

## **Cape Coral Planning & Zoning Commission**



Wednesday, November 1, 2023  
9:00 AM  
Council Chambers

### **1. CALL TO ORDER**

A. Chair Marker

### **2. MOMENT OF SILENCE**

### **3. PLEDGE OF ALLEGIANCE**

### **4. ROLL CALL**

A. Apking, Bennie, Botana, Marker, Severson, Sommers, York, and Alternates King and Schwartz

### **5. APPROVAL OF MINUTES**

A. Meeting Minutes - October 4, 2023

### **6. BUSINESS**

A. 2024 Meeting Schedule Approval

### **7. PLANNING AND ZONING COMMISSION PUBLIC HEARING**

A. Ordinance 75-23

#### **WHAT THE ORDINANCE ACCOMPLISHES:**

**An ordinance amending the City of Cape Coral, Florida, Land Development Code Article 5, Development Standards, Chapter 5, Landscaping, by amending Section 5.5.13., Landscaping for All Development Other Than Single-Family Detached Dwellings and Duplexes, regarding reductions to the total tree planting requirement; and by creating Section 5.5.19., Tree Funds, regarding the establishment of tree funds.**

### **8. CITIZENS INPUT**

A maximum of 30 minutes is set for input of citizens on matters concerning the Planning and Zoning Commission; 3 minutes per individual

**9. STAFF UPDATES**

**10. OTHER BUSINESS**

**11. MEMBER COMMENTS**

**12. DATE AND TIME OF NEXT MEETING**

- A. Special Meeting - Wednesday, November 15, 2023, at 9:00 a.m. in Council Chambers
- B. Canceled - Wednesday, December 6, 2023, at 9:00 a.m. in Council Chambers

**13. ADJOURNMENT**

In accordance with the Americans with Disabilities Act and Florida Statutes 286.26, persons needing a special accommodation to participate in this proceeding should contact the Office of the City Clerk whose office is located at City Hall, 1015 Cultural Park Boulevard, Florida; telephone number is 1-239-574-0411, at least forty-eight (48) hours prior to the meeting for assistance. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance.

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



**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL

Item Number:	5.A.
Meeting Date:	11/1/2023
Item Type:	APPROVAL OF MINUTES

**TITLE:**

Meeting Minutes - October 4, 2023

**REQUESTED ACTION:**

Approve or Deny

**SUMMARY EXPLANATION AND BACKGROUND:**

Meeting Minutes - October 4, 2023

**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:**

Approve or approve with amendments.

**SOURCE OF ADDITIONAL INFORMATION:**

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

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

**PREPARED BY:**

Stacey Pasek, Recording  
Secretary

Division-

Department- City  
Clerk

**ATTACHMENTS:**

**Description**

Meeting Minutes - October 4, 2023

**Type**

Backup Material

**MINUTES OF THE REGULAR MEETING OF  
THE CITY OF CAPE CORAL PLANNING & ZONING COMMISSION**

**WEDNESDAY, OCTOBER 4, 2023**

Vice-Chair Apking called the meeting to order at 9:01 a.m.

A moment of silence was observed.

Pledge of Allegiance.

ROLL CALL: Apking, Bennie, Botana, Severson, York, and Alternate Schwartz were present. Chair Marker and Commissioner Sommers were excused. Alternate King arrived at 9:05 a.m.

ALSO PRESENT: Robert Welsh, Council Liaison  
Brian Bartos, Deputy City Attorney  
Mike Struve, Planning Team Coordinator  
Chad Boyko, Principal Planner

**APPROVAL OF MINUTES**

Meeting Minutes – August 2, 2023

***Commissioner Botana moved, seconded by Commissioner Schwartz, to approve the Regular Meeting Minutes from August 2, 2023 as presented.***

***Commission polled as follows: Apking, Bennie, Botana, Severson, York, and Schwartz “aye.” Six “ayes.” Motion carried 6-0.***

**BUSINESS**

**PLANNING AND ZONING COMMISSION PUBLIC HEARING**

Ordinance 80 - 23

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral, Florida, Land Development Code, Article 5, “Development Standards,” Chapter 2, “Accessory Structures,” by amending Section 5.2.1., “General Requirements,” regarding marine improvements and boat canopies; and Article 5, “Development Standards,” Chapter 4, “marine improvements,” by amending Section 5.4.1., “purpose and intent,” regarding the construction of marine improvements and boat canopies; providing severability and an effective date.

