

Cape Coral Special Planning & Zoning Commission
VIDEO



AGENDA

Wednesday, September 18, 2024

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, Botana, King, Marker, Schwartz, Severson, York, and Alternates Martin and Sommers

5. BUSINESS

6. PLANNING AND ZONING COMMISSION PUBLIC HEARING

A. Ordinance 65-24 (FLUM24-000001)

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance of the Mayor and City Council of the City of Cape Coral, Florida, amending the City of Cape Coral, Florida 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 3 and 4, Block 3960, Unit 54, Cape Coral Subdivision; property located at 107 SW 24th Place.

Applicant: Jimmy Masarwa

Address: 107 SW 24th Place

B. Ordinance 66-24

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance of the Mayor and City Council amending the City of Cape Coral, Florida, Land Development Code, 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 the car-wash use; amending Article 5, Development Standards, Chapter 11, Conditional Uses, by creating Section 5.11.17., Car Wash Facilities, establishing conditions for car-wash facilities; amending Article 11, Definitions, Section 11.2., Definitions, regarding car-wash facilities.

C. Ordinance 67-24

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance of the Mayor and City Council amending the City of Cape Coral, Florida Land Development Code, 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 the self-storage facilities use; amending Article 5, Development Standards, Chapter 10, Specific Use Regulations (P* uses in Table 4.4), by eliminating Section 5.10.16. – Self-Service Storage Facility, in its entirety; amending Article 5, Development Standards, Chapter 11, Conditional uses, by creating Section 5.11.18., Self-Service Storage Facility, establishing conditions for self-service storage facilities.

7. CITIZENS INPUT

8. OTHER BUSINESS

9. DATE AND TIME OF NEXT MEETING

A. A Regular Meeting of the Cape Coral Planning & Zoning Commission is scheduled for Wednesday, October 2, 2024.

10. 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:	6.A.
Meeting Date:	9/18/2024
Item Type:	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

TITLE:

Ordinance 65-24 (FLUM24-000001)

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

The applicant requests a future land use map amendment from Commercial/Professional (CP) future land use designation to the Single-Family Residential (SF) designation for one parcel in Northwest Cape Coral. The parcel is 10.000 sq. ft. and was amended to the CP designation in 2019. The applicant states they are seeking the amendment to build a single-family home.

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: Denial

SOURCE OF ADDITIONAL INFORMATION:

Matt Grambow, Interim Development Services Director (239) 574-0600

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

N/A

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

PREPARED BY:

Janna Balsley, Planning Technician Division- City Planning Department- Development Services

ATTACHMENTS:

Description	Type
<input type="checkbox"/> 1. Ordinance 65-24 (FLUM24-000001)	Ordinance
<input type="checkbox"/> 2. Backup Materials	Backup Material

▫ 3. Power Point 65-24 (Displayed at meeting)

Backup Material

ORDINANCE 65 - 24

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AMENDING THE CITY OF CAPE CORAL, FLORIDA 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 3 AND 4, BLOCK 3960, UNIT 54, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 107 SW 24TH PLACE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on February 13, 1989, the City of Cape Coral, Florida, adopted a Comprehensive Plan as required by the Community Planning Act, Chapter 163, Part II, Florida Statutes; and

WHEREAS, the City of Cape Coral, Florida, adopted the Comprehensive Plan Future Land Use Map to delineate the future land use designations throughout the City of Cape Coral, Florida; and

WHEREAS, Jimmy Masarwa owns property located at 107 SW 24th Place; and

WHEREAS, the Mayor and City Council of the City of Cape Coral, Florida, have considered the testimony, evidence, and documentation for the Land Use Amendment initiated by JIMMY MASARWA 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)
LAND USE

LOTS 3 AND 4, BLOCK 3960, UNIT 54, CAPE CORAL SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 19, PAGES 79 THROUGH 91, INCLUSIVE, 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 MAYOR AND COUNCIL OF THE CITY OF CAPE CORAL AT THEIR REGULAR SESSION THIS _____ DAY OF _____, 2024.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

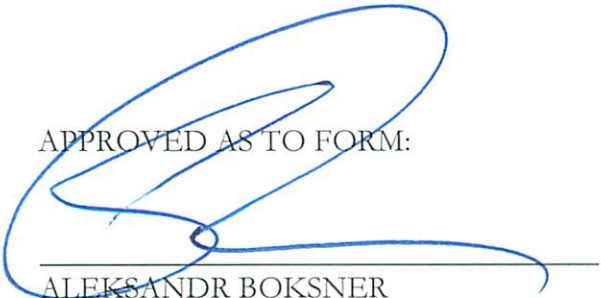
GUNTER _____
STEINKE _____
SHEPPARD _____
HAYDEN _____

CARR _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2024.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



ALEKSANDR BOKSNER
CITY ATTORNEY
ord/FLUM24-000001





For Internal Use Only

Case _____

Date _____

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 DEVELOPMENT SERVICES
CITY 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	Jimmy Masarwa	Address	8000 Leaf Grove Cir.
Phone	917 714-6699	City	Orlando
Email	jimmyaef@gmail.com	State	FL Zip 32836-6937
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 _____

PROPERTY INFORMATION

Unit	54	Block	3960	Lot (s)	3+4	Subdivision	Cape Coral
Property Address	107 SW 24th PLACE						
Plat Book	_____	Page	_____	Current Zoning	R-1/SF Single Family Residential		
Strap Number	17-44-23-C2-63960.0030			Acreage	0.22957		
Current Land Use	(FUTURE) CP		Proposed Land Use	SF SINGLE FAMILY RESIDENTIAL			



DEPARTMENT OF DEVELOPMENT SERVICES
CITY 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.

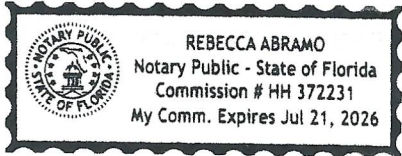
Jimmy Masarwa
NAME (PLEASE TYPE OR PRINT)

[Handwritten Signature]
AUTHORIZED SIGNATURE

STATE OF Florida
COUNTY OF Orange

Sworn to (or affirmed) and subscribe before me, by means of physical presence or online notarization, this 16th day of April, 2024 by Jimmy Masarwa who is personally known to me or produced FDL as identification.

Exp Date: July 21, 2026 Commission Number: HH372231



Signature of notary Public: *Rebecca Abramo*

Printed Name of Notary Public: Rebecca Abramo



**DEPARTMENT OF DEVELOPMENT SERVICES
CITY PLANNING DIVISION**

Tel. (239) 574-0553
Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

ESTIMATED PEAK HOUR TRIP

Parcel Size: Width 80ft Depth 125ft Sq. Ft. 10,000 Acreage 0.22957

Soil Type: MALABAR FINE SAND, HIGH, 10000 saft, 100%

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 31.78 %
- Estimate total building floor area: 2,165 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



DEPARTMENT OF DEVELOPMENT SERVICES
CITY PLANNING DIVISION

Tel. (239) 574-0553
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 16th Day of April, 2024.

N/A
CORPORATION/COMPANY NAME

Jimmy Masarwa
OWNER'S NAME (TYPE or PRINT)

[Signature]
OWNER'S SIGNATURE

STATE OF Florida

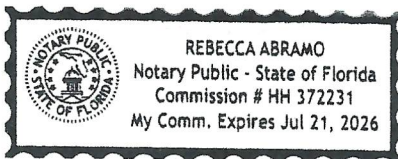
COUNTY OF Orange

Sworn to (or affirmed) and subscribe before me, by means of physical presence or online notarization, this 16th day of April, 2024 by Jimmy Masarwa who is personally known to me or produced FLDL as identification.

Exp Date: July 21, 2026 Commission Number: HH 372231

Signature of notary Public: [Signature]

Printed Name of Notary Public: Rebecca Abramo





DEPARTMENT OF DEVELOPMENT SERVICES
CITY PLANNING DIVISION

Tel. (239) 574-0553
Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Richard Krent, AIA
(Name of person giving presentation)

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

UNIT 54 BLOCK 3960 LOT(S) 3+4 SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION

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

Jimmy Masawa
PROPERTY OWNER (Please Print)

N/A
PROPERTY OWNER (Please Print)

[Handwritten Signature]
PROPERTY OWNER (Signature & title)

N/A
PROPERTY OWNER (Signature & title)

STATE OF FL

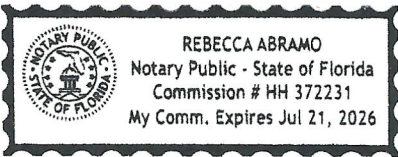
COUNTY OF Orange

Sworn to (or affirmed) and subscribe before me, by means of [X] physical presence or [] online notarization, this 16th day of April, 2024 by Jimmy Masawa who is personally known to me or produced FLDL as identification.

Exp Date: July 21, 2026 Commission Number: HH 372231

Signature of notary Public: [Handwritten Signature]

Printed Name of Notary Public: Rebecca Abramo



Note: Please list all owners. If a corporation, please supply the City 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;



DEPARTMENT OF DEVELOPMENT SERVICES
CITY PLANNING DIVISION

Tel. (239) 574-0553
Fax (239) 574-0591
P.O. Box 150027
Cape Coral, FL 33915-0027

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.

FUTURE LAND USE MAP AMENDMENT | CITY OF CAPE CORAL
LETTER OF INTENT

Dear Department of Development Services | City Planning Services,

The owner of 107 SW 24TH Place in the City of Cape Coral is requesting the Future Land Use on this property to remain as per the Existing Land Use Map as R1 Single Family Residential. This is consistent with the adjacent uses to the left and right of the property and if the change in Future Land Use is not changed, the implementation of Commercial development on the lot in the future could cause commercial traffic within the existing neighborhood that may be detrimental to the public safety of the children playing in the neighborhood.

Having already paid for the design and building permit for a residential home on the site; Application number BRC23-001688.

In addition, by keeping the present zoning the property developed as a single-family residential home would help to fill in one of the missing gaps in the context of the neighborhood and help to build a stronger bond with the neighbor's sense of community.

As the former City Architect for the City of Orlando and a development advisor to several cities globally, I have looked at the "Future Zoning" map and it seems like an arbitrary modification to the existing zoning plan for the area. It is not contiguous with the other major commercial area to the south and the plots are too small for real commercial use. Hopefully we can get this resolved and we can start construction on this property so we can focus on the other properties and have a positive impact on the City of Cape Coral.

Please call me when you are available for a conversation. I truly appreciate your time and assistance in getting this resolved and hopefully moving forward soon.

