



DEPARTMENT OF DEVELOPMENT SERVICES
CITY PLANNING DIVISION

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

REZONE REQUEST

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. 3.4.6). Advertising costs will be billed and must be paid prior to hearing.

PROPERTY INFORMATION

Location/Address 842 Whispering Pines Road, Cape Coral, FL. 33993

Strap Number 10-44-23-C3-00006.001B Unit Block BLK A Lot (s) LOTS 1

Plat Book Page Future Land Use Residential

Current Zoning Agriculture Proposed Zoning Residential

PROPERTY OWNER (S) INFORMATION

Owner Benito Dimayo Address 16767 SW 147 Avenue

Phone 786.210.2557 City Miami

Email mdimayo491@icloud.com State FL Zip 33187

Owner ----- Address -----

Phone ----- City -----

Email ----- State ----- Zip -----

APPLICANT INFORMATION (If different from owner)

Applicant ----- Address -----

Phone ----- City -----

Email ----- State ----- Zip -----

AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)

Representative ----- Address -----

Phone ----- City -----

Email ----- State ----- Zip -----



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PROPERTY INFORMATION

Location/Address 831 Whispering Pines Road, Cape Coral, FL. 33993

Strap Number 10-44-23-C3-00006.009A Unit Block BLK A Lot (s) LOT 14

Plat Book Page Future Land Use Residential

Current Zoning Agriculture Proposed Zoning Residential

PROPERTY OWNER (S) INFORMATION

Owner Benito Dimayo Address 16767 SW 147 Avenue

Phone 786.210.2557 City Miami

Email mdimayo491@icloud.com State FL Zip 33187

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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.

(ALL SIGNATURE MUST BE NOTARIZED)

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.

CORPORATION/COMPANY NAME (IF APPLICABLE)

Benito Dimayo
OWNER'S NAME (TYPE OR PRINT)

Benito Dimayo
OWNER'S SIGNATURE

OWNER'S NAME (TYPE OR PRINT)

OWNER'S SIGNATURE

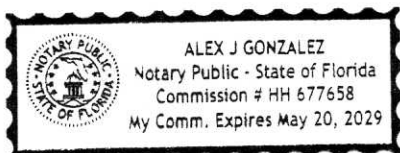
APPLICANT NAME (TYPE OR PRINT)

APPLICANT SIGNATURE

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.

STATE OF Florida
COUNTY OF Manatee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, this 16 day of December, 2025 by Benito Dimayo who is personally known to me or produced FLDL as identification.



Exp Date: 5/20/2029 Commission Number: _____

Signature of notary Public: _____

Printed Name of Notary Public: _____

Alex J Gonzalez



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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Marilyn Dimayo
(Name of person giving presentation)

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

UNIT _____ BLOCK BLK A LOT(S) LOTS 1 SUBDIVISION Whispering Pines
(unrecorded)

OR LEGAL DESCRIPTION _____

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

Benito Dimayo
PROPERTY OWNER (Please Print)

Benito Dimayo, owner
PROPERTY OWNER (Signature & title)

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & title)

STATE OF FL

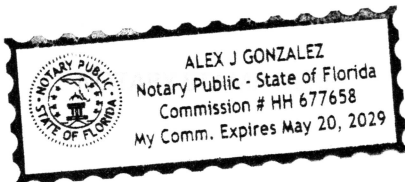
COUNTY OF Lee

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online
notarization, this 12 day of May, 2020 by Benito Dimayo who
is personally known to me or produced SCDL as identification.

Exp Date: 5/20/2021 Commission Number: HH 677658

Signature of notary Public: _____

Printed Name of Notary Public: _____



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



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PLEASE BE ADVISED THAT Marilyn Dimayo
(Name of person giving presentation)

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

UNIT _____ BLOCK BLK A LOT(S) LOT 14 SUBDIVISION Whispering Pines
(unrecorded)
OR LEGAL DESCRIPTION _____

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

Benito Dimayo
PROPERTY OWNER (Please Print)

Benito Dimayo, owner
PROPERTY OWNER (Signature & title)

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & title)

STATE OF Florida

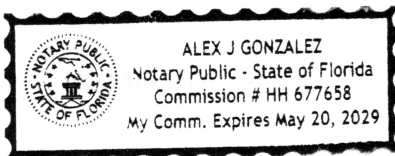
COUNTY OF Manatee

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notarization, this 12 day of May, 2020 by Benito Dimayo who
is personally known to me or produced F206 as identification.

Exp Date: 5/20/2029 Commission Number: HH 677658

Signature of notary Public: _____

Printed Name of Notary Public: _____



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CITY PLANNING DIVISION

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Cape Coral, FL 33915-0027

ACKNOWLEDGEMENT FORM

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

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner and City Council.

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

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

I understand I am responsible for all fees, including advertising and recording costs. All fees are to be submitted to the City of Cape Coral with the application.

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

I hereby acknowledge that I have read and understood the above affidavit on the 16 Day of December, 2025.

CORPORATION/COMPANY NAME

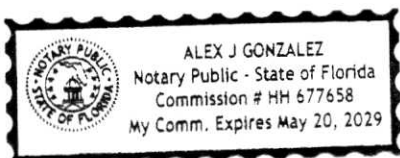
Benito Dimayo
OWNER'S NAME (TYPE or PRINT)

Benito Dimayo
OWNER'S SIGNATURE

STATE OF Florida

COUNTY OF Manatee

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Exp Date: 5/20/2029 Commission Number: HH 677658

Signature of notary Public:

Printed Name of Notary Public:

Alex J Gonzalez



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DOCUMENTARY EVIDENCE (LDC, Section 3.1.11F.6)

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 three 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.

Benito Dimayo
OWNER/APPLICANT
(PLEASE TYPE OR PRINT)

Benito Dimayo
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

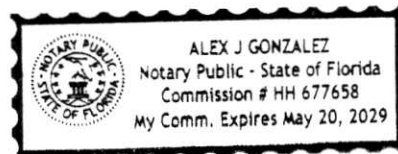
STATE OF FLORIDA
COUNTY OF Miami Dade

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Exp Date: 5/20/2029 Commission Number: HH 677658

Signature of Notary Public: [Signature]

Printed Name of Notary Public: Alex S Gonzalez



November 15, 2025

**Department of Development Services
Cape Coral, FL**

**Subject: 831 Whispering Pines Road, Cape Coral, FL. 33993
Request for Rezoning from Agricultural to Single-Family Residential**

To Whom It May Concern:

I am writing to formally request the rezoning of a parcel of land that I own in Cape Coral, Florida, currently designated as **Agricultural**. I am requesting that the zoning classification be changed to **Single-Family Residential**.

My intention for seeking this rezoning is to be able to build a single-family home on the property. Rezoning the parcel to Single-Family Residential will allow me to make appropriate use of the land.

I am fully prepared to comply with any application requirements, fees, public hearings, or additional documentation needed to proceed with this request.

Thank you for your time and consideration. I look forward to working with the Department of Development Services and am happy to provide any further information necessary.

Sincerely,

Benito Dimayo
mdimayo491@icloud.com
786-210-2557

November 15, 2025

**Department of Development Services
Cape Coral, FL**

**Subject: 842 Whispering Pines Road, Cape Coral, FL. 33993
Request for Rezoning from Agricultural to Single-Family Residential**

To Whom It May Concern:

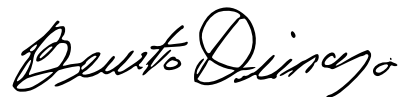
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I am fully prepared to comply with any application requirements, fees, public hearings, or additional documentation needed to proceed with this request.

Thank you for your time and consideration. I look forward to working with the Department of Development Services and am happy to provide any further information necessary.

Sincerely,

A handwritten signature in black ink, reading "Benito Dimayo". The signature is written in a cursive style with a large, stylized "B" and "D".

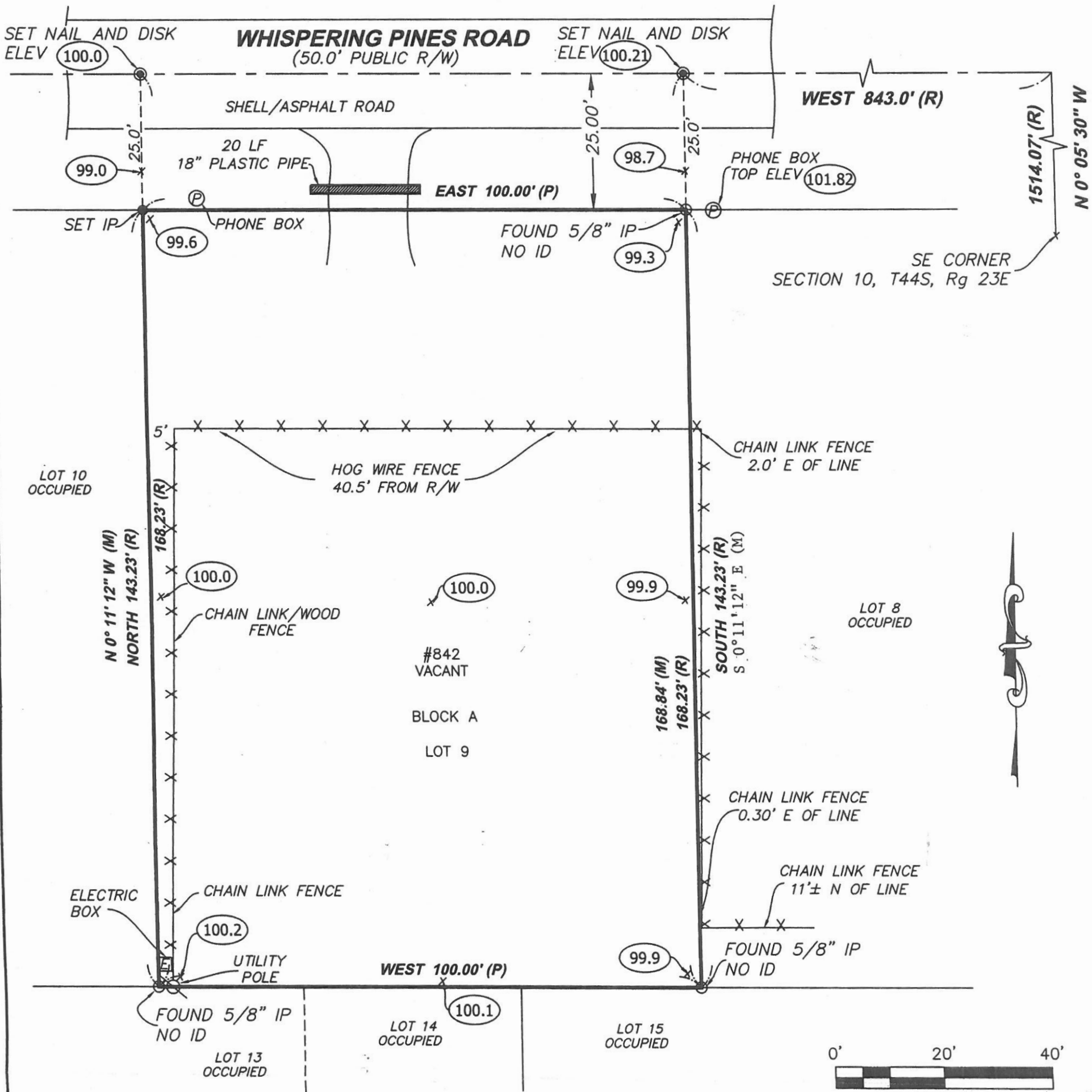
Benito Dimayo
mdimayo491@icloud.com
786-210-2557