Planning Team Coordinator Struve discussed the following displayed slides:

- Overview of Ordinance 80-23

- Summary of Proposed Changes
- Recommendation and Schedule; Staff recommended approval
- Correspondence: none; at the COW meeting on 8/23/23, there were a couple of marine contractors present when this was being discussed, two or three spoke in favor of this proposed change

Alternate King arrived at 9:05 a.m.

Discussion held regarding:

- Original reason for not allowing seawall/docks to be built prior to building house
- Distinction between waterfront and non-waterfront property
- Boat canopies and supporting structures are not included as marine improvements
- Ordinance wording clarification

Public hearing opened.

No speakers.

Public hearing closed.

***Commissioner Severson moved, seconded by Commissioner Schwartz, to recommend approval of Ordinance 80-23, as presented.***

***Commission polled as follows: Apking, Bennie, Botana, Severson, York, King, and Schwartz. Seven "ayes." Motion carried 7-0.***

Ordinance 79 – 23 (FLUM22-000030)

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral, Florida, Comprehensive Plan by amending the Future Land Use Map from Pine Island Road District (PIRD) to Single Family Residential (SF) land use for property described as Lots 46 & 47, Block 3623, Cape Coral Unit 49; property located at 1011 SW 4<sup>th</sup> Terrace; providing severability and an effective date.

Applicant: Synergy Homes, LLC

Acreage: 10.624 square feet

Principal Planner Boyko discussed the following displayed slides:

- Ordinance 79-23/FLUM22-000030
- 2023 Site Aerial
- Existing FLU, Proposed FLU
- Findings of Fact
- Analysis
- Recommendation: Staff recommended Approval
- Correspondence: one email in support

Discussion held regarding:

- Privately initiated FLUMA request
- As part of the last legislative session, Senate Bill passed that does not allow for any local government to pass legislative Ordinances that would be considered more restrictive to property owners; Staff has no ability to change
- Commercial zoning

Deputy City Attorney Bartos recommended the applicant to present, if available.

Daniela Mitchell, Remax Realty, appeared to discuss:

- Received the notice letter
- Was present with her clients, one of the owners of the corner lot
- Agreement with Staff presentation
- Had contacted other owners of nearby properties who preferred residential

Discussion held regarding:

- No one was present from Synergy
- Residential versus commercial zoning in the Pine Island Corridor District
- Single family homes near PIRD zoning
- Potential of this lot to be commercially utilized in the future
- Appropriate borders, preference for single family homes versus vacant lots
- Senate Bill 250 amendments; Sunset date approximately in 2024
- Risking commercial on either side
- Senate Bill 250, local jurisdictions cannot amend any regulation that is more restrictive or burdensome to the property owner
- FLUM from non-residential mixed use type district to single family is more restrictive
- City cannot amend that whole strip north of SW 4<sup>th</sup> Terrace
- Although a property owner can come in and request a more restrictive one

Public hearing opened.

Daniela Mitchell, Remax Realty, spoke about the following:

- All four lot owners present who preferred the change in zoning, also agreed to alignments requested by the applicant
- Residential area with a lot of commercial lots, room for improvement
- No purchase of those lots happening
- No commercial growth in the City
- Necessity for residential homes

Public hearing closed.

***Commissioner Bennie moved, seconded by Commissioner Botana, to recommend approval of Ordinance 79-23, FLUM22-000030, as presented.***

***Commission polled as follows: Bennie voted "aye." Apking, Botana, Severson, York, King, and Schwartz voted "nay." One "aye." Six "nays." Motion failed.***

#### **CITIZENS INPUT**

Marie Kavanaugh voiced her opposition to the proposed development at Redfish Pointe. She encouraged the Commission Members to not support the zoning on that parcel.

Eileen Bonasia expressed opposition to the proposed development of Redfish Pointe. She asked the Commission to protect the wetlands in the Piney Point area. She requested that the Commission deny the request for a change when it comes up for a vote.

#### **STAFF UPDATES**

None.

#### **OTHER BUSINESS**

None.

#### **MEMBER COMMENTS**

None

#### **DATE AND TIME OF NEXT MEETING**

A Regular Meeting was scheduled for Wednesday, November 1, 2023, at 9:00 a.m. in Council Chambers.

