

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

### **Agency**



### **AGENDA**

Wednesday, January 10, 2018

9:00 AM

Council Chambers

**1. CALL TO ORDER**

A. Chair Read

**2. MOMENT OF SILENCE**

**3. PLEDGE OF ALLEGIANCE**

**4. ROLL CALL**

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

**5. APPROVAL OF MINUTES**

A. December 6, 2017 Meeting Minutes

**6. BUSINESS**

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

A. Ordinance 3-18 (LU 17-0003)

**WHAT THE ORDINANCE ACCOMPLISHES:**

**An ordinance amending the Future Land Use Map from Commercial/Professional (CP) to Single Family Residential (SF) Land Use for property located at 405, 409 & 413 SW 7th Place. (Applicants: Armando J. Lee, as Trustee of the Armando J. Lee Trust; Najmi Realty, LLC; Eric and Lisa**

**Norris)**

- B. Ordinance 4-18 (LU 17-0008)

**WHAT THE ORDINANCE ACCOMPLISHES:**

**An ordinance amending the Future Land Use Map from Single Family and Multi-Family by PDP (SM) to Commercial/Professional (CP) land use for property located at the intersection of Burnt Store Road and Embers Parkway. (Applicants: Arkin, Rubinstein, Big Marlin Properties, Maritime Properties)**

- C. Ordinance 5-18 (LU 17-0011)

**WHAT THE ORDINANCE ACCOMPLISHES:**

**An ordinance amending the Future Land Use Map from Single Family Residential (SF) to Multi-Family Residential (MF) land use designation for property located at 1049 Embers Parkway and 320 Nelson Road. (Applicant: City of Cape Coral)**

- D. Ordinance 10-18

**WHAT THE ORDINANCE ACCOMPLISHES:**

**An ordinance amending Article XII, Building Codes and City of Cape Coral Engineering Standards, Sections 12.1 through 12.4, of the City of Cape Coral Land Use and Development Regulations; updating the Building Codes and Editions adopted by the City.**

**8. STAFF UPDATES**

**9. OTHER BUSINESS**

**10. LPA MEMBER COMMENTS**

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

- A. Planning and Zoning Workshop Wednesday, January 10, 2018, to follow
- B. Wednesday, February 7, 2018 at 9:00 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.

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

**WEDNESDAY, December 6, 2017**

**COUNCIL CHAMBERS**

**9:00 A.M.**

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

A moment of silence was observed.

Pledge of Allegiance.

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

ALSO PRESENT: Brian Bartos, Assistant City Attorney  
John Naclerio, Assistant City Attorney  
Wyatt Daltry, Planning Team Coordinator  
Robert Pederson, Planning Manager

**BUSINESS  
APPROVAL OF MINUTES**

October 4, 2017 Meeting Minutes

***Commissioner Schneider moved, seconded by Commissioner Marmo, to approve the minutes of the regular meeting held on October 4, 2017 as presented.***

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

**BUSINESS**

**Applicant Interviews-** Anthony Bennie and Jeffrey Slapper

Applicant Slapper reviewed his background he stated he has a Civil Engineering Degree, Environmental Degree, He also mentioned he has experience in Land Use Planning. Along with, Master Planning.

***Commissioner Ranfranz moved, seconded by Commissioner Marmo, to recommend for Jeffrey Slapper as a full member on the Planning and Zoning Commission.***

***Commission polled as follows: Marmo, Peterson, Ranfranz, Slapper and Schneider***

**voted “aye.” All “ayes.” Motion carried 5-0**

Discussion held regarding the vacancies.

**Commissioner Marmo moved, seconded by Commissioner Slapper, to recommend to Council that Anthony Bennie become an alternate.**

Discussion held regarding the motion on the floor, the advertising process, and the current alternate.

**Commissioner Marmo amended his motion, seconded by Commissioner Slapper, to recommend Anthony Bennie to either alternate or a regular member, recognizing that Council will make the final determination.**

**Commission polled as follows: Hewitt, Kibitlewski, Marmo, Peterson, Ranfranz, Read, and Schneider voted “aye.” All “ayes.” Motion carried 5-0**

#### **Planning and Zoning Approval for the 2018 Schedule**

**Commissioner Schneider moved, seconded by Commissioner Marmo, to approve meeting Schedule.**

**Commission polled as follows: Marmo, Peterson, Ranfranz, Schneider and Slapper voted “aye.” All “ayes.” Motion carried 5-0.**

#### **PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY**

##### **PUBLIC HEARING**

None

##### **STAFF UPDATES**

None

##### **OTHER BUSINESS**

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

The next regular meeting was scheduled for Wednesday, January 10, 2018, at 9:00 a.m. in Council Chambers.

#### **ADJOURNMENT**

There being no further business, the meeting adjourned at 9:16 a.m.

Submitted by,

Patricia Sorrels  
Recording Secretary



<b>Item Number:</b>	<b>7.A.</b>
<b>Meeting Date:</b>	<b>1/10/2018</b>
<b>Item Type:</b>	<b>PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING</b>

**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL



**TITLE:**

Ordinance 3-18 (LU 17-0003)

**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? No

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

**WHAT THE ORDINANCE ACCOMPLISHES:**

An ordinance amending the Future Land Use Map from Commercial/Professional (CP) to Single Family Residential (SF) Land Use for property located at 405, 409 & 413 SW 7th Place.  
(Applicants: Armando J. Lee, as Trustee of the Armando J. Lee Trust; Najmi Realty, LLC; Eric and Lisa Norris)

**LEGAL REVIEW:**

Brian R. Bartos, Assistant City Attorney

**EXHIBITS:**

Ordinance 3-18 (LU17-0003)  
Back up materials

**PREPARED BY:**

Division- Department- City  
Attorney

**SOURCE OF ADDITIONAL INFORMATION:**

Chad Boyko, Principal Planner

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▣ Ordinance 3-18 (LU 17-0003)	Ordinance
▣ Backup Materials	Backup Material

ORDINANCE 3 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 36 THROUGH 41, BLOCK 1939, UNIT 68, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 405-413 SW 7<sup>TH</sup> PLACE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

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

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by ARMANDO J. LEE, AS TRUSTEE OF THE ARMANDO J. LEE TRUST; NAJMI REALTY, LLC; and ERIC AND LISA NORRIS regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM COMMERCIAL/PROFESSIONAL (CP) TO SINGLE FAMILY RESIDENTIAL (SF)

LOTS 36 THROUGH 41, BLOCK 1939, UNIT 68 CAPE CORAL SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 23, PAGE 108 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 405-413 SW 7<sup>TH</sup> PLACE

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

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

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
REBECCA VAN DEUTEKOM  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BRIAN R. BARTOS  
ASSISTANT CITY ATTORNEY  
ord/lu17-0003



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 # L617-0005

OWNER OF PROPERTY  
ARMANDO J. LEE

Address: 2146 SW 2ND COURT

City: CAPE CORAL State: FL Zip 33991

Phone: 239.462.2998

Email: LEEARMANDO21@GMAIL.COM

AUTHORIZED REPRESENTATIVE

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Unit 68 Block 1939 Lot(s) 40+41 Subdivision CAPE CORAL

Legal Description CAPE CORAL UNIT 68, BLOCK 1939, PB23, PG 108, LOTS 40 + 41.

Address of Property 405 SW 7TH PLACE, CAPE CORAL, FL 33991

Plat 23 Page 108

Current Zoning VACANT RESIDENTIAL

Strap Number 15-44-23-C3-01939.0400

Current Land Use CP

Proposed Land Use SF

Parcel Size: Width 80' Depth 125' Sq. Ft. 10,000 Acreage 22.96

Soil Type: SANDY WITH GRASS

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

Natural Resources: (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):  
CAPE CORAL AVERAGE DRY LOT, SANDY WITH GRASS

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

NONE

Estimated Development:

Estimate total lot coverage: 23 %

Estimate total building floor area 2300 sq. ft.

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

100% RESIDENTIAL = ONE SINGLE FAMILY HOME



Estimated peak hour trip ends: ITE CODE 210 - SINGLE FAMILY DETACHED HOUSING = 8 DAILY TRIPS

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.

ARMANDO J. LEE

NAME (PLEASE TYPE OR PRINT)

AUTHORIZED SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 9 day of MAY, 2017, by  
ARMANDO J. LEE who is personally known or produced FL / DL  
as identification.



Exp. Date:

2/12/2021

Commission Number:

GG 072278

Signature of Notary Public:

Printed name of Notary Public:

Milagros M. Nunez  
MILAGROS M. NUNEZ

# 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 9 day of MAY, 2017


ARMANDO J. LEE

NAME (PLEASE TYPE OR PRINT)

  
APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 9 day of MAY, 2017, by ARMANDO J. LEE who is personally known or produced FL/DL as identification.

  
MILAGROS M. NUNEZ  
Notary Public - State of Florida  
Commission # GG 072278  
My Comm. Expires Feb 12, 2021  
Bonded through National Notary Assn.

Exp. Date: 2/12/2021 Commission Number: GG 072278  
Signature of Notary Public:   
Printed name of Notary Public: MILAGROS M. NUNEZ



May 8, 2017

City of Cape Coral  
Department of Community Development

Re: Future Land Use Amendment for 405 SW 7<sup>th</sup> Place.

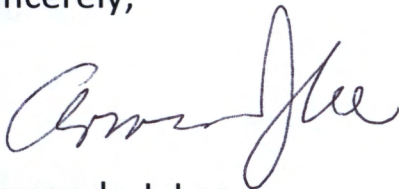
Gentlemen:

We bought this lot in 2003 to build a single family home.  
I believe at the time to be zoned "vacant residential".

The future land use is commercial/professional.  
Development to the south of our lot on SW 7<sup>th</sup> Place is all single family homes, and to the east on SW 7<sup>th</sup> Court is also all single family homes.

We respectfully request that you allow us to build a single family home by granting us an amendment to the land use for our lot.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Armando J. Lee', with a stylized, flowing script.

Armando J. Lee  
2146 SW 2<sup>nd</sup> Court  
Cape Coral, FL 33991

Phone 239.462.2998



**PLANNING DIVISION STAFF REPORT**  
**LU17-0003**

<b>PROPERTY ADDRESSES</b> 405, 409, and 413 SW 7 <sup>th</sup> Place	<b>APPLICANTS/PROPERTY OWNERS</b> Armando J. Lee, Najmi Realty, LLC, and Eric Norris
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<b>SUMMARY OF REQUEST</b>  <p>The applicants propose a Future Land Use Map Amendment to amend three undeveloped properties (0.69 acres) from Commercial/Professional (CP) to Single-Family Residential (SF). The existing zoning is Residential Development (RD).</p>	
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MAP SOURCE

**STAFF RECOMMENDATION:**  
**APPROVAL**

<b>Positive Aspects of Application:</b>	Corrects an inconsistency in Future Land Use and zoning. Allows residential development in an appropriate area.
<b>Negative Aspects of Application:</b>	Slight loss of potential commercial or mixed use land.
<b>Mitigating Factors:</b>	Small-site represents a <i>de minimis</i> impact on surrounding area and effect on the community. Site is not large enough to provide significant commercial or mixed use development.

Additional Site Information

**Urban Service Area:** Transition

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

**Street Access:** The sites have access from SW 7<sup>th</sup> Pl.

**STRAP Number:** 405 SW 7<sup>th</sup> Place – 15-44-23-C3-01939.0400  
409 SW 7<sup>th</sup> Place – 15-44-23-C3-01939.0380  
413 SW 7<sup>th</sup> Place – 15-44-23-C3-01939.0360

**Block/Lot(s):** Block 1939/Lots 36-41.

Zoning and Land Use Information:

<b>Subject Property:</b>	<b>Future Land Use</b>	<b>Zoning</b>
<b>Current:</b>	Commercial/Professional (CP)	Residential Development (RD)
<b>Proposed:</b>	Single-Family Residential (SF)	N/A

<b>Surrounding Areas</b>	<b>Future Land Use</b>	<b>Zoning</b>
<b>North:</b>	CP	Pedestrian Commercial (C-1)
<b>South:</b>	SF	RD
<b>East:</b>	SF	RD
<b>West:</b>	Pine Island Road District (PIRD)	Corridor (CORR)

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## Background

The site consists of three undeveloped properties in the northeastern quadrant of the City. The FLU of the sites was amended to Commercial/Professional (CP) from Single-Family/Multi-Family Residential (SM) in 2000 via Ordinance 64-00. The site has access from a local street, SW 7<sup>th</sup> Place, and are serviced by City water, sewer, and irrigation.

## Additional Site Information

### Protected Species

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

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

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

### Utilities

The site is in the Urban Services Transition area as designated by the City Comprehensive Plan. Utilities are not currently available.

### Soils and Drainage

The sites have two soil classifications; Pineda Fine Sand and Boca Fine Sand. These soils have 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.

## Analysis

### Comprehensive Plan

As mentioned earlier in the Background section, the purpose of this amendment is to facilitate the upcoming expansion of centralized water, sewer, and irrigation utilities to the surrounding area.

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Part of the analysis below will determine 1.) the appropriateness of the existing CAC classification on the sites, and 2.) to identify what infrastructure or capital improvement policies, if any, govern this type of use.

Staff evaluated the proposed amendment based upon Policy 1.14; the City's commercial siting guidelines. A response to each of the commercial siting guidelines follows in **bold**.

Policy 1.14:

The City of Cape Coral's commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Within this broad, general context, consideration of properties proposed for conversion to a commercial future land use shall be based upon the following commercial siting guidelines:

*Major Intersection*

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a 'new' commercial property (a commercial property not abutting any existing commercial properties) or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties (see below: Integration).

**Staff Response: The subject sites are not at major intersections. Both sites have frontage on arterial or collector streets, however, they are at least 1,200 feet away from the nearest intersections. The subject sites are not consistent with the above 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. Preferably adequate depth is achieved if any number of contiguous properties, owned by the same landowner (see "Ownership Pattern", below) occupy the entire 250 feet of depth. Adequate depth would not be achieved if the subject properties have different owners, and if the contiguous properties are not reasonably compact (see below, "Compactness").

**Staff Response: The site along Tropicana Parkway has a depth of 80 feet, while the site along Nelson Road has a depth of 250 feet. While the site along Nelson Road has adequate depth, the width of the site is 95 feet,**

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**making the site less than ideal for commercial or mixed-use development. The sites are not consistent with this guideline.**

#### *Compactness*

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

**Staff Response: Both sites are reasonably compact in a quadrilateral or square-like shape. Therefore, the sites are consistent with the above guideline.**

#### *Integration*

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

**Staff Response: Both sites are adjacent to properties with a CAC future land use designation, however, there is no existing commercial or mixed-use development on these adjacent sites. Therefore, the sites are partially consistent with the above guideline.**

#### *Assembly*

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial development that might serve the City as shopping or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product.

Properties proposed for conversion to a commercial future land use, where such properties would represent an expansion of an existing commercial area may be considered “assembled,” for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

**Staff Response: Both sites are less than an acre in size, individually and collectively. Staff finds that the sites are not consistent with this guideline.**

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### *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 definite 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, vegetative buffer, or other geographic features may be considered less intrusive than a commercial development that directly abuts a residential area. The degree of compactness (see “Compactness” above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties<sup>1</sup> are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While the finding of intrusion is subjective and depends on many factors, the principle is the proposed commercial property would not likely be intrusive *if* adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

**Staff Response: The surrounding residential area within 1,000 feet of the sites is less than 25% developed. Therefore, the existing CAC designation could not be regarded as intrusive. Staff finds that the sites are consistent with the above guideline.**

### *Access*

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Use and Development Regulations refer to these as “dedicated City parking areas.” These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City’s interest to promote conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant’s agreement to own and manage the site.

b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The

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<sup>1</sup> Properties proposed for conversion to a commercial future land use classification that do not abut existing commercial properties.

City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

**Staff Response: As stated previously, the sites have frontage on Nelson Road and Tropicana Parkway. Neither of these streets have a frontage roads or an access management plan, therefore the sites are not consistent with the above 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 that consist of multiple parcels, or groups of parcels, or under multiple ownerships are unlikely to develop as a true “commercial node.” Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development (see Policy 1.13, above). Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

**Staff Response: The sites are owned by the City of Cape Coral and there are no other City-owned properties within the nearby surrounding area. The remainder of the adjacent property designated as CAC is under single-ownership. Staff finds that the sites are partially consistent with the above guideline.**

**In summary, Policy 1.14 contains eight commercial siting guidelines. The sites are consistent with two of these guidelines (Intrusion, Compactness), partially consistent with two guidelines (Ownership Pattern, Integration) and is inconsistent with four guidelines (Access, Assembly, Adequate Depth, and Major Intersection). Therefore, staff finds that the current future land use map classification of CAC is not consistent with the requirements of Policy 1.14.**

#### *Capital Improvement and Infrastructure Policies*

Staff analyzed the Capital Improvement Element and Infrastructure Elements to find guidance pertaining to the proposed future land use map amendment.

Capital Improvement Element, Policy 1.3.a, states:

*“Policy 1.3: Proposed capital improvement projects will be evaluated and ranked in order of priority according to the following guidelines:*

- a) the proposed project is needed to protect public health and safety, to meet the city's legal commitment to provide facilities and services, and to preserve or achieve maximum use of existing facilities.”*

The proposed amendment supports a project necessary to protect public health and safety and meets the city’s legal commitment to provide utility services to the general public. **This policy is supportive of the proposed amendment.**

---

Infrastructure Element, Policy 1.1.4, states:

“Policy 1.1.4. The City will maintain procedures to ensure adequate facility capacity before building permits are issued.”

