

MILANO PUD AMENDMENT

This presentation and my written report are submitted to the City Council to be entered into the record and are prepared on-behalf of the North Venice Neighborhood Alliance, Inc. (NVNA) and Venetian Golf & River Club Property Owners Association, Inc. (VGRC).

Identify PUD amendment noncompliance with:

- Comprehensive Plan Land Use and Open Space Elements Visions, Intents and Strategies, in particular Policy 8.2.
- LDC PUD review compatibility criteria and other LDC requirements.
- Planning Commission review criteria and findings related to contents of PC report.

Thereby, providing the City Council findings of facts in support for denial and supporting the Planning Commission findings of facts for recommending denial.

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EXPERT WITNESS JAN A. NORSOPH, AICP

- Masters Degree Florida State U.
- AICP and APA member with 46 yrs of extensive planning expertise.
- Over 21 yrs with the City of St. Petersburg responsible for:
 - Development of downtown redevelopment and neighborhood plans.
 - Development and administration of land development codes.
 - Responsible for review of site & landscape plans.
 - Development and administration of urban design guidelines in redevelopment and neighborhood plan areas, and the historic preservation code.
- Rec'd 16 professional awards for urban design, downtown redevelopment, historic preservation and neighborhood planning.
- Past 24 yrs as a consultant, representing public and private clients and providing expert witness services. [2 City of Venice; 2 City of Sarasota; 2 Sarasota Co.]
- Recognized as an expert witness in a number of trials on behalf of public and private clients.

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LAND USE ELEMENT COMPATIBILITY AND CONSISTENCY

- The Comp Plan LUE has compatibility criteria to address a development's sensitivity to neighborhoods. The main emphasis throughout the Comp Plan LUE is compatibility with neighborhoods.
- Compatibility is the higher criteria to be utilized in the consideration of approval of any proposed PUD amendment.
- Achieving compatibility and consistency with the Comp Plan is required and serves in the best interest of the City and its residents.
- Comprehensive Plan takes precedence over any LDC requirements or LDC interpretations or past practices.
- *LDC Sec. 86-32. "Legal significance of the comprehensive plan. No development order shall be issued under the provisions of the LDC unless determined to be consistent with the comprehensive plan."*

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DEMONSTRATE THAT THE PROPOSED INTENSIVE ISOLATED STRIP COMMERCIAL CENTER IS NOT CONSISTENT WITH OR MEETS COMPATIBILITY REVIEW CRITERIA RELATED TO:

- **COMP PLAN LUE VISION, INTENT AND STRATEGIES RELATED TO COMPATIBILITY AND SPECIFICALLY POLICY 8.2**
- **KEY PUD DISTRICT REQUIREMENTS PURSUANT TO SEC. 86-130 RELATED TO LOCATION AND COMPATIBILITY OF COMMERCIAL USES.**
- **INTENT OF COMMERCIAL NEIGHBORHOOD DISTRICT RELATED TO NEIGHBORHOOD SCALE USES.**
- **REVIEW CRITERIA IN THE CONTENTS OF THE PC REPORT.**

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LU-4.1.1 POLICY 8.2 LAND USE COMPATIBILITY REVIEW PROCEDURES

“Ensure that the character and design of infill and new development are compatible with existing neighborhoods. Compatibility review shall include addressing:”

- *Land use density and intensity.*
- *Character or type of use proposed.*
- *Protection of single-family neighborhoods from incompatible uses.*
- *Prevention of the location of commercial uses where incompatible.*
- *Densities and intensities proposed compared to existing uses.*
- *Lowering density or intensity of land uses to transition between different uses.*

PC findings of facts for recommending denial:

- **Application is inconsistent with intent of Comprehensive Plan Strategy LU 4.1.1, specifically Policy 8.2. [related compatibility criteria]**

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Other relevant Comp Plan and PUD requirements related to Policy 8.2

Comp Plan Strategy LU 1.2.16 Mixed use residential

7. Intensity/Density b. *“the non-residential portion of the MUR is to provides for neighborhood scale and serving uses; not for regional purposes.”*

PUD District Sec. 86-130(r) Commercial uses. Commercial uses located in a PUD are intended to serve the needs of the PUD and not the general needs of the surrounding area. Areas designated for commercial activities normally shall not front on exterior or perimeter streets, but shall be centrally located within the project to serve the residents of the PUD.

