



## **AGENDA FOR THE HEARING EXAMINER**

Tuesday, August 21, 2018

9:00 AM

Council Chambers

### **1. HEARINGS CALLED TO ORDER**

### **2. HEARINGS**

- A. Case # ZA18-0008\*; Acreage: 20,604-sq. ft; Address: 1514 SE 4th Street; Applicant: Jose A. Cubillos and Mario E. Maya

### **3. DATE AND TIME OF NEXT HEARINGS**

- A. Tuesday, September 4, 2018, at 9:00 a.m., in Council Chambers

### **4. 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 1-239-574-0411 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.

#### **PLEDGE OF CIVILITY**

We will be respectful of each other even when we disagree.  
We will direct all comments to the issues. We will avoid personal attacks.

The hearing shall, to the extent possible, be conducted as follows:

1. The Clerk shall read into the record the Ordinance or Resolution Title and Number, or the Applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
2. The Applicant, staff, and all Participants requesting to speak or present evidence or both the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
3. Staff will testify regarding proper notice of the Hearing in accordance with City requirements.
4. The Applicant may waive the Applicant's right to an evidentiary hearing if Applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the Applicant, a Public Hearing shall be held for all decisions requiring an ordinance or resolution.
5. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner, determines to proceed in a different order, taking proper consideration of fairness and due process:
  - The Applicant shall make the Applicant's presentation, including offering any documentary evidence, and introduce any witnesses as Applicant desires. The Applicant shall present the Applicant's entire case in thirty (30) minutes.
  - Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner with the agenda materials, as staff desires; summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in thirty (30) minutes.
  - Participants in opposition to or support of the application shall make their presentation in any order as determined by the Hearing Examiner. Each Participant shall present their argument in 5 minutes.
  - The Applicant may cross-examine any witness and respond to any testimony presented.
  - Staff may cross-examine any witness and respond to any testimony presented.
  - The Hearing Examiner may choose to allow Participants to respond to any testimony if the Hearing Examiner deems the response to be necessary to ensure fairness and due process.
  - The Hearing Examiner, may ask questions of the staff, Applicant, and Participants.
  - Final argument may be made by the Applicant, related solely to the evidence in the record.
  - Final argument may be made by the staff, related solely to the evidence in the record.
  - For good cause shown, the Hearing Examiner may grant additional time to any of the hereinabove time limitations.
  - The Hearing Examiner's, decisions must be based upon Competent Substantial Evidence in the record.

**Item Number:** 2.A.  
**Meeting Date:** 8/21/2018  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # ZA18-0008\*; Acreage: 20,604-sq. ft; Address: 1514 SE 4th Street; Applicant: Jose A. Cubillos and Mario E. Maya

**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:**

Jose A. Cubillos and Mario E. Maya request a rezone from the Single Family Residential (R-1B) to the Pedestrian Commercial (C-1) District for Lots 19-22, Block 1455, Unit 16, Cape Coral Subdivision; site is located at 1514 SE 4<sup>th</sup> Street.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Materials"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

**ATTACHMENTS:**

**Description**

**Type**

▢ Backup Materials

Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST FOR REZONING APPLICATION  
Questions: 239-574-0776

Case # 2A18-0008

REQUEST FOR A REZONING

FEE \$2,050.00 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.

Following the approval of your request, the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

OWNER OF PROPERTY

José A. Cubillos And MARIO E. MAYA

Email:

galvezspot@hotmail.com

Address: 110 Washington Ave  
City Miami Beach State: FL Zip 33139  
Phone: 305-535-3031

AUTHORIZED REPRESENTATIVE

Carlos A. Galvez

Address: 1405 NE 2nd St  
City Cape Coral State: FL Zip 33909  
Phone: 239/321-1949

Email:

Unit 16 Block 1455 Lot(s) 19-20-21-22 Subdivision CC  
Address of Property 1514<sup>th</sup> SE 4th St  
Current Zoning R Plat Book 13, Page 85  
Proposed Zoning C Strap Number 18-44-24-C2-01455-0190-014550210

**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.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.



DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST FOR REZONING APPLICATION  
Questions: 239-574-0776

Case # ZA18-0008

(SIGNATURE MUST BE NOTARIZED)

Mario E. Maya & José A. Cobillos  
NAME (PLEASE TYPE OR PRINT)

[Signature]  
APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF MIAMI - DADE

Sworn to (or affirmed) and subscribed before me this 26 day of JANUARY, 2018, by MARIO MAYA  
AND JOSE COBILLOS who is personally known or produced PASSPORTS  
as identification.

Exp. Date: 04/04/21 Commission Number: 66090015

Signature of Notary Public: [Signature]

Printed name of Notary Public: CARLOS CHOROCO  
(SIGNATURE MUST BE NOTARIZED)



CARLOS CHOROCO  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG090015  
Expires 4/4/2021





DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST FOR REZONING APPLICATION  
Questions: 239-574-0776

Case # ZA18-0008

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Carlos A. Galvez  
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE HEARING EXAMINER, OR CITY COUNCIL FOR

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

UNIT 16 BLOCK 1455 LOT(S) 19-20-21-22 SUBDIVISION CC

OR LEGAL DESCRIPTION

Cape Coral Unit 16 BLK 1455 PB 13 LOTS 19  
THRU 22

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

José Antonio Cubillos  
PROPERTY OWNER (Please Print)

José Antonio Cubillos  
PROPERTY OWNER (Please Print)

[Signature]  
PROPERTY OWNER (Signature & Title)

Mario Enrico Maya  
PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF MIAMI DADE

Subscribed and sworn to (or affirmed) before me this 26 day of JANUARY, 2018, by MARIO MAYA  
AND ONE WRITORS who is personally known or produced PASPORES  
as identification.