Kind regards,



Richard Krent, AIA | Managing Director

EARTH THINK, LLC

8532 Lost Cove Drive

Orlando, Florida 32819

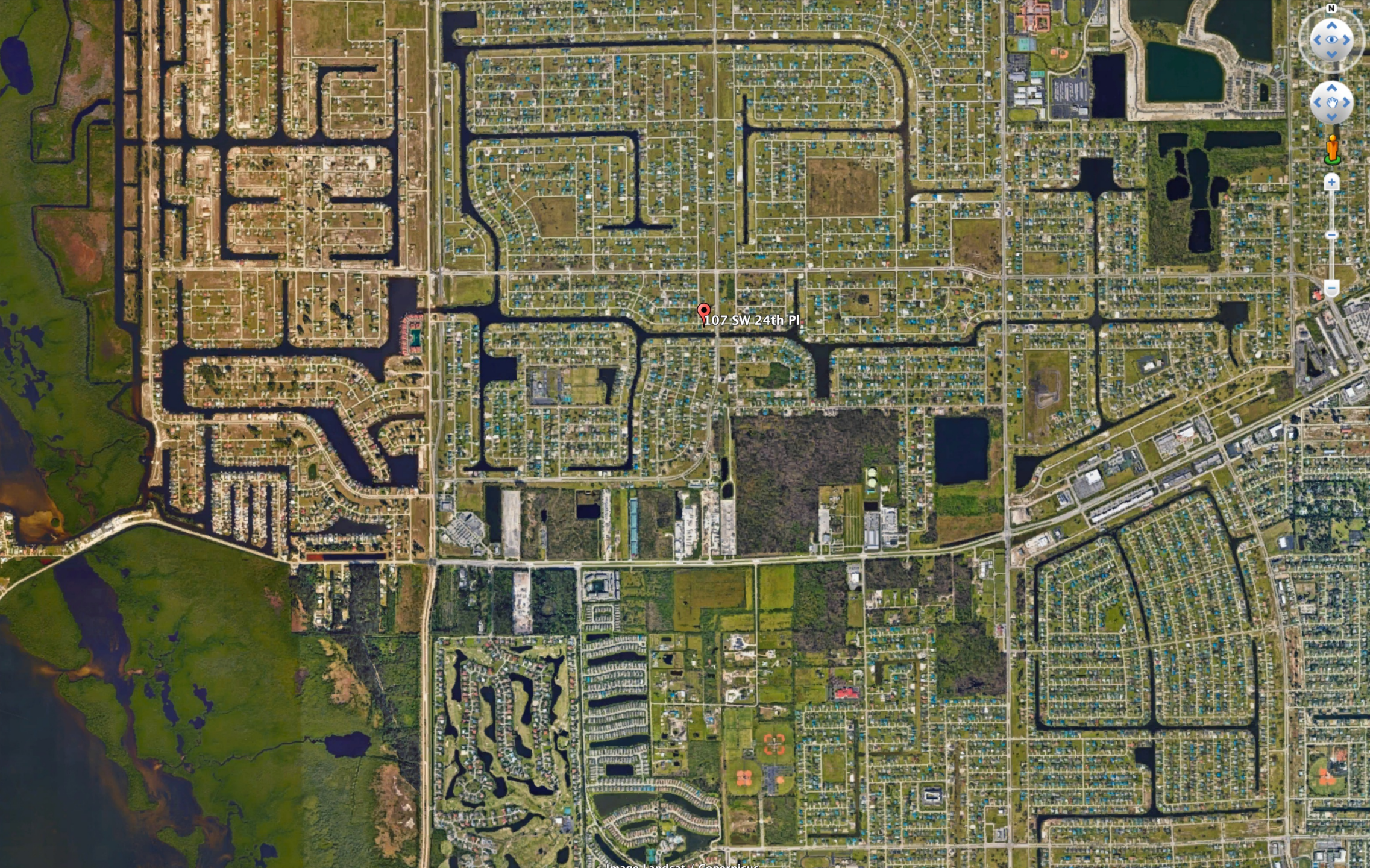
Mobile: +1 407 409-3669

Email: richardkrent@me.com

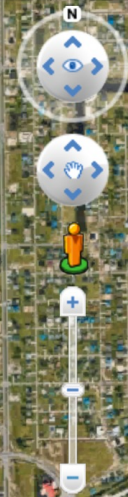
Website: richardkrent.com

FUTURE LAND LAND USE
MAP AMENDMENT

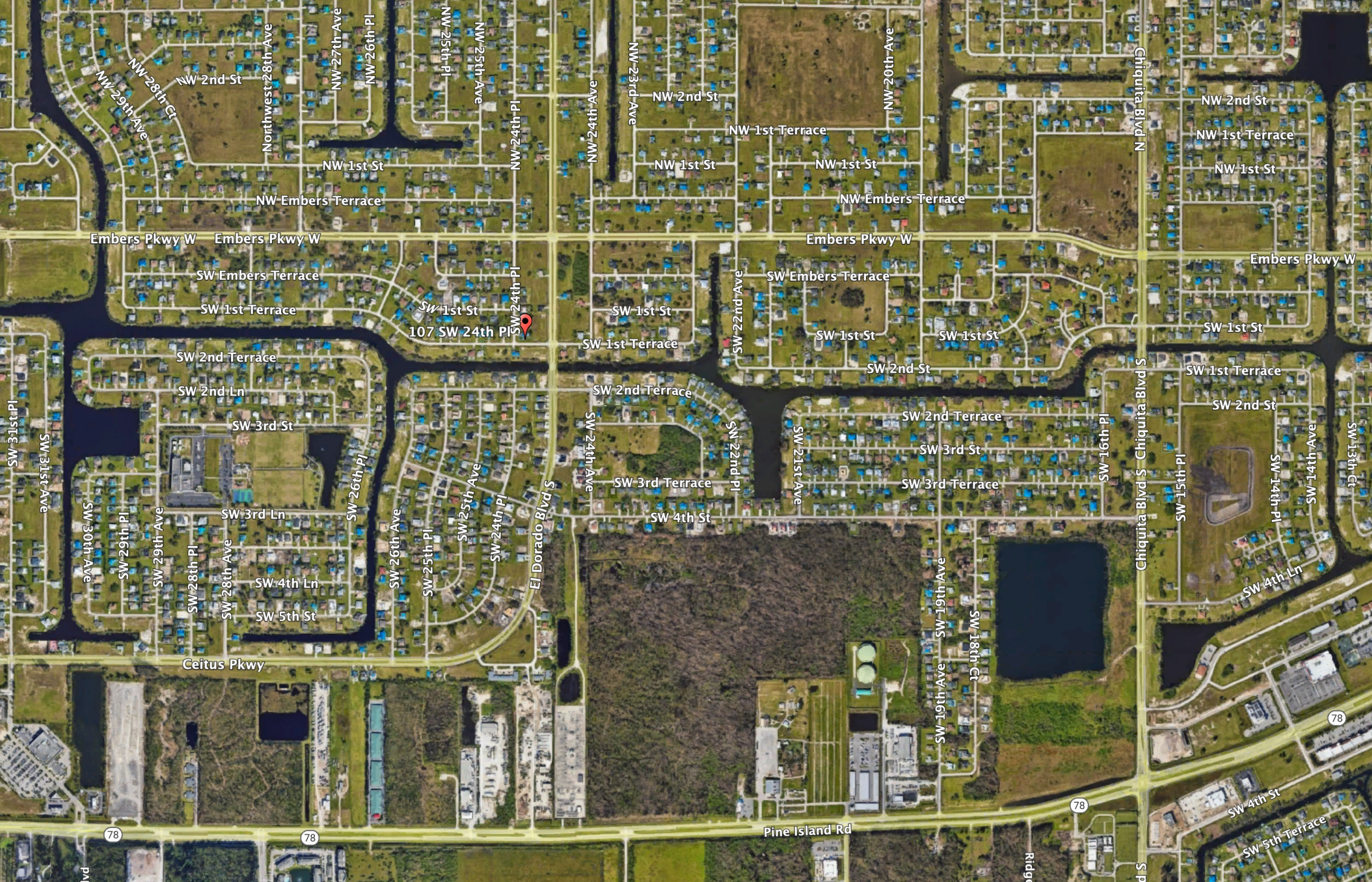
107 SW 24th PLACE, Cape Coral Florida



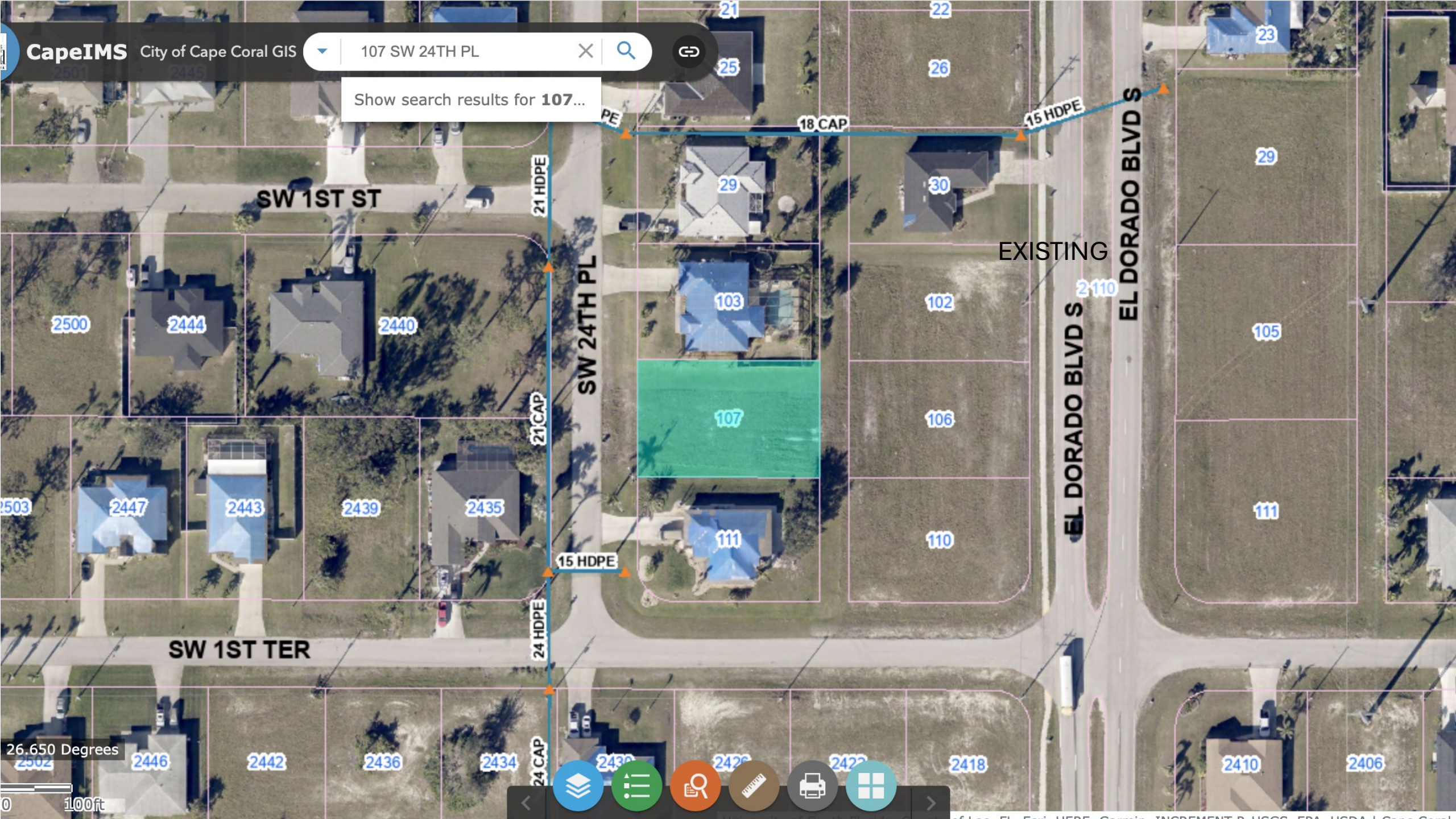
CONTEXT



CONTEXT



Show search results for 107...



SW 1ST ST

SW 24TH PL

SW 1ST TER

EL DORADO BLVD S

EL DORADO BLVD S

EXISTING

21 HDPE

21 CAP

15 HDPE

24 HDPE

24 CAP

18 CAP

15 HDPE

2 110

26.650 Degrees

100ft



BEST USE MARKET STUDY & ZONING

SUSTAINABLY MEETING THE COMMUNITY'S NEEDS INFILL SINGLE FAMILY RESIDENTIAL

FILLS IN THE GAP BETWEEN SEVERAL HOMES ALONG SW 24th Place

PROVIDES A HOME IN A MARKET THAT NEEDS ADDITIONAL TAXPAYERS

KEEPS COMMERCIAL TRAFFIC OUTSIDE OF THE RESIDENTIAL NEIGHBORHOOD

OWNER IS READY TO BUILD THEIR HOME

LAND HAS BEEN SURVEYED AND NO ENDANGERED SPECIES SIGHTED

CIVIL DESIGN COMPLETED SIGNED AND SEALED AND SUBMITTED

ARCHITECTURAL DRAWING COMPLETED, SIGNED AND SEALED AND SUBMITTED

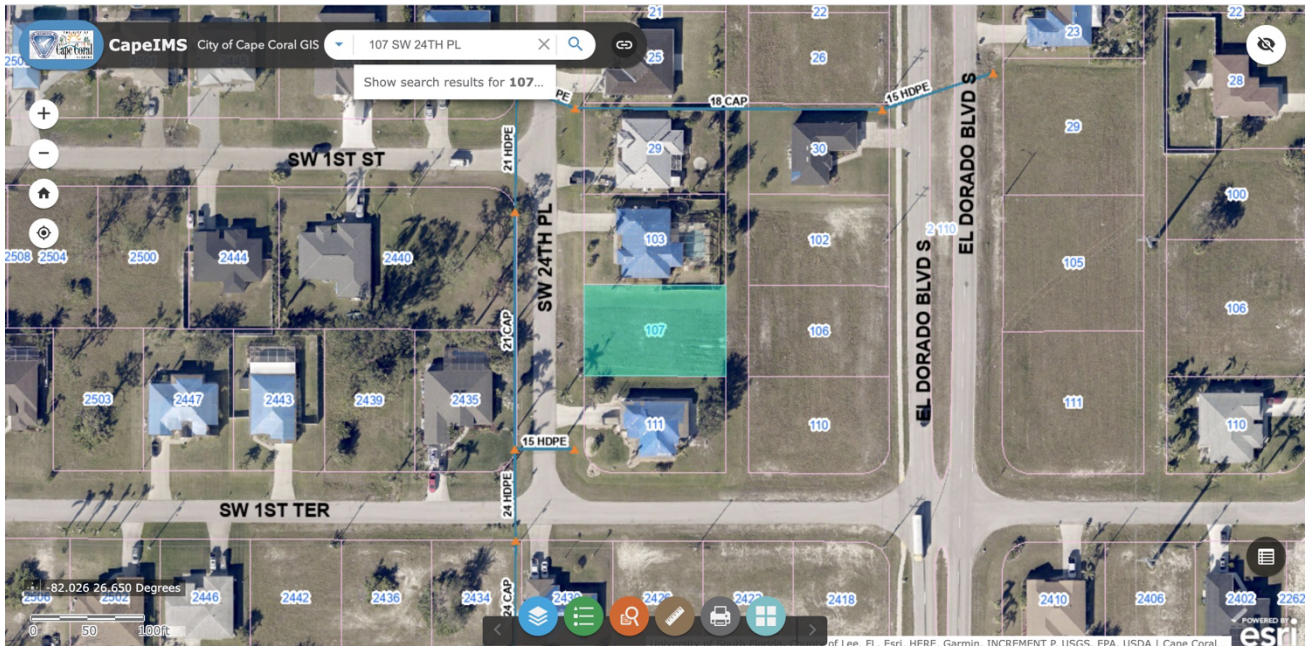
STRUCTURAL DRAWINGS COMPLETED SIGNED AND SEALED AND SUBMITTED

BUILDING PERMIT APPLIED AND PAID

WAITING ON PERMIT HELD UP BY FUTURE ZONING

FUTURE LAND USE MAP AMENDMENT | CITY OF CAPE CORAL
107 SW 24TH PLACE

The owner of 107 SW 24TH Place in the City of Cape Coral is requesting the Future Land Use on this property to remain as per the Existing Land Use Map as R1 Single Family Residential. This is consistent with the adjacent uses to the left and right of the property and if the change in Future Land Use is not changed from CP, the implementation of Commercial development on the lot in the future could cause commercial traffic within the existing neighborhood that may be detrimental to the public safety of the children playing in the neighborhood.



LOCATION MAP OF THE PROPERTY FOR CONTEXT

This home site will provide an infill to the existing neighborhood and add value to the community keeping the present zoning the property developed as a single-family residential home would help to fill in one of the missing gaps in the context of the neighborhood and help to build a stronger bond with the neighbor’s sense of community.