#### **ADJOURNMENT**

There being no further business, the meeting adjourned at 9:54 a.m.

Submitted by,

Stacey Pasek  
Recording Secretary

*Transcribed by Barbara Kerr 10/4/2023*



## AGENDA REQUEST FORM

CITY OF CAPE CORAL

Item Number:	6.A.
Meeting Date:	11/1/2023
Item Type:	BUSINESS

**TITLE:**

2024 Meeting Schedule Approval

**REQUESTED ACTION:**

Approve or Deny

**SUMMARY EXPLANATION AND BACKGROUND:**

2024 Meeting Schedule Approval

Note: January and July will be held 1-week later due to holiday. Meeting occurring off typical schedule may affect the availability of the Council Liaison.

**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 2024 Proposed Meeting Schedule

**SOURCE OF ADDITIONAL INFORMATION:**

Stacey Pasek, Recording Secretary  
239-574-0415

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

N/A

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

**PREPARED BY:**

Stacey Pasek, Recording  
Secretary

Division- Managerial

Department- City  
Clerk

**ATTACHMENTS:****Description****Type**

□ Proposed 2024 P&Z Meeting Schedule

Backup Material



**PROPOSED  
PLANNING AND ZONING COMMISSION  
MEETING SCHEDULE – 2024**

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Meetings are scheduled on the first Wednesday of every month  
unless otherwise noted below, and held in the Council Chambers  
starting at 9:00 a.m.

**JANUARY 10\***

**FEBRUARY 7**

**MARCH 6**

**APRIL 3**

**MAY 1**

**JUNE 5**

**JULY 10\***

**AUGUST 7**

**SEPTEMBER 4**

**OCTOBER 2**

**NOVEMBER 6**

**DECEMBER 4**

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\*Meeting will be held 1-week later due to holiday.

Note: Meeting occurring off typical schedule may affect the  
availability of the Council Liaison.



**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL

Item Number:	7.A.
Meeting Date:	11/1/2023
Item Type:	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**TITLE:**

Ordinance 75-23

**REQUESTED ACTION:**

Approve or Deny

**SUMMARY EXPLANATION AND BACKGROUND:**

An ordinance amending the City of Cape Coral, Florida, Land Development Code Article 5, Development Standards, Chapter 5, Landscaping, by amending Section 5.5.13., Landscaping for All Development Other Than Single-Family Detached Dwellings and Duplexes, regarding reductions to the total tree planting requirement; and by creating Section 5.5.19., Tree Funds, regarding the establishment of tree funds.

**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:**

Persides Zambrano, Interim Public Works Director

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

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

**PREPARED BY:**

Division- Department-

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> 1. Ordinance 75-23	Ordinance
<input type="checkbox"/> 2. Presentation	Backup Material
<input type="checkbox"/> 3. Tree Cost Analysis	Backup Material

▢ 4. Resolution 305-23 Tree Contribution Amounts Backup Material

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL, FLORIDA, LAND DEVELOPMENT CODE ARTICLE 5, DEVELOPMENT STANDARDS, CHAPTER 5, LANDSCAPING, BY AMENDING SECTION 5.5.13., LANDSCAPING FOR ALL DEVELOPMENT OTHER THAN SINGLE-FAMILY DETACHED DWELLINGS AND DUPLEXES, REGARDING REDUCTIONS TO THE TOTAL TREE PLANTING REQUIREMENT; AND BY CREATING SECTION 5.5.19., TREE FUNDS, REGARDING THE ESTABLISHMENT OF TREE FUNDS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council finds that the creation of the General Tree Fund and the South Cape Tree Fund is in the best interest of the City of Cape Coral to ensure its residents and visitors enjoy the benefits of a healthy, well-managed urban forest; and

WHEREAS, the City Council seeks to enhance overall tree canopy coverage in the City by allowing for the proper placement and usage of trees during development, while also authorizing the ability to contribute to the City's tree funds; and

WHEREAS, the City Council desires to utilize fees and contributions made to the tree funds for the planting of trees in the City and any other ancillary costs associated with the planting, establishment, and preservation of trees; and

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 5, Development Standards, Chapter 5, Landscaping, Section 5.5.13., Landscaping for All Development Other Than Single-Family Detached Dwellings and Duplexes, is hereby amended as follows:

**5.5.13. Landscaping for all development other than single-family detached dwellings and duplexes.**

The provisions of this section shall not apply to single-family detached dwellings and duplexes unless otherwise specifically stated herein. The soil surface of the land area not covered by structures or hardscape features shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover, or any combination thereof. Shrubs in planting beds shall be planted not more than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more than 20% of the total land area not covered by structures or hardscape features and is not within a front yard or right-of-way. The right-of-way from the edge of the street pavement to the property line shall be planted in accordance with the requirements of subsection B. below.