CARLOS CHOROCO  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG090015  
Expires 4/4/2021

Exp. Date: 04/04/21 Commission Number: GG090015

Signature of Notary Public: [Signature]

Printed name of Notary Public: CARLOS CHOROCO

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



DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST FOR REZONING APPLICATION

Questions: 239-574-0776

Case # ZA18-0008

ACKNOWLEDGEMENT FORM

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

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner, Planning & Zoning Commission/Local Planning Agency, and City 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 \_\_\_\_\_ day of \_\_\_\_\_, 2018

MARIO E. MAYA & José A Ceballos  
NAME (PLEASE TYPE OR PRINT)

[Signature]  
APPLICANT'S SIGNATURE

STATE OF FL COUNTY OF \_\_\_\_\_

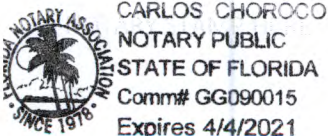
MARI MAYA

Subscribed and sworn to (or affirmed) before me this 26 day of JANUARY, 2018, by MARIO MAYA  
JOSE CEBALLOS who is personally known or PASAPORT  
as identification.

Exp. Date: 09/09/21 Commission Number: 61090015

Signature of Notary Public: [Signature]

Printed name of Notary Public: CARLOS CHOROCO







DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST FOR REZONING APPLICATION

Questions: 239-574-0776

Case # ZA18-0008

**DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)**

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

Mario Mays & Jose A. Cubillas  
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

[Signature]  
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF MIAMI DADE

Sworn to (or affirmed) and subscribed before me on this 22 day of JANUARY, 2018  
by MARIO MAYA, who is personally known or who has produced PASSPORT as identification.

Exp. Date 04/01/21  
Commission # 66040015

[Signature]  
Signature of Notary Public

CARLOS CHOROCO  
Print Name of Notary Public



CARLOS CHOROCO  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG090015  
Expires 4/4/2021

Mario Maya  
110 Washington Ave  
Miami Beach, FL 33139

Representative : Carlos Galvez

Applicant is requesting to Rezone a 0.50- acre parcel from residential (R-1B) to rezone to Commercial (C-1)

Re: Letter of intent for a re-zoning  
Address: 1514 S.E. 4th Street Cape Coral, FL 33990

Strap# 18-44-24-C2-01455.0190  
BLK 1455  
Lots 19-22  
Unit 16

Dear Ms. Kantarze

Please accept this letter . It is the intent of the property owner Mario Maya to request a re-zoning application for this site from residential (R-1B) to Commercial (C-1) zoning. This empty lot site is located next to a gas station.

Cordially, and your respectfully,  
Carlos Galvez

# Planning Division Case Report

**ZA18-0008**

**Review Date:** July 30, 2018

**Property Owners:** Jose A. Cubillos and Mario E. Maya

**Owner Address:** 110 Washington Avenue, Apartment #9  
Miami Beach, FL 33139

**Authorized Rep.** Carlos Galvez

**Request:** The applicant requests a rezone from the Single Family Residential (R-1B) to the Pedestrian Commercial (C-1) District.

**Address:** 1514 SE 4<sup>th</sup> Street  
Cape Coral Subdivision, Unit 16, Block 1455, Lots 19-22  
Strap Number: 18-44-24-C2-01455.0190

**Prepared By:** Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

**Reviewed By:** Robert H. Pederson, AICP, Planning Manager

**Recommendation:** **Denial of the requested C-1 Zoning; Recommend approval of P-1 Zoning**

**Urban Service Area:** Infill

**Right-of-Way Access:** The site has frontage that is limited to SE 4<sup>th</sup> Street, a local street.

## Site Description:

The site is a 20,604-sq. ft. parcel that is rectangular and undeveloped. Frontage is limited to SE 4<sup>th</sup> Street along the north property line.

## Purpose of the Rezoning Request

The applicant has not provided a reason in the letter of intent for the rezone. However, based on the Policy 1.15.c of Future Land Use Element of the Comprehensive Plan, the R-1B Zoning is not consistent with the Commercial/Professional Future Land Use Classification. In these situations, development permits for these properties cannot be issued by the City until this inconsistency is resolved.

## Entitlement History

The site has always had R-1B Zoning.

Ordinance 56-92 amended the Future Land Use Classification of the site from Single Family to Commercial/Professional.

**Analysis:**

Staff reviewed this application based on the ten General Standards in LUDR, Section 8.7.3.B for evaluating rezones. This application was also reviewed based on the provisions in the C-1, P-1, and P-2 Districts as all three districts are consistent with the Commercial/Professional Future Land Use Classification.