CP Zoning in of this parcel is not contiguous with the other major commercial area to the south and the plots are too small for real commercial use.



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

Case No.:	FLUM24-000001	Prepared By:	Chad Boyko, Principal Planner
-----------	---------------	--------------	-------------------------------

Property Location:	107 SW 24 th Place	<u>Property Owner</u>	
Authorized Representative		Name:	Jimmy Masarwa
Name:	Richard Krent		

<p>SUMMARY OF REQUEST:</p> <p>The applicant requests a future land use map amendment from Commercial/Professional (CP) future land use designation to the Single-Family Residential (SF) designation for one parcel in Northwest Cape Coral. The parcel is 10,000 sq. ft. and was amended to the CP designation in 2019.</p>	
---	--

MAP SOURCE: City of Cape Coral

Existing Zoning	Existing Future Land Use	Proposed Land Use	Site Improvements	Size of Property (+/-)
R1	Commercial/Professional (CP)	Single-Family Residential (SF)	None	10,000 sq.ft.

STAFF RECOMMENDATION: | Denial

CASE OVERVIEW

Background:	<ul style="list-style-type: none"> The site is undeveloped Located in a block that is considered a commercial node
Negative Aspects of Application	<ul style="list-style-type: none"> Single parcel would be considered "spot land use" Amendment would limit availability of whole block utilized for commercial development
Positive Aspects of Application:	<ul style="list-style-type: none"> Amendment would fix inconsistency



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

SITE INFORMATION

Street Address: 107 SW 24th Place

Urban Service Area: Reserve

City Water & Sewer: City Water: No City Sewer: No

Right-of-Way Access: SW 24th Place – a local road

STRAP Number(s): 17-44-23-C2-03960.0030

Block / Lot(s): Block 3960 / Lots 3 and 4

Site Area: SQ. FT. (+/-): 10,000

FUTURE LAND USE AND ZONING INFORMATION

<i>Site:</i>	<i>Future Land Use</i>	<i>Zoning</i>
<i>Current:</i>	Commercial/Professional (CP)	Single-Family Residential (R1)
<i>Proposed:</i>	Single-Family Residential (SF)	N/A
<i>Surrounding Future Land Use</i>		<i>Surrounding Zoning</i>
<i>North:</i>	CP	R1
<i>South:</i>	CP	R1
<i>East:</i>	CP	R1
<i>West:</i>	Single-Family/Multi-Family (SM)	R1

PURPOSE OF REQUEST

The applicant has requested this amendment to the Future Land Use Map to allow for a change of land use to accommodate the construction of a single-family home on the site.

FUTURE LAND USE/ZONING HISTORY

The property being analyzed originally designated with the Single-Family/Multi-Family (SM) future land designation and the Single-Family Residential (R1) zoning designation upon adoption of the Comprehensive Plan in 1989. In 2019, the parcel along with the rest of Block 3960 was amended to the Commercial/Professional (CP) future land use designation.

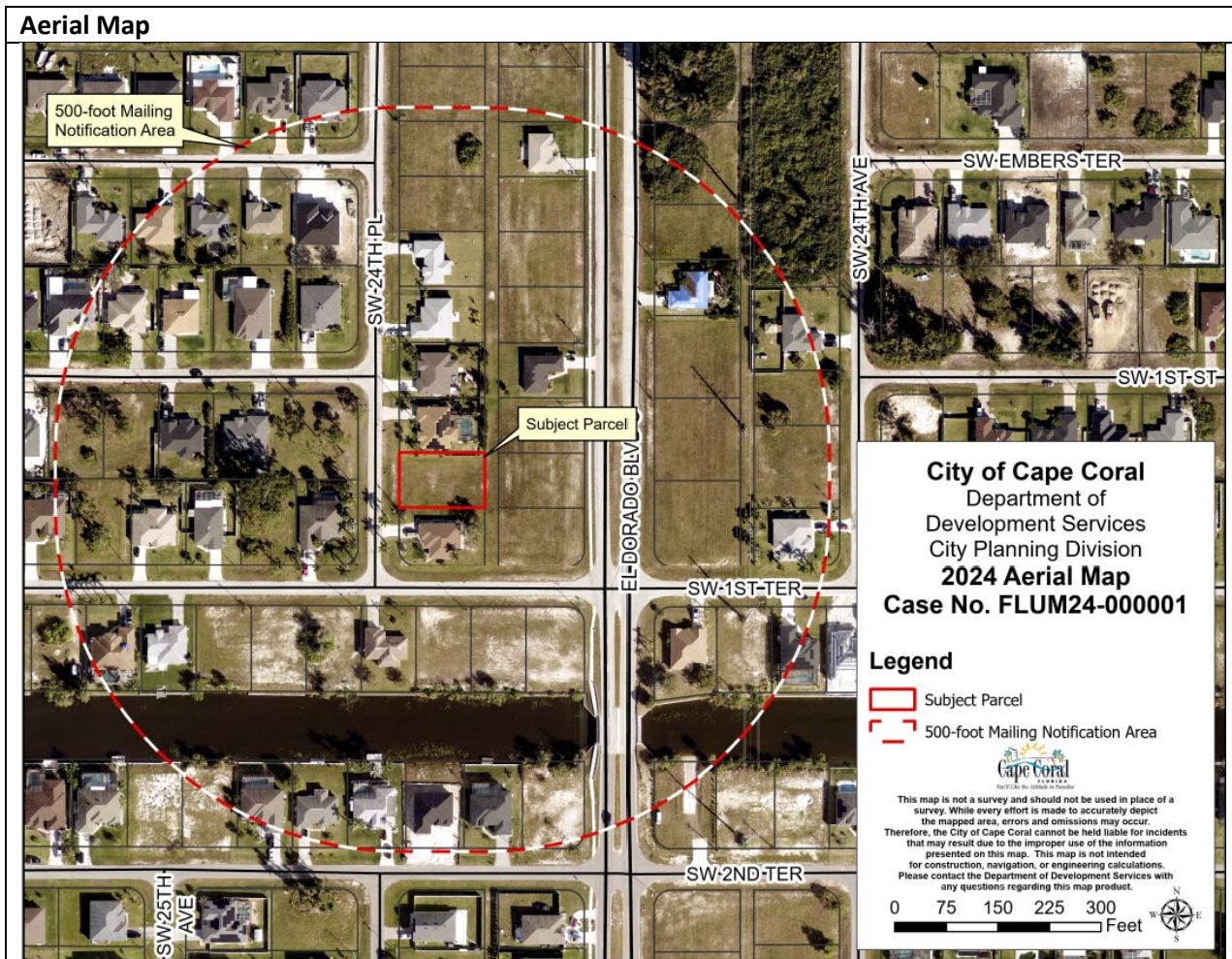


PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

BACKGROUND

The site is one undeveloped parcel in Northwest Cape Coral. The parcel has frontage on SW 24th Place – a local road. The owner purchased the site on January 24, 2023 through a tax deed sale. Block 3960 consists of 22 parcels and seven of the parcels are developed with single-family homes, while the remaining parcels are undeveloped. Two of the homes are along the frontage of El Dorado Boulevard while the remaining five homes have frontage along SW 24th Place. The site is bordered to the north and south by single-family homes and to the west is an unimproved alley right-of-way and an undeveloped parcel. The surrounding blocks all have the same development pattern with a mix of single-family homes and undeveloped parcels. The block that fronts El Dorado Blvd to the west also has the CP future land use designation, however, the zoning of the block is also Commercial (C). The site does not have municipal sewer, water, or irrigation and is within the Utility Expansion Program (UEP) Area 4. Utilities are not likely available to the site for another three to five years. The applicant indicates that they are seeking the amendment to build a single-family home on the site.

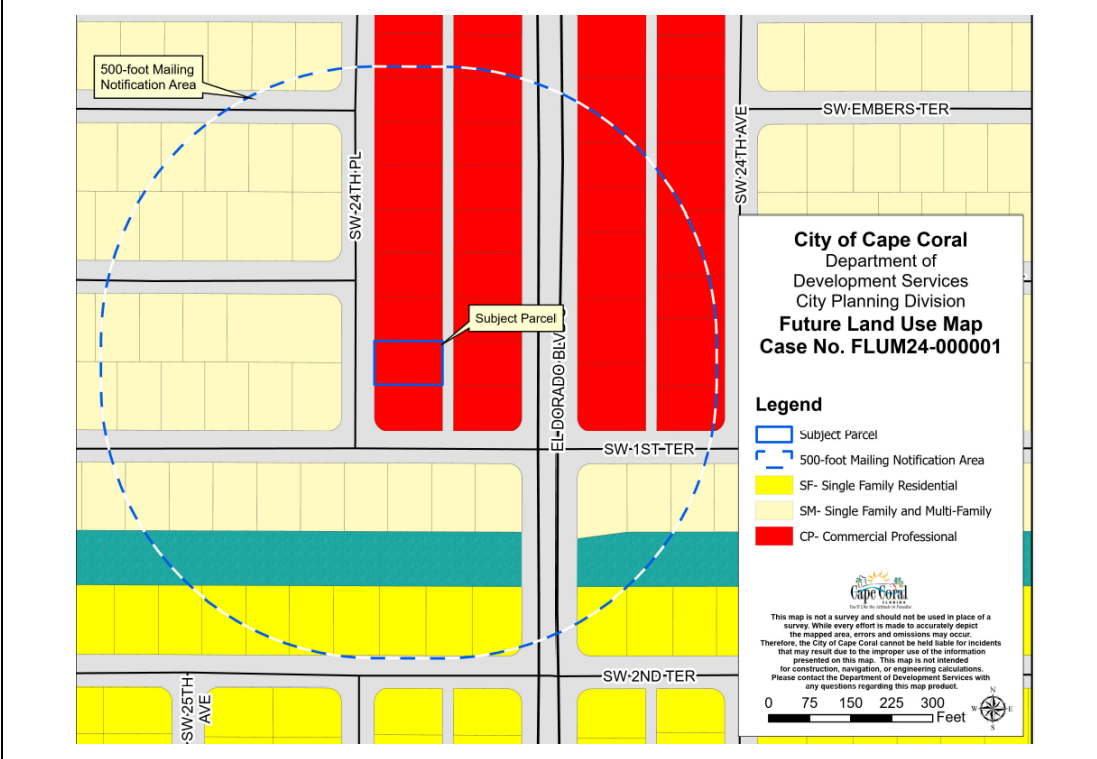




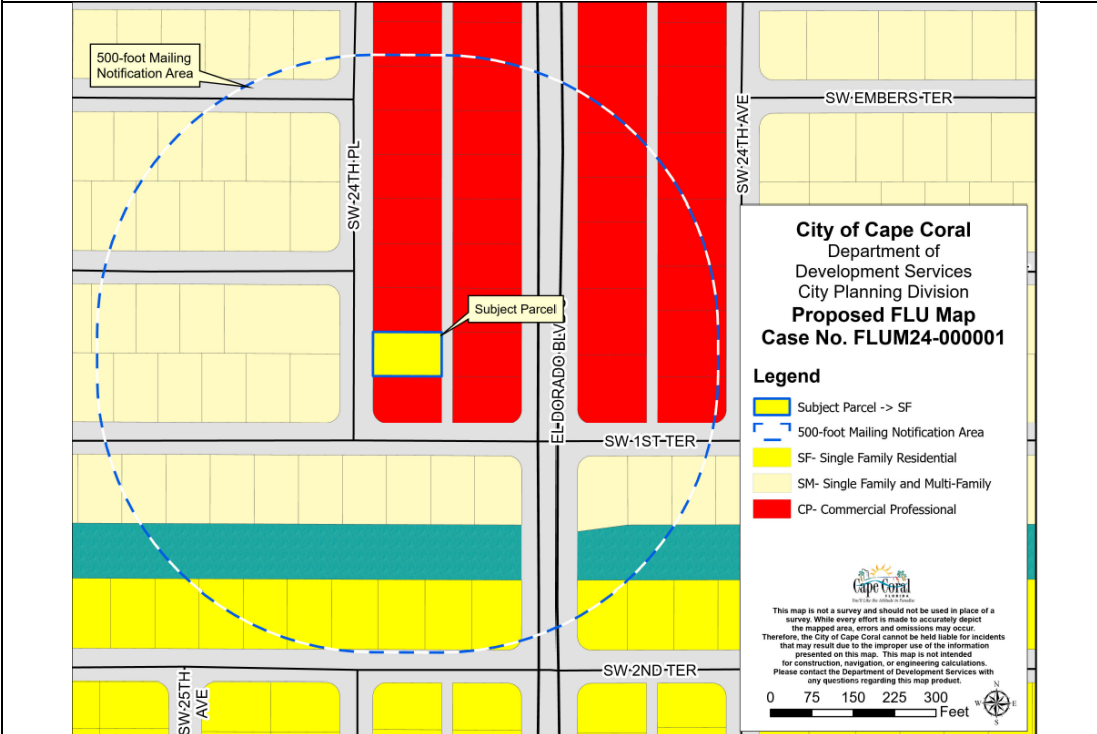
PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

Current Future Land Use Map



Proposed Future Land Use Map





PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

ADDITIONAL SITE INFORMATION

Protected Species:

The City does not have historical records indicating that burrowing owls or other protected species have inhabited the subject properties. The City requires species surveys prior to the issuance of permits or development approvals, in accordance with Policy 1.2.1 of the Conservation and Coastal Management Element of the Comprehensive Plan.

Policy 1.2.1: By 2020, the City of Cape Coral will adopt regulations to ensure that, prior to property development, or habitat alteration, of any kind, owners of properties having viable native habitat and/or, which may contain habitat for protected species, undergoing significant development and/or habitat alteration, will be required to provide an environmental survey of their properties and undertake acceptable mitigation, as appropriate.

