

**From:** [Roger Clark](#)  
**To:** [Lisa Olson](#)  
**Subject:** FW: Venice Planning Commission: Sep 5  
**Date:** Thursday, August 31, 2023 12:03:57 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Please include as written correspondence for both the zoning determination appeal and the Cielo pre-plat.

Thanks,

**Roger Clark, AICP**

Planning and Zoning Director  
Planning and Zoning  
City of Venice  
401 W. Venice Avenue  
Venice, Florida 34285  
Tel: [941-882-7432](tel:941-882-7432)  
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Email: [RClark@venicefl.gov](mailto:RClark@venicefl.gov)  
Web: [www.venicegov.com](http://www.venicegov.com)



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**From:** 146bella@gmail.com <146bella@gmail.com>  
**Sent:** Thursday, August 31, 2023 11:27 AM  
**To:** Roger Clark <RClark@venicefl.gov>; Kelly Fernandez <kfernandez@flgovlaw.com>  
**Subject:** Venice Planning Commission: Sep 5

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**Morning,**

**If there is a will there is a way with Neal and Boone. Please DO NOT approve this on Tuesday ! We sent to commissioners.**

**CORRECTION: Venice Planning Commission Meeting: Tue, Sep 5 (1:30PM)**

**Dear Friends and neighbors,**

**We want to update you on the upcoming Planning Commission meeting in connection with the Neal shopping center at LAUREL and Jacaranda.**

**First, a brief recap of the hurdles Neal must jump through in order to start construction. The first hurdle was the zoning change, which was passed by City Council by a 5-2 vote, against the advice of its own planning commission. It is this zoning change decision which we have appealed. The other two hurdles before Neal are: 1) the Preliminary Plat Amendment, where he would change the land map to reflect commercial property; and 2) the site development plan, where he will have to show the type, layout and scale of commercial buildings that will be placed on the property. Despite the fact that we have appealed the zoning change, Neal – at his own risk – can proceed with the preliminary plat and site development plans. If we win the appeal, the project is halted.**

**The City's director of planning & zoning directed Neal to submit the Preliminary Plat Amendment to the Planning Commission for a public hearing. Neal's attorney appealed this directive; insisting that the application should go straight to the City Council, bypassing a hearing before the Planning Commission. The ostensible reason is to save the City time and money. At its August 25 meeting, the Planning Commission voted 3-3 (with one member absent), forcing this appeal to be voted on again at**

the Sept. 5 hearing.

Accordingly, on Sept 5, the Planning Commissioners will vote again on Neal's Appeal. If the appeal is denied, the Planning Commission will hear the Replat Amendment later during the same Sept. 5<sup>th</sup> session. If the appeal is approved, the Replat Amendment will be removed from the agenda.

The NVNA is proceeding on the basis that there will be a public hearing on the Replat Amendment. Of paramount importance is the validity of the legal title to the 10.42 acre parcel of land. For this reason, NVNA has recently submitted an email to the Planning Commission asking that they delay any hearing on the plat amendment application and obtain an outside independent legal opinion. This would address the accuracy of the title opinion supporting legal release submitted by Neal in the replat application. The full text of NVNA's email can be viewed on our Facebook page.

That release is no small matter: it attempts to remove the 10.42 acres of open space from the Cielo Covenants so that the applicant (Border and Jacaranda Holdings, or BJH) is free to build its shopping center on that parcel. NVNA believes that the release may be unenforceable under the law and that it should not be the basis for any title opinion.

In sum, NVNA is asking the city not to be hasty in deciding whether to approve BJH's application for the plat amendment. Given the amount of opposition to this controversial project, we believe it is imperative that the city make sure that the applicant has the legal right to build on the 10.42 acre parcel. It's that simple.