1. *The extent to which the value of the property is diminished by the proposed zoning of the property;*

The rezone should not diminish the value of the site. The value of the site will likely increase because the C-1 District allows a greater number of uses compared to the R-1B District. The C-1 District allows 92 permitted and special exception uses while the R-1B District allows 16. The C-1 District also allows a variety of office, restaurant, and retail uses that are often appealing to developers of commercial properties. These uses are prohibited in the R-1B District.

Since the site has zoning that is inconsistent with the future land use classification, rezoning the site to any of the three zoning districts (Professional Office [P-1], Professional Business [P-2], or C-1) that are consistent with the Commercial/Professional Future Land Classification should increase the value of the site. A rezone to any of these districts would resolve the land use/zoning inconsistency that currently exists and allow the owner to develop the site following the issuance of the appropriate permits.

Like the C-1 District, both the P-1 and P-2 Districts allow a greater number of use uses than the R-1B District. The P-1 and P-2 Districts allow 39 and 40 combined permitted and special exception uses, respectively.

2. *The extent to which the removal of a proposed change in zoning depreciates the value of other property in the area;*

The requested C-1 District allows a wide range of nonresidential uses. Several uses can generate large numbers of trips, involve deliveries, have extended hours of operation, and produce noise. While landscaping and screening can mitigate for some of these attributes, several of these uses, based on the size, site design, and operation of the business may not be compatible with adjacent residential uses to the north and west. In comparison, the P-1 and P-2 Districts allow uses that generally lack these negative attributes and are considered less intrusive with nearby residential development.

3. *The suitability of the property for the zoning purpose;*

The site is ± 20,604 sq. ft. that is a modest-sized commercial property. The depth of the site is about 130 feet. Frontage is limited to a local street (SE 4<sup>th</sup> Street) to the north.



While the site is adjacent to a property with C-1 Zoning to the east, the site is not an ideal candidate for C-1 Zoning. Policy 1.15.c of the Future Land Use Element notes that since many commercial uses have the potential to generate relatively large numbers of trips that may include deliveries, preferred locations for the C-1 District have direct access to an arterial or collector street and adequate depth (a minimum of 250 feet) for larger scale development.

In comparison the site is more suitable for the P-1 District. This district is appropriate for both small and large office or professional development projects.

While the site is not suitable for the C-1 District, the site is also not ideal for P-2 Zoning. This district was designed for lands adjacent to C-1 properties where the potential for foot traffic is strong among office, retail, food service, and related establishments that exist in a more intense, urban environment than that which occurs near the subject property. Because the P-2 District has several form-based requirements, preferred locations for this district are neighborhoods containing multiple blocks. The district is generally not appropriate or ideal for isolated sites.

4. *The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed zoning;*

Future land use, zoning, and uses of the site and surrounding parcels appears in Table 2.

**Table 1. Zoning Classifications, Future Land Use Designations and Existing Uses of the Site and Surrounding Parcels.**

<b>Subject Parcel</b>	<b>Zoning</b>	<b>Future Land Use (FLU)</b>	<b>Existing Use</b>
<b>Current:</b>	Single Family Residential (R-1B)	Commercial/Professional	Undeveloped
<b>Proposed:</b>	Pedestrian Commercial (C-1)	No proposed change	No proposed use
	<b>Surrounding Zoning</b>	<b>Surrounding FLU</b>	<b>Surrounding Existing Uses</b>
<b>North:</b>	NE 4 <sup>th</sup> Street/Single Family Residential (R-1B) and Professional Office (P-1)	NE 4 <sup>th</sup> Street/Single Family and Commercial/Professional	Single family home and drug store
<b>South:</b>	Single Family Residential (R-1B))	Park and Recreation Facilities	Caloosa Elementary and Middle Schools
<b>East:</b>	Pedestrian Commercial (C-1)	Commercial/Professional	Gas station
<b>West:</b>	Single Family Residential (R-1B)	Single Family	Single family home

The surrounding area contains a mixture of residential and nonresidential uses (Figure 1). Commercial uses are to the east of the site; single-family residences are to the west. Two schools, Caloosa Elementary and Middle Schools, occupy a large parcel (>38 acres) to the south. Similar zoning and future land use patterns exist with nonresidential lands to the east, and residential lands to the west of the site.

**Figure 1. Aerial showing the rezone site outlined in blue.**



The subject property can be viewed as a transitional site between nonresidential and residential uses. The City encourages professional offices as transitional areas between commercial development and single-family neighborhoods (see Policy 8.5 of the Future Land Use Element). While professional offices are allowed in both the C-1 and P-1 Districts, the C-1 District allows a variety of other commercial uses that may not be suitable adjacent to low-density residential development.

5. *The relative gain to the community as compared to the hardship, if any imposed, from rezoning said property;*

While the site is relatively small, the requested rezone will benefit the community by allowing commercial development at the neighborhood scale, through job creation, and by increasing the commercial tax base of the City.

6. *The community need for the use proposed by the zoning;*

The C-1 District is consistent with the Commercial/Professional Future Land Use Classification. This land use classification would allow nonresidential uses only on the site. While the property is small, the development of the site under any of the three districts consistent with this future land use classification will assist in a small way in addressing the City's imbalance of commercial development.

7. *Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land Use Plan for the development of the proposed property and surrounding property;*

The future land use classification of the site was changed from Single Family to Commercial/Professional by Ordinance 56-92. City records show the site has always had R-1B Zoning.