PROPERTY ADDRESS : 842 WHISPERING PINES ROAD , CAPE CORAL, FLORIDA 33993
THE SITE LIES IN FLOOD ZONE X WHICH INDICATES A BASE 100 YEAR FLOOD ELEVATION OF N/A',
ACCORDING TO F.I.R.M. MAP COMMUNITY PANEL NUMBER 12071C 0261G , EFFECTIVE 11-17-22.
STRAP NUMBER 10-44-23-C3-00006.001B.

ABBREVIATIONS

FFE = FINISHED FLOOR ELEVATION M = MEASURED R/W = RIGHT OF WAY
● = SET 1/2" STEEL PIN LB 7258 PR = PRORATION CL = CENTER LINE
● = SET NAIL & DISK LB 7258 ELEV = ELEVATION EOP = EDGE OF PAVEMENT
○ = FOUND STEEL PIN NA = NOT APPLICABLE SND = SET PK NAIL & DISK LB 7258
□ = FOUND CONCRETE MONUMENT SW = SEAWALL DPUE = DRAINAGE AND PUBILC UTILITY EASEMENT WF = WATER FACE OF SEAWALL
C = CALCULATED
▲ = SET PK NAIL NO DISK

○ ASSUMED ELEVATION



BEARING BASED UPON THE SOUTHERLY R/W LINE OF WHISPERING PINES ROAD BEING THE RECORDED BEARING OF EAST.

REAL PROPERTY DESCRIPTION

(See Reverse Side)

BOUNDARY SURVEY 03-03-26

LOT : 9

BLOCK : A , Instrument Number
2025000147477

WHISPERING PINES, AS RECORDED IN THE
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

ALLEN SURVEYS, INC.

PROFESSIONAL SURVEYING & MAPPING

6208 Cedelia Road

Bokeelia, Florida 33922

(239) 242-0097 E-FAX (239) 288-2621

SAM R. ALLEN DATE : 3-06-26
SAM R. ALLEN #5803, LB 7258

THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND
THE RAISED SEAL OF LICENSED SURVEYOR AND MAPPER.

CERTIFIED TO :

Leonar Gonzalez



SURVEYORS NOTE :

- This survey was performed upon a description issued verbally by others and without benefit of abstract title.
- This survey does not show improvements found below ground.
- Subject to easements or reservations of records.
- There are no visible encroachments excepts those shown.
- Commercial High Risk Liner = 1 Foot in 10,000, Suburban Liner = 1 Foot in 7500', Rural Liner = 1 Foot in 5000'
- I here certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is true and accurate representation of a survey that meets the standards of practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17 of the Florida Administrative Code.

BENCHMARK DESCRIPTION

N/A

FIELD BOOK 198 PAGE 12

LEGAL DESCRIPTION

FROM THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, RUN NORTH 0 DEGREES 5'30" WEST ALONG THE EAST LINE OF SAID SECTION, A DISTANCE OF 1514.07 FEET TO THE CENTERLINE OF PROPOSED SUBDIVISION ROAD, THENCE WEST ALONG SAID CENTERLINE 843 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED; THENCE SOUTH 168.23 FEET; THENCE WEST 100 FEET; THENCE NORTH 168.23 FEET; THENCE EAST 100 FEET TO THE POINT OF BEGINNING. (KNOWN AS LOT 9, BLOCK A, OF AN UNRECORDED PLAT OF WHISPERING PINES SUBDIVISION), PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Commonly known as 842 WHISPERING PINES RD CAPE CORAL, FL 33993.

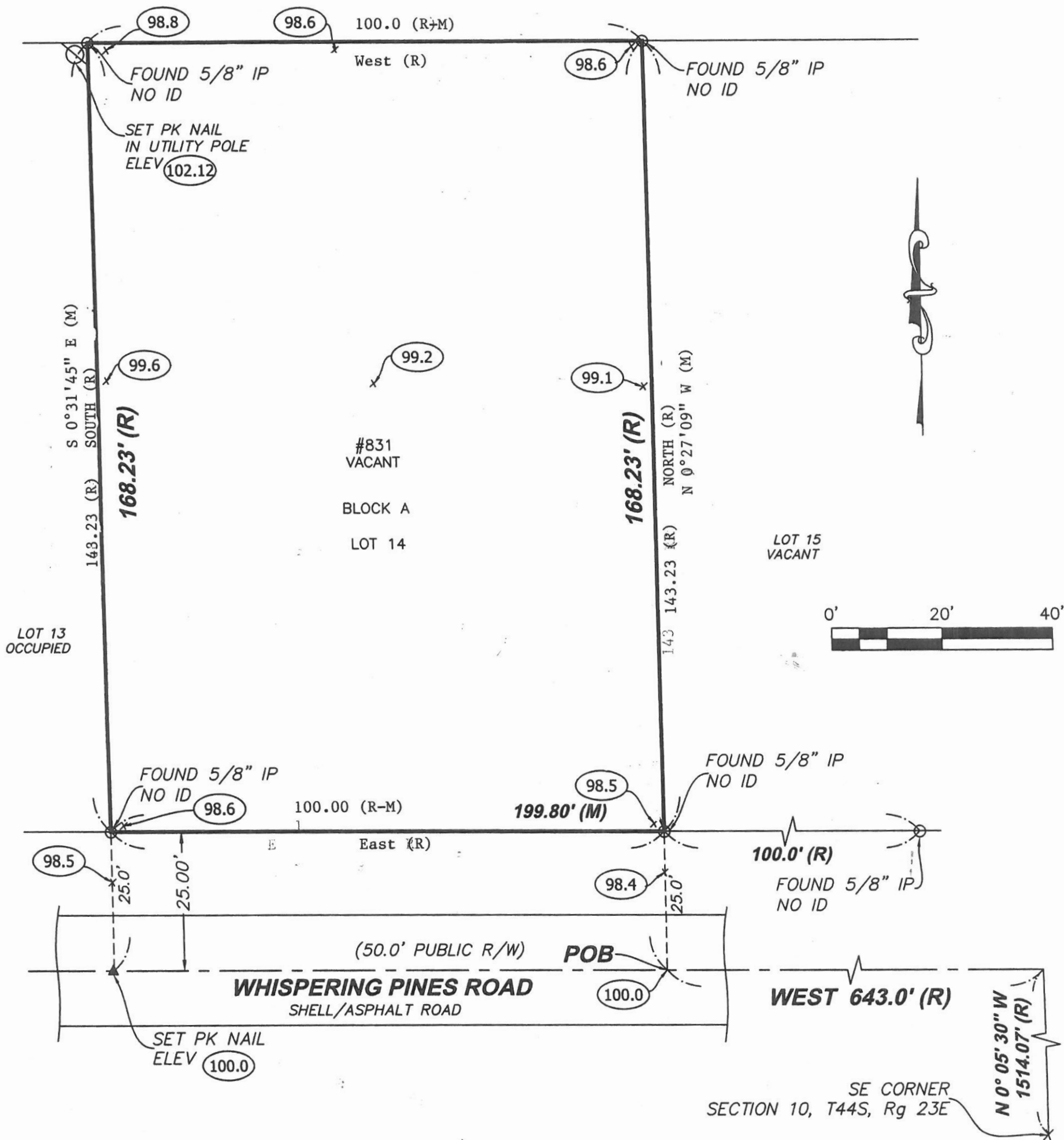
Subject to easements, restrictions and reservations of record and taxes for the year 2025 and thereafter.

PROPERTY ADDRESS : 831 WHISPERING PINES ROAD , CAPE CORAL, FLORIDA 33993
THE SITE LIES IN FLOOD ZONE X WHICH INDICATES A BASE 100 YEAR FLOOD ELEVATION OF N/A',
ACCORDING TO F.I.R.M. MAP COMMUNITY PANEL NUMBER 12071C 0261G , EFFECTIVE 11-17-22.
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□ = FOUND CONCRETE MONUMENT	SW = SEAWALL	WF = WATER FACE OF SEAWALL
C = CALCULATED	DPUE = DRAINAGE AND PUBLIC UTILITY EASEMENT	
▲ = SET PK NAIL NO DISK		

○ ASSUMED ELEVATION



BEARING BASED UPON THE NORTHERLY R/W LINE OF WHISPERING PINES ROAD BEING THE RECORDED BEARING OF EAST.