The proposed future land use map amendment is an example of such a procedure, undertaken prior to the expansion of utilities to the North 2 utility expansion area. **This policy is supportive of the proposed amendment.**

Infrastructure Element, Policy 2.2.1, states:

“Policy 2.2.1.

The City will meet projected demands by undertaking the following projects within the short-term planning timeframe:

- a. Sewer and Water Projects
  - 1. Continue to provide planning and studies necessary for orderly expansion
  - 2. North 1 Utility Expansion Program
  - 3. North 2 Utility Expansion Program
  - 4. Construct North Cape Water Reclamation Facility
  - 5. Upgrade Lift Stations”

The proposed future land use map amendment meets numbers 3 and 5 of the list of infrastructure projects identified in Policy 2.2.1. **This policy is supportive of the proposed amendment.**

In summary, the proposed amendment is supported by an analysis of Policy 1.14, of the Future Land Use Element, which concludes that the subject property is not appropriate for the CAC future land use map classification, as well as by policies in the Capital Improvement Element and Infrastructure Element, which show the positive relationship between the purpose behind the amendment to Public Facilities and its relationship with the North 2 utility expansion. **Staff recommends approval of the proposed amendment.**

## 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:

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**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.

#### 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 sites are currently undeveloped, 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 PF. 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 a 2,500-square foot office building.

#### Dwelling Units

Existing:	0
Proposed:	0
Net Change:	0

#### Population\*

Existing:	0
Proposed:	0
Net Change:	0

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

---

### **Water Use**

Existing: 833 gal/day total (2,500 square feet x 0.3 gal/sq ft/day)  
Proposed: 833 gal/day total (2,500 square feet x 0.3 gal/sq ft/day)  
Net Change: N/A  
Facility Capacity: 30.1 MGD  
Permitted Usage: 16.9 MGD  
Avg. Daily Usage: 9.4 MGD

### **Sewage**

Existing: 833 gal/day total (2,500 square feet x 0.3 gal/sq ft/day)  
Proposed: 833 gal/day total (2,500 square feet x 0.3 gal/sq ft/day)  
Net Change: N/A  
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: 340 lbs. total/day (2500 square feet x 0.136 gal/sq ft/day)  
Proposed: 340 lbs. total/day (2500 square feet x 0.136 gal/sq ft/day)  
Net Change: N/A  
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: 3 AM peak trips/hour and 9 PM peak trips/hour  
Net Change: N/A  
Facility Capacity: Both Tropicana Parkway and Nelson Road meet the minimum acceptable Level of Service Standard of "D."  
Capacity Available: Yes

---

## **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 no increase in dwelling units, there is no anticipated 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 no addition of housing units or population, therefore, no additional school impacts are anticipated.

### **Recommendation:**

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

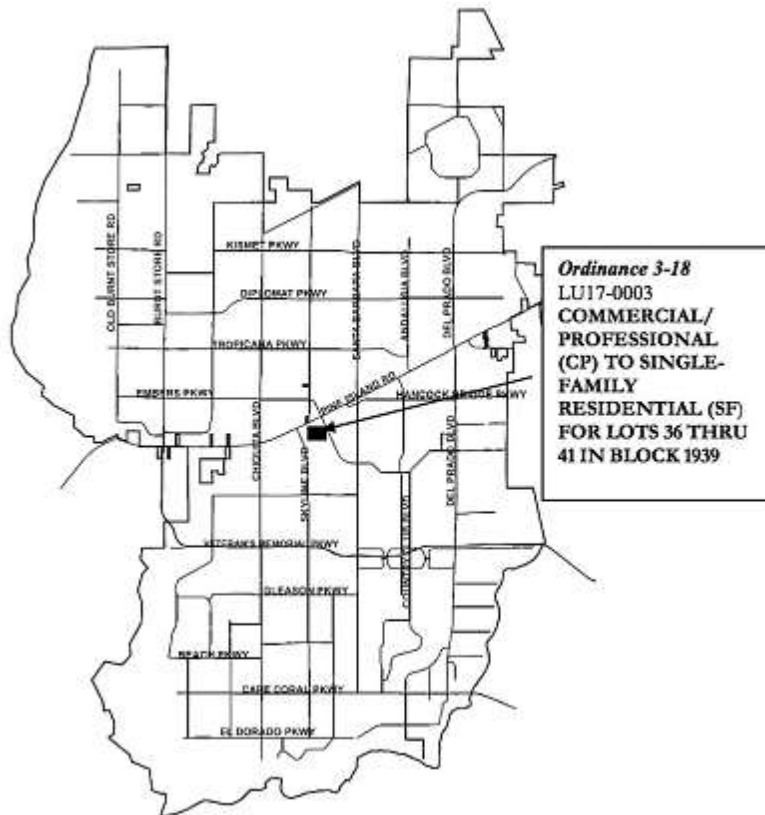
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# NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt ORDINANCE 3-18, AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM COMMERCIAL/ PROFESSIONAL (CP) TO SINGLE FAMILY RESIDENTIAL (SF) LAND USE FOR PROPERTY DESCRIBED AS LOTS 36 THROUGH 41, BLOCK 1939, UNIT 68, CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT 405-413 SW 7TH PLACE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

A public hearing on the ordinance will be held Wednesday, January 10, 2018 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-0000954136

December 31, 2017

☐ 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-DAILY  
SIZE: 3 col X 9.25 in

PROOF CREATED AT: 12/29/2017 11:20 AM  
PROOF DUE: -  
NEXT RUN DATE: 12/31/17

NP-0000954136.INDD

Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Armando Lee

APPLICATION NO: LU17-0003

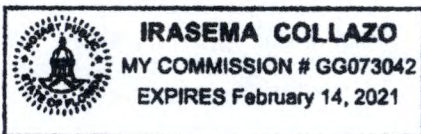
STATE OF FLORIDA       )  
                                      ) §  
COUNTY OF LEE        )

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 29<sup>th</sup> day of December, 2017.



Vincent A. Cautero

Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of Dec., 2017, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 2/14/21 Commission # GG073042

Irasedma Collazo  
Signature of Notary Public



IRASEMA COLLAZO  
Print Name of Notary Public

CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT FUTURE  
LAND USE MAP  
500' Proximity Boundary

Case No. LU17-0003

**LEGEND**

-  Subject Parcels
-  500' Proximity Boundary

**Future Land Use**

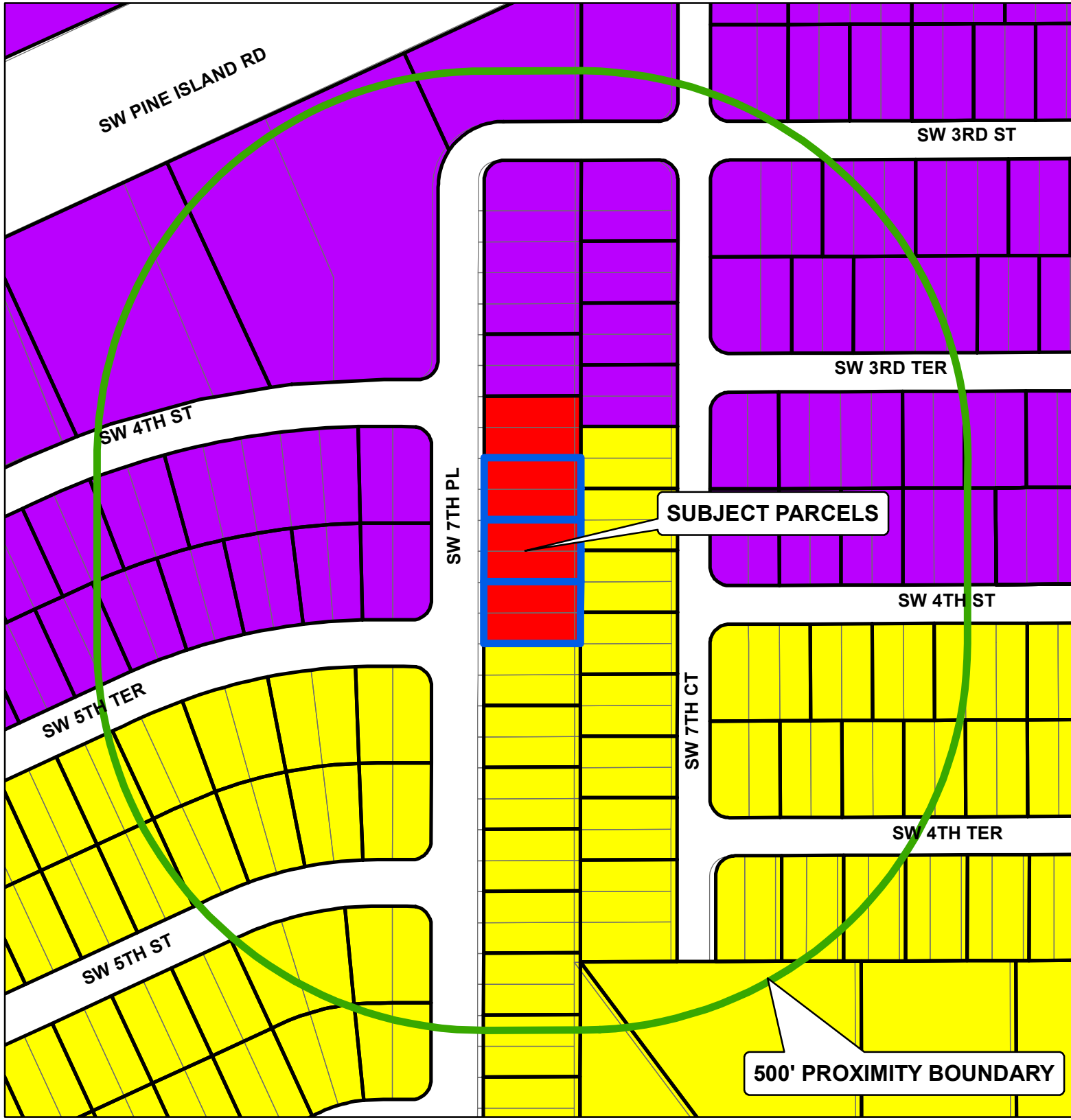
-  SF
-  PIRD
-  CP



SEPTEMBER 22ND, 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. LU17-0003

**LEGEND**

 500' Proximity Boundary

 Subject Parcels

**Zoning**

 C-1

 CORR

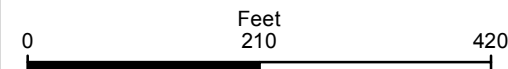
 R-1A

 R-1B

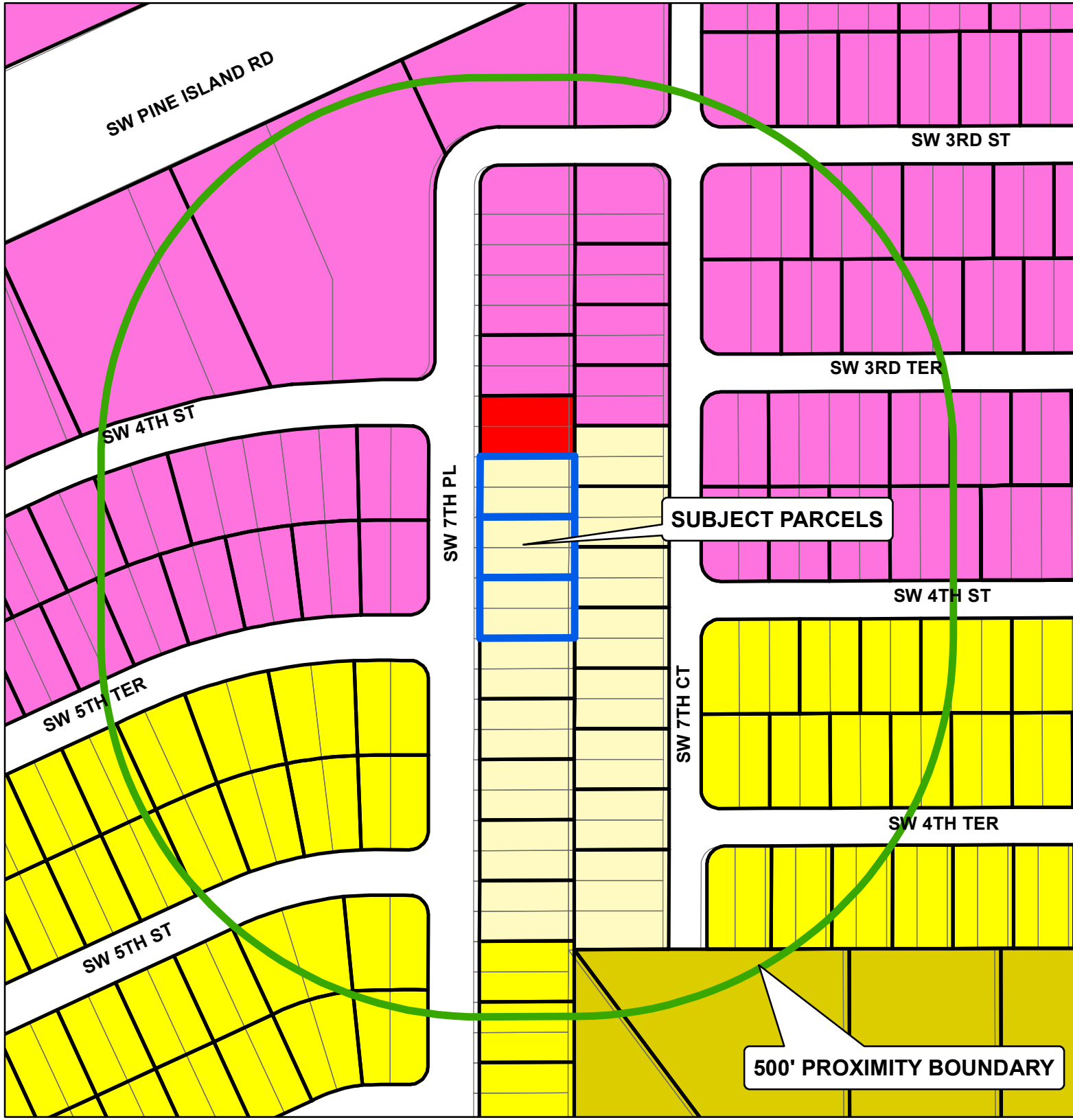
 RD



SEPTEMBER 22ND, 2017



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CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

