

STAFF REPORT
FLUM24-000010

The Abraham and Rena Zemel Trust (owner)
ZZW Development LLC (applicant)
APPLICANT/PROPERTY OWNER
Access undetermined
Glover Bight/Redfish Point in southern Cape Coral

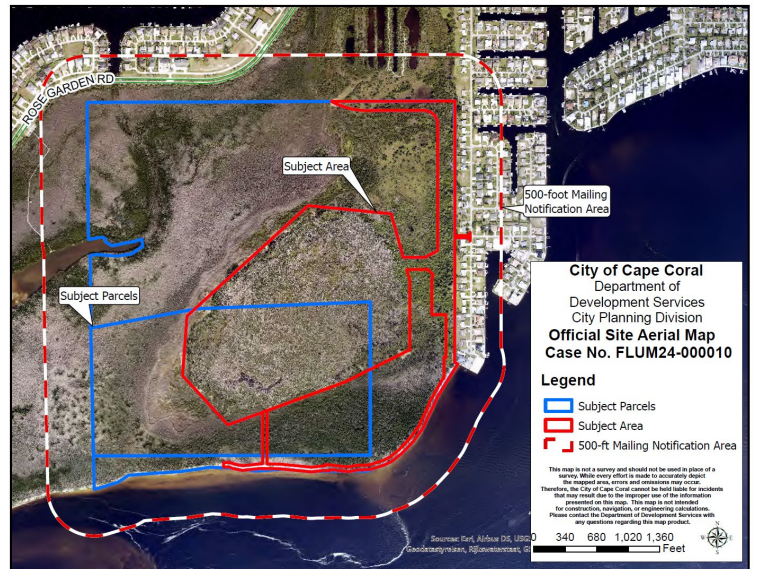
DOCKET/CASE/APPLICATION NUMBER
Wyatt Daltry, AICP, Planning Team
Coordinator (239) 573-3160,
wdaltry@capecoral.net

STAFF PLANNER

PROPERTY ADDRESS/LOCATION

BRIEF SUMMARY OF REQUEST

Privately initiated large-scale future land use map amendment to place portions of 3 parcels (±110.21 acres) from the Natural Resources/Preservation (PRES) Future Land Use Map Classification to the Mixed-Use (MX) Future Land Use classification. The property owners currently have private property rights allowing only five (5) residential units on the site. Among other uses, the applicants are requesting that the City increase the density on the site to 800 residential units.



MAP SOURCE

EXISTING ZONING	EXISTING LAND USE	PROPOSED LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
PRES	Natural Resources/Preservation	Mixed-Use (MX)	Undeveloped	±110.21 acres

STAFF RECOMMENDATION: Denial

Background:	<ul style="list-style-type: none"> Subject area is known as Redfish Point, privately-owned Owner wishes to develop mixed-use for a portion (roughly 30%) of the subject area
Positive Aspects of Application:	<ul style="list-style-type: none"> Area is a large-acreage site under unified ownership, a rarity in Cape Coral
Negative Aspects of Application:	<ul style="list-style-type: none"> No utilities provided within area, would require extension Area is isolated with no direct road access to proposed development; providing road access would involve crossing wetlands Development would be intrusive to existing single-family residential Subject area's isolation makes development near the river hazardous to residents and first responders in case of tropical storm events
Mitigating Factors:	<ul style="list-style-type: none"> City had placed a restrictive future land use map classification on this private property in 1989; however There is no historical background that would lead to a reasonable investment-backed expectation for mixed-use development on this site

Executive Summary

This proposed future land use map amendment request is a privately-initiated request from Natural Resources/Preservation future land use to Mixed-Use future land use for 110.22 acres in southern Cape Coral. The site is currently undeveloped and is a mixture of wetlands and sporadic upland pine forest near the Caloosahatchee River. The surrounding land use is primarily Natural Resources/Preservation, Parks and Recreation, and Single-Family Residential. The property has had a Natural Resources/Preservation future land use since 1989. No development efforts or efforts to rezone or amend the future land use, absent preliminary discussions to change the Comprehensive Plan in 2023, have been made by the property owner in that time.

The applicant has owned the property since 1959, prior to the incorporation of Cape Coral. According to the applicant's letter of intent, the applicant intends to develop a mixed-use development of 800 multi-family dwelling units, a 300-room resort hotel, restaurant uses with up to 500 seats and 50,000 sf of retail, office and/or community facility space. The applicant intends to develop a boardwalk to permit access to the river.

Presently, no public or private infrastructure exists within the property, and roadways would need to be extended several hundred feet (at a minimum) to access the developable portion of the site. One roadway access extending from existing right-of-way would require traffic accessing the site to utilize a local road through an existing residential neighborhood. A proposed access, from the north, would avoid most impacts to existing residential development, but would involve crossing through City-owned land (requiring City approval) and thousands of linear feet of wetlands to access the developable portion of the site. Utilities would need to be extended to the property, though they are present adjacent to the site.

Staff analyzed the request and its consistency with the Comprehensive Plan and identified several policies where the request is inconsistent. Most of these policies refer to the environmental impacts of the proposed development on the nearby wetlands and estuary but perhaps the most critical policy is Policy 4.3.3 of the Conservation and Coastal Management Element. Policy 4.3.3, CCME requires that for an amendment which increases density in the Coastal High Hazard Area, in the event that out-of-county evacuation times are not met (which they are not in Lee County), that appropriate mitigation to satisfy a neutral impact on evacuation times is required and for "future land use map amendments initiated by a developer, the City and the developer shall enter into a binding agreement to memorialize the mitigation plan prior to adoption of the amendment." Staff has provided additional information

While the applicant has offered, to the point of deed restrictions, to reduce the proposed development below the maximum permitted, staff has a professional duty to review develop impacts at their most intense, "worst-case scenario" level. After all, the owner may sell the property to a developer who does not wish to have these restrictions, or the market could change away from the development mix proposed by the applicant today. The analysis has included impacts based on the applicant's proposal and the "worst-case" scenario, and both represent a significant increase in water use, wastewater generation, solid waste generation, and development impacts to the surrounding area.

To conclude, the applicant is requesting that 110-acres, consisting primarily of wetlands and surrounded by land designated as parkland, preservation land, and single-family residential, be amended to Mixed-Use. The historical background of this site fails to show that the applicant had development rights to mixed-use development, or that a reasonable investment-backed expectation for mixed-use development exists. Development of the site as Mixed-Use would intrude upon a well-established residential neighborhood and have negative impacts on nearby wetlands. Staff recommends **denial** of the proposed future land use map amendment.

Additional Site Information

Street Addresses: Access undetermined

Urban Service Area: Infill. No utilities are present on-site but utilities are present on adjacent properties

City Water and Sewer: No.

Street Access: The site is accessible from SW 59th TER, an unpaved spur of a local road, by way of SW 1st CT. Discussions have been held regarding the potential and appropriateness of access to the subject area via Rose Garden RD.

Property Owners: ZEMEL HERBERT C TR (23-45-23-C400004.0000 and 26-45-23-C100001.0000)
 ZEMEL MORTON TR (23-45-23-C100005.0000)

STRAP Numbers: Portion of
 23-45-23-C100005.0000
 23-45-23-C400004.0000
 26-45-23-C100001.0000

Block/Lot(s): Site is unplatted, no blocks and lots

Case Planner: Wyatt Daltry, AICP, Planning Team Coordinator

Review Approved By: Amy Yearsley, AICP, Planning Manager

Zoning and Land Use Information:

Subject Property:	Future Land Use	Zoning
<i>Current:</i>	PRES	PRES by FLU; this zoning designation is common for properties with the PRES future land use as most PRES land is under public ownership and is unlikely to develop
<i>Proposed:</i>	MX	Not applicable – not a zoning change.