A. Tree planting requirements.

1. Except in the South Cape District, all sites, ~~exclusive of buffer areas~~, shall have at least one canopy tree for each 1,000 square feet of gross land area less lake areas as indicated in Subsection A.1.a. below, except that accent trees or palm trees may be substituted for a required canopy tree as indicated below. Trees required for buffers may be used for meeting the minimum number of trees required for a site. In the South Cape District, all sites shall have at least one canopy tree for each 3,500 square feet of gross land area, except that accent trees or palm trees may be substituted for a required canopy tree as indicated below. For all districts, in the event the calculation of required number of canopy trees yields a fractional number, that number shall be rounded up to the next highest whole number prior to any calculation of the quantity of substituted accent trees or palm trees. Trees planted to meet the other requirements of this section can be included in the calculation of total number of trees required by this section. Such trees may be planted singularly or grouped together. Required canopy trees shall not be spaced less than 20 feet on center. Except in the South Cape District, each canopy tree shall be planted

in a minimum planting area of 100 square feet with a minimum dimension of seven feet in width unless an alternative minimum planting area or dimensions are approved by the Director, based on planting details that ensure reasonable soil surface and planting medium volumes.

- a. Lake areas or portions of lake areas 100' or greater in width may be deducted from the total property area for purposes of determining the general tree requirement. ~~Reductions to the Total Tree Planting Requirement. Reductions to the tree planting requirement may be approved by the Director for public parks and recreational facilities. In determining whether a particular request should be approved, the Director shall consider the following:~~
    - i. ~~Whether the required trees will be unnecessary for a facility primarily designed to be a natural area or preserve where a substantial number of native trees on the site will be protected; or~~
    - ii. ~~Whether the required trees will interfere with the design, function, or purpose of all or part of the amenities planned for the facility, such as outdoor athletic fields, open space, or special event grounds; or~~
    - iii. ~~Whether the facility, because of the area involved, will require an inordinately large number of trees to comply with the LDC.~~
  - b. Requests for a reduction to the total tree planting requirements may be approved as provided in Section 5.5.13.A.3. Notwithstanding the foregoing, reductions of up to 15% of the total tree planting requirements may be elected and mitigated for development other than parks and recreation facilities pursuant to Section 5.5.13.A.3.c., without a request to or approval from the City. Any such tree reduction shall be reflected in the final landscape plan and calculations, including the method of mitigation pursuant to Section 5.5.13.A.3.c. ~~Requests for reductions to the total tree planting requirement shall be made in writing to the Director. Materials submitted to the Director shall include a narrative explaining the magnitude of the reduction requested, why the request should be approved, and how the request would operate to the benefit of the public interest. The Director may request additional information necessary to adequately evaluate such requests, including a site plan, landscaping plan, and estimated cost of the landscaped materials.~~
  - c. ~~The Director may approve reductions in the total tree planting requirement in whole or in part for public parks and recreational facilities. The Director shall find the request would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall functionality in the public park and recreational facility. In approving such requests, the Director may impose reasonable conditions on the project in conformity with this section.~~
2. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square feet with a minimum dimension of four feet in width unless an alternative minimum planting area or dimensions are approved by the Director, based on planting details that ensure reasonable soil surface and planting medium volumes. Except in the South Cape District not more than 50% of the required canopy trees may be substituted with accent trees or palm trees in accordance with Section 5.5.13. In the South Cape District, not more than 25% of the required canopy trees may be substituted with accent trees or palm trees, in accordance with Section 5.5.13., as follows:
- a. Accent trees may be substituted for required canopy trees at a rate of two accent trees for each canopy tree required; however, no canopy

tree required for a landscape buffer yard shall be substituted with an accent tree, unless the minimum width of available buffer yard options would preclude compliance with the minimum separation distance between trees and overhead power lines.