PROPOSED FUTURE  
LAND USE MAP  
500' Proximity Boundary

Case No. LU17-0003

**LEGEND**

-  Subject Parcels
-  500' Proximity Boundary

**Future Land Use**

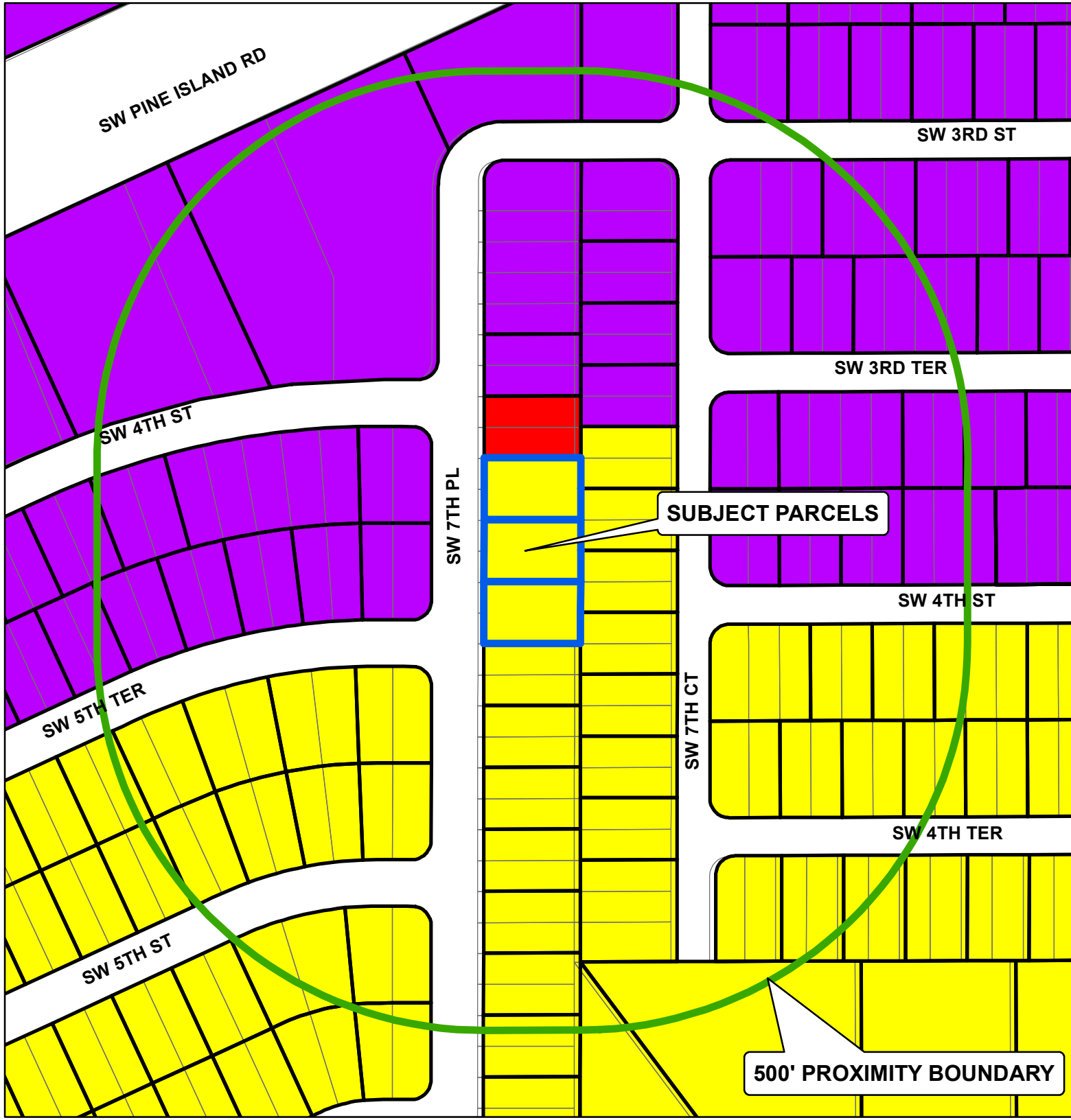
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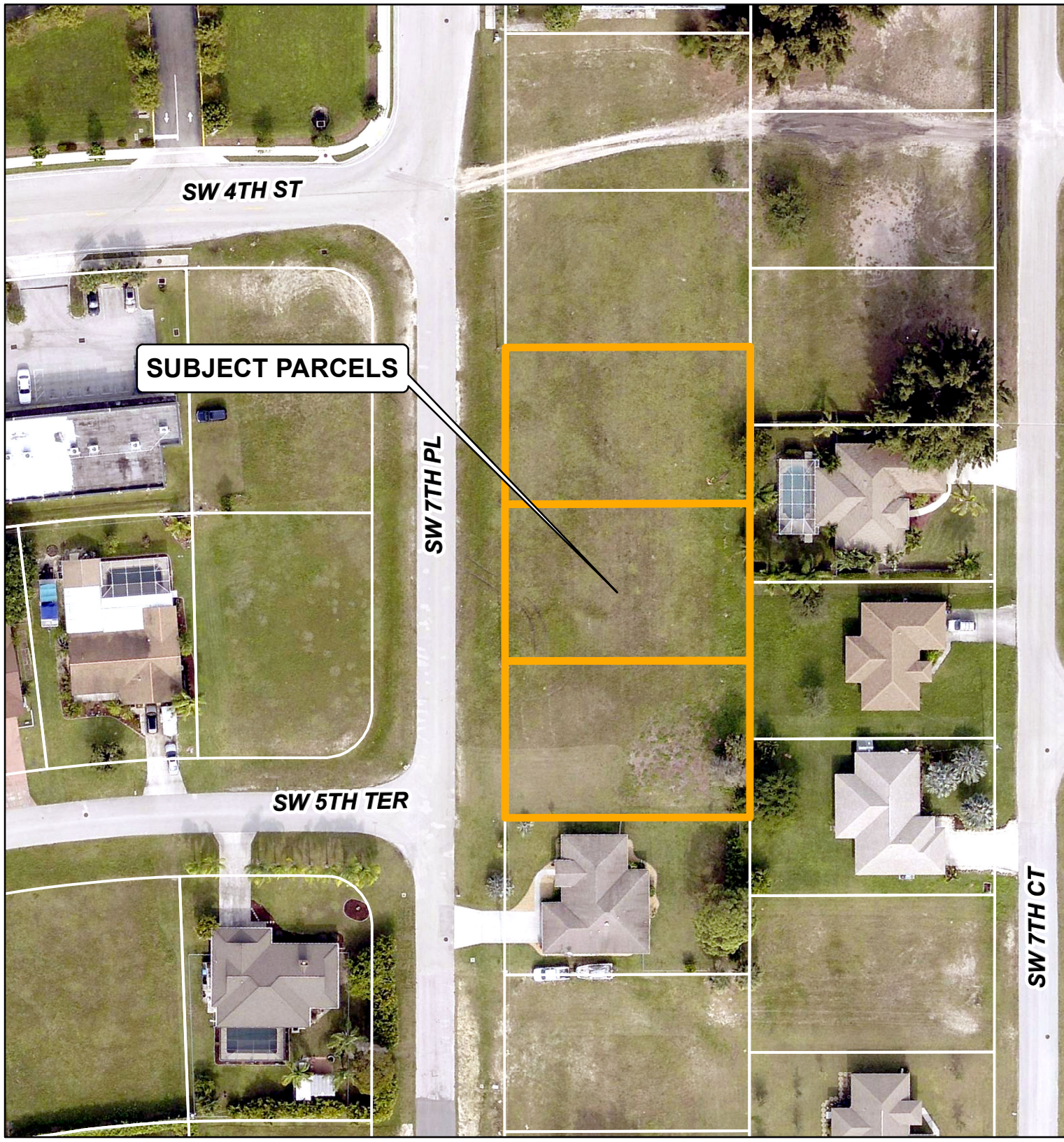
SEPTEMBER 22ND, 2017



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**SW 3RD TER**

**SW 4TH ST**

**SUBJECT PARCELS**


**SW 7TH PL**

**SW 5TH TER**

**SW 7TH CT**

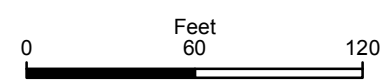
**CITY OF CAPE CORAL**  
Department of  
Community Development  
Planning Division

Case No. LU17-0003

 Subject Parcels



SEPTEMBER 22ND, 2017



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<b>Item Number:</b>	<b>7.B.</b>
<b>Meeting Date:</b>	<b>1/10/2018</b>
<b>Item Type:</b>	<b>PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING</b>

**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL



**TITLE:**

Ordinance 4-18 (LU 17-0008)

**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 Single Family and Multi-Family by PDP (SM) to Commercial/Professional (CP) land use for property located at the intersection of Burnt Store Road and Embers Parkway. (Applicants: Arkin, Rubinstein, Big Marlin Properties, Maritime Properties)

**LEGAL REVIEW:**

Brian R. Bartos, Assistant City Attorney

**EXHIBITS:**

Ordinance 4-18 (LU17-0008)  
Back up materials

**PREPARED BY:**

Division- Department- City  
Attorney

**SOURCE OF ADDITIONAL INFORMATION:**

Chad Boyko, Principal Planner

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▢ Ordinance 4-18 (LU 17-0008)	Ordinance
▢ Backup Materials	Backup Material

ORDINANCE 4 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM SINGLE FAMILY AND MULTI-FAMILY BY PDP (SM) TO COMMERCIAL/PROFESSIONAL (CP) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1 THROUGH 6 AND 61 THROUGH 72, UNIT 59, BLOCK 4127 CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT THE INTERSECTION OF BURNT STORE ROAD AND EMBERS PARKWAY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

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

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by HAROLD AND PAMELA ARKIN, TRUSTEES; RONALD AND JANE ARKIN; LEONARD ARKIN; ESTA RUBINSTEIN, TRUSTEE; BIG MARLIN PROPERTIES LLC; MARITIME PROPERTIES, INC.; AND HAROLD AND PAMELA ARKIN regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM SINGLE FAMILY AND MULTI-FAMILY BY PDP (SM) TO  
COMMERCIAL/PROFESSIONAL (CP)

LOTS 1 THROUGH 6 AND LOTS 61 THROUGH 72, BLOCK 4127, UNIT 59, LYING IN SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CAPE CORAL SUBDIVISION AS RECORDED IN PLAT BOOK 19, PAGES 140-153 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 6-22 BURNT STORE ROAD NORTH AND 5 NW 32<sup>ND</sup> PLACE

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

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

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
REBECCA VAN DEUTEKOM  
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS  
ASSISTANT CITY ATTORNEY  
ord/lu17-0008



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 # LU17-0008

OWNER OF PROPERTY

Hal and Pamela Arkin, TR

Email: hal@halarkin.com

Address: 2324 SE 27 Street

City: Cape Coral State: FL Zip 3390

Phone: 239 910 5363

AUTHORIZED REPRESENTATIVE

Greg Stuart

Email: Greg@stuarturbandesign.com

Address: 7910 Summerlin Lakes Dr

City: Fort Myers State: FL Zip 3390

Phone: 239 677 6126

Unit 59 Block 4127 Lot(s) 67-72 Subdivision

Legal Description Cape Coral Unit 59 BLK 4127 PB 19 PG 143 Lots 1 thru 6 & Lots 67 thru 72

Address of Property 5 NW 32<sup>nd</sup> PL and 6 Burnt Store Road N. Cape Coral, FL 33993

Plat 19 Page 143

Current Zoning Residential Develop. Strap Number 074423C304127.0010 & .0670

Current Land Use SM Proposed Land Use Commercial Professional

Parcel Size: Width 242 Depth 280 Sq. Ft. 67,760 Acreage 1.55

Soil Type: Matlacha Gravelly Fine Sand 69

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

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

FLUCCS 192 Inactive Land w./Street Patterns But w./out Structures

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

None

Estimated Development:

Estimate total lot coverage: See Attachment %

Estimate total building floor area See Attachment sq. ft.

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

See Attachment



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.

Hal Arkin, Tr.  
NAME (PLEASE TYPE OR PRINT)

Hal Arkin - TRUSTEE  
AUTHORIZED SIGNATURE

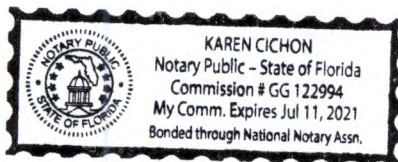
(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 29<sup>th</sup> day of August, 2017, by  
\_\_\_\_\_ who is personally known or produced Driver License  
as identification.

Exp. Date: 7/11/21 Commission Number: GG122994  
Signature of Notary Public: Karen Cichon  
Printed name of Notary Public: KAREN CICHON

NOTARY STAMP HERE



AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT Greg Stuart, MUP  
(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

Land Use Amendment and Rezoning

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

UNIT 59 BLOCK 4127 LOT(S) below: SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION Lots 1 - 6 & 67 - 72

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

Hal Arkin, Tr.  
PROPERTY OWNER (Please Print)

Hal Arkin, TRUSTEE  
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 29<sup>th</sup> day of August, 2017, by  
who is personally known or produced Driver License  
as identification.

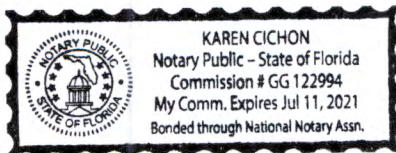
Exp. Date: 7/11/21 Commission Number: GG122994

Signature of Notary Public:

Printed name of Notary Public:

Karen Cichon  
KAREN Cichon

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





## 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

29 day of AUGUST, 2017

Hal Arkin, Tr.

NAME (PLEASE TYPE OR PRINT)

Hal Arkin - Trustee  
APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 29<sup>th</sup> day of August, 2017, by  
who is personally known or produced Driver License  
as identification.

Exp. Date:

7/11/21

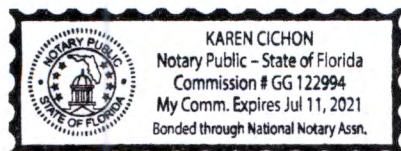
Commission Number:

GG122994

Signature of Notary Public:

Karen Cichon  
KAREN Cichon

Printed name of Notary Public:







**STUART AND ASSOCIATES**  
Planning and Design Services

7910 Summerlin Lakes Drive  
Fort Myers, FL 33907

C 239-677-6126  
[Greg@Stuarturbandesign.com](mailto:Greg@Stuarturbandesign.com)

[www.Stuarturbandesign.com](http://www.Stuarturbandesign.com)

The Embers Parkway and Burnt Store Road Future  
Land Use Map Amendment Application Addendum  
September 25, 2017

Location:  
NW Cape Coral Unit 59, Cape Coral Subdivision

STRAP #	BLOCK	LOTS	SITE ADDRESS
07-44-23-C3-04127.0670	4127	67 thru 72	6 Burnt Store Road N, CC 33993
07-44-23-C3-04127.0010	4127	1 thru 6	5 NW 32nd Place, CC 33993
07-44-23-C3-04127.0610	4127	61 thru 62	22 Burnt Store Road N, CC 33993
07-44-23-C3-04127.0630	4127	63 thru 66	16 Burnt Store Road N, CC 33993


STRAP #	CURRENT FLU	PROPOSED	ACREAGE
07-44-23-C3-04127.0670	SM	Commercial Professional	0.87 ac.
07-44-23-C3-04127.0010	SM	Commercial Professional	0.69 ac.
07-44-23-C3-04127.0610	SM	Commercial Professional	0.28 ac.
07-44-23-C3-04127.0630	SM	Commercial Professional	0.56 ac.
Subtotal Area			2.4 ac. +/-

STRAP #'S	EST. TOTAL LOT COVERAGE	EST. BUILDING FLOOR AREA	EST. FUTURE DEVELOPMENT TYPE
07-44-23-C3-04127.0670 07-44-23-C3-04127.0010 07-44-23-C3-04127.0610 07-44-23-C3-04127.0630	20%	20,900 sf	Office @ 17,765 sf (85%) Retail @ 3,135 sf (15%)

STRAP #'S	EST. FUTURE DEVELOPMENT TYPE	ITE TRIP GENERATION 8TH EDITION	PM PEAK PERIOD RATE
07-44-23-C3-04127.0670 07-44-23-C3-04127.0010 07-44-23-C3-04127.0610 07-44-23-C3-04127.0630	General Office 170 @ 17,765 sf (85%)  Drive-in Bank 912 @ 3,135 sf (15%)	11.01 ADT Per 1,000 sf = 196 Daily Trips  139.25 ADT Per 1,000 sf = 436 Daily Trips	1.49 = 26 PMPH  27.41 = 86 PMPH

**PLANNING DIVISION STAFF REPORT**  
**LU17-0008**

<b>PROPERTY ADDRESSES</b> 6 Burnt Store Road 16 Burnt Store Road 22 Burnt Store Road 5 NW 32 <sup>nd</sup> Place	<b>APPLICANTS/PROPERTY OWNERS</b> Harold and Pamela Arkin, Trustees Marlin Properties, LLC Esta Rubinstein Trust
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<b>SUMMARY OF REQUEST</b>  The applicants propose a Future Land Use Map Amendment for four undeveloped sites (2.4 acres) from Single-Family/Multi-Family (SM) to Commercial/Professional (CP). The existing zoning is Residential Development (RD).	
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**STAFF RECOMMENDATION:** APPROVAL

<b>Positive Aspects of Application:</b>	Provides additional commercial land at an existing intersection of two arterial roads. The block is sparsely developed with single-family homes to the north. This area will receive City water, sewer, and irrigation within 1-3 years.
<b>Negative Aspects of Application:</b>	There is no existing commercial development in the block to integrate with. One single-family home is adjacent to the site.
<b>Mitigating Factors:</b>	The site has frontage along a principal arterial. Burnt Store Road has access management plan to encourage cohesive development.

Site Information

**Urban Service Area:** All sites are in the Transition Urban Service Area, except for 16 Burnt Store Road which is in the Reserve Urban Service Area.

**City Water and Sewer:** The area is not currently serviced by City water and sewer, however, the site is in the North 2 (N2) Utility Expansion Project Area, which has begun installation of utilities.

**Street Access:** The site has access from three streets: Burnt Store Road, Embers Parkway, and NW 32<sup>nd</sup> Place<sup>1</sup>.

**STRAP Number:**

6 Burnt Store Road	–	07-44-23-C3-04127.0670
16 Burnt Store Road	–	07-44-23-C3-04127.610
22 Burnt Store Road	-	07-44-23-C3-04127.630
5 NW 32 <sup>nd</sup> Place	-	07-44-23-C3-04127.0010

**Block/Lot(s):** The site is in Block 4127/Lots 1-6 and 61-72.

Zoning and Land Use Information:

Subject Property:	Future Land Use	Zoning
Current:	Single-Family/Multi-Family Residential (SM)	Residential Development (RD)
Proposed:	Commercial/Professional (CP)	N/A

Surrounding Areas	Future Land Use	Zoning
North:	SM	RD
South:	Single-Family Residential (SF)	Single-Family Residential (R-1B)
East:	SM	RD
West:	SF	R-1B

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<sup>1</sup> A Principal Arterial, Minor Arterial, and Local street, respectively.

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## Background

The 2.4 acre site is an undeveloped assemblage of parcels in the northwestern quadrant of the City. The site is at the intersection of Embers Parkway and Burnt Store Road and bisected by an unimproved 20-foot wide alley right-of-way (ROW). Surrounding development consists of undeveloped parcels and single-family homes. City water and sewer are not available, however, the site is in the N2 section of the Utility Expansion Project (UEP) which is currently under construction. There is no existing access, however, access from Embers Parkway and NW 32<sup>nd</sup> Place is probable. Burnt Store Road is a controlled access road and under the jurisdiction of the Lee County Department of Transportation (LCDOT). Ingress and egress from Burnt Store Road would need approval from LCDOT.

The site has a Future Land Use Map classification of SM which has been present since 1989, upon adoption of the Comprehensive Plan and the Future Land Use Map. There have been no Future Land Use Map amendments in the block. There have been Future Land Use Map amendments in the vicinity in the past 10 years. Several properties to the east across Burnt Store Road were amended to Commercial Activity Center (CAC) in 2004. In addition, properties to the west and south were recently amended to Single-Family Residential (SF) on October 29, 2017.

The applicant states in their "Letter of Intent" that the properties are suited for commercial development based upon their location at a major intersection and they are part of "the gateway" into the future Seven Islands development along Old Burnt Store Road.