Surrounding Areas	Future Land Use	Zoning
<i>North:</i>	PRES and Parks and Recreation (PK)	PRES by FLU
<i>South:</i>	Caloosahatchee River	N/A
<i>East:</i>	PRES and Single-Family Residential (SF)	PRES by FLU, Single-Family Residential (R1)
<i>West:</i>	PRES	PRES by FLU

Background

This site was originally classified as Natural Resources/Preservation when the Comprehensive Plan and Future Land Use Map were established in 1989. At the time, this classification was determined to be appropriate due to the isolated nature of the upland habitat that is difficult to access from outside of the property, the natural wetland features present throughout, and the then-prevalent concern that the site was a potential site for artifacts from pre-colonization (e.g. Calusa) habitation. Generally in Cape Coral, the Natural Resources/Preservation future land use is placed on publicly-owned properties, or at the request of the property owner on floodways and streams.

The subject properties have been owned by multiple Zemel Family Trusts for seven decades, according to the applicant's letter of intent. No development efforts or efforts to rezone or amend the future land use, absent preliminary discussions to change the Comprehensive Plan in 2023, have been made by the property owner in that time. These properties are undeveloped and consist of a mixture of upland pine forest surrounded by mangrove wetlands, characteristics which are similar to other publicly-owned wetlands along the southern and western perimeter of the city.

According to the applicant's letter of intent, the applicant proposes the following:

"Redfish Pointe will result in improvements to 110.21 acres of the 350-acre subject Property, approximately 31.5%. This will include:

1. A 90.37-acre Development Area of which the following will be permitted: a maximum of 800 multi-family uses, 1 FAR of Commercial/Community facility uses: assumption for analysis purposes is 800 multi-family units, a 300-room resort hotel, restaurant uses with up to 500 seats and 50,000 sf of retail, office and/or community facility space. The Owner has communicated to the City that they would be happy to include an environmental educational facility on a portion of the Property. No single-family use will be permitted, and the maximum building height will be 15 stories of habitable space and 5 stories of parking space with or without liner commercial for a total of 20 stories. The development area includes 15.16 acres of Protected Area, which includes Saltwater Marshes and Mangrove Swamps that is not slated for development but included for open space purposes and is limited to critical infrastructure and/or safety purposes and may not be improved or developed without approval by State and Federal agencies. See attached Conceptual Plan. The footprint of the development will occur on 75.21 acres of the Development Area.
 2. An internal roadway, 100' wide which includes a dedicated pedestrian walk, bike paths on both sides of the travel lanes, and a 120-space public parking lot proximate to the waterfront with connections to the development area and riverfront boardwalk. (9.11 acres)
 3. An 85-foot-wide buffer area separating the internal roadway from the residential community along SW 1st Ct (6.04 acres)
 4. A 50 ft wide Water Access Area which will include mangrove plantings along with a 20-foot-wide elevated boardwalk, connecting the parking lot and development area to the waterfront (via a) 728 linear feet of boardwalk from the parking lot to the 3,168 linear feet along the waterfront and 595 linear ft connection to the development area. There will also be two observation decks and a pavilion along the boardwalk within the 50-foot-wide area. (4.2 acres).
 5. The applicant will provide mangrove plantings at the time the boardwalk is developed to replace some of the significant loss of mangroves (approx. 80%) along the shoreline after Hurricane Ian.
 6. The existing 50 ft right of way at SW 59th Terrace would be used for emergency vehicle access only.
 7. A 0.49-acre sandy shore area."
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The purpose of the analysis herein is to determine whether the applicant's proposal is consistent with the City's Land Development Regulations, Comprehensive Plan, and best planning practices.

Additional Site Information

Protected Species

According to the applicant's environmental survey, several listed species may be located in the vicinity of the amendment. These species may include the following: Eastern Indigo Snake, Gopher Tortoise, Audubon's Crested Caracara, Burrowing Owl, Florida Sandhill Crane, Southeastern American Kestrel, Beautiful Pawpaw, Curtis Milkweed, Fakahatchee Burmannia, and Florida Coontie for the Coastal scrub habitat (FLUCCS 322). Eastern Indigo Snake, Gopher Tortoise, Red-cockaded Woodpecker, Southeastern American Kestrel, Big Cypress Fox Squirrel, Florida Panther, Beautiful Pawpaw, Fakahatchee Burmannia, Florida Coontie, and Satinleaf are species that may be located in the Pine flatwoods habitat (FLUCCS 411). Little Blue Heron, Roseate Spoonbill, and Tricolored Heron may be located in the Mangrove swamp habitat (FLUCCS 612) while, lastly, American Crocodile, Little Blue Heron, Reddish Egret, Roseate Spoonbill, Tricolored Heron, and Wood Storks may be found in the Saltwater marsh (FLUCCS 642) habitat.

Prior to Hurricane Ian landfall on September 28, 2022, gopher tortoise burrows and eagle nests were present on the site.

The City requires species surveys prior to issuance of City of Cape Coral permits or development approvals, in accordance with the Conservation and Coastal Management Element of the Comprehensive Plan.

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

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

Utilities

The site is in the Urban Services Infill area as designated by the City Comprehensive Plan. Utilities are not present in the subject area but could be extended to serve the site.

Soils and Drainage

The site has a variety of soil classifications. For the 110-acre area which is subject to the proposed amendment, these soils include:

- (15) Estero muck
- (16) Peckish mucky fine sand; and
- (28) Immokalee sand

These soils are considered hydric (wetland) with the exception of the Immokalee sand. The Estero muck and Peckish mucky fine sand soils have severe limitations for development, and these hydric soil types could present an obstacle to future

land development. The Immokalee sand, which also has severe limitations for development, is not considered hydric, and can be developable through the use of fill which is necessary due to its high water table.

Hurricane Evacuation and Flood Zones

The subject area is in Evacuation Zone A. Based on the summation of the amendment impacts below, there may be a reduction on hurricane evacuation times.

The entirety of the site is within the Special Flood Hazard Area per the Flood Insurance Rate Map, effective November 17, 2022. Flood zones within the subject area include the AE-8 and AE-9 flood zones (1% annualized flood chance, no wave action), the AE-9 flood zone within the Limit of Moderate Wave Action (1% annualized flood chance, moderate wave action between 1.5 and 3' in height), and the VE-10 and VE-11 flood zones (1% annualized flood chance wave action exceeding 3' of height) for the riverfront.