REAL PROPERTY DESCRIPTION (See Reverse Side)

BOUNDARY SURVEY 03-03-26
LOT : 14
BLOCK : A , Instrument Number 2025000144685
WHISPERING PINES, AS RECORDED IN THE
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

CERTIFIED TO :

Leonar Gonzalez



ALLEN SURVEYS, INC.
PROFESSIONAL SURVEYING & MAPPING
6208 Cedelia Road
Bokeelia, Florida 33922
(239) 242-0097 E-FAX (239) 288-2621

Sam R. Allen
SAM R. ALLEN #5803, LB 7258

DATE : 3-09-26

THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND
THE RAISED SEAL OF LICENSED SURVEYOR AND MAPPER.

SURVEYORS NOTE :

- This survey was performed upon a description issued verbally by others and without benefit of abstract title.
- This survey does not show improvements found below ground.
- Subject to easements or reservations of records.
- There are no visible encroachments excepts those shown.
- Commercial High Risk Linear = 1 Foot in 10,000, Suburban Linear = 1 Foot in 7500', Rural Linear = 1 Foot in 5000'
- I here certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is true and accurate representation of a survey that meets the standards of practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17 of the Florida Administrative Code.

LEGAL DESCRIPTION:

FROM THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 44 SOUTH, RANGE 23 EAST, RUN NORTH 0 DEGREES 5'30" WEST ALONG THE EAST LINE OF SAID SECTION, A DISTANCE OF 1514.07 FEET TO THE CENTERLINE OF A PROPOSED SUBDIVISION ROAD, THENCE WEST ALONG SAID CENTERLINE 643 FEET TO THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED, THENCE NORTH 168.23 FEET, THENCE WEST 100 FEET, THENCE SOUTH 168.23 FEET, THENCE EAST 100 FEET TO THE POINT OF BEGINNING. (KNOWN AS LOT 14, BLOCK A, OF AN UNRECORDED PLAT OF WHISPERING PINES SUBDIVISION), PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Commonly known as 831 WHISPERING PINE RD CAPE CORAL, FL 33993.

Subject to easements, restrictions and reservations of record and taxes for the year 2025 and thereafter.



PLANNING DIVISION STAFF REPORT

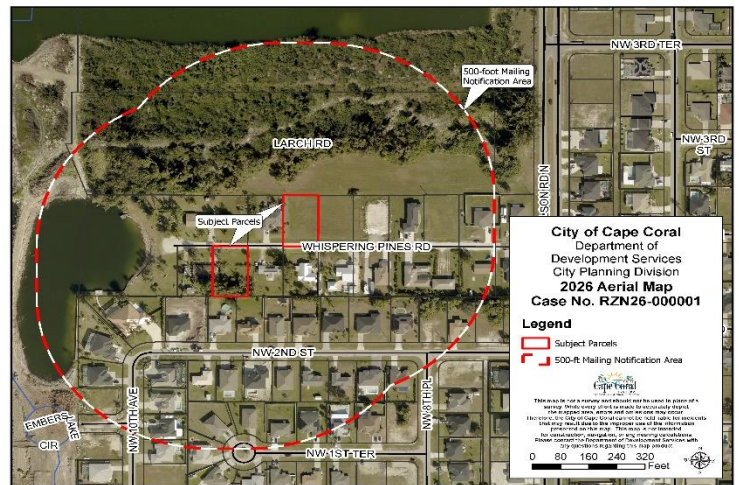
Case No.:	RZN26-000001	Prepared By:	Anthony Santora, Senior Planner
-----------	--------------	--------------	---------------------------------

Property Location:	831 & 842 Whispering Pines RD	<u>Applicant / Property Owner</u>	
Authorized Representative		Name:	Benito Dimayo
Name:	N/A	Address:	16767 SW 147 th AVE
Address:			Miami, FL. 33187
Phone No.:		Phone No.:	786-210-2557
		Email:	Mdimayo491@icloud.com

SUMMARY OF REQUEST:

This is a privately initiated request for re-zoning.

The applicant has requested re-zoning from the current Agricultural (A) zoning to a proposed Single-Family Residential (R-1) zoning for (2) parcels totaling +/- 33,161 SF or 0.76 Acres.



MAP SOURCE: City of Cape Coral

Existing Land Use	Existing Zoning	Proposed Zoning	Site Improvements	Size of Property (+/-)
Single Family/Multi-Family (SM)	Agricultural (A)	Single-Family Res. (R-1)	None	33,161 SF 0.76 Acres

STAFF RECOMMENDATION: | Approval

Conditions: | None

CASE OVERVIEW

Background:	- Rezoning is to allow for future residential development aligned with property size. - Area is developed with Single Family dwellings.
Positive Aspects of Application:	- The proposed district will be more consistent with the character of surrounding area. - The proposed district will enable full utilization of the properties.
Negative Aspects of Application:	Loss of agriculturally zoned property.
Mitigating Factors:	- Area is predominately surrounded with Single-Family residential development - No agricultural development present or anticipated in the area.



PLANNING DIVISION STAFF REPORT

SITE INFORMATION

Street Addresses: 831 & 842 Whispering Pines RD, Cape Coral, FL. 33993

Urban Service Area: Transition

City Water & Sewer: City Water: No City Sewer: No Service Area: North 2 (Bounds)

Right-of-Way Access: The site(s) are accessible from Whispering Pines RD, a non-paved, non-maintained roadway.

STRAP Number(s): 10-44-23-C3-00006.009A | 10-44-23-C3-00006.001B

Block / Lot(s): Block: A (unrecorded) Lot(s): 9 & 14 (unrecorded)

Subdivision: Whispering Pines Subdivision (unrecorded)

Site Area: SQ. FT. (+/-): 33,161 Acres (+/-): 0.76

Case Planner: Anthony Santora, Senior Planner

Review Approved By: Wyatt Daltry, Planning Team Coordinator

FUTURE LAND USE AND ZONING INFORMATION

Site:	Future Land Use	Zoning
Current:	Single Family and Multi-Family (SM)	Agricultural (A)
Proposed:	N/A (No Change)	Single-Family Residential (R-1)
	Surrounding Future Land Use	Surrounding Zoning
North:	Commercial Activity Center (CAC)	Neighborhood Commercial (NC) Commercial (C)
South:	Single Family Residential (SF)	Residential Single Family (R-1)
East:	Single Family Residential (SF)	Residential Single Family (R-1)
West:	Multiple Family Residential (MF)	Residential Mult-Family Low (RML)

PURPOSE OF REQUEST

The applicant has requested this rezoning to align the lots with the character of the neighborhood and allow full utilization of the properties. If approved, the property owner intends to construct a new single family residential dwelling on each property.

FUTURE LAND USE AND ZONING HISTORY

Block A, Lots 9 & 14:	F: SM (1989, Original)
Whispering Pines (UR)	Z: A (1969, Original)

Rezoning Notes:

- The city proposed a small-scale rezoning for the area to amend the zoning from A to R-1 in 2024, RZN24-000007. The rezone sought to align zoning with the existing character of the neighborhood and alleviate existing non-conformities which existed due to the Agricultural zoning classification. However, the city withdrew the proposal due to State enacted requirements prohibiting city-initiated proposals as well as many of the affected property owners wishing to remain agriculturally zoned. The property owners were made aware of the current non-conformities, and the limitations that that entailed, and the City highlighted a path forward, which would be individual rezones. Currently the state has another prohibition which limits the City's ability to pursue a city initiated rezone and the City has no immediate intention to amend the remainder of the neighborhood.