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 subject property is in the Urban Services Reserve area as designated by the City Comprehensive Plan. Utilities are not available on the site and likely won't be available for a minimum of three to five years.

Soils and Drainage:

The site is located on the Malabar Fine Sand, High. The soil consists of somewhat poorly drained sandy mine spoil or earthy fill over sandy marine deposits over limestone. This soil has some limitations for development, which are typically overcome using various engineering solutions such as importing fill and is suitable for both single family dwelling construction, with no basement, and small-scale commercial developments. 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.



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

APPLICATION ANALYSIS

Land Development Code Analysis:

Staff reviewed this application based on the review criteria found in the City of Cape Coral Land Development Code, Section 3.5.2 for evaluating amendments to the Future Land Use Map. Below will be found a breakdown of review criteria as well as an in-depth analysis of the proposed amendment based upon conformance with the criteria:

- 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.*

Analysis: The applicant is seeking an amendment to the Future Land Use Map to allow for the construction of a single-family home on the site. The amendment is not being proposed to promote compliance with changes to other city, state, or federal regulations; does not implement findings of reports, studies or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments; and has no bearing on the consistency with the City's ability to provide adequate public facilities and service.

Refer to below Comprehensive Plan Analysis Section for compliance with Purpose #1, implementing the goals, objectives, and policies of the Comprehensive Plan.

The proposed amendment is consistent with Purpose #3, as the change to Single-Family Residential (SF) would result in compatible land uses within a specific area. The applicant is requesting the amendment on the basis that the proposed amendment will bring the site into a compatible zoning with those land uses which exist adjacent to the property. As with most of Cape Coral, there are several homes already developed that are in proximity to areas that also have commercial entitlements.

The proposed amendment is in conflict with Purpose #6, as the change to SF, does not prepare the city for future growth by allowing for additional areas that provide goods and services as well as employment opportunities. Cape Coral already has a stock of undeveloped lots that allow for the construction of single-family homes. The City is lacking areas that are entitled for commercial development.

1. *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.;*

Analysis: The site does not have access to water and sewer utilities. Sewer and water would be available in approximately three to five years. The site has potential access from SW 24th Place, which is a local road.



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

For a complete breakdown of infrastructure impact, including impact on water, sewer, solid waste, traffic, police, fire, park land and schools please refer to Impact Assessment Summary Analysis Section of this document.

2. *Other factors deemed appropriate by the Commission and City Council.*

N/A: to be determined by the Commission and City Council.

Comprehensive Plan Analysis:

Staff reviewed this application for compliance with Section 3.5.2.C of the Land Development Code of the City of Cape Coral and for consistency with the Goals, Objectives, and Policies of the Comprehensive Plan. Below will be found an in-depth analysis of the proposed amendment to the Future Land Use Map based upon the applicable Goals, Objectives and Polices:

Policy 1.15

Commercial/Professional (CP)

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.

Staff Response: The site currently has the CP future land use designation along with the rest of Block 3960. The maximum Floor Area Ratio (FAR) is 1.0 and the maximum commercial square footage that could be developed is 10,000 sq. ft.

Single-Family Residential (SF)

Densities not to exceed 4.4 units per acre, except for micro-cottage communities should such a program be implemented in Cape Coral. Densities in micro-cottage communities are restricted to 8.8 units per acre, for sites with a minimum of 3 acres.

The Single Family (R-1) District is proposed to permit a variety of single-family residential products and ancillary uses.

Staff Response: The applicant proposes a change to the SF designation. The property is 10,000 sq. ft. and would allow the construction of one single-family home.

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-



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

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 at a commercial node – the intersection of El Dorado Parkway (collector roadway) and Embers Parkway (minor arterial roadway). Both of these roadways meet the criteria to be considered major roadways. At this intersection, there is CP land use designated on the blocks southwest and southeast of the intersection, which includes the subject site. These blocks were amended to the CP future land use due to their location at a commercial node.

Chapter 4, Future Land Use Element, 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., intersection 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.

Analysis: As discussed previously, the site is considered to be at a commercial node near a major intersection. Removing the site from the CP future land use would break up the consistent future land use designation throughout Block 3960. 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. Therefore, adequate depth is achieved if any number of contiguous properties, occupy the entire 250 feet of depth.



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

Analysis: The site has frontage along a local road but the abutting parcel to the west is along an arterial roadway. The site has 125 feet of depth but with assemblage, the adequate depth could be achieved. Assembling the properties is dependent on several factors, however, there is the possibility of achieving the adequate depth, therefore, Planning staff finds that the current 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.

Analysis: The site is one parcel that is rectangular in shape and is compact. The shape should allow for orderly arrangement of development. Planning staff finds that the current future land use designation is consistent with this commercial siting guideline.

Integration

Integration, for the purposes of these guidelines, refer 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.

Analysis: There is no existing commercial development on the site. No abutting sites have any commercial development and abutting parcels to the north and south are developed with single-family homes. Due to the lack of existing commercial development, commercial integration is not possible until future commercial development occurs. Planning Staff finds the current 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 acres) in size. These lots were designed primarily for single family residential 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



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

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.

Analysis: The site is one 10,000 sq. ft. parcel. Assemblage throughout Block 3960 is minimal and no assemblage is more than 40,000 sq. ft. While assemblage has not occurred to date, the relatively low amount of residential development – less than 30% - allow for potential assemblage opportunities. Planning staff finds that while assemblage opportunities are still available, there has been a lack of assemblage within the block, therefore, the current 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.

Analysis: The site is undeveloped and there is abutting residential development. New commercial could be considered intrusive, although, the Land Development Code requires significant buffering between commercial sites and residential properties. The small size of the site limits the types of development that occur on the parcels which helps to limit the potential intrusion into the residential neighborhood. With the presence of nearby



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

residential units, Planning staff finds that the existing 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 of 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.

Analysis: The site is not near a City-owned parking lot and does not have frontage on a roadway with a City of Cape Coral access management plan. Planning staff finds the site is not near a City-owned parking lot, therefore, the sites current 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. Therefore, the City of Cape Coral encourages landowners 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.



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

Analysis: The site is one parcel and the owner does not have ownership of any other parcels in the block. The size of the site is small so in order for development to occur that would not be considered “strip development”, additional parcels would need to be acquired. Planning staff finds that the sites current 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 two guidelines (major intersection and compactness), not consistent with five guidelines (intrusion, assembly, access, ownership pattern and integration) and partially consistent with one guideline (adequate depth). 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 an analysis of compatibility.

Appropriateness of Proposed Future Land Use Map Amendment

The applicant has requested a future land use map amendment to the Single-Family Residential (SF) designation to build a single-family home on the property. The parcel – along with the rest of the block – was amended to the Commercial/Professional (CP) designation due to the block being at a commercial intersection and having a relatively low level of residential development (around 30%). The applicant states that the parcel is bordered by single-family homes and that commercial development is unlikely. Planning staff agrees that the parcel being situated between two homes is challenging, however, staff also notes that the frontage along El Dorado Boulevard is nearly undeveloped and the site could be assembled with that frontage. Removing this parcel from the CP designation would diminish the possibility of a quality commercial development in this block and would leave only half block development for the southern portion of the block. While Planning staff understands that there were single-family homes built in this block prior to the future land use change in 2019, the applicant purchased this property well after the property had a CP future land use designation. Planning staff finds that keeping the parcel as a non-residential site is in the best interest of the City at large by allowing for the continued potential of non-residential development in this block.

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 classifications for the site is Commercial/Professional (CP). The site has not been rezoned to a compatible district, however, this impact assessment summary will assume a zoning designation of Commercial (C). The site is proposed for the Single-Family Residential (SF) future land use designation. The site currently has a zoning designation of Single-Family Residential (R1). The maximum intensity permitted under the CP future land use classification is a floor-to-area ratio (FAR) of 1.0. 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 5,000 sq. ft. of commercial space. For a 10,000 sq. ft. parcel in the R1 zoning district, only one single-family home would be allowed based upon density and size.

Commercial Square Footage



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

Existing: 5,000 sq. ft.
 Proposed: 0 sq. ft.
 Net Change: - 5,000 sq. ft.

Dwelling Units

Existing: 0
 Proposed: 1
 Net Change: + 1

Population*

Existing: 0
 Proposed: 2.54
 Net Change: + 2.54

* 2.54 persons/household = avg. household size; 2010 Census

Water Use

Existing: 1,5000 gal/day at 0.3 gal/sq. ft./day
 Proposed: 200 gal/day at 200 gal/dwelling unit/day
 Net Change: - 1,300 gal/day
 Facility Capacity: 30.1 MGD
 Permitted Usage: 16.9 MGD
 Avg. Daily Usage: 9.4 MGD

Sewage

Existing: 1,500 gal/day at 0.3 gal/sq. ft./day
 Proposed: 200 gal/day at 200 gal/dwelling unit/day
 Net Change: - 1,300 gal/day
 Facility Capacity: 30.1 MGD
 Permitted Usage: 16.9 MGD
 Avg. Daily Usage: 9.4 MGD

Solid Waste

Existing Generation: 680 lbs./day at 0.136 lbs/sq ft./day
 Proposed: 12 lbs./day at 4.74 lbs/per person/day
 Net Change: - 662 lbs./day
 Facility Capacity: 1,836 tons/day



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

Existing Demand: 1,384 tons/day

Capacity Available: Yes

Traffic/Daily Trips

Existing Generation: 15 AM trips/hour and 18 PM trips/hour

Proposed: 2 AM trips/hour and 3 PM trips/hour

Net Change: -13 AM hour trips and -15 PM hour trips

Facility Capacity: Access from one local street

Capacity Available: Yes

Hurricane Evacuation

The site is in the Storm Surge C/Evacuation Zone BC, however, the site is not in the Coastal High Hazard Area. This amendment would increase residential dwelling units in this and would have 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 increase, a small increase in park lands would be required.

Protected Species

RECOMMENDATION

Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, the proposed amendment to Single-Family Residential (SF) is consistent with the Comprehensive Plan and compatible with the surrounding area, however, based upon the future need for commercial development in the northern portions of the City to provide for an increased tax base as well as employment opportunities and availability of goods and services, the City Planning Division recommends denial of the proposed future land use map amendment.

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 a slight increase in the number of dwelling units because of the proposed future land use map amendment request.



PLANNING DIVISION STAFF REPORT

Wednesday, September 4, 2024

PUBLIC NOTIFICATION

This case will be publicly noticed as required by the City of Cape Coral Land Development Code, Section 3.1.10 as well as Florida Statute Chapter 163 and Chapter 166 (*as applicable*) and as further described below.

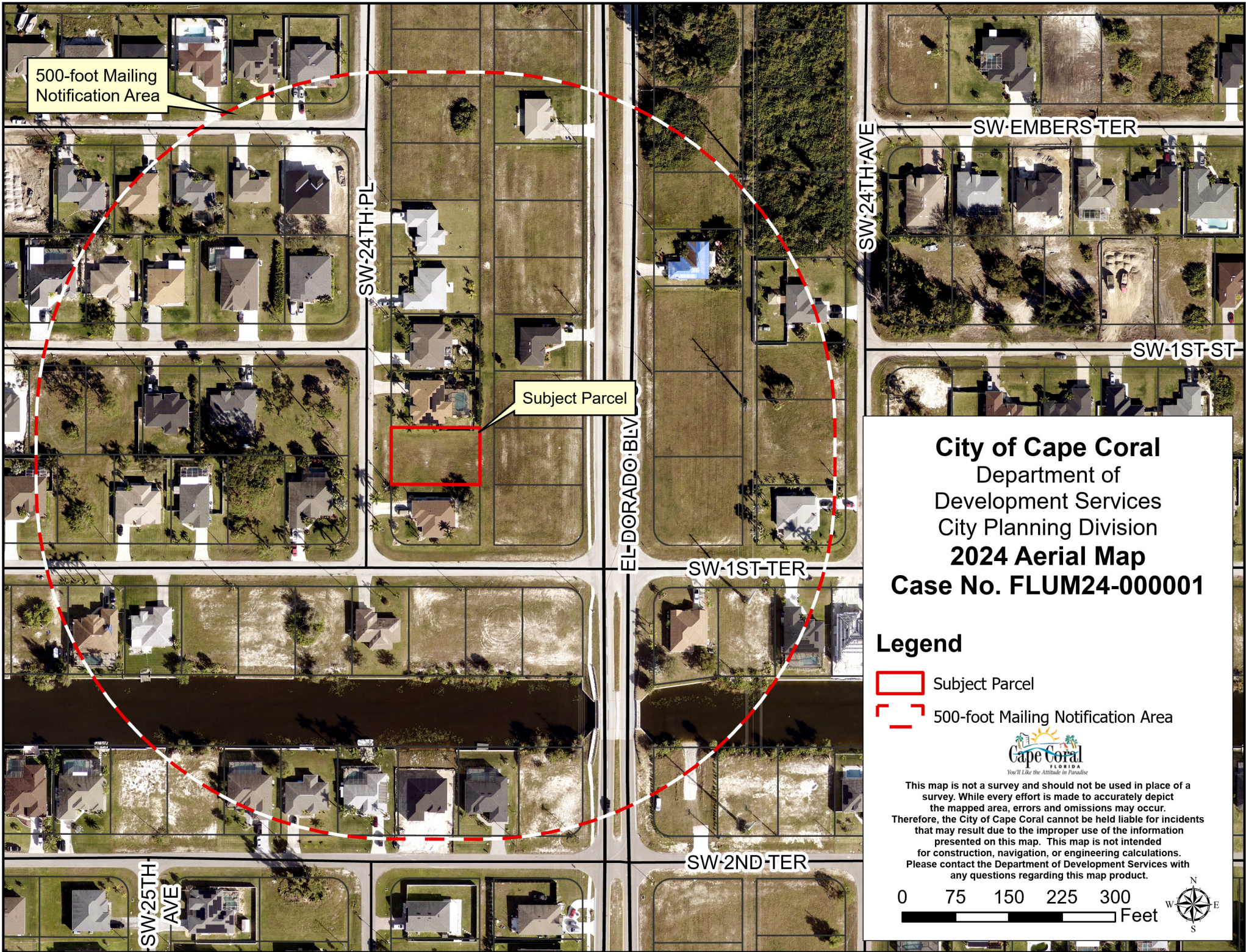
Publication: A legal ad will be prepared and sent to the News-Press announcing the intent of the petitioners to amend the future land use of the property described within this report. The ad will appear in the News-Press a minimum of (10) ten days prior to the public hearing scheduled before the Planning and Zoning Commission. Following the public hearing before the Planning and Zoning Commission, an ad announcing the final public hearing before the City Council will appear once in the News-Press. The ad will appear in the News-Press not less than (10) ten days prior to the date of the final public hearing before the City Council.