8. *The extent to which the proposed zoning promotes the health, safety, morals, or general welfare of this community;*

Based on the area, depth, street frontage, and surrounding land-use patterns, the P-1 District will be more conducive to promoting the health, safety, and general welfare of the community than the requested C-1 designation by allowing uses that are more appropriate for the site and more harmonious with existing development in the area.

9. *The extent to which the proposed zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan;*

Potable water, sewer, and irrigation services are available to the site. Based on the relatively small area of the rezone, level of service standards will not be adversely affected.

10. *Whether the proposed zoning is consistent with the City of Cape Coral's Comprehensive Land Use Plan.*

The current R-1B Zoning of the site is inconsistent with the Commercial/Professional Future Land Use Classification. The requested C-1 Zoning will bring the zoning of the site into consistency with the future land use classification. Two other zoning districts, the P-1 and P-2 Districts are also consistent with the Commercial/Professional Future Land Use Classification. A rezone to one of the three districts is necessary to resolve the land use/zoning inconsistency and allow future development on the site.

**Consistency with the Comprehensive Plan:**

The rezone is consistent with two policies appearing in the Future Land Use Element listed below.

**Policy 1.15.C:**

*"... The Professional Office (P-1) District is designed to provide professional office and other compatible development in areas that are suitable for such activities. The P-1 District is appropriate for development of both small-scale and large-scale office or professional development projects, or projects containing uses compatible with such development. The intensity of development within this district is based upon the size (including width, depth and compactness) and location of the subject property, as well as on compatibility with adjacent future land use classifications and zoning districts.*

*The Professional Business (P-2) District is designed to promote the development of major professional and related office complexes that complement nearby commercial and professional development, and to allow a limited array of commercial uses generally compatible with*

*professional uses. The P-2 District is particularly suitable in neighborhoods adjacent to Pedestrian Commercial (C-1) Districts where there is good potential for walkability between office uses, food services, and certain other businesses that provide services to the owners, employees, and patrons of the office and professional uses developed in an urban form. Preferred locations for the P-2 District are neighborhoods consisting of multiple blocks; however, the District may also be suitable for the establishment of smaller areas, where intense professional or compatible development is warranted.*

*The Pedestrian Commercial (C-1) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C-1 District range from a variety of small or neighborhood-based commercial uses to larger retail or service uses, which may serve a relatively large trade area and, which may be developed as major shopping facilities. As many commercial uses have the potential to generate relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred locations for the C-1 District have direct access onto arterial or collector roads and adequate depth (a minimum of 250 feet) for larger-scale development.*

*In certain locations, fragmented ownership of relatively small properties, or other factors, may preclude the creation of larger properties with access onto a collector or arterial roadway. Under such circumstances, it may be appropriate for the C-1 Zoning District to place additional limits on the intensities of commercial development on these properties. It may also be appropriate, under certain circumstances to place restrictions on some commercial uses, such as those with high trip generation rates, adverse aesthetic attributes, and generation of disturbing noises or odors. Factors to consider when establishing such limits on intensities or uses include the following: the depth of the property, whether the property is adjacent to a waterway, whether the property is adjacent to or proximate to future land use classifications or zoning districts that allow residential uses, and/or the functional classification of street(s) available for street access. The placement of limitations upon the types and intensities of uses allowed within the C-1 Zoning District, in accordance with the factors described above, is intended to reduce conflicts between the C-1 District and adjacent or nearby residential zoning districts..."*

**Staff analysis: This policy identifies the P-1, P-2, and C-1 Districts as being consistent with the Commercial/Professional Future Land Use Classification.**

**This policy also identifies preferred sites for C-1 Zoning as those with direct access to a major street and with adequate depth. The site has access that is restricted to a local street. The site has less than optimal depth and is modest in area. The site is not a strong candidate for the requested C-1 Zoning.**

**Based on this policy, P-2 Zoning is best applied to larger geographic areas consisting of multiple blocks. The P-2 District is more suitable for areas with a strong urban fabric where individuals can easily move from their place of employment to eating and personal service establishments by walking. The site occupies a transitional area between commercial and residential uses in a suburban environment.**



**This policy most strongly supports the rezoning of the site to P-1. This district is appropriate for small to large-scale professional office uses. Uses allowed in this district generally generate fewer trips and do not require sites with high visibility that are desirable for several C-1 uses like restaurants and retail. Sites with frontage along local streets near low-density residential development are better candidates for P-1 Zoning than the requested C-1 Zoning.**

**Policy 8.5:**

*“The City encourages the use of multi-family residential, compound buildings, professional offices, and parks as transitional uses between commercial development and low-density residential neighborhood. Such development should include:*

- a. Design elements such as: height and scale compatible with the surrounding residential uses:*
- b. Site design that is compatible with surrounding residential neighborhoods with consideration given to extensive screening, architectural features, building and parking orientation, and preservation of natural features; and*
- c. Primary site access provided from arterials, collectors or access streets in order to discourage traffic from directly entering residential areas.”*