PLANNING DIVISION STAFF REPORT

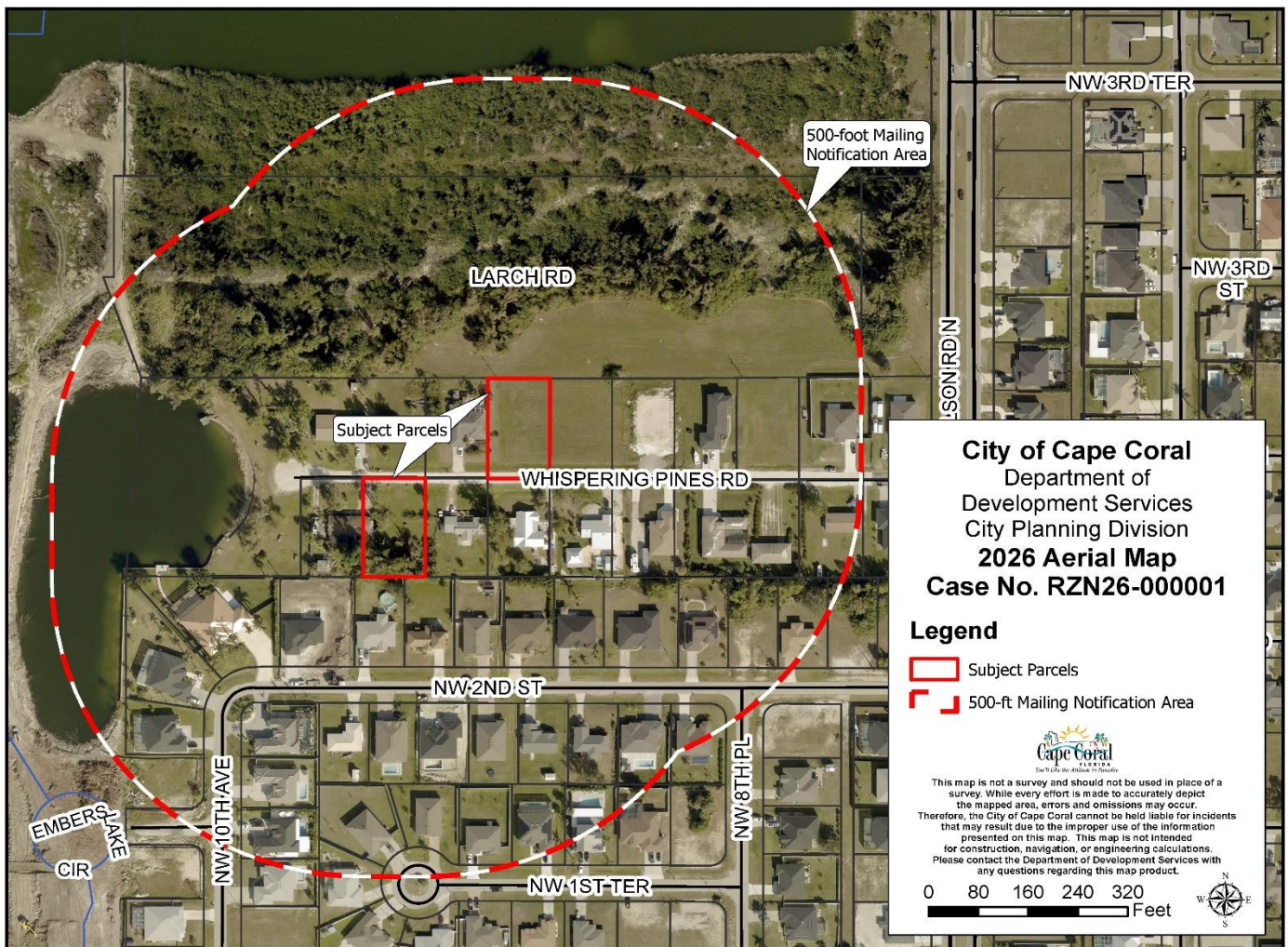
BACKGROUND

This is an applicant-initiated request where the applicant represents the property owner of at least (51) fifty-one percent of the land in the proposed amendment area. The property owner is seeking a rezone from Agricultural (A) to Single-Family Residential (R-1) to allow for the future development of new single-family residential dwellings.

The current Future Land Use classification of Single-Family / Multi-Family (SM) permits Agricultural (A) zoning and uses, however the neighborhood is developed with single-family residences and exhibits typical characteristics found within such areas. The existing lot sizes are not conducive to the more agrarian uses which exist within the Agricultural zoning district, and the required setbacks for (A) zoned properties are much greater than R1 districts, inhibiting full utilization of the property for residential development. Modifying the zoning district would allow for more uniform residential construction in line with the typical city established lot and fuller utilization of the subject properties for development.

A small county enclave exists along Whispering Pines Rd.

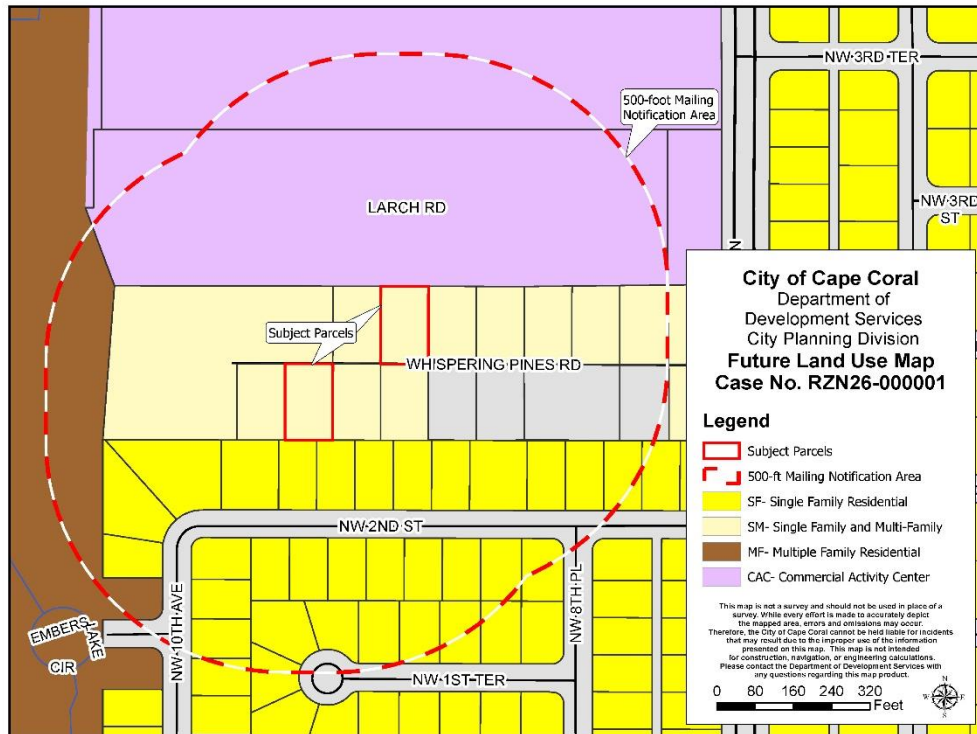
Aerial Map



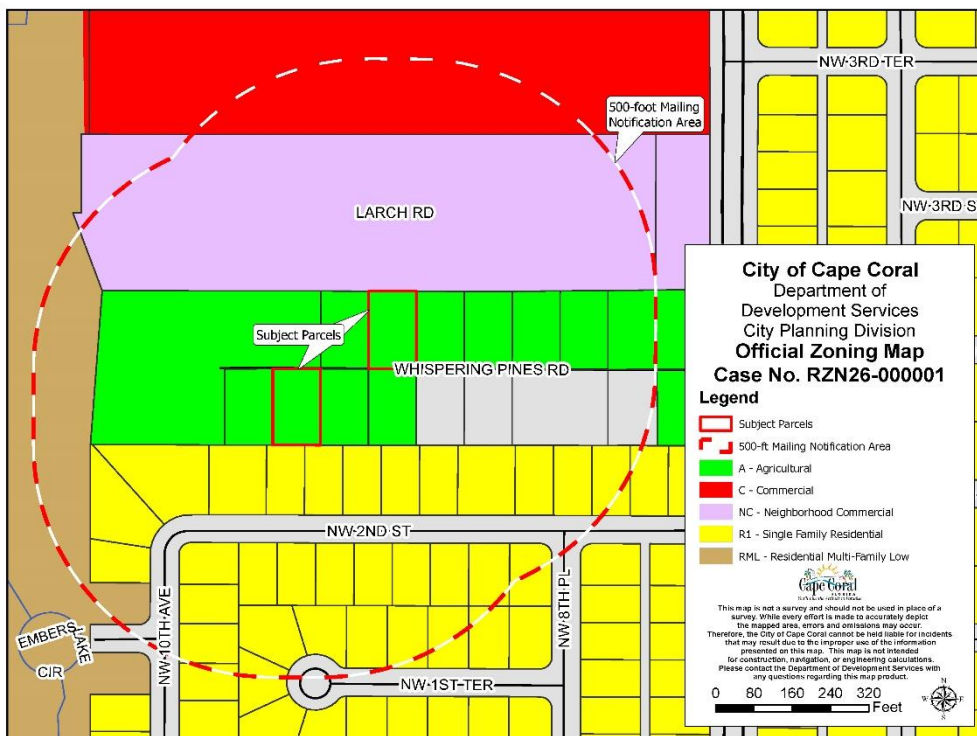


PLANNING DIVISION STAFF REPORT

Current Future Land Use Map



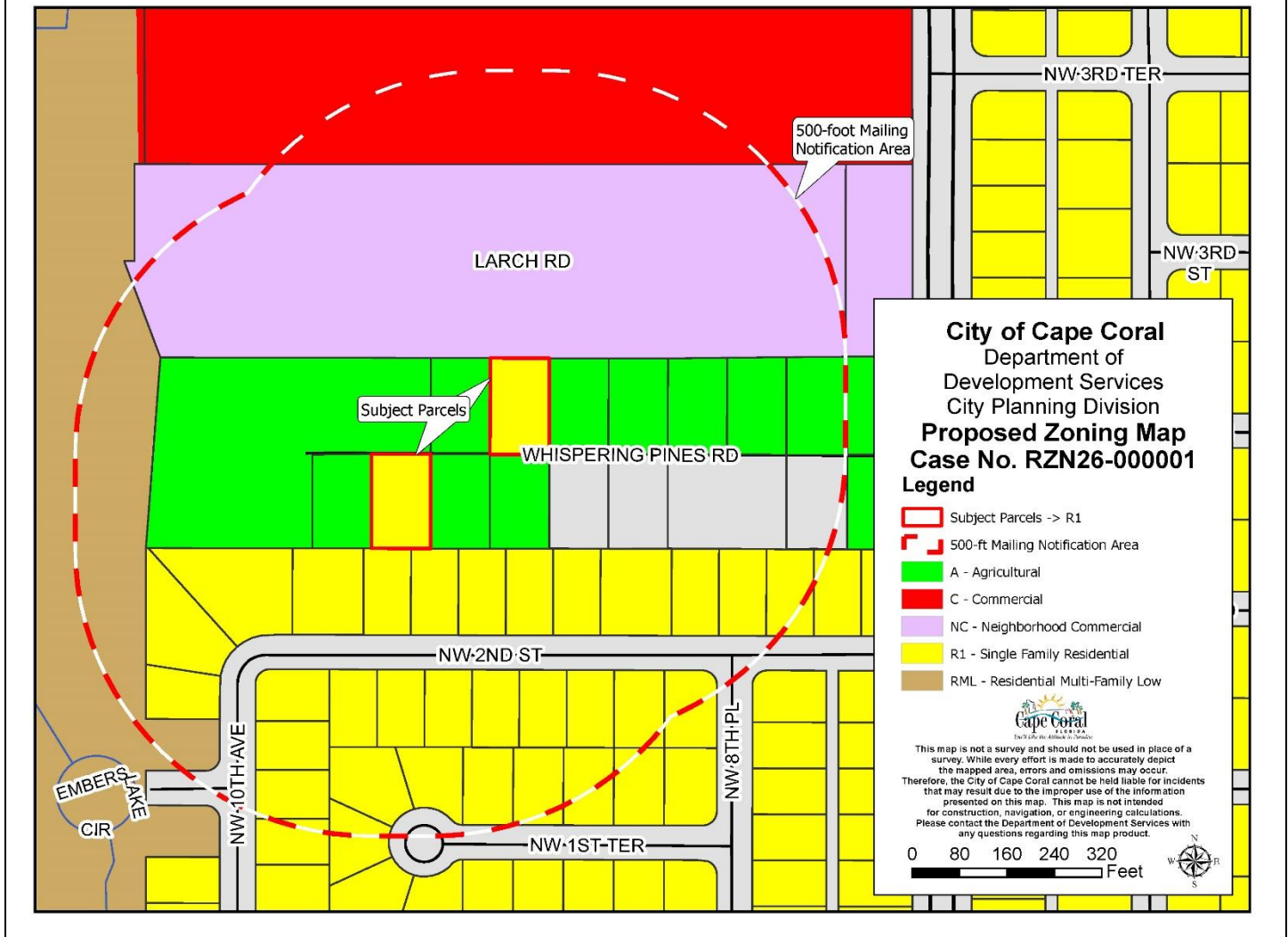
Current Zoning Map





PLANNING DIVISION STAFF REPORT

Proposed Zoning Map



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PLANNING DIVISION STAFF REPORT

