4. The City of Cape Coral Land Development Code, Article 5, Chapter 11, Section 5.11.13., is hereby created to read as follows:

Section 5.11.13. Industrial Business Centers.

Industrial Business Centers in the CC zoning district shall meet the following conditions:

- A. All manufacturing, fabricating, packaging, assembly, and research shall be conducted inside of a building.

- B. No hazardous materials or chemicals shall be stored on-site or produced as a result of activities on-site.
- C. The wall required pursuant to Section 5.2.7.C. must be constructed of concrete block with stucco or brick and shall be constructed along the perimeter of the property in conjunction with the landscape buffer required in Subsection D. below.
- D. Landscaping shall be installed along the exterior of the wall. Required landscaping shall consist of the following:
 - 1. 20-foot wide landscape buffer with nine canopy trees, four accent trees, and 80 shrubs per 100 linear feet.
 - 2. Canopy trees shall have a minimum height of ten feet and a minimum caliper of two inches measured at a height of 12 inches above the ground at the time of planting. The trees shall be spaced 20 feet apart.
 - 3. A row of shrubs shall also be planted in front of the canopy trees. The shrubs must be a minimum of 32 inches in height and be in at least a seven-gallon container size at time of planting.
 - 4. The landscape buffer shall meet all other requirements in Section 5.5.13.
- E. No outdoor storage of raw materials, finished products, or storage containers shall be permitted outside of a building.

SECTION 5. The City of Cape Coral Land Development Code, Article 11, Chapter 1, Section 11.2., "Definitions," is hereby amended as follows:

Section 11.2. – Definitions.

...

Industrial Business Centers, are establishments that may perform a variety of Light Industry uses, including, but not limited to, cabinetetry and woodworking shops, furniture upholstery shops, ceramic shops, electrical appliance manufactures, medical appliance manufactures, or coffee roasters, while also utilizing retail, office, and display areas for products produced. Industrial Business Centers may also be developed in conjunction with warehouses for storage of goods and materials. Heavy Industry uses shall be prohibited.

Industry, Heavy, is manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process.

Industry, Light, includes research and development activities, and the manufacturing, compounding, processing, packaging, storage, assembly, or treatment of finished or semi-finished products from previously prepared materials. Light Industry establishments may perform some activities outdoors such as storage or assembly, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

...

SECTION 6. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 7. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR
SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
Ord/IndBusCenters.FINAL



Ord 98-21 / TXT20-0008
Cape Coral City Council



Ord 98-21 / TXT20-0008

- ☐ Staff initiated Land Development Code Text Amendment**
- ☐ Adds “Industrial Business Center” as a Conditional Use in the Commercial Corridor (CC) zoning district.**
- ☐ Economic Development Office Initiative.**

☐ **Industrial Business Centers are**

- ☐ **Light industry uses (cabinetry, upholstery, manufacturing, food production etc.**
- ☐ **Can also utilize retail, office, and display areas.**
- ☐ **Can be developed in conjunction with warehouses for storage of materials and goods.**
- ☐ **No hazardous chemicals or materials**

☐ **Ord 98-21 allows them in CC district with conditions such as:**

- ☐ **6-foot perimeter wall**
- ☐ **Enhanced landscaping**
- ☐ **Restrictions on location of work**
- ☐ **Prohibition of outdoor storage**

Recommendation

- ☐ Ord 98-21 should streamline some development opportunity by not requiring a Special Exception for light industry/manufacturing type uses.
- ☐ Pine Island Road is a good fit for these uses due to similar type uses that are already developed in the corridor.
- ☐ Planning staff recommends approval.
- ☐ Planning and Zoning Commission recommended approval by a 7-0 vote.
- ☐ No speakers at P and Z hearing.

THANK YOU
any questions?





**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	A.(4)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

TITLE:

Ordinance 102-21 Public Hearing

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance repeals Ordinance 88-21 which approved and granted to South Florida Water Management District a perpetual conservation easement, in order to approve and grant to South Florida Water Management District a new perpetual conservation easement upon property owned by the City located in Section 4, Township 45 South, Range 23 East, Lee County, Florida, as more particularly described herein; and authorizes and directs the Mayor to execute the Deed of Conservation Easement-Passive Recreational Uses. (Applicant: Brought forward by the City Management.)

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

City Council adopted Ordinance 88-21 on October 20, 2021, which granted a perpetual conservation easement to South Florida Water Management District on property located at Joe Coviello Park. The South Florida Water Management District (SFWMD) has issued Permit No. 36-105035-P to the City for development of the Park, authorizing certain activities which could affect wetlands or other surface waters.

The property on which the conservation easement was granted in Ordinance 88-21 has been revised and a new Deed of Conservation Easement- Passive Recreational Uses is attached hereto for approval and granting of the revised easement.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT G: WORK TOWARD EFFICIENT AND COST-EFFECTIVE SOLUTIONS TO PROTECT AND CONSERVE NATURAL RESOURCES, WHILE PROMOTING ENVIRONMENTAL AWARENESS AND SUSTAINABILITY IN THE COMMUNITY.

RECOMMENDATIONS:

Approval

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker, 1-239-574-0735

Michael Ilcyszyn, Interim Public Works Director, 1-239-574-0457

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

Funding Source: Oasis Woods GO Bond Fund

Dollar Value: Not to Exceed \$200 for recording fees

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

PREPARED BY:

City Attorney's
office

Division- Real
Estate

Department- Public
Works

ATTACHMENTS:

Description

▣ 1. Ordinance 102-21

Type

Ordinance

ORDINANCE 102 - 21

AN ORDINANCE REPEALING ORDINANCE 88-21 WHICH APPROVED AND GRANTED TO SOUTH FLORIDA WATER MANAGEMENT DISTRICT A PERPETUAL CONSERVATION EASEMENT IN ORDER TO APPROVE AND GRANT TO SOUTH FLORIDA WATER MANAGEMENT DISTRICT A NEW PERPETUAL CONSERVATION EASEMENT UPON PROPERTY OWNED BY THE CITY LOCATED IN SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE DEED OF CONSERVATION EASEMENT-PASSIVE RECREATIONAL USES; A COPY OF THE DEED OF CONSERVATION EASEMENT-PASSIVE RECREATIONAL USES IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 20, 2021, City Council adopted Ordinance 88-21 which granted a perpetual conservation easement to South Florida Water Management District on property located at Joe Coviello Park; and

WHEREAS, the South Florida Water Management District (SFWMD) has issued Permit No. 36-105035-P to the City for development of the Park, authorizing certain activities which could affect wetlands or other surface waters; and

WHEREAS, the property on which the conservation easement was granted in Ordinance 88-21 has been revised and a new Deed of Conservation Easement- Passive Recreational Uses is attached hereto for approval and granting of the easement.

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

SECTION 1. The City Council of the City of Cape Coral hereby repeals Ordinance 88-21.

SECTION 2. The City Council hereby approves and grants to South Florida Water Management District a perpetual conservation easement upon property owned by the City located in Section 4, Township 45 South, Range 23 East, Lee County, Florida as shown in Official Records Book 409 at Pages 64 and 65 of the Public Records, as more particularly described in Exhibit B of the Deed of Conservation Easement – Passive Recreational Uses. A copy of the Deed of Conservation Easement – Passive Recreational Uses is attached hereto as Exhibit 1.

SECTION 3. The Mayor is hereby authorized and directed to execute the Deed of Conservation Easement – Passive Recreational Uses.

SECTION 4. Severability. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 5. Effective Date. This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

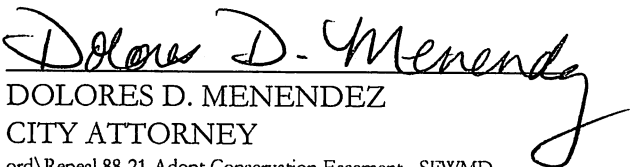
GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
ord\Repeal 88-21-Adopt Conservation Easement - SFWMD

EXHIBIT 1

Prepared by:

Return original or certified recorded document to:
*South Florida Water
Management District*

3301 Gun Club Road
West Palm Beach, FL 33406

Deed of Conservation Easement Passive Recreational Uses

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement") is given this day of , 20 by City of Cape Coral, a Florida Municipal Corporation ("Grantor") whose mailing address is c/o Real Estate Division, P.O. Box 150027, Cape Coral, FL 33915-0027 to the South Florida Water Management District ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors, or assigns of the Grantor, and all subsequent owners of the "Conservation Easement Area" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

WITNESSETH

WHEREAS, the Grantor is the fee simple owner of certain lands situated in Lee County, Florida, and more specifically depicted on the location map in Exhibit "A" attached hereto and incorporated herein as the City of Cape Coral Joe Coviello Park (FKA Oasis Woods Environmental Park) (the "Property"); and

WHEREAS, Permit No. 36-105035-P ("Permit") and any modifications thereto issued by the Grantee authorizes certain activities which could affect wetlands or other surface waters in or of the State of Florida; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit or other good and valuable consideration provided to Grantor, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes (F.S.), over the area of the Property described on Exhibit "B" ("Conservation Easement Area"); and

WHEREAS, Grantor grants this Conservation Easement as a condition of the Permit, solely to off-set or prevent adverse impacts to natural resources, fish and wildlife, and wetland functions; and

WHEREAS, Grantor desires to preserve the Conservation Easement Area in perpetuity in its natural condition, or, in accordance with the Permit, in an enhanced, restored, or created condition; and

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration provided to the Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the area of the Property described on Exhibit "B" which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. **Recitals.** The recitals hereinabove set forth are true and correct and are hereby incorporated



into and made a part of this Conservation Easement.

2. **Purpose.** It is the purpose of this Conservation Easement to retain land or water areas in their existing, natural, vegetative, hydrologic, scenic, open, or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife in accordance with Section 704.06, F.S. Those wetland and upland areas included in this Conservation Easement which are to be preserved, enhanced, restored, or created pursuant to the Permit (or any modification thereto) and any Management Plan attached hereto as Exhibit "C" ("Management Plan") which has been approved in writing by the Grantee, shall be retained and maintained in the preserved, enhanced, restored, or created condition required by the Permit (or any modification thereto).

To carry out this purpose, the following rights are conveyed to Grantee by this Conservation Easement:

a. To enter upon the Conservation Easement Area at reasonable times with any necessary equipment or vehicles to inspect, determine compliance with the covenants and prohibitions contained in this Conservation Easement, and to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Conservation Easement Area by Grantor at the time of such entry; and

b. To proceed at law or in equity to enforce the provision of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and to require the restoration of such areas or features of the Conservation Easement Area that may be damaged by any activity or use that is inconsistent with this Conservation Easement.

3. **Prohibited Uses.** Except for activities that are permitted or required by the Permit (or any modification thereto) (which may include restoration, creation, enhancement, maintenance, monitoring activities, or surface water management improvements) or other activities described herein or in the Management Plan (if any), any activity on or use of the Conservation Easement Area inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities are expressly prohibited in or on the Conservation Easement Area:

- a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;
- c. Removing, destroying or trimming trees, shrubs, or other vegetation, except:
 - i. The removal of dead trees and shrubs or leaning trees that could cause damage to property is authorized;
 - ii. The destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized;
 - iii. Activities authorized by the Permit or described in the Management Plan or otherwise approved in writing by the Grantee are authorized; and
 - iv. Activities conducted in accordance with a wildfire mitigation plan developed with the Florida Forest Service that has been approved in writing by the Grantee are authorized. No later than thirty (30) days before commencing any activities to implement the approved wildfire mitigation plan, Grantor shall notify the Grantee in writing of its intent to commence such activities. All such activities may only be completed during the time period for which the Grantee approved the plan;
- d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

- e. Surface use except for purposes that permit the land or water area to remain in its natural, restored, enhanced, or created condition;
- f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, clearing, and fencing;
- g. Acts or uses detrimental to such aforementioned retention of land or water areas; and
- h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. **Grantor's Reserved Rights.** Grantor reserves all rights as owner of the Conservation Easement Area, including the right to engage or to permit or invite others to engage in all uses of the Conservation Easement Area that are not prohibited herein and which are not inconsistent with the Permit (or any modification thereto), Management Plan, or the intent and purposes of this Conservation Easement.

5. **No Dedication.** No right of access by the general public to any portion of the Conservation Easement Area is conveyed by this Conservation Easement.

6. **Grantee's Liability.** Grantee's liability is limited as provided in Sections 704.06(10) and 768.28, F.S. Additionally, Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep, or maintenance of the Conservation Easement Area.

7. **Enforcement.** Enforcement of the terms, provisions, and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

8. **Taxes.** When perpetual maintenance is required by the Permit, Grantor shall pay before delinquency any and all taxes, assessments, fees, and charges of whatever description levied on or assessed by competent authority on the Conservation Easement Area, and shall furnish the Grantee with satisfactory evidence of payment upon request.

9. **Assignment.** Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

10. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

11. **Terms and Restrictions.** Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement.

12. **Written Notice.** All notices, consents, approvals, or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

13. **Modifications.** This Conservation Easement may be amended, altered, released, or revoked only by written agreement between the parties hereto or their heirs, assigns, or successors-in-interest, which shall be filed in the public records in Lee County, Florida.

14. **Recordation.** Grantor shall record this Conservation Easement in timely fashion in the Official Records of Lee County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

15. **Passive Recreational Facilities.** Grantor reserves all rights as owner of the Conservation Easement Area, including the right to engage in uses of the Conservation Easement Area that are not prohibited by the Permit (including any modification thereto) or Management Plan, and that are not inconsistent with any rule of the Grantee, and the intent and purposes of this Conservation Easement. Passive recreational uses that are not contrary to the purpose of this Conservation Easement may be constructed with the following limitations:

- a. The Grantor may conduct limited vegetation removal but only to the extent necessary to construct boardwalks, mulched walking trails, observation platforms, or other pervious or pile supported structures which have been approved in advance in the Permit (including any modification thereto) or Management Plan.
- b. The construction and use of the approved passive recreational facilities shall be subject to the following conditions:
 - i. Grantor shall minimize and avoid, to the fullest extent possible, impact to any wetland or upland buffer areas within the Conservation Easement Area and shall avoid materially diverting the direction of the natural surface water flow in such area;
 - ii. Such facilities and improvements shall be constructed and maintained utilizing Best Management Practices;
 - iii. Adequate containers for litter disposal shall be situated adjacent to such facilities and improvements and periodic inspections shall be instituted by the maintenance entity, to clean any litter from the area surrounding the facilities and improvements;
 - iv. This Conservation Easement shall not constitute authorization for the construction and operation of the passive recreational facilities. Any such work shall be subject to all applicable federal, state, and local permitting requirements.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions, and purposes imposed with this Conservation Easement shall be binding upon Grantor and shall continue as a servitude running in perpetuity with the Conservation Easement Area.

Grantor hereby covenants with Grantee that Grantor is lawfully seized of said Conservation Easement Area in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; all mortgages and liens on the Conservation Easement Area, if any, have been subordinated to this Conservation Easement; that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends record title to the Conservation Easement Area hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, City of Cape Coral ("Grantor") has hereunto set its authorized hand this _____ day of _____, 2021,

☐ A Florida corporation or ☒ a Florida Municipal Corporation (choose one)

By: _____

(Signature)

Name: John Gunter

Title: Mayor

APPROVED AS TO FORM:

BY: _____

City Attorney's Office

Signed, sealed and delivered in our presence as witnesses:

By: _____

(Signature)

Name: _____

(Print)

By: _____

(Signature)

Name: _____

(Print)

STATE OF FLORIDA

COUNTY OF LEE

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared John Gunter, the person who subscribed to the foregoing instrument, as the Mayor (title), of the City of Cape Coral, a Florida Municipal Corporation and acknowledged that he executed the same on behalf of said corporation, and that he was duly authorized to do so. He is personally known to me or has produced _____ as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

(Signature)

(Name)

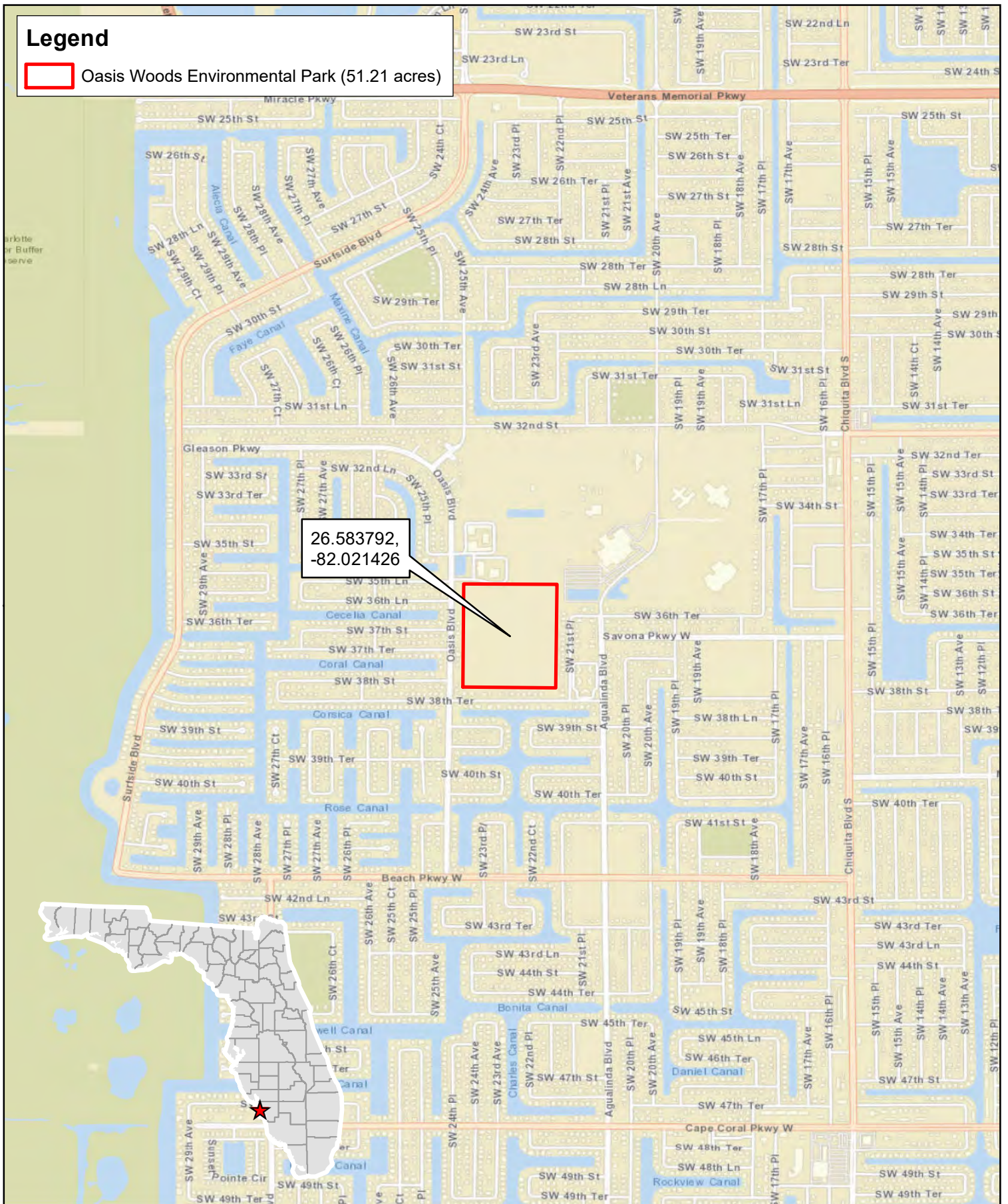
My Commission Expires: _____

EXHIBIT A

[LOCATION MAP]

Legend

Oasis Woods Environmental Park (51.21 acres)



26.583792,
-82.021426

0 900 1,800 Feet



AECOM

Date: March 2020
Source: Esri Base Map

Figure 1
Project Location Map
Oasis Woods Environmental Park
City of Cape Coral Neighborhood Parks

EXHIBIT B

[LEGAL DESCRIPTION AND SKETCH OF CONSERVATION EASEMENT AREA]

Joe Coviello Park (FKA Oasis Woods Environmental Park) Conservation Easement Area
(CC-21-0077)

A Parcel of land lying in the Southwest Quarter (1/4) and the Northwest Quarter (1/4) of Section 4, Township 45 South, Range 23 East; being more particularly described as follows:

COMMENCE at the Northeast corner of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) said Section 4 said point being a 6” Found Concrete Monument with Brass Disc with the inscription “GAC Properties”; Thence run S 00°38’25” W, along the East fractional line of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, for a distance of 11.44 Feet; Thence leaving said fractional line N89°22’36" W for a distance of 103.38 feet to the POINT OF BEGINNING of this description;

Thence S 08°01'56" E for a distance of 28.37 Feet to a point; Thence S 15°58'34" E for a distance of 79.06 Feet to a point; Thence S 52°33'53" W for a distance of 14.10 Feet to a point; Thence S 84°41'11" W for a distance of 27.47 Feet to a point; Thence S 00°22'12" W for a distance of 17.95 Feet to a point; Thence S 62°24'21" E for a distance of 27.01 Feet to a point; Thence S 19°06'35" E for a distance of 21.55 Feet to a point; Thence S 63°03'21" W for a distance of 15.50 Feet to a point; Thence S 13°52'19" E for a distance of 21.96 Feet to a point; Thence S 04°35'27" E for a distance of 20.14 Feet to a point; Thence S 28°44'24" W for a distance of 28.45 Feet to a point; Thence S 78°46'12" W for a distance of 22.55 Feet to a point; Thence S 49°09'33" W for a distance of 19.99 Feet to a point; Thence S 11°19'52" W for a distance of 19.02 Feet to a point; Thence S 12°47'16" E for a distance of 46.36 Feet to a point; Thence S 59°14'14" W for a distance of 44.32 Feet to a point; Thence N 72°58'19" W for a distance of 55.75 Feet to a point; Thence N 27°35'43" W for a distance of 38.79 Feet to a point; Thence S 71°44'25" W for a distance of 20.77 Feet to a point; Thence N 63°09'03" W for a distance of 18.28 Feet to a point; Thence N 54°31'34" W for a distance of 23.59 Feet to a point; Thence N 84°42'57" W for a distance of 23.28 Feet to a point; Thence S 16°52'24" W for a distance of 32.57 Feet to a point; Thence S 61°14'23" W for a distance of 51.20 Feet to a point; Thence S 31°58'52" W for a distance of 51.79 Feet to a point; Thence S 14°08'44" E for a distance of 34.79 Feet to a point; Thence N 81°39'56" W for a distance of 31.05 Feet to a point; Thence N 36°39'34" W for a distance of 35.13 Feet to a point; Thence S 26°20'48" W for a distance of 65.31 Feet to a point; Thence S 00°44'52" W for a distance of 80.93 Feet to a point; Thence S 06°39'24" W for a distance of 84.26 Feet to a point; Thence S 29°44'53" W for a distance of 66.39 Feet to a point; Thence S 03°51'14" W for a distance of 68.32 Feet to a point; Thence S 00°30'06" E for a distance of 37.54 Feet to a point; Thence S 02°16'30" E for a distance of 42.17 Feet to a point; Thence S 39°22'41" W for a distance of 34.20 Feet to a point; Thence S 13°23'04" W for a distance of 34.72 Feet to a point; Thence S 43°02'55" W for a distance of 35.62 Feet to a point; Thence S 37°46'38" W for a distance of 29.92 Feet to a point; Thence S 60°44'27" W for a distance of 40.89 Feet to a point; Thence S 12°55'05" E for a distance of 18.09 Feet to a point; Thence S 63°23'21" W for a distance of 39.72 Feet to a point; Thence S 13°18'27" W for a distance of 37.25 Feet to a point; Thence S 01°23'58" E for a distance of 39.30 Feet to a point; Thence N 68°35'21" W for a distance of 21.96 Feet to a point; Thence S 42°52'44" W for a distance of 32.73 Feet to a point; Thence N 84°12'06" W for a distance of 22.71 Feet to a point; Thence S 79°56'37" W for a distance of 41.03 Feet to a point; Thence N 02°02'53" W for a distance of 46.07 Feet to a point; Thence S 48°02'39" W for a distance of 41.48 Feet to a point; Thence S 48°00'06" W for a distance of 52.10 Feet to a point; Thence N 23°20'50" W for a distance of 31.57 Feet to a point; Thence N 34°10'10" W for a distance of 32.53 Feet to a point; Thence S 85°52'05" W for a distance of 23.05 Feet to a point; Thence N 72°48'48" W for a distance of 45.41 Feet to a point; Thence S 86°56'46" W for a distance of 71.89 Feet to a point; Thence S 81°16'15" W for a distance of 79.39 Feet to a point; Thence S 88°27'56" W for a distance of 99.30 Feet to a point; Thence N 89°33'19" W for a distance of 53.43 Feet to a point; Thence N 12°56'38" W for a distance of 40.18 Feet to a point; Thence N 04°09'21" W for a distance of 42.20 Feet to a point; Thence N 15°53'05" E for a distance of 33.62 Feet to a point; Thence N 50°12'53" W for a distance of 34.92 Feet to a point; Thence N 10°07'52" E for a distance of 25.12 Feet to a point; Thence N 25°20'06" E for a distance of 33.18 Feet to a point; Thence N 36°21'17" E for a distance of 41.73 Feet to a point; Thence N 62°03'23" E for a distance of 23.68 Feet to a point; Thence S 75°29'08" E for a distance of 22.78 Feet to a point; Thence N 68°03'21" E for a distance of 27.84 Feet to a point; Thence S 32°28'48" E for a distance of 43.41 Feet to a point; Thence N 39°18'52" E for a distance of 30.57 Feet to a point; Thence S 44°33'33" E for a distance of 19.89 Feet to a point; Thence S 67°08'09" E for a distance of 38.35 Feet to a point; Thence S 77°40'34" E for a distance of 30.10 Feet to a point; Thence N 72°01'41" E for a distance of 23.51 Feet to a point; Thence N 03°47'28" W for a distance of 16.60 Feet to a point; Thence N 07°02'18" W for a distance of 28.65 Feet to a point; Thence N 41°08'49" W for a distance of 37.09 Feet to a point; Thence N 50°21'17" E for a distance of 29.69 Feet to a point; Thence S 32°55'43" E for a distance of 27.19 Feet to a point; Thence S 55°37'18" E for a distance of 28.35 Feet to a point; Thence S 27°57'10" E for a distance of 30.26 Feet to a point; Thence N 84°02'34" E for a distance of 28.94 Feet to a point; Thence N 28°35'47" E for a distance of 16.20 Feet to a point; Thence N 44°58'04" W for a distance of 30.91 Feet to a point; Thence N 51°16'00" W for a distance of 44.73 Feet to a point; Thence N 20°33'45" W for a distance of 31.71 Feet to a point; Thence S 54°45'24" E for a distance of 38.44 Feet to a point; Thence N 30°31'04" W for a distance of 176.24 Feet to a point; Thence N 15°16'27" W for a distance of 35.82 Feet to a point; Thence N 29°31'15" E for a distance of 43.81 Feet to a point; Thence N 68°54'36" E for a distance of 24.77 Feet to a point; Thence N 51°29'28" W for a distance of 36.85 Feet to a point; Thence N 23°53'17" E for a distance of 16.04 Feet to a point; Thence N 75°46'12" W for a distance of 25.85 Feet to a point; Thence S 65°21'37" W for a distance of 41.16 Feet to a point; Thence N 39°25'14" W for a distance of 33.81 Feet to a point; Thence N 22°49'28" W for a distance of 11.14 Feet to a point; Thence N 54°11'44" W for a distance of 31.63 Feet to a point; Thence S 89°34'46" W for a distance of 21.60 Feet to a point; Thence

(CONTINUED - SEE SHEET 2 OF 6)

CY – PROJECT NUMBER:	CALCULATED BY:	KIC	<div><p>PUBLIC WORKS DEPARTMENT 815 NICHOLAS PARKWAY, CAPE CORAL, FL. 33990 PHONE: (239) 574-0701</p></div>	Joe Coviello Park Conservation Easement Area		
2021-0077	CHECKED BY:	WBN		AQUALINDA HEIGHTS SUBDIVISION O.R. BOOK 409 PAGES 64 AND 65		
FY –SURVEY WORK ORDER NUMBER:	DRAWN BY:	KIC		SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA		
21-077	APPROVED:	WBN		FIELD BOOK(S) / PAGE(S):	SURVEY JOB: 2021-0077	DRAWING NUMBER: CC-21-0077.DWG
	SCALE:					

Joe Coviello Park (FKA Oasis Woods Environmental Park) Conservation Easement Area
(CC-21-0077)

(CONTINUED - SEE SHEET 1 OF 6)

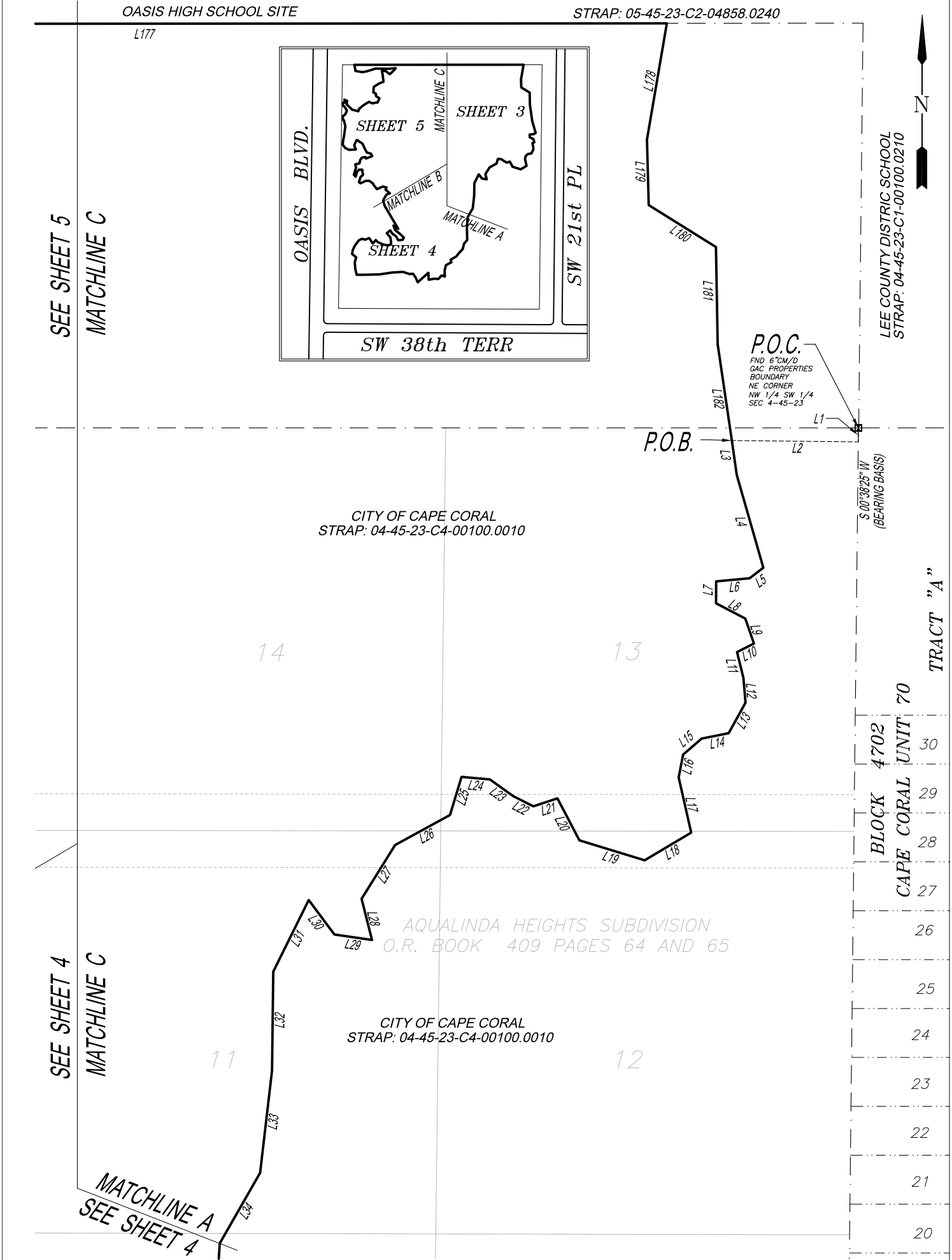
S 65°23'06" W for a distance of 38.73 Feet to a point; Thence N 52°44'08" W for a distance of 12.70 Feet to a point; Thence N 18°06'43" E for a distance of 34.88 Feet to a point; Thence N 48°55'04" E for a distance of 21.67 Feet to a point; Thence N 11°14'31" W for a distance of 21.19 Feet to a point; Thence N 04°19'02" W for a distance of 13.05 Feet to a point; Thence S 89°41'51" W for a distance of 23.29 Feet to a point; Thence S 36°37'31" W for a distance of 20.25 Feet to a point; Thence S 14°45'13" W for a distance of 30.28 Feet to a point; Thence N 45°14'58" W for a distance of 17.39 Feet to a point; Thence N 18°15'36" E for a distance of 26.84 Feet to a point; Thence N 15°11'33" E for a distance of 22.48 Feet to a point; Thence N 12°51'02" W for a distance of 21.41 Feet to a point; Thence N 77°23'40" E for a distance of 27.81 Feet to a point; Thence N 11°35'04" E for a distance of 22.97 Feet to a point; Thence N 36°55'13" E for a distance of 19.49 Feet to a point; Thence N 78°20'49" E for a distance of 22.13 Feet to a point; Thence S 22°42'29" E for a distance of 11.43 Feet to a point; Thence N 69°51'42" E for a distance of 22.94 Feet to a point; Thence N 69°12'18" E for a distance of 20.71 Feet to a point; Thence N 24°20'11" W for a distance of 17.66 Feet to a point; Thence N 73°02'00" W for a distance of 28.94 Feet to a point; Thence N 27°32'10" W for a distance of 34.85 Feet to a point; Thence N 23°13'04" W for a distance of 28.53 Feet to a point; Thence N 56°34'07" W for a distance of 45.71 Feet to a point; Thence S 26°06'37" W for a distance of 38.87 Feet to a point; Thence S 21°44'49" E for a distance of 29.41 Feet to a point; Thence S 86°23'48" W for a distance of 43.60 Feet to a point; Thence N 64°52'02" W for a distance of 28.41 Feet to a point; Thence N 38°01'08" W for a distance of 27.66 Feet to a point; Thence N 07°04'56" E for a distance of 31.61 Feet to a point; Thence N 12°25'47" E for a distance of 22.88 Feet to a point; Thence N 07°59'30" E for a distance of 18.58 Feet to a point; Thence N 06°22'45" E for a distance of 32.14 Feet to a point; Thence N 10°21'28" E for a distance of 15.33 Feet to a point; Thence N 12°59'33" W for a distance of 39.70 Feet to a point; Thence N 46°05'53" W for a distance of 10.68 Feet to a point; Thence N 00°27'19" E for a distance of 21.18 Feet to a point; Thence N 52°15'31" E for a distance of 20.10 Feet to a point; Thence N 23°35'30" E for a distance of 26.79 Feet to a point; Thence N 31°58'53" W for a distance of 27.90 Feet to a point; Thence N 50°49'34" W for a distance of 14.56 Feet to a point; Thence N 00°27'19" E for a distance of 18.99 Feet to a point; Thence N 85°33'05" E for a distance of 18.04 Feet to a point; Thence N 26°45'19" W for a distance of 20.54 Feet to a point; Thence S 66°18'55" E for a distance of 20.25 Feet to a point; Thence S 08°30'04" W for a distance of 23.05 Feet to a point; Thence S 46°00'50" E for a distance of 50.08 Feet to a point; Thence S 75°30'48" E for a distance of 42.06 Feet to a point; Thence N 20°25'25" E for a distance of 18.11 Feet to a point; Thence N 50°26'42" E for a distance of 35.36 Feet to a point; Thence N 58°03'51" E for a distance of 42.90 Feet to a point; Thence S 61°58'06" E for a distance of 22.47 Feet to a point; Thence N 80°12'14" E for a distance of 37.55 Feet to a point; Thence N 22°51'28" E for a distance of 29.23 Feet to a point; Thence N 57°53'53" W for a distance of 25.89 Feet to a point; Thence N 06°37'42" W for a distance of 16.65 Feet to a point; Thence N 62°43'16" W for a distance of 18.28 Feet to a point; Thence N 04°56'10" E for a distance of 20.17 Feet to a point; Thence N 06°31'56" E for a distance of 16.88 Feet to a point; Thence N 57°47'09" E for a distance of 38.20 Feet to a point; Thence N 67°42'01" E for a distance of 33.17 Feet to a point; Thence N 06°51'09" W for a distance of 44.59 Feet to a point; Thence N 12°03'16" W for a distance of 26.86 Feet to a point; Thence S 88°08'09" E for a distance of 24.93 Feet to a point; Thence S 51°52'49" E for a distance of 33.51 Feet to a point; Thence N 47°44'51" E for a distance of 31.40 Feet to a point; Thence N 41°02'22" E for a distance of 24.27 Feet to a point; Thence S 84°54'11" W for a distance of 47.63 Feet to a point; Thence N 88°42'20" W for a distance of 84.18 Feet to a point; Thence S 72°23'09" W for a distance of 57.26 Feet to a point; Thence S 79°13'33" W for a distance of 32.96 Feet to a point; Thence N 80°17'37" W for a distance of 45.10 Feet to a point; Thence N 10°27'31" W for a distance of 40.85 Feet to a point on the south line if a certain parcel of land now or formerly owned by the City of Cape Coral, a Florida Municipal Corporation recorded in the Public Records of Lee County in ORB 447, Page 2176; Thence N 89°57'32" E along said south line for a distance of 1107.21 Feet; Thence S 09°42'50" W for a distance of 96.49 Feet to a point; Thence S 01°28'20" E for a distance of 53.61 Feet to a point; Thence S 58°04'02" E for a distance of 64.86 Feet to a point; Thence S 01°01'55" E for a distance of 79.60 Feet to a point; Thence S 08°22'17" E for a distance of 79.52 Feet to the POINT OF BEGINNING.

Parcel contains an area of 1,160,830 square feet, 26.6489 acres more or less.

Bearings are based on the East Fractional Line the Northwest Quarter (1/4) of the Southwest Quarter (1/4) of Section 4, Township 45 South, Range 23 East as being S 00°38'25" W.
Subject to Easements, Reservations and Restrictions of Record.

CY – PROJECT NUMBER:	CALCULATED BY:	KIC	<div><p>PUBLIC WORKS DEPARTMENT 815 NICHOLAS PARKWAY, CAPE CORAL, FL. 33990 PHONE: (239) 574-0701</p></div>	Joe Coviello Park Conservation Easement Area		
	CHECKED BY:	WBN		AQUALINDA HEIGHTS SUBDIVISION O.R. BOOK 409 PAGES 64 AND 65 <small>SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA</small>		
2021-0077	DRAWN BY:	KIC		FIELD BOOK(S) / PAGE(S):	SURVEY JOB: 2021-0077	DRAWING NUMBER: CC-21-0077.DWG
FY –SURVEY WORK ORDER NUMBER:	APPROVED:	WBN				
21-077	SCALE:					

Joe Coviello Park (FKA Oasis Woods Environmental Park) Conservation Easement Area
(CC-21-0077)



CERTIFIED TO:
THE CITY OF CAPE CORAL

- SURVEYORS NOTES:
- 1) THIS IS A SKETCH OF DESCRIPTION, THE PURPOSE OF THIS SKETCH IS TO DEPICT THE VISUAL REPRESENTATION OF THE PROPOSED EASEMENT SHOWN HEREON.
 - 2) INSTRUMENTS OF RECORD REFLECTING EASEMENTS, ENCUMBERANCES, RIGHTS-OF-WAY, AND OR OWNERSHIP WERE NOT FURNISHED TO THIS SURVEYOR, EXCEPT AS SHOWN HEREON.
 - 3) THIS IS NOT A SURVEY
 - 4) LEGAL DESCRIPTION SHOWN ON PAGE 1 & 2 OF 6
 - 5) P.O.B. = POINT OF BEGINNING
 - 6) P.O.C. = POINT OF COMMENCEMENT

_____, P.S.M. #6576
WILLIAM B. NIX
STATE OF FLORIDA
THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 3 OF 6

CY - PROJECT NUMBER: 2021-0077 FY -SURVEY WORK ORDER NUMBER: 21-077	CALCULATED BY: KIC	 PUBLIC WORKS DEPARTMENT 815 NICHOLAS PARKWAY, CAPE CORAL, FL. 33990 PHONE:(239) 574-0701	Joe Coviello Park Conservation Easement Area AQUALINDA HEIGHTS SUBDIVISION O.R. BOOK 409 PAGES 64 AND 65 SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA		
	CHECKED BY: WBN				
	DRAWN BY: KIC				
	APPROVED: WBN				
	SCALE: 1"=100'		FIELD BOOK(S) / PAGE(S):	SURVEY JOB: 2021-0077	DRAWING NUMBER: CC-21-0077.DWG

A map of the SW 38th Terr area, divided into four sheets. The sheets are labeled SHEET 3, SHEET 4, SHEET 5, and SHEET 6. The sheets are separated by Matchline A, Matchline B, and Matchline C. The map is bounded by Oasis Blvd. to the west and SW 21st Pl. to the east. The area is also bounded by SW 38th Terr to the south.

SEE SHEET 5
MATCHLINE B

MATCHLINE C
SEE SHEET 3



CITY OF CAPE CORAL —
STRAP: 04-45-23-C4-00100.0010

SEE SHEET
MATCHLINE A

60' ROAD
EASEMENT

CITY OF CAPE CORAL
STRAP: 04-45-23-C4-00100.0010

CAPE CORAL UNIT 74
BLOCK 4948

TRACT "A"

SW 38th TERR
(60' RIGHT OF WAY)

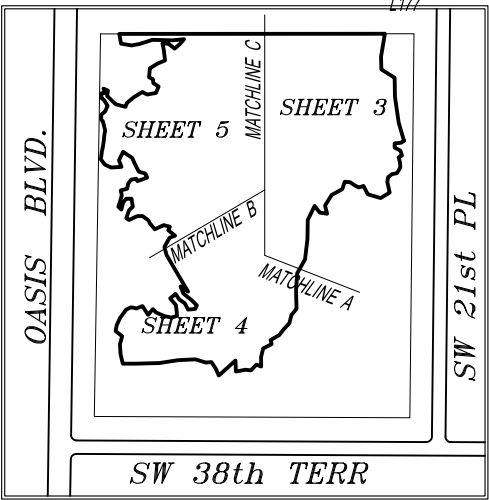
SHEET 4 OF 6

CY – PROJECT NUMBER:	CALCULATED BY:	KIC	<div><p>PUBLIC WORKS DEPARTMENT 815 NICHOLAS PARKWAY, CAPE CORAL, FL. 33909 PHONE: (239) 574-0701</p></div>	Joe Coviello Park Conservation Easement Area		
	CHECKED BY:	WBN		AQUALINDA HEIGHTS SUBDIVISION O.R. BOOK 409 PAGES 64 AND 65		
2021-0077	DRAWN BY:	KIC		SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA		
FY –SURVEY WORK ORDER NUMBER:	APPROVED:	WBN		FIELD BOOK(S) / PAGE(S):	SURVEY JOB: 2021-0077	DRAWING NUMBER: CC-21-0077.DWG
21-077	SCALE:	1"=100'				

Joe Coviello Park (FKA Oasis Woods Environmental Park) Conservation Easement Area
(CC-21-0077)



OASIS HIGH SCHOOL SITE
STRAP: 05-45-23-C2-04858.0240



MATCHLINE C
SEE SHEET 3

CITY OF CAPE CORAL
STRAP: 04-45-23-C4-00100.0010

AQUALINDA HEIGHTS SUBDIVISION
O.R. BOOK 409 PAGES 64 AND 65

60' ROAD
EASEMENT

MATCHLINE B
SEE SHEET 4

MATCHLINE C
SEE SHEET 4

MATCHLINE B
SEE SHEET 3

SHEET 5 OF 6

CY - PROJECT NUMBER: 2021-0077	CALCULATED BY: KIC
	CHECKED BY: WBN
FY - SURVEY WORK ORDER NUMBER: 21-077	DRAWN BY: KIC
	APPROVED: WBN
	SCALE: 1"=100'

Cape Coral
FLORIDA
PUBLIC WORKS DEPARTMENT
815 NICHOLAS PARKWAY, CAPE CORAL, FL. 33990
PHONE: (239) 574-0701

Joe Coviello Park Conservation Easement Area
AQUALINDA HEIGHTS SUBDIVISION
O.R. BOOK 409 PAGES 64 AND 65
SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST,
LEE COUNTY, FLORIDA

FIELD BOOK(S) / PAGE(S):	SURVEY JOB: 2021-0077	DRAWING NUMBER: CC-21-0077.DWG
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Joe Coviello Park (FKA Oasis Woods Environmental Park) Conservation Easement Area
(CC-21-0077)

Line	Bearing	Distance
L1	S 00°38'25" W	11.44
L2	N 89°22'36" W	103.38
L3	S 08°01'56" E	28.37
L4	S 15°58'34" E	79.06
L5	S 52°33'53" W	14.10
L6	S 84°41'11" W	27.47
L7	S 00°22'12" W	17.95
L8	S 62°24'21" E	27.01
L9	S 19°06'35" E	21.55
L10	S 63°03'21" W	15.50
L11	S 13°52'19" E	21.96
L12	S 04°35'27" E	20.14
L13	S 28°44'24" W	28.45
L14	S 78°46'12" W	22.55
L15	S 49°09'33" W	19.99
L16	S 11°19'52" W	19.02
L17	S 12°47'16" E	46.36
L18	S 59°14'14" W	44.32
L19	N 72°58'19" W	55.75
L20	N 27°35'43" W	38.79
L21	S 71°44'25" W	20.77
L22	N 63°09'03" W	18.28
L23	N 54°31'34" W	23.59
L24	N 84°42'57" W	23.28
L25	S 16°52'24" W	32.57
L26	S 61°14'23" W	51.20
L27	S 31°58'52" W	51.79
L28	S 14°08'44" E	34.79
L29	N 81°39'56" W	31.05
L30	N 36°39'34" W	35.13
L31	S 26°20'48" W	65.31
L32	S 00°44'52" W	80.93
L33	S 06°39'24" W	84.26
L34	S 29°44'53" W	66.39
L35	S 03°51'14" W	68.32
L36	S 00°30'06" E	37.54
L37	S 02°16'30" E	42.17
L38	S 39°22'41" W	34.20
L39	S 13°23'04" W	34.72
L40	S 43°02'55" W	35.62
L41	S 37°46'38" W	29.92
L42	S 60°44'27" W	40.89
L43	S 12°55'05" E	18.09
L44	S 63°23'21" W	39.72
L45	S 13°18'27" W	37.25
L46	S 01°23'58" E	39.30
L47	N 68°35'21" W	21.96
L48	S 42°52'44" W	32.73
L49	N 84°12'06" W	22.71
L50	S 79°56'37" W	41.03
L51	N 02°02'53" W	46.07
L52	S 48°02'39" W	41.48
L53	S 48°00'06" W	52.10
L54	N 23°20'50" W	31.57
L55	N 34°10'10" W	32.53
L56	S 85°52'05" W	23.05
L57	N 72°48'48" W	45.41
L58	S 86°56'46" W	71.89
L59	S 81°16'15" W	79.39
L60	S 88°27'56" W	99.30

Line	Bearing	Distance
L61	N 89°33'19" W	53.43
L62	N 12°56'38" W	40.18
L63	N 04°09'21" W	42.20
L64	N 15°53'05" E	33.62
L65	N 50°12'53" W	34.92
L66	N 10°07'52" E	25.12
L67	N 25°20'06" E	33.18
L68	N 36°21'17" E	41.73
L69	N 62°03'23" E	23.68
L70	S 75°29'08" E	22.78
L71	N 68°03'21" E	27.84
L72	S 32°28'48" E	43.41
L73	N 39°18'52" E	30.57
L74	S 44°33'33" E	19.89
L75	S 67°08'09" E	38.35
L76	S 77°40'34" E	30.10
L77	N 72°01'41" E	23.51
L78	N 03°47'28" W	16.60
L79	N 07°02'18" W	28.65
L80	N 41°08'49" W	37.09
L81	N 50°21'17" E	29.69
L82	S 32°55'43" E	27.19
L83	S 55°37'18" E	28.35
L84	S 27°57'10" E	30.26
L85	N 84°02'34" E	28.94
L86	N 28°35'47" E	16.20
L87	N 44°58'04" W	30.91
L88	N 51°16'00" W	44.73
L89	N 20°33'45" W	31.71
L90	S 54°45'24" E	38.44
L91	N 30°31'04" W	176.25
L92	N 15°16'27" W	35.82
L93	N 29°31'15" E	43.81
L94	N 68°54'36" E	24.77
L95	N 51°29'28" W	36.85
L96	N 23°53'17" E	16.04
L97	N 75°46'12" W	25.85
L98	S 65°21'37" W	41.16
L99	N 39°25'14" W	33.81
L100	N 22°49'28" W	11.14
L101	N 54°11'44" W	31.63
L102	S 89°34'46" W	21.60
L103	S 65°23'06" W	38.73
L104	N 52°44'08" W	12.70
L105	N 18°06'43" E	34.88
L106	N 48°55'04" E	21.67
L107	N 11°14'31" W	21.19
L108	N 04°19'02" W	13.05
L109	S 89°41'51" W	23.29
L110	S 36°37'31" W	20.25
L111	S 14°45'13" W	30.28
L112	N 45°14'58" W	17.39
L113	N 18°15'36" E	26.84
L114	N 15°11'33" E	22.48
L115	N 12°51'02" W	21.41
L116	N 77°23'40" E	27.81
L117	N 11°35'04" E	22.97
L118	N 36°55'13" E	19.49
L119	N 78°20'49" E	22.13
L120	S 22°42'29" E	11.43
L121	N 69°51'42" E	22.94
L122	N 69°12'18" E	20.71

Line	Bearing	Distance
L123	N 24°20'11" W	17.66
L124	N 73°02'00" W	28.94
L125	N 27°32'10" W	34.85
L126	N 23°13'04" W	28.53
L127	N 56°34'07" W	45.71
L128	S 26°06'37" W	38.87
L129	S 21°44'49" E	29.41
L130	S 86°23'48" W	43.60
L131	N 64°52'02" W	28.41
L132	N 38°01'08" W	27.66
L133	N 07°04'56" E	31.61
L134	N 12°25'47" E	22.88
L135	N 07°59'30" E	18.58
L136	N 06°22'45" E	32.14
L137	N 10°21'28" E	15.33
L138	N 12°59'33" W	39.70
L139	N 46°05'53" W	10.69
L140	N 00°27'19" E	21.18
L141	N 52°15'31" E	20.10
L142	N 23°35'30" E	26.79
L143	N 31°58'53" W	27.90
L144	N 50°49'34" W	14.56
L145	N 00°27'19" E	18.99
L146	N 85°33'05" E	18.04
L147	N 26°45'19" W	20.54
L148	S 66°18'55" E	20.25
L149	S 08°30'04" W	23.05
L150	S 46°00'50" E	50.08
L151	S 75°30'48" E	42.06
L152	N 20°25'25" E	18.11
L153	N 50°26'42" E	35.36
L154	N 58°03'51" E	42.90
L155	S 61°58'06" E	22.47
L156	N 80°12'14" E	37.55
L157	N 22°51'28" E	29.23
L158	N 57°53'53" W	25.89
L159	N 06°37'42" W	16.65
L160	N 62°43'16" W	18.28
L161	N 04°56'10" E	20.17
L162	N 06°31'56" E	16.88
L163	N 57°47'09" E	38.20
L164	N 67°42'01" E	33.17
L165	N 06°51'09" W	44.59
L166	N 12°03'16" W	26.86
L167	S 88°08'09" E	24.93
L168	S 51°52'49" E	33.51
L169	N 47°44'51" E	31.40
L170	N 41°02'22" E	24.27
L171	S 84°54'11" W	47.63
L172	N 88°42'20" W	84.18
L173	S 72°23'09" W	57.26
L174	S 79°13'33" W	32.96
L175	N 80°17'37" W	45.10
L176	N 10°27'31" W	40.85
L177	N 89°57'29" E	1107.21
L178	S 09°42'50" W	96.49
L179	S 01°28'20" E	53.61
L180	S 58°04'02" E	64.86
L181	S 01°01'55" E	79.60
L182	S 08°22'17" E	79.52

CY – PROJECT NUMBER: 2021-0077 FY –SURVEY WORK ORDER NUMBER: 21-077	CALCULATED BY: KIC	<div><p>PUBLIC WORKS DEPARTMENT 815 NICHOLAS PARKWAY, CAPE CORAL, FL. 33990 PHONE:(239) 574-0701</p></div>	Joe Coviello Park Conservation Easement Area		
	CHECKED BY: WBN		AQUALINDA HEIGHTS SUBDIVISION O.R. BOOK 409 PAGES 64 AND 65		
	DRAWN BY: KIC		SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA		
	APPROVED: WBN		FIELD BOOK(S) / PAGE(S):	SURVEY JOB: 2021-0077	DRAWING NUMBER: CC-21-0077.DWG
SCALE: NOT TO SCALE					

EXHIBIT C

[MANAGEMENT PLAN OR "INTENTIONALLY LEFT BLANK"]

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**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	A.(5)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

TITLE:

ITEM WITHDRAWN FROM AGENDA DUE TO A NOTICING ERROR - Ordinance 77-21
(LU21-0007) Public Hearing

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by changing the Future Land Use Map from Commercial/Professional (CP) to Single-Family Residential (SF) land use for property described as Lots 25-49, Block 2179, and Lots 24-56, Block 2233, Unit 33, Cape Coral Subdivision; property located on NE 19th Avenue and NE 23rd Terrace, south of Kismet Parkway and East of NE 17th Place.

Applicant: City of Cape Coral

Property acreage: 6.96 acres

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The applicant is requesting a future land use map amendment from the Commercial/Professional (CP) future land use designation to the Single-Family Residential (SF) future land use designation. The parcels that comprise the site are either undeveloped or developed with single-family homes. The future land use map amendment will make the existing single-family homes an allowed use and will enable the undeveloped properties to develop with homes as well. The site does not have any frontage along a four-lane street.