REGIONAL PLAN ANALYSIS

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

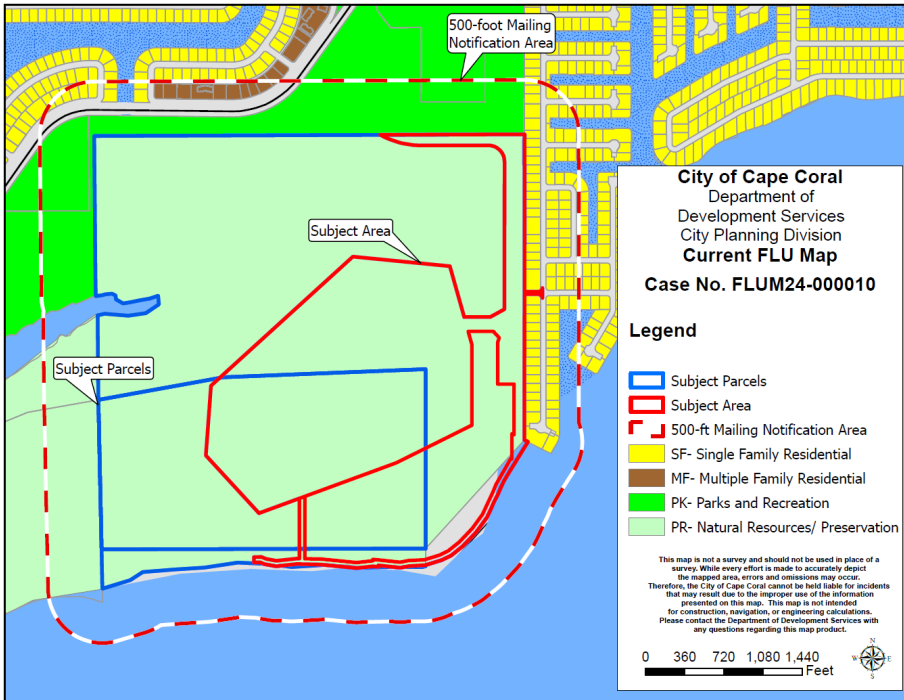
This amendment is in conflict with the SRPP Livable Communities Element, Goal 3, which states:

"New private and public developments are built further from flood prone areas than in the past and structures and roadways are protected from rain induced flooding."

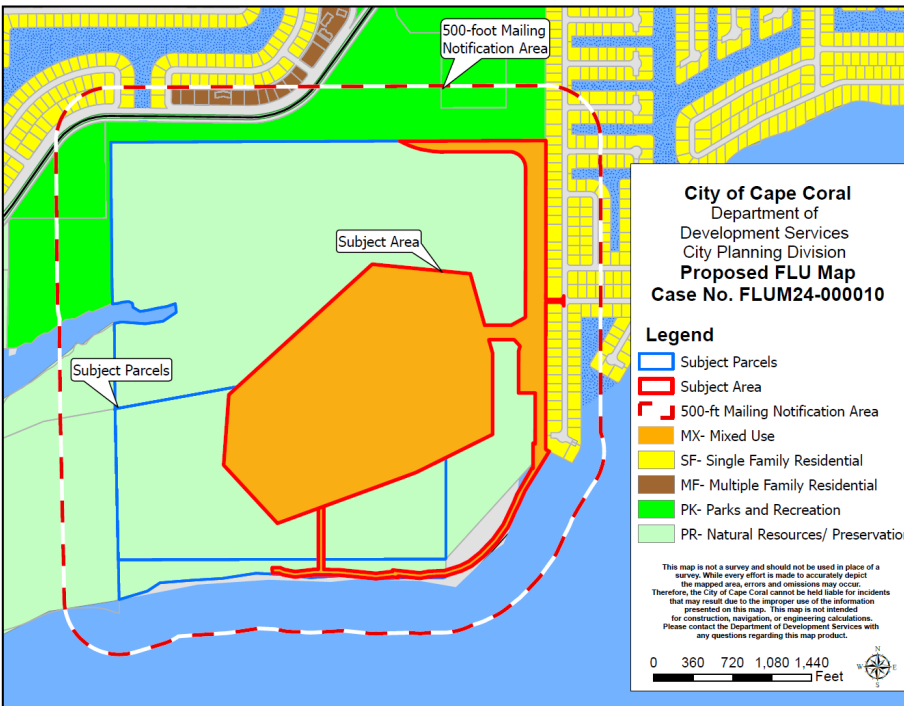
Lee County Metropolitan Planning Organization's (MPO) 2045 Long Range Transportation Plan:

This amendment has no effect on the MPO's 2045 LRTP.

Future Land Use Map – Current



Future Land use Map – Proposed



LAND DEVELOPMENT CODE ANALYSIS

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

- A. *Purpose of Amendments. Future Land Use Map Amendments shall be considered for the flowing reasons:*
1. *The amendment implements the goals, objectives, and policies of the Comprehensive Plan.*
 2. *The amendment promotes compliance with changes to other city, state, or federal regulations.*
 3. *The amendment results in compatible land uses within the specific area.*
 4. *The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.*
 5. *The amendment is consistent with the City's ability to provide adequate public facilities and services.*
 6. *The amendment prepares the city for future growth, such as reflecting changing development patterns, identifying demands for community services, reflecting changes necessary to accommodate current and planned growth in population, and facilitating community infrastructure and public services.*

Analysis: The applicant is seeking an amendment to the Future Land Use Map to permit development of a mixed-use project. While not all of the six reasons identified above shall be required to be met, at least one should be met for consideration of approval. As this is a privately-initiated amendment, Purposes #2 and 4 would not be applicable as compliance with regulations and technical assessments are beyond the scope of a private applicant-driven amendment request.

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

The proposed amendment is not in compliance with Purposes #3 and 6, as the proposed amendment represents a drastic change to the specific area and surrounding land uses.

The proposed amendment is in compliance with Purpose #5 as adequate public utility service could serve the site, albeit with some difficulty given the isolated nature of the subject area.

- C. *Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the requirements of F.S. Ch. 163, and the following criteria:*

1. *Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;*

Analysis: Refer to below Analysis Section for a breakdown of Comprehensive Plan compliance.

2. *The amendment protects the health, safety, and welfare of the community;*

Analysis: The proposed amendment would permit the construction of a mixed-use development in southern Cape Coral. It has been well-documented that the city is greatly deficient in commercial uses, and the proposed amendment could assist in addressing this shortfall.

Balanced against this, however, is the location of the subject area. This area is primarily upland habitat

with some impacted wetlands and riverfront. According to the applicant's letter of intent, the area suffered damages from Hurricane Ian, which is unsurprising given the damages suffered by other areas of the city along the riverfront. Development of this area, particularly the roadway, could negatively impact the protections offered by the substantial wetlands in this area as well as place commercial and residential development proposed for this area in harm's way. This proposed amendment does not meet this criterion.

3. *The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site;*

Analysis: The proposed amendment is seeking a new designation, Mixed-Use (MX), to allow for the construction of a mixed-use development. The amendment area is approximately 110 acres of 350 that are owned by the applicant. The subject area proposed for amendment is heavily wooded and consists of mostly upland areas, although approximately 30 acres of the 110-acre amendment area is considered to be wetlands. The remainder of the 350-acre site is considered to primarily consist of wetlands. The Mixed-Use (MX) designation allows a variety of zoning districts, whose impacts have the opportunity to be extremely intense given the surrounding natural area.

As mentioned earlier in this analysis, the site is located in Evacuation Zone A and in several different flood zones in the Special Flood Hazard Area. While these factors do not necessarily forbid development, replacing wetland habitat and isolated upland habitat with development is incompatible with the environmental features of the site.

This proposed amendment does not meet this criterion.

4. *The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community of traffic that cannot be mitigated through application of the development standards in this Code;*

Analysis: The amendment is seeking a Future Land Use designation of Mixed-Use (MX) which is consistent with most zoning districts. The surrounding use designations around the site include Natural Resources/Preservation (PRES), Parks and Recreation (PK), and Single-Family Residential (SF) future land use which have varying densities and uses. However, the proposed Mixed-Use allows densities and intensities that are much greater than that permitted today and permitted in the surrounding area. Development impacts caused by mixed-use development would have a negative impact to the surrounding community. While there is no road access to the site, there are two options that have been considered: 1.) access from SW 59th TER (unpaved) and SW 1st CT, which would route traffic to the site via local roads, or 2.) access from Rose Garden RD, which requires access through city-owned land (the Rotary Park) and impacts approximately five times as much wetlands compared to the wetland impacts from access via SW 59th TER and SW 1st CT. This proposed amendment does not meet this criterion.