APPLICATION ANALYSIS

Land Development Code Analysis:

Staff reviewed this application based on the review criteria found in the City of Cape Coral Land Development Code, Section 3.4.6 for evaluating rezones. This application was also reviewed based on the provisions of the Single-Family Residential (R-1) zoning district. Below will be found a breakdown of review criteria as well as an in-depth analysis of the proposed rezoning based upon conformance with the criteria:

1. *Whether the proposed zoning district is consistent with the City Comprehensive Plan;*

Analysis: The proposed rezoning to the R-1 district is consistent with the Single-Family and Multi Family Residential (SM) Future Land Use classification. Additionally, the proposed rezoning is consistent with the goals and policies of the City Comprehensive Plan. Refer below for a breakdown of Comprehensive Plan compliance. Provided this, the proposed zoning district is consistent with the City of Cape Coral Comprehensive Plan.

2. *Whether the full range of uses allowed in the proposed zoning district will be compatible with existing uses in the area under consideration;*

Analysis: The area around the proposed rezoning is currently zoned R1 to the South and East, RML to the West and a combination of C and NC to the North. The surrounding area, despite having multiple zoning districts, is currently moderately developed with single family residential dwellings, with a majority of the development occurring on the blocks to the south and east of the subject properties. The single-family dwellings are of low scale and are of typical construction, height, and design of the those found throughout the area and exhibit "of-the-time" characteristics of aesthetics. Additionally, a small section along Whispering Pines Rd. is an Enclave of Lee County Florida, existing outside the legal bounds of the City, and is developed with Single-Family residences.

LDC Section 4.1.2.B.4 states that the Residential Single Family (R-1) district is to "encourage and protect single-family development and to permit other uses generally compatible with single-family residential uses." Additionally, LDC Table 4.1.6 (Use Table) specifies that the following uses are permitted by right within the R-1 district: Single-family; Family Day Care Home – 5 or fewer; Community Residential Home – up to 6 residents; Essential Services; Educational Facilities – Primary and Secondary; Essential Service Facilities – Minor; Police and Fire; Public Parks and Recreational Facilities; & Golf Course w/ Ancillary Activities. Uses permitted with standards include Model Homes and Resorts. Conditional Uses permitted within the R-1 district are Home Based Businesses and Religious Institutions. Special Exception Uses include Essential Service Facilities, Major, and Bed and Breakfast uses.

The allowable uses within the R-1 district are those consistent with single-family dwelling units and low scale, low density, community functions, like day cares and public institutions. These uses align with those of the properties to the south and east, as they share the same zoning and are developed with single family uses currently. The Multi-Family (RML), Mixed Use (NC) and Commercial (C) zones to the North and West are undeveloped, and while it is not desirable to have residential directly adjacent to commercial, the Multi-Family and Mixed-Use zoning districts do provide a buffer. Given this, the full range of uses allowable within the Residential Single Family (R-1) zoning district will be compatible with the existing uses in the area under consideration.



PLANNING DIVISION STAFF REPORT

3. *Whether the range of uses allowed in the proposed zoning district will be compatible with the existing and potential uses in the area under consideration;*

Analysis: The range of uses in the Residential Single Family (R-1) district are primarily oriented to those of single-family dwellings and low density, low scale, accessory residential uses. A full breakdown of uses can be found in Section 2 above. The immediate surrounding area is zoned Residential Single Family (R-1), Multi-Family Residential Low (RML), Neighborhood Commercial (NC), and Commercial (C). The area also is moderately developed with single family dwellings throughout.

The proposed zoning district allows mainly single-family residential dwellings and accessory small scale, low density accessory residential uses. Similarly, the adjacent properties to the south, east and west are R-1 and RML, which are districts that share lower scale, lower density residential uses. To the North the properties are zoned NC and C, and while they are applicable for more dense and more intense uses, the NC use, permitting mixed use residential development of lower density given its acreage, could buffer the single-family neighborhood from the more intense commercial development. Where direct commercial development may occur abutting the residential neighborhood, the lot size would allow for sufficient buffer as specified in the LDC to be implemented further inhibiting direct intrusion from the more intensive uses. Given this, the range of uses allowed in the proposed zoning district are compatible with both the existing and potential uses in the area under consideration.

4. *Whether the proposed zoning district will serve a community need or broader public purpose;*

Analysis: The proposed R-1 district will allow for full utilization of the subject property for the development of new residential uses. While these residential uses are limited towards traditional single-family dwellings, the new dwellings will help infill the character of the surrounding neighborhood. This will also allow for more housing, more population and more infill for the city and aid in the continued development of the single-family neighborhood to the south and east of the subject parcels. These results which will serve to bolster the community and bring more residents into the city, both of which help to serve the community and the city as a whole. Given this, the proposed zoning district will serve a community need and a general, broad, public purpose.

5. *The characteristics of the proposed rezone area are suitable for the uses permitted in the proposed zoning district;*

Analysis: The subject parcels are situated with primary frontage along Whispering Pines RD, which is a two lane, non-paved, non-maintained, roadway. Whispering Pines RD is directly connected to Nelson RD N, a paved 4 lane collector roadway and terminates in a cul-de-sac at the westernmost point of Whispering Pines RD. The parcels are generally rectangular in nature and have a lot area ranging from 16,426 SQ FT to 16,735 SQ FT and are consistent in size and shape with those typically found in the area and throughout the city. The lots are also generally flat w/ minimal slope and minimal stormwater systems established along the roadway frontages.

The lots within the requested zoning district are typically proportioned, being rectangular with the depth of the lot being larger than the width. The general flatness and layout of the parcels of land also lend to the acceptable nature of future uses, as there does not exist excessive grade or site features which would inhibit development, or cause uses to be inconsistent with the characteristics of the site. Given this the characteristics of the proposed rezoning area are suitable for the uses permitted in the proposed zoning district.



PLANNING DIVISION STAFF REPORT

6. *Whether a zoning district other than the district requested will create fewer potential adverse impacts to the existing uses in the surrounding area.*

Analysis: Per table 1 of Policy 1.15, the permissible zoning districts that are consistent with the SM future land use classification are the R-1, RML, RMM, RE and A zoning districts. Of those districts, the R-1 district is the most appropriate given it is both permissible and fits the character and needs of the neighborhood. The A district has greater setbacks which directly inhibit residential development on the smaller lots, along with allowing more agrarian uses which does not fit the character of the neighborhood. The RE and RMM districts require a minimum lot size of 40,000 SQ FT and 43,560 SQ FT respectively and therefore are not permissible. Furthermore, the RMM district is a high-density multi-family residential district which does not fit the developed uses and character of the neighborhood. The RML district has many of the same requirements for lot dimensional standards, however, is attuned to more multi-family development, with high densities and additional uses than those permitted in the surrounding area, which would not be in alignment with the existing neighborhood. Given this, the proposed R-1 district is the zoning district that creates the fewest adverse impacts to the surrounding area.

Comprehensive Plan Analysis:

Staff reviewed this application for compliance with Section 3.4.6(1) of the Land Development Code of the City of Cape Coral and for consistency with the Goals, Objectives, and Policies of the Comprehensive Plan. Below will be found an in-depth analysis of the proposed rezoning based upon the applicable Goals, Objectives and Policies:

Chapter 4, Future Land Use Element, Policy 1.15: Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. Table 1 shows the zoning district which are consistent with and implement the respective future land use map classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.

Table 1:

Future Land Use	Consistent Zoning Districts
Single-Family (SF)	R-1, RE
Single-Family and Multi-Family (SM)	A (E/O) R-1, RML, RMM, RE
Multi-Family (MF)	RML, RMM
Low Density Residential (LDR)	A (E/O), RE,
Commercial / Professional (CP)	C, P, NC, BSOD
Mixed Use (MX)	All except MXB
Downtown Mixed (DM)	RML (E/O), SC, MXB
Pine Island Road District (PIRD)	CC
Commercial Activity Center (CAC)	NC, BSOD
Light Industrial (I)	I
Natural Resources/Preservation (PRES)	PV
Public Facilities (PF)	ALL except A



PLANNING DIVISION STAFF REPORT

Parks and Recreation (PK)	ALL except MX7 and MXB
Open Space (OS)	All except A
Burnt Store Road District (BURST)	BSC
Mixed Use Ten (MUX)	Planned Unit Development (PUD)-only

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

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

Analysis: The proposed zoning district of R-1 is consistent with the SM future land use classification. Additionally, where dwelling units will be constructed on parcels within the subject area, the achieved density will be between 2.65 to 2.60 depending on the parcel, with the lots within the block being of a square footage ranging from 16,426 SF to 16,735 SF. Furthermore, the dwelling units would be for traditional single-family residences which would be proliferated on the lots to match the surrounding character of the neighborhood. Given all of these factors the proposed zoning district or R-1 is consistent with Policy 1.15 and 1.15a of Chapter 4, Future Land Use Element of the Comprehensive Plan.