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:

Planning and Zoning Commission: Approval

City Planning: Approval

SOURCE OF ADDITIONAL INFORMATION:

Vince Caution, Director of Development Services, 574-0600

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

N/A

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

PREPARED BY:

Jessica Cruz, Planning
Technician

Division- City
Planning

Department- Development
Services

ATTACHMENTS:

	Description	Type
▣	1. Ordinance 77-21 (LU 21-0007)	Ordinance
▣	2. Backup Materials	Backup Material
▣	3. PowerPoint	Presentation

ORDINANCE 77 - 21

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE-FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 25 THROUGH 49, BLOCK 2179, AND LOTS 24 THROUGH 56, BLOCK 2233, UNIT 33, CAPE CORAL SUBDIVISION; PROPERTY LOCATED ON NE 19TH AVENUE AND NE 23RD TERRACE, SOUTH OF KISMET PARKWAY AND EAST OF NE 17TH PLACE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by the CITY OF CAPE CORAL regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE-FAMILY RESIDENTIAL (SF)

LOTS 25 THROUGH 49, BLOCK 2179, AND LOTS 24 THROUGH 56, BLOCK 2233, UNIT 33, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN THE PLAT BOOK 16 PAGE 53, INCLUSIVE IN THE PUBLIC RECORDS OF LEE COUNTY FLORIDA

PROPERTY LOCATED: ON NE 19TH AVENUE AND NE 23RD TERRACE, SOUTH OF KISMET PARKWAY AND EAST OF NE 17TH PLACE

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:


GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu21-0007



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

JUN 15 '21 10:15*

For Internal Use Only

Case 2421-0007

Date 6/15/2021

Tel. (239) 574-0776

Fax (239) 574-0591

P.O. Box 150027

Cape Coral, FL 33915-0027

FUTURE LAND USE MAP AMENDMENT (FLUMA) APPLICATION

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

FLUMA APPLICATION REQUIREMENTS

1. ☐ Letter of intent stating the actual request and why the request is being made
2. ☐ 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.
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 prepare in label format and contain the following information; name, address, city, and zip-code.
5. ☐ The applicant must provide a traffic projection of the number of trips that are anticipated to be generated by the revised Land Use including the distribution of these trips onto the roadway system. The applicant may also be required to perform a more detailed traffic impact analysis based on the City's traffic impact guidelines.
6. ☐ Chapter 163, Florida Statutes, requires that comprehensive plan map amendments be City Council must hold a submittal hearing (1st public hearing) prior to sending amendments to DEO. (Council may approve for submittal or deny proposed land use map amendments. Only approved amendments are submitted to DEO.) DEO then has ninety (90) days to review and respond to the proposed amendments. Upon receipt of DEO comments or objections, the local government has sixty (60) days to approve, deny, or approve with modifications the proposed land use map amendments.
7. ☐ Comprehensive Plan Amendments are reviewed by the Planning and Zoning Commission and City Council. Planning and Zoning Commission is an advisory body to City Council and makes recommendations on all amendments.
8. ☐ Please refer to the Future Land Use Map Amendment Section 3.5.2. for additional information.

NOTE: IF ANY OF THE ABOVE INFORMATION IS ON A SHEET LARGER THAN 11 X 17, THE APPLICANT MUST SUPPLY SEVENTEEN (17) COPIES TO BE USED FOR DISTRIBUTION. IN ADDITION TO THE APPLICATION FEE, ALL REQUIRED ADVERTISING COSTS ARE TO BE PAID BY THE APPLICANT (ORD 39-03, SECTION 3.5.2.). ADVERTISING COSTS WILL BE BILLED AND MUST BE PAID PRIOR TO HEARING.



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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

FUTURE LAND USE MAP AMENDMENT APPLICATION

FEES: \$1,225.00 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, Section 3.5.2). Advertising costs will be billed and must be paid prior to hearing.

PROPERTY INFORMATION	
Project Name: <u>Future Land Use Amendment - Blocks 2179 and 2233</u>	
Location/Address <u>Multiple - See Attached Sheet</u>	
Strap Number <u>Multiple - See Attached Sheet</u>	Unit <u> </u> Block <u> </u> Lot (s) <u> </u>
Plat Book <u> </u> Page <u> </u>	Future Land Use <u>CP</u> Current Zoning <u>C</u>
PROPERTY OWNER (S) INFORMATION	
Owner <u>City of Cape Coral</u>	Address <u>P.O. Box 150027</u>
Phone <u>239-573-3162</u>	City <u>Cape Coral</u>
Email <u>cboyko@capecoral.net</u>	State <u>FL</u> Zip <u>33915-0027</u>
Owner <u> </u>	Address <u> </u>
Phone <u> </u>	City <u>Cape Coral</u>
Email <u> </u>	State <u>FL</u> Zip <u>33915-0027</u>
APPLICANT INFORMATION (If different from owner)	
Applicant <u> </u>	Address <u> </u>
Phone <u> </u>	City <u>Cape Coral</u>
Email <u>cboyko@capecoral.net</u>	State <u>FL</u> Zip <u>33915-0027</u>
AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)	
Representative <u>Chad Boyko, Principal Planner</u>	Address <u>P.O. Box 150027</u>
Phone <u>239-573-3162</u>	City <u>Cape Coral</u>
Email <u>cboyko@capecoral.net</u>	State <u>FL</u> Zip <u>33915-0027</u>



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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.

Connie Barron

NAME (PLEASE TYPE OR PRINT)

Connie Barron

AUTHORIZED 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 15th day of June, 2020 by Connie Barron,
know is personally known to me or produced _____ as identification.

Exp Date: 3/24/25 Commission Number: HH 084087



Signature of Notary Public: Karen A Ramos

Printed Name of Notary Public: Karen A Ramos



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ESTIMATED PEAK HOUR TRIP

Parcel Size: Width _____ Depth _____ Sq. Ft. _____ Acreage _____

Soil Type: _____

Urban Services Area: (check one) Infill _____ Transition Reserve _____

Natural Resources (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):

Animal Species: (list any endangered, threatened, or species of special concern on-site)

Estimated Development:

- Estimate total lot coverage _____ %
- Estimate total building floor area: _____ Sq. ft.
- Estimate type of future development and percentages:
(e.g. business offices, commercial retail, automotive repair, etc.)

Estimated peak hour trip ends:

If 300 or less peak hour trip ends are projected, the applicant must provide the source of the traffic projection.
If more than 300 peak hour trip ends are projected, a traffic impact study must be completed and submitted
as part of the application (see attachments).

City Sewer: YES _____ NO _____

City Water: YES _____ NO _____





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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Chad Boyko, AICP

(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.

Connie Barron
PROPERTY OWNER (Please Print)

Connie Barron Asst. City Manager
PROPERTY OWNER (Signature & title)

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & title)

STATE OF FL

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online
notarization, on this 15th day of June, 2020⁺ by Connie Barron
know is personally known to me or produced _____ as identification.

Exp Date: 3/24/25 Commission Number: HH084087



Signature of Notary Public: Karen A Ramos

Printed Name of Notary Public: Karen A Ramos

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

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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 _____ Day of _____, 20_____.

CORPORATION/COMPANY NAME

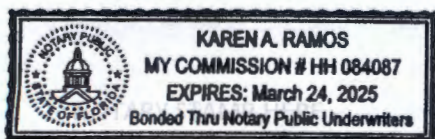
Connie Barron
OWNER'S NAME (TYPE or PRINT)

Connie Barron
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 15th day of June, 2020 by Connie Barron,
know is personally known to me or produced _____ as identification.



Exp Date: 3/24/25 Commission Number: HH 084087

Signature of Notary Public: Karen A Ramos

Printed Name of Notary Public: Karen A Ramos



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PLANNING DIVISION


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FUTURE LAND USE MAP AMENDMENTS

- A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following reasons:
1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
 3. The amendment results in compatible land uses within a specific area.
 4. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.
 5. The amendment is consistent with the City's ability to provide adequate public facilities and services.
 6. The amendment prepares the City for future growth, such as reflecting changing development patterns, identifying demands for community services, reflecting changes necessary to accommodate current and planned growth in population, and facilitating community infrastructure and public services.
- B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated in the following manner:
1. The City Council by its own motion;
 2. The Planning and Zoning Commission by its own motion;
 3. The City Manager for City initiated requests; or
 4. By a petition of one or more property owners of at least 51% of the property owners of an area proposed for amendment.
- C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the requirements of Chapter 163, Florida Statutes, and the following criteria:
1. Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;
 2. The amendment protects the health, safety, and welfare of the community;
 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site;
 4. The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community or traffic that cannot be mitigated through application of the development standards in this Code;
 5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.; and
 6. Other factors deemed appropriate by the Commission and City Council.
 7. Effective date of approval. The effective date of a future land use map amendment shall be in accordance with Chapter 163, Florida Statutes.

CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT
MEMORANDUM

TO: Rob Hernandez, City Manager

FROM: Vincent A. Cautero, Community Development Director 

DATE: June 2, 2021

SUBJECT: City-initiated Future Land Use Map Amendment Request,
LU 21-0007

Executive Summary

Staff recommends the City initiate a future land use map amendment request for multiple properties as part of a recalibration of the Future Land Use Map. The elements of this request include the following changes:

- From Commercial/Professional (CP) to Single-Family Residential (SF) for 6.96 acres

Background

The purpose of this request is to amend the Future Land Use Map in response to incompatible future land use and zoning, or incompatibilities with the existing development pattern.

This amendment seeks to correct efforts made back in the early 2000's to 2010, when a large effort to amend the Future Land Use Map was undertaken ahead of an effort to make all future land use map amendments subject to local referenda, which would have made subsequent amendments time-consuming and difficult to approve. As a result of that effort, the City was more aggressive in identifying future commercial and mixed-use properties than was prudent.

The area to be changed is near the intersection of Kismet Parkway and Del Prado Boulevard. This request identifies what staff considers to be the highest priority properties in need of amendment. A follow-up effort to rezone these properties will be brought forward parallel to this amendment.

The application and future land use maps (existing and proposed) are attached for your signature. Please contact Chad Boyko, Principal Planner at (239) 573-3162, if you have any questions.

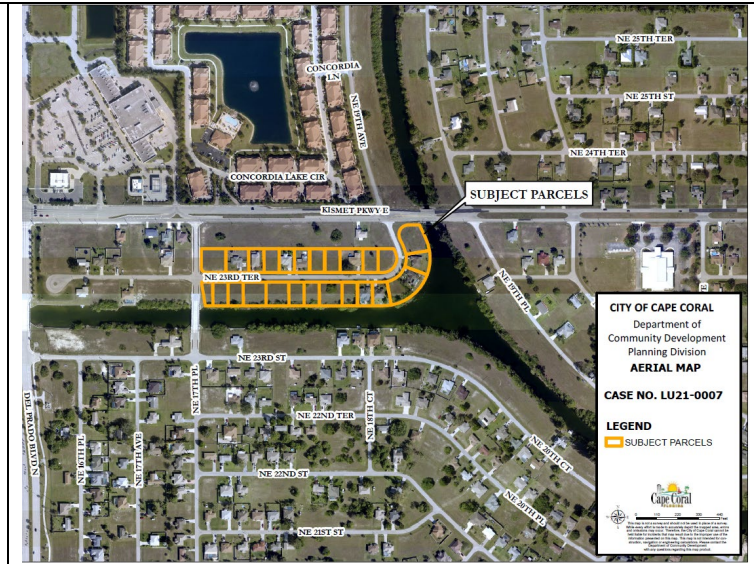
CWB/cwb(LU21-0007memoofintent)
Attachment

PLANNING DIVISION STAFF REPORT
LU21-0007

PROPERTY ADDRESSES Multiple addresses in Blocks 2179 and 2233	APPLICANT City of Cape Coral OWNERS Multiple owners
--	--

SUMMARY OF REQUEST

The applicant requests a future land use map amendment from the Commercial/Professional (CP) future land use designation to the Single-Family Residential (SF) future land use designation for multiple properties totaling 6.96 acres.



MAP SOURCE

STAFF RECOMMENDATION: Approval

Positive Aspects of Application:	The amendment would make several duplexes conforming in a block that has not experienced commercial development.
Negative Aspects of Application:	The amendment would be a loss of commercial land.
Mitigating Factors:	The loss of commercial land is de minimus. The site is not viable for future commercial development due to lack of visibility and road frontage

SITE INFORMATION

Location: 25 parcels near the intersection of Kismet Parkway and Del Prado Boulevard Unit 33. Block 2233, Lots 24-56 and Block 2179, Lots 25-49.
Frontage on NE 19th Avenue and NE 23rd Terrace.

STRAP Number: Multiple STRAP numbers

Site Area: 6.96 acres

Site:	<i>Future Land Use</i>	<i>Zoning</i>
Current:	Commercial/Professional	Commercial (C)
Proposed:	Single-Family Residential (SF)	N/A
	<i>Surrounding Future Land Use</i>	<i>Surrounding Zoning</i>
North:	Multi-Family Residential (MF)	C / Residential Multi-Family Low (RML)
South:	CP / SF	Single-Family Residential (SF)
East:	SF	R1
West:	CP	C

Urban Service

Area: Transition

City Water/Sewer: Yes

Type of

Access Road: The block has frontage on two local streets – NE 19th Avenue and NE 23rd Terrace

Soil Types and Limitations for Development:

Map Unit		Limitations	
		Dwellings without basements	Small commercial buildings
13	Boca Fine Sand	Moderate (wetness)	Moderate (wetness)

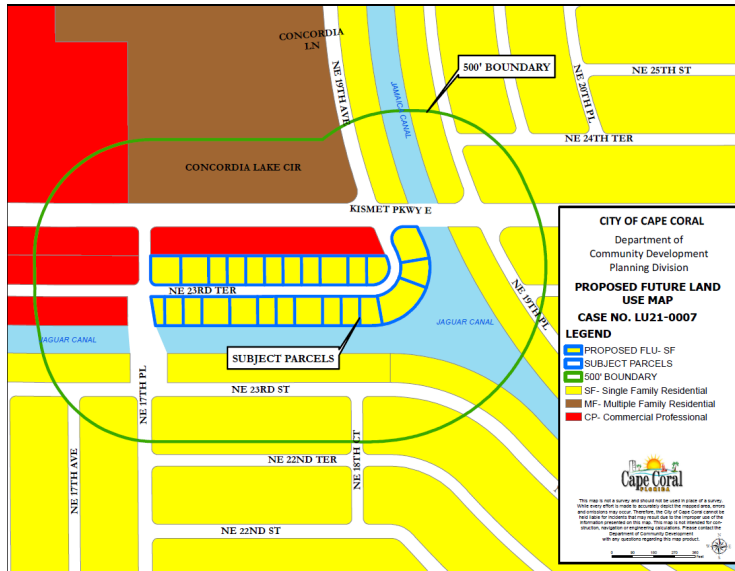
The soil in the area presents moderate limitations for dwellings and small commercial buildings. These limitations are typically overcome by using various engineering solutions, such as importing fill. The soil type, therefore, may not present an obstacle to any proposed amendment. However, special feasibility studies may be required at the development stage of the property.

Drainage: Must comply with South Florida Water Management District and the City of Cape Coral Engineering Design Standards.

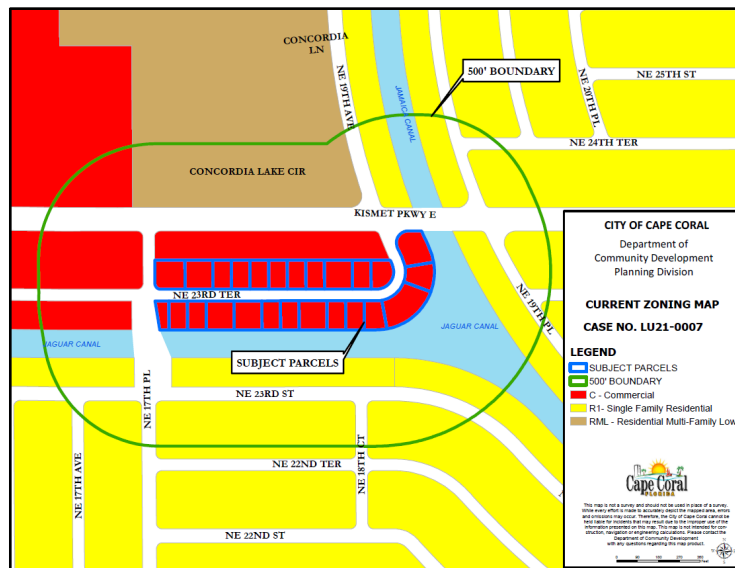
Natural Resources: The site consists of undeveloped land. The overall hydrology is considered non-hydric.



PROPOSED FUTURE LAND USE MAP



CURRENT ZONING MAP



PUBLIC NOTIFICATION

Publication: A display ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners to amend the land use of 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 Planning and Zoning Commission. Following the public hearing before the Commission, the display 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. The display ads will not be published in the legal section of the *News-Press*.

Written notice: Property owners located within 500 feet from the property line of the land which the petitioners request to vacate 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 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 land use amendment request.

RECOMMENDATION

Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, the proposed amendment to Multi-Family Residential is consistent with the Comprehensive Plan and compatible with the surrounding area, therefore, Planning Division staff recommends **approval** of the proposed small-scale Future Land Use Map amendment request.

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



500 FOOT NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: LU21-0007

REQUEST: The applicant requests a future land use map amendment from the Commercial/Professional (CP) future land use designation to the Single-Family Residential (SF) future land use designation for multiple properties totaling 6.96 acres.

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

UPCOMING PUBLIC HEARING: Notice is hereby given that the Cape Coral Planning and Zoning Commission will hold a public hearing at 9:00 A.M. on September 1, 2021 on the above-mentioned case. The public hearing will be held in the 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 Planning and Zoning Commission 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 five days prior to the hearing. The file can be reviewed at the Community Development Department, 1015 Cultural Park Blvd., Cape Coral, FL.

After Planning and Zoning Commission 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 if 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, upon request at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

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.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Office 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 1-800-955-8770 (v) for assistance.

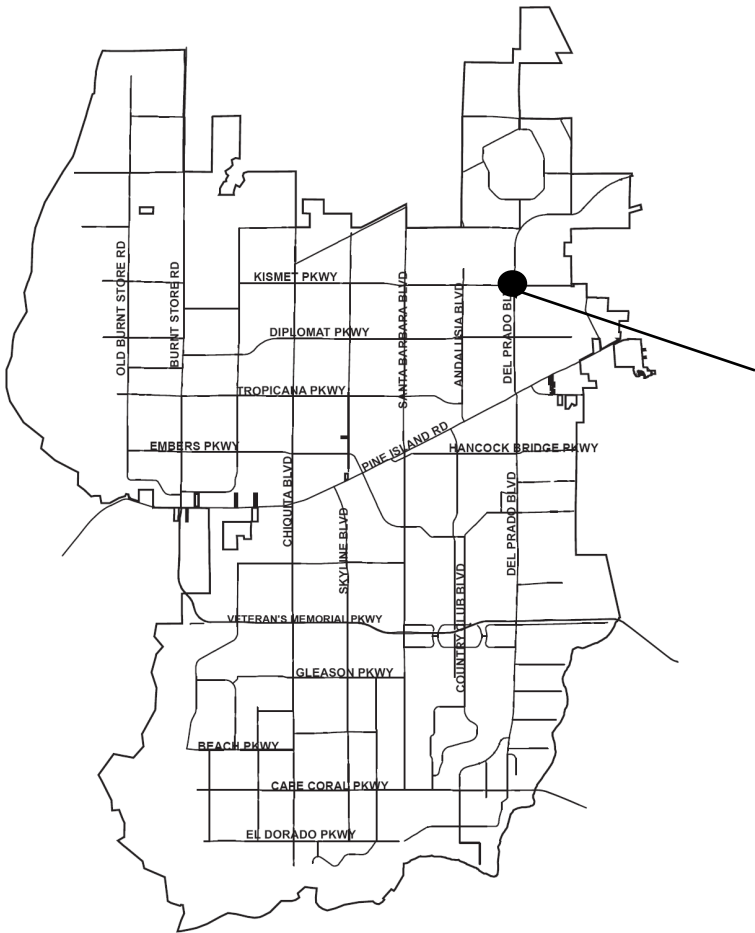
APPEALS: If a person decides to appeal any decision made by the Planning and Zoning Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings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

NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt **ORDINANCE 77-21 AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE-FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 25 THROUGH 49, BLOCK 2179, AND LOTS 24 THROUGH 56, BLOCK 2233, UNIT 33, CAPE CORAL SUBDIVISION; PROPERTY LOCATED ON NE 19TH AVENUE AND NE 23RD TERRACE, SOUTH OF KISMET PARKWAY AND EAST OF NE 17TH PLACE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE..**

A public hearing on the ordinance will be held Wednesday, September 1st, 2021 at 9:00 a.m. at the City of Cape Coral, City Hall Chambers, 1015 Cultural Park Blvd., Cape Coral, Florida 33990. At this public hearing, the Planning and Zoning Commission will consider a recommendation to change the City’s future land use map amendment request. Accordingly, members of the general public and real property owners in the community are invited to appear and speak at the public hearing. Written comments filed with the Director will also be entered into the record. A copy of the map and the proposed amendment under consideration will be available for inspection and will be provided to the public at cost at the City Clerk’s office between 7:30 a.m. and 4:30 p.m., Monday through Friday excluding holidays. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that subject person 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. In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk no later than 4:00 p.m. on the day prior to the meeting.

Kimberly Bruns, CMC
City Clerk



Ordinance 77-21
LU21-0007

COMMERCIAL/PROFESSIONAL (CP) TO SINGLE-FAMILY (SF) FOR LOTS IN BLOCKS 2179 AND 2233 IN UNIT 33, CAPE CORAL SUBDIVISION

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: City of Cape Coral

APPLICATION NO: LU21-0007

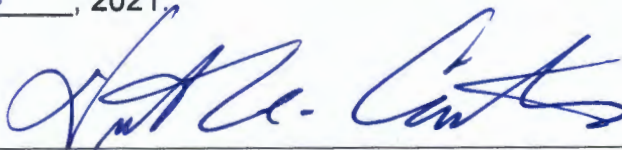
STATE OF FLORIDA)
) §
COUNTY OF LEE)

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 23rd day of August, 2021.



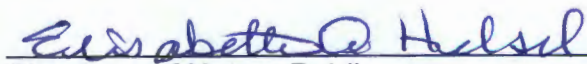
Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

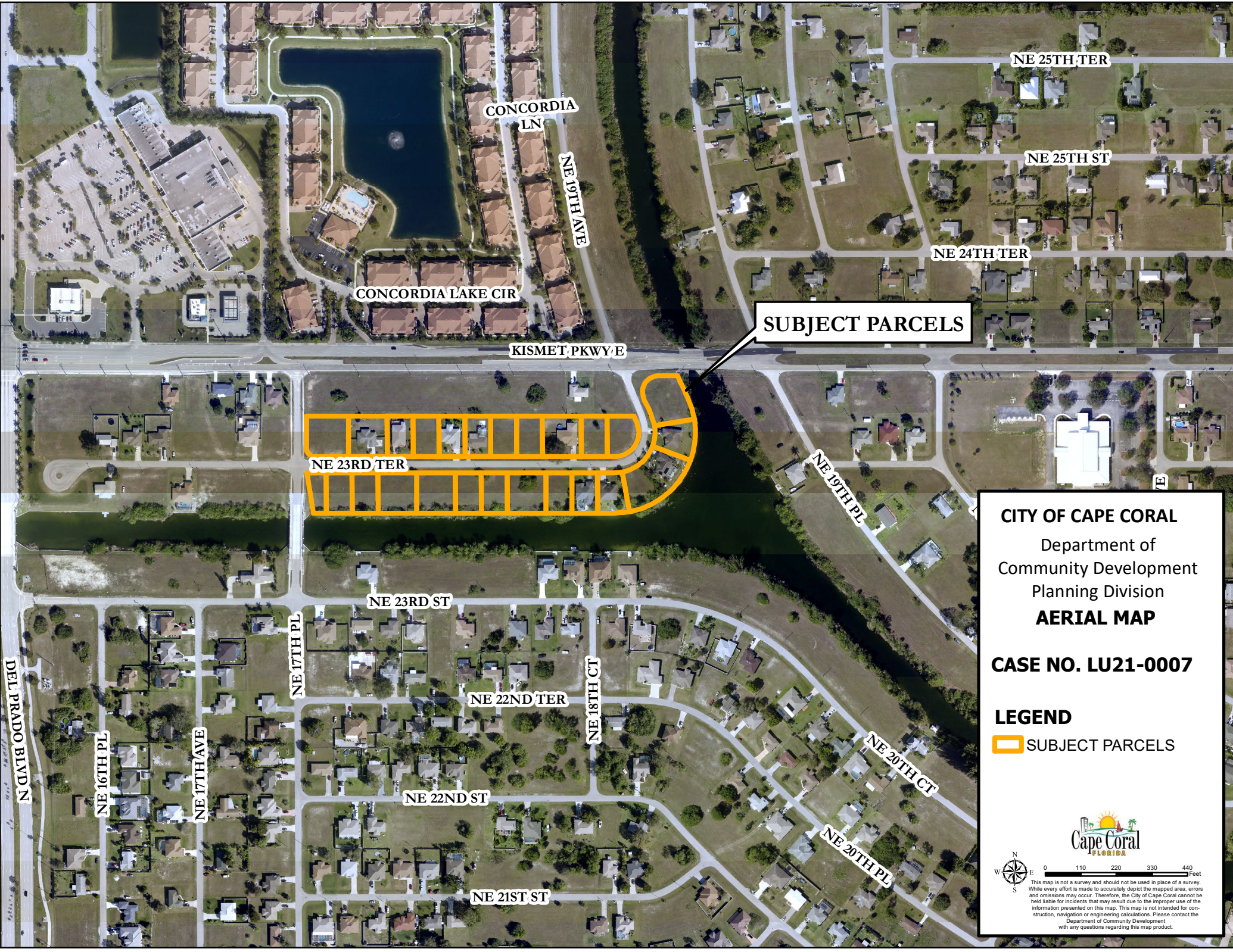
The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, on this 23rd day of August, 2021, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/16/24 Commission # HH061317




Signature of Notary Public

Elisabeth A. Helsel
Print Name of Notary Public



SUBJECT PARCELS

NE 25TH TER

NE 25TH ST

NE 24TH TER

CONCORDIA LAKE CIR

CONCORDIA LN

NE 19TH AVE

KISMET PKWY E

NE 23RD TER

NE 19TH PL

NE 23RD ST

NE 22ND TER

NE 18TH CT

NE 22ND ST

NE 21ST ST

NE 16TH PL

NE 17TH AVE

NE 17TH PL

NE 20TH CT


NE 20TH PL

DEL PRADO BLVD N


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

CASE NO. LU21-0007

LEGEND
 **SUBJECT PARCELS**

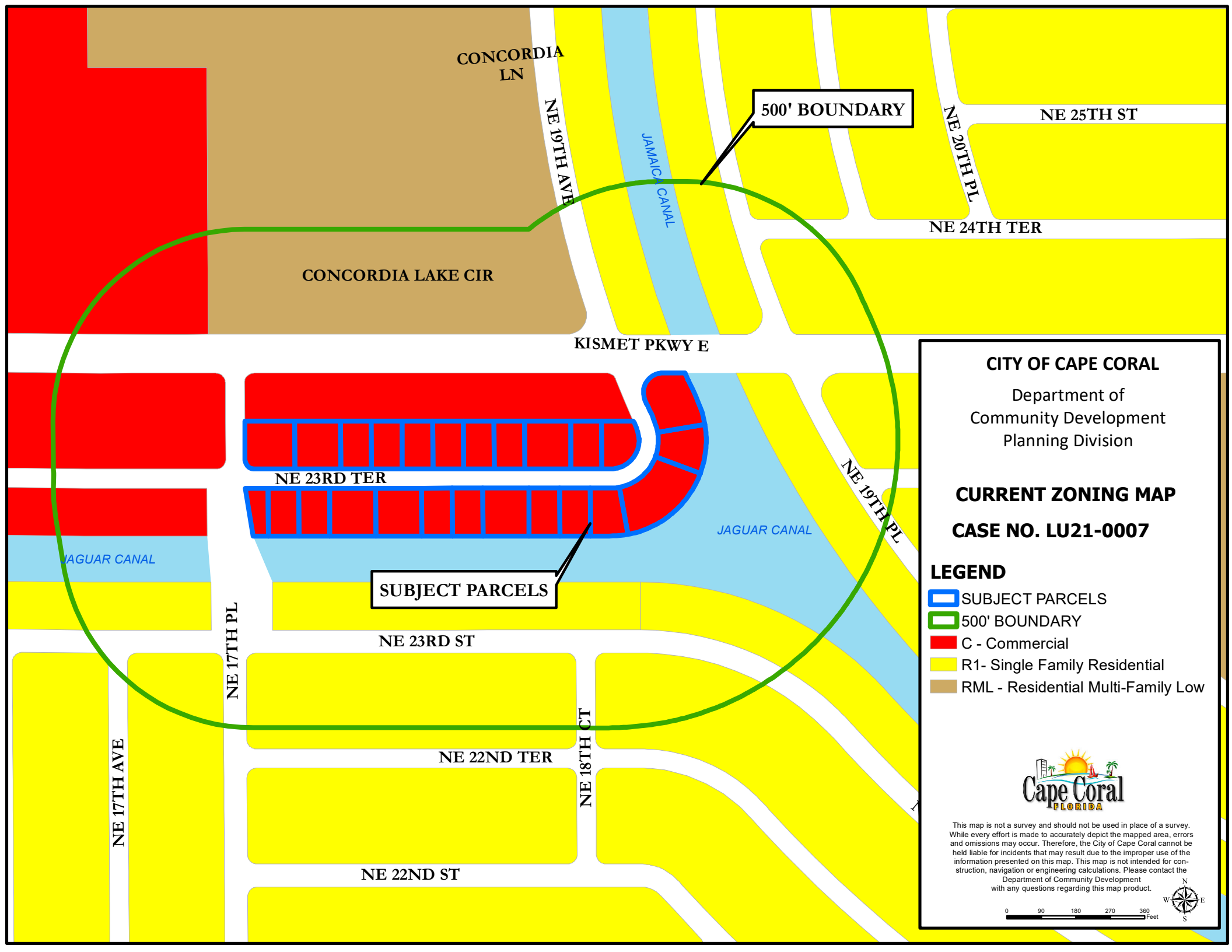


Cape Coral
FLORIDA



0 110 220 330 440 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.



CONCORDIA LN

NE 19TH AVE

JAMAICA CANAL

500' BOUNDARY

NE 20TH PL

NE 25TH ST

NE 24TH TER

CONCORDIA LAKE CIR

KISMET PKWY E

NE 23RD TER

JAGUAR CANAL

NE 19TH PL

SUBJECT PARCELS

NE 23RD ST

NE 17TH PL

NE 18TH CT

NE 22ND TER

NE 22ND ST

NE 17TH AVE

CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP

CASE NO. LU21-0007

LEGEND

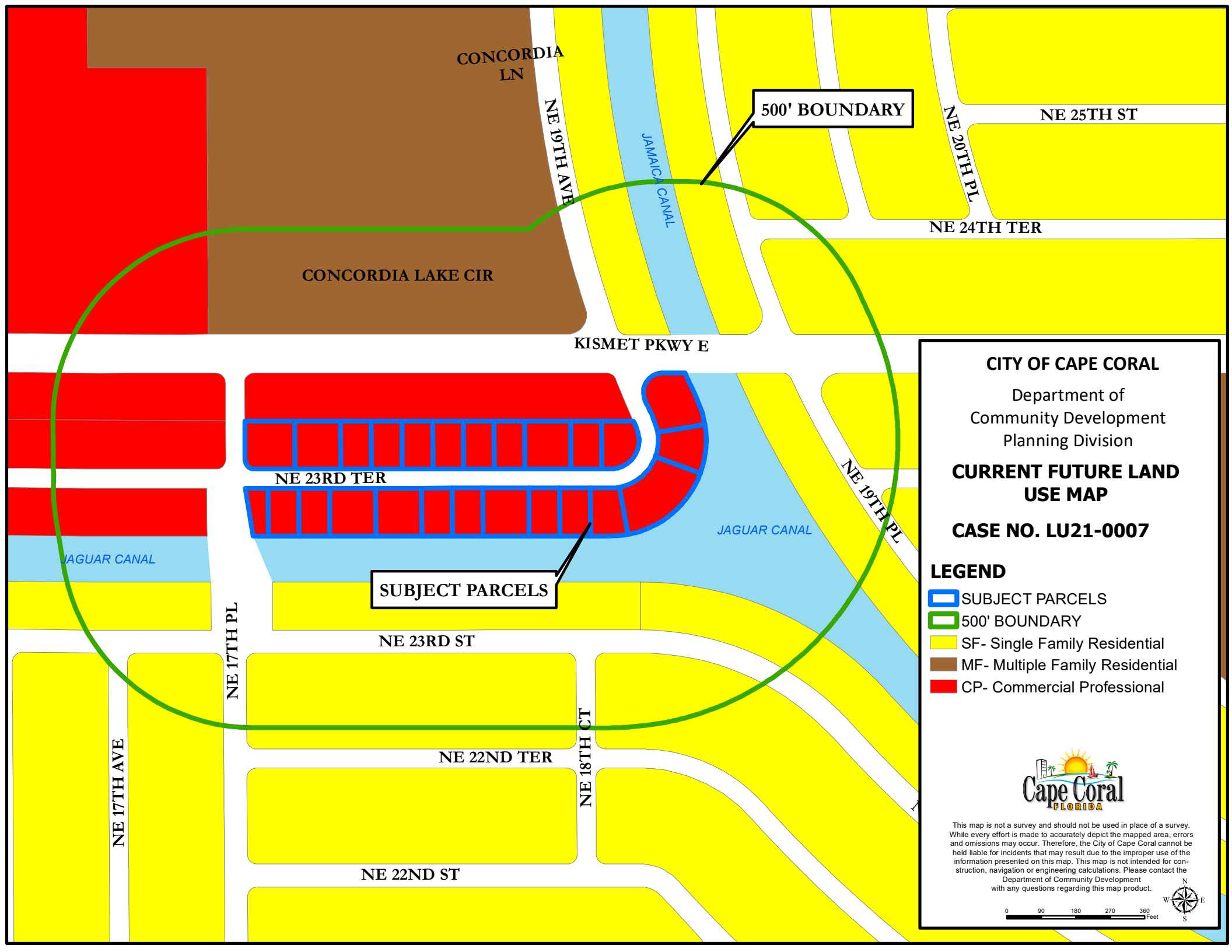
- SUBJECT PARCELS
- 500' BOUNDARY
- C - Commercial
- R1- Single Family Residential
- RML - Residential Multi-Family Low



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0 90 180 270 360 Feet





CONCORDIA LN

NE 19TH AVE

500' BOUNDARY

NE 25TH ST

NE 20TH PL

NE 24TH TER

CONCORDIA LAKE CIR

KISMET PKWY E

NE 23RD TER

JAGUAR CANAL

NE 19TH PL

SUBJECT PARCELS

NE 23RD ST

NE 22ND TER

NE 18TH CT

NE 22ND ST

NE 17TH AVE

NE 17TH PL






CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT FUTURE LAND USE MAP

CASE NO. LU21-0007

LEGEND

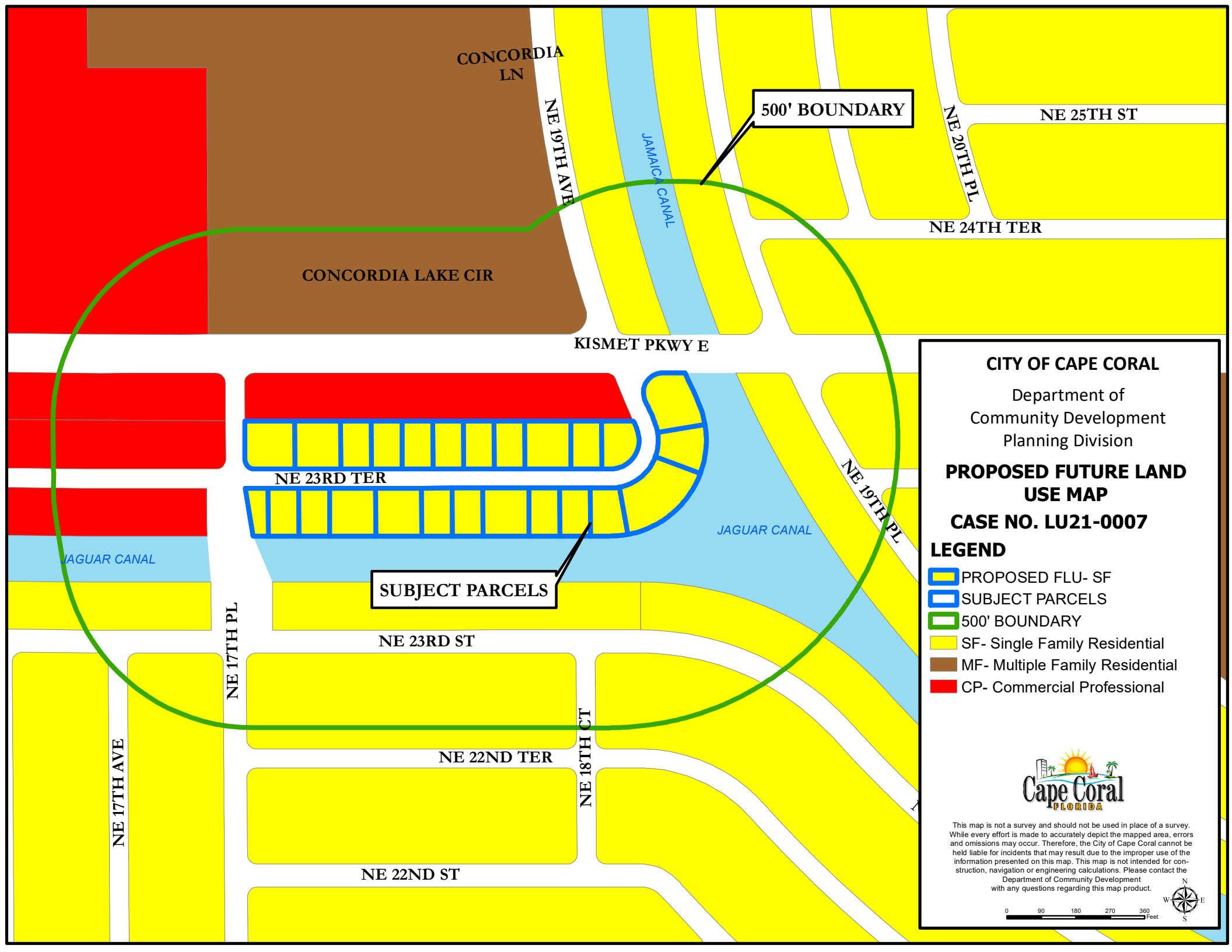
-  SUBJECT PARCELS
-  500' BOUNDARY
-  SF- Single Family Residential
-  MF- Multiple Family Residential
-  CP- Commercial Professional



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0 90 180 270 360 Feet











CITY OF CAPE CORAL

Department of
Community Development
Planning Division

PROPOSED FUTURE LAND USE MAP

CASE NO. LU21-0007

LEGEND

-  PROPOSED FLU- SF
-  SUBJECT PARCELS
-  500' BOUNDARY
-  SF- Single Family Residential
-  MF- Multiple Family Residential
-  CP- Commercial Professional



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 90 180 270 360 Feet





Ordinance 77-21/LU21-0007

Cape Coral Planning and Zoning Commission



Ordinance 77-21 / LU21-0007

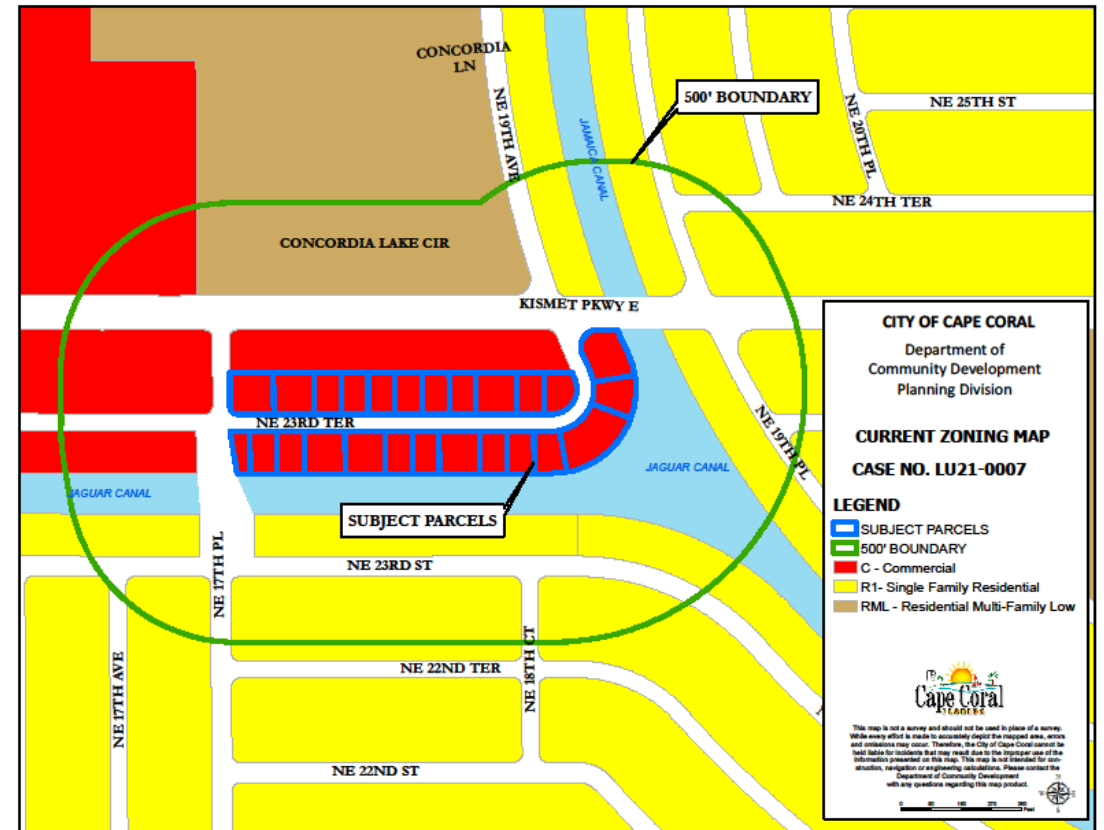
- **Applicant: City of Cape Coral**
- **Site Size: 6.96 acres**
- **Location: Near intersection of Del Prado Blvd and Kismet Pkwy**
- **Urban Services: Transition**
- **Request: Future Land Use Map Amendment from Commercial/Professional (CP) to Single-Family Residential (SF).**

Ordinance 77-21 / lu21-0007

Aerial Map

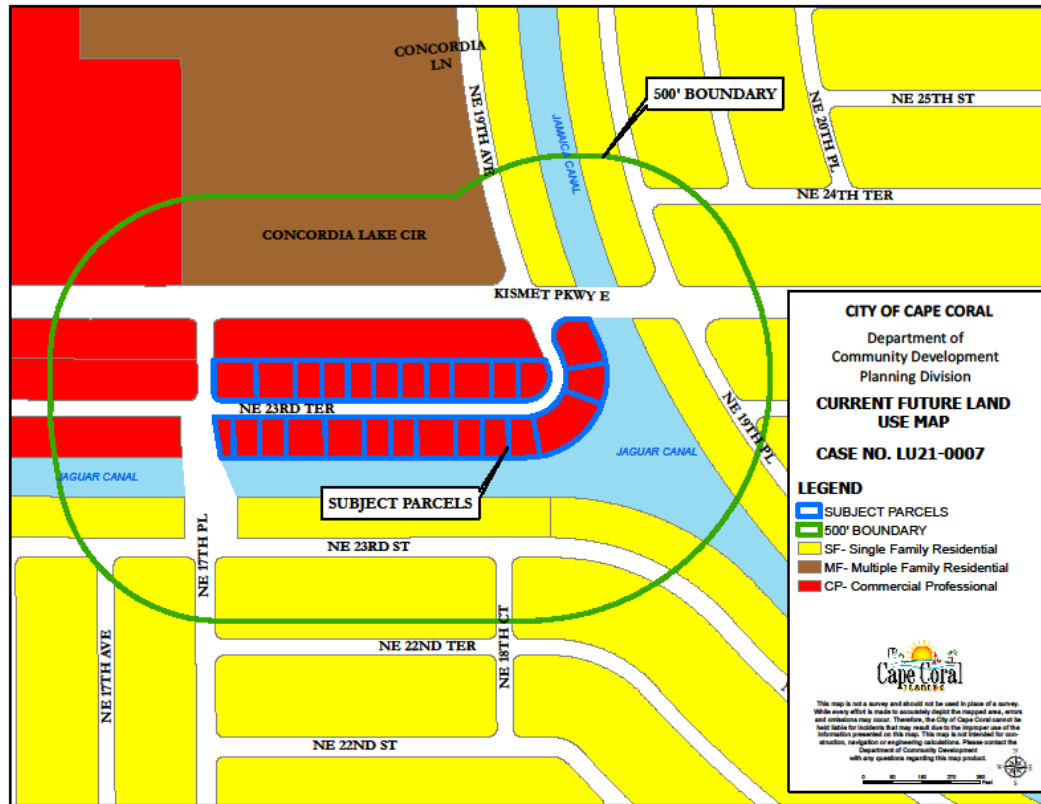


Zoning Map

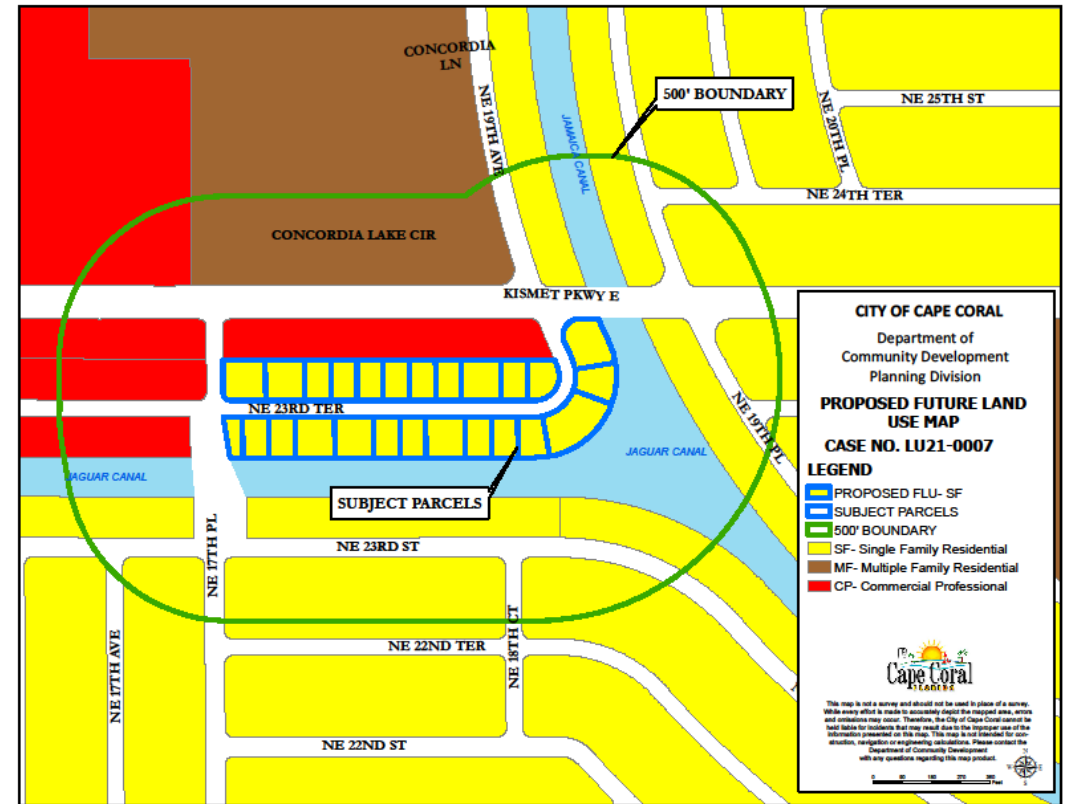


Ordinance 77-21 / lu21-0007

Current FLU – CP



Proposed FLU - SF



Ordinance 77-21 / lu21-0007

Findings of Fact

- **Mix of undeveloped parcels / single-family homes**
- **Parcels have been commercial or mixed-use for over 10 years**
- **No assemblage or development has occurred**
- **FLUMA would allow for residential development existing homes would be conforming**

Analysis

Comprehensive Plan Policy 1.13

- **Site is east of Del Prado Blvd and Kismet Pkwy intersection which is a commercial node**
- **CP future land use is at direct intersection of those 2 roads**
- **Site can be considered extension of commercial node**

Analysis

Comprehensive Plan Policy 1.14

- **Site is consistent with 2 guidelines – compactness, major intersection**
- **Site is not consistent with 6 guidelines – assembly, ownership pattern, intrusion, adequate depth, access, and integration**
- **This policy does not state that a certain of guidelines must be met for commercial land use designation**

Analysis – Economic Development Master Plan

- **The amendment is neither supported or in conflict with Master Plan**
- **The site is not in an economic opportunity area, nor will the amendment**

Ordinance 77-21 / lu21-0007

Recommendation

Planning staff recommends approval.

Correspondence

3 letters of support

THANK YOU

any questions?





**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	B.(1)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 75-21 (LU21-0006) Set Public Hearing for January 19, 2022

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Single-Family/Multi-Family (SM) to Commercial Activity Center (CAC) land use for property described as a tract or parcel of land lying in a portion of the northeast quarter (NE 1/4) of Section 36, Township 43 South, Range 22 East, Lee County, Florida, being more particularly described herein; property located at 4120 and 4140 Kismet Parkway.

Applicants: Equity Trust Company Custodian FBO John W. Keenan Roth IRA; Alma and Ralph Santillo

Acreage: 3.3

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

REQUESTED ACTION:

Introduction

SUMMARY EXPLANATION AND BACKGROUND:

The applicants request a future land use map amendment from the Single-Family/Multi-Family (SM) future land use to the Commercial Activity Center (CAC) future land use designation. The site is two parcels consisting of 3.3 acres. The amendment would allow a developer to build commercial, office, restaurants, retail uses as well as multi-family units.

This property is surrounded by property that is in the CAC land use designation. The surrounding property was identified as a potential economic development opportunity area in the City's Economic Development Master Plan adopted in 2017.

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:

Planning and Zoning Commission Recommendation: Approval

City Planning Recommendation: Approval

SOURCE OF ADDITIONAL INFORMATION:

Vince Caution, Director of Development Services, 574-0600

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

N/A

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

PREPARED BY:

Shawn Baker, Planning
Technician

Division- City
Planning

Department- Community
Development

ATTACHMENTS:

Description	Type
▣ 1. Ordinance 75-21 (LU 21-0006)	Ordinance
▣ 2. Backup Materials	Backup Material
▣ 3. Additional Backup Material	Presentation
▣ 4. Power Point	Backup Material

ORDINANCE 75 - 21

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM SINGLE-FAMILY/MULTI-FAMILY (SM) TO COMMERCIAL ACTIVITY CENTER (CAC) LAND USE FOR PROPERTY DESCRIBED AS A TRACT OR PARCEL OF LAND LYING IN A PORTION OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 22 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT 4120 AND 4140 KISMET PARKWAY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by EQUITY TRUST COMPANY CUSTODIAN FBO JOHN W. KEENAN ROTH IRA and ALMA AND RALPH SANTILLO regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM SINGLE-FAMILY/MULTI-FAMILY (SM) TO COMMERCIAL ACTIVITY CENTER (CAC)

A TRACT OR PARCEL OF LAND LYING IN A PORTION OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 22 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE NORTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA FOR A POINT OF COMMENCEMENT; THENCE RUN N.89°23'00"W. ALONG THE NORTH LINE OF SAID SECTION 36 FOR 669.25' FEET TO THE POINT OF BEGINNING; THENCE RUN S.00°02'45"W. FOR 429.03 FEET; THENCE RUN N.89°23'00"W. FOR 334.59 FEET; THENCE RUN N.00°03'03"W. TO A POINT ALONG THE NORTH LINE OF SAID SECTION 36 FOR 429.03 FEET; THENCE RUN S.89°23'00"E. ALONG THE NORTH LINE OF SAID SECTION 36 TO THE NORTHEAST CORNER THEREOF FOR 334.63 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 143,547.58 SQUARE FEET, OR 3.30 ACRES, MORE OR LESS.

PROPERTY LOCATED AT: 4120 AND 4140 KISMET PARKWAY

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a

"final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu21-0006



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

For Internal Use Only

Case LU21-0006

Date APR 12 '21 PM 2.10

Tel. (239) 574-0776

Fax (239) 574-0591

P.O. Box 150027

Cape Coral, FL 33915-0027

FUTURE LAND USE MAP AMENDMENT (FLUMA) APPLICATION

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

FLUMA APPLICATION REQUIREMENTS

1. ☐ Letter of Intent stating the actual request and why the request is being made
2. ☐ 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.
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 prepare in label format and contain the following information; name, address, city, and zip-code.
5. ☐ The applicant must provide a traffic projection of the number of trips that are anticipated to be generated by the revised Land Use including the distribution of these trips onto the roadway system. The applicant may also be required to perform a more detailed traffic impact analysis based on the City's traffic impact guidelines.
6. ☐ Chapter 163, Florida Statutes, requires that comprehensive plan map amendments be City Council must hold a submittal hearing (1st public hearing) prior to sending amendments to DEO. (Council may approve for submittal or deny proposed land use map amendments. Only approved amendments are submitted to DEO.) DEO then has ninety (90) days to review and respond to the proposed amendments. Upon receipt of DEO comments or objections, the local government has sixty (60) days to approve, deny, or approve with modifications the proposed land use map amendments.
7. ☐ Comprehensive Plan Amendments are reviewed by the Planning and Zoning Commission and City Council. Planning and Zoning Commission is an advisory body to City Council and makes recommendations on all amendments.
8. ☐ Please refer to the Future Land Use Map Amendment Section 3.5.2. for additional information.

NOTE: IF ANY OF THE ABOVE INFORMATION IS ON A SHEET LARGER THAN 11 X 17, THE APPLICANT MUST SUPPLY SEVENTEEN (17) COPIES TO BE USED FOR DISTRIBUTION. IN ADDITION TO THE APPLICATION FEE, ALL REQUIRED ADVERTISING COSTS ARE TO BE PAID BY THE APPLICANT (ORD 39-03, SECTION 3.5.2.). ADVERTISING COSTS WILL BE BILLED AND MUST BE PAID PRIOR TO HEARING.



**DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION**

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

FUTURE LAND USE MAP AMENDMENT APPLICATION

FEES: \$1,225.00 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, Section 3.5.2). Advertising costs will be billed and must be paid prior to hearing.

OWNER(S) OF PROPERTY INFORMATION	
Owner <u>Alma & Ralph Santillo</u>	Address <u>4140 & 4120 KISMET PKWY W</u>
Phone <u>239 910 5699</u>	City <u>Cape Coral</u>
Email <u>Ralphandrew@embarq.com</u>	State <u>FL</u> Zip <u>33993</u>
Owner _____	Address _____
Phone _____	City _____
Email <u>Ralphandrenne@embarq.com</u>	State _____ Zip _____
APPLICANT INFORMATION (if different from owner)	
Applicant <u>Bill Keenan</u>	Address <u>1550 Cumberland Court</u>
Phone <u>828 489 8225</u>	City <u>Fort Myers</u>
Email <u>bill@realestatecorporation.com</u>	State <u>FL</u> Zip <u>33919</u>
AUTHORIZED REPRESENTATIVE INFORMATION (if Applicable)	
Representative <u>Greg Stuart, MAURP</u>	Address <u>2256 First Street Suite 148</u>
Phone <u>239 677 6126</u>	City <u>Fort Myers</u>
Email <u>Greg@Stuarturbandesign.com</u>	State <u>FL</u> Zip <u>33901</u>
PROPERTY INFORMATION	
Unit <u>NA</u> Block <u>NA</u> Lot (s) <u>NA</u> Subdivision <u>NA</u>	
Property Address <u>4140 and 4120 Kismet Parkway West</u>	
Plat Book <u>NA</u> Page <u>NA</u> Current Zoning <u>AG</u>	
Strap Number <u>36-43-22-C2-00003.0000 & 36-43-22-C2-00003.00A0</u> Acreage <u>3.3</u>	
Current Land Use <u>Res, SF</u>	Proposed Land Use <u>Commercial Activity Center</u>



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

Tel. (239) 574-0776
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)

Ralph A. Santello

OWNER'S NAME (TYPE OR PRINT)

Alma L. Santello

OWNER'S NAME (TYPE OR PRINT)

Ralph A. Santello

OWNER'S SIGNATURE

Alma L. Santello

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, this 15TH day of MARCH, 2021 by RALPH A. SANTELLO who ALMA L. SANTELLO is personally known to me or produced _____ as identification.