5. *The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.;*

Analysis: The existing site does not contain water, sewer, and irrigation services currently, though it is part of the Infill Urban Service Area and is therefore able to obtain utilities. Though certain permits for wetland takings would be required, and efforts would be made to assess the planned infrastructure for extending utilities, the upland site is capable of accommodating the proposed uses due to its large size.

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

This proposed amendment meets this criterion for the upland portion of the amendment. Other portions of the amendment, including that proposed for future right-of-way and the riverfront boardwalk, do not meet this criterion.

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

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

COMPREHENSIVE PLAN ANALYSIS

For purposes of the analysis of this case, this amendment will focus on the 110.21 acres proposed to be amended to Mixed-Use and the resultant impacts of such a land use amendment on the surrounding area.

Staff analyzed the Comprehensive Plan to determine what policies apply to the proposed future land use map amendment.

Capital Improvement Element

Objective 2: Coastal High-Hazard Area. New public expenditures within the Coastal High-Hazard Area shall be limited to those needed for public health and safety, recreation and open space uses, public land acquisition, and the enhancement and protection of natural resources.

Policy 2.1: Cape Coral shall designate the coastal high hazard area as the sum of all of those areas which are within the storm surge flooding zone for a Category 1 hurricane as established in the most current Hurricane Evacuation Study, Southwest Florida, Update, prepared by the Southwest Florida Regional Planning Council.

Policy 2.2: As of the adoption date of the City of Cape Coral 2050 Comprehensive Plan, new public facilities, except for recreational facilities, shall not be located within the coastal high-hazard area.

The proposed site is located in the Coastal High Hazard Area (localized map of CHHA is on page 14). This Objective and policies identified above are meant to restrict the exposure on the City's public expenditures in areas vulnerable to storm surge and eventual sea level rise. Increasing the City's exposure in these areas increases the likelihood of additional public expenditures in the event that the area is impacted by storm surge and other sources of flooding.

Development of this site, as no infrastructure is present will result in the community providing public expenditures (utilities at first, possibly transportation in the future) to create and maintain the infrastructure necessary to support the development.

Conservation and Coastal Management Element

Policy 1.5.2: The City will continue to conserve and protect its wetlands in accordance with standards set by FDEP and SFWMD. The City shall direct future land uses incompatible with protection and conservation of wetlands away from wetlands. The evaluation of incompatibility shall include the following factors for land uses: types, intensity, density, extent, distribution, and location of allowable land uses. The evaluation of incompatibility shall include the following attributes of the wetlands: types, value, function, size, conditions, and location.

The placement of a mixed-use development in an isolated upland pocket surrounded by wetlands is wholly incompatible with the protection and conservation of nearby wetlands.

Policy 2.1.3: All coastal public access development will be done in accordance with the objectives and policies of Goal 1 so as not to destroy or damage coastal natural resources.

The proposed amendment can result in providing access to the Caloosahatchee River estuary, though this could be achieved already through the existing Natural Resources/Preservation future land use map classification via nature trails.

Goal 1, referenced in this policy, states:

“GOAL 1: Protecting Environmental Resources.

The natural and historic resources of Cape Coral will be preserved, protected, and enhanced. These resources will be managed to ensure the highest environmental quality possible. Development activities will be managed, in accordance with this goal. The scientific and resource management activities outlined under this goal will be coordinated by the City's Environmental Resources Section.”

Similar to Policy 1.5.2 above, the placement of a mixed-use development in an isolated upland pocket surrounded by wetlands is wholly incompatible with the protection and conservation of nearby wetlands, and those impacts to wetlands could result in damaging coastal natural resources through stormwater runoff and impacts to protected flora and fauna species.

Policy 4.3.3: The City shall not approve any future land use map amendment that would increase the maximum residential density within the coastal high-hazard area, unless one of the following criteria is met, in accordance with Section 163.3178(9), F.S.:

1. The proposed amendment would not exceed a 16-hour out-of-county hurricane evacuation time for a category 5 storm event, as measured on the Saffir-Simpson scale; or
 2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or
 3. Appropriate mitigation is provided that will satisfy the provisions of either of the previous two paragraphs. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction
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of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. For future land use map amendments initiated by a developer, the City and the developer shall enter into a binding agreement to memorialize the mitigation plan prior to adoption of the amendment.

This policy, rooted in Florida Statute, is designed to ensure that development pressures in the coastal high hazard area (as discussed in page 11) do not result in massive evacuation-generated gridlock to the ground transportation system in the event of a Category 5 storm. Every Comprehensive Plan in Florida has a variation of this policy. Statewide efforts to conform with this Statute have been unsuccessful, particularly in southern Florida due to the combination of population growth and limited roadway capacity.

According to the Lee County Department of Emergency Management, the evacuation time for a category 5 storm event is approximately 25 hours, well above the 16 hours identified in part 1 of the policy. The time to shelter for a category 5 storm event is also approximately 25 hours, well above the 12 hours identified in part 2 of the policy. Presently, there is a shelter space deficit in Lee County, of 26,769 spaces.

The mitigation requirement has been discussed with the applicant. Per this policy, if mitigation efforts in accordance part 3 are to be pursued by the applicant, “the City and the developer shall enter into a binding agreement to memorialize the mitigation plan prior to adoption of the amendment.”

This policy is also referenced periodically throughout the Comprehensive Plan. For instance, Policy 1.15 of the Future Land Use Element states:

“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 districts 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.” (emphasis added)

Future Land Use Element

Policy 1.1: The City will consider the impacts of climate change and sea level rise when determining the appropriate future land use map classification for property within the City of Cape Coral.

Policy 1.2: The City will regulate the use of land and water to protect State-owned preservation lands, the City's system of fresh and salt-water canals, and the outlying waters of the Caloosahatchee River and Charlotte Harbor.