- b. The following palms shall not be substituted for required canopy trees:

Table 5.5.13.A: PROHIBITED SUBSTITUTIONS FOR CANOPY TREES	
Common Name	Botanical Name
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)
Bamboo Palm	Chamedorea spp.
Christmas Palm	Adonidia merrillii (Veitchii merriillii)
Dwarf Palmetto	Sabal minor
European Fan Palm	Chamaerops humilis
Lady Palm	Rhapis excelsa
Majesty Palm	Ravenea glauca
Needle Palm	Rhapidophyllum hystrix
Pygmy Date Palm	Phoenix roebellini
Saw Palmetto	Serenoa repens
Silver Palm	Coccothrinax argentata
Thatch Palm	Thrinax spp.

To meet tree planting requirements in a landscape buffer yard or in off-street parking and vehicle use areas, palm trees, other than those listed above, may be substituted for canopy trees at a rate of three palm trees per each canopy tree substituted, regardless of the palm tree species. Except in the South Cape Downtown District, to meet tree planting requirements for areas other than a landscape buffer or off-street parking and vehicle use areas, palm trees may be substituted for required canopy trees at a rate of one palm tree per each canopy tree substituted. In the South Cape Downtown District, to meet tree planting requirements for areas other than a landscape buffer yard, palm trees may be substituted for required canopy trees at a rate of two palm trees per each canopy tree substituted.

- c. Except for plantings in or near surface water management areas, a two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. Except in the South Cape District, each tree shall have organic mulch no less than 36 inches beyond its trunk in all directions. In the South Cape District, each tree shall have organic mulch no less than 18 inches beyond its trunk in all directions. All mulch shall be kept away from the trunks and stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker, or other fungi.

The use of cypress or cedar mulch is strongly discouraged.

- d. The use of any inorganic mulch, including pebbles or shells to cover the soil surface shall only be used to frame the outside of beds or to control erosion. Inorganic mulch shall not exceed 10% of the total land area not covered by structures, pools, accent boulders, driveways, sidewalks, or other paving. ~~It~~ Inorganic mulch shall not be used to cover the root ball of newly planted trees or shrubs. The balance of the soil surface shall be covered with planting beds with a two-inch minimum layer of organic mulch.
- e. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or public utility unless an acceptable root barrier material is installed between the tree and the roadway, sidewalk, or public utility. Acceptable root barrier material shall consist of one of the following: a manufactured root barrier material, installed in accordance with manufacturer's directions, reinforced concrete with a minimum depth of 16 inches, or a continuous sheet of aluminum with a minimum depth

of 16 inches and a minimum thickness of 0.024 inches. Where a root barrier is required, it shall be installed for a minimum distance of 20 linear feet.

- f. In the event a property owner installs a public sidewalk closer than seven feet to any extant canopy tree, the property owner shall install an acceptable root barrier material in accordance with manufacturer's directions, such as herbicide impregnated materials or reinforced concrete of sufficient width and length, which will prevent the encroachment or undermining by the tree's root system, prior to the installation of the sidewalk.

- ~~g. In the South Cape District, in the event that the tree requirements in this section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund. Such site constraints shall include size of site, access or circulation requirement making trees impracticable, or extant site layout. The City Council shall establish a fee based on the average cost of the aforementioned trees. The city will use the funds in the Downtown CRA Tree Fund to provide or enhance the landscaping and vegetation in public areas of the Downtown CRA. To qualify to pay an in lieu of tree fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of tree fee meeting planting requirements. This provision does not preclude applicants from applying for deviations in accordance with Section 5.5.20.~~

### 3. Reductions to the Total Tree Planting Requirements.

- a. Reductions to the total tree planting requirements may be approved by the Director for public parks and recreational facilities as follows:
  - i. In determining whether a particular request should be approved, the Director shall consider the following:
    - 1. Whether the required trees will be unnecessary for a facility primarily designed to be a natural area or preserve where a substantial number of native trees on the site will be protected; or
    - 2. Whether the required trees will interfere with the design, function, or purpose of all or part of the amenities planned for the facility, such as outdoor athletic fields, open space, or special event grounds; or
    - 3. Whether the facility, because of the area involved, will require an inordinately large number of trees to comply with the LDC.
  - ii. Requests for reductions to the total tree planting requirement shall be made in writing to the Director. Materials submitted to the Director shall include a narrative explaining the magnitude of the reduction requested, why the request should be approved, and how the request would operate to the benefit of the public interest. The Director may request additional information necessary to adequately evaluate such requests, including a site plan, landscaping plan, and estimated cost of the landscaped materials.
  - iii. The Director may approve reductions in the total tree planting requirement up to 100% for public parks and recreational facilities. The Director shall find the request would serve the intent of this section to protect the health, safety, and welfare

of the public while ensuring a high level of overall functionality in the public park and recreational facility. In approving such requests, the Director may impose reasonable conditions on the project in conformity with this section.