PUD District Sec. 86-130 b. (8) “Neighborhood commercial uses which are determined at the time of approval for the PUD to be compatible with the existing and future development of adjacent and nearby lands outside the PUD.”

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POLICY 8.2 REVIEW CRITERIA

Amendment is incompatible related to Land use density and intensity & Character or type of use proposed.

- Binding Master Plan “Commercial: none.”
- Significant change in land use intensity from open space and wetland to an isolated strip commercial development, no other adjacent commercial developments.
- Amendment justifies providing commercial pursuant to the Comp Plan and PUD limit of 5 percent. However, such a limit is not an outright grant of development rights. Commercial must meet compatibility criteria. This amendment does not meet Comp Plan or LDC compatibility criteria.
- Approval of this isolated commercial center would set a precedent for future strip commercial development along Laurel Road.
- Commercial located at perimeter at intersection of Laurel Rd. & Jacaranda Blvd. Designed to capture customers beyond Milano.

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Amendment is incompatible related to Land use density and intensity & Character or type of use proposed.

- Trip generation study based on 70,240 sq. ft. center with a 47,240 sq. ft. grocery store and fast-food restaurant with drive-thru, included capture from neighborhoods beyond Milano.
- Commercial Neighborhood District. *“The district is not intended for use by major or large scale commercial or service establishments, nor is it intended to encourage extension of strip commercial areas.”*
- Grocery stores are not a permitted use in CN. Only permitted in CG and Cl. Clear intent is grocery stores are not neighborhood scale use in CN.

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POLICY 8.2 REVIEW CRITERIA

Amendment does not provide Protection of single-family neighborhoods from incompatible uses and Prevention of the location of commercial uses where incompatible.

- Adjacent land uses: open space, wetland and residential.
- No commercial approved or requested in original PUD.
- Significant change in land use intensity from open space and wetland to an isolated strip commercial development. Not appropriate transition.
- Amendment justifies commercial pursuant to the Comp Plan and PUD limit of 5 percent. However, such a limit is not an outright grant of development rights. Commercial must meet compatibility criteria. This amendment does not meet Comp Plan or LDC compatibility criteria.
- No adjacent or near-by commercial developments. Closest commercial is over 2 miles away appropriately located at an interchange.

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Amendment does not provide Protection of single-family neighborhoods from incompatible uses and Prevention of the location of commercial uses where incompatible.

- Location at Laurel Rd and Jacaranda Blvd, range of retail uses, including a grocery store and drive-thru restaurant is designed to capture customers from outside Milano and as confirmed by traffic study.
- CN District. *“The district is not intended for use by major or large scale commercial or service establishments, nor is it intended to encourage extension of strip commercial areas.”* Grocery store not a permitted use; therefore, Not neighborhood scale.
- Established commercial center 2.3 miles to the west on Laurel Road and another commercial center 2.9 miles to the south on Jacaranda Boulevard, both provide convenient access for the surrounding residential neighborhoods.

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Set a precedent for strip commercial. Residential pod west of the commercial site is not platted for residential that could be subject for future amendment for expanded strip commercial.



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POLICY 8.2 REVIEW CRITERIA

Amendment is incompatible with Densities and intensities proposed compared to existing uses and Lowering density or intensity of land uses to transition between different uses.