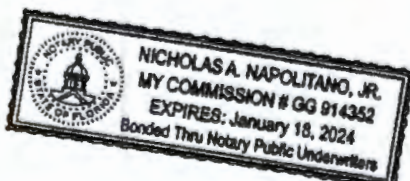
Exp Date: 18 JAN 2024 Commission Number: GG 914352

Signature of notary Public:

Nicholas A. Napolitano Jr.

Printed Name of Notary Public:

NICHOLAS A. NAPOLITANO, JR





**DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION**

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P.O. Box 150027
Cape Coral, FL 33915-0027

ESTIMATED PEAK HOUR TRIP

Parcel Size: Width 321 Depth 405 Sq. Ft. 11302 Acreage 3.0

Soil Type: Matlacha fine sand

Urban Services Area: (check one) Infill ☒ Transition Reserve ☒

Natural Resources (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):

SEE ATTACHED

Animal Species: (list any endangered, threatened, or species of special concern on-site)

SEE ATTACHED

Estimated Development:

- Estimate total lot coverage 40 %
- Estimate total building floor area: 57,500 Sq. ft.
- Estimate type of future development and percentages:
(e.g. business offices, commercial retail, automotive repair, etc.)

SEE ATTACHED

Estimated peak hour trip ends:

If 300 or less peak hour trip ends are projected, the applicant must provide the source of the traffic projection.
If more than 300 peak hour trip ends are projected, a traffic impact study must be completed and submitted as part of the application (see attachments).

City Sewer: YES ☐ NO ☒

City Water: YES ☐ NO ☒



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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Fax (239) 574-0591
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Cape Coral, FL 33915-0027

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Greg Stuart, MAURP and Bill Keenan

(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 36-43-22-C2-00003.0000 & .00A0; 4140 & 4120 KISMET PKWY W .

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

Alma & Ralph Santillo

PROPERTY OWNER (Please Print)

Ralph Santillo
PROPERTY OWNER (Signature & title)

PROPERTY OWNER (Please Print)

Alma L. Santillo
PROPERTY OWNER (Signature & title)

STATE OF FL

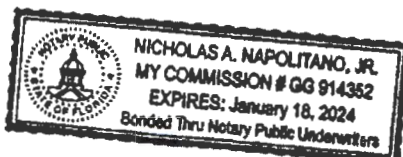
COUNTY OF LEE

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online
notarization, this 15TH day of MARCH, 2021 by RALPH A. SANTILLO who
is personally known to me or produced Alma Santillo as identification.

Exp Date: 18 JAN 2024 Commission Number: GG 914352

Signature of notary Public: Nicholas A. Napolitano, Jr.

Printed Name of Notary Public: NICHOLAS A. NAPOLITANO, JR.



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 15 Day of MARCH, 2021.

CORPORATION/COMPANY NAME

OWNER'S NAME (TYPE or PRINT)

STATE OF FL

OWNER'S SIGNATURE

COUNTY OF LEE

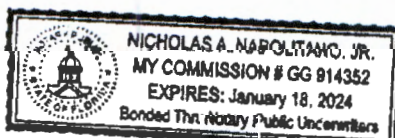
Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, this 15th day of MARCH, 2021 by RALPH A. SANTILLO who is personally known to me or produced Alma L. Santillo as identification.

Exp Date: 18 JAN 2024 Commission Number: GG 914352

Signature of notary Public:

Printed Name of Notary Public:

NICHOLAS A. NAPOLITANO, JR.



Last revised 07-06-2021 (subject to change)



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.

Ralph + Alma L. Santillo
OWNER/APPLICANT
(PLEASE TYPE OR PRINT)

Ralph Santillo
OWNER/APPLICANT SIGNATURE
Alma L. Santillo

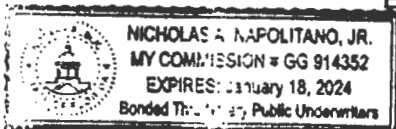
(SIGNATURE MUST BE NOTARIZED)

STATE OF FL

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, this 15TH day of MARCH, 2021 by RALPHA. SANTILLO who is personally known to me or produced Alma L. Santillo as identification.

Exp Date: 18 Jan 2024 Commission Number: GG 914352



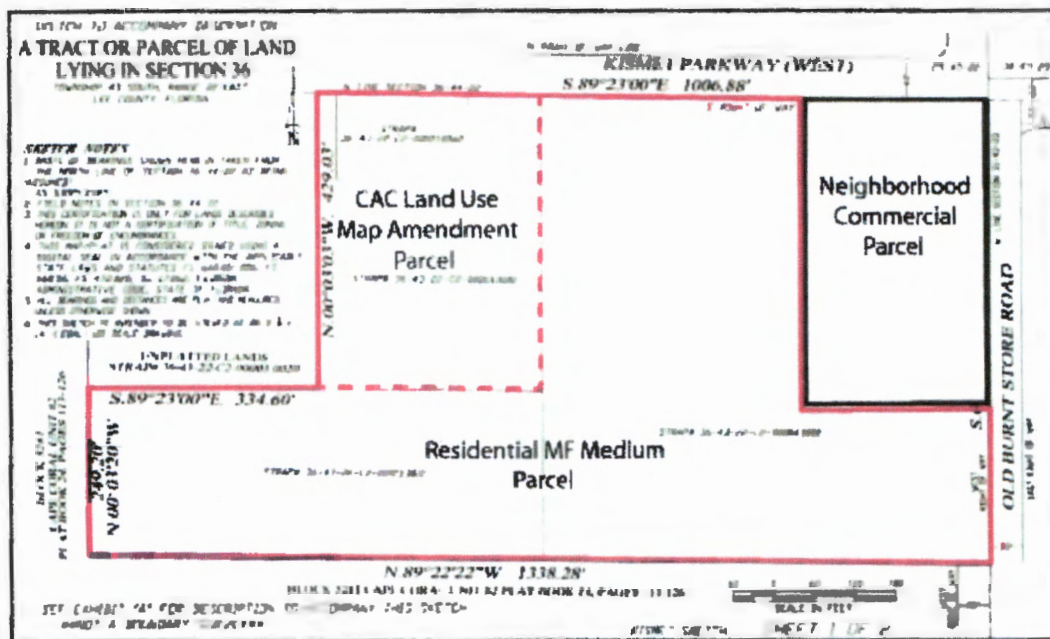
Signature of Notary Public: Nicholas A. Napolitano Jr.

Printed Name of Notary Public: NICHOLAS A. NAPOLITANO, JR

SMALL SCALE LAND USE MAP AMENDMENT REQUEST AND JUSTIFICATION

INTRODUCTION:

The application is to amend two parcels that comprise approximately 3.3 acres. They are located west of the Kismet Parkway and Old Burnt Store intersection; they are noted by strap numbers 36-43-22-C2-00003.00A0 and 36-43-22-C2-00003.0000. The amendment is to change the existing Residential Single Family Future Land Use, to Commercial Activity Center. Referring to the graphic below, the purpose of the Future Land Use Map Amendment is to eliminate an intrusive enclave parcel and to create a uniform and more acceptable 17.55 acre Kismet/Old Burnt Store Rd. Commercial Activity Center project. Parallel to the land use map amendment is a rezoning request to change an Agriculture district to Residential Multi-family Medium (RMM), along with rezoning 2.7 acres +/- for Neighborhood Commercial at the Kismet Parkway and Old Burnt Store Road Intersection. It is noted that the existing the Residential Single Family land use is not truly consistent with it's surrounding CAC Future Land Use. As such, the land CAC land use map amendment request is consistent with the adjoining Commercial Activity Center Future Land Uses.



THE CAC FUTURE LAND USE MAP AMENDMENT PARCEL W/THE PARENT TRACT REZONING

QUESTION ONE _Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan.

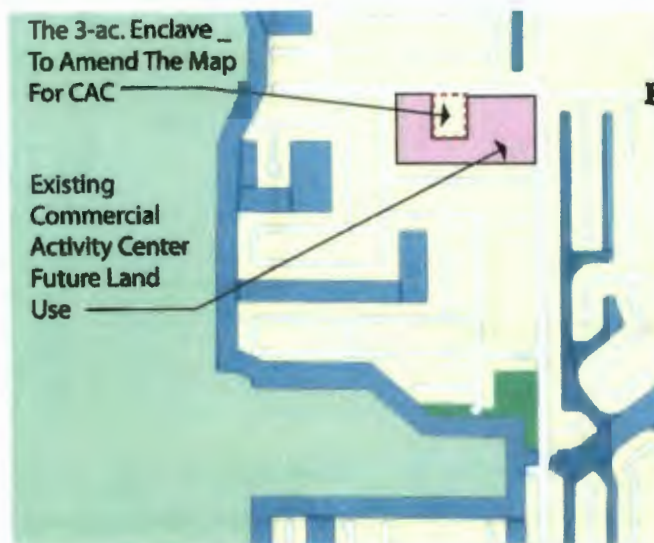
As noted the subject 3 acre parcel is an enclave, surrounded by lands designated for Future Commercial Activity Center uses. The CAC Policy is as follows:

POLICY 1.15M Commercial Activity Center (CAC): The purpose of this future land use classification is to promote non-residential and mixed-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral in areas where a mix of uses may be developed. The Commercial Activity Center classification is a mixed-use classification designed to minimize the need for vehicle trips through the development of both residential and non-residential uses in a single project. Furthermore, the purpose of the Commercial Activity Center is to integrate all uses through landscape, site, and architectural design standards. In addition, the Commercial Activity Center land use classification is intended to provide locations that offer employment opportunities and daily goods and services to the local community and, in some instances, attract patrons from the region. Commercial Activity Centers are intended to be pedestrian friendly and interconnected with adjacent projects – whether residential or non-residential.

The City has adopted the Neighborhood Commercial (NC) zoning district as consistent with the Commercial Activity Center Future Land Use Classification. Development standards in accordance with the Neighborhood Commercial zoning district are as follows:

- Freestanding Commercial Development Area @ 15% to 100% w./Max. 1.0 FAR
- Freestanding Residential Development Area @ 15% to 85% w./Max. 16 DUS/ac

The amendment will incorporate the three acre parcel into the overall twenty acre Kismet Parkway and Old Burnt Store Road Commercial Activity Center. As such, the amendment is inherently consistent with 1.15 and forms the basis of the amendment.



THE KISMET/OLD BURNT STORE CAC FUTURE LAND USE MAP

QUESTION TWO _ The amendment protects the health, safety, and welfare of the community.

The small scale map amendment is consistent with Cape Coral's well documented need for a more diverse housing stock in response to the single family character of Cape Coral's original platted city plan. A broader and more diversified housing stock grants greater choice in housing preference and family/non-family life style, affordability and range. Diversification of housing stock serves to advance meaningful cost efficiency and effectiveness in providing public infrastructure and services. The amendment is consistent with Cape Coral's well documented need for a larger commercial land inventory and better spatial commercial distribution to service existing and projected population levels. This is in response to the less than 15% non-residential lands that were allocated for the city during the original plat. The need for an enlarged commercial land use inventory with a diversified location will serve to reduce transportation trip lengths. In so doing the amendment will advance the provision of a more efficient road network and transportation system. Finally, an enlarged commercial land use inventory will also support higher employment opportunities and greater neighborhood convenience. These reasons support an amendment finding that it is in the public interest.

The 3 acre small scale amendment is consistent with Policy 1.7, 1.20, Objective 3 and Policies 3.1, 3.2 and 3.3. As such, the amendment protects the health, safety and welfare of the community. Policy 1.7 dictates the following:

POLICY 1.7: The City has identified a shortfall of multi-family residential housing stock in the community. To provide better guidance in identifying properties which are appropriate for multi-family residential development, to reduce this shortfall, locational guidelines have been developed. The following locational guidelines are as follows:

- 1.) Proximity to major roadways.
- 2.) Proximity to non-residential land uses.
- 3.) Transitioning from commercial uses to less intense uses.

Therefore, an appropriate location for multi-family residential development is a collection of properties of 3-acres or greater which provide multi-family assemblage opportunities, or for properties which alone are 3-acres or greater in size.

Relying upon the surrounding 14.55 acres that are designated CAC, the amendment will enlarge and make uniform the existing CAC configuration. In doing so the amendment will advance the provision for needed alternative multi-family housing. This is consistent with 1.7 and supports public health, safety and welfare interests.

The 3 acre small scale map amendment is consistent with Policy 1.20. The policy dictates the following:

POLICY 1.20: The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways.

By enlarging and making uniform the existing Commercial Activity Center, the amendment will advance the creation of a compact and identifiable development pattern while supporting more efficient drainage, access and circulation. Any project that follows the amendment will be consistent with 1.20 and the Neighborhood Commercial performance standards. These facts support the public interest.

The 3 acre small scale map amendment is consistent consistent with Objective 3.0 and policies 3.1, 3.2 and 3.3. Objective 3.0 and associated policies are identified as follows:

OBJECTIVE 3: Development of Quality Commercial Centers: The City encourages development of quality commercial (retail, office, and/or services) centers on property that meets the recommended land configuration for such commercial centers and that is located proximate to an adequate trade area, relative to the size and character of the center, and necessary to ensure economic viability.

POLICY 3.1: The City of Cape Coral will encourage the development of future commercial (retail, office and/or services) areas at or near transportation nodes by assigning appropriate future land use designations.

POLICY 3.2: The size, location and function of commercial areas shall be related and central to the population, market area and the transportation network system. The distribution and size of commercial areas shall be spatially located to meet neighborhood, community and regional needs and to reduce vehicle trip lengths.

POLICY 3.3: Application of the commercial areas along and proximate to commercial corridors at key locations is intended to address the projected demand for commercial development as summarized in the Table below, or other subsequent analysis.

The three acre amendment will eliminate an intrusive enclave into an existing CAC and use. In doing so the amendment will support a future project that can provide neighborhood personal and business services, and/or possibly minor retail. The amendment will grant a future project to be more compact and integrated into the commercial node design at the Kismet Parkway and Old Burnt Store Road intersection. In so doing, the amendment request is consistent supports public health, safety and welfare interests.

QUESTION THREE _ The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site.

The three acre site is well suited for the small scale map amendment in that is an already developed site with no wetlands, flyways or environmentally sensitive site

features. Consequently, the site is physically suitable and compatible to support the requested CAC future land use.



THE IMPROVED SITE AIR PHOTO

QUESTION FOUR _ The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community or traffic that cannot be mitigated through application of the development standards in this Code.

The CAC map amendment along with it's associated RMM and NC zoning do not permit industrial uses, agricultural uses, outdoor storage and display uses (construction, landscaping), animal kennels, drive-thru uses (fast food restaurant, pharmacy), vehicle-related commercial, and outdoor recreation uses. These uses may be characterized as generating light, noise, dust, odor and/or excessive thru traffic. By not permitting these uses and limiting non-residential uses to those that support neighborhood goods and services, the amendment will not lead to negative impacts on the community or traffic that cannot be mitigated through LDC standards, In so far as residential uses, and as noted in the Cape Coral MF To SF Housing Compatibility

Exhibit, as demonstrated by various Cape Coral Veterans Parkway and Pine Island Road multi-family housing projects that are adjacent to single-family neighborhoods, relying upon the cities Land Development Code buffering, open space, setback and design standards, the City of Cape Coral has found both RML and RMM zoning to be compatible with single-family R-1 housing. Consequently the range of uses and density that the CAC amendment permits will be compatible with the surrounding area.



Midtown At Veterans Parkway _w./Adjacent SF



Coralina At Pine Island Road _ w./Adjacent SF

CAPE CORAL MF TO SF HOUSING COMPATIBILITY EXHIBIT

QUESTION FIVE _ The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc..

Both the parent 17.55 acre and the subject three acre site are well suited for, and can accommodate, development footprints and infrastructure. Both the parent 17.55 acre and the subject three acre site are large enough to support MF residential and mixed uses. The overall site is configured in a node at the location of two major roads (Kismet Prky and Old Burnt Store Rd.). The commercial sub-parcel has adequate depth. The parent site and the subject three acre residential site have direct access to Kismet Prky. The site does not contain any wetlands, flyways or surface hydrological features. Consequently, the site is physically suitable to support the requested mixed use CAC project.

Natural Resources _ FLUCCS 1300 Pine Flatwoods w/invasive melaleuca; no observed rare protected species.

Estimated Future Development _ Multi-family Housing, Low-rise; 30 units; estimated Trip Generation Based On ITE Trip Generation 10th Edition Type 220 Multi-family @ 7.32 ADT = 220 Trips Per Day.

EXHIBIT "C"

DESCRIPTION TO ACCOMPANY SKETCH

A TRACT OR PARCEL OF LAND LYING IN SECTION 36

TOWNSHIP 43 SOUTH, RANGE 22 EAST
LEE COUNTY, FLORIDA

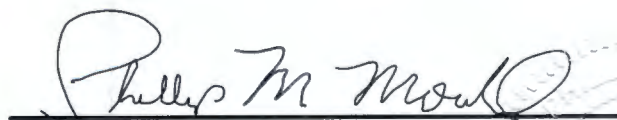
****NOT A BOUNDARY SURVEY****

DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN A PORTION OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 22 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

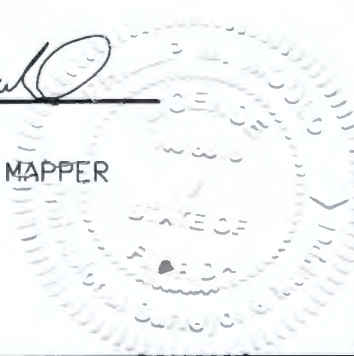
FROM THE NORTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA FOR A POINT OF COMMENCEMENT; THENCE RUN N.89°23'00"W. ALONG THE NORTH LINE OF SAID SECTION 36 FOR 669.25' FEET TO THE POINT OF BEGINNING; THENCE RUN S.00°02'45"W. FOR 429.03 FEET; THENCE RUN N.89°23'00"W. FOR 334.59 FEET; THENCE RUN N.00°03'03"W. TO A POINT ALONG THE NORTH LINE OF SAID SECTION 36 FOR 429.03 FEET; THENCE RUN S.89°23'00"E. ALONG THE NORTH LINE OF SAID SECTION 36 TO THE NORTHEAST CORNER THEREOF FOR 334.63 FEET, TO THE POINT OF BEGINNING. CONTAINING: 143,547.58 SQUARE FEET, OR 3.30 ACRES, MORE OR LESS.

CERTIFIED TO:
CAPE CORAL, CITY OF



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
APRIL 7, 2021

SHEET 2 OF 2



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

SKETCH TO ACCOMPANY DESCRIPTION: "LAND USE AMENDMENT PARCEL"

A TRACT OR PARCEL OF LAND

LYING IN SECTION 36

TOWNSHIP 43 SOUTH, RANGE 22 EAST
LEE COUNTY, FLORIDA

SKETCH NOTES:

1. BASIS OF BEARINGS SHOWN HEREDN TAKEN FROM THE NORTH LINE OF SECTION 36-44-22 AS BEING "ASSUMED" AS S.89°23'00"E.
2. FIELD NOTES IN SECTION 36-44-22.
3. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREDN. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
4. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
5. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
6. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2 x 14, (LEGAL) 120 SCALE DRAWING.

BLOCK 5281
CAPE CORAL UNIT 82
PLAT BOOK 24, PAGES 113-126

UNPLATTED LANDS
STRAP# 36-43-22-C2-00003.0020

STRAP# 36-43-22-C2-00003.0010

S.89°23'00"E. 334.63'

STRAP#
36-43-22-C2-00003.00A0

STRAP# 36-43-22-C2-00003.0000

LAND USE
AMENDMENT
PARCEL

N.89°23'00"W. 334.59'

N. RIGHT OF WAY LINE

KISMET PARKWAY (WEST)

N.89°23'00"W. 669.25'

N. LINE SECTION 36-44-22

P.O.B.

S. RIGHT OF WAY LINE

P.O.C.
N.E. CORNER
SECTION 36-43-22

COMMERCIAL PARCEL

STRAP# 36-43-22-C2-00004.0000

25-43-22

30-43-23

OLD BURNT STORE ROAD

EAST RIGHT OF WAY

WEST
RIGHT OF WAY

E. LINE SECTION 36-43-22
V. LINE SECTION 31-43-23

WEST
RIGHT OF WAY

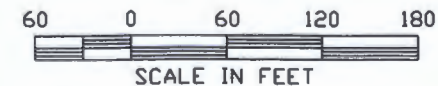
LEGEND:

P.O.B. POINT OF BEGINNING

BLOCK 5281 CAPE CORAL UNIT 82 PLAT BOOK 24, PAGES 113-126

SEE EXHIBIT "C" FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

NOT A BOUNDARY SURVEY





KISMET SKETCH

SHEET 1 OF 2

PLANNING DIVISION STAFF REPORT
LU21-0006
September 9, 2021

PROPERTY ADDRESSES 4140 Kismet Parkway 4120 Kismet Parkway	APPLICANTS/PROPERTY OWNERS Bill Keenan Alma and Ralph Santillo
---	---

SUMMARY OF REQUEST The applicants request a future land use map amendment from the Single-Family/Multi-Family (SM) future land use designation to the Commercial Activity Center (CAC) future land use designation. The site is two parcels consisting of 3.3 acres.	 <p>CITY OF CAPE CORAL Department of Community Development Planning Division AERIAL MAP CASE NO. LU21-0006 LEGEND  SUBJECT PARCELS</p>
--	---

MAP SOURCE

STAFF RECOMMENDATION: Approval

Positive Aspects of Application:	The amendment would increase the amount of commercial land within the City. The site has frontage from a collector street and very low amount of nearby residential development.
Negative Aspects of Application:	Old Burnt Store Road and Kismet Parkway intersection are both only developed with two lanes. Off-site improvements would be needed in future.
Mitigating Factors:	Commercial Activity Center future land use should integrate well with surrounding areas.

SITE INFORMATION

Location: 4140 and 4120 Kismet Parkway
Northwestern quadrant of Cape Coral – two unplatted parcels
Southwestern corner of Old Burnt Store Road and Kismet Parkway intersection

STRAP Number: 36-43-22-C2-00003.0000 and 36-43-22-C2-00003.00A0

Site Area: 3.3 acres

Site:	Future Land Use	Zoning
Current:	Single-Family/Multi-Family (SM)	Agricultural (A)
Proposed:	Commercial Activity Center (CAC)	N/A
	Surrounding Future Land Use	Surrounding Zoning
North:	SM	Single-Family Residential
South:	CAC	A
East:	CAC	A
West:	CAC	A

Urban Service

Area: Reserve

City Water/Sewer: No

Type of

Access Road: The site has frontage on Old Burnt Store Road and Kismet Parkway, which are a collector roads.

Soil Types and Limitations for Development:

Map Unit		Limitations	
		Dwellings without basements	Small commercial buildings
28	Immokalee Sand	Moderate (wetness)	Moderate (wetness)
26	Pineda Fine Sand	Moderate (wetness)	Moderate (wetness)

The soil in the area presents moderate limitations for dwellings and small commercial buildings. These limitations are typically overcome by using various engineering solutions, such as importing fill. The soil type, therefore, may not present an obstacle to any proposed amendment. However, special feasibility studies may be required at the development stage of the property.

Drainage: Must comply with South Florida Water Management District and the City of Cape Coral Engineering Design Standards.

Natural Resources: The site consists of undeveloped land. The applicant has submitted a map that shows approximately 3.43 acres of potential wetlands or hydric soil. The

potential wetland area is near the frontage along Burnt Store Road. Future development would likely impact these wetlands and would require permitting through the Army Corp of Engineers (ACOE) and the South Florida Water Management District (SFWMD).

Flora & Fauna Habitat: Prior to any permit for development being issued, an environmental survey must be undertaken, and mitigation performed to minimize the impacts of development, if any, on the protected species habitat.

FINDINGS OF FACT

The site is two parcels totaling 3.3 acres northwestern Cape Coral. The site is unplatted and is at the southwestern corner of Old Burnt Store Road and Kismet Parkway. One parcel is developed with a single-family home and the other parcel is undeveloped. The adjacent parcels to the south, east, and west are undeveloped and there are scattered single-family homes to the north across Kismet Parkway.

Upon adoption of the Comprehensive Plan in 1989, the site was given a future land use designation of Single-Family/Multi-Family (SM) and zoning designation of Agricultural (A). The parcels to the south, east, and west have Commercial Activity Center (CAC) future land use designations and A zoning designations. Those parcels were given the CAC future land use designation in 2019.

The applicant is seeking the future land amendment from Single-Family/Multi-Family (SM) to Commercial Activity Center (CAC) to eliminate an enclave of the SM future land use designation. The applicant states in their Letter of Intent that the request will align the site's future land use designation with the parcels to the east, west, and south.

ANALYSIS

Cape Coral Comprehensive Plan – Chapter 4, Future Land Use Element

Below are the descriptions of the proposed future land use designation for the site. The site currently has a future land use designation of Single-Family/Multi-Family (SM). The applicant is requesting a future land use map amendment to the Commercial Activity Center (CAC).

Staffs analysis will focus on whether or not the site is appropriate for the proposed land use based upon various policies in the Future Land Use element.

Policy 1.15

Single-Family/Multi-Family (SM)

The densities and intensities of use for this category, which is exclusively within the Urban Services Reserve Area, are 4.4 dwelling units per acre for single-family residential uses, 6 units per acre for multi-family residential uses on sites less than 3 acres. Multi-family residential uses for properties between 3 and 19.99 acres have a maximum density of 16 units per acre. Multi-family residential uses for properties greater or equal to 20 acres have a density of 25 dwelling units per acre.

Staff Response: The site is within the Urban Services Reserve and is 3.3 acres, therefore, the site would be allowed to develop with a maximum of 14 single-family homes or 52 multi-family units.

Commercial Activity Center (CAC)

The purpose of this future land use classification is to promote non-residential and mixed-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral in areas where a mix of uses may be developed. The Commercial Activity Center classification is a mixed-use classification designed to minimize the need for vehicle trips through the development of both residential and non-residential uses in a single project. Furthermore, the purpose of the Commercial Activity Center is to integrate all uses through landscape, site, and architectural design standards. In addition, the Commercial Activity Center land use classification is intended to provide locations that offer employment opportunities and daily goods and services to the local community and, in some instances, attract patrons from the region. Commercial Activity Centers are intended to be pedestrian friendly and interconnected with adjacent projects – whether residential or non-residential.

Pre-Existing Single-Family Residences Allowed

It is the desire of the City of Cape Coral to protect the rights of owners of single-family homes located within a Commercial Activity Center (CAC), which homes had either:

- a) Been lawfully constructed, or had applied for or received a building permit at their current locations prior to the designation of the subject as part of a CAC future land use classification; or,*
- b) Been lawfully constructed, or had applied for or received a building permit at their current locations under a former CAC future land use classification.*

*In this classification single family residences that meet the criteria stated above may continue to be maintained, remodeled, expanded, or rebuilt, and that the owners of such properties may continue to enjoy all of the rights, privileges and responsibilities of home ownership, including the ability to sell or rent their homes to other parties. In and of themselves, pre-existing single-family residences do not necessarily constitute **Free-Standing Residential** development, unless they otherwise meet the criteria for such development, as discussed under **Use Area Allocations**, below. If pre-existing single-family residences, as defined in this section, are included as part of a larger approved development project, the pre-existing status of the residences is lost, and such residences become subject to the City Land Development Code regarding non-conforming structures.*

The City has adopted the Neighborhood Commercial (NC) zoning district as consistent with the Commercial Activity Center Future Land Use Classification. Development standards in accordance with the Neighborhood Commercial zoning district are as follows:

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units 16 d.u./acre	25%-80% 12 d.u./acre or 75 units 16 d.u./acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre or 50 units 16 d.u./acre 2.0	0-100% 12 d.u./acre or 75 units 16 d.u./acre 2.0
Build-to / Front Setback	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Side Setback	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6

Additional zoning districts may be developed in the future to implement this land use initiative.

Staff Response: Based upon the size of the site – 3.3 acres – the maximum non-residential development allowed would be 287,496 sq. ft. and the maximum number of dwelling units would be 52 units. This scale of development would only be allowed in a mixed-used development. If the site was not developed with vertical mixed-use, the maximum non-residential square footage would be 143,748 and the maximum number of dwelling units would be 44 units.

Policy 1.13

This policy aims to promote commercial future land use designations and commercial development along commercial nodes. Commercial nodes are defined as “a compact concentration of commercial land within a relatively small area”. Ideal commercial nodes are located around or in the vicinity of intersection of four or six-lane divided parkways or boulevards. The policy also provides further details on the shape and size of parcels at commercial nodes.

Response: The site is near the intersection of two collector streets – Old Burnt Store Road and Kismet Parkway. In different areas of Cape Coral, both of the streets are widened to four lanes, however, the streets are only two lanes at the site. The properties at the direct intersection of Old Burnt Store Road and Kismet Parkway have CAC future land use designation and the site is adjacent to the those

properties. Policy 1.13 allows for commercial nodes to extend out from the intersection if commercial future land use or zoning extends out from the intersection. The properties at this commercial node have the CAC future land use designation, therefore, staff finds that the site is part of an existing commercial node.

Policy 1.14:

The City of Cape Coral's commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Within this broad, general context, consideration of properties proposed for conversion to a commercial future land use shall be based upon the following commercial siting guidelines:

Major Intersection

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a "new" commercial property (a commercial property not abutting any existing commercial properties) or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties (see below: Integration).

Response: The site is approximately 640 feet away from a major intersection (Old Burnt Store Road and Kismet Parkway), however, according to the guideline above, the site represents an extension of commercial node due to the CAC designation extending out from the intersection. There is no existing commercial development in any direction from the intersection. Planning staff finds that the site is at a major intersection and the proposed future land use designation and is consistent with this commercial siting guideline.

Adequate Depth

Ideally, a commercial property should extend not only along the adjacent collector or arterial roadway, but also should extend inward with adequate depth to accommodate the necessary parking, buffering, retention, and open area for the future commercial development. In Cape Coral, most City blocks are rows of back-to-back lots approximately 250 feet deep. Ideally, then, adequate depth is achieved if any number of contiguous properties, owned by the same landowner (see Ownership Pattern, below) occupy the entire 250 feet of depth. Adequate depth would not be achieved if the subject properties have different owners or if the contiguous properties are not reasonably compact (see below).

Response: The site has an unusual configuration, as the larger parcel “wraps around” the smaller parcel, however, the site does have a depth of over 400 feet. The preferred depth of a site is 250 feet to allow for parking, buffering, retention, and open space. Planning staff finds that because the site has a depth greater than 250 feet, the proposed future land use designation is partially consistent with this commercial siting guideline.

Compactness

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

Response: As discussed previously, the two parcels that make up the site have an unusual configuration, however, the site is rectangular in shape. The shape of the parcel should allow for a quality commercial development along a major intersection, therefore, Planning staff finds that the proposed future land use designation is consistent with this commercial siting guideline.

Integration

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

Response: There is no existing commercial development adjacent to the site or in the surrounding area. The lack of commercial development is due to the lack of existing utilities and few commercially entitled properties. There is opportunity for commercial linkage due to adjacent parcels that have the CAC future land use designation. Additionally, the nearby adjacent properties share ownership with one of the parcels that make up the site. Planning Staff finds that while there is no existing opportunity for integration, several factors make the future possibility of commercial integration promising, therefore, Planning staff finds that the future land use of the site is consistent with this commercial siting guideline.

Assembly

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial developments that might serve the City as shopping and/or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly

of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product. Properties proposed for conversion to a commercial future land use, where such properties would represent an expansion of an existing commercial area may be considered "assembled," for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

Response: The site is two parcels that with separate owners. There are two larger parcels that are to the south and the east that are owned by one of the applicants. Both of these adjacent parcels have CAC future land use designation. Based upon the shared ownership, it is likely that the site would be assembled with the two adjacent parcels in the future. This assemblage would be over 15 acres which wells exceed the preferred minimum three acres. The size and ownership of the site should discourage strip development, therefore, Planning staff finds that the proposed future land use designation is consistent with this commercial siting guideline.

Intrusion

"Intrusion," as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no hard and fast guidelines for determining when a proposed commercial use would be intrusive to surrounding development. However, expansions of existing commercial areas are generally considered less intrusive than the establishment of new commercial areas. Commercial areas may be considered less intrusive to adjacent multi-family development than to adjacent single family development. Commercial development that is separated from a residential area by a street, canal, a vegetative buffer, or other geographic features, may be considered less intrusive than commercial development that directly abuts a residential area. The degree of compactness (see above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties (properties proposed for conversion to a commercial future land use classification, which do not abut existing commercial properties) are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While intrusion is subjective and depends on many factors, a rule of thumb is that the proposed commercial property would not likely be intrusive if adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

Response: The site is two parcels, and one parcel is developed with a single-family home. There are no adjacent single-family homes, however, the immediate surrounding area has six existing single-family homes. Planning staff also finds that the existing residential homes are separated from the site by other parcels that have the CAC future land use designation. Planning staff finds that the proposed future land use designation could introduce commercial or mixed-use development in this area, however, is partially consistent with this commercial siting guideline.

Access

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Use and Development Regulations refer to these as “dedicated City parking areas.” These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City’s interest to promote conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant’s agreement to own and manage the site.

b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

Response: The site is not near a City-owned parking lot and does not have frontage on a roadway with an access management plan. However, the site does have frontage and potential access from a collector road. Planning staff finds that the site has the preferred ideal access from a collector street, however, the site is not near a City-owned parking lot, therefore, the sites proposed future land use designation is partially consistent with this commercial siting guideline.

Ownership Pattern

An ideal commercial node is a cohesive, compact, interrelated network of commercial properties. Properties proposed for conversion to a commercial future land use, which properties consist of multiple parcels, or groups of parcels, under multiple ownership are unlikely to develop as a true “commercial node.” Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development (see Policy 1.13, above). Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

Response: As discussed earlier, the site is two parcels with different ownership. While, the site does not have common ownership, there are two other parcels that are under the same ownership as one of the parcels. This common ownership pattern should result in a development that has substantial size to provide adequate parking, buffering, and access. Planning staff finds that the proposed future land use designation is consistent with this commercial siting guideline.

Summary

Policy 1.14 contains eight commercial siting guidelines. Overall, the site is consistent with six guidelines (major intersection, compactness, assembly, integration, adequate depth and ownership pattern); partially consistent with two guidelines (access and intrusion). **Policy 1.14** does not require a proposed amendment to meet a certain threshold of guidelines for approval or denial, rather the guidelines are meant to provide a compatibility analysis.

ECONOMIC DEVELOPMENT MASTER PLAN ANALYSIS

The amendment is directly supported with the City Economic Development Master Plan. The site is identified as an Economic Opportunity Area. The City Council adopted the Economic Development Master Plan in 2018. Below is the excerpt from the Economic Development Master Plan that discusses the site.


NORTHWEST 4

Location: West of Old Burnt Store Road and north of Kismet Parkway

Total area: 24.5 acres

Strengths: Comprised of several large, unplatted parcels at intersection of two, four-lane roadways. Has sufficient size and depth.

Site Considerations: Lack of centralized utilities. Full utilization of area would require consolidation of properties. Would require road widening for Kismet Parkway and Old Burnt Store Road. No commercial entitlements.



REGIONAL PLAN ANALYSIS

Southwest Florida Regional Planning Council's (SWFRPC) Strategic Regional Policy Plan (SRPP):

This proposed CAC future land use designation is partially consistent with the SRPP Strategy that prioritizes locating commercial development along transportation corridors.

Lee County Metropolitan Planning Organization's (MPO) 2040 Long Range Transportation Plan:

Old Burnt Store Road or Kismet Parkway has not been identified for improvements or widening in the MPO's 2040 Long Range Transportation Plan.

IMPACT ASSESSMENT SUMMARY

The following calculations summarize approximate conditions for each municipal service analyzed. A more complete analysis of each service is included in the text that follows the calculations. To determine the impact assessment, staff utilized the adopted future land use and zoning designations to determine the existing impacts. Therefore, the impacts discussed in this assessment do not necessarily reflect the actual number of dwelling units, population, etc.

The existing land use classification for the site is Single-Family/Multi-Family (SM). This future land use classification allows single-family or multi-family development. The zoning of the site is Agricultural (A) but this assessment will consider a future rezone to Residential Multi-Family Low (RML). The site is proposed for the CAC future land use designation. The applicant has also filed a rezone to amend the site's zoning to Neighborhood Commercial (NC) which is the only zoning district compatible with the CAC future land use designation. The maximum intensity permitted under the CAC future land use classification is a floor-to-area ratio (FAR) of 1.00. Historical development in Cape Coral has occurred at an FAR of 0.25. For purposes of this impact assessment summary, staff will assume an FAR of 0.5. This FAR would result in the site developing with approximately 71,874 sq. ft. of commercial space. The CAC also allows multi-residential development at a density of 16 units per acre, however, the site can only develop multi-family on 85% of the site. The maximum units based on the maximum allowable percentage is 44 units. Staff does note that the site could develop as a vertical mixed-use and that would allow an FAR of 2.0 and a maximum of 16 units per acre. Staff finds that based on historical development patterns, those maximums are not likely to be developed.

Commercial Square Footage

Existing:	N/A
Proposed:	71,874 sq. ft.
Net Change:	+71,874 sq. ft.

Dwelling Units

Existing:	14 single-family homes or 52 multi-family units
Proposed:	44 multi-family units
Net Change:	+14 single-family homes or – 8 multi-family units

Population*

Existing:	132
Proposed:	111
Net Change:	-21

* 2.54 persons/household = avg. household size; 2010 Census

Water Use

Existing:	8,800 gal/day at 200 gal/dwelling unit/day
Proposed:	21,562 gal/day at 0.3 gal/sq. ft./day
Net Change:	+12,762 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Sewage

Existing:	8,800 gal/day at 0.3 gal/sq. ft./day
Proposed:	21,562 gal/day at 0.3 gal/sq. ft./day
Net Change:	+12,762 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Solid Waste

Existing Generation:	625 lbs./day at 4.74 lbs/person/day
Proposed:	9,744 lbs./day at 0.136 lbs/sq ft./day
Net Change:	+9,149 lbs./day
Facility Capacity:	1,836 tons/day
Existing Demand:	1,384 tons/day
Capacity Available:	Yes

Traffic/Daily Trips

Existing Generation:	27 AM trips/hour and 32 PM trips/hour
Proposed:	110 AM trips/hour and 106 PM trips/hour ¹
Net Change:	+83 AM hour trips and +74 PM hour trips
Facility Capacity:	Access from a collector street
Capacity Available:	Yes

¹ Using ITE Generation Rate for General Office

Hurricane Evacuation

The site is in the Storm Surge A/Evacuation Zone A. The amendment will not result in residential units so there will be no impact on evacuation times.

Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. Additional park facilities will not be required due to no additional residential units.

Protected Species

The City requires an environmental survey prior to the issuance of any land clearing/site clearing or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, State or Federal protective or mitigation may be required.

School Impacts

There will be an increase in the number of dwelling units because of the proposed future land use map amendment request and an increase in the projected number of students. The increase in dwelling units will result in an increase upon the demand on school facilities. Due to the current designation of Pine Island Road District, there are no existing residential units for this analysis.

Existing dwelling units: 52 dwelling units

Existing students: 5

Proposed dwelling units: 48 dwelling unit

Proposed students: 4

Change: -1 students

PUBLIC NOTIFICATION

Publication: A display ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners to amend the land use of 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 Planning and Zoning Commission. Following the public hearing before the Commission, the display 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. The display ads will not be published in the legal section of the *News-Press*.

Written notice: Property owners located within 500 feet from the property line of the land which the petitioners request to vacate 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 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 land use amendment request.

RECOMMENDATION

Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, the proposed amendment to Commercial Activity Center (CAC) is consistent with the Comprehensive Plan and compatible with the surrounding area, therefore, Planning Division staff recommends **approval** of the proposed small-scale Future Land Use Map amendment request.

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



500 FOOT NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: LU21-0006

REQUEST: The applicants request a future land use map amendment from the Single-Family/Multi-Family (SM) future land use designation to the Commercial Activity Center (CAC) future land use designation. The site is two parcels consisting of 3.3 acres.

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

UPCOMING PUBLIC HEARING: Notice is hereby given that the Cape Coral Planning and Zoning Commission will hold a public hearing at 9:00 A.M. on September 1st, 2021 on the above-mentioned case. The public hearing will be held in the 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 Planning and Zoning Commission 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 five days prior to the hearing. The file can be reviewed at the Community Development Department, 1015 Cultural Park Blvd., Cape Coral, FL.

After Planning and Zoning Commission 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 if 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, upon request at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

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.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Office 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 1-800-955-8770 (v) for assistance.

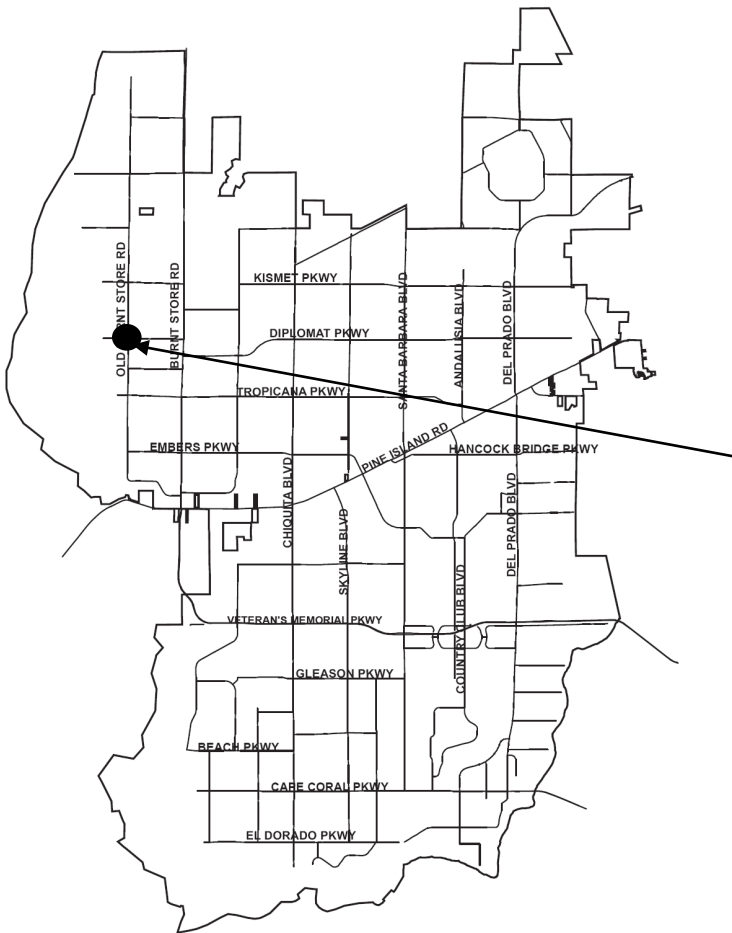
APPEALS: If a person decides to appeal any decision made by the Planning and Zoning Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings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

NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt **ORDINANCE 75-21 AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM SINGLE-FAMILY/MULTI-FAMILY (SM) TO COMMERCIAL ACTIVITY CENTER (CAC) LAND USE FOR PROPERTY DESCRIBED AS A TRACT OR PARCEL OF LAND LYING IN A PORTION OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 22 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED AT 4120 AND 4140 KISMET PARKWAY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.**

A public hearing on the ordinance will be held Wednesday, September 1st, 2021 at 9:00 a.m. at the City of Cape Coral, City Hall Chambers, 1015 Cultural Park Blvd., Cape Coral, Florida 33990. At this public hearing, the Planning and Zoning Commission will consider a recommendation to change the City's future land use map amendment request. Accordingly, members of the general public and real property owners in the community are invited to appear and speak at the public hearing. Written comments filed with the Director will also be entered into the record. A copy of the map and the proposed amendment under consideration will be available for inspection and will be provided to the public at cost at the City Clerk's office between 7:30 a.m. and 4:30 p.m., Monday through Friday excluding holidays. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that subject person 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. In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk no later than 4:00 p.m. on the day prior to the meeting.

Kimberly Bruns, CMC
City Clerk



Ordinance 75-21
LU21-0006

SINGLE-FAMILY/MULTI-FAMILY (SM) TO COMMERCIAL ACTIVITY CENTER (CAC) FOR PROPERTY NEAR THE INTERSECTION OF OLD BURNT STORE ROAD AND KISMET PARKWAY



NW 24TH TER

NW 41ST AVE

KISMET PKWY W



OLD BURNT STORE RD N

NW 22ND TER

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

CASE NO. LU21-0006

LEGEND
 **SUBJECT PARCELS**



0 50 100 150 200 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.

NW 24TH TER

NW 41ST AVE

TAURUS
CANAL

500' BOUNDARY

KISMET PKWY W

SUBJECT PARCELS

NW 42ND PL

NW 22ND TER





CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP

CASE NO. LU21-0006

LEGEND

-  SUBJECT PARCELS
-  500' BOUNDARY
-  A - Agricultural
-  R1- Single Family Residential



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0 50 100 150 200 Feet



NW 24TH TER

NW 41ST AVE

TAURUS
CANAL

500' BOUNDARY

KISMET PKWY W

SUBJECT PARCELS

NW 42ND PL

NW 22ND TER





CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT FUTURE LAND USE MAP

CASE NO. LU21-0006

LEGEND

-  SUBJECT PARCELS
-  500' BOUNDARY
-  SM- Single Family and Multi-Family
-  CAC- Commercial Activity Center



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0 50 100 150 200 Feet



NW 24TH TER

NW 41ST AVE

TAURUS
CANAL

500' BOUNDARY

KISMET PKWY W

SUBJECT PARCELS

NW 42ND PL

NW 22ND TER






CITY OF CAPE CORAL

Department of
Community Development
Planning Division

PROPOSED FUTURE LAND USE MAP

CASE NO. LU21-0006

LEGEND

-  PROPOSED FLU- C
-  SUBJECT PARCELS
-  500' BOUNDARY
-  SM- Single Family and Multi-Family
-  CAC- Commercial Activity Center



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



SKETCH TO ACCOMPANY DESCRIPTION
A TRACT OR PARCEL OF LAND
LYING IN SECTION 36
TOWNSHIP 43 SOUTH, RANGE 22 EAST
LEE COUNTY, FLORIDA

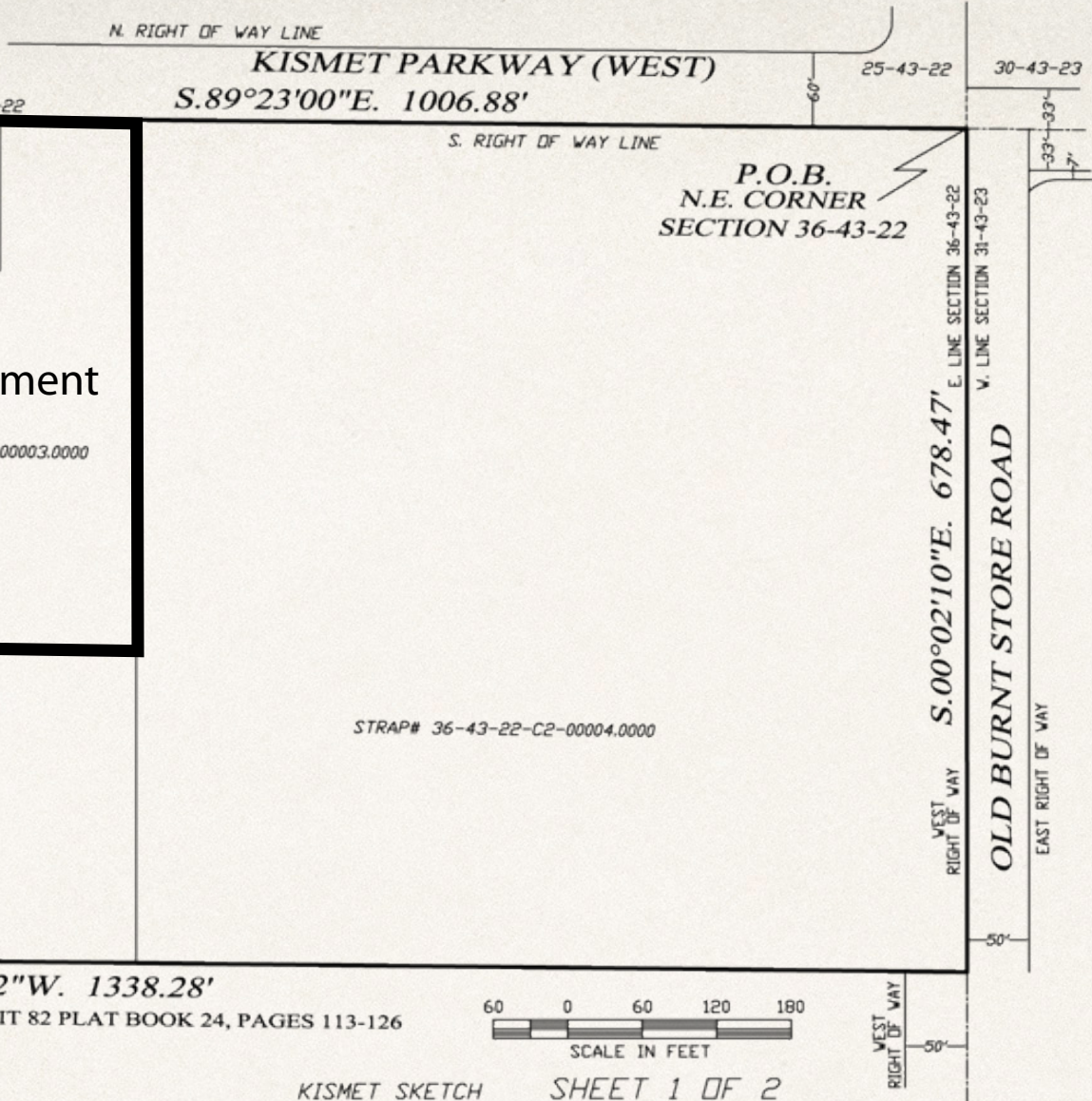
- SKETCH NOTES:**
1. BASIS OF BEARINGS SHOWN HEREDON TAKEN FROM THE NORTH LINE OF SECTION 36-44-22 AS BEING "ASSUMED"
 2. AS S.89°23'00"E.
 3. FIELD NOTES IN SECTION 36-44-22.
 4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREDON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
 5. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; SJ-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
 6. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
 7. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2 x 14, (LEGAL) 120 SCALE DRAWING.

