



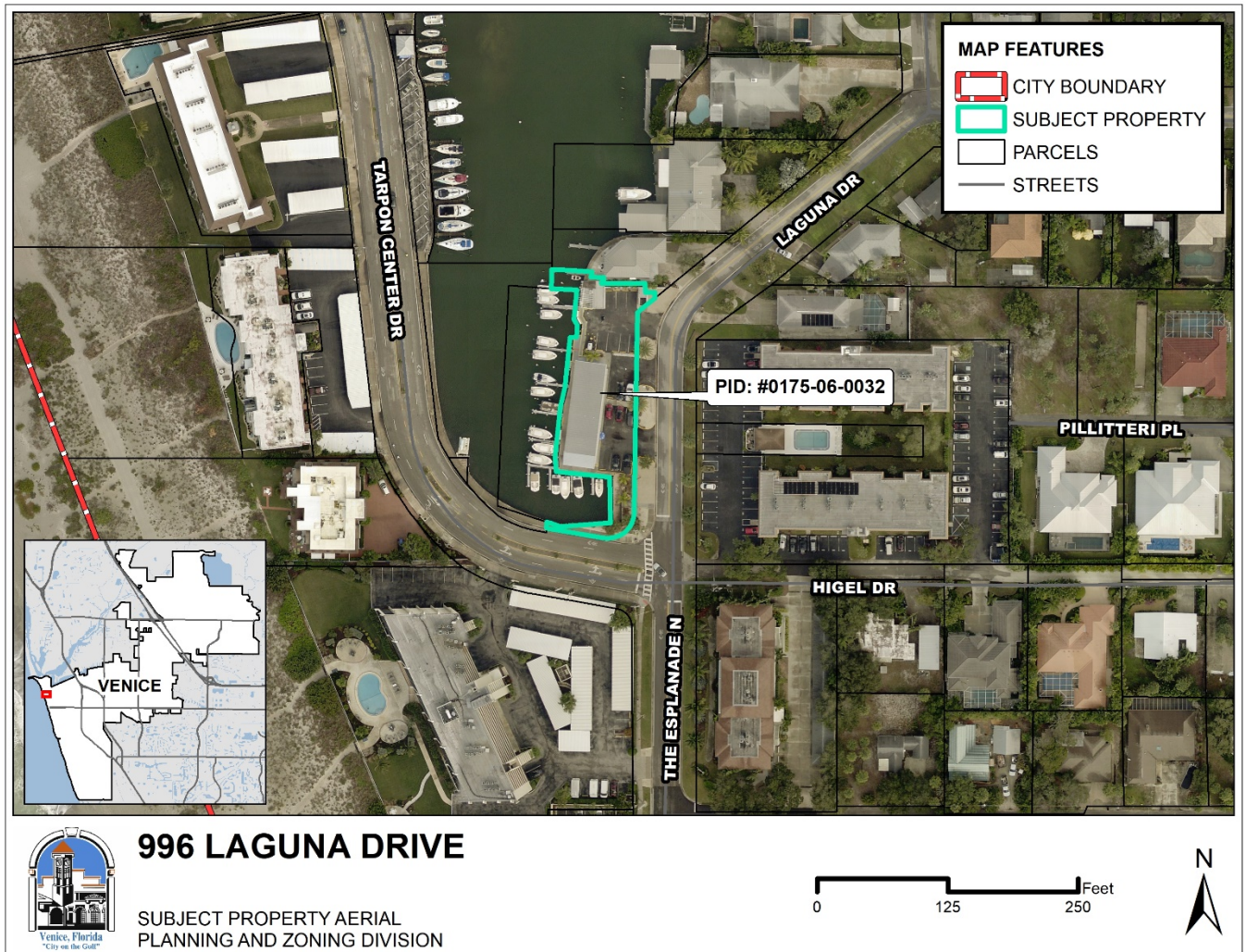
CITY OF VENICE

Vested Rights Determination

20-34VR

Staff Report

- I. **Applicant:** Jackson Boone - Boone, Boone, and Boone Law Firm on behalf of Gulf View Marina Holdings, LLC, property owner.
- II. **Subject Property:** 996 Laguna Drive, Sarasota County Parcel ID# 0175060032, 0.32+/- acres (see following location map).



III. Vested Rights Determination Criteria:

A vested rights determination is subject to the City Code of Ordinances Chapter 86 Section 86-48 as indicated below:

Sec. 86-48. - Vested rights.