Written Notice: Property Owners located within (500) five hundred feet from the property line(s) of the land which the petitioner(s) request to amend will receive written notification of the scheduled public hearings. These letters will be mailed to the aforementioned parties a minimum of (10) ten 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 public notice of the land use amendment request.

Staff Contact Information

Chad Boyko, AICP, Principal Planner
Department of Community Development
Planning Division
Phone: (239) 573-3162
Email: cboyko@capecoral.gov



500-foot Mailing Notification Area

SW-24TH PL

Subject Parcel

EL DORADO BLVD

SW-1ST TER

SW-2ND TER

SW-25TH AVE

SW-24TH AVE

SW-EMBERS TER

SW-1ST ST

City of Cape Coral
Department of
Development Services
City Planning Division
2024 Aerial Map
Case No. FLUM24-000001

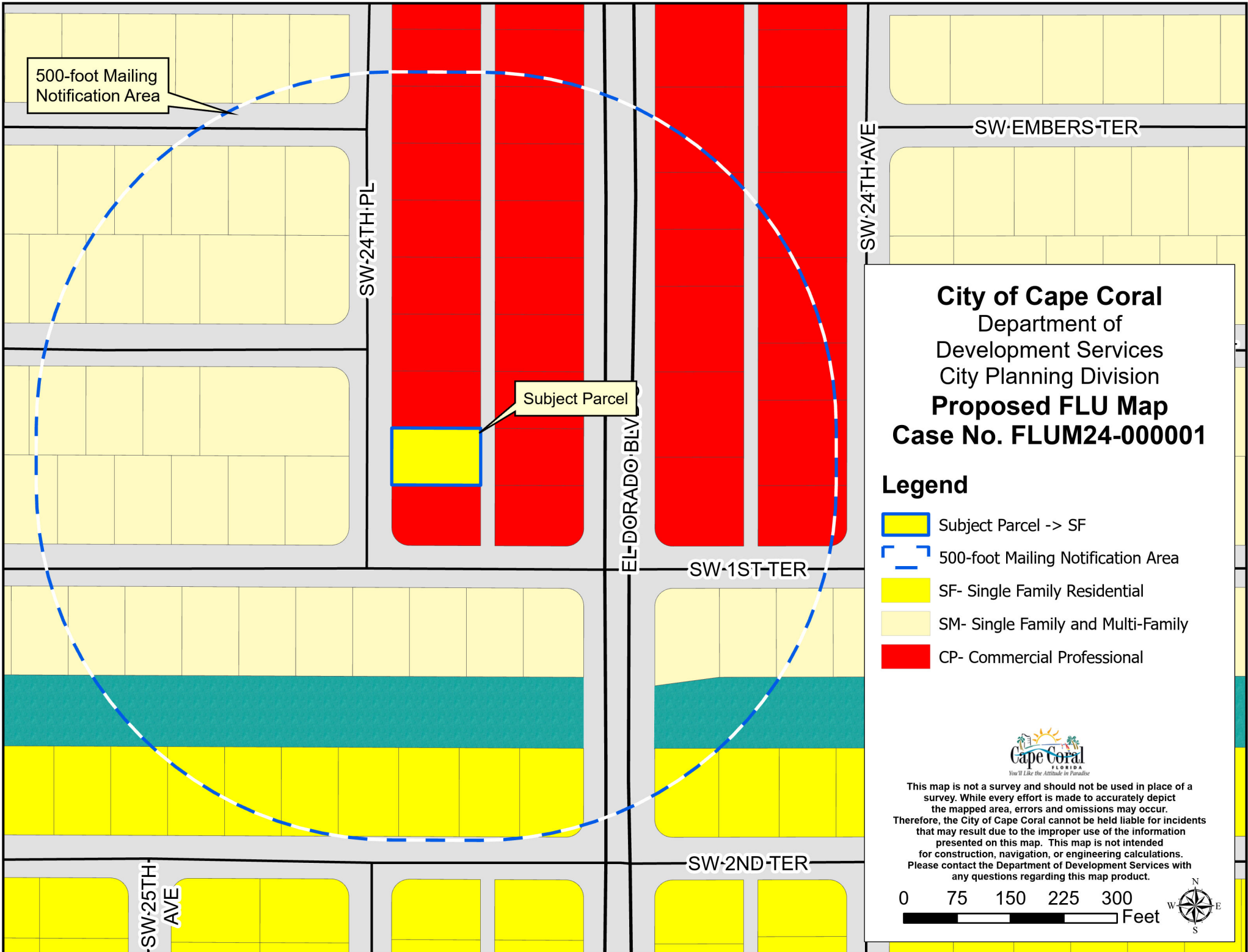
Legend

-  Subject Parcel
-  500-foot Mailing Notification Area



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.





500-foot Mailing Notification Area

SW-24TH-PL

Subject Parcel

EL-DORADO-BLV

SW-24TH-AVE

SW-EMBERS-TER

SW-1ST-TER

SW-2ND-TER

SW-25TH-AVE

City of Cape Coral
 Department of
 Development Services
 City Planning Division
Proposed FLU Map
Case No. FLUM24-00001

Legend

- Subject Parcel -> SF
- 500-foot Mailing Notification Area
- SF- Single Family Residential
- SM- Single Family and Multi-Family
- 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 Development Services with any questions regarding this map product.



FLUM24-00001 – Legal Description

Lots 3 and 4, Block 3960, Unit 54, Cape Coral Subdivision, according to the map or plat thereof recorded in Plat Book 19, Pages 79 through 91, inclusive, of the Public Records of Lee County, Florida.

500-foot Mailing Notification Area

Subject Parcel

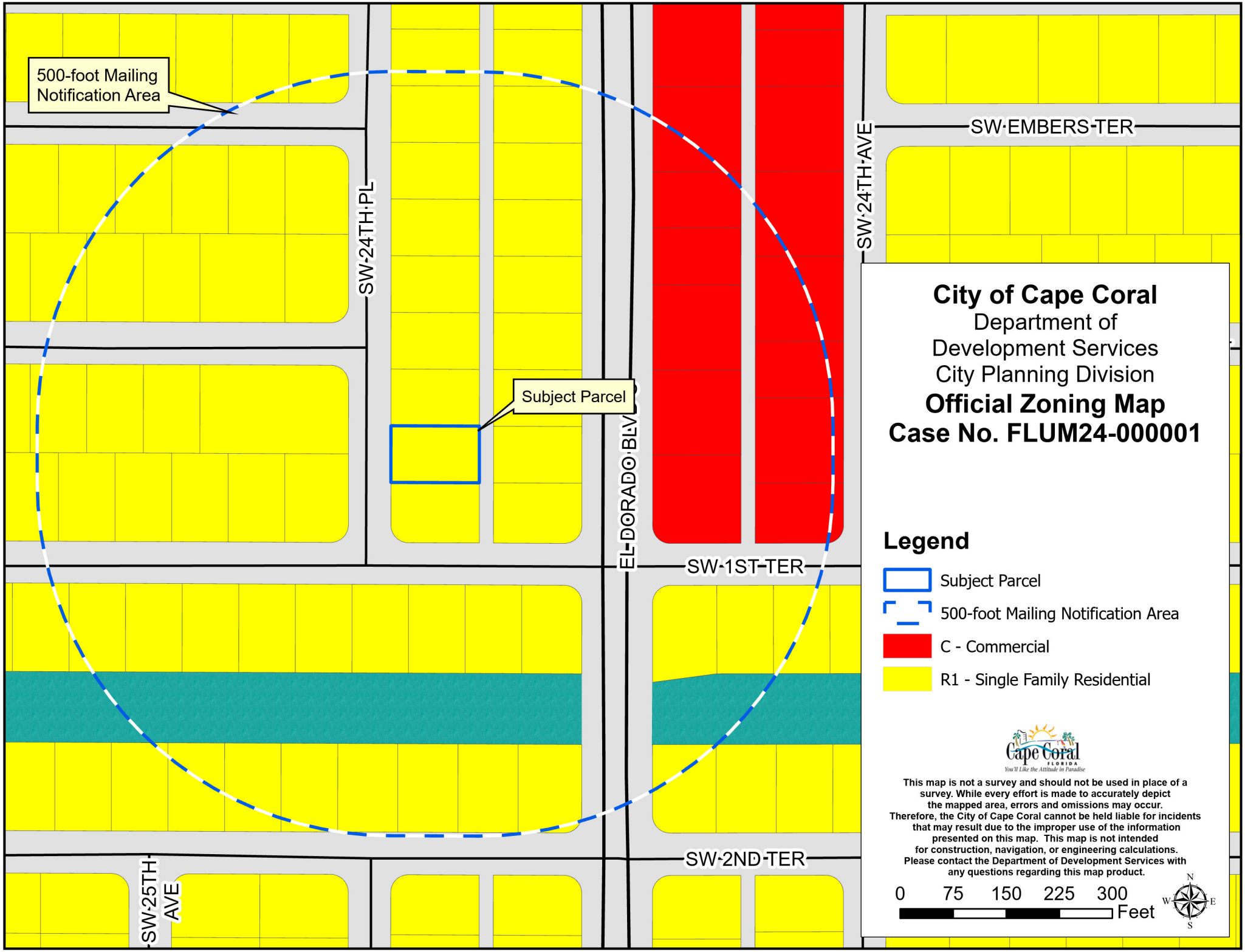
City of Cape Coral
 Department of
 Development Services
 City Planning Division
Official Zoning Map
Case No. FLUM24-000001

Legend

-  Subject Parcel
-  500-foot Mailing Notification Area
-  C - Commercial
-  R1 - Single Family Residential



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








500-foot Mailing Notification Area

Subject Parcel

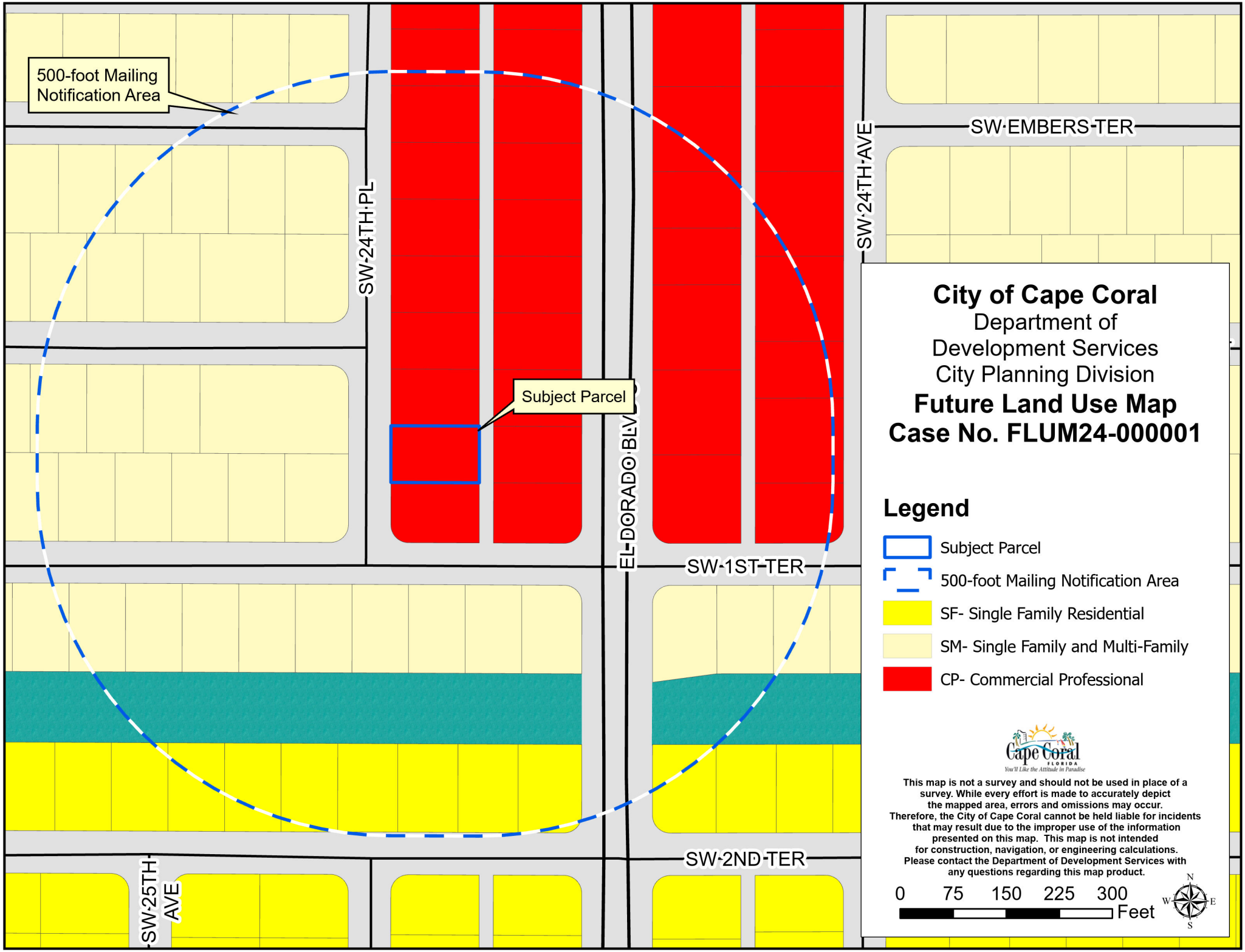
City of Cape Coral
 Department of
 Development Services
 City Planning Division
Future Land Use Map
Case No. FLUM24-000001

Legend

-  Subject Parcel
-  500-foot Mailing Notification Area
-  SF- Single Family Residential
-  SM- Single Family and Multi-Family
-  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 Development Services with any questions regarding this map product.

