

Cape Coral Planning & Zoning Commission/Local Planning

Agency



AGENDA

Wednesday, September 6, 2017

9:00 AM

Council Chambers

1. CALL TO ORDER

A. CHAIR READ

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

A. Marmo, Peterson, Ranfranz, Read, Schneider Alternate Robinson and Slapper

5. APPROVAL OF MINUTES

A. Regular Meeting - August 02, 2017

6. BUSINESS

**7. PLANNING AND ZONING COMMISSION / LOCAL PLANNING
AGENCY PUBLIC HEARING**

A. Ordinance 41-17 (LU 17-0004)

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Future Land Use Map from Commercial Activity Center (CAC) to Single Family Residential (SF) land use for property located at 729 SW 9th Street.

B. Ordinance 45-17

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Land Use & Development Regulations by amending the requirements for Free-Standing Residential, Free-Standing Non-Residential, and Compound Use developments in the Marketplace-Residential zoning district; by amending the requirements for use of the PDP process for development projects in the Marketplace-Residential zoning district; and by adding special regulations for Detached Properties in the Marketplace-Residential zoning district.

8. STAFF UPDATES

9. OTHER BUSINESS

10. LPA MEMBER COMMENTS

11. DATE AND TIME OF NEXT MEETING

- A. Wednesday, October 4, 2017, at 9:00 a.m. in Council Chambers
- B. Planning and Zoning Workshop Wednesday, September 6, 2017, at 9:30 a.m. in Council Chambers

12. ADJOURNMENT

In accordance with the Americans with Disabilities Act and Florida Statutes 286.26, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 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.

Item Number:	5.A.
Meeting Date:	9/6/2017
Item Type:	APPROVAL OF MINUTES

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Regular Meeting - August 02, 2017

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?

2. 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?

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description

□ August 02, 2017

Type

Backup Material

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

WEDNESDAY, August 02, 2017

COUNCIL CHAMBERS

9:00 A.M.

Chair Read called the meeting to order at 9:00 a.m.

A moment of silence was observed.

Pledge of Allegiance.

ROLL CALL: Hewitt, Ranfranz, Read, Schneider, Slapper were present.
Kibitlewski, Marmo, Peterson, and Robinson were excused.

ALSO PRESENT: Brian Bartos, Assistant City Attorney
John Naclerio, Assistant City Attorney
Rana Erbrick, Council Liaison
Bob Pederson, Planning Manager
Mike Struve, Planning Team Coordinator
Wyatt Daltry, Planning Team Coordinator
Audrie Goodwin, Senior Engineer

**BUSINESS
APPROVAL OF MINUTES
July 5, 2017 Meeting Minutes**

Commissioner Schneider moved, seconded by Commissioner Ranfranz, to approve the minutes of the regular meeting held on July 5, 2017 as presented.

Commission polled as follows: Hewitt, Ranfranz, Read, Schneider, and Slapper voted "aye." All "ayes." Motion carried 5-0.

PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY

PUBLIC HEARING

Ordinance 36-17

What the Ordinance Accomplishes:

An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .15, South Cape Downtown District (SC), by extending the effective date for certain minimum parking requirements in the South Cape Downtown District from August 20, 2017, to August 20, 2025.

Assistant City Attorney Bartos read the title of the Ordinance.

Planning Team Coordinator Mike Struve explained we are requesting to have the effective date which is August 17, 2017, to be extended to August 20, 2025. He noted why there are different standards in the South Cape for parking size spaces, then there are in other locations of the Cape. This is because of the types of issues, such as retail and office uses. The concern was for parking shortages at that time. So, the date needs to be extended into the future. This will allow for the City to reevaluate. He stated the South Cape Advisory Board reviewed the Ordinance and they recommended the change.

Public Hearing opened.

No speakers.

Public Hearing closed.

Commissioner Slapper moved, seconded by Commissioner Hewitt, to recommend approval of Ordinance 36-17.

Commission polled as follows: Hewitt, Ranfranz, Read, Slapper and Schneider voted "aye." All "ayes." Motion carried 5-0.

Ordinance 39-17 (LU 170006)

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Future Land Use Map from Commercial Activity Center (CAC) to Public Facilities (PF) land use for property located at 830 Tropicana Parkway and 530 Nelson Road.

Assistant City Attorney Bartos read the title of the Ordinance.

Planning Team Coordinator Wyatt Daltry stated his credentials could be obtained at the City Clerk's office. He presented a power point titled City of Cape Coral, with the following slides:

- Applicant: City of Cape Coral
- Current Future Land Use Commercial Activity Center
- Proposed Future Land Use, Public Facilities
- Existing Zoning Marketplace Residential (MR)
- Findings of Fact
- Comp Plan Analysis
- Regional Plan Analysis
- Recommendation approval

Public Hearing opened.

No speakers.

Public Hearing closed.

Commissioner Schneider asked about any public input letters or emails received.

Mr. Daltry stated there was no correspondence.

Commissioner Slapper inquired about the comfort level with the size of the site.

Senior Engineer Goodwin stated the City looked at the parcel and determined the sizes are centrally located.

Chair Read inquired about the permitting status.

Planning Manager Pederson state this is part of Stonewater for the Utilities.

Commissioner Schneider moved, seconded by Commissioner Ranfranz, to recommend approval of Ordinance 39-17.

Commission polled as follows: Hewitt, Ranfranz, Read, Schneider, and Slapper, voted "aye." All "ayes." Motion carried 5-0.

STAFF UPDATES

None

OTHER BUSINESS

None

DATE AND TIME OF NEXT MEETING

The next regular meeting was scheduled for Wednesday, September 6, 2017, at 9:00 a.m. in Council Chambers.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:17 a.m.

Submitted by,

Patricia Sorrels
Recording Secretary

Item
Number: 7.A.
Meeting
Date: 9/6/2017
Item
Type: PLANNING AND ZONING COMMISSION
/ LOCAL PLANNING AGENCY PUBLIC
HEARING

**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL



TITLE:

Ordinance 41-17 (LU 17-0004)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Future Land Use Map from Commercial Activity Center (CAC) to Single Family Residential (SF) land use for property located at 729 SW 9th Street.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 41-17 (LU 17-0004)

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator

ATTACHMENTS:

Description	Type
▣ Ordinance 41-17 (LU 17-0004)	Ordinance
▣ Backup Material	Backup Material

ORDINANCE 41 - 17

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL ACTIVITY CENTER (CAC) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS ALL OF LOTS 68 & 69, BLOCK 4491, CAPE CORAL UNIT 63; PROPERTY LOCATED AT 729 SW 9TH STREET; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by AARGAE LLC 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 ACTIVITY CENTER (CAC) TO SINGLE FAMILY RESIDENTIAL (SF)

ALL OF LOTS 68 & 69, BLOCK 4491, AS SHOWN ON THE PLAT OF CAPE CORAL UNIT 63, RECORDED IN PLAT BOOK 21 AT PAGE 81 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS, AND RESTRICTIONS OF RECORD.

PROPERTY LOCATED AT: 729 SW 9TH STREET

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this small scale development amendment to the Comprehensive Plan shall be thirty-one (31) days after the adoption of this ordinance. Alternatively, if the small scale development amendment adopted by this ordinance is challenged by an "affected person" within thirty (30) days after adoption, then the effective date of this amendment shall be the date upon which either the state land planning agency or the Administration Commission issues a "final order" determining that this small scale development amendment is "in compliance" as provided in Section 163.3187(5), Florida Statutes.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

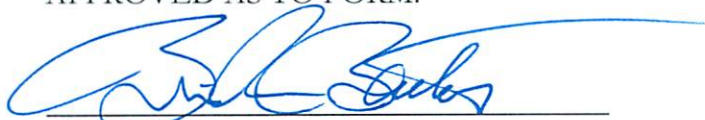
SAWICKI _____
BURCH _____
CARIOSCIA _____
STOUT _____

LEON _____
ERBRICK _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2017.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/lu17-0004



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY AND COUNCIL
FOR A LARGE SCALE COMPREHENSIVE LAND USE MAP AMENDMENT

FEE \$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, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

CASE # LU17-0004

OWNER OF PROPERTY

AARGAE LLC

Address: 15946 SW 112th Place

City: Miami State: FL Zip 33157

Email: arian.rodriguez@yahoo.com

Phone: 786 488 2610

AUTHORIZED REPRESENTATIVE

AMB Planning Consultants, Annette Barbaccia

Address: P.O. Box 3495

City: N. Fort Myers State: FL Zip 33918

Email: abarbaccia@ambpl.com

Phone: 239 850-8301

Unit 63 Block 4491 Lot(s) 68+69 Subdivision CAPE CORAL

Legal Description CAPE CORAL UNIT 63 BK 4491 PB 21 PG 81 LOT 68+69

Address of Property 729 SW 9th Street, Cape Coral, FL 33991

Plat 21 Page 81

Current Zoning MR Strap Number 22-44-23-C2-04491.0680

Current Land Use CAC Proposed Land Use SF

Parcel Size: Width 80 Depth 125 Sq. Ft. 10,000 Acreage 1/4

Soil Type: _____

Urban Services Area: (check one) ☒ Infill ☐ Transition ☐ Reserve

Natural Resources: (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):

Cleared grassed.

Animal Species: (list any endangered, threatened, or species of special concern on-site)

None

Estimated Development:

Estimate total lot coverage: _____ %

Estimate total building floor area _____ sq. ft.

Estimate type of future development and percentages (e.g. business offices, commercial retail, automotive repair, etc.)

Typical single family lot coverage.

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 ☐

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.

ARIAN RODRIGUEZ / ANA C. JUSTINIANO
NAME (PLEASE TYPE OR PRINT)

[Signature]
AUTHORIZED SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 23 day of APRIL, 2017, by
ARIAN RODRIGUEZ / ANA C. JUSTINIANO who is personally known or produced
as identification.