(a) Nothing contained in this chapter shall be construed as affecting existing vested rights. It shall be the duty and responsibility of any person alleging vested rights to affirmatively demonstrate to city council the following:

- (1) A reliance in good faith upon some act or omission of the government; and***
- (2) A substantial change in position or the incurrence of such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights that have been acquired.***

(b) Notwithstanding anything herein to the contrary, any person alleging vested rights may not rely upon an erroneous act of the city that the person asserting vested rights could have discovered with reasonable diligence and effort. Further, the city may deny a requested vested rights determination if the city shows that a peril to the health, safety, morals or general welfare of the residents or property in the city has arisen subsequent to the approval of any development order on the subject property.

IV. Applicant Alleged Vested Right:

Jackson Boone representing the property owners, Gulf View Marina Holdings, LLC, has submitted for a vested rights determination for their subject property located at 996 Laguna Drive, for parcel ID# 0175060032 comprising approximately 0.32 +/- acres. For this determination, the owner desires to “establish the ability to pursue the special exception use of Multi-Family Dwellings on the Property as a vested right.” The existing Commercial, General (CG) zoning district provides for Multi-Family Dwellings as a special exception use and allows development of up to eighteen dwelling units per acre. However, the current Commercial future land use designation of the property does not allow for residential use of the property per Comprehensive Plan Strategy 1.2.5 as follows:

Strategy 1.2.5 – Residential Uses in Non-Residential Designations.

In order to provide predictable land uses, residential uses previously provided for or permitted through the conversion factor, including its allocation ratio, have been removed from this Comprehensive Plan.

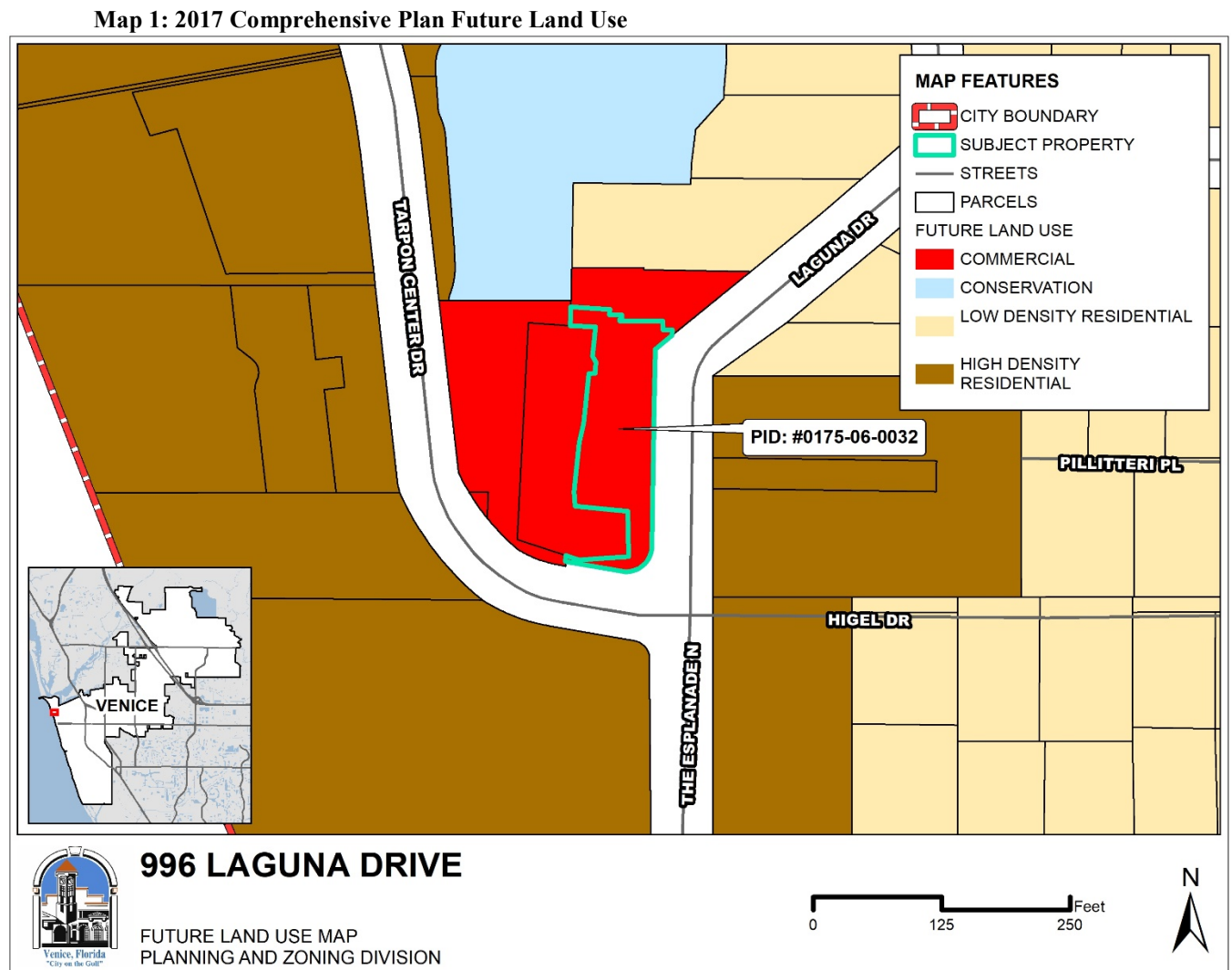
The applicant has also submitted the application, cover letter and associated documentation to support their request, which have been included in the file of record and in the agenda meeting packet.