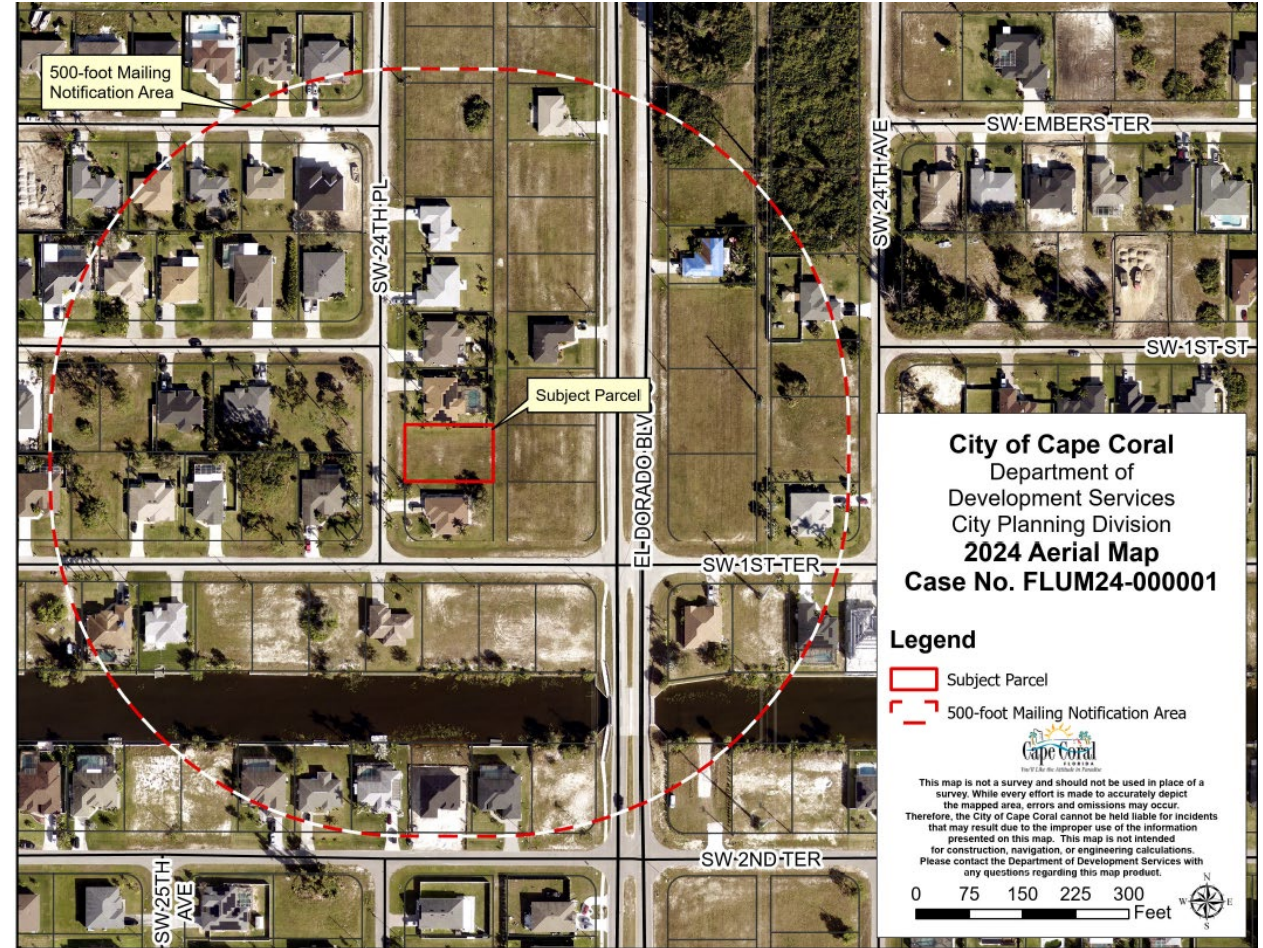




ORDINANCE 65-24 / FLUM24-00001 CAPE CORAL PLANNING AND ZONING COMMISSION

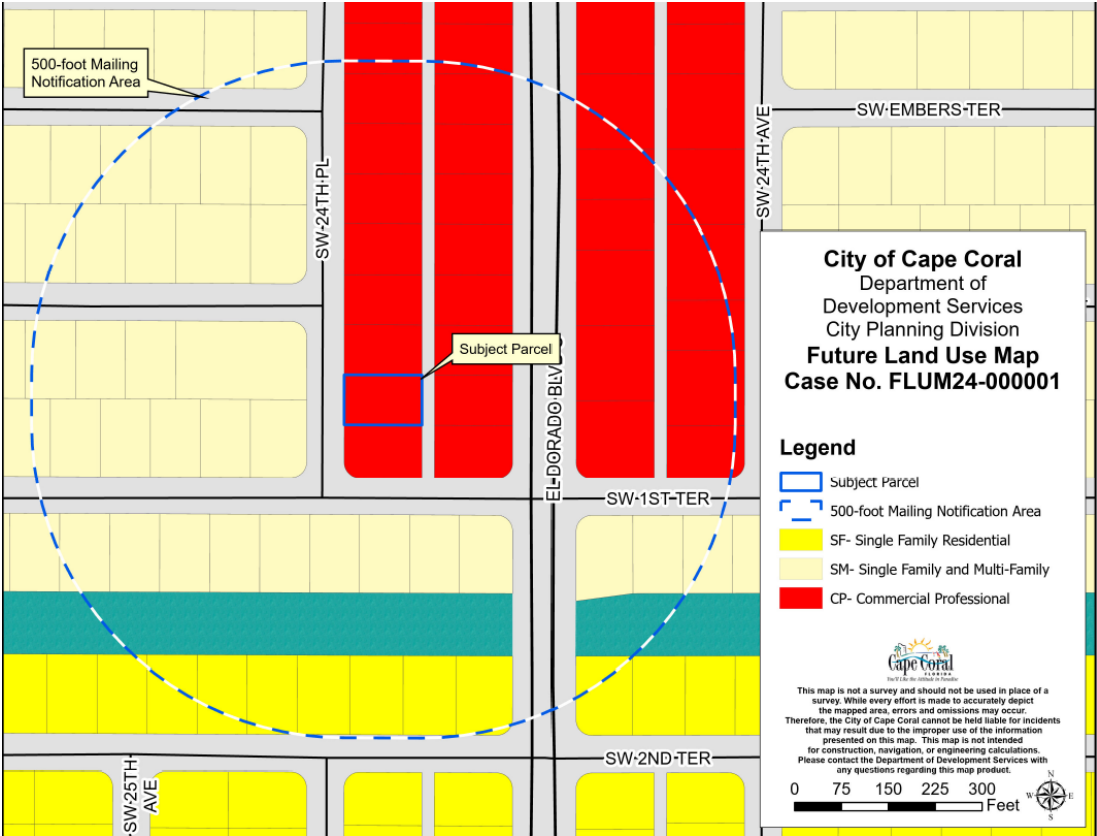
Ord 65-24 / FLUM24-00001

- Applicants: Jimmy Masarwa
- Location: NW intersection of Embers Pkwy and El Dorado Blvd
- Size: 10,000 sq. ft.
- Urban Service: Reserve
- Request: Future land use map amendment from Commercial/Professional (CP) to Single-Family Residential (SF).

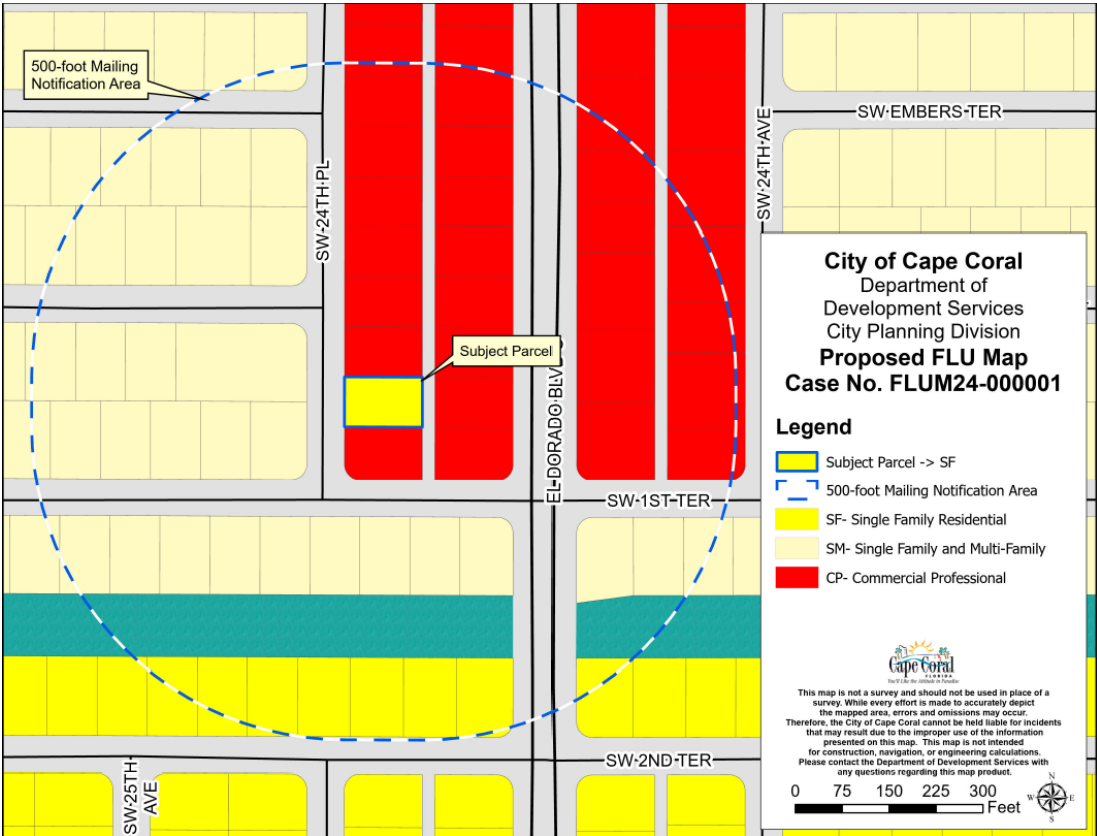


Ord 65-24 / FLUM24-00001

Existing FLU



Proposed FLU



Findings of Fact

- **Site is 1 parcel in SW Cape Coral**
- **Future Land Use was changed to Commercial/Professional (CP) from Single-Family/Multi-Family in 2019. Part of large-scale changes due to new Land Development Code (LDC) adoption.**
- **Owner purchased property in 2023 as part of tax deed sale.**
- **Owner attempted to submit building permit for single-family home – rejected due to CP future land use designation.**
- **Owner has applied for FLUMA to begin process of receiving a building permit.**

Analysis – Comp Plan – Future Land Use Element

Policy 1.15

Commercial/Professional (CP)

- **Maximum FAR of 1.0**
- **Maximum commercial square footage – 69,947 sq. ft.**
- **No residential units allowed in CP designation**

Single-Family Residential (SF)

- **Density would allow 1 single-family home**

Analysis – Comp Plan – Future Land Use Element

- **Policy 1.13 – Commercial Nodes**
 - **Seeks to locate commercial at or along commercial nodes**
 - **Site is in block at direct intersection – Embers Pkwy and El Dorado Blvd – minor arterial and collector respectively**
 - **These are both major roadways**
 - **Site is directly at commercial node and CP future land use is established throughout the block**

Analysis – Comp Plan – Future Land Use Element

- **Policy 1.14 – Siting Guidelines**

- **The site is consistent with 2 guidelines – major intersection and compactness**
- **The site is not consistent with 5 guidelines – intrusion, assembly, access, ownership pattern, and integration**
- **The site is partially consistent with 1 guideline – adequate depth**

Policy 1.14 does not require a proposed amendment to meet a threshold of guidelines for approval or denial

Analysis

- **Site is 1 parcel with 1 owner in block that is at direct intersection of 2 major roads**
- **Block 3960 has some residential development including a couple of abutting homes to north and south**
- **Block was changed to provide opportunity for commercial development north of Pine Island Road in an area that is lacking in commercial sites**
- **Site by itself is challenging for commercial – there are opportunities for assemblage with 3 undeveloped parcels to the west front El Dorado Blvd**
- **Land use change could be considered “spot land use” and would negate ability for block to develop with commercial uses**

Recommendation

Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, Planning Division staff recommends denial of the request to amend the site to the SF future land use designation.