BLOCK 5281
CAPE CORAL UNIT 82
PLAT BOOK 24, PAGES 113-126

UNPLATTED LANDS
STRAP# 36-43-22-C2-00003.0020

S.89°23'00"E. 334.60'
N.00°03'20"W.
249.20'
STRAP# 36-43-22-C2-00003.0010

STRAP# 36-43-22-C2-00003.00A0
Land Use
Map Amendment
STRAP# 36-43-22-C2-00003.0000



N.89°22'22"W. 1338.28'

BLOCK 5281 CAPE CORAL UNIT 82 PLAT BOOK 24, PAGES 113-126

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

The Old Burnt Store Rd./Kismet Prky. Small Scale Map Amendment

LU 21-0006 _ 36-43-22-C2-00003.00A0 and 36-43-22-C2-00003.0000

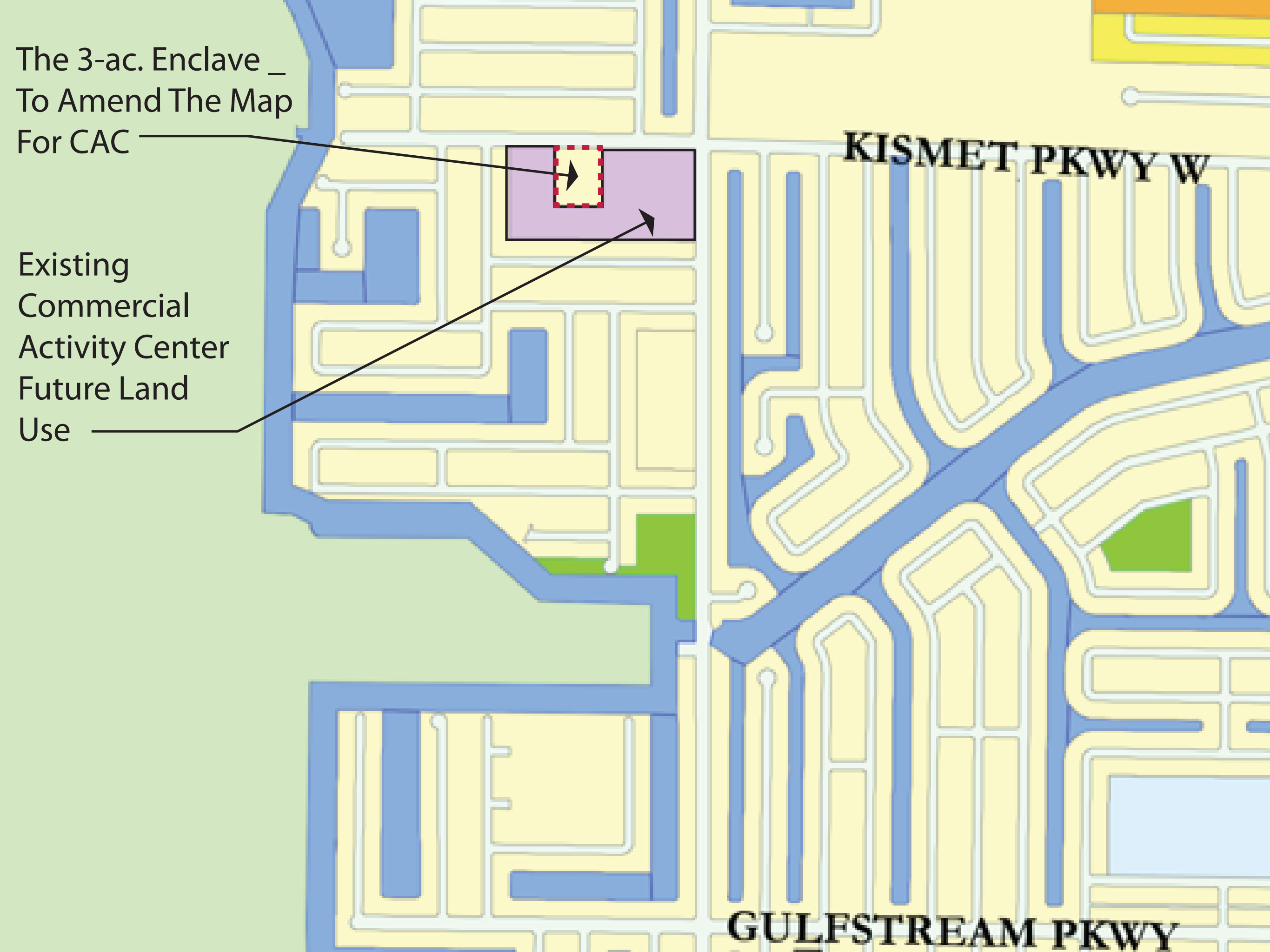
14 Sept. 2021

The 3-ac. Enclave _
To Amend The Map
For CAC

Existing
Commercial
Activity Center
Future Land
Use

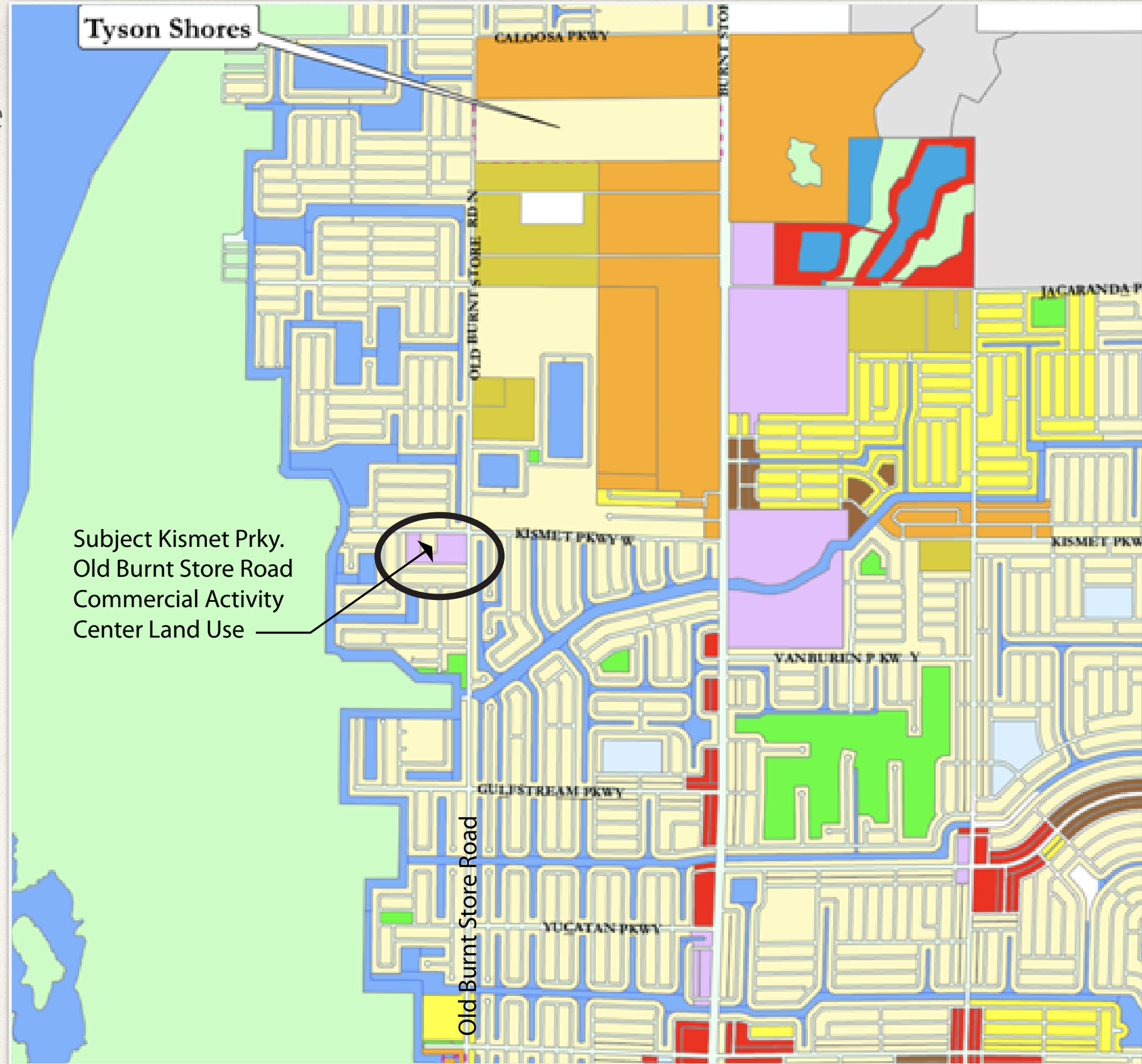
KISMET PKWY W

GULFSTREAM PKWY



Agree with Staff _
Approve to change the
Single-Family / Multi-
Family (SM) future
land use designation
to the Commercial
Activity Center (CAC)
for a 3.3 acre site.

- ❖ Amendment eliminates an
enclave of the SM future
land use designation within
the CAC. The request will
align the site's CAC future
land use designation with
the parcels to the east, west,
and south.



City Findings and Recommendations



STAFF _ “The proposed amendment to Commercial Activity Center (CAC) is consistent with the Comprehensive Plan and compatible with the surrounding area, therefore, Planning Division staff recommends approval of the proposed small-scale Future Land Use Map amendment request.”

Findings and Recommendations (cont.)

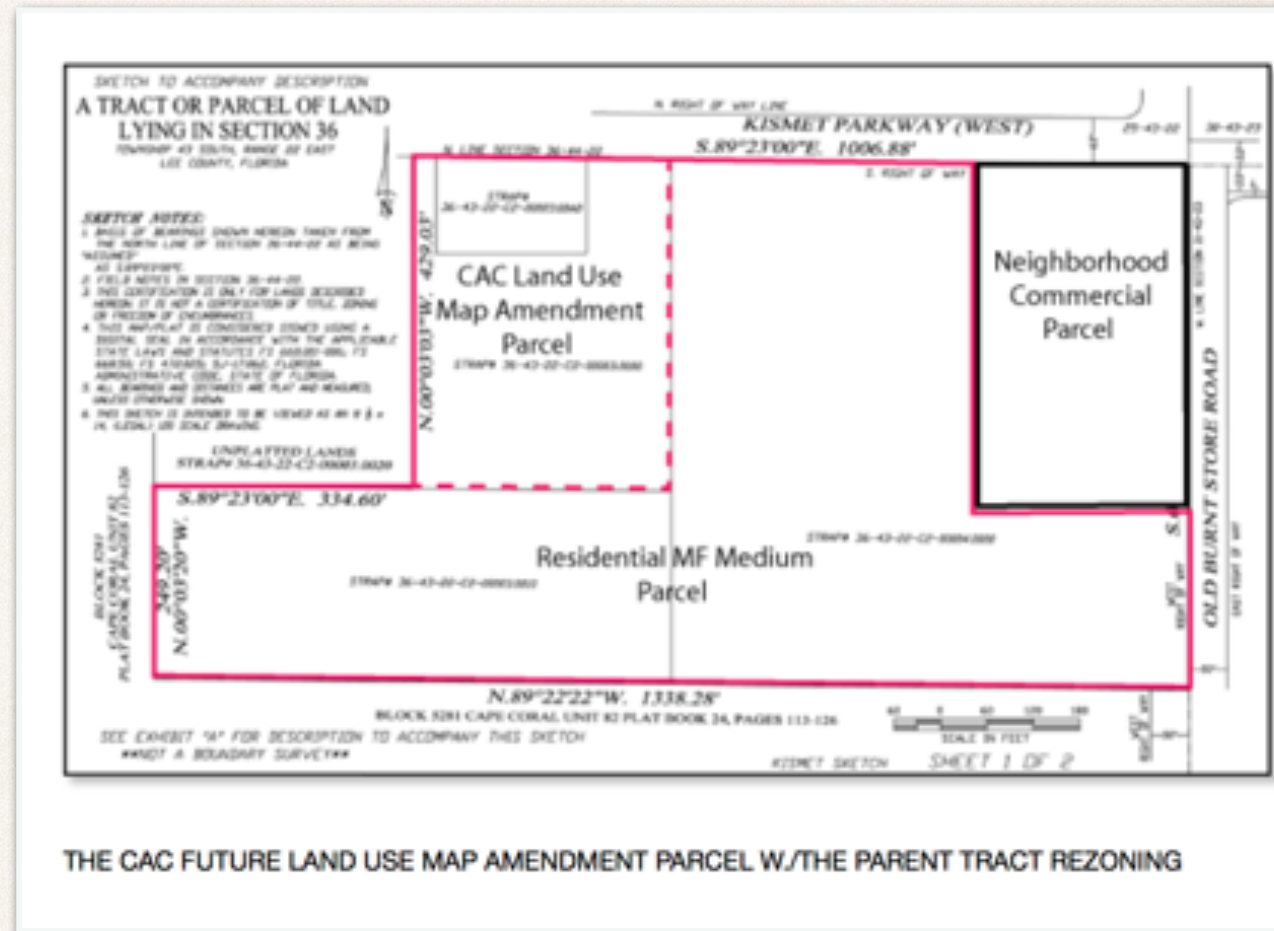
- ▶ The amendment increases the amount of commercial land within the City.
- ▶ The site has frontage from a collector street and very low amount of nearby residential development.
- ▶ Old Burnt Store Road and Kismet Parkway intersection are both two lanes
 - _ Off-site improvements will be needed.
- ▶ Commercial Activity Center future land use should integrate well with surrounding areas _ CAC goods and services reduce long vehicular trip-ends & protects traffic flow.
- ▶ Improved site with little to no environmental and residential impacts.



COMMERCIAL SITE LOCATION GUIDELINES &
COMPREHENSIVE PLAN CONSISTENCY

Comprehensive Plan Consistency

- ▶ Policy 1.13 _ Promote commercial future land use designations and commercial development along commercial nodes;
Consistent.
- ▶ Policy 1.14 Commercial Location Guidelines _ Site is at a major intersection;
Consistent



Site Has Adequate Depth & Compactness

Comprehensive Plan Consistency (cont.)

- ▶ Policy 1.14 Commercial Location Guidelines _ Compactness Staff Consistency
Finding; *Consistent*
- ▶ Policy 1.14 Commercial Location Guidelines _ Site Depth Staff Consistency
Finding; *Partially Consistent*
- ▶ Policy 1.14 Commercial Location Guidelines _ Integration Staff Consistency
Finding; *Consistent*
- ▶ Policy 1.14 Commercial Location Guidelines _ Assembly Staff Consistency
Finding; *Consistent*
- ▶ Policy 1.14 Commercial Location Guidelines _ Intrusion Staff Consistency
Finding; *Partially Consistent*

Comprehensive Plan Consistency (cont.)

- ▶ Policy 1.14 Commercial Location Guidelines _ Access Staff Consistency Finding; *Partially Consistent*
- ▶ Policy 1.14 Commercial Location Guidelines _ Ownership Pattern Staff Consistency Finding; *Consistent*
- ▶ FINDINGS - Summary - 6 Full Guideline Compliance & 2 Partial Guideline Compliance

Comprehensive Plan Consistency (cont.)

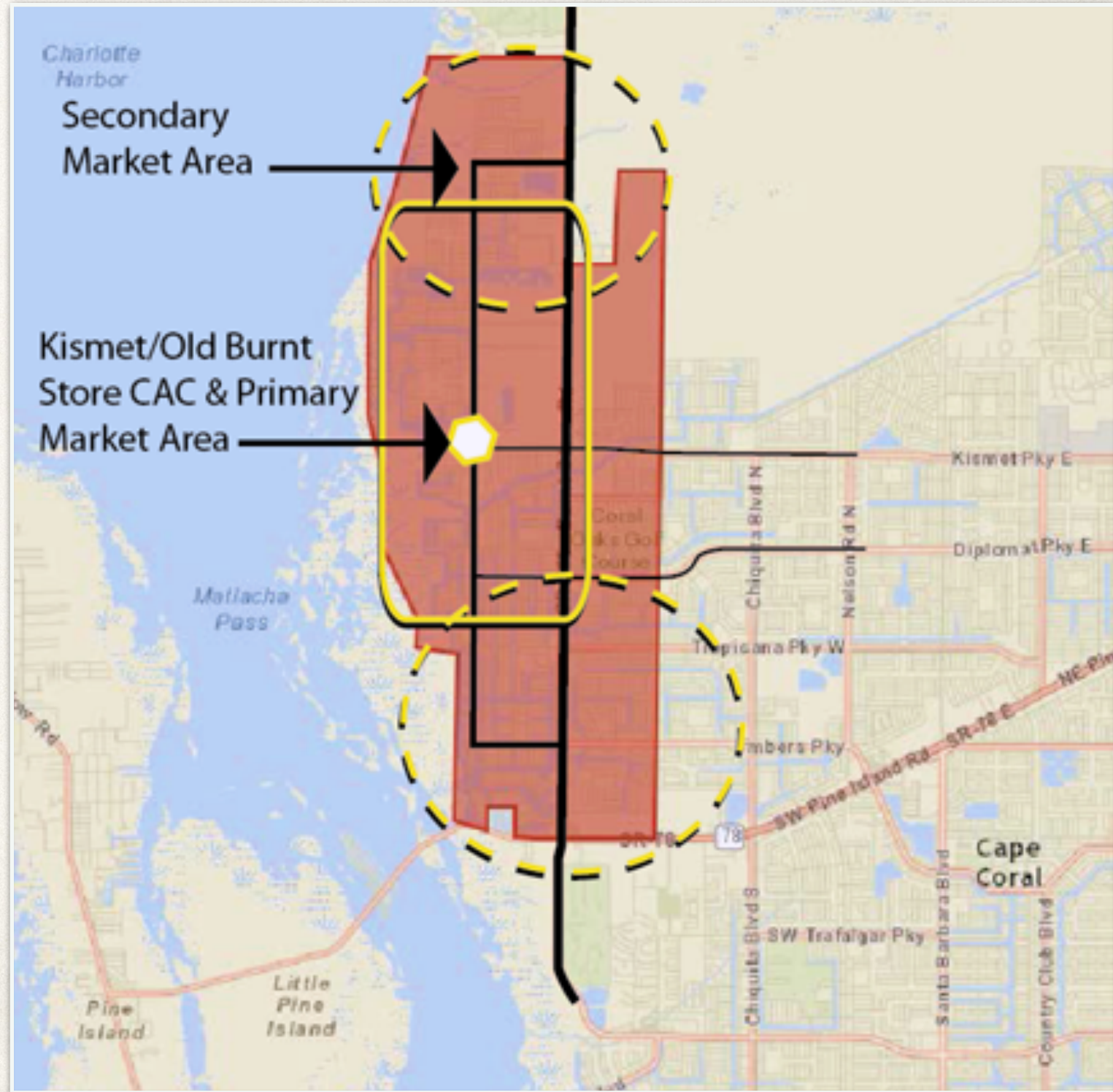
- ▶ Economic Development Plan
_The amendment is directly supported by the City's Economic Development Master Plan. The site is identified as an Economic Opportunity Area; *Consistent*



Partially consistent with the SRPP Strategy that prioritizes locating commercial development along transportation corridors

Comprehensive Plan Consistency (cont.)

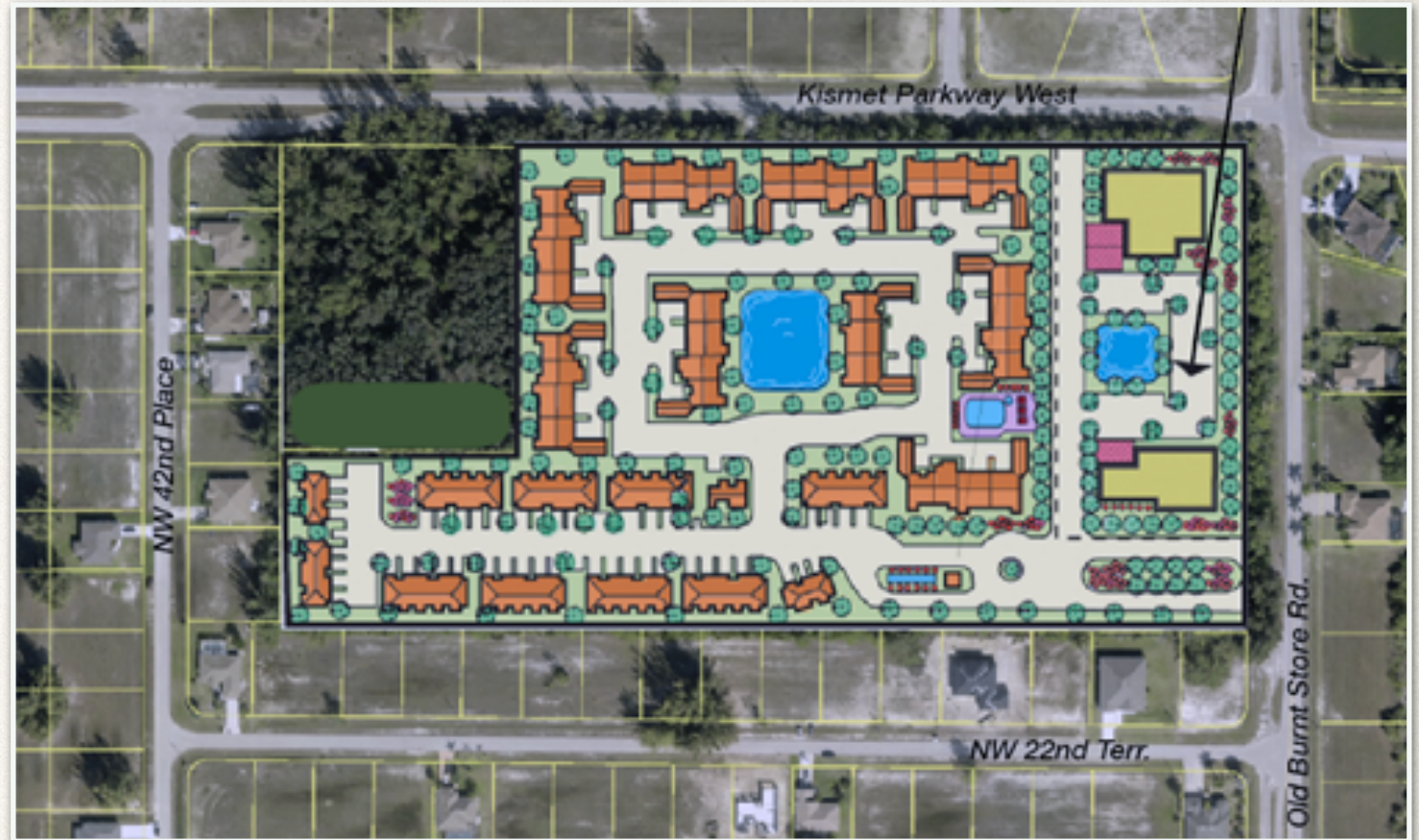
Centrally located market
area with compact
commercial development at
the intersection of Kismet
and Old Burnt Store Rd.



Comprehensive Plan Consistency (cont.)

- ▶ Policy 1.7 MF Housing Shortfall; *Consistent*
 - 1.) Proximity to major roadways.
 - 2.) Proximity to non-residential land uses.
 - 3.) Transitioning from commercial uses to less intense uses.

Comprehensive Plan Consistency (cont.)



- ▶ Policy 1.20 The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns; *Consistent*

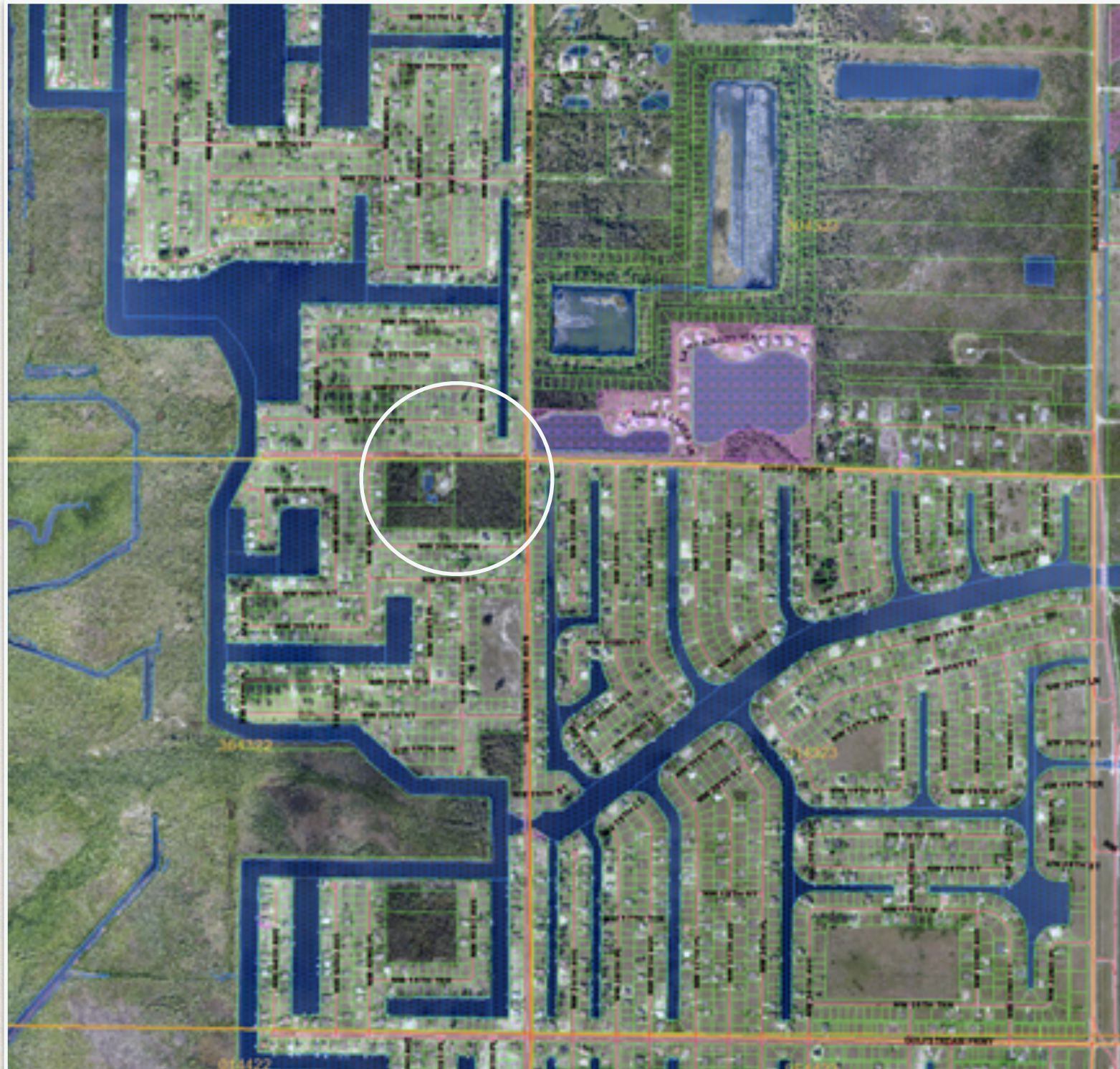
Comprehensive Plan

Consistency (cont.)

- ▶ Objective 3.0 Development of Quality Commercial Centers; *Consistent*
- ▶ Policy 3.1 The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns; *Consistent*

Comprehensive Plan Consistency (cont.)

- ▶ POLICY 3.2: The size, location and function of commercial areas shall be related and central to the population, market area and the transportation network system. The distribution and size of commercial areas shall be spatially located to meet neighborhood, community and regional needs and to reduce vehicle trip lengths. *Consistent*
- ▶ POLICY 3.3: Application of the commercial areas along and proximate to commercial corridors at key locations is intended to address the projected demand for commercial development. *Consistent*



Impact Analysis

- ▶ Commercial _ A + net change @ 71,874 sf
- ▶ Residential _ A + net 14 SF units or a net - 8 MF units
- ▶ Population _ A - net 21 persons
- ▶ Traffic _ A + 83 AM and a + 74 PM Pk. Hr. Trips
- ▶ Schools _ A - 1 Student Impact

Impact Analysis (cont.)

- ▶ Compatibility _ Staff Finding: “There are no adjacent single-family homes, however, the immediate surrounding area has six existing single-family homes. Planning staff also finds that the existing residential homes are separated from the site by other parcels that have the CAC future land use designation. Planning staff finds that the proposed future land use designation could introduce commercial or mixed-use development in this area, however, is partially consistent with this commercial siting guideline.” *Consistent*

Impact Analysis (cont.)

- ▶ Compatibility _ Previous Findings of MF to SF Compatibility
- ▶ The CAC map amendment & RMM and NC zoning do not permit industrial uses, agricultural uses, outdoor storage and display uses (construction, landscaping), animal kennels, drive-thru uses (fast food restaurant, pharmacy), vehicle-related commercial, and outdoor recreation uses.



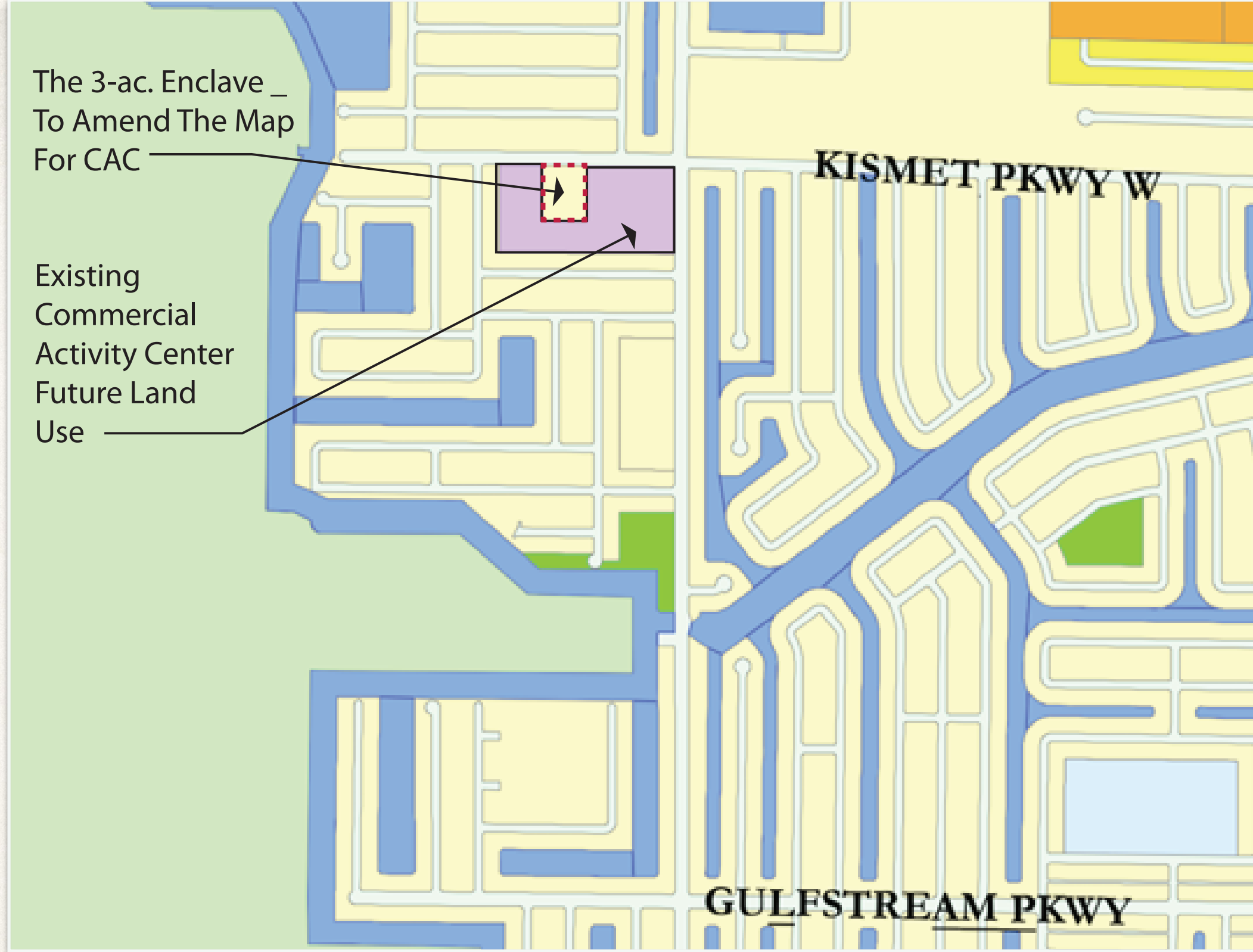
(1) SW 18th Place Looking East Towards A Type C Buffer & Landscape Berm
(2) Looking West Down SW 23rd. Street w/145-ft. +/- SF To MF Bldg. Separation

Midtown At Veterans Parkway _w./Adjacent SF



(1) Parking Lot Looking South
(3) Cayes Circle Looking North Towards Landscape Berm, 10 Trees Per 100 LF & DbL Hedge
(4) SF To MF Interface w/90-ft. +/- Bldg. to Bldg. Separation

Coralina At Pine Island Road _w./Adjacent SF



Thank you



Ordinance 75-21/LU21-0006

Cape Coral City Council



Ordinance 75-21 / LU21-0006

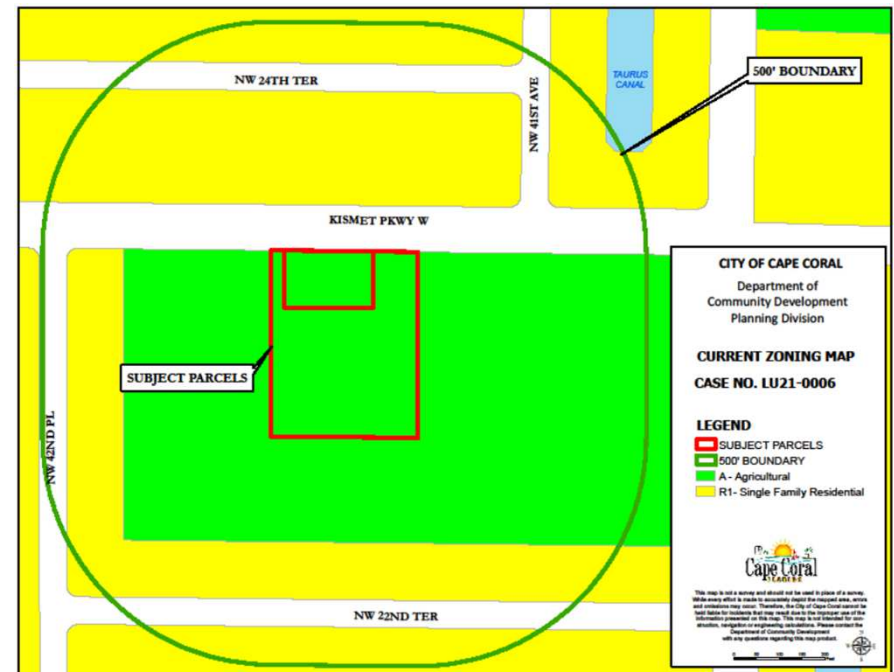
- **Applicant: Bill Keenan, Alma and Ralph Santillo**
- **Site Size: 3.3 acres**
- **Location: intersection of Old Burnt Store Road and Kismet Parkway**
- **Urban Services: Reserve**
- **Request: Future Land Use Map Amendment from Single-Family/Multi-Family (SM) to Commercial Activity Center (CAC).**

Ordinance 75-21 / Lu21-0006

Aerial Map

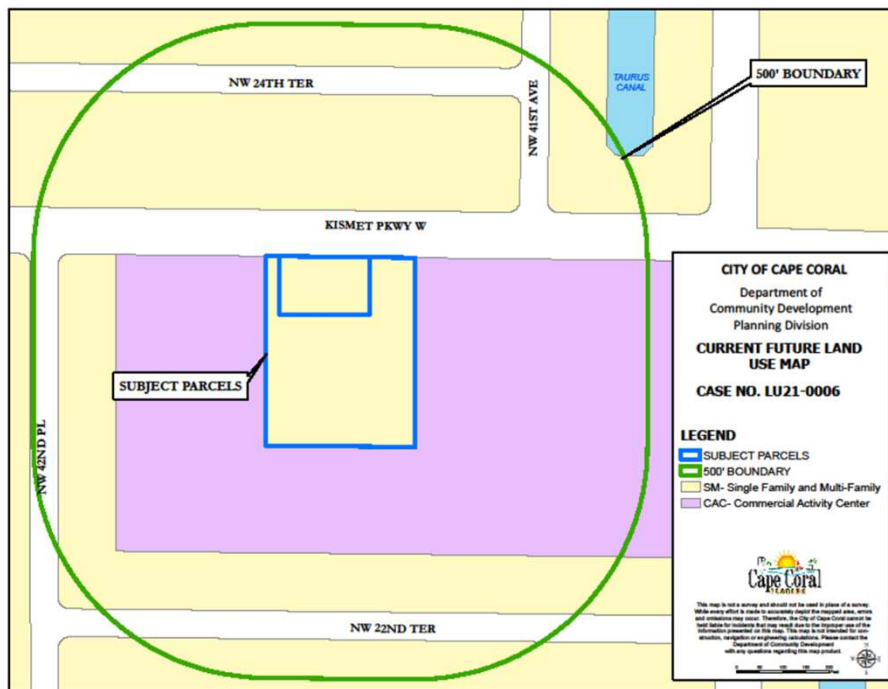


Zoning Map

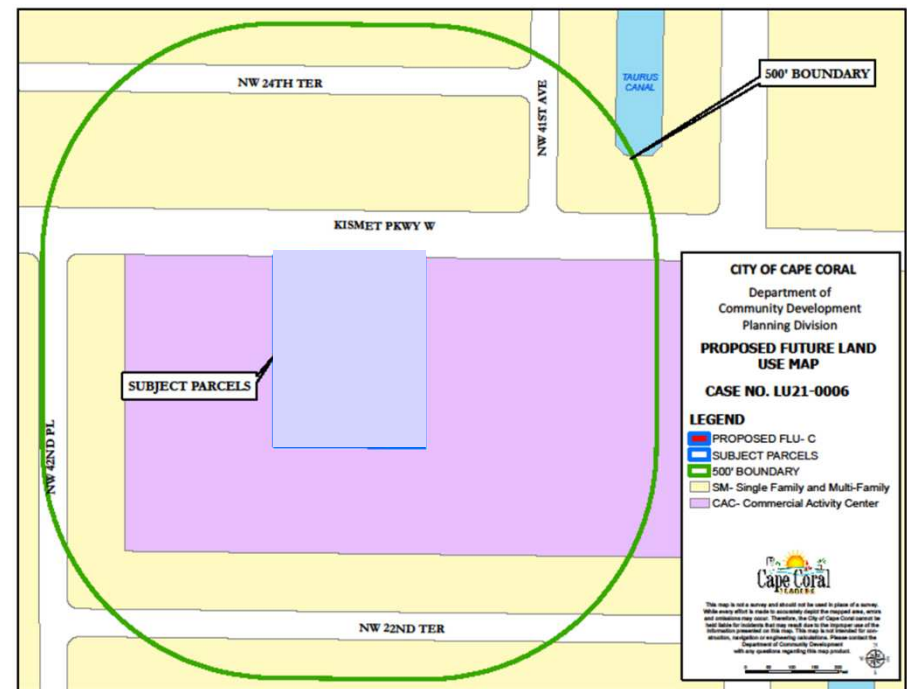


Ordinance 75-21 / lu21-0006

Current FLU – SM



Proposed FLU - SF



Ordinance 75-21 / lu21-0006

Findings of Fact

- 2 undeveloped parcels
- Near intersection of Old Burnt Store Rd and Kismet Parkway
- 1 parcel is developed with single-family home / other parcel is undeveloped
- 1 applicant owns 2 surrounding parcels with CAC future land use
- No utilities available to site



ANALYSIS – COMPREHENSIVE PLAN – CHAPTER 4 FUTURE LAND USE ELEMENT

Policy 1.15 – Single-Family/Multi-Family Residential

Densities not to exceed 16 units per acre

3.3 acres x 16 d.u.'s/acre = 52 multi-family unit

Future development would require a rezone or a Planned Unit Development (PUD)



ANALYSIS – COMPREHENSIVE PLAN – CHAPTER 4 FUTURE LAND USE ELEMENT

_____ Policy 1.15 – Commercial Activity Center

Mixed-Use designation

Maximum FAR of 1.0 or 2.0

Maximum commercial – 143,748 / 287,496 sq. ft.

Max density – 44 or 52 multi-family units

**Future development would require a rezone or a Planned
Unit Development (PUD)**

ANALYSIS – COMPREHENSIVE PLAN – CHAPTER 4 FUTURE LAND USE ELEMENT

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	15%-100% 1.0	20%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre or 50 units 16 d.u./acre	25%-80% 12 d.u./acre or 75 units 16 d.u./acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre or 50 units 16 d.u./acre 2.0	0-100% 12 d.u./acre or 75 units 16 d.u./acre 2.0
Build-to Setback / Front	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Setback Side	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6



ANALYSIS – COMPREHENSIVE PLAN – CHAPTER 4 FUTURE LAND USE ELEMENT

Policy 1.14 – Commercial Siting Guidelines

- **8 standards**
- **Site is consistent with major intersection / compactness / assembly / integration / adequate depth / ownership pattern**
- **Site is partially consistent with access / intrusion**



ANALYSIS – ECONOMIC DEVELOPMENT MASTER PLAN

- **The site is listed in the Economic Development Master Plan as part of a “Economic Opportunity Site”**
- **Site is part of larger collection of sites (24 acres) that includes 2 other parcels owned by 1 of the applicants**
- **EDMP states that site has sufficient size and access for development but lacks utilities and may need road widening**

Ordinance 75-21 / lu21-0006

Recommendation

Planning staff recommends approval.

Planning and Zoning Commission recommended approval by a vote of 7-0.

Correspondence

1 letters of denial

3 informational emails

THANK YOU
any questions?



Analysis

Comprehensive Plan Policy 1.13

- **Site is east of Del Prado Blvd and Kismet Pkwy intersection which is a commercial node**
- **CP future land use is at direct intersection of those 2 roads**
- **Site can be considered extension of commercial node**

Analysis

Comprehensive Plan Policy 1.14

- **Site is consistent with 2 guidelines – compactness, major intersection**
- **Site is not consistent with 6 guidelines – assembly, ownership pattern, intrusion, adequate depth, access, and integration**
- **This policy does not state that a certain of guidelines must be met for commercial land use designation**

Analysis – Economic Development Master Plan

- **The amendment is neither supported or in conflict with Master Plan**
- **The site is not in an economic opportunity area, nor will the amendment**



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	B.(2)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 78-21 (LU21-0011) Set Public Hearing for January 19, 2022

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by changing the Future Land Use Map from Commercial/Professional (CP) to Multi-Family Residential (MF) land use for property described as Lots 1-6, 9, 10, and 15-20, Block 1006, Unit 24, Cape Coral Subdivision; property located at 1342-1348, 1402, 1414-1416, and 1502-1512 SE 1st Place.

Applicant: City of Cape Coral

Property acreage: 1.71 acres

City Planning Division Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

REQUESTED ACTION:

Introduction

SUMMARY EXPLANATION AND BACKGROUND:

The applicant requests a future land use map amendment from the Commercial/Professional (CP) future land use designation to the Multi-Family Residential (MF) future land use designation for seven properties totaling 1.71 acres. This amendment will allow property owners to build duplexes on undeveloped properties and will make existing duplexes conforming.

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:

City Planning Division Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, Director of Development Services, 574-0600

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

N/A

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

PREPARED BY:

Shawn Baker, Planning
Technician

Division- City
Planning

Department- Community
Development

ATTACHMENTS:

Description	Type
▣ 1. Ordinance 78-21 (LU 21-0011)	Ordinance
▣ 2. Backup Materials	Backup Material
▣ 3. Additional Backup Material	Presentation
▣ 4. Power Point	Backup Material

ORDINANCE 78 - 21

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-6, 9, 10, AND 15-20, BLOCK 1006, UNIT 24, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 1342-1348, 1402, 1414-1416 AND 1502-1512 SE 1ST PLACE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by the CITY OF CAPE CORAL regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF)

LOTS 1-6, 9, 10, AND 15-20, BLOCK 1006, UNIT 24, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN THE PLAT BOOK 14 PAGES 63 TO 77, INCLUSIVE IN THE PUBLIC RECORDS OF LEE COUNTY FLORIDA

PROPERTY LOCATED AT: 1342-1348, 1402, 1414-1416 AND 1502-1512 SE 1ST PLACE

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:


GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu21-0011



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

For Internal Use Only

Case LU 21-0011

Date _____

Tel. (239) 574-0776

Fax (239) 574-0591

P.O. Box 150027

Cape Coral, FL 33915-0027

FUTURE LAND USE MAP AMENDMENT (FLUMA) APPLICATION

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

FLUMA APPLICATION REQUIREMENTS

1. ☐ Letter of intent stating the actual request and why the request is being made
2. ☐ 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.
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 prepare in label format and contain the following information; name, address, city, and zip-code.
5. ☐ The applicant must provide a traffic projection of the number of trips that are anticipated to be generated by the revised Land Use including the distribution of these trips onto the roadway system. The applicant may also be required to perform a more detailed traffic impact analysis based on the City's traffic impact guidelines.
6. ☐ Chapter 163, Florida Statutes, requires that comprehensive plan map amendments be City Council must hold a submittal hearing (1st public hearing) prior to sending amendments to DEO. (Council may approve for submittal or deny proposed land use map amendments. Only approved amendments are submitted to DEO.) DEO then has ninety (90) days to review and respond to the proposed amendments. Upon receipt of DEO comments or objections, the local government has sixty (60) days to approve, deny, or approve with modifications the proposed land use map amendments.
7. ☐ Comprehensive Plan Amendments are reviewed by the Planning and Zoning Commission and City Council. Planning and Zoning Commission is an advisory body to City Council and makes recommendations on all amendments.
8. ☐ Please refer to the Future Land Use Map Amendment Section 3.5.2. for additional information.

NOTE: IF ANY OF THE ABOVE INFORMATION IS ON A SHEET LARGER THAN 11 X 17, THE APPLICANT MUST SUPPLY SEVENTEEN (17) COPIES TO BE USED FOR DISTRIBUTION. IN ADDITION TO THE APPLICATION FEE, ALL REQUIRED ADVERTISING COSTS ARE TO BE PAID BY THE APPLICANT (ORD 39-03, SECTION 3.5.2.). ADVERTISING COSTS WILL BE BILLED AND MUST BE PAID PRIOR TO HEARING.



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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Fax (239) 574-0591
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Cape Coral, FL 33915-0027

FUTURE LAND USE MAP AMENDMENT APPLICATION

FEES: \$1,225.00 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, Section 3.5.2). Advertising costs will be billed and must be paid prior to hearing.

PROPERTY INFORMATION	
Project Name: <u>Future Land Use Amendment - Block 1006</u>	
Location/Address <u>Multiple - See Attached Sheet</u>	
Strap Number <u>Multiple - See Attached Sheet</u>	Unit <u>24</u> Block <u>1006</u> Lot (s) <u>Multiple</u>
Plat Book <u>14</u> Page <u>64</u>	Future Land Use <u>CP</u> Current Zoning <u>C</u>
PROPERTY OWNER (S) INFORMATION	
Owner <u>City of Cape Coral</u>	Address <u>P.O. Box 150027</u>
Phone <u>239-573-3162</u>	City <u>Cape Coral</u>
Email <u>cboyko@capecoral.net</u>	State <u>FL</u> Zip <u>33915-0027</u>
Owner _____	Address _____
Phone _____	City <u>Cape Coral</u>
Email _____	State <u>FL</u> Zip <u>33915-0027</u>
APPLICANT INFORMATION (If different from owner)	
Applicant _____	Address _____
Phone _____	City <u>Cape Coral</u>
Email <u>cboyko@capecoral.net</u>	State <u>FL</u> Zip <u>33915-0027</u>
AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)	
Representative <u>Chad Boyko, Principal Planner</u>	Address <u>P.O. Box 150027</u>
Phone <u>239-573-3162</u>	City <u>Cape Coral</u>
Email <u>cboyko@capecoral.net</u>	State <u>FL</u> Zip <u>33915-0027</u>



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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.

ROBERTO HERNANDEZ
NAME (PLEASE TYPE OR PRINT)

[Signature]
AUTHORIZED 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 Florida
COUNTY OF LEE

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 30th day of July, ²⁰²¹2020 by Roberto Hernandez who know is personally known to me or produced _____ as identification.

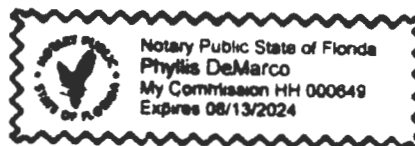
Exp Date: 8/13/2024 Commission Number: HH000649

Signature of Notary Public:

Phyllis DeMarco

Printed Name of Notary Public:

Phyllis DeMarco





**DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION**

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ESTIMATED PEAK HOUR TRIP

Parcel Size: Width _____ Depth _____ Sq. Ft. _____ Acreage _____

Soil Type: _____

Urban Services Area: (check one) Infill _____ Transition Reserve _____

Natural Resources (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):

Animal Species: (list any endangered, threatened, or species of special concern on-site)

Estimated Development:

- Estimate total lot coverage _____ %
- Estimate total building floor area: _____ Sq. ft.
- Estimate type of future development and percentages:
(e.g. business offices, commercial retail, automotive repair, etc.)

Estimated peak hour trip ends:

If 300 or less peak hour trip ends are projected, the applicant must provide the source of the traffic projection.
If more than 300 peak hour trip ends are projected, a traffic impact study must be completed and submitted
as part of the application (see attachments).

City Sewer: YES _____ NO _____

City Water: YES _____ NO _____





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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Chad Boyko, AICP

(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)

 CITY MANAGER
PROPERTY OWNER (Signature & title)

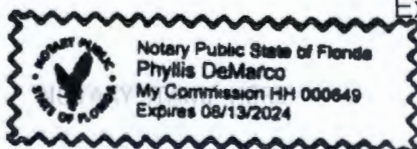
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & title)

STATE OF Florida

COUNTY OF LEE

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online
notarization, on this 30th day of July, 2020 by Roberto Hernandez
who know is personally known to me or produced _____ as identification.



Exp Date: 8/13/2024 Commission Number: HH 000649

Signature of Notary Public: Phyllis DeMarco

Printed Name of Notary Public: Phyllis DeMarco

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



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PLANNING DIVISION

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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 30th Day of July, 2021.

City of Cape Coral
CORPORATION/COMPANY NAME

ROBERTO HERNANDEZ
OWNER'S NAME (TYPE or PRINT)

[Signature]
OWNER'S SIGNATURE

STATE OF Florida

COUNTY OF LEE

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 30th day of July, 2021 by Roberto Hernandez who is personally known to me or produced [Signature] as identification.

Exp Date: 08/13/2024 Commission Number: HH 000649

Signature of Notary Public: [Signature]

Printed Name of Notary Public: Phyllis DeMarco



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION


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Cape Coral, FL 33915-0027

FUTURE LAND USE MAP AMENDMENTS

- A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following reasons:
1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
 3. The amendment results in compatible land uses within a specific area.
 4. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.
 5. The amendment is consistent with the City's ability to provide adequate public facilities and services.
 6. The amendment prepares the City for future growth, such as reflecting changing development patterns, identifying demands for community services, reflecting changes necessary to accommodate current and planned growth in population, and facilitating community infrastructure and public services.
- B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated in the following manner:
1. The City Council by its own motion;
 2. The Planning and Zoning Commission by its own motion;
 3. The City Manager for City initiated requests; or
 4. By a petition of one or more property owners of at least 51% of the property owners of an area proposed for amendment.
- C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the requirements of Chapter 163, Florida Statutes, and the following criteria:
1. Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;
 2. The amendment protects the health, safety, and welfare of the community;
 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site;
 4. The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community or traffic that cannot be mitigated through application of the development standards in this Code;
 5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.; and
 6. Other factors deemed appropriate by the Commission and City Council.
 7. Effective date of approval. The effective date of a future land use map amendment shall be in accordance with Chapter 163, Florida Statutes.

CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT
MEMORANDUM

TO: Rob Hernandez, City Manager

FROM: Vincent A. Cautero, Community Development Director 

DATE: July 28, 2021

SUBJECT: City-initiated Future Land Use Map Amendment Request,
LU 21-0011

Executive Summary

Staff recommends the City initiate a future land use map amendment request for multiple properties as part of a recalibration of the Future Land Use Map. The elements of this request include the following changes:

- From Commercial/Professional (CP) to Single-Family Residential (SF) for 1.71 acres

Background

The purpose of this request is to amend the Future Land Use Map in response to a council directive.

This amendment will change seven properties that have been primarily developed with duplexes back to Multi-Family Future Land Use to make the dwelling units compatible. In 2020, two other properties in this block were part of a privately initiated Future Land Use amendment that changed the land use back to Multi-Family. At this hearing, City Council directed staff to reach out to the other property owners in the block to see if the owners would like a similar Future Land Use amendment for their properties. Staff contacted most of the owners and they were supportive of the change of their property to Multi-Family Future Land Use.

The area to be changed is near the intersection of Santa Barbara Boulevard and Trafalgar Parkway. The properties are behind the Gulf Coast Village Assisted Living Facility and have no frontage on an arterial or collector road and do not have substantial size or depth.

The application and future land use maps (existing and proposed) are attached for your signature. Please contact Chad Boyko, Principal Planner at (239) 573-3162, if you have any questions.

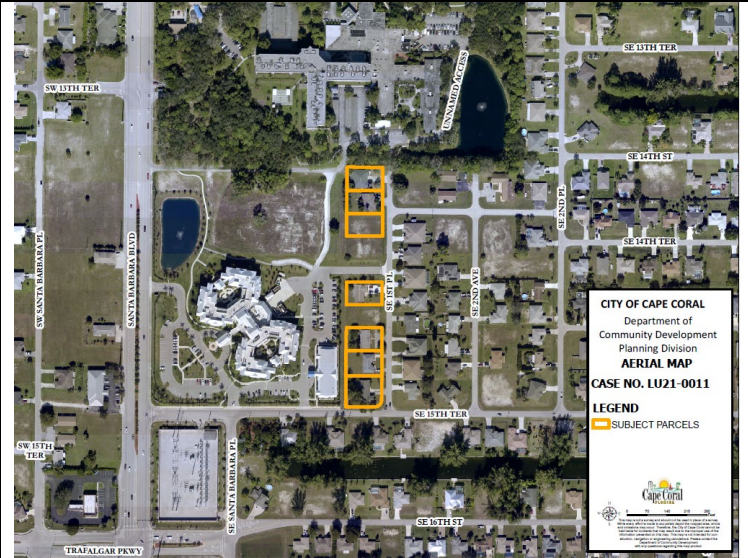
CWB/cwb(LU21-0011memoofintent)
Attachment

PLANNING DIVISION STAFF REPORT
LU21-0011

PROPERTY ADDRESSES Multiple addresses in Block 1006	APPLICANT City of Cape Coral OWNERS Daniel Read and John Sargent, Trustee
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SUMMARY OF REQUEST

The applicant requests a future land use map amendment from the Commercial/Professional (CP) future land use designation to the Multi-Family Residential (MF) future land use designation for seven properties totaling 1.71 acres.



MAP SOURCE

STAFF RECOMMENDATION: Approval

Positive Aspects of Application:	The amendment would make several duplexes conforming in a block that has not experienced commercial development.
Negative Aspects of Application:	The amendment would be a loss of commercial land.
Mitigating Factors:	The loss of commercial land is de minimus. The site is not viable for future commercial development due to lack of visibility and road frontage

SITE INFORMATION

Location: Seven parcels along SE 1st Place
Unit 24. Block 1006. Lots 1-6, 9, 10, and 15-20
West of Santa Barbara Boulevard and south of Nicholas Parkway

STRAP Number: Multiple STRAP numbers

Site Area: 1.71 acres

Site:	Future Land Use	Zoning
Current:	Commercial/Professional	Commercial (C)
Proposed:	Multi-Family Residential (MF)	N/A
	Surrounding Future Land Use	Surrounding Zoning
North:	CP / MF	C / Residential Multi-Family Low (RML)
South:	CP	C
East:	MF	RML
West:	CP	C

Urban Service

Area: Transition

City Water/Sewer: Yes

Type of

Access Road: The block has frontage on one local street – SE 1st Place

Soil Types and Limitations for Development:

Map Unit		Limitations	
		Dwellings without basements	Small commercial buildings
13	Boca Fine Sand	Moderate (wetness)	Moderate (wetness)

The soil in the area presents moderate limitations for dwellings and small commercial buildings. These limitations are typically overcome by using various engineering solutions, such as importing fill. The soil type, therefore, may not present an obstacle to any proposed amendment. However, special feasibility studies may be required at the development stage of the property.

Drainage: Must comply with South Florida Water Management District and the City of Cape Coral Engineering Design Standards.

Natural Resources: The site consists of undeveloped land. The overall hydrology is considered non-hydric.

Flora & Fauna Habitat: Prior to any permit for development being issued, an environmental survey must be undertaken, and mitigation performed to minimize the impacts of development, if any, on the protected species habitat.

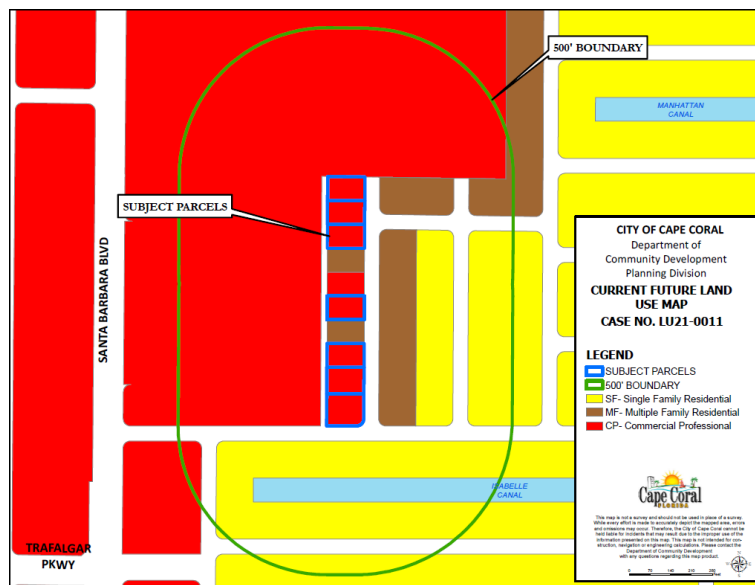
FINDINGS OF FACT

The site is seven undeveloped parcels in Block 1006 in southeastern Cape Coral. The site is 1.71 acres and consists of six duplexes and one undeveloped parcel. Two of the sites in Block 1006 had their future land use designation amended from Commercial/Professional (CP) to Multi-Family Residential (MF) and their zoning designation amended from Commercial (C) to Residential Multi-Family Medium (RMM) in 2020. An additional site in Block 1006, which is not part of this amendment, is a entrance for the Gulf Coast Village assisted living facility. The site has frontage on SE 1st Place and a 15-foot wide unimproved alley right of way is adjacent to the west. Further to the west is the Gulf Coast Village assisted living facility. A mix of single-family homes and duplexes are east of the site. The site has access to municipal water and sewer.