V. Background Information:

- **2010 Comprehensive Plan: Future Land Use: Planning Area A: Tarpon Center/Esplanade Neighborhood**, through Policy 16.1, the intent of the planning area was “...to provide multi-family residential...” use and Policy 16.2, established “...a maximum residential density average in this district shall not exceed 18 units per acre...”

- **2017-2027 Comprehensive Plan: Land Use designation: Strategy LU 1.2.4.a – Commercial**
 - Reflects more conventional commercial uses and development patterns.
 - Typical uses may include retail, service, financial, automotive convenience centers, and similar.
 - Transient lodging (i.e., hotels) may be provided consistent with the underlying zoning district.

Map 1 below depicts the subject property with the Commercial Land Use designation from the 2017-2027 Comprehensive Plan.

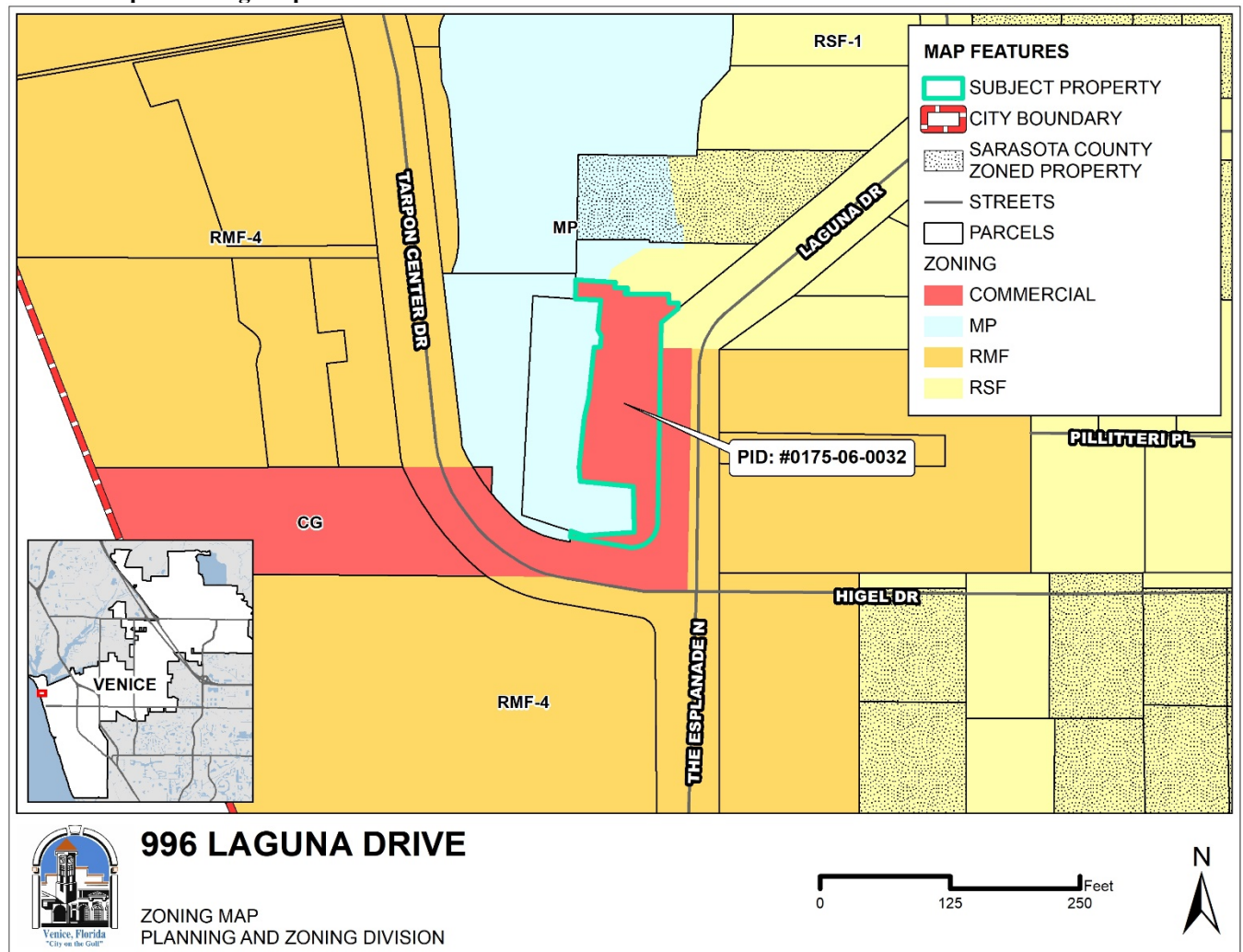


The City's 2010 Comprehensive Plan designation for the subject property was Planning Area A with the associated Policy language regarding Planning Intent:

Policy 16.1 The Tarpon Center/Esplanade Neighborhood. *The intent of this planning area is to provide multi-family residential as a transition between the existing mid-rise condominium structures and the lower density residential housing areas adjacent to the planning area.*

Map 2 below depicts the subject property current zoning designation as CG which was also in place prior to the adoption of the 2017-2027 Comprehensive Plan.

Map 2: Zoning Map



VI. Findings:

In review of the submitted petition for vested rights for the subject properties (Sarasota County Parcel ID# 0175060032, comprising 0.32 +/- acres), the following findings are noted for consideration:

- The 2010 Comprehensive Plan did establish a planning intent for this location of multi-family residential uses up to a maximum of 18 dwelling units per acre as part of Planning Area A.
- The 2017-2027 Comprehensive Plan provided that residential uses be located within areas designated as residential and non-residential use be located in areas designated as non-residential.