## Additional Site Information

### Protected Species

The applicant has not performed a Protected Species Survey, however, the sites are clear of vegetation and no wetlands are present. 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."

### Soils and Drainage

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

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## Analysis

### Comprehensive Plan

#### Chapter 4 – Future Land Use Element

##### **Policy 1.12**

The Comprehensive Plan recognizes that the original platting of the City was prepared with the primary purpose of creating a readily marketable commodity; residential lots. This resulted in an imbalance between residential and commercial lands, leading to insufficient commercial land. As required by Policy 1.12 of the Future Land Use Element, the City conducted a citywide commercial needs study. This study identified the characteristics and locations for new potential commercial lands.

Policy 1.12 of the Future Land Use Element requires the City to conduct commercial land needs studies to identify areas of the City, which could accommodate commercially designated land, consistent with the studies' findings and recommendations, and other provisions of the Comprehensive Plan. In March 2007, the City of Cape Coral requested Paul Van Buskirk, PhD., AICP, PE, and Mike Jackson, the City's former Economic Development Director, to prepare a report entitled: "Future Land Use Analysis: Commercial & Industrial Land Required For The City of Cape Coral At Build-Out." This report updated earlier analyses. The report suggests a number of strategies to increase the inventory of developable commercial properties within the City. Two of the suggested strategies involve 1) converting parcels with residential future land use to commercial future land use and, 2) increasing the size of existing commercial areas. The proposed amendment is seeking to convert parcels with a residential future land use to a commercial future land use. **Therefore, staff finds that the proposed amendment is consistent with Policy 1.12.**

##### **Policy 1.13**

Policy 1.13 encourage commercial development at commercial nodes to decrease the potential for strip development and to facilitate compact development that encourages pedestrian friendliness. A commercial node is defined as the intersection of two four-lane parkways or boulevards. Tropicana Parkway has four lanes and Burnt Store Road is currently being widened to four lanes, while also being designated as a Principal Arterial. This site qualifies as a commercial node, **therefore, staff finds that the proposed amendment is consistent with Policy 1.13.**

##### **Policy 1.14**

Policy 1.14 addresses eight commercial siting guidelines that provide guidance on whether or not a site is appropriate for a conversion from residential to commercial. The guidelines are also a guide on determining compatibility between existing residential uses and potential commercial uses. A response to each of the commercial siting guidelines follows in **bold**.

##### *Major Intersection*

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which

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a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a 'new' commercial property (a commercial property not abutting any existing commercial properties) or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties (see below: Integration).

**Staff Response: The sites are at a major intersection of a Principal Arterial and a Minor Arterial, therefore Planning staff finds that the sites are consistent with the above 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. Preferably adequate depth is achieved if any number of contiguous properties, owned by the same landowner (see "Ownership Pattern", below) occupy the entire 250 feet of depth. Adequate depth would not be achieved if the subject properties have different owners, and if the contiguous properties are not reasonably compact (see below, "Compactness").

**Staff Response: 50% of the total site area has the preferred depth of 250 feet along a major roadway. The sites that have full block depth are not occupied by the same landowner, however, they are both parties to the Future Land Use Map amendment request. Due to most of the site area possessing full block depth and the joint application by the owners, Planning staff finds that the sites are consistent with the above guideline.**

#### *Compactness*

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

**Staff Response: 50% of the site area is reasonably compact in a quadrilateral or square-like shape. The remainder of the area has a rectangular shape, however, it does not possess full block depth as discussed in the previous guideline. Therefore, the sites are consistent with the above guideline.**

#### *Integration*

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

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**Staff Response:** There are no other sites in Block 4127 that have commercial Future Land Use designation or zoning which eliminates the opportunity for integration between commercial developments. The closest area with a commercial or mixed-use Future Land Use or zoning designation is at the southeast intersection of Tropicana Parkway and Burnt Store Road. Due to the lack of existing commercial land in Block 4127, Planning staff finds that the sites are not consistent with the above guideline.

### *Assembly*

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial development that might serve the City as shopping or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product.

Properties proposed for conversion to a commercial future land use, where such properties would represent an expansion of an existing commercial area may be considered “assembled,” for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

**Staff Response:** Collectively, the sites total 2.4 acres which is slightly less than the preferred size of three acres. The sites also lack cohesive ownership and there are not any other sites in Block 4127 with existing commercial development. Staff finds that the sites are partially consistent with this guideline.

### *Intrusion*

“Intrusion,” as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no definite 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, vegetative buffer, or other geographic features may be considered less intrusive than a commercial development that directly abuts a residential area. The degree of compactness (see “Compactness” above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties<sup>2</sup> are less likely to be considered intrusive if the surrounding or adjacent

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<sup>2</sup> Properties proposed for conversion to a commercial future land use classification that do not abut existing commercial properties.



residential areas are sparsely developed. While the finding of intrusion is subjective and depends on many factors, the principle is the proposed commercial property would not likely be intrusive *if* adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

**Staff Response: The surrounding residential area within 1,000 feet of the sites is less than 25% developed. Therefore, the proposed CP Future Land Use Designation would not be considered intrusive. Staff finds that the sites are consistent with the above guideline.**

#### *Access*

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

- a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Use and Development Regulations refer to these as “dedicated City parking areas.” These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City’s interest to promote conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant’s agreement to own and manage the site.
- b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

**Staff Response: As stated previously, the sites have frontage on Burnt Store Road, Tropicana Parkway and a local street. Neither of these streets have frontage roads, however, Burnt Store Road has a controlled access plan that is under the authority of Lee County. This access management plan limits driveway connections from Burnt Store Road to increase traffic flow and facilitate mobility. Planning staff finds that the sites are partially consistent with the above 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 that consist of multiple parcels, or groups of parcels, or under multiple ownerships are unlikely to develop as a true “commercial node.” Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development (see Policy 1.13, above). Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land

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use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

**Staff Response:** The amendment area has five sites and three different owners. The largest area under one owner is 1.56. As discussed in the guideline, multiple smaller properties under separate ownership may not result in large commercial developments. Staff finds that the sites are not consistent with the above guideline.

In summary, Policy 1.14 contains eight commercial siting guidelines. The sites are consistent with four of these guidelines (Major Intersection, Adequate Depth, Compactness, and Intrusion), partially consistent with two guidelines (Assembly and Access) and is inconsistent with two guidelines (Integration and Ownership Pattern). Policy 1.14 does not require a proposed amendment to meet a certain threshold of guidelines, rather the guidelines are meant to provide a compatibility analysis. Based on these guidelines, Planning staff finds that the proposed should be compatible with the neighborhood and should provide an opportunity for commercial development at a major intersection.

### **Policy 3.1**

Policy 3.1 states that the City of Cape Coral will encourage commercial development at transportation nodes by designating areas with appropriate future land use categories. Planning staff finds that the proposed amendment is at a transportation node, therefore, **this policy is supportive of the proposed amendment.**

### **Regional Plan Analysis**

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

**This amendment is consistent with the SRPP Strategy locating commercial development along transportation corridors.**

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

**Burnt Store Road has been identified for improvements and widening in the MPO's 2040 Long Range Transportation Plan. Burnt Store Road is being widened to four lanes and will be utilized as an evacuation route in the event of impending natural disasters.**

### **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 Single-Family/Multi-Family (SM), and the analysis assumes a residential density of 4.4 dwelling units per acre for the site. While the sites are currently undeveloped, the analysis must consider the potential impacts of the proposed Commercial/Professional (CP) land use in the event of construction. Historically, commercial development in Cape Coral has developed with a Floor Area Ratio (FAR) of 0.25. Therefore, 26,136 sq. ft. of commercial development on these sites is a reasonable estimate for analyzing the impacts of the proposed land use amendment.

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### **Dwelling Units**

Existing: 10  
Proposed: 0  
Net Change: -10

### **Population\***

Existing: 25.4  
Proposed: 0  
Net Change: -25.4

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

### **Water Use**

Existing: 2,000 gal/day total (10 dwelling units x 200 gal/day)  
Proposed: 7,841 gal/day total (26,136 square feet x 0.3 gal/sq ft/day)  
Net Change: +5,841 gal/day  
Facility Capacity: 30.1 MGD  
Permitted Usage: 16.9 MGD  
Avg. Daily Usage: 9.4 MGD

### **Sewage**

Existing: 2,000 gal/day total (10 dwelling units x 200 gal/day)  
Proposed: 7,841 gal/day total (26,136 square feet x 0.3 gal/sq ft/day)  
Net Change: +5,841 gal/day  
Facility Capacity: 28.4 MGD  
Avg. Daily Usage: 12.8 MGD

### **Solid Waste**

Existing Generation: 119 lbs. total/day (25 persons square feet x 4.74 lbs/person/day)  
Proposed: 3,554 lbs. total/day (26,136 square feet x 0.136 lbs/sq ft/day)  
Net Change: +3,435 lbs/day  
Facility Capacity: 1,836 tons/day  
Existing Demand: 1,384 tons/day  
Capacity Available: Yes

### **Traffic/Daily Trips**

Existing Generation: 8 AM peak trips/hour and 10 PM peak trips/hour  
Proposed: 27 AM peak trips/hour and 98 PM peak trips/hour

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Net Change: 19 AM peak trips/hour and 88 PM peak trips/hour  
Facility Capacity: Both Burnt Store Road and Tropicana Parkway meet the minimum acceptable Level of Service Standard of "D."  
Capacity Available: Yes

## **Development Impact Analysis**

### Hurricane Evacuation

The subject area is in Evacuation Zone A, however, this amendment would result in a reduction of dwelling units and a small decrease in evacuation times for the surrounding area.

### Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. The amendment would result in a reduction of dwelling units and would have no impact on parkland LOS.

### 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 no addition of housing units or population, therefore, no additional school impacts are anticipated.

## **Recommendation:**

Planning Division staff finds that the proposed Future Land Use amendment is consistent with several policies of the City's Comprehensive Plan and is compatible with the surrounding neighborhood and therefore recommends **approval** of the proposed small-scale future land use map amendment request.

## **Planning Staff Contact Information**

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**Chad Boyko, AICP, Principal Planner**

**239-573-3162/cboyko@capecoral.net**

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## The Embers Parkway and Burnt Store Road Future Land Use Map Amendment Request \_ September 25, 2017

### Subject Properties:

STRAP #	BLOCK	LOTS	SITE ADDRESS	CURRENT FLU
07-44-23-C3-04127.0670	4127	67 thru 72	6 Burnt Store Road N, CC 33993	SM
07-44-23-C3-04127.0010	4127	1 thru 6	5 NW 32nd Place CC 33993	SM
07-44-23-C3-04127.0610	4127	61 thru 62	22 Burnt Store Road N, CC 33993	SM
07-44-23-C3-04127.0630	4127	63 thru 66	16 Burnt Store Road N, CC 33993	SM

### Surrounding Zoning and Land Uses:

SUBJECT PROPERTY	CURRENT FLU	ZONING
Current 4 Parcels	SM	Res. Development _ Vacant

SURROUNDING PROPERTIES	FLU	ZONING
North	SM	Res. Development _ Scattered Housing
South	SM	R1-B _ Model Home
East _ Burnt Store Rd.	SM & CAC _ Vacant	Res. Development _ Vacant
West _	SM	R1-B _ Scattered Housing



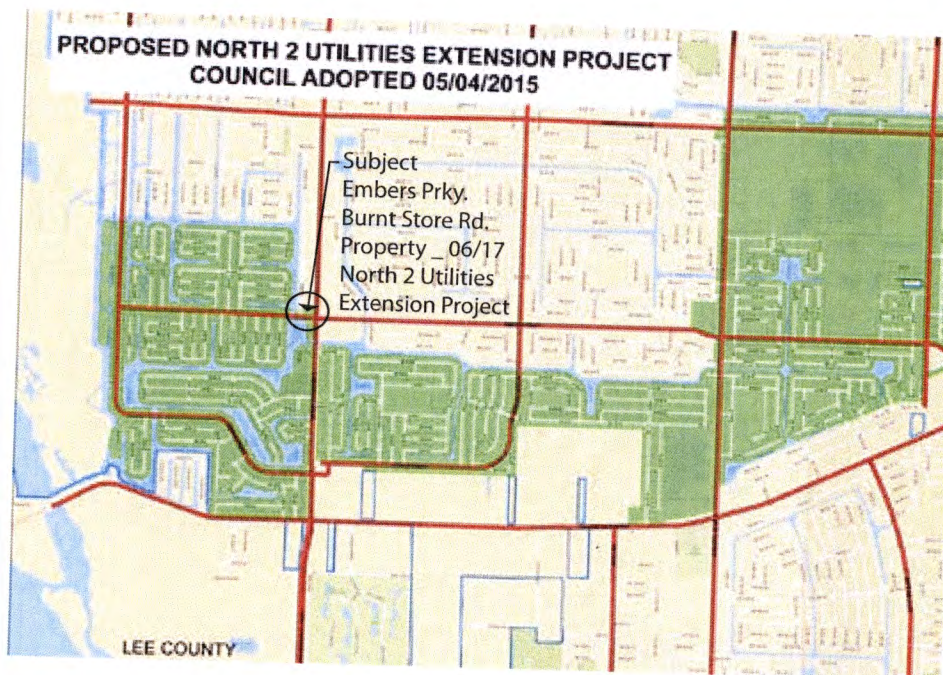


**NW Cape Coral Future Land Use Map**



Urban Service Area:

The property within Utility Extension Project North 2 and is currently classified as an Urban Services Transition and Reserve Area by the comprehensive plan. The North 2 UEP is anticipated to begin in 2018.



**Utility Extension North Two Map**

Street Access:

The property is accessible from Burnt Store Road via an existing full turning movement median opening. When Burnt Store Road will be reconstructed to a four lane arterial section, the median opening will remain designated as a full turning movement median. Property direct access is provided by Embers Parkway West and NW 32nd Place.



**Street Network Air Photo Map**



### Neighborhood Context:

The subject property is located within the NW Cape Coral community. It is strategically located at the intersection of Embers Prky. and Burnt Store Road in a manner that will serve as a gateway to the pending Seven Islands Mixed Use development. This attribute is important due to the relative isolation and major intersection distance of the Seven Islands project in so far as commercial use feasibility and viability. Through the introduction of commercial land uses, the proposed 2.4 acre map amendment amendment will serve as a gateway attractor to the Seven Islands project. The Seven Islands project is currently owned by the City; it may include up to 995 dwelling units, 70,000 sf of commercial that may include a hotel and restaurant, and improved marina and park. The City has recently initiated a Future Land Use Map amendment for 50.7-acres, from Single-family/Multi-family and Parks and Recreation, to Mixed Use. Currently funded neighborhood infrastructure improvements include widening and improving Old Burnt Store Road for the segment associated with the Seven Islands project, and the North Two Utility Expansion Project. The Lee Co. south Burnt Store Road segment, from Pine Island Road to Tropicana Prky., is funded for fiscal year 2019/2020. The NW Cape community, as defined by the area west of El Dorado Blvd., and north of Pine Island Road to the county line, had a 2015 estimated population of 9,455 persons and 3,348 households. The population and household 2020 projections are 11,247 and 3,988; 2030 projections are 15,913 persons and 5,643 households.



### Neighborhood Location and Proximity Map

#### Additional Site Information:

The subject property is an urbanized and cleared site (FLUCCS 192 Inactive Land) with what appear to be two abandoned burrowing owl holes. No other potential protected or endangered species has the potential to use the site. Consistent with Cape Coral Policy 1.2.5, the Applicant will provide professionally accepted Protected and Endangered Species surveys as part of City mandated development permitting approval processes. The site is underlain by Matlacha Gravelly Fine Sands. Though this soil has various site development limitations, these limitations are typically overcome by using various civil engineering solutions such as and including importing clean fill dirt. Hence this soil type does not present any obstacle to future site development.



## Regional Comprehensive Plan Analysis:

The Strategic Regional Policy Plan (SRPP) Economic Development Goal One: *“Ensure the adequacy of lands for commercial and industrial centers, with suitable services provided.”*

- Response: The land use map amendment provides needed commercial land inventory within the land use planning context of NW Cape Coral’s overwhelming single-family residential platted lands inventory.

## Cape Coral Future Land Use Element Analysis:

Policy 1.20: *“The City will promote the development of identifiable residential and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways.”*

- Response: The land use map amendment consolidates four individual parcels into one unified property to facilitate a small and identifiable commercial project. The commercial project will serve as the non-residential Embers Parkway gateway, from Burnt Store Road to the pending Seven Islands mixed use project.

Policy 3.1: *“The City of Cape Coral will encourage the development of future commercial (retail, office and/or services) areas at or near transportation nodes by assigning appropriate future land use designations.”*

- Response: The land use map amendment is for a 2.4 acre site located at the northwest quadrant of the intersection of Embers Parkway and Burnt Store Road. This intersection is identified on the Burnt Store Road South Phase as a full turning movement intersection for the four-lane Burnt Store Road segment. The property is ideally located for commercial land uses and supports viable transportation nodal planning.

Policy 3.3: *“Application of the commercial areas along and proximate to commercial corridors at key locations is intended to address the projected demand for commercial development as summarized in the Table below, or other subsequent analysis.”*

- Response: In the City’s Land Use Element Policy 3.3 Commercial Centers by Corridor table, the City has identified 190 acres of land along Tropicana and Embers Parkway needed for commercial development. According to the City (see LU17-0002; 04/27/17), at present approximately 90 acres along these roadways are identified as commercial. Therefore at present, a deficit of 100 acres exists. The requested 2.4 acre Commercial/Professional Land Use Map amendment provides needed commercial land inventory as identified by the City.