- Significant change in land use intensity from open space and wetland to an isolated strip commercial development, no adjacent or near-by commercial developments. Not appropriate transition.
- Commercial located at perimeter at Laurel Rd & Jacaranda Blvd and traffic study capture from surrounding neighborhoods.
- CN District. *“The district is not intended for use by major or large scale commercial or service establishments, nor is it intended to encourage extension of strip commercial areas.”* Grocery store not a permitted use in CN; therefore, Not neighborhood scale.

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Amendment is incompatible with Densities and intensities proposed compared to existing uses and Lowering density or intensity of land uses to transition between different uses.

- **Creates an isolated commercial center with no adjacent commercial.**
- **Set a precedent for expansion of strip commercial along Laurel Rd.**
- **Amendment justifies commercial pursuant to the Comp Plan and PUD limit of 5 percent. However, such a limit is not an outright grant of development rights. Commercial must meet compatibility criteria. This amendment does not meet Comp Plan or LDC compatibility criteria.**

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AMENDMENT FAILS TO MEET POLICY 8.2 COMPATIBILITY REVIEW CRITERIA AND AS SUPPORTED BY THE PC FINDINGS FOR RECOMMENDING DENIAL.

Application is inconsistent with intent of Comprehensive Plan Strategy LU 4.1.1, specifically Policy 8.2. [related compatibility criteria]

Other relevant PC findings of facts for recommending denial related Policy 8.2:

- **Commercial activity will not be limited to the Milano PUD.**
- **Compelling evidence for changing conditions was not presented.**
- **Compelling evidence for a lack of adequate sites for this use elsewhere in the city was not presented.**
- **No substantial reasons why the property cannot be used with the existing zoning were presented.**
- **Congestion may be increased excessively by this proposal.**

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Amendment is Not consistent with:

- **Comp Plan Strategy LU 1.2.16 Mixed Use Residential.** *“the non-residential portion of the MUR is to provide for neighborhood scale and serving uses; not for regional purposes.”* Proposed uses not neighborhood scale.
- **PUD District Sec. 86-130(r) Commercial uses.** *“Commercial uses located in a PUD are intended to serve the needs of the PUD and not the general needs of the surrounding area. Areas designated for commercial activities normally shall not front on exterior or perimeter streets, but shall be centrally located within the project to serve the residents of the PUD. Location and uses serve beyond Milano.*
- **PUD District Sec. 86-130 b. (8)** *“Neighborhood commercial uses which are determined at the time of approval for the PUD to be compatible with the existing and future development of adjacent and nearby lands outside the PUD.”* Proposed uses are not compatible with adjacent uses.

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LDC SEC. 86-47. (f) CONTENTS OF PLANNING COMMISSION REPORT.

(1) Rezoning Amendments. The report and recommendations of the planning commission to the city council shall show that the planning commission has studied and considered the proposed change in relation to the following, where applicable: [review criteria]

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DEMONSTRATE THAT THE PROPOSED INTENSIVE ISOLATED STRIP COMMERCIAL CENTER DOES NOT MEET LUE COMPATIBILITY CRITERIA OR PC REPORT REVIEW CRITERIA.

Sec. 86-47 (f) Contents of Planning Commission Report.

(1) Rezoning amendments.

a. Conformity to the comprehensive plan.

PC findings: The application is inconsistent with the intent of Comprehensive Plan Strategy OS 1.3.1 and Strategy LU 4.1.1, specifically Policy 8.2. [and its related review criteria.]

- ***Land use density and intensity.***
- ***Character or type of use proposed.***
- ***Protection of single-family neighborhoods from incompatible uses.***
- ***Prevention of the location of commercial uses where incompatible.***
- ***Densities and intensities proposed compared to existing uses.***
- ***Lowering density or intensity of land uses to transition between different uses.***

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(1) Rezoning amendments.

b. Existing land use pattern.