NVNA believes that a presence at the hearing by those opposing the shopping center would be helpful. We welcome any of you to talk during the public comment period about the importance of the city getting it right, even if it takes a few more weeks. Please refer to NVNA's email for some talking points. The residents of Venice deserve that much. Once the agenda for the September 5 planning commission is public, we will send you a link. The meeting is at City Hall on the island and starts at

**1:30PM.**

**Meantime, wishing you all the best, and we remain so grateful for your continued support.**

Stay in touch with NVNA:

[nvnalliance@gmail.com](mailto:nvnalliance@gmail.com)

Find North Venice Neighborhood Alliance on Face Book at: [NVNA on Facebook](#)

With very best regards,

North Venice Neighborhood Alliance Inc.

*The North Venice Neighborhood Alliance Inc. (NVNA) was established in April 2022 by concerned residents representing the interests of Laurel Rd East and Jacaranda Extension North to ensure responsible development within and surrounding our residential communities. NVNA is a nonprofit corporation under the laws of the State of Florida and operates as a 501(c)(4) under the Internal Revenue Code.*



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You are receiving this email because you opted in via email notification or signed our petition.

**Our mailing address is:**

North Venice Neighborhood Alliance  
246 Montelluna Dr  
North Venice, FL 34275-6616

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**From:** [Gary Scott](#)  
**To:** [Planning Commission](#)  
**Cc:** [Kelly Michaels](#)  
**Subject:** Petition # 22-39PP  
**Date:** Tuesday, August 22, 2023 11:29:13 AM  
**Attachments:** [Email2 \(1\).pdf](#)

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To Members of the Planning Commission:

As you know the applicant in the referenced petition has appealed Planning Director Roger Clark's decision that Border and Jacaranda Holdings LLC is required to amend its preliminary plat of the Cielo Subdivision as opposed to simply submitting a replat to the City Engineer's office. The hearing on that appeal is to be continued at your next meeting on September 5.

It is Mr. Clark's interpretation of the LDR that they require an amendment to the preliminary plat which application is to be reviewed and referred to this Commission by Mr. Clark and his staff. To allow the applicant to only submit a replat of the Cielo Subdivision would in effect be changing the LDR. That was the opinion provided by City Attorney Kelly Fernandez in an email to Mr. Clark last month. (Copy attached as part of an email string)

From: Kelly Fernandez Sent: Tuesday, July 25, 2023 1:26 PM  
To: Roger Clark  
Subject: Re: Milano PUD Plat - Zoning Determination Appeal

I don't have it in me to a deep dive while on vacation but I have read what they submitted. Given our current Code provisions, I am supportive of your draft determination. Should the City desire some other more streamlined process for situations such as this, then the correct route would be to amend the Code to lay out that process. From my brief research it appears that replats are handled in a variety of ways by other jurisdictions depending on what is being accomplished.

Kelly M. Fernandez, Esq. Persson, Cohen, Mooney, Fernandez & Jackson, P.A. 236 Pedro St. Venice, FL 34285 Ph: (941) 306-4730 | Fax: (941) 306-4832 Board Certified by the Florida Bar in City, County and Local Government Law

As stated by Ms. Fernandez, for a process other than that required by Mr. Clark to be allowed, the LDR must first be amended by proper process. As for now the applicant should be made to follow the existing law.

Thank you.

Gary Scott

## Re: Milano PUD Plat - Zoning Determination Appeal

Kelly Fernandez

Tue 7/25/2023 1:37 PM

To: Roger Clark <RClark@venicefl.gov>

Please make sure they submit an appeal of the determination to you issue first. I still don't consider what they submitted already an appeal.

Kelly M. Fernandez, Esq.

Persson, Cohen, Mooney, Fernandez & Jackson, P.A.

236 Pedro St.

Venice, FL 34285

Ph: (941) 306-4730 | Fax: (941) 306-4832

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**From:** Roger Clark <RClark@venicefl.gov>

**Sent:** Tuesday, July 25, 2023 1:30 PM

**To:** Kelly Fernandez <kfernandez@flgovlaw.com>

**Subject:** RE: Milano PUD Plat - Zoning Determination Appeal

Thanks Kelly. Sorry to mess up your vacation. You're the best. I will issue the determination and set the appeal for 8/15. We'll just advertise, no mailed notification.