**Staff analysis: This site occupies a transitional area between single-family residential uses to the west and commercial uses to the east along Del Prado Boulevard. While professional office uses are allowed in the C-1 District, this district allows other uses that may not be harmonious with residential development adjacent to the site. Conversely, the uses allowed in the P-1 District generate less traffic and have fewer negative attributes than many uses in the C-1 District.**

**Recommendation:**

The site has zoning that is inconsistent with the Commercial/Professional Future Land Use Classification. Since permits cannot be issued until this inconsistency is resolved, a rezoning is needed. The C-1 District requested by the applicant is not the best option for the site. The site lacks frontage on a major street, has a modest area, and lacks ideal depth. Furthermore, the site is adjacent to single-family homes to the north (across SE 4<sup>th</sup> Street) and to the west. Staff recommends denial of the requested C-1 Zoning. Instead, the staff analysis within this report shows that the site is more suitable for the P-1 District. **Staff recommends the site be rezoned from R-1B to P-1.**

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**Staff Contact Information**

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator  
Planning Division  
PH: 239-242-3255  
Email: [mstruve@capecoral.net](mailto:mstruve@capecoral.net)



## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** ZA18-0008

**REQUEST:** Jose A. Cubillos and Mario E. Maya request a rezone from the Single Family Residential (R-1B) to the Pedestrian Commercial (C-1) District for Lots 19-22, Block 1455, Unit 16, Cape Coral Subdivision; site is located at 1514 SE 4<sup>th</sup> Street.

**CAPE CORAL STAFF CONTACT:** Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, [mstruve@capecoral.net](mailto:mstruve@capecoral.net)

**PROPERTY OWNER(S):** Jose A. Cubillos and Mario E. Maya

**AUTHORIZED REPRESENTATIVE:** Carlos Galvez

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, August 21, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

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

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

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

**APPEALS:** If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that,

for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



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USA

**Net Amt:** \$382.07

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 08/11/18

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** ZA18-0008

**REQUEST:** Jose A. Cubillos and Mario E. Maya request a rezone from the Single Family Residential (R-1B) to the Pedestrian Commercial (C-1) District for Lots 19-22, Block 1455, Unit 16, Cape Coral Subdivision; site is located at 1514 SE 4th Street.

**CAPE CORAL STAFF CONTACT:** Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

**PROPERTY OWNER(S):**  
Jose A. Cubillos and Mario E. Maya

**AUTHORIZED REPRESENTATIVE:**  
Carlos Galvez

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, August 21, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

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

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

**DETAILED INFORMATION:** The case report and colored maps for this application are available at the City of Cape Coral website, [www.capecoral.net/publ](http://www.capecoral.net/publ) ichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 A.M. and 4:30 P.M.

**HOW TO CONTACT:** Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number



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by order of  
Rebecca van Deutekom, MMC  
City Clerk  
REF # ZA18-0008  
AD# 3090301 Aug. 11, 2018

Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Carlos A. Galvez

APPLICATION NO: ZA18-0008

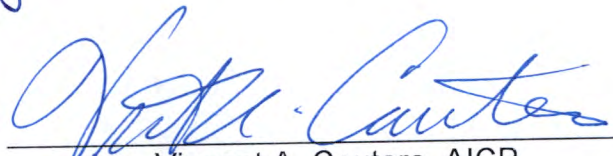
STATE OF FLORIDA       )  
                                      ) §  
COUNTY OF LEE        )

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.

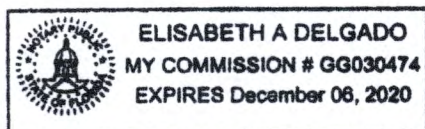
DATED this 13<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of August, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