1 phone call

Thank you





**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL

Item Number: 6.B.
Meeting Date: 9/18/2024
Item Type: PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

TITLE:
Ordinance 66-24

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:
Matt Grambow, Interim Development Services Director
(239) 574-0600

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

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

PREPARED BY:

Division- Department- Development Services
Department

ATTACHMENTS:

Description	Type
▣ 1. Ordinance 66-24	Ordinance

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING THE CITY OF CAPE CORAL, FLORIDA, LAND DEVELOPMENT CODE, 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 THE CAR WASH USE; AMENDING ARTICLE 5, DEVELOPMENT STANDARDS, CHAPTER 11, CONDITIONAL USES, BY CREATING SECTION 5.11.17., CAR WASH FACILITIES, ESTABLISHING CONDITIONS FOR CAR WASH FACILITIES; AMENDING ARTICLE 11, DEFINITIONS, SECTION 11.2., DEFINITIONS, REGARDING CAR WASH FACILITIES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Cape Coral, Florida adopted Ordinance 16-24 on April 17, 2024, imposing a temporary moratorium on the acceptance of applications for and issuance of permits for the development of car wash facilities in the City of Cape Coral, Florida (the “City”); and

WHEREAS, presently, and in the preceding years, the car wash industry (full-service or self-service facilities, that are sometimes connected to a vehicle fueling station, used to wash vehicles) has proven to be a sector that is proliferating at an unprecedented rate of growth throughout the commercial real estate industry and within the commercial corridors of the City; and

WHEREAS, it has been estimated that there are sixteen (16) existing standalone car wash facilities in the City, and another nine (9) accessory car wash facilities ancillary to vehicle fueling stations, with an additional twelve (12) standalone car wash facilities in permitting or under construction in the City; and

WHEREAS, in order to prevent the proliferation of car wash facilities consuming essential commercial property, too fast, and in close proximity to one another, it is necessary to establish limits to the number(s) or location(s) that are appropriate for the City; and

WHEREAS, car wash facilities are a permitted use in the Commercial (C) and Commercial Corridor (CC) zoning districts, which are largely mapped along the City’s major corridors and commercial nodes; and

WHEREAS, due to the platted nature of Cape Coral, car wash facilities are frequently constructed near residential development, where such uses may impose adverse noise and lighting impacts on residents; and

WHEREAS, the City’s Land Development Code regulations for car wash facilities presently do not provide an adequate mechanism to regulate and control the location, size, hours of operation, or design of such facilities; and

WHEREAS, the City has documented that there exists a deficiency of vacant, non-residentially zoned land that is needed to meet the commercial/industrial demands of current and future residents; and,

WHEREAS, the City’s Strategic Plan “Cape Compass” includes the goal to create an economically balanced community by expanding and diversifying the City’s overall tax base; and

WHEREAS, the City has concerns related to the economic and locational impact of these uses relative to the long-term growth of the City; and

WHEREAS, Florida Statutes require the City to adopt new land development regulations, or amend its current regulations as necessary to ensure that such regulations are compatible with and further the goals of the City's Comprehensive Plan, and to utilize accepted planning practices and analyses that include, but are not limited to, the direction of growth and development into those locations that have proper access to the existing and planned transportation system ("access management"), minimal environmental constraints, and compatibility of land uses both within the particular area and in relation to surrounding land uses; and

WHEREAS, it has been determined that the City's Land Development Code requires revisions in order to ensure that they provide a sufficient safeguard regarding the proliferation of these car wash facilities for the future protection and promotion of the public health, safety welfare, aesthetics, and economic order of the City; and

WHEREAS, the Florida Legislature enacted Senate Bill 250 (2023), codified as chapter 2023-304, Laws of Florida, that prohibits local governments from proposing or adopting certain regulations affecting property damaged by Hurricane Ian or Nicole before October 1, 2024, and applies it retroactively to September 28, 2022; and

WHEREAS, the Mayor and City Council find that the Florida Legislature expressly drafted chapter 2023-304, Laws of Florida, to apply to property damaged by Hurricane Ian or Nicole, and that these regulations apply to unimproved land that by its vacant nature did not suffer property damage from Hurricane Ian or Nicole; and

WHEREAS, the Mayor and City Council find that state legislative bill analyses related to Senate Bill 250 (2023) provide analysis related to prior versions of the bill, which did not contain language prohibiting additional regulations, and that the Florida Senate House Message Summary, provided after the moratorium language was added, expressly includes that property damage by Hurricane Ian or Nicole is a requirement for the regulatory restriction to apply; and

WHEREAS, the Mayor and City Council find that, based on the foregoing reasons for the moratorium, this Ordinance will promote the public health, welfare, safety, aesthetics, and economic order of the community, the region, and the City; and

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the City of Cape Coral, Florida, a municipal corporation, enjoys all governmental, corporate, and home rule proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the Mayor and City Council hereby find 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, Florida, Land Development Code, Article 4, Chapter 1, Section 4.1.6., Table 4.1.6, is hereby amended as follows:

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	RM L	RM M	R E	A	P	C	I	INS T	PV	CC	NC	MX 7	MX B	SC			
...															PRI	SE C	LOC	
Boat Sales							P	P			P						CU	CU
Car Wash							CUP				CUP							
Commercial Parking lot or Garage							P				P		P	P	P	P	P	P
Heavy Vehicle, Sales & Rental								P			P							
Light Vehicle, Rental							P				P	P					P	P
Light Vehicle, Sales											P*							
Vehicle Repair, Major								P			SE							
Vehicle Repair, Minor							CU	P			P							
Vehicle Fueling Station							CU	P			P	CU					CU	
Marine Fuel Pump							P*	P*	P*		P*	P*	P*	P*	P*	P*	P*	P*
Vehicle and Boat Storage								P										
Accessory Parking Lot		P*				P*	P*				P*							
...																		

SECTION 2. The City of Cape Coral, Florida, Land Development Code, Article 5, Chapter 11, Section 5.11.17, is hereby created as follows:

Section 5.11.17. Car Wash Facility.

In addition to other provisions of the Land Development Code, Car wash facilities shall meet all of the following conditions:

A. Applicability: This section shall apply to all car wash facilities as defined in LDC Section 11.2, except as noted below.

1. Exceptions:

- a. Car wash facilities that are accessory to a primary use, where the accessory use area occupies no more than 20% of the overall site area, and which are fully integrated into the primary use structure or area are exempt from this section.
- b. Car wash facilities that are accessory to a primary use classified as light vehicle sales on sites where the establishment has a minimum developed area of five acres.
- c. Temporary outdoor car wash facilities associated with a non-profit, religious function, or governmental organization are exempt from this section provided that the use is temporary and no automated equipment or systems are utilized.

B. Locational Requirements: All facilities shall conform to the following location standards:

- 1. There shall be a minimum separation distance of one mile (5,280 feet) between parcels occupied, or to be occupied, by a car wash facility. Such a distance shall be measured by the shortest straight-line measurement between the nearest points of the applicable parcels.

2. Car Wash facilities shall only be permitted on those parcels which have primary frontage on roadways with the following City of Cape Coral Functional Classifications: Minor Collector; Major Collector; Minor Arterial; Major Arterial; and Principal Arterial. Functional roadway classifications shall be determined by the City of Cape Coral and all classifications shall be made available to the public. Primary frontage is defined as a minimum linear frontage that is equal to or exceeds 75% of overall linear property frontage along all public rights-of-way.
 3. Parcels associated with car wash facilities shall not be permitted within 500 feet of any major intersection involving any combination of collector and/or arterial streets. This distance shall be measured in the shortest straight-line measurement between the centerline of the intersected rights-of-ways and the nearest point of the parcel.
- C. Enclosure Required: All washing uses, facilities, and equipment shall be within an enclosed building, including those systems and equipment which is ancillary or accessory to the operation of the facility except as noted below.
1. Exception: Centrally designed vacuum facilities may have exposed apertures, nozzles, and piping directly associated with the servicing of a vehicle, provided all central equipment, including pumps, turbines, separators, filters, and manifolds, are completely enclosed within a building and that the noise generated from the exposed equipment is mitigated to the greatest extent possible.
- D. Residential Adjacency: The following regulations shall apply when a car wash facility is located directly adjacent to a site with residential zoning or a residential use, either through directly abutting property line(s) or being separated by an alleyway, canal, or local roadway:
1. All uses and equipment shall be oriented away from the adjacent residential zoning or uses. Where such orientation would provide an undue hardship to the implementation of the uses on the site, additional screening shall be provided to mitigate the visual impact of the facility. Such screening may be comprised of additional vegetative hedging, living green walls, or an architecturally interesting vertical barrier and implemented as directed through conditions of approval applied by the City of Cape Coral.
 2. The facility shall be designed so as to provide an increased buffered separation along all directly abutting residential property lines. The buffer shall conform to all applicable standards and regulations contained in LDC Article 5, Section 5. The buffer width shall be in excess of 150% the required buffer width specified in Table 5.5.13.B and shall include the utilization of either a six-foot tall bermed earth feature or an eight-foot tall separation wall. The buffer area shall provide plantings of 150% or more of the required amount per LDC Section 5.5.13, for all plantings. The wall shall meet all applicable standards and requirements as specified per LDC Section 5.5.13.C.5.g.
 - a. Where the facility abuts a mixed-use zoning district, or mixed-use site, which includes any form of residential uses and no buffer requirement is specified in table 5.5.13.B, the facility shall provide a buffer with a minimum width of twenty feet. Landscaping within the buffer shall be provided at the highest intensity specified per table 5.5.13.C abutting the R-1 district. The buffer area shall be designed to meet all other criteria listed in Section 5.11.17.D.2.
 - b. Where a canal or road right-of-way separates two property lines requiring the buffer separation as specified in this section, the buffering requirements shall also be applied along the property lines adjacent to the right-of-way.
- E. Landscape Screening: Specifically designed landscape screenings and treatments shall be provided to mitigate the visual impact of exterior equipment and utilities, exterior vacuum apertures and equipment, and openings in enclosed facility spaces from all public rights-of-way. The screening shall be designed in such a way that the internal and external uses of the facility are screened to the greatest extent possible when viewed from the rights-of-way and shall be approved through conditions of approval applied by the City of Cape Coral.

- F. Outdoor Storage and Display: The outdoor storage and display of merchandise, parts and supplies shall be prohibited. All materials shall be located completely within an enclosed building.
- G. Hours of Operation: For facilities which are located adjacent to residentially zoned districts, the hours of operation for the facility shall be limited through conditions of approval applied by the City of Cape Coral.
- H. Noise Mitigation: The use of exterior loudspeakers, paging equipment or noise makers, is prohibited.
- I. Water Recycling: The facility shall be designed and constructed to comply with National Pollutant Discharge Elimination System (NPDES) requirements for car washes to prevent creating and carrying off the premises, of airborne particles of water, chemicals, and dust. No wash-water runoff generated by the facility may be conveyed off site into stormwater or wastewater systems without pretreatment. Car-wash equipment shall use a 90% water recycling system, utilizing 100% of wastewater.
- J. Prohibitions: The following shall be prohibited on site:
 - 1. Exterior detailing and waxing which utilizes any type of machines or equipment is prohibited.

SECTION 3. The City of Cape Coral, Florida, Land Development Code, Article 11, Section 11.2., is hereby amended as follows:

Section 11.2. – Definitions.

...

Car Cover, is a cover that is designed and constructed by the manufacturer for the primary purpose of protecting a motor vehicle from the elements.

Car Wash Facility, is a temporary or permanent area or structure which is used for the exterior and/or interior washing and cleaning of automobiles and other motorized vehicles. Such a facility and associated equipment encompasses both self-service and full-service operations and includes constructed stand-alone structure(s), accessory uses and structures, and integrated uses as part of a mixed use site or structure.

Cemetery, is land used or dedicated to the burial of deceased people or animals. Cemeteries may also include mausoleums and mortuaries when operated within the boundary of such cemetery.

...

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 become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF CAPE CORAL AT THEIR REGULAR SESSION THIS _____ DAY OF _____, 2024.

JOHN GUNTER, MAYOR

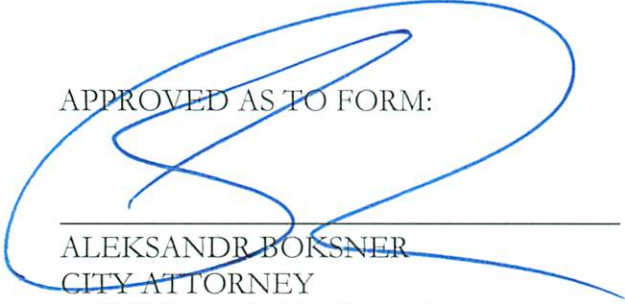
VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
STEINKE _____
SHEPPARD _____
HAYDEN _____

CARR _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2024.