Impact Analysis:

Police & Fire Impacts:

Fire: Property is currently served by Fire Station #8. Proposed development is expected to generate less than (15) fifteen call(s) annually. **Minor impact** to the department anticipated.¹

Police: Property is served by police zone 2, Northwest District. Proposed development is expected to have **no anticipated impact** in the immediate. Future development may change the impact and service needs.²

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¹ Fire Impact determined through the City of Cape Coral Fire Department thru RZN24-000007, 10/15/2024.

² Police Impact determined through the City of Cape Coral Police Department thru RZN24-000007, 10/16/2026.



PLANNING DIVISION STAFF REPORT

Conclusion:

Given the analysis conducted in regard to the requested re-zoning application, the proposed re-zoning application seeking to change 2 parcels from Agricultural (A) to Single-Family Residential (R-1) is consistent with the requirements for re-zoning from the LDC as well as the guidelines and policies of the Comprehensive Plan. The proposed re-zoning request will be beneficial to the subject properties, as well as the surrounding neighborhood, and will have minimal adverse impacts while serving to maintain or enhance the health, safety, and welfare of the community.

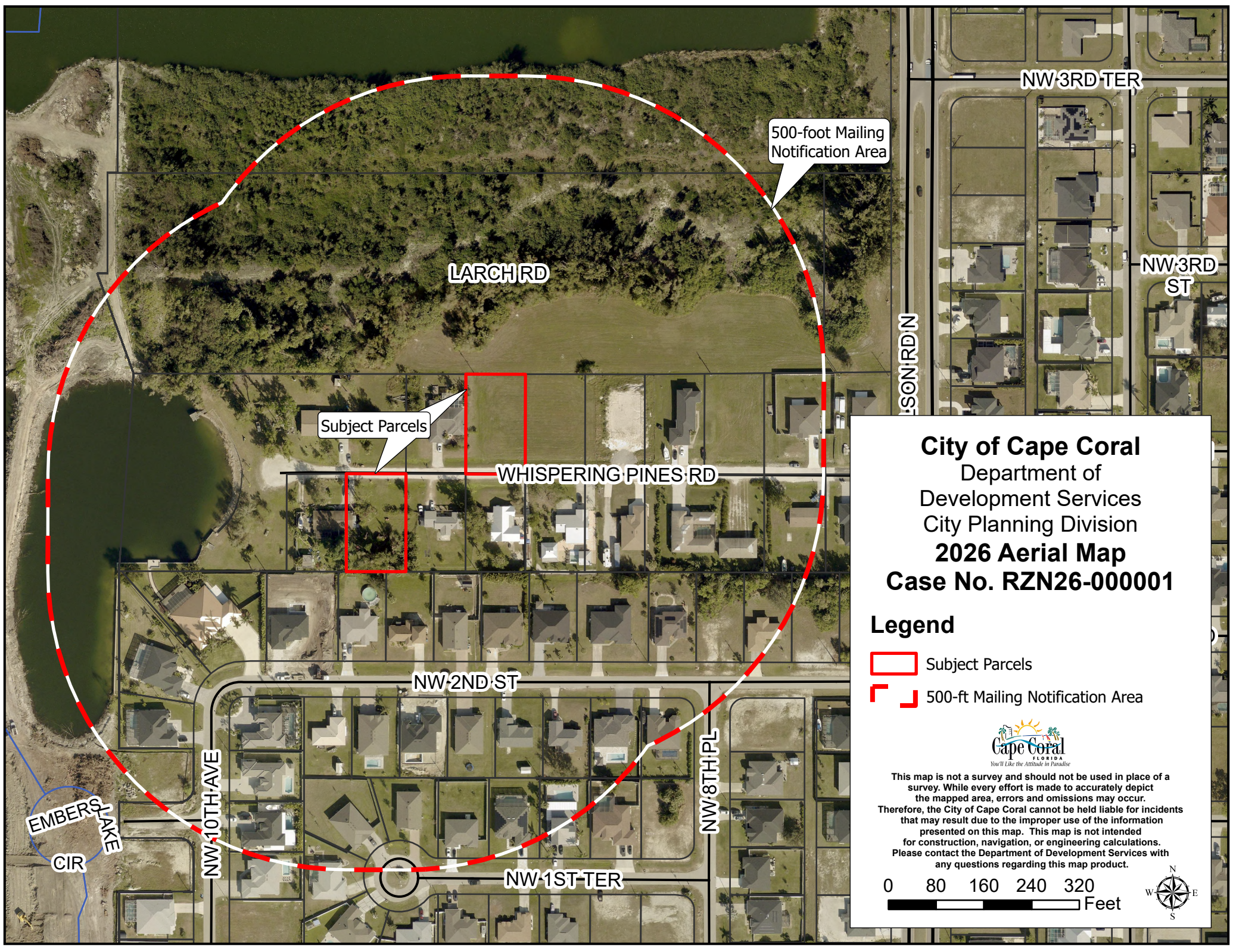
Therefore, it is the recommendation of staff that the proposed re-zoning application request be **Approved**.

RECOMMENDATION

Planning staff has reviewed this request in accordance with Section 3.4.6 of the Land Development Code of the City of Cape Coral as well as the City of Cape Coral Comprehensive Plan. Through analysis of the proposed request and analysis of compliance with applicable criteria the Planning Division staff recommends **Approval** of the rezone request.

Staff Contact Information

Anthony Santora, Senior Planner
Department of Community Development
Planning Division
Phone: (239) 573-3125
Email: asantora@capecoral.gov



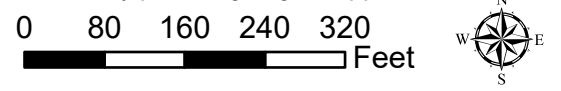
City of Cape Coral
Department of
Development Services
City Planning Division
2026 Aerial Map
Case No. RZN26-000001

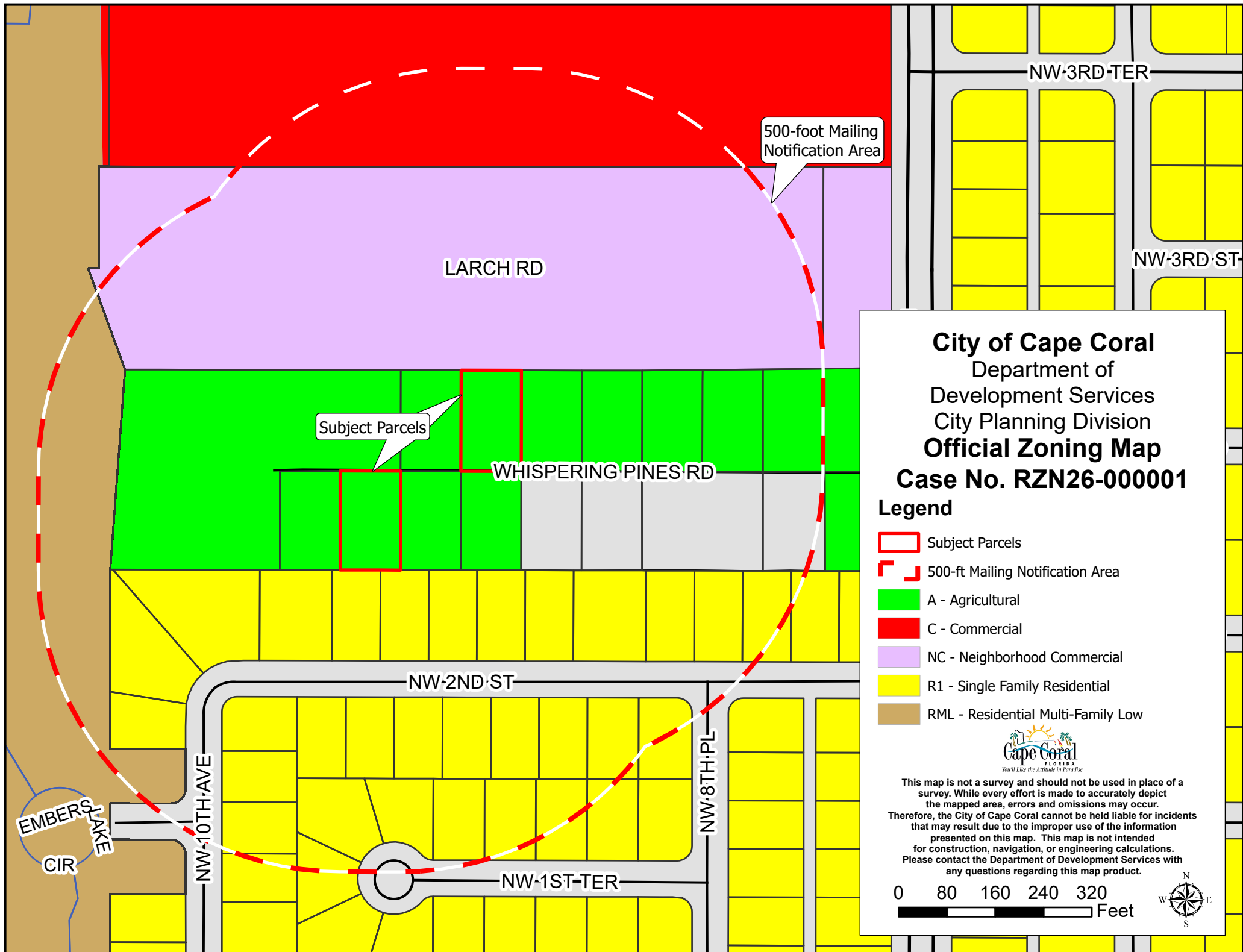
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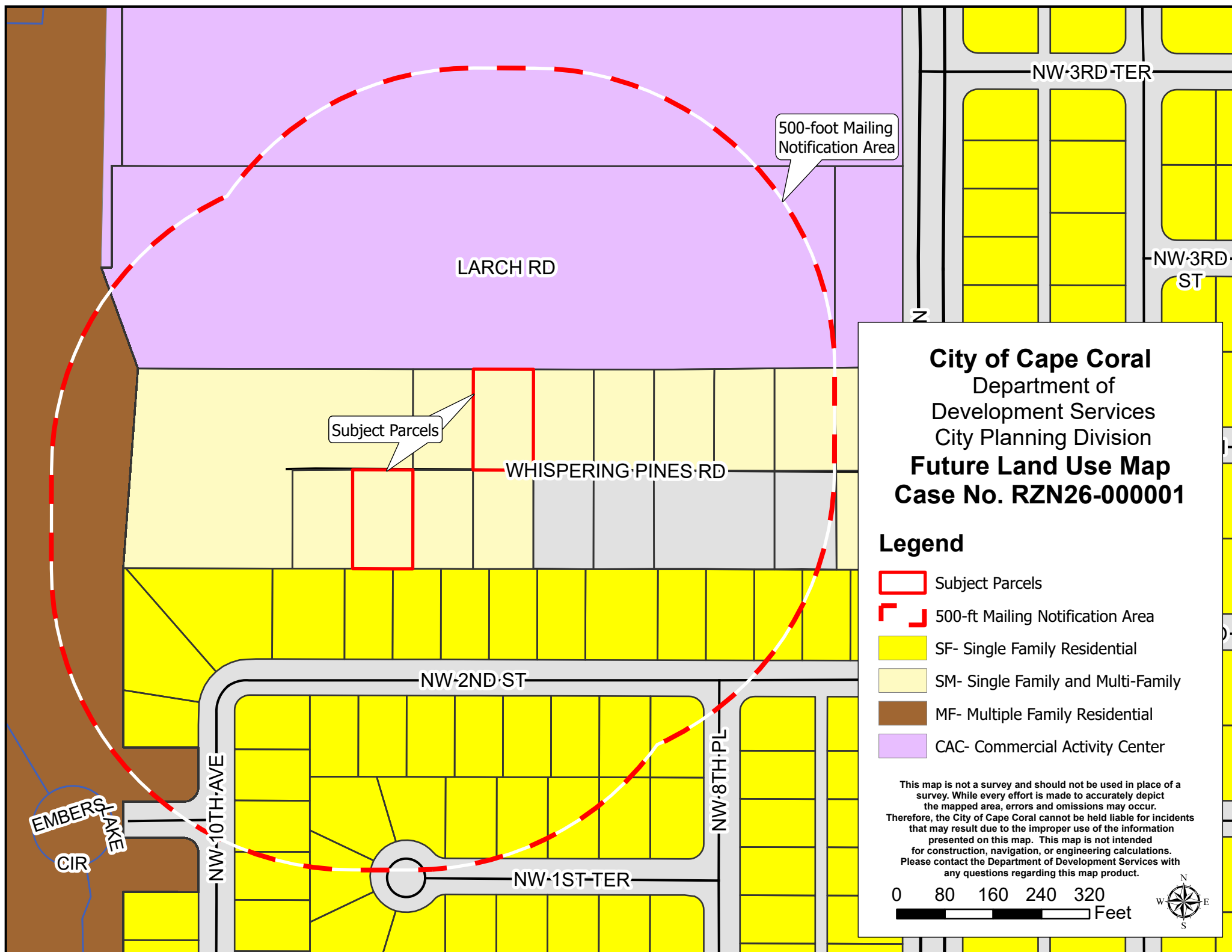
-  Subject Parcels
-  500-ft Mailing Notification Area