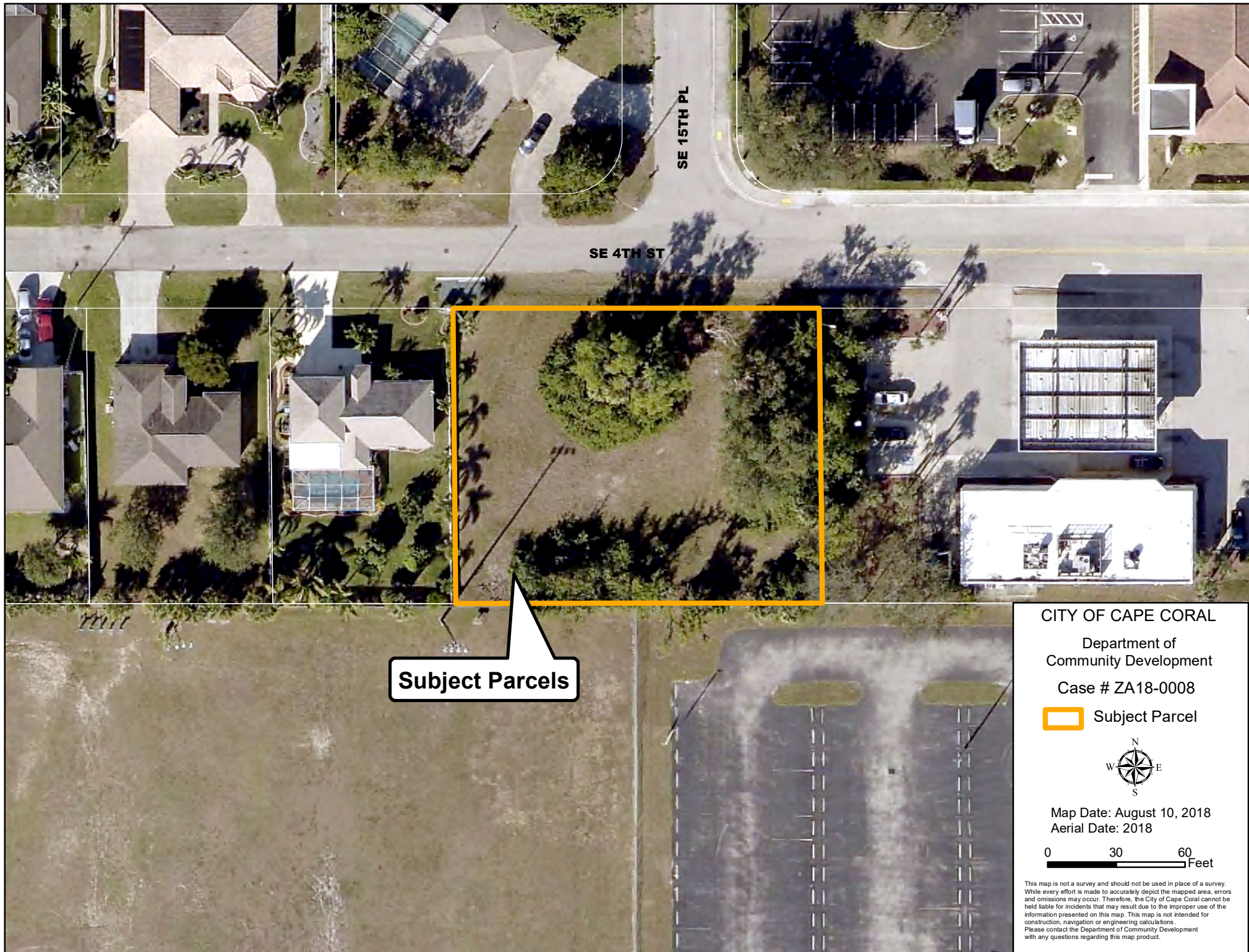
Exp. Date 12/6/20 Commission # GG030474



  
\_\_\_\_\_  
Signature of Notary Public

Elisabeth A. Delgado  
\_\_\_\_\_  
Print Name of Notary Public





SE 15TH PL


SE 4TH ST

Subject Parcels

CITY OF CAPE CORAL

Department of  
Community Development

Case # ZA18-0008

 Subject Parcel



Map Date: August 10, 2018  
Aerial Date: 2018

0 30 60  
Feet

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




# CITY OF CAPE CORAL

Department of  
Community Development  
Planning Division

## CURRENT ZONING MAP 500 Proximity Boundary

Case No. ZA18-0008

### Legend

-  Subject Parcels