*Thanks,*

*Roger*

**Roger Clark, AICP**

**Planning and Zoning Director**

401 West Venice Avenue

Venice, FL 34285

Office: 941-882-7432

Cell: 941-468-0081

[rclark@venicefl.gov](mailto:rclark@venicefl.gov)



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**From:** Kelly Fernandez <kfernandez@flgovlaw.com>

**Sent:** Tuesday, July 25, 2023 1:26 PM

**To:** Roger Clark <RClark@venicefl.gov>

**Subject:** Re: Milano PUD Plat - Zoning Determination Appeal

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**From:** Kelly Fernandez  
**Sent:** Monday, July 24, 2023 4:59 AM  
**To:** Roger Clark <[RClark@venicefl.gov](mailto:RClark@venicefl.gov)>  
**Subject:** Re: Milano PUD Plat - Zoning Determination Appeal

Hi Roger,  
Well drafted. I do want to take a closer look at their submittal and do a little bit of legal research before you set it loose though. Give me another day or two.  
- Kelly

Sent from my iPhone

On Jul 20, 2023, at 13:07, Roger Clark <[RClark@venicefl.gov](mailto:RClark@venicefl.gov)> wrote:

Kelly,  
I'm not going to send the determination without your review. I've attached the draft and I'll leave it up to you if you decide to review.

*Thanks,*

*Roger*

**Roger Clark, AICP**  
**Planning and Zoning Director**  
401 West Venice Avenue  
Venice, FL 34285  
Office: 941-882-7432  
Cell: 941-468-0081  
[rclark@venicefl.gov](mailto:rclark@venicefl.gov)  
<image001.jpg>

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**From:** Kelly Fernandez <[kfernandez@flgovlaw.com](mailto:kfernandez@flgovlaw.com)>  
**Sent:** Thursday, July 20, 2023 7:55 AM  
**To:** Roger Clark <[RClark@venicefl.gov](mailto:RClark@venicefl.gov)>; David Jackson <[djackson@flgovlaw.com](mailto:djackson@flgovlaw.com)>  
**Subject:** Re: Milano PUD Plat - Zoning Determination Appeal

Roger,

On a train for a few hours so a good time to catch up on things. They will have to file an appeal after they receive your written determination. Then you can determine hearing date. If the August meeting still works then you can proceed. I would reject whatever they already submitted as premature. You can't appeal something that doesn't exist yet. I think you'll need to post and publish.

Kelly M. Fernandez, Esq.

Persson, Cohen, Mooney, Fernandez & Jackson, P.A.

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**From:** Roger Clark <[RClark@venicefl.gov](mailto:RClark@venicefl.gov)>

**Sent:** Thursday, July 20, 2023 7:20 AM

**To:** Kelly Fernandez <[kfernandez@flgovlaw.com](mailto:kfernandez@flgovlaw.com)>; David Jackson <[djackson@flgovlaw.com](mailto:djackson@flgovlaw.com)>

**Subject:** RE: Milano PUD Plat - Zoning Determination Appeal

Kelly,

I've drafted the determination and am reviewing it with staff today. I won't issue anything until you review it. But their submittal included both a request for determination and an appeal of my verbal denial as they want to get on the first PC agenda. Ad deadline is next Thursday morning to make the August 15<sup>th</sup> meeting. Are you ok with going ahead with the ad next week? I assume no mail notification?

Sorry to bother you on your vacation. Hope you are enjoying your time away.

**Thanks,**

**Roger**

**Roger Clark, AICP**

**Planning and Zoning Director**

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Venice, FL 34285

Office: 941-882-7432

Cell: 941-468-0081

[rclark@venicefl.gov](mailto:rclark@venicefl.gov)

<image001.jpg>

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**From:** Kelly Fernandez <[kfernandez@flgovlaw.com](mailto:kfernandez@flgovlaw.com)>

**Sent:** Thursday, July 20, 2023 7:14 AM

**To:** Roger Clark <[RClark@venicefl.gov](mailto:RClark@venicefl.gov)>; David Jackson <[djackson@flgovlaw.com](mailto:djackson@flgovlaw.com)>

**Subject:** Re: Milano PUD Plat - Zoning Determination Appeal

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Hi Roger,  
I am trying to look at emails once a day. They cannot appeal a written determination you haven't even made yet. So it is premature to set an appeal hearing date. I'll want to review the determination before it goes out.