- Not compatible with existing open space, wetland and residential land use pattern.**
- Not appropriate change or transition from open space and wetland and nearby residential to isolated strip commercial.**
- No adjacent commercial uses.**
- Approval would set precedent to create strip commercial along Laurel Rd.**
- Amendment justifies commercial pursuant to the Comp Plan and PUD limit of 5 percent. However, such a limit is not an outright grant of development rights. Commercial must meet compatibility criteria. This amendment does not meet Comp Plan or LDC compatibility criteria as determined by the PC.**

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(1) Rezoning amendments.

c. Possible creation of an isolated district.

- Creates an isolated strip commercial development. No adjacent commercial.
- CN District. *“The district is not intended for use by major or large scale commercial or service establishments, nor is it intended to encourage extension of strip commercial areas.” Grocery stores not a permitted use clear intent of CN that grocery stores are not neighborhood scale. Only permitted in CG and CI.*

Relevant PC findings for recommending denial:

- Compelling evidence for changing conditions was not presented.
- Compelling evidence for a lack of adequate sites for this use elsewhere in the city was not presented.

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(1) Rezoning amendments.

f. Whether changed or changing conditions make the passage of the proposed amendment necessary.

Relevant PC findings for recommending denial:

- **Compelling evidence for changing conditions was not presented.**
- **Compelling evidence for a lack of adequate sites for this use elsewhere in the city was not presented.**

h. Whether change will increase traffic.

Relevant PC finding for recommending denial:

- **Congestion may be increased excessively by this proposal.**

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m. Proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

- The proposed amendment is a significant change in the existing land use pattern from passive open space and wetland to intensive isolated strip commercial.**
- Isolated commercial center not related to any adjacent or nearby commercial uses.**
- Approval would grant special privilege in creating an isolated center, and thereby, set a precedent to encourage future strip commercial along Laurel Road.**

Relevant PC findings for recommending denial:

- Compelling evidence for changing conditions was not presented.**
- Compelling evidence for a lack of adequate sites for this use elsewhere in the city was not presented.**

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(1) Rezoning amendments.

n. Whether there are substantial reasons why the property cannot be used in accord with existing zoning.

- Amendment justifies commercial pursuant to the Comp Plan and PUD limit of 5 percent. However, such a limit is not an outright grant of development rights. Commercial must meet compatibility criteria. This amendment for commercial does not meet Comp Plan or LDC compatibility criteria.**

Relevant PC findings for recommending denial:

- No substantial reasons why the property cannot be used with the existing zoning were presented.**
- Compelling evidence for changing conditions was not presented.**

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DEMONSTRATED THAT THE PROPOSED INTENSIVE ISOLATED STRIP COMMERCIAL CENTER IS NOT CONSISTENT WITH OR MEETS COMPATIBILITY REVIEW CRITERIA AND AS SUPPORTED BY THE PC RECOMMENDATION FOR DENIAL RELATED TO:

- ***Application is inconsistent with intent of Comp Plan LUE Vision, Intent and Strategies and LU 4.1.1 Policy 8.2 related to Compatibility Review Criteria.***
- **LDC Sec. 86-130 Related to Compatible Neighborhood Commercial Uses.**
- **Commercial Neighborhood District. *“The district is not intended for use by major or large scale commercial or service establishments, nor is it intended to encourage extension of strip commercial areas.”* Grocery store not a permitted use. Not neighborhood scale use.**
- **LDC Sec. 86-40.(F) Contents of Planning Commission Report Review Criteria.**

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**PROPOSED AMENDMENT DOES NOT MEET COMP PLAN
OSE OR PUD DISTRICT REQUIREMENTS FOR
PRESERVATION AND PROTECTION OF OPEN SPACES AND
WETLANDS**

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LU-4. Policy 8.2 Land Use Compatibility Review Procedures, which states: *Ensure that the character and design of infill and new development are compatible with existing neighborhoods.*

- ***Compatibility review shall include the evaluation of the following items: Providing open space, perimeter buffering, landscaping and berms.***

As previously demonstrated the amendment does not meet compatibility criteria; therefore, only providing some level of buffering does not mitigate incompatibility of commercial use with the failure to meet the other significant compatibility review criteria.