Policy 3.4: *“The City shall initiate and/or consider privately initiated future land use map amendments necessary to provide an adequate supply of lands designated for retail, office and service uses in quantities and locations appropriate for such uses, generally consistent with the findings of the Commercial Corridor Study, or other subsequent analysis.”*

- Response: See the response to Policy 3.3; the map amendment is consistent with 3.4.

Objective 4 Location of Future Development: *“Future private development requiring public water and wastewater will be directed into the Urban Services Infill Area and the Urban Services Transition Area illustrated on the Future Land Use Map, unless specifically accepted by the provisions of this plan.”*

- Response: The subject property is in the Urban Services Transition Area; utilities will be extended into this area as part of the North 2 UEP, anticipated to begin in 2018.

*Policy 5.3: “New commercial development shall meet all of the requirements for adequate facilities based on the level of service standards adopted for roads, public water and sanitary sewer, solid waste, storm water facilities and other services in this plan.”*

- Response: The requested future land use map amendment will have available to it all needed urban services at acceptable levels, including central water and sanitary sewer service. Based upon the subject property’s platted lot structure, it is reasonable to assume that the property can currently support nine single-family homes. The requested land use map amendment is expected to have 17,765 sf general office and 3,135 sf commercial bank (20,900 sf total). The elimination of nine dwelling units, assuming 2.54 persons per household, will lead to a supported population reduction of 23 persons. Specific service impact assessments are as follows --
  - Water Use \_ Zero presently; existing @ 200 GPD \* 9 units = 1,800 GPD; proposed commercial @ 20,900 sf x 0.3 gal/sf/day = 6,270 GPD; Net Change @ + 4,470 GPD (City permitted usage @ 16.9 MGD).
  - Sanitary Sewer \_ Zero presently; existing @ 00 GPD \* 9 units = 1,800 GPD; proposed commercial @ 20,900 sf x 0.3 gal/sf/day = 6,270 GPD; Net Change @ + 4,470 GPD (City permitted usage @ 28.4 MGD).
  - Solid Waste \_ Zero presently; existing at 109 lbs./day (23 persons x 4.74 lbs./person/day); proposed commercial @ 20,900 sf x 0.136 lbs/sf/day = 2,842 lbs/day; Net Change @ 2,733 lbs./day (City Facility Capacity @ 1,836 tons/day with Existing Demand @ 1,384 tons/day).
  - Traffic Daily Trips \_ Zero presently; existing @ 9 DUS x 9.57 ADT = 86 trips (9 PM Peak Hr.); proposed 17,765 sf general office and 3,135 sf commercial bank equals 195 ADT general office and 436 ADT commercial bank (631 total ADT); Net Change @ 545 ADT. Embers Parkway provides direct access to the subject property. It is a Minor Arterial Road that surpasses the minimum acceptable LOS D and thus has adequate capacity.
  - Hurricane Evacuation, Park Lands and School Impacts \_ The requested Commercial/Professional Future Land Use Map amendment reduces accommodated dwelling units. In so doing it will have no impact on hurricane evacuation times, decreases the demand for public park lands and decreases the demand for schools and student class rooms.

*Policy 8.4: “The city shall encourage transitions from commercial uses to less intensive land uses and site design that considers the following preferred characteristics to attain compatibility with adjacent residential uses -*

*a. Site Orientation*

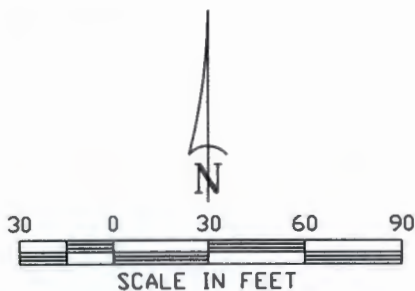
*a.i Vehicular access should be from a collector, arterial, access street or an alley if the subject uses are located within the Downtown Community Redevelopment Area.*

*a.ii Pedestrian access should be designed to provide internal and external circulation from adjacent neighborhoods.*

*a.iii Streets should be designed with elements to provide visual or physical buffering may serve as boundaries between different intensities of land uses.*

- a.iv Site improvements within commercial areas such as lighting, signage and landscaping should be designed and coordinated in order to create a positive identity and visual image throughout the development area.*
- b. Site design should promote the preservation and integration of mature trees, natural vegetation and environmentally sensitive areas whenever feasible.*
- c. Screening and Landscaping*
- c.i Creative and extensive use of landscaping and berming techniques for natural transitions between differing intensities of land uses is encouraged.*
- c.ii Fences should not be used as a sole method of providing screening and buffering between differing intensities of land uses.*
- c.iii The City shall review and revise landscaping and signage standards for commercial development to enhance the visual and physical environment to foster its integration of other land uses.*
- d. Lighting used to illuminate parking areas, signs or structures, should be placed and designed to deflect light away from adjoining property or public streets through fixture type, height, orientation and location.*
- Response: The ultimate commercial office site development of the property will adhere to Cape Coral land development code rules and regulations relating to buffering, landscaping, lighting, screening and building setbacks. The site will be accessed by Embers Parkway, and with residential neighborhood separation provided by NW 32nd. Place. Pedestrian access will be provided by the new Burnt Store Road sidewalk/bike path system to be built as part of the funded Burnt Store Road South improvement phase. Pedestrian access may also be provided along Embers Parkway as part of the project's offsite sidewalk improvement program. It is envisioned that site design elements will match the Seven Islands development, and in so doing contribute to a themed Seven Islands District design. Landscape plantings and screening walls will be used where residential homes and lots are interfaced by the development. It is envisioned that the project will be commercial service and professional office. This is in response to the fact that the commercial retail marketplace is dominated by the Publix community shopping center located immediately south at Pine Island Road and Burnt Store Road. Commercial office uses are an appropriate "step-down" use between an arterial highway and single-family residential.



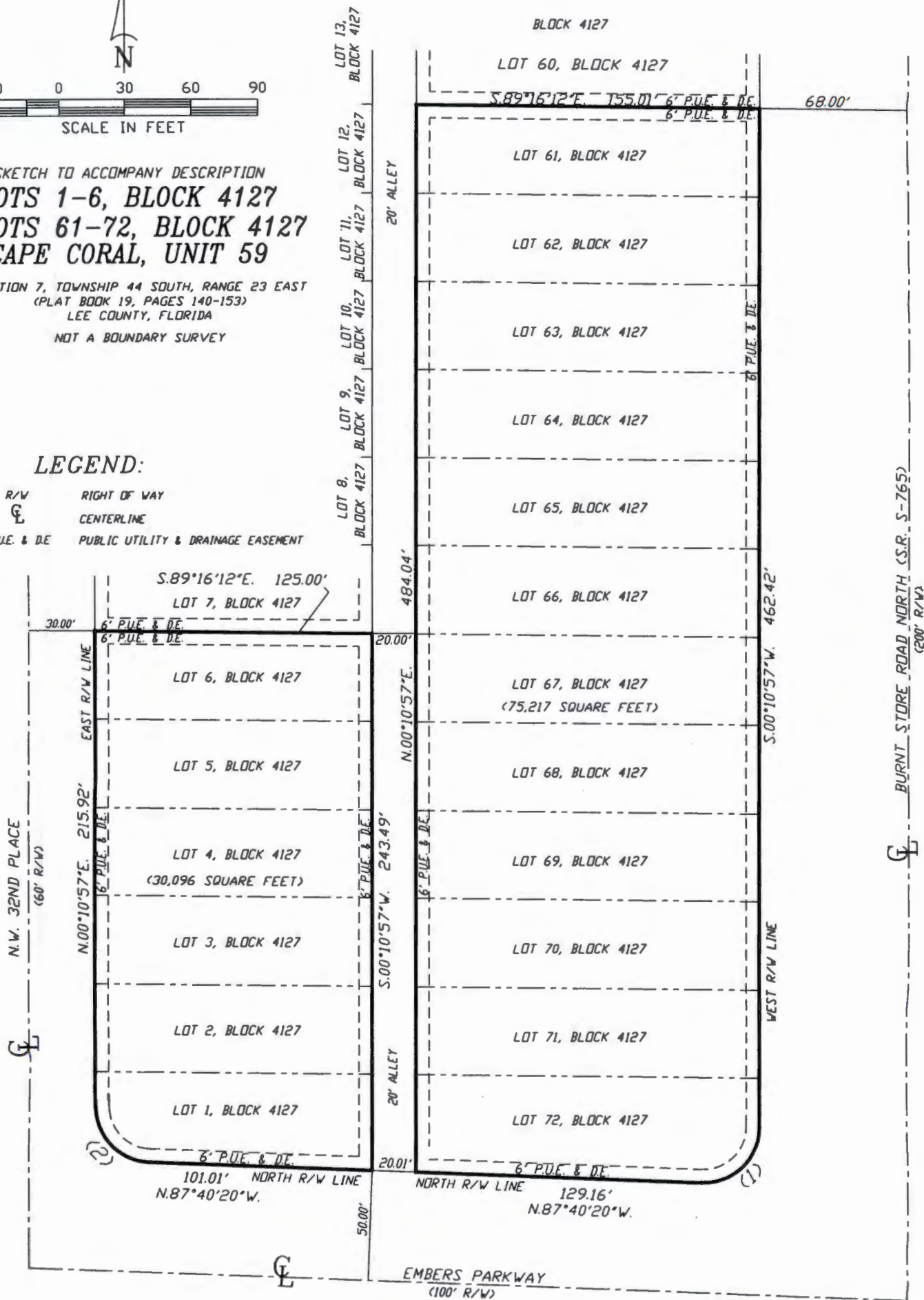


SKETCH TO ACCOMPANY DESCRIPTION  
**LOTS 1-6, BLOCK 4127**  
**LOTS 61-72, BLOCK 4127**  
**CAPE CORAL, UNIT 59**

SECTION 7, TOWNSHIP 44 SOUTH, RANGE 23 EAST  
(PLAT BOOK 19, PAGES 140-153)  
LEE COUNTY, FLORIDA  
NOT A BOUNDARY SURVEY

**LEGEND:**

R/W RIGHT OF WAY  
CL CENTERLINE  
P.U.E. & D.E. PUBLIC UTILITY & DRAINAGE EASEMENT



Curve number 1

Radius= 25.00'  
Delta= 92°08'43"  
Arc= 40.21'  
Tangent= 25.95'  
Chord= 36.01'  
Chord Brg.= S.46°15'18"W.

Curve number 2

Radius= 25.00'  
Delta= 87°51'17"  
Arc= 38.33'  
Tangent= 24.08'  
Chord= 34.69'  
Chord Brg.= N.43°44'42"W.

NOT A BOUNDARY SURVEY

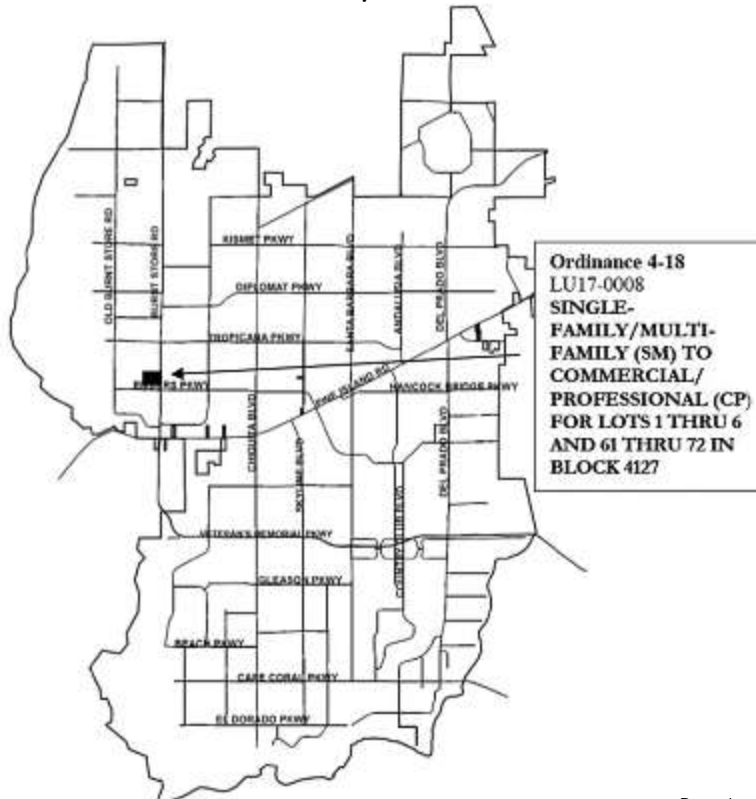
HARRIS-JORGENSEN, INC. 3046 DEL PRADO BLVD. S. 3A CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921			
DATE OF LAST FIELD WORK: 2/16/17			
CERTIFICATE OF AUTHORIZATION: LB #6921			
DRAWN: PHM	CHECK: FBH	SCALE 1"=60'	PROJ. # CC-U59-4127-1
SKETCH DATE 9/26/17		FILE NO. 44-23-7	SHT.- 1 OF - 2

# NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt ORDINANCE 4-18, AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM SINGLE FAMILY AND MULTI-FAMILY BY PDP (SM) TO COMMERCIAL/PROFESSIONAL (CP) LAND USE FOR PROPERTY DESCRIBED AS LOTS 1 THROUGH 6 AND 61 THROUGH 72, UNIT 59, BLOCK 4127 CAPE CORAL SUBDIVISION; PROPERTY LOCATED AT THE INTERSECTION OF BURNT STORE ROAD AND EMBERS PARKWAY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE

A public hearing on the ordinance will be held Wednesday, January 10, 2018 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-0000954138

December 31, 2017

☐ 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-DAILY  
SIZE: 3 col X 9.25 in

PROOF CREATED AT: 12/29/2017 11:20 AM  
PROOF DUE: -  
NEXT RUN DATE: 12/31/17

NP-0000954138.INDD



Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Harold M. and Pamela A. Arkin

APPLICATION NO: LU17-0008

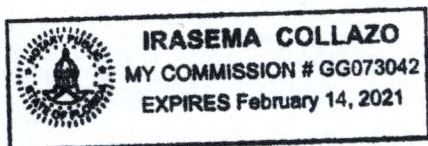
STATE OF FLORIDA     )  
                                  ) §  
COUNTY OF LEE        )

I, Vincent A. Caution, 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 29<sup>th</sup> day of December, 2017.



A handwritten signature in blue ink, appearing to read "Vincent A. Caution".

Vincent A. Caution, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of Dec., 2017, by Vincent A. Caution, AICP, who is personally known to me and who did not take an oath.

Exp. Date 2/14/21 Commission # GG073042

A handwritten signature in blue ink, appearing to read "Irasema Collazo".

Signature of Notary Public

The printed name "IRASEMA COLLAZO" in blue ink.