 - The applicant contends that: *“Gulf View Marina relied in good faith that the adoption of the new City Comprehensive Plan in 2017 would not remove its property rights held under the City’s CG zoning district.”* This is the applicant’s response to the indicated finding of *“A reliance in good faith upon some act or omission of the government.”*
- The zoning under the 2010 Comprehensive Plan was and remains as CG under the 2017-2027 Comprehensive Plan.

- The CG zoning district allows for multi-family residential use to be pursued through a special exception.
- The Land Development Regulations that provide for the implementation of the 2017-2027 Comprehensive Plan are still under development. As a result, there are still inconsistencies between the 2017-2027 Comprehensive Plan and the current Land Development Regulations. The existing CG zoning designation and its provision for multi-family residential uses through special exception is an example of this inconsistency.
- The applicant contends that: *“After the adoption of the 2017-2027 Comprehensive Plan, the property received a FLUM designation of Commercial, Strategy LU 1.2.4.a –Commercial. This current FLUM designation does not make an express reference to Multi-Family Dwellings in subsections (1), (2) or (3). Because Multi-Family Dwelling is not expressly referenced, City Staff has determined that this use is not available via special exception.”*
 - Per Strategy 1.2.5 – Residential Uses in Non-Residential Designations, staff understands it was the intent of the 2017-2027 Comprehensive Plan that, in order to provide predictability of land use, residential uses would only be permitted on property designated as residential on the future land use map.
- The applicant has indicated that *“since purchasing the property in 2013, Gulf View Marina has proactively explored redevelopment opportunities for the aging and deteriorating building “.....that “includes consultations with design professionals to analyze the potential rehabilitation or replacement of the existing building.”*
 - Although indicated in the applicant’s request, no specific documentation regarding expenditures has been provided as evidence to support an affirmative finding that: ***A substantial change in position or the incurrence of such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights that have been acquired.***