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





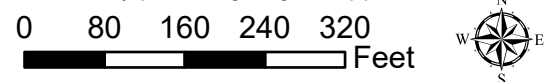


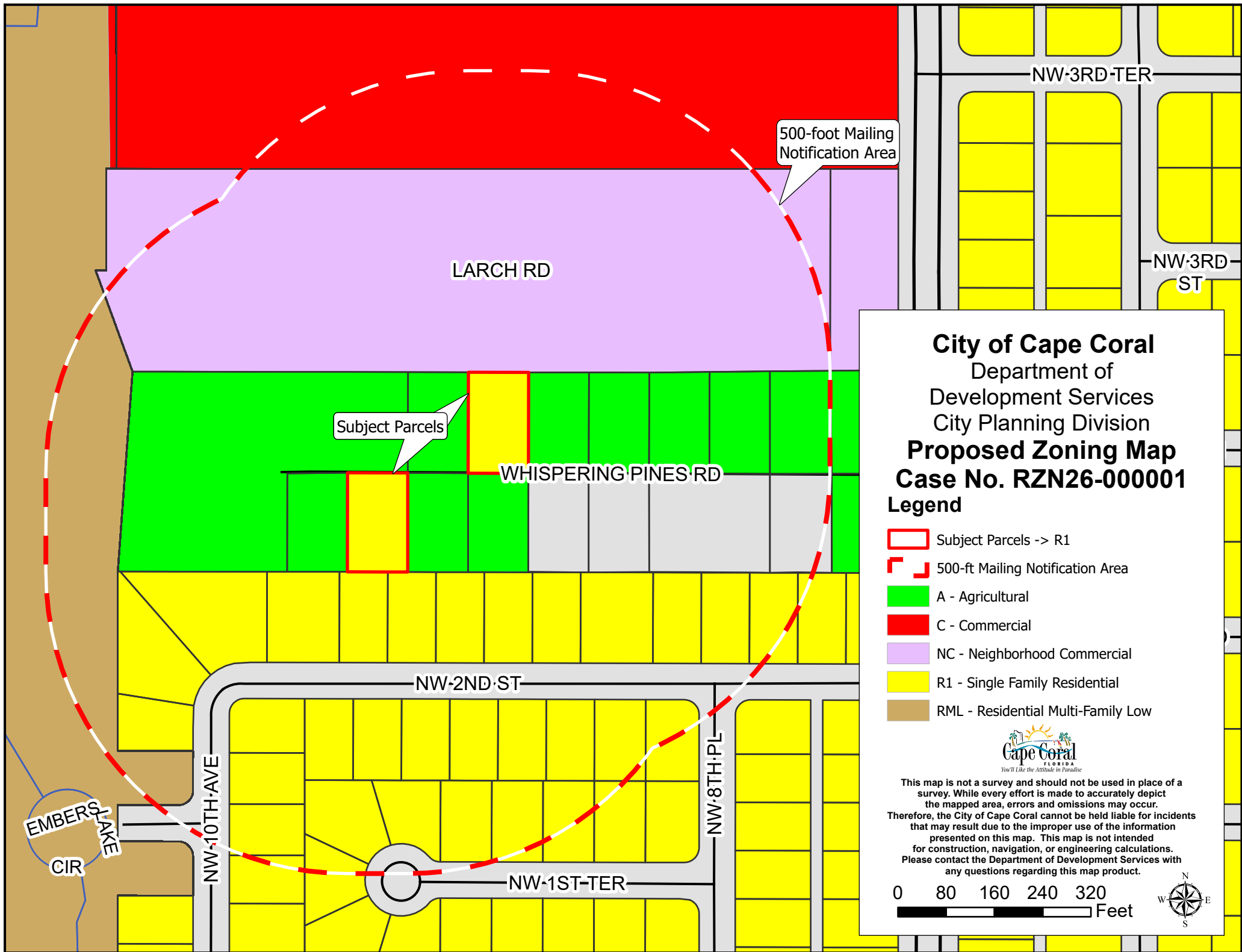
City of Cape Coral
Department of
Development Services
City Planning Division
Future Land Use Map
Case No. RZN26-000001

Legend

-  Subject Parcels
-  500-ft Mailing Notification Area
-  SF- Single Family Residential
-  SM- Single Family and Multi-Family
-  MF- Multiple Family Residential
-  CAC- Commercial Activity Center

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





OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL
HEARING EXAMINER RECOMMENDATION

RZN HEX RECOMMENDATION 6-2026
Benito Dimayo Rezoning

Rendered May 19, 2026

DCD CASE # RZN26-000001

APPLICATION FOR: Rezone from Agricultural (A) to Residential Single Family (R-1) for two (2) parcels totaling 0.76 acres

NAME OF OWNER/APPLICANT: Benito Dimayo

APPLICANT'S REPRESENTATIVE: Marilyn Dimayo

LOCATION OF PROPERTY: 831 & 842 Whispering Pines RD, Cape Coral, FL. 33993
STRAP NUMBERS: 10-44-23-C3-00006.009A and
10-44-23-C3-00006.001B
Block A (unrecorded), Lots 9 and 14 (unrecorded)
Subdivision: Whispering Pines (unrecorded)

FUTURE LAND USE CLASSIFICATION: Single-Family/Multi-Family (SM)

CURRENT ZONING DISTRICT: Agricultural (A)

APPLICANT'S PROPOSED ZONING: Single Family Residential (R-1)

CITY WATER AND SEWER: None.

URBAN SERVICE AREA: Transition

HEARING DATE: May 19, 2026

SUMMARY OF REQUEST: The applicant has requested re-zoning from the current Agricultural (A) zoning to a proposed Single-Family Residential (R-1) zoning for (2) parcels totaling approximately 33,161 square feet (0.76 Acres).

SUMMARY OF HEARING EXAMINER RECOMMENDATION:

The Hearing Examiner recommends that City Council **APPROVE** the requested rezone to the Single-Family (R-1) Residential Zoning District.

I. NOTICE OF HEARING

Based on the testimony of City Staff Anthony Santora at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article 3 (Development Review), Chapter 1, § 3.1.10 ("Public Hearing Scheduling and Notice Requirements"), Cape Coral Land Development Code ("LDC").

II. PARTICIPANTS IN HEARING

CITY STAFF: Anthony Santora, Senior Planner ¹

APPLICANT'S REPRESENTATIVE: Marilyn Dimayo

PUBLIC TESTIMONY/CORRESPONDENCE: Staff testified that he had received one call for information prior to the Hearing. No public testimony was offered.

III. REVIEW OF STATUTORY AND LDC REQUIREMENTS

Authority. The Hearing Examiner has the authority to recommend the approval or denial of an application for a rezone, pursuant to LDC Article 2 (Decision Making and Administrative Bodies), Chapter 2 (Hearing Examiner), §2.2.3B.5:

A Hearing Examiner shall hear and decide, or, when applicable, make Recommendations, on the following....