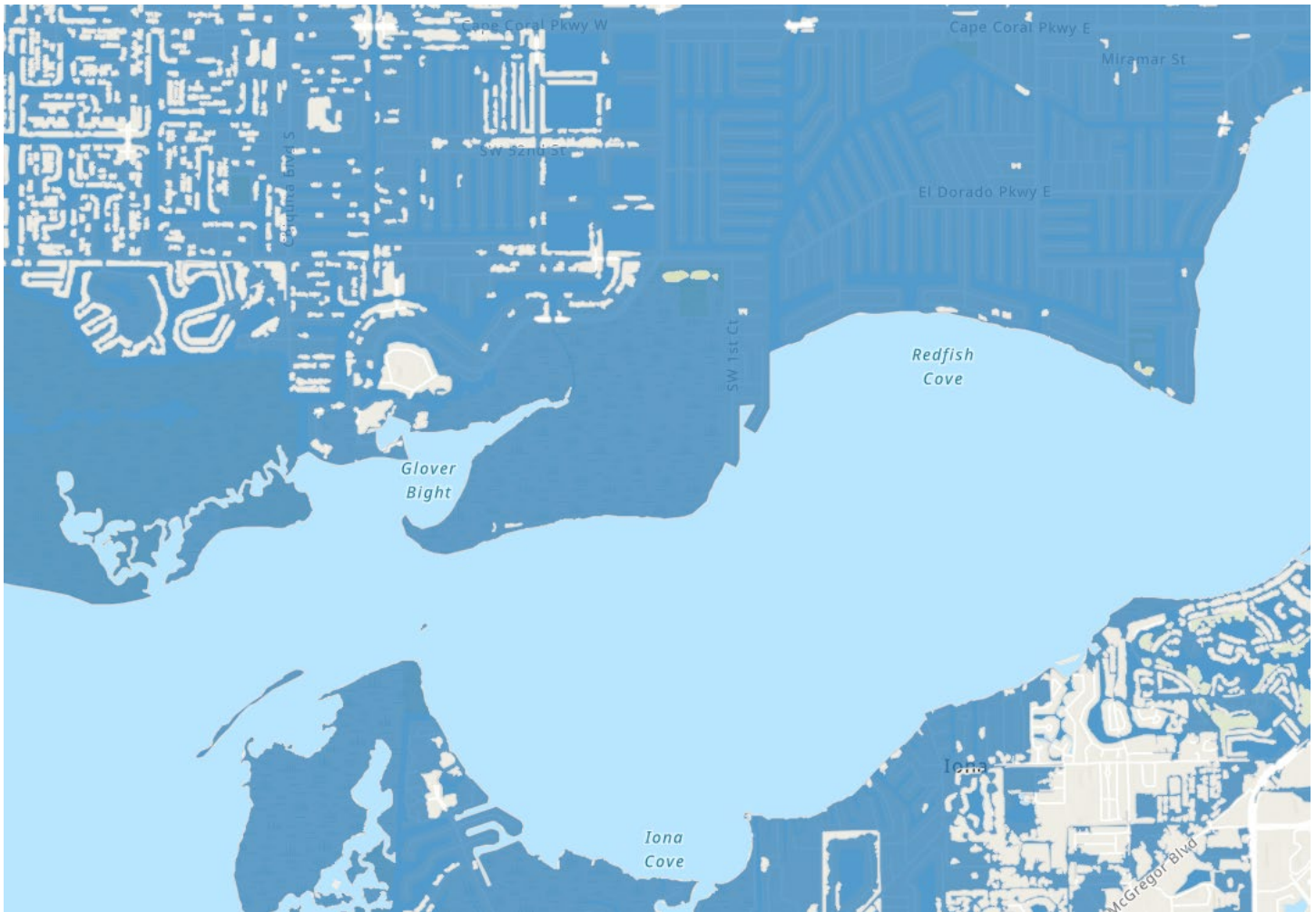
The intent of the proposed amendment is to allow for the construction of a mixed-use commercial and residential development on an upland area surrounded on all sides by wetlands which presently lacks access to the City's roadway network and whose primary development area is approximately 600 feet from the Caloosahatchee River.

This area was impacted by storm surge recently, from Hurricane Ian though it is inconclusive to determine the extent of flooding, if any, from the 2024 hurricane season from Hurricanes Helene and Milton. Regardless, recent tropical storm activity has shown that this site is vulnerable to flooding events. Long-term analysis of the Fort Myers tidal gauge from 1975-2025 has shown a slight but noticeable trend in seas level rise and as a result, it would be clear that the potential for flooding in Cape Coral, not just for this amendment area but city-wide, is going to increase in the future.

This greater likelihood of dangers to development such as flooding coupled with the large amount of wetlands located on-site, both within the amendment area and also that which is owned by the applicant (but not subject to the amendment), would indicate that the current Natural Resources/Preservation future land use map classification that was placed on this property in 1989 was appropriate then and continues to be appropriate today.

Policy 1.22: The City of Cape Coral shall continue to coordinate land use policies with hazard mitigation reports generated in the aftermath of a natural or manmade disaster. Furthermore, the City will continue to coordinate with other local agencies in the placement of public buildings, such as schools, in order to ensure that such buildings are not placed within the Coastal High-Hazard Area. Finally, the City may also consider measures designed to reduce potential hazards to life and property within the Coastal High-Hazard Area. Such measures may include reduction of densities in the Coastal High-Hazard Area, public acquisition of land, increased building requirements, or any other appropriate policies recommended in future hazard mitigation reports, or otherwise determined by the City Council to be warranted.

In this context, the Coastal High Hazard Area is identified in the Florida Statutes as areas below the elevation of the Category 1 storm surge line as established in SLOSH (Sea, Lake, and Overland Surges from Hurricanes) modeling. This area is indicated in blue, below:



Source: Lee County GIS, published December 15, 2023

Per the policy language, the City should look to mitigate future hazards in this area. Development of a Mixed-Use center in the SFHA together with widespread impacts to wetlands is inconsistent with hazard mitigation.

Policy 2.1: The City shall encourage commercial development where it can efficiently use infrastructure, where their adverse impacts on adjacent uses are minimized and where they will effectively provide the community with desired products, services and employment opportunities.

The proposed Mixed-Use future land use amendment would incorporate commercial development based on the applicant's Letter of Intent which was part of the submitted application.

Presently water utilities are not present on the site, and no current roadway access is provided to the development area as defined by the applicant. Water utilities are present to properties adjacent to the site to the north and east, so the provision of utilities is possible, though providing those utilities to the upland portion, which is surrounded by wetlands, could be a challenge.

Extending transportation access to the site is more difficult. A more thorough analysis of the extension of transportation

access to the site is found further in the report, but a cursory glance at the aerial for the property shows the extent of wetlands that would need to be bridged, whose impact to those wetlands would be greater than that of utility connections. For this reason, it is doubtful that the development would efficiently use infrastructure, and it is equally doubtful that development of the site as a Mixed-Use center would be without adverse impacts on surrounding, adjacent residential uses.

OBJECTIVE 11: Protection of Marine, Estuarine, and Upland Environments: Cape Coral will continue to protect marine and estuarine communities and will continue its protection to include the ownership and maintenance of a significant example of an upland ecological community.

As indicated by the protected species information on page 5, the site is an ecological site of some sensitivity given the potential for protected species to be present. Furthermore, the potential for mixed-use development proposed by the applicant means that development externalities such as light pollution and stormwater runoff would have a deleterious effect on the nearby natural wetland habitat and the Caloosahatchee River.

Transportation Element

Policy 4.2.4: All new development shall be reviewed to assure that the capacity and operation of emergency evacuation routes will be maintained or improved.

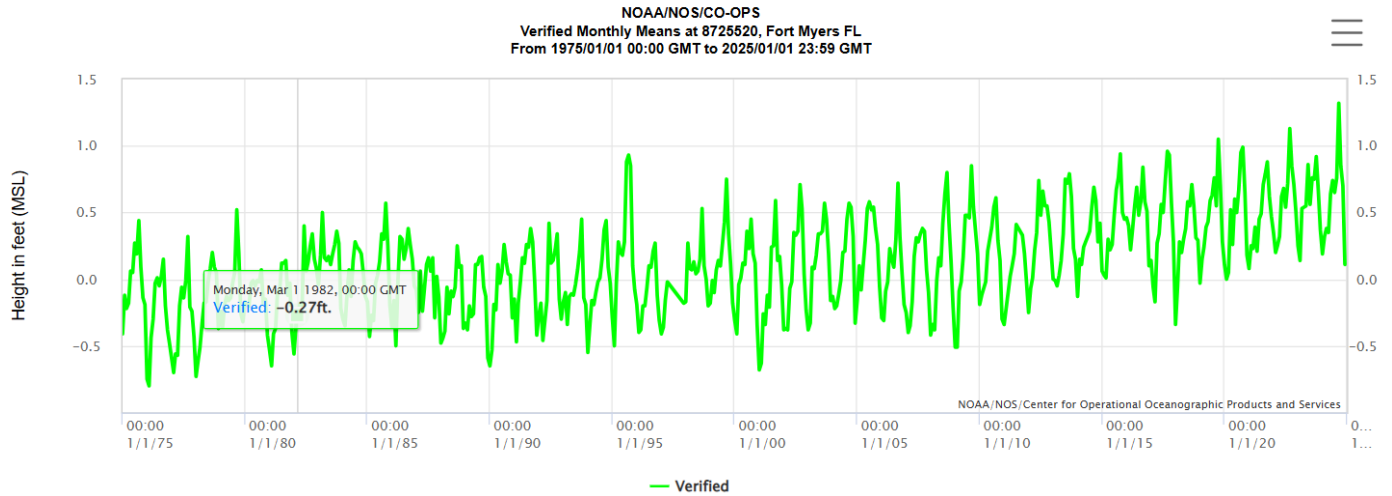
As mentioned in Policy 4.3.3 of the Conservation and Coastal Management Element, there are severe shortfalls in evacuation times County-wide. Given Cape Coral's location within the County, where several hurricane evacuation routes pass through "chokepoints" such as the Caloosahatchee River bridges and urbanized areas prior to accessing Interstate 75 for expeditious evacuation out of the County. The impacts of an additional 110-acres of Mixed-Use land, in an area that hitherto had minimal development opportunities, would further deteriorate the out-of-county evacuation time, which is contrary to this policy.