Kelly M. Fernandez, Esq.  
Persson, Cohen, Mooney, Fernandez & Jackson, P.A.  
236 Pedro St.  
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**From:** Roger Clark <[RClark@venicefl.gov](mailto:RClark@venicefl.gov)>  
**Sent:** Wednesday, July 19, 2023 11:00 AM  
**To:** David Jackson <[djackson@flgovlaw.com](mailto:djackson@flgovlaw.com)>  
**Cc:** Kelly Fernandez <[kfernandez@flgovlaw.com](mailto:kfernandez@flgovlaw.com)>  
**Subject:** Milano PUD Plat - Zoning Determination Appeal

David,  
I know Kelly is on vacation, but this is a very controversial project. The Boone Law Firm has submitted a request for zoning determination on the platting process along with an appeal since I indicated verbally that I disagree with their interpretation. I have attached the request. Section 1.15.7 covers zoning determinations. They have requested to be on the first meeting upon Planning Commission's return which is August 15<sup>th</sup>.

My question is, does the appeal require mail notification or just advertising. Upon review of the code, my thought would be just a legal ad. This is made clear in Code Section 1.2.E.3. Section 1.2.E.1 covers mail notice. Although this request refers to an application and a specific property, I'm not sure if mail notice to the surrounding property owners is required. This is an appeal of my interpretation of code. Code Section 1.16 covers appeals and indicates they are quasi-judicial but no guidance on notification. Section 1.1.2.L.4 covers Planning Commission power of the zoning administrator on appeals. This is unique in that it is an appeal of a zoning determination by the Zoning Administrator, not an appeal of a board decision. I can't remember ever having this type of appeal.

I'm not sure if you want to bother Kelly with this. She is aware that this determination request was coming as our teams meeting with the Boone Law Firm just took place last Wednesday. I have copied her, but not sure if she is checking email. She will be back in time to review my determination. Unfortunately, our deadline to advertise and, notify if necessary, is next week.

*Thanks,*

*Roger*

**Roger Clark, AICP**  
**Planning and Zoning Director**  
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<image001.jpg>

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<Draft Cielo Replat Zoning Determination Letter.docx>

<Combined 15 pages submitted.pdf>

<F.S. 177.docx>

City Planning – Neal Re-Plat – 8-15-2023

Your tie vote on the Neal PUD replating session on Tuesday August 15<sup>th</sup> was very troubling to many of us attending and watching on Zoom.

Essentially, the whole session was about trying to persuade the City Planning Commission to legislate from the bench. The City Planning Commission meeting is neither the time nor the place to write law or to try to side-step the current Administrative Code. Rather, it is a time to interpret and abide by the current code. Three of you chose correctly and voted No with City Planning and Zoning Commissioner, Roger Clark, siding with the current city law.

Jeff Boone, Neal's lawyer, spent all afternoon giving you reasons to ignore the current code and urging you to move forward with his request to allow his re-plating to occur without going through the current process described in the city administrative code. Three of you fell for his ploy by voting in favor of Neal. You got caught up in the confusion and the skillful Boone deception that clouded the issue.

There is a sound process for writing city law. It is not done "on-the-fly" at a Planning Commission meeting when an applicant finds it burdensome or annoying to abide by the accepted city process. It is absurd for you to even engage an applicant before you in conversation who wishes to skirt the process.

Law text is written by the City Attorney, presented and read at 2 City Council meetings for comments and changes before it becomes law. All City Planning commissioners, experienced or new, should be well aware of this process. It appeared that three of you failed to remember that process during the re-platting meeting and voted Yes for Neal.

As a responsible city official, you must abide by the current laws on the books, not ones you wish you had.

Tyler Cassell

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