.... 5: Applications for rezoning property.”

Entirety of the Record/Standard of Review of Evidence. The Hearing Examiner's Recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LDC, based upon the entirety of the record before the Hearing Examiner. The Recommendation must be based upon competent substantial evidence in the record. LDC Article 3 (Development Review), Chapter 1 (Development Review Procedures), Section 3.1.11 (Public Hearing Procedures), LDC §3.1.11E.

Presumption of Relevance and Materiality. Matters related to an Application's consistency with the Comprehensive Plan, the City Code of Ordinances, or the LDC will be presumed to be relevant and material. LDC Article 3 (Development Review), Chapter 1 (Development Review Procedures), Section 3.1.11 (Public Hearing Procedures), LDC §3.1.11F.4.

Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. LDC Article 3 (Development Review), Chapter 1 (Development Review Procedures), Section 3.1.11 (Public Hearing Procedures), LDC §3.1.11F.5.

LDC Standards for Rezoning. The Hearing Examiner reviewed the application in accordance with the standards for rezonings set forth in LDC §3.4.6 and specifically set forth in LDC § 3.4.6.A (Manner of Initiation) and LDC § 3.4.6.B (Review Criteria), in addition to the standards and requirements set forth elsewhere in the LDC and the City Comprehensive Plan.

¹ Based upon his C.V. which is of record and his prior testimony regarding issues similar to the issues presented by this Application, the Hearing Examiner found Mr. Santora to be a subject matter expert for purposes of this Hearing.

TESTIMONY AT HEARING

Incorporation of Staff Report/Recommended Findings of Fact

Staff incorporated the Staff Report, PowerPoint and testimony into his presentation by reference. The Hearing Examiner recommends that City Council find as facts all documentary and oral testimony set forth or referenced below, except to the extent (if any) that the Hearing Examiner specifically recommends otherwise. The Applicant's Representative also incorporated the Staff Report into her presentation by reference.

IV. DISCUSSION

Site Information and Surrounding Properties

Staff testified that the subject parcels are currently vacant, are generally flat and rectangular in shape with minimal slope. Staff further testified that these parcels have a lot area ranging from 16,426 square feet to 16,735 square feet, consistently in size and shape with those typically found in this area and throughout the City.

Staff further testified that the existing lot sizes are not conducive to the more agrarian uses which exist within the Agricultural zoning district. In addition, the required setbacks for (A) zoned properties are much greater than R1 districts, inhibiting full utilization of the properties for residential development.

Further, staff testified that these parcels have primary frontage along Whispering Pines Road, a two lane, non-paved, non-maintained, roadway which is directly connected to Nelson Road North, a paved 4 lane collector roadway, and which terminates in a cul-de-sac at the westernmost point of Whispering Pines Road.

The surrounding neighborhood is comprised of a combination of vacant parcels and single-family residences. A small section along Whispering Pines Road is an Enclave of Lee County Florida, with single-Family residences.

Staff testified that the immediately surrounding area is zoned Residential Single Family (R-1), Multi-Family Residential Low (RML), Neighborhood Commercial (NC), and Commercial (C). This area also is moderately developed with single family dwellings throughout.

Purpose of the Rezoning Request

The Applicant's Letter of Intent, dated November 15, 2026, states that

My intention for seeking this rezoning is to be able to build a single-family home on the property. Rezoning the parcel to Single-Family Residential will allow me to make appropriate use of the land.

I am fully prepared to comply with any application requirements, fees, public hearings or additional documentation needed to proceed with this request."

Impact on Police and Fire Services

On October 15, 2024, the City of Cape Coral Fire Department advised staff on that the subject area is currently served by Fire Station # 8 and that the development under the proposed rezoning would be expected to generate less than fifteen calls annually. Therefore, minor impact to the Department would be anticipated.²

The City of Cape Coral Police Department advised staff on October 16, 2025 that the subject area is currently served by Northwest District Police Zone 2. Development under the proposed rezoning would be expected to have no anticipated impact in the immediate future, although future development might change the impact and service needs.

V. **COMPREHENSIVE PLAN CONSISTENCY**

Staff testified that the following Comprehensive Plan policies support the proposed rezoning request.

"Chapter 4, Future Land Use Element, Policy 1.15: Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. Table 1 shows the zoning district which are consistent with and implement the respective future land use map classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area."

Table 1 sets forth compatible zoning districts for each of the City's Future Land Use Classifications. The proposed rezoning is consistent with the Single-Family / Mult-Family Future Land Use Classification as set forth in this table.

"Policy 1.15.a: Densities not to exceed 4.4 units per acre, except for micro-cottage communities.... The Single Family (R-1) District is proposed to permit a variety of single-family residential products and ancillary uses."

Staff testified that, were single-family residences to be constructed on the subject parcels as indicated by the Applicant, the achieved density would be between 2.65 and 2.60, giving the square footage of the parcels.

² Staff testified that this information had been provided by the Cape Coral Fire Department as part of the prior rezoning application filed by staff under DCD Case # RZN24-000007.

Based upon her review of the above Plan as well as testimony proffered at the Hearing, the Hearing Examiner recommends a finding that granting the requested rezone **would be in compliance with, and is in furtherance of**, requirements of all applicable provisions of the Comprehensive Plan.

VI. **REZONING REQUIREMENTS AND CRITERIA: HEX RECOMMENDATIONS**

A. Review Criteria

1. *The proposed zoning district **would be consistent** with the City Comprehensive Plan. LDC § 3.4.6.B.1*

A discussion of this criterion is set forth in Section V immediately above and is incorporated herein.

The Hearing Examiner recommends a finding by City Council that this standard is **met**.

2. *The full range of uses allowed in the proposed zoning district **would be compatible with existing uses in the area under consideration**. LDC § 3.4.6.B.2*

This criterion is addressed in criterion 3 below, as it is a duplicate. For the reasons set forth under criterion 3 below, the Hearing Examiner recommends a finding by City Council that this standard is **met**.

3. *The range of uses allowed in the proposed zoning district **would be compatible with existing and potential uses in the area under consideration**. LDC § 3.4.6.B.3*

Staff testified that the surrounding area, despite having multiple zoning districts, is currently moderately developed with single family residential dwellings. Much of the development is occurring on the blocks to the south and east of the subject properties. These single-family dwellings are of low scale and are of typical construction, height, and design of the those found throughout the area and exhibit "of-the-time" characteristics of aesthetics. In addition, the small Lee County enclave is developed with single-family residences. The proposed zoning district allows mainly single-family residential dwellings and accessory small-scale, low-density accessory residential uses which appears to be compatible with existing and potential uses.

Staff testified that to the north are properties zoned NC and C; while these may be developed with more dense and more intense uses, the NC use, permitting mixed use residential development of lower density

given its acreage, could buffer the single-family neighborhood from more intense commercial development.

The Hearing Examiner recommends a finding by City Council that this standard is **met**.

4. *The proposed zoning district would serve a community need or broader public purpose. LDC§ 3.4.6.B.4*

Staff testified that the proposed rezone to the R-1 district, if approved by City Council, would allow for full utilization of the subject property for the development of new residential uses which would partially infill the character of the surrounding neighborhood.

Staff further testified this would increase housing with the City and the referenced additional infill would aid in a small way in the continued development of the single-family neighborhood to the south and east of the subject parcels as well, thereby bolstering the existing overall community.

Accordingly, staff testified that the proposed zoning district would serve a community need and a general, broad, public purpose.

The Hearing Examiner recommends a finding by City Council that this standard is **met**.

5. *The characteristics of the proposed rezone area are suitable for the uses permitted in the proposed zoning district. LDC§ 3.4.6.B.5*

Given the characteristics of the parcels as set forth above in staff testimony, staff opined that the characteristics of the proposed rezoning area are suitable for the uses permitted in the proposed zoning district. The Hearing Examiner agrees.

The Hearing Examiner recommends a finding by City Council that this standard is **met**.

6. *Whether a zoning district other than the district requested will create fewer potential adverse impacts to the existing uses in the surrounding area.*

According to Policy 1.15 of the Comprehensive Plan, the permissible zoning districts which are consistent with the SM Future Land Use Classification are the R-1, RML, RMM, RE and A zoning districts.

Staff testified that the proposed R-1 zoning district would be the most appropriate, as it fits the character and needs of the neighborhood. Staff further testified that the current zoning district, Agricultural, has greater setbacks which could directly inhibit residential development

on these smaller lots. In addition, staff testified that the more agrarian uses allowed by the current zoning district do not fit the current development of the neighborhood.

Staff then analyzed the remaining potential zoning districts which are permissible under this FLUC. Neither the RE nor RMM districts would be appropriate, and they require a minimum lot size of 40,000 square feet and 43,560 square feet respectively.

Finally, the RML district has many of the same requirements for lot dimensional standards as the proposed R-1 District. However, staff testified that this district is attuned to more multi-family development, with high densities and additional uses than those permitted in the surrounding area. Staff testified that the RML district would not be in alignment with the existing neighborhood.

Given the above testimony, Staff recommends a finding that the proposed R-1 district would be the zoning district to create the fewest adverse impacts to the surrounding area, if City Council decides to proceed with the rezoning.

The Hearing Examiner recommends a finding by City Council that this standard is **met**.

VII. RECOMMENDED FINDINGS AND CONCLUSIONS

Based upon the testimony set forth above and the documentary exhibits presented; the Hearing Examiner recommends as follows:

1. That City Council find the requested rezone **is consistent** with the requirements of the Comprehensive Plan, the Land Development Code, City Code of Ordinances and all applicable laws of the State of Florida; and
2. That City Council **approve** the requested rezoning to the Residential Single-Family (R-1) Zoning District.

This Recommendation takes effect on the date specified below.

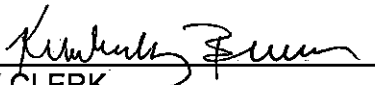
HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA



ANNE DALTON, ESQUIRE

May 19, 2026
DATE

ATTEST:

 5/26/2026

CITY CLERK