- iv. The Director shall obtain a recommendation from the Director of Parks and Recreation for any request for a reduction to the total tree planting requirements exceeding 25%. The Director of Parks and Recreation shall consider the criteria in Section 5.5.13.A.3.a.i. when making such recommendations.
  - v. Reductions to the total tree planting requirements approved pursuant to this section shall be reflected in the landscape plan calculations and the method of mitigation shall be indicated on the final landscape plan.
- b. Reductions to total tree planting requirements, not to exceed 30%, may be approved by the Director for development other than parks and recreational facilities as follows:
- i. In determining whether a particular request should be approved, the Director shall consider the following:
    - 1. Whether existing site improvements would make it impractical to meet the total tree planting requirements; or
    - 2. Whether the size or shape of the property creates constraints that may make it impractical to meet the tree planting requirements; or
    - 3. Whether access and circulation requirements preclude planting of trees.
  - ii. Requests for reductions to the total tree planting requirement shall be made in writing to the Director. Materials submitted to the Director shall include a narrative explaining the magnitude of the reduction requested, why the total tree planting requirements cannot be achieved and the proposed mitigation for the reduction. The Director may request additional information necessary to adequately evaluate such requests, including a site plan and landscaping plan demonstrating how the site constraints prohibit tree planting.
  - iii. The Director may approve requested reductions in the total tree planting requirement in whole or in part and may impose reasonable conditions on the project in conformity with this section.
  - iv. Overly intense development of a site shall not be considered a site constraint qualifying for a reduction in the total tree planting requirements.
  - v. Tree reductions may not be applied to trees required in buffers or off-street parking and vehicular use areas.
  - vi. Notwithstanding any provision to the contrary in this section, requests for total tree reductions up to 100% may be approved within the South Cape District, except for required buffers.
  - vii. Reductions to the total tree planting requirements approved pursuant to this section shall be reflected in the landscape plan



calculations and the method of mitigation shall be indicated on the final landscape plan.

- c. Mitigation options for reductions to the total tree planting requirements for development other than parks and recreational facilities. Applicants approved for tree planting reductions may:
  - i. Contribute into the General Tree Fund a non-refundable Tree Contribution Amount, as established in Subsection iii below, for each two-inch caliper tree required pursuant to Section 5.5.19. for development in areas other than the South Cape District; or
  - ii. Contribute into the South Cape Tree Fund a non-refundable Tree Contribution Amount, as established in Subsection iii below, for each three-inch caliper tree required pursuant to Section 5.5.19. for development in the South Cape District.
  - iii. The City Council shall establish by Resolution the Tree Contribution Amount for the mitigation of required caliper trees. All Tree Funds received by the City hereunder shall be expended, utilized, and disbursed in accordance with the provisions of Section 5.5.19.D. Tree mitigation approved pursuant to this section shall run with the land.
- d. The provisions of this section do not preclude a developer from applying for most landscape deviations allowed pursuant to Article 3 or Article 5. However, a developer utilizing and contributing to a Tree Fund in order to reduce the total tree planting requirements for a site shall be prohibited from also requesting a deviation from the minimum number of trees required for the same site pursuant to Sections 3.3.6., 3.4.2., or 5.5.20.

...

SECTION 2. The City of Cape Coral Land Development Code, Article 5, Development Standards, Chapter 5, Landscaping, Section 5.5.19., Tree Funds, is hereby established as follows:

**Sec. 5.5.19. Tree Funds.**

- A. The General Tree Fund and the South Cape Tree Fund are established for the purpose of accepting and disbursing the fees paid to the City as assessed on development permits and any other monies deposited in the fund accounts for tree preservation and landscape beautification purposes. The General Tree Fund shall be used in areas other than the South Cape District. The South Cape Tree Fund shall be used in the South Cape District only.
- B. The Tree Funds established in this section shall be maintained, unless specifically terminated by the City Council.
- C. All monies received hereunder shall be placed in the appropriate Tree Fund account and inure to the use and benefit of the City.
- D. Administration of tree funds.
  - 1. The Tree Funds shall be expended, utilized, and disbursed by the Public Works department, upon approval of the City Manager or designee, for the purposes designated in this section.
  - 2. All Tree Funds deposited must be in separate accounts established and maintained apart from the general revenue funds and accounts of the City.