The site has retained the Commercial/Professional (CP) since the inception of the Comprehensive Plan in 1989. The zoning of the site was changed from Multi-Family Residential (R-3)¹ to Pedestrian Commercial (C-1) in 2011. The zoning of the site was changed again in 2019 from C-1 to Commercial (C).

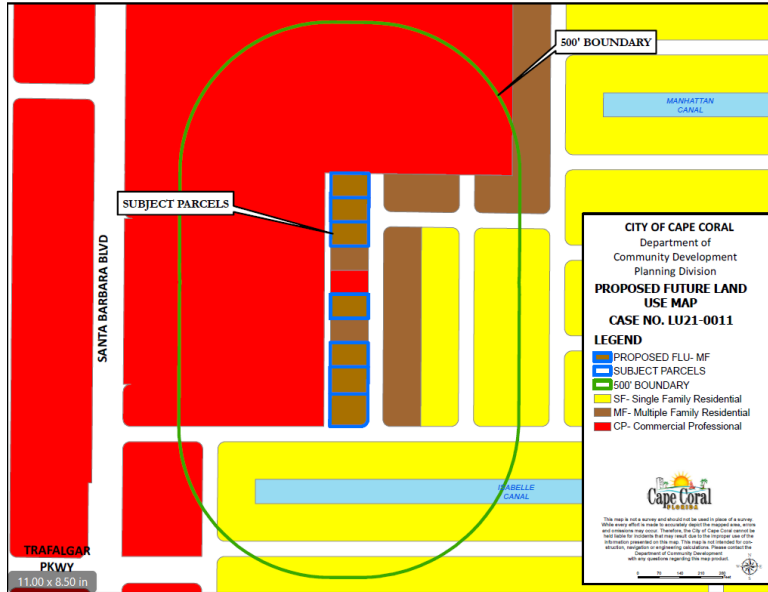
The applicant is seeking the amendment to bring the residential uses on the site into conformity with the future land use designation and the residential areas to the east and south.

EXISTING FUTURE LAND USE MAP

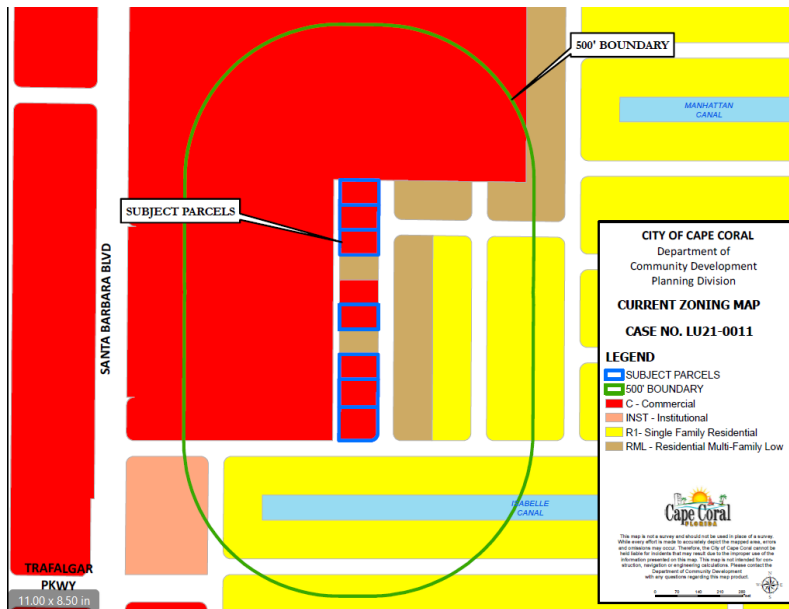


¹ Previously used zoning district – eliminated in 2019.

PROPOSED FUTURE LAND USE MAP



CURRENT ZONING MAP



ANALYSIS

Cape Coral Comprehensive Plan – Chapter 4, Future Land Use Element

Below are the descriptions of the existing and proposed future land use designations for the site. Staffs analysis will also focus on whether or not the site is still appropriate for the existing land use based upon various policies in the Future Land Use element.

Policy 1.15

Commercial/Professional (CP)

Intensities of use in the Commercial/Professional (CP) land use classification shall not exceed a floor to lot area ration (FAR) of 1.0. Zoning districts compatible with this classification may also be used in conjunction with the Mixed Use (MX) future land use classification. When used in conjunction with the MX classification, densities, intensities and other parameters, as described for these districts may differ from those described for the CP Classification. Permitted uses will ultimately depend upon the zoning district of the subject parcel. Generally, two zoning districts are consistent with the Commercial/Professional future land use classification, identified below. However, the City may develop additional zoning districts, compatible with the CP future land use classification, in the future.

The Professional (P) District is designed to provide professional office and other compatible development in areas that are suitable for such activities. The P District is appropriate for development of both small-scale and large-scale office or professional development projects, or projects containing uses compatible with such development. The intensity of development within this district is based upon the size (including width, depth, and compactness) and location of the property, as well as on compatibility with adjacent future land use classifications and zoning districts.

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

In certain locations, fragmented ownership of relatively small properties, or other factors, may preclude the creation of larger properties with access onto a collector or arterial roadway. Under such circumstances, it may be appropriate for the C Zoning District to place additional limits on the intensities of commercial development on these properties. It may also be appropriate, under certain circumstances to place restrictions on some commercial uses, such as those with high trip generation rates, adverse aesthetic attributes, and generation of disturbing noises or odors. Factors to consider when establishing such limits on intensities or uses to include the following: the depth of the property, whether the property is adjacent to a waterway, whether the property is adjacent to or proximate to future land use classifications or zoning districts that allow residential uses, or the function classification of street(s) available for street access. The placement of limitations upon the types and intensities of uses allowed within the C Zoning District, in accordance with the

factors described above, is intended to reduce conflicts between the C District and adjacent or nearby residential zoning districts.

Staff Response: The site has retained the CP future land use since the adoption of the Comprehensive Plan in 1989. The site, along with the rest of Block 1006 was likely given the CP designation to encourage assemblage with the large parcel to the west. Assemblage of these sites never occurred and the large site to the west was developed as an expansion of the Gulf Coast Village Assisted Living Facility in 2016. The site could be developed commercially at a maximum FAR of 1.0.

Multi-Family Residential (MF) Future Land Use Designation

Densities up to 25 units per acre are permitted in this future land use classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down. The development of multi-family projects in the Urban Service Reserve Area is also subject to the terms of Policies 7.7 and 7.8, below.

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects (three or more units only), single-family residences, and duplexes are permitted in this zoning district.

The Residential Multi-Family Medium (RMM) District is designed to permit higher-density multi-family residential development. Lower-density, multi-family residential projects such as duplexes or single-family residence are not permitted in this zoning district.

Staff Response: The proposed future land use designation is the first entitlement step to have the duplexes come into conformity with the land use designation. A rezone to the RML district would also be required. The RMM district would only be an option if some of the individual parcels assembled into a parcel that is greater than an acre in size.

Policy 1.13

This policy aims to promote commercial future land use designations and commercial development along commercial nodes. Commercial nodes are defined as “a compact concentration of commercial land within a relatively small area”. Ideal commercial nodes are located around or in the vicinity of intersection of four or six-lane divided parkways or boulevards. The policy also provides further details on the shape and size of parcels at commercial nodes.

Response: The site is approximately 1,100 feet northwest of the nearest commercial node – the Santa Barbara Boulevard and Trafalgar Parkway intersection. The blocks to the north and to the west of the site has CP future land use designation but the blocks to the south and east have SF future land use designations. The CP future land use designation runs nearly the entire length of Santa Barbara Boulevard. Properties that lack frontage on Santa Barbara Boulevard but are still adjacent to properties with frontage on Santa Barbara Boulevard may have CP future land use designation to create an extension of the commercial nodes along the roadway. Staff finds that the site is not directly at a

commercial node but is considered an extension of the commercial node at Santa Barbara Boulevard and Trafalgar Parkway.

Policy 1.14:

The City of Cape Coral's commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Within this broad, general context, consideration of properties proposed for conversion to a commercial future land use shall be based upon the following commercial siting guidelines:

Major Intersection

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a "new" commercial property (a commercial property not abutting any existing commercial properties) or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties (see below: Integration).

Response: The site is approximately 1,100 feet away from a major intersection (Santa Barbara Boulevard and Trafalgar Parkway). According to the guideline above, the site represents an extension of commercial node. There is commercial development to the west and southwest and the CP future land use extends in all four directions from the intersection. Except for the parcel that has an entrance to the Gulf Coast Village ALF, there has not been any development on the site integrated with these nearby areas, however, there is potential for integration considering that properties to the west share the CP future land use designation. Planning staff finds that the site is at a major intersection and the current future land use designation is consistent with this commercial siting guideline.

Adequate Depth

Ideally, a commercial property should extend not only along the adjacent collector or arterial roadway, but also should extend inward with adequate depth to accommodate the necessary parking, buffering, retention, and open area for the future commercial development. In Cape Coral, most City blocks are rows of back-to-back lots approximately 250 feet deep. Ideally, then, adequate depth is achieved if any number of contiguous properties, owned by the same landowner (see Ownership Pattern, below) occupy the entire 250 feet of depth. Adequate depth would not be achieved if the subject properties have different owners or if the contiguous properties are not reasonably compact (see below).

Response: The site does not have frontage along an arterial roadway and the site only has 120 feet of depth. The site does not have the ability to achieve the desired frontage unless the site is assembled with the large property to the west. Assemblage with this site is possible but unlikely. The large site to the west is already developed with the Gulf Coast Village assisted living facility and the site may not provide much additional room for expansion other than parking, stormwater retention, or landscaping. Additionally, there are scattered duplex homes within the site that would also complicate assemblage due to the increase cost of purchase and demolition. Planning staff finds because of the lack of ideal depth and limited options to achieve that depth, the current future land use designation is not consistent with this commercial siting guideline.

Compactness

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

Response: The site is a collection of seven parcels that are rectangular in shape and is compact, however, the limited number of individual lots and the lack of assemblage opportunities limits the ability to utilize economies of scale. Planning staff finds that the current future land use designation is partially consistent with this commercial siting guideline.

Integration

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

Response: There is no existing commercial development in Block 1006. There is pre-existing commercial development to the west which could be integrated with the site. Staff also notes that not all of the parcels that make up the site are adjacent to each other, therefore integration and development of the site could occur at different times. Planning Staff finds the future land use of the site is not consistent with this commercial siting guideline.

Assembly

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial developments that might serve the City as shopping and/or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial

properties that do not express the indicators of strip commercial development. Assembly of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product. Properties proposed for conversion to a commercial future land use, where such properties would represent an expansion of an existing commercial area may be considered “assembled,” for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

Response: The site is a collection of seven parcels with all different owners. Block 1006 has 10 parcels – eight parcels have separate ownership and two parcels are owned by the Gulf Coast Village developer. This sporadic ownership would make assemblage difficult. Additionally, Block 1006 in its entirety only comprises approximately two acres which is short of the desired three acre assemblage discussed in this guideline. Planning staff finds that due to the small size of the individual parcels and the lack of assemblage opportunities, the future land use designation is not consistent with this commercial siting guideline.

Intrusion

“Intrusion,” as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no hard and fast guidelines for determining when a proposed commercial use would be intrusive to surrounding development. However, expansions of existing commercial areas are generally considered less intrusive than the establishment of new commercial areas. Commercial areas may be considered less intrusive to adjacent multi-family development than to adjacent single family development. Commercial development that is separated from a residential area by a street, canal, a vegetative buffer, or other geographic features, may be considered less intrusive than commercial development that directly abuts a residential area. The degree of compactness (see above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties (properties proposed for conversion to a commercial future land use classification, which do not abut existing commercial properties) are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While intrusion is subjective and depends on many factors, a rule of thumb is that the proposed commercial property would not likely be intrusive if adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

Response: The parcels within the site do not have any existing commercial development, however, there are several scattered duplexes within the site. There is one nearby commercial business in a nearby block, however, there has been no other commercial expansion in recent years. Planning staff finds that while there is commercial development to the north and west, development to the east and south is residential, therefore the sites future land use designation is not consistent with this commercial siting guideline.

Access

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Use and Development Regulations refer to these as “dedicated City parking areas.” These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City’s interest to promote conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant’s agreement to own and manage the site.

b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

Response: The site is not near a City-owned parking lot and does not have frontage on a roadway with an access management plan. Additionally, the site has no frontage or access from an arterial or collector road. Planning staff finds that the site neither has the preferred ideal access from an arterial street, nor is the site is not near a City-owned parking lot, therefore, the sites future land use designation is not consistent with this commercial siting guideline.

Ownership Pattern

An ideal commercial node is a cohesive, compact, interrelated network of commercial properties. Properties proposed for conversion to a commercial future land use, which properties consist of multiple parcels, or groups of parcels, under multiple ownership are unlikely to develop as a true “commercial node.” Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development (see Policy 1.13, above). Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

Response: Block 1006 has fragmented ownership with no owner owning more than two parcels. The number of small parcels and lack of established assemblage makes future assemblage unlikely and difficult. Planning staff finds that the sites future land use designation is not consistent with this commercial siting guideline.

Summary

Policy 1.14 contains eight commercial siting guidelines. Overall, the site is consistent with one guideline (major intersection); partially consistent with one guideline (compactness). The subject area is not consistent with six of the guidelines (adequate depth, integration, assembly, intrusion, access, and ownership pattern). Policy 1.14 does not require a proposed amendment to meet a certain threshold of guidelines for approval or denial, rather the guidelines are meant to provide a compatibility analysis.

Appropriateness of Multi-Family Residential

The applicant has requested a future land use amendment to the Multi-Family Residential (MF). The future land use map amendment along with a rezone to Residential Multi-Family Low (RML) would allow the duplexes constructed on the site to remain. Staff finds that the site lacks the ideal frontage, assemblage, and depth to develop commercially. The site could be assembled into the commercial tracts to the west, however, the existing nature of the development to the west makes that prospect challenging. Additionally, the presence of several duplexes near the site would increase compatibility between those homes and future development within the site. The amendment would result in a small loss of potential commercial development, however, it is difficult to see a path where the site develops commercially. Additionally, the number of guidelines to which the amendment is inconsistent suggests that this site is not be a strong candidate for commercial development.

ECONOMIC DEVELOPMENT MASTER PLAN ANALYSIS

The amendment is not directly supported or in conflict with the City Economic Development Master Plan. The site is not within an Economic Opportunity Area but the amendment could result in the addition of multi-family housing.

REGIONAL PLAN ANALYSIS

Southwest Florida Regional Planning Council's (SWFRPC) Strategic Regional Policy Plan (SRPP):

This existing CP Future Land Use designation is partially consistent with the SRPP Strategy that prioritizes locating commercial development along transportation corridors.

Lee County Metropolitan Planning Organization's (MPO) 2040 Long Range Transportation Plan:

Santa Barbara Boulevard has not been identified for improvements or widening in the MPO's 2040 Long Range Transportation Plan.

IMPACT ASSESSMENT SUMMARY

The following calculations summarize approximate conditions for each municipal service analyzed. A more complete analysis of each service is included in the text that follows the calculations. To determine the impact assessment, staff utilized the adopted future land use and zoning designations to determine the existing impacts. Therefore, the impacts discussed in this assessment do not necessarily reflect the actual number of dwelling units, population, etc.

The adopted land use classification for these parcels is CP and the zoning designation governing the subject parcels is Commercial. The maximum intensity permitted under the CP future land use classification is a floor-to-area ratio (FAR) of 1.0, but based on historical development in the City it is assumed that development would occur at a FAR of 0.25. This FAR would result in the site developing with approximately 18,621 sq. ft. of commercial space. The applicant has requested an amendment to Multi-Family Residential (MF). The impact assessment summary of the proposed land use is based upon the RML zoning that would allow a single-family home or a duplex on each parcel of the site. The impact assessment summary below assumes the parcels.

Commercial Square Footage

Existing:	18,621 sq. ft.
Proposed:	0 sq. ft.
Net Change:	-18,621 sq. ft.

Dwelling Units

Existing:	0
Proposed:	14
Net Change:	+14

Population*

Existing:	0
Proposed:	35
Net Change:	+35

* 2.54 persons/household = avg. household size; 2010 Census

Water Use

Existing:	5,586 gal/day at 0.3 gal/sq. ft./day
Proposed:	2,800 gal/day at 200 gal/dwelling unit/day
Net Change:	-2,786 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Sewage

Existing:	5,586 gal/day at 0.3 gal/sq. ft./day
Proposed:	2,800 gal/day at 200 gal/dwelling unit/day
Net Change:	-2,786 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Solid Waste

Existing Generation:	2,532 lbs./day at 0.136 lbs/sq ft./day
Proposed:	165 lbs./day at 4.74 lbs/person/day
Net Change:	-2,367 lbs./day
Facility Capacity:	1,836 tons/day
Existing Demand:	1,384 tons/day
Capacity Available:	Yes

Traffic/Daily Trips

Existing Generation:	25 AM trips/hour and 32 PM trips/hour ²
Proposed:	5 AM trips/hour and 7 PM trips/hour
Net Change:	-20 AM hour trips and -25 PM hour trips
Facility Capacity:	Access from one local street
Capacity Available:	Yes

Hurricane Evacuation

The site is in the Storm Surge B/Evacuation Zone B, however, the site is not in the Coastal High Hazard Area. This amendment would increase residential dwelling units in this and could cause a small impact on hurricane evacuation times.

Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. Based on the proposed dwelling unit, the increase in park facilities is marginal.

Protected Species

The City requires an environmental survey prior to the issuance of any land clearing/site clearing or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, State or Federal protective or mitigation may be required.

School Impacts

There will be an increase in the number of dwelling units because of the proposed future land use map amendment request and an increase in the projected number of students. The increase in dwelling units will result in an increase upon the demand on school facilities. Due to the current designation of Pine Island Road District, there are no existing residential units for this analysis.

Existing dwelling units: 0 dwelling units
Existing students: 0
Proposed dwelling units: 14 dwelling units

² General Office classification according to ITE Trip Generation, 8th Edition.

Proposed students: 3
Change: +3 students

PUBLIC NOTIFICATION

Publication: A display ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners to amend the land use of 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 Planning and Zoning Commission. Following the public hearing before the Commission, the display 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. The display ads will not be published in the legal section of the *News-Press*.

Written notice: Property owners located within 500 feet from the property line of the land which the petitioners request to vacate 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 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 land use amendment request.

RECOMMENDATION

Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, the proposed amendment to Multi-Family Residential is consistent with the Comprehensive Plan and compatible with the surrounding area, therefore, Planning Division staff recommends **approval** of the proposed small-scale Future Land Use Map amendment request.

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



500 FOOT NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: LU21-0011

REQUEST: The applicant requests a future land use map amendment from the Commercial/Professional (CP) future land use designation to the Multi-Family Residential (MF) future land use designation for seven properties totaling 1.71 acres.

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

UPCOMING PUBLIC HEARING: Notice is hereby given that the Cape Coral Planning and Zoning Commission will hold a public hearing at 9:00 A.M. on September 1, 2021 on the above-mentioned case. The public hearing will be held in the 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 Planning and Zoning Commission 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 five days prior to the hearing. The file can be reviewed at the Community Development Department, 1015 Cultural Park Blvd., Cape Coral, FL.

After Planning and Zoning Commission 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 if 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, upon request at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

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.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Office 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 1-800-955-8770 (v) for assistance.

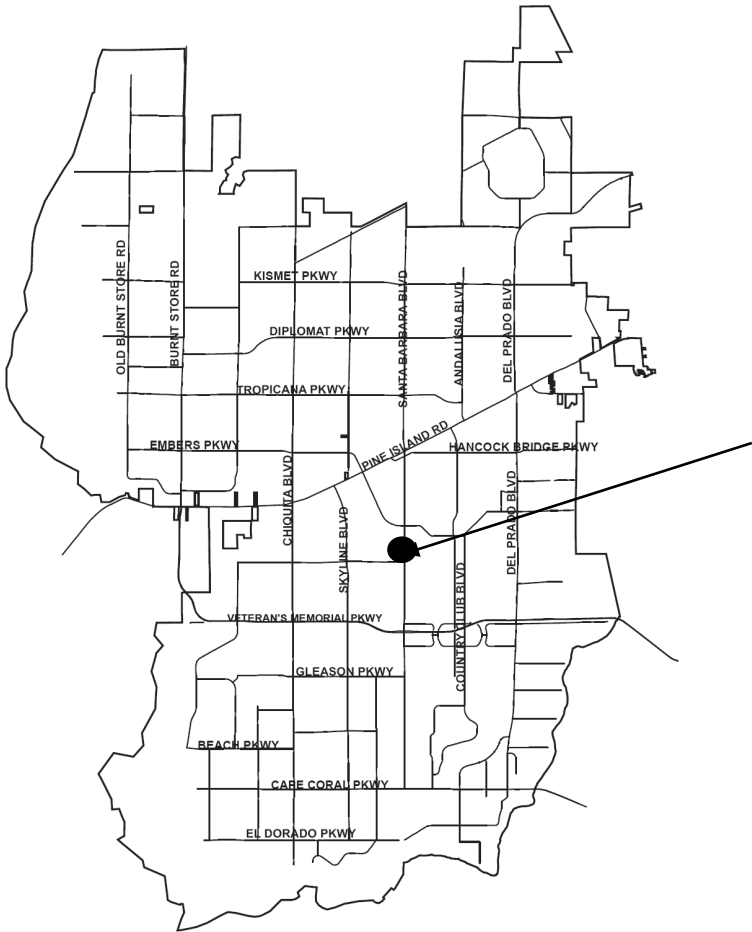
APPEALS: If a person decides to appeal any decision made by the Planning and Zoning Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings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

NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt **ORDINANCE 78-21 AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-6, 9, 10, AND 15-20, BLOCK 1006, UNIT 24, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 1342-1348, 1402, 1414-1416 AND 1502-1512 SE 1ST PLACE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.**

A public hearing on the ordinance will be held Wednesday, September 1st, 2021 at 9:00 a.m. at the City of Cape Coral, City Hall Chambers, 1015 Cultural Park Blvd., Cape Coral, Florida 33990. At this public hearing, the Planning and Zoning Commission will consider a recommendation to change the City’s future land use map amendment request. Accordingly, members of the general public and real property owners in the community are invited to appear and speak at the public hearing. Written comments filed with the Director will also be entered into the record. A copy of the map and the proposed amendment under consideration will be available for inspection and will be provided to the public at cost at the City Clerk’s office between 7:30 a.m. and 4:30 p.m., Monday through Friday excluding holidays. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that subject person 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. In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk no later than 4:00 p.m. on the day prior to the meeting.

Kimberly Bruns, CMC
City Clerk



Ordinance 78-21
LU21-0011

**COMMERCIAL/PROFESSIONAL
(CP) TO MULTI-FAMILY (SF)
FOR LOTS IN BLOCKS 1006 IN
UNIT 24, CAPE CORAL
SUBDIVISION**

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: City of Cape Coral

APPLICATION NO: LU21-0011

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 23rd day of August, 2021.



Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

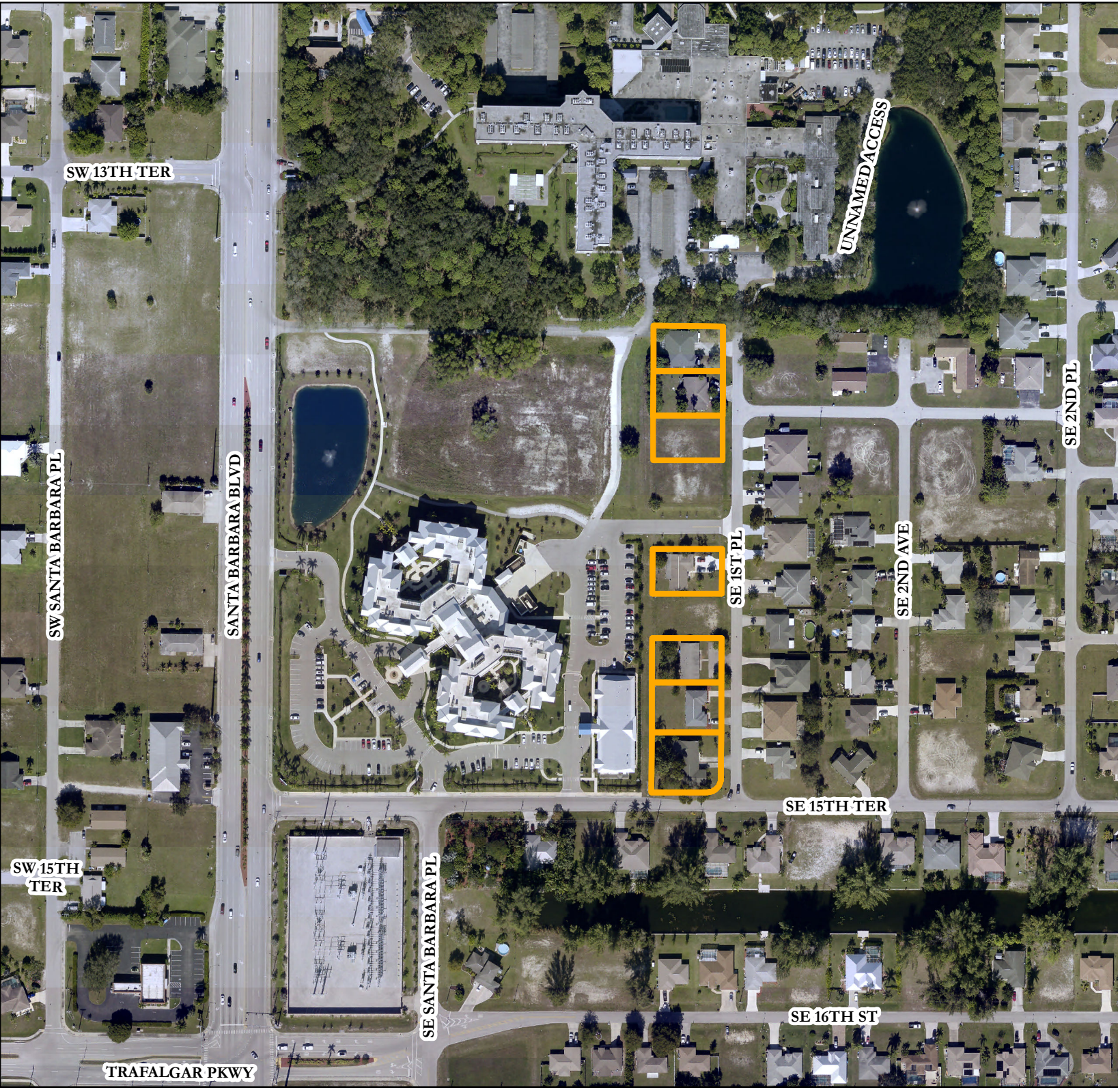
The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, on this 23rd day of August, 2021, by Vincent A. Cautero, AICP, who is personally known to me and who did ~~not~~ take an oath.

Exp. Date 12/10/24 Commission # HH061317




Elisabeth A. Helsel
Signature of Notary Public


Elisabeth A. Helsel
Print Name of Notary Public



CITY OF CAPE CORAL
Department of
Community Development
Planning Division
AERIAL MAP
CASE NO. LU21-0011

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 70 140 210 280 Feet

SANTA BARBARA BLVD

TRAFALGAR
PKWY

SUBJECT PARCELS

500' BOUNDARY

MANHATTAN
CANAL







ISABELLE
CANAL

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP

CASE NO. LU21-0011

LEGEND

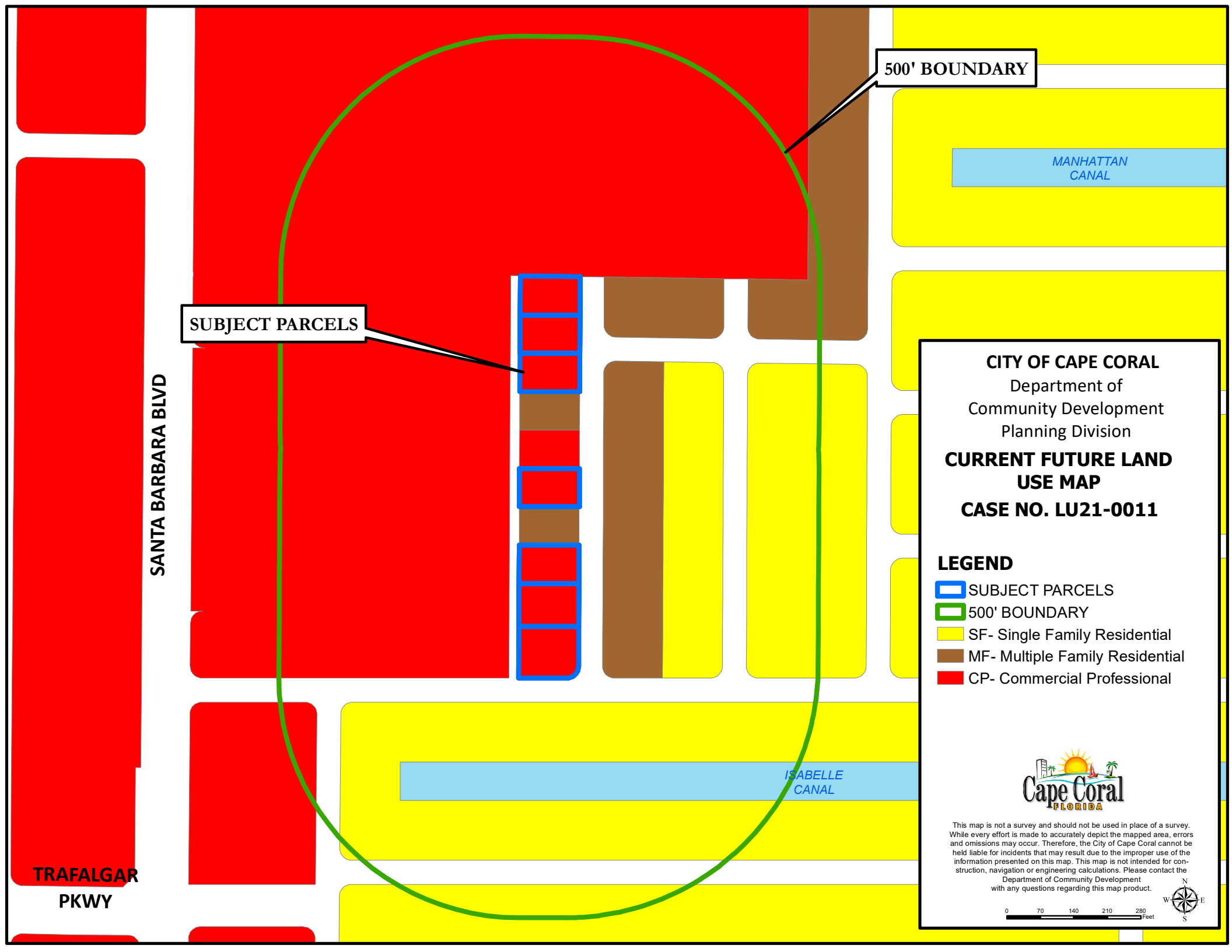
-  SUBJECT PARCELS
-  500' BOUNDARY
-  C - Commercial
-  INST - Institutional
-  R1- Single Family Residential
-  RML - Residential Multi-Family Low



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CITY OF CAPE CORAL
Department of
Community Development
Planning Division

**CURRENT FUTURE LAND
USE MAP**

CASE NO. LU21-0011


LEGEND

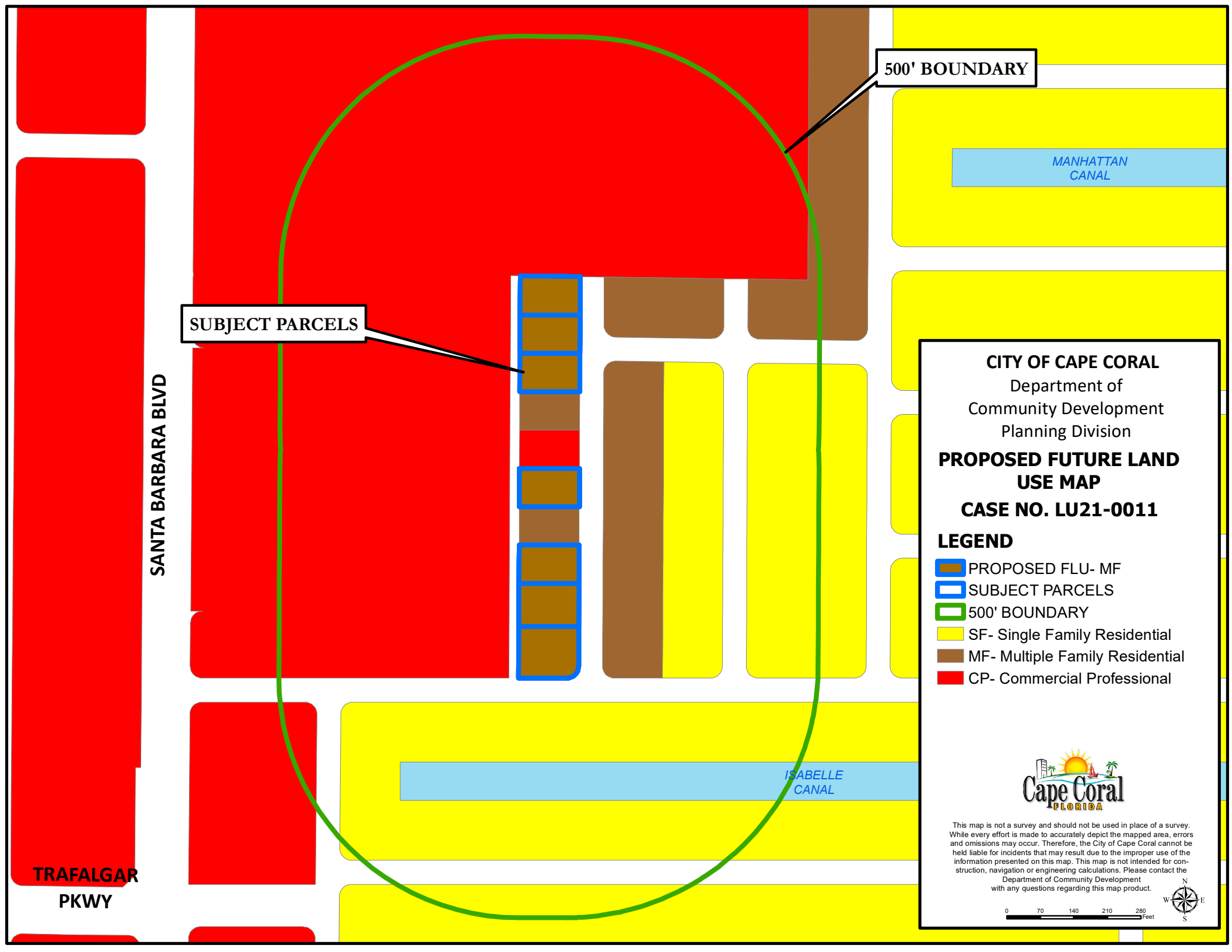
-  SUBJECT PARCELS
-  500' BOUNDARY
-  SF- Single Family Residential
-  MF- Multiple Family Residential
-  CP- Commercial Professional


Cape Coral
FLORIDA

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0 70 140 210 280 Feet





500' BOUNDARY

MANHATTAN
CANAL







SUBJECT PARCELS

SANTA BARBARA BLVD

TRAFALGAR
PKWY

CITY OF CAPE CORAL
Department of
Community Development
Planning Division
**PROPOSED FUTURE LAND
USE MAP**
CASE NO. LU21-0011

LEGEND

-  PROPOSED FLU- MF
-  SUBJECT PARCELS
-  500' BOUNDARY
-  SF- Single Family Residential
-  MF- Multiple Family Residential
-  CP- Commercial Professional



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0 70 140 210 280 Feet





Ordinance 78-21/LU21-0011

Cape Coral Planning and Zoning Commission

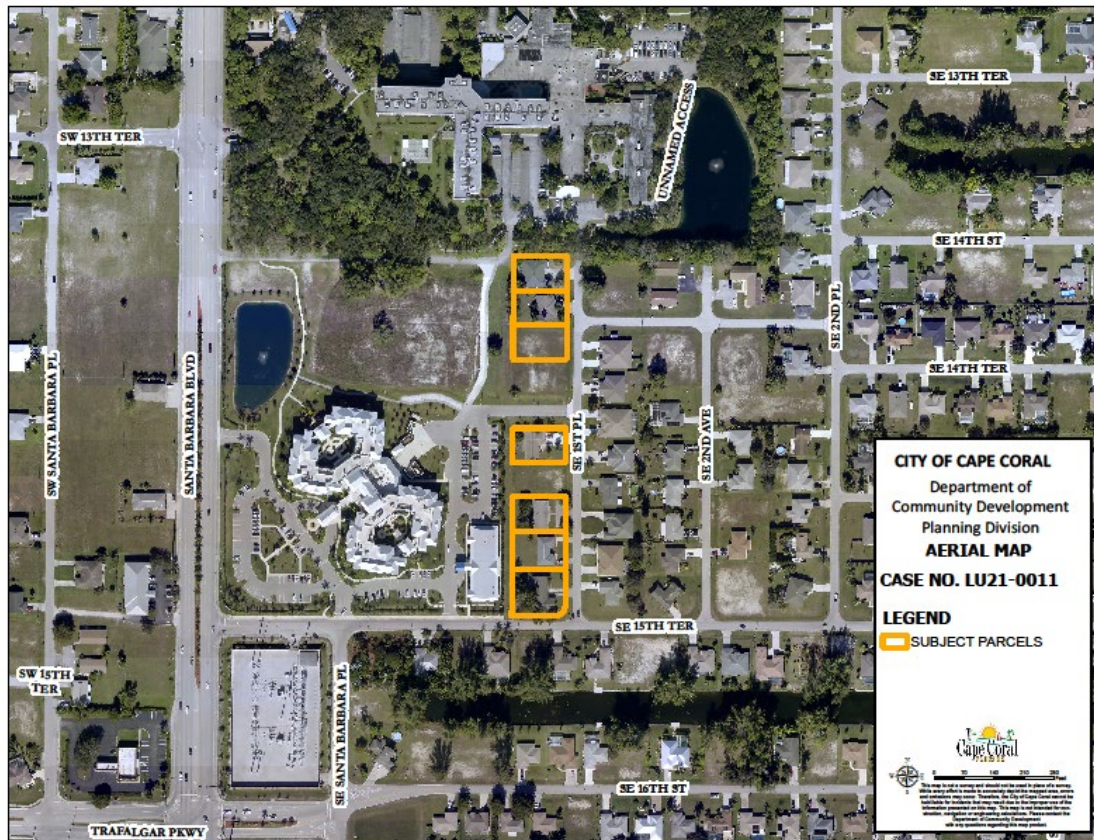


Ordinance 78-21 / LU21-0011

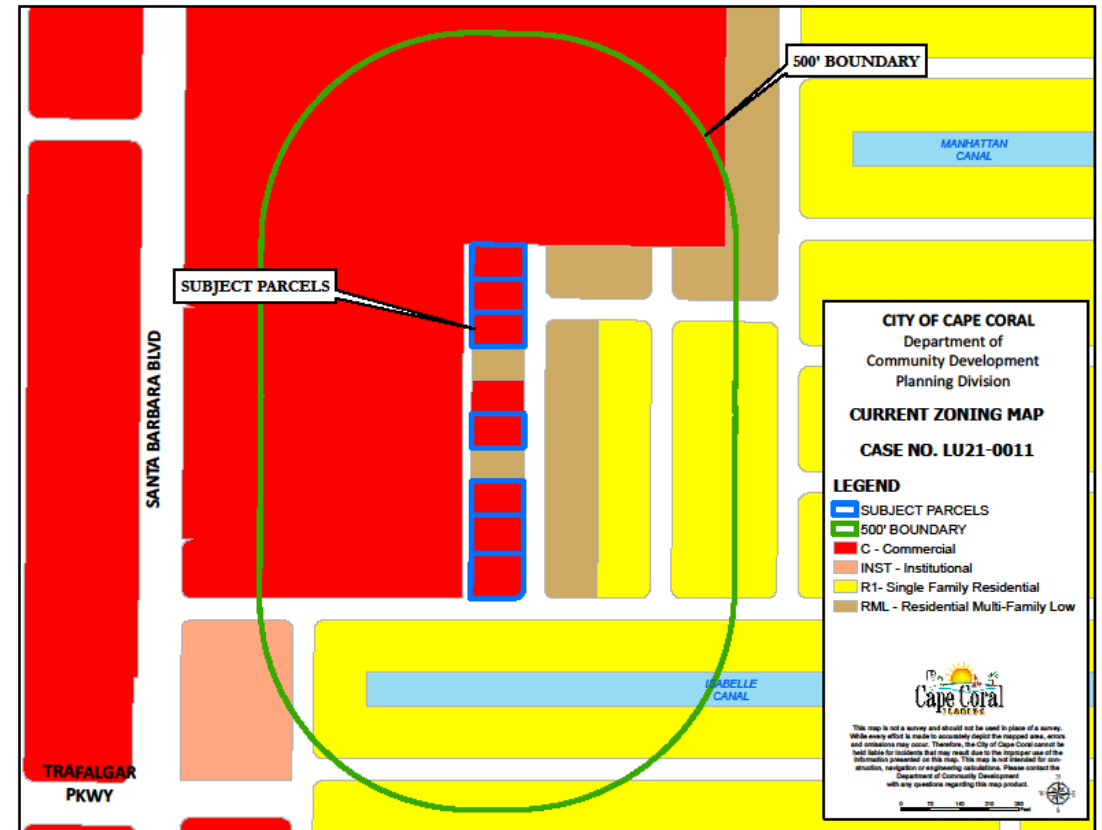
- **Applicant: City of Cape Coral**
- **Site Size: 1.71 acres**
- **Location: Near intersection of Santa Barbara Blvd and Trafalgar Pkwy**
- **Urban Services: Transition**
- **Request: Future Land Use Map Amendment from Commercial/Professional (CP) to Multi-Family Residential (MF).**

Ordinance 78-21 / lu21-0011

Aerial Map

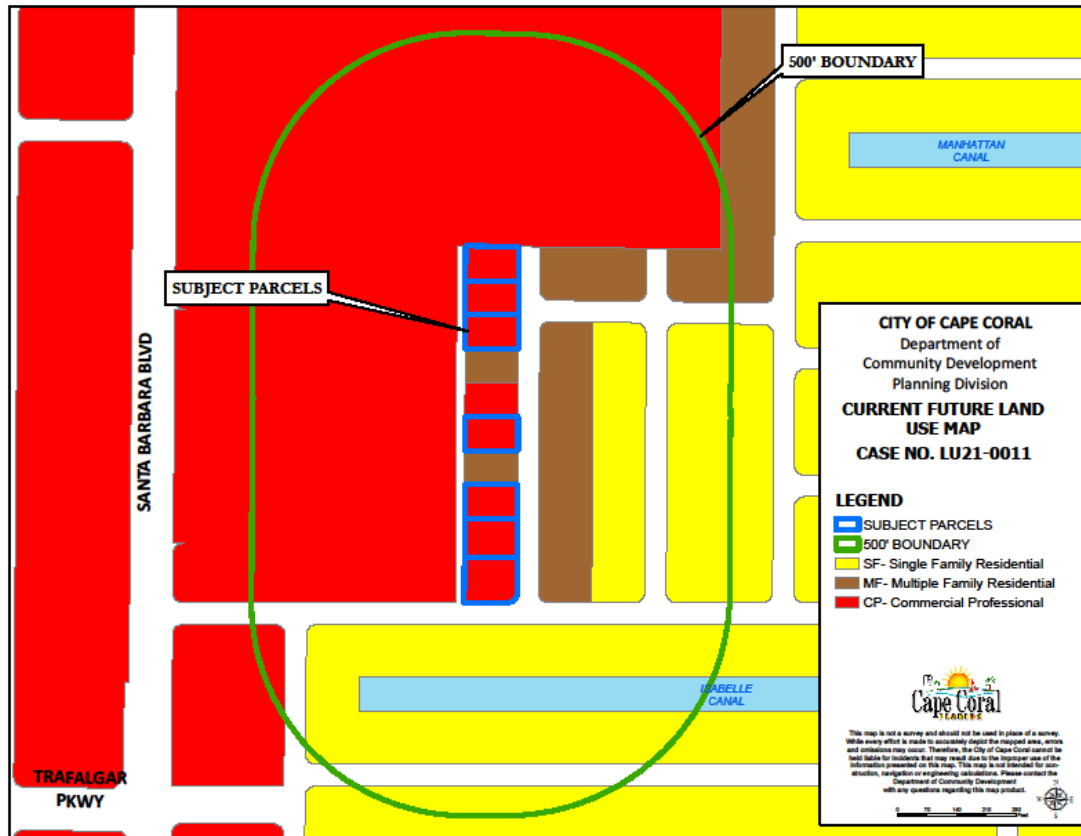


Zoning Map

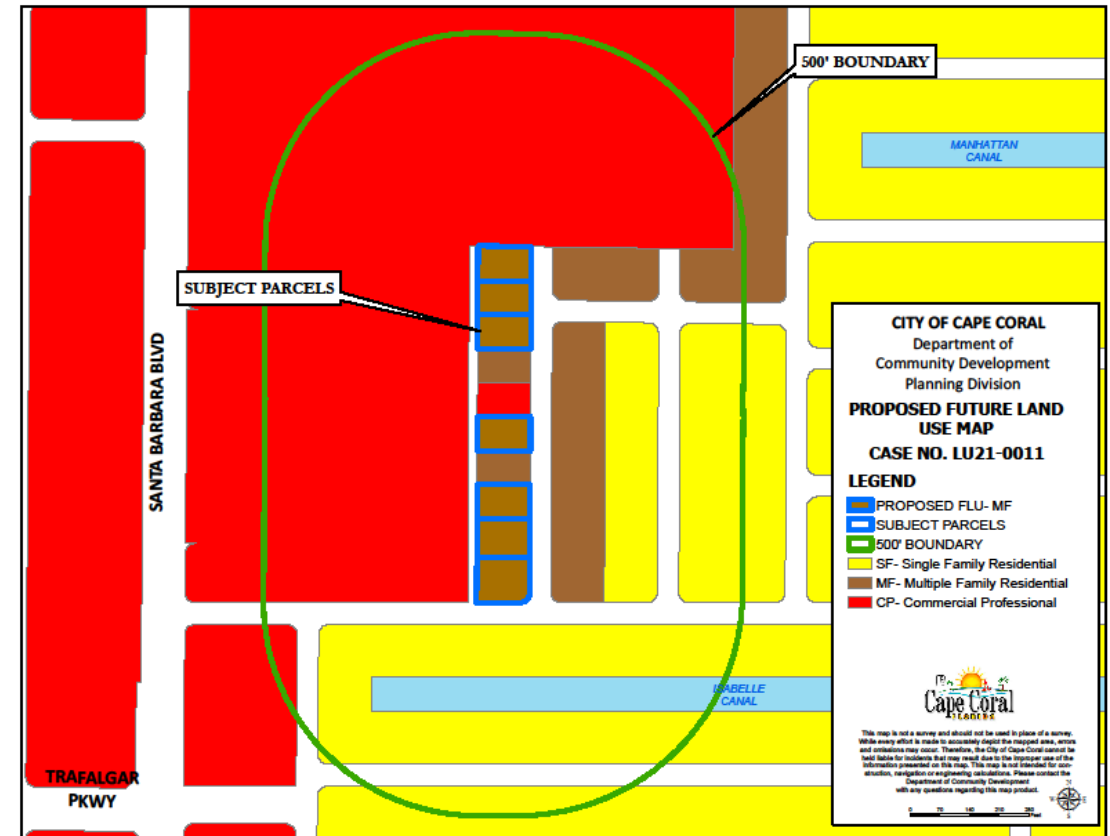


Ordinance 77-21 / lu21-0007

Current FLU – CP



Proposed FLU - MF



Ordinance 78-21 / lu21-0011

Findings of Fact

- Mostly developed with duplexes – some undeveloped parcels
- Parcels have been commercial or mixed-use for over 10 years
- No assemblage or development has occurred
- Lack of frontage or access on arterial or collector
- 2 parcels were amended last year / council direction to amend the whole block (1 parcel left out as it is an access road to ALF).

Analysis – Comp Plan – Future Land Use Element

Policy 1.15 – Commercial/Professional

Maximum FAR of 1.0

Maximum commercial square footage – 74,487 sq. ft.

Some parcels would be limited in development size due to separation of parcels.

Analysis – Comp Plan – Future Land Use Element

Policy 1.15 – Multi-Family Residential

Maximum FAR of 16 du's per acre

Some parcels would be limited in development size due to separation of parcels.

3 adjacent parcels would be limited to 5 du's

Analysis – Comp Plan – Future Land Use Element

Policy 1.13 – Commercial Nodes

- **Seeks to locate commercial at or along commercial nodes**
- **Site is not at intersection – site is 980 feet NW of Santa Barbara Blvd and Trafalgar Pkwy intersection**
- **Policy states nodes can extend outward with continuous commercial designation**
- **CP future land use extends length of Santa Barbara and extends east or west in some locations**

Analysis – Comp Plan – Future Land Use Element

Policy 1.14 – Siting Guidelines

- **The site is consistent with 1 guideline – major intersection**
- **The site is partially consistent with 1 guideline - compactness**
- **The site is inconsistent with six guidelines – adequate depth, integration, assembly, intrusion, access, and ownership pattern**

Ordinance 78-21 / lu21-0011

Recommendation

Planning staff recommends approval.

THANK YOU
any questions?





Ordinance 78-21/LU21-0011

Cape Coral City Council



Ordinance 78-21 / LU21-0011

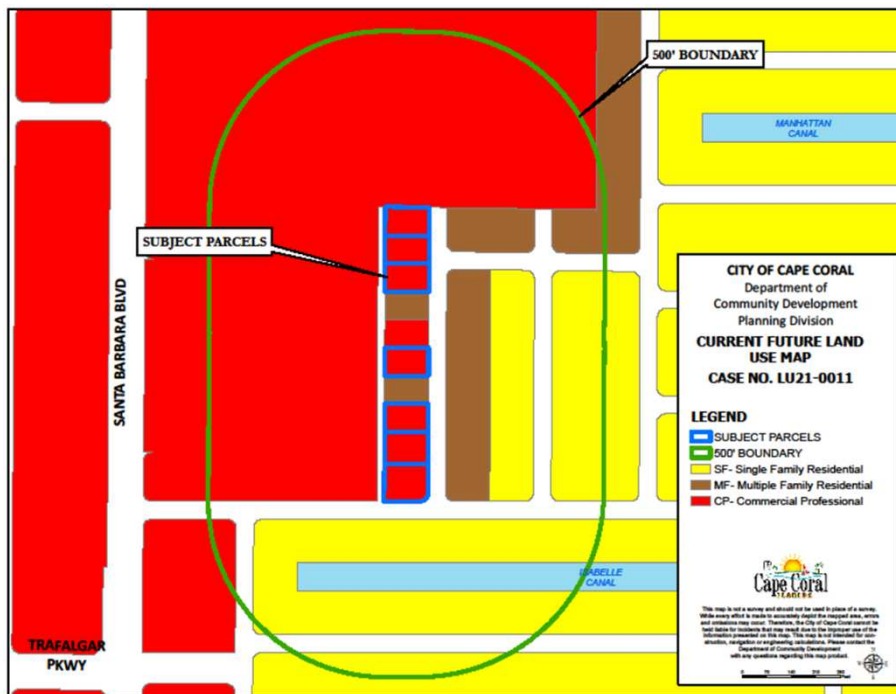
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- **Request: Future Land Use Map Amendment from Commercial/Professional (CP) to Multi-Family Residential (MF).**

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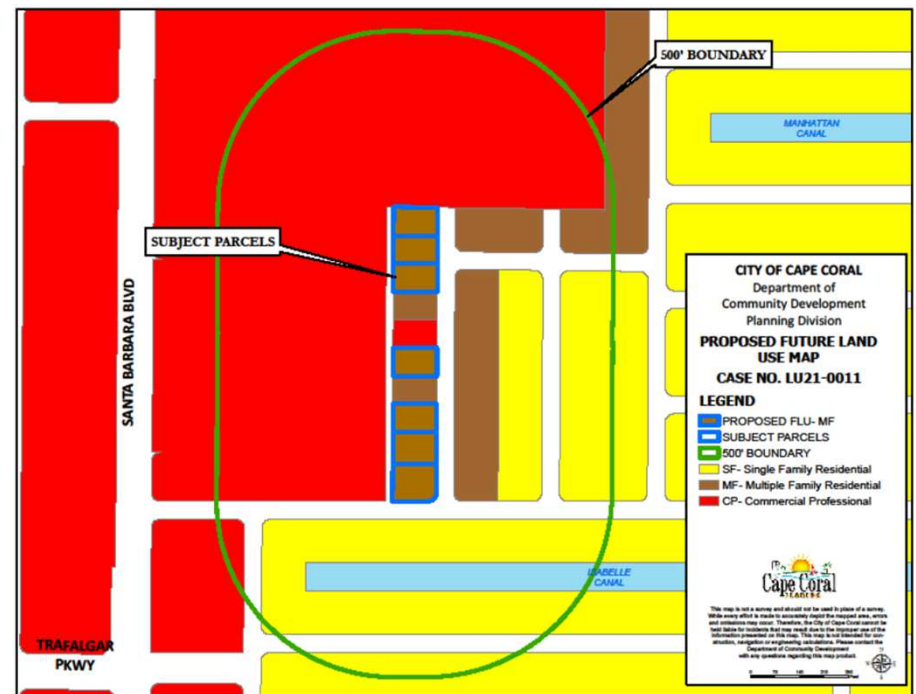


Ordinance 77-21 / lu21-0007

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Ordinance 78-21 / lu21-0011

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Ordinance 78-21 / lu21-0011

Recommendation

Planning staff recommends approval.

Planning and Zoning recommends approval.

THANK YOU
any questions?





**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	B.(3)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 90-21 (LU21-0014) Set Public Hearing for January 19, 2022

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Multi-Family Residential (MF) to Single-Family Residential (SF) land use for property described as Lots 1-58, Block 4186, and Tract A, Block 4186A, all in Unit 59, Cape Coral Subdivision; amending the Future Land Use Map from Single-Family/Multi-Family (SM) to Single-Family Residential (SF) Land Use for property described as Lots 1-40, Block 4191, Unit 59, Cape Coral Subdivision; property located southwest of the intersection of Tropicana Parkway West and NW 33rd Avenue.

Applicant: City of Cape Coral

Acreage: 30.76 acres

City Planning Division recommendation: Approval

Planning and Zoning Commission recommendation: Approval

REQUESTED ACTION:

Introduction

SUMMARY EXPLANATION AND BACKGROUND:

The ordinance is a city-initiated small-scale future land use map amendment from the Multi-Family Residential (MF) and Single Family/Multi-Family (SM) Future Land Use Classifications to Single-Family Residential (SF) Future Land Use for 41 properties (30.76 acres) located in northwest Cape Coral.

The impact of this change, if adopted, would be to remove the potential for multi-family residential development for the entire area. Most of the area consists of a large, city-owned block of land, which is currently undeveloped.