-  500' Boundary
-  C-1
-  P-1
-  R-1B
-  R-3
-  Canals/Lakes

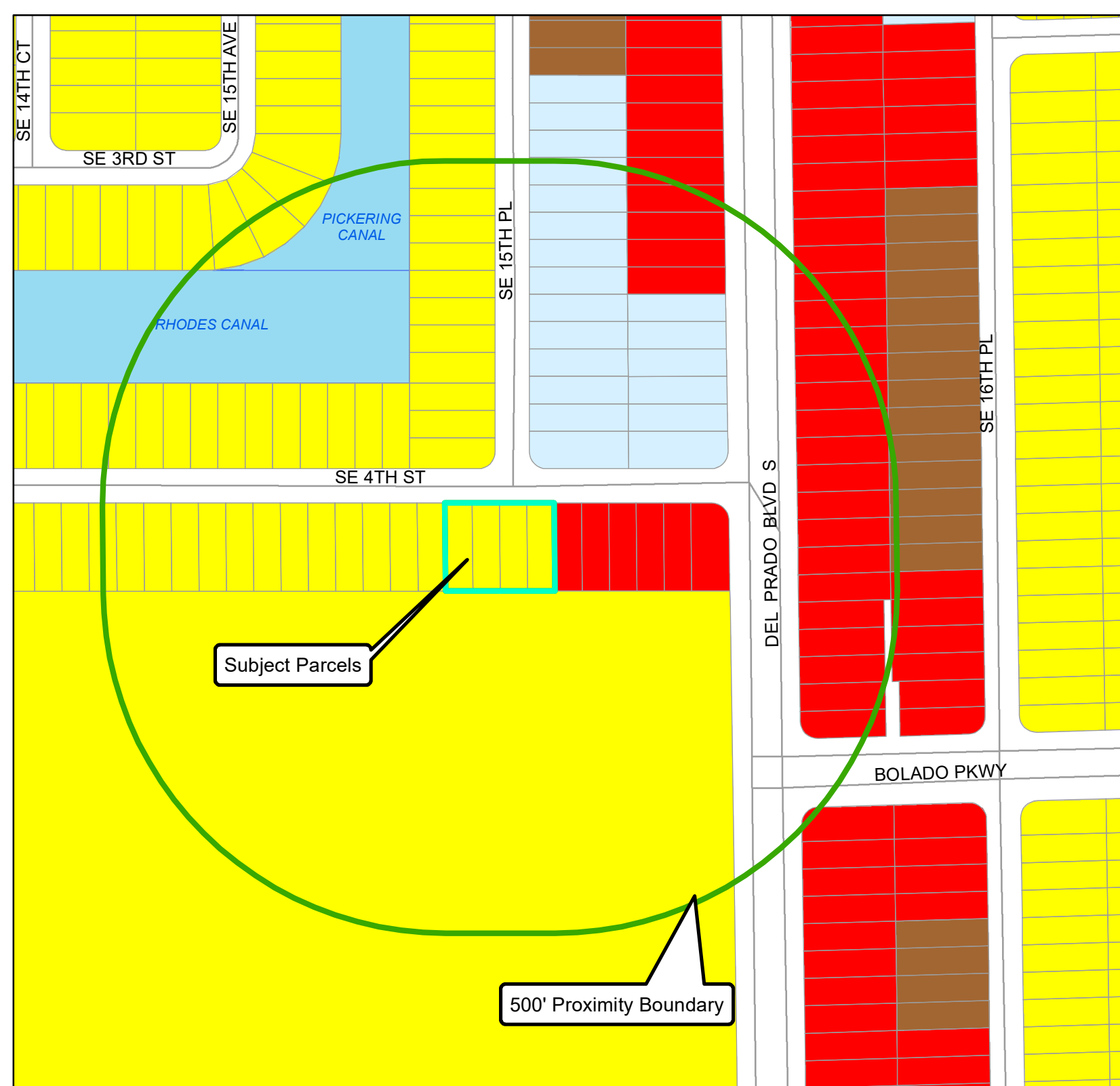


August 7, 2018

0 75 150 225 300 Feet

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KRKA












# CITY OF CAPE CORAL

Department of  
Community Development  
Planning Division

## PROPOSED ZONING MAP 500 Proximity Boundary

Case No. ZA18-0008

### Legend

-  Subject Parcels
-  500' Boundary
-  C-1
-  P-1
-  R-1B
-  R-3
-  Canals/Lakes

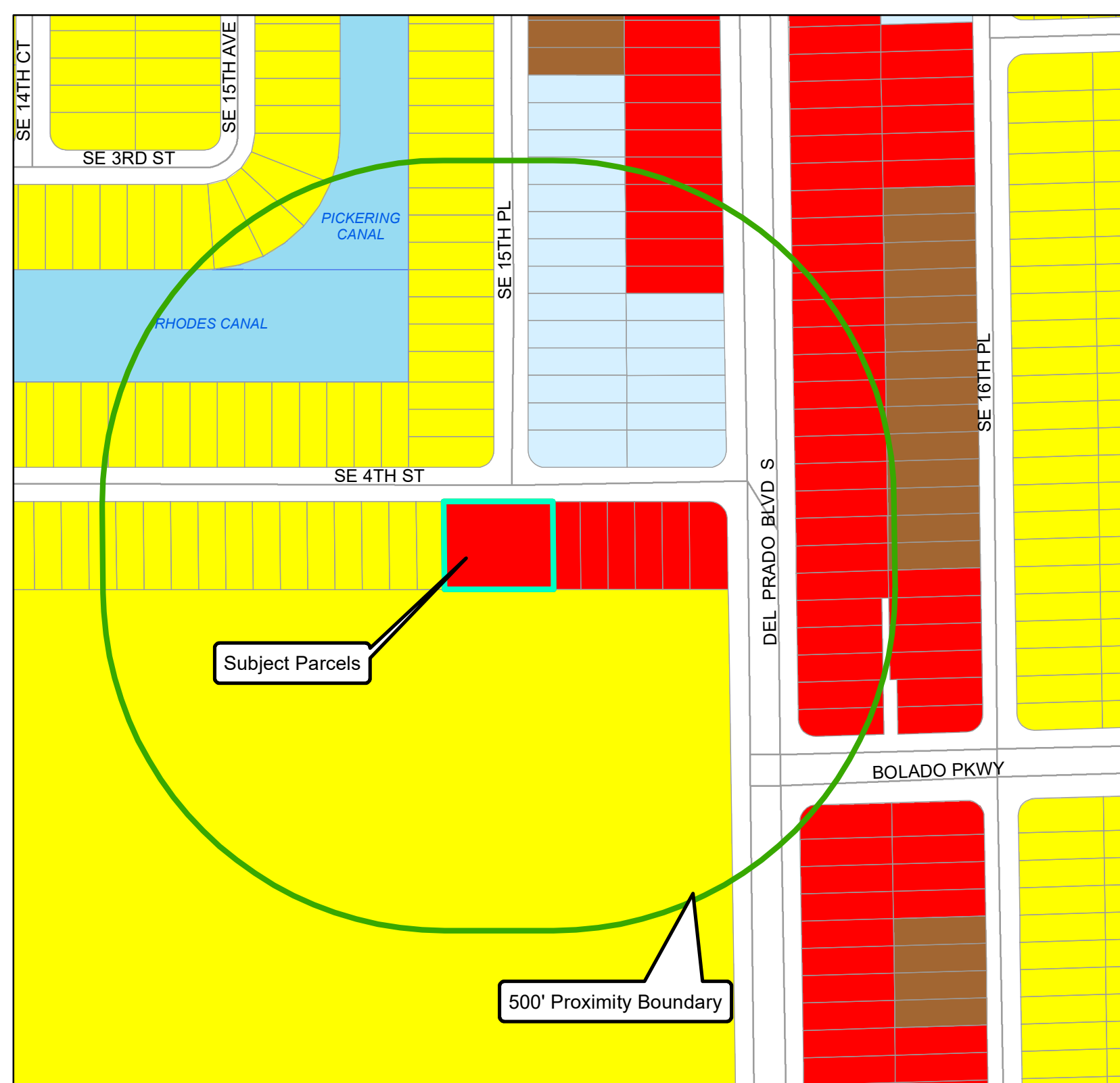


August 7, 2018

0 75 150 225 300 Feet

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KRKA