3. All funds obtained hereunder may be accepted on behalf of the City by the City Manager, who shall promptly deliver to the Finance Department, which shall cause the same to be credited to the appropriate Tree Fund.
4. Tree Funds shall be expended, utilized, and disbursed to obtain trees, irrigation systems, and any other items or materials necessary and proper for the installation and maintenance of trees in the urban forest on any publicly owned land, street right-of-way or publicly accessible parcels in the respective areas of the City. Tree Funds shall also be expended, utilized, and disbursed for the planning, planting, establishment, and preservation of trees on public lands; for planning and managing the urban forest; for reforestation; and for any other ancillary costs associated with the planting, establishment, or preservation of trees. These funds may also be expended by the City on similar programs approved by the City Council.

SECTION 3. 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 4. 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 \_\_\_\_\_, 2023.

\_\_\_\_\_  
JOHN GUNTER, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	CUMMINGS	_____
STEINKE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	CODEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

\_\_\_\_\_  
KIMBERLY BRUNS  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ALEKSANDR BOKSNER  
CITY ATTORNEY  
ord/Tree Funds

  
\_\_\_\_\_

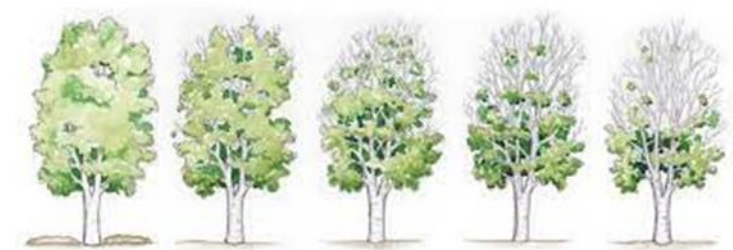


# AMENDMENTS TO CHAPTER 5. – LANDSCAPING P&Z 11/1/2023



# Goal of The City Tree Fund

1. Create opportunities for enhanced reforestation citywide
2. Funding for tree preservation and long term planning
3. Funding for grant and sponsorship opportunities.
4. Foundation of the city's Urban Forestry Program



# City Tree Fund: Reduction of Planting Requirement

## **5.5.13. Landscaping for all development other than single-family detached dwellings and duplexes.**

Proposed amendments allow for the following reductions.

### **Within Parks:**

- Building Director shall obtain a recommendation from the Director of Parks and Recreation for any request for a reduction to the total tree planting requirements exceeding 25%. (Section 5.5.13.3.b.iv)

# City Tree Fund: Reduction of Planting Requirement

Proposed Amendments allow for the following reductions.

## **Within all areas other than Parks and South Cape District:**

- Notwithstanding the foregoing, reductions of up to 15% of the total tree planting requirements may be elected and mitigated for development other than parks and recreation facilities pursuant to Section 5.5.13.A.3.c., without a request to or approval from the City. (Section 5.5.13.A.1.b)
- Reductions to total tree planting requirements, not to exceed 30%, may be approved by the Director for development other than parks and recreational facilities (Section 5.5.13.A.3.b)

# City Tree Fund: Reduction of Planting Requirement

Proposed Amendments allow for the following reductions.

## **Within the South Cape District:**

- Notwithstanding any provision to the contrary in this section, requests for total tree reductions up to 100% may be approved within the South Cape District, except for required buffers. (Section 5.5.13.3.b.vi)

# City Tree Fund Process

The City Tree Fund allows for:

- a) Proper site development
- b) Tree preservation
- c) Additional mitigation opportunities

In instances where a development has a mitigation shortfall, the applicant will be able to address the shortfall through contributions to the fund.

City Council shall establish by resolution the Tree Contribution Amount.