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Overall, the FLUMA does not meet the policies of the Comprehensive Plan, as discussed above.

Additional Information for Consideration

Sea Level Rise



Source:

<https://tidesandcurrents.noaa.gov/waterlevels.html?id=8725520&units=standard&bdate=19750101&edate=20250101&timezone=GMT&datum=MSL&interval=m&action=>

The graph above is the monthly mean sea level recorded at the Fort Myers tidal gauge from January 1, 1975 to January 1, 2025. As you can see, there has been a slow but steady indication of sea level rise (SLR) from -0.4 feet (1/1/1975) to 0.1 (1/1/2025) feet over the past 50 years. This increase in sea level rise is more acute when reviewing the maximum monthly sea level rise, from 0.44 feet (9/1/1975) to 1.32 feet (9/1/2024). This illustrates the potential impact of sea level rise (SLR) on coastal development in Cape Coral, that while development today may be unaffected or slightly affected by SLR, that this could change in 30-50 years.

Recent Hurricane Ian Impacts on the FLUMA site

Pictometry view of riverfront property, 2020:



Pictometry of riverfront property, 2024:



The photos illustrate the impacts of Hurricane Ian on the vegetation along the shoreline, where the applicant is considering developing a boardwalk, which is currently permitted in the existing future land use map classification of Natural Resources/Preservation. This represents the natural protective measures of the wetlands while also showing the site's vulnerability to storm surge. The site clearly sustained storm surge damage based on the diminution of vegetation in the 2024 photo. The next pair of photos further illustrates this vulnerability.

Pictometry view of NW quadrant of upland area, 2020:

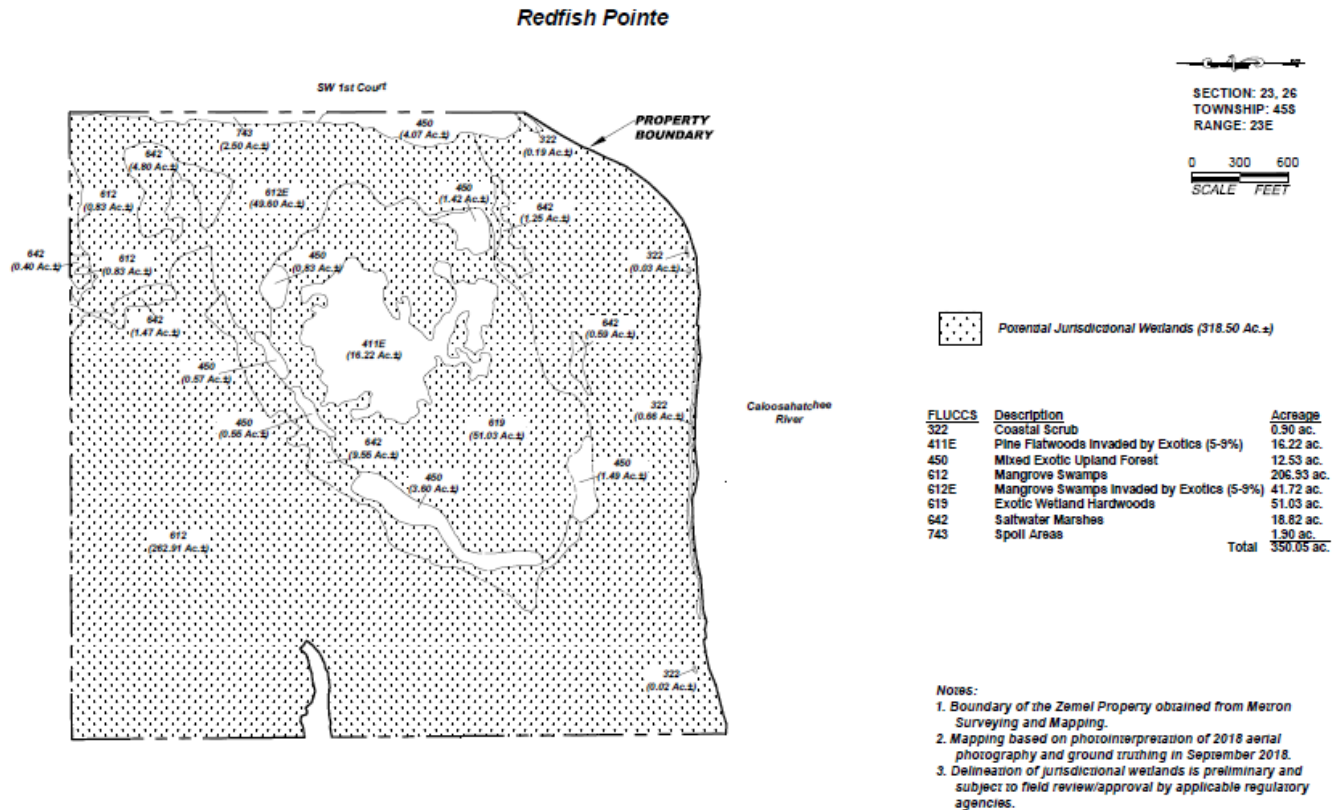


Pictometry view of NW quadrant of upland area, 2024:



Wetlands are present in the upper left corner of these photos, with the remainder of the photo indicating upland habitat. The stark reduction of vegetation indicates that storm surge and high winds impacted the upland portion of the site, even with the natural protections afforded by the wetlands that surround it, thus illustrating the vulnerable nature of the upland area. While engineering improvements (e.g. stem walls, importing fill, building standards required by the Florida Building Code) may mitigate the worst impacts of vulnerabilities for development on the upland, here is recent proof that the site has been impacted and it would be wise for Council to consider this when making their decision upon this amendment.