Exp. Date: 10-19-2019 Commission Number: FF928834

NOTARY STAMP HERE

Signature of Notary Public: [Signature]
Printed name of Notary Public: ANETT DIAZ



Anett Diaz
Commission # FF928834
Expires: October 19, 2019
Bonded thru Aaron Notary

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Annette M. Barbaccia

(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING
COMMISSION/ LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS
AND/OR CITY COUNCIL FOR

Hearing Examiner Office Hearing or P&Z Hearing and City Council Public Hearing

(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT 63 BLOCK 4491 LOT(S) 68,69 SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION

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

Arian Rodriguez

PROPERTY OWNER (Please Print)

Arian Manager

PROPERTY OWNER (Signature & Title)

ANA C. JUSTINIANO

PROPERTY OWNER (Please Print)

MANAGER

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 23 day of April, 2017, by
ARIAN RODRIGUEZ / ANA C. JUSTINIANO who is personally known or produced
as identification.

Exp. Date: 10/19/2019 Commission Number: FF928834

NOTARY STAMP HERE

Signature of Notary Public:

ANETT DIAZ

Printed name of Notary Public:

ANETT DIAZ

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



Anett Diaz
Commission # FF928834
Expires: October 19, 2019
Bonded thru Aaron Notary

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

I hereby acknowledge that I have read and understood the above affidavit on the 23 day of April, 2017

ARIAN RODRIGUEZ / ANAC JUSTINIANO
NAME (PLEASE TYPE OR PRINT)

[Signature]
APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 23 day of April, 2017, by ARIAN RODRIGUEZ / ANAC JUSTINIANO who is personally known or produced DRIVER LICENCE as identification.

NOTARY STAMP
HERE

Exp. Date: 10-19-2019 Commission Number: FF928834

Signature of Notary Public: [Signature]

Printed name of Notary Public: ANETT DIAZ



Anett Diaz
Commission # FF928834
Expires: October 19, 2019
Bonded thru Aaron Notary

AMB Planning Consultants Inc.

May 11, 2017

Mr. Vincent A. Cautero, Director
Department of Community Development
1015 Cultural Pak Blvd
City of Cape Coral, FL 33990

Re: Requested Land Use Amendment From CAC to SF and Zoning Amendment
From MR to R-1B for 729 SW 9th Street, Cape Coral, FL 33991

Dear Mr. Cautero:

On behalf of my clients, AARGAE LLC. ,Arian Rodriguez and Ana Justiniano, I am requesting a future land use amendment for a 10,000 sf. vacant parcel at 729 SW 9th Street, Cape Coral, FL 33991 from Commercial Activity Center (CAC) to Single Family (SF). They are also seeking a rezoning from the Marketplace Residential (MR) district to the Single Family (R1-B). They would like the attached applications for these actions to be considered together and heard at the same hearings, back to back. The property lies between two single family homes and is across the street from single family homes.

Aerial of 729 SW 9th Street and Surrounding Area



The property is an upland, cleared developable property with a width of approximately 80 ft. and a depth of 125 ft, consistent with the single-family home sites within the block. There are no endangered or threatened species on site and the property is served by City utilities.

Subject Property Looking North



Adjacent Home to the West of the Subject Property



Adjacent Home to the East of the Subject Property



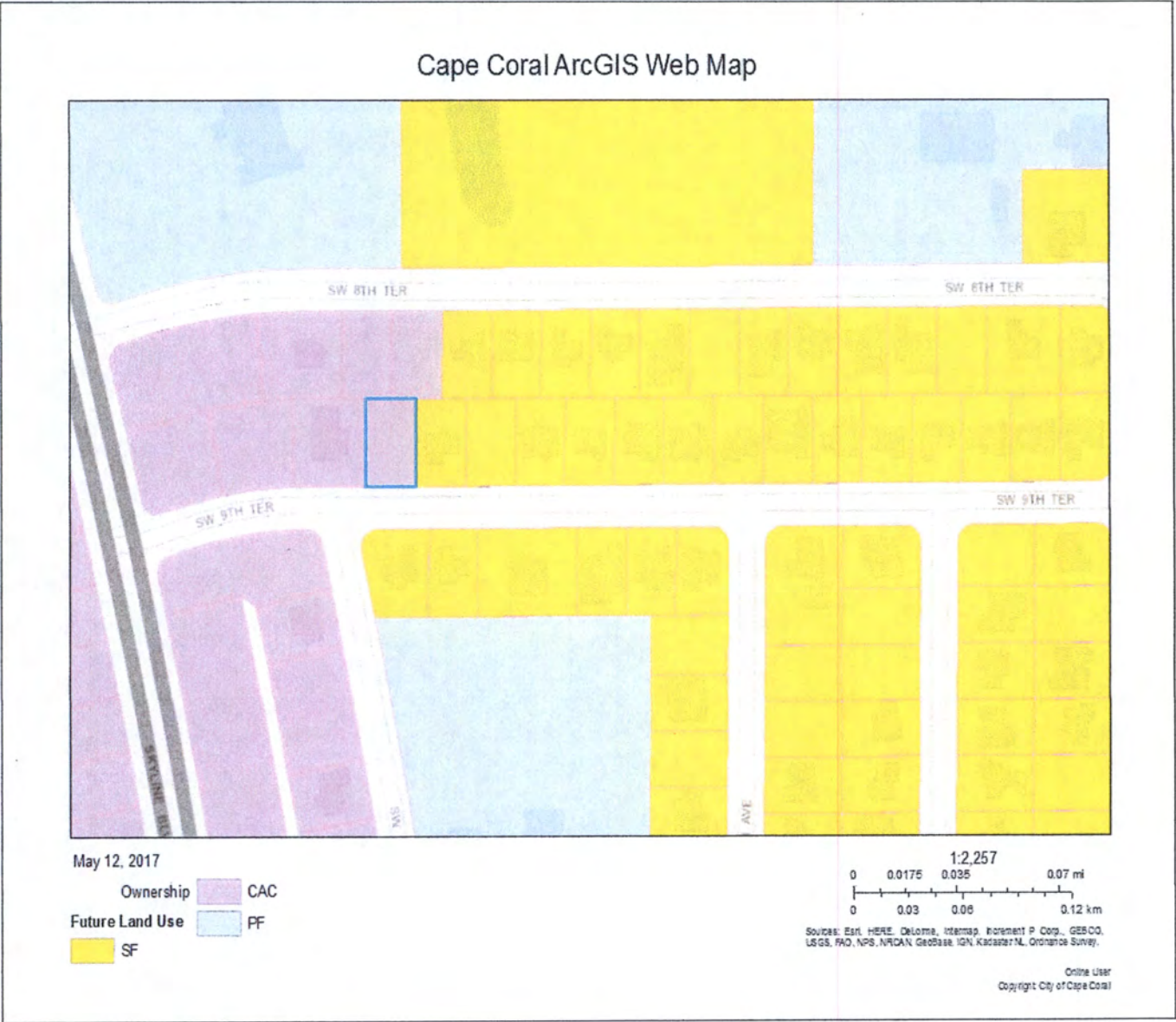
Homes Across the Street from the Subject Property



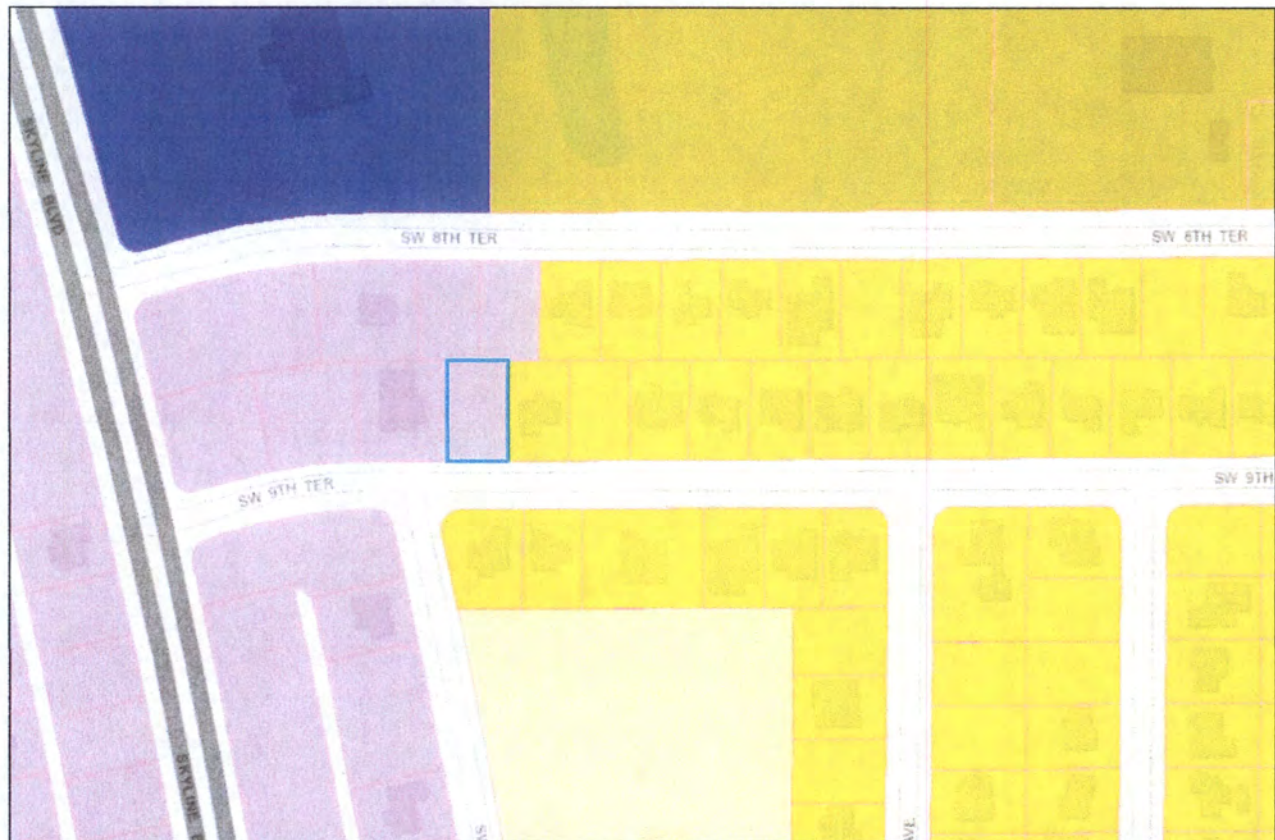
Block Face Looking East





Future Land Use Subject Property and Surrounding Area






Existing Zoning



May 12, 2017

Ownership  R-1A  W

Zoning  R-1B

 MR  RD

Sources: Earl, HERE, Delorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey,