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Strategy OS 1.3.1 - Wetland and Aquifer Recharge Areas Protection

The City shall protect its groundwater sources, particularly in wetland and aquifer recharge areas, through its Land Development Code and review processes by:

Requiring development to first avoid impact to wetlands and aquifer recharge areas.

- **Eliminating wetland and open spaces are not consistent with LUE or OSE Visions, Intents and Strategies to first avoid wetland impacts.**
- **Wade Trim's environmental report determined that the proposed PUD amendment is not consistent or complaint with OS1.2.2, OS 1.3.1, OS 1.3.2, OS 1.4.2, and OS 1.4.3.**

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- Earth Resources (Wade Trim's subconsultant), pursuant to OS 3.1.1, stated that *"The quality of the wetland is not appropriate justification for wetland impacts nor does it alleviate the need for demonstrating avoidance and minimization of wetland impacts through design modifications and/or alternative site analysis."*
- Florida Natural Areas Inventory, rates wetlands a full 7 out of 10 for water environment and wetland plants.

Relevant PC finding for recommending denial:

- The application is inconsistent with the intent of Comprehensive Plan Strategy OS 1.3.1 and Strategy LU 4.1.1, specifically Policy 8.2.

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PUD Requirements LDC Sec. 86-130(j) *Land use intensity; open space; dedication of land for municipal uses.*

“(3) Land in a PUD designated as open space will be restricted by appropriate legal instrument satisfactory to the city attorney as open space perpetually, or for a period of not less than 99 years. Such instrument shall be binding upon the developer, his successor and assigns and shall constitute a covenant running with the land, and be in recordable form.”

- **Development is within the Cielo subdivision that received final plat approval on December 10, 2019.**
- **The amendment seeks to eliminate a platted freshwater marsh wetland and its related habitat and eliminate open space that were required to be placed under restrictive covenants pursuant to the previous PUD approval and LDC Sec. 86-130(j).**
- **To-date these restrictive covenants have not been recorded. Therefore, the current PUD approval is not in compliance with Sec 86-130(j).**

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SEC. 86-32. LEGAL SIGNIFICANCE OF THE COMPREHENSIVE PLAN.

NO DEVELOPMENT ORDER SHALL BE ISSUED UNDER THE PROVISIONS OF THE LDC UNLESS DETERMINED TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN.

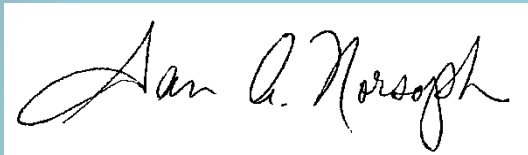
- **NOTHING IN THE COMP PLAN OR LDC GRANTS A DEVELOPER MAXIMUM DEVELOPMENT POTENTIAL IF COMPATIBILITY IS NOT ACHIEVED.**
- **THE FINDINGS PRESENTED HERE AND FINDINGS BY THE PC DEMONSTRATE THAT THE PUD AMENDMENT IS INCONSISTENT WITH THE COMP PLAN AND DOES NOT MEET POLICY 8.2 OR LDC REVIEW COMPATIBILITY CRITERIA.**

THEREFORE, WE URGE THE CITY COUNCIL TO DENY THE AMENDMENT.

CITY COUNCIL REQUIRE THE APPLICANT TO MEET THE REQUIREMENT OF THE LDC SEC. 86-130(J) TO PLACE THE OPEN SPACE AND WETLAND UNDER RESTRICTIVE COVENANTS PRIOR TO CONSIDERATION OF ANY FUTURE PUD AMENDMENT.

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I submit this presentation and my written report for the record.

A handwritten signature in black ink on a white rectangular background. The signature reads "Jan A. Norsoph" in a cursive, flowing script.

Jan A. Norsoph, AICP

Mr. Norsoph reserves the right to amend this powerpoint report based upon new information.

Mr. Norsoph's qualifications are contained within the written report submitted to the City Council.