

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL, FLORIDA, LAND DEVELOPMENT CODE, ARTICLE 5, "DEVELOPMENT STANDARDS," BY CREATING CHAPTER 13, "CONVERSION OF NONCONFORMING RESIDENTIAL SITES TO COMMERCIAL SITES," REGARDING THE REDEVELOPMENT OF COMMERCIAL SITES WITH EXISTING SINGLE-FAMILY OR DUPLEX DWELLINGS; PROVIDING FOR PURPOSE AND APPLICABILITY; PROVIDING FOR STANDARDS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council hereby finds that this Ordinance is in the best interest of the public health, safety, and welfare.

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

SECTION 1. The City of Cape Coral Land Development Code, Article 5, "Development Standards," Chapter 13, "Conversion of Nonconforming Residential Sites to Commercial Sites," is hereby created to read as follows:

Chapter 13. - Conversion of nonconforming residential sites to commercial sites

Section 5.13.1.- Purpose and applicability.

The purpose of this section is to encourage the redevelopment of commercial sites with existing single-family or duplex dwellings resulting from an amendment to the Comprehensive Plan, including future land use map amendments, which amendment was not the result of an application or other action by the property owner. These provisions will provide owners with greater flexibility in converting these properties to new commercial uses while promoting the health, safety, and welfare of the surrounding community. In the event the property owner who owned the real property containing the single-family or duplex dwelling use at the time the Comprehensive Plan amendment was adopted conveys or otherwise transfers ownership of the real property, subsequent to the adoption of the amendment, to another person or entity, then the provisions outlined in this Chapter 13 shall not apply and the site shall be subject to all applicable requirements of the LDC.

Section 5.13.2. – Standards.

Notwithstanding any Code provision to the contrary, sites with existing single-family dwellings or duplexes that are proposed to be converted to a nonresidential use where the existing owner was not an applicant of the Comprehensive Plan change that rendered the original residential use of the site to a legal nonconformity, shall comply with the following standards.

1. *Parking.* A minimum of three spaces, including one handicap space shall be required on the site.
2. *Commercial trash receptacles.* A commercial trash receptacle and accompanying enclosure shall not be required. Trash receptacles may be stored in the building and rolled out to the curb for service. Trash receptacles stored outside shall be screened from view by an opaque fence or wall with a height of six feet from all public rights-of-way and adjacent properties.
3. *Landscaping.* Landscape buffers described in LDC, Section 5.5.13.C.5. shall not be required. Where a site with nonresidential zoning shares one or more property lines with a site with residential zoning, landscaping shall include four canopy trees per 100 linear feet and a row of shrubs spaced every three feet on center along the shared property line or lines of the nonresidential site. Accent and palm trees may be substituted for canopy trees at the rate of two accent trees for every canopy tree, and three palms for every canopy tree. All shrubs shall be a minimum of 32 inches in height and be in at least a seven-gallon container size at time of planting.
4. *Sidewalks, alleys, and other right-of-way improvements.* Right-of-way improvements when absent along an arterial or collector road shall be constructed consistent with LDC, Section 5.1.8. Required right-of-way improvements along local streets and alleys may be waived, in whole or in part, by the Director, at the sole discretion of the Director.

In determining whether to waive any required right-of-way improvements, the Director shall consider the following:

- a. Whether the required right-of-way improvements will provide continuity with similar right-of-way improvements already present within the subject block along the subject street or alley; or
 - b. Whether the site is within walking distance of 1/2 mile from a school or public park; or
 - c. Whether the subject site has two or more sides of frontage along a public right-of-way lacking right-of-way improvements.
5. Demolition of nonconforming residential building. In the event the owner of the site when the future land use amendment was approved demolishes the nonconforming single-family or duplex building, or proposes improvements that collectively equal or exceed 50% of the building value over a 12-month period, the provisions of this Chapter 13 shall not apply, and the site shall be redeveloped in conformance with the applicable provisions of the LDC. This provision, however, shall not restrict or prevent the owner from seeking relief from a provision appearing in the LDC that any other owner may be entitled to request.
6. Other regulations and permits. Except as provided above, the owner of the site shall comply with all applicable local, state, and federal laws and regulations, including, but not limited to, applying for and obtaining any permits required for the development.

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

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

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2024.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	CARR	_____
STEINKE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2024.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

ALEKSANDR BOKSNER
CITY ATTORNEY

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