Approximately two-thirds of the area has an inconsistent future land use and zoning; adoption of the ordinance would permit these areas to be developed with single-family residences. This would also result in removing non-conforming uses.

Fourteen of the 41 properties are developed with single-family residences. Therefore, an amendment to Single-Family Residential future land use would be consistent with the development pattern in the area.

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:

City Planning Division recommendation: Approval

Planning and Zoning Commission recommendation: Approval

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, Director of Development Services, 574-0600

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

N/A

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

PREPARED BY:

Shawn Baker, Planning
Technician

Division- City
Planning

Department- Development
Services

ATTACHMENTS:

Description	Type
▣ 1. Ordinance 90-21 (LU 21-0014)	Ordinance
▣ 2. Backup Materials	Backup Material
▣ 3. PowerPoint Presentation	Backup Material

ORDINANCE 90 - 21

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM MULTI-FAMILY RESIDENTIAL (MF) TO SINGLE-FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-58, BLOCK 4186, AND TRACT A, BLOCK 4186A, ALL IN UNIT 59, CAPE CORAL SUBDIVISION; AMENDING THE FUTURE LAND USE MAP FROM SINGLE-FAMILY/MULTI-FAMILY (SM) TO SINGLE-FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-40, BLOCK 4191, UNIT 59, CAPE CORAL SUBDIVISION; PROPERTY LOCATED SOUTHWEST OF THE INTERSECTION OF TROPICANA PARKWAY WEST AND NW 33RD AVENUE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by the CITY OF CAPE CORAL regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM MULTI-FAMILY RESIDENTIAL (MF) TO SINGLE-FAMILY RESIDENTIAL (SF)

LOTS 1-58, BLOCK 4186, UNIT 59, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGES 140-153, INCLUSIVE, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

TRACT A, BLOCK 4186A, UNIT 59, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGES 140-153, INCLUSIVE, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 3303-3511 NW 6TH STREET, 3300-3326 NW 6TH TERRACE, 629 NW 36TH AVENUE

FROM SINGLE-FAMILY/MULTI-FAMILY (SM) TO SINGLE-FAMILY RESIDENTIAL (SF)

LOTS 1-40, BLOCK 4191, UNIT 59, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGES 140-153, INCLUSIVE, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 3306-3326 NW 7TH TERRACE, 618-718 NW 33RD AVENUE, 3307-3327 NW 6TH TERRACE

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu21-0014

CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT
MEMORANDUM

TO: Rob Hernandez, City Manager

FROM: Vince Cautero, Department of Community Development Director

DATE: October 12, 2021

SUBJECT: City-initiated Future Land Use Map Amendment Request, LU 21-0014

Executive Summary

Staff recommends the City initiate a future land use map amendment request from Multi-Family Residential (MF) and Single-Family/Multi-Family (SM) to Single-Family Residential (SF) for all of Blocks 4186, 4186A, and 4191, Unit 59. The area comprises 30.76 acres.

Background

The purpose of this request is to amend 41 properties in Blocks 4186, 4186A, and 4191 to Single-Family Residential. Approximately one-third of the subject properties are developed with single-family residences.

Neighboring properties requested that the City amend the future land use for a large, city-owned tract classified as Multi-Family Residential. Upon further review, staff determined that neighboring properties, designated Multi-Family Residential, should also be changed.

The subject properties have Single-Family Residential (R1) zoning. Existing single-family residences exist as legal, non-conforming uses, but are at risk of not being able to rebuild in the event of a hurricane or similar act of God should structural damage exceed 50% of the structure's value. Furthermore, with tightened bank regulations and greater scrutiny undertaken by financial institutions, existing homeowners on this block would have difficulties in selling their home.

For these reasons, Staff is sensitive to the neighbor's request, and has reviewed this area for a land use change. For this to be brought forward to a public hearing, we require your permission to do so.

The application and vicinity maps are attached. Please contact me if you have any questions.

VAC/wad(LU21-0014memoofintent)
Attachments



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

For Internal Use Only

Case LU21-0014

Date 10/12/2021

Tel. (239) 574-0553

Fax (239) 574-0591

P.O. Box 150027

Cape Coral, FL 33915-0027

FUTURE LAND USE MAP AMENDMENT (FLUMA) APPLICATION

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

FLUMA APPLICATION REQUIREMENTS

1. ☐ Letter of intent stating the actual request and why the request is being made
2. ☐ 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.
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 prepare in label format and contain the following information; name, address, city, and zip-code.
5. ☐ The applicant must provide a traffic projection of the number of trips that are anticipated to be generated by the revised Land Use including the distribution of these trips onto the roadway system. The applicant may also be required to perform a more detailed traffic impact analysis based on the City's traffic impact guidelines.
6. ☐ Chapter 163, Florida Statutes, requires that comprehensive plan map amendments be City Council must hold a submittal hearing (1st public hearing) prior to sending amendments to DEO. (Council may approve for submittal or deny proposed land use map amendments. Only approved amendments are submitted to DEO.) DEO then has ninety (90) days to review and respond to the proposed amendments. Upon receipt of DEO comments or objections, the local government has sixty (60) days to approve, deny, or approve with modifications the proposed land use map amendments.
7. ☐ Comprehensive Plan Amendments are reviewed by the Planning and Zoning Commission and City Council. Planning and Zoning Commission is an advisory body to City Council and makes recommendations on all amendments.
8. ☐ Please refer to the Future Land Use Map Amendment Section 3.5.2. for additional information.

NOTE: IF ANY OF THE ABOVE INFORMATION IS ON A SHEET LARGER THAN 11 X 17, THE APPLICANT MUST SUPPLY SEVENTEEN (17) COPIES TO BE USED FOR DISTRIBUTION. IN ADDITION TO THE APPLICATION FEE, ALL REQUIRED ADVERTISING COSTS ARE TO BE PAID BY THE APPLICANT (ORD 39-03, SECTION 3.5.2.). ADVERTISING COSTS WILL BE BILLED AND MUST BE PAID PRIOR TO HEARING.



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

Tel. (239) 574-0553
Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

FUTURE LAND USE MAP AMENDMENT APPLICATION

FEES: \$1,225.00 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, Section 3.5.2). Advertising costs will be billed and must be paid prior to hearing.

OWNER(S) OF PROPERTY INFORMATION	
Owner <u>multiple - City-initiated FLUMA</u>	Address _____
Phone _____	City _____
Email _____	State _____ Zip _____
Owner _____	Address _____
Phone _____	City _____
Email _____	State _____ Zip _____
APPLICANT INFORMATION (If different from owner)	
Applicant <u>City of Cape Coral</u>	Address <u>1015 Cultural Park Blvd</u>
Phone _____	City <u>Cape Coral</u>
Email _____	State <u>FL</u> Zip <u>33915-0027</u>
AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)	
Representative <u>Wyatt Daltry, AICP</u>	Address <u>1015 Cultural Park Blvd.</u>
Phone <u>239-573-3160</u>	City <u>Cape Coral</u>
Email <u>wdaltry@capecoral.gov</u>	State <u>FL</u> Zip <u>33915-0027</u>
PROPERTY INFORMATION	
Unit <u>59</u> Block <u>multiple</u> Lot (s) <u>multiple</u>	Subdivision <u>Cape Coral</u>
Property Address <u>multiple, see Attachment A</u>	
Plat Book <u>19</u>	Page <u>148,152</u> Current Zoning <u>R1</u>
Strap Number <u>multiple</u>	Acreage <u>30.76</u>
Current Land Use <u>MF and SM</u>	Proposed Land Use <u>SF</u>



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

Tel. (239) 574-0553
Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

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.

Roberto Hernandez

NAME (PLEASE TYPE OR PRINT)

AUTHORIZED SIGNATURE

STATE OF FL

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, this 13th day of October, 2021 by Roberto Hernandez who is personally known to me or produced _____ as identification.



Exp Date: 3/24/25 Commission Number: HH 084087

Signature of notary Public:

Karen A Ramos

Printed Name of Notary Public:

Karen A Ramos



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ESTIMATED PEAK HOUR TRIP

Parcel Size: Width _____ Depth _____ Sq. Ft. _____ Acreage 30.76

Soil Type: varies

Urban Services Area: (check one) Infill X Transition Reserve X

Natural Resources (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):

Animal Species: (list any endangered, threatened, or species of special concern on-site)

Estimated Development:

- Estimate total lot coverage 25 %
- Estimate total building floor area: _____ Sq. ft.
- Estimate type of future development and percentages:
(e.g. business offices, commercial retail, automotive repair, etc.)

Estimated peak hour trip ends:

If 300 or less peak hour trip ends are projected, the applicant must provide the source of the traffic projection.
If more than 300 peak hour trip ends are projected, a traffic impact study must be completed and submitted as part of the application (see attachments).

City Sewer: YES ☐ NO ☒

City Water: YES ☐ NO ☒



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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 13th Day of October, 2021.

City of Cape Coral, FL
CORPORATION/COMPANY NAME

Roberto Hernandez
OWNER'S NAME (TYPE or PRINT)

[Signature]
OWNER'S SIGNATURE

STATE OF FL

COUNTY OF Lee

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Karen A Ramos

Printed Name of Notary Public:

Karen A Ramos



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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Wyatt Daltry

(Name of person giving presentation)

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

UNIT 59 BLOCK multiple LOT(S) multiple SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION Unit 59 Blocks 4186, 4186A, and 4191

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

Roberto Hernandez
PROPERTY OWNER (Please Print)

[Signature]
PROPERTY OWNER (Signature & title)
City Manager

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & title)

STATE OF FL

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online
notarization, this 13th day of October, 2021 by Roberto Hernandez who
is personally known to me or produced _____ as identification.



Exp Date: 3/24/25 Commission Number: HH 084087
Signature of notary Public: Karen A Ramos
Printed Name of Notary Public: Karen A Ramos

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



FUTURE LAND USE MAP AMENDMENTS

- A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following reasons:
1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
 3. The amendment results in compatible land uses within a specific area.
 4. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.
 5. The amendment is consistent with the City's ability to provide adequate public facilities and services.
 6. The amendment prepares the City for future growth, such as reflecting changing development patterns, identifying demands for community services, reflecting changes necessary to accommodate current and planned growth in population, and facilitating community infrastructure and public services.
- B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated in the following manner:
1. The City Council by its own motion;
 2. The Planning and Zoning Commission by its own motion;
 3. The City Manager for City initiated requests; or
 4. By a petition of one or more property owners of at least 51% of the property owners of an area proposed for amendment.
- C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the requirements of Chapter 163, Florida Statutes, and the following criteria:
1. Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;
 2. The amendment protects the health, safety, and welfare of the community;
 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site;
 4. The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community or traffic that cannot be mitigated through application of the development standards in this Code;



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5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.; and
 6. Other factors deemed appropriate by the Commission and City Council.
- D. Effective date of approval. The effective date of a future land use map amendment shall be in accordance with Chapter 163, Florida Statutes.

STAFF REPORT

LU21-0014

City of Cape Coral

DOCKET/CASE/APPLICATION NUMBER

Wyatt Daltry, AICP, Planning Team

Coordinator (239) 573-3160,

wdaltry@capecoral.net

APPLICANT/PROPERTY OWNER

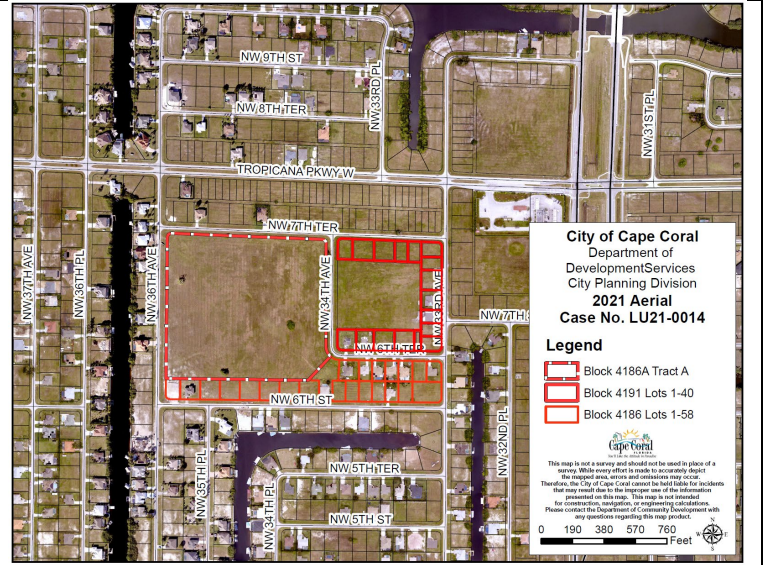
See Page 2

STAFF PLANNER

PROPERTY ADDRESS/LOCATION

BRIEF SUMMARY OF REQUEST

City-initiated small-scale future land use map amendment from the Multi-Family Residential (MF) and Single Family/Multi-Family (SM) Future Land Use Classifications to Single-Family Residential (SF) Future Land Use for 30.76 acres.



MAP SOURCE

EXISTING ZONING	EXISTING LAND USE	PROPOSED LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
Single-Family Residential (R1)	Multi-Family Residential (MF) and Single-Family/Multi-Family (SM)	Single-Family Residential (SF)	Some sporadic single-family residential development	30.76 acres

STAFF RECOMMENDATION: Approval

Background:	<ul style="list-style-type: none"> The current Multi-Family Future Land Use Map Classification is seen as an intrusion into a single-family residential area Neighboring property owners requested this change on the large (19 acre) city-owned property
Positive Aspects of Application:	<ul style="list-style-type: none"> 14 of 41 sites already have single-family residential uses on-site; these uses would be legal, conforming uses again No assemblage of land for commercial or multi-family residential uses is likely, large MF tract in Block 4186A is City-owned Would bring the Future Land Use to be consistent with the current R1 zoning for Blocks 4186 and 4186A
Negative Aspects of Application:	<ul style="list-style-type: none"> Loss of potential multi-family residential development
Mitigating Factors:	<ul style="list-style-type: none"> Properties are not on major thoroughfares and are weak candidates for multi-family residential development

Additional Site Information

Street Addresses:

(From Page 1)

629 NW 36th Avenue
3303-3511 NW 6th Street
3300-3326 NW 6th Terrace
AND
3306-3326 NW 7th Terrace
618-718 NW 33rd Avenue
3307-3327 NW 6th Terrace

Urban Service Area:

Reserve

City Water and Sewer:

No.

Street Access:

Each of the lots are accessed by local streets.

STRAP Numbers:

Multiple, please see Application for details.

Block/Lot(s):

Unit 59, Block 4186, Lots 1-58 (PB 19, PG 148, 153) (302,299 sq. ft, 6.94 acres)
Unit 59, Block 4186A, Tract A (PB 19, PG 152) (829,589 square feet, 19.04 acres)
Unit 59, Block 4191, Lots 1-40 (PB 19, PG 153) (208,145 square feet, 4.78 acres)

Case Planner:

Wyatt Daltry, AICP, Planning Team Coordinator

Review Approved

By:

Robert Pederson, AICP, Planning Manager

Zoning and Land Use Information:

Subject Property:	Future Land Use	Zoning
<i>Current:</i>	MF	R1
<i>Proposed:</i>	SF	Not applicable – not a zoning change.
Surrounding Areas	Future Land Use	Zoning
<i>North:</i>	CP and SM	R1
<i>South:</i>	Single-Family/Multi-Family (SM)	R1
<i>East:</i>	CP	C
<i>West:</i>	SM	R1

Background

The subject properties are proposed to be amended to Single-Family Residential future land use. Structures within Block 4186 are legal, non-conforming residences which may prevent the owners from enjoying the full array of activities usually associated with homeownership, such as expansion and repair should damages occur that are greater than 50% of structural value.

The analysis below will review each block separately. In each case, staff has been lobbied by property owners who own property in or adjacent to the subject areas. The overall purpose of the amendment is to establish a future land use and zoning combination that will make existing structures conforming and the blocks conforming with the overall development pattern of the surrounding neighborhood.

Additional Site Information

Protected Species

Burrowing owls have been identified in the vicinity of the amendment. The City requires species surveys prior to issuance of City of Cape Coral permits or development approvals, in accordance with the Conservation and Coastal Management Element of the Comprehensive Plan.

Should additional protected species be identified on the property as part of the development review of the site, the City will abide by Policy 1.2.5 of the Conservation and Coastal Management Element, which states:

“Policy 1.2.5: The City will assist in the implementation of and compliance with all state and federal regulations concerning species listed as endangered, threatened, species of special concern, or commercially exploited by monitoring development activities, providing information on listed species in building permit packages, and assisting in investigations as requested.”

Utilities

Blocks 4186, 4186A, and 4191 are in the Urban Services Reserve area as designated by the City Comprehensive Plan. Utilities are not present in the subject area. While services could be extended to serve the subject area, the distance to existing utilities could be uneconomical for multi-family residential development.

Soils and Drainage

The site has a variety of soil classifications. These soils have severe limitations for development, which are typically overcome using various engineering solutions such as importing fill. The soil types should not present an obstacle to future land development although special feasibility studies may be required.

REGIONAL PLAN ANALYSIS

Southwest Florida Regional Planning Council's (SWFRPC) Strategic Regional Policy Plan (SRPP):

This amendment is not in conflict with the SRPP.

Lee County Metropolitan Planning Organization's (MPO) 2045 Long Range Transportation Plan:

This amendment has no effect on the MPO's 2045 LRTP.

COMPREHENSIVE PLAN ANALYSIS

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.

Comprehensive Plan

The Comprehensive Plan recognizes that the original platting of the City was prepared with the primary purpose of creating a readily marketable commodity of residential lots. This resulted in an imbalance between residential and commercial lands, leading to an insufficient amount of commercial or multi-family residential land. In 1989, the City of Cape Coral adopted the Comprehensive Plan and Future Land Use Map to identify appropriate locations for future commercial, multi-family residential, and mixed-use properties. In some instances, and with the benefit of hindsight, this has led the City to amend certain areas that would have been better off served as Single-Family Residential.

Appropriateness of Multi-Family Residential

Staff evaluated the proposed amendment with regard to Policy 1.7; the City's multi-family residential siting guidelines. This analysis is pertinent to Blocks 4186 and 4186A. A response to each of the multi-family residential siting guidelines follows in **bold**.

Policy 1.7: The City has identified a shortfall of multi-family residential housing stock in the community. To provide better

guidance in identifying properties which are appropriate for multi-family residential development, to reduce this shortfall, locational guidelines have been developed. The following locational guidelines are as follows:

1.) Proximity to major roadways.

To prevent the establishment of multi-family residential development far in the middle of predominantly single-family neighborhoods, an appropriate location for multi-family residential development is adjacent to or within ¼ mile of major roadways such as arterial and collector roadways, as identified by *Figure 7 City Roadway Classifications*.

2.) Proximity to non-residential land uses.

An important consideration for siting multi-family residential development is the need for multi-family residential uses to be in proximity to major employment centers. Providing housing near commercial uses can result in shorter trips, lessened traffic generation by workers, and providing multiple transportation mode options (walking, bicycling, automobile, bus) for employees.

An appropriate location for multi-family residential development is adjacent to or within ¼ mile of non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

3.) Transitioning from commercial uses to less intense uses.

Multi-family residential uses have traditionally provided a role in buffering single-family uses or neighborhoods from nearby commercial development. Multi-family residential development is often self-contained with parking lots which provide a physical barrier visually separating commercial uses, particularly the lighting and loading areas, from single-family residential uses, which is a benefit to the community.

Therefore, an appropriate location for Multi-family residential development is physically between single-family development and non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

4.) Assemblage opportunities and adjacency to existing multi-family residential.

Single, isolated pre-platted parcels provide little opportunity for larger-scale multi-family residential development and contribute to the same ills that strip center commercial developments offer; a proliferation of driveways onto major roadways.

The proposed future land use map amendment partially meets the second guideline. It clearly fails the first, third, and fourth guidelines. Initially, these blocks were proposed to be amended from Single-Family/Multi-Family Residential as part of a larger pattern, initially begun in Ordinance 2-19 and to be followed upon when the wider area was to be brought into the Urban Services Transition area.

Nevertheless, the subject areas fails to fully meet any of the 4 guidelines, and while these are guidelines, not standards, the benefits of additional housing choice in this area are outweighed by the potential intrusive multi-family residential uses in this area. Perhaps some of the multi-family housing need in this area could be met by property along major roadways.

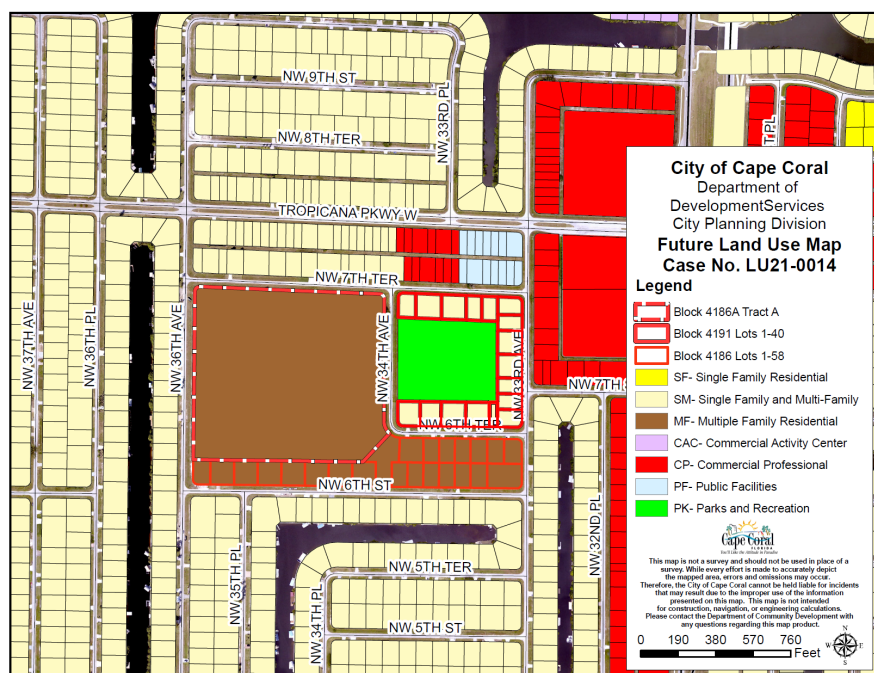
Block 4186, 4186A, and 4191 Summary and Analysis

- Multi-Family Residential FLU and Single-Family Residential zoning are inconsistent on Blocks 4186 and 4186A
- Cluster of SF residences are present on eastern panhandle of subject area
- 14 of 41 properties are developed with SF residences; no duplexes identified
- City owns large tract
- Nearby neighborhood association is aware of situation and has requested City-led FLUMA to SF for these blocks
- Analysis of Policy 1.7, Future Land Use Element (above) indicates that this area is a weak candidate for multi-family residential development
- Area: 30.76 acres, no assemblage observed

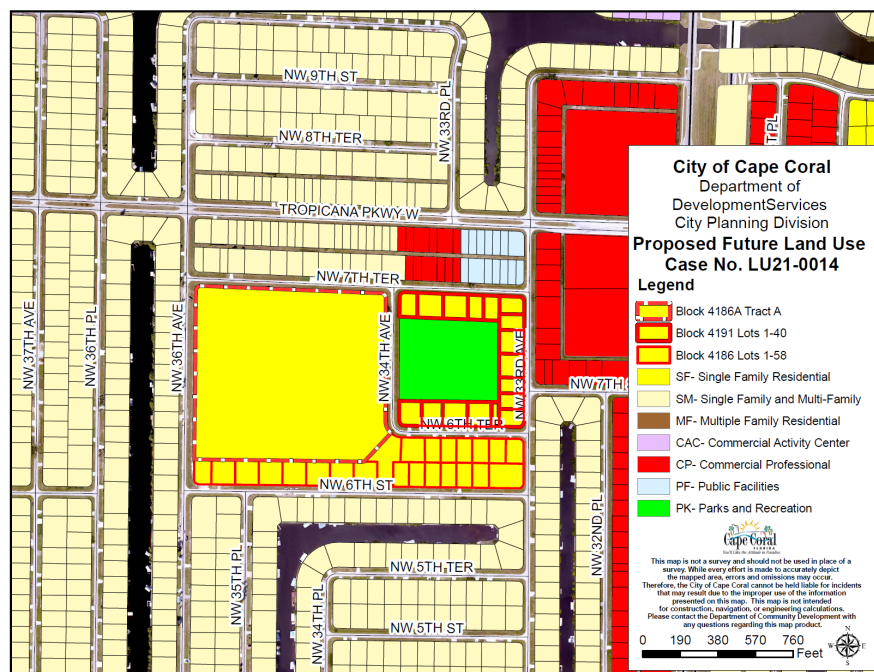
With the analysis above, a future land use map classification other than Multi-Family Residential is warranted. Given the existing single-family residences present in each of these blocks, an amendment to Single-Family Residential would be beneficial by causing these structures to be conforming once again.

Overall, the FLUMA is consistent with the Comprehensive Plan.

Future Land Use Map – Current



Future Land use Map – Proposed



Impact Assessment Summary

The following calculations summarize approximate conditions for each municipal service analyzed. To determine the impact assessment, staff utilized the adopted future land use and zoning designations to determine the existing impacts at buildout. Therefore, the “existing impacts” discussed in this assessment do not necessarily reflect the actual number of dwelling units, population, etc. present within the subject area, but reflect what those impacts would be if the area was developed in accordance with the existing future land use and zoning.

Existing impacts from Multi-Family Residential assume that the site would have be used for multi-family residential development (at 16 units/acre).

Dwelling Units

Existing:	492
Proposed:	135
Net Change:	-357 dwelling units

Population*

Existing:	1,249
Proposed:	342
Net Change:	-907

* 2.54 persons/household = avg. household size; 2010 Census

Water Use

Existing:	<u>98,400 gal/day total</u> (492 du x 200 gal/du/day)
Proposed:	<u>27,000 gal/day total</u> (135 dwelling units x 200 gal/unit/day)
Net Change:	-71,400 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Sewage

Existing:	<u>98,400 gal/day total</u> (492 du x 200 gal/du/day)
Proposed:	<u>27,000 gal/day total</u> (135 dwelling units x 200 gal/unit/day)
Net Change:	-71,400 gal/day
Facility Capacity:	28.4 MGD
Avg. Daily Usage:	12.8 MGD

Solid Waste

Existing Generation: 5,920 lbs. total/day (1,249 residents x 4.74 lbs/person/day)
Proposed: 1,621 lbs. total/day (342 residents x 4.74 lbs/person/day)
Net Change: -4,279 lbs./day
Facility Capacity: 1,836 tons/day
Existing Demand: 1,384 tons/day
Capacity Available: Yes

Traffic/Daily Trips

Existing Generation: 330 AM peak trips/hour and 354 PM peak trips/hour
Proposed: 104 AM peak trips/hour and 136 PM peak trips/hour
Net Change: -226 AM peak hour trips and -218 PM peak hour trips
Facility Capacity: Local roads with a LOS of "D".
Capacity Available: Yes

Development Impact Analysis

Hurricane Evacuation

The subject areas are in Evacuation Zone A. Based on the summation of the amendment impacts above, particularly daily trips, there may be a reduction in hurricane evacuation times.

Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. The proposed amendment would result in a decrease in park demand (3.63 acres) due to the residential development proposed.

Protected Species

The City requires an environmental survey prior to the issuance of any land clearing, site clearing, or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, state, or federal protective or mitigation measures may be required by the developer to proceed.

School Impacts

There will be some impact on schools, due to the residential component in the proposed amendment. Due to the difference in residential type, in which single-family residences are observed to generate more students, a slight decrease is estimated to occur.

Existing dwelling units: 492 dwelling units (multi-family)
Existing students: 44

Proposed dwelling units: 135 dwelling units (single-family)
Proposed students: 39
Change: -5 students

Recommendation: Planning Division staff recommends approval of the proposed small-scale future land use map amendment request.





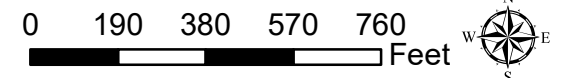
City of Cape Coral
Department of
Development Services
City Planning Division
2021 Aerial
Case No. LU21-0014

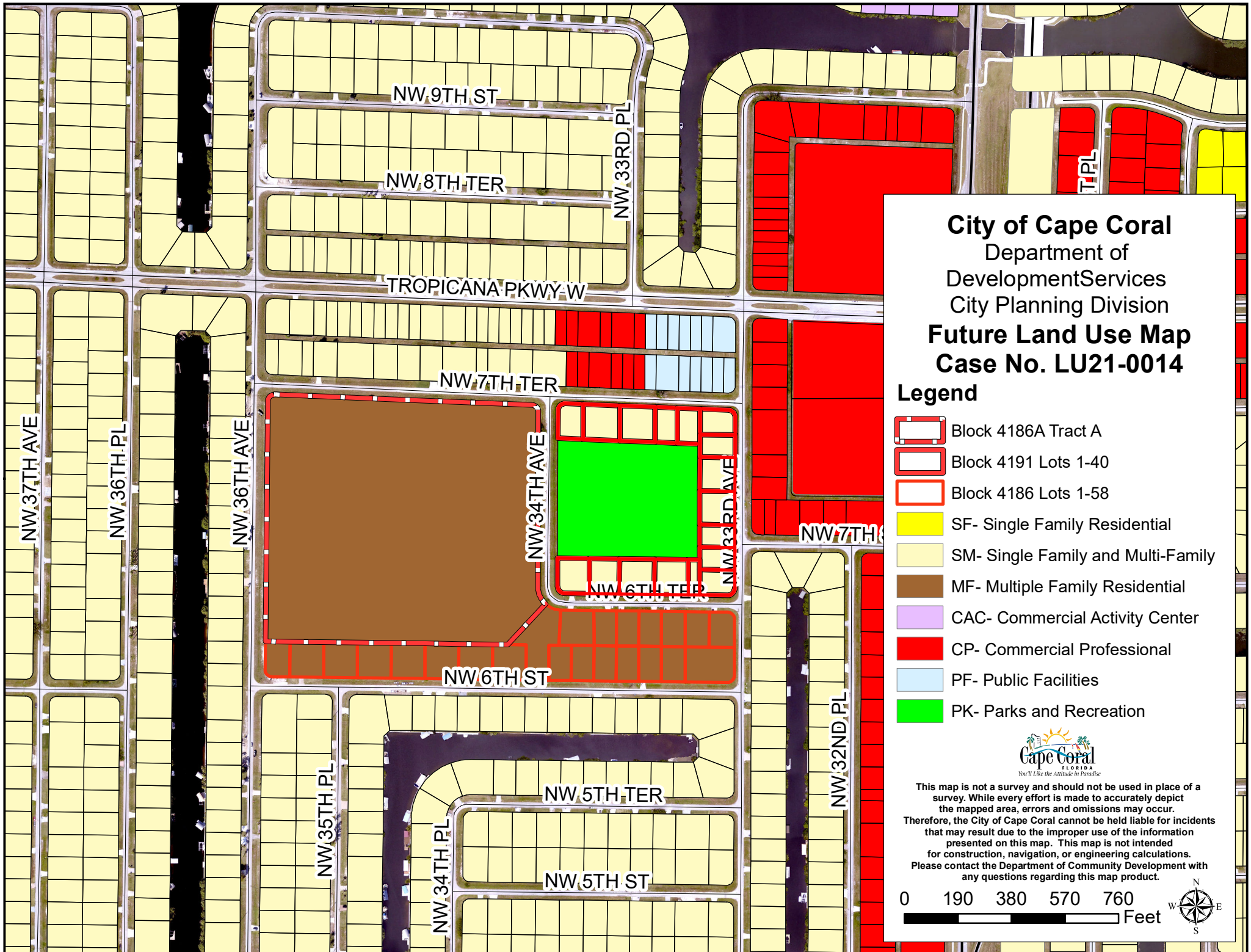
Legend

-  Block 4186A Tract A
-  Block 4191 Lots 1-40
-  Block 4186 Lots 1-58













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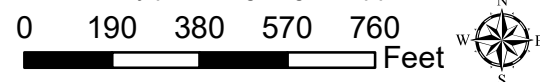
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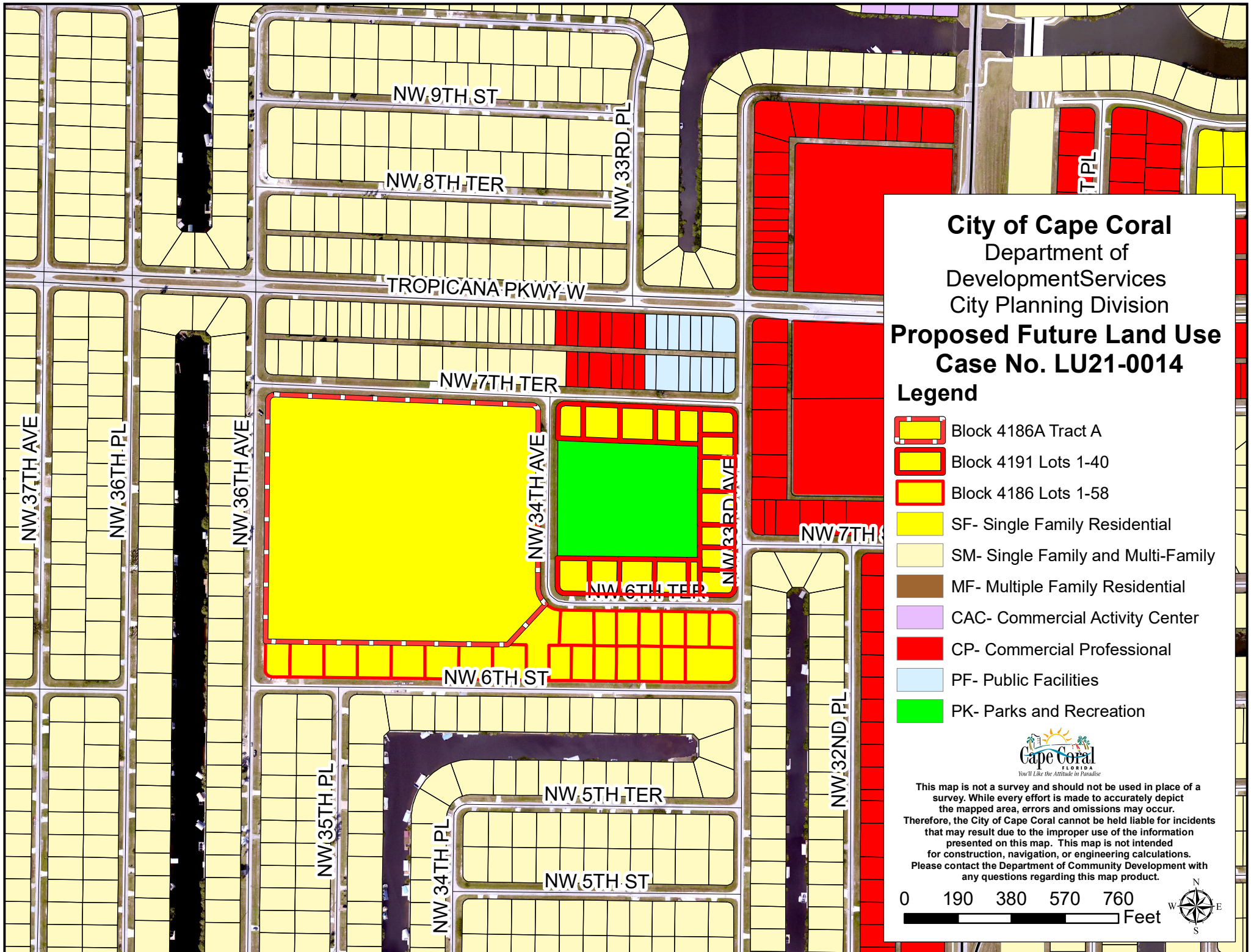
Legend

-  Block 4186A Tract A
-  Block 4191 Lots 1-40
-  Block 4186 Lots 1-58
-  SF- Single Family Residential
-  SM- Single Family and Multi-Family
-  MF- Multiple Family Residential
-  CAC- Commercial Activity Center
-  CP- Commercial Professional
-  PF- Public Facilities
-  PK- Parks and Recreation



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Block 4186A Tract A

Block 4191 Lots 1-40

Block 4186 Lots 1-58

SF- Single Family Residential

SM- Single Family and Multi-Family

MF- Multiple Family Residential

CAC- Commercial Activity Center

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Feet

ORDINANCE 90 - 21

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM MULTI-FAMILY RESIDENTIAL (MF) TO SINGLE-FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-58, BLOCK 4186, AND TRACT A, BLOCK 4186A, ALL IN UNIT 59, CAPE CORAL SUBDIVISION; AMENDING THE FUTURE LAND USE MAP FROM SINGLE-FAMILY/MULTI-FAMILY (SM) TO SINGLE-FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1-40, BLOCK 4191, UNIT 59, CAPE CORAL SUBDIVISION; PROPERTY LOCATED SOUTHWEST OF THE INTERSECTION OF TROPICANA PARKWAY WEST AND NW 33RD AVENUE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by the CITY OF CAPE CORAL regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM MULTI-FAMILY RESIDENTIAL (MF) TO SINGLE-FAMILY RESIDENTIAL (SF)

LOTS 1-58, BLOCK 4186, UNIT 59, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGES 140-153, INCLUSIVE, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

TRACT A, BLOCK 4186A, UNIT 59, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGES 140-153, INCLUSIVE, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 3303-3511 NW 6TH STREET, 3300-3326 NW 6TH TERRACE, 629 NW 36TH AVENUE

FROM SINGLE-FAMILY/MULTI-FAMILY (SM) TO SINGLE-FAMILY RESIDENTIAL (SF)

LOTS 1-40, BLOCK 4191, UNIT 59, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGES 140-153, INCLUSIVE, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 3306-3326 NW 7TH TERRACE, 618-718 NW 33RD AVENUE, 3307-3327 NW 6TH TERRACE

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu21-0014



Ordinance 90-21/LU21-0014 Future Land Use Map Amendment to Multi-Family Residential (MF)



Background

- **A City-initiated future land use amendment involving 30.76 acres for Blocks 4186, 4186A, and 4191**
- **Request is to amend the future land use from Multi-Family Residential (MF) to Single-Family Residential (SF)**
- **Bounded by NW 36th AVE (west), NW 33rd AVE (east), NW 7th TER (north), and NW 6th ST (south)**

Site



Property located at:

629 NW 36th AVE

3303-3511 NW 6th Street

**3300-3326 NW 6th
Terrace**

**3306-3326 NW 7th
Terrace**

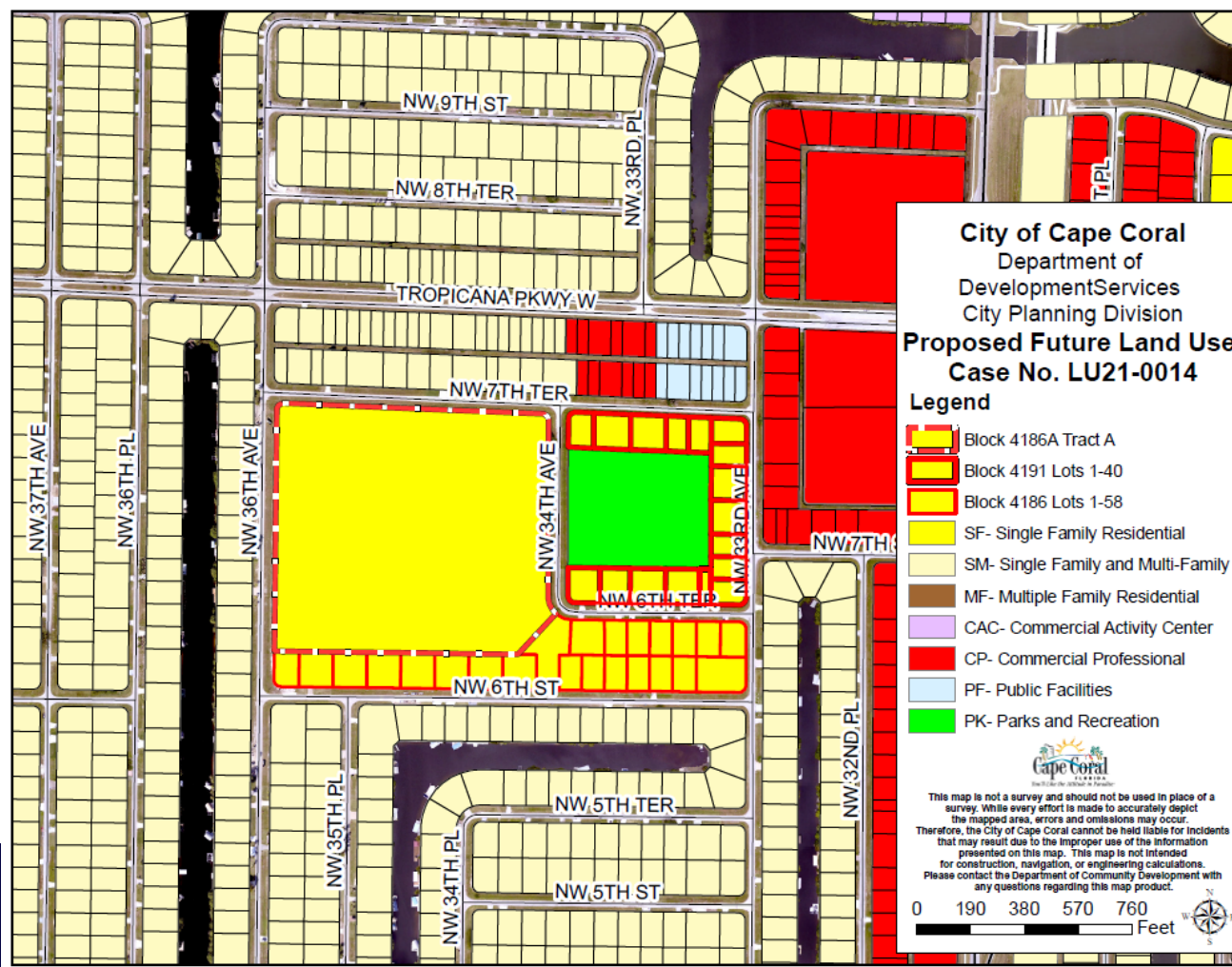
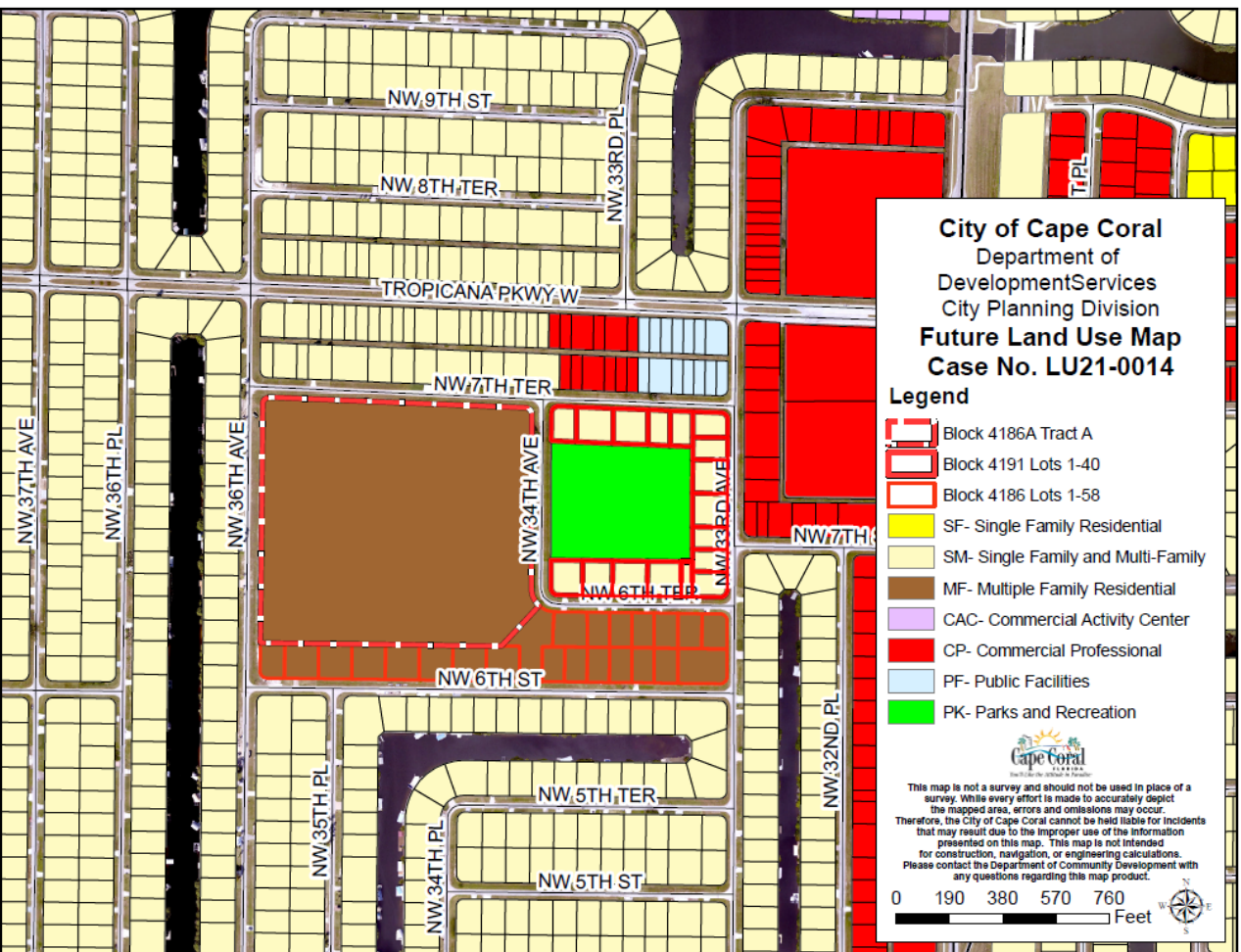
**3307-3327 NW 6th
Terrace**

**618-718 NW 33RD
Avenue**

Aerial



Current and Proposed and Land Use



Background/History

Area is in NW Cape Coral, consists of 41 properties

14 of 41 properties are developed with SF residences

Two-thirds of the properties have inconsistent FLU and zoning, including a large 19-acre city-owned tract

No future plans have been identified for use of city-owned tract

Comprehensive Plan/LDC Analysis

Existing MF designation is consistent with Multi-Family Residential siting criteria (Policy 1.7, Future Land Use Element)

Is consistent with Objective 8 of the Future Land Use Element (“The City shall prohibit land uses incompatible or inconsistent with the Future Land Use Map”)

Conclusion

Multi-Family Residential FLU and Single-Family Residential zoning are inconsistent on Blocks 4186 and 4186A

14 of 41 properties are developed with SF residences; no existing duplexes identified

City owns large tract

Nearby neighborhood association is aware of situation and has requested City-led FLUMA to SF for these blocks

Analysis of Policy 1.7, Future Land Use Element indicates that this area is a weak candidate for multi-family residential development

Conclusion

Proposed amendment is consistent with Comprehensive Plan

Staff recommends Approval

We have received no public correspondence



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	B.(4)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 101-21 (LU21-0009) Set Public Hearing for January 19, 2022

ORDINANCES AND RESOLUTIONS:

WHAT ORDINANCE 101-21 ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial/Professional (CP) to Multi-Family Residential (MF) land use for property described as Lots 15 through 23, Block 3230, Cape Coral Unit 66; property located at 1425 Gleason Parkway. (Applicant: Gary L. Traylor)

City Planning Staff Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

REQUESTED ACTION:

SUMMARY EXPLANATION AND BACKGROUND:

This applicant is requesting a future land use map amendment for 1.03 acres (one parcel) from Commercial/Professional to Multi-Family Residential. The property is located at 1425 Gleason Parkway, just east of the intersection of Gleason Parkway and Chiquita Boulevard.

The property owner wishes to develop multi-family residential on-site. This is not permitted under the present Commercial/Professional future land use map classification. Approval of the amendment could result in 16 additional multi-family residential dwelling units, and a loss of commercial or professional development on-site. The property has been Commercial/Professional since 2008 and is vacant. The property lacks full block depth, as it is only 125' in depth and backs up to the Barkentine Canal.

In conducting an analysis of services, compared to the existing Commercial/Professional land use category, impacts generated by development in the Multi-Family Residential land use category are estimated to result in a slight reduction in water and sewer generation, solid waste generation, and peak hour traffic.

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:

City Planning Staff Recommendation: Approval
Planning and Zoning Commission Recommendation: Approval

SOURCE OF ADDITIONAL INFORMATION:

Vince Caution, Director of Development Services, 574-0600

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

N/A

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

PREPARED BY:

Jessica Cruz, Planning
Technician

Division- City
Planning

Department- Development
Services

ATTACHMENTS:

	Description	Type
▣	1. Ordinance 101-21 (LU 21-0009)	Ordinance
▣	2. Backup Materials	Backup Material
▣	3. Power Point	Backup Material

ORDINANCE 101 - 21

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 15 THROUGH 23, BLOCK 3230, CAPE CORAL UNIT 66; PROPERTY LOCATED AT 1425 GLEASON PARKWAY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by GARY L. TRAYLOR regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM COMMERCIAL/PROFESSIONAL (CP) TO MULTI-FAMILY RESIDENTIAL (MF)

UNIT 66, BLOCK 3230, LOTS 15-23, CAPE CORAL SUBDIVISION AS FOUND IN PLAT BOOK 22, PAGE 15 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 1425 GLEASON PARKWAY

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2021.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2021.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu21-0009



July 12, 2021

Wyatt Daltry
Planning Team Coordinator
Community Development
City of Cape Coral, Florida
1015 Cultural Park Blvd
Cape Coral, FL 33990

Application: Future Land Use Map Amendment (FLUMA)
Primary Applicant: Jason Tabar, Pointe Commercial Real Estate
Primary Property: 1425 Gleason Pkwy, Block 3230, Lots 15 thru 23

Wyatt,

As we discussed during our pre-application meeting with City planning staff on June 18, 2021, please see attached a land-use change application for a small-scale Future Land Use Map Amendment.

Request: Future Land Use Map amendment from "CP-Commercial Professional" to "MF-Multiple Family Residential" FLUM designation.

This property has undergone several public initiated land use amendments by the City wherein permitted use for commercial and multi-family land uses have been entitled. At one point, the City had even established a "mixed-use" district allowing for varying intensities of such hybrid mixed-uses of residential, professional, office and retail commercial uses. None of these allowances have led to development of the subject property.

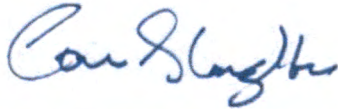
We believe that the market conditions (overall trends) and the local need for multi-family housing make consideration and support of a land use change to multi-family residential is warranted. It is my client's intent to develop a middle-intensity multi-family residential development. We anticipate LOS planning and programming for a unified development consisting of a few primary buildings, 2-3 stories in height, structured and surface parking, and clubhouse pool amenities. Parking circulation and street access will be controlled through limited driveway curb-cut for safety and aesthetics along the parkway.

Included with the FLUMA applications and filing fees, we have also provided a Client Report. The Report contains data, analysis, and GOP consistency review in support of required findings and criteria for ordinance approval. Upon confirmation of legal notice scheduling for the public

hearing before the Planning and Zoning Commission, we will provide a PowerPoint presentation in advance of the first public hearing that summarizes and advances our report. This will ensure the City and public have a complete copy of all our application materials.

We look forward to working with you and City staff on this proposal.

Sincerely,



Tom Slaughter  Tom@CapeLand.net



239.319.7276



4704 Vincennes Blvd.
Cape Coral, FL 33904



Cc: Jason Tabar, Pointe Commercial Real Estate - Jason.Tabar@PointeCommercial.com
Max Forgey, Forgey Planning - Max@ForgeyPlanning.com
Jordan Hester, Neon Coast - jhester86@gmail.com





CLIENT FLUMA REPORT
1425 Gleason Pkwy, Block 3230

Applicant: Jason Tabar, Pointe Commercial Real Estate

Agent: Tom Slaughter, Cape Land LLC

Petition Type: Future Land Use Map Amendment

Petition Request: Future Land Use Map designation from "Commercial Professional" to "Multi-Family Residential"

Subject Property: 1425 Gleason Pkwy, Block 3230, Lots 15 thru 23

Location Map:



Summary of Request:

The petitioner requests a small-scale Future Land Use Map Amendment from "CP-Commercial Professional" to "MF - Multiple Family Residential" FLUM designation. The subject property is 1.03 acres in size and includes 9 assembled lots (Lot 15-23) within Block 3230, Unit 66. This SW Cape area is served by potable water and sanitary sewer utilities. The neighborhood is approximately at 70% buildout for all land uses. We believe that future commercial intrusion into the residential neighborhood is inappropriate -- the site is ideally suited for lower intensity multi-

family uses. The multi-family use will act as a transitional buffer between planned commercial to the west and single-family residential uses located to the east of the subject property.

Site:



1. Existing Conditions:

	Existing FLUM	Existing Zoning	Existing Uses
Site	CP – Commercial Professional	P – Professional office	Vacant
North	SF - Single Family Residential	R1 - Residential Single Family	Canal, Single-family homesites
South	1. PF – Public Facilities 2. CP – Comm. Pro. 3. SF - Single Family Res.	1. R1 – Res. Single Family 2. R1 – Res. Single Family 3. R1 – Res. Single Family	1. Church 2. Church 3. SF homesites
East	MF – Multi-Family Residential	RML- Residential Multiple Family, Low	Duplex
West	CP – Commercial Professional	P – Professional office	Vacant



2. Comprehensive Plan:

Request is for a small-scale Future Land Use Map Amendment from “Commercial Professional (CP)” to “Multiple Family Residential (MF)”. No change to text or special planning area consideration is anticipated with this request. With support of the FLUMA, the property owners intend to submit a Rezoning from “(P) Professional Office” to “(RML) Residential Multi-Family Low”. The “RML” zoning classification will implement the “Multi-Family Residential” FLUM designation of the Comprehensive Plan under separate application. Additionally, in 2006 the City initiated a future land use classification change from commercial (CP) to multi-family residential (MF) as was the land use assignment now being sought.

The subject property has previously gone through a series of City-initiated land use designation changes. These approvals further demonstrate that the subject property has had periods of historical land use permissibility for single family, multi-family residential, mixed use, professional office, and retail commercial. Essentially, the City has tried assignment of different land use categories through several decades of planning activities with no development takers. These land-use changes are noted below:

- CP to MF - ORD 30-06; In 2006 the City amended the FLUM from CP-Commercial Professional to MF-Multi-Family Residential land use designation.
- MF to CP - ORD 114-08; In 2008 the City amended the FLUM from MF-Multi-Family Residential to CP-Commercial Professional land use designation.
- R3 to P1 - ORD 141-08; In 2008 the City amended the Zoning Map from R3-Residential Multi-Family to P1-Professional Office.

3. Future Land Use Map Designation:

Request is for a small-scale Future Land Use Map Amendment from “CP – Commercial professional” to “MF - Multiple Family Residential”. This land use designation provides for the following uses and residential density allowances:

Multi-Family Residential: Densities up to 25 units per acre are permitted in this future land use map classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down.

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects (three or more units only), single-family residences, and duplexes are also permitted in this zoning district.