# Administration of The Tree Fund

*Tree Funds shall be expended, utilized, and disbursed to obtain trees, irrigation systems, and any other items or materials necessary and proper for the installation and maintenance of trees in the urban forest on any publicly owned land, street right-of-way or publicly accessible parcels in the respective areas of the City. Tree Funds shall also be expended, utilized, and disbursed for the planning, planting, establishment, and preservation of trees on public lands; for planning and managing the urban forest; for reforestation; and for any other ancillary costs associated with the planting, establishment, or preservation of trees. These funds may also be expended by the City on similar programs approved by the City Council.*

# Example Usage of The Tree Fund

Approved reductions in tree planting requirements:

- a) Would improve species selection and spacing.
- b) Improve landscape aesthetics
- c) Reduce long term maintenance.
- d) Shift tree canopy coverage to more usable areas.





# City Tree Fund Opportunities

1. The City Trees Fund allows for additional tree planting in our city parks and greenspaces.
2. It can also assist in funding future tree planting in our city medians and streetscapes.





# Urban Forestry and Tree Preservation Opportunities

1. The City Tree Fund will play a vital role in the development of the city's Urban Forestry Program.
2. The Urban Forestry Program will guide future development, planning, preservation, and management of a sustainable urban tree canopy.



Thank you  
Any Questions?



## Tree Cost Analysis

Quantity	Species	Specifications	Unit Cost
30	Gumbo Limbo	10ft oa and 2inch caliper, Florida Grade No.1	1352
30	Gumbo Limbo	12ft oa and 3inch caliper, Florida Grade No.1	2512
30	Live Oak	10ft oa and 2inch caliper, Florida Grade No.1	1357
30	Live Oak	12ft oa and 3inch caliper, Florida Grade No.1	2578
30	Mahogany	10ft oa and 2inch caliper, Florida Grade No.1	1352
30	Mahogany	12ft oa and 3inch caliper, Florida Grade No.1	2578
30	Black Olive	10ft oa and 2inch caliper, Florida Grade No.1	1407
30	Black Olive	12ft oa and 3inch caliper, Florida Grade No.1	2578
30	Green Buttonwood	10ft oa and 2inch caliper, Florida Grade No.1	1404
30	Green Buttonwood	12ft oa and 3inch caliper, Florida Grade No.1	2578
30	Royal Palm	10ft Grey wood, Florida Grade No.1	4643
30	Sabal Palm	12ft Clear Trunk, Florida Grade No. 1	1388

All areas not including the South  
Cape District

Average Cost for 10ft oa tree and 2inch cal.

1375

Price includes: Plant Material, Installation,  
Staking, Mulching, Fertilization, Watering,  
Warranty, Structural Pruning, and Delivery

Only Within the South Cape District

Average Cost for 12ft oa tree and 3inch cal.

2564

Price includes: Installation of underground  
infrastructure for soil volume requirements,  
Plant Material, Installation, Staking, Mulching,  
Fertilization, Watering, Warranty, Structural  
Pruning, and Delivery

RESOLUTION 305 - 23

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, ESTABLISHING THE TREE CONTRIBUTION AMOUNTS FOR THE GENERAL TREE FUND AND THE SOUTH CAPE TREE FUND WHEN MITIGATING REDUCTIONS TO TREE PLANTING REQUIREMENTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 5.5.13.A.3.c. of the City of Cape Coral Land Development Code authorizes contributions to the General Tree Fund or the South Cape Tree Fund as a mitigation option when requesting a reduction to the City's tree planting requirements; and

WHEREAS, Section 5.5.13.A.3.c.iii. of the City of Cape Coral Land Development Code provides that the City Council shall establish by Resolution the Tree Contribution Amount for the mitigation of required trees; and

WHEREAS, the City Council desires to establish the Tree Contribution Amount as set forth below.

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

Section 1. The City of Cape Coral does hereby establish the Tree Contribution Amounts as follows:

<u>Tree Contribution Amounts:</u>		
<u>1.</u>	<u>General Tree Fund</u>	<u>\$ 1,400.00</u>
<u>2.</u>	<u>South Cape Tree Fund</u>	<u>\$ 2,500.00</u>

Section 2. 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 \_\_\_\_\_, 2023.

\_\_\_\_\_  
JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	CUMMINGS	_____
STEINKE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

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KIMBERLY BRUNS  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
ALEKSANDR BOKSNER  
CITY ATTORNEY

\_\_\_\_\_  
res/Tree Contribution Amount