Print Name of Notary Public


CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT FUTURE  
LAND USE MAP  
500' Proximity Boundary

Case No. LU17-0008

**LEGEND**

 500' Proximity Boundary

 Subject Parcels

**Future Land Use**

 SM

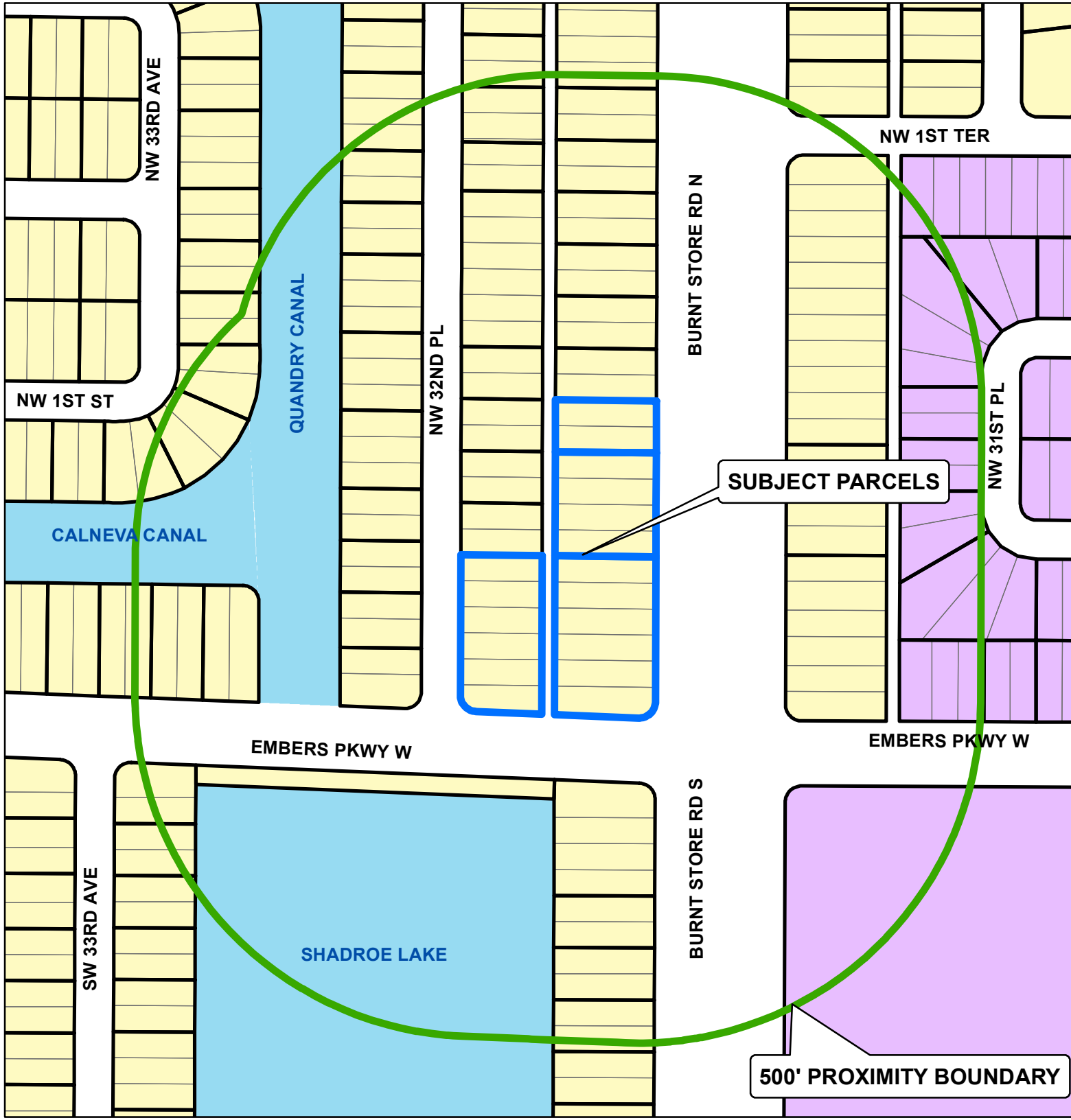
 CAC



NOVEMBER 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 Boundary

Case No. LU17-0008

**LEGEND**

 500' Proximity Boundary

 Subject Parcels

**Zoning**

 R-1B

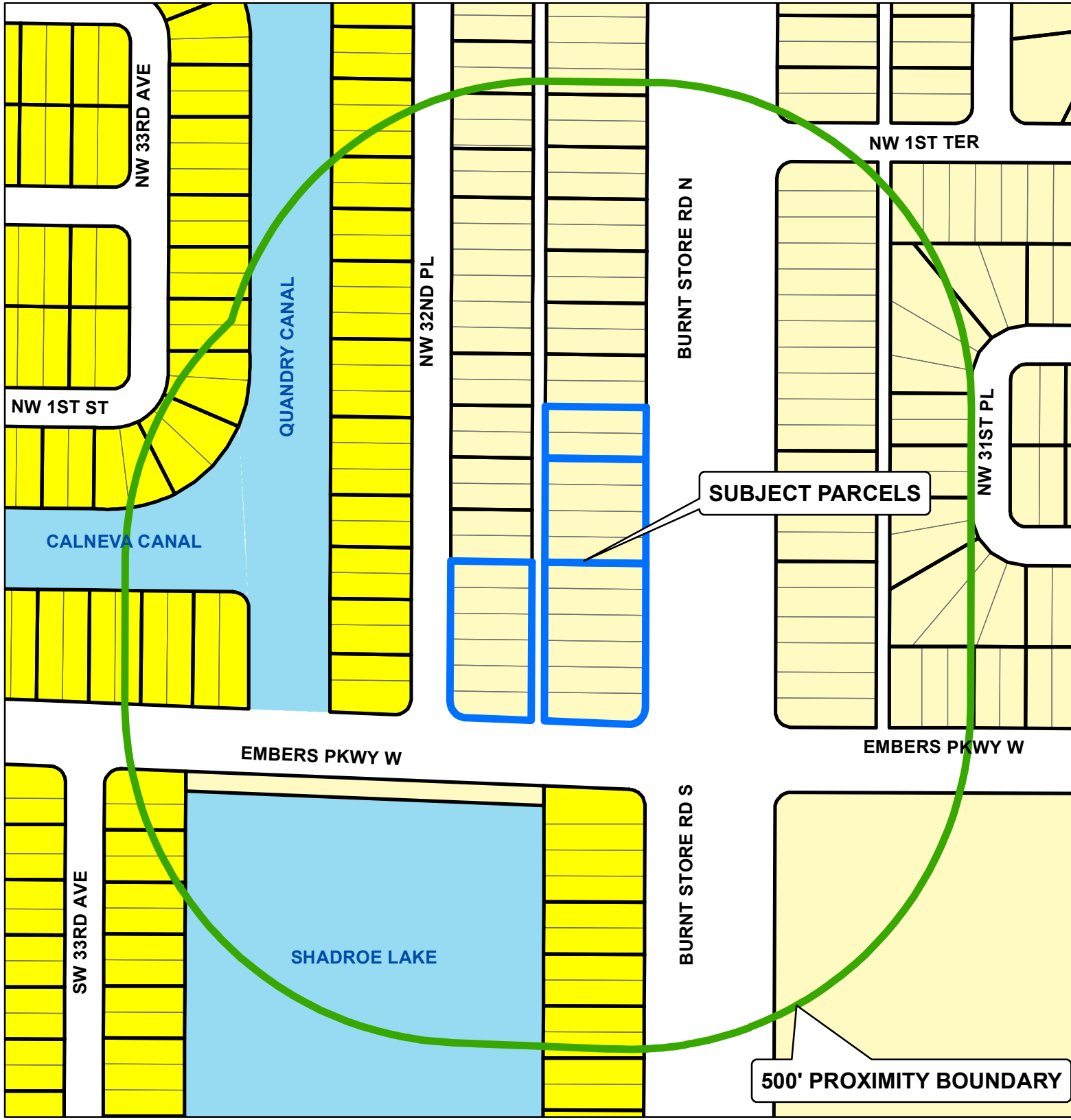
 RD



NOVEMBER 13TH, 2017



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CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division




PROPOSED FUTURE  
LAND USE MAP  
500' Proximity Boundary

Case No. LU17-0008

**LEGEND**

-  Subject Parcels  
 500' Proximity Boundary

**Future Land Use**

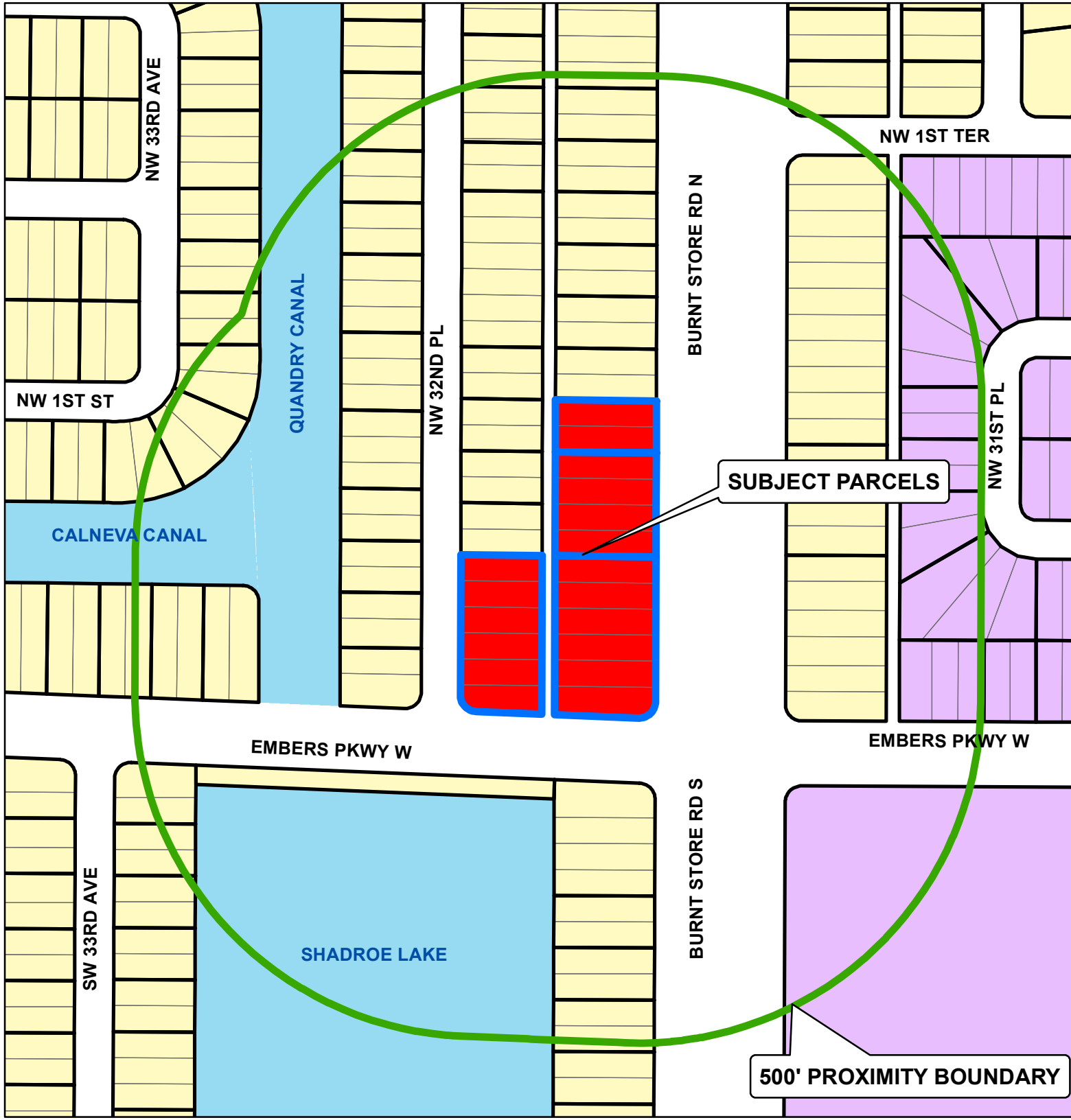
-  SM  
 CAC  
 CP



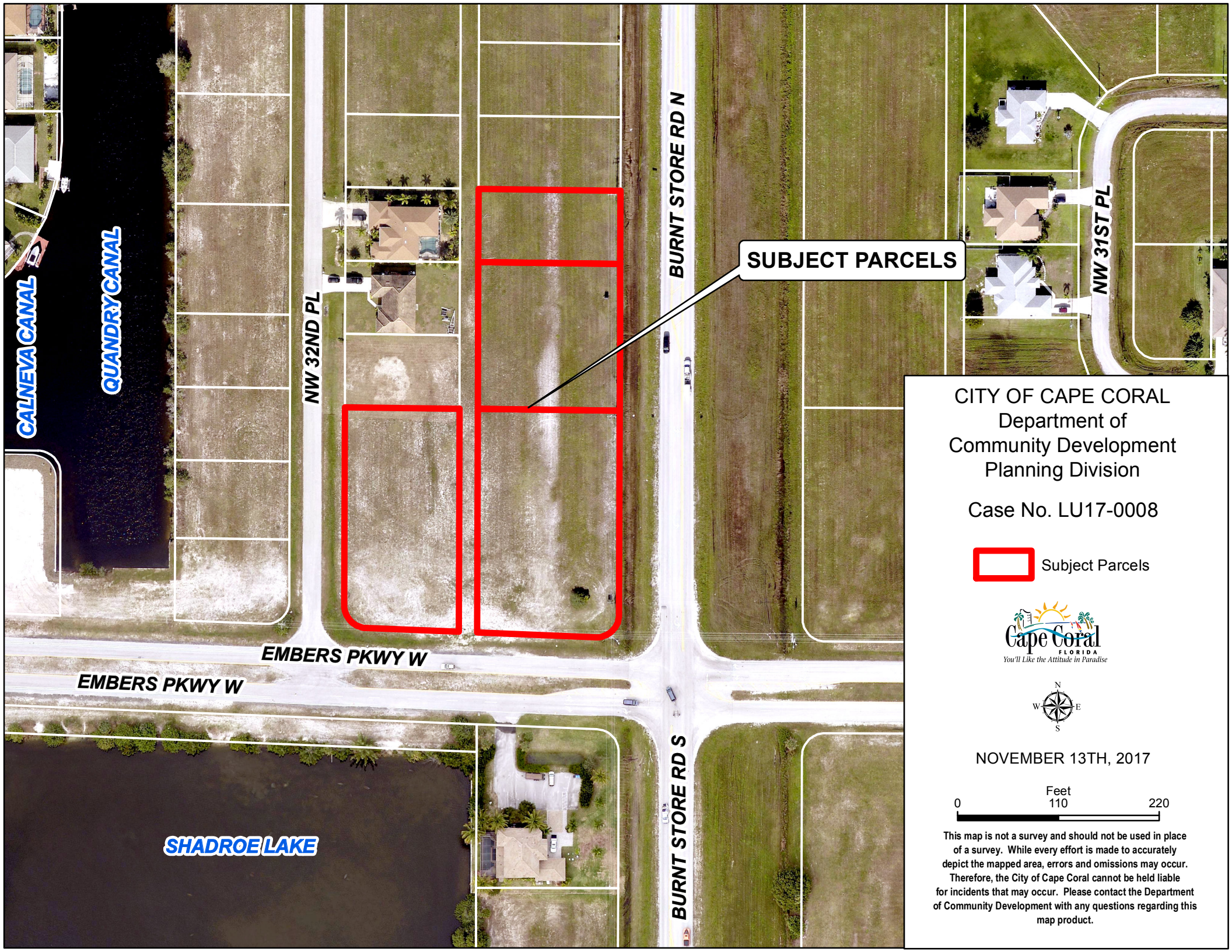
NOVEMBER 13TH, 2017



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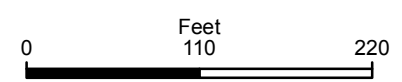
CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

Case No. LU17-0008

 Subject Parcels



NOVEMBER 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.



Item Number:	7.C.
Meeting Date:	1/10/2018
Item Type:	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL



**TITLE:**

Ordinance 5-18 (LU 17-0011)

**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 Single Family Residential (SF) to Multi-Family Residential (MF) land use designation for property located at 1049 Embers Parkway and 320 Nelson Road. (Applicant: City of Cape Coral)

**LEGAL REVIEW:**

Brian R. Bartos, Assistant City Attorney

**EXHIBITS:**

Ordinance 5-18 (LU17-0011)  
Back up materials

**PREPARED BY:**

Division- Department- City  
Attorney

**SOURCE OF ADDITIONAL INFORMATION:**

Wyatt Daltry, Planning Team Coordinator

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
▣ Ordinance 5-18 (LU 17-0011)	Ordinance
▣ Backup Materials	Backup Material

ORDINANCE 5 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM SINGLE FAMILY RESIDENTIAL (SF) TO MULTI-FAMILY RESIDENTIAL (MF) LAND USE DESIGNATION FOR PROPERTY LOCATED IN BLOCKS 3648 AND 3649, UNIT 48, CAPE CORAL SUBDIVISION, AND IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, ALL AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY IS LOCATED AT 1049 EMBERS PARKWAY AND 320 NELSON ROAD; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

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

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by the CITY OF CAPE CORAL regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM SINGLE FAMILY RESIDENTIAL (SF) TO MULTI-FAMILY RESIDENTIAL (MF)

The West ½ of the West ½ of the Southeast ¼ of Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, more particularly described as follows:

Commencing at the Southeast corner of Section 10; Thence N89°50'40"W along the South line of said Southeast ¼ 2,015.63 to the Point of Beginning of this description; Thence continue N89°50'40"W 671.875 feet to the South ¼ corner of Section 10; Thence N00°01'14"W along the West line of said Southeast ¼ 2,688.04 feet to the center post of Section 10; Thence S89°55'52"E along the North line of said Southeast ¼ 672.26 feet; Thence S00°00'44"E 2,689.05 feet to the Point of Beginning. Bearing derived from recorded plat of Cape Coral Unit 48, Plat Book 17, Pages 135 through 144 in the Public Records of Lee County, Florida.

AND

Lots 1 and 2, Block 3648, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144, inclusive, in the Public Records of Lee County, Florida.

AND

Lot 19, Block 3649, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144, inclusive, in the Public Records of Lee County, Florida.

AND

Lots 45 and 46, Block 3649, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144, inclusive, in the Public Records of Lee County, Florida.

AND the SF portion of the following:

Part of the Southeast ¼ of Section 10, Township 44 South, Range 23 East, City of Cape Coral, Florida, more particularly described as follows:

Commencing at the SE corner of Section 10: Thence N89°50'40"W along the South line of said SE ¼, 1,343.75 feet to the SE corner of the W ½ of said SE ¼ and the Point of Beginning of this description; thence continue N89°50'40"W, 671.875 feet; thence N00°00'44"W, 2,689.05 feet to a point on the North line of said SE ¼, which point is 672.26 feet S 89°55'52"E from the center post of Section 10; thence S89°55'52"E, 672.26 feet to the NE corner, of the NW ¼ of the SE ¼; thence S00°00'15"E, 840.35 feet along the East line of said NW ¼ of the SE ¼; thence N89°53'16"W, 16.39 feet; thence S19°53'16"E 187 feet; thence S08°09'54"W, 332.24 feet to the NW corner of the SW ¼ of the SE ¼; thence S00°00'15"E along the East line of said fractional section 1.345.03 feet to the Point of Beginning.