Web AppBuilder for ArcGIS
County of Lee, Earl, HERE, Garmin, INCREMENT P, USGS, EPA, USDA |

Planning Rationale

The size and location of the property make it a poor fit for the existing Commercial Activity Center (CAC) future land use district and Market Place Residential (MR) zoning district. These districts are intended to facilitate development and/or assemblage of larger commercial/mixed use development adjacent to wide streets such as Skyline Boulevard. The property is sandwiched between two existing single family homes and is distant from Skyline Boulevard. The property lies along the SW 9th Street block face, east of SW 7th Court, which has existing single family homes (approximately 97% of the block) with a few vacant residential home sites. The property is adjacent to a Single-Family Land Use district and R1-B zoning district to the east, so that its inclusion would be consistent with the surrounding use and built form.

There is no commercial market for the property and its adjacency to the single-family districts to the east creates setback and development requirements that are infeasible. For all these reasons, we believe that the proposed amendments would increase land use and development conformity with the neighborhood and are consistent with the City's Comprehensive Plan. These changes would also provide a use of the property for my clients which is not achievable under the existing districts.

Please let me know if you have any questions or if I can provide additional information.

Sincerely,



Annette M. Barbaccia,

AMB Planning Consultants, Inc.
P.O. Box 3495
N. Fort Myers, FL 33918
Tel. 239-850-9301
Email: abarbaccia@ambpl.com

cc: Bob Peterson, Planning Director
Mike Struve, Manager, Planning Team Coordinator
Wyatt Daltry, Manager Long Range Planning
Arian Rodriguez and Ana Justiniano

Enc.

PLANNING DIVISION STAFF REPORT
 LU17-0004

PROPERTY ADDRESS/LOCATION 729 SW 9 th Street	APPLICANT/PROPERTY OWNER Aargae, LLC
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<p>SUMMARY OF REQUEST</p> <p>Privately-initiated Future Land Use Map Amendment to amend one undeveloped property (0.22 acres) from Commercial Activity Center (CAC) to Single-Family Residential (SF). The existing zoning is Marketplace Residential (MR).</p>
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MAP SOURCE

STAFF RECOMMENDATION:
APPROVAL

Positive Aspects of Application:	Represents a logical extension of the adjacent Single-Family future land use
Negative Aspects of Application:	Slight loss of potential commercial or mixed use land
Mitigating Factors:	Small-site represents a <i>de minimis</i> impact on surrounding area and effect on the community Site located between two existing single-family residences

Additional Site Information

Urban Service Area: Transition

City Water and Sewer: The area is serviced by City water and sewer.

Street Access: The site is accessible from SW 9th Street (local roadway). The site is approximately 400 feet east of Skyline Boulevard, a major arterial roadway.

STRAP Number: 22-44-23-C2-04491.0680

Block/Lot(s): Block 4491, Lots 68-69

Subdivision: Cape Coral, Unit 63

Zoning and Land Use Information:

Subject Property:	Future Land Use	Zoning
Current:	CAC	Marketplace Residential (MR)
Proposed:	SF	N/A ¹

Surrounding Areas	Future Land Use	Zoning
North:	CAC and Public Facilities (PF)	MR and Worship (W)
South:	SF and PF	Single-Family Residential (R-1B) Residential Development (RD)
East:	SF	R-1B
West:	CAC	MR

¹ Separate request to Marketplace Residential (MR) zoning is proposed.

Background

In 1989, the site was classified Single-Family/Multi-Family Residential by PDP (SM). In 2010, the site was amended to the CAC future land use map classification as part of a series of large-scale future land use map amendments. No building activity has occurred on the site.

In 2016, the applicant obtained ownership of the property and desires to construct a single-family detached residence. To effectuate this, the applicant has requested a FLUMA to the SF future land use. The applicant recognizes that a rezone will be required in the future to bring the site into conformity should the amendment be approved, and has also submitted a request to that effect. The applicant's letter of intent notes that the property is between two existing single-family residences and across the street from additional single-family residences.

Additional Site Information

Protected Species

No protected species have been identified in the vicinity. The City requires species surveys prior to issuance of City of Cape Coral permits or development approvals, in accordance with the Conservation and Coastal Management Element of the Comprehensive Plan.

Should additional protected species be identified on the property as part of the development review of the site, the City will abide by Policy 1.2.5 of the Conservation and Coastal Management Element, which states:

"Policy 1.2.5: The City will assist in the implementation of and compliance with all state and federal regulations concerning species listed as endangered, threatened, species of special concern, or commercially exploited by monitoring development activities, providing information on listed species in building permit packages, and assisting in investigations as requested."

Utilities

The site is in the Urban Services Transition area as designated by the City Comprehensive Plan. Utilities are available.

Soils and Drainage

The site has one soil classification; Matlacha Gravelly Fine Sand-Urban Land Complex. This soil has limitations for development, which are typically overcome using various engineering solutions such as importing fill. The soil types should not present an obstacle to future land development although special feasibility studies may be required.

Regional Plan Analysis

Southwest Florida Regional Planning Council's (SWFRPC) Strategic Regional Policy Plan (SRPP):

This amendment is consistent with the SRPP Strategy: Protect existing, well-established neighborhoods and communities and revitalize those experiencing deterioration.

Lee County Metropolitan Planning Organization's (MPO) 2040 Long Range Transportation Plan:

The roadways near the site are not identified for improvements or widening in the MPO's 2040 Long Range Transportation Plan.

Comprehensive Plan Analysis

Staff analyzed the Comprehensive Plan to determine what policies support or undermine the proposed future land use map amendment. Most direction in the Comprehensive Plan for commercial development is based in the Future Land Use Element.

Future Land Use Element

Policy 8.3: Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial developments (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive use of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored.

The proposed amendment, if adopted, will avoid a commercial design that, due to the surrounding residential structures nearby, would be intrusive and likely provide inadequate buffering.

An interesting facet of this case is that the land use change from CAC to SF could diminish the land value of the property, as this proposed land use classification would have fewer permitted and special exception uses than the existing CAC classification. However, this request originated from the property owner, and therefore, it is understood that the property owner is aware of this fact and still wishes to proceed.

Impact Assessment Summary

The following calculations summarize approximate conditions for each municipal service analyzed. To determine the impact assessment, staff utilized the adopted future land use and zoning designations to determine the existing impacts at buildout. Therefore, the impacts discussed in this assessment do not necessarily reflect the actual number of dwelling units, population, etc. present within the subject area.

The site is CAC, and the analysis assumes no residential density for the site. While the site is currently vacant, the analysis must consider the impacts of the CAC land use in the event of construction. It is prudent, for purposes of analysis, to assume a worst-case scenario for impact assessment of 2,500 square-feet of building floor area as the "existing" impacts of development.

The proposed land use classification for these parcels is SF. For purposes of the land use amendment and determining proposed impacts of development, the impact assessment summary will assume that the proposed impacts will consist of one single-family residence.

Dwelling Units

Existing:	0
Proposed:	1
Net Change:	+1

Population*

Existing:	0
Proposed:	3
Net Change:	+3

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

Water Use

Existing:	<u>833 gal/day total</u> (2,500 square feet x 0.3 gal/sq ft/day)
Proposed:	<u>200 gal/day total</u> (1 dwelling unit x 200 gal/day)
Net Change:	-633 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Sewage

Existing:	<u>833 gal/day total</u> (2,500 square feet x 0.3 gal/sq ft/day)
Proposed:	<u>200 gal/day total</u> (1 dwelling unit x 200 gal/day)
Net Change:	-633 gal/day
Facility Capacity:	28.4 MGD
Avg. Daily Usage:	12.8 MGD

The wastewater generated by development permitted by future land use map amendments in the future would be evaluated as part of those later reviews and concurrency requirements would be required to be met at the time of those respective reviews.

Solid Waste

Existing Generation:	<u>340 lbs. total/day</u> (2500 square feet x 0.136 gal/sq ft/day)
Proposed:	<u>14 lbs. total/day</u> (3 persons x 4.74 lbs/person/day)
Net Change:	-326 lbs./day
Facility Capacity:	1,836 tons/day
Existing Demand:	1,384 tons/day
Capacity Available:	Yes

Traffic/Daily Trips

Existing Generation: 3 AM peak trips/hour and 9 PM peak trips/hour
Proposed: 1 AM peak trips/hour and 1 PM peak trips/hour
Net Change: -2 AM peak hour trips and -8 PM peak hour trips
Facility Capacity: SW 9th Street, a local roadway, currently accesses the site. SW 9th Street meets the minimum acceptable Level of Service Standard of "D."
Capacity Available: Yes

The maximum allowed intensity for these properties would create a peak volume of 1 trip during the AM peak hour, and 1 trip during PM peak hour.

Development Impact Analysis

Hurricane Evacuation

The subject area is in Evacuation Zone A. However, no residential dwelling units are anticipated to be constructed in this area, thus having no impact on hurricane evacuation times.

Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. With one dwelling unit anticipated to be added based on the proposed amendment, there is a small increase on park demand.

Protected Species

The City requires an environmental survey prior to the issuance of any land clearing, site clearing, or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, state, or federal protective or mitigation measures may be required by the developer to proceed.

School Impacts

There will be a single unit added due to the amendment request, but due to the *de minimis* nature of the amendment, this would result in no net generation of students.

Existing dwelling units: 0 dwelling unit
Existing students: 0
Proposed dwelling units: 1 dwelling unit
Proposed students: 0 (1 x .292 students per single-family dwelling unit)
Change: +0 students

Recommendation:

Planning Division staff recommends **approval** of the proposed small-scale future land use map amendment request.

NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt ORDINANCE 41-17, AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL ACTIVITY CENTER (CAC) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS ALL OF LOTS 68 & 69, BLOCK 4491, CAPE CORAL UNIT 63; PROPERTY LOCATED AT 729 SW 9TH STREET; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

A public hearing on the ordinance will be held Wednesday, September 6, 2017 at 9:00 a.m. at the City of Cape Coral, City Hall Chambers, 1015 Cultural Park Blvd., Cape Coral, Florida 33990. At this public hearing, the Planning and Zoning Commission will consider the City's future land use map amendment request. Accordingly, members of the general public and real property owners in the community are invited to appear and speak at the public hearing. Written comments filed with the Director will also be entered into the record. A copy of the map and the proposed amendment under consideration will be available for inspection and will be provided to the public at cost at the City Clerk's office between 7:30 a.m. and 4:30 p.m., Monday through Friday excluding holidays. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that subject person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk no later than 4:00 p.m. on the day prior to the meeting.

Rebecca Van Deutekom, CMC
City Clerk



NP-0000944994

☐ PROOF O.K. BY: _____ ☐ O.K. WITH CORRECTIONS BY: _____

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

ADVERTISER: CITY OF CAPE CORAL_DEPT
SALES PERSON: Legal Display
PUBLICATION: NP-CAPE SUN PRESS
SIZE: 3 col X 9.25 in

PROOF CREATED AT: 8/21/2017 4:21 PM
PROOF DUE: -
NEXT RUN DATE: 08/27/17

NP-0000944994.INDD



NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: LU17-0004

REQUEST: Privately-initiated Future Land Use Map Amendment to amend one undeveloped property (0.22 acres) from Commercial Activity Center (CAC) to Single-Family Residential (SF). The existing zoning is Marketplace Residential (MR).

LOCATION: 729 SW 9th Street

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

PROPERTY OWNER(S): Aargae, LLC

AUTHORIZED REPRESENTATIVE: AMB Planning Consultants

UPCOMING PUBLIC HEARING: Notice is hereby given that the Local Planning Agency will hold a public hearing at 9:00 AM on Wednesday September 6, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

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

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

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



Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Aargae LLC

APPLICATION NO: LU17-0004

STATE OF FLORIDA)
) §
COUNTY OF LEE)

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

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

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

DATED this 28th day of August, 2017.



Vincent A. Cautero, AICP

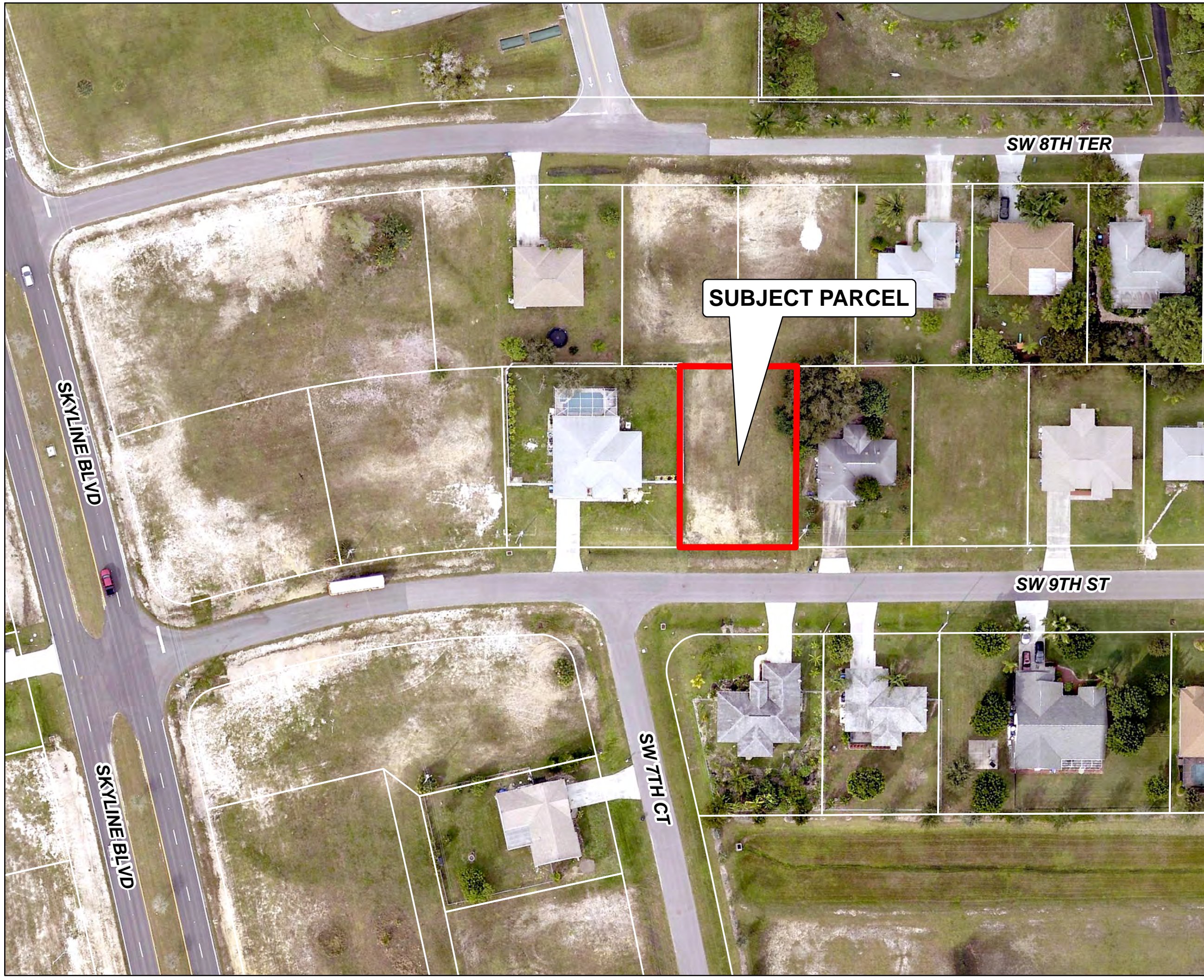
STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of August, 2017, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # 66030474


Signature of Notary Public


Elisabeth A. Delgado
Print Name of Notary Public



SUBJECT PARCEL

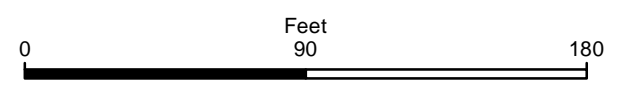
CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. LU17-0004

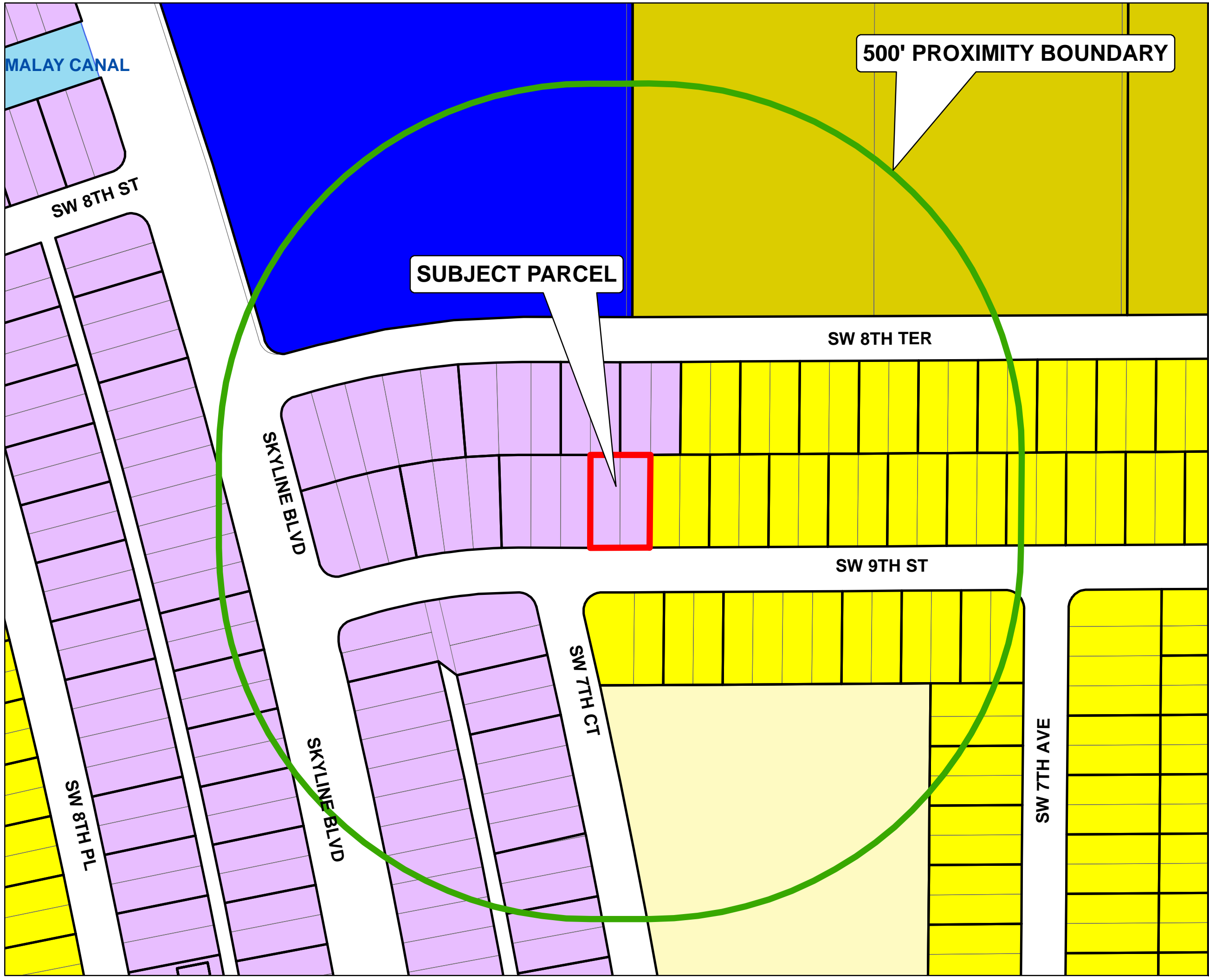
 Subject Parcel



JULY 13TH, 2017



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 occur. Please contact the Department of Community Development with any questions regarding this map product.





CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Buffer

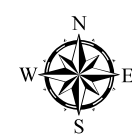
Case No. LU17-0004

LEGEND

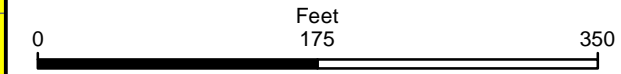
-  Subject Parcel
-  500' Buffer

Zoning

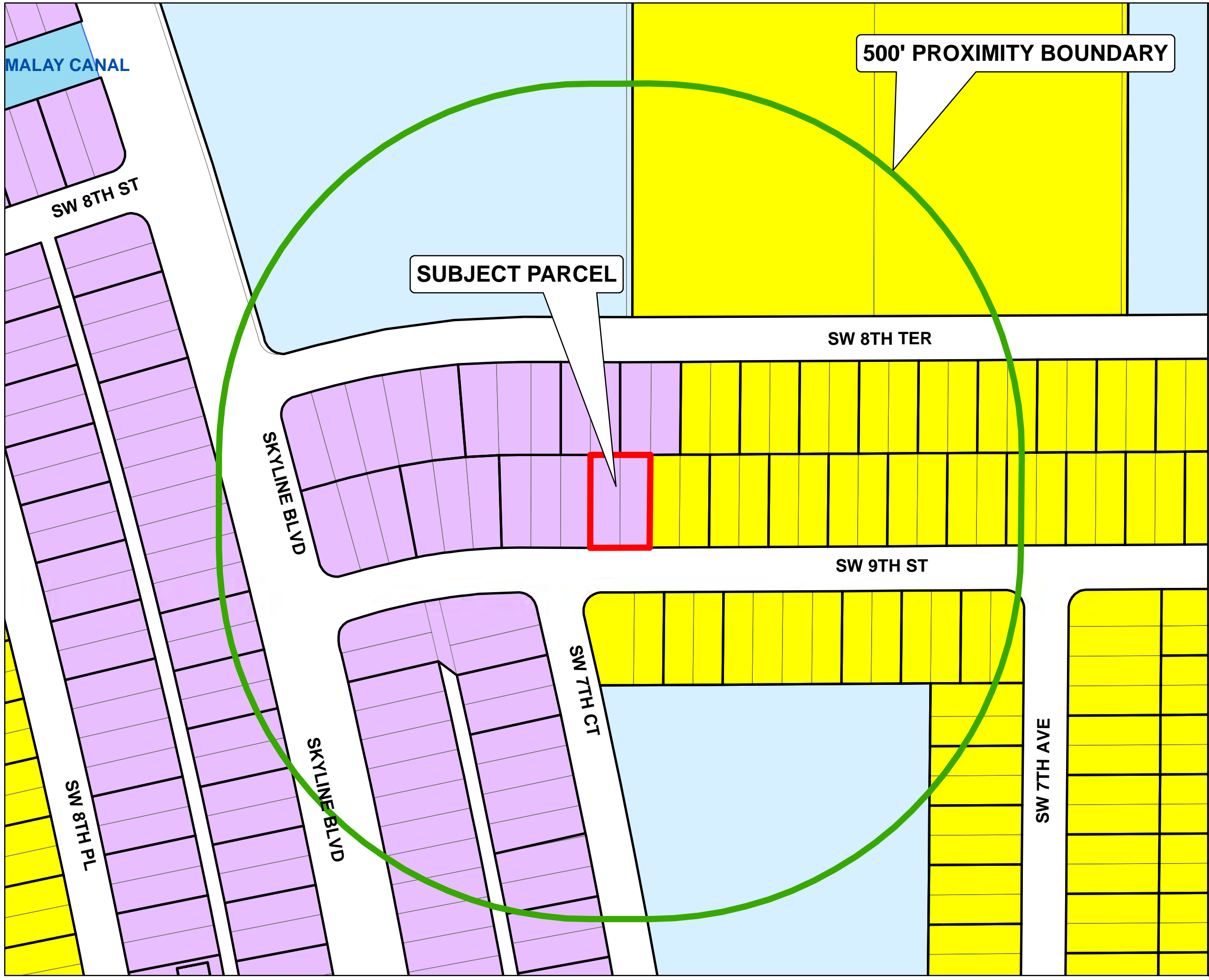
-  MR
-  R-1A
-  R-1B
-  RD
-  W



JULY 13TH, 2017



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CITY OF CAPE CORAL
Department of
Community Development
Planning Division




CURRENT FUTURE
LAND USE MAP
500' Proximity Buffer

Case No. LU17-0004

LEGEND

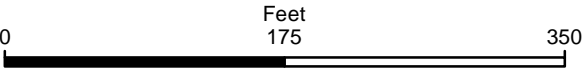
-  Subject Parcel
-  500' Buffer

Future Land Use

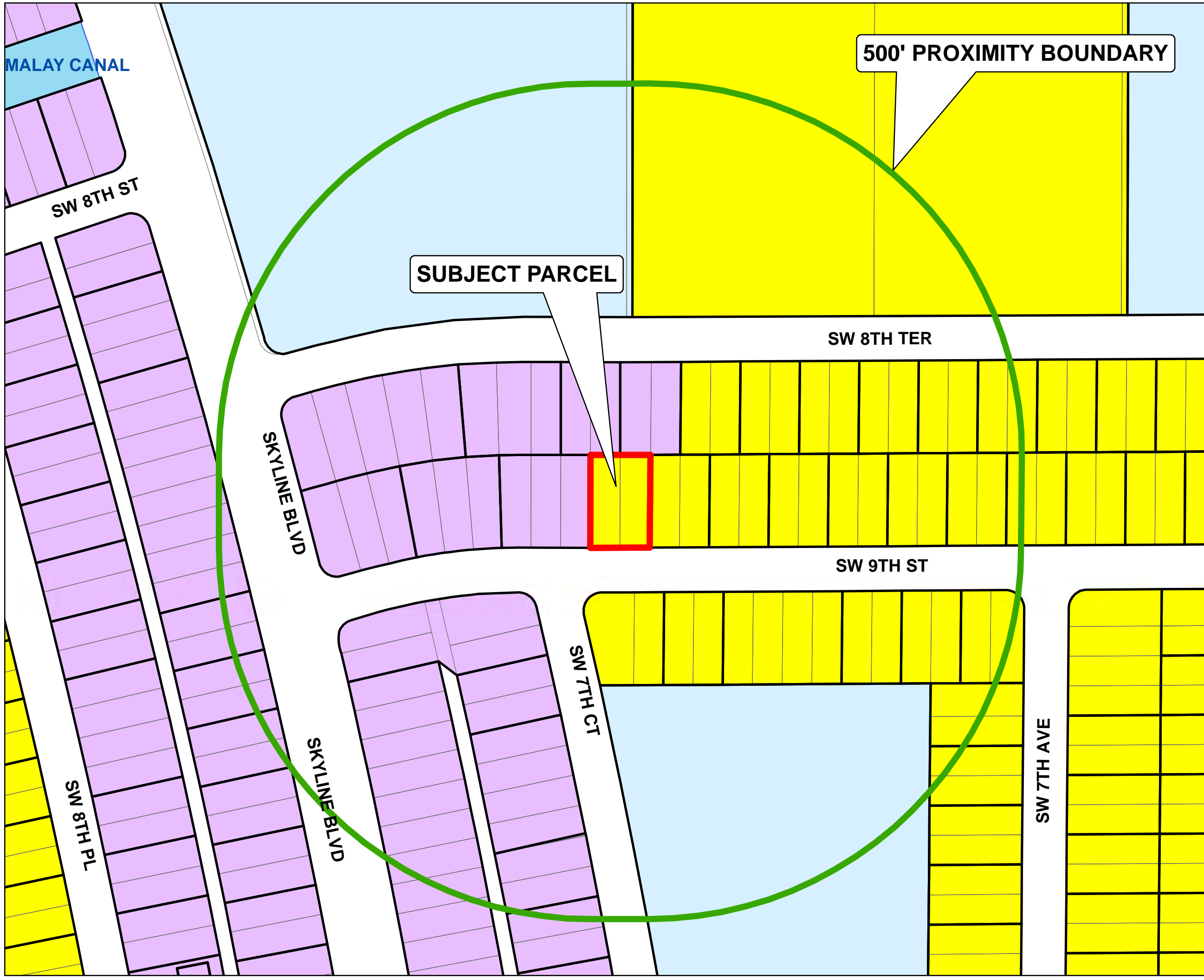
-  SF
-  CAC
-  PF



JULY 13TH, 2017



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CITY OF CAPE CORAL
Department of
Community Development
Planning Division