4. Level of Service Standards:

Urban Service Area: Yes, site is within the “Transition” section of the Urban Service Area as identified on the adopted Future Land Use Map.



City Utilities: The site is served by centralized City potable water, sanitary sewer, and reclaimed water for irrigation.

Transportation: The proposed land use change does not require a Traffic Impact Study due to the limited number of projected vehicle trips. The site is served by Gleason Parkway, a collector roadway which links North/South city collectors of Chiquita Boulevard to the west, and Skyline Boulevard to the east. It is not anticipated that future development of lower density multi-family development will impact level of service standards to collector and arterial roadways.

Soil Type: Matlacha soil. No hydric soils (see pink shaded) within project area.



Animal Species: None, see map below.



Flood Zone: X



5. Summary of Findings:

- FLUMA petition will implement the “Multiple Family Residential (MF)” FLUM designation through assignment of the “Residential Multi-Family Low (RML)” zoning district.
- FLUMA Petition is consistent with stated goals, objectives, and policies of the Comprehensive Plan.
- The intended low-density/intensity multiple family uses are compatible with adjacent and nearby existing single- and multi-family uses.
- The proposal will not generate unplanned impacts to level of service standards on community facilities and infrastructure systems.

6. Comprehensive Plan Consistency Analysis

In reviewing the City’s land planning and regulatory framework, the Planning and Zoning Commission provides recommendation to the City Council for legislative decisions based upon criteria included within the Application for Future Land Use Map Amendment. Provided below is a review of the six criteria adopted by the City for use in consistency review of legislative land-use decisions. The applicant has provided a detailed listing and citation of policies from the City’s planning framework (Comprehensive Plan, Strategic Plan, Economic Development Plan, and Affordable Housing Plan) that provide support in establishing consistency with these criteria. We have also provided *Recommended Findings* that discuss, and tie together factual data, analysis, and findings in support of this FLUMA petition.

Future Land Use Map Amendments - Section 3.5.2.

Proposed future land use map amendments shall be reviewed in accordance with the requirements of Chapter 163, Florida Statutes, and the following criteria:

1) Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;

Policy 1.12 (FLUE): The City will continue to conduct commercial land needs studies to identify potential areas of the City, which could accommodate commercially designated land, and then amend the Future Land Use Map, consistent with the studies, findings, and recommendations, and other provisions of the Comprehensive Plan.

Applicant’s Finding: The amendment to the FLUM from a commercial to a residential use would enhance the health and safety of the edge-neighborhood by eliminating the prospect of introducing the interface between commercial pedestrian and automobile traffic located directly north on Gleason Parkway.

The FLUM amendment, if adopted as proposed, would reverse the previous amendment to the city of Cape Coral comprehensive plan which was inconsistent with Policy 1.13 which discourages new strip commercial development. Furthermore, there is no evidence that



the decision to change this FLUM designation from a residential to commercial land use was driven by data and analysis identified in a commercial sighting study and specifically applicable to these properties. The existing FLUM designation is therefore inconsistent with Policy 1.12.

Policy 1.13 (FLUE): In establishing commercial siting guidelines, it is the intent of the City of Cape Coral to discourage new “strip commercial” development. Strip commercial development, for the purpose of this policy, is often, but not always, linear in orientation, typically generates high volumes of traffic (often associated with separate vehicular entrances and exits for each property on the primary street), may have poor or undefined pedestrian path systems that create conflicts between pedestrian and vehicular movements, and generally lacks sufficient onsite space to accommodate normal parking and loading activities. In discouraging new strip commercial development, the City shall also seek to limit or reduce traffic conflict points along arterial and collector roadways, to promote pedestrian friendly development, and to create synergistic, compact patterns of commercial development.

***Applicant’s Finding:** The amendment to the FLUM from a commercial to a residential use would eliminate commercial intrusion in a predominately residential neighborhood. Consistent with these guidelines, the subject property is a stronger candidate for a viable multi-family residential district to act as a buffer and transition from those existing low density residential homes to the north, and the planned but vacant commercial uses located west and south of the subject property.*

Policy 1.14 (FLUE): The City of Cape Coral’s commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan.

Policy 5.4 (Econ. Devel. Element): The Office of Economic Development will provide input for the design of programs to increase the availability of suitable housing that is priced appropriately for the city’s workforce.

Policy 5.5 (Econ. Devel. Element): The Office of Economic Development will evaluate and advocate for creating programs that assist Cape Coral employers to assist their employees to afford housing.

***Applicant’s Finding:** The amendment to the FLUM from a commercial to a residential use would eliminate commercial intrusion in a predominately residential neighborhood. Consistent with these guidelines, the subject property is a stronger candidate for a viable residential district.*



Applicant's Finding: The amendment to the FLUM from a commercial to a residential use would provide additional affordable multi-family housing units in close proximity to employment centers and commercial-professional nodes as depicted on the City's adopted Future Land Use Map. The proposal is consistent with the overall planning framework of land-use, housing, transportation, and recreational siting standards.

2) The amendment protects the health, safety, and welfare of the community;

Policy 1.6 (FLUE): The City will continue to promote healthy communities and a diverse housing stock so that all persons may have an opportunity to reside in this community. To accomplish this goal, the City supports efforts to balance single-family and multi-family residential stock.

Applicant's Finding: The petition will permit reclassification of non-desired future commercial uses on the vacant subject property in a predominate existing single-family and low-density multiple-family Gleason neighborhood. This FLUM amendment, if adopted as proposed, will implement Future Land Use Element Policy 1.6 by promoting a healthy community and diverse housing stock. It will eliminate the prospect of introducing the interface between commercial traffic and pedestrians on Gleason Parkway and SW 15th Avenue, a local roadway and will assure that these properties will be residential in the future and will assure that multi-family housing will be available to an emerging population of young families with children, similar to those in the existing neighborhood.

3) The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site;

Policy 1.7 (FLUE): The City has identified a shortfall of multi-family residential housing stock in the community. To provide better guidance in identifying properties which are appropriate for multi-family residential development, to reduce this shortfall, locational guidelines have been developed. The following locational guidelines are as follows:

1.) Proximity to major roadways.

To prevent the establishment of multi-family residential development far in the middle of predominantly single-family neighborhoods, an appropriate location for multi-family residential development is adjacent to or within ¼ mile of major roadways such as arterial and collector roadways, as identified by Figure 7 City Roadway Classifications.

3.) Transitioning from commercial uses to less intense uses.

Multi-family residential uses have traditionally provided a role in buffering single-family uses or neighborhoods from nearby commercial development. Multi-family residential development is often self-contained with parking lots which provide a physical barrier



visually separating commercial uses, particularly the lighting and loading areas, from single-family residential uses, which is a benefit to the community. Therefore, an appropriate location for Multi-family residential development is physically between single-family development and non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

4.) Assemblage opportunities and adjacency to existing multi-family residential.

Single, isolated pre-platted parcels provide little opportunity for larger-scale multifamily residential development and contribute to the same ills that strip center commercial developments offer; a proliferation of driveways onto major roadways.

Applicant's Finding: The proposed rezoning aligns and supports the criteria in Policy 1.7 by locational criteria in that the proximity to major roadways for a commercial development is not established. The commercial land use of the subject property is located primarily along Gleason parkway and SW 15th Avenue, a local residential street.

The proposal provides a transitioning from commercial uses to less intense uses with a low-density multi-family district lying between the single family and commercial districts. An assemblage of 4 ½ lots (1.03 +/- acres) makes up the subject property. The property has been actively marketed for commercial development. Such market conditions are poor for isolated commercial lands not within a node or larger assembly.

- 4) **The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community or traffic that cannot be mitigated through application of the development standards in this Code;**

Policy 1.15 (FLUE): 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. Table 1 shows the zoning districts which are consistent with and implement the respective future land use map 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.

Future Land Use	Consistent Zoning Districts
Single-Family (SF)	R-1, RE
Single-Family and Multi-Family (SM)	R-1, RML, RMM, RE, A
Multi-Family (MF)	RML, RMM
Low Density Residential (LDR)	RE, A
Commercial/Professional (CP)	C, P
Mixed Use (MX)	ALL except MXB



Downtown Mixed (DM)	SC, MXB
Pine Island Road District (PIRD)	CC
Commercial Activity Center (CAC)	NC
Light Industrial (I)	I
Natural Resources/Preservation (PRES)	PV
Public Facilities (PF)	ALL
Parks and Recreation (PK)	ALL except MX7 and MXB
Open Space (OS)	PV

- b. Multi- Family Residential: Densities up to 25 units per acre are permitted in this future land use map classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down. The development of multi-family projects in the Urban Services Reserve Area is also subject to the terms of Policies 7.7 and 7.8, below.

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects (three or more units only), single-family residences, and duplexes are also permitted in this zoning district.

Applicant's Finding: The Range of zoning districts and all allowed uses in these districts are entirely compatible with existing zoning and land use in the immediate areas articulated in Recommended Finding #3 above.

- c. Commercial/Professional: Intensities of use in the Commercial/Professional (CP) land use classification shall not exceed a floor to lot area ratio (FAR) of 1.0. Zoning districts compatible with this classification may also be used in conjunction with the Mixed Use (MX) future land use classification. When used in conjunction with the MX Classification, densities, intensities, and other parameters, as described for these districts may differ from those described for the CP Classification. Permitted uses will ultimately depend upon the zoning district of the subject parcel. Generally, two zoning districts are consistent with the Commercial/Professional future land use classification, identified below. However, the City may develop additional zoning districts, compatible with the CP future land use classification, in the future.

The Professional (P) District is designed to provide professional office and other compatible development in areas that are suitable for such activities. The P District is appropriate for development of both small-scale and large- scale office or professional development projects, or projects containing uses compatible with such development.

Applicant's Finding: The proposed FLUM amendment will allow land uses in the future that will assure compatibility with the uses that have been in place for decades, but which have been amended recently for reasons that are not consistent with good planning and were not in the interest of the owners of the underlying properties.



The existing FLUM designation is inconsistent with Florida Statutes Sec. 163.3184(9) which states: compatibility means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion overtime such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. Specifically, (1) it introduces a commercially designated strip directly abutting a residential street, (2) it will allow commercial activities, delivery trucks, traffic, and parking across the street from longstanding residences. These impacts will not be ameliorated rated over time.

The existing commercial FLUM designation is inconsistent with Policy 1.14 which imposes citing standards for new commercial development, including adequate depth (of 250 feet), compactness, and integration, none of which have been achieved. It constitutes an intrusion into the surrounding residential properties, which is the opposite of the intent articulated in Policy 1.14.

- 5) The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.;**

Policy 1.13 (FLUE): In establishing commercial siting guidelines, it is the intent of the City of Cape Coral to discourage new “strip commercial” development. Strip commercial development, for the purpose of this policy, is often, but not always, linear in orientation, typically generates high volumes of traffic that is often associated with separate vehicular entrances and exits for each property on the primary street, may have poor or undefined pedestrian path systems that create conflicts between pedestrian and vehicular movements, and generally lacks sufficient onsite space to accommodate normal parking and loading activities. In discouraging new strip commercial development, the City shall also seek to limit or reduce traffic conflict points along arterial and collector roadways, to promote pedestrian-friendly development, and to create synergistic, compact patterns of commercial development.

Policy 3.2 (FLUE): The size, location and function of commercial areas shall be related and central to the population, market area and the transportation network system. The distribution and size of commercial areas shall be spatially located to meet neighborhood, community, and regional needs and to reduce vehicle trip lengths.

Policy 1.5 (Housing Element): The City will implement the activities specified in the Capital Improvements Element (CIE) within the time frames specified in the CIE, to ensure that adequate infrastructure is available to support the projected population.

***Applicant’s Finding:** The permitting of multi-family homes will open to availability to nearby commercial, professional, and recreational opportunities by new residents. Concurrency and level-of-service standards to serve the development can be achieved.*



The proposed use would restore all allowed uses that had existed for decades prior to the city-initiated plan amendments to the Cape Coral comprehensive plan. By restoring the residential land use on the subject property, the city will assure that the uses will be compatible with the neighboring uses and with the infrastructural levels plan for the area.

The proposed uses, if approved, would allow existing property owners to develop their properties for uses that were allowed when they purchased them. These uses are generally consistent with Policy 1.15, explained in detail above.

6) Other factors deemed appropriate by the Commission and City Council.

Cape Coral Strategic Plan (2018-21)

Strategic Initiative #F-3: Provide a variety of experiences of experiences that are appealing, affordable, and accessible to all Cape Coral residents.

Applicant's Finding: The permitting of multi-family homes will open to availability for active use of nearby parks and schools to residents and possibly employment opportunities as part of workforce housing solutions.

Cape Coral - Economic Development Master Plan

Strategy 2.1: Increase the amount of multi-family residential.

Action 2.1.1: Amend Land Use Regulations to remove barriers that make multi-family residential projects difficult to develop.

Action 2.1.2: Identify sites that are ideal for multi-family development and place entitlements on the properties that allow for by-right development.

Applicant's Finding: The site selection for the proposed project considered aspects of the City's planning framework (Comprehensive Plan, Strategic Plan, Economic Development Plan and Affordable Housing Planning). Consistency, compactness, and compatibility are enhanced. The site will be served by adequate and available infrastructure and services. Locational criteria for transportation access, schools, parks, and other recreational uses have been met and will further the City's goal of compact and vibrant neighborhoods.



L421-0009



**DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION**

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

FUTURE LAND USE MAP AMENDMENT APPLICATION

FEES: \$1,225.00 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, Section 3.5.2). Advertising costs will be billed and must be paid prior to hearing.

OWNER(S) OF PROPERTY INFORMATION	
Owner <u>Gary L. Traylor</u>	Address <u>1627 SE 29th TER</u>
Phone <u>(239) 542-8002</u>	City <u>Cape Coral</u>
Email <u>furnbuff@aol.com</u>	State <u>FL</u> Zip <u>33904</u>
Owner _____	Address _____
Phone _____	City _____
Email _____	State _____ Zip _____
APPLICANT INFORMATION (If different from owner)	
Applicant <u>Jason Tabar</u>	Address <u>24962 Paseo Cipres</u>
Phone <u>(949) 338-3951</u>	City <u>Lake Forest</u>
Email <u>jason.tabar@pointecommercial.ca</u>	State <u>CA</u> Zip <u>92630</u>
AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)	
Representative <u>Tom Slaughter, Cape Land LLC</u>	Address <u>4704 Vincennes Boulevard</u>
Phone <u>239.319.7276</u>	City <u>Cape Coral</u>
Email <u>Tom@CapeLand.net</u>	State <u>FL</u> Zip <u>33904</u>
PROPERTY INFORMATION	
Unit <u>66</u> Block <u>3230</u> Lot (s) <u>15 thru 23</u>	Subdivision <u>Cape Coral</u>
Property Address <u>1425 GLEASON PKWY, CAPE CORAL, FL 33914</u>	
Plat Book <u>22</u> Page <u>15</u>	Current Zoning <u>P-Professional Office</u>
Strap Number <u>34-44-23-C4-03230.0150</u> Acreage <u>1.03 +/-</u>	
Current Land Use <u>CP-Commercial Pro.</u> Proposed Land Use <u>MF-Multi Family Residential</u>	



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

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

ESTIMATED PEAK HOUR TRIP

Parcel Size: Width 359 Depth 125 Sq. Ft. 45012 Acreage 1.03

Soil Type: Matlacha soils, no presence of hydric soils types.

Urban Services Area: (check one) Infill Transition Transition Reserve Transition

Natural Resources (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):

Animal Species: (list any endangered, threatened, or species of special concern on-site)

Estimated Development:

- Estimate total lot coverage _____ %
- Estimate total building floor area: _____ Sq. ft.
- Estimate type of future development and percentages:
(e.g. business offices, commercial retail, automotive repair, etc.)

Estimated peak hour trip ends:

If 300 or less peak hour trip ends are projected, the applicant must provide the source of the traffic projection. If more than 300 peak hour trip ends are projected, a traffic impact study must be completed and submitted as part of the application (see attachments).

City Sewer: YES ☒ NO ☐

City Water: YES ☒ NO ☐



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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Tom Slaughter, Cape Land LLC
(Name of person giving presentation)

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

UNIT 66 BLOCK 3230 LOT(S) 15 thru 23 SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION STRAP: 34-44-23-C4-03230.0150

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

Gary L. Traylor
PROPERTY OWNER (Please Print)

[Signature]
PROPERTY OWNER (Signature & title)

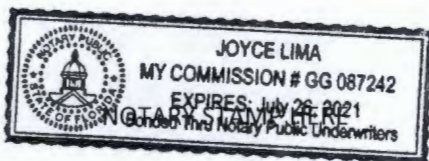
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & title)

STATE OF Florida

COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☐ physical presence or ☒ online
notarization, this 9th day of July, 2021 by Gary L. Traylor who
is personally known to me or produced DRIVERS LICENSE as identification.



Exp Date: July 26, 2021 Commission Number: GG 087242

Signature of notary Public:

Printed Name of Notary Public:

[Signature]
Joyce Lima

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



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5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.; and
 6. Other factors deemed appropriate by the Commission and City Council.
- D. Effective date of approval. The effective date of a future land use map amendment shall be in accordance with Chapter 163, Florida Statutes.

STAFF REPORT

LU21-0009

Jason Tabar

DOCKET/CASE/APPLICATION NUMBER

Wyatt Daltry, AICP, Planning Team

Coordinator (239) 573-3160,

wdaltry@capecoral.net

APPLICANT/PROPERTY OWNER

1425 Gleason Parkway

Cape Coral, FL 33914

STAFF PLANNER

PROPERTY ADDRESS/LOCATION

BRIEF SUMMARY OF REQUEST

City-initiated small-scale future land use map amendment from the Commercial/Professional (CP) Future Land Use to Multi-Family Residential (MF) Future Land Use for one parcel (1.03 acres) at 1425 Gleason Parkway.



MAP SOURCE

EXISTING ZONING	EXISTING LAND USE	PROPOSED LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
Professional (P)	Commercial/ Professional (CP)	Multi-Family Residential (MF)	None	45,000 square feet 1.03 acres

STAFF RECOMMENDATION: Approval

Background:	<ul style="list-style-type: none"> The seven properties (prior to assemblage) were amended to CP future land use in 2008 Property has alternated between CP and MF future land use since 2000
Positive Aspects of Application:	<ul style="list-style-type: none"> Properties to east have multi-family residential future land use and zoning Surrounding area has residential character Site is undeveloped Assembled property could provide multi-family residential housing stock other than duplexes
Negative Aspects of Application:	<ul style="list-style-type: none"> Represents loss of commercial land on a minor arterial-classified roadway Properties lack access on minor arterial roadway from eastbound traffic
Mitigating Factors:	<ul style="list-style-type: none"> Commercial development could expand from existing development from the west LDC will address required buffers to North and East

Additional Site Information

Street Addresses: 1425 Gleason Parkway

Urban Service Area: Transition

City Water and Sewer: Yes

Street Access: The site is accessible from a minor arterial roadway, Gleason Parkway

STRAP Numbers: 34-44-23-C4-03230.0150

Block/Lot(s): Block 3230, Lots 15-23

Subdivision: Cape Coral Subdivision, Unit 66

Case Planner: Wyatt Daltry, AICP, Planning Team Coordinator

Review Approved By: Robert Pederson, AICP, Planning Manager

Zoning and Land Use Information:

Subject Property:	Future Land Use	Zoning
<i>Current:</i>	Commercial/Professional (CP)	Professional (C)
<i>Proposed:</i>	Multi-Family Residential (MF)	Not applicable – not a zoning change. If the future land use map amendment is adopted, appropriate options would be RML or RMM zoning
Surrounding Areas	Future Land Use	Zoning
<i>North:</i>	Single-Family Residential (SF)	Single-Family Residential (R1)
<i>South:</i>	CP and SF	C and R1
<i>East:</i>	MF	Residential Multi-Family Low (RML)
<i>West:</i>	CP	P

Background

This site has been the subject of an amendment to Multi-Family Residential in the past, as it was amended in 2006. Subsequently, a land purchase fell through during the recession, and the owner requested an amendment back to Commercial/Professional in 2008. The property remains undeveloped.

The surrounding area has a mix of single-family residential uses to the north and south. Multi-Family residential uses are to the east along Gleason Parkway. The commercial areas located to the west include a small commercial center at the NE corner of the intersection of Gleason Parkway and Chiquita Boulevard. A vacant commercial property is adjacent to the subject property to the west.

The site has approximately 360 feet of frontage along Gleason Parkway, and a median opening consisting of the intersection of Gleason and SW 15th Avenue could provide for full access in-and-out of the site if developed commercially. The property is approximately 550 feet away from the intersection of Gleason Parkway and Chiquita Boulevard. This is too far away to be visible from Chiquita, a major arterial roadway.

Additional Site Information

Protected Species

Protected species have not been identified in the vicinity of the amendment. The City requires species surveys prior to issuance of City of Cape Coral permits or development approvals, in accordance with the Conservation and Coastal Management Element of the Comprehensive Plan.

Should additional protected species be identified on the property as part of the development review of the site, the City will abide by Policy 1.2.5 of the Conservation and Coastal Management Element, which states:

“Policy 1.2.5: The City will assist in the implementation of and compliance with all state and federal regulations concerning species listed as endangered, threatened, species of special concern, or commercially exploited by monitoring development activities, providing information on listed species in building permit packages, and assisting in investigations as requested.”

Utilities

The site is in the Urban Services Transition area as designated by the City Comprehensive Plan. Utilities are not available for properties located in the Transition area.

Soils and Drainage

The site has a variety of soil classifications. These soils have moderate limitations (Matlacha Gravelly fine sand, 69) for development, which are typically overcome using various engineering solutions such as importing fill. The soil types should not present an obstacle to future land development although special feasibility studies may be required.

REGIONAL PLAN ANALYSIS

Southwest Florida Regional Planning Council's (SWFRPC) Strategic Regional Policy Plan (SRPP):

This amendment is not in conflict with the SRPP.

Lee County Metropolitan Planning Organization's (MPO) 2040 Long Range Transportation Plan:

This amendment has no effect on the MPO's 2040 LRTP.

COMPREHENSIVE PLAN ANALYSIS

Future Land Use Element

Comprehensive Plan Analysis

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

Staff has reviewed Policy 1.14 of the Future Land Use Element to determine whether this existing Commercial/Professional designation is appropriate for the subject properties. While there is no specific number of guidelines that need to be met, an area which fails to meet most of the guidelines is likely to not be a strong site for commercial development, in which case, an amendment to a different future land use should be considered.

For this policy review, staff will respond to each guideline in ***bold italics***.

"Policy 1.14: The City of Cape Coral's commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Within this broad, general context, consideration of properties proposed for conversion to a commercial future land use shall be based upon the following commercial siting guidelines:

Commercial Siting Guidelines

Major Intersection

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a new, separate commercial property or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with

existing properties.”

Staff Response: The properties are not located at a major roadway. The site does not meet this guideline.

“Adequate Depth

Ideally, a commercial property should extend not only along the adjacent collector or arterial roadway, but also should extend inward with adequate depth to accommodate the necessary parking, buffering, retention, and open area for the future commercial development. In Cape Coral, most City blocks are rows of back-to-back lots approximately 250 feet deep. Therefore, adequate depth is achieved if any number of contiguous properties, occupy the entire 250 feet of depth.”

Staff Response: The area has approximately half-block depth backing to a canal. The site does not meet this guideline.

“Compactness

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.”

Staff Response: The area is roughly rectangular in shape. The site meets this guideline.

“Integration

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.”

Staff Response: The area is surrounded by existing residential development in all directions, even in blocks which are commercial. It is unlikely that development on this block would be integrated with other commercial nearby, as no other commercial uses are nearby. The site does not meet this guideline.

“Assembly

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial developments that might serve the City as shopping and/or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly of larger parcels

also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product.

Properties proposed for conversion to a commercial future land use, where such properties would represent an expansion of an existing commercial area may be considered “assembled,” for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.”

Staff Response: The development site consists of 9 lots, just over one acre in size. Staff looks to sites of 3 acres or greater, or opportunities to assemble with 3 acres of commercial or more. If assembled with the vacant commercial site to the west, and the Shops at Chiquita further west, 3 acres would be assembled. The site partially meets this guideline.

“Intrusion

“Intrusion,” as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no hard and fast guidelines for determining when a proposed commercial use would be intrusive to surrounding development. However, expansions of existing commercial areas are generally considered less intrusive than the establishment of new commercial areas. Commercial areas may be considered less intrusive to adjacent multi-family development than to adjacent single-family development. Commercial development that is separated from a residential area by a street, canal, a vegetative buffer, or other geographic features, may be considered less intrusive than commercial development that directly abuts a residential area. The degree of compactness (see above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties (properties proposed for conversion to a commercial future land use classification, which do not abut existing commercial properties) are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While intrusion is subjective and depends on many factors, a rule of thumb is that the proposed commercial property would not likely be intrusive if adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.”

Staff Response: This block is bordered on several sides with single-family residences. If commercial development was to develop, these residences could be impacted by such development in terms of traffic, noise, light pollution. The site does not meet this guideline.

“Access

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

- a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Development Code refer to these as “dedicated City parking areas.” These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City’s interest to promote conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant’s agreement to own and manage the site.
- b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.”

Staff Response: This block does not have access either to a platted City parking area or a roadway with an adopted City access management plan. The site does not meet this guideline.

“Ownership Pattern

An ideal commercial node is a cohesive, compact, interrelated network of commercial properties. Properties proposed for conversion to a commercial future land use, which properties consist of multiple parcels, or groups of parcels, under multiple ownership are unlikely to develop as a true “commercial node.” Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development. Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.”

Staff Response: The site is under common ownership. The site meets this guideline.

Summary: This proposed amendment meets 2 guidelines, partially meets another, and fails to meet 5 guidelines. As a result, this area is a weak candidate for commercial development.

Housing Goal

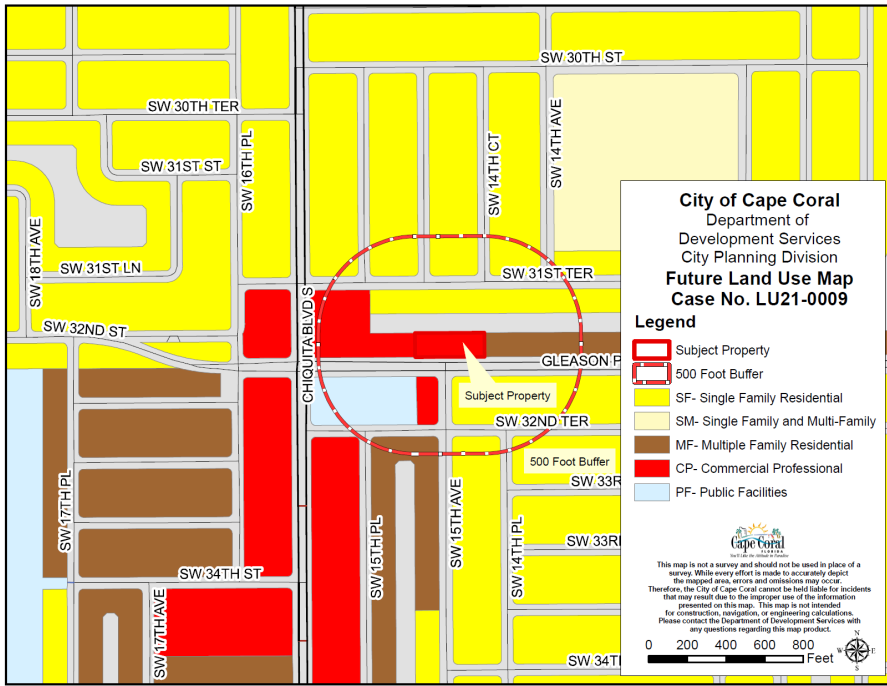
The proposed amendment has also been reviewed in light of the goal of the Housing Element, which states:

“GOAL: To provide good quality housing in safe, clean neighborhoods, offering a broad choice of options in both type (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status.”

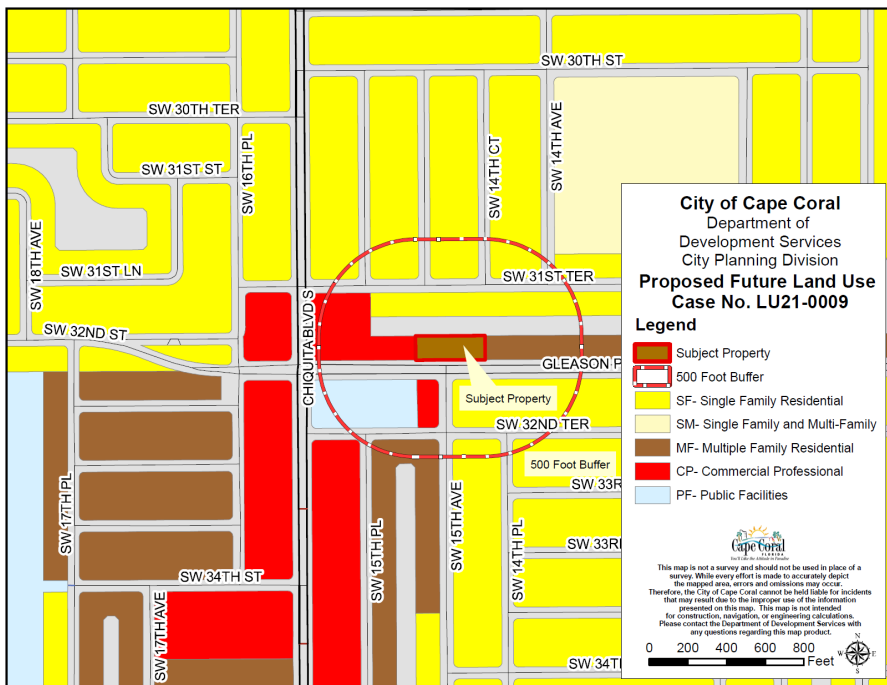
Adding an additional acre of land to multi-family residential may assist the City in meeting this goal through the provision of additional housing choice. Therefore, the subject property is consistent with the above goal.

To summarize, the subject area is clearly exposed as a weak candidate for commercial development in light of Policy 1.14, Future Land Use Element. For these reasons, and the analysis of the Comprehensive Plan discussed above, Staff recommends **approval** of the proposed future land use map amendment request.

Future Land Use Map – Current



Future Land use Map – Proposed



Impact Assessment Summary

The following calculations summarize approximate conditions for each municipal service analyzed. To determine the impact assessment, staff utilized the adopted future land use and zoning designations to determine the existing impacts at buildout. Therefore, the impacts discussed in this assessment do not necessarily reflect the actual number of dwelling units, population, etc. present within the subject area.

Proposed changes to Multi-Family Residential assume development which permits a maximum residential density of 16 dwelling units per acre for the entire 1.03-acre footprint of the site.

Dwelling Units

Existing:	0 (No residential permitted in Commercial/Professional)
Proposed:	16
Net Change:	+16 dwelling units

Population*

Existing:	0
Proposed:	40
Net Change:	+40

* 2.54 persons/household = avg. household size; 2010 Census

Water Use

Existing:	<u>3,375 gal/day total</u> (11,250 square feet x 0.3 gal/sq ft/day = 3,300 gal/non-residential/day)
Proposed:	<u>3,200 gal/day total</u> (16 dwelling units x 200 gal/unit/day = 2,800 gal/residential/day)
Net Change:	-175 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Sewage

Existing:	<u>3,375 gal/day total</u> (11,250 square feet x 0.3 gal/sq ft/day = 3,300 gal/non-residential/day)
Proposed:	<u>3,200 gal/day total</u> (16 dwelling units x 200 gal/unit/day = 2,800 gal/residential/day)
Net Change:	-175 gal/day
Facility Capacity:	28.4 MGD
Avg. Daily Usage:	12.8 MGD

Solid Waste

Existing Generation:	<u>1,530 lbs. total/day</u> (11,250 square feet x 0.136 lbs/sq ft/day)
Proposed:	<u>190 lbs. total/day</u> (40 residents x 4.74 lbs/person/day)

Net Change: -1,340 lbs./day
Facility Capacity: 1,836 tons/day
Existing Demand: 1,384 tons/day
Capacity Available: Yes

Traffic/Daily Trips

Existing Generation: 35 AM peak trips/hour and 107 PM peak trips/hour
Proposed: 13 AM peak trips/hour and 16 PM peak trips/hour
Net Change: -22 AM peak hour trips and -91 PM peak hour trips
Facility Capacity: Gleason Parkway, a minor arterial roadway, serves the site and meets the minimum acceptable Level of Service Standard of "D." (per Policy 1.1.1, Transportation Element)
Capacity Available: Yes

Development Impact Analysis

Hurricane Evacuation

The subject area is in Evacuation Zone C. Based on the summation of the amendment impacts above, there may be a reduction on hurricane evacuation times.

Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. The proposed amendment would require a minor increase in park demand (0.16 acres) due to the residential development proposed.

Protected Species

The City requires an environmental survey prior to the issuance of any land clearing, site clearing, or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, state, or federal protective or mitigation measures may be required by the developer to proceed.

School Impacts

There will be some impact on schools, due to the residential component in the proposed amendment.



Existing dwelling units: 0 dwelling units
Existing students: 0
Proposed dwelling units: 16 dwelling units
Proposed students: 1
Change: +1 students

Recommendation: Planning Division staff recommends **approval** of the proposed small-scale future land use map amendment request.



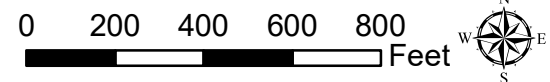
City of Cape Coral
Department of
Development Services
City Planning Division
Aerial Map
Case No. LU21-0009

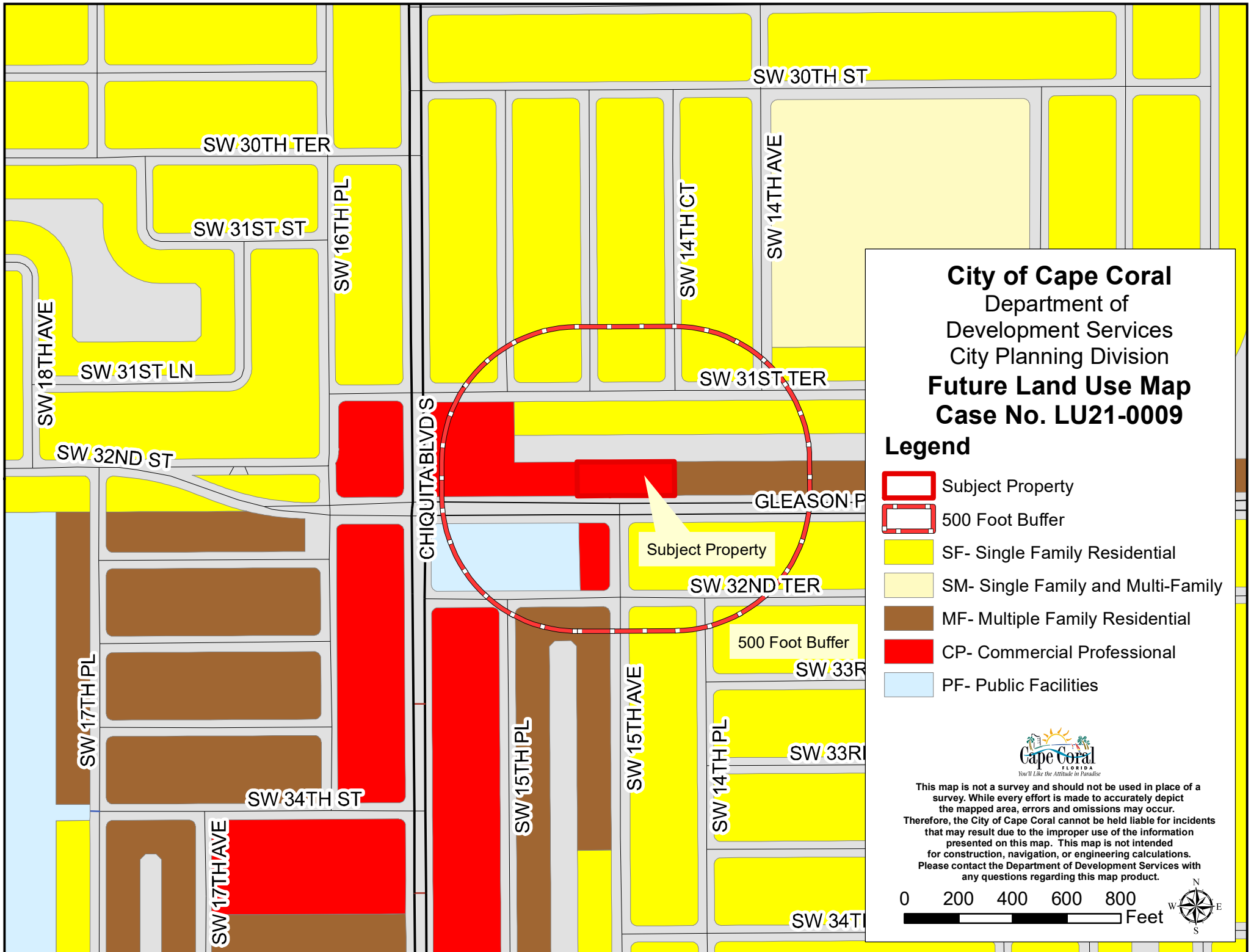
Legend

-  Subject Property
-  500 Foot Buffer



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 Development Services with any questions regarding this map product.





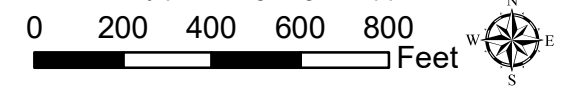
City of Cape Coral
Department of
Development Services
City Planning Division
Future Land Use Map
Case No. LU21-0009

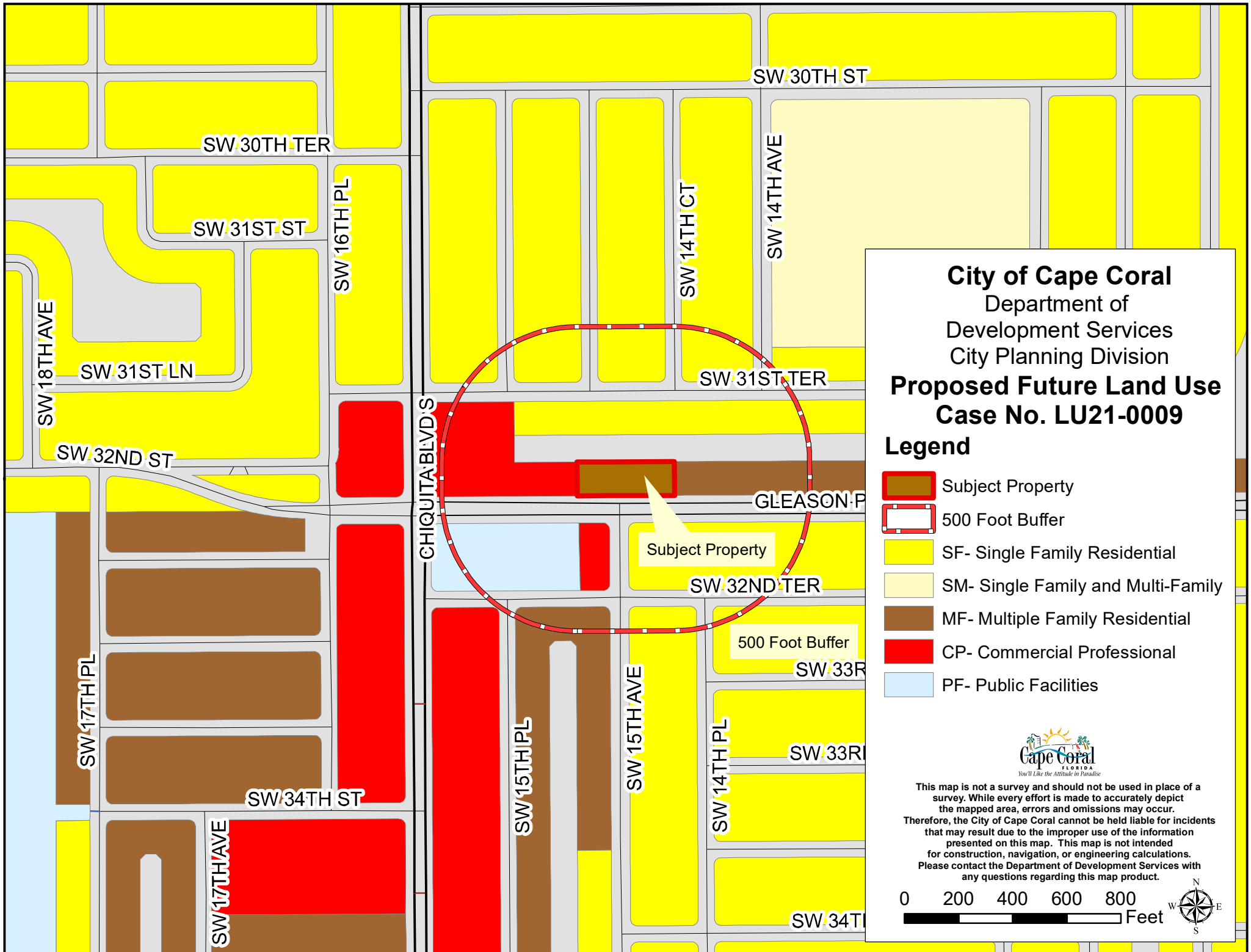
Legend

-  Subject Property
-  500 Foot Buffer
-  SF- Single Family Residential
-  SM- Single Family and Multi-Family
-  MF- Multiple Family Residential
-  CP- Commercial Professional
-  PF- Public Facilities



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City of Cape Coral
Department of
Development Services
City Planning Division

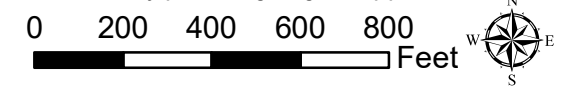
**Proposed Future Land Use
Case No. LU21-0009**

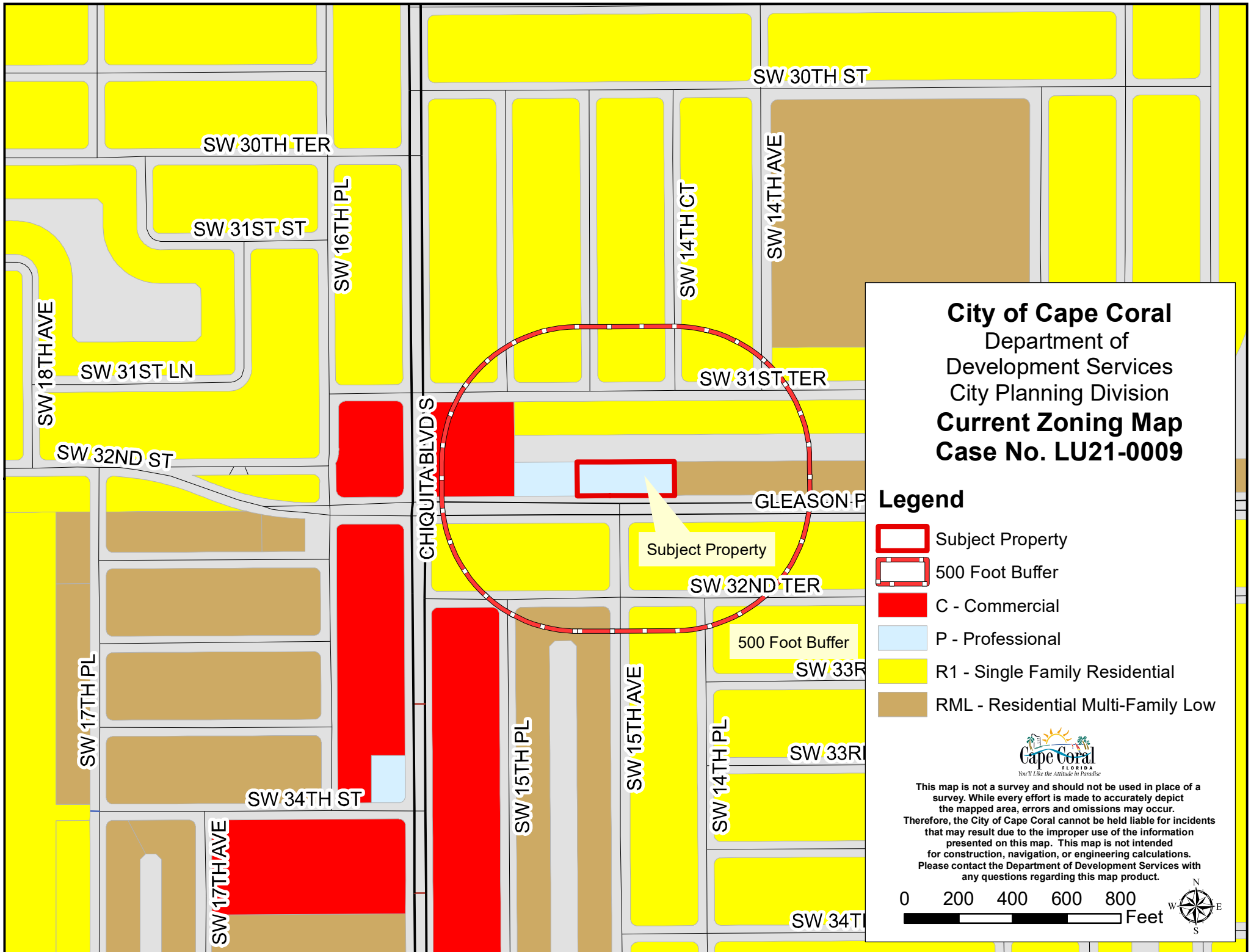
Legend

-  Subject Property
-  500 Foot Buffer
-  SF- Single Family Residential
-  SM- Single Family and Multi-Family
-  MF- Multiple Family Residential
-  CP- Commercial Professional
-  PF- Public Facilities









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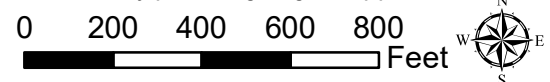
City of Cape Coral
Department of
Development Services
City Planning Division
Current Zoning Map
Case No. LU21-0009

Legend

-  Subject Property
-  500 Foot Buffer
-  C - Commercial
-  P - Professional
-  R1 - Single Family Residential
-  RML - Residential Multi-Family Low



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LU21-0009 legal

Unit 66, Block 3230, Lots 15-23, Cape Coral Subdivision as found in Plat Book 22, Page 15 of the Public Records of Lee County, Florida.



Ordinance 101-21/LU21-0009
Future Land Use Map Amendment
to Multi-Family Residential (MF)



Background

- A privately-initiated future land use amendment involving 1.03 acres for Lots 15-23, Block 3230
- Request is to amend the future land use from Commercial/Professional (CP) to Multi-Family Residential (MF) future land use
- Property address is 1425 Gleason Parkway

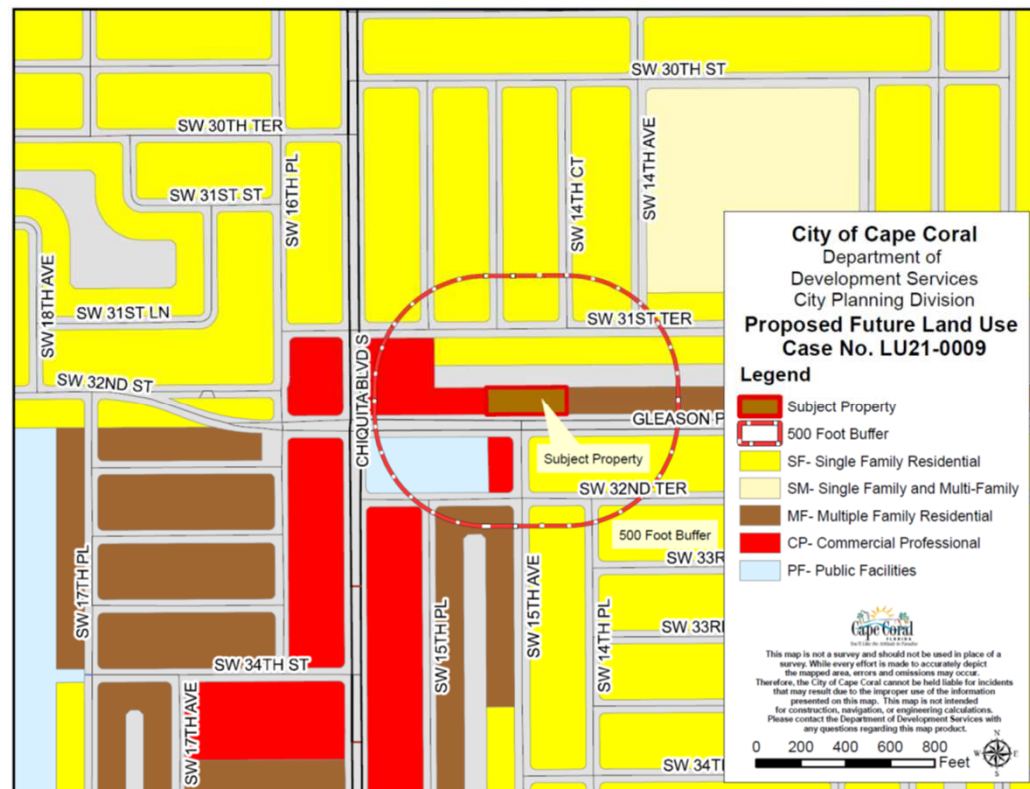
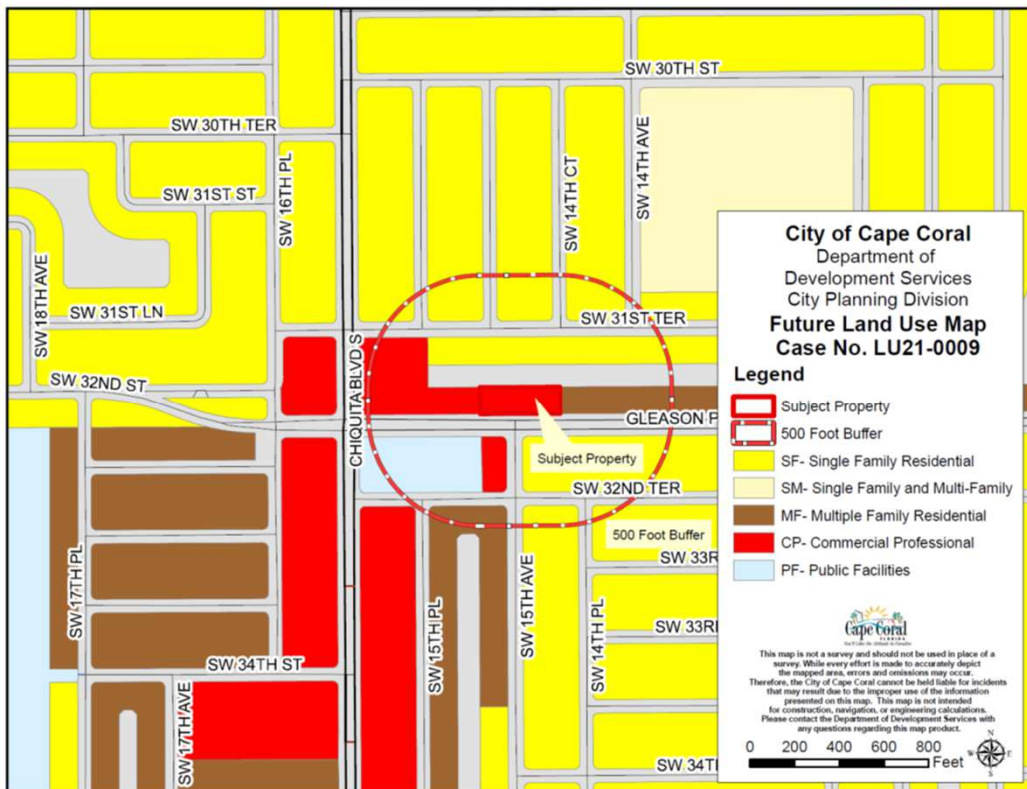
Site



Aerial



Current and Proposed and Land Use



Background/History

Area is in SW Cape Coral, consists of single, undeveloped property

Has been MF in past (2006-2008), was changed back to CP in 2008

Multi-Family Residential uses are located to the east and continue eastward to Skyline Boulevard

Comprehensive Plan/LDC Analysis

Existing CP designation is inconsistent with non-residential siting criteria (Policy 1.14, Future Land Use Element)

Is consistent with Housing Goal of the Housing Element

Conclusion

Multi-Family Residential FLU is present in area, site has been MF in the past

There is a well-documented need for Multi-Family development in Cape Coral

Analysis of Policy 1.14, Future Land Use Element indicates that this area is a weak candidate for non-residential development

Conclusion

Proposed amendment is consistent with Comprehensive Plan

Staff recommends Approval to Multi-Family Residential

Planning and Zoning Commission recommended approval of Ord101-21

We have received no public correspondence



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	B.(5)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 1-22 Set Public Hearing for January 19, 2022

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Cape Coral Code of Ordinances, Chapter 2, "Administration", Article V, "Boards and Commissions", Division 12, "Youth Council", Section 2-120.49, "Youth Council", pertaining to qualifications and responsibilities of Youth Council members. (Applicant: Brought forward by Councilmember Cosden)

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The ordinance amends the Cape Coral Code of Ordinances, Chapter 2, "Administration", Article V, "Boards and Commissions", Division 12, "Youth Council", Section 2-120.49, "Youth Council", pertaining to qualifications and responsibilities of Youth Council members by providing flexibility when a Youth Council member changes their source of qualification for the board, and expands the duties and responsibilities of members.

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:

SOURCE OF ADDITIONAL INFORMATION:

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

None

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

PREPARED BY:

City Attorney's Division- Department- City

office

Attorney

ATTACHMENTS:

Description	Type
1. Ordinance 1-22	Ordinance

ORDINANCE 1 - 22

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 2, "ADMINISTRATION," ARTICLE V, "BOARDS AND COMMISSIONS," DIVISION 12, "YOUTH COUNCIL," SECTION 2-120.49, "YOUTH COUNCIL," PERTAINING TO QUALIFICATIONS AND RESPONSIBILITIES OF YOUTH COUNCIL MEMBERS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Cape Coral City Council hereby finds that this ordinance promotes the public health, safety, and welfare of the citizens of the City of Cape Coral.

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

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Article V, Division 12, Section 2-120.49, is hereby amended to read as follows:

§ 2-120.49 Youth Council.

...

(b) *Composition; qualifications; and terms.*

(1) The Youth Council shall be composed of 14 members, appointed by the City Council on or before May 1 of each year. Youth Council members shall be residents of the City of Cape Coral and enrolled in a source identified below at all times while serving on the Youth Council. Except as otherwise provided herein, The the Youth Council shall be composed of one junior and one senior student from each of the following sources:

- a. Mariner High School;
- b. Ida Baker High School;
- c. Island Coast High School;
- d. Oasis High School;
- e. Cape Coral High School;
- f. North Fort Myers High School; and
- g. At-large from home schooling or other source, including, but not limited to, a private school, charter school, or virtual school.

...

(3) In the event that a Youth Council member shall no longer be enrolled in the school source that the member was appointed from, the member shall ~~immediately~~ forfeit the member's seat and the seat shall be declared vacant, unless the member provides proof to the City that such member is enrolled in another source identified in subsection (b)(1) within fifteen (15) business days.