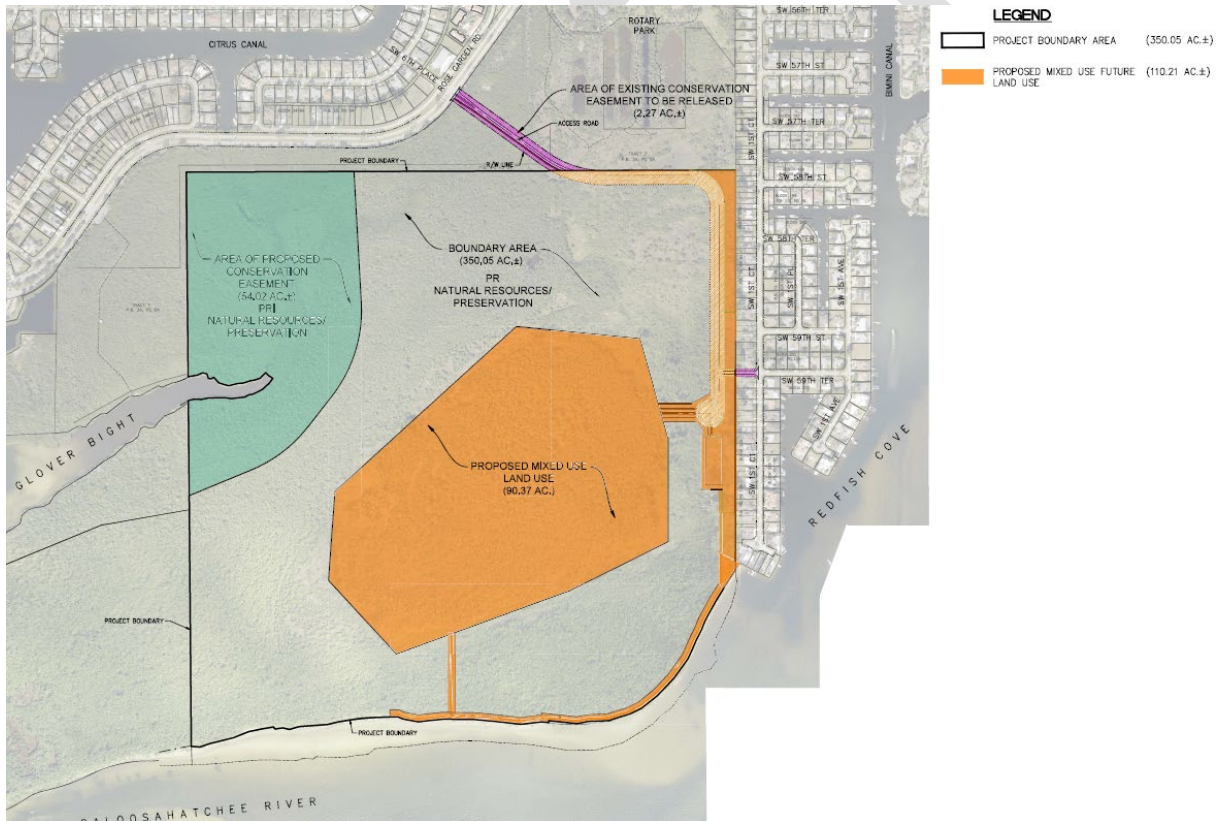
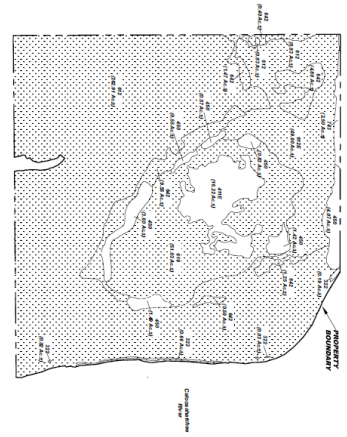
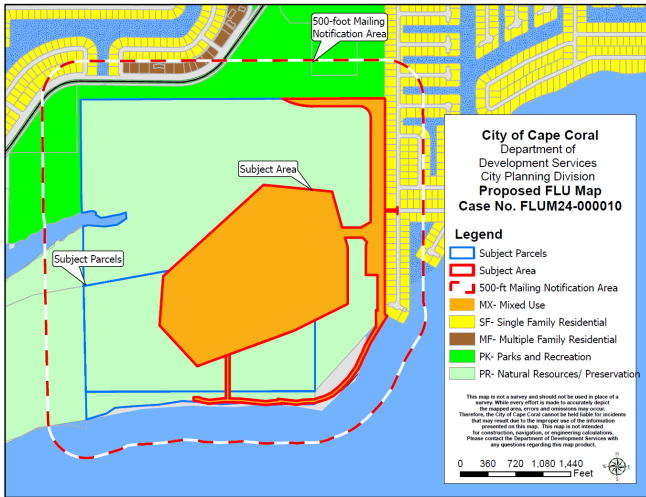
Impacts to Potential Jurisdictional Wetlands, entire 350-acre site



Potential jurisdictional wetlands consist of 318 acres of the 350 owned by the applicant. Be advised that for the map above, the north arrow points to the left.

Of the 110-acres proposed to be amended to Mixed-Use, the entirety of the 400-FLUCCS series is included (28.75 acres) as well as exotic wetland hardwoods (51 acres), which is present in the upland portion of the proposed amendment. One of the greatest impediments to development is obtaining proper access to the upland, more developable portion of the site.

Presently there are two potential means of access, one proposed by the applicant, and one provided by the nearest city ROW, SW 59th Terrace (by way of SW 1st CT). Both means of access will impact wetlands. The least amount of impact would come from a westward expansion of SW 59th Terrace to the upland portion of the site and would impact approximately 600 feet of mangrove swamp (FLUCCS Code 612E). The other access route would impact much more wetlands, to be explained below:



The second route to access the upland site is indicated in purple and light orange. The purple portion of the proposed access goes through wetlands on a neighboring property, a city-owned property known as Rotary Park. As a result, this access would require city approval to use its land. The light orange indicates the portion of the access that is present in the applicant's property and is subject to the proposed FLUMA.

Normally, the City does not provide rights-of-way a future land use map classification; this is concerning as if the applicant is unsuccessful in obtaining access from the City, or is unsuccessful in obtaining permits from state and federal agencies for the wetland impacts, the City would still have amended that area to Mixed-Use.

However, this is secondary to the fact that the wetland impacts of this second route dwarfs the impacts of the first, more direct access from SW 59th Terrace, with approximately 3,000 linear feet of roadway, not counting the 900 feet of roadway through the Rotary Park property, is proposed with the second access route. The purpose for this is obvious, as the second access would avoid traffic impacts on SW 1st Avenue, a local roadway that serves an entirely residential neighborhood.

Removal of proposed boardwalk area and roadway area from amendment

The applicant has requested that areas associated with the prospective roadway access and the boardwalk be amended to Mixed-Use future land use. However, this is not necessary as the City of Cape Coral has not made a practice of assigning a future land use map classification for rights-of-way. As discussed above, if the future land use change is adopted but the applicant is unsuccessful in obtaining wetland take permits from state and federal agencies for wetland impacts, the City will have still amended an area to Mixed-Use. For that reason, Staff has requested that the applicant amend the application to remove this area from consideration.

Similarly, the applicant has requested that a non-compact, sinuous area identified for a future boardwalk and nature trails be amended to Mixed-Use. The existing Natural Resources/Preservation future land use states in Policy 1.15.g:

“g. Natural Resources/Preservation: The areas designated on the Comprehensive Plan Future Land Use Map for Natural Resources/Preservation primarily consist of State-owned or regulated land. Development in these areas is limited to activities to make them accessible to the public for research or recreational purposes. Such activities would include accessways, nature trails, informational signs or displays, restroom facilities, picnic tables/shelters, beaches and boat ramps.”

Staff has noted that boardwalks for nature trails and other research and recreational purposes are permitted in this future land use – for example, boardwalks are located in the Four Mile Cove Ecological Preserve, an area which is designated as Natural Resources/Preservation. Assuming this is the intention of the applicant, mapping this would be unnecessary. If the purpose is to use the boardwalk for commercial uses, staff has major concerns regarding the removal of solid waste and the provision of water and wastewater services along the waterfront. In any event, staff has requested that the applicant amend the application to remove this area from consideration.

Impact Assessment Summary

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

The current future land use designation of Natural Resources/Preservation permits densities of **one dwelling unit per 20 acres** for privately-owned property.

Policy 1.15.e of the Future Land Use Element describes the intensities and densities of the Mixed-Use future land use map classification. This will be used to assess the proposed impacts of the amendment.