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 plan amendment shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete, or if timely challenged, the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184(3)(c)4., F.S., whichever is applicable.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
JOE COVIELLO, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
REBECCA VAN DEUTEKOM  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BRIAN R. BARTOS  
ASSISTANT CITY ATTORNEY  
ord/LU17-0011

Case # LU 17-0011REQUEST 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). An initial payment of \$1,125 for advertising costs is to be paid at submittal. Additional advertising costs, if applicable, will be billed prior to hearing.**

## OWNER OF PROPERTY

See Attachment A

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## APPLICANT

City of Cape CoralAddress: 1015 Cultural Park BoulevardCity: Cape Coral State: FL Zip: 33915

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## AUTHORIZED REPRESENTATIVE

Wyatt Daltry, AICP, Plng Team CoordinatorAddress: 1015 Cultural Park BoulevardCity: Cape Coral State: FL Zip: 33915Phone: 239-573-3160Email: wdaltry@capecoral.netUnit \_\_\_\_\_ Block \_\_\_\_\_ Lot(s) \_\_\_\_\_ Subdivision Cape CoralLegal Description multiple; see Attachment AAddress of Property See Attachment A

Plat \_\_\_\_\_ Page \_\_\_\_\_

Current Zoning RD Strap Number multiple; see Attachment ACurrent Land Use SF Proposed Land Use MF

## THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or his authorized representative 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.

A. John Szerlag, City Manager

NAME (PLEASE TYPE OR PRINT)

  
AUTHORIZED SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF LEESworn to (or affirmed) and subscribed before me this 12<sup>th</sup> day of December 2017, byDavid M. Newlan who is personally known or produced \_\_\_\_\_

as identification

Exp. Date: 8/13/2020 Commission Number: GG-011512Signature of Notary Public: Phyllis DeMarcoPrinted name of Notary Public: Phyllis DeMarco





LARGE SCALE COMPREHENSIVE LAND USE AMENDMENT  
APPLICATION CONTINUED

Parcel Size: Width \_\_\_\_\_ Depth \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ Acreage 82.69  
Soil Type: Multiple soil types

Urban Services Area: (check one) ☐ Infill ☒ Transition ☐ Reserve  
Natural Resources: (state habitat type, e.g. high lands, wetlands, upland forest, oak hammocks, etc.):  
undeveloped tract, wooded, borrow pit lakes on-site

Animal Species: (list any endangered, threatened, or species of special concern on-site)  
None identified

Estimated Development:  
Estimate total lot coverage: 25 %  
Estimate total building floor area \_\_\_\_\_ sq. ft.  
Estimate type of future development and percentages (e.g. business offices,  
commercial retail, automotive repair, etc.)  
Multi-Family Residential  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 ☐



AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Wyatt Daltrey, Planning Team Coordinator

(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

Large Scale Land Use Map Amendment

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

UNIT multiple BLOCK multiple LOT(S)

SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION

See Attachment A

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

A. John Szerlag, City Manager

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

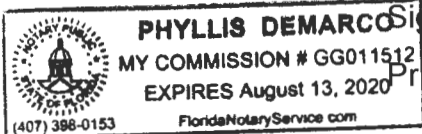
PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 12th day of December, 2017, by David M. Naylor who is personally known or produced as identification.

Exp. Date: 8/13/2020 Commission Number: 66 011512



Signature of Notary Public:

Printed name of Notary Public:

Phyllis DeMarco  
Phyllis DeMarco

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



# 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.

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 12th day of December, 2017

David M. Newton  
NAME (PLEASE TYPE OR PRINT)

[Signature]  
APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF LEE

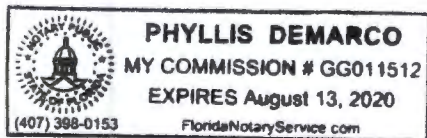
Subscribed and sworn to (or affirmed) before me this 12th day of December, 2017, by David M. Newton who is personally known or produced as identification.



Exp. Date: 8/13/2020 Commission Number: GG011512

Signature of Notary Public: Phyllis DeMarco

Printed name of Notary Public: Phyllis DeMarco



Attachment A to Application

Owners:

RA Lakes, LLC

Subject Property Addresses:

STRAP	Site Address
104423C3000060250	1049 Embers Pkwy
104423C3000060200	320 Nelson RD N

Legal Description:

The West ½ of the West ½ of the Southeast ¼ of Section 10, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida, more particularly described as follows:

Commencing at the Southeast corner of Section 10; Thence N89°50'40"W along the South line of said Southeast ¼ 2,015.63 to the Point of Beginning of this description; Thence continue N89°50'40"W 671.875 feet to the South ¼ corner of Section 10; Thence N00°01'14"W along the West line of said Southeast ¼ 2,688.04 feet to the center post of Section 10; Thence S89°55'52"E along the North line of said Southeast ¼ 672.26 feet; Thence S00°00'44"E 2,689.05 feet to the Point of Beginning. Bearing derived from recorded plat of Cape Coral Unit 48, Plat Book 17, Pages 135 through 144 in the Public Records of Lee County, Florida.

AND

Lots 1 and 2, Block 3648, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144, inclusive, in the Public Records of Lee County, Florida.

AND

Lot 19, Block 3649, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144, inclusive, in the Public Records of Lee County, Florida.

AND

Lots 45 and 46, Block 3649, Unit 48, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 17, Pages 135 through 144, inclusive, in the Public Records of Lee County, Florida.

AND the SF portion of the following:

Part of the Southeast ¼ of Section 10, Township 44 South, Range 23 East, City of Cape Coral, Florida, more particularly described as follows:

Commencing at the SE corner of Section 10: Thence N89°50'40"W along the South line of said SE ¼, 1,343.75 feet to the SE corner of the W ½ of said SE ¼ and the Point of Beginning of this description; thence continue N89°50'40"W, 671.875 feet; thence N00°00'44"W, 2,689.05 feet to a point on the North line of said SE ¼, which point is 672.26 feet S 89°55'52"E from the center post of Section 10; thence S89°55'52"E, 672.26 feet to the NE corner, of the NW ¼ of the SE ¼; thence S00°00'15"E, 840.35 feet

along the East line of said NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ ; thence N89°53'16"W, 16.39 feet; thence S19°53'16"E 187 feet; thence S08°09'54"W, 332.24 feet to the NW corner of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ ; thence S00°00'15"E along the East line of said fractional section 1.345.03 feet to the Point of Beginning.



**STAFF REPORT**

LU17-00011

City of Cape Coral

DOCKET/CASE/APPLICATION NUMBER

Wyatt Daltry, AICP, Planning Team

Coordinator (239) 573-3160,

wdaltry@capecoral.net

APPLICANT/PROPERTY OWNER

1049 Embers Parkway

320 Nelson Road

STAFF PLANNER

PROPERTY ADDRESS/LOCATION

**BRIEF SUMMARY OF REQUEST**

**City-initiated Future Land Use Map Amendment to amend two properties (83.72 acres) from Single Family Residential (SF) to Multi-Family Residential (MF).**



MAP SOURCE

EXISTING ZONING	EXISTING LAND USE	PROPOSED LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
Residential Development (RD)	SF	MF	Undeveloped.	82.69 acres

## STAFF RECOMMENDATION

**APPROVE****DENY**

<b>Compatibility with the Comprehensive Plan:</b>	<b>PROPERTY HISTORY</b> PDP to permit MF development established on site in 2007; has been extended through 2022. Property FLU amended by City of Cape Coral from SM to SF in 2017. North 2 UEP extension project is underway in vicinity.
<b>Positive Aspects of Application:</b>	<ul style="list-style-type: none"><li>FLUMA would be consistent with an active multi-family residential PDP</li><li>Amendment will reduce MF shortfall in Cape Coral</li></ul>
<b>Negative Aspects of Application:</b>	<ul style="list-style-type: none"><li>Nearby residents may have concerns with scale, noise, and traffic for project allowable</li></ul>
<b>Mitigating Factors:</b>	<ul style="list-style-type: none"><li>Multi-Family PDP adopted in 2007, so ability to build MF has been in place for over a decade; tract connected to street network at two points would diffuse traffic</li></ul>

**Review Date:** November 21, 2017

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

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

**Location:** North-central Cape Coral.

<b>STRAP Number</b>	<b>Site Address</b>
104423C3000060250	1049 Embers Parkway
104423C3000060200 (portion)	320 Nelson Road

**Area:** ±82.69 acres

<b>Current FLU</b>	<b>Proposed</b>	<b>Acreage</b>
Single Family Residential (SF)	Multi-Family Residential (MF)	82.69

<b>Subject Property:</b>	<b>Future Land Use</b>	<b>Zoning</b>
<i>Current:</i>	SF	Residential Development (RD)
<i>Proposed:</i>	MF	N/A
	<b>Surrounding Future Land Use</b>	<b>Surrounding Zoning</b>
<i>North:</i>	SF	RD
<i>South:</i>	SF	Single Family Residential (R-1B), and RD
<i>East:</i>	SF and Commercial Activity Center (CAC)	Agricultural (A), Pedestrian Commercial (C-1), R-1B, and RD
<i>West:</i>	SF	R-1B

**Urban Service Area:** Transition

**Type of Street Access:** Embers Parkway (minor arterial) and Nelson Road (collector).

## BACKGROUND

In 2007, the City of Cape Coral approved a PDP for the site to permit multi-family residential development. Since adoption of the PDP, the project has been extended multiple times but is currently active.

In 2016, prior to the expansion of utilities as part of the North 2 project, this area was reviewed for a future land use map amendment. At that time, the PDP was incorrectly assumed to be expired, and so, the site was proposed to be amended

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to Single Family Residential (SF). A twenty-acre portion of the easternmost property is not a part of this request, as it has a Commercial Activity Center (CAC) future land use map classification, and intends to remain CAC as part of a mixed use component to this development in the future.

Cape Coral has long needed additional multi-family residential opportunities, particularly in areas outside of the NE and SE portions of the City. In 2016, the City contracted with the Wolff Economic Research, Inc. to determine the City's multi-family residential shortfall. It was determined that the City was deficient in multi-family housing, and that the City would need approximately 1,500 units per year for the next five years in order to make up the shortfall.

As a result, this amendment represents an opportunity for the City to reduce its multi-family residential shortfall. To accomplish this task, the City has embarked on four strategies:

- 1.) Amend existing Future Land Use Map Classifications and Zoning Districts, within the Comprehensive Plan and Land Use and Development Regulations, respectively, to provide additional multi-family residential opportunities;
- 2.) Revise the Housing Element of the Comprehensive Plan;
- 3.) Amend the Future Land Use Map or Zoning Map to increase the portfolio of Multi-Family Residential land; and
- 4.) Provide financial incentives (e.g. reduction of impact fees) for multi-family residential construction.

Since 2016, the City has accomplished some projects for Strategies #1 and #3, which have already increased multi-family residential opportunities. As of the development of this staff report, the City continues to work on Strategy #1, as there are two text amendments in process to expand those opportunities in the Pine Island Road District. This amendment is an example of Strategy #3, and it is anticipated that staff will propose several additional FLUMAs to Multi-Family in 2018 and 2019.

## **Additional Site Information**

### Protected Species

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. Furthermore, development within 1,100' of an active eagle nest is regulated by Chapter 23 of the City Code of Ordinances.

Should 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 and Reserve area as designated by the City Comprehensive Plan. Utilities will be provided as part of the North 2 Utility Expansion Program, anticipated to begin in late 2017.

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### Soils and Drainage

The site has four soil classifications; Hallandale fine sand, Boca fine sand, Pineda fine sand, and Matlacha Gravelly Fine Sand. These soils have various 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.

### **ECONOMIC DEVELOPMENT MASTER PLAN**

This amendment was reviewed for consistency with the City's Economic Development Master Plan:

**This amendment is consistent with Initiative 6, Objective 2 (Promote and encourage residential diversity in Cape Coral), Strategy 2.1, "Increase the amount of multi-family residential." The amendment is consistent with Action 2.1.2 of that strategy, which identifies sites that are ideal for multi-family development and suggests placing entitlements so that such development may be developed by right.**

### **REGIONAL PLAN ANALYSIS**

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

**This amendment is addressed by Affordable Housing Goal 2: "Southwest Florida will develop (or redevelop) communities that are livable and offer residents a wide range of housing and employment opportunities."**

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

**This area is not addressed in the MPO's Long Range Transportation Plan.**

### **COMPREHENSIVE PLAN ANALYSIS**

Staff analyzed the Comprehensive Plan to evaluate the proposed future land use map amendment. Most direction in the Comprehensive Plan for complex, multi-use development is based in the Future Land Use Element.

### **Housing Element**

The goal of the Housing Element also states the need to provide a broad choice of housing types and styles for the community.

***GOAL:** To provide good quality housing in safe, clean neighborhoods, offering a broad choice of options in both type (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status.*

**The goal supports the request as the request would provide additional multi-family housing opportunities for Cape Coral.**

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### Future Land Use Element

Policy 8.4: The City shall encourage transitions from commercial uses to less intensive land uses and site design that considers the following preferred characteristics to attain compatibility with adjacent residential uses:

- a. Site Orientation
  - i. Vehicular access should be from a collector, arterial, access street, or an alley if the subject uses are located within the Downtown Community Redevelopment Area.
  - ii. Pedestrian access should be designed to provide internal and external circulation from adjacent neighborhoods.
  - iii. Streets should be designed with elements to provide visual or physical buffering may serve as boundaries between different intensities of land uses.
  - iv. Site improvements within commercial areas such as lighting, signage and landscaping should be designed and coordinated in order to create a positive identity and visual image throughout the development area.
- b. Site design should promote the preservation and integration of mature trees, natural vegetation, natural and environmentally sensitive areas whenever feasible.
- c. Screening and landscaping
  - i. Creative and extensive use of landscaping and berming techniques for natural transitions between differing intensities of land uses is encouraged.
  - ii. Fences should not be used as a sole method of providing screening and buffering between differing intensities of land uses.
  - iii. The City shall review and revise landscaping and signage standards for commercial development to enhance the visual and physical environment to foster its integration of other land uses.
- d. Lighting used to illuminate parking areas, signs or structures should be placed and designed to deflect light away from adjoining property or public streets through fixture type, height, orientation and location.

**A multi-family residential development of this size would be constructed in accordance with these criteria. Transition buffering and site design will be implemented to reduce the impacts of development with surrounding residential neighborhoods.**

**In conclusion, the FLUMA meets the policies of the Comprehensive Plan.**

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### 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 amount of dwelling units, population, etc.

Current Impacts: The 82.69-acre site is SF, and the analysis below assumes a density of 4.4 dwelling units per acre, consistent with the maximum densities permitted in the RD zoning district.

Proposed Impacts: The impact assessment summary of the proposed use, a density of 16 dwelling units per acre for the future MF property.

#### Dwelling Units

Existing:	0 presently; 363 with existing FLUM
Proposed:	1,323
Net Change:	+960

#### Population\*

Existing:	0 presently; 922 with existing FLUM
Proposed:	3,360
Net Change:	+2,438

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

#### Water Use

Existing:	0 presently; <u>72,600 gal/day total</u> with existing FLUM (200 gal/day x 363 DU's)
Proposed:	<u>264,000 gal/day total</u> (200 gal/day x 1,323 DU's)
Net Change:	+191,200 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

#### Sewage

Existing:	0 presently; <u>72,600 gal/day total</u> with existing FLUM (200 gal/day x 363 DU's)
Proposed:	<u>264,000 gal/day total</u> (200 gal/day x 1,323 DU's)
Net Change:	+191,200 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

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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: 0 presently; 4,370 lbs. total/day with existing FLUM (4.74 lbs./person/day x 922 residents)  
Proposed: 15,926 lbs. total/day (4.74 lbs./person/day x 3,360 residents)  
Net Change: + 11,556 lbs./day  
Facility Capacity: 1,836 tons/day  
Existing Demand: 1,384 tons/day  
Capacity Available: Yes

### **Traffic/Daily Trips**

Existing Generation: 0 presently; 280 AM peak trips/hour and 370 PM peak trips/hour with existing FLUM  
Proposed: 331 AM peak trips/hour and 410 PM peak trips/hour  
Net Change: +51 AM peak hour trips and +40 PM peak hour trips  
Facility Capacity: Nelson Road, a collector roadway, and Embers Parkway, a minor arterial roadway currently access the subject properties. All roadways meet or surpass the minimum acceptable Level of Service Standard of "D."  
Capacity Available: Yes

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## Development Impact Analysis

### Hurricane Evacuation

The site is in Evacuation Zone A (most vulnerable). The MF future land use could increase potential residential dwelling units by 960 dwelling units, thus causing an impact on hurricane evacuation times. However, the site is not located within the Evacuation Zone A nor the Coastal High Hazard Area.

### Park Lands

The level of service standard (LOS) for parkland and facilities is based on permanent population. Based on 960 additional dwelling units, there could be a maximum increase in park demand of 9.75 acres

### Protected Species

The City requires an environmental survey prior to 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 an increase in the potential number of dwelling units with a MF future land use, resulting in an increase in the projected number of students.