PROPOSED FUTURE
LAND USE MAP
500' Proximity Buffer

Case No. LU17-0004

LEGEND

 Subject Parcel

 500' Buffer

Future Land Use

 SF

 CAC

 PF



JULY 13TH, 2017

0 Feet 175 350

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Owner_Name	Mailing_Ad	Mailing_Ci	Mailir	Mailing_Zi	Foreign_Ad
LAWRENCE SAVIO + LORAIN	47 PROCTOR BLVD	HAMILTON	ON	L8M 2M5	CANADA
THINCARE INC	96 SEWELL DR	OAKVILLE	ON	L6H 1C5	CANADA
AARGAE LLC	15946 SW 112TH PL	MIAMI	FL	33157	
AILERON RE OPPORTUNITIES FUND I LLC	3401 W CYPRESS ST STE 101	TAMPA	FL	33607	
ALANIS IGNACIO + OMERIS	712 SW 8TH TER	CAPE CORAL	FL	33991	
BRACERO ABRAHAM + ISABEL	700 W 176TH ST #3K	NEW YORK	NY	10033	
CAPE CORAL ASSEMBLY OF GOD	717 SKYLINE BLVD	CAPE CORAL	FL	33991	
CARUSO DENISE L	705 SW 9TH ST	CAPE CORAL	FL	33991	
COLLARD ARMAND JR & COLLARD ANN MARIE TR					
FOR GRANTORS REVOCABLE TRUST	708 SW 9TH ST	CAPE CORAL	FL	33991	
COLLARD ARMAND SR TR FOR COLLARD TRUST	912 SW 7TH AVE	CAPE CORAL	FL	33991	
CRETA IRMA G	725 SW 9TH ST	CAPE CORAL	FL	33991	
DAVIS ANITA LEE	505 CHESOPEIAN TRL	VIRGINIA BEACH	VA	23452	
DEL SOL GENERAL SERVICE INC	2336 CLEVELAND AVE	FORT MYERS	FL	33901	
FINLEY JEREMY M	720 SW 8TH TER	CAPE CORAL	FL	33991	
GONZALEZ LAZARO	1729 NW 17TH ST	CAPE CORAL	FL	33993	
HANKNER DARREN	3121 KNOLLWOOD LN	GLENVIEW	IL	60025	
HUFFMAN ROBERT L + CATHERINE M	718 S W 9TH ST	CAPE CORAL	FL	33991	
IH3 PROPERTY FLORIDA LP INVITATION HOMES - TAX DEPT	1717 MAIN ST SUITE 2000	DALLAS	TX	75201	
INGRAHM STEVEN	111 MEADOW GLEN DR	YOUNGSVILLE	LA	70592	
JOTCAR INC	2110 PONDELLA RD	CAPE CORAL	FL	33909	
KEKA INVESTMENTS CORP	10940 NW 73RD ST	MIAMI	FL	33178	
LIVING FAITH A CHURCH OF THE LUTHERAN BRETHREN INC	939 SW 7TH CT	CAPE CORAL	FL	33991	
LYNN FRANKLIN LLC	1550 CUMBERLAND CT	FORT MYERS	FL	33919	
MAHONEY MATTHEW B + WENDY + MAHONEY					
DONNA L J/T	724 SW 9TH ST	CAPE CORAL	FL	33991	
MEGILL CARL	717 SW 9TH ST	CAPE CORAL	FL	33991	
MEIER MARGOT	19 PONUS AV #2	STAMFORD	CT	06902	
MEMO INVESTMENTS CORP	10940 NW 73RD ST	MIAMI	FL	33178	
MULLIN HARRY + LISA	79 FOXCROFT ST	WEST HARTFORD	CT	06119	
NICOL ANNE MARIE	712 SW 9TH ST	CAPE CORAL	FL	33991	
NILSEN ROLF	717 SW 8TH TER	CAPE CORAL	FL	33991	
NORORI MARIO M + IVANIA S	724 SW 8TH TER	CAPE CORAL	FL	33991	
NUNNINK MICHELLE	716 SW 8TH TERR	CAPE CORAL	FL	33991	
PACHECO XENA T	708 SW 8TH TER	CAPE CORAL	FL	33991	
PAPA JOHN A + CONCETTA P CO-TR FOR JOHN A					
PAPA + CONCETTA P PAPA GRANTORS JOINT REV TRUST	704 SW 9TH ST	CAPE CORAL	FL	33991	
PITTS ERIN + DAMON	735 SW 9TH ST	CAPE CORAL	FL	33991	
ROBINSON RICHARD F	713 SW 9TH ST	CAPE CORAL	FL	33991	
ROMERO ABRAHAM	14017 KESTREL DR	ORLANDO	FL	32837	
SPARKMAN JAMES E + SANDRA K	709 SW 9TH ST	CAPE CORAL	FL	33991	
SPARKS DANIEL + JONI	235 W NAOMI DR APT #1	NAPLES	FL	34104	
SUN PROPERTY VENTURES LLC	1985 CEDAR BRIDGE AVE STE 1	LAKEWOOD	NJ	08701	
ZUNIGA PABLO A + ALMA Y TR FOR ZUNIGA TRUST PO BOX 101034		CAPE CORAL	FL	33910	

Item Number: 7.B.
Meeting Date: 9/6/2017
Item Type: PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL



TITLE:

Ordinance 45-17

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

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

PRIORITY GOAL #1: INCREASE ECONOMIC DEVELOPMENT AND REDEVELOPMENT IN THE CITY MEASUREMENT INDICATORS OF SUCCESS

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Land Use & Development Regulations by amending the requirements for Free-Standing Residential, Free-Standing Non-Residential, and Compound Use developments in the Marketplace-Residential zoning district; by amending the requirements for use of the PDP process for development projects in the Marketplace-Residential zoning district; and by adding special regulations for Detached Properties in the Marketplace-Residential zoning district.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 45-17

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator

ATTACHMENTS:

Description	Type
▣ Ordinance 45-17	Ordinance

ORDINANCE 45 - 17

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2.7, DISTRICT REGULATIONS, SUBSECTION .18, MARKETPLACE-RESIDENTIAL (MR), BY AMENDING THE REQUIREMENTS FOR FREE-STANDING RESIDENTIAL, FREE-STANDING NON-RESIDENTIAL, AND COMPOUND USE DEVELOPMENTS IN THE MARKETPLACE-RESIDENTIAL ZONING DISTRICT; BY AMENDING THE REQUIREMENTS FOR USE OF THE PDP PROCESS FOR DEVELOPMENT PROJECTS IN THE MARKETPLACE-RESIDENTIAL ZONING DISTRICT; BY ADDING SPECIAL REGULATIONS FOR DETACHED PROPERTIES IN THE MARKETPLACE-RESIDENTIAL ZONING DISTRICT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .18, Marketplace-Residential (MR), is hereby amended as follows:

.18 Marketplace-Residential (MR).

- A. *Purpose and intent.* The purpose of this zoning district is to provide a variety of pedestrian-oriented neighborhood retail, specialty retail, office, services, and residential uses within the Commercial Activity Center future land use classification. The intent of the district is to encourage multi-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral. Additionally, the intent is to encourage land assembly, provide a range of uses compatible with surrounding development, and to serve as a receiving zone for transfers of development rights (TDRs).
- B. *Permitted uses.* (See § 2.7.18D.1., special regulations.)
1. Administrative offices;
 2. Assisted living facility;
 3. Automatic teller machine ATM;
 4. Automotive parking establishment;
 5. Banks and financial establishments - Groups I and II (see § 2.7.18D.4., special regulations for drive-thru facilities);
 6. Bed and breakfast establishment;
 7. Business office - Group I;
 8. Brewpub;
 9. Child care facility/preschool/kindergarten;
 10. Clothing store general;
 11. Clubs: commercial, country, fraternal, and membership organization;
 12. Conjoined residential structures (see § 2.7.18D.3., special regulations);
 13. Contractors and builders - Group I;
 14. Cultural facilities;
 15. Department stores (no greater than 50,000 square feet);
 16. Duplex dwellings (see § 2.7.18D.3., special regulations);
 17. Drugstore (see special regulations § 2.7.18D.4. for drive-thru facilities);
 18. Entrance gates;
 19. Essential service facilities - Group II - distribution electric substation only (see § 3.27);
 20. Essential services;
 21. Family day care home;
 22. Florist shop;
 23. Food stores - Group I;
 24. Government uses - Group I;
 25. Hardware store (no greater than 50,000 square feet);
 26. Health care facilities - Groups I, II, and III;
 27. Hobby, toy, and game shop;
 28. Home occupation;

29. Hotel/motels, convention, efficiency, resort, and transient;
30. Household/office furnishings - Group I and II;
31. Insurance companies;
32. Large family child care home;
33. Medical offices;
34. Mortgage broker;
35. Motion picture theater;
36. Multi-family dwellings (see § 2.7.18D.3., special regulations);
37. Nature and wildlife preserve;
38. Newsstand;
39. Package stores (only without drive-thru facilities);
40. Parks - Groups I, II, and IV;
41. Personal services - Groups I, II and III (see § 2.7.18D.4., special regulations);
42. Pet services;
43. Pet shops;
44. Pharmacies (see § 2.7.17D.4., special regulations);
45. Photo finishing laboratory (see § 2.7.18D.4., special regulations);
46. Places of worship;
47. Printing services establishment;
48. Private park;
49. Recreation-commercial - Groups I and III;
50. Religious facility;
51. Rental establishments - Group II (see § 2.7.18D.8., special regulations);
52. Research, development and testing laboratories - Groups II and III;
53. Restaurants - Groups I, II, III, IV (see § 2.7.18D.4., special regulations);
54. Restaurant, fast food (only without drive-thru facilities see special exception uses);
55. Schools, commercial;
56. Schools (non-profit, private, public) - Groups I and II;
57. Single family dwelling (see § 2.7.18D.2. and 3.h., special regulations)
58. Social Services - Group I;
59. Specialty retail shops - Groups I, II and III;
60. Studio;
61. Variety stores; and
62. Veterinary and Animal Clinics.