# CITY OF CAPE CORAL

Department of  
Community Development  
Planning Division

## FUTURE LAND USE MAP 500 Proximity Boundary

Case No. ZA18-0008

### Legend

-  Subject Parcels
-  500' Boundary

### Future Land Use

-  SF
-  CP
-  FDOD
-  PF
-  PK
-  Canals/Lakes

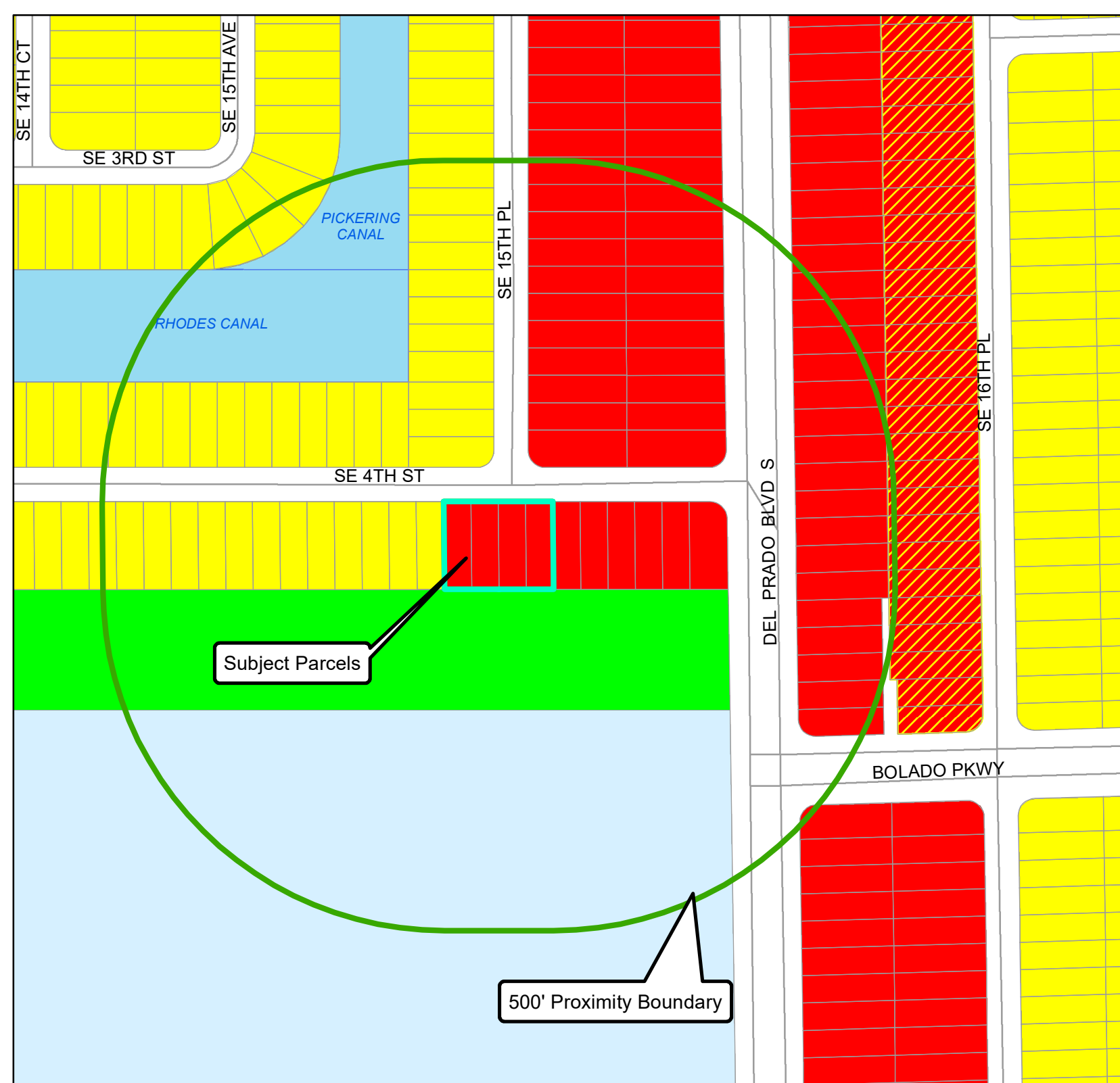


August 7, 2018

0 75 150 225 300 Feet

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KRKA



Item Number:	3.A.
Meeting Date:	8/21/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Tuesday, September 4, 2018, at 9:00 a.m., in Council Chambers

**REQUESTED ACTION:**

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**