APPROVED AS TO FORM:



ALEKSANDR BOKSNER
CITY ATTORNEY
ord/LDC Updates-Car Wash (Moratorium)

KIMBERLY BRUNS
CITY CLERK





**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL

Item Number:	6.C.
Meeting Date:	9/18/2024
Item Type:	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

TITLE:

Ordinance 67-24

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:

Matt Grambow, Interim Development Services Director
(239) 574-0600

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

1. Will this action result in a Budget Amendment?

PREPARED BY:

Division- Department- Development Services
Department

ATTACHMENTS:

Description	Type
▣ 1. Ordinance 67-24	Ordinance

ORDINANCE 67 - 24

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING THE CITY OF CAPE CORAL, FLORIDA, LAND DEVELOPMENT CODE, 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 THE SELF-STORAGE FACILITIES USE; AMENDING ARTICLE 5, DEVELOPMENT STANDARDS, CHAPTER 10, SPECIFIC USE REGULATIONS (P* USES IN TABLE 4.4), BY ELIMINATING SECTION 5.10.16. – SELF-SERVICE STORAGE FACILITY, IN ITS ENTIRETY; AMENDING ARTICLE 5, DEVELOPMENT STANDARDS, CHAPTER 11, CONDITIONAL USES, BY CREATING SECTION 5.11.18., SELF-SERVICE STORAGE FACILITY, ESTABLISHING CONDITIONS FOR SELF-SERVICE STORAGE FACILITIES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Cape Coral, Florida adopted Ordinance 15-24 on April 17, 2024, imposing a temporary moratorium on the acceptance of applications for and issuance of permits for the development of self-service storage facilities in the City of Cape Coral, Florida (the “City”); and

WHEREAS, presently, and in the preceding years, the self-storage industry has proven to be a sector that is proliferating at an unprecedented rate of growth throughout the Florida commercial real estate industry, and within the commercial corridors of the City; and

WHEREAS, in order to prevent the proliferation of self-storage facilities consuming essential commercial property, too fast, in close proximity to one another, it is necessary to establish regulations to address the number(s) and location(s) that are appropriate for the City; and,

WHEREAS, Florida Statutes require the City to adopt new land development regulations, or amend its current regulations as necessary to ensure that such regulations are compatible with and further the goals of the City's Comprehensive Plan, and to utilize accepted planning practices and analyses that include, but are not limited to, the direction of growth and development into those locations that have proper access to the existing and planned transportation system ("access management"), minimal environmental constraints, and compatibility of land uses both within the particular area and in relation to surrounding land uses; and,

WHEREAS, it has been estimated that there exists one million five hundred thousand (1,500,000) square feet of existing self-storage space in the City, and an additional one million six hundred thousand (1,600,000) in the permitting process or under construction, for a total of three million one hundred thousand (3,100,000) square feet of self-storage facilities existing or forthcoming in the City; and

WHEREAS, the applicable industry standard for the supply of self-storage facilities has been identified to be five to ten (5-10) feet per capita, resulting in an approximate supply of self-storage facilities to be between one million forty thousand (1,040,000) up to two million eighty thousand (2,080,000) square feet based on the current estimated population of the City; and

WHEREAS, the City has documented that there exists a deficiency of vacant, non-residentially zoned land that is needed to meet the commercial/industrial demands of current and future residents; and

WHEREAS, the City's Land Development Code is hereby determined to require additional regulations in order to ensure that they provide a sufficient safeguard regarding the proliferation of these self-storage facilities for the future protection and promotion of the public health, safety welfare, aesthetics, and economic order of the City; and

WHEREAS, the Florida Legislature enacted Senate Bill 250 (2023), codified as chapter 2023-304, Laws of Florida, that prohibits local governments from proposing or adopting certain regulations regarding construction, reconstruction, or redevelopment of any property damaged by Hurricane Ian or Nicole before October 1, 2024, and applies it retroactively to September 28, 2022; and

WHEREAS, the Mayor and City Council find that the Florida Legislature expressly drafted chapter 2023-304, Laws of Florida, to apply to property damaged by Hurricane Ian or Nicole, and that these regulations apply to unimproved land that by its vacant nature did not suffer property damage from Hurricane Ian or Nicole; and

WHEREAS, the Mayor and City Council find that state legislative bill analyses related to Senate Bill 250 (2023) provide analysis related to prior versions of the bill, which did not contain language prohibiting certain regulations, and that the Florida Senate House Message Summary, provided after the prohibition on certain regulations was added, expressly includes that property damage by Hurricane Ian or Nicole is a requirement for the prohibition to apply; and

WHEREAS, the Mayor and City Council find that, based on the foregoing reasons for the moratorium, this Ordinance will promote the public health, welfare, safety, aesthetics, and economic order of the community, the region, and the City; and

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the City of Cape Coral, Florida, a municipal corporation, enjoys all governmental, corporate, and home rule proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the Mayor and City Council hereby find 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, Florida, Land Development Code, Article 4, Chapter 1, Section 4.1.6., Table 4.1.6, is hereby amended as follows:

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	RM L	RM M	RE	A	P	C	I	INST	P V	CC	NC	MX 7	MX B	SC				
...															PRI	SEC	LOC		
Commercial and Professional Services	Animal Kennel, Indoor				P	P											P	P	
	Animal Kennel, Outdoor					P													
	Day Care Facilities - Adult or Child		P	P		P	P		P		P	P		P			P	P	
	Banks and Finance - no drive thru						P	P			P	P			P	P		P	
	Banks and Finance w/drive thru						P	P			P							P	
	Building and Construction w/o outdoor storage/display						P	P	P			P	P				P	P	P
	Building and Construction w/outdoor storage/display							P*	P*			P*							
	Landscaping Services w/o outdoor storage/display						P	P	P			P	P				P	P	P
	Landscaping Services w/outdoor storage/display							P*	P*			P*							
	Self-Storage Facilities							CU p±	CU p±			CU p±							

Personal Services						P	P				P	P	P	P	P	P	P
Pharmacy - no drive through						P	P				P	P	P	P	P	P	P
Pet Services						P	P				P	P			P	P	P
Pharmacy with drive through							P				P						P
Professional Offices						P	P				P	P	P	P	P	P	P
Professional Services						P	P				P	P		P		P	P
Radio and TV Station								P	P		P	P				P	P
Repair Shops							P	P			P	P				P	P
Retail ≤30,000 sq. ft. per tenant							P				P	P	P	P	P	P	P
Retail >30,000 sq. ft. per tenant							P				P	SE			SE	SE	SE
...																	

SECTION 2. The City of Cape Coral, Florida, Land Development Code, Article 5, Chapter 10, Section 5.10.16., is hereby eliminated in its entirety:

Section 5.10.16. Self-service storage facility. - Reserved

Self-service storage facilities in the I, C, or CC districts must meet the following conditions:

- A. The facility must be designed so as to screen the interior of the development from all property lines. Screening features may consist of a free-standing wall, wall of a building, or a combination of the two. Free-standing walls used for screening shall be eight feet in height measured from grade.
 - 1. The following materials, either singly or in any combination, are the only materials that may be used to form the wall:
 - a. Concrete block coated with stucco;
 - b. Textured concrete block;
 - c. Stone;
 - d. Brick; or
 - e. Formed, decorative, or precast concrete.
 - 2. If the wall of a building is used to meet the opaque feature requirement, such wall shall be surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface. Untreated concrete block is not an acceptable finished material. Building walls used as a screening feature shall not have doors or windows.
- B. A landscaped area with a minimum width of 10 feet shall be provided around the perimeter of the site. Perimeter landscaping shall consist of a minimum of three canopy trees per 100 feet, three accent trees per 100 feet, and 33 shrubs per 100 feet. Palms trees cannot be used to meet the minimum planting requirement of this section. All shrubs shall be installed at a minimum height of 32 inches and be in a minimum seven-gallon container at the time of planting.
- C. In the event a self-service storage facility is designed as a multi-story building, the interior of the development is not required to be screened by a free-standing wall or a building wall, provided there are no visible exterior doors providing access to individual storage units. Multi-story self-service storage facilities must comply with the nonresidential design standards established in Chapter 8 of this Article.
- D. A self-service storage facility is prohibited from being located within 1,000 feet of another self-service storage facility, as measured from the nearest point of one facility to the nearest point of the other facility in a straight line.
- E. In the CC district, a self-service storage facility is prohibited on sites with frontage of 170 feet or greater on Pine Island Road.
- F. In the C district, no part of a self-service storage facility shall be located within 400 feet of Burnt Store Road, as measured from the nearest point of the facility to the nearest point of said road in a straight line.

SECTION 3. The City of Cape Coral, Florida, Land Development Code, Article 5, Chapter 11, Section 5.11.18, is hereby created as follows:

Section 5.11.18. Self-Service Storage Facility.

In addition to other provisions of the Land Development Code, any self-service storage facility shall meet all of the following conditions:

- A. Limitations: The total aggregated amount of self-service storage facility square-footage throughout the city limits of The City of Cape Coral shall be limited to a maximum of ten (10) square feet per resident. Resident population data shall be determined through the population data distributed through Bureau of Economic and Business Research (BEBR) Population Program for the City of Cape Coral. The City of Cape Coral shall publish the population or population estimate annually; the use of privately provided population estimates is prohibited. The City of Cape Coral shall track the total aggregated amount of permitted storage, as well as the area related to projects under review, and publish that number annually.
- B. Locational Requirements: All facilities shall conform to the following locational standards:
1. There shall be a minimum separation distance of one mile (5,280 feet) between any parcels occupied, or proposed to be occupied, with a self-service storage facility. Such a distance shall be measured in the shortest straight-line measurement between the nearest points of the parcels.
 2. Self-service storage facilities shall only be permitted on those parcels which have primary frontage on roadways with the following City of Cape Coral Functional Classifications: Minor Collector; Major Collector; Minor Arterial; Major Arterial; and Principal Arterial. Functional roadway classifications shall be determined by the City of Cape Coral and all classifications shall be made available to the public. Primary frontage is defined as a minimum linear frontage that is equal to or exceeds 75% of overall linear property frontage along all public rights-of-way.
 3. Parcels utilized for self-service storage facilities shall be distanced from any major intersection by a minimum distance of 500 feet. This distance shall be measured in the shortest straight-line measurement between the centerline of the intersected rights-of-ways and the nearest point of the parcel.
- C. Enclosure Required: In all permissible zoning districts, except for (I) Industrial, all self-service storage uses, facilities, and equipment shall be completely within an enclosed building, including all uses, systems and equipment which are ancillary and/or accessory to the operation of the self-service storage facility. All storage units and storage areas shall only be accessible from the interior of the building.
- D. Mixed-Use Inclusion: Where a self-service storage facility is developed as part of an integrated vertical mixed-use development, the self-service storage facility may be developed without regard to Section 5.11.18.A provided all of the following are met:
1. A permissible non-residential use, or any combination of permissible non-residential uses, shall occupy a minimum of 85% of the ground floor area;
 2. The permissible non-residential uses must predominantly front directly along and towards the adjacent rights-of-way;
 3. The permissible non-residential uses must be wholly distinct from, unrelated to, and not an accessory use to or of the self-service storage facility; and
 4. No storage unit or storage area may occupy any area of the ground level.
- E. Building and Site Aesthetics: All self-service storage facilities shall incorporate all of the following design features:
1. All self-service storage facilities, including integrated mixed-use facilities, shall comply with all required standards established in Article 5, Chapter 8 of the Land Development Code. Where a conflict exists between the provisions of Chapter 8 and this section, the more restrictive provision shall govern.

2. Multi-story buildings that are two or more floors must be designed to have the appearance of a multi-floor building. This may be achieved through the use of glazing, awnings, canopies, or other prominent architectural features that provide the impression of appearance of separate floors.
 3. Facades facing a public right-of-way or residential zoning district must provide a minimum of 40% transparent glazing area. The glazing area shall be distributed throughout the entire facade and designed in such a way as to present a holistic composition to the building's façade.
 4. Lighting: Light spillage from the facility shall be mitigated so as to limit all ambient lighting, either direct or indirect, from impacting the surrounding sites. Light limits shall meet the most restrictive standard of LDC Article 5, Chapter 6. The use of uplighting shall be prohibited unless the fixture is shielded by a roof overhang, or similar structural shield.
 5. Parking stalls and areas, as well as loading/unloading zones shall be oriented away from any residentially zoned district or right(s)-of-way. Where it is deemed impractical or provides a hardship to the development the City may permit the use of vegetative buffering and screening to reduce the visual impact of those uses on the surrounding neighborhood and rights-of-way. Vegetative buffering or screening may consist of any combination of dense hedge plantings, dense evergreen shrubbery, living green walls, architecturally significant screening structures, or earthen berms or walls per Section 5.5.13.C.5.g.
- F. Perimeter Landscaping: All self-service storage facilities, including integrated mixed-use facilities, shall provide a landscaped buffer area with a minimum width of twenty (20) feet around the entire perimeter of the site. The landscaping shall consist of a minimum of: six canopy trees per 100 feet; 6 accent trees per 100 feet; and 66 shrubs per 100 feet. The use of palm trees cannot be utilized to meet minimum planting requirements of this section. All landscaping within the buffer shall meet all applicable standards and requirements of LDC Article 5, Chapter 5.
1. Where the facility is adjacent to a residential site, or a mixed-use site which contains any residential use, the buffer width shall be increased to 30 feet for the length of property abutting the adjacent site and shall incorporate either a six-foot high bermed earth separation or an eight-foot high separation wall. The required plantings within the landscape zone shall be provided in excess of 150% percent the amount required per this section. The wall shall meet all applicable standards and requirements as specified per LDC Section 5.5.13.C.5.g.
- G. Outdoor Storage and Display: The outdoor storage and/or display of merchandise, parts and supplies associated with the self-service storage use shall be prohibited. These materials shall be located completely within an enclosed building.
- H. Hours of Access: For self-service storage facilities which are located adjacent to residentially zoned districts, the hours in which the storage facility may be accessed by the public shall be limited through conditions of approval applied by the City of Cape Coral.
- I. Prohibitions: The following shall be prohibited on site:
1. Individual storage units, bays, or areas within any self-service storage facility shall not be used to manufacture, fabricate, or process goods; service or repair vehicles, small engines or electrical equipment or similar repair activities; conduct garage sales; or conduct any other commercial, industrial, or recreational activity.
 2. Individual storage units, bays, or areas within any self-service storage facility shall not be used for any residential purposes.
 3. Other than the Industrial (I) district, the sale and/or rental of trucks, vans, trailers, or vehicles of any sort are prohibited.

4. Other than the Industrial (I) district, the temporary or long-term exterior storage of vehicles of any type, including trailers, on site is prohibited. The storage of vehicles within completely enclosed individual storage units is permissible.

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 become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF CAPE CORAL AT THEIR REGULAR SESSION THIS _____ DAY OF _____, 2024.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
STEINKE _____
SHEPPARD _____
HAYDEN _____

CARR _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2024.

APPROVED AS TO FORM:



ALEKSANDR BOKSNER
CITY ATTORNEY
ord/LDC Updates-Self Storage (Moratorium)

KIMBERLY BRUNS
CITY CLERK