C. *Special exception uses.*

1. Essential service facilities - Group I (see special regulations for communication [wireless] towers);
2. Government uses - Group II;
3. Model homes (see § 2.7.18D.9, special regulations);
4. Personal services - Group IV;
5. Restaurant, fast food with drive-thru facilities (special exception required only if drive-thru facilities are developed).

D. *Special regulations.*

1. *Mix of uses.* The potential to establish any permitted use or special exception use on any individual property may be limited by the proportion of residential and non-residential uses allowed within the specific size of the development project, as described in § 2.7.18D.3.
2. Single family residential dwellings are allowed in the Marketplace-Residential zoning district only as either pre-existing single family residences if they meet the requirements stated herein, or as free-standing residential development if they meet the requirements stated in subsection 2.7.18D.3. below.
 - a. Pre-existing single family residences allowed. Single family residences may continue to be maintained, remodeled, expanded, or rebuilt, and the owners of such properties may continue to enjoy all the rights, privileges and responsibilities of home ownership, including the ability to sell or rent their homes to other parties, provided that they meet the following criteria:

- (1) Residences have been lawfully constructed, or had applied for or received a building permit at their current locations prior to the designation of the property as part of a CAC future land use classification; or
 - (2) Residences have been lawfully constructed, or had applied for or received a building permit at their current locations under a former CAC future land use classification.
 - b. If a pre-existing single family residence is used as a model home, it retains its status as a pre-existing single family residence as long as it meets one of the criteria stated in 2.7.18D.2.a. above.
 - c. If a pre-existing single family residence is used for any non-residential purposes other than a model home, its status as a pre-existing single family residence is terminated and the owners of such property shall no longer be able to maintain, remodel, expand, or rebuild, or sell or rent their homes to other parties as a single family residence.
 - d. In and of themselves, pre-existing single family residences do not necessarily constitute free-standing residential development, unless they otherwise meet the criteria for such development, as discussed under subsection 2.7.18D.3. below. If pre-existing single family residences, as defined in this section, are included as part of a larger approved development project, the pre-existing status of the residences is lost, and such residences become subject to the city Land Use and Development Regulations regarding non-conforming structures, unless the single family residence qualifies as free-standing residential development.
- 3. *Density, intensity and use area allocations.* The allowable densities, intensities, and use area allocations within the Marketplace-Residential District vary with the land area within the development project. The land area within a development project is determined by the land area encompassed by a single application for development project. A development project can consist of one or more properties that are the subject of a single application for development including, but not limited to, a planned development project or site plan. Amendment of an approved development project to expand or contract the land area does not alter its status as a single application for development project. If an application for development consists of properties that are not contiguous, the application must demonstrate that the properties function as a unified development. If the application for development is a planned development project that includes a request for vacation of right-of-way, then that portion of the vacated area of right-of-way, which would be owned or controlled by the project developer, can be included in the development project size calculation.
- a. *Density.* In development projects that qualify for residential uses (see below), the baseline residential density shall be 4.4 dwelling units per acre. The baseline density is the maximum density available to projects that are not eligible to receive density exceeding the baseline density, or to projects that are eligible but that do not participate in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program.

In order to be eligible to receive density exceeding the baseline density through the Transfer of Development Rights (TDR) Program and/or the Development Incentive Program (DIP), or a combination of the two, a development project within the Marketplace-Residential District must consist of at least five acres of contiguous platted lots, or platted or unplatted tract(s), or any combination thereof.

To derive density exceeding the baseline density through the TDR Program or DIP, an applicant must complete the processes identified within the City of Cape Coral Land Use and Development Regulations.

If the applicant for density exceeding the baseline density opts to participate in the City of Cape Coral's Development Incentive Program (DIP), the applicant would be required to contribute to the City of Cape Coral's Public Improvement Fund (PIF) in an amount sufficient to qualify for 25% (or between 25% and 50% for projects that meet the criteria to provide up to 50% of the differential between the baseline and maximum permitted density and/or intensity in any DIP category) of the credit points necessary to attain the density exceeding the baseline density. Such contribution to the PIF category shall be counted as a creditable activity required to support the application for increased density. Administration, collection, and disbursement of monies within the fund are set forth in the Land Use and Development Regulations.

For Free-standing residential developments within the Marketplace Residential zoning district, the maximum density for residential development shall be 16 DU/acre. Free standing residential projects are not eligible for additional densities through the DIP and TDR programs.

- b. *Intensity.* The baseline intensity of non-residential uses shall be a floor area ratio (FAR) of 0.5, regardless of the size of the development. The baseline intensity is the maximum intensity available without participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program. Increases above the baseline intensity may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program. If the project developer is only seeking an intensity increase (and not a density increase), said developer is not subject to the eligibility requirement, as referenced above under subsection 2.7.18D.3.a Density, above, and is neither required to participate or prohibited from participation in the Public Improvement Fund (PIF). Increases in intensity through the TDR and DIP are not permitted in compound use developments.
- c. *Limitations on density and intensity within the MR District.* In the Urban Services Reserve Area, where central water and sewer are not available, residential uses are restricted to 4.4 dwelling units per acre and non-residential uses are limited to uses that do not generate an estimated flow of more than 1,320 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended.
- d. *Use area allocations.* All land areas within developments in the MR District shall be categorized as one of the three following use areas:
 - (1) Free-standing non-residential. Free-standing non-residential areas include the footprint and land areas associated with buildings that contain no residential units.
 - (2) Free-standing residential. Free-standing residential areas include the footprint and land areas associated with buildings that contain residential units and buildings that contain non-residential floor area usage that is less than 30% of the building's floor area. In calculating the floor area of the building, the total floor area of the building is the floor area of the building remaining after the area of any structured parking is excluded. Also, any pre-existing single family residences do not necessarily constitute free-standing residential development, unless such residences otherwise meet the criteria for such development.
 - (3) Compound use. Compound use areas include the footprint and land areas associated with compound use buildings that, for the

purposes of this subsection, shall mean buildings with at least 30% of their floor areas allocated to non-residential uses. In calculating the floor area of the building, the total floor area of the building is the floor area of the building remaining after the area of any structured parking is excluded.

The land area that may be allocated to any of the three use area allocations varies with the size of the development project, with generally increasing flexibility as a function of the total land area of the development. Densities and intensities associated with any of the three use area categories apply only to the land area of the project that is allocated to that specific use. In determining the land area within any of the three use area allocations, the area of any common areas, including, but not limited to, areas for surface water management, parking, landscaping, and circulation, shall be apportioned among the three use area allocations in the same proportion as the non-common areas relate to the area of the development, excluding common areas.

e. *Development projects less than five acres in area.*

- (1) Free-standing non-residential. Free-standing non-residential areas are not required but may constitute up to 100% of the development project area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) ~~and/or~~ Transfer of Development Rights (TDR) Program or both.
- (2) Compound use. Compound use areas are not required but may constitute up to 100% of the development project area. No increases above the baseline density of 4.4 units per acre may be permitted through the use of either the DIP or TDR Programs.
- (3) Free-standing residential. Free-standing residential areas are not allowed, unless identified as a detached property, as identified in s.2.7.18.D11, below.

f. *Development projects five acres or larger, but less than ten acres in area.*

- (1) Free-standing non-residential. Free-standing non-residential areas are not required but may constitute up to 100% of ~~the a~~ development project area. Increases above the baseline density of 0.5 may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) ~~and/or~~ Transfer of Development Rights (TDR) Program or both. To be eligible for intensities above the baseline intensity, the development project must meet the requirements contained under subsection 2.7.18D3.b Intensity, above.
- (2) Compound use. Compound use areas are not required but may constitute up to 100% of the development project area. Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density allowed (ten units per acre), through participation in the Development Incentive Program (DIP) ~~and/or~~ Transfer of Development Rights (TDR) Program or both. To be eligible for densities above the baseline density, the development project must meet the requirements contained under subsection 2.7.18D3.a Density, above.
- (3) Free-standing residential. Free-standing residential areas are not ~~allowed~~ required but may constitute 100% of the

development project area. Only multi-family residential development shall be permitted as the residential component in this subsection, at a maximum density of 16 dwelling units per acre.

g. *Development projects ten acres or larger, but less than 20 acres in area.*

- (1) Free-standing non-residential. Free-standing non-residential areas are not required but may constitute up to ~~80%~~ 100% of ~~the a~~ development project area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) ~~and/or~~ Transfer of Development Rights (TDR) Program ~~or both~~. To be eligible for intensities above the baseline intensity, the development project must meet the requirements contained under subsection 2.7.18D3.b Intensity, above.
- (2) Compound use. Compound use areas ~~are not required but may constitute up to 100% shall constitute no less than 20% of the land area and may constitute 100% of the land a development project area.~~ Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density of ~~12~~ 16 units per acre. To be eligible for densities above the baseline density, the development project must meet the requirements contained under subsection 2.7.18D3.a Density, above.
- (3) Free-standing residential. Free-standing residential areas are not ~~allowed~~ required but may constitute 100% of the development project area. Only multi-family residential development shall be permitted as the residential component in this subsection, at a maximum density of 16 dwelling units per acre.

h. *Development projects 20 acres or larger in area.*

- (1) Free-standing non-residential. Free-standing non-residential areas ~~are not required but may constitute up to 100% shall constitute no less than 20% of the land area and may constitute a maximum of 80% of the land a development project area.~~ Increases above the baseline intensity of 0.5 may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) ~~and/or~~ Transfer of Development Rights (TDR) Program ~~or both~~. To be eligible for intensities above the baseline intensity, the development project must meet the requirements contained under subsection 2.7.18D3.b Intensity, above.
- (2) Compound use. Compound use areas ~~are not required but may constitute up to 100% shall constitute no less than 20% of the land area and may constitute 80% of the land a development project area.~~ Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density of 20 units per acre. To be eligible for densities above the baseline density, the development project must meet the requirements contained under subsection 2.7.18D3.a Density, above.
- (3) Free-standing residential. Free-standing residential areas ~~are not required but may constitute a maximum of 20% 50% of the land a development project area. Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density of eight units per acre. To be eligible for densities above the baseline density, the development project~~

~~must meet the requirements contained under subsection 2.7.18D.3.a Density, above. Only multi-family residential development shall be permitted as the residential component in this subsection, at a maximum density of 16 dwelling units per acre.~~

...