(4) In the event that there is no available student applicant from a class or source identified in subsection (b)(1) in any given year, the City Council may appoint a substitute student from one of the other subsection (b)(1) sources to serve that applicable term.

...

(h) *Duties and responsibilities.* The Youth Council shall have the duty and responsibility to:

...

- (7) Participate in, organize, and attend community outreach programs, fundraising activities, projects, and events, as may be approved in advance by the City Council.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

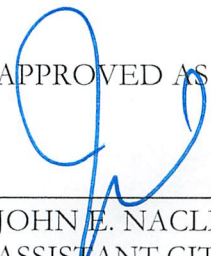
GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



JOHN E. NACLERIO, III
ASSISTANT CITY ATTORNEY
ord/Youth Council Members
DRAFT 11/29/21



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	B.(6)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 3-22 Set Public Hearing for January 19, 2022

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Ordinance 67-21, which adopted the City of Cape Coral Operating Budget, Revenues and Expenditures, and Capital Budget for Fiscal Year 2022, by increasing the total revenues and expenditures by a total of \$7,636,604. (Applicant: Brought forward by City Management)

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The ordinance amends Ordinance 67-21, which adopted the City of Cape Coral Operating Budget, Revenues and Expenditures, and Capital Budget for Fiscal Year 2022, by increasing the total revenues and expenditures by a total of \$7,636,604. (Applicant: Brought forward by City Management)

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT B: ENHANCE FINANCIAL SUSTAINABILITY DURING ALL ECONOMIC TIMES

RECOMMENDATIONS:

Approval

SOURCE OF ADDITIONAL INFORMATION:

Mark Mason, Financial Services Director, 1-239-574-0491

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

1. Will this action result in a Budget Amendment? Yes

PREPARED BY:

City Attorney's

office Division- Budget Department- Finance

ATTACHMENTS:

Description		Type
▣	1. Ordinance 3-22	Ordinance
▣	2. Staff presentation	Backup Material

ORDINANCE 3 - 22

AN ORDINANCE AMENDING CITY OF CAPE CORAL ORDINANCE 67-21, WHICH ADOPTED THE CITY OF CAPE CORAL OPERATING BUDGET, REVENUES AND EXPENDITURES, AND CAPITAL BUDGET FOR FISCAL YEAR 2022, BY INCREASING THE TOTAL REVENUES AND EXPENDITURES BY A TOTAL OF \$7,636,604; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral, pursuant to Section 200.065, Florida Statutes, adopted its Operating Budget, Revenues and Expenditures, and Capital Budget for Fiscal Year 2022 by approving Ordinance 67-21 on September 29, 2021; and

WHEREAS, the City Council desires to amend its Operating Budget, Revenues (sources) and Expenditures (uses), and Capital Budget for the Fiscal Year 2022 as authorized by Section 166.241(3), Florida Statutes.

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

SECTION 1. City of Cape Coral Ordinance 67-21, which adopted the City of Cape Coral Operating Budget, Revenues and Expenditures, and Capital Budget for the Fiscal Year 2022, is hereby amended by increasing the total revenues and expenditures by a total of \$7,636,604. The amended budget is attached hereto as Attachment A. A reference description of amended budget items is attached hereto as Attachment B.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

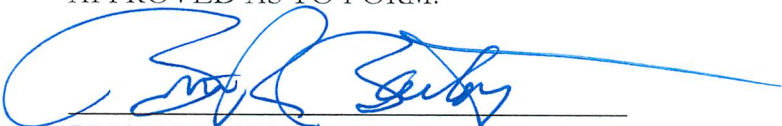
GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/Budget Amendment #1 FY2022

ATTACHMENT A

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
GENERAL FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 90,654,023			\$ 90,654,023
Revenues:				
Ad Valorem Taxes	111,393,495			111,393,495
Sales and Use Taxes	13,701,498			13,701,498
Licenses, Permits, Franchise, Impact Fees and Special Assessments	35,607,266			35,607,266
Charges for Service	3,143,285			3,143,285
Internal Service Charges	8,779,158			8,779,158
Intergovernmental	28,200,467	11,862	3	28,805,103
		(18,496)	7	
		67,000	8	
		250,000	9	
		86,500	10	
		136,339	11	
		5,000	12	
		50,000	13	
		19,806	14	
		(3,375)	19	
Fines and Forfeitures	536,915			536,915
Miscellaneous	3,725,369			3,725,369
Interfund Transfers	849,422			849,422
Debt Proceeds	-			-
Total General Fund Sources	\$ 296,590,898	\$ 604,636		\$ 297,195,534
<u>USES</u>				
City Council	\$ 824,599			\$ 824,599
City Attorney	1,735,820			1,735,820
City Auditor	871,914	39,218	30	911,132
City Manager	2,567,758	2,100	29	2,700,206
		130,348	30	
City Clerk	1,468,060	148	30	1,468,208
Development Services	5,710,339			5,710,339
Financial Services	3,572,161	32,420	30	3,604,581
Fire	43,993,237	5,000	12	44,960,474
		50,000	13	
		93,867	18	
		(3,375)	19	
		821,745	30	
Human Resources	1,733,641	59,583	30	1,793,224
Information Technology Services	9,096,102	841,149	30	9,937,251
Parks and Recreation	17,986,747	(18,496)	7	18,503,214
		136,417	20	
		128,217	30	
		256,478	30	
		13,851	30	
Police	51,535,344	11,862	3	52,555,865
		67,000	8	
		250,000	9	
		86,500	10	
		136,339	11	
		19,806	14	
		268,722	17	
		34,542	17	
		145,750	30	
Public Works	14,502,182	(2,100)	29	14,733,200
		233,118	30	

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET	BA #1	Ref	AMENDED
	ORDINANCE 67-21	INCREASE /	#	BUDGET #1
		(DECREASE)		ORDINANCE 3-22
Government Services				
Expenditures	69,100,130	1,000,000	22	70,122,380
		(2,000,000)	23	
		2,000,000	23	
		(350,000)	24	
		350,000	24	
		(260,000)	24	
		260,000	24	
		22,250	30	
Reserves	71,892,864			67,635,041
		(268,722)	17	
		(34,542)	17	
		(93,867)	18	
		(136,417)	20	
		(1,000,000)	22	
		(2,453,946)	30	
		(270,329)	30	
Appropriations & Reserves General Fund	<u>\$ 296,590,898</u>	<u>\$ 604,636</u>		<u>\$ 297,195,534</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
SPECIAL REVENUE FUNDS				
ADDITIONAL FIVE CENT GAS TAX FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 7,743,332			\$ 7,743,332
Revenues:				
Sales and Use Taxes	3,991,011			3,991,011
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	-			-
Total Additional Five Cent Gas Tax Fund Sources	<u>\$ 11,734,343</u>	<u>\$ -</u>		<u>\$ 11,734,343</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 1,500,000			\$ 1,500,000
Debt Service	-			-
Transfers Out	3,200,000	100,000	2	3,300,000
Reserves	7,034,343	(100,000)	2	6,934,343
Appropriations & Reserves Additional Five Cent Gas Tax Fund	<u>\$ 11,734,343</u>	<u>\$ -</u>		<u>\$ 11,734,343</u>
SIX CENT GAS TAX FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 7,137,690			\$ 7,137,690
Revenues:				
Sales & Use Taxes	5,457,126			5,457,126
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	-			-
Total Six Cent Gas Tax Fund Sources	<u>\$ 12,594,816</u>	<u>\$ -</u>		<u>\$ 12,594,816</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 108,231			\$ 108,231
Debt Service	-			-
Transfers Out	6,275,000			6,275,000
Reserves	6,211,585			6,211,585
Appropriations & Reserves Six Cent Gas Tax Fund	<u>\$ 12,594,816</u>	<u>\$ -</u>		<u>\$ 12,594,816</u>
ROAD IMPACT FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 26,647,375			\$ 26,647,375
Revenues:				
Intergovernmental	-			-
Licenses, Permits, Franchise, Impact Fees & Special Assessments	13,272,529			13,272,529
Miscellaneous	79,942			79,942
Interfund Transfers	-			-
Total Road Impact Fund Sources	<u>\$ 39,999,846</u>	<u>\$ -</u>		<u>\$ 39,999,846</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 199,088			\$ 199,088
Debt Service	-			-
Transfers Out	5,908,055			5,908,055
Reserves	33,892,703			33,892,703
Appropriations & Reserves Road Impact Fee Fund	<u>\$ 39,999,846</u>	<u>\$ -</u>		<u>\$ 39,999,846</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
POLICE PROTECTION IMPACT FEES				
<u>SOURCES</u>				
Balances Brought Forward	\$ 3,327,728			\$ 3,327,728
Revenues:				
Licenses, Permits, Franchise, Impact Fees & Special Assessments	2,165,993			2,165,993
Miscellaneous	9,983			9,983
Interfund Transfers	-			-
Total Police Protection Impact Fee Fund Sources	<u>\$ 5,503,704</u>	<u>\$ -</u>		<u>\$ 5,503,704</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 594,642			\$ 594,642
Debt Service	-			-
Transfers Out	-			-
Reserves	4,909,062			4,909,062
Appropriations & Reserves Police Protection Impact Fee Fund	<u>\$ 5,503,704</u>	<u>\$ -</u>		<u>\$ 5,503,704</u>
ALS IMPACT FEES				
<u>SOURCES</u>				
Balances Brought Forward	\$ 313,214			\$ 313,214
Revenues:				
Licenses, Permits, Franchise, Impact Fees & Special Assessments	127,626			127,626
Miscellaneous	940			940
Interfund Transfers	-			-
Total ALS Fund Sources	<u>\$ 441,780</u>	<u>\$ -</u>		<u>\$ 441,780</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 1,914	\$ 49,132	30	\$ 51,046
Debt Service	-			-
Transfers Out	-			-
Reserves	439,866	(49,132)	30	390,734
Appropriations & Reserves ALS Fund	<u>\$ 441,780</u>	<u>\$ -</u>		<u>\$ 441,780</u>
PARK IMPACT FEE FUNDS				
<u>SOURCES</u>				
Balances Brought Forward	\$ 4,058,505			\$ 4,058,505
Revenues:				
Licenses, Permits, Franchise, Impact Fees & Special Assessments	4,019,575			4,019,575
Miscellaneous	-			-
Interfund Transfers	-			-
Total Park Impact Fee Funds Sources	<u>\$ 8,078,080</u>	<u>\$ -</u>		<u>\$ 8,078,080</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 60,294			\$ 60,294
Debt Service	-			-
Transfers Out	2,726,111			2,726,111
Reserves	5,291,675			5,291,675
Appropriations & Reserves Park Impact Fee Funds	<u>\$ 8,078,080</u>	<u>\$ -</u>		<u>\$ 8,078,080</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
FIRE IMPACT CAPITAL IMPROVEMENT FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 6,411,246			\$ 6,411,246
Revenues:				
Licenses, Permits, Franchise, Impact Fees & Special Assessments	2,087,631			2,087,631
Miscellaneous	19,234			19,234
Interfund Transfers	-			-
Total Fire Impact Capital Improvement Fund Sources	<u>\$ 8,518,111</u>	<u>\$ -</u>		<u>\$ 8,518,111</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 1,381,221	\$ 49,784	25	\$ 1,431,005
Debt Service	-			-
Transfers Out	3,284,863	145,090	5	3,429,953
Reserves	3,852,027	(145,090)	5	3,657,153
		(49,784)	25	
Appropriations & Reserves Fire Impact Capital Improvement Fund	<u>\$ 8,518,111</u>	<u>\$ -</u>		<u>\$ 8,518,111</u>
DO THE RIGHT THING				
<u>SOURCES</u>				
Balances Brought Forward	\$ 23,606			\$ 23,606
Revenues:				
Miscellaneous	8,000			8,000
Interfund Transfers	-			-
Total Do The Right Thing Fund Sources	<u>\$ 31,606</u>	<u>\$ -</u>		<u>\$ 31,606</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 8,000			\$ 8,000
Debt Service	-			-
Transfers Out	-			-
Reserves	23,606			23,606
Appropriations & Reserves Do The Right Thing Fund	<u>\$ 31,606</u>	<u>\$ -</u>		<u>\$ 31,606</u>
CRIMINAL JUSTICE EDUCATION (Police Training)				
<u>SOURCES</u>				
Balances Brought Forward	\$ 48,712			\$ 48,712
Revenues:				
Fines & Forfeitures	21,000			21,000
Miscellaneous				
Total Police Confiscation-State Fund Sources	<u>\$ 69,712</u>	<u>\$ -</u>		<u>\$ 69,712</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 25,215			\$ 25,215
Debt Service	-			-
Transfers Out	-			-
Reserves	44,497			44,497
Appropriations & Reserves Criminal Justice Education Fund	<u>\$ 69,712</u>	<u>\$ -</u>		<u>\$ 69,712</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
POLICE CONFISCATION - STATE				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Miscellaneous	-			-
Interfund Transfers				
Total Police Confiscation-State Fund Sources	<u>\$ -</u>	<u>\$ -</u>		<u>\$ -</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ -			\$ -
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Police Confiscation - State Fund	<u>\$ -</u>	<u>\$ -</u>		<u>\$ -</u>
POLICE CONFISCATION - FEDERAL				
Balances Brought Forward	\$ 126,231			\$ 126,231
Revenues:				
Miscellaneous	3,000			3,000
Interfund Transfers	-			-
Total Police Confiscation-Federal Fund Sources	<u>\$ 129,231</u>	<u>\$ -</u>		<u>\$ 129,231</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 27,818			\$ 27,818
Debt Service	-			-
Transfers Out	-			-
Reserves	101,413			101,413
Appropriations & Reserves Police Confiscation - Federal Fund	<u>\$ 129,231</u>	<u>\$ -</u>		<u>\$ 129,231</u>
ALARM FEE FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Charges for Service	80,000			80,000
Miscellaneous	25,927			25,927
Interfund Transfers	-			-
Total Alarm Fee Fund Sources	<u>\$ 105,927</u>	<u>\$ -</u>		<u>\$ 105,927</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 105,927			\$ 105,927
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Alarm Fee Fund	<u>\$ 105,927</u>	<u>\$ -</u>		<u>\$ 105,927</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
ALL HAZARDS FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 1,519,625			\$ 1,519,625
Revenues:				
Ad Valorem Taxes	1,186,038			1,186,038
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	-			-
Total All Hazards Fund Sources	<u>\$ 2,705,663</u>	<u>\$ -</u>		<u>\$ 2,705,663</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 1,041,217	\$ (49,784) 10,999	25 30	\$ 1,002,432
Debt Service	-			-
Transfers Out	-			-
Reserves	1,664,446	49,784 (10,999)	25 30	1,703,231
Appropriations & Reserves All Hazards Fund	<u>\$ 2,705,663</u>	<u>\$ -</u>		<u>\$ 2,705,663</u>
DEL PRADO PARKING LOT MAINTENANCE				
<u>SOURCES</u>				
Balances Brought Forward	\$ 166,317			\$ 166,317
Revenues:				
Licenses, Permits, Franchise, Impact Fees & Special Assessments	39,965			39,965
Miscellaneous	-			-
Interfund Transfers	-			-
Total Del Prado Mall Maintenance Fund Sources	<u>\$ 206,282</u>	<u>\$ -</u>		<u>\$ 206,282</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 22,544			\$ 22,544
Debt Service	-			-
Transfers Out	-			-
Reserves	183,738			183,738
Appropriations & Reserves Del Prado Mall Maintenance Fund	<u>\$ 206,282</u>	<u>\$ -</u>		<u>\$ 206,282</u>
LOT MOWING FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 2,492,510			\$ 2,492,510
Revenues:				
Charges for Service	3,919,862	531,306	4	4,451,168
Miscellaneous	-			-
Fines & Forfeitures	-			-
Interfund Transfers	-			-
Total Lot Mowing Fund Sources	<u>\$ 6,412,372</u>	<u>\$ 531,306</u>		<u>\$ 6,943,678</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 3,764,470	\$ 531,306 8,796	4 30	\$ 4,304,572
Debt Service	-			-
Transfers Out	-			-
Reserves	2,647,902	(8,796)	30	2,639,106
Appropriations & Reserves Lot Mowing Fund	<u>\$ 6,412,372</u>	<u>\$ 531,306</u>		<u>\$ 6,943,678</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
ECONOMIC AND BUSINESS DEVELOPMENT				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Sales & Use Taxes	990,600			990,600
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	1,544,000			1,544,000
Total Economic and Business Development Fund Sources	<u>\$ 2,534,600</u>	<u>\$ -</u>		<u>\$ 2,534,600</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 918,871			\$ 918,871
Debt Service	-			-
Transfers Out	-			-
Reserves	1,615,729			1,615,729
Appropriations & Reserves Economic and Business Development Fund	<u>\$ 2,534,600</u>	<u>\$ -</u>		<u>\$ 2,534,600</u>
BUILDING CODE DIVISION FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 14,636,610			\$ 14,636,610
Revenues:				
Licenses, Permits, Franchise, Impact Fees & Special Assessments	8,667,018			8,667,018
Charges for Service	325,675			325,675
Fines & Forfeitures	18,000			18,000
Miscellaneous	500			500
Interfund Transfers	-			-
Total Building Division Sources	<u>\$ 23,647,803</u>	<u>\$ -</u>		<u>\$ 23,647,803</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 9,900,774	10,399	30	\$ 9,911,173
Debt Service	-			-
Transfers Out	10,022,147			10,022,147
Reserves	3,724,882	(10,399)	30	3,714,483
Appropriations & Reserves Building Division Fund	<u>\$ 23,647,803</u>	<u>\$ -</u>		<u>\$ 23,647,803</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
COMMUNITY REDEVELOPMENT TRUST FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -	\$ 685,371	30	\$ 685,371
Revenues:				
Ad Valorem Taxes	1,240,516			1,240,516
Charges for Service	-			-
Miscellaneous	64,154			64,154
Interfund Transfers	12,962,868			12,962,868
Total Community Redevelopment Trust Fund Sources	<u>\$ 14,267,538</u>	<u>\$ 685,371</u>		<u>\$ 14,952,909</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 12,034,469	\$ 685,371	30	\$ 12,719,840
Debt Service	-			-
Transfers Out	2,233,069			2,233,069
Reserves	-			-
Appropriations & Reserves Community Redevelopment Trust Fund	<u>\$ 14,267,538</u>	<u>\$ 685,371</u>		<u>\$ 14,952,909</u>
SUN SPLASH WATERPARK FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	-			-
Charges for Service	2,630,008			2,630,008
Miscellaneous	12,246			12,246
Interfund Transfers	645,106			645,106
Debt Proceeds	-			-
Total Sun Splash Waterpark Fund Sources	<u>\$ 3,287,360</u>	<u>\$ -</u>		<u>\$ 3,287,360</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 3,113,264			\$ 3,113,264
Debt Service	-			-
Transfers Out	174,096			174,096
Reserves	-			-
Appropriations & Reserves Sun Splash Waterpark Fund	<u>\$ 3,287,360</u>	<u>\$ -</u>		<u>\$ 3,287,360</u>
PARK & RECREATION PROGRAMS FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	894,857			894,857
Charges for Service	3,995,809			3,995,809
Fines & Forfeitures	11,220			11,220
Miscellaneous	100,840			100,840
Interfund Transfers	6,577,983	256,478	30	6,834,461
Debt Proceeds	-			-
Total P&R Programs Fund Sources	<u>\$ 11,580,709</u>	<u>\$ 256,478</u>		<u>\$ 11,837,187</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 11,580,709	\$ 256,478	30	\$ 11,837,187
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Park Programs Fund	<u>\$ 11,580,709</u>	<u>\$ 256,478</u>		<u>\$ 11,837,187</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
GOLF COURSE FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Charges for Service	2,519,230			2,519,230
Miscellaneous	22,000			22,000
Interfund Transfers	1,375,094	13,851	30	1,388,945
Total Golf Course Fund Sources	<u>\$ 3,916,324</u>	<u>\$ 13,851</u>		<u>\$ 3,930,175</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 3,916,324	\$ 13,851	30	\$ 3,930,175
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Golf Course Fund	<u>\$ 3,916,324</u>	<u>\$ 13,851</u>		<u>\$ 3,930,175</u>
SOLID WASTE FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 5,342,887			\$ 5,342,887
Revenues:				
Charges for Service	9,649,081			9,649,081
Miscellaneous	-			-
Interfund Transfers	-			-
Total Solid Waste Fund Sources	<u>\$ 14,991,968</u>	<u>\$ -</u>		<u>\$ 14,991,968</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 8,545,402	\$ 17,197	30	\$ 8,562,599
Debt Service	-			-
Transfers Out	-			-
Reserves	6,446,566	(17,197)	30	6,429,369
Appropriations & Reserves Solid Waste Fund	<u>\$ 14,991,968</u>	<u>\$ -</u>		<u>\$ 14,991,968</u>
COMMUNITY DEVELOPMENT BLOCK GRANT FUND (CDBG)				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	1,070,603			1,070,603
Miscellaneous	-			-
Interfund Transfers	-			-
Total Community Development Block Grant Fund Sources	<u>\$ 1,070,603</u>	<u>\$ -</u>		<u>\$ 1,070,603</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 1,070,603			\$ 1,070,603
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Community Development Block Grant Fund	<u>\$ 1,070,603</u>	<u>\$ -</u>		<u>\$ 1,070,603</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
NEIGHBORHOOD STABILIZATION (NSP/HUD) FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	-			-
Total Neighborhood Stabilization Fund (NSP/HUD) Sources	\$ -	\$ -		\$ -
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ -			\$ -
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Neighborhood Stabilization Fund (NSP/HUD)	\$ -	\$ -		\$ -
LOCAL HOUSING ASSISTANCE PROGRAM				
TRUST FUND (S.H.I.P.)				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	1,240,819			1,240,819
Miscellaneous	-			-
Interfund Transfers	-			-
Total Local Housing (S.H.I.P.) Fund Sources	\$ 1,240,819	\$ -		\$ 1,240,819
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 1,240,819			\$ 1,240,819
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Local Housing Assistance Program Trust Fund	\$ 1,240,819	\$ -		\$ 1,240,819
DEBT SERVICE FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 4,545,118			\$ 4,545,118
Revenues:				
Ad Valorem Taxes	831,204			831,204
Miscellaneous	1,492,875			1,492,875
Interfund Transfers	17,451,039			17,451,039
Total Debt Service Fund Sources	\$ 24,320,236	\$ -		\$ 24,320,236
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 756			\$ 756
Debt Service	22,219,695			22,219,695
Transfers Out	-			-
Reserves	2,099,785			2,099,785
Appropriations & Reserves Debt Service Fund	\$ 24,320,236	\$ -		\$ 24,320,236

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
CAPITAL PROJECTS FUNDS				
BUILDING PERMIT CENTER CAPITAL PROJECT FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Miscellaneous	-			-
Interfund Transfers	10,000,000			10,000,000
Debt Proceeds	-			-
Total Building Permit Center Capital Project Fund Sources	<u>\$ 10,000,000</u>	<u>\$ -</u>		<u>\$ 10,000,000</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 10,000,000			\$ 10,000,000
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Computer Capital Fund	<u>\$ 10,000,000</u>	<u>\$ -</u>		<u>\$ 10,000,000</u>
CRA CAPITAL PROJECTS FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	1,355,469			1,355,469
Debt Proceeds	-			-
Total CRA Project Fund Sources	<u>\$ 1,355,469</u>	<u>\$ -</u>		<u>\$ 1,355,469</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 1,355,469			\$ 1,355,469
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves CRA Capital Projects	<u>\$ 1,355,469</u>	<u>\$ -</u>		<u>\$ 1,355,469</u>
FIRE CAPITAL PROJECT FUNDS				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	3,633,039	145,090	5	3,778,129
Debt Proceeds	-			-
Total Fire Capital Project Fund Sources	<u>\$ 3,633,039</u>	<u>\$ 145,090</u>		<u>\$ 3,778,129</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 3,633,039	145,090	5	\$ 3,778,129
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Fire Capital Projects Fund	<u>\$ 3,633,039</u>	<u>\$ 145,090</u>		<u>\$ 3,778,129</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
POLICE CAPITAL PROJECT FUNDS				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	-			-
Debt Proceeds	-			-
Total Police Capital Project Fund Sources	<u>\$ -</u>	<u>\$ -</u>		<u>\$ -</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ -			\$ -
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Police Capital Projects Fund	<u>\$ -</u>	<u>\$ -</u>		<u>\$ -</u>
P&R CAPITAL PROJECTS FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	-	350,000	24	610,000
		260,000	24	
Debt Proceeds	-			-
Total P&R Project Fund Sources	<u>\$ -</u>	<u>\$ 610,000</u>		<u>\$ 610,000</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ -	350,000	24	\$ 610,000
		260,000	24	
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves P&R Capital Park	<u>\$ -</u>	<u>\$ 610,000</u>		<u>\$ 610,000</u>
PUBLIC WORKS CAPITAL PROJECTS				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	-			-
Miscellaneous	-			-
Interfund Transfers	2,000,000	(2,000,000)	21a	-
Debt Proceeds	-			-
Total Public Works Capital Projects Fund Sources	<u>\$ 2,000,000</u>	<u>\$ (2,000,000)</u>		<u>\$ -</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 2,000,000	(2,000,000)	21a	\$ -
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Public Works Capital Fund	<u>\$ 2,000,000</u>	<u>\$ (2,000,000)</u>		<u>\$ -</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
TRANSPORTATION CAPITAL PROJECTS FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Intergovernmental	-	414,625	15	414,625
Miscellaneous	-			-
Interfund Transfers	14,307,000	100,000	2	15,407,000
		1,000,000	22	
Debt Proceeds	-			-
Total Transportation Capital Project Fund Sources	<u>\$ 14,307,000</u>	<u>\$ 1,514,625</u>		<u>\$ 15,821,625</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 14,307,000	\$ 100,000	2	\$ 15,821,625
		414,625	15	
		1,000,000	22	
Debt Service	-			-
Transfers Out	-			-
Reserves				
Appropriations & Reserves Transportation Capital Fund	<u>\$ 14,307,000</u>	<u>\$ 1,514,625</u>		<u>\$ 15,821,625</u>
ENTERPRISE FUNDS				
WATER & SEWER UTILITY FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 67,431,845			\$ 67,431,845
Revenues:				
Licenses, Permits, Franchise, Impact Fees & Special Assessments	28,628,915			28,628,915
Charges for Service	89,947,366			89,947,366
Internal Service Charges	242,569			242,569
Intergovernmental	-	1,000,000	1	2,060,446
		1,000,000	6	
		60,446	16	
Fines & Forfeitures	657,597			657,597
Miscellaneous	193,110			193,110
Debt Proceeds	50,000,000			50,000,000
Interfund Transfers	72,839,314	(751,000)	26	71,889,314
		(199,000)	26	
Total Water & Sewer Utility Fund Sources	<u>\$ 309,940,716</u>	<u>\$ 1,110,446</u>		<u>\$ 311,051,162</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 142,818,637	1,000,000	1	\$ 147,755,131
		1,000,000	6	
		60,446	15	
		225,000	27	
		2,651,048	30	
Debt Service	42,980,795			42,980,795
Transfers Out	72,732,551	(199,000)	26	71,782,551
		(751,000)	26	
Reserves	51,408,733	(225,000)	27	48,532,685
		(2,651,048)	30	
Appropriations & Reserves Water & Sewer Utility Fund	<u>\$ 309,940,716</u>	<u>\$ 1,110,446</u>		<u>\$ 311,051,162</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
STORMWATER UTILITY FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 5,502,769			\$ 5,502,769
Revenues:				
Licenses, Permits, Franchise, Impact Fees & Special Assessments	-			-
Intergovernmental	-			-
Charges for Service	21,288,160			21,288,160
Fines & Forfeitures	-			-
Miscellaneous	238,407			238,407
Interfund Transfers	5,092,295	100,000	2	7,192,295
		2,000,000	21b	
Debt Proceeds	-			-
Total Stormwater Utility Fund Sources	<u>\$ 32,121,631</u>	<u>\$ 2,100,000</u>		<u>\$ 34,221,631</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 20,634,722	100,000	2	\$ 24,397,415
		2,000,000	21b	
		1,386,784	28	
		275,909	30	
Debt Service	-			-
Transfers Out	7,345,766	100,000	2	7,445,766
		(2,000,000)	21a	
		2,000,000	21b	
Reserves	4,141,143	(100,000)	2	2,378,450
		(1,386,784)	28	
		(275,909)	30	
Appropriations & Reserves Stormwater Utility Fund	<u>\$ 32,121,631</u>	<u>\$ 2,100,000</u>		<u>\$ 34,221,631</u>
YACHT BASIN FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 695,410			\$ 695,410
Revenues:				
Charges for Service	690,057			690,057
Miscellaneous	-			-
Interfund Transfers	410			410
Total Yacht Basin Fund Sources	<u>\$ 1,385,877</u>	<u>\$ -</u>		<u>\$ 1,385,877</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 728,297			\$ 728,297
Debt Service	-			-
Transfers Out	115,000			115,000
Reserves	542,580			542,580
Appropriations & Reserves Yacht Basin Fund	<u>\$ 1,385,877</u>	<u>\$ -</u>		<u>\$ 1,385,877</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

	ADOPTED BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	Ref #	AMENDED BUDGET #1 ORDINANCE 3-22
INTERNAL SERVICE FUNDS (ISF)				
RISK MANAGEMENT INTERNAL SERVICES FUND				
<u>SOURCES</u>				
Balances Brought Forward	\$ 11,151,366			\$ 11,151,366
Revenues:				
Charges for Service	-			-
Internal Service Charges	9,624,229			9,624,229
Miscellaneous	-			-
Interfund Transfers	-			-
Total Property Liability Insurance Fund Sources	<u>\$ 20,775,595</u>	<u>\$ -</u>		<u>\$ 20,775,595</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 7,505,578	\$ 26	30	\$ 7,505,604
Debt Service	-			-
Transfers Out	-			-
Reserves	13,270,017	(26)	30	13,269,991
Appropriations & Reserves Property Liability Insurance Fund	<u>\$ 20,775,595</u>	<u>\$ -</u>		<u>\$ 20,775,595</u>
FACILITIES INTERNAL SERVICE				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Internal Service Charges	6,758,561	48,879	30	6,807,440
Miscellaneous	-			-
Interfund Transfers	-			-
Total Facilities Internal Service Fund Sources	<u>\$ 6,758,561</u>	<u>\$ 48,879</u>		<u>\$ 6,807,440</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 6,758,561	\$ 48,879	30	\$ 6,807,440
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Facilities Internal Service Fund	<u>\$ 6,758,561</u>	<u>\$ 48,879</u>		<u>\$ 6,807,440</u>
FLEET INTERNAL SERVICE				
<u>SOURCES</u>				
Balances Brought Forward	\$ -			\$ -
Revenues:				
Internal Service Charges	4,527,612	15,922	30	4,543,534
Miscellaneous	-			-
Interfund Transfers	-	2,000,000	23	2,000,000
Total Fleet Internal Service Fund Sources	<u>\$ 4,527,612</u>	<u>\$ 2,015,922</u>		<u>\$ 6,543,534</u>
<u>USES</u>				
Personnel, Operating, Capital Expenditures	\$ 4,527,612	\$ 15,922 2,000,000	30 23	\$ 6,543,534
Debt Service	-			-
Transfers Out	-			-
Reserves	-			-
Appropriations & Reserves Fleet Internal Service Fund	<u>\$ 4,527,612</u>	<u>\$ 2,015,922</u>		<u>\$ 6,543,534</u>

CITY OF CAPE CORAL
FY 2022 BUDGET - BY FUND
ATTACHMENT A TO ORDINANCE 3-22

HEALTH INSURANCE INTERNAL SERVICE

SOURCES

Balances Brought Forward	\$	7,666,730		\$	7,666,730
Revenues:					
Internal Service Charges		31,505,489			31,505,489
Miscellaneous		600,000			600,000
Interfund Transfers		-			-
Total Health Insurance Internal Service Fund Sources	\$	39,772,219	\$ -	\$	39,772,219

USES

Personnel, Operating, Capital Expenditures	\$	33,971,675		\$	33,971,675
Debt Service		-			-
Transfer Out		-			-
Reserves		5,800,544			5,800,544
Appropriations & Reserves Health Insurance Internal Service Fund	\$	39,772,219	\$ -	\$	39,772,219

CHARTER SCHOOL OPERATING FUND

SOURCES

Balances Brought Forward	\$	8,774,445		\$	8,774,445
Revenues:					
Intergovernmental		27,990,662			27,990,662
Charges for Service		860,800			860,800
Miscellaneous		280,162			280,162
Total Charter School Operating Fund Sources	\$	37,906,069	\$ -	\$	37,906,069

USES

Personnel, Operating, Capital Expenditures	\$	30,982,315		\$	30,982,315
Debt Service		41,168			41,168
Transfer Out		-			-
Other		-			-
Reserves		6,882,586			6,882,586
Appropriations & Reserves Charter School Operating Fund	\$	37,906,069	\$ -	\$	37,906,069

TOTAL FY 2022 BUDGET

\$ 978,464,119 \$ 7,636,604 \$ 986,100,723

TOTAL FY 2022 REVENUE (SOURCES) BUDGET

\$ 978,464,119 \$ 7,636,604 \$ 986,100,723

TOTAL FY 2022 EXPENDITURE (USES) BUDGET

\$ 978,464,119 \$ 7,636,604 \$ 986,100,723

FUND TYPE SUMMARY

	BUDGET	BA #1	AMENDED
	ORDINANCE 67-21	INCREASE /	BUDGET #1
		(DECREASE)	ORDINANCE 3-22
General Fund	\$ 296,590,898	\$ 604,636	\$ 297,195,534
Special Revenue	173,069,197	1,487,006	174,556,203
Debt Service	24,320,236	-	24,320,236
Capital Project	31,295,508	269,715	31,565,223
Enterprise	343,448,224	3,210,446	346,658,670
Internal Service	71,833,987	2,064,801	73,898,788
Charter School	37,906,069	-	37,906,069
Total	\$ 978,464,119	\$ 7,636,604	\$ 986,100,723

ATTACHMENT B

FY 2022 Budget Amendment #1

Reference	Description	Amount
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Summary of Adjustments

Items Previously Approved by City Council

City Council Approved - July 27, 2020

1	Enterprise Fund - Water and Sewer Capital Projects Fund - Increase in Budget	
	City Council approved Resolution 167-20 South Florida Water Management District grant funding an additional \$1,000,000 form Florida Department of Environmental Protections for the River Crossing project	
	Increase Sources: Intergovernmental	1,000,000
	Increase Uses: Capital Outlay	1,000,000

City Council Approved - December 14, 2020

2	Capital Projects Fund - Public Works - Increase in Budget	
	City Council approved Resolution 252-20 a Memorandum of Understanding between the City and the Department of Environmental Protection for modernization of Survey Datum with a cost over 3 years beginning in FY 2021 \$200,000 each year. This was not included in the FY 2022 Budget. The funding is divided between Five Cent Gas Tax and Stormwater.	
	Increase Sources: Transfer In from Five Cent Gas Tax	100,000
	Increase Uses: Operating	100,000
	Special Revenue Fund - Five Cent Gas Tax - No Change in Budget	
	Increase Uses: Transfer Out	100,000
	Decrease Uses: Fund Balance	(100,000)
2	Enterprise Fund - Stormwater Capital Projects - Increase in Budget	
	Increase Sources: Transfer In from Stormwater Operations	100,000
	Increase Uses: Operating	100,000
	Increase Uses: Transfer Out	100,000
	Decrease Uses: Fund Balance	(100,000)

City Council Approved - July 28, 2021

3	General Fund - Police - Increase in Budget	
	City Council approved Resolution 164-21 Acceptance of Florida's Bicycle Pedestrian Focused Initiative: High Visibility Enforcement. Awarded amount of \$11,862 to cover overtime.	
	Increase Sources: Intergovernmental	11,862
	Increase Uses: Personnel	11,862

City Council Approved - September 22, 2021

4	Special Revenue - Public Works Lot Mowing Fund - Increase to Budget	
	City Council approved Resolution 222-21 Increase lot mowing to 13 mow cycles and the term of the contract. Increase in contract for \$2,302,813 to \$2,834,119	
	Increase Sources: Charge for Service	531,306
	Increase Uses: Operating	531,306

FY 2022 Budget Amendment #1

Reference	Description	Amount
City Council Approved - October 6, 2021		
5	Capital Projects Fund - Fire - Increase in Budget	
	City Council approved Resolution 218-21 for the design contract with Sweet Sparkman Architects, Inc. for the Fire Training Facility. Original design budget was estimated at \$400,000. Agreed contract amount is not to exceed \$545,090.	
	Increase Sources: Transfer in from Fire Impact Fees	145,090
	Increase Uses: Capital Outlay	145,090
	Special Revenue Side - Fire Impact Fees - No Change in Budget	
	Increase Uses: Transfer Out to Capital Projects	145,090
	Decrease Uses: Reserves	(145,090)
6	Enterprise Fund - Water and Sewer Capital Projects Fund - Increase in Budget	
	City Council approved Resolution 191-21 South Florida Water Management District grant funding an additional \$1,000,000 from Florida Department of Environmental Protections for the River Crossing project	
	Increase Sources: Intergovernmental	1,000,000
	Increase Uses: Capital Outlay	1,000,000
City Council Approved - October 20, 2021		
7	General Fund - Parks and Recreation - Increase in Budget	
	City Council approved Resolution 232-21 accepting Lee County Tourist Development (TDC) Beach and Shoreline Grant for Beach Park Facility Maintenance at the Yacht Club Community Park Beach, Four Mile Cove Ecological Park, Sirenia Vista Park, and Glover Bight Boardwalk. Grant awarded \$138,000 with no City required match. Estimated budget is \$156,496 to cover personnel costs. Adjusting to reflect awarded amount.	
	Decrease Sources: Intergovernmental	(18,496)
	Decrease Uses: Personnel	(18,496)
8	General Fund - Police - Increase in Budget	
	City Council approved Resolution 229-21 Acceptance of Florida Department of Transportation Traffic Safety for Impaired Driving Education and Enforcement. Awarded amount of \$67,000 to cover overtime.	
	Increase Sources: Intergovernmental	67,000
	Increase Uses: Personnel	67,000
9	General Fund - Police - Increase in Budget	
	City Council approved Resolution 236-21 Acceptance of West Coast Inland Navigation District (WCIND) for personnel with Marine Education and Enforcement. Awarded grant amount of \$250,000.	
	Increase Sources: Public Safety Local Grant	250,000
	Increase Uses: Personnel	250,000

FY 2022 Budget Amendment #1

Reference	Description	Amount
10	General Fund - Police - Increase in Budget City Council approved Resolution 237-21 Acceptance of Florida Department of Transportation Traffic Safety grant for Aggressive Driving Enforcement. Grant awarded for overtime reimbursement of \$86,500. Increase Sources: Intergovernmental Increase Uses: Personnel	 86,500 86,500
11	General Fund - Police - Increase in Budget City Council approved Resolution 244-21 Acceptance of Victims of Crime Act (VOCA) Grant for 75% of two Victim Assistance Advocates personnel costs and training. Awarded amount of \$136,339. Increase Sources: Intergovernmental Increase Uses: Personnel Increase Uses: Operating	 136,339 130,000 6,339
12	General Fund - Fire - Increase in Budget City Council approved Resolution 238-21 Acceptance of Volunteer Florida/CERT grant agreement. Awarded grant of \$5,000 with City match of In-kind volunteer hours. Increase Sources: Intergovernmental Increase Uses: Operating	 5,000 5,000
13	General Fund - Fire - Increase in Budget City Council approved Resolution 240-21 Acceptance of Pipeline and Hazardous Material Safety Administration (PHMSA) Technical Assistance Grant (TAG). Grant awarded a TAG gas leak detection monitor and training. Awarded amount is \$50,000. Increase Sources: Intergovernmental Increase Uses: Operating	 50,000 50,000
City Council Approved November 3, 2021		
14	General Fund - Police - Increase in Budget City Council approved Resolution 256-21 Acceptance of Department of Justice/Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG). Awarded \$19,806 to purchase equipment for school resource officers. Increase Sources: Public Safety Federal Grant Increase Uses: Operating	 19,806 19,806
15	Capital Projects Fund - Public Works Transportation - Increase in Budget City Council approved Resolution 257-21 Agreement between City and Florida Department of Transportation (FDOT) to design a 12-foot nonmotorized shared-use trail on the south side of Kismet Parkway from Del Prado Boulevard to NE 24th Avenue. Sun Trail Increase Sources: Intergovernmental	 414,625

FY 2022 Budget Amendment #1

Reference	Description	Amount
	Increase Uses: Capital Outlay	414,625
16	Enterprise Funds - Water and Sewer Capital Projects Fund - Increase in Budget City Council approved Resolution 260-21 Approve increase in FEMA Grant by \$60,445.21 and time extension to August 31, 2022 to complete engineering design and permitting for Canal Weir 7 improvements. Increase Sources: State Grant Revenue Increase Uses: Capital Outlay	 60,446 60,446
Other Adjustments		
17	General Fund - Police - No Change in Budget To carry forward FY 2021 Grant balances: STOP School Violence, COPS Hiring Program, WCIND-PD, Countywide JAG State, and Community Grants. Increase Uses: Personnel, Operating and Capital Outlay Decrease Uses: Reserves General Fund - Police - No Change in Budget Police carryforward Police Explorer Program available balance Increase Uses: Operating Decrease Uses: Reserves	 268,722 (268,722) 34,542 (34,542)
18	General Fund - Fire - No Change in Budget To carry forward FY 2021 Grant balances: Fire HMGP FPC Generators and Fire FEMA PPE. Increase Uses: Operating and Capital Outlay Decrease Uses: Reserves	 93,867 (93,867)
19	General Fund - Fire - Decrease in Budget To correct grant awarded amount to \$33,745 per Grant Agreement approved on September 14, 2020. Decrease Sources: Intergovernmental Decrease Uses: Operating	 (3,375) (3,375)
20	General Fund - No Change in Budget- Parks & Recreation Increase in Budget Cost are about estimated amounts in FY 2022 Parks & Recreation Maintenance Budget additional funds are required. Jim Jeffers Utility Impact Fees - \$66,919 Burnt Store Boat Ramp Utility Impact Fees - \$69,498 Increase Uses: Operating Decrease Uses: Reserves	 136,417 (136,417)
21	Capital Project Fund - Public Works - Chiquita Boat Lock - Decrease to Budget Capture Expenditure in the fund that is funding the project. Adopted budget reflected a transfer in from Stormwater to a Governmental Fund. This entry will capture the expense in the Stormwater Capital Project Fund	
21a	Decrease Sources: Transfer In from Stormwater Operations Decrease Uses: Capital Outlay	(2,000,000) (2,000,000)

FY 2022 Budget Amendment #1

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Reference	Description	Amount
	Enterprise Funds - Stormwater Operations - No Change in Budget	
21a	Decrease Uses: Transfer out to Public Works Chiquita Boat Lock	(2,000,000)
21b	Increase Uses: Transfer Out Stormwater Capital Projects - Chiquita Boat Lock	2,000,000
	Enterprise Fund - Stormwater Capital Projects Fund - Increase in Budget	
21b	Increase Sources: Transfer In from Stormwater Operations	2,000,000
	Increase Uses: Capital Outlay	2,000,000
22	Capital Projects Funds- Public Works Medians - Increase in Budget	
	FY 2022 Adopted Budget for Medians is \$2,312,000 adjust budget to reflect approved funding.	
	Increase Sources: Transfer In	1,000,000
	Increase Uses: Capital Outlay	1,000,000
	General Fund - No Change in Budget	
	Increase Uses: Transfer Out	1,000,000
	Decrease Uses: Reserves	(1,000,000)
23	Internal Service Fund - Public Works Fleet Building - Increase in Budget	
	FY 2022 Adopted Budget for Public Works Fleet Building design and permits adjust from General Fund to a Fleet Capital Projects Fund.	
	Increase Sources: Transfer In from General Fund	2,000,000
	Increase Uses: Capital Outlay	2,000,000
	General Fund - No Change in Budget	
	Increase Uses: Transfer Out	2,000,000
	Decrease Uses: Capital Outlay	(2,000,000)
24	Capital Project Funds - Parks & Recreation - Increase in Budget	
	FY 2022 Adopted Budget for Jaycee Park adjust from General Fund to a Capital Projects Fund.	
	Increase Sources: Transfer In from General Fund	350,000
	Increase Uses: Capital Outlay	350,000
	General Fund - No Change in Budget	
	Increase Uses: Transfer Out	350,000
	Decrease Uses: Capital Outlay	(350,000)
	FY 2022 Adopted Budget for Bimini Basin Mooring Field adjust from General Fund to a Capital Projects Fund.	
	Increase Sources: Transfer In from General Fund	260,000
	Increase Uses: Capital Outlay	260,000
	General Fund - No Change in Budget	
	Increase Uses: Transfer Out	260,000
	Decrease Uses: Capital Outlay	(260,000)
25	Special Revenue Fund - Fire Impact Fees - No Change in Budget	
	The new FY 2022 approved Fire Logistics Specialist's vehicle was placed under All Hazards, but should be funded through Fire Impact Fees.	
	Increase Uses: Capital Outlay	49,784

FY 2022 Budget Amendment #1

Reference	Description	Amount
	Decrease Uses: Reserves	(49,784)
	Special Revenue Fund - All Hazards - No Change in Budget	
	Decrease Uses: Capital Outlay	(49,784)
	Increase Uses: Reserves	49,784
26	Enterprise Fund - Water & Sewer - Decrease in Budget	
	Classification of Manhole rehabilitation from a Capital Project to Water & Sewer Operations - Maintenance and correct the funding from 21% Water CIAC and 79% Water & Sewer Operations to 100% Water & Sewer Operations.	
	Water & Sewer Capital Projects Manhole Rehab - Decrease in Budget	
	Decrease Sources: Transfer In from Water & Sewer Operation	(751,000)
	Decrease Sources: Transfer In from Water CIAC	(199,000)
	Water CIAC - No Change in Budget	
	Decrease Uses: Transfer Out to Water & Sewer Capital Projects Manhole	(199,000)
	Water & Sewer Operating - No Change in Budget	
	Decrease Uses: Transfer Out to Water & Sewer Capital Projects Manhole	(751,000)
27	Enterprise Fund - Water & Sewer - No Change in Budget	
	Warranty Maintenance Service Plan for Annual Tyler EAM was not included in Adopted Budget.	
	Decrease Uses: Reserves	(225,000)
	Increase Uses: Operating	225,000
28	Enterprise Fund - Stormwater - No Change in Budget	
	Cost of Outside Services for Dredging approved by City Manager use of Reserves \$1,386,784.	
	Increase Uses: Operating	1,386,784
	Decrease Uses: Reserves	(1,386,784)
29	General Fund - No Change in Budget	
	Capital Improvement Program transfer from Public Works to City Manager	
	Increase Uses: Operating	2,100
	Decrease Uses: Operating	2,100
30	FY 2021 Encumbrance Rollover	
	General Fund - No Change in Budget	
	City Auditor	39,218
	City Manager	130,348
	City Clerk	148
	Financial Services	32,420
	Fire	821,745
	Human Resources	59,583
	Information Technology	841,149

FY 2022 Budget Amendment #1

Reference	Description	Amount
	Parks and Recreation	128,217
	Police	145,750
	Public Works	233,118
	Government Services	22,250
	Decrease Uses: Reserves	(2,453,946)
	Increase Uses: Transfer Out to P&R Programs	256,478
	Increase Uses: Transfer Out to Golf Course	13,851
	Decrease Uses: Reserves	(270,329)
	CRA - Increase in Budget	
	Increase Uses: Operating & Capital Outlay	685,371
	Decrease Sources: Reserves	685,371
	Park & Rec Programs - Increase in Budget	
	Increase Uses: Operating & Capital Outlay	256,478
	Increase Sources: Transfer In	256,478
	Golf Course - Increase in Budget	
	Increase Uses: Operating & Capital Outlay	13,851
	Increase Sources: Transfer In	13,851
	Solid Waste - No Change in Budget	
	Increase Uses: Operating & Capital Outlay	17,197
	Decrease Uses: Reserves	(17,197)
	Water & Sewer - No Change in Budget	
	Increase Uses: Operating & Capital Outlay	2,651,048
	Decrease Uses: Reserves	(2,651,048)
	Stormwater - No Change in Budget	
	Increase Uses: Operating & Capital Outlay	275,909
	Decrease Uses: Reserves	(275,909)
	Risk - No Change in Budget	
	Increase Uses: Operating & Capital Outlay	26
	Decrease Uses: Reserves	(26)
	Facilities - Increase in Budget	
	Increase Uses: Operating & Capital Outlay	48,879
	Increase Sources: Internal Service Charge	48,879
	Fleet - Increase in Budget	
	Increase Uses: Operating & Capital Outlay	15,922
	Increase Sources: Internal Service Charge	15,922
	TOTAL BUDGET AMENDMENT #1	
	Sources	7,636,604
	Uses	7,636,604



FY 2022 City of Cape Coral Budget Amendment #1

Introduction: January 5, 2022

Public Hearing: January 17, 2022



Ordinance 3-22

FY 2022 Budget Amendment #1

- Purpose:
 - Amend Ordinance 67-21 amending the FY 2022 Operating Budget
 - First of Four Budget Amendments for Fiscal Year 2022
 - Recognizes any City Council action items approved in October and November 2021, encumbrance carry forwards from FY 2022, operating and capital adjustments

Summary

Total Amended Budget \$986,100,723

An increase of \$7,636,604 or .78% from Adopted Budget

Fund Type Summary	BUDGET ORDINANCE 67-21	BA #1 INCREASE / (DECREASE)	AMENDED BUDGET #1 ORDINANCE 3-22	Budget Percentage Change from Adopted Budget
General Fund	\$ 296,590,898	\$ 604,636	\$ 297,195,534	0.20%
Special Revenue Funds	173,069,197	1,487,006	174,556,203	0.86%
Debt Service Funds	24,320,236	-	24,320,236	0.00%
Capital Projects Funds	31,295,508	269,715	31,565,223	0.86%
Enterprise Funds	343,448,224	3,210,446	346,658,670	0.93%
Internal Service Funds	71,833,987	2,064,801	73,898,788	2.87%
Charter School Funds	37,906,069	-	37,906,069	0.00%
Total	\$ 978,464,119	\$ 7,636,604	\$ 986,100,723	0.78%

FY 2022 Budget Amendment #1 Highlights

Revenue:

- Recognized Grants awarded and approved by the City Council
 - General Fund - Police - \$571,507
 - General Fund - Fire - \$55,000
 - Capital Projects Fund - Public Works Nonmotorized Trail- \$414,625
 - Enterprise Fund – Water & Sewer – River Crossing \$2,000,000
 - Enterprise Fund – Water & Sewer – Canal Weir 7 \$60,448
- Charge for Service
 - Special Revenue – Lot Mowing - \$531,306

FY 2022 Budget Amendment #1 Highlights

Expenditures

- FY 2021 Encumbrance Carryforward:
 - General Fund use of Reserves - \$2,724,275:
 - Professional Service \$471,066 (Urban Land Institute, Stantec Consulting, The University of South Florida, The Ferguson Group, LLC, Charles Perry Partners, Inc)
 - Computer Equipment \$454,917
 - Parks Maintenance \$881,302 (Playground equipment, Fence Supply, Landscape Supply - Fertilizer, Sand and Gravel)
 - Median Maintenance \$275,982
 - Capital Equipment \$601,455 (Motorola, Generators, Outboard motors, Trailer)
 - Vehicles \$225,718

FY 2022 Budget Amendment #1 Highlights

Expenditures

- FY 2021 Encumbrance Carryforward:
 - Special Revenue Funds
 - Community Redevelopment Agency use of Reserves - \$685,371
 - Parking lot Maintenance, Medians, Building Renovation, Economic Incentives
 - Enterprise Funds
 - Water & Sewer use of Reserves - \$2,651,048
 - Studies and Master Plans, Chemicals, Meter Installation, Roads and Curbs Maintenance, Vehicles
 - Stormwater use of Reserves - \$275,909
 - Other Professional Services, Equipment

FY 2022 Budget Amendment #1 Highlights

Expenditures

- General Fund
 - Government Services transfer out to Transportation Capital Projects for Medians - \$1,000,000
- Enterprise Fund
 - Stormwater - Department of Environmental Projection for modernization of Survey Datum \$100,000
 - Stormwater –Recognizing Chiquita Boat Lock in Stormwater Capital Projects - \$2,000,000
- Internal Service Funds:
 - Fleet – Fleet Building Design - General Fund \$2,000,000

THANK YOU
any questions?





**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	B.(7)
Meeting Date:	1/5/2022
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 5-22 Set Public Hearing for February 2, 2022

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Code of Ordinances, Chapter 11, Local Business Tax, Article I, General Provisions, Section 11-16, Schedule of Business Taxes to provide that local business taxes are levied and due from vacation rentals operating in the City. (Applicant: Brought forward by City Management.)

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The ordinance amends the Code of Ordinances, Chapter 11, Local Business Tax, Article I, General Provisions, Section 11-16, Schedule of Business Taxes to provide that local business taxes are levied and due from vacation rentals operating in the City.

Vacation Rentals, as defined in Section 509.242, Florida Statutes, is proposed to be added to the following business classification: (399) Hotels; Motels; Rooming Houses; at the rate of \$5.50 for each bedroom rented or offered for rent, including bedrooms having cooking facilities within the bedroom.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

ELEMENT B: ENHANCE FINANCIAL SUSTAINABILITY DURING ALL ECONOMIC TIMES

RECOMMENDATIONS:

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, Development Services Director, 1-239-574-0600
Mark Mason, Financial Services Director, 1-239-574-0491

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

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

PREPARED BY:

City Attorney's
office

Division-

Department-

Development Services
Department

ATTACHMENTS:

Description

1. Ordinance 5-22

Type

Ordinance

ORDINANCE 5 - 22

AN ORDINANCE AMENDING CHAPTER 11, LOCAL BUSINESS TAX, ARTICLE I, GENERAL PROVISIONS, CITY OF CAPE CORAL CODE OF ORDINANCES, AMENDING SECTION 11-16, SCHEDULE OF BUSINESS TAXES, PROVIDING THAT LOCAL BUSINESS TAXES ARE LEVIED AND DUE FROM VACATION RENTALS OPERATING IN THE CITY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 11, Article I, Section 11-16 is hereby amended to read as follows:

§ 11-16 Schedule of business taxes.

The various businesses, professions and occupations within the City of Cape Coral, Florida, are hereby classified for the purpose of this chapter and assessments of local business taxes therefor fixed as follows:

	Business	<u>License</u> <u>Local</u> <u>Business</u> Tax
...		
(399)	HOTELS;; MOTELS;; ROOMING HOUSES;; and VACATION RENTALS as defined in Section 509.242, Florida Statutes; each bedroom rented or offered for rent, including bedrooms having cooking facilities within the bedroom	5.50
...		

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2022.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:


GUNTER _____
TATE _____
SHEPPARD _____
HAYDEN _____

NELSON _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2022.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
ORD/Business Tax Receipts-Vacation Rentals