Existing dwelling units:	0 presently; 363 dwelling units with existing FLUM
Existing students:	0 presently; 106 (363 DU x .292 students per single-family dwelling unit)
Proposed dwelling units:	1,323 dwelling units
Proposed students:	120 (1,323 DU x .091 students per multi-family dwelling unit)
Change:	+14 students

### **Recommendation:**

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

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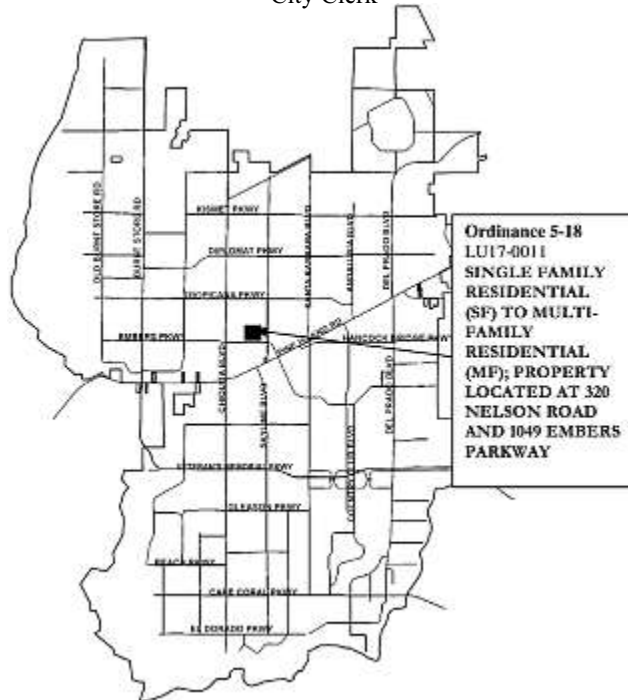


# NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt ORDINANCE 5-18, AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM SINGLE FAMILY RESIDENTIAL (SF) TO MULTI-FAMILY RESIDENTIAL (MF) LAND USE DESIGNATION FOR PROPERTY LOCATED IN BLOCKS 3648 AND 3649, UNIT 48, CAPE CORAL SUBDIVISION, AND IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, ALL AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY IS LOCATED AT 1049 EMBERS PARKWAY AND 320 NELSON ROAD; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

A public hearing on the ordinance will be held Wednesday, January 10, 2018 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-0000953171

☐ PROOF O.K. BY: \_\_\_\_\_ ☐ O.K. WITH CORRECTIONS BY: \_\_\_\_\_

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

ADVERTISER: CITY OF CAPE CORAL\_DEPT  
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NP-0000953171.INDD

Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: City of Cape Coral

APPLICATION NO: LU17-0011

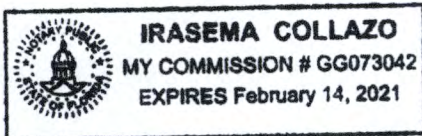
STATE OF FLORIDA       )  
                                      )  
COUNTY OF LEE        )

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

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

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

DATED this 29<sup>th</sup> day of December, 2017.



Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of Dec., 2017, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 2/14/21 Commission # GG073042

Signature of Notary Public

IRASEMA COLLAZO  
Print Name of Notary Public

SUBJECT PROPERTY


500' PROXIMITY BOUNDARY

CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT FUTURE  
LAND USE MAP  
500' Proximity Boundary


Case No. LU17-0011

LEGEND

 500' Proximity Boundary

 Subject Property

Future Land Use

 SM

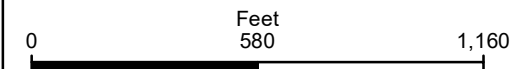
 CAC

 PF

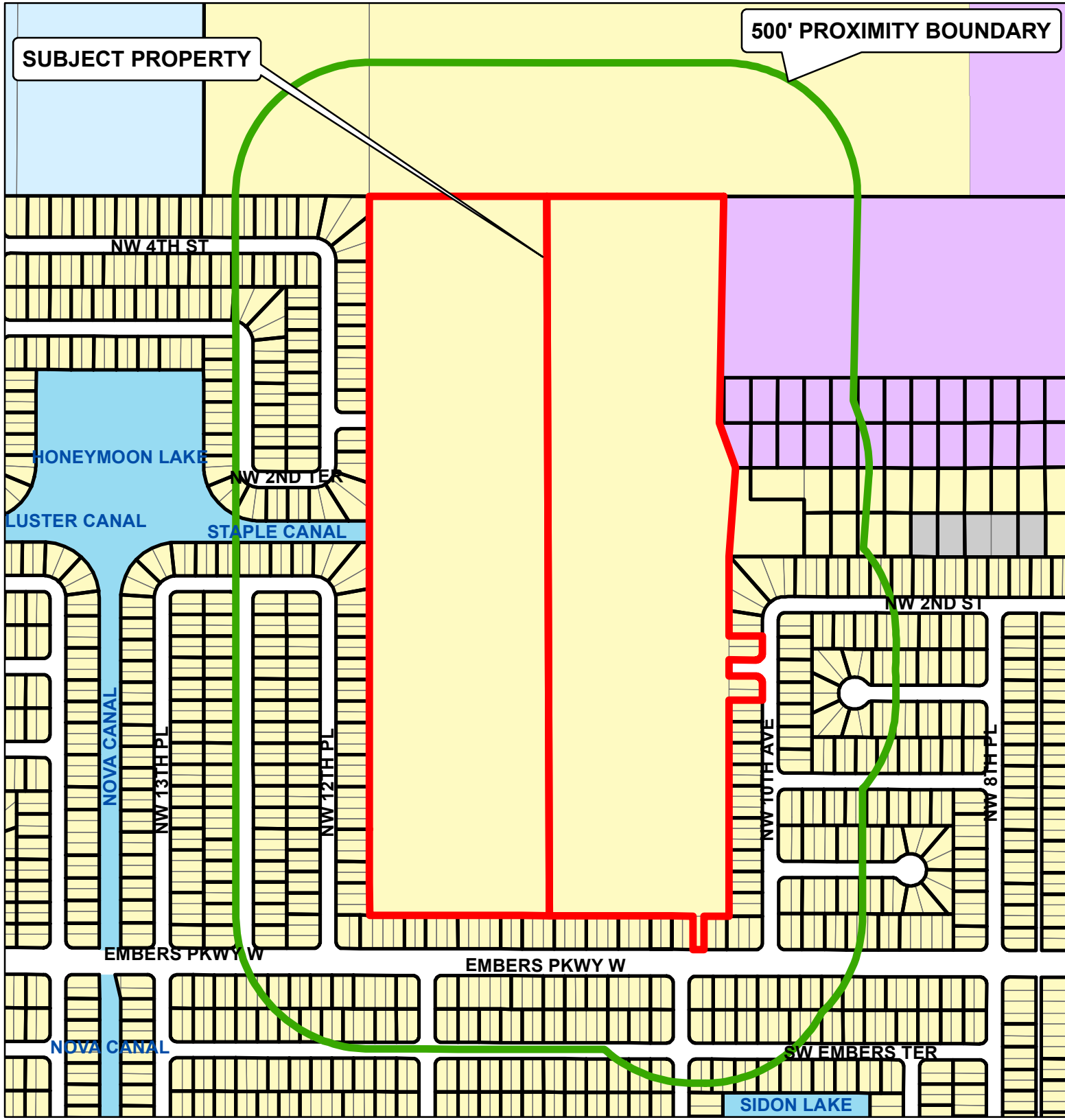
 LEE COUNTY FLU



DECEMBER 6TH, 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 Boundary

Case No. LU17-0011

LEGEND

-  Subject Property  
 500' Proximity Boundary

Zoning

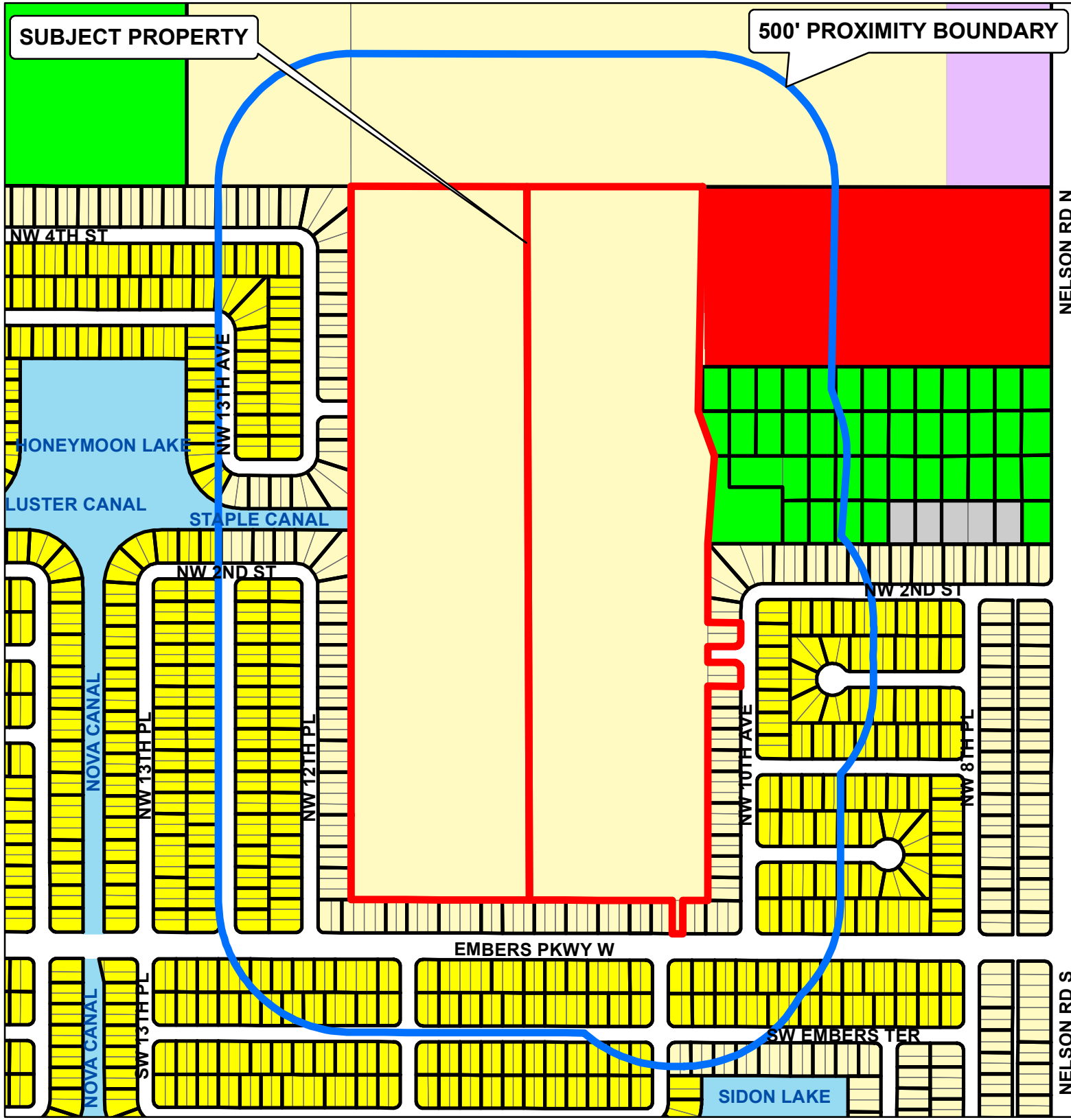
-  A  
 C-1  
 MR  
 R-1B  
 RD  
 LEE COUNTY ZONING



DECEMBER 6TH, 2017



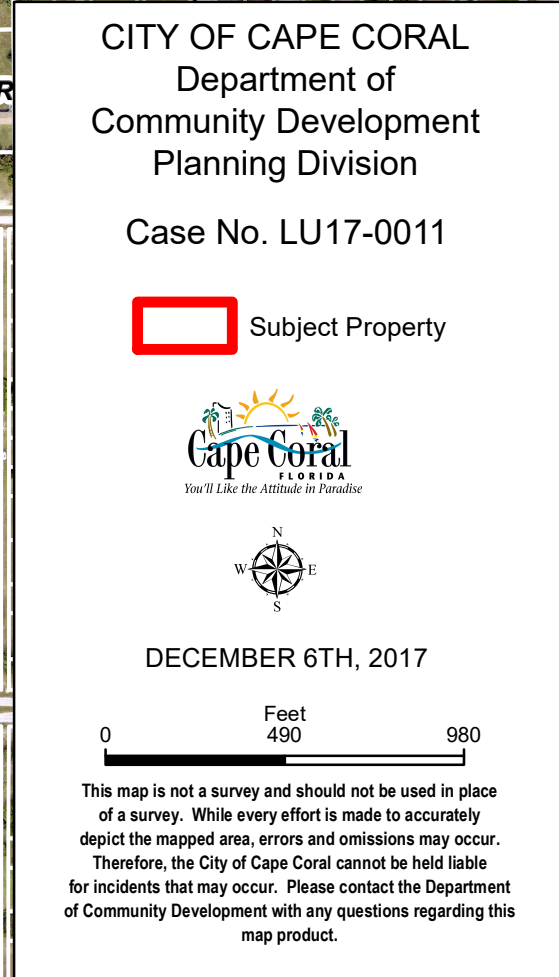
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Item Number:	7.D.
Meeting Date:	1/10/2018
Item Type:	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL



**TITLE:**

Ordinance 10-18

**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? No

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

**WHAT THE ORDINANCE ACCOMPLISHES:**

An ordinance amending Article XII, Building Codes and City of Cape Coral Engineering Standards, Sections 12.1 through 12.4, of the City of Cape Coral Land Use and Development Regulations; updating the Building Codes and Editions adopted by the City.

**LEGAL REVIEW:**

John E. Naclerio III, Assistant City Attorney

**EXHIBITS:**

Ordinance 10-18

Memo Adoption of the 6th Edition Building Codes

**PREPARED BY:**

Division- Department- City  
Attorney

## SOURCE OF ADDITIONAL INFORMATION:

### ATTACHMENTS:

Description	Type
▣ Ordinance 10-18	Ordinance
▣ Memo Adoption of the 6th Edition Building Codes	Backup Material



ORDINANCE 10 - 18

AN ORDINANCE AMENDING ARTICLE XII, SECTIONS 12.1 THROUGH 12.4, OF THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS; UPDATING THE BUILDING CODES AND EDITIONS ADOPTED BY THE CITY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Florida Building Code, 6<sup>th</sup> Edition (2017) is effective as of December 31, 2017.

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 XII, Section 12.1, is hereby amended as follows:

§ 12.1 – Adoption of codes: Florida Building Code, the National Electric Code, International Property Maintenance Code, and Engineering Design Standards.

The following building codes are hereby adopted, and incorporated herein by reference as fully as if set out at length herein, and shall govern all construction, erection, alteration, repair and demolition of all buildings or other structures within the corporate limits of the city; and any appurtenances attached thereto, except those portions of said codes that are hereinafter deleted, modified or amended:

~~2010~~ 2017 Florida Building Code, the family of codes adopted by the Florida Building Commission, except as deleted, modified or amended as indicated in § 12.2 and § 12.3 below;

National Electric Code, ~~2008~~ 2014 Edition;

...

SECTION 2. The City of Cape Coral Land Use and Development Regulations, Article XII, Section 12.2, is hereby repealed in its entirety and replaced with the following:

§ 12.2 – 2017 Florida Building Code, Building.

All sections of the 2017 Florida Building Code, Building are in effect as stated therein except as amended herein:

Section 115  
Stop Work Order

115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order. In addition, the building official is authorized to issue a stop work order for the failure to contain and/or remove construction refuse as required in the Code of Ordinances, Chapter 9, Health and Sanitation, or for any other violation of the Code of Ordinances pertaining to construction activities.

115.2 Issuance. The stop work order shall be in writing and shall be posted at the property or given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, all work on the construction site shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

Section 1612  
Flood Loads

1612.2 Definitions.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to August 17, 1981. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

SECTION 3. The City of Cape Coral Land Use and Development Regulations, Article XII, Section 12.3, is hereby amended as follows:

§ 12.3 – ~~2010~~ 2017 Florida Building Code, Existing Building.

All sections of ~~2010~~ the 2017 Florida Building Code, Existing Building are in effect as stated therein except as amended herein:

Section 202  
General Definitions

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to August 17, 1981. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

SECTION 4. The City of Cape Coral Land Use and Development Regulations, Article XII, Section 12.4, is hereby amended as follows:

§ 12.4 – International Property Maintenance Code, 2012 Edition.

...

- .2 All references to the building official in the International Property Maintenance Code, 2012 Edition, shall be construed as meaning the Department of Community Development Director or the Director's designee. All references in the International Property Maintenance Code, 2012 Edition to building, plumbing, mechanical, fuel gas, electric, fire safety or other codes or standards shall be construed to mean the ~~2010~~ 2017 Florida Building Code, National Electrical Code, ~~2008~~ 2014 Edition, and the Florida Fire Prevention Code, as applicable.

SECTION 5. 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 6. 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 \_\_\_\_\_, 2018.

\_\_\_\_\_  
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
REBECCA VAN DEUTEKOM  
CITY CLERK

APPROVED AS TO FORM:



\_\_\_\_\_  
JOHN E. NACLERIO III  
ASSISTANT CITY ATTORNEY  
ord\2017 Florida Building Code  
12/19/17

## **MEMORANDUM**

### **CITY OF CAPE CORAL DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning and Zoning Commission

FROM: Stephen Beckman, Building Official

DATE: January 2, 2018

SUBJECT: Adoption of 6<sup>th</sup> Edition Building Codes

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Effective December 31<sup>st</sup>, 2017, the 6<sup>th</sup> Edition of the Florida Building Code went into effect for the State of Florida. With this new edition, there are significant changes which will affect the design and function of buildings, providing a safer and more resilient product. Ordinance 10-18 will adopt the 2017 Florida Building Codes into the City LUDR and incorporate them by reference. Existing floodplain management regulations remain unchanged as to preserve our CRS status. The new 1' freeboard requirement in the 2017 Code will serve to protect and preserve our properties.

Hurricane IRMA in September of 2017 helped demonstrate how effective the building codes are for preserving property and life. Staff recommends adoption of the current 2017 Codes.