7. Use of the PDP process. No development project whose non-residential or compound use component is established, constructed, enlarged, or expanded on a CAC property located adjacent to a property classified with the Single Family Residential future land use map classification can be permitted except by means of the PDP process as outlined in Article IV, Land Use and Development Regulations, §4.2, Planned Development Procedure, or the alternative procedure described below.

For purposes of this subsection, the property shall be determined adjacent to the Single-Family future land use map classification only when all or a part of a property line abuts the residential land use classification, or when the property is separated from such land use classification only by an alley, canal, basin, lake, or other waterway.

Properties that are entirely separated from a residential future land use classification by any public right-of-way (excluding alleys and canals, basins, lakes, or any other waterway) shall not be deemed adjacent to such residential land use classification.

As an alternative to the PDP required by this subsection, a non-residential or compound use component may be established, constructed, enlarged, or expanded on a CAC property located adjacent to a property classified with the Single Family Residential future land use map classification provided that the city approves a site plan for such development, including the separation from any Single-Family residential future land use map classification with a Buffer E as provided in §5.2.11.F. which is not interrupted for any driveway or other vehicular ingress or egress or both.

~~Every development project, regardless of size or use area allocations, is required to be approved through the PDP process. Pre-existing single family residences, as defined in § 2.7.18D.2, which are being maintained, remodeled, expanded, or rebuilt, are not required to be reviewed through the PDP process.~~

...

12. Detached Properties

Development of duplex and multi-family residential uses in the Marketplace-Residential is permitted for those properties that are detached from commercial opportunities and surrounded by developed residences, to promote compatibility and continuity of existing development. The following criteria shall determine whether a given property is deemed to be detached from commercial opportunities:

- a. The property has frontage on one or more local streets, as designated by the City's roadway classification system.
- b. The property is less than one acre in size.
- c. The property is located between developed residential structures or improved properties and a platted right-of-way. These residences need not be adjacent to the parcel, but must be no farther away than 200 feet to the closest property line of the detached property.
- d. The property is precluded from attaining 250 feet of depth due to the presence of platted waterways, roadways, or developed parcels owned by a separate property owner than the owner of a detached property.

No fewer than three of the criteria must be met for a property to be deemed a detached property by the Community Development Director or Director's designee. Development of duplex or multi-family uses within this subsection shall be permitted to obtain densities up to 16 units per acre.

E. Dimensional regulations.

TABLE MR	
Dimensional Regulations (MR District)	
<i>Development Other than Single Family Residential or Duplex</i>	
Minimum lot area	None
Minimum lot width (at building line)	25 feet
Minimum yards	
Front	7 feet
Side (not abutting a right-of way)	0 or 10 feet (a)
Side abutting a right-of-way	7 feet (b)
Rear	20 feet (a)
Maximum building height	65 feet (c)
Minimum height	20 feet (d)
Minimum living area	
Multi-family developments	
Efficiency	500 square feet per unit
One bedroom	650 square feet per unit
Each additional bedroom	150 square feet per unit
Conjoined residential structure	
Development with 3 or more units (each unit)	same as multi-family
<i>Single Family Residential or Duplex</i>	
Minimum lot area	10,000 square feet
Minimum lot width (at building line)	80 feet (e)
Minimum yards	
Front	15 feet (f)
Side (not abutting a right-of-way)	7.5 feet
Side abutting a right-of-way	7 feet
Rear	20 feet
Maximum building height	38 feet
Minimum living area	
Single family	1,100 square feet
Duplex (each unit)	1,000 square feet (plus additional 100 square feet for each bedroom over 2)
Conjoined residential structure with 2 units (each unit)	same as duplex

(a) For properties abutting any parcel with a residential future land use classification, a pre-existing single family residence meeting the criteria of § 2.7.18D.2., or a free-standing residential use not part of the same project, the minimum yard that abuts such parcel shall increase to 30 feet. No parking, vehicular accessways, or commercial trash receptacles are permitted within 30 feet of any property line abutting a parcel with a residential future land use classification, a pre-existing single family

residence meeting the criteria of § 2.7.18D.2., or free-standing residential use not part of the same project.

(b) In the event compliance with the visibility triangle requirement of § 3.7 requires a greater yard for all or a portion of a property, the yard requirement shall be increased accordingly.

(c) That portion of a building or structure within 65 feet of any parcel with a residential future land use classification shall be subject to a height limitation of one foot in height for every one foot in distance from the residential future land use classification, unless the application of this requirement would limit the building height to less than 38 feet.

(d) For buildings with frontage along any arterial or collector street, the facade along such arterial or collector street shall be a minimum of 35 feet in height.

(e) All lots shall front on a street for a minimum distance of 50 feet, except cul-de-sac lots shall be permitted to front on such cul-de-sac for a minimum distance of 25 feet.

(f) A 25-ft. front setback will be required for multi-family residences and duplexes constructed on a detached property.

F. *Deviations.*

1. Deviations from the site plan requirements and/or the architectural requirements of this section may be approved by the Hearing Examiner (or the City Council in PDPs that require the approval of the City Council and as further provided herein) provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:
 - a. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or
 - b. Literal conformity with the regulations would inhibit innovation or creativity in design.
2. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner (or the City Council, when applicable) shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment and loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. Additionally, the Hearing Examiner (or the City Council, when applicable) shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.
3. In determining whether a particular deviation request should be approved because literal conformity with the regulations would inhibit innovation or creativity in design, the Hearing Examiner (or the City Council, when applicable) may approve the request for deviation(s) if the applicant demonstrates that the design of the building or development for which one or more deviations is sought is unique and innovative and, further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Hearing Examiner (or the City Council, when applicable) shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicia of unique and innovative design may include, but are not limited to, the following:

- a. Architectural details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;
 - b. Building forms that evoke exceptional expression through use of angularity, curvature, or other means;
 - c. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
 - d. Other details that preclude visual monotony and are pleasing in aesthetic character.
4. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including, but not limited to, sample detail drawings, schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the detriment, of the public interest.
5. Subject to these standards and criteria, the Hearing Examiner (or the City Council, when applicable) shall approve only the minimum deviation from the provisions of this section necessary to avoid either the unnecessary or undue hardship or the inhibition of innovation or creativity in design. The Hearing Examiner (or the City Council, when applicable) may impose reasonable conditions of approval in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which a deviation is granted, shall be deemed a violation of this section and shall be enforceable not only by revocation of the deviation, but also by all other remedies available to the city, including, but not limited to, all code enforcement procedures.
6. Deviations shall be heard by either the Hearing Examiner (or the City Council, when applicable) under the following circumstances:
 - a. When a planned development project (PDP) Development Order is not required for development, is not in effect and no application for a PDP Development Order is pending with the city for a particular development or property, then the Hearing Examiner shall hear and determine the request for deviation(s).
 - b. In the event a PDP application is pending with the city, and a request for deviation(s) is submitted that would affect all or any part of the property that would be subject to the PDP Development Order, if it were to be approved, then the request for deviations shall be reviewed and heard by the body that would review and hear the PDP application pursuant to the regulations for PDP approval. In the event a request for deviation(s) is pending with the city, and an application for a PDP Development Order is filed with the city that would affect all or any part of the property for which deviation(s) to the requirements of this section are sought, then the request for deviation(s) shall be heard by the body that would review and hear the PDP pursuant to the regulations for PDP approval. The deviation(s), if approved, may or may not, in the discretion of the body approving them, be included in the PDP Development Order.
 - c. If all or any part of the property for which a deviation is requested is currently regulated by a PDP, an application may be submitted for a deviation without requiring an amendment to the PDP. If the PDP was adopted by the Planning and Zoning Commission or Hearing Examiner, then the deviation must be reviewed and considered for adoption by the Hearing Examiner. If the PDP was adopted by the City Council, then the deviation must be reviewed for

recommendation by the Hearing Examiner, then reviewed and considered for adoption by the City Council.

- d. If all or any part of the property for which an application for a PDP Development Order is filed has previously been approved for one or more deviation(s) to the requirements of this section, then the previously approved deviation(s) may be reconsidered by the body considering the PDP Development Order, subject to the conditions identified herein. The deviation(s) may be revoked, amended, or remain unchanged by the body hearing the PDP application provided, however, that a deviation shall not be revoked for any building on the site that has either been completed or so substantially constructed that revocation of the deviation at the time the PDP Development Order is considered would be impracticable and would be unduly burdensome on the property owner. The body hearing the application for the PDP Development Order may amend previously approved conditions and may impose additional conditions of approval in consideration of the deviation(s) previously approved, as a condition of the PDP Development Order or the continuation of any previously approved deviation(s).

7. Appeals by any person aggrieved by a decision concerning a requested deviation are governed by § 8.9 of the Land Use and Development Regulations.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2017.

MARNI L. SAWICKI, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI	_____	LEON	_____
BURCH	_____	ERBRICK	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2017.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord\Marketplace Residential-Detached Properties