- e. **Mixed-Use:** The mixed-use designation is intended to encourage the development of planned projects that include more than one type of use. The maximum permitted densities/intensities of various uses within the mixed-use designation will be 25 dwelling units per acre for a residential component and 1.0 FAR (Floor Area Ratio) for nonresidential uses. For example, a project combining multi-family and commercial uses would be subject to Policies 1.15.b. or 7.7 for the multi-family portion, and Policy 1.15.c. for the commercial portion.

The following will control the mix of uses allowed in the Mixed-Use Land Use category.

Properties less than one (1) acre: The designation of smaller properties as Mixed-Use is desired to encourage the accumulation of land into large properties. However, in some cases assemblage is difficult due to existing development. In these situations, a property with a Mixed-Use future land use classification may be developed with one use, which is also consistent with its underlying zoning district.

Properties one (1) acre and greater: Larger properties are prime candidates for mixed use developments. These properties shall include more than one type of use. The mix of uses may include residential, retail, office, services, light industrial, or public facilities. Such uses may be mixed horizontally on a site or may be within a compound use building, (i.e., differing uses within one building or structure) consisting of residential and retail, office, or services. For Mixed-Use developments adopted after October 23, 2010, retail, office, services, light industrial, or public facilities uses may be developed up to 100% of building floor area within a Mixed-Use property; this will have the intended effect of not requiring a mix of non-residential uses for properties one (1) acre or greater in size. Stand-alone residential uses may comprise up to 20% of site area of a Mixed-Use property one (1) acre or greater in size. Compound use residences are permitted.

Proposed development impacts assume that commercial uses would develop at a 0.25 FAR over the entire site, which would consist of approximately 1,200,187 square feet of non-residential development. Based on the density of 25 du/acre, the site could develop with a maximum of 2,755 dwelling units. While the applicant has stated that their intention would be to develop below these maximums, it is standard practice for the City to use a worst-case scenario when reviewing development impacts for future land use map amendment requests.

In addition, this analysis also includes the proposed development impacts that were identified by the applicant in their letter of intent. As the development proposed by the applicant is less than the probable worst-case scenario, the impacts

will be between the worst-case scenario impacts and the development impacts that would occur today. This additional analysis will provide impacts based on 800 multi-family dwelling units, a 500-seat restaurant, a 300-room hotel, and 50,000 square feet of retail space. Thus, the following analysis will show the impacts proposed by the existing future land use map classification, an analysis based on the worst-case scenario, and an analysis based on the applicant's proposed development.

Dwelling Units

Existing: 5 (assumes 1 unit/20 acres, rounded down)
Proposed (worst-case scenario): 2,755 (at 25 units/acre)
Proposed (applicant-stated development): 800
Net Change: +2,755 or +795 dwelling units

Population

Existing: 13
Proposed: 7,135
Proposed (applicant-stated development): 2,072
Net Change: +7,122 or +2,059
*Based on 2.59 members per household, sources: 2019-2023 U.S. Census Quickfacts

Water Use

Existing: 1,000 gal/day total (5 dwelling units x 200 gal/unit/day)
Proposed: 911,056 gal/day total (1,200,187 square feet x 0.3 gal/sq ft/day) plus (2,755 dwelling units x 200 gal/unit/day)
Proposed (applicant-stated development): 310,000 gal/day total (50,000 square feet x 0.3 gal/sq ft/day) plus (100,000 gal/day hotel) plus (35,000 gal/day restaurant) plus (800 dwelling units x 200 gal/unit day)
Net Change: +910,056 or +309,000 gal/day
Facility Capacity: 30.1 MGD
Permitted Usage: 16.9 MGD
Avg. Daily Usage: 9.4 MGD

Sewage

Existing: 1,000 gal/day total (5 dwelling units x 200 gal/unit/day)
Proposed: 911,056 gal/day total (1,200,187 square feet x 0.3 gal/sq ft/day) plus (2,755 dwelling units x 200 gal/unit/day)
Proposed (applicant-stated development): 310,000 gal/day total (50,000 square feet x 0.3 gal/sq ft/day) plus (100,000 gal/day hotel) plus (35,000 gal/day restaurant) plus (800 dwelling units x 200 gal/unit day)

Net Change: +910,056 or +309,000 gal/day
Facility Capacity: 28.4 MGD
Avg. Daily Usage: 12.8 MGD

Solid Waste

Existing Generation: 62 lbs. total/day (13 residents x 4.74 lbs/person/day)
Proposed: 197,045 lbs. total/day (1,200,187 square feet x 0.136 lbs/sq ft/day) plus (7,135 residents x 4.74 lbs/person/day)
Proposed (applicant-stated development): 31,581 lbs. total/day (160,000 square feet* x 0.136 lbs/sq ft/day) plus (2,072 residents x 4.74 lbs/person/day)
Net Change: +196,983 lbs./day or 31,519 lbs./day
Facility Capacity: 1,836 tons/day
Existing Demand: 1,384 tons/day
Capacity Available: Yes
*50,000 square feet retail, 90,000 square foot hotel, 20,000 square foot restaurant

Traffic/Daily Trips

Existing Generation: 4 AM peak trips/hour and 5 PM peak trips/hour
Proposed: 2,365 AM peak trips/hour and 5,477 PM peak trips/hour
Proposed (applicant-stated development): 769 AM peak trips/hour and 1,105 PM peak trips/hour
Net Change: +2,361 AM peak hour trips and +5,472 PM peak hour trips OR +765 AM peak hour trips and +1,105 PM peak hour trips
Facility Capacity: No roadways currently access the site. Right-of-way access is available, but unpaved, to the east.
Capacity Available: Not currently due to lack of access to site

Development Impact Analysis

Park Lands

The levels of service standard (LOS) for parkland and facilities are based on permanent population. The proposed amendment would result in an increase in park demand (28.54 acres/8.29 acres w/ developer proposal) due to the increased residential development proposed.

Protected Species

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

Police and Fire Impacts

This property is serviced by Fire Station 9 and there would be a moderate impact on service delivery.

Due to the uniqueness and size of the property, additional resources will be needed in the area to adequately address the increased risk and special risks that come with a property like this.

- Additional resources could include personnel, aerial apparatus, marine resources, and specialized equipment.
- Call volume would likely increase by several hundred calls annually, depending on the occupancy types in the development, height of the buildings, density, and traffic.

For Police services, the subject properties are served by police beat SW Z1. Based on the proposed development, sustained traffic pressure on Cape Coral Parkway and El Dorado Parkway would occur during peak commute periods and shift changes, which contrasts with sporadic traffic patterns of residential land uses. The retail/hotel components could concentrate policing needs around commercial hubs, resulting in increases in shoplifting incidents, after-hours disturbances and parking lot disputes.

A rough estimate would be a 4-6% increase in call volume overall for the City, with maybe closer to 12-15% in the SW Zone 1 patrol district.

School Impacts

There will be some impact on schools, due to the increase in residential dwellings proposed in the amendment.

Existing dwelling units:	5 dwelling units
Existing students:	0 (rounded down from 0.45)
Proposed dwelling units:	2,755 dwelling units
Proposed students:	250
Change:	+250 students

Recommendation:

To conclude, the applicant is requesting that 110-acres, consisting primarily of wetlands and surrounded by land designated as parkland, preservation land, and single-family residential, be amended to Mixed-Use. The history of this site fails to show that the applicant had development rights to mixed-use development, or that a reasonable investment-backed expectation for mixed-use development exists. Development of the site, which presently lacks infrastructure, as a Mixed-Use development would result in impacts that intrude upon a well-established residential neighborhood, subject a hitherto undeveloped area to the impacts of storm surge and sea level rise, and have negative impacts on nearby wetlands and listed vulnerable species habitat. Staff recommends **Denial** of the proposed amendment request.
